UNITED STATES STATUTES AT LARGE

CONTAINING THE

LAWS AND CONCURRENT RESOLUTIONS
ENACTED DURING THE SECOND SESSION OF THE
ONE HUNDRED FOURTH CONGRESS
OF THE UNITED STATES OF AMERICA

1996

AND

PROCLAMATIONS

VOLUME 110

IN SIX PARTS

PART 1

PUBLIC LAWS 104–90 THROUGH 104–128

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104–94[1]	Making further continuing appropriations for the fiscal year 1996, and for other purposes.	Jan. 6, 1996	25
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104–110	To amend title 38, United States Code, to extend the authority of the Secretary of Veterans Affairs to carry out certain programs and activities, to require certain reports from the Secretary of Veterans Affairs, and for other purposes.	Feb. 13, 1996	768
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104–222	To authorize construction of the Smithsonian Institution National Air and Space Museum Dulles Center at Washington Dulles International Airport, and for other purposes.	Oct. 1, 1996	3025
104–223	Crow Creek Sioux Tribe Infrastructure Development Trust Fund Act of 1996.	Oct. 1, 1996	3026
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104–225	To designate the Federal building located at the corner of Patton Avenue and Otis Street, and the United States courthouse located on Otis Street, in Asheville, North Carolina, as the "Veach-Baley Federal Complex".	Oct. 2, 1996	3032
104–226	To repeal the Medicare and Medicaid Coverage Data Bank	Oct. 2, 1996	3033
104–227	Antarctic Science, Tourism, and Conservation Act of 1996	Oct. 2, 1996	3034
104–228	To designate the Federal building located at 1655 Woodson Road in Overland, Missouri, as the "Sammy L. Davis Federal Building".	Oct. 2, 1996	3045
104–229	To designate the Federal building and the United States courthouse to be constructed at a site on 18th Street between Dodge and Douglas Streets in Omaha, Nebraska, as the "Roman L. Hruska Federal Building and United States Courthouse".	Oct. 2, 1996	3046
104–230	To designate the United States courthouse under construction at 611 North Florida Avenue in Tampa, Florida, as the "Sam M. Gibbons United States Courthouse".	Oct. 2, 1996	3047
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104–233	To reauthorize the Indian Environmental General Assistance Program Act of 1992, and for other purposes.	Oct. 2, 1996	3057
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104–240	To permit a county-operated health insuring organization to qualify as an organization exempt from certain requirements otherwise applicable to health insuring organizations under the Medicaid program notwithstanding that the organization enrolls Medicaid beneficiaries residing in another county.	Oct. 8, 1996	3140
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104–242	To extend the time for construction of certain FERC licensed hydro projects.	Oct. 9, 1996	3142
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104–245	To reinstate the permit for, and extend the deadline under the Federal Power Act applicable to the construction of, a hydroelectric project in Oregon, and for other purposes.	Oct. 9, 1996	3145
104–246	To provide for the extension of a hydroelectric project located in the State of West Virginia.	Oct. 9, 1996	3146
104–247	To authorize the extension of time limitation for the FERC-issued hydroelectric license for the Mt. Hope Waterpower Project.	Oct. 9, 1996	3147
104–248	To amend title XIX of the Social Security Act to make certain technical corrections relating to physicians' services.	Oct. 9, 1996	3148
104–249	To extend the deadline under the Federal Power Act applicable to the construction of a hydroelectric project in Kentucky, and for other purposes.	Oct. 9, 1996	3150
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104–251	Railroad Unemployment Insurance Amendments Act of 1996.	Oct. 9, 1996	3161
104–252	To extend the deadline for commencement of construction of a hydroelectric project in the State of Illinois.	Oct. 9, 1996	3166
104–253	To increase the amount authorized to be appropriated to the Department of the Interior for the Tensas River National Wildlife Refuge, and for other purposes.	Oct. 9, 1996	3167
104–254	To extend the deadline under the Federal Power Act applicable to the construction of certain hydroelectric projects in the State of Pennsylvania.	Oct. 9, 1996	3168
104–255	To designate the building located at 8302 FM 327, Elmendorf, Texas, which houses operations of the United States Postal Service, as the "Amos F. Longoria Post Office Building".	Oct. 9, 1996	3169
104–256	To extend the deadline under the Federal Power Act applicable to the construction of 2 hydroelectric projects in North Carolina, and for other purposes.	Oct. 9, 1996	3170
104–257	To reinstate the license for, and extend the deadline under the Federal Power Act applicable to the construction of, a hydroelectric project in Ohio, and for other purposes.	Oct. 9, 1996	3171
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104–259	To extend the authorization of the Uranium Mill Tailings Radiation Control Act of 1978, and for other purposes.	Oct. 9, 1996	3173
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104–267	To waive temporarily the Medicaid enrollment composition rule for certain health maintenance organizations.	Oct. 9, 1996	3298
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104–270	To provide for a study of the recommendations of the Joint Federal-State Commission on Policies and Programs Affecting Alaska Natives.	Oct. 9, 1996	3301
104–271	Hydrogen Future Act of 1996	Oct. 9, 1996	3304
104–272	Professional Boxing Safety Act of 1996	Oct. 9, 1996	3309
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104–274	To authorize appropriations for the National Historical Publications and Records Commission for fiscal years 1998, 1999, 2000, and 2001.	Oct. 9, 1996	3321
104–275	Veterans' Benefits Improvements Act of 1996	Oct. 9, 1996	3322
104–276	To direct the Secretary of the Interior to convey certain property containing a fish and wildlife facility to the State of Wyoming, and for other purposes.	Oct. 9, 1996	3352
104–277	To provide that the United States Post Office and Courthouse building located at 9 East Broad Street, Cookeville, Tennessee, shall be known and designated as the "L. Clure Morton United States Post Office and Courthouse".	Oct. 9, 1996	3354
104–278	National Museum of the American Indian Act Amendments of 1996.	Oct. 9, 1996	3355
104–279	To authorize the Capitol Guide Service to accept voluntary services.	Oct. 9, 1996	3358
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104–282	To commend Operation Sail for its advancement of brotherhood among nations, its continuing commemoration of the history of the United States, and its nurturing of young cadets through training in seamanship.	Oct. 9, 1996	3361
104–283	National Marine Sanctuaries Preservation Act	Oct. 11, 1996	3363
104–284	Propane Education and Research Act of 1996	Oct. 11, 1996	3370
104–285	To reauthorize the National Film Preservation Board, and for other purposes.	Oct. 11, 1996	3377
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104–287	To codify without substantive change laws related to transportation and to improve the United States Code.	Oct. 11, 1996	3388
104–288	United States National Tourism Organization Act of 1996	Oct. 11, 1996	3402
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104–310	To modify the boundaries of the Talladega National Forest, Alabama.	Oct. 19, 1996	3817
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ENACTED DURING

SECOND SESSION OF THE ONE HUNDRED FOURTH CONGRESS

OF THE

UNITED STATES OF AMERICA

Begun and held at the City of Washington on Wednesday, January 3, 1996, adjourned sine die on Friday, October 4, 1996. WILLIAM J. CLINTON, *President;* ALBERT GORE, JR., *Vice President;* NEWT GINGRICH, *Speaker of the House of Representatives.*

Public Law 104–90
104th Congress

Joint Resolution

Making further continuing appropriations for the fiscal year 1996, and for other purposes.

Jan. 4, 1996
[H.J. Res. 153]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are hereby appropriated, out of the general fund and enterprise funds of the District of Columbia for the District of Columbia for the fiscal year 1996, and for other purposes, namely:

District of Columbia.

SEC. 101. (a) Such amounts as may be necessary under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1995 for continuing projects or activities including the costs of direct loans and loan guarantees (not otherwise specifically provided for in this title of this joint resolution) which were conducted in the fiscal year 1995 and for which appropriations, funds, or other authority would be available in the following appropriations Act:

The District of Columbia Appropriations Act, 1996:

Provided, That whenever the amount which would be made available or the authority which would be granted in this Act is greater than that which would be available or granted under current operations, the pertinent project or activity shall be continued at a rate for operations not exceeding the current rate.

(b) Whenever the amount which would be made available or the authority which would be granted under the Act listed in this section as passed by the House as of the date of enactment of this joint resolution, is different from that which would be available or granted under such Act as passed by the Senate as of the date of enactment of this joint resolution, the pertinent project or activity shall be continued at a rate for operations not exceeding the current rate or the rate permitted by the action of the House or the Senate, whichever is lower, under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1995: *Provided,* That where an item is not included in either version or where an item is included in only one version of the Act as passed by both Houses as of the date of enactment of this joint resolution, the pertinent project or activity shall not be continued except as provided for in section 111 or 112 under the appropriation, fund, or authority granted by the applicable appropriations Act for the fiscal year 1995 and under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1995.

SEC. 102. Appropriations made by section 101 shall be available to the extent and in the manner which would be provided by the pertinent appropriations Act.

SEC. 103. No appropriation or funds made available or authority granted pursuant to section 101 shall be used to initiate or resume any project or activity for which appropriations, funds, or other authority were not available during the fiscal year 1995.

SEC. 104. No provision which is included in the appropriations Act enumerated in section 101 but which was not included in the applicable appropriations Act for fiscal year 1995 and which by its terms is applicable to more than one appropriation, fund, or authority shall be applicable to any appropriation, fund, or authority provided in this title of this joint resolution.

SEC. 105. Appropriations made and authority granted pursuant to this title of this joint resolution shall cover all obligations or expenditures incurred for any program, project, or activity during the period for which funds or authority for such project or activity are available under this title of this joint resolution.

Termination date.

SEC. 106. Unless otherwise provided for in this title of this joint resolution or in the applicable appropriations Act, appropriations and funds made available and authority granted pursuant to this title of this joint resolution shall be available until (a) enactment into law of an appropriation for any project or activity provided for in this title of this joint resolution, or (b) the enactment into law of the applicable appropriations Act by both Houses without any provision for such project or activity, or (c) January 25, 1996, whichever first occurs.

Abortion.

SEC. 107. Notwithstanding any other provision of this title of this joint resolution, except section 106, none of the funds appropriated under this title of this joint resolution shall be expended for any abortion except where the life of the mother would be endangered if the fetus were carried to term or where the pregnancy is the result of an act of rape or incest.

SEC. 108. Expenditures made pursuant to this title of this joint resolution shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

SEC. 109. No provision in the appropriations Act for the fiscal year 1996 referred to in section 101 of this title of this joint resolution that makes the availability of any appropriation provided therein dependent upon the enactment of additional authorizing or other legislation shall be effective before the date set forth in section 106(c) of this joint resolution.

SEC. 110. Appropriations and funds made available by or authority granted pursuant to this title of this joint resolution may be used without regard to the time limitations for submission and approval of apportionments set forth in section 1513 of title 31, United States Code, but nothing herein shall be construed to waive any other provision of law governing the apportionment of funds.

SEC. 111. Notwithstanding any other provision of this title of this joint resolution, except section 106, whenever the Act listed in section 101 as passed by both the House and Senate as of the date of enactment of this joint resolution, does not include funding for an ongoing project or activity for which there is a budget request, or whenever the rate for operations for an ongoing project or activity provided by section 101 for which there is a budget request would result in the project or activity being significantly reduced, the pertinent project or activity may be continued

under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1995 by increasing the rate for operations provided by section 101 to a rate for operations not to exceed one that provides the minimal level that would enable existing activities to continue. No new contracts or grants shall be awarded in excess of an amount that bears the same ratio to the rate for operations provided by this section as the number of days covered by this resolution bears to 366. For the purposes of this title of this joint resolution the minimal level means a rate for operations that is reduced from the current rate by 25 percent.

SEC. 112. Notwithstanding any other provision of this title of this joint resolution, except section 106, whenever the rate for operations for any continuing project or activity provided by section 101 or section 111 for which there is a budget request would result in a furlough of Government employees, that rate for operations may be increased to the minimum level that would enable the furlough to be avoided. No new contracts or grants shall be awarded in excess of an amount that bears the same ratio to the rate for operations provided by this section as the number of days covered by this resolution bears to 366.

SEC. 113. Notwithstanding any other provision of this title of this joint resolution, except sections 106, 111, and 112, for those programs that had high initial rates of operation or complete distribution of funding at the beginning of the fiscal year in fiscal year 1995 because of distributions of funding to States, foreign countries, grantees, or others, similar distributions of funds for fiscal year 1996 shall not be made and no grants shall be awarded for such programs funded by this title of this resolution that would impinge on final funding prerogatives.

SEC. 114. This title of this joint resolution shall be implemented so that only the most limited funding action of that permitted in this title of this resolution shall be taken in order to provide for continuation of projects and activities.

SEC. 115. The provisions of section 132 of the District of Columbia Appropriations Act, 1988, Public Law 100–202, shall not apply for this title of this joint resolution.

Domestic partners.

SEC. 116. Notwithstanding any other provision of this title of this joint resolution, except section 106, none of the funds appropriated under this title of this joint resolution shall be used to implement or enforce any system of registration of unmarried, cohabiting couples whether they are homosexual, lesbian, heterosexual, including but not limited to registration for the purpose of extending employment, health, or governmental benefits to such couples on the same basis that such benefits are extended to legally married couples; nor shall any funds made available pursuant to any provision of this title of this joint resolution otherwise be

used to implement or enforce D.C. Act 9–188, signed by the Mayor of the District of Columbia on April 15, 1992.

Approved January 4, 1996.

LEGISLATIVE HISTORY—H.J. Res. 153:

CONGRESSIONAL RECORD, Vol. 142 (1996):
Jan. 3, considered and passed House.
Jan. 4, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 32 (1996):
Jan. 4, Presidential statement.

Public Law 104–91
104th Congress

An Act

To require the Secretary of Commerce to convey to the Commonwealth of Massachusetts the National Marine Fisheries Service laboratory located on Emerson Avenue in Gloucester, Massachusetts.

Jan. 6, 1996
[H.R. 1358]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONVEYANCES.

(a) NATIONAL MARINE FISHERIES SERVICE LABORATORY AT GLOUCESTER, MASSACHUSETTS.—

(1) IN GENERAL.—The Secretary of Commerce shall convey to the Commonwealth of Massachusetts, all right, title, and interest of the United States in and to the property comprising the National Marine Fisheries Service laboratory located on Emerson Avenue in Gloucester, Massachusetts.

(2) TERMS.—A conveyance of property under paragraph (1) shall be made—

(A) without payment of consideration; and

(B) subject to the terms and conditions specified under paragraphs (3) and (4).

(3) CONDITIONS FOR TRANSFER.—

(A) IN GENERAL.—As a condition of any conveyance of property under this subsection, the Commonwealth of Massachusetts shall assume full responsibility for maintenance of the property for as long as the Commonwealth retains the right and title to that property.

(B) CONTINUED USE OF PROPERTY BY NMFS.—The Secretary may enter into a memorandum of understanding with the Commonwealth of Massachusetts under which the National Marine Fisheries Service is authorized to occupy existing laboratory space on the property conveyed under this subsection, if—

(i) the term of the memorandum of understanding is for a period of not longer than 5 years beginning on the date of enactment of this Act; and

(ii) the square footage of the space to be occupied by the National Marine Fisheries Service does not conflict with the needs of, and is agreeable to, the Commonwealth of Massachusetts.

(4) REVERSIONARY INTEREST.—All right, title, and interest in and to all property conveyed under this subsection shall revert to the United States on the date on which the Commonwealth of Massachusetts uses any of the property for any purpose other than the Commonwealth of Massachusetts Division of Marine Fisheries resource management program.

29–139 O - 96 (91)

(5) RESTRICTION.—Amounts provided by the South Essex Sewage District may not be used by the Commonwealth of Massachusetts to transfer existing activities to, or conduct activities at, property conveyed under this section.

(b) PIER IN CHARLESTON, SOUTH CAROLINA.—Section 22(a) of the Marine Mammal Protection Act Amendments of 1994 (Public Law 103–238; 108 Stat. 561) is amended—

(1) by inserting "(1)" before "Not"; and

(2) by adding at the end thereof the following:

"(2) Not later than December 31, 1996, the Secretary of the Navy may convey, without payment or other consideration, to the Secretary of Commerce, all right, title, and interest to the property comprising that portion of the Naval Base, Charleston, South Carolina, bounded by Hobson Avenue, the Cooper River, the landward extension of the property line located 70 feet northwest of and parallel to the centerline of Pier Q, and the northwest property line of the parking area associated with Pier R. The property shall include Pier Q, all towers and outbuildings on that property, and walkways and parking areas associated with those buildings and Pier Q.".

SEC. 2. FISHERIES RESEARCH FACILITIES.

South Carolina.

(a) FORT JOHNSON.—The Secretary of Commerce, through the Under Secretary of Commerce for Oceans and Atmosphere, is authorized to construct on land to be leased from the State of South Carolina, a facility at Fort Johnson, South Carolina, provided that the annual cost of leasing the required lands does not exceed one dollar.

Alaska.

(b) AUKE CAPE.—The Secretary of Commerce, through the Under Secretary of Commerce for Oceans and Atmosphere, is authorized to construct a facility on Auke Cape near Juneau, Alaska, to provide consolidated office and laboratory space for National Oceanic and Atmospheric Administration personnel in Juneau, provided that the property for such facility is transferred to the National Oceanic and Atmospheric Administration from the United States Coast Guard or the City of Juneau.

(c) COMPLETION DATE FOR FUNDED WORK.—The Secretary of Commerce shall complete the architectural and engineering work for the facilities described in subsections (a) and (b) by not later than May 1, 1996, using funds that have been previously appropriated for that work.

(d) AVAILABILITY OF APPROPRIATIONS.—The authorizations contained in subsections (a) and (b) are subject to the availability of appropriations provided for the purpose stated in this section.

Alaska.
Hazardous wastes.
16 USC 1165 note.

SEC. 3. PRIBILOF ISLANDS.

(a) IN GENERAL.—The Secretary of Commerce shall, subject to the availability of appropriations provided for the purposes of this section, clean up landfills, wastes, dumps, debris, storage tanks, property, hazardous or unsafe conditions, and contaminants, including petroleum products and their derivatives, left by the National Oceanic and Atmospheric Administration on lands which it and its predecessor agencies abandoned, quitclaimed, or otherwise transferred or are obligated to transfer, to local entities or residents on the Pribilof Islands, Alaska, pursuant to the Fur Seal Act of 1966 (16 U.S.C. 1151 et seq.), as amended, or other applicable law.

(b) OBLIGATIONS OF SECRETARY.—In carrying out cleanup activities under subsection (a), the Secretary of Commerce shall—

(1) to the maximum extent practicable, execute agreements with the State of Alaska, and affected local governments, entities, and residents eligible to receive conveyance of lands under the Fur Seal Act of 1966 (16 U.S.C. 1161 et seq.) or other applicable law;

(2) manage such activities with the minimum possible overhead, delay, and duplication of State and local planning and design work;

(3) receive approval from the State of Alaska for agreements described in paragraph (1) where such activities are required by State law;

(4) receive approval from affected local entities or residents before conducting such activities on their property; and

(5) not seek or require financial contributions by or from local entities or landowners.

(c) RESOLUTION OF FEDERAL RESPONSIBILITIES.—(1) Within 9 months after the date of enactment of this section, and after consultation with the Secretary of the Interior, the State of Alaska, and local entities and residents of the Pribilof Islands, the Secretary of Commerce shall submit to the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Resources of the House of Representatives, a report proposing necessary actions by the Secretary of Commerce and Congress to resolve all claims with respect to, and permit the final implementation, fulfillment and completion of— Reports.

(A) title II of the Fur Seal Act Amendments of 1983 (16 U.S.C. 1161 et seq.);

(B) the land conveyance entitlements of local entities and residents of the Pribilof Islands under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.);

(C) the provisions of this section; and

(D) any other matters which the Secretary deems appropriate.

(2) The report required under paragraph (1) shall include the estimated costs of all actions, and shall contain the statements of the Secretary of Commerce, the Secretary of the Interior, any statement submitted by the State of Alaska, and any statements of claims or recommendations submitted by local entities and residents of the Pribilof Islands.

(d) USE OF LOCAL ENTITIES.—Notwithstanding any other law to the contrary, the Secretary of Commerce shall, to the maximum extent practicable, carry out activities under subsection (a) and fulfill other obligations under Federal and State law relating to the Pribilof Islands, through grants or other agreements with local entities and residents of the Pribilof Islands, unless specialized skills are needed for an activity, and the Secretary specifies in writing that such skills are not available through local entities and residents of the Pribilof Islands.

(e) DEFINITION.—For the purposes of this section, the term "clean up" means the planning and execution of remediation actions for lands described in subsection (a) and the redevelopment of landfills to meet statutory requirements.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated not to exceed $10,000,000 in each of fiscal

years 1996, 1997, and 1998 for the purposes of carrying out this section.

Appropriations.

TITLE I

The following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of Government for the fiscal year 1996, and for other purposes, namely:

SEC. 101. (a) Such amounts as may be necessary under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1995 for continuing the following projects or activities including the costs of direct loans and loan guarantees (not otherwise specifically provided for in this Act) which were conducted in the fiscal year 1995:

All allowances paid under section 5(b) of the Peace Corps Act, 22 U.S.C. section 2504, notwithstanding section 10 of Public Law 91–672, at a rate for operations, notwithstanding any other provision of this Act, provided for in the conference report and joint explanatory statement of the Committee of Conference (House Report 104–295) on the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996 (H.R. 1868), as passed by the House of Representatives on October 31, 1995;

All activities, including administrative expenses, necessary to process single-family mortgage loans and refinancing for low-income and moderate-income families funded under the Federal Housing Administration's "FHA-mutual mortgage insurance program account" and "FHA-general and special risk program account" in the Department of Housing and Urban Development at a rate for operations, notwithstanding any other provision of this Act, provided for in the conference report and joint explanatory statement of the Committee of Conference (House Report 104–384) on the Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996 (H.R. 2099), as passed by the House of Representatives on December 7, 1995;

All projects and activities directly related to the security of United States diplomatic posts and facilities abroad, notwithstanding section 15 of the State Department Basic Authorities Act of 1956 at a rate for operations, notwithstanding any other provision of this Act, provided for in the conference report and joint explanatory statement of the Committee of Conference (House Report 104–378) on the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1996 (H.R. 2076), as passed by the House of Representatives on December 6, 1995;

Activities funded under the account heading "Emergency food and shelter program" in the Federal Emergency Management Agency: *Provided,* That, notwithstanding any other provision of this Act, the amount made available by this Act shall not exceed $46,000,000: *Provided further,* That not to exceed three and one-half per centum of the amount made available shall be for administrative costs;

All retirement pay and medical benefits for Public Health Services Commissioned Officers as authorized by law, and for payments under the Retired Serviceman's Family Protection Plan and Survivor Benefit Plan and for medical care of dependents and retired personnel under the Dependent's Medical Care Act (10 U.S.C. ch. 55) and for payments pursuant to section 229(b) of the Social Security Act (42 U.S.C. 429(b)) at a rate for operations, notwithstanding any other provision of this Act, provided for in the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1996 (H.R. 2127), as passed by the House of Representatives on August 4, 1995;

All projects and activities of the Federal Bureau of Investigation, Drug Enforcement Administration, Interagency Crime and Drug Enforcement, Federal Prison System, United States Attorneys, United States Marshals Service, Federal Prisoner Detention, Fees and Expenses of Witnesses, Immigration and Naturalization Service, and the Executive Office for Immigration Review, necessary for the investigation and prosecution of criminal and civil offenses; national security; the apprehension, detention and removal of illegal and criminal aliens; the incarceration, detention, and movement of Federal prisoners and detainees; and the protection of the Federal judiciary at a rate for operations, notwithstanding any other provision of this Act, provided for in the conference report and joint explanatory statement of the Committee of Conference (House Report 104–378) on the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1996 (H.R. 2076), as passed by the House of Representatives on December 6, 1995;

All projects and activities of the Judiciary to the extent and in the manner and at a rate for operations, notwithstanding any other provision of this Act, provided for in the conference report and joint explanatory statement of the Committee of Conference (House Report 104–378) on the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1996 (H.R. 2076), as passed by the House of Representatives on December 6, 1995;

All projects and activities necessary to provide for the expenses of State surveys and certifications under the account heading "Program Management" under the Health Care Financing Administration in the Department of Health and Human Services;

Trade adjustment assistance benefits and North American Free Trade Act benefits funded under the account heading "Federal Unemployment Benefits and Allowances" under the Employment and Training Administration in the Department of Labor;

Payments to the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds under the account heading "Payments to Health Care Trust Funds" under the Health Care Financing Administration in the Department of Health and Human Services;

All projects and activities necessary to provide for the expenses of Medicare contractors under title XVIII of the Social Security Act under the account heading "Program Management"

under the Health Care Financing Administration in the Department of Health and Human Services;

All projects and activities funded under the account heading "Grants to States for Medicaid" under the Health Care Financing Administration in the Department of Health and Human Services;

All projects and activities of the National Institutes of Health in the Department of Health and Human Services at a rate for operations, notwithstanding any other provision of this Act, provided for in the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1996 (H.R. 2127), as passed by the House of Representatives on August 4, 1995;

All projects and activities necessary to carry out the section 7(a) General Business Loan Guaranty Program and the section 504 Certified Development Company Program, as authorized by law, under the Small Business Administration at a rate for operations, notwithstanding any other provision of this Act, provided for in the conference report and joint explanatory statement of the Committee of Conference (House Report 104–378) on the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1996 (H.R. 2076), as passed by the House of Representatives on December 6, 1995;

All projects and activities funded under the account heading "Surety Bond Guarantees Revolving Fund" under the Small Business Administration at a rate for operations, notwithstanding any other provision of this Act, provided for in the conference report and joint explanatory statement of the Committee of Conference (House Report 104–378) on the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1996 (H.R. 2076), as passed by the House of Representatives on December 6, 1995;

All projects and activities necessary to accommodate visitors and to provide for visitors services on the public lands managed by the Bureau of Land Management at a rate for operations, notwithstanding any other provision of this Act, provided for in the conference report and joint explanatory statement of the Committee of Conference (House Report 104–402) on the Department of the Interior and Related Agencies Appropriations Act, 1996 (H.R. 1977), as passed by the House of Representatives on December 13, 1995;

All projects and activities funded under the account heading "Disease Control, Research, and Training" under the Centers for Disease Control and Prevention in the Department of Health and Human Services at a rate for operations, notwithstanding any other provision of this Act, not to exceed an annual rate for new obligational authority of $2,114,693,000;

All Self-Determination and Self-Governance projects and activities of tribes or tribal organizations (as that term is defined in Public Law 93–638) that are authorized by Public Law 93–638 under the account heading "Operation of Indian Programs" under the Bureau of Indian Affairs in the Department of the Interior or under the account heading "Indian Health Services" under the Indian Health Service in the Department of Health and Human Services at a rate for operations, notwithstanding any other provision of this Act, provided for

in the conference report and joint explanatory statement of the Committee of Conference (House Report 104–402) on the Department of the Interior and Related Agencies Appropriations Act, 1996 (H.R. 1977), as passed by the House of Representatives on December 13, 1995;

All projects and activities necessary to provide for the expenses of the Kendall Demonstration Elementary School and the Model Secondary School for the Deaf under the account heading "Gallaudet University" in the Department of Education;

Payments for benefits and interest on advances, together with expenses of operation and administration, under the account heading "Black Lung Disability Trust Fund" under the Employment Standards Administration in the Department of Labor; and

Payments for benefits, together with expenses of operation and administration, under the account heading "Special Benefits for Disabled Coal Miners" in the Social Security Administration:

Provided, That whenever the amount which would be made available or the authority which would be granted under an Act which included funding for fiscal year 1996 for the projects and activities listed in this section is greater than that which would be available or granted under current operations, the pertinent project or activity shall be continued at a rate for operations not exceeding the current rate.

(b) Whenever the amount which would be made available or the authority which would be granted under the Act which included funding for fiscal year 1996 for the projects and activities listed in this section as passed by the House as of the date of enactment of this Act, is different from that which would be available or granted under such Act as passed by the Senate as of the date of enactment of this Act, the pertinent project or activity shall be continued at a rate for operations not exceeding the current rate or the rate permitted by the action of the House or the Senate, whichever is lower, under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1995.

(c) Whenever an Act which included funding for fiscal year 1996 for the projects and activities listed in this section has been passed by only the House or only the Senate as of the date of enactment of this Act, the pertinent project or activity shall be continued under the appropriation, fund, or authority granted by the one House at a rate for operations not exceeding the current rate or the rate permitted by the action of the one House, whichever is lower, and under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1995.

SEC. 102. Appropriations made by section 101 shall be available to the extent and in the manner which would be provided by the pertinent appropriations Act.

SEC. 103. No appropriation or funds made available or authority granted pursuant to section 101 shall be used to initiate or resume any project or activity for which appropriations, funds, or other authority were not available during the fiscal year 1995.

SEC. 104. No provision which is included in the appropriations Act enumerated in section 101 but which was not included in the applicable appropriations Act for fiscal year 1995 and which

by its terms is applicable to more than one appropriation, fund, or authority shall be applicable to any appropriation, fund, or authority provided in this Act.

SEC. 105. Appropriations made and authority granted pursuant to this title of this Act shall cover all obligations or expenditures incurred for any program, project, or activity during the period for which funds or authority for such project or activity are available under this Act.

Termination date.

SEC. 106. Unless otherwise provided for in this title of this Act or in the applicable appropriations Act, appropriations and funds made available and authority granted pursuant to this title of this Act shall be available until (a) enactment into law of an appropriation for any project or activity provided for in this title of this Act, or (b) the enactment into law of the applicable appropriations Act by both Houses without any provision for such project or activity, or (c) September 30, 1996, whichever first occurs.

SEC. 107. Expenditures made pursuant to this title of this Act shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

SEC. 108. No provision in the appropriations Act for the fiscal year 1996 referred to in section 101 of this Act that makes the availability of any appropriation provided therein dependent upon the enactment of additional authorizing or other legislation shall be effective before the date set forth in section 106(c) of this Act.

SEC. 109. Appropriations and funds made available by or authority granted pursuant to this title of this Act may be used without regard to the time limitations for submission and approval of apportionments set forth in section 1513 of title 31, United States Code, but nothing herein shall be construed to waive any other provision of law governing the apportionment of funds.

Coverage.

SEC. 110. For the purposes of this title of this Act, the time covered by this title of this Act shall be considered to have begun on December 16, 1995.

TITLE II

Arizona.

SECTION 201. YAVAPAI-PRESCOTT INDIAN TRIBE WATER RIGHTS SETTLEMENT ACT OF 1994.

(a) EXTENSION.—Section 112(b) of the Yavapai-Prescott Indian Tribe Water Rights Settlement Act of 1994 (108 Stat. 4532) is amended by striking "December 31, 1995" and inserting "June 30, 1996".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as of December 31, 1995, and with the consent of Prescott, Arizona, the contract referred to in such section 112(b) is revived.

Arizona.

SEC. 202. SAN CARLOS APACHE TRIBE WATER RIGHTS SETTLEMENT ACT OF 1992.

(a) EXTENSION.—Section 3711(b)(1) of the San Carlos Apache Tribe Water Rights Settlement Act of 1992 (title XXXVII of Public Law 102–575) is amended by striking "December 31, 1995" and inserting "December 31, 1996".

25 USC 390 note.

25 USC 390 note.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall take effect as of December 31, 1995.

(2) LAPSED PROVISIONS OF LAW AND CONTRACTS.—The provisions of subsections (c) and (d) of section 3704, subsections (a) and (b) of section 3705, section 3706, subsections (a)(2), (c), (d), and (f) of section 3707, subsections (b) and (c) of section 3708, and subsections (a), (b), (c), (d), (e), (g), (h), (j), and (l) of section 3710 of such Act, together with each contract entered into pursuant to any such section or subsection (with the consent of the non-Federal parties thereto), shall be effective on and after the date of enactment of this Act, subject to the December 31, 1996, deadline specified in such section 3711(b)(1), as amended by subsection (a) of this section.

Approved January 6, 1996.

LEGISLATIVE HISTORY—H.R. 1358:

HOUSE REPORTS: No. 104–287 (Comm. on Resources).
CONGRESSIONAL RECORD:
Vol. 141 (1995): Oct. 30, considered and passed House.
Dec. 22, considered and passed Senate, amended.
Vol. 142 (1996): Jan. 5, House concurred in Senate amendment with an amendment. Senate concurred in House amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 32 (1996):
Jan. 6, Presidential statement.

Public Law 104–92
104th Congress

An Act

Jan. 6, 1996
[H.R. 1643]

Making appropriations for certain activities for the fiscal year 1996, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of Government for the fiscal year 1996, and for other purposes, namely:

SEC. 101. (a) Such amounts as may be necessary under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1995 for continuing the following projects or activities including the costs of direct loans and loan guarantees (not otherwise specifically provided for in this Act) which were conducted in the fiscal year 1995:

All nutrition services for the elderly under the account heading "Aging services programs" under the Administration on Aging in the Department of Health and Human Services;

All grants to States for child welfare services, authorized by title IV, part B, subpart 1, of the Social Security Act, under the account heading "Children and families services programs" under the Administration for Children and Families in the Department of Health and Human Services;

All Federal Parent Locator Service activities, as authorized by section 453 of the Social Security Act, under the account heading "Children and families services programs" under the Administration for Children and Families in the Department of Health and Human Services;

All State unemployment insurance administration activities under the account heading "State unemployment insurance and employment service operations" under the Employment and Training Administration in the Department of Labor;

All general welfare assistance payments and foster care payments, as authorized by law, funded under the account heading "Operation of Indian programs" under the Bureau of Indian Affairs in the Department of the Interior;

All projects and activities funded under the account heading "Family support payments to States" under the Administration For Children and Families in the Department of Health and Human Services;

All projects and activities funded under the account heading "Payments to States for foster care and adoption assistance" under the Administration For Children and Families in the Department of Health and Human Services;

All administrative activities necessary to carry out the projects and activities in the preceding two paragraphs;

All projects and activities funded under the account headings "Dual benefits payments account", "Limitation on administration" and "Limitation on railroad unemployment insurance administration fund" under the Railroad Retirement Board;

All projects and activities necessary to accommodate visitors and to provide for visitor services in the National Park System, the National Wildlife Refuges, the National Forests, the facilities operated by the Smithsonian Institution, the National Gallery of Art, the John F. Kennedy Center for the Performing Arts, and the United States Holocaust Memorial; and

All projects and activities necessary to process visas and passports and to provide for American citizen services, notwithstanding section 15 of the State Department Basic Authorities Act of 1956: *Provided,* That whenever the amount which would be made available or the authority which would be granted under an Act which included funding for fiscal year 1996 for the projects and activities listed in this section is greater than that which would be available or granted under current operations, the pertinent project or activity shall be continued at a rate for operations not exceeding the current rate.

(b) Whenever the amount which would be made available or the authority which would be granted under the Act which included funding for fiscal year 1996 for the projects and activities listed in this section as passed by the House as of the date of enactment of this Act, is different from that which would be available or granted under such Act as passed by the Senate as of the date of enactment of this Act, the pertinent project or activity shall be continued at a rate for operations not exceeding the current rate or the rate permitted by the action of the House or the Senate, whichever is lower, under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1995.

(c) Whenever an Act which included funding for fiscal year 1996 for the projects and activities listed in this section has been passed by only the House or only the Senate as of the date of enactment of this Act, the pertinent project or activity shall be continued under the appropriation, fund, or authority granted by the one House at a rate for operations not exceeding the current rate or the rate permitted by the action of the one House, whichever is lower, and under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1995.

SEC. 102. Appropriations made by section 101 shall be available to the extent and in the manner which would be provided by the pertinent appropriations Act.

SEC. 103. No appropriation or funds made available or authority granted pursuant to section 101 shall be used to initiate or resume any project or activity for which appropriations, funds, or other authority were not available during the fiscal year 1995.

SEC. 104. No provision which is included in the appropriations Act enumerated in section 101 but which was not included in the applicable appropriations Act for fiscal year 1995 and which by its terms is applicable to more than one appropriation, fund, or authority shall be applicable to any appropriation, fund, or authority provided in this Act.

SEC. 105. Appropriations made and authority granted pursuant to this title of this Act shall cover all obligations or expenditures incurred for any program, project, or activity during the period for which funds or authority for such project or activity are available under this Act.

Termination date.

SEC. 106. Unless otherwise provided for in this title of this Act or in the applicable appropriations Act, appropriations and funds made available and authority granted pursuant to this title of this Act shall be available until (a) enactment into law of an appropriation for any project or activity provided for in this title of this Act, or (b) the enactment into law of the applicable appropriations Act by both Houses without any provision for such project or activity, or (c) September 30, 1996, except for the projects and activities under the headings "Family support payments to States" and "Payments to States for foster care and adoption assistance", for which date shall be March 15, 1996, whichever first occurs.

SEC. 107. Expenditures made pursuant to this title of this Act shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

SEC. 108. No provision in the appropriations Act for the fiscal year 1996 referred to in section 101 of this Act that makes the availability of any appropriation provided therein dependent upon the enactment of additional authorizing or other legislation shall be effective before the date set forth in section 106(c) of this Act.

SEC. 109. Appropriations and funds made available by or authority granted pursuant to this title of this Act may be used without regard to the time limitations for submission and approval of apportionments set forth in section 1513 of title 31, United States Code, but nothing herein shall be construed to waive any other provision of law governing the apportionment of funds.

SEC. 110. For the purposes of this title of this Act, the time covered by this title of this Act shall be considered to have begun on December 16, 1995.

SEC. 111. Notwithstanding any other provision of this Act, except section 106, funds appropriated under section 101 for the payment of vested dual benefits under the Railroad Retirement Act shall be made available so as to fully fund the payments made on January 1, 1996, and the payments to be made within the period covered by this Act including those payments to be made on the first day of each month within the period covered by this Act. In addition to the funds appropriated under section 101 of this Act, $12,800,000 is appropriated to restore full funding for payments made for the period prior to January 1, 1996.

8 USC 1351 note.

SEC. 112. Notwithstanding any other provision of this Act, except section 106, the authorities provided under subsection (a) of section 140 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236) shall remain in effect during the period of this Act, notwithstanding paragraph (3) of said subsection.

TITLE II

VETERANS AFFAIRS

The following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable

corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of Government for the fiscal year 1996, and for other purposes, namely:

SEC. 201. ENSURED PAYMENT DURING FISCAL YEAR 1996 OF VETERANS' BENEFITS IN EVENT OF LACK OF APPROPRIATIONS.—(a) PAYMENTS REQUIRED.—In any case during fiscal year 1996 in which appropriations are not otherwise available for programs, projects, and activities of the Department of Veterans Affairs, the Secretary of Veterans Affairs shall nevertheless ensure that—

(1) payments of existing veterans benefits are made in accordance with regular procedures and schedules and in accordance with eligibility requirements for such benefits; and

(2) payments to contractors of the Veterans Health Administration of the Department of Veterans Affairs are made when due in the case of services provided that directly relate to patient health and safety.

(b) FUNDING.—There is hereby appropriated such sums as may be necessary for the payments pursuant to subsection (a), including such amounts as may be necessary for the costs of administration of such payments.

(c) CHARGING OF ACCOUNTS WHEN APPROPRIATIONS MADE.—In any case in which the Secretary uses the authority of subsection (a) to make payments, applicable accounts shall be charged for amounts so paid, and for the costs of administration of such payments, when regular appropriations become available for those purposes.

(d) EXISTING BENEFITS SPECIFIED.—For purposes of this section, existing veterans benefits are benefits under laws administered by the Secretary of Veterans Affairs that have been adjudicated and authorized for payment as of—

(1) December 15, 1995; or

(2) if appropriations for such benefits are available (other than pursuant to subsection (b)) after December 15, 1995, the last day on which appropriations for payment of such benefits are available (other than pursuant to subsection (b)).

SEC. 202. Section 201 shall cease to be effective on September 30, 1996. Termination date.

SEC. 203. For the purposes of this title of this Act, the time covered by this title of this Act shall be considered to have begun on January 4, 1996. Coverage.

TITLE III

Government employees.

The following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of Government for the fiscal year 1996, and for other purposes, namely:

SEC. 301. Such amounts as may be necessary under the authority and conditions provided in applicable appropriations Acts for the fiscal year 1995 for paying salaries of Federal employees excepted from the provisions of the Antideficiency Act (31 U.S.C. 1341 et seq.) who are continuing projects and activities conducted in fiscal year 1995 who work during periods when there is otherwise no funding authority for their salaries.

SEC. 302. Appropriations made by section 301 shall be available to the extent and in the manner which would be provided by the pertinent appropriations Act.

SEC. 303. No appropriation or funds made available or authority granted pursuant to section 301 shall be used to initiate or resume any project or activity for which appropriations, funds, or other authority were not available during the fiscal year 1995.

SEC. 304. No provision which is included in the appropriations Act enumerated in section 301 but which was not included in the applicable appropriations Act for fiscal year 1995 and which by its terms is applicable to more than one appropriation, fund, or authority shall be applicable to any appropriation, fund, or authority provided in this Act.

SEC. 305. Appropriations made and authority granted pursuant to this title of this Act shall cover all obligations or expenditures incurred for any program, project, or activity during the period for which funds or authority for such project or activity are available under this Act.

Termination date.

SEC. 306. Unless otherwise provided for in this title of this Act or in the applicable appropriations Act, appropriations and funds made available and authority granted pursuant to this title of this Act shall be available until (a) enactment into law of an appropriation for any project or activity provided for in this title of this Act, or (b) the enactment into law of the applicable appropriations Act by both Houses without any provision for such project or activity, or (c) January 26, 1996, whichever first occurs.

SEC. 307. Expenditures made pursuant to this title of this Act shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

SEC. 308. No provision in the appropriations Act for the fiscal year 1996 referred to in section 301 of this Act that makes the availability of any appropriation provided therein dependent upon the enactment of additional authorizing or other legislation shall be effective before the date set forth in section 306(c) of this Act.

SEC. 309. Appropriations and funds made available by or authority granted pursuant to this title of this Act may be used without regard to the time limitations for submission and approval of apportionments set forth in section 1513 of title 31, United States Code, but nothing herein shall be construed to waive any other provision of law governing the apportionment of funds.

SEC. 310. ALL FEDERAL EMPLOYEES DEEMED TO BE EXCEPTED EMPLOYEES.—(a) IN GENERAL.—Section 1342 of title 31, United States Code, is amended for the period December 15, 1995 through January 26, 1996—

District of Columbia.

(1) by inserting after the first sentence "All officers and employees of the United States Government or the District of Columbia government shall be deemed to be performing services relating to emergencies involving the safety of human life or the protection of property."; and

(2) by striking out the last sentence.

SEC. 311. EXCEPTED EMPLOYEES UNDER NORMAL LEAVE POLICY.—Federal employees considered excepted from furlough during any period in which there is a lapse in appropriations with respect to the agency activity in which the employee is engaged shall not be considered to be furloughed when on leave and shall be

subject to the same leave regulations as if no lapse in appropriations had occurred.

SEC. 312. ELIGIBILITY FOR UNEMPLOYMENT COMPENSATION.—Notwithstanding any other provisions of law, beginning on January 2, 1996, any Federal employee who is excepted from furlough and is not being paid due to a lapse in appropriations shall be deemed to be totally separated from Federal service and eligible for unemployment compensation benefits under subchapter I of chapter 85 of title 5 of the United States Code with no waiting period for such eligibility to accrue.

SEC. 313. For the purposes of this title, Federal employees returning to work under the provisions of section 310 shall be deemed to have returned to work at the first regularly scheduled opportunity after December 15, 1995.

SEC. 314. Appropriations made pursuant to section 301 are made notwithstanding section 15 of the State Department Basic Authorities Act of 1956, section 701 of the United States Information and Educational Exchange Act of 1948, section 313 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236), section 53 of the Arms Control and Disarmament Act, and section 10 of Public Law 91–672.

TITLE IV

District of Columbia.

The following sums are hereby appropriated, out of the general fund and enterprise funds of the District of Columbia for the District of Columbia for the fiscal year 1996, and for other purposes, namely:

SEC. 401. (a) Such amounts as may be necessary under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1995 for continuing projects or activities including the costs of direct loans and loan guarantees (not otherwise specifically provided for in this title of this Act) which were conducted in the fiscal year 1995 and for which appropriations, funds, or other authority would be available in the following appropriations Act:

The District of Columbia Appropriations Act, 1996:

Provided, That whenever the amount which would be made available or the authority which would be granted in this Act is greater than that which would be available or granted under current operations, the pertinent project or activity shall be continued at a rate for operations not exceeding the current rate.

(b) Whenever the amount which would be made available or the authority which would be granted under the Act listed in this section as passed by the House as of the date of enactment of this Act, is different from that which would be available or granted under such Act as passed by the Senate as of the date of enactment of this Act, the pertinent project or activity shall be continued at a rate for operations not exceeding the current rate or the rate permitted by the action of the House or the Senate, whichever is lower, under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1995: *Provided,* That where an item is not included in either version or where an item is included in only one version of the Act as passed by both Houses as of the date of enactment of this Act, the pertinent project or activity shall not be continued except as provided for in section 411 or 412 under the appropriation, fund, or authority granted by the applicable appropriations Act for the

fiscal year 1995 and under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1995.

SEC. 402. Appropriations made by section 401 shall be available to the extent and in the manner which would be provided by the pertinent appropriations Act.

SEC. 403. No appropriation or funds made available or authority granted pursuant to section 401 shall be used to initiate or resume any project or activity for which appropriations, funds, or other authority were not available during the fiscal year 1995.

SEC. 404. No provision which is included in the appropriations Act enumerated in section 401 but which was not included in the applicable appropriations Act for fiscal year 1995 and which by its terms is applicable to more than one appropriation, fund, or authority shall be applicable to any appropriation, fund, or authority provided in this title of this Act.

SEC. 405. Appropriations made and authority granted pursuant to this title of this Act shall cover all obligations or expenditures incurred for any program, project, or activity during the period for which funds or authority for such project or activity are available under this title of this Act.

Termination date.

SEC. 406. Unless otherwise provided for in this title of this Act or in the applicable appropriations Act, appropriations and funds made available and authority granted pursuant to this title of this Act shall be available until (a) enactment into law of an appropriation for any project or activity provided for in this title of this Act, or (b) the enactment into law of the applicable appropriations Act by both Houses without any provision for such project or activity, or (c) September 30, 1996, whichever first occurs.

Abortion.

SEC. 407. Notwithstanding any other provision of this title of this Act, except section 406, none of the funds appropriated under this title of this Act shall be expended for any abortion except where the life of the mother would be endangered if the fetus were carried to term or where the pregnancy is the result of an act of rape or incest.

SEC. 408. Expenditures made pursuant to this title of this Act shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

SEC. 409. No provision in the appropriations Act for the fiscal year 1996 referred to in section 401 of this title of this Act that makes the availability of any appropriation provided therein dependent upon the enactment of additional authorizing or other legislation shall be effective before the date set forth in section 406(c) of this Act.

SEC. 410. Appropriations and funds made available by or authority granted pursuant to this title of this Act may be used without regard to the time limitations for submission and approval of apportionments set forth in section 1513 of title 31, United States Code, but nothing herein shall be construed to waive any other provision of law governing the apportionment of funds.

SEC. 411. Notwithstanding any other provision of this title of this Act, except section 406, whenever the Act listed in section 401 as passed by both the House and Senate as of the date of enactment of this Act does not include funding for an ongoing project or activity for which there is a budget request, or whenever the rate for operations for an ongoing project or activity provided by section 401 for which there is a budget request would result

in the project or activity being significantly reduced, the pertinent project or activity may be continued under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1995 by increasing the rate for operations provided by section 401 to a rate for operations not to exceed one that provides the minimal level that would enable existing activities to continue. No new contracts or grants shall be awarded in excess of an amount that bears the same ratio to the rate for operations provided by this section as the number of days covered by this Act bears to 366. For the purposes of this title of this Act the minimal level means a rate for operations that is reduced from the current rate by 25 percent.

SEC. 412. Notwithstanding any other provision of this title of this Act, except section 406, whenever the rate for operations for any continuing project or activity provided by section 401 or section 411 for which there is a budget request would result in a furlough of Government employees, that rate for operations may be increased to the minimum level that would enable the furlough to be avoided. No new contracts or grants shall be awarded in excess of an amount that bears the same ratio to the rate for operations provided by this section as the number of days covered by this Act bears to 366.

SEC. 413. Notwithstanding any other provision of this title of this Act, except sections 406, 411, and 412, for those programs that had high initial rates of operation or complete distribution of funding at the beginning of the fiscal year in fiscal year 1995 because of distributions of funding to States, foreign countries, grantees, or others, similar distributions of funds for fiscal year 1996 shall not be made and no grants shall be awarded for such programs funded by this title of this Act that would impinge on final funding prerogatives.

SEC. 414. This title of this Act shall be implemented so that only the most limited funding action of that permitted in this title of this Act shall be taken in order to provide for continuation of projects and activities.

SEC. 415. The provisions of section 132 of the District of Columbia Appropriations Act, 1988, Public Law 100–202, shall not apply for this title of this Act.

Domestic partners.

SEC. 416. Notwithstanding any other provision of this title of this Act, except section 406, none of the funds appropriated under this title of this Act shall be used to implement or enforce any system or registration of unmarried, cohabiting couples whether they are homosexual, lesbian, heterosexual, including but not limited to registration for the purpose of extending employment, health, or governmental benefits to such couples on the same basis that such benefits are extended to legally married couples; nor shall any funds made available pursuant to any provision of this title of this Act otherwise be used to implement or enforce D.C. Act 9–188, signed by the Mayor of the District of Columbia on April 15, 1992.

TITLE V

CLARIFICATION OF CERTAIN REIMBURSEMENTS

SEC. 501. CLARIFICATION OF REIMBURSEMENT TO STATES FOR FEDERALLY FUNDED EMPLOYEES.—(a) If a State used State funds

to continue carrying out a Federal program or furloughed State employees whose compensation is advanced or reimbursed in whole or in part by the Federal Government—

(1) such furloughed employees shall be compensated at their standard rate of compensation for such period;

(2) the State shall be reimbursed for expenses that would have been paid by the Federal Government during such period had appropriations been available, including the cost of compensating such furloughed employees, together with interest thereon due under section 6503(d) of title 31, United States Code; and

(3) the State may use funds available to the State under such Federal program to reimburse such State, together with interest thereon due under section 6503(d) of title 31, United States Code.

(b) For purposes of this subsection, the term "State" shall have the meaning as such term is defined under the applicable Federal program under subsection (a).

Applicability.

(c) The authority under this section applies with respect to any period in fiscal year 1996 (not limited to periods beginning or ending after the date of the enactment of this Act) during which there occurs a lapse in appropriations with respect to any department or agency of the Federal Government which, but for such lapse in appropriations, would have paid, or made reimbursement relating to, any of the expenses referred to in subsection (a) with respect to the program involved. Payments and reimbursements under this authority shall be made only to the extent and in amounts provided in advance in appropriations Acts.

Approved January 6, 1996.

LEGISLATIVE HISTORY—H.R. 1643:

HOUSE REPORTS: No. 104–162 (Comm. on Ways and Means).
CONGRESSIONAL RECORD:
Vol. 141 (1995): July 10, 11, considered and passed House.
Jan. 2, considered and passed Senate, amended.
Vol. 142 (1996): Jan. 5, House concurred in Senate amendment with an amendment. Senate concurred in House amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 32 (1996):
Jan. 6, Presidential statement.

Public Law 104–94
104th Congress

Joint Resolution

Making further continuing appropriations for the fiscal year 1996, and for other purposes

Jan. 6, 1996
[H.J. Res. 134]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 1. Section 106(c) of Public Law 104–56 is amended by striking "December 15, 1995" and inserting in lieu thereof "January 26, 1996". 109 Stat. 550.

SEC. 2. The transmission of this joint resolution to the President shall be in accordance with the requirements of the concurrent resolution (H. Con. Res. 131) that establishes procedures making such transmission contingent upon the submission by the President of a seven-year balanced budget using the economic and technical assumptions specified in or consistent with the Congressional Budget Office Memorandum entitled "The Economic and Budget Outlook: December 1995 Update".

Approved January 6, 1996.

LEGISLATIVE HISTORY—H.J. Res. 134:

CONGRESSIONAL RECORD:
Vol. 141 (1995): Dec. 20, considered and passed House.
Dec. 22, considered and passed Senate, amended.
Vol. 142 (1996): Jan. 5, House concurred in Senate amendment with an amendment. Senate concurred in House amendment.

Public Law 104–99
104th Congress

An Act

Jan. 26, 1996
[H.R. 2880]

Making appropriations for fiscal year 1996 to make a downpayment toward a balanced budget, and for other purposes.

The Balanced Budget Downpayment Act, I.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of Government for the fiscal year 1996, and for other purposes, namely:

TITLE I

SEC. 101. (a) Such amounts as may be necessary under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1995 including the authority and conditions provided in emergency supplemental appropriations Acts for fiscal year 1995 for continuing projects or activities, except for those projects and activities provided for in Public Law 104–91 and Public Law 104–92, including the costs of direct loans and loan guarantees (not otherwise specifically provided for in this Act) which were conducted in the fiscal year 1995 and for which appropriations, funds, or other authority would be available in the following appropriations Act as passed each House, excluding conference reports:

The Department of the Interior and Related Agencies Appropriations Act, 1996; and

The Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1996: *Provided,* That whenever the amount which would be made available or the authority which would be granted in these Acts is greater than that which would be available or granted under current operations, the pertinent project or activity shall be continued at a rate for operations not exceeding the current rate.

(b) Whenever the amount which would be made available or the authority which would be granted under an Act listed in this section as passed by the House as of the date of enactment of this Act, is different from that which would be available or granted under such Act as passed by the Senate as of the date of enactment of this Act, the pertinent project or activity shall be continued at a rate for operations not exceeding the current rate or the rate permitted by the action of the House or the Senate, whichever is lower, under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1995: *Provided,* That where an item is not included in either version or where an item is included in only one version of the Act as passed

by both Houses as of the date of enactment of this Act, the pertinent project or activity shall not be continued except as provided for in section 111 under the appropriation, fund, or authority granted by the applicable appropriations Act for the fiscal year 1995 and under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1995.

(c) Whenever an Act listed in this section has been passed by only the House or only the Senate as of the date of enactment of this Act, the pertinent project or activity shall be continued under the appropriation, fund, or authority granted by the one House at a rate for operations not exceeding the current rate or the rate permitted by the action of the one House, whichever is lower, and under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1995: *Provided,* That where an item is funded in the applicable appropriations Act for the fiscal year 1995 and not included in the version passed by the one House as of the date of enactment of this Act, the pertinent project or activity shall not be continued except as provided for in section 111 under the appropriation, fund, or authority granted by the applicable appropriations Act for the fiscal year 1995 and under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1995.

SEC. 102. Appropriations made by section 101 shall be available to the extent and in the manner which would be provided by the pertinent appropriations Act.

SEC. 103. No appropriations or funds made available or authority granted pursuant to section 101 shall be used to initiate or resume any project or activity for which appropriations, funds, or other authority were not available during the fiscal year 1995.

SEC. 104. No provision which is included in an appropriations Act enumerated in section 101 but which was not included in the applicable appropriations Act for fiscal year 1995 and which by its terms is applicable to more than one appropriation, fund, or authority shall be applicable to any appropriation, fund, or authority provided in this title of this Act.

Coverage.

SEC. 105. Appropriations made and authority granted pursuant to this title of this Act shall cover all obligations or expenditures incurred for any program, project, or activity during the period for which funds or authority for such project or activity are available under this Act.

Termination date.

SEC. 106. Unless otherwise provided for in this title of this Act or in the applicable appropriations Act, appropriations and funds made available and authority granted pursuant to this title of this Act shall be available until (a) enactment into law of an appropriation for any project or activity provided for in this title of this Act, or (b) the enactment into law of the applicable appropriations Act without any provision for such project or activity, or (c) March 15, 1996, whichever first occurs.

SEC. 107. This title of this Act shall be implemented so that only the most limited funding action of that permitted in this title of this Act shall be taken in order to provide for continuation of projects and activities.

SEC. 108. Expenditures made pursuant to this title of this Act shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

SEC. 109. No provision in the appropriations Act for the fiscal year 1996 referred to in section 101 of this Act that makes the availability of any appropriation provided therein dependent upon the enactment of additional authorizing or other legislation shall be effective before the date set forth in section 106(c) of this Act.

SEC. 110. Appropriations and funds made available by or authority granted pursuant to this title of this Act may be used without regard to the time limitations for submission and approval of apportionments set forth in section 1513 of title 31, United States Code, but nothing herein shall be construed to waive any other provision of law governing the apportionment of funds.

SEC. 111. Notwithstanding any other provision of this title of this Act, except section 106, whenever an Act listed in section 101 as passed by both the House and the Senate as of the date of enactment of this Act, does not include funding for an ongoing project or activity for which there is a budget request, or whenever an Act listed in section 101 has been passed by only the House or only the Senate as of the date of enactment of this Act, and an item funded in fiscal year 1995 is not included in the version passed by the one House, or whenever the rate for operations for an ongoing project or activity provided by section 101 for which there is a budget request would result in the project or activity being significantly reduced, the pertinent project or activity may be continued under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1995 by increasing the rate for operations provided by section 101 to a rate for operations not to exceed one that provides the minimal level that would enable existing activities to continue. No new contracts or grants shall be awarded in excess of an amount that bears the same ratio to the rate for operations provided by this section as the number of days covered by this title of this Act bears to 366. For the purposes of this title of this Act, the minimal level means a rate for operations that is reduced from the current rate by 25 percent.

Furloughs.

SEC. 112. Notwithstanding any other provision of this title of this Act, except section 106, whenever the rate for operations for any continuing project or activity provided by section 101 or section 111 for which there is a budget request would result in a furlough of Government employees, that rate for operations may be increased to the minimum level that would enable the furlough to be avoided. No new contracts or grants shall be awarded in excess of an amount that bears the same ratio to the rate for operations provided by this section as the number of days covered by this Act bears to 366: *Provided,* That the first sentence of section 112 shall not apply except to furloughs that exceed one workday per pay period for the affected workforce during the period of January 26, 1996 through March 15, 1996.

SEC. 113. Notwithstanding any other provision of this title of this Act, except sections 106 and 111, for those programs that had high initial rates of operation or complete distribution of funding at the beginning of the fiscal year in fiscal year 1995 because of distributions of funding to States, foreign countries, grantees, or others, similar distributions of funds for fiscal year 1996 shall not be made and no grants shall be awarded for such programs funded by this title of this Act that would impinge on final funding prerogatives.

SEC. 114. Notwithstanding any other provision of this title of this Act, except section 106, any distribution of funding under the Rehabilitation Services and Disability Research account in the Department of Education may be made up to an amount that bears the same ratio to the rate for operation for this account provided by this title of this Act as the number of days covered by this title of this Act bears to 366.

SEC. 115. Notwithstanding any other provision of this Act, except section 106, the rate for operations of the following projects or activities shall be only the minimum necessary to accomplish orderly termination:

Child Development Associate Scholarships in the Department of Health and Human Services;

Dependent Care Planning and Development in the Department of Health and Human Services;

Law Related Education in the Department of Education;

Dropout Prevention Demonstrations in the Department of Education;

Aid for Institutional Development—Endowment Grants in the Department of Education;

Aid for Institutional Development—Evaluation in the Department of Education;

Native Hawaiian and Alaska Native Cultural Arts;

Innovative Projects in Community Service in the Department of Education;

Cooperative Education in the Department of Education; and

Douglas Teacher Scholarships in the Department of Education.

SEC. 116. COMPENSATION AND RATIFICATION OF AUTHORITY.—(a) Any Federal employees furloughed as a result of a lapse in appropriations, if any, after midnight November 13, 1995, until the enactment of this Act shall be compensated at their standard rate of compensation for the period during which there was a lapse in appropriations. Furloughs.

(b) All obligations incurred in anticipation of the appropriations made and the authority granted by this title of this Act for the purposes of maintaining the essential level of activity to protect life and property and bring about orderly termination of Government functions are hereby ratified and approved if otherwise in accord with the provisions of this title of this Act.

SEC. 117. Notwithstanding any other provision of this title of this Act, except section 106, upon enactment of this Act any new grants or contracts for the following programs shall be made at a level not to exceed a rate of 75 per centum of prior monthly awards:

Department of Health and Human Services:
Health Resources and Services Administration:
Health Resources and Services:
Trauma Care
Health Care Facilities
Assistant Secretary for Health:
Office of the Assistant Secretary for Health:
National Vaccine Program
Health Care Reform Data Analysis
National AIDS Program Office

Health Care Financing Administration:
Program Management:
Essential Access Community Hospitals
Administration for Children and Families:
Children and Families Services Program:
Youth Gang Substance Abuse
Advisory Board on Child Abuse and Neglect
Child Welfare Research
Social Services Research
Homeless Service Grants
Community Schools (crime trust fund)
Administration on Aging:
Aging Services Programs:
Pension Counseling
Federal Council on Aging
White House Conference on Aging
Department of Education:
Education for the Disadvantaged:
State School Improvement
School Improvement Programs:
Safe and Drug Free Schools and Communities: National Program
Women's Educational Equity
Bilingual and Immigrant Education:
Bilingual Education Support Services
Higher Education:
Faculty Development Fellowships
School, College, and University Partnerships
Related Agencies:
Corporation for National and Community Service:
Domestic Volunteer Service Programs, Operating Expenses:
Senior Demonstration Program
National Education Standards and Improvement Council.

SEC. 118. Notwithstanding any other provision of law or this Act, upon enactment of this Act the Secretary of each cabinet level department other than State, Defense, Ambassador to the United Nations, and Central Intelligence shall not obligate a total amount of funds for their individual official travel expenses for fiscal year 1996 that would be greater than 110 per centum of the average total amount of the individual official travel expenses of the relevant departmental secretary for the fiscal years 1990 through 1995.

Financial aid.
20 USC 1070a note.

SEC. 119. Notwithstanding any other provision of law or of this title of this Act, the maximum Pell Grant for which a student shall be eligible under the Higher Education Act of 1965, as amended, during award year 1996–1997 shall be at least $2,440.

Effective date.
40 USC 175 note.

SEC. 120. Notwithstanding any other provision of law, the first proviso under the heading "Education for the disadvantaged" in title III of H.R. 2127, as passed by the House of Representatives, shall take effect upon enactment of this Act.

SEC. 121. 501 FIRST STREET SE., DISTRICT OF COLUMBIA.

(a) DISPOSAL OF REAL PROPERTY.—

(1) IN GENERAL.—The Architect of the Capitol shall dispose of by sale at fair market value all right, title, and interest of the United States in and to the parcel of real property described in paragraph (9), including all improvements to such real property. Such disposal shall be made by quitclaim deed.

(2) HOUSE OFFICE BUILDING COMMISSION.—The Architect of the Capitol shall carry out this section under the direction of the House Office Building Commission.

(3) PROCEDURES.—Notwithstanding any other provision of law, the disposal under paragraph (1) shall be made in accordance with such procedures as the Architect of the Capitol determines appropriate.

(4) SENSE OF CONGRESS.—It is the sense of Congress that the child care center of the House of Representatives should remain in operation during the implementation of this section.

(5) TERMS AND CONDITIONS.—The deed of conveyance for the property to be disposed of under paragraph (1) shall contain such terms and conditions as the Architect of the Capitol determines are necessary to protect the interests of the United States.

(6) DEPOSIT OF PROCEEDS.—All proceeds from the disposal under paragraph (1) shall be deposited in the account established by subsection (b).

(7) ADVERTISING AND MARKETING.—The Architect of the Capitol shall begin advertising and marketing the property to be disposed of under paragraph (1) not later than 30 days after the date of the enactment of this Act.

(8) LOCAL ZONING AND OCCUPANCY REQUIREMENTS.—Until such date as the purchaser of the property to be disposed of under paragraph (1) takes full occupancy of such property, such property and the tenants of such property shall be deemed to be in compliance with all applicable zoning and occupancy requirements of the District of Columbia.

(9) PROPERTY DESCRIPTION.—The parcel of real property referred to in paragraph (1) is the approximately 31,725 square feet of land located at 501 First Street, SE., on square 736 S, Lot 801 (formerly part of Reservation 17) in the District of Columbia. Such parcel is bounded by E Street, SE., to the north, First Street, SE., to the east, New Jersey Avenue, SE., to the west, and Garfield Park to the south.

(b) SEPARATE ACCOUNT IN THE TREASURY.—

(1) ESTABLISHMENT.—There is established in the Treasury of the United States a separate account which shall consist of amounts deposited into the account by the Architect of the Capitol under subsection (a).

(2) AVAILABILITY OF FUNDS.—Funds in the account established by paragraph (1) shall be available, in such amounts as are specified in appropriations Acts, to the Architect of the Capitol for—

(A) payment of expenses associated with relocating the tenants of the property to be disposed of under subsection (a)(1);

(B) payment of expenses associated with renovating facilities under the jurisdiction of the Architect for the purpose of accommodating such tenants; and

(C) reimbursement of expenses incurred for advertising and marketing activities related to the disposal under subsection (a)(1) in a total amount of not to exceed $75,000.

Funds made available under this paragraph shall not be subject to any fiscal year limitation.

(3) REPORTING OF TRANSACTIONS.—Receipts, obligations, and expenditures of funds in the account established by paragraph (1) shall be reported in annual estimates submitted to Congress by the Architect of the Capitol for the operation and maintenance of the Capitol Buildings and Grounds.

(4) TERMINATION OF ACCOUNT.—Not later than 2 years after the date of settlement on the property to be disposed of under subsection (a)(1), the Architect of the Capitol shall terminate the account established by paragraph (1) and all amounts remaining in the account shall be deposited into the general fund of the Treasury of the United States and credited as miscellaneous receipts.

(c) AUTHORITY TO FURNISH STEAM AND CHILLED WATER.—

(1) IN GENERAL.—The Architect of the Capitol is authorized to furnish steam and chilled water from the Capitol Power Plant to the owner of the property to be disposed of under subsection (a)(1) if the owner agrees to pay for such steam and chilled water at market rates, as determined by the Architect of the Capitol.

(2) AUTHORITY LIMITED TO EXISTING FACILITIES.—The Architect of the Capitol may furnish steam and chilled water under paragraph (1) only with respect to facilities which, on the date of the enactment of this Act, are located on the property to be disposed of under subsection (a)(1).

(3) PROCEEDS.—All proceeds from the sale of steam and chilled water under paragraph (1) shall be deposited into the general fund of the Treasury of the United States and credited as miscellaneous receipts.

SEC. 122. Notwithstanding any other provision of this title of this Act except section 106, such sums as necessary are hereby appropriated for all projects and activities funded under the account heading "Office for Civil Rights" under the Office of the Secretary in the Department of Health and Human Services at a rate for operations not to exceed an annual rate for new obligational authority of $16,153,000 for general funds together with not to exceed an annual rate for new obligational authority of $3,314,000 to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from the Hospital Insurance Trust Fund and the Supplemental Medical Insurance Trust Fund.

SEC. 123. Activities necessary to effect the following program eliminations and transfers of selected functions are funded under the terms and conditions and at a rate of operations, notwithstanding any other provision of this title of this Act, provided for in the conference report and joint explanatory statement of the Committee of Conference (House Report 104–402) on the Department of the Interior and Related Agencies Appropriations Act, 1996 (H.R. 1977), as passed by the House of Representatives on December 13, 1995:

All projects and activities under the account heading "Public Development" under the Pennsylvania Avenue Development Corporation;

All projects and activities under the account heading "Mines and Minerals" under the Bureau of Mines in the Department of the Interior;

All activities related to the transfer of functions from the Bureau of Mines under the account heading "Management of Lands and Resources" under the Bureau of Land Management in the Department of the Interior;

All activities related to the transfers of functions from the Bureau of Mines and from the National Biological Service under the account heading "Surveys, Investigations, and Research" under the United States Geological Survey in the Department of the Interior; and

All activities related to the transfer of functions from the Bureau of Mines under the account heading "Fossil Energy Research and Development" in the Department of Energy.

Termination date.

SEC. 124. Notwithstanding any other provision of this title of this Act, the appropriations and funds made available and authority granted pursuant to the preceding section shall be available until (a) enactment into law of an appropriation for any project or activity provided for in that section, or (b) the enactment into law of the applicable appropriations Act without any provision for such project or activity, or (c) September 30, 1996, whichever first occurs.

SEC. 125. Notwithstanding any other provision of this title of this Act, except section 106, such amounts as may be necessary are hereby appropriated to effect the sale of Weeks Island oil from the Strategic Petroleum Reserve under the terms and conditions and at a rate of operations provided for in the conference report and joint explanatory statement of the Committee of Conference (House Report 104–402) on the Department of the Interior and Related Agencies Appropriations Act, 1996 (H.R. 1977), as passed by the House of Representatives on December 13, 1995.

SEC. 126. Notwithstanding any other provision of this title of this Act, such amounts as may be necessary are hereby appropriated under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1995 for continuing, at a rate for operations provided for in the conference report and joint explanatory statement of the Committee of Conference (House Report 104–402) on the Department of the Interior and Related Agencies Appropriations Act, 1996 (H.R. 1977), as passed by the House of Representatives on December 13, 1995, for the following projects or activities including the costs of direct loans and loan guarantees (not otherwise specifically provided for in this Act) which are conducted in the fiscal year 1995: all projects or activities of the Indian Health Services, Indian Health Service Facilities, Bureau of Indian Affairs, National Park Service, notwithstanding any other provision of law, the United States Fish and Wildlife Service, notwithstanding any other provision of law, and the Forest Service, notwithstanding any other provision of law: *Provided,* That appropriations and funds made available and authority granted pursuant to this section shall be available until (a) enactment into law of an appropriation for any project or activity provided for in this section, or (b) the enactment into law of the applicable appropriations Act without any provision for such project or activity, or (c) March 15, 1996, whichever first occurs.

Termination date.

SEC. 127. Notwithstanding any other provision of this title of this Act except section 106, projects and activities under the

account heading "Salaries and expenses" under the National Labor Relations Board shall be subject to the provisions of section 112 of Public law 104–56.

Embryos.

SEC. 128. None of the funds made available by Public Law 104–91 may be used for—

(1) the creation of a human embryo or embryos for research purposes; or

(2) research in which a human embryo or embryos are destroyed, discarded, or knowingly subjected to risk of injury or death greater than that allowed for research on fetuses in utero under 45 CFR 46.208(a)(2) and 42 U.S.C. 289g(b).

For purposes of this section, the phrase "human embryo or embryos" shall include any organism, not protected as a human subject under 45 CFR 46 as of the date of enactment of this Act, that is derived by fertilization, parthenogenesis, cloning, or any other means from one or more human gametes.

SEC. 129.TECHNICAL AMENDMENT TO PROHIBITION OF GRANTS FOR 501(c)(4) ORGANIZATIONS ENGAGING IN LOBBYING ACTIVITIES.

2 USC 1611.

(a) IN GENERAL.—Section 18 of the Lobbying Disclosure Act of 1995 is amended by striking "award, grant, contract, loan, or any other form" and inserting "award, grant, or loan".

2 USC 1611 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the Lobbying Disclosure Act of 1995 on the date of the enactment of such Act.

SEC. 130. No funds appropriated under this or any other Act shall be used to review or modify sourcing areas previously approved under section 490(c)(3) of the Forest Resources Conservation and Shortage Relief Act of 1990 (Public Law 101–382) or to enforce or implement Federal regulations 36 CFR part 223 promulgated on September 8, 1995. The regulations and interim rules in effect prior to September 8, 1995 (36 CFR 223.48, 36 CFR 223.87, 36 CFR 223 Subpart D, 36 CFR 223 Subpart F, and 36 CFR 261.6) shall remain in effect. The Secretary of Agriculture or the Secretary of the Interior shall not adopt any policies concerning Public Law 101–382 or existing regulations that would restrain domestic transportation or processing of timber from private lands or impose additional accountability requirements on any timber. The Secretary of Commerce shall extend until September 30, 1996, the order issued under section 491(b)(2)(A) of Public Law 101–382 and shall issue an order under section 491(b)(2)(B) of such law that will be effective October 1, 1996.

Regulations.
Effective date.
16 USC 620c note.

Floods.

SEC. 131. Notwithstanding any other provision of this Act, an additional $2,000,000 is hereby appropriated for the National Park Service, Park Service Construction for repair of flood damage to the Chesapeake and Ohio Canal National Historical Park.

TITLE II

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS

SEC. 201. (a) Such amounts as may be necessary under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1995 for projects or activities, except for those projects and activities provided for in Public Law 104–91 and Public Law 104–92, including the costs of direct loans and loan guarantees (not otherwise specifically provided for in this

Act) at a rate for operations provided for in the conference report and joint explanatory statement of the Committee of Conference, House Report 104–378, on the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1996 (H.R. 2076), as passed the House of Representatives on December 6, 1995, notwithstanding section 15 of the State Department Basic Authorities Act of 1956, section 701 of the United States Information and Educational Exchange Act of 1948, section 313 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236), and section 53 of the Arms Control and Disarmament Act: *Provided,* That, notwithstanding any other provision of this title of this Act, the rate for operations only for program administration and the continuation of grants awarded in fiscal year 1995 and prior years of the Advanced Technology Program of the National Institute of Standards and Technology, and the rate for operations for the Ounce of Prevention Council, Drug Courts, Global Learning and Observations to Benefit the Environment, and for the Cops on the Beat Program may be increased up to a level of 75 per centum of the final fiscal year 1995 appropriated amount: *Provided further,* That, under the previous proviso, no contracts or grants shall be awarded in excess of an amount that bears the same ratio to the rate for operations provided by the previous proviso as the number of days covered by this Act bears to 366: *Provided further,* That any costs incurred by a Department or agency funded under this subsection resulting from personnel actions taken in response to funding reductions resulting from this Act shall be absorbed within the total budgetary resources available to such Department or agency: *Provided further,* That the authority to transfer funds between appropriations accounts as may be necessary to carry out the preceding proviso is provided in addition to authorities provided elsewhere in this subsection: *Provided further,* That funds to carry out the preceding two provisos shall not be available for obligation or expenditure except in compliance with established reprogramming procedures: *Provided further,* That, notwithstanding any other provision of this title of this Act, the amount of funds obligated or expended by the Legal Services Corporation shall not exceed an amount that bears the same ratio to the rate for operations available to the Legal Services Corporation as the number of days covered by this Act bears to 366: *Provided further,* That, notwithstanding any other provision of this title of this Act, funding provided for Violent Offender Incarceration and Truth in Sentencing Incentive Grants, with the exception of funds available to States for incarceration of criminal aliens and the Cooperative Agreement Program, shall be withheld, pending enactment of revisions to subtitle A of title II of the Violent Crime Control and Law Enforcement Act of 1994, so as not to impinge upon final funding prerogatives: *Provided further,* That, notwithstanding any other provision of this title of this Act, sufficient funds shall be provided to continue the Office of Inspector General of the United States Information Agency, to be derived from funds otherwise available to the Office of Inspector General of the Department of State.

(b) Such amounts as may be necessary under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1995 for continuing projects or activities, except for those projects and activities provided for in Public Law 104–91 and Public Law 104–92, including the costs of direct loans and loan guarantees (not otherwise specifically provided for in this Act) at a rate for operations provided for in the conference report and joint explanatory statement of the Committee of Conference, House Report 104–384, on the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996 (H.R. 2099), as passed the House of Representatives on December 7, 1995: *Provided,* That Senate amendment 63 shall be disposed of in the manner passed by the House on December 7, 1995, as if enacted into law: *Provided further,* That, notwithstanding any other provision of this title of this Act, the rate for operations for the Corporation for National and Community Service, the Community Development Financial Institutions Fund, and the Office of Consumer Affairs may be increased up to a level of 75 per centum of the fiscal year 1995 level: *Provided further,* That, under the previous proviso, no new contracts or grants shall be awarded in excess of an amount that bears the same ratio to the rate for operations provided by the previous proviso as the number of days covered by this Act bears to 366: *Provided further,* That the penultimate proviso under the heading "General Operating Expenses" and sections 107 and 109 under the heading "Administrative Provisions" in the Department of Veterans Affairs are effective to the extent and in the manner, notwithstanding any other provision of this Act, provided for in the conference report and joint explanatory statement of the Committee of Conference (House Report 104–384) on the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996 (H.R. 2099), as passed by the House of Representatives on December 7, 1995.

38 USC 1920, 1923, 1955, 1982.

Termination date.

SEC. 202. Unless otherwise provided for in this title of this Act or in the applicable appropriations Act, appropriations and funds made available and authority granted pursuant to this title of this Act shall be available until (a) the enactment into law of an appropriation for any project or activity provided for in this title of this Act, or (b) the enactment into law of the applicable appropriations Act by both Houses without any provision for such project or activity, or (c) March 15, 1996, whichever first occurs.

Coverage.

SEC. 203. Appropriations made and authority granted pursuant to this title of this Act shall cover all obligations or expenditures incurred for any program, project, or activity during the period for which funds or authority for such project or activity are available under this title of this Act.

SEC. 204. Expenditures made pursuant to this title of this Act shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

SEC. 205. Appropriations made by section 201 shall be available to the extent and in the manner which would be provided by the pertinent appropriations Act.

SEC. 206. No provision in the appropriations Act for the fiscal year 1996 referred to in section 201 of this Act that makes the availability of any appropriation provided therein dependent upon the enactment of additional authorizing or other legislation shall be effective before the date set forth in section 202(c) of this Act.

SEC. 207. Appropriations and funds made available by or authority granted pursuant to this title of this Act may be used without regard to the time limitations for submission and approval of apportionments set forth in section 1513 of title 31, United States Code, but nothing herein shall be construed to waive any other provision of law governing the apportionment of funds.

SEC. 208. Public Law 104–92 is amended by repealing title II and by inserting in section 101(a) after the paragraph ending with "under the Railroad Retirement Board;" the following paragraphs: "All activities, including administrative and beneficiary travel expenses of all veterans benefit programs, necessary for the provision of veterans benefits funded in the Department of Veterans Affairs under the headings 'Compensation and pensions', 'Readjustment benefits', 'Veterans insurance and indemnities', 'Guaranty and indemnity program account', 'Loan guaranty program account', 'Direct loan program account', 'Education loan fund program account', 'Vocational rehabilitation loans program account', 'Native American veteran housing loan program account', and 'Administrative provisions, sec. 107' to the extent and in the manner and at the rate for operations, notwithstanding any other provision of this joint resolution, provided for in the conference report and joint explanatory statement of the Committee of Conference (House Report 104–384) on the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996 (H.R. 2099), as passed by the House of Representatives on December 7, 1995;

Ante, p. 18.
Ante, p. 17.

"All payments to contractors of the Veterans Health Administration of the Department of Veterans Affairs for goods and services that directly relate to patient health and safety to the extent and in the manner and at the rate for operations, notwithstanding any other provision of this joint resolution, provided for in the conference report and joint explanatory statement of the Committee of Conference (House Report 104–384) on the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996 (H.R. 2099), as passed by the House of Representatives on December 7, 1995;".

SEC. 209. Notwithstanding any other provision of this title of this Act, except section 202, the amount made available to the Securities and Exchange Commission, under the heading Salaries and Expenses, shall include, in addition to direct appropriations, the amount it collects under the fee rate and offsetting collection authority contained in Public Law 103–352, which fee rate and offsetting collection authority shall remain in effect during the period of this title of this Act.

15 USC 77f note.

SEC. 210. Notwithstanding any other provision of this title of this Act, except section 202, funds for the Environmental Protection Agency shall be made available in the appropriation accounts which are provided in H.R. 2099 as reported on September 13, 1995.

SEC. 211. Public Law 104–91 is amended by inserting after the words "the protection of the Federal judiciary" in section 101(a), the following: "to the extent and in the manner and", and by

18 USC 4043 note; 22 USC 1644 note; 28 USC 524, 524 note, 533 note, 534 note 589a, 1930; 31 USC 1344; 42 USC 1973gg–2, 1973gg–2 note.

inserting at the end of the paragraph containing those words, but before the semicolon, the following: ": *Provided,* That, with the exception of section 114, the General Provisions for the Department of Justice included in title I of the aforementioned conference report are hereby enacted into law".

Real property. Mississippi.

SEC. 212. Notwithstanding any other provision of law or regulation, the National Aeronautics and Space Administration shall convey, without reimbursement, to the State of Mississippi, all rights, title and interest of the United States in the property known as the Yellow Creek Facility and consisting of approximately 1,200 acres near the city of Iuka, Mississippi, including all improvements thereon and also including any personal property owned by NASA that is currently located on-site and which the State of Mississippi requires to facilitate the transfer: *Provided,* That appropriated funds shall be used to effect this conveyance: *Provided further,* That $10,000,000 in appropriated funds otherwise available to the National Aeronautics and Space Administration shall be transferred to the State of Mississippi to be used in the transition of the facility: *Provided further,* That each Federal agency with prior contact to the site shall remain responsible for any and all environmental remediation made necessary as a result of its activities on the site: *Provided further,* That in consideration of this conveyance, the National Aeronautics and Space Administration may require such other terms and conditions as the Administrator deems appropriate to protect the interests of the United States: *Provided further,* That the conveyance of the site and the transfer of the funds to the State of Mississippi shall occur not later than thirty days from the date of enactment of this Act.

SEC. 213. Notwithstanding any other provision of this title of this Act except section 202, projects and activities under the account heading "Council on Environmental Quality and Office of Environmental Quality" shall be subject to the provisions of section 112 of Public Law 104–56.

Furloughs.

SEC. 214. Notwithstanding any other provision of this title of this Act except section 202, whenever the rate for operations for any continuing project or activity provided by section 201 for which there is a budget request would result in a furlough of Government employees, that rate for operations may be increased to the minimum level that would enable the furlough to be avoided. No new contracts or grants shall be awarded in excess of an amount that bears the same ratio to the rate for operations provided by this section as the number of days covered by this Act bears to 366: *Provided,* That the first sentence of section 214 shall not apply except to furloughs that exceed one workday per pay period for the affected workforce during the period of January 26, 1996 through March 15, 1996.

TITLE III

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS

SEC. 301. Such amounts as may be necessary for programs, projects, or activities provided for in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996 (H.R. 1868), at a rate for operations and to the extent and in the manner provided for in the conference report and joint explanatory state-

ment of the Committee of Conference (House Report 104–295) as passed by the House of Representatives on October 31, 1995, as if enacted into law, notwithstanding any other provision of this title of this Act: *Provided,* That Senate amendment numbered 115 shall be disposed of as follows, as if enacted into law:

In lieu of the matter proposed by the Senate in amendment numbered 115, insert the following:

"AUTHORIZATION OF POPULATION PLANNING

"SEC. 518A. Notwithstanding section 526 of this Act, none of the funds made available in this Act for population planning activities or other population assistance pursuant to section 104(b) of the Foreign Assistance Act or any other provision of law, or funds made available in title IV of this Act as a contribution to the United Nations Population Fund (UNFPA) may be obligated or expended prior to July 1, 1996, unless such funding is expressly authorized by law: *Provided,* That if such funds are not authorized by law prior to July 1, 1996, funds appropriated in title II of this Act for population planning activities or other population assistance may be made available for obligation and expenditure in an amount not to exceed 65 percent of the total amount appropriated or otherwise made available by Public Law 103–306 and Public Law 104–19 for such activities for fiscal year 1995, and funds appropriated in title IV of this Act as a contribution to the United Nations Population Fund (UNFPA) may be made available for obligation and expenditure in an amount not to exceed 65 percent of the total amount appropriated or otherwise made available by Public Law 103–306 and Public Law 104–19 for a contribution to UNFPA for fiscal year 1995: *Provided further,* That, pursuant to the previous proviso, such funds may be apportioned only on a monthly basis, beginning July 1, 1996 and ending September 30, 1997, and such monthly apportionments may not exceed 6.67 percent of the total available for such activities: *Provided further,* That notwithstanding any other provision of this Act, funds appropriated by this Act for the United Nations Population Fund (UNFPA) shall remain available for obligation until September 30, 1997.". Termination date.

SEC. 302. Unless otherwise provided for in this title of this Act or in the applicable appropriations Act, appropriations and funds made available and authority granted pursuant to this title of this Act shall be available until (a) the enactment into law of an appropriation for any project or activity provided for in this title of this Act, or (b) the enactment into law of the applicable appropriations Act by both Houses without any provision for such project or activity, or (c) September 30, 1996, whichever first occurs. Termination date.

SEC. 303. Appropriations made and authority granted pursuant to this title of this Act shall cover all obligations or expenditures incurred for any program, project, or activity during the period for which funds or authority for such project or activity are available under this title of this Act. Coverage.

SEC. 304. Expenditures made pursuant to this title of this Act shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

TITLE IV

HOUSING AND URBAN DEVELOPMENT

SEC. 401. During fiscal year 1996, the Secretary of Housing and Urban Development may manage and dispose of multifamily properties owned by the Secretary, including the provision for grants from the General Insurance Fund (12 U.S.C. 1735c) for the necessary costs of rehabilitation and other related development costs and multifamily mortgages held by the Secretary without regard to any other provision of law.

PUBLIC AND ASSISTED HOUSING RENTS, INCOME ADJUSTMENTS, AND PREFERENCES

Effective date.

SEC. 402. (a) MINIMUM RENTS.—Notwithstanding sections 3(a) and 8(o)(2) of the United States Housing Act of 1937, as amended, effective for fiscal year 1996 and no later than October 30, 1995—

(1) public housing agencies shall require each family who is assisted under the certificate or moderate rehabilitation program under section 8 of such Act to pay a minimum monthly rent of not less than $25, and may require a minimum monthly rent of up to $50;

(2) public housing agencies shall reduce the monthly assistance payment on behalf of each family who is assisted under the voucher program under section 8 of such Act so that the family pays a minimum monthly rent of not less than $25, and may require a minimum monthly rent of up to $50;

(3) with respect to housing assisted under other programs for rental assistance under section 8 of such Act, the Secretary shall require each family who is assisted under such program to pay a minimum monthly rent of not less than $25 for the unit, and may require a minimum monthly rent of up to $50; and

(4) public housing agencies shall require each family who is assisted under the public housing program (including public housing for Indian families) of such Act to pay a minimum monthly rent of not less than $25, and may require a minimum monthly rent of up to $50.

(b) ESTABLISHMENT OF CEILING RENTS.—

42 USC 1437a.

(1) Section 3(a)(2) of the United States Housing Act of 1937 is amended to read as follows:

"(2) Notwithstanding paragraph (1), a public housing agency may—

"(A) adopt ceiling rents that reflect the reasonable market value of the housing, but that are not less than the monthly costs—

"(i) to operate the housing of the agency; and

"(ii) to make a deposit to a replacement reserve (in the sole discretion of the public housing agency); and

"(B) allow families to pay ceiling rents referred to in subparagraph (A), unless, with respect to any family, the ceiling rent established under this paragraph would exceed the amount payable as rent by that family under paragraph (1).".

42 USC 1437a note.

(2) REGULATIONS.—

(A) IN GENERAL.—The Secretary shall, by regulation, after notice and an opportunity for public comment, establish such requirements as may be necessary to carry out section 3(a)(2)(A) of the United States Housing Act of 1937, as amended by paragraph (1).

(B) TRANSITION RULE.—Prior to the issuance of final regulations under paragraph (1), a public housing agency may implement ceiling rents, which shall be not less than the monthly costs to operate the housing of the agency and—

(i) determined in accordance with section 3(a)(2)(A) of the United States Housing Act of 1937, as that section existed on the day before enactment of this Act;

(ii) equal to the 95th percentile of the rent paid for a unit of comparable size by tenants in the same public housing project or a group of comparable projects totaling 50 units or more; or

(iii) equal to the fair market rent for the area in which the unit is located.

(c) DEFINITION OF ADJUSTED INCOME.—Section 3(b)(5) of the United States Housing Act of 1937 is amended— 42 USC 1437a.

(1) at the end of subparagraph (F), by striking "and";

(2) at the end of subparagraph (G), by striking the period and inserting "; and"; and

(3) by inserting after subparagraph (G) the following:

"(H) for public housing, any other adjustments to earned income established by the public housing agency. If a public housing agency adopts other adjustments to income pursuant to subparagraph (H), the Secretary shall not take into account any reduction of or increase in the public housing agency's per unit dwelling rental income resulting from those adjustments when calculating the contributions under section 9 for the public housing agency for the operation of the public housing.".

(d) REPEAL OF FEDERAL PREFERENCES.—

(1) PUBLIC HOUSING.—Section 6(c)(4)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437d(c)(4)(A)) is amended to read as follows:

"(A) the establishment, after public notice and an opportunity for public comment, of a written system of preferences for admission to public housing, if any, that is not inconsistent with the comprehensive housing affordability strategy under title I of the Cranston-Gonzalez National Affordable Housing Act;".

(2) SECTION 8 EXISTING AND MODERATE REHABILITATION.—Section 8(d)(1)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)(1)(A)) is amended to read as follows:

"(A) the selection of tenants shall be the function of the owner, subject to the provisions of the annual contributions contract between the Secretary and the agency, except that for the certificate and moderate rehabilitation programs only, for the purpose of selecting families to be assisted, the public housing agency may establish, after public notice and an opportunity for public comment, a written system of preferences for selection that is not inconsistent with the comprehensive housing affordability

strategy under title I of the Cranston-Gonzalez National Affordable Housing Act;".

(3) SECTION 8 VOUCHER PROGRAM.—Section 8(o)(3)(B) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(3)(B)) is amended to read as follows:

"(B) For the purpose of selecting families to be assisted under this subsection, the public housing agency may establish, after public notice and an opportunity for public comment, a written system of preferences for selection that is not inconsistent with the comprehensive housing affordability strategy under title I of the Cranston-Gonzalez National Affordable Housing Act.".

(4) SECTION 8 NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION.—

(A) REPEAL.—Section 545(c) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 1437f note) is amended to read as follows:

"(c) [Reserved.]".

(B) PROHIBITION.—Notwithstanding any other provision of law, no Federal tenant selection preferences under the United States Housing Act of 1937 shall apply with respect to—

(i) housing constructed or substantially rehabilitated pursuant to assistance provided under section 8(b)(2) of the United States Housing Act of 1937 (as such section existed on the day before October 1, 1983); or

(ii) projects financed under section 202 of the Housing Act of 1959 (as such section existed on the day before the date of enactment of the Cranston-Gonzalez National Affordable Housing Act).

(5) RENT SUPPLEMENTS.—Section 101(k) of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s(k)) is amended to read as follows:

"(k) [Reserved.]".

(6) CONFORMING AMENDMENTS.—

(A) UNITED STATES HOUSING ACT OF 1937.—The United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended—

42 USC 1437d.

(i) in section 6(o), by striking "preference rules specified in" and inserting "written system of preferences for selection established pursuant to";

42 USC 1437e.

(ii) in the second sentence of section 7(a)(2), by striking "according to the preferences for occupancy under" and inserting "in accordance with the written system of preferences for selection established pursuant to";

42 USC 1437f.

(iii) in section 8(d)(2)(A), by striking the last sentence;

(iv) in section 8(d)(2)(H), by striking "Notwithstanding subsection (d)(1)(A)(i), an" and inserting "An";

42 USC 1437n.

(v) in section 16(c), in the second sentence, by striking "the system of preferences established by the agency pursuant to section 6(c)(4)(A)(ii)" and inserting "the written system of preferences for selection established by the public housing agency pursuant to section 6(c)(4)(A)"; and

(vi) in section 24(e)— 42 USC 1437v.

(I) by striking "(e) EXCEPTIONS" and all that follows through "The Secretary may" and inserting the following:

"(e) EXCEPTION TO GENERAL PROGRAM REQUIREMENTS.—The Secretary may"; and

(II) by striking paragraph (2).

(B) CRANSTON-GONZALEZ NATIONAL AFFORDABLE HOUSING ACT.—Section 522(f)(6)(B) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12704 et seq.) is amended by striking "any preferences for such assistance under section 8(d)(1)(A)(i)" and inserting "the written system of preferences for selection established pursuant to section 8(d)(1)(A)". 42 USC 1437f note.

(C) HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1992.—Section 655 of the Housing and Community Development Act of 1992 (42 U.S.C. 13615) is amended by striking "the preferences" and all that follows up to the period at the end and inserting "any preferences".

(D) REFERENCES IN OTHER LAW.—Any reference in any Federal law other than any provision of any law amended by paragraphs (1) through (5) of this subsection to the preferences for assistance under section 6(c)(4)(A)(i), 8(d)(1)(A)(i), or 8(o)(3)(B) of the United States Housing Act of 1937 (as such sections existed on the day before the date of enactment of this Act) shall be considered to refer to the written system of preferences for selection established pursuant to section 6(c)(4)(A), 8(d)(1)(A), or 8(o)(3)(B), respectively, of the United States Housing Act of 1937, as amended by this section. 42 USC 1437d note.

(e) APPLICABILITY.—In accordance with section 201(b)(2) of the United States Housing Act of 1937, the amendments made by subsections (a), (b), (c), (d), and (f) of this section shall also apply to public housing developed or operated pursuant to a contract between the Secretary of Housing and Urban Development and an Indian housing authority. 42 USC 1437aa note.

(f) This section shall be effective upon the enactment of this Act and only for fiscal year 1996. Effective date. 42 USC 1437a note.

SECTION 8 FAIR MARKET RENTALS, ADMINISTRATIVE FEES, AND DELAY IN REISSUANCE

SEC. 403. (a) FAIR MARKET RENTALS.—The Secretary shall establish fair market rentals for purposes of section 8(c)(1) of the United States Housing Act of 1937, as amended, that shall be effective for fiscal year 1996 and shall be based on the 40th percentile rent of rental distributions of standard quality rental housing units. In establishing such fair market rentals, the Secretary shall consider only the rents for dwelling units occupied by recent movers and may not consider the rents for public housing dwelling units or newly constructed rental dwelling units. Effective date.

(b) ADMINISTRATIVE FEES.—Notwithstanding sections 8(q) (1) and (4) of the United States Housing Act of 1937, for fiscal year 1996, the fee for each month for which a dwelling unit is covered by an assistance contract under the certificate, voucher, or moderate rehabilitation program under section 8 of such Act shall be equal to the monthly fee payable for fiscal year 1995: *Provided,* That 42 USC 1437f note. Applicability.

this subsection shall be applicable to all amounts made available for such fees during fiscal year 1996, as if in effect on October 1, 1995.

(c) DELAY REISSUANCE OF VOUCHERS AND CERTIFICATES.—Notwithstanding any other provision of law, a public housing agency administering certificate or voucher assistance provided under subsection (b) or (o) of section 8 of the United States Housing Act of 1937, as amended, shall delay for 3 months, the use of any amounts of such assistance (or the certificate or voucher representing assistance amounts) made available by the termination during fiscal year 1996 of such assistance on behalf of any family for any reason, but not later than October 1, 1996; with the exception of any certificates assigned or committed to project-based assistance as permitted otherwise by the Act, accomplished prior to the effective date of this Act.

REPEAL OF PROVISIONS REGARDING INCOME DISREGARDS

SEC. 404. (a) MAXIMUM ANNUAL LIMITATION ON RENT INCREASES RESULTING FROM EMPLOYMENT.—Section 957 of the Cranston-Gonzalez National Affordable Housing Act is hereby repealed, retroactive to November 28, 1990, and shall be of no effect.

42 USC 12714. Effective date.

(b) ECONOMIC INDEPENDENCE.—Section 923 of the Housing and Community Development Act of 1992 is hereby repealed, retroactive to October 28, 1992, and shall be of no effect.

42 USC 12714 note. Effective date.

SECTION 8 CONTRACT RENEWALS

42 USC 1437f note.

SEC. 405. (a) For fiscal year 1996 and henceforth, the Secretary of Housing and Urban Development may use amounts available for the renewal of assistance under section 8 of the United States Housing Act of 1937, upon termination or expiration of a contract for assistance under section 8 of such Act of 1937 (other than a contract for tenant-based assistance and notwithstanding section 8(v) of such Act for loan management assistance), to provide assistance under section 8 of such Act, subject to the Section 8 Existing Fair Market Rents, for the eligible families assisted under the contracts at expiration or termination, which assistance shall be in accordance with terms and conditions prescribed by the Secretary.

42 USC 1437f note.

(b) Notwithstanding subsection (a) and except for projects assisted under section 8(e)(2) of the United States Housing Act of 1937 (as it existed immediately prior to October 1, 1991), at the request of the owner, the Secretary shall renew for a period of one year contracts for assistance under section 8 that expire or terminate during fiscal year 1996 at the current rent levels.

42 USC 1437f.

(c) Section 8(v) of the United States Housing Act of 1937 is amended to read as follows: "The Secretary may extend expiring contracts entered into under this section for project-based loan management assistance to the extent necessary to prevent displacement of low-income families receiving such assistance as of September 30, 1996.".

(d) Section 236(f) of the National Housing Act (12 U.S.C. 1715z–1(f)) is amended:

(1) by striking the second sentence in paragraph (1) and inserting in lieu thereof the following: "The rental charge for each dwelling unit shall be at the basic rental charge or such

greater amount, not exceeding the lower of (i) the fair market rental charge determined pursuant to this paragraph, or (ii) the fair market rental established under section 8(c) of the United States Housing Act of 1937 for the market area in which the housing is located, as represents 30 per centum of the tenant's adjusted income."; and

(2) by striking paragraph (6).

EXTENSION OF HOME EQUITY CONVERSION MORTGAGE PROGRAM

SEC. 406. Section 255(g) of the National Housing Act (12 U.S.C. 1715z–20(g)) is amended—

(1) in the first sentence, by striking "September 30, 1995" and inserting "September 30, 1996"; and

(2) in the second sentence, by striking "25,000" and inserting "30,000".

FHA SINGLE-FAMILY ASSIGNMENT PROGRAM REFORM

SEC. 407. (a) FORECLOSURE AVOIDANCE.—Except as provided in subsection (e), the last sentence of section 204(a) of the National Housing Act (12 U.S.C. 1710(a)) is amended by inserting before the period the following: ": *And provided further,* That the Secretary may pay insurance benefits to the mortgagee to recompense the mortgagee for its actions to provide an alternative to the foreclosure of a mortgage that is in default, which actions may include special foreclosure, loan modification, and deeds in lieu of foreclosure, all upon terms and conditions as the mortgagee shall determine in the mortgagee's sole discretion, within guidelines provided by the Secretary, but which may not include assignment of a mortgage to the Secretary: *And provided further,* That for purposes of the preceding proviso, no action authorized by the Secretary and no action taken, nor any failure to act, by the Secretary or the mortgagee shall be subject to judicial review.".

(b) AUTHORITY TO ASSIST MORTGAGORS IN DEFAULT.—Except as provided in subsection (e), section 230 of the National Housing Act (12 U.S.C. 1715u) is amended to read as follows:

"AUTHORITY TO ASSIST MORTGAGORS IN DEFAULT

"SEC. 230. (a) PAYMENT OF PARTIAL CLAIM.—The Secretary may establish a program for payment of a partial claim to a mortgagee that agrees to apply the claim amount to payment of a mortgage on a 1- to 4-family residence that is in default. Any such payment under such program to the mortgagee shall be made in the sole discretion of the Secretary and on terms and conditions acceptable to the Secretary, except that—

"(1) the amount of the payment shall be in an amount determined by the Secretary, not to exceed an amount equivalent to 12 of the monthly mortgage payments and any costs related to the default that are approved by the Secretary; and

"(2) the mortgagor shall agree to repay the amount of the insurance claim to the Secretary upon terms and conditions acceptable to the Secretary.

The Secretary may pay the mortgagee, from the appropriate insurance fund, in connection with any activities that the mortgagee

is required to undertake concerning repayment by the mortgagor of the amount owed to the Secretary.

"(b) ASSIGNMENT.—

"(1) PROGRAM AUTHORITY.—The Secretary may establish a program for assignment to the Secretary, upon request of the mortgagee, of a mortgage on a 1- to 4-family residence insured under this Act.

"(2) PROGRAM REQUIREMENTS.—The Secretary may accept assignment of a mortgage under a program under this subsection only if—

"(A) the mortgage was in default;

"(B) the mortgagee has modified the mortgage to cure the default and provide for mortgage payments within the reasonable ability of the mortgagor to pay, at interest rates not exceeding current market interest rates; and

"(C) the Secretary arranges for servicing of the assigned mortgage by a mortgagee (which may include the assigning mortgagee) through procedures that the Secretary has determined to be in the best interests of the appropriate insurance fund.

"(3) PAYMENT OF INSURANCE BENEFITS.—Upon accepting assignment of a mortgage under a program established under this subsection, the Secretary may pay insurance benefits to the mortgagee from the appropriate insurance fund, in an amount that the Secretary determines to be appropriate, not to exceed the amount necessary to compensate the mortgagee for the assignment and any losses and expenses resulting from the mortgage modification.

"(c) PROHIBITION OF JUDICIAL REVIEW.—No decision by the Secretary to exercise or forego exercising any authority under this section shall be subject to judicial review.

"(d) SAVINGS PROVISION.—Any mortgage for which the mortgagor has applied to the Secretary, before the date of enactment of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996, for assignment pursuant to subsection (b) of this section as in effect before such date of enactment shall continue to be governed by the provisions of this section, as in effect immediately before such date of enactment.

"(e) APPLICABILITY OF OTHER LAWS.—No provision of this Act, or any other law, shall be construed to require the Secretary to provide an alternative to foreclosure for mortgagees with mortgages on 1- to 4-family residences insured by the Secretary under this Act, or to accept assignments of such mortgages.".

12 USC 1710 note.

(c) APPLICABILITY OF AMENDMENTS.—Except as provided in subsection (e), the amendments made by subsections (a) and (b) shall apply only with respect to mortgages insured under the National Housing Act that are originated before October 1, 1995.

12 USC 1710 note.

(d) REGULATIONS.—Not later than 60 days after the date of enactment of this Act, the Secretary of Housing and Urban Development shall issue interim regulations to implement this section and the amendments made by this section.

(e) EFFECTIVENESS AND APPLICABILITY.—If this Act is enacted after the date of enactment of the Balanced Budget Act of 1995—

(1) subsections (a), (b), (c), and (d) of this section shall not take effect; and

(2) section 2052(c) of the Balanced Budget Act of 1995 is amended by striking "that are originated on or after October 1, 1995" and inserting in lieu thereof "that are originated before, during, and after fiscal year 1996.".

This Act may be cited as "The Balanced Budget Downpayment Act, I".

Approved January 26, 1996.

LEGISLATIVE HISTORY—H.R. 2880:

CONGRESSIONAL RECORD, Vol. 142 (1996):
Jan. 25, considered and passed House.
Jan. 26, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 32 (1996):
Jan. 26, Presidential statement.

Public Law 104–100
104th Congress

An Act

Feb. 1, 1996
[H.R. 1606]

To designate the United States Post Office building located at 24 Corliss Street, Providence, Rhode Island, as the "Harry Kizirian Post Office Building".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The United States Post Office building located at 24 Corliss Street, Providence, Rhode Island, shall be known and designated as the "Harry Kizirian Post Office Building".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States Post Office building referred to in section 1 shall be deemed to be a reference to the "Harry Kizirian Post Office Building".

Approved February 1, 1996.

LEGISLATIVE HISTORY—H.R. 1606:

CONGRESSIONAL RECORD:
Vol. 141 (1995): Oct. 17, considered and passed House.
Oct. 24, considered and passed Senate, amended.
Vol. 142 (1996): Jan. 5, Senate receded from its amendments.

Public Law 104–101
104th Congress

An Act

To designate the Federal building located at 1550 Dewey Avenue, Baker City, Oregon, as the "David J. Wheeler Federal Building".

Feb. 1, 1996
[H.R. 2061]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Federal building located at 1550 Dewey Avenue, Baker City, Oregon, shall be known and designated as the "David J. Wheeler Federal Building".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in section 1 shall be deemed to be a reference to the "David J. Wheeler Federal Building".

Approved February 1, 1996.

LEGISLATIVE HISTORY—H.R. 2061 (S. 1097):

HOUSE REPORTS: No. 104–412 (Comm. on Transportation and Infrastructure).
CONGRESSIONAL RECORD:
Vol. 141 (1995): Nov. 2, S. 1097 considered and passed Senate.
Dec. 18, H.R. 2061 considered and passed House.
Vol. 142 (1996): Jan. 5, considered and passed Senate.

Public Law 104–102
104th Congress

An Act

Feb. 6, 1996
[S. 1341]

To provide for the transfer of certain lands to the Salt River Pima-Maricopa Indian Community and the city of Scottsdale, Arizona, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Saddleback Mountain-Arizona Settlement Act of 1995.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Saddleback Mountain-Arizona Settlement Act of 1995".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the Salt River Pima-Maricopa Indian Community and the city of Scottsdale, Arizona, have a longstanding interest in a 701-acre tract of land known as the "Saddleback Property", that lies within the boundaries of the City and abuts the north boundary of the Salt River Pima-Maricopa Indian Reservation;

(2) the Saddleback Property includes Saddleback Mountain and scenic hilly terrain along the Shea Boulevard corridor in Scottsdale, Arizona, that—

(A) has significant conservation value; and

(B) is of historic and cultural significance to the Community;

(3) in 1989, the Resolution Trust Corporation acquired the Saddleback Property as a receiver for the Sun City Savings and Loan Association;

(4) after the Saddleback Property was noticed for sale by the Resolution Trust Corporation, a dispute between the Community and the City arose concerning the future ownership, use, and development of the Saddleback Property;

(5) the Community and the City each filed litigation with respect to that dispute, but in lieu of pursuing that litigation, the Community and the City negotiated a Settlement Agreement that—

(A) addresses the concerns of each of those parties with respect to the future use and development of the Saddleback Property; and

(B) provides for the dismissal of the litigation;

(6) under the Settlement Agreement, subject to detailed use and development agreements—

(A) the Community will purchase a portion of the Saddleback Property; and

(B) the City will purchase the remaining portion of that property; and

(7) the Community and the City agree that the enactment of legislation by Congress to ratify the Settlement Agreement is necessary in order for—

(A) the Settlement Agreement to become effective; and

(B) the United States to take into trust the property referred to in paragraph (6)(A) and make that property a part of the Reservation.

(b) PURPOSES.—The purposes of this Act are—

(1) to approve and confirm the Settlement, Release, and Property Conveyance Agreement executed by the Community, the City, and the Resolution Trust Corporation;

(2) to ensure that the Settlement Agreement (including the Development Agreement, the Use Agreement, and all other associated ancillary agreements and exhibits)—

(A) is carried out; and

(B) is fully enforceable in accordance with its terms, including judicial remedies and binding arbitration provisions; and

(3) to provide for the taking into trust by the United States of the portion of the Saddleback Property purchased by the Community in order to make that portion a part of the Reservation.

SEC. 3. DEFINITIONS.

For the purposes of this Act, the following definitions shall apply:

(1) CITY.—The term "City" means the city of Scottsdale, Arizona, which is a municipal corporation in the State of Arizona.

(2) COMMUNITY.—The term "Community" means the Salt River Pima-Maricopa Indian Community, which is a federally recognized Indian tribe.

(3) DEDICATION PROPERTY.—The term "Dedication Property" means a portion of the Saddleback Property, consisting of approximately 27 acres of such property, that the City will acquire in accordance with the Settlement Agreement.

(4) DEVELOPMENT AGREEMENT.—The term "Development Agreement" means the agreement between the City and the Community, executed on September 11, 1995, that sets forth conditions and restrictions that—

(A) are supplemental to the Settlement, Release and Property Conveyance Agreement referred to in paragraph (11)(A); and

(B) apply to the future use and development of the Development Property.

(5) DEVELOPMENT PROPERTY.—The term "Development Property" means a portion of the Saddleback Property, consisting of approximately 211 acres, that the Community will acquire in accordance with the Settlement Agreement.

(6) MOUNTAIN PROPERTY.—The term "Mountain Property" means a portion of the Saddleback Property, consisting of approximately 365 acres, that the Community will acquire in accordance with the Settlement Agreement.

(7) PRESERVATION PROPERTY.—The term "Preservation Property" means a portion of the Saddleback Property, consisting of approximately 98 acres, that the City will acquire in accordance with the Settlement Agreement.

(8) RESERVATION.—The term "Reservation" means the Salt River Pima-Maricopa Indian Reservation.

(9) SADDLEBACK PROPERTY.—The term "Saddleback Property" means a tract of land that—

(A) consists of approximately 701 acres within the city of Scottsdale, Arizona; and

(B) includes the Dedication Property, the Development Property, the Mountain Property, and the Preservation Property.

(10) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(11) SETTLEMENT AGREEMENT.—The term "Settlement Agreement"—

(A) means the Settlement, Release and Property Conveyance Agreement executed on September 11, 1995, by the Community, the City, and the Resolution Trust Corporation (in its capacity as the Receiver for the Sun State Savings and Loan Association, F.S.A.); and

(B) includes the Development Agreement, the Use Agreement, and all other associated ancillary agreements and exhibits.

(12) USE AGREEMENT.—The term "Use Agreement" means the agreement between the City and the Community, executed on September 11, 1995, that sets forth conditions and restrictions that—

(A) are supplemental to the Settlement, Release and Property Conveyance Agreement referred to in paragraph (11)(A); and

(B) apply to the future use and development of the Mountain Property.

SEC. 4. APPROVAL OF AGREEMENT.

The Settlement Agreement is hereby approved and ratified and shall be fully enforceable in accordance with its terms and the provisions of this Act.

SEC. 5. TRANSFER OF PROPERTIES.

(a) IN GENERAL.—Upon satisfaction of all conditions to closing set forth in the Settlement Agreement, the Resolution Trust Corporation shall transfer, pursuant to the terms of the Settlement Agreement—

(1) to the Secretary, the Mountain Property and the Development Property purchased by the Community from the Resolution Trust Corporation; and

(2) to the City, the Preservation Property and the Dedication Property purchased by the City from the Resolution Trust Corporation.

(b) TRUST STATUS.—The Mountain Property and the Development Property transferred pursuant to subsection (a)(1) shall, subject to sections 6 and 7—

(1) be held in trust by the United States for the Community; and

(2) become part of the Reservation.

(c) LIMITATION ON LIABILITY.—Notwithstanding any other provision of law, the United States shall not incur any liability for conditions, existing prior to the transfer, on the parcels of land referred to in subsection (b) to be transferred to the United States in trust for the Salt River Pima-Maricopa Indian Community.

(d) RECORDS.—Upon the satisfaction of all of the conditions of closing set forth in the Settlement Agreement, the Secretary shall file a plat of survey depicting the Saddleback Property (that includes a depiction of the Dedication Property, the Development Property, the Mountain Property, and the Preservation Property) with—

(1) the office of the Recorder of Maricopa County, Arizona; and

(2) the Titles and Records Center of the Bureau of Indian Affairs, located in Albuquerque, New Mexico.

SEC. 6. LIMITATIONS ON USE AND DEVELOPMENT.

Recreation and recreational areas.

Upon the satisfaction of all of the conditions of closing set forth in the Settlement Agreement, the properties transferred pursuant to paragraphs (1) and (2) of section 5(a) shall be subject to the following limitations and conditions on use and development:

(1) PRESERVATION PROPERTY.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Preservation Property shall be forever preserved in its natural state for use only as a public park or recreation area that shall—

(i) be utilized and maintained for the purposes set forth in section 4(C) of the Settlement Agreement; and

(ii) be subject to the restrictions set forth in section 4(C) of the Settlement Agreement.

(B) SHEA BOULEVARD.—At the sole discretion of the City, a portion of the Preservation Property may be used to widen, reconfigure, repair, or reengineer Shea Boulevard in accordance with section 4(D) of the Settlement Agreement.

(2) DEDICATION PROPERTY.—The Dedication Property shall be used to widen, reconfigure, repair, or reengineer Shea Boulevard and 136th Street, in accordance with sections 4(D) and 7 of the Settlement Agreement.

(3) MOUNTAIN PROPERTY.—Except for the areas in the Mountain Property referred to as Special Cultural Land in section 5(C) of the Settlement Agreement, the Mountain Property shall be forever preserved in its natural state for use only as a public park or recreation area that shall—

(A) be utilized and maintained for the purposes set forth in section 5(C) of the Settlement Agreement; and

(B) be subject to the restrictions set forth in section 5(C) of the Settlement Agreement.

(4) DEVELOPMENT PROPERTY.—The Development Property shall be used and developed for the economic benefit of the Community in accordance with the provisions of the Settlement Agreement and the Development Agreement.

SEC. 7. AMENDMENTS TO THE SETTLEMENT AGREEMENT.

No amendment made to the Settlement Agreement (including any deviation from an approved plan described in section 9(B) of the Settlement Agreement) shall become effective, unless the amendment—

(1) is made in accordance with the applicable requirements relating to the form and approval of the amendment under sections 9(B) and 34 of the Settlement Agreement; and

(2) is consistent with the provisions of this Act.

Approved February 6, 1996.

LEGISLATIVE HISTORY—S. 1341:

HOUSE REPORTS: No. 104–439, Pt. 1 (Comm. on Resources).
SENATE REPORTS: No. 104–174 (Comm. on Indian Affairs).
CONGRESSIONAL RECORD:
Vol. 141 (1995): Nov. 29, considered and passed Senate.
Vol. 142 (1996): Jan. 23, considered and passed House.

Public Law 104–103
104th Congress

An Act

To guarantee the timely payment of social security benefits in March 1996.

Feb. 8, 1996
[H.R. 2924]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TIMELY PAYMENT OF MARCH 1996 SOCIAL SECURITY BENEFITS GUARANTEED.

31 USC 3101 note.

(a) FINDINGS.—

(1) Congress intends to pass an increase in the public debt limit before March 1, 1996.

(2) In the interim, social security beneficiaries should be assured that social security benefits will be paid on a timely basis in March 1996.

(b) GUARANTEE OF SOCIAL SECURITY BENEFIT PAYMENTS.—In addition to any other authority provided by law, the Secretary of the Treasury may issue under chapter 31 of title 31, United States Code, obligations of the United States before March 1, 1996, in an amount equal to the monthly insurance benefits payable under title II of the Social Security Act in March 1996.

(c) OBLIGATIONS EXEMPT FROM PUBLIC DEBT LIMIT.—

(1) IN GENERAL.—Obligations issued under subsection (b) shall not be taken into account in applying the limitation in section 3101(b) of title 31, United States Code.

(2) TERMINATION OF EXEMPTION.—Paragraph (1) shall cease to apply on the earlier of—

(A) the date of the enactment of the first increase in the limitation in section 3101(b) of title 31, United States Code, after the date of the enactment of this Act, or

(B) March 15, 1996.

Approved February 8, 1996.

LEGISLATIVE HISTORY—H.R. 2924 (S. 1555):

CONGRESSIONAL RECORD, Vol. 142 (1996):
Feb. 1, considered and passed House and Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 32 (1996):
Feb. 8, Presidential statement.

Public Law 104–104
104th Congress

An Act

Feb. 8, 1996
[S. 652]

To promote competition and reduce regulation in order to secure lower prices and higher quality services for American telecommunications consumers and encourage the rapid deployment of new telecommunications technologies.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Telecommunications Act of 1996.
Intergovernmental relations.
47 USC 609 note.

SECTION 1. SHORT TITLE; REFERENCES.

(a) SHORT TITLE.—This Act may be cited as the "Telecommunications Act of 1996".

(b) REFERENCES.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Communications Act of 1934 (47 U.S.C. 151 et seq.).

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title; references.
Sec. 2. Table of contents.
Sec. 3. Definitions.

TITLE I—TELECOMMUNICATION SERVICES

Subtitle A—Telecommunications Services

Sec. 101. Establishment of part II of title II.

"PART II—DEVELOPMENT OF COMPETITIVE MARKETS

"Sec. 251. Interconnection.
"Sec. 252. Procedures for negotiation, arbitration, and approval of agreements.
"Sec. 253. Removal of barriers to entry.
"Sec. 254. Universal service.
"Sec. 255. Access by persons with disabilities.
"Sec. 256. Coordination for interconnectivity.
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"Sec. 258. Illegal changes in subscriber carrier selections.
"Sec. 259. Infrastructure sharing.
"Sec. 260. Provision of telemessaging service.
"Sec. 261. Effect on other requirements."
Sec. 102. Eligible telecommunications carriers.
Sec. 103. Exempt telecommunications companies.
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Subtitle B—Special Provisions Concerning Bell Operating Companies

Sec. 151. Bell operating company provisions.

"PART III—SPECIAL PROVISIONS CONCERNING BELL OPERATING COMPANIES

"Sec. 271. Bell operating company entry into interLATA services.
"Sec. 272. Separate affiliate; safeguards.

"Sec. 273. Manufacturing by Bell operating companies.
"Sec. 274. Electronic publishing by Bell operating companies.
"Sec. 275. Alarm monitoring services.
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TITLE II—BROADCAST SERVICES

Sec. 201. Broadcast spectrum flexibility.
"Sec. 336. Broadcast spectrum flexibility."
Sec. 202. Broadcast ownership.
Sec. 203. Term of licenses.
Sec. 204. Broadcast license renewal procedures.
Sec. 205. Direct broadcast satellite service.
Sec. 206. Automated ship distress and safety systems.
"Sec. 365. Automated ship distress and safety systems."
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TITLE III—CABLE SERVICES

Sec. 301. Cable Act reform.
Sec. 302. Cable service provided by telephone companies.

"PART V—VIDEO PROGRAMMING SERVICES PROVIDED BY TELEPHONE COMPANIES

"Sec. 651. Regulatory treatment of video programming services.
"Sec. 652. Prohibition on buy outs.
"Sec. 653. Establishment of open video systems."
Sec. 303. Preemption of franchising authority regulation of telecommunications services.
Sec. 304. Competitive availability of navigation devices.
"Sec. 629. Competitive availability of navigation devices."
Sec. 305. Video programming accessibility.
"Sec. 713. Video programming accessibility."

TITLE IV—REGULATORY REFORM

Sec. 401. Regulatory forbearance.
"Sec. 10. Competition in provision of telecommunications service."
Sec. 402. Biennial review of regulations; regulatory relief.
"Sec. 11. Regulatory reform."
Sec. 403. Elimination of unnecessary Commission regulations and functions.

TITLE V—OBSCENITY AND VIOLENCE

Subtitle A—Obscene, Harassing, and Wrongful Utilization of Telecommunications Facilities

Sec. 501. Short title.
Sec. 502. Obscene or harassing use of telecommunications facilities under the Communications Act of 1934.
Sec. 503. Obscene programming on cable television.
Sec. 504. Scrambling of cable channels for nonsubscribers.
"Sec. 640. Scrambling of cable channels for nonsubscribers."
Sec. 505. Scrambling of sexually explicit adult video service programming.
"Sec. 641. Scrambling of sexually explicit adult video service programming."
Sec. 506. Cable operator refusal to carry certain programs.
Sec. 507. Clarification of current laws regarding communication of obscene materials through the use of computers.
Sec. 508. Coercion and enticement of minors.
Sec. 509. Online family empowerment.
"Sec. 230. Protection for private blocking and screening of offensive material."

Subtitle B—Violence

Sec. 551. Parental choice in television programming
Sec. 552. Technology fund.

Subtitle C—Judicial Review

Sec. 561. Expedited review.

TITLE VI—EFFECT ON OTHER LAWS

Sec. 601. Applicability of consent decrees and other law.
Sec. 602. Preemption of local taxation with respect to direct-to-home services.

TITLE VII—MISCELLANEOUS PROVISIONS

Sec. 701. Prevention of unfair billing practices for information or services provided over toll-free telephone calls.

Sec. 702. Privacy of customer information.
"Sec. 222. Privacy of customer information."
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Sec. 704. Facilities siting; radio frequency emission standards.
Sec. 705. Mobile services direct access to long distance carriers.
Sec. 706. Advanced telecommunications incentives.
Sec. 707. Telecommunications Development Fund.
"Sec. 714. Telecommunications Development Fund."
Sec. 708. National Education Technology Funding Corporation.
Sec. 709. Report on the use of advanced telecommunications services for medical purposes.
Sec. 710. Authorization of appropriations.

SEC. 3. DEFINITIONS.

(a) ADDITIONAL DEFINITIONS.—Section 3 (47 U.S.C. 153) is amended—

(1) in subsection (r)—

(A) by inserting "(A)" after "means"; and

(B) by inserting before the period at the end the following: ", or (B) comparable service provided through a system of switches, transmission equipment, or other facilities (or combination thereof) by which a subscriber can originate and terminate a telecommunications service"; and

(2) by adding at the end thereof the following:

"(33) AFFILIATE.—The term 'affiliate' means a person that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with, another person. For purposes of this paragraph, the term 'own' means to own an equity interest (or the equivalent thereof) of more than 10 percent.

"(34) AT&T CONSENT DECREE.—The term 'AT&T Consent Decree' means the order entered August 24, 1982, in the antitrust action styled United States v. Western Electric, Civil Action No. 82–0192, in the United States District Court for the District of Columbia, and includes any judgment or order with respect to such action entered on or after August 24, 1982.

"(35) BELL OPERATING COMPANY.—The term 'Bell operating company'—

"(A) means any of the following companies: Bell Telephone Company of Nevada, Illinois Bell Telephone Company, Indiana Bell Telephone Company, Incorporated, Michigan Bell Telephone Company, New England Telephone and Telegraph Company, New Jersey Bell Telephone Company, New York Telephone Company, U S West Communications Company, South Central Bell Telephone Company, Southern Bell Telephone and Telegraph Company, Southwestern Bell Telephone Company, The Bell Telephone Company of Pennsylvania, The Chesapeake and Potomac Telephone Company, The Chesapeake and Potomac Telephone Company of Maryland, The Chesapeake and Potomac Telephone Company of Virginia, The Chesapeake and Potomac Telephone Company of West Virginia, The Diamond State Telephone Company, The Ohio Bell Telephone Company, The Pacific Telephone and Telegraph Company, or Wisconsin Telephone Company; and

"(B) includes any successor or assign of any such company that provides wireline telephone exchange service; but

"(C) does not include an affiliate of any such company, other than an affiliate described in subparagraph (A) or (B).

"(36) CABLE SERVICE.—The term 'cable service' has the meaning given such term in section 602.

"(37) CABLE SYSTEM.—The term 'cable system' has the meaning given such term in section 602.

"(38) CUSTOMER PREMISES EQUIPMENT.—The term 'customer premises equipment' means equipment employed on the premises of a person (other than a carrier) to originate, route, or terminate telecommunications.

"(39) DIALING PARITY.—The term 'dialing parity' means that a person that is not an affiliate of a local exchange carrier is able to provide telecommunications services in such a manner that customers have the ability to route automatically, without the use of any access code, their telecommunications to the telecommunications services provider of the customer's designation from among 2 or more telecommunications services providers (including such local exchange carrier).

"(40) EXCHANGE ACCESS.—The term 'exchange access' means the offering of access to telephone exchange services or facilities for the purpose of the origination or termination of telephone toll services.

"(41) INFORMATION SERVICE.—The term 'information service' means the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information via telecommunications, and includes electronic publishing, but does not include any use of any such capability for the management, control, or operation of a telecommunications system or the management of a telecommunications service.

"(42) INTERLATA SERVICE.—The term 'interLATA service' means telecommunications between a point located in a local access and transport area and a point located outside such area.

"(43) LOCAL ACCESS AND TRANSPORT AREA.—The term 'local access and transport area' or 'LATA' means a contiguous geographic area—

"(A) established before the date of enactment of the Telecommunications Act of 1996 by a Bell operating company such that no exchange area includes points within more than 1 metropolitan statistical area, consolidated metropolitan statistical area, or State, except as expressly permitted under the AT&T Consent Decree; or

"(B) established or modified by a Bell operating company after such date of enactment and approved by the Commission.

"(44) LOCAL EXCHANGE CARRIER.—The term 'local exchange carrier' means any person that is engaged in the provision of telephone exchange service or exchange access. Such term does not include a person insofar as such person is engaged in the provision of a commercial mobile service under section 332(c), except to the extent that the Commission finds that such service should be included in the definition of such term.

"(45) NETWORK ELEMENT.—The term 'network element' means a facility or equipment used in the provision of a telecommunications service. Such term also includes features, func-

tions, and capabilities that are provided by means of such facility or equipment, including subscriber numbers, databases, signaling systems, and information sufficient for billing and collection or used in the transmission, routing, or other provision of a telecommunications service.

"(46) NUMBER PORTABILITY.—The term 'number portability' means the ability of users of telecommunications services to retain, at the same location, existing telecommunications numbers without impairment of quality, reliability, or convenience when switching from one telecommunications carrier to another.

"(47) RURAL TELEPHONE COMPANY.—The term 'rural telephone company' means a local exchange carrier operating entity to the extent that such entity—

"(A) provides common carrier service to any local exchange carrier study area that does not include either—

"(i) any incorporated place of 10,000 inhabitants or more, or any part thereof, based on the most recently available population statistics of the Bureau of the Census; or

"(ii) any territory, incorporated or unincorporated, included in an urbanized area, as defined by the Bureau of the Census as of August 10, 1993;

"(B) provides telephone exchange service, including exchange access, to fewer than 50,000 access lines;

"(C) provides telephone exchange service to any local exchange carrier study area with fewer than 100,000 access lines; or

"(D) has less than 15 percent of its access lines in communities of more than 50,000 on the date of enactment of the Telecommunications Act of 1996.

"(48) TELECOMMUNICATIONS.—The term 'telecommunications' means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.

"(49) TELECOMMUNICATIONS CARRIER.—The term 'telecommunications carrier' means any provider of telecommunications services, except that such term does not include aggregators of telecommunications services (as defined in section 226). A telecommunications carrier shall be treated as a common carrier under this Act only to the extent that it is engaged in providing telecommunications services, except that the Commission shall determine whether the provision of fixed and mobile satellite service shall be treated as common carriage.

"(50) TELECOMMUNICATIONS EQUIPMENT.—The term 'telecommunications equipment' means equipment, other than customer premises equipment, used by a carrier to provide telecommunications services, and includes software integral to such equipment (including upgrades).

"(51) TELECOMMUNICATIONS SERVICE.—The term 'telecommunications service' means the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.".

(b) COMMON TERMINOLOGY.—Except as otherwise provided in this Act, the terms used in this Act have the meanings provided in section 3 of the Communications Act of 1934 (47 U.S.C. 153), as amended by this section. 47 USC 153 note.

(c) STYLISTIC CONSISTENCY.—Section 3 (47 U.S.C. 153) is amended—

(1) in subsections (e) and (n), by redesignating clauses (1), (2), and (3), as clauses (A), (B), and (C), respectively;

(2) in subsection (w), by redesignating paragraphs (1) through (5) as subparagraphs (A) through (E), respectively;

(3) in subsections (y) and (z), by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(4) by redesignating subsections (a) through (ff) as paragraphs (1) through (32);

(5) by indenting such paragraphs 2 em spaces;

(6) by inserting after the designation of each such paragraph—

(A) a heading, in a form consistent with the form of the heading of this subsection, consisting of the term defined by such paragraph, or the first term so defined if such paragraph defines more than one term; and

(B) the words "The term";

(7) by changing the first letter of each defined term in such paragraphs from a capital to a lower case letter (except for "United States", "State", "State commission", and "Great Lakes Agreement"); and

(8) by reordering such paragraphs and the additional paragraphs added by subsection (a) in alphabetical order based on the headings of such paragraphs and renumbering such paragraphs as so reordered.

(d) CONFORMING AMENDMENTS.—The Act is amended—

(1) in section 225(a)(1), by striking "section 3(h)" and inserting "section 3"; 47 USC 225.

(2) in section 332(d), by striking "section 3(n)" each place it appears and inserting "section 3"; and 47 USC 332.

(3) in sections 621(d)(3), 636(d), and 637(a)(2), by striking "section 3(v)" and inserting "section 3". 47 USC 541, 556, 557.

TITLE I—TELECOMMUNICATION SERVICES

Subtitle A—Telecommunications Services

SEC. 101. ESTABLISHMENT OF PART II OF TITLE II.

(a) AMENDMENT.—Title II is amended by inserting after section 229 (47 U.S.C. 229) the following new part:

"PART II—DEVELOPMENT OF COMPETITIVE MARKETS

"SEC. 251. INTERCONNECTION. 47 USC 251.

"(a) GENERAL DUTY OF TELECOMMUNICATIONS CARRIERS.—Each telecommunications carrier has the duty—

"(1) to interconnect directly or indirectly with the facilities and equipment of other telecommunications carriers; and

"(2) not to install network features, functions, or capabilities that do not comply with the guidelines and standards established pursuant to section 255 or 256.

"(b) OBLIGATIONS OF ALL LOCAL EXCHANGE CARRIERS.—Each local exchange carrier has the following duties:

"(1) RESALE.—The duty not to prohibit, and not to impose unreasonable or discriminatory conditions or limitations on, the resale of its telecommunications services.

"(2) NUMBER PORTABILITY.—The duty to provide, to the extent technically feasible, number portability in accordance with requirements prescribed by the Commission.

"(3) DIALING PARITY.—The duty to provide dialing parity to competing providers of telephone exchange service and telephone toll service, and the duty to permit all such providers to have nondiscriminatory access to telephone numbers, operator services, directory assistance, and directory listing, with no unreasonable dialing delays.

"(4) ACCESS TO RIGHTS-OF-WAY.—The duty to afford access to the poles, ducts, conduits, and rights-of-way of such carrier to competing providers of telecommunications services on rates, terms, and conditions that are consistent with section 224.

"(5) RECIPROCAL COMPENSATION.—The duty to establish reciprocal compensation arrangements for the transport and termination of telecommunications.

"(c) ADDITIONAL OBLIGATIONS OF INCUMBENT LOCAL EXCHANGE CARRIERS.—In addition to the duties contained in subsection (b), each incumbent local exchange carrier has the following duties:

"(1) DUTY TO NEGOTIATE.—The duty to negotiate in good faith in accordance with section 252 the particular terms and conditions of agreements to fulfill the duties described in paragraphs (1) through (5) of subsection (b) and this subsection. The requesting telecommunications carrier also has the duty to negotiate in good faith the terms and conditions of such agreements.

"(2) INTERCONNECTION.—The duty to provide, for the facilities and equipment of any requesting telecommunications carrier, interconnection with the local exchange carrier's network—

"(A) for the transmission and routing of telephone exchange service and exchange access;

"(B) at any technically feasible point within the carrier's network;

"(C) that is at least equal in quality to that provided by the local exchange carrier to itself or to any subsidiary, affiliate, or any other party to which the carrier provides interconnection; and

"(D) on rates, terms, and conditions that are just, reasonable, and nondiscriminatory, in accordance with the terms and conditions of the agreement and the requirements of this section and section 252.

"(3) UNBUNDLED ACCESS.—The duty to provide, to any requesting telecommunications carrier for the provision of a telecommunications service, nondiscriminatory access to network elements on an unbundled basis at any technically feasible point on rates, terms, and conditions that are just, reasonable, and nondiscriminatory in accordance with the terms and conditions of the agreement and the requirements of this section and section 252. An incumbent local exchange carrier shall

provide such unbundled network elements in a manner that allows requesting carriers to combine such elements in order to provide such telecommunications service.

"(4) RESALE.—The duty—

"(A) to offer for resale at wholesale rates any telecommunications service that the carrier provides at retail to subscribers who are not telecommunications carriers; and

"(B) not to prohibit, and not to impose unreasonable or discriminatory conditions or limitations on, the resale of such telecommunications service, except that a State commission may, consistent with regulations prescribed by the Commission under this section, prohibit a reseller that obtains at wholesale rates a telecommunications service that is available at retail only to a category of subscribers from offering such service to a different category of subscribers.

"(5) NOTICE OF CHANGES.—The duty to provide reasonable public notice of changes in the information necessary for the transmission and routing of services using that local exchange carrier's facilities or networks, as well as of any other changes that would affect the interoperability of those facilities and networks.

"(6) COLLOCATION.—The duty to provide, on rates, terms, and conditions that are just, reasonable, and nondiscriminatory, for physical collocation of equipment necessary for interconnection or access to unbundled network elements at the premises of the local exchange carrier, except that the carrier may provide for virtual collocation if the local exchange carrier demonstrates to the State commission that physical collocation is not practical for technical reasons or because of space limitations.

"(d) IMPLEMENTATION.—

"(1) IN GENERAL.—Within 6 months after the date of enactment of the Telecommunications Act of 1996, the Commission shall complete all actions necessary to establish regulations to implement the requirements of this section. Regulations.

"(2) ACCESS STANDARDS.—In determining what network elements should be made available for purposes of subsection (c)(3), the Commission shall consider, at a minimum, whether—

"(A) access to such network elements as are proprietary in nature is necessary; and

"(B) the failure to provide access to such network elements would impair the ability of the telecommunications carrier seeking access to provide the services that it seeks to offer.

"(3) PRESERVATION OF STATE ACCESS REGULATIONS.—In prescribing and enforcing regulations to implement the requirements of this section, the Commission shall not preclude the enforcement of any regulation, order, or policy of a State commission that—

"(A) establishes access and interconnection obligations of local exchange carriers;

"(B) is consistent with the requirements of this section; and

"(C) does not substantially prevent implementation of the requirements of this section and the purposes of this part.

"(e) NUMBERING ADMINISTRATION.—

"(1) COMMISSION AUTHORITY AND JURISDICTION.—The Commission shall create or designate one or more impartial entities to administer telecommunications numbering and to make such numbers available on an equitable basis. The Commission shall have exclusive jurisdiction over those portions of the North American Numbering Plan that pertain to the United States. Nothing in this paragraph shall preclude the Commission from delegating to State commissions or other entities all or any portion of such jurisdiction.

"(2) COSTS.—The cost of establishing telecommunications numbering administration arrangements and number portability shall be borne by all telecommunications carriers on a competitively neutral basis as determined by the Commission.

"(f) EXEMPTIONS, SUSPENSIONS, AND MODIFICATIONS.—

"(1) EXEMPTION FOR CERTAIN RURAL TELEPHONE COMPANIES.—

"(A) EXEMPTION.—Subsection (c) of this section shall not apply to a rural telephone company until (i) such company has received a bona fide request for interconnection, services, or network elements, and (ii) the State commission determines (under subparagraph (B)) that such request is not unduly economically burdensome, is technically feasible, and is consistent with section 254 (other than subsections (b)(7) and (c)(1)(D) thereof).

"(B) STATE TERMINATION OF EXEMPTION AND IMPLEMENTATION SCHEDULE.—The party making a bona fide request of a rural telephone company for interconnection, services, or network elements shall submit a notice of its request to the State commission. The State commission shall conduct an inquiry for the purpose of determining whether to terminate the exemption under subparagraph (A). Within 120 days after the State commission receives notice of the request, the State commission shall terminate the exemption if the request is not unduly economically burdensome, is technically feasible, and is consistent with section 254 (other than subsections (b)(7) and (c)(1)(D) thereof). Upon termination of the exemption, a State commission shall establish an implementation schedule for compliance with the request that is consistent in time and manner with Commission regulations.

"(C) LIMITATION ON EXEMPTION.—The exemption provided by this paragraph shall not apply with respect to a request under subsection (c) from a cable operator providing video programming, and seeking to provide any telecommunications service, in the area in which the rural telephone company provides video programming. The limitation contained in this subparagraph shall not apply to a rural telephone company that is providing video programming on the date of enactment of the Telecommunications Act of 1996.

"(2) SUSPENSIONS AND MODIFICATIONS FOR RURAL CARRIERS.—A local exchange carrier with fewer than 2 percent of the Nation's subscriber lines installed in the aggregate

nationwide may petition a State commission for a suspension or modification of the application of a requirement or requirements of subsection (b) or (c) to telephone exchange service facilities specified in such petition. The State commission shall grant such petition to the extent that, and for such duration as, the State commission determines that such suspension or modification—

"(A) is necessary—

"(i) to avoid a significant adverse economic impact on users of telecommunications services generally;

"(ii) to avoid imposing a requirement that is unduly economically burdensome; or

"(iii) to avoid imposing a requirement that is technically infeasible; and

"(B) is consistent with the public interest, convenience, and necessity.

The State commission shall act upon any petition filed under this paragraph within 180 days after receiving such petition. Pending such action, the State commission may suspend enforcement of the requirement or requirements to which the petition applies with respect to the petitioning carrier or carriers.

"(g) CONTINUED ENFORCEMENT OF EXCHANGE ACCESS AND INTERCONNECTION REQUIREMENTS.—On and after the date of enactment of the Telecommunications Act of 1996, each local exchange carrier, to the extent that it provides wireline services, shall provide exchange access, information access, and exchange services for such access to interexchange carriers and information service providers in accordance with the same equal access and nondiscriminatory interconnection restrictions and obligations (including receipt of compensation) that apply to such carrier on the date immediately preceding the date of enactment of the Telecommunications Act of 1996 under any court order, consent decree, or regulation, order, or policy of the Commission, until such restrictions and obligations are explicitly superseded by regulations prescribed by the Commission after such date of enactment. During the period beginning on such date of enactment and until such restrictions and obligations are so superseded, such restrictions and obligations shall be enforceable in the same manner as regulations of the Commission.

"(h) DEFINITION OF INCUMBENT LOCAL EXCHANGE CARRIER.—

"(1) DEFINITION.—For purposes of this section, the term 'incumbent local exchange carrier' means, with respect to an area, the local exchange carrier that—

"(A) on the date of enactment of the Telecommunications Act of 1996, provided telephone exchange service in such area; and

"(B)(i) on such date of enactment, was deemed to be a member of the exchange carrier association pursuant to section 69.601(b) of the Commission's regulations (47 C.F.R. 69.601(b)); or

"(ii) is a person or entity that, on or after such date of enactment, became a successor or assign of a member described in clause (i).

"(2) TREATMENT OF COMPARABLE CARRIERS AS INCUMBENTS.—The Commission may, by rule, provide for the treatment of a local exchange carrier (or class or category thereof)

as an incumbent local exchange carrier for purposes of this section if—

"(A) such carrier occupies a position in the market for telephone exchange service within an area that is comparable to the position occupied by a carrier described in paragraph (1);

"(B) such carrier has substantially replaced an incumbent local exchange carrier described in paragraph (1); and

"(C) such treatment is consistent with the public interest, convenience, and necessity and the purposes of this section.

"(i) SAVINGS PROVISION.—Nothing in this section shall be construed to limit or otherwise affect the Commission's authority under section 201.

47 USC 252.

"SEC. 252. PROCEDURES FOR NEGOTIATION, ARBITRATION, AND APPROVAL OF AGREEMENTS.

"(a) AGREEMENTS ARRIVED AT THROUGH NEGOTIATION.—

"(1) VOLUNTARY NEGOTIATIONS.—Upon receiving a request for interconnection, services, or network elements pursuant to section 251, an incumbent local exchange carrier may negotiate and enter into a binding agreement with the requesting telecommunications carrier or carriers without regard to the standards set forth in subsections (b) and (c) of section 251. The agreement shall include a detailed schedule of itemized charges for interconnection and each service or network element included in the agreement. The agreement, including any interconnection agreement negotiated before the date of enactment of the Telecommunications Act of 1996, shall be submitted to the State commission under subsection (e) of this section.

"(2) MEDIATION.—Any party negotiating an agreement under this section may, at any point in the negotiation, ask a State commission to participate in the negotiation and to mediate any differences arising in the course of the negotiation.

"(b) AGREEMENTS ARRIVED AT THROUGH COMPULSORY ARBITRATION.—

"(1) ARBITRATION.—During the period from the 135th to the 160th day (inclusive) after the date on which an incumbent local exchange carrier receives a request for negotiation under this section, the carrier or any other party to the negotiation may petition a State commission to arbitrate any open issues.

"(2) DUTY OF PETITIONER.—

"(A) A party that petitions a State commission under paragraph (1) shall, at the same time as it submits the petition, provide the State commission all relevant documentation concerning—

"(i) the unresolved issues;

"(ii) the position of each of the parties with respect to those issues; and

"(iii) any other issue discussed and resolved by the parties.

"(B) A party petitioning a State commission under paragraph (1) shall provide a copy of the petition and any documentation to the other party or parties not later than the day on which the State commission receives the petition.

"(3) OPPORTUNITY TO RESPOND.—A non-petitioning party to a negotiation under this section may respond to the other party's petition and provide such additional information as it wishes within 25 days after the State commission receives the petition.

"(4) ACTION BY STATE COMMISSION.—

"(A) The State commission shall limit its consideration of any petition under paragraph (1) (and any response thereto) to the issues set forth in the petition and in the response, if any, filed under paragraph (3).

"(B) The State commission may require the petitioning party and the responding party to provide such information as may be necessary for the State commission to reach a decision on the unresolved issues. If any party refuses or fails unreasonably to respond on a timely basis to any reasonable request from the State commission, then the State commission may proceed on the basis of the best information available to it from whatever source derived.

"(C) The State commission shall resolve each issue set forth in the petition and the response, if any, by imposing appropriate conditions as required to implement subsection (c) upon the parties to the agreement, and shall conclude the resolution of any unresolved issues not later than 9 months after the date on which the local exchange carrier received the request under this section.

"(5) REFUSAL TO NEGOTIATE.—The refusal of any other party to the negotiation to participate further in the negotiations, to cooperate with the State commission in carrying out its function as an arbitrator, or to continue to negotiate in good faith in the presence, or with the assistance, of the State commission shall be considered a failure to negotiate in good faith.

"(c) STANDARDS FOR ARBITRATION.—In resolving by arbitration under subsection (b) any open issues and imposing conditions upon the parties to the agreement, a State commission shall—

"(1) ensure that such resolution and conditions meet the requirements of section 251, including the regulations prescribed by the Commission pursuant to section 251;

"(2) establish any rates for interconnection, services, or network elements according to subsection (d); and

"(3) provide a schedule for implementation of the terms and conditions by the parties to the agreement.

"(d) PRICING STANDARDS.—

"(1) INTERCONNECTION AND NETWORK ELEMENT CHARGES.—Determinations by a State commission of the just and reasonable rate for the interconnection of facilities and equipment for purposes of subsection (c)(2) of section 251, and the just and reasonable rate for network elements for purposes of subsection (c)(3) of such section—

"(A) shall be—

"(i) based on the cost (determined without reference to a rate-of-return or other rate-based proceeding) of providing the interconnection or network element (whichever is applicable), and

"(ii) nondiscriminatory, and

"(B) may include a reasonable profit.

"(2) CHARGES FOR TRANSPORT AND TERMINATION OF TRAFFIC.—

"(A) IN GENERAL.—For the purposes of compliance by an incumbent local exchange carrier with section 251(b)(5), a State commission shall not consider the terms and conditions for reciprocal compensation to be just and reasonable unless—

"(i) such terms and conditions provide for the mutual and reciprocal recovery by each carrier of costs associated with the transport and termination on each carrier's network facilities of calls that originate on the network facilities of the other carrier; and

"(ii) such terms and conditions determine such costs on the basis of a reasonable approximation of the additional costs of terminating such calls.

"(B) RULES OF CONSTRUCTION.—This paragraph shall not be construed—

"(i) to preclude arrangements that afford the mutual recovery of costs through the offsetting of reciprocal obligations, including arrangements that waive mutual recovery (such as bill-and-keep arrangements); or

"(ii) to authorize the Commission or any State commission to engage in any rate regulation proceeding to establish with particularity the additional costs of transporting or terminating calls, or to require carriers to maintain records with respect to the additional costs of such calls.

"(3) WHOLESALE PRICES FOR TELECOMMUNICATIONS SERVICES.—For the purposes of section 251(c)(4), a State commission shall determine wholesale rates on the basis of retail rates charged to subscribers for the telecommunications service requested, excluding the portion thereof attributable to any marketing, billing, collection, and other costs that will be avoided by the local exchange carrier.

"(e) APPROVAL BY STATE COMMISSION.—

"(1) APPROVAL REQUIRED.—Any interconnection agreement adopted by negotiation or arbitration shall be submitted for approval to the State commission. A State commission to which an agreement is submitted shall approve or reject the agreement, with written findings as to any deficiencies.

"(2) GROUNDS FOR REJECTION.—The State commission may only reject—

"(A) an agreement (or any portion thereof) adopted by negotiation under subsection (a) if it finds that—

"(i) the agreement (or portion thereof) discriminates against a telecommunications carrier not a party to the agreement; or

"(ii) the implementation of such agreement or portion is not consistent with the public interest, convenience, and necessity; or

"(B) an agreement (or any portion thereof) adopted by arbitration under subsection (b) if it finds that the agreement does not meet the requirements of section 251, including the regulations prescribed by the Commission pursuant to section 251, or the standards set forth in subsection (d) of this section.

"(3) PRESERVATION OF AUTHORITY.—Notwithstanding paragraph (2), but subject to section 253, nothing in this section shall prohibit a State commission from establishing or enforcing other requirements of State law in its review of an agreement, including requiring compliance with intrastate telecommunications service quality standards or requirements.

"(4) SCHEDULE FOR DECISION.—If the State commission does not act to approve or reject the agreement within 90 days after submission by the parties of an agreement adopted by negotiation under subsection (a), or within 30 days after submission by the parties of an agreement adopted by arbitration under subsection (b), the agreement shall be deemed approved. No State court shall have jurisdiction to review the action of a State commission in approving or rejecting an agreement under this section.

"(5) COMMISSION TO ACT IF STATE WILL NOT ACT.—If a State commission fails to act to carry out its responsibility under this section in any proceeding or other matter under this section, then the Commission shall issue an order preempting the State commission's jurisdiction of that proceeding or matter within 90 days after being notified (or taking notice) of such failure, and shall assume the responsibility of the State commission under this section with respect to the proceeding or matter and act for the State commission.

"(6) REVIEW OF STATE COMMISSION ACTIONS.—In a case in which a State fails to act as described in paragraph (5), the proceeding by the Commission under such paragraph and any judicial review of the Commission's actions shall be the exclusive remedies for a State commission's failure to act. In any case in which a State commission makes a determination under this section, any party aggrieved by such determination may bring an action in an appropriate Federal district court to determine whether the agreement or statement meets the requirements of section 251 and this section.

"(f) STATEMENTS OF GENERALLY AVAILABLE TERMS.—

"(1) IN GENERAL.—A Bell operating company may prepare and file with a State commission a statement of the terms and conditions that such company generally offers within that State to comply with the requirements of section 251 and the regulations thereunder and the standards applicable under this section.

"(2) STATE COMMISSION REVIEW.—A State commission may not approve such statement unless such statement complies with subsection (d) of this section and section 251 and the regulations thereunder. Except as provided in section 253, nothing in this section shall prohibit a State commission from establishing or enforcing other requirements of State law in its review of such statement, including requiring compliance with intrastate telecommunications service quality standards or requirements.

"(3) SCHEDULE FOR REVIEW.—The State commission to which a statement is submitted shall, not later than 60 days after the date of such submission—

"(A) complete the review of such statement under paragraph (2) (including any reconsideration thereof), unless the submitting carrier agrees to an extension of the period for such review; or

"(B) permit such statement to take effect.

"(4) AUTHORITY TO CONTINUE REVIEW.—Paragraph (3) shall not preclude the State commission from continuing to review a statement that has been permitted to take effect under subparagraph (B) of such paragraph or from approving or disapproving such statement under paragraph (2).

"(5) DUTY TO NEGOTIATE NOT AFFECTED.—The submission or approval of a statement under this subsection shall not relieve a Bell operating company of its duty to negotiate the terms and conditions of an agreement under section 251.

"(g) CONSOLIDATION OF STATE PROCEEDINGS.—Where not inconsistent with the requirements of this Act, a State commission may, to the extent practical, consolidate proceedings under sections 214(e), 251(f), 253, and this section in order to reduce administrative burdens on telecommunications carriers, other parties to the proceedings, and the State commission in carrying out its responsibilities under this Act.

Public information.

"(h) FILING REQUIRED.—A State commission shall make a copy of each agreement approved under subsection (e) and each statement approved under subsection (f) available for public inspection and copying within 10 days after the agreement or statement is approved. The State commission may charge a reasonable and nondiscriminatory fee to the parties to the agreement or to the party filing the statement to cover the costs of approving and filing such agreement or statement.

"(i) AVAILABILITY TO OTHER TELECOMMUNICATIONS CARRIERS.—A local exchange carrier shall make available any interconnection, service, or network element provided under an agreement approved under this section to which it is a party to any other requesting telecommunications carrier upon the same terms and conditions as those provided in the agreement.

"(j) DEFINITION OF INCUMBENT LOCAL EXCHANGE CARRIER.—For purposes of this section, the term 'incumbent local exchange carrier' has the meaning provided in section 251(h).

47 USC 253.

"SEC. 253. REMOVAL OF BARRIERS TO ENTRY.

"(a) IN GENERAL.—No State or local statute or regulation, or other State or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service.

"(b) STATE REGULATORY AUTHORITY.—Nothing in this section shall affect the ability of a State to impose, on a competitively neutral basis and consistent with section 254, requirements necessary to preserve and advance universal service, protect the public safety and welfare, ensure the continued quality of telecommunications services, and safeguard the rights of consumers.

"(c) STATE AND LOCAL GOVERNMENT AUTHORITY.—Nothing in this section affects the authority of a State or local government to manage the public rights-of-way or to require fair and reasonable compensation from telecommunications providers, on a competitively neutral and nondiscriminatory basis, for use of public rights-of-way on a nondiscriminatory basis, if the compensation required is publicly disclosed by such government.

"(d) PREEMPTION.—If, after notice and an opportunity for public comment, the Commission determines that a State or local government has permitted or imposed any statute, regulation, or legal requirement that violates subsection (a) or (b), the Commission

shall preempt the enforcement of such statute, regulation, or legal requirement to the extent necessary to correct such violation or inconsistency.

"(e) COMMERCIAL MOBILE SERVICE PROVIDERS.—Nothing in this section shall affect the application of section 332(c)(3) to commercial mobile service providers.

"(f) RURAL MARKETS.—It shall not be a violation of this section for a State to require a telecommunications carrier that seeks to provide telephone exchange service or exchange access in a service area served by a rural telephone company to meet the requirements in section 214(e)(1) for designation as an eligible telecommunications carrier for that area before being permitted to provide such service. This subsection shall not apply—

"(1) to a service area served by a rural telephone company that has obtained an exemption, suspension, or modification of section 251(c)(4) that effectively prevents a competitor from meeting the requirements of section 214(e)(1); and

"(2) to a provider of commercial mobile services.

"SEC. 254. UNIVERSAL SERVICE. 47 USC 254.

"(a) PROCEDURES TO REVIEW UNIVERSAL SERVICE REQUIREMENTS.—

"(1) FEDERAL-STATE JOINT BOARD ON UNIVERSAL SERVICE.—Within one month after the date of enactment of the Telecommunications Act of 1996, the Commission shall institute and refer to a Federal-State Joint Board under section 410(c) a proceeding to recommend changes to any of its regulations in order to implement sections 214(e) and this section, including the definition of the services that are supported by Federal universal service support mechanisms and a specific timetable for completion of such recommendations. In addition to the members of the Joint Board required under section 410(c), one member of such Joint Board shall be a State-appointed utility consumer advocate nominated by a national organization of State utility consumer advocates. The Joint Board shall, after notice and opportunity for public comment, make its recommendations to the Commission 9 months after the date of enactment of the Telecommunications Act of 1996.

"(2) COMMISSION ACTION.—The Commission shall initiate a single proceeding to implement the recommendations from the Joint Board required by paragraph (1) and shall complete such proceeding within 15 months after the date of enactment of the Telecommunications Act of 1996. The rules established by such proceeding shall include a definition of the services that are supported by Federal universal service support mechanisms and a specific timetable for implementation. Thereafter, the Commission shall complete any proceeding to implement subsequent recommendations from any Joint Board on universal service within one year after receiving such recommendations.

"(b) UNIVERSAL SERVICE PRINCIPLES.—The Joint Board and the Commission shall base policies for the preservation and advancement of universal service on the following principles:

"(1) QUALITY AND RATES.—Quality services should be available at just, reasonable, and affordable rates.

"(2) ACCESS TO ADVANCED SERVICES.—Access to advanced telecommunications and information services should be provided in all regions of the Nation.

"(3) ACCESS IN RURAL AND HIGH COST AREAS.—Consumers in all regions of the Nation, including low-income consumers and those in rural, insular, and high cost areas, should have access to telecommunications and information services, including interexchange services and advanced telecommunications and information services, that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas.

"(4) EQUITABLE AND NONDISCRIMINATORY CONTRIBUTIONS.—All providers of telecommunications services should make an equitable and nondiscriminatory contribution to the preservation and advancement of universal service.

"(5) SPECIFIC AND PREDICTABLE SUPPORT MECHANISMS.—There should be specific, predictable and sufficient Federal and State mechanisms to preserve and advance universal service.

"(6) ACCESS TO ADVANCED TELECOMMUNICATIONS SERVICES FOR SCHOOLS, HEALTH CARE, AND LIBRARIES.—Elementary and secondary schools and classrooms, health care providers, and libraries should have access to advanced telecommunications services as described in subsection (h).

"(7) ADDITIONAL PRINCIPLES.—Such other principles as the Joint Board and the Commission determine are necessary and appropriate for the protection of the public interest, convenience, and necessity and are consistent with this Act.

"(c) DEFINITION.—

"(1) IN GENERAL.—Universal service is an evolving level of telecommunications services that the Commission shall establish periodically under this section, taking into account advances in telecommunications and information technologies and services. The Joint Board in recommending, and the Commission in establishing, the definition of the services that are supported by Federal universal service support mechanisms shall consider the extent to which such telecommunications services—

"(A) are essential to education, public health, or public safety;

"(B) have, through the operation of market choices by customers, been subscribed to by a substantial majority of residential customers;

"(C) are being deployed in public telecommunications networks by telecommunications carriers; and

"(D) are consistent with the public interest, convenience, and necessity.

"(2) ALTERATIONS AND MODIFICATIONS.—The Joint Board may, from time to time, recommend to the Commission modifications in the definition of the services that are supported by Federal universal service support mechanisms.

"(3) SPECIAL SERVICES.—In addition to the services included in the definition of universal service under paragraph (1), the Commission may designate additional services for such support mechanisms for schools, libraries, and health care providers for the purposes of subsection (h).

"(d) TELECOMMUNICATIONS CARRIER CONTRIBUTION.—Every telecommunications carrier that provides interstate telecommunications services shall contribute, on an equitable and nondiscriminatory basis, to the specific, predictable, and sufficient mechanisms established by the Commission to preserve and advance universal service. The Commission may exempt a carrier or class of carriers from this requirement if the carrier's telecommunications activities are limited to such an extent that the level of such carrier's contribution to the preservation and advancement of universal service would be de minimis. Any other provider of interstate telecommunications may be required to contribute to the preservation and advancement of universal service if the public interest so requires.

"(e) UNIVERSAL SERVICE SUPPORT.—After the date on which Commission regulations implementing this section take effect, only an eligible telecommunications carrier designated under section 214(e) shall be eligible to receive specific Federal universal service support. A carrier that receives such support shall use that support only for the provision, maintenance, and upgrading of facilities and services for which the support is intended. Any such support should be explicit and sufficient to achieve the purposes of this section.

"(f) STATE AUTHORITY.—A State may adopt regulations not inconsistent with the Commission's rules to preserve and advance universal service. Every telecommunications carrier that provides intrastate telecommunications services shall contribute, on an equitable and nondiscriminatory basis, in a manner determined by the State to the preservation and advancement of universal service in that State. A State may adopt regulations to provide for additional definitions and standards to preserve and advance universal service within that State only to the extent that such regulations adopt additional specific, predictable, and sufficient mechanisms to support such definitions or standards that do not rely on or burden Federal universal service support mechanisms.

"(g) INTEREXCHANGE AND INTERSTATE SERVICES.—Within 6 months after the date of enactment of the Telecommunications Act of 1996, the Commission shall adopt rules to require that the rates charged by providers of interexchange telecommunications services to subscribers in rural and high cost areas shall be no higher than the rates charged by each such provider to its subscribers in urban areas. Such rules shall also require that a provider of interstate interexchange telecommunications services shall provide such services to its subscribers in each State at rates no higher than the rates charged to its subscribers in any other State.

Rules.
Rural areas.

"(h) TELECOMMUNICATIONS SERVICES FOR CERTAIN PROVIDERS.—

"(1) IN GENERAL.—

"(A) HEALTH CARE PROVIDERS FOR RURAL AREAS.—A telecommunications carrier shall, upon receiving a bona fide request, provide telecommunications services which are necessary for the provision of health care services in a State, including instruction relating to such services, to any public or nonprofit health care provider that serves persons who reside in rural areas in that State at rates that are reasonably comparable to rates charged for similar services in urban areas in that State. A telecommunications carrier providing service under this paragraph shall be entitled to have an amount equal to the difference, if any,

between the rates for services provided to health care providers for rural areas in a State and the rates for similar services provided to other customers in comparable rural areas in that State treated as a service obligation as a part of its obligation to participate in the mechanisms to preserve and advance universal service.

"(B) EDUCATIONAL PROVIDERS AND LIBRARIES.—All telecommunications carriers serving a geographic area shall, upon a bona fide request for any of its services that are within the definition of universal service under subsection (c)(3), provide such services to elementary schools, secondary schools, and libraries for educational purposes at rates less than the amounts charged for similar services to other parties. The discount shall be an amount that the Commission, with respect to interstate services, and the States, with respect to intrastate services, determine is appropriate and necessary to ensure affordable access to and use of such services by such entities. A telecommunications carrier providing service under this paragraph shall—

"(i) have an amount equal to the amount of the discount treated as an offset to its obligation to contribute to the mechanisms to preserve and advance universal service, or

"(ii) notwithstanding the provisions of subsection (e) of this section, receive reimbursement utilizing the support mechanisms to preserve and advance universal service.

"(2) ADVANCED SERVICES.—The Commission shall establish competitively neutral rules—

"(A) to enhance, to the extent technically feasible and economically reasonable, access to advanced telecommunications and information services for all public and nonprofit elementary and secondary school classrooms, health care providers, and libraries; and

"(B) to define the circumstances under which a telecommunications carrier may be required to connect its network to such public institutional telecommunications users.

"(3) TERMS AND CONDITIONS.—Telecommunications services and network capacity provided to a public institutional telecommunications user under this subsection may not be sold, resold, or otherwise transferred by such user in consideration for money or any other thing of value.

"(4) ELIGIBILITY OF USERS.—No entity listed in this subsection shall be entitled to preferential rates or treatment as required by this subsection, if such entity operates as a for-profit business, is a school described in paragraph (5)(A) with an endowment of more than $50,000,000, or is a library not eligible for participation in State-based plans for funds under title III of the Library Services and Construction Act (20 U.S.C. 335c et seq.).

"(5) DEFINITIONS.—For purposes of this subsection:

"(A) ELEMENTARY AND SECONDARY SCHOOLS.—The term 'elementary and secondary schools' means elementary schools and secondary schools, as defined in paragraphs (14) and (25), respectively, of section 14101 of the

Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

"(B) HEALTH CARE PROVIDER.—The term 'health care provider' means—

"(i) post-secondary educational institutions offering health care instruction, teaching hospitals, and medical schools;

"(ii) community health centers or health centers providing health care to migrants;

"(iii) local health departments or agencies;

"(iv) community mental health centers;

"(v) not-for-profit hospitals;

"(vi) rural health clinics; and

"(vii) consortia of health care providers consisting of one or more entities described in clauses (i) through (vi).

"(C) PUBLIC INSTITUTIONAL TELECOMMUNICATIONS USER.—The term 'public institutional telecommunications user' means an elementary or secondary school, a library, or a health care provider as those terms are defined in this paragraph.

"(i) CONSUMER PROTECTION.—The Commission and the States should ensure that universal service is available at rates that are just, reasonable, and affordable.

"(j) LIFELINE ASSISTANCE.—Nothing in this section shall affect the collection, distribution, or administration of the Lifeline Assistance Program provided for by the Commission under regulations set forth in section 69.117 of title 47, Code of Federal Regulations, and other related sections of such title.

"(k) SUBSIDY OF COMPETITIVE SERVICES PROHIBITED.—A telecommunications carrier may not use services that are not competitive to subsidize services that are subject to competition. The Commission, with respect to interstate services, and the States, with respect to intrastate services, shall establish any necessary cost allocation rules, accounting safeguards, and guidelines to ensure that services included in the definition of universal service bear no more than a reasonable share of the joint and common costs of facilities used to provide those services.

"SEC. 255. ACCESS BY PERSONS WITH DISABILITIES. 47 USC 255.

"(a) DEFINITIONS.—As used in this section—

"(1) DISABILITY.—The term 'disability' has the meaning given to it by section 3(2)(A) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102(2)(A)).

"(2) READILY ACHIEVABLE.—The term 'readily achievable' has the meaning given to it by section 301(9) of that Act (42 U.S.C. 12181(9)).

"(b) MANUFACTURING.—A manufacturer of telecommunications equipment or customer premises equipment shall ensure that the equipment is designed, developed, and fabricated to be accessible to and usable by individuals with disabilities, if readily achievable.

"(c) TELECOMMUNICATIONS SERVICES.—A provider of telecommunications service shall ensure that the service is accessible to and usable by individuals with disabilities, if readily achievable.

"(d) COMPATIBILITY.—Whenever the requirements of subsections (b) and (c) are not readily achievable, such a manufacturer or provider shall ensure that the equipment or service is compatible

with existing peripheral devices or specialized customer premises equipment commonly used by individuals with disabilities to achieve access, if readily achievable.

"(e) GUIDELINES.—Within 18 months after the date of enactment of the Telecommunications Act of 1996, the Architectural and Transportation Barriers Compliance Board shall develop guidelines for accessibility of telecommunications equipment and customer premises equipment in conjunction with the Commission. The Board shall review and update the guidelines periodically.

"(f) NO ADDITIONAL PRIVATE RIGHTS AUTHORIZED.—Nothing in this section shall be construed to authorize any private right of action to enforce any requirement of this section or any regulation thereunder. The Commission shall have exclusive jurisdiction with respect to any complaint under this section.

47 USC 256.

"SEC. 256. COORDINATION FOR INTERCONNECTIVITY.

"(a) PURPOSE.—It is the purpose of this section—

"(1) to promote nondiscriminatory accessibility by the broadest number of users and vendors of communications products and services to public telecommunications networks used to provide telecommunications service through—

"(A) coordinated public telecommunications network planning and design by telecommunications carriers and other providers of telecommunications service; and

"(B) public telecommunications network interconnectivity, and interconnectivity of devices with such networks used to provide telecommunications service; and

"(2) to ensure the ability of users and information providers to seamlessly and transparently transmit and receive information between and across telecommunications networks.

"(b) COMMISSION FUNCTIONS.—In carrying out the purposes of this section, the Commission—

"(1) shall establish procedures for Commission oversight of coordinated network planning by telecommunications carriers and other providers of telecommunications service for the effective and efficient interconnection of public telecommunications networks used to provide telecommunications service; and

"(2) may participate, in a manner consistent with its authority and practice prior to the date of enactment of this section, in the development by appropriate industry standards-setting organizations of public telecommunications network interconnectivity standards that promote access to—

"(A) public telecommunications networks used to provide telecommunications service;

"(B) network capabilities and services by individuals with disabilities; and

"(C) information services by subscribers of rural telephone companies.

"(c) COMMISSION'S AUTHORITY.—Nothing in this section shall be construed as expanding or limiting any authority that the Commission may have under law in effect before the date of enactment of the Telecommunications Act of 1996.

"(d) DEFINITION.—As used in this section, the term 'public telecommunications network interconnectivity' means the ability of two or more public telecommunications networks used to provide telecommunications service to communicate and exchange informa-

tion without degeneration, and to interact in concert with one another.

"SEC. 257. MARKET ENTRY BARRIERS PROCEEDING. 47 USC 257.

"(a) ELIMINATION OF BARRIERS.—Within 15 months after the date of enactment of the Telecommunications Act of 1996, the Commission shall complete a proceeding for the purpose of identifying and eliminating, by regulations pursuant to its authority under this Act (other than this section), market entry barriers for entrepreneurs and other small businesses in the provision and ownership of telecommunications services and information services, or in the provision of parts or services to providers of telecommunications services and information services. Regulations.

"(b) NATIONAL POLICY.—In carrying out subsection (a), the Commission shall seek to promote the policies and purposes of this Act favoring diversity of media voices, vigorous economic competition, technological advancement, and promotion of the public interest, convenience, and necessity.

"(c) PERIODIC REVIEW.—Every 3 years following the completion of the proceeding required by subsection (a), the Commission shall review and report to Congress on— Reports.

"(1) any regulations prescribed to eliminate barriers within its jurisdiction that are identified under subsection (a) and that can be prescribed consistent with the public interest, convenience, and necessity; and

"(2) the statutory barriers identified under subsection (a) that the Commission recommends be eliminated, consistent with the public interest, convenience, and necessity.

"SEC. 258. ILLEGAL CHANGES IN SUBSCRIBER CARRIER SELECTIONS. 47 USC 258.

"(a) PROHIBITION.—No telecommunications carrier shall submit or execute a change in a subscriber's selection of a provider of telephone exchange service or telephone toll service except in accordance with such verification procedures as the Commission shall prescribe. Nothing in this section shall preclude any State commission from enforcing such procedures with respect to intrastate services.

"(b) LIABILITY FOR CHARGES.—Any telecommunications carrier that violates the verification procedures described in subsection (a) and that collects charges for telephone exchange service or telephone toll service from a subscriber shall be liable to the carrier previously selected by the subscriber in an amount equal to all charges paid by such subscriber after such violation, in accordance with such procedures as the Commission may prescribe. The remedies provided by this subsection are in addition to any other remedies available by law.

"SEC. 259. INFRASTRUCTURE SHARING. 47 USC 259.

"(a) REGULATIONS REQUIRED.—The Commission shall prescribe, within one year after the date of enactment of the Telecommunications Act of 1996, regulations that require incumbent local exchange carriers (as defined in section 251(h)) to make available to any qualifying carrier such public switched network infrastructure, technology, information, and telecommunications facilities and functions as may be requested by such qualifying carrier for the purpose of enabling such qualifying carrier to provide telecommunications services, or to provide access to information services, in the service area in which such qualifying carrier has requested

and obtained designation as an eligible telecommunications carrier under section 214(e).

"(b) TERMS AND CONDITIONS OF REGULATIONS.—The regulations prescribed by the Commission pursuant to this section shall—

"(1) not require a local exchange carrier to which this section applies to take any action that is economically unreasonable or that is contrary to the public interest;

"(2) permit, but shall not require, the joint ownership or operation of public switched network infrastructure and services by or among such local exchange carrier and a qualifying carrier;

"(3) ensure that such local exchange carrier will not be treated by the Commission or any State as a common carrier for hire or as offering common carrier services with respect to any infrastructure, technology, information, facilities, or functions made available to a qualifying carrier in accordance with regulations issued pursuant to this section;

"(4) ensure that such local exchange carrier makes such infrastructure, technology, information, facilities, or functions available to a qualifying carrier on just and reasonable terms and conditions that permit such qualifying carrier to fully benefit from the economies of scale and scope of such local exchange carrier, as determined in accordance with guidelines prescribed by the Commission in regulations issued pursuant to this section;

"(5) establish conditions that promote cooperation between local exchange carriers to which this section applies and qualifying carriers;

"(6) not require a local exchange carrier to which this section applies to engage in any infrastructure sharing agreement for any services or access which are to be provided or offered to consumers by the qualifying carrier in such local exchange carrier's telephone exchange area; and

"(7) require that such local exchange carrier file with the Commission or State for public inspection, any tariffs, contracts, or other arrangements showing the rates, terms, and conditions under which such carrier is making available public switched network infrastructure and functions under this section.

"(c) INFORMATION CONCERNING DEPLOYMENT OF NEW SERVICES AND EQUIPMENT.—A local exchange carrier to which this section applies that has entered into an infrastructure sharing agreement under this section shall provide to each party to such agreement timely information on the planned deployment of telecommunications services and equipment, including any software or upgrades of software integral to the use or operation of such telecommunications equipment.

"(d) DEFINITION.—For purposes of this section, the term 'qualifying carrier' means a telecommunications carrier that—

"(1) lacks economies of scale or scope, as determined in accordance with regulations prescribed by the Commission pursuant to this section; and

"(2) offers telephone exchange service, exchange access, and any other service that is included in universal service, to all consumers without preference throughout the service area for which such carrier has been designated as an eligible telecommunications carrier under section 214(e).

"SEC. 260. PROVISION OF TELEMESSAGING SERVICE. 47 USC 260.

"(a) NONDISCRIMINATION SAFEGUARDS.—Any local exchange carrier subject to the requirements of section 251(c) that provides telemessaging service—

"(1) shall not subsidize its telemessaging service directly or indirectly from its telephone exchange service or its exchange access; and

"(2) shall not prefer or discriminate in favor of its telemessaging service operations in its provision of telecommunications services.

"(b) EXPEDITED CONSIDERATION OF COMPLAINTS.—The Commission shall establish procedures for the receipt and review of complaints concerning violations of subsection (a) or the regulations thereunder that result in material financial harm to a provider of telemessaging service. Such procedures shall ensure that the Commission will make a final determination with respect to any such complaint within 120 days after receipt of the complaint. If the complaint contains an appropriate showing that the alleged violation occurred, the Commission shall, within 60 days after receipt of the complaint, order the local exchange carrier and any affiliates to cease engaging in such violation pending such final determination.

"(c) DEFINITION.—As used in this section, the term 'telemessaging service' means voice mail and voice storage and retrieval services, any live operator services used to record, transcribe, or relay messages (other than telecommunications relay services), and any ancillary services offered in combination with these services.

"SEC. 261. EFFECT ON OTHER REQUIREMENTS. 47 USC 261.

"(a) COMMISSION REGULATIONS.—Nothing in this part shall be construed to prohibit the Commission from enforcing regulations prescribed prior to the date of enactment of the Telecommunications Act of 1996 in fulfilling the requirements of this part, to the extent that such regulations are not inconsistent with the provisions of this part.

"(b) EXISTING STATE REGULATIONS.—Nothing in this part shall be construed to prohibit any State commission from enforcing regulations prescribed prior to the date of enactment of the Telecommunications Act of 1996, or from prescribing regulations after such date of enactment, in fulfilling the requirements of this part, if such regulations are not inconsistent with the provisions of this part.

"(c) ADDITIONAL STATE REQUIREMENTS.—Nothing in this part precludes a State from imposing requirements on a telecommunications carrier for intrastate services that are necessary to further competition in the provision of telephone exchange service or exchange access, as long as the State's requirements are not inconsistent with this part or the Commission's regulations to implement this part.".

(b) DESIGNATION OF PART I.—Title II of the Act is further amended by inserting before the heading of section 201 the following new heading:

"PART I—COMMON CARRIER REGULATION".

(c) STYLISTIC CONSISTENCY.—The Act is amended so that— 47 USC 151 note.

(1) the designation and heading of each title of the Act shall be in the form and typeface of the designation and heading of this title of this Act; and

(2) the designation and heading of each part of each title of the Act shall be in the form and typeface of the designation and heading of part I of title II of the Act, as amended by subsection (a).

SEC. 102. ELIGIBLE TELECOMMUNICATIONS CARRIERS.

(a) IN GENERAL.—Section 214 (47 U.S.C. 214) is amended by adding at the end thereof the following new subsection:

"(e) PROVISION OF UNIVERSAL SERVICE.—

"(1) ELIGIBLE TELECOMMUNICATIONS CARRIERS.—A common carrier designated as an eligible telecommunications carrier under paragraph (2) or (3) shall be eligible to receive universal service support in accordance with section 254 and shall, throughout the service area for which the designation is received—

"(A) offer the services that are supported by Federal universal service support mechanisms under section 254(c), either using its own facilities or a combination of its own facilities and resale of another carrier's services (including the services offered by another eligible telecommunications carrier); and

"(B) advertise the availability of such services and the charges therefor using media of general distribution.

"(2) DESIGNATION OF ELIGIBLE TELECOMMUNICATIONS CARRIERS.—A State commission shall upon its own motion or upon request designate a common carrier that meets the requirements of paragraph (1) as an eligible telecommunications carrier for a service area designated by the State commission. Upon request and consistent with the public interest, convenience, and necessity, the State commission may, in the case of an area served by a rural telephone company, and shall, in the case of all other areas, designate more than one common carrier as an eligible telecommunications carrier for a service area designated by the State commission, so long as each additional requesting carrier meets the requirements of paragraph (1). Before designating an additional eligible telecommunications carrier for an area served by a rural telephone company, the State commission shall find that the designation is in the public interest.

"(3) DESIGNATION OF ELIGIBLE TELECOMMUNICATIONS CARRIERS FOR UNSERVED AREAS.—If no common carrier will provide the services that are supported by Federal universal service support mechanisms under section 254(c) to an unserved community or any portion thereof that requests such service, the Commission, with respect to interstate services, or a State commission, with respect to intrastate services, shall determine which common carrier or carriers are best able to provide such service to the requesting unserved community or portion thereof and shall order such carrier or carriers to provide such service for that unserved community or portion thereof. Any carrier or carriers ordered to provide such service under this paragraph shall meet the requirements of paragraph (1) and shall be designated as an eligible telecommunications carrier for that community or portion thereof.

"(4) RELINQUISHMENT OF UNIVERSAL SERVICE.—A State commission shall permit an eligible telecommunications carrier to relinquish its designation as such a carrier in any area served by more than one eligible telecommunications carrier. An eligible telecommunications carrier that seeks to relinquish its eligible telecommunications carrier designation for an area served by more than one eligible telecommunications carrier shall give advance notice to the State commission of such relinquishment. Prior to permitting a telecommunications carrier designated as an eligible telecommunications carrier to cease providing universal service in an area served by more than one eligible telecommunications carrier, the State commission shall require the remaining eligible telecommunications carrier or carriers to ensure that all customers served by the relinquishing carrier will continue to be served, and shall require sufficient notice to permit the purchase or construction of adequate facilities by any remaining eligible telecommunications carrier. The State commission shall establish a time, not to exceed one year after the State commission approves such relinquishment under this paragraph, within which such purchase or construction shall be completed.

"(5) SERVICE AREA DEFINED.—The term 'service area' means a geographic area established by a State commission for the purpose of determining universal service obligations and support mechanisms. In the case of an area served by a rural telephone company, 'service area' means such company's 'study area' unless and until the Commission and the States, after taking into account recommendations of a Federal-State Joint Board instituted under section 410(c), establish a different definition of service area for such company.".

SEC. 103. EXEMPT TELECOMMUNICATIONS COMPANIES.

The Public Utility Holding Company Act of 1935 (15 U.S.C. 79 and following) is amended by redesignating sections 34 and 35 as sections 35 and 36, respectively, and by inserting the following new section after section 33: 15 USC 79z–6, 79.

"SEC. 34. EXEMPT TELECOMMUNICATIONS COMPANIES. 15 USC 79z–5c.

"(a) DEFINITIONS.—For purposes of this section—

"(1) EXEMPT TELECOMMUNICATIONS COMPANY.—The term 'exempt telecommunications company' means any person determined by the Federal Communications Commission to be engaged directly or indirectly, wherever located, through one or more affiliates (as defined in section 2(a)(11)(B)), and exclusively in the business of providing——

"(A) telecommunications services;

"(B) information services;

"(C) other services or products subject to the jurisdiction of the Federal Communications Commission; or

"(D) products or services that are related or incidental to the provision of a product or service described in subparagraph (A), (B), or (C).

No person shall be deemed to be an exempt telecommunications company under this section unless such person has applied to the Federal Communications Commission for a determination under this paragraph. A person applying in good faith for such a determination shall be deemed an exempt telecommunications company under this section, with all of the exemptions

Notification.

provided by this section, until the Federal Communications Commission makes such determination. The Federal Communications Commission shall make such determination within 60 days of its receipt of any such application filed after the enactment of this section and shall notify the Commission whenever a determination is made under this paragraph that any person is an exempt telecommunications company. Not later than 12 months after the date of enactment of this section, the Federal Communications Commission shall promulgate rules implementing the provisions of this paragraph which shall be applicable to applications filed under this paragraph after the effective date of such rules.

Rules.

"(2) OTHER TERMS.—For purposes of this section, the terms 'telecommunications services' and 'information services' shall have the same meanings as provided in the Communications Act of 1934.

"(b) STATE CONSENT FOR SALE OF EXISTING RATE-BASED FACILITIES.—If a rate or charge for the sale of electric energy or natural gas (other than any portion of a rate or charge which represents recovery of the cost of a wholesale rate or charge) for, or in connection with, assets of a public utility company that is an associate company or affiliate of a registered holding company was in effect under the laws of any State as of December 19, 1995, the public utility company owning such assets may not sell such assets to an exempt telecommunications company that is an associate company or affiliate unless State commissions having jurisdiction over such public utility company approve such sale. Nothing in this subsection shall preempt the otherwise applicable authority of any State to approve or disapprove the sale of such assets. The approval of the Commission under this Act shall not be required for the sale of assets as provided in this subsection.

"(c) OWNERSHIP OF ETCS BY EXEMPT HOLDING COMPANIES.—Notwithstanding any provision of this Act, a holding company that is exempt under section 3 of this Act shall be permitted, without condition or limitation under this Act, to acquire and maintain an interest in the business of one or more exempt telecommunications companies.

"(d) OWNERSHIP OF ETCS BY REGISTERED HOLDING COMPANIES.—Notwithstanding any provision of this Act, a registered holding company shall be permitted (without the need to apply for, or receive, approval from the Commission, and otherwise without condition under this Act) to acquire and hold the securities, or an interest in the business, of one or more exempt telecommunications companies.

"(e) FINANCING AND OTHER RELATIONSHIPS BETWEEN ETCS AND REGISTERED HOLDING COMPANIES.—The relationship between an exempt telecommunications company and a registered holding company, its affiliates and associate companies, shall remain subject to the jurisdiction of the Commission under this Act: *Provided,* That—

"(1) section 11 of this Act shall not prohibit the ownership of an interest in the business of one or more exempt telecommunications companies by a registered holding company (regardless of activities engaged in or where facilities owned or operated by such exempt telecommunications companies are located), and such ownership by a registered holding company

shall be deemed consistent with the operation of an integrated public utility system;

"(2) the ownership of an interest in the business of one or more exempt telecommunications companies by a registered holding company (regardless of activities engaged in or where facilities owned or operated by such exempt telecommunications companies are located) shall be considered as reasonably incidental, or economically necessary or appropriate, to the operations of an integrated public utility system;

"(3) the Commission shall have no jurisdiction under this Act over, and there shall be no restriction or approval required under this Act with respect to (A) the issue or sale of a security by a registered holding company for purposes of financing the acquisition of an exempt telecommunications company, or (B) the guarantee of a security of an exempt telecommunications company by a registered holding company; and

"(4) except for costs that should be fairly and equitably allocated among companies that are associate companies of a registered holding company, the Commission shall have no jurisdiction under this Act over the sales, service, and construction contracts between an exempt telecommunications company and a registered holding company, its affiliates and associate companies.

"(f) REPORTING OBLIGATIONS CONCERNING INVESTMENTS AND ACTIVITIES OF REGISTERED PUBLIC-UTILITY HOLDING COMPANY SYSTEMS.—

"(1) OBLIGATIONS TO REPORT INFORMATION.—Any registered holding company or subsidiary thereof that acquires or holds the securities, or an interest in the business, of an exempt telecommunications company shall file with the Commission such information as the Commission, by rule, may prescribe concerning—

"(A) investments and activities by the registered holding company, or any subsidiary thereof, with respect to exempt telecommunications companies, and

"(B) any activities of an exempt telecommunications company within the holding company system,

that are reasonably likely to have a material impact on the financial or operational condition of the holding company system.

"(2) AUTHORITY TO REQUIRE ADDITIONAL INFORMATION.—If, based on reports provided to the Commission pursuant to paragraph (1) of this subsection or other available information, the Commission reasonably concludes that it has concerns regarding the financial or operational condition of any registered holding company or any subsidiary thereof (including an exempt telecommunications company), the Commission may require such registered holding company to make additional reports and provide additional information.

"(3) AUTHORITY TO LIMIT DISCLOSURE OF INFORMATION.—Notwithstanding any other provision of law, the Commission shall not be compelled to disclose any information required to be reported under this subsection. Nothing in this subsection shall authorize the Commission to withhold the information from Congress, or prevent the Commission from complying with a request for information from any other Federal or State department or agency requesting the information for purposes

within the scope of its jurisdiction. For purposes of section 552 of title 5, United States Code, this subsection shall be considered a statute described in subsection (b)(3)(B) of such section 552.

"(g) ASSUMPTION OF LIABILITIES.—Any public utility company that is an associate company, or an affiliate, of a registered holding company and that is subject to the jurisdiction of a State commission with respect to its retail electric or gas rates shall not issue any security for the purpose of financing the acquisition, ownership, or operation of an exempt telecommunications company. Any public utility company that is an associate company, or an affiliate, of a registered holding company and that is subject to the jurisdiction of a State commission with respect to its retail electric or gas rates shall not assume any obligation or liability as guarantor, endorser, surety, or otherwise by the public utility company in respect of any security of an exempt telecommunications company.

"(h) PLEDGING OR MORTGAGING OF ASSETS.—Any public utility company that is an associate company, or affiliate, of a registered holding company and that is subject to the jurisdiction of a State commission with respect to its retail electric or gas rates shall not pledge, mortgage, or otherwise use as collateral any assets of the public utility company or assets of any subsidiary company thereof for the benefit of an exempt telecommunications company.

"(i) PROTECTION AGAINST ABUSIVE AFFILIATE TRANSACTIONS.—A public utility company may enter into a contract to purchase services or products described in subsection (a)(1) from an exempt telecommunications company that is an affiliate or associate company of the public utility company only if—

"(1) every State commission having jurisdiction over the retail rates of such public utility company approves such contract; or

"(2) such public utility company is not subject to State commission retail rate regulation and the purchased services or products—

"(A) would not be resold to any affiliate or associate company; or

"(B) would be resold to an affiliate or associate company and every State commission having jurisdiction over the retail rates of such affiliate or associate company makes the determination required by subparagraph (A).

The requirements of this subsection shall not apply in any case in which the State or the State commission concerned publishes a notice that the State or State commission waives its authority under this subsection.

"(j) NONPREEMPTION OF RATE AUTHORITY.—Nothing in this Act shall preclude the Federal Energy Regulatory Commission or a State commission from exercising its jurisdiction under otherwise applicable law to determine whether a public utility company may recover in rates the costs of products or services purchased from or sold to an associate company or affiliate that is an exempt telecommunications company, regardless of whether such costs are incurred through the direct or indirect purchase or sale of products or services from such associate company or affiliate.

"(k) RECIPROCAL ARRANGEMENTS PROHIBITED.—Reciprocal arrangements among companies that are not affiliates or associate companies of each other that are entered into in order to avoid the provisions of this section are prohibited.

"(l) BOOKS AND RECORDS.—(1) Upon written order of a State commission, a State commission may examine the books, accounts, memoranda, contracts, and records of—

"(A) a public utility company subject to its regulatory authority under State law;

"(B) any exempt telecommunications company selling products or services to such public utility company or to an associate company of such public utility company; and

"(C) any associate company or affiliate of an exempt telecommunications company which sells products or services to a public utility company referred to in subparagraph (A),

wherever located, if such examination is required for the effective discharge of the State commission's regulatory responsibilities affecting the provision of electric or gas service in connection with the activities of such exempt telecommunications company.

"(2) Where a State commission issues an order pursuant to paragraph (1), the State commission shall not publicly disclose trade secrets or sensitive commercial information. Confidentiality.

"(3) Any United States district court located in the State in which the State commission referred to in paragraph (1) is located shall have jurisdiction to enforce compliance with this subsection. Courts.

"(4) Nothing in this section shall—

"(A) preempt applicable State law concerning the provision of records and other information; or

"(B) in any way limit rights to obtain records and other information under Federal law, contracts, or otherwise.

"(m) INDEPENDENT AUDIT AUTHORITY FOR STATE COMMISSIONS.—

"(1) STATE MAY ORDER AUDIT.—Any State commission with jurisdiction over a public utility company that—

"(A) is an associate company of a registered holding company; and

"(B) transacts business, directly or indirectly, with a subsidiary company, an affiliate or an associate company that is an exempt telecommunications company,

may order an independent audit to be performed, no more frequently than on an annual basis, of all matters deemed relevant by the selected auditor that reasonably relate to retail rates: *Provided*, That such matters relate, directly or indirectly, to transactions or transfers between the public utility company subject to its jurisdiction and such exempt telecommunications company.

"(2) SELECTION OF FIRM TO CONDUCT AUDIT.—(A) If a State commission orders an audit in accordance with paragraph (1), the public utility company and the State commission shall jointly select, within 60 days, a firm to perform the audit. The firm selected to perform the audit shall possess demonstrated qualifications relating to—

"(i) competency, including adequate technical training and professional proficiency in each discipline necessary to carry out the audit; and

"(ii) independence and objectivity, including that the firm be free from personal or external impairments to independence, and should assume an independent position with the State commission and auditee, making certain that the audit is based upon an impartial consideration of all pertinent facts and responsible opinions.

"(B) The public utility company and the exempt telecommunications company shall cooperate fully with all reasonable requests necessary to perform the audit and the public utility company shall bear all costs of having the audit performed.

"(3) AVAILABILITY OF AUDITOR'S REPORT.—The auditor's report shall be provided to the State commission not later than 6 months after the selection of the auditor, and provided to the public utility company not later than 60 days thereafter.

"(n) APPLICABILITY OF TELECOMMUNICATIONS REGULATION.—Nothing in this section shall affect the authority of the Federal Communications Commission under the Communications Act of 1934, or the authority of State commissions under State laws concerning the provision of telecommunications services, to regulate the activities of an exempt telecommunications company.".

SEC. 104. NONDISCRIMINATION PRINCIPLE.

Section 1 (47 U.S.C. 151) is amended by inserting after "to all the people of the United States" the following: ", without discrimination on the basis of race, color, religion, national origin, or sex,".

Subtitle B—Special Provisions Concerning Bell Operating Companies

SEC. 151. BELL OPERATING COMPANY PROVISIONS.

(a) ESTABLISHMENT OF PART III OF TITLE II.—Title II is amended by adding at the end of part II (as added by section 101) the following new part:

"PART III—SPECIAL PROVISIONS CONCERNING BELL OPERATING COMPANIES

47 USC 271.

"SEC. 271. BELL OPERATING COMPANY ENTRY INTO INTERLATA SERVICES.

"(a) GENERAL LIMITATION.—Neither a Bell operating company, nor any affiliate of a Bell operating company, may provide interLATA services except as provided in this section.

"(b) INTERLATA SERVICES TO WHICH THIS SECTION APPLIES.—

"(1) IN-REGION SERVICES.—A Bell operating company, or any affiliate of that Bell operating company, may provide interLATA services originating in any of its in-region States (as defined in subsection (i)) if the Commission approves the application of such company for such State under subsection (d)(3).

"(2) OUT-OF-REGION SERVICES.—A Bell operating company, or any affiliate of that Bell operating company, may provide interLATA services originating outside its in-region States after the date of enactment of the Telecommunications Act of 1996, subject to subsection (j).

"(3) INCIDENTAL INTERLATA SERVICES.—A Bell operating company, or any affiliate of a Bell operating company, may provide incidental interLATA services (as defined in subsection (g)) originating in any State after the date of enactment of the Telecommunications Act of 1996.

"(4) TERMINATION.—Nothing in this section prohibits a Bell operating company or any of its affiliates from providing termination for interLATA services, subject to subsection (j).

"(c) REQUIREMENTS FOR PROVIDING CERTAIN IN-REGION INTERLATA SERVICES.—

"(1) AGREEMENT OR STATEMENT.—A Bell operating company meets the requirements of this paragraph if it meets the requirements of subparagraph (A) or subparagraph (B) of this paragraph for each State for which the authorization is sought.

"(A) PRESENCE OF A FACILITIES-BASED COMPETITOR.—A Bell operating company meets the requirements of this subparagraph if it has entered into one or more binding agreements that have been approved under section 252 specifying the terms and conditions under which the Bell operating company is providing access and interconnection to its network facilities for the network facilities of one or more unaffiliated competing providers of telephone exchange service (as defined in section 3(47)(A), but excluding exchange access) to residential and business subscribers. For the purpose of this subparagraph, such telephone exchange service may be offered by such competing providers either exclusively over their own telephone exchange service facilities or predominantly over their own telephone exchange service facilities in combination with the resale of the telecommunications services of another carrier. For the purpose of this subparagraph, services provided pursuant to subpart K of part 22 of the Commission's regulations (47 C.F.R. 22.901 et seq.) shall not be considered to be telephone exchange services.

"(B) FAILURE TO REQUEST ACCESS.—A Bell operating company meets the requirements of this subparagraph if, after 10 months after the date of enactment of the Telecommunications Act of 1996, no such provider has requested the access and interconnection described in subparagraph (A) before the date which is 3 months before the date the company makes its application under subsection (d)(1), and a statement of the terms and conditions that the company generally offers to provide such access and interconnection has been approved or permitted to take effect by the State commission under section 252(f). For purposes of this subparagraph, a Bell operating company shall be considered not to have received any request for access and interconnection if the State commission of such State certifies that the only provider or providers making such a request have (i) failed to negotiate in good faith as required by section 252, or (ii) violated the terms of an agreement approved under section 252 by the provider's failure to comply, within a reasonable period of time, with the implementation schedule contained in such agreement.

"(2) SPECIFIC INTERCONNECTION REQUIREMENTS.—

"(A) AGREEMENT REQUIRED.—A Bell operating company meets the requirements of this paragraph if, within the State for which the authorization is sought—

"(i)(I) such company is providing access and interconnection pursuant to one or more agreements described in paragraph (1)(A), or

"(II) such company is generally offering access and interconnection pursuant to a statement described in paragraph (1)(B), and

"(ii) such access and interconnection meets the requirements of subparagraph (B) of this paragraph.

"(B) COMPETITIVE CHECKLIST.—Access or interconnection provided or generally offered by a Bell operating company to other telecommunications carriers meets the requirements of this subparagraph if such access and interconnection includes each of the following:

"(i) Interconnection in accordance with the requirements of sections 251(c)(2) and 252(d)(1).

"(ii) Nondiscriminatory access to network elements in accordance with the requirements of sections 251(c)(3) and 252(d)(1).

"(iii) Nondiscriminatory access to the poles, ducts, conduits, and rights-of-way owned or controlled by the Bell operating company at just and reasonable rates in accordance with the requirements of section 224.

"(iv) Local loop transmission from the central office to the customer's premises, unbundled from local switching or other services.

"(v) Local transport from the trunk side of a wireline local exchange carrier switch unbundled from switching or other services.

"(vi) Local switching unbundled from transport, local loop transmission, or other services.

"(vii) Nondiscriminatory access to—

"(I) 911 and E911 services;

"(II) directory assistance services to allow the other carrier's customers to obtain telephone numbers; and

"(III) operator call completion services.

"(viii) White pages directory listings for customers of the other carrier's telephone exchange service.

"(ix) Until the date by which telecommunications numbering administration guidelines, plan, or rules are established, nondiscriminatory access to telephone numbers for assignment to the other carrier's telephone exchange service customers. After that date, compliance with such guidelines, plan, or rules.

"(x) Nondiscriminatory access to databases and associated signaling necessary for call routing and completion.

"(xi) Until the date by which the Commission issues regulations pursuant to section 251 to require number portability, interim telecommunications number portability through remote call forwarding, direct inward dialing trunks, or other comparable arrangements, with as little impairment of functioning, quality, reliability, and convenience as possible. After that date, full compliance with such regulations.

"(xii) Nondiscriminatory access to such services or information as are necessary to allow the requesting carrier to implement local dialing parity in accordance with the requirements of section 251(b)(3).

"(xiii) Reciprocal compensation arrangements in accordance with the requirements of section 252(d)(2).

"(xiv) Telecommunications services are available for resale in accordance with the requirements of sections 251(c)(4) and 252(d)(3).

"(d) ADMINISTRATIVE PROVISIONS.—

"(1) APPLICATION TO COMMISSION.—On and after the date of enactment of the Telecommunications Act of 1996, a Bell operating company or its affiliate may apply to the Commission for authorization to provide interLATA services originating in any in-region State. The application shall identify each State for which the authorization is sought.

"(2) CONSULTATION.—

"(A) CONSULTATION WITH THE ATTORNEY GENERAL.— Notification.
The Commission shall notify the Attorney General promptly of any application under paragraph (1). Before making any determination under this subsection, the Commission shall consult with the Attorney General, and if the Attorney General submits any comments in writing, such comments shall be included in the record of the Commission's decision. In consulting with and submitting comments to the Commission under this paragraph, the Attorney General shall provide to the Commission an evaluation of the application using any standard the Attorney General considers appropriate. The Commission shall give substantial weight to the Attorney General's evaluation, but such evaluation shall not have any preclusive effect on any Commission decision under paragraph (3).

"(B) CONSULTATION WITH STATE COMMISSIONS.—Before making any determination under this subsection, the Commission shall consult with the State commission of any State that is the subject of the application in order to verify the compliance of the Bell operating company with the requirements of subsection (c).

"(3) DETERMINATION.—Not later than 90 days after receiving an application under paragraph (1), the Commission shall issue a written determination approving or denying the authorization requested in the application for each State. The Commission shall not approve the authorization requested in an application submitted under paragraph (1) unless it finds that—

"(A) the petitioning Bell operating company has met the requirements of subsection (c)(1) and—

"(i) with respect to access and interconnection provided pursuant to subsection (c)(1)(A), has fully implemented the competitive checklist in subsection (c)(2)(B); or

"(ii) with respect to access and interconnection generally offered pursuant to a statement under subsection (c)(1)(B), such statement offers all of the items included in the competitive checklist in subsection (c)(2)(B);

"(B) the requested authorization will be carried out in accordance with the requirements of section 272; and

"(C) the requested authorization is consistent with the public interest, convenience, and necessity.

The Commission shall state the basis for its approval or denial of the application.

"(4) LIMITATION ON COMMISSION.—The Commission may not, by rule or otherwise, limit or extend the terms used in the competitive checklist set forth in subsection (c)(2)(B).

Federal Register, publication.

"(5) PUBLICATION.—Not later than 10 days after issuing a determination under paragraph (3), the Commission shall publish in the Federal Register a brief description of the determination.

"(6) ENFORCEMENT OF CONDITIONS.—

"(A) COMMISSION AUTHORITY.—If at any time after the approval of an application under paragraph (3), the Commission determines that a Bell operating company has ceased to meet any of the conditions required for such approval, the Commission may, after notice and opportunity for a hearing—

"(i) issue an order to such company to correct the deficiency;

"(ii) impose a penalty on such company pursuant to title V; or

"(iii) suspend or revoke such approval.

"(B) RECEIPT AND REVIEW OF COMPLAINTS.—The Commission shall establish procedures for the review of complaints concerning failures by Bell operating companies to meet conditions required for approval under paragraph (3). Unless the parties otherwise agree, the Commission shall act on such complaint within 90 days.

"(e) LIMITATIONS.—

"(1) JOINT MARKETING OF LOCAL AND LONG DISTANCE SERVICES.—Until a Bell operating company is authorized pursuant to subsection (d) to provide interLATA services in an in-region State, or until 36 months have passed since the date of enactment of the Telecommunications Act of 1996, whichever is earlier, a telecommunications carrier that serves greater than 5 percent of the Nation's presubscribed access lines may not jointly market in such State telephone exchange service obtained from such company pursuant to section 251(c)(4) with interLATA services offered by that telecommunications carrier.

"(2) INTRALATA TOLL DIALING PARITY.—

"(A) PROVISION REQUIRED.—A Bell operating company granted authority to provide interLATA services under subsection (d) shall provide intraLATA toll dialing parity throughout that State coincident with its exercise of that authority.

"(B) LIMITATION.—Except for single-LATA States and States that have issued an order by December 19, 1995, requiring a Bell operating company to implement intraLATA toll dialing parity, a State may not require a Bell operating company to implement intraLATA toll dialing parity in that State before a Bell operating company has been granted authority under this section to provide interLATA services originating in that State or before 3 years after the date of enactment of the Telecommunications Act of 1996, whichever is earlier. Nothing in this subparagraph precludes a State from issuing an order requiring intraLATA toll dialing parity in that State prior to either such date so long as such order does not take effect until after the earlier of either such dates.

"(f) EXCEPTION FOR PREVIOUSLY AUTHORIZED ACTIVITIES.—Neither subsection (a) nor section 273 shall prohibit a Bell operating company or affiliate from engaging, at any time after the date of enactment of the Telecommunications Act of 1996, in any activity to the extent authorized by, and subject to the terms and conditions contained in, an order entered by the United States District Court for the District of Columbia pursuant to section VII or VIII(C) of the AT&T Consent Decree if such order was entered on or before such date of enactment, to the extent such order is not reversed or vacated on appeal. Nothing in this subsection shall be construed to limit, or to impose terms or conditions on, an activity in which a Bell operating company is otherwise authorized to engage under any other provision of this section.

"(g) DEFINITION OF INCIDENTAL INTERLATA SERVICES.—For purposes of this section, the term 'incidental interLATA services' means the interLATA provision by a Bell operating company or its affiliate—

"(1)(A) of audio programming, video programming, or other programming services to subscribers to such services of such company or affiliate;

"(B) of the capability for interaction by such subscribers to select or respond to such audio programming, video programming, or other programming services;

"(C) to distributors of audio programming or video programming that such company or affiliate owns or controls, or is licensed by the copyright owner of such programming (or by an assignee of such owner) to distribute; or

"(D) of alarm monitoring services;

"(2) of two-way interactive video services or Internet services over dedicated facilities to or for elementary and secondary schools as defined in section 254(h)(5);

"(3) of commercial mobile services in accordance with section 332(c) of this Act and with the regulations prescribed by the Commission pursuant to paragraph (8) of such section;

"(4) of a service that permits a customer that is located in one LATA to retrieve stored information from, or file information for storage in, information storage facilities of such company that are located in another LATA;

"(5) of signaling information used in connection with the provision of telephone exchange services or exchange access by a local exchange carrier; or

"(6) of network control signaling information to, and receipt of such signaling information from, common carriers offering interLATA services at any location within the area in which such Bell operating company provides telephone exchange services or exchange access.

"(h) LIMITATIONS.—The provisions of subsection (g) are intended to be narrowly construed. The interLATA services provided under subparagraph (A), (B), or (C) of subsection (g)(1) are limited to those interLATA transmissions incidental to the provision by a Bell operating company or its affiliate of video, audio, and other programming services that the company or its affiliate is engaged in providing to the public. The Commission shall ensure that the provision of services authorized under subsection (g) by a Bell operating company or its affiliate will not adversely affect telephone exchange service ratepayers or competition in any telecommunications market.

"(i) ADDITIONAL DEFINITIONS.—As used in this section—

"(1) IN-REGION STATE.—The term 'in-region State' means a State in which a Bell operating company or any of its affiliates was authorized to provide wireline telephone exchange service pursuant to the reorganization plan approved under the AT&T Consent Decree, as in effect on the day before the date of enactment of the Telecommunications Act of 1996.

"(2) AUDIO PROGRAMMING SERVICES.—The term 'audio programming services' means programming provided by, or generally considered to be comparable to programming provided by, a radio broadcast station.

"(3) VIDEO PROGRAMMING SERVICES; OTHER PROGRAMMING SERVICES.—The terms 'video programming service' and 'other programming services' have the same meanings as such terms have under section 602 of this Act.

"(j) CERTAIN SERVICE APPLICATIONS TREATED AS IN-REGION SERVICE APPLICATIONS.—For purposes of this section, a Bell operating company application to provide 800 service, private line service, or their equivalents that—

"(1) terminate in an in-region State of that Bell operating company, and

"(2) allow the called party to determine the interLATA carrier,

shall be considered an in-region service subject to the requirements of subsection (b)(1).

47 USC 272.

"SEC. 272. SEPARATE AFFILIATE; SAFEGUARDS.

"(a) SEPARATE AFFILIATE REQUIRED FOR COMPETITIVE ACTIVITIES.—

"(1) IN GENERAL.—A Bell operating company (including any affiliate) which is a local exchange carrier that is subject to the requirements of section 251(c) may not provide any service described in paragraph (2) unless it provides that service through one or more affiliates that—

"(A) are separate from any operating company entity that is subject to the requirements of section 251(c); and

"(B) meet the requirements of subsection (b).

"(2) SERVICES FOR WHICH A SEPARATE AFFILIATE IS REQUIRED.—The services for which a separate affiliate is required by paragraph (1) are:

"(A) Manufacturing activities (as defined in section 273(h)).

"(B) Origination of interLATA telecommunications services, other than—

"(i) incidental interLATA services described in paragraphs (1), (2), (3), (5), and (6) of section 271(g);

"(ii) out-of-region services described in section 271(b)(2); or

"(iii) previously authorized activities described in section 271(f).

"(C) InterLATA information services, other than electronic publishing (as defined in section 274(h)) and alarm monitoring services (as defined in section 275(e)).

"(b) STRUCTURAL AND TRANSACTIONAL REQUIREMENTS.—The separate affiliate required by this section—

"(1) shall operate independently from the Bell operating company;

"(2) shall maintain books, records, and accounts in the manner prescribed by the Commission which shall be separate from the books, records, and accounts maintained by the Bell operating company of which it is an affiliate; Records.

"(3) shall have separate officers, directors, and employees from the Bell operating company of which it is an affiliate;

"(4) may not obtain credit under any arrangement that would permit a creditor, upon default, to have recourse to the assets of the Bell operating company; and

"(5) shall conduct all transactions with the Bell operating company of which it is an affiliate on an arm's length basis with any such transactions reduced to writing and available for public inspection.

"(c) NONDISCRIMINATION SAFEGUARDS.—In its dealings with its affiliate described in subsection (a), a Bell operating company—

"(1) may not discriminate between that company or affiliate and any other entity in the provision or procurement of goods, services, facilities, and information, or in the establishment of standards; and

"(2) shall account for all transactions with an affiliate described in subsection (a) in accordance with accounting principles designated or approved by the Commission.

"(d) BIENNIAL AUDIT.—

"(1) GENERAL REQUIREMENT.—A company required to operate a separate affiliate under this section shall obtain and pay for a joint Federal/State audit every 2 years conducted by an independent auditor to determine whether such company has complied with this section and the regulations promulgated under this section, and particularly whether such company has complied with the separate accounting requirements under subsection (b).

"(2) RESULTS SUBMITTED TO COMMISSION; STATE COMMISSIONS.—The auditor described in paragraph (1) shall submit the results of the audit to the Commission and to the State commission of each State in which the company audited provides service, which shall make such results available for public inspection. Any party may submit comments on the final audit report. Public information.

"(3) ACCESS TO DOCUMENTS.—For purposes of conducting audits and reviews under this subsection— Records.

"(A) the independent auditor, the Commission, and the State commission shall have access to the financial accounts and records of each company and of its affiliates necessary to verify transactions conducted with that company that are relevant to the specific activities permitted under this section and that are necessary for the regulation of rates;

"(B) the Commission and the State commission shall have access to the working papers and supporting materials of any auditor who performs an audit under this section; and

"(C) the State commission shall implement appropriate procedures to ensure the protection of any proprietary information submitted to it under this section.

"(e) FULFILLMENT OF CERTAIN REQUESTS.—A Bell operating company and an affiliate that is subject to the requirements of section 251(c)—

"(1) shall fulfill any requests from an unaffiliated entity for telephone exchange service and exchange access within a period no longer than the period in which it provides such telephone exchange service and exchange access to itself or to its affiliates;

"(2) shall not provide any facilities, services, or information concerning its provision of exchange access to the affiliate described in subsection (a) unless such facilities, services, or information are made available to other providers of interLATA services in that market on the same terms and conditions;

"(3) shall charge the affiliate described in subsection (a), or impute to itself (if using the access for its provision of its own services), an amount for access to its telephone exchange service and exchange access that is no less than the amount charged to any unaffiliated interexchange carriers for such service; and

"(4) may provide any interLATA or intraLATA facilities or services to its interLATA affiliate if such services or facilities are made available to all carriers at the same rates and on the same terms and conditions, and so long as the costs are appropriately allocated.

"(f) SUNSET.—

"(1) MANUFACTURING AND LONG DISTANCE.—The provisions of this section (other than subsection (e)) shall cease to apply with respect to the manufacturing activities or the interLATA telecommunications services of a Bell operating company 3 years after the date such Bell operating company or any Bell operating company affiliate is authorized to provide interLATA telecommunications services under section 271(d), unless the Commission extends such 3-year period by rule or order.

"(2) INTERLATA INFORMATION SERVICES.—The provisions of this section (other than subsection (e)) shall cease to apply with respect to the interLATA information services of a Bell operating company 4 years after the date of enactment of the Telecommunications Act of 1996, unless the Commission extends such 4-year period by rule or order.

"(3) PRESERVATION OF EXISTING AUTHORITY.—Nothing in this subsection shall be construed to limit the authority of the Commission under any other section of this Act to prescribe safeguards consistent with the public interest, convenience, and necessity.

"(g) JOINT MARKETING.—

"(1) AFFILIATE SALES OF TELEPHONE EXCHANGE SERVICES.—A Bell operating company affiliate required by this section may not market or sell telephone exchange services provided by the Bell operating company unless that company permits other entities offering the same or similar service to market and sell its telephone exchange services.

"(2) BELL OPERATING COMPANY SALES OF AFFILIATE SERVICES.—A Bell operating company may not market or sell interLATA service provided by an affiliate required by this section within any of its in-region States until such company is authorized to provide interLATA services in such State under section 271(d).

"(3) RULE OF CONSTRUCTION.—The joint marketing and sale of services permitted under this subsection shall not be

considered to violate the nondiscrimination provisions of subsection (c).

"(h) TRANSITION.—With respect to any activity in which a Bell operating company is engaged on the date of enactment of the Telecommunications Act of 1996, such company shall have one year from such date of enactment to comply with the requirements of this section.

"SEC. 273. MANUFACTURING BY BELL OPERATING COMPANIES. 47 USC 273.

"(a) AUTHORIZATION.—A Bell operating company may manufacture and provide telecommunications equipment, and manufacture customer premises equipment, if the Commission authorizes that Bell operating company or any Bell operating company affiliate to provide interLATA services under section 271(d), subject to the requirements of this section and the regulations prescribed thereunder, except that neither a Bell operating company nor any of its affiliates may engage in such manufacturing in conjunction with a Bell operating company not so affiliated or any of its affiliates.

"(b) COLLABORATION; RESEARCH AND ROYALTY AGREEMENTS.—

"(1) COLLABORATION.—Subsection (a) shall not prohibit a Bell operating company from engaging in close collaboration with any manufacturer of customer premises equipment or telecommunications equipment during the design and development of hardware, software, or combinations thereof related to such equipment.

"(2) CERTAIN RESEARCH ARRANGEMENTS; ROYALTY AGREEMENTS.—Subsection (a) shall not prohibit a Bell operating company from—

"(A) engaging in research activities related to manufacturing, and

"(B) entering into royalty agreements with manufacturers of telecommunications equipment.

"(c) INFORMATION REQUIREMENTS.—

"(1) INFORMATION ON PROTOCOLS AND TECHNICAL REQUIREMENTS.—Each Bell operating company shall, in accordance with regulations prescribed by the Commission, maintain and file with the Commission full and complete information with respect to the protocols and technical requirements for connection with and use of its telephone exchange service facilities. Each such company shall report promptly to the Commission any material changes or planned changes to such protocols and requirements, and the schedule for implementation of such changes or planned changes. Regulations.

"(2) DISCLOSURE OF INFORMATION.—A Bell operating company shall not disclose any information required to be filed under paragraph (1) unless that information has been filed promptly, as required by regulation by the Commission.

"(3) ACCESS BY COMPETITORS TO INFORMATION.—The Commission may prescribe such additional regulations under this subsection as may be necessary to ensure that manufacturers have access to the information with respect to the protocols and technical requirements for connection with and use of telephone exchange service facilities that a Bell operating company makes available to any manufacturing affiliate or any unaffiliated manufacturer.

"(4) PLANNING INFORMATION.—Each Bell operating company shall provide, to interconnecting carriers providing telephone exchange service, timely information on the planned deployment of telecommunications equipment.

"(d) MANUFACTURING LIMITATIONS FOR STANDARD-SETTING ORGANIZATIONS.—

"(1) APPLICATION TO BELL COMMUNICATIONS RESEARCH OR MANUFACTURERS.—Bell Communications Research, Inc., or any successor entity or affiliate—

"(A) shall not be considered a Bell operating company or a successor or assign of a Bell operating company at such time as it is no longer an affiliate of any Bell operating company; and

"(B) notwithstanding paragraph (3), shall not engage in manufacturing telecommunications equipment or customer premises equipment as long as it is an affiliate of more than 1 otherwise unaffiliated Bell operating company or successor or assign of any such company.

Nothing in this subsection prohibits Bell Communications Research, Inc., or any successor entity, from engaging in any activity in which it is lawfully engaged on the date of enactment of the Telecommunications Act of 1996. Nothing provided in this subsection shall render Bell Communications Research, Inc., or any successor entity, a common carrier under title II of this Act. Nothing in this subsection restricts any manufacturer from engaging in any activity in which it is lawfully engaged on the date of enactment of the Telecommunications Act of 1996.

"(2) PROPRIETARY INFORMATION.—Any entity which establishes standards for telecommunications equipment or customer premises equipment, or generic network requirements for such equipment, or certifies telecommunications equipment or customer premises equipment, shall be prohibited from releasing or otherwise using any proprietary information, designated as such by its owner, in its possession as a result of such activity, for any purpose other than purposes authorized in writing by the owner of such information, even after such entity ceases to be so engaged.

"(3) MANUFACTURING SAFEGUARDS.—(A) Except as prohibited in paragraph (1), and subject to paragraph (6), any entity which certifies telecommunications equipment or customer premises equipment manufactured by an unaffiliated entity shall only manufacture a particular class of telecommunications equipment or customer premises equipment for which it is undertaking or has undertaken, during the previous 18 months, certification activity for such class of equipment through a separate affiliate.

"(B) Such separate affiliate shall—

Records.

"(i) maintain books, records, and accounts separate from those of the entity that certifies such equipment, consistent with generally acceptable accounting principles;

"(ii) not engage in any joint manufacturing activities with such entity; and

"(iii) have segregated facilities and separate employees with such entity.

"(C) Such entity that certifies such equipment shall—

"(i) not discriminate in favor of its manufacturing affiliate in the establishment of standards, generic requirements, or product certification;

"(ii) not disclose to the manufacturing affiliate any proprietary information that has been received at any time from an unaffiliated manufacturer, unless authorized in writing by the owner of the information; and

"(iii) not permit any employee engaged in product certification for telecommunications equipment or customer premises equipment to engage jointly in sales or marketing of any such equipment with the affiliated manufacturer.

"(4) STANDARD-SETTING ENTITIES.—Any entity that is not an accredited standards development organization and that establishes industry-wide standards for telecommunications equipment or customer premises equipment, or industry-wide generic network requirements for such equipment, or that certifies telecommunications equipment or customer premises equipment manufactured by an unaffiliated entity, shall—

"(A) establish and publish any industry-wide standard for, industry-wide generic requirement for, or any substantial modification of an existing industry-wide standard or industry-wide generic requirement for, telecommunications equipment or customer premises equipment only in compliance with the following procedure— Publication.

"(i) such entity shall issue a public notice of its consideration of a proposed industry-wide standard or industry-wide generic requirement; Notice

"(ii) such entity shall issue a public invitation to interested industry parties to fund and participate in such efforts on a reasonable and nondiscriminatory basis, administered in such a manner as not to unreasonably exclude any interested industry party;

"(iii) such entity shall publish a text for comment by such parties as have agreed to participate in the process pursuant to clause (ii), provide such parties a full opportunity to submit comments, and respond to comments from such parties;

"(iv) such entity shall publish a final text of the industry-wide standard or industry-wide generic requirement, including the comments in their entirety, of any funding party which requests to have its comments so published; and

"(v) such entity shall attempt, prior to publishing a text for comment, to agree with the funding parties as a group on a mutually satisfactory dispute resolution process which such parties shall utilize as their sole recourse in the event of a dispute on technical issues as to which there is disagreement between any funding party and the entity conducting such activities, except that if no dispute resolution process is agreed to by all the parties, a funding party may utilize the dispute resolution procedures established pursuant to paragraph (5) of this subsection;

"(B) engage in product certification for telecommunications equipment or customer premises equipment manufactured by unaffiliated entities only if—

"(i) such activity is performed pursuant to published criteria;

"(ii) such activity is performed pursuant to auditable criteria; and

"(iii) such activity is performed pursuant to available industry-accepted testing methods and standards, where applicable, unless otherwise agreed upon by the parties funding and performing such activity;

"(C) not undertake any actions to monopolize or attempt to monopolize the market for such services; and

"(D) not preferentially treat its own telecommunications equipment or customer premises equipment, or that of its affiliate, over that of any other entity in establishing and publishing industry-wide standards or industry-wide generic requirements for, and in certification of, telecommunications equipment and customer premises equipment.

"(5) ALTERNATE DISPUTE RESOLUTION.—Within 90 days after the date of enactment of the Telecommunications Act of 1996, the Commission shall prescribe a dispute resolution process to be utilized in the event that a dispute resolution process is not agreed upon by all the parties when establishing and publishing any industry-wide standard or industry-wide generic requirement for telecommunications equipment or customer premises equipment, pursuant to paragraph (4)(A)(v). The Commission shall not establish itself as a party to the dispute resolution process. Such dispute resolution process shall permit any funding party to resolve a dispute with the entity conducting the activity that significantly affects such funding party's interests, in an open, nondiscriminatory, and unbiased fashion, within 30 days after the filing of such dispute. Such disputes may be filed within 15 days after the date the funding party receives a response to its comments from the entity conducting the activity. The Commission shall establish penalties to be assessed for delays caused by referral of frivolous disputes to the dispute resolution process.

Penalties.

"(6) SUNSET.—The requirements of paragraphs (3) and (4) shall terminate for the particular relevant activity when the Commission determines that there are alternative sources of industry-wide standards, industry-wide generic requirements, or product certification for a particular class of telecommunications equipment or customer premises equipment available in the United States. Alternative sources shall be deemed to exist when such sources provide commercially viable alternatives that are providing such services to customers. The Commission shall act on any application for such a determination within 90 days after receipt of such application, and shall receive public comment on such application.

"(7) ADMINISTRATION AND ENFORCEMENT AUTHORITY.—For the purposes of administering this subsection and the regulations prescribed thereunder, the Commission shall have the same remedial authority as the Commission has in administering and enforcing the provisions of this title with respect to any common carrier subject to this Act.

"(8) DEFINITIONS.—For purposes of this subsection:

"(A) The term 'affiliate' shall have the same meaning as in section 3 of this Act, except that, for purposes of paragraph (1)(B)—

"(i) an aggregate voting equity interest in Bell Communications Research, Inc., of at least 5 percent of its total voting equity, owned directly or indirectly by more than 1 otherwise unaffiliated Bell operating company, shall constitute an affiliate relationship; and

"(ii) a voting equity interest in Bell Communications Research, Inc., by any otherwise unaffiliated Bell operating company of less than 1 percent of Bell Communications Research's total voting equity shall not be considered to be an equity interest under this paragraph.

"(B) The term 'generic requirement' means a description of acceptable product attributes for use by local exchange carriers in establishing product specifications for the purchase of telecommunications equipment, customer premises equipment, and software integral thereto.

"(C) The term 'industry-wide' means activities funded by or performed on behalf of local exchange carriers for use in providing wireline telephone exchange service whose combined total of deployed access lines in the United States constitutes at least 30 percent of all access lines deployed by telecommunications carriers in the United States as of the date of enactment of the Telecommunications Act of 1996.

"(D) The term 'certification' means any technical process whereby a party determines whether a product, for use by more than one local exchange carrier, conforms with the specified requirements pertaining to such product.

"(E) The term 'accredited standards development organization' means an entity composed of industry members which has been accredited by an institution vested with the responsibility for standards accreditation by the industry.

"(e) BELL OPERATING COMPANY EQUIPMENT PROCUREMENT AND SALES.—

"(1) NONDISCRIMINATION STANDARDS FOR MANUFACTURING.—In the procurement or awarding of supply contracts for telecommunications equipment, a Bell operating company, or any entity acting on its behalf, for the duration of the requirement for a separate subsidiary including manufacturing under this Act—

"(A) shall consider such equipment, produced or supplied by unrelated persons; and

"(B) may not discriminate in favor of equipment produced or supplied by an affiliate or related person.

"(2) PROCUREMENT STANDARDS.—Each Bell operating company or any entity acting on its behalf shall make procurement decisions and award all supply contracts for equipment, services, and software on the basis of an objective assessment of price, quality, delivery, and other commercial factors.

"(3) NETWORK PLANNING AND DESIGN.—A Bell operating company shall, to the extent consistent with the antitrust laws, engage in joint network planning and design with local exchange carriers operating in the same area of interest. No

participant in such planning shall be allowed to delay the introduction of new technology or the deployment of facilities to provide telecommunications services, and agreement with such other carriers shall not be required as a prerequisite for such introduction or deployment.

"(4) SALES RESTRICTIONS.—Neither a Bell operating company engaged in manufacturing nor a manufacturing affiliate of such a company shall restrict sales to any local exchange carrier of telecommunications equipment, including software integral to the operation of such equipment and related upgrades.

"(5) PROTECTION OF PROPRIETARY INFORMATION.—A Bell operating company and any entity it owns or otherwise controls shall protect the proprietary information submitted for procurement decisions from release not specifically authorized by the owner of such information.

"(f) ADMINISTRATION AND ENFORCEMENT AUTHORITY.—For the purposes of administering and enforcing the provisions of this section and the regulations prescribed thereunder, the Commission shall have the same authority, power, and functions with respect to any Bell operating company or any affiliate thereof as the Commission has in administering and enforcing the provisions of this title with respect to any common carrier subject to this Act.

"(g) ADDITIONAL RULES AND REGULATIONS.—The Commission may prescribe such additional rules and regulations as the Commission determines are necessary to carry out the provisions of this section, and otherwise to prevent discrimination and cross-subsidization in a Bell operating company's dealings with its affiliate and with third parties.

"(h) DEFINITION.—As used in this section, the term 'manufacturing' has the same meaning as such term has under the AT&T Consent Decree.

47 USC 274.

"SEC. 274. ELECTRONIC PUBLISHING BY BELL OPERATING COMPANIES.

"(a) LIMITATIONS.—No Bell operating company or any affiliate may engage in the provision of electronic publishing that is disseminated by means of such Bell operating company's or any of its affiliates' basic telephone service, except that nothing in this section shall prohibit a separated affiliate or electronic publishing joint venture operated in accordance with this section from engaging in the provision of electronic publishing.

"(b) SEPARATED AFFILIATE OR ELECTRONIC PUBLISHING JOINT VENTURE REQUIREMENTS.—A separated affiliate or electronic publishing joint venture shall be operated independently from the Bell operating company. Such separated affiliate or joint venture and the Bell operating company with which it is affiliated shall—

Records.

"(1) maintain separate books, records, and accounts and prepare separate financial statements;

"(2) not incur debt in a manner that would permit a creditor of the separated affiliate or joint venture upon default to have recourse to the assets of the Bell operating company;

"(3) carry out transactions (A) in a manner consistent with such independence, (B) pursuant to written contracts or tariffs that are filed with the Commission and made publicly available, and (C) in a manner that is auditable in accordance with generally accepted auditing standards;

"(4) value any assets that are transferred directly or indirectly from the Bell operating company to a separated affiliate or joint venture, and record any transactions by which such assets are transferred, in accordance with such regulations as may be prescribed by the Commission or a State commission to prevent improper cross subsidies;

"(5) between a separated affiliate and a Bell operating company—

"(A) have no officers, directors, and employees in common after the effective date of this section; and

"(B) own no property in common;

"(6) not use for the marketing of any product or service of the separated affiliate or joint venture, the name, trademarks, or service marks of an existing Bell operating company except for names, trademarks, or service marks that are owned by the entity that owns or controls the Bell operating company;

"(7) not permit the Bell operating company—

"(A) to perform hiring or training of personnel on behalf of a separated affiliate;

"(B) to perform the purchasing, installation, or maintenance of equipment on behalf of a separated affiliate, except for telephone service that it provides under tariff or contract subject to the provisions of this section; or

"(C) to perform research and development on behalf of a separated affiliate;

"(8) each have performed annually a compliance review—

"(A) that is conducted by an independent entity for the purpose of determining compliance during the preceding calendar year with any provision of this section; and

"(B) the results of which are maintained by the separated affiliate or joint venture and the Bell operating company for a period of 5 years subject to review by any lawful authority; and

"(9) within 90 days of receiving a review described in paragraph (8), file a report of any exceptions and corrective action with the Commission and allow any person to inspect and copy such report subject to reasonable safeguards to protect any proprietary information contained in such report from being used for purposes other than to enforce or pursue remedies under this section. Reports

"(c) JOINT MARKETING.—

"(1) IN GENERAL.—Except as provided in paragraph (2)—

"(A) a Bell operating company shall not carry out any promotion, marketing, sales, or advertising for or in conjunction with a separated affiliate; and

"(B) a Bell operating company shall not carry out any promotion, marketing, sales, or advertising for or in conjunction with an affiliate that is related to the provision of electronic publishing.

"(2) PERMISSIBLE JOINT ACTIVITIES.—

"(A) JOINT TELEMARKETING.—A Bell operating company may provide inbound telemarketing or referral services related to the provision of electronic publishing for a separated affiliate, electronic publishing joint venture, affiliate, or unaffiliated electronic publisher: *Provided,* That if such services are provided to a separated affiliate, electronic publishing joint venture, or affiliate, such services shall

be made available to all electronic publishers on request, on nondiscriminatory terms.

"(B) TEAMING ARRANGEMENTS.—A Bell operating company may engage in nondiscriminatory teaming or business arrangements to engage in electronic publishing with any separated affiliate or with any other electronic publisher if (i) the Bell operating company only provides facilities, services, and basic telephone service information as authorized by this section, and (ii) the Bell operating company does not own such teaming or business arrangement.

"(C) ELECTRONIC PUBLISHING JOINT VENTURES.—A Bell operating company or affiliate may participate on a nonexclusive basis in electronic publishing joint ventures with entities that are not a Bell operating company, affiliate, or separated affiliate to provide electronic publishing services, if the Bell operating company or affiliate has not more than a 50 percent direct or indirect equity interest (or the equivalent thereof) or the right to more than 50 percent of the gross revenues under a revenue sharing or royalty agreement in any electronic publishing joint venture. Officers and employees of a Bell operating company or affiliate participating in an electronic publishing joint venture may not have more than 50 percent of the voting control over the electronic publishing joint venture. In the case of joint ventures with small, local electronic publishers, the Commission for good cause shown may authorize the Bell operating company or affiliate to have a larger equity interest, revenue share, or voting control but not to exceed 80 percent. A Bell operating company participating in an electronic publishing joint venture may provide promotion, marketing, sales, or advertising personnel and services to such joint venture.

"(d) BELL OPERATING COMPANY REQUIREMENT.—A Bell operating company under common ownership or control with a separated affiliate or electronic publishing joint venture shall provide network access and interconnections for basic telephone service to electronic publishers at just and reasonable rates that are tariffed (so long as rates for such services are subject to regulation) and that are not higher on a per-unit basis than those charged for such services to any other electronic publisher or any separated affiliate engaged in electronic publishing.

"(e) PRIVATE RIGHT OF ACTION.—

"(1) DAMAGES.—Any person claiming that any act or practice of any Bell operating company, affiliate, or separated affiliate constitutes a violation of this section may file a complaint with the Commission or bring suit as provided in section 207 of this Act, and such Bell operating company, affiliate, or separated affiliate shall be liable as provided in section 206 of this Act; except that damages may not be awarded for a violation that is discovered by a compliance review as required by subsection (b)(7) of this section and corrected within 90 days.

"(2) CEASE AND DESIST ORDERS.—In addition to the provisions of paragraph (1), any person claiming that any act or practice of any Bell operating company, affiliate, or separated affiliate constitutes a violation of this section may make application to the Commission for an order to cease and desist such

violation or may make application in any district court of the United States of competent jurisdiction for an order enjoining such acts or practices or for an order compelling compliance with such requirement.

"(f) SEPARATED AFFILIATE REPORTING REQUIREMENT.—Any separated affiliate under this section shall file with the Commission annual reports in a form substantially equivalent to the Form 10–K required by regulations of the Securities and Exchange Commission.

"(g) EFFECTIVE DATES.—

"(1) TRANSITION.—Any electronic publishing service being offered to the public by a Bell operating company or affiliate on the date of enactment of the Telecommunications Act of 1996 shall have one year from such date of enactment to comply with the requirements of this section.

"(2) SUNSET.—The provisions of this section shall not apply to conduct occurring after 4 years after the date of enactment of the Telecommunications Act of 1996.

"(h) DEFINITION OF ELECTRONIC PUBLISHING.—

"(1) IN GENERAL.—The term 'electronic publishing' means the dissemination, provision, publication, or sale to an unaffiliated entity or person, of any one or more of the following: news (including sports); entertainment (other than interactive games); business, financial, legal, consumer, or credit materials; editorials, columns, or features; advertising; photos or images; archival or research material; legal notices or public records; scientific, educational, instructional, technical, professional, trade, or other literary materials; or other like or similar information.

"(2) EXCEPTIONS.—The term 'electronic publishing' shall not include the following services:

"(A) Information access, as that term is defined by the AT&T Consent Decree.

"(B) The transmission of information as a common carrier.

"(C) The transmission of information as part of a gateway to an information service that does not involve the generation or alteration of the content of information, including data transmission, address translation, protocol conversion, billing management, introductory information content, and navigational systems that enable users to access electronic publishing services, which do not affect the presentation of such electronic publishing services to users.

"(D) Voice storage and retrieval services, including voice messaging and electronic mail services.

"(E) Data processing or transaction processing services that do not involve the generation or alteration of the content of information.

"(F) Electronic billing or advertising of a Bell operating company's regulated telecommunications services.

"(G) Language translation or data format conversion.

"(H) The provision of information necessary for the management, control, or operation of a telephone company telecommunications system.

"(I) The provision of directory assistance that provides names, addresses, and telephone numbers and does not include advertising.

"(J) Caller identification services.

"(K) Repair and provisioning databases and credit card and billing validation for telephone company operations.

"(L) 911–E and other emergency assistance databases.

"(M) Any other network service of a type that is like or similar to these network services and that does not involve the generation or alteration of the content of information.

"(N) Any upgrades to these network services that do not involve the generation or alteration of the content of information.

"(O) Video programming or full motion video entertainment on demand.

"(i) ADDITIONAL DEFINITIONS.—As used in this section—

"(1) The term 'affiliate' means any entity that, directly or indirectly, owns or controls, is owned or controlled by, or is under common ownership or control with, a Bell operating company. Such term shall not include a separated affiliate.

"(2) The term 'basic telephone service' means any wireline telephone exchange service, or wireline telephone exchange service facility, provided by a Bell operating company in a telephone exchange area, except that such term does not include—

"(A) a competitive wireline telephone exchange service provided in a telephone exchange area where another entity provides a wireline telephone exchange service that was provided on January 1, 1984, or

"(B) a commercial mobile service.

"(3) The term 'basic telephone service information' means network and customer information of a Bell operating company and other information acquired by a Bell operating company as a result of its engaging in the provision of basic telephone service.

"(4) The term 'control' has the meaning that it has in 17 C.F.R. 240.12b–2, the regulations promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) or any successor provision to such section.

"(5) The term 'electronic publishing joint venture' means a joint venture owned by a Bell operating company or affiliate that engages in the provision of electronic publishing which is disseminated by means of such Bell operating company's or any of its affiliates' basic telephone service.

"(6) The term 'entity' means any organization, and includes corporations, partnerships, sole proprietorships, associations, and joint ventures.

"(7) The term 'inbound telemarketing' means the marketing of property, goods, or services by telephone to a customer or potential customer who initiated the call.

"(8) The term 'own' with respect to an entity means to have a direct or indirect equity interest (or the equivalent thereof) of more than 10 percent of an entity, or the right to more than 10 percent of the gross revenues of an entity under a revenue sharing or royalty agreement.

"(9) The term 'separated affiliate' means a corporation under common ownership or control with a Bell operating company that does not own or control a Bell operating company and is not owned or controlled by a Bell operating company and that engages in the provision of electronic publishing which is disseminated by means of such Bell operating company's or any of its affiliates' basic telephone service.

"(10) The term 'Bell operating company' has the meaning provided in section 3, except that such term includes any entity or corporation that is owned or controlled by such a company (as so defined) but does not include an electronic publishing joint venture owned by such an entity or corporation.

"SEC. 275. ALARM MONITORING SERVICES. 47 USC 275.

"(a) DELAYED ENTRY INTO ALARM MONITORING.—

"(1) PROHIBITION.—No Bell operating company or affiliate thereof shall engage in the provision of alarm monitoring services before the date which is 5 years after the date of enactment of the Telecommunications Act of 1996.

"(2) EXISTING ACTIVITIES.—Paragraph (1) does not prohibit or limit the provision, directly or through an affiliate, of alarm monitoring services by a Bell operating company that was engaged in providing alarm monitoring services as of November 30, 1995, directly or through an affiliate. Such Bell operating company or affiliate may not acquire any equity interest in, or obtain financial control of, any unaffiliated alarm monitoring service entity after November 30, 1995, and until 5 years after the date of enactment of the Telecommunications Act of 1996, except that this sentence shall not prohibit an exchange of customers for the customers of an unaffiliated alarm monitoring service entity.

"(b) NONDISCRIMINATION.—An incumbent local exchange carrier (as defined in section 251(h)) engaged in the provision of alarm monitoring services shall—

"(1) provide nonaffiliated entities, upon reasonable request, with the network services it provides to its own alarm monitoring operations, on nondiscriminatory terms and conditions; and

"(2) not subsidize its alarm monitoring services either directly or indirectly from telephone exchange service operations.

"(c) EXPEDITED CONSIDERATION OF COMPLAINTS.—The Commission shall establish procedures for the receipt and review of complaints concerning violations of subsection (b) or the regulations thereunder that result in material financial harm to a provider of alarm monitoring service. Such procedures shall ensure that the Commission will make a final determination with respect to any such complaint within 120 days after receipt of the complaint. If the complaint contains an appropriate showing that the alleged violation occurred, as determined by the Commission in accordance with such regulations, the Commission shall, within 60 days after receipt of the complaint, order the incumbent local exchange carrier (as defined in section 251(h)) and its affiliates to cease engaging in such violation pending such final determination.

"(d) USE OF DATA.—A local exchange carrier may not record or use in any fashion the occurrence or contents of calls received by providers of alarm monitoring services for the purposes of marketing such services on behalf of such local exchange carrier,

or any other entity. Any regulations necessary to enforce this subsection shall be issued initially within 6 months after the date of enactment of the Telecommunications Act of 1996.

"(e) DEFINITION OF ALARM MONITORING SERVICE.—The term 'alarm monitoring service' means a service that uses a device located at a residence, place of business, or other fixed premises—

"(1) to receive signals from other devices located at or about such premises regarding a possible threat at such premises to life, safety, or property, from burglary, fire, vandalism, bodily injury, or other emergency, and

"(2) to transmit a signal regarding such threat by means of transmission facilities of a local exchange carrier or one of its affiliates to a remote monitoring center to alert a person at such center of the need to inform the customer or another person or police, fire, rescue, security, or public safety personnel of such threat,

but does not include a service that uses a medical monitoring device attached to an individual for the automatic surveillance of an ongoing medical condition.

47 USC 276.

"SEC. 276. PROVISION OF PAYPHONE SERVICE.

"(a) NONDISCRIMINATION SAFEGUARDS.—After the effective date of the rules prescribed pursuant to subsection (b), any Bell operating company that provides payphone service—

"(1) shall not subsidize its payphone service directly or indirectly from its telephone exchange service operations or its exchange access operations; and

"(2) shall not prefer or discriminate in favor of its payphone service.

"(b) REGULATIONS.—

"(1) CONTENTS OF REGULATIONS.—In order to promote competition among payphone service providers and promote the widespread deployment of payphone services to the benefit of the general public, within 9 months after the date of enactment of the Telecommunications Act of 1996, the Commission shall take all actions necessary (including any reconsideration) to prescribe regulations that—

"(A) establish a per call compensation plan to ensure that all payphone service providers are fairly compensated for each and every completed intrastate and interstate call using their payphone, except that emergency calls and telecommunications relay service calls for hearing disabled individuals shall not be subject to such compensation;

"(B) discontinue the intrastate and interstate carrier access charge payphone service elements and payments in effect on such date of enactment, and all intrastate and interstate payphone subsidies from basic exchange and exchange access revenues, in favor of a compensation plan as specified in subparagraph (A);

"(C) prescribe a set of nonstructural safeguards for Bell operating company payphone service to implement the provisions of paragraphs (1) and (2) of subsection (a), which safeguards shall, at a minimum, include the nonstructural safeguards equal to those adopted in the Computer Inquiry-III (CC Docket No. 90–623) proceeding;

"(D) provide for Bell operating company payphone service providers to have the same right that independent

payphone providers have to negotiate with the location provider on the location provider's selecting and contracting with, and, subject to the terms of any agreement with the location provider, to select and contract with, the carriers that carry interLATA calls from their payphones, unless the Commission determines in the rulemaking pursuant to this section that it is not in the public interest; and

"(E) provide for all payphone service providers to have the right to negotiate with the location provider on the location provider's selecting and contracting with, and, subject to the terms of any agreement with the location provider, to select and contract with, the carriers that carry intraLATA calls from their payphones.

"(2) PUBLIC INTEREST TELEPHONES.—In the rulemaking conducted pursuant to paragraph (1), the Commission shall determine whether public interest payphones, which are provided in the interest of public health, safety, and welfare, in locations where there would otherwise not be a payphone, should be maintained, and if so, ensure that such public interest payphones are supported fairly and equitably.

"(3) EXISTING CONTRACTS.—Nothing in this section shall affect any existing contracts between location providers and payphone service providers or interLATA or intraLATA carriers that are in force and effect as of the date of enactment of the Telecommunications Act of 1996.

"(c) STATE PREEMPTION.—To the extent that any State requirements are inconsistent with the Commission's regulations, the Commission's regulations on such matters shall preempt such State requirements.

"(d) DEFINITION.—As used in this section, the term 'payphone service' means the provision of public or semi-public pay telephones, the provision of inmate telephone service in correctional institutions, and any ancillary services.".

(b) REVIEW OF ENTRY DECISIONS.—Section 402(b) (47 U.S.C. 402(b)) is amended—

(1) in paragraph (6), by striking "(3), and (4)" and inserting "(3), (4), and (9)"; and

(2) by adding at the end the following new paragraph:

"(9) By any applicant for authority to provide interLATA services under section 271 of this Act whose application is denied by the Commission.".

TITLE II—BROADCAST SERVICES

SEC. 201. BROADCAST SPECTRUM FLEXIBILITY.

Title III is amended by inserting after section 335 (47 U.S.C. 335) the following new section:

"SEC. 336. BROADCAST SPECTRUM FLEXIBILITY.

47 USC 336.

"(a) COMMISSION ACTION.—If the Commission determines to issue additional licenses for advanced television services, the Commission—

"(1) should limit the initial eligibility for such licenses to persons that, as of the date of such issuance, are licensed

to operate a television broadcast station or hold a permit to construct such a station (or both); and

Regulations.

"(2) shall adopt regulations that allow the holders of such licenses to offer such ancillary or supplementary services on designated frequencies as may be consistent with the public interest, convenience, and necessity.

"(b) CONTENTS OF REGULATIONS.—In prescribing the regulations required by subsection (a), the Commission shall—

"(1) only permit such licensee or permittee to offer ancillary or supplementary services if the use of a designated frequency for such services is consistent with the technology or method designated by the Commission for the provision of advanced television services;

"(2) limit the broadcasting of ancillary or supplementary services on designated frequencies so as to avoid derogation of any advanced television services, including high definition television broadcasts, that the Commission may require using such frequencies;

"(3) apply to any other ancillary or supplementary service such of the Commission's regulations as are applicable to the offering of analogous services by any other person, except that no ancillary or supplementary service shall have any rights to carriage under section 614 or 615 or be deemed a multichannel video programming distributor for purposes of section 628;

"(4) adopt such technical and other requirements as may be necessary or appropriate to assure the quality of the signal used to provide advanced television services, and may adopt regulations that stipulate the minimum number of hours per day that such signal must be transmitted; and

"(5) prescribe such other regulations as may be necessary for the protection of the public interest, convenience, and necessity.

"(c) RECOVERY OF LICENSE.—If the Commission grants a license for advanced television services to a person that, as of the date of such issuance, is licensed to operate a television broadcast station or holds a permit to construct such a station (or both), the Commission shall, as a condition of such license, require that either the additional license or the original license held by the licensee be surrendered to the Commission for reallocation or reassignment (or both) pursuant to Commission regulation.

"(d) PUBLIC INTEREST REQUIREMENT.—Nothing in this section shall be construed as relieving a television broadcasting station from its obligation to serve the public interest, convenience, and necessity. In the Commission's review of any application for renewal of a broadcast license for a television station that provides ancillary or supplementary services, the television licensee shall establish that all of its program services on the existing or advanced television spectrum are in the public interest. Any violation of the Commission rules applicable to ancillary or supplementary services shall reflect upon the licensee's qualifications for renewal of its license.

"(e) FEES.—

"(1) SERVICES TO WHICH FEES APPLY.—If the regulations prescribed pursuant to subsection (a) permit a licensee to offer ancillary or supplementary services on a designated frequency—

"(A) for which the payment of a subscription fee is required in order to receive such services, or

"(B) for which the licensee directly or indirectly receives compensation from a third party in return for transmitting material furnished by such third party (other than commercial advertisements used to support broadcasting for which a subscription fee is not required),

the Commission shall establish a program to assess and collect from the licensee for such designated frequency an annual fee or other schedule or method of payment that promotes the objectives described in subparagraphs (A) and (B) of paragraph (2).

"(2) COLLECTION OF FEES.—The program required by paragraph (1) shall—

"(A) be designed (i) to recover for the public a portion of the value of the public spectrum resource made available for such commercial use, and (ii) to avoid unjust enrichment through the method employed to permit such uses of that resource;

"(B) recover for the public an amount that, to the extent feasible, equals but does not exceed (over the term of the license) the amount that would have been recovered had such services been licensed pursuant to the provisions of section 309(j) of this Act and the Commission's regulations thereunder; and

"(C) be adjusted by the Commission from time to time in order to continue to comply with the requirements of this paragraph.

"(3) TREATMENT OF REVENUES.—

"(A) GENERAL RULE.—Except as provided in subparagraph (B), all proceeds obtained pursuant to the regulations required by this subsection shall be deposited in the Treasury in accordance with chapter 33 of title 31, United States Code.

"(B) RETENTION OF REVENUES.—Notwithstanding subparagraph (A), the salaries and expenses account of the Commission shall retain as an offsetting collection such sums as may be necessary from such proceeds for the costs of developing and implementing the program required by this section and regulating and supervising advanced television services. Such offsetting collections shall be available for obligation subject to the terms and conditions of the receiving appropriations account, and shall be deposited in such accounts on a quarterly basis.

"(4) REPORT.—Within 5 years after the date of enactment of the Telecommunications Act of 1996, the Commission shall report to the Congress on the implementation of the program required by this subsection, and shall annually thereafter advise the Congress on the amounts collected pursuant to such program.

"(f) EVALUATION.—Within 10 years after the date the Commission first issues additional licenses for advanced television services, the Commission shall conduct an evaluation of the advanced television services program. Such evaluation shall include—

"(1) an assessment of the willingness of consumers to purchase the television receivers necessary to receive broadcasts of advanced television services;

"(2) an assessment of alternative uses, including public safety use, of the frequencies used for such broadcasts; and

"(3) the extent to which the Commission has been or will be able to reduce the amount of spectrum assigned to licensees.

"(g) DEFINITIONS.—As used in this section:

"(1) ADVANCED TELEVISION SERVICES.—The term 'advanced television services' means television services provided using digital or other advanced technology as further defined in the opinion, report, and order of the Commission entitled 'Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service', MM Docket 87–268, adopted September 17, 1992, and successor proceedings.

"(2) DESIGNATED FREQUENCIES.—The term 'designated frequency' means each of the frequencies designated by the Commission for licenses for advanced television services.

"(3) HIGH DEFINITION TELEVISION.—The term 'high definition television' refers to systems that offer approximately twice the vertical and horizontal resolution of receivers generally available on the date of enactment of the Telecommunications Act of 1996, as further defined in the proceedings described in paragraph (1) of this subsection.".

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SEC. 202. BROADCAST OWNERSHIP.

(a) NATIONAL RADIO STATION OWNERSHIP RULE CHANGES REQUIRED.—The Commission shall modify section 73.3555 of its regulations (47 C.F.R. 73.3555) by eliminating any provisions limiting the number of AM or FM broadcast stations which may be owned or controlled by one entity nationally.

(b) LOCAL RADIO DIVERSITY.—

(1) APPLICABLE CAPS.—The Commission shall revise section 73.3555(a) of its regulations (47 C.F.R. 73.3555) to provide that—

(A) in a radio market with 45 or more commercial radio stations, a party may own, operate, or control up to 8 commercial radio stations, not more than 5 of which are in the same service (AM or FM);

(B) in a radio market with between 30 and 44 (inclusive) commercial radio stations, a party may own, operate, or control up to 7 commercial radio stations, not more than 4 of which are in the same service (AM or FM);

(C) in a radio market with between 15 and 29 (inclusive) commercial radio stations, a party may own, operate, or control up to 6 commercial radio stations, not more than 4 of which are in the same service (AM or FM); and

(D) in a radio market with 14 or fewer commercial radio stations, a party may own, operate, or control up to 5 commercial radio stations, not more than 3 of which are in the same service (AM or FM), except that a party may not own, operate, or control more than 50 percent of the stations in such market.

(2) EXCEPTION.—Notwithstanding any limitation authorized by this subsection, the Commission may permit a person or entity to own, operate, or control, or have a cognizable interest in, radio broadcast stations if the Commission determines that such ownership, operation, control, or interest will

result in an increase in the number of radio broadcast stations in operation.

(c) TELEVISION OWNERSHIP LIMITATIONS.—

(1) NATIONAL OWNERSHIP LIMITATIONS.—The Commission shall modify its rules for multiple ownership set forth in section 73.3555 of its regulations (47 C.F.R. 73.3555)—

(A) by eliminating the restrictions on the number of television stations that a person or entity may directly or indirectly own, operate, or control, or have a cognizable interest in, nationwide; and

(B) by increasing the national audience reach limitation for television stations to 35 percent.

(2) LOCAL OWNERSHIP LIMITATIONS.—The Commission shall conduct a rulemaking proceeding to determine whether to retain, modify, or eliminate its limitations on the number of television stations that a person or entity may own, operate, or control, or have a cognizable interest in, within the same television market.

(d) RELAXATION OF ONE-TO-A-MARKET.—With respect to its enforcement of its one-to-a-market ownership rules under section 73.3555 of its regulations, the Commission shall extend its waiver policy to any of the top 50 markets, consistent with the public interest, convenience, and necessity.

(e) DUAL NETWORK CHANGES.—The Commission shall revise section 73.658(g) of its regulations (47 C.F.R. 658(g)) to permit a television broadcast station to affiliate with a person or entity that maintains 2 or more networks of television broadcast stations unless such dual or multiple networks are composed of—

(1) two or more persons or entities that, on the date of enactment of the Telecommunications Act of 1996, are "networks" as defined in section 73.3613(a)(1) of the Commission's regulations (47 C.F.R. 73.3613(a)(1)); or

(2) any network described in paragraph (1) and an English-language program distribution service that, on such date, provides 4 or more hours of programming per week on a national basis pursuant to network affiliation arrangements with local television broadcast stations in markets reaching more than 75 percent of television homes (as measured by a national ratings service).

(f) CABLE CROSS OWNERSHIP.—

(1) ELIMINATION OF RESTRICTIONS.—The Commission shall revise section 76.501 of its regulations (47 C.F.R. 76.501) to permit a person or entity to own or control a network of broadcast stations and a cable system.

(2) SAFEGUARDS AGAINST DISCRIMINATION.—The Commission shall revise such regulations if necessary to ensure carriage, channel positioning, and nondiscriminatory treatment of nonaffiliated broadcast stations by a cable system described in paragraph (1).

(g) LOCAL MARKETING AGREEMENTS.—Nothing in this section shall be construed to prohibit the origination, continuation, or renewal of any television local marketing agreement that is in compliance with the regulations of the Commission.

(h) FURTHER COMMISSION REVIEW.—The Commission shall review its rules adopted pursuant to this section and all of its ownership rules biennially as part of its regulatory reform review under section 11 of the Communications Act of 1934 and shall

determine whether any of such rules are necessary in the public interest as the result of competition. The Commission shall repeal or modify any regulation it determines to be no longer in the public interest.

(i) ELIMINATION OF STATUTORY RESTRICTION.—Section 613(a) (47 U.S.C. 533(a)) is amended—

(1) by striking paragraph (1);

(2) by redesignating paragraph (2) as subsection (a);

(3) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively;

(4) by striking "and" at the end of paragraph (1) (as so redesignated);

(5) by striking the period at the end of paragraph (2) (as so redesignated) and inserting "; and"; and

(6) by adding at the end the following new paragraph:

"(3) shall not apply the requirements of this subsection to any cable operator in any franchise area in which a cable operator is subject to effective competition as determined under section 623(l).".

SEC. 203. TERM OF LICENSES.

Section 307(c) (47 U.S.C. 307(c)) is amended to read as follows:

"(c) TERMS OF LICENSES.—

"(1) INITIAL AND RENEWAL LICENSES.—Each license granted for the operation of a broadcasting station shall be for a term of not to exceed 8 years. Upon application therefor, a renewal of such license may be granted from time to time for a term of not to exceed 8 years from the date of expiration of the preceding license, if the Commission finds that public interest, convenience, and necessity would be served thereby. Consistent with the foregoing provisions of this subsection, the Commission may by rule prescribe the period or periods for which licenses shall be granted and renewed for particular classes of stations, but the Commission may not adopt or follow any rule which would preclude it, in any case involving a station of a particular class, from granting or renewing a license for a shorter period than that prescribed for stations of such class if, in its judgment, the public interest, convenience, or necessity would be served by such action.

"(2) MATERIALS IN APPLICATION.—In order to expedite action on applications for renewal of broadcasting station licenses and in order to avoid needless expense to applicants for such renewals, the Commission shall not require any such applicant to file any information which previously has been furnished to the Commission or which is not directly material to the considerations that affect the granting or denial of such application, but the Commission may require any new or additional facts it deems necessary to make its findings.

"(3) CONTINUATION PENDING DECISION.—Pending any hearing and final decision on such an application and the disposition of any petition for rehearing pursuant to section 405, the Commission shall continue such license in effect.".

SEC. 204. BROADCAST LICENSE RENEWAL PROCEDURES.

(a) RENEWAL PROCEDURES.—

(1) AMENDMENT.—Section 309 (47 U.S.C. 309) is amended by adding at the end thereof the following new subsection:

"(k) BROADCAST STATION RENEWAL PROCEDURES.—

"(1) STANDARDS FOR RENEWAL.—If the licensee of a broadcast station submits an application to the Commission for renewal of such license, the Commission shall grant the application if it finds, with respect to that station, during the preceding term of its license—

"(A) the station has served the public interest, convenience, and necessity;

"(B) there have been no serious violations by the licensee of this Act or the rules and regulations of the Commission; and

"(C) there have been no other violations by the licensee of this Act or the rules and regulations of the Commission which, taken together, would constitute a pattern of abuse.

"(2) CONSEQUENCE OF FAILURE TO MEET STANDARD.—If any licensee of a broadcast station fails to meet the requirements of this subsection, the Commission may deny the application for renewal in accordance with paragraph (3), or grant such application on terms and conditions as are appropriate, including renewal for a term less than the maximum otherwise permitted.

"(3) STANDARDS FOR DENIAL.—If the Commission determines, after notice and opportunity for a hearing as provided in subsection (e), that a licensee has failed to meet the requirements specified in paragraph (1) and that no mitigating factors justify the imposition of lesser sanctions, the Commission shall—

"(A) issue an order denying the renewal application filed by such licensee under section 308; and

"(B) only thereafter accept and consider such applications for a construction permit as may be filed under section 308 specifying the channel or broadcasting facilities of the former licensee.

"(4) COMPETITOR CONSIDERATION PROHIBITED.—In making the determinations specified in paragraph (1) or (2), the Commission shall not consider whether the public interest, convenience, and necessity might be served by the grant of a license to a person other than the renewal applicant.".

(2) CONFORMING AMENDMENT.—Section 309(d) (47 U.S.C. 309(d)) is amended by inserting after "with subsection (a)" each place it appears the following: "(or subsection (k) in the case of renewal of any broadcast station license)".

(b) SUMMARY OF COMPLAINTS ON VIOLENT PROGRAMMING.—Section 308 (47 U.S.C. 308) is amended by adding at the end the following new subsection:

"(d) SUMMARY OF COMPLAINTS.—Each applicant for the renewal of a commercial or noncommercial television license shall attach as an exhibit to the application a summary of written comments and suggestions received from the public and maintained by the licensee (in accordance with Commission regulations) that comment on the applicant's programming, if any, and that are characterized by the commentor as constituting violent programming.".

(c) EFFECTIVE DATE.—The amendments made by this section apply to applications filed after May 1, 1995. 47 USC 308 note.

SEC. 205. DIRECT BROADCAST SATELLITE SERVICE.

(a) DBS SIGNAL SECURITY.—Section 705(e)(4) (47 U.S.C. 605(e)(4)) is amended by inserting "or direct-to-home satellite services," after "programming,".

(b) FCC JURISDICTION OVER DIRECT-TO-HOME SATELLITE SERVICES.—Section 303 (47 U.S.C. 303) is amended by adding at the end thereof the following new subsection:

"(v) Have exclusive jurisdiction to regulate the provision of direct-to-home satellite services. As used in this subsection, the term 'direct-to-home satellite services' means the distribution or broadcasting of programming or services by satellite directly to the subscriber's premises without the use of ground receiving or distribution equipment, except at the subscriber's premises or in the uplink process to the satellite.".

SEC. 206. AUTOMATED SHIP DISTRESS AND SAFETY SYSTEMS.

Part II of title III is amended by inserting after section 364 (47 U.S.C. 362) the following new section:

47 USC 363.

"SEC. 365. AUTOMATED SHIP DISTRESS AND SAFETY SYSTEMS.

"Notwithstanding any provision of this Act or any other provision of law or regulation, a ship documented under the laws of the United States operating in accordance with the Global Maritime Distress and Safety System provisions of the Safety of Life at Sea Convention shall not be required to be equipped with a radio telegraphy station operated by one or more radio officers or operators. This section shall take effect for each vessel upon a determination by the United States Coast Guard that such vessel has the equipment required to implement the Global Maritime Distress and Safety System installed and operating in good working condition.".

Effective date.

Regulations.
47 USC 303 note.

SEC. 207. RESTRICTIONS ON OVER-THE-AIR RECEPTION DEVICES.

Within 180 days after the date of enactment of this Act, the Commission shall, pursuant to section 303 of the Communications Act of 1934, promulgate regulations to prohibit restrictions that impair a viewer's ability to receive video programming services through devices designed for over-the-air reception of television broadcast signals, multichannel multipoint distribution service, or direct broadcast satellite services.

TITLE III—CABLE SERVICES

SEC. 301. CABLE ACT REFORM.

(a) DEFINITIONS.—

(1) DEFINITION OF CABLE SERVICE.—Section 602(6)(B) (47 U.S.C. 522(6)(B)) is amended by inserting "or use" after "the selection".

(2) CHANGE IN DEFINITION OF CABLE SYSTEM.—Section 602(7) (47 U.S.C. 522(7)) is amended by striking "(B) a facility that serves only subscribers in 1 or more multiple unit dwellings under common ownership, control, or management, unless such facility or facilities uses any public right-of-way;" and inserting "(B) a facility that serves subscribers without using any public right-of-way;".

(b) RATE DEREGULATION.—

(1) UPPER TIER REGULATION.—Section 623(c) (47 U.S.C. 543(c)) is amended—

(A) in paragraph (1)(B), by striking "subscriber, franchising authority, or other relevant State or local government entity" and inserting "franchising authority (in accordance with paragraph (3))";

(B) in paragraph (1)(C), by striking "such complaint" and inserting "the first complaint filed with the franchising authority under paragraph (3)"; and

(C) by striking paragraph (3) and inserting the following:

"(3) REVIEW OF RATE CHANGES.—The Commission shall review any complaint submitted by a franchising authority after the date of enactment of the Telecommunications Act of 1996 concerning an increase in rates for cable programming services and issue a final order within 90 days after it receives such a complaint, unless the parties agree to extend the period for such review. A franchising authority may not file a complaint under this paragraph unless, within 90 days after such increase becomes effective it receives subscriber complaints.

"(4) SUNSET OF UPPER TIER RATE REGULATION.—This subsection shall not apply to cable programming services provided after March 31, 1999.".

(2) SUNSET OF UNIFORM RATE STRUCTURE IN MARKETS WITH EFFECTIVE COMPETITION.—Section 623(d) (47 U.S.C. 543(d)) is amended by adding at the end thereof the following: "This subsection does not apply to (1) a cable operator with respect to the provision of cable service over its cable system in any geographic area in which the video programming services offered by the operator in that area are subject to effective competition, or (2) any video programming offered on a per channel or per program basis. Bulk discounts to multiple dwelling units shall not be subject to this subsection, except that a cable operator of a cable system that is not subject to effective competition may not charge predatory prices to a multiple dwelling unit. Upon a prima facie showing by a complainant that there are reasonable grounds to believe that the discounted price is predatory, the cable system shall have the burden of showing that its discounted price is not predatory.".

(3) EFFECTIVE COMPETITION.—Section 623(l)(1) (47 U.S.C. 543(l)(1)) is amended—

(A) by striking "or" at the end of subparagraph (B);

(B) by striking the period at the end of subparagraph (C) and inserting "; or"; and

(C) by adding at the end the following:

"(D) a local exchange carrier or its affiliate (or any multichannel video programming distributor using the facilities of such carrier or its affiliate) offers video programming services directly to subscribers by any means (other than direct-to-home satellite services) in the franchise area of an unaffiliated cable operator which is providing cable service in that franchise area, but only if the video programming services so offered in that area are comparable to the video programming services provided by the unaffiliated cable operator in that area.".

(c) GREATER DEREGULATION FOR SMALLER CABLE COMPANIES.—Section 623 (47 U.S.C 543) is amended by adding at the end thereof the following:

"(m) SPECIAL RULES FOR SMALL COMPANIES.—

"(1) IN GENERAL.—Subsections (a), (b), and (c) do not apply to a small cable operator with respect to—

"(A) cable programming services, or

"(B) a basic service tier that was the only service tier subject to regulation as of December 31, 1994,

in any franchise area in which that operator services 50,000 or fewer subscribers.

"(2) DEFINITION OF SMALL CABLE OPERATOR.—For purposes of this subsection, the term 'small cable operator' means a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1 percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed $250,000,000.".

(d) MARKET DETERMINATIONS.—

(1) MARKET DETERMINATIONS; EXPEDITED DECISIONMAKING.—Section 614(h)(1)(C) (47 U.S.C. 534(h)(1)(C)) is amended—

(A) by striking "in the manner provided in section 73.3555(d)(3)(i) of title 47, Code of Federal Regulations, as in effect on May 1, 1991," in clause (i) and inserting "by the Commission by regulation or order using, where available, commercial publications which delineate television markets based on viewing patterns,"; and

(B) by striking clause (iv) and inserting the following:

"(iv) Within 120 days after the date on which a request is filed under this subparagraph (or 120 days after the date of enactment of the Telecommunications Act of 1996, if later), the Commission shall grant or deny the request.".

47 USC 534 note.

(2) APPLICATION TO PENDING REQUESTS.—The amendment made by paragraph (1) shall apply to—

(A) any request pending under section 614(h)(1)(C) of the Communications Act of 1934 (47 U.S.C. 534(h)(1)(C)) on the date of enactment of this Act; and

(B) any request filed under that section after that date.

(e) TECHNICAL STANDARDS.—Section 624(e) (47 U.S.C. 544(e)) is amended by striking the last two sentences and inserting the following: "No State or franchising authority may prohibit, condition, or restrict a cable system's use of any type of subscriber equipment or any transmission technology.".

47 USC 544a.

(f) CABLE EQUIPMENT COMPATIBILITY.—Section 624A (47 U.S.C. 544A) is amended—

(1) in subsection (a) by striking "and" at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting "; and"; and by adding at the end the following new paragraph:

"(4) compatibility among televisions, video cassette recorders, and cable systems can be assured with narrow technical standards that mandate a minimum degree of common design and operation, leaving all features, functions, protocols, and other product and service options for selection through open competition in the market.";

(2) in subsection (c)(1)—

(A) by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively; and

(B) by inserting before such redesignated subparagraph (B) the following new subparagraph:

"(A) the need to maximize open competition in the market for all features, functions, protocols, and other product and service options of converter boxes and other cable converters unrelated to the descrambling or decryption of cable television signals;"; and

(3) in subsection (c)(2)—

(A) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively; and

(B) by inserting after subparagraph (C) the following new subparagraph:

"(D) to ensure that any standards or regulations developed under the authority of this section to ensure compatibility between televisions, video cassette recorders, and cable systems do not affect features, functions, protocols, and other product and service options other than those specified in paragraph (1)(B), including telecommunications interface equipment, home automation communications, and computer network services;".

(g) SUBSCRIBER NOTICE.—Section 632 (47 U.S.C. 552) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection:

"(c) SUBSCRIBER NOTICE.—A cable operator may provide notice of service and rate changes to subscribers using any reasonable written means at its sole discretion. Notwithstanding section 623(b)(6) or any other provision of this Act, a cable operator shall not be required to provide prior notice of any rate change that is the result of a regulatory fee, franchise fee, or any other fee, tax, assessment, or charge of any kind imposed by any Federal agency, State, or franchising authority on the transaction between the operator and the subscriber.".

(h) PROGRAM ACCESS.—Section 628 (47 U.S.C. 548) is amended by adding at the end the following:

"(j) COMMON CARRIERS.—Any provision that applies to a cable operator under this section shall apply to a common carrier or its affiliate that provides video programming by any means directly to subscribers. Any such provision that applies to a satellite cable programming vendor in which a cable operator has an attributable interest shall apply to any satellite cable programming vendor in which such common carrier has an attributable interest. For the purposes of this subsection, two or fewer common officers or directors shall not by itself establish an attributable interest by a common carrier in a satellite cable programming vendor (or its parent company).".

(i) ANTITRAFFICKING.—Section 617 (47 U.S.C. 537) is amended—

(1) by striking subsections (a) through (d); and

(2) in subsection (e), by striking "(e)" and all that follows through "a franchising authority" and inserting "A franchising authority".

(j) AGGREGATION OF EQUIPMENT COSTS.—Section 623(a) (47 U.S.C. 543(a)) is amended by adding at the end the following new paragraph:

"(7) AGGREGATION OF EQUIPMENT COSTS.—

"(A) IN GENERAL.—The Commission shall allow cable operators, pursuant to any rules promulgated under subsection (b)(3), to aggregate, on a franchise, system, regional, or company level, their equipment costs into broad categories, such as converter boxes, regardless of the varying levels of functionality of the equipment within each such broad category. Such aggregation shall not be permitted with respect to equipment used by subscribers who receive only a rate regulated basic service tier.

"(B) REVISION TO COMMISSION RULES; FORMS.—Within 120 days of the date of enactment of the Telecommunications Act of 1996, the Commission shall issue revisions to the appropriate rules and forms necessary to implement subparagraph (A).".

(k) TREATMENT OF PRIOR YEAR LOSSES.—

47 USC 543. (1) AMENDMENT.—Section 623 (48 U.S.C. 543) is amended by adding at the end thereof the following:

"(n) TREATMENT OF PRIOR YEAR LOSSES.—Notwithstanding any other provision of this section or of section 612, losses associated with a cable system (including losses associated with the grant or award of a franchise) that were incurred prior to September 4, 1992, with respect to a cable system that is owned and operated by the original franchisee of such system shall not be disallowed, in whole or in part, in the determination of whether the rates for any tier of service or any type of equipment that is subject to regulation under this section are lawful.".

47 USC 543 note. (2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of enactment of this Act and shall be applicable to any rate proposal filed on or after September 4, 1993, upon which no final action has been taken by December 1, 1995.

SEC. 302. CABLE SERVICE PROVIDED BY TELEPHONE COMPANIES.

(a) PROVISIONS FOR REGULATION OF CABLE SERVICE PROVIDED BY TELEPHONE COMPANIES.—Title VI (47 U.S.C. 521 et seq.) is amended by adding at the end the following new part:

"PART V—VIDEO PROGRAMMING SERVICES PROVIDED BY TELEPHONE COMPANIES

47 USC 571. **"SEC. 651. REGULATORY TREATMENT OF VIDEO PROGRAMMING SERVICES.**

"(a) LIMITATIONS ON CABLE REGULATION.—

"(1) RADIO-BASED SYSTEMS.—To the extent that a common carrier (or any other person) is providing video programming to subscribers using radio communication, such carrier (or other person) shall be subject to the requirements of title III and section 652, but shall not otherwise be subject to the requirements of this title.

"(2) COMMON CARRIAGE OF VIDEO TRAFFIC.—To the extent that a common carrier is providing transmission of video programming on a common carrier basis, such carrier shall be subject to the requirements of title II and section 652,

but shall not otherwise be subject to the requirements of this title. This paragraph shall not affect the treatment under section 602(7)(C) of a facility of a common carrier as a cable system.

"(3) CABLE SYSTEMS AND OPEN VIDEO SYSTEMS.—To the extent that a common carrier is providing video programming to its subscribers in any manner other than that described in paragraphs (1) and (2)—

"(A) such carrier shall be subject to the requirements of this title, unless such programming is provided by means of an open video system for which the Commission has approved a certification under section 653; or

"(B) if such programming is provided by means of an open video system for which the Commission has approved a certification under section 653, such carrier shall be subject to the requirements of this part, but shall be subject to parts I through IV of this title only as provided in 653(c).

"(4) ELECTION TO OPERATE AS OPEN VIDEO SYSTEM.—A common carrier that is providing video programming in a manner described in paragraph (1) or (2), or a combination thereof, may elect to provide such programming by means of an open video system that complies with section 653. If the Commission approves such carrier's certification under section 653, such carrier shall be subject to the requirements of this part, but shall be subject to parts I through IV of this title only as provided in 653(c).

"(b) LIMITATIONS ON INTERCONNECTION OBLIGATIONS.—A local exchange carrier that provides cable service through an open video system or a cable system shall not be required, pursuant to title II of this Act, to make capacity available on a nondiscriminatory basis to any other person for the provision of cable service directly to subscribers.

"(c) ADDITIONAL REGULATORY RELIEF.—A common carrier shall not be required to obtain a certificate under section 214 with respect to the establishment or operation of a system for the delivery of video programming.

"SEC. 652. PROHIBITION ON BUY OUTS. 47 USC 572.

"(a) ACQUISITIONS BY CARRIERS.—No local exchange carrier or any affiliate of such carrier owned by, operated by, controlled by, or under common control with such carrier may purchase or otherwise acquire directly or indirectly more than a 10 percent financial interest, or any management interest, in any cable operator providing cable service within the local exchange carrier's telephone service area.

"(b) ACQUISITIONS BY CABLE OPERATORS.—No cable operator or affiliate of a cable operator that is owned by, operated by, controlled by, or under common ownership with such cable operator may purchase or otherwise acquire, directly or indirectly, more than a 10 percent financial interest, or any management interest, in any local exchange carrier providing telephone exchange service within such cable operator's franchise area.

"(c) JOINT VENTURES.—A local exchange carrier and a cable operator whose telephone service area and cable franchise area, respectively, are in the same market may not enter into any joint venture or partnership to provide video programming directly to

subscribers or to provide telecommunications services within such market.

"(d) EXCEPTIONS.—

"(1) RURAL SYSTEMS.—Notwithstanding subsections (a), (b), and (c) of this section, a local exchange carrier (with respect to a cable system located in its telephone service area) and a cable operator (with respect to the facilities of a local exchange carrier used to provide telephone exchange service in its cable franchise area) may obtain a controlling interest in, management interest in, or enter into a joint venture or partnership with the operator of such system or facilities for the use of such system or facilities to the extent that—

"(A) such system or facilities only serve incorporated or unincorporated—

"(i) places or territories that have fewer than 35,000 inhabitants; and

"(ii) are outside an urbanized area, as defined by the Bureau of the Census; and

"(B) in the case of a local exchange carrier, such system, in the aggregate with any other system in which such carrier has an interest, serves less than 10 percent of the households in the telephone service area of such carrier.

"(2) JOINT USE.—Notwithstanding subsection (c), a local exchange carrier may obtain, with the concurrence of the cable operator on the rates, terms, and conditions, the use of that part of the transmission facilities of a cable system extending from the last multi-user terminal to the premises of the end user, if such use is reasonably limited in scope and duration, as determined by the Commission.

"(3) ACQUISITIONS IN COMPETITIVE MARKETS.—Notwithstanding subsections (a) and (c), a local exchange carrier may obtain a controlling interest in, or form a joint venture or other partnership with, or provide financing to, a cable system (hereinafter in this paragraph referred to as 'the subject cable system'), if—

"(A) the subject cable system operates in a television market that is not in the top 25 markets, and such market has more than 1 cable system operator, and the subject cable system is not the cable system with the most subscribers in such television market;

"(B) the subject cable system and the cable system with the most subscribers in such television market held on May 1, 1995, cable television franchises from the largest municipality in the television market and the boundaries of such franchises were identical on such date;

"(C) the subject cable system is not owned by or under common ownership or control of any one of the 50 cable system operators with the most subscribers as such operators existed on May 1, 1995; and

"(D) the system with the most subscribers in the television market is owned by or under common ownership or control of any one of the 10 largest cable system operators as such operators existed on May 1, 1995.

"(4) EXEMPT CABLE SYSTEMS.—Subsection (a) does not apply to any cable system if—

"(A) the cable system serves no more than 17,000 cable subscribers, of which no less than 8,000 live within an urban area, and no less than 6,000 live within a nonurbanized area as of June 1, 1995;

"(B) the cable system is not owned by, or under common ownership or control with, any of the 50 largest cable system operators in existence on June 1, 1995; and

"(C) the cable system operates in a television market that was not in the top 100 television markets as of June 1, 1995.

"(5) SMALL CABLE SYSTEMS IN NONURBAN AREAS.—Notwithstanding subsections (a) and (c), a local exchange carrier with less than $100,000,000 in annual operating revenues (or any affiliate of such carrier owned by, operated by, controlled by, or under common control with such carrier) may purchase or otherwise acquire more than a 10 percent financial interest in, or any management interest in, or enter into a joint venture or partnership with, any cable system within the local exchange carrier's telephone service area that serves no more than 20,000 cable subscribers, if no more than 12,000 of those subscribers live within an urbanized area, as defined by the Bureau of the Census.

"(6) WAIVERS.—The Commission may waive the restrictions of subsections (a), (b), or (c) only if—

"(A) the Commission determines that, because of the nature of the market served by the affected cable system or facilities used to provide telephone exchange service—

"(i) the affected cable operator or local exchange carrier would be subjected to undue economic distress by the enforcement of such provisions;

"(ii) the system or facilities would not be economically viable if such provisions were enforced; or

"(iii) the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served; and

"(B) the local franchising authority approves of such waiver.

"(e) DEFINITION OF TELEPHONE SERVICE AREA.—For purposes of this section, the term 'telephone service area' when used in connection with a common carrier subject in whole or in part to title II of this Act means the area within which such carrier provided telephone exchange service as of January 1, 1993, but if any common carrier after such date transfers its telephone exchange service facilities to another common carrier, the area to which such facilities provide telephone exchange service shall be treated as part of the telephone service area of the acquiring common carrier and not of the selling common carrier.

"SEC. 653. ESTABLISHMENT OF OPEN VIDEO SYSTEMS. 47 USC 573.

"(a) OPEN VIDEO SYSTEMS.—

"(1) CERTIFICATES OF COMPLIANCE.—A local exchange carrier may provide cable service to its cable service subscribers in its telephone service area through an open video system that complies with this section. To the extent permitted by such regulations as the Commission may prescribe consistent

with the public interest, convenience, and necessity, an operator of a cable system or any other person may provide video programming through an open video system that complies with this section. An operator of an open video system shall qualify for reduced regulatory burdens under subsection (c) of this section if the operator of such system certifies to the Commission that such carrier complies with the Commission's regulations under subsection (b) and the Commission approves such certification. The Commission shall publish notice of the receipt of any such certification and shall act to approve or disapprove any such certification within 10 days after receipt of such certification.

Publication.

"(2) DISPUTE RESOLUTION.—The Commission shall have the authority to resolve disputes under this section and the regulations prescribed thereunder. Any such dispute shall be resolved within 180 days after notice of such dispute is submitted to the Commission. At that time or subsequently in a separate damages proceeding, the Commission may, in the case of any violation of this section, require carriage, award damages to any person denied carriage, or any combination of such sanctions. Any aggrieved party may seek any other remedy available under this Act.

"(b) COMMISSION ACTIONS.—

"(1) REGULATIONS REQUIRED.—Within 6 months after the date of enactment of the Telecommunications Act of 1996, the Commission shall complete all actions necessary (including any reconsideration) to prescribe regulations that—

"(A) except as required pursuant to section 611, 614, or 615, prohibit an operator of an open video system from discriminating among video programming providers with regard to carriage on its open video system, and ensure that the rates, terms, and conditions for such carriage are just and reasonable, and are not unjustly or unreasonably discriminatory;

"(B) if demand exceeds the channel capacity of the open video system, prohibit an operator of an open video system and its affiliates from selecting the video programming services for carriage on more than one-third of the activated channel capacity on such system, but nothing in this subparagraph shall be construed to limit the number of channels that the carrier and its affiliates may offer to provide directly to subscribers;

"(C) permit an operator of an open video system to carry on only one channel any video programming service that is offered by more than one video programming provider (including the local exchange carrier's video programming affiliate): *Provided,* That subscribers have ready and immediate access to any such video programming service;

"(D) extend to the distribution of video programming over open video systems the Commission's regulations concerning sports exclusivity (47 C.F.R. 76.67), network nonduplication (47 C.F.R. 76.92 et seq.), and syndicated exclusivity (47 C.F.R. 76.151 et seq.); and

"(E)(i) prohibit an operator of an open video system from unreasonably discriminating in favor of the operator or its affiliates with regard to material or information (including advertising) provided by the operator to subscrib-

ers for the purposes of selecting programming on the open video system, or in the way such material or information is presented to subscribers;

"(ii) require an operator of an open video system to ensure that video programming providers or copyright holders (or both) are able suitably and uniquely to identify their programming services to subscribers;

"(iii) if such identification is transmitted as part of the programming signal, require the carrier to transmit such identification without change or alteration; and

"(iv) prohibit an operator of an open video system from omitting television broadcast stations or other unaffiliated video programming services carried on such system from any navigational device, guide, or menu.

"(2) CONSUMER ACCESS.—Subject to the requirements of paragraph (1) and the regulations thereunder, nothing in this section prohibits a common carrier or its affiliate from negotiating mutually agreeable terms and conditions with over-the-air broadcast stations and other unaffiliated video programming providers to allow consumer access to their signals on any level or screen of any gateway, menu, or other program guide, whether provided by the carrier or its affiliate.

"(c) REDUCED REGULATORY BURDENS FOR OPEN VIDEO SYSTEMS.—

"(1) IN GENERAL.—Any provision that applies to a cable operator under—

"(A) sections 613 (other than subsection (a) thereof), 616, 623(f), 628, 631, and 634 of this title, shall apply,

"(B) sections 611, 614, and 615 of this title, and section 325 of title III, shall apply in accordance with the regulations prescribed under paragraph (2), and

"(C) sections 612 and 617, and parts III and IV (other than sections 623(f), 628, 631, and 634), of this title shall not apply,

to any operator of an open video system for which the Commission has approved a certification under this section.

"(2) IMPLEMENTATION.—

"(A) COMMISSION ACTION.—In the rulemaking proceeding to prescribe the regulations required by subsection (b)(1), the Commission shall, to the extent possible, impose obligations that are no greater or lesser than the obligations contained in the provisions described in paragraph (1)(B) of this subsection. The Commission shall complete all action (including any reconsideration) to prescribe such regulations no later than 6 months after the date of enactment of the Telecommunications Act of 1996.

"(B) FEES.—An operator of an open video system under this part may be subject to the payment of fees on the gross revenues of the operator for the provision of cable service imposed by a local franchising authority or other governmental entity, in lieu of the franchise fees permitted under section 622. The rate at which such fees are imposed shall not exceed the rate at which franchise fees are imposed on any cable operator transmitting video programming in the franchise area, as determined in accordance with regulations prescribed by the Commission. An operator of an open video system may designate that portion

of a subscriber's bill attributable to the fee under this subparagraph as a separate item on the bill.

"(3) REGULATORY STREAMLINING.—With respect to the establishment and operation of an open video system, the requirements of this section shall apply in lieu of, and not in addition to, the requirements of title II.

"(4) TREATMENT AS CABLE OPERATOR.—Nothing in this Act precludes a video programming provider making use of an open video system from being treated as an operator of a cable system for purposes of section 111 of title 17, United States Code.

"(d) DEFINITION OF TELEPHONE SERVICE AREA.—For purposes of this section, the term 'telephone service area' when used in connection with a common carrier subject in whole or in part to title II of this Act means the area within which such carrier is offering telephone exchange service.".

(b) CONFORMING AND TECHNICAL AMENDMENTS.—

(1) REPEAL.—Subsection (b) of section 613 (47 U.S.C. 533(b)) is repealed.

47 USC 522.

(2) DEFINITIONS.—Section 602 (47 U.S.C. 531) is amended—

(A) in paragraph (7), by striking ", or (D)" and inserting the following: ", unless the extent of such use is solely to provide interactive on-demand services; (D) an open video system that complies with section 653 of this title; or (E)";

(B) by redesignating paragraphs (12) through (19) as paragraphs (13) through (20), respectively; and

(C) by inserting after paragraph (11) the following new paragraph:

"(12) the term 'interactive on-demand services' means a service providing video programming to subscribers over switched networks on an on-demand, point-to-point basis, but does not include services providing video programming prescheduled by the programming provider;".

(3) TERMINATION OF VIDEO-DIALTONE REGULATIONS.—The Commission's regulations and policies with respect to video dialtone requirements issued in CC Docket No. 87–266 shall cease to be effective on the date of enactment of this Act. This paragraph shall not be construed to require the termination of any video-dialtone system that the Commission has approved before the date of enactment of this Act.

SEC. 303. PREEMPTION OF FRANCHISING AUTHORITY REGULATION OF TELECOMMUNICATIONS SERVICES.

(a) PROVISION OF TELECOMMUNICATIONS SERVICES BY A CABLE OPERATOR.—Section 621(b) (47 U.S.C. 541(b)) is amended by adding at the end thereof the following new paragraph:

"(3)(A) If a cable operator or affiliate thereof is engaged in the provision of telecommunications services—

"(i) such cable operator or affiliate shall not be required to obtain a franchise under this title for the provision of telecommunications services; and

"(ii) the provisions of this title shall not apply to such cable operator or affiliate for the provision of telecommunications services.

"(B) A franchising authority may not impose any requirement under this title that has the purpose or effect of prohibiting, limit-

ing, restricting, or conditioning the provision of a telecommunications service by a cable operator or an affiliate thereof.

"(C) A franchising authority may not order a cable operator or affiliate thereof—

"(i) to discontinue the provision of a telecommunications service, or

"(ii) to discontinue the operation of a cable system, to the extent such cable system is used for the provision of a telecommunications service, by reason of the failure of such cable operator or affiliate thereof to obtain a franchise or franchise renewal under this title with respect to the provision of such telecommunications service.

"(D) Except as otherwise permitted by sections 611 and 612, a franchising authority may not require a cable operator to provide any telecommunications service or facilities, other than institutional networks, as a condition of the initial grant of a franchise, a franchise renewal, or a transfer of a franchise.".

(b) FRANCHISE FEES.—Section 622(b) (47 U.S.C. 542(b)) is amended by inserting "to provide cable services" immediately before the period at the end of the first sentence thereof.

SEC. 304. COMPETITIVE AVAILABILITY OF NAVIGATION DEVICES.

Part III of title VI is amended by inserting after section 628 (47 U.S.C. 548) the following new section:

"SEC. 629. COMPETITIVE AVAILABILITY OF NAVIGATION DEVICES.

Regulations.
47 USC 549.

"(a) COMMERCIAL CONSUMER AVAILABILITY OF EQUIPMENT USED TO ACCESS SERVICES PROVIDED BY MULTICHANNEL VIDEO PROGRAMMING DISTRIBUTORS.—The Commission shall, in consultation with appropriate industry standard-setting organizations, adopt regulations to assure the commercial availability, to consumers of multichannel video programming and other services offered over multichannel video programming systems, of converter boxes, interactive communications equipment, and other equipment used by consumers to access multichannel video programming and other services offered over multichannel video programming systems, from manufacturers, retailers, and other vendors not affiliated with any multichannel video programming distributor. Such regulations shall not prohibit any multichannel video programming distributor from also offering converter boxes, interactive communications equipment, and other equipment used by consumers to access multichannel video programming and other services offered over multichannel video programming systems, to consumers, if the system operator's charges to consumers for such devices and equipment are separately stated and not subsidized by charges for any such service.

"(b) PROTECTION OF SYSTEM SECURITY.—The Commission shall not prescribe regulations under subsection (a) which would jeopardize security of multichannel video programming and other services offered over multichannel video programming systems, or impede the legal rights of a provider of such services to prevent theft of service.

"(c) WAIVER.—The Commission shall waive a regulation adopted under subsection (a) for a limited time upon an appropriate showing by a provider of multichannel video programming and other services offered over multichannel video programming systems, or an equipment provider, that such waiver is necessary to assist the development or introduction of a new or improved multichannel video programming or other service offered over multichannel video

programming systems, technology, or products. Upon an appropriate showing, the Commission shall grant any such waiver request within 90 days of any application filed under this subsection, and such waiver shall be effective for all service providers and products in that category and for all providers of services and products.

"(d) AVOIDANCE OF REDUNDANT REGULATIONS.—

"(1) COMMERCIAL AVAILABILITY DETERMINATIONS.—Determinations made or regulations prescribed by the Commission with respect to commercial availability to consumers of converter boxes, interactive communications equipment, and other equipment used by consumers to access multichannel video programming and other services offered over multichannel video programming systems, before the date of enactment of the Telecommunications Act of 1996 shall fulfill the requirements of this section.

"(2) REGULATIONS.—Nothing in this section affects section 64.702(e) of the Commission's regulations (47 C.F.R. 64.702(e)) or other Commission regulations governing interconnection and competitive provision of customer premises equipment used in connection with basic common carrier communications services.

"(e) SUNSET.—The regulations adopted under this section shall cease to apply when the Commission determines that—

"(1) the market for the multichannel video programming distributors is fully competitive;

"(2) the market for converter boxes, and interactive communications equipment, used in conjunction with that service is fully competitive; and

"(3) elimination of the regulations would promote competition and the public interest.

"(f) COMMISSION'S AUTHORITY.—Nothing in this section shall be construed as expanding or limiting any authority that the Commission may have under law in effect before the date of enactment of the Telecommunications Act of 1996.".

SEC. 305. VIDEO PROGRAMMING ACCESSIBILITY.

Title VII is amended by inserting after section 712 (47 U.S.C. 612) the following new section:

47 USC 613.

"SEC. 713. VIDEO PROGRAMMING ACCESSIBILITY.

"(a) COMMISSION INQUIRY.—Within 180 days after the date of enactment of the Telecommunications Act of 1996, the Federal Communications Commission shall complete an inquiry to ascertain the level at which video programming is closed captioned. Such inquiry shall examine the extent to which existing or previously published programming is closed captioned, the size of the video programming provider or programming owner providing closed captioning, the size of the market served, the relative audience shares achieved, or any other related factors. The Commission shall submit to the Congress a report on the results of such inquiry.

Reports.

Regulations.

"(b) ACCOUNTABILITY CRITERIA.—Within 18 months after such date of enactment, the Commission shall prescribe such regulations as are necessary to implement this section. Such regulations shall ensure that—

"(1) video programming first published or exhibited after the effective date of such regulations is fully accessible through the provision of closed captions, except as provided in subsection (d); and

"(2) video programming providers or owners maximize the accessibility of video programming first published or exhibited prior to the effective date of such regulations through the provision of closed captions, except as provided in subsection (d).

"(c) DEADLINES FOR CAPTIONING.—Such regulations shall include an appropriate schedule of deadlines for the provision of closed captioning of video programming.

"(d) EXEMPTIONS.—Notwithstanding subsection (b)—

"(1) the Commission may exempt by regulation programs, classes of programs, or services for which the Commission has determined that the provision of closed captioning would be economically burdensome to the provider or owner of such programming;

"(2) a provider of video programming or the owner of any program carried by the provider shall not be obligated to supply closed captions if such action would be inconsistent with contracts in effect on the date of enactment of the Telecommunications Act of 1996, except that nothing in this section shall be construed to relieve a video programming provider of its obligations to provide services required by Federal law; and

"(3) a provider of video programming or program owner may petition the Commission for an exemption from the requirements of this section, and the Commission may grant such petition upon a showing that the requirements contained in this section would result in an undue burden.

"(e) UNDUE BURDEN.—The term 'undue burden' means significant difficulty or expense. In determining whether the closed captions necessary to comply with the requirements of this paragraph would result in an undue economic burden, the factors to be considered include—

"(1) the nature and cost of the closed captions for the programming;

"(2) the impact on the operation of the provider or program owner;

"(3) the financial resources of the provider or program owner; and

"(4) the type of operations of the provider or program owner.

"(f) VIDEO DESCRIPTIONS INQUIRY.—Within 6 months after the date of enactment of the Telecommunications Act of 1996, the Commission shall commence an inquiry to examine the use of video descriptions on video programming in order to ensure the accessibility of video programming to persons with visual impairments, and report to Congress on its findings. The Commission's report shall assess appropriate methods and schedules for phasing video descriptions into the marketplace, technical and quality standards for video descriptions, a definition of programming for which video descriptions would apply, and other technical and legal issues that the Commission deems appropriate. Reports.

"(g) VIDEO DESCRIPTION.—For purposes of this section, 'video description' means the insertion of audio narrated descriptions of a television program's key visual elements into natural pauses between the program's dialogue.

"(h) PRIVATE RIGHTS OF ACTIONS PROHIBITED.—Nothing in this section shall be construed to authorize any private right of action to enforce any requirement of this section or any regulation there-

under. The Commission shall have exclusive jurisdiction with respect to any complaint under this section.".

TITLE IV—REGULATORY REFORM

SEC. 401. REGULATORY FORBEARANCE.

Title I is amended by inserting after section 9 (47 U.S.C. 159) the following new section:

47 USC 160.

"SEC. 10. COMPETITION IN PROVISION OF TELECOMMUNICATIONS SERVICE.

"(a) REGULATORY FLEXIBILITY.—Notwithstanding section 332(c)(1)(A) of this Act, the Commission shall forbear from applying any regulation or any provision of this Act to a telecommunications carrier or telecommunications service, or class of telecommunications carriers or telecommunications services, in any or some of its or their geographic markets, if the Commission determines that—

"(1) enforcement of such regulation or provision is not necessary to ensure that the charges, practices, classifications, or regulations by, for, or in connection with that telecommunications carrier or telecommunications service are just and reasonable and are not unjustly or unreasonably discriminatory;

"(2) enforcement of such regulation or provision is not necessary for the protection of consumers; and

"(3) forbearance from applying such provision or regulation is consistent with the public interest.

"(b) COMPETITIVE EFFECT TO BE WEIGHED.—In making the determination under subsection (a)(3), the Commission shall consider whether forbearance from enforcing the provision or regulation will promote competitive market conditions, including the extent to which such forbearance will enhance competition among providers of telecommunications services. If the Commission determines that such forbearance will promote competition among providers of telecommunications services, that determination may be the basis for a Commission finding that forbearance is in the public interest.

"(c) PETITION FOR FORBEARANCE.—Any telecommunications carrier, or class of telecommunications carriers, may submit a petition to the Commission requesting that the Commission exercise the authority granted under this section with respect to that carrier or those carriers, or any service offered by that carrier or carriers. Any such petition shall be deemed granted if the Commission does not deny the petition for failure to meet the requirements for forbearance under subsection (a) within one year after the Commission receives it, unless the one-year period is extended by the Commission. The Commission may extend the initial one-year period by an additional 90 days if the Commission finds that an extension is necessary to meet the requirements of subsection (a). The Commission may grant or deny a petition in whole or in part and shall explain its decision in writing.

"(d) LIMITATION.—Except as provided in section 251(f), the Commission may not forbear from applying the requirements of section 251(c) or 271 under subsection (a) of this section until it determines that those requirements have been fully implemented.

"(e) STATE ENFORCEMENT AFTER COMMISSION FORBEARANCE.—A State commission may not continue to apply or enforce any

provision of this Act that the Commission has determined to forbear from applying under subsection (a).".

SEC. 402. BIENNIAL REVIEW OF REGULATIONS; REGULATORY RELIEF.

(a) BIENNIAL REVIEW.—Title I is amended by inserting after section 10 (as added by section 401) the following new section:

"SEC. 11. REGULATORY REFORM. 47 USC 161.

"(a) BIENNIAL REVIEW OF REGULATIONS.—In every even-numbered year (beginning with 1998), the Commission—

"(1) shall review all regulations issued under this Act in effect at the time of the review that apply to the operations or activities of any provider of telecommunications service; and

"(2) shall determine whether any such regulation is no longer necessary in the public interest as the result of meaningful economic competition between providers of such service.

"(b) EFFECT OF DETERMINATION.—The Commission shall repeal or modify any regulation it determines to be no longer necessary in the public interest.".

(b) REGULATORY RELIEF.—

(1) STREAMLINED PROCEDURES FOR CHANGES IN CHARGES, CLASSIFICATIONS, REGULATIONS, OR PRACTICES.—

(A) Section 204(a) (47 U.S.C. 204(a)) is amended—

(i) by striking "12 months" the first place it appears in paragraph (2)(A) and inserting "5 months";

(ii) by striking "effective," and all that follows in paragraph (2)(A) and inserting "effective."; and

(iii) by adding at the end thereof the following:

"(3) A local exchange carrier may file with the Commission a new or revised charge, classification, regulation, or practice on a streamlined basis. Any such charge, classification, regulation, or practice shall be deemed lawful and shall be effective 7 days (in the case of a reduction in rates) or 15 days (in the case of an increase in rates) after the date on which it is filed with the Commission unless the Commission takes action under paragraph (1) before the end of that 7-day or 15-day period, as is appropriate.".

(B) Section 208(b) (47 U.S.C. 208(b)) is amended—

(i) by striking "12 months" the first place it appears in paragraph (1) and inserting "5 months"; and

(ii) by striking "filed," and all that follows in paragraph (1) and inserting "filed.".

(2) EXTENSIONS OF LINES UNDER SECTION 214; ARMIS REPORTS.—The Commission shall permit any common carrier— 47 USC 214 note.

(A) to be exempt from the requirements of section 214 of the Communications Act of 1934 for the extension of any line; and

(B) to file cost allocation manuals and ARMIS reports annually, to the extent such carrier is required to file such manuals or reports.

(3) FORBEARANCE AUTHORITY NOT LIMITED.—Nothing in this subsection shall be construed to limit the authority of the Commission to waive, modify, or forbear from applying any of the requirements to which reference is made in paragraph (1) under any other provision of this Act or other law. 47 USC 204 note.

(4) EFFECTIVE DATE OF AMENDMENTS.—The amendments made by paragraph (1) of this subsection shall apply with respect to any charge, classification, regulation, or practice 47 USC 204 note.

filed on or after one year after the date of enactment of this Act.

(c) CLASSIFICATION OF CARRIERS.—In classifying carriers according to section 32.11 of its regulations (47 C.F.R. 32.11) and in establishing reporting requirements pursuant to part 43 of its regulations (47 C.F.R. part 43) and section 64.903 of its regulations (47 C.F.R. 64.903), the Commission shall adjust the revenue requirements to account for inflation as of the release date of the Commission's Report and Order in CC Docket No. 91–141, and annually thereafter. This subsection shall take effect on the date of enactment of this Act.

Effective date.

SEC. 403. ELIMINATION OF UNNECESSARY COMMISSION REGULATIONS AND FUNCTIONS.

(a) MODIFICATION OF AMATEUR RADIO EXAMINATION PROCEDURES.—Section 4(f)(4) (47 U.S.C. 154(f)(4)) is amended—

(1) in subparagraph (A)—

(A) by inserting "or administering" after "for purposes of preparing";

(B) by inserting "of" after "than the class"; and

(C) by inserting "or administered" after "for which the examination is being prepared";

(2) by striking subparagraph (B);

(3) in subparagraph (H), by striking "(A), (B), and (C)" and inserting "(A) and (B)";

(4) in subparagraph (J)—

(A) by striking "or (B)"; and

(B) by striking the last sentence; and

(5) by redesignating subparagraphs (C) through (J) as subparagraphs (B) through (I), respectively.

(b) AUTHORITY TO DESIGNATE ENTITIES TO INSPECT.—Section 4(f)(3) (47 U.S.C. 154(f)(3)) is amended by inserting before the period at the end the following: ": and *Provided further,* That, in the alternative, an entity designated by the Commission may make the inspections referred to in this paragraph".

(c) EXPEDITING INSTRUCTIONAL TELEVISION FIXED SERVICE PROCESSING.—Section 5(c)(1) (47 U.S.C. 155(c)(1)) is amended by striking the last sentence and inserting the following: "Except for cases involving the authorization of service in the instructional television fixed service, or as otherwise provided in this Act, nothing in this paragraph shall authorize the Commission to provide for the conduct, by any person or persons other than persons referred to in paragraph (2) or (3) of section 556(b) of title 5, United States Code, of any hearing to which such section applies.".

(d) REPEAL SETTING OF DEPRECIATION RATES.—The first sentence of section 220(b) (47 U.S.C. 220(b)) is amended by striking "shall prescribe for such carriers" and inserting "may prescribe, for such carriers as it determines to be appropriate,".

(e) USE OF INDEPENDENT AUDITORS.—Section 220(c) (47 U.S.C. 220(c)) is amended by adding at the end thereof the following: "The Commission may obtain the services of any person licensed to provide public accounting services under the law of any State to assist with, or conduct, audits under this section. While so employed or engaged in conducting an audit for the Commission under this section, any such person shall have the powers granted the Commission under this subsection and shall be subject to sub-

section (f) in the same manner as if that person were an employee of the Commission.".

(f) DELEGATION OF EQUIPMENT TESTING AND CERTIFICATION TO PRIVATE LABORATORIES.—Section 302 (47 U.S.C. 302) is amended by adding at the end the following: 47 USC 302a.

"(e) The Commission may—

"(1) authorize the use of private organizations for testing and certifying the compliance of devices or home electronic equipment and systems with regulations promulgated under this section;

"(2) accept as prima facie evidence of such compliance the certification by any such organization; and

"(3) establish such qualifications and standards as it deems appropriate for such private organizations, testing, and certification.".

(g) MAKING LICENSE MODIFICATION UNIFORM.—Section 303(f) (47 U.S.C. 303(f)) is amended by striking "unless, after a public hearing," and inserting "unless".

(h) ELIMINATE FCC JURISDICTION OVER GOVERNMENT-OWNED SHIP RADIO STATIONS.—

(1) Section 305 (47 U.S.C. 305) is amended by striking subsection (b) and redesignating subsections (c) and (d) as (b) and (c), respectively.

(2) Section 382(2) (47 U.S.C. 382(2)) is amended by striking "except a vessel of the United States Maritime Administration, the Inland and Coastwise Waterways Service, or the Panama Canal Company,".

(i) PERMIT OPERATION OF DOMESTIC SHIP AND AIRCRAFT RADIOS WITHOUT LICENSE.—Section 307(e) (47 U.S.C. 307(e)) is amended to read as follows:

"(e)(1) Notwithstanding any license requirement established in this Act, if the Commission determines that such authorization serves the public interest, convenience, and necessity, the Commission may by rule authorize the operation of radio stations without individual licenses in the following radio services: (A) the citizens band radio service; (B) the radio control service; (C) the aviation radio service for aircraft stations operated on domestic flights when such aircraft are not otherwise required to carry a radio station; and (D) the maritime radio service for ship stations navigated on domestic voyages when such ships are not otherwise required to carry a radio station.

"(2) Any radio station operator who is authorized by the Commission to operate without an individual license shall comply with all other provisions of this Act and with rules prescribed by the Commission under this Act.

"(3) For purposes of this subsection, the terms 'citizens band radio service', 'radio control service', 'aircraft station' and 'ship station' shall have the meanings given them by the Commission by rule.".

(j) EXPEDITED LICENSING FOR FIXED MICROWAVE SERVICE.—Section 309(b)(2) (47 U.S.C. 309(b)(2)) is amended by striking subparagraph (A) and redesignating subparagraphs (B) through (G) as subparagraphs (A) through (F), respectively.

(k) FOREIGN DIRECTORS.—Section 310(b) (47 U.S.C. 310(b)) is amended—

(1) in paragraph (3), by striking "of which any officer or director is an alien or"; and

(2) in paragraph (4), by striking "of which any officer or more than one-fourth of the directors are aliens, or".

(l) LIMITATION ON SILENT STATION AUTHORIZATIONS.—Section 312 (47 U.S.C. 312) is amended by adding at the end the following:

"(g) If a broadcasting station fails to transmit broadcast signals for any consecutive 12-month period, then the station license granted for the operation of that broadcast station expires at the end of that period, notwithstanding any provision, term, or condition of the license to the contrary.".

(m) MODIFICATION OF CONSTRUCTION PERMIT REQUIREMENT.—
47 USC 319. Section 319(d) is amended by striking the last two sentences and inserting the following: "With respect to any broadcasting station, the Commission shall not have any authority to waive the requirement of a permit for construction, except that the Commission may by regulation determine that a permit shall not be required for minor changes in the facilities of authorized broadcast stations. With respect to any other station or class of stations, the Commission shall not waive the requirement for a construction permit unless the Commission determines that the public interest, convenience, and necessity would be served by such a waiver.".

(n) CONDUCT OF INSPECTIONS.—Section 362(b) (47 U.S.C.
47 USC 360. 362(b)) is amended to read as follows:

"(b) Every ship of the United States that is subject to this part shall have the equipment and apparatus prescribed therein inspected at least once each year by the Commission or an entity designated by the Commission. If, after such inspection, the Commission is satisfied that all relevant provisions of this Act and the station license have been complied with, the fact shall be so certified on the station license by the Commission. The Commission shall make such additional inspections at frequent intervals as the Commission determines may be necessary to ensure compliance with the requirements of this Act. The Commission may, upon a finding that the public interest could be served thereby—

"(1) waive the annual inspection required under this section for a period of up to 90 days for the sole purpose of enabling a vessel to complete its voyage and proceed to a port in the United States where an inspection can be held; or

"(2) waive the annual inspection required under this section for a vessel that is in compliance with the radio provisions of the Safety Convention and that is operating solely in waters beyond the jurisdiction of the United States: *Provided,* That such inspection shall be performed within 30 days of such vessel's return to the United States.".

(o) INSPECTION BY OTHER ENTITIES.—Section 385 (47 U.S.C. 385) is amended—

(1) by inserting "or an entity designated by the Commission" after "The Commission"; and

(2) by adding at the end thereof the following: "In accordance with such other provisions of law as apply to Government contracts, the Commission may enter into contracts with any person for the purpose of carrying out such inspections and certifying compliance with those requirements, and may, as part of any such contract, allow any such person to accept reimbursement from the license holder for travel and expense costs of any employee conducting an inspection or certification.".

TITLE V—OBSCENITY AND VIOLENCE

Communications Decency Act of 1996.
Law enforcement and crime.
Penalties.

Subtitle A—Obscene, Harassing, and Wrongful Utilization of Telecommunications Facilities

SEC. 501. SHORT TITLE.

47 USC 609 note.

This title may be cited as the "Communications Decency Act of 1996".

SEC. 502. OBSCENE OR HARASSING USE OF TELECOMMUNICATIONS FACILITIES UNDER THE COMMUNICATIONS ACT OF 1934.

Section 223 (47 U.S.C. 223) is amended—

(1) by striking subsection (a) and inserting in lieu thereof:

"(a) Whoever—

"(1) in interstate or foreign communications—

"(A) by means of a telecommunications device knowingly—

"(i) makes, creates, or solicits, and

"(ii) initiates the transmission of,

any comment, request, suggestion, proposal, image, or other communication which is obscene, lewd, lascivious, filthy, or indecent, with intent to annoy, abuse, threaten, or harass another person;

"(B) by means of a telecommunications device knowingly—

"(i) makes, creates, or solicits, and

"(ii) initiates the transmission of,

any comment, request, suggestion, proposal, image, or other communication which is obscene or indecent, knowing that the recipient of the communication is under 18 years of age, regardless of whether the maker of such communication placed the call or initiated the communication;

"(C) makes a telephone call or utilizes a telecommunications device, whether or not conversation or communication ensues, without disclosing his identity and with intent to annoy, abuse, threaten, or harass any person at the called number or who receives the communications;

"(D) makes or causes the telephone of another repeatedly or continuously to ring, with intent to harass any person at the called number; or

"(E) makes repeated telephone calls or repeatedly initiates communication with a telecommunications device, during which conversation or communication ensues, solely to harass any person at the called number or who receives the communication; or

"(2) knowingly permits any telecommunications facility under his control to be used for any activity prohibited by paragraph (1) with the intent that it be used for such activity,

shall be fined under title 18, United States Code, or imprisoned not more than two years, or both."; and

(2) by adding at the end the following new subsections:

"(d) Whoever—

"(1) in interstate or foreign communications knowingly—

"(A) uses an interactive computer service to send to a specific person or persons under 18 years of age, or

"(B) uses any interactive computer service to display in a manner available to a person under 18 years of age, any comment, request, suggestion, proposal, image, or other communication that, in context, depicts or describes, in terms patently offensive as measured by contemporary community standards, sexual or excretory activities or organs, regardless of whether the user of such service placed the call or initiated the communication; or

"(2) knowingly permits any telecommunications facility under such person's control to be used for an activity prohibited by paragraph (1) with the intent that it be used for such activity,

shall be fined under title 18, United States Code, or imprisoned not more than two years, or both.

"(e) In addition to any other defenses available by law:

"(1) No person shall be held to have violated subsection (a) or (d) solely for providing access or connection to or from a facility, system, or network not under that person's control, including transmission, downloading, intermediate storage, access software, or other related capabilities that are incidental to providing such access or connection that does not include the creation of the content of the communication.

"(2) The defenses provided by paragraph (1) of this subsection shall not be applicable to a person who is a conspirator with an entity actively involved in the creation or knowing distribution of communications that violate this section, or who knowingly advertises the availability of such communications.

"(3) The defenses provided in paragraph (1) of this subsection shall not be applicable to a person who provides access or connection to a facility, system, or network engaged in the violation of this section that is owned or controlled by such person.

"(4) No employer shall be held liable under this section for the actions of an employee or agent unless the employee's or agent's conduct is within the scope of his or her employment or agency and the employer (A) having knowledge of such conduct, authorizes or ratifies such conduct, or (B) recklessly disregards such conduct.

"(5) It is a defense to a prosecution under subsection (a)(1)(B) or (d), or under subsection (a)(2) with respect to the use of a facility for an activity under subsection (a)(1)(B) that a person—

"(A) has taken, in good faith, reasonable, effective, and appropriate actions under the circumstances to restrict or prevent access by minors to a communication specified in such subsections, which may involve any appropriate measures to restrict minors from such communications, including any method which is feasible under available technology; or

"(B) has restricted access to such communication by requiring use of a verified credit card, debit account, adult access code, or adult personal identification number.

"(6) The Commission may describe measures which are reasonable, effective, and appropriate to restrict access to prohibited communications under subsection (d). Nothing in

this section authorizes the Commission to enforce, or is intended to provide the Commission with the authority to approve, sanction, or permit, the use of such measures. The Commission shall have no enforcement authority over the failure to utilize such measures. The Commission shall not endorse specific products relating to such measures. The use of such measures shall be admitted as evidence of good faith efforts for purposes of paragraph (5) in any action arising under subsection (d). Nothing in this section shall be construed to treat interactive computer services as common carriers or telecommunications carriers.

"(f)(1) No cause of action may be brought in any court or administrative agency against any person on account of any activity that is not in violation of any law punishable by criminal or civil penalty, and that the person has taken in good faith to implement a defense authorized under this section or otherwise to restrict or prevent the transmission of, or access to, a communication specified in this section.

"(2) No State or local government may impose any liability for commercial activities or actions by commercial entities, nonprofit libraries, or institutions of higher education in connection with an activity or action described in subsection (a)(2) or (d) that is inconsistent with the treatment of those activities or actions under this section: *Provided, however*, That nothing herein shall preclude any State or local government from enacting and enforcing complementary oversight, liability, and regulatory systems, procedures, and requirements, so long as such systems, procedures, and requirements govern only intrastate services and do not result in the imposition of inconsistent rights, duties or obligations on the provision of interstate services. Nothing in this subsection shall preclude any State or local government from governing conduct not covered by this section.

"(g) Nothing in subsection (a), (d), (e), or (f) or in the defenses to prosecution under subsection (a) or (d) shall be construed to affect or limit the application or enforcement of any other Federal law.

"(h) For purposes of this section—

"(1) The use of the term 'telecommunications device' in this section—

"(A) shall not impose new obligations on broadcasting station licensees and cable operators covered by obscenity and indecency provisions elsewhere in this Act; and

"(B) does not include an interactive computer service.

"(2) The term 'interactive computer service' has the meaning provided in section 230(e)(2).

"(3) The term 'access software' means software (including client or server software) or enabling tools that do not create or provide the content of the communication but that allow a user to do any one or more of the following:

"(A) filter, screen, allow, or disallow content;

"(B) pick, choose, analyze, or digest content; or

"(C) transmit, receive, display, forward, cache, search, subset, organize, reorganize, or translate content.

"(4) The term 'institution of higher education' has the meaning provided in section 1201 of the Higher Education Act of 1965 (20 U.S.C. 1141).

"(5) The term 'library' means a library eligible for participation in State-based plans for funds under title III of the Library Services and Construction Act (20 U.S.C. 355e et seq.).".

SEC. 503. OBSCENE PROGRAMMING ON CABLE TELEVISION.

Section 639 (47 U.S.C. 559) is amended by striking "not more than $10,000" and inserting "under title 18, United States Code,".

SEC. 504. SCRAMBLING OF CABLE CHANNELS FOR NONSUBSCRIBERS.

Part IV of title VI (47 U.S.C. 551 et seq.) is amended by adding at the end the following:

47 USC 560.

"SEC. 640. SCRAMBLING OF CABLE CHANNELS FOR NONSUBSCRIBERS.

"(a) SUBSCRIBER REQUEST.—Upon request by a cable service subscriber, a cable operator shall, without charge, fully scramble or otherwise fully block the audio and video programming of each channel carrying such programming so that one not a subscriber does not receive it.

"(b) DEFINITION.—As used in this section, the term 'scramble' means to rearrange the content of the signal of the programming so that the programming cannot be viewed or heard in an understandable manner.".

SEC. 505. SCRAMBLING OF SEXUALLY EXPLICIT ADULT VIDEO SERVICE PROGRAMMING.

(a) REQUIREMENT.—Part IV of title VI (47 U.S.C. 551 et seq.), as amended by this Act, is further amended by adding at the end the following:

47 USC 561.

"SEC. 641. SCRAMBLING OF SEXUALLY EXPLICIT ADULT VIDEO SERVICE PROGRAMMING.

"(a) REQUIREMENT. –In providing sexually explicit adult programming or other programming that is indecent on any channel of its service primarily dedicated to sexually-oriented programming, a multichannel video programming distributor shall fully scramble or otherwise fully block the video and audio portion of such channel so that one not a subscriber to such channel or programming does not receive it.

Children and youth.

"(b) IMPLEMENTATION.—Until a multichannel video programming distributor complies with the requirement set forth in subsection (a), the distributor shall limit the access of children to the programming referred to in that subsection by not providing such programming during the hours of the day (as determined by the Commission) when a significant number of children are likely to view it.

"(c) DEFINITION.—As used in this section, the term 'scramble' means to rearrange the content of the signal of the programming so that the programming cannot be viewed or heard in an understandable manner.".

47 USC 561 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect 30 days after the date of enactment of this Act.

SEC. 506. CABLE OPERATOR REFUSAL TO CARRY CERTAIN PROGRAMS.

(a) PUBLIC, EDUCATIONAL, AND GOVERNMENTAL CHANNELS.—Section 611(e) (47 U.S.C. 531(e)) is amended by inserting before the period the following: ", except a cable operator may refuse to transmit any public access program or portion of a public access program which contains obscenity, indecency, or nudity".

(b) CABLE CHANNELS FOR COMMERCIAL USE.—Section 612(c)(2) (47 U.S.C. 532(c)(2)) is amended by striking "an operator" and inserting "a cable operator may refuse to transmit any leased access program or portion of a leased access program which contains obscenity, indecency, or nudity and".

SEC. 507. CLARIFICATION OF CURRENT LAWS REGARDING COMMUNICATION OF OBSCENE MATERIALS THROUGH THE USE OF COMPUTERS.

(a) IMPORTATION OR TRANSPORTATION.—Section 1462 of title 18, United States Code, is amended—

(1) in the first undesignated paragraph, by inserting "or interactive computer service (as defined in section 230(e)(2) of the Communications Act of 1934)" after "carrier"; and

(2) in the second undesignated paragraph—

(A) by inserting "or receives," after "takes";

(B) by inserting "or interactive computer service (as defined in section 230(e)(2) of the Communications Act of 1934)" after "common carrier"; and

(C) by inserting "or importation" after "carriage".

(b) TRANSPORTATION FOR PURPOSES OF SALE OR DISTRIBUTION.—The first undesignated paragraph of section 1465 of title 18, United States Code, is amended—

(1) by striking "transports in" and inserting "transports or travels in, or uses a facility or means of,";

(2) by inserting "or an interactive computer service (as defined in section 230(e)(2) of the Communications Act of 1934) in or affecting such commerce" after "foreign commerce" the first place it appears;

(3) by striking ", or knowingly travels in" and all that follows through "obscene material in interstate or foreign commerce," and inserting "of".

(c) INTERPRETATION.—The amendments made by this section are clarifying and shall not be interpreted to limit or repeal any prohibition contained in sections 1462 and 1465 of title 18, United States Code, before such amendment, under the rule established in United States v. Alpers, 338 U.S. 680 (1950). 18 USC 1462 note.

SEC. 508. COERCION AND ENTICEMENT OF MINORS.

Section 2422 of title 18, United States Code, is amended—

(1) by inserting "(a)" before "Whoever knowingly"; and

(2) by adding at the end the following:

"(b) Whoever, using any facility or means of interstate or foreign commerce, including the mail, or within the special maritime and territorial jurisdiction of the United States, knowingly persuades, induces, entices, or coerces any individual who has not attained the age of 18 years to engage in prostitution or any sexual act for which any person may be criminally prosecuted, or attempts to do so, shall be fined under this title or imprisoned not more than 10 years, or both.".

SEC. 509. ONLINE FAMILY EMPOWERMENT.

Title II of the Communications Act of 1934 (47 U.S.C. 201 et seq.) is amended by adding at the end the following new section:

"SEC. 230. PROTECTION FOR PRIVATE BLOCKING AND SCREENING OF OFFENSIVE MATERIAL. 47 USC 230.

"(a) FINDINGS.—The Congress finds the following:

"(1) The rapidly developing array of Internet and other interactive computer services available to individual Americans represent an extraordinary advance in the availability of educational and informational resources to our citizens.

"(2) These services offer users a great degree of control over the information that they receive, as well as the potential for even greater control in the future as technology develops.

"(3) The Internet and other interactive computer services offer a forum for a true diversity of political discourse, unique opportunities for cultural development, and myriad avenues for intellectual activity.

"(4) The Internet and other interactive computer services have flourished, to the benefit of all Americans, with a minimum of government regulation.

"(5) Increasingly Americans are relying on interactive media for a variety of political, educational, cultural, and entertainment services.

"(b) POLICY.—It is the policy of the United States—

"(1) to promote the continued development of the Internet and other interactive computer services and other interactive media;

"(2) to preserve the vibrant and competitive free market that presently exists for the Internet and other interactive computer services, unfettered by Federal or State regulation;

"(3) to encourage the development of technologies which maximize user control over what information is received by individuals, families, and schools who use the Internet and other interactive computer services;

"(4) to remove disincentives for the development and utilization of blocking and filtering technologies that empower parents to restrict their children's access to objectionable or inappropriate online material; and

"(5) to ensure vigorous enforcement of Federal criminal laws to deter and punish trafficking in obscenity, stalking, and harassment by means of computer.

"(c) PROTECTION FOR 'GOOD SAMARITAN' BLOCKING AND SCREENING OF OFFENSIVE MATERIAL.—

"(1) TREATMENT OF PUBLISHER OR SPEAKER.—No provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider.

"(2) CIVIL LIABILITY.—No provider or user of an interactive computer service shall be held liable on account of—

"(A) any action voluntarily taken in good faith to restrict access to or availability of material that the provider or user considers to be obscene, lewd, lascivious, filthy, excessively violent, harassing, or otherwise objectionable, whether or not such material is constitutionally protected; or

"(B) any action taken to enable or make available to information content providers or others the technical means to restrict access to material described in paragraph (1).

"(d) EFFECT ON OTHER LAWS.—

"(1) NO EFFECT ON CRIMINAL LAW.—Nothing in this section shall be construed to impair the enforcement of section 223 of this Act, chapter 71 (relating to obscenity) or 110 (relating

to sexual exploitation of children) of title 18, United States Code, or any other Federal criminal statute.

"(2) NO EFFECT ON INTELLECTUAL PROPERTY LAW.—Nothing in this section shall be construed to limit or expand any law pertaining to intellectual property.

"(3) STATE LAW.—Nothing in this section shall be construed to prevent any State from enforcing any State law that is consistent with this section. No cause of action may be brought and no liability may be imposed under any State or local law that is inconsistent with this section.

"(4) NO EFFECT ON COMMUNICATIONS PRIVACY LAW.—Nothing in this section shall be construed to limit the application of the Electronic Communications Privacy Act of 1986 or any of the amendments made by such Act, or any similar State law.

"(e) DEFINITIONS.—As used in this section:

"(1) INTERNET.—The term 'Internet' means the international computer network of both Federal and non-Federal interoperable packet switched data networks.

"(2) INTERACTIVE COMPUTER SERVICE.—The term 'interactive computer service' means any information service, system, or access software provider that provides or enables computer access by multiple users to a computer server, including specifically a service or system that provides access to the Internet and such systems operated or services offered by libraries or educational institutions.

"(3) INFORMATION CONTENT PROVIDER.—The term 'information content provider' means any person or entity that is responsible, in whole or in part, for the creation or development of information provided through the Internet or any other interactive computer service.

"(4) ACCESS SOFTWARE PROVIDER.—The term 'access software provider' means a provider of software (including client or server software), or enabling tools that do any one or more of the following:

"(A) filter, screen, allow, or disallow content;

"(B) pick, choose, analyze, or digest content; or

"(C) transmit, receive, display, forward, cache, search, subset, organize, reorganize, or translate content.".

Subtitle B—Violence

SEC. 551. PARENTAL CHOICE IN TELEVISION PROGRAMMING.

47 USC 303 note.

(a) FINDINGS.—The Congress makes the following findings:

(1) Television influences children's perception of the values and behavior that are common and acceptable in society.

(2) Television station operators, cable television system operators, and video programmers should follow practices in connection with video programming that take into consideration that television broadcast and cable programming has established a uniquely pervasive presence in the lives of American children.

(3) The average American child is exposed to 25 hours of television each week and some children are exposed to as much as 11 hours of television a day.

(4) Studies have shown that children exposed to violent video programming at a young age have a higher tendency for violent and aggressive behavior later in life than children not so exposed, and that children exposed to violent video programming are prone to assume that acts of violence are acceptable behavior.

(5) Children in the United States are, on average, exposed to an estimated 8,000 murders and 100,000 acts of violence on television by the time the child completes elementary school.

(6) Studies indicate that children are affected by the pervasiveness and casual treatment of sexual material on television, eroding the ability of parents to develop responsible attitudes and behavior in their children.

(7) Parents express grave concern over violent and sexual video programming and strongly support technology that would give them greater control to block video programming in the home that they consider harmful to their children.

(8) There is a compelling governmental interest in empowering parents to limit the negative influences of video programming that is harmful to children.

(9) Providing parents with timely information about the nature of upcoming video programming and with the technological tools that allow them easily to block violent, sexual, or other programming that they believe harmful to their children is a nonintrusive and narrowly tailored means of achieving that compelling governmental interest.

(b) ESTABLISHMENT OF TELEVISION RATING CODE.—

(1) AMENDMENT.—Section 303 (47 U.S.C. 303) is amended by adding at the end the following:

"(w) Prescribe—

"(1) on the basis of recommendations from an advisory committee established by the Commission in accordance with section 551(b)(2) of the Telecommunications Act of 1996, guidelines and recommended procedures for the identification and rating of video programming that contains sexual, violent, or other indecent material about which parents should be informed before it is displayed to children: *Provided,* That nothing in this paragraph shall be construed to authorize any rating of video programming on the basis of its political or religious content; and

"(2) with respect to any video programming that has been rated, and in consultation with the television industry, rules requiring distributors of such video programming to transmit such rating to permit parents to block the display of video programming that they have determined is inappropriate for their children.".

47 USC 303 note.

(2) ADVISORY COMMITTEE REQUIREMENTS.—In establishing an advisory committee for purposes of the amendment made by paragraph (1) of this subsection, the Commission shall—

(A) ensure that such committee is composed of parents, television broadcasters, television programming producers, cable operators, appropriate public interest groups, and other interested individuals from the private sector and is fairly balanced in terms of political affiliation, the points of view represented, and the functions to be performed by the committee;

(B) provide to the committee such staff and resources as may be necessary to permit it to perform its functions efficiently and promptly; and

(C) require the committee to submit a final report of its recommendations within one year after the date of the appointment of the initial members. Reports.

(c) REQUIREMENT FOR MANUFACTURE OF TELEVISIONS THAT BLOCK PROGRAMS.—Section 303 (47 U.S.C. 303), as amended by subsection (a), is further amended by adding at the end the following:

"(x) Require, in the case of an apparatus designed to receive television signals that are shipped in interstate commerce or manufactured in the United States and that have a picture screen 13 inches or greater in size (measured diagonally), that such apparatus be equipped with a feature designed to enable viewers to block display of all programs with a common rating, except as otherwise permitted by regulations pursuant to section 330(c)(4).".

(d) SHIPPING OF TELEVISIONS THAT BLOCK PROGRAMS.—

(1) REGULATIONS.—Section 330 (47 U.S.C. 330) is amended—

(A) by redesignating subsection (c) as subsection (d); and

(B) by adding after subsection (b) the following new subsection (c):

"(c)(1) Except as provided in paragraph (2), no person shall ship in interstate commerce or manufacture in the United States any apparatus described in section 303(x) of this Act except in accordance with rules prescribed by the Commission pursuant to the authority granted by that section.

"(2) This subsection shall not apply to carriers transporting apparatus referred to in paragraph (1) without trading in it.

"(3) The rules prescribed by the Commission under this subsection shall provide for the oversight by the Commission of the adoption of standards by industry for blocking technology. Such rules shall require that all such apparatus be able to receive the rating signals which have been transmitted by way of line 21 of the vertical blanking interval and which conform to the signal and blocking specifications established by industry under the supervision of the Commission.

"(4) As new video technology is developed, the Commission shall take such action as the Commission determines appropriate to ensure that blocking service continues to be available to consumers. If the Commission determines that an alternative blocking technology exists that—

"(A) enables parents to block programming based on identifying programs without ratings,

"(B) is available to consumers at a cost which is comparable to the cost of technology that allows parents to block programming based on common ratings, and

"(C) will allow parents to block a broad range of programs on a multichannel system as effectively and as easily as technology that allows parents to block programming based on common ratings,

the Commission shall amend the rules prescribed pursuant to section 303(x) to require that the apparatus described in such section be equipped with either the blocking technology described in such

section or the alternative blocking technology described in this paragraph.".

(2) CONFORMING AMENDMENT.—Section 330(d), as redesignated by subsection (d)(1)(A), is amended by striking "section 303(s), and section 303(u)" and inserting in lieu thereof "and sections 303(s), 303(u), and 303(x)".

47 USC 330.

47 USC 303 note.

(e) APPLICABILITY AND EFFECTIVE DATES.—

(1) APPLICABILITY OF RATING PROVISION.—The amendment made by subsection (b) of this section shall take effect 1 year after the date of enactment of this Act, but only if the Commission determines, in consultation with appropriate public interest groups and interested individuals from the private sector, that distributors of video programming have not, by such date—

(A) established voluntary rules for rating video programming that contains sexual, violent, or other indecent material about which parents should be informed before it is displayed to children, and such rules are acceptable to the Commission; and

(B) agreed voluntarily to broadcast signals that contain ratings of such programming.

(2) EFFECTIVE DATE OF MANUFACTURING PROVISION.—In prescribing regulations to implement the amendment made by subsection (c), the Federal Communications Commission shall, after consultation with the television manufacturing industry, specify the effective date for the applicability of the requirement to the apparatus covered by such amendment, which date shall not be less than two years after the date of enactment of this Act.

47 USC 303 note.

SEC. 552. TECHNOLOGY FUND.

It is the policy of the United States to encourage broadcast television, cable, satellite, syndication, other video programming distributors, and relevant related industries (in consultation with appropriate public interest groups and interested individuals from the private sector) to—

(1) establish a technology fund to encourage television and electronics equipment manufacturers to facilitate the development of technology which would empower parents to block programming they deem inappropriate for their children and to encourage the availability thereof to low income parents;

(2) report to the viewing public on the status of the development of affordable, easy to use blocking technology; and

(3) establish and promote effective procedures, standards, systems, advisories, or other mechanisms for ensuring that users have easy and complete access to the information necessary to effectively utilize blocking technology and to encourage the availability thereof to low income parents.

Subtitle C—Judicial Review

47 USC 223 note.

SEC. 561. EXPEDITED REVIEW.

(a) THREE-JUDGE DISTRICT COURT HEARING.—Notwithstanding any other provision of law, any civil action challenging the constitutionality, on its face, of this title or any amendment made by this title, or any provision thereof, shall be heard by a district

court of 3 judges convened pursuant to the provisions of section 2284 of title 28, United States Code.

(b) APPELLATE REVIEW.—Notwithstanding any other provision of law, an interlocutory or final judgment, decree, or order of the court of 3 judges in an action under subsection (a) holding this title or an amendment made by this title, or any provision thereof, unconstitutional shall be reviewable as a matter of right by direct appeal to the Supreme Court. Any such appeal shall be filed not more than 20 days after entry of such judgment, decree, or order.

TITLE VI—EFFECT ON OTHER LAWS

47 USC 152 note.

SEC. 601. APPLICABILITY OF CONSENT DECREES AND OTHER LAW.

(a) APPLICABILITY OF AMENDMENTS TO FUTURE CONDUCT.—

(1) AT&T CONSENT DECREE.—Any conduct or activity that was, before the date of enactment of this Act, subject to any restriction or obligation imposed by the AT&T Consent Decree shall, on and after such date, be subject to the restrictions and obligations imposed by the Communications Act of 1934 as amended by this Act and shall not be subject to the restrictions and the obligations imposed by such Consent Decree.

(2) GTE CONSENT DECREE.—Any conduct or activity that was, before the date of enactment of this Act, subject to any restriction or obligation imposed by the GTE Consent Decree shall, on and after such date, be subject to the restrictions and obligations imposed by the Communications Act of 1934 as amended by this Act and shall not be subject to the restrictions and the obligations imposed by such Consent Decree.

(3) MCCAW CONSENT DECREE.—Any conduct or activity that was, before the date of enactment of this Act, subject to any restriction or obligation imposed by the McCaw Consent Decree shall, on and after such date, be subject to the restrictions and obligations imposed by the Communications Act of 1934 as amended by this Act and subsection (d) of this section and shall not be subject to the restrictions and the obligations imposed by such Consent Decree.

(b) ANTITRUST LAWS.—

(1) SAVINGS CLAUSE.—Except as provided in paragraphs (2) and (3), nothing in this Act or the amendments made by this Act shall be construed to modify, impair, or supersede the applicability of any of the antitrust laws.

(2) REPEAL.—Subsection (a) of section 221 (47 U.S.C. 221(a)) is repealed.

(3) CLAYTON ACT.—Section 7 of the Clayton Act (15 U.S.C. 18) is amended in the last paragraph by striking "Federal Communications Commission,".

(c) FEDERAL, STATE, AND LOCAL LAW.—

(1) NO IMPLIED EFFECT.—This Act and the amendments made by this Act shall not be construed to modify, impair, or supersede Federal, State, or local law unless expressly so provided in such Act or amendments.

(2) STATE TAX SAVINGS PROVISION.—Notwithstanding paragraph (1), nothing in this Act or the amendments made by this Act shall be construed to modify, impair, or supersede, or authorize the modification, impairment, or supersession of, any State or local law pertaining to taxation, except as provided

in sections 622 and 653(c) of the Communications Act of 1934 and section 602 of this Act.

(d) COMMERCIAL MOBILE SERVICE JOINT MARKETING.—Notwithstanding section 22.903 of the Commission's regulations (47 C.F.R. 22.903) or any other Commission regulation, a Bell operating company or any other company may, except as provided in sections 271(e)(1) and 272 of the Communications Act of 1934 as amended by this Act as they relate to wireline service, jointly market and sell commercial mobile services in conjunction with telephone exchange service, exchange access, intraLATA telecommunications service, interLATA telecommunications service, and information services.

(e) DEFINITIONS.—As used in this section:

(1) AT&T CONSENT DECREE.—The term "AT&T Consent Decree" means the order entered August 24, 1982, in the antitrust action styled United States v. Western Electric, Civil Action No. 82–0192, in the United States District Court for the District of Columbia, and includes any judgment or order with respect to such action entered on or after August 24, 1982.

(2) GTE CONSENT DECREE.—The term "GTE Consent Decree" means the order entered December 21, 1984, as restated January 11, 1985, in the action styled United States v. GTE Corp., Civil Action No. 83–1298, in the United States District Court for the District of Columbia, and any judgment or order with respect to such action entered on or after December 21, 1984.

(3) MCCAW CONSENT DECREE.—The term "McCaw Consent Decree" means the proposed consent decree filed on July 15, 1994, in the antitrust action styled United States v. AT&T Corp. and McCaw Cellular Communications, Inc., Civil Action No. 94–01555, in the United States District Court for the District of Columbia. Such term includes any stipulation that the parties will abide by the terms of such proposed consent decree until it is entered and any order entering such proposed consent decree.

(4) ANTITRUST LAWS.—The term "antitrust laws" has the meaning given it in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)), except that such term includes the Act of June 19, 1936 (49 Stat. 1526; 15 U.S.C. 13 et seq.), commonly known as the Robinson-Patman Act, and section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent that such section 5 applies to unfair methods of competition.

SEC. 602. PREEMPTION OF LOCAL TAXATION WITH RESPECT TO DIRECT-TO-HOME SERVICES.

(a) PREEMPTION.—A provider of direct-to-home satellite service shall be exempt from the collection or remittance, or both, of any tax or fee imposed by any local taxing jurisdiction on direct-to-home satellite service.

(b) DEFINITIONS.—For the purposes of this section—

(1) DIRECT-TO-HOME SATELLITE SERVICE.—The term "direct-to-home satellite service" means only programming transmitted or broadcast by satellite directly to the subscribers' premises without the use of ground receiving or distribution equipment,

except at the subscribers' premises or in the uplink process to the satellite.

(2) PROVIDER OF DIRECT-TO-HOME SATELLITE SERVICE.—For purposes of this section, a "provider of direct-to-home satellite service" means a person who transmits, broadcasts, sells, or distributes direct-to-home satellite service.

(3) LOCAL TAXING JURISDICTION.—The term "local taxing jurisdiction" means any municipality, city, county, township, parish, transportation district, or assessment jurisdiction, or any other local jurisdiction in the territorial jurisdiction of the United States with the authority to impose a tax or fee, but does not include a State.

(4) STATE.—The term "State" means any of the several States, the District of Columbia, or any territory or possession of the United States.

(5) TAX OR FEE.—The terms "tax" and "fee" mean any local sales tax, local use tax, local intangible tax, local income tax, business license tax, utility tax, privilege tax, gross receipts tax, excise tax, franchise fees, local telecommunications tax, or any other tax, license, or fee that is imposed for the privilege of doing business, regulating, or raising revenue for a local taxing jurisdiction.

(c) PRESERVATION OF STATE AUTHORITY.—This section shall not be construed to prevent taxation of a provider of direct-to-home satellite service by a State or to prevent a local taxing jurisdiction from receiving revenue derived from a tax or fee imposed and collected by a State.

TITLE VII—MISCELLANEOUS PROVISIONS

SEC. 701. PREVENTION OF UNFAIR BILLING PRACTICES FOR INFORMATION OR SERVICES PROVIDED OVER TOLL-FREE TELEPHONE CALLS.

(a) PREVENTION OF UNFAIR BILLING PRACTICES.—

(1) IN GENERAL.—Section 228(c) (47 U.S.C. 228(c)) is amended—

(A) by striking out subparagraph (C) of paragraph (7) and inserting in lieu thereof the following:

"(C) the calling party being charged for information conveyed during the call unless—

"(i) the calling party has a written agreement (including an agreement transmitted through electronic medium) that meets the requirements of paragraph (8); or

"(ii) the calling party is charged for the information in accordance with paragraph (9); or";

(B)(i) by striking "or" at the end of subparagraph (C) of such paragraph;

(ii) by striking the period at the end of subparagraph (D) of such paragraph and inserting a semicolon and "or"; and

(iii) by adding at the end thereof the following:

"(E) the calling party being assessed, by virtue of being asked to connect or otherwise transfer to a pay-per-call service, a charge for the call."; and

(C) by adding at the end the following new paragraphs:

"(8) SUBSCRIPTION AGREEMENTS FOR BILLING FOR INFORMATION PROVIDED VIA TOLL-FREE CALLS.—

"(A) IN GENERAL.—For purposes of paragraph (7)(C)(i), a written subscription does not meet the requirements of this paragraph unless the agreement specifies the material terms and conditions under which the information is offered and includes—

"(i) the rate at which charges are assessed for the information;

"(ii) the information provider's name;

"(iii) the information provider's business address;

"(iv) the information provider's regular business telephone number;

"(v) the information provider's agreement to notify the subscriber at least one billing cycle in advance of all future changes in the rates charged for the information; and

"(vi) the subscriber's choice of payment method, which may be by direct remit, debit, prepaid account, phone bill, or credit or calling card.

"(B) BILLING ARRANGEMENTS.—If a subscriber elects, pursuant to subparagraph (A)(vi), to pay by means of a phone bill—

"(i) the agreement shall clearly explain that the subscriber will be assessed for calls made to the information service from the subscriber's phone line;

"(ii) the phone bill shall include, in prominent type, the following disclaimer:

'Common carriers may not disconnect local or long distance telephone service for failure to pay disputed charges for information services.'; and

"(iii) the phone bill shall clearly list the 800 number dialed.

"(C) USE OF PINS TO PREVENT UNAUTHORIZED USE.—A written agreement does not meet the requirements of this paragraph unless it—

"(i) includes a unique personal identification number or other subscriber-specific identifier and requires a subscriber to use this number or identifier to obtain access to the information provided and includes instructions on its use; and

"(ii) assures that any charges for services accessed by use of the subscriber's personal identification number or subscriber-specific identifier be assessed to subscriber's source of payment elected pursuant to subparagraph (A)(vi).

"(D) EXCEPTIONS.—Notwithstanding paragraph (7)(C), a written agreement that meets the requirements of this paragraph is not required—

"(i) for calls utilizing telecommunications devices for the deaf;

"(ii) for directory services provided by a common carrier or its affiliate or by a local exchange carrier or its affiliate; or

"(iii) for any purchase of goods or of services that are not information services.

"(E) TERMINATION OF SERVICE.—On receipt by a common carrier of a complaint by any person that an information provider is in violation of the provisions of this section, a carrier shall—

"(i) promptly investigate the complaint; and

"(ii) if the carrier reasonably determines that the complaint is valid, it may terminate the provision of service to an information provider unless the provider supplies evidence of a written agreement that meets the requirements of this section.

"(F) TREATMENT OF REMEDIES.—The remedies provided in this paragraph are in addition to any other remedies that are available under title V of this Act.

"(9) CHARGES BY CREDIT, PREPAID, DEBIT, CHARGE, OR CALLING CARD IN ABSENCE OF AGREEMENT.—For purposes of paragraph (7)(C)(ii), a calling party is not charged in accordance with this paragraph unless the calling party is charged by means of a credit, prepaid, debit, charge, or calling card and the information service provider includes in response to each call an introductory disclosure message that—

"(A) clearly states that there is a charge for the call;

"(B) clearly states the service's total cost per minute and any other fees for the service or for any service to which the caller may be transferred;

"(C) explains that the charges must be billed on either a credit, prepaid, debit, charge, or calling card;

"(D) asks the caller for the card number;

"(E) clearly states that charges for the call begin at the end of the introductory message; and

"(F) clearly states that the caller can hang up at or before the end of the introductory message without incurring any charge whatsoever.

"(10) BYPASS OF INTRODUCTORY DISCLOSURE MESSAGE.—The requirements of paragraph (9) shall not apply to calls from repeat callers using a bypass mechanism to avoid listening to the introductory message: *Provided,* That information providers shall disable such a bypass mechanism after the institution of any price increase and for a period of time determined to be sufficient by the Federal Trade Commission to give callers adequate and sufficient notice of a price increase.

"(11) DEFINITION OF CALLING CARD.—As used in this subsection, the term 'calling card' means an identifying number or code unique to the individual, that is issued to the individual by a common carrier and enables the individual to be charged by means of a phone bill for charges incurred independent of where the call originates.".

(2) REGULATIONS.—The Federal Communications Commission shall revise its regulations to comply with the amendment made by paragraph (1) not later than 180 days after the date of enactment of this Act. 47 USC 228 note.

(3) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on the date of enactment of this Act. 47 USC 228 note.

(b) CLARIFICATION OF "PAY-PER-CALL SERVICES".—

(1) TELEPHONE DISCLOSURE AND DISPUTE RESOLUTION ACT.—Section 204(1) of the Telephone Disclosure and Dispute Resolution Act (15 U.S.C. 5714(1)) is amended to read as follows:

"(1) The term 'pay-per-call services' has the meaning provided in section 228(i) of the Communications Act of 1934, except that the Commission by rule may, notwithstanding subparagraphs (B) and (C) of section 228(i)(1) of such Act, extend such definition to other similar services providing audio information or audio entertainment if the Commission determines that such services are susceptible to the unfair and deceptive practices that are prohibited by the rules prescribed pursuant to section 201(a).".

(2) COMMUNICATIONS ACT.—Section 228(i)(2) (47 U.S.C. 228(i)(2)) is amended by striking "or any service the charge for which is tariffed,".

SEC. 702. PRIVACY OF CUSTOMER INFORMATION.

Title II is amended by inserting after section 221 (47 U.S.C. 221) the following new section:

47 USC 222.

"SEC. 222. PRIVACY OF CUSTOMER INFORMATION.

"(a) IN GENERAL.—Every telecommunications carrier has a duty to protect the confidentiality of proprietary information of, and relating to, other telecommunication carriers, equipment manufacturers, and customers, including telecommunication carriers reselling telecommunications services provided by a telecommunications carrier.

"(b) CONFIDENTIALITY OF CARRIER INFORMATION.—A telecommunications carrier that receives or obtains proprietary information from another carrier for purposes of providing any telecommunications service shall use such information only for such purpose, and shall not use such information for its own marketing efforts.

"(c) CONFIDENTIALITY OF CUSTOMER PROPRIETARY NETWORK INFORMATION.—

"(1) PRIVACY REQUIREMENTS FOR TELECOMMUNICATIONS CARRIERS.—Except as required by law or with the approval of the customer, a telecommunications carrier that receives or obtains customer proprietary network information by virtue of its provision of a telecommunications service shall only use, disclose, or permit access to individually identifiable customer proprietary network information in its provision of (A) the telecommunications service from which such information is derived, or (B) services necessary to, or used in, the provision of such telecommunications service, including the publishing of directories.

"(2) DISCLOSURE ON REQUEST BY CUSTOMERS.—A telecommunications carrier shall disclose customer proprietary network information, upon affirmative written request by the customer, to any person designated by the customer.

"(3) AGGREGATE CUSTOMER INFORMATION.—A telecommunications carrier that receives or obtains customer proprietary network information by virtue of its provision of a telecommunications service may use, disclose, or permit access to aggregate customer information other than for the purposes described in paragraph (1). A local exchange carrier may use, disclose, or permit access to aggregate customer information other than for purposes described in paragraph (1) only if it provides such aggregate information to other carriers or persons on reasonable and nondiscriminatory terms and conditions upon reasonable request therefor.

"(d) EXCEPTIONS.—Nothing in this section prohibits a telecommunications carrier from using, disclosing, or permitting access to customer proprietary network information obtained from its customers, either directly or indirectly through its agents—

"(1) to initiate, render, bill, and collect for telecommunications services;

"(2) to protect the rights or property of the carrier, or to protect users of those services and other carriers from fraudulent, abusive, or unlawful use of, or subscription to, such services; or

"(3) to provide any inbound telemarketing, referral, or administrative services to the customer for the duration of the call, if such call was initiated by the customer and the customer approves of the use of such information to provide such service.

"(e) SUBSCRIBER LIST INFORMATION.—Notwithstanding subsections (b), (c), and (d), a telecommunications carrier that provides telephone exchange service shall provide subscriber list information gathered in its capacity as a provider of such service on a timely and unbundled basis, under nondiscriminatory and reasonable rates, terms, and conditions, to any person upon request for the purpose of publishing directories in any format.

"(f) DEFINITIONS.—As used in this section:

"(1) CUSTOMER PROPRIETARY NETWORK INFORMATION.—The term 'customer proprietary network information' means—

"(A) information that relates to the quantity, technical configuration, type, destination, and amount of use of a telecommunications service subscribed to by any customer of a telecommunications carrier, and that is made available to the carrier by the customer solely by virtue of the carrier-customer relationship; and

"(B) information contained in the bills pertaining to telephone exchange service or telephone toll service received by a customer of a carrier;

except that such term does not include subscriber list information.

"(2) AGGREGATE INFORMATION.—The term 'aggregate customer information' means collective data that relates to a group or category of services or customers, from which individual customer identities and characteristics have been removed.

"(3) SUBSCRIBER LIST INFORMATION.—The term 'subscriber list information' means any information—

"(A) identifying the listed names of subscribers of a carrier and such subscribers' telephone numbers, addresses, or primary advertising classifications (as such classifications are assigned at the time of the establishment of such service), or any combination of such listed names, numbers, addresses, or classifications; and

"(B) that the carrier or an affiliate has published, caused to be published, or accepted for publication in any directory format.".

SEC. 703. POLE ATTACHMENTS.

Section 224 (47 U.S.C. 224) is amended—

(1) in subsection (a)(1), by striking the first sentence and inserting the following: "The term 'utility' means any person who is a local exchange carrier or an electric, gas, water,

steam, or other public utility, and who owns or controls poles, ducts, conduits, or rights-of-way used, in whole or in part, for any wire communications.";

(2) in subsection (a)(4), by inserting after "system" the following: "or provider of telecommunications service";

(3) by inserting after subsection (a)(4) the following:

"(5) For purposes of this section, the term 'telecommunications carrier' (as defined in section 3 of this Act) does not include any incumbent local exchange carrier as defined in section 251(h).";

(4) by inserting after "conditions" in subsection (c)(1) a comma and the following: "or access to poles, ducts, conduits, and rights-of-way as provided in subsection (f),";

(5) in subsection (c)(2)(B), by striking "cable television services" and inserting "the services offered via such attachments";

(6) by inserting after subsection (d)(2) the following:

Applicability

"(3) This subsection shall apply to the rate for any pole attachment used by a cable television system solely to provide cable service. Until the effective date of the regulations required under subsection (e), this subsection shall also apply to the rate for any pole attachment used by a cable system or any telecommunications carrier (to the extent such carrier is not a party to a pole attachment agreement) to provide any telecommunications service."; and

(7) by adding at the end thereof the following:

Regulations.

"(e)(1) The Commission shall, no later than 2 years after the date of enactment of the Telecommunications Act of 1996, prescribe regulations in accordance with this subsection to govern the charges for pole attachments used by telecommunications carriers to provide telecommunications services, when the parties fail to resolve a dispute over such charges. Such regulations shall ensure that a utility charges just, reasonable, and nondiscriminatory rates for pole attachments.

"(2) A utility shall apportion the cost of providing space on a pole, duct, conduit, or right-of-way other than the usable space among entities so that such apportionment equals two-thirds of the costs of providing space other than the usable space that would be allocated to such entity under an equal apportionment of such costs among all attaching entities.

"(3) A utility shall apportion the cost of providing usable space among all entities according to the percentage of usable space required for each entity.

Effective date.

"(4) The regulations required under paragraph (1) shall become effective 5 years after the date of enactment of the Telecommunications Act of 1996. Any increase in the rates for pole attachments that result from the adoption of the regulations required by this subsection shall be phased in equal annual increments over a period of 5 years beginning on the effective date of such regulations.

"(f)(1) A utility shall provide a cable television system or any telecommunications carrier with nondiscriminatory access to any pole, duct, conduit, or right-of-way owned or controlled by it.

"(2) Notwithstanding paragraph (1), a utility providing electric service may deny a cable television system or any telecommunications carrier access to its poles, ducts, conduits, or rights-of-way, on a non-discriminatory basis where there is insufficient capacity and for reasons of safety, reliability and generally applicable engineering purposes.

"(g) A utility that engages in the provision of telecommunications services or cable services shall impute to its costs of providing such services (and charge any affiliate, subsidiary, or associate company engaged in the provision of such services) an equal amount to the pole attachment rate for which such company would be liable under this section.

"(h) Whenever the owner of a pole, duct, conduit, or right-of-way intends to modify or alter such pole, duct, conduit, or right-of-way, the owner shall provide written notification of such action to any entity that has obtained an attachment to such conduit or right-of-way so that such entity may have a reasonable opportunity to add to or modify its existing attachment. Any entity that adds to or modifies its existing attachment after receiving such notification shall bear a proportionate share of the costs incurred by the owner in making such pole, duct, conduit, or right-of-way accessible.

"(i) An entity that obtains an attachment to a pole, conduit, or right-of-way shall not be required to bear any of the costs of rearranging or replacing its attachment, if such rearrangement or replacement is required as a result of an additional attachment or the modification of an existing attachment sought by any other entity (including the owner of such pole, duct, conduit, or right-of-way).".

SEC. 704. FACILITIES SITING; RADIO FREQUENCY EMISSION STANDARDS.

(a) NATIONAL WIRELESS TELECOMMUNICATIONS SITING POLICY.—Section 332(c) (47 U.S.C. 332(c)) is amended by adding at the end the following new paragraph:

"(7) PRESERVATION OF LOCAL ZONING AUTHORITY.—

"(A) GENERAL AUTHORITY.—Except as provided in this paragraph, nothing in this Act shall limit or affect the authority of a State or local government or instrumentality thereof over decisions regarding the placement, construction, and modification of personal wireless service facilities.

"(B) LIMITATIONS.—

"(i) The regulation of the placement, construction, and modification of personal wireless service facilities by any State or local government or instrumentality thereof—

"(I) shall not unreasonably discriminate among providers of functionally equivalent services; and

"(II) shall not prohibit or have the effect of prohibiting the provision of personal wireless services.

"(ii) A State or local government or instrumentality thereof shall act on any request for authorization to place, construct, or modify personal wireless service facilities within a reasonable period of time after the request is duly filed with such government or instrumentality, taking into account the nature and scope of such request.

"(iii) Any decision by a State or local government or instrumentality thereof to deny a request to place, construct, or modify personal wireless service facilities shall be in writing and supported by substantial evidence contained in a written record. Records.

"(iv) No State or local government or instrumentality thereof may regulate the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the Commission's regulations concerning such emissions.

"(v) Any person adversely affected by any final action or failure to act by a State or local government or any instrumentality thereof that is inconsistent with this subparagraph may, within 30 days after such action or failure to act, commence an action in any court of competent jurisdiction. The court shall hear and decide such action on an expedited basis. Any person adversely affected by an act or failure to act by a State or local government or any instrumentality thereof that is inconsistent with clause (iv) may petition the Commission for relief.

Courts.

"(C) DEFINITIONS.—For purposes of this paragraph—

"(i) the term 'personal wireless services' means commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services;

"(ii) the term 'personal wireless service facilities' means facilities for the provision of personal wireless services; and

"(iii) the term 'unlicensed wireless service' means the offering of telecommunications services using duly authorized devices which do not require individual licenses, but does not mean the provision of direct-to-home satellite services (as defined in section 303(v)).".

Rules.

(b) RADIO FREQUENCY EMISSIONS.—Within 180 days after the enactment of this Act, the Commission shall complete action in ET Docket 93–62 to prescribe and make effective rules regarding the environmental effects of radio frequency emissions.

President.
47 USC 332 note.

(c) AVAILABILITY OF PROPERTY.—Within 180 days of the enactment of this Act, the President or his designee shall prescribe procedures by which Federal departments and agencies may make available on a fair, reasonable, and nondiscriminatory basis, property, rights-of-way, and easements under their control for the placement of new telecommunications services that are dependent, in whole or in part, upon the utilization of Federal spectrum rights for the transmission or reception of such services. These procedures may establish a presumption that requests for the use of property, rights-of-way, and easements by duly authorized providers should be granted absent unavoidable direct conflict with the department or agency's mission, or the current or planned use of the property, rights-of-way, and easements in question. Reasonable fees may be charged to providers of such telecommunications services for use of property, rights-of-way, and easements. The Commission shall provide technical support to States to encourage them to make property, rights-of-way, and easements under their jurisdiction available for such purposes.

SEC. 705. MOBILE SERVICES DIRECT ACCESS TO LONG DISTANCE CARRIERS.

Section 332(c) (47 U.S.C. 332(c)) is amended by adding at the end the following new paragraph:

"(8) MOBILE SERVICES ACCESS.—A person engaged in the provision of commercial mobile services, insofar as such person is so engaged, shall not be required to provide equal access to common carriers for the provision of telephone toll services. If the Commission determines that subscribers to such services are denied access to the provider of telephone toll services of the subscribers' choice, and that such denial is contrary to the public interest, convenience, and necessity, then the Commission shall prescribe regulations to afford subscribers unblocked access to the provider of telephone toll services of the subscribers' choice through the use of a carrier identification code assigned to such provider or other mechanism. The requirements for unblocking shall not apply to mobile satellite services unless the Commission finds it to be in the public interest to apply such requirements to such services.". Regulations.

SEC. 706. ADVANCED TELECOMMUNICATIONS INCENTIVES. 47 USC 157 note.

(a) IN GENERAL.—The Commission and each State commission with regulatory jurisdiction over telecommunications services shall encourage the deployment on a reasonable and timely basis of advanced telecommunications capability to all Americans (including, in particular, elementary and secondary schools and classrooms) by utilizing, in a manner consistent with the public interest, convenience, and necessity, price cap regulation, regulatory forbearance, measures that promote competition in the local telecommunications market, or other regulating methods that remove barriers to infrastructure investment.

(b) INQUIRY.—The Commission shall, within 30 months after the date of enactment of this Act, and regularly thereafter, initiate a notice of inquiry concerning the availability of advanced telecommunications capability to all Americans (including, in particular, elementary and secondary schools and classrooms) and shall complete the inquiry within 180 days after its initiation. In the inquiry, the Commission shall determine whether advanced telecommunications capability is being deployed to all Americans in a reasonable and timely fashion. If the Commission's determination is negative, it shall take immediate action to accelerate deployment of such capability by removing barriers to infrastructure investment and by promoting competition in the telecommunications market.

(c) DEFINITIONS.—For purposes of this subsection:

(1) ADVANCED TELECOMMUNICATIONS CAPABILITY.—The term "advanced telecommunications capability" is defined, without regard to any transmission media or technology, as high-speed, switched, broadband telecommunications capability that enables users to originate and receive high-quality voice, data, graphics, and video telecommunications using any technology.

(2) ELEMENTARY AND SECONDARY SCHOOLS.—The term "elementary and secondary schools" means elementary and secondary schools, as defined in paragraphs (14) and (25), respectively, of section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

SEC. 707. TELECOMMUNICATIONS DEVELOPMENT FUND.

(a) DEPOSIT AND USE OF AUCTION ESCROW ACCOUNTS.—Section 309(j)(8) (47 U.S.C. 309(j)(8)) is amended by adding at the end the following new subparagraph:

"(C) DEPOSIT AND USE OF AUCTION ESCROW ACCOUNTS.—Any deposits the Commission may require for the qualification of any person to bid in a system of competitive bidding pursuant to this subsection shall be deposited in an interest bearing account at a financial institution designated for purposes of this subsection by the Commission (after consultation with the Secretary of the Treasury). Within 45 days following the conclusion of the competitive bidding—

"(i) the deposits of successful bidders shall be paid to the Treasury;

"(ii) the deposits of unsuccessful bidders shall be returned to such bidders; and

"(iii) the interest accrued to the account shall be transferred to the Telecommunications Development Fund established pursuant to section 714 of this Act.".

(b) ESTABLISHMENT AND OPERATION OF FUND.—Title VII is amended by inserting after section 713 (as added by section 305) the following new section:

47 USC 614.

"SEC. 714. TELECOMMUNICATIONS DEVELOPMENT FUND.

"(a) PURPOSE OF SECTION.—It is the purpose of this section—

"(1) to promote access to capital for small businesses in order to enhance competition in the telecommunications industry;

"(2) to stimulate new technology development, and promote employment and training; and

"(3) to support universal service and promote delivery of telecommunications services to underserved rural and urban areas.

"(b) ESTABLISHMENT OF FUND.—There is hereby established a body corporate to be known as the Telecommunications Development Fund, which shall have succession until dissolved. The Fund shall maintain its principal office in the District of Columbia and shall be deemed, for purposes of venue and jurisdiction in civil actions, to be a resident and citizen thereof.

"(c) BOARD OF DIRECTORS.—

"(1) COMPOSITION OF BOARD; CHAIRMAN.—The Fund shall have a Board of Directors which shall consist of 7 persons appointed by the Chairman of the Commission. Four of such directors shall be representative of the private sector and three of such directors shall be representative of the Commission, the Small Business Administration, and the Department of the Treasury, respectively. The Chairman of the Commission shall appoint one of the representatives of the private sector to serve as chairman of the Fund within 30 days after the date of enactment of this section, in order to facilitate rapid creation and implementation of the Fund. The directors shall include members with experience in a number of the following areas: finance, investment banking, government banking, communications law and administrative practice, and public policy.

"(2) TERMS OF APPOINTED AND ELECTED MEMBERS.—The directors shall be eligible to serve for terms of 5 years, except of the initial members, as designated at the time of their appointment—

"(A) 1 shall be eligible to service for a term of 1 year;

"(B) 1 shall be eligible to service for a term of 2 years;

"(C) 1 shall be eligible to service for a term of 3 years;

"(D) 2 shall be eligible to service for a term of 4 years; and

"(E) 2 shall be eligible to service for a term of 5 years (1 of whom shall be the Chairman).

Directors may continue to serve until their successors have been appointed and have qualified.

"(3) MEETINGS AND FUNCTIONS OF THE BOARD.—The Board of Directors shall meet at the call of its Chairman, but at least quarterly. The Board shall determine the general policies which shall govern the operations of the Fund. The Chairman of the Board shall, with the approval of the Board, select, appoint, and compensate qualified persons to fill the offices as may be provided for in the bylaws, with such functions, powers, and duties as may be prescribed by the bylaws or by the Board of Directors, and such persons shall be the officers of the Fund and shall discharge all such functions, powers, and duties.

"(d) ACCOUNTS OF THE FUND.—The Fund shall maintain its accounts at a financial institution designated for purposes of this section by the Chairman of the Board (after consultation with the Commission and the Secretary of the Treasury). The accounts of the Fund shall consist of—

"(1) interest transferred pursuant to section 309(j)(8)(C) of this Act;

"(2) such sums as may be appropriated to the Commission for advances to the Fund;

"(3) any contributions or donations to the Fund that are accepted by the Fund; and

"(4) any repayment of, or other payment made with respect to, loans, equity, or other extensions of credit made from the Fund.

"(e) USE OF THE FUND.—All moneys deposited into the accounts of the Fund shall be used solely for—

"(1) the making of loans, investments, or other extensions of credits to eligible small businesses in accordance with subsection (f);

"(2) the provision of financial advice to eligible small businesses;

"(3) expenses for the administration and management of the Fund (including salaries, expenses, and the rental or purchase of office space for the fund);

"(4) preparation of research, studies, or financial analyses; and

"(5) other services consistent with the purposes of this section.

"(f) LENDING AND CREDIT OPERATIONS.—Loans or other extensions of credit from the Fund shall be made available in accordance

with the requirements of the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.) and any other applicable law to an eligible small business on the basis of—

"(1) the analysis of the business plan of the eligible small business;

"(2) the reasonable availability of collateral to secure the loan or credit extension;

"(3) the extent to which the loan or credit extension promotes the purposes of this section; and

"(4) other lending policies as defined by the Board.

"(g) RETURN OF ADVANCES.—Any advances appropriated pursuant to subsection (d)(2) shall be disbursed upon such terms and conditions (including conditions relating to the time or times of repayment) as are specified in any appropriations Act providing such advances.

"(h) GENERAL CORPORATE POWERS.—The Fund shall have power—

"(1) to sue and be sued, complain and defend, in its corporate name and through its own counsel;

"(2) to adopt, alter, and use the corporate seal, which shall be judicially noticed;

"(3) to adopt, amend, and repeal by its Board of Directors, bylaws, rules, and regulations as may be necessary for the conduct of its business;

"(4) to conduct its business, carry on its operations, and have officers and exercise the power granted by this section in any State without regard to any qualification or similar statute in any State;

"(5) to lease, purchase, or otherwise acquire, own, hold, improve, use, or otherwise deal in and with any property, real, personal, or mixed, or any interest therein, wherever situated, for the purposes of the Fund;

"(6) to accept gifts or donations of services, or of property, real, personal, or mixed, tangible or intangible, in aid of any of the purposes of the Fund;

"(7) to sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of its property and assets;

"(8) to appoint such officers, attorneys, employees, and agents as may be required, to determine their qualifications, to define their duties, to fix their salaries, require bonds for them, and fix the penalty thereof; and

"(9) to enter into contracts, to execute instruments, to incur liabilities, to make loans and equity investment, and to do all things as are necessary or incidental to the proper management of its affairs and the proper conduct of its business.

"(i) ACCOUNTING, AUDITING, AND REPORTING.—The accounts of the Fund shall be audited annually. Such audits shall be conducted in accordance with generally accepted auditing standards by independent certified public accountants. A report of each such audit shall be furnished to the Secretary of the Treasury and the Commission. The representatives of the Secretary and the Commission shall have access to all books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the Fund and necessary to facilitate the audit.

"(j) REPORT ON AUDITS BY TREASURY.—A report of each such audit for a fiscal year shall be made by the Secretary of the

Treasury to the President and to the Congress not later than 6 months following the close of such fiscal year. The report shall set forth the scope of the audit and shall include a statement of assets and liabilities, capital and surplus or deficit; a statement of surplus or deficit analysis; a statement of income and expense; a statement of sources and application of funds; and such comments and information as may be deemed necessary to keep the President and the Congress informed of the operations and financial condition of the Fund, together with such recommendations with respect thereto as the Secretary may deem advisable.

"(k) DEFINITIONS.—As used in this section:

"(1) ELIGIBLE SMALL BUSINESS.—The term 'eligible small business' means business enterprises engaged in the telecommunications industry that have $50,000,000 or less in annual revenues, on average over the past 3 years prior to submitting the application under this section.

"(2) FUND.—The term 'Fund' means the Telecommunications Development Fund established pursuant to this section.

"(3) TELECOMMUNICATIONS INDUSTRY.—The term 'telecommunications industry' means communications businesses using regulated or unregulated facilities or services and includes broadcasting, telecommunications, cable, computer, data transmission, software, programming, advanced messaging, and electronics businesses.".

SEC. 708. NATIONAL EDUCATION TECHNOLOGY FUNDING CORPORATION.

(a) FINDINGS; PURPOSE.—

(1) FINDINGS.—The Congress finds as follows:

(A) CORPORATION.—There has been established in the District of Columbia a private, nonprofit corporation known as the National Education Technology Funding Corporation which is not an agency or independent establishment of the Federal Government.

(B) BOARD OF DIRECTORS.—The Corporation is governed by a Board of Directors, as prescribed in the Corporation's articles of incorporation, consisting of 15 members, of which—

(i) five members are representative of public agencies representative of schools and public libraries;

(ii) five members are representative of State government, including persons knowledgeable about State finance, technology and education; and

(iii) five members are representative of the private sector, with expertise in network technology, finance and management.

(C) CORPORATE PURPOSES.—The purposes of the Corporation, as set forth in its articles of incorporation, are—

(i) to leverage resources and stimulate private investment in education technology infrastructure;

(ii) to designate State education technology agencies to receive loans, grants or other forms of assistance from the Corporation;

(iii) to establish criteria for encouraging States to—

(I) create, maintain, utilize and upgrade interactive high capacity networks capable of providing

audio, visual and data communications for elementary schools, secondary schools and public libraries;

(II) distribute resources to assure equitable aid to all elementary schools and secondary schools in the State and achieve universal access to network technology; and

(III) upgrade the delivery and development of learning through innovative technology-based instructional tools and applications;

(iv) to provide loans, grants and other forms of assistance to State education technology agencies, with due regard for providing a fair balance among types of school districts and public libraries assisted and the disparate needs of such districts and libraries;

(v) to leverage resources to provide maximum aid to elementary schools, secondary schools and public libraries; and

(vi) to encourage the development of education telecommunications and information technologies through public-private ventures, by serving as a clearinghouse for information on new education technologies, and by providing technical assistance, including assistance to States, if needed, to establish State education technology agencies.

(2) PURPOSE.—The purpose of this section is to recognize the Corporation as a nonprofit corporation operating under the laws of the District of Columbia, and to provide authority for Federal departments and agencies to provide assistance to the Corporation.

(b) DEFINITIONS.—For the purpose of this section—

(1) the term "Corporation" means the National Education Technology Funding Corporation described in subsection (a)(1)(A);

(2) the terms "elementary school" and "secondary school" have the same meanings given such terms in section 14101 of the Elementary and Secondary Education Act of 1965; and

(3) the term "public library" has the same meaning given such term in section 3 of the Library Services and Construction Act.

(c) ASSISTANCE FOR EDUCATION TECHNOLOGY PURPOSES.—

(1) RECEIPT BY CORPORATION.—Notwithstanding any other provision of law, in order to carry out the corporate purposes described in subsection (a)(1)(C), the Corporation shall be eligible to receive discretionary grants, contracts, gifts, contributions, or technical assistance from any Federal department or agency, to the extent otherwise permitted by law.

(2) AGREEMENT.—In order to receive any assistance described in paragraph (1) the Corporation shall enter into an agreement with the Federal department or agency providing such assistance, under which the Corporation agrees—

(A) to use such assistance to provide funding and technical assistance only for activities which the Board of Directors of the Corporation determines are consistent with the corporate purposes described in subsection (a)(1)(C);

(B) to review the activities of State education technology agencies and other entities receiving assistance from

the Corporation to assure that the corporate purposes described in subsection (a)(1)(C) are carried out;

(C) that no part of the assets of the Corporation shall accrue to the benefit of any member of the Board of Directors of the Corporation, any officer or employee of the Corporation, or any other individual, except as salary or reasonable compensation for services;

(D) that the Board of Directors of the Corporation will adopt policies and procedures to prevent conflicts of interest;

(E) to maintain a Board of Directors of the Corporation consistent with subsection (a)(1)(B);

(F) that the Corporation, and any entity receiving the assistance from the Corporation, are subject to the appropriate oversight procedures of the Congress; and

(G) to comply with—

(i) the audit requirements described in subsection (d); and

(ii) the reporting and testimony requirements described in subsection (e).

(3) CONSTRUCTION.—Nothing in this section shall be construed to establish the Corporation as an agency or independent establishment of the Federal Government, or to establish the members of the Board of Directors of the Corporation, or the officers and employees of the Corporation, as officers or employees of the Federal Government.

(d) AUDITS.—

(1) AUDITS BY INDEPENDENT CERTIFIED PUBLIC ACCOUNTANTS.—

(A) IN GENERAL.—The Corporation's financial statements shall be audited annually in accordance with generally accepted auditing standards by independent certified public accountants who are certified by a regulatory authority of a State or other political subdivision of the United States. The audits shall be conducted at the place or places where the accounts of the Corporation are normally kept. All books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the Corporation and necessary to facilitate the audit shall be made available to the person or persons conducting the audits, and full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians shall be afforded to such person or persons.

(B) REPORTING REQUIREMENTS.—The report of each annual audit described in subparagraph (A) shall be included in the annual report required by subsection (e)(1).

(2) RECORDKEEPING REQUIREMENTS; AUDIT AND EXAMINATION OF BOOKS.—

(A) RECORDKEEPING REQUIREMENTS.—The Corporation shall ensure that each recipient of assistance from the Corporation keeps—

(i) separate accounts with respect to such assistance;

(ii) such records as may be reasonably necessary to fully disclose—

(I) the amount and the disposition by such recipient of the proceeds of such assistance;

(II) the total cost of the project or undertaking in connection with which such assistance is given or used; and

(III) the amount and nature of that portion of the cost of the project or undertaking supplied by other sources; and

(iii) such other records as will facilitate an effective audit.

(B) AUDIT AND EXAMINATION OF BOOKS.—The Corporation shall ensure that the Corporation, or any of the Corporation's duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of any recipient of assistance from the Corporation that are pertinent to such assistance. Representatives of the Comptroller General shall also have such access for such purpose.

(e) ANNUAL REPORT; TESTIMONY TO THE CONGRESS.—

Publication.

(1) ANNUAL REPORT.—Not later than April 30 of each year, the Corporation shall publish an annual report for the preceding fiscal year and submit that report to the President and the Congress. The report shall include a comprehensive and detailed evaluation of the Corporation's operations, activities, financial condition, and accomplishments under this section and may include such recommendations as the Corporation deems appropriate.

(2) TESTIMONY BEFORE CONGRESS.—The members of the Board of Directors, and officers, of the Corporation shall be available to testify before appropriate committees of the Congress with respect to the report described in paragraph (1), the report of any audit made by the Comptroller General pursuant to this section, or any other matter which any such committee may determine appropriate.

SEC. 709. REPORT ON THE USE OF ADVANCED TELECOMMUNICATIONS SERVICES FOR MEDICAL PURPOSES.

The Secretary of Commerce, in consultation with the Secretary of Health and Human Services and other appropriate departments and agencies, shall submit a report to the Committee on Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate concerning the activities of the Joint Working Group on Telemedicine, together with any findings reached in the studies and demonstrations on telemedicine funded by the Public Health Service or other Federal agencies. The report shall examine questions related to patient safety, the efficacy and quality of the services provided, and other legal, medical, and economic issues related to the utilization of advanced telecommunications services for medical purposes. The report shall be submitted to the respective committees by January 31, 1997.

SEC. 710. AUTHORIZATION OF APPROPRIATIONS.

47 USC 156 note.

(a) IN GENERAL.—In addition to any other sums authorized by law, there are authorized to be appropriated to the Federal Communications Commission such sums as may be necessary to carry out this Act and the amendments made by this Act.

47 USC 156 note.

(b) EFFECT ON FEES.—For the purposes of section 9(b)(2) (47 U.S.C. 159(b)(2)), additional amounts appropriated pursuant to subsection (a) shall be construed to be changes in the amounts appro-

priated for the performance of activities described in section 9(a) of the Communications Act of 1934.

(c) FUNDING AVAILABILITY.—Section 309(j)(8)(B) (47 U.S.C. 309(j)(8)(B)) is amended by adding at the end the following new sentence: "Such offsetting collections are authorized to remain available until expended.".

Approved February 8, 1996.

LEGISLATIVE HISTORY—S. 652 (H.R. 1555):

HOUSE REPORTS: No. 104–204, Pt. 1 accompanying H.R. 1555 (Comm. on Commerce).

SENATE REPORTS: Nos. 104–23 (Comm. on Commerce, Science, and Transportation) and 104–230 (Comm. of Conference).

CONGRESSIONAL RECORD:

Vol. 141 (1995): June 7–9, 12–15, considered and passed Senate.
Aug. 2, 4, H.R. 1555 considered and passed House.
Oct. 12, S. 652 considered and passed House, amended, in lieu of H.R. 1555.

Vol. 142 (1996): Feb. 1, House and Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 32 (1996):
Feb. 8, Presidential remarks and statement.

Public Law 104–105
104th Congress

An Act

Feb. 10, 1996
[H.R. 2029]

To amend the Farm Credit Act of 1971 to provide regulatory relief, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Farm Credit System Reform Act of 1996.
Loans.
12 USC 2001 note.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Farm Credit System Reform Act of 1996".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—AGRICULTURAL MORTGAGE SECONDARY MARKET

Sec. 101. Definition of real estate.
Sec. 102. Definition of certified facility.
Sec. 103. Duties of Federal Agricultural Mortgage Corporation.
Sec. 104. Powers of the Corporation.
Sec. 105. Federal reserve banks as depositaries and fiscal agents.
Sec. 106. Certification of agricultural mortgage marketing facilities.
Sec. 107. Guarantee of qualified loans.
Sec. 108. Mandatory reserves and subordinated participation interests eliminated.
Sec. 109. Standards requiring diversified pools.
Sec. 110. Small farms.
Sec. 111. Definition of an affiliate.
Sec. 112. State usury laws superseded.
Sec. 113. Extension of capital transition period.
Sec. 114. Minimum capital level.
Sec. 115. Critical capital level.
Sec. 116. Enforcement levels.
Sec. 117. Recapitalization of the Corporation.
Sec. 118. Liquidation of the Federal Agricultural Mortgage Corporation.

TITLE II—REGULATORY RELIEF

Sec. 201. Compensation of association personnel.
Sec. 202. Use of private mortgage insurance.
Sec. 203. Removal of certain borrower reporting requirement.
Sec. 204. Reform of regulatory limitations on dividend, member business, and voting practices of eligible farmer-owned cooperatives.
Sec. 205. Removal of Federal Government certification requirement for certain private sector financings.
Sec. 206. Borrower stock.
Sec. 207. Disclosure relating to adjustable rate loans.
Sec. 208. Borrowers' rights.
Sec. 209. Formation of administrative service entities.
Sec. 210. Joint management agreements.
Sec. 211. Dissemination of quarterly reports.
Sec. 212. Regulatory review.
Sec. 213. Examination of farm credit system institutions.
Sec. 214. Conservatorships and receiverships.
Sec. 215. Farm Credit Insurance Fund operations.
Sec. 216. Examinations by the Farm Credit System Insurance Corporation.
Sec. 217. Powers with respect to troubled insured System banks.

Sec. 218. Oversight and regulatory actions by the Farm Credit System Insurance Corporation.
Sec. 219. Farm Credit System Insurance Corporation board of directors.
Sec. 220. Interest rate reduction program.
Sec. 221. Liability for making criminal referrals.

TITLE III—IMPLEMENTATION AND EFFECTIVE DATE

Sec. 301. Implementation.
Sec. 302. Effective date.

TITLE I—AGRICULTURAL MORTGAGE SECONDARY MARKET

SEC. 101. DEFINITION OF REAL ESTATE.

Section 8.0(1)(B)(ii) of the Farm Credit Act of 1971 (12 U.S.C. 2279aa(1)(B)(ii)) is amended by striking "with a purchase price" and inserting ", excluding the land to which the dwelling is affixed, with a value".

SEC. 102. DEFINITION OF CERTIFIED FACILITY.

Section 8.0(3) of the Farm Credit Act of 1971 (12 U.S.C. 2279aa(3)) is amended—

(1) in subparagraph (A), by striking "a secondary marketing agricultural loan" and inserting "an agricultural mortgage marketing"; and

(2) in subparagraph (B), by striking ", but only" and all that follows through "(9)(B)".

SEC. 103. DUTIES OF FEDERAL AGRICULTURAL MORTGAGE CORPORATION.

Section 8.1(b) of the Farm Credit Act of 1971 (12 U.S.C. 2279aa–1(b)) is amended—

(1) in paragraph (2), by striking "and" at the end;

(2) in paragraph (3), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(4) purchase qualified loans and issue securities representing interests in, or obligations backed by, the qualified loans, guaranteed for the timely repayment of principal and interest.".

SEC. 104. POWERS OF THE CORPORATION.

Section 8.3(c) of the Farm Credit Act of 1971 (12 U.S.C. 2279aa–3(c)) is amended—

(1) by redesignating paragraphs (13) and (14) as paragraphs (14) and (15), respectively; and

(2) by inserting after paragraph (12) the following:

"(13) To purchase, hold, sell, or assign a qualified loan, to issue a guaranteed security, representing an interest in, or an obligation backed by, the qualified loan, and to perform all the functions and responsibilities of an agricultural mortgage marketing facility operating as a certified facility under this title.".

SEC. 105. FEDERAL RESERVE BANKS AS DEPOSITARIES AND FISCAL AGENTS.

Section 8.3 of the Farm Credit Act of 1971 (12 U.S.C. 2279aa–3) is amended—

(1) in subsection (d), by striking "may act as depositories for, or" and inserting "shall act as depositories for, and"; and

(2) in subsection (e), by striking "Secretary of the Treasury may authorize the Corporation to use" and inserting "Corporation shall have access to".

SEC. 106. CERTIFICATION OF AGRICULTURAL MORTGAGE MARKETING FACILITIES.

Section 8.5 of the Farm Credit Act of 1971 (12 U.S.C. 2279aa–5) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by inserting "(other than the Corporation)" after "agricultural mortgage marketing facilities"; and

(B) in paragraph (2), by inserting "(other than the Corporation)" after "agricultural mortgage marketing facility"; and

(2) in subsection (e)(1), by striking "(other than the Corporation)".

SEC. 107. GUARANTEE OF QUALIFIED LOANS.

Section 8.6 of the Farm Credit Act of 1971 (12 U.S.C. 2279aa–6) is amended—

(1) in subsection (a)(1)—

(A) by striking "Corporation shall guarantee" and inserting the following: "Corporation—

"(A) shall guarantee";

(B) by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(B) may issue a security, guaranteed as to the timely payment of principal and interest, that represents an interest solely in, or an obligation fully backed by, a pool consisting of qualified loans that—

"(i) meet the standards established under section 8.8; and

"(ii) have been purchased and held by the Corporation.";

(2) in subsection (d)—

(A) by striking paragraph (4); and

(B) by redesignating paragraphs (5), (6), and (7) as paragraphs (4), (5), and (6), respectively; and

(3) in subsection (g)(2), by striking "section 8.0(9)(B))" and inserting "section 8.0(9))".

SEC. 108. MANDATORY RESERVES AND SUBORDINATED PARTICIPATION INTERESTS ELIMINATED.

(a) GUARANTEE OF QUALIFIED LOANS.—Section 8.6 of the Farm Credit Act of 1971 (12 U.S.C. 2279aa–6) is amended by striking subsection (b).

(b) RESERVES AND SUBORDINATED PARTICIPATION INTERESTS.—Section 8.7 of the Farm Credit Act of 1971 (12 U.S.C. 2279aa–7) is repealed.

(c) CONFORMING AMENDMENTS.—

(1) Section 8.0(9)(B)(i) of the Farm Credit Act of 1971 (12 U.S.C. 2279aa(9)(B)(i)) is amended by striking "8.7, 8.8," and inserting "8.8".

(2) Section 8.6(a)(2) of the Farm Credit Act of 1971 (12 U.S.C. 2279aa–6(a)(2)) is amended by striking "subject to the provisions of subsection (b)".

SEC. 109. STANDARDS REQUIRING DIVERSIFIED POOLS.

(a) IN GENERAL.—Section 8.6 of the Farm Credit Act of 1971 (12 U.S.C. 2279aa–6) (as amended by section 108) is amended—

(1) by striking subsection (c); and

(2) by redesignating subsections (d) through (g) as subsections (b) through (e), respectively.

(b) CONFORMING AMENDMENTS.—

(1) Section 8.0(9)(B)(i) of the Farm Credit Act of 1971 (12 U.S.C. 2279aa(9)(B)(i)) is amended by striking "(f)" and inserting "(d)".

(2) Section 8.13(a) of the Farm Credit Act of 1971 (12 U.S.C. 2279aa–13(a)) is amended by striking "sections 8.6(b) and" in each place it appears and inserting "section".

(3) Section 8.32(b)(1)(C) of the Farm Credit Act of 1971 (12 U.S.C. 2279bb–1(b)(1)(C)) is amended—

(A) by striking "shall" and inserting "may"; and

(B) by inserting "(as in effect before the date of the enactment of the Farm Credit System Reform Act of 1996)" before the semicolon.

(4) Section 8.6(b) of the Farm Credit Act of 1971 (12 U.S.C. 2279aa–6(b)) (as redesignated by subsection (a)(2)) is amended—

(A) by striking paragraph (4) (as redesignated by section 107(2)(B)); and

(B) by redesignating paragraphs (5) and (6) (as redesignated by section 107(2)(B)) as paragraphs (4) and (5), respectively.

SEC. 110. SMALL FARMS.

Section 8.8(e) of the Farm Credit Act of 1971 (12 U.S.C. 2279aa–8(e)) is amended by adding at the end the following: "The Board shall promote and encourage the inclusion of qualified loans for small farms and family farmers in the agricultural mortgage secondary market.".

SEC. 111. DEFINITION OF AN AFFILIATE.

Section 8.11(e) of the Farm Credit Act of 1971 (12 U.S.C. 2279aa–11(e)) is amended—

(1) by striking "a certified facility or"; and

(2) by striking "paragraphs (3) and (7), respectively, of section 8.0" and inserting "section 8.0(7)".

SEC. 112. STATE USURY LAWS SUPERSEDED.

Section 8.12 of the Farm Credit Act of 1971 (12 U.S.C. 2279aa–12) is amended by striking subsection (d) and inserting the following:

"(d) STATE USURY LAWS SUPERSEDED.—A provision of the Constitution or law of any State shall not apply to an agricultural loan made by an originator or a certified facility in accordance with this title for sale to the Corporation or to a certified facility for inclusion in a pool for which the Corporation has provided, or has committed to provide, a guarantee, if the loan, not later than 180 days after the date the loan was made, is sold to the Corporation or included in a pool for which the Corporation has provided a guarantee, if the provision—

"(1) limits the rate or amount of interest, discount points, finance charges, or other charges that may be charged, taken,

received, or reserved by an agricultural lender or a certified facility; or

"(2) limits or prohibits a prepayment penalty (either fixed or declining), yield maintenance, or make-whole payment that may be charged, taken, or received by an agricultural lender or a certified facility in connection with the full or partial payment of the principal amount due on a loan by a borrower in advance of the scheduled date for the payment under the terms of the loan, otherwise known as a prepayment of the loan principal.".

SEC. 113. EXTENSION OF CAPITAL TRANSITION PERIOD.

Section 8.32 of the Farm Credit Act of 1971 (12 U.S.C. 2279bb–1) is amended—

(1) in the first sentence of subsection (a), by striking "Not later than the expiration of the 2-year period beginning on December 13, 1991," and inserting "Not sooner than the expiration of the 3-year period beginning on the date of enactment of the Farm Credit System Reform Act of 1996,";

(2) in the first sentence of subsection (b)(2), by striking "5-year" and inserting "8-year"; and

(3) in subsection (d)—

(A) in the first sentence—

(i) by striking "The regulations establishing" and inserting the following:

"(1) IN GENERAL.—The regulations establishing"; and

(ii) by striking "shall contain" and inserting the following: "shall—

"(A) be issued by the Director for public comment in the form of a notice of proposed rulemaking, to be first published after the expiration of the period referred to in subsection (a); and

"(B) contain"; and

(B) in the second sentence, by striking "The regulations shall" and inserting the following:

"(2) SPECIFICITY.—The regulations referred to in paragraph (1) shall".

SEC. 114. MINIMUM CAPITAL LEVEL.

Section 8.33 of the Farm Credit Act of 1971 (12 U.S.C. 2279bb–2) is amended to read as follows:

"SEC. 8.33. MINIMUM CAPITAL LEVEL.

"(a) IN GENERAL.—Except as provided in subsection (b), for purposes of this subtitle, the minimum capital level for the Corporation shall be an amount of core capital equal to the sum of—

"(1) 2.75 percent of the aggregate on-balance sheet assets of the Corporation, as determined in accordance with generally accepted accounting principles; and

"(2) 0.75 percent of the aggregate off-balance sheet obligations of the Corporation, which, for the purposes of this subtitle, shall include—

"(A) the unpaid principal balance of outstanding securities that are guaranteed by the Corporation and backed by pools of qualified loans;

"(B) instruments that are issued or guaranteed by the Corporation and are substantially equivalent to instruments described in subparagraph (A); and

"(C) other off-balance sheet obligations of the Corporation.

"(b) TRANSITION PERIOD.—

"(1) IN GENERAL.—For purposes of this subtitle, the minimum capital level for the Corporation—

"(A) prior to January 1, 1997, shall be the amount of core capital equal to the sum of—

"(i) 0.45 percent of aggregate off-balance sheet obligations of the Corporation;

"(ii) 0.45 percent of designated on-balance sheet assets of the Corporation, as determined under paragraph (2); and

"(iii) 2.50 percent of on-balance sheet assets of the Corporation other than assets designated under paragraph (2);

"(B) during the 1-year period ending December 31, 1997, shall be the amount of core capital equal to the sum of—

"(i) 0.55 percent of aggregate off-balance sheet obligations of the Corporation;

"(ii) 1.20 percent of designated on-balance sheet assets of the Corporation, as determined under paragraph (2); and

"(iii) 2.55 percent of on-balance sheet assets of the Corporation other than assets designated under paragraph (2);

"(C) during the 1-year period ending December 31, 1998, shall be the amount of core capital equal to—

"(i) if the Corporation's core capital is not less than $25,000,000 on January 1, 1998, the sum of—

"(I) 0.65 percent of aggregate off-balance sheet obligations of the Corporation;

"(II) 1.95 percent of designated on-balance sheet assets of the Corporation, as determined under paragraph (2); and

"(III) 2.65 percent of on-balance sheet assets of the Corporation other than assets designated under paragraph (2); or

"(ii) if the Corporation's core capital is less than $25,000,000 on January 1, 1998, the amount determined under subsection (a); and

"(D) on and after January 1, 1999, shall be the amount determined under subsection (a).

"(2) DESIGNATED ON-BALANCE SHEET ASSETS.—For purposes of this subsection, the designated on-balance sheet assets of the Corporation shall be—

"(A) the aggregate on-balance sheet assets of the Corporation acquired under section 8.6(e); and

"(B) the aggregate amount of qualified loans purchased and held by the Corporation under section 8.3(c)(13).".

SEC. 115. CRITICAL CAPITAL LEVEL.

Section 8.34 of the Farm Credit Act of 1971 (12 U.S.C. 2279bb–3) is amended to read as follows:

"SEC. 8.34. CRITICAL CAPITAL LEVEL.

"For purposes of this subtitle, the critical capital level for the Corporation shall be an amount of core capital equal to 50

percent of the total minimum capital amount determined under section 8.33.".

SEC. 116. ENFORCEMENT LEVELS.

Section 8.35(e) of the Farm Credit Act of 1971 (12 U.S.C. 2279bb–4(e)) is amended by striking "during the 30-month period beginning on the date of the enactment of this section," and inserting "during the period beginning on December 13, 1991, and ending on the effective date of the risk based capital regulation issued by the Director under section 8.32,".

SEC. 117. RECAPITALIZATION OF THE CORPORATION.

Title VIII of the Farm Credit Act of 1971 (12 U.S.C. 2279aa et seq.) is amended by adding at the end the following:

12 USC 2279bb–7.

"SEC. 8.38. RECAPITALIZATION OF THE CORPORATION.

"(a) MANDATORY RECAPITALIZATION.—The Corporation shall increase the core capital of the Corporation to an amount equal to or greater than $25,000,000, not later than the earlier of—

"(1) the date that is 2 years after the date of enactment of this section; or

"(2) the date that is 180 days after the end of the first calendar quarter that the aggregate on-balance sheet assets of the Corporation, plus the outstanding principal of the off-balance sheet obligations of the Corporation, equal or exceed $2,000,000,000.

"(b) RAISING CORE CAPITAL.—In carrying out this section, the Corporation may issue stock under section 8.4 and otherwise employ any recognized and legitimate means of raising core capital in the power of the Corporation under section 8.3.

"(c) LIMITATION ON GROWTH OF TOTAL ASSETS.—During the 2-year period beginning on the date of enactment of this section, the aggregate on-balance sheet assets of the Corporation plus the outstanding principal of the off-balance sheet obligations of the Corporation may not exceed $3,000,000,000 if the core capital of the Corporation is less than $25,000,000.

"(d) ENFORCEMENT.—If the Corporation fails to carry out subsection (a) by the date required under paragraph (1) or (2) of subsection (a), the Corporation may not purchase a new qualified loan or issue or guarantee a new loan-backed security until the core capital of the Corporation is increased to an amount equal to or greater than $25,000,000.".

SEC. 118. LIQUIDATION OF THE FEDERAL AGRICULTURAL MORTGAGE CORPORATION.

Title VIII of the Farm Credit Act of 1971 (12 U.S.C. 2279aa et seq.) (as amended by section 117) is amended by adding at the end the following:

"Subtitle C—Receivership, Conservatorship, and Liquidation of the Federal Agricultural Mortgage Corporation

12 USC 2279cc

"SEC. 8.41. CONSERVATORSHIP; LIQUIDATION; RECEIVERSHIP.

"(a) VOLUNTARY LIQUIDATION.—The Corporation may voluntarily liquidate only with the consent of, and in accordance with

a plan of liquidation approved by, the Farm Credit Administration Board.

"(b) INVOLUNTARY LIQUIDATION.—

"(1) IN GENERAL.—The Farm Credit Administration Board may appoint a conservator or receiver for the Corporation under the circumstances specified in section 4.12(b).

"(2) APPLICATION.—In applying section 4.12(b) to the Corporation under paragraph (1)—

"(A) the Corporation shall also be considered insolvent if the Corporation is unable to pay its debts as they fall due in the ordinary course of business;

"(B) a conservator may also be appointed for the Corporation if the authority of the Corporation to purchase qualified loans or issue or guarantee loan-backed securities is suspended; and

"(C) a receiver may also be appointed for the Corporation if—

"(i)(I) the authority of the Corporation to purchase qualified loans or issue or guarantee loan-backed securities is suspended; or

"(II) the Corporation is classified under section 8.35 as within level III or IV and the alternative actions available under subtitle B are not satisfactory; and

"(ii) the Farm Credit Administration determines that the appointment of a conservator would not be appropriate.

"(3) NO EFFECT ON SUPERVISORY ACTIONS.—The grounds for appointment of a conservator for the Corporation under this subsection shall be in addition to those in section 8.37.

"(c) APPOINTMENT OF CONSERVATOR OR RECEIVER.—

"(1) QUALIFICATIONS.—Notwithstanding section 4.12(b), if a conservator or receiver is appointed for the Corporation, the conservator or receiver shall be—

"(A) the Farm Credit Administration or any other governmental entity or employee, including the Farm Credit System Insurance Corporation; or

"(B) any person that—

"(i) has no claim against, or financial interest in, the Corporation or other basis for a conflict of interest as the conservator or receiver; and

"(ii) has the financial and management expertise necessary to direct the operations and affairs of the Corporation and, if necessary, to liquidate the Corporation.

"(2) COMPENSATION.—

"(A) IN GENERAL.—A conservator or receiver for the Corporation and professional personnel (other than a Federal employee) employed to represent or assist the conservator or receiver may be compensated for activities conducted as, or for, a conservator or receiver.

"(B) LIMIT ON COMPENSATION.—Compensation may not be provided in amounts greater than the compensation paid to employees of the Federal Government for similar services, except that the Farm Credit Administration may provide for compensation at higher rates that are not in excess of rates prevailing in the private sector if the Farm

Credit Administration determines that compensation at higher rates is necessary in order to recruit and retain competent personnel.

"(C) CONTRACTUAL ARRANGEMENTS.—The conservator or receiver may contract with any governmental entity, including the Farm Credit System Insurance Corporation, to make personnel, services, and facilities of the entity available to the conservator or receiver on such terms and compensation arrangements as shall be mutually agreed, and each entity may provide the same to the conservator or receiver.

Claims.

"(3) EXPENSES.—A valid claim for expenses of the conservatorship or receivership (including compensation under paragraph (2)) and a valid claim with respect to a loan made under subsection (f) shall—

"(A) be paid by the conservator or receiver from funds of the Corporation before any other valid claim against the Corporation; and

"(B) may be secured by a lien, on such property of the Corporation as the conservator or receiver may determine, that shall have priority over any other lien.

"(4) LIABILITY.—If the conservator or receiver for the Corporation is not a Federal entity, or an officer or employee of the Federal Government, the conservator or receiver shall not be personally liable for damages in tort or otherwise for an act or omission performed pursuant to and in the course of the conservatorship or receivership, unless the act or omission constitutes gross negligence or any form of intentional tortious conduct or criminal conduct.

"(5) INDEMNIFICATION.—The Farm Credit Administration may allow indemnification of the conservator or receiver from the assets of the conservatorship or receivership on such terms as the Farm Credit Administration considers appropriate.

"(d) JUDICIAL REVIEW OF APPOINTMENT.—

"(1) IN GENERAL.—Notwithstanding subsection (i)(1), not later than 30 days after a conservator or receiver is appointed under subsection (b), the Corporation may bring an action in the United States District Court for the District of Columbia for an order requiring the Farm Credit Administration Board to remove the conservator or receiver. The court shall, on the merits, dismiss the action or direct the Farm Credit Administration Board to remove the conservator or receiver.

"(2) STAY OF OTHER ACTIONS.—On the commencement of an action under paragraph (1), any court having jurisdiction of any other action or enforcement proceeding authorized under this Act to which the Corporation is a party shall stay the action or proceeding during the pendency of the action for removal of the conservator or receiver.

"(e) GENERAL POWERS OF CONSERVATOR OR RECEIVER.—The conservator or receiver for the Corporation shall have such powers to conduct the conservatorship or receivership as shall be provided pursuant to regulations adopted by the Farm Credit Administration Board. Such powers shall be comparable to the powers available to a conservator or receiver appointed pursuant to section 4.12(b).

"(f) BORROWINGS FOR WORKING CAPITAL.—

"(1) IN GENERAL.—If the conservator or receiver of the Corporation determines that it is likely that there will be

insufficient funds to pay the ongoing administrative expenses of the conservatorship or receivership or that there will be insufficient liquidity to fund maturing obligations of the conservatorship or receivership, the conservator or receiver may borrow funds in such amounts, from such sources, and at such rates of interest as the conservator or receiver considers necessary or appropriate to meet the administrative expenses or liquidity needs of the conservatorship or receivership.

"(2) WORKING CAPITAL FROM FARM CREDIT BANKS.—A Farm Credit bank may loan funds to the conservator or receiver for a loan authorized under paragraph (1) or, in the event of receivership, a Farm Credit bank may purchase assets of the Corporation.

"(g) AGREEMENTS AGAINST INTERESTS OF CONSERVATOR OR RECEIVER.—No agreement that tends to diminish or defeat the right, title, or interest of the conservator or receiver for the Corporation in any asset acquired by the conservator or receiver as conservator or receiver for the Corporation shall be valid against the conservator or receiver unless the agreement—

"(1) is in writing;

"(2) is executed by the Corporation and any person claiming an adverse interest under the agreement, including the obligor, contemporaneously with the acquisition of the asset by the Corporation;

"(3) is approved by the Board or an appropriate committee of the Board, which approval shall be reflected in the minutes of the Board or committee; and

"(4) has been, continuously, from the time of the agreement's execution, an official record of the Corporation.

"(h) REPORT TO THE CONGRESS.—On a determination by the receiver for the Corporation that there are insufficient assets of the receivership to pay all valid claims against the receivership, the receiver shall submit to the Secretary of the Treasury, the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on the financial condition of the receivership.

"(i) TERMINATION OF AUTHORITIES.—

"(1) CORPORATION.—The charter of the Corporation shall be canceled, and the authority provided to the Corporation by this title shall terminate, on such date as the Farm Credit Administration Board determines is appropriate following the placement of the Corporation in receivership, but not later than the conclusion of the receivership and discharge of the receiver.

"(2) OVERSIGHT.—The Office of Secondary Market Oversight established under section 8.11 shall be abolished, and section 8.11(a) and subtitle B shall have no force or effect, on such date as the Farm Credit Administration Board determines is appropriate following the placement of the Corporation in receivership, but not later than the conclusion of the receivership and discharge of the receiver.". Government organization.

TITLE II—REGULATORY RELIEF

SEC. 201. COMPENSATION OF ASSOCIATION PERSONNEL.

Section 1.5(13) of the Farm Credit Act of 1971 (12 U.S.C. 2013(13)) is amended by striking ", and the appointment and compensation of the chief executive officer thereof,".

SEC. 202. USE OF PRIVATE MORTGAGE INSURANCE.

(a) IN GENERAL.—Section 1.10(a)(1) of the Farm Credit Act of 1971 (12 U.S.C. 2018(a)(1)) is amended by adding at the end the following:

"(D) PRIVATE MORTGAGE INSURANCE.—A loan on which private mortgage insurance is obtained may exceed 85 percent of the appraised value of the real estate security to the extent that the loan amount in excess of such 85 percent is covered by the insurance.".

(b) CONFORMING AMENDMENT.—Section 1.10(a)(1)(A) of the Farm Credit Act of 1971 (12 U.S.C. 2018(a)(1)(A)) is amended by striking "paragraphs (2) and (3)" and inserting "subparagraphs (C) and (D)".

SEC. 203. REMOVAL OF CERTAIN BORROWER REPORTING REQUIREMENT.

Section 1.10(a) of the Farm Credit Act of 1971 (12 U.S.C. 2018(a)) is amended by striking paragraph (5).

SEC. 204. REFORM OF REGULATORY LIMITATIONS ON DIVIDEND, MEMBER BUSINESS, AND VOTING PRACTICES OF ELIGIBLE FARMER-OWNED COOPERATIVES.

(a) IN GENERAL.—Section 3.8(a) of the Farm Credit Act of 1971 (12 U.S.C. 2129(a)) is amended by adding at the end the following: "Any such association that has received a loan from a bank for cooperatives shall, without regard to the requirements of paragraphs (1) through (4), continue to be eligible for so long as more than 50 percent (or such higher percentage as is established by the bank board) of the voting control of the association is held by farmers, producers or harvesters of aquatic products, or eligible cooperative associations.".

(b) CONFORMING AMENDMENT.—Section 3.8(b)(1)(D) of the Farm Credit Act of 1971 (12 U.S.C. 2129(b)(1)(D)) is amended by striking "and (4) of subsection (a)" and inserting "and (4), or under the last sentence, of subsection (a)".

SEC. 205. REMOVAL OF FEDERAL GOVERNMENT CERTIFICATION REQUIREMENT FOR CERTAIN PRIVATE SECTOR FINANCINGS.

Section 3.8(b)(1)(A) of the Farm Credit Act of 1971 (12 U.S.C. 2129(b)(1)(A)) is amended—

(1) by striking "have been certified by the Administrator of the Rural Electrification Administration to be eligible for such" and inserting "are eligible under the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.) for"; and

(2) by striking "loan guarantee, and" and inserting "loan guarantee from the Administration or the Bank (or a successor of the Administration or the Bank), and".

SEC. 206. BORROWER STOCK.

Section 4.3A of the Farm Credit Act of 1971 (12 U.S.C. 2154a) is amended—

(1) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively; and

(2) by inserting after subsection (e) the following:

"(f) LOANS DESIGNATED FOR SALE OR SOLD INTO THE SECONDARY MARKET.—

"(1) IN GENERAL.—Subject to paragraph (2) and notwithstanding any other provision of this section, the bylaws adopted by a bank or association under subsection (b) may provide—

"(A) in the case of a loan made on or after the date of enactment of this paragraph that is designated, at the time the loan is made, for sale into a secondary market, that no voting stock or participation certificate purchase requirement shall apply to the borrower for the loan; and

"(B) in the case of a loan made before the date of enactment of this paragraph that is sold into a secondary market, that all outstanding voting stock or participation certificates held by the borrower with respect to the loan shall, subject to subsection (d)(1), be retired.

"(2) APPLICABILITY.—Notwithstanding any other provision of this section, in the case of a loan sold to a secondary market under title VIII, paragraph (1) shall apply regardless of whether the bank or association retains a subordinated participation interest in a loan or pool of loans or contributes to a cash reserve.

"(3) EXCEPTION.—

"(A) IN GENERAL.—Subject to subparagraph (B) and notwithstanding any other provision of this section, if a loan designated for sale under paragraph (1)(A) is not sold into a secondary market during the 180-day period that begins on the date of the designation, the voting stock or participation certificate purchase requirement that would otherwise apply to the loan in the absence of a bylaw provision described in paragraph (1)(A) shall be effective.

"(B) RETIREMENT.—The bylaws adopted by a bank or association under subsection (b) may provide that if a loan described in subparagraph (A) is sold into a secondary market after the end of the 180-day period described in the subparagraph, all outstanding voting stock or participation certificates held by the borrower with respect to the loan shall, subject to subsection (d)(1), be retired.".

SEC. 207. DISCLOSURE RELATING TO ADJUSTABLE RATE LOANS.

Section 4.13(a)(4) of the Farm Credit Act of 1971 (12 U.S.C. 2199(a)(4)) is amended by inserting before the semicolon at the end the following: ", and notice to the borrower of a change in the interest rate applicable to the loan of the borrower may be made within a reasonable time after the effective date of an increase or decrease in the interest rate".

SEC. 208. BORROWERS' RIGHTS.

(a) DEFINITION OF LOAN.—Section 4.14A(a)(5) of the Farm Credit Act of 1971 (12 U.S.C. 2202a(a)(5)) is amended—

(1) by striking "(5) LOAN.—The" and inserting the following:

"(5) LOAN.—

"(A) IN GENERAL.—Subject to subparagraph (B), the"; and

(2) by adding at the end the following:

"(B) EXCLUSION FOR LOANS DESIGNATED FOR SALE INTO SECONDARY MARKET.—

"(i) IN GENERAL.—Except as provided in clause (ii), the term 'loan' does not include a loan made on or after the date of enactment of this subparagraph that is designated, at the time the loan is made, for sale into a secondary market.

"(ii) UNSOLD LOANS.—

"(I) IN GENERAL.—Except as provided in subclause (II), if a loan designated for sale under clause (i) is not sold into a secondary market during the 180-day period that begins on the date of the designation, the provisions of this section and sections 4.14, 4.14B, 4.14C, 4.14D, and 4.36 that would otherwise apply to the loan in the absence of the exclusion described in clause (i) shall become effective with respect to the loan.

"(II) LATER SALE.—If a loan described in subclause (I) is sold into a secondary market after the end of the 180-day period described in subclause (I), subclause (I) shall not apply with respect to the loan beginning on the date of the sale.".

(b) BORROWERS' RIGHTS FOR POOLED LOANS.—The first sentence of section 8.9(b) of the Farm Credit Act of 1971 (12 U.S.C. 2279aa–9(b)) is amended by inserting "(as defined in section 4.14A(a)(5))" after "application for a loan".

SEC. 209. FORMATION OF ADMINISTRATIVE SERVICE ENTITIES.

Part E of title IV of the Farm Credit Act of 1971 is amended by inserting after section 4.28 (12 U.S.C. 2214) the following:

12 USC 2214a.

"SEC. 4.28A. DEFINITION OF BANK.

"In this part, the term 'bank' includes each association operating under title II.".

SEC. 210. JOINT MANAGEMENT AGREEMENTS.

The first sentence of section 5.17(a)(2)(A) of the Farm Credit Act of 1971 (12 U.S.C. 2252(a)(2)(A)) is amended by striking "or management agreements".

SEC. 211. DISSEMINATION OF QUARTERLY REPORTS.

Section 5.17(a)(8) of the Farm Credit Act of 1971 (12 U.S.C. 2252(a)(8)) is amended by inserting after "except that" the following: "the requirements of the Farm Credit Administration governing the dissemination to stockholders of quarterly reports of System institutions may not be more burdensome or costly than the requirements applicable to national banks, and".

12 USC 2252 note.

SEC. 212. REGULATORY REVIEW.

(a) FINDINGS.—Congress finds that—

(1) the Farm Credit Administration, in the role of the Administration as an arms-length safety and soundness regu-

lator, has made considerable progress in reducing the regulatory burden on Farm Credit System institutions;

(2) the efforts of the Farm Credit Administration described in paragraph (1) have resulted in cost savings for Farm Credit System institutions; and

(3) the cost savings described in paragraph (2) ultimately benefit the farmers, ranchers, agricultural cooperatives, and rural residents of the United States.

(b) CONTINUATION OF REGULATORY REVIEW.—The Farm Credit Administration shall continue the comprehensive review of regulations governing the Farm Credit System to identify and eliminate, consistent with law, safety, and soundness, all regulations that are unnecessary, unduly burdensome or costly, or not based on law.

SEC. 213. EXAMINATION OF FARM CREDIT SYSTEM INSTITUTIONS.

The first sentence of section 5.19(a) of the Farm Credit Act of 1971 (12 U.S.C. 2254(a)) is amended by striking "each year" and inserting "during each 18-month period".

SEC. 214. CONSERVATORSHIPS AND RECEIVERSHIPS.

(a) DEFINITIONS.—Section 5.51 of the Farm Credit Act of 1971 (12 U.S.C. 2277a) is amended—

(1) by striking paragraph (5); and

(2) by redesignating paragraph (6) as paragraph (5).

(b) GENERAL CORPORATE POWERS.—Section 5.58 of the Farm Credit Act of 1971 (12 U.S.C. 2277a–7) is amended by striking paragraph (9) and inserting the following:

"(9) CONSERVATOR OR RECEIVER.—The Corporation may act as a conservator or receiver.".

SEC. 215. FARM CREDIT INSURANCE FUND OPERATIONS.

(a) ADJUSTMENT OF PREMIUMS.—

(1) IN GENERAL.—Section 5.55(a) of the Farm Credit Act of 1971 (12 U.S.C. 2277a–4(a)) is amended—

(A) in paragraph (1), by striking "Until the aggregate of amounts in the Farm Credit Insurance Fund exceeds the secure base amount, the annual premium due from any insured System bank for any calendar year" and inserting the following: "If at the end of any calendar year the aggregate of amounts in the Farm Credit Insurance Fund does not exceed the secure base amount, subject to paragraph (2), the annual premium due from any insured System bank for the calendar year";

(B) by redesignating paragraph (2) as paragraph (3); and

(C) by inserting after paragraph (1) the following:

"(2) REDUCED PREMIUMS.—The Corporation, in the sole discretion of the Corporation, may reduce by a percentage uniformly applied to all insured System banks the annual premium due from each insured System bank during any calendar year, as determined under paragraph (1).".

(2) CONFORMING AMENDMENTS.—

(A) Section 5.55(b) of the Farm Credit Act of 1971 (12 U.S.C. 2277a–4(b)) is amended—

(i) by striking "Insurance Fund" each place it appears and inserting "Farm Credit Insurance Fund";

(ii) by striking "for the following calendar year"; and

(iii) by striking "subsection (a)" and inserting "subsection (a)(1)".

(B) Section 5.56(a) of the Farm Credit Act of 1971 (12 U.S.C. 2277a–5(a)) is amended by striking "section 5.55(a)(2)" each place it appears in paragraphs (2) and (3) and inserting "section 5.55(a)(3)".

(C) Section 1.12(b) (12 U.S.C. 2020(b)) is amended—

(i) in paragraph (1), by inserting "(as defined in section 5.55(a)(3))" after "government-guaranteed loans"; and

(ii) in paragraph (3), by inserting "(as so defined)" after "government-guaranteed loans" each place such term appears.

(b) ALLOCATION TO INSURED SYSTEM BANKS AND OTHER SYSTEM INSTITUTIONS OF EXCESS AMOUNTS IN THE FARM CREDIT INSURANCE FUND.—Section 5.55 of the Farm Credit Act of 1971 (12 U.S.C. 2277a–4) is amended by adding at the end the following:

"(e) ALLOCATION TO SYSTEM INSTITUTIONS OF EXCESS RESERVES.—

"(1) ESTABLISHMENT OF ALLOCATED INSURANCE RESERVES ACCOUNTS.—There is hereby established in the Farm Credit Insurance Fund an Allocated Insurance Reserves Account—

"(A) for each insured System bank; and

"(B) subject to paragraph (6)(C), for all holders, in the aggregate, of Financial Assistance Corporation stock.

"(2) TREATMENT.—Amounts in any Allocated Insurance Reserves Account shall be considered to be part of the Farm Credit Insurance Fund.

"(3) ANNUAL ALLOCATIONS.—If, at the end of any calendar year, the aggregate of the amounts in the Farm Credit Insurance Fund exceeds the average secure base amount for the calendar year (as calculated on an average daily balance basis), the Corporation shall allocate to the Allocated Insurance Reserves Accounts the excess amount less the amount that the Corporation, in its sole discretion, determines to be the sum of the estimated operating expenses and estimated insurance obligations of the Corporation for the immediately succeeding calendar year.

"(4) ALLOCATION FORMULA.—From the total amount required to be allocated at the end of a calendar year under paragraph (3)—

"(A) 10 percent of the total amount shall be credited to the Allocated Insurance Reserves Account established under paragraph (1)(B), subject to paragraph (6)(C); and

"(B) there shall be credited to the Allocated Insurance Reserves Account of each insured System bank an amount that bears the same ratio to the total amount (less any amount credited under subparagraph (A)) as the average principal outstanding for the 3-year period ending on the end of the calendar year on loans made by the bank that are in accrual status bears to the average principal outstanding for the 3-year period ending on the end of the calendar year on loans made by all insured System banks that are in accrual status (excluding, in each case,

the guaranteed portions of government-guaranteed loans described in subsection (a)(1)(C)).

"(5) USE OF FUNDS IN ALLOCATED INSURANCE RESERVES ACCOUNTS.—To the extent that the sum of the operating expenses of the Corporation and the insurance obligations of the Corporation for a calendar year exceeds the sum of operating expenses and insurance obligations determined under paragraph (3) for the calendar year, the Corporation shall cover the expenses and obligations by—

"(A) reducing each Allocated Insurance Reserves Account by the same proportion; and

"(B) expending the amounts obtained under subparagraph (A) before expending other amounts in the Fund.

"(6) OTHER DISPOSITION OF ACCOUNT FUNDS.—

"(A) IN GENERAL.—As soon as practicable during each calendar year beginning more than 8 years after the date on which the aggregate of the amounts in the Farm Credit Insurance Fund exceeds the secure base amount, but not earlier than January 1, 2005, the Corporation may—

"(i) subject to subparagraphs (D) and (F), pay to each insured System bank, in a manner determined by the Corporation, an amount equal to the lesser of—

"(I) 20 percent of the balance in the insured System bank's Allocated Insurance Reserves Account as of the preceding December 31; or

"(II) 20 percent of the balance in the bank's Allocated Insurance Reserves Account on the date of the payment; and

"(ii) subject to subparagraphs (C), (E), and (F), pay to each System bank and association holding Financial Assistance Corporation stock a proportionate share, determined by dividing the number of shares of Financial Assistance Corporation stock held by the institution by the total number of shares of Financial Assistance Corporation stock outstanding, of the lesser of—

"(I) 20 percent of the balance in the Allocated Insurance Reserves Account established under paragraph (1)(B) as of the preceding December 31; or

"(II) 20 percent of the balance in the Allocated Insurance Reserves Account established under paragraph (1)(B) on the date of the payment.

"(B) AUTHORITY TO ELIMINATE OR REDUCE PAYMENTS.—The Corporation may eliminate or reduce payments during a calendar year under subparagraph (A) if the Corporation determines, in its sole discretion, that the payments, or other circumstances that might require use of the Farm Credit Insurance Fund, could cause the amount in the Farm Credit Insurance Fund during the calendar year to be less than the secure base amount.

"(C) REIMBURSEMENT FOR FINANCIAL ASSISTANCE CORPORATION STOCK.—

"(i) SUFFICIENT FUNDING.—Notwithstanding paragraph (4)(A), on provision by the Corporation for the accumulation in the Account established under para-

graph (1)(B) of funds in an amount equal to $56,000,000 (in addition to the amounts described in subparagraph (F)(ii)), the Corporation shall not allocate any further funds to the Account except to replenish the Account if funds are diminished below $56,000,000 by the Corporation under paragraph (5).

"(ii) WIND DOWN AND TERMINATION.—

"(I) FINAL DISBURSEMENTS.—On disbursement of $53,000,000 (in addition to the amounts described in subparagraph (F)(ii)) from the Allocated Insurance Reserves Account, the Corporation shall disburse the remaining amounts in the Account, as determined under subparagraph (A)(ii), without regard to the percentage limitations in subclauses (I) and (II) of subparagraph (A)(ii).

"(II) TERMINATION OF ACCOUNT.—On disbursement of $56,000,000 (in addition to the amounts described in subparagraph (F)(ii)) from the Allocated Insurance Reserves Account, the Corporation shall close the Account established under paragraph (1)(B) and transfer any remaining funds in the Account to the remaining Allocated Insurance Reserves Accounts in accordance with paragraph (4)(B) for the calendar year in which the transfer occurs.

"(D) DISTRIBUTION OF PAYMENTS RECEIVED.—Not later than 60 days after receipt of a payment made under subparagraph (A)(i), each insured System bank, in consultation with affiliated associations of the insured System bank, and taking into account the direct or indirect payment of insurance premiums by the associations, shall develop and implement an equitable plan to distribute payments received under subparagraph (A)(i) among the bank and associations of the bank.

"(E) EXCEPTION FOR PREVIOUSLY REIMBURSED ASSOCIATIONS.—For purposes of subparagraph (A)(ii), in any Farm Credit district in which the funding bank has reimbursed 1 or more affiliated associations of the bank for the previously unreimbursed portion of the Financial Assistance Corporation stock held by the associations, the funding bank shall be deemed to be the holder of the shares of Financial Assistance Corporation stock for which the funding bank has provided the reimbursement.

"(F) INITIAL PAYMENT.—Notwithstanding subparagraph (A), the initial payment made to each payee under subparagraph (A) shall be in such amount determined by the Corporation to be equal to the sum of—

"(i) the total of the amounts that would have been paid if payments under subparagraph (A) had been authorized to begin, under the same terms and conditions, in the first calendar year beginning more than 5 years after the date on which the aggregate of the amounts in the Farm Credit Insurance Fund exceeds the secure base amount, and to continue through the 2 immediately subsequent years;

"(ii) interest earned on any amounts that would have been paid as described in clause (i) from the

date on which the payments would have been paid as described in clause (i); and

"(iii) the payment to be made in the initial year described in subparagraph (A), based on the amount in each Account after subtracting the amounts to be paid under clauses (i) and (ii).".

(c) TECHNICAL AMENDMENTS.—Section 5.55(d) of the Farm Credit Act of 1971 (12 U.S.C. 2277a–4(d)) is amended—

(1) in the matter preceding paragraph (1)—

(A) by striking "subsections (a) and (c)" and inserting "subsections (a), (c), and (e)"; and

(B) by striking "a Farm Credit Bank" and inserting "an insured System bank"; and

(2) in paragraphs (1), (2), and (3), by striking "Farm Credit Bank" each place it appears and inserting "insured System bank".

SEC. 216. EXAMINATIONS BY THE FARM CREDIT SYSTEM INSURANCE CORPORATION.

Section 5.59(b)(1)(A) of the Farm Credit Act of 1971 (12 U.S.C. 2277a–8(b)(1)(A)) is amended by adding at the end the following: "Notwithstanding any other provision of this Act, on cancellation of the charter of a System institution, the Corporation shall have authority to examine the system institution in receivership. An examination shall be performed at such intervals as the Corporation shall determine.".

SEC. 217. POWERS WITH RESPECT TO TROUBLED INSURED SYSTEM BANKS.

(a) LEAST-COST RESOLUTION.—Section 5.61(a)(3) of the Farm Credit Act of 1971 (12 U.S.C. 2277a–10(a)) is amended—

(1) by redesignating subparagraph (B) as subparagraph (F); and

(2) by striking subparagraph (A) and inserting the following:

"(A) LEAST-COST RESOLUTION.—Assistance may not be provided to an insured System bank under this subsection unless the means of providing the assistance is the least costly means of providing the assistance by the Farm Credit Insurance Fund of all possible alternatives available to the Corporation, including liquidation of the bank (including paying the insured obligations issued on behalf of the bank). Before making a least-cost determination under this subparagraph, the Corporation shall accord such other insured System banks as the Corporation determines to be appropriate the opportunity to submit information relating to the determination.

"(B) DETERMINING LEAST COSTLY APPROACH.—In determining the least costly alternative under subparagraph (A), the Corporation shall—

"(i) evaluate alternatives on a present-value basis, using a reasonable discount rate;

"(ii) document the evaluation and the assumptions on which the evaluation is based; and

"(iii) retain the documentation for not less than 5 years.

"(C) TIME OF DETERMINATION.—

"(i) GENERAL RULE.—For purposes of this subsection, the determination of the costs of providing any assistance under any provision of this section with respect to any insured System bank shall be made as of the date on which the Corporation makes the determination to provide the assistance to the institution under this section.

"(ii) RULE FOR LIQUIDATIONS.—For purposes of this subsection, the determination of the costs of liquidation of any insured System bank shall be made as of the earliest of—

"(I) the date on which a conservator is appointed for the insured System bank;

"(II) the date on which a receiver is appointed for the insured System bank; or

"(III) the date on which the Corporation makes any determination to provide any assistance under this section with respect to the insured System bank.

"(D) RULE FOR STAND-ALONE ASSISTANCE.—Before providing any assistance under paragraph (1), the Corporation shall evaluate the adequacy of managerial resources of the insured System bank. The continued service of any director or senior ranking officer who serves in a policy-making role for the assisted insured System bank, as determined by the Corporation, shall be subject to approval by the Corporation as a condition of assistance.

"(E) DISCRETIONARY DETERMINATIONS.—Any determination that the Corporation makes under this paragraph shall be in the sole discretion of the Corporation.".

(b) CONFORMING AMENDMENTS.—Section 5.61(a) of the Farm Credit Act of 1971 (12 U.S.C. 2277a–10(a)) is amended—

(1) in paragraph (1) by striking "IN GENERAL.—" and inserting "STAND-ALONE ASSISTANCE.—"; and

(2) in paragraph (2)—

(A) by striking "ENUMERATED POWERS.—" and inserting "FACILITATION OF MERGERS OR CONSOLIDATION.—"; and

(B) in subparagraph (A) by striking "FACILITATION OF MERGERS OR CONSOLIDATION.—" and inserting "IN GENERAL.—".

SEC. 218. OVERSIGHT AND REGULATORY ACTIONS BY THE FARM CREDIT SYSTEM INSURANCE CORPORATION.

The Farm Credit Act of 1971 is amended by inserting after section 5.61 (12 U.S.C. 2279a–10) the following:

12 USC 2277a–10a.

"SEC. 5.61A. OVERSIGHT ACTIONS BY THE CORPORATION.

"(a) DEFINITIONS.—In this section, the term 'institution' means—

"(1) an insured System bank; and

"(2) a production credit association or other association making loans under section 7.6 with a direct loan payable to the funding bank of the association that comprises 20 percent or more of the funding bank's total loan volume net of nonaccrual loans.

"(b) CONSULTATION REGARDING PARTICIPATION OF UNDERCAPITALIZED BANKS IN ISSUANCE OF INSURED OBLIGATIONS.—The Farm Credit Administration shall consult with the Corporation

prior to approving an insured obligation that is to be issued by or on behalf of, or participated in by, any insured System bank that fails to meet the minimum level for any capital requirement established by the Farm Credit Administration for the bank.

"(c) CONSULTATION REGARDING APPLICATIONS FOR MERGERS AND RESTRUCTURINGS.—

"(1) CORPORATION TO RECEIVE COPY OF TRANSACTION APPLICATIONS.—On receiving an application for a merger or restructuring of an institution, the Farm Credit Administration shall forward a copy of the application to the Corporation.

"(2) CONSULTATION REQUIRED.—If the proposed merger or restructuring involves an institution that fails to meet the minimum level for any capital requirement established by the Farm Credit Administration applicable to the institution, the Farm Credit Administration shall allow 30 days within which the Corporation may submit the views and recommendations of the Corporation, including any conditions for approval. In determining whether to approve or disapprove any proposed merger or restructuring, the Farm Credit Administration shall give due consideration to the views and recommendations of the Corporation.

"SEC. 5.61B. AUTHORITY TO REGULATE GOLDEN PARACHUTE AND INDEMNIFICATION PAYMENTS.

12 USC 2277a–10b.

"(a) DEFINITIONS.—In this section:

"(1) GOLDEN PARACHUTE PAYMENT.—The term 'golden parachute payment'—

"(A) means a payment (or any agreement to make a payment) in the nature of compensation for the benefit of any institution-related party under an obligation of any Farm Credit System institution that—

"(i) is contingent on the termination of the party's relationship with the institution; and

"(ii) is received on or after the date on which—

"(I) the institution is insolvent;

"(II) a conservator or receiver is appointed for the institution;

"(III) the institution has been assigned by the Farm Credit Administration a composite CAMEL rating of 4 or 5 under the Farm Credit Administration Rating System, or an equivalent rating; or

"(IV) the Corporation otherwise determines that the institution is in a troubled condition (as defined in regulations issued by the Corporation); and

"(B) includes a payment that would be a golden parachute payment but for the fact that the payment was made before the date referred to in subparagraph (A)(ii) if the payment was made in contemplation of the occurrence of an event described in any subclause of subparagraph (A); but

"(C) does not include—

"(i) a payment made under a retirement plan that is qualified (or is intended to be qualified) under section 401 of the Internal Revenue Code of 1986 or other nondiscriminatory benefit plan;

"(ii) a payment made under a bona fide supplemental executive retirement plan, deferred compensation plan, or other arrangement that the Corporation determines, by regulation or order, to be permissible; or

"(iii) a payment made by reason of the death or disability of an institution-related party.

"(2) INDEMNIFICATION PAYMENT.—The term 'indemnification payment' means a payment (or any agreement to make a payment) by any Farm Credit System institution for the benefit of any person who is or was an institution-related party, to pay or reimburse the person for any liability or legal expense with regard to any administrative proceeding or civil action instituted by the Farm Credit Administration that results in a final order under which the person—

"(A) is assessed a civil money penalty; or

"(B) is removed or prohibited from participating in the conduct of the affairs of the institution.

"(3) INSTITUTION-RELATED PARTY.—The term 'institution-related party' means—

"(A) a director, officer, employee, or agent for a Farm Credit System institution or any conservator or receiver of such an institution;

"(B) a stockholder (other than another Farm Credit System institution), consultant, joint venture partner, or any other person determined by the Farm Credit Administration to be a participant in the conduct of the affairs of a Farm Credit System institution; and

"(C) an independent contractor (including any attorney, appraiser, or accountant) that knowingly or recklessly participates in any violation of any law or regulation, any breach of fiduciary duty, or any unsafe or unsound practice that caused or is likely to cause more than a minimal financial loss to, or a significant adverse effect on, the Farm Credit System institution.

"(4) LIABILITY OR LEGAL EXPENSE.—The term 'liability or legal expense' means—

"(A) a legal or other professional expense incurred in connection with any claim, proceeding, or action;

"(B) the amount of, and any cost incurred in connection with, any settlement of any claim, proceeding, or action; and

"(C) the amount of, and any cost incurred in connection with, any judgment or penalty imposed with respect to any claim, proceeding, or action.

"(5) PAYMENT.—The term 'payment' means—

"(A) a direct or indirect transfer of any funds or any asset; and

"(B) any segregation of any funds or assets for the purpose of making, or under an agreement to make, any payment after the date on which the funds or assets are segregated, without regard to whether the obligation to make the payment is contingent on—

"(i) the determination, after that date, of the liability for the payment of the amount; or

"(ii) the liquidation, after that date, of the amount of the payment.

"(b) PROHIBITION.—The Corporation may prohibit or limit, by regulation or order, any golden parachute payment or indemnification payment by a Farm Credit System institution (including any conservator or receiver of the Federal Agricultural Mortgage Corporation) in troubled condition (as defined in regulations issued by the Corporation).

"(c) FACTORS TO BE TAKEN INTO ACCOUNT.—The Corporation shall prescribe, by regulation, the factors to be considered by the Corporation in taking any action under subsection (b). The factors may include—

"(1) whether there is a reasonable basis to believe that an institution-related party has committed any fraudulent act or omission, breach of trust or fiduciary duty, or insider abuse with regard to the Farm Credit System institution involved that has had a material effect on the financial condition of the institution;

"(2) whether there is a reasonable basis to believe that the institution-related party is substantially responsible for the insolvency of the Farm Credit System institution, the appointment of a conservator or receiver for the institution, or the institution's troubled condition (as defined in regulations prescribed by the Corporation);

"(3) whether there is a reasonable basis to believe that the institution-related party has materially violated any applicable law or regulation that has had a material effect on the financial condition of the institution;

"(4) whether there is a reasonable basis to believe that the institution-related party has violated or conspired to violate—

"(A) section 215, 657, 1006, 1014, or 1344 of title 18, United States Code; or

"(B) section 1341 or 1343 of title 18, United States Code, affecting a Farm Credit System institution;

"(5) whether the institution-related party was in a position of managerial or fiduciary responsibility; and

"(6) the length of time that the party was related to the Farm Credit System institution and the degree to which—

"(A) the payment reasonably reflects compensation earned over the period of employment; and

"(B) the compensation represents a reasonable payment for services rendered.

"(d) CERTAIN PAYMENTS PROHIBITED.—No Farm Credit System institution may prepay the salary or any liability or legal expense of any institution-related party if the payment is made—

"(1) in contemplation of the insolvency of the institution or after the commission of an act of insolvency; and

"(2) with a view to, or with the result of—

"(A) preventing the proper application of the assets of the institution to creditors; or

"(B) preferring 1 creditor over another creditor.

"(e) RULE OF CONSTRUCTION.—Nothing in this section—

"(1) prohibits any Farm Credit System institution from purchasing any commercial insurance policy or fidelity bond, so long as the insurance policy or bond does not cover any legal or liability expense of an institution described in subsection (a)(2); or

"(2) limits the powers, functions, or responsibilities of the Farm Credit Administration.".

SEC. 219. FARM CREDIT SYSTEM INSURANCE CORPORATION BOARD OF DIRECTORS.

(a) IN GENERAL.—Section 5.53 of the Farm Credit Act of 1971 (12 U.S.C. 2277a–2) is amended to read as follows:

"SEC. 5.53. BOARD OF DIRECTORS.

"(a) ESTABLISHMENT.—The Corporation shall be managed by a Board of Directors that shall consist of the members of the Farm Credit Administration Board.

"(b) CHAIRMAN.—The Board of Directors shall be chaired by any Board member other than the Chairman of the Farm Credit Administration Board.".

(b) CONFORMING AMENDMENTS.—

(1) Section 5314 of title 5, United States Code, is amended by striking "Chairperson, Board of Directors of the Farm Credit System Insurance Corporation.".

(2) Section 5315 of title 5, United States Code, is amended by striking "Members, Board of Directors of the Farm Credit System Insurance Corporation.".

SEC. 220. INTEREST RATE REDUCTION PROGRAM.

Section 351(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1999) is amended—

(a) by striking "SEC. 351. (a) The" and inserting the following:

"SEC. 351. INTEREST RATE REDUCTION PROGRAM.

"(a) ESTABLISHMENT OF PROGRAM.—

"(1) IN GENERAL.—The"; and

(b) by adding at the end the following:

"(2) TERMINATION OF AUTHORITY.—The authority provided by this subsection shall terminate on September 30, 2002.".

12 USC 2219e.

SEC. 221. LIABILITY FOR MAKING CRIMINAL REFERRALS.

(a) IN GENERAL.—Any institution of the Farm Credit System, or any director, officer, employee, or agent of a Farm Credit System institution, that discloses to a Government authority information proffered in good faith that may be relevant to a possible violation of any law or regulation shall not be liable to any person under any law of the United States or any State—

(1) for the disclosure; or

(2) for any failure to notify the person involved in the possible violation.

(b) NO PROHIBITION ON DISCLOSURE.—Any institution of the Farm Credit System, or any director, officer, employee, or agent of a Farm Credit System institution, may disclose information to a Government authority that may be relevant to a possible violation of any law or regulation.

TITLE III—IMPLEMENTATION AND EFFECTIVE DATE

SEC. 301. IMPLEMENTATION.

Regulations. 12 USC 2001 note.

The Secretary of Agriculture and the Farm Credit Administration shall promulgate regulations and take other required actions to implement the provisions of this Act not later than 90 days after the effective date of this Act.

SEC. 302. EFFECTIVE DATE.

12 USC 2013 note.

Except as otherwise provided in this Act, this Act and the amendments made by this Act shall become effective on the date of enactment.

Approved February 10, 1996.

LEGISLATIVE HISTORY—H.R. 2029:

HOUSE REPORTS: No. 104–421 (Comm. on Agriculture).
CONGRESSIONAL RECORD:
Vol. 141 (1995): Dec. 19, considered and passed House.
Dec. 21, considered and passed Senate, amended.
Vol. 142 (1996): Jan. 3, House concurred in Senate amendment with an amendment.
Jan. 26, Senate concurred in House amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 32 (1996):
Feb. 10, Presidential statement.

○

Public Law 104–106
104th Congress

An Act

To authorize appropriations for fiscal year 1996 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, to reform acquisition laws and information technology management of the Federal Government, and for other purposes.

Feb. 10, 1996
[S. 1124]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

National Defense Authorization Act for Fiscal Year 1996.

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Defense Authorization Act for Fiscal Year 1996".

SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS.

(a) DIVISIONS.—This Act is organized into five divisions as follows:

(1) Division A—Department of Defense Authorizations.

(2) Division B—Military Construction Authorizations.

(3) Division C—Department of Energy National Security Authorizations and Other Authorizations.

(4) Division D—Federal Acquisition Reform.

(5) Division E—Information Technology Management Reform.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

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Sec. 2. Organization of Act into divisions; table of contents.
Sec. 3. Congressional defense committees defined.
Sec. 4. Extension of time for submission of reports.

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Sec. 221. Joint seismic program and global seismic network.
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Sec. 223. Limitation on obligation of funds until receipt of electronic combat consolidation master plan.
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SEC. 3. CONGRESSIONAL DEFENSE COMMITTEES DEFINED.

For purposes of this Act, the term "congressional defense committees" means—

(1) the Committee on Armed Services and the Committee on Appropriations of the Senate; and

(2) the Committee on National Security and the Committee on Appropriations of the House of Representatives.

SEC. 4. EXTENSION OF TIME FOR SUBMISSION OF REPORTS.

In the case of any provision of this Act, or any amendment made by a provision of this Act, requiring the submission of a report to Congress (or any committee of Congress), that report shall be submitted not later than the later of—

(1) the date established for submittal of the report in such provision or amendment; or

(2) the date that is 45 days after the date of the enactment of this Act.

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

Subtitle A—Authorization of Appropriations

SEC. 101. ARMY.

Funds are hereby authorized to be appropriated for fiscal year 1996 for procurement for the Army as follows:

(1) For aircraft, $1,558,805,000.

(2) For missiles, $865,555,000.

(3) For weapons and tracked combat vehicles, $1,652,745,000.

(4) For ammunition, $1,093,991,000.

(5) For other procurement, $2,763,443,000.

SEC. 102. NAVY AND MARINE CORPS.

(a) NAVY.—Funds are hereby authorized to be appropriated for fiscal year 1996 for procurement for the Navy as follows:

(1) For aircraft, $4,572,394,000.

(2) For weapons, including missiles and torpedoes, $1,659,827,000.

(3) For shipbuilding and conversion, $6,643,958,000.

(4) For other procurement, $2,414,771,000.

(b) MARINE CORPS.—Funds are hereby authorized to be appropriated for fiscal year 1996 for procurement for the Marine Corps in the amount of $458,947,000.

(c) NAVY AND MARINE CORPS AMMUNITION.—Funds are hereby authorized to be appropriated for procurement of ammunition for the Navy and the Marine Corps in the amount of $430,053,000.

SEC. 103. AIR FORCE.

Funds are hereby authorized to be appropriated for fiscal year 1996 for procurement for the Air Force as follows:

(1) For aircraft, $7,349,783,000.
(2) For missiles, $2,938,883,000.
(3) For ammunition, $343,848,000.
(4) For other procurement, $6,268,430,000.

SEC. 104. DEFENSE-WIDE ACTIVITIES.

Funds are hereby authorized to be appropriated for fiscal year 1996 for Defense-wide procurement in the amount of $2,124,379,000.

SEC. 105. RESERVE COMPONENTS.

Funds are hereby authorized to be appropriated for fiscal year 1996 for procurement of aircraft, vehicles, communications equipment, and other equipment for the reserve components of the Armed Forces as follows:

(1) For the Army National Guard, $160,000,000.
(2) For the Air National Guard, $255,000,000.
(3) For the Army Reserve, $85,700,000.
(4) For the Naval Reserve, $67,000,000.
(5) For the Air Force Reserve, $135,600,000.
(6) For the Marine Corps Reserve, $73,700,000.

SEC. 106. DEFENSE INSPECTOR GENERAL.

Funds are hereby authorized to be appropriated for fiscal year 1996 for procurement for the Inspector General of the Department of Defense in the amount of $1,000,000.

SEC. 107. CHEMICAL DEMILITARIZATION PROGRAM.

There is hereby authorized to be appropriated for fiscal year 1996 the amount of $672,250,000 for—

(1) the destruction of lethal chemical agents and munitions in accordance with section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521); and

(2) the destruction of chemical warfare materiel of the United States that is not covered by section 1412 of such Act.

SEC. 108. DEFENSE HEALTH PROGRAMS.

Funds are hereby authorized to be appropriated for fiscal year 1996 for the Department of Defense for procurement for carrying out health care programs, projects, and activities of the Department of Defense in the total amount of $288,033,000.

Subtitle B—Army Programs

SEC. 111. PROCUREMENT OF OH–58D ARMED KIOWA WARRIOR HELICOPTERS.

The prohibition in section 133(a)(2) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1383) does not apply to the obligation of funds in amounts not to exceed $140,000,000 for the procurement of not more than 20 OH–58D Armed Kiowa Warrior aircraft from funds appropriated for fiscal year 1996 pursuant to section 101.

SEC. 112. REPEAL OF REQUIREMENTS FOR ARMORED VEHICLE UPGRADES.

Subsection (j) of section 21 of the Arms Export Control Act (22 U.S.C. 2761) is repealed.

SEC. 113. MULTIYEAR PROCUREMENT OF HELICOPTERS.

The Secretary of the Army may, in accordance with section 2306b of title 10, United States Code, enter into multiyear procurement contracts for procurement of the following:

(1) AH–64D Longbow Apache attack helicopters.

(2) UH–60 Black Hawk utility helicopters.

SEC. 114. REPORT ON AH–64D ENGINE UPGRADES.

No later than February 1, 1996, the Secretary of the Army shall submit to Congress a report on plans to procure T700–701C engine upgrade kits for Army AH–64D helicopters. The report shall include—

(1) a plan to provide for the upgrade of all Army AH–64D helicopters with T700–701C engine kits commencing in fiscal year 1996; and

(2) a detailed timeline and statement of funding requirements for the engine upgrade program described in paragraph (1).

SEC. 115. REQUIREMENT FOR USE OF PREVIOUSLY AUTHORIZED MULTIYEAR PROCUREMENT AUTHORITY FOR ARMY SMALL ARMS PROCUREMENT.

(a) REQUIREMENT.—The Secretary of the Army (subject to the provision of authority in an appropriations Act) shall enter into a multiyear procurement contract during fiscal year 1997 in accordance with section 115(b)(2) of the National Defense Authorization for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2681).

(b) TECHNICAL AMENDMENT.—Section 115(b)(1) of the National Defense Authorization for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2681) is amended by striking out "2306(h)" and inserting in lieu thereof "2306b".

Subtitle C—Navy Programs

SEC. 131. NUCLEAR ATTACK SUBMARINES.

(a) AMOUNTS AUTHORIZED.—(1) Of the amount authorized by section 102 to be appropriated for Shipbuilding and Conversion, Navy, for fiscal year 1996—

(A) $700,000,000 is available for construction of the third vessel (designated SSN–23) in the Seawolf attack submarine class, which shall be the final vessel in that class; and

(B) $804,498,000 is available for long-lead and advance construction and procurement of components for construction of the fiscal year 1998 and fiscal year 1999 submarines (previously designated by the Navy as the New Attack Submarine), of which—

(i) $704,498,000 shall be available for long-lead and advance construction and procurement for the fiscal year 1998 submarine, which shall be built by Electric Boat Division; and

(ii) $100,000,000 shall be available for long-lead and advance construction and procurement for the fiscal year 1999 submarine, which shall be built by Newport News Shipbuilding.

(2) Of the amount authorized by section 201(2), $10,000,000 shall be available only for participation of Newport News Shipbuilding in the design of the submarine previously designated by the Navy as the New Attack Submarine.

(b) COMPETITION, REPORT, AND BUDGET REVISION LIMITATIONS.—(1) Of the amounts specified in subsection (a)(1), not more than $200,000,000 may be obligated or expended until the Secretary of the Navy certifies in writing to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives that procurement of nuclear attack submarines to be constructed beginning—

(A) after fiscal year 1999, or

(B) if four submarines are procured as provided for in the plan described in subsection (c), after fiscal year 2001, will be under one or more contracts that are entered into after competition between potential competitors (as defined in subsection (k)) in which the Secretary solicits competitive proposals and awards the contract or contracts on the basis of price.

(2) Of the amounts specified in subsection (a)(1), not more than $1,000,000,000 may be obligated or expended until the Secretary of Defense, not later than March 15, 1996, accomplishes each of the following:

(A) Submits to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives in accordance with subsection (c) the plan required by that subsection for a program to produce a more capable, less expensive nuclear attack submarine than the submarine design previously designated by the Navy as the New Attack Submarine.

(B) Notwithstanding any other provision of law, or the funding level in the President's budget for each year after fiscal year 1996, the Under Secretary of Defense (Comptroller) shall incorporate the costs of the plan required by subsection (c) in the Future Years Defense Program (FYDP) even if the total cost of that Program exceeds the President's budget.

(C) Directs that the Under Secretary of Defense for Acquisition and Technology conduct oversight over the development and improvement of the nuclear attack submarine program of the Navy. Officials of the Department of the Navy exercising management oversight of the program shall report to the Under

Secretary of Defense for Acquisition and Technology with respect to that program.

(c) PLAN FOR FISCAL YEAR 1998, 1999, 2000, AND 2001 SUBMARINES.—(1) The Secretary of Defense shall, not later than March 15, 1996, develop (and submit to the committees specified in subsection (b)(2)(A)) a detailed plan for development of a program that will lead to production of a more capable, less expensive submarine than the submarine previously designated as the New Attack Submarine.

(2) As part of such plan, the Secretary shall provide for a program for the design, development, and procurement of four nuclear attack submarines to be procured during fiscal years 1998 through 2001, the purpose of which shall be to develop and demonstrate new technologies that will result in each successive submarine of those four being a more capable and more affordable submarine than the submarine that preceded it. The program shall be structured so that—

(A) one of the four submarines is to be constructed with funds appropriated for each fiscal year from fiscal year 1998 through fiscal year 2001;

(B) in order to ensure flexibility for innovation, the fiscal year 1998 and the fiscal year 2000 submarines are to be constructed by the Electric Boat Division and the fiscal year 1999 and the fiscal year 2001 submarines are to be constructed by Newport News Shipbuilding;

(C) the design designated by the Navy for the submarine previously designated as the New Attack Submarine will be used as the base design by both contractors;

(D) each contractor shall be called upon to propose improvements, including design improvements, for each successive submarine as new and better technology is demonstrated and matures so that—

(i) each successive submarine is more capable and more affordable; and

(ii) the design for a future class of nuclear attack submarines will incorporate the latest, best, and most affordable technology; and

(E) the fifth and subsequent nuclear attack submarines to be built after the SSN–23 submarine shall be procured as required by subsection (b)(1).

(3) The plan under paragraph (1) shall—

(A) set forth a program to accomplish the design, development, and construction of the four submarines taking maximum advantage of a streamlined acquisition process, as provided under subsection (d);

(B) culminate in selection of a design for a next submarine for serial production not earlier than fiscal year 2003, with such submarine to be procured as required by subsection (b)(1);

(C) identify advanced technologies that are in various phases of research and development, as well as those that are commercially available off-the-shelf, that are candidates to be incorporated into the plan to design, develop, and procure the submarines;

(D) designate the fifth submarine to be procured as the lead ship in the next generation submarine class, unless the Secretary of the Navy, in consultation with the special submarine review panel described in subsection (f), determines

that more submarines should be built before the design of the new class of submarines is fixed, in which case each such additional submarine shall be procured in the same manner as is required by subsection (b)(1); and

(E) identify the impact of the submarine program described in paragraph (1) on the remainder of the appropriation account known as "Shipbuilding and Conversion, Navy", as such impact relates to—

(i) force structure levels required by the October 1993 Department of Defense report entitled "Report on the Bottom-Up Review";

(ii) force structure levels required by the 1995 report on the Surface Ship Combatant Study that was carried out for the Department of Defense; and

(iii) the funding requirements for submarine construction, as a percentage of the total ship construction account, for each fiscal year throughout the FYDP.

(4) As part of such plan, the Secretary shall provide—

(A) cost estimates and schedules for developing new technologies that may be used to make submarines more capable and more affordable; and

(B) an analysis of significant risks associated with fielding the new technologies on the schedule proposed by the Secretary and significant increased risks that are likely to be incurred by accelerating that schedule.

(d) STREAMLINED ACQUISITION PROCESS.—The Secretary of Defense shall prescribe and use streamlined acquisition policies and procedures to reduce the cost and increase the efficiency of the submarine program under this section.

(e) ANNUAL REVISIONS TO PLAN.—The Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives an annual update to the plan required to be submitted under subsection (b). Each such update shall be submitted concurrent with the President's budget submission to Congress for each of fiscal years 1998 through 2002.

(f) SPECIAL SUBMARINE REVIEW PANEL.—(1) The plan under subsection (c) and each annual update under subsection (e) shall be reviewed by a special bipartisan congressional panel working with the Navy. The panel shall consist of three members of the Committee on Armed Services of the Senate, who shall be designated by the chairman of that committee, and three members of the Committee on National Security of the House of Representatives, who shall be designated by the chairman of that committee. The members of the panel shall be briefed by the Secretary of the Navy on the status of the submarine modernization program and the status of submarine-related research and development under this section.

(2) Not later than May 1 of each year, the panel shall report to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives on the panel's findings and recommendations regarding the progress of the Secretary in procuring a more capable, less expensive submarine. The panel may recommend any funding adjustments it believes appropriate to achieve this objective. Reports.

(g) LINKAGE OF FISCAL YEAR 1998 AND 1999 SUBMARINES.—Funds referred to in subsection (a)(1)(B) that are available for

the fiscal year 1998 and fiscal year 1999 submarines under this section may not be expended during fiscal year 1996 for the fiscal year 1998 submarine (other than for design) unless funds are obligated or expended during such fiscal year for a contract in support of procurement of the fiscal year 1999 submarine.

(h) CONTRACTS AUTHORIZED.—The Secretary of the Navy is authorized, using funds available pursuant to paragraph (1)(B) of subsection (a), to enter into contracts with Electric Boat Division and Newport News Shipbuilding, and suppliers of components, during fiscal year 1996 for—

(1) the procurement of long-lead components for the fiscal year 1998 submarine and the fiscal year 1999 submarine under this section; and

(2) advance construction of such components and other components for such submarines.

(i) ADVANCED RESEARCH PROJECTS AGENCY DEVELOPMENT OF ADVANCED TECHNOLOGIES.—(1) Of the amount provided in section 201(4) for the Advanced Research Projects Agency, $100,000,000 is available only for development and demonstration of advanced technologies for incorporation into the submarines constructed as part of the plan developed under subsection (c). Such advanced technologies shall include the following:

(A) Electric drive.
(B) Hydrodynamic quieting.
(C) Ship control automation.
(D) Solid-state power electronics.
(E) Wake reduction technologies.
(F) Superconductor technologies.
(G) Torpedo defense technologies.
(H) Advanced control concept.
(I) Fuel cell technologies.
(J) Propulsors.

(2) The Director of the Advanced Research Projects Agency shall implement a rapid prototype acquisition strategy for both land-based and at-sea subsystem and system demonstrations of advanced technologies under paragraph (1). Such acquisition strategy shall be developed and implemented in concert with Electric Boat Division and Newport News Shipbuilding and the Navy.

(j) REFERENCES TO CONTRACTORS.—For purposes of this section—

(1) the contractor referred to as "Electric Boat Division" is the Electric Boat Division of the General Dynamics Corporation; and

(2) the contractor referred to as "Newport News Shipbuilding" is the Newport News Shipbuilding and Drydock Company.

(k) POTENTIAL COMPETITOR DEFINED.—For purposes of this section, the term "potential competitor" means any source to which the Secretary of the Navy has awarded, within 10 years before the date of the enactment of this Act, a contract or contracts to construct one or more nuclear attack submarines.

SEC. 132. RESEARCH FOR ADVANCED SUBMARINE TECHNOLOGY.

Of the amount appropriated for fiscal year 1996 for the National Defense Sealift Fund, $50,000,000 shall be available only for the Director of the Advanced Research Projects Agency for advanced submarine technology activities.

SEC. 133. COST LIMITATION FOR SEAWOLF SUBMARINE PROGRAM.

(a) LIMITATION OF COSTS.—Except as provided in subsection (b), the total amount obligated or expended for procurement of the SSN–21, SSN–22, and SSN–23 Seawolf class submarines may not exceed $7,223,659,000.

(b) AUTOMATIC INCREASE OF LIMITATION AMOUNT.—The amount of the limitation set forth in subsection (a) is increased by the following amounts:

(1) The amounts of outfitting costs and post-delivery costs incurred for the submarines referred to in such subsection.

(2) The amounts of increases in costs attributable to economic inflation after September 30, 1995.

(3) The amounts of increases in costs attributable to compliance with changes in Federal, State, or local laws enacted after September 30, 1995.

(c) REPEAL OF SUPERSEDED PROVISION.—Section 122 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2682) is repealed.

SEC. 134. REPEAL OF PROHIBITION ON BACKFIT OF TRIDENT SUBMARINES.

Section 124 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2683) is repealed.

SEC. 135. ARLEIGH BURKE CLASS DESTROYER PROGRAM.

(a) AUTHORIZATION FOR PROCUREMENT OF SIX VESSELS.—The Secretary of the Navy is authorized to construct six Arleigh Burke class destroyers in accordance with this section. Within the amount authorized to be appropriated pursuant to section 102(a)(3), $2,169,257,000 is authorized to be appropriated for construction (including advance procurement) for the Arleigh Burke class destroyers.

(b) CONTRACTS.—(1) The Secretary is authorized to enter into contracts in fiscal year 1996 for the construction of three Arleigh Burke class destroyers.

(2) The Secretary is authorized, in fiscal year 1997, to enter into contracts for the construction of the other three Arleigh Burke class destroyers covered by subsection (a), subject to the availability of appropriations for such destroyers.

(3) In awarding contracts for the six vessels covered by subsection (a), the Secretary shall continue the contract award pattern and sequence used by the Secretary for the procurement of Arleigh Burke class destroyers during fiscal years 1994 and 1995.

(4) A contract for construction of a vessel or vessels that is entered into in accordance with paragraph (1) shall include a clause that limits the liability of the Government to the contractor for any termination of the contract. The maximum liability of the Government under the clause shall be the amount appropriated for the vessel or vessels.

(c) USE OF AVAILABLE FUNDS.—(1) Subject to paragraph (2), the Secretary may take appropriate actions to use for full funding of a contract entered into in accordance with subsection (b)—

(A) any funds that, having been appropriated for shipbuilding and conversion programs of the Navy other than Arleigh Burke class destroyer programs pursuant to the authorization in section 102(a)(3), become excess to the needs of the Navy

for such programs by reason of cost savings achieved for such programs;

(B) any unobligated funds that are available to the Secretary for shipbuilding and conversion for any fiscal year before fiscal year 1996; and

(C) any funds that are appropriated after the date of the enactment of the Department of Defense Appropriations Act, 1996, to complete the full funding of the contract.

(2) The Secretary may not, in the exercise of authority provided in subparagraph (A) or (B) of paragraph (1), obligate funds for a contract entered into in accordance with subsection (b) until 30 days after the date on which the Secretary submits to the congressional defense committees in writing a notification of the intent to obligate the funds. The notification shall set forth the source or sources of the funds and the amount of the funds from each such source that is to be so obligated.

SEC. 136. ACQUISITION PROGRAM FOR CRASH ATTENUATING SEATS.

(a) PROGRAM AUTHORIZED.—The Secretary of the Navy shall establish a program to procure for, and install in, H–53E military transport helicopters commercially developed, energy absorbing, crash attenuating seats that the Secretary determines are consistent with military specifications for seats for such helicopters.

(b) FUNDING.—To the extent provided in appropriations Acts, of the unobligated balance of amounts appropriated for the Legacy Resource Management Program pursuant to the authorization of appropriations in section 301(5) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2706), not more than $10,000,000 shall be available to the Secretary of the Navy, by transfer to the appropriate accounts, for carrying out the program authorized in subsection (a).

SEC. 137. T–39N TRAINER AIRCRAFT.

(a) LIMITATION.—The Secretary of the Navy may not enter into a contract, using funds appropriated for fiscal year 1996 for procurement of aircraft for the Navy, for the acquisition of the aircraft described in subsection (b) until 60 days after the date on which the Under Secretary of Defense for Acquisition and Technology submits to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives—

(1) an analysis of the proposed acquisition of such aircraft; and

(2) a certification that the proposed acquisition during fiscal year 1996 (A) is in the best interest of the Government, and (B) is the most cost effective means of meeting the requirements of the Navy for aircraft for use in the training of naval flight officers.

(b) COVERED AIRCRAFT.—Subsection (a) applies to certain T–39 trainer aircraft that as of November 1, 1995 (1) are used by the Navy under a lease arrangement for the training of naval flight officers, and (2) are offered for sale to the Government.

SEC. 138. PIONEER UNMANNED AERIAL VEHICLE PROGRAM.

Not more than one-sixth of the amount appropriated pursuant to this Act for the activities and operations of the Unmanned Aerial Vehicle Joint Program Office (UAV–JPO), and none of the unobligated balances of funds appropriated for fiscal years before

fiscal year 1996 for the activities and operations of such office, may be obligated until the Secretary of the Navy certifies to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives that funds have been obligated to equip nine Pioneer Unmanned Aerial Vehicle systems with the Common Automatic Landing and Recovery System (CARS).

Subtitle D—Air Force Programs

SEC. 141. B–2 AIRCRAFT PROGRAM.

(a) REPEAL OF LIMITATIONS.—The following provisions of law are repealed:

(1) Section 151(c) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2339).

(2) Sections 131(c) and 131(d) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1569).

(3) Section 133(e) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2688).

(b) CONVERSION OF LIMITATION TO ANNUAL REPORT REQUIREMENT.—Section 112 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1373) is amended—

(1) by striking out subsection (a);

(2) by striking out the matter in subsection (b) preceding paragraph (1) and inserting in lieu thereof the following:

"(a) ANNUAL REPORTING REQUIREMENT.—Not later than March 1 of each year, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report that sets forth the finding of the Secretary (as of January 1 of such year) on each of the following matters:";

(3) by striking out "That" in paragraphs (1), (2), (3), (4), and (5) and inserting in lieu thereof "Whether";

(4) in paragraph (1), by striking out "latest" and all that follows through "100–180" and inserting in lieu thereof "Requirements Correlation Matrix found in the user-defined Operational Requirements Document (as contained in Attachment B to a letter from the Secretary of Defense to Congress dated October 14, 1993)";

(5) in paragraph (3), by striking out "congressional defense";

(6) in paragraph (4), by striking out "such certification to be submitted";

(7) by adding at the end the following:

"(b) FIRST REPORT.—The Secretary shall submit the first annual report under subsection (a) not later than March 1, 1996."; and

(8) by amending the section heading to read as follows:

"SEC. 112. ANNUAL REPORT ON B–2 BOMBER AIRCRAFT PROGRAM.".

(c) REPEAL OF CONDITION ON OBLIGATION OF FUNDS IN ENHANCED BOMBER CAPABILITY FUND.—Section 133(d)(3) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2688) is amended by striking out "If," and all that follows through "bombers, the Secretary" and inserting in lieu thereof "The Secretary".

SEC. 142. PROCUREMENT OF B–2 BOMBERS.

Of the amount authorized to be appropriated by section 103 for the B–2 bomber procurement program, not more than $279,921,000 may be obligated or expended before March 31, 1996.

SEC. 143. MC–130H AIRCRAFT PROGRAM.

The limitation on the obligation of funds for payment of an award fee and the procurement of contractor-furnished equipment for the MC–130H Combat Talon aircraft set forth in section 161(a) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1388) shall cease to apply upon determination by the Director of Operational Test and Evaluation (and submission of a certification of that determination to the congressional defense committees) that, based on the operational test and evaluation and the analysis conducted on that aircraft to the date of that determination, such aircraft is operationally effective and meets the needs of its intended users.

Subtitle E—Chemical Demilitarization Program

SEC. 151. REPEAL OF REQUIREMENT TO PROCEED EXPEDITIOUSLY WITH DEVELOPMENT OF CHEMICAL DEMILITARIZATION CRYOFRACTURE FACILITY AT TOOELE ARMY DEPOT, UTAH.

Subsection (a) of section 173 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1393) is repealed.

50 USC 1521 note.

SEC. 152. DESTRUCTION OF EXISTING STOCKPILE OF LETHAL CHEMICAL AGENTS AND MUNITIONS.

(a) IN GENERAL.—The Secretary of Defense shall proceed with the program for destruction of the chemical munitions stockpile of the Department of Defense while maintaining the maximum protection of the environment, the general public, and the personnel involved in the actual destruction of the munitions. In carrying out such program, the Secretary shall use technologies and procedures that will minimize the risk to the public at each site.

(b) INITIATION OF DEMILITARIZATION OPERATIONS.—The Secretary of Defense may not initiate destruction of the chemical munitions stockpile stored at a site until the following support measures are in place:

(1) Support measures that are required by Department of Defense and Army chemical surety and security program regulations.

(2) Support measures that are required by the general and site chemical munitions demilitarization plans specific to that installation.

(3) Support measures that are required by the permits required by the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) and the Clean Air Act (42 U.S.C. 7401 et seq.) for chemical munitions demilitarization operations at that installation, as approved by the appropriate State regulatory agencies.

(c) ASSESSMENT OF ALTERNATIVES.—(1) The Secretary of Defense shall conduct an assessment of the current chemical demilitarization program and of measures that could be taken to reduce

significantly the total cost of the program, while ensuring maximum protection of the general public, the personnel involved in the demilitarization program, and the environment. The measures considered shall be limited to those that would minimize the risk to the public. The assessment shall be conducted without regard to any limitation that would otherwise apply to the conduct of such an assessment under any provision of law.

(2) The assessment shall be conducted in coordination with the National Research Council.

(3) Based on the results of the assessment, the Secretary shall develop appropriate recommendations for revision of the chemical demilitarization program.

(4) Not later than March 1, 1996, the Secretary of Defense shall submit to the congressional defense committees an interim report assessing the current status of the chemical stockpile demilitarization program, including the results of the Army's analysis of the physical and chemical integrity of the stockpile and implications for the chemical demilitarization program, and providing recommendations for revisions to that program that have been included in the budget request of the Department of Defense for fiscal year 1997. The Secretary shall submit to the congressional defense committees with the submission of the budget request of the Department of Defense for fiscal year 1998 a final report on the assessment conducted in accordance with paragraph (1) and recommendations for revision to the program, including an assessment of alternative demilitarization technologies and processes to the baseline incineration process and potential reconfiguration of the stockpile that should be incorporated in the program. Reports.

(d) ASSISTANCE FOR CHEMICAL WEAPONS STOCKPILE COMMUNITIES AFFECTED BY BASE CLOSURE.—(1) The Secretary of Defense shall review and evaluate issues associated with closure and reutilization of Department of Defense facilities co-located with continuing chemical stockpile and chemical demilitarization operations.

(2) The review shall include the following:

(A) An analysis of the economic impacts on these communities and the unique reuse problems facing local communities associated with ongoing chemical weapons programs.

(B) Recommendations of the Secretary on methods for expeditious and cost-effective transfer or lease of these facilities to local communities for reuse by those communities.

(3) The Secretary shall submit to the congressional defense committees a report on the review and evaluation under this subsection. The report shall be submitted not later than 90 days after the date of the enactment of this Act. Reports.

SEC. 153. ADMINISTRATION OF CHEMICAL DEMILITARIZATION PROGRAM.

(a) TRAVEL FUNDING FOR MEMBERS OF CHEMICAL DEMILITARIZATION CITIZENS' ADVISORY COMMISSIONS.—Section 172(g) of Public Law 102–484 (50 U.S.C. 1521 note) is amended to read as follows:

"(g) PAY AND EXPENSES.—Members of each commission shall receive no pay for their involvement in the activities of their commissions. Funds appropriated for the Chemical Stockpile Demilitarization Program may be used for travel and associated travel costs for Citizens' Advisory Commissioners, when such travel

is conducted at the invitation of the Assistant Secretary of the Army (Research, Development, and Acquisition).".

(b) QUARTERLY REPORT CONCERNING TRAVEL FUNDING FOR CITIZENS' ADVISORY COMMISSIONERS.—Section 1412(g) of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521(g)), is amended—

(1) by striking out "(g) ANNUAL REPORT.—" and inserting in lieu thereof "(g) PERIODIC REPORTS.—";

(2) in paragraph (2)—

(A) by striking out "Each such report shall contain—" and inserting in lieu thereof "Each annual report shall contain—"

(B) in subparagraph (B)—

(i) by striking out "and" at the end of clause (iv);

(ii) by striking out the period at the end of clause (v) and inserting in lieu thereof "; and"; and

(iii) by adding at the end the following:

"(vi) travel and associated travel costs for Citizens' Advisory Commissioners under section 172(g) of Public Law 102–484 (50 U.S.C. 1521 note).";

(3) by redesignating paragraph (3) as paragraph (4);

(4) by inserting after paragraph (2) the following new paragraph (3):

"(3) The Secretary shall transmit to the Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on National Security and the Committee on Appropriations of the House of Representatives a quarterly report containing an accounting of all funds expended (during the quarter covered by the report) for travel and associated travel costs for Citizens' Advisory Commissioners under section 172(g) of Public Law 102–484 (50 U.S.C. 1521 note). The quarterly report for the final quarter of the period covered by a report under paragraph (1) may be included in that report."; and

(5) in paragraph (4), as redesignated by paragraph (3)—

(A) by striking out "this subsection" and inserting in lieu thereof "paragraph (1)"; and

(B) by adding at the end the following: "No quarterly report is required under paragraph (3) after the transmittal of the final report under paragraph (1).".

(c) DIRECTOR OF PROGRAM.—Section 1412(e)(3) of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521(e)(3)), is amended by inserting "or civilian equivalent" after "general officer".

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

Subtitle A—Authorization of Appropriations

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

Funds are hereby authorized to be appropriated for fiscal year 1996 for the use of the Department of Defense for research, development, test, and evaluation as follows:

(1) For the Army, $4,737,581,000.

(2) For the Navy, $8,474,783,000.
(3) For the Air Force, $12,914,868,000.
(4) For Defense-wide activities, $9,693,180,000, of which—
(A) $251,082,000 is authorized for the activities of the Director, Test and Evaluation; and
(B) $22,587,000 is authorized for the Director of Operational Test and Evaluation.

SEC. 202. AMOUNT FOR BASIC RESEARCH AND EXPLORATORY DEVELOPMENT.

(a) FISCAL YEAR 1996.—Of the amounts authorized to be appropriated by section 201, $4,088,879,000 shall be available for basic research and exploratory development projects.

(b) BASIC RESEARCH AND EXPLORATORY DEVELOPMENT DEFINED.—For purposes of this section, the term "basic research and exploratory development" means work funded in program elements for defense research and development under Department of Defense category 6.1 or 6.2.

SEC. 203. MODIFICATIONS TO STRATEGIC ENVIRONMENTAL RESEARCH AND DEVELOPMENT PROGRAM.

(a) COUNCIL MEMBERSHIP.—Section 2902(b) of title 10, United States Code, is amended—
(1) by striking out "thirteen" and inserting in lieu thereof "12";
(2) by striking out paragraph (3);
(3) by redesignating paragraphs (4), (5), (6), (7), (8), (9), and (10) as paragraphs (3), (4), (5), (6), (7), (8), and (9), respectively; and
(4) in paragraph (8), as redesignated, by striking out ", who shall be nonvoting members".

(b) ANNUAL REPORT.—(1) Section 2902 of such title is amended in subsection (d)—
(A) by striking out paragraph (3) and inserting in lieu thereof the following:
"(3) To prepare an annual report that contains the following:
"(A) A description of activities of the strategic environmental research and development program carried out during the fiscal year before the fiscal year in which the report is prepared.
"(B) A general outline of the activities planned for the program during the fiscal year in which the report is prepared.
"(C) A summary of projects continued from the fiscal year before the fiscal year in which the report is prepared and projects expected to be started during the fiscal year in which the report is prepared and during the following fiscal year."; and
(B) in paragraph (4), by striking out "Federal Coordinating Council on Science, Engineering, and Technology" and inserting in lieu thereof "National Science and Technology Council".
(2) Section 2902 of such title is further amended—
(A) by striking out subsections (f) and (h);
(B) by redesignating subsection (g) as subsection (f); and
(C) by adding at the end the following new subsection:

"(g)(1) Not later than February 1 of each year, the Council shall submit to the Secretary of Defense the annual report prepared pursuant to subsection (d)(3).

"(2) Not later than March 15 of each year, the Secretary of Defense shall submit such annual report to Congress, along with such comments as the Secretary considers appropriate.".

10 USC 2902 note.

(3) The amendments made by this subsection shall apply with respect to the annual report prepared during fiscal year 1997 and each fiscal year thereafter.

(c) POLICIES AND PROCEDURES.—Section 2902(e) of such title is amended in paragraph (3) by striking out "programs, particularly" and all that follows through the end of the paragraph and inserting in lieu thereof "programs;".

(d) COMPETITIVE PROCEDURES.—Section 2903(c) of such title is amended—

(1) by striking out "or" after "contracts" and inserting in lieu thereof "using competitive procedures. The Executive Director may enter into"; and

(2) by striking out "law, except that" and inserting in lieu thereof "law. In either case,".

(e) CONTINUATION OF EXPIRING AUTHORITY.—(1) Section 2903(d) of such title is amended in paragraph (2) by striking out the last sentence.

Effective date. 10 USC 2903 note.

(2) The amendment made by paragraph (1) shall take effect as of September 29, 1995.

SEC. 204. DEFENSE DUAL USE TECHNOLOGY INITIATIVE.

(a) FISCAL YEAR 1996 AMOUNT.—Of the amount authorized to be appropriated in section 201(4), $195,000,000 shall be available for the defense dual use technology initiative conducted under chapter 148 of title 10, United States Code.

(b) AVAILABILITY OF FUNDS FOR EXISTING TECHNOLOGY REINVESTMENT PROJECTS.—The Secretary of Defense shall use amounts made available for the defense dual use technology initiative under subsection (a) only for the purpose of continuing or completing technology reinvestment projects that were initiated before October 1, 1995.

(c) NOTICE CONCERNING PROJECTS TO BE CARRIED OUT.—Of the amounts made available for the defense dual use technology initiative under subsection (a)—

(1) $145,000,000 shall be available for obligation only after the date on which the Secretary of Defense notifies the congressional defense committees regarding the defense reinvestment projects to be funded using such funds; and

(2) the remaining $50,000,000 shall be available for obligation only after the date on which the Secretary of Defense certifies to the congressional defense committees that the defense reinvestment projects to be funded using such funds have been determined by the Joint Requirements Oversight Council to be of significant military priority.

Subtitle B—Program Requirements, Restrictions, and Limitations

SEC. 211. SPACE LAUNCH MODERNIZATION.

(a) ALLOCATION OF FUNDS.—Of the amount authorized to be appropriated pursuant to the authorization in section 201(3), $50,000,000 shall be available for a competitive reusable rocket technology program.

(b) LIMITATION.—Funds made available pursuant to subsection (a)(1) may be obligated only to the extent that the fiscal year 1996 current operating plan of the National Aeronautics and Space Administration allocates at least an equal amount for its Reusable Space Launch program.

SEC. 212. TACTICAL MANNED RECONNAISSANCE.

(a) LIMITATION.—None of the amounts appropriated or otherwise made available pursuant to an authorization in this Act may be used by the Secretary of the Air Force to conduct research, development, test, or evaluation for a replacement aircraft, pod, or sensor payload for the tactical manned reconnaissance mission until the report required by subsection (b) is submitted to the congressional defense committees.

(b) REPORT.—The Secretary of the Air Force shall submit to the congressional defense committees a report setting forth in detail information about the manner in which the funds authorized by section 201 of this Act and section 201 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2690) are planned to be used during fiscal year 1996 for research, development, test, and evaluation for the Air Force tactical manned reconnaissance mission. At a minimum, the report shall include the sources, by program element, of the funds and the purposes for which the funds are planned to be used.

SEC. 213. JOINT ADVANCED STRIKE TECHNOLOGY (JAST) PROGRAM.

(a) ALLOCATION OF FUNDS.—Of the amounts authorized to be appropriated pursuant to the authorizations in section 201, $200,156,000 shall be available for the Joint Advanced Strike Technology (JAST) program. Of that amount—

(1) $83,795,000 shall be available for program element 63800N in the budget of the Department of Defense for fiscal year 1996;

(2) $85,686,000 shall be available for program element 63800F in such budget; and

(3) $30,675,000 shall be available for program element 63800E in such budget.

(b) ADDITIONAL ALLOCATION.—Of the amounts made available under paragraphs (1), (2), and (3) of subsection (a)—

(1) $25,000,000 shall be available from the amount authorized to be appropriated pursuant to the authorization in section 201(2) for the conduct, during fiscal year 1996, of a 6-month program definition phase for the A/F117X, an F–117 fighter aircraft modified for use by the Navy as a long-range, medium attack aircraft; and

(2) $7,000,000 shall be available to provide for competitive engine concepts.

(c) LIMITATION.—Not more than 75 percent of the amount appropriated for the Joint Advanced Strike Technology program pursuant to the authorizations in section 201 may be obligated until a period of 30 days has expired after the report required by subsection (d) is submitted to the congressional defense committees.

(d) REPORT.—The Secretary of Defense shall submit to the congressional defense committees a report, in unclassified and classified forms, not later than March 1, 1996, that sets forth in detail the following information for the period 1997 through 2005:

(1) The total joint requirement, assuming the capability to successfully conduct two nearly simultaneous major regional contingencies, for the following:

(A) Numbers of bombers, tactical combat aircraft, and attack helicopters and the characteristics required of those aircraft in terms of capabilities, range, and low-observability.

(B) Surface- and air-launched standoff precision guided munitions.

(C) Cruise missiles.

(D) Ground-based systems, such as the Extended Range-Multiple Launch Rocket System and the Army Tactical Missile System (ATACMS), for joint warfighting capability.

(2) The warning time assumptions for two nearly simultaneous major regional contingencies, and the effects on future tactical attack/fighter aircraft requirements using other warning time assumptions.

(3) The requirements that exist for the Joint Advanced Strike Technology program that cannot be met by existing aircraft or by those in development.

SEC. 214. DEVELOPMENT OF LASER PROGRAM.

Of the amount authorized to be appropriated by section 201(2), $9,000,000 shall be used for the development by the Naval High Energy Laser Office of a continuous wave, superconducting radio frequency free electron laser program.

SEC. 215. NAVY MINE COUNTERMEASURES PROGRAM.

Section 216(a) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1317) is amended—

(1) by striking out "Director, Defense Research and Engineering" and inserting in lieu thereof "Under Secretary of Defense for Acquisition and Technology"; and

(2) by striking out "fiscal years 1995 through 1999" and inserting in lieu thereof "fiscal years 1996 through 1999".

SEC. 216. SPACE-BASED INFRARED SYSTEM.

(a) PROGRAM BASELINE.—The Secretary of Defense shall establish a program baseline for the Space-Based Infrared System. Such baseline shall—

(1) include—

(A) program cost and an estimate of the funds required for development and acquisition activities for each fiscal year in which such activities are planned to be carried out;

(B) a comprehensive schedule with program milestones and exit criteria; and

(C) optimized performance parameters for each segment of an integrated space-based infrared system;

(2) be structured to achieve initial operational capability of the low earth orbit space segment (the Space and Missile Tracking System) in fiscal year 2003, with a first launch of Block I satellites in fiscal year 2002;

(3) ensure integration of the Space and Missile Tracking System into the architecture of the Space-Based Infrared System; and

(4) ensure that the performance parameters of all space segment components are selected so as to optimize the performance of the Space-Based Infrared System while minimizing unnecessary redundancy and cost.

(b) REPORT ON PROGRAM BASELINE.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report, in classified and unclassified forms as necessary, on the program baseline established under subsection (a).

(c) ESTABLISHMENT OF PROGRAM ELEMENTS.—In the budget justification materials submitted to Congress in support of the Department of Defense budget for any fiscal year after fiscal year 1996 (as submitted in the budget of the President under section 1105(a) of title 31, United States Code), the amount requested for the Space-Based Infrared System shall be set forth in accordance with the following program elements:

(1) Space Segment High.

(2) Space Segment Low (Space and Missile Tracking System).

(3) Ground Segment.

(d) FUNDING FOR FISCAL YEAR 1996.—Of the amounts authorized to be appropriated pursuant to section 201(3) for fiscal year 1996, or otherwise made available to the Department of Defense for fiscal year 1996, the following amounts shall be available for the Space-Based Infrared System:

(1) $265,744,000 for demonstration and validation, of which $249,824,000 shall be available for the Space and Missile Tracking System.

(2) $162,219,000 for engineering and manufacturing development, of which $9,400,000 shall be available for the Miniature Sensor Technology Integration program.

SEC. 217. DEFENSE NUCLEAR AGENCY PROGRAMS.

(a) AGENCY FUNDING.—Of the amounts authorized to be appropriated to the Department of Defense in section 201, $241,703,000 shall be available for the Defense Nuclear Agency.

(b) TUNNEL CHARACTERIZATION AND NEUTRALIZATION PROGRAM.—Of the amount made available under subsection (a), $3,000,000 shall be available for a tunnel characterization and neutralization program to be managed by the Defense Nuclear Agency as part of the counterproliferation activities of the Department of Defense.

(c) LONG-TERM RADIATION TOLERANT MICROELECTRONICS PROGRAM.—(1) Of the amount made available under subsection (a), $6,000,000 shall be available for the establishment of a long-term

radiation tolerant microelectronics program to be managed by the Defense Nuclear Agency for the purposes of—

(A) providing for the development of affordable and effective hardening technologies and for incorporation of such technologies into systems;

(B) sustaining the supporting industrial base; and

(C) ensuring that a use of a nuclear weapon in regional threat scenarios does not interrupt or defeat the continued operability of systems of the Armed Forces exposed to the combined effects of radiation emitted by the weapon.

Reports.

(2) Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report on how the long-term radiation tolerant microelectronics program is to be conducted and funded in the fiscal years after fiscal year 1996 that are covered by the future-years defense program submitted to Congress in 1995.

(d) THERMIONICS PROGRAM.—Of the amount made available under subsection (a), $10,000,000 shall be available for the thermionics program, to be managed by the Defense Nuclear Agency.

(e) ELECTROTHERMAL GUN TECHNOLOGY PROGRAM.—Of the amount made available under subsection (a), $4,000,000 shall be available for the electrothermal gun technology program of the Defense Nuclear Agency.

(f) COUNTERTERROR EXPLOSIVES RESEARCH PROGRAM.—Of the amount made available under subsection (a), $4,000,000 shall be available for the counterterror explosives research program of the Defense Nuclear Agency.

(g) TRANSFER OF UNOBLIGATED BALANCE.—The Secretary of Defense shall transfer to the Defense Nuclear Agency, to be available for the thermionics program, an amount not to exceed $12,000,000 from the unobligated balance of funds authorized and appropriated for research, development, test, and evaluation for fiscal year 1995 for the Air Force for the Advanced Weapons Program.

SEC. 218. COUNTERPROLIFERATION SUPPORT PROGRAM.

(a) FUNDING.—Of the funds authorized to be appropriated to the Department of Defense under section 201(4), $138,237,000 shall be available for the Counterproliferation Support Program, of which $30,000,000 shall be available for a tactical antisatellite technologies program.

(b) ADDITIONAL AUTHORITY TO TRANSFER AUTHORIZATIONS.—(1) In addition to the transfer authority provided in section 1001, upon determination by the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in this division for fiscal year 1996 to counterproliferation programs, projects, and activities identified as areas for progress by the Counterproliferation Program Review Committee established by section 1605 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1845). Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred.

(2) The total amount of authorizations transferred under the authority of this subsection may not exceed $50,000,000.

(3) The authority provided by this subsection to transfer authorizations—

(A) may only be used to provide authority for items that have a higher priority than the items from which authority is transferred; and

(B) may not be used to provide authority for an item that has been denied authorization by Congress.

(4) A transfer made from one account to another under the authority of this subsection shall be deemed to increase the amount authorized for the account to which the amount is transferred by an amount equal to the amount transferred.

(5) The Secretary of Defense shall promptly notify Congress of transfers made under the authority of this subsection. Notification.

SEC. 219. NONLETHAL WEAPONS STUDY.

(a) FINDINGS.—Congress finds the following:

(1) The role of the United States military in operations other than war has increased.

(2) Weapons and instruments that are nonlethal in application yet immobilizing could have widespread operational utility and application.

(3) The use of nonlethal weapons in operations other than war poses a number of important doctrine, legal, policy, and operations questions which should be addressed in a comprehensive and coordinated manner.

(4) The development of nonlethal technologies continues to spread across military and agency budgets.

(5) The Department of Defense should provide improved budgetary focus and management direction to the nonlethal weapons program.

(b) RESPONSIBILITY FOR DEVELOPMENT OF NONLETHAL WEAPONS TECHNOLOGY.—Not later than February 15, 1996, the Secretary of Defense shall assign centralized responsibility for development (and any other functional responsibility the Secretary considers appropriate) of nonlethal weapons technology to an existing office within the Office of the Secretary of Defense or to a military service as the executive agent.

(c) REPORT.—Not later than February 15, 1996, the Secretary of Defense shall submit to Congress a report setting forth the following:

(1) The name of the office or military service assigned responsibility for the nonlethal weapons program by the Secretary of Defense pursuant to subsection (b) and a discussion of the rationale for such assignment.

(2) The degree to which nonlethal weapons are required by more than one of the armed forces.

(3) The time frame for the development and deployment of such weapons.

(4) The appropriate role of the military departments and defense agencies in the development of such weapons.

(5) The military doctrine, legal, policy, and operational issues that must be addressed by the Department of Defense before such weapons achieve operational capability.

(d) AUTHORIZATION.—Of the amount authorized to be appropriated under section 201(4), $37,200,000 shall be available for nonlethal weapons programs and nonlethal technologies programs.

(e) DEFINITION.—For purposes of this section, the term "nonlethal weapon" means a weapon or instrument the effect of which on human targets is less than fatal.

SEC. 220. FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTERS AND UNIVERSITY-AFFILIATED RESEARCH CENTERS.

(a) CENTERS COVERED.—Funds appropriated or otherwise made available for the Department of Defense for fiscal year 1996 pursuant to an authorization of appropriations in section 201 may be obligated to procure work from a federally funded research and development center (in this section referred to as an "FFRDC") or a university-affiliated research center (in this section referred to as a "UARC") only in the case of a center named in the report required by subsection (b) and, in the case of such a center, only in an amount not in excess of the amount of the proposed funding level set forth for that center in such report.

(b) REPORT ON ALLOCATIONS FOR CENTERS.—(1) Not later than 30 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report containing—

(A) the name of each FFRDC and UARC from which work is proposed to be procured for the Department of Defense for fiscal year 1996; and

(B) for each such center, the proposed funding level and the estimated personnel level for fiscal year 1996.

(2) The total of the proposed funding levels set forth in the report for all FFRDCs and UARCs may not exceed the amount set forth in subsection (d).

(c) LIMITATION PENDING SUBMISSION OF REPORT.—Not more than 15 percent of the funds appropriated or otherwise made available for the Department of Defense for fiscal year 1996 pursuant to an authorization of appropriations in section 201 for FFRDCs and UARCs may be obligated to procure work from an FFRDC or UARC until the Secretary of Defense submits the report required by subsection (b).

(d) FUNDING.—Of the amounts authorized to be appropriated by section 201, not more than a total of $1,668,850,000 may be obligated to procure services from the FFRDCs and UARCs named in the report required by subsection (b).

(e) AUTHORITY TO WAIVE FUNDING LIMITATION.—The Secretary of Defense may waive the limitation regarding the maximum funding amount that applies under subsection (a) to an FFRDC or UARC. Whenever the Secretary proposes to make such a waiver, the Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives notice of the proposed waiver and the reasons for the waiver. The waiver may then be made only after the end of the 60-day period that begins on the date on which the notice is submitted to those committees, unless the Secretary determines that it is essential to the national security that funds be obligated for work at that center in excess of that limitation before the end of such period and notifies those committees of that determination and the reasons for the determination.

Notice.

(f) FIVE-YEAR PLAN.—(1) The Secretary of Defense, in consultation with the Secretaries of the military departments, shall develop a five-year plan to reduce and consolidate the activities performed

by FFRDCs and UARCs and establish a framework for the future workload of such centers.

(2) The plan shall—

(A) set forth the manner in which the Secretary of Defense could achieve by October 1, 2000, implementation by FFRDCs and UARCs of only those core activities, as defined by the Secretary, that require the unique capabilities and arrangements afforded by such centers; and

(B) include an assessment of the number of personnel needed in each FFRDC and UARC during each year over the five years covered by the plan.

(3) Not later than February 1, 1996, the Secretary of Defense shall submit to the congressional defense committees a report on the plan required by this subsection. Reports.

SEC. 221. JOINT SEISMIC PROGRAM AND GLOBAL SEISMIC NETWORK.

Of the amount authorized to be appropriated under section 201(3), $9,500,000 shall be available for fiscal year 1996 (in program element 61101F in the budget of the Department of Defense for fiscal year 1996) for continuation of the Joint Seismic Program and Global Seismic Network.

SEC. 222. HYDRA-70 ROCKET PRODUCT IMPROVEMENT PROGRAM.

(a) FUNDING AUTHORIZATION.—Of the amount authorized to be appropriated under section 201(1) for Other Missile Product Improvement Programs, $10,000,000 is authorized to be appropriated for a Hydra–70 rocket product improvement program and to be made available under such program for full qualification and operational platform certification of a Hydra–70 rocket described in subsection (b) for use on the Apache attack helicopter.

(b) HYDRA–70 ROCKET COVERED.—The Hydra–70 rocket referred to in subsection (a) is any Hydra–70 rocket that has as its propulsion component a 2.75-inch rocket motor that is a nondevelopmental item and uses a composite propellant.

(c) COMPETITION REQUIRED.—The Secretary of the Army shall conduct the product improvement program referred to in subsection (a) with full and open competition.

(d) SUBMISSION OF TECHNICAL DATA PACKAGE REQUIRED.—Upon the full qualification and operational platform certification of a Hydra–70 rocket as described in subsection (a), the contractor providing the rocket so qualified and certified shall submit the technical data package for the rocket to the Secretary of the Army. The Secretary shall use the technical data package in competitions for contracts for the procurement of Hydra–70 rockets described in subsection (b) for the Army.

(e) DEFINITIONS.—For purposes of this section, the terms "full and open competition" and "nondevelopmental item" have the meanings given such terms in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).

SEC. 223. LIMITATION ON OBLIGATION OF FUNDS UNTIL RECEIPT OF ELECTRONIC COMBAT CONSOLIDATION MASTER PLAN.

(a) LIMITATION.—Not more than 75 percent of the amounts appropriated or otherwise made available pursuant to the authorization of appropriations in section 201 for test and evaluation program elements 65896A, 65864N, 65807F, and 65804D in the budget of the Department of Defense for fiscal year 1996 may

be obligated until 14 days after the date on which the congressional defense committees receive the plan specified in subsection (b).

(b) PLAN.—The plan referred to in subsection (a) is the master plan for electronic combat consolidation described under Defense-Wide Programs under Research, Development, Test, and Evaluation in the Report of the Committee on Armed Services of the House of Representatives on H.R. 4301 (House Report 103–499), dated May 10, 1994.

SEC. 224. REPORT ON REDUCTIONS IN RESEARCH, DEVELOPMENT, TEST, AND EVALUATION.

(a) REPORT REQUIREMENT.—Not later than March 15, 1996, the Under Secretary of Defense (Comptroller) shall submit to the congressional defense committees a report that sets forth in detail the allocation of reductions for research, development, test, and evaluation described in subsection (b).

(b) DESCRIPTION OF REDUCTIONS.—The reductions for research, development, test, and evaluation covered by subsection (a) are the following Army, Navy, Air Force, and Defense-wide reductions, as required by the Department of Defense Appropriations Act, 1996:

(1) General reductions.

(2) Reductions to reflect savings from revised economic assumptions.

(3) Reductions to reflect the funding ceiling for defense federally funded research and development centers.

(4) Reductions for savings through improved management of contractor automatic data processing costs charged through indirect rates on Department of Defense acquisition contracts.

SEC. 225. ADVANCED FIELD ARTILLERY SYSTEM (CRUSADER).

(a) AUTHORITY TO USE FUNDS FOR ALTERNATIVE PROPELLANT TECHNOLOGIES.—During fiscal year 1996, the Secretary of the Army may use funds appropriated for the liquid propellant portion of the Advanced Field Artillery System (Crusader) program for fiscal year 1996 for alternative propellant technologies and integration of those technologies into the design of the Crusader if—

(1) the Secretary determines that the technical risk associated with liquid propellant will increase costs and delay the initial operational capability of the Crusader; and

Notification.

(2) the Secretary notifies the congressional defense committees of the proposed use of the funds and the reasons for the proposed use of the funds.

(b) LIMITATION.—The Secretary of the Army may not spend funds for the liquid propellant portion of the Crusader program after August 15, 1996, unless—

(1) the report required by subsection (c) has been submitted by that date; and

(2) such report includes documentation of significant progress, as determined by the Secretary, toward meeting the objectives for the liquid propellant portion of the program, as set forth in the baseline description for the Crusader program and approved by the Office of the Secretary of Defense on January 4, 1995.

(c) REPORT REQUIRED.—Not later than August 1, 1996, the Secretary of the Army shall submit to the congressional defense committees a report containing documentation of the progress being made in meeting the objectives set forth in the baseline description for the Crusader program and approved by the Office of the Sec-

retary of Defense on January 4, 1995. The report shall specifically address the progress being made toward meeting the following objectives:

(1) Establishment of breech and ignition design criteria for rate of fire for the cannon of the Crusader.

(2) Selection of a satisfactory ignition concept for the next prototype of the cannon.

(3) Selection, on the basis of modeling and simulation, of design concepts to prevent chamber piston reversals, and validation of the selected concepts by gun and mock chamber firings.

(4) Achievement of an understanding of the chemistry and physics of propellant burn resulting from the firing of liquid propellant into any target zone, and achievement, on the basis of modeling and simulation, of an ignition process that is predictable.

(5) Completion of an analysis of the management of heat dissipation for the full range of performance requirements for the cannon, completion of concept designs supported by that analysis, and proposal of such concept designs for engineering.

(6) Development, for integration into the next prototype of the cannon, of engineering designs to control pressure oscillations in the chamber of the cannon during firing.

(7) Completion of an assessment of the sensitivity of liquid propellant to contamination by various materials to which it may be exposed throughout the handling and operation of the cannon, and documentation of predictable reactions of contaminated or sensitized liquid propellant.

(d) ADDITIONAL MATTERS TO BE COVERED BY REPORT.—The report required by subsection (c) also shall contain the following:

(1) An assertion that all the known hazards associated with liquid propellant have been identified and are controllable to acceptable levels.

(2) An assessment of the technology for each component of the Crusader (the cannon, vehicle, and crew module), including, for each performance goal of the Crusader program (including the goal for total system weight), information about the maturity of the technology to achieve that goal, the maturity of the design of the technology, and the manner in which the design has been proven (for example, through simulation, bench testing, or weapon firing).

(3) An assessment of the cost of continued development of the Crusader after August 1, 1996, and the cost of each unit of the Crusader in the year the Crusader will be completed.

SEC. 226. DEMILITARIZATION OF CONVENTIONAL MUNITIONS, ROCKETS, AND EXPLOSIVES.

Of the amount appropriated pursuant to the authorization in section 201 for explosives demilitarization technology, $15,000,000 shall be available to establish an integrated program for the development and demonstration of conventional munitions and explosives demilitarization technologies that comply with applicable environmental laws for the demilitarization and disposal of unserviceable, obsolete, or nontreaty compliant munitions, rocket motors, and explosives.

SEC. 227. DEFENSE AIRBORNE RECONNAISSANCE PROGRAM.

(a) LIMITATION.—Not more than three percent of the total amount appropriated for research and development under the Defense Airborne Reconnaissance program pursuant to the authorizations of appropriations in section 201 may be obligated for systems engineering and technical assistance (SETA) contracts until—

(1) funds are obligated (out of such appropriated funds) for—

(A) the upgrade of U–2 aircraft senior year electro-optical reconnaissance sensors to the newest configuration; and

(B) the upgrade of the U–2 SIGINT system; and

(2) the Under Secretary of Defense for Acquisition and Technology submits the report required under subsection (b).

(b) REPORT ON U–2-RELATED UPGRADES.—(1) Not later than April 1, 1996, the Under Secretary of Defense for Acquisition and Technology shall transmit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on obligations of funds for upgrades relating to airborne reconnaissance by U–2 aircraft.

(2) The report shall set forth the specific purposes under the general purposes described in subparagraphs (A) and (B) of subsection (a)(1) for which funds have been obligated (as of the date of the report) and the amounts that have been obligated (as of such date) for those specific purposes.

Ballistic Missile Defense Act of 1995.
10 USC 2431 note.

Subtitle C—Ballistic Missile Defense Act of 1995

SEC. 231. SHORT TITLE.

This subtitle may be cited as the "Ballistic Missile Defense Act of 1995".

SEC. 232. FINDINGS.

Congress makes the following findings:

(1) The emerging threat that is posed to the national security interests of the United States by the proliferation of ballistic missiles is significant and growing, both in terms of numbers of missiles and in terms of the technical capabilities of those missiles.

(2) The deployment of ballistic missile defenses is a necessary, but not sufficient, element of a broader strategy to discourage both the proliferation of weapons of mass destruction and the proliferation of the means of their delivery and to defend against the consequences of such proliferation.

(3) The deployment of effective Theater Missile Defense systems can deter potential adversaries of the United States from escalating a conflict by threatening or attacking United States forces or the forces or territory of coalition partners or allies of the United States with ballistic missiles armed with weapons of mass destruction to offset the operational and technical advantages of the United States and its coalition partners and allies.

(4) United States intelligence officials have provided intelligence estimates to congressional committees that (A) the trend

in missile proliferation is toward longer range and more sophisticated ballistic missiles, (B) North Korea may deploy an intercontinental ballistic missile capable of reaching Alaska or beyond within five years, and (C) although a new, indigenously developed ballistic missile threat to the continental United States is not foreseen within the next ten years, determined countries can acquire intercontinental ballistic missiles in the near future and with little warning by means other than indigenous development.

(5) The development and deployment by the United States and its allies of effective defenses against ballistic missiles of all ranges will reduce the incentives for countries to acquire such missiles or to augment existing missile capabilities.

(6) The concept of mutual assured destruction (based upon an offense-only form of deterrence), which is the major philosophical rationale underlying the ABM Treaty, is now questionable as a basis for stability in a multipolar world in which the United States and the states of the former Soviet Union are seeking to normalize relations and eliminate Cold War attitudes and arrangements.

(7) The development and deployment of a National Missile Defense system against the threat of limited ballistic missile attacks—

(A) would strengthen deterrence at the levels of forces agreed to by the United States and Russia under the Strategic Arms Reduction Talks Treaty (START–I); and

(B) would further strengthen deterrence if reductions below the levels permitted under START–I should be agreed to and implemented in the future.

(8) The distinction made during the Cold War, based upon the technology of the time, between strategic ballistic missiles and nonstrategic ballistic missiles, which resulted in the distinction made in the ABM Treaty between strategic defense and nonstrategic defense, has become obsolete because of technological advancement (including the development by North Korea of long-range Taepo-Dong I and Taepo-Dong II missiles) and, therefore, that distinction in the ABM Treaty should be reviewed.

SEC. 233. BALLISTIC MISSILE DEFENSE POLICY.

It is the policy of the United States—

(1) to deploy affordable and operationally effective theater missile defenses to protect forward-deployed and expeditionary elements of the Armed Forces of the United States and to complement the missile defense capabilities of forces of coalition partners and of allies of the United States; and

(2) to seek a cooperative, negotiated transition to a regime that does not feature an offense-only form of deterrence as the basis for strategic stability.

SEC. 234. THEATER MISSILE DEFENSE ARCHITECTURE.

(a) ESTABLISHMENT OF CORE PROGRAM.—To implement the policy established in paragraph (1) of section 233, the Secretary of Defense shall restructure the core theater missile defense program to consist of the following systems, to be carried out so as to achieve the specified capabilities:

(1) The Patriot PAC–3 system, with a first unit equipped (FUE) during fiscal year 1998.

(2) The Navy Lower Tier (Area) system, with a user operational evaluation system (UOES) capability during fiscal year 1997 and an initial operational capability (IOC) during fiscal year 1999.

(3) The Theater High-Altitude Area Defense (THAAD) system, with a user operational evaluation system (UOES) capability not later than fiscal year 1998 and a first unit equipped (FUE) not later than fiscal year 2000.

(4) The Navy Upper Tier (Theater Wide) system, with a user operational evaluation system (UOES) capability during fiscal year 1999 and an initial operational capability (IOC) during fiscal year 2001.

(b) USE OF STREAMLINED ACQUISITION PROCEDURES.—The Secretary of Defense shall prescribe and use streamlined acquisition policies and procedures to reduce the cost and increase the efficiency of developing and deploying the theater missile defense systems specified in subsection (a).

(c) INTEROPERABILITY AND SUPPORT OF CORE SYSTEMS.—To maximize effectiveness and flexibility of the systems comprising the core theater missile defense program, the Secretary of Defense shall ensure that those systems are integrated and complementary and are fully capable of exploiting external sensor and battle management support from systems such as—

(A) the Cooperative Engagement Capability (CEC) system of the Navy;

(B) airborne sensors; and

(C) space-based sensors (including, in particular, the Space and Missile Tracking System).

(d) FOLLOW-ON SYSTEMS.—(1) The Secretary of Defense shall prepare an affordable development plan for theater missile defense systems to be developed as follow-on systems to the core systems specified in subsection (a). The Secretary shall make the selection of a system for inclusion in the plan based on the capability of the system to satisfy military requirements not met by the systems in the core program and on the capability of the system to use prior investments in technologies, infrastructure, and battle-management capabilities that are incorporated in, or associated with, the systems in the core program.

Notice. (2) The Secretary may not proceed with the development of a follow-on theater missile defense system beyond the Demonstration/Validation stage of development unless the Secretary designates that system as a part of the core program under this section and submits to the congressional defense committees notice

Reports. of that designation. The Secretary shall include with any such notification a report describing—

(A) the requirements for the system and the specific threats that such system is designed to counter;

(B) how the system will relate to, support, and build upon existing core systems;

(C) the planned acquisition strategy for the system; and

(D) a preliminary estimate of total program cost for that system and the effect of development and acquisition of such system on Department of Defense budget projections.

(e) PROGRAM ACCOUNTABILITY REPORT.—(1) As part of the annual report of the Ballistic Missile Defense Organization required by section 224 of Public Law 101–189 (10 U.S.C. 2431 note), the Secretary of Defense shall describe the technical milestones, the

schedule, and the cost of each phase of development and acquisition (together with total estimated program costs) for each core and follow-on theater missile defense program.

(2) As part of such report, the Secretary shall describe, with respect to each program covered in the report, any variance in the technical milestones, program schedule milestones, and costs for the program compared with the information relating to that program in the report submitted in the previous year and in the report submitted in the first year in which that program was covered.

(f) REPORTS ON TMD SYSTEM LIMITATIONS UNDER ABM TREATY.—(1) Whenever, after January 1, 1993, the Secretary of Defense issues a certification with respect to the compliance of a particular Theater Missile Defense system with the ABM Treaty, the Secretary shall transmit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a copy of such certification. Such transmittal shall be made not later than 30 days after the date on which such certification is issued, except that in the case of a certification issued before the date of the enactment of this Act, such transmittal shall be made not later than 60 days after the date of the enactment of this Act. Certification.

(2) If a certification under paragraph (1) is based on application of a policy concerning United States compliance with the ABM Treaty that differs from the policy described in section 235(b)(1), the Secretary shall include with the transmittal under that paragraph a report providing a detailed assessment of—

(A) how the policy applied differs from the policy described in section 235(b)(1); and

(B) how the application of that policy (rather than the policy described in section 235(b)(1)) will affect the cost, schedule, and performance of that system.

SEC. 235. PROHIBITION ON USE OF FUNDS TO IMPLEMENT AN INTERNATIONAL AGREEMENT CONCERNING THEATER MISSILE DEFENSE SYSTEMS.

(a) FINDINGS.—(1) Congress hereby reaffirms—

(A) the finding in section 234(a)(7) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1595; 10 U.S.C. 2431 note) that the ABM Treaty was not intended to, and does not, apply to or limit research, development, testing, or deployment of missile defense systems, system upgrades, or system components that are designed to counter modern theater ballistic missiles, regardless of the capabilities of such missiles, unless those systems, system upgrades, or system components are tested against or have demonstrated capabilities to counter modern strategic ballistic missiles; and

(B) the statement in section 232 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2700) that the United States shall not be bound by any international agreement entered into by the President that would substantively modify the ABM Treaty unless the agreement is entered into pursuant to the treaty making power of the President under the Constitution.

(2) Congress also finds that the demarcation standard described in subsection (b)(1) for compliance of a missile defense system,

system upgrade, or system component with the ABM Treaty is based upon current technology.

(b) SENSE OF CONGRESS CONCERNING COMPLIANCE POLICY.—It is the sense of Congress that—

(1) unless a missile defense system, system upgrade, or system component (including one that exploits data from space-based or other external sensors) is flight tested in an ABM-qualifying flight test (as defined in subsection (e)), that system, system upgrade, or system component has not, for purposes of the ABM Treaty, been tested in an ABM mode nor been given capabilities to counter strategic ballistic missiles and, therefore, is not subject to any application, limitation, or obligation under the ABM Treaty; and

(2) any international agreement that would limit the research, development, testing, or deployment of missile defense systems, system upgrades, or system components that are designed to counter modern theater ballistic missiles in a manner that would be more restrictive than the compliance criteria specified in paragraph (1) should be entered into only pursuant to the treaty making powers of the President under the Constitution.

(c) PROHIBITION ON FUNDING.—Funds appropriated or otherwise made available to the Department of Defense for fiscal year 1996 may not be obligated or expended to implement an agreement, or any understanding with respect to interpretation of the ABM Treaty, between the United States and any of the independent states of the former Soviet Union entered into after January 1, 1995, that—

(1) would establish a demarcation between theater missile defense systems and anti-ballistic missile systems for purposes of the ABM Treaty; or

(2) would restrict the performance, operation, or deployment of United States theater missile defense systems.

(d) EXCEPTIONS.—Subsection (c) does not apply—

(1) to the extent provided by law in an Act enacted after this Act;

(2) to expenditures to implement that portion of any such agreement or understanding that implements the policy set forth in subsection (b)(1); or

(3) to expenditures to implement any such agreement or understanding that is approved as a treaty or by law.

(e) ABM-QUALIFYING FLIGHT TEST DEFINED.—For purposes of this section, an ABM-qualifying flight test is a flight test against a ballistic missile which, in that flight test, exceeds (1) a range of 3,500 kilometers, or (2) a velocity of 5 kilometers per second.

SEC. 236. BALLISTIC MISSILE DEFENSE COOPERATION WITH ALLIES.

It is in the interest of the United States to develop its own missile defense capabilities in a manner that will permit the United States to complement the missile defense capabilities developed and deployed by its allies and possible coalition partners. Therefore, the Congress urges the President—

(1) to pursue high-level discussions with allies of the United States and selected other states on the means and methods by which the parties on a bilateral basis can cooperate in the development, deployment, and operation of ballistic missile defenses;

(2) to take the initiative within the North Atlantic Treaty Organization to develop consensus in the Alliance for a timely deployment of effective ballistic missile defenses by the Alliance; and

(3) in the interim, to seek agreement with allies of the United States and selected other states on steps the parties should take, consistent with their national interests, to reduce the risks posed by the threat of limited ballistic missile attacks, such steps to include—

(A) the sharing of early warning information derived from sensors deployed by the United States and other states;

(B) the exchange on a reciprocal basis of technical data and technology to support both joint development programs and the sale and purchase of missile defense systems and components; and

(C) operational level planning to exploit current missile defense capabilities and to help define future requirements.

SEC. 237. ABM TREATY DEFINED.

For purposes of this subtitle, the term "ABM Treaty" means the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missile Systems, and signed at Moscow on May 26, 1972, and includes the Protocols to that Treaty, signed at Moscow on July 3, 1974.

SEC. 238. REPEAL OF MISSILE DEFENSE ACT OF 1991.

The Missile Defense Act of 1991 (10 U.S.C. 2431 note) is repealed.

Subtitle D—Other Ballistic Missile Defense Provisions

SEC. 251. BALLISTIC MISSILE DEFENSE PROGRAM ELEMENTS. 10 USC 221 note.

(a) ELEMENTS SPECIFIED.—In the budget justification materials submitted to Congress in support of the Department of Defense budget for any fiscal year after fiscal year 1996 (as submitted with the budget of the President under section 1105(a) of title 31, United States Code), the amount requested for activities of the Ballistic Missile Defense Organization shall be set forth in accordance with the following program elements:

(1) The Patriot system.

(2) The Navy Lower Tier (Area) system.

(3) The Theater High-Altitude Area Defense (THAAD) system.

(4) The Navy Upper Tier (Theater Wide) system.

(5) The Corps Surface-to-Air Missile (SAM) system.

(6) Other Theater Missile Defense Activities.

(7) National Missile Defense.

(8) Follow-On and Support Technologies.

(b) TREATMENT OF CORE THEATER MISSILE DEFENSE PROGRAMS.—Amounts requested for core theater missile defense programs specified in section 234 shall be specified in individual, dedicated program elements, and amounts appropriated for such

programs shall be available only for activities covered by those program elements.

(c) BM/C^{3}I PROGRAMS.—Amounts requested for programs, projects, and activities involving battle management, command, control, communications, and intelligence (BM/C^{3}I) shall be included in the "Other Theater Missile Defense Activities" program element or the "National Missile Defense" program element, as determined on the basis of the primary objectives involved.

(d) MANAGEMENT AND SUPPORT.—Each program element shall include requests for the amounts necessary for the management and support of the programs, projects, and activities contained in that program element.

SEC. 252. TESTING OF THEATER MISSILE DEFENSE INTERCEPTORS.

Subsection (a) of section 237 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1600) is amended to read as follows:

Certification.

"(a) TESTING OF THEATER MISSILE DEFENSE INTERCEPTORS.—(1) The Secretary of Defense may not approve a theater missile defense interceptor program proceeding beyond the low-rate initial production acquisition stage until the Secretary certifies to the congressional defense committees that such program has successfully completed initial operational test and evaluation.

"(2) In order to be certified under paragraph (1) as having been successfully completed, the initial operational test and evaluation conducted with respect to an interceptors program must have included flight tests—

"(A) that were conducted with multiple interceptors and multiple targets in the presence of realistic countermeasures; and

"(B) the results of which demonstrate the achievement by the interceptors of the baseline performance thresholds.

"(3) For purposes of this subsection, the baseline performance thresholds with respect to a program are the weapons systems performance thresholds specified in the baseline description for the system established (pursuant to section 2435(a)(1) of title 10, United States Code) before the program entered the engineering and manufacturing development stage.

"(4) The number of flight tests described in paragraph (2) that are required in order to make the certification under paragraph (1) shall be a number determined by the Secretary of Defense to be sufficient for the purposes of this section.

"(5) The Secretary may augment live-fire testing to demonstrate weapons system performance goals for purposes of the certification under paragraph (1) through the use of modeling and simulation that is validated by ground and flight testing.".

SEC. 253. REPEAL OF MISSILE DEFENSE PROVISIONS.

The following provisions of law are repealed:

(1) Section 222 of the Department of Defense Authorization Act, 1986 (Public Law 99–145; 99 Stat. 613; 10 U.S.C. 2431 note).

(2) Section 225 of the Department of Defense Authorization Act, 1986 (Public Law 99–145; 99 Stat. 614).

(3) Section 226 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100–180; 101 Stat. 1057; 10 U.S.C. 2431 note).

(4) Section 8123 of the Department of Defense Appropriations Act, 1989 (Public Law 100–463; 102 Stat. 2270–40).

(5) Section 8133 of the Department of Defense Appropriations Act, 1992 (Public Law 102–172; 105 Stat. 1211).

(6) Section 234 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1595; 10 U.S.C. 2431 note).

(7) Section 242 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1603; 10 U.S.C. 2431 note).

(8) Section 235 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2701; 10 U.S.C. 221 note).

(9) Section 2609 of title 10, United States Code.

Subtitle E—Miscellaneous Reviews, Studies, and Reports

SEC. 261. PRECISION-GUIDED MUNITIONS.

(a) ANALYSIS REQUIRED.—The Secretary of Defense shall perform an analysis of the full range of precision-guided munitions in production and in research, development, test, and evaluation in order to determine the following:

(1) The numbers and types of precision-guided munitions that are needed to provide complementary capabilities against each target class.

(2) The feasibility of carrying out joint development and procurement of additional types of munitions by more than one of the Armed Forces.

(3) The feasibility of integrating a particular precision-guided munition on multiple service platforms.

(4) The economy and effectiveness of continuing the acquisition of—

(A) interim precision-guided munitions; or

(B) precision-guided munitions that, as a result of being procured in decreasing numbers to meet decreasing quantity requirements, have increased in cost per unit by more than 50 percent over the cost per unit for such munitions as of December 1, 1991.

(b) REPORT.—(1) Not later than April 15, 1996, the Secretary shall submit to Congress a report on the findings and other results of the analysis.

(2) The report shall include a detailed discussion of the process by which the Department of Defense—

(A) approves the development of new precision-guided munitions;

(B) avoids duplication and redundancy in the precision-guided munitions programs of the Army, Navy, Air Force, and Marine Corps;

(C) ensures rationality in the relationship between the funding plans for precision-guided munitions modernization for fiscal years following fiscal year 1996 and the costs of such modernization for those fiscal years; and

(D) identifies by name and function each person responsible for approving each new precision-guided munition for initial low-rate production.

(c) FUNDING LIMITATION.—Funds authorized to be appropriated by this Act may not be expended for research, development, test, and evaluation or procurement of interim precision-guided munitions after April 15, 1996, unless the Secretary of Defense has submitted the report under subsection (b).

(d) INTERIM PRECISION-GUIDED MUNITION DEFINED.—For purposes of subsection (c), a precision-guided munition is an interim precision-guided munition if the munition is being procured in fiscal year 1996, but funding is not proposed for additional procurement of the munition in the fiscal years after fiscal year 1996 that are covered by the future years defense program submitted to Congress in 1995 under section 221(a) of title 10, United States Code.

10 USC 113 note.

SEC. 262. REVIEW OF C⁴I BY NATIONAL RESEARCH COUNCIL.

(a) REVIEW BY NATIONAL RESEARCH COUNCIL.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall request the National Research Council of the National Academy of Sciences to conduct a comprehensive review of current and planned service and defense-wide programs for command, control, communications, computers, and intelligence (C⁴I) with a special focus on cross-service and inter-service issues.

(b) MATTERS TO BE ASSESSED IN REVIEW.—The review shall address the following:

(1) The match between the capabilities provided by current service and defense-wide C⁴I programs and the actual needs of users of these programs.

(2) The interoperability of service and defense-wide C⁴I systems that are planned to be operational in the future.

(3) The need for an overall defense-wide architecture for C⁴I.

(4) Proposed strategies for ensuring that future C⁴I acquisitions are compatible and interoperable with an overall architecture.

(5) Technological and administrative aspects of the C⁴I modernization effort to determine the soundness of the underlying plan and the extent to which it is consistent with concepts for joint military operations in the future.

(c) TWO-YEAR PERIOD FOR CONDUCTING REVIEW.—The review shall be conducted over the two-year period beginning on the date on which the National Research Council and the Secretary of Defense enter into a contract or other agreement for the conduct of the review.

(d) REPORTS.—(1) In the contract or other agreement for the conduct of the review, the Secretary of Defense shall provide that the National Research Council shall submit to the Department of Defense and Congress interim reports and progress updates on a regular basis as the review proceeds. A final report on the review shall set forth the findings, conclusions, and recommendations of the Council for defense-wide and service C⁴I programs and shall be submitted to the Committee on Armed Services of the Senate, the Committee on National Security of the House of Representatives, and the Secretary of Defense.

(2) To the maximum degree possible, the final report shall be submitted in unclassified form with classified annexes as necessary.

(e) INTERAGENCY COOPERATION WITH STUDY.—All military departments, defense agencies, and other components of the Department of Defense shall cooperate fully with the National Research Council in its activities in carrying out the review under this section.

(f) EXPEDITED PROCESSING OF SECURITY CLEARANCES FOR STUDY.—For the purpose of facilitating the commencement of the study under this section, the Secretary of Defense shall expedite to the fullest degree possible the processing of security clearances that are necessary for the National Research Council to conduct the study.

(g) FUNDING.—Of the amount authorized to be appropriated in section 201 for defense-wide activities, $900,000 shall be available for the study under this section.

SEC. 263. ANALYSIS OF CONSOLIDATION OF BASIC RESEARCH ACCOUNTS OF MILITARY DEPARTMENTS.

(a) ANALYSIS REQUIRED.—The Secretary of Defense shall conduct an analysis of the cost and effectiveness of consolidating the basic research accounts of the military departments. The analysis shall determine potential infrastructure savings and other benefits of co-locating and consolidating the management of basic research.

(b) DEADLINE.—On or before March 1, 1996, the Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on the analysis conducted under subsection (a).

SEC. 264. CHANGE IN REPORTING PERIOD FROM CALENDAR YEAR TO FISCAL YEAR FOR ANNUAL REPORT ON CERTAIN CONTRACTS TO COLLEGES AND UNIVERSITIES.

Section 2361(c)(2) of title 10, United States Code, is amended—

(1) by striking out "calendar year" and inserting in lieu thereof "fiscal year"; and

(2) by striking out "the year after the year" and inserting in lieu thereof "the fiscal year after the fiscal year".

SEC. 265. AERONAUTICAL RESEARCH AND TEST CAPABILITIES ASSESSMENT.

(a) FINDINGS.—Congress finds the following:

(1) It is in the Nation's long-term national security interests for the United States to maintain preeminence in the area of aeronautical research and test capabilities.

(2) Continued advances in aeronautical science and engineering are critical to sustaining the strategic and tactical air superiority of the United States and coalition forces, as well as United States economic security and international aerospace leadership.

(3) It is in the national security and economic interests of the United States and the budgetary interests of the Department of Defense for the department to encourage the establishment of active partnerships between the department and other Government agencies, academic institutions, and private industry to develop, maintain, and enhance aeronautical research and test capabilities.

(b) REVIEW.—The Secretary of Defense shall conduct a comprehensive review of the aeronautical research and test facilities and capabilities of the United States in order to assess the current condition of such facilities and capabilities.

(c) REPORT.—(1) Not later than March 1, 1996, the Secretary of Defense shall submit to the congressional defense committees a report setting forth in detail the findings of the review required by subsection (b).

(2) The report shall include the following:

(A) The options for providing affordable, operable, reliable, and responsive long-term aeronautical research and test capabilities for military and civilian purposes and for the organization and conduct of such capabilities within the Department or through shared operations with other Government agencies, academic institutions, and private industry.

(B) The projected costs of such options, including costs of acquisition and technical and financial arrangements (including the use of Government facilities for reimbursable private use).

(C) Recommendations on the most efficient and economic means of developing, maintaining, and continually modernizing aeronautical research and test capabilities to meet current, planned, and prospective military and civilian needs.

Subtitle F—Other Matters

SEC. 271. ADVANCED LITHOGRAPHY PROGRAM.

Section 216 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2693) is amended—

(1) in subsection (a), by striking out "to help achieve" and all that follows through the end of the subsection and inserting in lieu thereof "to ensure that lithographic processes being developed by United States-owned companies or United States-incorporated companies operating in the United States will lead to superior performance electronics systems for the Department of Defense.";

(2) in subsection (b), by adding at the end the following new paragraph:

"(3) The Director of the Defense Advanced Research Projects Agency may set priorities and funding levels for various technologies being developed for the ALP and shall consider funding recommendations made by the Semiconductor Industry Association as being advisory in nature.";

(3) in subsection (c)—

(A) by inserting "Defense" before "Advanced"; and

(B) by striking out "ARPA" both places it appears and inserting in lieu thereof "DARPA"; and

(4) by adding at the end the following:

"(d) DEFINITIONS.—In this section:

"(1) The term 'United States-owned company' means a company the majority ownership or control of which is held by citizens of the United States.

"(2) The term 'United States-incorporated company' means a company that the Secretary of Defense finds is incorporated in the United States and has a parent company that is incorporated in a country—

"(A) that affords to United States-owned companies opportunities, comparable to those afforded to any other company, to participate in any joint venture similar to

those authorized under section 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278n);

"(B) that affords to United States-owned companies local investment opportunities comparable to those afforded to any other company; and

"(C) that affords adequate and effective protection for the intellectual property rights of United States-owned companies.".

SEC. 272. ENHANCED FIBER OPTIC GUIDED MISSILE (EFOG–M) SYSTEM.

(a) LIMITATIONS.—(1) The Secretary of the Army may not obligate more than $280,000,000 (based on fiscal year 1995 constant dollars) to develop and deliver for test and evaluation by the Army the following items:

(A) 44 enhanced fiber optic guided test missiles.

(B) 256 fully operational enhanced fiber optic guided missiles.

(C) 12 fully operational fire units.

(2) The Secretary of the Army may not spend funds for the enhanced fiber optic guided missile (EFOG–M) system after September 30, 1998, if the items described in paragraph (1) have not been delivered to the Army by that date and at a cost not greater than the amount set forth in paragraph (1).

(3) The Secretary of the Army may not enter into an advanced development phase for the EFOG–M system unless—

(A) an advanced concept technology demonstration of the system has been successfully completed; and

(B) the Secretary certifies to the congressional defense committees that there is a requirement for the EFOG–M system that is supported by a cost and operational effectiveness analysis.

(b) GOVERNMENT-FURNISHED EQUIPMENT.—The Secretary of the Army shall ensure that all Government-furnished equipment that the Army agrees to provide under the contract for the EFOG–M system is provided to the prime contractor in accordance with the terms of the contract.

SEC. 273. STATES ELIGIBLE FOR ASSISTANCE UNDER DEFENSE EXPERIMENTAL PROGRAM TO STIMULATE COMPETITIVE RESEARCH.

Subparagraph (A) of section 257(d)(2) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2705; 10 U.S.C. 2358 note) is amended to read as follows:

"(A) the average annual amount of all Department of Defense obligations for science and engineering research and development that were in effect with institutions of higher education in the State for the three fiscal years preceding the fiscal year for which the designation is effective or for the last three fiscal years for which statistics are available is less than the amount determined by multiplying 60 percent times the amount equal to 1/50 of the total average annual amount of all Department of Defense obligations for science and engineering research and development that were in effect with institutions of higher education in the United States for such three preceding or last fiscal years, as the case may be (to be determined in consultation with the Secretary of Defense);".

SEC. 274. CRUISE MISSILE DEFENSE INITIATIVE.

(a) IN GENERAL.—The Secretary of Defense shall undertake an initiative to coordinate and strengthen the cruise missile defense programs of the Department of Defense to ensure that the United States develops and deploys affordable and operationally effective defenses against existing and future cruise missile threats to United States military forces and operations.

(b) COORDINATION WITH BALLISTIC MISSILE DEFENSE EFFORTS.—In carrying out subsection (a), the Secretary shall ensure that, to the extent practicable, the cruise missile defense programs of the Department of Defense and the ballistic missile defense programs of the Department of Defense are coordinated with each other and that those programs are mutually supporting.

(c) DEFENSES AGAINST EXISTING AND NEAR-TERM CRUISE MISSILE THREATS.—As part of the initiative under subsection (a), the Secretary shall ensure that appropriate existing and planned air defense systems are upgraded to provide an affordable and operationally effective defense against existing and near-term cruise missile threats to United States military forces and operations.

(d) DEFENSES AGAINST ADVANCED CRUISE MISSILES.—As part of the initiative under subsection (a), the Secretary shall undertake a well-coordinated development program to support the future deployment of cruise missile defense systems that are affordable and operationally effective against advanced cruise missiles, including cruise missiles with low observable features.

(e) IMPLEMENTATION PLAN.—Not later than the date on which the President submits the budget for fiscal year 1997 under section 1105 of title 31, United States Code, the Secretary of Defense shall submit to the congressional defense committees a detailed plan, in unclassified and classified forms, as necessary, for carrying out this section. The plan shall include an assessment of the following:

(1) The systems of the Department of Defense that currently have or could have cruise missile defense capabilities and existing programs of the Department of Defense to improve these capabilities.

(2) The technologies that could be deployed in the near- to mid-term to provide significant advances over existing cruise missile defense capabilities and the investments that would be required to ready those technologies for deployment.

(3) The cost and operational tradeoffs, if any, between (A) upgrading existing air and missile defense systems, and (B) accelerating follow-on systems with significantly improved capabilities against advanced cruise missiles.

(4) The organizational and management changes that would strengthen and further coordinate the cruise missile defense programs of the Department of Defense, including the disadvantages, if any, of implementing such changes.

(f) DEFINITION.—For the purposes of this section, the term "cruise missile defense programs" means the programs, projects, and activities of the military departments, the Advanced Research Projects Agency, and the Ballistic Missile Defense Organization relating to development and deployment of defenses against cruise missiles.

SEC. 275. MODIFICATION TO UNIVERSITY RESEARCH INITIATIVE SUPPORT PROGRAM.

Section 802 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1701) is amended— 10 USC 2358 note.

(1) in subsections (a) and (b), by striking out "shall" both places it appears and inserting in lieu thereof "may"; and

(2) in subsection (e), by striking out the sentence beginning with "Such selection process".

SEC. 276. MANUFACTURING TECHNOLOGY PROGRAM.

(a) IN GENERAL.—Section 2525 of title 10, United States Code, is amended as follows:

(1) The heading is amended by striking out the second and third words.

(2) Subsection (a) is amended—

(A) by striking out "Science and"; and

(B) by inserting after the first sentence the following: "The Secretary shall use the joint planning process of the directors of the Department of Defense laboratories in establishing the program.".

(3) Subsection (c) is amended—

(A) by inserting "(1)" after "(c) EXECUTION.—"; and

(B) by adding at the end the following:

"(2) The Secretary shall seek, to the extent practicable, the participation of manufacturers of manufacturing equipment in the projects under the program.".

(4) Subsection (d) is amended—

(A) in paragraph (2)—

(i) by striking out "or" at the end of subparagraph (A);

(ii) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof "; or"; and

(iii) by adding at the end the following new subparagraph:

"(C) will be carried out by an institution of higher education."; and

(B) by adding at the end the following new paragraphs:

"(3) At least 25 percent of the funds available for the program each fiscal year shall be used for awarding grants and entering into contracts, cooperative agreements, and other transactions on a cost-share basis under which the ratio of recipient cost to Government cost is two to one.

"(4) If the requirement of paragraph (3) cannot be met by July 15 of a fiscal year, the Under Secretary of Defense for Acquisition and Technology may waive the requirement and obligate the balance of the funds available for the program for that fiscal year on a cost-share basis under which the ratio of recipient cost to Government cost is less than two to one. Before implementing any such waiver, the Under Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives the reasons for the waiver.".

(b) CLERICAL AMENDMENT.—The item relating to section 2525 in the table of sections at the beginning of subchapter IV of chapter 148 of title 10, United States Code, is amended to read as follows:

"2525. Manufacturing Technology Program.".

SEC. 277. FIVE-YEAR PLAN FOR CONSOLIDATION OF DEFENSE LABORATORIES AND TEST AND EVALUATION CENTERS.

(a) FIVE-YEAR PLAN.—The Secretary of Defense, acting through the Vice Chief of Staff of the Army, the Vice Chief of Naval Operations, and the Vice Chief of Staff of the Air Force (in their roles as test and evaluation executive agent board of directors) shall develop a five-year plan to consolidate and restructure the laboratories and test and evaluation centers of the Department of Defense.

(b) OBJECTIVE.—The plan shall set forth the specific actions needed to consolidate the laboratories and test and evaluation centers into as few laboratories and centers as is practical and possible, in the judgment of the Secretary, by October 1, 2005.

(c) PREVIOUSLY DEVELOPED DATA REQUIRED TO BE USED.—In developing the plan, the Secretary shall use the following:

(1) Data and results obtained by the Test and Evaluation Joint Cross-Service Group and the Laboratory Joint Cross-Service Group in developing recommendations for the 1995 report of the Defense Base Closure and Realignment Commission.

(2) The report dated March 1994 on the consolidation and streamlining of the test and evaluation infrastructure, commissioned by the test and evaluation board of directors, along with all supporting data and reports.

(d) MATTERS TO BE CONSIDERED.—In developing the plan, the Secretary shall consider, at a minimum, the following:

(1) Consolidation of common support functions, including the following:

(A) Aircraft (fixed wing and rotary) support.

(B) Weapons support.

(C) Space systems support.

(D) Support of command, control, communications, computers, and intelligence.

(2) The extent to which any military construction, acquisition of equipment, or modernization of equipment is planned at the laboratories and centers.

(3) The encroachment on the laboratories and centers by residential and industrial expansion.

(4) The total cost to the Federal Government of continuing to operate the laboratories and centers.

(5) The cost savings and program effectiveness of locating laboratories and centers at the same sites.

(6) Any loss of expertise resulting from the consolidations.

(7) Whether any legislation is neccessary to provide the Secretary with any additional authority necessary to accomplish the downsizing and consolidation of the laboratories and centers.

(e) REPORT.—Not later than May 1, 1996, the Secretary of Defense shall submit to the congressional defense committees a report on the plan. The report shall include an identification of any additional legislation that the Secretary considers necessary in order for the Secretary to accomplish the downsizing and consolidation of the laboratories and centers.

(f) LIMITATION.—Of the amounts appropriated or otherwise made available pursuant to an authorization of appropriations in section 201 for the central test and evaluation investment development program, not more than 75 percent may be obligated before the report required by subsection (e) is submitted to Congress.

SEC. 278. LIMITATION ON T-38 AVIONICS UPGRADE PROGRAM.

(a) REQUIREMENT.—The Secretary of Defense shall ensure that, in evaluating proposals submitted in response to a solicitation issued for a contract for the T–38 Avionics Upgrade Program, the proposal of an entity may not be considered unless—

(1) in the case of an entity that conducts substantially all of its business in a foreign country, the foreign country provides equal access to similar contract solicitations in that country to United States entities; and

(2) in the case of an entity that conducts business in the United States but that is owned or controlled by a foreign government or by an entity incorporated in a foreign country, the foreign government or foreign country of incorporation provides equal access to similar contract solicitations in that country to United States entities.

(b) DEFINITION.—In this section, the term "United States entity" means an entity that is owned or controlled by persons a majority of whom are United States citizens.

SEC. 279. GLOBAL POSITIONING SYSTEM.

(a) CONDITIONAL PROHIBITION ON USE OF SELECTIVE AVAILABILITY FEATURE.—Except as provided in subsection (b), after May 1, 1996, the Secretary of Defense may not (through use of the feature known as "selective availability") deny access of non-Department of Defense users to the full capabilities of the Global Positioning System.

(b) PLAN.—Subsection (a) shall cease to apply upon submission by the Secretary of Defense to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives of a plan for enhancement of the Global Positioning System that provides for—

(1) development and acquisition of effective capabilities to deny hostile military forces the ability to use the Global Positioning System without hindering the ability of United States military forces and civil users to have access to and use of the system, together with a specific date by which those capabilities could be operational; and

(2) development and acquisition of receivers for the Global Positioning System and other techniques for weapons and weapon systems that provide substantially improved resistance to jamming and other forms of electronic interference or disruption, together with a specific date by which those receivers and other techniques could be operational with United States military forces.

SEC. 280. REVISION OF AUTHORITY FOR PROVIDING ARMY SUPPORT FOR THE NATIONAL SCIENCE CENTER FOR COMMUNICATIONS AND ELECTRONICS.

(a) PURPOSE.—Subsection (b)(2) of section 1459 of the Department of Defense Authorization Act, 1986 (Public Law 99–145; 99 Stat. 763) is amended by striking out "to make available" and all that follows and inserting in lieu thereof "to provide for the

management, operation, and maintenance of those areas in the national science center that are designated for use by the Army and to provide incidental support for the operation of those areas in the center that are designated for general use.".

(b) AUTHORITY FOR SUPPORT.—Subsection (c) of such section is amended to read as follows:

"(c) NATIONAL SCIENCE CENTER. (1) The Secretary may manage, operate, and maintain facilities at the center under terms and conditions prescribed by the Secretary for the purpose of conducting educational outreach programs in accordance with chapter 111 of title 10, United States Code.

"(2) The Foundation, or NSC Discovery Center, Incorporated, a nonprofit corporation of the State of Georgia, shall submit to the Secretary for review and approval all matters pertaining to the acquisition, design, renovation, equipping, and furnishing of the center, including all plans, specifications, contracts, sites, and materials for the center.".

(c) AUTHORITY FOR ACCEPTANCE OF GIFTS AND FUNDRAISING.—Subsection (d) of such section is amended to read as follows:

"(d) GIFTS AND FUNDRAISING.—(1) Subject to paragraph (3), the Secretary may accept a conditional or unconditional donation of money or property that is made for the benefit of, or in connection with, the center.

"(2) Notwithstanding any other provision of law, the Secretary may endorse, promote, and assist the efforts of the Foundation and NSC Discovery Center, Incorporated, to obtain—

"(A) funds for the management, operation, and maintenance of the center; and

"(B) donations of exhibits, equipment, and other property for use in the center.

"(3) The Secretary may not accept a donation under this subsection that is made subject to—

"(A) any condition that is inconsistent with an applicable law or regulation; or

"(B) except to the extent provided in appropriations Acts, any condition that would necessitate an expenditure of appropriated funds.

Regulations.

"(4) The Secretary shall prescribe in regulations the criteria to be used in determining whether to accept a donation. The Secretary shall include criteria to ensure that acceptance of a donation does not establish an unfavorable appearance regarding the fairness and objectivity with which the Secretary or any other officer or employee of the Department of Defense performs official responsibilities and does not compromise or appear to compromise the integrity of a Government program or any official involved in that program.".

(d) AUTHORIZED USES.—Such section is amended—

(1) by striking out subsection (f);

(2) by redesignating subsection (g) as subsection (f); and

(3) in paragraph (1) of subsection (f), as redesignated by paragraph (2), by inserting "areas designated for use by the Army in" after "The Secretary may make".

(e) ALTERNATIVE OF ADDITIONAL DEVELOPMENT AND MANAGEMENT.—Such section, as amended by subsection (d), is further amended by adding at the end the following:

"(g) ALTERNATIVE OR ADDITIONAL DEVELOPMENT AND MANAGEMENT OF THE CENTER.—(1) The Secretary may enter into an agreement with NSC Discovery Center, Incorporated, to develop, manage,

and maintain a national science center under this section. In entering into an agreement with NSC Discovery Center, Incorporated, the Secretary may agree to any term or condition to which the Secretary is authorized under this section to agree for purposes of entering into an agreement with the Foundation.

"(2) The Secretary may exercise the authority under paragraph (1) in addition to, or instead of, exercising the authority provided under this section to enter into an agreement with the Foundation.".

TITLE III—OPERATION AND MAINTENANCE

Subtitle A—Authorization of Appropriations

SEC. 301. OPERATION AND MAINTENANCE FUNDING.

Funds are hereby authorized to be appropriated for fiscal year 1996 for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance, in amounts as follows:

(1) For the Army, $18,746,695,000.
(2) For the Navy, $21,493,155,000.
(3) For the Marine Corps, $2,521,822,000.
(4) For the Air Force, $18,719,277,000.
(5) For Defense-wide activities, $9,910,476,000.
(6) For the Army Reserve, $1,129,191,000.
(7) For the Naval Reserve, $868,342,000.
(8) For the Marine Corps Reserve, $100,283,000.
(9) For the Air Force Reserve, $1,516,287,000.
(10) For the Army National Guard, $2,361,808,000.
(11) For the Air National Guard, $2,760,121,000.
(12) For the Defense Inspector General, $138,226,000.
(13) For the United States Court of Appeals for the Armed Forces, $6,521,000.
(14) For Environmental Restoration, Defense, $1,422,200,000.
(15) For Drug Interdiction and Counter-drug Activities, Defense-wide, $680,432,000.
(16) For Medical Programs, Defense, $9,876,525,000.
(17) For support for the 1996 Summer Olympics, $15,000,000.
(18) For Cooperative Threat Reduction programs, $300,000,000.
(19) For Overseas Humanitarian, Disaster, and Civic Aid programs, $50,000,000.

SEC. 302. WORKING CAPITAL FUNDS.

Funds are hereby authorized to be appropriated for fiscal year 1996 for the use of the Armed Forces and other activities and agencies of the Department of Defense for providing capital for working capital and revolving funds in amounts as follows:

(1) For the Defense Business Operations Fund, $878,700,000.
(2) For the National Defense Sealift Fund, $1,024,220,000.

SEC. 303. ARMED FORCES RETIREMENT HOME.

There is hereby authorized to be appropriated for fiscal year 1996 from the Armed Forces Retirement Home Trust Fund the sum of $59,120,000 for the operation of the Armed Forces Retirement Home, including the United States Soldiers' and Airmen's Home and the Naval Home.

SEC. 304. TRANSFER FROM NATIONAL DEFENSE STOCKPILE TRANSACTION FUND.

(a) TRANSFER AUTHORITY.—To the extent provided in appropriations Acts, not more than $150,000,000 is authorized to be transferred from the National Defense Stockpile Transaction Fund to operation and maintenance accounts for fiscal year 1996 in amounts as follows:

(1) For the Army, $50,000,000.
(2) For the Navy, $50,000,000.
(3) For the Air Force, $50,000,000.

(b) TREATMENT OF TRANSFERS.—Amounts transferred under this section—

(1) shall be merged with, and be available for the same purposes and the same period as, the amounts in the accounts to which transferred; and

(2) may not be expended for an item that has been denied authorization of appropriations by Congress.

(c) RELATIONSHIP TO OTHER TRANSFER AUTHORITY.—The transfer authority provided in this section is in addition to the transfer authority provided in section 1001.

SEC. 305. CIVIL AIR PATROL.

Of the amounts authorized to be appropriated pursuant to this Act, there shall be made available to the Civil Air Patrol $24,500,000, of which $14,704,000 shall be made available for the Civil Air Patrol Corporation.

Subtitle B—Depot-Level Activities

10 USC 2464 note.

SEC. 311. POLICY REGARDING PERFORMANCE OF DEPOT-LEVEL MAINTENANCE AND REPAIR FOR THE DEPARTMENT OF DEFENSE.

(a) FINDINGS.—Congress makes the following findings:

(1) The Department of Defense does not have a comprehensive policy regarding the performance of depot-level maintenance and repair of military equipment.

(2) The absence of such a policy has caused the Congress to establish guidelines for the performance of such functions.

(3) It is essential to the national security of the United States that the Department of Defense maintain an organic capability within the department, including skilled personnel, technical competencies, equipment, and facilities, to perform depot-level maintenance and repair of military equipment in order to ensure that the Armed Forces of the United States are able to meet training, operational, mobilization, and emergency requirements without impediment.

(4) The organic capability of the Department of Defense to perform depot-level maintenance and repair of military equipment must satisfy known and anticipated core mainte-

nance and repair requirements across the full range of peacetime and wartime scenarios.

(5) Although it is possible that savings can be achieved by contracting with private-sector sources for the performance of some work currently performed by Department of Defense depots, the Department of Defense has not determined the type or amount of work that should be performed under contract with private-sector sources nor the relative costs and benefits of contracting for the performance of such work by those sources.

(b) SENSE OF CONGRESS.—It is the sense of Congress that there is a compelling need for the Department of Defense to articulate known and anticipated core maintenance and repair requirements, to organize the resources of the Department of Defense to meet those requirements economically and efficiently, and to determine what work should be performed by the private sector and how such work should be managed.

(c) REQUIREMENT FOR POLICY.—Not later than March 31, 1996, the Secretary of Defense shall develop and report to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a comprehensive policy on the performance of depot-level maintenance and repair for the Department of Defense that maintains the capability described in section 2464 of title 10, United States Code. Reports.

(d) CONTENT OF POLICY.—In developing the policy, the Secretary of Defense shall do each of the following:

(1) Identify for each military department, with the concurrence of the Secretary of that military department, those depot-level maintenance and repair activities that are necessary to ensure the depot-level maintenance and repair capability as required by section 2464 of title 10, United States Code.

(2) Provide for performance of core depot-level maintenance and repair capabilities in facilities owned and operated by the United States.

(3) Provide for the core capabilities to include sufficient skilled personnel, equipment, and facilities that—

(A) is of the proper size (i) to ensure a ready and controlled source of technical competence and repair and maintenance capability necessary to meet the requirements of the National Military Strategy and other requirements for responding to mobilizations and military contingencies, and (ii) to provide for rapid augmentation in time of emergency; and

(B) is assigned sufficient workload to ensure cost efficiency and technical proficiency in time of peace.

(4) Address environmental liability.

(5) In the case of depot-level maintenance and repair workloads in excess of the workload required to be performed by Department of Defense depots, provide for competition for those workloads between public and private entities when there is sufficient potential for realizing cost savings based on adequate private-sector competition and technical capabilities.

(6) Address issues concerning exchange of technical data between the Federal Government and the private sector.

(7) Provide for, in the Secretary's discretion and after consultation with the Secretaries of the military departments, the transfer from one military department to another, in accord-

ance with merit-based selection processes, workload that supports the core depot-level maintenance and repair capabilities in facilities owned and operated by the United States.

(8) Require that, in any competition for a workload (whether among private-sector sources or between depot-level activities of the Department of Defense and private-sector sources), bids are evaluated under a methodology that ensures that appropriate costs to the Government and the private sector are identified.

(9) Provide for the performance of maintenance and repair for any new weapons systems defined as core, under section 2464 of title 10, United States Code, in facilities owned and operated by the United States.

(e) CONSIDERATIONS.—In developing the policy, the Secretary shall take into consideration the following matters:

(1) The national security interests of the United States.

(2) The capabilities of the public depots and the capabilities of businesses in the private sector to perform the maintenance and repair work required by the Department of Defense.

(3) Any applicable recommendations of the Defense Base Closure and Realignment Commission that are required to be implemented under the Defense Base Closure and Realignment Act of 1990.

(4) The extent to which the readiness of the Armed Forces would be affected by a necessity to construct new facilities to accommodate any redistribution of depot-level maintenance and repair workloads that is made in accordance with the recommendation of the Defense Base Closure and Realignment Commission, under the Defense Base Closure and Realignment Act of 1990, that such workloads be consolidated at Department of Defense depots or private-sector facilities.

(5) Analyses of costs and benefits of alternatives, including a comparative analysis of—

(A) the costs and benefits, including any readiness implications, of any proposed policy to convert to contractor performance of depot-level maintenance and repair workloads where the workload is being performed by Department of Defense personnel; and

(B) the costs and benefits, including any readiness implications, of a policy to transfer depot-level maintenance and repair workloads among depots.

(f) REPEAL OF 60/40 REQUIREMENT AND REQUIREMENT RELATING TO COMPETITION.—(1) Sections 2466 and 2469 of title 10, United States Code, are repealed.

(2) The table of sections at the beginning of chapter 146 of such title is amended by striking out the items relating to sections 2466 and 2469.

Effective date.

(3) The amendments made by paragraphs (1) and (2) shall take effect on the date (after the date of the enactment of this Act) on which legislation is enacted that contains a provision that specifically states one of the following:

(A) "The policy on the performance of depot-level maintenance and repair for the Department of Defense that was submitted by the Secretary of Defense to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives pursuant to section

311 of the National Defense Authorization Act for Fiscal Year 1996 is approved."; or

(B) "The policy on the performance of depot-level maintenance and repair for the Department of Defense that was submitted by the Secretary of Defense to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives pursuant to section 311 of the National Defense Authorization Act for Fiscal Year 1996 is approved with the following modifications:" (with the modifications being stated in matter appearing after the colon).

(g) ANNUAL REPORT.—If legislation referred to in subsection (f)(3) is enacted, the Secretary of Defense shall, not later than March 1 of each year (beginning with the year after the year in which such legislation is enacted), submit to Congress a report that—

(1) specifies depot maintenance core capability requirements determined in accordance with the procedures established to comply with the policy prescribed pursuant to subsections (d)(2) and (d)(3);

(2) specifies the planned amount of workload to be accomplished by the depot-level activities of each military department in support of those requirements for the following fiscal year; and

(3) identifies the planned amount of workload, which—

(A) shall be measured by direct labor hours and by amounts to be expended; and

(B) shall be shown separately for each commodity group.

(h) REVIEW BY GENERAL ACCOUNTING OFFICE.—(1) The Secretary shall make available to the Comptroller General of the United States all information used by the Department of Defense in developing the policy under subsections (c) through (e) of this section.

(2) Not later than 45 days after the date on which the Secretary submits to Congress the report required by subsection (c), the Comptroller General shall transmit to Congress a report containing a detailed analysis of the Secretary's proposed policy as reported under such subsection. Reports.

(i) REPORT ON DEPOT-LEVEL MAINTENANCE AND REPAIR WORKLOAD.—Not later than March 31, 1996, the Secretary of Defense shall submit to Congress a report on the depot-level maintenance and repair workload of the Department of Defense. The report shall, to the maximum extent practicable, include the following:

(1) An analysis of the need for and effect of the requirement under section 2466 of title 10, United States Code, that no more than 40 percent of the depot-level maintenance and repair work of the Department of Defense be contracted for performance by non-Government personnel, including a description of the effect on military readiness and the national security resulting from that requirement and a description of any specific difficulties experienced by the Department of Defense as a result of that requirement.

(2) An analysis of the distribution during the five fiscal years ending with fiscal year 1995 of the depot-level maintenance and repair workload of the Department of Defense between depot-level activities of the Department of Defense and non-Government personnel, measured by direct labor hours

and by amounts expended, and displayed, for that five-year period and for each year of that period, so as to show (for each military department (and separately for the Navy and Marine Corps)) such distribution.

(3) A projection of the distribution during the five fiscal years beginning with fiscal year 1997 of the depot-level maintenance and repair workload of the Department of Defense between depot-level activities of the Department of Defense and non-Government personnel, measured by direct labor hours and by amounts expended, and displayed, for that five-year period and for each year of that period, so as to show (for each military department (and separately for the Navy and Marine Corps)) such distribution that would be accomplished under a new policy as required under subsection (c).

(j) OTHER REVIEW BY GENERAL ACCOUNTING OFFICE.—(1) The Comptroller General of the United States shall conduct an independent audit of the findings of the Secretary of Defense in the report under subsection (i). The Secretary of Defense shall provide to the Comptroller General for such purpose all information used by the Secretary in preparing such report.

Reports.

(2) Not later than 45 days after the date on which the Secretary of Defense submits to Congress the report required under subsection (i), the Comptroller General shall transmit to Congress a report containing a detailed analysis of the report submitted under that subsection.

SEC. 312. MANAGEMENT OF DEPOT EMPLOYEES.

(a) DEPOT EMPLOYEES.—Chapter 146 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2472. Management of depot employees

"(b) ANNUAL REPORT.—Not later than December 1 of each fiscal year, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on the number of employees employed and expected to be employed by the Department of Defense during that fiscal year to perform depot-level maintenance and repair of materiel. The report shall indicate whether that number is sufficient to perform the depot-level maintenance and repair functions for which funds are expected to be provided for that fiscal year for performance by Department of Defense employees.".

(b) TRANSFER OF SUBSECTION.—Subsection (b) of section 2466 of title 10, United States Code, is transferred to section 2472 of such title, as added by subsection (a), redesignated as subsection (a), and inserted after the section heading.

10 USC 2472 note.

(c) SUBMISSION OF INITIAL REPORT.—The report under subsection (b) of section 2472 of title 10, United States Code, as added by subsection (a), for fiscal year 1996 shall be submitted not later than March 15, 1996 (notwithstanding the date specified in such subsection).

(d) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2472. Management of depot employees.".

SEC. 313. EXTENSION OF AUTHORITY FOR AVIATION DEPOTS AND NAVAL SHIPYARDS TO ENGAGE IN DEFENSE-RELATED PRODUCTION AND SERVICES.

Section 1425(e) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1684) is amended by striking out "September 30, 1995" and inserting in lieu thereof "September 30, 1996".

SEC. 314. MODIFICATION OF NOTIFICATION REQUIREMENT REGARDING USE OF CORE LOGISTICS FUNCTIONS WAIVER.

Section 2464(b) of title 10, United States Code, is amended by striking out paragraphs (3) and (4) and inserting in lieu thereof the following new paragraph:

"(3) A waiver under paragraph (2) may not take effect until the end of the 30-day period beginning on the date on which the Secretary submits a report on the waiver to the Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on National Security and the Committee on Appropriations of the House of Representatives.".

Subtitle C—Environmental Provisions

SEC. 321. REVISION OF REQUIREMENTS FOR AGREEMENTS FOR SERVICES UNDER ENVIRONMENTAL RESTORATION PROGRAM.

(a) REQUIREMENTS.—(1) Section 2701(d) of title 10, United States Code, is amended to read as follows:

"(d) SERVICES OF OTHER AGENCIES.—

"(1) IN GENERAL.—Subject to paragraph (2), the Secretary may enter into agreements on a reimbursable or other basis with any other Federal agency, or with any State or local government agency, to obtain the services of the agency to assist the Secretary in carrying out any of the Secretary's responsibilities under this section. Services which may be obtained under this subsection include the identification, investigation, and cleanup of any off-site contamination resulting from the release of a hazardous substance or waste at a facility under the Secretary's jurisdiction.

"(2) LIMITATION ON REIMBURSABLE AGREEMENTS.—An agreement with an agency under paragraph (1) may not provide for reimbursement of the agency for regulatory enforcement activities.".

(2)(A) Except as provided in subparagraph (B), the total amount of funds available for reimbursements under agreements entered into under section 2710(d) of title 10, United States Code, as amended by paragraph (1), in fiscal year 1996 may not exceed $10,000,000. 10 USC 2701 note.

(B) The Secretary of Defense may pay in fiscal year 1996 an amount for reimbursements under agreements referred to in subparagraph (A) in excess of the amount specified in that subparagraph for that fiscal year if—

(i) the Secretary certifies to Congress that the payment of the amount under this subparagraph is essential for the Certification.

management of the Defense Environmental Restoration Program under chapter 160 of title 10, United States Code; and

(ii) a period of 60 days has expired after the date on which the certification is received by Congress.

10 USC 2706 note.

(b) REPORT ON SERVICES OBTAINED.—The Secretary of Defense shall include in the report submitted to Congress with respect to fiscal year 1998 under section 2706(a) of title 10, United States Code, information on the services, if any, obtained by the Secretary during fiscal year 1996 pursuant to each agreement on a reimbursable basis entered into with a State or local government agency under section 2701(d) of title 10, United States Code, as amended by subsection (a). The information shall include a description of the services obtained under each agreement and the amount of the reimbursement provided for the services.

SEC. 322. ADDITION OF AMOUNTS CREDITABLE TO DEFENSE ENVIRONMENTAL RESTORATION ACCOUNT.

Section 2703(e) of title 10, United States Code, is amended to read as follows:

"(e) AMOUNTS RECOVERED.—The following amounts shall be credited to the transfer account:

"(1) Amounts recovered under CERCLA for response actions of the Secretary.

"(2) Any other amounts recovered by the Secretary or the Secretary of the military department concerned from a contractor, insurer, surety, or other person to reimburse the Department of Defense for any expenditure for environmental response activities.".

SEC. 323. USE OF DEFENSE ENVIRONMENTAL RESTORATION ACCOUNT.

(a) GOAL FOR CERTAIN DERA EXPENDITURES.—It shall be the goal of the Secretary of Defense to limit, by the end of fiscal year 1997, spending for administration, support, studies, and investigations associated with the Defense Environmental Restoration Account to 20 percent of the total funding for that account.

(b) REPORT.—Not later than April 1, 1996, the Secretary shall submit to Congress a report that contains specific, detailed information on—

(1) the extent to which the Secretary has attained the goal described in subsection (a) as of the date of the submission of the report; and

(2) if the Secretary has not attained such goal by such date, the actions the Secretary plans to take to attain the goal.

SEC. 324. REVISION OF AUTHORITIES RELATING TO RESTORATION ADVISORY BOARDS.

(a) REGULATIONS.—Paragraph (2) of subsection (d) of section 2705 of title 10, United States Code, is amended to read as follows:

"(2)(A) The Secretary shall prescribe regulations regarding the establishment, characteristics, composition, and funding of restoration advisory boards pursuant to this subsection.

"(B) The issuance of regulations under subparagraph (A) shall not be a precondition to the establishment of restoration advisory boards under this subsection.".

(b) FUNDING FOR ADMINISTRATIVE EXPENSES.—Paragraph (3) of such subsection is amended to read as follows:

"(3) The Secretary may authorize the commander of an installation (or, if there is no such commander, an appropriate official of the Department of Defense designated by the Secretary) to pay routine administrative expenses of a restoration advisory board established for that installation. Such payments shall be made from funds available under subsection (g).".

(c) TECHNICAL ASSISTANCE.—Such section is further amended by striking out subsection (e) and inserting in lieu thereof the following new subsection (e):

"(e) TECHNICAL ASSISTANCE.—(1) The Secretary may, upon the request of the technical review committee or restoration advisory board for an installation, authorize the commander of the installation (or, if there is no such commander, an appropriate official of the Department of Defense designated by the Secretary) to obtain for the committee or advisory board, as the case may be, from private sector sources technical assistance for interpreting scientific and engineering issues with regard to the nature of environmental hazards at the installation and the restoration activities conducted, or proposed to be conducted, at the installation. The commander of an installation (or, if there is no such commander, an appropriate official of the Department of Defense designated by the Secretary) shall use funds made available under subsection (g) for obtaining assistance under this paragraph.

"(2) The commander of an installation (or, if there is no such commander, an appropriate official of the Department of Defense designated by the Secretary) may obtain technical assistance under paragraph (1) for a technical review committee or restoration advisory board only if—

"(A) the technical review committee or restoration advisory board demonstrates that the Federal, State, and local agencies responsible for overseeing environmental restoration at the installation, and available Department of Defense personnel, do not have the technical expertise necessary for achieving the objective for which the technical assistance is to be obtained; or

"(B) the technical assistance—

"(i) is likely to contribute to the efficiency, effectiveness, or timeliness of environmental restoration activities at the installation; and

"(ii) is likely to contribute to community acceptance of environmental restoration activities at the installation.".

(d) FUNDING.—(1) Such section is further amended by adding at the end the following new subsection:

"(g) FUNDING.—The Secretary shall, to the extent provided in appropriations Acts, make funds available for administrative expenses and technical assistance under this section using funds in the following accounts:

"(1) In the case of a military installation not approved for closure pursuant to a base closure law, the Defense Environmental Restoration Account established under section 2703(a) of this title.

"(2) In the case of an installation approved for closure pursuant to such a law, the Department of Defense Base Closure Account 1990 established under section 2906(a) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note).".

10 USC 2705 note.

(2)(A) Subject to subparagraph (B), the total amount of funds made available under section 2705(g) of title 10, United States Code, as added by paragraph (1), for fiscal year 1996 may not exceed $6,000,000.

(B) Amounts may not be made available under subsection (g) of such section 2705 after September 15, 1996, unless the Secretary of Defense publishes proposed final or interim final regulations required under subsection (d) of such section, as amended by subsection (a).

(e) DEFINITION.—Such section is further amended by adding after subsection (g) (as added by subsection (d)) the following new subsection:

"(h) DEFINITION.—In this section, the term 'base closure law' means the following:

"(1) Title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note).

"(2) The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note).

"(3) Section 2687 of this title.".

(f) REPORTS ON ACTIVITIES OF TECHNICAL REVIEW COMMITTEES AND RESTORATION ADVISORY BOARDS.—Section 2706(a)(2) of title 10, United States Code, is amended by adding at the end the following:

"(J) A statement of the activities, if any, including expenditures for administrative expenses and technical assistance under section 2705 of this title, of the technical review committee or restoration advisory board established for the installation under such section during the preceding fiscal year.".

SEC. 325. DISCHARGES FROM VESSELS OF THE ARMED FORCES.

33 USC 1322 note.

(a) PURPOSES.—The purposes of this section are to—

(1) enhance the operational flexibility of vessels of the Armed Forces domestically and internationally;

(2) stimulate the development of innovative vessel pollution control technology; and

(3) advance the development by the United States Navy of environmentally sound ships.

(b) UNIFORM NATIONAL DISCHARGE STANDARDS DEVELOPMENT.—Section 312 of the Federal Water Pollution Control Act (33 U.S.C. 1322) is amended by adding at the end the following:

"(n) UNIFORM NATIONAL DISCHARGE STANDARDS FOR VESSELS OF THE ARMED FORCES.—

"(1) APPLICABILITY.—This subsection shall apply to vessels of the Armed Forces and discharges, other than sewage, incidental to the normal operation of a vessel of the Armed Forces, unless the Secretary of Defense finds that compliance with this subsection would not be in the national security interests of the United States.

"(2) DETERMINATION OF DISCHARGES REQUIRED TO BE CONTROLLED BY MARINE POLLUTION CONTROL DEVICES.—

"(A) IN GENERAL.—The Administrator and the Secretary of Defense, after consultation with the Secretary of the department in which the Coast Guard is operating, the Secretary of Commerce, and interested States, shall jointly determine the discharges incidental to the normal

operation of a vessel of the Armed Forces for which it is reasonable and practicable to require use of a marine pollution control device to mitigate adverse impacts on the marine environment. Notwithstanding subsection (a)(1) of section 553 of title 5, United States Code, the Administrator and the Secretary of Defense shall promulgate the determinations in accordance with such section. The Secretary of Defense shall require the use of a marine pollution control device on board a vessel of the Armed Forces in any case in which it is determined that the use of such a device is reasonable and practicable.

"(B) CONSIDERATIONS.—In making a determination under subparagraph (A), the Administrator and the Secretary of Defense shall take into consideration—

"(i) the nature of the discharge;

"(ii) the environmental effects of the discharge;

"(iii) the practicability of using the marine pollution control device;

"(iv) the effect that installation or use of the marine pollution control device would have on the operation or operational capability of the vessel;

"(v) applicable United States law;

"(vi) applicable international standards; and

"(vii) the economic costs of the installation and use of the marine pollution control device.

"(3) PERFORMANCE STANDARDS FOR MARINE POLLUTION CONTROL DEVICES.—

"(A) IN GENERAL.—For each discharge for which a marine pollution control device is determined to be required under paragraph (2), the Administrator and the Secretary of Defense, in consultation with the Secretary of the department in which the Coast Guard is operating, the Secretary of State, the Secretary of Commerce, other interested Federal agencies, and interested States, shall jointly promulgate Federal standards of performance for each marine pollution control device required with respect to the discharge. Notwithstanding subsection (a)(1) of section 553 of title 5, United States Code, the Administrator and the Secretary of Defense shall promulgate the standards in accordance with such section.

"(B) CONSIDERATIONS.—In promulgating standards under this paragraph, the Administrator and the Secretary of Defense shall take into consideration the matters set forth in paragraph (2)(B).

"(C) CLASSES, TYPES, AND SIZES OF VESSELS.—The standards promulgated under this paragraph may—

"(i) distinguish among classes, types, and sizes of vessels;

"(ii) distinguish between new and existing vessels; and

"(iii) provide for a waiver of the applicability of the standards as necessary or appropriate to a particular class, type, age, or size of vessel.

"(4) REGULATIONS FOR USE OF MARINE POLLUTION CONTROL DEVICES.—The Secretary of Defense, after consultation with the Administrator and the Secretary of the department in which the Coast Guard is operating, shall promulgate such regulations

governing the design, construction, installation, and use of marine pollution control devices on board vessels of the Armed Forces as are necessary to achieve the standards promulgated under paragraph (3).

"(5) DEADLINES; EFFECTIVE DATE.—

"(A) DETERMINATIONS.—The Administrator and the Secretary of Defense shall—

"(i) make the initial determinations under paragraph (2) not later than 2 years after the date of the enactment of this subsection; and

"(ii) every 5 years—

"(I) review the determinations; and

"(II) if necessary, revise the determinations based on significant new information.

"(B) STANDARDS.—The Administrator and the Secretary of Defense shall—

"(i) promulgate standards of performance for a marine pollution control device under paragraph (3) not later than 2 years after the date of a determination under paragraph (2) that the marine pollution control device is required; and

"(ii) every 5 years—

"(I) review the standards; and

"(II) if necessary, revise the standards, consistent with paragraph (3)(B) and based on significant new information.

"(C) REGULATIONS.—The Secretary of Defense shall promulgate regulations with respect to a marine pollution control device under paragraph (4) as soon as practicable after the Administrator and the Secretary of Defense promulgate standards with respect to the device under paragraph (3), but not later than 1 year after the Administrator and the Secretary of Defense promulgate the standards. The regulations promulgated by the Secretary of Defense under paragraph (4) shall become effective upon promulgation unless another effective date is specified in the regulations.

"(D) PETITION FOR REVIEW.—The Governor of any State may submit a petition requesting that the Secretary of Defense and the Administrator review a determination under paragraph (2) or a standard under paragraph (3), if there is significant new information, not considered previously, that could reasonably result in a change to the particular determination or standard after consideration of the matters set forth in paragraph (2)(B). The petition shall be accompanied by the scientific and technical information on which the petition is based. The Administrator and the Secretary of Defense shall grant or deny the petition not later than 2 years after the date of receipt of the petition.

"(6) EFFECT ON OTHER LAWS.—

"(A) PROHIBITION ON REGULATION BY STATES OR POLITICAL SUBDIVISIONS OF STATES.—Beginning on the effective date of—

"(i) a determination under paragraph (2) that it is not reasonable and practicable to require use of a marine pollution control device regarding a particular

discharge incidental to the normal operation of a vessel of the Armed Forces; or

"(ii) regulations promulgated by the Secretary of Defense under paragraph (4);

except as provided in paragraph (7), neither a State nor a political subdivision of a State may adopt or enforce any statute or regulation of the State or political subdivision with respect to the discharge or the design, construction, installation, or use of any marine pollution control device required to control discharges from a vessel of the Armed Forces.

"(B) FEDERAL LAWS.—This subsection shall not affect the application of section 311 to discharges incidental to the normal operation of a vessel.

"(7) ESTABLISHMENT OF STATE NO-DISCHARGE ZONES.—

"(A) STATE PROHIBITION.—

"(i) IN GENERAL.—After the effective date of—

"(I) a determination under paragraph (2) that it is not reasonable and practicable to require use of a marine pollution control device regarding a particular discharge incidental to the normal operation of a vessel of the Armed Forces; or

"(II) regulations promulgated by the Secretary of Defense under paragraph (4);

if a State determines that the protection and enhancement of the quality of some or all of the waters within the State require greater environmental protection, the State may prohibit 1 or more discharges incidental to the normal operation of a vessel, whether treated or not treated, into the waters. No prohibition shall apply until the Administrator makes the determinations described in subclauses (II) and (III) of subparagraph (B)(i).

"(ii) DOCUMENTATION.—To the extent that a prohibition under this paragraph would apply to vessels of the Armed Forces and not to other types of vessels, the State shall document the technical or environmental basis for the distinction.

"(B) PROHIBITION BY THE ADMINISTRATOR.—

"(i) IN GENERAL.—Upon application of a State, the Administrator shall by regulation prohibit the discharge from a vessel of 1 or more discharges incidental to the normal operation of a vessel, whether treated or not treated, into the waters covered by the application if the Administrator determines that— Regulations.

"(I) the protection and enhancement of the quality of the specified waters within the State require a prohibition of the discharge into the waters;

"(II) adequate facilities for the safe and sanitary removal of the discharge incidental to the normal operation of a vessel are reasonably available for the waters to which the prohibition would apply; and

"(III) the prohibition will not have the effect of discriminating against a vessel of the Armed Forces by reason of the ownership or operation

by the Federal Government, or the military function, of the vessel.

"(ii) APPROVAL OR DISAPPROVAL.—The Administrator shall approve or disapprove an application submitted under clause (i) not later than 90 days after the date on which the application is submitted to the Administrator. Notwithstanding clause (i)(II), the Administrator shall not disapprove an application for the sole reason that there are not adequate facilities to remove any discharge incidental to the normal operation of a vessel from vessels of the Armed Forces.

"(C) APPLICABILITY TO FOREIGN FLAGGED VESSELS.—A prohibition under this paragraph—

"(i) shall not impose any design, construction, manning, or equipment standard on a foreign flagged vessel engaged in innocent passage unless the prohibition implements a generally accepted international rule or standard; and

"(ii) that relates to the prevention, reduction, and control of pollution shall not apply to a foreign flagged vessel engaged in transit passage unless the prohibition implements an applicable international regulation regarding the discharge of oil, oily waste, or any other noxious substance into the waters.

"(8) PROHIBITION RELATING TO VESSELS OF THE ARMED FORCES.—After the effective date of the regulations promulgated by the Secretary of Defense under paragraph (4), it shall be unlawful for any vessel of the Armed Forces subject to the regulations to—

"(A) operate in the navigable waters of the United States or the waters of the contiguous zone, if the vessel is not equipped with any required marine pollution control device meeting standards established under this subsection; or

"(B) discharge overboard any discharge incidental to the normal operation of a vessel in waters with respect to which a prohibition on the discharge has been established under paragraph (7).

"(9) ENFORCEMENT.—This subsection shall be enforceable, as provided in subsections (j) and (k), against any agency of the United States responsible for vessels of the Armed Forces notwithstanding any immunity asserted by the agency.".

(c) CONFORMING AMENDMENTS.—

(1) DEFINITIONS.—Section 312(a) of the Federal Water Pollution Control Act (33 U.S.C. 1322(a)) is amended—

(A) in paragraph (8)—

(i) by striking "or"; and

(ii) by inserting "or agency of the United States," after "association,";

(B) in paragraph (11), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

"(12) 'discharge incidental to the normal operation of a vessel'—

"(A) means a discharge, including—

"(i) graywater, bilge water, cooling water, weather deck runoff, ballast water, oil water separator effluent,

and any other pollutant discharge from the operation of a marine propulsion system, shipboard maneuvering system, crew habitability system, or installed major equipment, such as an aircraft carrier elevator or a catapult, or from a protective, preservative, or absorptive application to the hull of the vessel; and

"(ii) a discharge in connection with the testing, maintenance, and repair of a system described in clause (i) whenever the vessel is waterborne; and

"(B) does not include—

"(i) a discharge of rubbish, trash, garbage, or other such material discharged overboard;

"(ii) an air emission resulting from the operation of a vessel propulsion system, motor driven equipment, or incinerator; or

"(iii) a discharge that is not covered by part 122.3 of title 40, Code of Federal Regulations (as in effect on the date of the enactment of subsection (n));

"(13) 'marine pollution control device' means any equipment or management practice, for installation or use on board a vessel of the Armed Forces, that is—

"(A) designed to receive, retain, treat, control, or discharge a discharge incidental to the normal operation of a vessel; and

"(B) determined by the Administrator and the Secretary of Defense to be the most effective equipment or management practice to reduce the environmental impacts of the discharge consistent with the considerations set forth in subsection (n)(2)(B); and

"(14) 'vessel of the Armed Forces' means—

"(A) any vessel owned or operated by the Department of Defense, other than a time or voyage chartered vessel; and

"(B) any vessel owned or operated by the Department of Transportation that is designated by the Secretary of the department in which the Coast Guard is operating as a vessel equivalent to a vessel described in subparagraph (A).".

(2) ENFORCEMENT.—The first sentence of section 312(j) of the Federal Water Pollution Control Act (33 U.S.C. 1322(j)) is amended—

(A) by striking "of this section or" and inserting a comma; and

(B) by striking "of this section shall" and inserting ", or subsection (n)(8) shall".

(3) OTHER DEFINITIONS.—Subparagraph (A) of the second sentence of section 502(6) of the Federal Water Pollution Control Act (33 U.S.C. 1362(6)) is amended by striking "'sewage from vessels'" and inserting "'sewage from vessels or a discharge incidental to the normal operation of a vessel of the Armed Forces'".

(d) COOPERATION IN STANDARDS DEVELOPMENT.—The Administrator of the Environmental Protection Agency and the Secretary of Defense may, by mutual agreement, with or without reimbursement, provide for the use of information, reports, personnel, or other resources of the Environmental Protection Agency or the Department of Defense to carry out section 312(n) of the Federal

33 USC 1322 note.

Water Pollution Control Act (as added by subsection (b)), including the use of the resources—

(1) to determine—

(A) the nature and environmental effect of discharges incidental to the normal operation of a vessel of the Armed Forces;

(B) the practicability of using marine pollution control devices on vessels of the Armed Forces; and

(C) the effect that installation or use of marine pollution control devices on vessels of the Armed Forces would have on the operation or operational capability of the vessels; and

(2) to establish performance standards for marine pollution control devices on vessels of the Armed Forces.

Subtitle D—Commissaries and Nonappropriated Fund Instrumentalities

SEC. 331. OPERATION OF COMMISSARY SYSTEM.

(a) COOPERATION WITH OTHER ENTITIES.—Section 2482 of title 10, United States Code, is amended—

(1) in the section heading, by striking out "**private**";

(2) by inserting "(a) PRIVATE OPERATION.—" before "Private persons"; and

(3) by adding at the end the following new subsection:

"(b) CONTRACTS WITH OTHER AGENCIES AND INSTRUMENTALITIES.—(1) The Defense Commissary Agency, and any other agency of the Department of Defense that supports the operation of the commissary system, may enter into a contract or other agreement with another department, agency, or instrumentality of the Department of Defense or another Federal agency to provide services beneficial to the efficient management and operation of the commissary system.

"(2) A commissary store operated by a nonappropriated fund instrumentality of the Department of Defense shall be operated in accordance with section 2484 of this title. Subject to such section, the Secretary of Defense may authorize a transfer of goods, supplies, and facilities of, and funds appropriated for, the Defense Commissary Agency or any other agency of the Department of Defense that supports the operation of the commissary system to a nonappropriated fund instrumentality for the operation of a commissary store.".

(b) CLERICAL AMENDMENT.—The item relating to such section in the table of sections at the beginning of chapter 147 of such title is amended to read as follows:

"2482. Commissary stores: operation.".

SEC. 332. LIMITED RELEASE OF COMMISSARY STORES SALES INFORMATION TO MANUFACTURERS, DISTRIBUTORS, AND OTHER VENDORS DOING BUSINESS WITH DEFENSE COMMISSARY AGENCY.

Section 2487(b) of title 10, United States Code, is amended in the second sentence by inserting before the period the following: "unless the agreement is between the Defense Commissary Agency and a manufacturer, distributor, or other vendor doing business with the Agency and is restricted to information directly related

to merchandise provided by that manufacturer, distributor, or vendor".

SEC. 333. ECONOMICAL DISTRIBUTION OF DISTILLED SPIRITS BY NONAPPROPRIATED FUND INSTRUMENTALITIES.

(a) ECONOMICAL DISTRIBUTION.—Subsection (a)(1) of section 2488 of title 10, United States Code, is amended by inserting after "most competitive source" the following: "and distributed in the most economical manner".

(b) DETERMINATION OF MOST ECONOMICAL DISTRIBUTION METHOD.—Such section is further amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection:

"(c)(1) In the case of covered alcoholic beverage purchases of distilled spirits, to determine whether a nonappropriated fund instrumentality of the Department of Defense provides the most economical method of distribution to package stores, the Secretary of Defense shall consider all components of the distribution costs incurred by the nonappropriated fund instrumentality, such as overhead costs (including costs associated with management, logistics, administration, depreciation, and utilities), the costs of carrying inventory, and handling and distribution costs.

"(2) If the use of a private distributor would subject covered alcoholic beverage purchases of distilled spirits to direct or indirect State taxation, a nonappropriated fund instrumentality shall be considered to be the most economical method of distribution regardless of the results of the determination under paragraph (1).

"(3) The Secretary shall use the agencies performing audit functions on behalf of the armed forces and the Inspector General of the Department of Defense to make determinations under this subsection.".

SEC. 334. TRANSPORTATION BY COMMISSARIES AND EXCHANGES TO OVERSEAS LOCATIONS.

(a) IN GENERAL.—Chapter 157 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2643. Commissary and exchange services: transportation overseas

"The Secretary of Defense shall authorize the officials responsible for operation of commissaries and military exchanges to negotiate directly with private carriers for the most cost-effective transportation of commissary and exchange supplies by sea without relying on the Military Sealift Command or the Military Traffic Management Command. Section 2631 of this title, regarding the preference for vessels of the United States or belonging to the United States in the transportation of supplies by sea, shall apply to the negotiation of transportation contracts under the authority of this section.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2643. Commissary and exchange services: transportation overseas.".

10 USC 2241 note.

SEC. 335. DEMONSTRATION PROJECT FOR UNIFORM FUNDING OF MORALE, WELFARE, AND RECREATION ACTIVITIES AT CERTAIN MILITARY INSTALLATIONS.

(a) DEMONSTRATION PROJECT REQUIRED.—(1) The Secretary of Defense shall conduct a demonstration project to evaluate the feasibility of using only nonappropriated funds to support morale, welfare, and recreation programs at military installations in order to facilitate the procurement of property and services for those programs and the management of employees used to carry out those programs.

(2) Under the demonstration project—

(A) procurements of property and services for programs referred to in paragraph (1) may be carried out in accordance with laws and regulations applicable to procurements paid for with nonappropriated funds; and

(B) appropriated funds available for such programs may be expended in accordance with laws applicable to expenditures of nonappropriated funds as if the appropriated funds were nonappropriated funds.

Regulations.

(3) The Secretary shall prescribe regulations to carry out paragraph (2). The regulations shall provide for financial management and accounting of appropriated funds expended in accordance with subparagraph (B) of such paragraph.

(b) COVERED MILITARY INSTALLATIONS.—The Secretary shall select not less than three and not more than six military installations to participate in the demonstration project.

Termination date.

(c) PERIOD OF DEMONSTRATION PROJECT.—The demonstration project shall terminate not later than September 30, 1998.

(d) EFFECT ON EMPLOYEES.—For the purpose of testing fiscal accounting procedures, the Secretary may convert, for the duration of the demonstration project, the status of an employee who carries out a program referred to in subsection (a)(1) from the status of an employee paid by appropriated funds to the status of a nonappropriated fund instrumentality employee, except that such conversion may occur only—

(1) if the employee whose status is to be converted—

(A) is fully informed of the effects of such conversion on the terms and conditions of the employment of that employee for purposes of title 5, United States Code, and on the benefits provided to that employee under such title; and

(B) consents to such conversion; or

(2) in a manner which does not affect such terms and conditions of employment or such benefits.

(e) REPORTS.—(1) Not later than six months after the date of the enactment of this Act, the Secretary shall submit to Congress an interim report on the implementation of this section.

(2) Not later than December 31, 1998, the Secretary shall submit to Congress a final report on the results of the demonstration project. The report shall include a comparison of—

(A) the cost incurred under the demonstration project in using employees paid by appropriated funds together with

nonappropriated fund instrumentality employees to carry out the programs referred to in subsection (a)(1); and

(B) an estimate of the cost that would have been incurred if only nonappropriated fund instrumentality employees had been used to carry out such programs.

SEC. 336. OPERATION OF COMBINED EXCHANGE AND COMMISSARY STORES.

(a) IN GENERAL.—(1) Chapter 147 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2490a. Combined exchange and commissary stores

"(a) AUTHORITY.—The Secretary of Defense may authorize a nonappropriated fund instrumentality to operate a military exchange and a commissary store as a combined exchange and commissary store on a military installation.

"(b) LIMITATIONS.—(1) Not more than ten combined exchange and commissary stores may be operated pursuant to this section.

"(2) The Secretary may select a military installation for the operation of a combined exchange and commissary store under this section only if—

"(A) the installation is to be closed, or has been or is to be realigned, under a base closure law; or

"(B) a military exchange and a commissary store are operated at the installation by separate entities at the time of, or immediately before, such selection and it is not economically feasible to continue that separate operation.

"(c) OPERATION AT CARSWELL FIELD.—Combined exchange and commissary stores operated under this section shall include the combined exchange and commissary store that is operated at the Naval Air Station Fort Worth, Joint Reserve Center, Carswell Field, Texas, under the authority provided in section 375 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2736). Texas.

"(d) ADJUSTMENTS AND SURCHARGES.—Adjustments to, and surcharges on, the sales price of a grocery food item sold in a combined exchange and commissary store under this section shall be provided for in accordance with the same laws that govern such adjustments and surcharges for items sold in a commissary store of the Defense Commissary Agency.

"(e) USE OF APPROPRIATED FUNDS.—(1) If a nonappropriated fund instrumentality incurs a loss in operating a combined exchange and commissary store at a military installation under this section as a result of the requirement set forth in subsection (d), the Secretary may authorize a transfer of funds available for the Defense Commissary Agency to the nonappropriated fund instrumentality to offset the loss.

"(2) The total amount of appropriated funds transferred during a fiscal year to support the operation of a combined exchange and commissary store at a military installation under this section may not exceed an amount that is equal to 25 percent of the amount of appropriated funds that was provided for the operation of the commissary store of the Defense Commissary Agency on that installation during the last full fiscal year of operation of that commissary store.

"(f) DEFINITIONS.—In this section:

"(1) The term 'nonappropriated fund instrumentality' means the Army and Air Force Exchange Service, Navy Exchange Service Command, Marine Corps exchanges, or any other instrumentality of the United States under the jurisdiction of the Armed Forces which is conducted for the comfort, pleasure, contentment, or physical or mental improvement of members of the Armed Forces.

"(2) The term 'base closure law' has the meaning given such term by section 2667(g) of this title.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2490a. Combined exchange and commissary stores.".

(b) CONFORMING AMENDMENT.—Section 375 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2736) is amended by striking out ", until December 31, 1995,".

SEC. 337. DEFERRED PAYMENT PROGRAMS OF MILITARY EXCHANGES.

Contracts.

(a) USE OF COMMERCIAL BANKING INSTITUTION.—(1) As soon as practicable after the date of the enactment of this Act, the Secretary of Defense shall seek to enter into an agreement with a commercial banking institution under which the institution agrees to finance and operate the deferred payment program of the Army and Air Force Exchange Service and the deferred payment program of the Navy Exchange Service Command. The Secretary shall use competitive procedures to enter into an agreement under this paragraph.

(2) In order to facilitate the transition of the operation of the programs referred to in paragraph (1) to commercial operation under an agreement described in that paragraph, the Secretary may initially limit the scope of any such agreement so as to apply to only one of the programs.

(b) REPORT.—Not later than December 31, 1995, the Secretary shall submit to Congress a report on the implementation of this section. The report shall also include an analysis of the impact of the deferred payment programs referred to in subsection (a)(1), including the impact of the default and collection procedures under such programs, on members of the Armed Forces and their families.

SEC. 338. AVAILABILITY OF FUNDS TO OFFSET EXPENSES INCURRED BY ARMY AND AIR FORCE EXCHANGE SERVICE ON ACCOUNT OF TROOP REDUCTIONS IN EUROPE.

Of funds authorized to be appropriated under section 301(5), not less than $70,000,000 shall be available to the Secretary of Defense for transfer to the Army and Air Force Exchange Service to offset expenses incurred by the Army and Air Force Exchange Service on account of reductions in the number of members of the United States Armed Forces assigned to permanent duty ashore in Europe.

SEC. 339. STUDY REGARDING IMPROVING EFFICIENCIES IN OPERATION OF MILITARY EXCHANGES AND OTHER MORALE, WELFARE, AND RECREATION ACTIVITIES AND COMMISSARY STORES.

(a) STUDY REQUIRED.—The Secretary of Defense shall conduct a study regarding the manner in which greater efficiencies can be achieved in the operation of—

(1) military exchanges;

(2) other instrumentalities of the United States under the jurisdiction of the Armed Forces which are conducted for the comfort, pleasure, contentment, or physical or mental improvement of members of the Armed Forces; and

(3) commissary stores.

(b) REPORT OF STUDY.—Not later than March 1, 1996, the Secretary of Defense shall submit to Congress a report describing the results of the study and containing such recommendations as the Secretary considers appropriate to implement options identified in the study to achieve the greater efficiencies referred to in subsection (a).

SEC. 340. REPEAL OF REQUIREMENT TO CONVERT SHIPS' STORES TO NONAPPROPRIATED FUND INSTRUMENTALITIES.

(a) REPEAL.—Section 371 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 10 U.S.C. 7604 note) is amended—

(1) by striking out subsections (a) and (b); and

(2) by redesignating subsections (c) and (d) as subsections (a) and (b), respectively.

(b) INSPECTOR GENERAL REVIEW.—Not later than April 1, 1996, the Inspector General of the Department of Defense shall submit to Congress a report that reviews the report on the costs and benefits of converting to operation of Navy ships' stores by nonappropriated fund instrumentalities that the Navy Audit Agency prepared in connection with the postponement of the deadline for the conversion provided for in section 374(a) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2736). Reports.

SEC. 341. DISPOSITION OF EXCESS MORALE, WELFARE, AND RECREATION FUNDS.

Section 2219 of title 10, United States Code, is amended—

(1) in the first sentence, by striking out "a military department" and inserting in lieu thereof "an armed force";

(2) in the second sentence—

(A) by striking out ", department-wide"; and

(B) by striking out "of the military department" and inserting in lieu thereof "for that armed force"; and

(3) by adding at the end the following: "This section does not apply to the Coast Guard.".

SEC. 342. CLARIFICATION OF ENTITLEMENT TO USE OF MORALE, WELFARE, AND RECREATION FACILITIES BY MEMBERS OF RESERVE COMPONENTS AND DEPENDENTS.

(a) IN GENERAL.—Section 1065 of title 10, United States Code, is amended to read as follows:

"§ 1065. Morale, welfare, and recreation retail facilities: use by members of reserve components and dependents

"(a) MEMBERS OF THE SELECTED RESERVE.—A member of the Selected Reserve in good standing (as determined by the Secretary concerned) shall be permitted to use MWR retail facilities on the same basis as members on active duty.

"(b) MEMBERS OF READY RESERVE NOT IN SELECTED RESERVE.—Subject to such regulations as the Secretary of Defense may prescribe, a member of the Ready Reserve (other than members of

the Selected Reserve) may be permitted to use MWR retail facilities on the same basis as members serving on active duty.

"(c) RESERVE RETIREES UNDER AGE 60.—A member or former member of a reserve component under 60 years of age who, but for age, would be eligible for retired pay under chapter 1223 of this title shall be permitted to use MWR retail facilities on the same basis as members of the armed forces entitled to retired pay under any other provision of law.

"(d) DEPENDENTS.—(1) Dependents of a member who is permitted under subsection (a) or (b) to use MWR retail facilities shall be permitted to use such facilities on the same basis as dependents of members on active duty.

"(2) Dependents of a member who is permitted under subsection (c) to use MWR retail facilities shall be permitted to use such facilities on the same basis as dependents of members of the armed forces entitled to retired pay under any other provision of law.

"(e) MWR RETAIL FACILITY DEFINED.—In this section, the term 'MWR retail facilities' means exchange stores and other revenue-generating facilities operated by nonappropriated fund activities of the Department of Defense for the morale, welfare, and recreation of members of the armed forces.".

(b) CLERICAL AMENDMENT.—The item relating to such section in the table of sections at the beginning of chapter 54 of such title is amended to read as follows:

"1065. Morale, welfare, and recreation retail facilities: use by members of reserve components and dependents.".

Subtitle E—Performance of Functions by Private-Sector Sources

SEC. 351. COMPETITIVE PROCUREMENT OF PRINTING AND DUPLICATION SERVICES.

(a) REQUIREMENT FOR COMPETITIVE PROCUREMENT.—Except as provided in subsection (b), the Secretary of Defense shall, during fiscal year 1996 and consistent with the requirements of title 44, United States Code, competitively procure printing and duplication services from private-sector sources for the performance of at least 70 percent of the total printing and duplication requirements of the Defense Printing Service.

(b) EXCEPTION FOR CLASSIFIED INFORMATION.—The requirement of subsection (a) shall not apply to the procurement of services for printing and duplicating classified documents and information.

10 USC 2458 note.

SEC. 352. DIRECT VENDOR DELIVERY SYSTEM FOR CONSUMABLE INVENTORY ITEMS OF DEPARTMENT OF DEFENSE.

(a) IMPLEMENTATION OF DIRECT VENDOR DELIVERY SYSTEM.—Not later than September 30, 1997, the Secretary of Defense shall, to the maximum extent practicable, implement a system under which consumable inventory items referred to in subsection (b) are delivered to military installations throughout the United States directly by the vendors of those items. The purpose for implementing the system is to reduce the expense and necessity of maintaining extensive warehouses for those items within the Department of Defense.

(b) COVERED ITEMS.—The items referred to in subsection (a) are the following:

(1) Food and clothing.
(2) Medical and pharmaceutical supplies.
(3) Automotive, electrical, fuel, and construction supplies.
(4) Other consumable inventory items the Secretary considers appropriate.

SEC. 353. PAYROLL, FINANCE, AND ACCOUNTING FUNCTIONS OF THE DEPARTMENT OF DEFENSE.

(a) PLAN FOR PRIVATE OPERATION OF CERTAIN FUNCTIONS.—(1) Not later than October 1, 1996, the Secretary of Defense shall submit to Congress a plan for the performance by private-sector sources of payroll functions for civilian employees of the Department of Defense other than employees paid from nonappropriated funds. 10 USC 2461 note.

(2)(A) The Secretary shall implement the plan referred to in paragraph (1) if the Secretary determines that the cost of performance by private-sector sources of the functions referred to in that paragraph does not exceed the cost of performance of those functions by employees of the Federal Government.

(B) In computing the total cost of performance of such functions by employees of the Federal Government, the Secretary shall include the following:

(i) Managerial and administrative costs.

(ii) Personnel costs, including the cost of providing retirement benefits for such personnel.

(iii) Costs associated with the provision of facilities and other support by Federal agencies.

(C) The Defense Contract Audit Agency shall verify the costs computed for the Secretary under this paragraph by others.

(3) At the same time the Secretary submits the plan required by paragraph (1), the Secretary shall submit to Congress a report on other accounting and finance functions of the Department that are appropriate for performance by private-sector sources. Reports.

(b) PILOT PROGRAM FOR PRIVATE OPERATION OF NAFI FUNCTIONS.—(1) The Secretary shall carry out a pilot program to test the performance by private-sector sources of payroll and other accounting and finance functions of nonappropriated fund instrumentalities and to evaluate the extent to which cost savings and efficiencies would result from the performance of such functions by those sources. 10 USC 2461 note.

(2) The payroll and other accounting and finance functions designated by the Secretary for performance by private-sector sources under the pilot program shall include at least one major payroll, accounting, or finance function.

(3) To carry out the pilot program, the Secretary shall enter into discussions with private-sector sources for the purpose of developing a request for proposals to be issued for performance by those sources of functions designated by the Secretary under paragraph (2). The discussions shall be conducted on a schedule that accommodates issuance of a request for proposals within 60 days after the date of the enactment of this Act.

(4) A goal of the pilot program is to reduce by at least 25 percent the total costs incurred by the Department annually for the performance of a function referred to in paragraph (2) through the performance of that function by a private-sector source.

(5) Before conducting the pilot program, the Secretary shall develop a plan for the program that addresses the following:

(A) The purposes of the program.

(B) The methodology, duration, and anticipated costs of the program, including the cost of an arrangement pursuant to which a private-sector source would receive an agreed-upon payment plus an additional negotiated amount not to exceed 50 percent of the dollar savings achieved in excess of the goal specified in paragraph (4).

(C) A specific citation to any provisions of law, rule, or regulation that, if not waived, would prohibit the conduct of the program or any part of the program.

(D) A mechanism to evaluate the program.

(E) A provision for all payroll, accounting, and finance functions of nonappropriated fund instrumentalities of the Department of Defense to be performed by private-sector sources, if determined advisable on the basis of a final assessment of the results of the program.

(6) The Secretary shall act through the Under Secretary of Defense (Comptroller) in the performance of the Secretary's responsibilities under this subsection.

(c) LIMITATION ON OPENING OF NEW OPERATING LOCATIONS FOR DEFENSE FINANCE AND ACCOUNTING SERVICE.—(1) Except as provided in paragraph (2), the Secretary may not establish a new operating location for the Defense Finance and Accounting Service during fiscal year 1996.

(2) The Secretary may establish a new operating location for the Defense Finance and Accounting Service if—

(A) for a new operating location that the Secretary planned before the date of the enactment of this Act to establish on or after that date, the Secretary reconsiders the need for establishing that new operating location; and

(B) for each new operating location, including a new operating location referred to in subparagraph (A)—

(i) the Secretary submits to Congress, as part of the report required by subsection (a)(4), an analysis of the need for establishing the new operating location; and

(ii) a period of 30 days elapses after the Congress receives the report.

(3) In this subsection, the term "new operating location" means an operating location that is not in operation on the date of the enactment of this Act, except that such term does not include an operating location for which, as of such date—

(A) the Secretary has established a date for the commencement of operations; and

(B) funds have been expended for the purpose of its establishment.

10 USC 2461 note.

SEC. 354. DEMONSTRATION PROGRAM TO IDENTIFY OVERPAYMENTS MADE TO VENDORS.

(a) IN GENERAL.—The Secretary of Defense shall conduct a demonstration program to evaluate the feasibility of using private contractors to audit accounting and procurement records of the Department of Defense in order to identify overpayments made to vendors by the Department. The demonstration program shall be conducted for the Defense Logistics Agency and include the Defense Personnel Support Center.

Contracts.

(b) PROGRAM REQUIREMENTS.—(1) Under the demonstration program, the Secretary shall, by contract, provide for one or more persons to audit the accounting and procurement records of the

Defense Logistics Agency that relate to (at least) fiscal years 1993, 1994, and 1995. The Secretary may enter into more than one contract under the program.

(2) A contract under the demonstration program shall require the contractor to use data processing techniques that are generally used in audits of private-sector records similar to the records audited under the contract.

(c) AUDIT REQUIREMENTS.—In conducting an audit under the demonstration program, a contractor shall compare Department of Defense purchase agreements (and related documents) with invoices submitted by vendors under the purchase agreements. A purpose of the comparison is to identify, in the case of each audited purchase agreement, the following:

(1) Any payments to the vendor for costs that are not allowable under the terms of the purchase agreement or by law.

(2) Any amounts not deducted from the total amount paid to the vendor under the purchase agreement that should have been deducted from that amount on account of goods and services provided to the vendor by the Department.

(3) Duplicate payments.

(4) Unauthorized charges.

(5) Other discrepancies between the amount paid to the vendor and the amount actually due the vendor under the purchase agreement.

(d) BONUS PAYMENT.—To the extent provided for in a contract under the demonstration program, the Secretary may pay the contractor a bonus in addition to any other amount paid for performance of the contract. The amount of such bonus may not exceed the amount that is equal to 25 percent of all amounts recovered by the United States on the basis of information obtained as a result of the audit performed under the contract. Any such bonus shall be paid out of amounts made available pursuant to subsection (e).

(e) AVAILABILITY OF FUNDS.—Of the amount authorized to be appropriated pursuant to section 301(5), not more than $5,000,000 shall be available for the demonstration program.

SEC. 355. PILOT PROGRAM ON PRIVATE OPERATION OF DEFENSE DEPENDENTS' SCHOOLS. 20 USC 921 note.

(a) PILOT PROGRAM.—The Secretary of Defense may conduct a pilot program to evaluate the feasibility of using private contractors to operate schools of the defense dependents' education system established under section 1402(a) of the Defense Dependents' Education Act of 1978 (20 U.S.C. 921(a)).

(b) SELECTION OF SCHOOL FOR PROGRAM.—If the Secretary conducts the pilot program, the Secretary shall select one school of the defense dependents' education system for participation in the program and provide for the operation of the school by a private contractor for not less than one complete school year.

(c) REPORT.—Not later than 30 days after the end of the first school year in which the pilot program is conducted, the Secretary shall submit to Congress a report on the results of the program. The report shall include the recommendation of the Secretary with respect to the extent to which other schools of the defense dependents' education system should be operated by private contractors.

10 USC 2461 note.

SEC. 356. PROGRAM FOR IMPROVED TRAVEL PROCESS FOR THE DEPARTMENT OF DEFENSE.

(a) IN GENERAL.—(1) The Secretary of Defense shall conduct a program to evaluate options to improve the Department of Defense travel process. To carry out the program, the Secretary shall compare the results of the tests conducted under subsection (b) to determine which travel process tested under such subsection is the better option to effectively manage travel of Department personnel.

(2) The program shall be conducted at not less than three and not more than six military installations, except that an installation may be the subject of only one test conducted under the program.

(3) The Secretary shall act through the Under Secretary of Defense (Comptroller) in the performance of the Secretary's responsibilities under this section.

(b) CONDUCT OF TESTS.—(1) The Secretary shall conduct a test at an installation referred to in subsection (a)(2) under which the Secretary—

(A) implements the changes proposed to be made with respect to the Department of Defense travel process by the task force on travel management that was established by the Secretary in July 1994;

(B) manages and uniformly applies that travel process (including the implemented changes) throughout the Department; and

(C) provides opportunities for private-sector sources to provide travel reservation services and credit card services to facilitate that travel process.

(2) The Secretary shall conduct a test at an installation referred to in subsection (a)(2) under which the Secretary—

(A) enters into one or more contracts with a private-sector source pursuant to which the private-sector source manages the Department of Defense travel process (except for functions referred to in subparagraph (B)), provides for responsive, reasonably priced services as part of the travel process, and uniformly applies the travel process throughout the Department; and

(B) provides for the performance by employees of the Department of only those travel functions, such as travel authorization, that the Secretary considers to be necessary to be performed by such employees.

(3) Each test required by this subsection shall begin not later than 60 days after the date of the enactment of this Act and end two years after the date on which it began. Each such test shall also be conducted in accordance with the guidelines for travel management issued for the Department by the Under Secretary of Defense (Comptroller).

(c) EVALUATION CRITERIA.—The Secretary shall establish criteria to evaluate the travel processes tested under subsection (b). The criteria shall, at a minimum, include the extent to which a travel process provides for the following:

(1) The coordination, at the time of a travel reservation, of travel policy and cost estimates with the mission which necessitates the travel.

(2) The use of fully integrated travel solutions envisioned by the travel reengineering report of the Department of Defense dated January 1995.

(3) The coordination of credit card data and travel reservation data with cost estimate data.

(4) The elimination of the need for multiple travel approvals through the coordination of such data with proposed travel plans.

(5) A responsive and flexible management information system that enables the Under Secretary of Defense (Comptroller) to monitor travel expenses throughout the year, accurately plan travel budgets for future years, and assess, in the case of travel of an employee on temporary duty, the relationship between the cost of the travel and the value of the travel to the accomplishment of the mission which necessitates the travel.

(d) PLAN FOR PROGRAM.—Before conducting the program, the Secretary shall develop a plan for the program that addresses the following:

(1) The purposes of the program, including the achievement of an objective of reducing by at least 50 percent the total cost incurred by the Department annually to manage the Department of Defense travel process.

(2) The methodology and anticipated cost of the program, including the cost of an arrangement pursuant to which a private-sector source would receive an agreed-upon payment plus an additional negotiated amount that does not exceed 50 percent of the total amount saved in excess of the objective specified in paragraph (1).

(3) A specific citation to any provision or law, rule, or regulation that, if not waived, would prohibit the conduct of the program or any part of the program.

(4) The evaluation criteria established pursuant to subsection (c).

(5) A provision for implementing throughout the Department the travel process determined to be the better option to effectively manage travel of Department personnel on the basis of a final assessment of the results of the program.

(e) REPORT.—After the first full year of the conduct of the tests required by subsection (b), the Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on the implementation of the program. The report shall include an analysis of the evaluation criteria established pursuant to subsection (c).

SEC. 357. INCREASED RELIANCE ON PRIVATE-SECTOR SOURCES FOR COMMERCIAL PRODUCTS AND SERVICES.

10 USC 2461 note.

(a) IN GENERAL.—The Secretary of Defense shall endeavor to carry out through a private-sector source any activity to provide a commercial product or service for the Department of Defense if—

(1) the product or service can be provided adequately through such a source; and

(2) an adequate competitive environment exists to provide for economical performance of the activity by such a source.

(b) APPLICABILITY.—(1) Subsection (a) shall not apply to any commercial product or service with respect to which the Secretary determines that production, manufacture, or provision of that product or service by the Government is necessary for reasons of national security.

(2) A determination under paragraph (1) shall be made in accordance with regulations prescribed under subsection (c).

(c) REGULATIONS.—The Secretary shall prescribe regulations to carry out this section. Such regulations shall be prescribed in consultation with the Director of the Office of Management and Budget.

(d) REPORT.—(1) The Secretary shall identify activities of the Department (other than activities specified by the Secretary pursuant to subsection (b)) that are carried out by employees of the Department to provide commercial-type products or services for the Department.

(2) Not later than April 15, 1996, the Secretary shall transmit to the congressional defense committees a report on opportunities for increased use of private-sector sources to provide commercial products and services for the Department.

(3) The report required by paragraph (2) shall include the following:

(A) A list of activities identified under paragraph (1) indicating, for each activity, whether the Secretary proposes to convert the performance of that activity to performance by private-sector sources and, if not, the reasons why.

(B) An assessment of the advantages and disadvantages of using private-sector sources, rather than employees of the Department, to provide commercial products and services for the Department that are not essential to the warfighting mission of the Armed Forces.

(C) A specification of all legislative and regulatory impediments to converting the performance of activities identified under paragraph (1) to performance by private-sector sources.

(D) The views of the Secretary on the desirability of terminating the applicability of OMB Circular A–76 to the Department.

(4) The Secretary shall carry out paragraph (1) in consultation with the Director of the Office of Management and Budget and the Comptroller General of the United States. In carrying out that paragraph, the Secretary shall consult with, and seek the views of, representatives of the private sector, including organizations representing small businesses.

Subtitle F—Miscellaneous Reviews, Studies, and Reports

SEC. 361. QUARTERLY READINESS REPORTS.

(a) IN GENERAL.—(1) Chapter 22 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 452. Quarterly readiness reports

"(a) REQUIREMENT.—Not later than 30 days after the end of each calendar-year quarter, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report

on military readiness. The report for any quarter shall be based on assessments that are provided during that quarter—

"(1) to any council, committee, or other body of the Department of Defense (A) that has responsibility for readiness oversight, and (B) the membership of which includes at least one civilian officer in the Office of the Secretary of Defense at the level of Assistant Secretary of Defense or higher;

"(2) by senior civilian and military officers of the military departments and the commanders of the unified and specified commands; and

"(3) as part of any regularly established process of periodic readiness reviews for the Department of Defense as a whole.

"(b) MATTERS TO BE INCLUDED.—Each such report shall—

"(1) specifically describe identified readiness problems or deficiencies and planned remedial actions; and

"(2) include the key indicators and other relevant data related to the identified problem or deficiency.

"(c) CLASSIFICATION OF REPORTS.—Reports under this section shall be submitted in unclassified form and may, as the Secretary determines necessary, also be submitted in classified form.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"452. Quarterly readiness reports.".

(b) EFFECTIVE DATE.—Section 452 of title 10, United States Code, as added by subsection (a), shall take effect with the calendar-year quarter during which this Act is enacted. 10 USC 452 note.

SEC. 362. RESTATEMENT OF REQUIREMENT FOR SEMIANNUAL REPORTS TO CONGRESS ON TRANSFERS FROM HIGH-PRIORITY READINESS APPROPRIATIONS.

Section 361 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2732) is amended to read as follows:

"SEC. 361. SEMIANNUAL REPORTS TO CONGRESS ON TRANSFERS FROM HIGH-PRIORITY READINESS APPROPRIATIONS.

"(a) ANNUAL REPORTS.—During 1996 and 1997, the Secretary of Defense shall submit to the congressional defense committees a report on transfers during the preceding fiscal year from funds available for each budget activity specified in subsection (d) (hereinafter in this section referred to as 'covered budget activities'). The report each year shall be submitted not later than the date in that year on which the President submits the budget for the next fiscal year to Congress pursuant to section 1105 of title 31, United States Code.

"(b) MIDYEAR REPORTS.—On May 1 of each year specified in subsection (a), the Secretary of Defense shall submit to the congressional defense committees a report providing the same information, with respect to the first six months of the fiscal year in which the report is submitted, that is provided in reports under subsection (a) with respect to the preceding fiscal year.

"(c) MATTERS TO BE INCLUDED.—In each report under this section, the Secretary shall include for each covered budget activity the following:

"(1) A statement, for the period covered by the report, of—

"(A) the total amount of transfers into funds available for that activity;

"(B) the total amount of transfers from funds available for that activity; and

"(C) the net amount of transfers into, or out of, funds available for that activity.

"(2) A detailed explanation of the transfers into, and out of, funds available for that activity during the period covered by the report.

"(d) COVERED BUDGET ACTIVITIES.—The budget activities to which this section applies are the following:

"(1) The budget activity groups (known as 'subactivities') within the Operating Forces budget activity of the annual Operation and Maintenance, Army, appropriation that are designated as follows:

"(A) Combat Units.

"(B) Tactical Support.

"(C) Force-Related Training/Special Activities.

"(D) Depot Maintenance.

"(E) JCS Exercises.

"(2) The budget activity groups (known as 'subactivities') within the Operating Forces budget activity of the annual Operation and Maintenance, Navy, appropriation that are designated as follows:

"(A) Mission and Other Flight Operations.

"(B) Mission and Other Ship Operations.

"(C) Fleet Air Training.

"(D) Ship Operational Support and Training.

"(E) Aircraft Depot Maintenance.

"(F) Ship Depot Maintenance.

"(3) The budget activity groups (known as 'subactivities'), or other activity, within the Operating Forces budget activity of the annual Operation and Maintenance, Air Force, appropriation that are designated or otherwise identified as follows:

"(A) Primary Combat Forces.

"(B) Primary Combat Weapons.

"(C) Global and Early Warning.

"(D) Air Operations Training.

"(E) Depot Maintenance.

"(F) JCS Exercises.".

SEC. 363. REPORT REGARDING REDUCTION OF COSTS ASSOCIATED WITH CONTRACT MANAGEMENT OVERSIGHT.

(a) REPORT REQUIRED.—Not later than April 1, 1996, the Comptroller General of the United States shall submit to Congress a report identifying methods to reduce the cost to the Department of Defense of management oversight of contracts in connection with major defense acquisition programs.

(b) MAJOR DEFENSE ACQUISITION PROGRAMS DEFINED.—For purposes of this section, the term "major defense acquisition program" has the meaning given that term in section 2430(a) of title 10, United States Code.

SEC. 364. REVIEWS OF MANAGEMENT OF INVENTORY CONTROL POINTS AND MATERIEL MANAGEMENT STANDARD SYSTEM.

(a) REVIEW OF CONSOLIDATION OF INVENTORY CONTROL POINTS.—(1) The Secretary of Defense shall conduct a review of the management by the Defense Logistics Agency of all inventory

control points of the Department of Defense. In conducting the review, the Secretary shall examine the management and acquisition practices of the Defense Logistics Agency for inventory of repairable spare parts.

(2) Not later than March 31, 1996, the Secretary shall submit to the Comptroller General of the United States and the congressional defense committees a report on the results the review conducted under paragraph (1).

(b) REVIEW OF MATERIEL MANAGEMENT STANDARD SYSTEM.—(1) The Comptroller General of the United States shall conduct a review of the automated data processing system of the Department of Defense known as the Materiel Management Standard System.

(2) Not later than May 1, 1996, the Comptroller General shall submit to the congressional defense committees a report on the results of the review conducted under paragraph (1).

SEC. 365. REPORT ON PRIVATE PERFORMANCE OF CERTAIN FUNCTIONS PERFORMED BY MILITARY AIRCRAFT.

(a) REPORT REQUIRED.—Not later than May 1, 1996, the Secretary of Defense shall submit to Congress a report on the feasibility of providing for the performance by private-sector sources of functions necessary to be performed to fulfill the requirements of the Department of Defense for air transportation of personnel and cargo.

(b) CONTENT OF REPORT.—The report shall include the following:

(1) A cost-benefit analysis with respect to the performance by private-sector sources of functions described in subsection (a), including an explanation of the assumptions used in the cost-benefit analysis.

(2) An assessment of the issues raised by providing for such performance by means of a contract entered into with a private-sector source.

(3) An assessment of the issues raised by providing for such performance by means of converting functions described in subsection (a) to private ownership and operation, in whole or in part.

(4) A discussion of the requirements for the performance of such functions in order to fulfill the requirements referred to in subsection (a) during wartime.

(5) The effect on military personnel and facilities of using private-sector sources to fulfill the requirements referred to in such subsection.

(6) The performance by private-sector sources of any other military aircraft functions (such as non-combat inflight fueling of aircraft) the Secretary considers appropriate.

SEC. 366. STRATEGY AND REPORT ON AUTOMATED INFORMATION SYSTEMS OF DEPARTMENT OF DEFENSE. 10 USC 113 note.

(a) DEVELOPMENT OF STRATEGY.—The Secretary of Defense shall develop a strategy for the development or modernization of automated information systems for the Department of Defense.

(b) MATTERS TO CONSIDER.—In developing the strategy required under subsection (a), the Secretary shall consider the following:

(1) The use of performance measures and management controls.

(2) Findings of the Functional Management Review conducted by the Secretary.

(3) Program management actions planned by the Secretary.

(4) Actions and milestones necessary for completion of functional and economic analyses for—

(A) the Automated System for Transportation data;

(B) continuous acquisition and life cycle support;

(C) electronic data interchange;

(D) flexible computer integrated manufacturing;

(E) the Navy Tactical Command Support System; and

(F) the Defense Information System Network.

(5) Progress made by the Secretary in resolving problems with respect to the Defense Information System Network and the Joint Computer-Aided Acquisition and Logistics Support System.

(6) Tasks identified in the review conducted by the Secretary of the Standard Installation/Division Personnel System-3.

(7) Such other matters as the Secretary considers appropriate.

(c) REPORT ON STRATEGY.—(1) Not later than April 15, 1996, the Secretary shall submit to Congress a report on the development of the strategy required under subsection (a).

(2) In the case of the Air Force Wargaming Center, the Air Force Command Exercise System, the Cheyenne Mountain Upgrade, the Transportation Coordinator Automated Command and Control Information Systems, and the Wing Command and Control Systems, the report required by paragraph (1) shall provide functional economic analyses and address waivers exercised for compelling military importance under section 381(d) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2739).

(3) The report required by paragraph (1) shall also include the following:

Certification.

(A) A certification by the Secretary of the termination of the Personnel Electronic Record Management System or a justification for the continued need for such system.

(B) Findings of the Functional Management Review conducted by the Secretary and program management actions planned by the Secretary for—

(i) the Base Level System Modernization and the Sustaining Base Information System; and

(ii) the Standard Installation/Division Personnel System-3.

(C) An assessment of the implementation of migration systems and applications, including—

(i) identification of the systems and applications by functional or business area, specifying target dates for operation of the systems and applications;

(ii) identification of the legacy systems and applications that will be terminated;

(iii) the cost of and schedules for implementing the migration systems and applications; and

(iv) termination schedules.

(D) A certification by the Secretary that each information system that is subject to review by the Major Automated Information System Review Committee of the Department is cost-effective and supports the corporate information manage-

ment goals of the Department, including the results of the review conducted for each such system by the Committee.

Subtitle G—Other Matters

SEC. 371. CODIFICATION OF DEFENSE BUSINESS OPERATIONS FUND.

(a) MANAGEMENT OF WORKING-CAPITAL FUNDS.—(1) Chapter 131 of title 10, United States Code, is amended by inserting after section 2215 the following new section:

"§ 2216. Defense Business Operations Fund

"(a) MANAGEMENT OF WORKING-CAPITAL FUNDS AND CERTAIN ACTIVITIES.—The Secretary of Defense may manage the performance of the working-capital funds and industrial, commercial, and support type activities described in subsection (b) through the fund known as the Defense Business Operations Fund, which is established on the books of the Treasury. Except for the funds and activities specified in subsection (b), no other functions, activities, funds, or accounts of the Department of Defense may be managed or converted to management through the Fund.

"(b) FUNDS AND ACTIVITIES INCLUDED.—The funds and activities referred to in subsection (a) are the following:

"(1) Working-capital funds established under section 2208 of this title and in existence on December 5, 1991.

"(2) Those activities that, on December 5, 1991, were funded through the use of a working-capital fund established under that section.

"(3) The Defense Finance and Accounting Service.

"(4) The Defense Commissary Agency.

"(5) The Defense Reutilization and Marketing Service.

"(6) The Joint Logistics Systems Center.

"(c) SEPARATE ACCOUNTING, REPORTING, AND AUDITING OF FUNDS AND ACTIVITIES.—(1) The Secretary of Defense shall provide in accordance with this subsection for separate accounting, reporting, and auditing of funds and activities managed through the Fund.

"(2) The Secretary shall maintain the separate identity of each fund and activity managed through the Fund that (before the establishment of the Fund) was managed as a separate Fund or activity.

"(3) The Secretary shall maintain separate records for each function for which payment is made through the Fund and which (before the establishment of the Fund) was paid directly through appropriations, including the separate identity of the appropriation account used to pay for the performance of the function. Records.

"(d) CHARGES FOR GOODS AND SERVICES PROVIDED THROUGH THE FUND.—(1) Charges for goods and services provided through the Fund shall include the following:

"(A) Amounts necessary to recover the full costs of the goods and services, whenever practicable, and the costs of the development, implementation, operation, and maintenance of systems supporting the wholesale supply and maintenance activities of the Department of Defense.

"(B) Amounts for depreciation of capital assets, set in accordance with generally accepted accounting principles.

"(C) Amounts necessary to recover the full cost of the operation of the Defense Finance Accounting Service.

"(2) Charges for goods and services provided through the Fund may not include the following:

"(A) Amounts necessary to recover the costs of a military construction project (as defined in section 2801(b) of this title), other than a minor construction project financed by the Fund pursuant to section 2805(c)(1) of this title.

"(B) Amounts necessary to cover costs incurred in connection with the closure or realignment of a military installation.

"(C) Amounts necessary to recover the costs of functions designated by the Secretary of Defense as mission critical, such as ammunition handling safety, and amounts for ancillary tasks not directly related to the mission of the function or activity managed through the Fund.

"(3)(A) The Secretary of Defense may submit to a customer a bill for the provision of goods and services through the Fund in advance of the provision of those goods and services.

Reports.

"(B) The Secretary shall submit to Congress a report on advance billings made pursuant to subparagraph (A)—

"(i) when the aggregate amount of all such billings after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1996 reaches $100,000,000; and

"(ii) whenever the aggregate amount of all such billings after the date of a preceding report under this subparagraph reaches $100,000,000.

"(C) Each report under subparagraph (B) shall include, for each such advance billing, the following:

"(i) An explanation of the reason for the advance billing.

"(ii) An analysis of the impact of the advance billing on readiness.

"(iii) An analysis of the impact of the advance billing on the customer so billed.

"(e) CAPITAL ASSET SUBACCOUNT.—(1) Amounts charged for depreciation of capital assets pursuant to subsection (d)(1)(B) shall be credited to a separate capital asset subaccount established within the Fund.

"(2) The Secretary of Defense may award contracts for capital assets of the Fund in advance of the availability of funds in the subaccount.

"(f) PROCEDURES FOR ACCUMULATION OF FUNDS.—The Secretary of Defense shall establish billing procedures to ensure that the balance in the Fund does not exceed the amount necessary to provide for the working capital requirements of the Fund, as determined by the Secretary.

"(g) PURCHASE FROM OTHER SOURCES.—The Secretary of Defense or the Secretary of a military department may purchase goods and services that are available for purchase from the Fund from a source other than the Fund if the Secretary determines that such source offers a more competitive rate for the goods and services than the Fund offers.

"(h) ANNUAL REPORTS AND BUDGET.—The Secretary of Defense shall annually submit to Congress, at the same time that the President submits the budget under section 1105 of title 31, the following:

"(1) A detailed report that contains a statement of all receipts and disbursements of the Fund (including such a state-

ment for each subaccount of the Fund) for the fiscal year ending in the year preceding the year in which the budget is submitted.

"(2) A detailed proposed budget for the operation of the Fund for the fiscal year for which the budget is submitted.

"(3) A comparison of the amounts actually expended for the operation of the Fund for the fiscal year referred to in paragraph (1) with the amount proposed for the operation of the Fund for that fiscal year in the President's budget.

"(4) A report on the capital asset subaccount of the Fund that contains the following information:

"(A) The opening balance of the subaccount as of the beginning of the fiscal year in which the report is submitted.

"(B) The estimated amounts to be credited to the subaccount in the fiscal year in which the report is submitted.

"(C) The estimated amounts of outlays to be paid out of the subaccount in the fiscal year in which the report is submitted.

"(D) The estimated balance of the subaccount at the end of the fiscal year in which the report is submitted.

"(E) A statement of how much of the estimated balance at the end of the fiscal year in which the report is submitted will be needed to pay outlays in the immediately following fiscal year that are in excess of the amount to be credited to the subaccount in the immediately following fiscal year.

"(i) DEFINITIONS.—In this section:

"(1) The term 'capital assets' means the following capital assets that have a development or acquisition cost of not less than $50,000:

"(A) Minor construction projects financed by the Fund pursuant to section 2805(c)(1) of this title.

"(B) Automatic data processing equipment, software.

"(C) Equipment other than equipment described in subparagraph (B).

"(D) Other capital improvements.

"(2) The term 'Fund' means the Defense Business Operations Fund.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2215 the following new item:

"2216. Defense Business Operations Fund.".

(b) CONFORMING REPEALS.—The following provisions of law are hereby repealed:

(1) Subsections (b), (c), (d), and (e) of section 311 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 10 U.S.C. 2208 note).

(2) Subsections (a) and (b) of section 333 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 10 U.S.C. 2208 note).

(3) Section 342 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 10 U.S.C. 2208 note).

(4) Section 316 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 10 U.S.C. 2208 note).

(5) Section 8121 of the Department of Defense Appropriations Act, 1992 (Public Law 102–172; 10 U.S.C. 2208 note).

SEC. 372. CLARIFICATION OF SERVICES AND PROPERTY THAT MAY BE EXCHANGED TO BENEFIT THE HISTORICAL COLLECTION OF THE ARMED FORCES.

Section 2572(b)(1) of title 10, United States Code, is amended by striking out "not needed by the armed forces" and all that follows through the end of the paragraph and inserting in lieu thereof the following: "not needed by the armed forces for any of the following items or services if such items or services directly benefit the historical collection of the armed forces:

"(A) Similar items held by any individual, organization, institution, agency, or nation.

"(B) Conservation supplies, equipment, facilities, or systems.

"(C) Search, salvage, or transportation services.

"(D) Restoration, conservation, or preservation services.

"(E) Educational programs.".

SEC. 373. FINANCIAL MANAGEMENT TRAINING.

(a) LIMITATION.—The Secretary of Defense may enter into a capital lease for the establishment of a Department of Defense financial management training center no earlier than the date that is 30 days after the date on which the Secretary of Defense submits to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives, in accordance with subsection (b), a certification of the need for such a center and a report on financial management training for Department of Defense personnel.

(b) CERTIFICATION AND REPORT.—(1) The certification and report referred to in subsection (a) are the following:

(A) Certification by the Secretary of the need for such a center.

(B) A report, submitted with the certification, on financial management training for Department of Defense personnel.

(2) Any report under paragraph (1) shall contain the following:

(A) The Secretary's analysis of the requirements for providing financial management training for employees of the Department of Defense.

(B) The alternatives considered by the Secretary for meeting those requirements.

(C) A detailed plan for meeting those requirements.

(D) A financial analysis of the estimated short-term and long-term costs of carrying out the plan.

(3) If, upon completing the analysis referred to in paragraph (2)(A) and after considering alternatives as described in paragraph (2)(B), the Secretary determines to meet the requirements for providing financial management training for employees of the Department of Defense through establishment of a financial management training center, the Secretary—

(A) shall make the determination of the location of the center using a merit-based selection process; and

(B) shall include in the report under paragraph (1) a description of that merit-based selection process.

SEC. 374. PERMANENT AUTHORITY FOR USE OF PROCEEDS FROM THE SALE OF CERTAIN LOST, ABANDONED, OR UNCLAIMED PROPERTY.

(a) PERMANENT AUTHORITY.—Section 2575 of title 10 is amended—

(1) by striking out subsection (b) and inserting in lieu thereof the following:

"(b)(1) In the case of lost, abandoned, or unclaimed personal property found on a military installation, the proceeds from the sale of the property under this section shall be credited to the operation and maintenance account of that installation and used—

"(A) to reimburse the installation for any costs incurred by the installation to collect, transport, store, protect, or sell the property; and

"(B) to the extent that the amount of the proceeds exceeds the amount necessary for reimbursing all such costs, to support morale, welfare, and recreation activities under the jurisdiction of the armed forces that are conducted for the comfort, pleasure, contentment, or physical or mental improvement of members of the armed forces at such installation.

"(2) The net proceeds from the sale of other property under this section shall be covered into the Treasury as miscellaneous receipts."; and

(2) by adding at the end the following:

"(d)(1) The owner (or heirs, next of kin, or legal representative of the owner) of personal property the proceeds of which are credited to a military installation under subsection (b)(1) may file a claim with the Secretary of Defense for the amount equal to the proceeds (less costs referred to in subparagraph (A) of such subsection). Amounts to pay the claim shall be drawn from the morale, welfare, and recreation account for the installation that received the proceeds.

"(2) The owner (or heirs, next of kin, or legal representative of the owner) may file a claim with the Comptroller General of the United States for proceeds covered into the Treasury under subsection (b)(2).

"(3) Unless a claim is filed under this subsection within 5 years after the date of the disposal of the property to which the claim relates, the claim may not be considered by a court, the Secretary of Defense (in the case of a claim filed under paragraph (1)), or the Comptroller General of the United States (in the case of a claim filed under paragraph (2))."

(b) REPEAL OF AUTHORITY FOR DEMONSTRATION PROGRAM.—Section 343 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1343) is repealed.

SEC. 375. SALE OF MILITARY CLOTHING AND SUBSISTENCE AND OTHER SUPPLIES OF THE NAVY AND MARINE CORPS.

(a) IN GENERAL.—(1) Chapter 651 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 7606. Subsistence and other supplies: members of armed forces; veterans; executive or military departments and employees; prices

"(a)(1) The Secretary of the Navy shall procure and sell, for cash or credit—

"(A) articles designated by the Secretary to members of the Navy and Marine Corps; and

"(B) items of individual clothing and equipment to members of the Navy and Marine Corps, under such restrictions as the Secretary may prescribe.

"(2) An account of sales on credit shall be kept and the amount due reported to the Secretary. Except for articles and items acquired through the use of working capital funds under section 2208 of this title, sales of articles shall be at cost, and sales of individual clothing and equipment shall be at average current prices, including overhead, as determined by the Secretary.

"(b) The Secretary shall sell subsistence supplies to members of other armed forces at the prices at which like property is sold to members of the Navy and Marine Corps.

"(c) The Secretary may sell serviceable supplies, other than subsistence supplies, to members of other armed forces for the buyers' use in the service. The prices at which the supplies are sold shall be the same prices at which like property is sold to members of the Navy and Marine Corps.

"(d) A person who has been discharged honorably or under honorable conditions from the Army, Navy, Air Force or Marine Corps and who is receiving care and medical treatment from the Public Health Service or the Department of Veterans Affairs may buy subsistence supplies and other supplies, except articles of uniform, at the prices at which like property is sold to members of the Navy and Marine Corps.

"(e) Under such conditions as the Secretary may prescribe, exterior articles of uniform may be sold to a person who has been discharged honorably or under honorable conditions from the Navy or Marine Corps, at the prices at which like articles are sold to members of the Navy or Marine Corps. This subsection does not modify sections 772 or 773 of this title.

Regulations.

"(f) Under regulations prescribed by the Secretary, payment for subsistence supplies shall be made in cash or by commercial credit.

"(g)(1) The Secretary may provide for the procurement and sale of stores designated by the Secretary to such civilian officers and employees of the United States, and such other persons, as the Secretary considers proper—

"(A) at military installations outside the United States; and

"(B) subject to paragraph (2), at military installations inside the United States where the Secretary determines that it is impracticable for those civilian officers, employees, and persons to obtain such stores from commercial enterprises without impairing the efficient operation of military activities.

"(2) Sales to civilian officers and employees inside the United States may be made under paragraph (1) only to civilian officers and employees residing within military installations.

"(h) Appropriations for subsistence of the Navy or Marine Corps may be applied to the purchase of subsistence supplies for sale to members of the Navy and Marine Corps on active duty for the use of such members and their families.".

(2) The table of sections at the beginning of chapter 651 of such title is amended by adding at the end the following:

"7606. Subsistence and other supplies: members of armed forces; veterans; executive or military departments and employees; prices.".

(b) CONFORMING AMENDMENTS FOR OTHER ARMED FORCES.—(1) Section 4621 of such title is amended—

(A) by striking out "The branch, office, or officer designated by the Secretary of the Army" in subsection (a) and inserting in lieu thereof "The Secretary of the Army";

(B) by striking out "The branch, office, or officer designated by the Secretary" both places it appears in subsections (b) and (c) and inserting in lieu thereof "The Secretary"; and

(C) by inserting before the period at the end of subsection (f) the following: "or by commercial credit".

(2) Section 9621 of such title is amended—

(A) by striking out "The Air Force shall" in subsection (b) and inserting in lieu thereof "The Secretary shall"; and

(B) by inserting before the period at the end of subsection (f) the following: "or by commercial credit".

SEC. 376. PERSONNEL SERVICES AND LOGISTICAL SUPPORT FOR CERTAIN ACTIVITIES HELD ON MILITARY INSTALLATIONS.

Section 2544 of title 10, United States Code, is amended—

(1) by redesignating subsection (g) as subsection (h); and

(2) by inserting after subsection (f) the following new subsection:

"(g) In the case of a Boy Scout Jamboree held on a military installation, the Secretary of Defense may provide personnel services and logistical support at the military installation in addition to the support authorized under subsections (a) and (d).".

SEC. 377. RETENTION OF MONETARY AWARDS.

(a) MONETARY AWARDS.—Chapter 155 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2610. Competitions for excellence: acceptance of monetary awards

"(a) ACCEPTANCE AUTHORIZED.—The Secretary of Defense may accept a monetary award given to the Department of Defense by a nongovernmental entity as a result of the participation of the Department in a competition carried out to recognize excellence or innovation in providing services or administering programs.

"(b) DISPOSITION OF AWARDS.—A monetary award accepted under subsection (a) shall be credited to one or more nonappropriated fund accounts supporting morale, welfare, and recreation activities for the command, installation, or other activity that is recognized for the award. Amounts so credited may be expended only for such activities.

"(c) INCIDENTAL EXPENSES.—Subject to such limitations as may be provided in appropriation Acts, appropriations available to the Department of Defense may be used to pay incidental expenses incurred by the Department to participate in a competition described in subsection (a) or to accept a monetary award under this section.

"(d) REGULATIONS AND REPORTING.—(1) The Secretary shall prescribe regulations to determine the disposition of monetary awards accepted under this section and the payment of incidental expenses under subsection (c).

"(2) At the end of each year, the Secretary shall submit to Congress a report for that year describing the disposition of monetary awards accepted under this section and the payment of incidental expenses under subsection (c).

"(e) TERMINATION.—The authority of the Secretary under this section shall expire two years after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1996.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2610. Competitions for excellence: acceptance of monetary awards.".

SEC. 378. PROVISION OF EQUIPMENT AND FACILITIES TO ASSIST IN EMERGENCY RESPONSE ACTIONS.

Section 372 of title 10, United States Code, is amended—

(1) by inserting "(a) IN GENERAL.—" before "The Secretary of Defense"; and

(2) by adding at the end the following new subsection:

"(b) EMERGENCIES INVOLVING CHEMICAL AND BIOLOGICAL AGENTS.—(1) In addition to equipment and facilities described in subsection (a), the Secretary may provide an item referred to in paragraph (2) to a Federal, State, or local law enforcement or emergency response agency to prepare for or respond to an emergency involving chemical or biological agents if the Secretary determines that the item is not reasonably available from another source.

"(2) An item referred to in paragraph (1) is any material or expertise of the Department of Defense appropriate for use in preparing for or responding to an emergency involving chemical or biological agents, including the following:

"(A) Training facilities.

"(B) Sensors.

"(C) Protective clothing.

"(D) Antidotes.".

SEC. 379. REPORT ON DEPARTMENT OF DEFENSE MILITARY AND CIVIL DEFENSE PREPAREDNESS TO RESPOND TO EMERGENCIES RESULTING FROM A CHEMICAL, BIOLOGICAL, RADIOLOGICAL, OR NUCLEAR ATTACK.

(a) REPORT.—(1) Not later than March 1, 1996, the Secretary of Defense and the Secretary of Energy shall submit to Congress a joint report on the military and civil defense plans and programs of the Department of Defense to prepare for and respond to the effects of an emergency in the United States resulting from a chemical, biological, radiological, or nuclear attack on the United States (hereinafter in this section referred to as an "attack-related civil defense emergency").

(2) The report shall be prepared in consultation with the Director of the Federal Emergency Management Agency.

(b) CONTENT OF REPORT.—The report shall include the following:

(1) A discussion of the military and civil defense plans and programs of the Department of Defense for preparing for and responding to an attack-related civil defense emergency arising from an attack of a type for which the Department of Defense has a primary responsibility to respond.

(2) A discussion of the military and civil defense plans and programs of the Department of Defense for preparing for

and providing a response to an attack-related civil defense emergency arising from an attack of a type for which the Department of Defense has responsibility to provide a supporting response.

(3) A description of any actions, and any recommended legislation, that the Secretaries consider necessary for improving the preparedness of the Department of Defense to respond effectively to an attack-related civil defense emergency.

TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

Subtitle A—Active Forces

SEC. 401. END STRENGTHS FOR ACTIVE FORCES. 10 USC 115 note.

(a) FISCAL YEAR 1996.—The Armed Forces are authorized strengths for active duty personnel as of September 30, 1996, as follows:

(1) The Army, 495,000, of which not more than 81,300 may be commissioned officers.

(2) The Navy, 428,340, of which not more than 58,870 may be commissioned officers.

(3) The Marine Corps, 174,000, of which not more than 17,978 may be commissioned officers.

(4) The Air Force, 388,200, of which not more than 75,928 may be commissioned officers.

(b) FLOOR ON END STRENGTHS.—(1) Chapter 39 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 691. Permanent end strength levels to support two major regional contingencies

"(a) The end strengths specified in subsection (b) are the minimum strengths necessary to enable the armed forces to fulfill a national defense strategy calling for the United States to be able to successfully conduct two nearly simultaneous major regional contingencies.

"(b) Unless otherwise provided by law, the number of members of the armed forces (other than the Coast Guard) on active duty at the end of any fiscal year shall be not less than the following:

"(1) For the Army, 495,000.

"(2) For the Navy, 395,000.

"(3) For the Marine Corps, 174,000.

"(4) For the Air Force, 381,000.

"(c) No funds appropriated to the Department of Defense may be used to implement a reduction of the active duty end strength for any of the armed forces for any fiscal year below the level specified in subsection (b) unless the Secretary of Defense submits to Congress notice of the proposed lower end strength levels and a justification for those levels. No action may then be taken to implement such a reduction for that fiscal year until the end of the six-month period beginning on the date of the receipt of such notice by Congress.

"(d) For a fiscal year for which the active duty end strength authorized by law pursuant to section 115(a)(1)(A) of this title

for any of the armed forces is identical to the number applicable to that armed force under subsection (b), the Secretary of Defense may reduce that number by not more than 0.5 percent.

"(e) The number of members of the armed forces on active duty shall be counted for purposes of this section in the same manner as applies under section 115(a)(1) of this title.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"691. Permanent end strength levels to support two major regional contingencies.".

(c) ACTIVE COMPONENT END STRENGTH FLEXIBILITY.—Section 115(c)(1) of title 10, United States Code, is amended by striking out "0.5 percent" and inserting in lieu thereof "1 percent".

10 USC 523 note.

SEC. 402. TEMPORARY VARIATION IN DOPMA AUTHORIZED END STRENGTH LIMITATIONS FOR ACTIVE DUTY AIR FORCE AND NAVY OFFICERS IN CERTAIN GRADES.

(a) AIR FORCE OFFICERS.—In the administration of the limitation under section 523(a)(1) of title 10, United States Code, for fiscal years 1996 and 1997, the numbers applicable to officers of the Air Force serving on active duty in the grades of major, lieutenant colonel, and colonel shall be the numbers set forth for that fiscal year in the following table (rather than the numbers determined in accordance with the table in that section):

Fiscal year:	Number of officers who may be serving on active duty in the grade of:		
	Major	Lieutenant colonel	Colonel
1996	15,566	9,876	3,609
1997	15,645	9,913	3,627

(b) NAVY OFFICERS.—In the administration of the limitation under section 523(a)(2) of title 10, United States Code, for fiscal years 1996 and 1997, the numbers applicable to officers of the Navy serving on active duty in the grades of lieutenant commander, commander, and captain shall be the numbers set forth for that fiscal year in the following table (rather than the numbers determined in accordance with the table in that section):

Fiscal year:	Number of officers who may be serving on active duty in the grade of:		
	Lieutenant commander	Commander	Captain
1996	11,924	7,390	3,234
1997	11,732	7,297	3,188

SEC. 403. CERTAIN GENERAL AND FLAG OFFICERS AWAITING RETIREMENT NOT TO BE COUNTED.

(a) DISTRIBUTION OF OFFICERS ON ACTIVE DUTY IN GENERAL AND FLAG OFFICER GRADES.—Section 525 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(d) An officer continuing to hold the grade of general or admiral under section 601(b)(4) of this title after relief from the position of Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, or Commandant of the Marine Corps shall not be counted for purposes of this section.".

(b) NUMBER OF OFFICERS ON ACTIVE DUTY IN GRADE OF GENERAL OR ADMIRAL.—Section 528(b) of such title is amended—

(1) by inserting "(1)" after "(b)"; and

(2) by adding at the end the following:

"(2) An officer continuing to hold the grade of general or admiral under section 601(b)(4) of this title after relief from the position of Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, or Commandant of the Marine Corps shall not be counted for purposes of this section.".

(c) CLARIFICATION.—Section 601(b) of such title is amended—

(1) in the matter preceding paragraph (1), by striking out "of importance and responsibility designated" and inserting in lieu thereof "designated under subsection (a) or by law";

(2) in paragraph (1), by striking out "of importance and responsibility";

(3) in paragraph (2), by striking out "designating" and inserting in lieu thereof "designated under subsection (a) or by law"; and

(4) in paragraph (4), by inserting "under subsection (a) or by law" after "designated".

Subtitle B—Reserve Forces

SEC. 411. END STRENGTHS FOR SELECTED RESERVE.

10 USC 12001 note.

(a) FISCAL YEAR 1996.—The Armed Forces are authorized strengths for Selected Reserve personnel of the reserve components as of September 30, 1996, as follows:

(1) The Army National Guard of the United States, 373,000.

(2) The Army Reserve, 230,000.

(3) The Naval Reserve, 98,894.

(4) The Marine Corps Reserve, 42,274.

(5) The Air National Guard of the United States, 112,707.

(6) The Air Force Reserve, 73,969.

(7) The Coast Guard Reserve, 8,000.

(b) WAIVER AUTHORITY.—The Secretary of Defense may vary the end strength authorized by subsection (a) by not more than 2 percent.

(c) ADJUSTMENTS.—The end strengths prescribed by subsection (a) for the Selected Reserve of any reserve component for a fiscal year shall be proportionately reduced by—

(1) the total authorized strength of units organized to serve as units of the Selected Reserve of such component which are on active duty (other than for training) at the end of the fiscal year, and

(2) the total number of individual members not in units organized to serve as units of the Selected Reserve of such component who are on active duty (other than for training or for unsatisfactory participation in training) without their consent at the end of the fiscal year.

Whenever such units or such individual members are released from active duty during any fiscal year, the end strength prescribed for such fiscal year for the Selected Reserve of such reserve component shall be proportionately increased by the total authorized strengths of such units and by the total number of such individual members.

"(8) Members of the Selected Reserve of the Ready Reserve on active duty for more that 180 days to support programs described in section 1203(b) of the Cooperative Threat Reduction Act of 1993 (title XII of Public Law 103–160; 22 U.S.C. 5952(b)).".

SEC. 416. RESERVES ON ACTIVE DUTY FOR MILITARY-TO-MILITARY CONTACTS AND COMPARABLE ACTIVITIES NOT TO BE COUNTED.

Section 168 of title 10, United States Code, is amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following new subsection (f):

"(f) ACTIVE DUTY END STRENGTHS.—(1) A member of a reserve component referred to in paragraph (2) shall not be counted for purposes of the following personnel strength limitations:

"(A) The end strength for active-duty personnel authorized pursuant to section 115(a)(1) of this title for the fiscal year in which the member carries out the activities referred to in paragraph (2).

"(B) The authorized daily average for members in pay grades E–8 and E–9 under section 517 of this title for the calendar year in which the member carries out such activities.

"(C) The authorized strengths for commissioned officers under section 523 of this title for the fiscal year in which the member carries out such activities.

"(2) A member of a reserve component referred to in paragraph (1) is any member on active duty under an order to active duty for 180 days or more who is engaged in activities authorized under this section.".

Subtitle C—Military Training Student Loads

SEC. 421. AUTHORIZATION OF TRAINING STUDENT LOADS.

(a) IN GENERAL.—For fiscal year 1996, the components of the Armed Forces are authorized average military training loads as follows:

(1) The Army, 75,013.

(2) The Navy, 44,238.

(3) The Marine Corps, 26,095.

(4) The Air Force, 33,232.

(b) SCOPE.—The average military training student loads authorized for an armed force under subsection (a) apply to the active and reserve components of that armed force.

(c) ADJUSTMENTS.—The average military training student loads authorized in subsection (a) shall be adjusted consistent with the end strengths authorized in subtitles A and B. The Secretary of Defense shall prescribe the manner in which such adjustments shall be apportioned.

Subtitle D—Authorization of Appropriations

SEC. 431. AUTHORIZATION OF APPROPRIATIONS FOR MILITARY PERSONNEL.

There is hereby authorized to be appropriated to the Department of Defense for military personnel for fiscal year 1996 a total of $69,191,008,000. The authorization in the preceding sentence supersedes any other authorization of appropriations (definite or indefinite) for such purpose for fiscal year 1996.

10 USC 115 note.

SEC. 432. AUTHORIZATION FOR INCREASE IN ACTIVE-DUTY END STRENGTHS.

(a) AUTHORIZATION.—There is hereby authorized to be appropriated to the Department of Defense for fiscal year 1996 for military personnel the sum of $112,000,000. Any amount appropriated pursuant to this section shall be allocated, in such manner as the Secretary of Defense prescribes, among appropriations for active-component military personnel for that fiscal year and shall be available only to increase the number of members of the Armed Forces on active duty during that fiscal year (compared to the number of members that would be on active duty but for such appropriation).

(b) EFFECT ON END STRENGTHS.—The end-strength authorizations in section 401 shall each be deemed to be increased by such number as necessary to take account of additional members of the Armed Forces authorized by the Secretary of Defense pursuant to subsection (a).

TITLE V—MILITARY PERSONNEL POLICY

Subtitle A—Officer Personnel Policy

SEC. 501. JOINT OFFICER MANAGEMENT.

(a) CRITICAL JOINT DUTY ASSIGNMENT POSITIONS.—Section 661(d)(2)(A) of title 10, United States Code, is amended by striking out "1,000" and inserting in lieu thereof "800".

(b) ADDITIONAL QUALIFYING JOINT SERVICE.—Section 664 of such title is amended by adding at the end the following:

"(i) JOINT DUTY CREDIT FOR CERTAIN JOINT TASK FORCE ASSIGNMENTS.—(1) In the case of an officer who completes service in a qualifying temporary joint task force assignment, the Secretary of Defense, with the advice of the Chairman of the Joint Chiefs of Staff, may (subject to the criteria prescribed under paragraph (4)) grant the officer—

"(A) credit for having completed a full tour of duty in a joint duty assignment; or

"(B) credit countable for determining cumulative service in joint duty assignments.

"(2)(A) For purposes of paragraph (1), a qualifying temporary joint task force assignment of an officer is a temporary assignment, any part of which is performed by the officer on or after the date of the enactment of this subsection—

"(i) to the headquarters staff of a United States joint task force that is part of a unified command or the United States element of the headquarters staff of a multinational force; and

"(ii) with respect to which the Secretary of Defense determines that service of the officer in that assignment is equivalent to that which would be gained by the officer in a joint duty assignment.

"(B) An officer may not be granted credit under this subsection unless the officer is recommended for such credit by the Chairman of the Joint Chiefs of Staff.

"(3) Credit under paragraph (1) (including a determination under paragraph (2)(A)(ii) and a recommendation under paragraph (2)(B) with respect to such credit) may be granted only on a case-by-case basis in the case of an individual officer.

"(4) The Secretary of Defense shall prescribe by regulation criteria for determining whether an officer may be granted credit under paragraph (1) with respect to service in a qualifying temporary joint task force assignment. The criteria shall apply uniformly among the armed forces and shall include the following requirements: Regulations.

"(A) For an officer to be credited as having completed a full tour of duty in a joint duty assignment, the length of the officer's service in the qualifying temporary joint task force assignment must meet the requirements of subsection (a) or (c).

"(B) For an officer to be credited with service for purposes of determining cumulative service in joint duty assignments, the officer must serve at least 90 consecutive days in the qualifying temporary joint task force assignment.

"(C) The service must be performed in support of a mission that is directed by the President or that is assigned by the President to United States forces in the joint task force involved.

"(D) The joint task force must be constituted or designated by the Secretary of Defense or by the commander of a combatant command or of another force.

"(E) The joint task force must conduct combat or combat-related operations in a unified action under joint or multinational command and control.

"(5) Officers for whom joint duty credit is granted pursuant to this subsection may not be taken into account for the purposes of any of the following provisions of this title: section 661(d)(1), section 662(a)(3), section 662(b), subsection (a) of this section, and paragraphs (7), (8), (9), (11), and (12) of section 667.

"(6) In the case of an officer credited with having completed a full tour of duty in a joint duty assignment pursuant to this subsection, the Secretary of Defense may waive the requirement in paragraph (1)(B) of section 661(c) of this title that the tour of duty in a joint duty assignment be performed after the officer completes a program of education referred to in paragraph (1)(A) of that section. The provisions of subparagraphs (C) and (D) of section 661(c)(3) of this title shall apply to such a waiver in the same manner as to a waiver under subparagraph (A) of that section.".

(c) INFORMATION IN ANNUAL REPORT.—Section 667 of such title is amended by striking out paragraph (16) and inserting after paragraph (15) the following new paragraph (16):

"(16) The number of officers granted credit for service in joint duty assignments under section 664(i) of this title and—

"(A) of those officers—

"(i) the number of officers credited with having completed a tour of duty in a joint duty assignment; and

"(ii) the number of officers granted credit for purposes of determining cumulative service in joint duty assignments; and

"(B) the identity of each operation for which an officer has been granted credit pursuant to section 664(i) of this title and a brief description of the mission of the operation.".

(d) APPLICABILITY OF LIMITATION ON WAIVER AUTHORITY.—Section 661(c)(3) of such title is amended—

(1) in the third sentence of subparagraph (D), by striking out "The total number" and inserting in lieu thereof "In the case of officers in grades below brigadier general and rear admiral (lower half), the total number"; and

(2) by adding at the end the following new subparagraph:

"(E) There may not be more than 32 general and flag officers on active duty at the same time who were selected for the joint specialty while holding a general or flag officer grade and for whom a waiver was granted under this subparagraph.".

(e) LENGTH OF SECOND JOINT TOUR.—Section 664 of such title is amended—

(1) in subsection (e)(2), by inserting after subparagraph (B) the following:

"(C) Service described in subsection (f)(6), except that no more than 10 percent of all joint duty assignments shown on the list published pursuant to section 668(b)(2)(A) of this title may be so excluded in any year."; and

(2) in subsection (f)—

(A) in the matter preceding paragraph (1), by striking out "completion of—" and inserting in lieu thereof "completion of any of the following:";

(B) by striking out "a" at the beginning of paragraphs (1), (2), (4), and (5) and inserting in lieu thereof "A";

(C) by striking out "cumulative" in paragraph (3) and inserting in lieu thereof "Cumulative";

(D) by striking out the semicolon at the end of paragraphs (1), (2), and (3) and "; or" at the end of paragraph (4) and inserting in lieu thereof a period; and

(E) by adding at the end the following:

"(6) A second joint duty assignment that is less than the period required under subsection (a), but not less than two years, without regard to whether a waiver was granted for such assignment under subsection (b).".

(f) TECHNICAL AMENDMENT.—Section 664(e)(1) of such title is amended by striking out "(after fiscal year 1990)".

SEC. 502. RETIRED GRADE FOR OFFICERS IN GRADES ABOVE MAJOR GENERAL AND REAR ADMIRAL.

(a) APPLICABILITY OF TIME-IN-GRADE REQUIREMENTS.—Section 1370 of title 10, United States Code, is amended—

(1) in subsection (a)(2)(A), by striking out "and below lieutenant general or vice admiral"; and

(2) in the first sentence of subsection (d)(2)(B), as added effective October 1, 1996, by section 1641 of the Reserve Officer Personnel Management Act (title XVI of Public Law 103–337; 108 Stat. 2968), by striking out "and below lieutenant general or vice admiral".

(b) RETIREMENT IN HIGHEST GRADE UPON CERTIFICATION OF SATISFACTORY SERVICE.—Subsection (c) of such section is amended to read as follows:

"(c) OFFICERS IN O–9 AND O–10 GRADES.—(1) An officer who is serving in or has served in the grade of general or admiral or lieutenant general or vice admiral may be retired in that grade under subsection (a) only after the Secretary of Defense certifies in writing to the President and Congress that the officer served on active duty satisfactorily in that grade.

"(2) In the case of an officer covered by paragraph (1), the three-year service-in-grade requirement in paragraph (2)(A) of subsection (a) may not be reduced or waived under that subsection—

"(A) while the officer is under investigation for alleged misconduct; or

"(B) while there is pending the disposition of an adverse personnel action against the officer for alleged misconduct.".

(c) REPEAL OF SUPERSEDED PROVISIONS.—Sections 3962(a), 5034, 5043(c), and 8962(a) of such title are repealed.

(d) TECHNICAL AND CLERICAL AMENDMENTS.—(1) Sections 3962(b) and 8962(b) of such title are amended by striking out "(b) Upon" and inserting in lieu thereof "Upon".

(2) The table of sections at the beginning of chapter 505 of such title is amended by striking out the item relating to section 5034.

(e) EFFECTIVE DATE FOR AMENDMENT TO PROVISION TAKING EFFECT IN 1996.—The amendment made by subsection (a)(2) shall take effect on October 1, 1996, immediately after subsection (d) of section 1370 of title 10, United States Code, takes effect under section 1691(b)(1) of the Reserve Officer Personnel Management Act (108 Stat. 3026). 10 USC 1370 note.

(f) PRESERVATION OF APPLICABILITY OF LIMITATION.—Section 1370(a)(2)(C) of title 10, United States Code, is amended by striking out "The number of officers in an armed force in a grade" and inserting in lieu thereof "In the case of a grade below the grade of lieutenant general or vice admiral, the number of members of one of the armed forces in that grade".

(g) STYLISTIC AMENDMENTS.—Section 1370 of title 10, United States Code, is further amended—

(1) in subsection (a), by striking out "(a)(1)" and inserting in lieu thereof "(a) RULE FOR RETIREMENT IN HIGHEST GRADE HELD SATISFACTORILY.—(1)";

(2) in subsection (b), by inserting "RETIREMENT IN NEXT LOWER GRADE.—" after "(b)"; and

(3) in subsection (d), as added effective October 1, 1996, by section 1641 of the Reserve Officer Personnel Management Act (title XVI of Public Law 103–337; 108 Stat. 2968), by striking out "(d)(1)" and inserting in lieu thereof "(d) RESERVE OFFICERS.—(1)".

SEC. 503. WEARING OF INSIGNIA FOR HIGHER GRADE BEFORE PROMOTION.

(a) AUTHORITY AND LIMITATIONS.—(1) Chapter 45 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 777. Wearing of insignia of higher grade before promotion (frocking): authority; restrictions

"(a) AUTHORITY.—An officer who has been selected for promotion to the next higher grade may be authorized, under regulations and policies of the Department of Defense and subject to subsection (b), to wear the insignia for that next higher grade. An officer who is so authorized to wear the insignia of the next higher grade is said to be 'frocked' to that grade.

"(b) RESTRICTIONS.—An officer may not be authorized to wear the insignia for a grade as described in subsection (a) unless—

"(1) the Senate has given its advice and consent to the appointment of the officer to that grade; and

"(2) the officer is serving in, or has received orders to serve in, a position for which that grade is authorized.

"(c) BENEFITS NOT TO BE CONSTRUED AS ACCRUING.—(1) Authority provided to an officer as described in subsection (a) to wear the insignia of the next higher grade may not be construed as conferring authority for that officer to—

"(A) be paid the rate of pay provided for an officer in that grade having the same number of years of service as that officer; or

"(B) assume any legal authority associated with that grade.

"(2) The period for which an officer wears the insignia of the next higher grade under such authority may not be taken into account for any of the following purposes:

"(A) Seniority in that grade.

"(B) Time of service in that grade.

"(d) LIMITATION ON NUMBER OF OFFICERS FROCKED TO SPECIFIED GRADES.—(1) The total number of colonels and Navy captains on the active-duty list who are authorized as described in subsection (a) to wear the insignia for the grade of brigadier general or rear admiral (lower half), as the case may be, may not exceed the following:

"(A) During fiscal years 1996 and 1997, 75.

"(B) During fiscal year 1998, 55.

"(C) After fiscal year 1998, 35.

"(2) The number of officers of an armed force on the active-duty list who are authorized as described in subsection (a) to wear the insignia for a grade to which a limitation on total number applies under section 523(a) of this title for a fiscal year may not exceed 1 percent of the total number provided for the officers in that grade in that armed force in the administration of the limitation under that section for that fiscal year.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"777. Wearing of insignia of higher grade before promotion (frocking): authority; restrictions.".

10 USC 777 note.

(b) TEMPORARY VARIATION OF LIMITATIONS ON NUMBERS OF FROCKED OFFICERS.—In the administration of section 777(d)(2) of title 10, United States Code (as added by subsection (a)), the percent

limitation applied under that section for fiscal year 1996 shall be 2 percent (instead of 1 percent).

(c) REPORT.—Not later than September 1, 1996, the Secretary of Defense shall submit to Congress a report providing the assessment of the Secretary on the practice, known as "frocking", of authorizing an officer who has been selected for promotion to the next higher grade to wear the insignia for that next higher grade. The report shall include the Secretary's assessment of the appropriate number, if any, of colonels and Navy captains to be eligible under section 777(d)(1) of title 10, United States Code (as added by subsection (a)), to wear the insignia for the grade of brigadier general or rear admiral (lower half).

SEC. 504. AUTHORITY TO EXTEND TRANSITION PERIOD FOR OFFICERS SELECTED FOR EARLY RETIREMENT.

(a) SELECTIVE RETIREMENT OF WARRANT OFFICERS.—Section 581 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(e) The Secretary concerned may defer for not more than 90 days the retirement of an officer otherwise approved for early retirement under this section in order to prevent a personal hardship to the officer or for other humanitarian reasons. Any such deferral shall be made on a case-by-case basis considering the circumstances of the case of the particular officer concerned. The authority of the Secretary to grant such a deferral may not be delegated.".

(b) SELECTIVE EARLY RETIREMENT OF ACTIVE-DUTY OFFICERS.—Section 638(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(3) The Secretary concerned may defer for not more than 90 days the retirement of an officer otherwise approved for early retirement under this section or section 638a of this title in order to prevent a personal hardship to the officer or for other humanitarian reasons. Any such deferral shall be made on a case-by-case basis considering the circumstances of the case of the particular officer concerned. The authority of the Secretary to grant such a deferral may not be delegated.".

SEC. 505. ARMY OFFICER MANNING LEVELS.

(a) IN GENERAL.—(1) Chapter 331 of title 10, United States Code, is amended by inserting after the table of sections the following new section:

"§ 3201. Officers on active duty: minimum strength based on requirements

"(a) The Secretary of the Army shall ensure that (beginning with fiscal year 1999) the strength at the end of each fiscal year of officers on active duty is sufficient to enable the Army to meet at least that percentage of the programmed manpower structure for officers for the active component of the Army that is provided for in the most recent Defense Planning Guidance issued by the Secretary of Defense.

"(b) The number of officers on active duty shall be counted for purposes of this section in the same manner as applies under section 115(a)(1) of this title.

"(c) In this section:

"(1) The term 'programmed manpower structure' means the aggregation of billets describing the full manpower require-

ments for units and organizations in the programmed force structure.

"(2) The term 'programmed force structure' means the set of units and organizations that exist in the current year and that is planned to exist in each future year under the then-current Future-Years Defense Program.".

(2) The table of sections at the beginning of such chapter is amended by inserting after "Sec." the following new item:

"3201. Officers on active duty: minimum strength based on requirements.".

10 USC 3201 note.

(b) ASSISTANCE IN ACCOMPLISHING REQUIREMENT.—The Secretary of Defense shall provide to the Army sufficient personnel and financial resources to enable the Army to meet the requirement specified in section 3201 of title 10, United States Code, as added by subsection (a).

SEC. 506. AUTHORITY FOR MEDICAL DEPARTMENT OFFICERS OTHER THAN PHYSICIANS TO BE APPOINTED AS SURGEON GENERAL.

(a) SURGEON GENERAL OF THE ARMY.—The third sentence of section 3036(b) of title 10, United States Code, is amended by inserting after "The Surgeon General" the following: "may be appointed from officers in any corps of the Army Medical Department and".

(b) SURGEON GENERAL OF THE NAVY.—Section 5137 of such title is amended—

(1) in the first sentence of subsection (a), by striking out "in the Medical Corps" and inserting in lieu thereof "in any corps of the Navy Medical Department"; and

(2) in subsection (b), by striking out "in the Medical Corps" and inserting in lieu thereof "who is qualified to be the Chief of the Bureau of Medicine and Surgery".

(c) SURGEON GENERAL OF THE AIR FORCE.—The first sentence of section 8036 of such title is amended by striking out "designated as medical officers under section 8067(a) of this title" and inserting in lieu thereof "in the Air Force medical department".

SEC. 507. DEPUTY JUDGE ADVOCATE GENERAL OF THE AIR FORCE.

(a) TENURE AND GRADE OF DEPUTY JUDGE ADVOCATE GENERAL.—Section 8037(d)(1) of such title is amended—

(1) in the second sentence, by striking out "two years" and inserting in lieu thereof "four years"; and

(2) by striking out the last sentence and inserting in lieu thereof the following: "An officer appointed as Deputy Judge Advocate General who holds a lower regular grade shall be appointed in the regular grade of major general.".

10 USC 8037 note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply to any appointment to the position of Deputy Judge Advocate General of the Air Force that is made after the date of the enactment of this Act.

SEC. 508. AUTHORITY FOR TEMPORARY PROMOTIONS FOR CERTAIN NAVY LIEUTENANTS WITH CRITICAL SKILLS.

(a) EXTENSION OF AUTHORITY.—Subsection (f) of section 5721 of title 10, United States Code, is amended by striking out "September 30, 1995" and inserting in lieu thereof "September 30, 1996".

(b) LIMITATION.—Such section is further amended—

(1) by redesignating subsection (f), as amended by subsection (a), as subsection (g); and

(2) by inserting after subsection (e) the following new subsection (f):

"(f) LIMITATION ON NUMBER OF ELIGIBLE POSITIONS.—(1) An appointment under this section may only be made for service in a position designated by the Secretary of the Navy for purposes of this section. The number of positions so designated may not exceed 325.

"(2) Whenever the Secretary makes a change to the positions designated under paragraph (1), the Secretary shall submit notice of the change in writing to Congress.". Notice.

(c) REPORT.—Not later than April 1, 1996, the Secretary of Defense shall submit to Congress a report providing the Secretary's assessment of that continuing need for the promotion authority under section 5721 of title 10, United States Code. The Secretary shall include in the report the following:

(1) The nature and grade structure of the positions for which such authority has been used.

(2) The cause or causes of the reported chronic shortages of qualified personnel in the required grade to fill the positions specified under paragraph (1).

(3) The reasons for the perceived inadequacy of the officer promotion system (including "below-the-zone" selections) to provide sufficient officers in the required grade to fill those positions.

(4) The extent to which a bonus program or some other program would be a more appropriate means of resolving the reported chronic shortages in engineering positions.

(d) CLERICAL AMENDMENTS.—Section 5721 of title 10, United States Code, is amended as follows:

(1) Subsection (a) is amended by inserting "PROMOTION AUTHORITY FOR CERTAIN OFFICER WITH CRITICAL SKILLS.—" after "(a)".

(2) Subsection (b) is amended by inserting "STATUS OF OFFICERS APPOINTED.—" after "(b)".

(3) Subsection (c) is amended by inserting "BOARD RECOMMENDATION REQUIRED.—" after "(c)".

(4) Subsection (d) is amended by inserting "ACCEPTANCE AND EFFECTIVE DATE OF APPOINTMENT.—" after "(d)".

(5) Subsection (e) is amended by inserting "TERMINATION OF APPOINTMENT.—" after "(e)".

(6) Subsection (g), as redesignated by subsection (b)(1), is amended by inserting "TERMINATION OF APPOINTMENT AUTHORITY.—" after "(g)".

(e) EFFECTIVE DATE.—Subsection (f) of section 5721 of title 10, United States Code, as added by subsection (b)(2), shall take effect at the end of the 30-day period beginning on the date of the enactment of this Act and shall apply to any appointment under that section after the end of such period. 10 USC 5721 note.

SEC. 509. RETIREMENT FOR YEARS OF SERVICE OF DIRECTORS OF ADMISSIONS OF MILITARY AND AIR FORCE ACADEMIES.

(a) MILITARY ACADEMY.—(1) Section 3920 of title 10, United States Code, is amended to read as follows:

"§ 3920. More than thirty years: permanent professors and the Director of Admissions of the United States Military Academy

"(a) The Secretary of the Army may retire an officer specified in subsection (b) who has more than 30 years of service as a commissioned officer.

"(b) Subsection (a) applies in the case of the following officers:

"(1) Any permanent professor of the United States Military Academy.

"(2) The Director of Admissions of the United States Military Academy.".

(2) The item relating to such section in the table of sections at the beginning of chapter 367 of such title is amended to read as follows:

"3920. More than thirty years: permanent professors and the Director of Admissions of the United States Military Academy.".

(b) AIR FORCE ACADEMY.—(1) Section 8920 of title 10, United States Code, is amended to read as follows:

"§ 8920. More than thirty years: permanent professors and the Director of Admissions of the United States Air Force Academy

"(a) The Secretary of the Air Force may retire an officer specified in subsection (b) who has more than 30 years of service as a commissioned officer.

"(b) Subsection (a) applies in the case of the following officers:

"(1) Any permanent professor of the United States Air Force Academy.

"(2) The Director of Admissions of the United States Air Force Academy.".

(2) The item relating to such section in the table of sections at the beginning of chapter 867 of such title is amended to read as follows:

"8920. More than thirty years: permanent professors and the Director of Admissions of the United States Air Force Academy.".

Subtitle B—Matters Relating to Reserve Components

SEC. 511. EXTENSION OF CERTAIN RESERVE OFFICER MANAGEMENT AUTHORITIES.

(a) GRADE DETERMINATION AUTHORITY FOR CERTAIN RESERVE MEDICAL OFFICERS.—Sections 3359(b) and 8359(b) of title 10, United States Code, are each amended by striking out "September 30, 1995" and inserting in lieu thereof "September 30, 1996".

(b) PROMOTION AUTHORITY FOR CERTAIN RESERVE OFFICERS SERVING ON ACTIVE DUTY.—Sections 3380(d) and 8380(d) of title 10, United States Code, are each amended by striking out "September 30, 1995" and inserting in lieu thereof "September 30, 1996".

10 USC 3360 note.

(c) YEARS OF SERVICE FOR MANDATORY TRANSFER TO THE RETIRED RESERVE.—Section 1016(d) of the Department of Defense Authorization Act, 1984 (10 U.S.C. 3360) is amended by striking out "September 30, 1995" and inserting in lieu thereof "September 30, 1996".

SEC. 512. MOBILIZATION INCOME INSURANCE PROGRAM FOR MEMBERS OF READY RESERVE.

(a) ESTABLISHMENT OF PROGRAM.—(1) Subtitle E of title 10, United States Code, is amended by inserting after chapter 1213 the following new chapter:

"CHAPTER 1214—READY RESERVE MOBILIZATION INCOME INSURANCE

"Sec.
"12521. Definitions.
"12522. Establishment of insurance program.
"12523. Risk insured.
"12524. Enrollment and election of benefits.
"12525. Benefit amounts.
"12526. Premiums.
"12527. Payment of premiums.
"12528. Reserve Mobilization Income Insurance Fund.
"12529. Board of Actuaries.
"12530. Payment of benefits.
"12531. Purchase of insurance.
"12532. Termination for nonpayment of premiums; forfeiture.

"§ 12521. Definitions

"In this chapter:

"(1) The term 'insurance program' means the Ready Reserve Mobilization Income Insurance Program established under section 12522 of this title.

"(2) The term 'covered service' means active duty performed by a member of a reserve component under an order to active duty for a period of more than 30 days which specifies that the member's service—

"(A) is in support of an operational mission for which members of the reserve components have been ordered to active duty without their consent; or

"(B) is in support of forces activated during a period of war declared by Congress or a period of national emergency declared by the President or Congress.

"(3) The term 'insured member' means a member of the Ready Reserve who is enrolled for coverage under the insurance program in accordance with section 12524 of this title.

"(4) The term 'Secretary' means the Secretary of Defense.

"(5) The term 'Department' means the Department of Defense.

"(6) The term 'Board of Actuaries' means the Department of Defense Education Benefits Board of Actuaries referred to in section 2006(e)(1) of this title.

"(7) The term 'Fund' means the Reserve Mobilization Income Insurance Fund established by section 12528(a) of this title.

"§ 12522. Establishment of insurance program

"(a) ESTABLISHMENT.—The Secretary shall establish for members of the Ready Reserve (including the Coast Guard Reserve) an insurance program to be known as the 'Ready Reserve Mobilization Income Insurance Program'.

"(b) ADMINISTRATION.—The insurance program shall be administered by the Secretary. The Secretary may prescribe in regulations such rules, procedures, and policies as the Secretary considers necessary or appropriate to carry out the insurance program.

"(c) AGREEMENT WITH SECRETARY OF TRANSPORTATION.—The Secretary and the Secretary of Transportation shall enter into an agreement with respect to the administration of the insurance program for the Coast Guard Reserve.

"§ 12523. Risk insured

"(a) IN GENERAL.—The insurance program shall insure members of the Ready Reserve against the risk of being ordered into covered service.

"(b) ENTITLEMENT TO BENEFITS.—(1) An insured member ordered into covered service shall be entitled to payment of a benefit for each month (and fraction thereof) of covered service that exceeds 30 days of covered service, except that no member may be paid under the insurance program for more than 12 months of covered service served during any period of 18 consecutive months.

"(2) Payment shall be based solely on the insured status of a member and on the period of covered service served by the member. Proof of loss of income or of expenses incurred as a result of covered service may not be required.

"§ 12524. Enrollment and election of benefits

"(a) ENROLLMENT.—(1) Except as provided in subsection (f), upon first becoming a member of the Ready Reserve, a member shall be automatically enrolled for coverage under the insurance program. An automatic enrollment of a member shall be void if within 60 days after first becoming a member of the Ready Reserve the member declines insurance under the program in accordance with the regulations prescribed by the Secretary.

"(2) Promptly after the insurance program is established, the Secretary shall offer to members of the reserve components who are then members of the Ready Reserve (other than members ineligible under subsection (f)) an opportunity to enroll for coverage under the insurance program. A member who fails to enroll within 60 days after being offered the opportunity shall be considered as having declined to be insured under the program.

"(3) A member of the Ready Reserve ineligible to enroll under subsection (f) shall be afforded an opportunity to enroll upon being released from active duty in accordance with regulations prescribed by the Secretary if the member has not previously had the opportunity to be enrolled under paragraph (1) or (2). A member who fails to enroll within 60 days after being afforded that opportunity shall be considered as having declined to be insured under the program.

"(b) ELECTION OF BENEFIT AMOUNT.—The amount of a member's monthly benefit under an enrollment shall be the basic benefit under subsection (a) of section 12525 of this title unless the member elects a different benefit under subsection (b) of such section within 60 days after first becoming a member of the Ready Reserve or within 60 days after being offered the opportunity to enroll, as the case may be.

"(c) ELECTIONS IRREVOCABLE.—(1) An election to decline insurance pursuant to paragraph (1) or (2) of subsection (a) is irrevocable.

"(2) The amount of coverage may not be increased after enrollment.

"(d) ELECTION TO TERMINATE.—A member may terminate an enrollment at any time.

"(e) INFORMATION TO BE FURNISHED.—The Secretary shall ensure that members referred to in subsection (a) are given a written explanation of the insurance program and are advised that they have the right to decline to be insured and, if not declined, to elect coverage for a reduced benefit or an enhanced benefit under subsection (b).

"(f) MEMBERS INELIGIBLE TO ENROLL.—Members of the Ready Reserve serving on active duty (or full-time National Guard duty) are not eligible to enroll for coverage under the insurance program. The Secretary may define any additional category of members of the Ready Reserve to be excluded from eligibility to purchase insurance under this chapter.

"§ 12525. Benefit amounts

"(a) BASIC BENEFIT.—The basic benefit for an insured member under the insurance program is $1,000 per month (as adjusted under subsection (d)).

"(b) REDUCED AND ENHANCED BENEFITS.—Under the regulations prescribed by the Secretary, a person enrolled for coverage under the insurance program may elect—

"(1) a reduced coverage benefit equal to one-half the amount of the basic benefit; or

"(2) an enhanced benefit in the amount of $1,500, $2,000, $2,500, $3,000, $3,500, $4,000, $4,500, or $5,000 per month (as adjusted under subsection (d)).

"(c) AMOUNT FOR PARTIAL MONTH.—The amount of insurance payable to an insured member for any period of covered service that is less than one month shall be determined by multiplying 1/30 of the monthly benefit rate for the member by the number of days of the covered service served by the member during such period.

"(d) ADJUSTMENT OF AMOUNTS.—(1) The Secretary shall determine annually the effect of inflation on benefits and shall adjust the amounts set forth in subsections (a) and (b)(2) to maintain the constant dollar value of the benefit.

"(2) If the amount of a benefit as adjusted under paragraph (1) is not evenly divisible by $10, the amount shall be rounded to the nearest multiple of $10, except that an amount evenly divisible by $5 but not by $10 shall be rounded to the next lower amount that is evenly divisible by $10.

"§ 12526. Premiums

"(a) ESTABLISHMENT OF RATES.—(1) The Secretary, in consultation with the Board of Actuaries, shall prescribe the premium rates for insurance under the insurance program.

"(2) The Secretary shall prescribe a fixed premium rate for each $1,000 of monthly insurance benefit. The premium amount shall be equal to the share of the cost attributable to insuring the member and shall be the same for all members of the Ready Reserve who are insured under the insurance program for the same benefit amount. The Secretary shall prescribe the rate on the basis of the best available estimate of risk and financial exposure, levels of subscription by members, and other relevant factors.

"(b) LEVEL PREMIUMS.—The premium rate prescribed for the first year of insurance coverage of an insured member shall be continued without change for subsequent years of insurance coverage, except that the Secretary, after consultation with the Board

of Actuaries, may adjust the premium rate in order to fund inflation-adjusted benefit increases on an actuarially sound basis.

"§ 12527. Payment of premiums

"(a) METHODS OF PAYMENT.—(1) The monthly premium for coverage of a member under the insurance program shall be deducted and withheld from the insured member's pay for each month.

"(2) An insured member who does not receive pay on a monthly basis shall pay the Secretary directly the premium amount applicable for the level of benefits for which the member is insured.

"(b) ADVANCE PAY FOR PREMIUM.—The Secretary concerned may advance to an insured member the amount equal to the first insurance premium payment due under this chapter. The advance may be paid out of appropriations for military pay. An advance to a member shall be collected from the member either by deducting and withholding the amount from basic pay payable for the member or by collecting it from the member directly. No disbursing or certifying officer shall be responsible for any loss resulting from an advance under this subsection.

"(c) PREMIUMS TO BE DEPOSITED IN FUND.—Premium amounts deducted and withheld from the pay of insured members and premium amounts paid directly to the Secretary shall be credited monthly to the Fund.

"§ 12528. Reserve Mobilization Income Insurance Fund

"(a) ESTABLISHMENT.—There is established on the books of the Treasury a fund to be known as the 'Reserve Mobilization Income Insurance Fund', which shall be administered by the Secretary of the Treasury. The Fund shall be used for the accumulation of funds in order to finance the liabilities of the insurance program on an actuarially sound basis.

"(b) ASSETS OF FUND.—There shall be deposited into the Fund the following:

"(1) Premiums paid under section 12527 of this title.

"(2) Any amount appropriated to the Fund.

"(3) Any return on investment of the assets of the Fund.

"(c) AVAILABILITY.—Amounts in the Fund shall be available for paying insurance benefits under the insurance program.

"(d) INVESTMENT OF ASSETS OF FUND.—The Secretary of the Treasury shall invest such portion of the Fund as is not in the judgment of the Secretary of Defense required to meet current liabilities. Such investments shall be in public debt securities with maturities suitable to the needs of the Fund, as determined by the Secretary of Defense, and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities. The income on such investments shall be credited to the Fund.

"(e) ANNUAL ACCOUNTING.—At the beginning of each fiscal year, the Secretary, in consultation with the Board of Actuaries and the Secretary of the Treasury, shall determine the following:

"(1) The projected amount of the premiums to be collected, investment earnings to be received, and any transfers or appropriations to be made for the Fund for that fiscal year.

"(2) The amount for that fiscal year of any cumulative unfunded liability (including any negative amount or any gain to the Fund) resulting from payments of benefits.

"(3) The amount for that fiscal year (including any negative amount) of any cumulative actuarial gain or loss to the Fund.

"§ 12529. Board of Actuaries

"(a) ACTUARIAL RESPONSIBILITY.—The Board of Actuaries shall have the actuarial responsibility for the insurance program.

"(b) VALUATIONS AND PREMIUM RECOMMENDATIONS.—The Board of Actuaries shall carry out periodic actuarial valuations of the benefits under the insurance program and determine a premium rate methodology for the Secretary to use in setting premium rates for the insurance program. The Board shall conduct the first valuation and determine a premium rate methodology not later than six months after the insurance program is established.

"(c) EFFECTS OF CHANGED BENEFITS.—If at the time of any actuarial valuation under subsection (b) there has been a change in benefits under the insurance program that has been made since the last such valuation and such change in benefits increases or decreases the present value of amounts payable from the Fund, the Board of Actuaries shall determine a premium rate methodology, and recommend to the Secretary a premium schedule, for the liquidation of any liability (or actuarial gain to the Fund) resulting from such change and any previous such changes so that the present value of the sum of the scheduled premium payments (or reduction in payments that would otherwise be made) equals the cumulative increase (or decrease) in the present value of such benefits.

"(d) ACTUARIAL GAINS OR LOSSES.—If at the time of any such valuation the Board of Actuaries determines that there has been an actuarial gain or loss to the Fund as a result of changes in actuarial assumptions since the last valuation or as a result of any differences, between actual and expected experience since the last valuation, the Board shall recommend to the Secretary a premium rate schedule for the amortization of the cumulative gain or loss to the Fund resulting from such changes in assumptions and any previous such changes in assumptions or from the differences in actual and expected experience, respectively, through an increase or decrease in the payments that would otherwise be made to the Fund.

"(e) INSUFFICIENT ASSETS.—If at any time liabilities of the Fund exceed assets of the Fund as a result of members of the Ready Reserve being ordered to active duty as described in section 12521(2) of this title, and funds are unavailable to pay benefits completely, the Secretary shall request the President to submit to Congress a request for a special appropriation to cover the unfunded liability. If appropriations are not made to cover an unfunded liability in any fiscal year, the Secretary shall reduce the amount of the benefits paid under the insurance program to a total amount that does not exceed the assets of the Fund expected to accrue by the end of such fiscal year. Benefits that cannot be paid because of such a reduction shall be deferred and may be paid only after and to the extent that additional funds become available.

"(f) DEFINITION OF PRESENT VALUE.—The Board of Actuaries shall define the term 'present value' for purposes of this subsection.

"§ 12530. Payment of benefits

"(a) COMMENCEMENT OF PAYMENT.—An insured member who serves in excess of 30 days of covered service shall be paid the amount to which such member is entitled on a monthly basis beginning not later than one month after the 30th day of covered service.

Regulations.

"(b) METHOD OF PAYMENT.—The Secretary shall prescribe in the regulations the manner in which payments shall be made to the member or to a person designated in accordance with subsection (c).

"(c) DESIGNATED RECIPIENTS.—(1) A member may designate in writing another person (including a spouse, parent, or other person with an insurable interest, as determined in accordance with the regulations prescribed by the Secretary) to receive payments of insurance benefits under the insurance program.

"(2) A member may direct that payments of insurance benefits for a person designated under paragraph (1) be deposited with a bank or other financial institution to the credit of the designated person.

"(d) RECIPIENTS IN EVENT OF DEATH OF INSURED MEMBER.—Any insurance payable under the insurance program on account of a deceased member's period of covered service shall be paid, upon the establishment of a valid claim, to the beneficiary or beneficiaries which the deceased member designated in writing. If no such designation has been made, the amount shall be payable in accordance with the laws of the State of the member's domicile.

"§ 12531. Purchase of insurance

"(a) PURCHASE AUTHORIZED.—The Secretary may, instead of or in addition to underwriting the insurance program through the Fund, purchase from one or more insurance companies a policy or policies of group insurance in order to provide the benefits required under this chapter. The Secretary may waive any requirement for full and open competition in order to purchase an insurance policy under this subsection.

"(b) ELIGIBLE INSURERS.—In order to be eligible to sell insurance to the Secretary for purposes of subsection (a), an insurance company shall—

"(1) be licensed to issue insurance in each of the 50 States and in the District of Columbia; and

"(2) as of the most recent December 31 for which information is available to the Secretary, have in effect at least one percent of the total amount of insurance that all such insurance companies have in effect in the United States.

"(c) ADMINISTRATIVE PROVISIONS.—(1) An insurance company that issues a policy for purposes of subsection (a) shall establish an administrative office at a place and under a name designated by the Secretary.

"(2) For the purposes of carrying out this chapter, the Secretary may use the facilities and services of any insurance company issuing any policy for purposes of subsection (a), may designate one such company as the representative of the other companies for such purposes, and may contract to pay a reasonable fee to the designated company for its services.

"(d) REINSURANCE.—The Secretary shall arrange with each insurance company issuing any policy for purposes of subsection (a) to reinsure, under conditions approved by the Secretary, portions

of the total amount of the insurance under such policy or policies with such other insurance companies (which meet qualifying criteria prescribed by the Secretary) as may elect to participate in such reinsurance.

"(e) TERMINATION.—The Secretary may at any time terminate any policy purchased under this section.

"§ 12532. Termination for nonpayment of premiums; forfeiture

"(a) TERMINATION FOR NONPAYMENT.—The coverage of a member under the insurance program shall terminate without prior notice upon a failure of the member to make required monthly payments of premiums for two consecutive months. The Secretary may provide in the regulations for reinstatement of insurance coverage terminated under this subsection.

"(b) FORFEITURE.—Any person convicted of mutiny, treason, spying, or desertion, or who refuses to perform service in the armed forces or refuses to wear the uniform of any of the armed forces shall forfeit all rights to insurance under this chapter.".

(2) The tables of chapters at the beginning of subtitle E, and at the beginning of part II of subtitle E, of title 10, United States Code, are amended by inserting after the item relating to chapter 1213 the following new item:

"1214. Ready Reserve Mobilization Income Insurance ..... 12521".

(b) EFFECTIVE DATE.—The insurance program provided for in chapter 1214 of title 10, United States Code, as added by subsection (a), and the requirement for deductions and contributions for that program shall take effect on September 30, 1996, or on any earlier date declared by the Secretary and published in the Federal Register. Federal Register, publication. 10 USC 12521 note.

SEC. 513. MILITARY TECHNICIAN FULL-TIME SUPPORT PROGRAM FOR ARMY AND AIR FORCE RESERVE COMPONENTS.

(a) REQUIREMENT OF ANNUAL AUTHORIZATION OF END STRENGTH.—(1) Section 115 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(g) Congress shall authorize for each fiscal year the end strength for military technicians for each reserve component of the Army and Air Force. Funds available to the Department of Defense for any fiscal year may not be used for the pay of a military technician during that fiscal year unless the technician fills a position that is within the number of such positions authorized by law for that fiscal year for the reserve component of that technician. This subsection applies without regard to section 129 of this title.".

(2) The amendment made by paragraph (1) does not apply with respect to fiscal year 1995. 10 USC 115 note.

(b) AUTHORIZATION FOR FISCAL YEARS 1996 AND 1997.—For each of fiscal years 1996 and 1997, the minimum number of military technicians, as of the last day of that fiscal year, for the Army and the Air Force (notwithstanding section 129 of title 10, United States Code) shall be the following: 10 USC 115 note.

(1) Army National Guard, 25,500.
(2) Army Reserve, 6,630.
(3) Air National Guard, 22,906.
(4) Air Force Reserve, 9,802.

(c) ADMINISTRATION OF MILITARY TECHNICIAN PROGRAM.—(1) Chapter 1007 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 10216. Military technicians

"(a) PRIORITY FOR MANAGEMENT OF MILITARY TECHNICIANS.—(1) As a basis for making the annual request to Congress pursuant to section 115 of this title for authorization of end strengths for military technicians of the Army and Air Force reserve components, the Secretary of Defense shall give priority to supporting authorizations for dual status military technicians in the following high-priority units and organizations:

"(A) Units of the Selected Reserve that are scheduled to deploy no later than 90 days after mobilization.

"(B) Units of the Selected Reserve that are or will deploy to relieve active duty peacetime operations tempo.

"(C) Those organizations with the primary mission of providing direct support surface and aviation maintenance for the reserve components of the Army and Air Force, to the extent that the military technicians in such units would mobilize and deploy in a skill that is compatible with their civilian position skill.

"(2) For each fiscal year, the Secretary of Defense shall, for the high-priority units and organizations referred to in paragraph (1), seek to achieve a programmed manning level for military technicians that is not less than 90 percent of the programmed manpower structure for those units and organizations for military technicians for that fiscal year.

"(3) Military technician authorizations and personnel in high-priority units and organizations specified in paragraph (1) shall be exempt from any requirement (imposed by law or otherwise) for reductions in Department of Defense civilian personnel and shall only be reduced as part of military force structure reductions.

"(b) DUAL-STATUS REQUIREMENT.—The Secretary of Defense shall require the Secretary of the Army and the Secretary of the Air Force to establish as a condition of employment for each individual who is hired after the date of the enactment of this section as a military technician that the individual maintain membership in the Selected Reserve (so as to be a so-called 'dual-status' technician) and shall require that the civilian and military position skill requirements of dual-status military technicians be compatible. No Department of Defense funds may be spent for compensation for any military technician hired after the date of the enactment of this section who is not a member of the Selected Reserve, except that compensation may be paid for up to six months following loss of membership in the Selected Reserve if such loss of membership was not due to the failure to meet military standards.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"10216. Military technicians.".

(d) REVIEW OF RESERVE COMPONENT MANAGEMENT HEADQUARTERS.—(1) The Secretary of Defense shall, within six months after the date of the enactment of this Act, undertake steps to reduce, consolidate, and streamline management headquarters operations of the reserve components. As part of those steps, the Secretary shall identify those military technicians positions in such

headquarters operations that are excess to the requirements of those headquarters.

(2) Of the military technicians positions that are identified under paragraph (1), the Secretary shall reallocate up to 95 percent of the annual funding required to support those positions for the purpose of creating new positions or filling existing positions in the high-priority units and activities specified in section 10216(a) of title 10, United States Code, as added by subsection (c).

(e) ANNUAL DEFENSE MANPOWER REQUIREMENTS REPORT.—Section 115a of title 10, United States Code, is amended by adding at the end the following new subsection:

"(h) In each such report, the Secretary shall include a separate report on the Army and Air Force military technician programs. The report shall include a presentation, shown by reserve component and shown both as of the end of the preceding fiscal year and for the next fiscal year, of the following:

"(1) The number of military technicians required to be employed (as specified in accordance with Department of Defense procedures), the number authorized to be employed under Department of Defense personnel procedures, and the number actually employed.

"(2) Within each of the numbers under paragraph (1)—

"(A) the number applicable to a reserve component management headquarter organization; and

"(B) the number applicable to high-priority units and organizations (as specified in section 10216(a) of this title).

"(3) Within each of the numbers under paragraph (1), the numbers of military technicians who are not themselves members of a reserve component (so-called 'single-status' technicians), with a further display of such numbers as specified in paragraph (2).".

SEC. 514. REVISIONS TO ARMY GUARD COMBAT REFORM INITIATIVE TO INCLUDE ARMY RESERVE UNDER CERTAIN PROVISIONS AND MAKE CERTAIN REVISIONS.

(a) PRIOR ACTIVE DUTY PERSONNEL.—Section 1111 of the Army National Guard Combat Readiness Reform Act of 1992 (title XI of Public Law 102–484) is amended— 10 USC 10105 note.

(1) in the section heading, by striking out the first three words;

(2) by striking out subsections (a) and (b) and inserting in lieu thereof the following:

"(a) ADDITIONAL PRIOR ACTIVE DUTY OFFICERS.—The Secretary of the Army shall increase the number of qualified prior active-duty officers in the Army National Guard by providing a program that permits the separation of officers on active duty with at least two, but less than three, years of active service upon condition that the officer is accepted for appointment in the Army National Guard. The Secretary shall have a goal of having not fewer than 150 officers become members of the Army National Guard each year under this section.

"(b) ADDITIONAL PRIOR ACTIVE DUTY ENLISTED MEMBERS.—The Secretary of the Army shall increase the number of qualified prior active-duty enlisted members in the Army National Guard through the use of enlistments as described in section 8020 of the Department of Defense Appropriations Act, 1994 (Public Law 103–139). The Secretary shall enlist not fewer than 1,000 new

enlisted members each year under enlistments described in that section."; and

(3) by striking out subsections (d) and (e).

10 USC 10105 note.

(b) SERVICE IN THE SELECTED RESERVE IN LIEU OF ACTIVE DUTY SERVICE FOR ROTC GRADUATES.—Section 1112(b) of such Act (106 Stat. 2537) is amended by striking out "National Guard" before the period at the end and inserting in lieu thereof "Selected Reserve".

10 USC 10105 note.

(c) REVIEW OF OFFICER PROMOTIONS.—Section 1113 of such Act (106 Stat. 2537) is amended—

(1) in subsection (a), by striking out "National Guard" both places it appears and inserting in lieu thereof "Selected Reserve"; and

(2) by striking out subsection (b) and inserting in lieu thereof the following:

"(b) COVERAGE OF SELECTED RESERVE COMBAT AND EARLY DEPLOYING UNITS.—(1) Subsection (a) applies to officers in all units of the Selected Reserve that are designated as combat units or that are designated for deployment within 75 days of mobilization.

Effective date.

"(2) Subsection (a) shall take effect with respect to officers of the Army Reserve, and with respect to officers of the Army National Guard in units not subject to subsection (a) as of the date of the enactment of the National Defense Authorization Act for Fiscal Year 1996, at the end of the 90-day period beginning on such date of enactment.".

10 USC 10105 note.

(d) INITIAL ENTRY TRAINING AND NONDEPLOYABLE PERSONNEL.—Section 1115 of such Act (106 Stat. 2538) is amended—

(1) in subsections (a) and (b), by striking out "National Guard" each place it appears and inserting in lieu thereof "Selected Reserve"; and

(2) in subsection (c)—

(A) by striking out "a member of the Army National Guard enters the National Guard" and inserting in lieu thereof "a member of the Army Selected Reserve enters the Army Selected Reserve"; and

(B) by striking out "from the Army National Guard".

10 USC 10105 note.

(e) ACCOUNTING OF MEMBERS WHO FAIL PHYSICAL DEPLOYABILITY STANDARDS.—Section 1116 of such Act (106 Stat. 2539) is amended by striking out "National Guard" each place it appears and inserting in lieu thereof "Selected Reserve".

(f) USE OF COMBAT SIMULATORS.—Section 1120 of such Act (106 Stat. 2539) is amended by inserting "and the Army Reserve" before the period at the end.

SEC. 515. ACTIVE DUTY ASSOCIATE UNIT RESPONSIBILITY.

10 USC 10105 note.

(a) ASSOCIATE UNITS.—Subsection (a) of section 1131 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2540) is amended to read as follows:

"(a) ASSOCIATE UNITS.—The Secretary of the Army shall require—

"(1) that each ground combat maneuver brigade of the Army National Guard that (as determined by the Secretary) is essential for the execution of the National Military Strategy be associated with an active-duty combat unit; and

"(2) that combat support and combat service support units of the Army Selected Reserve that (as determined by the Sec-

retary) are essential for the execution of the National Military Strategy be associated with active-duty units.".

(b) RESPONSIBILITIES.—Subsection (b) of such section is amended—

(1) by striking out "National Guard combat unit" in the matter preceding paragraph (1) and inserting in lieu thereof "National Guard unit or Army Selected Reserve unit that (as determined by the Secretary under subsection (a)) is essential for the execution of the National Military Strategy"; and

(2) by striking out "of the National Guard unit" in paragraphs (1), (2), (3), and (4) and inserting in lieu thereof "of that unit".

SEC. 516. LEAVE FOR MEMBERS OF RESERVE COMPONENTS PERFORMING PUBLIC SAFETY DUTY.

(a) ELECTION OF LEAVE TO BE CHARGED.—Subsection (b) of section 6323 of title 5, United States Code, is amended by adding at the end the following: "Upon the request of an employee, the period for which an employee is absent to perform service described in paragraph (2) may be charged to the employee's accrued annual leave or to compensatory time available to the employee instead of being charged as leave to which the employee is entitled under this subsection. The period of absence may not be charged to sick leave.".

(b) PAY FOR PERIOD OF ABSENCE.—Section 5519 of such title is amended by striking out "entitled to leave" and inserting in lieu thereof "granted military leave".

SEC. 517. DEPARTMENT OF DEFENSE FUNDING FOR NATIONAL GUARD PARTICIPATION IN JOINT DISASTER AND EMERGENCY ASSISTANCE EXERCISES.

Section 503(a) of title 32, United States Code, is amended—

(1) by inserting "(1)" after "(a)"; and

(2) by adding at the end the following:

"(2) Paragraph (1) includes authority to provide for participation of the National Guard in conjunction with the Army or the Air Force, or both, in joint exercises for instruction to prepare the National Guard for response to civil emergencies and disasters.".

Subtitle C—Decorations and Awards

SEC. 521. AWARD OF PURPLE HEART TO PERSONS WOUNDED WHILE HELD AS PRISONERS OF WAR BEFORE APRIL 25, 1962.

10 USC 1129 note.

(a) AWARD OF PURPLE HEART.—For purposes of the award of the Purple Heart, the Secretary concerned (as defined in section 101 of title 10, United States Code) shall treat a former prisoner of war who was wounded before April 25, 1962, while held as a prisoner of war (or while being taken captive) in the same manner as a former prisoner of war who is wounded on or after that date while held as a prisoner of war (or while being taken captive).

(b) STANDARDS FOR AWARD.—An award of the Purple Heart under subsection (a) shall be made in accordance with the standards in effect on the date of the enactment of this Act for the award of the Purple Heart to persons wounded on or after April 25, 1962.

(c) ELIGIBLE FORMER PRISONERS OF WAR.—A person shall be considered to be a former prisoner of war for purposes of this

section if the person is eligible for the prisoner-of-war medal under section 1128 of title 10, United States Code.

10 USC 1130 note.

SEC. 522. AUTHORITY TO AWARD DECORATIONS RECOGNIZING ACTS OF VALOR PERFORMED IN COMBAT DURING THE VIETNAM CONFLICT.

(a) FINDINGS.—Congress makes the following findings:

(1) The Ia Drang Valley (Pleiku) campaign, carried out by the Armed Forces in the Ia Drang Valley of Vietnam from October 23, 1965, to November 26, 1965, is illustrative of the many battles during the Vietnam conflict which pitted forces of the United States against North Vietnamese Army regulars and Viet Cong in vicious fighting.

(2) Accounts of those battles that have been published since the end of that conflict authoritatively document numerous and repeated acts of extraordinary heroism, sacrifice, and bravery on the part of members of the Armed Forces, many of which have never been officially recognized.

(3) In some of those battles, United States military units suffered substantial losses, with some units sustaining casualties in excess of 50 percent.

(4) The incidence of heavy casualties throughout the Vietnam conflict inhibited the timely collection of comprehensive and detailed information to support recommendations for awards recognizing acts of heroism, sacrifice, and bravery.

(5) Subsequent requests to the Secretaries of the military departments for review of award recommendations for such acts have been denied because of restrictions in law and regulations that require timely filing of such recommendations and documented justification.

(6) Acts of heroism, sacrifice, and bravery performed in combat by members of the Armed Forces deserve appropriate and timely recognition by the people of the United States.

(7) It is appropriate to recognize acts of heroism, sacrifice, or bravery that are belatedly, but properly, documented by persons who witnessed those acts.

(b) WAIVER OF TIME LIMITATIONS FOR RECOMMENDATIONS FOR AWARDS.—(1) Any decoration covered by paragraph (2) may be awarded, without regard to any time limit imposed by law or regulation for a recommendation for such award to any person for actions by that person in the Southeast Asia theater of operations while serving on active duty during the Vietnam era. The waiver of time limitations under this paragraph applies only in the case of awards for acts of valor for which a request for consideration is submitted under subsection (c).

(2) Paragraph (1) applies to any decoration (including any device in lieu of a decoration) that, during or after the Vietnam era and before the date of the enactment of this Act, was authorized by law or under regulations of the Department of Defense or the military department concerned to be awarded to members of the Armed Forces for acts of valor.

(c) REVIEW OF REQUESTS FOR CONSIDERATION OF AWARDS.—(1) The Secretary of each military department shall review each request for consideration of award of a decoration described in subsection (b) that are received by the Secretary during the one-year period beginning on the date of enactment of this Act.

(2) The Secretaries shall begin the review within 30 days after the date of the enactment of this Act and shall complete the review of each request for consideration not later than one year after the date on which the request is received.

(3) The Secretary may use the same process for carrying out the review as the Secretary uses for reviewing other recommendations for award of decorations to members of the Armed Forces under the Secretary's jurisdiction for valorous acts.

(d) REPORT.—(1) Upon completing the review of each such request under subsection (c), the Secretary shall submit a report on the review to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives.

(2) The report shall include, with respect to each request for consideration received, the following information:

(A) A summary of the request for consideration.

(B) The findings resulting from the review.

(C) The final action taken on the request for consideration.

(e) DEFINITION.—For purposes of this section:

(1) The term "Vietnam era" has the meaning given that term in section 101 of title 38, United States Code.

(2) The term "active duty" has the meaning given that term in section 101 of title 10, United States Code.

SEC. 523. MILITARY INTELLIGENCE PERSONNEL PREVENTED BY SECRECY FROM BEING CONSIDERED FOR DECORATIONS AND AWARDS.

10 USC 1130 note.

(a) WAIVER ON RESTRICTIONS OF AWARDS.—(1) Any decoration covered by paragraph (2) may be awarded, without regard to any time limit imposed by law or regulation for a recommendation for such award, to any person for an act, achievement, or service that the person performed in carrying out military intelligence duties during the period beginning on January 1, 1940, and ending on December 31, 1990.

(2) Paragraph (1) applies to any decoration (including any device in lieu of a decoration) that, during or after the period described in paragraph (1) and before the date of the enactment of this Act, was authorized by law or under the regulations of the Department of Defense or the military department concerned to be awarded to a person for an act, achievement, or service performed by that person while serving on active duty.

(b) REVIEW OF REQUESTS FOR CONSIDERATION OF AWARDS.—(1) The Secretary of each military department shall review each request for consideration of award of a decoration described in subsection (a) that is received by the Secretary during the one-year period beginning on the date of the enactment of this Act.

(2) The Secretaries shall begin the review within 30 days after the date of the enactment of this Act and shall complete the review of each request for consideration not later than one year after the date on which the request is received.

(3) The Secretary may use the same process for carrying out the review as the Secretary uses for reviewing other recommendations for awarding decorations to members of the Armed Forces under the Secretary's jurisdiction for acts, achievements, or service.

(c) REPORT.—(1) Upon completing the review of each such request under subsection (b), the Secretary shall submit a report on the review to the Committee on Armed Services of the Senate

and the Committee on National Security of the House of Representatives.

(2) The report shall include, with respect to each request for consideration reviewed, the following information:

(A) A summary of the request for consideration.

(B) The findings resulting from the review.

(C) The final action taken on the request for consideration.

(D) Administrative or legislative recommendations to improve award procedures with respect to military intelligence personnel.

(d) DEFINITION.—For purposes of this section, the term "active duty" has the meaning given such term in section 101 of title 10, United States Code.

Records.
10 USC 3741 note.

SEC. 524. REVIEW REGARDING UPGRADING OF DISTINGUISHED-SERVICE CROSSES AND NAVY CROSSES AWARDED TO ASIAN-AMERICANS AND NATIVE AMERICAN PACIFIC ISLANDERS FOR WORLD WAR II SERVICE.

(a) REVIEW REQUIRED.—(1) The Secretary of the Army shall review the records relating to each award of the Distinguished-Service Cross, and the Secretary of the Navy shall review the records relating to each award of the Navy Cross, that was awarded to an Asian-American or a Native American Pacific Islander with respect to service as a member of the Armed Forces during World War II. The purpose of the review shall be to determine whether any such award should be upgraded to the Medal of Honor.

(2) If the Secretary concerned determines, based upon the review under paragraph (1), that such an upgrade is appropriate in the case of any person, the Secretary shall submit to the President a recommendation that the President award the Medal of Honor to that person.

(b) WAIVER OF TIME LIMITATIONS.—A Medal of Honor may be awarded to a person referred to in subsection (a) in accordance with a recommendation of the Secretary concerned under that subsection without regard to—

(1) section 3744, 6248, or 8744 of title 10, United States Code, as applicable; and

(2) any regulation or other administrative restriction on—

(A) the time for awarding the Medal of Honor; or

(B) the awarding of the Medal of Honor for service for which a Distinguished-Service Cross or Navy Cross has been awarded.

(c) DEFINITION.—For purposes of this section, the term "Native American Pacific Islander" means a Native Hawaiian and any other Native American Pacific Islander within the meaning of the Native American Programs Act of 1974 (42 U.S.C. 2991 et seq.).

10 USC 1130 note.

SEC. 525. ELIGIBILITY FOR ARMED FORCES EXPEDITIONARY MEDAL BASED UPON SERVICE IN EL SALVADOR.

(a) IN GENERAL.—For the purpose of determining eligibility of members and former members of the Armed Forces for the Armed Forces Expeditionary Medal, the country of El Salvador during the period beginning on January 1, 1981 and ending on February 1, 1992, shall be treated as having been designated as an area and a period of time in which members of the Armed Forces participated in operations in significant numbers and otherwise met the general requirements for the award of that medal.

(b) INDIVIDUAL DETERMINATION.—The Secretary of the military department concerned shall determine whether individual members or former members of the Armed Forces who served in El Salvador during the period beginning on January 1, 1981 and ending on February 1, 1992 meet the individual service requirements for award of the Armed Forces Expeditionary Medal as established in applicable regulations. Such determinations shall be made as expeditiously as possible after the date of the enactment of this Act.

SEC. 526. PROCEDURE FOR CONSIDERATION OF MILITARY DECORATIONS NOT PREVIOUSLY SUBMITTED IN TIMELY FASHION.

(a) IN GENERAL.—Chapter 57 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 1130. Consideration of proposals for decorations not previously submitted in timely fashion: procedures for review and recommendation

"(a) Upon request of a Member of Congress, the Secretary concerned shall review a proposal for the award or presentation of a decoration (or the upgrading of a decoration), either for an individual or a unit, that is not otherwise authorized to be presented or awarded due to limitations established by law or policy for timely submission of a recommendation for such award or presentation. Based upon such review, the Secretary shall make a determination as to the merits of approving the award or presentation of the decoration and the other determinations necessary to comply with subsection (b).

"(b) Upon making a determination under subsection (a) as to the merits of approving the award or presentation of the decoration, the Secretary concerned shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives and to the requesting member of Congress notice in writing of one of the following:

"(1) The award or presentation of the decoration does not warrant approval on the merits.

"(2) The award or presentation of the decoration warrants approval and a waiver by law of time restrictions prescribed by law is recommended.

"(3) The award or presentation of the decoration warrants approval on the merits and has been approved as an exception to policy.

"(4) The award or presentation of the decoration warrants approval on the merits, but a waiver of the time restrictions prescribed by law or policy is not recommended.

A notice under paragraph (1) or (4) shall be accompanied by a statement of the reasons for the decision of the Secretary.

"(c) Determinations under this section regarding the award or presentation of a decoration shall be made in accordance with the same procedures that apply to the approval or disapproval of the award or presentation of a decoration when a recommendation for such award or presentation is submitted in a timely manner as prescribed by law or regulation.

"(d) In this section:

"(1) The term 'Member of Congress' means—

"(A) a Senator; or

"(B) a Representative in, or a Delegate or Resident Commissioner to, Congress.

"(2) The term 'decoration' means any decoration or award that may be presented or awarded to a member or unit of the armed forces.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"1130. Consideration of proposals for decorations not previously submitted in timely fashion: procedures for review and recommendation.".

Subtitle D—Officer Education Programs

PART I—SERVICE ACADEMIES

SEC. 531. REVISION OF SERVICE OBLIGATION FOR GRADUATES OF THE SERVICE ACADEMIES.

(a) MILITARY ACADEMY.—Section 4348(a)(2)(B) of title 10, United States Code, is amended by striking out "six years" and inserting in lieu thereof "five years".

(b) NAVAL ACADEMY.—Section 6959(a)(2)(B) of such title is amended by striking out "six years" and inserting in lieu thereof "five years".

(c) AIR FORCE ACADEMY.—Section 9348(a)(2)(B) of such title is amended by striking out "six years" and inserting in lieu thereof "five years".

(d) REQUIREMENT FOR REVIEW AND REPORT.—(1) The Secretary of Defense shall review the effects that each of various periods of obligated active duty service for graduates of the United States Military Academy, the United States Naval Academy, and the United States Air Force Academy would have on the number and quality of the eligible and qualified applicants seeking appointment to such academies.

(2) Not later than April 1, 1996, the Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on the Secretary's findings under the review, together with any recommended legislation regarding the minimum periods of obligated active duty service for graduates of the United States Military Academy, the United States Naval Academy, and the United States Air Force Academy.

10 USC 4348 note.

(e) APPLICABILITY.—The amendments made by this section apply to persons first admitted to the United States Military Academy, United States Naval Academy, and United States Air Force Academy after December 31, 1991.

SEC. 532. NOMINATIONS TO SERVICE ACADEMIES FROM COMMONWEALTH OF THE NORTHERN MARIANAS ISLANDS.

(a) MILITARY ACADEMY.—Section 4342(a) of title 10, United States Code, is amended by inserting after paragraph (9) the following new paragraph:

"(10) One cadet from the Commonwealth of the Northern Marianas Islands, nominated by the resident representative from the commonwealth.".

(b) NAVAL ACADEMY.—Section 6954(a) of title 10, United States Code, is amended by inserting after paragraph (9) the following new paragraph:

"(10) One from the Commonwealth of the Northern Marianas Islands, nominated by the resident representative from the commonwealth.".

(c) AIR FORCE ACADEMY.—Section 9342(a) of title 10, United States Code, is amended by inserting after paragraph (9) the following new paragraph:

"(10) One cadet from the Commonwealth of the Northern Marianas Islands, nominated by the resident representative from the commonwealth.".

SEC. 533. REPEAL OF REQUIREMENT FOR ATHLETIC DIRECTOR AND NONAPPROPRIATED FUND ACCOUNT FOR THE ATHLETICS PROGRAMS AT THE SERVICE ACADEMIES.

(a) UNITED STATES MILITARY ACADEMY.—(1) Section 4357 of title 10, United States Code, is repealed.

(2) The table of sections at the beginning of chapter 403 of such title is amended by striking out the item relating to section 4357.

(b) UNITED STATES NAVAL ACADEMY.—Section 556 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2774) is amended by striking out subsections (b) and (e).

(c) UNITED STATES AIR FORCE ACADEMY.—(1) Section 9356 of title 10, United States Code, is repealed. 10 USC 6975, 6975 note.

(2) The table of sections at the beginning of chapter 903 of such title is amended by striking out the item relating to section 9356.

SEC. 534. REPEAL OF REQUIREMENT FOR PROGRAM TO TEST PRIVATIZATION OF SERVICE ACADEMY PREPARATORY SCHOOLS.

Section 536 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 10 U.S.C. 4331 note) is repealed.

PART II—RESERVE OFFICER TRAINING CORPS

SEC. 541. ROTC ACCESS TO CAMPUSES.

(a) IN GENERAL.—Chapter 49 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 983. Institutions of higher education that prohibit Senior ROTC units: denial of Department of Defense grants and contracts

"(a) DENIAL OF DEPARTMENT OF DEFENSE GRANTS AND CONTRACTS.—(1) No funds appropriated or otherwise available to the Department of Defense may be made obligated by contract or by grant (including a grant of funds to be available for student aid) to any institution of higher education that, as determined by the Secretary of Defense, has an anti-ROTC policy and at which, as determined by the Secretary, the Secretary would otherwise maintain or seek to establish a unit of the Senior Reserve Officer Training Corps or at which the Secretary would otherwise enroll or seek to enroll students for participation in a unit of the Senior Reserve Officer Training Corps at another nearby institution of higher education.

"(2) In the case of an institution of higher education that is ineligible for Department of Defense grants and contracts by reason of paragraph (1), the prohibition under that paragraph shall

cease to apply to that institution upon a determination by the Secretary that the institution no longer has an anti-ROTC policy.

"(b) NOTICE OF DETERMINATION.—Whenever the Secretary makes a determination under subsection (a) that an institution has an anti-ROTC policy, or that an institution previously determined to have an anti-ROTC policy no longer has such a policy, the Secretary—

"(1) shall transmit notice of that determination to the Secretary of Education and to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives; and

Federal Register, publication.

"(2) shall publish in the Federal Register notice of that determination and of the effect of that determination under subsection (a)(1) on the eligibility of that institution for Department of Defense grants and contracts.

"(c) SEMIANNUAL NOTICE IN FEDERAL REGISTER.—The Secretary shall publish in the Federal Register once every six months a list of each institution of higher education that is currently ineligible for Department of Defense grants and contracts by reason of a determination of the Secretary under subsection (a).

"(d) ANTI-ROTC POLICY.—In this section, the term 'anti-ROTC policy' means a policy or practice of an institution of higher education that—

"(1) prohibits, or in effect prevents, the Secretary of Defense from maintaining or establishing a unit of the Senior Reserve Officer Training Corps at that institution, or

"(2) prohibits, or in effect prevents, a student at that institution from enrolling in a unit of the Senior Reserve Officer Training Corps at another institution of higher education.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"983. Institutions of higher education that prohibit Senior ROTC units: denial of Department of Defense grants and contracts.".

SEC. 542. ROTC SCHOLARSHIPS FOR THE NATIONAL GUARD.

(a) CLARIFICATION OF RESTRICTION ON ACTIVE DUTY.—Paragraph (2) of section 2107(h) of title 10, United States Code, is amended by inserting "full-time" before "active duty" in the second sentence.

(b) REDESIGNATION OF ROTC SCHOLARSHIPS.—Such paragraph is further amended by inserting after the first sentence the following new sentence: "A cadet designated under this paragraph who, having initially contracted for service as provided in subsection (b)(5)(A) and having received financial assistance for two years under an award providing for four years of financial assistance under this section, modifies such contract with the consent of the Secretary of the Army to provide for service as described in subsection (b)(5)(B), may be counted, for the year in which the contract is modified, toward the number of appointments required under the preceding sentence for financial assistance awarded for a period of four years.".

SEC. 543. DELAY IN REORGANIZATION OF ARMY ROTC REGIONAL HEADQUARTERS STRUCTURE.

(a) DELAY.—The Secretary of the Army may not take any action to reorganize the regional headquarters and basic camp structure of the Reserve Officers Training Corps program of the

Army until six months after the date on which the report required by subsection (d) is submitted.

(b) COST-BENEFIT ANALYSIS.—The Secretary of the Army shall conduct a comparative cost-benefit analysis of various options for the reorganization of the regional headquarters and basic camp structure of the Army ROTC program. As part of such analysis, the Secretary shall measure each reorganization option considered against a common set of criteria.

(c) SELECTION OF REORGANIZATION OPTION FOR IMPLEMENTATION.—Based on the findings resulting from the cost-benefit analysis under subsection (b) and such other factors as the Secretary considers appropriate, the Secretary shall select one reorganization option for implementation. The Secretary may select an option for implementation only if the Secretary finds that the cost-benefit analysis and other factors considered clearly demonstrate that such option, better than any other option considered—

(1) provides the structure to meet projected mission requirements;

(2) achieves the most significant personnel and cost savings;

(3) uses existing basic and advanced camp facilities to the maximum extent possible;

(4) minimizes additional military construction costs; and

(5) makes maximum use of the reserve components to support basic and advanced camp operations, thereby minimizing the effect of those operations on active duty units.

(d) REPORT.—Not later than 60 days after the date of the enactment of this Act, the Secretary of the Army shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report describing the reorganization option selected under subsection (c). The report shall include the results of the cost-benefit analysis under subsection (b) and a detailed rationale for the reorganization option selected.

SEC. 544. DURATION OF FIELD TRAINING OR PRACTICE CRUISE REQUIRED UNDER THE SENIOR RESERVE OFFICERS' TRAINING CORPS PROGRAM.

Section 2104(b)(6)(A)(ii) of title 10, United States Code, is amended by striking out "not less than six weeks' duration" and inserting in lieu thereof "a duration".

SEC. 545. ACTIVE DUTY OFFICERS DETAILED TO ROTC DUTY AT SENIOR MILITARY COLLEGES TO SERVE AS COMMANDANT AND ASSISTANT COMMANDANT OF CADETS AND AS TACTICAL OFFICERS.

(a) IN GENERAL.—Chapter 103 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2111a. Detail of officers to senior military colleges

"(a) DETAIL OF OFFICERS TO SERVE AS COMMANDANT OR ASSISTANT COMMANDANT OF CADETS.—(1) Upon the request of a senior military college, the Secretary of Defense may detail an officer on the active-duty list to serve as Commandant of Cadets at that college or (in the case of a college with an Assistant Commandant of Cadets) detail an officer on the active-duty list to serve as Assistant Commandant of Cadets at that college (but not both).

"(2) In the case of an officer detailed as Commandant of Cadets, the officer may, upon the request of the college, be assigned from

among the Professor of Military Science, the Professor of Naval Science (if any), and the Professor of Aerospace Science (if any) at that college or may be in addition to any other officer detailed to that college in support of the program.

"(3) In the case of an officer detailed as Assistant Commandant of Cadets, the officer may, upon the request of the college, be assigned from among officers otherwise detailed to duty at that college in support of the program or may be in addition to any other officer detailed to that college in support of the program.

"(b) DESIGNATION OF OFFICERS AS TACTICAL OFFICERS.—Upon the request of a senior military college, the Secretary of Defense may authorize officers (other than officers covered by subsection (a)) who are detailed to duty as instructors at that college to act simultaneously as tactical officers (with or without compensation) for the Corps of Cadets at that college.

"(c) DETAIL OF OFFICERS.—The Secretary of a military department shall designate officers for detail to the program at a senior military college in accordance with criteria provided by the college. An officer may not be detailed to a senior military college without the approval of that college.

"(d) SENIOR MILITARY COLLEGES.—The senior military colleges are the following:

"(1) Texas A&M University.
"(2) Norwich College.
"(3) The Virginia Military Institute.
"(4) The Citadel.
"(5) Virginia Polytechnic Institute and State University.
"(6) North Georgia College.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2111a. Detail of officers to senior military colleges.".

Subtitle E—Miscellaneous Reviews, Studies, and Reports

10 USC 113 note.

SEC. 551. REPORT CONCERNING APPROPRIATE FORUM FOR JUDICIAL REVIEW OF DEPARTMENT OF DEFENSE PERSONNEL ACTIONS.

(a) ESTABLISHMENT.—The Secretary of Defense shall establish an advisory committee to consider issues relating to the appropriate forum for judicial review of Department of Defense administrative personnel actions.

(b) MEMBERSHIP.—(1) The committee shall be composed of five members, who shall be appointed by the Secretary of Defense after consultation with the Attorney General and the Chief Justice of the United States.

(2) All members of the committee shall be appointed not later than 30 days after the date of the enactment of this Act.

(c) DUTIES.—The committee shall review, and provide findings and recommendations regarding, the following matters with respect to judicial review of administrative personnel actions of the Department of Defense:

(1) Whether the existing forum for such review through the United States district courts provides appropriate and adequate review of such actions.

(2) Whether jurisdiction to conduct judicial review of such actions should be established in a single court in order to provide a centralized review of such actions and, if so, in which court that jurisdiction should be vested.

(d) REPORT.—(1) Not later than December 15, 1996, the committee shall submit to the Secretary of Defense a report setting forth its findings and recommendations, including its recommendations pursuant to subsection (c).

(2) Not later than January 1, 1997, the Secretary of Defense, after consultation with the Attorney General, shall transmit the committee's report to Congress. The Secretary may include in the transmittal any comments on the report that the Secretary or the Attorney General consider appropriate.

(e) TERMINATION OF COMMITTEE.—The committee shall terminate 30 days after the date of the submission of its report to Congress under subsection (d)(2).

SEC. 552. COMPTROLLER GENERAL REVIEW OF PROPOSED ARMY END STRENGTH ALLOCATIONS.

10 USC 115 note.

(a) IN GENERAL.—During fiscal years 1996 through 2001, the Comptroller General of the United States shall analyze the plans of the Secretary of the Army for the allocation of assigned active component end strengths for the Army through the requirements process known as Total Army Analysis 2003 and through any subsequent similar requirements process of the Army that is conducted before 2002. The Comptroller General's analysis shall consider whether the proposed active component end strengths and planned allocation of forces for that period will be sufficient to implement the national military strategy. In monitoring those plans, the Comptroller General shall determine the extent to which the Army will be able during that period—

(1) to man fully the combat force based on the projected active component Army end strength for each of fiscal years 1996 through 2001;

(2) to meet the support requirements for the force and strategy specified in the report of the Bottom-Up Review, including requirements for operations other than war; and

(3) to streamline further Army infrastructure in order to eliminate duplication and inefficiencies and replace active duty personnel in overhead positions, whenever practicable, with civilian or reserve personnel.

(b) ACCESS TO DOCUMENTS, ETC.—The Secretary of the Army shall ensure that the Comptroller General is provided access, on a timely basis and in accordance with the needs of the Comptroller General, to all analyses, models, memoranda, reports, and other documents prepared or used in connection with the requirements process of the Army known as Total Army Analysis 2003 and any subsequent similar requirements process of the Army that is conducted before 2002.

(c) ANNUAL REPORT.—Not later than March 1 of each year through 2002, the Comptroller General shall submit to Congress a report on the findings and conclusions of the Comptroller General under this section.

SEC. 553. REPORT ON MANNING STATUS OF HIGHLY DEPLOYABLE SUPPORT UNITS.

(a) REPORT.—Not later than September 30, 1996, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on the units of the Armed Forces under the Secretary's jurisdiction—

(1) that (as determined by the Secretary of the military department concerned) are high-priority support units that would deploy early in a contingency operation or other crisis; and

(2) that are, as a matter of policy, managed at less than 100 percent of their authorized strengths.

(b) MATTERS TO BE INCLUDED.—The Secretary shall include in the report—

(1) the number of such high-priority support units (shown by type of unit) that are so managed;

(2) the level of manning within such high-priority support units; and

(3) with respect to each such unit, either the justification for manning of less than 100 percent or the status of corrective action.

SEC. 554. REVIEW OF SYSTEM FOR CORRECTION OF MILITARY RECORDS.

(a) REVIEW OF PROCEDURES.—The Secretary of Defense shall review the system and procedures for the correction of military records used by the Secretaries of the military departments in the exercise of authority under section 1552 of title 10, United States Code, in order to identify potential improvements that could be made in the process for correcting military records to ensure fairness, equity, and (consistent with appropriate service to applicants) maximum efficiency. The Secretary may not delegate responsibility for the review to an officer or official of a military department.

(b) ISSUES REVIEWED.—In conducting the review, the Secretary shall consider (with respect to each Board for the Correction of Military Records) the following:

(1) The composition of the board and of the support staff for the board.

(2) Timeliness of final action.

(3) Independence of deliberations by the civilian board.

(4) The authority of the Secretary of the military department concerned to modify the recommendations of the board.

(5) Burden of proof and other evidentiary standards.

(6) Alternative methods for correcting military records.

(7) Whether the board should be consolidated with the Discharge Review Board of the military department.

(c) REPORT.—Not later than April 1, 1996, the Secretary of Defense shall submit a report on the results of the Secretary's review under this section to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives. The report shall contain the recommendations of the Secretary for improving the process for correcting military records in order to achieve the objectives referred to in subsection (a).

SEC. 555. REPORT ON THE CONSISTENCY OF REPORTING OF FINGERPRINT CARDS AND FINAL DISPOSITION FORMS TO THE FEDERAL BUREAU OF INVESTIGATION.

(a) REPORT.—The Secretary of Defense shall submit to Congress a report on the consistency with which fingerprint cards and final disposition forms, as described in Criminal Investigations Policy Memorandum 10 issued by the Defense Inspector General on March 25, 1987, are reported by the Defense Criminal Investigative Organizations to the Federal Bureau of Investigation for inclusion in the Bureau's criminal history identification files. The report shall be prepared in consultation with the Director of the Federal Bureau of Investigation.

(b) MATTERS TO BE INCLUDED.—In the report, the Secretary shall—

(1) survey fingerprint cards and final disposition forms filled out in the past 24 months by each investigative organization;

(2) compare the fingerprint cards and final disposition forms filled out to all judicial and nonjudicial procedures initiated as a result of actions taken by each investigative service in the past 24 months;

(3) account for any discrepancies between the forms filled out and the judicial and nonjudicial procedures initiated;

(4) compare the fingerprint cards and final disposition forms filled out with the information held by the Federal Bureau of Investigation criminal history identification files;

(5) identify any weaknesses in the collection of fingerprint cards and final disposition forms and in the reporting of that information to the Federal Bureau of Investigation; and

(6) determine whether or not other law enforcement activities of the military services collect and report such information or, if not, should collect and report such information.

(c) SUBMISSION OF REPORT.—The report shall be submitted not later than one year after the date of the enactment of this Act.

(d) DEFINITION.—For the purposes of this section, the term "criminal history identification files", with respect to the Federal Bureau of Investigation, means the criminal history record system maintained by the Federal Bureau of Investigation based on fingerprint identification and any other method of positive identification.

Subtitle F—Other Matters

SEC. 561. EQUALIZATION OF ACCRUAL OF SERVICE CREDIT FOR OFFICERS AND ENLISTED MEMBERS.

(a) ENLISTED SERVICE CREDIT.—Section 972 of title 10, United States Code, is amended—

(1) by inserting "(a) ENLISTED MEMBERS REQUIRED TO MAKE UP TIME LOST.—" before "An enlisted member";

(2) by striking out paragraphs (3) and (4) and inserting in lieu thereof the following:

"(3) is confined by military or civilian authorities for more than one day in connection with a trial, whether before, during, or after the trial; or"; and

(3) by redesignating paragraph (5) as paragraph (4).

(b) OFFICER SERVICE CREDIT.—Such section is further amended by adding at the end the following:

"(b) OFFICERS NOT ALLOWED SERVICE CREDIT FOR TIME LOST.—In the case of an officer of an armed force who after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1996—

"(1) deserts;

"(2) is absent from his organization, station, or duty for more than one day without proper authority, as determined by competent authority;

"(3) is confined by military or civilian authorities for more than one day in connection with a trial, whether before, during, or after the trial; or

"(4) is unable for more than one day, as determined by competent authority, to perform his duties because of intemperate use of drugs or alcoholic liquor, or because of disease or injury resulting from his misconduct;

the period of such desertion, absence, confinement, or inability to perform duties may not be counted in computing, for any purpose other than basic pay under section 205 of title 37, the officer's length of service.".

(c) CLERICAL AMENDMENTS.—(1) The heading of such section is amended to read as follows:

"§ 972. Members: effect of time lost

(2) The item relating to section 972 in the table of sections at the beginning of chapter 49 of such title is amended to read as follows:

"972. Members: effect of time lost.".

10 USC 1405.

(d) CONFORMING AMENDMENTS.—(1) Section 1405(c) is amended—

(A) by striking out "MADE UP.—Time" and inserting in lieu thereof "MADE UP OR EXCLUDED.—(1) Time";

(B) by striking out "section 972" and inserting in lieu thereof "section 972(a)";

(C) by inserting after "of this title" the following: ", or required to be made up by an enlisted member of the Navy, Marine Corps, or Coast Guard under that section with respect to a period of time after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1995,"; and

(D) by adding at the end the following:

"(2) Section 972(b) of this title excludes from computation of an officer's years of service for purposes of this section any time identified with respect to that officer under that section.".

(2) Chapter 367 of such title is amended—

(A) in section 3925(b), by striking out "section 972" and inserting in lieu thereof "section 972(a)"; and

(B) by adding at the end of section 3926 the following new subsection:

"(e) Section 972(b) of this title excludes from computation of an officer's years of service for purposes of this section any time identified with respect to that officer under that section.".

(3)(A) Chapter 571 of such title is amended by inserting after section 6327 the following new section:

"§ 6328. Computation of years of service: voluntary retirement

"(a) ENLISTED MEMBERS.—Time required to be made up under section 972(a) of this title after the date of the enactment of this section may not be counted in computing years of service under this chapter.

"(b) OFFICERS.—Section 972(b) of this title excludes from computation of an officer's years of service for purposes of this chapter any time identified with respect to that officer under that section.".

(B) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 6327 the following new item:

"6328. Computation of years of service: voluntary retirement.".

(4) Chapter 867 of such title is amended—

(A) in section 8925(b), by striking out "section 972" and inserting in lieu thereof "section 972(a)"; and

(B) by adding at the end of section 8926 the following new subsection:

"(d) Section 972(b) of this title excludes from computation of an officer's years of service for purposes of this section any time identified with respect to that officer under that section.".

(e) EFFECTIVE DATE AND APPLICABILITY.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to any period of time covered by section 972 of title 10, United States Code, that occurs after that date. 10 USC 972 note

SEC. 562. ARMY RANGER TRAINING.

(a) IN GENERAL.—(1) Chapter 401 of title 10, United States Code, is amended by inserting after section 4302 the following new section:

"§ 4303. Army Ranger training: instructor staffing; safety

"(a) LEVELS OF PERSONNEL ASSIGNED.—(1) The Secretary of the Army shall ensure that at all times the number of officers, and the number of enlisted members, permanently assigned to the Ranger Training Brigade (or other organizational element of the Army primarily responsible for Ranger student training) are not less than 90 percent of the required manning spaces for officers, and for enlisted members, respectively, for that brigade.

"(2) In this subsection, the term 'required manning spaces' means the number of personnel spaces for officers, and the number of personnel spaces for enlisted members, that are designated in Army authorization documents as the number required to accomplish the missions of a particular unit or organization.

"(b) TRAINING SAFETY CELLS.—(1) The Secretary of the Army shall establish and maintain an organizational entity known as a 'safety cell' as part of the organizational elements of the Army responsible for conducting each of the three major phases of the Ranger Course. The safety cell in each different geographic area of Ranger Course training shall be comprised of personnel who have sufficient continuity and experience in that geographic area of such training to be knowledgeable of the local conditions year-round, including conditions of terrain, weather, water, and climate and other conditions and the potential effect on those conditions on Ranger student training and safety.

"(2) Members of each safety cell shall be assigned in sufficient numbers to serve as advisers to the officers in charge of the major

phase of Ranger training and shall assist those officers in making informed daily 'go' and 'no-go' decisions regarding training in light of all relevant conditions, including conditions of terrain, weather, water, and climate and other conditions.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 4302 the following new item:

"4303. Army Ranger training: instructor staffing; safety.".

10 USC 4303 note.

(b) ACCOMPLISHMENT OF REQUIRED MANNING LEVELS.—(1) If, as of the date of the enactment of this Act, the number of officers, and the number of enlisted members, permanently assigned to the Army Ranger Training Brigade are not each at (or above) the requirement specified in subsection (a) of section 4303 of title 10, United States Code, as added by subsection (a), the Secretary of the Army shall—

(A) take such steps as necessary to accomplish that requirement within 12 months after such date of enactment; and

(B) submit to Congress, not later than 90 days after such date of enactment, a plan to achieve and maintain that requirement.

(2) The requirement specified in subsection (a) of section 4303 of title 10, United States Code, as added by subsection (a), shall expire two years after the date (on or after the date of the enactment of this Act) on which the required manning levels referred to in paragraph (1) are first attained.

Reports.

(c) GAO ASSESSMENT.—(1) Not later than one year after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report providing a preliminary assessment of the implementation and effectiveness of all corrective actions taken by the Army as a result of the February 1995 accident at the Florida Ranger Training Camp, including an evaluation of the implementation of the required manning levels established by subsection (a) of section 4303 of title 10, United States Code, as added by subsection (a).

(2) At the end of the two-year period specified in subsection (b)(2), the Comptroller General shall submit to Congress a report providing a final assessment of the matters covered in the preliminary report under paragraph (1). The report shall include the Comptroller General's recommendation as to the need to continue required statutory manning levels as specified in subsection (a) of section 4303 of title 10, United States Code, as added by subsection (a).

(d) SENSE OF CONGRESS.—In light of requirement that particularly dangerous training activities (such as Ranger training, Search, Evasion, Rescue, and Escape (SERE) training, SEAL training, and Airborne training) must be adequately manned and resourced to ensure safety and effective oversight, it is the sense of Congress—

(1) that the Secretary of Defense, in conjunction with the Secretaries of the military departments, should review and, if necessary, enhance oversight of all such training activities; and

(2) that organizations similar to the safety cells required to be established for Army Ranger training in section 4303 of title 10, United States Code, as added by subsection (a), should (when appropriate) be used for all such training activities.

SEC. 563. SEPARATION IN CASES INVOLVING EXTENDED CONFINEMENT.

(a) SEPARATION.—(1)(A) Chapter 59 of title 10, United States Code, is amended by inserting after section 1166 the following new section:

"§ 1167. Members under confinement by sentence of court-martial: separation after six months confinement

"Except as otherwise provided in regulations prescribed by the Secretary of Defense, a member sentenced by a court-martial to a period of confinement for more than six months may be separated from the member's armed force at any time after the sentence to confinement has become final under chapter 47 of this title and the person has served in confinement for a period of six months.".

(B) The table of sections at the beginning of chapter 59 of such title is amended by inserting after the item relating to section 1166 the following new item:

"1167. Members under confinement by sentence of court-martial: separation after six months confinement.".

(2)(A) Chapter 1221 of title 10, United States Code, is amended by adding at the end the following:

"§ 12687. Reserves under confinement by sentence of court-martial: separation after six months confinement

"Except as otherwise provided in regulations prescribed by the Secretary of Defense, a Reserve sentenced by a court-martial to a period of confinement for more than six months may be separated from that Reserve's armed force at any time after the sentence to confinement has become final under chapter 47 of this title and the Reserve has served in confinement for a period of six months.".

(B) The table of sections at the beginning of chapter 1221 of such title is amended by inserting at the end thereof the following new item:

"12687. Reserves under confinement by sentence of court-martial: separation after six months confinement.".

(b) DROP FROM ROLLS.—(1) Section 1161(b) of title 10, United States Code, is amended by striking out "or (2)" and inserting in lieu thereof "(2) who may be separated under section 1178 of this title by reason of a sentence to confinement adjudged by a court-martial, or (3)".

(2) Section 12684 of such title is amended—

(A) by striking out "or" at the end of paragraph (1);

(B) by redesignating paragraph (2) as paragraph (3); and

(C) by inserting after paragraph (1) the following new paragraph (2):

"(2) who may be separated under section 12687 of this title by reason of a sentence to confinement adjudged by a court-martial; or".

SEC. 564. LIMITATIONS ON REDUCTIONS IN MEDICAL PERSONNEL.

(a) IN GENERAL.—(1) Chapter 3 of title 10, United States Code, is amended by inserting after section 129b the following new section:

"§ 129c. Medical personnel: limitations on reductions

"(a) LIMITATION ON REDUCTION.—For any fiscal year, the Secretary of Defense may not make a reduction in the number of medical personnel of the Department of Defense described in subsection (b) unless the Secretary makes a certification for that fiscal year described in subsection (c).

"(b) COVERED REDUCTIONS.—Subsection (a) applies to a reduction in the number of medical personnel of the Department of Defense as of the end of a fiscal year to a number that is less than—

"(1) 95 percent of the number of such personnel at the end of the immediately preceding fiscal year; or

"(2) 90 percent of the number of such personnel at the end of the third fiscal year preceding the fiscal year.

"(c) CERTIFICATION.—A certification referred to in subsection (a) with respect to reductions in medical personnel of the Department of Defense for any fiscal year is a certification by the Secretary of Defense to Congress that—

"(1) the number of medical personnel being reduced is excess to the current and projected needs of the Department of Defense; and

"(2) such reduction will not result in an increase in the cost of health care services provided under the Civilian Health and Medical Program of the Uniformed Services under chapter 55 of this title.

"(d) POLICY FOR IMPLEMENTING REDUCTIONS.—Whenever the Secretary of Defense directs that there be a reduction in the total number of military medical personnel of the Department of Defense, the Secretary shall require that the reduction be carried out so as to ensure that the reduction is not exclusively or disproportionately borne by any one of the armed forces and is not exclusively or disproportionately borne by either the active or the reserve components.

"(e) DEFINITION.—In this section, the term 'medical personnel' means—

"(1) the members of the armed forces covered by the term 'medical personnel' as defined in section 115a(g)(2) of this title; and

"(2) the civilian personnel of the Department of Defense assigned to military medical facilities.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 129b the following new item:

"129c. Medical personnel: limitations on reductions.".

10 USC 129c note.

(b) SPECIAL TRANSITION RULE FOR FISCAL YEAR 1996.—For purposes of applying subsection (b)(1) of section 129c of title 10, United States Code, as added by subsection (a), during fiscal year 1996, the number against which the percentage limitation of 95 percent is computed shall be the number of medical personnel of the Department of Defense as of the end of fiscal year 1994 (rather than the number as of the end of fiscal year 1995).

(c) REPORT ON PLANNED REDUCTIONS.—(1) Not later than March 1, 1996, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a plan for the reduction

of the number of medical personnel of the Department of Defense over the five-year period beginning on October 1, 1996.

(2) The Secretary shall prepare the plan through the Assistant Secretary of Defense having responsibility for health affairs, who shall consult in the preparation of the plan with the Surgeon General of the Army, the Surgeon General of the Navy, and the Surgeon General of the Air Force.

(3) For purposes of this subsection, the term "medical personnel of the Department of Defense" shall have the meaning given the term "medical personnel" in section 129c(e) of title 10, United States Code, as added by subsection (a).

(d) REPEAL OF SUPERSEDED PROVISIONS OF LAW.—The following provisions of law are repealed:

(1) Section 711 of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 115 note).

(2) Subsection (b) of section 718 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 10 U.S.C. 115 note).

(3) Section 518 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 10 U.S.C. 12001 note).

SEC. 565. SENSE OF CONGRESS CONCERNING PERSONNEL TEMPO RATES.

(a) FINDINGS.—Congress makes the following findings:

(1) Excessively high personnel tempo rates for members of the Armed Forces resulting from high-tempo unit operations degrades unit readiness and morale and eventually can be expected to adversely affect unit retention.

(2) The Armed Forces have begun to develop methods to measure and manage personnel tempo rates.

(3) The Armed Forces have attempted to reduce operations and personnel tempo for heavily tasked units by employing alternative capabilities and reducing tasking requirements.

(b) SENSE OF CONGRESS.—The Secretary of Defense should continue to enhance the knowledge within the Armed Forces of personnel tempo and to improve the techniques by which personnel tempo is defined and managed with a view toward establishing and achieving reasonable personnel tempo standards for all personnel, regardless of service, unit, or assignment.

SEC. 566. SEPARATION BENEFITS DURING FORCE REDUCTION FOR OFFICERS OF COMMISSIONED CORPS OF NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION.

(a) SEPARATION BENEFITS.—Subsection (a) of section 3 of the Act of August 10, 1956 (33 U.S.C. 857a), is amended by adding at the end the following new paragraph:

"(15) Section 1174a, special separation benefits (except that benefits under subsection (b)(2)(B) of such section are subject to the availability of appropriations for such purpose and are provided at the discretion of the Secretary of Commerce).".

(b) TECHNICAL CORRECTIONS.—Such section is further amended—

(1) by striking out "Coast and Geodetic Survey" in subsections (a) and (b) and inserting in lieu thereof "commissioned officer corps of the National Oceanic and Atmospheric Administration"; and

(2) in subsection (a), by striking out "including changes in those rules made after the effective date of this Act" in the matter preceding paragraph (1) and inserting in lieu thereof "as those provisions are in effect from time to time".

10 USC 1293 note.

(c) TEMPORARY EARLY RETIREMENT AUTHORITY.—Section 4403 (other than subsection (f)) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2702; 10 U.S.C. 1293 note) shall apply to the commissioned officer corps of the National Oceanic and Atmospheric Administration in the same manner and to the same extent as that section applies to the Department of Defense. The Secretary of Commerce shall implement the provisions of that section with respect to such commissioned officer corps and shall apply the provisions of that section to the provisions of the Coast and Geodetic Survey Commissioned Officers' Act of 1948 relating to the retirement of members of such commissioned officer corps.

33 USC 857a note.

(d) EFFECTIVE DATE.—This section shall apply only to members of the commissioned officer corps of the National Oceanic and Atmospheric Administration who are separated after September 30, 1995.

SEC. 567. DISCHARGE OF MEMBERS OF THE ARMED FORCES WHO HAVE THE HIV-1 VIRUS.

(a) IN GENERAL.—(1) Section 1177 of title 10, United States Code, is amended to read as follows:

"§ 1177. Members infected with HIV-1 virus: mandatory discharge or retirement

"(a) MANDATORY SEPARATION.—A member of the armed forces who is HIV-positive shall be separated. Such separation shall be made on a date determined by the Secretary concerned, which shall be as soon as practicable after the date on which the determination is made that the member is HIV-positive and not later than the last day of the sixth month beginning after such date.

"(b) FORM OF SEPARATION.—If a member to be separated under this section is eligible to retire under any provision of law or to be transferred to the Fleet Reserve or Fleet Marine Corps Reserve, the member shall be so retired or so transferred. Otherwise, the member shall be discharged. The characterization of the service of the member shall be determined without regard to the determination that the member is HIV-positive.

"(c) DEFERRAL OF SEPARATION FOR MEMBERS IN 18-YEAR RETIREMENT SANCTUARY.—In the case of a member to be discharged under this section who on the date on which the member is to be discharged is within two years of qualifying for retirement under any provision of law, or of qualifying for transfer to the Fleet Reserve or Fleet Marine Corps Reserve under section 6330 of this title, the member may, as determined by the Secretary concerned, be retained on active duty until the member is qualified for retirement or transfer to the Fleet Reserve or Fleet Marine Corps Reserve, as the case may be, and then be so retired or transferred, unless the member is sooner retired or discharged under any other provision of law.

"(d) SEPARATION TO BE CONSIDERED INVOLUNTARY.—A separation under this section shall be considered to be an involuntary separation for purposes of any other provision of law.

"(e) ENTITLEMENT TO HEALTH CARE.—A member separated under this section shall be entitled to medical and dental care under chapter 55 of this title to the same extent and under the same conditions as a person who is entitled to such care under section 1074(b) of this title.

"(f) COUNSELING ABOUT AVAILABLE MEDICAL CARE.—A member to be separated under this section shall be provided information, in writing, before such separation of the available medical care (through the Department of Veterans Affairs and otherwise) to treat the member's condition. Such information shall include identification of specific medical locations near the member's home of record or point of discharge at which the member may seek necessary medical care.

"(g) HIV-POSITIVE MEMBERS.—A member shall be considered to be HIV-positive for purposes of this section if there is serologic evidence that the member is infected with the virus known as Human Immunodeficiency Virus–1 (HIV–1), the virus most commonly associated with the acquired immune deficiency syndrome (AIDS) in the United States. Such serologic evidence shall be considered to exist if there is a reactive result given by an enzyme-linked immunosorbent assay (ELISA) serologic test that is confirmed by a reactive and diagnostic immunoelectrophoresis test (Western blot) on two separate samples. Any such serologic test must be one that is approved by the Food and Drug Administration.".

(2) The item relating to such section in the table of sections at the beginning of chapter 59 of such title is amended to read as follows:

"1177. Members infected with HIV–1 virus: mandatory discharge or retirement.".

(b) EFFECTIVE DATE.—Section 1177 of title 10, United States Code, as amended by subsection (a), applies with respect to members of the Armed Forces determined to be HIV-positive before, on, or after the date of the enactment of this Act. In the case of a member of the Armed Forces determined to be HIV-positive before such date, the deadline for separation of the member under subsection (a) of such section, as so amended, shall be determined from the date of the enactment of this Act (rather than from the date of such determination). 10 USC 1177 note.

SEC. 568. REVISION AND CODIFICATION OF MILITARY FAMILY ACT AND MILITARY CHILD CARE ACT.

(a) IN GENERAL.—(1) Subtitle A of title 10, United States Code, is amended by inserting after chapter 87 the following new chapter:

"CHAPTER 88—MILITARY FAMILY PROGRAMS AND MILITARY CHILD CARE

"Subchapter Sec.
"I. Military Family Programs 1781
"II. Military Child Care 1791

"SUBCHAPTER I—MILITARY FAMILY PROGRAMS

"Sec.
"1781. Office of Family Policy.
"1782. Surveys of military families.
"1783. Family members serving on advisory committees.
"1784. Employment opportunities for military spouses.
"1785. Youth sponsorship program.

"1786. Dependent student travel within the United States.
"1787. Reporting of child abuse.

"§ 1781. Office of Family Policy

"(a) ESTABLISHMENT.—There is in the Office of the Secretary of Defense an Office of Family Policy (hereinafter in this section referred to as the 'Office'). The Office shall be under the Assistant Secretary of Defense for Force Management and Personnel.

"(b) DUTIES.—The Office—

"(1) shall coordinate programs and activities of the military departments to the extent that they relate to military families; and

"(2) shall make recommendations to the Secretaries of the military departments with respect to programs and policies regarding military families.

"(c) STAFF.—The Office shall have not less than five professional staff members.

"§ 1782. Surveys of military families

"(a) AUTHORITY.—The Secretary of Defense may conduct surveys of members of the armed forces on active duty or in an active status, members of the families of such members, and retired members of the armed forces to determine the effectiveness of Federal programs relating to military families and the need for new programs.

"(b) RESPONSES TO BE VOLUNTARY.—Responses to surveys conducted under this section shall be voluntary.

"(c) FEDERAL RECORDKEEPING REQUIREMENTS.—With respect to such surveys, family members of members of the armed forces and reserve and retired members of the armed forces shall be considered to be employees of the United States for purposes of section 3502(3)(A)(i) of title 44.

"§ 1783. Family members serving on advisory committees

"A committee within the Department of Defense which advises or assists the Department in the performance of any function which affects members of military families and which includes members of military families in its membership shall not be considered an advisory committee under section 3(2) of the Federal Advisory Committee Act (5 U.S.C. App.) solely because of such membership.

"§ 1784. Employment opportunities for military spouses

President.

"(a) AUTHORITY.—The President shall order such measures as the President considers necessary to increase employment opportunities for spouses of members of the armed forces. Such measures may include—

"(1) excepting, pursuant to section 3302 of title 5, from the competitive service positions in the Department of Defense located outside of the United States to provide employment opportunities for qualified spouses of members of the armed forces in the same geographical area as the permanent duty station of the members; and

"(2) providing preference in hiring for positions in nonappropriated fund activities to qualified spouses of members of the armed forces stationed in the same geographical area as the nonappropriated fund activity for positions in wage grade UA–8 and below and equivalent positions and for positions paid at hourly rates.

"(b) REGULATIONS.—The Secretary of Defense shall prescribe regulations—

"(1) to implement such measures as the President orders under subsection (a);

"(2) to provide preference to qualified spouses of members of the armed forces in hiring for any civilian position in the Department of Defense if the spouse is among persons determined to be best qualified for the position and if the position is located in the same geographical area as the permanent duty station of the member;

"(3) to ensure that notice of any vacant position in the Department of Defense is provided in a manner reasonably designed to reach spouses of members of the armed forces whose permanent duty stations are in the same geographic area as the area in which the position is located; and

"(4) to ensure that the spouse of a member of the armed forces who applies for a vacant position in the Department of Defense shall, to the extent practicable, be considered for any such position located in the same geographic area as the permanent duty station of the member.

"(c) STATUS OF PREFERENCE ELIGIBLES.—Nothing in this section shall be construed to provide a spouse of a member of the armed forces with preference in hiring over an individual who is a preference eligible.

"§ 1785. Youth sponsorship program

"(a) REQUIREMENT.—The Secretary of Defense shall require that there be at each military installation a youth sponsorship program to facilitate the integration of dependent children of members of the armed forces into new surroundings when moving to that military installation as a result of a parent's permanent change of station.

"(b) DESCRIPTION OF PROGRAMS.—The program at each installation shall provide for involvement of dependent children of members presently stationed at the military installation and shall be directed primarily toward children in their preteen and teenage years.

"§ 1786. Dependent student travel within the United States

"Funds available to the Department of Defense for the travel and transportation of dependent students of members of the armed forces stationed overseas may be obligated for transportation allowances for travel within or between the contiguous States.

"§ 1787. Reporting of child abuse

"(a) IN GENERAL.—The Secretary of Defense shall request each State to provide for the reporting to the Secretary of any report the State receives of known or suspected instances of child abuse and neglect in which the person having care of the child is a member of the armed forces (or the spouse of the member).

"(b) DEFINITION.—In this section, the term 'child abuse and neglect' has the meaning provided in section 3(1) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5102).

"SUBCHAPTER II—MILITARY CHILD CARE

"Sec.
"1791. Funding for military child care.
"1792. Child care employees.

"1793. Parent fees.
"1794. Child abuse prevention and safety at facilities.
"1795. Parent partnerships with child development centers.
"1796. Subsidies for family home day care.
"1797. Early childhood education program.
"1798. Definitions.

"§ 1791. Funding for military child care

"It is the policy of Congress that the amount of appropriated funds available during a fiscal year for operating expenses for military child development centers and programs shall be not less than the amount of child care fee receipts that are estimated to be received by the Department of Defense during that fiscal year.

"§ 1792. Child care employees

Regulations.

"(a) REQUIRED TRAINING.—(1) The Secretary of Defense shall prescribe regulations implementing, a training program for child care employees. Those regulations shall apply uniformly among the military departments. Subject to paragraph (2), satisfactory completion of the training program shall be a condition of employment of any person as a child care employee.

"(2) Under those regulations, the Secretary shall require that each child care employee complete the training program not later than six months after the date on which the employee is employed as a child care employee.

"(3) The training program established under this subsection shall cover, at a minimum, training in the following:

"(A) Early childhood development.

"(B) Activities and disciplinary techniques appropriate to children of different ages.

"(C) Child abuse prevention and detection.

"(D) Cardiopulmonary resuscitation and other emergency medical procedures.

"(b) TRAINING AND CURRICULUM SPECIALISTS.—(1) The Secretary of Defense shall require that at least one employee at each military child development center be a specialist in training and curriculum development. The Secretary shall ensure that such employees have appropriate credentials and experience.

"(2) The duties of such employees shall include the following:

"(A) Special teaching activities at the center.

"(B) Daily oversight and instruction of other child care employees at the center.

"(C) Daily assistance in the preparation of lesson plans.

"(D) Assistance in the center's child abuse prevention and detection program.

"(E) Advising the director of the center on the performance of other child care employees.

"(3) Each employee referred to in paragraph (1) shall be an employee in a competitive service position.

"(c) COMPETITIVE RATES OF PAY.—For the purpose of providing military child development centers with a qualified and stable civilian workforce, employees at a military installation who are directly involved in providing child care and are paid from nonappropriated funds—

"(1) in the case of entry-level employees, shall be paid at rates of pay competitive with the rates of pay paid to other entry-level employees at that installation who are drawn from the same labor pool; and

"(2) in the case of other employees, shall be paid at rates of pay substantially equivalent to the rates of pay paid to other employees at that installation with similar training, seniority, and experience.

"(d) EMPLOYMENT PREFERENCE PROGRAM FOR MILITARY SPOUSES.—(1) The Secretary of Defense shall conduct a program under which qualified spouses of members of the armed forces shall be given a preference in hiring for the position of child care employee in a position paid from nonappropriated funds if the spouse is among persons determined to be best qualified for the position.

"(2) A spouse who is provided a preference under this subsection at a military child development center may not be precluded from obtaining another preference, in accordance with section 1794 of this title, in the same geographic area as the military child development center.

"(e) COMPETITIVE SERVICE POSITION DEFINED.—In this section, the term 'competitive service position' means a position in the competitive service, as defined in section 2102(a)(1) of title 5.

"§ 1793. Parent fees

"(a) IN GENERAL.—The Secretary of Defense shall prescribe regulations establishing fees to be charged parents for the attendance of children at military child development centers. Those regulations shall be uniform for the military departments and shall require that, in the case of children who attend the centers on a regular basis, the fees shall be based on family income. Regulations.

"(b) LOCAL WAIVER AUTHORITY.—The Secretary of Defense may provide authority to installation commanders, on a case-by-case basis, to establish fees for attendance of children at child development centers at rates lower than those prescribed under subsection (a) if the rates prescribed under subsection (a) are not competitive with rates at local non-military child development centers.

"§ 1794. Child abuse prevention and safety at facilities

"(a) CHILD ABUSE TASK FORCE.—The Secretary of Defense shall maintain a special task force to respond to allegations of widespread child abuse at a military installation. The task force shall be composed of personnel from appropriate disciplines, including, where appropriate, medicine, psychology, and childhood development. In the case of such allegations, the task force shall provide assistance to the commander of the installation, and to parents at the installation, in helping them to deal with such allegations.

"(b) NATIONAL HOTLINE.—(1) The Secretary of Defense shall maintain a national telephone number for persons to use to report suspected child abuse or safety violations at a military child development center or family home day care site. The Secretary shall ensure that such reports may be made anonymously if so desired by the person making the report. The Secretary shall establish procedures for following up on complaints and information received over that number.

"(2) The Secretary shall publicize the existence of the number. Public information.

"(c) ASSISTANCE FROM LOCAL AUTHORITIES.—The Secretary of Defense shall prescribe regulations requiring that, in a case of allegations of child abuse at a military child development center or family home day care site, the commander of the military installation or the head of the task force established under sub- Regulations.

section (a) shall seek the assistance of local child protective authorities if such assistance is available.

"(d) SAFETY REGULATIONS.—The Secretary of Defense shall prescribe regulations on safety and operating procedures at military child development centers. Those regulations shall apply uniformly among the military departments.

"(e) INSPECTIONS.—The Secretary of Defense shall require that each military child development center be inspected not less often than four times a year. Each such inspection shall be unannounced. At least one inspection a year shall be carried out by a representative of the installation served by the center, and one inspection a year shall be carried out by a representative of the major command under which that installation operates.

"(f) REMEDIES FOR VIOLATIONS.—(1) Except as provided in paragraph (2), any violation of a safety, health, or child welfare law or regulation (discovered at an inspection or otherwise) at a military child development center shall be remedied immediately.

"(2) In the case of a violation that is not life threatening, the commander of the major command under which the installation concerned operates may waive the requirement that the violation be remedied immediately for a period of up to 90 days beginning on the date of the discovery of the violation. If the violation is not remedied as of the end of that 90-day period, the military child development center shall be closed until the violation is remedied. The Secretary of the military department concerned may waive the preceding sentence and authorize the center to remain open in a case in which the violation cannot reasonably be remedied within that 90-day period or in which major facility reconstruction is required.

"§ 1795. Parent partnerships with child development centers

"(a) PARENT BOARDS.—The Secretary of Defense shall require that there be established at each military child development center a board of parents, to be composed of parents of children attending the center. The board shall meet periodically with staff of the center and the commander of the installation served by the center for the purpose of discussing problems and concerns. The board, together with the staff of the center, shall be responsible for coordinating the parent participation program described in subsection (b).

"(b) PARENT PARTICIPATION PROGRAMS.—The Secretary of Defense shall require the establishment of a parent participation program at each military child development center. As part of such program, the Secretary of Defense may establish fees for attendance of children at such a center, in the case of parents who participate in the parent participation program at that center, at rates lower than the rates that otherwise apply.

"§ 1796. Subsidies for family home day care

"The Secretary of Defense may use appropriated funds available for military child care purposes to provide assistance to family home day care providers so that family home day care services can be provided to members of the armed forces at a cost comparable to the cost of services provided by military child development centers. The Secretary shall prescribe regulations for the provision of such assistance.

Regulations.

"§ 1797. Early childhood education program

"The Secretary of Defense shall require that all military child development centers meet standards of operation necessary for accreditation by an appropriate national early childhood programs accrediting body.

"§ 1798. Definitions

"In this subchapter:

"(1) The term 'military child development center' means a facility on a military installation (or on property under the jurisdiction of the commander of a military installation) at which child care services are provided for members of the armed forces or any other facility at which such child care services are provided that is operated by the Secretary of a military department.

"(2) The term 'family home day care' means home-based child care services that are provided for members of the armed forces by an individual who (A) is certified by the Secretary of the military department concerned as qualified to provide those services, and (B) provides those services on a regular basis for compensation.

"(3) The term 'child care employee' means a civilian employee of the Department of Defense who is employed to work in a military child development center (regardless of whether the employee is paid from appropriated funds or nonappropriated funds).

"(4) The term 'child care fee receipts' means those nonappropriated funds that are derived from fees paid by members of the armed forces for child care services provided at military child development centers.".

(2) The tables of chapters at the beginning of subtitle A, and at the beginning of part II of subtitle A, of title 10, United States Code, are amended by inserting after the item relating to chapter 87 the following new item:

"88. Military Family Programs and Military Child Care ..... 1781".

(b) REPORT ON FIVE-YEAR DEMAND FOR CHILD CARE.—(1) Not later than the date of the submission of the budget for fiscal year 1997 pursuant to section 1105 of title 31, United States Code, the Secretary of Defense shall submit to Congress a report on the expected demand for child care by military and civilian personnel of the Department of Defense during fiscal years 1997 through 2001.

(2) The report shall include—

(A) a plan for meeting the expected child care demand identified in the report; and

(B) an estimate of the cost of implementing that plan.

(3) The report shall also include a description of methods for monitoring family home day care programs of the military departments.

(c) PLAN FOR IMPLEMENTATION OF ACCREDITATION REQUIREMENT.—The Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a plan for carrying out the requirements of section 1787 of title 10, United States Code, as added by subsection (a). The plan shall be submitted not later than April 1, 1997. 10 USC 1787 note.

10 USC 1784 note.

(d) CONTINUATION OF DELEGATION OF AUTHORITY WITH RESPECT TO HIRING PREFERENCE FOR QUALIFIED MILITARY SPOUSES.—The provisions of Executive Order No. 12568, issued October 2, 1986 (10 U.S.C. 113 note), shall apply as if the reference in that Executive order to section 806(a)(2) of the Department of Defense Authorization Act of 1986 refers to section 1784 of title 10, United States Code, as added by subsection (a).

(e) REPEALER.—The following provisions of law are repealed:

(1) The Military Family Act of 1985 (title VIII of Public Law 99–145; 10 U.S.C. 113 note).

(2) The Military Child Care Act of 1989 (title XV of Public Law 101–189; 10 U.S.C. 113 note).

10 USC 1501 note.

SEC. 569. DETERMINATION OF WHEREABOUTS AND STATUS OF MISSING PERSONS.

(a) PURPOSE.—The purpose of this section is to ensure that any member of the Armed Forces (and any Department of Defense civilian employee or contractor employee who serves with or accompanies the Armed Forces in the field under orders) who becomes missing or unaccounted for is ultimately accounted for by the United States and, as a general rule, is not declared dead solely because of the passage of time.

(b) IN GENERAL.—(1) Part II of subtitle A of title 10, United States Code, is amended by inserting after chapter 75 the following new chapter:

"CHAPTER 76—MISSING PERSONS

"Sec.
"1501. System for accounting for missing persons.
"1502. Missing persons: initial report.
"1503. Actions of Secretary concerned; initial board inquiry.
"1504. Subsequent board of inquiry.
"1505. Further review.
"1506. Personnel files.
"1507. Recommendation of status of death.
"1508. Judicial review.
"1509. Preenactment, special interest cases.
"1510. Applicability to Coast Guard.
"1511. Return alive of person declared missing or dead.
"1512. Effect on State law.
"1513. Definitions.

"§ 1501. System for accounting for missing persons

Establishment.

"(a) OFFICE FOR MISSING PERSONNEL.—(1) The Secretary of Defense shall establish within the Office of the Secretary of Defense an office to have responsibility for Department of Defense policy relating to missing persons. Subject to the authority, direction, and control of the Secretary of Defense, the responsibilities of the office shall include—

"(A) policy, control, and oversight within the Department of Defense of the entire process for investigation and recovery related to missing persons (including matters related to search, rescue, escape, and evasion); and

"(B) coordination for the Department of Defense with other departments and agencies of the United States on all matters concerning missing persons.

"(2) In carrying out the responsibilities of the office established under this subsection, the head of the office shall be responsible for the coordination for such purposes within the Department of

Defense among the military departments, the Joint Staff, and the commanders of the combatant commands.

"(3) The office shall establish policies, which shall apply uniformly throughout the Department of Defense, for personnel recovery (including search, rescue, escape, and evasion).

"(4) The office shall establish procedures to be followed by Department of Defense boards of inquiry, and by officials reviewing the reports of such boards, under this chapter.

"(b) UNIFORM DOD PROCEDURES.—(1) The Secretary of Defense shall prescribe procedures, to apply uniformly throughout the Department of Defense, for—

"(A) the determination of the status of persons described in subsection (c); and

"(B) for the systematic, comprehensive, and timely collection, analysis, review, dissemination, and periodic update of information related to such persons.

"(2) Such procedures may provide for the delegation by the Secretary of Defense of any responsibility of the Secretary under this chapter to the Secretary of a military department.

"(3) Such procedures shall be prescribed in a single directive applicable to all elements of the Department of Defense.

"(4) As part of such procedures, the Secretary may provide for the extension, on a case-by-case basis, of any time limit specified in section 1502, 1503, or 1504 of this title. Any such extension may not be for a period in excess of the period with respect to which the extension is provided. Subsequent extensions may be provided on the same basis.

"(c) COVERED PERSONS.—Section 1502 of this title applies in the case of the following persons:

"(1) Any member of the armed forces on active duty who becomes involuntarily absent as a result of a hostile action, or under circumstances suggesting that the involuntary absence is a result of a hostile action, and whose status is undetermined or who is unaccounted for.

"(2) Any civilian employee of the Department of Defense, and any employee of a contractor of the Department of Defense, who serves with or accompanies the armed forces in the field under orders who becomes involuntarily absent as a result of a hostile action, or under circumstances suggesting that the involuntary absence is a result of a hostile action, and whose status is undetermined or who is unaccounted for.

"(d) PRIMARY NEXT OF KIN.—The individual who is primary next of kin of any person prescribed in subsection (c) may for purposes of this chapter designate another individual to act on behalf of that individual as primary next of kin. The Secretary concerned shall treat an individual so designated as if the individual designated were the primary next of kin for purposes of this chapter. A designation under this subsection may be revoked at any time by the person who made the designation.

"(e) TERMINATION OF APPLICABILITY OF PROCEDURES WHEN MISSING PERSON IS ACCOUNTED FOR.—The provisions of this chapter relating to boards of inquiry and to the actions by the Secretary concerned on the reports of those boards shall cease to apply in the case of a missing person upon the person becoming accounted for or otherwise being determined to be in a status other than missing.

"(f) SECRETARY CONCERNED.—In this chapter, the term 'Secretary concerned' includes, in the case of a civilian employee of the Department of Defense or contractor of the Department of Defense, the Secretary of the military department or head of the element of the Department of Defense employing the employee or contracting with the contractor, as the case may be.

"§ 1502. Missing persons: initial report

"(a) PRELIMINARY ASSESSMENT AND RECOMMENDATION BY COMMANDER.—After receiving information that the whereabouts and status of a person described in section 1501(c) of this title is uncertain and that the absence of the person may be involuntary, the commander of the unit, facility, or area to or in which the person is assigned shall make a preliminary assessment of the circumstances. If, as a result of that assessment, the commander concludes that the person is missing, the commander shall—

"(1) recommend that the person be placed in a missing status; and

"(2) not later than 48 hours after receiving such information, transmit a report containing that recommendation to the theater component commander with jurisdiction over the missing person in accordance with procedures prescribed under section 1501(b) of this title.

"(b) TRANSMISSION THROUGH THEATER COMPONENT COMMANDER.—Upon reviewing a report under subsection (a) recommending that a person be placed in a missing status, the theater component commander shall ensure that all necessary actions are being taken, and all appropriate assets are being used, to resolve the status of the missing person. Not later than 14 days after receiving the report, the theater component commander shall forward the report to the Secretary of Defense or the Secretary concerned in accordance with procedures prescribed under section 1501(b) of this title. The theater component commander shall include with such report a certification that all necessary actions are being taken, and all appropriate assets are being used, to resolve the status of the missing person.

"(c) SAFEGUARDING AND FORWARDING OF RECORDS.—A commander making a preliminary assessment under subsection (a) with respect to a missing person shall (in accordance with procedures prescribed under section 1501 of this title) safeguard and forward for official use any information relating to the whereabouts and status of the missing person that results from the preliminary assessment or from actions taken to locate the person. The theater component commander through whom the report with respect to the missing person is transmitted under subsection (b) shall ensure that all pertinent information relating to the whereabouts and status of the missing person that results from the preliminary assessment or from actions taken to locate the person is properly safeguarded to avoid loss, damage, or modification.

"§ 1503. Actions of Secretary concerned; initial board inquiry

"(a) DETERMINATION BY SECRETARY.—Upon receiving a recommendation under section 1502(b) of this title that a person be placed in a missing status, the Secretary receiving the recommendation shall review the recommendation and, not later than 10 days after receiving such recommendation, shall appoint a board under

this section to conduct an inquiry into the whereabouts and status of the person.

"(b) INQUIRIES INVOLVING MORE THAN ONE MISSING PERSON.—If it appears to the Secretary who appoints a board under this section that the absence or missing status of two or more persons is factually related, the Secretary may appoint a single board under this section to conduct the inquiry into the whereabouts and status of all such persons.

"(c) COMPOSITION.—(1) A board appointed under this section to inquire into the whereabouts and status of a person shall consist of at least one individual described in paragraph (2) who has experience with and understanding of military operations or activities similar to the operation or activity in which the person disappeared.

"(2) An individual referred to in paragraph (1) is the following:

"(A) A military officer, in the case of an inquiry with respect to a member of the armed forces.

"(B) A civilian, in the case of an inquiry with respect to a civilian employee of the Department of Defense or of a contractor of the Department of Defense.

"(3) An individual may be appointed as a member of a board under this section only if the individual has a security clearance that affords the individual access to all information relating to the whereabouts and status of the missing persons covered by the inquiry.

"(4) A Secretary appointing a board under this subsection shall, for purposes of providing legal counsel to the board, assign to the board a judge advocate, or appoint to the board an attorney, who has expertise in the law relating to missing persons, the determination of death of such persons, and the rights of family members and dependents of such persons.

"(d) DUTIES OF BOARD.—A board appointed to conduct an inquiry into the whereabouts and status of a missing person under this section shall—

"(1) collect, develop, and investigate all facts and evidence relating to the disappearance or whereabouts and status of the person;

"(2) collect appropriate documentation of the facts and evidence covered by the board's investigation;

"(3) analyze the facts and evidence, make findings based on that analysis, and draw conclusions as to the current whereabouts and status of the person; and

"(4) with respect to each person covered by the inquiry, recommend to the Secretary who appointed the board that—

"(A) the person be placed in a missing status; or

"(B) the person be declared to have deserted, to be absent without leave, or (subject to the requirements of section 1507 of this title) to be dead.

"(e) BOARD PROCEEDINGS.—During the proceedings of an inquiry under this section, a board shall—

"(1) collect, record, and safeguard all facts, documents, statements, photographs, tapes, messages, maps, sketches, reports, and other information (whether classified or unclassified) relating to the whereabouts and status of each person covered by the inquiry;

"(2) gather information relating to actions taken to find the person, including any evidence of the whereabouts and status of the person arising from such actions; and

Records. "(3) maintain a record of its proceedings.

"(f) COUNSEL FOR MISSING PERSON.—(1) The Secretary appointing a board to conduct an inquiry under this section shall appoint counsel to represent each person covered by the inquiry or, in a case covered by subsection (b), one counsel to represent all persons covered by the inquiry. Counsel appointed under this paragraph may be referred to as 'missing person's counsel' and represents the interests of the person covered by the inquiry (and not any member of the person's family or other interested parties).

"(2) To be appointed as a missing person's counsel, a person must—

"(A) have the qualifications specified in section 827(b) of this title (article 27(b) of the Uniform Code of Military Justice) for trial counsel or defense counsel detailed for a general court-martial;

"(B) have a security clearance that affords the counsel access to all information relating to the whereabouts and status of the person or persons covered by the inquiry; and

"(C) have expertise in the law relating to missing persons, the determination of the death of such persons, and the rights of family members and dependents of such persons.

"(3) A missing person's counsel—

"(A) shall have access to all facts and evidence considered by the board during the proceedings under the inquiry for which the counsel is appointed;

"(B) shall observe all official activities of the board during such proceedings;

"(C) may question witnesses before the board; and

"(D) shall monitor the deliberations of the board.

"(4) A missing person's counsel shall assist the board in ensuring that all appropriate information concerning the case is collected, logged, filed, and safeguarded.

"(5) A missing person's counsel shall review the report of the board under subsection (h) and submit to the Secretary concerned who appointed the board an independent review of that report. That review shall be made an official part of the record of the board.

"(g) ACCESS TO PROCEEDINGS.—The proceedings of a board during an inquiry under this section shall be closed to the public (including, with respect to the person covered by the inquiry, the primary next of kin, other members of the immediate family, and any other previously designated person of the person).

"(h) REPORT.—(1) A board appointed under this section shall submit to the Secretary who appointed the board a report on the inquiry carried out by the board. The report shall include—

"(A) a discussion of the facts and evidence considered by the board in the inquiry;

"(B) the recommendation of the board under subsection (d) with respect to each person covered by the report; and

"(C) disclosure of whether classified documents and information were reviewed by the board or were otherwise used by the board in forming recommendations under subparagraph (B).

"(2) A board shall submit a report under this subsection with respect to the inquiry carried out by the board not later than 30 days after the date of the appointment of the board to carry out the inquiry. The report may include a classified annex.

"(3) The Secretary of Defense shall prescribe procedures for the release of a report submitted under this subsection with respect to a missing person. Such procedures shall provide that the report may not be made public (except as provided for in subsection (j)) until one year after the date on which the report is submitted.

"(i) DETERMINATION BY SECRETARY.—(1) Not later than 30 days after receiving a report from a board under subsection (h), the Secretary receiving the report shall review the report.

"(2) In reviewing a report under paragraph (1), the Secretary shall determine whether or not the report is complete and free of administrative error. If the Secretary determines that the report is incomplete, or that the report is not free of administrative error, the Secretary may return the report to the board for further action on the report by the board.

"(3) Upon a determination by the Secretary that a report reviewed under this subsection is complete and free of administrative error, the Secretary shall make a determination concerning the status of each person covered by the report, including whether the person shall—

"(A) be declared to be missing;

"(B) be declared to have deserted;

"(C) be declared to be absent without leave; or

"(D) be declared to be dead.

"(j) REPORT TO FAMILY MEMBERS AND OTHER INTERESTED PERSONS.—Not later than 30 days after the date on which the Secretary concerned makes a determination of the status of a person under subsection (i), the Secretary shall take reasonable actions to—

"(1) provide to the primary next of kin, the other members of the immediate family, and any other previously designated person of the person—

"(A) an unclassified summary of the unit commander's report with respect to the person under section 1502(a) of this title; and

"(B) the report of the board (including the names of the members of the board) under subsection (h); and

"(2) inform each individual referred to in paragraph (1) that the United States will conduct a subsequent inquiry into the whereabouts and status of the person on or about one year after the date of the first official notice of the disappearance of the person, unless information becomes available sooner that may result in a change in status of the person.

"(k) TREATMENT OF DETERMINATION.—Any determination of the status of a missing person under subsection (i) shall be treated as the determination of the status of the person by all departments and agencies of the United States.

"§ 1504. Subsequent board of inquiry

"(a) ADDITIONAL BOARD.—If information that may result in a change of status of a person covered by a determination under section 1503(i) of this title becomes available within one year after the date of the transmission of a report with respect to the person under section 1502(a)(2) of this title, the Secretary concerned shall

appoint a board under this section to conduct an inquiry into the information.

"(b) DATE OF APPOINTMENT.—The Secretary concerned shall appoint a board under this section to conduct an inquiry into the whereabouts and status of a missing person on or about one year after the date of the transmission of a report concerning the person under section 1502(a)(2) of this title.

"(c) COMBINED INQUIRIES.—If it appears to the Secretary concerned that the absence or status of two or more persons is factually related, the Secretary may appoint one board under this section to conduct the inquiry into the whereabouts and status of such persons.

"(d) COMPOSITION.—(1) A board appointed under this section shall be composed of at least three members as follows:

"(A) In the case of a board that will inquire into the whereabouts and status of one or more members of the armed forces (and no civilians described in subparagraph (B)), the board shall be composed of officers having the grade of major or lieutenant commander or above.

"(B) In the case of a board that will inquire into the whereabouts and status of one or more civilian employees of the Department of Defense or contractors of the Department of Defense (and no members of the armed forces), the board shall be composed of—

"(i) not less than three employees of the Department of Defense whose rate of annual pay is equal to or greater than the rate of annual pay payable for grade GS–13 of the General Schedule under section 5332 of title 5; and

"(ii) such members of the armed forces as the Secretary considers advisable.

"(C) In the case of a board that will inquire into the whereabouts and status of both one or more members of the armed forces and one or more civilians described in subparagraph (B)—

"(i) the board shall include at least one officer described in subparagraph (A) and at least one employee of the Department of Defense described in subparagraph (B)(i); and

"(ii) the ratio of such officers to such employees on the board shall be roughly proportional to the ratio of the number of members of the armed forces who are subjects of the board's inquiry to the number of civilians who are subjects of the board's inquiry.

"(2) The Secretary concerned shall designate one member of a board appointed under this section as president of the board. The president of the board shall have a security clearance that affords the president access to all information relating to the whereabouts and status of each person covered by the inquiry.

"(3) One member of each board appointed under this subsection shall be an individual who—

"(A) has an occupational specialty similar to that of one or more of the persons covered by the inquiry; and

"(B) has an understanding of and expertise in the type of official activities that one or more such persons were engaged in at the time such person or persons disappeared.

"(4) The Secretary who appoints a board under this subsection shall, for purposes of providing legal counsel to the board, assign to the board a judge advocate, or appoint to the board an attorney, with the same qualifications as specified in section 1503(c)(4) of this title.

"(e) DUTIES OF BOARD.—A board appointed under this section to conduct an inquiry into the whereabouts and status of a person shall—

"(1) review the reports with respect to the person transmitted under section 1502(a)(2) of this title and submitted under section 1503(h) of this title;

"(2) collect and evaluate any document, fact, or other evidence with respect to the whereabouts and status of the person that has become available since the determination of the status of the person under section 1503 of this title;

"(3) draw conclusions as to the whereabouts and status of the person;

"(4) determine on the basis of the activities under paragraphs (1) and (2) whether the status of the person should be continued or changed; and

"(5) submit to the Secretary concerned a report describing the findings and conclusions of the board, together with a recommendation for a determination by the Secretary concerning the whereabouts and status of the person. Reports.

"(f) COUNSEL FOR MISSING PERSONS.—(1) When the Secretary concerned appoints a board to conduct an inquiry under this section, the Secretary shall appoint counsel to represent each person covered by the inquiry.

"(2) A person appointed as counsel under this subsection shall meet the qualifications and have the duties set forth in section 1503(f) of this title for a missing person's counsel appointed under that section.

"(3) The review of the report of a board on an inquiry that is submitted by such counsel shall be made an official part of the record of the board with respect to the inquiry.

"(g) ATTENDANCE OF FAMILY MEMBERS AND CERTAIN OTHER INTERESTED PERSONS AT PROCEEDINGS.—(1) With respect to any person covered by an inquiry under this section, the primary next of kin, other members of the immediate family, and any other previously designated person of the person may attend the proceedings of the board during the inquiry.

"(2) The Secretary concerned shall take reasonable actions to notify each individual referred to in paragraph (1) of the opportunity to attend the proceedings of a board. Such notice shall be provided not less than 60 days before the first meeting of the board.

"(3) An individual who receives notice under paragraph (2) shall notify the Secretary of the intent, if any, of that individual to attend the proceedings of the board not later than 21 days after the date on which the individual receives the notice.

"(4) Each individual who notifies the Secretary under paragraph (3) of the individual's intent to attend the proceedings of the board—

"(A) in the case of an individual who is the primary next of kin or the previously designated person, may attend the proceedings of the board with private counsel;

"(B) shall have access to the personnel file of the missing person, to unclassified reports, if any, of the board appointed under section 1503 of this title to conduct the inquiry into

the whereabouts and status of the person, and to any other unclassified information or documents relating to the whereabouts and status of the person;

"(C) shall be afforded the opportunity to present information at the proceedings of the board that such individual considers to be relevant to those proceedings; and

"(D) subject to paragraph (5), shall be given the opportunity to submit in writing an objection to any recommendation of the board under subsection (i) as to the status of the missing person.

"(5)(A) Individuals who wish to file objections under paragraph (4)(D) to any recommendation of the board shall—

"(i) submit a letter of intent to the president of the board not later than 15 days after the date on which the recommendations are made; and

"(ii) submit to the president of the board the objections in writing not later than 30 days after the date on which the recommendations are made.

"(B) The president of a board shall include any objections to a recommendation of the board that are submitted to the president of the board under subparagraph (A) in the report of the board containing the recommendation under subsection (i).

"(6) An individual referred to in paragraph (1) who attends the proceedings of a board under this subsection shall not be entitled to reimbursement by the United States for any costs (including travel, lodging, meals, local transportation, legal fees, transcription costs, witness expenses, and other expenses) incurred by that individual in attending such proceedings.

Classified information.

"(h) AVAILABILITY OF INFORMATION TO BOARDS.—(1) In conducting proceedings in an inquiry under this section, a board may secure directly from any department or agency of the United States any information that the board considers necessary in order to conduct the proceedings.

"(2) Upon written request from the president of a board, the head of a department or agency of the United States shall release information covered by the request to the board. In releasing such information, the head of the department or agency shall—

"(A) declassify to an appropriate degree classified information; or

"(B) release the information in a manner not requiring the removal of markings indicating the classified nature of the information.

"(3)(A) If a request for information under paragraph (2) covers classified information that cannot be declassified, or if the classification markings cannot be removed before release from the information covered by the request, or if the material cannot be summarized in a manner that prevents the release of classified information, the classified information shall be made available only to the president of the board making the request and the counsel for the missing person appointed under subsection (f).

"(B) The president of a board shall close to persons who do not have appropriate security clearances the proceeding of the board at which classified information is discussed. Participants at a proceeding of a board at which classified information is discussed shall comply with all applicable laws and regulations relating to the disclosure of classified information. The Secretary concerned

shall assist the president of a board in ensuring that classified information is not compromised through board proceedings.

"(i) RECOMMENDATION ON STATUS.—(1) Upon completion of an inquiry under this subsection, a board shall make a recommendation as to the current whereabouts and status of each missing person covered by the inquiry.

"(2) A board may not recommend under paragraph (1) that a person be declared dead unless in making the recommendation the board complies with section 1507 of this title.

"(j) REPORT.—A board appointed under this section shall submit to the Secretary concerned a report on the inquiry carried out by the board, together with the evidence considered by the board during the inquiry. The report may include a classified annex.

"(k) ACTIONS BY SECRETARY CONCERNED.—(1) Not later than 30 days after the receipt of a report from a board under subsection (j), the Secretary shall review—

"(A) the report;

"(B) the review of the report submitted to the Secretary under subsection (f)(3) by the counsel for each person covered by the report; and

"(C) the objections, if any, to the report submitted to the president of the board under subsection (g)(5).

"(2) In reviewing a report under paragraph (1) (including the objections described in subparagraph (C) of that paragraph), the Secretary concerned shall determine whether or not the report is complete and free of administrative error. If the Secretary determines that the report is incomplete, or that the report is not free of administrative error, the Secretary may return the report to the board for further action on the report by the board.

"(3) Upon a determination by the Secretary that a report reviewed under this subsection is complete and free of administrative error, the Secretary shall make a determination concerning the status of each person covered by the report.

"(l) REPORT TO FAMILY MEMBERS AND OTHER INTERESTED PERSONS.—Not later than 60 days after the date on which the Secretary concerned makes a determination with respect to a missing person under subsection (k), the Secretary shall—

"(1) provide the report reviewed by the Secretary in making the determination to the primary next of kin, the other members of the immediate family, and any other previously designated person of the person; and

"(2) in the case of a person who continues to be in a missing status, inform each individual referred to in paragraph (1) that the United States will conduct a further investigation into the whereabouts and status of the person as specified in section 1505 of this title.

"(m) TREATMENT OF DETERMINATION.—Any determination of the status of a missing person under subsection (k) shall supersede the determination of the status of the person under section 1503 of this title and shall be treated as the determination of the status of the person by all departments and agencies of the United States.

"§ 1505. Further review

"(a) SUBSEQUENT REVIEW.—The Secretary concerned shall conduct subsequent inquiries into the whereabouts and status of any person determined by the Secretary under section 1504 of this title to be in a missing status.

"(b) FREQUENCY OF SUBSEQUENT REVIEWS.—(1) In the case of a missing person who was last known to be alive or who was last suspected of being alive, the Secretary shall appoint a board to conduct an inquiry with respect to a person under this subsection—

"(A) on or about three years after the date of the initial report of the disappearance of the person under section 1502(a) of this title; and

"(B) not later than every three years thereafter.

"(2) In addition to appointment of boards under paragraph (1), the Secretary shall appoint a board to conduct an inquiry with respect to a missing person under this subsection upon receipt of information that could result in a change of status of the missing person. When the Secretary appoints a board under this paragraph, the time for subsequent appointments of a board under paragraph (1)(B) shall be determined from the date of the receipt of such information.

"(3) The Secretary is not required to appoint a board under paragraph (1) with respect to the disappearance of any person—

"(A) more than 30 years after the initial report of the disappearance of the missing person required by section 1502 of this title; or

"(B) if, before the end of such 30-year period, the missing person is accounted for.

"(c) ACTION UPON DISCOVERY OR RECEIPT OF INFORMATION.—(1) Whenever any United States intelligence agency or other element of the Government finds or receives information that may be related to a missing person, the information shall promptly be forwarded to the office established under section 1501 of this title.

"(2) Upon receipt of information under paragraph (1), the head of the office established under section 1501 of this title shall as expeditiously as possible ensure that the information is added to the appropriate case file for that missing person and notify (A) the designated missing person's counsel for that person, and (B) the primary next of kin and any previously designated person for the missing person of the existence of that information.

"(3) The head of the office established under section 1501 of this title, with the advice of the missing person's counsel notified under paragraph (2), shall determine whether the information is significant enough to require a board review under this section.

"(d) CONDUCT OF PROCEEDINGS.—If it is determined that such a board should be appointed, the appointment of, and activities before, a board appointed under this section shall be governed by the provisions of section 1504 of this title with respect to a board appointed under that section.

"§ 1506. Personnel files

"(a) INFORMATION IN FILES.—Except as provided in subsections (b), (c), and (d), the Secretary concerned shall, to the maximum extent practicable, ensure that the personnel file of a missing person contains all information in the possession of the United States relating to the disappearance and whereabouts and status of the person.

"(b) CLASSIFIED INFORMATION.—The Secretary concerned may withhold classified information from a personnel file under this section. If the Secretary concerned withholds classified information

from a personnel file, the Secretary shall ensure that the file contains the following:

"(1) A notice that the withheld information exists.

"(2) A notice of the date of the most recent review of the classification of the withheld information.

"(c) PROTECTION OF PRIVACY.—The Secretary concerned shall maintain personnel files under this section, and shall permit disclosure of or access to such files, in accordance with the provisions of section 552a of title 5 and with other applicable laws and regulations pertaining to the privacy of the persons covered by the files.

"(d) PRIVILEGED INFORMATION.—(1) The Secretary concerned shall withhold from personnel files under this section, as privileged information, debriefing reports provided by missing persons returned to United States control which are obtained under a promise of confidentiality made for the purpose of ensuring the fullest possible disclosure of information.

"(2) If a debriefing report contains non-derogatory information about the status and whereabouts of a missing person other than the source of the debriefing report, the Secretary concerned shall prepare an extract of the non-derogatory information. That extract, following a review by the source of the debriefing report, shall be placed in the personnel file of the missing person in such a manner as to protect the identity of the source providing the information.

"(3) Whenever the Secretary concerned withholds a debriefing report from a personnel file under this subsection, the Secretary shall ensure that the file contains a notice that withheld information exists.

"(e) WRONGFUL WITHHOLDING.—Except as provided in subsections (a) through (d), any person who knowingly and willfully withholds from the personnel file of a missing person any information relating to the disappearance or whereabouts and status of a missing person shall be fined as provided in title 18 or imprisoned not more than one year, or both.

"(f) AVAILABILITY OF INFORMATION.—The Secretary concerned shall, upon request, make available the contents of the personnel file of a missing person to the primary next of kin, the other members of the immediate family, or any other previously designated person of the person.

"§ 1507. Recommendation of status of death

"(a) REQUIREMENTS RELATING TO RECOMMENDATION.—A board appointed under section 1503, 1504, or 1505 of this title may not recommend that a person be declared dead unless—

"(1) credible evidence exists to suggest that the person is dead;

"(2) the United States possesses no credible evidence that suggests that the person is alive; and

"(3) representatives of the United States—

"(A) have made a complete search of the area where the person was last seen (unless, after making a good faith effort to obtain access to such area, such representatives are not granted such access); and

"(B) have examined the records of the government or entity having control over the area where the person was last seen (unless, after making a good faith effort

to obtain access to such records, such representatives are not granted such access).

Reports.

"(b) SUBMITTAL OF INFORMATION ON DEATH.—If a board appointed under section 1503, 1504, or 1505 of this title makes a recommendation that a missing person be declared dead, the board shall include in the report of the board with respect to the person under that section the following:

"(1) A detailed description of the location where the death occurred.

"(2) A statement of the date on which the death occurred.

"(3) A description of the location of the body, if recovered.

"(4) If the body has been recovered and is not identifiable through visual means, a certification by a practitioner of an appropriate forensic science that the body recovered is that of the missing person.

"§ 1508. Judicial review

"(a) RIGHT OF REVIEW.—A person who is the primary next of kin (or the previously designated person) of a person who is the subject of a finding described in subsection (b) may obtain judicial review in a United States district court of that finding, but only on the basis of a claim that there is information that could affect the status of the missing person's case that was not adequately considered during the administrative review process under this chapter. Any such review shall be as provided in section 706 of title 5.

"(b) FINDINGS FOR WHICH JUDICIAL REVIEW MAY BE SOUGHT.—Subsection (a) applies to the following findings:

"(1) A finding by a board appointed under section 1504 or 1505 of this title that a missing person is dead.

"(2) A finding by a board appointed under section 1509 of this title that confirms that a missing person formerly declared dead is in fact dead.

"(c) SUBSEQUENT REVIEW.—Appeals from a decision of the district court shall be taken to the appropriate United States court of appeals and to the Supreme Court as provided by law.

"§ 1509. Preenactment, special interest cases

"(a) REVIEW OF STATUS.—In the case of an unaccounted for person covered by section 1501(c) of this title who is described in subsection (b), if new information that could change the status of that person is found or received by a United States intelligence agency, by a Department of Defense agency, or by a person specified in section 1504(g) of this title, that information shall be provided to the Secretary of Defense with a request that the Secretary evaluate the information in accordance with sections 1505(c) and 1505(d) of this title.

Prisoners of war.
Missing in action.

"(b) CASES ELIGIBLE FOR REVIEW.—The cases eligible for review under this section are the following:

"(1) With respect to the Korean conflict, any unaccounted for person who was classified as a prisoner of war or as missing in action during that conflict and who (A) was known to be or suspected to be alive at the end of that conflict, or (B) was classified as missing in action and whose capture was possible.

"(2) With respect to the Cold War, any unaccounted for person who was engaged in intelligence operations (such as

aerial 'ferret' reconnaissance missions over and around the Soviet Union and China) during the Cold War.

"(3) With respect to the Indochina war era, any unaccounted for person who was classified as a prisoner of war or as missing in action during the Indochina conflict.

"(c) SPECIAL RULE FOR PERSONS CLASSIFIED AS 'KIA/BNR'.—In the case of a person described in subsection (b) who was classified as 'killed in action/body not recovered', the case of that person may be reviewed under this section only if the new information referred to in subsection (a) is compelling.

"(d) DEFINITIONS.—In this section:

"(1) The term 'Korean conflict' means the period beginning on June 27, 1950, and ending on January 31, 1955.

"(2) The term 'Cold War' means the period beginning on September 2, 1945, and ending on August 21, 1991.

"(3) The term 'Indochina war era' means the period beginning on July 8, 1959, and ending on May 15, 1975.

"§ 1510. Applicability to Coast Guard

"(a) DESIGNATED OFFICER TO HAVE RESPONSIBILITY.—The Secretary of Transportation shall designate an officer of the Department of Transportation to have responsibility within the Department of Transportation for matters relating to missing persons who are members of the Coast Guard.

"(b) PROCEDURES.—The Secretary of Transportation shall prescribe procedures for the determination of the status of persons described in section 1501(c) of this title who are members of the Coast Guard and for the collection, analysis, review, and update of information on such persons. To the maximum extent practicable, the procedures prescribed under this section shall be similar to the procedures prescribed by the Secretary of Defense under section 1501(b) of this title.

"§ 1511. Return alive of person declared missing or dead

"(a) PAY AND ALLOWANCES.—Any person (except for a person subsequently determined to have been absent without leave or a deserter) in a missing status or declared dead under subchapter VII of chapter 55 of title 5 or chapter 10 of title 37 or by a board appointed under this chapter who is found alive and returned to the control of the United States shall be paid for the full time of the absence of the person while given that status or declared dead under the law and regulations relating to the pay and allowances of persons returning from a missing status.

"(b) EFFECT ON GRATUITIES PAID AS A RESULT OF STATUS.—Subsection (a) shall not be interpreted to invalidate or otherwise affect the receipt by any person of a death gratuity or other payment from the United States on behalf of a person referred to in subsection (a) before the date of the enactment of this chapter.

"§ 1512. Effect on State law

"(a) NONPREEMPTION OF STATE AUTHORITY.—Nothing in this chapter shall be construed to invalidate or limit the power of any State court or administrative entity, or the power of any court or administrative entity of any political subdivision thereof, to find or declare a person dead for purposes of such State or political subdivision.

"(b) STATE DEFINED.—In this section, the term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

"§ 1513. Definitions

"In this chapter:

"(1) The term 'missing person' means—

"(A) a member of the Armed Forces on active duty who is in a missing status; or

"(B) a civilian employee of the Department of Defense or an employee of a contractor of the Department of Defense who serves with or accompanies the Armed Forces in the field under orders and who is in a missing status.

"(2) The term 'missing status' means the status of a missing person who is determined to be absent in a category of any of the following:

"(A) Missing.

"(B) Missing in action.

"(C) Interned in a foreign country.

"(D) Captured.

"(E) Beleaguered.

"(F) Besieged.

"(G) Detained in a foreign country against that person's will.

"(3) The term 'accounted for', with respect to a person in a missing status, means that—

"(A) the person is returned to United States control alive;

"(B) the remains of the person are recovered and, if not identifiable through visual means as those of the missing person, are identified as those of the missing person by a practitioner of an appropriate forensic science; or

"(C) credible evidence exists to support another determination of the person's status.

"(4) The term 'primary next of kin', in the case of a missing person, means the individual authorized to direct disposition of the remains of the person under section 1482(c) of this title.

"(5) The term 'member of the immediate family', in the case of a missing person, means the following:

"(A) The spouse of the person.

"(B) A natural child, adopted child, stepchild, or illegitimate child (if acknowledged by the person or parenthood has been established by a court of competent jurisdiction) of the person, except that if such child has not attained the age of 18 years, the term means a surviving parent or legal guardian of such child.

"(C) A biological parent of the person, unless legal custody of the person by the parent has been previously terminated by reason of a court decree or otherwise under law and not restored.

"(D) A brother or sister of the person, if such brother or sister has attained the age of 18 years.

"(E) Any other blood relative or adoptive relative of the person, if such relative was given sole legal custody of the person by a court decree or otherwise under law

before the person attained the age of 18 years and such custody was not subsequently terminated before that time.

"(6) The term 'previously designated person', in the case of a missing person, means an individual designated by the person under section 655 of this title for purposes of this chapter.

"(7) The term 'classified information' means any information the unauthorized disclosure of which (as determined under applicable law and regulations) could reasonably be expected to damage the national security.

"(8) The term 'theater component commander' means, with respect to any of the combatant commands, an officer of any of the armed forces who (A) is commander of all forces of that armed force assigned to that combatant command, and (B) is directly subordinate to the commander of the combatant command.".

(2) The tables of chapters at the beginning of subtitle A, and at the beginning of part II of subtitle A, of title 10, United States Code, are amended by inserting after the item relating to chapter 75 the following new item:

"76. Missing Persons ..... 1501".

(c) CONFORMING AMENDMENTS.—Chapter 10 of title 37, United States Code, is amended as follows:

(1) Section 555 is amended—

(A) in subsection (a), by striking out "When a member" and inserting in lieu thereof "Except as provided in subsection (d), when a member"; and

(B) by adding at the end the following new subsection:

"(d) This section does not apply in a case to which section 1502 of title 10 applies.".

(2) Section 552 is amended—

(A) in subsection (a), by striking out "for all purposes," in the second sentence of the matter following paragraph (2) and all that follows through the end of the sentence and inserting in lieu thereof "for all purposes.";

(B) in subsection (b), by inserting "or under chapter 76 of title 10" before the period at the end; and

(C) in subsection (e), by inserting "or under chapter 76 of title 10" after "section 555 of this title".

(3) Section 553 is amended—

(A) in subsection (f), by striking out "the date the Secretary concerned receives evidence that" and inserting in lieu thereof "the date on which, in a case covered by section 555 of this title, the Secretary concerned receives evidence, or, in a case covered by chapter 76 of title 10, the Secretary concerned determines pursuant to that chapter, that"; and

(B) in subsection (g), by inserting "or under chapter 76 of title 10" after "section 555 of this title".

(4) Section 556 is amended—

(A) in subsection (a), by inserting after paragraph (7) the following:

"Paragraphs (1), (5), (6), and (7) only apply with respect to a case to which section 555 of this title applies.";

(B) in subsection (b), by inserting ", in a case to which section 555 of this title applies," after "When the Secretary concerned"; and

(C) in subsection (h)—

(i) in the first sentence, by striking out "status" and inserting in lieu thereof "pay"; and

(ii) in the second sentence, by inserting "in a case to which section 555 of this title applies" after "under this section".

(d) DESIGNATION OF PERSONS HAVING INTEREST IN STATUS OF SERVICE MEMBERS.—(1) Chapter 37 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 655. Designation of persons having interest in status of a missing member

"(a) The Secretary concerned shall, upon the enlistment or appointment of a person in the armed forces, require that the person specify in writing the person or persons, if any, other than that person's primary next of kin or immediate family, to whom information on the whereabouts and status of the member shall be provided if such whereabouts and status are investigated under chapter 76 of this title. The Secretary shall periodically, and whenever the member is deployed as part of a contingency operation or in other circumstances specified by the Secretary, require that such designation be reconfirmed, or modified, by the member.

"(b) The Secretary concerned shall, upon the request of a member, permit the member to revise the person or persons specified by the member under subsection (a) at any time. Any such revision shall be in writing.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"655. Designation of persons having interest in status of a missing member.".

5 USC 5561 note.

(e) ACCOUNTING FOR CIVILIAN EMPLOYEE AND CONTRACTORS OF THE UNITED STATES.—(1) The Secretary of State shall carry out a comprehensive study of the provisions of subchapter VII of chapter 55 of title 5, United States Code (commonly referred to as the "Missing Persons Act of 1942") (5 U.S.C. 5561 et seq.) and any other law or regulation establishing procedures for the accounting for of civilian employees of the United States or contractors of the United States who serve with or accompany the Armed Forces in the field. The purpose of the study shall be to determine the means, if any, by which those procedures may be improved.

(2) The Secretary of State shall carry out the study required under paragraph (1) in consultation with the Secretary of Defense, the Secretary of Transportation, the Director of Central Intelligence, and the heads of such other departments and agencies of the United States as the President designates for that purpose.

(3) In carrying out the study, the Secretary of State shall examine the procedures undertaken when a civilian employee referred to in paragraph (1) becomes involuntarily absent as a result of a hostile action, or under circumstances suggesting that the involuntary absence is a result of a hostile action, and whose status is undetermined or who is unaccounted for, including procedures for—

(A) search and rescue for the employee;

(B) determining the status of the employee;

(C) reviewing and changing the status of the employee;

(D) determining the rights and benefits accorded to the family of the employee; and

(E) maintaining and providing appropriate access to the records of the employee and the investigation into the status of the employee. Records.

(4) Not later than one year after the date of the enactment of this Act, the Secretary of State shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on the study carried out by the Secretary under this subsection. The report shall include the recommendations, if any, of the Secretary for legislation to improve the procedures covered by the study. Reports.

SEC. 570. ASSOCIATE DIRECTOR OF CENTRAL INTELLIGENCE FOR MILITARY SUPPORT.

Section 102 of the National Security Act of 1947 (50 U.S.C. 403) is amended by adding at the end the following:

"(e) In the event that neither the Director nor Deputy Director of Central Intelligence is a commissioned officer of the Armed Forces, a commissioned officer of the Armed Forces appointed to the position of Associate Director of Central Intelligence for Military Support, while serving in such position, shall not be counted against the numbers and percentages of commissioned officers of the rank and grade of such officer authorized for the armed force of which such officer is a member.".

Subtitle G—Support for Non-Department of Defense Activities

SEC. 571. REPEAL OF CERTAIN CIVIL-MILITARY PROGRAMS.

(a) REPEAL OF CIVIL-MILITARY COOPERATIVE ACTION PROGRAM.—The following provisions of law are repealed:

(1) Section 410 of title 10, United States Code.

(2) Section 1081(a) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 10 U.S.C. 410 note).

(b) REPEAL OF RELATED PROVISION.—Section 1045 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 10 U.S.C. 410 note), relating to a pilot outreach program to reduce demand for illegal drugs, is repealed.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—Chapter 20 of title 10, United States Code, is amended—

(1) by striking out the table of subchapters after the chapter heading;

(2) by striking out the subchapter heading for subchapter I; and

(3) by striking out the subchapter heading for subchapter II and the table of sections following that subchapter heading.

SEC. 572. TRAINING ACTIVITIES RESULTING IN INCIDENTAL SUPPORT AND SERVICES FOR ELIGIBLE ORGANIZATIONS AND ACTIVITIES OUTSIDE THE DEPARTMENT OF DEFENSE.

(a) IN GENERAL.—(1) Chapter 101 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2012. Support and services for eligible organizations and activities outside Department of Defense

Regulations.

"(a) AUTHORITY TO PROVIDE SERVICES AND SUPPORT.—Under regulations prescribed by the Secretary of Defense, the Secretary of a military department may in accordance with this section authorize units or individual members of the armed forces under that Secretary's jurisdiction to provide support and services to non-Department of Defense organizations and activities specified in subsection (e), but only if—

"(1) such assistance is authorized by a provision of law (other than this section); or

"(2) the provision of such assistance is incidental to military training.

"(b) SCOPE OF COVERED ACTIVITIES SUBJECT TO SECTION.—This section does not—

"(1) apply to the provision by the Secretary concerned, under regulations prescribed by the Secretary of Defense, of customary community relations and public affairs activities conducted in accordance with Department of Defense policy; or

"(2) prohibit the Secretary concerned from encouraging members of the armed forces under the Secretary's jurisdiction to provide volunteer support for community relations activities under regulations prescribed by the Secretary of Defense.

"(c) REQUIREMENT FOR SPECIFIC REQUEST.—Assistance under subsection (a) may only be provided if—

"(1) the assistance is requested by a responsible official of the organization to which the assistance is to be provided; and

"(2) the assistance is not reasonably available from a commercial entity or (if so available) the official submitting the request for assistance certifies that the commercial entity that would otherwise provide such services has agreed to the provision of such services by the armed forces.

"(d) RELATIONSHIP TO MILITARY TRAINING.—(1) Assistance under subsection (a) may only be provided if the following requirements are met:

"(A) The provision of such assistance—

"(i) in the case of assistance by a unit, will accomplish valid unit training requirements; and

"(ii) in the case of assistance by an individual member, will involve tasks directly related to the specific military occupational specialty of the member.

"(B) The provision of such assistance will not adversely affect the quality of training or otherwise interfere with the ability of a member or unit of the armed forces to perform the military functions of the member or unit.

"(C) The provision of such assistance will not result in a significant increase in the cost of the training.

"(2) Subparagraph (A)(i) of paragraph (1) does not apply in a case in which the assistance to be provided consists primarily of military manpower and the total amount of such assistance in the case of a particular project does not exceed 100 man-hours.

"(e) ELIGIBLE ENTITIES.—The following organizations and activities are eligible for assistance under this section:

"(1) Any Federal, regional, State, or local governmental entity.

"(2) Youth and charitable organizations specified in section 508 of title 32.

"(3) Any other entity as may be approved by the Secretary of Defense on a case-by-case basis.

"(f) REGULATIONS.—The Secretary of Defense shall prescribe regulations governing the provision of assistance under this section. The regulations shall include the following:

"(1) Rules governing the types of assistance that may be provided.

"(2) Procedures governing the delivery of assistance that ensure, to the maximum extent practicable, that such assistance is provided in conjunction with, rather than separate from, civilian efforts.

"(3) Procedures for appropriate coordination with civilian officials to ensure that the assistance—

"(A) meets a valid need; and

"(B) does not duplicate other available public services.

"(4) Procedures to ensure that Department of Defense resources are not applied exclusively to the program receiving the assistance.

"(g) ADVISORY COUNCILS.—(1) The Secretary of Defense shall encourage the establishment of advisory councils at regional, State, and local levels, as appropriate, in order to obtain recommendations and guidance concerning assistance under this section from persons who are knowledgeable about regional, State, and local conditions and needs.

"(2) The advisory councils should include officials from relevant military organizations, representatives of appropriate local, State, and Federal agencies, representatives of civic and social service organizations, business representatives, and labor representatives.

"(3) The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to such councils.

"(h) CONSTRUCTION OF PROVISION.—Nothing in this section shall be construed as authorizing—

"(1) the use of the armed forces for civilian law enforcement purposes or for response to natural or manmade disasters; or

"(2) the use of Department of Defense personnel or resources for any program, project, or activity that is prohibited by law.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2012. Support and services for eligible organizations and activities outside Department of Defense.".

SEC. 573. NATIONAL GUARD CIVILIAN YOUTH OPPORTUNITIES PILOT PROGRAM. 32 USC 501 note.

(a) TERMINATION.—The authority under subsection (a) of section 1091 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 32 U.S.C. 501 note) to carry out a pilot program under that section is hereby continued through the end of the 18-month period beginning on the date of the enactment of this Act and such authority shall terminate as of the end of that period.

(b) LIMITATION ON NUMBER OF PROGRAMS.—During the period beginning on the date of the enactment of this Act and ending

on the termination of the pilot program under subsection (a), the number of programs carried out under subsection (d) of that section as part of the pilot program may not exceed the number of such programs as of September 30, 1995.

10 USC 2012 note.

SEC. 574. TERMINATION OF FUNDING FOR OFFICE OF CIVIL-MILITARY PROGRAMS IN OFFICE OF THE SECRETARY OF DEFENSE.

No funds may be obligated or expended after the date of the enactment of this Act (1) for the office that as of the date of the enactment of this Act is designated, within the Office of the Assistant Secretary of Defense for Reserve Affairs, as the Office of Civil-Military Programs, or (2) for any other entity within the Office of the Secretary of Defense that has an exclusive or principal mission of providing centralized direction for activities under section 2012 of title 10, United States Code, as added by section 572.

TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

Subtitle A—Pay and Allowances

37 USC 1009 note.

SEC. 601. MILITARY PAY RAISE FOR FISCAL YEAR 1996.

(a) RESCISSION OF PRIOR SECTION 1009 ADJUSTMENT.—The adjustment made as of January 1, 1996, pursuant to section 4 of Executive Order No. 12984 (issued December 28, 1995), in elements of compensation of members of the uniformed services pursuant to section 1009 of title 37, United States Code, is hereby rescinded.

(b) INCREASE IN BASIC PAY AND BAS.—The rates of basic pay and basic allowance for subsistence of members of the uniformed services, as in effect on December 31, 1995, are hereby increased by 2.4 percent.

(c) INCREASE IN BAQ.—The rates of basic allowance for quarters of members of the uniformed services, as in effect on December 31, 1995, are hereby increased by 5.2 percent.

(d) EFFECTIVE DATE.—This section shall take effect as of January 1, 1996.

SEC. 602. LIMITATION ON BASIC ALLOWANCE FOR SUBSISTENCE FOR MEMBERS RESIDING WITHOUT DEPENDENTS IN GOVERNMENT QUARTERS.

(a) PERCENTAGE LIMITATION.—Subsection (b) of section 402 of title 37, United States Code, is amended by adding after the last sentence the following new paragraph:

"(4) In the case of enlisted members of the Army, Navy, Air Force, or Marine Corps who, when present at their permanent duty station, reside without dependents in Government quarters, the Secretary concerned may not provide a basic allowance for subsistence to more than 12 percent of such members under the jurisdiction of the Secretary concerned. The Secretary concerned may exceed such percentage if the Secretary determines that compliance would increase costs to the Government, would impose financial hardships on members otherwise entitled to a basic allowance for subsistence, or would reduce the quality of life for such members. This paragraph shall not apply to members described in the first sentence when the members are not residing at their permanent

duty station. The Secretary concerned shall achieve the percentage limitation specified in this paragraph as soon as possible after the date of the enactment of this paragraph, but in no case later than September 30, 1996.".

(b) STYLISTIC AMENDMENTS.—Such subsection is further amended—

(1) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C);

(2) by inserting "(1)" after "(b)";

(3) by designating the text composed of the second, third, and fourth sentences as paragraph (2); and

(4) by designating the text composed of the fifth and sixth sentences as paragraph (3).

(c) CONFORMING AMENDMENTS.—(1) Subsection (e) of such section is amended—

(A) in paragraph (1), by striking out "the third sentence of subsection (b)" and inserting in lieu thereof "subsection (b)(2)"; and

(B) in paragraph (2), by striking out "subsection (b)" and inserting in lieu thereof "subsection (b)(2)".

(2) Section 1012 of title 37, United States Code, is amended by striking out "the last sentence of section 402(b)" and inserting in lieu thereof "section 402(b)(3)".

(d) REPORT REQUIRED.—Not later than March 31, 1996, the Secretary of Defense shall submit to Congress a report identifying, for the Army, Navy, Air Force, and Marine Corps—

(1) the number of members who reside without dependents in Government quarters at their permanent duty stations and receive a basic allowance for subsistence under section 402 of title 37, United States Code;

(2) such number as a percentage of the total number of members who reside without dependents in Government quarters;

(3) a recommended maximum percentage of the members residing without dependents in Government quarters at their permanent duty station who should receive a basic allowance for subsistence; and

(4) the reasons such maximum percentage is recommended.

SEC. 603. ELECTION OF BASIC ALLOWANCE FOR QUARTERS INSTEAD OF ASSIGNMENT TO INADEQUATE QUARTERS.

(a) ELECTION AUTHORIZED.—Section 403(b) of title 37, United States Code, is amended—

(1) by inserting "(1)" after "(b)";

(2) by designating the second sentence as paragraph (2) and, as so designated, by striking out "However, subject" and inserting in lieu thereof "Subject"; and

(3) by adding at the end the following new paragraph:

"(3) A member without dependents who is in pay grade E–6 and who is assigned to quarters of the United States that do not meet the minimum adequacy standards established by the Department of Defense for members in such pay grade, or to a housing facility under the jurisdiction of a uniformed service that does not meet such standards, may elect not to occupy such quarters or facility and instead to receive the basic allowance for quarters prescribed for the member's pay grade by this section.".

37 USC 403 note.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 1, 1996.

SEC. 604. PAYMENT OF BASIC ALLOWANCE FOR QUARTERS TO MEMBERS IN PAY GRADE E–6 WHO ARE ASSIGNED TO SEA DUTY.

(a) PAYMENT AUTHORIZED.—Section 403(c)(2) of title 37, United States Code, is amended—

(1) in the first sentence, by striking out "E–7" and inserting in lieu thereof "E–6"; and

(2) in the second sentence, by striking out "E–6" and inserting in lieu thereof "E–5".

37 USC 403 note.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 1, 1996.

SEC. 605. LIMITATION ON REDUCTION OF VARIABLE HOUSING ALLOWANCE FOR CERTAIN MEMBERS.

(a) LIMITATION ON REDUCTION IN VHA.—(1) Subsection (c)(3) of section 403a of title 37, United States Code, is amended by adding at the end the following new sentence: "However, so long as a member of a uniformed service retains uninterrupted eligibility to receive a variable housing allowance within an area and the member's certified housing costs are not reduced (as indicated by certifications provided by the member under subsection (b)(4)), the monthly amount of a variable housing allowance under this section for the member within that area may not be reduced as a result of systematic adjustments required by changes in housing costs within that area.".

Applicability. 37 USC 403a note.

(2) The amendment made by paragraph (1) shall apply for fiscal years after fiscal year 1995.

(b) EFFECT ON TOTAL AMOUNT AVAILABLE FOR VHA.—Subsection (d)(3) of such section is amended by inserting after the first sentence the following new sentence: "In addition, the total amount determined under paragraph (1) shall be adjusted to ensure that sufficient amounts are available to allow payment of any additional amounts of variable housing allowance necessary as a result of the requirements of the second sentence of subsection (c)(3).".

(c) REPORT ON IMPLEMENTATION.—Not later than June 1, 1996, the Secretary of Defense shall submit to Congress a report describing the procedures to be used to implement the amendments made by this section and the costs of such amendments.

Reports.

(d) RESOLVING VHA INADEQUACIES IN HIGH HOUSING COST AREAS.—If the Secretary of Defense determines that, despite the amendments made by this section, inadequacies exist in the provision of variable housing allowances under section 403a of title 37, United States Code, the Secretary shall submit to Congress a report containing a legislative proposal to address the inadequacies. The Secretary shall make the determination required by this subsection and submit the report, if necessary, not later than May 31, 1996.

SEC. 606. CLARIFICATION OF LIMITATION ON ELIGIBILITY FOR FAMILY SEPARATION ALLOWANCE.

Section 427(b)(4) of title 37, United States Code, is amended in the first sentence by inserting "paragraph (1)(A) of" after "not entitled to an allowance under".

Subtitle B—Bonuses and Special and Incentive Pays

SEC. 611. EXTENSION OF CERTAIN BONUSES FOR RESERVE FORCES.

(a) SELECTED RESERVE REENLISTMENT BONUS.—Section 308b(f) of title 37, United States Code, is amended by striking out "September 30, 1996" and inserting in lieu thereof "September 30, 1997".

(b) SELECTED RESERVE ENLISTMENT BONUS.—Section 308c(e) of title 37, United States Code, is amended by striking out "September 30, 1996" and inserting in lieu thereof "September 30, 1997".

(c) SELECTED RESERVE AFFILIATION BONUS.—Section 308e(e) of title 37, United States Code, is amended by striking out "September 30, 1996" and inserting in lieu thereof "September 30, 1997".

(d) READY RESERVE ENLISTMENT AND REENLISTMENT BONUS.—Section 308h(g) of title 37, United States Code, is amended by striking out "September 30, 1996" and inserting in lieu thereof "September 30, 1997".

(e) PRIOR SERVICE ENLISTMENT BONUS.—Section 308i(i) of title 37, United States Code, is amended by striking out "September 30, 1996" and inserting in lieu thereof "September 30, 1997".

SEC. 612. EXTENSION OF CERTAIN BONUSES AND SPECIAL PAY FOR NURSE OFFICER CANDIDATES, REGISTERED NURSES, AND NURSE ANESTHETISTS.

(a) NURSE OFFICER CANDIDATE ACCESSION PROGRAM.—Section 2130a(a)(1) of title 10, United States Code, is amended by striking out "September 30, 1996" and inserting in lieu thereof "September 30, 1997".

(b) ACCESSION BONUS FOR REGISTERED NURSES.—Section 302d(a)(1) of title 37, United States Code, is amended by striking out "September 30, 1996" and inserting in lieu thereof "September 30, 1997".

(c) INCENTIVE SPECIAL PAY FOR NURSE ANESTHETISTS.—Section 302e(a)(1) of title 37, United States Code, is amended by striking out "September 30, 1996" and inserting in lieu thereof "September 30, 1997".

SEC. 613. EXTENSION OF AUTHORITY RELATING TO PAYMENT OF OTHER BONUSES AND SPECIAL PAYS.

(a) AVIATION OFFICER RETENTION BONUS.—Section 301b(a) of title 37, United States Code, is amended by striking out "September 30, 1995," and inserting in lieu thereof "September 30, 1997".

(b) REENLISTMENT BONUS FOR ACTIVE MEMBERS.—Section 308(g) of title 37, United States Code, is amended by striking out "September 30, 1996" and inserting in lieu thereof "September 30, 1997".

(c) ENLISTMENT BONUSES FOR CRITICAL SKILLS.—Sections 308a(c) and 308f(c) of title 37, United States Code, are each amended by striking out "September 30, 1996" and inserting in lieu thereof "September 30, 1997".

(d) SPECIAL PAY FOR ENLISTED MEMBERS OF THE SELECTED RESERVE ASSIGNED TO CERTAIN HIGH PRIORITY UNITS.—Section 308d(c) of title 37, United States Code, is amended by striking out "September 30, 1996" and inserting in lieu thereof "September 30, 1997".

(e) SPECIAL PAY FOR NUCLEAR QUALIFIED OFFICERS EXTENDING PERIOD OF ACTIVE SERVICE.—Section 312(e) of title 37, United States Code, is amended by striking out "September 30, 1996" and inserting in lieu thereof "September 30, 1997".

(f) NUCLEAR CAREER ACCESSION BONUS.—Section 312b(c) of title 37, United States Code, is amended by striking out "September 30, 1996" and inserting in lieu thereof "September 30, 1997".

(g) NUCLEAR CAREER ANNUAL INCENTIVE BONUS.—Section 312c(d) of title 37, United States Code, is amended by striking out "October 1, 1996" and inserting in lieu thereof "October 1, 1997".

(h) REPAYMENT OF EDUCATION LOANS FOR CERTAIN HEALTH PROFESSIONALS WHO SERVE IN THE SELECTED RESERVE.—Section 16302(d) of title 10, United States Code, is amended by striking out "October 1, 1996" and inserting in lieu thereof "October 1, 1997".

37 USC 3016 note.

(i) COVERAGE OF PERIOD OF LAPSED AGREEMENT AUTHORITY.—(1) In the case of an officer described in section 301b(b) of title 37, United States Code, who executes an agreement described in paragraph (2) during the 90-day period beginning on the date of the enactment of this Act, the Secretary concerned may treat the agreement for purposes of the retention bonus authorized under the agreement as having been executed and accepted on the first date on which the officer would have qualified for such an agreement had the amendment made by subsection (a) taken effect on October 1, 1995.

(2) An agreement referred to in this subsection is a service agreement with the Secretary concerned that is a condition for the payment of a retention bonus under section 301b of title 37, United States Code.

(3) For purposes of this subsection, the term "Secretary concerned" has the meaning given that term in section 101(5) of title 37, United States Code.

SEC. 614. CODIFICATION AND EXTENSION OF SPECIAL PAY FOR CRITICALLY SHORT WARTIME HEALTH SPECIALISTS IN THE SELECTED RESERVES.

(a) SPECIAL PAY AUTHORIZED.—(1) Chapter 5 of title 37, United States Code, is amended by inserting after section 302f the following new section:

"§ 302g. Special pay: Selected Reserve health care professionals in critically short wartime specialties

"(a) SPECIAL PAY AUTHORIZED.—An officer of a reserve component of the armed forces described in subsection (b) who executes a written agreement under which the officer agrees to serve in the Selected Reserve of an armed force for a period of not less than one year nor more than three years, beginning on the date the officer accepts the award of special pay under this section, may be paid special pay at an annual rate not to exceed $10,000.

"(b) ELIGIBLE OFFICERS.—An officer referred to in subsection (a) is an officer in a health care profession who is qualified in a specialty designated by regulations as a critically short wartime specialty.

"(c) TIME FOR PAYMENT.—Special pay under this section shall be paid annually at the beginning of each twelve-month period for which the officer has agreed to serve.

SEC. 619. INCREASE IN MAXIMUM RATE OF SPECIAL DUTY ASSIGNMENT PAY FOR ENLISTED MEMBERS SERVING AS RECRUITERS.

(a) SPECIAL MAXIMUM RATE FOR RECRUITERS.—Section 307(a) of title 37, United States Code, is amended by adding at the end the following new sentence: "In the case of a member who is serving as a military recruiter and is eligible for special duty assignment pay under this subsection on account of such duty, the Secretary concerned may increase the monthly rate of special duty assignment pay for the member to not more than $375.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 1996. 37 USC 307 note.

Subtitle C—Travel and Transportation Allowances

SEC. 621. REPEAL OF REQUIREMENT REGARDING CALCULATION OF ALLOWANCES ON BASIS OF MILEAGE TABLES.

Section 404(d)(1)(A) of title 37, United States Code, is amended by striking out ", based on distances established over the shortest usually traveled route, under mileage tables prepared under the direction of the Secretary of Defense".

SEC. 622. DEPARTURE ALLOWANCES.

(a) ELIGIBILITY WHEN EVACUATION AUTHORIZED BUT NOT ORDERED.—Section 405a(a) of title 37, United States Code, is amended by striking out "ordered" each place it appears and inserting in lieu thereof "authorized or ordered".

(b) APPLICATION OF AMENDMENT.—The amendment made by subsection (a) shall apply with respect to persons authorized or ordered to depart as described in section 405a(a) of title 37, United States Code, on or after October 1, 1995. 37 USC 405a note.

SEC. 623. TRANSPORTATION OF NONDEPENDENT CHILD FROM MEMBER'S STATION OVERSEAS AFTER LOSS OF DEPENDENT STATUS WHILE OVERSEAS.

Section 406(h)(1) of title 37, United States Code, is amended in the last sentence—

(1) by striking out "who became 21 years of age" and inserting in lieu thereof "who, by reason of age or graduation from (or cessation of enrollment in) an institution of higher education, would otherwise cease to be a dependent of the member"; and

(2) by inserting "still" after "shall".

SEC. 624. AUTHORIZATION OF DISLOCATION ALLOWANCE FOR MOVES IN CONNECTION WITH BASE REALIGNMENTS AND CLOSURES.

(a) DISLOCATION ALLOWANCE AUTHORIZED.—Subsection (a) of section 407 of title 37, United States Code, is amended—

(1) by striking out "or" at the end of paragraph (3);

(2) by striking out the period at the end of paragraph (4)(B) and inserting in lieu thereof "; or"; and

(3) by inserting after paragraph (4)(B) the following new paragraph:

"(5) the member is ordered to move in connection with the closure or realignment of a military installation and, as a result, the member's dependents actually move or, in the case of a member without dependents, the member actually moves.".

(b) CONFORMING AMENDMENTS.—(1) The last sentence of such subsection is amended—

(A) by striking out "clause (3) or (4)(B)" and inserting in lieu thereof "paragraph (3) or (4)(B)"; and

(B) by striking out "clause (1)" and inserting in lieu thereof "paragraph (1) or (5)".

(2) Subsection (b) of such section is amended—

(A) by striking out "subsection (a)(3) or (a)(4)(B)" in the first sentence and inserting in lieu thereof "paragraph (3) or (4)(B) of subsection (a)"; and

(B) by striking out "subsection (a)(1)" in the second sentence and inserting in lieu thereof "paragraph (1) or (5) of subsection (a)".

Subtitle D—Retired Pay, Survivor Benefits, and Related Matters

SEC. 631. EFFECTIVE DATE FOR MILITARY RETIREE COST-OF-LIVING ADJUSTMENTS FOR FISCAL YEARS 1996, 1997, AND 1998.

(a) ADJUSTMENT OF EFFECTIVE DATES.—Subparagraph (B) of section 1401a(b)(2) of title 10, United States Code, is amended to read as follows:

"(B) SPECIAL RULES FOR FISCAL YEARS 1996 AND 1998.—

"(i) FISCAL YEAR 1996.—In the case of the increase in retired pay that, pursuant to paragraph (1), becomes effective on December 1, 1995, the initial month for which such increase is payable as part of such retired pay shall (notwithstanding such December 1 effective date) be March 1996.

"(ii) FISCAL YEAR 1998.—In the case of the increase in retired pay that, pursuant to paragraph (1), becomes effective on December 1, 1997, the initial month for which such increase is payable as part of such retired pay shall (notwithstanding such December 1 effective date) be September 1998.".

10 USC 1401a note.

(b) CONTINGENT ALTERNATIVE DATE FOR FISCAL YEAR 1998.—(1) If a civil service retiree cola that becomes effective during fiscal year 1998 becomes effective on a date other than the date on which a military retiree cola during that fiscal year is specified to become effective under subparagraph (B) of section 1401a(b)(2) of title 10, United States Code, as amended by subsection (a), then the increase in military retired and retainer pay shall become payable as part of such retired and retainer pay effective on the same date on which such civil service retiree cola becomes effective (notwithstanding the date otherwise specified in such subparagraph (B)).

(2) Paragraph (1) does not apply with respect to the retired pay of a person retired under chapter 61 of title 10, United States Code.

(3) For purposes of this subsection:

(A) The term "civil service retiree cola" means an increase in annuities under the Civil Service Retirement System either under section 8340(b) of title 5, United States Code, or pursuant to a law providing a general increase in such annuities.

(B) The term "military retiree cola" means an adjustment in retired and retainer pay pursuant to section 1401a(b) of title 10, United States Code.

(c) REPEAL OF PRIOR CONDITIONAL ENACTMENT.—Section 8114A(b) of Public Law 103–335 (108 Stat. 2648) is repealed. 10 USC 1401a, 1401a note.

SEC. 632. DENIAL OF NON-REGULAR SERVICE RETIRED PAY FOR RESERVES RECEIVING CERTAIN COURT-MARTIAL SENTENCES.

(a) IN GENERAL.—(1) Chapter 1223 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 12740. Eligibility: denial upon certain punitive discharges or dismissals

"A person who—

"(1) is convicted of an offense under the Uniform Code of Military Justice (chapter 47 of this title) and whose sentence includes death; or

"(2) is separated pursuant to sentence of a court-martial with a dishonorable discharge, a bad conduct discharge, or (in the case of an officer) a dismissal,

is not eligible for retired pay under this chapter.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"12740. Eligibility: denial upon certain punitive discharges or dismissals.".

(b) EFFECTIVE DATE.—Section 12740 of title 10, United States Code, as added by subsection (a), shall apply with respect to court-martial sentences adjudged after the date of the enactment of this Act. 10 USC 12740 note.

SEC. 633. REPORT ON PAYMENT OF ANNUITIES FOR CERTAIN MILITARY SURVIVING SPOUSES.

(a) STUDY REQUIRED.—(1) The Secretary of Defense shall conduct a study to determine the number of potential beneficiaries there would be if Congress were to enact authority for the Secretary of the military department concerned to pay an annuity to the qualified surviving spouse of each member of the Armed Forces who—

(A) died before March 21, 1974, and was entitled to retired or retainer pay on the date of death; or

(B) was a member of a reserve component who died during the period beginning on September 21, 1972, and ending on October 1, 1978, and at the time of death would have been entitled to retired pay under chapter 67 of title 10, United States Code, but for the fact that he was under 60 years of age.

(2) A qualified surviving spouse for purposes of paragraph (1) is a surviving spouse who has not remarried and who is not eligible for an annuity under section 4 of Public Law 92–425 (10 U.S.C. 1448 note).

(b) REQUIRED DETERMINATIONS.—As part of the study under subsection (a), the Secretary shall determine the following:

(1) The number of unremarried surviving spouses of deceased members and deceased former members of the Armed Forces referred to in subparagraph (A) of subsection (a)(1) who would be eligible for an annuity under authority described in such subsection.

(2) The number of unremarried surviving spouses of deceased members and deceased former members of reserve components referred to in subparagraph (B) of subsection (a)(1) who would be eligible for an annuity under authority described in such subsection.

(3) The number of persons in each group of unremarried former spouses described in paragraphs (1) and (2) who are receiving a widow's insurance benefit or a widower's insurance benefit under title II of the Social Security Act on the basis of employment of a deceased member or deceased former member referred to in subsection (a)(1).

(c) REPORT.—Not later than March 1, 1996, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on the results of the study under this section. The Secretary shall include in the report a recommendation on the amount of the annuity that should be authorized to be paid under any authority described in subsection (a)(1), together with a recommendation on whether the annuity should be adjusted annually to offset increases in the cost of living.

SEC. 634. PAYMENT OF BACK QUARTERS AND SUBSISTENCE ALLOWANCES TO WORLD WAR II VETERANS WHO SERVED AS GUERRILLA FIGHTERS IN THE PHILIPPINES.

(a) IN GENERAL.—The Secretary of the military department concerned shall pay, upon request, to an individual described in subsection (b) the amount determined with respect to that individual under subsection (c).

(b) COVERED INDIVIDUALS.—A payment under subsection (a) shall be made to any individual who as a member of the Armed Forces during World War II—

(1) was captured on the Island of Bataan in the territory of the Philippines by Japanese forces;

(2) participated in the Bataan Death March;

(3) escaped from captivity; and

(4) served as a guerrilla fighter in the Philippines during the period from January 1942 through February 1945.

(c) AMOUNT TO BE PAID.—The amount of a payment under subsection (a) shall be the amount of quarters and subsistence allowance which accrued to an individual described in subsection (b) during the period specified in paragraph (4) of subsection (b) and which was not paid to that individual. The Secretary shall apply interest compounded at the three-month Treasury bill rate.

(d) PAYMENT TO SURVIVORS.—In the case of any individual described in subsection (b) who is deceased, payment under this section with respect to that individual shall be made to that individual's nearest surviving relative, as determined by the Secretary concerned.

10 USC 1448 note.

SEC. 635. AUTHORITY FOR RELIEF FROM PREVIOUS OVERPAYMENTS UNDER MINIMUM INCOME WIDOWS PROGRAM.

(a) AUTHORITY.—The Secretary of Defense may waive recovery by the United States of any overpayment by the United States

described in subsection (b). In the case of any such waiver, any debt to the United States arising from such overpayment is forgiven.

(b) COVERED OVERPAYMENTS.—Subsection (a) applies in the case of an overpayment by the United States that—

(1) was made before the date of the enactment of this Act under section 4 of Public Law 92–425 (10 U.S.C. 1448 note); and

(2) is attributable to failure by the Department of Defense to apply the eligibility provisions of subsection (a) of such section in the case of the person to whom the overpayment was made.

SEC. 636. TRANSITIONAL COMPENSATION FOR DEPENDENTS OF MEMBERS OF THE ARMED FORCES SEPARATED FOR DEPENDENT ABUSE.

(a) COVERAGE OF PROGRAM.—Subsection (a) of section 1059 of title 10, United States Code, is amended by adding at the end the following: "Upon establishment of such a program, the program shall apply in the case of each such member described in subsection (b) who is under the jurisdiction of the Secretary establishing the program.".

(b) CLARIFICATION OF PAYMENT TO DEPENDENTS OF MEMBERS NOT DISCHARGED.—Subsection (d) of such section is amended—

(1) in the matter preceding paragraph (1)—

(A) by striking out "any case of a separation from active duty as described in subsection (b)" and inserting in lieu thereof "the case of any individual described in subsection (b)"; and

(B) by striking "former member" and inserting in lieu thereof "individual";

(2) in paragraph (1)—

(A) by striking out "former member" and inserting in lieu thereof "individual"; and

(B) by striking out "member" and inserting in lieu thereof "individual";

(3) in paragraph (2), by striking out "former member" both places it appears and inserting in lieu thereof "individual described in subsection (b)";

(4) in paragraph (3), by striking out "former member" and inserting in lieu thereof "individual described in subsection (b)"; and

(5) in paragraph (4), by striking out "member" both places it appears and inserting in lieu thereof "individual described in subsection (b)".

(c) EFFECTIVE DATE.—Section 554(b) of the National Defense Authorization Act for Fiscal Year 1994 (10 U.S.C. 1059 note) is amended—

(1) in paragraph (1), by striking out "on or after the date of the enactment of this Act" and inserting in lieu thereof "after November 29, 1993"; and

(2) by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) Payments of transitional compensation under that section in the case of any person eligible to receive payments under that section shall be made for each month after November 1993 for which that person may be paid transitional compensation in accordance with that section.".

Subtitle E—Other Matters

SEC. 641. PAYMENT TO SURVIVORS OF DECEASED MEMBERS FOR ALL LEAVE ACCRUED.

(a) INAPPLICABILITY OF 60-DAY LIMITATION.—Section 501(d) of title 37, United States Code, is amended—

(1) in paragraph (1), by striking out the third sentence; and

(2) by striking out paragraph (2) and inserting in lieu thereof the following new paragraph:

"(2) The limitations in the second sentence of subsection (b)(3), subsection (f), and the second sentence of subsection (g) shall not apply with respect to a payment made under this subsection.".

(b) CONFORMING AMENDMENT.—Section 501(f) of such title is amended by striking out ", (d)," in the first sentence.

SEC. 642. REPEAL OF REPORTING REQUIREMENTS REGARDING COMPENSATION MATTERS.

(a) REPORT ON TRAVEL AND TRANSPORTATION ALLOWANCES FOR DEPENDENTS.—(1) Section 406 of title 37, United States Code, is amended—

(A) by striking out subsection (i); and

(B) by redesignating subsections (j), (k), (l), (m), and (n) as subsections (i), (j), (k), (l), and (m), respectively.

(2) Section 2634(d) of title 10, United States Code, is amended by striking out "section 406(l) of title 37" and inserting in lieu thereof "section 406(k) of title 37".

(b) ANNUAL REVIEW OF PAY AND ALLOWANCES.—Section 1008(a) of title 37, United States Code, is amended by striking out the second sentence.

(c) REPORT ON QUADRENNIAL REVIEW OF ADJUSTMENTS IN COMPENSATION.—Section 1009(f) of such title is amended by striking out "of this title," and all that follows through the period at the end and inserting in lieu thereof "of this title.".

SEC. 643. RECOUPMENT OF ADMINISTRATIVE EXPENSES IN GARNISHMENT ACTIONS.

(a) IN GENERAL.—Subsection (j) of section 5520a of title 5, United States Code, is amended by striking out paragraph (2) and inserting in lieu thereof the following new paragraph:

"(2) Such regulations shall provide that an agency's administrative costs incurred in executing legal process to which the agency is subject under this section shall be deducted from the amount withheld from the pay of the employee concerned pursuant to the legal process.".

(b) INVOLUNTARY ALLOTMENTS OF PAY OF MEMBERS OF THE UNIFORMED SERVICES.—Subsection (k) of such section is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following new paragraph:

"(3) Regulations under this subsection may also provide that the administrative costs incurred in establishing and maintaining an involuntary allotment be deducted from the amount withheld from the pay of the member of the uniformed services concerned pursuant to such regulations.".

(c) DISPOSITION OF AMOUNTS WITHHELD FOR ADMINISTRATIVE EXPENSES.—Such section is further amended by adding at the end the following:

"(l) The amount of an agency's administrative costs deducted under regulations prescribed pursuant to subsection (j)(2) or (k)(3) shall be credited to the appropriation, fund, or account from which such administrative costs were paid.".

SEC. 644. REPORT ON EXTENDING TO JUNIOR NONCOMMISSIONED OFFICERS PRIVILEGES PROVIDED FOR SENIOR NONCOMMISSIONED OFFICERS.

(a) REPORT REQUIRED.—Not later than February 1, 1996, the Secretary of Defense shall submit to Congress a report containing the determinations of the Secretary regarding whether, in order to improve the working conditions of noncommissioned officers in pay grades E–5 and E–6, any of the privileges afforded noncommissioned officers in any of the pay grades above E–6 should be extended to noncommissioned officers in pay grades E–5 and E–6.

(b) SPECIFIC RECOMMENDATION REGARDING ELECTION OF BAS.—The Secretary shall include in the report a determination on whether noncommissioned officers in pay grades E–5 and E–6 should be afforded the same privilege as noncommissioned officers in pay grades above E–6 to elect to mess separately and receive the basic allowance for subsistence.

(c) ADDITIONAL MATTERS.—The report shall also contain a discussion of the following matters:

(1) The potential costs of extending additional privileges to noncommissioned officers in pay grades E–5 and E–6.

(2) The effects on readiness that would result from extending the additional privileges.

(3) The options for extending the privileges on an incremental basis over an extended period.

(d) RECOMMENDED LEGISLATION.—The Secretary shall include in the report any recommended legislation that the Secretary considers necessary in order to authorize extension of a privilege as determined appropriate under subsection (a).

SEC. 645. STUDY REGARDING JOINT PROCESS FOR DETERMINING LOCATION OF RECRUITING STATIONS.

(a) STUDY REQUIRED.—The Secretary of Defense shall conduct a study regarding the feasibility of—

(1) using a joint process among the Armed Forces for determining the location of recruiting stations and the number of military personnel required to operate such stations; and

(2) basing such determinations on market research and analysis conducted jointly by the Armed Forces.

(b) REPORT.—Not later than March 31, 1996, the Secretary of Defense shall submit to Congress a report describing the results of the study. The report shall include a recommended method for measuring the efficiency of individual recruiting stations, such as cost per accession or other efficiency standard, as determined by the Secretary.

SEC. 646. AUTOMATIC MAXIMUM COVERAGE UNDER SERVICEMEN'S GROUP LIFE INSURANCE.

Effective April 1, 1996, section 1967 of title 38, United States Code, is amended— Effective date.

(1) in subsections (a) and (c), by striking out "$100,000" each place it appears and inserting in lieu thereof in each instance "$200,000";

(2) by striking out subsection (e); and

(3) by redesignating subsection (f) as subsection (e).

SEC. 647. TERMINATION OF SERVICEMEN'S GROUP LIFE INSURANCE FOR MEMBERS OF THE READY RESERVE WHO FAIL TO PAY PREMIUMS.

(a) AUTHORITY.—Section 1969(a)(2) of title 38, United States Code, is amended—

(1) by inserting "(A)" after "(2)"; and

(2) by adding at the end the following:

"(B) If an individual who is required pursuant to subparagraph (A) to make a direct remittance of costs to the Secretary concerned fails to make the required remittance within 60 days of the date on which such remittance is due, such individual's insurance with respect to which such remittance is required shall be terminated by the Secretary concerned. Such termination shall be made by written notice to the individual's official address and shall be effective 60 days after the date of such notice. Such termination of insurance may be vacated if, before the effective date of termination, the individual remits all amounts past due for such insurance and demonstrates to the satisfaction of the Secretary concerned that the failure to make timely remittances was justifiable.".

Notice.
Effective date.

(b) CONFORMING AMENDMENT.—Section 1968(a) is amended by inserting "(or discontinued pursuant to section 1969(a)(2)(B) of this title)" in the matter preceding paragraph (1) after "upon the written request of the insured".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on April 1, 1996.

38 USC 1968 note.

TITLE VII—HEALTH CARE PROVISIONS

Subtitle A—Health Care Services

SEC. 701. MODIFICATION OF REQUIREMENTS REGARDING ROUTINE PHYSICAL EXAMINATIONS AND IMMUNIZATIONS UNDER CHAMPUS.

Section 1079(a) of title 10, United States Code, is amended by striking out paragraph (2) and inserting in lieu thereof the following new paragraph:

"(2) consistent with such regulations as the Secretary of Defense may prescribe regarding the content of health promotion and disease prevention visits, the schedule of pap smears and mammograms, and the types and schedule of immunizations—

"(A) for dependents under six years of age, both health promotion and disease prevention visits and immunizations may be provided; and

"(B) for dependents six years of age or older, health promotion and disease prevention visits may be provided in connection with immunizations or with diagnostic or preventive pap smears and mammograms;".

SEC. 702. CORRECTION OF INEQUITIES IN MEDICAL AND DENTAL CARE AND DEATH AND DISABILITY BENEFITS FOR CERTAIN RESERVES.

(a) MEDICAL AND DENTAL CARE.—Section 1074a(a) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(3) Each member of the armed forces who incurs or aggravates an injury, illness, or disease in the line of duty while remaining overnight, between successive periods of inactive-duty training, at or in the vicinity of the site of the inactive-duty training, if the site is outside reasonable commuting distance from the member's residence.".

(b) RECOVERY, CARE, AND DISPOSITION OF REMAINS.—Section 1481(a)(2) of title 10, United States Code, is amended—

(1) in subparagraph (C), by striking out "or" at the end of the subparagraph;

(2) by redesignating subparagraph (D) as subparagraph (E); and

(3) by inserting after subparagraph (C) the following new subparagraph:

"(D) remaining overnight, between successive periods of inactive-duty training, at or in the vicinity of the site of the inactive-duty training, if the site is outside reasonable commuting distance from the member's residence; or".

(c) ENTITLEMENT TO BASIC PAY.—(1) Subsection (g)(1) of section 204 of title 37, United States Code, is amended—

(A) in subparagraph (B), by striking out "or" at the end of the subparagraph;

(B) in subparagraph (C), by striking out the period at the end of the subparagraph and inserting in lieu thereof "; or"; and

(C) by inserting after subparagraph (C) the following new subparagraph:

"(D) in line of duty while remaining overnight, between successive periods of inactive-duty training, at or in the vicinity of the site of the inactive-duty training, if the site is outside reasonable commuting distance from the member's residence.".

(2) Subsection (h)(1) of such section is amended—

(A) in subparagraph (B), by striking out "or" at the end of the subparagraph;

(B) in subparagraph (C), by striking out the period at the end of the subparagraph and inserting in lieu thereof "; or"; and

(C) by inserting after subparagraph (C) the following new subparagraph:

"(D) in line of duty while remaining overnight, between successive periods of inactive-duty training, at or in the vicinity of the site of the inactive-duty training, if the site is outside reasonable commuting distance from the member's residence.".

(d) COMPENSATION FOR INACTIVE-DUTY TRAINING.—Section 206(a)(3) of title 37, United States Code, is amended—

(1) in subparagraph (A), by striking out "or" at the end of clause (ii);

(2) in subparagraph (B), by striking out the period at the end of the subparagraph and inserting in lieu thereof "; or"; and

(3) by inserting after subparagraph (B) the following new subparagraph:

"(C) in line of duty while remaining overnight, between successive periods of inactive-duty training, at or in the vicinity of the site of the inactive-duty training, if the site is outside reasonable commuting distance from the member's residence.".

SEC. 703. MEDICAL CARE FOR SURVIVING DEPENDENTS OF RETIRED RESERVES WHO DIE BEFORE AGE 60.

(a) CHANGE IN ELIGIBILITY REQUIREMENTS.—Paragraph (2) of section 1076(b) of title 10, United States Code, is amended—

(1) by striking out "death (A) would" and inserting in lieu thereof "death would"; and

(2) by striking out ", and (B) had elected to participate in the Survivor Benefit Plan established under subchapter II of chapter 73 of this title".

(b) CONFORMING AMENDMENTS.—Such paragraph is further amended—

(1) in the matter following paragraph (2), by striking out "clause (2)" the first place it appears and inserting in lieu thereof "paragraph (2)"; and

(2) by striking out the second sentence.

SEC. 704. MEDICAL AND DENTAL CARE FOR MEMBERS OF THE SELECTED RESERVE ASSIGNED TO EARLY DEPLOYING UNITS OF THE ARMY SELECTED RESERVE.

(a) ANNUAL MEDICAL AND DENTAL SCREENINGS AND CARE.—Section 1074a of title 10, United States Code, is amended—

(1) in subsection (c), by striking out "this section" and inserting in lieu thereof "subsection (b)"; and

(2) by adding at the end the following new subsection:

"(d)(1) The Secretary of the Army shall provide to members of the Selected Reserve of the Army who are assigned to units scheduled for deployment within 75 days after mobilization the following medical and dental services:

"(A) An annual medical screening.

"(B) For members who are over 40 years of age, a full physical examination not less often than once every two years.

"(C) An annual dental screening.

"(D) The dental care identified in an annual dental screening as required to ensure that a member meets the dental standards required for deployment in the event of mobilization.

"(2) The services provided under this subsection shall be provided at no cost to the member.".

10 USC 10105 note.

(b) CONFORMING REPEALS.—Sections 1117 and 1118 of the Army National Guard Combat Readiness Reform Act of 1992 (title XI of Public Law 102–484; 10 U.S.C. 3077 note) are repealed.

SEC. 705. DENTAL INSURANCE FOR MEMBERS OF THE SELECTED RESERVE.

(a) PROGRAM AUTHORIZATION.—(1) Chapter 55 of title 10, United States Code, is amended by inserting after section 1076a the following new section:

"§ 1076b. Selected Reserve dental insurance

"(a) AUTHORITY TO ESTABLISH PLAN.—The Secretary of Defense shall establish a dental insurance plan for members of the Selected

Reserve of the Ready Reserve. The plan shall provide for voluntary enrollment and for premium sharing between the Department of Defense and the members enrolled in the plan. The plan shall be administered under regulations prescribed by the Secretary of Defense. Regulations.

"(b) PREMIUM SHARING.—(1) A member enrolling in the dental insurance plan shall pay a share of the premium charged for the insurance coverage. The member's share may not exceed $25 per month.

"(2) The Secretary of Defense may reduce the monthly premium required to be paid by enlisted members under paragraph (1) if the Secretary determines that the reduction is appropriate in order to assist enlisted members to participate in the dental insurance plan.

"(3) A member's share of the premium for coverage by the dental insurance plan shall be deducted and withheld from the basic pay payable to the member for inactive duty training and from the basic pay payable to the member for active duty.

"(4) The Secretary of Defense shall pay the portion of the premium charged for coverage of a member under the dental insurance plan that exceeds the amount paid by the member.

"(c) BENEFITS AVAILABLE UNDER THE PLAN.—The dental insurance plan shall provide benefits for basic dental care and treatment, including diagnostic services, preventative services, basic restorative services, and emergency oral examinations.

"(d) TERMINATION OF COVERAGE.—The coverage of a member by the dental insurance plan shall terminate on the last day of the month in which the member is discharged, transfers to the Individual Ready Reserve, Standby Reserve, or Retired Reserve, or is ordered to active duty for a period of more than 30 days.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1076a the following:

"1076b. Selected Reserve dental insurance.".

(b) IMPLEMENTATION.—Beginning not later than October 1, 1996, the Secretary of Defense shall offer members of the Selected Reserve the opportunity to enroll in the dental insurance plan required under section 1076b of title 10, United States Code (as added by subsection (a)). During fiscal year 1996, the Secretary shall collect such information and complete such planning and other preparations as are necessary to offer and administer the dental insurance plan by that date. The activities undertaken by the Secretary under this subsection during fiscal year 1996 may include— 10 USC 1076b note.

(1) surveys; and

(2) tests, in not more than three States, of a dental insurance plan or alternative dental insurance plans meeting the requirements of section 1076b of title 10, United States Code.

SEC. 706. PERMANENT AUTHORITY TO CARRY OUT SPECIALIZED TREATMENT FACILITY PROGRAM.

Section 1105 of title 10, United States Code, is amended by striking out subsection (h).

Subtitle B—TRICARE Program

10 USC 1073 note.

SEC. 711. DEFINITION OF TRICARE PROGRAM.

For purposes of this subtitle, the term "TRICARE program" means the managed health care program that is established by the Secretary of Defense under the authority of chapter 55 of title 10, United States Code, principally section 1097 of such title, and includes the competitive selection of contractors to financially underwrite the delivery of health care services under the Civilian Health and Medical Program of the Uniformed Services.

SEC. 712. PRIORITY USE OF MILITARY TREATMENT FACILITIES FOR PERSONS ENROLLED IN MANAGED CARE INITIATIVES.

Section 1097(c) of title 10, United States Code, is amended in the third sentence by striking out "However, the Secretary may" and inserting in lieu thereof "Notwithstanding the preferences established by sections 1074(b) and 1076 of this title, the Secretary shall".

SEC. 713. STAGGERED PAYMENT OF ENROLLMENT FEES FOR TRICARE PROGRAM.

Section 1097(e) of title 10, United States Code, is amended by adding at the end the following new sentence: "Without imposing additional costs on covered beneficiaries who participate in contracts for health care services under this section or health care plans offered under section 1099 of this title, the Secretary shall permit such covered beneficiaries to pay, on a quarterly basis, any enrollment fee required for such participation.".

SEC. 714. REQUIREMENT OF BUDGET NEUTRALITY FOR TRICARE PROGRAM TO BE BASED ON ENTIRE PROGRAM.

(a) CHANGE IN BUDGET NEUTRALITY REQUIREMENTS.—Subsection (c) of section 731 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 10 U.S.C. 1073 note) is amended—

(1) by striking out "each managed health care initiative that includes the option" and inserting in lieu thereof "the TRICARE program"; and

(2) by striking out "covered beneficiaries who enroll in the option" and inserting in lieu thereof "members of the uniformed services and covered beneficiaries who participate in the TRICARE program".

(b) ADDITION OF DEFINITION OF TRICARE PROGRAM.—Subsection (d) of such section is amended to read as follows:

"(d) DEFINITIONS.—For purposes of this section:

"(1) The term 'covered beneficiary' means a beneficiary under chapter 55 of title 10, United States Code, other than a beneficiary under section 1074(a) of such title.

"(2) The term 'TRICARE program' means the managed health care program that is established by the Secretary of Defense under the authority of chapter 55 of title 10, United States Code, principally section 1097 of such title, and includes the competitive selection of contractors to financially underwrite the delivery of health care services under the Civilian Health and Medical Program of the Uniformed Services.".

SEC. 715. TRAINING IN HEALTH CARE MANAGEMENT AND ADMINISTRATION FOR TRICARE LEAD AGENTS.

10 USC 1073 note.

(a) PROVISION OF TRAINING.—Not later than six months after the date of the enactment of this Act, the Secretary of Defense shall implement a professional educational program to provide appropriate training in health care management and administration—

(1) to each commander of a military medical treatment facility of the Department of Defense who is selected to serve as a lead agent to coordinate the delivery of health care by military and civilian providers under the TRICARE program; and

(2) to appropriate members of the support staff of the treatment facility who will be responsible for daily operation of the TRICARE program.

(b) REPORT ON IMPLEMENTATION.—Not later than six months after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report describing the professional educational program implemented pursuant to this section.

SEC. 716. PILOT PROGRAM OF INDIVIDUALIZED RESIDENTIAL MENTAL HEALTH SERVICES.

Children and youth.
10 USC 1073 note.

(a) PROGRAM REQUIRED.—(1) During fiscal year 1996, the Secretary of Defense, in consultation with the other administering Secretaries under chapter 55 of title 10, United States Code, shall implement a pilot program to provide residential and wraparound services to children described in paragraph (2) who are in need of mental health services. The Secretary shall implement the pilot program for an initial period of at least two years in a military health care region in which the TRICARE program has been implemented.

(2) A child shall be eligible for selection to participate in the pilot program if the child is a dependent (as described in subparagraph (D) or (I) of section 1072(2) of title 10, United States Code) who—

(A) is eligible for health care under section 1079 or 1086 of such title; and

(B) has a serious emotional disturbance that is generally regarded as amenable to treatment.

(b) WRAPAROUND SERVICES DEFINED.—For purposes of this section, the term "wraparound services" means individualized mental health services that are provided principally to allow a child to remain in the family home or other least-restrictive and least-costly setting, but also are provided as an aftercare planning service for children who have received acute or residential care. Such term includes nontraditional mental health services that will assist the child to be maintained in the least-restrictive and least-costly setting.

(c) PILOT PROGRAM AGREEMENT.—Under the pilot program the Secretary of Defense shall enter into one or more agreements that require a mental health services provider under the agreement—

(1) to provide wraparound services to a child described in subsection (a)(2);

(2) to continue to provide such services as needed during the period of the agreement even if the child moves to another location within the same TRICARE program region during that period; and

(3) to share financial risk by accepting as a maximum annual payment for such services a case-rate reimbursement not in excess of the amount of the annual standard CHAMPUS residential treatment benefit payable (as determined in accordance with section 8.1 of chapter 3 of volume II of the CHAMPUS policy manual).

(d) REPORT.—Not later than March 1, 1998, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on the program carried out under this section. The report shall contain—

(1) an assessment of the effectiveness of the program; and

(2) the Secretary's views regarding whether the program should be implemented throughout the military health care system.

10 USC 1073 note.

SEC. 717. EVALUATION AND REPORT ON TRICARE PROGRAM EFFECTIVENESS.

(a) EVALUATION REQUIRED.—The Secretary of Defense shall arrange for an on-going evaluation of the effectiveness of the TRICARE program in meeting the goals of increasing the access of covered beneficiaries under chapter 55 of title 10, United States Code, to health care and improving the quality of health care provided to covered beneficiaries, without increasing the costs incurred by the Government or covered beneficiaries. The evaluation shall specifically address—

(1) the impact of the TRICARE program on military retirees with regard to access, costs, and quality of health care services; and

(2) identify noncatchment areas in which the health maintenance organization option of the TRICARE program is available or is proposed to become available.

(b) ENTITY TO CONDUCT EVALUATION.—The Secretary may use a federally funded research and development center to conduct the evaluation required by subsection (a).

(c) ANNUAL REPORT.—Not later than March 1, 1997, and each March 1 thereafter, the Secretary shall submit to Congress a report describing the results of the evaluation under subsection (a) during the preceding year.

SEC. 718. SENSE OF CONGRESS REGARDING ACCESS TO HEALTH CARE UNDER TRICARE PROGRAM FOR COVERED BENEFICIARIES WHO ARE MEDICARE ELIGIBLE.

(a) FINDINGS.—Congress finds the following:

(1) Medical care provided in facilities of the uniformed services is generally less expensive to the Federal Government than the same care provided at Government expense in the private sector.

(2) Covered beneficiaries under the military health care provisions of chapter 55, United States Code, who are eligible for medicare under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) deserve health care options that empower them to choose the health plan that best fits their needs.

(b) SENSE OF CONGRESS.—In light of the findings specified in subsection (a), it is the sense of Congress that—

(1) the Secretary of Defense should develop a program to ensure that such covered beneficiaries who reside in a region in which the TRICARE program has been implemented con-

tinue to have adequate access to health care services after the implementation of the TRICARE program; and

(2) as a means of ensuring such access, the budget for fiscal year 1997 submitted by the President under section 1105 of title 31, United States Code, should provide for reimbursement by the Health Care Financing Administration to the Department of Defense for health care services provided to such covered beneficiaries in medical treatment facilities of the Department of Defense.

Subtitle C—Uniformed Services Treatment Facilities

SEC. 721. DELAY OF TERMINATION OF STATUS OF CERTAIN FACILITIES AS UNIFORMED SERVICES TREATMENT FACILITIES.

Section 1252(e) of the Department of Defense Authorization Act, 1984 (42 U.S.C. 248d(e)) is amended by striking out "December 31, 1996" in the first sentence and inserting in lieu thereof "September 30, 1997".

SEC. 722. LIMITATION ON EXPENDITURES TO SUPPORT UNIFORMED SERVICES TREATMENT FACILITIES.

Subsection (f) of section 1252 of the Department of Defense Authorization Act, 1984 (42 U.S.C. 248d), is amended to read as follows:

"(f) LIMITATION ON EXPENDITURES.—The total amount of expenditures by the Secretary of Defense to carry out this section and section 911 of the Military Construction Authorization Act, 1982 (42 U.S.C. 248c), for fiscal year 1996 may not exceed $300,000,000, adjusted by the Secretary to reflect the inflation factor used by the Department of Defense for such fiscal year.".

SEC. 723. APPLICATION OF CHAMPUS PAYMENT RULES IN CERTAIN CASES.

Section 1074 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(d)(1) The Secretary of Defense may require, by regulation, a private CHAMPUS provider to apply the CHAMPUS payment rules (subject to any modifications considered appropriate by the Secretary) in imposing charges for health care that the private CHAMPUS provider provides to a member of the uniformed services who is enrolled in a health care plan of a facility deemed to be a facility of the uniformed services under section 911(a) of the Military Construction Authorization Act, 1982 (42 U.S.C. 248c(a)) when the health care is provided outside the catchment area of the facility.

"(2) In this subsection:

"(A) The term 'private CHAMPUS provider' means a private facility or health care provider that is a health care provider under the Civilian Health and Medical Program of the Uniformed Services.

"(B) The term 'CHAMPUS payment rules' means the payment rules referred to in subsection (c).

"(3) The Secretary of Defense shall prescribe regulations under this subsection after consultation with the other administering Secretaries.". Regulations.

SEC. 724. APPLICATION OF FEDERAL ACQUISITION REGULATION TO PARTICIPATION AGREEMENTS WITH UNIFORMED SERVICES TREATMENT FACILITIES.

42 USC 248c note.

(a) Section 718(c) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1587) is amended—

(1) in the second sentence of paragraph (1), by striking out "A participation agreement" and inserting in lieu thereof "Except as provided in paragraph (4), a participation agreement";

(2) by redesignating paragraph (4) as paragraph (6); and

(3) by inserting after paragraph (3) the following new paragraph:

"(4) APPLICATION OF FEDERAL ACQUISITION REGULATION.—On and after the date of the enactment of this paragraph, Uniformed Services Treatment Facilities and any participation agreement between Uniformed Services Treatment Facilities and the Secretary of Defense shall be subject to the Federal Acquisition Regulation issued pursuant to section 25(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)) notwithstanding any provision to the contrary in such a participation agreement. The requirements regarding competition in the Federal Acquisition Regulation shall apply with regard to the negotiation of any new participation agreement between the Uniformed Services Treatment Facilities and the Secretary of Defense under this subsection or any other provision of law.".

(b) SENSE OF CONGRESS.—(1) Congress finds that the Uniformed Services Treatment Facilities provide quality health care to the 120,000 Department of Defense beneficiaries enrolled in the Uniformed Services Family Health Plan provided by these facilities.

(2) In light of such finding, it is the sense of Congress that the Uniformed Services Family Health Plan provided by the Uniformed Services Treatment Facilities should not be terminated for convenience under provisions of the Federal Acquisition Regulation by the Secretary of Defense before the expiration of the current participation agreements.

(3) For purposes of this subsection, the term "Uniformed Services Treatment Facility" means a facility deemed to be a facility of the uniformed services by virtue of section 911(a) of the Military Construction Authorization Act, 1982 (42 U.S.C. 248c(a)).

SEC. 725. DEVELOPMENT OF PLAN FOR INTEGRATING UNIFORMED SERVICES TREATMENT FACILITIES IN MANAGED CARE PROGRAMS OF DEPARTMENT OF DEFENSE.

42 USC 248c note.

Section 718(c) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1587) is amended by inserting after paragraph (4), as added by section 722, the following new paragraph:

"(5) PLAN FOR INTEGRATING FACILITIES.—(A) The Secretary of Defense shall develop a plan under which Uniformed Services Treatment Facilities could be included, before the expiration date of the participation agreements entered into under this section, in the exclusive health care provider networks established by the Secretary for the geographic regions in which the facilities are located. The Secretary shall address in the plan the feasibility of implementing the managed care plan

of the Uniformed Services Treatment Facilities, known as Option II, on a mandatory basis for all USTF Medicare-eligible beneficiaries and the potential cost savings to the Military Health Care Program that could be achieved under such option.

"(B) The Secretary shall submit the plan developed under this paragraph to Congress not later than March 1, 1996.

"(C) The plan developed under this paragraph shall be consistent with the requirements specified in paragraph (4). If the plan is not submitted to Congress by the expiration date of the participation agreements entered into under this section, the participation agreements shall remain in effect, at the option of the Uniformed Services Treatment Facilities, until the end of the 180-day period beginning on the date the plan is finally submitted.

"(D) For purposes of this paragraph, the term 'USTF Medicare-eligible beneficiaries' means covered beneficiaries under chapter 55 of title 10, United States Code, who are enrolled in a managed health plan offered by the Uniformed Services Treatment Facilities and entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.).".

SEC. 726. EQUITABLE IMPLEMENTATION OF UNIFORM COST SHARING REQUIREMENTS FOR UNIFORMED SERVICES TREATMENT FACILITIES.

42 USC 248c note.

(a) TIME FOR FEE IMPLEMENTATION.—The uniform managed care benefit fee and copayment schedule developed by the Secretary of Defense for use in all managed care initiatives of the military health service system, including the managed care program of the Uniformed Services Treatment Facilities, shall be extended to the managed care program of a Uniformed Services Treatment Facility only after the later of—

(1) the implementation of the TRICARE regional program covering the service area of the Uniformed Services Treatment Facility; or

(2) October 1, 1996.

(b) SUBMISSION OF ACTUARIAL ESTIMATES.—Paragraph (2) of subsection (a) shall operate as a condition on the extension of the uniform managed care benefit fee and copayment schedule to the Uniformed Services Treatment Facilities only if the Uniformed Services Treatment Facilities submit to the Comptroller General of the United States, within 30 days after the date of the enactment of this Act, actuarial estimates in support of their contention that the extension of such fees and copayments will have an adverse effect on the operation of the Uniformed Services Treatment Facilities and the enrollment of participants.

(c) EVALUATION.—(1) Except as provided in paragraph (2), not later than 90 days after the date of the enactment of this Act, the Comptroller General shall submit to Congress the results of an evaluation of the effect on the Uniformed Services Treatment Facilities of the extension of the uniform benefit fee and copayment schedule to the Uniformed Services Treatment Facilities. The evaluation shall include an examination of whether the benefit fee and copayment schedule may—

(A) cause adverse selection of enrollees;

(B) be inappropriate for a fully at-risk program similar to civilian health maintenance organizations; or

(C) result in an enrolled population dissimilar to the general beneficiary population.

(2) The Comptroller General shall not be required to prepare or submit the evaluation under paragraph (1) if the Uniformed Services Treatment Facilities fail to satisfactorily comply with subsection (b), as determined by the Comptroller General.

SEC. 727. ELIMINATION OF UNNECESSARY ANNUAL REPORTING REQUIREMENT REGARDING UNIFORMED SERVICES TREATMENT FACILITIES.

Section 1252 of the Department of Defense Authorization Act, 1984 (42 U.S.C. 248d), is amended by striking out subsection (d).

Subtitle D—Other Changes to Existing Laws Regarding Health Care Management

SEC. 731. MAXIMUM ALLOWABLE PAYMENTS TO INDIVIDUAL HEALTH-CARE PROVIDERS UNDER CHAMPUS.

(a) MAXIMUM PAYMENT.—Subsection (h) of section 1079 of title 10, United States Code, is amended by striking out paragraph (1) and inserting in lieu thereof the following new paragraph:

"(1) Payment for a charge for services by an individual health care professional (or other noninstitutional health care provider) for which a claim is submitted under a plan contracted for under subsection (a) may not exceed the lesser of—

"(A) the amount equivalent to the 80th percentile of billed charges made for similar services in the same locality during the base period; or

"(B) an amount determined to be appropriate, to the extent practicable, in accordance with the same reimbursement rules as apply to payments for similar services under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.).".

(b) COMPARISON TO MEDICARE PAYMENTS.—Such subsection is further amended by adding at the end the following new paragraph:

"(3) For the purposes of paragraph (1)(B), the appropriate payment amount shall be determined by the Secretary of Defense, in consultation with the other administering Secretaries.".

(c) EXCEPTIONS AND LIMITATIONS.—Such subsection is further amended by inserting after paragraph (3), as added by subsection (b), the following new paragraphs:

Regulations.

"(4) The Secretary of Defense, in consultation with the other administering Secretaries, shall prescribe regulations to provide for such exceptions to the payment limitations under paragraph (1) as the Secretary determines to be necessary to assure that covered beneficiaries retain adequate access to health care services. Such exceptions may include the payment of amounts higher than the amount allowed under paragraph (1) when enrollees in managed care programs obtain covered emergency services from nonparticipating providers. To provide a suitable transition from the payment methodologies in effect before the date of the enactment of this paragraph to the methodology required by paragraph (1), the amount allowable for any service may not be reduced by more than 15 percent below the amount allowed for the same service during the immediately preceding 12-month period (or other period as established by the Secretary of Defense).

"(5) The Secretary of Defense, in consultation with the other administering Secretaries, shall prescribe regulations to establish limitations (similar to the limitations established under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.)) on beneficiary liability for charges of an individual health care professional (or other noninstitutional health care provider).". Regulations.

(d) CONFORMING AMENDMENT.—Paragraph (2) of such subsection is amended by striking out "paragraph (1)" and inserting in lieu thereof "paragraph (1)(A)".

(e) REPORT ON EFFECT OF AMENDMENTS.—Not later than March 1, 1996, the Secretary of Defense shall submit to Congress a report analyzing the effect of the amendments made by this section on the ability or willingness of individual health care professionals and other noninstitutional health care providers to participate in the Civilian Health and Medical Program of the Uniformed Services.

SEC. 732. NOTIFICATION OF CERTAIN CHAMPUS COVERED BENEFICIARIES OF LOSS OF CHAMPUS ELIGIBILITY.

Section 1086(d) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(4) The administering Secretaries shall develop a mechanism by which persons described in paragraph (1) who satisfy only the criteria specified in subparagraphs (A) and (B) of paragraph (2), but not subparagraph (C) of such paragraph, are promptly notified of their ineligibility for health benefits under this section. In developing the notification mechanism, the administering Secretaries shall consult with the administrator of the Health Care Financing Administration.".

SEC. 733. PERSONAL SERVICES CONTRACTS FOR MEDICAL TREATMENT FACILITIES OF THE COAST GUARD.

(a) CONTRACTING AUTHORITY.—Section 1091(a) of title 10, United States Code, is amended—

(1) by inserting after "Secretary of Defense" the following: ", with respect to medical treatment facilities of the Department of Defense, and the Secretary of Transportation, with respect to medical treatment facilities of the Coast Guard when the Coast Guard is not operating as a service in the Navy,"; and

(2) by striking out "medical treatment facilities of the Department of Defense" and inserting in lieu thereof "such facilities".

(b) RATIFICATION OF EXISTING CONTRACTS.—Any exercise of authority under section 1091 of title 10, United States Code, to enter into a personal services contract on behalf of the Coast Guard before the effective date of the amendments made by subsection (a) is hereby ratified. 10 USC 1091 note.

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as of October 1, 1995. 10 USC 1091 note.

SEC. 734. IDENTIFICATION OF THIRD-PARTY PAYER SITUATIONS.

Section 1095 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(k)(1) To improve the administration of this section and sections 1079(j)(1) and 1086(d) of this title, the Secretary of Defense, in consultation with the other administering Secretaries, may prescribe regulations providing for the collection of information regarding insurance, medical service, or health plans of third-party payers held by covered beneficiaries.

"(2) The collection of information under regulations prescribed under paragraph (1) shall be conducted in the same manner as is provided in section 1862(b)(5) of the Social Security Act (42 U.S.C. 1395y(b)(5)). The Secretary may provide for obtaining from the Commissioner of Social Security employment information comparable to the information provided to the Administrator of the Health Care Financing Administration pursuant to such section. Such regulations may require the mandatory disclosure of Social Security account numbers for all covered beneficiaries.

"(3) The Secretary may disclose relevant employment information collected under this subsection to fiscal intermediaries or other designated contractors.

"(4) The Secretary may provide for contacting employers of covered beneficiaries to obtain group health plan information comparable to the information authorized to be obtained under section 1862(b)(5)(C) of the Social Security Act (42 U.S.C. 1395y(b)(5)(C)). Notwithstanding clause (iii) of such section, clause (ii) of such section regarding the imposition of civil money penalties shall apply to the collection of information under this paragraph.

"(5) Information obtained under this subsection may not be disclosed for any purpose other than to carry out the purpose of this section and sections 1079(j)(1) and 1086(d) of this title.".

SEC. 735. REDESIGNATION OF MILITARY HEALTH CARE ACCOUNT AS DEFENSE HEALTH PROGRAM ACCOUNT AND TWO-YEAR AVAILABILITY OF CERTAIN ACCOUNT FUNDS.

(a) REDESIGNATION.—Section 1100 of title 10, United States Code, is amended—

(1) in subsection (a)(1)—

(A) by striking out "Military Health Care Account" and inserting in lieu thereof "Defense Health Program Account"; and

(B) by striking out "the Civilian Health and Medical Program of the Uniformed Services" and inserting in lieu thereof "medical and health care programs of the Department of Defense"; and

(2) in subsection (b)—

(A) by striking out "entering into a contract" and inserting in lieu thereof "conducting programs and activities under this chapter, including contracts entered into"; and

(B) by inserting a comma after "title".

(b) TWO YEAR AVAILABILITY OF CERTAIN APPROPRIATIONS.—Subsection (a)(2) of such section is amended to read as follows:

"(2) Of the total amount appropriated for a fiscal year for programs and activities carried out under this chapter, the amount equal to three percent of such total amount shall remain available for obligation until the end of the following fiscal year.".

(c) CONFORMING AMENDMENTS.—Such section is further amended—

(1) by striking out subsections (c), (d), and (f); and

(2) by redesignating subsection (e) as subsection (c).

(d) CLERICAL AMENDMENTS.—(1) The heading of such section is amended to read as follows:

"§ 1100. Defense Health Program Account".

(2) The item relating to such section in the table of sections at the beginning of chapter 55 of such title is amended to read as follows:

"1100. Defense Health Program Account.".

SEC. 736. EXPANSION OF FINANCIAL ASSISTANCE PROGRAM FOR HEALTH-CARE PROFESSIONALS IN RESERVE COMPONENTS TO INCLUDE DENTAL SPECIALTIES.

Section 16201(b) of title 10, United States Code, is amended—

(1) in the subsection heading, by inserting "AND DENTISTS" after "PHYSICIANS";

(2) in paragraph (1)(A), by inserting "or dental school" after "medical school";

(3) in paragraphs (1)(B) and (2)(B), by inserting "or dental officer" after "medical officer"; and

(4) in paragraph (1)(C), by striking out "physicians in a medical specialty" and inserting in lieu thereof "physicians or dentists in a medical or dental specialty".

SEC. 737. APPLICABILITY OF LIMITATION ON PRICES OF PHARMACEUTICALS PROCURED FOR COAST GUARD.

(a) INCLUSION OF COAST GUARD.—Section 8126(b) of title 38, United States Code, is amended by adding at the end the following new paragraph:

"(4) The Coast Guard.".

(b) EFFECTIVE DATE; APPLICATION OF AMENDMENT.—The amendment made by subsection (a) shall take effect as if included in the enactment of section 603 of the Veterans Health Care Act of 1992 (Public Law 102–585; 106 Stat. 4971). 38 USC 8126 note.

SEC. 738. RESTRICTION ON USE OF DEPARTMENT OF DEFENSE FACILITIES FOR ABORTIONS.

(a) IN GENERAL.—Section 1093 of title 10, United States Code, is amended—

(1) by inserting "(a) RESTRICTION ON USE OF FUNDS.—" before "Funds available"; and

(2) by adding at the end the following:

"(b) RESTRICTION ON USE OF FACILITIES.—No medical treatment facility or other facility of the Department of Defense may be used to perform an abortion except where the life of the mother would be endangered if the fetus were carried to term or in a case in which the pregnancy is the result of an act of rape or incest.".

(b) CLERICAL AMENDMENTS.—(1) The heading of such section is amended to read as follows:

"§ 1093. Performance of abortions: restrictions".

(2) The item relating to such section in the table of sections at the beginning of chapter 55 of such title is amended to read as follows:

"1093. Performance of abortions: restrictions.".

Subtitle E—Other Matters

SEC. 741. TRISERVICE NURSING RESEARCH.

(a) PROGRAM AUTHORIZED.—Chapter 104 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2116. Military nursing research

"(a) DEFINITIONS.—In this section:

"(1) The term 'military nursing research' means research on the furnishing of care and services by nurses in the armed forces.

"(2) The term 'TriService Nursing Research Program' means the program of military nursing research authorized under this section.

"(b) PROGRAM AUTHORIZED.—The Secretary of Defense may establish at the University a program of military nursing research.

"(c) TRISERVICE RESEARCH GROUP.—The TriService Nursing Research Program shall be administered by a TriService Nursing Research Group composed of Army, Navy, and Air Force nurses who are involved in military nursing research and are designated by the Secretary concerned to serve as members of the group.

"(d) DUTIES OF GROUP.—The TriService Nursing Research Group shall—

"(1) develop for the Department of Defense recommended guidelines for requesting, reviewing, and funding proposed military nursing research projects; and

"(2) make available to Army, Navy, and Air Force nurses and Department of Defense officials concerned with military nursing research—

"(A) information about nursing research projects that are being developed or carried out in the Army, Navy, and Air Force; and

"(B) expertise and information beneficial to the encouragement of meaningful nursing research.

"(e) RESEARCH TOPICS.—For purposes of this section, military nursing research includes research on the following issues:

"(1) Issues regarding how to improve the results of nursing care and services provided in the armed forces in time of peace.

"(2) Issues regarding how to improve the results of nursing care and services provided in the armed forces in time of war.

"(3) Issues regarding how to prevent complications associated with battle injuries.

"(4) Issues regarding how to prevent complications associated with the transporting of patients in the military medical evacuation system.

"(5) Issues regarding how to improve methods of training nursing personnel.

"(6) Clinical nursing issues, including such issues as prevention and treatment of child abuse and spouse abuse.

"(7) Women's health issues.

"(8) Wellness issues.

"(9) Preventive medicine issues.

"(10) Home care management issues.

"(11) Case management issues.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 104 of such title is amended by adding at the end the following:

"2116. Military nursing research.".

SEC. 742. TERMINATION OF PROGRAM TO TRAIN MILITARY PSYCHOLOGISTS TO PRESCRIBE PSYCHOTROPIC MEDICATIONS.

(a) TERMINATION.—Not later than June 30, 1997, the Secretary of Defense shall terminate the demonstration pilot program for training military psychologists in the prescription of psychotropic medications, which is referred to in section 8097 of the Department of Defense Appropriations Act, 1991 (Public Law 101–511; 104 Stat. 1897).

(b) PROHIBITION ON ADDITIONAL ENROLLEES PENDING TERMINATION.—After the date of the enactment of this Act, the Secretary of Defense may not enroll any new participants for the demonstration pilot program described in subsection (a).

(c) EFFECT ON CURRENT PARTICIPANTS.—The requirement to terminate the demonstration pilot program described in subsection (a) shall not be construed to affect the training or utilization of military psychologists in the prescription of psychotropic medications who are participating in the demonstration pilot program on the date of the enactment of this Act or who have completed such training before that date.

(d) EVALUATION.—As soon as possible after the date of the enactment of this Act, but not later than April 1, 1997, the Comptroller General of the United States shall submit to Congress a report evaluating the success of the demonstration pilot program described in subsection (a). The report shall include— Reports.

(1) a cost-benefit analysis of the program;

(2) a discussion of the utilization requirements under the program; and

(3) recommendations regarding—

(A) whether the program should be extended so as to continue to provide training to military psychologists in the prescription of psychotropic medications; and

(B) any modifications that should be made in the manner in which military psychologists are trained and used to prescribe psychotropic medications so as to improve the training provided under the program, if the program is extended.

SEC. 743. WAIVER OF COLLECTION OF PAYMENTS DUE FROM CERTAIN PERSONS UNAWARE OF LOSS OF CHAMPUS ELIGIBILITY. 10 USC 1086 note.

(a) AUTHORITY TO WAIVE COLLECTION.—The administering Secretaries may waive the collection of payments otherwise due from a person described in subsection (b) as a result of the receipt by the person of health benefits under section 1086 of title 10, United States Code, after the termination of the person's eligibility for such benefits.

(b) PERSONS ELIGIBLE FOR WAIVER.—A person shall be eligible for relief under subsection (a) if the person—

(1) is a person described in paragraph (1) of subsection (d) of section 1086 of title 10, United States Code;

(2) in the absence of such paragraph, would have been eligible for health benefits under such section; and

(3) at the time of the receipt of such benefits, satisfied the criteria specified in subparagraphs (A) and (B) of paragraph (2) of such subsection.

(c) EXTENT OF WAIVER AUTHORITY.—The authority to waive the collection of payments pursuant to this section shall apply with regard to health benefits provided under section 1086 of title 10, United States Code, to persons described in subsection (b) during the period beginning on January 1, 1967, and ending on the later of—

(1) the termination date of any special enrollment period provided under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) specifically for such persons; and

(2) July 1, 1996.

(d) DEFINITIONS.—For purposes of this section, the term "administering Secretaries" has the meaning given such term in section 1072(3) of title 10, United States Code.

10 USC 1092 note.

SEC. 744. DEMONSTRATION PROGRAM TO TRAIN MILITARY MEDICAL PERSONNEL IN CIVILIAN SHOCK TRAUMA UNITS.

(a) DEMONSTRATION PROGRAM.—(1) Not later than April 1, 1996, the Secretary of Defense shall implement a demonstration program to evaluate the feasibility of providing shock trauma training for military medical personnel through one or more public or nonprofit hospitals. The Secretary shall carry out the program pursuant to an agreement with such hospitals.

(2) Under the agreement with a hospital, the Secretary shall assign military medical personnel participating in the demonstration program to temporary duty in shock trauma units operated by the hospitals that are parties to the agreement.

(3) The agreement shall require, as consideration for the services provided by military medical personnel under the agreement, that the hospital provide appropriate care to members of the Armed Forces and to other persons whose care in the hospital would otherwise require reimbursement by the Secretary. The value of the services provided by the hospitals shall be at least equal to the value of the services provided by military medical personnel under the agreement.

(b) TERMINATION OF PROGRAM.—The authority of the Secretary of Defense to conduct the demonstration program under this section, and any agreement entered into under the demonstration program, shall expire on March 31, 1998.

(c) REPORT AND EVALUATION OF PROGRAM.—(1) Not later than March 1 of each year in which the demonstration program is conducted under this section, the Secretary of Defense shall submit to Congress a report describing the scope and activities of the demonstration program during the preceding year.

(2) Not later than May 1, 1998, the Comptroller General of the United States shall submit to Congress a report evaluating the effectiveness of the demonstration program in providing shock trauma training for military medical personnel.

SEC. 745. STUDY REGARDING DEPARTMENT OF DEFENSE EFFORTS TO DETERMINE APPROPRIATE FORCE LEVELS OF WARTIME MEDICAL PERSONNEL.

(a) STUDY REQUIRED.—The Comptroller General of the United States shall conduct a study to evaluate the reasonableness of

the models used by each military department for determining the appropriate wartime force level for medical personnel in the department. The study shall include the following:

(1) An assessment of the modeling techniques used by each department.

(2) An analysis of the data used in the models to identify medical personnel requirements.

(3) An identification of the ability of the models to integrate personnel of reserve components to meet department requirements.

(4) An evaluation of the ability of the Secretary of Defense to integrate the various modeling efforts into a comprehensive, coordinated plan for obtaining the optimum force level for wartime medical personnel.

(b) REPORT OF STUDY.—Not later than June 30, 1996, the Comptroller General shall report to Congress on the results of the.study conducted under subsection (a).

SEC. 746. REPORT ON IMPROVED ACCESS TO MILITARY HEALTH CARE FOR COVERED BENEFICIARIES ENTITLED TO MEDICARE.

Not later than March 1, 1996, the Secretary of Defense shall submit to Congress a report evaluating the feasibility, costs, and consequences for the military health care system of improving access to the system for covered beneficiaries under chapter 55 of title 10, United States Code, who have limited access to military medical treatment facilities and are ineligible for the Civilian Health and Medical Program of the Uniformed Services under section 1086(d)(1) of such title. The alternatives that the Secretary shall consider to improve access for such covered beneficiaries shall include—

(1) whether CHAMPUS should serve as a second payer for covered beneficiaries who are entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.); and

(2) whether such covered beneficiaries should be offered enrollment in the Federal Employees Health Benefits program under chapter 89 of title 5, United States Code.

SEC. 747. REPORT ON EFFECT OF CLOSURE OF FITZSIMONS ARMY MEDICAL CENTER, COLORADO, ON PROVISION OF CARE TO MILITARY PERSONNEL, RETIRED MILITARY PERSONNEL, AND THEIR DEPENDENTS.

(a) EFFECT OF CLOSURE ON MEMBERS EXPERIENCING HEALTH DIFFICULTIES ASSOCIATED WITH PERSIAN GULF SYNDROME.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report that—

(1) assesses the effects of the closure of Fitzsimons Army Medical Center, Colorado, on the capability of the Department of Defense to provide appropriate and adequate health care to members and former members of the Armed Forces who suffer from undiagnosed illnesses (or combination of illnesses) as a result of service in the Armed Forces in the Southwest Asia theater of operations during the Persian Gulf conflict; and

(2) describes the plans of the Secretary of Defense and the Secretary of the Army to ensure that adequate and appropriate health care is provided to such members for such illnesses (or combination of illnesses).

(b) EFFECT OF CLOSURE ON OTHER COVERED BENEFICIARIES.—The report required by subsection (a) shall also include—

(1) an assessment of the effects of the closure of Fitzsimons Army Medical Center on the capability of the Department of Defense to provide appropriate and adequate health care to the dependents of members and former members of the Armed Forces and retired members and their dependents who currently obtain care at the medical center; and

(2) a description of the plans of the Secretary of Defense and the Secretary of the Army to ensure that adequate and appropriate health care is provided to such persons, as called for in the recommendations of the Secretary of Defense for the closure of Fitzsimons Army Medical Center.

SEC. 748. SENSE OF CONGRESS ON CONTINUITY OF HEALTH CARE SERVICES FOR COVERED BENEFICIARIES ADVERSELY AFFECTED BY CLOSURES OF MILITARY MEDICAL TREATMENT FACILITIES.

(a) FINDINGS.—Congress finds the following:

(1) Military installations selected for closure in the 1991 and 1993 rounds of the base closure process will soon close.

(2) Additional military installations have been selected for closure in the 1995 round of the base closure process.

(3) Some of the military installations selected for closure include military medical treatment facilities.

(4) As a result of these base closures, tens of thousands of covered beneficiaries under chapter 55 of title 10, United States Code, who reside in the vicinity of such installations will be left without immediate access to military medical treatment facilities.

(b) SENSE OF CONGRESS.—In light of the findings specified in subsection (a), it is the sense of Congress that the Secretary of Defense should take all appropriate steps necessary to ensure the continuation of medical and pharmaceutical benefits for covered beneficiaries adversely affected by the closure of military installations.

SEC. 749. STATE RECOGNITION OF MILITARY ADVANCE MEDICAL DIRECTIVES.

(a) REQUIREMENT FOR RECOGNITION BY STATES.—(1) Chapter 53 of title 10, United States Code, is amended by inserting after section 1044b the following new section:

"§ 1044c. Advance medical directives of members and dependents: requirement for recognition by States

"(a) INSTRUMENTS TO BE GIVEN LEGAL EFFECT WITHOUT REGARD TO STATE LAW.—An advance medical directive executed by a person eligible for legal assistance—

"(1) is exempt from any requirement of form, substance, formality, or recording that is provided for advance medical directives under the laws of a State; and

"(2) shall be given the same legal effect as an advance medical directive prepared and executed in accordance with the laws of the State concerned.

"(b) ADVANCE MEDICAL DIRECTIVES.—For purposes of this section, an advance medical directive is any written declaration that—

"(1) sets forth directions regarding the provision, withdrawal, or withholding of life-prolonging procedures, including hydration and sustenance, for the declarant whenever the declarant has a terminal physical condition or is in a persistent vegetative state; or

"(2) authorizes another person to make health care decisions for the declarant, under circumstances stated in the declaration, whenever the declarant is incapable of making informed health care decisions.

"(c) STATEMENT TO BE INCLUDED.—(1) Under regulations prescribed by the Secretary concerned, an advance medical directive prepared by an attorney authorized to provide legal assistance shall contain a statement that sets forth the provisions of subsection (a). Regulations.

"(2) Paragraph (1) shall not be construed to make inapplicable the provisions of subsection (a) to an advance medical directive that does not include a statement described in that paragraph.

"(d) STATES NOT RECOGNIZING ADVANCE MEDICAL DIRECTIVES.—Subsection (a) does not make an advance medical directive enforceable in a State that does not otherwise recognize and enforce advance medical directives under the laws of the State.

"(e) DEFINITIONS.—In this section:

"(1) The term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, and a possession of the United States.

"(2) The term 'person eligible for legal assistance' means a person who is eligible for legal assistance under section 1044 of this title.

"(3) The term 'legal assistance' means legal services authorized under section 1044 of this title.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1044b the following:

"1044c. Advance medical directives of members and dependents: requirement for recognition by States.".

(b) EFFECTIVE DATE.—Section 1044c of title 10, United States Code, shall take effect on the date of the enactment of this Act and shall apply to advance medical directives referred to in that section that are executed before, on, or after that date. 10 USC 1044c note.

TITLE VIII—ACQUISITION POLICY, ACQUISITION MANAGEMENT, AND RELATED MATTERS

Subtitle A—Acquisition Reform

SEC. 801. INAPPLICABILITY OF LIMITATION ON EXPENDITURE OF APPROPRIATIONS TO CONTRACTS AT OR BELOW SIMPLIFIED ACQUISITION THRESHOLD.

Section 2207 of title 10, United States Code, is amended—

(1) by inserting "(a)" before "Money appropriated"; and

(2) by adding at the end the following new subsection:

"(b) This section does not apply to a contract that is for an amount not greater than the simplified acquisition threshold (as

defined in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11))).".

SEC. 802. AUTHORITY TO DELEGATE CONTRACTING AUTHORITY.

(a) REPEAL OF DUPLICATIVE AUTHORITY AND RESTRICTION.—Section 2356 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 139 of title 10, United States Code, is amended by striking out the item relating to section 2356.

SEC. 803. CONTROL IN PROCUREMENTS OF CRITICAL AIRCRAFT AND SHIP SPARE PARTS.

(a) REPEAL.—Section 2383 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 141 of such title is amended by striking out the item relating to section 2383.

SEC. 804. FEES FOR CERTAIN TESTING SERVICES.

Section 2539b(c) of title 10, United States Code, is amended by inserting "and indirect" after "recoup the direct" in the second sentence.

SEC. 805. COORDINATION AND COMMUNICATION OF DEFENSE RESEARCH ACTIVITIES.

Section 2364 of title 10, United States Code, is amended—

(1) in subsection (b)(5), by striking out "milestone O, milestone I, and milestone II" and inserting in lieu thereof "acquisition program"; and

(2) in subsection (c), by striking out paragraphs (2), (3), and (4) and inserting in lieu thereof the following:

"(2) The term 'acquisition program decision' has the meaning prescribed by the Secretary of Defense in regulations.".

SEC. 806. ADDITION OF CERTAIN ITEMS TO DOMESTIC SOURCE LIMITATION.

(a) LIMITATION.—(1) Paragraph (3) of section 2534(a) of title 10, United States Code, is amended to read as follows:

"(3) COMPONENTS FOR NAVAL VESSELS.—(A) The following components:

"(i) Air circuit breakers.

"(ii) Welded shipboard anchor and mooring chain with a diameter of four inches or less.

"(iii) Vessel propellers with a diameter of six feet or more.

"(B) The following components of vessels, to the extent they are unique to marine applications: gyrocompasses, electronic navigation chart systems, steering controls, pumps, propulsion and machinery control systems, and totally enclosed lifeboats.".

(2) Subsection (b) of section 2534 of such title is amended by adding at the end the following:

"(3) MANUFACTURER OF VESSEL PROPELLERS.—In the case of a procurement of vessel propellers referred to in subsection (a)(3)(A)(ii), the manufacturer of the propellers meets the requirements of this subsection only if—

"(A) the manufacturer meets the requirements set forth in paragraph (1); and

"(B) all castings incorporated into such propellers are poured and finished in the United States.".

(3) Paragraph (1) of section 2534(c) of such title is amended to read as follows:

"(1) COMPONENTS FOR NAVAL VESSELS.—Subsection (a) does not apply to a procurement of spare or repair parts needed to support components for naval vessels produced or manufactured outside the United States.".

(4) Section 2534 of such title is amended by adding at the end the following new subsection:

"(h) IMPLEMENTATION OF NAVAL VESSEL COMPONENT LIMITATION.—In implementing subsection (a)(3)(B), the Secretary of Defense—

"(1) may not use contract clauses or certifications; and

"(2) shall use management and oversight techniques that achieve the objective of the subsection without imposing a significant management burden on the Government or the contractor involved.".

(5) Subsection (a)(3)(B) of section 2534 of title 10, United States Code, as amended by paragraph (1), shall apply only to contracts entered into after March 31, 1996.

(b) EXTENSION OF LIMITATION RELATING TO BALL BEARINGS AND ROLLER BEARINGS.—Section 2534(c)(3) of such title is amended by striking out "October 1, 1995" and inserting in lieu thereof "October 1, 2000".

(c) TERMINATION OF VESSEL PROPELLER LIMITATION.—Section 2534(c) of such title is amended by adding at the end the following new paragraph:

"(4) VESSEL PROPELLERS.—Subsection (a)(3)(A)(iii) and this paragraph shall cease to be effective on the date occurring two years after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1996.". Termination date.

(d) INAPPLICABILITY OF SIMPLIFIED ACQUISITION LIMITATION TO CONTRACTS FOR BALL BEARINGS AND ROLLER BEARINGS.—Section 2534(g) of title 10, United States Code, is amended—

(1) by inserting "(1)" before "This section"; and

(2) by adding at the end the following new paragraph:

"(2) Paragraph (1) does not apply to contracts for items described in subsection (a)(5) (relating to ball bearings and roller bearings), notwithstanding section 33 of the Office of Federal Procurement Policy Act (41 U.S.C. 429).".

SEC. 807. ENCOURAGEMENT OF USE OF LEASING AUTHORITY.

(a) IN GENERAL.—(1) Section 2401a of title 10, United States Code, is amended—

(A) by inserting before "The Secretary of Defense" the following subsection heading: "(b) LIMITATION ON CONTRACTS WITH TERMS OF 18 MONTHS OR MORE.—";

(B) by inserting after the section heading the following:

"(a) LEASING OF COMMERCIAL VEHICLES AND EQUIPMENT.—The Secretary of Defense may use leasing in the acquisition of commercial vehicles and equipment whenever the Secretary determines that leasing of such vehicles is practicable and efficient."; and

(C) by amending the section heading to read as follows:

"§ 2401a. Lease of vehicles, equipment, vessels, and aircraft".

(2) The item relating to section 2401a in the table of sections at the beginning of chapter 141 of such title is amended to read as follows:

"2401a. Lease of vehicles, equipment, vessels, and aircraft.".

(b) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report setting forth changes in legislation that would be required to facilitate the use of leasing in the acquisition of equipment by the Department of Defense.

10 USC 2401a note.

(c) PILOT PROGRAM.—(1) The Secretary of the Army may conduct a pilot program for leasing commercial utility cargo vehicles in accordance with this subsection.

(2) Under the pilot program—

(A) the Secretary may trade existing commercial utility cargo vehicles of the Army for credit against the costs of leasing new replacement commercial utility cargo vehicles for the Army;

(B) the quantities and trade-in value of commercial utility cargo vehicles to be traded in shall be subject to negotiation between the Secretary and the lessors of the new replacement commercial utility cargo vehicles;

(C) the lease agreement for a new commercial utility cargo vehicle may be executed with or without an option to purchase at the end of the lease period;

(D) the lease period for a new commercial utility cargo vehicle may not exceed the warranty period for the vehicle; and

(E) up to 40 percent of the validated requirement for commercial utility cargo vehicles may be satisfied by leasing such vehicles, except that one or more options for satisfying the remainder of the validated requirement may be provided for and exercised (subject to the requirements of paragraph (6)).

(3) In awarding contracts under the pilot program, the Secretary shall comply with section 2304 of title 10, United States Code.

(4) The pilot program may not be commenced until—

Reports.

(A) the Secretary submits to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report that contains the plans of the Secretary for implementing the program and that sets forth in detail the savings in operating and support costs expected to be derived from retiring older commercial utility cargo vehicles, as compared to the expected costs of leasing newer commercial utility cargo vehicles; and

(B) a period of 30 calendar days has elapsed after submission of such report.

Reports.

(5) Not later than one year after the date on which the first lease under the pilot program is entered into, the Secretary of the Army shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on the status of the pilot program. Such report shall be based on at least six months of experience in operating the pilot program.

(6) The Secretary may exercise an option provided for under paragraph (2) only after a period of 60 days has elapsed after the submission of the report.

(7) No lease of commercial utility cargo vehicles may be entered into under the pilot program after September 30, 2000.

SEC. 808. COST REIMBURSEMENT RULES FOR INDIRECT COSTS ATTRIBUTABLE TO PRIVATE SECTOR WORK OF DEFENSE CONTRACTORS.

10 USC 2501 note.

(a) DEFENSE CAPABILITY PRESERVATION AGREEMENT.—The Secretary of Defense may enter into an agreement, to be known as a "defense capability preservation agreement", with a defense contractor under which the cost reimbursement rules described in subsection (b) shall be applied. Such an agreement may be entered into in any case in which the Secretary determines that the application of such cost reimbursement rules would facilitate the achievement of the policy objectives set forth in section 2501(b) of title 10, United States Code.

(b) COST REIMBURSEMENT RULES.—(1) The cost reimbursement rules applicable under an agreement entered into under subsection (a) are as follows:

(A) The Department of Defense shall, in determining the reimbursement due a contractor for its indirect costs of performing a defense contract, allow the contractor to allocate indirect costs to its private sector work only to the extent of the contractor's allocable indirect private sector costs, subject to subparagraph (C).

(B) For purposes of subparagraph (A), the allocable indirect private sector costs of a contractor are those costs of the contractor that are equal to the sum of—

(i) the incremental indirect costs attributable to such work; and

(ii) the amount by which the revenue attributable to such private sector work exceeds the sum of—

(I) the direct costs attributable to such private sector work; and

(II) the incremental indirect costs attributable to such private sector work.

(C) The total amount of allocable indirect private sector costs for a contract in any year of the agreement may not exceed the amount of indirect costs that a contractor would have allocated to its private sector work during that year in accordance with the contractor's established accounting practices.

(2) The cost reimbursement rules set forth in paragraph (1) may be modified by the Secretary of Defense if the Secretary of Defense determines that modifications are appropriate to the particular situation to facilitate achievement of the policy set forth in section 2501(b) of title 10, United States Code.

(c) IMPLEMENTATION.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall establish application procedures and procedures for expeditious consideration of defense capability preservation agreements as authorized by this section.

(d) CONTRACTS COVERED.—An agreement entered into with a contractor under subsection (a) shall apply to each Department of Defense contract with the contractor in effect on the date on

which the agreement is entered into and each Department of Defense contract that is awarded to the contractor during the term of the agreement.

(e) REPORTS.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report setting forth—

(1) the number of applications received and the number of applications approved for defense capability preservation agreements; and

(2) any changes to the authority in this section that the Secretary recommends to further facilitate the policy set forth in section 2501(b) of title 10, United States Code.

SEC. 809. SUBCONTRACTS FOR OCEAN TRANSPORTATION SERVICES.

Notwithstanding any other provision of law, neither section 901(b) of the Merchant Marine Act, 1936 (46 U.S.C. 1241(b)) nor section 2631 of title 10, United States Code, shall be included before May 1, 1996, on any list promulgated under section 34(b) of the Office of Federal Procurement Policy Act (41 U.S.C. 430(b)).

SEC. 810. PROMPT RESOLUTION OF AUDIT RECOMMENDATIONS.

5 USC app. 5 note.

Section 6009 of the Federal Acquisition Streamlining Act of 1994 (Public Law 103–355; 108 Stat. 3367) is amended to read as follows:

"SEC. 6009. PROMPT MANAGEMENT DECISIONS AND IMPLEMENTATION OF AUDIT RECOMMENDATIONS.

"(a) MANAGEMENT DECISIONS.—(1) The head of a Federal agency shall make management decisions on all findings and recommendations set forth in an audit report of the inspector general of the agency within a maximum of six months after the issuance of the report.

"(2) The head of a Federal agency shall make management decisions on all findings and recommendations set forth in an audit report of any auditor from outside the Federal Government within a maximum of six months after the date on which the head of the agency receives the report.

"(b) COMPLETION OF FINAL ACTION.—The head of a Federal agency shall complete final action on each management decision required with regard to a recommendation in an inspector general's report under subsection (a)(1) within 12 months after the date of the inspector general's report. If the head of the agency fails to complete final action with regard to a management decision within the 12-month period, the inspector general concerned shall identify the matter in each of the inspector general's semiannual reports pursuant to section 5(a)(3) of the Inspector General Act of 1978 (5 U.S.C. App.) until final action on the management decision is completed.".

SEC. 811. TEST PROGRAM FOR NEGOTIATION OF COMPREHENSIVE SUBCONTRACTING PLANS.

(a) REVISION OF AUTHORITY.—Subsection (a) of section 834 of National Defense Authorization Act for Fiscal Years 1990 and 1991 (15 U.S.C. 637 note) is amended by striking out paragraph (1) and inserting in lieu thereof the following:

Establishment.

"(1) The Secretary of Defense shall establish a test program under which contracting activities in the military departments and the Defense Agencies are authorized to undertake one or more

demonstration projects to determine whether the negotiation and administration of comprehensive subcontracting plans will reduce administrative burdens on contractors while enhancing opportunities provided under Department of Defense contracts for small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals. In selecting the contracting activities to undertake demonstration projects, the Secretary shall take such action as is necessary to ensure that a broad range of the supplies and services acquired by the Department of Defense are included in the test program.".

(b) COVERED CONTRACTORS.—Subsection (b) of such section is amended by striking out paragraph (3) and inserting in lieu thereof the following:

"(3) A Department of Defense contractor referred to in paragraph (1) is, with respect to a comprehensive subcontracting plan negotiated in any fiscal year, a business concern that, during the immediately preceding fiscal year, furnished the Department of Defense with supplies or services (including professional services, research and development services, and construction services) pursuant to at least three Department of Defense contracts having an aggregate value of at least $5,000,000.".

(c) TECHNICAL AMENDMENTS.—Such section is amended—

(1) by striking out subsection (g); and

(2) by redesignating subsection (h) as subsection (g).

SEC. 812. PROCUREMENT OF ITEMS FOR EXPERIMENTAL OR TEST PURPOSES.

Section 2373(b) of title 10, United States Code, is amended by inserting "only" after "applies" in the second sentence.

SEC. 813. USE OF FUNDS FOR ACQUISITION OF DESIGNS, PROCESSES, TECHNICAL DATA, AND COMPUTER SOFTWARE.

Section 2386(3) of title 10, United States Code, is amended to read as follows:

"(3) Design and process data, technical data, and computer software.".

SEC. 814. INDEPENDENT COST ESTIMATES FOR MAJOR DEFENSE ACQUISITION PROGRAMS.

Section 2434(b)(1)(A) of title 10, United States Code, is amended to read as follows:

"(A) be prepared—

"(i) by an office or other entity that is not under the supervision, direction, or control of the military department, Defense Agency, or other component of the Department of Defense that is directly responsible for carrying out the development or acquisition of the program; or

"(ii) if the decision authority for the program has been delegated to an official of a military department, Defense Agency, or other component of the Department of Defense, by an office or other entity that is not directly responsible for carrying out the development or acquisition of the program; and".

SEC. 815. CONSTRUCTION, REPAIR, ALTERATION, FURNISHING, AND EQUIPPING OF NAVAL VESSELS.

(a) APPLICABILITY OF CERTAIN LAW.—Chapter 633 of title 10, United States Code, is amended by inserting after section 7297 the following:

"§ 7299. Contracts: applicability of Walsh-Healey Act

"Each contract for the construction, alteration, furnishing, or equipping of a naval vessel is subject to the Walsh-Healey Act (41 U.S.C. 35 et seq.) unless the President determines that this requirement is not in the interest of national defense.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 7297 the following:

"7299. Contracts: applicability of Walsh-Healey Act.".

Subtitle B—Other Matters

SEC. 821. PROCUREMENT TECHNICAL ASSISTANCE PROGRAMS.

(a) FUNDING.—Of the amount authorized to be appropriated under section 301(5), $12,000,000 shall be available for carrying out the provisions of chapter 142 of title 10, United States Code.

(b) SPECIFIC PROGRAMS.—Of the amounts made available pursuant to subsection (a), $600,000 shall be available for fiscal year 1996 for the purpose of carrying out programs sponsored by eligible entities referred to in subparagraph (D) of section 2411(1) of title 10, United States Code, that provide procurement technical assistance in distressed areas referred to in subparagraph (B) of section 2411(2) of such title. If there is an insufficient number of satisfactory proposals for cooperative agreements in such distressed areas to allow effective use of the funds made available in accordance with this subsection in such areas, the funds shall be allocated among the Defense Contract Administration Services regions in accordance with section 2415 of such title.

10 USC 2302 note.

SEC. 822. DEFENSE FACILITY-WIDE PILOT PROGRAM.

(a) AUTHORITY TO CONDUCT DEFENSE FACILITY-WIDE PILOT PROGRAM.—The Secretary of Defense may conduct a pilot program, to be known as the "defense facility-wide pilot program", for the purpose of determining the potential for increasing the efficiency and effectiveness of the acquisition process in facilities by using commercial practices on a facility-wide basis.

(b) DESIGNATION OF PARTICIPATING FACILITIES.—(1) Subject to paragraph (2), the Secretary may designate up to two facilities as participants in the defense facility-wide pilot program.

(2) The Secretary may designate for participation in the pilot program only those facilities that are authorized to be so designated in a law authorizing appropriations for national defense programs that is enacted after the date of the enactment of this Act.

(c) SCOPE OF PROGRAM.—At a facility designated as a participant in the pilot program, the pilot program shall consist of the following:

(1) All contracts and subcontracts for defense supplies and services that are performed at the facility.

(2) All Department of Defense contracts and all subcontracts under Department of Defense contracts performed

elsewhere that the Secretary determines are directly and substantially related to the production of defense supplies and services at the facility and are necessary for the pilot program.

(d) CRITERIA FOR DESIGNATION OF PARTICIPATING FACILITIES.—The Secretary shall establish criteria for selecting a facility for designation as a participant in the pilot program. In developing such criteria, the Secretary shall consider the following:

(1) The number of existing and anticipated contracts and subcontracts performed at the facility—

(A) for which contractors are required to provide certified cost or pricing data pursuant to section 2306a of title 10, United States Code; and

(B) which are administered with the application of cost accounting standards under section 26(f) of the Office of Federal Procurement Policy Act (41 U.S.C. 422(f)).

(2) The relationship of the facility to other organizations and facilities performing under contracts with the Department of Defense and subcontracts under such contracts.

(3) The impact that the participation of the facility under the pilot program would have on competing domestic manufacturers.

(4) Such other factors as the Secretary considers appropriate.

(e) NOTIFICATION.—(1) The Secretary shall transmit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a written notification of each facility proposed to be designated by the Secretary for participation in the pilot program.

(2) The Secretary shall include in the notification regarding a facility designated for participation in the program a management plan addressing the following:

(A) The proposed treatment of research and development contracts or subcontracts to be performed at the facility during the pilot program.

(B) The proposed treatment of the cost impact of the use of commercial practices on the award and administration of contracts and subcontracts performed at the facility.

(C) The proposed method for reimbursing the contractor for existing and new contracts.

(D) The proposed method for measuring the performance of the facility for meeting the management goals of the Secretary.

(E) Estimates of the annual amount and the total amount of the contracts and subcontracts covered under the pilot program.

(3)(A) The Secretary shall ensure that the management plan for a facility provides for attainment of the following objectives:

(i) A significant reduction of the cost to the Government for programs carried out at the facility.

(ii) A reduction of the schedule associated with programs carried out at the facility.

(iii) An increased use of commercial practices and procedures for programs carried out at the facility.

(iv) Protection of a domestic manufacturer competing for contracts at such facility from being placed at a significant competitive disadvantage by the participation of the facility in the pilot program.

(B) The management plan for a facility shall also require that all or substantially all of the contracts to be awarded and performed at the facility after the designation of that facility under subsection (b), and all or substantially all of the subcontracts to be awarded under those contracts and performed at the facility after the designation, be—

(i) for the production of supplies or services on a firm-fixed price basis;

(ii) awarded without requiring the contractors or subcontractors to provide certified cost or pricing data pursuant to section 2306a of title 10, United States Code; and

(iii) awarded and administered without the application of cost accounting standards under section 26(f) of the Office of Federal Procurement Policy Act (41 U.S.C. 422(f)).

(f) EXEMPTION FROM CERTAIN REQUIREMENTS.—In the case of a contract or subcontract that is to be performed at a facility designated for participation in the defense facility-wide pilot program and that is subject to section 2306a of title 10, United States Code, or section 26(f) of the Office of Federal Procurement Policy Act (41 U.S.C. 422(f)), the Secretary of Defense may exempt such contract or subcontract from the requirement to obtain certified cost or pricing data under such section 2306a or the requirement to apply mandatory cost accounting standards under such section 26(f) if the Secretary determines that the contract or subcontract—

(1) is within the scope of the pilot program (as described in subsection (c)); and

(2) is fairly and reasonably priced based on information other than certified cost and pricing data.

(g) SPECIAL AUTHORITY.—The authority provided under subsection (a) includes authority for the Secretary of Defense—

(1) to apply any amendment or repeal of a provision of law made in this Act to the pilot program before the effective date of such amendment or repeal; and

(2) to apply to a procurement of items other than commercial items under such program—

(A) the authority provided in section 34 of the Office of Federal Procurement Policy Act (41 U.S.C. 430) to waive a provision of law in the case of commercial items, and

(B) any exception applicable under this Act or the Federal Acquisition Streamlining Act of 1994 (Public Law 103–355) (or an amendment made by a provision of either Act) in the case of commercial items,

before the effective date of such provision (or amendment) to the extent that the Secretary determines necessary to test the application of such waiver or exception to procurements of items other than commercial items.

(h) APPLICABILITY.—(1) Subsections (f) and (g) apply to the following contracts, if such contracts are within the scope of the pilot program at a facility designated for the pilot program under subsection (b):

(A) A contract that is awarded or modified during the period described in paragraph (2).

(B) A contract that is awarded before the beginning of such period, that is to be performed (or may be performed), in whole or in part, during such period, and that may be modified as appropriate at no cost to the Government.

(2) The period referred to in paragraph (1), with respect to a facility designated under subsection (b), is the period that—

(A) begins 45 days after the date of the enactment of the Act authorizing the designation of that facility in accordance with paragraph (2) of such subsection; and

(B) ends on September 30, 2000.

(i) COMMERCIAL PRACTICES ENCOURAGED.—With respect to contracts and subcontracts within the scope of the defense facility-wide pilot program, the Secretary of Defense may, to the extent the Secretary determines appropriate and in accordance with applicable law, adopt commercial practices in the administration of contracts and subcontracts. Such commercial practices may include the following:

(1) Substitution of commercial oversight and inspection procedures for Government audit and access to records.

(2) Incorporation of commercial oversight, inspection, and acceptance procedures.

(3) Use of alternative dispute resolution techniques (including arbitration).

(4) Elimination of contract provisions authorizing the Government to make unilateral changes to contracts.

SEC. 823. TREATMENT OF DEPARTMENT OF DEFENSE CABLE TELEVISION FRANCHISE AGREEMENTS. Reports.

Not later than 180 days after the date of the enactment of this Act, the chief judge of the United States Court of Federal Claims shall transmit to Congress a report containing an advisory opinion on the following two questions:

(1) Is it within the power of the executive branch to treat cable television franchise agreements for the construction, installation, or capital improvement of cable television systems at military installations of the Department of Defense as contracts under part 49 of the Federal Acquisition Regulation without violating title VI of the Communications Act of 1934 (47 U.S.C. 521 et seq.)?

(2) If the answer to the question in paragraph (1) is in the affirmative, is the executive branch required by law to so treat such franchise agreements?

SEC. 824. EXTENSION OF PILOT MENTOR-PROTEGE PROGRAM. 10 USC 2302 note.

Section 831(j)(1) of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 2301 note) is amended by striking out "1995" and inserting in lieu thereof "1996".

TITLE IX—DEPARTMENT OF DEFENSE ORGANIZATION AND MANAGEMENT

Subtitle A—General Matters

SEC. 901. ORGANIZATION OF THE OFFICE OF THE SECRETARY OF DEFENSE. 10 USC 131 note.

(a) FINDINGS.—Congress makes the following findings:

(1) The statutory provisions that as of the date of the enactment of this Act govern the organization of the Office of the Secretary of Defense have evolved from enactment of

a number of executive branch legislative proposals and congressional initiatives over a period of years.

(2) The May 1995 report of the congressionally mandated Commission on Roles and Missions of the Armed Forces included a number of recommendations relating to the Office of the Secretary of Defense.

(3) The Secretary of Defense has decided to create a special Department task force and to conduct other reviews to review many of the Commission's recommendations.

(4) The Secretary of Defense has decided to institute a 5 percent per year reduction of civilian personnel assigned to the Office of the Secretary of Defense, including the Washington Headquarters Service and the Defense Support Activities, for the period from fiscal year 1996 through fiscal year 2001.

(5) Over the ten-year period from 1986 through 1995, defense spending in real dollars has been reduced by 34 percent and military end-strengths have been reduced by 28 percent. During the same period, the number of civilian employees of the Office of the Secretary of Defense has increased by 22 percent.

(6) To achieve greater efficiency and to revalidate the role and mission of the Office of the Secretary of Defense, a comprehensive review of the organizations and functions of that Office and of the personnel needed to carry out those functions is required.

(b) REVIEW.—The Secretary of Defense shall conduct a further review of the organizations and functions of the Office of the Secretary of Defense, including the Washington Headquarters Service and the Defense Support Activities, and the personnel needed to carry out those functions. The review shall include the following:

(1) An assessment of the appropriate functions of the Office and whether the Office of the Secretary of Defense or some of its component parts should be organized along mission lines.

(2) An assessment of the adequacy of the present organizational structure to efficiently and effectively support the Secretary in carrying out his responsibilities in a manner that ensures civilian authority in the Department of Defense.

(3) An assessment of the advantages and disadvantages of the use of political appointees to fill the positions of the various Under Secretaries of Defense, Assistant Secretaries of Defense, and Deputy Under Secretaries of Defense.

(4) An assessment of the extent of unnecessary duplication of functions between the Office of the Secretary of Defense and the Joint Staff.

(5) An assessment of the extent of unnecessary duplication of functions between the Office of the Secretary of Defense and the military departments.

(6) An assessment of the appropriate number of positions referred to in paragraph (3) and of Deputy Assistant Secretaries of Defense.

(7) An assessment of whether some or any of the functions currently performed by the Office of Humanitarian and Refugee Affairs are more properly or effectively performed by another agency of Government or elsewhere within the Department of Defense.

(8) An assessment of the efficacy of the Joint Requirements Oversight Council and whether it is advisable or necessary to establish a statutory charter for this organization.

(9) An assessment of any benefits or efficiencies derived from decentralizing certain functions currently performed by the Office of the Secretary of Defense.

(10) An assessment of the appropriate size, number, and functional responsibilities of the Defense Agencies and other Department of Defense support organizations.

(c) REPORT.—Not later than March 1, 1996, the Secretary of Defense shall submit to the congressional defense committees a report containing —

(1) his findings and conclusions resulting from the review under subsection (b); and

(2) a plan for implementing resulting recommendations, including proposals for legislation (with supporting rationale) that would be required as a result of the review.

(d) PERSONNEL REDUCTION.—(1) Effective October 1, 1999, the number of OSD personnel may not exceed 75 percent of the number of OSD personnel as of October 1, 1994. Effective date.

(2) For purposes of this subsection, the term "OSD personnel" means military and civilian personnel of the Department of Defense who are assigned to, or employed in, functions in the Office of the Secretary of Defense (including Direct Support Activities of that Office and the Washington Headquarters Services of the Department of Defense).

(3) In carrying out reductions in the number of personnel assigned to, or employed in, the Office of the Department of Defense in order to comply with paragraph (1), the Secretary may not reassign functions solely in order to evade the requirement contained in that paragraph.

(4) If the Secretary of Defense determines, and certifies to Congress, that the limitation in paragraph (1) would adversely affect United States national security, the limitation under paragraph (1) shall be applied by substituting "80 percent" for "75 percent".

SEC. 902. REDUCTION IN NUMBER OF ASSISTANT SECRETARY OF DEFENSE POSITIONS.

(a) REDUCTION.—Section 138(a) of title 10, United States Code, is amended by striking out "eleven" and inserting in lieu thereof "ten".

(b) CONFORMING AMENDMENT.—Section 5315 of title 5, United States Code, is amended by striking out "(11)" after "Assistant Secretaries of Defense" and inserting in lieu thereof "(10)".

SEC. 903. DEFERRED REPEAL OF VARIOUS STATUTORY POSITIONS AND OFFICES IN OFFICE OF THE SECRETARY OF DEFENSE.

(a) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 31, 1997. 10 USC 131 note.

(b) TERMINATION OF SPECIFICATION BY LAW OF ASD POSITIONS.—Subsection (b) of section 138 of title 10, United States Code, is amended to read as follows:

"(b) The Assistant Secretaries shall perform such duties and exercise such powers as the Secretary of Defense may prescribe.".

(c) REPEAL OF CERTAIN OSD PRESIDENTIAL APPOINTMENT POSITIONS.—The following sections of chapter 4 of such title are repealed:

(1) Section 133a, relating to the Deputy Under Secretary of Defense for Acquisition and Technology.

(2) Section 134a, relating to the Deputy Under Secretary of Defense for Policy.

(3) Section 137, relating to the Director of Defense Research and Engineering.

(4) Section 142, relating to the Assistant to the Secretary of Defense for Nuclear and Chemical and Biological Defense Programs.

(d) DIRECTOR OF MILITARY RELOCATION ASSISTANCE PROGRAMS.—Section 1056 of such title is amended by striking out subsection (d).

(e) CONFORMING AMENDMENTS RELATING TO REPEAL OF VARIOUS OSD POSITIONS.—Chapter 4 of such title is further amended—

(1) in section 131(b)—

(A) by striking out paragraphs (6) and (8); and

(B) by redesignating paragraphs (7), (9), (10), and (11), as paragraphs (6), (7), (8), and (9), respectively;

(2) in section 138(d), by striking out "the Under Secretaries of Defense, and the Director of Defense Research and Engineering" and inserting in lieu thereof "and the Under Secretaries of Defense"; and

(3) in the table of sections at the beginning of the chapter, by striking out the items relating to sections 133a, 134a, 137, and 142.

(f) CONFORMING AMENDMENTS RELATING TO REPEAL OF SPECIFICATION OF ASD POSITIONS.—

(1) Section 176(a)(3) of title 10, United States Code, is amended—

(A) by striking out "Assistant Secretary of Defense for Health Affairs" and inserting in lieu thereof "official in the Department of Defense with principal responsibility for health affairs"; and

(B) by striking out "Chief Medical Director of the Department of Veterans Affairs" and inserting in lieu thereof "Under Secretary for Health of the Department of Veterans Affairs".

(2) Section 1216(d) of such title is amended by striking out "Assistant Secretary of Defense for Health Affairs" and inserting in lieu thereof "official in the Department of Defense with principal responsibility for health affairs".

(3) Section 1587(d) of such title is amended by striking out "Assistant Secretary of Defense for Manpower and Logistics" and inserting in lieu thereof "official in the Department of Defense with principal responsibility for personnel and readiness".

(4) The text of section 10201 of such title is amended to read as follows:

"The official in the Department of Defense with responsibility for overall supervision of reserve component affairs of the Department of Defense is the official designated by the Secretary of Defense to have that responsibility.".

(5) Section 1211(b)(2) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (P.L. 100–180; 101 Stat 1155; 10 U.S.C. 167 note) is amended by striking out "the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict" and inserting in lieu thereof "the official

designated by the Secretary of Defense to have principal responsibility for matters relating to special operations and low intensity conflict".

(g) REPEAL OF MINIMUM NUMBER OF SENIOR STAFF FOR SPECIFIED ASSISTANT SECRETARY OF DEFENSE.—Section 355 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1540) is repealed.

SEC. 904. REDESIGNATION OF THE POSITION OF ASSISTANT TO THE SECRETARY OF DEFENSE FOR ATOMIC ENERGY.

(a) IN GENERAL.—(1) Section 142 of title 10, United States Code, is amended—

(A) by striking out the section heading and inserting in lieu thereof the following:

"§ 142. Assistant to the Secretary of Defense for Nuclear and Chemical and Biological Defense Programs";

(B) in subsection (a), by striking out "Assistant to the Secretary of Defense for Atomic Energy" and inserting in lieu thereof "Assistant to the Secretary of Defense for Nuclear and Chemical and Biological Defense Programs"; and

(C) by striking out subsection (b) and inserting in lieu thereof the following:

"(b) The Assistant to the Secretary shall—

"(1) advise the Secretary of Defense on nuclear energy, nuclear weapons, and chemical and biological defense;

"(2) serve as the Staff Director of the Nuclear Weapons Council established by section 179 of this title; and

"(3) perform such additional duties as the Secretary may prescribe.".

(2) The item relating to such section in the table of sections at the beginning of chapter 4 of such title is amended to read as follows:

"142. Assistant to the Secretary of Defense for Nuclear and Chemical and Biological Defense Programs.".

(b) CONFORMING AMENDMENTS.—(1) Section 179(c)(2) of title 10, United States Code, is amended by striking out "The Assistant to the Secretary of Defense for Atomic Energy" and inserting in lieu thereof "The Assistant to the Secretary of Defense for Nuclear and Chemical and Biological Defense Programs".

(2) Section 5316 of title 5, United States Code, is amended by striking out "The Assistant to the Secretary of Defense for Atomic Energy, Department of Defense." and inserting in lieu thereof the following:

"Assistant to the Secretary of Defense for Nuclear and Chemical and Biological Defense Programs, Department of Defense.".

SEC. 905. JOINT REQUIREMENTS OVERSIGHT COUNCIL.

(a) IN GENERAL.—(1) Chapter 7 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 181. Joint Requirements Oversight Council

"(a) ESTABLISHMENT.—The Secretary of Defense shall establish a Joint Requirements Oversight Council in the Department of Defense.

"(b) MISSION.—In addition to other matters assigned to it by the President or Secretary of Defense, the Joint Requirements Oversight Council shall—

"(1) assist the Chairman of the Joint Chiefs of Staff in identifying and assessing the priority of joint military requirements (including existing systems and equipment) to meet the national military strategy;

"(2) assist the Chairman in considering alternatives to any acquisition program that has been identified to meet military requirements by evaluating the cost, schedule, and performance criteria of the program and of the identified alternatives; and

"(3) as part of its mission to assist the Chairman in assigning joint priority among existing and future programs meeting valid requirements, ensure that the assignment of such priorities conforms to and reflects resource levels projected by the Secretary of Defense through defense planning guidance.

"(c) COMPOSITION.—(1) The Joint Requirements Oversight Council is composed of—

"(A) the Chairman of the Joint Chiefs of Staff, who is the chairman of the Council;

"(B) an Army officer in the grade of general;

"(C) a Navy officer in the grade of admiral;

"(D) an Air Force officer in the grade of general; and

"(E) a Marine Corps officer in the grade of general.

"(2) Members of the Council, other than the Chairman of the Joint Chiefs of Staff, shall be selected by the Chairman of the Joint Chiefs of Staff, after consultation with the Secretary of Defense, from officers in the grade of general or admiral, as the case may be, who are recommended for such selection by the Secretary of the military department concerned.

"(3) The functions of the Chairman of the Joint Chiefs of Staff as chairman of the Council may only be delegated to the Vice Chairman of the Joint Chiefs of Staff.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"181. Joint Requirements Oversight Council.".

10 USC 181 note.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 31, 1997.

SEC. 906. RESTRUCTURING OF DEPARTMENT OF DEFENSE ACQUISITION ORGANIZATION AND WORKFORCE.

(a) RESTRUCTURING REPORT.—Not later than March 1, 1996, the Secretary of Defense shall submit to Congress a report on the acquisition organization and workforce of the Department of Defense. The report shall include—

(1) the plan described in subsection (b); and

(2) the assessment of streamlining and restructuring options described in subsection (c).

(b) PLAN FOR RESTRUCTURING.—(1) The Secretary shall include in the report under subsection (a) a plan on how to restructure the current acquisition organization of the Department of Defense in a manner that would enable the Secretary to accomplish the following:

(A) Reduce the number of military and civilian personnel assigned to, or employed in, acquisition organizations of the Department of Defense (as defined by the Secretary) by 25

percent over a period of five years, beginning on October 1, 1995.

(B) Eliminate duplication of functions among existing acquisition organizations of the Department of Defense.

(C) Maximize opportunity for consolidation among acquisition organizations of the Department of Defense to reduce management overhead.

(2) In the report, the Secretary shall also identify any statutory requirement or congressional directive that inhibits any proposed restructuring plan or reduction in the size of the defense acquisition organization.

(3) In designing the plan under paragraph (1), the Secretary shall give full consideration to the process efficiencies expected to be achieved through the implementation of the Federal Acquisition Streamlining Act of 1994 (Public Law 103–355), the Federal Acquisition Reform Act of 1995 (division D of this Act), and other ongoing initiatives to increase the use of commercial practices and reduce contract overhead in the defense procurement system.

(c) ASSESSMENT OF SPECIFIED RESTRUCTURING OPTIONS.—The Secretary shall include in the report under subsection (a) a detailed assessment of each of the following options for streamlining and restructuring the existing defense acquisition organization, together with a specific recommendation as to whether each such option should be implemented:

(1) Consolidation of certain functions of the Defense Contract Audit Agency and the Defense Contract Management Command.

(2) Contracting for performance of a significant portion of the workload of the Defense Contract Audit Agency and other Defense Agencies that perform acquisition functions.

(3) Consolidation or selected elimination of Department of Defense acquisition organizations.

(4) Any other defense acquisition infrastructure streamlining or restructuring option the Secretary may determine.

(d) REDUCTION OF ACQUISITION WORKFORCE.—(1) The Secretary of Defense shall accomplish reductions in defense acquisition personnel positions during fiscal year 1996 so that the total number of such personnel as of October 1, 1996, is less than the total number of such personnel as of October 1, 1995, by at least 15,000.

(2) For purposes of this subsection, the term "defense acquisition personnel" means military and civilian personnel assigned to, or employed in, acquisition organizations of the Department of Defense (as specified in Department of Defense Instruction numbered 5000.58 dated January 14, 1992) with the exception of personnel who possess technical competence in trade-skill maintenance and repair positions involved in performing depot maintenance functions.

SEC. 907. REPORT ON NUCLEAR POSTURE REVIEW AND ON PLANS FOR NUCLEAR WEAPONS MANAGEMENT IN EVENT OF ABOLITION OF DEPARTMENT OF ENERGY.

(a) REPORT REQUIRED.—The Secretary of Defense shall submit to Congress a report concerning the nuclear weapons complex. The report shall set forth—

(1) the Secretary's views on the effectiveness of the Department of Energy in managing the nuclear weapons complex, including the fulfillment of the requirements for nuclear weap-

ons established for the Department of Energy in the Nuclear Posture Review; and

(2) the Secretary's recommended plan for the incorporation into the Department of Defense of the national security programs of the Department of Energy if the Department of Energy should be abolished and those programs be transferred to the Department of Defense.

(b) DEFINITION.—For purposes of this section, the term "Nuclear Posture Review" means the Department of Defense Nuclear Posture Review as contained in the report entitled "Report of the Secretary of Defense to the President and the Congress", dated February 19, 1995, or in subsequent such reports.

(c) SUBMISSION OF REPORT.—The report under subsection (a) shall be submitted not later than March 15, 1996.

10 USC 111 note.

SEC. 908. REDESIGNATION OF ADVANCED RESEARCH PROJECTS AGENCY.

(a) REDESIGNATION.—The agency in the Department of Defense known as the Advanced Research Projects Agency shall after the date of the enactment of this Act be designated as the Defense Advanced Research Projects Agency.

(b) REFERENCES.—Any reference in any law, regulation, document, record, or other paper of the United States or in any provision of this Act to the Advanced Research Projects Agency shall be considered to be a reference to the Defense Advanced Research Projects Agency.

Subtitle B—Financial Management

SEC. 911. TRANSFER AUTHORITY REGARDING FUNDS AVAILABLE FOR FOREIGN CURRENCY FLUCTUATIONS.

(a) TRANSFERS TO MILITARY PERSONNEL ACCOUNTS AUTHORIZED.—Section 2779 of title 10, United States Code, is amended by adding at the end the following:

"(c) TRANSFERS TO MILITARY PERSONNEL ACCOUNTS.—The Secretary of Defense may transfer funds to military personnel appropriations for a fiscal year out of funds available to the Department of Defense for that fiscal year under the appropriation 'Foreign Currency Fluctuations, Defense'.".

(b) REVISION AND CODIFICATION OF AUTHORITY FOR TRANSFERS TO FOREIGN CURRENCY FLUCTUATIONS ACCOUNT.—Section 2779 of such title, as amended by subsection (a), is further amended by adding at the end the following:

"(d) TRANSFERS TO FOREIGN CURRENCY FLUCTUATIONS ACCOUNT.—(1) The Secretary of Defense may transfer to the appropriation 'Foreign Currency Fluctuations, Defense' unobligated amounts of funds appropriated for operation and maintenance and unobligated amounts of funds appropriated for military personnel.

"(2) Any transfer from an appropriation under paragraph (1) shall be made not later than the end of the second fiscal year following the fiscal year for which the appropriation is provided.

"(3) Any transfer made pursuant to the authority provided in this subsection shall be limited so that the amount in the appropriation 'Foreign Currency Fluctuations, Defense' does not exceed $970,000,000 at the time the transfer is made.".

(c) CONDITIONS OF AVAILABILITY FOR TRANSFERRED FUNDS.—Section 2779 of such title, as amended by subsection (b), is further amended by adding at the end the following:

"(e) CONDITIONS OF AVAILABILITY FOR TRANSFERRED FUNDS.—Amounts transferred under subsection (c) or (d) shall be merged with and be available for the same purposes and for the same period as the appropriations to which transferred.".

(d) REPEAL OF SUPERSEDED PROVISIONS.—(1) Section 767A of Public Law 96–527 (94 Stat. 3093) is repealed.

(2) Section 791 of the Department of Defense Appropriation Act, 1983 (enacted in section 101(c) of Public Law 97–377; 96 Stat. 1865) is repealed. 10 USC 114 note.

(e) TECHNICAL AMENDMENTS.—Section 2779 of title 10, United States Code, is amended—

(1) in subsection (a), by striking out "(a)(1)" and inserting in lieu thereof "(a) TRANSFERS BACK TO FOREIGN CURRENCY FLUCTUATIONS APPROPRIATION.—(1)";

(2) in subsection (a)(2), by striking out "2d fiscal year" and inserting in lieu thereof "second fiscal year"; and

(3) in subsection (b), by striking out "(b)(1)" and inserting in lieu thereof "(b) FUNDING FOR LOSSES IN MILITARY CONSTRUCTION AND FAMILY HOUSING.—(1)".

(f) EFFECTIVE DATE.—Subsections (c) and (d) of section 2779 of title 10, United States Code, as added by subsections (a) and (b), and the repeals made by subsection (d), shall apply only with respect to amounts appropriated for a fiscal year after fiscal year 1995. 10 USC 2779 note.

SEC. 912. DEFENSE MODERNIZATION ACCOUNT.

(a) ESTABLISHMENT AND USE.—(1) Chapter 131 of title 10, United States Code, is amended by inserting after section 2215 the following new section:

"§ 2216. Defense Modernization Account

"(a) ESTABLISHMENT.—There is established in the Treasury an account to be known as the 'Defense Modernization Account'.

"(b) TRANSFERS TO ACCOUNT.—(1)(A) Upon a determination by the Secretary of a military department or the Secretary of Defense with respect to Defense-wide appropriations accounts of the availability and source of funds described in subparagraph (B), that Secretary may transfer to the Defense Modernization Account during any fiscal year any amount of funds available to the Secretary described in that subparagraph. Such funds may be transferred to that account only after the Secretary concerned notifies the congressional defense committees in writing of the amount and source of the proposed transfer.

"(B) This subsection applies to the following funds available to the Secretary concerned:

"(i) Unexpired funds in appropriations accounts that are available for procurement and that, as a result of economies, efficiencies, and other savings achieved in carrying out a particular procurement, are excess to the requirements of that procurement.

"(ii) Unexpired funds that are available during the final 30 days of a fiscal year for support of installations and facilities and that, as a result of economies, efficiencies, and other sav-

ings, are excess to the requirements for support of installations and facilities.

Regulations.

"(C) Any transfer under subparagraph (A) shall be made under regulations prescribed by the Secretary of Defense.

"(2) Funds referred to in paragraph (1) may not be transferred to the Defense Modernization Account if—

"(A) the funds are necessary for programs, projects, and activities that, as determined by the Secretary, have a higher priority than the purposes for which the funds would be available if transferred to that account; or

"(B) the balance of funds in the account, after transfer of funds to the account, would exceed $1,000,000,000.

"(3) Amounts credited to the Defense Modernization Account shall remain available for transfer until the end of the third fiscal year that follows the fiscal year in which the amounts are credited to the account.

"(4) The period of availability of funds for expenditure provided for in sections 1551 and 1552 of title 31 may not be extended by transfer into the Defense Modernization Account.

"(c) SCOPE OF USE OF FUNDS.—Funds transferred to the Defense Modernization Account from funds appropriated for a military department, Defense Agency, or other element of the Department of Defense shall be available in accordance with subsections (f) and (g) only for transfer to funds available for that military department, Defense Agency, or other element.

"(d) AUTHORIZED USE OF FUNDS.—Funds available from the Defense Modernization Account pursuant to subsection (f) or (g) may be used for the following purposes:

"(1) For increasing, subject to subsection (e), the quantity of items and services procured under a procurement program in order to achieve a more efficient production or delivery rate.

"(2) For research, development, test, and evaluation and for procurement necessary for modernization of an existing system or of a system being procured under an ongoing procurement program.

"(e) LIMITATIONS.—(1) Funds in the Defense Modernization Account may not be used to increase the quantity of an item or services procured under a particular procurement program to the extent that doing so would—

"(A) result in procurement of a total quantity of items or services in excess of—

"(i) a specific limitation provided by law on the quantity of the items or services that may be procured; or

"(ii) the requirement for the items or services as approved by the Joint Requirements Oversight Council and reported to Congress by the Secretary of Defense; or

"(B) result in an obligation or expenditure of funds in excess of a specific limitation provided by law on the amount that may be obligated or expended, respectively, for that procurement program.

"(2) Funds in the Defense Modernization Account may not be used for a purpose or program for which Congress has not authorized appropriations.

"(3) Funds may not be transferred from the Defense Modernization Account in any year for the purpose of—

"(A) making an expenditure for which there is no corresponding obligation; or

"(B) making an expenditure that would satisfy an unliquidated or unrecorded obligation arising in a prior fiscal year.

"(f) TRANSFER OF FUNDS.—(1) The Secretary of Defense may transfer funds in the Defense Modernization Account to appropriations available for purposes set forth in subsection (d).

"(2) Funds in the Defense Modernization Account may not be transferred under paragraph (1) until 30 days after the date on which the Secretary concerned notifies the congressional defense committees in writing of the amount and purpose of the proposed transfer. Notification.

"(3) The total amount of transfers from the Defense Modernization Account during any fiscal year under this subsection may not exceed $500,000,000.

"(g) AVAILABILITY OF FUNDS BY APPROPRIATION.—In addition to transfers under subsection (f), funds in the Defense Modernization Account may be made available for purposes set forth in subsection (d) in accordance with the provisions of appropriations Acts, but only to the extent authorized in an Act other than an appropriations Act.

"(h) SECRETARY TO ACT THROUGH COMPTROLLER.—The Secretary of Defense shall carry out this section through the Under Secretary of Defense (Comptroller), who shall be authorized to implement this section through the issuance of any necessary regulations, policies, and procedures after consultation with the General Counsel and Inspector General of the Department of Defense.

"(i) QUARTERLY REPORTS.—(1) Not later than 15 days after the end of each calendar quarter, the Secretary of Defense shall submit to the congressional committees specified in paragraph (2) a report on the Defense Modernization Account. Each such report shall set forth the following:

"(A) The amount and source of each credit to the account during that quarter.

"(B) The amount and purpose of each transfer from the account during that quarter.

"(C) The balance in the account at the end of the quarter and, of such balance, the amount attributable to transfers to the account from each Secretary concerned.

"(2) The committees referred to in paragraph (1) are the congressional defense committees and the Committee on Governmental Affairs of the Senate and the Committee on Government Reform and Oversight of the House of Representatives.

"(j) DEFINITIONS.—In this section:

"(1) The term 'Secretary concerned' includes the Secretary of Defense with respect to Defense-wide appropriations accounts.

"(2) The term 'unexpired funds' means funds appropriated for a definite period that remain available for obligation.

"(3) The term 'congressional defense committees' means—

"(A) the Committee on Armed Services and the Committee on Appropriations of the Senate; and

"(B) the Committee on National Security and the Committee on Appropriations of the House of Representatives.".

(2) The table of sections at the beginning of chapter 131 of such title is amended by inserting after the item relating to section 2215 the following new item:

"2216. Defense Modernization Account.".

10 USC 2216 note.

(b) EFFECTIVE DATE.—Section 2216 of title 10, United States Code (as added by subsection (a)), shall apply only to funds appropriated for fiscal years after fiscal year 1995.

10 USC 2216 note.

(c) EXPIRATION OF AUTHORITY AND ACCOUNT.—(1) The authority under section 2216(b) of title 10, United States Code (as added by subsection (a)), to transfer funds into the Defense Modernization Account terminates at the close of September 30, 2003.

(2) Three years after the termination date specified in paragraph (1), the Defense Modernization Account shall be closed and any remaining balance in the account shall be canceled and thereafter shall not be available for any purpose.

Reports. 10 USC 2216 note.

(d) GAO REVIEWS.—(1) The Comptroller General of the United States shall conduct two reviews of the administration of the Defense Modernization Account. In each review, the Comptroller General shall assess the operations and benefits of the account.

(2) Not later than March 1, 2000, the Comptroller General shall

(A) complete the first review; and

(B) submit to the specified committees of Congress an initial report on the administration and benefits of the Defense Modernization Account.

(3) Not later than March 1, 2003, the Comptroller General shall—

(A) complete the second review; and

(B) submit to the specified committees of Congress a final report on the administration and benefits of the Defense Modernization Account.

(4) Each such report shall include any recommended legislation regarding the account that the Comptroller General considers appropriate.

(5) For purposes of this subsection, the term "specified committees of Congress" means the congressional committees referred to in section 2216(i)(2) of title 10, United States Code, as added by subsection (a).

SEC. 913. DESIGNATION AND LIABILITY OF DISBURSING AND CERTIFYING OFFICIALS.

(a) DISBURSING OFFICIALS.—(1) Section 3321(c) of title 31, United States Code, is amended by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) The Department of Defense.".

(2) Section 2773 of title 10, United States Code, is amended—

(A) in subsection (a)—

(i) in paragraph (1), by striking out "With the approval of a Secretary of a military department when the Secretary considers it necessary, a disbursing official of the military department" and inserting in lieu thereof "Subject to paragraph (3), a disbursing official of the Department of Defense"; and

(ii) by adding at the end the following new paragraph:

"(3) A disbursing official may make a designation under paragraph (1) only with the approval of the Secretary of Defense or,

in the case of a disbursing official of a military department, the Secretary of that military department."; and

(B) in subsection (b)(1), by striking out "any military department" and inserting in lieu thereof "the Department of Defense".

(b) DESIGNATION OF MEMBERS OF THE ARMED FORCES TO HAVE AUTHORITY TO CERTIFY VOUCHERS.—Section 3325(b) of title 31, United States Code, is amended to read as follows:

"(b) In addition to officers and employees referred to in subsection (a)(1)(B) of this section as having authorization to certify vouchers, members of the armed forces under the jurisdiction of the Secretary of Defense may certify vouchers when authorized, in writing, by the Secretary to do so.".

(c) CONFORMING AMENDMENTS.—(1) Section 1012 of title 37, United States Code, is amended by striking out "Secretary concerned" both places it appears and inserting in lieu thereof "Secretary of Defense".

(2) Section 1007(a) of title 37, United States Code, is amended by striking out "Secretary concerned" and inserting in lieu thereof "Secretary of Defense, or upon the denial of relief of an officer pursuant to section 3527 of title 31".

(3)(A) Section 7863 of title 10, United States Code, is amended—

(i) in the first sentence, by striking out "disbursements of public moneys or" and "the money was paid or"; and

(ii) in the second sentence, by striking out "disbursement or".

(B)(i) The heading of such section is amended to read as follows:

"§ 7863. Disposal of public stores by order of commanding officer".

(ii) The item relating to such section in the table of sections at the beginning of chapter 661 of such title is amended to read as follows:

"7863. Disposal of public stores by order of commanding officer.".

(4) Section 3527(b)(1) of title 31, United States Code, is amended—

(A) by striking out "a disbursing official of the armed forces" and inserting in lieu thereof "an official of the armed forces referred to in subsection (a)";

(B) by striking out "records," and inserting in lieu thereof "records, or a payment described in section 3528(a)(4)(A) of this title,";

(C) by redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iii), and realigning such clauses four ems from the left margin;

(D) by inserting before clause (i), as so redesignated, the following:

"(A) in the case of a physical loss or deficiency—";

(E) in clause (iii), as so redesignated, by striking out the period at the end and inserting in lieu thereof "; or"; and

(F) by adding at the end the following:

"(B) in the case of a payment described in section 3528(a)(4)(A) of this title, the Secretary of Defense or the Secretary of the appropriate military department, after taking a diligent collection action, finds that the criteria of section 3528(b)(1) of this title are satisfied.".

(5) Section 3528 of title 31, United States Code, is amended by striking out subsection (d).

SEC. 914. FISHER HOUSE TRUST FUNDS.

(a) ESTABLISHMENT.—(1) Chapter 131 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2221. Fisher House trust funds

"(a) ESTABLISHMENT.—The following trust funds are established on the books of the Treasury:

"(1) The Fisher House Trust Fund, Department of the Army.

"(2) The Fisher House Trust Fund, Department of the Air Force.

"(b) INVESTMENT.—Funds in the trust funds may be invested in securities of the United States. Earnings and gains realized from the investment of funds in a trust fund shall be credited to the trust fund.

"(c) USE OF FUNDS.—(1) Amounts in the Fisher House Trust Fund, Department of the Army, that are attributable to earnings or gains realized from investments shall be available for the operation and maintenance of Fisher houses that are located in proximity to medical treatment facilities of the Army.

"(2) Amounts in the Fisher House Trust Fund, Department of the Air Force, that are attributable to earnings or gains realized from investments shall be available for the operation and maintenance of Fisher houses that are located in proximity to medical treatment facilities of the Air Force.

"(3) The use of funds under this section is subject to section 1321(b)(2) of title 31.

"(d) FISHER HOUSE DEFINED.—In this section, the term 'Fisher house' means a housing facility that—

"(1) is located in proximity to a medical treatment facility of the Army or the Air Force; and

"(2) is available for residential use on a temporary basis by patients at such facilities, members of the family of such patients, and others providing the equivalent of familial support for such patients.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2221. Fisher House trust funds.".

10 USC 2221 note.

(b) CORPUS OF TRUST FUNDS.—(1) The Secretary of the Treasury shall—

(A) close the accounts established with the funds that were required by section 8019 of Public Law 102-172 (105 Stat. 1175) and section 9023 of Public Law 102–396 (106 Stat. 1905) to be transferred to an appropriated trust fund; and

(B) transfer the amounts in such accounts to the Fisher House Trust Fund, Department of the Army, established by subsection (a)(1) of section 2221 of title 10, United States Code, as added by subsection (a).

(2) The Secretary of the Air Force shall transfer to the Fisher House Trust Fund, Department of the Air Force, established by subsection (a)(2) of section 2221 of title 10, United States Code (as added by section (a)), all amounts in the accounts for Air Force installations and other facilities that, as of the date of the

enactment of this Act, are available for operation and maintenance of Fisher houses (as defined in subsection (d) of such section 2221).

(c) CONFORMING AMENDMENTS.—Section 1321 of title 31, United States Code, is amended—

(1) by adding at the end of subsection (a) the following:

"(92) Fisher House Trust Fund, Department of the Army.

"(93) Fisher House Trust Fund, Department of the Air Force."; and

(2) in subsection (b)—

(A) by inserting "(1)" after "(b)";

(B) in the second sentence, by striking out "Amounts accruing to these funds (except to the trust fund 'Armed Forces Retirement Home Trust Fund')" and inserting in lieu thereof "Except as provided in paragraph (2), amounts accruing to these funds";

(C) by striking out the third sentence; and

(D) by adding at the end the following:

"(2) Expenditures from the following trust funds may be made only under annual appropriations and only if the appropriations are specifically authorized by law:

"(A) Armed Forces Retirement Home Trust Fund.

"(B) Fisher House Trust Fund, Department of the Army.

"(C) Fisher House Trust Fund, Department of the Air Force.".

(d) REPEAL OF SUPERSEDED PROVISIONS.—The following provisions of law are repealed:

(1) Section 8019 of Public Law 102–172 (105 Stat. 1175).

(2) Section 9023 of Public Law 102–396 (106 Stat. 1905).

(3) Section 8019 of Public Law 103–139 (107 Stat. 1441).

(4) Section 8017 of Public Law 103–335 (108 Stat. 2620; 10 U.S.C. 1074 note).

SEC. 915. LIMITATION ON USE OF AUTHORITY TO PAY FOR EMERGENCY AND EXTRAORDINARY EXPENSES.

Section 127 of title 10, United States Code, is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection (c):

"(c)(1) Funds may not be obligated or expended in an amount in excess of $500,000 under the authority of subsection (a) or (b) until the Secretary of Defense has notified the Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on National Security and the Committee on Appropriations of the House of Representatives of the intent to obligate or expend the funds, and— Notification.

"(A) in the case of an obligation or expenditure in excess of $1,000,000, 15 days have elapsed since the date of the notification; or

"(B) in the case of an obligation or expenditure in excess of $500,000, but not in excess of $1,000,000, 5 days have elapsed since the date of the notification.

"(2) Subparagraph (A) or (B) of paragraph (1) shall not apply to an obligation or expenditure of funds otherwise covered by such subparagraph if the Secretary of Defense determines that the national security objectives of the United States will be compromised by the application of the subparagraph to the obligation or expenditure. If the Secretary makes a determination with respect Notification.

to an obligation or expenditure under the preceding sentence, the Secretary shall immediately notify the committees referred to in paragraph (1) that such obligation or expenditure is necessary and provide any relevant information (in classified form, if necessary) jointly to the chairman and ranking minority member (or their designees) of such committees.

"(3) A notification under paragraph (1) and information referred to in paragraph (2) shall include the amount to be obligated or expended, as the case may be, and the purpose of the obligation or expenditure.".

TITLE X—GENERAL PROVISIONS

Subtitle A—Financial Matters

SEC. 1001. TRANSFER AUTHORITY.

(a) AUTHORITY TO TRANSFER AUTHORIZATIONS.—(1) Upon determination by the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in this division for fiscal year 1996 between any such authorizations for that fiscal year (or any subdivisions thereof). Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred.

(2) The total amount of authorizations that the Secretary of Defense may transfer under the authority of this section may not exceed $2,000,000,000.

(b) LIMITATIONS.—The authority provided by this section to transfer authorizations—

(1) may only be used to provide authority for items that have a higher priority than the items from which authority is transferred; and

(2) may not be used to provide authority for an item that has been denied authorization by Congress.

(c) EFFECT ON AUTHORIZATION AMOUNTS.—A transfer made from one account to another under the authority of this section shall be deemed to increase the amount authorized for the account to which the amount is transferred by an amount equal to the amount transferred.

(d) NOTICE TO CONGRESS.—The Secretary shall promptly notify Congress of each transfer made under subsection (a).

10 USC 114 note.

SEC. 1002. INCORPORATION OF CLASSIFIED ANNEX.

(a) STATUS OF CLASSIFIED ANNEX.—The Classified Annex prepared by the committee on conference to accompany the bill H.R. 1530 of the One Hundred Fourth Congress and transmitted to the President is hereby incorporated into this Act.

(b) CONSTRUCTION WITH OTHER PROVISIONS OF ACT.—The amounts specified in the Classified Annex are not in addition to amounts authorized to be appropriated by other provisions of this Act.

(c) LIMITATION ON USE OF FUNDS.—Funds appropriated pursuant to an authorization contained in this Act that are made available for a program, project, or activity referred to in the Classified Annex may only be expended for such program, project, or activity in accordance with such terms, conditions, limitations, restrictions,

and requirements as are set out for that program, project, or activity in the Classified Annex.

(d) DISTRIBUTION OF CLASSIFIED ANNEX.—The President shall provide for appropriate distribution of the Classified Annex, or of appropriate portions of the annex, within the executive branch of the Government. President.

SEC. 1003. IMPROVED FUNDING MECHANISMS FOR UNBUDGETED OPERATIONS.

(a) REVISION OF FUNDING MECHANISM.—(1) Section 127a of title 10, United States Code, is amended to read as follows:

"§ 127a. Operations for which funds are not provided in advance: funding mechanisms

"(a) IN GENERAL.—(1) The Secretary of Defense shall use the procedures prescribed by this section with respect to any operation specified in paragraph (2) that involves—

"(A) the deployment (other than for a training exercise) of elements of the Armed Forces for a purpose other than a purpose for which funds have been specifically provided in advance; or

"(B) the provision of humanitarian assistance, disaster relief, or support for law enforcement (including immigration control) for which funds have not been specifically provided in advance.

"(2) This section applies to—

"(A) any operation the incremental cost of which is expected to exceed $50,000,000; and

"(B) any other operation the expected incremental cost of which, when added to the expected incremental costs of other operations that are currently ongoing, is expected to result in a cumulative incremental cost of ongoing operations of the Department of Defense in excess of $100,000,000.

Any operation the incremental cost of which is expected not to exceed $10,000,000 shall be disregarded for the purposes of subparagraph (B).

"(3) Whenever an operation to which this section applies is commenced or subsequently becomes covered by this section, the Secretary of Defense shall designate and identify that operation for the purposes of this section and shall promptly notify Congress of that designation (and of the identification of the operation). Notification.

"(4) This section does not provide authority for the President or the Secretary of Defense to carry out any operation, but establishes mechanisms for the Department of Defense by which funds are provided for operations that the armed forces are required to carry out under some other authority.

"(b) WAIVER OF REQUIREMENT TO REIMBURSE SUPPORT UNITS.—(1) The Secretary of Defense shall direct that, when a unit of the Armed Forces participating in an operation described in subsection (a) receives services from an element of the Department of Defense that operates through the Defense Business Operations Fund (or a successor fund), such unit of the Armed Forces may not be required to reimburse that element for the incremental costs incurred by that element in providing such services, notwithstanding any other provision of law or any Government accounting practice.

Records.

"(2) The amounts which but for paragraph (1) would be required to be reimbursed to an element of the Department of Defense (or a fund) shall be recorded as an expense attributable to the operation and shall be accounted for separately.

"(c) TRANSFER AUTHORITY.—(1) Whenever there is an operation of the Department of Defense described in subsection (a), the Secretary of Defense may transfer amounts described in paragraph (3) to accounts from which incremental expenses for that operation were incurred in order to reimburse those accounts for those incremental expenses. Amounts so transferred shall be merged with and be available for the same purposes as the accounts to which transferred.

"(2) The total amount that the Secretary of Defense may transfer under the authority of this section in any fiscal year is $200,000,000.

"(3) Transfers under this subsection may only be made from amounts appropriated to the Department of Defense for any fiscal year that remain available for obligation, other than amounts within any operation and maintenance appropriation that are available for (A) an account (known as a budget activity 1 account) that is specified as being for operating forces, or (B) an account (known as a budget activity 2 account) that is specified as being for mobilization.

"(4) The authority provided by this subsection is in addition to any other authority provided by law authorizing the transfer of amounts available to the Department of Defense. However, the Secretary may not use any such authority under another provision of law for a purpose described in paragraph (1) if there is authority available under this subsection for that purpose.

"(5) The authority provided by this subsection to transfer amounts may not be used to provide authority for an activity that has been denied authorization by Congress.

"(6) A transfer made from one account to another under the authority of this subsection shall be deemed to increase the amount authorized for the account to which the amount is transferred by an amount equal to the amount transferred.

"(d) REPORT UPON DESIGNATION OF AN OPERATION.—Within 45 days after the Secretary of Defense identifies an operation pursuant to subsection (a)(2), the Secretary of Defense shall submit to Congress a report that sets forth the following:

"(1) The manner by which the Secretary proposes to obtain funds for the cost to the United States of the operation, including a specific discussion of how the Secretary proposes to restore balances in—

"(A) the Defense Business Operations Fund (or a successor fund), or

"(B) the accounts from which the Secretary transfers funds under the authority of subsection (c), to the levels that would have been anticipated but for the provisions of subsection (c).

"(2) If the operation is described in subsection (a)(1)(B), a justification why the budgetary resources of another department or agency of the Federal Government, instead of resources of the Department of Defense, are not being used for carrying out the operation.

"(3) The objectives of the operation.

"(4) The estimated duration of the operation and of any deployment of armed forces personnel in such operation.

"(5) The estimated incremental cost of the operation to the United States.

"(6) The exit criteria for the operation and for the withdrawal of the elements of the armed forces involved in the operation.

"(e) LIMITATIONS.—(1) The Secretary may not restore balances in the Defense Business Operations Fund through increases in rates charged by that fund in order to compensate for costs incurred and not reimbursed due to subsection (b).

"(2) The Secretary may not restore balances in the Defense Business Operations Fund or any other fund or account through the use of unobligated amounts in an operation and maintenance appropriation that are available within that appropriation for (A) an account (known as a budget activity 1 account) that is specified as being for operating forces, or (B) an account (known as a budget activity 2 account) that is specified as being for mobilization.

"(f) SUBMISSION OF REQUESTS FOR SUPPLEMENTAL APPROPRIATIONS.—It is the sense of Congress that whenever there is an operation described in subsection (a), the President should, not later than 90 days after the date on which notification is provided pursuant to subsection (a)(3), submit to Congress a request for the enactment of supplemental appropriations for the then-current fiscal year in order to provide funds to replenish the Defense Business Operations Fund or any other fund or account of the Department of Defense from which funds for the incremental expenses of that operation were derived under this section and should, as necessary, submit subsequent requests for the enactment of such appropriations.

"(g) INCREMENTAL COSTS.—For purposes of this section, incremental costs of the Department of Defense with respect to an operation are the costs of the Department that are directly attributable to the operation (and would not have been incurred but for the operation). Incremental costs do not include the cost of property or services acquired by the Department that are paid for by a source outside the Department or out of funds contributed by such a source.

"(h) RELATIONSHIP TO WAR POWERS RESOLUTION.—This section may not be construed as altering or superseding the War Powers Resolution. This section does not provide authority to conduct any military operation.

"(i) GAO COMPLIANCE REVIEWS.—The Comptroller General of the United States shall from time to time, and when requested by a committee of Congress, conduct a review of the defense funding structure under this section to determine whether the Department of Defense is complying with the requirements and limitations of this section.".

(2) The item relating to section 127a in the table of sections at the beginning of chapter 3 of such title is amended to read as follows:

"127a. Operations for which funds are not provided in advance: funding mechanisms.".

(b) EFFECTIVE DATE.—The amendment to section 127a of title 10, United States Code, made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to any

10 USC 127a note.

operation of the Department of Defense that is in effect on or after that date, whether such operation is begun before, on, or after such date of enactment. In the case of an operation begun before such date, any reference in such section to the commencement of such operation shall be treated as referring to the effective date under the preceding sentence.

SEC. 1004. OPERATION PROVIDE COMFORT.

(a) AUTHORIZATION OF AMOUNTS AVAILABLE.—Within the total amounts authorized to be appropriated in titles III and IV, there is hereby authorized to be appropriated for fiscal year 1996 for costs associated with Operation Provide Comfort—

(1) $136,300,000 for operation and maintenance costs; and

(2) $7,000,000 for incremental military personnel costs.

(b) REPORT.—Not more than $70,000,000 of the amount appropriated under subsection (a) may be obligated until the Secretary of Defense submits to the congressional defense committees a report on Operation Provide Comfort which includes the following:

(1) A detailed presentation of the projected costs to be incurred by the Department of Defense for Operation Provide Comfort during fiscal year 1996, together with a discussion of missions and functions expected to be performed by the Department as part of that operation during that fiscal year.

(2) A detailed presentation of the projected costs to be incurred by other departments and agencies of the Federal Government participating in or providing support to Operation Provide Comfort during fiscal year 1996.

(3) A discussion of available options to reduce the involvement of the Department of Defense in those aspects of Operation Provide Comfort that are not directly related to the military mission of the Department of Defense.

(4) A plan establishing an exit strategy for United States involvement in, and support for, Operation Provide Comfort.

(c) OPERATION PROVIDE COMFORT.—For purposes of this section, the term "Operation Provide Comfort" means the operation of the Department of Defense that as of October 30, 1995, is designated as Operation Provide Comfort.

SEC. 1005. OPERATION ENHANCED SOUTHERN WATCH.

(a) AUTHORIZATION OF AMOUNTS AVAILABLE.—Within the total amounts authorized to be appropriated in titles III and IV, there is hereby authorized to be appropriated for fiscal year 1996 for costs associated with Operation Enhanced Southern Watch—

(1) $433,400,000 for operation and maintenance costs; and

(2) $70,400,000 for incremental military personnel costs.

(b) REPORT.—(1) Of the amounts specified in subsection (a), not more than $250,000,000 may be obligated until the Secretary of Defense submits to the congressional defense committees a report designating Operation Enhanced Southern Watch, or significant elements thereof, as a forward presence operation for which funding should be budgeted as part of the annual defense budget process in the same manner as other activities of the Armed Forces involving forward presence or forward deployed forces.

(2) The report shall set forth the following:

(A) The expected duration and annual costs of the various elements of Operation Enhanced Southern Watch.

(B) Those elements of Operation Enhanced Southern Watch that are semi-permanent in nature and should be budgeted

in the future as part of the annual defense budget process in the same manner as other activities of the Armed Forces involving forward presence or forward deployed forces.

(C) The political and military objectives associated with Operation Enhanced Southern Watch.

(D) The contributions (both in-kind and actual) by other nations to the costs of conducting Operation Enhanced Southern Watch.

(c) OPERATION ENHANCED SOUTHERN WATCH.—For purposes of this section, the term "Operation Enhanced Southern Watch" means the operation of the Department of Defense that as of October 30, 1995, is designated as Operation Enhanced Southern Watch.

SEC. 1006. AUTHORITY FOR OBLIGATION OF CERTAIN UNAUTHORIZED FISCAL YEAR 1995 DEFENSE APPROPRIATIONS.

(a) AUTHORITY.—The amounts described in subsection (b) may be obligated and expended for programs, projects, and activities of the Department of Defense in accordance with fiscal year 1995 defense appropriations.

(b) COVERED AMOUNTS.—The amounts referred to in subsection (a) are the amounts provided for programs, projects, and activities of the Department of Defense in fiscal year 1995 defense appropriations that are in excess of the amounts provided for such programs, projects, and activities in fiscal year 1995 defense authorizations.

(c) DEFINITIONS.—For the purposes of this section:

(1) FISCAL YEAR 1995 DEFENSE APPROPRIATIONS.—The term "fiscal year 1995 defense appropriations" means amounts appropriated or otherwise made available to the Department of Defense for fiscal year 1995 in the Department of Defense Appropriations Act, 1995 (Public Law 103–335).

(2) FISCAL YEAR 1995 DEFENSE AUTHORIZATIONS.—The term "fiscal year 1995 defense authorizations" means amounts authorized to be appropriated for the Department of Defense for fiscal year 1995 in the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337).

SEC. 1007. AUTHORIZATION OF PRIOR EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 1995.

(a) ADJUSTMENT TO PREVIOUS AUTHORIZATIONS.—Amounts authorized to be appropriated to the Department of Defense for fiscal year 1995 in the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337) are hereby adjusted, with respect to any such authorized amount, by the amount by which appropriations pursuant to such authorization were increased (by a supplemental appropriation) or decreased (by a rescission), or both, in title I of the Emergency Supplemental Appropriations and Rescissions for the Department of Defense to Preserve and Enhance Military Readiness Act of 1995 (Public Law 104–6; 109 Stat. 73).

(b) NEW AUTHORIZATION.—The appropriation provided in section 104 of such Act (109 Stat. 79) is hereby authorized.

SEC. 1008. AUTHORIZATION REDUCTIONS TO REFLECT SAVINGS FROM REVISED ECONOMIC ASSUMPTIONS.

(a) REDUCTION.—The total amount authorized to be appropriated in titles I, II, and III of this Act is hereby reduced by $832,000,000 to reflect savings from revised economic assumptions.

Such reduction shall be made from accounts in those titles as follows:

Operation and Maintenance, Army, $54,000,000.
Operation and Maintenance, Navy, $80,000,000.
Operation and Maintenance, Marine Corps, $9,000,000.
Operation and Maintenance, Air Force, $51,000,000.
Operation and Maintenance, Defense-Wide, $36,000,000.
Operation and Maintenance, Army Reserve, $4,000,000.
Operation and Maintenance, Navy Reserve, $4,000,000.
Operation and Maintenance, Marine Corps Reserve, $1,000,000.
Operation and Maintenance, Air Force Reserve, $3,000,000.
Operation and Maintenance, Army National Guard, $7,000,000.
Operation and Maintenance, Air National Guard, $7,000,000.
Drug Interdiction and Counter-Drug Activities, Defense, $5,000,000.
Environmental Restoration, Defense, $11,000,000.
Overseas Humanitarian, Disaster, and Civic Aid, $1,000,000.
Former Soviet Union Threat Reduction, $2,000,000.
Defense Health Program, $51,000,000.
Aircraft Procurement, Army, $9,000,000.
Missile Procurement, Army, $5,000,000.
Procurement of Weapons and Tracked Combat Vehicles, Army, $10,000,000.
Procurement of Ammunition, Army, $6,000,000.
Other Procurement, Army, $17,000,000.
Aircraft Procurement, Navy, $29,000,000.
Weapons Procurement, Navy, $13,000,000.
Shipbuilding and Conversion, Navy, $42,000,000.
Other Procurement, Navy, $18,000,000.
Procurement, Marine Corps, $4,000,000.
Aircraft Procurement, Air Force, $50,000,000.
Missile Procurement, Air Force, $29,000,000.
Other Procurement, Air Force, $45,000,000.
Procurement, Defense-Wide, $16,000,000.
Chemical Agents and Munitions Destruction, Defense, $5,000,000.
Research, Development, Test and Evaluation, Army, $20,000,000.
Research, Development, Test and Evaluation, Navy, $50,000,000.
Research, Development, Test and Evaluation, Air Force, $79,000,000.
Research, Development, Test and Evaluation, Defense-Wide, $57,000,000.
Research, Development, Test and Evaluation, Defense, $2,000,000.

(b) REDUCTIONS TO BE APPLIED PROPORTIONALLY.—Reductions under this section shall be applied proportionally to each budget activity, activity group, and subactivity group and to each program, project, and activity within each account.

Subtitle B—Naval Vessels and Shipyards

SEC. 1011. IOWA CLASS BATTLESHIPS.

(a) RETURN TO NAVAL VESSEL REGISTER.—The Secretary of the Navy shall list on the Naval Vessel Register, and maintain on such register, at least two of the Iowa-class battleships that were stricken from the register in February 1995.

(b) SUPPORT.—The Secretary shall retain the existing logistical support necessary for support of at least two operational Iowa class battleships in active service, including technical manuals, repair and replacement parts, and ordnance.

(c) SELECTION OF SHIPS.—The Secretary shall select for listing on the Naval Vessel Register under subsection (a) Iowa class battleships that are in good material condition and can provide adequate fire support for an amphibious assault.

(d) REPLACEMENT FIRE-SUPPORT CAPABILITY.—(1) If the Secretary of the Navy makes a certification described in paragraph (2), the requirements of subsections (a) and (b) shall terminate, effective 60 days after the date of the submission of such certification. Certification. Termination date.

(2) A certification referred to in paragraph (1) is a certification submitted by the Secretary of the Navy in writing to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives that the Navy has within the fleet an operational surface fire-support capability that equals or exceeds the fire-support capability that the Iowa class battleships listed on the Naval Vessel Register pursuant to subsection (a) would, if in active service, be able to provide for Marine Corps amphibious assaults and operations ashore.

SEC. 1012. TRANSFER OF NAVAL VESSELS TO CERTAIN FOREIGN COUNTRIES.

(a) TRANSFERS BY GRANT.—The Secretary of the Navy is authorized to transfer on a grant basis under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j) frigates of the Oliver Hazard Perry class to other countries as follows:

(1) To the Government of Bahrain, the guided missile frigate Jack Williams (FFG 24).

(2) To the Government of Egypt, the frigate Copeland (FFG 25).

(3) To the Government of Turkey, the frigates Clifton Sprague (FFG 16) and Antrim (FFG 20).

(b) TRANSFERS BY LEASE OR SALE.—The Secretary of the Navy is authorized to transfer on a lease basis under section 61 of the Arms Export Control Act (22 U.S.C. 2796) or on a sale basis under section 21 of the Arms Export Control Act (22 U.S.C. 2761) frigates of the Oliver Hazard Perry class to other countries as follows:

(1) To the Government of Egypt, the frigate Duncan (FFG 10).

(2) To the Government of Oman, the guided missile frigate Mahlon S. Tisdale (FFG 27).

(3) To the Government of Turkey, the frigate Flatley (FFG 21).

(4) To the Government of the United Arab Emirates, the guided missile frigate Gallery (FFG 26).

(c) FINANCING FOR TRANSFERS BY LEASE.—Section 23 of the Arms Export Control Act (22 U.S.C. 2763) may be used to provide financing for any transfer by lease under subsection (b) in the same manner as if such transfer were a procurement by the recipient nation of a defense article.

(d) COSTS OF TRANSFERS.—Any expense incurred by the United States in connection with a transfer authorized by subsection (a) or (b) shall be charged to the recipient.

(e) EXPIRATION OF AUTHORITY.—The authority to transfer a vessel under subsection (a) and under subsection (b) shall expire at the end of the two-year period beginning on the date of the enactment of this Act, except that a lease entered into during that period under any provision of subsection (b) may be renewed.

(f) REPAIR AND REFURBISHMENT IN UNITED STATES SHIPYARDS.—The Secretary of the Navy shall require, as a condition of the transfer of a vessel under this section, that the country to which the vessel is transferred have such repair or refurbishment of the vessel as is needed, before the vessel joins the naval forces of that country, performed at a shipyard located in the United States, including a United States Navy shipyard.

(g) PROHIBITION ON CERTAIN TRANSFERS OF VESSELS ON GRANT BASIS.—(1) Section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j) is amended by adding at the end the following new subsection:

"(g) PROHIBITION ON CERTAIN TRANSFERS OF VESSELS ON GRANT BASIS.—(1) The President may not transfer on a grant basis under this section a vessel that is in excess of 3,000 tons or that is less than 20 years of age.

"(2) If the President determines that it is in the national security interests of the United States to transfer a particular vessel on a grant basis under this section, the President may request that Congress enact legislation exempting the transfer from the prohibition in paragraph (1).".

Applicability.
22 USC 2321j note.

(2) The amendment made by paragraph (1) shall apply with respect to the transfer of a vessel on or after the date of the enactment of this Act (other than a vessel the transfer of which is authorized by subsection (a) or by law before the date of the enactment of this Act).

SEC. 1013. CONTRACT OPTIONS FOR LMSR VESSELS.

(a) FINDINGS.—Congress makes the following findings:

(1) A requirement for the Department of the Navy to acquire 19 large, medium-speed, roll-on/roll-off (LMSR) vessels was established by the Secretary of Defense in the Mobility Requirements Study conducted after the Persian Gulf War pursuant to section 909 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1623) and was revalidated by the Secretary of Defense in the report entitled "Mobility Requirements Study Bottom-Up Review Update", submitted to Congress in April 1995.

(2) The Strategic Sealift Program is a vital element of the national military strategy calling for the Nation to be able to fight and win two nearly simultaneous major regional contingencies.

(3) The Secretary of the Navy has entered into contracts with shipyards covering acquisition of a total of 17 such LMSR vessels, of which five are vessel conversions and 12 are new

construction vessels. Under those contracts, the Secretary has placed orders for the acquisition of 11 vessels and has options for the acquisition of six more, all of which would be new construction vessels. The options allow the Secretary to place orders for one vessel to be constructed at each of two shipyards for award before December 31, 1995, December 31, 1996, and December 31, 1997, respectively.

(4) Acquisition of an additional two such LMSR vessels, for a total of 19 vessels (the requirement described in paragraph (1)) would contribute to preservation of the industrial base of United States shipyards capable of building auxiliary and sealift vessels.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of the Navy should plan for, and budget to provide for, the acquisition as soon as possible of a total of 19 large, medium-speed, roll-on/roll-off (LMSR) vessels (the number determined to be required in the Mobility Requirements Study referred to in subsection (a)(1)), rather than only 17 such vessels (the number of vessels under contract as of May 1995).

(c) ADDITIONAL NEW CONSTRUCTION CONTRACT OPTION.—The Secretary of the Navy should negotiate with each of the two shipyards holding new construction contracts referred to in subsection (a)(3) (Department of the Navy contracts numbered N00024–93–C–2203 and N00024–93–C–2205) for an option under each such contract for construction of one additional such LMSR vessel, with such option to be available to the Secretary for exercise during 1995, 1996, or 1997, subject to the availability of funds authorized and appropriated for such purpose. Nothing in this subsection shall be construed to preclude the Secretary of the Navy from competing the award of the two options between the two shipyards holding new construction contracts referred to in subsection (a)(3).

(d) REPORT.—The Secretary of the Navy shall submit to the congressional defense committees, by March 31, 1996, a report stating the intentions of the Secretary regarding the acquisition of options for the construction of two additional LMSR vessels as described in subsection (c).

SEC. 1014. NATIONAL DEFENSE RESERVE FLEET.

(a) AVAILABILITY OF NATIONAL DEFENSE SEALIFT FUND.—Section 2218 of title 10, United States Code, is amended—

(1) in subsection (c)(1)—

(A) by striking out "only for—" in the matter preceding subparagraph (A) and inserting in lieu thereof "only for the following purposes:";

(B) by capitalizing the first letter of the first word of subparagraphs (A), (B), (C), and (D);

(C) by striking out the semicolon at the end of subparagraphs (A) and (B) and inserting in lieu thereof a period;

(D) by striking out "; and" at the end of subparagraph (C) and inserting in lieu thereof a period; and

(E) by adding at the end the following new subparagraph:

"(E) Expenses for maintaining the National Defense Reserve Fleet under section 11 of the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1744), and for the costs of acquisition of vessels for, and alteration and conversion of vessels

in (or to be placed in), the fleet, but only for vessels built in United States shipyards."; and

(2) in subsection (i), by inserting "(other than subsection (c)(1)(E))" after "Nothing in this section".

(b) CLARIFICATION OF EXEMPTION OF NDRF VESSELS FROM RETROFIT REQUIREMENT.—Section 11 of the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1744) is amended by adding at the end the following new subsection:

"(e) Vessels in the National Defense Reserve Fleet are exempt from the provisions of section 3703a of title 46, United States Code.".

(c) AUTHORITY TO USE NATIONAL DEFENSE SEALIFT FUND TO CONVERT TWO VESSELS.—Of the amount authorized to be appropriated in section 302 for fiscal year 1996 for the National Defense Sealift Fund under section 2218 of title 10, United States Code, not more than $20,000,000 shall be available for conversion work on the following two roll-on/roll-off vessels, which were acquired by the Maritime Administration during fiscal year 1995:

(1) M/V Cape Knox (ON–1036323).

(2) M/V Cape Kennedy (ON–1036324).

SEC. 1015. NAVAL SALVAGE FACILITIES.

Chapter 637 of title 10, United States Code, is amended to read as follows:

"CHAPTER 637—SALVAGE FACILITIES

"Sec.
"7361. Authority to provide for necessary salvage facilities.
"7362. Acquisition and transfer of vessels and equipment.
"7363. Settlement of claims.
"7364. Disposition of receipts.

Contracts.

"§ 7361. Authority to provide for necessary salvage facilities

"(a) AUTHORITY.—The Secretary of the Navy may provide, by contract or otherwise, necessary salvage facilities for public and private vessels.

"(b) COORDINATION WITH SECRETARY OF TRANSPORTATION.—The Secretary shall submit to the Secretary of Transportation for comment each proposed contract for salvage facilities that affects the interests of the Department of Transportation.

"(c) LIMITATION.—The Secretary of the Navy may enter into a term contract under subsection (a) only if the Secretary determines that available commercial salvage facilities are inadequate to meet the requirements of national defense.

"(d) PUBLIC NOTICE.—The Secretary may not enter into a contract under subsection (a) until the Secretary has provided public notice of the intent to enter into such a contract.

"§ 7362. Acquisition and transfer of vessels and equipment

"(a) AUTHORITY.—The Secretary of the Navy may acquire or transfer for operation by private salvage companies such vessels and equipment as the Secretary considers necessary.

"(b) AGREEMENT ON USE.—Before any salvage vessel or salvage gear is transferred by the Secretary to a private party, the private party must agree in writing with the Secretary that the vessel or gear will be used to support organized offshore salvage facilities for a period of as many years as the Secretary considers appropriate.

"(c) REFERENCE TO AUTHORITY TO ADVANCE FUNDS FOR IMMEDIATE SALVAGE OPERATIONS.—For authority for the Secretary of the Navy to advance to private salvage companies such funds as the Secretary considers necessary to provide for the immediate financing of salvage operations, see section 2307(g)(2) of this title.

"§ 7363. Settlement of claims

"The Secretary of the Navy may settle any claim by the United States for salvage services rendered by the Department of the Navy and may receive payment of any such claim.

"§ 7364. Disposition of receipts

"Amounts received under this chapter shall be credited to appropriations for maintaining naval salvage facilities. However, any amount received under this chapter in any fiscal year in excess of naval salvage costs incurred by the Navy during that fiscal year shall be deposited into the general fund of the Treasury.".

SEC. 1016. VESSELS SUBJECT TO REPAIR UNDER PHASED MAINTENANCE CONTRACTS.

(a) IN GENERAL.—The Secretary of the Navy shall ensure that any vessel that is covered by the contract referred to in subsection (b) remains covered by that contract, regardless of the operating command to which the vessel is subsequently assigned, unless the vessel is taken out of service for the Department of the Navy.

(b) COVERED CONTRACT.—The contract referred to in subsection (a) is the contract entered into before the date of the enactment of this Act for the phased maintenance of AE class ships.

SEC. 1017. CLARIFICATION OF REQUIREMENTS RELATING TO REPAIRS OF VESSELS.

Section 7310(a) of title 10, United States Code, is amended by inserting "or Guam" after "the United States" the second place it appears.

SEC. 1018. SENSE OF CONGRESS CONCERNING NAMING OF AMPHIBIOUS SHIPS.

It is the sense of Congress that the Secretary of the Navy—

(1) should name the vessel to be designated LHD–7 as the U.S.S. Iwo Jima; and

(2) should name the vessel to be designated LPD–17, and each subsequent ship of the LPD–17 class, after a Marine Corps battle or a member of the Marine Corps.

SEC. 1019. SENSE OF CONGRESS CONCERNING NAMING OF NAVAL VESSEL. Joseph Vittori.

It is the sense of Congress that the Secretary of the Navy should name an appropriate ship of the United States Navy the U.S.S. Joseph Vittori, in honor of Marine Corporal Joseph Vittori (1929–1951) of Beverly, Massachusetts, who was posthumously awarded the Medal of Honor for actions against the enemy in Korea on September 15–16, 1951.

SEC. 1020. TRANSFER OF RIVERINE PATROL CRAFT.

(a) AUTHORITY TO TRANSFER VESSEL.—Notwithstanding subsections (a) and (d) of section 7306 of title 10, United States Code, but subject to subsections (b) and (c) of that section, the Secretary of the Navy may transfer a vessel described in subsection (b)

to Tidewater Community College, Portsmouth, Virginia, for scientific and educational purposes.

(b) VESSEL.—The authority under subsection (a) applies in the case of a riverine patrol craft of the U.S.S. Swift class.

(c) LIMITATION.—The transfer authorized by subsection (a) may be made only if the Secretary determines that the vessel to be transferred is of no further use to the United States for national security purposes.

(d) TERMS AND CONDITIONS.—The Secretary may require such terms and conditions in connection with the transfer authorized by this section as the Secretary considers appropriate.

Subtitle C—Counter-Drug Activities

SEC. 1021. REVISION AND CLARIFICATION OF AUTHORITY FOR FEDERAL SUPPORT OF DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES OF THE NATIONAL GUARD.

(a) FUNDING ASSISTANCE AUTHORIZED.—Subsection (a) of section 112 of title 32, United States Code, is amended to read as follows:

"(a) FUNDING ASSISTANCE.—The Secretary of Defense may provide funds to the Governor of a State who submits to the Secretary a State drug interdiction and counter-drug activities plan satisfying the requirements of subsection (c). Such funds shall be used for—

"(1) the pay, allowances, clothing, subsistence, gratuities, travel, and related expenses, as authorized by State law, of personnel of the National Guard of that State used, while not in Federal service, for the purpose of drug interdiction and counter-drug activities;

"(2) the operation and maintenance of the equipment and facilities of the National Guard of that State used for the purpose of drug interdiction and counter-drug activities; and

"(3) the procurement of services and leasing of equipment for the National Guard of that State used for the purpose of drug interdiction and counter-drug activities.".

(b) REORGANIZATION OF SECTION.—Such section is further amended—

(1) by redesignating subsection (f) as subsection (h);

(2) by redesignating subsection (d) as subsection (g) and transferring that subsection to appear before subsection (h), as redesignated by paragraph (1); and

(3) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively.

(c) STATE DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES PLAN.—Subsection (c) of such section, as redesignated by subsection (b)(3), is amended—

(1) in the matter preceding paragraph (1), by striking out "A plan referred to in subsection (a)" and inserting in lieu thereof "A State drug interdiction and counter-drug activities plan";

(2) by striking out "and" at the end of paragraph (2); and

(3) in paragraph (3)—

(A) by striking out "annual training" and inserting in lieu thereof "training";

(B) by striking out the period at the end and inserting in lieu thereof a semicolon; and

(C) by adding at the end the following new paragraphs: Certification.

"(4) include a certification by the Attorney General of the State (or, in the case of a State with no position of Attorney General, a civilian official of the State equivalent to a State attorney general) that the use of the National Guard of the State for the activities proposed under the plan is authorized by, and is consistent with, State law; and

"(5) certify that the Governor of the State or a civilian law enforcement official of the State designated by the Governor has determined that any activities included in the plan that are carried out in conjunction with Federal law enforcement agencies serve a State law enforcement purpose.".

(d) EXAMINATION OF STATE PLAN.—Subsection (d) of such section, as redesignated by subsection (b)(3), is amended—

(1) in paragraph (1)—

(A) by striking out "subsection (b)" and inserting in lieu thereof "subsection (c)"; and

(B) by inserting after "Before funds are provided to the Governor of a State under this section" the following: "and before members of the National Guard of that State are ordered to full-time National Guard duty as authorized in subsection (b)"; and

(2) in paragraph (3)—

(A) in subparagraph (A), by striking out "subsection (b)" and inserting in lieu thereof "subsection (c)"; and

(B) by striking out subparagraph (B) and inserting in lieu thereof the following:

"(B) pursuant to the plan submitted for a previous fiscal year, funds were provided to the State in accordance with subsection (a) or personnel of the National Guard of the State were ordered to perform full-time National Guard duty in accordance with subsection (b).".

(e) USE OF PERSONNEL PERFORMING FULL-TIME NATIONAL GUARD DUTY.—Such section is further amended by inserting after subsection (a) the following new subsection (b):

"(b) USE OF PERSONNEL PERFORMING FULL-TIME NATIONAL GUARD DUTY.—Under regulations prescribed by the Secretary of Defense, personnel of the National Guard of a State may, in accordance with the State drug interdiction and counter-drug activities plan referred to in subsection (c), be ordered to perform full-time National Guard duty under section 502(f) of this title for the purpose of carrying out drug interdiction and counter-drug activities.". Regulations.

(f) END STRENGTH LIMITATION.—Such section is further amended by inserting after subsection (e) the following new subsection (f):

"(f) END STRENGTH LIMITATION.—(1) Except as provided in paragraph (2), at the end of a fiscal year there may not be more than 4000 members of the National Guard—

"(A) on full-time National Guard duty under section 502(f) of this title to perform drug interdiction or counter-drug activities pursuant to an order to duty for a period of more than 180 days; or

"(B) on duty under State authority to perform drug interdiction or counter-drug activities pursuant to an order to duty for a period of more than 180 days with State pay and allow-

ances being reimbursed with funds provided under subsection (a)(1).

"(2) The Secretary of Defense may increase the end strength authorized under paragraph (1) by not more than 20 percent for any fiscal year if the Secretary determines that such an increase is necessary in the national security interests of the United States.".

(g) DEFINITIONS.—Subsection (h) of such section, as redesignated by subsection (b)(1), is amended by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) The term 'drug interdiction and counter-drug activities', with respect to the National Guard of a State, means the use of National Guard personnel in drug interdiction and counter-drug law enforcement activities authorized by the law of the State and requested by the Governor of the State.".

(h) TECHNICAL AMENDMENTS.—Subsection (e) of such section is amended—

(1) in paragraph (1), by striking out "sections 517 and 524" and inserting in lieu thereof "sections 12011 and 12012"; and

(2) in paragraph (2), by striking out "the Committees on Armed Services of the Senate and House of Representatives" and inserting in lieu thereof "the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives".

Subtitle D—Civilian Personnel

SEC. 1031. MANAGEMENT OF DEPARTMENT OF DEFENSE CIVILIAN PERSONNEL.

Section 129 of title 10, United States Code, is amended—

(1) in subsection (a)—

(A) by striking out "man-year constraint or limitation" and inserting in lieu thereof "constraint or limitation in terms of man years, end strength, full-time equivalent positions, or maximum number of employees"; and

(B) by adding at the end the following new sentence: "The Secretary of Defense and the Secretaries of the military departments may not be required to make a reduction in the number of full-time equivalent positions in the Department of Defense unless such reduction is necessary due to a reduction in funds available to the Department or is required under a law that is enacted after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1996 and that refers specifically to this subsection.";

(2) in subsection (b)(2), by striking out "any end-strength" and inserting in lieu thereof "any constraint or limitation in terms of man years, end strength, full-time equivalent positions, or maximum number of employees"; and

(3) by adding at the end the following new subsection:

"(d) With respect to each budget activity within an appropriation for a fiscal year for operations and maintenance, the Secretary of Defense shall ensure that there are employed during that fiscal year employees in the number and with the combination of skills and qualifications that are necessary to carry out the functions

within that budget activity for which funds are provided for that fiscal year.".

SEC. 1032. CONVERSION OF MILITARY POSITIONS TO CIVILIAN POSITIONS.

10 USC 129a note.

(a) CONVERSION REQUIREMENT.—(1) By September 30, 1997, the Secretary of Defense shall convert at least 10,000 military positions to civilian positions.

Effective date.

(2) At least 3,000 of the military positions converted to satisfy the requirement of paragraph (1) shall be converted to civilian positions not later than September 30, 1996.

(3) In this subsection:

(A) The term "military position" means a position that, as of the date of the enactment of this Act, is authorized to be filled by a member of the Armed Forces on active duty.

(B) The term "civilian position" means a position that is required to be filled by a civilian employee of the Department of Defense.

(b) IMPLEMENTATION PLAN.—Not later than March 31, 1996, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a plan for the implementation of subsection (a).

SEC. 1033. ELIMINATION OF 120-DAY LIMITATION ON DETAILS OF CERTAIN EMPLOYEES.

(a) ELIMINATION OF LIMITATION.—Subsection (b) of section 3341 of title 5, United States Code, is amended—

(1) by inserting "(1)" after "(b)"; and

(2) by adding at the end the following:

"(2) The 120-day limitation in paragraph (1) for details and renewals of details does not apply to the Department of Defense in the case of a detail—

"(A) made in connection with the closure or realignment of a military installation pursuant to a base closure law or an organizational restructuring of the Department as part of a reduction in the size of the armed forces or the civilian workforce of the Department; and

"(B) in which the position to which the employee is detailed is eliminated on or before the date of the closure, realignment, or restructuring.

"(c) For purposes of this section—

"(1) the term 'base closure law' means—

"(A) section 2687 of title 10;

"(B) title II of the Defense Authorization Amendments and Base Closure and Realignment Act (10 U.S.C. 2687 note); and

"(C) the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note); and

"(2) the term 'military installation'—

"(A) in the case of an installation covered by section 2687 of title 10, has the meaning given such term in subsection (e)(1) of such section;

"(B) in the case of an installation covered by the Act referred to in subparagraph (B) of paragraph (1), has the meaning given such term in section 209(6) of such Act; and

"(C) in the case of an installation covered by the Act referred to in subparagraph (C) of that paragraph, has the meaning given such term in section 2910(4) of such Act.".

5 USC 3341 note.

(b) APPLICABILITY.—The amendments made by subsection (a) apply to details made before the date of the enactment of this Act but still in effect on that date and details made on or after that date.

SEC. 1034. AUTHORITY FOR CIVILIAN EMPLOYEES OF DEPARTMENT OF DEFENSE TO PARTICIPATE VOLUNTARILY IN REDUCTIONS IN FORCE.

Section 3502 of title 5, United States Code, is amended by adding at the end the following:

"(f)(1) The Secretary of Defense or the Secretary of a military department may—

"(A) release in a reduction in force an employee who volunteers for the release even though the employee is not otherwise subject to release in the reduction in force under the criteria applicable under the other provisions of this section; and

"(B) for each employee voluntarily released in the reduction in force under subparagraph (A), retain an employee in a similar position who would otherwise be released in the reduction in force under such criteria.

"(2) A voluntary release of an employee in a reduction in force pursuant to paragraph (1) shall be treated as an involuntary release in the reduction in force.

"(3) An employee with critical knowledge and skills (as defined by the Secretary concerned) may not participate in a voluntary release under paragraph (1) if the Secretary concerned determines that such participation would impair the performance of the mission of the Department of Defense or the military department concerned.

Regulations.

"(4) The regulations prescribed under this section shall incorporate the authority provided in this subsection.

Termination date.

"(5) The authority under paragraph (1) may not be exercised after September 30, 1996.".

SEC. 1035. AUTHORITY TO PAY SEVERANCE PAYMENTS IN LUMP SUMS.

Section 5595 of title 5, United States Code, is amended by adding at the end the following:

"(i)(1) In the case of an employee of the Department of Defense who is entitled to severance pay under this section, the Secretary of Defense or the Secretary of the military department concerned may, upon application by the employee, pay the total amount of the severance pay to the employee in one lump sum.

"(2)(A) If an employee paid severance pay in a lump sum under this subsection is reemployed by the Government of the United States or the government of the District of Columbia at such time that, had the employee been paid severance pay in regular pay periods under subsection (b), the payments of such pay would have been discontinued under subsection (d) upon such reemployment, the employee shall repay to the Department of Defense (for the military department that formerly employed the employee, if applicable) an amount equal to the amount of severance pay to which the employee was entitled under this section that would not have been paid to the employee under subsection (d) by reason of such reemployment.

"(B) The period of service represented by an amount of severance pay repaid by an employee under subparagraph (A) shall be considered service for which severance pay has not been received by the employee under this section.

"(C) Amounts repaid to an agency under this paragraph shall be credited to the appropriation available for the pay of employees of the agency for the fiscal year in which received. Amounts so credited shall be merged with, and shall be available for the same purposes and the same period as, the other funds in that appropriation.

"(3) If an employee fails to repay to an agency an amount required to be repaid under paragraph (2)(A), that amount is recoverable from the employee as a debt due the United States.

"(4) This subsection applies with respect to severance pay payable under this section for separations taking effect on or after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1996 and before October 1, 1999.". Applicability.

SEC. 1036. CONTINUED HEALTH INSURANCE COVERAGE.

Section 8905a(d)(4) of title 5, United States Code, is amended—

(1) in subparagraph (A), by inserting ", or a voluntary separation from a surplus position," after "an involuntary separation from a position"; and

(2) by adding at the end the following new subparagraph:

"(C) For the purpose of this paragraph, 'surplus position' means a position which is identified in pre-reduction-in-force planning as no longer required, and which is expected to be eliminated under formal reduction-in-force procedures.".

SEC. 1037. REVISION OF AUTHORITY FOR APPOINTMENTS OF INVOLUNTARILY SEPARATED MILITARY RESERVE TECHNICIANS.

(a) REVISION OF AUTHORITY.—Section 3329 of title 5, United States Code, as added by section 544 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2415), is amended—

(1) in subsection (b), by striking out "be offered" and inserting in lieu thereof "be provided placement consideration in a position described in subsection (c) through a priority placement program of the Department of Defense"; and

(2) by striking out subsection (c) and inserting in lieu thereof the following new subsection (c):

"(c)(1) The position for which placement consideration shall be provided to a former military technician under subsection (b) shall be a position—

"(A) in either the competitive service or the excepted service;

"(B) within the Department of Defense; and

"(C) in which the person is qualified to serve, taking into consideration whether the employee in that position is required to be a member of a reserve component of the armed forces as a condition of employment.

"(2) To the maximum extent practicable, the position shall also be in a pay grade or other pay classification sufficient to ensure that the rate of basic pay of the former military technician, upon appointment to the position, is not less than the rate of basic pay last received by the former military technician for technician service before separation.".

(b) TECHNICAL AND CLERICAL AMENDMENTS.—(1) The section 3329 of title 5, United States Code, that was added by section 4431 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2719) is redesignated as section 3330 of such title.

(2) The table of sections at the beginning of chapter 33 of such title is amended by striking out the item relating to section 3329, as added by section 4431(b) of such Act (106 Stat. 2720), and inserting in lieu thereof the following new item:

"3330. Government-wide list of vacant positions.".

SEC. 1038. WEARING OF UNIFORM BY NATIONAL GUARD TECHNICIANS.

(a) REQUIREMENT.—Section 709(b) of title 32, United States Code, is amended to read as follows:

"(b) Except as prescribed by the Secretary concerned, a technician employed under subsection (a) shall, while so employed—

"(1) be a member of the National Guard;

"(2) hold the military grade specified by the Secretary concerned for that position; and

"(3) wear the uniform appropriate for the member's grade and component of the armed forces while performing duties as a technician.".

(b) UNIFORM ALLOWANCES FOR OFFICERS.—Section 417 of title 37, United States Code, is amended by adding at the end the following:

"(d)(1) For purposes of sections 415 and 416 of this title, a period for which an officer of an armed force, while employed as a National Guard technician, is required to wear a uniform under section 709(b) of title 32 shall be treated as a period of active duty (other than for training).

"(2) A uniform allowance may not be paid, and uniforms may not be furnished, to an officer under section 1593 of title 10 or section 5901 of title 5 for a period of employment referred to in paragraph (1) for which an officer is paid a uniform allowance under section 415 or 416 of this title.".

(c) CLOTHING OR ALLOWANCES FOR ENLISTED MEMBERS.—Section 418 of title 37, United States Code, is amended—

(1) by inserting "(a)" before "The President"; and

(2) by adding at the end the following:

Regulations. President.

"(b) In determining the quantity and kind of clothing or allowances to be furnished pursuant to regulations prescribed under this section to persons employed as National Guard technicians under section 709 of title 32, the President shall take into account the requirement under subsection (b) of such section for such persons to wear a uniform.

"(c) A uniform allowance may not be paid, and uniforms may not be furnished, under section 1593 of title 10 or section 5901 of title 5 to a person referred to in subsection (b) for a period of employment referred to in that subsection for which a uniform allowance is paid under section 415 or 416 of this title.".

SEC. 1039. MILITARY LEAVE FOR MILITARY RESERVE TECHNICIANS FOR CERTAIN DUTY OVERSEAS.

Section 6323 of title 5, United States Code, is amended by adding at the end the following new subsection:

"(d)(1) A military reserve technician described in section 8401(30) is entitled at such person's request to leave without loss

of, or reduction in, pay, leave to which such person is otherwise entitled, credit for time or service, or performance or efficiency rating for each day, not to exceed 44 workdays in a calendar year, in which such person is on active duty without pay, as authorized pursuant to section 12315 of title 10, under section 12301(b) or 12301(d) of title 10 (other than active duty during a war or national emergency declared by the President or Congress) for participation in noncombat operations outside the United States, its territories and possessions.

"(2) An employee who requests annual leave or compensatory time to which the employee is otherwise entitled, for a period during which the employee would have been entitled upon request to leave under this subsection, may be granted such annual leave or compensatory time without regard to this section or section 5519.".

SEC. 1040. PERSONNEL ACTIONS INVOLVING EMPLOYEES OF NONAPPROPRIATED FUND INSTRUMENTALITIES.

(a) CLARIFICATION OF DEFINITION OF NONAPPROPRIATED FUND INSTRUMENTALITY EMPLOYEE.—Subsection (a)(1) of section 1587 of title 10, United States Code, is amended by adding at the end the following new sentence: "Such term includes a civilian employee of a support organization within the Department of Defense or a military department, such as the Defense Finance and Accounting Service, who is paid from nonappropriated funds on account of the nature of the employee's duties.".

(b) DIRECT REPORTING OF VIOLATIONS.—Subsection (e) of such section is amended in the second sentence by inserting before the period the following: "and to permit the reporting of alleged violations of subsection (b) directly to the Inspector General of the Department of Defense".

(c) TECHNICAL AMENDMENT.—Subsection (a)(1) of such section is further amended by striking out "Navy Resale and Services Support Office" and inserting in lieu thereof "Navy Exchange Service Command".

(d) CLERICAL AMENDMENTS.—(1) The heading of such section is amended to read as follows:

"§ 1587. Employees of nonappropriated fund instrumentalities: reprisals".

(2) The item relating to such section in the table of sections at the beginning of chapter 81 of such title is amended to read as follows:

"1587. Employees of nonappropriated fund instrumentalities: reprisals.".

SEC. 1041. COVERAGE OF NONAPPROPRIATED FUND EMPLOYEES UNDER AUTHORITY FOR FLEXIBLE AND COMPRESSED WORK SCHEDULES.

Paragraph (2) of section 6121 of title 5, United States Code, is amended to read as follows:

"(2) 'employee' has the meaning given the term in subsection (a) of section 2105 of this title, except that such term also includes an employee described in subsection (c) of that section;".

10 USC 1587 note.

SEC. 1042. LIMITATION ON PROVISION OF OVERSEAS LIVING QUARTERS ALLOWANCES FOR NONAPPROPRIATED FUND INSTRUMENTALITY EMPLOYEES.

(a) CONFORMING ALLOWANCE TO ALLOWANCES FOR OTHER CIVILIAN EMPLOYEES.—Subject to subsection (b), an overseas living quarters allowance paid from nonappropriated funds and provided to a nonappropriated fund instrumentality employee after the date of the enactment of this Act may not exceed the amount of a quarters allowance provided under subchapter III of chapter 59 of title 5 to a similarly situated civilian employee of the Department of Defense paid from appropriated funds.

(b) APPLICATION TO CERTAIN CURRENT EMPLOYEES.—In the case of a nonappropriated fund instrumentality employee who, as of the date of the enactment of this Act, receives an overseas living quarters allowance under any other authority, subsection (a) shall apply to such employee only after the earlier of—

(1) September 30, 1997; or

(2) the date on which the employee otherwise ceases to be eligible for such an allowance under such other authority.

(c) NONAPPROPRIATED FUND INSTRUMENTALITY EMPLOYEE DEFINED.—For purposes of this section, the term "nonappropriated fund instrumentality employee" has the meaning given such term in section 1587(a)(1) of title 10, United States Code.

SEC. 1043. ELECTIONS RELATING TO RETIREMENT COVERAGE.

(a) IN GENERAL.—

(1) CIVIL SERVICE RETIREMENT SYSTEM.—Section 8347(q) of title 5, United States Code, is amended—

(A) in paragraph (1)—

(i) by striking "of the Department of Defense or the Coast Guard" in the matter before subparagraph (A); and

(ii) by striking "3 days" and inserting "1 year"; and

(B) in paragraph (2)(C)—

(i) by striking "3 days" and inserting "1 year"; and

(ii) by striking "in the Department of Defense or the Coast Guard, respectively,".

(2) FEDERAL EMPLOYEES' RETIREMENT SYSTEM.—Section 8461(n) of title 5, United States Code, is amended—

(A) in paragraph (1)—

(i) by striking "of the Department of Defense or the Coast Guard" in the matter before subparagraph (A); and

(ii) by striking "3 days" and inserting "1 year"; and

(B) in paragraph (2)(C)—

(i) by striking "3 days" and inserting "1 year"; and

(ii) by striking "in the Department of Defense or the Coast Guard, respectively,".

Notification. 5 USC 8347 note.

(b) REGULATIONS.—Not later than 6 months after the date of the enactment of this Act, the Office of Personnel Management (and each of the other administrative authorities, within the meaning of subsection (c)(2)(C)(iii)) shall prescribe any regulations (or make any modifications in existing regulations) necessary to carry

out this section and the amendments made by this section, including regulations to provide for the notification of individuals who may be affected by the enactment of this section. All regulations (and modifications to regulations) under the preceding sentence shall take effect on the same date.

Effective date.

(c) APPLICABILITY; RELATED PROVISIONS.—

5 USC 8347 note.

(1) PROSPECTIVE RULES.—Except as otherwise provided in this subsection, the amendments made by this section shall apply with respect to moves occurring on or after the effective date of the regulations under subsection (b). Moves occurring on or after the date of the enactment of this Act and before the effective date of such regulations shall be subject to applicable provisions of title 5, United States Code, disregarding the amendments made by this section, except that any individual making an election pursuant to this sentence shall be ineligible to make an election otherwise allowable under paragraph (2).

(2) RETROACTIVE RULES.—

(A) IN GENERAL.—The regulations under subsection (b) shall include provisions for the application of sections 8347(q) and 8461(n) of title 5, United States Code, as amended by this section, with respect to any individual who, at any time after December 31, 1965, and before the effective date of such regulations, moved between positions in circumstances that would have qualified such individual to make an election under the provisions of such section 8347(q) or 8461(n), as so amended, if such provisions had then been in effect.

(B) DEADLINE; RELATED PROVISIONS.—An election pursuant to this paragraph—

(i) shall be made within 1 year after the effective date of the regulations under subsection (b), and

(ii) shall have the same force and effect as if it had been timely made at the time of the move,

except that no such election may be made by any individual—

(I) who has previously made, or had an opportunity to make, an election under section 8347(q) or 8461(n) of title 5, United States Code (as in effect before being amended by this section); however, this subclause shall not be considered to render an individual ineligible, based on an opportunity arising out of a move occurring during the period described in the second sentence of paragraph (1), if no election has in fact been made by such individual based on such move;

(II) who has not, since the move on which eligibility for the election is based, remained continuously subject (disregarding any break in service of less than 3 days) to CSRS or FERS or both seriatim (if the move was from a NAFI position) or any retirement system (or 2 or more such systems seriatim) established for employees described in section 2105(c) of such title (if the move was to a NAFI position); or

(III) if such election would be based on a move to the Civil Service Retirement System from a retirement system established for employees described in section 2105(c) of such title.

(C) TRANSFERS OF CONTRIBUTIONS.—

(i) IN GENERAL.—If an individual makes an election under this paragraph to be transferred back to a retirement system in which such individual previously participated (in this section referred to as the "previous system"), all individual contributions (including interest) and Government contributions to the retirement system in which such individual is then currently participating (in this section referred to as the "current system"), excluding those made to the Thrift Savings Plan or any other defined contribution plan, which are attributable to periods of service performed since the move on which the election is based, shall be paid to the fund, account, or other repository for contributions made under the previous system. For purposes of this section, the term "current system" shall be considered also to include any retirement system (besides the one in which the individual is participating at the time of making the election) in which such individual previously participated since the move on which the election is based.

(ii) CONDITION SUBSEQUENT RELATING TO REPAYMENT OF LUMP-SUM CREDIT.—In the case of an individual who has received such individual's lump-sum credit (within the meaning of section 8401(19) of title 5, United States Code, or a similar payment) from such individual's previous system, the payment described in clause (i) shall not be made (and the election to which it relates shall be ineffective) unless such lump-sum credit is redeposited or otherwise paid at such time and in such manner as shall be required under applicable regulations. Regulations to carry out this clause shall include provisions for the computation of interest (consistent with section 8334(e) (2) and (3) of title 5, United States Code), if no provisions for such computation otherwise exist.

(iii) CONDITION SUBSEQUENT RELATING TO DEFICIENCY IN PAYMENTS RELATIVE TO AMOUNTS NEEDED TO ENSURE THAT BENEFITS ARE FULLY FUNDED.—

(I) IN GENERAL.—Except as provided in subclause (II), the payment described in clause (i) shall not be made (and the election to which it relates shall be ineffective) if the actuarial present value of the future benefits that would be payable under the previous system with respect to service performed by such individual after the move on which the election under this paragraph is based and before the effective date of the election, exceeds the total amounts required to be transferred to the previous system under the preceding provisions of this subparagraph with respect to such service, as determined by the authority administering such previous system (in this section referred to as the "administrative authority").

(II) PAYMENT OF DEFICIENCY.—A determination of a deficiency under this clause shall not

render an election ineffective if the individual pays or arranges to pay, at a time and in a manner satisfactory to such administrative authority, the full amount of the deficiency described in subclause (I).

(D) ALTERNATIVE ELECTION FOR AN INDIVIDUAL THEN PARTICIPATING IN FERS.—

(i) APPLICABILITY.—This subparagraph applies with respect to any individual who—

(I) is then currently participating in FERS; and

(II) would then otherwise be eligible to make an election under subparagraphs (A) through (C) of this paragraph, determined disregarding the matter in subclause (I) of subparagraph (B) before the first semicolon therein.

(ii) ELECTION.—An individual described in clause (i) may, instead of making an election for which such individual is otherwise eligible under this paragraph, elect to have all prior qualifying NAFI service of such individual treated as creditable service for purposes of any annuity under FERS payable out of the Civil Service Retirement and Disability Fund.

(iii) QUALIFYING NAFI SERVICE.—For purposes of this subparagraph, the term "qualifying NAFI service" means any service which, but for this subparagraph, would be creditable for purposes of any retirement system established for employees described in section 2105(c) of title 5, United States Code.

(iv) SERVICE CEASES TO BE CREDITABLE FOR NAFI RETIREMENT SYSTEM PURPOSES.—Any qualifying NAFI service that becomes creditable for FERS purposes by virtue of an election made under this subparagraph shall not be creditable for purposes of any retirement system referred to in clause (iii).

(v) CONDITIONS.—An election under this subparagraph shall be subject to requirements, similar to those set forth in subparagraph (C), to ensure that—

(I) appropriate transfers of individual and Government contributions are made to the Civil Service Retirement and Disability Fund; and

(II) the actuarial present value of future benefits under FERS attributable to service made creditable by such election is fully funded.

(E) ALTERNATIVE ELECTION FOR AN INDIVIDUAL THEN PARTICIPATING IN A NAFI RETIREMENT SYSTEM.—

(i) APPLICABILITY.—This subparagraph applies with respect to any individual who—

(I) is then currently participating in any retirement system established for employees described in section 2105(c) of title 5, United States Code (in this subparagraph referred to as a "NAFI retirement system"); and

(II) would then otherwise be eligible to make an election under subparagraphs (A) through (C) of this paragraph (determined disregarding the matter in subclause (I) of subparagraph (B) before

the first semicolon therein) based on a move from FERS.

(ii) ELECTION.—An individual described in clause (i) may, instead of making an election for which such individual is otherwise eligible under this paragraph, elect to have all prior qualifying FERS service of such individual treated as creditable service for purposes of determining eligibility for benefits under a NAFI retirement system, but not for purposes of computing the amount of any such benefits except as provided in clause (v)(II).

(iii) QUALIFYING FERS SERVICE.—For purposes of this subparagraph, the term "qualifying FERS service" means any service which, but for this subparagraph, would be creditable for purposes of the Federal Employees' Retirement System.

(iv) SERVICE CEASES TO BE CREDITABLE FOR PURPOSES OF FERS.—Any qualifying FERS service that becomes creditable for NAFI purposes by virtue of an election made under this subparagraph shall not be creditable for purposes of the Federal Employees' Retirement System.

(v) FUNDING REQUIREMENTS.—

(I) IN GENERAL.—Except as provided in subclause (II), nothing in this section or in any other provision of law or any other authority shall be considered to require any payment or transfer of monies in order for an election under this subparagraph to be effective.

(II) CONTRIBUTION REQUIRED ONLY IF INDIVIDUAL ELECTS TO HAVE SERVICE MADE CREDITABLE FOR COMPUTATION PURPOSES AS WELL.—Under regulations prescribed by the appropriate administrative authority, an individual making an election under this subparagraph may further elect to have the qualifying FERS service made creditable for computation purposes under a NAFI retirement system, but only if the individual pays or arranges to pay, at a time and in a manner satisfactory to such administrative authority, the amount necessary to fully fund the actuarial present value of future benefits under the NAFI retirement system attributable to the qualifying FERS service.

(3) INFORMATION.—The regulations under subsection (b) shall include provisions under which any individual—

(A) shall, upon request, be provided information or assistance in determining whether such individual is eligible to make an election under paragraph (2) and, if so, the exact amount of any payment which would be required of such individual in connection with any such election; and

(B) may seek any other information or assistance relating to any such election.

(d) CREDITABILITY OF NAFI SERVICE FOR RIF PURPOSES.—

(1) IN GENERAL.—Clause (ii) of section 3502(a)(C) of title 5, United States Code, is amended by striking "January 1, 1987" and inserting "January 1, 1966".

(2) EFFECTIVE DATE.—Notwithstanding any provision of subsection (c), the amendment made by paragraph (1) shall— 5 USC 3502 note.

(A) take effect on the date of the enactment of this Act; and

(B) apply with respect to any reduction in force carried out on or after such date.

SEC. 1044. EXTENSION OF TEMPORARY AUTHORITY TO PAY CIVILIAN EMPLOYEES WITH RESPECT TO THE EVACUATION FROM GUANTANAMO, CUBA.

(a) EXTENSION OF AUTHORITY.—The Secretary of Defense may, until the end of January 31, 1996, and without regard to the time limitations specified in subsection (a) of section 5523 of title 5, United States Code, make payments under the provisions of such section from funds available for the pay of civilian personnel in the case of employees, or an employee's dependents or immediate family, evacuated from Guantanamo Bay, Cuba, pursuant to the August 26, 1994 order of the Secretary. This section shall take effect as of October 1, 1995, and shall apply with respect to payments made for periods occurring on or after that date. Effective date. Applicability.

(b) MONTHLY REPORT.—On the first day of each month beginning after the date of the enactment of this Act and ending before March 1996, the Secretary of the Navy shall transmit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report regarding the payment of employees pursuant to subsection (a). Each such report shall include, for the month preceding the month in which the report is transmitted, a statement of the following:

(1) The number of the employees paid pursuant to such section.

(2) The positions of employment of the employees.

(3) The number and location of the employees' dependents and immediate families.

(4) The actions taken by the Secretary to eliminate the conditions which necessitated the payments.

Subtitle E—Miscellaneous Reporting Requirements

SEC. 1051. REPORT ON FISCAL YEAR 1997 BUDGET SUBMISSION REGARDING GUARD AND RESERVE COMPONENTS.

(a) REPORT.—The Secretary of Defense shall submit to the congressional defense committees, at the same time that the President submits the budget for fiscal year 1997 under section 1105(a) of title 31, United States Code, a report on amounts requested in that budget for the Guard and Reserve components.

(b) CONTENT.—The report shall include the following:

(1) A description of the anticipated effect that the amounts requested (if approved by Congress) will have to enhance the capabilities of each of the Guard and Reserve components.

(2) A listing, with respect to each such component, of each of the following:

(A) The amount requested for each major weapon system for which funds are requested in the budget for that component.

(B) The amount requested for each item of equipment (other than a major weapon system) for which funds are requested in the budget for that component.

(C) The amount requested for each military construction project, together with the location of each such project, for which funds are requested in the budget for that component.

(c) INCLUSION OF INFORMATION IN NEXT FYDP.—The Secretary of Defense shall specifically display in the next future-years defense program (or program revision) submitted to Congress after the date of the enactment of this Act the amounts programmed for procurement of equipment and for military construction for each of the Guard and Reserve components.

(d) DEFINITION.—For purposes of this section, the term "Guard and Reserve components" means the following:

(1) The Army Reserve.
(2) The Army National Guard of the United States.
(3) The Naval Reserve.
(4) The Marine Corps Reserve.
(5) The Air Force Reserve.
(6) The Air National Guard of the United States.

SEC. 1052. REPORT ON DESIRABILITY AND FEASIBILITY OF PROVIDING AUTHORITY FOR USE OF FUNDS DERIVED FROM RECOVERED LOSSES RESULTING FROM CONTRACTOR FRAUD.

(a) REPORT.—Not later than April 1, 1996, the Secretary of Defense shall submit to Congress a report on the desirability and feasibility of authorizing by law the retention and use by the Department of Defense of a specified portion (not to exceed three percent) of amounts recovered by the Government during any fiscal year from losses and expenses incurred by the Department of Defense as a result of contractor fraud at military installations.

(b) MATTERS TO BE INCLUDED.—The report shall include the views of the Secretary of Defense regarding—

(1) the degree to which such authority would create enhanced incentives for the discovery, investigation, and resolution of contractor fraud at military installations; and

(2) the appropriate allocation for funds that would be available for expenditure pursuant to such authority.

SEC. 1053. REPORT OF NATIONAL POLICY ON PROTECTING THE NATIONAL INFORMATION INFRASTRUCTURE AGAINST STRATEGIC ATTACKS.

President.

Not later than 120 days after the date of the enactment of this Act, the President shall submit to Congress a report setting forth the results of a review of the national policy on protecting the national information infrastructure against strategic attacks. The report shall include the following:

(1) A description of the national policy and architecture governing the plans for establishing procedures, capabilities, systems, and processes necessary to perform indications, warning, and assessment functions regarding strategic attacks by foreign nations, groups, or individuals, or any other entity against the national information infrastructure.

(2) An assessment of the future of the National Communications System (NCS), which has performed the central role in ensuring national security and emergency preparedness

communications for essential United States Government and private sector users, including a discussion of—

(A) whether there is a Federal interest in expanding or modernizing the National Communications System in light of the changing strategic national security environment and the revolution in information technologies; and

(B) the best use of the National Communications System and the assets and experience it represents as an integral part of a larger national strategy to protect the United States against a strategic attack on the national information infrastructure.

SEC. 1054. REPORT ON DEPARTMENT OF DEFENSE BOARDS AND COMMISSIONS.

(a) STUDY.—The Secretary of Defense shall conduct a study of the boards and commissions described in subsection (c). As part of such study, the Secretary shall determine, with respect to each such board or commission that received support from the Department of Defense during fiscal year 1995, whether that board or commission merits continued support from the Department.

(b) REPORT.—Not later than April 1, 1996, the Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on the results of the study. The report shall include the following:

(1) A list of each board and commission described in subsection (c) that received support from the Department of Defense during fiscal year 1995.

(2) With respect to the boards and commissions specified on the list under paragraph (1)—

(A) a list of each such board or commission concerning which the Secretary determined under subsection (a) that continued support from the Department of Defense is merited; and

(B) a list of each such board or commission concerning which the Secretary determined under subsection (a) that continued support from the Department if not merited.

(3) For each board and commission specified on the list under paragraph (2)(A), a description of—

(A) the purpose of the board or commission;

(B) the nature and cost of the support provided by the Department to the board or commission during fiscal year 1995;

(C) the nature and duration of the support that the Secretary proposes to provide to the board or commission;

(D) the anticipated cost to the Department of providing such support; and

(E) a justification of the determination that the board or commission merits the continued support of the Department.

(4) For each board and commission specified on the list under paragraph (2)(B), a description of—

(A) the purpose of the board or commission;

(B) the nature and cost of the support provided by the Department to the board or commission during fiscal year 1995; and

(C) a justification of the determination that the board or commission does not merit the continued support of the Department.

(c) COVERED BOARDS AND COMMISSIONS.—Subsection (a) applies to any board or commission (including any board or commission authorized by law) that operates within or for the Department of Defense and that—

(1) provides only policy-making assistance or advisory services for the Department; or

(2) carries out only activities that are not routine activities, on-going activities, or activities necessary to the routine, on-going operations of the Department.

(d) SUPPORT DEFINED.—For purposes of this section, the term "support" includes the provision of any of the following:

(1) Funds.

(2) Equipment, materiel, or other assets.

(3) Services of personnel.

SEC. 1055. DATE FOR SUBMISSION OF ANNUAL REPORT ON SPECIAL ACCESS PROGRAMS.

Section 119(a) of title 10, United States Code, is amended by striking out "February 1" and inserting in lieu thereof "March 1".

Subtitle F—Repeal of Certain Reporting and Other Requirements and Authorities

SEC. 1061. REPEAL OF MISCELLANEOUS PROVISIONS OF LAW.

10 USC 1801 *et seq.*

(a) VOLUNTEERS INVESTING IN PEACE AND SECURITY PROGRAM.—(1) Chapter 89 of title 10, United States Code, is repealed.

(2) The tables of chapters at the beginning of subtitle A, and at the beginning of part II of subtitle A, of such title are each amended by striking out the item relating to chapter 89.

10 USC 2891 *et seq.*

(b) SECURITY AND CONTROL OF SUPPLIES.—(1) Chapter 171 of such title is repealed.

(2) The tables of chapters at the beginning of subtitle A, and at the beginning of part IV of subtitle A, of such title are each amended by striking out the item relating to chapter 171.

(c) ANNUAL AUTHORIZATION OF MILITARY TRAINING STUDENT LOADS.—Section 115 of such title is amended—

(1) in subsection (a), by striking out paragraph (3);

(2) in subsection (b)—

(A) by inserting "or" at the end of paragraph (1);

(B) by striking out "; or" at the end of paragraph (2) and inserting in lieu thereof a period; and

(C) by striking out paragraph (3); and

(3) by striking out subsection (f).

(d) PORTIONS OF ANNUAL MANPOWER REQUIREMENTS REPORT.—Section 115a of such title is amended—

(1) in subsection (b)(2), by striking out subparagraph (C);

(2) by striking out subsection (d);

(3) by redesignating subsection (e) as subsection (d) and striking out paragraphs (4) and (5) thereof;

(4) by striking out subsection (f); and

(5) by redesignating subsection (g) as subsection (e).

(e) OBSOLETE AUTHORITY FOR PAYMENT OF STIPENDS FOR MEMBERS OF CERTAIN ADVISORY COMMITTEES AND BOARDS OF VISITORS OF SERVICE ACADEMIES.—(1) The second sentence of each of sections 173(b) and 174(b) of such title is amended to read as follows: "Other members and part-time advisers shall (except as otherwise specifically authorized by law) serve without compensation for such service.".

(2) Sections 4355(h), 6968(h), and 9355(h) of such title are amended by striking out "is entitled to not more than $5 a day and".

(f) ANNUAL BUDGET INFORMATION CONCERNING RECRUITING COSTS.—(1) Section 227 of such title is repealed.

(2) The table of sections at the beginning of chapter 9 of such title is amended by striking out the item relating to section 227.

(g) EXPIRED AUTHORITY RELATING TO PEACEKEEPING ACTIVITIES.—(1) Section 403 of such title is repealed.

(2) The table of sections at the beginning of subchapter I of chapter 20 of such title is amended by striking out the item relating to section 403.

(h) PROCUREMENT OF GASOHOL FOR DEPARTMENT OF DEFENSE MOTOR VEHICLES.—(1) Subsection (a) of section 2398 of such title is repealed.

(2) Such section is further amended—

(A) by redesignating subsections (b) and (c) as subsections (a) and (b), respectively; and

(B) in subsection (b), as so redesignated, by striking out "subsection (b)" and inserting in lieu thereof "subsection (a)".

(i) REQUIREMENT OF NOTICE OF CERTAIN DISPOSALS AND GIFTS BY SECRETARY OF NAVY.—Section 7545 of such title is amended—

(1) by striking out subsection (c); and

(2) by redesignating subsection (d) as subsection (c).

(j) ANNUAL REPORT ON BIOLOGICAL DEFENSE RESEARCH PROGRAM.—(1) Section 2370 of such title is repealed.

(2) The table of sections at the beginning of chapter 139 of such title is amended by striking out the item relating to such section.

(k) REPORTS AND NOTIFICATIONS RELATING TO CHEMICAL AND BIOLOGICAL AGENTS.—Subsection (a) of section 409 of Public Law 91–121 (50 U.S.C. 1511) is repealed.

(l) ANNUAL REPORT ON BALANCED TECHNOLOGY INITIATIVE.—Subsection (e) of section 211 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1394) is repealed. 10 USC 113 note.

(m) REPORT ON ENVIRONMENTAL RESTORATION COSTS FOR INSTALLATIONS TO BE CLOSED UNDER 1990 BASE CLOSURE LAW.—Section 2827 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 10 U.S.C. 2687 note) is amended by striking out subsection (b).

(n) LIMITATION ON AMERICAN DIPLOMATIC FACILITIES IN GERMANY.—Section 1432 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1833) is repealed.

SEC. 1062. REPORTS REQUIRED BY TITLE 10, UNITED STATES CODE.

(a) ANNUAL REPORT ON RELOCATION ASSISTANCE PROGRAMS.—Section 1056 of title 10, United States Code, is amended—

(1) by striking out subsection (f); and

(2) by redesignating subsection (g) as subsection (f).

(b) NOTICE OF SALARY INCREASES FOR FOREIGN NATIONAL EMPLOYEES.—Section 1584 of such title is amended—

(1) by striking out subsection (b); and

(2) in subsection (a), by striking out "(a) WAIVER OF EMPLOYMENT RESTRICTIONS FOR CERTAIN PERSONNEL.—".

(c) NOTICE REGARDING CONTRACTS PERFORMED FOR PERIODS EXCEEDING 10 YEARS.—(1) Section 2352 of such title is repealed.

(2) The table of sections at the beginning of chapter 139 of such title is amended by striking out the item relating to section 2352.

(d) REPORT ON LOW-RATE PRODUCTION UNDER NAVAL VESSEL AND MILITARY SATELLITE PROGRAMS.—Section 2400(c) of such title is amended—

(1) by striking out paragraph (2); and

(2) in paragraph (1)—

(A) by striking out "(1)"; and

(B) by redesignating clauses (A) and (B) as clauses (1) and (2), respectively.

(e) REPORT ON WAIVERS OF PROHIBITION ON EMPLOYMENT OF FELONS.—Section 2408(a)(3) of such title is amended by striking out the second sentence.

(f) REPORT ON DETERMINATION NOT TO DEBAR FOR FRAUDULENT USE OF LABELS.—Section 2410f(a) of such title is amended by striking out the second sentence.

(g) NOTICE OF MILITARY CONSTRUCTION CONTRACTS ON GUAM.—Section 2864(b) of such title is amended by striking out "after the 21-day period" and all that follows through "determination".

SEC. 1063. REPORTS REQUIRED BY DEFENSE AUTHORIZATION AND APPROPRIATIONS ACTS.

(a) PUBLIC LAW 99–661 REQUIREMENT FOR REPORT ON FUNDING FOR NICARAGUAN DEMOCRATIC RESISTANCE.—Section 1351 of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99–661; 100 Stat. 3995; 10 U.S.C. 114 note) is amended—

(1) by striking out subsection (b); and

(2) in subsection (a), by striking out "(a) LIMITATION.—".

(b) ANNUAL REPORT ON OVERSEAS MILITARY FACILITY INVESTMENT RECOVERY ACCOUNT.—Section 2921 of the Military Construction Authorization Act for Fiscal Year 1991 (division B of Public Law 101–510; 10 U.S.C. 2687 note) is amended—

(1) by striking out subsection (f); and

(2) by redesignating subsections (g) and (h) as subsections (f) and (g), respectively.

(c) SCIENCE, MATHEMATICS, AND ENGINEERING EDUCATION MASTER PLAN.—Section 829 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1444; 10 U.S.C. 2192 note) is repealed.

(d) REPORT REGARDING HEATING FACILITY MODERNIZATION AT KAISERSLAUTERN.—Section 8008 of the Department of Defense Appropriations Act, 1994 (Public Law 103–139; 107 Stat. 1438), is amended by inserting "but without regard to the notification requirement in subsection (b)(2) of such section," after "section 2690 of title 10, United States Code,".

SEC. 1064. REPORTS REQUIRED BY OTHER PROVISIONS OF LAW.

(a) REQUIREMENT UNDER ARMS EXPORT CONTROL ACT FOR QUARTERLY REPORT ON PRICE AND AVAILABILITY ESTIMATES.—Section 28 of the Arms Export Control Act (22 U.S.C. 2768) is repealed.

(b) ANNUAL REPORT ON NATIONAL SECURITY AGENCY EXECUTIVE PERSONNEL.—Section 12(a) of the National Security Agency Act of 1959 (50 U.S.C. 402 note) is amended by striking out paragraph (5).

(c) REPORTS CONCERNING CERTAIN FEDERAL CONTRACTING AND FINANCIAL TRANSACTIONS.—Section 1352 of title 31, United States Code, is amended—

(1) in subsection (b)(6)(A), by inserting "(other than the Secretary of Defense and Secretary of a military department)" after "The head of each agency"; and

(2) in subsection (d)(1), by inserting "(other than in the case of the Department of Defense or a military department)" after "paragraph (3) of this subsection".

(d) ANNUAL REPORT ON WATER RESOURCES PROJECT AGREEMENTS.—Section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b) is amended—

(1) by striking out subsection (e); and

(2) by redesignating subsection (f) as subsection (e).

(e) ANNUAL REPORT ON CONSTRUCTION OF TENNESSEE-TOMBIGBEE WATERWAY.—Section 185 of the Water Resources Development Act of 1976 (33 U.S.C. 544c) is amended by striking out the second sentence.

(f) ANNUAL REPORT ON MONITORING OF NAVY HOME PORT WATERS.—Section 7 of the Organotin Antifouling Paint Control Act of 1988 (33 U.S.C. 2406) is amended—

(1) by striking out subsection (d); and

(2) by redesignating subsections (e) and (f) as subsections (d) and (e), respectively.

Subtitle G—Department of Defense Education Programs

SEC. 1071. CONTINUATION OF UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES.

10 USC 2112 note.

(a) POLICY.—Congress reaffirms—

(1) the prohibition set forth in subsection (a) of section 922 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2829; 10 U.S.C. 2112 note) regarding closure of the Uniformed Services University of the Health Sciences; and

(2) the expression of the sense of Congress set forth in subsection (b) of such section regarding the budgetary commitment to continuation of the University.

(b) PERSONNEL STRENGTH.—During the five-year period beginning on October 1, 1995, the personnel staffing levels for the Uniformed Services University of the Health Sciences may not be reduced below the personnel staffing levels for the University as of October 1, 1993.

(c) BUDGETARY COMMITMENT TO CONTINUATION.—It is the sense of Congress that the Secretary of Defense should budget for the operation of the Uniformed Services University of the Health

Sciences during fiscal year 1997 at a level at least equal to the level of operations conducted at the University during fiscal year 1995.

SEC. 1072. ADDITIONAL GRADUATE SCHOOLS AND PROGRAMS AT UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES.

(a) ADDITIONAL SCHOOLS AND PROGRAMS.—Subsection (h) of section 2113 of title 10, United States Code, is amended to read as follows:

"(h) The Secretary of Defense may establish the following educational programs at the University:

"(1) Postdoctoral, postgraduate, and technological institutes.

"(2) A graduate school of nursing.

"(3) Other schools or programs that the Secretary determines necessary in order to operate the University in a cost-effective manner.".

(b) CONFORMING AMENDMENTS TO REFLECT ADVISORY NATURE OF BOARD OF REGENTS.—(1) Section 2112(b) of such title is amended by striking out ", upon recommendation of the Board of Regents,".

(2) Section 2113 of such title is amended—

(A) in subsection (a)—

(i) by striking out "a Board of Regents (hereinafter in this chapter referred to as the 'Board')" in the first sentence and inserting in lieu thereof "the Secretary of Defense"; and

(ii) by inserting after the first sentence the following new sentence: "To assist the Secretary in an advisory capacity, there is a Board of Regents for the University.";

(B) in subsection (d), by striking out "Board" the first place it appears and inserting in lieu thereof "Secretary";

(C) in subsection (e), by striking out "of Defense";

(D) in subsection (f)(1), by striking out "of Defense";

(E) in subsection (g)—

(i) by striking out "Board is authorized to" in the first sentence and inserting in lieu thereof "Secretary may";

(ii) by striking out "Board is also authorized to" in the third sentence and inserting in lieu thereof "Secretary may"; and

(iii) by striking out "Board may also, subject to the approval of the Secretary of Defense," in the fifth sentence and inserting in lieu thereof "Secretary may"; and

(F) by striking out "Board" each place it appears in subsections (f), (i), and (j) and inserting in lieu thereof "Secretary".

(3) Section 2114(e)(1) of such title is amended by striking out "Board, upon approval of the Secretary of Defense," and inserting in lieu thereof "Secretary of Defense".

(c) CLERICAL AMENDMENTS.—(1) The heading of section 2113 of such title is amended to read as follows:

"§ 2113. Administration of University".

(2) The item relating to such section in the table of sections at the beginning of chapter 104 of such title is amended to read as follows:

"2113. Administration of University.".

SEC. 1073. FUNDING FOR ADULT EDUCATION PROGRAMS FOR MILITARY PERSONNEL AND DEPENDENTS OUTSIDE THE UNITED STATES.

Of amounts appropriated pursuant to section 301, $600,000 shall be available to carry out adult education programs, consistent with the Adult Education Act (20 U.S.C. 1201 et seq.), for the following:

(1) Members of the Armed Forces who are serving in locations—

(A) that are outside the United States; and

(B) for which amounts are not required to be allotted under section 313(b) of such Act (20 U.S.C. 1201b(b)).

(2) The dependents of such members.

SEC. 1074. ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES THAT BENEFIT DEPENDENTS OF MEMBERS OF THE ARMED FORCES AND DEPARTMENT OF DEFENSE CIVILIAN EMPLOYEES.

(a) CONTINUATION OF DEPARTMENT OF DEFENSE PROGRAM FOR FISCAL YEAR 1996.—(1) Of the amounts authorized to be appropriated in section 301(5)—

(A) $30,000,000 shall be available for providing educational agencies assistance (as defined in paragraph (4)(A)) to local educational agencies; and

(B) $5,000,000 shall be available for making educational agencies payments (as defined in paragraph (4)(B)) to local educational agencies.

(2) Not later than June 30, 1996, the Secretary of Defense shall— Notification.

(A) notify each local educational agency that is eligible for educational agencies assistance for fiscal year 1996 of that agency's eligibility for such assistance and the amount of such assistance for which that agency is eligible; and

(B) notify each local educational agency that is eligible for an educational agencies payment for fiscal year 1996 of that agency's eligibility for such payment and the amount of the payment for which that agency is eligible.

(3) The Secretary of Defense shall disburse funds made available under subparagraphs (A) and (B) of paragraph (1) not later than 30 days after the date on which notification to the eligible local educational agencies is provided pursuant to paragraph (2).

(4) In this section:

(A) The term "educational agencies assistance" means assistance authorized under subsection (b) of section 386 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 20 U.S.C. 238 note).

(B) The term "educational agencies payments" means payments authorized under subsection (d) of that section, as amended by subsection (d).

(b) SPECIAL RULE FOR 1994 PAYMENTS.—The Secretary of Education shall not consider any payment to a local educational agency by the Department of Defense, that is available to such agency for current expenditures and used for capital expenses, as funds available to such agency for purposes of making a determination for fiscal year 1994 under section 3(d)(2)(B)(i) of the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such Act was in effect on September 30, 1994).

20 USC 7703 note.

(c) REDUCTION IN IMPACT THRESHOLD.—Subsection (c)(1) of section 386 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 20 U.S.C. 238 note) is amended—

(1) by striking out "30 percent" and inserting in lieu thereof "20 percent"; and

(2) by striking out "counted under subsection (a) or (b) of section 3 of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress; 20 U.S.C. 238)" and inserting in lieu thereof "counted under section 8003(a) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703(a))".

20 USC 7703 note.

(d) ADJUSTMENTS RELATED TO BASE CLOSURES AND REALIGNMENTS.—Subsection (d) of section 386 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 28 U.S.C. 238 note) is amended to read as follows:

"(d) ADJUSTMENTS RELATED TO BASE CLOSURES AND REALIGNMENTS.—To assist communities in making adjustments resulting from reductions in the size of the Armed Forces, the Secretary of Defense shall, in consultation with the Secretary of Education, make payments to local educational agencies that, during the period between the end of the school year preceding the fiscal year for which the payments are authorized and the beginning of the school year immediately preceding that school year, had an overall reduction of not less than 20 percent in the number of military dependent students as a result of the closure or realignment of military installations.".

20 USC 7703 note.

(e) EXTENSION OF REPORTING REQUIREMENT.—Subsection (e)(1) of section 386 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 20 U.S.C. 238 note) is amended by striking out "and 1995" and inserting in lieu thereof "1995, and 1996".

(f) PAYMENTS FOR ELIGIBLE FEDERALLY CONNECTED CHILDREN.—Subsection (f) of section 8003 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703) is amended—

(1) in paragraph (2)—

(A) in the matter preceding clause (i) of subparagraph (A), by striking "only if such agency" and inserting "if such agency is eligible for a supplementary payment in accordance with subparagraph (B) or such agency"; and

(B) by adding at the end the following new subparagraph:

"(D) A local educational agency shall only be eligible to receive additional assistance under this subsection if the Secretary determines that—

"(i) such agency is exercising due diligence in availing itself of State and other financial assistance; and

"(ii) the eligibility of such agency under State law for State aid with respect to the free public education of children described in subsection (a)(1) and the amount of such aid are determined on a basis no less favorable to such agency than the basis used in determining the eligibility of local educational agencies for State aid, and the amount of such aid, with respect to the free public education of other children in the State."; and

(2) in paragraph (3)—

(A) in subparagraph (A)—

(i) in the matter preceding clause (i), by inserting "(other than any amount received under paragraph (2)(B))" after "subsection";

(ii) in subclause (I) of clause (i), by striking "or the average per-pupil expenditure of all the States";

(iii) by amending clause (ii) to read as follows:

"(ii) The Secretary shall next multiply the amount determined under clause (i) by the total number of students in average daily attendance at the schools of the local educational agency."; and

(iv) by amending clause (iii) to read as follows:

"(iii) The Secretary shall next subtract from the amount determined under clause (ii) all funds available to the local educational agency for current expenditures, but shall not so subtract funds provided—

"(I) under this Act; or

"(II) by any department or agency of the Federal Government (other than the Department) that are used for capital expenses."; and

(B) by amending subparagraph (B) to read as follows:

"(B) SPECIAL RULE.—With respect to payments under this subsection for a fiscal year for a local educational agency described in clause (ii) or (iii) of paragraph (2)(A), the maximum amount of payments under this subsection shall be equal to—

"(i) the product of—

"(I) the average per-pupil expenditure in all States multiplied by 0.7, except that such amount may not exceed 125 percent of the average per-pupil expenditure in all local educational agencies in the State; multiplied by

"(II) the number of students described in subparagraph (A) or (B) of subsection (a)(1) for such agency; minus

"(ii) the amount of payments such agency receives under subsections (b) and (d) for such year.".

(g) CURRENT YEAR DATA.—Paragraph (4) of section 8003(f) of such Act (20 U.S.C. 7703(f)) is amended to read as follows:

"(4) CURRENT YEAR DATA.—For purposes of providing assistance under this subsection the Secretary—

"(A) shall use student and revenue data from the fiscal year for which the local educational agency is applying for assistance under this subsection; and

"(B) shall derive the per pupil expenditure amount for such year for the local educational agency's comparable school districts by increasing or decreasing the per pupil expenditure data for the second fiscal year preceding the fiscal year for which the determination is made by the same percentage increase or decrease reflected between the per pupil expenditure data for the fourth fiscal year preceding the fiscal year for which the determination is made and the per pupil expenditure data for such second year.".

(h) TECHNICAL AMENDMENTS TO CORRECT REFERENCES TO REPEALED LAW.—Section 386 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 20 U.S.C. 238 note) is amended— 20 USC 7703 note.

(1) in subsection (e)(2)—

(A) in subparagraph (C), by inserting after "et seq.)," the following: "title VIII of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7701 et seq.),"; and

(B) in subparagraph (D)(iii), by striking out "under subsections (a) and (b) of section 3 of such Act (20 U.S.C. 238)"; and

(2) in subsection (h)—

(A) in paragraph (1), by striking out "section 14101 of the Elementary and Secondary Education Act of 1965" and inserting in lieu thereof "section 8013(9) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7713(9))"; and

(B) by striking out paragraph (3) and inserting in lieu thereof the following new paragraph:

"(3) The term 'State' means each of the 50 States and the District of Columbia.".

SEC. 1075. SHARING OF PERSONNEL OF DEPARTMENT OF DEFENSE DOMESTIC DEPENDENT SCHOOLS AND DEFENSE DEPENDENTS' EDUCATION SYSTEM.

Section 2164(e) of title 10, United States Code, is amended by adding at the end the following:

"(4)(A) The Secretary may, without regard to the provisions of any law relating to the number, classification, or compensation of employees—

"(i) transfer employees from schools established under this section to schools in the defense dependents' education system in order to provide the services referred to in subparagraph (B) to such system; and

"(ii) transfer employees from such system to schools established under this section in order to provide such services to those schools.

"(B) The services referred to in subparagraph (A) are the following:

"(i) Administrative services.

"(ii) Logistical services.

"(iii) Personnel services.

"(iv) Such other services as the Secretary considers appropriate.

"(C) Transfers under this paragraph shall extend for such periods as the Secretary considers appropriate. The Secretary shall provide appropriate compensation for employees so transferred.

"(D) The Secretary may provide that the transfer of an employee under this paragraph occur without reimbursement of the school or system concerned.

"(E) In this paragraph, the term 'defense dependents' education system' means the program established and operated under section 1402(a) of the Defense Dependents' Education Act of 1978 (20 U.S.C. 921(a))."

SEC. 1076. INCREASE IN RESERVE COMPONENT MONTGOMERY GI BILL EDUCATIONAL ASSISTANCE ALLOWANCE WITH RESPECT TO SKILLS OR SPECIALTIES FOR WHICH THERE IS A CRITICAL SHORTAGE OF PERSONNEL.

Section 16131 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(j)(1) In the case of a person who has a skill or specialty designated by the Secretary concerned as a skill or specialty in which there is a critical shortage of personnel or for which it is difficult to recruit or, in the case of critical units, retain personnel, the Secretary concerned may increase the rate of the educational assistance allowance applicable to that person to such rate in excess of the rate prescribed under subparagraphs (A) through (D) of subsection (b)(1) as the Secretary of Defense considers appropriate, but the amount of any such increase may not exceed $350 per month.

"(2) In the case of a person who has a skill or specialty designated by the Secretary concerned as a skill or specialty in which there is a critical shortage of personnel or for which it is difficult to recruit or, in the case of critical units, retain personnel, who is eligible for educational benefits under chapter 30 (other than section 3012) of title 38 and who meets the eligibility criteria specified in subparagraphs (A) and (B) of section 16132(a)(1) of this title, the Secretary concerned may increase the rate of the educational assistance allowance applicable to that person to such rate in excess of the rate prescribed under section 3015 of title 38 as the Secretary of Defense considers appropriate, but the amount of any such increase may not exceed $350 per month.

"(3) The authority provided by paragraphs (1) and (2) shall be exercised by the Secretaries concerned under regulations prescribed by the Secretary of Defense.". Regulations.

SEC. 1077. DATE FOR ANNUAL REPORT ON RESERVE COMPONENT MONTGOMERY GI BILL EDUCATIONAL ASSISTANCE PROGRAM.

Section 16137 of title 10, United States Code, is amended by striking out "December 15 of each year" and inserting in lieu thereof "March 1 of each year".

SEC. 1078. SCOPE OF EDUCATION PROGRAMS OF COMMUNITY COLLEGE OF THE AIR FORCE.

(a) LIMITATION TO MEMBERS OF THE AIR FORCE.—Section 9315(a)(1) of title 10, United States Code, is amended by striking out "for enlisted members of the armed forces" and inserting in lieu thereof "for enlisted members of the Air Force".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to enrollments in the Community College of the Air Force after March 31, 1996. 10 USC 9315 note.

SEC. 1079. AMENDMENTS TO EDUCATION LOAN REPAYMENT PROGRAMS.

(a) GENERAL EDUCATION LOAN REPAYMENT PROGRAM.—Section 2171(a)(1) of title 10, United States Code, is amended—

(1) by striking out "or" at the end of subparagraph (A);

(2) by redesignating subparagraph (B) as subparagraph (C); and

(3) by inserting after subparagraph (A) the following new subparagraph (B):

"(B) any loan made under part D of such title (the William D. Ford Federal Direct Loan Program, 20 U.S.C. 1087a et seq.); or".

(b) EDUCATION LOAN REPAYMENT PROGRAM FOR ENLISTED MEMBERS OF SELECTED RESERVE WITH CRITICAL SPECIALTIES.—Section 16301(a)(1) of such title is amended—

(1) by striking out "or" at the end of subparagraph (A);

(2) by redesignating subparagraph (B) as subparagraph (C); and

(3) by inserting after subparagraph (A) the following new subparagraph (B):

"(B) any loan made under part D of such title (the William D. Ford Federal Direct Loan Program, 20 U.S.C. 1087a et seq.); or".

(c) EDUCATION LOAN REPAYMENT PROGRAM FOR HEALTH PROFESSIONS OFFICERS SERVING IN SELECTED RESERVE WITH WARTIME CRITICAL MEDICAL SKILL SHORTAGES.—Section 16302(a) of such title is amended—

(1) by redesignating paragraphs (2) through (4) as paragraphs (3) through (5) respectively; and

(2) by inserting after paragraph (1) the following new paragraph (2):

"(2) any loan made under part D of such title (the William D. Ford Federal Direct Loan Program, 20 U.S.C. 1087a et seq.); or".

Subtitle H—Other Matters

SEC. 1081. NATIONAL DEFENSE TECHNOLOGY AND INDUSTRIAL BASE, DEFENSE REINVESTMENT, AND DEFENSE CONVERSION PROGRAMS.

(a) NATIONAL SECURITY OBJECTIVES FOR NATIONAL TECHNOLOGY AND INDUSTRIAL BASE.—(1) Section 2501 of title 10, United States Code, is amended—

(A) in subsection (a)—

(i) by striking out "DEFENSE POLICY" in the subsection heading and inserting in lieu thereof "NATIONAL SECURITY"; and

(ii) by striking out paragraph (5);

(B) by striking out subsection (b); and

(C) by redesignating subsection (c) as subsection (b).

(2) The heading of such section is amended to read as follows:

"§ 2501. National security objectives concerning national technology and industrial base".

(b) NATIONAL DEFENSE TECHNOLOGY AND INDUSTRIAL BASE COUNCIL.—Section 2502(c) of such title is amended—

(1) in paragraph (1), by striking out subparagraph (B) and inserting in lieu thereof the following new subparagraph:

"(B) programs for achieving such national security objectives; and";

(2) by striking out paragraph (2); and

(3) by redesignating paragraph (3) as paragraph (2).

(c) MODIFICATION OF DEFENSE DUAL-USE CRITICAL TECHNOLOGY PARTNERSHIPS PROGRAM.—Section 2511 of such title is amended to read as follows:

"§ 2511. Defense dual-use critical technology program

"(a) ESTABLISHMENT OF PROGRAM.—The Secretary of Defense shall conduct a program to further the national security objectives set forth in section 2501(a) of this title by encouraging and providing for research, development, and application of dual-use critical tech-

nologies. The Secretary may make grants, enter into contracts, or enter into cooperative agreements and other transactions pursuant to section 2371 of this title in furtherance of the program. The Secretary shall identify projects to be conducted as part of the program.

"(b) ASSISTANCE AUTHORIZED.—The Secretary of Defense may provide technical and other assistance to facilitate the achievement of the purposes of projects conducted under the program. In providing such assistance, the Secretary shall make available, as appropriate for the work to be performed, equipment and facilities of Department of Defense laboratories (including the scientists and engineers at those laboratories) for purposes of projects selected by the Secretary.

"(c) FINANCIAL COMMITMENT OF NON-FEDERAL GOVERNMENT PARTICIPANTS.—(1) The total amount of funds provided by the Federal Government for a project conducted under the program may not exceed 50 percent of the total cost of the project. However, the Secretary of Defense may agree to a project in which the total amount of funds provided by the Federal Government exceeds 50 percent if the Secretary determines the project is particularly meritorious, but the project would not otherwise have sufficient non-Federal funding or in-kind contributions.

"(2) The Secretary may prescribe regulations to provide for consideration of in-kind contributions by non-Federal Government participants in a project conducted under the program for the purpose of calculating the share of the project costs that has been or is being undertaken by such participants. In such regulations, the Secretary may authorize a participant that is a small business concern to use funds received under the Small Business Innovation Research Program or the Small Business Technology Transfer Program to help pay the costs of project activities. Any such funds so used may be considered in calculating the amount of the financial commitment undertaken by the non-Federal Government participants unless the Secretary determines that the small business concern has not made a significant equity percentage contribution in the project from non-Federal sources.

"(3) The Secretary shall consider a project proposal submitted by a small business concern without regard to the ability of the small business concern to immediately meet its share of the anticipated project costs. Upon the selection of a project proposal submitted by a small business concern, the small business concern shall have a period of not less than 120 days in which to arrange to meet its financial commitment requirements under the project from sources other than a person of a foreign country. If the Secretary determines upon the expiration of that period that the small business concern will be unable to meet its share of the anticipated project costs, the Secretary shall revoke the selection of the project proposal submitted by the small business concern.

"(d) SELECTION PROCESS.—Competitive procedures shall be used in the conduct of the program.

"(e) SELECTION CRITERIA.—The criteria for the selection of projects under the program shall include the following:

"(1) The extent to which the proposed project advances and enhances the national security objectives set forth in section 2501(a) of this title.

"(2) The technical excellence of the proposed project.

"(3) The qualifications of the personnel proposed to participate in the research activities of the proposed project.

"(4) An assessment of timely private sector investment in activities to achieve the goals and objectives of the proposed project other than through the project.

"(5) The potential effectiveness of the project in the further development and application of each technology proposed to be developed by the project for the national technology and industrial base.

"(6) The extent of the financial commitment of eligible firms to the proposed project.

"(7) The extent to which the project does not unnecessarily duplicate projects undertaken by other agencies.

"(f) REGULATIONS.—The Secretary of Defense shall prescribe regulations for the purposes of this section.".

(d) FEDERAL DEFENSE LABORATORY DIVERSIFICATION PROGRAM.—Section 2519 of such title is amended—

(1) in subsection (b), by striking out "referred to in section 2511(b) of this title"; and

(2) in subsection (f), by striking out "section 2511(f)" and inserting in lieu thereof "section 2511(e)".

(e) MANUFACTURING SCIENCE AND TECHNOLOGY PROGRAM.—Subsection (b) of section 2525 of such title is amended to read as follows:

"(b) PURPOSE OF PROGRAM.—The Secretary of Defense shall use the program—

"(1) to provide centralized guidance and direction (including goals, milestones, and priorities) to the military departments and the Defense Agencies on all matters relating to manufacturing technology;

"(2) to direct the development and implementation of Department of Defense plans, programs, projects, activities, and policies that promote the development and application of advanced technologies to manufacturing processes, tools, and equipment;

"(3) to improve the manufacturing quality, productivity, technology, and practices of businesses and workers providing goods and services to the Department of Defense;

"(4) to promote dual-use manufacturing processes;

"(5) to disseminate information concerning improved manufacturing improvement concepts, including information on such matters as best manufacturing practices, product data exchange specifications, computer-aided acquisition and logistics support, and rapid acquisition of manufactured parts;

"(6) to sustain and enhance the skills and capabilities of the manufacturing work force;

"(7) to promote high-performance work systems (with development and dissemination of production technologies that build upon the skills and capabilities of the work force), high levels of worker education and training; and

"(8) to ensure appropriate coordination between the manufacturing technology programs and industrial preparedness programs of the Department of Defense and similar programs undertaken by other departments and agencies of the Federal Government or by the private sector.".

(f) REPEAL OF VARIOUS ASSISTANCE PROGRAMS.—Sections 2512, 2513, 2520, 2521, 2522, 2523, and 2524 of such title are repealed.

(g) REPEAL OF MILITARY-CIVILIAN INTEGRATION AND TECHNOLOGY TRANSFER ADVISORY BOARD.—Section 2516 of such title is repealed.

(h) REPEAL OF OBSOLETE DEFINITIONS.—Section 2491 of such title is amended—

(1) by striking out paragraphs (11) and (12); and

(2) by redesignating paragraphs (13), (14), (15), and (16) as paragraphs (11), (12), (13), and (14), respectively.

(i) CLERICAL AMENDMENTS.—(1) The table of sections at the beginning of subchapter II of chapter 148 of such title is amended by striking out the item relating to section 2501 and inserting in lieu thereof the following new item:

"2501. National security objectives concerning national technology and industrial base.".

(2) The table of sections at the beginning of subchapter III of such chapter is amended—

(A) by striking out the item relating to section 2511 and inserting in lieu thereof the following new item:

"2511. Defense dual-use critical technology program."; and

(B) by striking out the items relating to sections 2512, 2513, 2516, and 2520.

(3) The table of sections at the beginning of subchapter IV of such chapter is amended by striking out the items relating to sections 2521, 2522, 2523, and 2524.

SEC. 1082. AMMUNITION INDUSTRIAL BASE.

(a) REVIEW OF AMMUNITION PROCUREMENT PROGRAMS.—The Secretary of Defense shall carry out a review of the programs of the Department of Defense for the procurement of ammunition. The review shall include the Department of Defense management of ammunition procurement programs, including the procedures of the Department for the planning for, budgeting for, administration, and carrying out of such programs. The Secretary shall begin the review not later than 30 days after the date of the enactment of this Act.

(b) MATTERS TO BE REVIEWED.—The review under subsection (a) shall include an assessment of the following:

(1) The practicability and desirability of (A) continuing to use centralized procurement practices (through a single executive agent) for the procurement of ammunition required by the Armed Forces, and (B) using such centralized procurement practices for the procurement of all such ammunition.

(2) The capability of the ammunition production facilities of the Government to meet the requirements of the Armed Forces for procurement of ammunition.

(3) The practicability and desirability of converting those ammunition production facilities to ownership or operation by private sector entities.

(4) The practicability and desirability of integrating the budget planning for the procurement of ammunition among the Armed Forces.

(5) The practicability and desirability of establishing an advocate within the Department of Defense for matters relating to the ammunition industrial base, with such an advocate to be responsible for—

(A) establishing the quantity and price of ammunition procured by the Armed Forces; and

(B) establishing and implementing policy to ensure the continuing capability of the ammunition industrial base in the United States to meet the requirements of the Armed Forces.

(6) The practicability and desirability of providing information on the ammunition procurement practices of the Armed Forces to Congress through a single source.

(c) REPORT.—Not later than April 1, 1996, the Secretary shall submit to the congressional defense committees a report on the review carried out under subsection (a). The report shall include the following:

(1) The results of the review.

(2) A discussion of the methodologies used in carrying out the review.

(3) An assessment of various methods of ensuring the continuing capability of the ammunition industrial base of the United States to meet the requirements of the Armed Forces.

(4) Recommendations of means (including legislation) of implementing those methods in order to ensure such continuing capability.

SEC. 1083. POLICY CONCERNING EXCESS DEFENSE INDUSTRIAL CAPACITY.

No funds appropriated pursuant to an authorization of appropriations in this Act may be used for capital investment in, or the development and construction of, a Government-owned, Government-operated defense industrial facility unless the Secretary of Defense certifies to the Congress that no similar capability or minimally used capacity exists in any other Government-owned, Government-operated defense industrial facility.

SEC. 1084. SENSE OF CONGRESS CONCERNING ACCESS TO SECONDARY SCHOOL STUDENT INFORMATION FOR RECRUITING PURPOSES.

(a) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the States (with respect to public schools) and entities operating private secondary schools should not have a policy of denying, or otherwise effectively preventing, the Secretary of Defense from obtaining for military recruiting purposes—

(A) entry to any secondary school or access to students at any secondary school equal to that of other employers; or

(B) access to directory information pertaining to students at secondary schools equal to that of other employers (other than in a case in which an objection has been raised as described in paragraph (2)); and

(2) any State, and any entity operating a private secondary school, that releases directory information secondary school students should—

(A) give public notice of the categories of such information to be released; and

(B) allow a reasonable period after such notice has been given for a student or (in the case of an individual younger than 18 years of age) a parent to inform the school that any or all of such information should not be released without obtaining prior consent from the student or the parent, as the case may be.

(b) REPORT ON DOD PROCEDURES.—Not later than March 1, 1996, the Secretary of Defense shall submit to Congress a report on Department of Defense procedures for determining if and when a State or an entity operating a private secondary school has denied or prevented access to students or information as described in subsection (a)(1).

(c) DEFINITIONS.—For purposes of this section:

(1) The term "directory information" means, with respect to a student, the student's name, address, telephone listing, date and place of birth, level of education, degrees received, and (if available) the most recent previous educational program enrolled in by the student.

(2) The term "student" means an individual enrolled in any program of education who is 17 years of age or older.

SEC. 1085. DISCLOSURE OF INFORMATION CONCERNING UNACCOUNTED FOR UNITED STATES PERSONNEL FROM THE KOREAN CONFLICT, THE VIETNAM ERA, AND THE COLD WAR.

50 USC 435 note.

Section 1082 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 50 U.S.C. 401 note) is amended—

(1) in subsection (b)(3)(A), by striking out "cannot be located after a reasonable effort." and inserting in lieu thereof "cannot be located by the Secretary of Defense—

"(i) in the case of a person missing from the Vietnam era, after a reasonable effort; and

"(ii) in the case of a person missing from the Korean Conflict or Cold War, after a period of 90 days from the date on which any record or other information referred to in paragraph (2) is received by the Department of Defense for disclosure review from the Archivist of the United States, the Library of Congress, or the Joint United States-Russian Commission on POW/MIAs."; and

(2) in subsection (c)(1), by striking out "not later than September 30, 1995" and inserting in lieu thereof "not later than January 2, 1996".

SEC. 1086. OPERATIONAL SUPPORT AIRLIFT AIRCRAFT FLEET.

(a) SUBMITTAL OF JCS REPORT ON AIRCRAFT.—Not later than February 1, 1996, the Secretary of Defense shall submit to Congress the report that, as of the date of the enactment of this Act, is in preparation by the Chairman of the Joint Chiefs of Staff on operational support airlift aircraft.

(b) CONTENT OF REPORT.—(1) The report referred to in subsection (a) shall contain findings and recommendations on the following:

(A) Requirements for the modernization and safety of the operational support airlift aircraft fleet.

(B) The disposition of aircraft that would be excess to that fleet upon fulfillment of the requirements referred to in subparagraph (A).

(C) Plans and requirements for the standardization of the fleet, including plans and requirements for the provision of a single manager for all logistical support and operational requirements.

(D) Central scheduling of all operational support airlift aircraft.

(E) Needs of the Department for helicopter support in the National Capital Region, including the acceptable uses of that support.

(2) In preparing the report, the Chairman of the Joint Chiefs of Staff shall take into account the recommendation of the Commission on Roles and Missions of the Armed Forces to reduce the size of the operational support airlift aircraft fleet.

(c) REGULATIONS.—(1) Upon completion of the report referred to in subsection (a), the Secretary shall prescribe regulations, consistent with the findings and recommendations set forth in the report, for the operation, maintenance, disposition, and use of operational support airlift aircraft.

(2) The regulations shall, to the maximum extent practicable, provide for, and encourage the use of, commercial airlines in lieu of the use of such aircraft.

(3) The regulations shall apply uniformly throughout the Department.

(4) The regulations shall not require exclusive use of such aircraft for any particular class of government personnel.

(d) REDUCTIONS IN FLYING HOURS.—(1) The Secretary shall ensure that the number of hours flown during fiscal year 1996 by operational support airlift aircraft does not exceed the number equal to 85 percent of the number of hours flown during fiscal year 1995 by operational support airlift aircraft.

(2) The Secretary should ensure that the number of hours flown in the National Capital Region during fiscal year 1996 by helicopters of the operational support airlift aircraft fleet does not exceed the number equal to 85 percent of the number of hours flown in the National Capital Region during fiscal year 1995 by helicopters of the operational support airlift aircraft fleet.

(e) RESTRICTION ON AVAILABILITY OF FUNDS.—Of the funds appropriated pursuant to section 301 for the operation and use of operational support airlift aircraft, not more than 50 percent is available for obligation until the Secretary submits to Congress the report referred to in subsection (a).

(f) DEFINITIONS.—In this section:

(1) The term "operational support airlift aircraft" means aircraft of the Department of Defense designated within the Department as operational support airlift aircraft.

(2) The term "National Capital Region" has the meaning given such term in section 2674(f)(2) of title 10, United States Code.

SEC. 1087. CIVIL RESERVE AIR FLEET.

Section 9512 of title 10, United States Code, is amended by striking out "full Civil Reserve Air Fleet" in subsections (b)(2) and (e) and inserting in lieu thereof "Civil Reserve Air Fleet".

SEC. 1088. DAMAGE OR LOSS TO PERSONAL PROPERTY DUE TO EMERGENCY EVACUATION OR EXTRAORDINARY CIRCUMSTANCES.

(a) SETTLEMENT OF CLAIMS OF PERSONNEL.—Section 3721(b)(1) of title 31, United States Code, is amended by inserting after the first sentence the following: "If, however, the claim arose from an emergency evacuation or from extraordinary circumstances, the amount settled and paid under the authority of the preceding sentence may exceed $40,000, but may not exceed $100,000.".

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply to claims arising before, on, or after the date of the enactment of this Act. 31 USC 3721 note.

(c) REPRESENTMENTS OF PREVIOUSLY PRESENTED CLAIMS.—(1) A claim under subsection (b) of section 3721 of title 31, United States Code, that was settled under such section before the date of the enactment of this Act may be represented under such section, as amended by subsection (a), to the head of the agency concerned to recover the amount equal to the difference between the actual amount of the damage or loss and the amount settled and paid under the authority of such section before the date of the enactment of this Act, except that— 31 USC 3721 note.

(A) the claim shall be represented in writing within two years after the date of the enactment of this Act;

(B) a determination of the actual amount of the damage or loss shall have been made by the head of the agency concerned pursuant to settlement of the claim under the authority of such section before the date of the enactment of this Act;

(C) the claimant shall have proof of the determination referred to in subparagraph (B); and

(D) the total of all amounts paid in settlement of the claim under the authority of such section may not exceed $100,000.

(2) Subsection (k) of such section shall not apply to bar representment of a claim described in paragraph (1), but shall apply to such a claim that is represented and settled under that section after the date of the enactment of this Act.

SEC. 1089. AUTHORITY TO SUSPEND OR TERMINATE COLLECTION ACTIONS AGAINST DECEASED MEMBERS.

Section 3711 of title 31, United States Code, is amended by adding at the end the following:

"(g)(1) The Secretary of Defense may suspend or terminate an action by the Secretary or by the Secretary of a military department under subsection (a) to collect a claim against the estate of a person who died while serving on active duty as a member of the Army, Navy, Air Force, or Marine Corps if the Secretary determines that, under the circumstances applicable with respect to the deceased person, it is appropriate to do so.

"(2) In this subsection, the term 'active duty' has the meaning given that term in section 101 of title 10.".

SEC. 1090. CHECK CASHING AND EXCHANGE TRANSACTIONS FOR DEPENDENTS OF UNITED STATES GOVERNMENT PERSONNEL.

(a) AUTHORITY TO CARRY OUT TRANSACTIONS.—Subsection (b) of section 3342 of title 31, United States Code, is amended—

(1) by redesignating paragraphs (3), (4), and (5) as paragraphs (4), (5), and (6), respectively; and

(2) by inserting after paragraph (2) the following new paragraph:

"(3) a dependent of personnel of the Government, but only—

"(A) at a United States installation at which adequate banking facilities are not available; and

"(B) in the case of negotiation of negotiable instruments, if the dependent's sponsor authorizes, in writing, the presentation of negotiable instruments to the disbursing official for negotiation.".

(b) PAY OFFSET.—Subsection (c) of such section is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following new paragraph (3):

"(3) The amount of any deficiency resulting from cashing a check for a dependent under subsection (b)(3), including any charges assessed against the disbursing official by a financial institution for insufficient funds to pay the check, may be offset from the pay of the dependent's sponsor.".

(c) DEFINITIONS.—Such section is further amended by adding at the end the following:

"(e) Regulations prescribed under subsection (d) shall include regulations that define the terms 'dependent' and 'sponsor' for the purposes of this section. In the regulations, the term 'dependent', with respect to a member of a uniformed service, shall have the meaning given that term in section 401 of title 37.".

Virginia.

SEC. 1091. DESIGNATION OF NATIONAL MARITIME CENTER.

(a) DESIGNATION OF NATIONAL MARITIME CENTER.—The NAUTICUS building, located at one Waterside Drive, Norfolk, Virginia, shall be known and designated as the "National Maritime Center".

(b) REFERENCE TO NATIONAL MARITIME CENTER.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the building referred to in subsection (a) shall be deemed to be a reference to the "National Maritime Center".

SEC. 1092. SENSE OF CONGRESS REGARDING HISTORIC PRESERVATION OF MIDWAY ISLANDS.

(a) FINDINGS.—Congress makes the following findings:

(1) September 2, 1995, marks the 50th anniversary of the United States victory over Japan in World War II.

(2) The Battle of Midway proved to be the turning point in the war in the Pacific, as United States Navy forces inflicted such severe losses on the Imperial Japanese Navy during the battle that the Imperial Japanese Navy never again took the offensive against United States or allied forces.

(3) During the Battle of Midway, an outnumbered force of the United States Navy, consisting of 29 ships and other units of the Armed Forces under the command of Admiral Nimitz and Admiral Spruance, out-maneuvered and out-fought 350 ships of the Imperial Japanese Navy.

(4) It is in the public interest to erect a memorial to the Battle of Midway that is suitable to express the enduring gratitude of the American people for victory in the battle and to inspire future generations of Americans with the heroism and sacrifice of the members of the Armed Forces who achieved that victory.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the Midway Islands and the surrounding seas deserve to be memorialized;

(2) the historic structures related to the Battle of Midway should be maintained, in accordance with the National Historic Preservation Act (16 U.S.C. 470–470t), and subject to the availability of appropriations for that purpose.

(3) appropriate access to the Midway Islands by survivors of the Battle of Midway, their families, and other visitors should be provided in a manner that ensures the public health and

safety on the Midway Islands and the conservation of the natural resources of those islands in accordance with existing Federal law.

SEC. 1093. SENSE OF SENATE REGARDING FEDERAL SPENDING.

It is the sense of the Senate that in pursuit of a balanced Federal budget, Congress should exercise fiscal restraint, particularly in authorizing spending not requested by the executive branch and in proposing new programs.

SEC. 1094. EXTENSION OF AUTHORITY FOR VESSEL WAR RISK INSURANCE.

Section 1214 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1294), is amended by striking "June 30, 1995" and inserting in lieu thereof "June 30, 2000".

TITLE XI—UNIFORM CODE OF MILITARY JUSTICE

Military Justice Amendments of 1995.

SEC. 1101. SHORT TITLE.

10 USC 801 note.

This title may be cited as the "Military Justice Amendments of 1995".

SEC. 1102. REFERENCES TO UNIFORM CODE OF MILITARY JUSTICE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of chapter 47 of title 10, United States Code (the Uniform Code of Military Justice).

Subtitle A—Offenses

SEC. 1111. REFUSAL TO TESTIFY BEFORE COURT-MARTIAL.

Section 847(b) (article 47(b)) is amended—

(1) in the first sentence, by inserting "indictment or" after "shall be tried on"; and

(2) in the second sentence, by striking out "shall be" and all that follows and inserting in lieu thereof "shall be fined or imprisoned, or both, at the court's discretion.".

SEC. 1112. FLIGHT FROM APPREHENSION.

(a) IN GENERAL.—Section 895 (article 95) is amended to read as follows:

"§ 895. Art. 95. Resistance, flight, breach of arrest, and escape

"Any person subject to this chapter who—

"(1) resists apprehension;

"(2) flees from apprehension;

"(3) breaks arrest; or

"(4) escapes from custody or confinement;

shall be punished as a court-martial may direct.".

(b) CLERICAL AMENDMENT.—The item relating to section 895 (article 95) in the table of sections at the beginning of subchapter X is amended to read as follows:

"895. Art. 95. Resistance, flight, breach of arrest, and escape.".

SEC. 1113. CARNAL KNOWLEDGE.

(a) GENDER NEUTRALITY.—Subsection (b) of section 920 (article 120) is amended to read as follows:

"(b) Any person subject to this chapter who, under circumstances not amounting to rape, commits an act of sexual intercourse with a person—

"(1) who is not that person's spouse; and

"(2) who has not attained the age of sixteen years;

is guilty of carnal knowledge and shall be punished as a court-martial may direct.".

(b) MISTAKE OF FACT.—Such section (article) is further amended by adding at the end the following new subsection:

"(d)(1) In a prosecution under subsection (b), it is an affirmative defense that—

"(A) the person with whom the accused committed the act of sexual intercourse had at the time of the alleged offense attained the age of twelve years; and

"(B) the accused reasonably believed that that person had at the time of the alleged offense attained the age of sixteen years.

"(2) The accused has the burden of proving a defense under paragraph (1) by a preponderance of the evidence.".

Subtitle B—Sentences

SEC. 1121. EFFECTIVE DATE FOR FORFEITURES OF PAY AND ALLOWANCES AND REDUCTIONS IN GRADE BY SENTENCE OF COURT-MARTIAL.

(a) EFFECTIVE DATE OF SPECIFIED PUNISHMENTS.—Subsection (a) of section 857 (article 57) is amended to read as follows:

"(a)(1) Any forfeiture of pay or allowances or reduction in grade that is included in a sentence of a court-martial takes effect on the earlier of—

"(A) the date that is 14 days after the date on which the sentence is adjudged; or

"(B) the date on which the sentence is approved by the convening authority.

"(2) On application by an accused, the convening authority may defer a forfeiture of pay or allowances or reduction in grade that would otherwise become effective under paragraph (1)(A) until the date on which the sentence is approved by the convening authority. Such a deferment may be rescinded at any time by the convening authority.

"(3) A forfeiture of pay or allowances shall be applicable to pay and allowances accruing on and after the date on which the sentence takes effect.

"(4) In this subsection, the term 'convening authority', with respect to a sentence of a court-martial, means any person authorized to act on the sentence under section 860 of this title (article 60).".

10 USC 857 note.

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply to a case in which a sentence is adjudged by a court-martial on or after the first day of the first month that begins at least 30 days after the date of the enactment of this Act.

SEC. 1122. REQUIRED FORFEITURE OF PAY AND ALLOWANCES DURING CONFINEMENT.

(a) EFFECT OF PUNITIVE SEPARATION OR CONFINEMENT FOR MORE THAN SIX MONTHS.—(1) Subchapter VIII is amended by inserting after section 858a (article 58a) the following:

"§ 858b. Art. 58b. Sentences: forfeiture of pay and allowances during confinement

"(a)(1) A court-martial sentence described in paragraph (2) shall result in the forfeiture of pay and allowances due that member during any period of confinement or parole. The forfeiture pursuant to this section shall take effect on the date determined under section 857(a) of this title (article 57(a)) and may be deferred as provided in that section. The pay and allowances forfeited, in the case of a general court-martial, shall be all pay and allowances due that member during such period and, in the case of a special court-martial, shall be two-thirds of all pay and allowances due that member during such period.

"(2) A sentence covered by this section is any sentence that includes—

"(A) confinement for more than six months or death; or

"(B) confinement for six months or less and a dishonorable or bad-conduct discharge or dismissal.

"(b) In a case involving an accused who has dependents, the convening authority or other person acting under section 860 of this title (article 60) may waive any or all of the forfeitures of pay and allowances required by subsection (a) for a period not to exceed six months. Any amount of pay or allowances that, except for a waiver under this subsection, would be forfeited shall be paid, as the convening authority or other person taking action directs, to the dependents of the accused.

"(c) If the sentence of a member who forfeits pay and allowances under subsection (a) is set aside or disapproved or, as finally approved, does not provide for a punishment referred to in subsection (a)(2), the member shall be paid the pay and allowances which the member would have been paid, except for the forfeiture, for the period during which the forfeiture was in effect.".

(2) The table of sections at the beginning of subchapter VIII is amended by adding at the end the following new item:

"858b. 58b. Sentences: forfeiture of pay and allowances during confinement.".

(b) APPLICABILITY.—The section (article) added by the amendment made by subsection (a)(1) shall apply to a case in which a sentence is adjudged by a court-martial on or after the first day of the first month that begins at least 30 days after the date of the enactment of this Act. 10 USC 858b note.

(c) CONFORMING AMENDMENT.—(1) Section 804 of title 37, United States Code, is repealed.

(2) The table of sections at the beginning of chapter 15 of such title is amended by striking out the item relating to section 804.

SEC. 1123. DEFERMENT OF CONFINEMENT.

(a) DEFERMENT.—Subchapter VIII is amended—

(1) by inserting after subsection (c) of section 857 (article 57) the following:

"§ 857a. Art. 57a. Deferment of sentences";

(2) by redesignating the succeeding two subsections as subsection (a) and (b);

(3) in subsection (b), as redesignated by paragraph (2), by striking out "postpone" and inserting in lieu thereof "defer"; and

(4) by inserting after subsection (b), as redesignated by paragraph (2), the following:

"(c) In any case in which a court-martial sentences a person to confinement and the sentence to confinement has been ordered executed, but in which review of the case under section 867(a)(2) of this title (article 67(a)(2)) is pending, the Secretary concerned may defer further service of the sentence to confinement while that review is pending.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such subchapter is amended by inserting after the item relating to section 857 (article 57) the following new item:

"857a. 57a. Deferment of sentences.".

Subtitle C—Pretrial and Post-Trial Actions

SEC. 1131. ARTICLE 32 INVESTIGATIONS.

Section 832 (article 32) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection (d):

"(d) If evidence adduced in an investigation under this article indicates that the accused committed an uncharged offense, the investigating officer may investigate the subject matter of that offense without the accused having first been charged with the offense if the accused—

"(1) is present at the investigation;

"(2) is informed of the nature of each uncharged offense investigated; and

"(3) is afforded the opportunities for representation, cross-examination, and presentation prescribed in subsection (b).".

SEC. 1132. SUBMISSION OF MATTERS TO THE CONVENING AUTHORITY FOR CONSIDERATION.

Section 860(b)(1) (article 60(b)(1)) is amended by inserting after the first sentence the following: "Any such submission shall be in writing.".

SEC. 1133. COMMITMENT OF ACCUSED TO TREATMENT FACILITY BY REASON OF LACK OF MENTAL CAPACITY OR MENTAL RESPONSIBILITY.

(a) APPLICABLE PROCEDURES.—(1) Subchapter IX is amended by inserting after section 876a (article 76a) the following:

"§ 876b. Art. 76b. Lack of mental capacity or mental responsibility: commitment of accused for examination and treatment

"(a) PERSONS INCOMPETENT TO STAND TRIAL.—(1) In the case of a person determined under this chapter to be presently suffering from a mental disease or defect rendering the person mentally incompetent to the extent that the person is unable to understand

the nature of the proceedings against that person or to conduct or cooperate intelligently in the defense of the case, the general court-martial convening authority for that person shall commit the person to the custody of the Attorney General.

"(2) The Attorney General shall take action in accordance with section 4241(d) of title 18.

"(3) If at the end of the period for hospitalization provided for in section 4241(d) of title 18, it is determined that the committed person's mental condition has not so improved as to permit the trial to proceed, action shall be taken in accordance with section 4246 of such title.

"(4)(A) When the director of a facility in which a person is hospitalized pursuant to paragraph (2) determines that the person has recovered to such an extent that the person is able to understand the nature of the proceedings against the person and to conduct or cooperate intelligently in the defense of the case, the director shall promptly transmit a notification of that determination to the Attorney General and to the general court-martial convening authority for the person. The director shall send a copy of the notification to the person's counsel. Notification.

"(B) Upon receipt of a notification, the general court-martial convening authority shall promptly take custody of the person unless the person covered by the notification is no longer subject to this chapter. If the person is no longer subject to this chapter, the Attorney General shall take any action within the authority of the Attorney General that the Attorney General considers appropriate regarding the person.

"(C) The director of the facility may retain custody of the person for not more than 30 days after transmitting the notifications required by subparagraph (A).

"(5) In the application of section 4246 of title 18 to a case under this subsection, references to the court that ordered the commitment of a person, and to the clerk of such court, shall be deemed to refer to the general court-martial convening authority for that person. However, if the person is no longer subject to this chapter at a time relevant to the application of such section to the person, the United States district court for the district where the person is hospitalized or otherwise may be found shall be considered as the court that ordered the commitment of the person.

"(b) PERSONS FOUND NOT GUILTY BY REASON OF LACK OF MENTAL RESPONSIBILITY.—(1) If a person is found by a court-martial not guilty only by reason of lack of mental responsibility, the person shall be committed to a suitable facility until the person is eligible for release in accordance with this section.

"(2) The court-martial shall conduct a hearing on the mental condition in accordance with subsection (c) of section 4243 of title 18. Subsections (b) and (d) of that section shall apply with respect to the hearing.

"(3) A report of the results of the hearing shall be made to the general court-martial convening authority for the person. Reports.

"(4) If the court-martial fails to find by the standard specified in subsection (d) of section 4243 of title 18 that the person's release would not create a substantial risk of bodily injury to another person or serious damage of property of another due to a present mental disease or defect—

"(A) the general court-martial convening authority may commit the person to the custody of the Attorney General; and

"(B) the Attorney General shall take action in accordance with subsection (e) of section 4243 of title 18.

"(5) Subsections (f), (g), and (h) of section 4243 of title 18 shall apply in the case of a person hospitalized pursuant to paragraph (4)(B), except that the United States district court for the district where the person is hospitalized shall be considered as the court that ordered the person's commitment.

"(c) GENERAL PROVISIONS.—(1) Except as otherwise provided in this subsection and subsection (d)(1), the provisions of section 4247 of title 18 apply in the administration of this section.

"(2) In the application of section 4247(d) of title 18 to hearings conducted by a court-martial under this section or by (or by order of) a general court-martial convening authority under this section, the reference in that section to section 3006A of such title does not apply.

"(d) APPLICABILITY.—(1) The provisions of chapter 313 of title 18 referred to in this section apply according to the provisions of this section notwithstanding section 4247(j) of title 18.

"(2) If the status of a person as described in section 802 of this title (article 2) terminates while the person is, pursuant to this section, in the custody of the Attorney General, hospitalized, or on conditional release under a prescribed regimen of medical, psychiatric, or psychological care or treatment, the provisions of this section establishing requirements and procedures regarding a person no longer subject to this chapter shall continue to apply to that person notwithstanding the change of status.".

(2) The table of sections at the beginning of such subchapter is amended by inserting after the item relating to section 876a (article 76a) the following:

"876b. 76b. Lack of mental capacity or mental responsibility: commitment of accused for examination and treatment.".

(b) CONFORMING AMENDMENT.—Section 802 (article 2) is amended by adding at the end the following new subsection:

"(e) The provisions of this section are subject to section 876b(d)(2) of this title (article 76b(d)(2)).".

10 USC 876b note.

(c) EFFECTIVE DATE.—Section 876b of title 10, United States Code (article 76b of the Uniform Code of Military Justice), as added by subsection (a), shall take effect at the end of the six-month period beginning on the date of the enactment of this Act and shall apply with respect to charges referred to courts-martial after the end of that period.

Subtitle D—Appellate Matters

SEC. 1141. APPEALS BY THE UNITED STATES.

(a) APPEALS RELATING TO DISCLOSURE OF CLASSIFIED INFORMATION.—Section 862(a)(1) (article 62(a)(1)) is amended to read as follows:

"(a)(1) In a trial by court-martial in which a military judge presides and in which a punitive discharge may be adjudged, the United States may appeal the following (other than an order or ruling that is, or that amounts to, a finding of not guilty with respect to the charge or specification):

"(A) An order or ruling of the military judge which terminates the proceedings with respect to a charge or specification.

"(B) An order or ruling which excludes evidence that is substantial proof of a fact material in the proceeding.

"(C) An order or ruling which directs the disclosure of classified information.

"(D) An order or ruling which imposes sanctions for nondisclosure of classified information.

"(E) A refusal of the military judge to issue a protective order sought by the United States to prevent the disclosure of classified information.

"(F) A refusal by the military judge to enforce an order described in subparagraph (E) that has previously been issued by appropriate authority.".

(b) DEFINITIONS.—Section 801 (article 1) is amended by inserting after paragraph (14) the following new paragraphs:

"(15) The term 'classified information' means (A) any information or material that has been determined by an official of the United States pursuant to law, an Executive order, or regulation to require protection against unauthorized disclosure for reasons of national security, and (B) any restricted data, as defined in section 11(y) of the Atomic Energy Act of 1954 (42 U.S.C. 2014(y)).

"(16) The term 'national security' means the national defense and foreign relations of the United States.".

SEC. 1142. REPEAL OF TERMINATION OF AUTHORITY FOR CHIEF JUSTICE OF THE UNITED STATES TO DESIGNATE ARTICLE III JUDGES FOR TEMPORARY SERVICE ON COURT OF APPEALS FOR THE ARMED FORCES.

Subsection (i) of section 1301 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 10 U.S.C. 942 note) is repealed.

Subtitle E—Other Matters

SEC. 1151. ADVISORY COMMITTEE ON CRIMINAL LAW JURISDICTION OVER CIVILIANS ACCOMPANYING THE ARMED FORCES IN TIME OF ARMED CONFLICT. 10 USC 802 note.

(a) ESTABLISHMENT.—Not later than 45 days after the date of the enactment of this Act, the Secretary of Defense and the Attorney General shall jointly appoint an advisory committee to review and make recommendations concerning the appropriate forum for criminal jurisdiction over civilians accompanying the Armed Forces in the field outside the United States in time of armed conflict.

(b) MEMBERSHIP.—The committee shall be composed of at least five individuals, including experts in military law, international law, and Federal civilian criminal law. In making appointments to the committee, the Secretary and the Attorney General shall ensure that the members of the committee reflect diverse experiences in the conduct of prosecution and defense functions.

(c) DUTIES.—The committee shall do the following:

(1) Review historical experiences and current practices concerning the use, training, discipline, and functions of civilians accompanying the Armed Forces in the field.

(2) Based upon such review and other information available to the committee, develop specific recommendations concerning the advisability and feasibility of establishing United States criminal law jurisdiction over persons who as civilians accompany the Armed Forces in the field outside the United States during time of armed conflict not involving a war declared by Congress, including whether such jurisdiction should be established through any of the following means (or a combination of such means depending upon the degree of the armed conflict involved):

(A) Establishing court-martial jurisdiction over such persons.

(B) Extending the jurisdiction of the Article III courts to cover such persons.

(C) Establishing an Article I court to exercise criminal jurisdiction over such persons.

(3) Develop such additional recommendations as the committee considers appropriate as a result of the review.

(d) REPORT.—(1) Not later than December 15, 1996, the advisory committee shall transmit to the Secretary of Defense and the Attorney General a report setting forth its findings and recommendations, including the recommendations required under subsection (c)(2).

(2) Not later than January 15, 1997, the Secretary of Defense and the Attorney General shall jointly transmit the report of the advisory committee to Congress. The Secretary and the Attorney General may include in the transmittal any joint comments on the report that they consider appropriate, and either such official may include in the transmittal any separate comments on the report that such official considers appropriate.

(e) DEFINITIONS.—For purposes of this section:

(1) The term "Article I court" means a court established under Article I of the Constitution.

(2) The term "Article III court" means a court established under Article III of the Constitution.

(f) TERMINATION OF COMMITTEE.—The advisory committee shall terminate 30 days after the date on which the report of the committee is submitted to Congress under subsection (d)(2).

SEC. 1152. TIME AFTER ACCESSION FOR INITIAL INSTRUCTION IN THE UNIFORM CODE OF MILITARY JUSTICE.

Section 937(a)(1) (article 137(a)(1)) is amended by striking out "within six days" and inserting in lieu thereof "within fourteen days".

SEC. 1153. TECHNICAL AMENDMENT.

Section 866(f) (article 66(f)) is amended by striking out "Courts of Military Review" both places it appears and inserting in lieu thereof "Courts of Criminal Appeals".

TITLE XII—COOPERATIVE THREAT REDUCTION WITH STATES OF FORMER SOVIET UNION

SEC. 1201. SPECIFICATION OF COOPERATIVE THREAT REDUCTION PROGRAMS.

22 USC 5955 note.

(a) IN GENERAL.—For purposes of section 301 and other provisions of this Act, Cooperative Threat Reduction programs are the programs specified in subsection (b).

(b) SPECIFIED PROGRAMS.—The programs referred to in subsection (a) are the following programs with respect to states of the former Soviet Union:

(1) Programs to facilitate the elimination, and the safe and secure transportation and storage, of nuclear, chemical, and other weapons and their delivery vehicles.

(2) Programs to facilitate the safe and secure storage of fissile materials derived from the elimination of nuclear weapons.

(3) Programs to prevent the proliferation of weapons, weapons components, and weapons-related technology and expertise.

(4) Programs to expand military-to-military and defense contacts.

SEC. 1202. FISCAL YEAR 1996 FUNDING ALLOCATIONS.

(a) IN GENERAL.—Of the amount appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs, not more than the following amounts may be obligated for the purposes specified:

(1) For elimination of strategic offensive weapons in Russia, Ukraine, Belarus, and Kazakhstan, $90,000,000.

(2) For weapons security in Russia, $42,500,000.

(3) For the Defense Enterprise Fund, $0.

(4) For nuclear infrastructure elimination in Ukraine, Belarus, and Kazakhstan, $35,000,000.

(5) For planning and design of a storage facility for Russian fissile material, $29,000,000.

(6) For planning and design of a chemical weapons destruction facility in Russia, $73,000,000.

(7) For activities designated as Defense and Military Contacts/General Support/Training in Russia, Ukraine, Belarus, and Kazakhstan, $10,000,000.

(8) For activities designated as Other Assessments/Support $20,500,000.

(b) LIMITED AUTHORITY TO VARY INDIVIDUAL AMOUNTS.—(1) If the Secretary of Defense determines that it is necessary to do so in the national interest, the Secretary may, subject to paragraph (2), obligate amounts for the purposes stated in any of the paragraphs of subsection (a) in excess of the amount specified for those purposes in that paragraph, but not in excess of 115 percent of that amount. However, the total amount obligated for the purposes stated in the paragraphs in subsection (a) may not by reason of the use of the authority provided in the preceding sentence exceed the sum of the amounts specified in those paragraphs.

(2) An obligation for the purposes stated in any of the paragraphs in subsection (a) in excess of the amount specified in that paragraph may be made using the authority provided in paragraph (1) only after—

Notification.

(A) the Secretary submits to Congress a notification of the intent to do so together with a complete discussion of the justification for doing so; and

(B) 15 days have elapsed following the date of the notification.

(c) REIMBURSEMENT OF PAY ACCOUNTS.—Funds appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs may be transferred to military personnel accounts for reimbursement of those accounts for the amount of pay and allowances paid to reserve component personnel for service while engaged in any activity under a Cooperative Threat Reduction program.

SEC. 1203. PROHIBITION ON USE OF FUNDS FOR PEACEKEEPING EXERCISES AND RELATED ACTIVITIES WITH RUSSIA.

None of the funds appropriated pursuant to the authorization in section 301 for Cooperative Threat Reduction programs may be obligated or expended for the purpose of conducting with Russia any peacekeeping exercise or other peacekeeping-related activity.

SEC. 1204. REVISION TO AUTHORITY FOR ASSISTANCE FOR WEAPONS DESTRUCTION.

Section 211 of Public Law 102–228 (22 U.S.C. 2551 note) is amended by adding at the end the following new subsection:

President.

"(c) As part of a transmission to Congress under subsection (b) of a certification that a proposed recipient of United States assistance under this title is committed to carrying out the matters specified in each of paragraphs (1) through (6) of that subsection, the President shall include a statement setting forth, in unclassified form (together with a classified annex if necessary), the determination of the President, with respect to each such paragraph, as to whether that proposed recipient is at that time in fact carrying out the matter specified in that paragraph.".

22 USC 5955 note.

SEC. 1205. PRIOR NOTICE TO CONGRESS OF OBLIGATION OF FUNDS.

Reports.

(a) ANNUAL REQUIREMENT.—(1) Not less than 15 days before any obligation of any funds appropriated for any fiscal year for a program specified under section 1201 as a Cooperative Threat Reduction program, the Secretary of Defense shall submit to the congressional committees specified in paragraph (2) a report on that proposed obligation for that program for that fiscal year.

(2) The congressional committees referred to in paragraph (1) are the following:

(A) The Committee on Armed Services, the Committee on Foreign Relations, and the Committee on Appropriations of the Senate.

(B) The Committee on National Security, the Committee on International Relations, and the Committee on Appropriations of the House of Representatives.

(b) MATTERS TO BE SPECIFIED IN REPORTS.—Each such report shall specify—

(1) the activities and forms of assistance for which the Secretary of Defense plans to obligate funds;

(2) the amount of the proposed obligation; and

(3) the projected involvement (if any) of any department or agency of the United States (in addition to the Department of Defense) and of the private sector of the United States in the activities and forms of assistance for which the Secretary of Defense plans to obligate such funds.

SEC. 1206. REPORT ON ACCOUNTING FOR UNITED STATES ASSISTANCE. 22 USC 5955 note.

(a) REPORT.—(1) The Secretary of Defense shall submit to Congress an annual report on the efforts made by the United States (including efforts through the use of audits, examinations, and on-site inspections) to ensure that assistance provided under Cooperative Threat Reduction programs is fully accounted for and that such assistance is being used for its intended purposes.

(2) A report shall be submitted under this section not later than January 31 of each year until the Cooperative Threat Reduction programs are completed.

(b) INFORMATION TO BE INCLUDED.—Each report under this section shall include the following:

(1) A list of cooperative threat reduction assistance that has been provided before the date of the report.

(2) A description of the current location of the assistance provided and the current condition of such assistance.

(3) A determination of whether the assistance has been used for its intended purpose.

(4) A description of the activities planned to be carried out during the next fiscal year to ensure that cooperative threat reduction assistance provided during that fiscal year is fully accounted for and is used for its intended purpose.

(c) COMPTROLLER GENERAL ASSESSMENT.—Not later than 30 days after the date on which a report of the Secretary under subsection (a) is submitted to Congress, the Comptroller General of the United States shall submit to Congress a report giving the Comptroller General's assessment of the report and making any recommendations that the Comptroller General considers appropriate.

SEC. 1207. LIMITATION ON ASSISTANCE TO NUCLEAR WEAPONS SCIENTISTS OF FORMER SOVIET UNION. Certification.

Amounts appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs may not be obligated for any program established primarily to assist nuclear weapons scientists in states of the former Soviet Union until 30 days after the date on which the Secretary of Defense certifies in writing to Congress that the funds to be obligated will not be used (1) to contribute to the modernization of the strategic nuclear forces of such states, or (2) for research, development, or production of weapons of mass destruction.

SEC. 1208. LIMITATION RELATING TO OFFENSIVE BIOLOGICAL WARFARE PROGRAM OF RUSSIA. President.

(a) LIMITATION.—Of the amount appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs that is available for the purpose stated in section 1202(a)(6), $60,000,000 may not be obligated or expended until the President submits to Congress either a certification as provided in subsection (b) or a certification as provided in subsection (c).

(b) CERTIFICATION WITH RESPECT TO OFFENSIVE BIOLOGICAL WARFARE PROGRAM OF RUSSIA.—A certification under this subsection is a certification by the President of each of the following:

(1) That Russia is in compliance with its obligations under the Biological Weapons Convention.

(2) That Russia has agreed with the United States and the United Kingdom on a common set of procedures to govern visits by officials of the United States and United Kingdom to military biological facilities of Russia, as called for under the Joint Statement on Biological Weapons issued by officials of the United States, the United Kingdom, and Russia on September 14, 1992.

(3) That visits by officials of the United States and United Kingdom to the four declared military biological facilities of Russia have occurred.

(c) ALTERNATIVE CERTIFICATION.—A certification under this subsection is a certification by the President that the President is unable to make a certification under subsection (b).

(d) USE OF FUNDS UPON ALTERNATIVE CERTIFICATION.—If the President makes a certification under subsection (c), the $60,000,000 specified in subsection (a)—

(1) shall not be available for the purpose stated in section 1202(a)(6); and

(2) shall be available for activities in Ukraine, Kazakhstan, and Belarus—

(A) for the elimination of strategic offensive weapons (in addition to the amount specified in section 1202(a)(1)); and

(B) for nuclear infrastructure elimination (in addition to the amount specified in section 1202(a)(4)).

SEC. 1209. LIMITATION ON USE OF FUNDS FOR CHEMICAL WEAPONS DESTRUCTION FACILITY.

(a) LIMITATION.—Of the amount appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs that is available for planning and design of a chemical weapons destruction facility, not more than one-half of such amount may be obligated or expended until the President certifies to Congress the following:

(1) That the United States and Russia have completed a joint laboratory study to determine the feasibility of an appropriate technology for destruction of chemical weapons of Russia.

(2) That Russia is making reasonable progress, with the assistance of the United States (if necessary), toward the completion of a comprehensive implementation plan for managing and funding the dismantlement and destruction of Russia's chemical weapons stockpile.

(3) That the United States and Russia have made substantial progress toward resolution, to the satisfaction of the United States, of outstanding compliance issues under the 1989 Wyoming Memorandum of Understanding and the 1990 Bilateral Destruction Agreement.

(b) DEFINITIONS.—In this section:

(1) The term "1989 Wyoming Memorandum of Understanding" means the Memorandum of Understanding between the Government of the United States of America and the Government of the Union of Soviet Socialist Republics Regarding a

Bilateral Verification Experiment and Data Exchange Related to Prohibition on Chemical Weapons, signed at Jackson Hole, Wyoming, on September 23, 1989.

(2) The term "1990 Bilateral Destruction Agreement" means the Agreement between the United States of America and the Union of Soviet Socialist Republics on destruction and nonproduction of chemical weapons and on measures to facilitate the multilateral convention on banning chemical weapons signed on June 1, 1990.

TITLE XIII—MATTERS RELATING TO OTHER NATIONS

Subtitle A—Peacekeeping Provisions

SEC. 1301. LIMITATION ON USE OF DEPARTMENT OF DEFENSE FUNDS FOR UNITED STATES SHARE OF COSTS OF UNITED NATIONS PEACEKEEPING ACTIVITIES.

(a) IN GENERAL.—Chapter 20 of title 10, United States Code, is amended by inserting after section 404 the following new section:

"§ 405. Use of Department of Defense funds for United States share of costs of United Nations peacekeeping activities: limitation

"(a) PROHIBITION ON USE OF FUNDS.—Funds available to the Department of Defense may not be used to make a financial contribution (directly or through another department or agency of the United States) to the United Nations—

"(1) for the costs of a United Nations peacekeeping activity; or

"(2) for any United States arrearage to the United Nations.

"(b) APPLICATION OF PROHIBITION.—The prohibition in subsection (a) applies to voluntary contributions, as well as to contributions pursuant to assessment by the United Nations for the United States share of the costs of a peacekeeping activity.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of subchapter I of such chapter is amended by adding at the end the following new item:

"405. Use of Department of Defense funds for United States share of costs of United Nations peacekeeping activities: limitation.".

Subtitle B—Humanitarian Assistance Programs

SEC. 1311. OVERSEAS HUMANITARIAN, DISASTER, AND CIVIC AID PROGRAMS.

(a) COVERED PROGRAMS.—For purposes of section 301 and other provisions of this Act, programs of the Department of Defense designated as Overseas Humanitarian, Disaster, and Civic Aid (OHDACA) programs are the programs provided by sections 401, 402, 404, 2547, and 2551 of title 10, United States Code.

(b) GAO REPORT.—Not later than March 1, 1996, the Comptroller General of the United States shall provide to the congressional defense committees a report on—

(1) existing funding mechanisms available to cover the costs associated with the Overseas Humanitarian, Disaster, and Civic Assistance activities through funds provided to the Department of State or the Agency for International Development, and

(2) if such mechanisms do not exist, actions necessary to institute such mechanisms, including any changes in existing law or regulations.

SEC. 1312. HUMANITARIAN ASSISTANCE.

Section 2551 of title 10, United States Code, is amended—

(1) by striking out subsections (b) and (c);

(2) by redesignating subsection (d) as subsection (b);

(3) by striking out subsection (e) and inserting in lieu thereof the following:

"(c) STATUS REPORTS.—(1) The Secretary of Defense shall submit to the congressional committees specified in subsection (f) an annual report on the provision of humanitarian assistance pursuant to this section for the prior fiscal year. The report shall be submitted each year at the time of the budget submission by the President for the next fiscal year.

"(2) Each report required by paragraph (1) shall cover all provisions of law that authorize appropriations for humanitarian assistance to be available from the Department of Defense for the purposes of this section.

"(3) Each report under this subsection shall set forth the following information regarding activities during the previous fiscal year:

"(A) The total amount of funds obligated for humanitarian relief under this section.

"(B) The number of scheduled and completed transportation missions for purposes of providing humanitarian assistance under this section.

"(C) A description of any transfer of excess nonlethal supplies of the Department of Defense made available for humanitarian relief purposes under section 2547 of this title. The description shall include the date of the transfer, the entity to whom the transfer is made, and the quantity of items transferred.";

(4) by redesignating subsection (f) as subsection (d) and in that subsection striking out "the Committees on" and all that follows through "House of Representatives of the" and inserting in lieu thereof "the congressional committees specified in subsection (f) and the Committees on Appropriations of the Senate and House of Representatives of the";

(5) by redesignating subsection (g) as subsection (e); and

(6) by adding at the end the following new subsection:

"(f) CONGRESSIONAL COMMITTEES.—The congressional committees referred to in subsections (c)(1) and (d) are the following:

"(1) The Committee on Armed Services and the Committee on Foreign Relations of the Senate.

"(2) The Committee on National Security and the Committee on International Relations of the House of Representatives.".

SEC. 1313. LANDMINE CLEARANCE PROGRAM.

(a) INCLUSION IN GENERAL HUMANITARIAN ASSISTANCE PROGRAM.—Subsection (e) of section 401 of title 10, United States Code, is amended—

(1) by striking out "means—" and inserting in lieu thereof "means:";

(2) by revising the first word in each of paragraphs (1) through (4) so that the first letter of such word is upper case;

(3) by striking out the semicolon at the end of paragraphs (1) and (2) and inserting in lieu thereof a period;

(4) by striking out "; and" at the end of paragraph (3) and inserting in lieu thereof a period; and

(5) by adding at the end the following new paragraph:

"(5) Detection and clearance of landmines, including activities relating to the furnishing of education, training, and technical assistance with respect to the detection and clearance of landmines.".

(b) LIMITATION ON LANDMINE ASSISTANCE BY MEMBERS OF ARMED FORCES.—Subsection (a) of such section is amended by adding at the end the following new paragraph:

"(4) The Secretary of Defense shall ensure that no member of the Armed Forces, while providing assistance under this section that is described in subsection (e)(5)—

"(A) engages in the physical detection, lifting, or destroying of landmines (unless the member does so for the concurrent purpose of supporting a United States military operation); or

"(B) provides such assistance as part of a military operation that does not involve the Armed Forces.".

(c) REPEAL.—Section 1413 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2913; 10 U.S.C. 401 note) is repealed.

Subtitle C—Arms Exports and Military Assistance

SEC. 1321. DEFENSE EXPORT LOAN GUARANTEES.

(a) ESTABLISHMENT OF PROGRAM.—(1) Chapter 148 of title 10, United States Code, is amended by adding at the end the following new subchapter:

"SUBCHAPTER VI—DEFENSE EXPORT LOAN GUARANTEES

"Sec.
"2540. Establishment of loan guarantee program.
"2540a. Transferability.
"2540b. Limitations.
"2540c. Fees charged and collected.
"2540d. Definitions.

"§ 2540. Establishment of loan guarantee program

"(a) ESTABLISHMENT.—In order to meet the national security objectives in section 2501(a) of this title, the Secretary of Defense shall establish a program under which the Secretary may issue guarantees assuring a lender against losses of principal or interest, or both principal and interest, arising out of the financing of the sale or long-term lease of defense articles, defense services, or design and construction services to a country referred to in subsection (b).

"(b) COVERED COUNTRIES.—The authority under subsection (a) applies with respect to the following countries:

"(1) A member nation of the North Atlantic Treaty Organization (NATO).

"(2) A country designated as of March 31, 1995, as a major non-NATO ally pursuant to section 2350a(i)(3) of this title.

"(3) A country in Central Europe that, as determined by the Secretary of State—

"(A) has changed its form of national government from a nondemocratic form of government to a democratic form of government since October 1, 1989; or

"(B) is in the process of changing its form of national government from a nondemocratic form of government to a democratic form of government.

"(4) A noncommunist country that was a member nation of the Asia Pacific Economic Cooperation (APEC) as of October 31, 1993.

"(c) AUTHORITY SUBJECT TO PROVISIONS OF APPROPRIATIONS.—The Secretary may guarantee a loan under this subchapter only to such extent or in such amounts as may be provided in advance in appropriations Acts.

"§ 2540a. Transferability

"A guarantee issued under this subchapter shall be fully and freely transferable.

"§ 2540b. Limitations

"(a) TERMS AND CONDITIONS OF LOAN GUARANTEES.—In issuing a guarantee under this subchapter for a medium-term or long-term loan, the Secretary may not offer terms and conditions more beneficial than those that would be provided to the recipient by the Export-Import Bank of the United States under similar circumstances in conjunction with the provision of guarantees for nondefense articles and services.

"(b) LOSSES ARISING FROM FRAUD OR MISREPRESENTATION.—No payment may be made under a guarantee issued under this subchapter for a loss arising out of fraud or misrepresentation for which the party seeking payment is responsible.

"(c) NO RIGHT OF ACCELERATION.—The Secretary of Defense may not accelerate any guaranteed loan or increment, and may not pay any amount, in respect of a guarantee issued under this subchapter, other than in accordance with the original payment terms of the loan.

"§ 2540c. Fees charged and collected

"(a) EXPOSURE FEES.—The Secretary of Defense shall charge a fee (known as 'exposure fee') for each guarantee issued under this subchapter.

"(b) AMOUNT OF EXPOSURE FEE.—To the extent that the cost of the loan guarantees under this subchapter is not otherwise provided for in appropriations Acts, the fee imposed under subsection (a) with respect to a loan guarantee shall be fixed in an amount that is sufficient to meet potential liabilities of the United States under the loan guarantee.

"(c) PAYMENT TERMS.—The fee under subsection (a) for each guarantee shall become due as the guarantee is issued. In the case of a guarantee for a loan which is disbursed incrementally, and for which the guarantee is correspondingly issued incrementally

as portions of the loan are disbursed, the fee shall be paid incrementally in proportion to the amount of the guarantee that is issued.

"(d) ADMINISTRATIVE FEES.—The Secretary of Defense shall charge a fee for each guarantee issued under this subchapter to reflect the additional administrative costs of the Department of Defense that are directly attributable to the administration of the program under this subchapter. Such fees shall be credited to a special account in the Treasury. Amounts in the special account shall be available, to the extent and in amounts provided in appropriations Acts, for paying the costs of administrative expenses of the Department of Defense that are attributable to the loan guarantee program under this subchapter.

"§ 2540d. Definitions

"In this subchapter:

"(1) The terms 'defense article', 'defense services', and 'design and construction services' have the meanings given those terms in section 47 of the Arms Export Control Act (22 U.S.C. 2794).

"(2) The term 'cost', with respect to a loan guarantee, has the meaning given that term in section 502 of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 661a).".

(2) The table of subchapters at the beginning of such chapter is amended by adding at the end the following new item:

"VI. Defense Export Loan Guarantees ..... 2540".

(b) REPORT.—Not later than two years after the date of the enactment of this Act, the President shall submit to Congress a report on the loan guarantee program established pursuant to section 2540 of title 10, United States Code, as added by subsection (a). The report shall include— President. 10 USC 2540 note.

(1) an analysis of the costs and benefits of the loan guarantee program; and

(2) any recommendations for modification of the program that the President considers appropriate, including—

(A) any recommended addition to the list of countries for which a guarantee may be issued under the program; and

(B) any proposed legislation necessary to authorize a recommended modification.

(c) FIRST YEAR COSTS.—The Secretary of Defense shall make available, from amounts appropriated to the Department of Defense for fiscal year 1996 for operations and maintenance, such amounts as may be necessary, not to exceed $500,000, for the expenses of the Department of Defense during fiscal year 1996 that are directly attributable to the administration of the defense export loan guarantee program under subchapter VI of chapter 148 of title 10, United States Code, as added by subsection (a).

(d) REPLENISHMENT OF OPERATIONS AND MAINTENANCE ACCOUNTS FOR FIRST YEAR COSTS.—The Secretary of Defense shall, using funds in the special account referred to in section 2540c(d) of title 10, United States Code (as added by subsection (b)), replenish operations and maintenance accounts for amounts expended from such accounts for expenses referred to in subsection (c).

50 USC app. 2404 note.

SEC. 1322. NATIONAL SECURITY IMPLICATIONS OF UNITED STATES EXPORT CONTROL POLICY.

(a) FINDINGS.—Congress makes the following findings:

(1) Export controls remain an important element of the national security policy of the United States.

(2) It is in the national security interest that United States export control policy be effective in preventing the transfer, to potential adversaries or combatants of the United States, of technology that threatens the national security or defense of the United States.

(3) It is in the national security interest that the United States monitor aggressively the export of militarily critical technology in order to prevent its diversion to potential adversaries or combatants of the United States.

(4) The Department of Defense relies increasingly on commercial and dual-use technologies, products, and processes to support United States military capabilities and economic strength.

(5) The maintenance of the military advantage of the United States depends on effective export controls on dual-use items and technologies that are critical to the military capabilities of the Armed Forces.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the Secretary of Defense should evaluate license applications for the export of militarily critical commodities the export of which is controlled for national security reasons if those commodities are to be exported to certain countries of concern;

(2) the Secretary of Defense should identify the dual-use items and technologies that are critical to the military capabilities of the Armed Forces, including the military use made of such items and technologies;

(3) upon identification by the Secretary of Defense of the dual-use items and technologies referred to in paragraph (2), the President should ensure effective export controls or use unilateral export controls on dual-use items and technologies that are critical to the military capabilities of the Armed Forces (regardless of the availability of such items or technologies overseas) with respect to the countries that—

(A) pose a threat to the national security interests of the United States; and

(B) are not members in good standing of bilateral or multilateral agreements to which the United States is a party on the use of such items and technologies; and

(4) the President, upon recommendation of the Secretary of Defense, should ensure effective controls on the re-export by other countries of dual-use items and technologies that are critical to the military capabilities of the Armed Forces.

President.

(c) ANNUAL REPORT.—(1) Not later than December 1 of each year through 1999, the President shall submit to the committees specified in paragraph (4) a report on the effect of the export control policy of the United States on the national security interests of the United States.

(2) The report shall include the following:

(A) A list setting forth each country determined by the Secretary of Defense, the intelligence community, and other appropriate agencies to be a rogue nation or potential adversary or combatant of the United States.

(B) For each country so listed, a list of—

(i) the categories of items that the United States currently prohibits for export to the country;

(ii) the categories of items that may be exported from the United States with an individual license, and in such cases, any licensing conditions normally required and the policy grounds used for approvals and denials; and

(iii) the categories of items that may be exported under a general license designated "G-DEST".

(C) For each category of items listed under subparagraph (B)—

(i) a statement whether a prohibition, control, or licensing requirement on a category of items is imposed pursuant to an international multilateral agreement or is unilateral;

(ii) a statement whether a prohibition, control, or licensing requirement on a category of items is imposed by the other members of an international agreement or is unilateral;

(iii) when the answer under either clause (i) or clause (ii) is unilateral, a statement concerning the efforts being made to ensure that the prohibition, control, or licensing requirement is made multilateral; and

(iv) a statement on what impact, if any, a unilateral prohibition is having, or would have, on preventing the rogue nation or potential adversary from attaining the items in question for military purposes.

(D) A description of United States policy on sharing satellite imagery that has military significance and a discussion of the criteria for determining the imagery that has that significance.

(E) A description of the relationship between United States policy on the export of space launch vehicle technology and the Missile Technology Control Regime.

(F) An assessment of United States efforts to support the inclusion of additional countries in the Missile Technology Control Regime.

(G) An assessment of the ongoing efforts made by potential participant countries in the Missile Technology Control Regime to meet the guidelines established by the Missile Technology Control Regime.

(H) A discussion of the history of the space launch vehicle programs of other countries, including a discussion of the military origins and purposes of such programs and the current level of military involvement in such programs.

(3) The President shall submit the report in unclassified form, but may include a classified annex.

(4) The committees referred to in paragraph (1) are the following:

(A) The Committee on Armed Services and the Committee on Foreign Relations of the Senate.

(B) The Committee on National Security and the Committee on International Relations of the House of Representatives.

(5) For purposes of this subsection, the term "Missile Technology Control Regime" means the policy statement announced on April 16, 1987, between the United States, the United Kingdom, the Federal Republic of Germany, France, Italy, Canada, and Japan to restrict sensitive missile-relevant transfers based on the Missile Technology Control Regime Annex, and any amendment thereto.

50 USC app. 2404 note.

SEC. 1323. DEPARTMENT OF DEFENSE REVIEW OF EXPORT LICENSES FOR CERTAIN BIOLOGICAL PATHOGENS.

(a) DEPARTMENT OF DEFENSE REVIEW.—Any application to the Secretary of Commerce for a license for the export of a class 2, class 3, or class 4 biological pathogen to a country identified to the Secretary under subsection (c) as a country that is known or suspected to have a biological weapons program shall be referred to the Secretary of Defense for review. The Secretary of Defense shall notify the Secretary of Commerce within 15 days after receipt of an application under the preceding sentence whether the export of such biological pathogen pursuant to the license would be contrary to the national security interests of the United States.

Notification.

(b) DENIAL OF LICENSE IF CONTRARY TO NATIONAL SECURITY INTEREST.—A license described in subsection (a) shall be denied by the Secretary of Commerce if it is determined that the export of such biological pathogen to that country would be contrary to the national security interests of the United States.

(c) IDENTIFICATION OF COUNTRIES KNOWN OR SUSPECTED TO HAVE A PROGRAM TO DEVELOP OFFENSIVE BIOLOGICAL WEAPONS.—(1) The Secretary of Defense shall determine, for the purposes of this section, those countries that are known or suspected to have a program to develop offensive biological weapons. Upon making such determination, the Secretary shall provide to the Secretary of Commerce a list of those countries.

Notification.

(2) The Secretary of Defense shall update the list under paragraph (1) on a regular basis. Whenever a country is added to or deleted from such list, the Secretary shall notify the Secretary of Commerce.

(3) Determination under this subsection of countries that are known or suspected to have a program to develop offensive biological weapons shall be made in consultation with the Secretary of State and the intelligence community.

(d) DEFINITION.—For purposes of this section, the term "class 2, class 3, or class 4 biological pathogen" means any biological pathogen that is characterized by the Centers for Disease Control as a class 2, class 3, or class 4 biological pathogen.

50 USC app. 2404 note.

SEC. 1324. ANNUAL REPORTS ON IMPROVING EXPORT CONTROL MECHANISMS AND ON MILITARY ASSISTANCE.

(a) JOINT REPORTS BY SECRETARIES OF STATE AND COMMERCE.—Not later than April 1 of each of 1996 and 1997, the Secretary of State and the Secretary of Commerce shall submit to Congress a joint report, prepared in consultation with the Secretary of Defense, relating to United States export-control mechanisms. Each such report shall set forth measures to be taken to strengthen United States export-control mechanisms, including—

(1) steps being taken by each Secretary (A) to share on a regular basis the export licensing watchlist of that Secretary's department with the other Secretary, and (B) to incorporate the export licensing watchlist data received from the other Secretary into the watchlist of that Secretary's department;

(2) steps being taken by each Secretary to incorporate into the watchlist of that Secretary's department similar data from systems maintained by the Department of Defense and the United States Customs Service; and

(3) a description of such further measures to be taken to strengthen United States export-control mechanisms as the Secretaries consider to be appropriate.

(b) REPORTS BY INSPECTORS GENERAL.—(1) Not later than April 1 of each of 1996 and 1997, the Inspector General of the Department of State and the Inspector General of the Department of Commerce shall each submit to Congress a report providing that official's evaluation of the effectiveness during the preceding year of the export licensing watchlist screening process of that official's department. The reports shall be submitted in both a classified and unclassified version.

(2) Each report of an Inspector General under paragraph (1) shall (with respect to that official's department)—

(A) set forth the number of export licenses granted to parties on the export licensing watchlist;

(B) set forth the number of end-use checks performed with respect to export licenses granted to parties on the export licensing watchlist the previous year;

(C) assess the screening process used in granting an export license when an applicant is on the export licensing watchlist; and

(D) assess the extent to which the export licensing watchlist contains all relevant information and parties required by statute or regulation.

(c) ANNUAL MILITARY ASSISTANCE REPORT.—The Foreign Assistance Act of 1961 is amended by inserting after section 654 (22 U.S.C. 2414) the following new section:

"SEC. 655. ANNUAL REPORT ON MILITARY ASSISTANCE, MILITARY EXPORTS, AND MILITARY IMPORTS. 22 USC 2415.

"(a) REPORT REQUIRED.—Not later than February 1 of each of 1996 and 1997, the President shall transmit to Congress a report concerning military assistance authorized or furnished for the fiscal year ending the previous September 30. President.

"(b) INFORMATION RELATING TO MILITARY ASSISTANCE AND MILITARY EXPORTS.—Each such report shall show the aggregate dollar value and quantity of defense articles (including excess defense articles) and defense services, and of military education and training, authorized or furnished by the United States to each foreign country and international organization. The report shall specify, by category, whether those articles and services, and that education and training, were furnished by grant under chapter 2 or chapter 5 of part II of this Act or by sale under chapter 2 of the Arms Export Control Act or were authorized by commercial sale licensed under section 38 of the Arms Export Control Act.

"(c) INFORMATION RELATING TO MILITARY IMPORTS.—Each such report shall also include the total amount of military items of non-United States manufacture that were imported into the United States during the fiscal year covered by the report. The report shall show the country of origin, the type of item being imported, and the total amount of items.".

SEC. 1325. REPORT ON PERSONNEL REQUIREMENTS FOR CONTROL OF TRANSFER OF CERTAIN WEAPONS.

Not later than 30 days after the date of the enactment of this Act, the Secretary of Defense and the Secretary of Energy shall submit to the committees of Congress referred to in subsection (c) of section 1154 of the National Defense Authorization Act for

Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1761) the report required under subsection (a) of that section. The Secretary of Defense and the Secretary of Energy shall include with the report an explanation of the failure of such Secretaries to submit the report in accordance with such subsection (a) and with all other previous requirements for the submittal of the report.

Subtitle D—Burdensharing and Other Cooperative Activities Involving Allies and NATO

SEC. 1331. ACCOUNTING FOR BURDENSHARING CONTRIBUTIONS.

(a) AUTHORITY TO MANAGE CONTRIBUTIONS IN LOCAL CURRENCY, ETC.—Subsection (b) of section 2350j of title 10, United States Code, is amended to read as follows:

"(b) ACCOUNTING.—Contributions accepted under subsection (a) which are not related to security assistance may be accepted, managed, and expended in dollars or in the currency of the host nation (or, in the case of a contribution from a regional organization, in the currency in which the contribution was provided). Any such contribution shall be placed in an account established for such purpose and shall remain available until expended for the purposes specified in subsection (c). The Secretary of Defense shall establish a separate account for such purpose for each country or regional organization from which such contributions are accepted under subsection (a).".

(b) CONFORMING AMENDMENT.—Subsection (d) of such section is amended by striking out "credited under subsection (b) to an appropriation account of the Department of Defense" and inserting in lieu thereof "placed in an account established under subsection (b)".

(c) TECHNICAL AMENDMENT.—Such section is further amended—

(1) in subsection (e)(1), by striking out "a report to the congressional defense committees" and inserting in lieu thereof "to the congressional committees specified in subsection (g) a report"; and

(2) by adding at the end the following new subsection:

"(g) CONGRESSIONAL COMMITTEES.—The congressional committees referred to in subsection (e)(1) are—

"(1) the Committee on Armed Services and the Committee on Appropriations of the Senate; and

"(2) the Committee on National Security and the Committee on Appropriations of the House of Representatives.".

SEC. 1332. AUTHORITY TO ACCEPT CONTRIBUTIONS FOR EXPENSES OF RELOCATION WITHIN HOST NATION OF UNITED STATES ARMED FORCES OVERSEAS.

(a) IN GENERAL.—(1) Subchapter II of chapter 138 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2350k. Relocation within host nation of elements of armed forces overseas

"(a) AUTHORITY TO ACCEPT CONTRIBUTIONS.—The Secretary of Defense may accept contributions from any nation because of or in support of the relocation of elements of the armed forces from or to any location within that nation. Such contributions may be accepted in dollars or in the currency of the host nation. Any such contribution shall be placed in an account established for such purpose and shall remain available until expended for the purposes specified in subsection (b). The Secretary shall establish a separate account for such purpose for each country from which such contributions are accepted.

"(b) USE OF CONTRIBUTIONS.—The Secretary may use a contribution accepted under subsection (a) only for payment of costs incurred in connection with the relocation concerning which the contribution was made. Those costs include the following:

"(1) Design and construction services, including development and review of statements of work, master plans and designs, acquisition of construction, and supervision and administration of contracts relating thereto.

"(2) Transportation and movement services, including packing, unpacking, storage, and transportation.

"(3) Communications services, including installation and deinstallation of communications equipment, transmission of messages and data, and rental of transmission capability.

"(4) Supply and administration, including acquisition of expendable office supplies, rental of office space, budgeting and accounting services, auditing services, secretarial services, and translation services.

"(5) Personnel costs, including salary, allowances and overhead of employees whether full-time or part-time, temporary or permanent (except for military personnel), and travel and temporary duty costs.

"(6) All other clearly identifiable expenses directly related to relocation.

"(c) METHOD OF CONTRIBUTION.—Contributions may be accepted in any of the following forms:

"(1) Irrevocable letter of credit issued by a financial institution acceptable to the Treasurer of the United States.

"(2) Drawing rights on a commercial bank account established and funded by the host nation, which account is blocked such that funds deposited cannot be withdrawn except by or with the approval of the United States.

"(3) Cash, which shall be deposited in a separate trust fund in the United States Treasury pending expenditure and which shall accrue interest in accordance with section 9702 of title 31.

"(d) ANNUAL REPORT TO CONGRESS.—Not later than 30 days after the end of each fiscal year, the Secretary shall submit to Congress a report specifying—

"(1) the amount of the contributions accepted by the Secretary during the preceding fiscal year under subsection (a) and the purposes for which the contributions were made; and

"(2) the amount of the contributions expended by the Secretary during the preceding fiscal year and the purposes for which the contributions were expended.".

(2) The table of sections at the beginning of subchapter II of chapter 138 of such title is amended by adding at the end the following new item:

"2350k. Relocation within host nation of elements of armed forces overseas.".

10 USC 2350k note.

(b) EFFECTIVE DATE.—Section 2350k of title 10, United States Code, as added by subsection (a), shall take effect on the date of the enactment of this Act and shall apply to contributions for relocation of elements of the Armed Forces in or to any nation received on or after such date.

SEC. 1333. REVISED GOAL FOR ALLIED SHARE OF COSTS FOR UNITED STATES INSTALLATIONS IN EUROPE.

Section 1304(a) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2890) is amended—

(1) by inserting "(1)" after "so that"; and

(2) by inserting before the period at the end the following: ", and (2) by September 30, 1997, those nations have assumed 42.5 percent of such costs".

SEC. 1334. EXCLUSION OF CERTAIN FORCES FROM EUROPEAN END STRENGTH LIMITATION.

(a) EXCLUSION OF MEMBERS PERFORMING DUTIES UNDER MILITARY-TO-MILITARY CONTACT PROGRAM.—Paragraph (3) of section 1002(c) of the Department of Defense Authorization Act, 1985 (22 U.S.C. 1928 note) is amended to read as follows:

"(3) For purposes of this subsection, the following members of the Armed Forces are excluded in calculating the end strength level of members of the Armed Forces of the United States assigned to permanent duty ashore in European member nations of NATO:

"(A) Members assigned to permanent duty ashore in Iceland, Greenland, and the Azores.

"(B) Members performing duties in Europe for more than 179 days under a military-to-military contact program under section 168 of title 10, United States Code.".

SEC. 1335. COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENTS WITH NATO ORGANIZATIONS.

Section 2350b(e) of title 10, United States Code, is amended—

(1) in paragraph (1), by inserting "or a NATO organization" after "a participant (other than the United States)"; and

(2) in paragraph (2), by striking out "a cooperative project" and inserting in lieu thereof "such a cooperative project or a NATO organization".

SEC. 1336. SUPPORT SERVICES FOR THE NAVY AT THE PORT OF HAIFA, ISRAEL.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of Defense should promptly seek to undertake such actions as are necessary—

(1) to ensure that suitable port services are available to the Navy at the Port of Haifa, Israel; and

(2) to ensure the availability to the Navy of suitable services at that port in light of the continuing increase in commercial activities at the port.

(b) REPORT.—Not later than 30 days after the date of the enactment of this Act, the Secretary of the Navy shall submit to Congress a report on the availablity of port services for the

Navy in the eastern Mediterranean Sea region. The report shall specify—

(1) the services required by the Navy when calling at the port of Haifa, Israel; and

(2) the availability of those services at ports elsewhere in the region.

Subtitle E—Other Matters

SEC. 1341. PROHIBITION ON FINANCIAL ASSISTANCE TO TERRORIST COUNTRIES.

(a) PROHIBITION.—Subchapter I of chapter 134 of title 10, United States Code, is amended by adding at the end the following:

"§ 2249a. Prohibition on providing financial assistance to terrorist countries

"(a) PROHIBITION.—Funds available to the Department of Defense may not be obligated or expended to provide financial assistance to—

"(1) any country with respect to which the Secretary of State has made a determination under section 6(j)(1)(A) of the Export Administration Act of 1979 (50 App. 2405(j));

"(2) any country identified in the latest report submitted to Congress under section 140 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 2656f), as providing significant support for international terrorism; or

"(3) any other country that, as determined by the President—

"(A) grants sanctuary from prosecution to any individual or group that has committed an act of international terrorism; or

"(B) otherwise supports international terrorism.

"(b) WAIVER.—(1) The President may waive the application of subsection (a) to a country if the President determines—

"(A) that it is in the national security interests of the United States to do so; or

"(B) that the waiver should be granted for humanitarian reasons.

"(2) The President shall— President.

"(A) notify the Committee on Armed Services and the Committee on Foreign Relations of the Senate and the Committee on National Security and the Committee on International Relations of the House of Representatives at least 15 days before the waiver takes effect; and Notification.

"(B) publish a notice of the waiver in the Federal Register. Federal Register, publication.

"(c) DEFINITION.—In this section, the term 'international terrorism' has the meaning given that term in section 140(d) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 2656f(d)).".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of subchapter I of such chapter is amended by adding at the end the following:

"2249a. Prohibition on providing financial assistance to terrorist countries.".

18 USC 3181 note.

SEC. 1342. JUDICIAL ASSISTANCE TO THE INTERNATIONAL TRIBUNAL FOR YUGOSLAVIA AND TO THE INTERNATIONAL TRIBUNAL FOR RWANDA.

(a) SURRENDER OF PERSONS.—

(1) APPLICATION OF UNITED STATES EXTRADITION LAWS.—Except as provided in paragraphs (2) and (3), the provisions of chapter 209 of title 18, United States Code, relating to the extradition of persons to a foreign country pursuant to a treaty or convention for extradition between the United States and a foreign government, shall apply in the same manner and extent to the surrender of persons, including United States citizens, to—

(A) the International Tribunal for Yugoslavia, pursuant to the Agreement Between the United States and the International Tribunal for Yugoslavia; and

(B) the International Tribunal for Rwanda, pursuant to the Agreement Between the United States and the International Tribunal for Rwanda.

(2) EVIDENCE ON HEARINGS.—For purposes of applying section 3190 of title 18, United States Code, in accordance with paragraph (1), the certification referred to in that section may be made by the principal diplomatic or consular officer of the United States resident in such foreign countries where the International Tribunal for Yugoslavia or the International Tribunal for Rwanda may be permanently or temporarily situated.

(3) PAYMENT OF FEES AND COSTS.—(A) The provisions of the Agreement Between the United States and the International Tribunal for Yugoslavia and of the Agreement Between the United States and the International Tribunal for Rwanda shall apply in lieu of the provisions of section 3195 of title 18, United States Code, with respect to the payment of expenses arising from the surrender by the United States of a person to the International Tribunal for Yugoslavia or the International Tribunal for Rwanda, respectively, or from any proceedings in the United States relating to such surrender.

(B) The authority of subparagraph (A) may be exercised only to the extent and in the amounts provided in advance in appropriations Acts.

(4) NONAPPLICABILITY OF THE FEDERAL RULES.—The Federal Rules of Evidence and the Federal Rules of Criminal Procedure do not apply to proceedings for the surrender of persons to the International Tribunal for Yugoslavia or the International Tribunal for Rwanda.

(b) ASSISTANCE TO FOREIGN AND INTERNATIONAL TRIBUNALS AND TO LITIGANTS BEFORE SUCH TRIBUNALS.—Section 1782(a) of title 28, United States Code, is amended by inserting in the first sentence after "foreign or international tribunal" the following: ", including criminal investigations conducted before formal accusation".

(c) DEFINITIONS.—For purposes of this section:

(1) INTERNATIONAL TRIBUNAL FOR YUGOSLAVIA.—The term "International Tribunal for Yugoslavia" means the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law in the Territory of the Former Yugoslavia, as established by

United Nations Security Council Resolution 827 of May 25, 1993.

(2) INTERNATIONAL TRIBUNAL FOR RWANDA.—The term "International Tribunal for Rwanda" means the International Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighboring States, as established by United Nations Security Council Resolution 955 of November 8, 1994.

(3) AGREEMENT BETWEEN THE UNITED STATES AND THE INTERNATIONAL TRIBUNAL FOR YUGOSLAVIA.—The term "Agreement Between the United States and the International Tribunal for Yugoslavia" means the Agreement on Surrender of Persons Between the Government of the United States and the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Law in the Territory of the Former Yugoslavia, signed at The Hague, October 5, 1994.

(4) AGREEMENT BETWEEN THE UNITED STATES AND THE INTERNATIONAL TRIBUNAL FOR RWANDA.—The term "Agreement between the United States and the International Tribunal for Rwanda" means the Agreement on Surrender of Persons Between the Government of the United States and the International Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighboring States, signed at The Hague, January 24, 1995.

SEC. 1343. SEMIANNUAL REPORTS CONCERNING UNITED STATES-PEOPLE'S REPUBLIC OF CHINA JOINT DEFENSE CONVERSION COMMISSION.

(a) REPORTS REQUIRED.—The Secretary of Defense shall submit to Congress a semiannual report on the United States-People's Republic of China Joint Defense Conversion Commission. Each such report shall include the following:

(1) A description of the extent to which the activities conducted in, through, or as a result of the Commission could have directly or indirectly assisted, or may directly or indirectly assist, the military modernization efforts of the People's Republic of China.

(2) A discussion of the activities and operations of the Commission, including—

(A) United States funding;

(B) a listing of participating United States officials;

(C) specification of meeting dates and locations (prospective and retrospective);

(D) summary of discussions; and

(E) copies of any agreements reached.

(3) A discussion of the relationship between the "defense conversion" activities of the People's Republic of China and its defense modernization efforts.

(4) A discussion of the extent to which United States business activities pursued, or proposed to be pursued, under the

imprimatur of the Commission, or the importation of western technology in general, contributes to the modernization of China's military industrial base, including any steps taken by the United States or by United States commercial entities to safeguard the technology or intellectual property rights associated with any materials or information transferred.

(5) An assessment of the benefits derived by the United States from its participation in the Commission, including whether or to what extent United States participation in the Commission has resulted or will result in the following:

(A) Increased transparency in the current and projected military budget and doctrine of the People's Republic of China.

(B) Improved behavior and cooperation by the People's Republic of China in the areas of missile and nuclear proliferation.

(C) Increased transparency in the plans of the People's Republic of China's for nuclear and missile force modernization and testing.

(6) Efforts undertaken by the Secretary of Defense to—

(A) establish a list of enterprises controlled by the People's Liberation Army, including those which have been successfully converted to produce products solely for civilian use; and

(B) provide estimates of the total revenues of those enterprises.

(7) A description of current or proposed mechanisms for improving the ability of the United States to track the flow of revenues from the enterprises specified on the list established under paragraph (6)(A).

(b) SUBMITTAL OF REPORTS.—A report shall be submitted under subsection (a) not later than August 1 of each year with respect to the first six months of that year and shall be submitted not later than February 1 of each year with respect to the last six months of the preceding year. The first report under such subsection shall be submitted not less than 60 days after the date of the enactment of this Act and shall apply with respect to the six-month period preceding the date of the enactment of this Act.

(c) FINAL REPORT UPON TERMINATION OF COMMISSION.—Upon the termination of the United States-People's Republic of China Joint Defense Conversion Commission, the Secretary of Defense shall submit a final report under this section covering the period from the end of the period covered by the last such report through the termination of the Commission, and subsection (a) shall cease to apply after the submission of such report.

TITLE XIV—ARMS CONTROL MATTERS

SEC. 1401. REVISION OF DEFINITION OF LANDMINE FOR PURPOSES OF LANDMINE EXPORT MORATORIUM.

Section 1423(d) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1832) is amended—

(1) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(2) in subparagraph (C), as so redesignated, by striking out "by remote control or";

(3) by inserting "(1)" before "For purposes of"; and

(4) by adding at the end the following new paragraph:

"(2) The term does not include command detonated antipersonnel land mines (such as the M18A1 'Claymore' mine).".

SEC. 1402. REPORTS ON MORATORIUM ON USE BY ARMED FORCES OF ANTIPERSONNEL LANDMINES.

Not later than April 30 of each of 1996, 1997, and 1998, the Chairman of the Joint Chiefs of Staff shall submit to the congressional defense committees a report on the projected effects of a moratorium on the defensive use of antipersonnel mines and antitank mines by the Armed Forces. The report shall include a discussion of the following matters:

(1) The extent to which current doctrine and practices of the Armed Forces on the defensive use of antipersonnel mines and antitank mines adhere to applicable international law.

(2) The effects that a moratorium would have on the defensive use of the current United States inventory of remotely delivered, self-destructing antitank systems, antipersonnel mines, and antitank mines.

(3) The reliability of the self-destructing antipersonnel mines and self-destructing antitank mines of the United States.

(4) The cost of clearing the antipersonnel minefields currently protecting Naval Station Guantanamo Bay, Cuba, and other United States installations.

(5) The cost of replacing antipersonnel mines in such minefields with substitute systems such as the Claymore mine, and the level of protection that would be afforded by use of such a substitute.

(6) The extent to which the defensive use of antipersonnel mines and antitank mines by the Armed Forces is a source of civilian casualties around the world, and the extent to which the United States, and the Department of Defense particularly, contributes to alleviating the illegal and indiscriminate use of such munitions.

(7) The extent to which the threat to the security of United States forces during operations other than war and combat operations would increase as a result of such a moratorium.

SEC. 1403. EXTENSION AND AMENDMENT OF COUNTER-PROLIFERATION AUTHORITIES.

(a) ONE-YEAR EXTENSION OF PROGRAM.—Section 1505 of the Weapons of Mass Destruction Control Act of 1992 (title XV of Public Law 102–484; 22 U.S.C. 5859a) is amended—

(1) in subsection (a), by striking out "during fiscal years 1994 and 1995";

(2) in subsection (e)(1), by striking out "fiscal years 1994 and 1995" and inserting in lieu thereof "a fiscal year during which the authority of the Secretary of Defense to provide assistance under this section is in effect"; and

(3) by adding at the end the following new subsection:

"(f) TERMINATION OF AUTHORITY.—The authority of the Secretary of Defense to provide assistance under this section terminates at the close of fiscal year 1996.".

(b) PROGRAM AUTHORITIES.—(1) Subsections (b)(2) and (d)(3) of such section are amended by striking out "the On-Site Inspection Agency" and inserting in lieu thereof "the Department of Defense".

(2) Subsection (c)(3) of such section is amended by striking out "will be counted" and all that follows and inserting in lieu thereof "will be counted as discretionary spending in the national defense budget function (function 050).".

(c) AMOUNT OF ASSISTANCE.—Subsection (d) of such section is amended—

(1) in paragraph (1)—

(A) by striking out "for fiscal year 1994" the first place it appears and all that follows through the period at the end of the second sentence and inserting in lieu thereof "for any fiscal year shall be derived from amounts made available to the Department of Defense for that fiscal year."; and

(B) by striking out "referred to in this paragraph"; and

(2) in paragraph (3)—

(A) by striking out "may not exceed" and all that follows through "1995"; and

(B) by inserting before the period at the end the following: ", may not exceed $25,000,000 for fiscal year 1994, $20,000,000 for fiscal year 1995, or $15,000,000 for fiscal year 1996".

SEC. 1404. LIMITATION ON RETIREMENT OR DISMANTLEMENT OF STRATEGIC NUCLEAR DELIVERY SYSTEMS.

(a) SENSE OF CONGRESS.—It is the sense of Congress that, unless and until the START II Treaty enters into force, the Secretary of Defense should not take any action to retire or dismantle, or to prepare to retire or dismantle, any of the following strategic nuclear delivery systems:

(1) B–52H bomber aircraft.

(2) Trident ballistic missile submarines.

(3) Minuteman III intercontinental ballistic missiles.

(4) Peacekeeper intercontinental ballistic missiles.

(b) LIMITATION ON USE OF FUNDS.—Funds available to the Department of Defense may not be obligated or expended during fiscal year 1996 for retiring or dismantling, or for preparing to retire or dismantle, any of the strategic nuclear delivery systems specified in subsection (a).

SEC. 1405. CONGRESSIONAL FINDINGS AND SENSE OF CONGRESS CONCERNING TREATY VIOLATIONS.

(a) REAFFIRMATION OF PRIOR FINDINGS CONCERNING THE KRASNOYARSK RADAR.—Congress, noting its previous findings with respect to the large phased-array radar of the Soviet Union known as the "Krasnoyarsk radar" stated in paragraphs (1) through (4) of section 902(a) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100–180; 101 Stat. 1135) (and reaffirmed in section 1006(a) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1543)), hereby reaffirms those findings as follows:

(1) The 1972 Anti-Ballistic Missile Treaty prohibits each party from deploying ballistic missile early warning radars except at locations along the periphery of its national territory and oriented outward.

(2) The 1972 Anti-Ballistic Missile Treaty prohibits each party from deploying an ABM system to defend its national

territory and from providing a base for any such nationwide defense.

(3) Large phased-array radars were recognized during negotiation of the Anti-Ballistic Missile Treaty as the critical long lead-time element of a nationwide defense against ballistic missiles.

(4) In 1983 the United States discovered the construction, in the interior of the Soviet Union near the town of Krasnoyarsk, of a large phased-array radar that has subsequently been judged to be for ballistic missile early warning and tracking.

(b) FURTHER REFERENCE TO 1987 CONGRESSIONAL STATEMENTS.—Congress further notes that in section 902 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100–180; 101 Stat. 1135) Congress also—

(1) noted that the President had certified that the Krasnoyarsk radar was an unequivocal violation of the 1972 Anti-Ballistic Missile Treaty; and

(2) stated it to be the sense of the Congress that the Soviet Union was in violation of its legal obligation under that treaty.

(c) FURTHER REFERENCE TO 1989 CONGRESSIONAL STATEMENTS.—Congress further notes that in section 1006(b) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1543) Congress also—

(1) again noted that in 1987 the President declared that radar to be a clear violation of the 1972 Anti-Ballistic Missile Treaty and noted that on October 23, 1989, the Foreign Minister of the Soviet Union conceded that the Krasnoyarsk radar is a violation of the 1972 Anti-Ballistic Missile Treaty; and

(2) stated it to be the sense of the Congress that the Soviet Union should dismantle the Krasnoyarsk radar expeditiously and without conditions and that until such radar was completely dismantled it would remain a clear violation of the 1972 Anti-Ballistic Missile Treaty.

(d) ADDITIONAL FINDINGS.—Congress also finds, with respect to the Krasnoyarsk radar, that retired Soviet General Y.V. Votintsev, Director of the Soviet National Air Defense Forces from 1967 to 1985, has publicly stated— Y.V. Votintsev.

(1) that he was directed by the Chief of the Soviet General staff to locate the large phased-array radar at Krasnoyarsk despite the recognition by Soviet authorities that the location of such a radar at that location would be a clear violation of the 1972 Anti-Ballistic Missile Treaty; and

(2) that Marshal D.F. Ustinov, Soviet Minister of Defense, threatened to relieve from duty any Soviet officer who continued to object to the construction of a large-phased array radar at Krasnoyarsk. D.F. Ustinov.

(e) SENSE OF CONGRESS CONCERNING SOVIET TREATY VIOLATIONS.—It is the sense of Congress that the government of the Soviet Union intentionally violated its legal obligations under the 1972 Anti-Ballistic Missile Treaty in order to advance its national security interests.

(f) SENSE OF CONGRESS CONCERNING COMPLIANCE BY RUSSIA WITH ARMS CONTROL OBLIGATIONS.—In light of subsections (a) through (e), it is the sense of Congress that the United States should remain vigilant in ensuring compliance by Russia with its

arms control obligations and should, when pursuing future arms control agreements with Russia, bear in mind violations of arms control obligations by the Soviet Union.

SEC. 1406. SENSE OF CONGRESS ON RATIFICATION OF CHEMICAL WEAPONS CONVENTION AND START II TREATY.

(a) FINDINGS.—Congress makes the following findings:

(1) Proliferation of chemical or nuclear weapons materials poses a danger to United States national security, and the threat or use of such materials by terrorists would directly threaten United States citizens at home and abroad.

(2) Events such as the March 1995 terrorist release of a chemical nerve agent in the Tokyo subway, the threatened use of chemical weapons during the 1991 Persian Gulf War, and the widespread use of chemical weapons during the Iran-Iraq War of the 1980's are all potent reminders of the menace posed by chemical weapons, of the fact that the threat of chemical weapons is not sufficiently addressed, and of the need to outlaw the development, production, and possession of chemical weapons.

George Bush.

(3) The Chemical Weapons Convention negotiated and signed by President Bush would make it more difficult for would-be proliferators, including terrorists, to acquire or use chemical weapons, if ratified and fully implemented, as signed, by all signatories.

John Shalikashvili.

(4) United States military authorities, including Chairman of the Joint Chiefs of Staff General John Shalikashvili, have stated that United States military forces will deter and respond to chemical weapons threats with a robust chemical defense and an overwhelming superior conventional response, as demonstrated in the Persian Gulf War, and have testified in support of the ratification of the Chemical Weapons Convention.

(5) The United States intelligence community has testified that the Convention will provide new and important sources of information, through regular data exchanges and routine and challenge inspections, to improve the ability of the United States to assess the chemical weapons status in countries of concern.

(6) The Convention has not entered into force for lack of the requisite number of ratifications.

(7) Russia has signed the Convention, but has not yet ratified it.

(8) There have been reports by Russian sources of continued Russian production and testing of chemical weapons, including a statement by a spokesman of the Russian Ministry of Defense on December 5, 1994, that "We cannot say that all chemical weapons production and testing has stopped altogether.".

(9) The Convention will impose a legally binding obligation on Russia and other nations that possess chemical weapons and that ratify the Convention to cease offensive chemical weapons activities and to destroy their chemical weapons stockpiles and production facilities.

(10) The United States must be prepared to exercise fully its rights under the Convention, including the request of challenge inspections when warranted, and to exercise leadership in pursuing punitive measures against violators of the Convention, when warranted.

(11) The United States should strongly encourage full implementation at the earliest possible date of the terms and conditions of the United States-Russia bilateral chemical weapons destruction agreement signed in 1990.

(12) The START II Treaty negotiated and signed by President Bush would help reduce the danger of potential proliferators, including terrorists, acquiring nuclear warheads and materials, and would contribute to United States-Russian bilateral efforts to secure and dismantle nuclear warheads, if ratified and fully implemented as signed by both parties.

(13) It is in the national security interest of the United States to take effective steps to make it more difficult for proliferators or would-be terrorists to obtain chemical or nuclear materials for use in weapons.

(14) The President has urged prompt Senate action on, and advice and consent to ratification of, the START II Treaty and the Chemical Weapons Convention.

(15) The Chairman of the Joint Chiefs of Staff has testified to Congress that ratification and full implementation of both treaties by all parties is in the United States national interest and has strongly urged prompt Senate advice and consent to their ratification.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the United States, Russia, and all other parties to the START II Treaty and the Chemical Weapons Convention should promptly ratify and fully implement, as negotiated, both treaties.

SEC. 1407. IMPLEMENTATION OF ARMS CONTROL AGREEMENTS.

(a) FUNDING.—Of the amounts appropriated pursuant to authorizations in sections 102, 103, 104, 201, and 301, the Secretary of Defense may use an amount not to exceed $239,941,000 for implementing arms control agreements to which the United States is a party.

(b) LIMITATION.—(1) Funds made available pursuant to subsection (a) for the costs of implementing an arms control agreement may not (except as provided in paragraph (2)) be used to reimburse expenses incurred by any other party to the agreement for which (without regard to any executive agreement or any policy not part of an arms control agreement)—

(A) the other party is responsible under the terms of the arms control agreement; and

(B) the United States has no responsibility under the agreement.

(2) The limitation in paragraph (1) does not apply to a use of funds to carry out an arms control expenses reimbursement policy of the United States described in subsection (c).

(c) COVERED ARMS CONTROL EXPENSES REIMBURSEMENT POLICIES.—Subsection (b)(2) applies to a policy of the United States to reimburse expenses incurred by another party to an arms control agreement if—

(1) the policy does not modify any obligation imposed by the arms control agreement;

(2) the President—

(A) issued or approved the policy before the date of the enactment of this Act; or

(B) entered into an agreement on the policy with the government of another country or approved an agreement

on the policy entered into by an official of the United States and the government of another country; and

(3) the President has notified the designated congressional committees of the policy or the policy agreement (as the case may be), in writing, at least 30 days before the date on which the President issued or approved the policy or has entered into or approved the policy agreement.

(d) DEFINITIONS.—For the purposes of this section:

(1) The term "arms control agreement" means an arms control treaty or other form of international arms control agreement.

(2) The term "executive agreement" means an international agreement entered into by the President that is not authorized by law or entered into as a Treaty to which the Senate has given its advice and consent to ratification.

(3) The term "designated congressional committees" means the following:

(A) The Committee on Foreign Relations, the Committee on Armed Services, and the Committee on Appropriations of the Senate.

(B) The Committee on International Relations, the Committee on National Security, and the Committee on Appropriations of the House of Representatives.

SEC. 1408. IRAN AND IRAQ ARMS NONPROLIFERATION.

(a) SANCTIONS AGAINST TRANSFERS OF PERSONS.—Section 1604(a) of the Iran-Iraq Arms Non-Proliferation Act of 1992 (title XVI of Public Law 102–484; 50 U.S.C. 1701 note) is amended by inserting "to acquire chemical, biological, or nuclear weapons or" before "to acquire".

(b) SANCTIONS AGAINST TRANSFERS OF FOREIGN COUNTRIES.—Section 1605(a) of such Act is amended by inserting "to acquire chemical, biological, or nuclear weapons or" before "to acquire".

50 USC 1701 note.

(c) CLARIFICATION OF UNITED STATES ASSISTANCE.—Subparagraph (A) of section 1608(7) of such Act is amended to read as follows:

50 USC 1701 note.

"(A) any assistance under the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.), other than urgent humanitarian assistance or medicine;".

(d) NOTIFICATION OF CERTAIN WAIVERS UNDER MTCR PROCEDURES.—Section 73(e)(2) of the Arms Export Control Act (22 U.S.C. 2797b(e)(2)) is amended—

(1) by striking out "the Congress" and inserting in lieu thereof "the Committee on Armed Services and the Committee on Foreign Relations of the Senate and the Committee on National Security and the Committee on International Relations of the House of Representatives"; and

(2) by striking out "20 working days" and inserting in lieu thereof "45 working days".

TITLE XV—TECHNICAL AND CLERICAL AMENDMENTS

SEC. 1501. AMENDMENTS RELATED TO RESERVE OFFICER PERSONNEL MANAGEMENT ACT.

(a) PUBLIC LAW 103–337.—The Reserve Officer Personnel Management Act (title XVI of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337)) is amended as follows:

(1) Section 1624 (108 Stat. 2961) is amended— 10 USC 620.

(A) by striking out "641" and all that follows through "(2)" and inserting in lieu thereof "620 is amended"; and

(B) by redesignating as subsection (d) the subsection added by the amendment made by that section.

(2) Section 1625 (108 Stat. 2962) is amended by striking out "Section 689" and inserting in lieu thereof "Section 12320". 10 USC 12320.

(3) Section 1626(1) (108 Stat. 2962) is amended by striking out "(W–5)" in the second quoted matter therein and inserting in lieu thereof ", W–5,". 10 USC 741.

(4) Section 1627 (108 Stat. 2962) is amended by striking out "Section 1005(b)" and inserting in lieu thereof "Section 12645(b)". 10 USC 12645.

(5) Section 1631 (108 Stat. 2964) is amended—

(A) in subsection (a), by striking out "Section 510" and inserting in lieu thereof "Section 12102"; and 10 USC 12102.

(B) in subsection (b), by striking out "Section 591" and inserting in lieu thereof "Section 12201". 10 USC 12201.

(6) Section 1632 (108 Stat. 2965) is amended by striking out "Section 593(a)" and inserting in lieu thereof "Section 12203(a)". 10 USC 12203.

(7) Section 1635(a) (108 Stat. 2968) is amended by striking out "section 1291" and inserting in lieu thereof "section 1691(b)". 10 USC 3853 note.

(8) Section 1671 (108 Stat. 3013) is amended—

(A) in subsection (b)(3), by striking out "512, and 517" and inserting in lieu thereof "and 512"; and

(B) in subsection (c)(2), by striking out the comma after "861" in the first quoted matter therein. 10 USC 113.

(9) Section 1684(b) (108 Stat. 3024) is amended by striking out "section 14110(d)" and inserting in lieu thereof "section 14111(c)". 10 USC 14310 note.

(b) SUBTITLE E OF TITLE 10.—Subtitle E of title 10, United States Code, is amended as follows:

(1) The tables of chapters preceding part I and at the beginning of part IV are amended by striking out "Repayments" in the item relating to chapter 1609 and inserting in lieu thereof "Repayment Programs".

(2)(A) The heading for section 10103 is amended to read as follows:

"§ 10103. Basic policy for order into Federal service".

(B) The item relating to section 10103 in the table of sections at the beginning of chapter 1003 is amended to read as follows:

"10103. Basic policy for order into Federal service.".

(3) The table of sections at the beginning of chapter 1005 is amended by striking out the third word in the item relating to section 10142.

(4) The table of sections at the beginning of chapter 1007 is amended—

(A) by striking out the third word in the item relating to section 10205; and

(B) by capitalizing the initial letter of the sixth word in the item relating to section 10211.

(5) The table of sections at the beginning of chapter 1011 is amended by inserting "Sec." at the top of the column of section numbers.

(6) Section 10507 is amended—

(A) by striking out "section 124402(b)" and inserting in lieu thereof "section 12402(b)"; and

(B) by striking out "Air Forces" and inserting in lieu thereof "Air Force".

(7)(A) Section 10508 is repealed.

(B) The table of sections at the beginning of chapter 1011 is amended by striking out the item relating to section 10508.

(8) Section 10542 is amended by striking out subsection (d).

(9) Section 12004(a) is amended by striking out "active-status" and inserting in lieu thereof "active status".

(10) Section 12012 is amended by inserting "**the**" in the section heading before the penultimate word.

(11)(A) The heading for section 12201 is amended to read as follows:

"§ 12201. Reserve officers: qualifications for appointment".

(B) The item relating to that section in the table of sections at the beginning of chapter 1205 is amended to read as follows:

"12201. Reserve officers: qualifications for appointment.".

(12)(A) The heading for section 12209 is amended to read as follows:

"§ 12209. Officer candidates: enlisted Reserves".

(B) The heading for section 12210 is amended to read as follows:

"§ 12210. Attending Physician to the Congress: reserve grade while so serving".

(13)(A) The headings for sections 12211, 12212, 12213, and 12214 are amended by inserting "**the**" after "**National Guard of**"

(B) The table of sections at the beginning of chapter 1205 is amended by inserting "the" in the items relating to sections 12211, 12212, 12213, and 12214 after "National Guard of".

(14) Section 12213(a) is amended by striking out "section 593" and inserting in lieu thereof "section 12203".

(15) The table of sections at the beginning of chapter 1207 is amended by striking out "promotions" in the item relating to section 12243 and inserting in lieu thereof "promotion".

(16) The table of sections at the beginning of chapter 1209 is amended—

(A) in the item relating to section 12304, by striking out the colon and inserting in lieu thereof a semicolon; and

(B) in the item relating to section 12308, by striking out the second, third, and fourth words.

(17) Section 12307 is amended by striking out "Ready Reserve" in the second sentence and inserting in lieu thereof "Retired Reserve".

(18)(A) The table of sections at the beginning of chapter 1211 is amended by inserting "the" in the items relating to sections 12401, 12402, 12403, and 12404 after "Army and Air National Guard of".

(B) The headings for sections 12402, 12403, and 12404 are amended by inserting "**the**" after "**Army and Air National Guard of**"

(19) Section 12407(b) is amended—

(A) by striking out "of those jurisdictions" and inserting in lieu thereof "State"; and

(B) by striking out "jurisdictions" and inserting in lieu thereof "States".

(20) Section 12731(f) is amended by striking out "the date of the enactment of this subsection" and inserting in lieu thereof "October 5, 1994,".

(21) Section 12731a(c)(3) is amended by inserting a comma after "Defense Conversion".

(22) Section 14003 is amended by inserting "**lists**" in the section heading immediately before the colon.

(23) The table of sections at the beginning of chapter 1403 is amended by striking out "selection board" in the item relating to section 14105 and inserting in lieu thereof "promotion board".

(24) The table of sections at the beginning of chapter 1405 is amended—

(A) in the item relating to section 14307, by striking out "Numbers" and inserting in lieu thereof "Number";

(B) in the item relating to section 14309, by striking out the colon and inserting in lieu thereof a semicolon; and

(C) in the item relating to section 14314, by capitalizing the initial letter of the antepenultimate word.

(25) Section 14315(a) is amended by striking out "a Reserve officer" and inserting in lieu thereof "a reserve officer".

(26) Section 14317(e) is amended—

(A) by inserting "OFFICERS ORDERED TO ACTIVE DUTY IN TIME OF WAR OR NATIONAL EMERGENCY.—" after "(e)"; and

(B) by striking out "section 10213 or 644" and inserting in lieu thereof "section 123 or 10213".

(27) The table of sections at the beginning of chapter 1407 is amended—

(A) in the item relating to section 14506, by inserting "reserve" after "Marine Corps and"; and

(B) in the item relating to section 14507, by inserting "reserve" after "Removal from the"; and

(C) in the item relating to section 14509, by inserting "in grades" after "reserve officers".

(28) Section 14501(a) is amended by inserting "OFFICERS BELOW THE GRADE OF COLONEL OR NAVY CAPTAIN.—" after "(a)".

(29) The heading for section 14506 is amended by inserting a comma after "**Air Force**".

(30) Section 14508 is amended by striking out "this" after "from an active status under" in subsections (c) and (d).

(31) Section 14515 is amended by striking out "inactive status" and inserting in lieu thereof "inactive-status".

(32) Section 14903(b) is amended by striking out "chapter" and inserting in lieu thereof "title".

(33) The table of sections at the beginning of chapter 1606 is amended in the item relating to section 16133 by striking out "limitations" and inserting in lieu thereof "limitation".

(34) Section 16132(c) is amended by striking out "section" and inserting in lieu thereof "sections".

(35) Section 16135(b)(1)(A) is amended by striking out "section 2131(a)" and inserting in lieu thereof "section 16131(a)".

(36) Section 18236(b)(1) is amended by striking out "section 2233(e)" and inserting in lieu thereof "section 18233(e)".

(37) Section 18237 is amended—

(A) in subsection (a), by striking out "section 2233(a)(1)" and inserting in lieu thereof "section 18233(a)(1)"; and

(B) in subsection (b), by striking out "section 2233(a)" and inserting in lieu thereof "section 18233(a)".

Effective date.
10 USC 101 note.

(c) OTHER PROVISIONS OF TITLE 10.—Effective as of December 1, 1994 (except as otherwise expressly provided), and as if included as amendments made by the Reserve Officer Personnel Management Act (title XVI of Public Law 103–360) as originally enacted, title 10, United States Code, is amended as follows:

(1) Section 101(d)(6)(B)(i) is amended by striking out "section 175" and inserting in lieu thereof "section 10301".

(2) Section 114(b) is amended by striking out "chapter 133" and inserting in lieu thereof "chapter 1803".

(3) Section 115(d) is amended—

(A) in paragraph (1), by striking out "section 673" and inserting in lieu thereof "section 12302";

(B) in paragraph (2), by striking out "section 673b" and inserting in lieu thereof "section 12304"; and

(C) in paragraph (3), by striking out "section 3500 or 8500" and inserting in lieu thereof "section 12406".

(4) Section 123(a) is amended—

(A) by striking out "281, 592, 1002, 1005, 1006, 1007, 1374, 3217, 3218, 3219, 3220, 3352(a) (last sentence),", "5414, 5457, 5458, 5506,", and "8217, 8218, 8219,"; and

(B) by striking out "and 8855" and inserting in lieu thereof "8855, 10214, 12003, 12004, 12005, 12007, 12202, 12213(a) (second sentence), 12642, 12645, 12646, 12647, 12771, 12772, and 12773".

(5) Section 582(1) is amended by striking out "section 672(d)" in subparagraph (B) and "section 673b" in subparagraph (D) and inserting in lieu thereof "section 12301(d)" and "section 12304", respectively.

(6) Section 641(1)(B) is amended by striking out "10501" and inserting in lieu thereof "10502, 10505, 10506(a), 10506(b), 10507".

(7) The table of sections at the beginning of chapter 39 is amended by striking out the items relating to sections 687 and 690.

(8) Sections 1053(a)(1) and 1064 are amended by striking out "chapter 67" and inserting in lieu thereof "chapter 1223".

(9) Section 1063(a)(1) is amended by striking out "section 1332(a)(2)" and inserting in lieu thereof "section 12732(a)(2)".

(10) Section 1074b(b)(2) is amended by striking out "section 673c" and inserting in lieu thereof "section 12305".

(11) Section 1076(b)(2)(A) is amended by striking out "before the effective date of the Reserve Officer Personnel Management Act" and inserting in lieu thereof "before December 1, 1994".

(12) Section 1176(b) is amended by striking out "section 1332" in the matter preceding paragraph (1) and in paragraphs (1) and (2) and inserting in lieu thereof "section 12732".

(13) Section 1208(b) is amended by striking out "section 1333" and inserting in lieu thereof "section 12733".

(14) Section 1209 is amended by striking out "section 1332", "section 1335", and "chapter 71" and inserting in lieu thereof "section 12732", "section 12735", and "section 12739", respectively.

(15) Section 1407 is amended—

(A) in subsection (c)(1) and (d)(1), by striking out "section 1331" and inserting in lieu thereof "section 12731"; and

(B) in the heading for paragraph (1) of subsection (d), by striking out "CHAPTER 67" and inserting in lieu thereof "CHAPTER 1223".

(16) Section 1408(a)(5) is amended by striking out "section 1331" and inserting in lieu thereof "section 12731".

(17) Section 1431(a)(1) is amended by striking out "section 1376(a)" and inserting in lieu thereof "section 12774(a)".

(18) Section 1463(a)(2) is amended by striking out "chapter 67" and inserting in lieu thereof "chapter 1223".

(19) Section 1482(f)(2) is amended by inserting "section" before "12731 of this title".

(20) The table of sections at the beginning of chapter 533 is amended by striking out the item relating to section 5454.

(21) Section 2006(b)(1) is amended by striking out "chapter 106 of this title" and inserting in lieu thereof "chapter 1606 of this title".

(22) Section 2121(c) is amended by striking out "section 3353, 5600, or 8353" and inserting in lieu thereof "section 12207", effective on the effective date specified in section 1691(b)(1) of Public Law 103-337. Effective date.

(23) Section 2130a(b)(3) is amended by striking out "section 591" and inserting in lieu thereof "section 12201".

(24) The table of sections at the beginning of chapter 337 is amended by striking out the items relating to section 3351 and 3352.

(25) Sections 3850, 6389(c), 6391(c), and 8850 are amended by striking out "section 1332" and inserting in lieu thereof "section 12732".

(26) Section 5600 is repealed, effective on the effective date specified in section 1691(b)(1) of Public Law 103–337. Effective date.

(27) Section 5892 is amended by striking out "section 5457 or section 5458" and inserting in lieu thereof "section 12004 or section 12005".

(28) Section 6410(a) is amended by striking out "section 1005" and inserting in lieu thereof "section 12645".

(29) The table of sections at the beginning of chapter 837 is amended by striking out the items relating to section 8351 and 8352.

(30) Section 8360(b) is amended by striking out "section 1002" and inserting in lieu thereof "section 12642".

(31) Section 8380 is amended by striking out "section 524" in subsections (a) and (b) and inserting in lieu thereof "section 12011".

(32) Sections 8819(a), 8846(a), and 8846(b) are amended by striking out "sections 1005 and 1006" and inserting in lieu thereof "sections 12645 and 12646".

(33) Section 8819 is amended by striking out "section 1005" and "section 1006" and inserting in lieu thereof "section 12645" and "section 12646", respectively.

(d) CROSS REFERENCES IN OTHER DEFENSE LAWS.—

(1) Section 337(b) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2717) is amended by inserting before the period at the end the following: "or who after November 30, 1994, transferred to the Retired Reserve under section 10154(2) of title 10, United States Code, without having completed the years of service required under section 12731(a)(2) of such title for eligibility for retired pay under chapter 1223 of such title".

10 USC 2466 note.

(2) Section 525 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190, 105 Stat. 1363) is amended by striking out "section 690" and inserting in lieu thereof "section 12321".

10 USC 12321 note.

(3) Subtitle B of title XLIV of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 10 U.S.C. 12681 note) is amended—

106 Stat. 2714.

(A) in section 4415, by striking out "section 1331a" and inserting in lieu thereof "section 12731a";

106 Stat. 2714.

(B) in subsection 4416—

(i) in subsection (a), by striking out "section 1331" and inserting in lieu thereof "section 12731";

(ii) in subsection (b)—

(I) by inserting "or section 12732" in paragraph (1) after "under that section"; and

(II) by inserting "or 12731(a)" in paragraph (2) after "section 1331(a)";

(iii) in subsection (e)(2), by striking out "section 1332" and inserting in lieu thereof "section 12732"; and

(iv) in subsection (g), by striking out "section 1331a" and inserting in lieu thereof "section 12731a"; and

106 Stat. 2717.

(C) in section 4418—

(i) in subsection (a), by striking out "section 1332" and inserting in lieu thereof "section 12732"; and

(ii) in subsection (b)(1)(A), by striking out "section 1333" and inserting in lieu thereof "section 12733".

(4) Title 37, United States Code, is amended—

(A) in section 302f(b), by striking out "section 673c of title 10" in paragraphs (2) and (3)(A) and inserting in lieu thereof "section 12305 of title 10"; and

(B) in section 433(a), by striking out "section 687 of title 10" and inserting in lieu thereof "section 12319 of title 10".

(e) CROSS REFERENCES IN OTHER LAWS.—

(1) Title 14, United States Code, is amended—

(A) in section 705(f), by striking out "600 of title 10" and inserting in lieu thereof "12209 of title 10"; and

(B) in section 741(c), by striking out "section 1006 of title 10" and inserting in lieu thereof "section 12646 of title 10".

(2) Title 38, United States Code, is amended—

(A) in section 3011(d)(3), by striking out "section 672, 673, 673b, 674, or 675 of title 10" and inserting in lieu thereof "section 12301, 12302, 12304, 12306, or 12307 of title 10";

(B) in sections 3012(b)(1)(B)(iii) and 3701(b)(5)(B), by striking out "section 268(b) of title 10" and inserting in lieu thereof "section 10143(a) of title 10";

(C) in section 3501(a)(3)(C), by striking out "section 511(d) of title 10" and inserting in lieu thereof "section 12103(d) of title 10"; and

(D) in section 4211(4)(C), by striking out "section 672(a), (d), or (g), 673, or 673b of title 10" and inserting in lieu thereof "section 12301(a), (d), or (g), 12302, or 12304 of title 10".

(3) Section 702(a)(1) of the Soldiers' and Sailors' Civil Relief Act of 1940 (50 U.S.C. App. 592(a)(1)) is amended—

(A) by striking out "section 672 (a) or (g), 673, 673b, 674, 675, or 688 of title 10" and inserting in lieu thereof "section 688, 12301(a), 12301(g), 12302, 12304, 12306, or 12307 of title 10"; and

(B) by striking out "section 672(d) of such title" and inserting in lieu thereof "section 12301(d) of such title".

(4) Section 463A of the Higher Education Act of 1965 (20 U.S.C. 1087cc–1) is amended in subsection (a)(10) by striking out "(10 U.S.C. 2172)" and inserting in lieu thereof "(10 U.S.C. 16302)".

(5) Section 179 of the National and Community Service Act of 1990 (42 U.S.C. 12639) is amended in subsection (a)(2)(C) by striking out "section 216(a) of title 5" and inserting in lieu thereof "section 10101 of title 10".

(f) EFFECTIVE DATES.—

(1) Section 1636 of the Reserve Officer Personnel Management Act shall take effect on the date of the enactment of this Act. 10 USC 12213 note.

(2) The amendments made by sections 1672(a), 1673(a) (with respect to chapters 541 and 549), 1673(b)(2), 1673(b)(4), 1674(a), and 1674(b)(7) shall take effect on the effective date specified in section 1691(b)(1) of the Reserve Officer Personnel Management Act (notwithstanding section 1691(a) of such Act). 10 USC 10001 note.

(3) The amendments made by this section shall take effect as if included in the Reserve Officer Personnel Management Act as enacted on October 5, 1994. 10 USC 113 note.

SEC. 1502. AMENDMENTS TO REFLECT NAME CHANGE OF COMMITTEE ON ARMED SERVICES OF THE HOUSE OF REPRESENTATIVES.

(a) TITLE 10, UNITED STATES CODE.—Title 10, United States Code, is amended as follows:

(1) Sections 503(b)(5), 520a(d), 526(d)(1), 619a(h)(2), 806a(b), 838(b)(7), 946(c)(1)(A), 1098(b)(2), 2313(b)(4), 2361(c)(1), 2371(h), 2391(c), 2430(b), 2432(b)(3)(B), 2432(c)(2), 2432(h)(1), 2667(d)(3), 2672a(b), 2687(b)(1), 4342(g), 7307(b)(1)(A), and 9342(g) are amended by striking out "Committees on Armed Services of the Senate and House of Representatives" and inserting in lieu thereof "Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives".

(2) Sections 178(c)(1)(A), 942(e)(5), 2350f(c), 7426(e), 7431(a), 7431(b)(1), 7431(c), 7438(b), 12302(b), 18235(a), and 18236(a) are amended by striking out "Committees on Armed Services of the Senate and the House of Representatives" and inserting in lieu thereof "Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives".

(3) Section 113(j)(1) is amended by striking out "Committees on Armed Services and Committees on Appropriations of the Senate and" and inserting in lieu thereof "Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on National Security and the Committee on Appropriations of the".

(4) Section 119(g) is amended by striking out paragraphs (1) and (2) and inserting in lieu thereof the following:

"(1) the Committee on Armed Services and the Committee on Appropriations, and the Defense Subcommittee of the Committee on Appropriations, of the Senate; and

"(2) the Committee on National Security and the Committee on Appropriations, and the National Security Subcommittee of the Committee on Appropriations, of the House of Representatives.".

(5) Section 127(c) is amended by striking out "Committees on Armed Services and Appropriations of the Senate and" and inserting in lieu thereof "Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on National Security and the Committee on Appropriations of".

(6) Section 135(e) is amended—

(A) by inserting "(1)" after "(e)";

(B) by striking out "the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives are each" and inserting in lieu thereof "each congressional committee specified in paragraph (2) is"; and

(C) by adding at the end the following:

"(2) The committees referred to in paragraph (1) are—

"(A) the Committee on Armed Services and the Committee on Appropriations of the Senate; and

"(B) the Committee on National Security and the Committee on Appropriations of the House of Representatives.".

(7) Section 179(e) is amended by striking out "to the Committees on Armed Services and Appropriations of the Sen-

ate and" and inserting in lieu thereof "to the Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on National Security and the Committee on Appropriations of the".

(8) Sections 401(d) and 402(d) are amended by striking out "submit to the" and all that follows through "Foreign Affairs" and inserting in lieu thereof "submit to the Committee on Armed Services and the Committee on Foreign Relations of the Senate and the Committee on National Security and the Committee on International Relations".

(9) Section 2367(d)(2) is amended by striking out "the Committees on Armed Services and the Committees on Appropriations of the Senate and" and inserting in lieu thereof "the Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on National Security and the Committee on Appropriations of the".

(10) Sections 2306b(g), 2801(c)(4), and 18233a(a)(1) are amended by striking out "the Committees on Armed Services and on Appropriations of the Senate and" and inserting in lieu thereof "the Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on National Security and the Committee on Appropriations of the".

(11) Section 1599(e)(2) is amended—

(A) in subparagraph (A), by striking out "The Committees on Armed Services and Appropriations" and inserting in lieu thereof "The Committee on National Security, the Committee on Appropriations,"; and

(B) in subparagraph (B), by striking out "The Committees on Armed Services and Appropriations" and inserting in lieu thereof "The Committee on Armed Services, the Committee on Appropriations,".

(12) Sections 4355(a)(3), 6968(a)(3), and 9355(a)(3) are amended by striking out "Armed Services" and inserting in lieu thereof "National Security".

(13) Section 1060(d) is amended by striking out "Committee on Armed Services and the Committee on Foreign Affairs" and inserting in lieu thereof "Committee on National Security and the Committee on International Relations".

(14) Section 2215 is amended—

(A) by inserting "(a) CERTIFICATION REQUIRED.—" at the beginning of the text of the section;

(B) by striking out "to the Committees" and all that follows through "House of Representatives" and inserting in lieu thereof "to the congressional committees specified in subsection (b)"; and

(C) by adding at the end the following:

"(b) CONGRESSIONAL COMMITTEES.—The committees referred to in subsection (a) are—

"(1) the Committee on Armed Services and the Committee on Appropriations of the Senate; and

"(2) the Committee on National Security and the Committee on Appropriations of the House of Representatives.".

(15) Section 2218 is amended—

(A) in subsection (j), by striking out "the Committees on Armed Services and on Appropriations of the Senate

and the House of Representatives" and inserting in lieu thereof "the congressional defense committees"; and

(B) by adding at the end of subsection (k) the following new paragraph:

"(4) The term 'congressional defense committees' means—

"(A) the Committee on Armed Services and the Committee on Appropriations of the Senate; and

"(B) the Committee on National Security and the Committee on Appropriations of the House of Representatives.".

(16) Section 2342(b) is amended—

(A) in the matter preceding paragraph (1), by striking out "section—" and inserting in lieu thereof "section unless—";

(B) in paragraph (1), by striking out "unless"; and

(C) in paragraph (2), by striking out "notifies the" and all that follows through "House of Representatives" and inserting in lieu thereof "the Secretary submits to the Committee on Armed Services and the Committee on Foreign Relations of the Senate and the Committee on National Security and the Committee on International Relations of the House of Representatives notice of the intended designation".

(17) Section 2350a(f)(2) is amended by striking out "submit to the Committees" and all that follows through "House of Representatives" and inserting in lieu thereof "submit to the Committee on Armed Services and the Committee on Foreign Relations of the Senate and the Committee on National Security and the Committee on International Relations of the House of Representatives".

(18) Section 2366 is amended—

(A) in subsection (d), by striking out "the Committees on Armed Services and on Appropriations of the Senate and House of Representatives" and inserting in lieu thereof "the congressional defense committees"; and

(B) by adding at the end of subsection (e) the following new paragraph:

"(7) The term 'congressional defense committees' means—

"(A) the Committee on Armed Services and the Committee on Appropriations of the Senate; and

"(B) the Committee on National Security and the Committee on Appropriations of the House of Representatives.".

(19) Section 2399(h)(2) is amended by striking out "means" and all the follows and inserting in lieu thereof the following: "means—

"(A) the Committee on Armed Services and the Committee on Appropriations of the Senate; and

"(B) the Committee on National Security and the Committee on Appropriations of the House of Representatives.".

(20) Section 2401(b)(1) is amended—

(A) in subparagraph (B), by striking out "the Committees on Armed Services and on Appropriations of the Senate and" and inserting in lieu thereof "the Committee on Armed Services and the Committee on Appropriations of the Sen-

ate and the Committee on National Security and the Committees on Appropriations of the"; and

(B) in subparagraph (C), by striking out "the Committees on Armed Services and on Appropriations of the Senate and House of Representatives" and inserting in lieu thereof "those committees".

(21) Section 2403(e) is amended—

(A) by inserting "(1)" before "Before making";

(B) by striking out "shall notify the Committees on Armed Services and on Appropriations of the Senate and House of Representatives" and inserting in lieu thereof "shall submit to the congressional committees specified in paragraph (2) notice"; and

(C) by adding at the end the following new paragraph:

"(2) The committees referred to in paragraph (1) are—

"(A) the Committee on Armed Services and the Committee on Appropriations of the Senate; and

"(B) the Committee on National Security and the Committee on Appropriations of the House of Representatives.".

(22) Section 2515(d) is amended—

(A) by striking out "REPORTING" and all that follows through "same time" and inserting in lieu thereof "ANNUAL REPORT.—(1) The Secretary of Defense shall submit to the congressional committees specified in paragraph (2) an annual report on the activities of the Office. The report shall be submitted each year at the same time"; and

(B) by adding at the end the following new paragraph:

"(2) The committees referred to in paragraph (1) are—

"(A) the Committee on Armed Services and the Committee on Appropriations of the Senate; and

"(B) the Committee on National Security and the Committee on Appropriations of the House of Representatives.".

(23) Section 2662 is amended—

(A) in subsection (a)—

(i) in the matter preceding paragraph (1), by striking out "the Committees on Armed Services of the Senate and House of Representatives" and inserting in lieu thereof "the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives"; and

(ii) in the matter following paragraph (6), by striking out "to be submitted to the Committees on Armed Services of the Senate and House of Representatives";

(B) in subsection (b), by striking out "shall report annually to the Committees on Armed Services of the Senate and the House of Representatives" and inserting in lieu thereof "shall submit annually to the congressional committees named in subsection (a) a report";

(C) in subsection (e), by striking out "the Committees on Armed Services of the Senate and the House of Representatives" and inserting in lieu thereof "the congressional committees named in subsection (a)"; and

(D) in subsection (f), by striking out "the Committees on Armed Services of the Senate and the House of Representatives shall" and inserting in lieu thereof "the congressional committees named in subsection (a) shall".

(24) Section 2674(a) is amended—

(A) in paragraph (2), by striking out "Committees on Armed Services of the Senate and the House of Representatives, the Committee on Environment and Public Works of the Senate, and the Committee on Public Works and Transportation of the House of Representatives" and inserting in lieu thereof "congressional committees specified in paragraph (3)"; and

(B) by adding at the end the following new paragraph:

"(3) The committees referred to in paragraph (2) are—

"(A) the Committee on Armed Services and the Committee on Environment and Public Works of the Senate; and

"(B) the Committee on National Security and the Committee on Transportation and Infrastructure of the House of Representatives.".

(25) Section 2813(c) is amended by striking out "Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives" and inserting in lieu thereof "appropriate committees of Congress".

(26) Sections 2825(b)(1) and 2832(b)(2) are amended by striking out "Committees on Armed Services and the Committees on Appropriations of the Senate and of the House of Representatives" and inserting in lieu thereof "appropriate committees of Congress".

(27) Section 2865(e)(2) and 2866(c)(2) are amended by striking out "Committees on Armed Services and Appropriations of the Senate and House of Representatives" and inserting in lieu thereof "appropriate committees of Congress".

(28)(A) Section 7434 of such title is amended to read as follows:

"§ 7434. Annual report to congressional committees

"Not later than October 31 of each year, the Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on the production from the naval petroleum reserves during the preceding calendar year.".

(B) The item relating to such section in the table of contents at the beginning of chapter 641 is amended to read as follows:

"7434. Annual report to congressional committees.".

(b) TITLE 37, UNITED STATES CODE.—Sections 301b(i)(2) and 406(i) of title 37, United States Code, are amended by striking out "Committees on Armed Services of the Senate and House of Representatives" and inserting in lieu thereof "Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives".

(c) ANNUAL DEFENSE AUTHORIZATION ACTS.—

(1) The National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160) is amended in sections 2922(b) and 2925(b) (10 U.S.C. 2687 note) by striking out "Committees on Armed Services of the Senate and House of Representatives" and inserting in lieu thereof "Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives".

(2) The National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484) is amended—

10 USC 2302 note.

(A) in section 326(a)(5) (10 U.S.C. 2301 note) and section 1304(a) (10 U.S.C. 113 note), by striking out "Com-

mittees on Armed Services of the Senate and House of Representatives" and inserting in lieu thereof "Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives"; and

(B) in section 1505(e)(2)(B) (22 U.S.C. 5859a), by striking out "the Committee on Armed Services, the Committee on Appropriations, the Committee on Foreign Affairs, and the Committee on Energy and Commerce" and inserting in lieu thereof "the Committee on National Security, the Committee on Appropriations, the Committee on International Relations, and the Committee on Commerce".

(3) Section 1097(a)(1) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 22 U.S.C. 2751 note) is amended by striking out "the Committees on Armed Services and Foreign Affairs" and inserting in lieu thereof "the Committee on National Security and the Committee on International Relations".

(4) The National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510) is amended as follows:

(A) Section 402(a) and section 1208(b)(3) (10 U.S.C. 1701 note) are amended by striking out "Committees on Armed Services of the Senate and the House of Representatives" and inserting in lieu thereof "Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives". 10 USC 115 note.

(B) Section 1403 (50 U.S.C. 404b) is amended—

(i) in subsection (a), by striking out "the Committees on" and all that follows through "each year" and inserting in lieu thereof "the congressional committees specified in subsection (d) each year"; and

(ii) by adding at the end the following new subsection:

"(d) SPECIFIED CONGRESSIONAL COMMITTEES.—The congressional committees referred to in subsection (a) are the following:

"(1) The Committee on Armed Services, the Committee on Appropriations, and the Select Committee on Intelligence of the Senate.

"(2) The Committee on National Security, the Committee on Appropriations, and the Permanent Select Committee on Intelligence of the House of Representatives.".

(C) Section 1457 (50 U.S.C. 404c) is amended—

(i) in subsection (a), by striking out "shall submit to the" and all that follows through "each year" and inserting in lieu thereof "shall submit to the congressional committees specified in subsection (d) each year";

(ii) in subsection (c)—

(I) by striking out "(1) Except as provided in paragraph (2), the President" and inserting in lieu thereof "The President"; and

(II) by striking out paragraph (2); and

(iii) by adding at the end the following new subsection:

"(d) SPECIFIED CONGRESSIONAL COMMITTEES.—The congressional committees referred to in subsection (a) are the following:

"(1) The Committee on Armed Services and the Committee on Foreign Relations of the Senate.

"(2) The Committee on National Security and the Committee on International Relations of the House of Representatives.".

(D) Section 2921 (10 U.S.C. 2687 note) is amended—

(i) in subsection (e)(3)(A), by striking out "the Committee on Armed Services, the Committee on Appropriations, and the Defense Subcommittees" and inserting in lieu thereof "the Committee on National Security, the Committee on Appropriations, and the National Security Subcommittee"; and

(ii) in subsection (g)(2), by striking out "the Committee on Armed Services of the Senate and House of Representatives" and inserting in lieu thereof "the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives".

(5) Section 613(h)(1) of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100–456; 37 U.S.C. 302 note), is amended by striking out "the Committees on Armed Services of the Senate and the House of Representatives" and inserting in lieu thereof "the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives".

(6) Section 1412 of the Department of Defense Authorization Act, 1986 (Public Law 99–145; 50 U.S.C. 1521), is amended in subsections (b)(4) and (k)(2), by striking out "Committees on Armed Services of the Senate and House of Representatives" and inserting in lieu thereof "Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives".

(7) Section 1002(d) of the Department of Defense Authorization Act, 1985 (Public Law 98–525; 22 U.S.C. 1928 note), is amended by striking out "the Committees on Armed Services of the Senate and the House of Representatives" and inserting in lieu thereof "the Committee on Armed Services of the Senate, the Committee on National Security of the House of Representatives".

(8) Section 1252 of the Department of Defense Authorization Act, 1984 (42 U.S.C. 248d), is amended—

(A) in subsection (d), by striking out "Committees on Appropriations and on Armed Services of the Senate and the House of Representatives" and inserting in lieu thereof "Committee on Appropriations and the Committee on Armed Services of the Senate and the Committee on Appropriations and the Committee on National Security of the House of Representatives"; and

(B) in subsection (e), by striking out "Committees on Appropriations and on Armed Services of the Senate and the House of Representatives" and inserting in lieu thereof "congressional committees specified in subsection (d)".

(d) BASE CLOSURE LAW.—The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended as follows:

(1) Sections 2902(e)(2)(B)(ii) and 2908(b) are amended by striking out "Armed Services" the first place it appears and inserting in lieu thereof "National Security".

(2) Section 2910(2) is amended by striking out "the Committees on Armed Services and the Committees on Appropriations

of the Senate and of the House of Representatives" and inserting in lieu thereof "the Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on National Security and the Committee on Appropriations of the House of Representatives".

(e) NATIONAL DEFENSE STOCKPILE.—The Strategic and Critical Materials Stock Piling Act is amended—

(1) in section 6(d) (50 U.S.C. 98e(d))—

(A) in paragraph (1), by striking out "Committees on Armed Services of the Senate and House of Representatives" and inserting in lieu thereof "Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives"; and

(B) in paragraph (2), by striking out "the Committees on Armed Services of the Senate and House of Representatives" and inserting in lieu thereof "such congressional committees"; and

(2) in section 7(b) (50 U.S.C. 98f(b)), by striking out "Committees on Armed Services of the Senate and House of Representatives" and inserting in lieu thereof "Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives".

(f) OTHER DEFENSE-RELATED PROVISIONS.—

(1) Section 8125(g)(2) of the Department of Defense Appropriations Act, 1989 (Public Law 100–463; 10 U.S.C. 113 note), is amended by striking out "Committees on Appropriations and Armed Services of the Senate and House of Representatives" and inserting in lieu thereof "Committee on Appropriations and the Committee on Armed Services of the Senate and the Committee on Appropriations and the Committee on National Security of the House of Representatives".

(2) Section 9047A of the Department of Defense Appropriations Act, 1993 (Public Law 102–396; 10 U.S.C. 2687 note), is amended by striking out "the Committees on Appropriations and Armed Services of the House of Representatives and the Senate" and inserting in lieu thereof "the Committee on Appropriations and the Committee on Armed Services of the Senate and the Committee on Appropriations and the Committee on National Security of the House of Representatives".

(3) Section 3059(c)(1) of the Defense Drug Interdiction Assistance Act (subtitle A of title III of Public Law 99–570; 10 U.S.C. 9441 note) is amended by striking out "Committees on Appropriations and on Armed Services of the Senate and the House of Representatives" and inserting in lieu thereof "Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on National Security and the Committee on Appropriations of the House of Representatives".

(4) Section 7606(b) of the Anti-Drug Abuse Act of 1988 (Public Law 100–690; 10 U.S.C. 9441 note) is amended by striking out "Committees on Appropriations and the Committee on Armed Services of the Senate and the House of Representatives" and inserting in lieu thereof "Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on National Security and the Committee on Appropriations of the House of Representatives".

(5) Section 104(d)(5) of the National Security Act of 1947 (50 U.S.C. 403–4(d)(5)) is amended by striking out "Committees on Armed Services of the Senate and House of Representatives" and inserting in lieu thereof "Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives".

(6) Section 8 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(A) in subsection (b)(3), by striking out "Committees on Armed Services and Government Operations" and inserting in lieu thereof "Committee on National Security and the Committee on Government Reform and Oversight";

(B) in subsection (b)(4), by striking out "Committees on Armed Services and Governmental Affairs of the Senate and the Committees on Armed Services and Government Operations of the House of Representatives" and inserting in lieu thereof "congressional committees specified in paragraph (3)";

(C) in subsection (f)(1), by striking out "Committees on Armed Services and Government Operations" and inserting in lieu thereof "Committee on National Security and the Committee on Government Reform and Oversight"; and

(D) in subsection (f)(2), by striking out "Committees on Armed Services and Governmental Affairs of the Senate and the Committees on Armed Services and Government Operations of the House of Representatives" and inserting in lieu thereof "congressional committees specified in paragraph (1)".

(7) Section 204(h)(3) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 485(h)(3)) is amended by striking out "Committees on Armed Services of the Senate and of the House of Representatives" and inserting in lieu thereof "Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives".

SEC. 1503. MISCELLANEOUS AMENDMENTS TO TITLE 10, UNITED STATES CODE.

(a) SUBTITLE A.—Subtitle A of title 10, United States Code, is amended as follows:

(1) Section 113(i)(2)(B) is amended by striking out "the five years covered" and all that follows through "section 114(g)" and inserting in lieu thereof "the period covered by the future-years defense program submitted to Congress during that year pursuant to section 221".

(2) Section 136(c) is amended by striking out "Comptroller" and inserting in lieu thereof "Under Secretary of Defense (Comptroller)".

(3) Section 526 is amended—

(A) in subsection (a), by striking out paragraphs (1), (2), and (3) and inserting in lieu thereof the following:

"(1) For the Army, 302.

"(2) For the Navy, 216.

"(3) For the Air Force, 279.";

(B) by striking out subsection (b);

(C) by redesignating subsections (c), (d), and (e) as subsections (b), (c), and (d);

(D) in subsection (b), as so redesignated, by striking out "that are applicable on and after October 1, 1995"; and

(E) in paragraph (2)(B) of subsection (c), as redesignated by subparagraph (C), is amended—

(i) by striking out "the" after "in the";

(ii) by inserting "to" after "reserve component, or"; and

(iii) by inserting "than" after "in a grade other".

(4) Section 528(a) is amended by striking out "after September 30, 1995,".

(5) Section 573(a)(2) is amended by striking out "active duty list" and inserting in lieu thereof "active-duty list".

(6) Section 661(d)(2) is amended—

(A) in subparagraph (B), by striking out "Until January 1, 1994" and all that follows through "each position so designated" and inserting in lieu thereof "Each position designated by the Secretary under subparagraph (A)";

(B) in subparagraph (C), by striking out "the second sentence of"; and

(C) by striking out subparagraph (D).

(7) Section 706(c)(1) is amended by striking out "section 4301 of title 38" and inserting in lieu thereof "chapter 43 of title 38".

(8) Section 1059 is amended by striking out "subsection (j)" in subsections (c)(2) and (g)(3) and inserting in lieu thereof "subsection (k)".

(9) Section 1060a(f)(2)(B) is amended by striking out "(as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)))" and inserting in lieu thereof ", as determined in accordance with the Immigration and Nationality Act (8 U.S.C. 1101 et seq.)".

(10) Section 1151 is amended—

(A) in subsection (b), by striking out "(20 U.S.C. 2701 et seq.)" in paragraphs (2)(A) and (3)(A) and inserting in lieu thereof "(20 U.S.C. 6301 et seq.)"; and

(B) in subsection (e)(1)(B), by striking out "not later than one year after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1995" and inserting in lieu thereof "not later than October 5, 1995".

(11) Section 1152(g)(2) is amended by striking out "not later than 180 days after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1995" and inserting in lieu thereof "not later than April 3, 1994,".

(12) Section 1177(b)(2) is amended by striking out "provison of law" and inserting in lieu thereof "provision of law".

(13) The heading for chapter 67 is amended by striking out "**NONREGULAR**" and inserting in lieu thereof "**NON-REGULAR**".

(14) Section 1598(a)(2)(A) is amended by striking out "2701" and inserting in lieu thereof "6301".

(15) Section 1745(a) is amended by striking out "section 4107(d)" both places it appears and inserting in lieu thereof "section 4107(b)".

(16) Section 1746(a) is amended—

(A) by striking out "(1)" before "The Secretary of Defense"; and

(B) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively.

(17) Section 2006(b)(2)(B)(ii) is amended by striking out "section 1412 of such title" and inserting in lieu thereof "section 3012 of such title".

(18) Section 2011(a) is amended by striking out "TO" and inserting in lieu thereof "To".

(19) Section 2194(e) is amended by striking out "(20 U.S.C. 2891(12))" and inserting in lieu thereof "(20 U.S.C. 8801)".

(20) Sections 2217(b) and 2220(a)(2) are amended by striking out "Comptroller of the Department of Defense" and inserting in lieu thereof "Under Secretary of Defense (Comptroller)".

(21) Section 2401(c)(2) is amended by striking out "pursuant to" and all that follows through "September 24, 1983,".

(22) Section 2410f(b) is amended by striking out "For purposes of" and inserting in lieu thereof "In".

(23) Section 2410j(a)(2)(A) is amended by striking out "2701" and inserting in lieu thereof "6301".

(24) Section 2457(e) is amended by striking out "title III of the Act of March 3, 1933 (41 U.S.C. 10a)," and inserting in lieu thereof "the Buy American Act (41 U.S.C. 10a)".

(25) Section 2465(b)(3) is amended by striking out "under contract" and all that follows through the period and inserting in lieu thereof "under contract on September 24, 1983.".

(26) Section 2471(b) is amended—

(A) in paragraph (2), by inserting "by" after "as determined"; and

(B) in paragraph (3), by inserting "of" after "arising out".

(27) Section 2524(e)(4)(B) is amended by inserting a comma before "with respect to".

(28) The heading of section 2525 is amended by capitalizing the initial letter of the second, fourth, and fifth words.

(29) Chapter 152 is amended by striking out the table of subchapters at the beginning and the headings for subchapters I and II.

(30) Section 2534(c) is amended by capitalizing the initial letter of the third and fourth words of the subsection heading.

(31) The table of sections at the beginning of subchapter I of chapter 169 is amended by adding a period at the end of the item relating to section 2811.

(b) OTHER SUBTITLES.—Subtitles B, C, and D of title 10, United States Code, are amended as follows:

(1) Sections 3022(a)(1), 5025(a)(1), and 8022(a)(1) are amended by striking out "Comptroller of the Department of Defense" and inserting in lieu thereof "Under Secretary of Defense (Comptroller)".

(2) Section 6241 is amended by inserting "or" at the end of paragraph (2).

(3) Section 6333(a) is amended by striking out the first period after "section 1405" in formula C in the table under the column designated "Column 2".

(4) The item relating to section 7428 in the table of sections at the beginning of chapter 641 is amended by striking out "Agreement" and inserting in lieu thereof "Agreements".

(5) The item relating to section 7577 in the table of sections at the beginning of chapter 649 is amended by striking out "Officers" and inserting in lieu thereof "officers".

(6) The center heading for part IV in the table of chapters at the beginning of subtitle D is amended by inserting a comma after "SUPPLY".

SEC. 1504. MISCELLANEOUS AMENDMENTS TO ANNUAL DEFENSE AUTHORIZATION ACTS.

(a) PUBLIC LAW 103–337.—Effective as of October 5, 1994, and as if included therein as enacted, the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337) is amended as follows: Effective date. 10 USC 2701 note.

(1) Section 322(1) (108 Stat. 2711) is amended by striking out "SERVICE" in both sets of quoted matter and inserting in lieu thereof "SERVICES". 10 USC 2701.

(2) Section 531(g)(2) (108 Stat. 2758) is amended by inserting "item relating to section 1034 in the" after "The".

(3) Section 541(c)(1) is amended— 10 USC 571 note.

(A) in subparagraph (B), by inserting a comma after "chief warrant officer"; and

(B) in the matter after subparagraph (C), by striking out "this".

(4) Section 721(f)(2) (108 Stat. 2806) is amended by striking out "revaluated" and inserting in lieu thereof "reevaluated". 10 USC 1074 note.

(5) Section 722(d)(2) (108 Stat. 2808) is amended by striking out "National Academy of Science" and inserting in lieu thereof "National Academy of Sciences". 10 USC 1074 note.

(6) Section 904(d) (108 Stat. 2827) is amended by striking out "subsection (c)" the first place it appears and inserting in lieu thereof "subsection (b)". 10 USC 10501 note.

(7) Section 1202 (108 Stat. 2882) is amended— 22 USC 5956.

(A) by striking out "(title XII of Public Law 103–60" and inserting in lieu thereof "(title XII of Public Law 103–160"; and

(B) in paragraph (2), by inserting "in the first sentence" before "and inserting in lieu thereof".

(8) Section 1312(a)(2) (108 Stat. 2894) is amended by striking out "adding at the end" and inserting in lieu thereof "inserting after the item relating to section 123a". 10 USC 123b.

(9) Section 2813(c) (108 Stat. 3055) is amended by striking out "above paragraph (1)" both places it appears and inserting in lieu thereof "preceding subparagraph (A)". 10 USC 2687 note.

(b) PUBLIC LAW 103–160.—The National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160) is amended in section 1603(d) (22 U.S.C. 2751 note)—

(1) in the matter preceding paragraph (1), by striking out the second comma after "Not later than April 30 of each year";

(2) in paragraph (4), by striking out "contributes" and inserting in lieu thereof "contribute"; and

(3) in paragraph (5), by striking out "is" and inserting in lieu thereof "are".

(c) PUBLIC LAW 102–484.—The National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484) is amended as follows:

(1) Section 326(a)(5) (106 Stat. 2370; 10 U.S.C. 2301 note) is amended by inserting "report" after "each".

42 USC 7247j.

(2) Section 3163(1)(E) is amended by striking out "paragraphs (1) through (4)" and inserting in lieu thereof "subparagraphs (A) through (D)".

(3) Section 4403(a) (10 U.S.C. 1293 note) is amended by striking out "through 1995" and inserting in lieu thereof "through fiscal year 1999".

(d) PUBLIC LAW 102–190.—Section 1097(d) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1490) is amended by striking out "the Federal Republic of Germany, France" and inserting in lieu thereof "France, Germany".

22 USC 2751 note.

SEC. 1505. MISCELLANEOUS AMENDMENTS TO OTHER LAWS.

(a) OFFICER PERSONNEL ACT OF 1947.—Section 437 of the Officer Personnel Act of 1947 is repealed.

10 USC 5401 note prec.

(b) TITLE 5, UNITED STATES CODE.—Title 5, United States Code, is amended—

(1) in section 8171—

(A) in subsection (a), by striking out "903(3)" and inserting in lieu thereof "903(a)";

(B) in subsection (c)(1), by inserting "section" before "39(b)"; and

(C) in subsection (d), by striking out "(33 U.S.C. 18 and 21, respectively)" and inserting in lieu thereof "(33 U.S.C. 918 and 921)";

(2) in sections 8172 and 8173, by striking out "(33 U.S.C. 2(2))" and inserting in lieu thereof "(33 U.S.C. 902(2))"; and

(3) in section 8339(d)(7), by striking out "Court of Military Appeals" and inserting in lieu thereof "Court of Appeals for the Armed Forces".

Effective date.

(c) PUBLIC LAW 90–485.—Effective as of August 13, 1968, and as if included therein as originally enacted, section 1(6) of Public Law 90–485 (82 Stat. 753) is amended—

10 USC 1436.

(1) by striking out the close quotation marks after the end of clause (4) of the matter inserted by the amendment made by that section; and

(2) by adding close quotation marks at the end.

(d) TITLE 37, UNITED STATES CODE.—Section 406(b)(1)(E) of title 37, United States Code, is amended by striking out "of this paragraph".

(e) BASE CLOSURE LAWS.—(1) The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended—

(A) in section 2905(b)(1)(C), by striking out "of the Administrator to grant approvals and make determinations under section 13(g) of the Surplus Property Act of 1944 (50 U.S.C. App. 1622(g))" and inserting in lieu thereof "to dispose of surplus property for public airports under sections 47151 through 47153 of title 49, United States Code";

(B) in section 2906(d)(1), by striking out "section 204(b)(4)(C)" and inserting in lieu thereof "section 204(b)(7)(C)"; and

(C) in section 2910—

(i) by designating the second paragraph (10), as added by section 2(b) of the Base Closure Community Redevelopment and Homeless Assistance Act of 1994 (Public Law 103–421; 108 Stat. 4352), as paragraph (11); and

(ii) in such paragraph, as so designated, by striking out "section 501(h)(4) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411(h)(4))" and inserting in lieu thereof "section 501(i)(4) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411(i)(4))".

(2) Section 2921(d)(1) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 10 U.S.C. 2687 note) is amended by striking out "section 204(b)(4)(C)" and inserting in lieu thereof "section 204(b)(7)(C)".

(3) Section 204 of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note) is amended—

(A) in subsection (b)(1)(C), by striking out "of the Administrator to grant approvals and make determinations under section 13(g) of the Surplus Property Act of 1944 (50 U.S.C. App. 1622(g))" and inserting in lieu thereof "to dispose of surplus property for public airports under sections 47151 through 47153 of title 49, United States Code"; and

(B) in subsection (b)(7)(A)(i), by striking out "paragraph (3)" and inserting in lieu thereof "paragraphs (3) through (6)".

(f) PUBLIC LAW 103–421.—Section 2(e)(5) of Public Law 103–421 (108 Stat. 4354) is amended— 10 USC 2687 note.

(1) by striking out "(A)" after "(5)"; and

(2) by striking out "clause" in subparagraph (B)(iv) and inserting in lieu thereof "clauses".

(g) ATOMIC ENERGY ACT.—Section 123a. of the Atomic Energy Act (42 U.S.C. 2153a.) is amended by striking out "144b., or 144d." and inserting ", 144b., or 144d.". 42 USC 2153.

SEC. 1506. COORDINATION WITH OTHER AMENDMENTS. 10 USC 101 note.

For purposes of applying amendments made by provisions of this Act other than provisions of this title, this title shall be treated as having been enacted immediately before the other provisions of this Act.

TITLE XVI—CORPORATION FOR THE PROMOTION OF RIFLE PRACTICE AND FIREARMS SAFETY

Corporation for the Promotion of Rifle Practice and Firearms Safety Act.

SEC. 1601. SHORT TITLE. 36 USC 5501 note.

This title may be cited as the "Corporation for the Promotion of Rifle Practice and Firearms Safety Act".

Subtitle A—Establishment and Operation of Corporation

SEC. 1611. ESTABLISHMENT OF THE CORPORATION. 36 USC 5501.

(a) ESTABLISHMENT.—There is established a private, nonprofit corporation to be known as the "Corporation for the Promotion

of Rifle Practice and Firearms Safety" (in this title referred to as the "Corporation").

(b) PRIVATE, NONPROFIT STATUS.—(1) The Corporation shall not be considered to be a department, agency, or instrumentality of the Federal Government. An officer or employee of the Corporation shall not be considered to be an officer or employee of the Federal Government.

(2) The Corporation shall be operated in a manner and for purposes that qualify the Corporation for exemption from taxation under section 501(a) of the Internal Revenue Code of 1986 as an organization described in section 501(c)(3) of such Code.

(c) BOARD OF DIRECTORS.—(1) The Corporation shall have a Board of Directors consisting of not less than nine members.

(2) The Board of Directors may adopt bylaws, policies, and procedures for the Corporation and may take any other action that the Board of Directors considers necessary for the management and operation of the Corporation.

(3) Each member of the Board of Directors shall serve for a term of two years. Members of the Board of Directors are eligible for reappointment.

(4) A vacancy on the Board of Directors shall be filled by a majority vote of the remaining members of the Board.

(5) The Secretary of the Army shall appoint the initial Board of Directors. Four of the members of the initial Board of Directors, to be designated by the Secretary at the time of appointment, shall (notwithstanding paragraph (3)) serve for a term of one year.

(d) DIRECTOR OF CIVILIAN MARKSMANSHIP.—(1) The Board of Directors shall appoint an individual to serve as the Director of Civilian Marksmanship.

(2) The Director shall be responsible for the performance of the daily operations of the Corporation and the functions described in section 1612.

36 USC 5502.

SEC. 1612. CONDUCT OF CIVILIAN MARKSMANSHIP PROGRAM.

(a) FUNCTIONS.—The Corporation shall have responsibility for the overall supervision, oversight, and control of the Civilian Marksmanship Program, pursuant to the transfer of the program under subsection (d), including the performance of the following:

(1) The instruction of citizens of the United States in marksmanship.

(2) The promotion of practice and safety in the use of firearms, including the conduct of matches and competitions in the use of those firearms.

(3) The award to competitors of trophies, prizes, badges, and other insignia.

(4) The provision of security and accountability for all firearms, ammunition, and other equipment under the custody and control of the Corporation.

(5) The issue, loan, or sale of firearms, ammunition, supplies, and appliances under section 1614.

(6) The procurement of necessary supplies, appliances, clerical services, other related services, and labor to carry out the Civilian Marksmanship Program.

(b) PRIORITY FOR YOUTH ACTIVITIES.—In carrying out the Civilian Marksmanship Program, the Corporation shall give priority to activities that benefit firearms safety, training, and competition for youth and that reach as many youth participants as possible.

(c) ACCESS TO SURPLUS PROPERTY.—(1) The Corporation may obtain surplus property and supplies from the Defense Reutilization Marketing Service to carry out the Civilian Marksmanship Program.

(2) Any transfer of property and supplies to the Corporation under paragraph (1) shall be made without cost to the Corporation.

(d) TRANSFER OF CIVILIAN MARKSMANSHIP PROGRAM TO CORPORATION.—(1) The Secretary of the Army shall provide for the transition of the Civilian Marksmanship Program, as defined in section 4308(e) of title 10, United States Code (as such section was in effect on the day before the date of the enactment of this Act), from conduct by the Department of the Army to conduct by the Corporation. The transition shall be completed not later than September 30, 1996.

(2) To carry out paragraph (1), the Secretary shall provide such assistance and take such action as is necessary to maintain the viability of the program and to maintain the security of firearms, ammunition, and other property that are transferred or reserved for transfer to the Corporation under section 1615, 1616, or 1621.

SEC. 1613. ELIGIBILITY FOR PARTICIPATION IN CIVILIAN MARKSMANSHIP PROGRAM. 36 USC 5503.

(a) CERTIFICATION REQUIREMENT.—(1) Before a person may participate in any activity sponsored or supported by the Corporation, the person shall be required to certify by affidavit the following:

(A) The person has not been convicted of any Federal or State felony or violation of section 922 of title 18, United States Code.

(B) The person is not a member of any organization that advocates the violent overthrow of the United States Government.

(2) The Director of Civilian Marksmanship may require any person to attach to the person's affidavit a certification from the appropriate State or Federal law enforcement agency for purposes of paragraph (1)(A).

(b) INELIGIBILITY RESULTING FROM CERTAIN CONVICTIONS.—A person who has been convicted of a Federal or State felony or a violation of section 922 of title 18, United States Code, shall not be eligible to participate in any activity sponsored or supported by the Corporation through the Civilian Marksmanship Program.

(c) AUTHORITY TO LIMIT PARTICIPATION.—The Director of Civilian Marksmanship may limit participation as necessary to ensure—

(1) quality instruction in the use of firearms;

(2) the safety of participants; and

(3) the security of firearms, ammunition, and equipment.

SEC. 1614. ISSUANCE, LOAN, AND SALE OF FIREARMS AND AMMUNITION BY THE CORPORATION. 36 USC 5504.

(a) ISSUANCE AND LOAN.—For purposes of training and competition, the Corporation may issue or loan, with or without charges to recover administrative costs, caliber .22 rimfire and caliber .30 surplus rifles, caliber .22 and .30 ammunition, air rifles, targets, and other supplies and appliances necessary for activities related to the Civilian Marksmanship Program to the following:

(1) Organizations affiliated with the Corporation that provide training in the use of firearms to youth.

(2) The Boy Scouts of America.

(3) 4–H Clubs.

(4) Future Farmers of America.

(5) Other youth-oriented organizations.

(b) SALES.—(1) The Corporation may sell at fair market value caliber .22 rimfire and caliber .30 surplus rifles, caliber .22 and .30 ammunition, air rifles, repair parts, and accouterments to organizations affiliated with the Corporation that provide training in the use of firearms.

(2) Subject to subsection (e), the Corporation may sell at fair market value caliber .22 rimfire and caliber .30 surplus rifles, ammunition, targets, repair parts and accouterments, and other supplies and appliances necessary for target practice to citizens of the United States over 18 years of age who are members of a gun club affiliated with the Corporation. In addition to any other requirement, the Corporation shall establish procedures to obtain a criminal records check of the person with appropriate Federal and State law enforcement agencies.

Procedures.
Law enforcement and crime.

(c) LIMITATIONS ON SALES.—(1) The Corporation may not offer for sale any repair part designed to convert any firearm to fire in a fully automatic mode.

(2) The Corporation may not sell rifles, ammunition, or any other item available for sale to individuals under the Civilian Marksmanship Program to a person who has been convicted of a felony or a violation of section 922 of title 18, United States Code.

(d) OVERSIGHT AND ACCOUNTABILITY.—The Corporation shall be responsible for ensuring adequate oversight and accountability of all firearms issued or loaned under this section. The Corporation shall prescribe procedures for the security of issued or loaned firearms in accordance with Federal, State, and local laws.

(e) APPLICABILITY OF OTHER LAW.—(1) Subject to paragraph (2), sales under subsection (b)(2) are subject to applicable Federal, State, and local laws.

(2) Paragraphs (1), (2), (3), and (5) of section 922(a) of title 18, United States Code, do not apply to the shipment, transportation, receipt, transfer, sale, issuance, loan, or delivery by the Corporation of any item that the Corporation is authorized to issue, loan, sell, or receive under this title.

36 USC 5505.

SEC. 1615. TRANSFER OF FIREARMS AND AMMUNITION FROM THE ARMY TO THE CORPORATION.

(a) TRANSFERS REQUIRED.—The Secretary of the Army shall, in accordance with subsection (b), transfer to the Corporation all firearms and ammunition that on the day before the date of the enactment of this Act are under the control of the Director of the Civilian Marksmanship Program, including—

(1) all firearms on loan to affiliated clubs and State associations;

(2) all firearms in the possession of the Civilian Marksmanship Support Detachment; and

(3) all M–1 Garand and caliber .22 rimfire rifles stored at Anniston Army Depot, Anniston, Alabama.

(b) TIME FOR TRANSFER.—The Secretary shall transfer firearms and ammunition under subsection (a) as and when necessary to enable the Corporation—

(1) to issue or loan such items in accordance with section 1614(a); or

(2) to sell such items to purchasers in accordance with section 1614(b).

(c) PARTS.—The Secretary may make available to the Corporation any part from a rifle designated to be demilitarized in the inventory of the Department of the Army.

(d) VESTING OF TITLE IN TRANSFERRED ITEMS.—Title to an item transferred to the Corporation under this section shall vest in the Corporation—

(1) upon the issuance of the item to a recipient eligible under section 1614(a) to receive the item; or

(2) immediately before the Corporation delivers the item to a purchaser of the item in accordance with a contract for a sale of the item that is authorized under section 1614(b).

(e) COSTS OF TRANSFERS.—Any transfer of firearms, ammunition, or parts to the Corporation under this section shall be made without cost to the Corporation, except that the Corporation shall assume the cost of preparation and transportation of firearms and ammunition transferred under this section.

SEC. 1616. RESERVATION BY THE ARMY OF FIREARMS AND AMMUNITION FOR THE CORPORATION. 36 USC 5506.

(a) RESERVATION OF FIREARMS AND AMMUNITION.—The Secretary of the Army shall reserve for the Corporation the following:

(1) All firearms referred to in section 1615(a).

(2) Ammunition for such firearms.

(3) All M–16 rifles used to support the small arms firing school that are held by the Department of the Army on the date of the enactment of this Act.

(4) Any parts from, and accessories and accouterments for, surplus caliber .30 and caliber .22 rimfire rifles.

(b) STORAGE OF FIREARMS AND AMMUNITION.—Firearms stored at Anniston Army Depot, Anniston, Alabama, before the date of the enactment of this Act and used for the Civilian Marksmanship Program shall remain at that facility, or another storage facility designated by the Secretary of the Army, without cost to the Corporation, until the firearms are issued, loaned, or sold by, or otherwise transferred to, the Corporation.

(c) LIMITATION ON DEMILITARIZATION OF M–1 RIFLES.—After the date of the enactment of this Act, the Secretary may not demilitarize any M–1 Garand rifle in the inventory of the Army unless that rifle is determined by the Defense Logistics Agency to be unserviceable.

(d) EXCEPTION FOR TRANSFERS TO FEDERAL AND STATE AGENCIES FOR COUNTERDRUG PURPOSES.—The requirement specified in subsection (a) does not supersede the authority provided in section 1208 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 10 U.S.C. 372 note).

SEC. 1617. ARMY LOGISTICAL SUPPORT FOR THE PROGRAM. 36 USC 5507.

(a) LOGISTICAL SUPPORT.—The Secretary of the Army shall provide logistical support to the Civilian Marksmanship Program and for competitions and other activities conducted by the Corporation. The Corporation shall reimburse the Secretary for incremental direct costs incurred in providing such support. Such reimbursements shall be credited to the appropriations account of the Department of the Army that is charged to provide such support.

(b) RESERVE COMPONENT PERSONNEL.—The Secretary shall provide, without cost to the Corporation, for the use of members

of the National Guard and Army Reserve to support the National Matches as part of the performance of annual training pursuant to titles 10 and 32, United States Code.

(c) USE OF DEPARTMENT OF DEFENSE FACILITIES FOR NATIONAL MATCHES.—The National Matches may continue to be held at those Department of Defense facilities at which the National Matches were held before the date of the enactment of this Act.

(d) REGULATIONS.—The Secretary shall prescribe regulations to carry out this section.

36 USC 5508.

SEC. 1618. GENERAL AUTHORITIES OF THE CORPORATION.

(a) DONATIONS AND FEES.—(1) The Corporation may solicit, accept, hold, use, and dispose of donations of money, property, and services received by gift, devise, bequest, or otherwise.

(2) The Corporation may impose, collect, and retain such fees as are reasonably necessary to cover the direct and indirect costs of the Corporation to carry out the Civilian Marksmanship Program.

(3) Amounts collected by the Corporation under the authority of this subsection, including the proceeds from the sale of firearms, ammunition, targets, and other supplies and appliances, may be used only to support the Civilian Marksmanship Program.

(b) CORPORATE SEAL.—The Corporation may adopt, alter, and use a corporate seal, which shall be judicially noticed.

(c) CONTRACTS.—The Corporation may enter into contracts, leases, agreements, or other transactions.

(d) OBLIGATIONS AND EXPENDITURES.—The Corporation may determine the character of, and necessity for, its obligations and expenditures and the manner in which they shall be incurred, allowed, and paid and may incur, allow, and pay such obligations and expenditures.

(e) RELATED AUTHORITY.—The Corporation may take such other actions as are necessary or appropriate to carry out the authority provided in this section.

36 USC 5509.

SEC. 1619. DISTRIBUTION OF CORPORATE ASSETS IN EVENT OF DISSOLUTION.

(a) DISTRIBUTION.—If the Corporation dissolves, then—

(1) upon the dissolution of the Corporation, title to all firearms stored at Anniston Army Depot, Anniston, Alabama, on the date of the dissolution, all M–16 rifles that are transferred to the Corporation under section 1615(a)(2), that are referred to in section 1616(a)(3), or that are otherwise under the control of the Corporation, and all trophies received by the Corporation from the National Board for the Promotion of Rifle Practice as of such date, shall vest in the Secretary of the Army, and the Secretary shall have the immediate right to the possession of such items;

(2) assets of the Corporation, other than assets described in paragraph (1), may be distributed by the Corporation to an organization that—

(A) is exempt from taxation under section 501(a) of the Internal Revenue Code of 1986 as an organization described in section 501(c)(3) of such Code; and

(B) performs functions similar to the functions described in section 1612(a); and

(3) all assets of the Corporation that are not distributed pursuant to paragraphs (1) and (2) shall be sold, and the

proceeds from the sale of such assets shall be deposited in the Treasury.

(b) PROHIBITION.—Assets of the Corporation that are distributed pursuant to the authority of subsection (a) may not be distributed to an individual.

Subtitle B—Transitional Provisions

SEC. 1621. TRANSFER OF FUNDS AND PROPERTY TO THE CORPORATION. 36 USC 5521.

(a) FUNDS.—(1) On the date of the submission of a certification in accordance with section 1623 or, if earlier, October 1, 1996, the Secretary of the Army shall transfer to the Corporation—

(A) the amounts that are available to the National Board for the Promotion of Rifle Practice from sales programs and fees collected in connection with competitions sponsored by the Board; and

(B) all funds that are in the nonappropriated fund account known as the National Match Fund.

(2) The funds transferred under paragraph (1)(A) shall be used to carry out the Civilian Marksmanship Program.

(3) Transfers under paragraph (1)(B) shall be made without cost to the Corporation.

(b) PROPERTY.—The Secretary of the Army shall, as soon as practicable, transfer to the Corporation the following:

(1) All automated data equipment, all other office equipment, targets, target frames, vehicles, and all other property under the control of the Director of Civilian Marksmanship and the Civilian Marksmanship Support Detachment on the day before the date of the enactment of this Act (other than property to which section 1615(a) applies).

(2) Title to property under the control of the National Match Fund on such day.

(3) All supplies and appliances under the control of the Director of the Civilian Marksmanship Program on such day.

(c) OFFICES.—The Corporation may use the office space of the Office of the Director of Civilian Marksmanship until the date on which the Secretary of the Army completes the transfer of the Civilian Marksmanship Program to the Corporation. The Corporation shall assume control of the leased property occupied as of the date of the enactment of this Act by the Civilian Marksmanship Support Detachment, located at the Erie Industrial Park, Port Clinton, Ohio.

(d) COSTS OF TRANSFERS.—Any transfer of items to the Corporation under this section shall be made without cost to the Corporation.

SEC. 1622. CONTINUATION OF ELIGIBILITY FOR CERTAIN CIVIL SERVICE BENEFITS FOR FORMER FEDERAL EMPLOYEES OF CIVILIAN MARKSMANSHIP PROGRAM. 36 USC 5522.

(a) CONTINUATION OF ELIGIBILITY.—Notwithstanding any other provision of law, a Federal employee who is employed by the Department of Defense to support the Civilian Marksmanship Program as of the day before the date of the transfer of the Program to the Corporation and is offered employment by the Corporation as part of the transition described in section 1612(d) may, if the

employee becomes employed by the Corporation, continue to be eligible during continuous employment with the Corporation for the Federal health, retirement, and similar benefits (including life insurance) for which the employee would have been eligible had the employee continued to be employed by the Department of Defense. The employer's contribution for such benefits shall be paid by the Corporation.

(b) REGULATIONS.—The Director of the Office of Personnel Management shall prescribe regulations to carry out subsection (a).

36 USC 5523.

SEC. 1623. CERTIFICATION OF COMPLETION OF TRANSITION.

(a) CERTIFICATION REQUIREMENT.—Upon completion of the appointment of the Board of Directors for the Corporation under section 1611(c)(5) and of the transition required under section 1612(d), the Secretary of the Army shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a certification of the completion of such actions.

Federal Register, publication.

(b) PUBLICATION OF CERTIFICATION.—The Secretary shall take such actions as are necessary to ensure that the certification is published in the Federal Register promptly after the submission of the certification under subsection (a).

SEC. 1624. REPEAL OF AUTHORITY FOR CONDUCT OF CIVILIAN MARKSMANSHIP PROGRAM BY THE ARMY.

(a) REPEALS.—(1) Sections 4307, 4308, 4310, and 4311 of title 10, United States Code, are repealed.

(2) The table of sections at the beginning of chapter 401 of such title is amended by striking out the items relating to sections 4307, 4308, 4310, and 4311.

(b) CONFORMING AMENDMENTS.—(1) Section 4313 of title 10, United States Code, is amended—

(A) by striking out subsection (b); and

(B) in subsection (a)—

(i) by striking out "(a) JUNIOR COMPETITORS.—" and inserting in lieu thereof "(a) ALLOWANCES FOR PARTICIPATION OF JUNIOR COMPETITORS.—"; and

(ii) in paragraph (3), by striking out "(3) For the purposes of this subsection" and inserting in lieu thereof "(b) JUNIOR COMPETITOR DEFINED.—For the purposes of subsection (a)".

(2) Section 4316 of such title is amended by striking out ", including fees charged and amounts collected pursuant to subsections (b) and (c) of section 4308,".

(3) Section 925(a)(2)(A) of title 18, United States Code, is amended by inserting after "section 4308 of title 10" the following: "before the repeal of such section by section 1624(a) of the Corporation for the Promotion of Rifle Practice and Firearms Safety Act".

10 USC 4313 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the earlier of—

(1) the date on which the Secretary of the Army submits a certification in accordance with section 1623; or

(2) October 1, 1996.

(2) For military construction projects outside the United States authorized by section 2101(b), $102,550,000.

(3) For unspecified minor military construction projects authorized by section 2805 of title 10, United States Code, $9,000,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $34,194,000.

(5) For military family housing functions:

(A) For construction and acquisition, planning and design, and improvements of military family housing and facilities, $116,656,000.

(B) For support of military family housing (including the functions described in section 2833 of title 10, United States Code), $1,337,596,000.

(6) For the Homeowners Assistance Program, as authorized by section 2832 of title 10, United States Code, $75,586,000, to remain available until expended.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2101 of this Act may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

(c) ADJUSTMENT.—The total amount authorized to be appropriated pursuant to paragraphs (1) through (6) of subsection (a) is the sum of the amounts authorized to be appropriated in such paragraphs, reduced by $6,385,000, which represents the combination of project savings resulting from favorable bids, reduced overhead costs, and cancellations due to force structure changes.

TITLE XXII—NAVY

SEC. 2201. AUTHORIZED NAVY CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(1), and, in the case of the project described in section 2204(b)(2), other amounts appropriated pursuant to authorizations enacted after this Act for that project, the Secretary of the Navy may acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

Navy: Inside the United States

State	Installation or location	Amount
California	Marine Corps Air-Ground Combat Center, Twentynine Palms	$2,490,000
	Marine Corps Base, Camp Pendleton	$27,584,000
	Naval Command, Control, and Ocean Surveillance Center, San Diego	$3,170,000
	Naval Air Station, Lemoore	$7,600,000
	Naval Air Station, North Island	$99,150,000
	Naval Air Warfare Center Weapons Division, China Lake	$3,700,000

(b) PLANNING AND DESIGN.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(5)(A), the Secretary of the Navy may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of military family housing units in an amount not to exceed $24,390,000.

SEC. 2203. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(5)(A), the Secretary of the Navy may improve existing military family housing units in an amount not to exceed $290,831,000.

SEC. 2204. AUTHORIZATION OF APPROPRIATIONS, NAVY.

(a) IN GENERAL.—Subject to subsection (c), funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1995, for military construction, land acquisition, and military family housing functions of the Department of the Navy in the total amount of $2,119,317,000 as follows:

(1) For military construction projects inside the United States authorized by section 2201(a), $427,709,000.

(2) For military construction projects outside the United States authorized by section 2201(b), $69,250,000.

(3) For unspecified minor construction projects authorized by section 2805 of title 10, United States Code, $7,200,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $50,515,000.

(5) For military family housing functions:

(A) For construction and acquisition, planning and design, and improvement of military family housing and facilities, $522,699,000.

(B) For support of military housing (including functions described in section 2833 of title 10, United States Code), $1,048,329,000.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2201 of this Act may not exceed—

(1) the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a); and

(2) $7,700,000 (the balance of the amount authorized under section 2201(a) for the construction of a bachelor enlisted quarters at the Naval Construction Batallion Center, Port Hueneme, California).

(c) ADJUSTMENT.—The total amount authorized to be appropriated pursuant to paragraphs (1) through (5) of subsection (a) is the sum of the amounts authorized to be appropriated in such paragraphs, reduced by $6,385,000, which represents the combination of project savings resulting from favorable bids, reduced overhead costs, and cancellations due to force structure changes.

SEC. 2205. REVISION OF FISCAL YEAR 1995 AUTHORIZATION OF APPROPRIATIONS TO CLARIFY AVAILABILITY OF FUNDS FOR LARGE ANECHOIC CHAMBER FACILITY, PATUXENT RIVER NAVAL WARFARE CENTER, MARYLAND.

Section 2204(a) of the Military Construction Authorization Act for Fiscal Year 1995 (division B of Public Law 103–337; 108 Stat. 3033) is amended—

(1) in the matter preceding paragraph (1), by striking out "$1,591,824,000" and inserting in lieu thereof "$1,601,824,000"; and

(2) by adding at the end the following:

"(6) For the construction of the large anechoic chamber facility at the Patuxent River Naval Warfare Center, Aircraft Division, Maryland, authorized by section 2201(a) of the Military Construction Authorization Act for Fiscal Year 1993 (division B of Public Law 102–484; 106 Stat. 2590), $10,000,000.".

SEC. 2206. AUTHORITY TO CARRY OUT LAND ACQUISITION PROJECT, HAMPTON ROADS, VIRGINIA.

The table in section 2201(a) of the Military Construction Authorization Act for Fiscal Year 1993 (division B of Public Law 102–484; 106 Stat. 2589) is amended—

(1) in the item relating to Damneck, Fleet Combat Training Center, Virginia, by striking out "$19,427,000" in the amount column and inserting in lieu thereof "$14,927,000"; and

(2) by inserting after the item relating to Damneck, Fleet Combat Training Center, Virginia, the following new item:

	Hampton Roads	$4,500,000

SEC. 2207. ACQUISITION OF LAND, HENDERSON HALL, ARLINGTON, VIRGINIA.

(a) AUTHORITY TO ACQUIRE.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(1), the Secretary of the Navy may acquire all right, title, and interest of any party in and to a parcel of real property, including an abandoned mausoleum, consisting of approximately 0.75 acres and located in Arlington, Virginia, the site of Henderson Hall.

(b) DEMOLITION OF MAUSOLEUM.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(1), the Secretary may—

(1) demolish the mausoleum located on the parcel acquired under subsection (a); and

(2) provide for the removal and disposition in an appropriate manner of the remains contained in the mausoleum.

(c) AUTHORITY TO DESIGN PUBLIC WORKS FACILITY.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(1), the Secretary may obtain architectural and engineering services and construction design for a warehouse and office facility for the Marine Corps to be constructed on the property acquired under subsection (a).

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property authorized to be acquired under subsection (a) shall be determined by a survey that is satisfactory to the Secretary. The cost of the survey shall be borne by the Secretary.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the acquisition under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2208. ACQUISITION OR CONSTRUCTION OF MILITARY FAMILY HOUSING IN VICINITY OF SAN DIEGO, CALIFORNIA.

(a) AUTHORITY TO USE LITIGATION PROCEEDS.—Upon final settlement in the case of Rossmoor Liquidating Trust against United States, in the United States District Court for the Central District of California (Case No. CV 82–0956 LEW (Px)), the Secretary of the Treasury shall deposit in a separate account any funds paid to the United States in settlement of such case. At the request of the Secretary of the Navy, the Secretary of the Treasury shall make available amounts in the account to the Secretary of the Navy solely for the acquisition or construction of military family housing, including the acquisition of land necessary for such acquisition or construction, for members of the Armed Forces and their dependents stationed in, or in the vicinity of, San Diego, California. In using amounts in the account, the Secretary of the Navy may use the authorities provided in subchapter IV of chapter 169 of title 10, United States Code, as added by section 2801 of this Act.

(b) UNITS AUTHORIZED.—Not more than 150 military family housing units may be acquired or constructed with funds referred to in subsection (a). The units authorized by this subsection are in addition to any other units of military family housing authorized to be acquired or constructed in, or in the vicinity of, San Diego, California.

(c) PAYMENT OF EXCESS INTO TREASURY.—The Secretary of the Treasury shall deposit into the Treasury as miscellaneous receipts funds referred to in subsection (a) that have not been obligated for construction under this section within four years after receipt thereof.

(d) LIMITATION.—The Secretary may not enter into any contract for the acquisition or construction of military family housing under this section until after the expiration of the 21-day period beginning on the day after the day on which the Secretary transmits to the congressional defense committees a report containing the details of such contract.

(e) REPEAL OF EXISTING AUTHORITY.—Section 2848 of the Military Construction Authorization Act for Fiscal Years 1990 and 1991 (division B of Public Law 101–189; 103 Stat. 1666) is repealed.

TITLE XXIII—AIR FORCE

SEC. 2301. AUTHORIZED AIR FORCE CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(1), and, in the case of the project described in section 2304(b)(2), other amounts appropriated pursuant to authorizations enacted after this Act for that project, the Secretary of the Air Force may acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

may improve existing military family housing units in an amount not to exceed $90,959,000.

SEC. 2304. AUTHORIZATION OF APPROPRIATIONS, AIR FORCE.

(a) IN GENERAL.—Subject to subsection (c), funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1995, for military construction, land acquisition, and military family housing functions of the Department of the Air Force in the total amount of $1,735,086,000 as follows:

(1) For military construction projects inside the United States authorized by section 2301(a), $504,690,000.

(2) For military construction projects outside the United States authorized by section 2301(b), $49,400,000.

(3) For unspecified minor construction projects authorized by section 2805 of title 10, United States Code, $9,030,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $30,835,000.

(5) For military housing functions:

(A) For construction and acquisition, planning and design and improvement of military family housing and facilities, $298,303,000.

(B) For support of military family housing (including the functions described in section 2833 of title 10, United States Code), $849,213,000.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2301 of this Act may not exceed—

(1) the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a); and

(2) $5,400,000 (the balance of the amount authorized under section 2301(a) for the construction of a corrosion control facility at Tinker Air Force Base, Oklahoma).

(c) ADJUSTMENT.—The total amount authorized to be appropriated pursuant to paragraphs (1) through (5) of subsection (a) is the sum of the amounts authorized to be appropriated in such paragraphs, reduced by $6,385,000, which represents the combination of project savings resulting from favorable bids, reduced overhead costs, and cancellations due to force structure changes.

SEC. 2305. RETENTION OF ACCRUED INTEREST ON FUNDS DEPOSITED FOR CONSTRUCTION OF FAMILY HOUSING, SCOTT AIR FORCE BASE, ILLINOIS.

(a) RETENTION OF INTEREST.—Section 2310 of the Military Construction Authorization Act for Fiscal Year 1994 (division B of Public Law 103–160; 107 Stat. 1874) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following new subsection:

"(b) RETENTION OF INTEREST.—Interest accrued on the funds transferred to the County pursuant to subsection (a) shall be retained in the same account as the transferred funds and shall be available to the County for the same purpose as the transferred funds.".

(1) For military construction projects inside the United States authorized by section 2401(a), $329,599,000.

(2) For military construction projects outside the United States authorized by section 2401(b), $54,877,000.

(3) For military construction projects at Portsmouth Naval Hospital, Virginia, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Years 1990 and 1991 (division B of Public Law 101–189; 103 Stat. 1640), $47,900,000.

(4) For military construction projects at Elmendorf Air Force Base, Alaska, hospital replacement, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Year 1993 (division B of Public Law 102–484; 106 Stat. 2599), $28,100,000.

(5) For military construction projects at Walter Reed Army Institute of Research, Maryland, hospital replacement, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Year 1993 (division B of Public Law 102–484; 106 Stat. 2599), $27,000,000.

(6) For unspecified minor construction projects under section 2805 of title 10, United States Code, $23,007,000.

(7) For contingency construction projects of the Secretary of Defense under section 2804 of title 10, United States Code, $11,037,000.

(8) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $68,837,000.

(9) For energy conservation projects authorized by section 2404, $40,000,000.

(10) For base closure and realignment activities as authorized by the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note), $3,897,892,000.

(11) For military family housing functions:

(A) For construction and acquisition and improvement of military family housing and facilities, $25,772,000.

(B) For support of military housing (including functions described in section 2833 of title 10, United States Code), $40,467,000, of which not more than $24,874,000 may be obligated or expended for the leasing of military family housing units worldwide.

(b) LIMITATION OF TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variation authorized by section 2853 of title 10, United States Code, and any other cost variations authorized by law, the total cost of all projects carried out under section 2401 of this Act may not exceed—

(1) the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a); and

(2) $35,003,000 (the balance of the amount authorized under section 2401(a) for the construction of a center of the Defense Finance and Accounting Service at Columbus, Ohio).

SEC. 2406. LIMITATIONS ON USE OF DEPARTMENT OF DEFENSE BASE CLOSURE ACCOUNT 1990.

(a) SET ASIDE FOR 1995 ROUND.—Of the amounts appropriated pursuant to the authorization of appropriations in section 2405(a)(10), $784,569,000 shall be available only for the purposes described in section 2905 of the Defense Base Closure and Realign-

ment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) with respect to military installations approved for closure or realignment in 1995.

(b) CONSTRUCTION.—Amounts appropriated pursuant to the authorization of appropriations in section 2405(a)(10) may not be obligated to carry out a construction project with respect to military installations approved for closure or realignment in 1995 until after the date on which the Secretary of Defense submits to Congress a five-year program for executing the 1995 base realignment and closure plan. The limitation contained in this subsection shall not prohibit site surveys, environmental baseline surveys, environmental analysis under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and planning and design work conducted in anticipation of such construction.

SEC. 2407. MODIFICATION OF AUTHORITY TO CARRY OUT FISCAL YEAR 1995 PROJECTS.

The table in section 2401 of the Military Construction Authorization Act for Fiscal Year 1995 (division B of Public Law 103–337; 108 Stat. 3040), under the agency heading relating to Chemical Weapons and Munitions Destruction, is amended—

(1) in the item relating to Pine Bluff Arsenal, Arkansas, by striking out "$3,000,000" in the amount column and inserting in lieu thereof "$115,000,000"; and

(2) in the item relating to Umatilla Army Depot, Oregon, by striking out "$12,000,000" in the amount column and inserting in lieu thereof "$186,000,000".

SEC. 2408. REDUCTION IN AMOUNTS AUTHORIZED TO BE APPROPRIATED FOR FISCAL YEAR 1994 CONTINGENCY CONSTRUCTION PROJECTS.

Section 2403(a) of the Military Construction Authorization Act for Fiscal Year 1994 (division B of Public Law 103–160; 107 Stat. 1876) is amended—

(1) in the matter preceding paragraph (1), by striking out "$3,268,394,000" and inserting in lieu thereof "$3,260,263,000"; and

(2) in paragraph (10), by striking out "$12,200,000" and inserting in lieu thereof "$4,069,000".

TITLE XXV—NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

SEC. 2501. AUTHORIZED NATO CONSTRUCTION AND LAND ACQUISITION PROJECTS.

The Secretary of Defense may make contributions for the North Atlantic Treaty Organization Infrastructure program as provided in section 2806 of title 10, United States Code, in an amount not to exceed the sum of the amount authorized to be appropriated for this purpose in section 2502 and the amount collected from the North Atlantic Treaty Organization as a result of construction previously financed by the United States.

SEC. 2502. AUTHORIZATION OF APPROPRIATIONS, NATO.

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1995, for contributions by the Sec-

retary of Defense under section 2806 of title 10, United States Code, for the share of the United States of the cost of projects for the North Atlantic Treaty Organization Infrastructure program, as authorized by section 2501, in the amount of $161,000,000.

TITLE XXVI—GUARD AND RESERVE FORCES FACILITIES

SEC. 2601. AUTHORIZED GUARD AND RESERVE CONSTRUCTION AND LAND ACQUISITION PROJECTS.

There are authorized to be appropriated for fiscal years beginning after September 30, 1995, for the costs of acquisition, architectural and engineering services, and construction of facilities for the Guard and Reserve Forces, and for contributions therefor, under chapter 133 of title 10, United States Code (including the cost of acquisition of land for those facilities), the following amounts:

(1) For the Department of the Army—

(A) for the Army National Guard of the United States, $134,802,000; and

(B) for the Army Reserve, $73,516,000.

(2) For the Department of the Navy, for the Naval and Marine Corps Reserve, $19,055,000.

(3) For the Department of the Air Force—

(A) for the Air National Guard of the United States, $170,917,000; and

(B) for the Air Force Reserve, $36,232,000.

SEC. 2602. REDUCTION IN AMOUNT AUTHORIZED TO BE APPROPRIATED FOR FISCAL YEAR 1994 AIR NATIONAL GUARD PROJECTS.

Section 2601(3)(A) of the Military Construction Authorization Act for Fiscal Year 1994 (division B of Public Law 103–160; 107 Stat. 1878) is amended by striking out "$236,341,000" and inserting in lieu thereof "$229,641,000".

SEC. 2603. CORRECTION IN AUTHORIZED USES OF FUNDS FOR ARMY NATIONAL GUARD PROJECTS IN MISSISSIPPI.

(a) IN GENERAL.—Subject to subsection (b), amounts appropriated pursuant to the authorization of appropriations in section 2601(1)(A) of the Military Construction Authorization Act for Fiscal Year 1994 (division B of Public Law 103–160; 107 Stat. 1878) for the addition or alteration of Army National Guard Armories at various locations in the State of Mississippi shall be available for the addition, alteration, or new construction of armory facilities and an operation and maintenance shop facility (including the acquisition of land for such facilities) at various locations in the State of Mississippi.

Reports.

(b) NOTICE AND WAIT.—The amounts referred to in subsection (a) shall not be available for construction with respect to a facility referred to in that subsection until 21 days after the date on which the Secretary of the Army submits to Congress a report describing the construction (including any land acquisition) to be carried out with respect to the facility.

TITLE XXVIII—GENERAL PROVISIONS

Subtitle A—Military Housing Privatization Initiative

SEC. 2801. ALTERNATIVE AUTHORITY FOR CONSTRUCTION AND IMPROVEMENT OF MILITARY HOUSING.

(a) ALTERNATIVE AUTHORITY TO CONSTRUCT AND IMPROVE MILITARY HOUSING.—(1) Chapter 169 of title 10, United States Code, is amended by adding at the end the following new subchapter:

"SUBCHAPTER IV—ALTERNATIVE AUTHORITY FOR ACQUISITION AND IMPROVEMENT OF MILITARY HOUSING

"Sec.
"2871. Definitions.
"2872. General authority.
"2873. Direct loans and loan guarantees.
"2874. Leasing of housing to be constructed.
"2875. Investments in nongovernmental entities.
"2876. Rental guarantees.
"2877. Differential lease payments.
"2878. Conveyance or lease of existing property and facilities.
"2879. Interim leases.
"2880. Unit size and type.
"2881. Ancillary supporting facilities.
"2882. Assignment of members of the armed forces to housing units.
"2883. Department of Defense Housing Funds.
"2884. Reports.
"2885. Expiration of authority.

"§ 2871. Definitions

"In this subchapter:

"(1) The term 'ancillary supporting facilities' means facilities related to military housing units, including child care centers, day care centers, tot lots, community centers, housing offices, dining facilities, unit offices, and other similar facilities for the support of military housing.

"(2) The term 'base closure law' means the following:

"(A) Section 2687 of this title.

"(B) Title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note).

"(C) The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note).

"(3) The term 'construction' means the construction of military housing units and ancillary supporting facilities or the improvement or rehabilitation of existing units or ancillary supporting facilities.

"(4) The term 'contract' includes any contract, lease, or other agreement entered into under the authority of this subchapter.

"(5) The term 'Fund' means the Department of Defense Family Housing Improvement Fund or the Department of Defense Military Unaccompanied Housing Improvement Fund established under section 2883(a) of this title.

"(6) The term 'military unaccompanied housing' means military housing intended to be occupied by members of the armed forces serving a tour of duty unaccompanied by dependents.

"(7) The term 'United States' includes the Commonwealth of Puerto Rico.

"§ 2872. General authority

"In addition to any other authority provided under this chapter for the acquisition or construction of military family housing or military unaccompanied housing, the Secretary concerned may exercise any authority or any combination of authorities provided under this subchapter in order to provide for the acquisition or construction by private persons of the following:

"(1) Family housing units on or near military installations within the United States and its territories and possessions.

"(2) Military unaccompanied housing units on or near such military installations.

"§ 2873. Direct loans and loan guarantees

"(a) DIRECT LOANS.—(1) Subject to subsection (c), the Secretary concerned may make direct loans to persons in the private sector in order to provide funds to such persons for the acquisition or construction of housing units that the Secretary determines are suitable for use as military family housing or as military unaccompanied housing.

"(2) The Secretary concerned shall establish such terms and conditions with respect to loans made under this subsection as the Secretary considers appropriate to protect the interests of the United States, including the period and frequency for repayment of such loans and the obligations of the obligors on such loans upon default.

"(b) LOAN GUARANTEES.—(1) Subject to subsection (c), the Secretary concerned may guarantee a loan made to any person in the private sector if the proceeds of the loan are to be used by the person to acquire, or construct housing units that the Secretary determines are suitable for use as military family housing or as military unaccompanied housing.

"(2) The amount of a guarantee on a loan that may be provided under paragraph (1) may not exceed the amount equal to the lesser of—

"(A) the amount equal to 80 percent of the value of the project; or

"(B) the amount of the outstanding principal of the loan.

"(3) The Secretary concerned shall establish such terms and conditions with respect to guarantees of loans under this subsection as the Secretary considers appropriate to protect the interests of the United States, including the rights and obligations of obligors of such loans and the rights and obligations of the United States with respect to such guarantees.

"(c) LIMITATION ON DIRECT LOAN AND GUARANTEE AUTHORITY.—Direct loans and loan guarantees may be made under this section only to the extent that appropriations of budget authority to cover their cost (as defined in section 502(5) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a(5))) are made in advance, or authority is otherwise provided in appropriation Acts. If such appropriation or other authority is provided, there may be established a financing account (as defined in section 502(7) of such Act (2 U.S.C. 661a(7))), which shall be available for the disbursement of direct loans or payment of claims for payment on loan guarantees under this

section and for all other cash flows to and from the Government as a result of direct loans and guarantees made under this section.

"§ 2874. Leasing of housing to be constructed

"(a) BUILD AND LEASE AUTHORIZED.—The Secretary concerned may enter into contracts for the lease of military family housing units or military unaccompanied housing units to be constructed under this subchapter.

"(b) LEASE TERMS.—A contract under this section may be for any period that the Secretary concerned determines appropriate and may provide for the owner of the leased property to operate and maintain the property.

"§ 2875. Investments in nongovernmental entities

"(a) INVESTMENTS AUTHORIZED.—The Secretary concerned may make investments in nongovernmental entities carrying out projects for the acquisition or construction of housing units suitable for use as military family housing or as military unaccompanied housing.

"(b) FORMS OF INVESTMENT.—An investment under this section may take the form of an acquisition of a limited partnership interest by the United States, a purchase of stock or other equity instruments by the United States, a purchase of bonds or other debt instruments by the United States, or any combination of such forms of investment.

"(c) LIMITATION ON VALUE OF INVESTMENT.—(1) The cash amount of an investment under this section in a nongovernmental entity may not exceed an amount equal to 33⅓ percent of the capital cost (as determined by the Secretary concerned) of the project or projects that the entity proposes to carry out under this section with the investment.

"(2) If the Secretary concerned conveys land or facilities to a nongovernmental entity as all or part of an investment in the entity under this section, the total value of the investment by the Secretary under this section may not exceed an amount equal to 45 percent of the capital cost (as determined by the Secretary) of the project or projects that the entity proposes to carry out under this section with the investment.

"(3) In this subsection, the term 'capital cost', with respect to a project for the acquisition or construction of housing, means the total amount of the costs included in the basis of the housing for Federal income tax purposes.

"(d) COLLATERAL INCENTIVE AGREEMENTS.—The Secretary concerned shall enter into collateral incentive agreements with nongovernmental entities in which the Secretary makes an investment under this section to ensure that a suitable preference will be afforded members of the armed forces and their dependents in the lease or purchase, as the case may be, of a reasonable number of the housing units covered by the investment.

"§ 2876. Rental guarantees

"The Secretary concerned may enter into agreements with private persons that acquire or construct military family housing units or military unaccompanied housing units under this subchapter in order to assure—

"(1) the occupancy of such units at levels specified in the agreements; or

"(2) rental income derived from rental of such units at levels specified in the agreements.

"§ 2877. Differential lease payments

"Pursuant to an agreement entered into by the Secretary concerned and a private lessor of military family housing or military unaccompanied housing to members of the armed forces, the Secretary may pay the lessor an amount in addition to the rental payments for the housing made by the members as the Secretary determines appropriate to encourage the lessor to make the housing available to members of the armed forces as military family housing or as military unaccompanied housing.

"§ 2878. Conveyance or lease of existing property and facilities

"(a) CONVEYANCE OR LEASE AUTHORIZED.—The Secretary concerned may convey or lease property or facilities (including ancillary supporting facilities) to private persons for purposes of using the proceeds of such conveyance or lease to carry out activities under this subchapter.

"(b) INAPPLICABILITY TO PROPERTY AT INSTALLATION APPROVED FOR CLOSURE.—The authority of this section does not apply to property or facilities located on or near a military installation approved for closure under a base closure law.

"(c) TERMS AND CONDITIONS.—(1) The conveyance or lease of property or facilities under this section shall be for such consideration and upon such terms and conditions as the Secretary concerned considers appropriate for the purposes of this subchapter and to protect the interests of the United States.

"(2) As part or all of the consideration for a conveyance or lease under this section, the purchaser or lessor (as the case may be) shall enter into an agreement with the Secretary to ensure that a suitable preference will be afforded members of the armed forces and their dependents in the lease or sublease of a reasonable number of the housing units covered by the conveyance or lease, as the case may be, or in the lease of other suitable housing units made available by the purchaser or lessee.

"(d) INAPPLICABILITY OF CERTAIN PROPERTY MANAGEMENT LAWS.—The conveyance or lease of property or facilities under this section shall not be subject to the following provisions of law:

"(1) Section 2667 of this title.

"(2) The Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.).

"(3) Section 321 of the Act of June 30, 1932 (commonly known as the Economy Act) (40 U.S.C. 303b).

"(4) Section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11401).

"§ 2879. Interim leases

"Pending completion of a project to acquire or construct military family housing units or military unaccompanied housing units under this subchapter, the Secretary concerned may provide for the interim lease of such units of the project as are complete. The term of a lease under this section may not extend beyond the date of the completion of the project concerned.

"§ 2880. Unit size and type

"(a) CONFORMITY WITH SIMILAR HOUSING UNITS IN LOCALE.—The Secretary concerned shall ensure that the room patterns and floor areas of military family housing units and military unaccompanied housing units acquired or constructed under this subchapter are generally comparable to the room patterns and floor areas of similar housing units in the locality concerned.

"(b) INAPPLICABILITY OF LIMITATIONS ON SPACE BY PAY GRADE.—(1) Section 2826 of this title shall not apply to military family housing units acquired or constructed under this subchapter.

"(2) The regulations prescribed under section 2856 of this title shall not apply to any military unaccompanied housing unit acquired or constructed under this subchapter unless the unit is located on a military installation.

"§ 2881. Ancillary supporting facilities

"Any project for the acquisition or construction of military family housing units or military unaccompanied housing units under this subchapter may include the acquisition or construction of ancillary supporting facilities for the housing units concerned.

"§ 2882. Assignment of members of the armed forces to housing units

"(a) IN GENERAL.—The Secretary concerned may assign members of the armed forces to housing units acquired or constructed under this subchapter.

"(b) EFFECT OF CERTAIN ASSIGNMENTS ON ENTITLEMENT TO HOUSING ALLOWANCES.—(1) Except as provided in paragraph (2), housing referred to in subsection (a) shall be considered as quarters of the United States or a housing facility under the jurisdiction of a uniformed service for purposes of section 403(b) of title 37.

"(2) A member of the armed forces who is assigned in accordance with subsection (a) to a housing unit not owned or leased by the United States shall be entitled to a basic allowance for quarters under section 403 of title 37 and, if in a high housing cost area, a variable housing allowance under section 403a of that title.

"(c) LEASE PAYMENTS THROUGH PAY ALLOTMENTS.—The Secretary concerned may require members of the armed forces who lease housing in housing units acquired or constructed under this subchapter to make lease payments for such housing pursuant to allotments of the pay of such members under section 701 of title 37.

"§ 2883. Department of Defense Housing Funds

"(a) ESTABLISHMENT.—There are hereby established on the books of the Treasury the following accounts:

"(1) The Department of Defense Family Housing Improvement Fund.

"(2) The Department of Defense Military Unaccompanied Housing Improvement Fund.

"(b) COMMINGLING OF FUNDS PROHIBITED.—(1) The Secretary of Defense shall administer each Fund separately.

"(2) Amounts in the Department of Defense Family Housing Improvement Fund may be used only to carry out activities under this subchapter with respect to military family housing.

"(3) Amounts in the Department of Defense Military Unaccompanied Housing Improvement Fund may be used only to carry out activities under this subchapter with respect to military unaccompanied housing.

"(c) CREDITS TO FUNDS.—(1) There shall be credited to the Department of Defense Family Housing Improvement Fund the following:

"(A) Amounts authorized for and appropriated to that Fund.

"(B) Subject to subsection (f), any amounts that the Secretary of Defense transfers, in such amounts as provided in appropriation Acts, to that Fund from amounts authorized and appropriated to the Department of Defense for the acquisition or construction of military family housing.

"(C) Proceeds from the conveyance or lease of property or facilities under section 2878 of this title for the purpose of carrying out activities under this subchapter with respect to military family housing.

"(D) Income derived from any activities under this subchapter with respect to military family housing, including interest on loans made under section 2873 of this title, income and gains realized from investments under section 2875 of this title, and any return of capital invested as part of such investments.

"(2) There shall be credited to the Department of Defense Military Unaccompanied Housing Improvement Fund the following:

"(A) Amounts authorized for and appropriated to that Fund.

"(B) Subject to subsection (f), any amounts that the Secretary of Defense transfers, in such amounts as provided in appropriation Acts, to that Fund from amounts authorized and appropriated to the Department of Defense for the acquisition or construction of military unaccompanied housing.

"(C) Proceeds from the conveyance or lease of property or facilities under section 2878 of this title for the purpose of carrying out activities under this subchapter with respect to military unaccompanied housing.

"(D) Income derived from any activities under this subchapter with respect to military unaccompanied housing, including interest on loans made under section 2873 of this title, income and gains realized from investments under section 2875 of this title, and any return of capital invested as part of such investments.

"(d) USE OF AMOUNTS IN FUNDS.—(1) In such amounts as provided in appropriation Acts and except as provided in subsection (e), the Secretary of Defense may use amounts in the Department of Defense Family Housing Improvement Fund to carry out activities under this subchapter with respect to military family housing, including activities required in connection with the planning, execution, and administration of contracts entered into under the authority of this subchapter.

"(2) In such amounts as provided in appropriation Acts and except as provided in subsection (e), the Secretary of Defense may use amounts in the Department of Defense Military Unaccompanied Housing Improvement Fund to carry out activities under this subchapter with respect to military unaccompanied housing, including activities required in connection with the planning, execution, and administration of contracts entered into under the authority of this subchapter.

"(3) Amounts made available under this subsection shall remain available until expended. The Secretary of Defense may transfer amounts made available under this subsection to the Secretaries of the military departments to permit such Secretaries to carry out the activities for which such amounts may be used.

"(e) LIMITATION ON OBLIGATIONS.—The Secretary may not incur an obligation under a contract or other agreement entered into under this subchapter in excess of the unobligated balance, at the time the contract is entered into, of the Fund required to be used to satisfy the obligation.

"(f) NOTIFICATION REQUIRED FOR TRANSFERS.—A transfer of appropriated amounts to a Fund under paragraph (1)(B) or (2)(B) of subsection (c) may be made only after the end of the 30-day period beginning on the date the Secretary of Defense submits written notice of, and justification for, the transfer to the appropriate committees of Congress.

"(g) LIMITATION ON AMOUNT OF BUDGET AUTHORITY.—The total value in budget authority of all contracts and investments undertaken using the authorities provided in this subchapter shall not exceed—

"(1) $850,000,000 for the acquisition or construction of military family housing; and

"(2) $150,000,000 for the acquisition or construction of military unaccompanied housing.

"§ 2884. Reports

"(a) PROJECT REPORTS.—(1) The Secretary of Defense shall transmit to the appropriate committees of Congress a report describing—

"(A) each contract for the acquisition or construction of family housing units or unaccompanied housing units that the Secretary proposes to solicit under this subchapter; and

"(B) each conveyance or lease proposed under section 2878 of this title.

"(2) The report shall describe the proposed contract, conveyance, or lease and the intended method of participation of the United States in the contract, conveyance, or lease and provide a justification of such method of participation. The report shall be submitted not later than 30 days before the date on which the Secretary issues the contract solicitation or offers the conveyance or lease.

"(b) ANNUAL REPORTS.—The Secretary of Defense shall include each year in the materials that the Secretary submits to Congress in support of the budget submitted by the President pursuant to section 1105 of title 31 the following:

"(1) A report on the expenditures and receipts during the preceding fiscal year covering the Funds established under section 2883 of this title.

"(2) A methodology for evaluating the extent and effectiveness of the use of the authorities under this subchapter during such preceding fiscal year.

"(3) A description of the objectives of the Department of Defense for providing military family housing and military unaccompanied housing for members of the armed forces.

"§ 2885. Expiration of authority

"The authority to enter into a contract under this subchapter shall expire five years after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1996.".

(2) The table of subchapters at the beginning of such chapter is amended by inserting after the item relating to subchapter III the following new item:

"IV. Alternative Authority for Acquisition and Improvement of Military Housing ..... 2871".

(b) FINAL REPORT.—Not later than March 1, 2000, the Secretary of Defense shall submit to the congressional defense committees a report on the use by the Secretary of Defense and the Secretaries of the military departments of the authorities provided by subchapter IV of chapter 169 of title 10, United States Code, as added by subsection (a). The report shall assess the effectiveness of such authority in providing for the construction and improvement of military family housing and military unaccompanied housing. 10 USC 2884 note.

SEC. 2802. EXPANSION OF AUTHORITY FOR LIMITED PARTNERSHIPS FOR DEVELOPMENT OF MILITARY FAMILY HOUSING.

(a) PARTICIPATION OF OTHER MILITARY DEPARTMENTS.—(1) Subsection (a)(1) of section 2837 of title 10, United States Code, is amended by striking out "of the naval service" and inserting in lieu thereof "of the armed forces".

(2) Subsection (b)(1) of such section is amended by striking out "of the naval service" and inserting in lieu thereof "of the armed forces".

(b) ADMINISTRATION.—(1) Subsection (a)(1) of such section is further amended by striking out "the Secretary of the Navy" in the first sentence and inserting in lieu thereof "the Secretary of a military department".

(2) Subsections (a)(2), (b), (c), (g), and (h) of such section are amended by striking out "Secretary" each place it appears and inserting in lieu thereof "Secretary concerned".

(c) ACCOUNT.—Subsection (d) of such section is amended to read as follows:

"(d) ACCOUNT.—(1) There is hereby established on the books of the Treasury an account to be known as the 'Defense Housing Investment Account'. Nomenclature.

"(2) There shall be deposited into the Account—

"(A) such funds as may be authorized for and appropriated to the Account;

"(B) any proceeds received by the Secretary concerned from the repayment of investments or profits on investments of the Secretary under subsection (a); and

"(C) any unobligated balances which remain in the Navy Housing Investment Account as of the date of the enactment of the National Defense Authorization Act for Fiscal Year 1996.

"(3) From such amounts as are provided in advance in appropriation Acts, funds in the Account shall be available to the Secretaries concerned in amounts determined by the Secretary of Defense for contracts, investments, and expenses necessary for the implementation of this section.

"(4) The Secretary concerned may not enter into a contract in connection with a limited partnership under subsection (a) or a collateral incentive agreement under subsection (b) unless a sufficient amount of the unobligated balance of the funds in the Account

is available to the Secretary, as of the time the contract is entered into, to satisfy the total obligations to be incurred by the United States under the contract.".

(d) TERMINATION OF NAVY HOUSING INVESTMENT BOARD.—Such section is further amended—

(1) by striking out subsection (e); and

(2) in subsection (h)—

(A) by striking out "AUTHORITIES" in the subsection heading and inserting in lieu thereof "AUTHORITY";

(B) by striking out "(1)"; and

(C) by striking out paragraph (2).

(e) REPORT.—Subsection (f) of such section is amended—

(1) by striking out "the Secretary carries out activities" and inserting in lieu thereof "activities are carried out"; and

(2) by striking out "the Secretary shall" and inserting in lieu thereof "the Secretaries concerned shall jointly".

(f) EXTENSION OF AUTHORITY.—Subsection (h) of such section is further amended by striking out "September 30, 1999" and inserting in lieu thereof "September 30, 2000".

(g) CONFORMING AMENDMENT.—Subsection (g) of such section is further amended by striking out "NAVY" in the subsection heading.

Subtitle B—Other Military Construction Program and Military Family Housing Changes

SEC. 2811. SPECIAL THRESHOLD FOR UNSPECIFIED MINOR CONSTRUCTION PROJECTS TO CORRECT LIFE, HEALTH, OR SAFETY DEFICIENCIES.

(a) SPECIAL THRESHOLD.—Section 2805 of title 10, United States Code, is amended—

(1) in subsection (a)(1), by adding at the end the following new sentence: "However, if the military construction project is intended solely to correct a deficiency that is life-threatening, health-threatening, or safety-threatening, a minor military construction project may have an approved cost equal to or less than $3,000,000."; and

(2) in subsection (c)(1), by striking out "not more than $300,000." and inserting in lieu thereof "not more than—

"(A) $1,000,000, in the case of an unspecified military construction project intended solely to correct a deficiency that is life-threatening, health-threatening, or safety-threatening; or

"(B) $300,000, in the case of any other unspecified military construction project.".

(b) TECHNICAL AMENDMENT.—Section 2861(b)(6) of such title is amended by striking out "section 2805(a)(2)" and inserting in lieu thereof "section 2805(a)(1)".

SEC. 2812. CLARIFICATION OF SCOPE OF UNSPECIFIED MINOR CONSTRUCTION AUTHORITY.

Section 2805(a)(1) of title 10, United States Code, as amended by section 2811 of this Act, is further amended by striking out

"(1) that is for a single undertaking at a military installation, and (2)" in the second sentence.

SEC. 2813. TEMPORARY AUTHORITY TO WAIVE NET FLOOR AREA LIMITATION FOR FAMILY HOUSING ACQUIRED IN LIEU OF CONSTRUCTION.

Section 2824(c) of title 10, United States Code, is amended by adding at the end the following new sentence: "The Secretary concerned may waive the limitation set forth in the preceding sentence to family housing units acquired under this section during the five-year period beginning on the date of the enactment of the National Defense Authorization Act for Fiscal Year 1996.".

SEC. 2814. REESTABLISHMENT OF AUTHORITY TO WAIVE NET FLOOR AREA LIMITATION ON ACQUISITION BY PURCHASE OF CERTAIN MILITARY FAMILY HOUSING.

Section 2826(e) of title 10, United States Code, is amended by striking out the second sentence.

SEC. 2815. TEMPORARY AUTHORITY TO WAIVE LIMITATIONS ON SPACE BY PAY GRADE FOR MILITARY FAMILY HOUSING UNITS.

Section 2826 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(i)(1) The Secretary concerned may waive the provisions of subsection (a) with respect to military family housing units constructed, acquired, or improved during the five-year period beginning on the date of the enactment of the National Defense Authorization Act for Fiscal Year 1996.

"(2) The total number of military family housing units constructed, acquired, or improved during any fiscal year in the period referred to in paragraph (1) shall be the total number of such units authorized by law for that fiscal year.".

SEC. 2816. RENTAL OF FAMILY HOUSING IN FOREIGN COUNTRIES.

Section 2828(e) of title 10, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking out "300 units" in the first sentence and inserting in lieu thereof "450 units"; and

(B) by striking out "220 such units" in the second sentence and inserting in lieu thereof "350 such units"; and

(2) in paragraph (2), by striking out "300 units" and inserting in lieu thereof "450 units".

SEC. 2817. CLARIFICATION OF SCOPE OF REPORT REQUIREMENT ON COST INCREASES UNDER CONTRACTS FOR MILITARY FAMILY HOUSING CONSTRUCTION.

Subsection (d) of section 2853 of title 10, United States Code, is amended to read as follows:

"(d) The limitation on cost increases in subsection (a) does not apply to the settlement of a contractor claim under a contract.".

SEC. 2818. AUTHORITY TO CONVEY DAMAGED OR DETERIORATED MILITARY FAMILY HOUSING.

(a) AUTHORITY.—(1) Subchapter III of chapter 169 of title 10, United States Code, is amended by inserting after section 2854 the following new section:

"§ 2854a. Conveyance of damaged or deteriorated military family housing; use of proceeds

"(a) AUTHORITY TO CONVEY.—(1) The Secretary concerned may convey any family housing facility that, due to damage or deterioration, is in a condition that is uneconomical to repair. Any conveyance of a family housing facility under this section may include a conveyance of the real property associated with the facility conveyed.

"(2) The authority of this section does not apply to family housing facilities located at military installations approved for closure under a base closure law or family housing facilities located at an installation outside the United States at which the Secretary of Defense terminates operations.

"(3) The aggregate total value of the family housing facilities conveyed by the Department of Defense under the authority in this subsection in any fiscal year may not exceed $5,000,000.

"(4) For purposes of this subsection, a family housing facility is in a condition that is uneconomical to repair if the cost of the necessary repairs for the facility would exceed the amount equal to 70 percent of the cost of constructing a family housing facility to replace such facility.

"(b) CONSIDERATION.—(1) As consideration for the conveyance of a family housing facility under subsection (a), the person to whom the facility is conveyed shall pay the United States an amount equal to the fair market value of the facility conveyed, including any real property conveyed along with the facility.

"(2) The Secretary concerned shall determine the fair market value of any family housing facility and associated real property that is conveyed under subsection (a). Such determination shall be final.

"(c) NOTICE AND WAIT REQUIREMENTS.—The Secretary concerned may not enter into an agreement to convey a family housing facility under this section until—

"(1) the Secretary submits to the appropriate committees of Congress, in writing, a justification for the conveyance under the agreement, including—

"(A) an estimate of the consideration to be provided the United States under the agreement;

"(B) an estimate of the cost of repairing the family housing facility to be conveyed; and

"(C) an estimate of the cost of replacing the family housing facility to be conveyed; and

"(2) a period of 21 calendar days has elapsed after the date on which the justification is received by the committees.

"(d) INAPPLICABILITY OF CERTAIN PROPERTY DISPOSAL LAWS.—The following provisions of law do not apply to the conveyance of a family housing facility under this section:

"(1) The Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.).

"(2) Title V of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411 et seq.).

"(e) USE OF PROCEEDS.—(1) The proceeds of any conveyance of a family housing facility under this section shall be credited to the appropriate fund established under section 2883 of this title and shall be available—

"(A) to construct family housing units to replace the family housing facility conveyed under this section, but only to the extent that the number of units constructed with such proceeds

does not exceed the number of units of military family housing of the facility conveyed;

"(B) to repair or restore existing military family housing; and

"(C) to reimburse the Secretary concerned for the costs incurred by the Secretary in conveying the family housing facility.

"(2) Notwithstanding section 2883(d) of this title, proceeds derived from a conveyance of a family housing facility under this section shall be available under paragraph (1) without any further appropriation.

"(f) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of any family housing facility conveyed under this section, including any real property associated with such facility, shall be determined by such means as the Secretary concerned considers satisfactory, including by survey in the case of real property.

"(g) ADDITIONAL TERMS AND CONDITIONS.—The Secretary concerned may require such additional terms and conditions in connection with the conveyance of family housing facilities under this section as the Secretary considers appropriate to protect the interests of the United States.".

(2) The table of sections at the beginning of such subchapter is amended by inserting after the item relating to section 2854 the following new item:

"2854a. Conveyance of damaged or deteriorated military family housing; use of proceeds.".

(b) CONFORMING AMENDMENT.—Section 204(h) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 485(h)) is amended—

(1) by redesignating paragraph (4) as paragraph (5); and

(2) by inserting after paragraph (3) the following new paragraph (4):

"(4) This subsection does not apply to damaged or deteriorated military family housing facilities conveyed under section 2854a of title 10, United States Code.".

SEC. 2819. ENERGY AND WATER CONSERVATION SAVINGS FOR THE DEPARTMENT OF DEFENSE.

(a) INCLUSION OF WATER EFFICIENT MAINTENANCE IN ENERGY PERFORMANCE PLAN.—Paragraph (3) of section 2865(a) of title 10, United States Code, is amended by striking out "energy efficient maintenance" and inserting in lieu thereof "energy efficient maintenance or water efficient maintenance".

(b) SCOPE OF TERM.—Paragraph (4) of such section is amended—

(1) in the matter preceding subparagraph (A), by striking out "'energy efficient maintenance'" and inserting in lieu thereof "'energy efficient maintenance or water efficient maintenance'";

(2) in subparagraph (A), by striking out "systems or industrial processes," in the matter preceding clause (i) and inserting in lieu thereof "systems, industrial processes, or water efficiency applications,"; and

(3) in subparagraph (B), by inserting "or water cost savings" before the period at the end.

SEC. 2820. EXTENSION OF AUTHORITY TO ENTER INTO LEASES OF LAND FOR SPECIAL OPERATIONS ACTIVITIES.

(a) EXTENSION OF AUTHORITY.—Subsection (d) of section 2680 of title 10, United States Code, is amended in the first sentence by striking out "September 30, 1995" and inserting in lieu thereof "September 30, 2000".

(b) REPORTING REQUIREMENT.—Such section is further amended by adding at the end the following new subsection:

"(e) REPORTS.—Not later than March 1 of each year, the Secretary of Defense shall submit to the Committee on the Armed Services of the Senate and the Committee on National Security of the House of Representatives a report that—

"(1) identifies each leasehold interest acquired during the previous fiscal year under subsection (a); and

"(2) contains a discussion of each project for the construction or modification of facilities carried out pursuant to subsection (c) during such fiscal year.".

(c) CONFORMING REPEAL.—Section 2863 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 10 U.S.C. 2680 note) is amended by striking out subsection (b).

SEC. 2821. DISPOSITION OF AMOUNTS RECOVERED AS A RESULT OF DAMAGE TO REAL PROPERTY.

(a) IN GENERAL.—Chapter 165 of title 10, United States Code, is amended by inserting after section 2781 the following new section:

"§ 2782. Damage to real property: disposition of amounts recovered

"Except as provided in section 2775 of this title, amounts recovered for damage caused to real property under the jurisdiction of the Secretary of a military department or, with respect to the Defense Agencies, under the jurisdiction of the Secretary of Defense shall be credited to the account available for the repair or replacement of the real property at the time of recovery. In such amounts as are provided in advance in appropriation Acts, amounts so credited shall be available for use for the same purposes and under the same circumstances as other funds in the account.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2781 the following new item:

"2782. Damage to real property: disposition of amounts recovered.".

Military Housing Assistance Act of 1995.

SEC. 2822. PILOT PROGRAM TO PROVIDE INTEREST RATE BUY DOWN AUTHORITY ON LOANS FOR HOUSING WITHIN HOUSING SHORTAGE AREAS AT MILITARY INSTALLATIONS.

38 USC 101 note.

(a) SHORT TITLE.—This section may be cited as the "Military Housing Assistance Act of 1995".

(b) MORTGAGE ASSISTANCE PAYMENT AUTHORITY OF THE SECRETARY OF VETERANS AFFAIRS.—(1) Chapter 37 of title 38, United States Code, is amended by inserting after section 3707 the following:

"§ 3708. Authority to buy down interest rates: pilot program

"(a) In order to enable the purchase of housing in areas where the supply of suitable military housing is inadequate, the Secretary may conduct a pilot program under which the Secretary may make

periodic or lump sum assistance payments on behalf of an eligible veteran for the purpose of buying down the interest rate on a loan to that veteran that is guaranteed under this chapter for a purpose described in paragraph (1), (6), or (10) of section 3710(a) of this title.

"(b) An individual is an eligible veteran for the purposes of this section if—

"(1) the individual is a veteran, as defined in section 3701(b)(4) of this title;

"(2) the individual submits an application for a loan guaranteed under this chapter within one year of an assignment of the individual to duty at a military installation in the United States designated by the Secretary of Defense as a housing shortage area;

"(3) at the time the loan referred to in subsection (a) is made, the individual is an enlisted member, warrant officer, or an officer (other than a warrant officer) at a pay grade of O–3 or below;

"(4) the individual has not previously used any of the individual's entitlement to housing loan benefits under this chapter; and

"(5) the individual receives comprehensive prepurchase counseling from the Secretary (or the designee of the Secretary) before making application for a loan guaranteed under this chapter.

"(c) Loans with respect to which the Secretary may exercise the buy down authority under subsection (a) shall—

"(1) provide for a buy down period of not more than three years in duration;

"(2) specify the maximum and likely amounts of increases in mortgage payments that the loans would require; and

"(3) be subject to such other terms and conditions as the Secretary may prescribe by regulation.

"(d) The Secretary shall promulgate underwriting standards for loans for which the interest rate assistance payments may be made under subsection (a). Such standards shall be based on the interest rate for the second year of the loan.

"(e) The Secretary or lender shall provide comprehensive prepurchase counseling to eligible veterans explaining the features of interest rate buy downs under subsection (a), including a hypothetical payment schedule that displays the increases in monthly payments to the mortgagor over the first five years of the mortgage term. For the purposes of this subsection, the Secretary may assign personnel to military installations referred to in subsection (b)(2).

"(f) There is authorized to be appropriated $3,000,000 annually to carry out this section.

"(g) The Secretary may not guarantee a loan under this chapter after September 30, 1998, on which the Secretary is obligated to make payments under this section.".

(2) The table of sections at the beginning of chapter 37 of title 38, United States Code, is amended by inserting after the item relating to section 3707 to following new item:

"3708. Authority to buy down interest rates: pilot program.".

(c) AUTHORITY OF SECRETARY OF DEFENSE.— 38 USC 3708 note.

(1) REIMBURSEMENT FOR BUY DOWN COSTS.—The Secretary of Defense shall reimburse the Secretary of Veterans Affairs for amounts paid by the Secretary of Veterans Affairs to mort-

gagees under section 3708 of title 38, United States Code, as added by subsection (b).

(2) DESIGNATION OF HOUSING SHORTAGE AREAS.—For purposes of section 3708 of title 38, United States Code, the Secretary of Defense may designate as a housing shortage area a military installation in the United States at which the Secretary determines there is a shortage of suitable housing to meet the military family needs of members of the Armed Forces and the dependents of such members.

(3) REPORT.—Not later than March 30, 1998, the Secretary shall submit to Congress a report regarding the effectiveness of the authority provided in section 3708 of title 38, United States Code, in ensuring that members of the Armed Forces and their dependents have access to suitable housing. The report shall include the recommendations of the Secretary regarding whether the authority provided in this subsection should be extended beyond the date specified in paragraph (5).

(4) EARMARK.—Of the amount provided in section 2405(a)(11)(B), $10,000,000 for fiscal year 1996 shall be available to carry out this subsection.

(5) SUNSET.—This subsection shall not apply with respect to housing loans guaranteed after September 30, 1998, for which assistance payments are paid under section 3708 of title 38, United States Code.

Subtitle C—Defense Base Closure and Realignment

SEC. 2831. DEPOSIT OF PROCEEDS FROM LEASES OF PROPERTY LOCATED AT INSTALLATIONS BEING CLOSED OR REALIGNED.

(a) EXCEPTION TO EXISTING REQUIREMENTS.—Section 2667(d) of title 10, United States Code, is amended—

(1) in paragraph (1)(A)(ii), by inserting "or (5)" after "paragraph (4)"; and

(2) by adding at the end the following new paragraph:

"(5) Money rentals received by the United States from a lease under subsection (f) shall be deposited into the account established under section 2906(a) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note).".

(b) CORRESPONDING AMENDMENTS TO BASE CLOSURE LAWS.—(1) Section 207(a)(7) of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note) is amended by striking out "transfer or disposal" and inserting in lieu thereof "lease, transfer, or disposal".

(2) Section 2906(a)(2) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2867 note) is amended—

10 USC 2687 note.

(A) in subparagraph (C), by striking out "transfer or disposal" and inserting in lieu thereof "lease, transfer, or disposal"; and

(B) in subparagraph (D), by striking out "transfer or disposal" and inserting in lieu thereof "lease, transfer, or disposal".

SEC. 2832. IN-KIND CONSIDERATION FOR LEASES AT INSTALLATIONS TO BE CLOSED OR REALIGNED.

Section 2667(f) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(4) The Secretary concerned may accept under subsection (b)(5) services of a lessee for an entire installation to be closed or realigned under a base closure law, or for any part of such installation, without regard to the requirement in subsection (b)(5) that a substantial part of the installation be leased.".

SEC. 2833. INTERIM LEASES OF PROPERTY APPROVED FOR CLOSURE OR REALIGNMENT.

Section 2667(f) of title 10, United States Code, is amended by adding after paragraph (4), as added by section 2832 of this Act, the following new paragraph:

"(5)(A) Notwithstanding the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the scope of any environmental impact analysis necessary to support an interim lease of property under this subsection shall be limited to the environmental consequences of activities authorized under the proposed lease and the cumulative impacts of other past, present, and reasonably foreseeable future actions during the period of the proposed lease.

"(B) Interim leases entered into under this subsection shall be deemed not to prejudice the final disposal decision with respect to the property, even if final disposal of the property is delayed until completion of the term of the interim lease. An interim lease under this subsection shall not be entered into without prior consultation with the redevelopment authority concerned.

"(C) Subparagraphs (A) and (B) shall not apply to an interim lease under this subsection if authorized activities under the lease would—

"(i) significantly affect the quality of the human environment; or

"(ii) irreversibly alter the environment in a way that would preclude any reasonable disposal alternative of the property concerned.".

SEC. 2834. AUTHORITY TO LEASE PROPERTY REQUIRING ENVIRONMENTAL REMEDIATION AT INSTALLATIONS APPROVED FOR CLOSURE OR REALIGNMENT.

Section 120(h)(3) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)(3)) is amended in the matter following subparagraph (C)—

(1) by striking out the first sentence; and

(2) by adding at the end, flush to the paragraph margin, the following:

"The requirements of subparagraph (B) shall not apply in any case in which the person or entity to whom the real property is transferred is a potentially responsible party with respect to such property. The requirements of subparagraph (B) shall not apply in any case in which the transfer of the property occurs or has occurred by means of a lease, without regard to whether the lessee has agreed to purchase the property or whether the duration of the lease is longer than 55 years. In the case of a lease entered into after September 30, 1995, with respect to real property located at an installation approved for closure or realignment under a base closure law, the agency

leasing the property, in consultation with the Administrator, shall determine before leasing the property that the property is suitable for lease, that the uses contemplated for the lease are consistent with protection of human health and the environment, and that there are adequate assurances that the United States will take all remedial action referred to in subparagraph (B) that has not been taken on the date of the lease.".

SEC. 2835. FINAL FUNDING FOR DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION.

Section 2902(k) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended by adding at the end the following new paragraph:

"(3)(A) The Secretary may transfer not more than $300,000 from unobligated funds in the account referred to in subparagraph (B) for the purpose of assisting the Commission in carrying out its duties under this part during October, November, and December 1995. Funds transferred under the preceding sentence shall remain available until December 31, 1995.

"(B) The account referred to in subparagraph (A) is the Department of Defense Base Closure Account established under section 207(a) of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note).".

SEC. 2836. EXERCISE OF AUTHORITY DELEGATED BY THE ADMINISTRATOR OF GENERAL SERVICES.

Section 2905(b)(2) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended—

(1) in subparagraph (A)—

(A) by striking out "Subject to subparagraph (C)" in the matter preceding clause (i) and inserting in lieu thereof "Subject to subparagraph (B)"; and

(B) by striking out "in effect on the date of the enactment of this Act" each place it appears in clauses (i) and (ii);

(2) by striking out subparagraphs (B) and (C) and inserting in lieu thereof the following new subparagraph (B):

"(B) The Secretary may, with the concurrence of the Administrator of General Services—

"(i) prescribe general policies and methods for utilizing excess property and disposing of surplus property pursuant to the authority delegated under paragraph (1); and

"(ii) issue regulations relating to such policies and methods, which shall supersede the regulations referred to in subparagraph (A) with respect to that authority."; and

(3) by redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D), respectively.

SEC. 2837. LEASE BACK OF PROPERTY DISPOSED FROM INSTALLATIONS APPROVED FOR CLOSURE OR REALIGNMENT.

(a) AUTHORITY.—Section 2905(b)(4) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended—

(1) by redesignating subparagraphs (C), (D), and (E) as subparagraphs (D), (E), and (F), respectively; and

(2) by inserting after subparagraph (B) the following new subparagraph (C):

"(C)(i) The Secretary may transfer real property at an installation approved for closure or realignment under this part (including property at an installation approved for realignment which will be retained by the Department of Defense or another Federal agency after realignment) to the redevelopment authority for the installation if the redevelopment authority agrees to lease, directly upon transfer, one or more portions of the property transferred under this subparagraph to the Secretary or to the head of another department or agency of the Federal Government. Subparagraph (B) shall apply to a transfer under this subparagraph.

"(ii) A lease under clause (i) shall be for a term of not to exceed 50 years, but may provide for options for renewal or extension of the term by the department or agency concerned.

"(iii) A lease under clause (i) may not require rental payments by the United States.

"(iv) A lease under clause (i) shall include a provision specifying that if the department or agency concerned ceases requiring the use of the leased property before the expiration of the term of the lease, the remainder of the lease term may be satisfied by the same or another department or agency of the Federal Government using the property for a use similar to the use under the lease. Exercise of the authority provided by this clause shall be made in consultation with the redevelopment authority concerned.".

(b) USE OF FUNDS TO IMPROVE LEASED PROPERTY.—Notwithstanding any other provision of law, a department or agency of the Federal Government that enters into a lease of property under section 2905(b)(4)(C) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note), as amended by subsection (a), may improve the leased property using funds appropriated or otherwise available to the department or agency for such purpose. 10 USC 2687 note.

SEC. 2838. IMPROVEMENT OF BASE CLOSURE AND REALIGNMENT PROCESS REGARDING DISPOSAL OF PROPERTY.

(a) APPLICABILITY.—Subparagraph (A) of section 2905(b)(7) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended to read as follows:

"(A) The disposal of buildings and property located at installations approved for closure or realignment under this part after October 25, 1994, shall be carried out in accordance with this paragraph rather than paragraph (6).".

(b) AGREEMENTS UNDER REDEVELOPMENT PLANS.—Subparagraph (F)(ii)(I) of such section is amended in the second sentence by striking out "the approval of the redevelopment plan by the Secretary of Housing and Urban Development under subparagraph (H) or (J)" and inserting in lieu thereof "the decision regarding the disposal of the buildings and property covered by the agreements by the Secretary of Defense under subparagraph (K) or (L)".

(c) REVISION OF REDEVELOPMENT PLANS.—Subparagraph (I) of such section is amended—

(1) in clause (i)(II), by inserting "the Secretary of Defense and" before "the Secretary of Housing and Urban Development"; and

(2) in clause (ii), by striking out "the Secretary of Housing and Urban Development" and inserting in lieu thereof "such Secretaries".

(d) DISPOSAL OF BUILDINGS AND PROPERTY.—(1) Subparagraph (K) of such section is amended to read as follows:

"(K)(i) Upon receipt of a notice under subparagraph (H)(iv) or (J)(ii) of the determination of the Secretary of Housing and Urban Development that a redevelopment plan for an installation meets the requirements set forth in subparagraph (H)(i), the Secretary of Defense shall dispose of the buildings and property at the installation.

"(ii) For purposes of carrying out an environmental assessment of the closure or realignment of an installation, the Secretary of Defense shall treat the redevelopment plan for the installation (including the aspects of the plan providing for disposal to State or local governments, representatives of the homeless, and other interested parties) as part of the proposed Federal action for the installation.

"(iii) The Secretary of Defense shall dispose of buildings and property under clause (i) in accordance with the record of decision or other decision document prepared by the Secretary in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4331 et seq.). In preparing the record of decision or other decision document, the Secretary shall give substantial deference to the redevelopment plan concerned.

"(iv) The disposal under clause (i) of buildings and property to assist the homeless shall be without consideration.

"(v) In the case of a request for a conveyance under clause (i) of buildings and property for public benefit under section 203(k) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(k)) or sections 47151 through 47153 of title 49, United States Code, the sponsoring Federal agency shall use the eligibility criteria set forth in such section or such subchapter (as the case may be) to determine the eligibility of the applicant and use proposed in the request for the public benefit conveyance. The determination of such eligibility should be made before submission of the redevelopment plan concerned under subparagraph (G).".

(2) Subparagraph (L) of such section is amended by striking out clauses (iii) and (iv) and inserting in lieu thereof the following new clauses (iii) and (iv):

Notification.

"(iii) Not later than 90 days after the date of the receipt of a revised plan for an installation under subparagraph (J), the Secretary of Housing and Urban Development shall—

"(I) notify the Secretary of Defense and the redevelopment authority concerned of the buildings and property at an installation under clause (i)(IV) that the Secretary of Housing and Urban Development determines are suitable for use to assist the homeless; and

"(II) notify the Secretary of Defense of the extent to which the revised plan meets the criteria set forth in subparagraph (H)(i).

"(iv)(I) Upon notice from the Secretary of Housing and Urban Development with respect to an installation under clause (iii), the Secretary of Defense shall dispose of buildings and property at the installation in consultation with the Secretary of Housing and Urban Development and the redevelopment authority concerned.

"(II) For purposes of carrying out an environmental assessment of the closure or realignment of an installation, the Secretary of Defense shall treat the redevelopment plan submitted by the redevelopment authority for the installation (including the aspects of the plan providing for disposal to State or local governments, representatives of the homeless, and other interested parties) as part of the proposed Federal action for the installation. The Secretary of Defense shall incorporate the notification of the Secretary of Housing and Urban Development under clause (iii)(I) as part of the proposed Federal action for the installation only to the extent, if any, that the Secretary of Defense considers such incorporation to be appropriate and consistent with the best and highest use of the installation as a whole, taking into consideration the redevelopment plan submitted by the redevelopment authority.

"(III) The Secretary of Defense shall dispose of buildings and property under subclause (I) in accordance with the record of decision or other decision document prepared by the Secretary in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4331 et seq.). In preparing the record of decision or other decision document, the Secretary shall give deference to the redevelopment plan submitted by the redevelopment authority for the installation.

"(IV) The disposal under subclause (I) of buildings and property to assist the homeless shall be without consideration.

"(V) In the case of a request for a conveyance under subclause (I) of buildings and property for public benefit under section 203(k) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(k)) or sections 47151 through 47153 of title 49, United States Code, the sponsoring Federal agency shall use the eligibility criteria set forth in such section or such subchapter (as the case may be) to determine the eligibility of the applicant and use proposed in the request for the public benefit conveyance. The determination of such eligibility should be made before submission of the redevelopment plan concerned under subparagraph (G).".

(e) CONFORMING AMENDMENT.—Subparagraph (M)(i) of such section is amended by inserting "or (L)" after "subparagraph (K)".

(f) CLARIFICATION OF PARTICIPANTS IN PROCESS.—Such section is further amended by adding at the end the following new subparagraph:

"(P) For purposes of this paragraph, the term 'other interested parties', in the case of an installation, includes any parties eligible for the conveyance of property of the installation under section 203(k) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(k)) or sections 47151 through 47153 of title 49, United States Code, whether or not the parties assist the homeless.".

SEC. 2839. AGREEMENTS FOR CERTAIN SERVICES AT INSTALLATIONS BEING CLOSED.

(a) 1988 LAW.—Section 204(b)(8) of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note) is amended by striking out subparagraph (A) and inserting in lieu thereof the following new subparagraph:

"(A) Subject to subparagraph (C), the Secretary may enter into agreements (including contracts, cooperative agreements, or other arrangements for reimbursement) with local governments for the provision of police or security services, fire protection serv-

ices, airfield operation services, or other community services by such governments at military installations to be closed under this title if the Secretary determines that the provision of such services under such agreements is in the best interests of the Department of Defense.".

(b) 1990 LAW.—Section 2905(b)(8) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2867 note) is amended by striking out subparagraph (A) and inserting in lieu thereof the following new subparagraph:

"(A) Subject to subparagraph (C), the Secretary may enter into agreements (including contracts, cooperative agreements, or other arrangements for reimbursement) with local governments for the provision of police or security services, fire protection services, airfield operation services, or other community services by such governments at military installations to be closed under this part if the Secretary determines that the provision of such services under such agreements is in the best interests of the Department of Defense.".

SEC. 2840. AUTHORITY TO TRANSFER PROPERTY AT MILITARY INSTALLATIONS TO BE CLOSED TO PERSONS WHO CONSTRUCT OR PROVIDE MILITARY FAMILY HOUSING.

(a) 1988 LAW.—Section 204 of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note) is amended by adding at the end the following new subsection:

"(e) TRANSFER AUTHORITY IN CONNECTION WITH CONSTRUCTION OR PROVISION OF MILITARY FAMILY HOUSING.—(1) Subject to paragraph (2), the Secretary may enter into an agreement to transfer by deed real property or facilities located at or near an installation closed or to be closed under this title with any person who agrees, in exchange for the real property or facilities, to transfer to the Secretary housing units that are constructed or provided by the person and located at or near a military installation at which there is a shortage of suitable housing to meet the requirements of members of the Armed Forces and their dependents. The Secretary may not select real property for transfer under this paragraph if the property is identified in the redevelopment plan for the installation as items essential to the reuse or redevelopment of the installation.

"(2) A transfer of real property or facilities may be made under paragraph (1) only if—

"(A) the fair market value of the housing units to be received by the Secretary in exchange for the property or facilities to be transferred is equal to or greater than the fair market value of such property or facilities, as determined by the Secretary; or

"(B) in the event the fair market value of the housing units is less than the fair market value of property or facilities to be transferred, the recipient of the property or facilities agrees to pay to the Secretary the amount equal to the excess of the fair market value of the property or facilities over the fair market value of the housing units.

"(3) Notwithstanding section 207(a)(7), the Secretary may deposit funds received under paragraph (2)(B) in the Department

of Defense Family Housing Improvement Fund established under section 2873(a) of title 10, United States Code.

"(4) The Secretary shall submit to the appropriate committees of Congress a report describing each agreement proposed to be entered into under paragraph (1), including the consideration to be received by the United States under the agreement. The Secretary may not enter into the agreement until the end of the 21-day period beginning on the date the appropriate committees of Congress receive the report regarding the agreement. Reports.

"(5) The Secretary may require any additional terms and conditions in connection with an agreement authorized by this subsection as the Secretary considers appropriate to protect the interests of the United States.".

(b) 1990 LAW.—Section 2905 of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended by adding at the end the following new subsection:

"(f) TRANSFER AUTHORITY IN CONNECTION WITH CONSTRUCTION OR PROVISION OF MILITARY FAMILY HOUSING.—(1) Subject to paragraph (2), the Secretary may enter into an agreement to transfer by deed real property or facilities located at or near an installation closed or to be closed under this part with any person who agrees, in exchange for the real property or facilities, to transfer to the Secretary housing units that are constructed or provided by the person and located at or near a military installation at which there is a shortage of suitable housing to meet the requirements of members of the Armed Forces and their dependents. The Secretary may not select real property for transfer under this paragraph if the property is identified in the redevelopment plan for the installation as property essential to the reuse or redevelopment of the installation.

"(2) A transfer of real property or facilities may be made under paragraph (1) only if—

"(A) the fair market value of the housing units to be received by the Secretary in exchange for the property or facilities to be transferred is equal to or greater than the fair market value of such property or facilities, as determined by the Secretary; or

"(B) in the event the fair market value of the housing units is less than the fair market value of property or facilities to be transferred, the recipient of the property or facilities agrees to pay to the Secretary the amount equal to the excess of the fair market value of the property or facilities over the fair market value of the housing units.

"(3) Notwithstanding paragraph (2) of section 2906(a), the Secretary may deposit funds received under paragraph (2)(B) in the Department of Defense Family Housing Improvement Fund established under section 2873(a) of title 10, United States Code.

"(4) The Secretary shall submit to the congressional defense committees a report describing each agreement proposed to be entered into under paragraph (1), including the consideration to be received by the United States under the agreement. The Secretary may not enter into the agreement until the end of the 30-day period beginning on the date the congressional defense committees receive the report regarding the agreement. Reports.

"(5) The Secretary may require any additional terms and conditions in connection with an agreement authorized by this subsection

as the Secretary considers appropriate to protect the interests of the United States.".

10 USC 2687 note.

(c) REGULATIONS.—Not later than nine months after the date of the enactment of this Act, the Secretary of Defense shall prescribe any regulations necessary to carry out subsection (e) of section 204 of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note), as added by subsection (a), and subsection (f) of section 2905 of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note), as added by subsection (b).

SEC. 2841. USE OF SINGLE BASE CLOSURE AUTHORITIES FOR DISPOSAL OF PROPERTY AND FACILITIES AT FORT HOLABIRD, MARYLAND.

(a) CONSOLIDATION OF BASE CLOSURE AUTHORITIES.—In the case of the property and facilities at Fort Holabird, Maryland, described in subsection (b), the Secretary of Defense shall dispose of such property and facilities in accordance with section 2905(b)(7) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note), as amended by section 2838 of this Act.

(b) COVERED PROPERTY AND FACILITIES.—Subsection (a) applies to the following property and facilities at Fort Holabird, Maryland:

(1) Property and facilities that were approved for closure or realignment under title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note), but have not been disposed of as of the date of the enactment of this Act, including buildings 305 and 306 and the parking lots and other property associated with such buildings.

(2) Property and facilities that were approved in 1995 for closure or realignment under the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note).

(c) USE OF SURVEYS AND OTHER EVALUATIONS OF PROPERTY.—In carrying out the disposal of the property and facilities referred to in subsection (b)(1), the Secretary shall utilize any surveys and other evaluations of such property and facilities that were prepared by the Corps of Engineers before the date of the enactment of this Act as part of the process for the disposal of such property and facilities.

Subtitle D—Land Conveyances Generally

PART I—ARMY CONVEYANCES

SEC. 2851. TRANSFER OF JURISDICTION, FORT SAM HOUSTON, TEXAS.

(a) TRANSFER OF LAND FOR NATIONAL CEMETERY.—The Secretary of the Army may transfer, without reimbursement, to the administrative jurisdiction of the Secretary of Veterans Affairs a parcel of real property (including any improvements thereon) consisting of approximately 53 acres and comprising a portion of Fort Sam Houston, Texas.

(b) USE OF LAND.—The Secretary of Veterans Affairs shall use the real property transferred under subsection (a) as a national cemetery under chapter 24 of title 38, United States Code.

(c) LEGAL DESCRIPTION.—The exact acreage and legal description of the real property to be transferred under this section shall be determined by a survey satisfactory to the Secretary of the Army. The cost of the survey shall be borne by the Secretary of Veterans Affairs.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary of the Army may require such additional terms and conditions in connection with the transfer under this section as the Secretary of the Army considers appropriate to protect the interests of the United States.

SEC. 2852. TRANSFER OF JURISDICTION, FORT BLISS, TEXAS.

(a) TRANSFER OF LAND FOR NATIONAL CEMETERY.—The Secretary of the Army may transfer, without reimbursement, to the administrative jurisdiction of the Secretary of Veterans Affairs a parcel of real property (including any improvements thereon) consisting of approximately 22 acres and comprising a portion of Fort Bliss, Texas.

(b) USE OF LAND.—The Secretary of Veterans Affairs shall use the real property transferred under subsection (a) as an addition to the Fort Bliss National Cemetery and administer such real property pursuant to chapter 24 of title 38, United States Code.

(c) LEGAL DESCRIPTION.—The exact acreage and legal description of the real property to be transferred under this section shall be determined by a survey satisfactory to the Secretary of the Army. The cost of the survey shall be borne by the Secretary of Veterans Affairs.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary of the Army may require such additional terms and conditions in connection with the transfer under this section as the Secretary of the Army considers appropriate to protect the interests of the United States.

SEC. 2853. TRANSFER OF JURISDICTION AND LAND CONVEYANCE, FORT DEVENS MILITARY RESERVATION, MASSACHUSETTS.

16 USC 668dd note.

(a) TRANSFER OF LAND FOR WILDLIFE REFUGE.—Subject to subsections (b) and (c), the Secretary of the Army shall transfer, without reimbursement, to the administrative jurisdiction of the Secretary of the Interior that portion of Fort Devens Military Reservation, Massachusetts, that is situated south of Massachusetts State Route 2, for inclusion in the Oxbow National Wildlife Refuge.

(b) LAND CONVEYANCE.—Subject to subsection (c), the Secretary of the Army shall convey to the Town of Lancaster, Massachusetts (in this section referred to as the "Town"), all right, title, and interest of the United States in and to a parcel of real property consisting of approximately 100 acres of the parcel available for transfer under subsection (a) and located adjacent to Massachusetts State Highway 70.

(c) REQUIREMENTS RELATING TO TRANSFER AND CONVEYANCE.—(1) The transfer under subsection (a) and the conveyance under subsection (b) may not be made unless the property to be transferred and conveyed is determined to be excess to the needs of the Department of Defense.

(2) The transfer and conveyance shall be made as soon as practicable after the date on which the property is determined to be excess to the needs of the Department of Defense.

(d) LEGAL DESCRIPTION.—(1) The exact acreage and legal description of the real property to be transferred under subsection (a) shall be determined by a survey mutually satisfactory to the Secretary of the Army and the Secretary of the Interior. The cost of the survey shall be borne by the Secretary of the Interior.

(2) The exact acreage and legal description of the real property to be conveyed under subsection (b) shall be determined by a survey mutually satisfactory to the Secretary of the Army, the Secretary of the Interior, and the Board of Selectmen of the Town. The cost of the survey shall be borne by the Town.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary of the Army may require such additional terms and conditions in connection with the transfer under subsection (a) and the conveyance under subsection (b) as the Secretary of the Army considers appropriate to protect the interests of the United States.

SEC. 2854. MODIFICATION OF LAND CONVEYANCE, FORT BELVOIR, VIRGINIA.

(a) DESIGNATION OF RECIPIENT.—Subsection (a) of section 2821 of the Military Construction Authorization Act for Fiscal Years 1990 and 1991 (division B of Public Law 101–189; 103 Stat. 1658) is amended by striking out "any grantee selected in accordance with subsection (e)" and inserting in lieu thereof "the County of Fairfax, Virginia (in this section referred to as the 'grantee'),".

(b) CONSIDERATION.—Subsection (b)(1) of such section is amended by striking out subparagraph (B) and inserting in lieu thereof the following new subparagraph:

"(B) grant title, free of liens and other encumbrances, to the Department to such facilities and, if not already owned by the Department, to the underlying land; and".

(c) CONTENT OF AGREEMENT.—Subsection (c) of such section is amended to read as follows:

"(c) CONTENT OF AGREEMENT.—An agreement entered into under this section shall include the following:

"(1) A requirement that the grantee construct facilities and make infrastructure improvements for the Department of the Army that the Secretary determines are necessary for the Department at Fort Belvoir and at other sites at which activities will be relocated as a result of the conveyance made under this section.

"(2) A requirement that the construction of facilities and infrastructure improvements referred to in paragraph (1) be carried out in accordance with plans and specifications approved by the Secretary.

"(3) A requirement that the Secretary retain a lien or other security interest against the property conveyed to the grantee in the amount of the fair market value of the property, as determined under subsection (b)(2). The agreement will specify the terms for releasing the lien or other security interest, in whole or in part. In the event of default by the County on its obligations under the terms of the agreement, the Secretary shall enforce the lien or security interest. The proceeds obtained through enforcing the lien or security interest may be used by the Secretary to construct facilities and make infrastructure improvements in lieu of those provided for in the agreement.".

(d) SURVEYS.—Subsection (g) of such section is amended by striking out the last sentence and inserting in lieu thereof the following: "The grantee shall be responsible for completing any such survey without cost to the United States.".

(e) CONFORMING AMENDMENTS.—Such section is further amended—

(1) in subsection (a), by striking out "Subject to subsections (b) through (h), the" and inserting in lieu thereof "The";

(2) in subsection (b)(1), by striking out "subsection (c)(1)(D)" both places it appears and inserting in lieu thereof "subsection (c)(1)(A)";

(3) by striking out subsections (e) and (f); and

(4) by redesignating subsections (g) and (h) as subsections (e) and (f), respectively.

SEC. 2855. LAND EXCHANGE, FORT LEWIS, WASHINGTON.

Weyerhauser Real Estate Company.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey to Weyerhaeuser Real Estate Company, Tacoma, Washington (in this section referred to as "WRECO"), all right, title, and interest of the United States in and to a parcel of real property at Fort Lewis, Washington, known as an unimproved portion of Tract 1000 (formerly being in the DuPont Steilacoom Road, consisting of approximately 1.23 acres), and Tract 26E (consisting of 0.03 acre).

(b) CONSIDERATION.—As consideration for the conveyance authorized by subsection (a), WRECO shall convey or cause to be conveyed to the United States, by warranty deed acceptable to the Secretary, a 0.39 acre parcel of real property located adjacent to Fort Lewis, Washington, together with other consideration acceptable to the Secretary. The total consideration conveyed to the United States shall not be less than the fair market value of the land conveyed under subsection (a).

(c) DETERMINATION OF FAIR MARKET VALUE.—The determinations of the Secretary regarding the fair market values of the parcels of real property and improvements to be conveyed pursuant to subsections (a) and (b) shall be final.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the parcels of real property to be conveyed pursuant to subsections (a) and (b) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by WRECO.

(e) EFFECT ON EXISTING REVERSIONARY INTEREST.—The Secretary may enter into an agreement with the appropriate officials of Pierce County, Washington, under which—

(1) the existing reversionary interest of Pierce County in the lands to be conveyed by the United States under subsection (a) is extinguished; and

(2) the conveyance to the United States under subsection (b) is made subject to a similar reversionary interest in favor of Pierce County in the lands conveyed under such subsection.

(f) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyances under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2856. LAND EXCHANGE, ARMY RESERVE CENTER, GAINESVILLE, GEORGIA.

(a) LAND EXCHANGE AUTHORIZED.—The Secretary of the Army may convey to the City of Gainesville, Georgia (in this section referred to as the "City"), all right, title, and interest of the United States in and to a parcel of real property, together with any improvements thereon, consisting of approximately 4.2 acres and located on Shallowford Road in Gainesville, Georgia, the site of the Army Reserve Center, Gainesville, Georgia.

(b) CONSIDERATION.—As consideration for the conveyance authorized by subsection (a), the City shall—

(1) convey to the United States all right, title, and interest in and to a parcel of real property consisting of approximately 8 acres located in the Atlas Industrial Park, Gainesville, Georgia, that is acceptable to the Secretary;

(2) design and construct on such real property suitable facilities (as determined by the Secretary) for training activities of the Army Reserve to replace facilities conveyed under subsection (a);

(3) carry out, at cost to the City, any environmental assessments and any other studies, analyses, and assessments that may be required under Federal law in connection with the land conveyances under subsection (a) and paragraph (1) and the construction under paragraph (2);

(4) pay the Secretary the amount (as determined by the Secretary) equal to the cost of relocating Army Reserve units from the real property to be conveyed under subsection (a) to the replacement facilities to be constructed under paragraph (2); and

(5) if the fair market value of the real property conveyed by the Secretary under subsection (a) exceeds the fair market value of the consideration provided by the City under paragraphs (1) through (4), pay the United States the amount equal to the amount of such excess.

(c) DETERMINATION OF FAIR MARKET VALUE.—The Secretary shall determine the fair market value of the real property to be conveyed under subsection (a) and of the consideration to be furnished by the City under subsection (b). Such determination shall be final.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the parcels of real property to be conveyed under subsections (a) and (b) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the City.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyances authorized by this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2857. LAND CONVEYANCE, HOLSTON ARMY AMMUNITION PLANT, MOUNT CARMEL, TENNESSEE.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey, without reimbursement, to the City of Mount Carmel, Tennessee (in this section referred to as the "City"), all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, consisting of approximately 6.5 acres located at Holston Army Ammunition Plant, Tennessee. The

property is located adjacent to the Mount Carmel Cemetery and is intended for expansion of the cemetery.

(b) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the City.

(c) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2858. LAND CONVEYANCE, INDIANA ARMY AMMUNITION PLANT, CHARLESTOWN, INDIANA.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey, without consideration, to the State of Indiana (in this section referred to as the "State"), all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, that consists of approximately 1125 acres at the inactivated Indiana Army Ammunition Plant in Charlestown, Indiana, and is the subject of a 25-year lease between the Secretary and the State.

(b) CONDITION OF CONVEYANCE.—The conveyance authorized under subsection (a) shall be subject to the condition that the State use the conveyed property for recreational purposes.

(c) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the State.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2859. LAND CONVEYANCE, FORT ORD, CALIFORNIA.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey to the City of Seaside, California (in this section referred to as the "City"), all right, title, and interest of the United States in and to a parcel of real property (including improvements thereon) consisting of approximately 477 acres located in Monterey County, California, and comprising a portion of the former Fort Ord Military Complex. The real property to be conveyed to the City includes the two Fort Ord Golf Courses, Black Horse and Bayonet, and a portion of the Hayes Housing Facilities.

(b) CONSIDERATION.—As consideration for the conveyance of the real property and improvements under subsection (a), the City shall pay to the United States an amount equal to the fair market value of the property to be conveyed, as determined by the Secretary.

(c) USE AND DEPOSIT OF PROCEEDS.—(1) From the funds paid by the City under subsection (b), the Secretary shall deposit in the Morale, Welfare, and Recreation Fund Account of the Department of the Army such amounts as may be necessary to cover morale, welfare, and recreation activities at Army installations in the general vicinity of Fort Ord during fiscal years 1996 through 2000. The amount deposited by the Secretary into the Account shall not exceed the fair market value, as established under subsection (b), of the two Fort Ord Golf Courses conveyed under subsection (a). The Secretary shall notify Congress of the amount Notification.

to be deposited not later than 90 days after the date of the conveyance.

(2) The Secretary shall deposit the balance of any funds paid by the City under subsection (b), after deducting the amount deposited under paragraph (1), in the Department of Defense Base Closure Account 1990.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey mutually satisfactory to the Secretary and the City. The cost of the survey shall be borne by the City.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2860. LAND CONVEYANCE, PARKS RESERVE FORCES TRAINING AREA, DUBLIN, CALIFORNIA.

(a) CONVEYANCE AUTHORIZED.—(1) Except as provided in paragraph (2), the Secretary of the Army may convey to the County of Alameda, California (in this section referred to as the "County"), all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, consisting of approximately 42 acres located at Parks Reserve Forces Training Area, Dublin, California.

(2) The conveyance authorized by this section shall not include any oil, gas, or mineral interest of the United States in the real property to be conveyed.

(b) CONSIDERATION.—(1) As consideration for the conveyance under subsection (a)(1), the County shall provide the Army with the following services at the portion of Parks Reserve Forces Training Area retained by the Army:

(A) Relocation of the main gate of the retained Training Area from Dougherty Road to Dublin Boulevard across from the Bay Area Rapid Transit District East Dublin station, including the closure of the existing main gate on Dougherty Road, construction of a security facility, and construction of a roadway from the new entrance to Fifth Street.

(B) Enclosing and landscaping of the southern boundary of the retained Training Area installation located northerly of Dublin Boulevard.

(C) Enclosing and landscaping of the eastern boundary of the retained Training Area from Dublin Boulevard to Gleason Drive.

(D) Resurfacing of roadways within the retained Training Area.

(E) Provision of such other services in connection with the retained Training Area, including relocation or reconstruction of water lines, relocation or reconstruction of sewer lines, construction of drainage improvements, and construction of buildings, as the Secretary and the County may determine to be appropriate.

(F) Provision for and funding of any environmental mitigation that is necessary as a result of a change in use of the conveyed property by the County.

(2) The detailed specifications for the services to be provided under paragraph (1) may be determined and approved on behalf

of the Secretary by the Commander of Parks Reserve Forces Training Area. The preparation costs of such specifications shall be borne by the County.

(3) The fair market value of improvements and services received by the United States from the County under paragraph (1) must be equal to or exceed the appraised fair market value of the real property to be conveyed under subsection (a)(1). The appraisal of the fair market value of the property shall be subject to the Secretary's review and approval.

(c) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a)(1) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the County.

(d) TIME FOR TRANSFER OF TITLE.—The transfer of title to the County under subsection (a)(1) may be executed by the Secretary only upon the satisfactory guarantee by the County of completion of the services to be provided under subsection (b).

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a)(1) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2861. LAND CONVEYANCE, ARMY RESERVE CENTER, YOUNGSTOWN, OHIO.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey, without consideration, to the City of Youngstown, Ohio (in this section referred to as the "City"), all right, title, and interest of the United States in and to a parcel of excess real property, including improvements thereon, that is located at 399 Miller Street in Youngstown, Ohio, and contains the Kefurt Army Reserve Center.

(b) CONDITION OF CONVEYANCE.—The conveyance authorized under subsection (a) shall be subject to the condition that the City retain the conveyed property for the use and benefit of the Youngstown Fire Department.

(c) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the City.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2862. LAND CONVEYANCE, ARMY RESERVE PROPERTY, FORT SHERIDAN, ILLINOIS.

(a) CONVEYANCE AUTHORIZED.—Subject to subsection (b), the Secretary of the Army may convey to any transferee selected under subsection (g) all right, title, and interest of the United States in and to a parcel of real property (including improvements thereon) at Fort Sheridan, Illinois, consisting of approximately 114 acres and comprising an Army Reserve area.

(b) REQUIREMENT FOR FEDERAL SCREENING OF PROPERTY.—The Secretary may not carry out the conveyance of property authorized by subsection (a) unless the Secretary determines that no department or agency of the Federal Government will accept the transfer of the property.

(c) CONSIDERATION.—(1) As consideration for the conveyance under subsection (a), the transferee selected under subsection (g) shall—

(A) convey to the United States a parcel of real property that meets the requirements of subsection (d);

(B) design for and construct on the property conveyed under subparagraph (A) such facilities (including support facilities and infrastructure) to replace the facilities conveyed pursuant to the authority in subsection (a) as the Secretary considers appropriate; and

(C) pay the cost of relocating Army personnel in the facilities located on the real property conveyed pursuant to the authority in subsection (a) to the facilities constructed under subparagraph (B).

(2) The Secretary shall ensure that the fair market value of the consideration provided by the transferee under paragraph (1) is not less than the fair market value of the real property conveyed by the Secretary under subsection (a).

(d) REQUIREMENTS RELATING TO PROPERTY TO BE CONVEYED TO UNITED STATES.—The real property conveyed to the United States under subsection (c)(1)(A) by the transferee selected under subsection (g) shall—

(1) be located not more than 25 miles from Fort Sheridan;

(2) be located in a neighborhood or area having social and economic conditions similar to the social and economic conditions of the area in which Fort Sheridan is located; and

(3) be acceptable to the Secretary.

(e) INTERIM RELOCATION OF ARMY PERSONNEL.—Pending completion of the construction of all the facilities proposed to be constructed under subsection (c)(1)(B) by the transferee selected under subsection (g), the Secretary may relocate Army personnel in the facilities located on the property to be conveyed pursuant to the authority in subsection (a) to the facilities that have been constructed by the transferee under such subsection (c)(1)(B).

(f) DETERMINATION OF FAIR MARKET VALUE.—The Secretary shall determine the fair market value of the real property to be conveyed under subsection (a) and of the consideration to be provided under subsection (c)(1). Such determination shall be final.

(g) SELECTION OF TRANSFEREE.—(1) The Secretary shall use competitive procedures for the selection of a transferee under subsection (a).

(2) In evaluating the offers of prospective transferees, the Secretary shall—

(A) consider such criteria as the Secretary considers to be appropriate to determine whether prospective transferees will be able to satisfy the consideration requirements specified in subsection (c)(1); and

(B) consult with the communities and jurisdictions in the vicinity of Fort Sheridan (including the City of Lake Forest, the City of Highwood, and the City of Highland Park and the County of Lake, Illinois) in order to determine the most appropriate use of the property to be conveyed.

(h) DESCRIPTIONS OF PROPERTY.—The exact acreage and legal descriptions of the real property to be conveyed by the Secretary under subsection (a) and the real property to be conveyed under subsection (c)(1)(A) shall be determined by a survey satisfactory

to the Secretary. The cost of the survey shall be borne by the transferee selected under subsection (g).

(i) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyances under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2863. LAND CONVEYANCE, PROPERTY UNDERLYING CUMMINS APARTMENT COMPLEX, FORT HOLABIRD, MARYLAND.

(a) CONVEYANCE AUTHORIZED.—Notwithstanding any other provision of law, the Secretary of the Army may convey to the existing owner of the improvements thereon all right, title, and interest of the United States in and to a parcel of real property underlying the Cummins Apartment Complex at Fort Holabird, Maryland, that consists of approximately 6 acres, and any interest the United States may have in the improvements thereon.

(b) CONSIDERATION.—As consideration for the conveyance under subsection (a), the owner of the improvements referred to in that subsection shall provide compensation to the United States in an amount equal to the fair market value (as determined by the Secretary) of the property interest to be conveyed.

(c) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey that is satisfactory to the Secretary.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2864. MODIFICATION OF EXISTING LAND CONVEYANCE, ARMY PROPERTY, HAMILTON AIR FORCE BASE, CALIFORNIA.

(a) APPLICATION OF SECTION.—The authority provided in subsection (b) shall apply only in the event that the purchaser purchases only a portion of the Sale Parcel referred to in section 9099 of the Department of Defense Appropriations Act, 1993 (Public Law 102–396; 106 Stat. 1924) and exercises the purchaser's option to withdraw from the sale as to the rest of the Sale Parcel.

(b) CONVEYANCE AUTHORITY IN EVENT OF PARTIAL SALE.—The Secretary of the Army may convey to the City of Novato, California (in this section referred to as the "City")—

(1) that portion of the Sale Parcel (other than Landfill 26 and an appropriate buffer area around it and the groundwater treatment facility site) that is not purchased as provided in subsection (a); and

(2) any of the land referred to in subsection (e) of such section 9099 that is not purchased by the purchaser.

(c) CONSIDERATION AND CONDITIONS ON CONVEYANCE.—The conveyance under subsection (b) shall be made as a public benefit transfer to the City for the sum of One Dollar, subject to the condition that the conveyed property be used for school, classroom, or other educational purposes or as a public park or recreation area.

(d) SUBSEQUENT CONVEYANCE BY THE CITY.—(1) If, within 10 years after the conveyance under subsection (b), the City conveys all or any part of the conveyed property to a third party without the use restrictions specified in subsection (c), the City shall pay to the Secretary of the Army an amount equal to the proceeds

received by the City from the conveyance, minus the demonstrated reasonable costs of making the conveyance and of any improvements made by the City to the property following its acquisition of the land (but only to the extent such improvements increase the value of the property conveyed). The Secretary of the Army shall deliver into the applicable closing escrow an acknowledgement of receipt of the proceeds and a release of the reverter right under subsection (e) as to the affected land, effective upon such receipt.

(2) Until one year after the completion of the cleanup of contaminated soil in the Landfill located on the Sale Parcel and completion of the groundwater treatment facilities, any conveyance by the City must be at a per-acre price for the portion sold that is at least equal to the per-acre contract price paid by the purchaser for the portion of the Sale Parcel purchased under the Agreement and Modification for the purchase of the Sale Parcel by the purchaser. Thereafter, any conveyance by the City must be at a price at least equal to the fair market value of the portion sold.

(3) This subsection shall not apply to a conveyance by the City to another public or quasi-public agency for public uses of the kind described in subsection (c).

(e) REVERSION.—If the Secretary of the Army determines that the City has failed to make a payment as required by subsection (d)(1) or that any portion of the conveyed property retained by the City or conveyed under subsection (d)(3) is not being utilized in accordance with subsection (c), title to the applicable portion of such property shall revert to the United States at the election of the Administrator of the General Services Administration.

(f) SPECIAL CONVEYANCE REGARDING BUILDING 138 PARCEL.—The Secretary of the Army may convey to the purchaser of the Sale Parcel the Building 138 parcel, which has been designated by the parties as Parcel A4. The per-acre price for the portion conveyed under this subsection shall be at least equal to the per-acre contract price paid by the purchaser for the portion of the Sale Parcel purchased under the Agreement and Modification, dated September 25, 1990, as amended.

PART II—NAVY CONVEYANCES

SEC. 2865. TRANSFER OF JURISDICTION, NAVAL WEAPONS INDUSTRIAL RESERVE PLANT, CALVERTON, NEW YORK.

(a) TRANSFER AUTHORIZED.—Notwithstanding section 2854 of the Military Construction Authorization Act for Fiscal Year 1993 (division B of Public Law 102–484; 106 Stat. 2626), as amended by section 2823 of the Military Construction Authorization Act for Fiscal Year 1995 (division B of Public Law 103–337; 108 Stat. 3058), the Secretary of the Navy may transfer, without reimbursement, to the administrative jurisdiction of the Secretary of Veterans Affairs a parcel of real property consisting of approximately 150 acres located adjacent to the Calverton National Cemetery, Calverton, New York, and comprising a portion of the buffer zone of the Naval Weapons Industrial Reserve Plant, Calverton, New York.

(b) USE OF PROPERTY.—The Secretary of Veterans Affairs shall use the real property transferred under subsection (a) as an addition to the Calverton National Cemetery and administer such real property pursuant to chapter 24 of title 38, United States Code.

(c) SURVEY.—The cost of any survey necessary for the transfer of jurisdiction of the real property described in subsection (a) from the Secretary of the Navy to the Secretary of Veterans Affairs shall be borne by the Secretary of Veterans Affairs.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary of the Navy may require such additional terms and conditions in connection with the transfer under this section as the Secretary of the Navy considers appropriate to protect the interests of the United States.

SEC. 2866. MODIFICATION OF LAND CONVEYANCE, NAVAL WEAPONS INDUSTRIAL RESERVE PLANT, CALVERTON, NEW YORK.

(a) REMOVAL OF REVERSIONARY INTEREST; ADDITION OF LEASE AUTHORITY.—Subsection (c) of section 2833 of the Military Construction Authorization Act for Fiscal Year 1995 (division B of Public Law 103–337; 108 Stat. 3061) is amended to read as follows:

"(c) LEASE AUTHORITY.—Until such time as the real property described in subsection (a) is conveyed by deed, the Secretary may lease the property, along with improvements thereon, to the Community Development Agency in exchange for security services, fire protection services, and maintenance services provided by the Community Development Agency for the property.".

(b) CONFORMING AMENDMENT.—Subsection (e) of such section is amended by striking out "subsection (a)" and inserting in lieu thereof "subsection (a) or a lease under subsection (c)".

SEC. 2867. LAND CONVEYANCE ALTERNATIVE TO EXISTING LEASE AUTHORITY, NAVAL SUPPLY CENTER, OAKLAND, CALIFORNIA.

Section 2834(b) of the Military Construction Authorization Act for Fiscal Year 1993 (division B of Public Law 102–484; 106 Stat. 2614), as amended by section 2833 of the Military Construction Authorization Act for Fiscal Year 1994 (division B of Public Law 103–160; 107 Stat. 1896) and section 2821 of the Military Construction Authorization Act for Fiscal Year 1995 (division B of Public Law 103–337; 108 Stat. 3057), is further amended by adding at the end the following new paragraphs:

"(4) In lieu of entering into a lease under paragraph (1), or in place of an existing lease under that paragraph, the Secretary may convey, without consideration, the property described in that paragraph to the City of Oakland, California, the Port of Oakland, California, the City of Alameda, California, or the City of Richmond, California, under such terms and conditions as the Secretary considers appropriate.

"(5) The exact acreage and legal description of any property conveyed under paragraph (4) shall be determined by a survey satisfactory to the Secretary. The cost of each survey shall be borne by the recipient of the property.".

SEC. 2868. LAND CONVEYANCE, NAVAL WEAPONS INDUSTRIAL RESERVE PLANT, MCGREGOR, TEXAS.

(a) CONVEYANCE AUTHORIZED.—(1) The Secretary of the Navy may convey, without consideration, to the City of McGregor, Texas (in this section referred to as the "City"), all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, containing the Naval Weapons Industrial Reserve Plant, McGregor, Texas.

(2) After screening the facilities, equipment, and fixtures (including special tooling and special test equipment) located on the parcel for other uses by the Department of the Navy, the Secretary may include in the conveyance under paragraph (1) any facilities, equipment, and fixtures on the parcel not to be so used if the Secretary determines that manufacturing activities requiring the use of such facilities, equipment, and fixtures are likely to continue or be reinstated on the parcel after conveyance under paragraph (1).

(b) LEASE AUTHORITY.—Until such time as the real property described in subsection (a)(1) is conveyed by deed, the Secretary may lease the property, along with improvements thereon, to the City in exchange for security services, fire protection services, and maintenance services provided by the City for the property.

(c) CONDITION OF CONVEYANCE.—The conveyance authorized under subsection (a) shall be subject to the condition that the City, directly or through an agreement with a public or private entity, use the conveyed property (or offer the conveyed property for use) for economic redevelopment to replace all or a part of the economic activity being lost at the parcel.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a)(1) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the City.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) or a lease under subsection (b) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2869. LAND CONVEYANCE, NAVAL SURFACE WARFARE CENTER, MEMPHIS, TENNESSEE.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Navy may convey to the Memphis and Shelby County Port Commission, Memphis, Tennessee (in this section referred to as the "Port"), all right, title, and interest of the United States in and to a parcel of real property (including any improvements thereon) consisting of approximately 26 acres that is located at the Carderock Division, Naval Surface Warfare Center, Memphis Detachment, Presidents Island, Memphis, Tennessee.

(b) CONSIDERATION.—As consideration for the conveyance of real property under subsection (a), the Port shall—

(1) grant to the United States a restrictive easement in and to a parcel of real property consisting of approximately 100 acres that is adjacent to the Memphis Detachment, Presidents Island, Memphis, Tennessee; and

(2) if the fair market value of the easement granted under paragraph (1) is less than the fair market value of the real property conveyed under subsection (a), provide the United States such additional consideration as the Secretary and the Port jointly determine appropriate so that the value of the consideration received by the United States under this subsection is equal to or greater than the fair market value of the real property conveyed under subsection (a).

(c) CONDITION OF CONVEYANCE.—The conveyance authorized by subsection (a) shall be carried out in accordance with the provisions of the Land Exchange Agreement between the United States

and the Memphis and Shelby County Port Commission, Memphis, Tennessee.

(d) DETERMINATION OF FAIR MARKET VALUE.—The Secretary shall determine the fair market value of the real property to be conveyed under subsection (a) and of the easement to be granted under subsection (b)(1). Such determinations shall be final.

(e) USE OF PROCEEDS.—The Secretary shall deposit any proceeds received under subsection (b)(2) as consideration for the conveyance of real property authorized under subsection (a) in the special account established pursuant to section 204(h)(2) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 485(h)(2)).

(f) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) and the easement to be granted under subsection (b)(1) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the Port.

(g) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance authorized by subsection (a) and the easement granted under subsection (b)(1) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2870. LAND CONVEYANCE, NAVY PROPERTY, FORT SHERIDAN, ILLINOIS.

(a) CONVEYANCE AUTHORIZED.—Subject to subsection (b), the Secretary of the Navy may convey to any transferee selected under subsection (i) all right, title, and interest of the United States in and to a parcel of real property (including any improvements thereon) at Fort Sheridan, Illinois, consisting of approximately 182 acres and comprising the Navy housing areas at Fort Sheridan.

(b) REQUIREMENT FOR FEDERAL SCREENING OF PROPERTY.—The Secretary may not carry out the conveyance of property authorized by subsection (a) unless the Secretary determines that no department or agency of the Federal Government will accept the transfer of the property.

(c) CONSIDERATION.—(1) As consideration for the conveyance under subsection (a), the transferee selected under subsection (i) shall—

(A) convey to the United States a parcel of real property that meets the requirements of subsection (d);

(B) design for and construct on the property conveyed under subparagraph (A) such housing facilities (including support facilities and infrastructure) to replace the housing facilities conveyed pursuant to the authority in subsection (a) as the Secretary considers appropriate;

(C) pay the cost of relocating members of the Armed Forces residing in the housing facilities located on the real property conveyed pursuant to the authority in subsection (a) to the housing facilities constructed under subparagraph (B);

(D) provide for the education of dependents of such members under subsection (e); and

(E) carry out such activities for the operation, maintenance, and improvement of the facilities constructed under subparagraph (B) as the Secretary and the transferee jointly determine appropriate.

(2) The Secretary shall ensure that the fair market value of the consideration provided by the transferee under paragraph (1) is not less than the fair market value of the property interest conveyed by the Secretary under subsection (a).

(d) REQUIREMENTS RELATING TO PROPERTY TO BE CONVEYED TO UNITED STATES.—The property interest conveyed to the United States under subsection (c)(1)(A) by the transferee selected under subsection (i) shall—

(1) be located not more than 25 miles from the Great Lakes Naval Training Center, Illinois;

(2) be located in a neighborhood or area having social and economic conditions similar to the social and economic conditions of the area in which Fort Sheridan is located; and

(3) be acceptable to the Secretary.

(e) EDUCATION OF DEPENDENTS OF MEMBERS OF THE ARMED FORCES.—In providing for the education of dependents of members of the Armed Forces under subsection (c)(1)(D), the transferee selected under subsection (i) shall ensure that such dependents may enroll at the schools of one or more school districts in the vicinity of the real property conveyed to the United States under subsection (c)(1)(A) which schools and districts—

(1) meet such standards for schools and school districts as the Secretary shall establish; and

(2) will continue to meet such standards after the enrollment of such dependents regardless of the receipt by such school districts of Federal impact aid.

(f) INTERIM RELOCATION OF MEMBERS OF THE ARMED FORCES.—Pending completion of the construction of all the housing facilities proposed to be constructed under subsection (c)(1)(B) by the transferee selected under subsection (i), the Secretary may relocate—

(1) members of the Armed Forces residing in housing facilities located on the property to be conveyed pursuant to the authority in subsection (a) to the housing facilities that have been constructed by the transferee under such subsection (c)(1)(B); and

(2) other Government tenants located on such property to other facilities.

(g) APPLICABILITY OF CERTAIN AGREEMENTS.—The property conveyed by the Secretary pursuant to the authority in subsection (a) shall be subject to the Memorandum of Understanding concerning the Transfer of Certain Properties at Fort Sheridan, Illinois, dated August 8, 1991, between the Department of the Army and the Department of the Navy.

(h) DETERMINATION OF FAIR MARKET VALUE.—The Secretary shall determine the fair market value of the real property interest to be conveyed under subsection (a) and of the consideration to be provided under subsection (c)(1). Such determination shall be final.

(i) SELECTION OF TRANSFEREE.—(1) The Secretary shall use competitive procedures for the selection of a transferee under subsection (a).

(2) In evaluating the offers of prospective transferees, the Secretary shall—

(A) consider such criteria as the Secretary considers to be appropriate to determine whether prospective transferees will be able to satisfy the consideration requirements specified in subsection (c)(1); and

(B) consult with the communities and jurisdictions in the vicinity of Fort Sheridan (including the City of Lake Forest, the City of Highwood, and the City of Highland Park and the County of Lake, Illinois) in order to determine the most appropriate use of the property to be conveyed.

(j) DESCRIPTIONS OF PROPERTY.—The exact acreage and legal descriptions of the real property to be conveyed by the Secretary under subsection (a) and the real property to be conveyed under subsection (c)(1)(A) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the transferee selected under subsection (i).

(k) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyances under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2871. LAND CONVEYANCE, NAVAL COMMUNICATIONS STATION, STOCKTON, CALIFORNIA.

(a) CONVEYANCE AUTHORIZED.—Subject to subsection (b), the Secretary of the Navy may convey to the Port of Stockton, California (in this section referred to as the "Port"), all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, consisting of approximately 1,450 acres at the Naval Communication Station, Stockton, California.

(b) REQUIREMENT FOR FEDERAL SCREENING OF PROPERTY.—The Secretary may not carry out the conveyance of property authorized by subsection (a) unless the Secretary determines that no department or agency of the Federal Government will accept the transfer of the property.

(c) INTERIM LEASE.—Until such time as the real property described in subsection (a) is conveyed by deed, the Secretary may lease the property, along with improvements thereon, to the Port under terms and conditions satisfactory to the Secretary.

(d) CONSIDERATION.—The conveyance may be made as a public benefit conveyance for port development as defined in section 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484) if the Port satisfies the criteria in such section and the regulations prescribed to implement such section. If the Port fails to qualify for a public benefit conveyance and still desires to acquire the property, the Port shall pay to the United States an amount equal to the fair market value of the property to be conveyed, as determined by the Secretary.

(e) FEDERAL LEASE OF CONVEYED PROPERTY.—As a condition for transfer of this property under subparagraph (a), the Secretary may require that the Port lease to the Department of Defense or any other Federal agency all or any part of the property being used by the Federal Government at the time of conveyance. Any such lease shall be made under the same terms and conditions as in force at the time of the conveyance. Such terms and conditions will continue to include payment to the Port for maintenance of facilities leased to the Federal Government. Such maintenance of the Federal premises shall be to the reasonable satisfaction of the United States, or as required by all applicable Federal, State, and local laws and ordinances.

(f) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property to be conveyed under subsection (a)

shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the Port.

(g) ADDITIONAL TERMS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) or the lease under subsection (c) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2872. LEASE OF PROPERTY, NAVAL AIR STATION AND MARINE CORPS AIR STATION, MIRAMAR, CALIFORNIA.

(a) LEASE AUTHORIZED.—Notwithstanding section 2692(a)(1) of title 10, United States Code, the Secretary of the Navy may lease to the City of San Diego, California (in this subsection referred to as the "City"), the parcel of real property, including improvements thereon, described in subsection (b) in order to permit the City to carry out activities on the parcel relating to solid waste management, including the operation and maintenance of one or more solid waste landfills. Pursuant to the lease, the Secretary may authorize the City to construct and operate on the parcel facilities related to solid waste management, including a sludge processing facility.

(b) COVERED PROPERTY.—The parcel of property to be leased under subsection (a) is a parcel of real property consisting of approximately 1,400 acres that is located at Naval Air Station, Miramar, California, or Marine Corps Air Station, Miramar, California.

(c) LEASE TERM.—The lease authorized under subsection (a) shall be for an initial term of not more than 50 years. Under the lease, the Secretary may provide the City with an option to extend the lease for such number of additional periods of such length as the Secretary considers appropriate.

(d) FORM OF CONSIDERATION.—The Secretary may provide in the lease under subsection (a) for the provision by the City of in-kind consideration under the lease.

(e) USE OF MONEY RENTALS.—In such amounts as are provided in advance in appropriation Acts, the Secretary may use money rentals received by the Secretary under the lease authorized under subsection (a) to carry out the following programs at Department of the Navy installations that utilize the solid waste landfill or landfills located on the leased property:

(1) Environmental programs, including natural resource management programs, recycling programs, and pollution prevention programs.

(2) Programs to improve the quality of military life, including programs to improve military unaccompanied housing and military family housing.

(f) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the lease under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

(g) DEFINITIONS.—In this section, the terms "sludge", "solid waste", and "solid waste management" have the meanings given such terms in paragraphs (26A), (27), and (28), respectively, of section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903).

PART III—AIR FORCE CONVEYANCES

SEC. 2874. LAND ACQUISITION OR EXCHANGE, SHAW AIR FORCE BASE, SOUTH CAROLINA.

(a) LAND ACQUISITION.—By means of an exchange of property, acceptance as a gift, or other means that do not require the use of appropriated funds, the Secretary of the Air Force may acquire all right, title, and interest in and to a parcel of real property (together with any improvements thereon) consisting of approximately 1,100 acres and located adjacent to the eastern end of Shaw Air Force Base, South Carolina, and extending to Stamey Livestock Road in Sumter County, South Carolina.

(b) LAND EXCHANGE AUTHORIZED.—For purposes of acquiring the real property described in subsection (a), the Secretary may participate in a land exchange and convey all right, title, and interest of the United States in and to a parcel of real property in the possession of the Air Force if—

(1) the Secretary determines that the land exchange is in the best interests of the Air Force; and

(2) the fair market value of the parcel to be conveyed by the Secretary does not exceed the fair market value of the parcel to be acquired by the Secretary.

(c) DETERMINATIONS OF FAIR MARKET VALUE.—The Secretary shall determine the fair market value of the parcels of real property to be exchanged, accepted, or otherwise acquired pursuant to subsection (a) and exchanged pursuant to subsection (b). Such determinations shall be final.

(d) REVERSION OF GIFT CONVEYANCE.—If the Secretary acquires the real property described in subsection (a) by way of gift, the Secretary may accept in the deed of conveyance terms or conditions that require that the land be reconveyed to the donor, or the heirs of the donor, if Shaw Air Force Base ceases operations and is closed.

(e) DESCRIPTIONS OF PROPERTY.—The exact acreage and legal descriptions of the parcels of real property to be exchanged, accepted, or otherwise acquired pursuant to subsection (a) and exchanged pursuant to subsection (b) shall be determined by a survey satisfactory to the Secretary.

(f) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the acquisition under subsection (a) or conveyance under subsection (b) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2875. LAND CONVEYANCE, ELMENDORF AIR FORCE BASE, ALASKA.

(a) CONVEYANCE TO PRIVATE PERSON AUTHORIZED.—The Secretary of the Air Force may convey to such private person as the Secretary considers appropriate, all right, title, and interest of the United States in and to a parcel of real property consisting of approximately 31.69 acres that is located at Elmendorf Air Force Base, Alaska, and identified in land lease W–95–507–ENG–58.

(b) CONSIDERATION.—As consideration for the conveyance under subsection (a), the purchaser shall pay to the United States an amount equal to the fair market value of the real property to be conveyed, as determined by the Secretary. In determining the fair market value of the real property, the Secretary shall consider

the property as encumbered by land lease W–95–507–ENG–58, with an expiration date of June 13, 2024.

(c) CONDITION OF CONVEYANCE.—The conveyance authorized by subsection (a) shall be subject to the condition that the purchaser of the property—

(1) permit the lease of the apartment complex located on the property by members of the Armed Forces stationed at Elmendorf Air Force Base and their dependents; and

(2) maintain the apartment complex in a condition suitable for such leases.

(d) DEPOSIT OF PROCEEDS.—The Secretary shall deposit the amount received from the purchaser under subsection (b) in the special account established under section 204(h)(2) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 485(h)(2)).

(e) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the purchaser of the real property.

(f) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2876. LAND CONVEYANCE, RADAR BOMB SCORING SITE, FORSYTH, MONTANA.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Air Force may convey, without consideration, to the City of Forsyth, Montana (in this section referred to as the "City"), all right, title, and interest of the United States in and to the parcel of property (including any improvements thereon) consisting of approximately 58 acres located in Forsyth, Montana, which has served as a support complex and recreational facilities for the Radar Bomb Scoring Site, Forsyth, Montana.

(b) CONDITION OF CONVEYANCE.—The conveyance under subsection (a) shall be subject to the condition that the City—

(1) utilize the property and recreational facilities conveyed under that subsection for housing and recreation purposes; or

(2) enter into an agreement with an appropriate public or private entity to lease such property and facilities to that entity for such purposes.

(c) REVERSION.—If the Secretary determines at any time that the property conveyed under subsection (a) is not being utilized in accordance with paragraph (1) or paragraph (2) of subsection (b), all right, title, and interest in and to the conveyed property, including any improvements thereon, shall revert to the United States and the United States shall have the right of immediate entry onto the property.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property conveyed under this section shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the City.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with

the conveyance under this section as the Secretary determines appropriate to protect the interests of the United States.

SEC. 2877. LAND CONVEYANCE, RADAR BOMB SCORING SITE, POWELL, WYOMING.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Air Force may convey, without consideration, to the Northwest College Board of Trustees (in this section referred to as the "Board"), all right, title, and interest of the United States in and to a parcel of real property (including any improvements thereon) consisting of approximately 24 acres located in Powell, Wyoming, which has served as the location of a support complex, recreational facilities, and housing facilities for the Radar Bomb Scoring Site, Powell, Wyoming.

(b) CONDITION OF CONVEYANCE.—The conveyance authorized under subsection (a) shall be subject to the condition that the Board use the property conveyed under that subsection for housing and recreation purposes and for such other purposes as the Secretary and the Board jointly determine appropriate.

(c) REVERSIONARY INTEREST.—During the five-year period beginning on the date that the Secretary makes the conveyance authorized under subsection (a), if the Secretary determines that the conveyed property is not being used in accordance with subsection (b), all right, title, and interest in and to the conveyed property, including any improvements thereon, shall revert to the United States and the United States shall have the right of immediate entry onto the property.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property conveyed under this section shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the Board.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2878. LAND CONVEYANCE, AVON PARK AIR FORCE RANGE, FLORIDA.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Air Force may convey, without consideration, to Highlands County, Florida (in this section referred to as the "County"), all right, title, and interest of the United States in and to a parcel of real property, together with any improvements thereon, located within the boundaries of the Avon Park Air Force Range near Sebring, Florida, which has previously served as the location of a support complex and recreational facilities for the Avon Park Air Force Range.

(b) CONDITION OF CONVEYANCE.—The conveyance authorized under subsection (a) shall be subject to the condition that the County, directly or through an agreement with an appropriate public or private entity, use the conveyed property, including the support complex and recreational facilities, for operation of a juvenile or other correctional facility.

(c) REVERSIONARY INTEREST.—If the Secretary determines at any time that the property conveyed under subsection (a) is not being used in accordance with subsection (b), all right, title, and interest in the property, including any improvements thereon, shall revert to the United States, and the United States shall have the right of immediate entry onto the property.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the County.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under this section as the Secretary considers appropriate to protect the interests of the United States.

Subtitle E—Land Conveyances Involving Utilities

SEC. 2881. CONVEYANCE OF RESOURCE RECOVERY FACILITY, FORT DIX, NEW JERSEY.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey to Burlington County, New Jersey (in this section referred to as the "County"), all right, title, and interest of the United States in and to a parcel of real property at Fort Dix, New Jersey, consisting of approximately six acres and containing a resource recovery facility, known as the Fort Dix resource recovery facility.

(b) RELATED EASEMENTS.—The Secretary may grant to the County any easement that is necessary for access to and operation of the resource recovery facility conveyed under subsection (a).

(c) REQUIREMENT RELATING TO CONVEYANCE.—The Secretary may not carry out the conveyance of the resource recovery facility authorized by subsection (a) unless the County agrees to accept the facility in its existing condition at the time of the conveyance.

(d) CONDITIONS ON CONVEYANCE.—The conveyance of the resource recovery facility authorized by subsection (a) is subject to the following conditions:

(1) That the County provide refuse and steam service to Fort Dix, New Jersey, at the rate established by the appropriate Federal or State regulatory authority.

(2) That the County comply with all applicable environmental laws and regulations (including any permit or license requirements) relating to the resource recovery facility.

(3) That the County assume full responsibility for ownership, operation, maintenance, repair, and all regulatory compliance requirements for the resource recovery facility.

(4) That the County not commence any expansion of the resource recovery facility without approval of such expansion by the Secretary.

(e) DESCRIPTION OF THE PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a), and of any easements to be granted under subsection (b), shall be determined by a survey satisfactory to the Secretary. The cost of such survey shall be borne by the County.

(f) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) and the grant of any easement under subsection (b) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2882. CONVEYANCE OF WATER AND WASTEWATER TREATMENT PLANTS, FORT GORDON, GEORGIA.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey to the city of Augusta, Georgia (in this section referred to as the "City"), all right, title, and interest of the United States to several parcels of real property located at Fort Gordon, Georgia, and consisting of approximately seven acres each. The parcels are improved with a water filtration plant, water distribution system with storage tanks, sewage treatment plant, and sewage collection system.

(b) RELATED EASEMENTS.—The Secretary may grant to the City any easement that is necessary for access to the real property conveyed under subsection (a) and operation of the water and wastewater treatment plants and distribution and collection systems conveyed under subsection (a).

(c) REQUIREMENT RELATING TO CONVEYANCE.—The Secretary may not carry out the conveyance of the water and wastewater treatment plants and distribution and collection systems authorized by subsection (a) unless the City agrees to accept the water and wastewater treatment plants and distribution and collection systems in their existing condition at the time of the conveyance.

(d) CONDITIONS ON CONVEYANCE.—The conveyance authorized by subsection (a) is subject to the following conditions:

(1) That the City provide water and sewer service to Fort Gordon, Georgia, at a rate established by the appropriate Federal or State regulatory authority.

(2) That the City comply with all applicable environmental laws and regulations (including any permit or license requirements) regarding the real property conveyed under subsection (a).

(3) That the City assume full responsibility for ownership, operation, maintenance, repair, and all regulatory compliance requirements for the water and wastewater treatment plants and distribution and collection systems.

(4) That the City not commence any expansion of the water and wastewater treatment plants and distribution and collection systems without approval of such expansion by the Secretary.

(e) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a), and of any easements granted under subsection (b), shall be determined by a survey satisfactory to the Secretary. The cost of such survey shall be borne by the City.

(f) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) and the grant of any easement under subsection (b) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2883. CONVEYANCE OF ELECTRICITY DISTRIBUTION SYSTEM, FORT IRWIN, CALIFORNIA.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey to the Southern California Edison Company, California (in this section referred to as the "Company"), all right, title, and interest of the United States in and to the electricity distribution system located at Fort Irwin, California.

(b) DESCRIPTION OF SYSTEM AND CONVEYANCE.—The electricity distribution system authorized to be conveyed under subsection (a) consists of approximately 115 miles of electricity distribution lines (including poles, switches, reclosers, transformers, regulators, switchgears, and service lines) and includes the equipment, fixtures, structures, and other improvements the Federal Government utilizes to provide electricity services at Fort Irwin. The system does not include any real property.

(c) RELATED EASEMENTS.—The Secretary may grant to the Company any easement that is necessary for access to and operation of the electricity distribution system conveyed under subsection (a).

(d) REQUIREMENT RELATING TO CONVEYANCE.—The Secretary may not carry out the electricity distribution system authorized by subsection (a) unless the Company agrees to accept the electricity distribution system in its existing condition at the time of the conveyance.

(e) CONDITIONS ON CONVEYANCE.—The conveyance authorized by subsection (a) is subject to the following conditions:

(1) That the Company provide electricity service to Fort Irwin, California, at a rate established by the appropriate Federal or State regulatory authority.

(2) That the Company comply with all applicable environmental laws and regulations (including any permit or license requirements) regarding the electricity distribution system.

(3) That the Company assume full responsibility for ownership, operation, maintenance, repair, and all regulatory compliance requirements for the electricity distribution system.

(4) That the Company not commence any expansion of the electricity distribution system without approval of such expansion by the Secretary.

(f) DESCRIPTION OF EASEMENT.—The exact acreage and legal description of any easement granted under subsection (c) shall be determined by a survey satisfactory to the Secretary. The cost of such survey shall be borne by the Company.

(g) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) and the grant of any easement under subsection (c) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2884. CONVEYANCE OF WATER TREATMENT PLANT, FORT PICKETT, VIRGINIA.

(a) AUTHORITY TO CONVEY.—(1) The Secretary of the Army may convey to the Town of Blackstone, Virginia (in this section referred to as the "Town"), all right, title, and interest of the United States in and to the property described in paragraph (2).

(2) The property referred to in paragraph (1) is the following property located at Fort Pickett, Virginia:

(A) A parcel of real property consisting of approximately 10 acres, including a reservoir and improvements thereon, the site of the Fort Pickett water treatment plant.

(B) Any equipment, fixtures, structures, or other improvements (including any water transmission lines, water distribution and service lines, fire hydrants, water pumping stations, and other improvements) not located on the parcel described in subparagraph (A) that are jointly identified by the Secretary

and the Town as owned and utilized by the Federal Government in order to provide water to and distribute water at Fort Pickett.

(b) RELATED EASEMENTS.—The Secretary may grant to the Town the following easements relating to the conveyance of the property authorized by subsection (a):

(1) Such easements, if any, as the Secretary and the Town jointly determine are necessary in order to provide access to the water distribution system referred to in paragraph (2) of such subsection for maintenance, safety, and other purposes.

(2) Such easements, if any, as the Secretary and the Town jointly determine are necessary in order to provide access to the finished water lines from the system to the Town.

(3) Such rights of way appurtenant, if any, as the Secretary and the Town jointly determine are necessary in order to satisfy requirements imposed by any Federal, State, or municipal agency relating to the maintenance of a buffer zone around the water distribution system.

(c) WATER RIGHTS.—The Secretary shall grant to the Town as part of the conveyance under subsection (a) all right, title, and interest of the United States in and to any water of the Nottoway River, Virginia, that is connected with the reservoir referred to in paragraph (2)(A) of such subsection. The grant of such water rights shall not impair the right that any other local jurisidiction may have to withdraw water from the Nottoway River, on or after the date of the enactment of this Act, pursuant to the law of the Commonwealth of Virginia.

(d) REQUIREMENTS RELATING TO CONVEYANCE.—(1) The Secretary may not carry out the conveyance of the water distribution system authorized under subsection (a) unless the Town agrees to accept the system in its existing condition at the time of the conveyance.

(2) The Secretary shall complete any environmental removal or remediation required under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) with respect to the system to be conveyed under this section before carrying out the conveyance.

(e) CONDITIONS ON CONVEYANCE.—The conveyance authorized in subsection (a) shall be subject to the following conditions:

(1) That the Town reserve for provision to Fort Pickett, and provide to Fort Pickett on demand, not less than 1,500,000 million gallons per day of treated water from the water distribution system.

(2) That the Town provide water to and distribute water at Fort Pickett at a rate established by the appropriate Federal or State regulatory authority.

(3) That the Town maintain and operate the water distribution system in compliance with all applicable Federal and State environmental laws and regulations (including any permit and license requirements).

(f) DESCRIPTION OF PROPERTY.—The exact legal description of the property to be conveyed under subsection (a), of any easements granted under subsection (b), and of any water rights granted under subsection (c) shall be determined by a survey and other means satisfactory to the Secretary. The cost of any survey or other services performed at the direction of the Secretary under the authority in the preceding sentence shall be borne by the Town.

(g) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance authorized under subsection (a), the easements granted under subsection (b), and the water rights granted under subsection (c) that the Secretary considers appropriate to protect the interests of the United States.

Subtitle F—Other Matters

SEC. 2891. AUTHORITY TO USE FUNDS FOR CERTAIN EDUCATIONAL PURPOSES.

Section 2008 of title 10, United States Code, is amended by striking out "section 10" and all that follows through the period at the end and inserting in lieu thereof "construction, as defined in section 8013(3) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7713(3)), or to carry out section 8008 of such Act (20 U.S.C. 7708), relating to the provision of assistance to certain school facilities under the impact aid program.".

10 USC 2805 note.

SEC. 2892. DEPARTMENT OF DEFENSE LABORATORY REVITALIZATION DEMONSTRATION PROGRAM.

(a) PROGRAM AUTHORIZED.—The Secretary of Defense may carry out a program (to be known as the "Department of Defense Laboratory Revitalization Demonstration Program") for the revitalization of Department of Defense laboratories. Under the program, the Secretary may carry out minor military construction projects in accordance with subsection (b) and other applicable law to improve Department of Defense laboratories covered by the program.

(b) INCREASED MAXIMUM AMOUNTS APPLICABLE TO MINOR CONSTRUCTION PROJECTS.—For purpose of any military construction project carried out under the program—

(1) the amount provided in the second sentence of subsection (a)(1) of section 2805 of title 10, United States Code, shall be deemed to be $3,000,000;

(2) the amount provided in subsection (b)(1) of such section shall be deemed to be $1,500,000; and

(3) the amount provided in subsection (c)(1)(B) of such section shall be deemed to be $1,000,000.

(c) PROGRAM REQUIREMENTS.—(1) Not later than 30 days before commencing the program, the Secretary shall—

(A) designate the Department of Defense laboratories at which construction may be carried out under the program; and

(B) establish procedures for the review and approval of requests from such laboratories to carry out such construction.

(2) The laboratories designated under paragraph (1)(A) may not include Department of Defense laboratories that are contractor owned.

Notification.

(3) The Secretary shall notify Congress of the laboratories designated under paragraph (1)(A).

(d) REPORT.—Not later than February 1, 1998, the Secretary shall submit to Congress a report on the program. The report shall include the Secretary's conclusions and recommendations regarding the desirability of extending the authority set forth in subsection (b) to cover all Department of Defense laboratories.

(e) EXCLUSIVITY OF PROGRAM.—Nothing in this section may be construed to limit any other authority provided by law for any military construction project at a Department of Defense laboratory covered by the program.

(f) DEFINITIONS.—In this section:

(1) The term "laboratory" includes—

(A) a research, engineering, and development center;

(B) a test and evaluation activity owned, funded, and operated by the Federal Government through the Department of Defense; and

(C) a supporting facility of a laboratory.

(2) The term "supporting facility", with respect to a laboratory, means any building or structure that is used in support of research, development, test, and evaluation at the laboratory.

(g) EXPIRATION OF AUTHORITY.—The Secretary may not commence a construction project under the program after September 30, 1998.

SEC. 2893. AUTHORITY FOR PORT AUTHORITY OF STATE OF MISSISSIPPI TO USE NAVY PROPERTY AT NAVAL CONSTRUCTION BATTALION CENTER, GULFPORT, MISSISSIPPI.

(a) JOINT USE AGREEMENT AUTHORIZED.—The Secretary of the Navy may enter into an agreement with the Port Authority of the State of Mississippi (in this section referred to as the "Port Authority"), under which the Port Authority may use real property comprising up to 50 acres located at the Naval Construction Battalion Center, Gulfport, Mississippi (in this section referred to as the "Center").

(b) TERM OF AGREEMENT.—The agreement authorized under subsection (a) may be for an initial period of not more than 15 years. Under the agreement, the Secretary shall provide the Port Authority with an option to extend the agreement for at least three additional periods of five years each.

(c) CONDITIONS ON USE.—The agreement authorized under subsection (a) shall require the Port Authority—

(1) to suspend operations under the agreement in the event Navy contingency operations are conducted at the Center; and

(2) to use the property covered by the agreement in a manner consistent with Navy operations conducted at the Center.

(d) CONSIDERATION.—(1) As consideration for the use of the property covered by the agreement under subsection (a), the Port Authority shall pay to the Navy an amount equal to the fair market rental value of the property, as determined by the Secretary taking into consideration the Port Authority's use of the property.

(2) The Secretary may include a provision in the agreement requiring the Port Authority—

(A) to pay the Navy an amount (as determined by the Secretary) to cover the costs of replacing at the Center any facilities vacated by the Navy on account of the agreement or to construct suitable replacement facilities for the Navy; and

(B) to pay the Navy an amount (as determined by the Secretary) for the costs of relocating Navy operations from the vacated facilities to the replacement facilities.

(e) CONGRESSIONAL NOTIFICATION.—The Secretary may not enter into the agreement authorized by subsection (a) until the Reports.

end of the 21-day period beginning on the date on which the Secretary submits to Congress a report containing an explanation of the terms of the proposed agreement and a description of the consideration that the Secretary expects to receive under the agreement.

(f) USE OF PAYMENT.—(1) In such amounts as are provided in advance in appropriation Acts, the Secretary may use amounts paid under subsection (d)(1) to pay for general supervision, administration, and overhead expenses and for improvement, maintenance, repair, construction, or restoration of the roads, railways, and facilities serving the Center.

(2) In such amounts as are provided in advance in appropriation Acts, the Secretary may use amounts paid under subsection (d)(2) to pay for constructing new facilities, or making modifications to existing facilities, that are necessary to replace facilities vacated by the Navy on account of the agreement under subsection (a) and for relocating operations of the Navy from the vacated facilities to replacement facilities.

(g) CONSTRUCTION BY PORT AUTHORITY.—The Secretary may authorize the Port Authority to demolish existing facilities located on the property covered by the agreement under subsection (a) and, consistent with the restriction specified in subsection (c)(2), construct new facilities on the property for joint use by the Port Authority and the Navy.

(h) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the agreement authorized under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2894. PROHIBITION ON JOINT USE OF NAVAL AIR STATION AND MARINE CORPS AIR STATION, MIRAMAR, CALIFORNIA.

The Secretary of the Navy may not enter into any agreement that provides for or permits civil aircraft to regularly use Naval Air Station or Marine Corps Air Station, Miramar, California.

SEC. 2895. REPORT REGARDING ARMY WATER CRAFT SUPPORT FACILITIES AND ACTIVITIES.

Not later than February 15, 1996, the Secretary of the Army shall submit to Congress a report setting forth—

(1) the location, assets, and mission of each Army facility, active or reserve component, that supports water transportation operations;

(2) an infrastructure inventory and utilization rate of each Army facility supporting water transportation operations;

(3) options for consolidating these operations to reduce overhead; and

(4) actions that can be taken to respond affirmatively to requests from the residents of Marcus Hook, Pennsylvania, to close the Army Reserve facility located in Marcus Hook and make the facility available for use by the community.

SEC. 2896. RESIDUAL VALUE REPORTS.

(a) REPORTS REQUIRED.—The Secretary of Defense, in coordination with the Director of the Office of Management and Budget, shall submit to the congressional defense committees status reports on the results of residual value negotiations between the United States and Germany. Such status reports shall be submitted within

30 days after the receipt of such reports by the Office of Management and Budget.

(b) CONTENT OF STATUS REPORTS.—The status reports required by subsection (a) shall include the following information:

(1) The estimated residual value of United States capital value and improvements to facilities in Germany that the United States has turned over to Germany.

(2) The actual value obtained by the United States for each facility or installation turned over to Germany.

(3) The reasons for any difference between the estimated and actual value obtained.

SEC. 2897. SENSE OF CONGRESS AND REPORT REGARDING FITZSIMONS ARMY MEDICAL CENTER, COLORADO.

(a) FINDINGS.—Congress makes the following findings:

(1) Fitzsimons Army Medical Center in Aurora, Colorado, was approved for closure in 1995 under the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note).

(2) The University of Colorado Health Sciences Center and the University of Colorado Hospital Authority are in urgent need of space to maintain their ability to deliver health care to meet the growing demand for their services.

(3) Reuse of the Fitzsimons Army Medical Center at the earliest opportunity would provide significant benefit to the cities of Aurora, Colorado, and Denver, Colorado.

(4) Reuse of the Fitzsimons Army Medical Center by the communities in the vicinity of the center will ensure that the center is fully utilized, thereby providing a benefit to such communities.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) determinations as to the use by other departments and agencies of the Federal Government of buildings and property at military installations approved for closure under the Defense Base Closure and Realignment Act of 1990, including Fitzsimons Army Medical Center, Colorado, should be completed as soon as practicable;

(2) the Secretary of Defense should consider the expedited transfer of appropriate facilities (including facilities that remain operational) at such installations to the redevelopment authorities for such installations in order to ensure continuity of use of such facilities after the closure of such installations, in particular, the Secretary should consider the expedited transfer of the Fitzsimons Army Medical Center because of the significant preparation underway by the redevelopment authority concerned;

(3) the Secretary should not enter into leases with redevelopment authorities for facilities at such installations until the Secretary determines that such leases fall within the categorical exclusions established by the Secretary pursuant to the National Environmental Policy Act (42 U.S.C. 4321 et seq.).

(c) REPORT.—(1) Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the closure and redevelopment of Fitzsimons Army Medical Center.

(2) The report shall include the following:

(A) The results of the determinations as to the use of buildings and property at Fitzsimons Army Medical Center by other departments and agencies of the Federal Government under section 2905(b)(1) of the Defense Base Closure and Realignment Act of 1990.

(B) A description of any actions taken to expedite such determinations.

(C) A discussion of any impediments raised as a result of such determinations to the transfer or lease of Fitzsimons Army Medical Center.

(D) A description of any actions taken by the Secretary to lease Fitzsimons Army Medical Center to the redevelopment authority.

(E) The results of any environmental reviews under the National Environmental Policy Act in which such a lease would fall into the categorical exclusions established by the Secretary of the Army.

(F) The results of the environmental baseline survey regarding Fitzsimons Army Medical Center and a finding of suitability or nonsuitability.

Illinois Land Conservation Act of 1995.
16 USC 1609 note.

TITLE XXIX—LAND CONVEYANCES INVOLVING JOLIET ARMY AMMUNITION PLANT, ILLINOIS

SEC. 2901. SHORT TITLE.

This title may be cited as the "Illinois Land Conservation Act of 1995".

SEC. 2902. DEFINITIONS.

For purposes of this title, the following definitions apply:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the United States Environmental Protection Agency.

(2) AGRICULTURAL PURPOSES.—The term "agricultural purposes" means the use of land for row crops, pasture, hay, and grazing.

(3) ARSENAL.—The term "Arsenal" means the Joliet Army Ammunition Plant located in the State of Illinois.

(4) ARSENAL LAND USE CONCEPT.—The term "Arsenal land use concept" means the land use proposals that were developed and unanimously approved on May 30, 1995, by the Joliet Arsenal Citizen Planning Commission.

(5) CERCLA.—The term "CERCLA" means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.).

(6) ENVIRONMENTAL LAW.—The term "environmental law" means all applicable Federal, State, and local laws, regulations, and requirements related to protection of human health, natural and cultural resources, or the environment. Such term includes CERCLA, the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.), the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), the Clean Air Act (42 U.S.C. 7401 et seq.), the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.), the Toxic Substances Control Act (15

U.S.C. 2601 et seq.), and the Safe Drinking Water Act (42 U.S.C. 300f et seq.).

(7) HAZARDOUS SUBSTANCE.—The term "hazardous substance" has the meaning given such term by section 101(14) of CERCLA (42 U.S.C. 9601(14)).

(8) MNP.—The term "MNP" means the Midewin National Tallgrass Prairie established pursuant to section 2914 and managed as a part of the National Forest System.

(9) PERSON.—The term "person" has the meaning given such term by section 101(21) of CERCLA (42 U.S.C. 9601(21)).

(10) POLLUTANT OR CONTAMINANT.—The term "pollutant or contaminant" has the meaning given such term by section 101(33) of CERCLA (42 U.S.C. 9601(33)).

(11) RELEASE.—The term "release" has the meaning given such term by section 101(22) of CERCLA (42 U.S.C. 9601(22)).

(12) RESPONSE ACTION.—The term "response action" has the meaning given the term "response" by section 101(25) of CERCLA (42 U.S.C. 9601(25)).

Subtitle A—Conversion of Joliet Army Ammunition Plant to Midewin National Tallgrass Prairie

SEC. 2911. PRINCIPLES OF TRANSFER.

(a) LAND USE PLAN.—The Congress ratifies in principle the proposals generally identified by the land use plan which was developed by the Joliet Arsenal Citizen Planning Commission and unanimously approved on May 30, 1995.

(b) TRANSFER WITHOUT REIMBURSEMENT.—The area constituting the Midewin National Tallgrass Prairie shall be transferred, without reimbursement, to the Secretary of Agriculture.

(c) MANAGEMENT OF MNP.—Management by the Secretary of Agriculture of those portions of the Arsenal transferred to the Secretary under this title shall be in accordance with sections 2914 and 2915 regarding the Midewin National Tallgrass Prairie.

(d) SECURITY MEASURES.—The Secretary of the Army and the Secretary of Agriculture shall each provide and maintain physical and other security measures on such portion of the Arsenal as is under the administrative jurisdiction of such Secretary, unless the Secretary of the Army and the Secretary of Agriculture agree otherwise. Such security measures (which may include fences and natural barriers) shall include measures to prevent members of the public from gaining unauthorized access to such portions of the Arsenal as are under the administrative jurisdiction of such Secretary and that may endanger health or safety.

(e) COOPERATIVE AGREEMENTS.—The Secretary of the Army, the Secretary of Agriculture, and the Administrator are individually and collectively authorized to enter into cooperative agreements and memoranda of understanding among each other and with other affected Federal agencies, State and local governments, private organizations, and corporations to carry out the purposes for which the Midewin National Tallgrass Prairie is established.

(f) INTERIM ACTIVITIES OF THE SECRETARY OF AGRICULTURE.—Prior to transfer and subject to such reasonable terms and conditions as the Secretary of the Army may prescribe, the Secretary

of Agriculture may enter upon the Arsenal property for purposes related to planning, resource inventory, fish and wildlife habitat manipulation (which may include prescribed burning), and other such activities consistent with the purposes for which the Midewin National Tallgrass Prairie is established.

SEC. 2912. TRANSFER OF MANAGEMENT RESPONSIBILITIES AND JURISDICTION OVER ARSENAL.

(a) GENERAL RULE FOR TRANSFER OF JURISDICTION.—

(1) TRANSFER REQUIRED SUBJECT TO RESPONSE ACTIONS.—Subject to subsection (d), not later than 270 days after the date of the enactment of this title, the Secretary of the Army shall transfer, without reimbursement, to the Secretary of Agriculture those portions of the Arsenal that—

(A) are identified on the map described in subsection (e)(1) as appropriate for transfer under this subsection to the Secretary of Agriculture; and

(B) the Secretary of the Army and the Administrator concur in finding that all response actions have been taken under CERCLA necessary to protect human health and the environment with respect to any hazardous substance remaining on the property.

Memorandum.

(2) EFFECT OF LESS THAN COMPLETE TRANSFER.—If the concurrence requirement in paragraph (1)(B) results in the transfer, within such 270-day period, of less than all of the Arsenal property covered by paragraph (1)(A), the Secretary of the Army and the Secretary of Agriculture shall enter into a memorandum of understanding providing for the performance by the Secretary of the Army of the additional response actions necessary to allow fulfillment of the concurrence requirement with respect to such Arsenal property. The memorandum of understanding shall be entered into within 60 days of the end of such 270-day period and shall include a schedule for the completion of the additional response actions as soon as practicable. Subject to subsection (d), the Secretary of the Army shall transfer Arsenal property covered by this paragraph to the Secretary of Agriculture as soon as possible after the Secretary of the Army and the Administrator concur that all additional response actions have been taken under CERCLA necessary to protect human health and the environment with respect to any hazardous substance remaining on the property. The Secretary of the Army may make transfers under this paragraph on a parcel-by-parcel basis.

(3) RULE OF CONSTRUCTION REGARDING CONCURRENCES.—For the purpose of reaching the concurrences required by this subsection and subsection (b), if a response action requires construction and installation of an approved remedial design, the response action shall be considered to have been taken when the construction and installation of the approved remedial design is completed and the remedy is demonstrated to the satisfaction of the Administrator to be operating properly and successfully.

(b) SPECIAL TRANSFER REQUIREMENTS FOR CERTAIN PARCELS.—Subject to subsection (d), the Secretary of the Army shall transfer, without reimbursement, to the Secretary of Agriculture the Arsenal property known as LAP Area Sites L2, L3, and L5 and Manufacturing Area Site 1. The transfer shall occur as soon as possible after

the Secretary of the Army and the Administrator concur that all response actions have been taken under CERCLA necessary to protect human health and the environment with respect to any hazardous substance remaining on the property. The Secretary of the Army may make transfers under this subsection on a parcel-by-parcel basis.

(c) DOCUMENTATION OF ENVIRONMENTAL CONDITION OF PARCELS; ASSESSMENT OF REQUIRED ACTIONS UNDER OTHER ENVIRONMENTAL LAWS.—

(1) DOCUMENTATION.—The Secretary of the Army and the Administrator shall provide to the Secretary of Agriculture all documentation and information that exists on the date the documentation and information is provided relating to the environmental condition of the Arsenal property proposed for transfer under subsection (a) or (b), including documentation that supports the finding that all response actions have been taken under CERCLA necessary to protect human health and the environment with respect to any hazardous substance remaining on the property.

(2) ASSESSMENT.—The Secretary of the Army shall provide to the Secretary of Agriculture an assessment, based on information in existence at the time the assessment is provided, indicating what further action, if any, is required under any environmental law (other than CERCLA) on the Arsenal property proposed for transfer under subsection (a) or (b).

(3) TIME FOR SUBMISSION OF DOCUMENTATION AND ASSESSMENT.—The documentation and assessments required to be submitted to the Secretary of Agriculture under this subsection shall be submitted—

(A) in the case of the transfers required by subsection (a), not later than 210 days after the date of the enactment of this title; and

(B) in the case of the transfers required by subsection (b), not later than 60 days before the earliest date on which the property could be transferred.

(4) SUBMISSION OF ADDITIONAL INFORMATION.—The Secretary of the Army and the Administrator shall have a continuing obligation to provide to the Secretary of Agriculture any additional information regarding the environmental condition of property to be transferred under subsection (a) or (b) as such information becomes available.

(d) EFFECT OF ENVIRONMENTAL ASSESSMENT.—

(1) AUTHORITY OF SECRETARY OF AGRICULTURE TO DECLINE IMMEDIATE TRANSFER.—If a parcel of Arsenal property to be transferred under subsection (a) or (b) includes property for which the assessment under subsection (c)(2) concludes further action is required under any environmental law (other than CERCLA), the Secretary of Agriculture may decline immediate transfer of the parcel. With respect to such a parcel, the Secretary of the Army and the Secretary of Agriculture shall enter into a memorandum of understanding providing for the performance by the Secretary of the Army of the required actions identified in the Army assessment. The memorandum of understanding shall be entered into within 90 days after the date on which the Secretary of Agriculture declines immediate transfer of the parcel and shall include a schedule for the completion of the required actions as soon as practicable. Memorandum.

(2) EVENTUAL TRANSFER.—In the case of a parcel of Arsenal property that the Secretary of Agriculture declines immediate transfer under paragraph (1), the Secretary may accept transfer of the parcel at any time after the original finding with respect to the parcel that all response actions have been taken under CERCLA necessary to protect human health and the environment with respect to any hazardous substance remaining on the property. The Secretary of Agriculture shall accept transfer of the parcel as soon as possible after the date on which all required further actions identified in the assessment have been taken and the terms of any memorandum of understanding have been satisfied.

(e) IDENTIFICATION OF ARSENAL PROPERTY FOR TRANSFER.—

(1) MAP OF PROPOSED TRANSFERS.—The lands subject to transfer to the Secretary of Agriculture under subsections (a) and (b) and section 2916 are depicted on the map dated September 22, 1995, which is on file and available for public inspection at the Office of the Chief of the Forest Service and the Office of the Assistant Secretary of the Army for Installations, Logistics and the Environment.

Federal Register, publication.

(2) METHOD OF EFFECTING TRANSFER.—The Secretary of the Army shall effect the transfer of jurisdiction of Arsenal property under subsections (a) and (b) and section 2916 by publication of notices in the Federal Register. The Secretary of Agriculture shall give prior concurrence to the publication of such notices. Each notice published in the Federal Register shall refer to the parcel being transferred by legal description, references to maps or surveys, or other forms of description mutually acceptable to the Secretary of the Army and the Secretary of Agriculture. The Secretary of the Army shall provide, without reimbursement, to the Secretary of Agriculture copies of all surveys and land title information on lands transferred under this section or section 2916.

(f) SURVEYS.—All costs of necessary surveys for the transfer of jurisdiction of Arsenal property from the Secretary of the Army to the Secretary of Agriculture shall be borne by the Secretary of Agriculture.

SEC. 2913. RESPONSIBILITY AND LIABILITY.

(a) CONTINUED LIABILITY OF SECRETARY OF THE ARMY.—The transfers of Arsenal property under sections 2912 and 2916, and the requirements of such sections, shall not in any way affect the responsibilities and liabilities of the Secretary of the Army specified in this section. The Secretary of the Army shall retain any obligation or other liability at the Arsenal that the Secretary of the Army has under CERCLA or other environmental laws. Following transfer of a portion of the Arsenal under this subtitle, the Secretary of the Army shall be accorded any easement or access to the property that may be reasonably required by the Secretary to carry out the obligation or satisfy the liability.

(b) SPECIAL PROTECTIONS FOR SECRETARY OF AGRICULTURE.—The Secretary of Agriculture shall not be liable under any environmental law for matters which are related directly or indirectly to activities of the Secretary of the Army at the Arsenal or any party acting under the authority of the Secretary of the Army at the Arsenal, including any of the following:

(1) Costs or performance of response actions required under CERCLA at or related to the Arsenal.

(2) Costs, penalties, fines, or performance of actions related to noncompliance with any environmental law at or related to the Arsenal or related to the presence, release, or threat of release of any hazardous substance, pollutant or contaminant, hazardous waste, or hazardous material of any kind at or related to the Arsenal, including contamination resulting from migration of a hazardous substance, pollutant or contaminant, hazardous waste, hazardous material, or petroleum products or their derivatives.

(3) Costs or performance of actions necessary to remedy noncompliance or another problem specified in paragraph (2).

(c) LIABILITY OF OTHER PERSONS.—Nothing in this title shall be construed to effect, modify, amend, repeal, alter, limit or otherwise change, directly or indirectly, the responsibilities or liabilities under any environmental law of any person (including the Secretary of Agriculture), except as provided in subsection (b) with respect to the Secretary of Agriculture.

(d) PAYMENT OF RESPONSE ACTION COSTS.—A Federal agency that had or has operations at the Arsenal resulting in the release or threatened release of a hazardous substance or pollutant or contaminant for which that agency would be liable under any environmental law, subject to the provisions of this subtitle, shall pay the costs of related response actions and shall pay the costs of related actions to remediate petroleum products or the derivatives of the products, including motor oil and aviation fuel.

(e) CONSULTATION.—

(1) RESPONSIBILITY OF SECRETARY OF AGRICULTURE.—The Secretary of Agriculture shall consult with the Secretary of the Army with respect to the management by the Secretary of Agriculture of real property included in the Midewin National Tallgrass Prairie subject to any response action or other action at the Arsenal being carried out by or under the authority of the Secretary of the Army under any environmental law. The Secretary of Agriculture shall consult with the Secretary of the Army prior to undertaking any activities on the Midewin National Tallgrass Prairie that may disturb the property to ensure that such activities will not exacerbate contamination problems or interfere with performance by the Secretary of the Army of response actions at the property.

(2) RESPONSIBILITY OF SECRETARY OF THE ARMY.—In carrying out response actions at the Arsenal, the Secretary of the Army shall consult with the Secretary of Agriculture to ensure that such actions are carried out in a manner consistent with the purposes for which the Midewin National Tallgrass Prairie is established, as specified in section 2914(c), and the other provisions of sections 2914 and 2915.

SEC. 2914. ESTABLISHMENT AND ADMINISTRATION OF MIDEWIN NATIONAL TALLGRASS PRAIRIE.

National Forest System. Conservation. Environmental protection.

(a) ESTABLISHMENT.—On the effective date of the initial transfer of jurisdiction of portions of the Arsenal to the Secretary of Agriculture under section 2912(a), the Secretary of Agriculture shall establish the Midewin National Tallgrass Prairie. The MNP shall—

(1) be administered by the Secretary of Agriculture; and

(2) consist of the real property so transferred and such other portions of the Arsenal subsequently transferred under section 2912(b) or 2916 or acquired under section 2914(d).

(b) ADMINISTRATION.—

(1) IN GENERAL.—The Secretary of Agriculture shall manage the Midewin National Tallgrass Prairie as a part of the National Forest System in accordance with this title and the laws, rules, and regulations pertaining to the National Forest System, except that the Bankhead-Jones Farm Tenant Act of 1937 (7 U.S.C. 1010–1012) shall not apply to the MNP.

(2) INITIAL MANAGEMENT ACTIVITIES.—In order to expedite the administration and public use of the Midewin National Tallgrass Prairie, the Secretary of Agriculture may conduct management activities at the MNP to effectuate the purposes for which the MNP is established, as set forth in subsection (c), in advance of the development of a land and resource management plan for the MNP.

(3) LAND AND RESOURCE MANAGEMENT PLAN.—In developing a land and resource management plan for the Midewin National Tallgrass Prairie, the Secretary of Agriculture shall consult with the Illinois Department of Natural Resources and local governments adjacent to the MNP and provide an opportunity for public comment. Any parcel transferred to the Secretary of Agriculture under this title after the development of a land and resource management plan for the MNP may be managed in accordance with such plan without need for an amendment to the plan.

(c) PURPOSES OF THE MIDEWIN NATIONAL TALLGRASS PRAIRIE.—The Midewin National Tallgrass Prairie is established to be managed for National Forest System purposes, including the following:

(1) To manage the land and water resources of the MNP in a manner that will conserve and enhance the native populations and habitats of fish, wildlife, and plants.

(2) To provide opportunities for scientific, environmental, and land use education and research.

(3) To allow the continuation of agricultural uses of lands within the MNP consistent with section 2915(b).

(4) To provide a variety of recreation opportunities that are not inconsistent with the preceding purposes.

(d) OTHER LAND ACQUISITION FOR MNP.—

(1) AVAILABILITY OF LAND ACQUISITION FUNDS.—Notwithstanding section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–9), the Secretary of Agriculture may use monies appropriated from the Land and Water Conservation Fund established under section 2 of such Act (16 U.S.C. 460*l*–5) for the acquisition of lands and interests in land for inclusion in the Midewin National Tallgrass Prairie.

(2) ACQUISITION OF LANDS.—The Secretary of Agriculture may acquire lands or interests therein for inclusion in the Midewin National Tallgrass Prairie by donation, purchase, or exchange, except that the acquisition of private lands for inclusion in the MNP shall be on a willing seller basis only.

(e) COOPERATION WITH STATES, LOCAL GOVERNMENTS AND OTHER ENTITIES.—In the management of the Midewin National Tallgrass Prairie, the Secretary of Agriculture is authorized and encouraged to cooperate with appropriate Federal, State and local governmental agencies, private organizations and corporations.

Such cooperation may include cooperative agreements as well as the exercise of the existing authorities of the Secretary under the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2101 et seq.) and the Forest and Rangeland Renewable Resources Research Act of 1978 (16 U.S.C. 1641 et seq.). The objects of such cooperation may include public education, land and resource protection, and cooperative management among government, corporate, and private landowners in a manner which furthers the purposes for which the Midewin National Tallgrass Prairie is established.

SEC. 2915. SPECIAL MANAGEMENT REQUIREMENTS FOR MIDEWIN NATIONAL TALLGRASS PRAIRIE.

(a) PROHIBITION AGAINST THE CONSTRUCTION OF NEW THROUGH ROADS.—No new construction of any highway, public road, or any part of the interstate system, whether Federal, State, or local, shall be permitted through or across any portion of the Midewin National Tallgrass Prairie. Nothing in this title shall preclude construction and maintenance of roads for use within the MNP, the granting of authorizations for utility rights-of-way under applicable Federal law, or such access as is necessary. Nothing in this title shall preclude necessary access by the Secretary of the Army for purposes of restoration and cleanup as provided in this title.

(b) AGRICULTURAL LEASES AND SPECIAL USE AUTHORIZATIONS.—Within the Midewin National Tallgrass Prairie, use of the lands for agricultural purposes shall be permitted subject to the following terms and conditions:

(1) If at the time of transfer of jurisdiction under section 2912 or 2916 there exists any lease issued by the Secretary of the Army or the Secretary of Defense for agricultural purposes upon the parcel transferred, the Secretary of Agriculture shall issue a special use authorization to supersede the lease. The terms of the special use authorization shall be identical in substance to the lease that the special use authorization is superseding, including the expiration date and any payments owed the United States. On issuance of the special use authorization, the lease shall become void.

(2) In addition to the authority provided in paragraph (1), the Secretary of Agriculture may issue special use authorizations to persons for use of the Midewin National Tallgrass Prairie for agricultural purposes. Special use authorizations issued pursuant to this paragraph shall include terms and conditions as the Secretary of Agriculture may deem appropriate.

(3) No agricultural special use authorization shall be issued for agricultural purposes which has a term extending beyond the date 20 years from the date of the enactment of this title, except that nothing in this title shall preclude the Secretary of Agriculture from issuing agricultural special use authorizations or grazing permits which are effective after twenty years from the date of enactment of this title for purposes primarily related to erosion control, provision for food and habitat for fish and wildlife, or other resource management activities consistent with the purposes of the Midewin National Tallgrass Prairie.

(c) TREATMENT OF RENTAL FEES.—Monies received under a special use authorization issued under subsection (b) shall be subject

to distribution to the State of Illinois and affected counties pursuant to the Act of May 23, 1908, and section 13 of the Act of March 1, 1911 (16 U.S.C. 500). All monies not distributed pursuant to such Acts shall be covered into the Treasury and shall constitute a special fund (to be known as the "MNP Rental Fee Account"). The Secretary of Agriculture may use amounts in the fund, until expended and without fiscal year limitation, to cover the cost to the United States of prairie improvement work at the Midewin National Tallgrass Prairie. Any amounts in the fund that the Secretary of Agriculture determines to be in excess of the cost of doing such work shall be transferred, upon such determination, to miscellaneous receipts, Forest Service Fund, as a National Forest receipt of the fiscal year in which the transfer is made.

Nomenclature.

(d) USER FEES.—The Secretary of Agriculture is authorized to charge reasonable fees for the admission, occupancy, and use of the Midewin National Tallgrass Prairie and may prescribe a fee schedule providing for reduced or a waiver of fees for persons or groups engaged in authorized activities including those providing volunteer services, research, or education. The Secretary shall permit admission, occupancy, and use at no additional charge for persons possessing a valid Golden Eagle Passport or Golden Age Passport.

(e) SALVAGE OF IMPROVEMENTS.—The Secretary of Agriculture may sell for salvage value any facilities and improvements which have been transferred to the Secretary pursuant to this title.

Nomenclature.

(f) TREATMENT OF USER FEES AND SALVAGE RECEIPTS.—Monies collected pursuant to subsections (d) and (e) shall be covered into the Treasury and constitute a special fund (to be known as the "Midewin National Tallgrass Prairie Restoration Fund"). The Secretary of Agriculture may use amounts in the fund, in such amounts as are provided in advance in appropriation Acts, for restoration and administration of the Midewin National Tallgrass Prairie, including construction of a visitor and education center, restoration of ecosystems, construction of recreational facilities (such as trails), construction of administrative offices, and operation and maintenance of the MNP. The Secretary of Agriculture shall include the MNP among the areas under the jurisdiction of the Secretary selected for inclusion in any cost recovery or any pilot program of the Secretary for the collection, use, and distribution of user fees.

SEC. 2916. SPECIAL TRANSFER RULES FOR CERTAIN ARSENAL PARCELS INTENDED FOR MNP.

(a) DESCRIPTION OF PARCELS.—The following areas of the Arsenal may be transferred under this section:

(1) Study Area 2, explosive burning ground.
(2) Study Area 3, flashing ground.
(3) Study Area 4, lead azide area.
(4) Study Area 10, toluene tank farms.
(5) Study Area 11, landfill.
(6) Study Area 12, sellite manufacturing area.
(7) Study Area 14, former pond area.
(8) Study Area 15, sewage treatment plan.
(9) Study Area L1, load assemble packing area, group 61.
(10) Study Area L4, landfill area.
(11) Study Area L7, group 1.
(12) Study Area L8, group 2.

(13) Study Area L9, group 3.
(14) Study Area L10, group 3A.
(15) Study Area L14, group 4.
(16) Study Area L15, group 5.
(17) Study Area L18, group 8.
(18) Study Area L19, group 9.
(19) Study Area L33, PVC area.
(20) Any other lands proposed for transfer as depicted on the map described in section 2912(e)(1) and not otherwise specifically identified for transfer under this subtitle.

(b) INFORMATION REGARDING ENVIRONMENTAL CONDITION OF PARCELS; ASSESSMENT OF REQUIRED ACTIONS UNDER OTHER ENVIRONMENTAL LAWS.—

(1) INFORMATION.—Not later than 180 days after the date on which the Secretary of the Army and the Administrator concur in finding that, with respect to a parcel of Arsenal property described in subsection (a), all response actions have been taken under CERCLA necessary to protect human health and the environment with respect to any hazardous substance remaining on the parcel, the Secretary of the Army and the Administrator shall provide to the Secretary of Agriculture all information that exists on such date regarding the environmental condition of the parcel and the implementation of any response action, including information regarding the effectiveness of the response action.

(2) ASSESSMENT.—At the same time as information is provided under paragraph (1) with regard to a parcel of Arsenal property described in subsection (a), the Secretary of the Army shall provide to the Secretary of Agriculture an assessment, based on information in existence at the time the assessment is provided, indicating what further action, if any, is required under any environmental law (other than CERCLA) with respect to the parcel.

(3) SUBMISSION OF ADDITIONAL INFORMATION.—The Secretary of the Army and the Administrator shall have a continuing obligation to provide to the Secretary of Agriculture any additional information regarding the environmental condition of a parcel of the Arsenal property described in subsection (a) as such information becomes available.

(c) OFFER OF TRANSFER.—Not later than 180 days after the date on which information is provided under subsection (b)(1) with regard to a parcel of the Arsenal property described in subsection (a), the Secretary of the Army shall offer the Secretary of Agriculture the option of accepting a transfer of the parcel, without reimbursement, to be added to the Midewin National Tallgrass Prairie. The transfer shall be subject to the terms and conditions of this subtitle, including the liability provisions contained in section 2913. The Secretary of Agriculture has the option to accept or decline the offered transfer. The transfer of property under this section may be made on a parcel-by-parcel basis.

(d) EFFECT OF ENVIRONMENTAL ASSESSMENT.—

(1) AUTHORITY OF SECRETARY OF AGRICULTURE TO DECLINE TRANSFER.—If a parcel of Arsenal property described in subsection (a) includes property for which the assessment under subsection (b)(2) concludes further action is required under any other environmental law, the Secretary of Agriculture may decline any transfer of the parcel. Alternatively, the Secretary

Memorandum.

of Agriculture may decline immediate transfer of the parcel and enter into a memorandum of understanding with the Secretary of the Army providing for the performance by the Secretary of the Army of the required actions identified in the Army assessment with respect to the parcel. The memorandum of understanding shall be entered into within 90 days, or such later date as the Secretaries may establish, after the date on which the Secretary of Agriculture declines immediate transfer of the parcel and shall include a schedule for the completion of the required actions as soon as practicable.

(2) EVENTUAL TRANSFER.—The Secretary of Agriculture may accept or decline at any time for any reason the transfer of a parcel covered by this section. However, if the Secretary of Agriculture and the Secretary of the Army enter into a memorandum of understanding under paragraph (1) providing for transfer of the parcel, the Secretary of Agriculture shall accept transfer of the parcel as soon as possible after the date on which all required further actions identified in the assessment have been taken and the requirements of the memorandum of understanding have been satisfied.

(e) RULE OF CONSTRUCTION REGARDING CONCURRENCES.—For the purpose of the reaching the concurrence required by subsection (b)(1), if a response action requires construction and installation of an approved remedial design, the response action shall be considered to have been taken when the construction and installation of the approved remedial design is completed and the remedy is demonstrated to the satisfaction of the Administrator to be operating properly and successfully.

(f) INCLUSIONS AND EXCEPTIONS.—

(1) INCLUSIONS.—The parcels of Arsenal property described in subsection (a) shall include all associated inventoried buildings and structures as identified in the Joliet Army Ammunition Plant Plantwide Building and Structures Report and the contaminate study sites for both the manufacturing and load assembly and packing sites of the Arsenal as shown in the Dames and Moore Final Report, Phase 2 Remedial Investigation Manufacturing (MFG) Area Joliet Army Ammunition Plant, Joliet, Illinois (May 30, 1993, Contract No. DAAA15–90–D–0015 task order No. 6 prepared for the United States Army Environmental Center).

(2) EXCEPTION.—The parcels described in subsection (a) shall not include the property at the Arsenal designated for transfer or conveyance under subtitle B.

Subtitle B—Other Land Conveyances Involving Joliet Army Ammunition Plant

SEC. 2921. CONVEYANCE OF CERTAIN REAL PROPERTY AT ARSENAL FOR A NATIONAL CEMETERY.

(a) CONVEYANCE AUTHORIZED.—Subject to section 2931, the Secretary of the Army may transfer, without reimbursement, to the Secretary of Veterans Affairs the parcel of real property at the Arsenal described in subsection (b) for use as a national cemetery operated as part of the National Cemetery System of the Department of Veterans Affairs under chapter 24 of title 38, United States Code.

(b) DESCRIPTION OF PROPERTY.—The real property authorized to be transferred under subsection (a) is a parcel of real property at the Arsenal consisting of approximately 982 acres, the approximate legal description of which includes part of sections 30 and 31, Jackson Township, Township 34 North, Range 10 East, and part of sections 25 and 36, Channahon Township, Township 34 North, Range 10 East, Will County, Illinois, as depicted in the Arsenal land use concept.

(c) SECURITY MEASURES.—The Secretary of Veterans Affairs shall provide and maintain physical and other security measures on the real property transferred under subsection (a). Such security measures (which may include fences and natural barriers) shall include measures to prevent members of the public from gaining unauthorized access to the portion of the Arsenal that is under the administrative jurisdiction of the Secretary of Veterans Affairs and that may endanger health or safety.

(d) SURVEYS.—All costs of necessary surveys for the transfer of jurisdiction of Arsenal properties from the Secretary of the Army to the Secretary of Veterans Affairs shall be borne solely by the Secretary of Veterans Affairs.

SEC. 2922. CONVEYANCE OF CERTAIN REAL PROPERTY AT ARSENAL FOR A COUNTY LANDFILL.

(a) CONVEYANCE AUTHORIZED.—Subject to section 2931, the Secretary of the Army may convey, without compensation, to Will County, Illinois, all right, title, and interest of the United States in and to the parcel of real property at the Arsenal described in subsection (b), which shall be operated as a landfill by the County.

(b) DESCRIPTION OF PROPERTY.—The real property authorized to be conveyed under subsection (a) is a parcel of real property at the Arsenal consisting of approximately 455 acres, the approximate legal description of which includes part of sections 8, 9, 16, and 17, Florence Township, Township 33 North, Range 10 East, Will County, Illinois, as depicted in the Arsenal land use concept.

(c) CONDITION ON CONVEYANCE.—The conveyance shall be subject to the condition that the Department of the Army, the Department of Veterans Affairs, and the Department of Agriculture (or their agents or assigns) may use the landfill established on the real property conveyed under subsection (a) for the disposal of construction debris, refuse, and other materials related to any restoration and cleanup of Arsenal property. Such use shall be subject to applicable environmental laws and at no cost to the Federal Government.

(d) REVERSIONARY INTEREST.—If, at the end of the five-year period beginning on the date of the conveyance under subsection (a), the Secretary of Agriculture determines that the conveyed property is not opened for operation as a landfill, then, at the option of the Secretary of Agriculture, all right, title, and interest in and to the property, including improvements thereon, shall revert to the United States. Upon any such reversion, the property shall be included in the Midewin National Tallgrass Prairie. In the event the United States exercises its option to cause the property to revert, the United States shall have the right of immediate entry onto the property.

(e) INFORMATION REGARDING ENVIRONMENTAL CONDITIONS.—At the request of the Secretary of Agriculture, Will County, the Secretary of the Army, and the Administrator shall provide to the Secretary of Agriculture all information in their possession at the time of the request regarding the environmental condition of the real property to be conveyed under this section. The liability and responsibility of any person under any environmental law shall remain unchanged with respect to the landfill, except as provided in this title, including section 2913.

(f) SURVEYS.—All costs of necessary surveys for the conveyance of real property under this section shall be borne by Will County, Illinois.

(g) ADDITIONAL TERMS AND CONDITIONS.—The Secretary of the Army may require such additional terms and conditions in connection with the conveyance under this section as the Secretary of the Army considers appropriate to protect the interests of the United States.

SEC. 2923. CONVEYANCE OF CERTAIN REAL PROPERTY AT ARSENAL FOR INDUSTRIAL PARKS.

(a) CONVEYANCE AUTHORIZED.—Subject to section 2931, the Secretary of the Army may convey to the State of Illinois, all right, title, and interest of the United States in and to the parcels of real property at the Arsenal described in subsection (b), which shall be used as industrial parks to replace all or a part of the economic activity lost at the Arsenal.

(b) DESCRIPTION OF PROPERTY.—The real property at the Arsenal authorized to be transferred under subsection (a) consists of the following parcels:

(1) A parcel of approximately 1,900 acres, the approximate legal description of which includes part of section 30, Jackson Township, Township 34 North, Range 10 East, and sections or parts of sections 24, 25, 26, 35, and 36, Township 34 North, Range 9 East, in Channahon Township, an area of 9.77 acres around the Des Plaines River Pump Station located in the southeast quarter of section 15, Township 34 North, Range 9 East of the Third Principal Meridian, in Channahon Township, and an area of 511 feet by 596 feet around the Kankakee River Pump Station in the Northwest Quarter of section 5, Township 33 North, Range 9 East, east of the Third Principal Meridian in Wilmington Township, containing 6.99 acres, located along the easterly side of the Kankakee Cut-Off in Will County, Illinois, as depicted in the Arsenal land use concept, and the connecting piping to the northern industrial site, as described by the United States Army Report of Availability, dated 13 December 1993.

(2) A parcel of approximately 1,100 acres, the approximate legal description of which includes part of sections 16, 17, and 18 in Florence Township, Township 33 North, Range 10 East, Will County, Illinois, as depicted in the Arsenal land use concept.

(c) CONSIDERATION.—

(1) DELAY IN PAYMENT OF CONSIDERATION.—After the end of the 20-year period beginning on the date on which the conveyance under subsection (a) is completed, the State of Illinois shall pay to the United States an amount equal to

fair market value of the conveyed property as of the time of the conveyance.

(2) EFFECT OF RECONVEYANCE BY STATE.—If the State of Illinois reconveys all or any part of the conveyed property during such 20-year period, the State shall pay to the United States an amount equal to the fair market value of the reconveyed property as of the time of the reconveyance, excluding the value of any improvements made to the property by the State.

(3) DETERMINATION OF FAIR MARKET VALUE.—The Secretary of the Army shall determine fair market value in accordance with Federal appraisal standards and procedures.

(4) TREATMENT OF LEASES.—The Secretary of the Army may treat a lease of the property within such 20-year period as a reconveyance if the Secretary determines that the lease is being used to avoid application of paragraph (2).

(5) DEPOSIT OF PROCEEDS.—The Secretary of the Army shall deposit any proceeds received under this subsection in the special account established pursuant to section 204(h)(2) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 485(h)(2)).

(d) CONDITIONS OF CONVEYANCE.—

(1) REDEVELOPMENT AUTHORITY.—The conveyance under subsection (a) shall be subject to the condition that the Governor of the State of Illinois, in consultation with the Mayor of the Village of Elwood, Illinois, and the Mayor of the City of Wilmington, Illinois, establish a redevelopment authority to be responsible for overseeing the development of the industrial parks on the conveyed property.

(2) TIME FOR ESTABLISHMENT.—To satisfy the condition specified in paragraph (1), the redevelopment authority shall be established within one year after the date of the enactment of this title.

(e) SURVEYS.—All costs of necessary surveys for the conveyance of real property under this section shall be borne by the State of Illinois.

(f) ADDITIONAL TERMS AND CONDITIONS.—The Secretary of the Army may require such additional terms and conditions in connection with the conveyance under this section as the Secretary considers appropriate to protect the interests of the United States.

Subtitle C—Miscellaneous Provisions

SEC. 2931. DEGREE OF ENVIRONMENTAL CLEANUP.

(a) IN GENERAL.—Nothing in this title shall be construed to restrict or lessen the degree of cleanup at the Arsenal required to be carried out under provisions of any environmental law.

(b) RESPONSE ACTION.—The establishment of the Midewin National Tallgrass Prairie under subtitle A and the additional real property transfers or conveyances authorized under subtitle B shall not restrict or lessen in any way any response action or degree of cleanup under CERCLA or other environmental law, or any action required under any environmental law to remediate petroleum products or their derivatives (including motor oil and aviation fuel), required to be carried out under the authority of the Secretary of the Army at the Arsenal and surrounding areas.

(c) ENVIRONMENTAL QUALITY OF PROPERTY.—Any contract for sale, deed, or other transfer of real property under subtitle B shall be carried out in compliance with all applicable provisions of section 120(h) of CERCLA and other environmental laws.

SEC. 2932. RETENTION OF PROPERTY USED FOR ENVIRONMENTAL CLEANUP.

(a) RETENTION OF CERTAIN PROPERTY.—Unless and until the Arsenal property described in this subsection is actually transferred or conveyed under this title or other applicable law, the Secretary of the Army may retain jurisdiction, authority, and control over real property at the Arsenal to be used for—

(1) water treatment;

(2) the treatment, storage, or disposal of any hazardous substance, pollutant or contaminant, hazardous material, or petroleum products or their derivatives;

(3) other purposes related to any response action at the Arsenal; and

(4) other actions required at the Arsenal under any environmental law to remediate contamination or conditions of noncompliance with any environmental law.

(b) CONDITIONS.—The Secretary of the Army shall consult with the Secretary of Agriculture regarding the identification and management of the real property retained under this section and ensure that activities carried out on that property are consistent, to the extent practicable, with the purposes for which the Midewin National Tallgrass Prairie is established, as specified in section 2914(c), and with the other provisions of sections 2914 and 2915.

(c) PRIORITY OF RESPONSE ACTIONS.—In the case of any conflict between management of the property by the Secretary of Agriculture and any response action required under CERCLA, or any other action required under any other environmental law, including actions to remediate petroleum products or their derivatives, the response action or other action shall take priority.

DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY AUTHORIZATIONS AND OTHER AUTHORIZATIONS

TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

Subtitle A—National Security Programs Authorizations

SEC. 3101. WEAPONS ACTIVITIES.

(a) STOCKPILE STEWARDSHIP.—Subject to subsection (d), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1996 for stockpile stewardship in carrying out weapons activities necessary for national security programs in the amount of $1,567,175,000, to be allocated as follows:

(1) For core stockpile stewardship, $1,159,708,000, to be allocated as follows:

(A) For operation and maintenance, $1,078,403,000.

(B) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), $81,305,000, to be allocated as follows:

Project 96–D–102, stockpile stewardship facilities revitalization, Phase VI, various locations, $2,520,000.

Project 96–D–103, ATLAS, Los Alamos National Laboratory, Los Alamos, New Mexico, $8,400,000.

Project 96–D–104, processing and environmental technology laboratory (PETL), Sandia National Laboratories, Albuquerque, New Mexico, $1,800,000.

Project 96–D–105, contained firing facility addition, Lawrence Livermore National Laboratory, Livermore, California, $6,600,000.

Project 95–D–102, Chemical and Metallurgy Research Building upgrades project, Los Alamos National Laboratory, Los Alamos, New Mexico, $9,940,000.

Project 94–D–102, nuclear weapons research, development, and testing facilities revitalization, Phase V, various locations, $12,200,000.

Project 93–D–102, Nevada support facility, North Las Vegas, Nevada, $15,650,000.

Project 90–D–102, nuclear weapons research, development, and testing facilities revitalization, Phase III, various locations, $6,200,000.

Project 88–D–106, nuclear weapons research, development, and testing facilities revitalization, Phase II, various locations, $17,995,000.

(2) For inertial fusion, $240,667,000, to be allocated as follows:

(A) For operation and maintenance, $203,267,000.

(B) For the following plant project (including maintenance, restoration, planning, construction, acquisition, and modification of facilities, and land acquisition related thereto), $37,400,000:

Project 96–D–111, national ignition facility, location to be determined, $37,400,000.

(3) For technology transfer and education, $160,000,000.

(4) For Marshall Islands, $6,800,000.

(b) STOCKPILE MANAGEMENT.—Subject to subsection (d), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1996 for stockpile management in carrying out weapons activities necessary for national security programs in the amount of $2,025,083,000, to be allocated as follows:

(1) For operation and maintenance, $1,911,458,000.

(2) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), $113,625,000, to be allocated as follows:

Project 96–D–122, sewage treatment quality upgrade (STQU), Pantex Plant, Amarillo, Texas, $600,000.

Project 96–D–123, retrofit heating, ventilation, and air conditioning and chillers for ozone protection, Y–12 Plant, Oak Ridge, Tennessee, $3,100,000.

Project 96–D–125, Washington measurements operations facility, Andrews Air Force Base, Camp Springs, Maryland, $900,000.

Project 96–D–126, tritium loading line modifications, Savannah River Site, South Carolina, $12,200,000.

Project 95–D–122, sanitary sewer upgrade, Y–12 Plant, Oak Ridge, Tennessee, $6,300,000.

Project 94–D–124, hydrogen fluoride supply system, Y–12 Plant, Oak Ridge, Tennessee, $8,700,000.

Project 94–D–125, upgrade life safety, Kansas City Plant, Kansas City, Missouri, $5,500,000.

Project 94–D–127, emergency notification system, Pantex Plant, Amarillo, Texas, $2,000,000.

Project 94–D–128, environmental safety and health analytical laboratory, Pantex Plant, Amarillo, Texas, $4,000,000.

Project 93–D–122, life safety upgrades, Y–12 Plant, Oak Ridge, Tennessee, $7,200,000.

Project 93–D–123, complex–21, various locations, $41,065,000.

Project 88–D–122, facilities capability assurance program, various locations, $8,660,000.

Project 88–D–123, security enhancement, Pantex Plant, Amarillo, Texas, $13,400,000.

(c) PROGRAM DIRECTION.—Subject to subsection (d), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1996 for program direction in carrying out weapons activities necessary for national security programs in the amount of $115,000,000.

(d) ADJUSTMENTS.—The total amount authorized to be appropriated pursuant to this section is the sum of the amounts authorized to be appropriated in subsections (a) through (c) reduced by the sum of—

(1) $37,200,000, for savings resulting from procurement reform; and

(2) $209,744,000, for use of prior year balances.

SEC. 3102. ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT.

(a) ENVIRONMENTAL RESTORATION.—Subject to subsection (h), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1996 for environmental restoration in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of $1,635,973,000.

(b) WASTE MANAGEMENT.—Subject to subsection (h), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1996 for waste management in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of $2,470,598,000, to be allocated as follows:

(1) For operation and maintenance, $2,295,994,000.

(2) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities,

and the continuation of projects authorized in prior years, and land acquisition related thereto), $174,604,000, to be allocated as follows:

Project 96–D–406, spent nuclear fuels canister storage and stabilization facility, Richland, Washington, $42,000,000.

Project 96–D–407, mixed waste/low-level waste treatment projects, Rocky Flats Plant, Golden, Colorado, $2,900,000.

Project 96–D–408, waste management upgrades, various locations, $5,615,000.

Project 95–D–402, install permanent electrical service, Waste Isolation Pilot Plant, Carlsbad, New Mexico, $4,314,000.

Project 95–D–405, industrial landfill V and construction/demolition landfill VII, Phase III, Y–12 Plant, Oak Ridge, Tennessee, $4,600,000.

Project 95–D–406, road 5–01 reconstruction, area 5, Nevada Test Site, Nevada, $1,023,000.

Project 95–D–407, 219–S secondary containment upgrade, Richland Washington, $1,000,000.

Project 94–D–400, high explosive wastewater treatment system, Los Alamos National Laboratory, Los Alamos, New Mexico, $4,445,000.

Project 94–D–402, liquid waste treatment system, Nevada Test Site, Nevada, $282,000.

Project 94–D–404, Melton Valley storage tank capacity increase, Oak Ridge National Laboratory, Oak Ridge, Tennessee, $11,000,000.

Project 94–D–407, initial tank retrieval systems, Richland, Washington, $12,000,000.

Project 94–D–411, solid waste operation complex, Richland, Washington, $6,606,000.

Project 93–D–178, building 374 liquid waste treatment facility, Rocky Flats Plant, Golden, Colorado, $3,900,000.

Project 93–D–181, radioactive liquid waste line replacement, Richland, Washington, $5,000,000.

Project 93–D–182, replacement of cross-site transfer system, Richland, Washington, $19,795,000.

Project 93–D–187, high-level waste removal from filled waste tanks, Savannah River Site, South Carolina, $19,700,000.

Project 92–D–171, mixed waste receiving and storage facility, Los Alamos National Laboratory, Los Alamos, New Mexico, $1,105,000.

Project 92–D–188, waste management environmental, safety and health (ES&H) and compliance activities, various locations, $1,100,000.

Project 90–D–172, aging waste transfer lines, Richland, Washington, $2,000,000.

Project 90–D–177, RWMC transuranic (TRU) waste characterization and storage facility, Idaho National Engineering Laboratory, Idaho, $1,428,000.

Project 90–D–178, TSA retrieval enclosure, Idaho National Engineering Laboratory, Idaho, $2,606,000.

Project 89–D–173, tank farm ventilation upgrade, Richland, Washington, $800,000.

Project 89–D–174, replacement high-level waste evaporator, Savannah River Site, Aiken, South Carolina, $11,500,000.

Project 86–D–103, decontamination and waste treatment facility, Lawrence Livermore National Laboratory, Livermore, California, $8,885,000.

Project 83–D–148, nonradioactive hazardous waste management, Savannah River Site, Aiken, South Carolina, $1,000,000.

(c) TECHNOLOGY DEVELOPMENT.—Subject to subsection (h), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1996 for technology development in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of $440,510,000.

(d) TRANSPORTATION MANAGEMENT.—Subject to subsection (h), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1996 for transportation management in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of $13,158,000.

(e) NUCLEAR MATERIALS AND FACILITIES STABILIZATION.—Subject to subsection (h), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1996 for nuclear materials and facilities stabilization in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of $1,561,854,000 to be allocated as follows:

(1) For operation and maintenance, $1,447,108,000.

(2) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), $114,746,000, to be allocated as follows:

Project 96–D–457, thermal treatment system, Richland Washington, $1,000,000.

Project 96–D–458, site drainage control, Mound Plant, Miamisburg, Ohio, $885,000.

Project 96–D–461, electrical distribution upgrade, Idaho National Engineering Laboratory, Idaho, $1,539,000.

Project 96–D–464, electrical and utility systems upgrade, Idaho Chemical Processing Plant, Idaho National Engineering Laboratory, Idaho, $4,952,000.

Project 96–D–468, residue elimination project, Rocky Flats Plant, Golden, Colorado, $33,100,000.

Project 96–D–471, chlorofluorocarbon heating, ventilation, and air conditioning and chiller retrofit, Savannah River Site, Aiken, South Carolina, $1,500,000.

Project 95–D–155, upgrade site road infrastructure, Savannah River Site, South Carolina, $2,900,000.

Project 95–D–156, radio trunking system, Savannah River Site, South Carolina, $6,000,000.

Project 95–D–454, 324 facility compliance/renovation, Richland, Washington, $3,500,000.

Project 95–D–456, security facilities upgrade, Idaho Chemical Processing Plant, Idaho National Engineering Laboratory, Idaho, $8,382,000.

Project 94–D–122, underground storage tanks, Rocky Flats Plant, Golden, Colorado, $5,000,000.

Project 94–D–401, emergency response facility, Idaho National Engineering Laboratory, Idaho, $5,074,000.

Project 94–D–412, 300 area process sewer piping upgrade, Richland, Washington, $1,000,000.

Project 94–D–415, medical facilities, Idaho National Engineering Laboratory, Idaho, $3,601,000.

Project 94–D–451, infrastructure replacement, Rocky Flats Plant, Golden, Colorado, $2,940,000.

Project 93–D–147, domestic water system upgrade, Phase I and II, Savannah River Site, Aiken, South Carolina, $7,130,000.

Project 92–D–123, plant fire/security alarm systems replacement, Rocky Flats Plant, Golden, Colorado, $9,560,000.

Project 92–D–125, master safeguards and security agreement/materials surveillance task force security upgrades, Rocky Flats Plant, Golden, Colorado, $7,000,000.

Project 92–D–181, fire and life safety improvements, Idaho National Engineering Laboratory, Idaho, $6,883,000.

Project 91–D–127, criticality alarm and plant annunciation utility replacement, Rocky Flats Plant, Golden, Colorado, $2,800,000.

(f) COMPLIANCE AND PROGRAM COORDINATION.—Subject to subsection (h), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1996 for compliance and program coordination in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of $46,251,000, to be allocated as follows:

(1) For operation and maintenance, $31,251,000.

(2) For the following plant project (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of a project authorized in prior years, and land acquisition related thereto):

Project 95–E–600, hazardous materials training center, Richland, Washington, $15,000,000.

(g) ANALYSIS, EDUCATION, AND RISK MANAGEMENT.—Subject to subsection (h), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1996 for analysis, education, and risk management in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of $78,522,000.

(h) ADJUSTMENTS.—The total amount authorized to be appropriated pursuant to this section is the sum of the amounts specified in subsections (a) through (g) reduced by the sum of—

(1) $652,334,000, for use of prior year balances; and

(2) $37,000,000, for Savannah River Pension Refund.

SEC. 3103. OTHER DEFENSE ACTIVITIES.

(a) OTHER DEFENSE ACTIVITIES.—Subject to subsection (b), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1996 for other defense activities in carrying out programs necessary for national security in the amount of $1,351,975,600, to be allocated as follows:

(1) For verification and control technology, $428,205,600, to be allocated as follows:

(A) For nonproliferation and verification research and development, $224,905,000.

(B) For arms control, $160,964,600.

(C) For intelligence, $42,336,000.

(2) For nuclear safeguards and security, $83,395,000.

(3) For security investigations, $20,000,000.

(4) For security evaluations, $14,707,000.

(5) For the Office of Nuclear Safety, $17,679,000.

(6) For worker and community transition assistance, $82,500,000.

(7) For fissile materials disposition, $70,000,000.

(8) For emergency management, $23,321,000.

(9) For naval reactors development, $682,168,000, to be allocated as follows:

(A) For operation and infrastructure, $652,568,000.

(B) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), $29,600,000, to be allocated as follows:

Project GPN–101, general plant projects, various locations, $6,600,000.

Project 95–D–200, laboratory systems and hot cell upgrades, various locations, $11,300,000.

Project 95–D–201, advanced test reactor radioactive waste system upgrades, Idaho National Engineering Laboratory, Idaho, $4,800,000.

Project 93–D–200, engineering services facilities, Knolls Atomic Power Laboratory, Niskayuna, New York, $3,900,000.

Project 90–N–102, expended core facility dry cell project, Naval Reactors Facility, Idaho, $3,000,000.

(b) ADJUSTMENT.—The total amount authorized to be appropriated pursuant to this section is the amount authorized to be appropriated in subsection (a) reduced by $70,000,000, for use of prior year balances.

SEC. 3104. DEFENSE NUCLEAR WASTE DISPOSAL.

Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1996 for payment to the Nuclear Waste Fund established in section 302(c) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(c)) in the amount of $248,400,000.

Subtitle B—Recurring General Provisions

SEC. 3121. REPROGRAMMING.

(a) IN GENERAL.—Until the Secretary of Energy submits to the congressional defense committees the report referred to in subsection (b) and a period of 30 days has elapsed after the date on which such committees receive the report, the Secretary may not use amounts appropriated pursuant to this title for any program—

(1) in amounts that exceed, in a fiscal year—

(A) 110 percent of the amount authorized for that program by this title; or

(B) $1,000,000 more than the amount authorized for that program by this title; or

(2) which has not been presented to, or requested of, Congress.

(b) REPORT.—(1) The report referred to in subsection (a) is a report containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action.

(2) In the computation of the 30-day period under subsection (a), there shall be excluded any day on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain.

(c) LIMITATIONS.—(1) In no event may the total amount of funds obligated pursuant to this title exceed the total amount authorized to be appropriated by this title.

(2) Funds appropriated pursuant to this title may not be used for an item for which Congress has specifically denied funds.

SEC. 3122. LIMITS ON GENERAL PLANT PROJECTS.

(a) IN GENERAL.—The Secretary of Energy may carry out any construction project under the general plant projects authorized by this title if the total estimated cost of the construction project does not exceed $2,000,000.

(b) REPORT TO CONGRESS.—If, at any time during the construction of any general plant project authorized by this title, the estimated cost of the project is revised because of unforeseen cost variations and the revised cost of the project exceeds $2,000,000, the Secretary shall immediately furnish a complete report to the congressional defense committees explaining the reasons for the cost variation.

SEC. 3123. LIMITS ON CONSTRUCTION PROJECTS.

(a) IN GENERAL.—(1) Except as provided in paragraph (2), construction on a construction project may not be started or additional obligations incurred in connection with the project above the total estimated cost, whenever the current estimated cost of the construction project, which is authorized by section 3101, 3102, or 3103, or which is in support of national security programs of the Department of Energy and was authorized by any previous Act, exceeds by more than 25 percent the higher of—

(A) the amount authorized for the project; or

(B) the amount of the total estimated cost for the project as shown in the most recent budget justification data submitted to Congress.

(2) An action described in paragraph (1) may be taken if— Reports.

(A) the Secretary of Energy has submitted to the congressional defense committees a report on the actions and the circumstances making such action necessary; and

(B) a period of 30 days has elapsed after the date on which the report is received by the committees.

(3) In the computation of the 30-day period under paragraph (2), there shall be excluded any day on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain.

(b) EXCEPTION.—Subsection (a) shall not apply to any construction project which has a current estimated cost of less than $5,000,000.

SEC. 3124. FUND TRANSFER AUTHORITY.

(a) TRANSFER TO OTHER FEDERAL AGENCIES.—The Secretary of Energy may transfer funds authorized to be appropriated to the Department of Energy pursuant to this title to other Federal agencies for the performance of work for which the funds were authorized. Funds so transferred may be merged with and be available for the same purposes and for the same period as the authorizations of the Federal agency to which the amounts are transferred.

(b) TRANSFER WITHIN DEPARTMENT OF ENERGY; LIMITATIONS.—(1) Subject to paragraph (2), the Secretary of Energy may transfer funds authorized to be appropriated to the Department of Energy pursuant to this title between any such authorizations. Amounts of authorizations so transferred may be merged with and be available for the same purposes and for the same period as the authorization to which the amounts are transferred.

(2) Not more than five percent of any such authorization may be transferred between authorizations under paragraph (1). No such authorization may be increased or decreased by more than five percent by a transfer under such paragraph.

(3) The authority provided by this section to transfer authorizations—

(A) may only be used to provide funds for items relating to weapons activities necessary for national security programs that have a higher priority than the items from which the funds are transferred; and

(B) may not be used to provide authority for an item that has been denied funds by Congress.

(c) NOTICE TO CONGRESS.—The Secretary of Energy shall promptly notify the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives of any transfer of funds to or from authorizations under this title.

SEC. 3125. AUTHORITY FOR CONCEPTUAL AND CONSTRUCTION DESIGN.

(a) REQUIREMENT FOR CONCEPTUAL DESIGN.—(1) Subject to paragraph (2) and except as provided in paragraph (3), before submitting to Congress a request for funds for a construction project that is in support of a national security program of the Department of Energy, the Secretary of Energy shall complete a conceptual design for that project.

(2) If the estimated cost of completing a conceptual design for a construction project exceeds $3,000,000, the Secretary shall submit to Congress a request for funds for the conceptual design before submitting a request for funds for the construction project.

(3) The requirement in paragraph (1) does not apply to a request for funds—

(A) for a construction project the total estimated cost of which is less than $2,000,000; or

(B) for emergency planning, design, and construction activities under section 3126.

(b) AUTHORITY FOR CONSTRUCTION DESIGN.—(1) Within the amounts authorized by this title, the Secretary of Energy may carry out construction design (including architectural and engineering services) in connection with any proposed construction project if the total estimated cost for such design does not exceed $600,000.

(2) If the total estimated cost for construction design in connection with any construction project exceeds $600,000, funds for such design must be specifically authorized by law.

SEC. 3126. AUTHORITY FOR EMERGENCY PLANNING, DESIGN, AND CONSTRUCTION ACTIVITIES.

(a) AUTHORITY.—The Secretary of Energy may use any funds available to the Department of Energy pursuant to an authorization in this title, including those funds authorized to be appropriated for advance planning and construction design under sections 3101, 3102, and 3103, to perform planning, design, and construction activities for any Department of Energy national security program construction project that, as determined by the Secretary, must proceed expeditiously in order to protect public health and safety, to meet the needs of national defense, or to protect property.

(b) LIMITATION.—The Secretary may not exercise the authority under subsection (a) in the case of any construction project until the Secretary has submitted to the congressional defense committees a report on the activities that the Secretary intends to carry out under this section and the circumstances making such activities necessary. Reports.

(c) SPECIFIC AUTHORITY.—The requirement of section 3125(b)(2) does not apply to emergency planning, design, and construction activities conducted under this section.

SEC. 3127. FUNDS AVAILABLE FOR ALL NATIONAL SECURITY PROGRAMS OF THE DEPARTMENT OF ENERGY.

Subject to the provisions of appropriations Acts and section 3121, amounts appropriated pursuant to this title for management and support activities and for general plant projects are available for use, when necessary, in connection with all national security programs of the Department of Energy.

SEC. 3128. AVAILABILITY OF FUNDS.

When so specified in an appropriation Act, amounts appropriated for operation and maintenance or for plant projects may remain available until expended.

Subtitle C—Program Authorizations, Restrictions, and Limitations

SEC. 3131. AUTHORITY TO CONDUCT PROGRAM RELATING TO FISSILE MATERIALS. 22 USC 5952 note.

(a) AUTHORITY.—The Secretary of Energy may conduct programs designed to improve the protection, control, and accountability of fissile materials in Russia.

(b) SEMI-ANNUAL REPORTS ON OBLIGATION OF FUNDS.—(1) Not later than 30 days after the date of the enactment of this Act, and thereafter not later than April 1 and October 1 of each year, the Secretary of Energy shall submit to Congress a report on each obligation during the preceding six months of funds appropriated for a program described in subsection (a).

(2) Each such report shall specify—

(A) the activities and forms of assistance for which the Secretary of Energy has obligated funds;

(B) the amount of the obligation;

(C) the activities and forms of assistance for which the Secretary anticipates obligating funds during the six months immediately following the report, and the amount of each such anticipated obligation; and

(D) the projected involvement (if any) of any department or agency of the United States (in addition to the Department of Energy) and of the private sector of the United States in the activities and forms of assistance for which the Secretary of Energy has obligated funds referred to in subparagraph (A).

SEC. 3132. NATIONAL IGNITION FACILITY.

None of the funds authorized to be appropriated pursuant to this title for construction of the National Ignition Facility may be obligated until—

(1) the Secretary of Energy determines that the construction of the National Ignition Facility will not impede the nuclear nonproliferation objectives of the United States; and

Notification.

(2) the Secretary of Energy notifies the congressional defense committees of that determination.

42 USC 2121 note.

SEC. 3133. TRITIUM PRODUCTION PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary of Energy shall establish a tritium production program that is capable of meeting the tritium requirements of the United States for nuclear weapons. In carrying out the tritium production program, the Secretary shall—

(1) complete the tritium supply and recycling environmental impact statement in preparation by the Secretary as of the date of the enactment of this Act; and

(2) assess alternative means for tritium production, including production through—

(A) types of new and existing reactors, including multipurpose reactors (such as advanced light water reactors and gas turbine gas-cooled reactors) capable of meeting both the tritium production requirements and the plutonium disposition requirements of the United States for nuclear weapons;

(B) an accelerator; and

(C) multipurpose reactor projects carried out by the private sector and the Government.

(b) FUNDING.—Of funds authorized to be appropriated to the Department of Energy pursuant to section 3101, not more than $50,000,000 shall be available for the tritium production program established pursuant to subsection (a).

South Carolina.

(c) LOCATION OF TRITIUM PRODUCTION FACILITY.—The Secretary shall locate any new tritium production facility of the Department of Energy at the Savannah River Site, South Carolina.

(d) COST-BENEFIT ANALYSIS.—(1) The Secretary shall include in the statements referred to in paragraph (2) a comparison of the costs and benefits of carrying out two projects for the separate performance of the tritium production mission of the Department and the plutonium disposition mission of the Department with the costs and benefits of carrying out one multipurpose project for the performance of both such missions.

(2) The statements referred to in paragraph (1) are—

(A) the environmental impact statement referred to in subsection (a)(1);

(B) the plutonium disposition environmental impact statement in preparation by the Secretary as of the date of the enactment of this Act; and

(C) assessments related to the environmental impact statements referred to in subparagraphs (A) and (B).

(e) REPORT.—Not later than 45 days after the date of the enactment of this Act, the Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on the tritium production program established pursuant to subsection (a). The report shall include a specification of—

(1) the planned expenditures of the Department during fiscal year 1996 for any of the alternative means for tritium production assessed under subsection (a)(2);

(2) the amount of funds required to be expended by the Department, and the program milestones (including feasibility demonstrations) required to be met, during fiscal years 1997 through 2001 to ensure tritium production beginning not later than 2005 that is adequate to meet the tritium requirements of the United States for nuclear weapons; and

(3) the amount of such funds to be expended and such program milestones to be met during such fiscal years to ensure such tritium production beginning not later than 2011.

(f) TRITIUM TARGETS.—Of the funds made available pursuant to subsection (b), not more than $5,000,000 shall be available for the Idaho National Engineering Laboratory for the test and development of nuclear reactor tritium targets for the types of reactors assessed under subsection (a)(2)(A).

SEC. 3134. PAYMENT OF PENALTIES.

The Secretary of Energy may pay to the Hazardous Substance Superfund established under section 9507 of the Internal Revenue Code of 1986 (26 U.S.C. 9507), from funds appropriated to the Department of Energy for environmental restoration and waste management activities pursuant to section 3102, stipulated civil penalties in the amount of $350,000 assessed under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) against the Rocky Flats Site, Colorado.

SEC. 3135. FISSILE MATERIALS DISPOSITION.

(a) IN GENERAL.—Of the funds authorized to be appropriated to the Department of Energy for fiscal year 1996 pursuant to section 3103, $70,000,000 shall be available only for purposes of completing the evaluation of, and commencing implementation of, the interim- and long-term storage and disposition (including storage and disposition through the use of advanced light water reactors and gas turbine gas-cooled reactors) of fissile materials (including plutonium, highly enriched uranium, and other fissile materials) that are excess to the national security needs of the United States.

(b) AVAILABILITY OF FUNDS FOR MULTIPURPOSE REACTORS.—Of funds made available pursuant to subsection (a), sufficient funds shall be made available for the complete consideration of multipurpose reactors for the disposition of fissile materials in the programmatic environmental impact statement of the Department.

(c) LIMITATION.—Of funds made available pursuant to subsection (a), $10,000,000 shall be available only for a plutonium resource assessment.

SEC. 3136. TRITIUM RECYCLING.

South Carolina.

(a) IN GENERAL.—Except as provided in subsection (b), the following activities shall be carried out at the Savannah River Site, South Carolina:

(1) All tritium recycling for weapons, including tritium refitting.

(2) All activities regarding tritium formerly carried out at the Mound Plant, Ohio.

(b) EXCEPTION.—The following activities may be carried out at the Los Alamos National Laboratory, New Mexico:

(1) Research on tritium.

(2) Work on tritium in support of the defense inertial confinement fusion program.

(3) Provision of technical assistance to the Savannah River Site regarding the weapons surveillance program.

42 USC 2121 note.

SEC. 3137. MANUFACTURING INFRASTRUCTURE FOR REFABRICATION AND CERTIFICATION OF NUCLEAR WEAPONS STOCKPILE.

(a) MANUFACTURING PROGRAM.—The Secretary of Energy shall carry out a program for purposes of establishing within the Government a manufacturing infrastructure that has the capabilities of meeting the following objectives as specified in the Nuclear Posture Review:

(1) To provide a stockpile surveillance engineering base.

(2) To refabricate and certify weapon components and types in the enduring nuclear weapons stockpile, as necessary.

(3) To fabricate and certify new nuclear warheads, as necessary.

(4) To support nuclear weapons.

(5) To supply sufficient tritium in support of nuclear weapons to ensure an upload hedge in the event circumstances require.

(b) REQUIRED CAPABILITIES.—The manufacturing infrastructure established under the program under subsection (a) shall include the following capabilities (modernized to attain the objectives referred to in that subsection):

(1) The weapons assembly capabilities of the Pantex Plant.

(2) The weapon secondary fabrication capabilities of the Y–12 Plant, Oak Ridge, Tennessee.

(3) The tritium production, recycling, and other weapons-related capabilities of the Savannah River Site.

(4) The non-nuclear component capabilities of the Kansas City Plant.

(c) NUCLEAR POSTURE REVIEW.—For purposes of subsection (a), the term "Nuclear Posture Review" means the Department of Defense Nuclear Posture Review as contained in the Report of the Secretary of Defense to the President and the Congress dated February 19, 1995, or subsequent such reports.

(d) FUNDING.—Of the funds authorized to be appropriated under section 3101(b), $143,000,000 shall be available for carrying out the program required under this section, of which—

(1) $35,000,000 shall be available for activities at the Pantex Plant;

(2) $30,000,000 shall be available for activities at the Y–12 Plant, Oak Ridge, Tennessee;

(3) $35,000,000 shall be available for activities at the Savannah River Site; and

(4) $43,000,000 shall be available for activities at the Kansas City Plant.

(e) PLAN AND REPORT.—The Secretary shall develop a plan for the implementation of this section. Not later than March 1, 1996, the Secretary shall submit to Congress a report on the obligations the Secretary has incurred, and plans to incur, during fiscal year 1996 for the program referred to in subsection (a).

SEC. 3138. HYDRONUCLEAR EXPERIMENTS.

Of the funds authorized to be appropriated to the Department of Energy pursuant to section 3101, $30,000,000 shall be available to prepare for the commencement of a program of hydronuclear experiments at the nuclear weapons design laboratories at the Nevada Test Site, Nevada. The purpose of the program shall be to maintain confidence in the reliability and safety of the nuclear weapons stockpile.

SEC. 3139. LIMITATION ON AUTHORITY TO CONDUCT HYDRONUCLEAR TESTS.

Nothing in this Act may be construed to authorize the conduct of hydronuclear tests or to amend or repeal the requirements of section 507 of the Energy and Water Development Appropriations Act, 1993 (Public Law 102–377; 106 Stat. 1343; 42 U.S.C. 2121 note).

SEC. 3140. FELLOWSHIP PROGRAM FOR DEVELOPMENT OF SKILLS CRITICAL TO THE DEPARTMENT OF ENERGY NUCLEAR WEAPONS COMPLEX.

42 USC 2121 note.

(a) IN GENERAL.—The Secretary of Energy shall conduct a fellowship program for the development of skills critical to the ongoing mission of the Department of Energy nuclear weapons complex. Under the fellowship program, the Secretary shall—

(1) provide educational assistance and research assistance to eligible individuals to facilitate the development by such individuals of skills critical to maintaining the ongoing mission of the Department of Energy nuclear weapons complex;

(2) employ eligible individuals at the facilities described in subsection (c) in order to facilitate the development of such skills by these individuals; or

(3) provide eligible individuals with the assistance and the employment.

(b) ELIGIBLE INDIVIDUALS.—Individuals eligible for participation in the fellowship program are the following:

(1) Students pursuing graduate degrees in fields of science or engineering that are related to nuclear weapons engineering or to the science and technology base of the Department of Energy.

(2) Individuals engaged in postdoctoral studies in such fields.

(c) COVERED FACILITIES.—The Secretary shall carry out the fellowship program at or in connection with the following facilities:

(1) The Kansas City Plant, Kansas City, Missouri.

(2) The Pantex Plant, Amarillo, Texas.

(3) The Y–12 Plant, Oak Ridge, Tennessee.

(4) The Savannah River Site, Aiken, South Carolina.

(d) ADMINISTRATION.—The Secretary shall carry out the fellowship program at a facility referred to in subsection (c) through the stockpile manager of the facility.

(e) ALLOCATION OF FUNDS.—The Secretary shall, in consultation with the Assistant Secretary of Energy for Defense Programs, allocate funds available for the fellowship program under subsection (f) among the facilities referred to in subsection (c). The Secretary shall make the allocation after evaluating an assessment by the weapons program director of each such facility of the personnel and critical skills necessary at the facility for carrying out the ongoing mission of the facility.

(f) FUNDING.—Of the funds authorized to be appropriated to the Department of Energy for fiscal year 1996 under section 3101(b), $10,000,000 may be used for the purpose of carrying out the fellowship program under this section.

SEC. 3141. LIMITATION ON USE OF FUNDS FOR CERTAIN RESEARCH AND DEVELOPMENT PURPOSES.

Funds appropriated or otherwise made available to the Department of Energy for fiscal year 1996 under section 3101 may be obligated and expended for activities under the Department of Energy Laboratory Directed Research and Development Program or under Department of Energy technology transfer programs only if such activities support the national security mission of the Department.

SEC. 3142. PROCESSING AND TREATMENT OF HIGH-LEVEL NUCLEAR WASTE AND SPENT NUCLEAR FUEL RODS.

(a) PROCESSING OF SPENT NUCLEAR FUEL RODS.—Of the amounts appropriated pursuant to section 3102, there shall be available to the Secretary of Energy to respond effectively to new requirements for managing spent nuclear fuel—

(1) not more than $30,000,000, for the Savannah River Site for the development and implementation of a program for the processing, reprocessing, separation, reduction, isolation, and interim storage of high-level nuclear waste associated with aluminum clad spent fuel rods and foreign spent fuel rods; and

(2) not more than $15,000,000, for the Idaho National Engineering Laboratory for the development and implementation of a program for the treatment, preparation, and conditioning of high-level nuclear waste and spent nuclear fuel (including naval spent nuclear fuel), nonaluminum clad fuel rods, and foreign fuel rods for interim storage and final disposition.

(b) IMPLEMENTATION PLAN.—Not later than April 30, 1996, the Secretary shall submit to Congress a five-year plan for the implementation of the programs referred to in subsection (a). The plan shall include—

(1) an assessment of the facilities required to be constructed or upgraded to carry out the processing, separation, reduction, isolation and interim storage of high-level nuclear waste;

(2) a description of the technologies, including stabilization technologies, that are required to be developed for the efficient conduct of the programs;

(3) a projection of the dates upon which activities under the programs are sufficiently completed to provide for the transfers of such waste to permanent repositories; and

(4) a projection of the total cost to complete the programs.

(c) ELECTROMETALLURGICAL WASTE TREATMENT TECHNOLOGIES.—Of the amount appropriated pursuant to section

3102(c), not more than $25,000,000 shall be available for development of electrometallurgical waste treatment technologies at the Argonne National Laboratory.

(d) USE OF FUNDS FOR SETTLEMENT AGREEMENT.—Funds made available pursuant to subsection (a)(2) for the Idaho National Engineering Laboratory shall be considered to be funds made available in partial fulfillment of the terms and obligations set forth in the settlement agreement entered into by the United States with the State of Idaho in the actions captioned Public Service Co. of Colorado v. Batt, Civil No. 91–0035–S–EJL, and United States v. Batt, Civil No. 91–0054–S–EJL, in the United States District Court for the District of Idaho and the consent order of the United States District Court for the District of Idaho, dated October 17, 1995, that effectuates the settlement agreement.

SEC. 3143. PROTECTION OF WORKERS AT NUCLEAR WEAPONS FACILITIES.

Of the funds authorized to be appropriated to the Department of Energy under section 3102, $10,000,000 shall be available to carry out activities authorized under section 3131 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1571; 42 U.S.C. 7274d), relating to worker protection at nuclear weapons facilities.

SEC. 3144. DEPARTMENT OF ENERGY DECLASSIFICATION PRODUCTIVITY INITIATIVE.

Of the funds authorized to be appropriated to the Department of Energy under section 3103, $3,000,000 shall be available for the Declassification Productivity Initiative of the Department of Energy.

Subtitle D—Other Matters

SEC. 3151. REPORT ON FOREIGN TRITIUM PURCHASES.

(a) REPORT.—Not later than May 1, 1996, the President shall submit to the congressional defense committees a report on the feasibility of, the cost of, and the policy, legal, and other issues associated with purchasing tritium from various foreign suppliers in order to ensure an adequate supply of tritium in the United States for nuclear weapons. President.

(b) FORM OF REPORT.—The report shall be submitted in unclassified form, but may contain a classified appendix.

SEC. 3152. STUDY ON NUCLEAR TEST READINESS POSTURES. Reports.

Not later than February 15, 1996, the Secretary of Energy shall submit to Congress a report on the costs, programmatic issues, and other issues associated with sustaining the capability of the Department of Energy—

(1) to conduct an underground nuclear test 6 months after the date on which the President determines that such a test is necessary to ensure the national security of the United States;

(2) to conduct such a test 18 months after such date; and

(3) to conduct such a test 36 months after such date.

42 USC 2121 note.

SEC. 3153. MASTER PLAN FOR THE CERTIFICATION, STEWARDSHIP, AND MANAGEMENT OF WARHEADS IN THE NUCLEAR WEAPONS STOCKPILE.

President.

(a) MASTER PLAN REQUIREMENT.—Not later than March 15, 1996, the President shall submit to Congress a master plan for maintaining the nuclear weapons stockpile. The President shall submit to Congress an update of the master plan not later than March 15 of each year thereafter.

(b) PLAN ELEMENTS.—The master plan and each update of the master plan shall set forth the following:

(1) The numbers of weapons (including active and inactive weapons) for each type of weapon in the nuclear weapons stockpile.

(2) The expected design lifetime of each weapon type, the current age of each weapon type, and any plans (including the analytical basis for such plans) for lifetime extensions of a weapon type.

(3) An estimate of the lifetime of the nuclear and non-nuclear components of the weapons (including active weapons and inactive weapons) in the nuclear weapons stockpile, and any plans (including the analytical basis for such plans) for lifetime extensions of such components.

(4) A schedule of the modifications, if any, required for each weapon type (including active and inactive weapons) in the nuclear weapons stockpile and the cost of such modifications.

(5) The process to be used in recertifying the safety, reliability, and performance of each weapon type (including active weapons and inactive weapons) in the nuclear weapons stockpile.

(6) The manufacturing infrastructure required to maintain the nuclear weapons stockpile stewardship and management programs, including a detailed project plan that demonstrates the manner by which the Government will develop by 2002 the capability to refabricate and certify warheads in the nuclear weapons stockpile and to design, fabricate, and certify new warheads.

(c) FORM OF PLAN.—The master plan and each update of the master plan shall be submitted in unclassified form, but may contain a classified appendix.

SEC. 3154. PROHIBITION ON INTERNATIONAL INSPECTIONS OF DEPARTMENT OF ENERGY FACILITIES UNLESS PROTECTION OF RESTRICTED DATA IS CERTIFIED.

42 USC 2164 note.

(a) PROHIBITION ON INSPECTIONS.—(1) The Secretary of Energy may not allow an inspection of a nuclear weapons facility by the International Atomic Energy Agency until the Secretary certifies to Congress that no restricted data will be revealed during such inspection.

(2) For purposes of paragraph (1), the term "restricted data" has the meaning provided by section 11 y. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(y)).

(b) EXTENSION OF NOTICE-AND-WAIT REQUIREMENT REGARDING PROPOSED COOPERATION AGREEMENTS.—Section 3155(b) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 3092) is amended by striking out "December 31, 1995" and inserting in lieu thereof "October 1, 1996".

42 USC 2153 note.

SEC. 3155. REVIEW OF CERTAIN DOCUMENTS BEFORE DECLASSIFICATION AND RELEASE.

42 USC 2162 note.

(a) IN GENERAL.—The Secretary of Energy shall ensure that, before a document of the Department of Energy that contains national security information is released or declassified, such document is reviewed to determine whether it contains restricted data.

(b) LIMITATION ON DECLASSIFICATION.—The Secretary may not implement the automatic declassification provisions of Executive Order 12958 if the Secretary determines that such implementation could result in the automatic declassification and release of documents containing restricted data.

(c) RESTRICTED DATA DEFINED.—In this section, the term "restricted data" has the meaning provided by section 11 y. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(y)).

SEC. 3156. ACCELERATED SCHEDULE FOR ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT ACTIVITIES.

42 USC 7274k note.

(a) ACCELERATED CLEANUP.—The Secretary of Energy shall accelerate the schedule for environmental restoration and waste management activities and projects for a site at a Department of Energy defense nuclear facility if the Secretary determines that such an accelerated schedule will achieve meaningful, long-term cost savings to the Federal Government and could substantially accelerate the release of land for local reuse.

(b) CONSIDERATION OF FACTORS.—In making a determination under subsection (a), the Secretary shall consider the following:

(1) The cost savings achievable by the Federal Government.

(2) The amount of time for completion of environmental restoration and waste management activities and projects at the site that can be reduced from the time specified for completion of such activities and projects in the baseline environmental management report required to be submitted for 1995 under section 3153 of the National Defense Authorization Act for Fiscal Year 1994 (42 U.S.C. 7274k).

(3) The potential for reuse of the site.

(4) The risks that the site poses to local health and safety.

(5) The proximity of the site to populated areas.

(c) REPORT.—Not later than May 1, 1996, the Secretary shall submit to Congress a report on each site for which the Secretary has accelerated the schedule for environmental restoration and waste management activities and projects under subsection (a). The report shall include an explanation of the basis for the determination for that site required by such subsection, including an explanation of the consideration of the factors described in subsection (b).

(d) SAVINGS PROVISION.—Nothing in this section may be construed to affect a specific statutory requirement for a specific environmental restoration or waste management activity or project or to modify or otherwise affect applicable statutory or regulatory environmental restoration and waste management requirements, including substantive standards intended to protect public health and the environment.

SEC. 3157. SENSE OF CONGRESS REGARDING CERTAIN ENVIRONMENTAL RESTORATION REQUIREMENTS.

It is the sense of Congress that—

(1) an individual acting within the scope of that individual's employment with a Federal agency should not be personally subject to civil or criminal sanctions (to the extent such sanctions are provided for by law) as a result of the failure to comply with an environmental cleanup requirement under the Solid Waste Disposal Act or the Comprehensive Environmental Response, Compensation, and Liability Act or an analogous requirement under a comparable Federal, State, or local law, in any circumstance under which such failure to comply is due to an insufficiency of funds appropriated to carry out such requirement;

(2) Federal and State enforcement authorities should refrain from an enforcement action in a circumstance described in paragraph (1); and

(3) if funds appropriated for a fiscal year after fiscal year 1995 are insufficient to carry out any such environmental cleanup requirement, Congress should elicit the views of Federal agencies, affected States, and the public, and consider appropriate legislative action to address personal criminal liability in a circumstance described in paragraph (1) and any related issues pertaining to potential liability of a Federal agency.

SEC. 3158. RESPONSIBILITY FOR DEFENSE PROGRAMS EMERGENCY RESPONSE PROGRAM.

The Office of Military Applications under the Assistant Secretary of Energy for Defense Programs shall retain responsibility for the Defense Programs Emergency Response Program within the Department of Energy.

42 USC 7271b note.

SEC. 3159. REQUIREMENTS FOR DEPARTMENT OF ENERGY WEAPONS ACTIVITIES BUDGETS FOR FISCAL YEARS AFTER FISCAL YEAR 1996.

(a) IN GENERAL.—The weapons activities budget of the Department of Energy shall be developed in accordance with the Nuclear Posture Review, the Post Nuclear Posture Review Stockpile Memorandum currently under development, and the programmatic and technical requirements associated with the review and memorandum.

(b) REQUIRED DETAIL.—The Secretary of Energy shall include in the materials that the Secretary submits to Congress in support of the budget for a fiscal year submitted by the President pursuant to section 1105 of title 31, United States Code, a long-term program plan, and a near-term program plan, for the certification and stewardship of the nuclear weapons stockpile.

(c) DEFINITION.—In this section, the term "Nuclear Posture Review" means the Department of Defense Nuclear Posture Review as contained in the report of the Secretary of Defense to the President and the Congress dated February 19, 1995, or in subsequent such reports.

SEC. 3160. REPORT ON HYDRONUCLEAR TESTING.

(a) REPORT.—The Secretary of Energy shall direct the joint preparation by the Directors of the Lawrence Livermore National Laboratory and the Los Alamos National Laboratory of a report on the advantages and disadvantages with respect to the safety and reliability of the nuclear weapons stockpile of permitting alternative limits to the current limit on the explosive yield of

hydronuclear and other explosive tests. The report shall address the following explosive yield limits:

(1) 4 pounds (TNT equivalent).
(2) 400 pounds (TNT equivalent).
(3) 4,000 pounds (TNT equivalent).
(4) 40,000 pounds (TNT equivalent).
(5) 400 tons (TNT equivalent).

(b) FUNDING.—The Secretary shall make available funds appropriated to the Department of Energy pursuant to section 3101 for preparation of the report required under subsection (a).

SEC. 3161. APPLICABILITY OF ATOMIC ENERGY COMMUNITY ACT OF 1955 TO LOS ALAMOS, NEW MEXICO.

(a) DATE OF TRANSFER OF UTILITIES.—Section 72 of the Atomic Energy Community Act of 1955 (42 U.S.C. 2372) is amended by striking out "not later than five years after the date it is included within this Act" and inserting in lieu thereof "not later than June 30, 1998".

(b) DATE OF TRANSFER OF MUNICIPAL INSTALLATIONS.—Section 83 of such Act (42 U.S.C. 2383) is amended by striking out "not later than five years after the date it is included within this Act" and inserting in lieu thereof "not later than June 30, 1998".

(c) RECOMMENDATION FOR FURTHER ASSISTANCE PAYMENTS.—Section 91d. of such Act (42 U.S.C. 2391) is amended—

(1) by striking out ", and the Los Alamos School Board;" and all that follows through "county of Los Alamos, New Mexico" and inserting in lieu thereof "; or not later than June 30, 1996, in the case of the Los Alamos School Board and the county of Los Alamos, New Mexico"; and

(2) by adding at the end the following new sentence: "If the recommendation under the preceding sentence regarding the Los Alamos School Board or the county of Los Alamos, New Mexico, indicates a need for further assistance for the school board or the county, as the case may be, after June 30, 1997, the recommendation shall include a report and plan describing the actions required to eliminate the need for further assistance for the school board or the county, including a proposal for legislative action to carry out the plan.". Reports.

(d) CONTRACT TO MAKE PAYMENTS.—Section 94 of such Act (42 U.S.C. 2394) is amended—

(1) by striking out "June 30, 1996" each place it appears in the proviso in the first sentence and inserting in lieu thereof "June 30, 1997"; and

(2) by striking out "July 1, 1996" in the second sentence and inserting in lieu thereof "July 1, 1997".

SEC. 3162. SENSE OF CONGRESS REGARDING SHIPMENTS OF SPENT NUCLEAR FUEL.

(a) FINDINGS.—Congress makes the following findings:

(1) The United States has entered into a settlement agreement with the State of Idaho in the actions captioned Public Service Co. of Colorado v. Batt, Civil No. 91–0035–S–EJL, and United States v. Batt, Civil No. 91–0054–S–EJL, in the United States District Court for the District of Idaho, regarding shipment of naval spent nuclear fuel to Idaho, examination and storage of such fuel in Idaho, and other matters.

(2) Under this court enforceable agreement—

(A) the State of Idaho has agreed—

(i) to accept 575 shipments of naval spent nuclear fuel from the Navy into Idaho between October 17, 1995 and 2035;

(ii) to accept certain shipments of spent nuclear fuel from the Department of Energy into Idaho between October 17, 1995 and 2035; and

(iii) to allow the Navy and the Department of Energy, on an interim basis, to store the spent nuclear fuel in Idaho over the next 40 years; and

(B) the United States has made commitments—

(i) to remove all spent nuclear fuel (except certain quantities for testing) from Idaho by 2035; and

(ii) to facilitate the cleanup and stabilization of radioactive waste at the Idaho National Engineering Laboratory.

(3) The settlement agreement allows the Department of Energy and the Department of the Navy to meet responsibilities that are important to the national security interests of the United States.

(4) Authorizations and appropriations of funds will be necessary in order to provide for fulfillment of the terms and obligations set forth in the settlement agreement.

(b) SENSE OF CONGRESS.—(1) Congress recognizes the need to implement the terms, conditions, rights, and obligations contained in the settlement agreement referred to in subsection (a)(1) and the consent order of the United States District Court for the District of Idaho, dated October 17, 1995, that effectuates the settlement agreement in accordance with those terms, conditions, rights, and obligations.

(2) It is the sense of Congress that funds requested by the President to carry out the settlement agreement and such consent order should be appropriated for that purpose.

TITLE XXXII—DEFENSE NUCLEAR FACILITIES SAFETY BOARD

SEC. 3201. AUTHORIZATION.

There are authorized to be appropriated for fiscal year 1996, $17,000,000 for the operation of the Defense Nuclear Facilities Safety Board under chapter 21 of the Atomic Energy Act of 1954 (42 U.S.C. 2286 et seq.).

TITLE XXXIII—NATIONAL DEFENSE STOCKPILE

Subtitle A—Authorization of Disposals and Use of Funds

SEC. 3301. DEFINITIONS.

For purposes of this subtitle:

(1) The term "National Defense Stockpile" means the stockpile provided for in section 4 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98c).

(2) The term "National Defense Stockpile Transaction Fund" means the fund in the Treasury of the United States established under section 9(a) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h(a)).

SEC. 3302. AUTHORIZED USES OF STOCKPILE FUNDS.

(a) OBLIGATION OF STOCKPILE FUNDS.—During fiscal year 1996, the National Defense Stockpile Manager may obligate up to $77,100,000 of the funds in the National Defense Stockpile Transaction Fund for the authorized uses of such funds under section 9(b)(2) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h(b)(2)).

(b) ADDITIONAL OBLIGATIONS.—The National Defense Stockpile Manager may obligate amounts in excess of the amount specified in subsection (a) if the National Defense Stockpile Manager notifies Congress that extraordinary or emergency conditions necessitate the additional obligations. The National Defense Stockpile Manager may make the additional obligations described in the notification after the end of the 45-day period beginning on the date Congress receives the notification.

(c) LIMITATIONS.—The authorities provided by this section shall be subject to such limitations as may be provided in appropriations Acts.

SEC. 3303. DISPOSAL OF CHROMITE AND MANGANESE ORES AND CHROMIUM FERRO AND MANGANESE METAL ELECTROLYTIC.

(a) DOMESTIC UPGRADING.—In offering to enter into agreements pursuant to any provision of law for the disposal from the National Defense Stockpile of chromite and manganese ores or chromium ferro and manganese metal electrolytic, the President shall give a right of first refusal on all such offers to domestic ferroalloy upgraders. President.

(b) DOMESTIC FERROALLOY UPGRADER DEFINED.—For purposes of this section, the term "domestic ferroalloy upgrader" means a company or other business entity that, as determined by the President—

(1) is engaged in operations to upgrade chromite or manganese ores of metallurgical grade or chromium ferro and manganese metal electrolytic; and

(2) conducts a significant level of its research, development, engineering, and upgrading operations in the United States.

SEC. 3304. RESTRICTIONS ON DISPOSAL OF MANGANESE FERRO.

(a) DISPOSAL OF LOWER GRADE MATERIAL FIRST.—The President may not dispose of high carbon manganese ferro in the National Defense Stockpile that meets the National Defense Stockpile classification of Grade One, Specification 30(a), as revised on May 22, 1992, until completing the disposal of all manganese ferro in the National Defense Stockpile that does not meet such classification. The President may not reclassify manganese ferro in the National Defense Stockpile after the date of the enactment of this Act.

(b) REQUIREMENT FOR REMELTING BY DOMESTIC FERROALLOY PRODUCERS.—Manganese ferro in the National Defense Stockpile that does not meet the classification specified in subsection (a) may be sold only for remelting by a domestic ferroalloy producer

unless the President determines that a domestic ferroalloy producer is not available to acquire the material.

(c) DOMESTIC FERROALLOY PRODUCER DEFINED.—For purposes of this section, the term "domestic ferroalloy producer" means a company or other business entity that, as determined by the President—

(1) is engaged in operations to upgrade manganese ores of metallurgical grade or manganese ferro; and

(2) conducts a significant level of its research, development, engineering, and upgrading operations in the United States.

SEC. 3305. TITANIUM INITIATIVE TO SUPPORT BATTLE TANK UPGRADE PROGRAM.

During each of the fiscal years 1996 through 2003, the Secretary of Defense shall transfer from stocks of the National Defense Stockpile up to 250 short tons of titanium sponge to the Secretary of the Army for use in the weight reduction portion of the main battle tank upgrade program. Transfers under this section shall be without charge to the Army, except that the Secretary of the Army shall pay all transportation and related costs incurred in connection with the transfer.

Subtitle B—Programmatic Change

SEC. 3311. TRANSFER OF EXCESS DEFENSE-RELATED MATERIALS TO STOCKPILE FOR DISPOSAL.

(a) TRANSFER AND DISPOSAL.—Section 4 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98c) is amended by adding at the end the following new subsection:

"(c)(1) The Secretary of Energy, in consultation with the Secretary of Defense, shall transfer to the stockpile for disposal in accordance with this Act uncontaminated materials that are in the Department of Energy inventory of materials for the production of defense-related items, are excess to the requirements of the Department for that purpose, and are suitable for transfer to the stockpile and disposal through the stockpile.

"(2) The Secretary of Defense shall determine whether materials are suitable for transfer to the stockpile under this subsection, are suitable for disposal through the stockpile, and are uncontaminated.".

(b) CONFORMING AMENDMENT.—Subsection (a) of such section is amended by adding at the end the following:

"(10) Materials transferred to the stockpile under subsection (c).".

TITLE XXXIV—NAVAL PETROLEUM RESERVES

Subtitle A—Administration of Naval Petroleum Reserves

SEC. 3401. AUTHORIZATION OF APPROPRIATIONS.

There is hereby authorized to be appropriated to the Secretary of Energy $148,786,000 for fiscal year 1996 for the purpose of

carrying out activities under chapter 641 of title 10, United States Code, relating to the naval petroleum reserves (as defined in section 7420(2) of such title). Funds appropriated pursuant to such authorization shall remain available until expended. Of the amount appropriated pursuant to the authorization of appropriations in the preceding sentence, the Secretary may use not more than $7,000,000 for carrying out activities related to the sale of Naval Petroleum Reserve Numbered 1 under section 3412.

SEC. 3402. PRICE REQUIREMENT ON SALE OF CERTAIN PETROLEUM DURING FISCAL YEAR 1996.

10 USC 7430 note.

Notwithstanding section 7430(b)(2) of title 10, United States Code, during fiscal year 1996, any sale of any part of the United States share of petroleum produced from Naval Petroleum Reserves Numbered 1, 2, and 3 shall be made at a price not less than 90 percent of the current sales price, as estimated by the Secretary of Energy, of comparable petroleum in the same area.

SEC. 3403. EXTENSION OF OPERATING CONTRACT FOR NAVAL PETROLEUM RESERVE NUMBERED 1.

Section 3503 of the National Defense Authorization Act of Fiscal Year 1995 (Public Law 103–337; 108 Stat. 3111) is amended by striking out "two years" in the first sentence and inserting in lieu thereof "three years".

Subtitle B—Sale of Naval Petroleum Reserve

California. 10 USC 7420 note.

SEC. 3411. DEFINITIONS.

For purposes of this subtitle:

(1) The terms "Naval Petroleum Reserve Numbered 1" and "reserve" mean Naval Petroleum Reserve Numbered 1, commonly referred to as the Elk Hills Unit, located in Kern County, California, and established by Executive order of the President, dated September 2, 1912.

(2) The term "naval petroleum reserves" has the meaning given that term in section 7420(2) of title 10, United States Code, except that the term does not include Naval Petroleum Reserve Numbered 1.

(3) The term "unit plan contract" means the unit plan contract between equity owners of the lands within the boundaries of Naval Petroleum Reserve Numbered 1 entered into on June 19, 1944.

(4) The term "effective date" means the date of the enactment of this Act.

(5) The term "Secretary" means the Secretary of Energy.

(6) The term "appropriate congressional committees" means the Committee on Armed Services of the Senate and the Committee on National Security and the Committee on Commerce of the House of Representatives.

SEC. 3412. SALE OF NAVAL PETROLEUM RESERVE NUMBERED 1.

(a) SALE OF RESERVE REQUIRED.—Subject to section 3414, not later than two years after the effective date, the Secretary of Energy shall enter into one or more contracts for the sale of all right, title, and interest of the United States in and to all lands owned

or controlled by the United States inside Naval Petroleum Reserve Numbered 1. Chapter 641 of title 10, United States Code, shall not apply to the sale of the reserve.

(b) EQUITY FINALIZATION.—(1) Not later than eight months after the effective date, the Secretary shall finalize equity interests of the known oil and gas zones in Naval Petroleum Reserve Numbered 1 in the manner provided by this subsection.

(2) The Secretary shall retain the services of an independent petroleum engineer, mutually acceptable to the equity owners, who shall prepare a recommendation on final equity figures. The Secretary may accept the recommendation of the independent petroleum engineer for final equity in each known oil and gas zone and establish final equity interest in Naval Petroleum Reserve Numbered 1 in accordance with the recommendation, or the Secretary may use such other method to establish final equity interest in the reserve as the Secretary considers appropriate.

(3) If, on the effective date, there is an ongoing equity redetermination dispute between the equity owners under section 9(b) of the unit plan contract, the dispute shall be resolved in the manner provided in the unit plan contract within eight months after the effective date. The resolution shall be considered final for all purposes under this section.

Publication.

(c) NOTICE OF SALE.—Not later than two months after the effective date, the Secretary shall publish a notice of intent to sell Naval Petroleum Reserve Numbered 1. The Secretary shall make all technical, geological, and financial information relevant to the sale of the reserve available to all interested and qualified buyers upon request. The Secretary, in consultation with the Administrator of General Services, shall ensure that the sale process is fair and open to all interested and qualified parties.

(d) ESTABLISHMENT OF MINIMUM SALE PRICE.—(1) Not later than seven months after the effective date, the Secretary shall retain the services of five independent experts in the valuation of oil and gas fields to conduct separate assessments, in a manner consistent with commercial practices, of the value of the interest of the United States in Naval Petroleum Reserve Numbered 1. The independent experts shall complete their assessments within 11 months after the effective date. In making their assessments, the independent experts shall consider (among other factors)—

(A) all equipment and facilities to be included in the sale;

(B) the estimated quantity of petroleum and natural gas in the reserve; and

(C) the net present value of the anticipated revenue stream that the Secretary and the Director of the Office of Management and Budget jointly determine the Treasury would receive from the reserve if the reserve were not sold, adjusted for any anticipated increases in tax revenues that would result if the reserve were sold.

Reports.

(2) The independent experts retained under paragraph (1) shall also determine and submit to the Secretary the estimated total amount of the cost of any environmental restoration and remediation necessary at the reserve. The Secretary shall report the estimate to the Director of the Office of Management and Budget, the Secretary of the Treasury, and Congress.

(3) The Secretary, in consultation with the Director of the Office of Management and Budget, shall set the minimum accept-

able price for the reserve. The Secretary may not set the minimum acceptable price below the higher of—

(A) the average of the five assessments prepared under paragraph (1); and

(B) the average of three assessments after excluding the high and low assessments.

(e) ADMINISTRATION OF SALE; DRAFT CONTRACT.—(1) Not later than two months after the effective date, the Secretary shall retain the services of an investment banker or an appropriate equivalent financial adviser to independently administer, in a manner consistent with commercial practices and in a manner that maximizes sale proceeds to the Government, the sale of Naval Petroleum Reserve Numbered 1 under this section. Costs and fees of retaining the investment banker or financial adviser may be paid out of the proceeds of the sale of the reserve.

(2) Not later than 11 months after the effective date, the investment banker or financial adviser retained under paragraph (1) shall complete a draft contract or contracts for the sale of Naval Petroleum Reserve Numbered 1, which shall accompany the solicitation of offers and describe the terms and provisions of the sale of the interest of the United States in the reserve.

(3) The draft contract or contracts shall identify—

(A) all equipment and facilities to be included in the sale; and

(B) any potential claim or liability (including liability for environmental restoration and remediation), and the extent of any such claim or liability, for which the United States is responsible under subsection (g).

(4) The draft contract or contracts, including the terms and provisions of the sale of the interest of the United States in the reserve, shall be subject to review and approval by the Secretary, the Secretary of the Treasury, and the Director of the Office of Management and Budget. Each of those officials shall complete the review of, and approve or disapprove, the draft contract or contracts not later than 12 months after the effective date.

(f) SOLICITATION OF OFFERS.—(1) Not later than 13 months after the effective date, the Secretary shall publish the solicitation of offers for Naval Petroleum Reserve Numbered 1. Publication.

(2) Not later than 18 months after the effective date, the Secretary shall identify the highest responsible offer or offers for purchase of the interest of the United States in Naval Petroleum Reserve Numbered 1 that, in total, meet or exceed the minimum acceptable price determined under subsection (d)(3).

(3) The Secretary shall take such action immediately after the effective date as is necessary to obtain from an independent petroleum engineer within 10 months after that date a reserve report prepared in a manner consistent with commercial practices. The Secretary shall use the reserve report in support of the preparation of the solicitation of offers for the reserve.

(g) FUTURE LIABILITIES.—To effectuate the sale of the interest of the United States in Naval Petroleum Reserve Numbered 1, the Secretary may extend such indemnities and warranties as the Secretary considers reasonable and necessary to protect the purchaser from claims arising from the ownership in the reserve by the United States.

(h) MAINTAINING PRODUCTION.—Until the sale of Naval Petroleum Reserve Numbered 1 is completed under this section, the

Secretary shall continue to produce the reserve at the maximum daily oil or gas rate from a reservoir, which will permit maximum economic development of the reservoir consistent with sound oil field engineering practices in accordance with section 3 of the unit plan contract.

Notification.

(i) NONCOMPLIANCE WITH DEADLINES.—At any time during the two-year period beginning on the effective date, if the Secretary determines that the actions necessary to complete the sale of the reserve within that period are not being taken or timely completed, the Secretary shall transmit to the appropriate congressional committees a written notification of that determination together with a plan setting forth the actions that will be taken to ensure that the sale of the reserve will be completed within that period. The Secretary shall consult with the Director of the Office of Management and Budget in preparing the plan for submission to the committees.

(j) OVERSIGHT.—The Comptroller General shall monitor the actions of the Secretary relating to the sale of the reserve and report to the appropriate congressional committees any findings on such actions that the Comptroller General considers appropriate to report to the committees.

(k) ACQUISITION OF SERVICES.—The Secretary may enter into contracts for the acquisition of services required under this section under the authority of paragraph (7) of section 303(c) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(c)), except that the notification required under subparagraph (B) of such paragraph for each contract shall be submitted to Congress not less than 7 days before the award of the contract.

SEC. 3413. EFFECT OF SALE OF RESERVE.

(a) EFFECT ON EXISTING CONTRACTS.—(1) In the case of any contract, in effect on the effective date, for the purchase of production from any part of the United States' share of Naval Petroleum Reserve Numbered 1, the sale of the interest of the United States in the reserve shall be subject to the contract for a period of three months after the closing date of the sale or until termination of the contract, whichever occurs first. The term of any contract entered into after the effective date for the purchase of the production shall not exceed the anticipated closing date for the sale of the reserve.

(2) The Secretary shall exercise the termination procedures provided in the contract between the United States and Bechtel Petroleum Operation, Inc., Contract Number DE–AC01–85FE60520 so that the contract terminates not later than the date of closing of the sale of Naval Petroleum Reserve Numbered 1 under section 3412.

(3) The Secretary shall exercise the termination procedures provided in the unit plan contract so that the unit plan contract terminates not later than the date of closing of the sale of reserve.

(b) EFFECT ON ANTITRUST LAWS.—Nothing in this subtitle shall be construed to alter the application of the antitrust laws of the United States to the purchaser or purchasers (as the case may be) of Naval Petroleum Reserve Numbered 1 or to the lands in the reserve subject to sale under section 3412 upon the completion of the sale.

(c) PRESERVATION OF PRIVATE RIGHT, TITLE, AND INTEREST.—Nothing in this subtitle shall be construed to adversely affect the

ownership interest of any other entity having any right, title, and interest in and to lands within the boundaries of Naval Petroleum Reserve Numbered 1 and which are subject to the unit plan contract.

(d) TRANSFER OF OTHERWISE NONTRANSFERABLE PERMIT.—The Secretary may transfer to the purchaser or purchasers (as the case may be) of Naval Petroleum Reserve Numbered 1 the incidental take permit regarding the reserve issued to the Secretary by the United States Fish and Wildlife Service and in effect on the effective date if the Secretary determines that transfer of the permit is necessary to expedite the sale of the reserve in a manner that maximizes the value of the sale to the United States. The transferred permit shall cover the identical activities, and shall be subject to the same terms and conditions, as apply to the permit at the time of the transfer.

SEC. 3414. CONDITIONS ON SALE PROCESS.

(a) NOTICE REGARDING SALE CONDITIONS.—The Secretary may not enter into any contract for the sale of Naval Petroleum Reserve Numbered 1 under section 3412 until the end of the 31-day period beginning on the date on which the Secretary submits to the appropriate congressional committees a written notification—

(1) describing the conditions of the proposed sale; and

(2) containing an assessment by the Secretary of whether it is in the best interests of the United States to sell the reserve under such conditions.

(b) AUTHORITY TO SUSPEND SALE.—(1) The Secretary may suspend the sale of Naval Petroleum Reserve Numbered 1 under section 3412 if the Secretary and the Director of the Office of Management and Budget jointly determine that—

(A) the sale is proceeding in a manner inconsistent with achievement of a sale price that reflects the full value of the reserve; or

(B) a course of action other than the immediate sale of the reserve is in the best interests of the United States.

(2) Immediately after making a determination under paragraph (1) to suspend the sale of Naval Petroleum Reserve Numbered 1, the Secretary shall submit to the appropriate congressional committees a written notification describing the basis for the determination and requesting a reconsideration of the merits of the sale of the reserve. Notification.

(c) EFFECT OF RECONSIDERATION NOTICE.—After the Secretary submits a notification under subsection (b), the Secretary may not complete the sale of Naval Petroleum Reserve Numbered 1 under section 3412 or any other provision of law unless the sale of the reserve is authorized in an Act of Congress enacted after the date of the submission of the notification.

SEC. 3415. TREATMENT OF STATE OF CALIFORNIA CLAIM REGARDING RESERVE.

(a) RESERVATION OF FUNDS.—After the costs incurred in the conduct of the sale of Naval Petroleum Reserve Numbered 1 under section 3412 are deducted, nine percent of the remaining proceeds from the sale of the reserve shall be reserved in a contingent fund in the Treasury for payment to the State of California for the Teachers' Retirement Fund of the State in the event that, and to the extent that, the claims of the State against the United

States regarding production and proceeds of sale from Naval Petroleum Reserve Numbered 1 are—

(1) settled by agreement with the United States under subsection (c); or

(2) finally resolved in favor of the State by a court of competent jurisdiction, if a settlement agreement is not reached.

(b) DISPOSITION OF FUNDS.—In such amounts as may be provided in appropriation Acts, amounts in the contingent fund shall be available for paying a claim described in subsection (a). After final disposition of the claims, any unobligated balance in the contingent fund shall be credited to the general fund of the Treasury. If no payment is made from the contingent fund within 10 years after the effective date, amounts in the contingent fund shall be credited to the general fund of the Treasury.

(c) SETTLEMENT OFFER.—Not later than 30 days after the date of the sale of Naval Petroleum Reserve Numbered 1 under section 3412, the Secretary shall offer to settle all claims of the State of California against the United States with respect to lands in the reserve located in sections 16 and 36 of township 30 south, range 23 east, Mount Diablo Principal Meridian, California, and production or proceeds of sale from the reserve, in order to provide proper compensation for the State's claims. The Secretary shall base the amount of the offered settlement payment from the contingent fund on the fair value for the State's claims, including the mineral estate, not to exceed the amount reserved in the contingent fund.

(d) RELEASE OF CLAIMS.—Acceptance of the settlement offer made under subsection (c) shall be subject to the condition that all claims against the United States by the State of California for the Teachers' Retirement Fund of the State be released with respect to lands in Naval Petroleum Reserve Numbered 1, including sections 16 and 36 of township 30 south, range 23 east, Mount Diablo Principal Meridian, California, or production or proceeds of sale from the reserve.

SEC. 3416. STUDY OF FUTURE OF OTHER NAVAL PETROLEUM RESERVES.

(a) STUDY REQUIRED.—The Secretary of Energy shall conduct a study to determine which of the following options, or combinations of options, regarding the naval petroleum reserves (other than Naval Petroleum Reserve Numbered 1) would maximize the value of the reserves to the United States:

(1) Retention and operation of the naval petroleum reserves by the Secretary under chapter 641 of title 10, United States Code.

(2) Transfer of all or a part of the naval petroleum reserves to the jurisdiction of another Federal agency for administration under chapter 641 of title 10, United States Code.

(3) Transfer of all or a part of the naval petroleum reserves to the Department of the Interior for leasing in accordance with the Mineral Leasing Act (30 U.S.C. 181 et seq.) and surface management in accordance with the Federal Land Policy and Management Act (43 U.S.C. 1701 et seq.).

(4) Sale of the interest of the United States in the naval petroleum reserves.

(b) CONDUCT OF STUDY.—The Secretary shall retain an independent petroleum consultant to conduct the study.

(c) CONSIDERATIONS UNDER STUDY.—An examination of the value to be derived by the United States from the transfer or sale of the naval petroleum reserves shall include an assessment and estimate of the fair market value of the interest of the United States in the naval petroleum reserves. The assessment and estimate shall be made in a manner consistent with customary property valuation practices in the oil and gas industry.

(d) REPORT AND RECOMMENDATIONS REGARDING STUDY.—Not later than June 1, 1996, the Secretary shall submit to Congress a report describing the results of the study and containing such recommendations (including proposed legislation) as the Secretary considers necessary to implement the option, or combination of options, identified in the study that would maximize the value of the naval petroleum reserves to the United States.

TITLE XXXV—PANAMA CANAL COMMISSION

Subtitle A—Authorization of Appropriations

Panama Canal Commission Authorization Act for Fiscal Year 1996.

SEC. 3501. SHORT TITLE.

This subtitle may be cited as the "Panama Canal Commission Authorization Act for Fiscal Year 1996".

SEC. 3502. AUTHORIZATION OF EXPENDITURES.

(a) IN GENERAL.—Subject to subsection (b), the Panama Canal Commission is authorized to make such expenditures within the limits of funds and borrowing authority available to it in accordance with law, and to make such contracts and commitments without regard to fiscal year limitations, as may be necessary under the Panama Canal Act of 1979 (22 U.S.C. 3601 et seq.) for the operation, maintenance, and improvement of the Panama Canal for fiscal year 1996.

(b) LIMITATIONS.—For fiscal year 1996, the Panama Canal Commission may expend from funds in the Panama Canal Revolving Fund not more than $50,741,000 for administrative expenses, of which—

(1) not more than $15,000 may be used for official reception and representation expenses of the Supervisory Board of the Commission;

(2) not more than $10,000 may be used for official reception and representation expenses of the Secretary of the Commission; and

(3) not more than $45,000 may be used for official reception and representation expenses of the Administrator of the Commission.

(c) REPLACEMENT VEHICLES.—Funds available to the Panama Canal Commission shall be available for the purchase of not to exceed 38 passenger motor vehicles (including large heavy-duty vehicles to be used to transport Commission personnel across the isthmus of Panama) at a cost per vehicle of not more than $19,500. A vehicle may be purchased with such funds only as necessary to replace another passenger motor vehicle of the Commission.

SEC. 3503. EXPENDITURES IN ACCORDANCE WITH OTHER LAWS.

Expenditures authorized under this subtitle may be made only in accordance with the Panama Canal Treaties of 1977 and any law of the United States implementing those treaties.

Panama Canal Amendments Act of 1995.

Subtitle B—Reconstitution of Commission as Government Corporation

22 USC 3601 note.

SEC. 3521. SHORT TITLE.

This subtitle may be cited as the "Panama Canal Amendments Act of 1995".

SEC. 3522. RECONSTITUTION OF COMMISSION AS GOVERNMENT CORPORATION.

(a) IN GENERAL.—Section 1101 of the Panama Canal Act of 1979 (22 U.S.C. 3611) is amended to read as follows:

"ESTABLISHMENT, PURPOSES, OFFICES, AND RESIDENCE OF COMMISSION

"SEC. 1101. (a) For the purposes of managing, operating, and maintaining the Panama Canal and its complementary works, installations and equipment, and of conducting operations incident thereto, in accordance with the Panama Canal Treaty of 1977 and related agreements, the Panama Canal Commission (hereinafter in this Act referred to as the 'Commission') is established as a wholly owned government corporation (as that term is used in chapter 91 of title 31, United States Code) within the executive branch of the Government of the United States. The authority of the President with respect to the Commission shall be exercised through the Secretary of Defense.

"(b) The principal office of the Commission shall be located in the Republic of Panama in one of the areas made available for use of the United States under the Panama Canal Treaty of 1977 and related agreements, but the Commission may establish branch offices in such other places as it considers necessary or appropriate for the conduct of its business. Within the meaning of the laws of the United States relating to venue in civil actions, the Commission is an inhabitant and resident of the District of Columbia and the eastern judicial district of Louisiana.".

(b) CLERICAL AMENDMENT.—The item relating to such section in the table of contents in section 1 of such Act is amended to read as follows:

"1101. Establishment, Purposes, Offices, and Residence of Commission.".

SEC. 3523. SUPERVISORY BOARD.

Section 1102 of the Panama Canal Act of 1979 (22 U.S.C. 3612) is amended by striking out so much as precedes subsection (b) and inserting in lieu thereof the following:

"SUPERVISORY BOARD

"SEC. 1102. (a) The Commission shall be supervised by a Board composed of nine members, one of whom shall be the Secretary of Defense or an officer of the Department of Defense designated by the Secretary. Not less than five members of the Board shall be nationals of the United States and the remaining members

of the Board shall be nationals of the Republic of Panama. Three members of the Board who are nationals of the United States shall hold no other office in, and shall not be employed by, the Government of the United States, and shall be chosen for the independent perspective they can bring to the Commission's affairs. Members of the Board who are nationals of the United States shall cast their votes as directed by the Secretary of Defense or a designee of the Secretary of Defense.".

SEC. 3524. GENERAL AND SPECIFIC POWERS OF COMMISSION.

(a) IN GENERAL.—The Panama Canal Act of 1979 (22 U.S.C. 3601 et seq.) is amended by inserting after section 1102 the following new sections:

"GENERAL POWERS OF COMMISSION

"SEC. 1102a. (a) The Commission may adopt, alter, and use a corporate seal, which shall be judicially noticed. 22 USC 3612a.

"(b) The Commission may by action of the Board of Directors adopt, amend, and repeal bylaws governing the conduct of its general business and the performance of the powers and duties granted to or imposed upon it by law.

"(c) The Commission may sue and be sued in its corporate name, except that—

"(1) the amenability of the Commission to suit is limited by Article VIII of the Panama Canal Treaty of 1977, section 1401 of this Act, and otherwise by law;

"(2) an attachment, garnishment, or similar process may not be issued against salaries or other moneys owed by the Commission to its employees except as provided by section 5520a of title 5, United States Code, and sections 459, 461, and 462 of the Social Security Act (42 U.S.C. 659, 661, 662), or as otherwise specifically authorized by the laws of the United States; and

"(3) the Commission is exempt from the payment of interest on claims and judgments.

"(d) The Commission may enter into contracts, leases, agreements, or other transactions.

"(e) The Commission—

"(1) may determine the character of, and necessity for, its obligations and expenditures and the manner in which they shall be incurred, allowed, and paid; and

"(2) may incur, allow, and pay its obligations and expenditures, subject to pertinent provisions of law generally applicable to Government corporations.

"(f) The Commission shall have the priority of the Government of the United States in the payment of debts out of bankrupt estates.

"(g) The authority of the Commission under this section and section 1102B is subject to the Panama Canal Treaty of 1977 and related agreements, and to chapter 91 of title 31, United States Code.

"SPECIFIC POWERS OF COMMISSION

"SEC. 1102b. (a) The Commission may manage, operate, and maintain the Panama Canal. 22 USC 3612b.

"(b) The Commission may construct or acquire, establish, maintain, and operate such activities, facilities, and appurtenances as

necessary and appropriate for the accomplishment of the purposes of this Act, including the following:

"(1) Docks, wharves, piers, and other shoreline facilities.

"(2) Shops and yards.

"(3) Marine railways, salvage and towing facilities, fuel-handling facilities, and motor transportation facilities.

"(4) Power systems, water systems, and a telephone system.

"(5) Construction facilities.

"(6) Living quarters and other buildings.

"(7) Warehouses, storehouses, a printing plant, and manufacturing, processing, or service facilities in connection therewith.

"(8) Recreational facilities.

"(c) The Commission may use the United States mails in the same manner and under the same conditions as the executive departments of the Federal Government.

"(d) The Commission may take such actions as are necessary or appropriate to carry out the powers specifically conferred upon it.".

(b) CLERICAL AMENDMENT.—The table of contents in section 1 of such Act is amended by inserting after the item relating to section 1102 the following new items:

"1102a. General powers of Commission.
"1102b. Specific powers of Commission.".

SEC. 3525. CONGRESSIONAL REVIEW OF BUDGET.

Section 1302 of the Panama Canal Act of 1979 (22 U.S.C. 3712) is amended—

(1) in subsection (c)—

(A) by striking out "and subject to paragraph (2)" in paragraph (1);

(B) by striking out paragraph (2); and

(C) by redesignating paragraph (3) as paragraph (2); and

(2) by striking out subsection (e) and inserting in lieu thereof the following new subsection (e):

"(e) In accordance with section 9104 of title 31, United States Code, Congress shall review the annual budget of the Commission.".

SEC. 3526. AUDITS.

(a) IN GENERAL.—Section 1313 of the Panama Canal Act of 1979 (22 U.S.C. 3723) is amended—

(1) by striking out the heading for the section and inserting in lieu thereof the following: "AUDITS";

(2) in subsection (a)—

(A) by striking out "Financial transactions" and inserting in lieu thereof "Notwithstanding any other provision of law, and subject to subsection (d), financial transactions";

(B) by striking out "pursuant to the Accounting and Auditing Act of 1950 (31 U.S.C. 65 et seq.)";

(C) by striking out "audit pursuant to such Act" in the second sentence and inserting in lieu thereof "such audit";

(D) by striking out "An audit pursuant to such Act" in the last sentence and inserting in lieu thereof "Any such audit"; and

(E) by adding at the end the following new sentence: "An audit performed under this section is subject to the requirements of paragraphs (2), (3), and (5) of section 9105(a) of title 31, United States Code.";

(3) in subsection (b), by striking out "The Comptroller General" in the first sentence and inserting in lieu thereof "Subject to subsection (d), the Comptroller General"; and

(4) by adding at the end the following new subsections:

"(d) At the discretion of the Board provided for in section 1102, the Commission may hire independent auditors to perform, in lieu of the Comptroller General, the audit and reporting functions prescribed in subsections (a) and (b).

"(e) In addition to auditing the financial statements of the Commission, the Comptroller General (or the independent auditor if one is employed pursuant to subsection (d)) shall, in accordance with standards for an examination of a financial forecast established by the American Institute of Certified Public Accountants, examine and report on the Commission's financial forecast that it will be in a position to meet its financial liabilities on December 31, 1999.". Reports.

(b) CLERICAL AMENDMENT.—The item relating to such section in the table of contents in section 1 of such Act is amended to read as follows:

"1313. Audits.".

SEC. 3527. PRESCRIPTION OF MEASUREMENT RULES AND RATES OF TOLLS.

Section 1601 of the Panama Canal Act of 1979 (22 U.S.C. 3791) is amended to read as follows:

"PRESCRIPTION OF MEASUREMENT RULES AND RATES OF TOLLS

"SEC. 1601. The Commission may, subject to the provisions of this Act, prescribe and from time to time change—

"(1) the rules for the measurement of vessels for the Panama Canal; and

"(2) the tolls that shall be levied for use of the Panama Canal.".

SEC. 3528. PROCEDURES FOR CHANGES IN RULES OF MEASUREMENT AND RATES OF TOLLS.

Section 1604 of the Panama Canal Act of 1979 (22 U.S.C. 3794) is amended—

(1) in subsection (a), by striking out "1601(a)" in the first sentence and inserting in lieu thereof "1601";

(2) by striking out subsection (c) and inserting in lieu thereof the following new subsection (c):

"(c) After the proceedings have been conducted pursuant to subsections (a) and (b), the Commission may change the rules of measurement or rates of tolls, as the case may be. The Commission shall publish notice of any such change in the Federal Register not less than 30 days before the effective date of the change."; and Federal Register, publication.

(3) by striking out subsections (d) and (e) and redesignating subsection (f) as subsection (d).

SEC. 3529. MISCELLANEOUS TECHNICAL AMENDMENTS.

The Panama Canal Act of 1979 is amended—

(1) in section 1205 (22 U.S.C. 3645), by striking out "appropriation" in the last sentence and inserting in lieu thereof "fund";

(2) in section 1303 (22 U.S.C. 3713), by striking out "The authority of this section may not be used for administrative expenses.";

(3) in section 1321(d) (22 U.S.C. 3731(d)), by striking out "appropriations or" in the second sentence;

(4) in section 1401(c) (22 U.S.C. 3761(c)), by striking out "appropriated for or" in the first sentence;

(5) in section 1415 (22 U.S.C. 3775), by striking out "appropriated or" in the second sentence; and

(6) in section 1416 (22 U.S.C. 3776), by striking out "appropriated or" in the third sentence.

SEC. 3530. CONFORMING AMENDMENT TO TITLE 31, UNITED STATES CODE.

Section 9101(3) of title 31, United States Code, is amended by adding at the end the following:

"(P) the Panama Canal Commission.".

DIVISION D—FEDERAL ACQUISITION REFORM

Federal Acquisition Reform Act of 1996.
Contracts.
41 USC 251 note.

SEC. 4001. SHORT TITLE.

This division may be cited as the "Federal Acquisition Reform Act of 1996".

TITLE XLI—COMPETITION

SEC. 4101. EFFICIENT COMPETITION.

(a) ARMED SERVICES ACQUISITIONS.—Section 2304 of title 10, United States Code, is amended—

(1) by redesignating subsection (j) as subsection (k); and

(2) by inserting after subsection (i) the following new subsection (j):

"(j) The Federal Acquisition Regulation shall ensure that the requirement to obtain full and open competition is implemented in a manner that is consistent with the need to efficiently fulfill the Government's requirements.".

(b) CIVILIAN AGENCY ACQUISITIONS.—Section 303 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253) is amended—

(1) by redesignating subsection (h) as subsection (i); and

(2) by inserting after subsection (g) the following new subsection (h):

"(h) The Federal Acquisition Regulation shall ensure that the requirement to obtain full and open competition is implemented in a manner that is consistent with the need to efficiently fulfill the Government's requirements.".

(c) REVISIONS TO NOTICE THRESHOLDS.—Section 18(a)(1)(B) of the Office of Federal Procurement Policy Act (41 U.S.C. 416(a)(1)(B)) is amended—

(A) by striking out "subsection (f)—" and all that follows through the end of the subparagraph and inserting in lieu thereof "subsection (b); and"; and

(B) by inserting after "property or services" the following: "for a price expected to exceed $10,000, but not to exceed $25,000,".

SEC. 4102. EFFICIENT APPROVAL PROCEDURES.

(a) ARMED SERVICES ACQUISITIONS.—Section 2304(f)(1)(B) of title 10, United States Code, is amended—

(1) in clause (i)—

(A) by striking out "$100,000 (but equal to or less than $1,000,000)" and inserting in lieu thereof "$500,000 (but equal to or less than $10,000,000)"; and

(B) by striking out "(ii), (iii), or (iv)" and inserting in lieu thereof "(ii) or (iii)";

(2) in clause (ii)—

(A) by striking out "$1,000,000 (but equal to or less than $10,000,000)" and inserting in lieu thereof "$10,000,000 (but equal to or less than $50,000,000)"; and

(B) by adding "or" at the end;

(3) by striking out clause (iii); and

(4) by redesignating clause (iv) as clause (iii).

(b) CIVILIAN AGENCY ACQUISITIONS.—Section 303(f)(1)(B) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(f)(1)(B)) is amended—

(1) in clause (i)—

(A) by striking out "$100,000 (but equal to or less than $1,000,000)" and inserting in lieu thereof "$500,000 (but equal to or less than $10,000,000)"; and

(B) by striking out "(ii), (iii), or (iv);" and inserting in lieu thereof "(ii) or (iii); and";

(2) in clause (ii)—

(A) by striking out "$1,000,000 (but equal to or less than $10,000,000)" and inserting in lieu thereof "$10,000,000 (but equal to or less than $50,000,000)"; and

(B) by striking out the semicolon after "civilian" and inserting in lieu thereof a comma; and

(3) in clause (iii), by striking out "$10,000,000" and inserting in lieu thereof "$50,000,000".

SEC. 4103. EFFICIENT COMPETITIVE RANGE DETERMINATIONS.

(a) ARMED SERVICES ACQUISITIONS.—Paragraph (4) of 2305(b) of title 10, United States Code, is amended—

(1) in subparagraph (C), by striking out "(C)", by transferring the text to the end of subparagraph (B), and in that text by striking out "Subparagraph (B)" and inserting in lieu thereof "This subparagraph";

(2) by redesignating subparagraph (B) as subparagraph (C); and

(3) by inserting before subparagraph (C) (as so redesignated) the following new subparagraph (B):

"(B) If the contracting officer determines that the number of offerors that would otherwise be included in the competitive range under subparagraph (A)(i) exceeds the number at which an efficient competition can be conducted, the contracting officer may limit the number of proposals in the competitive range, in accordance with the criteria specified in the solicitation, to the greatest number

that will permit an efficient competition among the offerors rated most highly in accordance with such criteria.".

(b) CIVILIAN AGENCY ACQUISITIONS.—Section 303B(d) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b(d)) is amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by inserting before paragraph (3) (as so redesignated) the following new paragraph (2):

"(2) If the contracting officer determines that the number of offerors that would otherwise be included in the competitive range under paragraph (1)(A) exceeds the number at which an efficient competition can be conducted, the contracting officer may limit the number of proposals in the competitive range, in accordance with the criteria specified in the solicitation, to the greatest number that will permit an efficient competition among the offerors rated most highly in accordance with such criteria.".

SEC. 4104. PREAWARD DEBRIEFINGS.

(a) ARMED SERVICES ACQUISITIONS.—Section 2305(b) of title 10, United States Code, is amended—

(1) by striking out subparagraph (F) of paragraph (5);

(2) by redesignating paragraph (6) as paragraph (9); and

(3) by inserting after paragraph (5) the following new paragraphs:

"(6)(A) When the contracting officer excludes an offeror submitting a competitive proposal from the competitive range (or otherwise excludes such an offeror from further consideration prior to the final source selection decision), the excluded offeror may request in writing, within three days after the date on which the excluded offeror receives notice of its exclusion, a debriefing prior to award. The contracting officer shall make every effort to debrief the unsuccessful offeror as soon as practicable but may refuse the request for a debriefing if it is not in the best interests of the Government to conduct a debriefing at that time.

"(B) The contracting officer is required to debrief an excluded offeror in accordance with paragraph (5) of this section only if that offeror requested and was refused a preaward debriefing under subparagraph (A) of this paragraph.

"(C) The debriefing conducted under this subsection shall include—

"(i) the executive agency's evaluation of the significant elements in the offeror's offer;

"(ii) a summary of the rationale for the offeror's exclusion; and

"(iii) reasonable responses to relevant questions posed by the debriefed offeror as to whether source selection procedures set forth in the solicitation, applicable regulations, and other applicable authorities were followed by the executive agency.

"(D) The debriefing conducted pursuant to this subsection may not disclose the number or identity of other offerors and shall not disclose information about the content, ranking, or evaluation of other offerors' proposals.

"(7) The contracting officer shall include a summary of any debriefing conducted under paragraph (5) or (6) in the contract file.

"(8) The Federal Acquisition Regulation shall include a provision encouraging the use of alternative dispute resolution tech-

niques to provide informal, expeditious, and inexpensive procedures for an offeror to consider using before filing a protest, prior to the award of a contract, of the exclusion of the offeror from the competitive range (or otherwise from further consideration) for that contract.".

(b) CIVILIAN AGENCY ACQUISITIONS.—Section 303B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b) is amended—

(1) by striking out paragraph (6) of subsection (e);

(2) by redesignating subsections (f), (g), (h), and (i) as subsections (i), (j), (k), and (l), respectively; and

(3) by inserting after subsection (e) the following new subsections:

"(f)(1) When the contracting officer excludes an offeror submitting a competitive proposal from the competitive range (or otherwise excludes such an offeror from further consideration prior to the final source selection decision), the excluded offeror may request in writing, within 3 days after the date on which the excluded offeror receives notice of its exclusion, a debriefing prior to award. The contracting officer shall make every effort to debrief the unsuccessful offeror as soon as practicable but may refuse the request for a debriefing if it is not in the best interests of the Government to conduct a debriefing at that time.

"(2) The contracting officer is required to debrief an excluded offeror in accordance with subsection (e) of this section only if that offeror requested and was refused a preaward debriefing under paragraph (1) of this subsection.

"(3) The debriefing conducted under this subsection shall include—

"(A) the executive agency's evaluation of the significant elements in the offeror's offer;

"(B) a summary of the rationale for the offeror's exclusion; and

"(C) reasonable responses to relevant questions posed by the debriefed offeror as to whether source selection procedures set forth in the solicitation, applicable regulations, and other applicable authorities were followed by the executive agency.

"(4) The debriefing conducted pursuant to this subsection may not disclose the number or identity of other offerors and shall not disclose information about the content, ranking, or evaluation of other offerors' proposals.

"(g) The contracting officer shall include a summary of any debriefing conducted under subsection (e) or (f) in the contract file.

"(h) The Federal Acquisition Regulation shall include a provision encouraging the use of alternative dispute resolution techniques to provide informal, expeditious, and inexpensive procedures for an offeror to consider using before filing a protest, prior to the award of a contract, of the exclusion of the offeror from the competitive range (or otherwise from further consideration) for that contract.".

SEC. 4105. DESIGN-BUILD SELECTION PROCEDURES.

(a) ARMED SERVICES ACQUISITIONS.—(1) Chapter 137 of title 10, United States Code, is amended by inserting after section 2305 the following new section:

"§ 2305a. Design-build selection procedures

"(a) AUTHORIZATION.—Unless the traditional acquisition approach of design-bid-build established under the Brooks Architect-Engineers Act (41 U.S.C. 541 et seq.) is used or another acquisition procedure authorized by law is used, the head of an agency shall use the two-phase selection procedures authorized in this section for entering into a contract for the design and construction of a public building, facility, or work when a determination is made under subsection (b) that the procedures are appropriate for use.

"(b) CRITERIA FOR USE.—A contracting officer shall make a determination whether two-phase selection procedures are appropriate for use for entering into a contract for the design and construction of a public building, facility, or work when the contracting officer anticipates that three or more offers will be received for such contract, design work must be performed before an offeror can develop a price or cost proposal for such contract, the offeror will incur a substantial amount of expense in preparing the offer, and the contracting officer has considered information such as the following:

"(1) The extent to which the project requirements have been adequately defined.

"(2) The time constraints for delivery of the project.

"(3) The capability and experience of potential contractors.

"(4) The suitability of the project for use of the two-phase selection procedures.

"(5) The capability of the agency to manage the two-phase selection process.

"(6) Other criteria established by the agency.

"(c) PROCEDURES DESCRIBED.—Two-phase selection procedures consist of the following:

"(1) The agency develops, either in-house or by contract, a scope of work statement for inclusion in the solicitation that defines the project and provides prospective offerors with sufficient information regarding the Government's requirements (which may include criteria and preliminary design, budget parameters, and schedule or delivery requirements) to enable the offerors to submit proposals which meet the Government's needs. If the agency contracts for development of the scope of work statement, the agency shall contract for architectural and engineering services as defined by and in accordance with the Brooks Architect-Engineers Act (40 U.S.C. 541 et seq.).

"(2) The contracting officer solicits phase-one proposals that—

"(A) include information on the offeror's—

"(i) technical approach; and

"(ii) technical qualifications; and

"(B) do not include—

"(i) detailed design information; or

"(ii) cost or price information.

"(3) The evaluation factors to be used in evaluating phase-one proposals are stated in the solicitation and include specialized experience and technical competence, capability to perform, past performance of the offeror's team (including the architect-engineer and construction members of the team) and other appropriate factors, except that cost-related or price-related evaluation factors are not permitted. Each solicitation estab-

lishes the relative importance assigned to the evaluation factors and subfactors that must be considered in the evaluation of phase-one proposals. The agency evaluates phase-one proposals on the basis of the phase-one evaluation factors set forth in the solicitation.

"(4) The contracting officer selects as the most highly qualified the number of offerors specified in the solicitation to provide the property or services under the contract and requests the selected offerors to submit phase-two competitive proposals that include technical proposals and cost or price information. Each solicitation establishes with respect to phase two—

"(A) the technical submission for the proposal, including design concepts or proposed solutions to requirements addressed within the scope of work (or both), and

"(B) the evaluation factors and subfactors, including cost or price, that must be considered in the evaluations of proposals in accordance with paragraphs (2), (3), and (4) of section 2305(a) of this title.

The contracting officer separately evaluates the submissions described in subparagraphs (A) and (B).

"(5) The agency awards the contract in accordance with section 2305(b)(4) of this title.

"(d) SOLICITATION TO STATE NUMBER OF OFFERORS TO BE SELECTED FOR PHASE TWO REQUESTS FOR COMPETITIVE PROPOSALS.—A solicitation issued pursuant to the procedures described in subsection (c) shall state the maximum number of offerors that are to be selected to submit competitive proposals pursuant to subsection (c)(4). The maximum number specified in the solicitation shall not exceed 5 unless the agency determines with respect to an individual solicitation that a specified number greater than 5 is in the Government's interest and is consistent with the purposes and objectives of the two-phase selection process.

"(e) REQUIREMENT FOR GUIDANCE AND REGULATIONS.—The Federal Acquisition Regulation shall include guidance—

"(1) regarding the factors that may be considered in determining whether the two-phase contracting procedures authorized by subsection (a) are appropriate for use in individual contracting situations;

"(2) regarding the factors that may be used in selecting contractors; and

"(3) providing for a uniform approach to be used Government-wide.".

(2) The table of sections at the beginning of chapter 137 of such title is amended by adding after the item relating to section 2305 the following new item:

"2305a. Design-build selection procedures.".

(b) CIVILIAN AGENCY ACQUISITIONS.—(1) Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) is amended by inserting after section 303L the following new section:

"SEC. 303M. DESIGN-BUILD SELECTION PROCEDURES. 41 USC 253m.

"(a) AUTHORIZATION.—Unless the traditional acquisition approach of design-bid-build established under the Brooks Architect-Engineers Act (title IX of this Act) is used or another acquisition procedure authorized by law is used, the head of an executive agency shall use the two-phase selection procedures authorized

in this section for entering into a contract for the design and construction of a public building, facility, or work when a determination is made under subsection (b) that the procedures are appropriate for use.

"(b) CRITERIA FOR USE.—A contracting officer shall make a determination whether two-phase selection procedures are appropriate for use for entering into a contract for the design and construction of a public building, facility, or work when the contracting officer anticipates that three or more offers will be received for such contract, design work must be performed before an offeror can develop a price or cost proposal for such contract, the offeror will incur a substantial amount of expense in preparing the offer, and the contracting officer has considered information such as the following:

"(1) The extent to which the project requirements have been adequately defined.

"(2) The time constraints for delivery of the project.

"(3) The capability and experience of potential contractors.

"(4) The suitability of the project for use of the two-phase selection procedures.

"(5) The capability of the agency to manage the two-phase selection process.

"(6) Other criteria established by the agency.

"(c) PROCEDURES DESCRIBED.—Two-phase selection procedures consist of the following:

"(1) The agency develops, either in-house or by contract, a scope of work statement for inclusion in the solicitation that defines the project and provides prospective offerors with sufficient information regarding the Government's requirements (which may include criteria and preliminary design, budget parameters, and schedule or delivery requirements) to enable the offerors to submit proposals which meet the Government's needs. If the agency contracts for development of the scope of work statement, the agency shall contract for architectural and engineering services as defined by and in accordance with the Brooks Architect-Engineers Act (40 U.S.C. 541 et seq.).

"(2) The contracting officer solicits phase-one proposals that—

"(A) include information on the offeror's—

"(i) technical approach; and

"(ii) technical qualifications; and

"(B) do not include—

"(i) detailed design information; or

"(ii) cost or price information.

"(3) The evaluation factors to be used in evaluating phase-one proposals are stated in the solicitation and include specialized experience and technical competence, capability to perform, past performance of the offeror's team (including the architect-engineer and construction members of the team) and other appropriate factors, except that cost-related or price-related evaluation factors are not permitted. Each solicitation establishes the relative importance assigned to the evaluation factors and subfactors that must be considered in the evaluation of phase-one proposals. The agency evaluates phase-one proposals on the basis of the phase-one evaluation factors set forth in the solicitation.

"(4) The contracting officer selects as the most highly qualified the number of offerors specified in the solicitation to provide the property or services under the contract and requests the selected offerors to submit phase-two competitive proposals that include technical proposals and cost or price information. Each solicitation establishes with respect to phase two—

"(A) the technical submission for the proposal, including design concepts or proposed solutions to requirements addressed within the scope of work (or both), and

"(B) the evaluation factors and subfactors, including cost or price, that must be considered in the evaluations of proposals in accordance with subsections (b), (c), and (d) of section 303A.

The contracting officer separately evaluates the submissions described in subparagraphs (A) and (B).

"(5) The agency awards the contract in accordance with section 303B of this title.

"(d) SOLICITATION TO STATE NUMBER OF OFFERORS TO BE SELECTED FOR PHASE TWO REQUESTS FOR COMPETITIVE PROPOSALS.—A solicitation issued pursuant to the procedures described in subsection (c) shall state the maximum number of offerors that are to be selected to submit competitive proposals pursuant to subsection (c)(4). The maximum number specified in the solicitation shall not exceed 5 unless the agency determines with respect to an individual solicitation that a specified number greater than 5 is in the Government's interest and is consistent with the purposes and objectives of the two-phase selection process.

"(e) REQUIREMENT FOR GUIDANCE AND REGULATIONS.—The Federal Acquisition Regulation shall include guidance—

"(1) regarding the factors that may be considered in determining whether the two-phase contracting procedures authorized by subsection (a) are appropriate for use in individual contracting situations;

"(2) regarding the factors that may be used in selecting contractors; and

"(3) providing for a uniform approach to be used Government-wide.".

(2) The table of sections at the beginning of such Act is amended by inserting after the item relating to section 303L the following new item:

"Sec. 303M. Design-build selection procedures.".

TITLE XLII—COMMERCIAL ITEMS

SEC. 4201. COMMERCIAL ITEM EXCEPTION TO REQUIREMENT FOR CERTIFIED COST OR PRICING DATA.

(a) ARMED SERVICES ACQUISITIONS.—(1) Subsections (b), (c), and (d) of section 2306a of title 10, United States Code, are amended to read as follows:

"(b) EXCEPTIONS.—

"(1) IN GENERAL.—Submission of certified cost or pricing data shall not be required under subsection (a) in the case of a contract, a subcontract, or modification of a contract or subcontract—

"(A) for which the price agreed upon is based on—

"(i) adequate price competition; or

"(ii) prices set by law or regulation;

"(B) for the acquisition of a commercial item; or

"(C) in an exceptional case when the head of the procuring activity, without delegation, determines that the requirements of this section may be waived and justifies in writing the reasons for such determination.

"(2) MODIFICATIONS OF CONTRACTS AND SUBCONTRACTS FOR COMMERCIAL ITEMS.—In the case of a modification of a contract or subcontract for a commercial item that is not covered by the exception to the submission of certified cost or pricing data in paragraph (1)(A) or (1)(B), submission of certified cost or pricing data shall not be required under subsection (a) if—

"(A) the contract or subcontract being modified is a contract or subcontract for which submission of certified cost or pricing data may not be required by reason of paragraph (1)(A) or (1)(B); and

"(B) the modification would not change the contract or subcontract, as the case may be, from a contract or subcontract for the acquisition of a commercial item to a contract or subcontract for the acquisition of an item other than a commercial item.

"(c) COST OR PRICING DATA ON BELOW-THRESHOLD CONTRACTS.—

"(1) AUTHORITY TO REQUIRE SUBMISSION.—Subject to paragraph (2), when certified cost or pricing data are not required to be submitted by subsection (a) for a contract, subcontract, or modification of a contract or subcontract, such data may nevertheless be required to be submitted by the head of the procuring activity, but only if the head of the procuring activity determines that such data are necessary for the evaluation by the agency of the reasonableness of the price of the contract, subcontract, or modification of a contract or subcontract. In any case in which the head of the procuring activity requires such data to be submitted under this subsection, the head of the procuring activity shall justify in writing the reason for such requirement.

"(2) EXCEPTION.—The head of the procuring activity may not require certified cost or pricing data to be submitted under this paragraph for any contract or subcontract, or modification of a contract or subcontract, covered by the exceptions in subparagraph (A) or (B) of subsection (b)(1).

"(3) DELEGATION OF AUTHORITY PROHIBITED.—The head of a procuring activity may not delegate functions under this paragraph.

"(d) SUBMISSION OF OTHER INFORMATION.—

"(1) AUTHORITY TO REQUIRE SUBMISSION.—When certified cost or pricing data are not required to be submitted under this section for a contract, subcontract, or modification of a contract or subcontract, the contracting officer shall require submission of data other than certified cost or pricing data to the extent necessary to determine the reasonableness of the price of the contract, subcontract, or modification of the contract or subcontract. Except in the case of a contract or subcontract covered by the exceptions in subsection (b)(1)(A), the data submitted shall include, at a minimum, appropriate information on the prices at which the same item or similar

items have previously been sold that is adequate for evaluating the reasonableness of the price for the procurement.

"(2) LIMITATIONS ON AUTHORITY.—The Federal Acquisition Regulation shall include the following provisions regarding the types of information that contracting officers may require under paragraph (1):

"(A) Reasonable limitations on requests for sales data relating to commercial items.

"(B) A requirement that a contracting officer limit, to the maximum extent practicable, the scope of any request for information relating to commercial items from an offeror to only that information that is in the form regularly maintained by the offeror in commercial operations.

"(C) A statement that any information received relating to commercial items that is exempt from disclosure under section 552(b) of title 5 shall not be disclosed by the Federal Government.".

(2) Section 2306a of such title is further amended—

(A) by striking out subsection (h); and

(B) by redesignating subsection (i) as subsection (h).

(b) CIVILIAN AGENCY ACQUISITIONS.—(1) Subsections (b), (c) and (d) of section 304A of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254b) are amended to read as follows:

"(b) EXCEPTIONS.—

"(1) IN GENERAL.—Submission of certified cost or pricing data shall not be required under subsection (a) in the case of a contract, a subcontract, or a modification of a contract or subcontract—

"(A) for which the price agreed upon is based on—

"(i) adequate price competition; or

"(ii) prices set by law or regulation;

"(B) for the acquisition of a commercial item; or

"(C) in an exceptional case when the head of the procuring activity, without delegation, determines that the requirements of this section may be waived and justifies in writing the reasons for such determination.

"(2) MODIFICATIONS OF CONTRACTS AND SUBCONTRACTS FOR COMMERCIAL ITEMS.—In the case of a modification of a contract or subcontract for a commercial item that is not covered by the exception to the submission of certified cost or pricing data in paragraph (1)(A) or (1)(B), submission of certified cost or pricing data shall not be required under subsection (a) if—

"(A) the contract or subcontract being modified is a contract or subcontract for which submission of certified cost or pricing data may not be required by reason of paragraph (1)(A) or (1)(B); and

"(B) the modification would not change the contract or subcontract, as the case may be, from a contract or subcontract for the acquisition of a commercial item to a contract or subcontract for the acquisition of an item other than a commercial item.

"(c) COST OR PRICING DATA ON BELOW-THRESHOLD CONTRACTS.—

"(1) AUTHORITY TO REQUIRE SUBMISSION.—Subject to paragraph (2), when certified cost or pricing data are not required

to be submitted by subsection (a) for a contract, subcontract, or modification of a contract or subcontract, such data may nevertheless be required to be submitted by the head of the procuring activity, but only if the head of the procuring activity determines that such data are necessary for the evaluation by the agency of the reasonableness of the price of the contract, subcontract, or modification of a contract or subcontract. In any case in which the head of the procuring activity requires such data to be submitted under this subsection, the head of the procuring activity shall justify in writing the reason for such requirement.

"(2) EXCEPTION.—The head of the procuring activity may not require certified cost or pricing data to be submitted under this paragraph for any contract or subcontract, or modification of a contract or subcontract, covered by the exceptions in subparagraph (A) or (B) of subsection (b)(1).

"(3) DELEGATION OF AUTHORITY PROHIBITED.—The head of a procuring activity may not delegate the functions under this paragraph.

"(d) SUBMISSION OF OTHER INFORMATION.—

"(1) AUTHORITY TO REQUIRE SUBMISSION.—When certified cost or pricing data are not required to be submitted under this section for a contract, subcontract, or modification of a contract or subcontract, the contracting officer shall require submission of data other than certified cost or pricing data to the extent necessary to determine the reasonableness of the price of the contract, subcontract, or modification of the contract or subcontract. Except in the case of a contract or subcontract covered by the exceptions in subsection (b)(1)(A), the data submitted shall include, at a minimum, appropriate information on the prices at which the same item or similar items have previously been sold that is adequate for evaluating the reasonableness of the price for the procurement.

"(2) LIMITATIONS ON AUTHORITY.—The Federal Acquisition Regulation shall include the following provisions regarding the types of information that contracting officers may require under paragraph (1):

"(A) Reasonable limitations on requests for sales data relating to commercial items.

"(B) A requirement that a contracting officer limit, to the maximum extent practicable, the scope of any request for information relating to commercial items from an offeror to only that information that is in the form regularly maintained by the offeror in commercial operations.

"(C) A statement that any information received relating to commercial items that is exempt from disclosure under section 552(b) of title 5 shall not be disclosed by the Federal Government.".

(2) Section 304A of such Act is further amended—

(A) by striking out subsection (h); and

(B) by redesignating subsection (i) as subsection (h).

SEC. 4202. APPLICATION OF SIMPLIFIED PROCEDURES TO CERTAIN COMMERCIAL ITEMS.

(a) ARMED SERVICES ACQUISITIONS.—(1) Section 2304(g) of title 10, United States Code, is amended—

(A) in paragraph (1), by striking out "shall provide for special simplified procedures for purchases of" and all that follows through the end of the paragraph and inserting in lieu thereof the following: "shall provide for—

"(A) special simplified procedures for purchases of property and services for amounts not greater than the simplified acquisition threshold; and

"(B) special simplified procedures for purchases of property and services for amounts greater than the simplified acquisition threshold but not greater than $5,000,000 with respect to which the contracting officer reasonably expects, based on the nature of the property or services sought and on market research, that offers will include only commercial items."; and

(B) by adding at the end the following new paragraph:

"(4) The head of an agency shall comply with the Federal Acquisition Regulation provisions referred to in section 31(g) of the Office of Federal Procurement Policy Act (41 U.S.C. 427).".

(2) Section 2305 of title 10, United States Code, is amended in subsection (a)(2) by inserting after "(other than for" the following: "a procurement for commercial items using special simplified procedures or".

(b) CIVILIAN AGENCY ACQUISITIONS.—(1) Section 303(g) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(g)) is amended—

(A) in paragraph (1), by striking out "shall provide for special simplified procedures for purchases of" and all that follows through the end of the paragraph and inserting in lieu thereof the following: "shall provide for—

"(A) special simplified procedures for purchases of property and services for amounts not greater than the simplified acquisition threshold; and

"(B) special simplified procedures for purchases of property and services for amounts greater than the simplified acquisition threshold but not greater than $5,000,000 with respect to which the contracting officer reasonably expects, based on the nature of the property or services sought and on market research, that offers will include only commercial items."; and

(B) by adding at the end the following new paragraph:

"(5) An executive agency shall comply with the Federal Acquisition Regulation provisions referred to in section 31(g) of the Office of Federal Procurement Policy Act (41 U.S.C. 427).".

(2) Section 303A of such Act (41 U.S.C. 253a) is amended in subsection (b) by inserting after "(other than for" the following: "a procurement for commercial items using special simplified procedures or".

(c) ACQUISITIONS GENERALLY.—Section 31 of the Office of Federal Procurement Policy Act (41 U.S.C. 427) is amended—

(1) in subsection (a), by striking out "shall provide for special simplified procedures for purchases of" and all that follows through the end of the subsection and inserting in lieu thereof the following: "shall provide for—

"(1) special simplified procedures for purchases of property and services for amounts not greater than the simplified acquisition threshold; and

"(2) special simplified procedures for purchases of property and services for amounts greater than the simplified acquisition threshold but not greater than $5,000,000 with respect to which

the contracting officer reasonably expects, based on the nature of the property or services sought and on market research, that offers will include only commercial items."; and

(2) by adding at the end the following new subsection:

"(g) SPECIAL RULES FOR COMMERCIAL ITEMS.—The Federal Acquisition Regulation shall provide that, in the case of a purchase of commercial items using special simplified procedures, an executive agency—

Notice. Publication.

"(1) shall publish a notice in accordance with section 18 and, as provided in subsection (b)(4) of such section, permit all responsible sources to submit a bid, proposal, or quotation (as appropriate) which shall be considered by the agency;

"(2) may not conduct the purchase on a sole source basis unless the need to do so is justified in writing and approved in accordance with section 2304 of title 10, United States Code, or section 303 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253), as applicable; and

"(3) shall include in the contract file a written description of the procedures used in awarding the contract and the number of offers received.".

(d) SIMPLIFIED NOTICE.—(1) Section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) is amended—

(A) in subsection (a)(6), by inserting before "submission" the following: "issuance of solicitations and the"; and

(B) in subsection (b)(6), by striking out "threshold—" and inserting in lieu thereof "threshold, or a contract for the procurement of commercial items using special simplified procedures—".

10 USC 2304 note.

(e) EFFECTIVE DATE.—The authority to issue solicitations for purchases of commercial items in excess of the simplified acquisition threshold pursuant to the special simplified procedures authorized by section 2304(g)(1) of title 10, United States Code, section 303(g)(1) of the Federal Property and Administrative Services Act of 1949, and section 31(a) of the Office of Federal Procurement Policy Act, as amended by this section, shall expire three years after the date on which such amendments take effect pursuant to section 4401(b). Contracts may be awarded pursuant to solicitations that have been issued before such authority expires, notwithstanding the expiration of such authority.

SEC. 4203. INAPPLICABILITY OF CERTAIN PROCUREMENT LAWS TO COMMERCIALLY AVAILABLE OFF-THE-SHELF ITEMS.

(a) LAWS LISTED IN THE FAR.—The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) is amended by adding at the end the following:

41 USC 431.

"SEC. 35. COMMERCIALLY AVAILABLE OFF-THE-SHELF ITEM ACQUISITIONS: LISTS OF INAPPLICABLE LAWS IN FEDERAL ACQUISITION REGULATION.

"(a) LISTS OF INAPPLICABLE PROVISIONS OF LAW.—(1) The Federal Acquisition Regulation shall include a list of provisions of law that are inapplicable to contracts for the procurement of commercially available off-the-shelf items.

"(2) A provision of law that, pursuant to paragraph (3), is properly included on a list referred to in paragraph (1) may not be construed as being applicable to contracts referred to in paragraph (1). Nothing in this section shall be construed to render

inapplicable to such contracts any provision of law that is not included on such list.

"(3) A provision of law described in subsection (b) shall be included on the list of inapplicable provisions of law required by paragraph (1) unless the Administrator for Federal Procurement Policy makes a written determination that it would not be in the best interest of the United States to exempt such contracts from the applicability of that provision of law. Nothing in this section shall be construed as modifying or superseding, or as being intended to impair or restrict authorities or responsibilities under—

"(A) section 15 of the Small Business Act (15 U.S.C. 644); or

"(B) bid protest procedures developed under the authority of subchapter V of chapter 35 of title 31, United States Code; subsections (e) and (f) of section 2305 of title 10, United States Code; or subsections (h) and (i) of section 303B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b).

"(b) COVERED LAW.—Except as provided in subsection (a)(3), the list referred to in subsection (a)(1) shall include each provision of law that, as determined by the Administrator, imposes on persons who have been awarded contracts by the Federal Government for the procurement of commercially available off-the-shelf items Government-unique policies, procedures, requirements, or restrictions for the procurement of property or services, except the following:

"(1) A provision of law that provides for criminal or civil penalties.

"(2) A provision of law that specifically refers to this section and provides that, notwithstanding this section, such provision of law shall be applicable to contracts for the procurement of commercial off-the-shelf items.

"(c) DEFINITION.—(1) As used in this section, the term 'commercially available off-the-shelf item' means, except as provided in paragraph (2), an item that—

"(A) is a commercial item (as described in section 4(12)(A));

"(B) is sold in substantial quantities in the commercial marketplace; and

"(C) is offered to the Government, without modification, in the same form in which it is sold in the commercial marketplace.

"(2) The term 'commercially available off-the-shelf item' does not include bulk cargo, as defined in section 3 of the Shipping Act of 1984 (46 U.S.C. App. 1702), such as agricultural products and petroleum products.".

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of such Act is amended by inserting after the item relating to section 34 the following:

"Sec. 35. Commercially available off-the-shelf item acquisitions: lists of inapplicable laws in Federal Acquisition Regulation.".

SEC. 4204. AMENDMENT OF COMMERCIAL ITEMS DEFINITION.

Section 4(12)(F) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)(F)) is amended by inserting "or market" after "catalog".

SEC. 4205. INAPPLICABILITY OF COST ACCOUNTING STANDARDS TO CONTRACTS AND SUBCONTRACTS FOR COMMERCIAL ITEMS.

Paragraph (2)(B) of section 26(f) of the Office of Federal Procurement Policy Act (41 U.S.C. 422(f)) is amended—

(1) by striking out clause (i) and inserting in lieu thereof the following:

"(i) Contracts or subcontracts for the acquisition of commercial items."; and

(2) by striking out clause (iii).

TITLE XLIII—ADDITIONAL REFORM PROVISIONS

Subtitle A—Additional Acquisition Reform Provisions

SEC. 4301. ELIMINATION OF CERTAIN CERTIFICATION REQUIREMENTS.

(a) ELIMINATION OF CERTAIN STATUTORY CERTIFICATION REQUIREMENTS.—(1) Section 2410b of title 10, United States Code, is amended in paragraph (2) by striking out "certification and".

(2) Section 1352(b)(2) of title 31, United States Code, is amended—

(A) by striking out subparagraph (C); and

(B) by inserting "and" after the semicolon at the end of subparagraph (A).

(3) Section 5152 of the Drug-Free Workplace Act of 1988 (41 U.S.C. 701) is amended—

(A) in subsection (a)(1), by striking out "has certified to the contracting agency that it will" and inserting in lieu thereof "agrees to";

(B) in subsection (a)(2), by striking out "contract includes a certification by the individual" and inserting in lieu thereof "individual agrees"; and

(C) in subsection (b)(1)—

(i) by striking out subparagraph (A);

(ii) by redesignating subparagraph (B) as subparagraph (A) and in that subparagraph by striking out "such certification by failing to carry out"; and

(iii) by redesignating subparagraph (C) as subparagraph (B).

(b) ELIMINATION OF CERTAIN REGULATORY CERTIFICATION REQUIREMENTS.—

Public comment.
41 USC 425 note.

(1) CURRENT CERTIFICATION REQUIREMENTS.—(A) Not later than 210 days after the date of the enactment of this Act, the Administrator for Federal Procurement Policy shall issue for public comment a proposal to amend the Federal Acquisition Regulation to remove from the Federal Acquisition Regulation certification requirements for contractors and offerors that are not specifically imposed by statute. The Administrator may omit such a certification requirement from the proposal only if—

(i) the Federal Acquisition Regulatory Council provides the Administrator with a written justification for the

requirement and a determination that there is no less burdensome means for administering and enforcing the particular regulation that contains the certification requirement; and

(ii) the Administrator approves in writing the retention of the certification requirement.

Public comment.

(B)(i) Not later than 210 days after the date of the enactment of this Act, the head of each executive agency that has agency procurement regulations containing one or more certification requirements for contractors and offerors that are not specifically imposed by statute shall issue for public comment a proposal to amend the regulations to remove the certification requirements. The head of the executive agency may omit such a certification requirement from the proposal only if—

(I) the senior procurement executive for the executive agency provides the head of the executive agency with a written justification for the requirement and a determination that there is no less burdensome means for administering and enforcing the particular regulation that contains the certification requirement; and

(II) the head of the executive agency approves in writing the retention of such certification requirement.

(ii) For purposes of clause (i), the term "head of the executive agency" with respect to a military department means the Secretary of Defense.

(2) FUTURE CERTIFICATION REQUIREMENTS.—(A) Section 29 of the Office of Federal Procurement Policy Act (41 U.S.C. 425) is amended—

(i) by amending the heading to read as follows:

"SEC. 29. CONTRACT CLAUSES AND CERTIFICATIONS.";

(ii) by inserting "(a) NONSTANDARD CONTRACT CLAUSES.—" before "The Federal Acquisition"; and

(iii) by adding at the end the following new subsection:

"(c) PROHIBITION ON CERTIFICATION REQUIREMENTS.—(1) A requirement for a certification by a contractor or offeror may not be included in the Federal Acquisition Regulation unless—

"(A) the certification requirement is specifically imposed by statute; or

"(B) written justification for such certification requirement is provided to the Administrator for Federal Procurement Policy by the Federal Acquisition Regulatory Council, and the Administrator approves in writing the inclusion of such certification requirement.

"(2)(A) A requirement for a certification by a contractor or offeror may not be included in a procurement regulation of an executive agency unless—

"(i) the certification requirement is specifically imposed by statute; or

"(ii) written justification for such certification requirement is provided to the head of the executive agency by the senior procurement executive of the agency, and the head of the executive agency approves in writing the inclusion of such certification requirement.

"(B) For purposes of subparagraph (A), the term 'head of the executive agency' with respect to a military department means the Secretary of Defense.".

(B) The item relating to section 29 in the table of contents for the Office of Federal Procurement Policy Act (contained in section 1(b)) (41 U.S.C. 401 note) is amended to read as follows:

"Sec. 29. Contract clauses and certifications.".

(c) POLICY OF CONGRESS.—Section 29 of the Office of Federal Procurement Policy Act (41 U.S.C. 425) is further amended by adding after subsection (a) the following new subsection:

"(b) CONSTRUCTION OF CERTIFICATION REQUIREMENTS.—A provision of law may not be construed as requiring a certification by a contractor or offeror in a procurement made or to be made by the Federal Government unless that provision of law specifically provides that such a certification shall be required.".

SEC. 4302. AUTHORITIES CONDITIONED ON FACNET CAPABILITY.

(a) COMMENCEMENT AND EXPIRATION OF AUTHORITY TO CONDUCT CERTAIN TESTS OF PROCUREMENT PROCEDURES.—Subsection (j) of section 5061 of the Federal Acquisition Streamlining Act of 1994 (41 U.S.C. 413 note; 108 Stat. 3355) is amended to read as follows:

"(j) COMMENCEMENT AND EXPIRATION OF AUTHORITY.—The authority to conduct a test under subsection (a) in an agency and to award contracts under such a test shall take effect on January 1, 1997, and shall expire on January 1, 2001. A contract entered into before such authority expires in an agency pursuant to a test shall remain in effect, in accordance with the terms of the contract, the notwithstanding of expiration the authority to conduct the test under this section.".

(b) USE OF SIMPLIFIED ACQUISITION PROCEDURES.—Subsection (e) of section 31 of the Office of Federal Procurement Policy Act (41 U.S.C. 427) is amended—

(1) by striking out "ACQUISITION PROCEDURES.—" and all that follows through "(B) The simplified acquisition" in paragraph (2)(B) and inserting in lieu thereof "ACQUISITION PROCEDURES.—The simplified acquisition"; and

(2) by striking out "pursuant to this section" in the remaining text and inserting in lieu thereof "pursuant to section 2304(g)(1)(A) of title 10, United States Code, section 303(g)(1)(A) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(g)(1)(A)), and subsection (a)(1) of this section".

SEC. 4303. INTERNATIONAL COMPETITIVENESS.

(a) ADDITIONAL AUTHORITY TO WAIVE RESEARCH, DEVELOPMENT, AND PRODUCTION COSTS.—Subject to subsection (b), section 21(e)(2) of the Arms Export Control Act (22 U.S.C. 2761(e)(2)) is amended—

(1) by inserting "(A)" after "(2)"; and

(2) by adding at the end the following new subparagraphs:

"(B) The President may waive the charge or charges which would otherwise be considered appropriate under paragraph (1)(B) for a particular sale if the President determines that—

"(i) imposition of the charge or charges likely would result in the loss of the sale; or

"(ii) in the case of a sale of major defense equipment that is also being procured for the use of the Armed Forces, the waiver of the charge or charges would (through a resulting

increase in the total quantity of the equipment purchased from the source of the equipment that causes a reduction in the unit cost of the equipment) result in a savings to the United States on the cost of the equipment procured for the use of the Armed Forces that substantially offsets the revenue foregone by reason of the waiver of the charge or charges.

"(C) The President may waive, for particular sales of major defense equipment, any increase in a charge or charges previously considered appropriate under paragraph (1)(B) if the increase results from a correction of an estimate (reasonable when made) of the production quantity base that was used for calculating the charge or charges for purposes of such paragraph.".

(b) CONDITIONS.—Subsection (a) shall be effective only if— 22 USC 2761 note.

(1) the President, in the budget of the President for fiscal year 1997, proposes legislation that if enacted would be qualifying offsetting legislation; and

(2) there is enacted qualifying offsetting legislation.

(c) EFFECTIVE DATE.—If the conditions in subsection (b) are met, then the amendments made by subsection (a) shall take effect on the date of the enactment of qualifying offsetting legislation. 22 USC 2761 note.

(d) DEFINITIONS.—For purposes of this section: 22 USC 2761 note.

(1) The term "qualifying offsetting legislation" means legislation that includes provisions that—

(A) offset fully the estimated revenues lost as a result of the amendments made by subsection (a) for each of the fiscal years 1997 through 2005;

(B) expressly state that they are enacted for the purpose of the offset described in subparagraph (A); and

(C) are included in full on the PayGo scorecard.

(2) The term "PayGo scorecard" means the estimates that are made by the Director of the Congressional Budget Office and the Director of the Office of Management and Budget under section 252(d) of the Balanced Budget and Emergency Deficit Control Act of 1985.

SEC. 4304. PROCUREMENT INTEGRITY.

(a) AMENDMENT OF PROCUREMENT INTEGRITY PROVISION.—Section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423) is amended to read as follows:

"SEC. 27. RESTRICTIONS ON DISCLOSING AND OBTAINING CONTRACTOR BID OR PROPOSAL INFORMATION OR SOURCE SELECTION INFORMATION. 41 USC 423.

"(a) PROHIBITION ON DISCLOSING PROCUREMENT INFORMATION.—(1) A person described in paragraph (2) shall not, other than as provided by law, knowingly disclose contractor bid or proposal information or source selection information before the award of a Federal agency procurement contract to which the information relates.

"(2) Paragraph (1) applies to any person who—

"(A) is a present or former official of the United States, or a person who is acting or has acted for or on behalf of, or who is advising or has advised the United States with respect to, a Federal agency procurement; and

"(B) by virtue of that office, employment, or relationship has or had access to contractor bid or proposal information or source selection information.

"(b) PROHIBITION ON OBTAINING PROCUREMENT INFORMATION.—A person shall not, other than as provided by law, knowingly obtain contractor bid or proposal information or source selection information before the award of a Federal agency procurement contract to which the information relates.

"(c) ACTIONS REQUIRED OF PROCUREMENT OFFICERS WHEN CONTACTED BY OFFERORS REGARDING NON-FEDERAL EMPLOYMENT.—(1) If an agency official who is participating personally and substantially in a Federal agency procurement for a contract in excess of the simplified acquisition threshold contacts or is contacted by a person who is a bidder or offeror in that Federal agency procurement regarding possible non-Federal employment for that official, the official shall—

Reports.

"(A) promptly report the contact in writing to the official's supervisor and to the designated agency ethics official (or designee) of the agency in which the official is employed; and

"(B)(i) reject the possibility of non-Federal employment; or

"(ii) disqualify himself or herself from further personal and substantial participation in that Federal agency procurement until such time as the agency has authorized the official to resume participation in such procurement, in accordance with the requirements of section 208 of title 18, United States Code, and applicable agency regulations on the grounds that—

"(I) the person is no longer a bidder or offeror in that Federal agency procurement; or

"(II) all discussions with the bidder or offeror regarding possible non-Federal employment have terminated without an agreement or arrangement for employment.

"(2) Each report required by this subsection shall be retained by the agency for not less than two years following the submission of the report. All such reports shall be made available to the public upon request, except that any part of a report that is exempt from the disclosure requirements of section 552 of title 5, United States Code, under subsection (b)(1) of such section may be withheld from disclosure to the public.

Public information.

"(3) An official who knowingly fails to comply with the requirements of this subsection shall be subject to the penalties and administrative actions set forth in subsection (e).

"(4) A bidder or offeror who engages in employment discussions with an official who is subject to the restrictions of this subsection, knowing that the official has not complied with subparagraph (A) or (B) of paragraph (1), shall be subject to the penalties and administrative actions set forth in subsection (e).

"(d) PROHIBITION ON FORMER OFFICIAL'S ACCEPTANCE OF COMPENSATION FROM CONTRACTOR.—(1) A former official of a Federal agency may not accept compensation from a contractor as an employee, officer, director, or consultant of the contractor within a period of one year after such former official—

"(A) served, at the time of selection of the contractor or the award of a contract to that contractor, as the procuring contracting officer, the source selection authority, a member of the source selection evaluation board, or the chief of a financial or technical evaluation team in a procurement in which that contractor was selected for award of a contract in excess of $10,000,000;

"(B) served as the program manager, deputy program manager, or administrative contracting officer for a contract in excess of $10,000,000 awarded to that contractor; or

"(C) personally made for the Federal agency—

"(i) a decision to award a contract, subcontract, modification of a contract or subcontract, or a task order or delivery order in excess of $10,000,000 to that contractor;

"(ii) a decision to establish overhead or other rates applicable to a contract or contracts for that contractor that are valued in excess of $10,000,000;

"(iii) a decision to approve issuance of a contract payment or payments in excess of $10,000,000 to that contractor; or

"(iv) a decision to pay or settle a claim in excess of $10,000,000 with that contractor.

"(2) Nothing in paragraph (1) may be construed to prohibit a former official of a Federal agency from accepting compensation from any division or affiliate of a contractor that does not produce the same or similar products or services as the entity of the contractor that is responsible for the contract referred to in subparagraph (A), (B), or (C) of such paragraph.

"(3) A former official who knowingly accepts compensation in violation of this subsection shall be subject to penalties and administrative actions as set forth in subsection (e).

"(4) A contractor who provides compensation to a former official knowing that such compensation is accepted by the former official in violation of this subsection shall be subject to penalties and administrative actions as set forth in subsection (e).

"(5) Regulations implementing this subsection shall include procedures for an official or former official of a Federal agency to request advice from the appropriate designated agency ethics official regarding whether the official or former official is or would be precluded by this subsection from accepting compensation from a particular contractor.

"(e) PENALTIES AND ADMINISTRATIVE ACTIONS.—

"(1) CRIMINAL PENALTIES.—Whoever engages in conduct constituting a violation of subsection (a) or (b) for the purpose of either—

"(A) exchanging the information covered by such subsection for anything of value, or

"(B) obtaining or giving anyone a competitive advantage in the award of a Federal agency procurement contract,

shall be imprisoned for not more than 5 years or fined as provided under title 18, United States Code, or both.

"(2) CIVIL PENALTIES.—The Attorney General may bring a civil action in an appropriate United States district court against any person who engages in conduct constituting a violation of subsection (a), (b), (c), or (d). Upon proof of such conduct by a preponderance of the evidence, the person is subject to a civil penalty. An individual who engages in such conduct is subject to a civil penalty of not more than $50,000 for each violation plus twice the amount of compensation which the individual received or offered for the prohibited conduct. An organization that engages in such conduct is subject to a civil penalty of not more than $500,000 for each violation

plus twice the amount of compensation which the organization received or offered for the prohibited conduct.

"(3) ADMINISTRATIVE ACTIONS.—(A) If a Federal agency receives information that a contractor or a person has engaged in conduct constituting a violation of subsection (a), (b), (c), or (d), the Federal agency shall consider taking one or more of the following actions, as appropriate:

"(i) Cancellation of the Federal agency procurement, if a contract has not yet been awarded.

"(ii) Rescission of a contract with respect to which—

"(I) the contractor or someone acting for the contractor has been convicted for an offense punishable under paragraph (1), or

"(II) the head of the agency that awarded the contract has determined, based upon a preponderance of the evidence, that the contractor or someone acting for the contractor has engaged in conduct constituting such an offense.

"(iii) Initiation of suspension or debarment proceedings for the protection of the Government in accordance with procedures in the Federal Acquisition Regulation.

"(iv) Initiation of adverse personnel action, pursuant to the procedures in chapter 75 of title 5, United States Code, or other applicable law or regulation.

"(B) If a Federal agency rescinds a contract pursuant to subparagraph (A)(ii), the United States is entitled to recover, in addition to any penalty prescribed by law, the amount expended under the contract.

"(C) For purposes of any suspension or debarment proceedings initiated pursuant to subparagraph (A)(iii), engaging in conduct constituting an offense under subsection (a), (b), (c), or (d) affects the present responsibility of a Government contractor or subcontractor.

"(f) DEFINITIONS.—As used in this section:

"(1) The term 'contractor bid or proposal information' means any of the following information submitted to a Federal agency as part of or in connection with a bid or proposal to enter into a Federal agency procurement contract, if that information has not been previously made available to the public or disclosed publicly:

"(A) Cost or pricing data (as defined by section 2306a(h) of title 10, United States Code, with respect to procurements subject to that section, and section 304A(h) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254b(h)), with respect to procurements subject to that section).

"(B) Indirect costs and direct labor rates.

"(C) Proprietary information about manufacturing processes, operations, or techniques marked by the contractor in accordance with applicable law or regulation.

"(D) Information marked by the contractor as 'contractor bid or proposal information', in accordance with applicable law or regulation.

"(2) The term 'source selection information' means any of the following information prepared for use by a Federal agency for the purpose of evaluating a bid or proposal to enter into a Federal agency procurement contract, if that information

has not been previously made available to the public or disclosed publicly:

"(A) Bid prices submitted in response to a Federal agency solicitation for sealed bids, or lists of those bid prices before public bid opening.

"(B) Proposed costs or prices submitted in response to a Federal agency solicitation, or lists of those proposed costs or prices.

"(C) Source selection plans.

"(D) Technical evaluation plans.

"(E) Technical evaluations of proposals.

"(F) Cost or price evaluations of proposals.

"(G) Competitive range determinations that identify proposals that have a reasonable chance of being selected for award of a contract.

"(H) Rankings of bids, proposals, or competitors.

"(I) The reports and evaluations of source selection panels, boards, or advisory councils.

"(J) Other information marked as 'source selection information' based on a case-by-case determination by the head of the agency, his designee, or the contracting officer that its disclosure would jeopardize the integrity or successful completion of the Federal agency procurement to which the information relates.

"(3) The term 'Federal agency' has the meaning provided such term in section 3 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472).

"(4) The term 'Federal agency procurement' means the acquisition (by using competitive procedures and awarding a contract) of goods or services (including construction) from non-Federal sources by a Federal agency using appropriated funds.

"(5) The term 'contracting officer' means a person who, by appointment in accordance with applicable regulations, has the authority to enter into a Federal agency procurement contract on behalf of the Government and to make determinations and findings with respect to such a contract.

"(6) The term 'protest' means a written objection by an interested party to the award or proposed award of a Federal agency procurement contract, pursuant to subchapter V of chapter 35 of title 31, United States Code.

"(7) The term 'official' means the following:

"(A) An officer, as defined in section 2104 of title 5, United States Code.

"(B) An employee, as defined in section 2105 of title 5, United States Code.

"(C) A member of the uniformed services, as defined in section 2101(3) of title 5, United States Code.

"(g) LIMITATION ON PROTESTS.—No person may file a protest against the award or proposed award of a Federal agency procurement contract alleging a violation of subsection (a), (b), (c), or (d), nor may the Comptroller General of the United States consider such an allegation in deciding a protest, unless that person reported to the Federal agency responsible for the procurement, no later than 14 days after the person first discovered the possible violation, the information that the person believed constitutes evidence of the offense.

"(h) SAVINGS PROVISIONS.—This section does not—

"(1) restrict the disclosure of information to, or its receipt by, any person or class of persons authorized, in accordance with applicable agency regulations or procedures, to receive that information;

"(2) restrict a contractor from disclosing its own bid or proposal information or the recipient from receiving that information;

"(3) restrict the disclosure or receipt of information relating to a Federal agency procurement after it has been canceled by the Federal agency before contract award unless the Federal agency plans to resume the procurement;

"(4) prohibit individual meetings between a Federal agency official and an offeror or potential offeror for, or a recipient of, a contract or subcontract under a Federal agency procurement, provided that unauthorized disclosure or receipt of contractor bid or proposal information or source selection information does not occur;

"(5) authorize the withholding of information from, nor restrict its receipt by, Congress, a committee or subcommittee of Congress, the Comptroller General, a Federal agency, or an inspector general of a Federal agency;

"(6) authorize the withholding of information from, nor restrict its receipt by, the Comptroller General of the United States in the course of a protest against the award or proposed award of a Federal agency procurement contract; or

"(7) limit the applicability of any requirements, sanctions, contract penalties, and remedies established under any other law or regulation.".

(b) REPEALS.—The following provisions of law are repealed:

(1) Sections 2397, 2397a, 2397b, and 2397c of title 10, United States Code.

(2) Section 33 of the Federal Energy Administration Act of 1974 (15 U.S.C. 789).

(3) Section 281 of title 18, United States Code.

(4) Subsection (c) of section 32 of the Office of Federal Procurement Policy Act (41 U.S.C. 428).

(5) The first section 19 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5918).

(6) Part A of title VI of the Department of Energy Organization Act and its catchline (42 U.S.C. 7211, 7212, and 7218).

(7) Section 308 of the Energy Research and Development Administration Appropriation Authorization Act for Fiscal Year 1977 (42 U.S.C. 5816a).

(8) Section 522 of the Energy Policy and Conservation Act (42 U.S.C. 6392).

(c) CLERICAL AMENDMENTS.—

(1) The table of sections at the beginning of chapter 141 of title 10, United States Code, is amended by striking out the items relating to sections 2397, 2397a, 2397b, and 2397c.

(2) The table of sections at the beginning of chapter 15 of title 18, United States Code, is amended by striking out the item relating to section 281.

(3) Section 32 of the Office of Federal Procurement Policy Act (41 U.S.C. 428) is amended by redesignating subsections (d), (e), (f), and (g) as subsections (c), (d), (e), and (f), respectively.

(4) The table of contents for the Department of Energy Organization Act is amended by striking out the items relating to part A of title VI including sections 601 through 603.

(5) The table of contents for the Energy Policy and Conservation Act is amended by striking out the item relating to section 522.

SEC. 4305. FURTHER ACQUISITION STREAMLINING PROVISIONS.

(a) PURPOSE OF OFFICE OF FEDERAL PROCUREMENT POLICY.—

(1) REVISED STATEMENT OF PURPOSE.—Section 5(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 404) is amended to read as follows:

"(a) There is in the Office of Management and Budget an Office of Federal Procurement Policy (hereinafter referred to as the 'Office') to provide overall direction of Government-wide procurement policies, regulations, procedures, and forms for executive agencies and to promote economy, efficiency, and effectiveness in the procurement of property and services by the executive branch of the Federal Government.".

(2) REPEAL OF FINDINGS, POLICIES, AND PURPOSES.—Sections 2 and 3 of such Act (41 U.S.C. 401 and 402) are repealed.

(b) REPEAL OF REPORT REQUIREMENT.—Section 8 of the Office of Federal Procurement Policy Act (41 U.S.C. 407) is repealed.

(c) OBSOLETE PROVISIONS.—

(1) RELATIONSHIP TO FORMER REGULATIONS.—Section 10 of the Office of Federal Procurement Policy Act (41 U.S.C. 409) is repealed.

(2) AUTHORIZATION OF APPROPRIATIONS.—Section 11 of such Act (41 U.S.C. 410) is amended to read as follows:

"SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

"There is authorized to be appropriated for the Office of Federal Procurement Policy each fiscal year such sums as may be necessary for carrying out the responsibilities of that office for such fiscal year.".

(d) CLERICAL AMENDMENTS.—The table of contents for the Office of Federal Procurement Policy Act (contained in section 1(b)) is amended by striking out the items relating to sections 2, 3, 8, and 10.

SEC. 4306. VALUE ENGINEERING FOR FEDERAL AGENCIES.

(a) USE OF VALUE ENGINEERING.—The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), as amended by section 4203, is further amended by adding at the end the following new section:

"SEC. 36. VALUE ENGINEERING. 41 USC 432.

"(a) IN GENERAL.—Each executive agency shall establish and maintain cost-effective value engineering procedures and processes.

"(b) DEFINITION.—As used in this section, the term 'value engineering' means an analysis of the functions of a program, project, system, product, item of equipment, building, facility, service, or supply of an executive agency, performed by qualified agency or contractor personnel, directed at improving performance, reliability, quality, safety, and life cycle costs.".

(b) CLERICAL AMENDMENT.—The table of contents for such Act, contained in section 1(b), is amended by adding at the end the following new item:

"Sec. 36. Value engineering.".

SEC. 4307. ACQUISITION WORKFORCE.

(a) ACQUISITION WORKFORCE.—(1) The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), as amended by section 4306, is further amended by adding at the end the following new section:

41 USC 433.

"SEC. 37. ACQUISITION WORKFORCE.

"(a) APPLICABILITY.—This section does not apply to an executive agency that is subject to chapter 87 of title 10, United States Code.

"(b) MANAGEMENT POLICIES.—

"(1) POLICIES AND PROCEDURES.—The head of each executive agency, after consultation with the Administrator for Federal Procurement Policy, shall establish policies and procedures for the effective management (including accession, education, training, career development, and performance incentives) of the acquisition workforce of the agency. The development of acquisition workforce policies under this section shall be carried out consistent with the merit system principles set forth in section 2301(b) of title 5, United States Code.

"(2) UNIFORM IMPLEMENTATION.—The head of each executive agency shall ensure that, to the maximum extent practicable, acquisition workforce policies and procedures established are uniform in their implementation throughout the agency.

"(3) GOVERNMENT-WIDE POLICIES AND EVALUATION.—The Administrator shall issue policies to promote uniform implementation of this section by executive agencies, with due regard for differences in program requirements among agencies that may be appropriate and warranted in view of the agency mission. The Administrator shall coordinate with the Deputy Director for Management of the Office of Management and Budget to ensure that such policies are consistent with the policies and procedures established and enhanced system of incentives provided pursuant to section 5051(c) of the Federal Acquisition Streamlining Act of 1994 (41 U.S.C. 263 note). The Administrator shall evaluate the implementation of the provisions of this section by executive agencies.

"(c) SENIOR PROCUREMENT EXECUTIVE AUTHORITIES AND RESPONSIBILITIES.—Subject to the authority, direction, and control of the head of an executive agency, the senior procurement executive of the agency shall carry out all powers, functions, and duties of the head of the agency with respect to implementation of this section. The senior procurement executive shall ensure that the policies of the head of the executive agency established in accordance with this section are implemented throughout the agency.

"(d) MANAGEMENT INFORMATION SYSTEMS.—The Administrator shall ensure that the heads of executive agencies collect and maintain standardized information on the acquisition workforce related to implementation of this section. To the maximum extent practicable, such data requirements shall conform to standards estab-

lished by the Office of Personnel Management for the Central Personnel Data File.

"(e) APPLICABILITY TO ACQUISITION WORKFORCE.—The programs established by this section shall apply to the acquisition workforce of each executive agency. For purposes of this section, the acquisition workforce of an agency consists of all employees serving in acquisition positions listed in subsection (g)(1)(A).

"(f) CAREER DEVELOPMENT.—

"(1) CAREER PATHS.—The head of each executive agency shall ensure that appropriate career paths for personnel who desire to pursue careers in acquisition are identified in terms of the education, training, experience, and assignments necessary for career progression to the most senior acquisition positions. The head of each executive agency shall make information available on such career paths.

"(2) CRITICAL DUTIES AND TASKS.—For each career path, the head of each executive agency shall identify the critical acquisition-related duties and tasks in which, at minimum, employees of the agency in the career path shall be competent to perform at full performance grade levels. For this purpose, the head of the executive agency shall provide appropriate coverage of the critical duties and tasks identified by the Director of the Federal Acquisition Institute.

"(3) MANDATORY TRAINING AND EDUCATION.—For each career path, the head of each executive agency shall establish requirements for the completion of course work and related on-the-job training in the critical acquisition-related duties and tasks of the career path. The head of each executive agency shall also encourage employees to maintain the currency of their acquisition knowledge and generally enhance their knowledge of related acquisition management disciplines through academic programs and other self-developmental activities.

"(4) PERFORMANCE INCENTIVES.—The head of each executive agency shall provide for an enhanced system of incentives for the encouragement of excellence in the acquisition workforce which rewards performance of employees that contribute to achieving the agency's performance goals. The system of incentives shall include provisions that—

"(A) relate pay to performance (including the extent to which the performance of personnel in such workforce contributes to achieving the cost goals, schedule goals, and performance goals established for acquisition programs pursuant to section 313(b) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 263(b))); and

"(B) provide for consideration, in personnel evaluations and promotion decisions, of the extent to which the performance of personnel in such workforce contributes to achieving such cost goals, schedule goals, and performance goals.

"(g) QUALIFICATION REQUIREMENTS.—

"(1) IN GENERAL.—(A) Subject to paragraph (2), the Administrator shall establish qualification requirements, including education requirements, for the following positions:

"(i) Entry-level positions in the General Schedule Contracting series (GS–1102).

"(ii) Senior positions in the General Schedule Contracting series (GS–1102).

"(iii) All positions in the General Schedule Purchasing series (GS–1105).

"(iv) Positions in other General Schedule series in which significant acquisition-related functions are performed.

"(B) Subject to paragraph (2), the Administrator shall prescribe the manner and extent to which such qualification requirements shall apply to any person serving in a position described in subparagraph (A) at the time such requirements are established.

"(2) RELATIONSHIP TO REQUIREMENTS APPLICABLE TO DEFENSE ACQUISITION WORKFORCE.—The Administrator shall establish qualification requirements and make prescriptions under paragraph (1) that are comparable to those established for the same or equivalent positions pursuant to chapter 87 of title 10, United States Code, with appropriate modifications.

"(3) APPROVAL OF REQUIREMENTS.—The Administrator shall submit any requirement established or prescription made under paragraph (1) to the Director of the Office of Personnel Management for approval. If the Director does not disapprove a requirement or prescription within 30 days after the date on which the Director receives it, the requirement or prescription is deemed to be approved by the Director.

"(h) EDUCATION AND TRAINING.—

"(1) FUNDING LEVELS.—(A) The head of an executive agency shall set forth separately the funding levels requested for education and training of the acquisition workforce in the budget justification documents submitted in support of the President's budget submitted to Congress under section 1105 of title 31, United States Code.

"(B) Funds appropriated for education and training under this section may not be obligated for any other purpose.

"(2) TUITION ASSISTANCE.—The head of an executive agency may provide tuition reimbursement in education (including a full-time course of study leading to a degree) in accordance with section 4107 of title 5, United States Code, for personnel serving in acquisition positions in the agency.".

(2) The table of contents for such Act, contained in section 1(b), is amended by adding at the end the following new item:

"Sec. 37. Acquisition workforce.".

(b) ADDITIONAL AMENDMENTS.—Section 6(d) of the Office of Federal Procurement Policy Act (41 U.S.C. 405), is amended—

(1) by redesignating paragraphs (6), (7), (8), (9), (10), (11), and (12) (as transferred by section 4321(h)(1)) as paragraphs (7), (8), (9), (10), (11), (12), and (13), respectively;

(2) in paragraph (5)—

(A) in subparagraph (A), by striking out "Government-wide career management programs for a professional procurement work force" and inserting in lieu thereof "the development of a professional acquisition workforce Government-wide"; and

(B) in subparagraph (B)—

(i) by striking out "procurement by the" and inserting in lieu thereof "acquisition by the";

(ii) by striking out "and" at the end of the subparagraph; and

(iii) by striking out subparagraph (C) and inserting in lieu thereof the following:

"(C) collect data and analyze acquisition workforce data from the Office of Personnel Management, the heads of executive agencies, and, through periodic surveys, from individual employees;

"(D) periodically analyze acquisition career fields to identify critical competencies, duties, tasks, and related academic prerequisites, skills, and knowledge;

"(E) coordinate and assist agencies in identifying and recruiting highly qualified candidates for acquisition fields;

"(F) develop instructional materials for acquisition personnel in coordination with private and public acquisition colleges and training facilities;

"(G) evaluate the effectiveness of training and career development programs for acquisition personnel;

"(H) promote the establishment and utilization of academic programs by colleges and universities in acquisition fields;

"(I) facilitate, to the extent requested by agencies, interagency intern and training programs; and

"(J) perform other career management or research functions as directed by the Administrator."; and

(3) by inserting before paragraph (7) (as so redesignated) the following new paragraph (6):

"(6) administering the provisions of section 37;".

SEC. 4308. DEMONSTRATION PROJECT RELATING TO CERTAIN PERSONNEL MANAGEMENT POLICIES AND PROCEDURES. 10 USC 1701 note.

(a) COMMENCEMENT.—The Secretary of Defense is encouraged to take such steps as may be necessary to provide for the commencement of a demonstration project, the purpose of which would be to determine the feasibility or desirability of one or more proposals for improving the personnel management policies or procedures that apply with respect to the acquisition workforce of the Department of Defense.

(b) TERMS AND CONDITIONS.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, any demonstration project described in subsection (a) shall be subject to section 4703 of title 5, United States Code, and all other provisions of such title that apply with respect to any demonstration project under such section.

(2) EXCEPTIONS.—Subject to paragraph (3), in applying section 4703 of title 5, United States Code, with respect to a demonstration project described in subsection (a)—

(A) "180 days" in subsection (b)(4) of such section shall be deemed to read "120 days";

(B) "90 days" in subsection (b)(6) of such section shall be deemed to read "30 days"; and

(C) subsection (d)(1)(A) of such section shall be disregarded.

(3) CONDITION.—Paragraph (2) shall not apply with respect to a demonstration project unless it—

(A) involves only the acquisition workforce of the Department of Defense (or any part thereof); and

(B) commences during the 3-year period beginning on the date of the enactment of this Act.

(c) DEFINITION.—For purposes of this section, the term "acquisition workforce" refers to the persons serving in acquisition positions within the Department of Defense, as designated pursuant to section 1721(a) of title 10, United States Code.

40 USC 481 note.

SEC. 4309. COOPERATIVE PURCHASING.

(a) DELAY IN OPENING CERTAIN FEDERAL SUPPLY SCHEDULES TO USE BY STATE, LOCAL, AND INDIAN TRIBAL GOVERNMENTS.—The Administrator of General Services may not use the authority of section 201(b)(2) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481(b)(2)) to provide for the use of Federal supply schedules of the General Services Administration until after the later of—

(1) the date on which the 18-month period beginning on the date of the enactment of this Act expires; or

(2) the date on which all of the following conditions are met:

(A) The Administrator has considered the report of the Comptroller General required by subsection (b).

(B) The Administrator has submitted comments on such report to Congress as required by subsection (c).

(C) A period of 30 days after the date of submission of such comments to Congress has expired.

(b) REPORT.—Not later than one year after the date of the enactment of this Act, the Comptroller General shall submit to the Administrator of General Services and to Congress a report on the implementation of section 201(b) of the Federal Property and Administrative Services Act of 1949. The report shall include the following:

(1) An assessment of the effect on industry, including small businesses and local dealers, of providing for the use of Federal supply schedules by the entities described in section 201(b)(2)(A) of the Federal Property and Administrative Services Act of 1949.

(2) An assessment of the effect on such entities of providing for the use of Federal supply schedules by them.

(c) COMMENTS ON REPORT BY ADMINISTRATOR.—Not later than 30 days after receiving the report of the Comptroller General required by subsection (b), the Administrator of General Services shall submit to Congress comments on the report, including the Administrator's comments on whether the Administrator plans to provide any Federal supply schedule for the use of any entity described in section 201(b)(2)(A) of the Federal Property and Administrative Services Act of 1949.

(d) CALCULATION OF 30-DAY PERIOD.—For purposes of subsection (a)(2)(C), the calculation of the 30-day period shall exclude Saturdays, Sundays, and holidays, and any day on which neither House of Congress is in session because of an adjournment sine die, a recess of more than 3 days, or an adjournment of more than 3 days.

SEC. 4310. PROCUREMENT NOTICE TECHNICAL AMENDMENT.

Section 18(c)(1)(E) of the Office of Federal Procurement Policy Act (41 U.S.C. 416(c)(1)(E)) is amended by inserting after "requirements contract" the following: ", a task order contract, or a delivery order contract".

SEC. 4311. MICRO-PURCHASES WITHOUT COMPETITIVE QUOTATIONS.

Section 32(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 428), as redesignated by section 4304(c)(3), is amended by striking out "the contracting officer" and inserting in lieu thereof "an employee of an executive agency or a member of the Armed Forces of the United States authorized to do so".

Subtitle B—Technical Amendments

SEC. 4321. AMENDMENTS RELATED TO FEDERAL ACQUISITION STREAMLINING ACT OF 1994.

(a) PUBLIC LAW 103–355.—Effective as of October 13, 1994, and as if included therein as enacted, the Federal Acquisition Streamlining Act of 1994 (Public Law 103–355; 108 Stat. 3243 et seq.) is amended as follows: Effective date. 10 USC 2306a note.

(1) Section 1073 (108 Stat. 3271) is amended by striking out "section 303I" and inserting in lieu thereof "section 303K". 41 USC 253*l*.

(2) Section 1202(a) (108 Stat. 3274) is amended by striking out the closing quotation marks and second period at the end of paragraph (2)(B) of the subsection inserted by the amendment made by that section. 10 USC 2306a.

(3) Section 1251(b) (108 Stat. 3284) is amended by striking out "Office of Federal Procurement Policy Act" and inserting in lieu thereof "Federal Property and Administrative Services Act of 1949". 41 USC 254b note.

(4) Section 2051(e) (108 Stat. 3304) is amended by striking out the closing quotation marks and second period at the end of subsection (f)(3) in the matter inserted by the amendment made by that section. 41 USC 255.

(5) Section 2101(a)(6)(B)(ii) (108 Stat. 3308) is amended by replacing "regulation" with "regulations" in the first quoted matter. 10 USC 2324.

(6) Section 2351(a) (108 Stat. 3322) is amended by inserting "(1)" before "Section 6". 41 USC 605.

(7) The heading of section 2352(b) (108 Stat. 3322) is amended by striking out "PROCEDURES TO SMALL BUSINESS GOVERNMENT CONTRACTORS.—" and inserting in lieu thereof "PROCEDURES.—". 41 USC 605.

(8) Section 3022 (108 Stat. 3333) is amended by striking out "each place" and all that follows through the end of the section and inserting in lieu thereof "in paragraph (1) and ', rent,' after 'sell' in paragraph (2).". 10 USC 2539b.

(9) Section 5092(b) (108 Stat. 3362) is amended by inserting "of paragraph (2)" after "second sentence". 41 USC 418b.

(10) Section 6005(a) (108 Stat. 3364) is amended by striking out the closing quotation marks and second period at the end of subsection (e)(2) of the matter inserted by the amendment made by that section. 10 USC 2409.

(11) Section 10005(f)(4) (108 Stat. 3409) is amended in the second matter in quotation marks by striking out "'SEC. 5. This Act" and inserting in lieu thereof "'SEC. 7. This title". 41 USC 10a note.

(b) TITLE 10, UNITED STATES CODE.—Title 10, United States Code, is amended as follows:

(1) Section 2220(b) is amended by striking out "the date of the enactment of the Federal Acquisition Streamlining Act of 1994" and inserting in lieu thereof "October 13, 1994".

(2)(A) The section 2247 added by section 7202(a)(1) of Public Law 103–355 (108 Stat. 3379) is redesignated as section 2249.

(B) The item relating to that section in the table of sections at the beginning of subchapter I of chapter 134 is revised to conform to the redesignation made by subparagraph (A).

(3) Section 2302(3)(K) is amended by adding a period at the end.

(4) Section 2304(f)(2)(D) is amended by striking out "the Act of June 25, 1938 (41 U.S.C. 46 et seq.), popularly referred to as the Wagner-O'Day Act," and inserting in lieu thereof "the Javits-Wagner-O'Day Act (41 U.S.C. 46 et seq.),".

(5) Section 2304(h) is amended by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) The Walsh-Healey Act (41 U.S.C. 35 et seq.).".

(6)(A) The section 2304a added by section 848(a)(1) of Public Law 103–160 (107 Stat. 1724) is redesignated as section 2304e.

(B) The item relating to that section in the table of sections at the beginning of chapter 137 is revised to conform to the redesignation made by subparagraph (A).

(7) Section 2306a is amended—

(A) in subsection (d)(2)(A)(ii), by inserting "to" after "The information referred";

(B) in subsection (e)(4)(B)(ii), by striking out the second comma after "parties"; and

(C) in subsection (i)(3), by inserting "(41 U.S.C. 403(12))" before the period at the end.

(8) Section 2323 is amended—

(A) in subsection (a)(1)(C), by inserting a closing parenthesis after "1135d–5(3))" and after "1059c(b)(1))";

(B) in subsection (a)(3), by striking out "(issued under" and all that follows through "421(c))";

(C) in subsection (b), by inserting "(1)" after "AMOUNT.—"; and

(D) in subsection (i)(3), by adding at the end a subparagraph (D) identical to the subparagraph (D) set forth in the amendment made by section 811(e) of Public Law 103–160 (107 Stat. 1702).

(9) Section 2324 is amended—

(A) in subsection (e)(2)(C)—

(i) by striking out "awarding the contract" at the end of the first sentence; and

(ii) by striking out "title III" and all that follows through "Act)" and inserting in lieu thereof "the Buy American Act (41 U.S.C. 10b–1)"; and

(B) in subsection (h)(2), by inserting "the head of the agency or" after "in the case of any contract if".

(10) Section 2350b is amended—

(A) in subsection (c)(1)—

(i) by striking out "specifically—" and inserting in lieu thereof "specifically prescribes—"; and

(ii) by striking out "prescribe" in each of subparagraphs (A), (B), (C), and (D); and

(B) in subsection (d)(1), by striking out "subcontract to be" and inserting in lieu thereof "subcontract be".

(11) Section 2372(i)(1) is amended by striking out "section 2324(m)" and inserting in lieu thereof "section 2324(l)".

(12) Section 2384(b) is amended—

(A) in paragraph (2)—

(i) by striking "items, as" and inserting in lieu thereof "items (as"; and

(ii) by inserting a closing parenthesis after "403(12))"; and

(B) in paragraph (3), by inserting a closing parenthesis after "403(11))".

(13) Section 2400(a)(5) is amended by striking out "the preceding sentence" and inserting in lieu thereof "this paragraph".

(14) Section 2405 is amended—

(A) in paragraphs (1) and (2) of subsection (a), by striking out "the date of the enactment of the Federal Acquisition Streamlining Act of 1994" and inserting in lieu thereof "October 13, 1994"; and

(B) in subsection (c)(3)—

(i) by striking out "the later of—" and all that follows through "(B)"; and

(ii) by redesignating clauses (i), (ii), and (iii) as subparagraphs (A), (B), and (C), respectively, and realigning those subparagraphs accordingly.

(15) Section 2410d(b) is amended by striking out paragraph (3).

(16) Section 2410g(d)(1) is amended by inserting before the period at the end the following: "(as defined in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)))".

(17) Section 2424(c) is amended—

(A) by inserting "EXCEPTION.—" after "(c)"; and

(B) by striking out "drink" the first and third places it appears in the second sentence and inserting in lieu thereof "beverage".

(18) Section 2431 is amended—

(A) in subsection (b)—

(i) by striking out "Any report" in the first sentence and inserting in lieu thereof "Any documents"; and

(ii) by striking out "the report" in paragraph (3) and inserting in lieu thereof "the documents"; and

(B) in subsection (c), by striking "reporting" and inserting in lieu thereof "documentation".

(19) Section 2461(e)(1) is amended by striking out "the Act of June 25, 1938 (41 U.S.C. 47), popularly referred to as the Wagner-O'Day Act" and inserting in lieu thereof "the Javits-Wagner-O'Day Act (41 U.S.C. 47)".

(20) Section 2533(a) is amended by striking out "title III of the Act" and all that follows through "such Act" and inserting in lieu thereof "the Buy American Act (41 U.S.C. 10a)) whether application of such Act".

(21) Section 2662(b) is amended by striking out "small purchase threshold" and inserting in lieu thereof "simplified acquisition threshold".

(22) Section 2701(i)(1) is amended—

(A) by striking out "Act of August 24, 1935 (40 U.S.C. 270a–270d), commonly referred to as the 'Miller Act'," and inserting in lieu thereof "Miller Act (40 U.S.C. 270a et seq.)"; and

(B) by striking out "such Act of August 24, 1935" and inserting in lieu thereof "the Miller Act".

(c) SMALL BUSINESS ACT.—The Small Business Act (15 U.S.C. 632 et seq.) is amended as follows:

(1) Section 8(d) (15 U.S.C. 637(d)) is amended—

(A) in paragraph (1), by striking out the second comma after "small business concerns" the first place it appears; and

(B) in paragraph (6)(C), by striking out "and small business concerns owned and controlled by the socially and economically disadvantaged individuals" and inserting in lieu thereof ", small business concerns owned and controlled by socially and economically disadvantaged individuals, and small business concerns owned and controlled by women".

(2) Section 8(f) (15 U.S.C. 637(f)) is amended by inserting "and" after the semicolon at the end of paragraph (5).

(3) Section 15(g)(2) (15 U.S.C. 644(g)(2)) is amended by striking out the second comma after the first appearance of "small business concerns".

(d) TITLE 31, UNITED STATES CODE.—Title 31, United States Code, is amended as follows:

(1) Section 3551 is amended—

(A) by striking out "subchapter—" and inserting in lieu thereof "subchapter:"; and

(B) in paragraph (2), by striking out "or proposed contract" and inserting in lieu thereof "or a solicitation or other request for offers".

(2) Section 3553(b)(3) is amended by striking out "3554(a)(3)" and inserting in lieu thereof "3554(a)(4)".

(3) Section 3554(b)(2) is amended by striking out "section 3553(d)(2)(A)(i)" and inserting in lieu thereof "section 3553(d)(3)(C)(i)(I)".

(e) FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949.—The Federal Property and Administrative Services Act of 1949 is amended as follows:

(1) The table of contents in section 1 (40 U.S.C. 471 prec.) is amended—

(A) by striking out the item relating to section 104;

(B) by striking out the item relating to section 201 and inserting in lieu thereof the following:

"Sec. 201. Procurements, warehousing, and related activities.";

(C) by inserting after the item relating to section 315 the following new item:

"Sec. 316. Merit-based award of grants for research and development.";

(D) by striking out the item relating to section 603 and inserting in lieu thereof the following:

"Sec. 603. Authorizations for appropriations and transfer authority.";

and

(E) by inserting after the item relating to section 605 the following new item:

"Sec. 606. Sex discrimination.".

(2) Section 303(f)(2)(D) (41 U.S.C. 253(f)(2)(D)) is amended by striking out "the Act of June 25, 1938 (41 U.S.C. 46 et seq.), popularly referred to as the Wagner-O'Day Act," and

inserting in lieu thereof "the Javits-Wagner-O'Day Act (41 U.S.C. 46 et seq.),".

(3) The heading for paragraph (1) of section 304A(c) (41 U.S.C. 254b(c)) is amended by changing each letter that is capitalized (other than the first letter of the first word) to lower case.

(4) Subsection (d)(2)(A)(ii) of section 304A (41 U.S.C. 254b) is amended by inserting "to" after "The information referred".

(5) Section 304C(a)(2) is amended by striking out "section 304B" and inserting in lieu thereof "section 304A". 41 USC 254d.

(6) Section 307(b) is amended by striking out "section 305(c)" and inserting in lieu thereof "section 305(d)". 41 USC 257.

(7) The heading for section 314A (41 U.S.C. 264a) is amended to read as follows:

"SEC. 314A. DEFINITIONS RELATING TO PROCUREMENT OF COMMERCIAL ITEMS.".

(8) Section 315(b) (41 U.S.C. 265(b)) is amended by striking out "inspector general" both places it appears and inserting in lieu thereof "Inspector General".

(9) The heading for section 316 (41 U.S.C. 266) is amended by inserting at the end a period.

(f) WALSH-HEALEY ACT.—

(1) The Walsh-Healey Act (41 U.S.C. 35 et seq.) is amended—

(A) by transferring the second section 11 (as added by section 7201(4) of Public Law 103–355) so as to appear after section 10; and 41 USC 43b.

(B) by redesignating the three sections following such section 11 (as so transferred) as sections 12, 13, and 14. 41 USC 35 note, 44, 45.

(2) Such Act is further amended in section 10— 41 USC 43a.

(A) in subsection (b), by striking out "section 1(b)" and inserting in lieu thereof "section 1(a)"; and

(B) in subsection (c), by striking out the comma after "'locality'".

(g) ANTI-KICKBACK ACT OF 1986.—Section 7(d) of the Anti-Kickback Act of 1986 (41 U.S.C. 57(d)) is amended—

(1) by striking out "such Act" and inserting in lieu thereof "the Office of Federal Procurement Policy Act"; and

(2) by striking out the second period at the end.

(h) OFFICE OF FEDERAL PROCUREMENT POLICY ACT.—The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) is amended as follows:

(1) Section 6 (41 U.S.C. 405) is amended by transferring paragraph (12) of subsection (d) (as such paragraph was redesignated by section 5091(2) of the Federal Acquisition Streamlining Act of 1994 (P.L. 103–355; 108 Stat. 3361)) to the end of that subsection.

(2) Section 6(11) (41 U.S.C. 405(11)) is amended by striking out "small business" and inserting in lieu thereof "small businesses".

(3) Section 18(b) (41 U.S.C. 416(b)) is amended by inserting "and" after the semicolon at the end of paragraph (5).

(4) Section 26(f)(3) (41 U.S.C. 422(f)(3)) is amended in the first sentence by striking out "Not later than 180 days after the date of enactment of this section, the Administrator" and inserting in lieu thereof "The Administrator".

(i) OTHER LAWS.—

(1) The National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160) is amended as follows:

10 USC 2401 note.

(A) Section 126(c) (107 Stat. 1567) is amended by striking out "section 2401 of title 10, United States Code, or section 9081 of the Department of Defense Appropriations Act, 1990 (10 U.S.C. 2401 note)." and inserting in lieu thereof "section 2401 or 2401a of title 10, United States Code.".

(B) Section 127 (107 Stat. 1568) is amended—

(i) in subsection (a), by striking out "section 2401 of title 10, United States Code, or section 9081 of the Department of Defense Appropriations Act, 1990 (10 U.S.C. 2401 note)." and inserting in lieu thereof "section 2401 or 2401a of title 10, United States Code."; and

(ii) in subsection (e), by striking out "section 9081 of the Department of Defense Appropriations Act, 1990 (10 U.S.C. 2401 note)." and inserting in lieu thereof "section 2401a of title 10, United States Code.".

(2) The National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189) is amended by striking out section 824.

10 USC 2325 note.

(3) Section 117 of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100–456; 10 U.S.C. 2431 note) is amended by striking out subsection (c).

10 USC 2341 note.

(4) The National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100–180) is amended by striking out section 825 (10 U.S.C. 2432 note).

5 USC 571 note.

(5) Section 11 of Public Law 101–552 (5 U.S.C. 581 note) is amended by inserting "under" before "the amendments made by this Act".

(6) The last sentence of section 6 of the Federal Power Act (16 U.S.C. 799) is repealed.

(7) Section 101(a)(11)(A) of the Rehabilitation Act of 1973 (29 U.S.C. 721(a)(11)(A)) is amended by striking out "the Act entitled 'An Act to create a Committee on Purchases of Blind-made Products, and for other purposes', approved June 25, 1938 (commonly known as the Wagner-O'Day Act; 41 U.S.C. 46 et seq.)" and inserting in lieu thereof "the Javits-Wagner-O'Day Act (41 U.S.C. 46 et seq.)".

(8) The first section 5 of the Miller Act (40 U.S.C. 270a note) is redesignated as section 7 and, as so redesignated, is transferred to the end of that Act.

(9) Section 3737(g) of the Revised Statutes of the United States (41 U.S.C. 15(g)) is amended by striking out "rights of obligations" and inserting in lieu thereof "rights or obligations".

(10) The Act of June 15, 1940 (41 U.S.C. 20a; Chapter 367; 54 Stat. 398), is repealed.

(11) The Act of November 28, 1943 (41 U.S.C. 20b; Chapter 328; 57 Stat. 592), is repealed.

(12) Section 3741 of the Revised Statutes of the United States (41 U.S.C. 22), as amended by section 6004 of Public Law 103–355 (108 Stat. 3364), is amended by striking out "No member" and inserting in lieu thereof "SEC. 3741. No Member".

(13) Section 5152(a)(1) of the Drug-Free Workplace Act of 1988 (41 U.S.C. 701(a)(1)) is amended by striking out "as defined in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403)" and inserting in lieu thereof "(as defined in section 4(12) of such Act (41 U.S.C. 403(12)))".

SEC. 4322. MISCELLANEOUS AMENDMENTS TO FEDERAL ACQUISITION LAWS.

(a) OFFICE OF FEDERAL PROCUREMENT POLICY ACT.—The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) is amended as follows:

(1) Section 6(b) (41 U.S.C. 405(b)) is amended by striking out the second comma after "under subsection (a)" in the first sentence.

(2) Section 25(b)(2) (41 U.S.C. 421(b)(2)) is amended by striking out "Under Secretary of Defense for Acquisition" and inserting in lieu thereof "Under Secretary of Defense for Acquisition and Technology".

(b) OTHER LAWS.—

(1) Section 11(2) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by striking out the second comma after "Community Service".

(2) Section 908(e) of the Defense Acquisition Improvement Act of 1986 (10 U.S.C. 2326 note) is amended by striking out "section 2325(g)" and inserting in lieu thereof "section 2326(g)".

(3) Effective as of August 9, 1989, and as if included therein as enacted, Public Law 101–73 is amended in section 501(b)(1)(A) (103 Stat. 393) by striking out "be," and inserting in lieu thereof "be;" in the second quoted matter therein.

Effective date.

5 USC app. 11, 11 note.

(4) Section 3732(a) of the Revised Statutes of the United States (41 U.S.C. 11(a)) is amended by striking out the second comma after "quarters".

(5) Section 2 of the Contract Disputes Act of 1978 (41 U.S.C. 601) is amended in paragraphs (3), (5), (6), and (7), by striking out "The" and inserting in lieu thereof "the".

(6) Section 6 of the Contract Disputes Act of 1978 (41 U.S.C. 605) is amended in subsections (d) and (e) by inserting after "United States Code" each place it appears the following: "(as in effect on September 30, 1995)".

(7) Section 13 of the Contract Disputes Act of 1978 (41 U.S.C. 612) is amended—

(A) in subsection (a), by striking out "section 1302 of the Act of July 27, 1956, (70 Stat. 694, as amended; 31 U.S.C. 724a)" and inserting in lieu thereof "section 1304 of title 31, United States Code"; and

(B) in subsection (c), by striking out "section 1302 of the Act of July 27, 1956, (70 Stat. 694, as amended; 31 U.S.C. 724a)" and inserting in lieu thereof "section 1304 of title 31, United States Code,".

TITLE XLIV—EFFECTIVE DATES AND IMPLEMENTATION

41 USC 251 note.

SEC. 4401. EFFECTIVE DATE AND APPLICABILITY.

(a) EFFECTIVE DATE.—Except as otherwise provided in this division, this division and the amendments made by this division shall take effect on the date of the enactment of this Act.

(b) APPLICABILITY OF AMENDMENTS.—

(1) SOLICITATIONS, UNSOLICITED PROPOSALS, AND RELATED CONTRACTS.—An amendment made by this division shall apply, in the manner prescribed in the final regulations promulgated pursuant to section 4402 to implement such amendment, with respect to any solicitation that is issued, any unsolicited proposal that is received, and any contract entered into pursuant to such a solicitation or proposal, on or after the date described in paragraph (3).

(2) OTHER MATTERS.—An amendment made by this division shall also apply, to the extent and in the manner prescribed in the final regulations promulgated pursuant to section 4402 to implement such amendment, with respect to any matter related to—

(A) a contract that is in effect on the date described in paragraph (3);

(B) an offer under consideration on the date described in paragraph (3); or

(C) any other proceeding or action that is ongoing on the date described in paragraph (3).

(3) DEMARCATION DATE.—The date referred to in paragraphs (1) and (2) is the date specified in such final regulations. The date so specified shall be January 1, 1997, or any earlier date that is not within 30 days after the date on which such final regulations are published.

41 USC 251 note.

SEC. 4402. IMPLEMENTING REGULATIONS.

Federal Register, publication.

(a) PROPOSED REVISIONS.—Proposed revisions to the Federal Acquisition Regulation and such other proposed regulations (or revisions to existing regulations) as may be necessary to implement this Act shall be published in the Federal Register not later than 210 days after the date of the enactment of this Act.

(b) PUBLIC COMMENT.—The proposed regulations described in subsection (a) shall be made available for public comment for a period of not less than 60 days.

Federal Register, publication.

(c) FINAL REGULATIONS.—Final regulations shall be published in the Federal Register not later than 330 days after the date of enactment of this Act.

(d) MODIFICATIONS.—Final regulations promulgated pursuant to this section to implement an amendment made by this Act may provide for modification of an existing contract without consideration upon the request of the contractor.

(e) SAVINGS PROVISIONS.—

(1) VALIDITY OF PRIOR ACTIONS.—Nothing in this division shall be construed to affect the validity of any action taken or any contract entered into before the date specified in the regulations pursuant to section 4401(b)(3) except to the extent and in the manner prescribed in such regulations.

(2) RENEGOTIATION AND MODIFICATION OF PREEXISTING CONTRACTS.—Except as specifically provided in this division, nothing in this division shall be construed to require the renegotiation or modification of contracts in existence on the date of the enactment of this Act.

(3) CONTINUED APPLICABILITY OF PREEXISTING LAW.—Except as otherwise provided in this division, a law amended by this division shall continue to be applied according to the provisions thereof as such law was in effect on the day before the date of the enactment of this Act until—

(A) the date specified in final regulations implementing the amendment of that law (as promulgated pursuant to this section); or

(B) if no such date is specified in regulations, January 1, 1997.

DIVISION E—INFORMATION TECHNOLOGY MANAGEMENT REFORM

Information Technology Management Reform Act of 1996.

SEC. 5001. SHORT TITLE.

40 USC 1401 note.

This division may be cited as the "Information Technology Management Reform Act of 1996".

SEC. 5002. DEFINITIONS.

40 USC 1401.

In this division:

(1) DIRECTOR.—The term "Director" means the Director of the Office of Management and Budget.

(2) EXECUTIVE AGENCY.—The term "executive agency" has the meaning given that term in section 4(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(1)).

(3) INFORMATION TECHNOLOGY.—(A) The term "information technology", with respect to an executive agency means any equipment or interconnected system or subsystem of equipment, that is used in the automatic acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information by the executive agency. For purposes of the preceding sentence, equipment is used by an executive agency if the equipment is used by the executive agency directly or is used by a contractor under a contract with the executive agency which (i) requires the use of such equipment, or (ii) requires the use, to a significant extent, of such equipment in the performance of a service or the furnishing of a product.

(B) The term "information technology" includes computers, ancillary equipment, software, firmware and similar procedures, services (including support services), and related resources.

(C) Notwithstanding subparagraphs (A) and (B), the term "information technology" does not include any equipment that is acquired by a Federal contractor incidental to a Federal contract.

(4) INFORMATION RESOURCES.—The term "information resources" has the meaning given such term in section 3502(6) of title 44, United States Code.

(5) INFORMATION RESOURCES MANAGEMENT.—The term "information resources management" has the meaning given such term in section 3502(7) of title 44, United States Code.

(6) INFORMATION SYSTEM.—The term "information system" has the meaning given such term in section 3502(8) of title 44, United States Code.

(7) COMMERCIAL ITEM.—The term "commercial item" has the meaning given that term in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)).

TITLE LI—RESPONSIBILITY FOR ACQUISITIONS OF INFORMATION TECHNOLOGY

Subtitle A—General Authority

SEC. 5101. REPEAL OF CENTRAL AUTHORITY OF THE ADMINISTRATOR OF GENERAL SERVICES.

Section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759) is repealed.

Subtitle B—Director of the Office of Management and Budget

40 USC 1411.

SEC. 5111. RESPONSIBILITY OF DIRECTOR.

In fulfilling the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Director shall comply with this title with respect to the specific matters covered by this title.

40 USC 1412.

SEC. 5112. CAPITAL PLANNING AND INVESTMENT CONTROL.

(a) FEDERAL INFORMATION TECHNOLOGY.—The Director shall perform the responsibilities set forth in this section in fulfilling the responsibilities under section 3504(h) of title 44, United States Code.

Public information.

(b) USE OF INFORMATION TECHNOLOGY IN FEDERAL PROGRAMS.—The Director shall promote and be responsible for improving the acquisition, use, and disposal of information technology by the Federal Government to improve the productivity, efficiency, and effectiveness of Federal programs, including through dissemination of public information and the reduction of information collection burdens on the public.

(c) USE OF BUDGET PROCESS.—The Director shall develop, as part of the budget process, a process for analyzing, tracking, and evaluating the risks and results of all major capital investments made by an executive agency for information systems. The process shall cover the life of each system and shall include explicit criteria for analyzing the projected and actual costs, benefits, and risks

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associated with the investments. At the same time that the President submits the budget for a fiscal year to Congress under section 1105(a) of title 31, United States Code, the Director shall submit to Congress a report on the net program performance benefits achieved as a result of major capital investments made by executive

agencies in information systems and how the benefits relate to the accomplishment of the goals of the executive agencies.

(d) INFORMATION TECHNOLOGY STANDARDS.—The Director shall oversee the development and implementation of standards and guidelines pertaining to Federal computer systems by the Secretary of Commerce through the National Institute of Standards and Technology under section 5131 and section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3).

(e) DESIGNATION OF EXECUTIVE AGENTS FOR ACQUISITIONS.—The Director shall designate (as the Director considers appropriate) one or more heads of executive agencies as executive agent for Government-wide acquisitions of information technology.

(f) USE OF BEST PRACTICES IN ACQUISITIONS.—The Director shall encourage the heads of the executive agencies to develop and use the best practices in the acquisition of information technology.

(g) ASSESSMENT OF OTHER MODELS FOR MANAGING INFORMATION TECHNOLOGY.—The Director shall assess, on a continuing basis, the experiences of executive agencies, State and local governments, international organizations, and the private sector in managing information technology.

(h) COMPARISON OF AGENCY USES OF INFORMATION TECHNOLOGY.—The Director shall compare the performances of the executive agencies in using information technology and shall disseminate the comparisons to the heads of the executive agencies.

(i) TRAINING.—The Director shall monitor the development and implementation of training in information resources management for executive agency personnel.

(j) INFORMING CONGRESS.—The Director shall keep Congress fully informed on the extent to which the executive agencies are improving the performance of agency programs and the accomplishment of agency missions through the use of the best practices in information resources management.

(k) PROCUREMENT POLICY AND ACQUISITIONS OF INFORMATION TECHNOLOGY.—The Director shall coordinate the development and review by the Administrator of the Office of Information and Regulatory Affairs of policy associated with Federal acquisition of information technology with the Office of Federal Procurement Policy.

SEC. 5113. PERFORMANCE-BASED AND RESULTS-BASED MANAGEMENT. 40 USC 1413.

(a) IN GENERAL.—The Director shall encourage the use of performance-based and results-based management in fulfilling the responsibilities assigned under section 3504(h), of title 44, United States Code.

(b) EVALUATION OF AGENCY PROGRAMS AND INVESTMENTS.—

(1) REQUIREMENT.—The Director shall evaluate the information resources management practices of the executive agencies with respect to the performance and results of the investments made by the executive agencies in information technology.

(2) DIRECTION FOR EXECUTIVE AGENCY ACTION.—The Director shall issue to the head of each executive agency clear and concise direction that the head of such agency shall—

(A) establish effective and efficient capital planning processes for selecting, managing, and evaluating the

results of all of its major investments in information systems;

(B) determine, before making an investment in a new information system—

(i) whether the function to be supported by the system should be performed by the private sector and, if so, whether any component of the executive agency performing that function should be converted from a governmental organization to a private sector organization; or

(ii) whether the function should be performed by the executive agency and, if so, whether the function should be performed by a private sector source under contract or by executive agency personnel;

(C) analyze the missions of the executive agency and, based on the analysis, revise the executive agency's mission-related processes and administrative processes, as appropriate, before making significant investments in information technology to be used in support of those missions; and

(D) ensure that the information security policies, procedures, and practices are adequate.

(3) GUIDANCE FOR MULTIAGENCY INVESTMENTS.—The direction issued under paragraph (2) shall include guidance for undertaking efficiently and effectively interagency and Government-wide investments in information technology to improve the accomplishment of missions that are common to the executive agencies.

(4) PERIODIC REVIEWS.—The Director shall implement through the budget process periodic reviews of selected information resources management activities of the executive agencies in order to ascertain the efficiency and effectiveness of information technology in improving the performance of the executive agency and the accomplishment of the missions of the executive agency.

(5) ENFORCEMENT OF ACCOUNTABILITY.—

(A) IN GENERAL.—The Director may take any authorized action that the Director considers appropriate, including an action involving the budgetary process or appropriations management process, to enforce accountability of the head of an executive agency for information resources management and for the investments made by the executive agency in information technology.

(B) SPECIFIC ACTIONS.—Actions taken by the Director in the case of an executive agency may include—

(i) recommending a reduction or an increase in any amount for information resources that the head of the executive agency proposes for the budget submitted to Congress under section 1105(a) of title 31, United States Code;

(ii) reducing or otherwise adjusting apportionments and reapportionments of appropriations for information resources;

(iii) using other authorized administrative controls over appropriations to restrict the availability of funds for information resources; and

(iv) designating for the executive agency an executive agent to contract with private sector sources for the performance of information resources management or the acquisition of information technology.

Subtitle C—Executive Agencies

SEC. 5121. RESPONSIBILITIES. 40 USC 1421.

In fulfilling the responsibilities assigned under chapter 35 of title 44, United States Code, the head of each executive agency shall comply with this subtitle with respect to the specific matters covered by this subtitle.

SEC. 5122. CAPITAL PLANNING AND INVESTMENT CONTROL. 40 USC 1422.

(a) DESIGN OF PROCESS.—In fulfilling the responsibilities assigned under section 3506(h) of title 44, United States Code, the head of each executive agency shall design and implement in the executive agency a process for maximizing the value and assessing and managing the risks of the information technology acquisitions of the executive agency.

(b) CONTENT OF PROCESS.—The process of an executive agency shall—

(1) provide for the selection of information technology investments to be made by the executive agency, the management of such investments, and the evaluation of the results of such investments;

(2) be integrated with the processes for making budget, financial, and program management decisions within the executive agency;

(3) include minimum criteria to be applied in considering whether to undertake a particular investment in information systems, including criteria related to the quantitatively expressed projected net, risk-adjusted return on investment and specific quantitative and qualitative criteria for comparing and prioritizing alternative information systems investment projects;

(4) provide for identifying information systems investments that would result in shared benefits or costs for other Federal agencies or State or local governments;

(5) provide for identifying for a proposed investment quantifiable measurements for determining the net benefits and risks of the investment; and

(6) provide the means for senior management personnel of the executive agency to obtain timely information regarding the progress of an investment in an information system, including a system of milestones for measuring progress, on an independently verifiable basis, in terms of cost, capability of the system to meet specified requirements, timeliness, and quality.

SEC. 5123. PERFORMANCE AND RESULTS-BASED MANAGEMENT. 40 USC 1423.

In fulfilling the responsibilities under section 3506(h) of title 44, United States Code, the head of an executive agency shall—

(1) establish goals for improving the efficiency and effectiveness of agency operations and, as appropriate, the delivery of services to the public through the effective use of information technology;

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(2) prepare an annual report, to be included in the executive agency's budget submission to Congress, on the progress in achieving the goals;

(3) ensure that performance measurements are prescribed for information technology used by or to be acquired for, the executive agency and that the performance measurements measure how well the information technology supports programs of the executive agency;

(4) where comparable processes and organizations in the public or private sectors exist, quantitatively benchmark agency process performance against such processes in terms of cost, speed, productivity, and quality of outputs and outcomes;

(5) analyze the missions of the executive agency and, based on the analysis, revise the executive agency's mission-related processes and administrative processes as appropriate before making significant investments in information technology that is to be used in support of the performance of those missions; and

(6) ensure that the information security policies, procedures, and practices of the executive agency are adequate.

40 USC 1424.

SEC. 5124. ACQUISITIONS OF INFORMATION TECHNOLOGY.

(a) IN GENERAL.—The authority of the head of an executive agency to conduct an acquisition of information technology includes the following authorities:

(1) To acquire information technology as authorized by law.

(2) To enter into a contract that provides for multiagency acquisitions of information technology in accordance with guidance issued by the Director.

(3) If the Director finds that it would be advantageous for the Federal Government to do so, to enter into a multiagency contract for procurement of commercial items of information technology that requires each executive agency covered by the contract, when procuring such items, either to procure the items under that contract or to justify an alternative procurement of the items.

(b) FTS 2000 PROGRAM.—Notwithstanding any other provision of this or any other law, the Administrator of General Services shall continue to manage the FTS 2000 program, and to coordinate the follow-on to that program, on behalf of and with the advice of the heads of executive agencies.

40 USC 1425.

SEC. 5125. AGENCY CHIEF INFORMATION OFFICER.

(a) DESIGNATION OF CHIEF INFORMATION OFFICERS.—Section 3506 of title 44, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (2)(A), by striking out "senior official" and inserting in lieu thereof "Chief Information Officer";

(B) in paragraph (2)(B)—

(i) by striking out "senior officials" in the first sentence and inserting in lieu thereof "Chief Information Officers";

(ii) by striking out "official" in the second sentence and inserting in lieu thereof "Chief Information Officer"; and

(iii) by striking out "officials" in the second sentence and inserting in lieu thereof "Chief Information Officers"; and

(C) in paragraphs (3) and (4), by striking out "senior official" each place it appears and inserting in lieu thereof "Chief Information Officer"; and

(2) in subsection (c)(1), by striking out "official" in the matter preceding subparagraph (A) and inserting in lieu thereof "Chief Information Officer".

(b) GENERAL RESPONSIBILITIES.—The Chief Information Officer of an executive agency shall be responsible for—

(1) providing advice and other assistance to the head of the executive agency and other senior management personnel of the executive agency to ensure that information technology is acquired and information resources are managed for the executive agency in a manner that implements the policies and procedures of this division, consistent with chapter 35 of title 44, United States Code, and the priorities established by the head of the executive agency;

(2) developing, maintaining, and facilitating the implementation of a sound and integrated information technology architecture for the executive agency; and

(3) promoting the effective and efficient design and operation of all major information resources management processes for the executive agency, including improvements to work processes of the executive agency.

(c) DUTIES AND QUALIFICATIONS.—The Chief Information Officer of an agency that is listed in section 901(b) of title 31, United States Code, shall—

(1) have information resources management duties as that official's primary duty;

(2) monitor the performance of information technology programs of the agency, evaluate the performance of those programs on the basis of the applicable performance measurements, and advise the head of the agency regarding whether to continue, modify, or terminate a program or project; and

(3) annually, as part of the strategic planning and performance evaluation process required (subject to section 1117 of title 31, United States Code) under section 306 of title 5, United States Code, and sections 1105(a)(29), 1115, 1116, 1117, and 9703 of title 31, United States Code—

(A) assess the requirements established for agency personnel regarding knowledge and skill in information resources management and the adequacy of such requirements for facilitating the achievement of the performance goals established for information resources management;

(B) assess the extent to which the positions and personnel at the executive level of the agency and the positions and personnel at management level of the agency below the executive level meet those requirements;

(C) in order to rectify any deficiency in meeting those requirements, develop strategies and specific plans for hiring, training, and professional development; and

(D) report to the head of the agency on the progress made in improving information resources management capability. Reports.

(d) INFORMATION TECHNOLOGY ARCHITECTURE DEFINED.—In this section, the term "information technology architecture", with respect to an executive agency, means an integrated framework for evolving or maintaining existing information technology and acquiring new information technology to achieve the agency's strategic goals and information resources management goals.

(e) EXECUTIVE LEVEL IV.—Section 5315 of title 5, United States Code, is amended by adding at the end the following:

"Chief Information Officer, Department of Agriculture.

"Chief Information Officer, Department of Commerce.

"Chief Information Officer, Department of Defense (unless the official designated as the Chief Information Officer of the Department of Defense is an official listed under section 5312, 5313, or 5314 of this title).

"Chief Information Officer, Department of Education.

"Chief Information Officer, Department of Energy.

"Chief Information Officer, Department of Health and Human Services.

"Chief Information Officer, Department of Housing and Urban Development.

"Chief Information Officer, Department of Interior.

"Chief Information Officer, Department of Justice.

"Chief Information Officer, Department of Labor.

"Chief Information Officer, Department of State.

"Chief Information Officer, Department of Transportation.

"Chief Information Officer, Department of Treasury.

"Chief Information Officer, Department of Veterans Affairs.

"Chief Information Officer, Environmental Protection Agency.

"Chief Information Officer, National Aeronautics and Space Administration.

"Chief Information Officer, Agency for International Development.

"Chief Information Officer, Federal Emergency Management Agency.

"Chief Information Officer, General Services Administration.

"Chief Information Officer, National Science Foundation.

"Chief Information Officer, Nuclear Regulatory Agency.

"Chief Information Officer, Office of Personnel Management.

"Chief Information Officer, Small Business Administration.".

40 USC 1426.

SEC. 5126. ACCOUNTABILITY.

The head of each executive agency, in consultation with the Chief Information Officer and the Chief Financial Officer of that executive agency (or, in the case of an executive agency without a Chief Financial Officer, any comparable official), shall establish policies and procedures that—

(1) ensure that the accounting, financial, and asset management systems and other information systems of the executive agency are designed, developed, maintained, and used effectively to provide financial or program performance data for financial statements of the executive agency;

(2) ensure that financial and related program performance data are provided on a reliable, consistent, and timely basis to executive agency financial management systems; and

(3) ensure that financial statements support—

(A) assessments and revisions of mission-related processes and administrative processes of the executive agency; and

(B) performance measurement of the performance in the case of investments made by the agency in information systems.

SEC. 5127. SIGNIFICANT DEVIATIONS. 40 USC 1427.

The head of an executive agency shall identify in the strategic information resources management plan required under section 3506(b)(2) of title 44, United States Code, any major information technology acquisition program, or any phase or increment of such a program, that has significantly deviated from the cost, performance, or schedule goals established for the program.

SEC. 5128. INTERAGENCY SUPPORT. 40 USC 1428.

Funds available for an executive agency for oversight, acquisition, and procurement of information technology may be used by the head of the executive agency to support jointly with other executive agencies the activities of interagency groups that are established to advise the Director in carrying out the Director's responsibilities under this title. The use of such funds for that purpose shall be subject to such requirements and limitations on uses and amounts as the Director may prescribe. The Director shall prescribe any such requirements and limitations during the Director's review of the executive agency's proposed budget submitted to the Director by the head of the executive agency for purposes of section 1105 of title 31, United States Code.

Subtitle D—Other Responsibilities

SEC. 5131. RESPONSIBILITIES REGARDING EFFICIENCY, SECURITY, AND PRIVACY OF FEDERAL COMPUTER SYSTEMS. 40 USC 1441.

(a) STANDARDS AND GUIDELINES.—

(1) AUTHORITY.—The Secretary of Commerce shall, on the basis of standards and guidelines developed by the National Institute of Standards and Technology pursuant to paragraphs (2) and (3) of section 20(a) of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3(a)), promulgate standards and guidelines pertaining to Federal computer systems. The Secretary shall make such standards compulsory and binding to the extent to which the Secretary determines necessary to improve the efficiency of operation or security and privacy of Federal computer systems. The President may disapprove or modify such standards and guidelines if the President determines such action to be in the public interest. The President's authority to disapprove or modify such standards and guidelines may not be delegated. Notice of such disapproval or modification shall be published promptly in the Federal Register. Upon receiving notice of such disapproval or modification, the Secretary of Commerce shall immediately rescind or modify such standards or guidelines as directed by the President.

Federal Register, publication.

(2) EXERCISE OF AUTHORITY.—The authority conferred upon the Secretary of Commerce by this section shall be exercised subject to direction by the President and in coordination with the Director to ensure fiscal and policy consistency.

(b) APPLICATION OF MORE STRINGENT STANDARDS.—The head of a Federal agency may employ standards for the cost-effective security and privacy of sensitive information in a Federal computer system within or under the supervision of that agency that are more stringent than the standards promulgated by the Secretary of Commerce under this section, if such standards contain, at a minimum, the provisions of those applicable standards made compulsory and binding by the Secretary of Commerce.

(c) WAIVER OF STANDARDS.—The standards determined under subsection (a) to be compulsory and binding may be waived by the Secretary of Commerce in writing upon a determination that compliance would adversely affect the accomplishment of the mission of an operator of a Federal computer system, or cause a major adverse financial impact on the operator which is not offset by Government-wide savings. The Secretary may delegate to the head of one or more Federal agencies authority to waive such standards to the extent to which the Secretary determines such action to be necessary and desirable to allow for timely and effective implementation of Federal computer system standards. The head of such agency may redelegate such authority only to a Chief Information Officer designated pursuant to section 3506 of title 44, United States Code. Notice of each such waiver and delegation shall be transmitted promptly to Congress and shall be published promptly in the Federal Register.

Federal Register, publication.

(d) DEFINITIONS.—In this section, the terms "Federal computer system" and "operator of a Federal computer system" have the meanings given such terms in section 20(d) of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3(d)).

(e) TECHNICAL AMENDMENTS.—Chapter 35 of title 44, United States Code, is amended—

(1) in section 3504(g)—

(A) in paragraph (2), by striking out "the Computer Security Act of 1987 (40 U.S.C. 759 note)" and inserting in lieu thereof "sections 20 and 21 of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3 and 278g–4), section 5131 of the Information Technology Management Reform Act of 1996, and sections 5 and 6 of the Computer Security Act of 1987 (40 U.S.C. 759 note)"; and

(B) in paragraph (3), by striking out "the Computer Security Act of 1987 (40 U.S.C. 759 note)" and inserting in lieu thereof "the standards and guidelines promulgated under section 5131 of the Information Technology Management Reform Act of 1996 and sections 5 and 6 of the Computer Security Act of 1987 (40 U.S.C. 759 note)"; and

(2) in section 3518(d), by striking out "Public Law 89–306 on the Administrator of the General Services Administration, the Secretary of Commerce, or" and inserting in lieu thereof "section 5131 of the Information Technology Management Reform Act of 1996 and the Computer Security Act of 1987 (40 U.S.C. 759 note) on the Secretary of Commerce or".

SEC. 5132. SENSE OF CONGRESS. 40 USC 1442.

It is the sense of Congress that, during the next five-year period beginning with 1996, executive agencies should achieve each year at least a 5 percent decrease in the cost (in constant fiscal year 1996 dollars) that is incurred by the agency for operating and maintaining information technology, and each year a 5 percent increase in the efficiency of the agency operations, by reason of improvements in information resources management by the agency.

Subtitle E—National Security Systems

SEC. 5141. APPLICABILITY TO NATIONAL SECURITY SYSTEMS. 40 USC 1451.

(a) IN GENERAL.—Except as provided in subsection (b), this title does not apply to national security systems.

(b) EXCEPTIONS.—

(1) IN GENERAL.—Sections 5123, 5125, and 5126 apply to national security systems.

(2) CAPITAL PLANNING AND INVESTMENT CONTROL.—The heads of executive agencies shall apply sections 5112 and 5122 to national security systems to the extent practicable.

(3) PERFORMANCE AND RESULTS OF INFORMATION TECHNOLOGY INVESTMENTS.—(A) Subject to subparagraph (B), the heads of executive agencies shall apply section 5113 to national security systems to the extent practicable.

(B) National security systems shall be subject to section 5113(b)(5) except for subparagraph (B)(iv) of that section.

SEC. 5142. NATIONAL SECURITY SYSTEM DEFINED. 40 USC 1452.

(a) DEFINITION.—In this subtitle, the term "national security system" means any telecommunications or information system operated by the United States Government, the function, operation, or use of which—

(1) involves intelligence activities;

(2) involves cryptologic activities related to national security;

(3) involves command and control of military forces;

(4) involves equipment that is an integral part of a weapon or weapons system; or

(5) subject to subsection (b), is critical to the direct fulfillment of military or intelligence missions.

(b) LIMITATION.—Subsection (a)(5) does not include a system that is to be used for routine administrative and business applications (including payroll, finance, logistics, and personnel management applications).

TITLE LII—PROCESS FOR ACQUISITIONS OF INFORMATION TECHNOLOGY

SEC. 5201. PROCUREMENT PROCEDURES. 40 USC 1461.

The Federal Acquisition Regulatory Council shall ensure that, to the maximum extent practicable, the process for acquisition of information technology is a simplified, clear, and understandable process that specifically addresses the management of risk,

incremental acquisitions, and the need to incorporate commercial information technology in a timely manner.

SEC. 5202. INCREMENTAL ACQUISITION OF INFORMATION TECHNOLOGY.

(a) POLICY.—The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) is amended by adding at the end the following new section:

41 USC 434.

"SEC. 35. MODULAR CONTRACTING FOR INFORMATION TECHNOLOGY.

"(a) IN GENERAL.—The head of an executive agency should, to the maximum extent practicable, use modular contracting for an acquisition of a major system of information technology.

"(b) MODULAR CONTRACTING DESCRIBED.—Under modular contracting, an executive agency's need for a system is satisfied in successive acquisitions of interoperable increments. Each increment complies with common or commercially accepted standards applicable to information technology so that the increments are compatible with other increments of information technology comprising the system.

"(c) IMPLEMENTATION.—The Federal Acquisition Regulation shall provide that—

"(1) under the modular contracting process, an acquisition of a major system of information technology may be divided into several smaller acquisition increments that—

"(A) are easier to manage individually than would be one comprehensive acquisition;

"(B) address complex information technology objectives incrementally in order to enhance the likelihood of achieving workable solutions for attainment of those objectives;

"(C) provide for delivery, implementation, and testing of workable systems or solutions in discrete increments each of which comprises a system or solution that is not dependent on any subsequent increment in order to perform its principal functions; and

"(D) provide an opportunity for subsequent increments of the acquisition to take advantage of any evolution in technology or needs that occur during conduct of the earlier increments;

"(2) a contract for an increment of an information technology acquisition should, to the maximum extent practicable, be awarded within 180 days after the date on which the solicitation is issued and, if the contract for that increment cannot be awarded within such period, the increment should be considered for cancellation; and

"(3) the information technology provided for in a contract for acquisition of information technology should be delivered within 18 months after the date on which the solicitation resulting in award of the contract was issued.".

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of such Act is amended by inserting after the item relating to section 34 the following new item:

"Sec. 35. Modular contracting for information technology.".

TITLE LIII—INFORMATION TECHNOLOGY ACQUISITION PILOT PROGRAMS

Subtitle A—Conduct of Pilot Programs

SEC. 5301. AUTHORITY TO CONDUCT PILOT PROGRAMS. 40 USC 1471.

(a) IN GENERAL.—

(1) PURPOSE.—The Administrator for Federal Procurement Policy (hereinafter referred to as the "Administrator"), in consultation with the Administrator for the Office of Information and Regulatory Affairs, may conduct pilot programs in order to test alternative approaches for acquisition of information technology by executive agencies.

(2) MULTIAGENCY, MULTI-ACTIVITY CONDUCT OF EACH PROGRAM.—Except as otherwise provided in this title, each pilot program conducted under this title shall be carried out in not more than two procuring activities in each of the executive agencies that are designated by the Administrator in accordance with this title to carry out the pilot program. The head of each designated executive agency shall, with the approval of the Administrator, select the procuring activities of the executive agency that are to participate in the test and shall designate a procurement testing official who shall be responsible for the conduct and evaluation of the pilot program within the executive agency.

(b) LIMITATIONS.—

(1) NUMBER.—Not more than two pilot programs may be conducted under the authority of this title, including one pilot program each pursuant to the requirements of sections 5311 and 5312.

(2) AMOUNT.—The total amount obligated for contracts entered into under the pilot programs conducted under the authority of this title may not exceed $750,000,000. The Administrator shall monitor such contracts and ensure that contracts are not entered into in violation of the limitation in the preceding sentence.

(c) PERIOD OF PROGRAMS.—

(1) IN GENERAL.—Subject to paragraph (2), any pilot program may be carried out under this title for the period, not in excess of five years, that is determined by the Administrator as being sufficient to establish reliable results.

(2) CONTINUING VALIDITY OF CONTRACTS.—A contract entered into under the pilot program before the expiration of that program shall remain in effect according to the terms of the contract after the expiration of the program.

SEC. 5302. EVALUATION CRITERIA AND PLANS. 40 USC 1472.

(a) MEASURABLE TEST CRITERIA.—The head of each executive agency conducting a pilot program under section 5301 shall establish, to the maximum extent practicable, measurable criteria for evaluating the effects of the procedures or techniques to be tested under the program.

(b) TEST PLAN.—Before a pilot program may be conducted under section 5301, the Administrator shall submit to Congress a detailed

test plan for the program, including a detailed description of the procedures to be used and a list of any regulations that are to be waived.

40 USC 1473. **SEC. 5303. REPORT.**

(a) REQUIREMENT.—Not later than 180 days after the completion of a pilot program under this title, the Administrator shall—

(1) submit to the Director a report on the results and findings under the program; and

(2) provide a copy of the report to Congress.

(b) CONTENT.—The report shall include the following:

(1) A detailed description of the results of the program, as measured by the criteria established for the program.

(2) A discussion of any legislation that the Administrator recommends, or changes in regulations that the Administrator considers necessary, in order to improve overall information resources management within the Federal Government.

40 USC 1474. **SEC. 5304. RECOMMENDED LEGISLATION.**

If the Director determines that the results and findings under a pilot program under this title indicate that legislation is necessary or desirable in order to improve the process for acquisition of information technology, the Director shall transmit the Director's recommendations for such legislation to Congress.

40 USC 1475. **SEC. 5305. RULE OF CONSTRUCTION.**

Nothing in this title shall be construed as authorizing the appropriation or obligation of funds for the pilot programs authorized under this title.

Subtitle B—Specific Pilot Programs

40 USC 1491. **SEC. 5311. SHARE-IN-SAVINGS PILOT PROGRAM.**

(a) REQUIREMENT.—The Administrator may authorize the heads of two executive agencies to carry out a pilot program to test the feasibility of—

(1) contracting on a competitive basis with a private sector source to provide the Federal Government with an information technology solution for improving mission-related or administrative processes of the Federal Government; and

(2) paying the private sector source an amount equal to a portion of the savings derived by the Federal Government from any improvements in mission-related processes and administrative processes that result from implementation of the solution.

(b) LIMITATIONS.—The head of an executive agency authorized to carry out the pilot program may, under the pilot program, carry out one project and enter into not more than five contracts for the project.

(c) SELECTION OF PROJECTS.—The projects shall be selected by the Administrator, in consultation with the Administrator for the Office of Information and Regulatory Affairs.

40 USC 1492. **SEC. 5312. SOLUTIONS-BASED CONTRACTING PILOT PROGRAM.**

(a) IN GENERAL.—The Administrator may authorize the heads of any of the executive agencies, in accordance with subsection (d)(2), to carry out a pilot program to test the feasibility of using

solutions-based contracting for acquisition of information technology.

(b) SOLUTIONS-BASED CONTRACTING DESCRIBED.—For purposes of this section, solutions-based contracting is an acquisition method under which the acquisition objectives are defined by the Federal Government user of the technology to be acquired, a streamlined contractor selection process is used, and industry sources are allowed to provide solutions that attain the objectives effectively.

(c) PROCESS REQUIREMENTS.—The Administrator shall require use of a process with the following aspects for acquisitions under the pilot program:

(1) ACQUISITION PLAN EMPHASIZING DESIRED RESULT.—Preparation of an acquisition plan that defines the functional requirements of the intended users of the information technology to be acquired, identifies the operational improvements to be achieved, and defines the performance measurements to be applied in determining whether the information technology acquired satisfies the defined requirements and attains the identified results.

(2) RESULTS-ORIENTED STATEMENT OF WORK.—Use of a statement of work that is limited to an expression of the end results or performance capabilities desired under the acquisition plan.

(3) SMALL ACQUISITION ORGANIZATION.—Assembly of a small acquisition organization consisting of the following:

(A) An acquisition management team, the members of which are to be evaluated and rewarded under the pilot program for contributions toward attainment of the desired results identified in the acquisition plan.

(B) A small source selection team composed of representatives of the specific mission or administrative area to be supported by the information technology to be acquired, together with a contracting officer and persons with relevant expertise.

(4) USE OF SOURCE SELECTION FACTORS EMPHASIZING SOURCE QUALIFICATIONS AND COSTS.—Use of source selection factors that emphasize—

(A) the qualifications of the offeror, including such factors as personnel skills, previous experience in providing other private or public sector organizations with solutions for attaining objectives similar to the objectives of the acquisition, past contract performance, qualifications of the proposed program manager, and the proposed management plan; and

(B) the costs likely to be associated with the conceptual approach proposed by the offeror.

(5) OPEN COMMUNICATIONS WITH CONTRACTOR COMMUNITY.—Open availability of the following information to potential offerors:

(A) The agency mission to be served by the acquisition.

(B) The functional process to be performed by use of information technology.

(C) The process improvements to be attained.

(6) SIMPLE SOLICITATION.—Use of a simple solicitation that sets forth only the functional work description, the source selection factors to be used in accordance with paragraph (4), the required terms and conditions, instructions regarding submis-

sion of offers, and the estimate of the Federal Government's budget for the desired work.

(7) SIMPLE PROPOSALS.—Submission of oral presentations and written proposals that are limited in size and scope and contain information on—

(A) the offeror's qualifications to perform the desired work;

(B) past contract performance;

(C) the proposed conceptual approach; and

(D) the costs likely to be associated with the proposed conceptual approach.

(8) SIMPLE EVALUATION.—Use of a simplified evaluation process, to be completed within 45 days after receipt of proposals, which consists of the following:

(A) Identification of the most qualified offerors that are within the competitive range.

(B) Issuance of invitations for at least three and not more than five of the identified offerors to make oral presentations to, and engage in discussions with, the evaluating personnel regarding, for each offeror—

(i) the qualifications of the offeror, including how the qualifications of the offeror relate to the approach proposed to be taken by the offeror in the acquisition; and

(ii) the costs likely to be associated with the approach.

(C) Evaluation of the qualifications of the identified offerors and the costs likely to be associated with the offerors' proposals on the basis of submissions required under the process and any oral presentations made by, and any discussions with, the offerors.

(9) SELECTION OF MOST QUALIFIED OFFEROR.—A selection process consisting of the following:

(A) Identification of the most qualified source, and ranking of alternative sources, primarily on the basis of the oral proposals, presentations, and discussions, and written proposals submitted in accordance with paragraph (7).

(B) Conduct for 30 to 60 days of a program definition phase (funded, in the case of the source ultimately awarded the contract, by the Federal Government)—

(i) during which the selected source, in consultation with one or more intended users, develops a conceptual system design and technical approach, defines logical phases for the project, and estimates the total cost and the cost for each phase; and

(ii) after which a contract for performance of the work may be awarded to that source on the basis of cost, the responsiveness, reasonableness, and quality of the proposed performance, and a sharing of risk and benefits between the source and the Government.

(C) Conduct of as many successive program definition phases with alternative sources (in the order ranked) as is necessary in order to award a contract in accordance with subparagraph (B).

(10) SYSTEM IMPLEMENTATION PHASING.—System implementation to be executed in phases that are tailored to

the solution, with various contract arrangements being used, as appropriate, for various phases and activities.

(11) MUTUAL AUTHORITY TO TERMINATE.—Authority for the Federal Government or the contractor to terminate the contract without penalty at the end of any phase defined for the project.

(12) TIME MANAGEMENT DISCIPLINE.—Application of a standard for awarding a contract within 105 to 120 days after issuance of the solicitation.

(d) PILOT PROGRAM DESIGN.—

(1) JOINT PUBLIC-PRIVATE WORKING GROUP.—The Administrator, in consultation with the Administrator for the Office of Information and Regulatory Affairs, shall establish a joint working group of Federal Government personnel and representatives of the information technology industry to design a plan for conduct of any pilot program carried out under this section.

(2) CONTENT OF PLAN.—The plan shall provide for use of solutions-based contracting in the Department of Defense and not more than two other executive agencies for a total of—

(A) not more than 10 projects, each of which has an estimated cost of between $25,000,000 and $100,000,000; and

(B) not more than 10 projects, each of which has an estimated cost of between $1,000,000 and $5,000,000, to be set aside for small business concerns.

(3) COMPLEXITY OF PROJECTS.—(A) Subject to subparagraph (C), each acquisition project under the pilot program shall be sufficiently complex to provide for meaningful evaluation of the use of solutions-based contracting for acquisition of information technology for executive agencies.

(B) In order for an acquisition project to satisfy the requirement in subparagraph (A), the solution for attainment of the executive agency's objectives under the project should not be obvious, but rather shall involve a need for some innovative development and systems integration.

(C) An acquisition project should not be so extensive or lengthy as to result in undue delay in the evaluation of the use of solutions-based contracting.

(e) MONITORING BY GAO.—The Comptroller General of the United States shall—

(1) monitor the conduct, and review the results, of acquisitions under the pilot program; and

(2) submit to Congress periodic reports containing the views of the Comptroller General on the activities, results, and findings under the pilot program. Reports.

TITLE LIV—ADDITIONAL INFORMATION RESOURCES MANAGEMENT MATTERS

SEC. 5401. ON-LINE MULTIPLE AWARD SCHEDULE CONTRACTING. 40 USC 1501.

(a) AUTOMATION OF MULTIPLE AWARD SCHEDULE CONTRACTING.—In order to provide for the economic and efficient procurement of information technology and other commercial items, the Administrator of General Services shall provide through the Federal Acquisition Computer Network (in this section referred to as "FACNET"), not later than January 1, 1998, Government-wide on-line computer

access to information on products and services that are available for ordering under the multiple award schedules. If the Administrator determines it is not practicable to provide such access through FACNET, the Administrator shall provide such access through another automated system that has the capability to perform the functions listed in subsection (b)(1) and meets the requirement of subsection (b)(2).

(b) ADDITIONAL FACNET FUNCTIONS.—(1) In addition to the functions specified in section 30(b) of the Office of Federal Procurement Policy Act (41 U.S.C. 426(b)), the FACNET architecture shall have the capability to perform the following functions:

(A) Provide basic information on prices, features, and performance of all products and services available for ordering through the multiple award schedules.

(B) Provide for updating that information to reflect changes in prices, features, and performance as soon as information on the changes becomes available.

(C) Enable users to make on-line computer comparisons of the prices, features, and performance of similar products and services offered by various vendors.

(2) The FACNET architecture shall be used to place orders under the multiple award schedules in a fiscal year for an amount equal to at least 60 percent of the total amount spent for all orders under the multiple award schedules in that fiscal year.

(c) STREAMLINED PROCEDURES.—

(1) PILOT PROGRAM.—Upon certification by the Administrator of General Services that the FACNET architecture meets the requirements of subsection (b)(1) and was used as required by subsection (b)(2) in the fiscal year preceding the fiscal year in which the certification is made, the Administrator for Federal Procurement Policy may establish a pilot program to test streamlined procedures for the procurement of information technology products and services available for ordering through the multiple award schedules.

(2) APPLICABILITY TO MULTIPLE AWARD SCHEDULE CONTRACTS.—Except as provided in paragraph (4), the pilot program shall be applicable to all multiple award schedule contracts for the purchase of information technology and shall test the following procedures:

(A) A procedure under which negotiation of the terms and conditions for a covered multiple award schedule contract is limited to terms and conditions other than price.

(B) A procedure under which the vendor establishes the prices under a covered multiple award schedule contract and may adjust those prices at any time in the discretion of the vendor.

(C) A procedure under which a covered multiple award schedule contract is awarded to any responsible offeror that—

(i) has a suitable record of past performance, which may include past performance on multiple award schedule contracts;

(ii) agrees to terms and conditions that the Administrator determines as being required by law or as being appropriate for the purchase of commercial items; and

(iii) agrees to establish and update prices, features, and performance and to accept orders electronically through the automated system established pursuant to subsection (a).

(3) COMPTROLLER GENERAL REVIEW AND REPORT.—(A) Not later than three years after the date on which the pilot program is established, the Comptroller General of the United States shall review the pilot program and report to the Congress on the results of the pilot program.

(B) The report shall include the following:

(i) An evaluation of the extent to which there is competition for the orders placed under the pilot program.

(ii) The effect that the streamlined procedures under the pilot program have on prices charged under multiple award schedule contracts.

(iii) The effect that such procedures have on paperwork requirements for multiple award schedule contracts and orders.

(iv) The impact of the pilot program on small businesses and socially and economically disadvantaged small businesses.

(4) WITHDRAWAL OF SCHEDULE OR PORTION OF SCHEDULE FROM PILOT PROGRAM.—The Administrator may withdraw a multiple award schedule or portion of a schedule from the pilot program if the Administrator determines that (A) price competition is not available under such schedule or portion thereof, or (B) the cost to the Government for that schedule or portion thereof for the previous year was higher than it would have been if the contracts for such schedule or portion thereof had been awarded using procedures that would apply if the pilot program were not in effect. The Administrator shall notify Congress at least 30 days before the date on which the Administrator withdraws a schedule or portion thereof under this paragraph. The authority under this paragraph may not be delegated. Notification.

(5) TERMINATION OF PILOT PROGRAM.—Unless reauthorized by law, the authority of the Administrator to award contracts under the pilot program shall expire four years after the date on which the pilot program is established. Contracts entered into before the authority expires shall remain in effect in accordance with their terms notwithstanding the expiration of the authority to award new contracts under the pilot program.

(d) DEFINITION.—In this section, the term "FACNET" means the Federal Acquisition Computer Network established under section 30 of the Office of Federal Procurement Policy Act (41 U.S.C. 426).

SEC. 5402. IDENTIFICATION OF EXCESS AND SURPLUS COMPUTER EQUIPMENT. 40 USC 1502.

Not later than six months after the date of the enactment of this Act, the head of an executive agency shall inventory all computer equipment under the control of that official. After completion of the inventory, the head of the executive agency shall maintain, in accordance with title II of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481 et seq.), an inventory of any such equipment that is excess or surplus property.

40 USC 1503.

SEC. 5403. ACCESS OF CERTAIN INFORMATION IN INFORMATION SYSTEMS TO THE DIRECTORY ESTABLISHED UNDER SECTION 4101 OF TITLE 44, UNITED STATES CODE.

Notwithstanding any other provision of this division, if in designing an information technology system pursuant to this division, the head of an executive agency determines that a purpose of the system is to disseminate information to the public, then the head of such executive agency shall reasonably ensure that an index of information disseminated by such system is included in the directory created pursuant to section 4101 of title 44, United States Code. Nothing in this section authorizes the dissemination of information to the public unless otherwise authorized.

TITLE LV—PROCUREMENT PROTEST AUTHORITY OF THE COMPTROLLER GENERAL

SEC. 5501. PERIOD FOR PROCESSING PROTESTS.

Title 31, United States Code, is amended as follows:

(1) Section 3553(b)(2)(A) is amended by striking out "35" and inserting in lieu thereof "30".

(2) Section 3554 is amended—

(A) in subsection (a)(1), by striking out "125" and inserting in lieu thereof "100"; and

(B) in subsection (e)—

(i) in paragraph (1), by striking out "Government Operations" and inserting in lieu thereof "Government Reform and Oversight"; and

(ii) in paragraph (2), by striking out "125" and inserting in lieu thereof "100".

SEC. 5502. AVAILABILITY OF FUNDS FOLLOWING GAO RESOLUTION OF CHALLENGE TO CONTRACTING ACTION.

(a) IN GENERAL.—Section 1558 of title 31, United States Code, is amended—

(1) in the first sentence of subsection (a)—

(A) by inserting "or other action referred to in subsection (b)" after "protest" the first place it appears;

(B) by striking out "90 working days" and inserting in lieu thereof "100 days"; and

(C) by inserting "or other action" after "protest" the second place it appears; and

(2) by striking out subsection (b) and inserting in lieu thereof the following:

"(b) Subsection (a) applies with respect to—

"(1) any protest filed under subchapter V of chapter 35 of this title; or

"(2) an action commenced under administrative procedures or for a judicial remedy if—

"(A) the action involves a challenge to—

"(i) a solicitation for a contract;

"(ii) a proposed award of a contract;

"(iii) an award of a contract; or

"(iv) the eligibility of an offeror or potential offeror for a contract or of the contractor awarded the contract; and

"(B) commencement of the action delays or prevents an executive agency from making an award of a contract or proceeding with a procurement.".

(b) CONFORMING AMENDMENT.—The heading of such section is amended to read as follows:

"§ 1558. Availability of funds following resolution of a formal protest or other challenge".

(c) CLERICAL AMENDMENT.—The item relating to such section in the table of sections at the beginning of chapter 15 of title 31, United States Code, is amended to read as follows:

"1558. Availability of funds following resolution of a formal protest or other challenge.".

TITLE LVI—CONFORMING AND CLERICAL AMENDMENTS

SEC. 5601. AMENDMENTS TO TITLE 10, UNITED STATES CODE.

(a) PROTEST FILE.—Section 2305(e) is amended by striking out paragraph (3).

(b) MULTIYEAR CONTRACTS.—Section 2306b of such title is amended—

(1) by striking out subsection (k); and

(2) by redesignating subsection (l) as subsection (k).

(c) LAW INAPPLICABLE TO PROCUREMENT OF INFORMATION TECHNOLOGY.—Section 2315 of title 10, United States Code, is amended by striking out "Section 111" and all that follows through "use of equipment or services if," and inserting in lieu thereof the following: "For the purposes of the Information Technology Management Reform Act of 1996, the term 'national security systems' means those telecommunications and information systems operated by the Department of Defense, the functions, operation or use of which".

SEC. 5602. AMENDMENTS TO TITLE 28, UNITED STATES CODE.

(a) REFERENCES TO BROOKS AUTOMATIC DATA PROCESSING ACT.—Section 612 of title 28, United States Code, is amended—

(1) in subsection (f), by striking out "section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759)" and inserting in lieu thereof "the provisions of law, policies, and regulations applicable to executive agencies under the Information Technology Management Reform Act of 1996";

(2) in subsection (g), by striking out "sections 111 and 201 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481 and 759)" and inserting in lieu thereof "section 201 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481)";

(3) by striking out subsection (l); and

(4) by redesignating subsection (m) as subsection (l).

(b) REFERENCES TO AUTOMATIC DATA PROCESSING.—Section 612 of title 28, United States Code, is further amended—

(1) in the heading, by striking out the second word and inserting in lieu thereof "**Information Technology**";

(2) in subsection (a), by striking out "Judiciary Automation Fund" and inserting in lieu thereof "Judiciary Information Technology Fund"; and

(3) by striking out "automatic data processing" and inserting in lieu thereof "information technology" each place it appears in subsections (a), (b), (c)(2), (e), (f), and (h)(1).

SEC. 5603. AMENDMENT TO TITLE 31, UNITED STATES CODE.

Section 3552 of title 31, United States Code, is amended by striking out the second sentence.

SEC. 5604. AMENDMENTS TO TITLE 38, UNITED STATES CODE.

Section 310 of title 38, United States Code, is amended to read as follows:

"§ 310. Chief Information Officer

"(a) The Chief Information Officer for the Department is designated pursuant to section 3506(a)(2) of title 44.

"(b) The Chief Information Officer performs the duties provided for chief information officers of executive agencies under chapter 35 of title 44 and the Information Technology Management Reform Act of 1996.".

SEC. 5605. PROVISIONS OF TITLE 44, UNITED STATES CODE, RELATING TO PAPERWORK REDUCTION.

(a) DEFINITION.—Section 3502 of title 44, United States Code, is amended by striking out paragraph (9) and inserting in lieu thereof the following:

"(9) the term 'information technology' has the meaning given that term in section 5002 of the Information Technology Management Reform Act of 1996 but does not include national security systems as defined in section 5142 of that Act;".

(b) DEVELOPMENT OF STANDARDS AND GUIDELINES BY NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY.—Section 3504(h)(1)(B) of such title is amended by striking out "section 111(d) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(d))" and inserting in lieu thereof "section 5131 of the Information Technology Management Reform Act of 1996".

(c) COMPLIANCE WITH DIRECTIVES.—Section 3504(h)(2) of such title is amended by striking out "sections 110 and 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 757 and 759)" and inserting in lieu thereof "the Information Technology Management Reform Act of 1996 and directives issued under section 110 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 757)".

(d) COLLECTION OF INFORMATION.—Section 3507(j)(2) of such title is amended by striking out "90 days" in the second sentence and inserting in lieu thereof "180 days".

SEC. 5606. AMENDMENT TO TITLE 49, UNITED STATES CODE.

Section 40112(a) of title 49, United States Code, is amended by striking out "or a contract to purchase property to which section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759) applies".

SEC. 5607. OTHER LAWS.

(a) NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY ACT.—Section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3) is amended—

(1) in subsection (a)—

(A) by striking out "section 3502(2) of title 44" each place it appears in paragraphs (2) and (3)(A) and inserting in lieu thereof "section 3502(9) of title 44"; and

(B) in paragraph (4), by striking out "section 111(d) of the Federal Property and Administrative Services Act of 1949" and inserting in lieu thereof "section 5131 of the Information Technology Management Reform Act of 1996";

(2) in subsection (b)—

(A) by striking out paragraph (2);

(B) in paragraph (3), by striking out "section 111(d) of the Federal Property and Administrative Services Act of 1949" and inserting in lieu thereof "section 5131 of the Information Technology Management Reform Act of 1996"; and

(C) by redesignating paragraphs (3), (4), (5), and (6) as paragraphs (2), (3), (4), and (5); and

(3) in subsection (d)—

(A) in paragraph (1)(B)(v), by striking out "as defined" and all that follows and inserting in lieu thereof a semicolon; and

(B) in paragraph (2)—

(i) by striking out "system'—" and all that follows through "means" in subparagraph (A) and inserting in lieu thereof "system' means"; and

(ii) by striking out "; and" at the end of subparagraph (A) and all that follows through the end of subparagraph (B) and inserting in lieu thereof a semicolon.

(b) COMPUTER SECURITY ACT OF 1987.—

(1) PURPOSES.—Section 2(b)(2) of the Computer Security Act of 1987 (Public Law 100–235; 101 Stat. 1724) is amended by striking out "by amending section 111(d) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(d))". 40 USC 759 note.

(2) SECURITY PLAN.—Section 6(b) of such Act (101 Stat. 1729; 40 U.S.C. 759 note) is amended—

(A) by striking out "Within one year after the date of enactment of this Act, each such agency shall, consistent with the standards, guidelines, policies, and regulations prescribed pursuant to section 111(d) of the Federal Property and Administrative Services Act of 1949," and inserting in lieu thereof "Each such agency shall, consistent with the standards, guidelines, policies, and regulations prescribed pursuant to section 5131 of the Information Technology Management Reform Act of 1996,"; and

(B) by striking out "Copies" and all that follows through "Code.".

(c) FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949.—Section 303B(h) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b(h)) is amended by striking out paragraph (3).

(d) OFFICE OF FEDERAL PROCUREMENT POLICY ACT.—Section 6(h)(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 405(h)(1)) is amended by striking out "of automatic data processing and telecommunications equipment and services or".

(e) NATIONAL ENERGY CONSERVATION POLICY ACT.—Section 801(b)(3) of the National Energy Conservation Policy Act (42 U.S.C. 8287(b)(3)) is amended by striking out the second sentence.

(f) CENTRAL INTELLIGENCE AGENCY ACT OF 1949.—Section 3 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403c) is amended by striking out subsection (e).

SEC. 5608. CLERICAL AMENDMENTS.

(a) FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949.—The table of contents in section 1(b) of the Federal Property and Administrative Services Act of 1949 is amended by striking out the item relating to section 111.

(b) TITLE 38, UNITED STATES CODE.—The table of sections at the beginning of chapter 3 of title 38, United States Code, is amended by striking out the item relating to section 310 and inserting in lieu thereof the following:

"310. Chief Information Officer.".

40 USC 1401 note.

TITLE LVII—EFFECTIVE DATE, SAVINGS PROVISIONS, AND RULES OF CONSTRUCTION

SEC. 5701. EFFECTIVE DATE.

This division and the amendments made by this division shall take effect 180 days after the date of the enactment of this Act.

SEC. 5702. SAVINGS PROVISIONS.

(a) REGULATIONS, INSTRUMENTS, RIGHTS, AND PRIVILEGES.—All rules, regulations, contracts, orders, determinations, permits, certificates, licenses, grants, and privileges—

(1) which have been issued, made, granted, or allowed to become effective by the Administrator of General Services or the General Services Board of Contract Appeals, or by a court of competent jurisdiction, in connection with an acquisition activity carried out under section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759), and

(2) which are in effect on the effective date of this division, shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the Director or any other authorized official, by a court of competent jurisdiction, or by operation of law.

(b) PROCEEDINGS.—

(1) PROCEEDINGS GENERALLY.—This division and the amendments made by this division shall not affect any proceeding, including any proceeding involving a claim, application, or protest in connection with an acquisition activity carried out under section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759) that is pending before the Administrator of General Services or the General Services Board of Contract Appeals on the effective date of this division.

(2) ORDERS.—Orders may be issued in any such proceeding, appeals may be taken therefrom, and payments may be made pursuant to such orders, as if this division had not been enacted. An order issued in any such proceeding shall continue in effect until modified, terminated, superseded, or revoked in accordance with law by the Director or any other authorized official, by a court of competent jurisdiction, or by operation of law.

(3) DISCONTINUANCE OR MODIFICATION OF PROCEEDINGS NOT PROHIBITED.—Nothing in this subsection prohibits the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

(4) OTHER AUTHORITY AND PROHIBITION.—Section 1558(a) of title 31, United States Code, and the second sentence of section 3552 of such title shall continue to apply with respect to a protest process in accordance with this subsection.

(5) REGULATIONS FOR TRANSFER OF PROCEEDINGS.—The Director may prescribe regulations providing for the orderly transfer of proceedings continued under paragraph (1).

(c) STANDARDS AND GUIDELINES FOR FEDERAL COMPUTER SYSTEMS.—Standards and guidelines that are in effect for Federal computer systems under section 111(d) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(d)) on the day before the effective date of this division shall remain in effect until modified, terminated, superseded, revoked, or disapproved under the authority of section 5131 of this Act.

SEC. 5703. RULES OF CONSTRUCTION.

(a) RELATIONSHIP TO TITLE 44, UNITED STATES CODE.—Nothing in this division shall be construed to amend, modify, or supersede any provision of title 44, United States Code, other than chapter 35 of such title.

(b) RELATIONSHIP TO COMPUTER SECURITY ACT OF 1987.—Nothing in this division shall affect the limitations on authority that is provided for in the administration of the Computer Security Act of 1987 (Public Law 100–235) and the amendments made by such Act.

Approved February 10, 1996.

LEGISLATIVE HISTORY—S. 1124 (H.R. 1530) (S. 1026):

HOUSE REPORTS: Nos. 104–131 (Comm. on National Security) and 104–406 (Comm. of Conference), both accompanying H.R. 1530, and 104–450 (Comm. of Conference).

SENATE REPORTS: No. 104–112 accompanying S. 1026 (Comm. on Armed Services).

CONGRESSIONAL RECORD:

Vol. 141 (1995): Sept. 6, considered and passed Senate.

Vol. 142 (1996): Jan. 5, considered and passed House, amended, in lieu of H.R. 1530.

Jan. 24, House agreed to conference report.

Jan. 26, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 32 (1996):

Feb. 10, Presidential statement.

Public Law 104–107
104th Congress

An Act

Feb. 12, 1996
[H.R. 1868]

Making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1996, and for other purposes.

Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1996, and for other purposes, namely:

TITLE I—EXPORT AND INVESTMENT ASSISTANCE

EXPORT-IMPORT BANK OF THE UNITED STATES

The Export-Import Bank of the United States is authorized to make such expenditures within the limits of funds and borrowing authority available to such corporation, and in accordance with law, and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 104 of the Government Corporation Control Act, as may be necessary in carrying out the program for the current fiscal year for such corporation: *Provided,* That none of the funds available during the current fiscal year may be used to make expenditures, contracts, or commitments for the export of nuclear equipment, fuel, or technology to any country other than a nuclear-weapon State as defined in Article IX of the Treaty on the Non-Proliferation of Nuclear Weapons eligible to receive economic or military assistance under this Act that has detonated a nuclear explosive after the date of enactment of this Act.

SUBSIDY APPROPRIATION

For the cost of direct loans, loan guarantees, insurance, and tied-aid grants as authorized by section 10 of the Export-Import Bank Act of 1945, as amended, $786,551,000 to remain available until September 30, 1997: *Provided,* That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further,* That such sums shall remain available until 2010 for the disbursement of direct loans, loan guarantees, insurance and tied-aid grants obligated in fiscal years 1996 and 1997: *Provided further,* That up to $100,000,000 of funds appropriated by this paragraph shall remain available until expended and may be used for tied-aid grant purposes: *Provided further,* That none of the funds appropriated by this paragraph may be used for tied-aid credits or grants except through the regular notification procedures of the Commit-

tees on Appropriations: *Provided further,* That funds appropriated by this paragraph are made available notwithstanding section 2(b)(2) of the Export-Import Bank Act of 1945, in connection with the purchase or lease of any product by any East European country, any Baltic State, or any agency or national thereof.

ADMINISTRATIVE EXPENSES

For administrative expenses to carry out the direct and guaranteed loan and insurance programs (to be computed on an accrual basis), including hire of passenger motor vehicles and services as authorized by 5 U.S.C. 3109, and not to exceed $20,000 for official reception and representation expenses for members of the Board of Directors, $45,614,000: *Provided,* That necessary expenses (including special services performed on a contract or fee basis, but not including other personal services) in connection with the collection of moneys owed the Export-Import Bank, repossession or sale of pledged collateral or other assets acquired by the Export-Import Bank in satisfaction of moneys owed the Export-Import Bank, or the investigation or appraisal of any property, or the evaluation of the legal or technical aspects of any transaction for which an application for a loan, guarantee or insurance commitment has been made, shall be considered nonadministrative expenses for the purposes of this heading: *Provided further,* That, notwithstanding subsection (b) of section 117 of the Export Enhancement Act of 1992, subsection (a) thereof shall remain in effect until October 1, 1996.

Termination date.
12 USC 635a note.

OVERSEAS PRIVATE INVESTMENT CORPORATION

NONCREDIT ACCOUNT

The Overseas Private Investment Corporation is authorized to make, without regard to fiscal year limitations, as provided by 31 U.S.C. 9104, such expenditures and commitments within the limits of funds available to it and in accordance with law as may be necessary: *Provided,* That the amount available for administrative expenses to carry out the credit and insurance programs (including an amount for official reception and representation expenses which shall not exceed $35,000) shall not exceed $26,000,000: *Provided further,* That project-specific transaction costs, including direct and indirect costs incurred in claims settlements, and other direct costs associated with services provided to specific investors or potential investors pursuant to section 234 of the Foreign Assistance Act of 1961, shall not be considered administrative expenses for the purposes of this heading.

PROGRAM ACCOUNT

For the cost of direct and guaranteed loans, $72,000,000, as authorized by section 234 of the Foreign Assistance Act of 1961: *Provided,* That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further,* That such sums shall be available for direct loan obligations and loan guaranty commitments incurred or made during fiscal years 1996 and 1997: *Provided further,* That such sums shall remain available through fiscal year 2003 for the disbursement of direct and guaranteed loans obligated in fiscal

year 1996, and through fiscal year 2004 for the disbursement of direct and guaranteed loans obligated in fiscal year 1997. In addition, such sums as may be necessary for administrative expenses to carry out the credit program may be derived from amounts available for administrative expenses to carry out the credit and insurance programs in the Overseas Private Investment Corporation Noncredit Account and merged with said account.

FUNDS APPROPRIATED TO THE PRESIDENT

TRADE AND DEVELOPMENT AGENCY

For necessary expenses to carry out the provisions of section 661 of the Foreign Assistance Act of 1961, $40,000,000: *Provided,* That the Trade and Development Agency may receive reimbursements from corporations and other entities for the costs of grants for feasibility studies and other project planning services, to be deposited as an offsetting collection to this account and to be available for obligation until September 30, 1997, for necessary expenses under this paragraph: *Provided further,* That such reimbursements shall not cover, or be allocated against, direct or indirect administrative costs of the agency.

TITLE II—BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

For expenses necessary to enable the President to carry out the provisions of the Foreign Assistance Act of 1961, and for other purposes, to remain available until September 30, 1996, unless otherwise specified herein, as follows:

AGENCY FOR INTERNATIONAL DEVELOPMENT

CHILD SURVIVAL AND DISEASE PROGRAMS

Of the funds appropriated in title II of this Act, and under the heading "International Organizations and Programs" in title IV of this Act, not less than $484,000,000 shall be made available for programs for child survival, assistance to combat tropical and other diseases, and related activities: *Provided,* That this amount shall be made available for such activities as (1) immunization programs, (2) oral rehydration programs, (3) health and nutrition programs, and related education programs, which address the needs of mothers and children, (4) water and sanitation programs, (5) assistance for displaced and orphaned children, (6) programs for the prevention, treatment, and control of, and research on, tuberculosis, HIV/AIDS, polio, malaria and other diseases, and (7) a contribution on a grant basis to the United Nations Children's Fund (UNICEF).

AIDS.

DEVELOPMENT ASSISTANCE

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out the provisions of sections 103 through 106 and chapter 10 of part I of the Foreign Assistance Act of 1961, title V of the International Security and Development Cooperation Act of 1980 (Public Law 96–533) and the provisions

of section 401 of the Foreign Assistance Act of 1969, $1,675,000,000, to remain available until September 30, 1997: *Provided,* That of the amount appropriated under this heading, up to $20,000,000 may be made available for the Inter-American Foundation and shall be apportioned directly to that agency: *Provided further,* That of the amount appropriated under this heading, up to $11,500,000 may be made available for the African Development Foundation and shall be apportioned directly to that agency: *Provided further,* That of the funds appropriated under title II of this Act that are administered by the Agency for International Development and made available for family planning assistance, not less than 65 percent shall be made available directly to the agency's central Office of Population and shall be programmed by that office for family planning activities: *Provided further,* That the President shall seek to ensure that funds made available under this heading for sub-Saharan Africa are in substantially the same proportion to the total amount appropriated and made available by this Act for development assistance as the proportion of funds made available for development assistance for sub-Saharan Africa was to the total amount appropriated for development assistance in Public Law 103–306: *Provided further,* That up to $25,000,000 of the funds appropriated under this heading may be made available for necessary expenses to carry out the provisions of section 667 of the Foreign Assistance Act: *Provided further,* That the President shall seek to ensure that the percentage of funds made available under this heading for the activities of private and voluntary organizations and cooperatives is at least equal to the percentage of funds made available pursuant to corresponding authorities in law for the activities of private and voluntary organizations and cooperatives in fiscal year 1995: *Provided further* That none of the funds made available in this Act nor any unobligated balances from prior appropriations may be made available to any organization or program which, as determined by the President of the United States, supports or participates in the management of a program of coercive abortion or involuntary sterilization: *Provided further,* That none of the funds made available under this heading may be used to pay for the performance of abortion as a method of family planning or to motivate or coerce any person to practice abortions; and that in order to reduce reliance on abortion in developing nations, funds shall be available only to voluntary family planning projects which offer, either directly or through referral to, or information about access to, a broad range of family planning methods and services: *Provided further,* That in awarding grants for natural family planning under section 104 of the Foreign Assistance Act of 1961 no applicant shall be discriminated against because of such applicant's religious or conscientious commitment to offer only natural family planning; and, additionally, all such applicants shall comply with the requirements of the previous proviso: *Provided further,* That for purposes of this or any other Act authorizing or appropriating funds for foreign operations, export financing, and related programs, the term "motivate", as it relates to family planning assistance, shall not be construed to prohibit the provision, consistent with local law, of information or counseling about all pregnancy options: *Provided further,* That nothing in this paragraph shall be construed to alter any existing statutory prohibitions against abortion under section 104 of the Foreign Assistance Act of 1961: *Provided further,* That, notwithstanding section 109 of

President. Africa.

President. Voluntary organizations.

Abortion. Sterilization.

the Foreign Assistance Act of 1961, of the funds appropriated under this heading not to exceed a total of $30,000,000 may be transferred to "International Organizations and Programs" for a contribution to the International Fund for Agricultural Development (IFAD), and that any such transfer of funds shall be subject to the regular notification procedures of the Committees on Appropriations: *Provided further,* That not less than $650,000 of the funds made available under this heading should be made available for support of the United States Telecommunications Training Institute.

CYPRUS

Of the funds appropriated under the headings "Development Assistance" and "Economic Support Fund", not less than $15,000,000 shall be made available for Cyprus to be used only for scholarships, administrative support of the scholarship program, bicommunal projects, and measures aimed at reunification of the island and designed to reduce tensions and promote peace and cooperation between the two communities on Cyprus.

BURMA

Of the funds appropriated by this Act to carry out the provisions of chapter 8 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961, not less than $2,380,000 shall be made available to support activities in Burma, along the Burma-Thailand border, and for activities of Burmese student groups and other organizations located outside Burma, for the purposes of fostering democracy in Burma, supporting the provision of medical supplies and other humanitarian assistance to Burmese located in Burma or displaced Burmese along the borders, and for other purposes: *Provided,* That of this amount, not less than $200,000 shall be made available to support newspapers, publications, and other media activities promoting democracy inside Burma: *Provided further,* That of this amount, not less than $380,000 shall be made available for crop substitution activities in cooperation with the Kachin people of Burma: *Provided further,* That funds made available under this heading may be made available notwithstanding any other provision of law: *Provided further,* That provision of such funds shall be made available subject to the regular notification procedures of the Committees on Appropriations.

PRIVATE AND VOLUNTARY ORGANIZATIONS

22 USC 2151u note.

None of the funds appropriated or otherwise made available by this Act for development assistance may be made available to any United States private and voluntary organization, except any cooperative development organization, which obtains less than 20 per centum of its total annual funding for international activities from sources other than the United States Government: *Provided,* That the requirements of the provisions of section 123(g) of the Foreign Assistance Act of 1961 and the provisions on private and voluntary organizations in title II of the "Foreign Assistance and Related Programs Appropriations Act, 1985" (as enacted in Public Law 98–473) shall be superseded by the provisions of this section, except that the authority contained in the last sentence of section 123(g) may be exercised by the Administrator with regard to the requirements of this paragraph.

Funds appropriated or otherwise made available under title II of this Act should be made available to private and voluntary organizations at a level which is equivalent to the level provided in fiscal year 1995. Such private and voluntary organizations shall include those which operate on a not-for-profit basis, receive contributions from private sources, receive voluntary support from the public and are deemed to be among the most cost-effective and successful providers of development assistance.

INTERNATIONAL DISASTER ASSISTANCE

For necessary expenses for international disaster relief, rehabilitation, and reconstruction assistance pursuant to section 491 of the Foreign Assistance Act of 1961, as amended, $181,000,000, to remain available until expended.

HUMANITARIAN ASSISTANCE TO THE FORMER YUGOSLAVIA

Of the funds appropriated in title II of this Act, $40,000,000 should be available only for emergency humanitarian assistance to the former Yugoslavia, of which amount not less than $6,000,000 shall be available only for humanitarian assistance to Kosova.

DEBT RESTRUCTURING

For the cost, as defined in section 502 of the Congressional Budget Act of 1974, of modifying direct loans and loan guarantees, as the President may determine, for which funds have been appropriated or otherwise made available for programs within the International Affairs Budget Function 150, including the cost of selling, reducing, or canceling amounts, through debt buybacks and swaps, owed to the United States as a result of concessional loans made to eligible Latin American and Caribbean countries, pursuant to part IV of the Foreign Assistance Act of 1961, $10,000,000, to remain available until expended.

MICRO AND SMALL ENTERPRISE DEVELOPMENT PROGRAM ACCOUNT

For the subsidy cost of direct loans and loan guarantees, $1,500,000, as authorized by section 108 of the Foreign Assistance Act of 1961, as amended: *Provided,* That such costs shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further,* That guarantees of loans made under this heading in support of microenterprise activities may guarantee up to 70 percent of the principal amount of any such loans notwithstanding section 108 of the Foreign Assistance Act of 1961. In addition, for administrative expenses to carry out programs under this heading, $500,000, all of which may be transferred to and merged with the appropriation for Operating Expenses of the Agency for International Development: *Provided further,* That funds made available under this heading shall remain available until September 30, 1997.

HOUSING GUARANTY PROGRAM ACCOUNT

For the cost, as defined in section 502 of the Congressional Budget Act of 1974, of guaranteed loans authorized by sections 221 and 222 of the Foreign Assistance Act of 1961, $4,000,000, to remain available until September 30, 1997: *Provided,* That these

funds are available to subsidize loan principal, 100 percent of which shall be guaranteed, pursuant to the authority of such sections. In addition, for administrative expenses to carry out guaranteed loan programs, $7,000,000, all of which may be transferred to and merged with the appropriation for Operating Expenses of the Agency for International Development: *Provided further,* That commitments to guarantee loans under this heading may be entered into notwithstanding the second and third sentences of section 222(a) and, with regard to programs for Eastern Europe and programs for the benefit of South Africans disadvantaged by apartheid, section 223(j) of the Foreign Assistance Act of 1961: *Provided further,* That none of the funds appropriated under this heading shall be obligated except through the regular notification procedures of the Committees on Appropriations.

PAYMENT TO THE FOREIGN SERVICE RETIREMENT AND DISABILITY FUND

For payment to the "Foreign Service Retirement and Disability Fund", as authorized by the Foreign Service Act of 1980, $43,914,000.

OPERATING EXPENSES OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT

For necessary expenses to carry out the provisions of section 667, $465,750,000: *Provided,* That of this amount not more than $1,475,000 may be made available to pay for printing costs: *Provided further,* That none of the funds appropriated by this Act for programs administered by the Agency for International Development (AID) may be used to finance printing costs of any report or study (except feasibility, design, or evaluation reports or studies) in excess of $25,000 without the approval of the Administrator of the Agency or the Administrator's designee: *Provided further,* That notwithstanding any other provision of law, none of the funds appropriated or otherwise made available by this Act may be made available for expenses necessary to relocate the Agency for International Development, or any part of that agency, to the building at the Federal Triangle in Washington, District of Columbia.

OPERATING EXPENSES OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT OFFICE OF INSPECTOR GENERAL

For necessary expenses to carry out the provisions of section 667, $30,200,000, to remain available until September 30, 1997, which sum shall be available for the Office of the Inspector General of the Agency for International Development.

OTHER BILATERAL ECONOMIC ASSISTANCE

Israel.
Egypt.

ECONOMIC SUPPORT FUND

For necessary expenses to carry out the provisions of chapter 4 of part II, $2,340,000,000, to remain available until September 30, 1997: *Provided,* That of the funds appropriated under this heading, not less than $1,200,000,000 shall be available only for Israel, which sum shall be available on a grant basis as a cash transfer and shall be disbursed within thirty days of enactment of this Act or by October 31, 1995, whichever is later: *Provided*

further, That not less than $815,000,000 shall be available only for Egypt, which sum shall be provided on a grant basis, and of which sum cash transfer assistance may be provided, with the understanding that Egypt will undertake significant economic reforms which are additional to those which were undertaken in previous fiscal years, and of which not less than $200,000,000 shall be provided as Commodity Import Program assistance: *Provided further,* That the Egyptian pound equivalent of $85,000,000 generated from funds made available by this paragraph or generated from funds appropriated under this heading in prior appropriations Acts, may be made available to the United States pursuant to the United States-Egypt Economic, Technical and Related Assistance Agreements of 1978, for the following activities under such Agreements: the Egyptian pound equivalent of $50,000,000 may be made available to replenish the existing endowment for the American University in Cairo, and the Egyptian pound equivalent of $35,000,000 may be made available for projects and programs, including establishment of an endowment, which promote the preservation and restoration of Egyptian antiquities: *Provided further,* That in exercising the authority to provide cash transfer assistance for Israel and Egypt, the President shall ensure that the level of such assistance does not cause an adverse impact on the total level of non-military exports from the United States to each such country: *Provided further,* That it is the sense of the Congress that the recommended levels of assistance for Egypt and Israel are based in great measure upon their continued participation in the Camp David Accords and upon the Egyptian-Israeli peace treaty: *Provided further,* That none of the funds appropriated under this heading shall be made available for Zaire.

President.

INTERNATIONAL FUND FOR IRELAND

For necessary expenses to carry out the provisions of part I of the Foreign Assistance Act of 1961, up to $19,600,000, which shall be available for the United States contribution to the International Fund for Ireland and shall be made available in accordance with the provisions of the Anglo-Irish Agreement Support Act of 1986 (Public Law 99–415): *Provided,* That such amount shall be expended at the minimum rate necessary to make timely payment for projects and activities: *Provided further,* That funds made available under this heading shall remain available until September 30, 1997.

ASSISTANCE FOR EASTERN EUROPE AND THE BALTIC STATES

(a) For necessary expenses to carry out the provisions of the Foreign Assistance Act of 1961 and the Support for East European Democracy (SEED) Act of 1989, $324,000,000, to remain available until September 30, 1997, which shall be available, notwithstanding any other provision of law, for economic assistance and for related programs for Eastern Europe and the Baltic States.

(b) Funds appropriated under this heading or in prior appropriations Acts that are or have been made available for an Enterprise Fund may be deposited by such Fund in interest-bearing accounts prior to the Fund's disbursement of such funds for program purposes. The Fund may retain for such program purposes any interest earned on such deposits without returning such interest to the Treasury of the United States and without further appropria-

tion by the Congress. Funds made available for Enterprise Funds shall be expended at the minimum rate necessary to make timely payment for projects and activities.

(c) Funds appropriated under this heading shall be considered to be economic assistance under the Foreign Assistance Act of 1961 for purposes of making available the administrative authorities contained in that Act for the use of economic assistance.

ASSISTANCE FOR THE NEW INDEPENDENT STATES OF THE FORMER SOVIET UNION

(a) For necessary expenses to carry out the provisions of chapter 11 of part I of the Foreign Assistance Act of 1961 and the FREEDOM Support Act, for assistance for the new independent states of the former Soviet Union and for related programs, $641,000,000, to remain available until September 30, 1997: *Provided,* That the provisions of 498B(j) of the Foreign Assistance Act of 1961 shall apply to funds appropriated by this paragraph.

(b) None of the funds appropriated under this heading shall be transferred to the Government of Russia—

(1) unless that Government is making progress in implementing comprehensive economic reforms based on market principles, private ownership, negotiating repayment of commercial debt, respect for commercial contracts, and equitable treatment of foreign private investment; and

(2) if that Government applies or transfers United States assistance to any entity for the purpose of expropriating or seizing ownership or control of assets, investments, or ventures.

(c) Funds may be furnished without regard to subsection (b) if the President determines that to do so is in the national interest.

22 USC 5814 note.

(d) None of the funds appropriated under this heading shall be made available to any government of the new independent states of the former Soviet Union if that government directs any action in violation of the territorial integrity or national sovereignty of any other new independent state, such as those violations included in the Helsinki Final Act: *Provided,* That such funds may be made available without regard to the restriction in this subsection if the President determines that to do so is in the national security interest of the United States: *Provided further,* That the restriction of this subsection shall not apply to the use of such funds for the provision of assistance for purposes of humanitarian, disaster and refugee relief.

(e) None of the funds appropriated under this heading for the new independent states of the former Soviet Union shall be made available for any state to enhance its military capability: *Provided,* That this restriction does not apply to demilitarization or nonproliferation programs.

(f) Funds appropriated under this heading shall be subject to the regular notification procedures of the Committees on Appropriations.

(g) Funds made available in this Act for assistance to the new independent states of the former Soviet Union shall be subject to the provisions of section 117 (relating to environment and natural resources) of the Foreign Assistance Act of 1961.

(h) Funds appropriated under this heading may be made available for assistance for Mongolia.

(i) Funds made available in this Act for assistance to the new independent states of the former Soviet Union shall be provided

to the maximum extent feasible through the private sector, including small- and medium-size businesses, entrepreneurs, and others with indigenous private enterprises in the region, intermediary development organizations committed to private enterprise, and private voluntary organizations: *Provided,* That grantees and contractors should, to the maximum extent possible, place in key staff positions specialists with prior on the ground expertise in the region of activity and fluency in one of the local languages.

(j) In issuing new task orders, entering into contracts, or making grants, with funds appropriated under this heading or in prior appropriations Acts, for projects or activities that have as one of their primary purposes the fostering of private sector development, the Coordinator for United States Assistance to the New Independent States and the implementing agency shall encourage the participation of and give significant weight to contractors and grantees who propose investing a significant amount of their own resources (including volunteer services and in-kind contributions) in such projects and activities.

(k) Of the funds made available under this heading, not less than $225,000,000 shall be made available for Ukraine, with the understanding that Ukraine will undertake significant economic reforms which are additional to those which were undertaken in previous fiscal years, and of which not less than $50,000,000 (from this or any other Act) shall be made available to improve energy self-sufficiency and improve safety at nuclear reactors, and of which $2,000,000 should be made available to conduct or implement an assessment of the energy distribution grid that provides recommendations leading to increased access to power by industrial, commercial and residential users, and of which not less than $22,000,000 shall be made available to support the development of small and medium enterprises, including independent broadcast and print media.

(l) Of the funds made available under this heading, $5,000,000 should be made available for a project to screen, diagnose, and treat victims of breast cancer associated with the 1985 incident at the Chernobyl reactor in Ukraine.

(m) Of the funds made available by this Act, not less than $85,000,000 shall be made available for Armenia.

(n) Of the funds made available by this or any other Act, $30,000,000 should be made available for Georgia.

(o)(1) Effective ninety days after the date of enactment of this Act, none of the funds appropriated under this heading may be made available for Russia unless the President determines and certifies in writing to the Committees on Appropriations that the Government of Russia has terminated implementation of arrangements to provide Iran with technical expertise, training, technology, or equipment necessary to develop a nuclear reactor or related nuclear research facilities or programs. Effective date.

(2) Subparagraph (1) shall not apply if the President determines that making such funds available is important to the national security interest of the United States. Any such determination shall cease to be effective six months after being made unless the President determines that its continuation is important to the national security interest of the United States.

(p) Of the funds appropriated under this heading, $20,000,000 should be provided for hospital partnership programs, medical assistance to directly reduce the incidence of infectious diseases

such as diphtheria or tuberculosis, and a program to reduce the adverse impact of contaminated drinking water.

(q) Of the funds appropriated under this heading and under the heading "Assistance for Eastern Europe and the Baltic States", not less than $12,600,000 shall be made available for law enforcement training and exchanges, and investigative and technical assistance activities related to international criminal activities.

(r) Support should be provided from funds appropriated under this heading for a ballot security project to promote public review by Russian citizens over the conduct of parliamentary and presidential elections in Russia: *Provided,* That the Secretary of State may waive this provision with regard to any election upon notification to the Committees on Appropriations that the Government of Russia has blocked implementation of a ballot security project.

(s) Of the funds appropriated under this heading, not less than $50,000,000 should be provided to the Western NIS and Central Asian Enterprise Funds: *Provided,* That obligation of these funds shall be consistent with sound business practices.

President.
22 USC 2295b note.

(t) The President shall establish a Trans-Caucasus Enterprise Fund to encourage regional peace through economic cooperation: *Provided,* That the President shall seek other bilateral and multilateral investors in the Fund: *Provided further,* That of the funds made available under this heading, not less than $15,000,000 shall be made available for a United States investment in the Trans-Caucasus Enterprise Fund.

(u) Funds appropriated under this heading or in prior appropriations Acts that are or have been made available for an Enterprise Fund may be deposited by such Fund in interest-bearing accounts prior to the disbursement of such funds by the Fund for program purposes. The Fund may retain for such program proposes any interest earned on such deposits without returning such interest to the Treasury of the United States and without further appropriation by the Congress. Funds made available for Enterprise Funds shall be expended at the minimum rate necessary to make timely payment for projects and activities.

(v) Section 5421(d)(3)(B) of title 22, United States Code, is amended by adding at the end thereof the following: ": *Provided,* That, as to Enterprise Funds established with respect to more than one host country, such Enterprise Fund may, in lieu of the appointment of citizens of the host countries to its Board of Directors, establish an advisory council for the host region comprised of citizens of each of the host countries or establish separate advisory councils for each of the host countries (hereinafter in this section referred to as the 'Advisory Councils'), with which the Enterprise Fund's policies and proposed activities and such host country citizens shall satisfy the experience and expertise requirements of this clause.".

(w) Notwithstanding any other provision of law, assistance may be provided for the Government of Azerbaijan for humanitarian purposes, if the President determines that humanitarian assistance provided in Azerbaijan through nongovernmental organizations is not adequately addressing the suffering of refugees and internally displaced persons.

INDEPENDENT AGENCY

PEACE CORPS

For expenses necessary to carry out the provisions of the Peace Corps Act (75 Stat. 612), $205,000,000, including the purchase of not to exceed five passenger motor vehicles for administrative purposes for use outside of the United States: *Provided,* That none of the funds appropriated under this heading shall be used to pay for abortions: *Provided further,* That funds appropriated under this heading shall remain available until September 30, 1997. Abortion.

DEPARTMENT OF STATE

INTERNATIONAL NARCOTICS CONTROL

For necessary expenses to carry out the provisions of section 481 of the Foreign Assistance Act of 1961, $115,000,000: *Provided,* That during fiscal year 1996, the Department of State may also use the authority of section 608 of the Foreign Assistance Act of 1961, without regard to its restrictions, to receive non-lethal excess property from an agency of the United States Government for the purpose of providing it to a foreign country under chapter 8 of part I of that Act subject to the regular notification procedures of the Committees on Appropriations.

MIGRATION AND REFUGEE ASSISTANCE

For expenses, not otherwise provided for, necessary to enable the Secretary of State to provide, as authorized by law, a contribution to the International Committee of the Red Cross, assistance to refugees, including contributions to the International Organization for Migration and the United Nations High Commissioner for Refugees, and other activities to meet refugee and migration needs; salaries and expenses of personnel and dependents as authorized by the Foreign Service Act of 1980; allowances as authorized by sections 5921 through 5925 of title 5, United States Code; purchase and hire of passenger motor vehicles; and services as authorized by section 3109 of title 5, United States Code, $671,000,000: *Provided,* That not more than $12,000,000 shall be available for administrative expenses: *Provided further,* That not less than $80,000,000 shall be made available for refugees from the former Soviet Union and Eastern Europe and other refugees resettling in Israel.

REFUGEE RESETTLEMENT ASSISTANCE

For necessary expenses for the targeted assistance program authorized by title IV of the Immigration and Nationality Act and section 501 of the Refugee Education Assistance Act of 1980 and administered by the Office of Refugee Resettlement of the Department of Health and Human Services, in addition to amounts otherwise available for such purposes, $5,000,000.

UNITED STATES EMERGENCY REFUGEE AND MIGRATION ASSISTANCE FUND

For necessary expenses to carry out the provisions of section 2(c) of the Migration and Refugee Assistance Act of 1962, as

amended (22 U.S.C. 260(c)), $50,000,000, to remain available until expended: *Provided,* That the funds made available under this heading are appropriated notwithstanding the provisions contained in section 2(c)(2) of the Migration and Refugee Assistance Act of 1962 which would limit the amount of funds which could be appropriated for this purpose.

ANTI-TERRORISM ASSISTANCE

For necessary expenses to carry out the provisions of chapter 8 of part II of the Foreign Assistance Act of 1961, $16,000,000.

NONPROLIFERATION AND DISARMAMENT FUND

For necessary expenses for a "Nonproliferation and Disarmament Fund", $20,000,000, to remain available until expended, to promote bilateral and multilateral activities: *Provided,* That such funds may be used pursuant to the authorities contained in section 504 of the FREEDOM Support Act: *Provided further,* That such funds may also be used for such countries other than the new independent states of the former Soviet Union and international organizations when it is in the national security interest of the United States to do so: *Provided further,* That funds appropriated under this heading may be made available notwithstanding any other provision of law: *Provided further,* That funds appropriated under this heading shall be subject to the regular notification procedures of the Committees on Appropriations.

TITLE III—MILITARY ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL MILITARY EDUCATION AND TRAINING

For necessary expenses to carry out the provisions of section 541 of the Foreign Assistance Act of 1961, $39,000,000: *Provided,* That up to $100,000 of the funds appropriated under this heading may be made available for grant financed military education and training for any high income country on the condition that that country agrees to fund from its own resources the transportation cost and living allowances of its students: *Provided further,* That the civilian personnel for whom military education and training may be provided under this heading may also include members of national legislatures who are responsible for the oversight and management of the military, and may also include individuals who are not members of a government: *Provided further,* That none of the funds appropriated under this heading shall be available for Zaire and Guatemala: *Provided further,* That funds appropriated under this heading for grant financed military education and training for Indonesia may only be available for expanded military education and training.

FOREIGN MILITARY FINANCING PROGRAM

For expenses necessary for grants to enable the President to carry out the provisions of section 23 of the Arms Export Control Act, $3,208,390,000: *Provided,* That of the funds appropriated by this paragraph not less than $1,800,000,000 shall be available for grants only for Israel, and not less than $1,300,000,000 shall be

available for grants only for Egypt: *Provided further,* That the funds appropriated by this paragraph for Israel shall be disbursed within thirty days of enactment of this Act or by October 31, 1995, whichever is later: *Provided further,* That to the extent that the Government of Israel requests that funds be used for such purposes, grants made available for Israel by this paragraph shall, as agreed by Israel and the United States, be available for advanced weapons systems, of which not less than $475,000,000 shall be available for the procurement in Israel of defense articles and defense services, including research and development: *Provided further,* That funds made available under this paragraph shall be nonrepayable notwithstanding any requirement in section 23 of the Arms Export Control Act: *Provided further,* That, for the purpose only of providing support for the Warsaw Initiative Program, of the funds appropriated by this Act under the headings "Assistance for Eastern Europe and the Baltic States" and "Assistance for the New Independent States of the Former Soviet Union", up to a total of $20,000,000 may be transferred, notwithstanding any other provision of law, to the funds appropriated under this paragraph: *Provided further,* That none of the funds made available under this heading shall be available for any non-NATO country participating in the Partnership for Peace Program except through the regular notification procedures of the Committees on Appropriations.

For the cost, as defined in section 502 of the Congressional Budget Act of 1974, of direct loans authorized by section 23 of the Arms Export Control Act as follows: cost of direct loans, $64,400,000: *Provided,* That these funds are available to subsidize gross obligations for the principal amount of direct loans of not to exceed $544,000,000: *Provided further,* That the rate of interest charged on such loans shall be not less than the current average market yield on outstanding marketable obligations of the United States of comparable maturities: *Provided further,* That funds appropriated under this heading shall be made available for Greece and Turkey only on a loan basis, and the principal amount of direct loans for each country shall not exceed the following: $224,000,000 only for Greece and $320,000,000 only for Turkey.

None of the funds made available under this heading shall be available to finance the procurement of defense articles, defense services, or design and construction services that are not sold by the United States Government under the Arms Export Control Act unless the foreign country proposing to make such procurements has first signed an agreement with the United States Government specifying the conditions under which such procurements may be financed with such funds: *Provided,* That all country and funding level increases in allocations shall be submitted through the regular notification procedures of section 515 of this Act: *Provided further,* That funds made available under this heading shall be obligated upon apportionment in accordance with paragraph (5)(C) of title 31, United States Code, section 1501(a): *Provided further,* That none of the funds appropriated under this heading shall be available for Zaire, Sudan, Peru, Liberia, and Guatemala: *Provided further,* That none of the funds appropriated or otherwise made available for use under this heading may be made available for Colombia or Bolivia until the Secretary of State certifies that such funds will be used by such country primarily for counternarcotics activities: *Provided further,* That funds made available under this head-

ing may be used, notwithstanding any other provision of law, for demining activities, and may include activities implemented through nongovernmental and international organizations: *Provided further,* That not more than $100,000,000 of the funds made available under this heading shall be available for use in financing the procurement of defense articles, defense services, or design and construction services that are not sold by the United States Government under the Arms Export Control Act to countries other than Israel and Egypt: *Provided further,* That only those countries for which assistance was justified for the "Foreign Military Sales Financing Program" in the fiscal year 1989 congressional presentation for security assistance programs may utilize funds made available under this heading for procurement of defense articles, defense services or design and construction services that are not sold by the United States Government under the Arms Export Control Act: *Provided further,* That, subject to the regular notification procedures of the Committees on Appropriations, funds made available under this heading for the cost of direct loans may also be used to supplement the funds available under this heading for grants, and funds made available under this heading for grants may also be used to supplement the funds available under this heading for the cost of direct loans: *Provided further,* That funds appropriated under this heading shall be expended at the minimum rate necessary to make timely payment for defense articles and services: *Provided further,* That the Department of Defense shall conduct during the current fiscal year nonreimbursable audits of private firms whose contracts are made directly with foreign governments and are financed with funds made available under this heading (as well as subcontractors thereunder) as requested by the Defense Security Assistance Agency: *Provided further,* That not more than $23,250,000 of the funds appropriated under this heading may be obligated for necessary expenses, including the purchase of passenger motor vehicles for replacement only for use outside of the United States, for the general costs of administering military assistance and sales: *Provided further,* That not more than $355,000,000 of funds realized pursuant to section 21(e)(1)(A) of the Arms Export Control Act may be obligated for expenses incurred by the Department of Defense during fiscal year 1996 pursuant to section 43(b) of the Arms Export Control Act, except that this limitation may be exceeded only through the regular notification procedures of the Committees on Appropriations.

PEACEKEEPING OPERATIONS

For necessary expenses to carry out the provisions of section 551 of the Foreign Assistance Act of 1961, $70,000,000: *Provided,* That none of the funds appropriated under this paragraph shall be obligated or expended except as provided through the regular notification procedures of the Committees on Appropriations.

TITLE IV—MULTILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL FINANCIAL INSTITUTIONS

CONTRIBUTION TO THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

For payment to the International Bank for Reconstruction and Development by the Secretary of the Treasury, for the United States share of the paid-in share portion of the increases in capital stock for the General Capital Increase, $28,189,963, to remain available until expended: *Provided,* That not more than twenty-one days prior to the obligation of each such sum, the Secretary shall submit a certification to the Committees on Appropriations that the Bank has not approved any loans to Iran since October 1, 1994, or the President of the United States certifies that withholding of these funds is contrary to the national interest of the United States.

For payment to the International Bank for Reconstruction and Development by the Secretary of the Treasury, for the United States contribution to the Global Environment Facility (GEF), $35,000,000, to remain available until September 30, 1997.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the International Bank for Reconstruction and Development may subscribe without fiscal year limitation to the callable capital portion of the United States share of increases in capital stock in an amount not to exceed $911,475,013.

CONTRIBUTION TO THE INTERNATIONAL DEVELOPMENT ASSOCIATION

For payment to the International Development Association by the Secretary of the Treasury, $700,000,000, for the United States contribution to the tenth replenishment, to remain available until expended.

CONTRIBUTION TO THE INTERNATIONAL FINANCE CORPORATION

For payment to the International Finance Corporation by the Secretary of the Treasury, $60,900,000, for the United States share of the increase in subscriptions to capital stock, to remain available until expended: *Provided,* That of the amount appropriated under this heading not more than $5,269,000 may be expended for the purchase of such stock in fiscal year 1996.

CONTRIBUTION TO THE INTER-AMERICAN DEVELOPMENT BANK

For payment to the Inter-American Development Bank by the Secretary of the Treasury, for the United States share of the paid-in share portion of the increase in capital stock, $25,952,110, and for the United States share of the increase in the resources of the Fund for Special Operations, $10,000,000, to remain available until expended.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the Inter-American Development Bank may subscribe without fiscal year limitation to the callable capital portion of the United States share of such capital stock in an amount not to exceed $1,523,767,142.

CONTRIBUTION TO THE ENTERPRISE FOR THE AMERICAS MULTILATERAL INVESTMENT FUND

For payment to the Enterprise for the Americas Multilateral Investment Fund by the Secretary of the Treasury, for the United States contribution to the Fund to be administered by the Inter-American Development Bank, $53,750,000 to remain available until expended.

CONTRIBUTION TO THE ASIAN DEVELOPMENT BANK

For payment to the Asian Development Bank by the Secretary of the Treasury for the United States share of the paid-in portion of the increase in capital stock, $13,221,596, to remain available until expended.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the Asian Development Bank may subscribe without fiscal year limitation to the callable capital portion of the United States share of such capital stock in an amount not to exceed $647,858,204.

CONTRIBUTION TO THE ASIAN DEVELOPMENT FUND

For the United States contribution by the Secretary of the Treasury to the increases in resources of the Asian Development Fund, as authorized by the Asian Development Bank Act, as amended (Public Law 89–369), $100,000,000, to remain available until expended.

CONTRIBUTION TO THE EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT

For payment to the European Bank for Reconstruction and Development by the Secretary of the Treasury, $70,000,000, for the United States share of the paid-in share portion of the initial capital subscription, to remain available until expended: *Provided,* That of the amount appropriated under this heading not more than $54,600,000 may be expended for the purchase of such stock in fiscal year 1996.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the European Bank for Reconstruction and Development may subscribe without fiscal year limitation to the callable capital portion of the United States share of such capital stock in an amount not to exceed $163,333,333.

NORTH AMERICAN DEVELOPMENT BANK

For payment to the North American Development Bank by the Secretary of the Treasury, for the United States share of the

paid-in portion of the capital stock, $56,250,000, to remain available until expended.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the North American Development Bank may subscribe without fiscal year limitation to the callable capital portion of the United States share of the capital stock of the North American Development Bank in an amount not to exceed $318,750,000.

INTERNATIONAL ORGANIZATIONS AND PROGRAMS

For necessary expenses to carry out the provisions of section 301 of the Foreign Assistance Act of 1961, and of section 2 of the United Nations Environment Program Participation Act of 1973, $285,000,000: *Provided,* That none of the funds appropriated under this heading shall be made available for the United Nations Fund for Science and Technology: *Provided further,* That funds appropriated under this heading may be made available for the International Atomic Energy Agency only if the Secretary of State determines (and so reports to the Congress) that Israel is not being denied its right to participate in the activities of that Agency: *Provided further,* That none of the funds appropriated under this heading that are made available to the United Nations Population Fund (UNFPA) shall be made available for activities in the People's Republic of China: *Provided further,* That not more than $30,000,000 of the funds appropriated under this heading may be made available to the UNFPA: *Provided further,* That not more than one-half of this amount may be provided to UNFPA before March 1, 1996, and that no later than February 15, 1996, the Secretary of State shall submit a report to the Committees on Appropriations indicating the amount UNFPA is budgeting for the People's Republic of China in 1996: *Provided further,* That any amount UNFPA plans to spend in the People's Republic of China in 1996 above $7,000,000, shall be deducted from the amount of funds provided to UNFPA after March 1, 1996 pursuant to the previous provisos: *Provided further,* That with respect to any funds appropriated under this heading that are made available to UNFPA, UNFPA shall be required to maintain such funds in a separate account and not commingle them with any other funds: *Provided further,* That funds may be made available to the Korean Peninsula Energy Development Organization (KEDO) for administrative expenses and heavy fuel oil costs associated with the Agreed Framework: *Provided further,* That no funds may be provided for KEDO for funding for administrative expenses and heavy fuel oil costs beyond the total amount included for KEDO in the fiscal year 1996 congressional presentation: *Provided further,* That no funds may be made available under this Act to KEDO unless the President determines and certifies in writing to the Committees on Appropriations that (a) in accordance with section 1 of the Agreed Framework, KEDO has designated a Republic of Korea company, corporation or entity for the purpose of negotiating a prime contract to carry out construction of the light water reactors provided for in the Agreed Framework; and (b) the Democratic People's Republic of Korea is maintaining the freeze on its nuclear facilities as required in the Agreed Framework; and (c) the United States is taking steps to assure that progress is made on (1) the North-South dia-

Reports.

logue, including efforts to reduce barriers to trade and investment, such as removing restrictions on travel, telecommunications services and financial transactions; and (2) implementation of the January 1, 1992, Joint Declaration on the Denuclearization of the Korean Peninsula: *Provided further,* That a report on the specific efforts with regard to subsections (a), (b) and (c) of the preceding proviso shall be submitted by the President to the Committees on Appropriations six months after the date of enactment of this Act, and every six months thereafter.

Reports.

TITLE V—GENERAL PROVISIONS

OBLIGATIONS DURING LAST MONTH OF AVAILABILITY

SEC. 501. Except for the appropriations entitled "International Disaster Assistance", and "United States Emergency Refugee and Migration Assistance Fund", not more than 15 per centum of any appropriation item made available by this Act shall be obligated during the last month of availability.

PROHIBITION OF BILATERAL FUNDING FOR INTERNATIONAL FINANCIAL INSTITUTIONS

SEC. 502. None of the funds contained in title II of this Act may be used to carry out the provisions of section 209(d) of the Foreign Assistance Act of 1961.

LIMITATION ON RESIDENCE EXPENSES

SEC. 503. Of the funds appropriated or made available pursuant to this Act, not to exceed $126,500 shall be for official residence expenses of the Agency for International Development during the current fiscal year: *Provided,* That appropriate steps shall be taken to assure that, to the maximum extent possible, United States-owned foreign currencies are utilized in lieu of dollars.

LIMITATION ON EXPENSES

SEC. 504. Of the funds appropriated or made available pursuant to this Act, not to exceed $5,000 shall be for entertainment expenses of the Agency for International Development during the current fiscal year.

LIMITATION ON REPRESENTATIONAL ALLOWANCES

SEC. 505. Of the funds appropriated or made available pursuant to this Act, not to exceed $95,000 shall be available for representation allowances for the Agency for International Development during the current fiscal year: *Provided,* That appropriate steps shall be taken to assure that, to the maximum extent possible, United States-owned foreign currencies are utilized in lieu of dollars: *Provided further,* That of the funds made available by this Act for general costs of administering military assistance and sales under the heading "Foreign Military Financing Program", not to exceed $2,000 shall be available for entertainment expenses and not to exceed $50,000 shall be available for representation allowances: *Provided further,* That of the funds made available by this Act under the heading "International Military Education and Training", not to exceed $50,000 shall be available for entertainment allow-

ances: *Provided further,* That of the funds made available by this Act for the Inter-American Foundation, not to exceed $2,000 shall be available for entertainment and representation allowances: *Provided further,* That of the funds made available by this Act for the Peace Corps, not to exceed a total of $4,000 shall be available for entertainment expenses: *Provided further,* That of the funds made available by this Act under the heading "Trade and Development Agency", not to exceed $2,000 shall be available for representation and entertainment allowances.

PROHIBITION ON FINANCING NUCLEAR GOODS

SEC. 506. None of the funds appropriated or made available (other than funds for "International Organizations and Programs") pursuant to this Act, for carrying out the Foreign Assistance Act of 1961, may be used, except for purposes of nuclear safety, to finance the export of nuclear equipment, fuel, or technology.

PROHIBITION AGAINST DIRECT FUNDING FOR CERTAIN COUNTRIES

SEC. 507. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance directly any assistance or reparations to Cuba, Iraq, Libya, North Korea, Iran, Serbia, Sudan, or Syria: *Provided,* That for purposes of this section, the prohibition on obligations or expenditures shall include direct loans, credits, insurance and guarantees of the Export-Import Bank or its agents.

MILITARY COUPS

SEC. 508. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance directly any assistance to any country whose duly elected Head of Government is deposed by military coup or decree: *Provided,* That assistance may be resumed to such country if the President determines and reports to the Committees on Appropriations that subsequent to the termination of assistance a democratically elected government has taken office.

TRANSFERS BETWEEN ACCOUNTS

SEC. 509. None of the funds made available by this Act may be obligated under an appropriation account to which they were not appropriated, except for transfers specifically provided for in this Act, unless the President, prior to the exercise of any authority contained in the Foreign Assistance Act of 1961 to transfer funds, consults with and provides a written policy justification to the Committees on Appropriations of the House of Representatives and the Senate: *Provided,* That the exercise of such authority shall be subject to the regular notification procedures of the Committees on Appropriations, except for transfers specifically referred to in this Act.

DEOBLIGATION/REOBLIGATION AUTHORITY

SEC. 510. (a) Amounts certified pursuant to section 1311 of the Supplemental Appropriations Act, 1955, as having been obligated against appropriations heretofore made under the authority of the Foreign Assistance Act of 1961 for the same general purpose

as any of the headings under title II of this Act are, if deobligated, hereby continued available for the same period as the respective appropriations under such headings or until September 30, 1996, whichever is later, and for the same general purpose, and for countries within the same region as originally obligated: *Provided,* That the Appropriations Committees of both Houses of the Congress are notified fifteen days in advance of the deobligation and reobligation of such funds in accordance with regular notification procedures of the Committees on Appropriations.

(b) Obligated balances of funds appropriated to carry out section 23 of the Arms Export Control Act as of the end of the fiscal year immediately preceding the current fiscal year are, if deobligated, hereby continued available during the current fiscal year for the same purpose under any authority applicable to such appropriations under this Act: *Provided,* That the authority of this subsection may not be used in fiscal year 1996.

AVAILABILITY OF FUNDS

SEC. 511. No part of any appropriation contained in this Act shall remain available for obligation after the expiration of the current fiscal year unless expressly so provided in this Act: *Provided,* That funds appropriated for the purposes of chapters 1, 8 and 11 of part I, section 667, and chapter 4 of part II of the Foreign Assistance Act of 1961, as amended, and funds provided under the heading "Assistance for Eastern Europe and the Baltic States", shall remain available until expended if such funds are initially obligated before the expiration of their respective periods of availability contained in this Act: *Provided further,* That, notwithstanding any other provision of this Act, any funds made available for the purposes of chapter 1 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961 which are allocated or obligated for cash disbursements in order to address balance of payments or economic policy reform objectives, shall remain available until expended: *Provided further,* That the report required by section 653(a) of the Foreign Assistance Act of 1961 shall designate for each country, to the extent known at the time of submission of such report, those funds allocated for cash disbursement for balance of payment and economic policy reform purposes.

LIMITATION ON ASSISTANCE TO COUNTRIES IN DEFAULT

SEC. 512. No part of any appropriation contained in this Act shall be used to furnish assistance to any country which is in default during a period in excess of one calendar year in payment to the United States of principal or interest on any loan made to such country by the United States pursuant to a program for which funds are appropriated under this Act: *Provided,* That this section and section 620(q) of the Foreign Assistance Act of 1961 shall not apply to funds made available in this Act or during the current fiscal year for Nicaragua, and for any narcotics-related assistance for Colombia, Bolivia, and Peru authorized by the Foreign Assistance Act of 1961 or the Arms Export Control Act.

COMMERCE AND TRADE

SEC. 513. (a) None of the funds appropriated or made available pursuant to this Act for direct assistance and none of the funds

otherwise made available pursuant to this Act to the Export-Import Bank and the Overseas Private Investment Corporation shall be obligated or expended to finance any loan, any assistance or any other financial commitments for establishing or expanding production of any commodity for export by any country other than the United States, if the commodity is likely to be in surplus on world markets at the time the resulting productive capacity is expected to become operative and if the assistance will cause substantial injury to United States producers of the same, similar, or competing commodity: *Provided,* That such prohibition shall not apply to the Export-Import Bank if in the judgment of its Board of Directors the benefits to industry and employment in the United States are likely to outweigh the injury to United States producers of the same, similar, or competing commodity, and the Chairman of the Board so notifies the Committees on Appropriations.

(b) None of the funds appropriated by this or any other Act to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 shall be available for any testing or breeding feasibility study, variety improvement or introduction, consultancy, publication, conference, or training in connection with the growth or production in a foreign country of an agricultural commodity for export which would compete with a similar commodity grown or produced in the United States: *Provided,* That this subsection shall not prohibit—

(1) activities designed to increase food security in developing countries where such activities will not have a significant impact in the export of agricultural commodities of the United States; or

(2) research activities intended primarily to benefit American producers.

SURPLUS COMMODITIES

SEC. 514. The Secretary of the Treasury shall instruct the United States Executive Directors of the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the International Monetary Fund, the Asian Development Bank, the Inter-American Investment Corporation, the North American Development Bank, the European Bank for Reconstruction and Development, the African Development Bank, and the African Development Fund to use the voice and vote of the United States to oppose any assistance by these institutions, using funds appropriated or made available pursuant to this Act, for the production or extraction of any commodity or mineral for export, if it is in surplus on world markets and if the assistance will cause substantial injury to United States producers of the same, similar, or competing commodity. 22 USC 262h note.

NOTIFICATION REQUIREMENTS

SEC. 515. For the purposes of providing the Executive Branch with the necessary administrative flexibility, none of the funds made available under this Act for "Development Assistance", "International organizations and programs", "Trade and Development Agency", "International narcotics control", "Assistance for Eastern Europe and the Baltic States", "Assistance for the New Independent States of the Former Soviet Union", "Economic Support Fund",

"Peacekeeping operations", "Operating expenses of the Agency for International Development", "Operating expenses of the Agency for International Development Office of Inspector General", "Nonproliferation and Disarmament Fund", "Anti-terrorism assistance", "Foreign Military Financing Program", "International military education and training", "Inter-American Foundation", "African Development Foundation", "Peace Corps", "Migration and refugee assistance", shall be available for obligation for activities, programs, projects, type of materiel assistance, countries, or other operations not justified or in excess of the amount justified to the Appropriations Committees for obligation under any of these specific headings unless the Appropriations Committees of both Houses of Congress are previously notified fifteen days in advance: *Provided,* That the President shall not enter into any commitment of funds appropriated for the purposes of section 23 of the Arms Export Control Act for the provision of major defense equipment, other than conventional ammunition, or other major defense items defined to be aircraft, ships, missiles, or combat vehicles, not previously justified to Congress or 20 per centum in excess of the quantities justified to Congress unless the Committees on Appropriations are notified fifteen days in advance of such commitment: *Provided further,* That this section shall not apply to any reprogramming for an activity, program, or project under chapter 1 of part I of the Foreign Assistance Act of 1961 of less than 10 per centum of the amount previously justified to the Congress for obligation for such activity, program, or project for the current fiscal year: *Provided further,* That the requirements of this section or any similar provision of this Act or any prior Act requiring notification in accordance with the regular notification procedures of the Committees on Appropriations may be waived if failure to do so would pose a substantial risk to human health or welfare: *Provided further,* That in case of any such waiver, notification to the Congress, or the appropriate congressional committees, shall be provided as early as practicable, but in no event later than three days after taking the action to which such notification requirement was applicable, in the context of the circumstances necessitating such waiver: *Provided further,* That any notification provided pursuant to such a waiver shall contain an explanation of the emergency circumstances.

Drawdowns made pursuant to section 506(a)(2) of the Foreign Assistance Act of 1961 shall be subject to the regular notification procedures of the Committees on Appropriations.

LIMITATION ON AVAILABILITY OF FUNDS FOR INTERNATIONAL ORGANIZATIONS AND PROGRAMS

SEC. 516. Notwithstanding any other provision of law or of this Act, none of the funds provided for "International Organizations and Programs" shall be available for the United States proportionate share, in accordance with section 307(c) of the Foreign Assistance Act of 1961, for any programs identified in section 307, or for Libya, Iran, or, at the discretion of the President, Communist countries listed in section 620(f) of the Foreign Assistance Act of 1961, as amended: *Provided,* That, subject to the regular notification procedures of the Committees on Appropriations, funds appropriated under this Act or any previously enacted Act making appropriations for foreign operations, export financing, and related programs, which are returned or not made available for organizations and programs because of the implementation of this section or

any similar provision of law, shall remain available for obligation through September 30, 1997.

ECONOMIC SUPPORT FUND ASSISTANCE FOR ISRAEL

SEC. 517. The Congress finds that progress on the peace process in the Middle East is vitally important to United States security interests in the region. The Congress recognizes that, in fulfilling its obligations under the Treaty of Peace Between the Arab Republic of Egypt and the State of Israel, done at Washington on March 26, 1979, Israel incurred severe economic burdens. Furthermore, the Congress recognizes that an economically and militarily secure Israel serves the security interests of the United States, for a secure Israel is an Israel which has the incentive and confidence to continue pursuing the peace process. Therefore, the Congress declares that, subject to the availability of appropriations, it is the policy and the intention of the United States that the funds provided in annual appropriations for the Economic Support Fund which are allocated to Israel shall not be less than the annual debt repayment (interest and principal) from Israel to the United States Government in recognition that such a principle serves United States interests in the region.

PROHIBITION ON FUNDING FOR ABORTIONS AND INVOLUNTARY STERILIZATION

SEC. 518. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for the performance of abortions as a method of family planning or to motivate or coerce any person to practice abortions. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for the performance of involuntary sterilization as a method of family planning or to coerce or provide any financial incentive to any person to undergo sterilizations. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for any biomedical research which relates in whole or in part, to methods of, or the performance of, abortions or involuntary sterilization as a means of family planning. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be obligated or expended for any country or organization if the President certifies that the use of these funds by any such country or organization would violate any of the above provisions related to abortions and involuntary sterilizations: *Provided,* That none of the funds made available under this Act may be used to lobby for or against abortion.

AUTHORIZATION OF POPULATION PLANNING

SEC. 518A. Notwithstanding section 526 of this Act, none of the funds made available in this Act for population planning activities or other population assistance pursuant to section 104(b) of the Foreign Assistance Act or any other provision of law, or funds made available in title IV of this Act as a contribution to the United Nations Population Fund (UNFPA) may be obligated or expended prior to July 1, 1996, unless such funding is expressly authorized by law: *Provided,* That if such funds are not authorized by law prior to July 1, 1996, funds appropriated in title II of

this Act for population planning activities or other population assistance may be made available for obligation and expenditure in an amount not to exceed 65 percent of the total amount appropriated or otherwise made available by Public Law 103–306 and Public Law 104–19 for such activities for fiscal year 1995, and funds appropriated in title IV of this Act as a contribution to the United Nations Population Fund (UNFPA) may be made available for obligation and expenditure in an amount not to exceed 65 percent of the total amount appropriated or otherwise made available by Public Law 103–306 and Public Law 104–19 for a contribution to UNFPA for fiscal year 1995: *Provided further,* That, pursuant to the previous proviso, such funds may be apportioned only on a monthly basis, beginning July 1, 1996 and ending September 30, 1997, and such monthly apportionments may not exceed 6.67 percent of the total available for such activities: *Provided further,* That notwithstanding any other provision of this Act, funds appropriated by this Act for the United Nations Population Fund (UNFPA) shall remain available for obligation until September 30, 1997.

REPORTING REQUIREMENT

President.

SEC. 519. The President shall submit to the Committees on Appropriations the reports required by section 25(a)(1) of the Arms Export Control Act.

SPECIAL NOTIFICATION REQUIREMENTS

SEC. 520. None of the funds appropriated in this Act shall be obligated or expended for Colombia, Dominican Republic, Guatemala, Haiti, Liberia, Nicaragua, Pakistan, Peru, Russia, Sudan, or Zaire except as provided through the regular notification procedures of the Committees on Appropriations: *Provided,* That this section shall not apply to funds appropriated by this Act to carry out the provisions of chapter 1 of part I of the Foreign Assistance Act of 1961 that are made available for Nicaragua.

DEFINITION OF PROGRAM, PROJECT, AND ACTIVITY

SEC. 521. For the purpose of this Act, "program, project, and activity" shall be defined at the Appropriations Act account level and shall include all Appropriations and Authorizations Acts earmarks, ceilings, and limitations with the exception that for the following accounts: Economic Support Fund and Foreign Military Financing Program, "program, project, and activity" shall also be considered to include country, regional, and central program level funding within each such account; for the development assistance accounts of the Agency for International Development "program, project, and activity" shall also be considered to include central program level funding, either as (1) justified to the Congress, or (2) allocated by the executive branch in accordance with a report, to be provided to the Committees on Appropriations within thirty days of enactment of this Act, as required by section 653(a) of the Foreign Assistance Act of 1961.

CHILD SURVIVAL AND AIDS ACTIVITIES

SEC. 522. Up to $8,000,000 of the funds made available by this Act for assistance for family planning, health, child survival,

and AIDS, may be used to reimburse United States Government agencies, agencies of State governments, institutions of higher learning, and private and voluntary organizations for the full cost of individuals (including for the personal services of such individuals) detailed or assigned to, or contracted by, as the case may be, the Agency for International Development for the purpose of carrying out family planning activities, child survival activities and activities relating to research on, and the treatment and control of, acquired immune deficiency syndrome in developing countries: *Provided,* That funds appropriated by this Act that are made available for child survival activities or activities relating to research on, and the treatment and control of, acquired immune deficiency syndrome may be made available notwithstanding any provision of law that restricts assistance to foreign countries: *Provided further,* That funds appropriated by this Act that are made available for family planning activities may be made available notwithstanding section 512 of this Act and section 620(q) of the Foreign Assistance Act of 1961.

PROHIBITION AGAINST INDIRECT FUNDING TO CERTAIN COUNTRIES

SEC. 523. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated to finance indirectly any assistance or reparations to Cuba, Iraq, Libya, Iran, Syria, North Korea, or the People's Republic of China, unless the President of the United States certifies that the withholding of these funds is contrary to the national interest of the United States.

RECIPROCAL LEASING

SEC. 524. Section 61(a) of the Arms Export Control Act is amended by striking out "1995" and inserting in lieu thereof "1996". 22 USC 2796.

NOTIFICATION ON EXCESS DEFENSE EQUIPMENT

SEC. 525. Prior to providing excess Department of Defense articles in accordance with section 516(a) of the Foreign Assistance Act of 1961, the Department of Defense shall notify the Committees on Appropriations to the same extent and under the same conditions as are other committees pursuant to subsection (c) of that section: *Provided,* That before issuing a letter of offer to sell excess defense articles under the Arms Export Control Act, the Department of Defense shall notify the Committees on Appropriations in accordance with the regular notification procedures of such Committees: *Provided further,* That such Committees shall also be informed of the original acquisition cost of such defense articles.

AUTHORIZATION REQUIREMENT

SEC. 526. Funds appropriated by this Act may be obligated and expended notwithstanding section 10 of Public Law 91–672 and section 15 of the State Department Basic Authorities Act of 1956.

OPPOSITION TO ASSISTANCE TO TERRORIST COUNTRIES BY INTERNATIONAL FINANCIAL INSTITUTIONS

SEC. 527. (a) INSTRUCTIONS FOR UNITED STATES EXECUTIVE DIRECTORS.—The Secretary of the Treasury shall instruct the

United States Executive Director of each international financial institution designated in subsection (b), and the Administrator of the Agency for International Development shall instruct the United States Executive Director of the International Fund for Agriculture Development, to use the voice and vote of the United States to oppose any loan or other use of the funds of the respective institution to or for a country for which the Secretary of State has made a determination under section 6(j) of the Export Administration Act of 1979.

(b) DEFINITION.—For purposes of this section, the term "international financial institution" includes—

(1) the International Bank for Reconstruction and Development, the International Development Association, and the International Monetary Fund; and

(2) wherever applicable, the Inter-American Development Bank, the Asian Development Bank, the African Development Bank, the African Development Fund, and the European Bank for Reconstruction and Development.

PROHIBITION ON BILATERAL ASSISTANCE TO TERRORIST COUNTRIES

SEC. 527A. (a) Notwithstanding any other provision of law, funds appropriated for bilateral assistance under any heading of this Act and funds appropriated under any such heading in a provision of law enacted prior to enactment of this Act, shall not be made available to any country which the President determines—

(1) grants sanctuary from prosecution to any individual or group which has committed an act of international terrorism, or

(2) otherwise supports international terrorism.

(b) The President may waive the application of subsection (a) to a country if the President determines that national security or humanitarian reasons justify such waiver. The President shall publish each waiver in the Federal Register and, at least fifteen days before the waiver takes effect, shall notify the Committees on Appropriations of the waiver (including the justification for the waiver) in accordance with the regular notification procedures of the Committees on Appropriations.

President.
Federal Register, publication.

COMMERCIAL LEASING OF DEFENSE ARTICLES

22 USC 2763 note.

SEC. 528. Notwithstanding any other provision of law, and subject to the regular notification requirements of the Committees on Appropriations, the authority of section 23(a) of the Arms Export Control Act may be used to provide financing to Israel, Egypt and NATO and major non-NATO allies for the procurement by leasing (including leasing with an option to purchase) of defense articles from United States commercial suppliers, not including Major Defense Equipment (other than helicopters and other types of aircraft having possible civilian application), if the President determines that there are compelling foreign policy or national security reasons for those defense articles being provided by commercial lease rather than by government-to-government sale under such Act.

COMPETITIVE INSURANCE

SEC. 528A. All Agency for International Development contracts and solicitations, and subcontracts entered into under such contracts, shall include a clause requiring that United States insurance companies have a fair opportunity to bid for insurance when such insurance is necessary or appropriate.

STINGERS IN THE PERSIAN GULF REGION

SEC. 529. Except as provided in section 581 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990, the United States may not sell or otherwise make available any Stingers to any country bordering the Persian Gulf under the Arms Export Control Act or chapter 2 of part II of the Foreign Assistance Act of 1961.

DEBT-FOR-DEVELOPMENT

SEC. 530. In order to enhance the continued participation of nongovernmental organizations in economic assistance activities under the Foreign Assistance Act of 1961, including endowments, debt-for-development and debt-for-nature exchanges, a nongovernmental organization which is a grantee or contractor of the Agency for International Development may place in interest bearing accounts funds made available under this Act or prior Acts or local currencies which accrue to that organization as a result of economic assistance provided under title II of this Act and any interest earned on such investment may be used for the purpose for which the assistance was provided to that organization.

COMPETITIVE PRICING FOR SALES OF DEFENSE ARTICLES

Contracts.

SEC. 531A. (a) COSTING BASIS.—Section 22 of the Arms Export Control Act (22 U.S.C. 2762) is amended by adding at the end the following:

"(d) COMPETITIVE PRICING.—Procurement contracts made in implementation of sales under this section for defense articles and defense services wholly paid for from funds made available on a nonrepayable basis shall be priced on the same costing basis with regard to profit, overhead, independent research and development, bid and proposal, and other costing elements, as is applicable to procurements of like items purchased by the Department of Defense for its own use.".

(b) EFFECTIVE DATE AND IMPLEMENTING REGULATIONS.—Section 22(d) of the Arms Export Control Act, as added by subsection (a)— 22 USC 2762 note.

(1) shall take effect on the 60th day following the date of the enactment of this Act;

(2) shall be applicable only to contracts made in implementation of sales made after such effective date; and

(3) shall be implemented by revised procurement regulations, which shall be issued prior to such effective date.

(c) DIRECT COSTS ALLOWABLE.—Direct costs associated with meeting a foreign customer's additional or unique requirements will continue to be allowable under such contracts. Loadings applicable to such direct costs shall be permitted at the same rates applicable to procurement of like items purchased by the Department of Defense for its own use. 22 USC 2762 note.

STOCKPILES OF DEFENSE ARTICLES

SEC. 531B. (a) LIMITATION ON VALUE OF ADDITIONS.—Section 514(b)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321h(b)(1)) is amended by inserting "or in the implementation of agreements with Israel" after "North Atlantic Treaty Organization".

(b) ADDITIONS IN FISCAL YEARS 1996 AND 1997.—Section 514(b)(2) of such Act (22 U.S.C. 2321h(b)(2)) is amended to read as follows:

"(2)(A) The value of such additions to stockpiles of defense articles in foreign countries shall not exceed $50,000,000 for each of the fiscal years 1996 and 1997.

"(B) Of the amount specified in subparagraph (A) for each of the fiscal years 1996 and 1997, not more than $40,000,000 may be made available for stockpiles in the Republic of Korea and not more than $10,000,000 may be made available for stockpiles in Thailand.".

(c) LOCATION OF STOCKPILES OF DEFENSE AUTHORITIES.—Section 514(c) of such Act (22 U.S.C. 2321h(c)) is amended to read as follows:

"(c) LOCATION OF STOCKPILES OF DEFENSE ARTICLES.—

"(1) LIMITATION.—Except as provided in paragraph (2), no stockpile of defense articles may be located outside the boundaries of a United States military base or a military base used primarily by the United States.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply with respect to stockpiles of defense articles located in the Republic of Korea, Thailand, any country that is a member of the North Atlantic Treaty Organization, any country that is a major non-NATO ally, or any other country the President may designate. At least 15 days before designating a country pursuant to the last clause of the preceding sentence, the President shall notify the congressional committees specified in section 634A(a) in accordance with the procedures applicable to reprogramming notifications under that section.".

President.

SEPARATE ACCOUNTS

22 USC 2359 note.

SEC. 532. (a) SEPARATE ACCOUNTS FOR LOCAL CURRENCIES.—(1) If assistance is furnished to the government of a foreign country under chapters 1 and 10 of part I or chapter 4 of part II of the Foreign Assistance Act of 1961 under agreements which result in the generation of local currencies of that country, the Administrator of the Agency for International Development shall—

(A) require that local currencies be deposited in a separate account established by that government;

Contracts.

(B) enter into an agreement with that government which sets forth—

(i) the amount of the local currencies to be generated, and

(ii) the terms and conditions under which the currencies so deposited may be utilized, consistent with this section; and

(C) establish by agreement with that government the responsibilities of the Agency for International Development and that government to monitor and account for deposits into and disbursements from the separate account.

(2) USES OF LOCAL CURRENCIES.—As may be agreed upon with the foreign government, local currencies deposited in a separate account pursuant to subsection (a), or an equivalent amount of local currencies, shall be used only—

(A) to carry out chapters 1 or 10 of part I or chapter 4 of part II (as the case may be), for such purposes as—

(i) project and sector assistance activities, or

(ii) debt and deficit financing; or

(B) for the administrative requirements of the United States Government.

(3) PROGRAMMING ACCOUNTABILITY.—The Agency for International Development shall take all appropriate steps to ensure that the equivalent of the local currencies disbursed pursuant to subsection (a)(2)(A) from the separate account established pursuant to subsection (a)(1) are used for the purposes agreed upon pursuant to subsection (a)(2).

(4) TERMINATION OF ASSISTANCE PROGRAMS.—Upon termination of assistance to a country under chapters 1 or 10 of part I or chapter 4 of part II (as the case may be), any unencumbered balances of funds which remain in a separate account established pursuant to subsection (a) shall be disposed of for such purposes as may be agreed to by the government of that country and the United States Government.

(5) CONFORMING AMENDMENTS.—The provisions of this subsection shall supersede the tenth and eleventh provisos contained under the heading "Sub-Saharan Africa, Development Assistance" as included in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 and sections 531(d) and 609 of the Foreign Assistance Act of 1961.

(b) SEPARATE ACCOUNTS FOR CASH TRANSFERS.—(1) If assistance is made available to the government of a foreign country, under chapters 1 or 10 of part I or chapter 4 of part II of the Foreign Assistance Act of 1961, as cash transfer assistance or as nonproject sector assistance, that country shall be required to maintain such funds in a separate account and not commingle them with any other funds.

(2) APPLICABILITY OF OTHER PROVISIONS OF LAW.—Such funds may be obligated and expended notwithstanding provisions of law which are inconsistent with the nature of this assistance including provisions which are referenced in the Joint Explanatory Statement of the Committee of Conference accompanying House Joint Resolution 648 (H. Report No. 98–1159).

(3) NOTIFICATION.—At least fifteen days prior to obligating any such cash transfer or nonproject sector assistance, the President shall submit a notification through the regular notification procedures of the Committees on Appropriations, which shall include a detailed description of how the funds proposed to be made available will be used, with a discussion of the United States interests that will be served by the assistance (including, as appropriate, a description of the economic policy reforms that will be promoted by such assistance). President.

(4) EXEMPTION.—Nonproject sector assistance funds may be exempt from the requirements of subsection (b)(1) only through the notification procedures of the Committees on Appropriations.

COMPENSATION FOR UNITED STATES EXECUTIVE DIRECTORS TO INTERNATIONAL FINANCIAL INSTITUTIONS

SEC. 533. (a) No funds appropriated by this Act may be made as payment to any international financial institution while the United States Executive Director to such institution is compensated by the institution at a rate which, together with whatever compensation such Director receives from the United States, is in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while any alternate United States Director to such institution is compensated by the institution at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

(b) For purposes of this section, "international financial institutions" are: the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, the Asian Development Fund, the African Development Bank, the African Development Fund, the International Monetary Fund, the North American Development Bank, and the European Bank for Reconstruction and Development.

COMPLIANCE WITH UNITED NATIONS SANCTIONS AGAINST IRAQ

50 USC 1701 note.

SEC. 534. (a) DENIAL OF ASSISTANCE.—None of the funds appropriated or otherwise made available pursuant to this Act to carry out the Foreign Assistance Act of 1961 (including title IV of chapter 2 of part I, relating to the Overseas Private Investment Corporation) or the Arms Export Control Act may be used to provide assistance to any country that is not in compliance with the United Nations Security Council sanctions against Iraq, Serbia or Montenegro unless the President determines and so certifies to the Congress that—

(1) such assistance is in the national interest of the United States;

(2) such assistance will directly benefit the needy people in that country; or

(3) the assistance to be provided will be humanitarian assistance for foreign nationals who have fled Iraq and Kuwait.

(b) IMPORT SANCTIONS.—If the President considers that the taking of such action would promote the effectiveness of the economic sanctions of the United Nations and the United States imposed with respect to Iraq, Serbia, or Montenegro, as the case may be, and is consistent with the national interest, the President may prohibit, for such a period of time as he considers appropriate, the importation into the United States of any or all products of any foreign country that has not prohibited—

(1) the importation of products of Iraq, Serbia, or Montenegro into its customs territory, and

(2) the export of its products to Iraq, Serbia, or Montenegro, as the case may be.

POW/MIA MILITARY DRAWDOWN

SEC. 535. (a) Notwithstanding any other provision of law, the President may direct the drawdown, without reimbursement by the recipient, of defense articles from the stocks of the Department

of Defense, defense services of the Department of Defense, and military education and training, of an aggregate value not to exceed $15,000,000 in fiscal year 1996, as may be necessary to carry out subsection (b).

(b) Such defense articles, services and training may be provided to Vietnam, Cambodia and Laos, under subsection (a) as the President determines are necessary to support efforts to locate and repatriate members of the United States Armed Forces and civilians employed directly or indirectly by the United States Government who remain unaccounted for from the Vietnam War, and to ensure the safety of United States Government personnel engaged in such cooperative efforts and to support United States Department of Defense-sponsored humanitarian projects associated with the POW/MIA efforts. Any aircraft shall be provided under this section only to Laos and only on a lease or loan basis, but may be provided at no cost notwithstanding section 61 of the Arms Export Control Act and may be maintained with defense articles, services and training provided under this section.

(c) The President shall, within sixty days of the end of any fiscal year in which the authority of subsection (a) is exercised, submit a report to the Congress which identifies the articles, services, and training drawn down under this section. President. Reports.

MEDITERRANEAN EXCESS DEFENSE ARTICLES

SEC. 536. During fiscal year 1996, the provisions of section 573(e) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990, shall be applicable, for the period specified therein, to excess defense articles made available under sections 516 and 519 of the Foreign Assistance Act of 1961.

CASH FLOW FINANCING

SEC. 537. For each country that has been approved for cash flow financing (as defined in section 25(d) of the Arms Export Control Act, as added by section 112(b) of Public Law 99–83) under the Foreign Military Financing Program, any Letter of Offer and Acceptance or other purchase agreement, or any amendment thereto, for a procurement in excess of $100,000,000 that is to be financed in whole or in part with funds made available under this Act shall be submitted through the regular notification procedures to the Committees on Appropriations.

AUTHORITIES FOR THE PEACE CORPS, THE INTER-AMERICAN FOUNDATION AND THE AFRICAN DEVELOPMENT FOUNDATION

SEC. 538. Unless expressly provided to the contrary, provisions of this or any other Act, including provisions contained in prior Acts authorizing or making appropriations for foreign operations, export financing, and related programs, shall not be construed to prohibit activities authorized by or conducted under the Peace Corps Act, the Inter-American Foundation Act, or the African Development Foundation Act. The appropriate agency shall promptly report to the Committees on Appropriations whenever it is conducting activities or is proposing to conduct activities in a country for which assistance is prohibited. Reports.

IMPACT ON JOBS IN THE UNITED STATES

SEC. 539. None of the funds appropriated by this Act may be obligated or expended to provide—

(a) any financial incentive to a business enterprise currently located in the United States for the purpose of inducing such an enterprise to relocate outside the United States if such incentive or inducement is likely to reduce the number of employees of such business enterprise in the United States because United States production is being replaced by such enterprise outside the United States;

(b) assistance for the purpose of establishing or developing in a foreign country any export processing zone or designated area in which the tax, tariff, labor, environment, and safety laws of that country do not apply, in part or in whole, to activities carried out within that zone or area, unless the President determines and certifies that such assistance is not likely to cause a loss of jobs within the United States; or

(c) assistance for any project or activity that contributes to the violation of internationally recognized workers rights, as defined in section 502(a)(4) of the Trade Act of 1974, of workers in the recipient country, including any designated zone or area in that country: *Provided,* That in recognition that the application of this subsection should be commensurate with the level of development of the recipient country and sector, the provisions of this subsection shall not preclude assistance for the informal sector in such country, micro and small-scale enterprise, and smallholder agriculture.

AUTHORITY TO ASSIST BOSNIA-HERCEGOVINA

SEC. 540. (a) Congress finds as follows:

(1) The United Nations has imposed an embargo on the transfer of arms to any country on the territory of the former Yugoslavia.

(2) The federated states of Serbia and Montenegro have a large supply of military equipment and ammunition and the Serbian forces fighting the government of Bosnia-Hercegovina have more than one thousand battle tanks, armored vehicles, and artillery pieces.

(3) Because the United Nations arms embargo is serving to sustain the military advantage of the aggressor, the United Nations should exempt the government of Bosnia-Hercegovina from its embargo.

(b) Pursuant to a lifting of the United Nations arms embargo, or to a unilateral lifting of the arms embargo by the President of the United States, against Bosnia-Hercegovina, the President is authorized to transfer, subject to prior notification of the Committees on Appropriations, to the government of that nation, without reimbursement, defense articles from the stocks of the Department of Defense and defense services of the Department of Defense of an aggregate value not to exceed $100,000,000 in fiscal year 1996: *Provided,* That the President certifies in a timely fashion to the Congress that the transfer of such articles would assist that nation in self-defense and thereby promote the security and stability of the region.

President. Reports.

(c) Within 60 days of any transfer under the authority provided in subsection (b), and every 60 days thereafter, the President shall

report in writing to the Speaker of the House of Representatives and the President pro tempore of the Senate concerning the articles transferred and the disposition thereof.

(d) There are authorized to be appropriated to the President such sums as may be necessary to reimburse the applicable appropriation, fund, or account for defense articles provided under this section.

RESTRICTIONS ON THE TERMINATION OF SANCTIONS AGAINST SERBIA AND MONTENEGRO

SEC. 540A. (a) RESTRICTIONS.—Notwithstanding any other provision of law, no sanction, prohibition, or requirement described in section 1511 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160), with respect to Serbia or Montenegro, may cease to be effective, unless— 50 USC 1701 note.

(1) the President first submits to the Congress a certification described in subsection (b); and

(2) the requirements of section 1511 of that Act are met.

(b) CERTIFICATION.—A certification described in this subsection is a certification that— 50 USC 1701 note.

(1) there is substantial progress toward—

(A) the realization of a separate identity for Kosova and the right of the people of Kosova to govern themselves; or

(B) the creation of an international protectorate for Kosova;

(2) there is substantial improvement in the human rights situation in Kosova;

(3) international human rights observers are allowed to return to Kosova; and

(4) the elected government of Kosova is permitted to meet and carry out its legitimate mandate as elected representatives of the people of Kosova.

(c) WAIVER AUTHORITY.—The President may waive the application in whole or in part, of subsection (a) if the President certifies to the Congress that the President has determined that the waiver is necessary to meet emergency humanitarian needs or to achieve a negotiated settlement of the conflict in Bosnia-Herzegovina that is acceptable to the parties. 50 USC 1701 note.

(d) EXPANDED AUTHORITY.—Section 660(b) of the Foreign Assistance Act of 1961 is amended— 22 USC 2420.

(1) in paragraph (3), by striking "or";

(2) in paragraph (4), by striking the period at the end thereof and inserting "; or";

(3) adding the following new paragraphs:

"(5) with respect to assistance, including training, relating to sanctions monitoring and enforcement;

"(6) with respect to assistance provided to reconstitute civilian police authority and capability in the post-conflict restoration of host nation infrastructure for the purposes of supporting a nation emerging from instability, and the provision of professional public safety training, to include training in internationally recognized standards of human rights, the rule of law, anti-corruption, and the promotion of civilian police roles that support democracy.".

SPECIAL AUTHORITIES

SEC. 541. (a) Funds appropriated in title II of this Act that are made available for Afghanistan, Lebanon, and Cambodia, and for victims of war, displaced children, displaced Burmese, humanitarian assistance for Romania, and humanitarian assistance for the peoples of Bosnia-Hercegovina, Croatia, and Kosova, may be made available notwithstanding any other provision of law: *Provided,* That any such funds that are made available for Cambodia shall be subject to the provisions of section 531(e) of the Foreign Assistance Act of 1961 and section 906 of the International Security and Development Cooperation Act of 1985: *Provided further,* That the President shall terminate assistance to any country or organization that he determines is cooperating, tactically or strategically, with the Khmer Rouge in their military operations, or to the military of any country which the President determines is not taking steps to prevent a pattern or practice of commercial relations between its members and the Khmer Rouge.

President.

(b) Funds appropriated by this Act to carry out the provisions of sections 103 through 106 of the Foreign Assistance Act of 1961 may be used, notwithstanding any other provision of law, for the purpose of supporting tropical forestry and energy programs aimed at reducing emissions of greenhouse gases, and for the purpose of supporting biodiversity conservation activities: *Provided,* That such assistance shall be subject to sections 116, 502B, and 620A of the Foreign Assistance Act of 1961.

(c) During fiscal year 1996, the President may use up to $40,000,000 under the authority of section 451 of the Foreign Assistance Act of 1961, notwithstanding the funding ceiling contained in subsection (a) of that section.

(d) The Agency for International Development may employ personal services contractors, notwithstanding any other provision of law, for the purpose of administering programs for the West Bank and Gaza.

POLICY ON TERMINATING THE ARAB LEAGUE BOYCOTT OF ISRAEL

SEC. 542. It is the sense of the Congress that—

(1) the Arab League countries should immediately and publicly renounce the primary boycott of Israel and the secondary and tertiary boycott of American firms that have commercial ties with Israel; and

(2) the President should—

(A) take more concrete steps to encourage vigorously Arab League countries to renounce publicly the primary boycotts of Israel and the secondary and tertiary boycotts of American firms that have commercial relations with Israel as a confidence-building measure;

(B) take into consideration the participation of any recipient country in the primary boycott of Israel and the secondary and tertiary boycotts of American firms that have commercial relations with Israel when determining whether to sell weapons to said country;

Reports.

(C) report to Congress on the specific steps being taken by the President to bring about a public renunciation of the Arab primary boycott of Israel and the secondary and tertiary boycotts of American firms that have commercial relations with Israel; and

(D) encourage the allies and trading partners of the United States to enact laws prohibiting businesses from complying with the boycott and penalizing businesses that do comply.

ANTI-NARCOTICS ACTIVITIES

SEC. 543. (a) Of the funds appropriated or otherwise made available by this Act for "Economic Support Fund", assistance may be provided to strengthen the administration of justice in countries in Latin America and the Caribbean in accordance with the provisions of section 534 of the Foreign Assistance Act of 1961, except that programs to enhance protection of participants in judicial cases may be conducted notwithstanding section 660 of that Act.

(b) Funds made available pursuant to this section may be made available notwithstanding the third sentence of section 534(e) of the Foreign Assistance Act of 1961. Funds made available pursuant to subsection (a) for Bolivia, Colombia and Peru may be made available notwithstanding section 534(c) and the second sentence of section 534(e) of the Foreign Assistance Act of 1961.

ELIGIBILITY FOR ASSISTANCE

SEC. 544. (a) ASSISTANCE THROUGH NONGOVERNMENTAL ORGANIZATIONS.—Restrictions contained in this or any other Act with respect to assistance for a country shall not be construed to restrict assistance in support of programs of nongovernmental organizations from funds appropriated by this Act to carry out the provisions of chapters 1 and 10 of part I of the Foreign Assistance Act of 1961: *Provided,* That the President shall take into consideration, in any case in which a restriction on assistance would be applicable but for this subsection, whether assistance in support of programs of nongovernmental organizations is in the national interest of the United States: *Provided further,* That before using the authority of this subsection to furnish assistance in support of programs of nongovernmental organizations, the President shall notify the Committees on Appropriations under the regular notification procedures of those committees, including a description of the program to be assisted, the assistance to be provided, and the reasons for furnishing such assistance: *Provided further,* That nothing in this subsection shall be construed to alter any existing statutory prohibitions against abortion or involuntary sterilizations contained in this or any other Act.

President.

President.

Abortion.
Sterilization.

(b) PUBLIC LAW 480.—During fiscal year 1996, restrictions contained in this or any other Act with respect to assistance for a country shall not be construed to restrict assistance under the Agricultural Trade Development and Assistance Act of 1954: *Provided,* That none of the funds appropriated to carry out title I of such Act and made available pursuant to this subsection may be obligated or expended except as provided through the regular notification procedures of the Committees on Appropriations.

(c) EXCEPTION.—This section shall not apply—

(1) with respect to section 620A of the Foreign Assistance Act or any comparable provision of law prohibiting assistance to countries that support international terrorism; or

Terrorism.

(2) with respect to section 116 of the Foreign Assistance Act of 1961 or any comparable provision of law prohibiting

Human rights.

assistance to countries that violate internationally recognized human rights.

EARMARKS

SEC. 544A. (a) Funds appropriated by this Act which are earmarked may be reprogrammed for other programs within the same account notwithstanding the earmark if compliance with the earmark is made impossible by operation of any provision of this or any other Act or, with respect to a country with which the United States has an agreement providing the United States with base rights or base access in that country, if the President determines that the recipient for which funds are earmarked has significantly reduced its military or economic cooperation with the United States since enactment of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991; however, before exercising the authority of this subsection with regard to a base rights or base access country which has significantly reduced its military or economic cooperation with the United States, the President shall consult with, and shall provide a written policy justification to the Committees on Appropriations: *Provided,* That any such reprogramming shall be subject to the regular notification procedures of the Committees on Appropriations: *Provided further,* That assistance that is reprogrammed pursuant to this subsection shall be made available under the same terms and conditions as originally provided.

President.

(b) In addition to the authority contained in subsection (a), the original period of availability of funds appropriated by this Act and administered by the Agency for International Development that are earmarked for particular programs or activities by this or any other Act shall be extended for an additional fiscal year if the Administrator of such agency determines and reports promptly to the Committees on Appropriations that the termination of assistance to a country or a significant change in circumstances makes it unlikely that such earmarked funds can be obligated during the original period of availability: *Provided,* That such earmarked funds that are continued available for an additional fiscal year shall be obligated only for the purpose of such earmark.

CEILINGS AND EARMARKS

SEC. 545. Ceilings and earmarks contained in this Act shall not be applicable to funds or authorities appropriated or otherwise made available by any subsequent Act unless such Act specifically so directs.

EXCESS DEFENSE ARTICLES

SEC. 546. (a) The authority of section 519 of the Foreign Assistance Act of 1961, as amended, may be used in fiscal year 1996 to provide nonlethal excess defense articles to countries for which United States foreign assistance has been requested and for which receipt of such articles was separately justified for the fiscal year, without regard to the restrictions in subsection (a) of section 519.

(b) The authority of section 516 of the Foreign Assistance Act of 1961, as amended, may be used in fiscal year 1996 to provide defense articles to Jordan, Estonia, Latvia, and Lithuania.

PROHIBITION ON PUBLICITY OR PROPAGANDA

SEC. 547. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes within the United States not authorized before the date of enactment of this Act by the Congress: *Provided,* That not to exceed $750,000 may be made available to carry out the provisions of section 316 of Public Law 96–533.

USE OF AMERICAN RESOURCES

SEC. 548. To the maximum extent possible, assistance provided under this Act should make full use of American resources, including commodities, products, and services.

PROHIBITION OF PAYMENTS TO UNITED NATIONS MEMBERS

SEC. 549. None of the funds appropriated or made available pursuant to this Act for carrying out the Foreign Assistance Act of 1961, may be used to pay in whole or in part any assessments, arrearages, or dues of any member of the United Nations.

CONSULTING SERVICES

SEC. 550. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to section 3109 of title 5, United States Code, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order pursuant to existing law. Contracts.

PRIVATE VOLUNTARY ORGANIZATIONS—DOCUMENTATION

SEC. 551. None of the funds appropriated or made available pursuant to this Act shall be available to a private voluntary organization which fails to provide upon timely request any document, file, or record necessary to the auditing requirements of the Agency for International Development.

PROHIBITION ON ASSISTANCE TO FOREIGN GOVERNMENTS THAT EXPORT LETHAL MILITARY EQUIPMENT TO COUNTRIES SUPPORTING INTERNATIONAL TERRORISM

SEC. 552. (a) None of the funds appropriated or otherwise made available by this Act may be available to any foreign government which provides lethal military equipment to a country the government of which the Secretary of State has determined is a terrorist government for purposes of section 40(d) of the Arms Export Control Act. The prohibition under this section with respect to a foreign government shall terminate 12 months after that government ceases to provide such military equipment. This section applies with respect to lethal military equipment provided under a contract entered into after the date of enactment of this Act. Termination date.

(b) Assistance restricted by subsection (a) or any other similar provision of law, may be furnished if the President determines that furnishing such assistance is important to the national interests of the United States.

(c) Whenever the waiver of subsection (b) is exercised, the President shall submit to the appropriate congressional committees President. Reports.

a report with respect to the furnishing of such assistance. Any such report shall include a detailed explanation of the assistance to be provided, including the estimated dollar amount of such assistance, and an explanation of how the assistance furthers United States national interests.

WITHHOLDING OF ASSISTANCE FOR PARKING FINES OWED BY FOREIGN COUNTRIES

Reports.

SEC. 553. (a) IN GENERAL.—Of the funds made available for a foreign country under part I of the Foreign Assistance Act of 1961, an amount equivalent to 110 percent of the total unpaid fully adjudicated parking fines and penalties owed to the District of Columbia by such country as of the date of enactment of this Act shall be withheld from obligation for such country until the Secretary of State certifies and reports in writing to the appropriate congressional committees that such fines and penalties are fully paid to the government of the District of Columbia.

(b) DEFINITION.—For purposes of this section, the term "appropriate congressional committees" means the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on International Relations and the Committee on Appropriations of the House of Representatives.

LIMITATION ON ASSISTANCE FOR THE PLO FOR THE WEST BANK AND GAZA

SEC. 554. None of the funds appropriated by this Act may be obligated for assistance for the Palestine Liberation Organization for the West Bank and Gaza unless the President has exercised the authority under section 583(a) of the Middle East Peace Facilitation Act of 1994 (part E of title V of Public Law 103–236) or any other legislation to suspend or make inapplicable section 307 of the Foreign Assistance Act of 1961 and that suspension is still in effect: *Provided,* That if the President fails to make the certification under section 583(b)(2) of the Middle East Peace Facilitation Act or to suspend the prohibition under other legislation, funds appropriated by this Act may not be obligated for assistance for the Palestine Liberation Organization for the West Bank and Gaza.

EXPORT FINANCING TRANSFER AUTHORITIES

SEC. 555. Not to exceed 5 percent of any appropriation other than for administrative expenses made available for fiscal year 1996 for programs under title I of this Act may be transferred between such appropriations for use for any of the purposes, programs and activities for which the funds in such receiving account may be used, but no such appropriation, except as otherwise specifically provided, shall be increased by more than 25 percent by any such transfer: *Provided,* That the exercise of such authority shall be subject to the regular notification procedures of the Committees on Appropriations.

WAR CRIMES TRIBUNALS

SEC. 556. If the President determines that doing so will contribute to a just resolution of charges regarding genocide or other violations of international humanitarian law, the authority of section 552(c) of the Foreign Assistance Act of 1961, as amended,

may be used to provide up to $25,000,000 of commodities and services to the United Nations War Crimes Tribunal established with regard to the former Yugoslavia by the United Nations Security Council or such other tribunals or commissions as the Council may establish to deal with such violations, without regard to the ceiling limitation contained in paragraph (2) thereof: *Provided,* That the determination required under this section shall be in lieu of any determinations otherwise required under section 552(c): *Provided further,* That 60 days after the date of enactment of this Act, and every 180 days thereafter, the Secretary of State shall submit a report to the Committees on Appropriations describing the steps the United States Government is taking to collect information regarding allegations of genocide or other violations of international law in the former Yugoslavia and to furnish that information to the United Nations War Crimes Tribunal for the former Yugoslavia.

Reports.
22 USC 2656 note.

NONLETHAL EXCESS DEFENSE ARTICLES

SEC. 557. Notwithstanding section 519(f) of the Foreign Assistance Act of 1961, during fiscal year 1996, funds available to the Department of Defense may be expended for crating, packing, handling and transportation of nonlethal excess defense articles transferred under the authority of section 519 to countries eligible to participate in the Partnership for Peace and to receive assistance under Public Law 101–179.

LANDMINES

SEC. 558. Notwithstanding any other provision of law, demining equipment available to any department or agency and used in support of the clearing of landmines for humanitarian purposes may be disposed of on a grant basis in foreign countries, subject to such terms and conditions as the President may prescribe: *Provided,* That section 1365(c) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 22 U.S.C., 2778 note) is amended by striking out "During the four-year period beginning on October 23, 1992" and inserting in lieu thereof "During the five-year period beginning on October 23, 1992".

CLARIFICATION OF RESTRICTIONS

SEC. 559. (a) IN GENERAL.—Section 620E of the Foreign Assistance Act of 1961 (22 U.S.C. 2375) is amended—

(1) in subsection (e)—

(A) by striking the words "No assistance" and inserting the words "No military assistance";

(B) by striking the words "in which assistance is to be furnished or military equipment or technology" and inserting the words "in which military assistance is to be furnished or military equipment or technology";

(C) by striking the words "the proposed United States assistance" and inserting the words "the proposed United States military assistance";

(D) by inserting "(1)" immediately after "(e)"; and

(E) by adding the following new paragraphs:

"(2) The prohibitions in this section do not apply to any assistance or transfer provided for the purposes of:

"(A) International narcotics control (including chapter 8 of part I of this Act) or any provision of law available for providing assistance for counternarcotics purposes.

"(B) Facilitating military-to-military contact, training (including chapter 5 of part II of this Act) and humanitarian and civic assistance projects.

"(C) Peacekeeping and other multilateral operations (including chapter 6 of part II of this Act relating to peacekeeping) or any provision of law available for providing assistance for peacekeeping purposes, except that lethal military equipment provided under this subparagraph shall be provided on a lease or loan basis only and shall be returned upon completion of the operation for which it was provided.

"(D) Antiterrorism assistance (including chapter 8 of part II of this Act relating to antiterrorism assistance) or any provision of law available for antiterrorism assistance purposes.

"(3) The restrictions of this subsection shall continue to apply to contracts for the delivery of F–16 aircraft to Pakistan.

"(4) Notwithstanding the restrictions contained in this subsection, military equipment, technology, or defense services, other than F–16 aircraft, may be transferred to Pakistan pursuant to contracts or cases entered into before October 1, 1990."; and

(2) by adding at the end the following new subsections:

"(f) STORAGE COSTS.—The President may release the Government of Pakistan of its contractual obligation to pay the United States Government for the storage costs of items purchased prior to October 1, 1990, but not delivered by the United States Government pursuant to subsection (e) and may reimburse the Government of Pakistan for any such amount paid, on such terms and conditions as the President may prescribe: *Provided,* That such payments have no budgetary impact.

"(g) INAPPLICABILITY OF RESTRICTIONS TO PREVIOUSLY OWNED ITEMS.—Section 620E(e) does not apply to broken, worn or unupgraded items or their equivalent which Pakistan paid for and took possession of prior to October 1, 1990 and which the Government of Pakistan sent to the United States for repair or upgrade. Such equipment or its equivalent may be returned to the Government of Pakistan: *Provided,* That the President determines and so certifies to the appropriate congressional committees that such equipment or equivalent neither constitutes nor has received any significant qualitative upgrade since being transferred to the United States and that its total value does not exceed $25,000,000.

President.

"(h) BALLISTIC MISSILE SANCTIONS NOT AFFECTED.—Nothing contained herein shall affect sanctions for transfers of missile equipment or technology required under section 11B of the Export Administration Act of 1979 or section 73 of the Arms Export Control Act.".

RESTRICTIONS CONCERNING THE PALESTINIAN AUTHORITY

SEC. 560. None of the funds appropriated by this Act may be obligated or expended to create in any part of Jerusalem a new office of any department or agency of the United States Government for the purpose of conducting official United States Government business with the Palestinian Authority over Gaza and Jericho

or any successor Palestinian governing entity provided for in the Israel-PLO Declaration of Principles: *Provided,* That this restriction shall not apply to the acquisition of additional space for the existing Consulate General in Jerusalem: *Provided further*, That meetings between officers and employees of the United States and officials of the Palestinian Authority, or any successor Palestinian governing entity provided for in the Israel-PLO Declaration of Principles, for the purpose of conducting official United States Government business with such authority should continue to take place in locations other than Jerusalem. As has been true in the past, officers and employees of the United States Government may continue to meet in Jerusalem on other subjects with Palestinians (including those who now occupy positions in the Palestinian Authority), have social contacts, and have incidental discussions.

PROHIBITION OF PAYMENT OF CERTAIN EXPENSES

SEC. 561. None of the funds appropriated or otherwise made available by this Act under the heading "INTERNATIONAL MILITARY EDUCATION AND TRAINING" or "FOREIGN MILITARY FINANCING PROGRAM" for Informational Program activities may be obligated or expended to pay for—

(1) alcoholic beverages;

(2) food (other than food provided at a military installation) not provided in conjunction with Informational Program trips where students do not stay at a military installation; or

(3) entertainment expenses for activities that are substantially of a recreational character, including entrance fees at sporting events and amusement parks.

SEC. 562. (a) IN GENERAL.—None of the funds made available in this Act may be used for assistance in support of any country when it is made known to the President that the government of such country prohibits or otherwise restricts, directly or indirectly, the transport or delivery of United States humanitarian assistance.

(b) EXCEPTION.—Funds may be made available with regard to the restriction in subsection (a) if the President determines that to do so is in the national security interest of the United States.

WITHHOLDING OF ASSISTANCE TO COUNTRIES SUPPORTING NUCLEAR PLANT IN CUBA

SEC. 563. (a) WITHHOLDING.—The President shall withhold from assistance made available with funds appropriated or made available pursuant to this Act an amount equal to the sum of assistance and credits, if any, provided on or after the date of the enactment of this Act by that country, or any entity in that country, in support of the completion of the Cuban nuclear facility at Juragua, near Cienfuegos, Cuba. President.

(b) EXCEPTIONS.—The requirement of subsection (a) to withhold assistance shall not apply with respect to—

(1) assistance to meet urgent humanitarian needs including disaster and refugee relief;

(2) democratic political reform and rule of law activities;

(3) the creation of private sector and nongovernmental organizations that are independent of government control;

(4) the development of a free market economic system; and

(5) assistance for the purposes described in the Cooperative Threat Reduction Act of 1993 (title XII of Public Law 103–160).

LIMITATION ON FUNDS FOR HAITI

Effective date.

SEC. 564. Effective March 1, 1996, none of the funds appropriated in this Act may be made available to the Government of Haiti when it is made known to the President that such Government is controlled by a regime holding power through means other than the democratic elections scheduled for calendar year 1995 and held in substantial compliance with the requirements of the 1987 Constitution of Haiti.

PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS

SEC. 565. (a) SENSE OF CONGRESS.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American-made.

(b) NOTICE REQUIREMENT.—In providing financial assistance to, or entering into any contract with, any entity using funds made available in this Act, the head of each Federal agency, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.

LIMITATION ON ASSISTANCE TO TURKEY

SEC. 566. Not more than $33,500,000 of the funds appropriated in this Act under the heading "Economic Support Fund" may be made available to the Government of Turkey.

LIMITATION OF FUNDS FOR NORTH AMERICAN DEVELOPMENT BANK

SEC. 566A. None of the funds appropriated in this Act under the heading "North American Development Bank" and made available for the Community Adjustment and Investment Program shall be used for purposes other than those set out in the binational agreement establishing the Bank.

LIMITATION ON FUNDS FOR BURMA

SEC. 567. None of the funds made available in this Act may be used for International Narcotics Control or Crop Substitution Assistance for the Government of Burma.

ASIAN DEVELOPMENT BANK

SEC. 568. The Secretary of the Treasury may, to fulfill commitments of the United States, subscribe to and make payments for shares of the Asian Development Bank in connection with the fourth general capital increase of the Bank. The amount authorized to be appropriated for paid-in shares of the Bank is limited to $66,614,647; the amount authorized to be appropriated for payment for callable shares of the Bank is limited to $3,264,178,021. The amount to be paid in respect of each subscription is authorized to be appropriated without fiscal year limitation. Any subscription by the United States to the capital stock of the Bank shall be

effective only to such extent or in such amounts as are provided in advance in appropriations Acts.

INTERNATIONAL DEVELOPMENT ASSOCIATION

SEC. 569. In order to pay for the United States contribution to the tenth replenishment of the resources of the International Development Association authorized in section 526 of Public Law 103–87, there is authorized to be appropriated, without fiscal year limitation, $700,000,000 for payment by the Secretary of the Treasury.

SPECIAL DEBT RELIEF FOR THE POOREST

SEC. 570. (a) AUTHORITY TO REDUCE DEBT.—The President may reduce amounts owed to the United States (or any agency of the United States) by an eligible country as a result of—

(1) guarantees issued under sections 221 and 222 of the Foreign Assistance Act of 1961; or

(2) credits extended or guarantees issued under the Arms Export Control Act.

(b) LIMITATIONS.—

(1) The authority provided by subsection (a) may be exercised only to implement multilateral official debt relief and referendum agreements, commonly referred to as "Paris Club Agreed Minutes".

(2) The authority provided by subsection (a) may be exercised only in such amounts or to such extent as is provided in advance by appropriations Acts.

(3) The authority provided by subsection (a) may be exercised only with respect to countries with heavy debt burdens that are eligible to borrow from the International Development Association, but not from the International Bank for Reconstruction and Development, commonly referred to as "IDA-only" countries.

(c) CONDITIONS.—The authority provided by subsection (a) may be exercised only with respect to a country whose government—

(1) does not have an excessive level of military expenditures;

(2) has not repeatedly provided support for acts of international terrorism;

(3) is not failing to cooperate on international narcotics control matters;

(4) (including its military or other security forces) does not engage in a consistent pattern of gross violations of internationally recognized human rights; and

(5) is not ineligible for assistance because of the application of section 527 of the Foreign Relations Authorization Act, fiscal years 1994 and 1995.

(d) AVAILABILITY OF FUNDS.—The authority provided by subsection (a) may be used only with regard to funds appropriated by this Act under the heading "Debt Restructuring".

(e) CERTAIN PROHIBITIONS INAPPLICABLE.—A reduction of debt pursuant to subsection (a) shall not be considered assistance for purposes of any provision of law limiting assistance to a country. The authority provided by subsection (a) may be exercised notwithstanding section 620(r) of the Foreign Assistance Act of 1961.

AUTHORITY TO ENGAGE IN DEBT BUYBACKS OR SALES

SEC. 571. (a) LOANS ELIGIBLE FOR SALE, REDUCTION, OR CANCELLATION.—

(1) AUTHORITY TO SELL, REDUCE, OR CANCEL CERTAIN LOANS.—Notwithstanding any other provision of law, the President may, in accordance with this section, sell to any eligible purchaser any concessional loan or portion thereof made before January 1, 1995, pursuant to the Foreign Assistance Act of 1961, to the government of any eligible country as defined in section 702(6) of that Act or on receipt of payment from an eligible purchaser, reduce or cancel such loan or portion thereof, only for the purpose of facilitating—

(A) debt-for-equity swaps, debt-for-development swaps, or debt-for-nature swaps; or

(B) a debt buyback by an eligible country of its own qualified debt, only if the eligible country uses an additional amount of the local currency of the eligible country, equal to not less than 40 percent of the price paid or such debt by such eligible country, or the difference between the price paid for such debt and the face value of such debt, to support activities that link conservation and sustainable use of natural resources with local community development, and child survival and other child development, in a manner consistent with section 707 through 710 of the Foreign Assistance Act of 1961, if the sale, reduction, or cancellation would not contravene any term or condition of any prior agreement relating to such loan.

President. (2) TERMS AND CONDITIONS.—Notwithstanding any other provision of law, the President shall, in accordance with this section, establish the terms and conditions under which loans may be sold, reduced, or canceled pursuant to this section.

(3) ADMINISTRATION.—The Facility, as defined in section 702(8) of the Foreign Assistance Act of 1961, shall notify the administrator of the agency primarily responsible for administering part I of the Foreign Assistance Act of 1961 of purchasers that the President has determined to be eligible, and shall direct such agency to carry out the sale, reduction, or cancellation of a loan pursuant to this section. Such agency shall make an adjustment in its accounts to reflect the sale, reduction, or cancellation.

(4) LIMITATION.—The authorities of this subsection shall be available only to the extent that appropriations for the cost of the modification, as defined in section 502 of the Congressional Budget Act of 1974, are made in advance.

(b) DEPOSIT OF PROCEEDS.—The proceeds from the sale, reduction, or cancellation of any loan sold, reduced, or canceled pursuant to this section shall be deposited in the United States Government account or accounts established for the repayment of such loan.

(c) ELIGIBLE PURCHASERS.—A loan may be sold pursuant to subsection (a)(1)(A) only to a purchaser who presents plans satisfactory to the President for using the loan for the purpose of engaging in debt-for-equity swaps, debt-for-development swaps, or debt-for-nature swaps.

President. (d) DEBTOR CONSULTATIONS.—Before the sale to any eligible purchaser, or any reduction or cancellation pursuant to this section, of any loan made to an eligible country, the President shall consult

with the country concerning the amount of loans to be sold, reduced, or canceled and their uses for debt-for-equity swaps, debt-for-development swaps, or debt-for-nature swaps.

(e) AVAILABILITY OF FUNDS.—The authority provided by subsection (a) may be used only with regard to funds appropriated by this Act under the heading "Debt Restructuring".

DRAWDOWN AUTHORITY FOR JORDAN

SEC. 572. During fiscal year 1996, the President may direct, for the purposes of part II of the Foreign Assistance Act of 1961, the drawdown for Jordan of defense articles from the stocks of the Department of Defense, defense services of the Department of Defense, and military education and training of up to an aggregate of $100,000,000: *Provided,* That—

(a) within six months of the last drawdown under subsection (a), the President shall submit a report to the Committee on Appropriations identifying the articles, services, training or education provided; President. Reports.

(b) section 506(c) of the Foreign Assistance Act of 1961 shall apply to the drawdown authority in this section; and

(c) section 632(d) of the Foreign Assistance Act of 1961 shall not apply with respect to drawdowns under this section.

LIBERIA

SEC. 573. (a) Public Law 102–270 is amended— 22 USC 2151 note.

(1) in subsection (b) by striking "Notwithstanding section 620(q) of the Foreign Assistance Act of 1961 or any other similar provision, the" and inserting "The"; and

(2) in subsection (b)(2) by striking "to implement the Yamoussoukro peace accord".

(b) Funds appropriated by this Act may be made available for assistance for Liberia notwithstanding section 620(q) of the Foreign Assistance Act of 1961 and section 512 of this Act.

ANNUAL REPORT ON ECONOMIC AND SOCIAL GROWTH

SEC. 574. (a) REPORTING REQUIREMENT.—The President shall submit to the appropriate congressional committees an annual report providing a concise overview of the prospects for economic and social growth on a broad, equitable, and sustainable basis in the countries receiving economic assistance under title II of this Act. For each country, the report shall discuss the laws, policies and practices of that country that most contribute to or detract from the achievement of this kind of growth. The report should address relevant macroeconomic, microeconomic, social, legal, environmental, and political factors and include criteria regarding wage and price controls, State ownership of production and distribution, State control of financial institutions, trade and foreign investment, capital and profit repatriation, tax and private property protections and a country's commitment to stimulate education, health and human development. President. 22 USC 2394 note.

(b) COUNTRIES.—The countries referred to in subsection (a) are countries—

(1) for which in excess of $5,000,000 has been obligated during the previous fiscal year for assistance under sections 103 through 106, chapters 10 and 11 of part I, and chapter

4 of part II of the Foreign Assistance of 1961, and under the Support for East European Democracy Act of 1989; or

(2) for which in excess of $1,000,000 has been obligated during the previous fiscal year by the Overseas Private Investment Corporation.

(c) CONSULTATION.—The Secretary of State shall submit the report required by subsection (a) in consultation with the Secretary of the Treasury, the Administrator of the Agency for International Development, and the President of the Overseas Private Investment Corporation. The report shall be submitted with the annual congressional presentation for appropriations.

SEC. 575. To the maximum extent possible, the funds provided by this Act shall be used to provide surveying and mapping related services through contracts entered into through competitive bidding to qualified United States contractors.

REPORTS REGARDING HONG KONG

SEC. 576. (a) Section 301 of the United States-Hong Kong Policy Act of 1992 (22 U.S.C. 5731) is amended in the text above paragraph (1) by inserting "March 31, 1996," after "March 31, 1995,".

22 USC 5731 note.

(b) In light of the deficiencies in reports submitted to the Congress pursuant to section 301 of the United States-Hong Kong Policy Act (22 U.S.C. 5731), the Congress directs that the additional report required to be submitted under such section by subsection (a) of this section include detailed information on the status of, and other developments affecting, implementation of the Sino-British Joint Declaration on the Question of Hong Kong, including—

(1) the Basic Law and its consistency with the Joint Declaration;

(2) the openness and fairness of elections to the legislature;

(3) the openness and fairness of the election of the chief executive and the executive's accountability to the legislature;

(4) the treatment of political parties;

(5) the independence of the judiciary and its ability to exercise the power of final judgment over Hong Kong law; and

(6) the Bill of Rights.

SEC. 577. Notwithstanding any other provision of this Act, $20,000,000 of the funds made available under the headings "Development Assistance" and/or "Economic Support Fund" may be transferred to, and merged with, the appropriations account entitled "International Narcotics Control" and may be available for the same purposes for which funds in such account are available.

GUATEMALA

SEC. 578. (a) Funds provided in this Act may be made available for the Guatemalan military or security forces, and the restrictions on Guatemala under the headings "International Military Education and Training" and "Foreign Military Financing Program" shall not apply, only if the President determines and certifies to the Congress that the Guatemalan military is cooperating with efforts to resolve human rights abuses which elements of the Guatemalan military

or security forces are alleged to have committed, ordered or attempted to thwart the investigation of.

(b) The prohibition contained in subsection (a) shall not apply to funds made available to implement a cease-fire or peace agreement.

(c) Any funds made available pursuant to subsections (a) or (b) shall be subject to the regular notification procedures of the Committees on Appropriations.

(d) Any funds made available pursuant to subsections (a) and (b) for international military education and training may only be for expanded international military education and training.

EXTENSION OF TIED AID CREDIT PROGRAM

SEC. 579. (a) Section 10(c)(2) of the Export-Import Bank Act of 1945 (12 U.S.C. 635i–3(c)(2) is amended by striking "1995" and inserting "1997".

(b) Section 10(e) of the Export-Import Bank Act of 1945 (12 U.S.C. 635i–3(e)) is amended by striking "1993, 1994, and 1995" and inserting "1996 and 1997".

MORATORIUM ON USE OF ANTIPERSONNEL LANDMINES

SEC. 580. (a) UNITED STATES MORATORIUM.—For a period of one year beginning three years after the date of enactment of this Act, the United States shall not use antipersonnel landmines except along internationally recognized national borders or in demilitarized zones within a perimeter marked area that is monitored by military personnel and protected by adequate means to ensure the exclusion of civilians.

(b) DEFINITION AND EXEMPTIONS.—For the purposes of this section:

(1) ANTIPERSONNEL LANDMINE.—The term "antipersonnel landmine" means any munition placed under, on, or near the ground or other surface area, delivered by artillery, rocket, mortar, or similar means, or dropped from an aircraft and which is designed, constructed or adapted to be detonated or exploded by the presence, proximity, or contact of a person.

(2) EXEMPTIONS.—The term "antipersonnel landmine" does not include command detonated Claymore munitions.

EXTENSION OF AU PAIR PROGRAMS

SEC. 581. Section 8 of the Eisenhower Exchange Fellowship Act of 1990 is amended in the last sentence by striking "fiscal year 1995" and inserting "fiscal year 1996". 104 Stat. 1065.

SANCTIONS AGAINST COUNTRIES HARBORING WAR CRIMINALS

SEC. 582. (a) BILATERAL ASSISTANCE.—Funds appropriated by this Act under the Foreign Assistance Act of 1961 or the Arms Export Control Act may not be provided for any country described in subsection (c).

(b) MULTILATERAL ASSISTANCE.—The Secretary of the Treasury shall instruct the United States executive directors of the international financial institutions to work in opposition to, and vote against, any extension by such institutions of financing or financial or technical assistance to any country described in subsection (c).

(c) SANCTIONED COUNTRIES.—A country described in this subsection is a country the government of which knowingly grants sanctuary to persons in its territory for the purpose of evading prosecution, where such persons—

(1) have been indicted by the International Criminal Tribunal for the former Yugoslavia, the International Criminal Tribunal for Rwanda, or any other international tribunal with similar standing under international law, or

(2) have been indicted for war crimes or crimes against humanity committed during the period beginning March 23, 1933 and ending on May 8, 1945 under the direction of, or in association with—

(A) the Nazi government of Germany;

(B) any government in any area occupied by the military forces of the Nazi government of Germany;

(C) any government which was established with the assistance or cooperation of the Nazi government; or

(D) any government which was an ally of the Nazi government of Germany.

LIMITATION ON ASSISTANCE FOR HAITI

Reports.

SEC. 583. (a) LIMITATION.—None of the funds appropriated or otherwise made available by this Act, may be provided to the Government of Haiti until the President reports to Congress that—

(1) the Government is conducting thorough investigations of extrajudicial and political killings; and

(2) the Government is cooperating with United States authorities in the investigations of political and extrajudicial killings.

(b) Nothing in this section shall be construed to restrict the provision of humanitarian or electoral assistance.

(c) The President may waive the requirements of this section if he determines and certifies to the appropriate committees of Congress that it is in the national interest of the United States or necessary to assure the safe and timely withdrawal of American forces from Haiti.

LIMITATION ON FUNDS TO THE TERRITORY OF THE BOSNIAC-CROAT FEDERATION.

SEC. 584. Funds appropriated by this Act for activities in the internationally-recognized borders of Bosnia and Herzegovina (other than refugee and disaster assistance and assistance for restoration of infrastructure, to include power grids, water supplies and natural gas) may only be made available for activities in the territory of the Bosniac-Croat Federation.

NATO PARTICIPATION

SEC. 585. REVISIONS TO PROGRAM TO FACILITATE TRANSITION TO NATO MEMBERSHIP.—

(a) ELIGIBLE COUNTRIES.—Subsection (d) of section 203 of the NATO Participation Act of 1994 (title II of Public Law 103–447; 22 U.S.C. 1928 note) is amended to read as follows:

"(d) DESIGNATION OF ELIGIBLE COUNTRIES.—

"(1) INITIAL PRESIDENTIAL REVIEW AND DESIGNATION.—Within 60 days of the enactment of the NATO Participation

Act Amendments of 1995, the President should evaluate the degree to which any country emerging from communist domination which has expressed its interest in joining NATO meets the criteria set forth in paragraph (3), and may designate one or more of these countries as eligible to receive assistance under the program established under subsection (a). The President shall, at the time of designation of any country pursuant to this paragraph, determine and report to the Committees on International Relations and Appropriations of the House of Representatives and the Committees on Foreign Relations and Appropriations of the Senate with respect to each country so designated that such country meets the criteria set forth in paragraph (3).

"(2) OTHER EUROPEAN COUNTRIES EMERGING FROM COMMUNIST DOMINATION.—In addition to the countries designated pursuant to paragraph (1), the President may at any time designate other European countries emerging from communist domination as eligible to receive assistance under the program established under subsection (a). The President shall, at the time of designation of any country pursuant to this paragraph, determine and report to the Committees on International Relations and Appropriations of the House of Representatives and the Committees on Foreign Relations and Appropriations of the Senate with respect to each country so designated that such country meets the criteria set forth in paragraph (3). Reports.

"(3) CRITERIA.—The criteria referred to in paragraphs (1) and (2) are, with respect to each country, that the country—

"(A) has made significant progress toward establishing—

"(i) shared values and interests;

"(ii) democratic governments;

"(iii) free market economies;

"(iv) civilian control of the military, of the police, and of intelligence services, so that these organizations do not pose a threat to democratic institutions, neighboring countries, or the security of NATO or the United States;

"(v) adherence to the rule of law and to the values, principles, and political commitments set forth in the Helsinki Final Act and other declarations by the members of the Organization on Security and Cooperation in Europe;

"(vi) commitment to further the principles of NATO and to contribute to the security of the North Atlantic area;

"(vii) commitment to protecting the rights of all their citizens and respecting the territorial integrity of their neighbors;

"(viii) commitment and ability to accept the obligations, responsibilities, and costs of NATO membership; and

"(ix) commitment and ability to implement infrastructure development activities that will facilitate participation in and support for NATO military activities;

"(B) is likely, within five years of such determination, to be in a position to further the principles of the North

Atlantic Treaty and to contribute to the security of the North Atlantic area; and

"(C) is not ineligible to receive assistance under section 552 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996, with respect to transfers of equipment to a country the government of which the Secretary of State has determined is a terrorist government for purposes of section 40(d) of the Arms Export Control Act.".

(2) CONFORMING AMENDMENTS.—

(A) Subsections (b) and (c) of section 203 of such Act are amended by striking "countries described in such subsection" each of the two places it appears and inserting "countries designated under subsection (d)".

(B) Subsection (e) of section 203 of such Act is amended by inserting "(22 U.S.C. 2394–1), and shall include with such notification a memorandum of justification with respect to the proposed designation" before the period at the end.

(b) TYPES OF ASSISTANCE.—Section 203(c) of such Act is amended by inserting after paragraph (4) the following new paragraphs:

"(5) Assistance under chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the Economic Support Fund).

"(6) Funds appropriated under the "Nonproliferation and Disarmament Fund" account.

"(7) Assistance under chapter 6 of part II of the Foreign Assistance Act of 1961 (relating to peacekeeping operations and other programs).

"(8) Notwithstanding any other provision of law, including any restrictions in sections 516 and 519 of the Foreign Assistance Act of 1961, as amended, the President may direct the crating, packing, handling, and transportation of excess defense articles provided pursuant to paragraphs (1) and (2) of this subsection without charge to the recipient of such articles.".

(c) EFFECT ON OTHER AUTHORITIES.—Section 203 of the NATO Participation Act of 1994 (title II of Public Law 103–447, 22 U.S.C. 1928 note), is amended to add a new subsection (g) to read as follows:

"(g) EFFECT ON OTHER AUTHORITIES.—Nothing in this Act shall affect the eligibility of countries to participate under other provisions of law in programs described in this Act.".

(d) ANNUAL REPORT.—Section 205 of the NATO Participation Act of 1994 (title II of Public Law 103–447; 22 U.S.C. 1928 note) is amended:

(1) by inserting "ANNUAL" in the section heading before the first word;

(2) by inserting "annual" after "include in the" in the matter preceding paragraph (1); and

(3) in paragraphs (1) and (2), by striking "and other" and all that follows through the period at the end and in both instances inserting in lieu thereof "and any other country designated by the President pursuant to section 203(d).".

TITLE VI—MIDDLE EAST PEACE FACILITATION ACT OF 1995

Middle East Peace Facilitation Act of 1995.

SHORT TITLE

SEC. 601. This title may be cited as the "Middle East Peace Facilitation Act of 1995".

FINDINGS

SEC. 602. The Congress finds that—

(1) the Palestine Liberation Organization (hereafter the "P.L.O.") has recognized the State of Israel's right to exist in peace and security, accepted United Nations Security Council Resolutions 242 and 338, committed itself to the peace process and peaceful coexistence with Israel, free from violence and all other acts which endanger peace and stability, and assumed responsibility over all P.L.O. elements and personnel in order to assure their compliance, prevent violations, and discipline violators;

(2) Israel has recognized the P.L.O. as the representative of the Palestinian people;

(3) Israel and the P.L.O. signed a Declaration of Principles on Interim Self-Government Arrangements (hereafter the "Declaration of Principles") on September 13, 1993 at the White House;

(4) Israel and the P.L.O. signed an Agreement on the Gaza Strip and the Jericho Area (hereafter the "Gaza-Jericho Agreement") on May 4, 1994 which established a Palestinian Authority for the Gaza and Jericho areas;

(5) Israel and the P.L.O. signed an Agreement on Preparatory Transfer of Powers and Responsibilities (hereafter the "Early Empowerment Agreement") on August 29, 1994 which provided for the transfer to the Palestinian Authority of certain powers and responsibilities in the West Bank outside of the Jericho Area;

(6) under the terms of the Israeli-Palestinian Interim Agreement on the West Bank and Gaza (hereafter the "Interim Agreement) signed on September 28, 1995, the Declaration of Principles, the Gaza-Jericho Agreement and the Early Empowerment Agreement, the powers and responsibilities of the Palestinian Authority are to be assumed by an elected Palestinian Council with jurisdiction in the West Bank and Gaza Strip in accordance with the Interim Agreement;

(7) permanent status negotiations relating to the West Bank and Gaza Strip are scheduled to begin by May 1996;

(8) the Congress has, since the conclusion of the Declaration of Principles and the P.L.O.'s renunciation of terrorism, provided authorities to the President to suspend certain statutory restrictions relating to the P.L.O., subject to Presidential certifications that the P.L.O. has continued to abide by commitments made in and in connection with or resulting from the good faith implementation of, the Declaration of Principles;

(9) the P.L.O. commitments relevant to Presidential certifications have included commitments to renounce and condemn terrorism, to submit to the Palestinian National Council for former approval the necessary changes to those articles of the Palestinian Covenant which call for Israel's destruction, and to prevent acts of terrorism and hostilities against Israel; and

(10) the United States is resolute in its determination to ensure that in providing assistance to Palestinians living under the jurisdiction of the Palestinian Authority or elsewhere, the beneficiaries of such assistance shall be held to the same standard of financial accountability and management control as any other recipient of United States assistance.

SENSE OF CONGRESS

SEC. 603. It is the sense of the Congress that the P.L.O. must do far more to demonstrate an irrevocable denunciation of terrorism and ensure a peaceful settlement of the Middle East dispute, and in particular it must—

(1) submit to the Palestinian National Council for formal approval the necessary changes to those articles of the Palestinian National Covenant which call for Israel's destruction;

(2) make greater efforts to pre-empt acts of terror, discipline violators and contribute to stemming the violence that has resulted in the deaths of over 140 Israeli and United States citizens since the signing of the Declaration of Principles;

(3) prohibit participation in its activities and in the Palestinian Authority and its successors by any groups or individuals which continue to promote and commit acts of terrorism;

(4) cease all anti-Israel rhetoric, which potentially undermines the peace process;

(5) confiscate all unlicensed weapons;

(6) transfer and cooperate in transfer proceedings relating to any person accused by Israel to acts of terrorism; and

(7) respect civil liberties, human rights and democratic norms.

AUTHORITY TO SUSPEND CERTAIN PROVISIONS

SEC. 604. (a) IN GENERAL.—Subject to subsection (b), beginning on the date of enactment of this Act and for eighteen months thereafter, the President may suspend for a period of not more than 6 months at a time any provision of law specified in subsection (d). Any such suspension shall cease to be effective after 6 months, or at such earlier date as the President may specify.

(b) CONDITIONS.—

President.

(1) CONSULTATIONS.—Prior to each exercise of the authority provided in subsection (a) or certification pursuant to subsection (c), the President shall consult with the relevant congressional committees. The President may not exercise that authority or make such certification until 30 days after a written policy justification is submitted to the relevant congressional committees.

(2) PRESIDENTIAL CERTIFICATION.—The President may exercise the authority provided in subsection (a) only if the President certifies to the relevant congressional committees each time he exercises such authority that—

(A) it is in the national interest of the United States to exercise such authority;

(B) the P.L.O., the Palestinian Authority, and successor entities are complying with all the commitments described in paragraph (4); and

(C) funds provided pursuant to the exercise of this authority and the authorities under section 583(a) of Public

Law 103–236 and section 3(a) of Public Law 103–125 have been used for the purposes for which they were intended.

(3) REQUIREMENT FOR CONTINUING P.L.O. COMPLIANCE.—

(A) The President shall ensure that P.L.O. performance is continuously monitored and if the President at any time determines that the P.L.O. has not continued to comply with all the commitments described in paragraph (4), he shall so notify the relevant congressional committees and any suspension under subsection (a) of a provision of law specified in subsection (d) shall cease to be effective. President.

(B) Beginning six months after the date of enactment of this Act, if the President on the basis of the continuous monitoring of the P.L.O.'s performance determines that the P.L.O. is not complying with the requirements described in subsection (c), he shall so notify the relevant congressional committees and no assistance shall be provided pursuant to the exercise by the President of the authority provided by subsection (a) until such time as the President makes the certification provided for in subsection (c).

(4) P.L.O. COMMITMENTS DESCRIBED.—The commitments referred to in paragraphs (2)(B) and (3)(A) are the commitments made by the P.L.O.—

(A) in its letter of September 9, 1993, to the Prime Minister of Israel; in its letter of September 9, 1993, to the Foreign Minister of Norway to—

(i) recognize the right of the State of Israel to exist in peace and security;

(ii) accept United Nations Security Council Resolutions 242 and 338;

(iii) renounce the use of terrorism and other acts of violence;

(iv) assume responsibility over all P.L.O. elements and personnel in order to assure their compliance, prevent violations and discipline violators;

(v) call upon the Palestinian people in the West Bank and Gaza Strip to take part in the steps leading to the normalization of life, rejecting violence and terrorism, and contributing to peace and stability; and

(vi) submit to the Palestine National Council for formal approval the necessary changes to the Palestinian National Covenant eliminating calls for Israel's destruction, and

(B) in, and resulting from, the good faith implementation of the Declaration of Principles, including good faith implementation of subsequent agreements with Israel, with particular attention to the objective of preventing terrorism, as reflected in the provisions of the Interim Agreement concerning—

(i) prevention of acts of terrorism and legal measures against terrorists, including the arrest and prosecution of individuals suspected of perpetrating acts of violence and terror;

(ii) abstention from and prevention of incitement, including hostile propaganda;

(iii) operation of armed forces other than the Palestinian Police;

(iv) possession, manufacture, sale, acquisition or importation of weapons;

(v) employment of police who have been convicted of serious crimes or have been found to be actively involved in terrorist activities subsequent to their employment;

(vi) transfers to Israel of individuals suspected of, charged with, or convicted of an offense that falls within Israeli criminal jurisdiction;

(vii) cooperation with the government of Israel in criminal matters, including cooperation in the conduct of investigations; and

(viii) exercise of powers and responsibilities under the agreement with due regard to internationally accepted norms and principles of human rights and the rule of law.

President. Reports.

(5) POLICY JUSTIFICATION.—As part of the President's written policy justification to be submitted to the relevant Congressional Committees pursuant to paragraph (1), the President will report on—

(A) the manner in which the P.L.O. has complied with the commitments specified in paragraph (4), including responses to individual acts of terrorism and violence, actions to discipline perpetrators of terror and violence, and actions to preempt acts of terror and violence;

(B) the extent to which the P.L.O. has fulfilled the requirements specified in subsection (c);

(C) actions that the P.L.O. has taken with regard to the Arab League boycott of Israel;

(D) the status and activities of the P.L.O. office in the United States;

(E) all United States assistance which benefits, directly or indirectly, the projects, programs, or activities of the Palestinian Authority in Gaza, Jericho, or any other area it may control, since September 13, 1993, including—

(i) the obligation and disbursal of such assistance, by project, activity, and date, as well as by prime contractor and all subcontractors;

(ii) the organizations or individuals responsible for the receipt and obligation of such assistance;

(iii) the intended beneficiaries of such assistance; and

(iv) the amount of international donor funds that benefit the P.L.O. or the Palestinian Authority in Gaza, Jericho, or any other area the P.L.O. or the Palestinian Authority may control, and to which the United States is a contributor; and

(F) statements by senior officials of the P.L.O., the Palestinian Authority, and successor entities that question the right of Israel to exist or urge armed conflict with or terrorism against Israel or its citizens, including an assessment of the degree to which such statements reflect official policy of the P.L.O., the Palestinian Authority, or successor entities.

(c) REQUIREMENT FOR CONTINUED PROVISION OF ASSISTANCE.—Six months after the enactment of this Act, United States assistance shall not be provided pursuant to the exercise by the President

of the authority provided by subsection (a), unless and until the President determines and so certifies to the Congress that—

(1) if the Palestinian Council has been elected and assumed its responsibilities, it has, within 2 months, effectively disavowed and thereby nullified the articles of the Palestine National Covenant which call for Israel's destruction, unless the necessary changes to the Covenant have already been approved by the Palestine National Council;

(2) the P.L.O., the Palestinian Authority, and successor entities have exercised their authority resolutely to establish the necessary enforcement institutions; including laws, police, and a judicial system, for apprehending, transferring, prosecuting, convicting, and imprisoning terrorists;

(3) the P.L.O., has limited participation in the Palestinian Authority and its successors to individuals and groups that neither engage in nor practice terrorism or violence in the implementation of their political goals;

(4) the P.L.O., the Palestinian Authority, and successor entities have not provided any financial or material assistance or training to any group, whether or not affiliated with the P.L.O., to carry out actions inconsistent with the Declaration of Principles, particularly acts of terrorism against Israel;

(5) the P.L.O., the Palestinian Authority, or successor entities have cooperated in good faith with Israeli authorities in—

(A) the preemption of acts of terrorism;

(B) the apprehension, trial, and punishment of individuals who have planned or committed terrorist acts subject to the jurisdiction of the Palestinian Authority or any successor entity; and

(C) the apprehension of and transfer to Israeli authorities of individuals suspected of, charged with, or convicted of, planning or committing terrorist acts subject to Israeli jurisdiction in accordance with the specific provisions of the Interim Agreement;

(6) the P.L.O., the Palestinian Authority, and successor entities have exercised their authority resolutely to enact and implement laws requiring the disarming of civilians not specifically licensed to possess or carry weapons;

(7) the P.L.O., the Palestinian Authority, and successor entities have not funded, either partially or wholly, or have ceased funding, either partially or wholly, any office, or other presence of the Palestinian Authority in Jerusalem unless established by specific agreement between Israel and the P.L.O., the Palestinian Authority, or successor entities;

(8) the P.L.O., the Palestinian Authority, and successor entities are cooperating fully with the Government of the United States on the provision of information on United States nationals known to have been held at any time by the P.L.O. or factions thereof; and

(9) the P.L.O., the Palestinian Authority, and successor entities have not, without the agreement of the Government of Israel, taken any steps that will change the status of Jerusalem or the West Bank and Gaza Strip, pending the outcome of the permanent status negotiations.

(d) PROVISIONS THAT MAY BE SUSPENDED.—The provisions that may be suspended under the authority of subsection (a) are the following:

(1) Section 307 of the Foreign Assistance Act of 1961 (22 U.S.C. 2227) as it applies with respect to the P.L.O. or entities associated with it.

(2) Section 114 of the Department of State Authorization Act, fiscal years 1984 and 1985 (22 U.S.C. 287e note) as it applies with respect to the P.L.O. or entities associated with it.

(3) Section 1003 of the Foreign Relations Authorization Act, fiscal years 1988 and 1989 (22 U.S.C. 5202).

(4) Section 37 of the Bretton Woods Agreement Act (22 U.S.C. 286W) as it applies on the granting to the P.L.O. of observer status or other official status at any meeting sponsored by or associated with the International Monetary Fund. As used in this paragraph, the term "other official status" does not include membership in the International Monetary Fund.

(e) DEFINITIONS.—As used in this title:

(1) RELEVANT CONGRESSIONAL COMMITTEES.—The term "relevant congressional committees" mean—

(A) the Committee on International Relations, the Committee on Banking and Financial Services, and the Committee on Appropriations of the House of Representatives; and

(B) the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

(2) UNITED STATES ASSISTANCE.—The term "United States assistance" means any form of grant, loan, loan guarantee, credit, insurance, in kind assistance, or any other form of assistance.

TRANSITION PROVISION

SEC. 605. (a) IN GENERAL.—Section 583(a) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236) is amended by striking "November 1, 1995" and inserting "January 1, 1996".

108 Stat. 488.

(b) CONSULTATION.—For purposes of any exercise of the authority provided in section 583(a) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236) prior to November 15, 1995, the written policy justification dated June 1, 1995, and submitted to the Congress in accordance with section 583(b)(1) of such Act, and the consultations associated with such policy justification, shall be deemed to satisfy the requirements of section 583(b)(1) of such Act.

REPORTING REQUIREMENT

SEC. 606. Section 804(b) of the PLO Commitments Compliance Act of 1989 (title VIII of Public Law 101–246) is amended—

104 Stat. 78.

(1) in the matter preceding paragraph (1), by striking "section (3)(b)(1) of the Middle East Peace Facilitation Act of 1994" and inserting "section 604(b)(1) of the Middle East Peace Facilitation Act of 1995"; and

(2) in paragraph (1), by striking "section (4)(a) of the Middle East Peace Facilitation Act of 1994 (Oslo commitments)" and inserting "section 604(b)(4) of the Middle East Peace Facilitation Act of 1995".

This Act may be cited as the "Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996".

Approved February 12, 1996.

*LEGISLATIVE HISTORY—H.R. 1868:

HOUSE REPORTS: Nos. 104–143 (Comm. on Appropriations) and 104–295 (Comm. of Conference).
SENATE REPORTS: No. 104–143 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 141 (1995):
June 22, 27, 28, July 11, considered and passed House.
Sept. 20, 21, considered and passed Senate, amended.
Oct. 31, House agreed to conference report; receded and concurred in Senate amendment No. 115 with an amendment.
Nov. 1, Senate agreed to conference report; concurred in House amendment to Senate amendment No. 115 with an amendment.
Nov. 15, House disagreed to Senate amendment. Senate receded from its amendment No. 115.
Dec. 13, House receded from its amendment to Senate amendment No. 115 and concurred with an amendment.

*Note: Pursuant to sec. 301, Public Law 104–99, 110 Stat. 38, as enacted on January 26, 1996, House and Senate disposed of Senate amendment No. 115 as if enacted into law.

Public Law 104–108
104th Congress

An Act

Feb. 12, 1996
[H.R. 2111]

To designate the Federal building located at 1221 Nevin Avenue in Richmond, California, as the "Frank Hagel Federal Building".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Federal building located at 1221 Nevin Avenue in Richmond, California, shall be known and designated as the "Frank Hagel Federal Building".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in section 1 shall be deemed to be a reference to the "Frank Hagel Federal Building".

Approved February 12, 1996.

LEGISLATIVE HISTORY—H.R. 2111 (S. 1076):

HOUSE REPORTS: No. 104–411 (Comm. on Transportation and Infrastructure).
CONGRESSIONAL RECORD:
Vol. 141 (1995): Aug. 9, S. 1076 considered and passed Senate.
Dec. 18, H.R. 2111 considered and passed House.
Vol. 142 (1996): Jan. 26, considered and passed Senate.

Public Law 104–109
104th Congress

An Act

To make certain technical corrections in laws relating to Native Americans, and for other purposes.

Feb. 12, 1996
[H.R. 2726]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CORRECTION TO POKAGON RESTORATION ACT.

Section 9 of the Act entitled "An Act to restore Federal services to the Pokagon Band of Potawatomi Indians" (25 U.S.C. 1300j–7a) is amended—

(1) by striking "Bands" each place it appears and inserting "Band";

(2) in subsection (a), by striking "respective"; and

(3) in subsection (b)—

(A) in paragraph (1)—

(i) in the first sentence—

(I) by striking "membership rolls that contain" and inserting "a membership roll that contains"; and

(II) by striking "in such" and inserting "in the"; and

(ii) in the second sentence, by striking "Each such" and inserting "The";

(B) in paragraph (2)—

(i) by striking "rolls have" and inserting "roll has"; and

(ii) by striking "such rolls" and inserting "such roll";

(C) in the heading for paragraph (3), by striking "ROLLS" and inserting "ROLL"; and

(D) in paragraph (3), by striking "rolls are maintained" and inserting "roll is maintained".

SEC. 2. CORRECTION TO ODAWA AND OTTAWA RESTORATION ACT.

(a) REAFFIRMATION OF RIGHTS.—The heading of section 5(b) of the Little Traverse Bay Bands of Odawa Indians and the Little River Band of Ottawa Indians Act (25 U.S.C. 1300k–3) is amended by striking "TRIBE" and inserting "BANDS".

(b) MEMBERSHIP LIST.—Section 9 of the Little Traverse Bay Bands of Odawa and the Little River Band of Ottawa Indians Act (25 U.S.C. 1300k–7) is amended—

(1) in subsection (a)—

(A) by striking "Band" the first place it appears and inserting "Bands"; and

(B) by striking "the Band." and inserting "the respective Bands."; and

(2) in subsection (b)(1)—

(A) in the first sentence, by striking "the Band shall submit to the Secretary membership rolls that contain the names of all individuals eligible for membership in such Band" and inserting "each of the Bands shall submit to the Secretary a membership roll that contains the names of all individuals that are eligible for membership in such Band"; and

(B) in the second sentence, by striking "The Band, in consultation" and inserting "Each such Band, in consultation".

SEC. 3. INDIAN DAMS SAFETY ACT OF 1994.

Section 4(h) of the Indian Dams Safety Act of 1994 (25 U.S.C. 3803(h); 108 Stat. 1562) is amended by striking "(under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e))), as amended," and inserting "under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.)".

SEC. 4. PASCUA YAQUI INDIANS OF ARIZONA.

Section 4(b) of the Act entitled "An Act to provide for the extension of certain Federal benefits, services, and assistance to the Pascua Yaqui Indians of Arizona, and for other purposes" (25 U.S.C. 1300f–3(b)) is amended by striking "Pascua Yaqui tribe" and inserting "Pascua Yaqui Tribe".

SEC. 5. INDIAN LANDS OPEN DUMP CLEANUP ACT OF 1994.

Section 3(7) of the Indian Lands Open Dump Cleanup Act of 1994 (25 U.S.C. 3902(7); 108 Stat. 4165) is amended by striking "under section 6944 of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.)" and inserting "under section 4004 of the Solid Waste Disposal Act (42 U.S.C. 6944)".

SEC. 6. AMERICAN INDIAN TRUST FUND MANAGEMENT REFORM ACT OF 1994.

(a) MAINTENANCE OF RECORDS.—Section 303(c)(5)(D) of the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4043(c)(5)(D); 108 Stat. 4247) is amended by striking "made under paragraph (3)(B)" and inserting "made under subparagraph (C)".

(b) ADVISORY BOARD.—Section 306(d) of the Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4046(d); 108 Stat. 4249) is amended by striking "Advisory Board" and inserting "advisory board".

SEC. 7. INDIAN SELF-DETERMINATION CONTRACT REFORM ACT OF 1994.

25 USC 450j.

Section 102(11) of the Indian Self-Determination Contract Reform Act of 1994 (108 Stat. 4254) is amended by striking "subsection (e)" and inserting "subsection (e) of section 105".

SEC. 8. AUBURN INDIAN RESTORATION.

(a) ECONOMIC DEVELOPMENT.—Section 203 of the Auburn Indian Restoration Act (25 U.S.C. 1300l–1) is amended—

(1) in subsection (a)(2), by striking "as provided in section 107" and inserting "as provided in section 207"; and

(2) in subsection (b), by striking "section 104" and inserting "section 204".

(b) INTERIM GOVERNMENT.—The last sentence of section 206 of the Auburn Indian Restoration Act (25 U.S.C. 1300l–4) is amended by striking "Interim council" and inserting "Interim Council".

SEC. 9. CROW BOUNDARY SETTLEMENT ACT OF 1994.

(a) ENFORCEMENT.—Section 5(b)(3) of the Crow Boundary Settlement Act of 1994 (25 U.S.C. 1776c(b)(3); 108 Stat. 4636) is amended by striking "provisions of subsection (b)" and inserting "provisions of this subsection".

(b) APPLICABILITY.—Section 9(a) of the Crow Boundary Settlement Act of 1994 (25 U.S.C. 1776g(a); 108 Stat. 4640) is amended by striking "The Act" and inserting "This Act".

(c) ESCROW FUNDS.—Section 10(b) of the Crow Boundary Settlement Act of 1994 (25 U.S.C. 1776h(b); 108 Stat. 4641) is amended by striking "(collectively referred to in this subsection as the 'Suspension Accounts')" and inserting "(collectively referred to in this section as the 'Suspension Accounts')".

SEC. 10. TLINGIT AND HAIDA STATUS CLARIFICATION ACT.

The first sentence of section 205 of the Tlingit and Haida Status Clarification Act (25 U.S.C. 1215) is amended by striking "Indian tribes" and inserting "Indian Tribes".

SEC. 11. NATIVE AMERICAN LANGUAGES ACT.

Section 103 of the Native American Languages Act (25 U.S.C. 2902) is amended—

(1) in paragraph (2), by striking "under section 5351(4) of the Indian Education Act of 1988 (25 U.S.C. 2651(4))" and inserting "under section 9161(4) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7881(4))"; and

(2) in paragraph (3), by striking "section 4009 of Public Law 100–297 (20 U.S.C. 4909)" and inserting "section 9212(1) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7912(1))".

SEC. 12. PONCA RESTORATION ACT.

Section 5 of the Ponca Restoration Act (25 U.S.C. 983c) is amended—

(1) by inserting "Sarpy, Burt, Platte, Stanton, Holt, Hall, Wayne," before "Knox"; and

(2) by striking "or Charles Mix County" and inserting ", Woodbury or Pottawattomie Counties of Iowa, or Charles Mix County".

SEC. 13. REVOCATION OF CHARTER OF INCORPORATION OF THE MINNESOTA CHIPPEWA TRIBE UNDER THE INDIAN REORGANIZATION ACT.

The request of the Minnesota Chippewa Tribe to surrender the charter of incorporation issued to that tribe on September 17, 1937, pursuant to section 17 of the Act of June 18, 1934, commonly known as the "Indian Reorganization Act" (48 Stat. 988, chapter 576; 25 U.S.C. 477) is hereby accepted and that charter of incorporation is hereby revoked.

SEC. 14. ADVISORY COUNCIL ON CALIFORNIA INDIAN POLICY ACT OF 1992.

Section 5(6) of the Advisory Council on California Indian Policy Act of 1992 (106 Stat. 2133; 25 U.S.C. 651 note) is amended by striking "18 months" and inserting "36 months".

SEC. 15. IN-LIEU FISHING SITE TRANSFER AUTHORITY.

Section 401 of Public Law 100–581 (102 Stat. 2944–2945) is amended by adding at the end the following new subsection:

"(g) The Secretary of the Army is authorized to transfer funds to the Department of the Interior to be used for purposes of the continued operation and maintenance of sites improved or developed under this section.".

SEC. 16. ADOLESCENT TRANSITIONAL LIVING FACILITY.

Notwithstanding any other provision of law, any funds that were provided to the Ponca Indian Tribe of Nebraska for any of the fiscal years 1992 through 1995, and that were retained by that Indian tribe, pursuant to a self-determination contract with the Secretary of Health and Human Services that the Indian tribe entered into under section 102 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450f) to carry out programs and functions of the Indian Health Service may be used by that Indian tribe to acquire, develop, and maintain a transitional living facility for adolescents, including land for that facility.

SEC. 17. EXPENDITURE OF MESCALERO APACHE TRIBE JUDGMENT FUNDS.

Notwithstanding any other provision of law, or any distribution plan approved pursuant to the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1401 et seq.), the Secretary of the Interior may reprogram, in accordance with the Resolutions, approved by the Mescalero Apache Tribal Council on January 24, 1995, any and all remaining funds (principal and interest accounts) regarding specific changes in the Secretarial Plans for the use of the funds in Docket Nos. 22–G, 30, 48, 30–A, and 48–A, awarded in satisfaction of the judgments by the Indian Claims Commission.

SEC. 18. ESTABLISHMENT OF A BAND ROLL.

Section 5(d)(2) of the Lac Vieux Desert Band of Lake Superior Chippewa Indians Act (25 U.S.C. 1300h–3(d)(2); 102 Stat. 1578) is amended—

(1) by inserting "and base roll" after "requirement"; and

(2) by striking "modification is" and inserting "modifications are".

SEC. 19. OPTION TO INCORPORATE SELF-DETERMINATION PROVISIONS INTO SELF-GOVERNANCE.

Section 403 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 458cc) is amended by adding the following new subsection:

"(l) INCORPORATE SELF-DETERMINATION PROVISIONS.—At the option of a participating tribe or tribes, any or all provisions of title I of this Act shall be made part of an agreement entered into under title III of this Act or this title. The Secretary is obligated to include such provisions at the option of the participating tribe

or tribes. If such provision is incorporated it shall have the same force and effect as if set out in full in title III or this title.".

Approved February 12, 1996.

LEGISLATIVE HISTORY—H.R. 2726 (S. 325) (S. 1431):

HOUSE REPORTS: No. 104–444 (Comm. on Resources).
SENATE REPORTS: No. 104–150 accompanying S. 325 (Comm. on Indian Affairs).
CONGRESSIONAL RECORD:
Vol. 141 (1995): Oct. 31, S. 325 considered and passed Senate.
Dec. 7, S. 1431 considered and passed Senate.
Vol. 142 (1996): Jan. 23, H.R. 2726 considered and passed House.
Jan. 26, considered and passed Senate.

Public Law 104–110
104th Congress

An Act

Feb. 13, 1996
[H.R. 2353]

To amend title 38, United States Code, to extend the authority of the Secretary of Veterans Affairs to carry out certain programs and activities, to require certain reports from the Secretary of Veterans Affairs, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—EXTENSIONS OF AUTHORITY

SEC. 101. EXTENSION OF AUTHORITIES UNDER TITLE 38, UNITED STATES CODE.

(a) AUTHORITY TO PROVIDE PRIORITY HEALTH CARE FOR CERTAIN VETERANS EXPOSED TO TOXIC SUBSTANCES.—(1) Section 1710(e)(3) of title 38, United States Code, is amended by striking out "after June 30, 1995," and all that follows through "December 31, 1995" and inserting in lieu thereof "after December 31, 1996".

(2) Section 1712(a)(1)(D) of such title is amended by striking out "December 31, 1995," and inserting in lieu thereof "December 31, 1996,".

(b) DRUG AND ALCOHOL ABUSE AND DEPENDENCE.—Section 1720A(e) of such title is amended by striking out "December 31, 1995" and inserting in lieu thereof "December 31, 1997".

(c) PILOT PROGRAM FOR NONINSTITUTIONAL ALTERNATIVES TO NURSING HOME CARE.—Section 1720C(a) of such title is amended by striking out "September 30, 1995," and inserting in lieu thereof "December 31, 1997,".

(d) NEGOTIATED INTEREST RATES.—Section 3703(c)(4) of such title is amended by striking out subparagraph (D).

(e) MORTGAGES FOR ENERGY EFFICIENT IMPROVEMENTS.—Section 3710(d) of such title is amended by striking out paragraph (7).

(f) ENHANCED LOAN ASSET SALE AUTHORITY.—Section 3720(h)(2) of such title is amended by striking out "December 31, 1995" and inserting in lieu thereof "December 31, 1996".

(g) AUTHORITY OF LENDERS OF AUTOMATICALLY GUARANTEED LOANS TO REVIEW APPRAISALS.—Section 3731(f) of such title is amended by striking out paragraph (3).

(h) AGREEMENTS FOR HOUSING ASSISTANCE FOR HOMELESS VETERANS.—Section 3735(c) of such title is amended by striking out "December 31, 1995" and inserting in lieu thereof "December 31, 1997".

(i) USE OF DATA ON COMPENSATION FOR CERTIFIED REGISTERED NURSE ANESTHETISTS.—Section 7451(d)(3)(C)(iii) of such title is

amended by striking out "April 1, 1995" and inserting in lieu thereof "January 1, 1998".

(j) HEALTH PROFESSIONAL SCHOLARSHIP PROGRAM.—Section 7618 of such title is amended by striking out "December 31, 1995" and inserting in lieu thereof "December 31, 1997".

(k) ENHANCED-USE LEASES OF REAL PROPERTY.—Section 8169 of such title is amended by striking out "December 31, 1995" and inserting in lieu thereof "December 31, 1997".

SEC. 102. EXTENSION OF AUTHORITIES UNDER OTHER PROVISIONS OF LAW.

(a) AUTHORITY FOR COMMUNITY-BASED RESIDENTIAL CARE FOR HOMELESS CHRONICALLY MENTALLY ILL VETERANS AND OTHER VETERANS.—Section 115(d) of the Veterans' Benefits and Services Act of 1988 (38 U.S.C. 1712 note) is amended by striking out "September 30, 1995" and inserting in lieu thereof "December 31, 1997".

(b) DEMONSTRATION PROGRAM OF COMPENSATED WORK THERAPY.—Section 7(a) of Public Law 102–54 (38 U.S.C. 1718 note) is amended by striking out "fiscal years 1991 through 1995" and inserting in lieu thereof "the period beginning on October 1, 1991, and ending on December 31, 1997,".

(c) SERVICES AND ASSISTANCE TO HOMELESS VETERANS.—The Homeless Veterans Comprehensive Service Programs Act of 1992 (Public Law 102–590; 38 U.S.C. 7721 note) is amended—

(1) in section 2, by striking out "September 30, 1995," and inserting in lieu thereof "September 30, 1997,";

(2) in section 3(a)—

(A) by inserting "(1)" before "Subject to";

(B) by striking out "fiscal years 1993, 1994, and 1995,"; and

(C) by adding at the end the following new paragraph:

"(2) The authority of the Secretary to make grants under this section expires on September 30, 1997."; and

(3) in section 12, by striking out "each of the fiscal years 1993, 1994, and 1995" and inserting in lieu thereof "each of fiscal years 1993 through 1997".

(d) HOMELESS VETERANS' REINTEGRATION PROJECTS.—(1) Section 738(e)(1) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11448(e)(1)) is amended by adding at the end the following:

"(D) $10,000,000 for fiscal year 1996.".

(2) Section 741 of such Act (42 U.S.C. 11450) is amended by striking out "October 1, 1995" and inserting in lieu thereof "December 31, 1997".

SEC. 103. RATIFICATION OF ACTIONS TAKEN DURING PERIOD OF EXPIRED AUTHORITY. 38 USC 1710 note.

Any action taken by the Secretary of Veterans Affairs before the date of the enactment of this Act under a provision of law amended by this title that was taken during the period beginning on the date on which the authority of the Secretary under that provision of law expired and ending on the date of the enactment of this Act shall be considered to have the same force and effect as if the amendment to that provision of law made by this title had been in effect at the time of that action.

TITLE II—OTHER PROVISIONS

SEC. 201. CODIFICATION OF HOUSING REPORTING REQUIREMENTS AND CHANGES IN THEIR FREQUENCY.

(a) CODIFICATION OF HOUSING RELATED REPORTING REQUIREMENTS.—(1) Chapter 37 of title 38, United States Code, is amended by adding after section 3735 the following new section:

"§ 3736. Reporting requirements

"The annual report required by section 529 of this title shall include a discussion of the activities under this chapter. Beginning with the report submitted at the close of fiscal year 1996, and every second year thereafter, this discussion shall include information regarding the following:

"(1) Loans made to veterans whose only qualifying service was in the Selected Reserve.

"(2) Interest rates and discount points which were negotiated between the lender and the veteran pursuant to section 3703(c)(4)(A)(i) of this title.

"(3) The determination of reasonable value by lenders pursuant to section 3731(f) of this title.

"(4) Loans that include funds for energy efficiency improvements pursuant to section 3710(a)(10) of this title.

"(5) Direct loans to Native American veterans made pursuant to subchapter V of this chapter.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 3735 the following new item:

"3736. Reporting requirements.".

(b) REPEAL OF SUPERSEDED REPORTING REQUIREMENTS.—The Veterans Home Loan Program Amendments of 1992 (Public Law 102–547; 106 Stat. 3633) is amended by striking out sections 2(c), 3(b), 8(d), 9(c), and 10(b).

33 USC 3702 note, 3703 note, 3707 note, 3710 note, 3761 note.

SEC. 202. OTHER REPORT REQUIREMENTS.

38 USC 1720A note.

(a) REPORT ON CONSOLIDATION OF CERTAIN PROGRAMS.—The Secretary of Veterans Affairs shall submit to Congress, not later than March 1, 1997, a report on the advantages and disadvantages of consolidating into one program the following three programs:

(1) The alcohol and drug abuse contract care program under section 1720A of title 38, United States Code.

(2) The program to provide community-based residential care to homeless chronically mentally ill veterans under section 115 of the Veterans' Benefits and Services Act of 1988 (38 U.S.C. 1712 note).

(3) The demonstration program under section 7 of Public Law 102–54 (38 U.S.C. 1718 note).

38 USC 7611 note.

(b) HEALTH PROFESSIONAL SCHOLARSHIP PROGRAM.—(1) The Secretary shall submit to Congress, not later than March 31, 1997, a report setting forth the results of a study evaluating the operation of the health professional scholarship program under subchapter II of chapter 76 of title 38, United States Code. The study shall evaluate the efficacy of the program with respect to recruitment and retention of health care personnel for the Department of Veterans Affairs and shall compare the costs and benefits of the program

with the costs and benefits of alternative methods of ensuring adequate recruitment and retention of such personnel.

(2) The Secretary shall carry out the study under this paragraph through a private contractor. The report under paragraph (1) shall include the report of the contractor and the comments, if any, of the Secretary on that report. Contracts.

(c) ENHANCED USE LEASES.—The Secretary shall submit to Congress, not later than March 31, 1997, a report evaluating the operation of the program under subchapter V of chapter 81 of title 38, United States Code. 38 USC 8161 note.

SEC. 203. CONTRACTS FOR UTILITIES, AUDIE L. MURPHY MEMORIAL HOSPITAL. Texas.

(a) AUTHORITY TO CONTRACT.—Subject to subsection (b), the Secretary of Veterans Affairs may enter into contracts for the provision of utilities (including steam and chilled water) to the Audie L. Murphy Memorial Hospital in San Antonio, Texas. Each such contract may—

(1) be for a period not to exceed 35 years;

(2) provide for the construction and operation of a production facility on or near property under the jurisdiction of the Secretary;

(3) require capital contributions by the parties involved for the construction of such a facility, such contribution to be in the form of cash, equipment, or other in-kind contribution; and

(4) provide for a predetermined formula to compute the cost of providing such utilities to the parties for the duration of the contract.

(b) FUNDS.—A contract may be entered into under subsection (a) only to the extent as provided for in advance in appropriations Acts.

(c) ADDITIONAL TERMS.—The Secretary may include in a contract under subsection (a) such additional provisions as the Secretary considers necessary to secure the provision of utilities and to protect the interests of the United States.

Approved February 13, 1996.

LEGISLATIVE HISTORY—H.R. 2353 (S. 991):

HOUSE REPORTS: No. 104–275 (Comm. on Veterans' Affairs).
CONGRESSIONAL RECORD:
Vol. 141 (1995): Oct. 17, considered and passed House.
Vol. 142 (1996): Jan. 5, considered and passed Senate, amended, in lieu of S. 991.
Jan. 25, House concurred in Senate amendments with amendments.
Jan. 30, Senate concurred in House amendments.

Public Law 104–111
104th Congress

An Act

Feb. 13, 1996
[H.R. 2657]

To award a congressional gold medal to Ruth and Billy Graham.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

31 USC 5111 note.

SECTION 1. FINDINGS.

The Congress hereby finds the following:

(1) Ruth and Billy Graham have made outstanding and lasting contributions to morality, racial equality, family, philanthropy, and religion.

(2) America's most respected and admired evangelical leader for the past half century, Billy Graham's crusades have reached 100,000,000 people in person and reached over 2,000,000,000 people worldwide on television.

(3) Billy Graham, throughout his 76 years of life and his 52-year marriage to Ruth Graham, has exemplified the highest ideals of teaching, counseling, ethics, charity, faith, and family.

(4) Billy Graham's daily newspaper column and 14 books have provided spiritual counseling and personal enrichment to millions of people.

(5) Ruth and Billy Graham have been the driving force to create the Ruth and Billy Graham Children's Health Center at Memorial Mission Hospital in Asheville, North Carolina, whose vision it is to improve the health and well-being of children and to become a new resource for ending the pain and suffering of children.

31 USC 5111 note.

SEC. 2. CONGRESSIONAL GOLD MEDAL.

(a) PRESENTATION AUTHORIZED.—The Speaker of the House of Representatives and the President pro tempore of the Senate are authorized to present, on behalf of the Congress, to Billy and Ruth Graham a gold medal of appropriate design, in recognition of their outstanding and enduring contributions toward faith, morality, and charity.

(b) DESIGN AND STRIKING.—For purposes of the presentation referred to in subsection (a), the Secretary of the Treasury shall strike a gold medal with suitable emblems, devices, and inscriptions to be determined by the Secretary.

(c) GIFTS AND DONATIONS.—

(1) IN GENERAL.—The Secretary of the Treasury may accept, use, and disburse gifts or donations of property or money to carry out this section.

(2) NO APPROPRIATION AUTHORIZED.—No amount is authorized to be appropriated to carry out this section.

SEC. 3. DUPLICATE MEDALS.

31 USC 5111 note.

The Secretary of the Treasury may strike and sell duplicates in bronze of the gold medal struck pursuant to section 2 under such regulations as the Secretary may prescribe, at a price sufficient to cover the cost thereof, including labor, materials, dies, use of machinery, and overhead expenses, and the cost of the gold medal.

SEC. 4. STATUS OF MEDALS.

31 USC 5111 note.

(a) NATIONAL MEDALS.—The medals struck pursuant to this Act are national medals for purposes of chapter 51 of title 31, United States Code.

(b) NUMISMATIC ITEMS.—For purposes of section 5134 of title 31, United States Code, all medals struck under this Act shall be considered to be numismatic items.

Approved February 13, 1996.

LEGISLATIVE HISTORY—H.R. 2657:

CONGRESSIONAL RECORD, Vol. 142 (1996):

Jan. 23, considered and passed House.

Feb. 1, considered and passed Senate, amended. House concurred in Senate amendment.

Public Law 104–112
104th Congress

An Act

Mar. 5, 1996
[H.R. 1718]

To designate the United States courthouse located at 197 South Main Street in Wilkes-Barre, Pennsylvania, as the "Max Rosenn United States Courthouse".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The United States courthouse located at 197 South Main Street in Wilkes-Barre, Pennsylvania, shall be known and designated as the "Max Rosenn United States Courthouse".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the courthouse referred to in section 1 shall be deemed to be a reference to the "Max Rosenn United States Courthouse".

Approved March 5, 1996.

LEGISLATIVE HISTORY—H.R. 1718:

HOUSE REPORTS: No. 104–413 (Comm. on Transportation and Infrastructure).
CONGRESSIONAL RECORD:
Vol. 141 (1995): Dec. 18, considered and passed House.
Vol. 142 (1996): Feb. 7, considered and passed Senate.

Public Law 104–113
104th Congress

An Act

To amend the Stevenson-Wydler Technology Innovation Act of 1980 with respect to inventions made under cooperative research and development agreements, and for other purposes.

Mar. 7, 1996
[H.R. 2196]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

National Technology Transfer and Advancement Act of 1995.
15 USC 3701 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Technology Transfer and Advancement Act of 1995".

SEC. 2. FINDINGS.

15 USC 3701 note.

The Congress finds the following:

(1) Bringing technology and industrial innovation to the marketplace is central to the economic, environmental, and social well-being of the people of the United States.

(2) The Federal Government can help United States business to speed the development of new products and processes by entering into cooperative research and development agreements which make available the assistance of Federal laboratories to the private sector, but the commercialization of technology and industrial innovation in the United States depends upon actions by business.

(3) The commercialization of technology and industrial innovation in the United States will be enhanced if companies, in return for reasonable compensation to the Federal Government, can more easily obtain exclusive licenses to inventions which develop as a result of cooperative research with scientists employed by Federal laboratories.

SEC. 3. USE OF FEDERAL TECHNOLOGY.

Subparagraph (B) of section 11(e)(7) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710(e)(7)(B)) is amended to read as follows:

"(B) A transfer shall be made by any Federal agency under subparagraph (A), for any fiscal year, only if the amount so transferred by that agency (as determined under such subparagraph) would exceed $10,000.".

SEC. 4. TITLE TO INTELLECTUAL PROPERTY ARISING FROM COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENTS.

Subsection (b) of section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(b)) is amended to read as follows:

"(b) ENUMERATED AUTHORITY.—(1) Under an agreement entered into pursuant to subsection (a)(1), the laboratory may grant, or

agree to grant in advance, to a collaborating party patent licenses or assignments, or options thereto, in any invention made in whole or in part by a laboratory employee under the agreement, for reasonable compensation when appropriate. The laboratory shall ensure, through such agreement, that the collaborating party has the option to choose an exclusive license for a pre-negotiated field of use for any such invention under the agreement or, if there is more than one collaborating party, that the collaborating parties are offered the option to hold licensing rights that collectively encompass the rights that would be held under such an exclusive license by one party. In consideration for the Government's contribution under the agreement, grants under this paragraph shall be subject to the following explicit conditions:

"(A) A nonexclusive, nontransferable, irrevocable, paid-up license from the collaborating party to the laboratory to practice the invention or have the invention practiced throughout the world by or on behalf of the Government. In the exercise of such license, the Government shall not publicly disclose trade secrets or commercial or financial information that is privileged or confidential within the meaning of section 552(b)(4) of title 5, United States Code, or which would be considered as such if it had been obtained from a non-Federal party.

Confidential information.

"(B) If a laboratory assigns title or grants an exclusive license to such an invention, the Government shall retain the right—

"(i) to require the collaborating party to grant to a responsible applicant a nonexclusive, partially exclusive, or exclusive license to use the invention in the applicant's licensed field of use, on terms that are reasonable under the circumstances; or

"(ii) if the collaborating party fails to grant such a license, to grant the license itself.

"(C) The Government may exercise its right retained under subparagraph (B) only in exceptional circumstances and only if the Government determines that—

"(i) the action is necessary to meet health or safety needs that are not reasonably satisfied by the collaborating party;

"(ii) the action is necessary to meet requirements for public use specified by Federal regulations, and such requirements are not reasonably satisfied by the collaborating party; or

"(iii) the collaborating party has failed to comply with an agreement containing provisions described in subsection (c)(4)(B).

This determination is subject to administrative appeal and judicial review under section 203(2) of title 35, United States Code.

"(2) Under agreements entered into pursuant to subsection (a)(1), the laboratory shall ensure that a collaborating party may retain title to any invention made solely by its employee in exchange for normally granting the Government a nonexclusive, nontransferable, irrevocable, paid-up license to practice the invention or have the invention practiced throughout the world by or on behalf of the Government for research or other Government purposes.

"(3) Under an agreement entered into pursuant to subsection (a)(1), a laboratory may—

"(A) accept, retain, and use funds, personnel, services, and property from a collaborating party and provide personnel, services, and property to a collaborating party;

"(B) use funds received from a collaborating party in accordance with subparagraph (A) to hire personnel to carry out the agreement who will not be subject to full-time-equivalent restrictions of the agency;

"(C) to the extent consistent with any applicable agency requirements or standards of conduct, permit an employee or former employee of the laboratory to participate in an effort to commercialize an invention made by the employee or former employee while in the employment or service of the Government; and

"(D) waive, subject to reservation by the Government of a nonexclusive, irrevocable, paid-up license to practice the invention or have the invention practiced throughout the world by or on behalf of the Government, in advance, in whole or in part, any right of ownership which the Federal Government may have to any subject invention made under the agreement by a collaborating party or employee of a collaborating party.

"(4) A collaborating party in an exclusive license in any invention made under an agreement entered into pursuant to subsection (a)(1) shall have the right of enforcement under chapter 29 of title 35, United States Code.

"(5) A Government-owned, contractor-operated laboratory that enters into a cooperative research and development agreement pursuant to subsection (a)(1) may use or obligate royalties or other income accruing to the laboratory under such agreement with respect to any invention only—

"(A) for payments to inventors;

"(B) for purposes described in clauses (i), (ii), (iii), and (iv) of section 14(a)(1)(B); and

"(C) for scientific research and development consistent with the research and development missions and objectives of the laboratory.".

SEC. 5. DISTRIBUTION OF INCOME FROM INTELLECTUAL PROPERTY RECEIVED BY FEDERAL LABORATORIES. Royalties.

Section 14 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710c) is amended—

(1) by amending subsection (a)(1) to read as follows:

"(1) Except as provided in paragraphs (2) and (4), any royalties or other payments received by a Federal agency from the licensing and assignment of inventions under agreements entered into by Federal laboratories under section 12, and from the licensing of inventions of Federal laboratories under section 207 of title 35, United States Code, or under any other provision of law, shall be retained by the laboratory which produced the invention and shall be disposed of as follows:

"(A)(i) The head of the agency or laboratory, or such individual's designee, shall pay each year the first $2,000, and thereafter at least 15 percent, of the royalties or other payments to the inventor or coinventors.

"(ii) An agency or laboratory may provide appropriate incentives, from royalties, or other payments, to laboratory

employees who are not an inventor of such inventions but who substantially increased the technical value of such inventions.

"(iii) The agency or laboratory shall retain the royalties and other payments received from an invention until the agency or laboratory makes payments to employees of a laboratory under clause (i) or (ii).

"(B) The balance of the royalties or other payments shall be transferred by the agency to its laboratories, with the majority share of the royalties or other payments from any invention going to the laboratory where the invention occurred. The royalties or other payments so transferred to any laboratory may be used or obligated by that laboratory during the fiscal year in which they are received or during the succeeding fiscal year—

"(i) to reward scientific, engineering, and technical employees of the laboratory, including developers of sensitive or classified technology, regardless of whether the technology has commercial applications;

"(ii) to further scientific exchange among the laboratories of the agency;

"(iii) for education and training of employees consistent with the research and development missions and objectives of the agency or laboratory, and for other activities that increase the potential for transfer of the technology of the laboratories of the agency;

"(iv) for payment of expenses incidental to the administration and licensing of intellectual property by the agency or laboratory with respect to inventions made at that laboratory, including the fees or other costs for the services of other agencies, persons, or organizations for intellectual property management and licensing services; or

"(v) for scientific research and development consistent with the research and development missions and objectives of the laboratory.

"(C) All royalties or other payments retained by the agency or laboratory after payments have been made pursuant to subparagraphs (A) and (B) that is unobligated and unexpended at the end of the second fiscal year succeeding the fiscal year in which the royalties and other payments were received shall be paid into the Treasury.";

(2) in subsection (a)(2)—

(A) by inserting "or other payments" after "royalties"; and

(B) by striking "for the purposes described in clauses (i) through (iv) of paragraph (1)(B) during that fiscal year or the succeeding fiscal year" and inserting in lieu thereof "under paragraph (1)(B)";

(3) in subsection (a)(3), by striking "$100,000" both places it appears and inserting "$150,000";

(4) in subsection (a)(4)—

(A) by striking "income" each place it appears and inserting in lieu thereof "payments";

(B) by striking "the payment of royalties to inventors" in the first sentence thereof and inserting in lieu thereof "payments to inventors";

(C) by striking "clause (i) of paragraph (1)(B)" and inserting in lieu thereof "clause (iv) of paragraph (1)(B)";

(D) by striking "payment of the royalties," in the second sentence thereof and inserting in lieu thereof "offsetting the payments to inventors,"; and

(E) by striking "clauses (i) through (iv) of"; and

(5) by amending paragraph (1) of subsection (b) to read as follows:

"(1) by a contractor, grantee, or participant, or an employee of a contractor, grantee, or participant, in an agreement or other arrangement with the agency, or".

SEC. 6. EMPLOYEE ACTIVITIES.

Section 15(a) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710d(a)) is amended—

(1) by striking "the right of ownership to an invention under this Act" and inserting in lieu thereof "ownership of or the right of ownership to an invention made by a Federal employee"; and

(2) by inserting "obtain or" after "the Government, to".

SEC. 7. AMENDMENT TO BAYH-DOLE ACT.

Section 210(e) of title 35, United States Code, is amended by striking ", as amended by the Federal Technology Transfer Act of 1986,".

SEC. 8. NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY ACT AMENDMENTS.

The National Institute of Standards and Technology Act (15 U.S.C. 271 et seq.) is amended—

(1) in section 10(a)— 15 USC 278.

(A) by striking "nine" and inserting in lieu thereof "15"; and

(B) by striking "five" and inserting in lieu thereof "10";

(2) in section 15— 15 USC 278e.

(A) by striking "Pay Act of 1945; and" and inserting in lieu thereof "Pay Act of 1945;"; and

(B) by inserting "; and (h) the provision of transportation services for employees of the Institute between the facilities of the Institute and nearby public transportation, notwithstanding section 1344 of title 31, United States Code" after "interests of the Government"; and

(3) in section 19— 15 USC 278g–2.

(A) by inserting ", subject to the availability of appropriations," after "post-doctoral fellowship program"; and

(B) by striking "nor more than forty" and inserting in lieu thereof "nor more than 60".

SEC. 9. RESEARCH EQUIPMENT.

Section 11(i) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710(i)) is amended by inserting "loan, lease, or" before "give".

SEC. 10. PERSONNEL. 15 USC 275 note.

The personnel management demonstration project established under section 10 of the National Bureau of Standards Authorization Act for Fiscal Year 1987 (15 U.S.C. 275 note) is extended indefinitely.

SEC. 11. FASTENER QUALITY ACT AMENDMENTS.

(a) SECTION 2 AMENDMENTS.—Section 2 of the Fastener Quality Act (15 U.S.C. 5401) is amended—

(1) by striking subsection (a)(4), and redesignating paragraphs (5) through (9) as paragraphs (4) through (8), respectively;

(2) in subsection (a)(7), as so redesignated by paragraph (1) of this subsection, by striking "by lot number"; and

(3) in subsection (b), by striking "used in critical applications" and inserting in lieu thereof "in commerce".

(b) SECTION 3 AMENDMENTS.—Section 3 of the Fastener Quality Act (15 U.S.C. 5402) is amended—

(1) in paragraph (1)(B) by striking "having a minimum tensile strength of 150,000 pounds per square inch";

(2) in paragraph (2), by inserting "consensus" after "or any other";

(3) in paragraph (5)—

(A) by inserting "or" after "standard or specification," in subparagraph (B);

(B) by striking "or" at the end of subparagraph (C);

(C) by striking subparagraph (D); and

(D) by inserting "or produced in accordance with ASTM F 432" after "307 Grade A";

(4) in paragraph (6) by striking "other person" and inserting in lieu thereof "government agency";

(5) in paragraph (8) by striking "Standard" and inserting in lieu thereof "Standards";

(6) by striking paragraph (11) and redesignating paragraphs (12) through (15) as paragraphs (11) through (14), respectively;

(7) in paragraph (13), as so redesignated by paragraph (6) of this subsection, by striking ", a government agency" and all that follows through "markings of any fastener" and inserting in lieu thereof "or a government agency"; and

(8) in paragraph (14), as so redesignated by paragraph (6) of this subsection, by inserting "for the purpose of achieving a uniform hardness" after "quenching and tempering".

(c) SECTION 4 REPEAL.—Section 4 of the Fastener Quality Act (15 U.S.C. 5403) is repealed.

(d) SECTION 5 AMENDMENTS.—Section 5 of the Fastener Quality Act (15 U.S.C. 5404) is amended—

(1) in subsection (a)(1)(B) and (2)(A)(i) by striking "subsections (b) and (c)" and inserting in lieu thereof "subsections (b), (c), and (d)";

(2) in subsection (c)(2) by striking "or, where applicable" and all that follows through "section 7(c)(1)";

(3) in subsection (c)(3) by striking ", such as the chemical, dimensional, physical, mechanical, and any other";

(4) in subsection (c)(4) by inserting "except as provided in subsection (d)," before "state whether"; and

(5) by adding at the end the following new subsection:

"(d) ALTERNATIVE PROCEDURE FOR CHEMICAL CHARACTERISTICS.—Notwithstanding the requirements of subsections (b) and (c), a manufacturer shall be deemed to have demonstrated, for purposes of subsection (a)(1), that the chemical characteristics of a lot conform to the standards and specifications to which the

manufacturer represents such lot has been manufactured if the following requirements are met:

"(1) The coil or heat number of metal from which such lot was fabricated has been inspected and tested with respect to its chemical characteristics by a laboratory accredited in accordance with the procedures and conditions specified by the Secretary under section 6.

"(2) Such laboratory has provided to the manufacturer, either directly or through the metal manufacturer, a written inspection and testing report, which shall be in a form prescribed by the Secretary by regulation, listing the chemical characteristics of such coil or heat number. Reports. Regulations.

"(3) The report described in paragraph (2) indicates that the chemical characteristics of such coil or heat number conform to those required by the standards and specifications to which the manufacturer represents such lot has been manufactured.

"(4) The manufacturer demonstrates that such lot has been fabricated from the coil or heat number of metal to which the report described in paragraphs (2) and (3) relates.

In prescribing the form of report required by subsection (c), the Secretary shall provide for an alternative to the statement required by subsection (c)(4), insofar as such statement pertains to chemical characteristics, for cases in which a manufacturer elects to use the procedure permitted by this subsection.".

(e) SECTION 6 AMENDMENT.—Section 6(a)(1) of the Fastener Quality Act (15 U.S.C. 5405(a)(1)) is amended by striking "Within 180 days after the date of enactment of this Act, the" and inserting in lieu thereof "The".

(f) SECTION 7 AMENDMENTS.—Section 7 of the Fastener Quality Act (15 U.S.C. 5406) is amended—

(1) by amending subsection (a) to read as follows:

"(a) DOMESTICALLY PRODUCED FASTENERS.—It shall be unlawful for a manufacturer to sell any shipment of fasteners covered by this Act which are manufactured in the United States unless the fasteners—

"(1) have been manufactured according to the requirements of the applicable standards and specifications and have been inspected and tested by a laboratory accredited in accordance with the procedures and conditions specified by the Secretary under section 6; and

"(2) an original laboratory testing report described in section 5(c) and a manufacturer's certificate of conformance are on file with the manufacturer, or under such custody as may be prescribed by the Secretary, and available for inspection.";

(2) in subsection (c)(2) by inserting "to the same" after "in the same manner and";

(3) in subsection (d)(1) by striking "certificate" and inserting in lieu thereof "test report"; and

(4) by striking subsections (e), (f), and (g) and inserting in lieu thereof the following:

"(e) COMMINGLING.—It shall be unlawful for any manufacturer, importer, or private label distributor to commingle like fasteners from different lots in the same container, except that such manufacturer, importer, or private label distributor may commingle like fasteners of the same type, grade, and dimension from not more than two tested and certified lots in the same container during repackaging and plating operations. Any container which contains

fasteners from two lots shall be conspicuously marked with the lot identification numbers of both lots.

"(f) SUBSEQUENT PURCHASER.—If a person who purchases fasteners for any purpose so requests either prior to the sale or at the time of sale, the seller shall conspicuously mark the container of the fasteners with the lot number from which such fasteners were taken.".

(g) SECTION 9 AMENDMENT.—Section 9 of the Fastener Quality Act (15 U.S.C. 5408) is amended by adding at the end the following new subsection:

"(d) ENFORCEMENT.—The Secretary may designate officers or employees of the Department of Commerce to conduct investigations pursuant to this Act. In conducting such investigations, those officers or employees may, to the extent necessary or appropriate to the enforcement of this Act, exercise such authorities as are conferred upon them by other laws of the United States, subject to policies and procedures approved by the Attorney General.".

(h) SECTION 10 AMENDMENTS.—Section 10 of the Fastener Quality Act (15 U.S.C. 5409) is amended—

(1) in subsections (a) and (b), by striking "10 years" and inserting in lieu thereof "5 years"; and

(2) in subsection (b), by striking "any subsequent" and inserting in lieu thereof "the subsequent".

(i) SECTION 13 AMENDMENT.—Section 13 of the Fastener Quality Act (15 U.S.C. 5412) is amended by striking "within 180 days after the date of enactment of this Act".

(j) SECTION 14 REPEAL.—Section 14 of the Fastener Quality Act (15 U.S.C. 5413) is repealed.

SEC. 12. STANDARDS CONFORMITY.

(a) USE OF STANDARDS.—Section 2(b) of the National Institute of Standards and Technology Act (15 U.S.C. 272(b)) is amended—

(1) in paragraph (2), by striking ", including comparing standards" and all that follows through "Federal Government";

(2) by redesignating paragraphs (3) through (11) as paragraphs (4) through (12), respectively; and

(3) by inserting after paragraph (2) the following new paragraph:

"(3) to compare standards used in scientific investigations, engineering, manufacturing, commerce, industry, and educational institutions with the standards adopted or recognized by the Federal Government and to coordinate the use by Federal agencies of private sector standards, emphasizing where possible the use of standards developed by private, consensus organizations;".

(b) CONFORMITY ASSESSMENT ACTIVITIES.—Section 2(b) of the National Institute of Standards and Technology Act (15 U.S.C. 272(b)) is amended—

(1) by striking "and" at the end of paragraph (11), as so redesignated by subsection (a)(2) of this section;

(2) by striking the period at the end of paragraph (12), as so redesignated by subsection (a)(2) of this section, and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new paragraph:

"(13) to coordinate Federal, State, and local technical standards activities and conformity assessment activities, with private sector technical standards activities and conformity assess-

ment activities, with the goal of eliminating unnecessary duplication and complexity in the development and promulgation of conformity assessment requirements and measures.".

(c) TRANSMITTAL OF PLAN TO CONGRESS.—The National Institute of Standards and Technology shall, within 90 days after the date of enactment of this Act, transmit to the Congress a plan for implementing the amendments made by this section. 15 USC 272 note.

(d) UTILIZATION OF CONSENSUS TECHNICAL STANDARDS BY FEDERAL AGENCIES; REPORTS.— 15 USC 272 note.

(1) IN GENERAL.—Except as provided in paragraph (3) of this subsection, all Federal agencies and departments shall use technical standards that are developed or adopted by voluntary consensus standards bodies, using such technical standards as a means to carry out policy objectives or activities determined by the agencies and departments.

(2) CONSULTATION; PARTICIPATION.—In carrying out paragraph (1) of this subsection, Federal agencies and departments shall consult with voluntary, private sector, consensus standards bodies and shall, when such participation is in the public interest and is compatible with agency and departmental missions, authorities, priorities, and budget resources, participate with such bodies in the development of technical standards.

(3) EXCEPTION.—If compliance with paragraph (1) of this subsection is inconsistent with applicable law or otherwise impractical, a Federal agency or department may elect to use technical standards that are not developed or adopted by voluntary consensus standards bodies if the head of each such agency or department transmits to the Office of Management and Budget an explanation of the reasons for using such standards. Each year, beginning with fiscal year 1997, the Office of Management and Budget shall transmit to Congress and its committees a report summarizing all explanations received in the preceding year under this paragraph.

(4) DEFINITION OF TECHNICAL STANDARDS.—As used in this subsection, the term "technical standards" means performance-based or design-specific technical specifications and related management systems practices.

SEC. 13. SENSE OF CONGRESS.

It is the sense of the Congress that the Malcolm Baldrige National Quality Award program offers substantial benefits to

United States industry, and that all funds appropriated for such program should be spent in support of the goals of the program.

Approved March 7, 1996.

LEGISLATIVE HISTORY—H.R. 2196:

HOUSE REPORTS: No. 104–390 (Comm. on Science).
CONGRESSIONAL RECORD:
Vol. 141 (1995): Dec. 12, considered and passed House.
Vol. 142 (1996): Feb. 7, considered and passed Senate, amended.
Feb. 27, House concurred in Senate amendments.

Public Law 104–114
104th Congress

An Act

To seek international sanctions against the Castro government in Cuba, to plan for support of a transition government leading to a democratically elected government in Cuba, and for other purposes.

Mar. 12, 1996
[H.R. 927]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996.
22 USC 6021 note.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings.
Sec. 3. Purposes.
Sec. 4. Definitions.
Sec. 5. Severability.

TITLE I—STRENGTHENING INTERNATIONAL SANCTIONS AGAINST THE CASTRO GOVERNMENT

Sec. 101. Statement of policy.
Sec. 102. Enforcement of the economic embargo of Cuba.
Sec. 103. Prohibition against indirect financing of Cuba.
Sec. 104. United States opposition to Cuban membership in international financial institutions.
Sec. 105. United States opposition to termination of the suspension of the Cuban Government from participation in the Organization of American States.
Sec. 106. Assistance by the independent states of the former Soviet Union for the Cuban Government.
Sec. 107. Television broadcasting to Cuba.
Sec. 108. Reports on commerce with, and assistance to, Cuba from other foreign countries.
Sec. 109. Authorization of support for democratic and human rights groups and international observers.
Sec. 110. Importation safeguard against certain Cuban products.
Sec. 111. Withholding of foreign assistance from countries supporting Juragua nuclear plant in Cuba.
Sec. 112. Reinstitution of family remittances and travel to Cuba.
Sec. 113. Expulsion of criminals from Cuba.
Sec. 114. News bureaus in Cuba.
Sec. 115. Effect of Act on lawful United States Government activities.
Sec. 116. Condemnation of Cuban attack on American aircraft.

TITLE II—ASSISTANCE TO A FREE AND INDEPENDENT CUBA

Sec. 201. Policy toward a transition government and a democratically elected government in Cuba.
Sec. 202. Assistance for the Cuban people.
Sec. 203. Coordination of assistance program; implementation and reports to Congress; reprogramming.
Sec. 204. Termination of the economic embargo of Cuba.
Sec. 205. Requirements and factors for determining a transition government.
Sec. 206. Requirements for determining a democratically elected government.

Sec. 207. Settlement of outstanding United States claims to confiscated property in Cuba.

TITLE III—PROTECTION OF PROPERTY RIGHTS OF UNITED STATES NATIONALS

Sec. 301. Findings.
Sec. 302. Liability for trafficking in confiscated property claimed by United States nationals.
Sec. 303. Proof of ownership of claims to confiscated property.
Sec. 304. Exclusivity of Foreign Claims Settlement Commission certification procedure.
Sec. 305. Limitation of actions.
Sec. 306. Effective date.

TITLE IV—EXCLUSION OF CERTAIN ALIENS

Sec. 401. Exclusion from the United States of aliens who have confiscated property of United States nationals or who traffic in such property.

22 USC 6021.

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) The economy of Cuba has experienced a decline of at least 60 percent in the last 5 years as a result of—

(A) the end of its subsidization by the former Soviet Union of between 5 billion and 6 billion dollars annually;

(B) 36 years of communist tyranny and economic mismanagement by the Castro government;

(C) the extreme decline in trade between Cuba and the countries of the former Soviet bloc; and

(D) the stated policy of the Russian Government and the countries of the former Soviet bloc to conduct economic relations with Cuba on strictly commercial terms.

(2) At the same time, the welfare and health of the Cuban people have substantially deteriorated as a result of this economic decline and the refusal of the Castro regime to permit free and fair democratic elections in Cuba.

(3) The Castro regime has made it abundantly clear that it will not engage in any substantive political reforms that would lead to democracy, a market economy, or an economic recovery.

(4) The repression of the Cuban people, including a ban on free and fair democratic elections, and continuing violations of fundamental human rights, have isolated the Cuban regime as the only completely nondemocratic government in the Western Hemisphere.

(5) As long as free elections are not held in Cuba, the economic condition of the country and the welfare of the Cuban people will not improve in any significant way.

(6) The totalitarian nature of the Castro regime has deprived the Cuban people of any peaceful means to improve their condition and has led thousands of Cuban citizens to risk or lose their lives in dangerous attempts to escape from Cuba to freedom.

(7) Radio Marti and Television Marti have both been effective vehicles for providing the people of Cuba with news and information and have helped to bolster the morale of the people of Cuba living under tyranny.

(8) The consistent policy of the United States towards Cuba since the beginning of the Castro regime, carried out by both Democratic and Republican administrations, has sought to keep faith with the people of Cuba, and has been effective in sanctioning the totalitarian Castro regime.

(9) The United States has shown a deep commitment, and considers it a moral obligation, to promote and protect human rights and fundamental freedoms as expressed in the Charter of the United Nations and in the Universal Declaration of Human Rights.

(10) The Congress has historically and consistently manifested its solidarity and the solidarity of the American people with the democratic aspirations of the Cuban people.

(11) The Cuban Democracy Act of 1992 calls upon the President to encourage the governments of countries that conduct trade with Cuba to restrict their trade and credit relations with Cuba in a manner consistent with the purposes of that Act.

(12) Amendments to the Foreign Assistance Act of 1961 made by the FREEDOM Support Act require that the President, in providing economic assistance to Russia and the emerging Eurasian democracies, take into account the extent to which they are acting to "terminate support for the communist regime in Cuba, including removal of troops, closing military facilities, and ceasing trade subsidies and economic, nuclear, and other assistance".

(13) The Cuban Government engages in the illegal international narcotics trade and harbors fugitives from justice in the United States.

(14) The Castro government threatens international peace and security by engaging in acts of armed subversion and terrorism such as the training and supplying of groups dedicated to international violence.

(15) The Castro government has utilized from its inception and continues to utilize torture in various forms (including by psychiatry), as well as execution, exile, confiscation, political imprisonment, and other forms of terror and repression, as means of retaining power.

(16) Fidel Castro has defined democratic pluralism as "pluralistic garbage" and continues to make clear that he has no intention of tolerating the democratization of Cuban society. Fidel Castro.

(17) The Castro government holds innocent Cubans hostage in Cuba by no fault of the hostages themselves solely because relatives have escaped the country.

(18) Although a signatory state to the 1928 Inter-American Convention on Asylum and the International Covenant on Civil and Political Rights (which protects the right to leave one's own country), Cuba nevertheless surrounds embassies in its capital by armed forces to thwart the right of its citizens to seek asylum and systematically denies that right to the Cuban people, punishing them by imprisonment for seeking to leave the country and killing them for attempting to do so (as demonstrated in the case of the confirmed murder of over 40 men, women, and children who were seeking to leave Cuba on July 13, 1994).

(19) The Castro government continues to utilize blackmail, such as the immigration crisis with which it threatened the United States in the summer of 1994, and other unacceptable and illegal forms of conduct to influence the actions of sovereign states in the Western Hemisphere in violation of the Charter of the Organization of American States and other international agreements and international law.

(20) The United Nations Commission on Human Rights has repeatedly reported on the unacceptable human rights situation in Cuba and has taken the extraordinary step of appointing a Special Rapporteur.

(21) The Cuban Government has consistently refused access to the Special Rapporteur and formally expressed its decision not to "implement so much as one comma" of the United Nations Resolutions appointing the Rapporteur.

(22) The United Nations General Assembly passed Resolution 47–139 on December 18, 1992, Resolution 48–142 on December 20, 1993, and Resolution 49–200 on December 23, 1994, referencing the Special Rapporteur's reports to the United Nations and condemning violations of human rights and fundamental freedoms in Cuba.

(23) Article 39 of Chapter VII of the United Nations Charter provides that the United Nations Security Council "shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken . . ., to maintain or restore international peace and security.".

(24) The United Nations has determined that massive and systematic violations of human rights may constitute a "threat to peace" under Article 39 and has imposed sanctions due to such violations of human rights in the cases of Rhodesia, South Africa, Iraq, and the former Yugoslavia.

(25) In the case of Haiti, a neighbor of Cuba not as close to the United States as Cuba, the United States led an effort to obtain and did obtain a United Nations Security Council embargo and blockade against that country due to the existence of a military dictatorship in power less than 3 years.

(26) United Nations Security Council Resolution 940 of July 31, 1994, subsequently authorized the use of "all necessary means" to restore the "democratically elected government of Haiti", and the democratically elected government of Haiti was restored to power on October 15, 1994.

(27) The Cuban people deserve to be assisted in a decisive manner to end the tyranny that has oppressed them for 36 years, and the continued failure to do so constitutes ethically improper conduct by the international community.

(28) For the past 36 years, the Cuban Government has posed and continues to pose a national security threat to the United States.

22 USC 6022.

SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to assist the Cuban people in regaining their freedom and prosperity, as well as in joining the community of democratic countries that are flourishing in the Western Hemisphere;

(2) to strengthen international sanctions against the Castro government;

(3) to provide for the continued national security of the United States in the face of continuing threats from the Castro government of terrorism, theft of property from United States nationals by the Castro government, and the political manipulation by the Castro government of the desire of Cubans to escape that results in mass migration to the United States;

(4) to encourage the holding of free and fair democratic elections in Cuba, conducted under the supervision of internationally recognized observers;

(5) to provide a policy framework for United States support to the Cuban people in response to the formation of a transition government or a democratically elected government in Cuba; and

(6) to protect United States nationals against confiscatory takings and the wrongful trafficking in property confiscated by the Castro regime.

SEC. 4. DEFINITIONS. 22 USC 6023.

As used in this Act, the following terms have the following meanings:

(1) AGENCY OR INSTRUMENTALITY OF A FOREIGN STATE.—The term "agency or instrumentality of a foreign state" has the meaning given that term in section 1603(b) of title 28, United States Code.

(2) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means the Committee on International Relations and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

(3) COMMERCIAL ACTIVITY.—The term "commercial activity" has the meaning given that term in section 1603(d) of title 28, United States Code.

(4) CONFISCATED.—As used in titles I and III, the term "confiscated" refers to—

(A) the nationalization, expropriation, or other seizure by the Cuban Government of ownership or control of property, on or after January 1, 1959—

(i) without the property having been returned or adequate and effective compensation provided; or

(ii) without the claim to the property having been settled pursuant to an international claims settlement agreement or other mutually accepted settlement procedure; and

(B) the repudiation by the Cuban Government of, the default by the Cuban Government on, or the failure of the Cuban Government to pay, on or after January 1, 1959—

(i) a debt of any enterprise which has been nationalized, expropriated, or otherwise taken by the Cuban Government;

(ii) a debt which is a charge on property nationalized, expropriated, or otherwise taken by the Cuban Government; or

(iii) a debt which was incurred by the Cuban Government in satisfaction or settlement of a confiscated property claim.

(5) CUBAN GOVERNMENT.—(A) The term "Cuban Government" includes the government of any political subdivision of Cuba, and any agency or instrumentality of the Government of Cuba.

(B) For purposes of subparagraph (A), the term "agency or instrumentality of the Government of Cuba" means an

agency or instrumentality of a foreign state as defined in section 1603(b) of title 28, United States Code, with each reference in such section to "a foreign state" deemed to be a reference to "Cuba".

(6) DEMOCRATICALLY ELECTED GOVERNMENT IN CUBA.—The term "democratically elected government in Cuba" means a government determined by the President to have met the requirements of section 206.

(7) ECONOMIC EMBARGO OF CUBA.—The term "economic embargo of Cuba" refers to—

(A) the economic embargo (including all restrictions on trade or transactions with, and travel to or from, Cuba, and all restrictions on transactions in property in which Cuba or nationals of Cuba have an interest) that was imposed against Cuba pursuant to section 620(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(a)), section 5(b) of the Trading with the Enemy Act (50 U.S.C. App. 5(b)), the Cuban Democracy Act of 1992 (22 U.S.C. 6001 and following), or any other provision of law; and

(B) the restrictions imposed by section 902(c) of the Food Security Act of 1985.

(8) FOREIGN NATIONAL.—The term "foreign national" means—

(A) an alien; or

(B) any corporation, trust, partnership, or other juridical entity not organized under the laws of the United States, or of any State, the District of Columbia, or any commonwealth, territory, or possession of the United States.

(9) KNOWINGLY.—The term "knowingly" means with knowledge or having reason to know.

(10) OFFICIAL OF THE CUBAN GOVERNMENT OR THE RULING POLITICAL PARTY IN CUBA.—The term "official of the Cuban Government or the ruling political party in Cuba" refers to any member of the Council of Ministers, Council of State, central committee of the Communist Party of Cuba, or the Politburo of Cuba, or their equivalents.

(11) PERSON.—The term "person" means any person or entity, including any agency or instrumentality of a foreign state.

(12) PROPERTY.—(A) The term "property" means any property (including patents, copyrights, trademarks, and any other form of intellectual property), whether real, personal, or mixed, and any present, future, or contingent right, security, or other interest therein, including any leasehold interest.

(B) For purposes of title III of this Act, the term "property" does not include real property used for residential purposes unless, as of the date of the enactment of this Act—

(i) the claim to the property is held by a United States national and the claim has been certified under title V of the International Claims Settlement Act of 1949; or

(ii) the property is occupied by an official of the Cuban Government or the ruling political party in Cuba.

(13) TRAFFICS.—(A) As used in title III, and except as provided in subparagraph (B), a person "traffics" in confiscated property if that person knowingly and intentionally—

(i) sells, transfers, distributes, dispenses, brokers, manages, or otherwise disposes of confiscated property, or purchases, leases, receives, possesses, obtains control of, manages, uses, or otherwise acquires or holds an interest in confiscated property,

(ii) engages in a commercial activity using or otherwise benefiting from confiscated property, or

(iii) causes, directs, participates in, or profits from, trafficking (as described in clause (i) or (ii)) by another person, or otherwise engages in trafficking (as described in clause (i) or (ii)) through another person,

without the authorization of any United States national who holds a claim to the property.

(B) The term "traffics" does not include—

(i) the delivery of international telecommunication signals to Cuba;

(ii) the trading or holding of securities publicly traded or held, unless the trading is with or by a person determined by the Secretary of the Treasury to be a specially designated national;

(iii) transactions and uses of property incident to lawful travel to Cuba, to the extent that such transactions and uses of property are necessary to the conduct of such travel; or

(iv) transactions and uses of property by a person who is both a citizen of Cuba and a resident of Cuba, and who is not an official of the Cuban Government or the ruling political party in Cuba.

(14) TRANSITION GOVERNMENT IN CUBA.—The term "transition government in Cuba" means a government that the President determines is a transition government consistent with the requirements and factors set forth in section 205.

(15) UNITED STATES NATIONAL.—The term "United States national" means—

(A) any United States citizen; or

(B) any other legal entity which is organized under the laws of the United States, or of any State, the District of Columbia, or any commonwealth, territory, or possession of the United States, and which has its principal place of business in the United States.

SEC. 5. SEVERABILITY. 22 USC 6024.

If any provision of this Act or the amendments made by this Act or the application thereof to any person or circumstance is held invalid, the remainder of this Act, the amendments made by this Act, or the application thereof to other persons not similarly situated or to other circumstances shall not be affected by such invalidation.

TITLE I—STRENGTHENING INTERNATIONAL SANCTIONS AGAINST THE CASTRO GOVERNMENT

SEC. 101. STATEMENT OF POLICY. 22 USC 6031.

It is the sense of the Congress that—

(1) the acts of the Castro government, including its massive, systematic, and extraordinary violations of human rights, are a threat to international peace;

(2) the President should advocate, and should instruct the United States Permanent Representative to the United Nations to propose and seek within the Security Council, a mandatory international embargo against the totalitarian Cuban Government pursuant to chapter VII of the Charter of the United Nations, employing efforts similar to consultations conducted by United States representatives with respect to Haiti;

(3) any resumption of efforts by any independent state of the former Soviet Union to make operational any nuclear facilities in Cuba, and any continuation of intelligence activities by such a state from Cuba that are targeted at the United States and its citizens will have a detrimental impact on United States assistance to such state; and

(4) in view of the threat to the national security posed by the operation of any nuclear facility, and the Castro government's continuing blackmail to unleash another wave of Cuban refugees fleeing from Castro's oppression, most of whom find their way to United States shores, further depleting limited humanitarian and other resources of the United States, the President should do all in his power to make it clear to the Cuban Government that—

(A) the completion and operation of any nuclear power facility, or

(B) any further political manipulation of the desire of Cubans to escape that results in mass migration to the United States,

will be considered an act of aggression which will be met with an appropriate response in order to maintain the security of the national borders of the United States and the health and safety of the American people.

22 USC 6032.

SEC. 102. ENFORCEMENT OF THE ECONOMIC EMBARGO OF CUBA.

(a) POLICY.—

(1) RESTRICTIONS BY OTHER COUNTRIES.—The Congress hereby reaffirms section 1704(a) of the Cuban Democracy Act of 1992, which states that the President should encourage foreign countries to restrict trade and credit relations with Cuba in a manner consistent with the purposes of that Act.

(2) SANCTIONS ON OTHER COUNTRIES.—The Congress further urges the President to take immediate steps to apply the sanctions described in section 1704(b)(1) of that Act against countries assisting Cuba.

(b) DIPLOMATIC EFFORTS.—The Secretary of State should ensure that United States diplomatic personnel abroad understand and, in their contacts with foreign officials, are communicating the reasons for the United States economic embargo of Cuba, and are urging foreign governments to cooperate more effectively with the embargo.

President.

(c) EXISTING REGULATIONS.—The President shall instruct the Secretary of the Treasury and the Attorney General to enforce fully the Cuban Assets Control Regulations set forth in part 515 of title 31, Code of Federal Regulations.

(d) TRADING WITH THE ENEMY ACT.—

(1) CIVIL PENALTIES.—Subsection (b) of section 16 of the Trading with the Enemy Act (50 U.S.C. App. 16(b)), as added by Public Law 102–484, is amended to read as follows:

"(b)(1) A civil penalty of not to exceed $50,000 may be imposed by the Secretary of the Treasury on any person who violates any license, order, rule, or regulation issued in compliance with the provisions of this Act.

"(2) Any property, funds, securities, papers, or other articles or documents, or any vessel, together with its tackle, apparel, furniture, and equipment, that is the subject of a violation under paragraph (1) shall, at the direction of the Secretary of the Treasury, be forfeited to the United States Government.

"(3) The penalties provided under this subsection may be imposed only on the record after opportunity for an agency hearing in accordance with sections 554 through 557 of title 5, United States Code, with the right to prehearing discovery.

"(4) Judicial review of any penalty imposed under this subsection may be had to the extent provided in section 702 of title 5, United States Code.".

(2) CONFORMING AMENDMENT; CRIMINAL FORFEITURE.—Section 16 of the Trading with the Enemy Act is further amended by striking subsection (b), as added by Public Law 102–393.

(3) CLERICAL AMENDMENTS.—Section 16 of the Trading with the Enemy Act is further amended—

(A) by inserting "SEC. 16." before "(a)"; and

(B) in subsection (a) by striking "participants" and inserting "participates".

(e) DENIAL OF VISAS TO CERTAIN CUBAN NATIONALS.—It is the sense of the Congress that the President should instruct the Secretary of State and the Attorney General to enforce fully existing regulations to deny visas to Cuban nationals considered by the Secretary of State to be officers or employees of the Cuban Government or of the Communist Party of Cuba.

(f) COVERAGE OF DEBT-FOR-EQUITY SWAPS BY ECONOMIC EMBARGO OF CUBA.—Section 1704(b)(2) of the Cuban Democracy Act of 1992 (22 U.S.C. 6003(b)(2)) is amended—

(1) by striking "and" at the end of subparagraph (A);

(2) by redesignating subparagraph (B) as subparagraph (C); and

(3) by inserting after subparagraph (A) the following new subparagraph:

"(B) includes an exchange, reduction, or forgiveness of Cuban debt owed to a foreign country in return for a grant of an equity interest in a property, investment, or operation of the Government of Cuba (including the government of any political subdivision of Cuba, and any agency or instrumentality of the Government of Cuba) or of a Cuban national; and"; and

(4) by adding at the end the following flush sentence: "As used in this paragraph, the term 'agency or instrumentality of the Government of Cuba' means an agency or instrumentality of a foreign state as defined in section 1603(b) of title 28, United States Code, with each reference in such section to 'a foreign state' deemed to be a reference to 'Cuba'.".

(g) TELECOMMUNICATIONS SERVICES.—Section 1705(e) of the Cuban Democracy Act of 1992 (22 U.S.C. 6004(e)) is amended by adding at the end the following new paragraphs:

"(5) PROHIBITION ON INVESTMENT IN DOMESTIC TELECOMMUNICATIONS SERVICES.—Nothing in this subsection shall be construed to authorize the investment by any United States person in the domestic telecommunications network within Cuba. For purposes of this paragraph, an 'investment' in the domestic telecommunications network within Cuba includes the contribution (including by donation) of funds or anything of value to or for, and the making of loans to or for, such network.

President. "(6) REPORTS TO CONGRESS.—The President shall submit to the Congress on a semiannual basis a report detailing payments made to Cuba by any United States person as a result of the provision of telecommunications services authorized by this subsection.".

Effective date. (h) CODIFICATION OF ECONOMIC EMBARGO.—The economic embargo of Cuba, as in effect on March 1, 1996, including all restrictions under part 515 of title 31, Code of Federal Regulations, shall be in effect upon the enactment of this Act, and shall remain in effect, subject to section 204 of this Act.

22 USC 6033. **SEC. 103. PROHIBITION AGAINST INDIRECT FINANCING OF CUBA.**

(a) PROHIBITION.—Notwithstanding any other provision of law, no loan, credit, or other financing may be extended knowingly by a United States national, a permanent resident alien, or a United States agency to any person for the purpose of financing transactions involving any confiscated property the claim to which is owned by a United States national as of the date of the enactment of this Act, except for financing by the United States national owning such claim for a transaction permitted under United States law.

(b) SUSPENSION AND TERMINATION OF PROHIBITION.—

(1) SUSPENSION.—The President is authorized to suspend the prohibition contained in subsection (a) upon a determination made under section 203(c)(1) that a transition government in Cuba is in power.

(2) TERMINATION.—The prohibition contained in subsection (a) shall cease to apply on the date on which the economic embargo of Cuba terminates as provided in section 204.

(c) PENALTIES.—Violations of subsection (a) shall be punishable by such civil penalties as are applicable to violations of the Cuban Assets Control Regulations set forth in part 515 of title 31, Code of Federal Regulations.

(d) DEFINITIONS.—As used in this section—

(1) the term "permanent resident alien" means an alien lawfully admitted for permanent residence into the United States; and

(2) the term "United States agency" has the meaning given the term "agency" in section 551(1) of title 5, United States Code.

22 USC 6034. **SEC. 104. UNITED STATES OPPOSITION TO CUBAN MEMBERSHIP IN INTERNATIONAL FINANCIAL INSTITUTIONS.**

(a) CONTINUED OPPOSITION TO CUBAN MEMBERSHIP IN INTERNATIONAL FINANCIAL INSTITUTIONS.—

President. (1) IN GENERAL.—Except as provided in paragraph (2), the Secretary of the Treasury shall instruct the United States executive director of each international financial institution to use the voice and vote of the United States to oppose the admission of Cuba as a member of such institution until the

President submits a determination under section 203(c)(3) that a democratically elected government in Cuba is in power.

(2) TRANSITION GOVERNMENT.—Once the President submits a determination under section 203(c)(1) that a transition government in Cuba is in power—

(A) the President is encouraged to take steps to support the processing of Cuba's application for membership in any international financial institution, subject to the membership taking effect after a democratically elected government in Cuba is in power, and

(B) the Secretary of the Treasury is authorized to instruct the United States executive director of each international financial institution to support loans or other assistance to Cuba only to the extent that such loans or assistance contribute to a stable foundation for a democratically elected government in Cuba.

(b) REDUCTION IN UNITED STATES PAYMENTS TO INTERNATIONAL FINANCIAL INSTITUTIONS.—If any international financial institution approves a loan or other assistance to the Cuban Government over the opposition of the United States, then the Secretary of the Treasury shall withhold from payment to such institution an amount equal to the amount of the loan or other assistance, with respect to either of the following types of payment:

(1) The paid-in portion of the increase in capital stock of the institution.

(2) The callable portion of the increase in capital stock of the institution.

(c) DEFINITION.—For purposes of this section, the term "international financial institution" means the International Monetary Fund, the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Multilateral Investment Guaranty Agency, and the Inter-American Development Bank.

SEC. 105. UNITED STATES OPPOSITION TO TERMINATION OF THE SUSPENSION OF THE CUBAN GOVERNMENT FROM PARTICIPATION IN THE ORGANIZATION OF AMERICAN STATES. 22 USC 6035.

The President should instruct the United States Permanent Representative to the Organization of American States to oppose and vote against any termination of the suspension of the Cuban Government from participation in the Organization until the President determines under section 203(c)(3) that a democratically elected government in Cuba is in power.

SEC. 106. ASSISTANCE BY THE INDEPENDENT STATES OF THE FORMER SOVIET UNION FOR THE CUBAN GOVERNMENT. 22 USC 6036.

(a) REPORTING REQUIREMENT.—Not later than 90 days after the date of the enactment of this Act, the President shall submit to the appropriate congressional committees a report detailing progress toward the withdrawal of personnel of any independent state of the former Soviet Union (within the meaning of section 3 of the FREEDOM Support Act (22 U.S.C. 5801)), including advisers, technicians, and military personnel, from the Cienfuegos nuclear facility in Cuba. President.

(b) CRITERIA FOR ASSISTANCE.—Section 498A(a)(11) of the Foreign Assistance Act of 1961 (22 U.S.C. 2295a(a)(11)) is amended by striking "of military facilities" and inserting "military and intel-

ligence facilities, including the military and intelligence facilities at Lourdes and Cienfuegos".

(c) INELIGIBILITY FOR ASSISTANCE.—

(1) IN GENERAL.—Section 498A(b) of that Act (22 U.S.C. 2295a(b)) is amended—

(A) by striking "or" at the end of paragraph (4);

(B) by redesignating paragraph (5) as paragraph (6); and

(C) by inserting after paragraph (4) the following new paragraph:

"(5) for the government of any independent state effective 30 days after the President has determined and certified to the appropriate congressional committees (and Congress has not enacted legislation disapproving the determination within that 30-day period) that such government is providing assistance for, or engaging in nonmarket based trade (as defined in section 498B(k)(3)) with, the Cuban Government; or"

(2) DEFINITION.—Subsection (k) of section 498B of that Act (22 U.S.C. 2295b(k)) is amended by adding at the end the following new paragraph:

"(3) NONMARKET BASED TRADE.—As used in section 498A(b)(5), the term 'nonmarket based trade' includes exports, imports, exchanges, or other arrangements that are provided for goods and services (including oil and other petroleum products) on terms more favorable than those generally available in applicable markets or for comparable commodities, including—

"(A) exports to the Cuban Government on terms that involve a grant, concessional price, guaranty, insurance, or subsidy;

"(B) imports from the Cuban Government at preferential tariff rates;

"(C) exchange arrangements that include advance delivery of commodities, arrangements in which the Cuban Government is not held accountable for unfulfilled exchange contracts, and arrangements under which Cuba does not pay appropriate transportation, insurance, or finance costs; and

"(D) the exchange, reduction, or forgiveness of debt of the Cuban Government in return for a grant by the Cuban Government of an equity interest in a property, investment, or operation of the Cuban Government or of a Cuban national.

"(4) CUBAN GOVERNMENT.—(A) The term 'Cuban Government' includes the government of any political subdivision of Cuba, and any agency or instrumentality of the Government of Cuba.

"(B) For purposes of subparagraph (A), the term 'agency or instrumentality of the Government of Cuba' means an agency or instrumentality of a foreign state as defined in section 1603(b) of title 28, United States Code, with each reference in such section to 'a foreign state' deemed to be a reference to 'Cuba'.".

(3) EXCEPTION.—Section 498A(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2295A(c)) is amended by inserting after paragraph (3) the following new paragraph:

22 USC 2295a.

"(4) The assistance is provided under the secondary school exchange program administered by the United States Information Agency.".

(d) FACILITIES AT LOURDES, CUBA.—

(1) DISAPPROVAL OF CREDITS.—The Congress expresses its strong disapproval of the extension by Russia of credits equivalent to $200,000,000 in support of the intelligence facility at Lourdes, Cuba, in November 1994.

(2) REDUCTION IN ASSISTANCE.—Section 498A of the Foreign Assistance Act of 1961 (22 U.S.C. 2295a) is amended by adding at the end the following new subsection:

"(d) REDUCTION IN ASSISTANCE FOR SUPPORT OF INTELLIGENCE FACILITIES IN CUBA.— President

"(1) REDUCTION IN ASSISTANCE.—Notwithstanding any other provision of law, the President shall withhold from assistance provided, on or after the date of the enactment of this subsection, for an independent state of the former Soviet Union under this Act an amount equal to the sum of assistance and credits, if any, provided on or after such date by such state in support of intelligence facilities in Cuba, including the intelligence facility at Lourdes, Cuba.

"(2) WAIVER.—(A) The President may waive the requirement of paragraph (1) to withhold assistance if the President certifies to the appropriate congressional committees that the provision of such assistance is important to the national security of the United States, and, in the case of such a certification made with respect to Russia, if the President certifies that the Russian Government has assured the United States Government that the Russian Government is not sharing intelligence data collected at the Lourdes facility with officials or agents of the Cuban Government.

"(B) At the time of a certification made with respect to Russia under subparagraph (A), the President shall also submit to the appropriate congressional committees a report describing the intelligence activities of Russia in Cuba, including the purposes for which the Lourdes facility is used by the Russian Government and the extent to which the Russian Government provides payment or government credits to the Cuban Government for the continued use of the Lourdes facility. Reports.

"(C) The report required by subparagraph (B) may be submitted in classified form.

"(D) For purposes of this paragraph, the term 'appropriate congressional committees' includes the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

"(3) EXCEPTIONS TO REDUCTIONS IN ASSISTANCE.—The requirement of paragraph (1) to withhold assistance shall not apply with respect to—

"(A) assistance to meet urgent humanitarian needs, including disaster and refugee relief;

"(B) democratic political reform or rule of law activities;

"(C) technical assistance for safety upgrades of civilian nuclear power plants;

"(D) the creation of private sector or nongovernmental organizations that are independent of government control;

"(E) the development of a free market economic system;

"(F) assistance under the secondary school exchange program administered by the United States Information Agency; or

"(G) assistance for the purposes described in the Cooperative Threat Reduction Act of 1993 (title XII of Public Law 103–160).".

22 USC 6037.

SEC. 107. TELEVISION BROADCASTING TO CUBA.

(a) CONVERSION TO UHF.—The Director of the United States Information Agency shall implement a conversion of television broadcasting to Cuba under the Television Marti Service to ultra high frequency (UHF) broadcasting.

(b) PERIODIC REPORTS.—Not later than 45 days after the date of the enactment of this Act, and every three months thereafter until the conversion described in subsection (a) is fully implemented, the Director of the United States Information Agency shall submit a report to the appropriate congressional committees on the progress made in carrying out subsection (a).

(c) TERMINATION OF BROADCASTING AUTHORITIES.—Upon transmittal of a determination under section 203(c)(3), the Television Broadcasting to Cuba Act (22 U.S.C. 1465aa and following) and the Radio Broadcasting to Cuba Act (22 U.S.C. 1465 and following) are repealed.

President.
22 USC 6038.

SEC. 108. REPORTS ON COMMERCE WITH, AND ASSISTANCE TO, CUBA FROM OTHER FOREIGN COUNTRIES.

(a) REPORTS REQUIRED.—Not later than 90 days after the date of the enactment of this Act, and by January 1 of each year thereafter until the President submits a determination under section 203(c)(1), the President shall submit a report to the appropriate congressional committees on commerce with, and assistance to, Cuba from other foreign countries during the preceding 12-month period.

(b) CONTENTS OF REPORTS.—Each report required by subsection (a) shall, for the period covered by the report, contain the following, to the extent such information is available:

(1) A description of all bilateral assistance provided to Cuba by other foreign countries, including humanitarian assistance.

(2) A description of Cuba's commerce with foreign countries, including an identification of Cuba's trading partners and the extent of such trade.

(3) A description of the joint ventures completed, or under consideration, by foreign nationals and business firms involving facilities in Cuba, including an identification of the location of the facilities involved and a description of the terms of agreement of the joint ventures and the names of the parties that are involved.

(4) A determination as to whether or not any of the facilities described in paragraph (3) is the subject of a claim against Cuba by a United States national.

(5) A determination of the amount of debt of the Cuban Government that is owed to each foreign country, including—

(A) the amount of debt exchanged, forgiven, or reduced under the terms of each investment or operation in Cuba involving foreign nationals; and

(B) the amount of debt owed the foreign country that has been exchanged, forgiven, or reduced in return for

a grant by the Cuban Government of an equity interest in a property, investment, or operation of the Cuban Government or of a Cuban national.

(6) A description of the steps taken to assure that raw materials and semifinished or finished goods produced by facilities in Cuba involving foreign nationals do not enter the United States market, either directly or through third countries or parties.

(7) An identification of countries that purchase, or have purchased, arms or military supplies from Cuba or that otherwise have entered into agreements with Cuba that have a military application, including—

(A) a description of the military supplies, equipment, or other material sold, bartered, or exchanged between Cuba and such countries,

(B) a listing of the goods, services, credits, or other consideration received by Cuba in exchange for military supplies, equipment, or material, and

(C) the terms or conditions of any such agreement.

SEC. 109. AUTHORIZATION OF SUPPORT FOR DEMOCRATIC AND HUMAN RIGHTS GROUPS AND INTERNATIONAL OBSERVERS.

22 USC 6039.

(a) AUTHORIZATION.—Notwithstanding any other provision of law (including section 102 of this Act), except for section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394–1) and comparable notification requirements contained in any Act making appropriations for foreign operations, export financing, and related programs, the President is authorized to furnish assistance and provide other support for individuals and independent nongovernmental organizations to support democracy-building efforts for Cuba, including the following:

(1) Published and informational matter, such as books, videos, and cassettes, on transitions to democracy, human rights, and market economies, to be made available to independent democratic groups in Cuba.

(2) Humanitarian assistance to victims of political repression, and their families.

(3) Support for democratic and human rights groups in Cuba.

(4) Support for visits and permanent deployment of independent international human rights monitors in Cuba.

(b) OAS EMERGENCY FUND.—

(1) FOR SUPPORT OF HUMAN RIGHTS AND ELECTIONS.—The President shall take the necessary steps to encourage the Organization of American States to create a special emergency fund for the explicit purpose of deploying human rights observers, election support, and election observation in Cuba.

(2) ACTION OF OTHER MEMBER STATES.—The President should instruct the United States Permanent Representative to the Organization of American States to encourage other member states of the Organization to join in calling for the Cuban Government to allow the immediate deployment of independent human rights monitors of the Organization throughout Cuba and on-site visits to Cuba by the Inter-American Commission on Human Rights.

(3) VOLUNTARY CONTRIBUTIONS FOR FUND.—Notwithstanding section 307 of the Foreign Assistance Act of 1961 (22 U.S.C. 2227) or any other provision of law limiting the United States proportionate share of assistance to Cuba by any international organization, the President should provide not less than $5,000,000 of the voluntary contributions of the United States to the Organization of American States solely for the purposes of the special fund referred to in paragraph (1).

President. (c) DENIAL OF FUNDS TO THE CUBAN GOVERNMENT.—In implementing this section, the President shall take all necessary steps to ensure that no funds or other assistance is provided to the Cuban Government.

22 USC 6040. **SEC. 110. IMPORTATION SAFEGUARD AGAINST CERTAIN CUBAN PRODUCTS.**

(a) PROHIBITION ON IMPORT OF AND DEALINGS IN CUBAN PRODUCTS.—The Congress notes that section 515.204 of title 31, Code of Federal Regulations, prohibits the entry of, and dealings outside the United States in, merchandise that—

(1) is of Cuban origin;

(2) is or has been located in or transported from or through Cuba; or

(3) is made or derived in whole or in part of any article which is the growth, produce, or manufacture of Cuba.

(b) EFFECT OF NAFTA.—The Congress notes that United States accession to the North American Free Trade Agreement does not modify or alter the United States sanctions against Cuba. The statement of administrative action accompanying that trade agreement specifically states the following:

(1) "The NAFTA rules of origin will not in any way diminish the Cuban sanctions program. . . . Nothing in the NAFTA would operate to override this prohibition.".

(2) "Article 309(3) [of the NAFTA] permits the United States to ensure that Cuban products or goods made from Cuban materials are not imported into the United States from Mexico or Canada and that United States products are not exported to Cuba through those countries.".

(c) RESTRICTION OF SUGAR IMPORTS.—The Congress notes that section 902(c) of the Food Security Act of 1985 (Public Law 99–198) requires the President not to allocate any of the sugar import quota to a country that is a net importer of sugar unless appropriate officials of that country verify to the President that the country does not import for reexport to the United States any sugar produced in Cuba.

(d) ASSURANCES REGARDING SUGAR PRODUCTS.—Protection of essential security interests of the United States requires assurances that sugar products that are entered, or withdrawn from warehouse for consumption, into the customs territory of the United States are not products of Cuba.

22 USC 6041. **SEC. 111. WITHHOLDING OF FOREIGN ASSISTANCE FROM COUNTRIES SUPPORTING JURAGUA NUCLEAR PLANT IN CUBA.**

(a) FINDINGS.—The Congress makes the following findings:

(1) President Clinton stated in April 1993 that the United States opposed the construction of the Juragua nuclear power plant because of the concerns of the United States about Cuba's ability to ensure the safe operation of the facility and because

of Cuba's refusal to sign the Nuclear Non-Proliferation Treaty or ratify the Treaty of Tlatelolco.

(2) Cuba has not signed the Treaty on the Non-Proliferation of Nuclear Weapons or ratified the Treaty of Tlatelolco, the latter of which establishes Latin America and the Caribbean as a nuclear weapons-free zone.

(3) The State Department, the Nuclear Regulatory Commission, and the Department of Energy have expressed concerns about the construction and operation of Cuba's nuclear reactors.

(4) In a September 1992 report to the Congress, the General Accounting Office outlined concerns among nuclear energy experts about deficiencies in the nuclear plant project in Juragua, near Cienfuegos, Cuba, including—

(A) a lack in Cuba of a nuclear regulatory structure;

(B) the absence in Cuba of an adequate infrastructure to ensure the plant's safe operation and requisite maintenance;

(C) the inadequacy of training of plant operators;

(D) reports by a former technician from Cuba who, by examining with x-rays weld sites believed to be part of the auxiliary plumbing system for the plant, found that 10 to 15 percent of those sites were defective;

(E) since September 5, 1992, when construction on the plant was halted, the prolonged exposure to the elements, including corrosive salt water vapor, of the primary reactor components; and

(F) the possible inadequacy of the upper portion of the reactors' dome retention capability to withstand only 7 pounds of pressure per square inch, given that normal atmospheric pressure is 32 pounds per square inch and United States reactors are designed to accommodate pressures of 50 pounds per square inch.

(5) The United States Geological Survey claims that it had difficulty determining answers to specific questions regarding earthquake activity in the area near Cienfuegos because the Cuban Government was not forthcoming with information.

(6) The Geological Survey has indicated that the Caribbean plate, a geological formation near the south coast of Cuba, may pose seismic risks to Cuba and the site of the power plant, and may produce large to moderate earthquakes.

(7) On May 25, 1992, the Caribbean plate produced an earthquake numbering 7.0 on the Richter scale.

(8) According to a study by the National Oceanic and Atmospheric Administration, summer winds could carry radioactive pollutants from a nuclear accident at the power plant throughout all of Florida and parts of the States on the coast of the Gulf of Mexico as far as Texas, and northern winds could carry the pollutants as far northeast as Virginia and Washington, D.C.

(9) The Cuban Government, under dictator Fidel Castro, in 1962 advocated the Soviets' launching of nuclear missiles to the United States, which represented a direct and dangerous provocation of the United States and brought the world to the brink of a nuclear conflict.

(10) Fidel Castro over the years has consistently issued threats against the United States Government, most recently

that he would unleash another perilous mass migration from Cuba upon the enactment of this Act.

(11) Despite the various concerns about the plant's safety and operational problems, a feasibility study is being conducted that would establish a support group to include Russia, Cuba, and third countries with the objective of completing and operating the plant.

(b) WITHHOLDING OF FOREIGN ASSISTANCE.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the President shall withhold from assistance allocated, on or after the date of the enactment of this Act, for any country an amount equal to the sum of assistance and credits, if any, provided on or after such date of enactment by that country or any entity in that country in support of the completion of the Cuban nuclear facility at Juragua, near Cienfuegos, Cuba.

(2) EXCEPTIONS.—The requirement of paragraph (1) to withhold assistance shall not apply with respect to—

(A) assistance to meet urgent humanitarian needs, including disaster and refugee relief;

(B) democratic political reform or rule of law activities;

(C) the creation of private sector or nongovernmental organizations that are independent of government control;

(D) the development of a free market economic system;

(E) assistance for the purposes described in the Cooperative Threat Reduction Act of 1993 (title XII of Public Law 103–160); or

(F) assistance under the secondary school exchange program administered by the United States Information Agency.

(3) DEFINITION.—As used in paragraph (1), the term "assistance" means assistance under the Foreign Assistance Act of 1961, credits, sales, guarantees of extensions of credit, and other assistance under the Arms Export Control Act, assistance under titles I and III of the Agricultural Trade Development and Assistance Act of 1954, assistance under the FREEDOM Support Act, and any other program of assistance or credits provided by the United States to other countries under other provisions of law.

22 USC 6042.

SEC. 112. REINSTITUTION OF FAMILY REMITTANCES AND TRAVEL TO CUBA.

It is the sense of the Congress that the President should—

(1)(A) before considering the reinstitution of general licenses for family remittances to Cuba, insist that, prior to such reinstitution, the Cuban Government permit the unfettered operation of small businesses fully empowered with the right to hire others to whom they may pay wages and to buy materials necessary in the operation of the businesses, and with such other authority and freedom as are required to foster the operation of small businesses throughout Cuba; and

(B) if licenses described in subparagraph (A) are reinstituted, require a specific license for remittances described in subparagraph (A) in amounts of more than $500; and

(2) before considering the reinstitution of general licenses for travel to Cuba by individuals resident in the United States

who are family members of Cuban nationals who are resident in Cuba, insist on such actions by the Cuban Government as abrogation of the sanction for departure from Cuba by refugees, release of political prisoners, recognition of the right of association, and other fundamental freedoms.

SEC. 113. EXPULSION OF CRIMINALS FROM CUBA.

President. 22 USC 6043.

The President shall instruct all United States Government officials who engage in official contacts with the Cuban Government to raise on a regular basis the extradition of or rendering to the United States all persons residing in Cuba who are sought by the United States Department of Justice for crimes committed in the United States.

SEC. 114. NEWS BUREAUS IN CUBA.

22 USC 6044.

(a) ESTABLISHMENT OF NEWS BUREAUS.—The President is authorized to establish and implement an exchange of news bureaus between the United States and Cuba, if the exchange meets the following conditions:

(1) The exchange is fully reciprocal.

(2) The Cuban Government agrees not to interfere with the establishment of news bureaus or with the movement in Cuba of journalists of any United States-based news organizations, including Radio Marti and Television Marti.

(3) The Cuban Government agrees not to interfere with decisions of United States-based news organizations with respect to individuals assigned to work as journalists in their news bureaus in Cuba.

(4) The Department of the Treasury is able to ensure that only accredited journalists regularly employed with a news gathering organization travel to Cuba under this subsection.

(5) The Cuban Government agrees not to interfere with the transmission of telecommunications signals of news bureaus or with the distribution within Cuba of publications of any United States-based news organization that has a news bureau in Cuba.

(b) ASSURANCE AGAINST ESPIONAGE.—In implementing this section, the President shall take all necessary steps to ensure the safety and security of the United States against espionage by Cuban journalists it believes to be working for the intelligence agencies of the Cuban Government.

(c) FULLY RECIPROCAL.—As used in subsection (a)(1), the term "fully reciprocal" means that all news services, news organizations, and broadcasting services, including such services or organizations that receive financing, assistance, or other support from a governmental or official source, are permitted to establish and operate a news bureau in the United States and Cuba.

SEC. 115. EFFECT OF ACT ON LAWFUL UNITED STATES GOVERNMENT ACTIVITIES.

22 USC 6045.

Nothing in this Act prohibits any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency, or of an intelligence agency, of the United States.

SEC. 116. CONDEMNATION OF CUBAN ATTACK ON AMERICAN AIRCRAFT.

22 USC 6046.

(a) FINDINGS.—The Congress makes the following findings:

Brothers to the Rescue.

(1) Brothers to the Rescue is a Miami-based humanitarian organization engaged in searching for and aiding Cuban refugees in the Straits of Florida, and was engaged in such a mission on Saturday, February 24, 1996.

(2) The members of Brothers to the Rescue were flying unarmed and defenseless planes in a mission identical to hundreds they have flown since 1991 and posed no threat whatsoever to the Cuban Government, the Cuban military, or the Cuban people.

(3) Statements by the Cuban Government that Brothers to the Rescue has engaged in covert operations, bombing campaigns, and commando operations against the Government of Cuba have no basis in fact.

(4) The Brothers to the Rescue aircraft notified air traffic controllers as to their flight plans, which would take them south of the 24th parallel and close to Cuban airspace.

(5) International law provides a nation with airspace over the 12-mile territorial sea.

(6) The response of Fidel Castro's dictatorship to Saturday's afternoon flight was to scramble 2 fighter jets from a Havana airfield.

(7) At approximately 3:24 p.m., the pilot of one of the Cuban MiGs received permission and proceeded to shoot down one Brothers to the Rescue airplane more than 6 miles north of the Cuban exclusion zone, or 18 miles from the Cuban coast.

(8) Approximately 7 minutes later, the pilot of the Cuban fighter jet received permission and proceeded to shoot down the second Brothers to the Rescue airplane almost 18.5 miles north of the Cuban exclusion zone, or 30.5 miles from the Cuban coast.

(9) The Cuban dictatorship, if it truly felt threatened by the flight of these unarmed aircraft, could have and should have pursued other peaceful options as required by international law.

(10) The response chosen by Fidel Castro, the use of lethal force, was completely inappropriate to the situation presented to the Cuban Government, making such actions a blatant and barbaric violation of international law and tantamount to cold-blooded murder.

(11) There were no survivors of the attack on these aircraft, and the crew of a third aircraft managed to escape this criminal attack by Castro's Air Force.

Pablo Morales. Carlos Costa. Mario de la Pena. Armondo Alejandre.

(12) The crew members of the destroyed planes, Pablo Morales, Carlos Costa, Mario de la Pena, and Armando Alejandre, were United States citizens from Miami flying with Brothers to the Rescue on a voluntary basis.

(13) It is incumbent upon the United States Government to protect the lives and livelihoods of United States citizens as well as the rights of free passage and humanitarian missions.

(14) This premeditated act took place after a week-long wave of repression by the Cuban Government against Concilio Cubano, an umbrella organization of human rights activists, dissidents, independent economists, and independent journalists, among others.

Concilio Cubano.

(15) The wave of repression against Concilio Cubano, whose membership is committed to peaceful democratic change in

Cuba, included arrests, strip searches, house arrests, and in some cases sentences to more than 1 year in jail.

(b) STATEMENTS BY THE CONGRESS.—(1) The Congress strongly condemns the act of terrorism by the Castro regime in shooting down the Brothers to the Rescue aircraft on February 24, 1996.

(2) The Congress extends its condolences to the families of Pablo Morales, Carlos Costa, Mario de la Pena, and Armando Alejandre, the victims of the attack.

(3) The Congress urges the President to seek, in the International Court of Justice, indictment for this act of terrorism by Fidel Castro.

TITLE II—ASSISTANCE TO A FREE AND INDEPENDENT CUBA

SEC. 201. POLICY TOWARD A TRANSITION GOVERNMENT AND A DEMOCRATICALLY ELECTED GOVERNMENT IN CUBA. 22 USC 6061.

The policy of the United States is as follows:

(1) To support the self-determination of the Cuban people.

(2) To recognize that the self-determination of the Cuban people is a sovereign and national right of the citizens of Cuba which must be exercised free of interference by the government of any other country.

(3) To encourage the Cuban people to empower themselves with a government which reflects the self-determination of the Cuban people.

(4) To recognize the potential for a difficult transition from the current regime in Cuba that may result from the initiatives taken by the Cuban people for self-determination in response to the intransigence of the Castro regime in not allowing any substantive political or economic reforms, and to be prepared to provide the Cuban people with humanitarian, developmental, and other economic assistance.

(5) In solidarity with the Cuban people, to provide appropriate forms of assistance—

(A) to a transition government in Cuba;

(B) to facilitate the rapid movement from such a transition government to a democratically elected government in Cuba that results from an expression of the self-determination of the Cuban people; and

(C) to support such a democratically elected government.

(6) Through such assistance, to facilitate a peaceful transition to representative democracy and a market economy in Cuba and to consolidate democracy in Cuba.

(7) To deliver such assistance to the Cuban people only through a transition government in Cuba, through a democratically elected government in Cuba, through United States Government organizations, or through United States, international, or indigenous nongovernmental organizations.

(8) To encourage other countries and multilateral organizations to provide similar assistance, and to work cooperatively with such countries and organizations to coordinate such assistance.

(9) To ensure that appropriate assistance is rapidly provided and distributed to the people of Cuba upon the institution of a transition government in Cuba.

(10) Not to provide favorable treatment or influence on behalf of any individual or entity in the selection by the Cuban people of their future government.

(11) To assist a transition government in Cuba and a democratically elected government in Cuba to prepare the Cuban military forces for an appropriate role in a democracy.

(12) To be prepared to enter into negotiations with a democratically elected government in Cuba either to return the United States Naval Base at Guantanamo to Cuba or to renegotiate the present agreement under mutually agreeable terms.

(13) To consider the restoration of diplomatic recognition and support the reintegration of the Cuban Government into Inter-American organizations when the President determines that there exists a democratically elected government in Cuba.

(14) To take steps to remove the economic embargo of Cuba when the President determines that a transition to a democratically elected government in Cuba has begun.

(15) To assist a democratically elected government in Cuba to strengthen and stabilize its national currency.

(16) To pursue trade relations with a free, democratic, and independent Cuba.

President.
22 USC 6062.

SEC. 202. ASSISTANCE FOR THE CUBAN PEOPLE.

(a) AUTHORIZATION.—

(1) IN GENERAL.—The President shall develop a plan for providing economic assistance to Cuba at such time as the President determines that a transition government or a democratically elected government in Cuba (as determined under section 203(c)) is in power.

(2) EFFECT ON OTHER LAWS.—Assistance may be provided under this section subject to an authorization of appropriations and subject to the availability of appropriations.

(b) PLAN FOR ASSISTANCE.—

(1) DEVELOPMENT OF PLAN.—The President shall develop a plan for providing assistance under this section—

(A) to Cuba when a transition government in Cuba is in power; and

(B) to Cuba when a democratically elected government in Cuba is in power.

(2) TYPES OF ASSISTANCE.—Assistance under the plan developed under paragraph (1) may, subject to an authorization of appropriations and subject to the availability of appropriations, include the following:

(A) TRANSITION GOVERNMENT.—(i) Except as provided in clause (ii), assistance to Cuba under a transition government shall, subject to an authorization of appropriations and subject to the availability of appropriations, be limited to—

(I) such food, medicine, medical supplies and equipment, and assistance to meet emergency energy needs, as is necessary to meet the basic human needs of the Cuban people; and

(II) assistance described in subparagraph (C).

(ii) Assistance in addition to assistance under clause (i) may be provided, but only after the President certifies to the appropriate congressional committees, in accordance with procedures applicable to reprogramming notifications under section 634A of the Foreign Assistance Act of 1961, that such assistance is essential to the successful completion of the transition to democracy.

(iii) Only after a transition government in Cuba is in power, freedom of individuals to travel to visit their relatives without any restrictions shall be permitted.

(B) DEMOCRATICALLY ELECTED GOVERNMENT.—Assistance to a democratically elected government in Cuba may, subject to an authorization of appropriations and subject to the availability of appropriations, consist of economic assistance in addition to assistance available under subparagraph (A), together with assistance described in subparagraph (C). Such economic assistance may include—

(i) assistance under chapter 1 of part I (relating to development assistance), and chapter 4 of part II (relating to the economic support fund), of the Foreign Assistance Act of 1961;

(ii) assistance under the Agricultural Trade Development and Assistance Act of 1954;

(iii) financing, guarantees, and other forms of assistance provided by the Export-Import Bank of the United States;

(iv) financial support provided by the Overseas Private Investment Corporation for investment projects in Cuba;

(v) assistance provided by the Trade and Development Agency;

(vi) Peace Corps programs; and

(vii) other appropriate assistance to carry out the policy of section 201.

(C) MILITARY ADJUSTMENT ASSISTANCE.—Assistance to a transition government in Cuba and to a democratically elected government in Cuba shall also include assistance in preparing the Cuban military forces to adjust to an appropriate role in a democracy.

(c) STRATEGY FOR DISTRIBUTION.—The plan developed under subsection (b) shall include a strategy for distributing assistance under the plan.

(d) DISTRIBUTION.—Assistance under the plan developed under subsection (b) shall be provided through United States Government organizations and nongovernmental organizations and private and voluntary organizations, whether within or outside the United States, including humanitarian, educational, labor, and private sector organizations.

(e) INTERNATIONAL EFFORTS.—The President shall take the necessary steps—

(1) to seek to obtain the agreement of other countries and of international financial institutions and multilateral organizations to provide to a transition government in Cuba, and to a democratically elected government in Cuba, assistance comparable to that provided by the United States under this Act; and

(2) to work with such countries, institutions, and organizations to coordinate all such assistance programs.

(f) COMMUNICATION WITH THE CUBAN PEOPLE.—The President shall take the necessary steps to communicate to the Cuban people the plan for assistance developed under this section.

(g) REPORT TO CONGRESS.—Not later than 180 days after the date of the enactment of this Act, the President shall transmit to the appropriate congressional committees a report describing in detail the plan developed under this section.

(h) REPORT ON TRADE AND INVESTMENT RELATIONS.—

(1) REPORT TO CONGRESS.—The President, following the transmittal to the Congress of a determination under section 203(c)(3) that a democratically elected government in Cuba is in power, shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate and the appropriate congressional committees a report that describes—

(A) acts, policies, and practices which constitute significant barriers to, or distortions of, United States trade in goods or services or foreign direct investment with respect to Cuba;

(B) policy objectives of the United States regarding trade relations with a democratically elected government in Cuba, and the reasons therefor, including possible—

(i) reciprocal extension of nondiscriminatory trade treatment (most-favored-nation treatment);

(ii) designation of Cuba as a beneficiary developing country under title V of the Trade Act of 1974 (relating to the Generalized System of Preferences) or as a beneficiary country under the Caribbean Basin Economic Recovery Act, and the implications of such designation with respect to trade with any other country that is such a beneficiary developing country or beneficiary country or is a party to the North American Free Trade Agreement; and

(iii) negotiations regarding free trade, including the accession of Cuba to the North American Free Trade Agreement;

(C) specific trade negotiating objectives of the United States with respect to Cuba, including the objectives described in section 108(b)(5) of the North American Free Trade Agreement Implementation Act (19 U.S.C. 3317(b)(5)); and

(D) actions proposed or anticipated to be undertaken, and any proposed legislation necessary or appropriate, to achieve any of such policy and negotiating objectives.

(2) CONSULTATION.—The President shall consult with the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate and the appropriate congressional committees and shall seek advice from the appropriate advisory committees established under section 135 of the Trade Act of 1974 regarding the policy and negotiating objectives and the legislative proposals described in paragraph (1).

SEC. 203. COORDINATION OF ASSISTANCE PROGRAM; IMPLEMENTATION AND REPORTS TO CONGRESS; REPROGRAMMING.

President.
22 USC 6063.

(a) COORDINATING OFFICIAL.—The President shall designate a coordinating official who shall be responsible for—

(1) implementing the strategy for distributing assistance described in section 202(b);

(2) ensuring the speedy and efficient distribution of such assistance; and

(3) ensuring coordination among, and appropriate oversight by, the agencies of the United States that provide assistance described in section 202(b), including resolving any disputes among such agencies.

(b) UNITED STATES-CUBA COUNCIL.—Upon making a determination under subsection (c)(3) that a democratically elected government in Cuba is in power, the President, after consultation with the coordinating official, is authorized to designate a United States-Cuba council—

(1) to ensure coordination between the United States Government and the private sector in responding to change in Cuba, and in promoting market-based development in Cuba; and

(2) to establish periodic meetings between representatives of the United States and Cuban private sectors for the purpose of facilitating bilateral trade.

(c) IMPLEMENTATION OF PLAN; REPORTS TO CONGRESS.—

(1) IMPLEMENTATION WITH RESPECT TO TRANSITION GOVERNMENT.—Upon making a determination that a transition government in Cuba is in power, the President shall transmit that determination to the appropriate congressional committees and shall, subject to an authorization of appropriations and subject to the availability of appropriations, commence the delivery and distribution of assistance to such transition government under the plan developed under section 202(b).

(2) REPORTS TO CONGRESS.—(A) The President shall transmit to the appropriate congressional committees a report setting forth the strategy for providing assistance described in section 202(b)(2) (A) and (C) to the transition government in Cuba under the plan of assistance developed under section 202(b), the types of such assistance, and the extent to which such assistance has been distributed in accordance with the plan.

(B) The President shall transmit the report not later than 90 days after making the determination referred to in paragraph (1), except that the President shall transmit the report in preliminary form not later than 15 days after making that determination.

(3) IMPLEMENTATION WITH RESPECT TO DEMOCRATICALLY ELECTED GOVERNMENT.—The President shall, upon determining that a democratically elected government in Cuba is in power, submit that determination to the appropriate congressional committees and shall, subject to an authorization of appropriations and subject to the availability of appropriations, commence the delivery and distribution of assistance to such democratically elected government under the plan developed under section 202(b).

(4) ANNUAL REPORTS TO CONGRESS.—Not later than 60 days after the end of each fiscal year, the President shall transmit to the appropriate congressional committees a report

on the assistance provided under the plan developed under section 202(b), including a description of each type of assistance, the amounts expended for such assistance, and a description of the assistance to be provided under the plan in the current fiscal year.

(d) REPROGRAMMING.—Any changes in the assistance to be provided under the plan developed under section 202(b) may not be made unless the President notifies the appropriate congressional committees at least 15 days in advance in accordance with the procedures applicable to reprogramming notifications under section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394–1).

22 USC 6064.

SEC. 204. TERMINATION OF THE ECONOMIC EMBARGO OF CUBA.

(a) PRESIDENTIAL ACTIONS.—Upon submitting a determination to the appropriate congressional committees under section 203(c)(1) that a transition government in Cuba is in power, the President, after consultation with the Congress, is authorized to take steps to suspend the economic embargo of Cuba and to suspend the right of action created in section 302 with respect to actions thereafter filed against the Cuban Government, to the extent that such steps contribute to a stable foundation for a democratically elected government in Cuba.

(b) SUSPENSION OF CERTAIN PROVISIONS OF LAW.—In carrying out subsection (a), the President may suspend the enforcement of—

(1) section 620(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(a));

(2) section 620(f) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(f)) with respect to the "Republic of Cuba";

(3) sections 1704, 1705(d), and 1706 of the Cuban Democracy Act of 1992 (22 U.S.C. 6003, 6004(d), and 6005);

(4) section 902(c) of the Food Security Act of 1985; and

(5) the prohibitions on transactions described in part 515 of title 31, Code of Federal Regulations.

(c) ADDITIONAL PRESIDENTIAL ACTIONS.—Upon submitting a determination to the appropriate congressional committees under section 203(c)(3) that a democratically elected government in Cuba is in power, the President shall take steps to terminate the economic embargo of Cuba, including the restrictions under part 515 of title 31, Code of Federal Regulations.

(d) CONFORMING AMENDMENTS.—On the date on which the President submits a determination under section 203(c)(3)—

(1) section 620(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(a)) is repealed;

(2) section 620(f) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(f)) is amended by striking "Republic of Cuba";

(3) sections 1704, 1705(d), and 1706 of the Cuban Democracy Act of 1992 (22 U.S.C. 6003, 6004(d), and 6005) are repealed; and

7 USC 1446g note.

(4) section 902(c) of the Food Security Act of 1985 is repealed.

(e) REVIEW OF SUSPENSION OF ECONOMIC EMBARGO.—

(1) REVIEW.—If the President takes action under subsection (a) to suspend the economic embargo of Cuba, the President shall immediately so notify the Congress. The President shall report to the Congress no less frequently than every 6 months thereafter, until he submits a determination under section

203(c)(3) that a democratically elected government in Cuba is in power, on the progress being made by Cuba toward the establishment of such a democratically elected government. The action of the President under subsection (a) shall cease to be effective upon the enactment of a joint resolution described in paragraph (2).

(2) JOINT RESOLUTIONS.—For purposes of this subsection, the term "joint resolution" means only a joint resolution of the 2 Houses of Congress, the matter after the resolving clause of which is as follows: "That the Congress disapproves the action of the President under section 204(a) of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 to suspend the economic embargo of Cuba, notice of which was submitted to the Congress on ____.", with the blank space being filled with the appropriate date.

(3) REFERRAL TO COMMITTEES.—Joint resolutions introduced in the House of Representatives shall be referred to the Committee on International Relations and joint resolutions introduced in the Senate shall be referred to the Committee on Foreign Relations.

(4) PROCEDURES.—(A) Any joint resolution shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

(B) For the purpose of expediting the consideration and enactment of joint resolutions, a motion to proceed to the consideration of any joint resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.

(C) Not more than 1 joint resolution may be considered in the House of Representatives and the Senate in the 6-month period beginning on the date on which the President notifies the Congress under paragraph (1) of the action taken under subsection (a), and in each 6-month period thereafter. President. Notification

SEC. 205. REQUIREMENTS AND FACTORS FOR DETERMINING A TRANSITION GOVERNMENT. 22 USC 6065.

(a) REQUIREMENTS.—For the purposes of this Act, a transition government in Cuba is a government that—

(1) has legalized all political activity;

(2) has released all political prisoners and allowed for investigations of Cuban prisons by appropriate international human rights organizations;

(3) has dissolved the present Department of State Security in the Cuban Ministry of the Interior, including the Committees for the Defense of the Revolution and the Rapid Response Brigades; and

(4) has made public commitments to organizing free and fair elections for a new government—

(A) to be held in a timely manner within a period not to exceed 18 months after the transition government assumes power;

(B) with the participation of multiple independent political parties that have full access to the media on an equal basis, including (in the case of radio, television, or other telecommunications media) in terms of allotments

of time for such access and the times of day such allotments are given; and

(C) to be conducted under the supervision of internationally recognized observers, such as the Organization of American States, the United Nations, and other election monitors;

(5) has ceased any interference with Radio Marti or Television Marti broadcasts;

(6) makes public commitments to and is making demonstrable progress in—

(A) establishing an independent judiciary;

(B) respecting internationally recognized human rights and basic freedoms as set forth in the Universal Declaration of Human Rights, to which Cuba is a signatory nation;

(C) allowing the establishment of independent trade unions as set forth in conventions 87 and 98 of the International Labor Organization, and allowing the establishment of independent social, economic, and political associations;

(7) does not include Fidel Castro or Raul Castro; and

(8) has given adequate assurances that it will allow the speedy and efficient distribution of assistance to the Cuban people.

President. (b) ADDITIONAL FACTORS.—In addition to the requirements in subsection (a), in determining whether a transition government in Cuba is in power, the President shall take into account the extent to which that government—

(1) is demonstrably in transition from a communist totalitarian dictatorship to representative democracy;

(2) has made public commitments to, and is making demonstrable progress in—

(A) effectively guaranteeing the rights of free speech and freedom of the press, including granting permits to privately owned media and telecommunications companies to operate in Cuba;

(B) permitting the reinstatement of citizenship to Cuban-born persons returning to Cuba;

(C) assuring the right to private property; and

(D) taking appropriate steps to return to United States citizens (and entities which are 50 percent or more beneficially owned by United States citizens) property taken by the Cuban Government from such citizens and entities on or after January 1, 1959, or to provide equitable compensation to such citizens and entities for such property;

(3) has extradited or otherwise rendered to the United States all persons sought by the United States Department of Justice for crimes committed in the United States; and

(4) has permitted the deployment throughout Cuba of independent and unfettered international human rights monitors.

22 USC 6066. **SEC. 206. REQUIREMENTS FOR DETERMINING A DEMOCRATICALLY ELECTED GOVERNMENT.**

For purposes of this Act, a democratically elected government in Cuba, in addition to meeting the requirements of section 205(a), is a government which—

(1) results from free and fair elections—

(A) conducted under the supervision of internationally recognized observers; and

(B) in which—

(i) opposition parties were permitted ample time to organize and campaign for such elections; and

(ii) all candidates were permitted full access to the media;

(2) is showing respect for the basic civil liberties and human rights of the citizens of Cuba;

(3) is substantially moving toward a market-oriented economic system based on the right to own and enjoy property;

(4) is committed to making constitutional changes that would ensure regular free and fair elections and the full enjoyment of basic civil liberties and human rights by the citizens of Cuba;

(5) has made demonstrable progress in establishing an independent judiciary; and

(6) has made demonstrable progress in returning to United States citizens (and entities which are 50 percent or more beneficially owned by United States citizens) property taken by the Cuban Government from such citizens and entities on or after January 1, 1959, or providing full compensation for such property in accordance with international law standards and practice.

SEC. 207. SETTLEMENT OF OUTSTANDING UNITED STATES CLAIMS TO CONFISCATED PROPERTY IN CUBA. 22 USC 6067.

(a) REPORT TO CONGRESS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of State shall provide a report to the appropriate congressional committees containing an assessment of the property dispute question in Cuba, including—

(1) an estimate of the number and amount of claims to property confiscated by the Cuban Government that are held by United States nationals in addition to those claims certified under section 507 of the International Claims Settlement Act of 1949;

(2) an assessment of the significance of promptly resolving confiscated property claims to the revitalization of the Cuban economy;

(3) a review and evaluation of technical and other assistance that the United States could provide to help either a transition government in Cuba or a democratically elected government in Cuba establish mechanisms to resolve property questions;

(4) an assessment of the role and types of support the United States could provide to help resolve claims to property confiscated by the Cuban Government that are held by United States nationals who did not receive or qualify for certification under section 507 of the International Claims Settlement Act of 1949; and

(5) an assessment of any areas requiring legislative review or action regarding the resolution of property claims in Cuba prior to a change of government in Cuba.

(d) SENSE OF CONGRESS.—It is the sense of the Congress that the satisfactory resolution of property claims by a Cuban Government recognized by the United States remains an essential condition

for the full resumption of economic and diplomatic relations between the United States and Cuba.

TITLE III—PROTECTION OF PROPERTY RIGHTS OF UNITED STATES NATIONALS

22 USC 6081.

SEC. 301. FINDINGS.

The Congress makes the following findings:

(1) Individuals enjoy a fundamental right to own and enjoy property which is enshrined in the United States Constitution.

(2) The wrongful confiscation or taking of property belonging to United States nationals by the Cuban Government, and the subsequent exploitation of this property at the expense of the rightful owner, undermines the comity of nations, the free flow of commerce, and economic development.

Fidel Castro.

(3) Since Fidel Castro seized power in Cuba in 1959—

(A) he has trampled on the fundamental rights of the Cuban people; and

(B) through his personal despotism, he has confiscated the property of—

(i) millions of his own citizens;

(ii) thousands of United States nationals; and

(iii) thousands more Cubans who claimed asylum in the United States as refugees because of persecution and later became naturalized citizens of the United States.

(4) It is in the interest of the Cuban people that the Cuban Government respect equally the property rights of Cuban nationals and nationals of other countries.

(5) The Cuban Government is offering foreign investors the opportunity to purchase an equity interest in, manage, or enter into joint ventures using property and assets some of which were confiscated from United States nationals.

(6) This "trafficking" in confiscated property provides badly needed financial benefit, including hard currency, oil, and productive investment and expertise, to the current Cuban Government and thus undermines the foreign policy of the United States—

(A) to bring democratic institutions to Cuba through the pressure of a general economic embargo at a time when the Castro regime has proven to be vulnerable to international economic pressure; and

(B) to protect the claims of United States nationals who had property wrongfully confiscated by the Cuban Government.

(7) The United States Department of State has notified other governments that the transfer to third parties of properties confiscated by the Cuban Government "would complicate any attempt to return them to their original owners".

(8) The international judicial system, as currently structured, lacks fully effective remedies for the wrongful confiscation of property and for unjust enrichment from the use of wrongfully confiscated property by governments and private entities at the expense of the rightful owners of the property.

(9) International law recognizes that a nation has the ability to provide for rules of law with respect to conduct outside its territory that has or is intended to have substantial effect within its territory.

(10) The United States Government has an obligation to its citizens to provide protection against wrongful confiscations by foreign nations and their citizens, including the provision of private remedies.

(11) To deter trafficking in wrongfully confiscated property, United States nationals who were the victims of these confiscations should be endowed with a judicial remedy in the courts of the United States that would deny traffickers any profits from economically exploiting Castro's wrongful seizures.

SEC. 302. LIABILITY FOR TRAFFICKING IN CONFISCATED PROPERTY CLAIMED BY UNITED STATES NATIONALS. 22 USC 6082.

(a) CIVIL REMEDY.—

(1) LIABILITY FOR TRAFFICKING.—(A) Except as otherwise provided in this section, any person that, after the end of the 3-month period beginning on the effective date of this title, traffics in property which was confiscated by the Cuban Government on or after January 1, 1959, shall be liable to any United States national who owns the claim to such property for money damages in an amount equal to the sum of—

(i) the amount which is the greater of—

(I) the amount, if any, certified to the claimant by the Foreign Claims Settlement Commission under the International Claims Settlement Act of 1949, plus interest;

(II) the amount determined under section 303(a)(2), plus interest; or

(III) the fair market value of that property, calculated as being either the current value of the property, or the value of the property when confiscated plus interest, whichever is greater; and

(ii) court costs and reasonable attorneys' fees.

(B) Interest under subparagraph (A)(i) shall be at the rate set forth in section 1961 of title 28, United States Code, computed by the court from the date of confiscation of the property involved to the date on which the action is brought under this subsection.

(2) PRESUMPTION IN FAVOR OF THE CERTIFIED CLAIMS.—There shall be a presumption that the amount for which a person is liable under clause (i) of paragraph (1)(A) is the amount that is certified as described in subclause (I) of that clause. The presumption shall be rebuttable by clear and convincing evidence that the amount described in subclause (II) or (III) of that clause is the appropriate amount of liability under that clause.

(3) INCREASED LIABILITY.—(A) Any person that traffics in confiscated property for which liability is incurred under paragraph (1) shall, if a United States national owns a claim with respect to that property which was certified by the Foreign Claims Settlement Commission under title V of the International Claims Settlement Act of 1949, be liable for damages computed in accordance with subparagraph (C).

(B) If the claimant in an action under this subsection (other than a United States national to whom subparagraph (A) applies) provides, after the end of the 3-month period described in paragraph (1) notice to—

(i) a person against whom the action is to be initiated, or

(ii) a person who is to be joined as a defendant in the action,

at least 30 days before initiating the action or joining such person as a defendant, as the case may be, and that person, after the end of the 30-day period beginning on the date the notice is provided, traffics in the confiscated property that is the subject of the action, then that person shall be liable to that claimant for damages computed in accordance with subparagraph (C).

(C) Damages for which a person is liable under subparagraph (A) or subparagraph (B) are money damages in an amount equal to the sum of—

(i) the amount determined under paragraph (1)(A)(ii), and

(ii) 3 times the amount determined applicable under paragraph (1)(A)(i).

(D) Notice to a person under subparagraph (B)—

(i) shall be in writing;

(ii) shall be posted by certified mail or personally delivered to the person; and

(iii) shall contain—

(I) a statement of intention to commence the action under this section or to join the person as a defendant (as the case may be), together with the reasons therefor;

(II) a demand that the unlawful trafficking in the claimant's property cease immediately; and

(III) a copy of the summary statement published under paragraph (8).

(4) APPLICABILITY.—(A) Except as otherwise provided in this paragraph, actions may be brought under paragraph (1) with respect to property confiscated before, on, or after the date of the enactment of this Act.

(B) In the case of property confiscated before the date of the enactment of this Act, a United States national may not bring an action under this section on a claim to the confiscated property unless such national acquires ownership of the claim before such date of enactment.

(C) In the case of property confiscated on or after the date of the enactment of this Act, a United States national who, after the property is confiscated, acquires ownership of a claim to the property by assignment for value, may not bring an action on the claim under this section.

(5) TREATMENT OF CERTAIN ACTIONS.—(A) In the case of a United States national who was eligible to file a claim with the Foreign Claims Settlement Commission under title V of the International Claims Settlement Act of 1949 but did not so file the claim, that United States national may not bring an action on that claim under this section.

(B) In the case of any action brought under this section by a United States national whose underlying claim in the

action was timely filed with the Foreign Claims Settlement Commission under title V of the International Claims Settlement Act of 1949 but was denied by the Commission, the court shall accept the findings of the Commission on the claim as conclusive in the action under this section.

(C) A United States national, other than a United States national bringing an action under this section on a claim certified under title V of the International Claims Settlement Act of 1949, may not bring an action on a claim under this section before the end of the 2-year period beginning on the date of the enactment of this Act.

(D) An interest in property for which a United States national has a claim certified under title V of the International Claims Settlement Act of 1949 may not be the subject of a claim in an action under this section by any other person. Any person bringing an action under this section whose claim has not been so certified shall have the burden of establishing for the court that the interest in property that is the subject of the claim is not the subject of a claim so certified.

(6) INAPPLICABILITY OF ACT OF STATE DOCTRINE.—No court of the United States shall decline, based upon the act of state doctrine, to make a determination on the merits in an action brought under paragraph (1).

(7) LICENSES NOT REQUIRED.—(A) Notwithstanding any other provision of law, an action under this section may be brought and may be settled, and a judgment rendered in such action may be enforced, without obtaining any license or other permission from any agency of the United States, except that this paragraph shall not apply to the execution of a judgment against, or the settlement of actions involving, property blocked under the authorities of section 5(b) of the Trading with the Enemy Act that were being exercised on July 1, 1977, as a result of a national emergency declared by the President before such date, and are being exercised on the date of the enactment of this Act.

(B) Notwithstanding any other provision of law, and for purposes of this title only, any claim against the Cuban Government shall not be deemed to be an interest in property the transfer of which to a United States national required before the enactment of this Act, or requires after the enactment of this Act, a license issued by, or the permission of, any agency of the United States.

(8) PUBLICATION BY ATTORNEY GENERAL.—Not later than 60 days after the date of the enactment of this Act, the Attorney General shall prepare and publish in the Federal Register a concise summary of the provisions of this title, including a statement of the liability under this title of a person trafficking in confiscated property, and the remedies available to United States nationals under this title. Federal Register, publication.

(b) AMOUNT IN CONTROVERSY.—An action may be brought under this section by a United States national only where the amount in controversy exceeds the sum or value of $50,000, exclusive of interest, costs, and attorneys' fees. In calculating $50,000 for purposes of the preceding sentence, the applicable amount under subclause (I), (II), or (III) of subsection (a)(1)(A)(i) may not be tripled as provided in subsection (a)(3).

(c) PROCEDURAL REQUIREMENTS.—

(1) IN GENERAL.—Except as provided in this title, the provisions of title 28, United States Code, and the rules of the courts of the United States apply to actions under this section to the same extent as such provisions and rules apply to any other action brought under section 1331 of title 28, United States Code.

(2) SERVICE OF PROCESS.—In an action under this section, service of process on an agency or instrumentality of a foreign state in the conduct of a commercial activity, or against individuals acting under color of law, shall be made in accordance with section 1608 of title 28, United States Code.

(d) ENFORCEABILITY OF JUDGMENTS AGAINST CUBAN GOVERNMENT.—In an action brought under this section, any judgment against an agency or instrumentality of the Cuban Government shall not be enforceable against an agency or instrumentality of either a transition government in Cuba or a democratically elected government in Cuba.

(e) CERTAIN PROPERTY IMMUNE FROM EXECUTION.—Section 1611 of title 28, United States Code, is amended by adding at the end the following new subsection:

"(c) Notwithstanding the provisions of section 1610 of this chapter, the property of a foreign state shall be immune from attachment and from execution in an action brought under section 302 of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 to the extent that the property is a facility or installation used by an accredited diplomatic mission for official purposes.".

(f) ELECTION OF REMEDIES.—

(1) ELECTION.—Subject to paragraph (2)—

(A) any United States national that brings an action under this section may not bring any other civil action or proceeding under the common law, Federal law, or the law of any of the several States, the District of Columbia, or any commonwealth, territory, or possession of the United States, that seeks monetary or nonmonetary compensation by reason of the same subject matter; and

(B) any person who brings, under the common law or any provision of law other than this section, a civil action or proceeding for monetary or nonmonetary compensation arising out of a claim for which an action would otherwise be cognizable under this section may not bring an action under this section on that claim.

(2) TREATMENT OF CERTIFIED CLAIMANTS.—(A) In the case of any United States national that brings an action under this section based on a claim certified under title V of the International Claims Settlement Act of 1949—

(i) if the recovery in the action is equal to or greater than the amount of the certified claim, the United States national may not receive payment on the claim under any agreement entered into between the United States and Cuba settling claims covered by such title, and such national shall be deemed to have discharged the United States from any further responsibility to represent the United States national with respect to that claim;

(ii) if the recovery in the action is less than the amount of the certified claim, the United States national may receive payment under a claims agreement described in clause (i) but only to the extent of the difference between

the amount of the recovery and the amount of the certified claim; and

(iii) if there is no recovery in the action, the United States national may receive payment on the certified claim under a claims agreement described in clause (i) to the same extent as any certified claimant who does not bring an action under this section.

(B) In the event some or all actions brought under this section are consolidated by judicial or other action in such manner as to create a pool of assets available to satisfy the claims in such actions, including a pool of assets in a proceeding in bankruptcy, every claimant whose claim in an action so consolidated was certified by the Foreign Claims Settlement Commission under title V of the International Claims Settlement Act of 1949 shall be entitled to payment in full of its claim from the assets in such pool before any payment is made from the assets in such pool with respect to any claim not so certified.

(g) DEPOSIT OF EXCESS PAYMENTS BY CUBA UNDER CLAIMS AGREEMENT.—Any amounts paid by Cuba under any agreement entered into between the United States and Cuba settling certified claims under title V of the International Claims Settlement Act of 1949 that are in excess of the payments made on such certified claims after the application of subsection (f) shall be deposited into the United States Treasury.

(h) TERMINATION OF RIGHTS.—

(1) IN GENERAL.—All rights created under this section to bring an action for money damages with respect to property confiscated by the Cuban Government—

(A) may be suspended under section 204(a); and

(B) shall cease upon transmittal to the Congress of a determination of the President under section 203(c)(3) that a democratically elected government in Cuba is in power.

(2) PENDING SUITS.—The suspension or termination of rights under paragraph (1) shall not affect suits commenced before the date of such suspension or termination (as the case may be), and in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if the suspension or termination had not occurred.

(i) IMPOSITION OF FILING FEES.—The Judicial Conference of the United States shall establish a uniform fee that shall be imposed upon the plaintiff or plaintiffs in each action brought under this section. The fee should be established at a level sufficient to recover the costs to the courts of actions brought under this section. The fee under this subsection is in addition to any other fees imposed under title 28, United States Code.

SEC. 303. PROOF OF OWNERSHIP OF CLAIMS TO CONFISCATED PROPERTY. 22 USC 6083.

(a) EVIDENCE OF OWNERSHIP.—

(1) CONCLUSIVENESS OF CERTIFIED CLAIMS.—In any action brought under this title, the court shall accept as conclusive proof of ownership of an interest in property a certification of a claim to ownership of that interest that has been made by the Foreign Claims Settlement Commission under title V

of the International Claims Settlement Act of 1949 (22 U.S.C. 1643 and following).

(2) CLAIMS NOT CERTIFIED.—If in an action under this title a claim has not been so certified by the Foreign Claims Settlement Commission, the court may appoint a special master, including the Foreign Claims Settlement Commission, to make determinations regarding the amount and ownership of the claim. Such determinations are only for evidentiary purposes in civil actions brought under this title and do not constitute certifications under title V of the International Claims Settlement Act of 1949.

(3) EFFECT OF DETERMINATIONS OF FOREIGN OR INTERNATIONAL ENTITIES.—In determining the amount or ownership of a claim in an action under this title, the court shall not accept as conclusive evidence any findings, orders, judgments, or decrees from administrative agencies or courts of foreign countries or international organizations that declare the value of or invalidate the claim, unless the declaration of value or invalidation was found pursuant to binding international arbitration to which the United States or the claimant submitted the claim.

(b) AMENDMENT OF THE INTERNATIONAL CLAIMS SETTLEMENT ACT OF 1949.—Title V of the International Claims Settlement Act of 1949 (22 U.S.C. 1643 and following) is amended by adding at the end the following new section:

"DETERMINATION OF OWNERSHIP OF CLAIMS REFERRED BY DISTRICT COURTS OF THE UNITED STATES

22 USC 1643*l*.

"SEC. 514. Notwithstanding any other provision of this Act and only for purposes of section 302 of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996, a United State district court, for fact-finding purposes, may refer to the Commission, and the Commission may determine, questions of the amount and ownership of a claim by a United States national (as defined in section 4 of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996), resulting from the confiscation of property by the Government of Cuba described in section 503(a), whether or not the United States national qualified as a national of the United States (as defined in section 502(1)) at the time of the action by the Government of Cuba.".

(c) RULE OF CONSTRUCTION.—Nothing in this Act or in section 514 of the International Claims Settlement Act of 1949, as added by subsection (b), shall be construed—

(1) to require or otherwise authorize the claims of Cuban nationals who became United States citizens after their property was confiscated to be included in the claims certified to the Secretary of State by the Foreign Claims Settlement Commission for purposes of future negotiation and espousal of claims with a friendly government in Cuba when diplomatic relations are restored; or

(2) as superseding, amending, or otherwise altering certifications that have been made under title V of the International Claims Settlement Act of 1949 before the date of the enactment of this Act.

SEC. 304. EXCLUSIVITY OF FOREIGN CLAIMS SETTLEMENT COMMISSION CERTIFICATION PROCEDURE.

Title V of the International Claims Settlement Act of 1949 (22 U.S.C. 1643 and following), as amended by section 303, is further amended by adding at the end the following new section:

"EXCLUSIVITY OF FOREIGN CLAIMS SETTLEMENT COMMISSION CERTIFICATION PROCEDURE

"SEC. 515. (a) Subject to subsection (b), neither any national of the United States who was eligible to file a claim under section 503 but did not timely file such claim under that section, nor any person who was ineligible to file a claim under section 503, nor any national of Cuba, including any agency, instrumentality, subdivision, or enterprise of the Government of Cuba or any local government of Cuba, nor any successor thereto, whether or not recognized by the United States, shall have a claim to, participate in, or otherwise have an interest in, the compensation proceeds or nonmonetary compensation paid or allocated to a national of the United States by virtue of a claim certified by the Commission under section 507, nor shall any district court of the United States have jurisdiction to adjudicate any such claim. 22 USC 1643m.

"(b) Nothing in subsection (a) shall be construed to detract from or otherwise affect any rights in the shares of capital stock of nationals of the United States owning claims certified by the Commission under section 507.".

SEC. 305. LIMITATION OF ACTIONS. 22 USC 6084.

An action under section 302 may not be brought more than 2 years after the trafficking giving rise to the action has ceased to occur.

SEC. 306. EFFECTIVE DATE. 22 USC 6085.

(a) IN GENERAL.—Subject to subsections (b) and (c), this title and the amendments made by this title shall take effect on August 1, 1996.

(b) SUSPENSION AUTHORITY.—

(1) SUSPENSION AUTHORITY.—The President may suspend the effective date under subsection (a) for a period of not more than 6 months if the President determines and reports in writing to the appropriate congressional committees at least 15 days before such effective date that the suspension is necessary to the national interests of the United States and will expedite a transition to democracy in Cuba.

(2) ADDITIONAL SUSPENSIONS.—The President may suspend the effective date under subsection (a) for additional periods of not more than 6 months each, each of which shall begin on the day after the last day of the period during which a suspension is in effect under this subsection, if the President determines and reports in writing to the appropriate congressional committees at least 15 days before the date on which the additional suspension is to begin that the suspension is necessary to the national interests of the United States and will expedite a transition to democracy in Cuba.

(c) OTHER AUTHORITIES.—

(1) SUSPENSION.—After this title and the amendments of this title have taken effect—

(A) no person shall acquire a property interest in any potential or pending action under this title; and

(B) the President may suspend the right to bring an action under this title with respect to confiscated property for a period of not more than 6 months if the President determines and reports in writing to the appropriate congressional committees at least 15 days before the suspension takes effect that such suspension is necessary to the national interests of the United States and will expedite a transition to democracy in Cuba.

(2) ADDITIONAL SUSPENSIONS.—The President may suspend the right to bring an action under this title for additional periods of not more than 6 months each, each of which shall begin on the day after the last day of the period during which a suspension is in effect under this subsection, if the President determines and reports in writing to the appropriate congressional committees at least 15 days before the date on which the additional suspension is to begin that the suspension is necessary to the national interests of the United States and will expedite a transition to democracy in Cuba.

(3) PENDING SUITS.—The suspensions of actions under paragraph (1) shall not affect suits commenced before the date of such suspension, and in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if the suspension had not occurred.

(d) RESCISSION OF SUSPENSION.—The President may rescind any suspension made under subsection (b) or (c) upon reporting to the appropriate congressional committees that doing so will expedite a transition to democracy in Cuba.

TITLE IV—EXCLUSION OF CERTAIN ALIENS

22 USC 6091.

SEC. 401. EXCLUSION FROM THE UNITED STATES OF ALIENS WHO HAVE CONFISCATED PROPERTY OF UNITED STATES NATIONALS OR WHO TRAFFIC IN SUCH PROPERTY.

(a) GROUNDS FOR EXCLUSION.—The Secretary of State shall deny a visa to, and the Attorney General shall exclude from the United States, any alien who the Secretary of State determines is a person who, after the date of the enactment of this Act—

(1) has confiscated, or has directed or overseen the confiscation of, property a claim to which is owned by a United States national, or converts or has converted for personal gain confiscated property, a claim to which is owned by a United States national;

(2) traffics in confiscated property, a claim to which is owned by a United States national;

(3) is a corporate officer, principal, or shareholder with a controlling interest of an entity which has been involved in the confiscation of property or trafficking in confiscated property, a claim to which is owned by a United States national; or

(4) is a spouse, minor child, or agent of a person excludable under paragraph (1), (2), or (3).

(b) DEFINITIONS.—As used in this section, the following terms have the following meanings:

(1) CONFISCATED; CONFISCATION.—The terms "confiscated" and "confiscation" refer to—

(A) the nationalization, expropriation, or other seizure by the Cuban Government of ownership or control of property—

(i) without the property having been returned or adequate and effective compensation provided; or

(ii) without the claim to the property having been settled pursuant to an international claims settlement agreement or other mutually accepted settlement procedure; and

(B) the repudiation by the Cuban Government of, the default by the Cuban Government on, or the failure of the Cuban Government to pay—

(i) a debt of any enterprise which has been nationalized, expropriated, or otherwise taken by the Cuban Government;

(ii) a debt which is a charge on property nationalized, expropriated, or otherwise taken by the Cuban Government; or

(iii) a debt which was incurred by the Cuban Government in satisfaction or settlement of a confiscated property claim.

(2) TRAFFICS.—(A) Except as provided in subparagraph (B), a person "traffics" in confiscated property if that person knowingly and intentionally—

(i)(I) transfers, distributes, dispenses, brokers, or otherwise disposes of confiscated property,

(II) purchases, receives, obtains control of, or otherwise acquires confiscated property, or

(III) improves (other than for routine maintenance), invests in (by contribution of funds or anything of value, other than for routine maintenance), or begins after the date of the enactment of this Act to manage, lease, possess, use, or hold an interest in confiscated property,

(ii) enters into a commercial arrangement using or otherwise benefiting from confiscated property, or

(iii) causes, directs, participates in, or profits from, trafficking (as described in clause (i) or (ii)) by another person, or otherwise engages in trafficking (as described in clause (i) or (ii)) through another person,

without the authorization of any United States national who holds a claim to the property.

(B) The term "traffics" does not include—

(i) the delivery of international telecommunication signals to Cuba;

(ii) the trading or holding of securities publicly traded or held, unless the trading is with or by a person determined by the Secretary of the Treasury to be a specially designated national;

(iii) transactions and uses of property incident to lawful travel to Cuba, to the extent that such transactions and uses of property are necessary to the conduct of such travel; or

(iv) transactions and uses of property by a person who is both a citizen of Cuba and a resident of Cuba, and who is not an official of the Cuban Government or the ruling political party in Cuba.

(c) EXEMPTION.—This section shall not apply where the Secretary of State finds, on a case by case basis, that the entry into the United States of the person who would otherwise be excluded under this section is necessary for medical reasons or for purposes of litigation of an action under title III.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—This section applies to aliens seeking to enter the United States on or after the date of the enactment of this Act.

(2) TRAFFICKING.—This section applies only with respect to acts within the meaning of "traffics" that occur on or after the date of the enactment of this Act.

Approved March 12, 1996.

LEGISLATIVE HISTORY—H.R. 927:

HOUSE REPORTS: Nos. 104–202, Pt. 1 (Comm. on International Relations) and 104–468 (Comm. of Conference).

CONGRESSIONAL RECORD:

Vol. 141 (1995): Sept. 20, 21, considered and passed House.
Oct. 11–13, 17–19, considered and passed Senate, amended.

Vol. 142 (1996): Mar. 5, Senate agreed to conference report.
Mar. 6, House agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 32 (1996):
Mar. 12, Presidential remarks and statement.

Public Law 104–115
104th Congress

An Act

To guarantee the continuing full investment of Social Security and other Federal funds in obligations of the United States.

Mar. 12, 1996
[H.R. 3021]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TREATMENT OF CERTAIN OBLIGATIONS OF THE UNITED STATES.

31 USC 3101 note.

(a) IN GENERAL.—In addition to any other authority provided by law, the Secretary of the Treasury may issue to each Federal fund obligations of the United States under chapter 31 of title 31, United States Code, before March 30, 1996, in an amount not to exceed the sum of—

(1) the amounts deposited in such fund on or after the earlier of—

(A) the date on which such Secretary would not otherwise be able to issue such obligations to such fund, or

(B) March 15, 1996,

and before March 30, 1996, and

(2) the face amount of obligations held by such fund which mature during such period.

(b) OBLIGATIONS EXEMPT FROM PUBLIC DEBT LIMIT.—

(1) IN GENERAL.—Obligations issued under subsection (a) shall not be taken into account in applying the limitation in section 3101(b) of title 31, United States Code.

(2) TERMINATION OF EXEMPTION.—Paragraph (1) shall cease to apply on the earlier of—

(A) the date of the enactment of the first increase in the limitation in section 3101(b) of title 31, United States Code, after the date of the enactment of this Act, or

(B) March 30, 1996.

(c) FEDERAL FUND.—For purposes of this section, the term "Federal fund" means any Federal trust fund or Government account established pursuant to Federal law to which the Secretary of the Treasury has issued or is expressly authorized by law directly to issue obligations under chapter 31 of title 31, United States Code, in respect of public money, money otherwise required to be deposited in the Treasury, or amounts appropriated.

(d) EXTENSION OF EXISTING AUTHORITY.—Subparagraph (B) of section 1(c)(2) of Public Law 104–103 is amended by striking "March 15, 1996" and inserting "March 30, 1996".

Ante, p. 55.

Approved March 12, 1996.

LEGISLATIVE HISTORY—H.R. 3021:

CONGRESSIONAL RECORD, Vol. 142 (1996):
Mar. 7, considered and passed House and Senate.

Public Law 104–116
104th Congress

Joint Resolution

Mar. 15, 1996
[H.J. Res. 163]

Making further continuing appropriations for the fiscal year 1996, and for other purposes.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Public Law 104–99 is amended by striking out "March 15, 1996" in sections 106(c), 112, 126(c), 202(c) and 214 and inserting in lieu thereof "March 22, 1996", and by inserting in section 101(a) after "The Department of the Interior and Related Agencies Appropriations Act, 1996" the following ", H.R. 1977", and by inserting in section 101(a) after "The Departments of Labor, Health and Human Services, and Education and Related Agencies Appropriations Act, 1996" the following ", H.R. 2127", and that Public Law 104–92 is amended by striking out "March 15, 1996" in section 106(c) and inserting in lieu thereof "March 22, 1996".

Ante, pp. 27, 28, 33, 36, 38.
Ante, p. 26.
Ante, p. 18.

Approved March 15, 1996.

LEGISLATIVE HISTORY—H.J. Res. 163:

CONGRESSIONAL RECORD, Vol. 142 (1996):
Mar. 14, considered and passed House and Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 32 (1996):
Mar. 15, Presidential statement.

Public Law 104–117
104th Congress

An Act

To provide that members of the Armed Forces performing services for the peacekeeping efforts in Bosnia and Herzegovina, Croatia, and Macedonia shall be entitled to tax benefits in the same manner as if such services were performed in a combat zone, and for other purposes.

Mar. 20, 1996
[H.R. 2778]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TREATMENT OF CERTAIN INDIVIDUALS PERFORMING SERVICES IN CERTAIN HAZARDOUS DUTY AREAS.

26 USC 112 note.

(a) GENERAL RULE.—For purposes of the following provisions of the Internal Revenue Code of 1986, a qualified hazardous duty area shall be treated in the same manner as if it were a combat zone (as determined under section 112 of such Code):

(1) Section 2(a)(3) (relating to special rule where deceased spouse was in missing status).

(2) Section 112 (relating to the exclusion of certain combat pay of members of the Armed Forces).

(3) Section 692 (relating to income taxes of members of Armed Forces on death).

(4) Section 2201 (relating to members of the Armed Forces dying in combat zone or by reason of combat-zone-incurred wounds, etc.).

(5) Section 3401(a)(1) (defining wages relating to combat pay for members of the Armed Forces).

(6) Section 4253(d) (relating to the taxation of phone service originating from a combat zone from members of the Armed Forces).

(7) Section 6013(f)(1) (relating to joint return where individual is in missing status).

(8) Section 7508 (relating to time for performing certain acts postponed by reason of service in combat zone).

(b) QUALIFIED HAZARDOUS DUTY AREA.—For purposes of this section, the term "qualified hazardous duty area" means Bosnia and Herzegovina, Croatia, or Macedonia, if as of the date of the enactment of this section any member of the Armed Forces of the United States is entitled to special pay under section 310 of title 37, United States Code (relating to special pay; duty subject to hostile fire or imminent danger) for services performed in such country. Such term includes any such country only during the period such entitlement is in effect. Solely for purposes of applying section 7508 of the Internal Revenue Code of 1986, in the case of an individual who is performing services as part of Operation Joint Endeavor outside the United States while deployed away from such individual's permanent duty station, the term "qualified

hazardous duty area" includes, during the period for which such entitlement is in effect, any area in which such services are performed.

(c) EXCLUSION OF COMBAT PAY FROM WITHHOLDING LIMITED TO AMOUNT EXCLUDABLE FROM GROSS INCOME.—Paragraph (1) of section 3401(a) of the Internal Revenue Code of 1986 (defining wages) is amended by inserting before the semicolon the following: "to the extent remuneration for such service is excludable from gross income under such section".

26 USC 3401.

(d) INCREASE IN COMBAT PAY EXCLUSION FOR OFFICERS TO HIGHEST AMOUNT APPLICABLE TO ENLISTED PERSONNEL.—

26 USC 112.

(1) IN GENERAL.—Subsection (b) of section 112 of such Code (relating to commissioned officers) is amended by striking "$500" and inserting "the maximum enlisted amount".

(2) MAXIMUM ENLISTED AMOUNT.—Subsection (c) of section 112 of such Code (relating to definitions) is amended by adding at the end the following new paragraph:

"(5) The term 'maximum enlisted amount' means, for any month, the sum of—

"(A) the highest rate of basic pay payable for such month to any enlisted member of the Armed Forces of the United States at the highest pay grade applicable to enlisted members, and

"(B) in the case of an officer entitled to special pay under section 310 of title 37, United States Code, for such month, the amount of such special pay payable to such officer for such month.".

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the provisions of and amendments made by this section shall take effect on November 21, 1995.

(2) WITHHOLDING.—Subsection (a)(5) and the amendment made by subsection (c) shall apply to remuneration paid after the date of the enactment of this Act.

SEC. 2. EXTENSION OF INTERNAL REVENUE SERVICE USER FEES.

26 USC 7801 note.

Subsection (c) of section 10511 of the Revenue Act of 1987 is amended by striking "October 1, 2000" and by inserting "October 1, 2003".

Approved March 20, 1996.

LEGISLATIVE HISTORY—H.R. 2778:

HOUSE REPORTS: No. 104–465 (Comm. on Ways and Means).
CONGRESSIONAL RECORD, Vol. 142 (1996):
Mar. 5, considered and passed House.
Mar. 6, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 32 (1996):
Mar. 20, Presidential statement.

Public Law 104–118
104th Congress

Joint Resolution

Making further continuing appropriations for the fiscal year 1996, and for other purposes.

Mar. 22, 1996
[H.J. Res. 165]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Public Law 104–99 is further amended by striking out "March 22, 1996" in sections 106(c), 112, 126(c), 202(c) and 214 and inserting in lieu thereof "March 29, 1996", and that Public Law 104–92 is further amended by striking out "March 22, 1996" in section 106(c) and inserting in lieu thereof "April 3, 1996".

Ante, pp. 27, 28, 33, 36, 38.
Ante, p. 18.

Approved March 22, 1996.

LEGISLATIVE HISTORY—H.J. Res. 165:

CONGRESSIONAL RECORD, Vol. 142 (1996):
Mar. 21, considered and passed House and Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 32 (1996):
Mar. 22, Presidential statement.

Public Law 104–119
104th Congress

An Act

Mar. 26, 1996
[H.R. 2036]

To amend the Solid Waste Disposal Act to make certain adjustments in the land disposal program to provide needed flexibility, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Land Disposal Program Flexibility Act of 1996.
Environmental protection.
42 USC 6901 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Land Disposal Program Flexibility Act of 1996".

SEC. 2. LAND DISPOSAL RESTRICTIONS.

42 USC 6924.

Section 3004(g) of the Solid Waste Disposal Act is amended by adding after paragraph (6) the following:

"(7) Solid waste identified as hazardous based solely on one or more characteristics shall not be subject to this subsection, any prohibitions under subsection (d), (e), or (f), or any requirement promulgated under subsection (m) (other than any applicable specific methods of treatment, as provided in paragraph (8)) if the waste—

"(A) is treated in a treatment system that subsequently discharges to waters of the United States pursuant to a permit issued under section 402 of the Federal Water Pollution Control Act (commonly known as the "Clean Water Act") (33 U.S.C. 1342), treated for the purposes of the pretreatment requirements of section 307 of the Clean Water Act (33 U.S.C. 1317), or treated in a zero discharge system that, prior to any permanent land disposal, engages in treatment that is equivalent to treatment required under section 402 of the Clean Water Act (33 U.S.C. 1342) for discharges to waters of the United States, as determined by the Administrator; and

"(B) no longer exhibits a hazardous characteristic prior to management in any land-based solid waste management unit.

"(8) Solid waste that otherwise qualifies under paragraph (7) shall nevertheless be required to meet any applicable specific methods of treatment specified for such waste by the Administrator under subsection (m), including those specified in the rule promulgated by the Administrator June 1, 1990, prior to management in a land-based unit as part of a treatment system specified in paragraph (7)(A). No solid waste may qualify under paragraph (7) that would generate toxic gases, vapors, or fumes due to the presence of cyanide when exposed to pH conditions between 2.0 and 12.5.

"(9) Solid waste identified as hazardous based on one or more characteristics alone shall not be subject to this subsection, any prohibitions under subsection (d), (e), or (f), or any requirement promulgated under subsection (m) if the waste no longer exhibits a hazardous characteristic at the point of injection in any Class I injection well permitted under section 1422 of title XIV of the Public Health Service Act (42 U.S.C. 300h–1).

"(10) Not later than five years after the date of enactment of this paragraph, the Administrator shall complete a study of hazardous waste managed pursuant to paragraph (7) or (9) to characterize the risks to human health or the environment associated with such management. In conducting this study, the Administrator shall evaluate the extent to which risks are adequately addressed under existing State or Federal programs and whether unaddressed risks could be better addressed under such laws or programs. Upon receipt of additional information or upon completion of such study and as necessary to protect human health and the environment, the Administrator may impose additional requirements under existing Federal laws, including subsection (m)(1), or rely on other State or Federal programs or authorities to address such risks. In promulgating any treatment standards pursuant to subsection (m)(1) under the previous sentence, the Administrator shall take into account the extent to which treatment is occurring in land-based units as part of a treatment system specified in paragraph (7)(A).

"(11) Nothing in paragraph (7) or (9) shall be interpreted or applied to restrict any inspection or enforcement authority under the provisions of this Act.".

SEC. 3. GROUND WATER MONITORING.

(a) AMENDMENT OF SOLID WASTE DISPOSAL ACT.—Section 4010(c) of the Solid Waste Disposal Act (42 U.S.C. 6949a(c)) is amended as follows:

(1) By striking "CRITERIA.—Not later" and inserting the following: "CRITERIA.—

"(1) IN GENERAL.—Not later".

(2) By adding at the end the following new paragraphs:

"(2) ADDITIONAL REVISIONS.—Subject to paragraph (3), the requirements of the criteria described in paragraph (1) relating to ground water monitoring shall not apply to an owner or operator of a new municipal solid waste landfill unit, an existing municipal solid waste landfill unit, or a lateral expansion of a municipal solid waste landfill unit, that disposes of less than 20 tons of municipal solid waste daily, based on an annual average, if—

"(A) there is no evidence of ground water contamination from the municipal solid waste landfill unit or expansion; and

"(B) the municipal solid waste landfill unit or expansion serves—

"(i) a community that experiences an annual interruption of at least 3 consecutive months of surface transportation that prevents access to a regional waste management facility; or

"(ii) a community that has no practicable waste management alternative and the landfill unit is located in an area that annually receives less than or equal to 25 inches of precipitation.

"(3) PROTECTION OF GROUND WATER RESOURCES.—

"(A) MONITORING REQUIREMENT.—A State may require ground water monitoring of a solid waste landfill unit that would otherwise be exempt under paragraph (2) if necessary to protect ground water resources and ensure compliance with a State ground water protection plan, where applicable.

"(B) METHODS.—If a State requires ground water monitoring of a solid waste landfill unit under subparagraph (A), the State may allow the use of a method other than the use of ground water monitoring wells to detect a release of contamination from the unit.

"(C) CORRECTIVE ACTION.—If a State finds a release from a solid waste landfill unit, the State shall require corrective action as appropriate.

"(4) NO-MIGRATION EXEMPTION.—

"(A) IN GENERAL.—Ground water monitoring requirements may be suspended by the Director of an approved State for a landfill operator if the operator demonstrates that there is no potential for migration of hazardous constituents from the unit to the uppermost aquifer during the active life of the unit and the post-closure care period.

"(B) CERTIFICATION.—A demonstration under subparagraph (A) shall be certified by a qualified ground-water scientist and approved by the Director of an approved State.

"(C) GUIDANCE.—Not later than 6 months after the date of enactment of this paragraph, the Administrator shall issue a guidance document to facilitate small community use of the no migration exemption under this paragraph.

"(5) ALASKA NATIVE VILLAGES.—Upon certification by the Governor of the State of Alaska that application of the requirements described in paragraph (1) to a solid waste landfill unit of a Native village (as defined in section 3 of the Alaska Native Claims Settlement Act (16 U.S.C. 1602)) or unit that is located in or near a small, remote Alaska village would be infeasible, or would not be cost-effective, or is otherwise inappropriate because of the remote location of the unit, the State may exempt the unit from some or all of those requirements. This paragraph shall apply only to solid waste landfill units that dispose of less than 20 tons of municipal solid waste daily, based on an annual average.

"(6) FURTHER REVISIONS OF GUIDELINES AND CRITERIA.—Recognizing the unique circumstances of small communities, the Administrator shall, not later than two years after enactment of this provision promulgate revisions to the guidelines and criteria promulgated under this subtitle to provide additional flexibility to approved States to allow landfills that receive 20 tons or less of municipal solid waste per day, based on an annual average, to use alternative frequencies of daily cover application, frequencies of methane gas monitoring, infiltration layers for final cover, and means for demonstrating

financial assurance: *Provided,* That such alternative requirements take into account climatic and hydrogeologic conditions and are protective of human health and environment.".

(b) REINSTATEMENT OF REGULATORY EXEMPTION.—It is the intent of section 4010(c)(2) of the Solid Waste Disposal Act, as added by subsection (a), to immediately reinstate subpart E of part 258 of title 40, Code of Federal Regulations, as added by the final rule published at 56 Federal Register 50798 on October 9, 1991. 42 USC 6949a note.

SEC. 4. TECHNICAL CORRECTIONS TO SOLID WASTE DISPOSAL ACT.

The Solid Waste Disposal Act is amended as follows:

(1) In section 3001(d)(5) by striking "under section 3001" and inserting "under this section". 42 USC 6921.

(2) By inserting a semicolon at the end of section 3004(q)(1)(C). 42 USC 6924.

(3) In section 3004(g), by striking "subparagraph (A) through (C)" in paragraph (5) and inserting "subparagraphs (A) through (C)".

(4) In section 3004(r)(2)(C), by striking "pertroleum-derived" and inserting "petroleum-derived".

(5) In section 3004(r)(3) by inserting after "Standard" the word "Industrial".

(6) In section 3005(a), by striking "polycholorinated" and inserting "polychlorinated". 42 USC 6925.

(7) In section 3005(e)(1), by inserting a comma at the end of subparagraph (C).

(8) In section 4007(a), by striking "4003" in paragraphs (1) and (2)(A) and inserting "4003(a)". 42 USC 6947.

Approved March 26, 1996.

LEGISLATIVE HISTORY—H.R. 2036:

HOUSE REPORTS: No. 104–454 (Comm. on Commerce).
CONGRESSIONAL RECORD, Vol. 142 (1996):
Jan. 30, 31, considered and passed House.
Feb. 20, considered and passed Senate, amended.
Mar. 7, House concurred in Senate amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 32 (1996):
Mar. 26, Presidential statement.

Public Law 104–120
104th Congress

An Act

Mar. 28, 1996
[S. 1494]

To provide an extension for fiscal year 1996 for certain programs administered by the Secretary of Housing and Urban Development and the Secretary of Agriculture, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Housing Opportunity Program Extension Act of 1996.
12 USC 1701 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Housing Opportunity Program Extension Act of 1996".

42 USC 1437f note.

SEC. 2. MULTIFAMILY HOUSING ASSISTANCE.

(a) SECTION 8 CONTRACT RENEWAL.—Notwithstanding section 405(b) of the Balanced Budget Downpayment Act, I (Public Law 104–99; 110 Stat. 44), at the request of the owner of any project assisted under section 8(e)(2) of the United States Housing Act of 1937 (as such section existed immediately before October 1, 1991), the Secretary of Housing and Urban Development may renew, for a period of 1 year, the contract for assistance under such section for such project that expires or terminates during fiscal year 1996 at current rent levels.

12 USC 4101 note.

(b) LOW-INCOME HOUSING PRESERVATION.—

(1) USE OF AMOUNTS.—Notwithstanding any provision of the Balanced Budget Downpayment Act, I (Public Law 104–99; 110 Stat. 26) or any other law, the Secretary shall use the amounts described in paragraph (2) of this subsection under the authority and conditions provided in the second undesignated paragraph of the item relating to "HOUSING PROGRAMS—ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING" in title II of the bill, H.R. 2099 (104th Congress), as passed the House of Representatives on December 7, 1995; except that for purposes of this subsection, any reference in such undesignated paragraph to March 1, 1996, shall be construed to refer to April 15, 1996, any reference in such paragraph to July 1, 1996, shall be construed to refer to August 15, 1996, and any reference in such paragraph to August 1, 1996, shall be construed to refer to September 15, 1996.

(2) DESCRIPTION OF AMOUNTS.—Except as otherwise provided in any future appropriation Act, the amounts described under this paragraph are any amounts that—

(A) are—

(i) unreserved, unobligated amounts provided in an appropriation Act enacted before the date of the enactment of this Act;

(ii) provided under the Balanced Budget Downpayment Act, I; or

(iii) provided in any appropriation Act enacted after the date of the enactment of this Act; and

(B) are provided for use in conjunction with properties that are eligible for assistance under the Low-Income Housing Preservation and Resident Homeownership Act of 1990 or the Emergency Low Income Housing Preservation Act of 1987.

SEC. 3. COMMUNITY DEVELOPMENT BLOCK GRANTS.

42 USC 5305 note.

(a) DIRECT HOMEOWNERSHIP ACTIVITIES.—Notwithstanding the amendments made by section 907(b)(2) of the Cranston-Gonzalez National Affordable Housing Act, section 105(a)(25) of the Housing and Community Development Act of 1974, as in existence on September 30, 1995, shall apply to the use of assistance made available under title I of the Housing and Community Development Act of 1974 during fiscal year 1996.

(b) INCREASE IN CUMULATIVE LIMIT.—Section 108(k)(1) of the Housing and Community Development Act of 1974 (42 U.S.C. 5308(k)(1)) is amended by striking "$3,500,000,000" and inserting "$4,500,000,000".

SEC. 4. EXTENSION OF RURAL HOUSING PROGRAMS.

(a) UNDERSERVED AREAS SET-ASIDE.—Section 509(f)(4)(A) of the Housing Act of 1949 (42 U.S.C. 1479(f)(4)(A)) is amended—

(1) in the first sentence, by striking "fiscal years 1993 and 1994" and inserting "fiscal year 1996"; and

(2) in the second sentence, by striking "each".

(b) RURAL MULTIFAMILY RENTAL HOUSING.—Section 515(b)(4) of the Housing Act of 1949 (42 U.S.C. 1485(b)(4)) is amended by striking "September 30, 1994" and inserting "September 30, 1996".

(c) RURAL RENTAL HOUSING FUNDS FOR NONPROFIT ENTITIES.—The first sentence of section 515(w)(1) of the Housing Act of 1949 (42 U.S.C. 1485(w)(1)) is amended by striking "fiscal years 1993 and 1994" and inserting "fiscal year 1996".

SEC. 5. LOAN GUARANTEES FOR MULTIFAMILY RENTAL HOUSING IN RURAL AREAS.

Incorporation. 42 USC 1490p–2.

(a) IN GENERAL.—The provisions of section 5 of the bill, H.R. 1691 (104th Congress), as passed the House of Representatives on October 30, 1995, are hereby enacted into law.

42 USC 1490p–2.

(b) TECHNICAL AMENDMENT.—Section 538 of the Housing Act of 1949 (as added by the amendment made pursuant to subsection (a) of this section) is amended by striking "Homesteading and Neighborhood Restoration Act of 1995" each place it appears and inserting "Housing Opportunity Program Extension Act of 1996".

SEC. 6. EXTENSION OF FHA MORTGAGE INSURANCE PROGRAM FOR HOME EQUITY CONVERSION MORTGAGES.

(a) EXTENSION OF PROGRAM.—The first sentence of section 255(g) of the National Housing Act (12 U.S.C. 1715z–20(g)) is amended by striking "September 30, 1996" and inserting "September 30, 2000".

(b) LIMITATION ON NUMBER OF MORTGAGES.—The second sentence of section 255(g) of the National Housing Act (12 U.S.C. 1715z–20(g)) is amended by striking "30,000" and inserting "50,000".

(c) ELIGIBLE MORTGAGES.—Section 255(d)(3) of the National Housing Act (12 U.S.C. 1715z–20(d)(3)) is amended to read as follows:

"(3) be secured by a dwelling that is designed principally for a 1- to 4-family residence in which the mortgagor occupies 1 of the units;".

SEC. 7. LIMITATION ON GNMA GUARANTEES OF MORTGAGE-BACKED SECURITIES.

Section 306(g)(2) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1721(g)(2)) is amended to read as follows:

"(2) Notwithstanding any other provision of law and subject only to the absence of qualified requests for guarantees, to the authority provided in this subsection, and to the extent of or in such amounts as any funding limitation approved in appropriation Acts, the Association shall enter into commitments to issue guarantees under this subsection in an aggregate amount of $110,000,000,000 during fiscal year 1996. There are authorized to be appropriated to cover the costs (as such term is defined in section 502 of the Congressional Budget Act of 1974) of guarantees issued under this Act by the Association such sums as may be necessary for fiscal year 1996.".

SEC. 8. EXTENSION OF MULTIFAMILY HOUSING FINANCE PROGRAMS.

(a) RISK-SHARING PILOT PROGRAM.—The first sentence of section 542(b)(5) of the Housing and Community Development Act of 1992 (12 U.S.C. 1707 note) is amended by striking "on not more than 15,000 units over fiscal years 1993 and 1994" and inserting "on not more than 7,500 units during fiscal year 1996".

(b) HOUSING FINANCE AGENCY PILOT PROGRAM.—The first sentence of section 542(c)(4) of the Housing and Community Development Act of 1992 (12 U.S.C. 1707 note) is amended by striking "on not to exceed 30,000 units over fiscal years 1993, 1994, and 1995" and inserting "on not more than 12,000 units during fiscal year 1996".

SEC. 9. SAFETY AND SECURITY IN PUBLIC AND ASSISTED HOUSING.

(a) CONTRACT PROVISIONS AND REQUIREMENTS.—Section 6 of the United States Housing Act of 1937 (42 U.S.C. 1437d) is amended—

(1) in subsection (k), in the matter following paragraph (6)—

(A) by striking "on or near such premises" and inserting "on or off such premises"; and

(B) by striking "criminal" the first place it appears; and

(2) in subsection (l)(5), by striking "on or near such premises" and inserting "on or off such premises".

(b) AVAILABILITY OF CRIMINAL RECORDS FOR SCREENING AND EVICTION.—Section 6 of the United States Housing Act of 1937 (42 U.S.C. 1437d) is amended by adding at the end the following new subsection:

"(q) AVAILABILITY OF RECORDS.—

"(1) IN GENERAL.—

"(A) PROVISION OF INFORMATION.—Notwithstanding any other provision of law, except as provided in subparagraph (B), the National Crime Information Center, police departments, and other law enforcement agencies shall,

upon request, provide information to public housing agencies regarding the criminal conviction records of adult applicants for, or tenants of, public housing for purposes of applicant screening, lease enforcement, and eviction.

"(B) EXCEPTION.—A law enforcement agency described in subparagraph (A) shall provide information under this paragraph relating to any criminal conviction of a juvenile only to the extent that the release of such information is authorized under the law of the applicable State, tribe, or locality.

"(2) OPPORTUNITY TO DISPUTE.—Before an adverse action is taken with regard to assistance under this title on the basis of a criminal record, the public housing agency shall provide the tenant or applicant with a copy of the criminal record and an opportunity to dispute the accuracy and relevance of that record.

"(3) FEE.—A public housing agency may be charged a reasonable fee for information provided under paragraph (1).

"(4) RECORDS MANAGEMENT.—Each public housing agency shall establish and implement a system of records management that ensures that any criminal record received by the public housing agency is—

"(A) maintained confidentially; Privacy.

"(B) not misused or improperly disseminated; and

"(C) destroyed, once the purpose for which the record was requested has been accomplished.

"(5) DEFINITION.—For purposes of this subsection, the term 'adult' means a person who is 18 years of age or older, or who has been convicted of a crime as an adult under any Federal, State, or tribal law.".

(c) INELIGIBILITY BECAUSE OF EVICTION FOR DRUG-RELATED ACTIVITY.—Section 6 of the United States Housing Act of 1937 is amended by adding after subsection (q) (as added by subsection (b) of this section) the following new subsection: 42 USC 1437d.

"(r) INELIGIBILITY BECAUSE OF EVICTION FOR DRUG-RELATED ACTIVITY.—Any tenant evicted from housing assisted under this title by reason of drug-related criminal activity (as that term is defined in section 8(f)) shall not be eligible for housing assistance under this title during the 3-year period beginning on the date of such eviction, unless the evicted tenant successfully completes a rehabilitation program approved by the public housing agency (which shall include a waiver of this subsection if the circumstances leading to eviction no longer exist).".

(d) INELIGIBILITY OF ILLEGAL DRUG USERS AND ALCOHOL ABUSERS FOR ASSISTED HOUSING.—Section 16 of the United States Housing Act of 1937 (42 U.S.C. 1437n) is amended—

(1) in the section heading by striking "INCOME"; and

(2) by adding at the end the following new subsection:

"(e) INELIGIBILITY OF ILLEGAL DRUG USERS AND ALCOHOL ABUSERS.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, a public housing agency shall establish standards for occupancy in public housing dwelling units and assistance under section 8—

"(A) that prohibit occupancy in any public housing dwelling unit by, and assistance under section 8 for, any person—

"(i) who the public housing agency determines is illegally using a controlled substance; or

"(ii) if the public housing agency determines that it has reasonable cause to believe that such person's illegal use (or pattern of illegal use) of a controlled substance, or abuse (or pattern of abuse) of alcohol, may interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents of the project; and

"(B) that allow the public housing agency to terminate the tenancy in any public housing unit of, and the assistance under section 8 for, any person—

"(i) who the public housing agency determines is illegally using a controlled substance; or

"(ii) whose illegal use of a controlled substance, or whose abuse of alcohol, is determined by the public housing agency to interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents of the project.

"(2) CONSIDERATION OF REHABILITATION.—In determining whether, pursuant to paragraph (1), to deny occupancy or assistance to any person based on a pattern of use of a controlled substance or a pattern of abuse of alcohol, a public housing agency may consider whether such person—

"(A) has successfully completed a supervised drug or alcohol rehabilitation program (as applicable) and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol (as applicable);

"(B) has otherwise been rehabilitated successfully and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol (as applicable); or

"(C) is participating in a supervised drug or alcohol rehabilitation program (as applicable) and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol (as applicable).

"(3) INAPPLICABILITY TO INDIAN HOUSING.—This subsection does not apply to any dwelling unit assisted by an Indian housing authority.".

SEC. 10. PUBLIC HOUSING DESIGNATED FOR ELDERLY AND DISABLED FAMILIES.

(a) AUTHORITY FOR DESIGNATION.—Section 7 of the United States Housing Act of 1937 (42 U.S.C. 1437e) is amended to read as follows:

"DESIGNATED HOUSING FOR ELDERLY AND DISABLED FAMILIES

"SEC. 7. (a) AUTHORITY TO PROVIDE DESIGNATED HOUSING.—

"(1) IN GENERAL.—Subject only to provisions of this section and notwithstanding any other provision of law, a public housing agency for which a plan under subsection (d) is in effect may provide public housing projects (or portions of projects) designated for occupancy by (A) only elderly families, (B) only disabled families, or (C) elderly and disabled families.

"(2) PRIORITY FOR OCCUPANCY.—In determining priority for admission to public housing projects (or portions of projects) that are designated for occupancy as provided in paragraph (1), the public housing agency may make units in such projects

(or portions) available only to the types of families for whom the project is designated.

"(3) ELIGIBILITY OF NEAR-ELDERLY FAMILIES.—If a public housing agency determines that there are insufficient numbers of elderly families to fill all the units in a project (or portion of a project) designated under paragraph (1) for occupancy by only elderly families, the agency may provide that near-elderly families may occupy dwelling units in the project (or portion).

"(b) STANDARDS REGARDING EVICTIONS.—Except as provided in section 16(e)(1)(B), any tenant who is lawfully residing in a dwelling unit in a public housing project may not be evicted or otherwise required to vacate such unit because of the designation of the project (or portion of a project) pursuant to this section or because of any action taken by the Secretary or any public housing agency pursuant to this section.

"(c) RELOCATION ASSISTANCE.—A public housing agency that designates any existing project or building, or portion thereof, for occupancy as provided under subsection (a)(1) shall provide, to each person and family who agrees to be relocated in connection with such designation—

"(1) notice of the designation and an explanation of available relocation benefits, as soon as is practicable for the agency and the person or family; Notice.

"(2) access to comparable housing (including appropriate services and design features), which may include tenant-based rental assistance under section 8, at a rental rate paid by the tenant that is comparable to that applicable to the unit from which the person or family has vacated; and

"(3) payment of actual, reasonable moving expenses.

"(d) REQUIRED PLAN.—A plan under this subsection for designating a project (or portion of a project) for occupancy under subsection (a)(1) is a plan, prepared by the public housing agency for the project and submitted to the Secretary, that—

"(1) establishes that the designation of the project is necessary—

"(A) to achieve the housing goals for the jurisdiction under the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act; and

"(B) to meet the housing needs of the low-income population of the jurisdiction; and

"(2) includes a description of—

"(A) the project (or portion of a project) to be designated;

"(B) the types of tenants for which the project is to be designated;

"(C) any supportive services to be provided to tenants of the designated project (or portion);

"(D) how the design and related facilities (as such term is defined in section 202(d)(8) of the Housing Act of 1959) of the project accommodate the special environmental needs of the intended occupants; and

"(E) any plans to secure additional resources or housing assistance to provide assistance to families that may have been housed if occupancy in the project were not restricted pursuant to this section.

For purposes of this subsection, the term 'supportive services' means services designed to meet the special needs of residents.

"(e) REVIEW OF PLANS.—

"(1) REVIEW AND NOTIFICATION.—The Secretary shall conduct a limited review of each plan under subsection (d) that is submitted to the Secretary to ensure that the plan is complete and complies with the requirements of subsection (d). The Secretary shall notify each public housing agency submitting a plan whether the plan complies with such requirements not later than 60 days after receiving the plan. If the Secretary does not notify the public housing agency, as required under this paragraph or paragraph (2), the plan shall be considered, for purposes of this section, to comply with the requirements under subsection (d) and the Secretary shall be considered to have notified the agency of such compliance upon the expiration of such 60-day period.

"(2) NOTICE OF REASONS FOR DETERMINATION OF NONCOMPLIANCE.—If the Secretary determines that a plan, as submitted, does not comply with the requirements under subsection (d), the Secretary shall specify in the notice under paragraph (1) the reasons for the noncompliance and any modifications necessary for the plan to meet such requirements.

"(3) STANDARDS FOR DETERMINATION OF NONCOMPLIANCE.—The Secretary may determine that a plan does not comply with the requirements under subsection (d) only if—

"(A) the plan is incomplete in significant matters required under such subsection; or

"(B) there is evidence available to the Secretary that challenges, in a substantial manner, any information provided in the plan.

"(4) TREATMENT OF EXISTING PLANS.—Notwithstanding any other provision of this section, a public housing agency shall be considered to have submitted a plan under this subsection if the agency has submitted to the Secretary an application and allocation plan under this section (as in effect before the date of the enactment of the Housing Opportunity Program Extension Act of 1996) that have not been approved or disapproved before such date of enactment.

"(f) EFFECTIVENESS.—

"(1) 5-YEAR EFFECTIVENESS OF ORIGINAL PLAN.—A plan under subsection (d) shall be in effect for purposes of this section during the 5-year period that begins upon notification under subsection (e)(1) of the public housing agency that the plan complies with the requirements under subsection (d).

"(2) RENEWAL OF PLAN.—Upon the expiration of the 5-year period under paragraph (1) or any 2-year period under this paragraph, an agency may extend the effectiveness of the designation and plan for an additional 2-year period (that begins upon such expiration) by submitting to the Secretary any information needed to update the plan. The Secretary may not limit the number of times a public housing agency extends the effectiveness of a designation and plan under this paragraph.

"(3) TRANSITION PROVISION.—Any application and allocation plan approved under this section (as in effect before the date of the enactment of the Housing Opportunity Program Extension Act of 1996) before such date of enactment shall be consid-

ered to be a plan under subsection (d) that is in effect for purposes of this section for the 5-year period beginning upon such approval.

"(g) INAPPLICABILITY OF UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITIONS POLICY ACT OF 1970.—No tenant of a public housing project shall be considered to be displaced for purposes of the Uniform Relocation Assistance and Real Property Acquisitions Policy Act of 1970 because of the designation of any existing project or building, or portion thereof, for occupancy as provided under subsection (a) of this section.

"(h) INAPPLICABILITY TO INDIAN HOUSING.—The provisions of this section shall not apply with respect to low-income housing developed or operated pursuant to a contract between the Secretary and an Indian housing authority.".

(b) AUTHORIZATION OF APPROPRIATIONS FOR IMPLEMENTATION OF ALLOCATION PLANS.—There are authorized to be appropriated for fiscal year 1996 such sums as may be necessary for rental subsidy contracts under the existing housing certificate and housing voucher programs under section 8 of the United States Housing Act of 1937 for public housing agencies to implement allocations plans for designated housing under section 7 of such Act that are approved by the Secretary of Housing and Urban Development.

SEC. 11. ASSISTANCE FOR HABITAT FOR HUMANITY AND OTHER SELF-HELP HOUSING PROVIDERS.

42 USC 12805 note.

(a) GRANT AUTHORITY.—The Secretary of Housing and Urban Development may, to the extent amounts are available to carry out this section and the requirements of this section are met, make grants for use in accordance with this section to—

(1) Habitat for Humanity International, whose organizational headquarters are located in Americus, Georgia; and

(2) other national or regional organizations or consortia that have experience in providing or facilitating self-help housing homeownership opportunities.

(b) GOALS AND ACCOUNTABILITY.—In making grants under this section, the Secretary shall take such actions as may be necessary to ensure that—

(1) assistance provided under this section is used to facilitate and encourage innovative homeownership opportunities through the provision of self-help housing, under which the homeowner contributes a significant amount of sweat equity toward the construction of the new dwelling;

(2) assistance provided under this section for land acquisition and infrastructure development results in the development of not less than 4,000 new dwellings;

(3) the dwellings constructed in connection with assistance provided under this section are quality dwellings that comply with local building and safety codes and standards and are available at prices below the prevailing market prices;

(4) the provision of assistance under this section establishes and fosters a partnership between the Federal Government and Habitat for Humanity International, its affiliates, and other organizations and consortia, resulting in efficient development of affordable housing with minimal governmental intervention, limited governmental regulation, and significant involvement by private entities;

(5) activities to develop housing assisted pursuant to this section involve community participation similar to the homeownership program carried out by Habitat for Humanity International, in which volunteers assist in the construction of dwellings; and

(6) dwellings are developed in connection with assistance under this section on a geographically diverse basis, which includes areas having high housing costs, rural areas, and areas underserved by other homeownership opportunities that are populated by low-income families unable to otherwise afford housing.

Notification. If, at any time, the Secretary determines that the goals under this subsection cannot be met by providing assistance in accordance with the terms of this section, the Secretary shall immediately notify the applicable Committees in writing of such determination and any proposed changes for such goals or this section.

(c) ALLOCATION.—Of any amounts available for grants under this section—

(1) 62.5 percent shall be used for a grant to the organization specified in subsection (a)(1); and

(2) 37.5 percent shall be used for grants to organizations and consortia under subsection (a)(2).

(d) USE.—

(1) PURPOSE.—Amounts from grants made under this section, including any recaptured amounts, shall be used only for eligible expenses in connection with developing new decent, safe, and sanitary nonluxury dwellings in the United States for families and persons who otherwise would be unable to afford to purchase a dwelling.

(2) ELIGIBLE EXPENSES.—For purposes of paragraph (1), the term "eligible expenses" means costs only for the following activities:

(A) LAND ACQUISITION.—Acquiring land (including financing and closing costs).

(B) INFRASTRUCTURE IMPROVEMENT.—Installing, extending, constructing, rehabilitating, or otherwise improving utilities and other infrastructure.

Such term does not include any costs for the rehabilitation, improvement, or construction of dwellings.

(e) ESTABLISHMENT OF GRANT FUND.—

(1) IN GENERAL.—Any amounts from any grant made under this section shall be deposited by the grantee organization or consortium in a fund that is established by such organization or consortium for such amounts, administered by such organization or consortium, and available for use only for the purposes under subsection (d). Any interest, fees, or other earnings of the fund shall be deposited in the fund and shall be considered grant amounts for purposes of this section.

(2) ASSISTANCE TO HABITAT FOR HUMANITY AFFILIATES.—Habitat for Humanity International may use amounts in the fund established for such organization pursuant to paragraph (1) for the purposes under subsection (d) by providing assistance from the fund to local affiliates of such organization.

(f) REQUIREMENTS FOR ASSISTANCE TO OTHER ORGANIZATIONS.—The Secretary may make a grant to an organization or consortium under subsection (a)(2) only pursuant to—

(1) an expression of interest by such organization or consortia to the Secretary for a grant for such purposes;

(2) a determination by the Secretary that the organization or consortia has the capability and has obtained financial commitments (or has the capacity to obtain financial commitments) necessary to—

(A) develop not less than 30 dwellings in connection with the grant amounts; and

(B) otherwise comply with a grant agreement under subsection (i); and

(3) a grant agreement entered into under subsection (i).

(g) TREATMENT OF UNUSED AMOUNTS.—Upon the expiration of the 6-month period beginning upon the Secretary first providing notice of the availability of amounts for grants under subsection (a)(2), the Secretary shall determine whether the amount remaining from the aggregate amount reserved under subsection (c)(2) exceeds the amount needed to provide funding in connection with any expressions of interest under subsection (f)(1) made by such date that are likely to result in grant agreements under subsection (i). If the Secretary determines that such excess amounts remain, the Secretary shall provide the excess amounts to Habitat for Humanity International by making a grant to such organization in accordance with this section.

(h) GEOGRAPHICAL DIVERSITY.—In using grant amounts provided under subsection (a)(1), Habitat for Humanity International shall ensure that the amounts are used in a manner that results in national geographic diversity among housing developed using such amounts. In making grants under subsection (a)(2), the Secretary shall ensure that grants are provided and grant amounts are used in a manner that results in national geographic diversity among housing developed using grant amounts under this section.

(i) GRANT AGREEMENT.—A grant under this section shall be made only pursuant to a grant agreement entered into by the Secretary and the organization or consortia receiving the grant, which shall—

(1) require such organization or consortia to use grant amounts only as provided in this section;

(2) provide for the organization or consortia to develop a specific and reasonable number of dwellings using the grant amounts, which number shall be established taking into consideration costs and economic conditions in the areas in which the dwellings will be developed, but in no case shall be less than 30;

(3) require the organization or consortia to use the grant amounts in a manner that leverages other sources of funding (other than grants under this section), including private or public funds, in developing the dwellings;

(4) require the organization or consortia to comply with the other provisions of this section;

(5) provide that if the organization or consortia has not used any grant amounts within 24 months after such amounts are first disbursed to the organization or consortia, the Secretary shall recapture such unused amounts; and

(6) contain such other terms as the Secretary may require to provide for compliance with subsection (b) and the requirements of this section.

(j) FULFILLMENT OF GRANT AGREEMENT.—If the Secretary determines that an organization or consortia awarded a grant under this section has not, within 24 months after grant amounts are first made available to the organization or consortia, substantially fulfilled the obligations under the grant agreement, including development of the appropriate number of dwellings under the agreement, the Secretary shall use any such undisbursed amounts remaining from such grant for other grants in accordance with this section.

(k) RECORDS AND AUDITS.—During the period beginning upon the making of a grant under this section and ending upon close-out of the grant under subsection (l)—

(1) the organization awarded the grant under subsection (a)(1) or (a)(2) shall keep such records and adopt such administrative practices as the Secretary may require to ensure compliance with the provisions of this section and the grant agreement; and

(2) the Secretary and the Comptroller General of the United States, and any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the grantee organization or consortia and its affiliates that are pertinent to the grant made under this section.

(l) CLOSE-OUT.—The Secretary shall close out a grant made under this section upon determining that the aggregate amount of any assistance provided from the fund established under subsection (e)(1) by the grantee organization or consortium exceeds the amount of the grant. For purposes of this paragraph, any interest, fees, and other earnings of the fund shall be excluded from the amount of the grant.

(m) ENVIRONMENTAL REVIEW.—A grant under this section shall be considered to be funds for a special project for purposes of section 305(c) of the Multifamily Housing Property Disposition Reform Act of 1994.

(n) REPORT TO CONGRESS.—Not later than 90 days after close-out of all grants under this section is completed, the Secretary shall submit a report to the applicable Committees describing the grants made under this section, the grantees, the housing developed in connection with the grant amounts, and the purposes for which the grant amounts were used.

(o) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) APPLICABLE COMMITTEES.—The term "applicable Committees" means the Committee on Banking and Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(2) SECRETARY.—The term "Secretary" means the Secretary of Housing and Urban Development.

(3) UNITED STATES.—The term "United States" includes the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, and any other territory or possession of the United States.

Federal Register, publication.

(p) REGULATIONS.—The Secretary shall issue any final regulations necessary to carry out this section not later than 30 days after the date of the enactment of this Act. The regulations shall

take effect upon issuance and may not exceed, in length, 5 full pages in the Federal Register.

SEC. 12. FUNDING FOR SELF-HELP HOUSING ASSISTANCE, NATIONAL CITIES IN SCHOOLS COMMUNITY DEVELOPMENT PROGRAM, AND CAPACITY BUILDING THROUGH NATIONAL COMMUNITY DEVELOPMENT INITIATIVE.

(a) AUTHORITY TO USE ASSISTED HOUSING AMOUNTS.—To the extent and for the purposes specified in subsection (b), the Secretary of Housing and Urban Development may use amounts in the account of the Department of Housing and Urban Development known as the Annual Contributions for Assisted Housing account, but only such amounts which—

(1) have been appropriated for a fiscal year that occurs before the fiscal year for which the Secretary uses the amounts; and

(2) have been obligated before becoming available for use under this section.

(b) FISCAL YEAR 1996.—Of the amounts described in subsection (a), $60,000,000 shall be available to the Secretary of Housing and Urban Development for fiscal year 1996 in the following amounts for the following purposes:

(1) SELF-HELP HOUSING ASSISTANCE.—$40,000,000 for carrying out section 11 of this Act.

(2) NATIONAL CITIES IN SCHOOLS COMMUNITY DEVELOPMENT PROGRAM.—$10,000,000 for carrying out section 930 of the Housing and Community Development Act of 1992 (Public Law 102–550; 106 Stat. 3887).

(3) CAPACITY BUILDING THROUGH NATIONAL COMMUNITY DEVELOPMENT INITIATIVE.—$10,000,000 for carrying out section 4 of the HUD Demonstration Act of 1993 (42 U.S.C. 9816 note).

SEC. 13. APPLICABILITY AND IMPLEMENTATION.

42 USC 1437d note.

(a) APPLICABILITY.—This Act and the amendments made by this Act shall be construed to have become effective on October 1, 1995.

(b) IMPLEMENTATION.—The amendments made by sections 9 and 10 shall apply as provided in subsection (a) of this section, notwithstanding the effective date of any regulations issued by the Secretary of Housing and Urban Development to implement such amendments or any failure by the Secretary to issue any such regulations.

Approved March 28, 1996.

LEGISLATIVE HISTORY—S. 1494:

CONGRESSIONAL RECORD, Vol. 142 (1996):
Jan. 24, considered and passed Senate.
Feb. 27, considered and passed House, amended.
Mar. 12, Senate concurred in House amendment.

Public Law 104–121
104th Congress

An Act

To provide for enactment of the Senior Citizens' Right to Work Act of 1996, the Line Item Veto Act, and the Small Business Growth and Fairness Act of 1996, and to provide for a permanent increase in the public debt limit.

Mar. 29, 1996
[H.R. 3136]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Contract with America Advancement Act of 1996.
5 USC 601 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Contract with America Advancement Act of 1996".

TITLE I—SOCIAL SECURITY EARNINGS LIMITATION AMENDMENTS

Senior Citizens' Right to Work Act of 1996.

SEC. 101. SHORT TITLE OF TITLE.

42 USC 1305 note.

This title may be cited as the "Senior Citizens' Right to Work Act of 1996".

SEC. 102. INCREASES IN MONTHLY EXEMPT AMOUNT FOR PURPOSES OF THE SOCIAL SECURITY EARNINGS LIMIT.

(a) INCREASE IN MONTHLY EXEMPT AMOUNT FOR INDIVIDUALS WHO HAVE ATTAINED RETIREMENT AGE.—Section 203(f)(8)(D) of the Social Security Act (42 U.S.C. 403(f)(8)(D)) is amended to read as follows:

"(D) Notwithstanding any other provision of this subsection, the exempt amount which is applicable to an individual who has attained retirement age (as defined in section 216(l)) before the close of the taxable year involved shall be—

"(i) for each month of any taxable year ending after 1995 and before 1997, $1,041.66⅔,

"(ii) for each month of any taxable year ending after 1996 and before 1998, $1,125.00,

"(iii) for each month of any taxable year ending after 1997 and before 1999, $1,208.33⅓,

"(iv) for each month of any taxable year ending after 1998 and before 2000, $1,291.66⅔,

"(v) for each month of any taxable year ending after 1999 and before 2001, $1,416.66⅔,

"(vi) for each month of any taxable year ending after 2000 and before 2002, $2,083.33⅓, and

"(vii) for each month of any taxable year ending after 2001 and before 2003, $2,500.00.".

(b) CONFORMING AMENDMENTS.—

(1) Section 203(f)(8)(B)(ii) of such Act (42 U.S.C. 403(f)(8)(B)(ii)) is amended—

(A) by striking "the taxable year ending after 1993 and before 1995" and inserting "the taxable year ending after 2001 and before 2003 (with respect to individuals described in subparagraph (D)) or the taxable year ending after 1993 and before 1995 (with respect to other individuals)"; and

(B) in subclause (II), by striking "for 1992" and inserting "for 2000 (with respect to individuals described in subparagraph (D)) or 1992 (with respect to other individuals)".

(2) The second sentence of section 223(d)(4)(A) of such Act (42 U.S.C. 423(d)(4)(A)) is amended by striking "the exempt amount under section 203(f)(8) which is applicable to individuals described in subparagraph (D) thereof" and inserting the following: "an amount equal to the exempt amount which would be applicable under section 203(f)(8), to individuals described in subparagraph (D) thereof, if section 102 of the Senior Citizens' Right to Work Act of 1996 had not been enacted".

42 USC 403 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to taxable years ending after 1995.

SEC. 103. CONTINUING DISABILITY REVIEWS.

(a) AUTHORIZATION FOR APPROPRIATIONS FOR CONTINUING DISABILITY REVIEWS.—Section 201(g)(1)(A) of the Social Security Act (42 U.S.C. 401(g)(1)(A)) is amended by adding at the end the following: "Of the amounts authorized to be made available out of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund under the preceding sentence, there are hereby authorized to be made available from either or both of such Trust Funds for continuing disability reviews—

"(i) for fiscal year 1996, $260,000,000;
"(ii) for fiscal year 1997, $360,000,000;
"(iii) for fiscal year 1998, $570,000,000;
"(iv) for fiscal year 1999, $720,000,000;
"(v) for fiscal year 2000, $720,000,000;
"(vi) for fiscal year 2001, $720,000,000; and
"(viii) for fiscal year 2002, $720,000,000.

For purposes of this subparagraph, the term 'continuing disability review' means a review conducted pursuant to section 221(i) and a review or disability eligibility redetermination conducted to determine the continuing disability and eligibility of a recipient of benefits under the supplemental security income program under title XVI, including any review or redetermination conducted pursuant to section 207 or 208 of the Social Security Independence and Program Improvements Act of 1994 (Public Law 103–296).".

(b) ADJUSTMENT TO DISCRETIONARY SPENDING LIMITS.—Section 251(b)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding the following new subparagraph:

2 USC 901.

"(H) CONTINUING DISABILITY REVIEWS.—(i) Whenever a bill or joint resolution making appropriations for fiscal year 1996, 1997, 1998, 1999, 2000, 2001, or 2002 is enacted that specifies an amount for continuing disability reviews under the heading 'Limitation on Administrative Expenses' for the Social Security Administration, the adjustments

for that fiscal year shall be the additional new budget authority provided in that Act for such reviews for that fiscal year and the additional outlays flowing from such amounts, but shall not exceed—

"(I) for fiscal year 1996, $15,000,000 in additional new budget authority and $60,000,000 in additional outlays;

"(II) for fiscal year 1997, $25,000,000 in additional new budget authority and $160,000,000 in additional outlays;

"(III) for fiscal year 1998, $145,000,000 in additional new budget authority and $370,000,000 in additional outlays;

"(IV) for fiscal year 1999, $280,000,000 in additional new budget authority and $520,000,000 in additional outlays;

"(V) for fiscal year 2000, $317,500,000 in additional new budget authority and $520,000,000 in additional outlays;

"(VI) for fiscal year 2001, $317,500,000 in additional new budget authority and $520,000,000 in additional outlays; and

"(VII) for fiscal year 2002, $317,500,000 in additional new budget authority and $520,000,000 in additional outlays.

"(ii) As used in this subparagraph—

"(I) the term 'continuing disability reviews' has the meaning given such term by section 201(g)(1)(A) of the Social Security Act;

"(II) the term 'additional new budget authority' means new budget authority provided for a fiscal year, in excess of $100,000,000, for the Supplemental Security Income program and specified to pay for the costs of continuing disability reviews attributable to the Supplemental Security Income program; and

"(III) the term 'additional outlays' means outlays, in excess of $200,000,000 in a fiscal year, flowing from the amounts specified for continuing disability reviews under the heading 'Limitation on Administrative Expenses' for the Social Security Administration, including outlays in that fiscal year flowing from amounts specified in Acts enacted for prior fiscal years (but not before 1996).".

(c) BUDGET ALLOCATION ADJUSTMENT BY BUDGET COMMITTEE.—Section 606 of the Congressional Budget and Impoundment Control Act of 1974 is amended by adding the following new subsection: 2 USC 665e.

"(e) CONTINUING DISABILITY REVIEW ADJUSTMENT.—

"(1) IN GENERAL.—(A) For fiscal year 1996, upon the enactment of the Contract with America Advancement Act of 1996, the Chairmen of the Committees on the Budget of the Senate and House of Representatives shall make the adjustments referred to in subparagraph (C) to reflect $15,000,000 in additional new budget authority and $60,000,000 in additional outlays for continuing disability reviews (as defined in section 201(g)(1)(A) of the Social Security Act).

"(B) When the Committee on Appropriations reports an appropriations measure for fiscal year 1997, 1998, 1999, 2000,

2001, or 2002 that specifies an amount for continuing disability reviews under the heading 'Limitation on Administrative Expenses' for the Social Security Administration, or when a conference committee submits a conference report thereon, the Chairman of the Committee on the Budget of the Senate or House of Representatives (whichever is appropriate) shall make the adjustments referred to in subparagraph (C) to reflect the additional new budget authority for continuing disability reviews provided in that measure or conference report and the additional outlays flowing from such amounts for continuing disability reviews.

"(C) The adjustments referred to in this subparagraph consist of adjustments to—

"(i) the discretionary spending limits for that fiscal year as set forth in the most recently adopted concurrent resolution on the budget;

"(ii) the allocations to the Committees on Appropriations of the Senate and the House of Representatives for that fiscal year under sections 302(a) and 602(a); and

"(iii) the appropriate budgetary aggregates for that fiscal year in the most recently adopted concurrent resolution on the budget.

"(D) The adjustments under this paragraph for any fiscal year shall not exceed the levels set forth in section 251(b)(2)(H) of the Balanced Budget and Emergency Deficit Control Act of 1985 for that fiscal year. The adjusted discretionary spending limits, allocations, and aggregates under this paragraph shall be considered the appropriate limits, allocations, and aggregates for purposes of congressional enforcement of this Act and concurrent budget resolutions under this Act.

"(2) REPORTING REVISED SUBALLOCATIONS.—Following the adjustments made under paragraph (1), the Committees on Appropriations of the Senate and the House of Representatives may report appropriately revised suballocations pursuant to sections 302(b) and 602(b) of this Act to carry out this subsection.

"(3) DEFINITIONS.—As used in this section, the terms 'continuing disability reviews', 'additional new budget authority', and 'additional outlays' shall have the same meanings as provided in section 251(b)(2)(H)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985.".

42 USC 401 note.

(d) USE OF FUNDS AND REPORTS.—

(1) IN GENERAL.—The Commissioner of Social Security shall ensure that funds made available for continuing disability reviews (as defined in section 201(g)(1)(A) of the Social Security Act) are used, to the greatest extent practicable, to maximize the combined savings in the old-age, survivors, and disability insurance, supplemental security income, Medicare, and medicaid programs.

(2) REPORT.—The Commissioner of Social Security shall provide annually (at the conclusion of each of the fiscal years 1996 through 2002) to the Congress a report on continuing disability reviews which includes—

(A) the amount spent on continuing disability reviews in the fiscal year covered by the report, and the number of reviews conducted, by category of review;

(B) the results of the continuing disability reviews in terms of cessations of benefits or determinations of continuing eligibility, by program; and

(C) the estimated savings over the short-, medium-, and long-term to the old-age, survivors, and disability insurance, supplemental security income, Medicare, and medicaid programs from continuing disability reviews which result in cessations of benefits and the estimated present value of such savings.

(e) OFFICE OF CHIEF ACTUARY IN THE SOCIAL SECURITY ADMINISTRATION.—

(1) IN GENERAL.—Section 702 of the Social Security Act (42 U.S.C. 902) is amended—

(A) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(B) by inserting after subsection (b) the following new subsection:

"CHIEF ACTUARY

"(c)(1) There shall be in the Administration a Chief Actuary, who shall be appointed by, and in direct line of authority to, the Commissioner. The Chief Actuary shall be appointed from individuals who have demonstrated, by their education and experience, superior expertise in the actuarial sciences. The Chief Actuary shall serve as the chief actuarial officer of the Administration, and shall exercise such duties as are appropriate for the office of the Chief Actuary and in accordance with professional standards of actuarial independence. The Chief Actuary may be removed only for cause.

"(2) The Chief Actuary shall be compensated at the highest rate of basic pay for the Senior Executive Service under section 5382(b) of title 5, United States Code.".

(2) EFFECTIVE DATE OF SUBSECTION.—The amendments made by this subsection shall take effect on the date of the enactment of this Act. 42 USC 902 note.

SEC. 104. ENTITLEMENT OF STEPCHILDREN TO CHILD'S INSURANCE BENEFITS BASED ON ACTUAL DEPENDENCY ON STEPPARENT SUPPORT.

(a) REQUIREMENT OF ACTUAL DEPENDENCY FOR FUTURE ENTITLEMENTS.—

(1) IN GENERAL.—Section 202(d)(4) of the Social Security Act (42 U.S.C. 402(d)(4)) is amended by striking "was living with or".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to benefits of individuals who become entitled to such benefits for months after the third month following the month in which this Act is enacted. 42 USC 402 note.

(b) TERMINATION OF CHILD'S INSURANCE BENEFITS BASED ON WORK RECORD OF STEPPARENT UPON NATURAL PARENT'S DIVORCE FROM STEPPARENT.—

(1) IN GENERAL.—Section 202(d)(1) of the Social Security Act (42 U.S.C. 402(d)(1)) is amended—

(A) by striking "or" at the end of subparagraph (F);

(B) by striking the period at the end of subparagraph (G) and inserting "; or"; and

(C) by inserting after subparagraph (G) the following new subparagraph:

"(H) if the benefits under this subsection are based on the wages and self-employment income of a stepparent who is subsequently divorced from such child's natural parent, the month after the month in which such divorce becomes final.".

(2) NOTIFICATION.—Section 202(d) of such Act (42 U.S.C. 402(d)) is amended by adding the following new paragraph:

"(10) For purposes of paragraph (1)(H)—

"(A) each stepparent shall notify the Commissioner of Social Security of any divorce upon such divorce becoming final; and

"(B) the Commissioner shall annually notify any stepparent of the rule for termination described in paragraph (1)(H) and of the requirement described in subparagraph (A).".

42 USC 402 note.

(3) EFFECTIVE DATES.—

(A) The amendments made by paragraph (1) shall apply with respect to final divorces occurring after the third month following the month in which this Act is enacted.

(B) The amendment made by paragraph (2) shall take effect on the date of the enactment of this Act.

SEC. 105. DENIAL OF DISABILITY BENEFITS TO DRUG ADDICTS AND ALCOHOLICS.

(a) AMENDMENTS RELATING TO TITLE II DISABILITY BENEFITS.—

(1) IN GENERAL.—Section 223(d)(2) of the Social Security Act (42 U.S.C. 423(d)(2)) is amended by adding at the end the following:

"(C) An individual shall not be considered to be disabled for purposes of this title if alcoholism or drug addiction would (but for this subparagraph) be a contributing factor material to the Commissioner's determination that the individual is disabled.".

(2) REPRESENTATIVE PAYEE REQUIREMENTS.—

(A) Section 205(j)(1)(B) of such Act (42 U.S.C. 405(j)(1)(B)) is amended to read as follows:

"(B) In the case of an individual entitled to benefits based on disability, the payment of such benefits shall be made to a representative payee if the Commissioner of Social Security determines that such payment would serve the interest of the individual because the individual also has an alcoholism or drug addiction condition (as determined by the Commissioner) and the individual is incapable of managing such benefits.".

(B) Section 205(j)(2)(C)(v) of such Act (42 U.S.C. 405(j)(2)(C)(v)) is amended by striking "entitled to benefits" and all that follows through "under a disability" and inserting "described in paragraph (1)(B)".

(C) Section 205(j)(2)(D)(ii)(II) of such Act (42 U.S.C. 405(j)(2)(D)(ii)(II)) is amended by striking all that follows "15 years, or" and inserting "described in paragraph (1)(B).".

(D) Section 205(j)(4)(A)(i)(II) of such Act (42 U.S.C. 405(j)(4)(A)(ii)(II)) is amended by striking "entitled to benefits" and all that follows through "under a disability" and inserting "described in paragraph (1)(B)".

(3) TREATMENT REFERRALS FOR INDIVIDUALS WITH AN ALCOHOLISM OR DRUG ADDICTION CONDITION.—Section 222 of

such Act (42 U.S.C. 422) is amended by adding at the end the following new subsection:

"TREATMENT REFERRALS FOR INDIVIDUALS WITH AN ALCOHOLISM OR DRUG ADDICTION CONDITION

"(e) In the case of any individual whose benefits under this title are paid to a representative payee pursuant to section 205(j)(1)(B), the Commissioner of Social Security shall refer such individual to the appropriate State agency administering the State plan for substance abuse treatment services approved under subpart II of part B of title XIX of the Public Health Service Act (42 U.S.C. 300x–21 et seq.).".

(4) CONFORMING AMENDMENT.—Subsection (c) of section 225 of such Act (42 U.S.C. 425(c)) is repealed.

(5) EFFECTIVE DATES.— 42 USC 405 note.

(A) The amendments made by paragraphs (1) and (4) shall apply to any individual who applies for, or whose claim is finally adjudicated by the Commissioner of Social Security with respect to, benefits under title II of the Social Security Act based on disability on or after the date of the enactment of this Act, and, in the case of any individual who has applied for, and whose claim has been finally adjudicated by the Commissioner with respect to, such benefits before such date of enactment, such amendments shall apply only with respect to such benefits for months beginning on or after January 1, 1997.

(B) The amendments made by paragraphs (2) and (3) shall apply with respect to benefits for which applications are filed after the third month following the month in which this Act is enacted.

(C) Within 90 days after the date of the enactment of this Act, the Commissioner of Social Security shall notify each individual who is entitled to monthly insurance benefits under title II of the Social Security Act based on disability for the month in which this Act is enacted and whose entitlement to such benefits would terminate by reason of the amendments made by this subsection. If such an individual reapplies for benefits under title II of such Act (as amended by this Act) based on disability within 120 days after the date of the enactment of this Act, the Commissioner of Social Security shall, not later than January 1, 1997, complete the entitlement redetermination (including a new medical determination) with respect to such individual pursuant to the procedures of such title.

(b) AMENDMENTS RELATING TO SSI BENEFITS.—

(1) IN GENERAL.—Section 1614(a)(3) of the Social Security Act (42 U.S.C. 1382c(a)(3)) is amended by adding at the end the following:

"(I) Notwithstanding subparagraph (A), an individual shall not be considered to be disabled for purposes of this title if alcoholism or drug addiction would (but for this subparagraph) be a contributing factor material to the Commissioner's determination that the individual is disabled.".

(2) REPRESENTATIVE PAYEE REQUIREMENTS.—

(A) Section 1631(a)(2)(A)(ii)(II) of such Act (42 U.S.C. 1383(a)(2)(A)(ii)(II)) is amended to read as follows:

"(II) In the case of an individual eligible for benefits under this title by reason of disability, the payment of such benefits shall be made to a representative payee if the Commissioner of Social Security determines that such payment would serve the interest of the individual because the individual also has an alcoholism or drug addiction condition (as determined by the Commissioner) and the individual is incapable of managing such benefits.".

(B) Section 1631(a)(2)(B)(vii) of such Act (42 U.S.C. 1383(a)(2)(B)(vii)) is amended by striking "eligible for benefits" and all that follows through "is disabled" and inserting "described in subparagraph (A)(ii)(II)".

(C) Section 1631(a)(2)(B)(ix)(II) of such Act (42 U.S.C. 1383(a)(2)(B)(ix)(II)) is amended by striking all that follows "15 years, or" and inserting "described in subparagraph (A)(ii)(II).".

(D) Section 1631(a)(2)(D)(i)(II) of such Act (42 U.S.C. 1383(a)(2)(D)(i)(II)) is amended by striking "eligible for benefits" and all that follows through "is disabled" and inserting "described in subparagraph (A)(ii)(II)".

(3) TREATMENT REFERRALS FOR INDIVIDUALS WITH AN ALCOHOLISM OR DRUG ADDICTION CONDITION.—Title XVI of such Act (42 U.S.C. 1381 et seq.) is amended by adding at the end the following new section:

"TREATMENT REFERRALS FOR INDIVIDUALS WITH AN ALCOHOLISM OR DRUG ADDICTION CONDITION

42 USC 1383e.

"SEC. 1636. In the case of any individual whose benefits under this title are paid to a representative payee pursuant to section 1631(a)(2)(A)(ii)(II), the Commissioner of Social Security shall refer such individual to the appropriate State agency administering the State plan for substance abuse treatment services approved under subpart II of part B of title XIX of the Public Health Service Act (42 U.S.C. 300x–21 et seq.).".

(4) CONFORMING AMENDMENTS.—

(A) Section 1611(e) of such Act (42 U.S.C. 1382(e)) is amended by striking paragraph (3).

(B) Section 1634 of such Act (42 U.S.C. 1383c) is amended by striking subsection (e).

42 USC 1382 note.

(5) EFFECTIVE DATES.—

(A) The amendments made by paragraphs (1) and (4) shall apply to any individual who applies for, or whose claim is finally adjudicated by the Commissioner of Social Security with respect to, supplemental security income benefits under title XVI of the Social Security Act based on disability on or after the date of the enactment of this Act, and, in the case of any individual who has applied for, and whose claim has been finally adjudicated by the Commissioner with respect to, such benefits before such date of enactment, such amendments shall apply only with respect to such benefits for months beginning on or after January 1, 1997.

(B) The amendments made by paragraphs (2) and (3) shall apply with respect to supplemental security income benefits under title XVI of the Social Security Act for which applications are filed after the third month following the month in which this Act is enacted.

(C) Within 90 days after the date of the enactment of this Act, the Commissioner of Social Security shall notify each individual who is eligible for supplemental security income benefits under title XVI of the Social Security Act for the month in which this Act is enacted and whose eligibility for such benefits would terminate by reason of the amendments made by this subsection. If such an individual reapplies for supplemental security income benefits under title XVI of such Act (as amended by this Act) within 120 days after the date of the enactment of this Act, the Commissioner of Social Security shall, not later than January 1, 1997, complete the eligibility redetermination (including a new medical determination) with respect to such individual pursuant to the procedures of such title.

(D) For purposes of this paragraph, the phrase "supplemental security income benefits under title XVI of the Social Security Act" includes supplementary payments pursuant to an agreement for Federal administration under section 1616(a) of the Social Security Act and payments pursuant to an agreement entered into under section 212(b) of Public Law 93–66.

(c) CONFORMING AMENDMENT.—Section 201(c) of the Social Security Independence and Program Improvements Act of 1994 (42 U.S.C. 425 note) is repealed.

(d) SUPPLEMENTAL FUNDING FOR ALCOHOL AND SUBSTANCE ABUSE TREATMENT PROGRAMS.—

(1) IN GENERAL.—Out of any money in the Treasury not otherwise appropriated, there are hereby appropriated to supplement State and Tribal programs funded under section 1933 of the Public Health Service Act (42 U.S.C. 300x–33), $50,000,000 for each of the fiscal years 1997 and 1998.

(2) ADDITIONAL FUNDS.—Amounts appropriated under paragraph (1) shall be in addition to any funds otherwise appropriated for allotments under section 1933 of the Public Health Service Act (42 U.S.C. 300x–33) and shall be allocated pursuant to such section 1933.

(3) USE OF FUNDS.—A State or Tribal government receiving an allotment under this subsection shall consider as priorities, for purposes of expending funds allotted under this subsection, activities relating to the treatment of the abuse of alcohol and other drugs.

SEC. 106. PILOT STUDY OF EFFICACY OF PROVIDING INDIVIDUALIZED INFORMATION TO RECIPIENTS OF OLD-AGE AND SURVIVORS INSURANCE BENEFITS.

42 USC 402 note.

(a) IN GENERAL.—During a 2-year period beginning as soon as practicable in 1996, the Commissioner of Social Security shall conduct a pilot study of the efficacy of providing certain individualized information to recipients of monthly insurance benefits under section 202 of the Social Security Act, designed to promote better understanding of their contributions and benefits under the social security system. The study shall involve solely beneficiaries whose entitlement to such benefits first occurred in or after 1984 and who have remained entitled to such benefits for a continuous period of not less than 5 years. The number of such recipients involved in the study shall be of sufficient size to generate a statistically

valid sample for purposes of the study, but shall not exceed 600,000 beneficiaries.

(b) ANNUALIZED STATEMENTS.—During the course of the study, the Commissioner shall provide to each of the beneficiaries involved in the study one annualized statement, setting forth the following information:

(1) an estimate of the aggregate wages and self-employment income earned by the individual on whose wages and self-employment income the benefit is based, as shown on the records of the Commissioner as of the end of the last calendar year ending prior to the beneficiary's first month of entitlement;

(2) an estimate of the aggregate of the employee and self-employment contributions, and the aggregate of the employer contributions (separately identified), made with respect to the wages and self-employment income on which the benefit is based, as shown on the records of the Commissioner as of the end of the calendar year preceding the beneficiary's first month of entitlement; and

(3) an estimate of the total amount paid as benefits under section 202 of the Social Security Act based on such wages and self-employment income, as shown on the records of the Commissioner as of the end of the last calendar year preceding the issuance of the statement for which complete information is available.

(c) INCLUSION WITH MATTER OTHERWISE DISTRIBUTED TO BENEFICIARIES.—The Commissioner shall ensure that reports provided pursuant to this section are, to the maximum extent practicable, included with other reports currently provided to beneficiaries on an annual basis.

(d) REPORT TO THE CONGRESS.—The Commissioner shall report to each House of the Congress regarding the results of the pilot study conducted pursuant to this section not later than 60 days after the completion of such study.

SEC. 107. PROTECTION OF SOCIAL SECURITY AND MEDICARE TRUST FUNDS.

(a) IN GENERAL.—Part A of title XI of the Social Security Act (42 U.S.C. 1301 et seq.) is amended by adding at the end the following new section:

"PROTECTION OF SOCIAL SECURITY AND MEDICARE TRUST FUNDS

42 USC 1320b–15.

"SEC. 1145. (a) IN GENERAL.—No officer or employee of the United States shall—

"(1) delay the deposit of any amount into (or delay the credit of any amount to) any Federal fund or otherwise vary from the normal terms, procedures, or timing for making such deposits or credits,

"(2) refrain from the investment in public debt obligations of amounts in any Federal fund, or

"(3) redeem prior to maturity amounts in any Federal fund which are invested in public debt obligations for any purpose other than the payment of benefits or administrative expenses from such Federal fund.

"(b) PUBLIC DEBT OBLIGATION.—For purposes of this section, the term 'public debt obligation' means any obligation subject to the public debt limit established under section 3101 of title 31, United States Code.

"(c) FEDERAL FUND.—For purposes of this section, the term 'Federal fund' means—

"(1) the Federal Old-Age and Survivors Insurance Trust Fund;

"(2) the Federal Disability Insurance Trust Fund;

"(3) the Federal Hospital Insurance Trust Fund; and

"(4) the Federal Supplementary Medical Insurance Trust Fund.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act. 42 USC 1320b–15 note.

SEC. 108. PROFESSIONAL STAFF FOR THE SOCIAL SECURITY ADVISORY BOARD.

Section 703(i) of the Social Security Act (42 U.S.C. 903(i)) is amended in the first sentence by inserting after "Staff Director" the following: ", and three professional staff members one of whom shall be appointed from among individuals approved by the members of the Board who are not members of the political party represented by the majority of the Board,".

TITLE II—SMALL BUSINESS REGULATORY FAIRNESS

Small Business Regulatory Enforcement Fairness Act of 1996. 5 USC 601 note.

SEC. 201. SHORT TITLE.

This title may be cited as the "Small Business Regulatory Enforcement Fairness Act of 1996".

SEC. 202. FINDINGS. 5 USC 601 note.

Congress finds that—

(1) a vibrant and growing small business sector is critical to creating jobs in a dynamic economy;

(2) small businesses bear a disproportionate share of regulatory costs and burdens;

(3) fundamental changes that are needed in the regulatory and enforcement culture of Federal agencies to make agencies more responsive to small business can be made without compromising the statutory missions of the agencies;

(4) three of the top recommendations of the 1995 White House Conference on Small Business involve reforms to the way government regulations are developed and enforced, and reductions in government paperwork requirements;

(5) the requirements of chapter 6 of title 5, United States Code, have too often been ignored by government agencies, resulting in greater regulatory burdens on small entities than necessitated by statute; and

(6) small entities should be given the opportunity to seek judicial review of agency actions required by chapter 6 of title 5, United States Code.

SEC. 203. PURPOSES. 5 USC 601 note.

The purposes of this title are—

(1) to implement certain recommendations of the 1995 White House Conference on Small Business regarding the development and enforcement of Federal regulations;

(2) to provide for judicial review of chapter 6 of title 5, United States Code;

(3) to encourage the effective participation of small businesses in the Federal regulatory process;

(4) to simplify the language of Federal regulations affecting small businesses;

(5) to develop more accessible sources of information on regulatory and reporting requirements for small businesses;

(6) to create a more cooperative regulatory environment among agencies and small businesses that is less punitive and more solution-oriented; and

(7) to make Federal regulators more accountable for their enforcement actions by providing small entities with a meaningful opportunity for redress of excessive enforcement activities.

5 USC 601 note.

Subtitle A—Regulatory Compliance Simplification

SEC. 211. DEFINITIONS.

For purposes of this subtitle—

(1) the terms "rule" and "small entity" have the same meanings as in section 601 of title 5, United States Code;

(2) the term "agency" has the same meaning as in section 551 of title 5, United States Code; and

(3) the term "small entity compliance guide" means a document designated as such by an agency.

SEC. 212. COMPLIANCE GUIDES.

(a) COMPLIANCE GUIDE.—For each rule or group of related rules for which an agency is required to prepare a final regulatory flexibility analysis under section 604 of title 5, United States Code, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as "small entity compliance guides". The guides shall explain the actions a small entity is required to take to comply with a rule or group of rules. The agency shall, in its sole discretion, taking into account the subject matter of the rule and the language of relevant statutes, ensure that the guide is written using sufficiently plain language likely to be understood by affected small entities. Agencies may prepare separate guides covering groups or classes of similarly affected small entities, and may cooperate with associations of small entities to develop and distribute such guides.

(b) COMPREHENSIVE SOURCE OF INFORMATION.—Agencies shall cooperate to make available to small entities through comprehensive sources of information, the small entity compliance guides and all other available information on statutory and regulatory requirements affecting small entities.

(c) LIMITATION ON JUDICIAL REVIEW.—An agency's small entity compliance guide shall not be subject to judicial review, except that in any civil or administrative action against a small entity for a violation occurring after the effective date of this section, the content of the small entity compliance guide may be considered as evidence of the reasonableness or appropriateness of any proposed fines, penalties or damages.

SEC. 213. INFORMAL SMALL ENTITY GUIDANCE.

(a) GENERAL.—Whenever appropriate in the interest of administering statutes and regulations within the jurisdiction of an agency

which regulates small entities, it shall be the practice of the agency to answer inquiries by small entities concerning information on, and advice about, compliance with such statutes and regulations, interpreting and applying the law to specific sets of facts supplied by the small entity. In any civil or administrative action against a small entity, guidance given by an agency applying the law to facts provided by the small entity may be considered as evidence of the reasonableness or appropriateness of any proposed fines, penalties or damages sought against such small entity.

(b) PROGRAM.—Each agency regulating the activities of small entities shall establish a program for responding to such inquiries no later than 1 year after enactment of this section, utilizing existing functions and personnel of the agency to the extent practicable.

(c) REPORTING.—Each agency regulating the activities of small business shall report to the Committee on Small Business and Committee on Governmental Affairs of the Senate and the Committee on Small Business and Committee on the Judiciary of the House of Representatives no later than 2 years after the date of the enactment of this section on the scope of the agency's program, the number of small entities using the program, and the achievements of the program to assist small entity compliance with agency regulations.

SEC. 214. SERVICES OF SMALL BUSINESS DEVELOPMENT CENTERS.

(a) Section 21(c)(3) of the Small Business Act (15 U.S.C. 648(c)(3)) is amended—

(1) in subparagraph (O), by striking "and" at the end;

(2) in subparagraph (P), by striking the period at the end and inserting a semicolon; and

(3) by inserting after subparagraph (P) the following new subparagraphs:

"(Q) providing information to small business concerns regarding compliance with regulatory requirements; and

"(R) developing informational publications, establishing resource centers of reference materials, and distributing compliance guides published under section 312(a) of the Small Business Regulatory Enforcement Fairness Act of 1996.".

(b) Nothing in this Act in any way affects or limits the ability of other technical assistance or extension programs to perform or continue to perform services related to compliance assistance.

SEC. 215. COOPERATION ON GUIDANCE.

Agencies may, to the extent resources are available and where appropriate, in cooperation with the States, develop guides that fully integrate requirements of both Federal and State regulations where regulations within an agency's area of interest at the Federal and State levels impact small entities. Where regulations vary among the States, separate guides may be created for separate States in cooperation with State agencies.

SEC. 216. EFFECTIVE DATE.

This subtitle and the amendments made by this subtitle shall take effect on the expiration of 90 days after the date of enactment of this subtitle.

5 USC 601 note.

Subtitle B—Regulatory Enforcement Reforms

SEC. 221. DEFINITIONS.

For purposes of this subtitle—

(1) the terms "rule" and "small entity" have the same meanings as in section 601 of title 5, United States Code;

(2) the term "agency" has the same meaning as in section 551 of title 5, United States Code; and

(3) the term "small entity compliance guide" means a document designated as such by an agency.

SEC. 222. SMALL BUSINESS AND AGRICULTURE ENFORCEMENT OMBUDSMAN.

The Small Business Act (15 U.S.C. 631 et seq.) is amended—

15 USC 631 note.

(1) by redesignating section 30 as section 31; and

(2) by inserting after section 29 the following new section:

15 USC 657.

"SEC. 30. OVERSIGHT OF REGULATORY ENFORCEMENT.

"(a) DEFINITIONS.—For purposes of this section, the term—

"(1) 'Board' means a Regional Small Business Regulatory Fairness Board established under subsection (c); and

"(2) 'Ombudsman' means the Small Business and Agriculture Regulatory Enforcement Ombudsman designated under subsection (b).

"(b) SBA ENFORCEMENT OMBUDSMAN.—

"(1) Not later than 180 days after the date of enactment of this section, the Administrator shall designate a Small Business and Agriculture Regulatory Enforcement Ombudsman, who shall report directly to the Administrator, utilizing personnel of the Small Business Administration to the extent practicable. Other agencies shall assist the Ombudsman and take actions as necessary to ensure compliance with the requirements of this section. Nothing in this section is intended to replace or diminish the activities of any Ombudsman or similar office in any other agency.

"(2) The Ombudsman shall—

"(A) work with each agency with regulatory authority over small businesses to ensure that small business concerns that receive or are subject to an audit, on-site inspection, compliance assistance effort, or other enforcement related communication or contact by agency personnel are provided with a means to comment on the enforcement activity conducted by such personnel;

"(B) establish means to receive comments from small business concerns regarding actions by agency employees conducting compliance or enforcement activities with respect to the small business concern, means to refer comments to the Inspector General of the affected agency in the appropriate circumstances, and otherwise seek to maintain the identity of the person and small business concern making such comments on a confidential basis to the same extent as employee identities are protected under section 7 of the Inspector General Act of 1978 (5 U.S.C. App.);

"(C) based on substantiated comments received from small business concerns and the Boards, annually report

to Congress and affected agencies evaluating the enforcement activities of agency personnel including a rating of the responsiveness to small business of the various regional and program offices of each agency;

"(D) coordinate and report annually on the activities, findings and recommendations of the Boards to the Administrator and to the heads of affected agencies; and

"(E) provide the affected agency with an opportunity to comment on draft reports prepared under subparagraph (C), and include a section of the final report in which the affected agency may make such comments as are not addressed by the Ombudsman in revisions to the draft.

"(c) REGIONAL SMALL BUSINESS REGULATORY FAIRNESS BOARDS.— Establishment.

"(1) Not later than 180 days after the date of enactment of this section, the Administrator shall establish a Small Business Regulatory Fairness Board in each regional office of the Small Business Administration.

"(2) Each Board established under paragraph (1) shall—

"(A) meet at least annually to advise the Ombudsman on matters of concern to small businesses relating to the enforcement activities of agencies;

"(B) report to the Ombudsman on substantiated instances of excessive enforcement actions of agencies against small business concerns including any findings or recommendations of the Board as to agency enforcement policy or practice; and

"(C) prior to publication, provide comment on the annual report of the Ombudsman prepared under subsection (b).

"(3) Each Board shall consist of five members, who are owners, operators, or officers of small business concerns, appointed by the Administrator, after receiving the recommendations of the chair and ranking minority member of the Committees on Small Business of the House of Representatives and the Senate. Not more than three of the Board members shall be of the same political party. No member shall be an officer or employee of the Federal Government, in either the executive branch or the Congress.

"(4) Members of the Board shall serve at the pleasure of the Administrator for terms of three years or less.

"(5) The Administrator shall select a chair from among the members of the Board who shall serve at the pleasure of the Administrator for not more than 1 year as chair.

"(6) A majority of the members of the Board shall constitute a quorum for the conduct of business, but a lesser number may hold hearings.

"(d) POWERS OF THE BOARDS.

"(1) The Board may hold such hearings and collect such information as appropriate for carrying out this section.

"(2) The Board may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

"(3) The Board may accept donations of services necessary to conduct its business, provided that the donations and their sources are disclosed by the Board.

"(4) Members of the Board shall serve without compensation, provided that, members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Board.".

SEC. 223. RIGHTS OF SMALL ENTITIES IN ENFORCEMENT ACTIONS.

(a) IN GENERAL.—Each agency regulating the activities of small entities shall establish a policy or program within 1 year of enactment of this section to provide for the reduction, and under appropriate circumstances for the waiver, of civil penalties for violations of a statutory or regulatory requirement by a small entity. Under appropriate circumstances, an agency may consider ability to pay in determining penalty assessments on small entities.

(b) CONDITIONS AND EXCLUSIONS.—Subject to the requirements or limitations of other statutes, policies or programs established under this section shall contain conditions or exclusions which may include, but shall not be limited to—

(1) requiring the small entity to correct the violation within a reasonable correction period;

(2) limiting the applicability to violations discovered through participation by the small entity in a compliance assistance or audit program operated or supported by the agency or a State;

(3) excluding small entities that have been subject to multiple enforcement actions by the agency;

(4) excluding violations involving willful or criminal conduct;

(5) excluding violations that pose serious health, safety or environmental threats; and

(6) requiring a good faith effort to comply with the law.

(c) REPORTING.—Agencies shall report to the Committee on Small Business and Committee on Governmental Affairs of the Senate and the Committee on Small Business and Committee on Judiciary of the House of Representatives no later than 2 years after the date of enactment of this section on the scope of their program or policy, the number of enforcement actions against small entities that qualified or failed to qualify for the program or policy, and the total amount of penalty reductions and waivers.

SEC. 224. EFFECTIVE DATE.

This subtitle and the amendments made by this subtitle shall take effect on the expiration of 90 days after the date of enactment of this subtitle.

Subtitle C—Equal Access to Justice Act Amendments

SEC. 231. ADMINISTRATIVE PROCEEDINGS.

(a) Section 504(a) of title 5, United States Code, is amended by adding at the end the following new paragraph:

"(4) If, in an adversary adjudication arising from an agency action to enforce a party's compliance with a statutory or regulatory requirement, the demand by the agency is substantially in excess

of the decision of the adjudicative officer and is unreasonable when compared with such decision, under the facts and circumstances of the case, the adjudicative officer shall award to the party the fees and other expenses related to defending against the excessive demand, unless the party has committed a willful violation of law or otherwise acted in bad faith, or special circumstances make an award unjust. Fees and expenses awarded under this paragraph shall be paid only as a consequence of appropriations provided in advance.".

(b) Section 504(b) of title 5, United States Code, is amended—

(1) in paragraph (1)(A), by striking "$75" and inserting "$125";

(2) at the end of paragraph (1)(B), by inserting before the semicolon "or for purposes of subsection (a)(4), a small entity as defined in section 601";

(3) at the end of paragraph (1)(D), by striking "and";

(4) at the end of paragraph (1)(E), by striking the period and inserting "; and"; and

(5) at the end of paragraph (1), by adding the following new subparagraph:

"(F) 'demand' means the express demand of the agency which led to the adversary adjudication, but does not include a recitation by the agency of the maximum statutory penalty (i) in the administrative complaint, or (ii) elsewhere when accompanied by an express demand for a lesser amount.".

SEC. 232. JUDICIAL PROCEEDINGS.

(a) Section 2412(d)(1) of title 28, United States Code, is amended by adding at the end the following new subparagraph:

"(D) If, in a civil action brought by the United States or a proceeding for judicial review of an adversary adjudication described in section 504(a)(4) of title 5, the demand by the United States is substantially in excess of the judgment finally obtained by the United States and is unreasonable when compared with such judgment, under the facts and circumstances of the case, the court shall award to the party the fees and other expenses related to defending against the excessive demand, unless the party has committed a willful violation of law or otherwise acted in bad faith, or special circumstances make an award unjust. Fees and expenses awarded under this subparagraph shall be paid only as a consequence of appropriations provided in advance.".

(b) Section 2412(d) of title 28, United States Code, is amended—

(1) in paragraph (2)(A), by striking "$75" and inserting "$125";

(2) at the end of paragraph (2)(B), by inserting before the semicolon "or for purposes of subsection (d)(1)(D), a small entity as defined in section 601 of title 5";

(3) at the end of paragraph (2)(G), by striking "and";

(4) at the end of paragraph (2)(H), by striking the period and inserting "; and"; and

(5) at the end of paragraph (2), by adding the following new subparagraph:

"(I) 'demand' means the express demand of the United States which led to the adversary adjudication, but shall not include a recitation of the maximum statutory penalty (i) in the complaint, or (ii) elsewhere when accompanied by an express demand for a lesser amount.".

5 USC 504 note.

SEC. 233. EFFECTIVE DATE.

The amendments made by sections 331 and 332 shall apply to civil actions and adversary adjudications commenced on or after the date of the enactment of this subtitle.

Subtitle D—Regulatory Flexibility Act Amendments

SEC. 241. REGULATORY FLEXIBILITY ANALYSES.

(a) INITIAL REGULATORY FLEXIBILITY ANALYSIS.—

(1) SECTION 603.—Section 603(a) of title 5, United States Code, is amended—

(A) by inserting after "proposed rule", the phrase ", or publishes a notice of proposed rulemaking for an interpretative rule involving the internal revenue laws of the United States"; and

(B) by inserting at the end of the subsection, the following new sentence: "In the case of an interpretative rule involving the internal revenue laws of the United States, this chapter applies to interpretative rules published in the Federal Register for codification in the Code of Federal Regulations, but only to the extent that such interpretative rules impose on small entities a collection of information requirement.".

(2) SECTION 601.—Section 601 of title 5, United States Code, is amended by striking "and" at the end of paragraph (5), by striking the period at the end of paragraph (6) and inserting "; and", and by adding at the end the following:

"(7) the term 'collection of information'—

"(A) means the obtaining, causing to be obtained, soliciting, or requiring the disclosure to third parties or the public, of facts or opinions by or for an agency, regardless of form or format, calling for either—

"(i) answers to identical questions posed to, or identical reporting or recordkeeping requirements imposed on, 10 or more persons, other than agencies, instrumentalities, or employees of the United States; or

"(ii) answers to questions posed to agencies, instrumentalities, or employees of the United States which are to be used for general statistical purposes; and

"(B) shall not include a collection of information described under section 3518(c)(1) of title 44, United States Code.

"(8) RECORDKEEPING REQUIREMENT.—The term 'recordkeeping requirement' means a requirement imposed by an agency on persons to maintain specified records.".

(b) FINAL REGULATORY FLEXIBILITY ANALYSIS.—Section 604 of title 5, United States Code, is amended—

(1) in subsection (a) to read as follows:

"(a) When an agency promulgates a final rule under section 553 of this title, after being required by that section or any other law to publish a general notice of proposed rulemaking, or promulgates a final interpretative rule involving the internal revenue

laws of the United States as described in section 603(a), the agency shall prepare a final regulatory flexibility analysis. Each final regulatory flexibility analysis shall contain—

"(1) a succinct statement of the need for, and objectives of, the rule;

"(2) a summary of the significant issues raised by the public comments in response to the initial regulatory flexibility analysis, a summary of the assessment of the agency of such issues, and a statement of any changes made in the proposed rule as a result of such comments;

"(3) a description of and an estimate of the number of small entities to which the rule will apply or an explanation of why no such estimate is available;

"(4) a description of the projected reporting, recordkeeping and other compliance requirements of the rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record; and

"(5) a description of the steps the agency has taken to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statutes, including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency which affect the impact on small entities was rejected."; and

(2) in subsection (b), by striking "at the time" and all that follows and inserting "such analysis or a summary thereof.".

SEC. 242. JUDICIAL REVIEW.

Section 611 of title 5, United States Code, is amended to read as follows:

"§ 611. Judicial review

"(a)(1) For any rule subject to this chapter, a small entity that is adversely affected or aggrieved by final agency action is entitled to judicial review of agency compliance with the requirements of sections 601, 604, 605(b), 608(b), and 610 in accordance with chapter 7. Agency compliance with sections 607 and 609(a) shall be judicially reviewable in connection with judicial review of section 604.

"(2) Each court having jurisdiction to review such rule for compliance with section 553, or under any other provision of law, shall have jurisdiction to review any claims of noncompliance with sections 601, 604, 605(b), 608(b), and 610 in accordance with chapter 7. Agency compliance with sections 607 and 609(a) shall be judicially reviewable in connection with judicial review of section 604.

"(3)(A) A small entity may seek such review during the period beginning on the date of final agency action and ending one year later, except that where a provision of law requires that an action challenging a final agency action be commenced before the expiration of one year, such lesser period shall apply to an action for judicial review under this section.

"(B) In the case where an agency delays the issuance of a final regulatory flexibility analysis pursuant to section 608(b) of

this chapter, an action for judicial review under this section shall be filed not later than—

"(i) one year after the date the analysis is made available to the public, or

"(ii) where a provision of law requires that an action challenging a final agency regulation be commenced before the expiration of the 1-year period, the number of days specified in such provision of law that is after the date the analysis is made available to the public.

"(4) In granting any relief in an action under this section, the court shall order the agency to take corrective action consistent with this chapter and chapter 7, including, but not limited to—

"(A) remanding the rule to the agency, and

"(B) deferring the enforcement of the rule against small entities unless the court finds that continued enforcement of the rule is in the public interest.

"(5) Nothing in this subsection shall be construed to limit the authority of any court to stay the effective date of any rule or provision thereof under any other provision of law or to grant any other relief in addition to the requirements of this section.

"(b) In an action for the judicial review of a rule, the regulatory flexibility analysis for such rule, including an analysis prepared or corrected pursuant to paragraph (a)(4), shall constitute part of the entire record of agency action in connection with such review.

"(c) Compliance or noncompliance by an agency with the provisions of this chapter shall be subject to judicial review only in accordance with this section.

"(d) Nothing in this section bars judicial review of any other impact statement or similar analysis required by any other law if judicial review of such statement or analysis is otherwise permitted by law.".

SEC. 243. TECHNICAL AND CONFORMING AMENDMENTS.

(a) Section 605(b) of title 5, United States Code, is amended to read as follows:

"(b) Sections 603 and 604 of this title shall not apply to any proposed or final rule if the head of the agency certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. If the head of the agency makes a certification under the preceding sentence, the agency shall publish such certification in the Federal Register at the time of publication of general notice of proposed rulemaking for the rule or at the time of publication of the final rule, along with a statement providing the factual basis for such certification. The agency shall provide such certification and statement to the Chief Counsel for Advocacy of the Small Business Administration.".

Federal Register, publication.

(b) Section 612 of title 5, United States Code, is amended—

(1) in subsection (a), by striking "the committees on the Judiciary of the Senate and the House of Representatives, the Select Committee on Small Business of the Senate, and the Committee on Small Business of the House of Representatives" and inserting "the Committees on the Judiciary and Small Business of the Senate and House of Representatives".

(2) in subsection (b), by striking "his views with respect to the" and inserting in lieu thereof, "his or her views with respect to compliance with this chapter, the adequacy of the rulemaking record with respect to small entities and the".

SEC. 244. SMALL BUSINESS ADVOCACY REVIEW PANELS.

(a) SMALL BUSINESS OUTREACH AND INTERAGENCY COORDINATION.— Section 609 of title 5, United States Code, is amended—

(1) before "techniques," by inserting "the reasonable use of";

(2) in paragraph (4), after "entities" by inserting "including soliciting and receiving comments over computer networks";

(3) by designating the current text as subsection (a); and

(4) by adding the following:

"(b) Prior to publication of an initial regulatory flexibility analysis which a covered agency is required to conduct by this chapter—

"(1) a covered agency shall notify the Chief Counsel for Advocacy of the Small Business Administration and provide the Chief Counsel with information on the potential impacts of the proposed rule on small entities and the type of small entities that might be affected;

"(2) not later than 15 days after the date of receipt of the materials described in paragraph (1), the Chief Counsel shall identify individuals representative of affected small entities for the purpose of obtaining advice and recommendations from those individuals about the potential impacts of the proposed rule;

"(3) the agency shall convene a review panel for such rule consisting wholly of full time Federal employees of the office within the agency responsible for carrying out the proposed rule, the Office of Information and Regulatory Affairs within the Office of Management and Budget, and the Chief Counsel;

"(4) the panel shall review any material the agency has prepared in connection with this chapter, including any draft proposed rule, collect advice and recommendations of each individual small entity representative identified by the agency after consultation with the Chief Counsel, on issues related to subsections 603(b), paragraphs (3), (4) and (5) and 603(c);

"(5) not later than 60 days after the date a covered agency convenes a review panel pursuant to paragraph (3), the review panel shall report on the comments of the small entity representatives and its findings as to issues related to subsections 603(b), paragraphs (3), (4) and (5) and 603(c), provided that such report shall be made public as part of the rulemaking record; and

"(6) where appropriate, the agency shall modify the proposed rule, the initial regulatory flexibility analysis or the decision on whether an initial regulatory flexibility analysis is required.

"(c) An agency may in its discretion apply subsection (b) to rules that the agency intends to certify under subsection 605(b), but the agency believes may have a greater than de minimis impact on a substantial number of small entities.

"(d) For purposes of this section, the term 'covered agency' means the Environmental Protection Agency and the Occupational Safety and Health Administration of the Department of Labor.

"(e) The Chief Counsel for Advocacy, in consultation with the individuals identified in subsection (b)(2), and with the Administrator of the Office of Information and Regulatory Affairs within the Office of Management and Budget, may waive the requirements of subsections (b)(3), (b)(4), and (b)(5) by including in the rulemaking

record a written finding, with reasons therefor, that those requirements would not advance the effective participation of small entities in the rulemaking process. For purposes of this subsection, the factors to be considered in making such a finding are as follows:

"(1) In developing a proposed rule, the extent to which the covered agency consulted with individuals representative of affected small entities with respect to the potential impacts of the rule and took such concerns into consideration.

"(2) Special circumstances requiring prompt issuance of the rule.

"(3) Whether the requirements of subsection (b) would provide the individuals identified in subsection (b)(2) with a competitive advantage relative to other small entities.".

5 USC 609 note.

(b) SMALL BUSINESS ADVOCACY CHAIRPERSONS.—Not later than 30 days after the date of enactment of this Act, the head of each covered agency that has conducted a final regulatory flexibility analysis shall designate a small business advocacy chairperson using existing personnel to the extent possible, to be responsible for implementing this section and to act as permanent chair of the agency's review panels established pursuant to this section.

5 USC 601 note.

SEC. 245. EFFECTIVE DATE.

This subtitle shall become effective on the expiration of 90 days after the date of enactment of this subtitle, except that such amendments shall not apply to interpretative rules for which a notice of proposed rulemaking was published prior to the date of enactment.

Subtitle E—Congressional Review

SEC. 251. CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.

Title 5, United States Code, is amended by inserting immediately after chapter 7 the following new chapter:

"CHAPTER 8—CONGRESSIONAL REVIEW OF AGENCY RULEMAKING

"Sec.
"801. Congressional review.
"802. Congressional disapproval procedure.
"803. Special rule on statutory, regulatory, and judicial deadlines.
"804. Definitions.
"805. Judicial review.
"806. Applicability; severability.
"807. Exemption for monetary policy.
"808. Effective date of certain rules.

"§ 801. Congressional review

Reports.

"(a)(1)(A) Before a rule can take effect, the Federal agency promulgating such rule shall submit to each House of the Congress and to the Comptroller General a report containing—

"(i) a copy of the rule;

"(ii) a concise general statement relating to the rule, including whether it is a major rule; and

"(iii) the proposed effective date of the rule.

"(B) On the date of the submission of the report under subparagraph (A), the Federal agency promulgating the rule shall submit to the Comptroller General and make available to each House of Congress—

"(i) a complete copy of the cost-benefit analysis of the rule, if any;

"(ii) the agency's actions relevant to sections 603, 604, 605, 607, and 609;

"(iii) the agency's actions relevant to sections 202, 203, 204, and 205 of the Unfunded Mandates Reform Act of 1995; and

"(iv) any other relevant information or requirements under any other Act and any relevant Executive orders.

"(C) Upon receipt of a report submitted under subparagraph (A), each House shall provide copies of the report to the chairman and ranking member of each standing committee with jurisdiction under the rules of the House of Representatives or the Senate to report a bill to amend the provision of law under which the rule is issued.

"(2)(A) The Comptroller General shall provide a report on each major rule to the committees of jurisdiction in each House of the Congress by the end of 15 calendar days after the submission or publication date as provided in section 802(b)(2). The report of the Comptroller General shall include an assessment of the agency's compliance with procedural steps required by paragraph (1)(B). Reports.

"(B) Federal agencies shall cooperate with the Comptroller General by providing information relevant to the Comptroller General's report under subparagraph (A).

"(3) A major rule relating to a report submitted under paragraph (1) shall take effect on the latest of— Effective dates.

"(A) the later of the date occurring 60 days after the date on which—

"(i) the Congress receives the report submitted under paragraph (1); or

"(ii) the rule is published in the Federal Register, if so published; Federal Register, publication.

"(B) if the Congress passes a joint resolution of disapproval described in section 802 relating to the rule, and the President signs a veto of such resolution, the earlier date—

"(i) on which either House of Congress votes and fails to override the veto of the President; or

"(ii) occurring 30 session days after the date on which the Congress received the veto and objections of the President; or

"(C) the date the rule would have otherwise taken effect, if not for this section (unless a joint resolution of disapproval under section 802 is enacted).

"(4) Except for a major rule, a rule shall take effect as otherwise provided by law after submission to Congress under paragraph (1). Effective date.

"(5) Notwithstanding paragraph (3), the effective date of a rule shall not be delayed by operation of this chapter beyond the date on which either House of Congress votes to reject a joint resolution of disapproval under section 802. Effective dates.

"(b)(1) A rule shall not take effect (or continue), if the Congress enacts a joint resolution of disapproval, described under section 802, of the rule.

"(2) A rule that does not take effect (or does not continue) under paragraph (1) may not be reissued in substantially the same form, and a new rule that is substantially the same as such a

rule may not be issued, unless the reissued or new rule is specifically authorized by a law enacted after the date of the joint resolution disapproving the original rule.

"(c)(1) Notwithstanding any other provision of this section (except subject to paragraph (3)), a rule that would not take effect by reason of subsection (a)(3) may take effect, if the President makes a determination under paragraph (2) and submits written notice of such determination to the Congress.

"(2) Paragraph (1) applies to a determination made by the President by Executive order that the rule should take effect because such rule is—

"(A) necessary because of an imminent threat to health or safety or other emergency;

"(B) necessary for the enforcement of criminal laws;

"(C) necessary for national security; or

"(D) issued pursuant to any statute implementing an international trade agreement.

"(3) An exercise by the President of the authority under this subsection shall have no effect on the procedures under section 802 or the effect of a joint resolution of disapproval under this section.

"(d)(1) In addition to the opportunity for review otherwise provided under this chapter, in the case of any rule for which a report was submitted in accordance with subsection (a)(1)(A) during the period beginning on the date occurring—

"(A) in the case of the Senate, 60 session days, or

"(B) in the case of the House of Representatives, 60 legislative days,

before the date the Congress adjourns a session of Congress through the date on which the same or succeeding Congress first convenes its next session, section 802 shall apply to such rule in the succeeding session of Congress.

"(2)(A) In applying section 802 for purposes of such additional review, a rule described under paragraph (1) shall be treated as though—

Federal Register, publication.

"(i) such rule were published in the Federal Register (as a rule that shall take effect) on—

"(I) in the case of the Senate, the 15th session day, or

"(II) in the case of the House of Representatives, the 15th legislative day,

after the succeeding session of Congress first convenes; and

"(ii) a report on such rule were submitted to Congress under subsection (a)(1) on such date.

"(B) Nothing in this paragraph shall be construed to affect the requirement under subsection (a)(1) that a report shall be submitted to Congress before a rule can take effect.

"(3) A rule described under paragraph (1) shall take effect as otherwise provided by law (including other subsections of this section).

Effective date.

"(e)(1) For purposes of this subsection, section 802 shall also apply to any major rule promulgated between March 1, 1996, and the date of the enactment of this chapter.

"(2) In applying section 802 for purposes of Congressional review, a rule described under paragraph (1) shall be treated as though—

"(A) such rule were published in the Federal Register on the date of enactment of this chapter; and Federal Register, publication.

"(B) a report on such rule were submitted to Congress under subsection (a)(1) on such date.

"(3) The effectiveness of a rule described under paragraph (1) shall be as otherwise provided by law, unless the rule is made of no force or effect under section 802.

"(f) Any rule that takes effect and later is made of no force or effect by enactment of a joint resolution under section 802 shall be treated as though such rule had never taken effect.

"(g) If the Congress does not enact a joint resolution of disapproval under section 802 respecting a rule, no court or agency may infer any intent of the Congress from any action or inaction of the Congress with regard to such rule, related statute, or joint resolution of disapproval.

"§ 802. Congressional disapproval procedure

"(a) For purposes of this section, the term 'joint resolution' means only a joint resolution introduced in the period beginning on the date on which the report referred to in section 801(a)(1)(A) is received by Congress and ending 60 days thereafter (excluding days either House of Congress is adjourned for more than 3 days during a session of Congress), the matter after the resolving clause of which is as follows: 'That Congress disapproves the rule submitted by the ____ relating to ____, and such rule shall have no force or effect.' (The blank spaces being appropriately filled in).

"(b)(1) A joint resolution described in subsection (a) shall be referred to the committees in each House of Congress with jurisdiction.

"(2) For purposes of this section, the term 'submission or publication date' means the later of the date on which—

"(A) the Congress receives the report submitted under section 801(a)(1); or

"(B) the rule is published in the Federal Register, if so published. Federal Register, publication.

"(c) In the Senate, if the committee to which is referred a joint resolution described in subsection (a) has not reported such joint resolution (or an identical joint resolution) at the end of 20 calendar days after the submission or publication date defined under subsection (b)(2), such committee may be discharged from further consideration of such joint resolution upon a petition supported in writing by 30 Members of the Senate, and such joint resolution shall be placed on the calendar.

"(d)(1) In the Senate, when the committee to which a joint resolution is referred has reported, or when a committee is discharged (under subsection (c)) from further consideration of a joint resolution described in subsection (a), it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for a motion to proceed to the consideration of the joint resolution, and all points of order against the joint resolution (and against consideration of the joint resolution) are waived. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the joint resolution is agreed

to, the joint resolution shall remain the unfinished business of the Senate until disposed of.

"(2) In the Senate, debate on the joint resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the joint resolution. A motion further to limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the joint resolution is not in order.

"(3) In the Senate, immediately following the conclusion of the debate on a joint resolution described in subsection (a), and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the Senate, the vote on final passage of the joint resolution shall occur.

"(4) Appeals from the decisions of the Chair relating to the application of the rules of the Senate to the procedure relating to a joint resolution described in subsection (a) shall be decided without debate.

"(e) In the Senate the procedure specified in subsection (c) or (d) shall not apply to the consideration of a joint resolution respecting a rule—

"(1) after the expiration of the 60 session days beginning with the applicable submission or publication date, or

"(2) if the report under section 801(a)(1)(A) was submitted during the period referred to in section 801(d)(1), after the expiration of the 60 session days beginning on the 15th session day after the succeeding session of Congress first convenes.

"(f) If, before the passage by one House of a joint resolution of that House described in subsection (a), that House receives from the other House a joint resolution described in subsection (a), then the following procedures shall apply:

"(1) The joint resolution of the other House shall not be referred to a committee.

"(2) With respect to a joint resolution described in subsection (a) of the House receiving the joint resolution—

"(A) the procedure in that House shall be the same as if no joint resolution had been received from the other House; but

"(B) the vote on final passage shall be on the joint resolution of the other House.

"(g) This section is enacted by Congress—

"(1) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a joint resolution described in subsection (a), and it supersedes other rules only to the extent that it is inconsistent with such rules; and

"(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

"§ 803. Special rule on statutory, regulatory, and judicial deadlines

"(a) In the case of any deadline for, relating to, or involving any rule which does not take effect (or the effectiveness of which is terminated) because of enactment of a joint resolution under section 802, that deadline is extended until the date 1 year after the date of enactment of the joint resolution. Nothing in this subsection shall be construed to affect a deadline merely by reason of the postponement of a rule's effective date under section 801(a).

"(b) The term 'deadline' means any date certain for fulfilling any obligation or exercising any authority established by or under any Federal statute or regulation, or by or under any court order implementing any Federal statute or regulation.

"§ 804. Definitions

"For purposes of this chapter—

"(1) The term 'Federal agency' means any agency as that term is defined in section 551(1).

"(2) The term 'major rule' means any rule that the Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget finds has resulted in or is likely to result in—

"(A) an annual effect on the economy of $100,000,000 or more;

"(B) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

"(C) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.

The term does not include any rule promulgated under the Telecommunications Act of 1996 and the amendments made by that Act.

"(3) The term 'rule' has the meaning given such term in section 551, except that such term does not include—

"(A) any rule of particular applicability, including a rule that approves or prescribes for the future rates, wages, prices, services, or allowances therefor, corporate or financial structures, reorganizations, mergers, or acquisitions thereof, or accounting practices or disclosures bearing on any of the foregoing;

"(B) any rule relating to agency management or personnel; or

"(C) any rule of agency organization, procedure, or practice that does not substantially affect the rights or obligations of non-agency parties.

"§ 805. Judicial review

"No determination, finding, action, or omission under this chapter shall be subject to judicial review.

"§ 806. Applicability; severability

"(a) This chapter shall apply notwithstanding any other provision of law.

"(b) If any provision of this chapter or the application of any provision of this chapter to any person or circumstance, is held

invalid, the application of such provision to other persons or circumstances, and the remainder of this chapter, shall not be affected thereby.

"§ 807. Exemption for monetary policy

"Nothing in this chapter shall apply to rules that concern monetary policy proposed or implemented by the Board of Governors of the Federal Reserve System or the Federal Open Market Committee.

"§ 808. Effective date of certain rules

"Notwithstanding section 801—

"(1) any rule that establishes, modifies, opens, closes, or conducts a regulatory program for a commercial, recreational, or subsistence activity related to hunting, fishing, or camping, or

"(2) any rule which an agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rule issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest,

shall take effect at such time as the Federal agency promulgating the rule determines.".

SEC. 252. EFFECTIVE DATE.

5 USC 801 note.

The amendment made by section 351 shall take effect on the date of enactment of this Act.

SEC. 253. TECHNICAL AMENDMENT.

The table of chapters for part I of title 5, United States Code, is amended by inserting immediately after the item relating to chapter 7 the following:

"8. Congressional Review of Agency Rulemaking ..... 801".

TITLE III—PUBLIC DEBT LIMIT

SEC. 301. INCREASE IN PUBLIC DEBT LIMIT.

Subsection (b) of section 3101 of title 31, United States Code, is amended by striking the dollar limitation contained in such subsection and inserting "$5,500,000,000,000".

Approved March 29, 1996.

LEGISLATIVE HISTORY—H.R. 3136 (S. 942):

CONGRESSIONAL RECORD, Vol. 142 (1996):
Mar. 15, 19, S. 942 considered and passed Senate.
Mar. 28, H.R. 3136 considered and passed House and Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 32 (1996):
Mar. 29, Presidential statement.

Public Law 104–122
104th Congress

Joint Resolution

Mar. 29, 1996
[H.J. Res. 170]

Making further continuing appropriations for the fiscal year 1996, and for other purposes.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Public Law 104–99 is further amended by striking out "March 29, 1996" in sections 106(c), 112, 126(c), 202(c) and 214 and inserting in lieu thereof "April 24, 1996"; and that Public Law 104–92 is further amended by striking out "April 3, 1996" in section 106(c) and inserting in lieu thereof "April 24, 1996" and by inserting in title IV in the matter before section 401 "out of any money in the Treasury not otherwise appropriated, and" before "out of the general fund"; and that section 347(b)(3) of Public Law 104–50 is amended to read as follows:

Ante, pp. 27, 28, 33, 36, 38.

Ante, p. 18.

Ante, p. 21.

49 USC 106 note.

"(3) chapter 71, relating to labor-management relations;"; and

that section 204(a) of the Auburn Indian Restoration Act (25 U.S.C. 1300*l*–2(a)) is amended by striking "shall" in the first sentence and inserting in lieu thereof "may".

SEC. 2. That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1996, and for other purposes, namely:

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS

FUNDS APPROPRIATED TO THE PRESIDENT

AGENCY FOR INTERNATIONAL DEVELOPMENT

ASSISTANCE FOR EASTERN EUROPE AND THE BALTIC STATES

(INCLUDING TRANSFERS OF FUNDS)

Bosnia. Herzegovina.

For an additional amount for "Assistance for Eastern Europe and the Baltic States" for Bosnia and Herzegovina, including demining assistance, $198,000,000: *Provided,* That of the funds appropriated under this heading by this Act that are made available for the economic revitalization program in Bosnia and Herzegovina, not less than 87.5 percent shall be obligated and expended for programs, projects, and activities, within the sector assigned to American forces of the military Implementation Force (IFOR) established by the North Atlantic Council pursuant to the General Framework Agreement for Peace in Bosnia and Herzegovina and within the Sarajevo area: *Provided further,* That the preceding proviso shall not apply to any project that involves activities in

both the American IFOR sector and other contiguous sectors: *Provided further,* That priority consideration should be given to projects and activities designated in the IFOR "Task Force Eagle civil military project list" in making available funds for the economic revitalization program: *Provided further,* That none of the funds appropriated under this heading by this Act shall be made available for the construction of new housing or residences in Bosnia and Herzegovina: *Provided further,* That none of the funds appropriated under this heading by this Act or under this heading in Public Law 104–107 may be made available for the purposes of repairing housing in areas where refugees or displaced persons are refused, by Federation or local authorities, the right of return due to ethnicity or political party affiliation: *Provided further,* That not to exceed $5,000,000 may be transferred to "Debt Restructuring" to be made available only for the cost, as defined in section 502 of the Congressional Budget Act of 1974, of modifying direct loans and loan guarantees, notwithstanding any other provision of law: *Provided further,* That $3,000,000 shall be transferred to "Operating Expenses of the Agency for International Development" for administrative expenses: *Provided further,* That the additional amount appropriated or otherwise made available herein is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further,* That the provisions of section 515 of Public Law 104–107, and any similar provision of law requiring advance notification to the Congress, shall be applicable to funds appropriated under this heading, except that the requirements of those provisions shall be satisfied by notification five days in advance of the obligation of such funds: *Provided further:* That, effective ninety days after the date of enactment of this Act, none of the funds appropriated under this heading by this Act may be made available for the purposes of economic revitalization in Bosnia and Herzegovina unless the President determines and certifies in writing to the Committees on Appropriations that the aggregate bilateral contributions pledged by non-United States donors for economic revitalization are at least equivalent to the United States bilateral contributions for economic revitalization made by this Act and in Public Law 104–107: *Provided further,* That 50 percent of the funds appropriated under this heading by this Act that are made available for economic revitalization shall not be available for obligation unless the President determines and certifies to the Committees on Appropriations that the Federation of Bosnia and Herzegovina has complied with article III of Annex 1–A of the General Framework Agreement for Peace in Bosnia and Herzegovina concerning the withdrawal of foreign forces, and that intelligence cooperation on training, investigations, and related activities between Iranian officials and Bosnian officials has been terminated: *Provided further,* That funds withheld from obligation pursuant to the previous proviso may be made available for obligation and expenditure after June 15, 1996, notwithstanding the previous proviso if the President determines and reports to the Committees on Appropriations that it is important to the national security interest of the United States to do so: *Provided further,* That the authority contained in the previous proviso to make such a determination may be exercised by the President only and may not be delegated: *Provided further,* That with regard to funds appropriated under this heading by this Act (and local

Applicability.
Notification.

Effective date.

currencies generated by such funds) that are made available for economic revitalization, the Administrator of the Agency for International Development shall provide written approval for grants and loans prior to the obligation and expenditure of funds for such purposes, and the Administrator shall receive the agreement of grantees that such funds shall be subject to audits by the Inspector General of the Agency for International Development: *Provided further,* That with regard to funds appropriated under this heading by this Act (and local currencies generated by such funds) that are made available for economic revitalization, the Administrator of the Agency for International Development shall provide written approval for the use of funds that have been returned or repaid to any lending facility and grantee under the economic revitalization program prior to the use of such returned or repaid funds: *Provided further,* That, notwithstanding any provision of law under this heading in Public Law 104–107, the provisions of section 532 of that Act shall be applicable to funds appropriated under this heading that are used under the economic revitalization program and to local currencies generated by such funds: *Provided further,* That such local currencies may be used only for program purposes: *Provided further,* That for the purposes of this Act, local currency generations under the economic revitalization program shall include the conversion of funds appropriated under this heading into currency used by Bosnia and Herzegovina as local currency and local currency returned or repaid under such program.

Applicability.

Approved March 29, 1996.

LEGISLATIVE HISTORY—H.J. Res. 170:

CONGRESSIONAL RECORD, Vol. 142 (1996):
Mar. 29, considered and passed House and Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 32 (1996):
Mar. 29, Presidential statement.

Public Law 104–123
104th Congress

An Act

To provide for the exchange of lands within Admiralty Island National Monument, and for other purposes.

Apr. 1, 1996
[H.R. 1266]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Greens Creek Land Exchange Act of 1995. Alaska. 16 USC 431 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Greens Creek Land Exchange Act of 1995".

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) The Alaska National Interest Lands Conservation Act established the Admiralty Island National Monument and sections 503 and 504 of that Act provided special provisions under which the Greens Creek Claims would be developed. The provisions supplemented the general mining laws under which these claims were staked.

(2) The Kennecott Greens Creek Mining Company, Inc., currently holds title to the Greens Creek Claims, and the area surrounding these claims has further mineral potential which is yet unexplored.

Kennecott Greens Creek Mining Company, Inc.

(3) Negotiations between the United States Forest Service and the Kennecott Greens Creek Mining Company, Inc., have resulted in an agreement by which the area surrounding the Greens Creek Claims could be explored and developed under terms and conditions consistent with the protection of the values of the Admiralty Island National Monument.

(4) The full effectuation of the Agreement, by its terms, requires the approval and ratification by Congress.

SEC. 3. DEFINITIONS.

As used in this Act—

(1) the term "Agreement" means the document entitled the "Greens Creek Land Exchange Agreement" executed on December 14, 1994, by the Under Secretary of Agriculture for Natural Resources and Environment on behalf of the United States and the Kennecott Greens Creek Mining Company and Kennecott Corporation;

(2) the term "ANILCA" means the Alaska National Interest Lands Conservation Act, Public Law 96–487 (94 Stat. 2371);

(3) the term "conservation system unit" has the same meaning as defined in section 102(4) of ANILCA;

(4) the term "Greens Creek Claims" means those patented mining claims of Kennecott Greens Creek Mining Company

within the Monument recognized pursuant to section 504 of ANILCA;

(5) the term "KGCMC" means the Kennecott Greens Creek Mining Company, Inc., a Delaware corporation;

(6) the term "Monument" means the Admiralty Island National Monument in the State of Alaska established by section 503 of ANILCA;

(7) the term "Royalty" means Net Island Receipts Royalty as that latter term is defined in Exhibit C to the Agreement; and

(8) the term "Secretary" means the Secretary of Agriculture.

SEC. 4. RATIFICATION OF THE AGREEMENT.

The Agreement is hereby ratified and confirmed as to the duties and obligations of the United States and its agencies, and KGCMC and Kennecott Corporation, as a matter of Federal law. The agreement may be modified or amended, without further action by the Congress, upon written agreement of all parties thereto and with notification in writing being made to the appropriate committees of the Congress.

SEC. 5. IMPLEMENTATION OF THE AGREEMENT.

National Forest System.

(a) LAND ACQUISITION.—Without diminishment of any other land acquisition authority of the Secretary in Alaska and in furtherance of the purposes of the Agreement, the Secretary is authorized to acquire lands and interests in land within conservation system units in the Tongass National Forest, and any land or interest in land so acquired shall be administered by the Secretary as part of the National Forest System and any conservation system unit in which it is located. Priority shall be given to acquisition of non-Federal lands within the Monument.

Royalties.

(b) ACQUISITION FUNDING.—There is hereby established in the Treasury of the United States an account entitled the "Greens Creek Land Exchange Account" into which shall be deposited the first $5,000,000 in royalties received by the United States under part 6 of the Agreement after the distribution of the amounts pursuant to subsection (c) of this section. Such moneys in the special account in the Treasury may, to the extent provided in appropriations Acts, be used for land acquisition pursuant to subsection (a) of this section.

Royalties.

(c) TWENTY-FIVE PERCENT FUND.—All royalties paid to the United States under the Agreement shall be subject to the 25 percent distribution provisions of the Act of May 23, 1908, as amended (16 U.S.C. 500) relating to payments for roads and schools.

(d) MINERAL DEVELOPMENT.—Notwithstanding any provision of ANILCA to the contrary, the lands and interests in lands being conveyed to KGCMC pursuant to the Agreement shall be available for mining and related activities subject to and in accordance with the terms of the Agreement and conveyances made thereunder.

(e) ADMINISTRATION.—The Secretary of Agriculture is authorized to implement and administer the rights and obligations of the Federal Government under the Agreement, including monitoring the Government's interests relating to extralateral rights, collecting royalties, and conducting audits. The Secretary may enter into cooperative arrangements with other Federal agencies for the performance of any Federal rights or obligations under the Agreement or this Act.

(f) REVERSIONS.—Before reversion to the United States of KGCMC properties located on Admiralty Island, KGCMC shall reclaim the surface disturbed in accordance with an approved plan of operations and applicable laws and regulations. Upon reversion to the United States of KGCMC properties located on Admiralty, those properties located within the Monument shall become part of the Monument and those properties lying outside the Monument shall be managed as part of the Tongass National Forest. National Forest System.

(g) SAVINGS PROVISIONS.—Implementation of the Agreement in accordance with this Act shall not be deemed a major Federal action significantly affecting the quality of the human environment, nor shall implementation require further consideration pursuant to the National Historic Preservation Act, title VIII of ANILCA, or any other law.

SEC. 6. RECISION RIGHTS.

Kennecott Greens Creek Mining Company, Inc. Kennecott Corporation.

Within 60 days of the enactment of this Act, KGCMC and Kennecott Corporation shall have a right to rescind all rights under the Agreement and this Act. Recision shall be effected by a duly authorized resolution of the Board of Directors of either KGCMC or Kennecott Corporation and delivered to the Chief of the Forest Service at the Chief's principal office in Washington, District of Columbia. In the event of a recision, the status quo ante provisions of the Agreement shall apply.

Approved April 1, 1996.

LEGISLATIVE HISTORY—H.R. 1266:

HOUSE REPORTS: No. 104–115 (Comm. on Resources).
CONGRESSIONAL RECORD:
Vol. 141 (1995): May 15, considered and passed House.
Vol. 142 (1996): Mar. 19, considered and passed Senate.

Public Law 104–124
104th Congress

An Act

Apr. 1, 1996
[H.R. 1787]

To amend the Federal Food, Drug, and Cosmetic Act to repeal the saccharin notice requirement.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. NOTICE REQUIREMENT REPEAL.

Section 403 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343) is amended by striking paragraph (p).

Approved April 1, 1996.

LEGISLATIVE HISTORY—H.R. 1787:

HOUSE REPORTS: No. 104–386 (Comm. on Commerce).
CONGRESSIONAL RECORD:
Vol. 141 (1995): Dec. 12, considered and passed House.
Vol. 142 (1996): Mar. 19, considered and passed Senate.

Public Law 104–125
104th Congress
Joint Resolution

To grant the consent of the Congress to certain additional powers conferred upon the Bi-State Development Agency by the States of Missouri and Illinois.

Apr. 1, 1996
[H.J. Res. 78]

Whereas the Congress in consenting to the compact between Missouri and Illinois creating the Bi-State Development Agency and the Bi-State Metropolitan District provided that no power shall be exercised by the Bi-State Agency under the provisions of article III of such compact until such power has been conferred upon the Bi-State Agency by the legislatures of the States to the compact and approved by an Act of Congress; and

Whereas such States have now enacted certain legislation in order to confer certain additional powers on such Bi-State Development Agency: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the consent of Congress is hereby given to the additional powers conferred on the Bi-State Development Agency of the Compact Between Missouri and Illinois approved under the Joint Resolution of August 31, 1950 (64 Stat. 568) by section 70.378 of the Act of May 26, 1993 (1993 Mo. Laws 382) and section 5 of Public Act 88–611, Laws of Illinois 1994.

(b) The powers consented to in subsection (a) and conferred by the laws referred to in such subsection shall take effect on January 1, 1995.

Effective date.

SEC. 2. The provisions of the Joint Resolution of August 31, 1950 (64 Stat. 568) shall apply to the additional powers approved under this joint resolution to the same extent as if such additional powers were conferred under the provisions of the compact consented to in such Joint Resolution.

Applicability.

SEC. 3. The right to alter, amend, or repeal this joint resolution is expressly reserved.

SEC. 4. The right is hereby reserved to the Congress to require the disclosure and furnishings of such information or data by the Bi-State Development Agency as is deemed appropriate by the Congress.

Approved April 1, 1996.

LEGISLATIVE HISTORY—H.J. Res. 78 (S.J. Res. 27):

HOUSE REPORTS: No. 104–377 (Comm. on the Judiciary).
CONGRESSIONAL RECORD:
Vol. 141 (1995): July 21, S.J. Res. 27 considered and passed Senate.
Vol. 142 (1996): Mar. 12, H.J. Res. 78 considered and passed House.
Mar. 15, considered and passed Senate.

Public Law 104–126
104th Congress

Joint Resolution

Apr. 1, 1996
[S.J. Res. 38]

Granting the consent of Congress to the Vermont-New Hampshire Interstate Public Water Supply Compact.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONGRESSIONAL CONSENT.

The Congress consents to the Vermont-New Hampshire Interstate Public Water Supply Compact entered into between the States of Vermont and New Hampshire. The compact reads substantially as follows:

"Vermont-New Hampshire Interstate Public Water Supply Compact

"ARTICLE I

"GENERAL PROVISIONS

"(a) STATEMENT OF POLICY.—It is recognized that in certain cases municipalities in Vermont and New Hampshire may, in order to avoid duplication of cost and effort, and in order to take advantage of economies of scale, find it necessary or advisable to enter into agreements whereby joint public water supply facilities are erected and maintained. The States of Vermont and New Hampshire recognize the value of and need for such agreements, and adopt this compact in order to authorize their establishment.

"(b) REQUIREMENT OF CONGRESSIONAL APPROVAL.—This compact shall not become effective until approved by the United States Congress.

"(c) DEFINITIONS.—

"(1) The term 'public water supply facilities' shall mean publicly owned water supply sources, storage, treatment, transmission and distribution facilities, and ancillary facilities regardless of whether or not the same qualify for Federal or State construction grants-in-aid.

"(2) The term 'municipalities' shall mean cities, towns, village districts, or other incorporated units of local government possessing authority to construct, maintain, and operate public water supply facilities and to raise revenue therefore by bonding and taxation, which may legally impose and collect user charges and impose and enforce regulatory control upon users of public water supply facilities.

"(3) The term 'water supply agency' shall mean the agencies within Vermont and New Hampshire possessing regulating

authority over the construction, maintenance, and operation of public water supply facilities and the administration of grants-in-aid from their respective State for the construction of such facilities.

"(4) the term 'governing body' shall mean the legislative body of the municipality, including, in the case of a town, the selectmen or town meeting, and, in the case of a city, the city council, or the board of mayor and aldermen or any similar body in any community not inconsistent with the intent of this definition.

"ARTICLE II

"PROCEDURES AND CONDITIONS GOVERNING INTERGOVERNMENTAL AGREEMENTS

"(a) COOPERATIVE AGREEMENTS AUTHORIZED.—Any two or more municipalities, one or more located in New Hampshire and one or more located in Vermont, may enter into cooperative agreements for the construction, maintenance, and operation of public water supply facilities serving all the municipalities who are parties thereto.

"(b) APPROVAL OF AGREEMENTS.—Any agreement entered into under this compact shall, prior to becoming effective, be approved by the water supply agency of each State, and shall be in a form established jointly by said agencies of both States.

"(c) METHOD OF ADOPTING AGREEMENTS.—Agreements shall be adopted by the governing body of each municipality in accordance with statutory procedures for the adoption of interlocal agreements between municipalities within each State; provided, that before a Vermont municipality may enter into such agreement, the proposed agreement shall be approved by the voters.

"(d) REVIEW AND APPROVAL OF PLANS.—The water supply agency of the State in which any part of a public water supply facility which is proposed under an agreement pursuant to this compact is proposed to be or is located, is hereby authorized and required, to the extent such authority exists under its State law, to review and approve or disapprove all reports, designs, plans, and other engineering documents required to apply for Federal grants-in-aid or grants-in-aid from said agency's State, and to supervise and regulate the planning, design, construction, maintenance, and operation of said part of the facility.

"(e) FEDERAL GRANTS AND FINANCING.—(1) Application for Federal grants-in-aid for the planning, design, and construction of public water supply facilities other than distribution facilities shall be made jointly by the agreeing municipalities, with the amount of the grant attributable to each State's allotment to be based upon the relative total capacity reserves allocated to the municipalities in the respective States determined jointly by the respective State water supply agencies. Each municipality shall be responsible for applying for Federal and State grants for distribution facilities to be located within the municipal boundaries.

"(2) Municipalities are hereby authorized to raise and appropriate revenue for the purpose of contributing pro rata to the planning, design, and construction cost of public water supply facilities constructed and operated as joint facilities pursuant to this compact.

"(f) CONTENTS OF AGREEMENTS.—Agreements entered into pursuant to this compact shall contain at least the following:

"(1) A system of charges for users of the joint public water supply facilities.

"(2) A uniform set of standards for users of the joint public water supply facilities.

"(3) A provision for the pro rata sharing of operating and maintenance costs based upon the ratio of actual usage as measured by devices installed to gauge such usage with reasonable accuracy.

"(4) A provision establishing a procedure for the arbitration and resolution of disputes.

"(5) A provision establishing a procedure for the carriage of liability insurance, if such insurance is necessary under the laws of either State.

"(6) A provision establishing a procedure for the modification of the agreement.

"(7) A provision establishing a procedure for the adoption of regulations for the use, operation, and maintenance of the public water supply facilities.

"(8) A provision setting forth the means by which the municipality that does not own the joint public water supply facility will pay the other municipality its share of the maintenance and operating costs of said facility.

"(g) APPLICABILITY OF STATE LAWS.—Cooperative agreements entered into by municipalities under this compact shall be consistent with, and shall not supersede, the laws of the State in which each municipality is located. Notwithstanding any provision of this compact, actions taken by a municipality pursuant to this compact, or pursuant to an agreement entered into under this compact, including the incurring of obligations or the raising and appropriating of revenue, shall be valid only if taken in accordance with the laws of the State in which such municipality is located.

"CONSTRUCTION

"Nothing in this compact shall be construed to authorize the establishment of interstate districts, authorities, or any other new governmental or quasi-governmental entity.

"ARTICLE III

"EFFECTIVE DATE

"This compact shall become effective when ratified by the States of Vermont and New Hampshire and approved by the United States Congress.".

SEC. 2. RIGHT TO ALTER, AMEND, OR REPEAL.

The right to alter, amend, or repeal this joint resolution is hereby expressly reserved. The consent granted by this joint resolution shall not be construed as impairing or in any manner affecting any right or jurisdiction of the United States in and over the region which forms the subject of the compact.

SEC. 3. CONSTRUCTION AND SEVERABILITY.

It is intended that the provisions of this compact shall be reasonably and liberally construed to effectuate the purposes thereof. If any part or application of this compact, or legislation

enabling the compact, is held invalid, the remainder of the compact or its application to other situations or persons shall not be affected.

SEC. 4. INCONSISTENCY OF LANGUAGE.

The validity of this compact shall not be affected by any insubstantial difference in its form or language as adopted by the two States.

Approved April 1, 1996.

LEGISLATIVE HISTORY—S.J. Res. 38 (H.J. Res. 129):

HOUSE REPORTS: No. 104–485 accompanying H.J. Res. 129 (Comm. on the Judiciary).

CONGRESSIONAL RECORD:

Vol. 141 (1995): Dec. 18, considered and passed Senate.

Vol. 142 (1996): Mar. 19, H.J. Res. 129 and S.J. Res. 38 considered and passed House.

Public Law 104–127
104th Congress

An Act

Apr. 4, 1996
[H.R. 2854]

To modify the operation of certain agricultural programs.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Federal Agriculture Improvement and Reform Act of 1996.
7 USC 7201 note.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Federal Agriculture Improvement and Reform Act of 1996".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—AGRICULTURAL MARKET TRANSITION ACT

Subtitle A—Short Title, Purpose, and Definitions

Sec. 101. Short title and purpose.
Sec. 102. Definitions.

Subtitle B—Production Flexibility Contracts

Sec. 111. Authorization for use of production flexibility contracts.
Sec. 112. Elements of contracts.
Sec. 113. Amounts available for contract payments.
Sec. 114. Determination of contract payments under contracts.
Sec. 115. Payment limitations.
Sec. 116. Violations of contract.
Sec. 117. Transfer or change of interest in lands subject to contract.
Sec. 118. Planting flexibility.

Subtitle C—Nonrecourse Marketing Assistance Loans and Loan Deficiency Payments

Sec. 131. Availability of nonrecourse marketing assistance loans.
Sec. 132. Loan rates for marketing assistance loans.
Sec. 133. Term of loans.
Sec. 134. Repayment of loans.
Sec. 135. Loan deficiency payments.
Sec. 136. Special marketing loan provisions for upland cotton.
Sec. 137. Availability of recourse loans for high moisture feed grains and seed cotton.

Subtitle D—Other Commodities

CHAPTER 1—DAIRY

Sec. 141. Milk price support program.
Sec. 142. Recourse loan program for commercial processors of dairy products.
Sec. 143. Consolidation and reform of Federal milk marketing orders.
Sec. 144. Effect on fluid milk standards in State of California.
Sec. 145. Milk manufacturing marketing adjustment.
Sec. 146. Promotion.
Sec. 147. Northeast Interstate Dairy Compact.
Sec. 148. Dairy export incentive program.
Sec. 149. Authority to assist in establishment and maintenance of one or more export trading companies.
Sec. 150. Standby authority to indicate entity best suited to provide international market development and export services.

Sec. 151. Study and report regarding potential impact of Uruguay Round on prices, income, and Government purchases.
Sec. 152. Promotion of United States dairy products in international markets through dairy promotion program.

CHAPTER 2—PEANUTS AND SUGAR

Sec. 155. Peanut program.
Sec. 156. Sugar program.

Subtitle E—Administration

Sec. 161. Administration.
Sec. 162. Adjustments of loans.
Sec. 163. Commodity Credit Corporation interest rate.
Sec. 164. Personal liability of producers for deficiencies.
Sec. 165. Commodity Credit Corporation sales price restrictions.

Subtitle F—Permanent Price Support Authority

Sec. 171. Suspension and repeal of permanent price support authority.
Sec. 172. Effect of amendments.

Subtitle G—Commission on 21st Century Production Agriculture

Sec. 181. Establishment.
Sec. 182. Composition.
Sec. 183. Comprehensive review of past and future of production agriculture.
Sec. 184. Reports.
Sec. 185. Powers.
Sec. 186. Commission procedures.
Sec. 187. Personnel matters.
Sec. 188. Termination of Commission.

Subtitle H—Miscellaneous Commodity Provisions

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Agricultural Market Transition Act. Contracts. Loans.

TITLE I—AGRICULTURAL MARKET TRANSITION ACT

Subtitle A—Short Title, Purpose, and Definitions

7 USC 7201.

SEC. 101. SHORT TITLE AND PURPOSE.

(a) SHORT TITLE.—This title may be cited as the "Agricultural Market Transition Act".

(b) PURPOSE.—It is the purpose of this title—

(1) to authorize the use of binding production flexibility contracts between the United States and agricultural producers to support farming certainty and flexibility while ensuring continued compliance with farm conservation and wetland protection requirements;

(2) to make nonrecourse marketing assistance loans and loan deficiency payments available for certain crops;

(3) to improve the operation of farm programs for milk, peanuts, and sugar; and

(4) to establish a commission to undertake a comprehensive review of past and future production agriculture in the United States.

SEC. 102. DEFINITIONS. 7 USC 7202.

In this title:

(1) AGRICULTURAL ACT OF 1949.—Except in section 171, the term "Agricultural Act of 1949" means the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.), as in effect prior to the suspensions under section 171(b)(1).

(2) CONSIDERED PLANTED.—The term "considered planted" means acreage that is considered planted under title V of the Agricultural Act of 1949 (7 U.S.C. 1461 et seq.) and such other acreage as the Secretary considers fair and equitable.

(3) CONTRACT.—The terms "contract" and "production flexibility contract" mean a production flexibility contract entered into under section 111.

(4) CONTRACT ACREAGE.—The term "contract acreage" means 1 or more crop acreage bases established for contract commodities under title V of the Agricultural Act of 1949 (7 U.S.C. 1461 et seq.) that would have been in effect for the 1996 crop (but for suspension under section 171(b)(1)).

(5) CONTRACT COMMODITY.—The term "contract commodity" means wheat, corn, grain sorghum, barley, oats, upland cotton, and rice.

(6) CONTRACT PAYMENT.—The term "contract payment" means a payment made under this subtitle pursuant to a contract.

(7) DEPARTMENT.—The term "Department" means the Department of Agriculture.

(8) EXTRA LONG STAPLE COTTON.—The term "extra long staple cotton" means cotton that—

(A) is produced from pure strain varieties of the Barbadense species or any hybrid thereof, or other similar types of extra long staple cotton, designated by the Secretary, having characteristics needed for various end uses for which United States upland cotton is not suitable and grown in irrigated cotton-growing regions of the United States designated by the Secretary or other areas designated by the Secretary as suitable for the production of the varieties or types; and

(B) is ginned on a roller-type gin or, if authorized by the Secretary, ginned on another type gin for experimental purposes.

(9) FARM PROGRAM PAYMENT YIELD.—The term "farm program payment yield" means the farm program payment yield established for the 1995 crop of a contract commodity under section 505 of the Agricultural Act of 1949 (7 U.S.C. 1465). The Secretary shall adjust the farm program payment yield for the 1995 crop of a contract commodity to account for any additional yield payments made with respect to that crop under subsection (b)(2) of the section.

(10) LOAN COMMODITY.—The term "loan commodity" means each contract commodity, extra long staple cotton, and oilseed.

(11) OILSEED.—The term "oilseed" means a crop of soybeans, sunflower seed, rapeseed, canola, safflower, flaxseed, mustard seed, or, if designated by the Secretary, other oilseeds.

(12) PRODUCER.—The term "producer" means an owner, operator, landlord, tenant, or sharecropper who shares in the risk of producing a crop and who is entitled to share in the crop available for marketing from the farm, or would have

shared had the crop been produced. In determining whether a grower of hybrid seed is a producer, the Secretary shall not take into consideration the existence of a hybrid seed contract.

(13) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(14) STATE.—The term "State" means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States.

(15) UNITED STATES.—The term "United States", when used in a geographical sense, means all of the States.

Subtitle B—Production Flexibility Contracts

7 USC 7211.

SEC. 111. AUTHORIZATION FOR USE OF PRODUCTION FLEXIBILITY CONTRACTS.

(a) OFFER AND TERMS.—The Secretary shall offer to enter into a production flexibility contract with an eligible owner or producer described in subsection (b) on a farm containing eligible cropland. Under the terms of a contract, the owner or producer shall agree, in exchange for annual contract payments, to—

(1) comply with applicable conservation requirements under subtitle B of title XII of the Food Security Act of 1985 (16 U.S.C. 3811 et seq.);

(2) comply with applicable wetland protection requirements under subtitle C of title XII of the Act (16 U.S.C. 3821 et seq.);

(3) comply with the planting flexibility requirements of section 118; and

(4) use the land subject to the contract for an agricultural or related activity, but not for a nonagricultural commercial or industrial use, as determined by the Secretary.

(b) ELIGIBLE OWNERS AND PRODUCERS DESCRIBED.—The following producers and owners shall be eligible to enter into a contract:

(1) An owner of eligible cropland who assumes all or a part of the risk of producing a crop.

(2) A producer (other than an owner) on eligible cropland with a share-rent lease of the eligible cropland, regardless of the length of the lease, if the owner enters into the same contract.

(3) A producer (other than an owner) on eligible cropland who cash rents the eligible cropland under a lease expiring on or after September 30, 2002, in which case the owner is not required to enter into the contract.

(4) A producer (other than an owner) on eligible cropland who cash rents the eligible cropland under a lease expiring before September 30, 2002. The owner of the eligible cropland may also enter into the same contract. If the producer elects to enroll less than 100 percent of the eligible cropland in the contract, the consent of the owner is required.

(5) An owner of eligible cropland who cash rents the eligible cropland and the lease term expires before September 30, 2002, if the tenant declines to enter into a contract. In the case of an owner covered by this paragraph, contract payments

shall not begin under a contract until the lease held by the tenant ends.

(6) An owner or producer described in any preceding paragraph regardless of whether the owner or producer purchased catastrophic risk protection for a 1996 crop under section 508(b) of the Federal Crop Insurance Act (7 U.S.C. 1508(b)).

(c) TENANTS AND SHARECROPPERS.—In carrying out this subtitle, the Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers.

(d) ELIGIBLE CROPLAND DESCRIBED.—Land shall be considered to be cropland eligible for coverage under a contract only if the land has contract acreage attributable to the land and—

(1) for at least 1 of the 1991 through 1995 crops, at least a portion of the land was enrolled in the acreage reduction program authorized for a crop of a contract commodity under section 101B, 103B, 105B, or 107B of the Agricultural Act of 1949 or was considered planted;

(2) was subject to a conservation reserve contract under section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831) whose term expired, or was voluntarily terminated, on or after January 1, 1995; or

(3) is released from coverage under a conservation reserve contract by the Secretary during the period beginning on January 1, 1995, and ending on the date specified in section 112(a)(2).

(e) QUANTITY OF ELIGIBLE CROPLAND COVERED BY CONTRACT.—Subject to subsection (b)(4), an owner or producer may enroll as contract acreage all or a portion of the eligible cropland on the farm.

(f) VOLUNTARY REDUCTION IN CONTRACT ACREAGE.—Subject to subsection (b)(4), an owner or producer who enters into a contract may subsequently reduce the quantity of contract acreage covered by the contract.

SEC. 112. ELEMENTS OF CONTRACTS. 7 USC 7212.

(a) TIME FOR CONTRACTING.—

(1) COMMENCEMENT.—To the extent practicable, the Secretary shall commence entering into contracts not later than 45 days after the date of enactment of this title.

(2) DEADLINE.—Except as provided in paragraph (3), the Secretary may not enter into a contract after August 1, 1996.

(3) CONSERVATION RESERVE LANDS.—

(A) IN GENERAL.—At the beginning of each fiscal year, the Secretary shall allow an eligible owner or producer on a farm covered by a conservation reserve contract entered into under section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831) that terminates after the date specified in paragraph (2) to enter into or expand a production flexibility contract to cover the contract acreage of the farm that was subject to the former conservation reserve contract.

(B) AMOUNT.—Contract payments made for contract acreage under this paragraph shall be made at the rate and amount applicable to the annual contract payment level for the applicable crop. For the fiscal year in which the conservation reserve contract is terminated, the owner or producer subject to the production flexibility contract

may elect to receive either contract payments or a prorated payment under the conservation reserve contract, but not both.

(b) DURATION OF CONTRACT.—

(1) BEGINNING DATE.—The term of a contract shall begin with—

(A) the 1996 crop of a contract commodity; or

(B) in the case of acreage that was subject to a conservation reserve contract described in subsection (a)(3), the date the production flexibility contract was entered into or expanded to cover the acreage.

(2) ENDING DATE.—The term of a contract shall extend through the 2002 crop, unless earlier terminated by the owner or producer.

(c) ESTIMATION OF CONTRACT PAYMENTS.—At the time the Secretary enters into a contract, the Secretary shall provide an estimate of the minimum contract payments anticipated to be made during at least the first fiscal year for which contract payments will be made.

(d) TIME FOR PAYMENT.—

(1) IN GENERAL.—An annual contract payment shall be made not later than September 30 of each of fiscal years 1996 through 2002.

(2) ADVANCE PAYMENTS.—

(A) FISCAL YEAR 1996.—At the option of the owner or producer, 50 percent of the contract payment for fiscal year 1996 shall be made not later than 30 days after the date on which the contract is entered into and approved by the Secretary and the owner or producer.

(B) SUBSEQUENT FISCAL YEARS.—At the option of the owner or producer for fiscal year 1997 and each subsequent fiscal year, 50 percent of the annual contract payment shall be made on December 15 or January 15 of the fiscal year. The owner or producer may change the date selected under this subparagraph for a subsequent fiscal year by providing advance notice to the Secretary.

7 USC 7213.

SEC. 113. AMOUNTS AVAILABLE FOR CONTRACT PAYMENTS.

(a) FISCAL YEAR AMOUNTS.—The Secretary shall, to the maximum extent practicable, expend the following amounts to satisfy the obligations of the Secretary under all contracts:

(1) For fiscal year 1996, $5,570,000,000.
(2) For fiscal year 1997, $5,385,000,000.
(3) For fiscal year 1998, $5,800,000,000.
(4) For fiscal year 1999, $5,603,000,000.
(5) For fiscal year 2000, $5,130,000,000.
(6) For fiscal year 2001, $4,130,000,000.
(7) For fiscal year 2002, $4,008,000,000.

(b) ALLOCATION.—The amount made available for a fiscal year under subsection (a) shall be allocated as follows:

(1) For wheat, 26.26 percent.
(2) For corn, 46.22 percent.
(3) For grain sorghum, 5.11 percent.
(4) For barley, 2.16 percent.
(5) For oats, 0.15 percent.
(6) For upland cotton, 11.63 percent.
(7) For rice, 8.47 percent.

(c) ADJUSTMENT.—The Secretary shall adjust the amounts allocated for each contract commodity under subsection (b) for a particular fiscal year by—

(1) adding an amount equal to the sum of all repayments of deficiency payments required under section 114(a)(2) of the Agricultural Act of 1949 (7 U.S.C. 1445j(a)(2)) for the commodity;

(2) adding an amount equal to the sum of all refunds of contract payments received during the preceding fiscal year under section 116 for the commodity; and

(3) subtracting an amount equal to the amount, if any, necessary during that fiscal year to satisfy payment requirements for the commodity under sections 103B, 105B, or 107B of the Agricultural Act of 1949 for the 1994 and 1995 crop years.

(d) ADDITIONAL RICE ALLOCATION.—In addition to the adjustments required under subsection (c), the amount allocated under subsection (b) for rice contract payments shall be increased by $8,500,000 for each of fiscal years 1997 through 2002.

(e) EXCLUSION OF CERTAIN AMOUNTS FROM CONTRACT PAYMENTS.—Any amount added pursuant to paragraphs (1) and (2) of subsection (c) to the amount available under subsection (a) for a fiscal year and paid to owners and producers under a contract shall not be treated as a contract payment for purposes of section 115(a) of this title or section 1001(1) of the Food Security Act of 1985 (7 U.S.C. 1308(1)). However, the amount of a payment covered by this subsection may not exceed $50,000 per person.

(f) EFFECT OF PAYMENT LIMITATION.—The amount available under subsection (a) for a fiscal year shall be reduced by an amount equal to the total amount of contract payments for the fiscal year that owners and producers forgo as a result of operation of the payment limitation under section 1001(1) of the Food Security Act of 1985 (7 U.S.C. 1308(1)).

SEC. 114. DETERMINATION OF CONTRACT PAYMENTS UNDER CONTRACTS. 7 USC 7214.

(a) INDIVIDUAL PAYMENT QUANTITY OF CONTRACT COMMODITIES.—For each contract, the payment quantity of a contract commodity for each fiscal year shall be equal to the product of—

(1) 85 percent of the contract acreage; and

(2) the farm program payment yield.

(b) ANNUAL PAYMENT QUANTITY OF CONTRACT COMMODITIES.—The payment quantity of each contract commodity covered by all contracts for each fiscal year shall be equal to the sum of the amounts calculated under subsection (a) for each individual contract.

(c) ANNUAL PAYMENT RATE.—The payment rate for a contract commodity for each fiscal year shall be equal to—

(1) the amount made available under section 113 for the contract commodity for the fiscal year; divided by

(2) the amount determined under subsection (b) for the fiscal year.

(d) ANNUAL PAYMENT AMOUNT.—The amount to be paid under a contract in effect for each fiscal year with respect to all contract commodities covered by the contract shall be equal to the sum of the products of—

(1) the payment quantity determined under subsection (a) for each of the contract commodities covered by the contract; and

(2) the corresponding payment rate for the contract commodity in effect under subsection (c).

(e) REDUCTION IN PAYMENT AMOUNT.—The contract payment determined under subsection (d) for an owner or producer for a fiscal year shall be immediately reduced by the amount of any repayment of deficiency payments that is required under section 114(a)(2) of the Agricultural Act of 1949 (7 U.S.C. 1445j(a)(2)) and is not repaid as of the date the contract payment is determined. The Secretary shall be required to collect the required repayment, or any claim based on the required repayment, as soon as the contract payment is determined.

(f) ASSIGNMENT OF CONTRACT PAYMENTS.—The provisions of section 8(g) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(g)) (relating to assignment of payments) shall apply to contract payments under this section. The owner or producer making the assignment, or the assignee, shall provide the Secretary with notice, in such manner as the Secretary may require in the contract, of any assignment made under this subsection.

(g) SHARING OF CONTRACT PAYMENTS.—The Secretary shall provide for the sharing of contract payments among the owners and producers subject to the contract on a fair and equitable basis.

7 USC 7215.

SEC. 115. PAYMENT LIMITATIONS.

(a) APPLICABILITY OF PAYMENT LIMITATIONS.—Sections 1001 through 1001C of the Food Security Act of 1985 (7 U.S.C. 1308 through 1308–3), as amended by this section, shall be applicable to contract payments made under this subtitle.

(b) PAYMENT LIMITATIONS.—Section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) is amended by striking paragraphs (1) through (4) and inserting the following:

"(1) LIMITATION ON PAYMENTS UNDER PRODUCTION FLEXIBILITY CONTRACTS.—The total amount of contract payments made under the Agricultural Market Transition Act to a person under 1 or more production flexibility contracts during any fiscal year may not exceed $40,000.

"(2) LIMITATION ON MARKETING LOAN GAINS AND LOAN DEFICIENCY PAYMENTS.—The total amount of the payments specified in paragraph (3) that a person shall be entitled to receive under the Agricultural Market Transition Act for 1 or more contract commodities and oilseeds during any crop year may not exceed $75,000.

"(3) DESCRIPTION OF PAYMENTS SUBJECT TO LIMITATION.—The payments referred to in paragraph (2) are the following:

"(A) Any gain realized by a producer from repaying a marketing assistance loan under section 131 of the Agricultural Market Transition Act for a crop of any loan commodity at a lower level than the original loan rate established for the loan commodity under section 132 of the Act.

"(B) Any loan deficiency payment received for a loan commodity under section 135 of the Act.

"(4) DEFINITIONS.—In this title, the terms 'contract commodity', 'contract payment', 'loan commodity', 'oilseed', and 'production flexibility contract' have the meaning given those

terms in section 102 of the Agricultural Market Transition Act.".

(c) CONFORMING AMENDMENTS.—

(1) Section 1001A of the Food Security Act of 1985 (7 U.S.C. 1308–1) is amended—

(A) in subsection (a)(1), by striking "under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.)"; and

(B) in subsection (b)(1), by striking "under the Agricultural Act of 1949".

(2) Section 1001C(a) of the Act (7 U.S.C. 1308–3(a)) is amended—

(A) by striking "For each of the 1991 through 1997 crops, any" and inserting "Any";

(B) by striking "production adjustment payments, price support program loans, payments, or benefits made available under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.)," and inserting "loans or payments made available under the Agricultural Market Transition Act,"; and

(C) by striking "during the 1989 through 1997 crop years".

SEC. 116. VIOLATIONS OF CONTRACT. 7 USC 7216.

(a) TERMINATION OF CONTRACT FOR VIOLATION.—Except as provided in subsection (b), if an owner or producer subject to a contract violates a requirement of the contract specified in section 111(a), the Secretary shall terminate the contract with respect to the owner or producer on each farm in which the owner or producer has an interest. On the termination, the owner or producer shall forfeit all rights to receive future contract payments on each farm in which the owner or producer has an interest and shall refund to the Secretary all contract payments received by the owner or producer during the period of the violation, together with interest on the contract payments as determined by the Secretary.

(b) REFUND OR ADJUSTMENT.—If the Secretary determines that a violation does not warrant termination of the contract under subsection (a), the Secretary may require the owner or producer subject to the contract—

(1) to refund to the Secretary that part of the contract payments received by the owner or producer during the period of the violation, together with interest on the contract payments as determined by the Secretary; or

(2) to accept a reduction in the amount of future contract payments that is proportionate to the severity of the violation, as determined by the Secretary.

(c) FORECLOSURE.—

(1) EFFECT OF FORECLOSURE.—An owner or producer subject to a contract may not be required to make repayments to the Secretary of amounts received under the contract if the contract acreage has been foreclosed on and the Secretary determines that forgiving the repayments is appropriate to provide fair and equitable treatment.

(2) RESUMPTION OF OPERATION.—This subsection shall not void the responsibilities of the owner or producer under the contract if the owner or producer continues or resumes operation, or control, of the contract acreage. On the resumption of operation or control over the contract acreage by the owner

or producer, the provisions of the contract in effect on the date of the foreclosure shall apply.

(d) REVIEW.—A determination of the Secretary under this section shall be considered to be an adverse decision for purposes of the availability of administrative review of the determination.

7 USC 7217.

SEC. 117. TRANSFER OR CHANGE OF INTEREST IN LANDS SUBJECT TO CONTRACT.

(a) TERMINATION.—Except as provided in subsection (c), a transfer of (or change in) the interest of an owner or producer subject to a contract in the contract acreage covered by the contract shall result in the termination of the contract with respect to the acreage, unless the transferee or owner of the acreage agrees to assume all obligations under the contract. The termination shall be effective on the date of the transfer or change.

(b) MODIFICATION.—At the request of the transferee or owner, the Secretary may modify the contract if the modifications are consistent with the objectives of this subtitle, as determined by the Secretary.

(c) EXCEPTION.—If an owner or producer who is entitled to a contract payment dies, becomes incompetent, or is otherwise unable to receive the contract payment, the Secretary shall make the payment, in accordance with regulations prescribed by the Secretary.

7 USC 7218.

SEC. 118. PLANTING FLEXIBILITY.

(a) PERMITTED CROPS.—Subject to subsection (b), any commodity or crop may be planted on contract acreage on a farm.

(b) LIMITATIONS AND EXCEPTIONS REGARDING FRUITS AND VEGETABLES.—

(1) LIMITATIONS.—The planting of fruits and vegetables (other than lentils, mung beans, and dry peas) shall be prohibited on contract acreage.

(2) EXCEPTIONS.—Paragraph (1) shall not limit the planting of a fruit or vegetable—

(A) in any region in which there is a history of double-cropping of contract commodities with fruits or vegetables, as determined by the Secretary, in which case the double-cropping shall be permitted;

(B) on a farm that the Secretary determines has a history of planting fruits or vegetables on contract acreage, except that a contract payment shall be reduced by an acre for each acre planted to the fruit or vegetable; or

(C) by a producer who the Secretary determines has an established planting history of a specific fruit or vegetable, except that—

(i) the quantity planted may not exceed the producer's average annual planting history of the fruit or vegetable in the 1991 through 1995 crop years (excluding any crop year in which no plantings were made), as determined by the Secretary; and

(ii) a contract payment shall be reduced by an acre for each acre planted to the fruit or vegetable.

Subtitle C—Nonrecourse Marketing Assistance Loans and Loan Deficiency Payments

SEC. 131. AVAILABILITY OF NONRECOURSE MARKETING ASSISTANCE LOANS. 7 USC 7231.

(a) NONRECOURSE LOANS AVAILABLE.—For each of the 1996 through 2002 crops of each loan commodity, the Secretary shall make available to producers on a farm nonrecourse marketing assistance loans for loan commodities produced on the farm. The loans shall be made under terms and conditions that are prescribed by the Secretary and at the loan rate established under section 132 for the loan commodity.

(b) ELIGIBLE PRODUCTION.—The following production shall be eligible for a marketing assistance loan under subsection (a):

(1) In the case of a marketing assistance loan for a contract commodity, any production by a producer on a farm containing eligible cropland covered by a production flexibility contract.

(2) In the case of a marketing assistance loan for extra long staple cotton and oilseeds, any production.

(c) COMPLIANCE WITH CONSERVATION AND WETLANDS REQUIREMENTS.—As a condition of the receipt of a marketing assistance loan under subsection (a), the producer shall comply with applicable conservation requirements under subtitle B of title XII of the Food Security Act of 1985 (16 U.S.C. 3811 et seq.) and applicable wetland protection requirements under subtitle C of title XII of the Act (16 U.S.C. 3821 et seq.) during the term of the loan.

(d) ADDITIONAL OUTLAYS PROHIBITED.—The Secretary shall carry out this subtitle in such a manner that there are no additional outlays under this subtitle as a result of the reconstitution of a farm that occurs as a result of the combination of another farm that does not contain eligible cropland covered by a production flexibility contract.

SEC. 132. LOAN RATES FOR MARKETING ASSISTANCE LOANS. 7 USC 7232.

(a) WHEAT.—

(1) LOAN RATE.—Subject to paragraph (2), the loan rate for a marketing assistance loan under section 131 for wheat shall be—

(A) not less than 85 percent of the simple average price received by producers of wheat, as determined by the Secretary, during the marketing years for the immediately preceding 5 crops of wheat, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period; but

(B) not more than $2.58 per bushel.

(2) STOCKS TO USE RATIO ADJUSTMENT.—If the Secretary estimates for any marketing year that the ratio of ending stocks of wheat to total use for the marketing year will be—

(A) equal to or greater than 30 percent, the Secretary may reduce the loan rate for wheat for the corresponding crop by an amount not to exceed 10 percent in any year;

(B) less than 30 percent but not less than 15 percent, the Secretary may reduce the loan rate for wheat for the

corresponding crop by an amount not to exceed 5 percent in any year; or

(C) less than 15 percent, the Secretary may not reduce the loan rate for wheat for the corresponding crop.

(b) FEED GRAINS.—

(1) LOAN RATE FOR CORN.—Subject to paragraph (2), the loan rate for a marketing assistance loan under section 131 for corn shall be—

(A) not less than 85 percent of the simple average price received by producers of corn, as determined by the Secretary, during the marketing years for the immediately preceding 5 crops of corn, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period; but

(B) not more than $1.89 per bushel.

(2) STOCKS TO USE RATIO ADJUSTMENT.—If the Secretary estimates for any marketing year that the ratio of ending stocks of corn to total use for the marketing year will be—

(A) equal to or greater than 25 percent, the Secretary may reduce the loan rate for corn for the corresponding crop by an amount not to exceed 10 percent in any year;

(B) less than 25 percent but not less than 12.5 percent, the Secretary may reduce the loan rate for corn for the corresponding crop by an amount not to exceed 5 percent in any year; or

(C) less than 12.5 percent, the Secretary may not reduce the loan rate for corn for the corresponding crop.

(3) OTHER FEED GRAINS.—The loan rate for a marketing assistance loan under section 131 for grain sorghum, barley, and oats, respectively, shall be established at such level as the Secretary determines is fair and reasonable in relation to the rate that loans are made available for corn, taking into consideration the feeding value of the commodity in relation to corn.

(c) UPLAND COTTON.—

(1) LOAN RATE.—Subject to paragraph (2), the loan rate for a marketing assistance loan under section 131 for upland cotton shall be established by the Secretary at such loan rate, per pound, as will reflect for the base quality of upland cotton, as determined by the Secretary, at average locations in the United States a rate that is not less than the smaller of—

(A) 85 percent of the average price (weighted by market and month) of the base quality of cotton as quoted in the designated United States spot markets during 3 years of the 5-year period ending July 31 of the year preceding the year in which the crop is planted, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period; or

(B) 90 percent of the average, for the 15-week period beginning July 1 of the year preceding the year in which the crop is planted, of the 5 lowest-priced growths of the growths quoted for Middling 1$^{3}/_{32}$-inch cotton C.I.F. Northern Europe (adjusted downward by the average difference during the period April 15 through October 15 of the year preceding the year in which the crop is planted between the average Northern European price quotation of such

quality of cotton and the market quotations in the designated United States spot markets for the base quality of upland cotton), as determined by the Secretary.

(2) LIMITATIONS.—The loan rate for a marketing assistance loan for upland cotton shall not be less than $0.50 per pound or more than $0.5192 per pound.

(d) EXTRA LONG STAPLE COTTON.—The loan rate for a marketing assistance loan under section 131 for extra long staple cotton shall be—

(1) not less than 85 percent of the simple average price received by producers of extra long staple cotton, as determined by the Secretary, during 3 years of the 5-year period ending July 31 of the year preceding the year in which the crop is planted, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period; but

(2) not more than $0.7965 per pound.

(e) RICE.—The loan rate for a marketing assistance loan under section 131 for rice shall be $6.50 per hundredweight.

(f) OILSEEDS.—

(1) SOYBEANS.—The loan rate for a marketing assistance loan under section 131 for soybeans shall be—

(A) not less than 85 percent of the simple average price received by producers of soybeans, as determined by the Secretary, during the marketing years for the immediately preceding 5 crops of soybeans, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period; but

(B) not less than $4.92 or more than $5.26 per bushel.

(2) SUNFLOWER SEED, CANOLA, RAPESEED, SAFFLOWER, MUSTARD SEED, AND FLAXSEED.—The loan rate for a marketing assistance loan under section 131 for sunflower seed, canola, rapeseed, safflower, mustard seed, and flaxseed, individually, shall be—

(A) not less than 85 percent of the simple average price received by producers of sunflower seed, individually, as determined by the Secretary, during the marketing years for the immediately preceding 5 crops of sunflower seed, individually, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period; but

(B) not less than $0.087 or more than $0.093 per pound.

(3) OTHER OILSEEDS.—The loan rates for a marketing assistance loan under section 131 for other oilseeds shall be established at such level as the Secretary determines is fair and reasonable in relation to the loan rate available for soybeans, except in no event shall the rate for the oilseeds (other than cottonseed) be less than the rate established for soybeans on a per-pound basis for the same crop.

SEC. 133. TERM OF LOANS. 7 USC 7233.

(a) TERM OF LOAN.—In the case of each loan commodity (other than upland cotton or extra long staple cotton), a marketing assistance loan under section 131 shall have a term of 9 months beginning

on the first day of the first month after the month in which the loan is made.

(b) SPECIAL RULE FOR COTTON.—A marketing assistance loan for upland cotton or extra long staple cotton shall have a term of 10 months beginning on the first day of the month in which the loan is made.

(c) EXTENSIONS PROHIBITED.—The Secretary may not extend the term of a marketing assistance loan for any loan commodity.

7 USC 7234.

SEC. 134. REPAYMENT OF LOANS.

(a) REPAYMENT RATES FOR WHEAT, FEED GRAINS, AND OILSEEDS.—The Secretary shall permit a producer to repay a marketing assistance loan under section 131 for wheat, corn, grain sorghum, barley, oats, and oilseeds at a rate that is the lesser of—

(1) the loan rate established for the commodity under section 132, plus interest (as determined by the Secretary); or

(2) a rate that the Secretary determines will—

(A) minimize potential loan forfeitures;

(B) minimize the accumulation of stocks of the commodity by the Federal Government;

(C) minimize the cost incurred by the Federal Government in storing the commodity; and

(D) allow the commodity produced in the United States to be marketed freely and competitively, both domestically and internationally.

(b) REPAYMENT RATES FOR UPLAND COTTON AND RICE.—The Secretary shall permit producers to repay a marketing assistance loan under section 131 for upland cotton and rice at a rate that is the lesser of—

(1) the loan rate established for the commodity under section 132, plus interest (as determined by the Secretary); or

(2) the prevailing world market price for the commodity (adjusted to United States quality and location), as determined by the Secretary.

(c) REPAYMENT RATES FOR EXTRA LONG STAPLE COTTON.—Repayment of a marketing assistance loan for extra long staple cotton shall be at the loan rate established for the commodity under section 132, plus interest (as determined by the Secretary).

Regulations.

(d) PREVAILING WORLD MARKET PRICE.—For purposes of this section and section 136, the Secretary shall prescribe by regulation—

(1) a formula to determine the prevailing world market price for each loan commodity, adjusted to United States quality and location; and

(2) a mechanism by which the Secretary shall announce periodically the prevailing world market price for each loan commodity.

(e) ADJUSTMENT OF PREVAILING WORLD MARKET PRICE FOR UPLAND COTTON.—

(1) IN GENERAL.—During the period ending July 31, 2003, the prevailing world market price for upland cotton (adjusted to United States quality and location) established under subsection (d) shall be further adjusted if—

(A) the adjusted prevailing world market price is less than 115 percent of the loan rate for upland cotton established under section 132, as determined by the Secretary; and

(B) the Friday through Thursday average price quotation for the lowest-priced United States growth as quoted for Middling (M) 1 3/32-inch cotton delivered C.I.F. Northern Europe is greater than the Friday through Thursday average price of the 5 lowest-priced growths of upland cotton, as quoted for Middling (M) 1 3/32-inch cotton, delivered C.I.F. Northern Europe (referred to in this section as the "Northern Europe price").

(2) FURTHER ADJUSTMENT.—Except as provided in paragraph (3), the adjusted prevailing world market price for upland cotton shall be further adjusted on the basis of some or all of the following data, as available:

(A) The United States share of world exports.

(B) The current level of cotton export sales and cotton export shipments.

(C) Other data determined by the Secretary to be relevant in establishing an accurate prevailing world market price for upland cotton (adjusted to United States quality and location).

(3) LIMITATION ON FURTHER ADJUSTMENT.—The adjustment under paragraph (2) may not exceed the difference between—

(A) the Friday through Thursday average price for the lowest-priced United States growth as quoted for Middling 1 3/32-inch cotton delivered C.I.F. Northern Europe; and

(B) the Northern Europe price.

SEC. 135. LOAN DEFICIENCY PAYMENTS. 7 USC 7235.

(a) AVAILABILITY OF LOAN DEFICIENCY PAYMENTS.—Except as provided in subsection (d), the Secretary may make loan deficiency payments available to producers who, although eligible to obtain a marketing assistance loan under section 131 with respect to a loan commodity, agree to forgo obtaining the loan for the commodity in return for payments under this section.

(b) COMPUTATION.—A loan deficiency payment under this section shall be computed by multiplying—

(1) the loan payment rate determined under subsection (c) for the loan commodity; by

(2) the quantity of the loan commodity that the producers on a farm are eligible to place under loan but for which the producers forgo obtaining the loan in return for payments under this section.

(c) LOAN PAYMENT RATE.—For purposes of this section, the loan payment rate shall be the amount by which—

(1) the loan rate established under section 132 for the loan commodity; exceeds

(2) the rate at which a loan for the commodity may be repaid under section 134.

(d) EXCEPTION FOR EXTRA LONG STAPLE COTTON.—This section shall not apply with respect to extra long staple cotton.

SEC. 136. SPECIAL MARKETING LOAN PROVISIONS FOR UPLAND COTTON. 7 USC 7236.

(a) COTTON USER MARKETING CERTIFICATES.—

(1) ISSUANCE.—Subject to paragraph (4), during the period ending July 31, 2003, the Secretary shall issue marketing certificates or cash payments to domestic users and exporters for documented purchases by domestic users and sales for

export by exporters made in the week following a consecutive 4-week period in which—

(A) the Friday through Thursday average price quotation for the lowest-priced United States growth, as quoted for Middling (M) 1 3/32-inch cotton, delivered C.I.F. Northern Europe exceeds the Northern Europe price by more than 1.25 cents per pound; and

(B) the prevailing world market price for upland cotton (adjusted to United States quality and location) does not exceed 130 percent of the loan rate for upland cotton established under section 132.

(2) VALUE OF CERTIFICATES OR PAYMENTS.—The value of the marketing certificates or cash payments shall be based on the amount of the difference (reduced by 1.25 cents per pound) in the prices during the 4th week of the consecutive 4-week period multiplied by the quantity of upland cotton included in the documented sales.

(3) ADMINISTRATION OF MARKETING CERTIFICATES.—

(A) REDEMPTION, MARKETING, OR EXCHANGE.—The Secretary shall establish procedures for redeeming marketing certificates for cash or marketing or exchange of the certificates for agricultural commodities owned by the Commodity Credit Corporation in such manner, and at such price levels, as the Secretary determines will best effectuate the purposes of cotton user marketing certificates. Any price restrictions that would otherwise apply to the disposition of agricultural commodities by the Commodity Credit Corporation shall not apply to the redemption of certificates under this subsection.

(B) DESIGNATION OF COMMODITIES AND PRODUCTS.—To the extent practicable, the Secretary shall permit owners of certificates to designate the commodities and products, including storage sites, the owners would prefer to receive in exchange for certificates. If any certificate is not presented for redemption, marketing, or exchange within a reasonable number of days after the issuance of the certificate (as determined by the Secretary), reasonable costs of storage and other carrying charges, as determined by the Secretary, shall be deducted from the value of the certificate for the period beginning after the reasonable number of days and ending with the date of the presentation of the certificate to the Commodity Credit Corporation.

(C) TRANSFERS.—Marketing certificates issued to domestic users and exporters of upland cotton may be transferred to other persons in accordance with regulations issued by the Secretary.

(4) EXCEPTION.—The Secretary shall not issue marketing certificates or cash payments under paragraph (1) if, for the immediately preceding consecutive 10-week period, the Friday through Thursday average price quotation for the lowest priced United States growth, as quoted for Middling (M) 1 3/32-inch cotton, delivered C.I.F. Northern Europe, adjusted for the value of any certificate issued under this subsection, exceeds the Northern Europe price by more than 1.25 cents per pound.

(5) LIMITATION ON EXPENDITURES.—Total expenditures under this subsection shall not exceed $701,000,000 during fiscal years 1996 through 2002.

(b) SPECIAL IMPORT QUOTA.—

(1) ESTABLISHMENT.—The President shall carry out an import quota program that provides that, during the period ending July 31, 2003, whenever the Secretary determines and announces that for any consecutive 10-week period, the Friday through Thursday average price quotation for the lowest-priced United States growth, as quoted for Middling (M) 1 3/32-inch cotton, delivered C.I.F. Northern Europe, adjusted for the value of any certificates issued under subsection (a), exceeds the Northern Europe price by more than 1.25 cents per pound, there shall immediately be in effect a special import quota. President.

(2) QUANTITY.—The quota shall be equal to 1 week's consumption of upland cotton by domestic mills at the seasonally adjusted average rate of the most recent 3 months for which data are available.

(3) APPLICATION.—The quota shall apply to upland cotton purchased not later than 90 days after the date of the Secretary's announcement under paragraph (1) and entered into the United States not later than 180 days after the date.

(4) OVERLAP.—A special quota period may be established that overlaps any existing quota period if required by paragraph (1), except that a special quota period may not be established under this subsection if a quota period has been established under subsection (c).

(5) PREFERENTIAL TARIFF TREATMENT.—The quantity under a special import quota shall be considered to be an in-quota quantity for purposes of—

(A) section 213(d) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(d));

(B) section 204 of the Andean Trade Preference Act (19 U.S.C. 3203);

(C) section 503(d) of the Trade Act of 1974 (19 U.S.C. 2463(d)); and

(D) General Note 3(a)(iv) to the Harmonized Tariff Schedule.

(6) DEFINITION.—In this subsection, the term "special import quota" means a quantity of imports that is not subject to the over-quota tariff rate of a tariff-rate quota.

(c) LIMITED GLOBAL IMPORT QUOTA FOR UPLAND COTTON.—

(1) IN GENERAL.—The President shall carry out an import quota program that provides that whenever the Secretary determines and announces that the average price of the base quality of upland cotton, as determined by the Secretary, in the designated spot markets for a month exceeded 130 percent of the average price of such quality of cotton in the markets for the preceding 36 months, notwithstanding any other provision of law, there shall immediately be in effect a limited global import quota subject to the following conditions: President.

(A) QUANTITY.—The quantity of the quota shall be equal to 21 days of domestic mill consumption of upland cotton at the seasonally adjusted average rate of the most recent 3 months for which data are available.

(B) QUANTITY IF PRIOR QUOTA.—If a quota has been established under this subsection during the preceding 12

months, the quantity of the quota next established under this subsection shall be the smaller of 21 days of domestic mill consumption calculated under subparagraph (A) or the quantity required to increase the supply to 130 percent of the demand.

(C) PREFERENTIAL TARIFF TREATMENT.—The quantity under a limited global import quota shall be considered to be an in-quota quantity for purposes of—

(i) section 213(d) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(d));

(ii) section 204 of the Andean Trade Preference Act (19 U.S.C. 3203);

(iii) section 503(d) of the Trade Act of 1974 (19 U.S.C. 2463(d)); and

(iv) General Note 3(a)(iv) to the Harmonized Tariff Schedule.

(D) DEFINITIONS.—In this subsection:

(i) SUPPLY.—The term "supply" means, using the latest official data of the Bureau of the Census, the Department of Agriculture, and the Department of the Treasury—

(I) the carry-over of upland cotton at the beginning of the marketing year (adjusted to 480-pound bales) in which the quota is established;

(II) production of the current crop; and

(III) imports to the latest date available during the marketing year.

(ii) DEMAND.—The term "demand" means—

(I) the average seasonally adjusted annual rate of domestic mill consumption during the most recent 3 months for which data are available; and

(II) the larger of—

(aa) average exports of upland cotton during the preceding 6 marketing years; or

(bb) cumulative exports of upland cotton plus outstanding export sales for the marketing year in which the quota is established.

(iii) LIMITED GLOBAL IMPORT QUOTA.—The term "limited global import quota" means a quantity of imports that is not subject to the over-quota tariff rate of a tariff-rate quota.

(E) QUOTA ENTRY PERIOD.—When a quota is established under this subsection, cotton may be entered under the quota during the 90-day period beginning on the date the quota is established by the Secretary.

(2) NO OVERLAP.—Notwithstanding paragraph (1), a quota period may not be established that overlaps an existing quota period or a special quota period established under subsection (b).

7 USC 7237.

SEC. 137. AVAILABILITY OF RECOURSE LOANS FOR HIGH MOISTURE FEED GRAINS AND SEED COTTON.

(a) HIGH MOISTURE FEED GRAINS.—

(1) RECOURSE LOANS AVAILABLE.—For each of the 1996 through 2002 crops of corn and grain sorghum, the Secretary shall make available recourse loans, as determined by the

Secretary, to producers on a farm containing eligible cropland covered by a production flexibility contract who—

(A) normally harvest all or a portion of their crop of corn or grain sorghum in a high moisture state;

(B) present—

(i) certified scale tickets from an inspected, certified commercial scale, including a licensed warehouse, feedlot, feed mill, distillery, or other similar entity approved by the Secretary, pursuant to regulations issued by the Secretary; or

(ii) field or other physical measurements of the standing or stored crop in regions of the United States, as determined by the Secretary, that do not have certified commercial scales from which certified scale tickets may be obtained within reasonable proximity of harvest operation;

(C) certify that they were the owners of the feed grain at the time of delivery to, and that the quantity to be placed under loan under this subsection was in fact harvested on the farm and delivered to, a feedlot, feed mill, or commercial or on-farm high-moisture storage facility, or to a facility maintained by the users of corn and grain sorghum in a high moisture state; and

(D) comply with deadlines established by the Secretary for harvesting the corn or grain sorghum and submit applications for loans under this subsection within deadlines established by the Secretary.

(2) ELIGIBILITY OF ACQUIRED FEED GRAINS.—A loan under this subsection shall be made on a quantity of corn or grain sorghum of the same crop acquired by the producer equivalent to a quantity determined by multiplying—

(A) the acreage of the corn or grain sorghum in a high moisture state harvested on the producer's farm; by

(B) the lower of the farm program payment yield or the actual yield on a field, as determined by the Secretary, that is similar to the field from which the corn or grain sorghum was obtained.

(3) HIGH MOISTURE STATE DEFINED.—In this subsection, the term "high moisture state" means corn or grain sorghum having a moisture content in excess of Commodity Credit Corporation standards for marketing assistance loans made by the Secretary under section 131.

(b) RECOURSE LOANS AVAILABLE FOR SEED COTTON.—

(1) UPLAND COTTON.—For each of the 1996 through 2002 crops of upland cotton, the Secretary shall make available recourse seed cotton loans, as determined by the Secretary, to producers on a farm containing eligible cropland covered by a production flexibility contract.

(2) EXTRA LONG STAPLE COTTON.—For each of the 1996 through 2002 crops of extra long staple cotton, the Secretary shall make available recourse seed cotton loans, as determined by the Secretary, on any production.

(c) REPAYMENT RATES.—Repayment of a recourse loan made under this section shall be at the loan rate established for the commodity by the Secretary, plus interest (as determined by the Secretary).

Subtitle D—Other Commodities

CHAPTER 1—DAIRY

7 USC 7251.

SEC. 141. MILK PRICE SUPPORT PROGRAM.

(a) SUPPORT ACTIVITIES.—The Secretary of Agriculture shall support the price of milk produced in the 48 contiguous States through the purchase of cheese, butter, and nonfat dry milk produced from the milk.

(b) RATE.—The price of milk shall be supported at the following rates per hundredweight for milk containing 3.67 percent butterfat:

(1) During calendar year 1996, $10.35.

(2) During calendar year 1997, $10.20.

(3) During calendar year 1998, $10.05.

(4) During calendar year 1999, $9.90.

(c) PURCHASE PRICES.—The support purchase prices under this section for each of the products of milk (butter, cheese, and nonfat dry milk) announced by the Secretary shall be the same for all of that product sold by persons offering to sell the product to the Secretary. The purchase prices shall be sufficient to enable plants of average efficiency to pay producers, on average, a price that is not less than the rate of price support for milk in effect under subsection (b).

(d) SPECIAL RULE FOR BUTTER AND NONFAT DRY MILK PURCHASE PRICES.—

(1) ALLOCATION OF PURCHASE PRICES.—The Secretary may allocate the rate of price support between the purchase prices for nonfat dry milk and butter in a manner that will result in the lowest level of expenditures by the Commodity Credit Corporation or achieve such other objectives as the Secretary considers appropriate. Not later than 10 days after making or changing an allocation, the Secretary shall notify the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate of the allocation. Section 553 of title 5, United States Code, shall not apply with respect to the implementation of this section.

(2) TIMING OF PURCHASE PRICE ADJUSTMENTS.—The Secretary may make any such adjustments in the purchase prices for nonfat dry milk and butter the Secretary considers to be necessary not more than twice in each calendar year.

(e) REFUNDS OF 1995 AND 1996 ASSESSMENTS.—

(1) REFUND REQUIRED.—The Secretary shall provide for a refund of the entire reduction required under section 204(h)(2) of the Agricultural Act of 1949 (7 U.S.C. 1446e(h)(2)), as in effect on the day before the amendment made by subsection (g), in the price of milk received by a producer during calendar year 1995 or 1996, if the producer provides evidence that the producer did not increase marketings in calendar year 1995 or 1996 when compared to calendar year 1994 or 1995, respectively.

(2) EXCEPTION.—This subsection shall not apply with respect to a producer for a particular calendar year if the producer has already received a refund under section 204(h) of the Agricultural Act of 1949 for the same fiscal year before the effective date of this section.

(3) TREATMENT OF REFUND.—A refund under this subsection shall not be considered as any type of price support or payment for purposes of sections 1211 and 1221 of the Food Security Act of 1985 (16 U.S.C. 3811 and 3821).

(f) COMMODITY CREDIT CORPORATION.—The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.

(g) CONFORMING REPEAL.—Effective on the first day of the first month beginning after the date of enactment of this title, section 204 of the Agricultural Act of 1949 (7 U.S.C. 1446e) is repealed. Effective date.

(h) PERIOD OF EFFECTIVENESS.—This section (other than subsection (g)) shall be effective only during the period beginning on the first day of the first month beginning after the date of enactment of this title and ending on December 31, 1999. The program authorized by this section shall terminate on December 31, 1999, and shall be considered to have expired notwithstanding section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 907).

SEC. 142. RECOURSE LOAN PROGRAM FOR COMMERCIAL PROCESSORS OF DAIRY PRODUCTS. 7 USC 7252.

(a) RECOURSE LOANS AVAILABLE.—Under such reasonable terms and conditions as the Secretary may prescribe, the Secretary shall make recourse loans available to commercial processors of eligible dairy products to assist the processors to manage inventories of eligible dairy products and assure a greater degree of price stability for the dairy industry during the year. The Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this section.

(b) AMOUNT OF LOAN.—The Secretary shall establish the amount of a loan for eligible dairy products, which shall reflect a milk equivalent value of $9.90 per hundredweight of milk containing 3.67 percent butterfat. The rate of interest charged participants under this section shall not be less than the rate of interest charged the Commodity Credit Corporation by the United States Treasury.

(c) PERIOD OF LOAN.—The original term of a recourse loan made under this section may not extend beyond the end of the fiscal year in which the loan is made. At the end of the fiscal year, the Secretary may extend the loan for an additional period not to exceed the end of the next fiscal year.

(d) DEFINITION OF ELIGIBLE DAIRY PRODUCTS.—In this section, the term "eligible dairy products" means cheddar cheese, butter, and nonfat dry milk.

(e) EFFECTIVE DATE.—This section shall be effective beginning January 1, 2000.

SEC. 143. CONSOLIDATION AND REFORM OF FEDERAL MILK MARKETING ORDERS. 7 USC 7253.

(a) AMENDMENT OF ORDERS.—

(1) REQUIRED CONSOLIDATION.—The Secretary shall amend Federal milk marketing orders issued under section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, to limit the number of Federal milk marketing orders to not less than 10 and not more than 14 orders.

(2) INCLUSION OF CALIFORNIA AS SEPARATE ORDER.—Upon the petition and approval of California dairy producers in the

manner provided in section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, the Secretary shall designate the State of California as a separate Federal milk marketing order. The order covering California shall have the right to reblend and distribute order receipts to recognize quota value.

(3) RELATED ISSUES ADDRESSED IN CONSOLIDATION.—Among the issues the Secretary is authorized to implement as part of the consolidation of Federal milk marketing orders are the following:

(A) The use of utilization rates and multiple basing points for the pricing of fluid milk.

(B) The use of uniform multiple component pricing when developing 1 or more basic formula prices for manufacturing milk.

(4) EFFECT OF EXISTING LAW.—In implementing the consolidation of Federal milk marketing orders and related reforms under this subsection, the Secretary may not consider, or base any decision on, the table contained in section 8c(5)(A) of the Agricultural Adjustment Act (7 U.S.C. 608c(5)(A)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, as added by section 131 of the Food Security Act of 1985.

(b) EXPEDITED PROCESS.—

(1) USE OF INFORMAL RULEMAKING.—To implement the consolidation of Federal milk marketing orders and related reforms under subsection (a), the Secretary shall use the notice and comment procedures provided in section 553 of title 5, United States Code.

(2) TIME LIMITATIONS.—

(A) PROPOSED AMENDMENTS.—The Secretary shall announce the proposed amendments to be made under subsection (a) not later than 2 years after the date of enactment of this title.

(B) FINAL AMENDMENTS.—The Secretary shall implement the amendments not later than 3 years after the date of enactment of this title.

(3) EFFECT OF COURT ORDER.—The actions authorized by this subsection are intended to ensure the timely publication and implementation of new and amended Federal milk marketing orders. In the event that the Secretary is enjoined or otherwise restrained by a court order from publishing or implementing the consolidation and related reforms under subsection (a), the length of time for which that injunction or other restraining order is effective shall be added to the time limitations specified in paragraph (2) thereby extending those time limitations by a period of time equal to the period of time for which the injunction or other restraining order is effective.

(c) FAILURE TO TIMELY CONSOLIDATE ORDERS.—If the Secretary fails to implement the consolidation required under subsection (a)(1) within the time period required under subsection (b)(2)(B) (plus any additional period provided under subsection (b)(3)), the Secretary may not assess or collect assessments from milk producers or handlers under such section 8c for marketing order administration and services provided under such section after the end of

that period until the consolidation is completed. The Secretary may not reduce the level of services provided under the section on account of the prohibition against assessments, but shall rather cover the cost of marketing order administration and services through funds available for the Agricultural Marketing Service of the Department.

(d) REPORT REGARDING FURTHER REFORMS.—

(1) REPORT REQUIRED.—Not later than April 1, 1997, the Secretary shall submit to Congress a report—

(A) reviewing the Federal milk marketing order system established pursuant to section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, in light of the reforms required by subsection (a);

(B) describing the efforts underway and the progress made in implementing the reforms required by subsection (a); and

(C) containing such recommendations as the Secretary considers appropriate for further improvements and reforms to the Federal milk marketing order system.

(2) EFFECT OF OTHER LAWS.—Any limitation imposed by Act of Congress on the conduct or completion of reports to Congress shall not apply to the report required under this section, unless the limitation specifically refers to this section.

SEC. 144. EFFECT ON FLUID MILK STANDARDS IN STATE OF CALIFORNIA. 7 USC 7254.

Nothing in this Act or any other provision of law shall be construed to preempt, prohibit, or otherwise limit the authority of the State of California, directly or indirectly, to establish or continue to effect any law, regulation, or requirement regarding—

(1) the percentage of milk solids or solids not fat in fluid milk products sold at retail or marketed in the State of California; or

(2) the labeling of such fluid milk products with regard to milk solids or solids not fat.

SEC. 145. MILK MANUFACTURING MARKETING ADJUSTMENT. 7 USC 7255.

(a) MAXIMUM ALLOWANCES ESTABLISHED.—No State shall provide for a manufacturing allowance for the processing of milk in excess of—

(1) $1.65 per hundredweight of milk for milk manufactured into butter and nonfat dry milk; and

(2) $1.80 per hundredweight of milk for milk manufactured into cheese.

(b) MANUFACTURING ALLOWANCE DEFINED.—In this section, the term "manufacturing allowance" means—

(1) the amount by which the product price value of butter and nonfat dry milk manufactured from a hundred pounds of milk containing 3.5 pounds of butterfat and 8.7 pounds of milk solids not fat resulting from a State's yield and product price formulas exceeds the class price for the milk used to produce those products; or

(2) the amount by which the product price value of cheese manufactured from a hundred pounds of milk containing 3.5 pounds of butterfat and 8.7 pounds of milk solids not fat resulting from a State's yield and product price formulas exceeds the class price for the milk used to produce cheese.

(c) EFFECT OF VIOLATION.—If the Secretary determines following a hearing that a State has in effect a manufacturing allowance that exceeds the manufacturing allowance authorized in subsection (a), the Secretary shall suspend purchases of cheddar cheese, butter, and nonfat dry milk produced in that State until such time as the State complies with such subsection.

(d) EFFECTIVE DATE; IMPLEMENTATION.—This section (other than subsection (e)) shall be effective during the period beginning on the first day of the first month beginning after the date of enactment of this title and ending on December 31, 1999. During that period, the Secretary may exercise the authority provided to the Secretary under this section without regard to the issuance of regulations intended to carry out this section.

Effective date.

(e) CONFORMING REPEAL.—Effective on the first day of the first month beginning after the date of enactment of this title, section 102 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1446e–1) is repealed.

SEC. 146. PROMOTION.

(a) CONGRESSIONAL PURPOSE.—Section 1999B(a) of the Fluid Milk Promotion Act of 1990 (7 U.S.C. 6401(a)) is amended—

(1) by redesignating paragraphs (6), (7) and (8) as paragraphs (7), (8) and (9), respectively; and

(2) by inserting after paragraph (5) the following:

"(6) the congressional purpose underlying this subtitle is to maintain and expand markets for fluid milk products, not to maintain or expand any processor's share of those markets and that the subtitle does not prohibit or restrict individual advertising or promotion of fluid milk products since the programs created and funded by this subtitle are not extended to replace individual advertising and promotion efforts;".

(b) CONGRESSIONAL POLICY.—Section 1999B(b) of the Fluid Milk Promotion Act of 1990 (7 U.S.C. 6401(b)) is amended to read as follows:

"(b) POLICY.—It is declared to be the policy of Congress that it is in the public interest to authorize the establishment, through the exercise of powers provided in this subtitle, of an orderly procedure for developing, financing, through adequate assessments on fluid milk products produced in the United States and carrying out an effective, continuous, and coordinated program of promotion, research, and consumer information designed to strengthen the position of the dairy industry in the marketplace and maintain and expand domestic and foreign markets and uses for fluid milk products, the purpose of which is not to compete with or replace individual advertising or promotion efforts designed to promote individual brand name or trade name fluid milk products, but rather to maintain and expand the markets for all fluid milk products, with the goal and purpose of this subtitle being a national governmental goal that authorizes and funds programs that result in government speech promoting government objectives.".

(c) RESEARCH.—Section 1999C(6) of the Fluid Milk Promotion Act of 1990 (7 U.S.C. 6402(6)) is amended to read as follows:

"(6) RESEARCH.—The term 'research' means market research to support advertising and promotion efforts, including educational activities, research directed to product characteristics, product development, including new products or improved

technology in production, manufacturing or processing of milk and the products of milk.".

(d) VOTING.—

(1) INITIAL REFERENDA.—Section 1999N(b)(2) of the Fluid Milk Promotion Act of 1990 (7 U.S.C. 6413(b)(2)) is amended by striking "all processors" and inserting "fluid milk processors voting in the referendum".

(2) SUSPENSION OR TERMINATION.—Section 1999O(c) of such Act (7 U.S.C. 6414(c)) is amended—

(A) in paragraph (1), by striking "all processors" and inserting "fluid milk processors voting in the preceding referendum"; and

(B) in paragraph (2)(B), by striking "all processors" and inserting "fluid milk processors voting in the referendum".

(e) DURATION.—Section 1999O(a) of the Fluid Milk Promotion Act of 1990 (7 U.S.C. 6414(a)) is amended by striking "1996" and inserting "2002".

SEC. 147. NORTHEAST INTERSTATE DAIRY COMPACT.

Congress. State listing. 7 USC 7256.

Congress hereby consents to the Northeast Interstate Dairy Compact entered into among the States of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont as specified in section 1(b) Senate Joint Resolution 28 of the 104th Congress, as placed on the calendar of the Senate, subject to the following conditions:

(1) FINDING OF COMPELLING PUBLIC INTEREST.—Based upon a finding by the Secretary of a compelling public interest in the Compact region, the Secretary may grant the States that have ratified the Northeast Interstate Dairy Compact, as of the date of enactment of this title, the authority to implement the Northeast Interstate Dairy Compact.

(2) LIMITATION ON MANUFACTURING PRICE.—The Northeast Interstate Dairy Compact Commission shall not regulate Class II, Class III, or Class III-A milk used for manufacturing purposes or any other milk, other than Class I (fluid) milk, as defined by a Federal milk marketing order issued under section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c) reenacted with amendments by the Agricultural Marketing Agreement Act of 1937.

(3) DURATION.—Consent for the Northeast Interstate Dairy Compact shall terminate concurrent with the Secretary's implementation of the dairy pricing and Federal milk marketing order consolidation and reforms under section 143.

(4) ADDITIONAL STATES.—Delaware, New Jersey, New York, Pennsylvania, Maryland, and Virginia are the only additional States that may join the Northeast Interstate Dairy Compact, individually or otherwise, if upon entry the State is contiguous to a participating State and if Congress consents to the entry of the State into the Compact after the date of enactment of this title.

(5) COMPENSATION OF COMMODITY CREDIT CORPORATION.—Before the end of each fiscal year that a Compact price regulation is in effect, the Northeast Interstate Dairy Compact Commission shall compensate the Commodity Credit Corporation for the cost of any purchases of milk and milk products by the Corporation that result from the projected rate of

increase in milk production for the fiscal year within the Compact region in excess of the projected national average rate of the increase in milk production, as determined by the Secretary.

(6) MILK MARKETING ORDER ADMINISTRATOR.—At the request of the Northeast Interstate Dairy Compact Commission, the Administrator of the applicable Federal milk marketing order issued under section 8(c)5 of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, shall provide technical assistance to the Compact Commission and be compensated for that assistance.

(7) FURTHER CONDITIONS.—The Northeast Interstate Dairy Compact Commission shall not prohibit or in any way limit the marketing in the Compact region of any milk or milk product produced in any other production area in the United States. The Compact Commission shall respect and abide by the ongoing procedures between Federal milk marketing orders with respect to the sharing of proceeds from sales within the Compact region of bulk milk, packaged milk, or producer milk originating from outside of the Compact region. The Compact Commission shall not use compensatory payments under section 10(6) of the Compact as a barrier to the entry of milk into the Compact region or for any other purpose. Establishment of a Compact over-order price, in itself, shall not be considered a compensatory payment or a limitation or prohibition on the marketing of milk.

SEC. 148. DAIRY EXPORT INCENTIVE PROGRAM.

(a) DURATION.—Section 153(a) of the Food Security Act of 1985 (15 U.S.C. 713a–14(a)) is amended by striking "2001" and inserting "2002".

(b) SOLE DISCRETION.—Section 153(b) of the Food Security Act of 1985 (15 U.S.C. 713a–14(b)) is amended by inserting "sole" before "discretion".

(c) ELEMENTS OF PROGRAM.—Section 153(c) of the Food Security Act of 1985 (15 U.S.C. 713a–14(c)) is amended—

(1) by striking "and" at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting a semicolon; and

(3) by adding at the end the following:

"(3) the maximum volume of dairy product exports allowable consistent with the obligations of the United States as a member of the World Trade Organization is exported under the program each year (minus the volume sold under section 1163 of the Food Security Act of 1985 (Public Law 99–198; 7 U.S.C. 1731 note) during that year), except to the extent that the export of such a volume under the program would, in the judgment of the Secretary, exceed the limitations on the value set forth in subsection (f); and

"(4) payments may be made under the program for exports to any destination in the world for the purpose of market development, except a destination in a country with respect to which shipments from the United States are otherwise restricted by law.".

(d) MARKET DEVELOPMENT.—Section 153(e)(1) of the Food Security Act of 1985 (15 U.S.C. 713a–14(e)(1)) is amended—

(1) by striking "and" and inserting "the"; and

(2) by inserting before the period the following: ", and any additional amount that may be required to assist in the development of world markets for United States dairy products".

(e) MAXIMUM ALLOWABLE AMOUNTS.—Section 153 of the Food Security Act of 1985 (15 U.S.C. 713a–14) is amended by adding at the end the following:

"(f) REQUIRED FUNDING.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the Commodity Credit Corporation shall in each year use money and commodities for the program under this section in the maximum amount consistent with the obligations of the United States as a member of the World Trade Organization, minus the amount expended under section 1163 of the Food Security Act of 1985 (Public Law 99–198; 7 U.S.C. 1731 note) during that year.

"(2) VOLUME LIMITATIONS.—The Commodity Credit Corporation may not exceed the limitations specified in subsection (c)(3) on the volume of allowable dairy product exports.".

SEC. 149. AUTHORITY TO ASSIST IN ESTABLISHMENT AND MAINTENANCE OF ONE OR MORE EXPORT TRADING COMPANIES. 7 USC 7257.

The Secretary of Agriculture shall, consistent with the obligations of the United States as a member of the World Trade Organization, provide such advice and assistance to the United States dairy industry as may be necessary to enable that industry to establish and maintain one or more export trading companies under the Export Trading Company Act of 1982 (15 U.S.C. 4001 et seq.) for the purpose of facilitating the international market development for and exportation of dairy products produced in the United States.

SEC. 150. STANDBY AUTHORITY TO INDICATE ENTITY BEST SUITED TO PROVIDE INTERNATIONAL MARKET DEVELOPMENT AND EXPORT SERVICES. 7 USC 7258.

(a) INDICATION OF ENTITY BEST SUITED TO ASSIST INTERNATIONAL MARKET DEVELOPMENT FOR AND EXPORT OF UNITED STATES DAIRY PRODUCTS.—The Secretary of Agriculture shall indicate which entity or entities autonomous of the Government of the United States, which seeks such a designation, is best suited to facilitate the international market development for and exportation of United States dairy products, if the Secretary determines that—

(1) the United States dairy industry has not established an export trading company under the Export Trading Company Act of 1982 (15 U.S.C. 4001 et seq.) for the purpose of facilitating the international market development for an exportation of dairy products produced in the United States on or before June 30, 1997; or

(2) the quantity of exports of United States dairy products during the 12-month period preceding July 1, 1998 does not exceed the quantity of exports of United States dairy products during the 12-month period preceding July 1, 1997 by 1.5 billion pounds (milk equivalent, total solids basis).

(b) FUNDING OF EXPORT ACTIVITIES.—The Secretary shall assist the entity or entities identified under subsection (a) in identifying

sources of funding for the activities specified in subsection (a) from within the dairy industry and elsewhere.

(c) APPLICATION OF SECTION.—This section shall apply only during the period beginning on July 1, 1997 and ending on September 30, 2000.

7 USC 7259.

SEC. 151. STUDY AND REPORT REGARDING POTENTIAL IMPACT OF URUGUAY ROUND ON PRICES, INCOME, AND GOVERNMENT PURCHASES.

(a) STUDY.—The Secretary of Agriculture shall conduct a study, on a variety by variety of cheese basis, to determine the potential impact on milk prices in the United States, dairy producer income, and Federal dairy program costs, of the allocation of additional cheese granted access to the United States as a result of the obligations of the United States as a member of the World Trade Organization.

(b) REPORT.—Not later than June 30, 1997, the Secretary shall report to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives the results of the study conducted under this section.

(c) RULE OF CONSTRUCTION.—Any limitation imposed by Act of Congress on the conduct or completion of studies or reports to Congress shall not apply to the study and report required under this section, unless the limitation specifically refers to this section.

SEC. 152. PROMOTION OF UNITED STATES DAIRY PRODUCTS IN INTERNATIONAL MARKETS THROUGH DAIRY PROMOTION PROGRAM.

Section 113(e) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4504(e)) is amended by adding at the end the following new sentence: "For each of fiscal years 1997 through 2001, the Board's budget may provide for the expenditure of revenues available to the Board to develop international markets for, and to promote within such markets, the consumption of dairy products produced in the United States from milk produced in the United States.".

CHAPTER 2—PEANUTS AND SUGAR

7 USC 7271.

SEC. 155. PEANUT PROGRAM.

(a) QUOTA PEANUTS.—

(1) AVAILABILITY OF LOANS.—The Secretary shall make nonrecourse loans available to producers of quota peanuts.

(2) LOAN RATE.—The national average quota loan rate for quota peanuts shall be $610 per ton.

(3) INSPECTION, HANDLING, OR STORAGE.—The loan amount may not be reduced by the Secretary by any deductions for inspection, handling, or storage.

(4) LOCATION AND OTHER FACTORS.—The Secretary may make adjustments in the loan rate for quota peanuts for location of peanuts and such other factors as are authorized by section 162.

(5) OFFERS FROM HANDLERS.—If a producer markets a quota peanut crop, meeting quality requirements for domestic edible use, through the marketing association loan for two consecutive marketing years and the Secretary determines that a handler provided the producer with a written offer, upon delivery, for

the purchase of the quota peanut crops at a price equal to or in excess of the quota support price, the producer shall be ineligible for quota price support for the next marketing year. The Secretary shall establish the method by which a producer may appeal a determination under this paragraph regarding ineligibility for quota price support.

(b) ADDITIONAL PEANUTS.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall make nonrecourse loans available to producers of additional peanuts at such rates as the Secretary finds appropriate, taking into consideration the demand for peanut oil and peanut meal, expected prices of other vegetable oils and protein meals, and the demand for peanuts in foreign markets.

(2) LIMITATION.—The Secretary shall establish the support rate on additional peanuts at a level estimated by the Secretary to ensure that there are no losses to the Commodity Credit Corporation on the sale or disposal of the peanuts.

(3) ANNOUNCEMENT.—The Secretary shall announce the loan rate for additional peanuts of each crop not later than February 15 preceding the marketing year for the crop for which the loan rate is being determined.

(c) AREA MARKETING ASSOCIATIONS.—

(1) WAREHOUSE STORAGE LOANS.—

(A) IN GENERAL.—In carrying out subsections (a) and (b), the Secretary shall make warehouse storage loans available in each of the producing areas (described in section 1446.95 of title 7 of the Code of Federal Regulations (January 1, 1989)) to a designated area marketing association of peanut producers that is selected and approved by the Secretary and that is operated primarily for the purpose of conducting the loan activities. The Secretary may not make warehouse storage loans available to any cooperative that is engaged in operations or activities concerning peanuts other than those operations and activities specified in this section and section 358e of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359a).

(B) ADMINISTRATIVE AND SUPERVISORY ACTIVITIES.—An area marketing association shall be used in administrative and supervisory activities relating to loans and marketing activities under this section and section 358e of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359a).

(C) ASSOCIATION COSTS.—Loans made to the association under this paragraph shall include such costs as the area marketing association reasonably may incur in carrying out the responsibilities, operations, and activities of the association under this section and section 358e of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359a).

(2) POOLS FOR QUOTA AND ADDITIONAL PEANUTS.—

(A) IN GENERAL.—The Secretary shall require that each area marketing association establish pools and maintain complete and accurate records by area and segregation for quota peanuts handled under loan and for additional peanuts placed under loan, except that separate pools shall be established for Valencia peanuts produced in New Mexico. Records. New Mexico.

(B) ELIGIBILITY TO PARTICIPATE IN NEW MEXICO POOLS.—

(i) IN GENERAL.—Except as provided in clause (ii), in the case of the 1996 and subsequent crops, Valencia peanuts not physically produced in the State of New Mexico shall not be eligible to participate in the pools of the State.

(ii) EXCEPTION.—A producer of Valencia peanuts may enter Valencia peanuts that are produced in Texas into the pools of New Mexico in a quantity not greater than the average annual quantity of the peanuts that the producer entered into the New Mexico pools for the 1990 through 1995 crops.

(C) TYPES OF PEANUTS.—Bright hull and dark hull Valencia peanuts shall be considered as separate types for the purpose of establishing the pools.

(D) NET GAINS.—Net gains on peanuts in each pool, unless otherwise approved by the Secretary, shall be distributed only to producers who placed peanuts in the pool and shall be distributed in proportion to the value of the peanuts placed in the pool by each producer. Net gains for peanuts in each pool shall consist of the following:

(i) QUOTA PEANUTS.—For quota peanuts, the net gains over and above the loan indebtedness and other costs or losses incurred on peanuts placed in the pool.

(ii) ADDITIONAL PEANUTS.—For additional peanuts, the net gains over and above the loan indebtedness and other costs or losses incurred on peanuts placed in the pool for additional peanuts.

(d) LOSSES.—Losses in quota area pools shall be covered using the following sources in the following order of priority:

(1) TRANSFERS FROM ADDITIONAL LOAN POOLS.—The proceeds due any producer from any pool shall be reduced by the amount of any loss that is incurred with respect to peanuts transferred from an additional loan pool to a quota loan pool by the producer under section 358–1(b)(8) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358–1(b)(8)).

(2) PRODUCERS IN SAME POOL.—Further losses in an area quota pool shall be offset by reducing the gain of any producer in the pool by the amount of pool gains attributed to the same producer from the sale of additional peanuts for domestic and edible export use.

(3) OFFSET WITHIN AREA.—Further losses in an area quota pool shall be offset by any gains or profits from additional peanuts (other than separate type pools established under subsection (c)(2)(A) for Valencia peanuts produced in New Mexico) owned or controlled by the Commodity Credit Corporation in that area and sold for domestic edible use, in accordance with regulations issued by the Secretary. This paragraph shall not apply to profits or gains from a farm with 1 acre or less of peanut production.

(4) FIRST USE OF MARKETING ASSESSMENTS.—The Secretary shall use funds collected under subsection (g) (except funds attributable to handlers) to offset further losses in area quota pools. The Secretary shall transfer to the Treasury those funds collected under subsection (g) and available for use under this paragraph that the Secretary determines are not required to cover losses in area quota pools.

(5) CROSS COMPLIANCE.—Further losses in area quota pools, other than losses incurred as a result of transfers from additional loan pools to quota loan pools under section 358–1(b)(8) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358–1(b)(8)), shall be offset by any gains or profits from quota pools in other production areas (other than separate type pools established under subsection (c)(2)(A) for Valencia peanuts produced in New Mexico) in such manner as the Secretary shall by regulation prescribe. Regulations.

(6) OFFSET GENERALLY.—If losses in an area quota pool have not been entirely offset under the preceding paragraphs, further losses shall be offset by any gains or profits from additional peanuts (other than separate type pools established under subsection (c)(2)(A) for Valencia peanuts produced in New Mexico) owned or controlled by the Commodity Credit Corporation and sold for domestic edible use, in accordance with regulations issued by the Secretary. This paragraph shall not apply to profits or gains from a farm with 1 acre or less of peanut production.

(7) SECOND USE OF MARKETING ASSESSMENTS.—The Secretary shall use funds collected under subsection (g) and attributable to handlers to offset further losses in area quota pools. The Secretary shall transfer to the Treasury those funds collected under subsection (g) and available for use under this paragraph that the Secretary determines are not required to cover losses in area quota pools.

(8) INCREASED ASSESSMENTS.—If use of the authorities provided in the preceding paragraphs is not sufficient to cover losses in an area quota pool, the Secretary shall increase the marketing assessment for producers established under subsection (g) by such an amount as the Secretary considers necessary to cover the losses. The increased assessment shall apply only to quota peanuts in the production area covered by the pool. Amounts collected under subsection (g) as a result of the increased assessment shall be retained by the Secretary to cover losses in that pool.

(e) DISAPPROVAL OF QUOTAS.—Notwithstanding any other provision of law, no loan for quota peanuts may be made available by the Secretary for any crop of peanuts with respect to which poundage quotas have been disapproved by producers, as provided for in section 358–1(d) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358–1(d)).

(f) QUALITY IMPROVEMENT.—

(1) IN GENERAL.—With respect to peanuts under loan, the Secretary shall—

(A) promote the crushing of peanuts at a greater risk of deterioration before peanuts of a lesser risk of deterioration;

(B) ensure that all Commodity Credit Corporation inventories of peanuts sold for domestic edible use must be shown to have been officially inspected by licensed Department inspectors both as farmer stock and shelled or cleaned in-shell peanuts;

(C) continue to endeavor to operate the peanut program so as to improve the quality of domestic peanuts and ensure the coordination of activities under the Peanut Administrative Committee established under Marketing Agreement

No. 146, regulating the quality of domestically produced peanuts (under the Agricultural Adjustment Act (7 U.S.C. 601 et seq.), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937); and

(D) ensure that any changes made in the peanut program as a result of this subsection requiring additional production or handling at the farm level shall be reflected as an upward adjustment in the Department loan schedule.

(2) EXPORTS AND OTHER PEANUTS.—The Secretary shall require that all peanuts in the domestic and export markets fully comply with all quality standards under Marketing Agreement No. 146.

(g) MARKETING ASSESSMENT.—

(1) IN GENERAL.—The Secretary shall provide for a nonrefundable marketing assessment. The assessment shall be made on a per pound basis in an amount equal to 1.1 percent for each of the 1994 and 1995 crops, 1.15 percent for the 1996 crop, and 1.2 percent for each of the 1997 through 2002 crops, of the national average quota or additional peanut loan rate for the applicable crop.

(2) FIRST PURCHASERS.—

(A) IN GENERAL.—Except as provided under paragraphs (3) and (4), the first purchaser of peanuts shall—

(i) collect from the producer a marketing assessment equal to the quantity of peanuts acquired multiplied by—

(I) in the case of each of the 1994 and 1995 crops, .55 percent of the applicable national average loan rate;

(II) in the case of the 1996 crop, .6 percent of the applicable national average loan rate; and

(III) in the case of each of the 1997 through 2002 crops, .65 percent of the applicable national average loan rate;

(ii) pay, in addition to the amount collected under clause (i), a marketing assessment in an amount equal to the quantity of peanuts acquired multiplied by .55 percent of the applicable national average loan rate; and

(iii) remit the amounts required under clauses (i) and (ii) to the Commodity Credit Corporation in a manner specified by the Secretary.

(B) DEFINITION OF FIRST PURCHASER.—In this subsection, the term "first purchaser" means a person acquiring peanuts from a producer except that in the case of peanuts forfeited by a producer to the Commodity Credit Corporation, the term means the person acquiring the peanuts from the Commodity Credit Corporation.

(3) OTHER PRIVATE MARKETINGS.—In the case of a private marketing by a producer directly to a consumer through a retail or wholesale outlet or in the case of a marketing by the producer outside of the continental United States, the producer shall be responsible for the full amount of the assessment and shall remit the assessment by such time as is specified by the Secretary.

(4) LOAN PEANUTS.—In the case of peanuts that are pledged as collateral for a loan made under this section, the producer

portion of the assessment shall be deducted from the proceeds of the loan. The remainder of the assessment shall be paid by the first purchaser of the peanuts. For purposes of computing net gains on peanuts under this section, the reduction in loan proceeds shall be treated as having been paid to the producer.

(5) PENALTIES.—If any person fails to collect or remit the reduction required by this subsection or fails to comply with the requirements for recordkeeping or otherwise as are required by the Secretary to carry out this subsection, the person shall be liable to the Secretary for a civil penalty up to an amount determined by multiplying—

(A) the quantity of peanuts involved in the violation; by

(B) the national average quota peanut rate for the applicable crop year.

(6) ENFORCEMENT.—The Secretary may enforce this subsection in the courts of the United States.

(h) CROPS.—Subsections (a) through (g) shall be effective only for the 1996 through 2002 crops of peanuts. Effective date.

(i) POUNDAGE QUOTAS.—

(1) IN GENERAL.—Part VI of subtitle B of title III of the Agricultural Adjustment Act of 1938 is amended—

(A) in section 358–1 (7 U.S.C. 1358–1)—

(i) in the section heading, by striking "**1991 THROUGH 1997 CROPS OF**";

(ii) in subsections (a)(1), (b)(1)(B), (b)(2)(A), (b)(2)(C), and (b)(3)(A), by striking "of the 1991 through 1997 marketing years" each place it appears and inserting "marketing year";

(iii) in subsection (a)(3), by striking "1990" and inserting "1990, for the 1991 through 1995 marketing years, and 1995, for the 1996 through 2002 marketing years";

(iv) in subsection (b)(1)(A)—

(I) by striking "each of the 1991 through 1997 marketing years" and inserting "each marketing year"; and

(II) in clause (i), by inserting before the semicolon the following: ", in the case of the 1991 through 1995 marketing years, and the 1995 marketing year, in the case of the 1996 through 2002 marketing years";

(v) in subsection (b)(1), by adding at the end the following:

"(D) CERTAIN FARMS INELIGIBLE FOR QUOTA.—Effective beginning with the 1998 crop, the Secretary shall not establish a farm poundage quota under subparagraph (A) for a farm owned or controlled by— Effective date.

"(i) a municipality, airport authority, school, college, refuge, or other public entity (other than a university used for research purposes); or

"(ii) a person who is not a producer and resides in another State.";

(vi) in subsection (b)(2), by adding at the end the following:

"(E) TRANSFER OF QUOTA FROM INELIGIBLE FARMS.—Any farm poundage quota held at the end of the 1996

marketing year by a farm described in paragraph (1)(D) shall be allocated to other farms in the same State on such basis as the Secretary may by regulation prescribe."; and

(vii) in subsection (f), by striking "1997" and inserting "2002";

(B) in section 358b (7 U.S.C. 1358b)—

(i) in the section heading, by striking "**1991 THROUGH 1995 CROPS OF**"; and

(ii) in subsection (c), by striking "1995" and inserting "2002";

(C) in section 358c(d) (7 U.S.C. 1358c(d)), by striking "1995" and inserting "2002"; and

(D) in section 358e (7 U.S.C. 1359a)—

(i) in the section heading, by striking "**FOR 1991 THROUGH 1997 CROPS OF PEANUTS**"; and

(ii) in subsection (i), by striking "1997" and inserting "2002".

(2) ELIMINATION OF QUOTA FLOOR.—Section 358–1(a)(1) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358–1(a)(1)) is amended by striking the second sentence.

(3) TEMPORARY QUOTA ALLOCATION.—Section 358–1 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358–1) is amended—

(A) in subsection (a)(1), by striking "domestic edible, seed," and inserting "domestic edible use (except seed)"; and

(B) in subsection (b)(2)—

(i) in subparagraph (A), by striking "subparagraph (B) and subject to"; and

(ii) by striking subparagraph (B) and inserting the following:

"(B) TEMPORARY QUOTA ALLOCATION.—

"(i) ALLOCATION RELATED TO SEED PEANUTS.—Temporary allocation of quota pounds for the marketing year only in which the crop is planted shall be made to producers for each of the 1996 through 2002 marketing years as provided in this subparagraph.

"(ii) QUANTITY.—The temporary quota allocation shall be equal to the pounds of seed peanuts planted on the farm, as may be adjusted and determined under regulations prescribed by the Secretary.

"(iii) ADDITIONAL QUOTA.—The temporary allocation of quota pounds under this paragraph shall be in addition to the farm poundage quota otherwise established under this subsection and shall be credited, for the applicable marketing year only, in total, to the producer of the peanuts on the farm in a manner prescribed by the Secretary.

"(iv) EFFECT OF OTHER REQUIREMENTS.—Nothing in this section alters or changes the requirements regarding the use of quota and additional peanuts established by section 358e(b).".

(4) UNDERMARKETINGS.—Part VI of subtitle B of title III of the Agricultural Adjustment Act of 1938 is amended—

(A) in section 358–1(b) (7 U.S.C. 1358–1(b))—

(i) in paragraph (1)(B), by striking "including—" and clauses (i) and (ii) and inserting "including any increases resulting from the allocation of quotas voluntarily released for 1 year under paragraph (7).";

(ii) in paragraph (3)(B), by striking "include—" and clauses (i) and (ii) and inserting "include any increase resulting from the allocation of quotas voluntarily released for 1 year under paragraph (7).";

(iii) by striking paragraphs (8) and (9); and

(B) in section 358b(a) (7 U.S.C. 1358b(a))—

(i) in paragraph (2), by striking "(including any applicable under marketings)"; and

(ii) in paragraph (3), by striking "(including any applicable undermarketings)".

(5) DISASTER TRANSFERS.—Section 358–1(b) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358–1(b)), as amended by paragraph (4)(A)(iii), is amended by adding at the end the following:

"(8) DISASTER TRANSFERS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), additional peanuts produced on a farm from which the quota poundage was not harvested and marketed because of drought, flood, or any other natural disaster, or any other condition beyond the control of the producer, may be transferred to the quota loan pool for pricing purposes on such basis as the Secretary shall by regulation provide. Regulations.

"(B) LIMITATION.—The poundage of peanuts transferred under subparagraph (A) shall not exceed the difference between—

"(i) the total quantity of peanuts meeting quality requirements for domestic edible use, as determined by the Secretary, marketed from the farm; and

"(ii) the total farm poundage quota, excluding quota pounds transferred to the farm in the fall.

"(C) SUPPORT RATE.—Peanuts transferred under this paragraph shall be supported at 70 percent of the quota support rate for the marketing years in which the transfers occur. The transfers for a farm shall not exceed 25 percent of the total farm quota pounds, excluding pounds transferred in the fall.".

(6) SALE OR LEASE.—Section 358b(a) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358b(a)) is amended—

(A) by striking paragraph (1) and inserting the following:

"(1) SALE AND LEASE AUTHORITY.—

"(A) SALE OR LEASE WITHIN SAME STATE.—Subject to subparagraph (B) and such terms and conditions as the Secretary may prescribe, the owner, or operator with the permission of the owner, of a farm in a State for which a farm poundage quota has been established may sell or lease all or any part of the poundage quota to any other owner or operator of a farm within the same State for transfer to the farm. However, any such lease of poundage quota may be entered into in the fall or after the normal planting season—

"(i) if not less than 90 percent of the basic quota (the farm quota and temporary quota transfers), plus any poundage quota transferred to the farm under this subsection, has been planted or considered planted on the farm from which the quota is to be leased; and

"(ii) under such terms and conditions as the Secretary may by regulation prescribe.

"In the case of a fall transfer or a transfer after the normal planting season by a cash lessee, the landowner shall not be required to sign the transfer authorization. A fall transfer or a transfer after the normal planting season may be made not later than 72 hours after the peanuts that are the subject of the transfer are inspected and graded.

"(B) PERCENTAGE LIMITATIONS ON SPRING TRANSFERS.—Spring transfers under subparagraph (A) by sale or lease of a quota for farms in a county to any owner or operator of a farm outside the county within the same State shall not exceed the applicable percentage specified in this subparagraph of the quotas of all farms in the originating county (as of January 1, 1996) for the crop year in which the transfer is made, plus the total amount of quotas eligible for transfer from the originating county in the preceding crop year that were not transferred in that year or that were transferred through an expired lease. However, not more than an aggregate of 40 percent of the total poundage quota within a county (as of January 1, 1996) may be transferred outside of the county. Cumulative unexpired transfers outside of a county may not exceed for a crop year the following:

"(i) For the 1996 crop, 15 percent.

"(ii) For the 1997 crop, 25 percent.

"(iii) For the 1998 crop, 30 percent.

"(iv) For the 1999 crop, 35 percent.

"(v) For the 2000 and subsequent crops, not more than an aggregate of 40 percent of the total poundage quota within the county as of January 1, 1996.

"(C) CLARIFICATION REGARDING FALL TRANSFERS.—The limitation in subparagraph (B) does not apply to 1-year fall transfers, which in all cases may be made to any farm in the same State.

"(D) EFFECT OF TRANSFER.—Any farm poundage quota transferred under this paragraph shall not result in any reduction in the farm poundage quota for the transferring farm if the transferred quota is produced or considered produced on the receiving farm."; and

(B) by adding at the end the following:

"(4) TRANSFERS IN COUNTIES WITH SMALL QUOTAS.—Notwithstanding paragraphs (1) and (2), in the case of any county in a State for which the poundage quota allocated to the county was less than 100,000 pounds for the preceding year's crop, all or any part of a farm poundage quota may be transferred by sale or lease or otherwise from a farm in the county to a farm in another county in the same State.".

SEC. 156. SUGAR PROGRAM. 7 USC 7272.

(a) SUGARCANE.—The Secretary shall make loans available to processors of domestically grown sugarcane at a rate equal to 18 cents per pound for raw cane sugar.

(b) SUGAR BEETS.—The Secretary shall make loans available to processors of domestically grown sugar beets at a rate equal to 22.9 cents per pound for refined beet sugar.

(c) REDUCTION IN LOAN RATES.—

(1) REDUCTION REQUIRED.—The Secretary shall reduce the loan rate specified in subsection (a) for domestically grown sugarcane and subsection (b) for domestically grown sugar beets if the Secretary determines that negotiated reductions in export subsidies and domestic subsidies provided for sugar of other major sugar growing, producing, and exporting countries in the aggregate exceed the commitments made as part of the Agreement on Agriculture.

(2) EXTENT OF REDUCTION.—The Secretary shall not reduce the loan rate under subsection (a) or (b) below a rate that provides an equal measure of support to that provided by other major sugar growing, producing, and exporting countries, based on an examination of both domestic and export subsidies subject to reduction in the Agreement on Agriculture.

(3) ANNOUNCEMENT OF REDUCTION.—The Secretary shall announce any loan rate reduction to be made under this subsection as far in advance as is practicable.

(4) DEFINITIONS.—In this subsection:

(A) AGREEMENT ON AGRICULTURE.—The term "Agreement on Agriculture" means the Agreement on Agriculture referred to in section 101(d)(2) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(2)).

(B) MAJOR SUGAR COUNTRIES.—The term "major sugar growing, producing, and exporting countries" means—

(i) the countries of the European Union; and

(ii) the 10 foreign countries not covered by subparagraph (A) that the Secretary determines produce the greatest quantity of sugar.

(d) TERM OF LOANS.—

(1) IN GENERAL.—A loan under this section during any fiscal year shall be made available not earlier than the beginning of the fiscal year and shall mature at the earlier of—

(A) the end of the 9-month period beginning on the first day of the first month after the month in which the loan is made; or

(B) the end of the fiscal year in which the loan is made.

(2) SUPPLEMENTAL LOANS.—In the case of a loan made under this section in the last 3 months of a fiscal year, the processor may repledge the sugar as collateral for a second loan in the subsequent fiscal year, except that the second loan shall—

(A) be made at the loan rate in effect at the time the second loan is made; and

(B) mature in 9 months less the quantity of time that the first loan was in effect.

(e) LOAN TYPE; PROCESSOR ASSURANCES.—

(1) RECOURSE LOANS.—Subject to paragraph (2), the Secretary shall carry out this section through the use of recourse loans.

(2) NONRECOURSE LOANS.—During any fiscal year in which the tariff rate quota for imports of sugar into the United States is established at, or is increased to, a level in excess of 1,500,000 short tons raw value, the Secretary shall carry out this section by making available nonrecourse loans. Any recourse loan previously made available by the Secretary under this section during the fiscal year shall be changed by the Secretary into a nonrecourse loan.

(3) PROCESSOR ASSURANCES.—If the Secretary is required under paragraph (2) to make nonrecourse loans available during a fiscal year or to change recourse loans into nonrecourse loans, the Secretary shall obtain from each processor that receives a loan under this section such assurances as the Secretary considers adequate to ensure that the processor will provide payments to producers that are proportional to the value of the loan received by the processor for sugar beets and sugarcane delivered by producers served by the processor. The Secretary may establish appropriate minimum payments for purposes of this paragraph.

(f) MARKETING ASSESSMENT.—

Effective date.

(1) SUGARCANE.—Effective for marketings of raw cane sugar during the 1996 through 2003 fiscal years, the first processor of sugarcane shall remit to the Commodity Credit Corporation a nonrefundable marketing assessment in an amount equal to—

(A) in the case of marketings during fiscal year 1996, 1.1 percent of the loan rate established under subsection (a) per pound of raw cane sugar, processed by the processor from domestically produced sugarcane or sugarcane molasses, that has been marketed (including the transfer or delivery of the sugar to a refinery for further processing or marketing); and

(B) in the case of marketings during each of fiscal years 1997 through 2003, 1.375 percent of the loan rate established under subsection (a) per pound of raw cane sugar, processed by the processor from domestically produced sugarcane or sugarcane molasses, that has been marketed (including the transfer or delivery of the sugar to a refinery for further processing or marketing).

Effective date.

(2) SUGAR BEETS.—Effective for marketings of beet sugar during the 1996 through 2003 fiscal years, the first processor of sugar beets shall remit to the Commodity Credit Corporation a nonrefundable marketing assessment in an amount equal to—

(A) in the case of marketings during fiscal year 1996, 1.1794 percent of the loan rate established under subsection (a) per pound of beet sugar, processed by the processor from domestically produced sugar beets or sugar beet molasses, that has been marketed; and

(B) in the case of marketings during each of fiscal years 1997 through 2003, 1.47425 percent of the loan rate established under subsection (a) per pound of beet sugar, processed by the processor from domestically produced

sugar beets or sugar beet molasses, that has been marketed.

(3) COLLECTION.—

(A) TIMING.—A marketing assessment required under this subsection shall be collected on a monthly basis and shall be remitted to the Commodity Credit Corporation not later than 30 days after the end of each month. Any cane sugar or beet sugar processed during a fiscal year that has not been marketed by September 30 of the year shall be subject to assessment on that date. The sugar shall not be subject to a second assessment at the time that it is marketed.

(B) MANNER.—Subject to subparagraph (A), marketing assessments shall be collected under this subsection in the manner prescribed by the Secretary and shall be nonrefundable.

(4) PENALTIES.—If any person fails to remit the assessment required by this subsection or fails to comply with such requirements for recordkeeping or otherwise as are required by the Secretary to carry out this subsection, the person shall be liable to the Secretary for a civil penalty up to an amount determined by multiplying—

(A) the quantity of cane sugar or beet sugar involved in the violation; by

(B) the loan rate for the applicable crop of sugarcane or sugar beets.

(5) ENFORCEMENT.—The Secretary may enforce this subsection in a court of the United States.

(g) FORFEITURE PENALTY.—

(1) IN GENERAL.—A penalty shall be assessed on the forfeiture of any sugar pledged as collateral for a nonrecourse loan under this section.

(2) CANE SUGAR.—The penalty for cane sugar shall be 1 cent per pound.

(3) BEET SUGAR.—The penalty for beet sugar shall bear the same relation to the penalty for cane sugar as the marketing assessment for sugar beets bears to the marketing assessment for sugarcane.

(4) EFFECT OF FORFEITURE.—Any payments owed producers by a processor that forfeits any sugar pledged as collateral for a nonrecourse loan shall be reduced in proportion to the loan forfeiture penalty incurred by the processor.

(h) INFORMATION REPORTING.—

(1) DUTY OF PROCESSORS AND REFINERS TO REPORT.—A sugarcane processor, cane sugar refiner, and sugar beet processor shall furnish the Secretary, on a monthly basis, such information as the Secretary may require to administer sugar programs, including the quantity of purchases of sugarcane, sugar beets, and sugar, and production, importation, distribution, and stock levels of sugar.

(2) PENALTY.—Any person willfully failing or refusing to furnish the information, or furnishing willfully any false information, shall be subject to a civil penalty of not more than $10,000 for each such violation.

(3) MONTHLY REPORTS.—Taking into consideration the information received under paragraph (1), the Secretary shall

publish on a monthly basis composite data on production, imports, distribution, and stock levels of sugar.

(i) CROPS.—This section (other than subsection (f)) shall be effective only for the 1996 through 2002 crops of sugar beets and sugarcane.

Subtitle E—Administration

7 USC 7281.

SEC. 161. ADMINISTRATION.

(a) USE OF COMMODITY CREDIT CORPORATION.—The Secretary shall carry out this title through the Commodity Credit Corporation.

(b) LIMITATION ON EXPENDITURE OF COMMODITY CREDIT CORPORATION FUNDS.—

(1) GENERAL POWERS AND RESPONSIBILITIES.—Section 4 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714b) is amended—

(A) in the first sentence of subsection (g), by inserting before the period the following: ", except that obligations under all such contracts or agreements (other than reimbursable agreements under section 11) for equipment or services relating to automated data processing, information technologies, or related items (including telecommunications equipment and computer hardware and software) may not exceed $170,000,000 in fiscal year 1996 and not more than $275,000,000 in the 6-fiscal year period beginning on October 1, 1996, unless additional amounts for such contracts and agreements are provided in advance in appropriation Acts"; and

(B) in subsection (h), by striking "shall have power to acquire personal property necessary to the conduct of its business but".

(2) REIMBURSABLE AGREEMENTS.—Section 11 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714i) is amended by adding at the end the following: "After September 30, 1996, the total amount of all allotments and fund transfers from the Corporation under this section (including allotments and transfers for automated data processing or information resource management activities) for a fiscal year may not exceed the total amount of the allotments and transfers made under this section in fiscal year 1995.".

(3) REPORTING REQUIREMENTS.—Section 13 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714k) is amended by adding at the end the following: "In addition to the annual report, the Corporation shall submit to Congress on a quarterly basis an itemized report of all expenditures over $10,000 made under section 5 or 11 during the period covered by the report, including expenditures in the form of allotments or fund transfers to other agencies and departments of the Federal Government.".

(c) DETERMINATIONS BY SECRETARY.—A determination made by the Secretary under this title shall be final and conclusive.

(d) REGULATIONS.—Not later than 90 days after the date of enactment of this title, the Secretary and the Commodity Credit Corporation, as appropriate, shall issue such regulations as are necessary to implement this title. The issuance of the regulations shall be made without regard to—

(1) the notice and comment provisions of section 553 of title 5, United States Code;

(2) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804) relating to notices of proposed rulemaking and public participation in rulemaking; and

(3) chapter 35 of title 44, United States Code (commonly know as the "Paperwork Reduction Act").

SEC. 162. ADJUSTMENTS OF LOANS. 7 USC 7282.

(a) ADJUSTMENT AUTHORITY.—The Secretary may make appropriate adjustments in the loan rates for any commodity for differences in grade, type, quality, location, and other factors.

(b) MANNER OF ADJUSTMENT.—The adjustments under the authority of this section shall, to the maximum extent practicable, be made in such manner that the average loan level for the commodity will, on the basis of the anticipated incidence of the factors, be equal to the level of support determined as provided in this title.

(c) ADJUSTMENT ON COUNTY BASIS.—The Secretary may establish loan rates for a crop for producers in individual counties in a manner that results in the lowest such rate being 95 percent of the national average loan rate, except that such action shall not result in an increase in outlays. Adjustments under this subsection shall not result in an increase in the national average loan rate for any year.

SEC. 163. COMMODITY CREDIT CORPORATION INTEREST RATE. 7 USC 7283.

Notwithstanding any other provision of law, the monthly Commodity Credit Corporation interest rate applicable to loans provided for agricultural commodities by the Corporation shall be 100 basis points greater than the rate determined under the applicable interest rate formula in effect on October 1, 1995.

SEC. 164. PERSONAL LIABILITY OF PRODUCERS FOR DEFICIENCIES. 7 USC 7284.

(a) IN GENERAL.—Except as provided in subsection (b), no producer shall be personally liable for any deficiency arising from the sale of the collateral securing any nonrecourse loan made under this title unless the loan was obtained through a fraudulent representation by the producer.

(b) LIMITATIONS.—Subsection (a) shall not prevent the Commodity Credit Corporation or the Secretary from requiring a producer to assume liability for—

(1) a deficiency in the grade, quality, or quantity of a commodity stored on a farm or delivered by the producer;

(2) a failure to properly care for and preserve a commodity; or

(3) a failure or refusal to deliver a commodity in accordance with a program established under this title.

(c) ACQUISITION OF COLLATERAL.—In the case of a nonrecourse loan made under this title or the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.), if the Commodity Credit Corporation acquires title to the unredeemed collateral, the Corporation shall be under no obligation to pay for any market value that the collateral may have in excess of the loan indebtedness.

(d) SUGARCANE AND SUGAR BEETS.—A security interest obtained by the Commodity Credit Corporation as a result of the execution of a security agreement by the processor of sugarcane or sugar

beets shall be superior to all statutory and common law liens on raw cane sugar and refined beet sugar in favor of the producers of sugarcane and sugar beets and all prior recorded and unrecorded liens on the crops of sugarcane and sugar beets from which the sugar was derived.

7 USC 7285.

SEC. 165. COMMODITY CREDIT CORPORATION SALES PRICE RESTRICTIONS.

(a) GENERAL SALES AUTHORITY.—The Commodity Credit Corporation may sell any commodity owned or controlled by the Corporation at any price that the Secretary determines will maximize returns to the Corporation.

(b) NONAPPLICATION OF SALES PRICE RESTRICTIONS.—Subsection (a) shall not apply to—

(1) a sale for a new or byproduct use;

(2) a sale of peanuts or oilseeds for the extraction of oil;

(3) a sale for seed or feed if the sale will not substantially impair any loan program;

(4) a sale of a commodity that has substantially deteriorated in quality or as to which there is a danger of loss or waste through deterioration or spoilage;

(5) a sale for the purpose of establishing a claim arising out of a contract or against a person who has committed fraud, misrepresentation, or other wrongful act with respect to the commodity;

(6) a sale for export, as determined by the Corporation; and

(7) a sale for other than a primary use.

(c) PRESIDENTIAL DISASTER AREAS.—

(1) IN GENERAL.—Notwithstanding subsection (a), on such terms and conditions as the Secretary may consider in the public interest, the Corporation may make available any commodity or product owned or controlled by the Corporation for use in relieving distress—

(A) in any area in the United States (including the Virgin Islands) declared by the President to be an acute distress area because of unemployment or other economic cause, if the President finds that the use will not displace or interfere with normal marketing of agricultural commodities; and

(B) in connection with any major disaster determined by the President to warrant assistance by the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

(2) COSTS.—Except on a reimbursable basis, the Corporation shall not bear any costs in connection with making a commodity available under paragraph (1) beyond the cost of the commodity to the Corporation incurred in—

(A) the storage of the commodity; and

(B) the handling and transportation costs in making delivery of the commodity to designated agencies at 1 or more central locations in each State or other area.

(d) EFFICIENT OPERATIONS.—Subsection (a) shall not apply to the sale of a commodity the disposition of which is desirable in the interest of the effective and efficient conduct of the operations of the Corporation because of the small quantity of the commodity

involved, or because of the age, location, or questionable continued storability of the commodity.

Subtitle F—Permanent Price Support Authority

SEC. 171. SUSPENSION AND REPEAL OF PERMANENT PRICE SUPPORT AUTHORITY. 7 USC 7301.

(a) AGRICULTURAL ADJUSTMENT ACT OF 1938.—

(1) SUSPENSIONS.—The following provisions of the Agricultural Adjustment Act of 1938 shall not be applicable to the 1996 through 2002 crops of loan commodities, peanuts, and sugar and shall not be applicable to milk during the period beginning on the date of enactment of this title and ending on December 31, 2002:

(A) Parts II through V of subtitle B of title III (7 U.S.C. 1326–1351).

(B) Subsections (a) through (j) of section 358 (7 U.S.C. 1358).

(C) Subsections (a) through (h) of section 358a (7 U.S.C. 1358a).

(D) Subsections (a), (b), (d), and (e) of section 358d (7 U.S.C. 1359).

(E) Part VII of subtitle B of title III (7 U.S.C. 1359aa–1359jj).

(F) In the case of peanuts, part I of subtitle C of title III (7 U.S.C. 1361–1368).

(G) In the case of upland cotton, section 377 (7 U.S.C. 1377).

(H) Subtitle D of title III (7 U.S.C. 1379a–1379j).

(I) Title IV (7 U.S.C. 1401–1407).

(2) REPORTS AND RECORDS.—Effective only for the 1996 through 2002 crops of peanuts, the first sentence of section 373(a) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1373(a)) is amended by inserting before "all brokers and dealers in peanuts" the following: "all producers engaged in the production of peanuts,". Effective date.

(b) AGRICULTURAL ACT OF 1949.—

(1) SUSPENSIONS.—The following provisions of the Agricultural Act of 1949 shall not be applicable to the 1996 through 2002 crops of loan commodities, peanuts, and sugar and shall not be applicable to milk during the period beginning on the date of enactment of this title and ending on December 31, 2002:

(A) Section 101 (7 U.S.C. 1441).

(B) Section 103(a) (7 U.S.C. 1444(a)).

(C) Section 105 (7 U.S.C. 1444b).

(D) Section 107 (7 U.S.C. 1445a).

(E) Section 110 (7 U.S.C. 1445e).

(F) Section 112 (7 U.S.C. 1445g).

(G) Section 115 (7 U.S.C. 1445k).

(H) Section 201 (7 U.S.C. 1446).

(I) Title III (7 U.S.C. 1447–1449).

(J) Title IV (7 U.S.C. 1421–1433d), other than sections 404, 412, and 416 (7 U.S.C. 1424, 1429, and 1431).

(K) Title V (7 U.S.C. 1461–1469).

(L) Title VI (7 U.S.C. 1471–1471j).

(2) REPEALS.—The following provisions of the Agricultural Act of 1949 are repealed:

(A) Section 101B (7 U.S.C. 1441–2).

(B) Section 103B (7 U.S.C. 1444–2).

(C) Section 105B (7 U.S.C. 1444f).

7 USC 1445b–3a. (D) Section 107B (7 U.S.C. 1445–3a).

(E) Section 108B (7 U.S.C. 1445c–3).

(F) Section 113 (7 U.S.C. 1445h).

(G) Subsections (b) and (c) of section 114 (7 U.S.C. 1445j).

(H) Sections 205, 206, and 207 (7 U.S.C. 1446f, 1446g, and 1446h).

(I) Sections 406 and 427 (7 U.S.C. 1426 and 1433f).

(3) POTENTIAL PRICE SUPPORT FOR RICE.—Section 101 of the Agricultural Act of 1949 (7 U.S.C. 1441), as suspended by paragraph (1), is amended by adding after subsection (d) the following:

"(e) RICE.—The Secretary shall make available to producers of each crop of rice on a farm price support at a level that is not less than 50 percent, or more than 90 percent of the parity price for rice as the Secretary determines will not result in increasing stocks of rice to the Commodity Credit Corporation.".

(c) SUSPENSION OF CERTAIN QUOTA PROVISIONS.—The joint resolution entitled "A joint resolution relating to corn and wheat marketing quotas under the Agricultural Adjustment Act of 1938, as amended", approved May 26, 1941 (7 U.S.C. 1330 and 1340), shall not be applicable to the crops of wheat planted for harvest in the calendar years 1996 through 2002.

7 USC 7302. **SEC. 172. EFFECT OF AMENDMENTS.**

(a) EFFECT ON PRIOR CROPS.—Except as otherwise specifically provided in this title and notwithstanding any other provision of law, this title and the amendments made by this title shall not affect the authority of the Secretary to carry out a price support or production adjustment program for any of the 1991 through 1995 crops of an agricultural commodity established under a provision of law in effect immediately before the date of enactment of this title.

(b) LIABILITY.—A provision of this title or an amendment made by this title shall not affect the liability of any person under any provision of law as in effect before the date of enactment of this title.

Subtitle G—Commission on 21st Century Production Agriculture

7 USC 7311. **SEC. 181. ESTABLISHMENT.**

There is established a commission to be known as the "Commission on 21st Century Production Agriculture" (in this subtitle referred to as the "Commission").

7 USC 7312. **SEC. 182. COMPOSITION.**

(a) MEMBERSHIP AND APPOINTMENT.—The Commission shall be composed of 11 members, appointed as follows:

President. (1) Three members shall be appointed by the President.

(2) Four members shall be appointed by the Chairman of the Committee on Agriculture of the House of Representatives in consultation with the ranking minority member of the Committee.

(3) Four members shall be appointed by the Chairman of the Committee on Agriculture, Nutrition, and Forestry of the Senate in consultation with the ranking minority member of the Committee.

(b) QUALIFICATIONS.—At least 1 of the members appointed under each of paragraphs (1), (2), and (3) of subsection (a) shall be an individual who is primarily involved in production agriculture. All other members of the Commission shall be appointed from among individuals having knowledge and experience in agricultural production, marketing, finance, or trade.

(c) TERM OF MEMBERS; VACANCIES.—A member of the Commission shall be appointed for the life of the Commission. A vacancy on the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment was made.

(d) TIME FOR APPOINTMENT; FIRST MEETING.—The members of the Commission shall be appointed not later than October 1, 1997. The Commission shall convene its first meeting to carry out its duties under this subtitle 30 days after 6 members of the Commission have been appointed.

(e) CHAIRPERSON.—The chairperson of the Commission shall be designated jointly by the Chairman of the Committee on Agriculture of the House of Representatives and the Chairman of the Committee on Agriculture, Nutrition, and Forestry of the Senate from among the members of the Commission.

SEC. 183. COMPREHENSIVE REVIEW OF PAST AND FUTURE OF PRODUCTION AGRICULTURE. 7 USC 7313.

(a) INITIAL REVIEW.—The Commission shall conduct a comprehensive review of changes in the condition of production agriculture in the United States since the date of enactment of this title and the extent to which the changes are the result of this title and the amendments made by this title. The review shall include the following:

(1) An assessment of the initial success of production flexibility contracts in supporting the economic viability of farming in the United States.

(2) An assessment of economic risks to farms delineated by size of farm operation (such as small, medium, or large farms) and region of production.

(3) An assessment of the food security situation in the United States in the areas of trade, consumer prices, international competitiveness of United States production agriculture, food supplies, and humanitarian relief.

(4) An assessment of the changes in farmland values and agricultural producer incomes since the date of enactment of this title.

(5) An assessment of the extent to which regulatory relief for agricultural producers has been enacted and implemented, including the application of cost/benefit principles in the issuance of agricultural regulations.

(6) An assessment of the extent to which tax relief for agricultural producers has been enacted in the form of capital

gains tax reductions, estate tax exemptions, and mechanisms to average tax loads over high- and low-income years.

(7) An assessment of the effect of any Federal Government interference in agricultural export markets, such as the imposition of trade embargoes, and the degree of implementation and success of international trade agreements and United States export programs.

(8) An assessment of the likely effect of the sale, lease, or transfer of farm poundage quota for peanuts across State lines.

(b) SUBSEQUENT REVIEW.—The Commission shall conduct a comprehensive review of the future of production agriculture in the United States and the appropriate role of the Federal Government in support of production agriculture. The review shall include the following:

(1) An assessment of changes in the condition of production agriculture in the United States since the initial review conducted under subsection (a).

(2) Identification of the appropriate future relationship of the Federal Government with production agriculture after 2002.

(3) An assessment of the personnel and infrastructure requirements of the Department of Agriculture necessary to support the future relationship of the Federal Government with production agriculture.

(4) An assessment of economic risks to farms delineated by size of farm operation (such as small, medium, or large farms) and region of production.

(c) RECOMMENDATIONS.—In carrying out the subsequent review under subsection (b), the Commission shall develop specific recommendations for legislation to achieve the appropriate future relationship of the Federal Government with production agriculture identified under subsection (a)(2).

7 USC 7314.

SEC. 184. REPORTS.

(a) REPORT ON INITIAL REVIEW.—Not later than June 1, 1998, the Commission shall submit to the President, the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report containing the results of the initial review conducted under section 183(a).

(b) REPORT ON SUBSEQUENT REVIEW.—Not later than January 1, 2001, the Commission shall submit to the President and the congressional committees specified in subsection (a) a report containing the results of the subsequent review conducted under section 183(b).

7 USC 7315.

SEC. 185. POWERS.

(a) HEARINGS.—The Commission may, for the purpose of carrying out this subtitle, conduct such hearings, sit and act at such times, take such testimony, and receive such evidence, as the Commission considers appropriate.

(b) ASSISTANCE FROM OTHER AGENCIES.—The Commission may secure directly from any department or agency of the Federal Government such information as may be necessary for the Commission to carry out its duties under this subtitle. On the request of the chairperson of the Commission, the head of the department or agency shall, to the extent permitted by law, furnish such information to the Commission.

(c) MAIL.—The Commission may use the United States mails in the same manner and under the same conditions as the departments and agencies of the Federal Government.

(d) ASSISTANCE FROM SECRETARY.—The Secretary shall provide to the Commission appropriate office space and such reasonable administrative and support services as the Commission may request.

SEC. 186. COMMISSION PROCEDURES. 7 USC 7316.

(a) MEETINGS.—The Commission shall meet on a regular basis (as determined by the chairperson) and at the call of the chairperson or a majority of its members.

(b) QUORUM.—A majority of the members of the Commission shall constitute a quorum for the transaction of business.

SEC. 187. PERSONNEL MATTERS. 7 USC 7317.

(a) COMPENSATION.—Each member of the Commission shall serve without compensation, but shall be allowed travel expenses including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, when engaged in the performance of Commission duties.

(b) STAFF.—

(1) APPOINTMENT.—The Commission shall appoint a staff director, who shall be paid at a rate not to exceed the maximum rate of basic pay under section 5376 of title 5, United States Code, and such professional and clerical personnel as may be reasonable and necessary to enable the Commission to carry out its duties under this subtitle without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, or any other provision of law, relating to the number, classification, and General Schedule rates.

(2) LIMITATION ON COMPENSATION.—No employee appointed under this subsection (other than the staff director) may be compensated at a rate to exceed the maximum rate applicable to level GS–15 of the General Schedule.

(c) DETAILED PERSONNEL.—On the request of the chairperson of the Commission, the head of any department or agency of the Federal Government is authorized to detail, without reimbursement, any personnel of the department or agency to the Commission to assist the Commission in carrying out its duties under this section. The detail of any individual may not result in the interruption or loss of civil service status or other privilege of the individual.

SEC. 188. TERMINATION OF COMMISSION. 7 USC 7318.

The Commission shall terminate on submission of the final report required by section 184.

Subtitle H—Miscellaneous Commodity Provisions

SEC. 191. OPTIONS PILOT PROGRAM. 7 USC 7331.

(a) PILOT PROGRAMS AUTHORIZED.—Until December 31, 2002, the Secretary of Agriculture may conduct a pilot program for 1 or more agricultural commodities supported under this title to

ascertain whether futures and options contracts can provide producers with reasonable protection from the financial risks of fluctuations in price, yield, and income inherent in the production and marketing of the commodities. The pilot program shall be an alternative to other related programs of the Department of Agriculture.

(b) DISTRIBUTION OF PILOT PROGRAM.—For each agricultural commodity included in the pilot program, the Secretary may operate the pilot program in not more than 100 counties, except that not more than 6 of the counties may be located in any 1 State. The pilot program for a commodity shall not be operated in any county for more than 3 of the 1996 through 2002 calendar years.

(c) ELIGIBLE PARTICIPANTS.—In operating the pilot program, the Secretary may enter into contract with a producer who—

(1) is eligible for a production flexibility contract, a marketing assistance loan, or other assistance under this title;

(2) volunteers to participate in the pilot program;

(3) operates a farm located in a county selected for the pilot program; and

(4) meets such other eligibility requirements as the Secretary may establish.

(d) NOTICE TO PRODUCERS.—The Secretary shall provide notice to each producer participating in the pilot program that—

(1) the participation of the producer is voluntary; and

(2) neither the United States, the Commodity Credit Corporation, the Federal Crop Insurance Corporation, the Department of Agriculture, nor any other Federal agency is authorized to guarantee that participants in the pilot program will be better or worse off financially as a result of participation in the pilot program than the producer would have been if the producer had not participated in the pilot program.

(e) CONTRACTS.—The Secretary shall set forth in each contract under the pilot program the terms and conditions for participation in the pilot program and the notice required by subsection (d).

(f) ELIGIBLE MARKETS.—Trades for futures and options contracts under the pilot program shall be carried out on commodity futures and options markets designated as contract markets under the Commodity Exchange Act (7 U.S.C. 1 et seq.).

(g) RECORDKEEPING.—A producer participating in the pilot program shall compile, maintain, and submit (or authorize the compilation, maintenance, and submission) of such documentation as the regulations governing the pilot program require.

(h) USE OF COMMODITY CREDIT CORPORATION.—The Secretary shall fund and operate the pilot program through the Commodity Credit Corporation. To the maximum extent practicable, the Secretary shall operate the pilot program in a budget neutral manner.

(i) CONFORMING REPEAL.—The Options Pilot Program Act of 1990 (subtitle E of title XI of Public Law 101–624; 7 U.S.C. 1421 note) is repealed.

7 USC 7332.

SEC. 192. RISK MANAGEMENT EDUCATION.

In consultation with the Commodity Futures Trading Commission, the Secretary shall provide such education in management of the financial risks inherent in the production and marketing of agricultural commodities as the Secretary considers appropriate. As part of such educational activities, the Secretary may develop and implement programs to facilitate the participation of agricultural producers in commodity futures trading programs, forward

contracting options, and insurance protection programs by assisting and training producers in the usage of such programs. In implementing this authority, the Secretary may use existing research and extension authorities and resources of the Department of Agriculture.

SEC. 193. CROP INSURANCE.

(a) CATASTROPHIC RISK PROTECTION.—

(1) SINGLE DELIVERY.—Section 508(b)(4) of the Federal Crop Insurance Act (7 U.S.C. 1508(b)(4)) is amended by adding at the end the following:

"(C) DELIVERY OF COVERAGE.—

"(i) IN GENERAL.—In full consultation with approved insurance providers, the Secretary may continue to offer catastrophic risk protection in a State (or a portion of a State) through local offices of the Department if the Secretary determines that there is an insufficient number of approved insurance providers operating in the State or portion of the State to adequately provide catastrophic risk protection coverage to producers.

"(ii) COVERAGE BY APPROVED INSURANCE PROVIDERS.—To the extent that catastrophic risk protection coverage by approved insurance providers is sufficiently available in a State (or a portion of a State) as determined by the Secretary, only approved insurance providers may provide the coverage in the State or portion of the State.

"(iii) TIMING OF DETERMINATIONS.—Not later than 90 days after the date of enactment of this subparagraph, the Secretary shall announce the results of the determinations under clause (i) for policies for the 1997 crop year. For subsequent crop years, the Secretary shall make the announcement not later than April 30 of the year preceding the year in which the crop will be produced, or at such other times during the year as the Secretary finds practicable in consultation with affected crop insurance providers for those States (or portions of States) in which catastrophic coverage remains available through local offices of the Department. Announcement.

"(iv) CURRENT POLICIES.—This clause shall take effect beginning with the 1997 crop year. Subject to clause (ii) all catastrophic risk protection policies written by local offices of the Department shall be transferred to the approved insurance provider for performance of all sales, service, and loss adjustment functions. Any fees in connection with such policies that are not yet collected at the time of the transfer shall be payable to the approved insurance providers assuming the policies. The transfer process for policies for the 1997 crop year with sales closing dates before January 1, 1997, shall begin at the time of the Secretary's announcement under clause (iii) and be completed by the sales closing date for the crop and county. The transfer process for all subsequent policies (including policies for the 1998 and subsequent crop years) shall Effective date.

begin at a date that permits the process to be completed not later than 45 days before the sales closing date.".

(2) WAIVER OF MANDATORY LINKAGE.—Section 508(b)(7) of the Federal Crop Insurance Act (7 U.S.C. 1508(b)(7)) is amended by striking subparagraph (A) and inserting the following:

Effective date.

"(A) IN GENERAL.—Effective for the spring-planted 1996 and subsequent crops (and fall-planted 1996 crops at the option of the Secretary), to be eligible for any payment or loan under the Agricultural Market Transition Act, for the conservation reserve program, or for any benefit described in section 371 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008f), a person shall—

"(i) obtain at least the catastrophic level of insurance for each crop of economic significance in which the person has an interest; or

"(ii) provide a written waiver to the Secretary that waives any eligibility for emergency crop loss assistance in connection with the crop.".

7 USC 1508 note.

(3) SPECIAL RULE FOR 1996.—

(A) EFFECTIVE PERIOD.—This paragraph shall apply only to the 1996 crop year.

(B) AVAILABILITY.—During a period of not less than 2 weeks, but not more than 4 weeks, beginning on the date of enactment of this title, the Secretary shall provide producers with an opportunity to obtain catastrophic risk protection insurance under section 508(b) of the Federal Crop Insurance Act (7 U.S.C. 1508(b)) for a spring-planted crop, and limited additional coverage for malting barley under the Malting Barley Price and Quality Endorsement. The Federal Crop Insurance Corporation may attach such limitations and restrictions on obtaining insurance during this period as the Corporation considers necessary to maintain the actuarial soundness of the crop insurance program.

(C) ATTACHMENT.—Insurance coverage under any policy obtained under this paragraph during the extended sales period shall not attach until 10 days after the application.

(D) CANCELLATION.—During the extended period, a producer may cancel a catastrophic risk protection policy if—

(i) the policy is a continuation of a policy that was obtained for a previous crop year; and

(ii) the cancellation request is made before the acreage reporting date for the policy for the 1996 crop year.

7 USC 1508 note.

(b) CROP INSURANCE PILOT PROJECT.—

(1) COVERAGE.—The Secretary of Agriculture shall develop and administer a pilot project for crop insurance coverage that indemnifies crop losses due to a natural disaster such as insect infestation or disease.

(2) ACTUARIAL SOUNDNESS.—A pilot project under this paragraph shall be actuarially sound, as determined by the Secretary and administered at no net cost.

(3) DURATION.—A pilot project under this paragraph shall be of two years' duration.

(c) CROP INSURANCE FOR NURSERY CROPS.—Section 508(a)(6) of the Federal Crop Insurance Act (7 U.S.C. 1508(a)(6)) is amended by adding at the end the following:

"(D) ADDITION OF NURSERY CROPS.—Not later than 2 years after the date of enactment of this subparagraph, the Corporation shall conduct a study and limited pilot program on the feasibility of insuring nursery crops.".

(d) MARKETING WINDOWS.—Section 508(j) of the Federal Crop Insurance Act (7 U.S.C. 1508(j)) is amended by adding at the end the following:

"(4) MARKETING WINDOWS.—The Corporation shall consider marketing windows in determining whether it is feasible to require planting during a crop year.".

(e) FUNDING.—

(1) MANDATORY EXPENSES.—Section 516(a)(2) of the Federal Crop Insurance Act (7 U.S.C. 1516(a)(2)) is amended—

(A) by inserting "and" at the end of subparagraph (A);

(B) by striking "; and" at the end of subparagraph (B) and inserting a period; and

(C) by striking subparagraph (C).

(2) FUNDING OF SALES COMMISSIONS.—Section 516(b) of the Federal Crop Insurance Act (7 U.S.C. 1516(b)) is amended—

(A) in paragraph (1)—

(i) by striking "(A) IN GENERAL" and all that follows through "subparagraph (B), in" and inserting "In"; and

(ii) by striking subparagraph (B); and

(B) in paragraph (2)(B), by striking "subject to paragraph (1)(B),".

(3) OTHER EXPENSES.—Section 516(b)(2)(A) of the Federal Crop Insurance Act (7 U.S.C. 1516(b)(2)(A)) is amended by striking ", noninsured assistance benefits,".

(f) LIMITATION ON MULTIPLE BENEFITS FOR SAME LOSS.—Section 508 of the Federal Crop Insurance Act (7 U.S.C. 1508) is amended by adding at the end the following:

"(n) LIMITATION ON MULTIPLE BENEFITS FOR SAME LOSS.—If a producer who is eligible to receive benefits under catastrophic risk protection under subsection (b) is also eligible to receive assistance for the same loss under any other program administered by the Secretary, the producer shall be required to elect whether to receive benefits under this title or under the other program, but not both. A producer who purchases additional coverage under subsection (c) may also receive assistance for the same loss under other programs administered by the Secretary, except that the amount received for the loss under the additional coverage together with the amount received under the other programs may not exceed the amount of the actual loss of the producer.".

SEC. 194. ESTABLISHMENT OF OFFICE OF RISK MANAGEMENT.

(a) ESTABLISHMENT.—The Department of Agriculture Reorganization Act of 1994 is amended by inserting after section 226 (7 U.S.C. 6932) the following new section:

"SEC. 226A. OFFICE OF RISK MANAGEMENT. 7 USC 6933.

"(a) ESTABLISHMENT.—Subject to subsection (e), the Secretary shall establish and maintain in the Department an independent Office of Risk Management.

"(b) FUNCTIONS OF THE OFFICE OF RISK MANAGEMENT.—The Office of Risk Management shall have jurisdiction over the following functions:

"(1) Supervision of the Federal Crop Insurance Corporation.

"(2) Administration and oversight of all aspects, including delivery through local offices of the Department, of all programs authorized under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).

"(3) Any pilot or other programs involving revenue insurance, risk management savings accounts, or the use of the futures market to manage risk and support farm income that may be established under the Federal Crop Insurance Act or other law.

"(4) Such other functions as the Secretary considers appropriate.

"(c) ADMINISTRATOR.—

"(1) APPOINTMENT.—The Office of Risk Management shall be headed by an Administrator who shall be appointed by the Secretary.

"(2) MANAGER.—The Administrator of the Office of Risk Management shall also serve as Manager of the Federal Crop Insurance Corporation.

"(d) RESOURCES.—

"(1) FUNCTIONAL COORDINATION.—Certain functions of the Office of Risk Management, such as human resources, public affairs, and legislative affairs, may be provided by a consolidation of such functions under the Under Secretary of Agriculture for Farm and Foreign Agricultural Services.

"(2) MINIMUM PROVISIONS.—Notwithstanding paragraph (1) or any other provision of law or order of the Secretary, the Secretary shall provide the Office of Risk Management with human and capital resources sufficient for the Office to carry out its functions in a timely and efficient manner.".

(b) FISCAL YEAR 1996 FUNDING.—From funds appropriated for the salaries and expenses of the Consolidated Farm Service Agency in the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1996 (Public Law 104–37), the Secretary of Agriculture may use such sums as necessary for the salaries and expenses of the Office of Risk Management established under subsection (a).

(c) CONFORMING AMENDMENT.—Section 226(b) of the Act (7 U.S.C. 6932(b)) is amended by striking paragraph (2).

SEC. 195. REVENUE INSURANCE.

Section 508(h) of the Federal Crop Insurance Act (7 U.S.C. 1508(h)) is amended by adding at the end the following:

"(9) REVENUE INSURANCE PILOT PROGRAM.—

"(A) IN GENERAL.—Not later than December 31, 1996, the Secretary shall carry out a pilot program in a limited number of counties, as determined by the Secretary, for crop years 1997, 1998, 1999, and 2000, under which a producer of wheat, feed grains, soybeans, or such other commodity as the Secretary considers appropriate may elect to receive insurance against loss of revenue, as determined by the Secretary.

"(B) ADMINISTRATION.—Revenue insurance under this paragraph shall—

"(i) be offered through reinsurance arrangements with private insurance companies;

"(ii) offer at least a minimum level of coverage that is an alternative to catastrophic crop insurance;

"(iii) be actuarially sound; and

"(iv) require the payment of premiums and administrative fees by an insured producer.".

SEC. 196. ADMINISTRATION AND OPERATION OF NONINSURED CROP ASSISTANCE PROGRAM. 7 USC 7333.

(a) OPERATION AND ADMINISTRATION OF PROGRAM.—

(1) IN GENERAL.—In the case of an eligible crop described in paragraph (2), the Secretary of Agriculture shall operate a noninsured crop disaster assistance program to provide coverage equivalent to the catastrophic risk protection otherwise available under section 508(b) of the Federal Crop Insurance Act (7 U.S.C. 1508(b)). The Secretary shall carry out this section through the Consolidated Farm Service Agency (in this section referred to as the "Agency").

(2) ELIGIBLE CROPS.—

(A) IN GENERAL.—In this section, the term "eligible crop" means each commercial crop or other agricultural commodity (except livestock)—

(i) for which catastrophic risk protection under section 508(b) of the Federal Crop Insurance Act (7 U.S.C. 1508(b)) is not available; and

(ii) that is produced for food or fiber.

(B) CROPS SPECIFICALLY INCLUDED.—The term "eligible crop" shall include floricultural, ornamental nursery, and Christmas tree crops, turfgrass sod, seed crops, aquaculture (including ornamental fish), and industrial crops.

(3) CAUSE OF LOSS.—To qualify for assistance under this section, the losses of the noninsured commodity shall be due to drought, flood, or other natural disaster, as determined by the Secretary.

(b) APPLICATION FOR NONINSURED CROP DISASTER ASSISTANCE.—

(1) TIMELY APPLICATION.—To be eligible for assistance under this section, a producer shall submit an application for noninsured crop disaster assistance at a local office of the Department. The application shall be in such form, contain such information, and be submitted at such time as the Secretary may require.

(2) RECORDS.—A producer shall provide records, as required by the Secretary, of crop acreage, acreage yields, and production.

(3) ACREAGE REPORTS.—A producer shall provide reports on acreage planted or prevented from being planted, as required by the Secretary, by the designated acreage reporting date for the crop and location as established by the Secretary.

(c) LOSS REQUIREMENTS.—

(1) REQUIRED AREA LOSS.—A producer of an eligible crop shall not receive noninsured crop disaster assistance unless the average yield for that crop, or an equivalent measure in the event yield data are not available, in an area falls below 65 percent of the expected area yield, as established by the Secretary.

(2) PREVENTED PLANTING.—Subject to paragraph (1), the Secretary shall make a prevented planting noninsured crop disaster assistance payment if the producer is prevented from planting more than 35 percent of the acreage intended for the eligible crop because of drought, flood, or other natural disaster, as determined by the Secretary.

(3) REDUCED YIELDS.—Subject to paragraph (1), the Secretary shall make a reduced yield noninsured crop disaster assistance payment to a producer if the total quantity of the eligible crop that the producer is able to harvest on any farm is, because of drought, flood, or other natural disaster as determined by the Secretary, less than 50 percent of the expected individual yield for the crop, as determined by the Secretary, factored for the interest of the producer for the crop.

(d) PAYMENT.—The Secretary shall make available to a producer eligible for noninsured assistance under this section a payment computed by multiplying—

(1) the quantity that is less than 50 percent of the established yield for the crop; by

(2)(A) in the case of each of the 1996 through 1998 crop years, 60 percent of the average market price for the crop (or any comparable coverage determined by the Secretary); or

(B) in the case of each of the 1999 and subsequent crop years, 55 percent of the average market price for the crop (or any comparable coverage determined by the Secretary); by

(3) a payment rate for the type of crop (as determined by the Secretary) that—

(A) in the case of a crop that is produced with a significant and variable harvesting expense, reflects the decreasing cost incurred in the production cycle for the crop that is—

(i) harvested;

(ii) planted but not harvested; and

(iii) prevented from being planted because of drought, flood, or other natural disaster (as determined by the Secretary); and

(B) in the case of a crop that is not produced with a significant and variable harvesting expense, as determined by the Secretary.

(e) YIELD DETERMINATIONS.—

(1) ESTABLISHMENT.—The Secretary shall establish farm yields for purposes of providing noninsured crop disaster assistance under this section.

(2) ACTUAL PRODUCTION HISTORY.—The Secretary shall determine yield coverage using the actual production history of the producer over a period of not less than the 4 previous consecutive crop years and not more than 10 consecutive crop years. Subject to paragraph (3), the yield for the year in which noninsured crop disaster assistance is sought shall be equal to the average of the actual production history of the producer during the period considered.

(3) ASSIGNMENT OF YIELD.—If a producer does not submit adequate documentation of production history to determine a crop yield under paragraph (2), the Secretary shall assign to the producer a yield equal to not less than 65 percent of

the transitional yield of the producer (adjusted to reflect actual production reflected in the records acceptable to the Secretary for continuous years), as specified in regulations issued by the Secretary based on production history requirements.

(4) PROHIBITION ON ASSIGNED YIELDS IN CERTAIN COUNTIES.—

(A) IN GENERAL.—

(i) DOCUMENTATION.—If sufficient data are available to demonstrate that the acreage of a crop in a county for the crop year has increased by more than 100 percent over any year in the preceding 7 crop years or, if data are not available, if the acreage of the crop in the county has increased significantly from the previous crop years, a producer must provide such detailed documentation of production costs, acres planted, and yield for the crop year for which benefits are being claimed as is required by the Secretary. If the Secretary determines that the documentation provided is not sufficient, the Secretary may require documenting proof that the crop, had the crop been harvested, could have been marketed at a reasonable price.

(ii) PROHIBITION.—Except as provided in subparagraph (B), a producer who produces a crop on a farm located in a county described in clause (i) may not obtain an assigned yield.

(B) EXCEPTION.—A crop or a producer shall not be subject to this subsection if—

(i) the planted acreage of the producer for the crop has been inspected by a third party acceptable to the Secretary; or

(ii)(I) the County Executive Director and the State Executive Director recommend an exemption from the requirement to the Administrator of the Agency; and

(II) the Administrator approves the recommendation.

(5) LIMITATION ON RECEIPT OF SUBSEQUENT ASSIGNED YIELD.—A producer who receives an assigned yield for the current year of a natural disaster because required production records were not submitted to the local office of the Department shall not be eligible for an assigned yield for the year of the next natural disaster unless the required production records of the previous 1 or more years (as applicable) are provided to the local office.

(6) YIELD VARIATIONS DUE TO DIFFERENT FARMING PRACTICES.—The Secretary shall ensure that noninsured crop disaster assistance accurately reflects significant yield variations due to different farming practices, such as between irrigated and nonirrigated acreage.

(f) CONTRACT PAYMENTS.—A producer who has received a guaranteed payment for production, as opposed to delivery, of a crop pursuant to a contract shall have the production of the producer adjusted upward by the amount of the production equal to the amount of the contract payment received.

(g) USE OF COMMODITY CREDIT CORPORATION.—The Secretary may use the funds of the Commodity Credit Corporation to carry out this section.

(h) EXCLUSIONS.—Noninsured crop disaster assistance under this section shall not cover losses due to—

(1) the neglect or malfeasance of the producer;

(2) the failure of the producer to reseed to the same crop in those areas and under such circumstances where it is customary to reseed; or

(3) the failure of the producer to follow good farming practices, as determined by the Secretary.

(i) PAYMENT AND INCOME LIMITATIONS.—

(1) DEFINITIONS.—In this subsection:

(A) PERSON.—The term "person" has the meaning provided the term in regulations issued by the Secretary. The regulations shall conform, to the extent practicable, to the regulations defining the term "person" issued under section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308).

(B) QUALIFYING GROSS REVENUES.—The term "qualifying gross revenues" means—

(i) if a majority of the gross revenue of the person is received from farming, ranching, and forestry operations, the gross revenue from the farming, ranching, and forestry operations of the person; and

(ii) if less than a majority of the gross revenue of the person is received from farming, ranching, and forestry operations, the gross revenue of the person from all sources.

(2) PAYMENT LIMITATION.—The total amount of payments that a person shall be entitled to receive annually under this section may not exceed $100,000.

(3) LIMITATION ON MULTIPLE BENEFITS FOR SAME LOSS.—If a producer who is eligible to receive benefits under this section is also eligible to receive assistance for the same loss under any other program administered by the Secretary, the producer shall be required to elect whether to receive benefits under this section or under the other program, but not both.

(4) INCOME LIMITATION.—A person who has qualifying gross revenues in excess of the amount specified in section 2266(a) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1421 note) (as in effect on November 28, 1990) during the taxable year (as determined by the Secretary) shall not be eligible to receive any noninsured assistance payment under this section.

(5) REGULATIONS.—The Secretary shall issue regulations prescribing such rules as the Secretary determines necessary to ensure a fair and equitable application of section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308), the general payment limitation regulations of the Secretary, and the limitations established under this subsection.

(j) CONFORMING REPEAL.—Section 519 of the Federal Crop Insurance Act (7 U.S.C. 1519) is repealed.

TITLE II—AGRICULTURAL TRADE

Subtitle A—Amendments to Agricultural Trade Development and Assistance Act of 1954 and Related Statutes

SEC. 201. FOOD AID TO DEVELOPING COUNTRIES.

(a) IN GENERAL.—Section 3 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691a) is amended to read as follows:

"SEC. 3. FOOD AID TO DEVELOPING COUNTRIES.

"(a) POLICY.—In light of the Uruguay Round Agreement on Agriculture and the Ministerial Decision on Measures Concerning the Possible Negative Effects of the Reform Program on Least-Developed and Net-Food Importing Developing Countries, the United States reaffirms the commitment of the United States to providing food aid to developing countries.

"(b) SENSE OF CONGRESS.—It is the sense of Congress that—

"(1) the President should initiate consultations with other donor nations to consider appropriate levels of food aid commitments to meet the legitimate needs of developing countries; and

"(2) the United States should increase its contribution of bona fide food assistance to developing countries consistent with the Agreement on Agriculture.".

(b) CONFORMING AMENDMENT.—Section 411 of the Uruguay Round Agreements Act is amended by striking subsection (e) (19 U.S.C. 3611).

SEC. 202. TRADE AND DEVELOPMENT ASSISTANCE.

Section 101 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1701) is amended—

(1) by striking "developing countries" each place it appears and inserting "developing countries and private entities"; and

(2) in subsection (b), by inserting "and entities" before the period at the end.

SEC. 203. AGREEMENTS REGARDING ELIGIBLE COUNTRIES AND PRIVATE ENTITIES.

Section 102 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1702) is amended to read as follows:

"SEC. 102. AGREEMENTS REGARDING ELIGIBLE COUNTRIES AND PRIVATE ENTITIES.

"(a) PRIORITY.—In selecting agreements to be entered into under this title, the Secretary shall give priority to agreements providing for the export of agricultural commodities to developing countries that—

"(1) have the demonstrated potential to become commercial markets for competitively priced United States agricultural commodities;

"(2) are undertaking measures for economic development purposes to improve food security and agricultural development, alleviate poverty, and promote broad-based equitable and sustainable development; and

"(3) demonstrate the greatest need for food.

"(b) PRIVATE ENTITIES.—An agreement entered into under this title with a private entity shall require such security, or such other provisions as the Secretary determines necessary, to provide reasonable and adequate assurance of repayment of the financing extended to the private entity.

"(c) AGRICULTURAL MARKET DEVELOPMENT PLAN.—

"(1) DEFINITION OF AGRICULTURAL TRADE ORGANIZATION.—In this subsection, the term 'agricultural trade organization' means a United States agricultural trade organization that promotes the export and sale of a United States agricultural commodity and that does not stand to profit directly from the specific sale of the commodity.

"(2) PLAN.—The Secretary shall consider a developing country for which an agricultural market development plan has been approved under this subsection to have the demonstrated potential to become a commercial market for competitively priced United States agricultural commodities for the purpose of granting a priority under subsection (a).

"(3) REQUIREMENTS.—

"(A) IN GENERAL.—To be approved by the Secretary, an agricultural market development plan shall—

"(i) be submitted by a developing country or private entity, in conjunction with an agricultural trade organization;

"(ii) describe a project or program for the development and expansion of a commercial market for a United States agricultural commodity in a developing country, and the economic development of the country, using funds derived from the sale of agricultural commodities received under an agreement described in section 101;

"(iii) provide for any matching funds that are required by the Secretary for the project or program;

"(iv) provide for a results-oriented means of measuring the success of the project or program; and

"(v) provide for graduation to the use of non-Federal funds to carry out the project or program, consistent with requirements established by the Secretary.

"(B) AGRICULTURAL TRADE ORGANIZATION.—The project or program shall be designed and carried out by the agricultural trade organization.

"(C) ADDITIONAL REQUIREMENTS.—An agricultural market development plan shall contain such additional requirements as are determined necessary by the Secretary.

"(4) ADMINISTRATIVE COSTS.—

"(A) IN GENERAL.—The Secretary may make funds made available to carry out this title available for the reimbursement of administrative expenses incurred by agricultural trade organizations in developing, implementing, and administering agricultural market development plans, subject to such requirements and in such amounts as the Secretary considers appropriate.

"(B) DURATION.—The funds may be made available to agricultural trade organizations for the duration of the applicable agricultural market development plan.

"(C) TERMINATION.—The Secretary may terminate assistance made available under this subsection if the agricultural trade organization is not carrying out the approved agricultural market development plan.".

SEC. 204. TERMS AND CONDITIONS OF SALES.

Section 103 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1703) is amended—

(1) in subsection (a)(2)(A)—

(A) by striking "a recipient country to make"; and

(B) by striking "such country" and inserting "the appropriate country";

(2) in subsection (c), by striking "less than 10 nor"; and

(3) in subsection (d)—

(A) by striking "recipient country" and inserting "developing country or private entity"; and

(B) by striking "7" and inserting "5".

SEC. 205. USE OF LOCAL CURRENCY PAYMENT.

Section 104 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1704) is amended—

(1) in subsection (a), by striking "recipient country" and inserting "developing country or private entity"; and

(2) in subsection (c)—

(A) by striking "recipient country" each place it appears and inserting "appropriate developing country"; and

(B) in paragraph (3), by striking "recipient countries" and inserting "appropriate developing countries".

SEC. 206. VALUE-ADDED FOODS.

Section 105 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1705) is repealed.

SEC. 207. ELIGIBLE ORGANIZATIONS.

(a) IN GENERAL.—Section 202 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1722) is amended—

(1) by striking subsection (b) and inserting the following:

"(b) NONEMERGENCY ASSISTANCE.—

"(1) IN GENERAL.—The Administrator may provide agricultural commodities for nonemergency assistance under this title through eligible organizations (as described in subsection (d)) that have entered into an agreement with the Administrator to use the commodities in accordance with this title.

"(2) LIMITATION.—The Administrator may not deny a request for funds submitted under this subsection because the program for which the funds are requested—

"(A) would be carried out by the eligible organization in a foreign country in which the Agency for International Development does not have a mission, office, or other presence; or

"(B) is not part of a development plan for the country prepared by the Agency."; and

(2) in subsection (e)—

(A) in the subsection heading, by striking "PRIVATE VOLUNTARY ORGANIZATIONS AND COOPERATIVES" and inserting "ELIGIBLE ORGANIZATIONS";

(B) in paragraph (1)—

(i) by striking "$13,500,000" and inserting "$28,000,000"; and

(ii) by striking "private voluntary organizations and cooperatives to assist such organizations and cooperatives" and inserting "eligible organizations described in subsection (d), to assist the organizations";

(C) by striking paragraph (2) and inserting the following:

"(2) REQUEST FOR FUNDS.—To receive funds made available under paragraph (1), an eligible organization described in subsection (d) shall submit a request for the funds that is subject to approval by the Administrator."; and

(D) in paragraph (3), by striking "a private voluntary organization or cooperative, the Administrator may provide assistance to that organization or cooperative" and inserting "an eligible organization, the Administrator may provide assistance to the eligible organization".

(b) CONFORMING AMENDMENTS.—Section 207 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1726a) is amended—

(1) in subsection (a)(1), by striking "a private voluntary organization or cooperative" each place it appears and inserting "an eligible organization"; and

(2) in subsection (b)—

(A) in paragraph (1), by striking "private voluntary organizations and cooperatives" and inserting "eligible organizations"; and

(B) in paragraph (2), by striking "organizations, cooperatives," and inserting "eligible organizations".

SEC. 208. GENERATION AND USE OF FOREIGN CURRENCIES.

Section 203 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1723) is amended—

(1) in subsection (a), by inserting ", or in a country in the same region," after "in the recipient country";

(2) in subsection (b)—

(A) by inserting "or in countries in the same region," after "in recipient countries,"; and

(B) by striking "10 percent" and inserting "15 percent";

(3) in subsection (c), by inserting "or in a country in the same region," after "in the recipient country,"; and

(4) in subsection (d)(2), by inserting "or within a country in the same region" after "within the recipient country".

SEC. 209. GENERAL LEVELS OF ASSISTANCE UNDER PUBLIC LAW 480.

Section 204 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1724) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking "amount that" and all that follows through the period at the end and inserting "amount that for each of fiscal years 1996 through 2002 is not less than 2,025,000 metric tons.";

(B) in paragraph (2), by striking "amount that" and all that follows through the period at the end and inserting "amount that for each of fiscal years 1996 through 2002 is not less than 1,550,000 metric tons."; and

(C) in paragraph (3), by adding at the end the following: "No waiver shall be made before the beginning of the applicable fiscal year."; and

(2) in subsection (b)(1), by inserting before the period at the end the following: "and that not less than 50 percent of the quantity of the bagged commodities that are whole grain commodities be bagged in the United States".

SEC. 210. FOOD AID CONSULTATIVE GROUP.

Section 205 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1725) is amended—

(1) in subsection (a), by striking "private voluntary organizations, cooperatives and indigenous non-governmental organizations" and inserting "eligible organizations described in section 202(d)(1)";

(2) in subsection (b)—

(A) in paragraph (2), by striking "for International Affairs and Commodity Programs" and inserting "of Agriculture for Farm and Foreign Agricultural Services";

(B) in paragraph (4), by striking "and" at the end;

(C) in paragraph (5), by striking the period at the end and inserting "; and"; and

(D) by adding at the end the following:

"(6) representatives from agricultural producer groups in the United States.";

(3) in the second sentence of subsection (d), by inserting "(but at least twice per year)" after "when appropriate"; and

(4) in subsection (f), by striking "1995" and inserting "2002".

SEC. 211. SUPPORT OF NONGOVERNMENTAL ORGANIZATIONS.

(a) IN GENERAL.—Section 306(b) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1727e(b)) is amended—

(1) in the subsection heading, by striking "INDIGENOUS NON-GOVERNMENTAL" and inserting "NONGOVERNMENTAL"; and

(2) by striking "utilization of indigenous" and inserting "utilization of".

(b) CONFORMING AMENDMENT.—Section 402 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1732) is amended by striking paragraph (6) and inserting the following:

"(6) NONGOVERNMENTAL ORGANIZATION.—The term 'nongovernmental organization' means an organization that works at the local level to solve development problems in a foreign country in which the organization is located, except that the term does not include an organization that is primarily an agency or instrumentality of the government of the foreign country.".

SEC. 212. COMMODITY DETERMINATIONS.

Section 401 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1731) is amended—

(1) by striking subsections (a) through (d) and inserting the following:

"(a) AVAILABILITY OF COMMODITIES.—No agricultural commodity shall be available for disposition under this Act if the Secretary determines that the disposition would reduce the domestic supply of the commodity below the supply needed to meet domestic requirements and provide adequate carryover (as determined by the Sec-

retary), unless the Secretary determines that some part of the supply should be used to carry out urgent humanitarian purposes under this Act.";

(2) by redesignating subsections (e) and (f) as subsections (b) and (c), respectively; and

(3) in subsection (c) (as so redesignated), by striking "(e)(1)" and inserting "(b)(1)".

SEC. 213. GENERAL PROVISIONS.

Section 403 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1733) is amended—

(1) in subsection (b)—

(A) in the subsection heading, by striking "CONSULTATIONS" and inserting "IMPACT ON LOCAL FARMERS AND ECONOMY"; and

(B) by striking "consult with" and all that follows through "other donor organizations to";

(2) in subsection (c)—

(A) by striking "from countries"; and

(B) by striking "for use" and inserting "or use";

(3) in subsection (f)—

(A) by inserting "or private entities, as appropriate," after "from countries"; and

(B) by inserting "or private entities" after "such countries"; and

(4) in subsection (i)(2), by striking subparagraph (C).

SEC. 214. AGREEMENTS.

Section 404 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1734) is amended—

(1) in subsection (a), by inserting "with foreign countries" after "Before entering into agreements";

(2) in subsection (b)(2)—

(A) by inserting "with foreign countries" after "with respect to agreements entered into"; and

(B) by inserting before the semicolon at the end the following: "and broad-based economic growth"; and

(3) in subsection (c), by striking paragraph (1) and inserting the following:

"(1) IN GENERAL.—Agreements to provide assistance on a multi-year basis to recipient countries or to eligible organizations—

"(A) may be made available under titles I and III; and

"(B) shall be made available under title II.".

SEC. 215. USE OF COMMODITY CREDIT CORPORATION.

Section 406 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736) is amended—

(1) in subsection (a), by striking "shall" and inserting "may"; and

(2) in subsection (b)—

(A) by striking "this Act" and inserting "titles II and III"; and

(B) by striking paragraph (4) and inserting the following:

"(4) the vessel freight charges from United States ports or designated Canadian transshipment ports, as determined by the Secretary, to designated ports of entry abroad;".

SEC. 216. ADMINISTRATIVE PROVISIONS.

Section 407 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736a) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by inserting "or private entity that enters into an agreement under title I" after "importing country"; and

(B) in paragraph (2), by adding at the end the following: "Resulting contracts may contain such terms and conditions as the Secretary determines are necessary and appropriate.";

(2) in subsection (c)—

(A) in paragraph (1)(A), by inserting "importer or" before "importing country"; and

(B) in paragraph (2)(A), by inserting "importer or" before "importing country";

(3) in subsection (d)—

(A) by striking paragraph (2) and inserting the following:

"(2) FREIGHT PROCUREMENT.—Notwithstanding the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.) or other similar provisions of law relating to the making or performance of Federal Government contracts, ocean transportation under titles II and III may be procured on the basis of full and open competitive procedures. Resulting contracts may contain such terms and conditions as the Administrator determines are necessary and appropriate."; and

(B) by striking paragraph (4);

(4) in subsection (g)(2)—

(A) in subparagraph (B), by striking "and" at the end;

(B) in subparagraph (C), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(D) an assessment of the progress towards achieving food security in each country receiving food assistance from the United States Government, with special emphasis on the nutritional status of the poorest populations in each country."; and

(5) by striking subsection (h).

SEC. 217. EXPIRATION DATE.

Section 408 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736b) is amended by striking "1995" and inserting "2002".

SEC. 218. REGULATIONS.

Section 409 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736c) is repealed.

SEC. 219. INDEPENDENT EVALUATION OF PROGRAMS.

Section 410 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736d) is repealed.

SEC. 220. AUTHORIZATION OF APPROPRIATIONS.

Section 412 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736f) is amended—

(1) by striking subsections (b) and (c) and inserting the following:

"(b) TRANSFER OF FUNDS.—

"(1) IN GENERAL.—Except as provided in paragraph (2) and notwithstanding any other provision of law, the President may direct that up to 15 percent of the funds available for any fiscal year for carrying out any title of this Act be used to carry out any other title of this Act.

"(2) TITLE III FUNDS.—The President may direct that up to 50 percent of the funds available for any fiscal year for carrying out title III be used to carry out title II."; and

(2) by redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

SEC. 221. COORDINATION OF FOREIGN ASSISTANCE PROGRAMS.

Section 413 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736g) is amended by striking "this Act" each place it appears and inserting "title III".

SEC. 222. MICRONUTRIENT FORTIFICATION PILOT PROGRAM.

Title IV of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1731 et seq.) is amended by adding at the end the following:

Establishment. Developing countries. 7 USC 1736g-2.

"SEC. 415. MICRONUTRIENT FORTIFICATION PILOT PROGRAM.

"(a) IN GENERAL.—Subject to the availability of practical technology and to cost effectiveness, not later than September 30, 1997, the Secretary, in consultation with the Administrator, shall establish a micronutrient fortification pilot program under this Act. The purpose of the program shall be to—

"(1) assist developing countries in correcting micronutrient dietary deficiencies among segments of the populations of the countries; and

"(2) encourage the development of technologies for the fortification of whole grains and other commodities that are readily transferable to developing countries.

"(b) SELECTION OF PARTICIPATING COUNTRIES.—From among the countries eligible for assistance under this Act, the Secretary may select not more than 5 developing countries to participate in the pilot program.

"(c) FORTIFICATION.—Under the pilot program, whole grains and other commodities made available to a developing country selected to participate in the pilot program may be fortified with 1 or more micronutrients (including vitamin A, iron, and iodine) with respect to which a substantial portion of the population in the country is deficient. The commodity may be fortified in the United States or in the developing country.

"(d) TERMINATION OF AUTHORITY.—The authority to carry out the pilot program established under this section shall terminate on September 30, 2002.".

SEC. 223. USE OF CERTAIN LOCAL CURRENCY.

Title IV of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1731 et seq.) (as amended by section 222) is amended by adding at the end the following:

"SEC. 416. USE OF CERTAIN LOCAL CURRENCY. 7 USC 1736g–3.

"Local currency payments received by the United States pursuant to agreements entered into under title I (as in effect on November 27, 1990) may be utilized by the Secretary in accordance with section 108 (as in effect on November 27, 1990).".

SEC. 224. FARMER-TO-FARMER PROGRAM.

Section 501 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1737) is amended—

(1) in subsection (a), by striking paragraph (6) and inserting the following:

"(6) to the extent that local currencies can be used to meet the costs of a program established under this section, augment funds of the United States that are available for such a program through the use of foreign currencies that accrue from the sale of agricultural commodities under this Act, and local currencies generated from other types of foreign assistance activities, within the country where the program is being conducted."; and

(2) in subsection (c)—

(A) by striking "0.2" and inserting "0.4";

(B) by striking "1991 through 1995" and inserting "1996 through 2002"; and

(C) by striking "0.1" and inserting "0.2".

SEC. 225. FOOD SECURITY COMMODITY RESERVE.

(a) IN GENERAL.—Title III of the Agricultural Act of 1980 (7 U.S.C. 1736f–1 et seq.) is amended to read as follows:

"TITLE III—FOOD SECURITY COMMODITY RESERVE

Food Security Commodity Reserve Act of 1996.

"SEC. 301. SHORT TITLE. 7 USC 1736f–1 note.

"This title may be cited as the 'Food Security Commodity Reserve Act of 1996'.

"SEC. 302. ESTABLISHMENT OF COMMODITY RESERVE. 7 USC 1736f–1.

"(a) IN GENERAL.—To provide for a reserve solely to meet emergency humanitarian food needs in developing countries, the Secretary of Agriculture (referred to in this title as the 'Secretary') shall establish a reserve stock of wheat, rice, corn, or sorghum, or any combination of the commodities, totaling not more than 4,000,000 metric tons for use as described in subsection (c).

"(b) COMMODITIES IN RESERVE.—

"(1) IN GENERAL.—The reserve established under this section shall consist of—

"(A) wheat in the reserve established under the Food Security Wheat Reserve Act of 1980 as of the date of enactment of the Federal Agriculture Improvement and Reform Act of 1996;

"(B) wheat, rice, corn, and sorghum (referred to in this section as 'eligible commodities') acquired in accordance with paragraph (2) to replenish eligible commodities released from the reserve, including wheat to replenish wheat released from the reserve established under the Food Security Wheat Reserve Act of 1980 but not replen-

ished as of the date of enactment of the Federal Agriculture Improvement and Reform Act of 1996; and

"(C) such rice, corn, and sorghum as the Secretary may, at such time and in such manner as the Secretary determines appropriate, acquire as a result of exchanging an equivalent value of wheat in the reserve established under this section.

"(2) REPLENISHMENT OF RESERVE.—

"(A) IN GENERAL.—Subject to subsection (h), commodities of equivalent value to eligible commodities in the reserve established under this section may be acquired—

"(i) through purchases—

"(I) from producers; or

"(II) in the market, if the Secretary determines that the purchases will not unduly disrupt the market; or

"(ii) by designation by the Secretary of stocks of eligible commodities of the Commodity Credit Corporation.

"(B) FUNDS.—Any use of funds to acquire eligible commodities through purchases from producers or in the market to replenish the reserve must be authorized in an appropriations Act.

"(c) RELEASE OF ELIGIBLE COMMODITIES.—

"(1) EMERGENCY ASSISTANCE.—

"(A) IN GENERAL.—Notwithstanding paragraph (2), to meet unanticipated need, the Secretary may release eligible commodities in any fiscal year, without regard to the availability of domestic supply of the commodities, to provide emergency assistance to developing countries under title II of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1721 et seq.).

"(B) RELEASE FOR EMERGENCY ASSISTANCE.—If the eligible commodities needed to meet unanticipated need cannot be made available in a timely manner under normal means for obtaining eligible commodities for food assistance because of unanticipated need for emergency assistance as provided under section 202(a) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1722(a)), the Secretary may in any fiscal year release from the reserve—

"(i) up to 500,000 metric tons of wheat or the equivalent value of eligible commodities other than wheat; and

"(ii) up to 500,000 metric tons of any eligible commodities under this paragraph that could have been released but were not released in prior fiscal years.

"(C) WAIVER OF MINIMUM TONNAGE REQUIREMENTS.—Nothing in this paragraph shall require a waiver under section 204(a)(3) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1724(a)(3)) as a prerequisite for the release of eligible commodities under this paragraph.

"(2) EMERGENCY FOOD ASSISTANCE.—Notwithstanding any other provision of law, eligible commodities designated or acquired for the reserve established under this section may

be released by the Secretary to provide, on a donation or sale basis, emergency food assistance to developing countries at such time as the domestic supply of the eligible commodities is so limited that quantities of the eligible commodities cannot be made available for disposition under the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.) (other than disposition for urgent humanitarian purposes under section 401 of the Act (7 U.S.C. 1731)).

"(3) PROCESSING OF ELIGIBLE COMMODITIES.—Eligible commodities that are released from the reserve established under this section may be processed in the United States and shipped to a developing country when conditions in the recipient country require processing.

"(4) EXCHANGE.—The Secretary may exchange an eligible commodity for another United States commodity of equal value, including powdered milk, pulses, and vegetable oil.

"(5) USE OF NORMAL COMMERCIAL PRACTICES.—To the maximum extent practicable consistent with the fulfillment of the purposes of this section and the effective and efficient administration of this section, the Secretary shall use the usual and customary channels, facilities, arrangements, and practices of trade and commerce to carry out this subsection.

"(d) MANAGEMENT OF ELIGIBLE COMMODITIES.—The Secretary shall provide—

"(1) for the management of eligible commodities in the reserve established under this section as to location and quality of eligible commodities needed to meet emergency situations; and

"(2) for the periodic rotation or replacement of stocks of eligible commodities in the reserve to avoid spoilage and deterioration of the commodities.

"(e) TREATMENT OF RESERVE UNDER OTHER LAW.—Eligible commodities in the reserve established under this section shall not be—

"(1) considered a part of the total domestic supply (including carryover) for the purpose of subsection (c) or for the purpose of administering the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.); and

"(2) subject to any quantitative limitation on exports that may be imposed under section 7 of the Export Administration Act of 1979 (50 U.S.C. App. 2406).

"(f) USE OF COMMODITY CREDIT CORPORATION.—

"(1) IN GENERAL.—Subject to the limitations provided in this section, the funds, facilities, and authorities of the Commodity Credit Corporation shall be used by the Secretary in carrying out this section, except that any restriction applicable to the acquisition, storage, or disposition of eligible commodities owned or controlled by the Commodity Credit Corporation shall not apply.

"(2) REIMBURSEMENT.—

"(A) IN GENERAL.—The Commodity Credit Corporation shall be reimbursed for the release of eligible commodities from funds made available to carry out the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.).

"(B) BASIS FOR REIMBURSEMENT.—The reimbursement shall be made on the basis of the lesser of—

"(i) the actual costs incurred by the Commodity Credit Corporation with respect to the eligible commodity; or

"(ii) the export market price of the eligible commodity (as determined by the Secretary) as of the time the eligible commodity is released from the reserve.

"(C) SOURCE OF FUNDS.—The reimbursement may be made from funds appropriated for subsequent fiscal years.

"(g) FINALITY OF DETERMINATION.—Any determination by the Secretary under this section shall be final.

"(h) TERMINATION OF AUTHORITY.—

"(1) IN GENERAL.—The authority to replenish stocks of eligible commodities to maintain the reserve established under this section shall terminate on September 30, 2002.

"(2) DISPOSAL OF ELIGIBLE COMMODITIES.—Eligible commodities remaining in the reserve after September 30, 2002, shall be disposed of by release for use in providing for emergency humanitarian food needs in developing countries as provided in this section.".

(b) CONFORMING AMENDMENT.—Section 208(d) of the Agricultural Trade Suspension Adjustment Act of 1980 (7 U.S.C. 4001(d)) is amended by striking paragraph (2) and inserting the following:

"(2) APPLICABILITY OF CERTAIN PROVISIONS.—Subsections (c), (d), (e), and (f)(2) of section 302 of the Food Security Commodity Reserve Act of 1996 shall apply to commodities in any reserve established under paragraph (1), except that the references to 'eligible commodities' in the subsections shall be deemed to be references to 'agricultural commodities'.".

SEC. 226. PROTEIN BYPRODUCTS DERIVED FROM ALCOHOL FUEL PRODUCTION.

Section 1208 of the Agriculture and Food Act of 1981 (7 U.S.C. 1736n) is repealed.

SEC. 227. FOOD FOR PROGRESS PROGRAM.

The Food for Progress Act of 1985 (7 U.S.C. 1736o) is amended—

(1) in subsection (b)—

(A) in paragraph (1)—

(i) by striking "(b)(1)" and inserting "(b)"; and

(ii) in the first sentence, by inserting "intergovernmental organizations," after "cooperatives,"; and

(B) by striking paragraph (2);

(2) in subsection (e)(4), by striking "203" and inserting "406";

(3) in subsection (f)—

(A) in paragraph (1)(B), by striking "in the case of the independent states of the former Soviet Union,";

(B) by striking paragraph (2);

(C) in paragraph (4), by inserting "for each of fiscal years 1996 through 2002" after "may be used"; and

(D) by redesignating paragraphs (3) through (5) as paragraphs (2) through (4), respectively;

(4) in subsection (g), by striking "1995" and inserting "2002";

(5) in subsection (j), by striking "shall" and inserting "may";

(6) in subsection (k), by striking "1995" and inserting "2002";

(7) in subsection (l)(1)—

(A) by striking "1991 through 1995" and inserting "1996 through 2002"; and

(B) by inserting ", and to provide technical assistance for monetization programs," after "monitoring of food assistance programs"; and

(8) in subsection (m)—

(A) by striking "with respect to the independent states of the former Soviet Union";

(B) by striking "private voluntary organizations and cooperatives" each place it appears and inserting "agricultural trade organizations, intergovernmental organizations, private voluntary organizations, and cooperatives"; and

(C) in paragraph (2), by striking "in the independent states".

SEC. 228. USE OF FOREIGN CURRENCY PROCEEDS FROM EXPORT SALES FINANCING.

Section 402 of the Mutual Security Act of 1954 (22 U.S.C. 1922) is repealed.

SEC. 229. STIMULATION OF FOREIGN PRODUCTION.

Section 7 of the Act of December 30, 1947 (61 Stat. 947, chapter 526; 50 U.S.C. App. 1917), is repealed.

Subtitle B—Amendments to Agricultural Trade Act of 1978

SEC. 241. AGRICULTURAL EXPORT PROMOTION STRATEGY.

(a) IN GENERAL.—Section 103 of the Agricultural Trade Act of 1978 (7 U.S.C. 5603) is amended to read as follows:

"SEC. 103. AGRICULTURAL EXPORT PROMOTION STRATEGY.

"(a) IN GENERAL.—The Secretary shall develop a strategy for implementing Federal agricultural export promotion programs that takes into account the new market opportunities for agricultural products, including opportunities that result from—

"(1) the North American Free Trade Agreement and the Uruguay Round Agreements;

"(2) any accession to membership in the World Trade Organization;

"(3) the continued economic growth in the Pacific Rim; and

"(4) other developments.

"(b) PURPOSE OF STRATEGY.—The strategy developed under subsection (a) shall encourage the maintenance, development, and expansion of export markets for United States agricultural commodities and related products, including high-value and value-added products.

"(c) GOALS OF STRATEGY.—The strategy developed under subsection (a) shall have the following goals:

"(1) Increase the value of United States agricultural exports each year.

"(2) Increase the value of United States agricultural exports each year at a faster rate than the rate of increase in the value of overall world export trade in agricultural products.

"(3) Increase the value of United States high-value and value-added agricultural exports each year.

"(4) Increase the value of United States high-value and value-added agricultural exports each year at a faster rate than the rate of increase in the value of overall world export trade in high-value and value-added agricultural products.

"(5) Ensure that to the extent practicable—

"(A) all obligations undertaken in the Uruguay Round Agreement on Agriculture that significantly increase access for United States agricultural commodities are implemented to the extent required by the Uruguay Round Agreements; or

"(B) applicable United States laws are used to secure United States rights under the Uruguay Round Agreement on Agriculture.

"(d) PRIORITY MARKETS.—

"(1) IDENTIFICATION OF MARKETS.—In developing the strategy required under subsection (a), the Secretary shall annually identify as priority markets—

"(A) those markets in which imports of agricultural products show the greatest potential for increase; and

"(B) those markets in which, with the assistance of Federal export promotion programs, exports of United States agricultural products show the greatest potential for increase.

President. "(2) IDENTIFICATION OF SUPPORTING OFFICES.—The President shall identify annually in the budget of the United States Government submitted under section 1105 of title 31, United States Code, each overseas office of the Foreign Agricultural Service that provides assistance to United States exporters in each of the priority markets identified under paragraph (1).".

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate should conduct a thorough review of agricultural export and food aid programs not later than December 31, 1998; and

(2) the review should examine what changes, if any, need to be made in the programs as a result of the effects of the Agricultural Market Transition Act, the Uruguay Round Agreements, changing world market conditions, and such other factors as the committees consider appropriate.

(c) ELIMINATION OF REPORT.—

(1) IN GENERAL.—Section 601 of the Agricultural Trade Act of 1978 (7 U.S.C. 5711) is repealed.

(2) CONFORMING AMENDMENT.—The last sentence of section 603 of the Agricultural Trade Act of 1978 (7 U.S.C. 5713) is amended by striking ", in a consolidated report," and all that follows through "section 601" and inserting "or in a consolidated report".

SEC. 242. IMPLEMENTATION OF COMMITMENTS UNDER URUGUAY ROUND AGREEMENTS.

(a) IN GENERAL.—Title I of the Agricultural Trade Act of 1978 (7 U.S.C. 5601 et seq.) is amended by adding at the end the following:

"SEC. 106. IMPLEMENTATION OF COMMITMENTS UNDER URUGUAY ROUND AGREEMENTS.

Evaluation.
7 USC 5606.

"Not later than September 30 of each year, the Secretary shall evaluate whether the obligations undertaken by foreign countries under the Uruguay Round Agreement on Agriculture are being fully implemented. If the Secretary has reason to believe (based on the evaluation) that any foreign country, by not implementing the obligations of the country, may be significantly constraining an opportunity for United States agricultural exports, the Secretary shall—

"(1) submit the evaluation to the United States Trade Representative; and

"(2) transmit a copy of the evaluation to the Committee on Agriculture, and the Committee on Ways and Means, of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry, and the Committee on Finance, of the Senate.".

(b) MONITORING COMPLIANCE WITH SANITARY AND PHYTOSANITARY MEASURES.—Section 414 of the Agricultural Trade Act of 1978 (7 U.S.C. 5674) is amended by adding at the end the following:

"(c) MONITORING COMPLIANCE WITH SANITARY AND PHYTOSANITARY MEASURES.—The Secretary shall monitor the compliance of World Trade Organization member countries with the sanitary and phytosanitary measures of the Agreement on Agriculture of the Uruguay Round of Multilateral Trade Negotiations of the General Agreement on Tariffs and Trade. If the Secretary has reason to believe that any country may have failed to meet the commitment on sanitary and phytosanitary measures under the Agreement in a manner that adversely impacts the exports of a United States agricultural commodity, the Secretary shall—

"(1) provide such information to the United States Trade Representative of the circumstances surrounding the matter arising under this subsection; and

"(2) with respect to any such circumstances that the Secretary considers to have a continuing adverse effect on United States agricultural exports, report to the Committee on Agriculture, and the Committee on Ways and Means, of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry, and the Committee on Finance, of the Senate— Reports.

"(A) that a country may have failed to meet the sanitary and phytosanitary commitments; and

"(B) any notice given by the Secretary to the United States Trade Representative.".

SEC. 243. EXPORT CREDITS.

(a) EXPORT CREDIT GUARANTEE PROGRAM.—Section 202 of the Agricultural Trade Act of 1978 (7 U.S.C. 5622) is amended—

(1) in subsection (a)—

(A) by striking "GUARANTEES.—The" and inserting the following: "GUARANTEES.—

"(1) IN GENERAL.—The"; and

(B) by adding at the end the following:

"(2) SUPPLIER CREDITS.—In carrying out this section, the Commodity Credit Corporation may issue guarantees for the

repayment of credit made available for a period of not more than 180 days by a United States exporter to a buyer in a foreign country.";

(2) in subsection (f)—

(A) by striking "(f) RESTRICTIONS.—The" and inserting the following:

"(f) RESTRICTIONS.—

"(1) IN GENERAL.—The"; and

(B) by adding at the end the following:

"(2) CRITERIA FOR DETERMINATION.—In making the determination required under paragraph (1) with respect to credit guarantees under subsection (b) for a country, the Secretary may consider, in addition to financial, macroeconomic, and monetary indicators—

"(A) whether an International Monetary Fund standby agreement, Paris Club rescheduling plan, or other economic restructuring plan is in place with respect to the country;

"(B) whether the country is addressing issues such as—

"(i) the convertibility of the currency of the country;

"(ii) adequate legal protection for foreign investments;

"(iii) the viability of the financial markets of the country; and

"(iv) adequate legal protection for the private property rights of citizens of the country; or

"(C) any other factors that are relevant to the ability of the country to service the debt of the country.";

(3) by striking subsection (h) and inserting the following:

"(h) UNITED STATES AGRICULTURAL COMMODITIES.—The Commodity Credit Corporation shall finance or guarantee under this section only United States agricultural commodities.";

(4) in subsection (i)—

(A) by striking paragraph (1);

(B) by striking "INSTITUTIONS.—A financial" and inserting the following: "INSTITUTIONS.—

"(1) IN GENERAL.—A financial";

(C) by striking "(2) is" and inserting the following: "(A) is";

(D) by striking "(3) is" and inserting the following: "(B) is"; and

(E) by adding at the end the following:

"(2) THIRD COUNTRY BANKS.—The Commodity Credit Corporation may guarantee under subsections (a) and (b) the repayment of credit made available to finance an export sale irrespective of whether the obligor is located in the country to which the export sale is destined."; and

(5) by striking subsection (k) and inserting the following:

"(k) PROCESSED AND HIGH-VALUE PRODUCTS.—

"(1) IN GENERAL.—In issuing export credit guarantees under this section, the Commodity Credit Corporation shall, subject to paragraph (2), ensure that not less than 25 percent for each of fiscal years 1996 and 1997, 30 percent for each of fiscal years 1998 and 1999, and 35 percent for each of fiscal years 2000, 2001, and 2002, of the total amount of credit guarantees issued for a fiscal year is issued to promote the export of processed or high-value agricultural products and

that the balance is issued to promote the export of bulk or raw agricultural commodities.

"(2) LIMITATION.—The percentage requirement of paragraph (1) shall apply for a fiscal year to the extent that a reduction in the total amount of credit guarantees issued for the fiscal year is not required to meet the percentage requirement.".

(b) FUNDING LEVELS.—Section 211 of the Agricultural Trade Act of 1978 (7 U.S.C. 5641) is amended by striking subsection (b) and inserting the following:

"(b) EXPORT CREDIT GUARANTEE PROGRAMS.—

"(1) EXPORT CREDIT GUARANTEES.—The Commodity Credit Corporation shall make available for each of fiscal years 1996 through 2002 not less than $5,500,000,000 in credit guarantees under subsections (a) and (b) of section 202.

"(2) LIMITATION ON ORIGINATION FEE.—Notwithstanding any other provision of law, the Secretary may not charge an origination fee with respect to any credit guarantee transaction under section 202(a) in excess of an amount equal to 1 percent of the amount of credit to be guaranteed under the transaction, except with respect to an export credit guarantee transaction pursuant to section 1542(b) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 7 U.S.C. 5622 note).".

(c) DEFINITION OF UNITED STATES AGRICULTURAL COMMODITY.—Section 102(7) of the Agricultural Trade Act of 1978 (7 U.S.C. 5602(7)) is amended by striking subparagraphs (A) and (B) and inserting the following:

"(A) an agricultural commodity or product entirely produced in the United States; or

"(B) a product of an agricultural commodity—

"(i) 90 percent or more of the agricultural components of which by weight, excluding packaging and added water, is entirely produced in the United States; and

"(ii) that the Secretary determines to be a high value agricultural product.".

(d) REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Secretary of Agriculture shall issue regulations to carry out the amendments made by this section. 7 USC 5622 note.

SEC. 244. MARKET ACCESS PROGRAM.

(a) CHANGE OF NAME.—

(1) IN GENERAL.—Section 203 of the Agricultural Trade Act of 1978 (7 U.S.C. 5623) is amended—

(A) in the section heading, by striking "**MARKET PROMOTION PROGRAM**" and inserting "**MARKET ACCESS PROGRAM**"; and

(B) by striking "marketing promotion program" each place it appears and inserting "market access program".

(2) CONFORMING AMENDMENTS.—

(A) Section 1302 of the Omnibus Budget Reconciliation Act of 1993 (Public Law 103–66; 7 U.S.C. 5623) is amended—

(i) in the section heading, by striking "**MARKET PROMOTION PROGRAM**" and inserting "**MARKET ACCESS PROGRAM**"; and

7 USC 5623 note.

(ii) in subsection (b), by striking "market promotion program" each place it appears and inserting "market access program".

(B) Section 211(c) of the Agricultural Trade Act of 1978 (7 U.S.C. 5641(c)) is amended—

(i) in the subsection heading, by striking "MARKETING PROMOTION PROGRAMS" and inserting "MARKET ACCESS PROGRAMS";

(ii) by striking "market promotion activities" and inserting "market access activities";

(iii) in paragraph (1), by striking "market development program" and inserting "market access program"; and

(iv) in paragraph (2), by striking "marketing promotion program" and inserting "market access program".

(b) USE OF FUNDS.—Section 203(f) of the Agricultural Trade Act of 1978 (7 U.S.C. 5623(f)) is amended by adding at the end the following:

"(4) USE OF FUNDS.—Funds made available to carry out this section—

"(A) shall not be used to provide direct assistance to any foreign for-profit corporation for the corporation's use in promoting foreign-produced products;

"(B) shall not be used to provide direct assistance to any for-profit corporation that is not recognized as a small-business concern described in section 3(a) of the Small Business Act (15 U.S.C. 632(a)), excluding—

"(i) a cooperative;

"(ii) an association described in the first section of the Act entitled 'An Act To authorize association of producers of agricultural products', approved February 18, 1922 (7 U.S.C. 291); and

"(iii) a nonprofit trade association; and

"(C) may be used by a United States trade association, cooperative, or small business for individual branded promotional activity related to a United States branded product, if the beneficiaries of the activity have provided funds for the activity in an amount that is at least equivalent to the amount of assistance provided under this section.".

Effective date.

(c) FUNDING.—Effective October 1, 1995, section 211(c)(1) of the Agricultural Trade Act of 1978 (7 U.S.C. 5641(c)(1)) is amended—

(1) by striking "and" after "1991 through 1993,"; and

(2) by striking "through 1997," and inserting "through 1995, and not more than $90,000,000 for each of fiscal years 1996 through 2002,".

SEC. 245. EXPORT ENHANCEMENT PROGRAM.

Effective date.

(a) IN GENERAL.—Effective October 1, 1995, section 301(e) of the Agricultural Trade Act of 1978 (7 U.S.C. 5651(e)) is amended by striking paragraph (1) and inserting the following:

"(1) IN GENERAL.—The Commodity Credit Corporation shall make available to carry out the program established under this section not more than—

"(A) $350,000,000 for fiscal year 1996;

"(B) $250,000,000 for fiscal year 1997;

"(C) $500,000,000 for fiscal year 1998;
"(D) $550,000,000 for fiscal year 1999;
"(E) $579,000,000 for fiscal year 2000;
"(F) $478,000,000 for fiscal year 2001; and
"(G) $478,000,000 for fiscal year 2002.".

(b) PRIORITY FUNDING FOR INTERMEDIATE PRODUCTS.—Section 301 of the Agricultural Trade Act of 1978 (7 U.S.C. 5651) is amended by adding at the end the following:

"(h) PRIORITY FUNDING FOR INTERMEDIATE PRODUCTS.—

"(1) IN GENERAL.—Effective beginning in fiscal year 1996, and consistent, as determined by the Secretary, with the obligations and reduction commitments undertaken by the United States under the Uruguay Round Agreements, the Secretary may make available not more than $100,000,000 for each fiscal year under this section for the sale of intermediate agricultural products in sufficient quantities to attain the volume of export sales consistent with the volume of intermediate agricultural products exported by the United States during the Uruguay Round base period years of 1986 through 1990. Effective date.

"(2) ADDITIONAL ASSISTANCE.—Notwithstanding paragraph (1), if the export sale of any intermediate agricultural product attains the volume of export sales consistent with the volume of the intermediate agricultural product exported by the United States during the Uruguay Round base period years of 1986 through 1990, the Secretary may make available additional amounts under this section for the encouragement of export sales of the intermediate agricultural product.".

SEC. 246. ARRIVAL CERTIFICATION.

Section 401 of the Agricultural Trade Act of 1978 (7 U.S.C. 5661) is amended by striking subsection (a) and inserting the following:

"(a) ARRIVAL CERTIFICATION.—With respect to a commodity provided, or for which financing or a credit guarantee or other assistance is made available, under a program authorized in section 201, 202, or 301, the Commodity Credit Corporation shall require the exporter of the commodity to maintain records of an official or customary commercial nature or other documents as the Secretary may require, and shall allow representatives of the Commodity Credit Corporation access to the records or documents as needed, to verify the arrival of the commodity in the country that is the intended destination of the commodity.". Records.

SEC. 247. COMPLIANCE.

Section 402(a) of the Agricultural Trade Act of 1978 (7 U.S.C. 5662(a)) is amended—

(1) by striking paragraph (2); and
(2) by redesignating paragraph (3) as paragraph (2).

SEC. 248. REGULATIONS.

Section 404 of the Agricultural Trade Act of 1978 (7 U.S.C. 5664) is repealed.

SEC. 249. TRADE COMPENSATION AND ASSISTANCE PROGRAMS.

Subtitle B of title IV of the Agricultural Trade Act of 1978 (7 U.S.C. 5671 et seq.) is amended by adding at the end the following:

7 USC 5677.

"SEC. 417. TRADE COMPENSATION AND ASSISTANCE PROGRAMS.

"(a) IN GENERAL.—Except as provided in subsection (f), notwithstanding any other provision of law, if, after the date of enactment of this section, the President or any other member of the executive branch causes exports from the United States to any country to be unilaterally suspended for reasons of national security or foreign policy, and if within 90 days after the date on which the suspension is imposed on United States exports no other country with an agricultural economic interest agrees to participate in the suspension, the Secretary shall carry out a trade compensation assistance program in accordance with this section (referred to in this section as a 'program').

"(b) COMPENSATION OR PROVISION OF FUNDS.—Under a program, the Secretary shall, based on an evaluation by the Secretary of the method most likely to produce the greatest compensatory benefit for producers of the commodity involved in the suspension—

"(1) compensate producers of the commodity by making payments available to producers, as provided by subsection (c)(1); or

"(2) make available an amount of funds calculated under subsection (c)(2), to promote agricultural exports or provide agricultural commodities to developing countries under any authorities available to the Secretary.

"(c) DETERMINATION OF AMOUNT OF COMPENSATION OR FUNDS.—

"(1) COMPENSATION.—If the Secretary makes payments available to producers under subsection (b)(1), the amount of the payment shall be determined by the Secretary based on the Secretary's estimate of the loss suffered by producers of the commodity involved due to any decrease in the price of the commodity as a result of the suspension.

"(2) DETERMINATION OF AMOUNT OF FUNDS.—For each fiscal year of a program, the amount of funds made available under subsection (b)(2) shall be equal to 90 percent of the average annual value of United States agricultural exports to the country with respect to which exports are suspended during the most recent 3 years prior to the suspension for which data are available.

"(d) DURATION OF PROGRAM.—For each suspension of exports for which a program is implemented under this section, funds shall be made available under subsection (b) for each fiscal year or part of a fiscal year for which the suspension is in effect, but not to exceed 3 fiscal years.

"(e) COMMODITY CREDIT CORPORATION.—The Secretary shall use funds of the Commodity Credit Corporation to carry out this section.

"(f) EXCEPTION TO CARRYING OUT A PROGRAM.—This section shall not apply to any suspension of trade due to a war or armed hostility.

"(g) PARTIAL YEAR EMBARGOES.—If the Secretary makes funds available under subsection (b)(2), regardless of whether an embargo is in effect for only part of a fiscal year, the full amount of funds as calculated under subsection (c)(2) shall be made available under a program for the fiscal year. If the Secretary determines that making the required amount of funds available in a partial fiscal year is impracticable, the Secretary may make all or part of the funds required to be made available in the following fiscal year

(in addition to any funds otherwise required under a program to be made available in the following fiscal year).

"(h) SHORT SUPPLY EMBARGOES.—If the President or any other member of the executive branch causes exports to be suspended based on a determination of short supply, the Secretary shall carry out section 1002 of the Food and Agriculture Act of 1977 (7 U.S.C. 1310).".

SEC. 250. FOREIGN AGRICULTURAL SERVICE.

Section 503 of the Agricultural Trade Act of 1978 (7 U.S.C. 5693) is amended to read as follows:

"SEC. 503. DUTIES OF FOREIGN AGRICULTURAL SERVICE.

"The Service shall assist the Secretary in carrying out the agricultural trade policy and international cooperation policy of the United States by—

"(1) acquiring information pertaining to agricultural trade;

"(2) carrying out market promotion and development activities;

"(3) providing agricultural technical assistance and training; and

"(4) carrying out the programs authorized under this Act, the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.), and other Acts.".

SEC. 251. REPORTS.

The first sentence of section 603 of the Agricultural Trade Act of 1978 (7 U.S.C. 5713) is amended by striking "The" and inserting "Subject to section 217 of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6917), the".

SEC. 252. FOREIGN MARKET DEVELOPMENT COOPERATOR PROGRAM.

The Agricultural Trade Act of 1978 (7 U.S.C. 5601 et seq.) is amended by adding at the end the following:

"TITLE VII—FOREIGN MARKET DEVELOPMENT COOPERATOR PROGRAM

"SEC. 701. DEFINITION OF ELIGIBLE TRADE ORGANIZATION. 7 USC 5721.

"In this title, the term 'eligible trade organization' means a United States trade organization that—

"(1) promotes the export of 1 or more United States agricultural commodities or products; and

"(2) does not have a business interest in or receive remuneration from specific sales of agricultural commodities or products.

"SEC. 702. FOREIGN MARKET DEVELOPMENT COOPERATOR PROGRAM. Establishment. 7 USC 5722.

"(a) IN GENERAL.—The Secretary shall establish and, in cooperation with eligible trade organizations, carry out a foreign market development cooperator program to maintain and develop foreign markets for United States agricultural commodities and products.

"(b) ADMINISTRATION.—Funds made available to carry out this title shall be used only to provide—

"(1) cost-share assistance to an eligible trade organization under a contract or agreement with the organization; and

"(2) assistance for other costs that are necessary or appropriate to carry out the foreign market development cooperator program, including contingent liabilities that are not otherwise funded.

7 USC 5723.

"SEC. 703. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this title such sums as may be necessary for each of fiscal years 1996 through 2002.".

Subtitle C—Miscellaneous Agricultural Trade Provisions

7 USC 5678.

SEC. 261. EDWARD R. MADIGAN UNITED STATES AGRICULTURAL EXPORT EXCELLENCE AWARD.

(a) FINDINGS.—Congress finds that—

(1) United States producers of agricultural products are some of the most productive and efficient producers of agricultural products in the world;

(2) continued growth and expansion of markets for United States agricultural exports is crucial to the continued development and economic well-being of rural areas of the United States and the agricultural sector of the United States economy;

(3) in recent years, United States agricultural exports have steadily increased, surpassing $54,000,000,000 in value in 1995;

(4) as United States agricultural producers move toward a market-oriented system in which planting and other decisions by producers are driven by national and international market signals, developing new and expanding agricultural export markets is vital to maintaining a vibrant and healthy agricultural sector and rural economy; and

(5) a United States agricultural export excellence award will increase United States agricultural exports by—

(A) identifying efforts of United States entities to develop and expand markets for United States agricultural exports through the development of new products and services and through the use of innovative marketing techniques;

(B) recognizing achievements of those who have exhibited or supported entrepreneurial efforts to expand and create new markets for United States agricultural exports or increase the volume or value of United States agricultural exports; and

(C) disseminating information on successful methods used to develop and expand markets for United States agricultural exports.

(b) ESTABLISHMENT.—There is established the Edward R. Madigan United States Agricultural Export Excellence Award, which shall be evidenced by a medal bearing the inscription "Edward R. Madigan United States Agricultural Export Excellence Award". The medal shall be of such design and materials and bear such additional inscriptions as the Secretary of Agriculture (referred to in this section as the "Secretary") may prescribe.

President.

(c) SELECTION OF RECIPIENT.—The President or the Secretary (on the basis of recommendations received from the board established under subsection (h)) shall periodically provide the award

to companies and other entities that in the judgment of the President or the Secretary substantially encourage entrepreneurial efforts in the food and agriculture sector for advancing United States agricultural exports.

(d) PRESENTATION OF AWARD.—The presentation of the award shall be made by the President or the Secretary with such ceremonies as the President or the Secretary considers proper. President.

(e) PUBLICATION OF AWARD.—An entity to which an award is made under this section may publicize the receipt of the award by the entity and use the award in advertising of the entity.

(f) CATEGORIES FOR WHICH AWARD MAY BE GIVEN.—Separate awards shall be made to qualifying entities in each of the following categories:

(1) Development of new products or services for agricultural export markets.

(2) Development of new agricultural export markets.

(3) Creative marketing of products or services in agricultural export markets.

(g) CRITERIA FOR QUALIFICATION.—An entity may qualify for an award under this section only if the entity—

(1)(A) applies to the board established under subsection (h) in writing for the award; or

(B) is recommended for the award by a Governor of a State;

(2)(A) has exhibited significant entrepreneurial effort to create new markets for United States agricultural exports or increase United States agricultural exports; or

(B) has provided significant assistance to others in an effort to create new markets for United States agricultural exports or increase United States agricultural exports;

(3) has not received another award in the same category under subsection (f) during the preceding 5-year period; and

(4) meets such other requirements and specifications as the Secretary determines are appropriate to achieve the objectives of this section.

(h) BOARD.—

(1) SELECTION.—The Secretary shall appoint a board of evaluators, consisting of at least 5 individuals from the private sector selected for their knowledge and experience in exporting United States agricultural products.

(2) MEETINGS.—The board shall meet at least once annually to review and evaluate all applicants and entities recommended by States under subsection (g)(1).

(3) RECOMMENDATIONS OF BOARD.—The board shall report its recommendations concerning the making of the award to the Secretary. Reports.

(4) TERM.—Each member of the board may serve a term of not to exceed 3 years.

(i) FUNDING.—The Secretary may seek and accept gifts from public and private sources to carry out this section.

SEC. 262. REPORTING REQUIREMENTS RELATING TO TOBACCO.

Section 214 of the Tobacco Adjustment Act of 1983 (7 U.S.C. 509) is repealed.

SEC. 263. TRIGGERED EXPORT ENHANCEMENT.

(a) READJUSTMENT OF SUPPORT LEVELS.—Section 1302 of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508; 7 U.S.C. 1421 note) is repealed.

(b) TRIGGERED MARKETING LOANS AND EXPORT ENHANCEMENT.—Section 4301 of the Omnibus Trade and Competitiveness Act of 1988 (Public Law 100–418; 7 U.S.C. 1446 note) is repealed.

7 USC 1421 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective beginning with the 1996 crops of wheat, feed grains, upland cotton, and rice.

SEC. 264. DISPOSITION OF COMMODITIES TO PREVENT WASTE.

Section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431) is amended—

(1) in subsection (b)—

(A) in paragraph (7)—

(i) in subparagraph (D)(iv), by striking "one year of acquisition" and all that follows through the period at the end and inserting the following: "a reasonable length of time, as determined by the Secretary, except that the Secretary may permit the use of proceeds in a country other than the country of origin—

"(I) as necessary to expedite the transportation of commodities and products furnished under this subsection; or

"(II) if the proceeds are generated in a currency generally accepted in the other country."; and

(ii) by striking the sentence following subparagraph (F) and inserting the following: "The Secretary may approve the use of proceeds or services realized from the sale or barter of a commodity furnished under this subsection by a nonprofit voluntary agency, cooperative, or intergovernmental agency or organization to meet administrative expenses incurred in connection with activities undertaken under this subsection.";

(B) in paragraph (8), by striking subparagraph (C); and

(C) by striking paragraphs (10), (11), and (12); and

(2) by striking subsection (c).

SEC. 265. DEBT-FOR-HEALTH-AND-PROTECTION SWAP.

(a) IN GENERAL.—Section 1517 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1706) is repealed.

(b) TECHNICAL AMENDMENT.—Subsection (e)(3) of the Food for Progress Act of 1985 (7 U.S.C. 1736o(e)(3)) is amended by striking "section 106" and inserting "section 103".

SEC. 266. POLICY ON EXPANSION OF INTERNATIONAL MARKETS.

Section 1207 of the Agriculture and Food Act of 1981 (7 U.S.C. 1736m) is repealed.

SEC. 267. POLICY ON MAINTENANCE AND DEVELOPMENT OF EXPORT MARKETS.

Section 1121 of the Food Security Act of 1985 (7 U.S.C. 1736p) is amended—

(1) by striking subsection (a); and

(2) in subsection (b)—

(A) by striking "(b)"; and

(B) by striking paragraphs (1) through (4) and inserting the following:

"(1) be the premier supplier of agricultural and food products to world markets and expand exports of high value products;

"(2) support the principle of free trade and the promotion of fair trade in agricultural commodities and products;

"(3) cooperate fully in all efforts to negotiate with foreign countries further reductions in tariff and nontariff barriers to trade, including sanitary and phytosanitary measures and trade-distorting subsidies;

"(4) aggressively counter unfair foreign trade practices as a means of encouraging fairer trade;".

SEC. 268. POLICY ON TRADE LIBERALIZATION.

Section 1122 of the Food Security Act of 1985 (7 U.S.C. 1736q) is repealed.

SEC. 269. AGRICULTURAL TRADE NEGOTIATIONS.

Section 1123 of the Food Security Act of 1985 (7 U.S.C. 1736r) is amended to read as follows:

"SEC. 1123. TRADE NEGOTIATIONS POLICY.

"(a) FINDINGS.—Congress finds that—

"(1) on a level playing field, United States producers are the most competitive suppliers of agricultural products in the world;

"(2) exports of United States agricultural products accounted for $54,000,000,000 in 1995, contributing a net $24,000,000,000 to the merchandise trade balance of the United States and supporting approximately 1,000,000 jobs;

"(3) increased agricultural exports are critical to the future of the farm, rural, and overall United States economy, but the opportunities for increased agricultural exports are limited by the unfair subsidies of the competitors of the United States, and a variety of tariff and nontariff barriers to highly competitive United States agricultural products;

"(4) international negotiations can play a key role in breaking down barriers to United States agricultural exports;

"(5) the Uruguay Round Agreement on Agriculture made significant progress in the attainment of increased market access opportunities for United States exports of agricultural products, for the first time—

"(A) restraining foreign trade-distorting domestic support and export subsidy programs; and

"(B) developing common rules for the application of sanitary and phytosanitary restrictions;

that should result in increased exports of United States agricultural products, jobs, and income growth in the United States;

"(6) the Uruguay Round Agreement on Agriculture did not succeed in completely eliminating trade distorting domestic support and export subsidies by—

"(A) allowing the European Union to continue unreasonable levels of spending on export subsidies; and

"(B) failing to discipline monopolistic state trading entities, such as the Canadian Wheat Board, that use

nontransparent and discriminatory pricing as a hidden de facto export subsidy;

"(7) during the period 1996 through 2002, there will be several opportunities for the United States to negotiate fairer trade in agricultural products, including further negotiations under the World Trade Organization, and steps toward possible free trade agreements of the Americas and Asian-Pacific Economic Cooperation (APEC); and

"(8) the United States should aggressively use these opportunities to achieve more open and fair opportunities for trade in agricultural products.

"(b) GOALS OF THE UNITED STATES IN AGRICULTURAL TRADE NEGOTIATIONS.—The objectives of the United States with respect to future negotiations on agricultural trade include—

"(1) increasing opportunities for United States exports of agricultural products by eliminating tariff and nontariff barriers to trade;

"(2) leveling the playing field for United States producers of agricultural products by limiting per unit domestic production supports to levels that are no greater than those available in the United States;

"(3) ending the practice of export dumping by eliminating all trade distorting export subsidies and disciplining state trading entities so that they do not (except in cases of bona fide food aid) sell in foreign markets at prices below domestic market prices or prices below their full costs of acquiring and delivering agricultural products to the foreign markets; and

"(4) encouraging government policies that avoid price-depressing surpluses.".

SEC. 270. POLICY ON UNFAIR TRADE PRACTICES.

Section 1164 of the Food Security Act of 1985 (Public Law 99–198; 99 Stat. 1499) is repealed.

SEC. 271. AGRICULTURAL AID AND TRADE MISSIONS.

(a) IN GENERAL.—The Agricultural Aid and Trade Missions Act (7 U.S.C. 1736bb et seq.) is repealed.

(b) CONFORMING AMENDMENT.—Section 7 of Public Law 100–277 (7 U.S.C. 1736bb note) is repealed.

SEC. 272. ANNUAL REPORTS BY AGRICULTURAL ATTACHES.

Section 108(b)(1)(B) of the Agricultural Act of 1954 (7 U.S.C. 1748(b)(1)(B)) is amended by striking "including fruits, vegetables, legumes, popcorn and ducks".

SEC. 273. WORLD LIVESTOCK MARKET PRICE INFORMATION.

Section 1545 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 7 U.S.C. 1761 note) is repealed.

SEC. 274. ORDERLY LIQUIDATION OF STOCKS.

Sections 201 and 207 of the Agricultural Act of 1956 (7 U.S.C. 1851 and 1857) are repealed.

SEC. 275. SALES OF EXTRA LONG STAPLE COTTON.

Section 202 of the Agricultural Act of 1956 (7 U.S.C. 1852) is repealed.

SEC. 276. REGULATIONS.

Section 707 of the Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992 (Public Law 102–511; 7 U.S.C. 5621 note) is amended by striking subsection (d).

SEC. 277. EMERGING MARKETS.

(a) PROMOTION OF AGRICULTURAL EXPORTS TO EMERGING MARKETS.—

(1) EMERGING MARKETS.—Section 1542 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 7 U.S.C. 5622 note) is amended—

(A) in the section heading, by striking "**EMERGING DEMOCRACIES**" and inserting "**EMERGING MARKETS**";

(B) by striking "emerging democracies" each place it appears in subsections (b), (d), and (e) and inserting "emerging markets";

(C) in subsection (c), by striking "emerging democracy" each place it appears and inserting "emerging market"; and

(D) by striking subsection (f) and inserting the following:

"(f) EMERGING MARKET.—In this section and section 1543, the term 'emerging market' means any country that the Secretary determines—

"(1) is taking steps toward a market-oriented economy through the food, agriculture, or rural business sectors of the economy of the country; and

"(2) has the potential to provide a viable and significant market for United States agricultural commodities or products of United States agricultural commodities.".

(2) FUNDING.—Section 1542 of the Food, Agriculture, Conservation, and Trade Act of 1990 is amended by striking subsection (a) and inserting the following:

"(a) FUNDING.—The Commodity Credit Corporation shall make available for fiscal years 1996 through 2002 not less than $1,000,000,000 of direct credits or export credit guarantees for exports to emerging markets under section 201 or 202 of the Agricultural Trade Act of 1978 (7 U.S.C. 5621 and 5622), in addition to the amounts acquired or authorized under section 211 of the Act (7 U.S.C. 5641) for the program.".

(3) AGRICULTURAL FELLOWSHIP PROGRAM.—Section 1542 of the Food, Agriculture, Conservation, and Trade Act of 1990 is amended—

(A) in subsection (b), by striking the last sentence and inserting the following: "The Commodity Credit Corporation shall give priority under this subsection to—

"(A) projects that encourage the privatization of the agricultural sector or that benefit private farms or cooperatives in emerging markets; and

"(B) projects for which nongovernmental persons agree to assume a relatively larger share of the costs."; and

(B) in subsection (d)—

(i) in the matter preceding paragraph (1), by striking "the Soviet Union" and inserting "emerging markets";

(ii) in paragraph (1)—

(I) in subparagraph (A)(i)—

(aa) by striking "1995" and inserting "2002"; and

(bb) by striking "those systems, and identify" and inserting "the systems, including potential reductions in trade barriers, and identify and carry out";

(II) in subparagraph (B), by striking "shall" and inserting "may";

(III) in subparagraph (D), by inserting "(including the establishment of extension services)" after "technical assistance";

(IV) by striking subparagraph (F); and

(V) by redesignating subparagraphs (G), (H), and (I) as subparagraphs (F), (G), and (H), respectively;

(iii) in paragraph (2)—

(I) by striking "the Soviet Union" each place it appears and inserting "emerging markets";

(II) in subparagraph (A), by striking "a free market food production and distribution system" and inserting "free market food production and distribution systems";

(III) in subparagraph (B)—

(aa) in clause (i), by striking "Government" and inserting "governments";

(bb) in clause (iii)(II), by striking "and" at the end;

(cc) in clause (iii)(III), by striking the period at the end and inserting "; and"; and

(dd) by adding at the end of clause (iii) the following:

"(IV) to provide for the exchange of administrators and faculty members from agricultural and other institutions to strengthen and revise educational programs in agricultural economics, agribusiness, and agrarian law, to support change towards a free market economy in emerging markets.";

(IV) by striking subparagraph (D); and

(V) by redesignating subparagraph (E) as subparagraph (D); and

(iv) by striking paragraph (3).

(4) UNITED STATES AGRICULTURAL COMMODITY.—Subsections (b) and (c) of section 1542 of the Food, Agriculture, Conservation, and Trade Act of 1990 are amended by striking "section 101(6)" each place it appears and inserting "section 102(7)".

7 USC 5622 note.

(5) REPORT.—The first sentence of section 1542(e)(2) of the Food, Agriculture, Conservation, and Trade Act of 1990 is amended by striking "Not" and inserting "Subject to section 217 of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6917), not".

(b) AGRICULTURAL FELLOWSHIP PROGRAM FOR MIDDLE INCOME COUNTRIES, EMERGING DEMOCRACIES, AND EMERGING MARKETS.—Section 1543 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 3293) is amended—

(1) in the section heading, by striking "**MIDDLE INCOME COUNTRIES AND EMERGING DEMOCRACIES**" and inserting "**MIDDLE INCOME COUNTRIES, EMERGING DEMOCRACIES, AND EMERGING MARKETS**";

(2) in subsection (b), by adding at the end the following:

"(5) EMERGING MARKET.—Any emerging market, as defined in section 1542(f).''; and

(3) in subsection (c)(1), by striking "food needs" and inserting "food and fiber needs".

(c) CONFORMING AMENDMENTS.—

(1) Section 501 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1737) is amended—

(A) in subsection (a), by striking "emerging democracies" and inserting "emerging markets"; and

(B) in subsection (b), by striking paragraph (1) and inserting the following:

"(1) EMERGING MARKET.—The term 'emerging market' means any country that the Secretary determines—

"(A) is taking steps toward a market-oriented economy through the food, agriculture, or rural business sectors of the economy of the country; and

"(B) has the potential to provide a viable and significant market for United States agricultural commodities or products of United States agricultural commodities.''.

(2) Section 201(d)(1)(C)(ii) of the Agricultural Trade Act of 1978 (7 U.S.C. 5621(d)(1)(C)(ii)) is amended by striking "emerging democracies" and inserting "emerging markets".

(3) Section 202(d)(3)(B) of the Agricultural Trade Act of 1978 (7 U.S.C. 5622(d)(3)(B)) is amended by striking "emerging democracies" and inserting "emerging markets".

SEC. 278. REIMBURSEMENT FOR OVERHEAD EXPENSES.

Section 1542(d)(1)(D) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 7 U.S.C. 5622 note) is amended by adding at the end the following: "Notwithstanding any other provision of law, the assistance shall include assistance for administrative and overhead expenses of the International Cooperation and Development Program Area of the Foreign Agriculture Service, to the extent that the expenses were incurred pursuant to reimbursable agreements entered into prior to September 30, 1993, the expenses do not exceed $2,000,000 per year, and the expenses are not incurred for information technology systems.''.

SEC. 279. LABELING OF DOMESTIC AND IMPORTED LAMB AND MUTTON.

Section 7 of the Federal Meat Inspection Act (21 U.S.C. 607) is amended by adding at the end the following:

"(f) LAMB AND MUTTON.—The Secretary, consistent with United States international obligations, shall establish standards for the labeling of sheep carcasses, parts of sheep carcasses, sheepmeat, and sheepmeat food products.''. Standards.

SEC. 280. IMPORT ASSISTANCE FOR CBI BENEFICIARY COUNTRIES AND THE PHILIPPINES.

Section 583 of Public Law 100–202 (101 Stat. 1329–182) is repealed.

SEC. 281. STUDIES, REPORTS, AND OTHER PROVISIONS.

7 USC 624 note.

(a) IN GENERAL.—Sections 1551 through 1555, section 1558, and section 1559 of subtitle E of title XV of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3696) (as redesignated by section 1011(d) of the Federal Reports Elimination and Sunset Act of 1995 (Public Law 104–66; 109 Stat. 709)) are repealed.

(b) LANGUAGE PROFICIENCY.—Section 1556 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 7 U.S.C. 5694 note) is amended by striking subsection (c).

SEC. 282. SENSE OF CONGRESS CONCERNING MULTILATERAL DISCIPLINES ON CREDIT GUARANTEES.

It is the sense of Congress that—

(1) in negotiations to establish multilateral disciplines on agricultural export credits and credit guarantees, the United States should not agree to any arrangement that is incompatible with the provisions of United States law that authorize agricultural export credits and credit guarantees;

(2) in the negotiations (which are held under the auspices of the Organization for Economic Cooperation and Development), the United States should not reach any agreement that fails to impose disciplines on the practices of foreign government trading entities such as the Australian Wheat Board, the Canadian Wheat Board, the New Zealand Dairy Board, and the Australian Dairy Board; and

(3) the disciplines should include greater openness in the operations of the entities as long as the entities are subsidized by the foreign government or have monopolies for exports of a commodity that are sanctioned by the foreign government.

22 USC 288 note.

SEC. 283. INTERNATIONAL COTTON ADVISORY COMMITTEE.

President.

(a) IN GENERAL.—The President shall ensure that the Government of the United States participates as a full member of the International Cotton Advisory Committee.

(b) REPRESENTATION BY THE SECRETARY.—The Secretary of Agriculture shall represent the Government of the United States as a member of the International Cotton Advisory Committee and shall delegate the primary responsibility to represent the Government of the United States to appropriately qualified individuals.

TITLE III—CONSERVATION

Subtitle A—Definitions

SEC. 301. DEFINITIONS APPLICABLE TO HIGHLY ERODIBLE CROPLAND CONSERVATION.

(a) CONSERVATION PLAN AND CONSERVATION SYSTEM.—Section 1201(a) of the Food Security Act of 1985 (16 U.S.C. 3801(a)) is amended—

(1) by redesignating paragraphs (2) through (16) as paragraphs (4) through (18), respectively; and

(2) by inserting after paragraph (1) the following:

"(2) CONSERVATION PLAN.—The term 'conservation plan' means the document that—

"(A) applies to highly erodible cropland;

"(B) describes the conservation system applicable to the highly erodible cropland and describes the decisions of the person with respect to location, land use, tillage systems, and conservation treatment measures and schedule; and

"(C) is approved by the local soil conservation district, in consultation with the local committees established under section 8(b)(5) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)(5)) and the Secretary, or by the Secretary.

"(3) CONSERVATION SYSTEM.—The term 'conservation system' means a combination of 1 or more conservation measures or management practices that—

"(A) are based on local resource conditions, available conservation technology, and the standards and guidelines contained in the Natural Resources Conservation Service field office technical guides; and

"(B) are designed to achieve, in a cost effective and technically practicable manner, a substantial reduction in soil erosion or a substantial improvement in soil conditions on a field or group of fields containing highly erodible cropland when compared to the level of erosion or soil conditions that existed before the application of the conservation measures and management practices.".

(b) FIELD.—Section 1201(a) of the Food Security Act of 1985 is amended by striking paragraph (7) (as redesignated by subsection (a)(1)) and inserting the following: 16 USC 3801.

"(7) FIELD.—The term 'field' means a part of a farm that is separated from the balance of the farm by permanent boundaries such as fences, roads, permanent waterways, or other similar features. At the option of the owner or operator of the farm, croplines may also be used to delineate a field if farming practices make it probable that the croplines are not subject to change. Any highly erodible land on which an agricultural commodity is produced after December 23, 1985, and that is not exempt under section 1212, shall be considered as part of the field in which the land was included on December 23, 1985, unless the owner and Secretary agree to modification of the boundaries of the field to carry out this title.".

(c) HIGHLY ERODIBLE LAND.—Section 1201(a)(9) of the Food Security Act of 1985 (as redesignated by subsection (a)(1)) is amended by adding at the end the following:

"(C) EQUATIONS.—Not later than 60 days after the date of enactment of this subparagraph, the Secretary shall publish in the Federal Register the universal soil loss equation and wind erosion equation used by the Department of Agriculture as of that date. The Secretary may not change the equations after that date except following notice and comment in a manner consistent with section 553 of title 5, United States Code.". Federal Register, publication.

(d) CONFORMING AMENDMENTS.—Section 1212 of the Food Security Act of 1985 (16 U.S.C. 3812) is amended—

(1) in the first sentence of subsection (a)(2), by striking "that documents" and all that follows through "by the Secretary";

(2) in subsection (c)(3), by striking "based on" and all that follows through "and the Secretary," and inserting ", in which case,";

(3) in subsection (e)(1)(A), by striking "conservation compliance plan" and inserting "conservation plan"; and

(4) in subsection (f)—

(A) in paragraph (1), by striking "that documents" and all that follows through "under subsection (a)";

(B) in paragraph (3), by striking "prepared under subsection (a)"; and

(C) in paragraph (4), by striking "that documents" and all that follows through "subsection (a)".

Subtitle B—Highly Erodible Land Conservation

SEC. 311. PROGRAM INELIGIBILITY.

Effective date.

Effective 90 days after the date of enactment of this Act, section 1211 of the Food Security Act of 1985 (16 U.S.C. 3811) is amended—

(1) in the matter preceding paragraph (1), by striking "following the date of enactment of this Act,";

(2) in paragraph (1)—

(A) by striking subparagraph (A) and inserting the following:

"(A) contract payments under a production flexibility contract, marketing assistance loans, and any type of price support or payment made available under the Agricultural Market Transition Act, the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.), or any other Act;";

(B) by striking subparagraph (C);

(C) in subparagraph (D), by striking "made under" and all that follows through "August 14, 1989";

(D) in subparagraph (E), by striking "Farmers Home Administration" and inserting "Consolidated Farm Service Agency"; and

(E) by redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D), respectively; and

(3) by striking paragraph (3) and inserting the following:

"(3) during the crop year—

"(A) a payment made pursuant to a contract entered into under the environmental quality incentives program under chapter 4 of subtitle D;

"(B) a payment under any other provision of subtitle D;

"(C) a payment under section 401 or 402 of the Agricultural Credit Act of 1978 (16 U.S.C. 2201 and 2202); or

"(D) a payment, loan, or other assistance under section 3 or 8 of the Watershed Protection and Flood Prevention Act (16 U.S.C. 1003 and 1006a).".

SEC. 312. CONSERVATION RESERVE LANDS.

Section 1212(a)(3) of the Food Security Act of 1985 (16 U.S.C. 3812(a)(3)) is amended by striking "shall, if the conservation plan established under this subtitle for such land requires structures to be constructed," and inserting "shall only be required to apply

a conservation plan established under this subtitle. The person shall not be required to meet a higher conservation standard than the standard applied to other highly erodible cropland located within the same area. If the person's conservation plan requires structures to be constructed, the person shall".

SEC. 313. GOOD FAITH EXEMPTION.

(a) GRACE PERIOD TO RESUME CONSERVATION COMPLIANCE.—Section 1212(f)(1) of the Food Security Act of 1985 (16 U.S.C. 3812(f)(1)) is amended—

(1) by striking "Except to the extent provided in paragraph (2), no" and inserting "No"; and

(2) by striking "such person has—" and all that follows through the period at the end of subparagraph (B) and inserting the following: "the person has acted in good faith and without an intent to violate this subtitle. A person who meets the requirements of this paragraph shall be allowed a reasonable period of time, as determined by the Secretary, but not to exceed 1 year, during which to implement the measures and practices necessary to be considered to be actively applying the person's conservation plan.".

(b) SPECIAL PENALTIES REGARDING CERTAIN HIGHLY ERODIBLE CROPLAND.—Section 1212(f)(2) of the Food Security Act of 1985 (16 U.S.C. 3812(f)(2)) is amended by striking "meets the requirements of paragraph (1)" and inserting "with respect to highly erodible cropland that was not in production prior to December 23, 1985, and has acted in good faith and without an intent to violate the provisions".

(c) CONFORMING AMENDMENT.—Section 1212(f)(4) of the Food Security Act of 1985 (16 U.S.C. 3812(f)(4)) is amended by striking the last sentence.

SEC. 314. EXPEDITED PROCEDURES FOR GRANTING VARIANCES FROM CONSERVATION PLANS.

Section 1212(f) of the Food Security Act of 1985 (16 U.S.C. 3812(f)(4)) is amended—

(1) in paragraph (4)(C), by striking "problem" and inserting "problem, including weather, pest, and disease problems"; and

(2) by adding at the end the following:

"(5) EXPEDITED PROCEDURES FOR TEMPORARY VARIANCES.—After consultation with local conservation districts, the Secretary shall establish expedited procedures for the consideration and granting of temporary variances under paragraph (4)(C). If the request for a temporary variance under paragraph (4)(C) involves the use of practices or measures to address weather, pest, or disease problems, the Secretary shall make a decision on whether to grant the variance during the 30-day period beginning on the date of receipt of the request. If the Secretary fails to render a decision during the period, the temporary variance shall be considered granted.".

SEC. 315. DEVELOPMENT AND IMPLEMENTATION OF CONSERVATION PLANS AND CONSERVATION SYSTEMS.

(a) DEVELOPMENT AND IMPLEMENTATION.—The Food Security Act of 1985 is amended—

(1) by redesignating section 1213 (16 U.S.C. 3813) as section 1214; and

(2) by inserting after section 1212 (16 U.S.C. 3812) the following:

16 USC 3812a.

"SEC. 1213. DEVELOPMENT AND IMPLEMENTATION OF CONSERVATION PLANS AND CONSERVATION SYSTEMS.

"(a) TECHNICAL REQUIREMENTS.—In connection with the standards and guidelines contained in Natural Resources Conservation Service field office technical guides applicable to the development and use of conservation measures and management practices as part of a conservation system, the Secretary shall ensure that the standards and guidelines permit a person to use a conservation system that—

"(1) is technically and economically feasible;

"(2) is based on local resource conditions and available conservation technology;

"(3) is cost-effective; and

"(4) does not cause undue economic hardship on the person applying the conservation system under the person's conservation plan.

"(b) MEASUREMENT OF EROSION REDUCTION.—For the purpose of determining whether there is a substantial reduction in soil erosion on a field containing highly erodible cropland, the measurement of erosion reduction achieved by the application of a conservation system under a person's conservation plan shall be based on the estimated annual level of erosion at the time of the measurement compared to the estimated annual level of erosion that existed before the implementation of the conservation measures and management practices provided for in the conservation system.

"(c) RESIDUE MEASUREMENT.—

"(1) RESPONSIBILITIES OF THE SECRETARY.—For the purpose of measuring the level of residue on a field, the Secretary shall—

"(A) take into account any residue incorporated into the top 2 inches of soil, as well as the growing crop, in the measurement;

"(B) provide technical guidelines for acceptable residue measurement methods;

"(C) provide a certification system for third parties to perform residue measurements; and

"(D) provide for the acceptance and use of information and data voluntarily provided by the producer regarding the field.

"(2) ACCEPTANCE OF PRODUCER MEASUREMENTS.—Annual residue measurements supplied by a producer (including measurements performed by a certified third party) shall be used by the Secretary if the Secretary determines that the measurements indicate that the residue level for the field meets the level required under the conservation plan.

"(d) CERTIFICATION OF COMPLIANCE.—

"(1) IN GENERAL.—For the purpose of determining the eligibility of a person for program benefits specified in section 1211 at the time application is made for the benefits, the Secretary shall permit the person to certify that the person is complying with the person's conservation plan.

"(2) STATUS REVIEWS.—If a person makes a certification under paragraph (1), the Secretary shall not be required to carry out a review of the status of compliance of the person

with the conservation plan under which the conservation system is being applied.

"(3) REVISIONS AND MODIFICATIONS.—The Secretary shall permit a person who makes a certification under paragraph (1) with respect to a conservation plan to revise the conservation plan in any manner, if the same level of conservation treatment provided for by the conservation system under the person's conservation plan is maintained. The Secretary may not revise the person's conservation plan without the concurrence of the person.

"(e) TECHNICAL ASSISTANCE.—The Secretary shall, using available resources and consistent with the Secretary's other conservation responsibilities and objectives, provide technical assistance to a person throughout the development, revision, and application of the conservation plan and any conservation system of the person. At the request of the person, the Secretary may provide technical assistance regarding conservation measures and management practices for other lands of the person that do not contain highly erodible cropland.

"(f) ENCOURAGEMENT OF ON-FARM RESEARCH.—To encourage on-farm conservation research, the Secretary may allow a person to include in the person's conservation plan or a conservation system under the plan, on a field trial basis, practices that are not currently approved but that the Secretary considers have a reasonable likelihood of success.".

(b) TREATMENT OF TECHNICAL DETERMINATIONS.—Section 226(d)(2) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6932(d)(2)) is amended—

(1) by striking "DETERMINATION.—With" and inserting "DETERMINATION.—

"(A) IN GENERAL.—With"; and

(2) by adding at the end the following:

"(B) ECONOMIC HARDSHIP.—After a technical determination has been made, on a producer's request, if a county or area committee determines that the application of the producer's conservation system would impose an undue economic hardship on the producer, the committee shall provide the producer with relief to avoid the hardship.".

SEC. 316. INVESTIGATION OF POSSIBLE COMPLIANCE DEFICIENCIES.

Subtitle B of title XII of the Food Security Act of 1985 (as amended by section 315(a)(1)) is amended by adding at the end the following:

"SEC. 1215. NOTICE AND INVESTIGATION OF POSSIBLE COMPLIANCE DEFICIENCIES. 16 USC 3814.

"(a) IN GENERAL.—An employee of the Department of Agriculture who observes a possible compliance deficiency or other potential violation of a conservation plan or this subtitle while providing on-site technical assistance shall provide to the responsible persons, not later than 45 days after observing the possible violation, information regarding actions needed to comply with the plan and this subtitle. The employee shall provide the information in lieu of reporting the observation as a compliance violation.

"(b) CORRECTIVE ACTION.—The responsible persons shall attempt to correct the deficiencies as soon as practicable after receiving the information.

"(c) REVIEW.—If the corrective action is not fully implemented not later than 1 year after the responsible persons receive the information, the Secretary may conduct a review of the status of compliance of the persons with the conservation plan and this subtitle.".

16 USC 3811 note.

SEC. 317. WIND EROSION ESTIMATION PILOT PROJECT.

(a) IN GENERAL.—The Secretary of Agriculture shall conduct a pilot project to review, and modify as appropriate, the use of wind erosion factors under the highly erodible conservation requirements of subtitle B of title XII of the Food Security Act of 1985 (16 U.S.C. 3811 et seq.).

(b) SELECTION OF COUNTIES AND PRODUCERS.—The pilot project shall be conducted for producers in those counties that—

(1) have approximately 100 percent of their cropland determined to be highly erodible under title XII of the Act;

(2) have a reasonable likelihood that the use of wind erosion factors under title XII of the Act have resulted in an inequitable application of the highly erodible land requirements of title XII of the Act; and

(3) if the use of the land classification system under section 1201(a)(9)(A) of the Act (as redesignated by section 301(a)(1)) may result in a more accurate delineation of the cropland.

(c) ERRORS IN DELINEATION.—If the Secretary determines that a significant error has occurred in delineating cropland under the pilot project, the Secretary shall, at the request of the owners or operators of the cropland, conduct a new delineation of the cropland using the most accurate available delineation process, as determined by the Secretary.

Subtitle C—Wetland Conservation

SEC. 321. PROGRAM INELIGIBILITY.

(a) PROGRAM INELIGIBILITY.—Section 1221 of the Food Security Act of 1985 (16 U.S.C. 3821) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by striking the section heading and all that follows through the end of subsection (a) and inserting the following:

"SEC. 1221. PROGRAM INELIGIBILITY.

"(a) PRODUCTION ON CONVERTED WETLAND.—Except as provided in this subtitle and notwithstanding any other provision of law, any person who in any crop year produces an agricultural commodity on converted wetland, as determined by the Secretary, shall be—

"(1) in violation of this section; and

"(2) ineligible for loans or payments in an amount determined by the Secretary to be proportionate to the severity of the violation.

"(b) INELIGIBILITY FOR CERTAIN LOANS AND PAYMENTS.—If a person is determined to have committed a violation under subsection (a) during a crop year, the Secretary shall determine which of, and the amount of, the following loans and payments for which the person shall be ineligible:

"(1) Contract payments under a production flexibility contract, marketing assistance loans, and any type of price support or payment made available under the Agricultural Market

Transition Act, the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.), or any other Act.

"(2) A loan made or guaranteed under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) or any other provision of law administered by the Consolidated Farm Service Agency, if the Secretary determines that the proceeds of the loan will be used for a purpose that will contribute to conversion of a wetland (other than as provided in this subtitle) to produce an agricultural commodity.

"(3) During the crop year:

"(A) A payment made pursuant to a contract entered into under the environmental quality incentives program under chapter 4 of subtitle D.

"(B) A payment under any other provision of subtitle D.

"(C) A payment under section 401 or 402 of the Agricultural Credit Act of 1978 (16 U.S.C. 2201 and 2202).

"(D) A payment, loan, or other assistance under section 3 or 8 of the Watershed Protection and Flood Prevention Act (16 U.S.C. 1003 and 1006a).".

(b) CONFORMING AMENDMENTS.—

(1) Section 1221(c) of the Food Security Act of 1985 (as redesignated by subsection (a)(1)) is amended— 16 USC 3821.

(A) by striking "Except" and inserting "WETLAND CONVERSION.—Except";

(B) by striking "subsequent to the date of enactment of the Food, Agriculture, Conservation, and Trade Act of 1990" and inserting "beginning after November 28, 1990,"; and

(C) by striking "subsections (a) (1) through (3)" and inserting "subsection (b)".

(2) Section 1221 of the Food Security Act of 1985 (as amended by subsection (a)) is amended by adding at the end the following:

"(d) PRIOR LOANS.—This section shall not apply to a loan described in subsection (b) made before December 23, 1985.".

SEC. 322. DELINEATION OF WETLANDS; EXEMPTIONS TO PROGRAM INELIGIBILITY.

(a) DELINEATION OF WETLANDS.—Section 1222 of the Food Security Act of 1985 (16 U.S.C. 3822) is amended by striking subsection (a) and inserting the following:

"(a) DELINEATION BY THE SECRETARY.—

"(1) IN GENERAL.—Subject to subsection (b) and paragraph (6), the Secretary shall delineate, determine, and certify all wetlands located on subject land on a farm.

"(2) WETLAND DELINEATION MAPS.—The Secretary shall delineate wetlands on wetland delineation maps. On the request of a person, the Secretary shall make a reasonable effort to make an on-site wetland determination prior to delineation.

"(3) CERTIFICATION.—On providing notice to affected persons, the Secretary shall—

"(A) certify whether a map is sufficient for the purpose of making a determination of ineligibility for program benefits under section 1221; and

"(B) provide an opportunity to appeal the certification prior to the certification becoming final.

"(4) DURATION OF CERTIFICATION.—A final certification made under paragraph (3) shall remain valid and in effect as long as the area is devoted to an agricultural use or until such time as the person affected by the certification requests review of the certification by the Secretary.

"(5) REVIEW OF MAPPING ON APPEAL.—In the case of an appeal of the Secretary's certification, the Secretary shall review and certify the accuracy of the mapping of all land subject to the appeal to ensure that the subject land has been accurately delineated. Prior to rendering a decision on the appeal, the Secretary shall conduct an on-site inspection of the subject land on a farm.

"(6) RELIANCE ON PRIOR CERTIFIED DELINEATION.—No person shall be adversely affected because of having taken an action based on a previous certified wetland delineation by the Secretary. The delineation shall not be subject to a subsequent wetland certification or delineation by the Secretary, unless requested by the person under paragraph (4).".

(b) EXEMPTIONS.—Section 1222 of the Food Security Act of 1985 (16 U.S.C. 3822) is amended by striking subsection (b) and inserting the following:

"(b) EXEMPTIONS.—No person shall become ineligible under section 1221 for program loans or payments under the following circumstances:

"(1) As the result of the production of an agricultural commodity on the following lands:

"(A) A converted wetland if the conversion of the wetland was commenced before December 23, 1985.

"(B) Land that is a nontidal drainage or irrigation ditch excavated in upland.

"(C) A wet area created by a water delivery system, irrigation, irrigation system, or application of water for irrigation.

"(D) A wetland on which the owner or operator of a farm or ranch uses normal cropping or ranching practices to produce an agricultural commodity in a manner that is consistent for the area where the production is possible as a result of a natural condition, such as drought, and is without action by the producer that destroys a natural wetland characteristic.

"(E) Land that is an artificial lake or pond created by excavating or diking land (that is not a wetland) to collect and retain water and that is used primarily for livestock watering, fish production, irrigation, wildlife, fire control, flood control, cranberry growing, or rice production, or as a settling pond.

"(F) A wetland that is temporarily or incidentally created as a result of adjacent development activity.

"(G) A converted wetland if the original conversion of the wetland was commenced before December 23, 1985, and the Secretary determines the wetland characteristics returned after that date as a result of—

"(i) the lack of maintenance of drainage, dikes, levees, or similar structures;

"(ii) a lack of management of the lands containing the wetland; or

"(iii) circumstances beyond the control of the person.

"(H) A converted wetland, if—

"(i) the converted wetland was determined by the Natural Resources Conservation Service to have been manipulated for the production of an agricultural commodity or forage prior to December 23, 1985, and was returned to wetland conditions through a voluntary restoration, enhancement, or creation action subsequent to that determination;

"(ii) technical determinations regarding the prior site conditions and the restoration, enhancement, or creation action have been adequately documented by the Natural Resources Conservation Service;

"(iii) the proposed conversion action is approved by the Natural Resources Conservation Service prior to implementation; and

"(iv) the extent of the proposed conversion is limited so that the conditions will be at least equivalent to the wetland functions and values that existed prior to implementation of the voluntary wetland restoration, enhancement, or creation action.

"(2) For the conversion of the following:

"(A) An artificial lake or pond created by excavating or diking land that is not a wetland to collect and retain water and that is used primarily for livestock watering, fish production, irrigation, wildlife, fire control, flood control, cranberry growing, rice production, or as a settling pond.

"(B) A wetland that is temporarily or incidentally created as a result of adjacent development activity.

"(C) A wetland on which the owner or operator of a farm or ranch uses normal cropping or ranching practices to produce an agricultural commodity in a manner that is consistent for the area where the production is possible as a result of a natural condition, such as drought, and is without action by the producer that destroys a natural wetland characteristic.

"(D) A wetland previously identified as a converted wetland (if the original conversion of the wetland was commenced before December 23, 1985), but that the Secretary determines returned to wetland status after that date as a result of—

"(i) the lack of maintenance of drainage, dikes, levees, or similar structures;

"(ii) a lack of management of the lands containing the wetland; or

"(iii) circumstances beyond the control of the person.

"(E) A wetland, if—

"(i) the wetland was determined by the Natural Resources Conservation Service to have been manipulated for the production of an agricultural commodity or forage prior to December 23, 1985, and was returned to wetland conditions through a voluntary restoration, enhancement, or creation action subsequent to that determination;

"(ii) technical determinations regarding the prior site conditions and the restoration, enhancement, or creation action have been adequately documented by the Natural Resources Conservation Service;

"(iii) the proposed conversion action is approved by the Natural Resources Conservation Service prior to implementation; and

"(iv) the extent of the proposed conversion is limited so that the conditions will be at least equivalent to the wetland functions and values that existed prior to implementation of the voluntary wetland restoration, enhancement, or creation action.".

(c) IDENTIFICATION OF MINIMAL EFFECT EXEMPTIONS.—Section 1222 of the Food Security Act of 1985 (16 U.S.C. 3822) is amended by striking subsection (d) and inserting the following:

"(d) IDENTIFICATION OF MINIMAL EFFECT EXEMPTIONS.—For purposes of applying the minimal effect exemption under subsection (f)(1), the Secretary shall identify by regulation categorical minimal effect exemptions on a regional basis to assist persons in avoiding a violation of the ineligibility provisions of section 1221. The Secretary shall ensure that employees of the Department of Agriculture who administer this subtitle receive appropriate training to properly apply the minimal effect exemptions determined by the Secretary.".

(d) MINIMAL EFFECT AND MITIGATION EXEMPTIONS.—Section 1222 of the Food Security Act of 1985 (16 U.S.C. 3822) is amended by striking subsection (f) and inserting the following:

"(f) MINIMAL EFFECT; MITIGATION.—The Secretary shall exempt a person from the ineligibility provisions of section 1221 for any action associated with the production of an agricultural commodity on a converted wetland, or the conversion of a wetland, if 1 or more of the following conditions apply, as determined by the Secretary:

"(1) The action, individually and in connection with all other similar actions authorized by the Secretary in the area, will have a minimal effect on the functional hydrological and biological value of the wetlands in the area, including the value to waterfowl and wildlife.

"(2) The wetland and the wetland values, acreage, and functions are mitigated by the person through the restoration of a converted wetland, the enhancement of an existing wetland, or the creation of a new wetland, and the restoration, enhancement, or creation is—

"(A) in accordance with a wetland conservation plan;

"(B) in advance of, or concurrent with, the action;

"(C) not at the expense of the Federal Government;

"(D) in the case of enhancement or restoration of wetlands, on not greater than a 1-for-1 acreage basis unless more acreage is needed to provide equivalent functions and values that will be lost as a result of the wetland conversion to be mitigated;

"(E) in the case of creation of wetlands, on greater than a 1-for-1 acreage basis if more acreage is needed to provide equivalent functions and values that will be lost as a result of the wetland conversion that is mitigated;

"(F) on lands in the same general area of the local watershed as the converted wetland; and

"(G) with respect to the restored, enhanced, or created wetland, made subject to an easement that—

"(i) is recorded on public land records;

"(ii) remains in force for as long as the converted wetland for which the restoration, enhancement, or creation to be mitigated remains in agricultural use or is not returned to its original wetland classification with equivalent functions and values; and

"(iii) prohibits making alterations to the restored, enhanced, or created wetland that lower the wetland's functions and values.

"(3) The wetland was converted after December 23, 1985, but before November 28, 1990, and the wetland values, acreage, and functions are mitigated by the producer through the requirements of subparagraphs (A), (B), (C), (D), (F), and (G) of paragraph (2).

"(4) The action was authorized by a permit issued under section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344) and the wetland values, acreage, and functions of the converted wetland were adequately mitigated for the purposes of this subtitle.".

(e) REFERENCES TO PRODUCER.—Section 1222(g) of the Food Security Act of 1985 (16 U.S.C. 3822(g)) is amended by striking "producer" and inserting "person".

(f) GOOD FAITH EXEMPTION.—Section 1222 of the Food Security Act of 1985 (16 U.S.C. 3822) is amended by striking subsection (h) and inserting the following:

"(h) GOOD FAITH EXEMPTION.—

"(1) EXEMPTION DESCRIBED.—The Secretary may waive a person's ineligibility under section 1221 for program loans, payments, and benefits as the result of the conversion of a wetland subsequent to November 28, 1990, or the production of an agricultural commodity on a converted wetland, if the Secretary determines that the person has acted in good faith and without intent to violate this subtitle.

"(2) PERIOD FOR COMPLIANCE.—The Secretary shall provide a person who the Secretary determines has acted in good faith and without intent to violate this subtitle with a reasonable period, but not to exceed 1 year, during which to implement the measures and practices necessary to be considered to actively restoring the subject wetland.".

(g) RESTORATION.—Section 1222(i) of the Food Security Act of 1985 (16 U.S.C. 3822(i)) is amended by inserting before the period at the end the following: "or has otherwise mitigated for the loss of wetland values, as determined by the Secretary, through the restoration, enhancement, or creation of wetland values in the same general area of the local watershed as the converted wetland".

(h) DETERMINATIONS.—Section 1222 of the Food Security Act of 1985 (16 U.S.C. 3822) is amended by striking subsection (j) and inserting the following:

"(j) DETERMINATIONS; RESTORATION AND MITIGATION PLANS; MONITORING ACTIVITIES.—Technical determinations, the development of restoration and mitigation plans, and monitoring activities under this section shall be made by the National Resources Conservation Service.".

(i) MITIGATION BANKING.—Section 1222 of the Food Security Act of 1985 (16 U.S.C. 3822) is amended by adding at the end the following:

"(k) MITIGATION BANKING PROGRAM.—Using authorities available to the Secretary, the Secretary may operate a pilot program for mitigation banking of wetlands to assist persons to increase the efficiency of agricultural operations while protecting wetland functions and values. Subsection (f)(2)(C) shall not apply to this subsection.".

SEC. 323. CONSULTATION AND COOPERATION REQUIREMENTS.

Section 1223 of the Food Security Act of 1985 (16 U.S.C. 3823) is repealed.

SEC. 324. APPLICATION OF PROGRAM INELIGIBILITY TO AFFILIATED PERSONS.

The Food Security Act of 1985 (as amended by section 323) is amended by inserting after section 1222 (16 U.S.C. 3822) the following:

16 USC 3823.

"SEC. 1223. AFFILIATED PERSONS.

"If a person is affected by a reduction in benefits under section 1221 and the affected person is affiliated with other persons for the purpose of receiving the benefits, the benefits of each affiliated person shall be reduced under section 1221 in proportion to the interest held by the affiliated person.".

SEC. 325. CLARIFICATION OF DEFINITION OF AGRICULTURAL LANDS IN MEMORANDUM OF AGREEMENT.

(a) AGRICULTURAL LANDS.—For purposes of implementing the memorandum of agreement entered into between the Department of Agriculture, the Environmental Protection Agency, the Department of the Interior, and the Department of the Army on January 6, 1994, relating to the delineation of wetlands, the term "agricultural lands" shall include—

(1) native pasture, rangelands, and other lands used to produce or support the production of livestock; and

(2) tree farms.

(b) WETLAND CONSERVATION.—Subsection (a) shall not apply with respect to the delineation of wetlands under subtitle C of title XII of the Food Security Act of 1985 (16 U.S.C. 3821 et seq.) or to the enforcement of the subtitle.

(c) SUCCESSOR MEMORANDUM.—Subsection (a) shall apply to any amendment to or successor of the memorandum of agreement described in subsection (a).

16 USC 3821 note.

SEC. 326. EFFECTIVE DATE.

This subtitle and the amendments made by this subtitle shall become effective 90 days after the date of enactment of this Act.

Subtitle D—Environmental Conservation Acreage Reserve Program

SEC. 331. ENVIRONMENTAL CONSERVATION ACREAGE RESERVE PROGRAM.

Section 1230 of the Food Security Act of 1985 (16 U.S.C. 3830) is amended to read as follows:

"SEC. 1230. ENVIRONMENTAL CONSERVATION ACREAGE RESERVE PROGRAM.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—During the 1996 through 2002 calendar years, the Secretary shall establish an environmental conservation acreage reserve program (referred to in this section as 'ECARP') to be implemented through contracts and the acquisition of easements to assist owners and operators of farms and ranches to conserve and enhance soil, water, and related natural resources, including grazing land, wetland, and wildlife habitat.

"(2) MEANS.—The Secretary shall carry out the ECARP by—

"(A) providing for the long-term protection of environmentally sensitive land; and

"(B) providing technical and financial assistance to farmers and ranchers to—

"(i) improve the management and operation of the farms and ranches; and

"(ii) reconcile productivity and profitability with protection and enhancement of the environment.

"(3) PROGRAMS.—The ECARP shall consist of—

"(A) the conservation reserve program established under subchapter B;

"(B) the wetlands reserve program established under subchapter C; and

"(C) the environmental quality incentives program established under chapter 4.

"(b) ADMINISTRATION.—

"(1) IN GENERAL.—In carrying out the ECARP, the Secretary shall enter into contracts with owners and operators and acquire interests in land through easements from owners, as provided in this chapter and chapter 4. Contracts.

"(2) PRIOR ENROLLMENTS.—Acreage enrolled in the conservation reserve or wetlands reserve program prior to the date of enactment of this paragraph shall be considered to be placed into the ECARP.

"(c) CONSERVATION PRIORITY AREAS.—

"(1) DESIGNATION.—The Secretary may designate watersheds, multistate areas, or regions of special environmental sensitivity as conservation priority areas that are eligible for enhanced assistance under this chapter and chapter 4.

"(2) ASSISTANCE.—The Secretary may designate areas as conservation priority areas to assist, to the maximum extent practicable, agricultural producers within the conservation priority areas to comply with nonpoint source pollution requirements under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) and other Federal and State environmental laws and to meet other conservation needs.

"(3) PRODUCERS.—The Secretary may provide technical assistance, cost-share payments, and incentive payments to producers in a conservation priority area under this chapter and chapter 4 based on—

"(A) the significance of the soil, water, wildlife habitat, and related natural resource problems in a watershed, multistate area, or region; and

"(B) the structural practices or land management practices that best address the problems, and that maximize environmental benefits for each dollar expended, as determined by the Secretary.".

SEC. 332. CONSERVATION RESERVE PROGRAM.

(a) PROGRAM EXTENSIONS.—

(1) CONSERVATION RESERVE PROGRAM.—Section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831) is amended by striking "1995" each place it appears and inserting "2002".

(2) DUTIES OF OWNERS AND OPERATORS.—Section 1232(c) of the Food Security Act of 1985 (16 U.S.C. 3832(c)) is amended by striking "1995" and inserting "2002".

(b) MAXIMUM ENROLLMENT.—Section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831) is amended by striking subsection (d) and inserting the following:

"(d) MAXIMUM ENROLLMENT.—The Secretary may maintain up to 36,400,000 acres in the conservation reserve at any one time during the 1986 through 2002 calendar years (including contracts extended by the Secretary pursuant to section 1437(c) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 16 U.S.C. 3831 note)).".

(c) OPTIONAL CONTRACT TERMINATION BY PRODUCERS.—Section 1235 of the Food Security Act of 1985 (16 U.S.C. 3835) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking "3-year" and inserting "1-year"; and

(B) in paragraph (2)(B)(i), by striking "3 years" and inserting "1 year"; and

(2) by adding at the end the following:

"(e) TERMINATION BY OWNER OR OPERATOR.—

"(1) EARLY TERMINATION AUTHORIZED.—Subject to the other provisions of this subsection, the Secretary shall allow a participant who entered into a contract before January 1, 1995, to terminate the contract at any time if the contract has been in effect for at least 5 years. The termination shall not relieve the participant of liability for a contract violation occurring before the date of the termination. The participant shall provide the Secretary with reasonable notice of the participant's desire to terminate the contract.

"(2) CERTAIN LANDS EXCEPTED.—The following lands shall not be subject to an early termination of contract under this subsection:

"(A) Filterstrips, waterways, strips adjacent to riparian areas, windbreaks, and shelterbelts.

"(B) Land with an erodibility index of more than 15.

"(C) Other lands of high environmental value (including wetlands), as determined by the Secretary.

"(3) EFFECTIVE DATE.—The contract termination shall become effective 60 days after the date on which the owner or operator submits the notice required under paragraph (1).

"(4) PRORATED RENTAL PAYMENT.—If a contract entered into under this subchapter is terminated under this subsection before the end of the fiscal year for which a rental payment is due, the Secretary shall provide a prorated rental payment covering the portion of the fiscal year during which the contract was in effect.

"(5) RENEWED ENROLLMENT.—The termination of a contract entered into under this subchapter shall not affect the ability of the owner or operator who requested the termination to submit a subsequent bid to enroll the land that was subject to the contract into the conservation reserve.

"(6) CONSERVATION REQUIREMENTS.—If land that was subject to a contract is returned to production of an agricultural commodity, the conservation requirements under subtitles B and C shall apply to the use of the land to the extent that the requirements are similar to those requirements imposed on other similar lands in the area, except that the requirements may not be more onerous than the requirements imposed on other lands.".

(d) ENROLLMENTS IN 1997.—Section 725 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1996 (Public Law 104–37; 109 Stat. 332), is amended by striking ": *Provided,*" and all that follows through "1997".

SEC. 333. WETLANDS RESERVE PROGRAM.

(a) ENROLLMENT.—Section 1237 of the Food Security Act of 1985 (16 U.S.C. 3837) is amended by striking subsection (b) and inserting the following:

"(b) ENROLLMENT CONDITIONS.—

"(1) MAXIMUM ENROLLMENT.—The total number of acres enrolled in the wetlands reserve program shall not exceed 975,000 acres.

"(2) METHODS OF ENROLLMENT.—

"(A) IN GENERAL.—Subject to subparagraph (B), effective beginning October 1, 1996, to the maximum extent practicable, the Secretary shall enroll into the wetlands reserve program—

"(i) ⅓ of the acres through the use of permanent easements;

"(ii) ⅓ of the acres through the use of 30-year easements; and

"(iii) ⅓ of the acres through the use of restoration cost-share agreements.

"(B) TEMPORARY EASEMENTS.—Effective beginning October 1, 1996, the Secretary shall not enroll acres in the wetlands reserve program through the use of new permanent easements until the Secretary has enrolled at least 75,000 acres in the program through the use of temporary easements.".

(b) ELIGIBILITY.—Section 1237(c) of the Food Security Act of 1985 (16 U.S.C. 3837(c)) is amended—

(1) by striking "2000" and inserting "2002";

(2) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively; and

(3) by inserting after "determines that—" the following:

"(1) such land maximizes wildlife benefits and wetland values and functions;".

(c) OTHER ELIGIBLE LANDS.—Section 1237(d) of the Food Security Act of 1985 (16 U.S.C. 3837(d)) is amended—

(1) by inserting after "subsection (c)" the following ", land that maximizes wildlife benefits and that is"; and

(2) in paragraph (2), by striking "and" at the end and inserting "or".

(d) EASEMENTS.—Section 1237A of the Food Security Act of 1985 (16 U.S.C. 3837a) is amended—

(1) in the section heading, by inserting before the period at the end the following: "**AND AGREEMENTS**";

(2) by striking subsection (c) and inserting the following:

"(c) RESTORATION PLANS.—The development of a restoration plan, including any compatible use, under this section shall be made through the local Natural Resources Conservation Service representative, in consultation with the State technical committee.";

(3) in subsection (f), by striking the third sentence and inserting the following: "Compensation may be provided in not less than 5, nor more than 30, annual payments of equal or unequal size, as agreed to by the owner and the Secretary."; and

(4) by adding at the end the following:

"(h) RESTORATION COST-SHARE AGREEMENTS.—The Secretary may enroll land into the wetlands reserve program through an agreement that requires the landowner to restore wetlands on the land, if the agreement does not provide the Secretary with an easement.".

(e) COST-SHARE AND TECHNICAL ASSISTANCE.—Section 1237C of the Food Security Act of 1985 (16 U.S.C. 3837c) is amended by striking subsection (b) and inserting the following:

"(b) COST-SHARE AND TECHNICAL ASSISTANCE.—

Effective date.

"(1) EASEMENTS.—Effective beginning October 1, 1996, in making cost-share payments under subsection (a)(1), the Secretary shall—

"(A) in the case of a permanent easement, pay the owner an amount that is not less than 75 percent, but not more than 100 percent, of the eligible costs; and

"(B) in the case of a 30-year easement, pay the owner an amount that is not less than 50 percent, but not more than 75 percent, of the eligible costs.

"(2) RESTORATION COST-SHARE AGREEMENTS.—In making cost-share payments in connection with a restoration cost-share agreement entered into under section 1237A(h), the Secretary shall pay the owner an amount that is not less than 50 percent, but not more than 75 percent, of the eligible costs.

"(3) TECHNICAL ASSISTANCE.—The Secretary shall provide owners with technical assistance to assist owners in complying with the terms of easements and restoration cost-share agreements.".

16 USC 3837 note.

(f) EFFECT ON EXISTING AGREEMENTS.—The amendments made by this section shall not affect the validity or terms of any agreements entered into by the Secretary of Agriculture under subchapter C of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3837 et seq.) before the date of enactment of this Act or any payments required to be made in connection with the agreements.

SEC. 334. ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.

Subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3830 et seq.) is amended by adding at the end the following:

"CHAPTER 4—ENVIRONMENTAL QUALITY INCENTIVES PROGRAM

"SEC. 1240. PURPOSES. 16 USC 3839aa.

"The purposes of the environmental quality incentives program established by this chapter are to—

"(1) combine into a single program the functions of—

"(A) the agricultural conservation program authorized by sections 7 and 8 of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590g and 590h) (as in effect before the amendments made by section 336(a)(1) of the Federal Agriculture Improvement and Reform Act of 1996);

"(B) the Great Plains conservation program established under section 16(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590p(b)) (as in effect before the amendment made by section 336(b)(1) of the Federal Agriculture Improvement and Reform Act of 1996);

"(C) the water quality incentives program established under chapter 2 (as in effect before the amendment made by section 336(h) of the Federal Agriculture Improvement and Reform Act of 1996); and

"(D) the Colorado River Basin salinity control program established under section 202(c) of the Colorado River Basin Salinity Control Act (43 U.S.C. 1592(c)) (as in effect before the amendment made by section 336(c)(1) of the Federal Agriculture Improvement and Reform Act of 1996); and

"(2) carry out the single program in a manner that maximizes environmental benefits per dollar expended, and that provides—

"(A) flexible technical and financial assistance to farmers and ranchers that face the most serious threats to soil, water, and related natural resources, including grazing lands, wetlands, and wildlife habitat;

"(B) assistance to farmers and ranchers in complying with this title and Federal and State environmental laws, and encourages environmental enhancement;

"(C) assistance to farmers and ranchers in making beneficial, cost-effective changes to cropping systems, grazing management, manure, nutrient, pest, or irrigation management, land uses, or other measures needed to conserve and improve soil, water, and related natural resources; and

"(D) for the consolidation and simplification of the conservation planning process to reduce administrative burdens on producers.

"SEC. 1240A. DEFINITIONS. 16 USC 3839aa–1.

"In this chapter:

"(1) ELIGIBLE LAND.—The term 'eligible land' means agricultural land (including cropland, rangeland, pasture, and other land on which crops or livestock are produced), including agricultural land that the Secretary determines poses a serious threat to soil, water, or related resources by reason of the soil types, terrain, climatic, soil, topographic, flood, or saline characteristics, or other factors or natural hazards.

"(2) LAND MANAGEMENT PRACTICE.—The term 'land management practice' means a site-specific nutrient or manure

management, integrated pest management, irrigation management, tillage or residue management, grazing management, or other land management practice carried out on eligible land that the Secretary determines is needed to protect, in the most cost-effective manner, water, soil, or related resources from degradation.

"(3) LIVESTOCK.—The term 'livestock' means dairy cattle, beef cattle, laying hens, broilers, turkeys, swine, sheep, and such other animals as determined by the Secretary.

"(4) PRODUCER.—The term 'producer' means a person who is engaged in livestock or agricultural production (as defined by the Secretary).

"(5) STRUCTURAL PRACTICE.—The term 'structural practice' means—

"(A) the establishment on eligible land of a site-specific animal waste management facility, terrace, grassed waterway, contour grass strip, filterstrip, tailwater pit, permanent wildlife habitat, or other structural practice that the Secretary determines is needed to protect, in the most cost-effective manner, water, soil, or related resources from degradation; and

"(B) the capping of abandoned wells on eligible land.

16 USC 3839aa–2.

"SEC. 1240B. ESTABLISHMENT AND ADMINISTRATION OF ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—During the 1996 through 2002 fiscal years, the Secretary shall provide technical assistance, cost-share payments, incentive payments, and education to producers, who enter into contracts with the Secretary, through an environmental quality incentives program in accordance with this chapter.

"(2) ELIGIBLE PRACTICES.—

"(A) STRUCTURAL PRACTICES.—A producer who implements a structural practice shall be eligible for any combination of technical assistance, cost-share payments, and education.

"(B) LAND MANAGEMENT PRACTICES.—A producer who performs a land management practice shall be eligible for any combination of technical assistance, incentive payments, and education.

"(b) APPLICATION AND TERM.—A contract between a producer and the Secretary under this chapter may—

"(1) apply to 1 or more structural practices or 1 or more land management practices, or both; and

"(2) have a term of not less than 5, nor more than 10, years, as determined appropriate by the Secretary, depending on the practice or practices that are the basis of the contract.

"(c) STRUCTURAL PRACTICES.—

"(1) OFFER SELECTION PROCESS.—The Secretary shall, to the maximum extent practicable, establish a process for selecting applications for financial assistance if there are numerous applications for assistance for structural practices that would provide substantially the same level of environmental benefits. The process shall be based on—

"(A) a reasonable estimate of the projected cost of the proposals and other factors identified by the Secretary

for determining which applications will result in the least cost to the program authorized by this chapter; and

"(B) the priorities established under this subtitle and such other factors determined by the Secretary that maximize environmental benefits per dollar expended.

"(2) CONCURRENCE OF OWNER.—If the producer making an offer to implement a structural practice is a tenant of the land involved in agricultural production, for the offer to be acceptable, the producer shall obtain the concurrence of the owner of the land with respect to the offer.

"(d) LAND MANAGEMENT PRACTICES.—The Secretary shall establish an application and evaluation process for awarding technical assistance or incentive payments, or both, to a producer in exchange for the performance of 1 or more land management practices by the producer.

"(e) COST-SHARE PAYMENTS, INCENTIVE PAYMENTS, AND TECHNICAL ASSISTANCE.—

"(1) COST-SHARE PAYMENTS.—

"(A) IN GENERAL.—The Federal share of cost-share payments to a producer proposing to implement 1 or more structural practices shall be not more than 75 percent of the projected cost of the practice, as determined by the Secretary, taking into consideration any payment received by the producer from a State or local government.

"(B) LIMITATION.—A producer who owns or operates a large confined livestock operation (as defined by the Secretary) shall not be eligible for cost-share payments to construct an animal waste management facility.

"(C) OTHER PAYMENTS.—A producer shall not be eligible for cost-share payments for structural practices on eligible land under this chapter if the producer receives cost-share payments or other benefits for the same land under chapter 1 or 3.

"(2) INCENTIVE PAYMENTS.—The Secretary shall make incentive payments in an amount and at a rate determined by the Secretary to be necessary to encourage a producer to perform 1 or more land management practices.

"(3) TECHNICAL ASSISTANCE.—

"(A) FUNDING.—The Secretary shall allocate funding under this chapter for the provision of technical assistance according to the purpose and projected cost for which the technical assistance is provided for a fiscal year. The allocated amount may vary according to the type of expertise required, quantity of time involved, and other factors as determined appropriate by the Secretary. Funding shall not exceed the projected cost to the Secretary of the technical assistance provided for a fiscal year.

"(B) OTHER AUTHORITIES.—The receipt of technical assistance under this chapter shall not affect the eligibility of the producer to receive technical assistance under other authorities of law available to the Secretary.

"(C) PRIVATE SOURCES.—The Secretary shall ensure that the processes of writing and developing proposals and plans for contracts under this chapter, and of assisting in the implementation of structural practices and land management practices covered by the contracts, are open to individuals in agribusiness, including agricultural

producers, representatives from agricultural cooperatives, agricultural input retail dealers, and certified crop advisers. The requirements of this subparagraph shall also apply to any other conservation program of the Department of Agriculture that provides incentive payments, technical assistance, or cost-share payments.

"(f) MODIFICATION OR TERMINATION OF CONTRACTS.—

"(1) VOLUNTARY MODIFICATION OR TERMINATION.—The Secretary may modify or terminate a contract entered into with a producer under this chapter if—

"(A) the producer agrees to the modification or termination; and

"(B) the Secretary determines that the modification or termination is in the public interest.

"(2) INVOLUNTARY TERMINATION.—The Secretary may terminate a contract under this chapter if the Secretary determines that the producer violated the contract.

"(g) NON-FEDERAL ASSISTANCE.—The Secretary may request the services of a State water quality agency, State fish and wildlife agency, State forestry agency, or any other governmental or private resource considered appropriate to assist in providing the technical assistance necessary for the development and implementation of a structural practice or land management practice.

16 USC 3839aa–3.

"SEC. 1240C. EVALUATION OF OFFERS AND PAYMENTS.

"In providing technical assistance, cost-share payments, and incentive payments to producers, the Secretary shall accord a higher priority to assistance and payments that—

"(1) are provided in conservation priority areas established under section 1230(c);

"(2) maximize environmental benefits per dollar expended; or

"(3) are provided in watersheds, regions, or conservation priority areas in which State or local governments have provided, or will provide, financial or technical assistance to producers for the same conservation or environmental purposes.

16 USC 3839aa–4.

"SEC. 1240D. DUTIES OF PRODUCERS.

"To receive technical assistance, cost share payments, or incentive payments under this chapter, a producer shall agree—

"(1) to implement an environmental quality incentives program plan that describes conservation and environmental goals to be achieved through a structural practice or land management practice, or both, that is approved by the Secretary;

"(2) not to conduct any practices on the farm or ranch that would tend to defeat the purposes of this chapter;

"(3) on the violation of a term or condition of the contract at any time the producer has control of the land, to refund any cost-share or incentive payment received with interest, and forfeit any future payments under this chapter, as determined by the Secretary;

"(4) on the transfer of the right and interest of the producer in land subject to the contract, unless the transferee of the right and interest agrees with the Secretary to assume all obligations of the contract, to refund all cost-share payments and incentive payments received under this chapter, as determined by the Secretary;

"(5) to supply information as required by the Secretary to determine compliance with the environmental quality incentives program plan and requirements of the program; and

"(6) to comply with such additional provisions as the Secretary determines are necessary to carry out the environmental quality incentives program plan.

"SEC. 1240E. ENVIRONMENTAL QUALITY INCENTIVES PROGRAM PLAN. 16 USC 3839aa–5.

"(a) IN GENERAL.—To be eligible to enter into a contract under the environmental quality incentives program, an owner or producer of a livestock or agricultural operation must submit to the Secretary for approval a plan of operations that incorporates such conservation practices, and is based on such principles, as the Secretary considers necessary to carry out the program, including a description of structural practices and land management practices to be implemented and the objectives to be met by the plan's implementation.

"(b) AVOIDANCE OF DUPLICATION.—The Secretary shall, to the maximum extent practicable, eliminate duplication of planning activities under the environmental quality incentives program and comparable conservation programs.

"SEC. 1240F. DUTIES OF THE SECRETARY. 16 USC 3839aa–6.

"To the extent appropriate, the Secretary shall assist a producer in achieving the conservation and environmental goals of an environmental quality incentives program plan by—

"(1) providing an eligibility assessment of the farming or ranching operation of the producer as a basis for developing the plan;

"(2) providing technical assistance in developing and implementing the plan;

"(3) providing technical assistance, cost-share payments, or incentive payments for developing and implementing 1 or more structural practices or 1 or more land management practices, as appropriate;

"(4) providing the producer with information, education, and training to aid in implementation of the plan; and

"(5) encouraging the producer to obtain technical assistance, cost-share payments, or grants from other Federal, State, local, or private sources.

"SEC. 1240G. LIMITATION ON PAYMENTS. 16 USC 3839aa–7.

"(a) IN GENERAL.—The total amount of cost-share and incentive payments paid to a producer under this chapter may not exceed—

"(1) $10,000 for any fiscal year; or

"(2) $50,000 for any multiyear contract.

"(b) EXCEPTION TO ANNUAL LIMIT.—The Secretary may exceed the limitation on the annual amount of a payment under subsection (a)(1) on a case-by-case basis if the Secretary determines that a larger payment is—

"(1) essential to accomplish the land management practice or structural practice for which the payment is made; and

"(2) consistent with the maximization of environmental benefits per dollar expended and the purposes of this chapter specified in section 1240.

"(c) TIMING OF EXPENDITURES.—Expenditures under a contract entered into under this chapter during a fiscal year may not be made by the Secretary until the subsequent fiscal year.

16 USC 3839aa–8.

"SEC. 1240H. TEMPORARY ADMINISTRATION OF ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.

"(a) INTERIM ADMINISTRATION.—

"(1) IN GENERAL.—During the period beginning on the date of enactment of this section and ending on the termination date provided under paragraph (2), to ensure that technical assistance, cost-share payments, and incentive payments continue to be administered in an orderly manner until such time as assistance can be provided through final regulations issued to implement the environmental quality incentives program established under this chapter, the Secretary shall continue to—

"(A) provide technical assistance, cost-share payments, and incentive payments under the terms and conditions of the agricultural conservation program, the Great Plains conservation program, the water quality incentives program, and the Colorado River Basin salinity control program, to the extent the terms and conditions of the program are consistent with the environmental quality incentives program; and

"(B) use for those purposes—

"(i) any funds remaining available for the agricultural conservation program, the Great Plains conservation program, the water quality incentives program, and the Colorado River Basin salinity control program; and

"(ii) as the Secretary determines to be necessary, any funds authorized to be used to carry out the environmental quality incentives program.

"(2) TERMINATION OF AUTHORITY.—The authority of the Secretary to carry out paragraph (1) shall terminate on the date that is 180 days after the date of enactment of this section.

Effective date.

"(b) PERMANENT ADMINISTRATION.—Effective beginning on the termination date provided under subsection (a)(2), the Secretary shall provide technical assistance, cost-share payments, and incentive payments for structural practices and land management practices related to crop and livestock production in accordance with final regulations issued to carry out the environmental quality incentives program.".

SEC. 335. CONSERVATION FARM OPTION.

Subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3830 et seq.) (as amended by section 334) is amended by adding at the end the following:

"CHAPTER 5—CONSERVATION FARM OPTION

16 USC 3839bb.

"SEC. 1240M. CONSERVATION FARM OPTION.

"(a) IN GENERAL.—The Secretary shall establish conservation farm option pilot programs for producers of wheat, feed grains, cotton, and rice.

"(b) ELIGIBLE OWNERS AND PRODUCERS.—An owner or producer with a farm that has contract acreage enrolled in the agricultural market transition program established under the Agricultural Market Transition Act shall be eligible to participate in the conservation farm option offered under a pilot program under subsection (a)

if the owner or producer meets the conditions established under section (e).

"(c) PURPOSES.—The purposes of the conservation farm option pilot programs shall include—

"(1) conservation of soil, water, and related resources;

"(2) water quality protection or improvement;

"(3) wetland restoration, protection, and creation;

"(4) wildlife habitat development and protection; or

"(5) other similar conservation purposes.

"(d) CONSERVATION FARM PLAN.—

"(1) IN GENERAL.—To be eligible to enter into a conservation farm option contract, an owner or producer must prepare and submit to the Secretary, for approval, a conservation farm plan that shall become a part of the conservation farm option contract.

"(2) REQUIREMENTS.—A conservation farm plan shall—

"(A) describe the resource-conserving crop rotations, and all other conservation practices, to be implemented and maintained on the acreage that is subject to contract during the contract period;

"(B) contain a schedule for the implementation and maintenance of the practices described in the conservation farm plan;

"(C) comply with highly erodible land and wetland conservation requirements of this title; and

"(D) contain such other terms as the Secretary may require.

"(e) CONTRACTS.—

"(1) IN GENERAL.—On approval of a conservation farm plan, the Secretary may enter into a contract with the owner or producer that specifies the acres being enrolled and the practices being adopted.

"(2) DURATION OF CONTRACT.—The contract shall be for a period of 10 years. The contract may be renewed for a period of not to exceed 5 years on mutual agreement of the Secretary and the owner or producer.

"(3) CONSIDERATION.—In exchange for payments under this subsection, the owner or producer shall not participate in and shall forgo payments under—

"(A) the conservation reserve program established under subchapter B of chapter 1;

"(B) the wetlands reserve program established under subchapter C of chapter 1; and

"(C) the environmental quality incentives program established under chapter 4.

"(4) OWNER OR PRODUCER RESPONSIBILITIES UNDER THE AGREEMENT.—Under the terms of the contract entered into under this section, an owner or producer shall agree to—

"(A) actively comply with the terms and conditions of the approved conservation farm plan;

"(B) keep such records as the Secretary may reasonably require for purposes of evaluation of the implementation of the conservation farm plan; and Records.

"(C) not engage in any activity that would defeat the purposes of the conservation farm option pilot program.

"(5) PAYMENTS.—The Secretary shall offer an owner or producer annual payments under the contract that are equiva-

lent to the payments the owner or producer would have received under the conservation reserve program, the wetlands reserve program, and the environmental quality incentives program.

"(6) BALANCE OF BENEFITS.—The Secretary shall not permit an owner or producer to terminate a conservation reserve program contract and enter a conservation farm option contract if the Secretary determines that such action will reduce net environmental benefits.

"(f) SECRETARIAL DETERMINATIONS.—

"(1) ACREAGE ESTIMATES.—Prior to each year during which the Secretary intends to offer conservation reserve program contracts, the Secretary shall estimate the number of acres that—

"(A) will be retired under the conservation farm option under the terms and conditions the Secretary intends to offer for that program; and

"(B) would be retired under the conservation reserve program if the conservation farm option were not available.

"(2) TOTAL LAND RETIREMENT.—The Secretary shall announce a number of acres to be enrolled in the conservation reserve program that will result in a total number of acres retired under the conservation reserve program and the conservation farm option that does not exceed the amount estimated under paragraph (1)(B) for the current or future years.

"(3) LIMITATION.—The Secretary shall not enroll additional conservation reserve program contracts to offset the land retired under the conservation farm option.

"(g) COMMODITY CREDIT CORPORATION.—The Secretary shall use the funds, authorities, and facilities of the Commodity Credit Corporation to carry out this subsection.

"(h) FUNDING.—Of the funds of the Commodity Credit Corporation, the Corporation shall make available to carry out this section—

"(1) $7,500,000 for fiscal year 1997;
"(2) $15,000,000 for fiscal year 1998;
"(3) $25,000,000 for fiscal year 1999;
"(4) $37,500,000 for fiscal year 2000;
"(5) $50,000,000 for fiscal year 2001; and
"(6) $62,500,000 for fiscal year 2002.".

SEC. 336. REPEAL OF SUPERSEDED AUTHORITIES.

(a) AGRICULTURAL CONSERVATION PROGRAM.—

(1) ELIMINATION.—

(A) Section 8 of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h) is amended—

(i) in subsection (b)—

(I) by striking paragraphs (1) through (4) and inserting the following:

"(1) ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.—The Secretary shall provide technical assistance, cost-share payments, and incentive payments to operators through the environmental quality incentives program in accordance with chapter 4 of subtitle D of title XII of the Food Security Act of 1985."; and

(II) by striking paragraphs (6) through (8); and

(ii) by striking subsections (d), (e), and (f).

(B) The first sentence of section 11 of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590k) is amended by striking "performance: *Provided further,*" and all that follows through "or other law" and inserting "performance".

(C) Section 14 of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590n) is amended—

(i) in the first sentence, by striking "or 8"; and

(ii) by striking the second sentence.

(D) Section 15 of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590o) is amended—

(i) in the first undesignated paragraph—

(I) in the first sentence, by striking "sections 7 and 8" and inserting "section 7"; and

(II) by striking the third sentence; and

(ii) by striking the second undesignated paragraph.

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (1) of the last proviso of the matter under the heading "CONSERVATION RESERVE PROGRAM" under the heading "SOIL BANK PROGRAMS" of title I of the Department of Agriculture and Farm Credit Administration Appropriation Act, 1959 (72 Stat. 195; 7 U.S.C. 1831a), is amended by striking "Agricultural Conservation Program" and inserting "environmental quality incentives program established under chapter 4 of subtitle D of title XII of the Food Security Act of 1985".

(B) Section 4 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2103) is amended by striking "as added by the Agriculture and Consumer Protection Act of 1973" each place it appears in subsections (d) and (i) and inserting "as in effect before the amendment made by section 336(d)(1) of the Federal Agriculture Improvement and Reform Act of 1996".

(C) Section 226(b)(4) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6932(b)(4)) is amended by striking "and the agricultural conservation program under the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590g et seq.)".

(D) Section 246(b)(8) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6962(b)(8)) is amended by striking "and the agricultural conservation program under the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590g et seq.)".

(E) Section 1271(c)(3)(C) of the Food, Agriculture, Conservation, and Trade Act of 1990 (16 U.S.C. 2106a(c)(3)(C)) is amended by striking "Agricultural Conservation Program established under section 16(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h, 590l, or 590p)" and inserting "environmental quality incentives program established under chapter 4 of subtitle D of title XII of the Food Security Act of 1985".

(F) Section 304(a) of the Lake Champlain Special Designation Act of 1990 (Public Law 101–596; 33 U.S.C. 1270 note) is amended—

(i) in the subsection heading, by striking "SPECIAL PROJECT AREA UNDER THE AGRICULTURAL CONSERVATION PROGRAM" and inserting "PRIORITY AREA UNDER

THE ENVIRONMENTAL QUALITY INCENTIVES PROGRAM"; and

(ii) in paragraph (1), by striking "special project area under the Agricultural Conservation Program established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b))" and inserting "priority area under the environmental quality incentives program established under chapter 4 of subtitle D of title XII of the Food Security Act of 1985".

(G) Section 6 of the Department of Agriculture Organic Act of 1956 (70 Stat. 1033) is amended by striking subsection (b).

16 USC 590h–4.

(b) GREAT PLAINS CONSERVATION PROGRAM.—

(1) ELIMINATION.—Section 16 of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590p) is repealed.

(2) CONFORMING AMENDMENTS.—

(A) The Agricultural Adjustment Act of 1938 is amended by striking "Great Plains program" each place it appears in sections 344(f)(8) and 377 (7 U.S.C. 1344(f)(8) and 1377) and inserting "environmental quality incentives program established under chapter 4 of subtitle D of title XII of the Food Security Act of 1985".

(B) Section 246(b) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6962(b)) is amended by striking paragraph (2).

(c) COLORADO RIVER BASIN SALINITY CONTROL PROGRAM.—

(1) IN GENERAL.—Section 202 of the Colorado River Basin Salinity Control Act (43 U.S.C. 1592) is amended by striking subsection (c) and inserting the following:

"(c) SALINITY CONTROL MEASURES.—The Secretary of Agriculture shall carry out salinity control measures (including watershed enhancement and cost-share measures with livestock and crop producers) in the Colorado River Basin as part of the environmental quality incentives program established under chapter 4 of subtitle D of title XII of the Food Security Act of 1985.".

(2) FUNDS.—Section 205 of the Colorado River Basin Salinity Control Act (43 U.S.C. 1595) is amended—

(A) in subsection (a), by striking "pursuant to section 202(c)(2)(C)"; and

(B) by adding at the end the following:

"(f) FUNDS.—The Secretary may expend funds available in the Basin Funds referred to in this section to carry out cost-share salinity measures in a manner that is consistent with the cost allocations required under this section.".

(3) CONFORMING AMENDMENT.—Section 246(b)(6) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6962(b)(6)) is amended by striking "program" and inserting "measures".

(d) RURAL ENVIRONMENTAL CONSERVATION PROGRAM.—

(1) ELIMINATION.—Title X of the Agricultural Act of 1970 (16 U.S.C. 1501 et seq.) is repealed.

(2) CONFORMING AMENDMENTS.—Section 246 of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6962) (as amended by subsection (b)(2)(B)) is amended—

(A) in subsection (b)—

(i) by striking paragraph (1); and

(ii) by redesignating paragraphs (3) through (8) as paragraphs (1) through (6), respectively; and

(B) in subsection (c), by striking "(2), (3), (4), and (6)" and inserting "(1), (2), and (4)".

(e) OTHER CONSERVATION PROVISIONS.—Subtitle F of title XII of the Food Security Act of 1985 (16 U.S.C. 2005a and 2101 note) is repealed.

(f) RESOURCE CONSERVATION.—

(1) ELIMINATION.—Subtitles A, B, D, E, and F of title XV of the Agriculture and Food Act of 1981 (95 Stat. 1328; 16 U.S.C. 3401 et seq.) are repealed.

(2) CONFORMING AMENDMENT.—Section 739 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1992 (7 U.S.C. 2272a), is repealed.

(g) TECHNICAL AMENDMENT.—The first sentence of the matter under the heading "COMMODITY CREDIT CORPORATION" of Public Law 99–263 (100 Stat. 59; 16 U.S.C. 3841 note) is amended by striking "prices: *Provided further,*" and all that follows through "Acts." and inserting "prices.".

(h) AGRICULTURAL WATER QUALITY INCENTIVES PROGRAM.—Chapter 2 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3838 et seq.) is repealed.

Subtitle E—Conservation Funding and Administration

SEC. 341. CONSERVATION FUNDING AND ADMINISTRATION.

Subtitle E of title XII of the Food Security Act of 1985 (16 U.S.C. 3841 et seq.) is amended to read as follows:

"Subtitle E—Funding and Administration

"SEC. 1241. FUNDING.

16 USC 3841.

"(a) MANDATORY EXPENSES.—For each of fiscal years 1996 through 2002, the Secretary shall use the funds of the Commodity Credit Corporation to carry out the programs authorized by—

"(1) subchapter B of chapter 1 of subtitle D (including contracts extended by the Secretary pursuant to section 1437 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 16 U.S.C. 3831 note));

"(2) subchapter C of chapter 1 of subtitle D; and

"(3) chapter 4 of subtitle D.

"(b) ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.—

"(1) IN GENERAL.—Of the funds of the Commodity Credit Corporation, the Secretary shall make available $130,000,000 for fiscal year 1996, and $200,000,000 for each of fiscal years 1997 through 2002, for providing technical assistance, cost-share payments, incentive payments, and education under the environmental quality incentives program under chapter 4 of subtitle D.

"(2) LIVESTOCK PRODUCTION.—For each of fiscal years 1996 through 2002, 50 percent of the funding available for technical assistance, cost-share payments, incentive payments, and edu-

cation under the environmental quality incentives program shall be targeted at practices relating to livestock production.

16 USC 3842.

"SEC. 1242. USE OF OTHER AGENCIES.

"(a) COMMITTEES.—In carrying out subtitles B, C, and D, the Secretary shall use the services of local, county, and State committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)).

"(b) OTHER AGENCIES.—

"(1) USE.—In carrying out subtitles C and D, the Secretary may utilize the services of the Natural Resources Conservation Service and the Forest Service, the Fish and Wildlife Service, State forestry agencies, State fish and game agencies, land-grant colleges, local, county, and State committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h), soil and water conservation districts, and other appropriate agencies.

"(2) CONSULTATION.—In carrying out subtitle D at the State and county levels, the Secretary shall consult with, to the extent practicable, the Fish and Wildlife Service, State forestry agencies, State fish and game agencies, land-grant colleges, soil-conservation districts, and other appropriate agencies.

16 USC 3843.

"SEC. 1243. ADMINISTRATION.

"(a) PLANS.—The Secretary shall, to the extent practicable, avoid duplication in—

"(1) the conservation plans required for—

"(A) highly erodible land conservation under subtitle B;

"(B) the conservation reserve program established under subchapter B of chapter 1 of subtitle D; and

"(C) the wetlands reserve program established under subchapter C of chapter 1 of subtitle D; and

"(2) the environmental quality incentives program established under chapter 4 of subtitle D.

"(b) ACREAGE LIMITATION.—

"(1) IN GENERAL.—The Secretary shall not enroll more than 25 percent of the cropland in any county in the programs administered under the conservation reserve and wetlands reserve programs established under subchapters B and C, respectively, of chapter 1 of subtitle D. Not more than 10 percent of the cropland in a county may be subject to an easement acquired under the subchapters.

"(2) EXCEPTION.—The Secretary may exceed the limitations in paragraph (1) if the Secretary determines that—

"(A) the action would not adversely affect the local economy of a county; and

"(B) operators in the county are having difficulties complying with conservation plans implemented under section 1212.

"(3) SHELTERBELTS AND WINDBREAKS.—The limitations established under this subsection shall not apply to cropland that is subject to an easement under chapter 1 or 3 of subtitle D that is used for the establishment of shelterbelts and windbreaks.

"(c) TENANT PROTECTION.—Except for a person who is a tenant on land that is subject to a conservation reserve contract that has been extended by the Secretary, the Secretary shall provide

adequate safeguards to protect the interests of tenants and sharecroppers, including provision for sharing, on a fair and equitable basis, in payments under the programs established under subtitles B through D.

"(d) PROVISION OF TECHNICAL ASSISTANCE BY OTHER SOURCES.—In the preparation and application of a conservation compliance plan under subtitle B or similar plan required as a condition for assistance from the Department of Agriculture, the Secretary shall permit persons to secure technical assistance from approved sources, as determined by the Secretary, other than the Natural Resources Conservation Service. If the Secretary rejects a technical determination made by such a source, the basis of the Secretary's determination must be supported by documented evidence.

"(e) REGULATIONS.—Not later than 90 days after the date of enactment of the Federal Agriculture Improvement and Reform Act of 1996, the Secretary shall issue regulations to implement the conservation reserve and wetlands reserve programs established under chapter 1 of subtitle D.".

SEC. 342. STATE TECHNICAL COMMITTEES.

(a) COMPOSITION.—Section 1261(c) of the Food Security Act of 1985 (16 U.S.C. 3861(c))—

(1) in paragraph (7), by striking "and" at the end;

(2) in paragraph (8), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(9) agricultural producers with demonstrable conservation expertise;

"(10) nonprofit organizations with demonstrable conservation expertise;

"(11) persons knowledgeable about conservation techniques; and

"(12) agribusiness.".

(b) RESPONSIBILITIES.—Section 1262 of the Food Security Act of 1985 (16 U.S.C. 3862) is amended—

(1) in subsection (a), by adding at the end the following: "Each State technical committee shall provide public notice of, and permit public attendance at meetings considering, issues of concern related to carrying out this title.";

(2) in subsection (b)(1), by adding at the end the following: "Each State technical committee shall establish criteria and guidelines for evaluating petitions by agricultural producers regarding new conservation practices and systems not already described in field office technical guides."; and

(3) in subsection (c)—

(A) in paragraph (7), by striking "and" at the end;

(B) by redesignating paragraph (8) as paragraph (9); and

(C) by inserting after paragraph (7) the following:

"(8) establishing criteria and priorities for State initiatives under the environmental quality incentives program under chapter 4 of subtitle D; and".

SEC. 343. PUBLIC NOTICE AND COMMENT FOR REVISIONS TO CERTAIN STATE TECHNICAL GUIDES.

16 USC 3862 note.

After the date of enactment of this Act, the Secretary of Agriculture shall provide for public notice and comment under section

553 of title 5, United States Code, with regard to any future revisions to those provisions of the Natural Resources Conservation Service State technical guides that are used to carry out subtitles A, B, and C of title XII of the Food Security Act of 1985 (16 U.S.C. 3801 et seq.).

National Natural Resources Conservation Foundation Act.

Subtitle F—National Natural Resources Conservation Foundation

16 USC 5801 note.

SEC. 351. SHORT TITLE.

This subtitle may be cited as the "National Natural Resources Conservation Foundation Act".

16 USC 5801.

SEC. 352. DEFINITIONS.

In this subtitle (unless the context otherwise requires):

(1) BOARD.—The term "Board" means the Board of Trustees established under section 354.

(2) DEPARTMENT.—The term "Department" means the Department of Agriculture.

(3) FOUNDATION.—The term "Foundation" means the National Natural Resources Conservation Foundation established by section 353(a).

(4) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

16 USC 5802.

SEC. 353. NATIONAL NATURAL RESOURCES CONSERVATION FOUNDATION.

(a) ESTABLISHMENT.—A National Natural Resources Conservation Foundation is established as a charitable and nonprofit corporation for charitable, scientific, and educational purposes specified in subsection (b). The Foundation is not an agency or instrumentality of the United States.

(b) DUTIES.—The Foundation shall—

(1) promote innovative solutions to the problems associated with the conservation of natural resources on private lands, particularly with respect to agriculture and soil and water conservation;

(2) promote voluntary partnerships between government and private interests in the conservation of natural resources;

(3) conduct research and undertake educational activities, conduct and support demonstration projects, and make grants to State and local agencies and nonprofit organizations;

(4) provide such other leadership and support as may be necessary to address conservation challenges, such as the prevention of excessive soil erosion, the enhancement of soil and water quality, and the protection of wetlands, wildlife habitat, and strategically important farmland subject to urban conversion and fragmentation;

(5) encourage, accept, and administer private gifts of money and real and personal property for the benefit of, or in connection with, the conservation and related activities and services of the Department, particularly the Natural Resources Conservation Service;

(6) undertake, conduct, and encourage educational, technical, and other assistance, and other activities, that support the conservation and related programs administered by the

Department (other than activities carried out on National Forest System lands), particularly the Natural Resources Conservation Service, except that the Foundation may not enforce or administer a regulation of the Department; and

(7) raise private funds to promote the purposes of the Foundation.

(c) LIMITATIONS AND CONFLICTS OF INTEREST.—

(1) POLITICAL ACTIVITIES.—The Foundation shall not participate or intervene in a political campaign on behalf of any candidate for public office.

(2) CONFLICTS OF INTEREST.—No director, officer, or employee of the Foundation shall participate, directly or indirectly, in the consideration or determination of any question before the Foundation affecting—

(A) the financial interests of the director, officer, or employee; or

(B) the interests of any corporation, partnership, entity, organization, or other person in which the director, officer, or employee—

(i) is an officer, director, or trustee; or

(ii) has any direct or indirect financial interest.

(3) LEGISLATION OR GOVERNMENT ACTION OR POLICY.—No funds of the Foundation may be used in any manner for the purpose of influencing legislation or government action or policy.

(4) LITIGATION.—No funds of the Foundation may be used to bring or join an action against the United States.

SEC. 354. COMPOSITION AND OPERATION. 16 USC 5803.

(a) COMPOSITION.—The Foundation shall be administered by a Board of Trustees that shall consist of 9 voting members, each of whom shall be a United States citizen and not a Federal officer. The Board shall be composed of—

(1) individuals with expertise in agricultural conservation policy matters;

(2) a representative of private sector organizations with a demonstrable interest in natural resources conservation;

(3) a representative of statewide conservation organizations;

(4) a representative of soil and water conservation districts;

(5) a representative of organizations outside the Federal Government that are dedicated to natural resources conservation education; and

(6) a farmer or rancher.

(b) NONGOVERNMENTAL EMPLOYEES.—Service as a member of the Board shall not constitute employment by, or the holding of, an office of the United States for the purposes of any Federal law.

(c) MEMBERSHIP.—

(1) INITIAL MEMBERS.—The Secretary shall appoint 9 persons who meet the criteria established under subsection (a) as the initial members of the Board and designate 1 of the members as the initial chairperson for a 2-year term.

(2) TERMS OF OFFICE.—

(A) IN GENERAL.—A member of the Board shall serve for a term of 3 years, except that the members appointed

to the initial Board shall serve, proportionately, for terms of 1, 2, and 3 years, as determined by the Secretary.

(B) LIMITATION ON TERMS.—No individual may serve more than 2 consecutive 3-year terms as a member of the Board.

(3) SUBSEQUENT MEMBERS.—The initial members of the Board shall adopt procedures in the constitution of the Foundation for the nomination and selection of subsequent members of the Board. The procedures shall require that each member, at a minimum, meets the criteria established under subsection (a) and shall provide for the selection of an individual, who is not a Federal officer or a member of the Board.

(d) CHAIRPERSON.—After the appointment of an initial chairperson under subsection (c)(1), each succeeding chairperson of the Board shall be elected by the members of the Board for a 2-year term.

(e) VACANCIES.—A vacancy on the Board shall be filled by the Board not later than 60 days after the occurrence of the vacancy.

(f) COMPENSATION.—A member of the Board shall receive no compensation from the Foundation for the service of the member on the Board.

(g) TRAVEL EXPENSES.—While away from the home or regular place of business of a member of the Board in the performance of services for the Board, the member shall be allowed travel expenses paid by the Foundation, including per diem in lieu of subsistence, at the same rate as a person employed intermittently in the Government service is allowed under section 5703 of title 5, United States Code.

16 USC 5804.

SEC. 355. OFFICERS AND EMPLOYEES.

(a) IN GENERAL.—The Board may—

(1) appoint, hire, and discharge the officers and employees of the Foundation, other than appoint the initial Executive Director of the Foundation;

(2) adopt a constitution and bylaws for the Foundation that are consistent with the purposes of this subtitle; and

(3) undertake any other activities that may be necessary to carry out this subtitle.

(b) OFFICERS AND EMPLOYEES.—

(1) APPOINTMENT AND HIRING.—An officer or employee of the Foundation—

(A) shall not, by virtue of the appointment or employment of the officer or employee, be considered a Federal employee for any purpose, including the provisions of title 5, United States Code, governing appointments in the competitive service, except that such an individual may participate in the Federal employee retirement system as if the individual were a Federal employee; and

(B) may not be paid by the Foundation a salary in excess of $125,000 per year.

(2) EXECUTIVE DIRECTOR.—

(A) INITIAL DIRECTOR.—The Secretary shall appoint an individual to serve as the initial Executive Director of the Foundation who shall serve, at the direction of the Board, as the chief operating officer of the Foundation.

(B) SUBSEQUENT DIRECTORS.—The Board shall appoint each subsequent Executive Director of the Foundation who

shall serve, at the direction of the Board, as the chief operating officer of the Foundation.

(C) QUALIFICATIONS.—The Executive Director shall be knowledgeable and experienced in matters relating to natural resources conservation.

SEC. 356. CORPORATE POWERS AND OBLIGATIONS OF THE FOUNDATION. 16 USC 5805.

(a) IN GENERAL.—The Foundation—

(1) may conduct business throughout the United States and the territories and possessions of the United States; and

(2) shall at all times maintain a designated agent who is authorized to accept service of process for the Foundation, so that the serving of notice to, or service of process on, the agent, or mailed to the business address of the agent, shall be considered as service on or notice to the Foundation.

(b) SEAL.—The Foundation shall have an official seal selected by the Board that shall be judicially noticed.

(c) POWERS.—To carry out the purposes of the Foundation under section 353(b), the Foundation shall have, in addition to the powers otherwise provided under this subtitle, the usual powers of a corporation, including the power—

(1) to accept, receive, solicit, hold, administer, and use any gift, devise, or bequest, either absolutely or in trust, of real or personal property or any income from, or other interest in, the gift, devise, or bequest;

(2) to acquire by purchase or exchange any real or personal property or interest in property, except that funds provided under section 360 may not be used to purchase an interest in real property;

(3) unless otherwise required by instrument of transfer, to sell, donate, lease, invest, reinvest, retain, or otherwise dispose of any property or income from property;

(4) to borrow money from private sources and issue bonds, debentures, or other debt instruments, subject to section 359, except that the aggregate amount of the borrowing and debt instruments outstanding at any time may not exceed $1,000,000;

(5) to sue and be sued, and complain and defend itself, in any court of competent jurisdiction, except that a member of the Board shall not be personally liable for an action in the performance of services for the Board, except for gross negligence;

(6) to enter into a contract or other agreement with an agency of State or local government, educational institution, or other private organization or person and to make such payments as may be necessary to carry out the functions of the Foundation; and

(7) to do any and all acts that are necessary to carry out the purposes of the Foundation.

(d) INTERESTS IN PROPERTY.—

(1) INTERESTS IN REAL PROPERTY.—The Foundation may acquire, hold, and dispose of lands, waters, or other interests in real property by donation, gift, devise, purchase, or exchange. An interest in real property shall be treated, among other things, as including an easement or other right for the preservation, conservation, protection, or enhancement of agricultural,

natural, scenic, historic, scientific, educational, inspirational, or recreational resources.

(2) GIFTS.—A gift, devise, or bequest may be accepted by the Foundation even though the gift, devise, or bequest is encumbered, restricted, or subject to a beneficial interest of a private person if any current or future interest in the gift, devise, or bequest is for the benefit of the Foundation.

16 USC 5806.

SEC. 357. ADMINISTRATIVE SERVICES AND SUPPORT.

For each of fiscal years 1996 through 1998, the Secretary may provide, without reimbursement, personnel, facilities, and other administrative services of the Department to the Foundation.

16 USC 5807.

SEC. 358. AUDITS AND PETITION OF ATTORNEY GENERAL FOR EQUITABLE RELIEF.

(a) AUDITS.—

(1) IN GENERAL.—The accounts of the Foundation shall be audited in accordance with Public Law 88–504 (36 U.S.C. 1101 et seq.), including an audit of lobbying and litigation activities carried out by the Foundation.

(2) CONFORMING AMENDMENT.—The first section of Public Law 88–504 (36 U.S.C. 1101) is amended by adding at the end the following:

"(77) The National Natural Resources Conservation Foundation.".

(b) RELIEF WITH RESPECT TO CERTAIN FOUNDATION ACTS OR FAILURE TO ACT.—The Attorney General may petition in the United States District Court for the District of Columbia for such equitable relief as may be necessary or appropriate, if the Foundation—

(1) engages in, or threatens to engage in, any act, practice, or policy that is inconsistent with this subtitle; or

(2) refuses, fails, neglects, or threatens to refuse, fail, or neglect, to discharge the obligations of the Foundation under this subtitle.

16 USC 5808.

SEC. 359. RELEASE FROM LIABILITY.

(a) IN GENERAL.—The United States shall not be liable for any debt, default, act, or omission of the Foundation. The full faith and credit of the United States shall not extend to the Foundation.

(b) STATEMENT.—An obligation issued by the Foundation, and a document offering an obligation, shall include a prominent statement that the obligation is not directly or indirectly guaranteed, in whole or in part, by the United States (or an agency or instrumentality of the United States).

16 USC 5809.

SEC. 360. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Department to be made available to the Foundation $1,000,000 for each of fiscal years 1997 through 1999 to initially establish and carry out activities of the Foundation.

Subtitle G—Forestry

SEC. 371. OFFICE OF INTERNATIONAL FORESTRY.

Section 2405 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 6704) is amended by adding at the end the following:

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of fiscal years 1996 through 2002 such sums as are necessary to carry out this section.".

SEC. 372. COOPERATIVE WORK FOR PROTECTION, MANAGEMENT, AND IMPROVEMENT OF NATIONAL FOREST SYSTEM.

The penultimate paragraph of the matter under the heading "FOREST SERVICE." of the first section of the Act of June 30, 1914 (38 Stat. 430, chapter 131; 16 U.S.C. 498), is amended—

(1) by inserting ", management," after "the protection";

(2) by striking "national forests," and inserting "National Forest System,";

(3) by inserting "management," after "protection," both places it appears; and

(4) by adding at the end the following: "Payment for work undertaken pursuant to this paragraph may be made from any appropriation of the Forest Service that is available for similar work if a written agreement so provides and reimbursement will be provided by a cooperator in the same fiscal year as the expenditure by the Forest Service. A reimbursement received from a cooperator that covers the proportionate share of the cooperator of the cost of the work shall be deposited to the credit of the appropriation of the Forest Service from which the payment was initially made or, if the appropriation is no longer available, to the credit of an appropriation of the Forest Service that is available for similar work. The Secretary of Agriculture shall establish written rules that establish criteria to be used to determine whether the acceptance of contributions of money under this paragraph would adversely affect the ability of an officer or employee of the Department of Agriculture to carry out a duty or program of the officer or employee in a fair and objective manner or would compromise, or appear to compromise, the integrity of the program, officer, or employee. The Secretary of Agriculture shall establish written rules that protect the interests of the Forest Service in cooperative work agreements.". Rules. Rules.

SEC. 373. FORESTRY INCENTIVES PROGRAM.

Section 4 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2103) is amended—

(1) in subsection (j), by striking "annually" and inserting "for each of fiscal years 1996 through 2002"; and

(2) by striking subsection (k).

SEC. 374. OPTIONAL STATE GRANTS FOR FOREST LEGACY PROGRAM.

Section 7 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2103c) is amended—

(1) by redesignating subsection (l) as subsection (m); and

(2) by inserting after subsection (k) the following:

"(l) OPTIONAL STATE GRANTS.—

"(1) IN GENERAL.—The Secretary shall, at the request of a participating State, provide a grant to the State to carry out the Forest Legacy Program in the State.

"(2) ADMINISTRATION.—If a State elects to receive a grant under this subsection—

"(A) the Secretary shall use a portion of the funds made available under subsection (m), as determined by the Secretary, to provide a grant to the State; and

"(B) the State shall use the grant to carry out the Forest Legacy Program in the State, including the acquisition by the State of lands and interests in lands.".

Subtitle H—Miscellaneous Conservation Provisions

SEC. 381. CONSERVATION ACTIVITIES OF COMMODITY CREDIT CORPORATION.

(a) IN GENERAL.—Section 5 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714c) is amended—

(1) by redesignating subsection (g) as subsection (h); and

(2) by inserting after subsection (f) the following:

"(g) Carry out conservation or environmental programs authorized by law.".

15 USC 714c note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective on January 1, 1997.

SEC. 382. FLOODPLAIN EASEMENTS.

Section 403 of the Agricultural Credit Act of 1978 (16 U.S.C. 2203) is amended by inserting ", including the purchase of floodplain easements," after "emergency measures".

SEC. 383. RESOURCE CONSERVATION AND DEVELOPMENT PROGRAM.

Section 1538 of the Agriculture and Food Act of 1981 (16 U.S.C. 3461) is amended by striking "1991 through 1995" and inserting "1996 through 2002".

SEC. 384. REPEAL OF REPORT REQUIREMENT.

Section 1342 of title 44, United States Code, is repealed.

7 USC 7334.

SEC. 385. FLOOD RISK REDUCTION.

(a) IN GENERAL.—During fiscal years 1996 through 2002, the Secretary of Agriculture (referred to in this section as the "Secretary") may enter into a contract with a producer on a farm who has contract acreage under the Agricultural Market Transition Act that is frequently flooded.

(b) DUTIES OF PRODUCERS.—Under the terms of the contract, with respect to acres that are subject to the contract, the producer must agree to—

(1) the termination of any contract acreage and production flexibility contract under the Agricultural Market Transition Act;

(2) forgo loans for contract commodities, oilseeds, and extra long staple cotton;

(3) not apply for crop insurance issued or reinsured by the Secretary;

(4) comply with applicable highly erodible land and wetlands conservation compliance requirements established under

title XII of the Food Security Act of 1985 (16 U.S.C. 3801 et seq.);

(5) not apply for any conservation program payments from the Secretary;

(6) not apply for disaster program benefits provided by the Secretary; and

(7) refund the payments, with interest, issued under the flood risk reduction contract to the Secretary, if the producer violates the terms of the contract or if the producer transfers the property to another person who violates the contract.

(c) DUTIES OF THE SECRETARY.—In return for a contract entered into by a producer under this section, the Secretary shall pay the producer an amount that is not more than 95 percent of projected contract payments under the Agricultural Market Transition Act that the Secretary estimates the producer would otherwise have received during the period beginning at the time the contract is entered into under this section and ending September 30, 2002.

(d) COMMODITY CREDIT CORPORATION.—The Secretary shall carry out the program authorized by this section (other than subsection (e)) through the Commodity Credit Corporation.

(e) ADDITIONAL PAYMENTS.—

(1) IN GENERAL.—Subject to the availability of advanced appropriations, the Secretary may make payments to a producer described in subsection (a), in addition to the payments provided under subsection (c), to offset other estimated Federal Government outlays on frequently flooded land.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out paragraph (1).

(f) LIMITATION ON PAYMENTS.—Amounts made available for production flexibility contracts under section 113 shall be reduced by an amount that is equal to the contract payments that producers forgo under subsection (b)(1) of this section.

SEC. 386. CONSERVATION OF PRIVATE GRAZING LAND. 16 USC 2005b.

(a) FINDINGS.—Congress finds that—

(1) private grazing land constitutes nearly ½ of the non-Federal land of the United States and is basic to the environmental, social, and economic stability of rural communities;

(2) private grazing land contains a complex set of interactions among soil, water, air, plants, and animals;

(3) grazing land constitutes the single largest watershed cover type in the United States and contributes significantly to the quality and quantity of water available for all of the many uses of the land;

(4) private grazing land constitutes the most extensive wildlife habitat in the United States;

(5) private grazing land can provide opportunities for improved nutrient management from land application of animal manures and other by-product nutrient resources;

(6) owners and managers of private grazing land need to continue to recognize conservation problems when the problems arise and receive sound technical assistance to improve or conserve grazing land resources to meet ecological and economic demands;

(7) new science and technology must continually be made available in a practical manner so owners and managers of

private grazing land may make informed decisions concerning vital grazing land resources;

(8) agencies of the Department with private grazing land responsibilities are the agencies that have the expertise and experience to provide technical assistance, education, and research to owners and managers of private grazing land for the long-term productivity and ecological health of grazing land;

(9) although competing demands on private grazing land resources are greater than ever before, assistance to private owners and managers of private grazing land is currently limited and does not meet the demand and basic need for adequately sustaining or enhancing the private grazing land resources; and

(10) private grazing land can be enhanced to provide many benefits to all citizens of the United States through voluntary cooperation among owners and managers of the land, local conservation districts, and the agencies of the Department responsible for providing assistance to owners and managers of land and to conservation districts.

(b) PURPOSE.—It is the purpose of this section to authorize the Secretary to provide a coordinated technical, educational, and related assistance program to conserve and enhance private grazing land resources and provide related benefits to all citizens of the United States by—

(1) establishing a coordinated and cooperative Federal, State, and local grazing conservation program for management of private grazing land;

(2) strengthening technical, educational, and related assistance programs that provide assistance to owners and managers of private grazing land;

(3) conserving and improving wildlife habitat on private grazing land;

(4) conserving and improving fish habitat and aquatic systems through grazing land conservation treatment;

(5) protecting and improving water quality;

(6) improving the dependability and consistency of water supplies;

(7) identifying and managing weed, noxious weed, and brush encroachment problems on private grazing land; and

(8) integrating conservation planning and management decisions by owners and managers of private grazing land, on a voluntary basis.

(c) DEFINITIONS.—In this section:

(1) DEPARTMENT.—The term "Department" means the Department of Agriculture.

(2) PRIVATE GRAZING LAND.—The term "private grazing land" means private, State-owned, tribally-owned, and any other non-federally owned rangeland, pastureland, grazed forest land, and hay land.

(3) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(d) PRIVATE GRAZING LAND CONSERVATION ASSISTANCE.—

(1) ASSISTANCE TO GRAZING LANDOWNERS AND OTHERS.—Subject to the availability of appropriations for this section, the Secretary shall establish a voluntary program to provide technical, educational, and related assistance to owners and managers of private grazing land and public agencies, through

local conservation districts, to enable the landowners, managers, and public agencies to voluntarily carry out activities that are consistent with this section, including—

(A) maintaining and improving private grazing land and the multiple values and uses that depend on private grazing land;

(B) implementing grazing land management technologies;

(C) managing resources on private grazing land, including—

(i) planning, managing, and treating private grazing land resources;

(ii) ensuring the long-term sustainability of private grazing land resources;

(iii) harvesting, processing, and marketing private grazing land resources; and

(iv) identifying and managing weed, noxious weed, and brush encroachment problems;

(D) protecting and improving the quality and quantity of water yields from private grazing land;

(E) maintaining and improving wildlife and fish habitat on private grazing land;

(F) enhancing recreational opportunities on private grazing land;

(G) maintaining and improving the aesthetic character of private grazing lands; and

(H) identifying the opportunities and encouraging the diversification of private grazing land enterprises.

(2) PROGRAM ELEMENTS.—

(A) FUNDING.—If funding is provided to carry out this section, it shall be provided through a specific line-item in the annual appropriations for the Natural Resources Conservation Service.

(B) TECHNICAL ASSISTANCE AND EDUCATION.—Personnel of the Department trained in pasture and range management shall be made available under the program to deliver and coordinate technical assistance and education to owners and managers of private grazing land, at the request of the owners and managers.

(e) GRAZING TECHNICAL ASSISTANCE SELF-HELP.—

(1) FINDINGS.—Congress finds that—

(A) there is a severe lack of technical assistance for farmers and ranchers who graze livestock;

(B) Federal budgetary constraints preclude any significant expansion, and may force a reduction of, current levels of technical support; and

(C) farmers and ranchers have a history of cooperatively working together to address common needs in the promotion of their products and in the drainage of wet areas through drainage districts.

(2) ESTABLISHMENT OF GRAZING DEMONSTRATION.—In accordance with paragraph (3), the Secretary may establish 2 grazing management demonstration districts at the recommendation of the grazing lands conservation initiative steering committee.

(3) PROCEDURE.—

(A) PROPOSAL.—Within a reasonable time after the submission of a request of an organization of farmers or ranchers engaged in grazing, the Secretary shall propose that a grazing management district be established.

(B) FUNDING.—The terms and conditions of the funding and operation of the grazing management district shall be proposed by the producers.

(C) APPROVAL.—The Secretary shall approve the proposal if the Secretary determines that the proposal—

(i) is reasonable;

(ii) will promote sound grazing practices; and

(iii) contains provisions similar to the provisions contained in the beef promotion and research order issued under section 4 of the Beef Research and Information Act (7 U.S.C. 2903) in effect on the date of enactment of this Act.

(D) AREA INCLUDED.—The area proposed to be included in a grazing management district shall be determined by the Secretary on the basis of a petition by farmers or ranchers.

(E) AUTHORIZATION.—The Secretary may use authority under the Agricultural Adjustment Act (7 U.S.C. 601 et seq.), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, to operate, on a demonstration basis, a grazing management district.

(F) ACTIVITIES.—The activities of a grazing management district shall be scientifically sound activities, as determined by the Secretary in consultation with a technical advisory committee composed of ranchers, farmers, and technical experts.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) $20,000,000 for fiscal year 1996;

(2) $40,000,000 for fiscal year 1997; and

(3) $60,000,000 for fiscal year 1998 and each subsequent fiscal year.

Establishment.
16 USC 3836a.

SEC. 387. WILDLIFE HABITAT INCENTIVES PROGRAM.

(a) IN GENERAL.—The Secretary of Agriculture, in consultation with the State technical committees established under section 1261 of the Food Security Act of 1985 (16 U.S.C. 3861), shall establish a program under the Natural Resources Conservation Service to be known as the "Wildlife Habitat Incentive Program".

(b) COST-SHARE PAYMENTS.—Under the program, the Secretary shall make cost-share payments to landowners to develop upland wildlife, wetland wildlife, threatened and endangered species, fish, and other types of wildlife habitat approved by the Secretary.

(c) FUNDING.—To carry out this section, a total of $50,000,000 shall be made available for fiscal years 1996 through 2002 from funds made available to carry out subchapter B of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.).

Establishment.
16 USC 3830 note.

SEC. 388. FARMLAND PROTECTION PROGRAM.

(a) IN GENERAL.—The Secretary of Agriculture shall establish and carry out a farmland protection program under which the Secretary shall purchase conservation easements or other interests in not less than 170,000, nor more than 340,000, acres of land

with prime, unique, or other productive soil that is subject to a pending offer from a State or local government for the purpose of protecting topsoil by limiting nonagricultural uses of the land.

(b) CONSERVATION PLAN.—Any highly erodible cropland for which a conservation easement or other interest is purchased under this section shall be subject to the requirements of a conservation plan that requires, at the option of the Secretary, the conversion of the cropland to less intensive uses.

(c) FUNDING.—The Secretary shall use not more than $35,000,000 of the funds of the Commodity Credit Corporation to carry out this section.

SEC. 389. INTERIM MORATORIUM ON BYPASS FLOWS.

National Forest Service. Water. 16 USC 526 note.

(a) MORATORIUM.—There shall be an 18-month moratorium on any Forest Service decision to require bypass flows or any other relinquishment of the unimpaired use of a decreed water right as a condition of renewal or reissuance of a land use authorization permit.

(b) LIMITATIONS.—Subsection (a) shall not affect—

(1) obligations or authority of the Secretary of Agriculture to protect public health and safety; and

(2) obligations or authority under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), or applicable State law.

(c) RULES OF CONSTRUCTION.—

(1) EXISTING NON-FEDERAL WATER RIGHTS.—Nothing in this section prevents or inhibits the exercise of the use and operation of existing non-Federal water rights on or above the National Forest land that require land use authorization permits from the Forest Service to access water supply facilities.

(2) RENEWAL OR REISSUANCE OF EXPIRING LAND USE AUTHORIZATION FOR DECREED WATER RIGHTS.—Nothing in this section prevents or inhibits the renewal or reissuance of expiring land use authorizations for decreed water rights. The Forest Service may extend, as needed, any expiring land use authorization for such time as is necessary to incorporate the results of the study authorized by subsection (d).

(d) STUDY OF WATER RIGHTS ACROSS FEDERAL LANDS.—

(1) ESTABLISHMENT.—Not later than 60 days after the date of enactment of this Act, there shall be established a Water Rights Task Force to study the subjects described in paragraph (3).

(2) MEMBERSHIP.—The Task Force shall be composed of 7 members appointed as follows:

(A) 1 member shall be appointed by the Secretary of Agriculture.

(B) 2 members shall be appointed by the Speaker of the House of Representatives and 1 member shall be appointed by the Minority Leader of the House of Representatives.

(C) 2 members shall be appointed by the Majority Leader of the Senate and 1 member shall be appointed by the Minority Leader of the Senate.

(3) SUBJECTS TO BE STUDIED.—The Task Force shall study and make recommendations on—

(A) whether Federal water rights should be acquired for environmental protection on National Forest land;

(B) measures necessary to protect the free exercise of non-Federal water rights requiring easements and permits from the Forest Service;

(C) the protection of minimum instream flows for environmental and watershed management purposes on National Forest land through purchases or exchanges from willing sellers in accordance with State law;

(D) the effects of any of the recommendations made under this paragraph on existing State laws, regulations, and customs of water usage; and

(E) measures that would be useful in avoiding or resolving conflicts between the Forest Service's responsibilities for natural resource and environmental protection, the public interest, and the property rights and interests of water holders with special use permits for water facilities, including the study of the Federal acquisition of water rights, dispute resolution, mitigation, and compensation.

(4) FINAL REPORT.—As soon as practicable, but not later than 1 year, after the date of enactment of this Act, the Task Force shall provide the final report of the Task Force to—

(A) the Secretary of Agriculture;

(B) the Speaker of the House of Representatives;

(C) the President pro tempore of the Senate;

(D) the Chairman of the Committee on Agriculture of the House of Representatives;

(E) the Chairman of the Committee on Agriculture, Nutrition, and Forestry of the Senate;

(F) the Chairman of the Committee on Resources of the House of Representatives; and

(G) the Chairman of the Committee on Energy and Natural Resources of the Senate.

(5) AUTHORIZATION OF FUNDS.—The Secretary of Agriculture shall use funds made available for salaries and administrative expenses of the Department of Agriculture to carry out this subsection.

Florida.

SEC. 390. EVERGLADES ECOSYSTEM RESTORATION.

(a) IN GENERAL.—On July 1, 1996, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall provide $200,000,000 to the Secretary of the Interior to carry out this section.

(b) ENTITLEMENT.—The Secretary of the Interior (referred to in this section as the "Secretary")—

(1) shall be entitled to receive the funds made available under subsection (a);

(2) shall accept the funds; and

(3) shall use the funds to—

(A) conduct restoration activities in the Everglades ecosystem in South Florida, which shall include the acquisition of real property and interests in real property located within the Everglades ecosystem; and

(B) fund resource protection and resource maintenance activities in the Everglades ecosystem.

(c) SAVINGS PROVISION.—Nothing in this subsection precludes the Secretary from transferring funds to the Army Corps of Engineers, the State of Florida, or the South Florida Water Management District to carry out subsection (b)(3).

(d) DEADLINE.—The Secretary shall use the funds made available under subsection (a) for restoration activities referred to in subsection (b)(3) not later than December 31, 1999.

(e) REPORT TO CONGRESS.—For each of calendar years 1996 through 1999, the Secretary shall submit an annual report to Congress describing all activities carried out under subsection (b)(3).

(f) SEPARATE AND ADDITIONAL EVERGLADES RESTORATION ACCOUNT.—

(1) ESTABLISHMENT.—There is established in the Treasury a special account (to be known as the "Everglades Restoration Account"), which shall consist of such funds as may be deposited in the account under paragraph (2). The account shall be separate, and in addition to, funds deposited in the Treasury under subsection (a).

(2) SOURCE OF FUNDS FOR ACCOUNT.—

(A) PROCEEDS FROM SURPLUS PROPERTY.—

(i) IN GENERAL.—Subject to subparagraph (B), the Administrator shall deposit in the special account all funds received by the Administrator, on or after the date of enactment of this Act, from the disposal pursuant to the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.) of surplus real property located in the State of Florida.

(ii) AVAILABILITY AND DISPOSITION OF FEDERAL LAND.—

(I) IDENTIFICATION.—Any Federal real property located in the State of Florida (excluding lands under the administrative jurisdiction of the Secretary that are set aside for conservation purposes) shall be identified for disposal or exchange under this subsection and shall be presumed available for purposes of this subsection unless the head of the agency controlling the property determines that there is a compelling program need for any property identified by the Secretary.

(II) AVAILABILITY.—Property identified by the Secretary for which there is no demonstrated compelling program need shall, not later than 90 days after a request by the Secretary, be reported to the Administrator and shall be made available to the Administrator who shall consider the property to be surplus property for purposes of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.).

(III) PRIORITIZATION OF DISPOSITION.—The Administrator may prioritize the disposition of property made available under this subparagraph to permit the property to be sold as quickly as practicable in a manner that is consistent with the best interests of the Federal Government.

(B) LIMIT ON TOTAL AMOUNT OF DEPOSITS.—The total amount of funds deposited in the special account under subparagraph (A) shall not exceed $100,000,000.

(C) EFFECT ON CLOSURE OF MILITARY INSTALLATIONS.—Nothing in this section alters the disposition of any proceeds arising from the disposal of real property pursuant to a base closure law.

(3) USE OF SPECIAL ACCOUNT.—Funds in the special account shall be available to the Secretary until expended under this paragraph. The Secretary shall use funds in the special account to assist in the restoration of the Everglades ecosystem in South Florida through—

(A) subject to paragraph (4), the acquisition of real property and interests in real property located within the Everglades ecosystem; and

(B) the funding of resource protection and resource maintenance activities in the Everglades ecosystem.

(4) STATE CONTRIBUTION.—The Secretary may not expend any funds from the special account to acquire a parcel of real property, or an interest in a parcel of real property, under paragraph (3)(A) unless the Secretary obtains, or has previously obtained, a contribution from the State of Florida in an amount equal to not less than 50 percent of the appraised value of the parcel or interest to be acquired, as determined by the Secretary.

(5) DEFINITIONS.—In this subsection:

(A) ADMINISTRATOR.—The term "Administrator" means the Administrator of General Services.

(B) BASE CLOSURE LAW.—The term "base closure law" means each of the following:

(i) The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note).

(ii) Title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note).

(iii) Section 2687 of title 10, United States Code.

(iv) Any other similar law enacted after the date of enactment of this Act.

(C) EVERGLADES ECOSYSTEM.—The term "Everglades ecosystem" means the Florida Everglades Restoration area that extends from the Kissimmee River basin to Florida Bay.

(D) EXCESS PROPERTY.—The term "excess property" has the meaning provided in section 3 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472).

(E) EXECUTIVE AGENCY.—The term "executive agency" has the meaning provided in section 3 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472).

(F) SPECIAL ACCOUNT.—The term "special account" means the Everglades Restoration Account established under paragraph (1).

(G) SURPLUS PROPERTY.—The term "surplus property" has the meaning provided in section 3 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472).

(g) REPORT TO DETERMINE THE FEASIBILITY OF ADDITIONAL LAND ACQUISITION AND RESTORATION ACTIVITIES.—

(1) IN GENERAL.—The Secretary shall conduct an investigation to determine what, if any, unreserved and unappropriated Federal lands (or mineral interests in any such lands) under the administrative jurisdiction of the Secretary are suitable

for disposal or exchange for the purpose of conducting restoration activities in the Everglades region.

(2) CONSERVATION LANDS.—No lands under the administrative jurisdiction of the Secretary that are set aside for conservation purposes shall be identified for disposal or exchange under this subsection.

(3) FLORIDA.—In carrying out this subsection, the Secretary shall, to the maximum extent practicable, determine which lands and mineral interests located within the State of Florida are suitable for disposal or exchange before making the determination for eligible lands or interests in other States.

(4) PUBLIC ACCESS.—In carrying out this subsection, the Secretary shall consider that in disposing of lands, the Secretary shall retain such interest in the lands as may be necessary to ensure that the general public is not precluded from reasonable access to the lands for purposes of fishing, hunting, or other recreational uses.

(5) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit a report to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate describing the results of the investigation conducted under this subsection. The report shall describe the specific parcels identified under this subsection, establish the priorities for disposal or exchange among the parcels, and estimate the values of the parcels.

SEC. 391. AGRICULTURAL AIR QUALITY RESEARCH OVERSIGHT. 7 USC 5405.

(a) FINDINGS.—Congress finds that—

(1) various studies have alleged that agriculture is a source of PM-10 emissions;

(2) many of these studies have often been based on erroneous data;

(3) Federal research activities are currently being conducted by the Department of Agriculture to determine the true extent to which agricultural activities contribute to air pollution and to determine cost-effective ways in which the agricultural industry can reduce any pollution that exists; and

(4) any Federal policy recommendations that may be issued by any Federal agency to address air pollution problems related to agriculture or any other industrial activity should be based on sound scientific findings that are subject to adequate peer review and should take into account economic feasibility.

(b) PURPOSE.—The purpose of this section is to encourage the Secretary of Agriculture to continue to strengthen vital research efforts related to agricultural air quality.

(c) OVERSIGHT COORDINATION.—

(1) INTERGOVERNMENTAL COOPERATION.—The Secretary shall, to the maximum extent practicable with respect to the Department of Agriculture and other Federal departments and agencies, ensure intergovernmental cooperation in research activities related to agricultural air quality and avoid duplication of the activities.

(2) CORRECT DATA.—The Secretary shall, to the maximum extent practicable, ensure that the results of any research related to agricultural air quality conducted by Federal agencies

not report erroneous data with respect to agricultural air quality.

(d) TASK FORCE.—

(1) ESTABLISHMENT.—The Chief of the National Resources Conservation Service shall establish a task force to address agricultural air quality issues.

(2) COMPOSITION.—The task force shall be comprised of employees of the Department of Agriculture, industry representatives, and other experts in the fields of agriculture and air quality.

(3) DUTIES.—The task force shall advise the Secretary with respect to the role of the Secretary for providing oversight and coordination related to agricultural air quality.

TITLE IV—NUTRITION ASSISTANCE

SEC. 401. FOOD STAMP PROGRAM.

(a) DISQUALIFICATION OF A STORE OR CONCERN.—Section 12(b)(3)(B) of the Food Stamp Act of 1977 (7 U.S.C. 2021(b)(3)(B)) is amended—

(1) by striking the second parenthetical; and

(2) by striking "; or" and inserting the following: ", including evidence that—

"(i) the ownership of the store or food concern was not aware of, did not approve of, did not benefit from, and was not involved in the conduct of the violation; and

"(ii)(I) the management of the store or food concern was not aware of, did not approve of, did not benefit from, and was not involved in the conduct of the violation; or

"(II) the management was aware of, approved of, benefited from, or was involved in the conduct of no more than 1 previous violation by the store or food concern; or".

(b) EMPLOYMENT AND TRAINING.—Section 16(h)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2025(h)(1)) is amended by striking "1995" each place it appears and inserting "2002".

(c) AUTHORIZATION OF PILOT PROJECTS.—The last sentence of section 17(b)(1)(A) of the Food Stamp Act of 1977 (7 U.S.C. 2026(b)(1)(A)) is amended by striking "1995" and inserting "2002".

(d) OUTREACH DEMONSTRATION PROJECTS.—The first sentence of section 17(j)(1)(A) of the Food Stamp Act of 1977 (7 U.S.C. 2026(j)(1)(A)) is amended by striking "1995" and inserting "2002".

(e) AUTHORIZATION FOR APPROPRIATIONS.—The first sentence of section 18(a)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2027(a)(1)) is amended by striking "1995" and inserting "1997".

(f) REAUTHORIZATION OF PUERTO RICO NUTRITION ASSISTANCE PROGRAM.—The first sentence of section 19(a)(1)(A) of the Food Stamp Act of 1977 (7 U.S.C. 2028(a)(1)(A)) is amended by striking "$974,000,000" and all that follows through "fiscal year 1995" and inserting "$1,143,000,000 for fiscal year 1996, $1,174,000,000 for fiscal year 1997, $1,204,000,000 for fiscal year 1998, $1,236,000,000 for fiscal year 1999, $1,268,000,000 for fiscal year 2000, $1,301,000,000 for fiscal year 2001, and $1,335,000,000 for fiscal year 2002".

(g) AMERICAN SAMOA.—The Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) is amended by adding at the end the following:

"SEC. 24. TERRITORY OF AMERICAN SAMOA.

7 USC 2033. Effective date.

"Effective October 1, 1995, from amounts made available to carry out this Act, the Secretary shall pay to the Territory of American Samoa not more than $5,300,000 for each of fiscal years 1996 through 2002 to finance 100 percent of the expenditures for the fiscal year for a nutrition assistance program extended under section 601(c) of Public Law 96–597 (48 U.S.C. 1469d(c)).".

(h) ASSISTANCE FOR COMMUNITY FOOD PROJECTS.—The Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) (as amended by subsection (g)) is amended by adding at the end the following:

"SEC. 25. ASSISTANCE FOR COMMUNITY FOOD PROJECTS.

7 USC 2034.

"(a) DEFINITION OF COMMUNITY FOOD PROJECTS.—In this section, the term 'community food project' means a community-based project that requires a 1-time infusion of Federal assistance to become self-sustaining and that is designed to—

"(1) meet the food needs of low-income people;

"(2) increase the self-reliance of communities in providing for their own food needs; and

"(3) promote comprehensive responses to local food, farm, and nutrition issues.

"(b) AUTHORITY TO PROVIDE ASSISTANCE.—

"(1) IN GENERAL.—From amounts made available to carry out this Act, the Secretary may make grants to assist eligible private nonprofit entities to establish and carry out community food projects.

"(2) LIMITATION ON GRANTS.—The total amount of funds provided as grants under this section may not exceed—

"(A) $1,000,000 for fiscal year 1996; and

"(B) $2,500,000 for each of fiscal years 1997 through 2002.

"(c) ELIGIBLE ENTITIES.—To be eligible for a grant under subsection (b), a private nonprofit entity must—

"(1) have experience in the area of—

"(A) community food work, particularly concerning small and medium-sized farms, including the provision of food to people in low-income communities and the development of new markets in low-income communities for agricultural producers; or

"(B) job training and business development activities for food-related activities in low-income communities;

"(2) demonstrate competency to implement a project, provide fiscal accountability, collect data, and prepare reports and other necessary documentation; and

"(3) demonstrate a willingness to share information with researchers, practitioners, and other interested parties.

"(d) PREFERENCE FOR CERTAIN PROJECTS.—In selecting community food projects to receive assistance under subsection (b), the Secretary shall give a preference to projects designed to—

"(1) develop linkages between 2 or more sectors of the food system;

"(2) support the development of entrepreneurial projects;

"(3) develop innovative linkages between the for-profit and nonprofit food sectors; or

"(4) encourage long-term planning activities and multi-system, interagency approaches.

"(e) MATCHING FUNDS REQUIREMENTS.—

"(1) REQUIREMENTS.—The Federal share of the cost of establishing or carrying out a community food project that receives assistance under subsection (b) may not exceed 50 percent of the cost of the project during the term of the grant.

"(2) CALCULATION.—In providing for the non-Federal share of the cost of carrying out a community food project, the entity receiving the grant shall provide for the share through a payment in cash or in kind, fairly evaluated, including facilities, equipment, or services.

"(3) SOURCES.—An entity may provide for the non-Federal share through State government, local government, or private sources.

"(f) TERM OF GRANT.—

"(1) SINGLE GRANT.—A community food project may be supported by only a single grant under subsection (b).

"(2) TERM.—The term of a grant under subsection (b) may not exceed 3 years.

"(g) TECHNICAL ASSISTANCE AND RELATED INFORMATION.—

"(1) TECHNICAL ASSISTANCE.—In carrying out this section, the Secretary may provide technical assistance regarding community food projects, processes, and development to an entity seeking the assistance.

"(2) SHARING INFORMATION.—

"(A) IN GENERAL.—The Secretary may provide for the sharing of information concerning community food projects and issues among and between government, private for-profit and nonprofit groups, and the public through publications, conferences, and other appropriate forums.

"(B) OTHER INTERESTED PARTIES.—The Secretary may share information concerning community food projects with researchers, practitioners, and other interested parties.

"(h) EVALUATION.—

"(1) IN GENERAL.—The Secretary shall provide for the evaluation of the success of community food projects supported using funds under this section.

"(2) REPORT.—Not later than January 30, 2002, the Secretary shall submit a report to Congress regarding the results of the evaluation.".

SEC. 402. COMMODITY DISTRIBUTION PROGRAM; COMMODITY SUPPLEMENTAL FOOD PROGRAM.

(a) REAUTHORIZATION.—The first sentence of section 4(a) of the Agriculture and Consumer Protection Act of 1973 (Public Law 93–86; 7 U.S.C. 612c note) is amended by striking "1995" and inserting "2002".

(b) FUNDING.—Section 5 of the Agriculture and Consumer Protection Act of 1973 (Public Law 93–86; 7 U.S.C. 612c note) is amended—

(1) in subsection (a)(2), by striking "1995" and inserting "2002";

(2) in subsection (d)(2), by striking "1995" and inserting "2002"; and

(3) by adding at the end the following:

"(l) CARRIED-OVER FUNDS.—Not more than 20 percent of any commodity supplemental food program food funds carried over under this section shall be available for administrative expenses of the program.".

SEC. 403. EMERGENCY FOOD ASSISTANCE PROGRAM.

(a) REAUTHORIZATION.—The first sentence of section 204(a)(1) of the Emergency Food Assistance Act of 1983 (Public Law 98–8; 7 U.S.C. 612c note) is amended by striking "1995" and inserting "2002".

(b) PROGRAM TERMINATION.—Section 212 of the Emergency Food Assistance Act of 1983 (Public Law 98–8; 7 U.S.C. 612c note) is amended by striking "1995" and inserting "2002".

(c) REQUIRED PURCHASES OF COMMODITIES.—Section 214 of the Emergency Food Assistance Act of 1983 (Public Law 98–8; 7 U.S.C. 612c note) is amended—

(1) in the first sentence of subsection (a), by striking "1995" and inserting "2002"; and

(2) in subsection (e), by striking "1995" each place it appears and inserting "2002".

SEC. 404. SOUP KITCHEN AND FOOD BANK PROGRAM.

Section 110 of the Hunger Prevention Act of 1988 (Public Law 100–435; 7 U.S.C. 612c note) is amended—

(1) in the first sentence of subsection (a), by striking "1995" and inserting "2002"; and

(2) in subsection (c)(2)—

(A) in the paragraph heading, by striking "1992 THROUGH 1995" and inserting "SUBSEQUENT"; and

(B) by striking "1995" each place it appears and inserting "2002".

SEC. 405. NATIONAL COMMODITY PROCESSING.

The first sentence of section 1114(a)(2)(A) of the Agriculture and Food Act of 1981 (7 U.S.C. 1431e(2)(A)) is amended by striking "1995" and inserting "2002".

TITLE V—AGRICULTURAL PROMOTION

Subtitle A—Commodity Promotion and Evaluation

SEC. 501. COMMODITY PROMOTION AND EVALUATION. 7 USC 7401.

(a) COMMODITY PROMOTION LAW DEFINED.—In this section, the term "commodity promotion law" means a Federal law that provides for the establishment and operation of a promotion program regarding an agricultural commodity that includes a combination of promotion, research, industry information, or consumer information activities, is funded by mandatory assessments on producers or processors, and is designed to maintain or expand markets and uses for the commodity (as determined by the Secretary). The term includes—

(1) the marketing promotion provisions under section 8c(6)(I) of the Agricultural Adjustment Act (7 U.S.C. 608c(6)(I)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937;

(2) Public Law 89–502 (7 U.S.C. 2101 et seq.);
(3) title III of Public Law 91–670 (7 U.S.C. 2611 et seq.);
(4) Public Law 93–428 (7 U.S.C. 2701 et seq.);
(5) Public Law 94–294 (7 U.S.C. 2901 et seq.);
(6) subtitle B of title I of Public Law 98–180 (7 U.S.C. 4501 et seq.);
(7) Public Law 98–590 (7 U.S.C. 4601 et seq.);
(8) subtitle B of title XVI of Public Law 99–198 (7 U.S.C. 4801 et seq.);
(9) subtitle C of title XVI of Public Law 99–198 (7 U.S.C. 4901 et seq.);
(10) subtitle B of title XIX of Public Law 101–624 (7 U.S.C. 6101 et seq.);
(11) subtitle E of title XIX of Public Law 101–624 (7 U.S.C. 6301 et seq.);
(12) subtitle H of title XIX of Public Law 101–624 (7 U.S.C. 6401 et seq.);
(13) Public Law 103–190 (7 U.S.C. 6801 et seq.);
(14) Public Law 103–407 (7 U.S.C. 7101 et seq.);
(15) subtitle B;
(16) subtitle C;
(17) subtitle D; or
(18) subtitle E.

(b) FINDINGS.—Congress finds the following:

(1) It is in the national public interest and vital to the welfare of the agricultural economy of the United States to maintain and expand existing markets and develop new markets and uses for agricultural commodities through industry-funded, Government-supervised, generic commodity promotion programs established under commodity promotion laws.

(2) These generic commodity promotion programs, funded by the agricultural producers or processors who most directly reap the benefits of the programs and supervised by the Secretary of Agriculture, provide a unique opportunity for producers and processors to inform consumers about their products.

(3) The central congressional purpose underlying each commodity promotion law has always been to maintain and expand markets for the agricultural commodity covered by the law, rather than to maintain or expand the share of those markets held by any individual producer or processor.

(4) The commodity promotion laws were neither designed nor intended to prohibit or restrict, and the promotion programs established and funded pursuant to these laws do not prohibit or restrict, individual advertising or promotion of the covered commodities by any producer, processor, or group of producers or processors.

(5) It has never been the intent of Congress for the generic commodity promotion programs established and funded by the commodity promotion laws to replace the individual advertising and promotion efforts of producers or processors.

(6) An individual producer's or processor's own advertising initiatives are typically designed to increase the share of the market held by that producer or processor rather than to increase or expand the overall size of the market.

(7) In contrast, a generic commodity promotion program is intended and designed to maintain or increase the overall demand for the agricultural commodity covered by the program

and increase the size of the market for that commodity, often by utilizing promotion methods and techniques that individual producers and processors typically are unable, or have no incentive, to employ.

(8) The commodity promotion laws establish promotion programs that operate as "self-help" mechanisms for producers and processors to fund generic promotions for covered commodities which, under the required supervision and oversight of the Secretary of Agriculture—

(A) further specific national governmental goals, as established by Congress; and

(B) produce nonideological and commercial communication the purpose of which is to further the governmental policy and objective of maintaining and expanding the markets for the covered commodities.

(9) While some commodity promotion laws grant a producer or processor the option of crediting individual advertising conducted by the producer or processor for all or a portion of the producer's or processor's marketing promotion assessments, all promotion programs established under the commodity promotion laws, both those programs that permit credit for individual advertising and those programs that do not contain such provisions, are very narrowly tailored to fulfill the congressional purposes of the commodity promotion laws without impairing or infringing the legal or constitutional rights of any individual producer or processor.

(10) These generic commodity promotion programs are of particular benefit to small producers who often lack the resources or market power to advertise on their own and who are otherwise often unable to benefit from the economies of scale available in promotion and advertising.

(11) Periodic independent evaluation of the effectiveness of these generic commodity promotion programs will assist Congress and the Secretary of Agriculture in ensuring that the objectives of the programs are met.

(c) INDEPENDENT EVALUATION OF PROMOTION PROGRAM EFFECTIVENESS.—Except as otherwise provided by law, each commodity board established under the supervision and oversight of the Secretary of Agriculture pursuant to a commodity promotion law shall, not less often than every 5 years, authorize and fund, from funds otherwise available to the board, an independent evaluation of the effectiveness of the generic commodity promotion programs and other programs conducted by the board pursuant to a commodity promotion law. The board shall submit to the Secretary, and make available to the public, the results of each periodic independent evaluation conducted under this subsection.

Public information.

(d) ADMINISTRATIVE COSTS.—The Secretary shall annually provide to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate information on administrative expenses on programs established under commodity promotion laws.

Commodity Promotion, Research, and Information Act of 1996.

Subtitle B—Issuance of Orders for Promotion, Research, and Information Activities Regarding Agricultural Commodities

7 USC 7401 note.

SEC. 511. SHORT TITLE.

This subtitle may be cited as the "Commodity Promotion, Research, and Information Act of 1996".

7 USC 7411.

SEC. 512. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds the following:

(1) The production of agricultural commodities plays a significant role in the economy of the United States. Thousands of producers in the United States are involved in the production of agricultural commodities, and such commodities are consumed by millions of people throughout the United States and foreign countries.

(2) Agricultural commodities must be of high quality, readily available, handled properly, and marketed efficiently to ensure that consumers have an adequate supply.

(3) The maintenance and expansion of existing markets and the development of new markets for agricultural commodities through generic commodity promotion, research, and information programs are vital to the welfare of persons engaged in the production, marketing, and consumption of such commodities, as well as to the general economy of the United States.

(4) Generic promotion, research, and information activities for agricultural commodities play a unique role in advancing the demand for such commodities, since such activities increase the total market for a product to the benefit of consumers and all producers. These generic activities complement branded advertising initiatives, which are aimed at increasing the market share of individual competitors, and are of particular benefit to small producers who lack the resources or market power to advertise on their own. These generic activities do not impede the branded advertising efforts of individual firms, but instead increase general market demand for an agricultural commodity using methods that individual companies do not have the incentive to employ.

(5) Generic promotion, research, and information activities for agricultural commodities, paid by the producers and others in the industry who reap the benefits of such activities, provide a unique opportunity for producers to inform consumers about a particular agricultural commodity.

(6) It is important to ensure that generic promotion, research, and information activities for agricultural commodities be carried out in an effective and coordinated manner designed to strengthen the position of the commodities in the marketplace and to maintain and expand their markets and uses. Independent evaluation of the effectiveness of the generic promotion activities of these programs will assist the Secretary of Agriculture and Congress in ensuring that these objectives are met.

(7) The cooperative development, financing, and implementation of a coordinated national program of research, promotion, and information regarding agricultural commodities are necessary to maintain and expand existing markets and to develop new markets for these commodities.

(8) Agricultural commodities move in interstate and foreign commerce, and agricultural commodities and their products that do not move in such channels of commerce directly burden or affect interstate commerce in agricultural commodities and their products.

(9) Commodity promotion programs have the ability to provide significant conservation benefits to producers and the public.

(b) PURPOSE.—The purpose of this subtitle is to authorize the establishment, through the exercise by the Secretary of Agriculture of the authority provided in this subtitle, of an orderly program for developing, financing, and carrying out an effective, continuous, and coordinated program of generic promotion, research, and information regarding agricultural commodities designed to—

(1) strengthen the position of agricultural commodity industries in the marketplace;

(2) maintain and expand existing domestic and foreign markets and uses for agricultural commodities;

(3) develop new markets and uses for agricultural commodities; or

(4) assist producers in meeting their conservation objectives.

(c) RULE OF CONSTRUCTION.—Nothing in this subtitle provides for the control of production or otherwise limits the right of any person to produce, handle, or import an agricultural commodity.

SEC. 513. DEFINITIONS. 7 USC 7412.

In this subtitle (unless the context otherwise requires):

(1) AGRICULTURAL COMMODITY.—The term "agricultural commodity" means—

(A) agricultural, horticultural, viticultural, and dairy products;

(B) livestock and the products of livestock;

(C) the products of poultry and bee raising;

(D) the products of forestry;

(E) other commodities raised or produced on farms, as determined appropriate by the Secretary; and

(F) products processed or manufactured from products specified in the preceding subparagraphs, as determined appropriate by the Secretary.

(2) BOARD.—The term "board" means a board established under an order issued under section 514.

(3) CONFLICT OF INTEREST.—The term "conflict of interest" means a situation in which a member or employee of a board has a direct or indirect financial interest in a person that performs a service for, or enters into a contract with, a board for anything of economic value.

(4) DEPARTMENT.—The term "Department" means the Department of Agriculture.

(5) FIRST HANDLER.—The term "first handler" means the first person who buys or takes possession of an agricultural commodity from a producer for marketing. If a producer mar-

kets the agricultural commodity directly to consumers, the producer shall be considered to be the first handler with respect to the agricultural commodity produced by the producer.

(6) IMPORTER.—The term "importer" means any person who imports an agricultural commodity from outside the United States for sale in the United States as a principal or as an agent, broker, or consignee of any person.

(7) INFORMATION.—The term "information" means information and programs that are designed to increase—

(A) efficiency in processing; and

(B) the development of new markets, marketing strategies, increased marketing efficiency, and activities to enhance the image of agricultural commodities on a national or international basis.

(8) MARKET.—The term "market" means to sell or to otherwise dispose of an agricultural commodity in interstate, foreign, or intrastate commerce.

(9) ORDER.—The term "order" means an order issued by the Secretary under section 514 that provides for a program of generic promotion, research, and information regarding agricultural commodities designed to—

(A) strengthen the position of agricultural commodity industries in the marketplace;

(B) maintain and expand existing domestic and foreign markets and uses for agricultural commodities;

(C) develop new markets and uses for agricultural commodities; or

(D) assist producers in meeting their conservation objectives.

(10) PERSON.—The term "person" means any individual, group of individuals, partnership, corporation, association, cooperative, or any other legal entity.

(11) PRODUCER.—The term "producer" means any person who is engaged in the production and sale of an agricultural commodity in the United States and who owns, or shares the ownership and risk of loss of, the agricultural commodity.

(12) PROMOTION.—The term "promotion" means any action taken by a board under an order, including paid advertising, to present a favorable image of an agricultural commodity to the public to improve the competitive position of the agricultural commodity in the marketplace and to stimulate sales of the agricultural commodity.

(13) RESEARCH.—The term "research" means any type of test, study, or analysis designed to advance the image, desirability, use, marketability, production, product development, or quality of an agricultural commodity.

(14) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(15) STATE.—The term "State" means any of the States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.

(16) SUSPEND.—The term "suspend" means to issue a rule under section 553 of title 5, United States Code, to temporarily prevent the operation of an order during a particular period of time specified in the rule.

(17) TERMINATE.—The term "terminate" means to issue a rule under section 553 of title 5, United States Code, to

cancel permanently the operation of an order beginning on a date certain specified in the rule.

(18) UNITED STATES.—The term "United States" means collectively the 50 States, the District of Columbia, the Commonwealth of Puerto Rico and the territories and possessions of the United States.

SEC. 514. ISSUANCE OF ORDERS. 7 USC 7413.

(a) ISSUANCE AUTHORIZED.—

(1) IN GENERAL.—To effectuate the purpose of this subtitle, the Secretary may issue, and amend from time to time, orders applicable to—

(A) the producers of an agricultural commodity;

(B) the first handlers of the agricultural commodity and other persons in the marketing chain as appropriate; and

(C) the importers of the agricultural commodity, if imports of the agricultural commodity are subject to assessment under section 516(f).

(2) NATIONAL SCOPE.—Each order issued under this section shall be national in scope.

(b) PROCEDURE FOR ISSUANCE.—

(1) DEVELOPMENT OR RECEIPT OF PROPOSED ORDER.—A proposed order with respect to an agricultural commodity may be—

(A) prepared by the Secretary at any time; or

(B) submitted to the Secretary by—

(i) an association of producers of the agricultural commodity; or

(ii) any other person that may be affected by the issuance of an order with respect to the agricultural commodity.

(2) CONSIDERATION OF PROPOSED ORDER.—If the Secretary determines that a proposed order is consistent with and will effectuate the purpose of this subtitle, the Secretary shall publish the proposed order in the Federal Register and give due notice and opportunity for public comment on the proposed order. Federal Register, publication.

(3) EXISTENCE OF OTHER ORDERS.—In deciding whether a proposal for an order is consistent with and will effectuate the purpose of this subtitle, the Secretary may consider the existence of other Federal promotion, research, and information programs or orders issued or developed pursuant to any other law.

(4) PREPARATION OF FINAL ORDER.—After notice and opportunity for public comment under paragraph (2) regarding a proposed order, the Secretary shall take into consideration the comments received in preparing a final order. The Secretary shall ensure that the final order is in conformity with the terms, conditions, and requirements of this subtitle.

(c) ISSUANCE AND EFFECTIVE DATE.—If the Secretary determines that the final order developed with respect to an agricultural commodity is consistent with and will effectuate the purpose of this subtitle, the Secretary shall issue the final order. Except in the case of an order for which an initial referendum is conducted under section 518(a), the final order shall be issued and become

effective not later than 270 days after the date of publication of the proposed order that was the basis for the final order.

(d) AMENDMENTS.—From time to time the Secretary may amend any order, consistent with the requirements of section 523.

7 USC 7414.

SEC. 515. REQUIRED TERMS IN ORDERS.

(a) IN GENERAL.—Each order shall contain the terms and conditions specified in this section.

(b) BOARD.—

(1) ESTABLISHMENT.—Each order shall establish a board to carry out a program of generic promotion, research, and information regarding the agricultural commodity covered by the order and intended to effectuate the purpose of this subtitle.

(2) BOARD MEMBERSHIP.—

(A) NUMBER OF MEMBERS.—Each board shall consist of the number of members considered by the Secretary, in consultation with the agricultural commodity industry involved, to be appropriate to administer the order. In addition to members, the Secretary may also provide for alternates on the board.

(B) APPOINTMENT.—The Secretary shall appoint the members and any alternates of a board from among producers of the agricultural commodity and first handlers and others in the marketing chain as appropriate. If imports of the agricultural commodity covered by an order are subject to assessment under section 516(f), the Secretary shall also appoint importers as members of the board and as alternates if alternates are included on the board. The Secretary may appoint 1 or more members of the general public to each board.

(C) NOMINATIONS.—The Secretary may make appointments from nominations made pursuant to the method set forth in the order.

(D) GEOGRAPHICAL REPRESENTATION.—To ensure fair and equitable representation of the agricultural commodity industry covered by an order, the composition of each board shall reflect the geographical distribution of the production of the agricultural commodity involved in the United States and the quantity or value of the agricultural commodity imported into the United States.

(3) REAPPORTIONMENT OF BOARD MEMBERSHIP.—In accordance with rules issued by the Secretary, at least once in each 5-year period, but not more frequently than once in each 3-year period, each board shall—

(A) review the geographical distribution in the United States of the production of the agricultural commodity covered by the order involved and the quantity or value of the agricultural commodity imported into the United States; and

(B) if warranted, recommend to the Secretary the reapportionment of the board membership to reflect changes in the geographical distribution of the production of the agricultural commodity and the quantity or value of the imported agricultural commodity.

(4) NOTICE.—

(A) VACANCIES.—Each order shall provide for notice of board vacancies to the agricultural commodity industry involved.

(B) MEETINGS.—Each board shall provide the Secretary with prior notice of meetings of the board to permit the Secretary, or a designated representative of the Secretary, to attend the meetings.

(5) TERM OF OFFICE.—

(A) IN GENERAL.—The members and any alternates of a board shall each serve for a term of 3 years, except that the members and any alternates initially appointed to a board shall serve for terms of not more than 2, 3, and 4 years, as specified by the order.

(B) LIMITATION ON CONSECUTIVE TERMS.—A member or alternate may serve not more than 2 consecutive terms.

(C) CONTINUATION OF TERM.—Notwithstanding subparagraph (B), each member or alternate shall continue to serve until a successor is appointed by the Secretary.

(D) VACANCIES.—A vacancy arising before the expiration of a term of office of an incumbent member or alternate of a board shall be filled in a manner provided for in the order.

(6) COMPENSATION.—

(A) IN GENERAL.—Members and any alternates of a board shall serve without compensation.

(B) TRAVEL EXPENSES.—If approved by a board, members or alternates shall be reimbursed for reasonable travel expenses, which may include a per diem allowance or actual subsistence incurred while away from their homes or regular places of business in the performance of services for the board.

(c) POWERS AND DUTIES OF A BOARD.—Each order shall specify the powers and duties of the board established under the order, which shall include the power and duty—

(1) to administer the order in accordance with its terms and conditions and to collect assessments;

(2) to develop and recommend to the Secretary for approval such bylaws as may be necessary for the functioning of the board and such rules as may be necessary to administer the order, including activities authorized to be carried out under the order;

(3) to meet, organize, and select from among the members of the board a chairperson, other officers, and committees and subcommittees, as the board determines to be appropriate;

(4) to employ persons, other than the members, as the board considers necessary to assist the board in carrying out its duties, and to determine the compensation and specify the duties of the persons;

(5) subject to subsection (e), to develop and carry out generic promotion, research, and information activities relating to the agricultural commodity covered by the order;

(6) to prepare and submit for the approval of the Secretary, before the beginning of each fiscal year, rates of assessment under section 517 and an annual budget of the anticipated expenses to be incurred in the administration of the order, including the probable cost of each promotion, research, and

information activity proposed to be developed or carried out by the board;

(7) to borrow funds necessary for the startup expenses of the order;

(8) subject to subsection (f), to enter into contracts or agreements to develop and carry out generic promotion, research, and information activities relating to the agricultural commodity covered by the order;

(9) to pay the cost of the activities with assessments collected under section 517, earnings from invested assessments, and other funds;

Records. (10) to keep records that accurately reflect the actions and transactions of the board, to keep and report minutes of each meeting of the board to the Secretary, and to furnish the Secretary with any information or records the Secretary requests;

(11) to receive, investigate, and report to the Secretary complaints of violations of the order; and

(12) to recommend to the Secretary such amendments to the order as the board considers appropriate.

(d) PROHIBITED ACTIVITIES.—A board may not engage in, and shall prohibit the employees and agents of the board from engaging in—

(1) any action that would be a conflict of interest;

(2) using funds collected by the board under the order, any action undertaken for the purpose of influencing any legislation or governmental action or policy other than recommending to the Secretary amendments to the order; and

(3) any advertising, including promotion, research, and information activities authorized to be carried out under the order, that may be false or misleading or disparaging to another agricultural commodity.

(e) ACTIVITIES AND BUDGETS.—

(1) ACTIVITIES.—Each order shall require the board established under the order to submit to the Secretary for approval plans and projects for promotion, research, or information relating to the agricultural commodity covered by the order.

(2) BUDGETS.—

(A) SUBMISSION TO SECRETARY.—Each order shall require the board established under the order to submit to the Secretary for approval a budget of its anticipated annual expenses and disbursements to be paid to administer the order. The budget shall be submitted before the beginning of a fiscal year and as frequently as may be necessary after the beginning of the fiscal year.

(B) REIMBURSEMENT OF SECRETARY.—Each order shall require that the Secretary be reimbursed for all expenses incurred by the Secretary in the implementation, administration, and supervision of the order, including all referenda costs incurred in connection with the order.

(3) INCURRING EXPENSES.—A board may incur the expenses described in paragraph (2) and other expenses for the administration, maintenance, and functioning of the board as authorized by the Secretary.

(4) PAYMENT OF EXPENSES.—Expenses incurred under paragraph (3) shall be paid by a board using assessments collected under section 517, earnings obtained from assessments, and

other income of the board. Any funds borrowed by the board shall be expended only for startup costs and capital outlays.

(5) LIMITATION ON SPENDING.—For fiscal years beginning 3 or more years after the date of the establishment of a board, the board may not expend for administration (except for reimbursements to the Secretary required under paragraph (2)(B)), maintenance, and functioning of the board in a fiscal year an amount that exceeds 15 percent of the assessment and other income received by the board for the fiscal year.

(f) CONTRACTS AND AGREEMENTS.—

(1) IN GENERAL.—Each order shall provide that, with the approval of the Secretary, the board established under the order may—

(A) enter into contracts and agreements to carry out generic promotion, research, and information activities relating to the agricultural commodity covered by the order, including contracts and agreements with producer associations or other entities as considered appropriate by the Secretary; and

(B) pay the cost of approved generic promotion, research, and information activities using assessments collected under section 517, earnings obtained from assessments, and other income of the board.

(2) REQUIREMENTS.—Each contract or agreement shall provide that any person who enters into the contract or agreement with the board shall—

(A) develop and submit to the board a proposed activity together with a budget that specifies the cost to be incurred to carry out the activity;

(B) keep accurate records of all of its transactions relating to the contract or agreement; Records.

(C) account for funds received and expended in connection with the contract or agreement;

(D) make periodic reports to the board of activities conducted under the contract or agreement; and

(E) make such other reports as the board or the Secretary considers relevant.

(g) RECORDS OF BOARD.—

(1) IN GENERAL.—Each order shall require the board established under the order—

(A) to maintain such records as the Secretary may require and to make the records available to the Secretary for inspection and audit;

(B) to collect and submit to the Secretary, at any time the Secretary may specify, any information the Secretary may request; and

(C) to account for the receipt and disbursement of all funds in the possession, or under the control, of the board.

(2) AUDITS.—Each order shall require the board established under the order to have—

(A) its records audited by an independent auditor at the end of each fiscal year; and

(B) a report of the audit submitted directly to the Secretary. Reports.

(h) PERIODIC EVALUATION.—In accordance with section 501(c), each order shall require the board established under the order

to provide for the independent evaluation of all generic promotion, research, and information activities undertaken under the order.

(i) BOOKS AND RECORDS OF PERSONS COVERED BY ORDER.—

(1) IN GENERAL.—Each order shall require that producers, first handlers and other persons in the marketing chain as appropriate, and importers covered by the order shall—

(A) maintain records sufficient to ensure compliance with the order and regulations;

(B) submit to the board established under the order any information required by the board to carry out its responsibilities under the order; and

(C) make the records described in subparagraph (A) available, during normal business hours, for inspection by employees or agents of the board or the Department, including any records necessary to verify information required under subparagraph (B).

(2) TIME REQUIREMENT.—Any record required to be maintained under paragraph (1) shall be maintained for such time period as the Secretary may prescribe.

(3) OTHER INFORMATION.—The Secretary may use, and may authorize the board to use under this subtitle, information regarding persons subject to an order that is collected by the Department under any other law.

(4) CONFIDENTIALITY OF INFORMATION.—

(A) IN GENERAL.—Except as otherwise provided in this subtitle, all information obtained under paragraph (1) or as part of a referendum under section 518 shall be kept confidential by all officers, employees, and agents of the Department and of the board.

(B) DISCLOSURE.—Information referred to in subparagraph (A) may be disclosed only if—

(i) the Secretary considers the information relevant; and

(ii) the information is revealed in a judicial proceeding or administrative hearing brought at the direction or on the request of the Secretary or to which the Secretary or any officer of the Department is a party.

(C) OTHER EXCEPTIONS.—This paragraph shall not prohibit—

(i) the issuance of general statements based on reports or on information relating to a number of persons subject to an order if the statements do not identify the information furnished by any person; or

(ii) the publication, by direction of the Secretary, of the name of any person violating any order and a statement of the particular provisions of the order violated by the person.

(D) PENALTY.—Any person who willfully violates this subsection shall be subject, on conviction, to a fine of not more than $1,000 or to imprisonment for not more than 1 year, or both.

(5) WITHHOLDING INFORMATION.—This subsection shall not authorize the withholding of information from Congress.

SEC. 516. PERMISSIVE TERMS IN ORDERS. 7 USC 7415.

(a) EXEMPTIONS.—An order issued under this subtitle may contain—

(1) authority for the Secretary to exempt from the order any de minimis quantity of an agricultural commodity otherwise covered by the order; and

(2) authority for the board established under the order to require satisfactory safeguards against improper use of the exemption.

(b) DIFFERENT PAYMENT AND REPORTING SCHEDULES.—An order issued under this subtitle may contain authority for the board established under the order to designate different payment and reporting schedules to recognize differences in agricultural commodity industry marketing practices and procedures used in different production and importing areas.

(c) ACTIVITIES.—An order issued under this subtitle may contain authority to develop and carry out research, promotion, and information activities designed to expand, improve, or make more efficient the marketing or use of the agricultural commodity covered by the order in domestic and foreign markets. Section 515(e) shall apply with respect to activities authorized under this subsection.

(d) RESERVE FUNDS.—An order issued under this subtitle may contain authority to reserve funds from assessments collected under section 517 to permit an effective and continuous coordinated program of research, promotion, and information in years when the yield from assessments may be reduced, except that the amount of funds reserved may not exceed the greatest aggregate amount of the anticipated disbursements specified in budgets approved under section 515(e) by the Secretary for any 2 fiscal years.

(e) CREDITS.—

(1) GENERIC ACTIVITIES.—An order issued under this subtitle may contain authority to provide credits of assessments for those individuals who contribute to other similar generic research, promotion, and information programs at the State, regional, or local level.

(2) BRANDED ACTIVITIES.—

(A) IN GENERAL.—The Secretary may permit a farmer cooperative that engages in branded activities relating to the marketing of the products of members of the cooperative to receive an annual credit for the activities and related expenditures in the form of a deduction of the total cost of the activities and related expenditures from the amount of any assessment that would otherwise be required to be paid by the producer members of the cooperative under an order issued under this subtitle.

(B) ELECTION BY COOPERATIVE.—A farmer cooperative may elect to voluntarily waive the application of subparagraph (A) to the cooperative.

(f) ASSESSMENT OF IMPORTS.—An order issued under this subtitle may contain authority for the board established under the order to assess under section 517 an imported agricultural commodity, or products of such an agricultural commodity, at a rate comparable to the rate determined by the appropriate board for the domestic agricultural commodity covered by the order.

(g) OTHER AUTHORITY.—An order issued under this subtitle may contain authority to take any other action that—

(1) is not inconsistent with the purpose of this subtitle, any term or condition specified in section 515, or any rule issued to carry out this subtitle; and

(2) is necessary to administer the order.

7 USC 7416.

SEC. 517. ASSESSMENTS.

(a) ASSESSMENTS AUTHORIZED.—While an order issued under this subtitle is in effect with respect to an agricultural commodity, assessments shall be—

(1) paid by first handlers with respect to the agricultural commodity produced and marketed in the United States; and

(2) paid by importers with respect to the agricultural commodity imported into the United States, if the imported agricultural commodity is covered by the order pursuant to section 516(f).

(b) COLLECTION.—Assessments required under an order shall be remitted to the board established under the order at the time and in the manner prescribed by the order.

(c) LIMITATION ON ASSESSMENTS.—Not more than 1 assessment may be levied on a first handler or importer under subsection (a) with respect to any agricultural commodity.

(d) ASSESSMENT RATES.—The board shall recommend to the Secretary 1 or more rates of assessment to be levied under subsection (a). If approved by the Secretary, the rates shall take effect. An order may provide that an assessment rate may not be increased unless approved by a referendum conducted pursuant to section 518.

(e) LATE-PAYMENT AND INTEREST CHARGES.—

(1) IN GENERAL.—Late-payment and interest charges may be levied on each person subject to an order who fails to remit an assessment in accordance with subsection (b).

(2) RATE.—The rate for the charges shall be specified by the Secretary.

(f) INVESTMENT OF ASSESSMENTS.—Pending disbursement of assessments under a budget approved by the Secretary, a board may invest assessments collected under this section in—

(1) obligations of the United States or any agency of the United States;

(2) general obligations of any State or any political subdivision of a State;

(3) interest-bearing accounts or certificates of deposit of financial institutions that are members of the Federal Reserve System; or

(4) obligations fully guaranteed as to principal and interest by the United States.

(g) REFUND OF ASSESSMENTS FROM ESCROW ACCOUNT.—

(1) ESCROW ACCOUNT.—During the period beginning on the effective date of an order and ending on the date the Secretary announces the results of a referendum that is conducted under section 518(b)(1) with respect to the order, the board established under the order shall—

(A) establish and maintain an escrow account of the kind described in subsection (f)(3) to be used to refund assessments; and

(B) deposit funds in the account in accordance with paragraph (2).

(2) AMOUNT TO BE DEPOSITED.—The board shall deposit in the account an amount equal to 10 percent of the assessments collected during the period referred to in paragraph (1).

(3) RIGHT TO RECEIVE REFUND.—Subject to paragraphs (4), (5), and (6), persons subject to an order shall be eligible to demand a refund of assessments collected during the period referred to in paragraph (1) if—

(A) the assessments were remitted on behalf of the person; and

(B) the order is not approved in the referendum.

(4) FORM OF DEMAND.—The demand for a refund shall be made at such time and in such form as specified by the order.

(5) PAYMENT OF REFUND.—A person entitled to a refund shall be paid promptly after the board receives satisfactory proof that the assessment for which the refund is demanded was paid on behalf of the person who makes the demand.

(6) PRORATION.—If the funds in the escrow account required by paragraph (1) are insufficient to pay the amount of all refunds that persons subject to an order otherwise would have a right to receive under this subsection, the board shall prorate the amount of the funds among all the persons.

(7) CLOSING OF ESCROW ACCOUNT.—If the order is approved in a referendum conducted under section 518(b)(1)—

(A) the escrow account shall be closed; and

(B) the funds shall be available to the board for disbursement as authorized in the order.

SEC. 518. REFERENDA. 7 USC 7417.

(a) INITIAL REFERENDUM.—

(1) OPTIONAL REFERENDUM.—For the purpose of ascertaining whether the persons to be covered by an order favor the order going into effect, the order may provide for the Secretary to conduct an initial referendum among persons to be subject to an assessment under section 517 who, during a representative period determined by the Secretary, engaged in—

(A) the production or handling of the agricultural commodity covered by the order; or

(B) the importation of the agricultural commodity.

(2) PROCEDURE.—The results of the referendum shall be determined in accordance with subsection (e). The Secretary may require that the agricultural commodity industry involved post a bond or other collateral to cover the cost of the referendum.

(b) REQUIRED REFERENDA.—

(1) IN GENERAL.—For the purpose of ascertaining whether the persons covered by an order favor the continuation, suspension, or termination of the order, the Secretary shall conduct a referendum among persons subject to assessments under section 517 who, during a representative period determined by the Secretary, have engaged in—

(A) the production or handling of the agricultural commodity covered by the order; or

(B) the importation of the agricultural commodity.

(2) TIME FOR REFERENDUM.—The referendum shall be conducted not later than 3 years after assessments first begin under the order.

(3) EXCEPTION.—This subsection shall not apply if an initial referendum was conducted under subsection (a).

(c) SUBSEQUENT REFERENDA.—The Secretary shall conduct a subsequent referendum—

(1) not later than 7 years after assessments first begin under the order;

(2) at the request of the board established under the order; or

(3) at the request of 10 percent or more of the number of persons eligible to vote under subsection (b)(1);

to determine if the persons favor the continuation, suspension, or termination of the order.

(d) OTHER REFERENDA.—The Secretary may conduct a referendum at any time to determine whether the continuation, suspension, or termination of the order or a provision of the order is favored by persons eligible to vote under subsection (b)(1).

(e) APPROVAL OF ORDER.—An order may provide for its approval in a referendum—

(1) by a majority of those persons voting;

(2) by persons voting for approval who represent a majority of the volume of the agricultural commodity; or

(3) by a majority of those persons voting for approval who also represent a majority of the volume of the agricultural commodity.

(f) COSTS OF REFERENDA.—The board established under an order with respect to which a referendum is conducted under this section shall reimburse the Secretary for any expenses incurred by the Secretary to conduct the referendum.

(g) MANNER OF CONDUCTING REFERENDA.—

(1) IN GENERAL.—A referendum conducted under this section shall be conducted in the manner determined by the Secretary to be appropriate.

(2) ADVANCE REGISTRATION.—If the Secretary determines that an advance registration of eligible voters in a referendum is necessary before the voting period in order to facilitate the conduct of the referendum, the Secretary may institute the advance registration procedures by mail, or in person through the use of national and local offices of the Department.

(3) VOTING.—Eligible voters may vote by mail ballot in the referendum or in person if so prescribed by the Secretary.

(4) NOTICE.—Not later than 30 days before a referendum is conducted under this section with respect to an order, the Secretary shall notify the agricultural commodity industry involved, in such manner as determined by the Secretary, of the period during which voting in the referendum will occur. The notice shall explain any registration and voting procedures established under this subsection.

7 USC 7418.

SEC. 519. PETITION AND REVIEW OF ORDERS.

(a) PETITION.—

(1) IN GENERAL.—A person subject to an order issued under this subtitle may file with the Secretary a petition—

(A) stating that the order, any provision of the order, or any obligation imposed in connection with the order, is not established in accordance with law; and

(B) requesting a modification of the order or an exemption from the order.

(2) HEARING.—The Secretary shall give the petitioner an opportunity for a hearing on the petition, in accordance with regulations issued by the Secretary.

(3) RULING.—After the hearing, the Secretary shall make a ruling on the petition. The ruling shall be final, subject to review as set forth in subsection (b).

(4) LIMITATION ON PETITION.—Any petition filed under this subsection challenging an order, any provision of the order, or any obligation imposed in connection with the order, shall be filed within 2 years after the effective date of the order, provision, or obligation subject to challenge in the petition.

(b) REVIEW.—

(1) COMMENCEMENT OF ACTION.—The district court of the United States for any district in which a person who is a petitioner under subsection (a) resides or carries on business shall have jurisdiction to review the final ruling on the petition of the person, if a complaint for that purpose is filed not later than 20 days after the date of the entry of the final ruling by the Secretary under subsection (a)(3). Courts.

(2) PROCESS.—Service of process in a proceeding may be made on the Secretary by delivering a copy of the complaint to the Secretary.

(3) REMANDS.—If the court determines that the ruling is not in accordance with law, the court shall remand the matter to the Secretary with directions—

(A) to make such ruling as the court determines to be in accordance with law; or

(B) to take such further action as, in the opinion of the court, the law requires.

(c) EFFECT ON ENFORCEMENT PROCEEDINGS.—The pendency of a petition filed under subsection (a) or an action commenced under subsection (b) shall not operate as a stay of any action authorized by section 520 to be taken to enforce this subtitle, including any rule, order, or penalty in effect under this subtitle.

SEC. 520. ENFORCEMENT. 7 USC 7419.

(a) JURISDICTION.—The district courts of the United States shall have jurisdiction specifically to enforce, and to prevent and restrain a person from violating, an order or regulation issued under this subtitle. Courts.

(b) REFERRAL TO ATTORNEY GENERAL.—A civil action authorized to be brought under this section shall be referred to the Attorney General for appropriate action, except that the Secretary shall not be required to refer to the Attorney General a violation of this subtitle if the Secretary believes that the administration and enforcement of this subtitle would be adequately served by providing a suitable written notice or warning to the person who committed the violation or by an administrative action under this section.

(c) CIVIL PENALTIES AND ORDERS.—

(1) CIVIL PENALTIES.—A person who willfully violates an order or regulation issued by the Secretary under this Act

may be assessed by the Secretary a civil penalty of not less than $1,000 and not more than $10,000 for each violation.

(2) SEPARATE OFFENSE.—Each violation and each day during which there is a failure to comply with an order or regulation issued by the Secretary shall be considered to be a separate offense.

(3) CEASE-AND-DESIST ORDERS.—In addition to, or in lieu of, a civil penalty, the Secretary may issue an order requiring a person to cease and desist from violating the order or regulation.

(4) NOTICE AND HEARING.—No order assessing a penalty or cease-and-desist order may be issued by the Secretary under this subsection unless the Secretary provides notice and an opportunity for a hearing on the record with respect to the violation.

(5) FINALITY.—An order assessing a penalty or a cease-and-desist order issued under this subsection by the Secretary shall be final and conclusive unless the person against whom the order is issued files an appeal from the order with the United States court of appeals, as provided in subsection (d).

(d) REVIEW BY COURT OF APPEALS.—

(1) IN GENERAL.—A person against whom an order is issued under subsection (c) may obtain review of the order by—

(A) filing, not later than 30 days after the person receives notice of the order, a notice of appeal in—

(i) the United States court of appeals for the circuit in which the person resides or carries on business; or

(ii) the United States Court of Appeals for the District of Columbia Circuit; and

(B) simultaneously sending a copy of the notice of appeal by certified mail to the Secretary.

(2) RECORD.—The Secretary shall file with the court a certified copy of the record on which the Secretary has determined that the person has committed a violation.

(3) STANDARD OF REVIEW.—A finding of the Secretary under this section shall be set aside only if the finding is found to be unsupported by substantial evidence on the record.

(e) FAILURE TO OBEY CEASE-AND-DESIST ORDERS.—A person who fails to obey a valid cease-and-desist order issued by the Secretary under this section, after an opportunity for a hearing, shall be subject to a civil penalty assessed by the Secretary of not less than $1,000 and not more than $10,000 for each offense. Each day during which the failure continues shall be considered to be a separate violation of the cease-and-desist order.

(f) FAILURE TO PAY PENALTIES.—If a person fails to pay a civil penalty imposed under this section by the Secretary, the Secretary shall refer the matter to the Attorney General for recovery of the amount assessed in the district court of the United States for any district in which the person resides or carries on business. In the action, the validity and appropriateness of the order imposing the civil penalty shall not be subject to review.

(g) ADDITIONAL REMEDIES.—The remedies provided in this section shall be in addition to, and not exclusive of, other remedies that may be available.

SEC. 521. INVESTIGATIONS AND POWER TO SUBPOENA. 7 USC 7420.

(a) INVESTIGATIONS.—The Secretary may make such investigations as the Secretary considers necessary—

(1) for the effective administration of this subtitle; or

(2) to determine whether any person subject to this subtitle has engaged, or is about to engage, in any action that constitutes or will constitute a violation of this subtitle or any order or regulation issued under this subtitle.

(b) SUBPOENAS, OATHS, AND AFFIRMATIONS.—For the purpose of any investigation under subsection (a), the Secretary may administer oaths and affirmations, subpoena witnesses, compel the attendance of witnesses, take evidence, and require the production of any records or documents that are relevant to the inquiry. The attendance of witnesses and the production of records or documents may be required from any place in the United States.

(c) AID OF COURTS.—In the case of contumacy by, or refusal to obey a subpoena issued to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which the investigation or proceeding is carried on, or where the person resides or carries on business, in order to require the attendance and testimony of the person or the production of records or documents. The court may issue an order requiring the person to appear before the Secretary to produce records or documents or to give testimony regarding the matter under investigation.

(d) CONTEMPT.—Any failure to obey the order of the court may be punished by the court as a contempt of the court.

(e) PROCESS.—Process in any case under this section may be served in the judicial district in which the person resides or carries on business or wherever the person may be found.

SEC. 522. SUSPENSION OR TERMINATION. 7 USC 7421.

(a) MANDATORY SUSPENSION OR TERMINATION.—The Secretary shall suspend or terminate an order or a provision of an order if the Secretary finds that an order or a provision of an order obstructs or does not tend to effectuate the purpose of this subtitle, or if the Secretary determines that the order or a provision of an order is not favored by persons voting in a referendum conducted under section 518.

(b) IMPLEMENTATION OF SUSPENSION OR TERMINATION.—If, as a result of a referendum conducted under section 518, the Secretary determines that an order is not approved, the Secretary shall—

(1) not later than 180 days after making the determination, suspend or terminate, as the case may be, collection of assessments under the order; and

(2) as soon as practicable, suspend or terminate, as the case may be, activities under the order in an orderly manner.

SEC. 523. AMENDMENTS TO ORDERS. 7 USC 7422.

The provisions of this subtitle applicable to an order shall be applicable to any amendment to an order, except that section 518 shall not apply to an amendment.

SEC. 524. EFFECT ON OTHER LAWS. 7 USC 7423.

This subtitle shall not affect or preempt any other Federal or State law authorizing promotion or research relating to an agricultural commodity.

7 USC 7424.

SEC. 525. REGULATIONS.

The Secretary may issue such regulations as may be necessary to carry out this subtitle and the power vested in the Secretary under this subtitle.

7 USC 7425.

SEC. 526. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated such sums as may be necessary to carry out this subtitle.

(b) LIMITATION ON EXPENDITURES FOR ADMINISTRATIVE EXPENSES.—Funds appropriated to carry out this subtitle may not be expended for the payment of expenses incurred by a board to administer an order.

Subtitle C—Canola and Rapeseed

Canola and Rapeseed Research, Promotion, and Consumer Information Act.
7 USC 7401 note.

SEC. 531. SHORT TITLE.

This subtitle may be cited as the "Canola and Rapeseed Research, Promotion, and Consumer Information Act".

7 USC 7441.

SEC. 532. FINDINGS AND DECLARATION OF POLICY.

(a) FINDINGS.—Congress finds that—

(1) canola and rapeseed products are an important and nutritious part of the human diet;

(2) the production of canola and rapeseed products plays a significant role in the economy of the United States in that—

(A) canola and rapeseed products are produced by thousands of canola and rapeseed producers and processed by numerous processing entities; and

(B) canola and rapeseed products produced in the United States are consumed by people throughout the United States and foreign countries;

(3) canola, rapeseed, and canola and rapeseed products should be readily available and marketed efficiently to ensure that consumers have an adequate supply of canola and rapeseed products at a reasonable price;

(4) the maintenance and expansion of existing markets and development of new markets for canola, rapeseed, and canola and rapeseed products are vital to the welfare of canola and rapeseed producers and processors and those persons concerned with marketing canola, rapeseed, and canola and rapeseed products, as well as to the general economy of the United States, and are necessary to ensure the ready availability and efficient marketing of canola, rapeseed, and canola and rapeseed products;

(5) there exist established State and national organizations conducting canola and rapeseed research, promotion, and consumer education programs that are valuable to the efforts of promoting the consumption of canola, rapeseed, and canola and rapeseed products;

(6) the cooperative development, financing, and implementation of a coordinated national program of canola and rapeseed research, promotion, consumer information, and industry information is necessary to maintain and expand existing markets and develop new markets for canola, rapeseed, and canola and rapeseed products; and

(7) canola, rapeseed, and canola and rapeseed products move in interstate and foreign commerce, and canola, rapeseed,

and canola and rapeseed products that do not move in interstate or foreign commerce directly burden or affect interstate commerce in canola, rapeseed, and canola and rapeseed products.

(b) POLICY.—It is the policy of this subtitle to establish an orderly procedure for developing, financing through assessments on domestically produced canola and rapeseed, and implementing a program of research, promotion, consumer information, and industry information designed to strengthen the position in the marketplace of the canola and rapeseed industry, to maintain and expand existing domestic and foreign markets and uses for canola, rapeseed, and canola and rapeseed products, and to develop new markets and uses for canola, rapeseed, and canola and rapeseed products.

(c) CONSTRUCTION.—Nothing in this subtitle provides for the control of production or otherwise limits the right of individual producers to produce canola, rapeseed, or canola or rapeseed products.

SEC. 533. DEFINITIONS. 7 USC 7442.

In this subtitle (unless the context otherwise requires):

(1) BOARD.—The term "Board" means the National Canola and Rapeseed Board established under section 535(b).

(2) CANOLA; RAPESEED.—The terms "canola" and "rapeseed" mean any brassica plant grown in the United States for the production of an oilseed, the oil of which is used for a food or nonfood use.

(3) CANOLA OR RAPESEED PRODUCT.—The term "canola or rapeseed product" means a product produced, in whole or in part, from canola or rapeseed.

(4) COMMERCE.—The term "commerce" includes interstate, foreign, and intrastate commerce.

(5) CONFLICT OF INTEREST.—The term "conflict of interest" means a situation in which a member of the Board has a direct or indirect financial interest in a corporation, partnership, sole proprietorship, joint venture, or other business entity dealing directly or indirectly with the Board.

(6) CONSUMER INFORMATION.—The term "consumer information" means information that will assist consumers and other persons in making evaluations and decisions regarding the purchase, preparation, and use of canola, rapeseed, or canola or rapeseed products.

(7) DEPARTMENT.—The term "Department" means the Department of Agriculture.

(8) FIRST PURCHASER.—The term "first purchaser" means—

(A) except as provided in subparagraph (B), a person who buys or otherwise acquires canola, rapeseed, or canola or rapeseed products produced by a producer; or

(B) the Commodity Credit Corporation, in a case in which canola or rapeseed is forfeited to the Commodity Credit Corporation as collateral for a loan issued under a price support loan program administered by the Commodity Credit Corporation.

(9) INDUSTRY INFORMATION.—The term "industry information" means information or a program that will lead to the development of new markets, new marketing strategies, or increased efficiency for the canola and rapeseed industry, or an activity to enhance the image of the canola or rapeseed industry.

(10) INDUSTRY MEMBER.—The term "industry member" means a member of the canola and rapeseed industry who represents—

(A) manufacturers of canola or rapeseed products; or

(B) persons who commercially buy or sell canola or rapeseed.

(11) MARKETING.—The term "marketing" means the sale or other disposition of canola, rapeseed, or canola or rapeseed products in a channel of commerce.

(12) ORDER.—The term "order" means an order issued under section 534.

(13) PERSON.—The term "person" means an individual, partnership, corporation, association, cooperative, or any other legal entity.

(14) PRODUCER.—The term "producer" means a person engaged in the growing of canola or rapeseed in the United States who owns, or who shares the ownership and risk of loss of, the canola or rapeseed.

(15) PROMOTION.—The term "promotion" means an action, including paid advertising, technical assistance, or a trade servicing activity, to enhance the image or desirability of canola, rapeseed, or canola or rapeseed products in domestic and foreign markets, or an activity designed to communicate to consumers, processors, wholesalers, retailers, government officials, or other persons information relating to the positive attributes of canola, rapeseed, or canola or rapeseed products or the benefits of use or distribution of canola, rapeseed, or canola or rapeseed products.

(16) RESEARCH.—The term "research" means any type of test, study, or analysis to advance the image, desirability, marketability, production, product development, quality, or functional or nutritional value of canola, rapeseed, or canola or rapeseed products, including research activity designed to identify and analyze barriers to export sales of canola or rapeseed produced in the United States.

(17) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(18) STATE.—The term "State" means any of the 50 States, the District of Columbia and the Commonwealth of Puerto Rico.

(19) UNITED STATES.—The term "United States" means collectively the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

7 USC 7443.

SEC. 534. ISSUANCE AND AMENDMENT OF ORDERS.

(a) IN GENERAL.—Subject to subsection (b), the Secretary shall issue 1 or more orders under this subtitle applicable to producers and first purchasers of canola, rapeseed, or canola or rapeseed products. The order shall be national in scope. Not more than 1 order shall be in effect under this subtitle at any 1 time.

(b) PROCEDURE.—

(1) PROPOSAL OR REQUEST FOR ISSUANCE.—The Secretary may propose the issuance of an order under this subtitle, or an association of canola and rapeseed producers or any other person that would be affected by an order issued pursuant to this subtitle may request the issuance of, and submit a proposal for, an order.

(2) NOTICE AND COMMENT CONCERNING PROPOSED ORDER.— Not later than 60 days after the receipt of a request and proposal for an order pursuant to paragraph (1), or whenever the Secretary determines to propose an order, the Secretary shall publish a proposed order and give due notice and opportunity for public comment on the proposed order. Publication.

(3) ISSUANCE OF ORDER.—After notice and opportunity for public comment are given as provided in paragraph (2), the Secretary shall issue an order, taking into consideration the comments received and including in the order provisions necessary to ensure that the order is in conformity with the requirements of this subtitle. The order shall be issued and become effective not later than 180 days following publication of the proposed order. Effective date.

(c) AMENDMENTS.—The Secretary may amend an order issued under this section.

SEC. 535. REQUIRED TERMS IN ORDERS. 7 USC 7444.

(a) IN GENERAL.—An order issued under this subtitle shall contain the terms and conditions specified in this section.

(b) ESTABLISHMENT AND MEMBERSHIP OF THE NATIONAL CANOLA AND RAPESEED BOARD.—

(1) IN GENERAL.—The order shall provide for the establishment of, and appointment of members to, a National Canola and Rapeseed Board to administer the order.

(2) SERVICE TO ENTIRE INDUSTRY.—The Board shall carry out programs and projects that will provide maximum benefit to the canola and rapeseed industry in all parts of the United States and only promote canola, rapeseed, or canola or rapeseed products.

(3) BOARD MEMBERSHIP.—The Board shall consist of 15 members, including—

(A) 11 members who are producers, including—

(i) 1 member from each of the 6 geographic regions comprised of States where canola or rapeseed is produced, as determined by the Secretary; and

(ii) 5 members from the geographic regions referred to in clause (i), allocated according to the production in each region; and

(B) 4 members who are industry members, including at least—

(i) 1 member who represents manufacturers of canola or rapeseed end products; and

(ii) 1 member who represents persons who commercially buy or sell canola or rapeseed.

(4) LIMITATION ON STATE RESIDENCE.—There shall be no more than 4 producer members of the Board from any 1 State.

(5) MODIFYING BOARD MEMBERSHIP.—In accordance with regulations approved by the Secretary, at least once each 3 years and not more than once each 2 years, the Board shall review the geographic distribution of canola and rapeseed production throughout the United States and, if warranted, recommend to the Secretary that the Secretary—

(A) reapportion regions in order to reflect the geographic distribution of canola and rapeseed production; and

(B) reapportion the seats on the Board to reflect the production in each region.

(6) CERTIFICATION OF ORGANIZATIONS.—

(A) IN GENERAL.—For the purposes of section 536, the eligibility of any State organization to represent producers shall be certified by the Secretary.

(B) CRITERIA.—The Secretary shall certify any State organization that the Secretary determines has a history of stability and permanency and meets at least 1 of the following criteria:

(i) MAJORITY REPRESENTATION.—The total paid membership of the organization—

(I) is comprised of at least a majority of canola or rapeseed producers; or

(II) represents at least a majority of the canola or rapeseed producers in the State.

(ii) SUBSTANTIAL NUMBER OF PRODUCERS REPRESENTED.—The organization represents a substantial number of producers that produce a substantial quantity of canola or rapeseed in the State.

(iii) PURPOSE.—The organization is a general farm or agricultural organization that has as a stated objective the promotion and development of the United States canola or rapeseed industry and the economic welfare of United States canola or rapeseed producers.

(C) REPORT.—The Secretary shall make a certification under this paragraph on the basis of a factual report submitted by the State organization.

(7) TERMS OF OFFICE.—

(A) IN GENERAL.—A member of the Board shall serve for a term of 3 years, except that the members appointed to the initial Board shall serve, proportionately, for terms of 1, 2, and 3 years, as determined by the Secretary.

(B) LIMITATION ON TERMS.—No individual may serve more than 2 consecutive 3-year terms as a member.

(C) TERMINATION OF TERMS.—Notwithstanding subparagraph (B), each member shall continue to serve until a successor is appointed by the Secretary.

(8) COMPENSATION.—A member of the Board shall serve without compensation, but shall be reimbursed for necessary and reasonable expenses incurred in the performance of duties for and approved by the Board.

(c) POWERS AND DUTIES OF THE BOARD.—The order shall define the powers and duties of the Board, which shall include the power and duty—

(1) to administer the order in accordance with the terms and conditions of the order;

(2) to issue regulations to effectuate the terms and conditions of the order;

(3) to meet, organize, and select from among members of the Board a chairperson, other officers, and committees and subcommittees, as the Board determines appropriate;

(4) to establish working committees of persons other than Board members;

(5) to employ such persons, other than Board members, as the Board considers necessary, and to determine the compensation and define the duties of the persons;

(6) to prepare and submit for the approval of the Secretary, when appropriate or necessary, a recommended rate of assessment under section 536, and a fiscal period budget of the anticipated expenses in the administration of the order, including the probable costs of all programs and projects;

(7) to develop programs and projects, subject to subsection (d);

(8) to enter into contracts or agreements, subject to subsection (e), to develop and carry out programs or projects of research, promotion, industry information, and consumer information;

(9) to carry out research, promotion, industry information, and consumer information projects, and to pay the costs of the projects with assessments collected under section 536;

(10) to keep minutes, books, and records that reflect the actions and transactions of the Board, and promptly report minutes of each Board meeting to the Secretary;

(11) to appoint and convene, from time to time, working committees comprised of producers, industry members, and the public to assist in the development of research, promotion, industry information, and consumer information programs for canola, rapeseed, and canola and rapeseed products;

(12) to invest, pending disbursement under a program or project, funds collected through assessments authorized under section 536, or funds earned from investments, only in—

(A) obligations of the United States or an agency of the United States;

(B) general obligations of a State or a political subdivision of a State;

(C) an interest-bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System; or

(D) obligations fully guaranteed as to principal and interest by the United States;

(13) to receive, investigate, and report to the Secretary complaints of violations of the order;

(14) to furnish the Secretary with such information as the Secretary may request;

(15) to recommend to the Secretary amendments to the order;

(16) to develop and recommend to the Secretary for approval such regulations as may be necessary for the development and execution of programs or projects, or as may otherwise be necessary, to carry out the order; and

(17) to provide the Secretary with advance notice of meetings.

(d) PROGRAMS AND BUDGETS.—

(1) SUBMISSION TO SECRETARY.—The order shall provide that the Board shall submit to the Secretary for approval any program or project of research, promotion, consumer information, or industry information. No program or project shall be implemented prior to approval by the Secretary.

(2) BUDGETS.—The order shall require the Board, prior to the beginning of each fiscal year, or as may be necessary after the beginning of a fiscal year, to submit to the Secretary for approval budgets of anticipated expenses and disbursements in the implementation of the order, including projected costs

of research, promotion, consumer information, and industry information programs and projects.

(3) INCURRING EXPENSES.—The Board may incur such expenses for programs or projects of research, promotion, consumer information, or industry information, and other expenses for the administration, maintenance, and functioning of the Board as may be authorized by the Secretary, including any implementation, administrative, and referendum costs incurred by the Department.

(4) PAYING EXPENSES.—The funds to cover the expenses referred to in paragraph (3) shall be paid by the Board from assessments collected under section 536 or funds borrowed pursuant to paragraph (5).

(5) AUTHORITY TO BORROW.—To meet the expenses referred to in paragraph (3), the Board shall have the authority to borrow funds, as approved by the Secretary, for capital outlays and startup costs.

(e) CONTRACTS AND AGREEMENTS.—

(1) IN GENERAL.—To ensure efficient use of funds, the order shall provide that the Board may enter into a contract or agreement for the implementation and carrying out of a program or project of canola, rapeseed, or canola or rapeseed products research, promotion, consumer information, or industry information, including a contract with a producer organization, and for the payment of the costs with funds received by the Board under the order.

(2) REQUIREMENTS.—A contract or agreement under paragraph (1) shall provide that—

(A) the contracting party shall develop and submit to the Board a program or project together with a budget that shall show the estimated costs to be incurred for the program or project;

Effective date.

(B) the program or project shall become effective on the approval of the Secretary; and

Records.
Reports.

(C) the contracting party shall keep accurate records of all transactions, account for funds received and expended, make periodic reports to the Board of activities conducted, and make such other reports as the Board or the Secretary may require.

(3) PRODUCER ORGANIZATIONS.—The order shall provide that the Board may contract with a producer organization for any services required in addition to the services described in paragraph (1). The contract shall include provisions comparable to the provisions required by paragraph (2).

(f) BOOKS AND RECORDS OF THE BOARD.—

(1) IN GENERAL.—The order shall require the Board to—

(A) maintain such books and records (which shall be available to the Secretary for inspection and audit) as the Secretary may prescribe;

Reports.

(B) prepare and submit to the Secretary, from time to time, such reports as the Secretary may prescribe; and

(C) account for the receipt and disbursement of all funds entrusted to the Board.

Reports.

(2) AUDITS.—The Board shall cause the books and records of the Board to be audited by an independent auditor at the end of each fiscal year, and a report of the audit to be submitted to the Secretary.

(g) PROHIBITION.—

(1) IN GENERAL.—Subject to paragraph (2), the Board shall not engage in any action to, nor shall any funds received by the Board under this subtitle be used to—

(A) influence legislation or governmental action;

(B) engage in an action that would be a conflict of interest;

(C) engage in advertising that is false or misleading; or

(D) engage in promotion that would disparage other commodities.

(2) ACTION PERMITTED.—Paragraph (1) does not preclude—

(A) the development and recommendation of amendments to the order;

(B) the communication to appropriate government officials of information relating to the conduct, implementation, or results of promotion, research, consumer information, or industry information activities under the order; or

(C) any action designed to market canola or rapeseed products directly to a foreign government or political subdivision of a foreign government.

(h) BOOKS AND RECORDS.—

(1) IN GENERAL.—The order shall require that each producer, first purchaser, or industry member shall—

(A) maintain and submit to the Board any reports considered necessary by the Secretary to ensure compliance with this subtitle; and

(B) make available during normal business hours, for inspection by employees of the Board or Secretary, such books and records as are necessary to carry out this subtitle, including such records as are necessary to verify any required reports.

(2) CONFIDENTIALITY.—

(A) IN GENERAL.—Except as otherwise provided in this subtitle, all information obtained from books, records, or reports required to be maintained under paragraph (1) shall be kept confidential, and shall not be disclosed to the public by any person.

(B) DISCLOSURE.—Information referred to in subparagraph (A) may be disclosed to the public if—

(i) the Secretary considers the information relevant;

(ii) the information is revealed in a suit or administrative hearing brought at the direction or on the request of the Secretary or to which the Secretary or any officer of the Department is a party; and

(iii) the information relates to this subtitle.

(C) MISCONDUCT.—A knowing disclosure of confidential information in violation of subparagraph (A) by an officer or employee of the Board or Department, except as required by other law or allowed under subparagraph (B) or (D), shall be considered a violation of this subtitle.

(D) GENERAL STATEMENTS.—Nothing in this paragraph prohibits—

(i) the issuance of general statements based on the reports of a number of persons subject to an order

or statistical data collected from the reports, if the statements do not identify the information furnished by any person; or

(ii) the publication, by direction of the Secretary, of the name of a person violating the order, together with a statement of the particular provisions of the order violated by the person.

(3) AVAILABILITY OF INFORMATION FOR LAW ENFORCEMENT.—Information obtained under this subtitle may be made available to another agency of the Federal Government for a civil or criminal law enforcement activity if the activity is authorized by law and if the head of the agency has made a written request to the Secretary specifying the particular information desired and the law enforcement activity for which the information is sought.

(4) PENALTY.—Any person knowingly violating this subsection, on conviction, shall be subject to a fine of not more than $1,000 or to imprisonment for not more than 1 year, or both, and if an officer or employee of the Board or the Department, shall be removed from office or terminated from employment, as applicable.

(5) WITHHOLDING OF INFORMATION.—Nothing in this subtitle authorizes the withholding of information from Congress.

(i) USE OF ASSESSMENTS.—The order shall provide that the assessments collected under section 536 shall be used for payment of the expenses in implementing and administering this subtitle, with provision for a reasonable reserve, and to cover administrative costs incurred by the Secretary in implementing and administering this subtitle.

(j) OTHER TERMS AND CONDITIONS.—The order shall contain such other terms and conditions, not inconsistent with this subtitle, as are determined necessary by the Secretary to effectuate this subtitle.

7 USC 7445.

SEC. 536. ASSESSMENTS.

(a) IN GENERAL.—

(1) FIRST PURCHASERS.—During the effective period of an order issued pursuant to this subtitle, assessments shall be—

(A) levied on all canola or rapeseed produced in the United States and marketed; and

(B) deducted from the payment made to a producer for all canola or rapeseed sold to a first purchaser.

(2) DIRECT PROCESSING.—The order shall provide that any person processing canola or rapeseed of that person's own production and marketing the canola or rapeseed, or canola or rapeseed products, shall remit to the Board or a State organization certified to represent producers under section 535(b)(6), in the manner prescribed by the order, an assessment established at a rate equivalent to the rate provided for under subsection (d).

(b) LIMITATION ON ASSESSMENTS.—No more than 1 assessment may be assessed under subsection (a) on any canola or rapeseed produced (as remitted by a first purchaser).

(c) REMITTING OF ASSESSMENTS.—

(1) IN GENERAL.—Assessments required under subsection (a) shall be remitted to the Board by a first purchaser. The Board shall use State organizations certified to represent

producers under section 535(b)(6) to collect the assessments. If an appropriate certified State organization does not exist to collect an assessment, the assessment shall be collected by the Board. There shall be only 1 certified State organization in each State.

(2) TIMES TO REMIT ASSESSMENT.—Each first purchaser shall remit the assessment to the Board as provided for in the order.

(d) ASSESSMENT RATE.—

(1) INITIAL RATE.—The initial assessment rate shall be 4 cents per hundredweight of canola or rapeseed produced and marketed.

(2) INCREASE.—The assessment rate may be increased on recommendation by the Board to a rate not exceeding 10 cents per hundredweight of canola or rapeseed produced and marketed in a State, unless—

(A) after the initial referendum is held under section 537(a), the Board recommends an increase above 10 cents per hundredweight; and

(B) the increase is approved in a referendum under section 537(b).

(3) CREDIT.—A producer who demonstrates to the Board that the producer is participating in a program of a State organization certified to represent producers under section 535(b)(6) shall receive credit, in determining the assessment due from the producer, for contributions to the program of up to 2 cents per hundredweight of canola or rapeseed marketed.

(e) LATE PAYMENT CHARGE.—

(1) IN GENERAL.—There shall be a late payment charge imposed on any person who fails to remit, on or before the date provided for in the order, to the Board the total amount for which the person is liable.

(2) AMOUNT OF CHARGE.—The amount of the late payment charge imposed under paragraph (1) shall be prescribed by the Board with the approval of the Secretary.

(f) REFUND OF ASSESSMENTS FROM ESCROW ACCOUNT.—

(1) ESTABLISHMENT OF ESCROW ACCOUNT.—During the period beginning on the date on which an order is first issued under section 534(b)(3) and ending on the date on which a referendum is conducted under section 537(a), the Board shall—

(A) establish and maintain an escrow account to be used for assessment refunds; and

(B) place funds in the account in accordance with paragraph (2).

(2) PLACEMENT OF FUNDS IN ACCOUNT.—The Board shall place in the account, from assessments collected during the period referred to in paragraph (1), an amount equal to the product obtained by multiplying the total amount of assessments collected during the period by 10 percent.

(3) RIGHT TO RECEIVE REFUND.—The Board shall refund to a producer the assessments paid by or on behalf of the producer if—

(A) the producer is required to pay the assessment;

(B) the producer does not support the program established under this subtitle; and

(C) the producer demands the refund prior to the conduct of the referendum under section 537(a).

(4) FORM OF DEMAND.—The demand shall be made in accordance with such regulations, in such form, and within such time period as prescribed by the Board.

(5) MAKING OF REFUND.—The refund shall be made on submission of proof satisfactory to the Board that the producer paid the assessment for which the refund is demanded.

(6) PRORATION.—If—

(A) the amount in the escrow account required by paragraph (1) is not sufficient to refund the total amount of assessments demanded by eligible producers; and

(B) the order is not approved pursuant to the referendum conducted under section 537(a);

the Board shall prorate the amount of the refunds among all eligible producers who demand a refund.

(7) PROGRAM APPROVED.—If the plan is approved pursuant to the referendum conducted under section 537(a), all funds in the escrow account shall be returned to the Board for use by the Board in accordance with this subtitle.

7 USC 7446.

SEC. 537. REFERENDA.

(a) INITIAL REFERENDUM.—

(1) REQUIREMENT.—During the period ending 30 months after the date on which an order is first issued under section 534(b)(3), the Secretary shall conduct a referendum among producers who, during a representative period as determined by the Secretary, have been engaged in the production of canola or rapeseed for the purpose of ascertaining whether the order then in effect shall be continued.

(2) ADVANCE NOTICE.—The Secretary shall, to the extent practicable, provide broad public notice in advance of any referendum. The notice shall be provided, without advertising expenses, by means of newspapers, county newsletters, the electronic media, and press releases, through the use of notices posted in State and county Cooperative State Research, Education, and Extension Service offices and county Consolidated Farm Service Agency offices, and by other appropriate means specified in the order. The notice shall contain information on when the referendum will be held, registration and voting requirements, rules regarding absentee voting, and other pertinent information.

(3) APPROVAL OF ORDER.—The order shall be continued only if the Secretary determines that the order has been approved by not less than a majority of the producers voting in the referendum.

Termination date.

(4) DISAPPROVAL OF ORDER.—If continuation of the order is not approved by a majority of the producers voting in the referendum, the Secretary shall terminate collection of assessments under the order within 180 days after the referendum and shall terminate the order in an orderly manner as soon as practicable.

(b) ADDITIONAL REFERENDA.—

(1) IN GENERAL.—

(A) REQUIREMENT.—After the initial referendum on an order, the Secretary shall conduct additional referenda, as described in subparagraph (C), if requested by a rep-

resentative group of producers, as described in subparagraph (B).

(B) REPRESENTATIVE GROUP OF PRODUCERS.—An additional referendum on an order shall be conducted if requested by 10 percent or more of the producers who, during a representative period as determined by the Secretary, have been engaged in the production of canola or rapeseed.

(C) ELIGIBLE PRODUCERS.—Each additional referendum shall be conducted among all producers who, during a representative period as determined by the Secretary, have been engaged in the production of canola or rapeseed to determine whether the producers favor the termination or suspension of the order.

(2) DISAPPROVAL OF ORDER.—If the Secretary determines, in a referendum conducted under paragraph (1), that suspension or termination of the order is favored by a majority of the producers voting in the referendum, the Secretary shall suspend or terminate, as appropriate, collection of assessments under the order within 180 days after the determination, and shall suspend or terminate the order, as appropriate, in an orderly manner as soon as practicable after the determination. Termination date.

(3) OPPORTUNITY TO REQUEST ADDITIONAL REFERENDA.—

(A) IN GENERAL.—Beginning on the date that is 5 years after the conduct of a referendum under this subtitle, and every 5 years thereafter, the Secretary shall provide canola and rapeseed producers an opportunity to request an additional referendum.

(B) METHOD OF MAKING REQUEST.—

(i) IN-PERSON REQUESTS.—To carry out subparagraph (A), the Secretary shall establish a procedure under which a producer may make a request for a reconfirmation referendum in person at a county Cooperative State Research, Education, and Extension Service office or a county Consolidated Farm Service Agency office during a period established by the Secretary, or as provided in clause (ii).

(ii) MAIL-IN REQUESTS.—In lieu of making a request in person, a producer may make a request by mail. To facilitate the submission of requests by mail, the Secretary may make mail-in request forms available to producers.

(C) NOTIFICATIONS.—The Secretary shall publish a notice in the Federal Register, and the Board shall provide written notification to producers, not later than 60 days prior to the end of the period established under subparagraph (B)(i) for an in-person request, of the opportunity of producers to request an additional referendum. The notification shall explain the right of producers to an additional referendum, the procedure for a referendum, the purpose of a referendum, and the date and method by which producers may act to request an additional referendum under this paragraph. The Secretary shall take such other action as the Secretary determines is necessary to ensure that producers are made aware of the opportunity to request an additional referendum. Federal Register, publication.

(D) ACTION BY SECRETARY.—As soon as practicable following the submission of a request for an additional referendum, the Secretary shall determine whether a sufficient number of producers have requested the referendum, and take such steps as are necessary to conduct the referendum, as required under paragraph (1).

(E) TIME LIMIT.—An additional referendum requested under the procedures provided in this paragraph shall be conducted not later than 1 year after the Secretary determines that a representative group of producers, as described in paragraph (1)(B), have requested the conduct of the referendum.

(c) PROCEDURES.—

(1) REIMBURSEMENT OF SECRETARY.—The Secretary shall be reimbursed from assessments collected by the Board for any expenses incurred by the Secretary in connection with the conduct of an activity required under this section.

(2) DATE.—Each referendum shall be conducted for a reasonable period of time not to exceed 3 days, established by the Secretary, under a procedure under which producers intending to vote in the referendum shall certify that the producers were engaged in the production of canola, rapeseed, or canola or rapeseed products during the representative period and, at the same time, shall be provided an opportunity to vote in the referendum.

(3) PLACE.—Referenda under this section shall be conducted at locations determined by the Secretary. On request, absentee mail ballots shall be furnished by the Secretary in a manner prescribed by the Secretary.

7 USC 7447.

SEC. 538. PETITION AND REVIEW.

(a) PETITION.—

(1) IN GENERAL.—A person subject to an order issued under this subtitle may file with the Secretary a petition—

(A) stating that the order, a provision of the order, or an obligation imposed in connection with the order is not established in accordance with law; and

(B) requesting a modification of the order or an exemption from the order.

(2) HEARINGS.—The petitioner shall be given the opportunity for a hearing on a petition filed under paragraph (1), in accordance with regulations issued by the Secretary.

(3) RULING.—After a hearing under paragraph (2), the Secretary shall issue a ruling on the petition that is the subject of the hearing, which shall be final if the ruling is in accordance with applicable law.

(4) LIMITATION ON PETITION.—Any petition filed under this subtitle challenging an order, or any obligation imposed in connection with an order, shall be filed not later than 2 years after the effective date of the order or imposition of the obligation.

(b) REVIEW.—

Courts.

(1) COMMENCEMENT OF ACTION.—The district court of the United States for any district in which the person who is a petitioner under subsection (a) resides or carries on business shall have jurisdiction to review a ruling on the petition, if a complaint is filed by the person not later than 20 days

after the date of the entry of a ruling by the Secretary under subsection (a)(3).

(2) PROCESS.—Service of process in a proceeding under paragraph (1) shall be conducted in accordance with the Federal Rules of Civil Procedure.

(3) REMANDS.—If the court determines, under paragraph (1), that a ruling issued under subsection (a)(3) is not in accordance with applicable law, the court shall remand the matter to the Secretary with directions either—

(A) to make such ruling as the court shall determine to be in accordance with law; or

(B) to take such further proceedings as, in the opinion of the court, the law requires.

(4) ENFORCEMENT.—The pendency of proceedings instituted under subsection (a) shall not impede, hinder, or delay the Attorney General or the Secretary from taking any action under section 539.

SEC. 539. ENFORCEMENT.

Courts.
7 USC 7448.

(a) JURISDICTION.—The district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating, an order or regulation made or issued under this subtitle.

(b) REFERRAL TO ATTORNEY GENERAL.—A civil action authorized to be commenced under this section shall be referred to the Attorney General for appropriate action, except that the Secretary shall not be required to refer to the Attorney General a violation of this subtitle if the Secretary believes that the administration and enforcement of this subtitle would be adequately served by providing a suitable written notice or warning to the person committing the violation or by administrative action under subsection (c).

(c) CIVIL PENALTIES AND ORDERS.—

(1) CIVIL PENALTIES.—

(A) IN GENERAL.—Any person who willfully violates any provision of an order or regulation issued by the Secretary under this subtitle, or who fails or refuses to pay, collect, or remit an assessment or fee required of the person under an order or regulation, may be assessed—

(i) a civil penalty by the Secretary of not more than $1,000 for each violation; and

(ii) in the case of a willful failure to pay, collect, or remit an assessment as required by an order or regulation, an additional penalty equal to the amount of the assessment.

(B) SEPARATE OFFENSE.—Each violation under subparagraph (A) shall be a separate offense.

(2) CEASE-AND-DESIST ORDERS.—In addition to, or in lieu of, a civil penalty under paragraph (1), the Secretary may issue an order requiring a person to cease and desist from continuing a violation.

(3) NOTICE AND HEARING.—No penalty shall be assessed, or cease-and-desist order issued, by the Secretary under this subsection unless the person against whom the penalty is assessed or the cease-and-desist order is issued is given notice and opportunity for a hearing before the Secretary with respect to the violation.

(4) FINALITY.—The order of the Secretary assessing a penalty or imposing a cease-and-desist order under this subsection shall be final and conclusive unless the affected person files an appeal of the order in the appropriate district court of the United States in accordance with subsection (d).

(d) REVIEW BY DISTRICT COURT.—

(1) COMMENCEMENT OF ACTION.—Any person who has been determined to be in violation of this subtitle, or against whom a civil penalty has been assessed or a cease-and-desist order issued under subsection (c), may obtain review of the penalty or cease-and-desist order by—

(A) filing, within the 30-day period beginning on the date the penalty is assessed or cease-and-desist order issued, a notice of appeal in—

(i) the district court of the United States for the district in which the person resides or carries on business; or

(ii) the United States District Court for the District of Columbia; and

(B) simultaneously sending a copy of the notice by certified mail to the Secretary.

(2) RECORD.—The Secretary shall file promptly, in the appropriate court referred to in paragraph (1), a certified copy of the record on which the Secretary determined that the person committed the violation.

(3) STANDARD OF REVIEW.—A finding of the Secretary under this section shall be set aside only if the finding is found to be unsupported by substantial evidence.

(e) FAILURE TO OBEY CEASE-AND-DESIST ORDERS.—Any person who fails to obey a cease-and-desist order issued under this section after the cease-and-desist order has become final and unappealable, or after the appropriate United States district court has entered a final judgment in favor of the Secretary, shall be subject to a civil penalty assessed by the Secretary, after opportunity for a hearing and for judicial review under the procedures specified in subsections (c) and (d), of not more than $5,000 for each offense. Each day during which the failure continues shall be considered as a separate violation of the cease-and-desist order.

(f) FAILURE TO PAY PENALTIES.—If a person fails to pay an assessment of a civil penalty under this section after the assessment has become a final and unappealable order, or after the appropriate United States district court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General for recovery of the amount assessed in the district court of the United States for any district in which the person resides or carries on business. In an action for recovery, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(g) ADDITIONAL REMEDIES.—The remedies provided in this subtitle shall be in addition to, and not exclusive of, other remedies that may be available.

7 USC 7449.

SEC. 540. INVESTIGATIONS AND POWER TO SUBPOENA.

(a) INVESTIGATIONS.—The Secretary may make such investigations as the Secretary considers necessary—

(1) for the effective administration of this subtitle; and

(2) to determine whether any person has engaged or is engaging in an act that constitutes a violation of this subtitle, or an order, rule, or regulation issued under this subtitle.

(b) SUBPOENAS, OATHS, AND AFFIRMATIONS.—

(1) IN GENERAL.—For the purpose of an investigation under subsection (a), the Secretary may administer oaths and affirmations, subpoena witnesses, take evidence, and issue subpoenas to require the production of any records that are relevant to the inquiry. The attendance of witnesses and the production of records may be required from any place in the United States.

(2) ADMINISTRATIVE HEARINGS.—For the purpose of an administrative hearing held under section 538 or 539, the presiding officer is authorized to administer oaths and affirmations, subpoena and compel the attendance of witnesses, take evidence, and require the production of any records that are relevant to the inquiry. The attendance of witnesses and the production of records may be required from any place in the United States.

(c) AID OF COURTS.—In the case of contumacy by, or refusal to obey a subpoena issued to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which the investigation or proceeding is carried on, or where the person resides or carries on business, in order to enforce a subpoena issued by the Secretary under subsection (b). The court may issue an order requiring the person to comply with the subpoena.

(d) CONTEMPT.—A failure to obey an order of the court under this section may be punished by the court as contempt of the court.

(e) PROCESS.—Process may be served on a person in the judicial district in which the person resides or carries on business or wherever the person may be found.

(f) HEARING SITE.—The site of a hearing held under section 538 or 539 shall be in the judicial district where the person affected by the hearing resides or has a principal place of business.

SEC. 541. SUSPENSION OR TERMINATION. 7 USC 7450.

The Secretary shall, whenever the Secretary finds that an order or a provision of an order obstructs or does not tend to effectuate the declared policy of this subtitle, suspend or terminate the operation of the order or provision. The suspension or termination of an order shall not be considered an order within the meaning of this subtitle.

SEC. 542. REGULATIONS. 7 USC 7451.

The Secretary may issue such regulations as are necessary to carry out this subtitle.

SEC. 543. AUTHORIZATION OF APPROPRIATIONS. 7 USC 7452.

(a) IN GENERAL.—There are authorized to be appropriated for each fiscal year such sums as are necessary to carry out this subtitle.

(b) ADMINISTRATIVE EXPENSES.—Funds appropriated under subsection (a) shall not be available for payment of the expenses or expenditures of the Board in administering a provision of an order issued under this subtitle.

Subtitle D—Kiwifruit

National Kiwifruit Research, Promotion, and Consumer Information Act.
7 USC 7401 note.

SEC. 551. SHORT TITLE.

This subtitle may be cited as the "National Kiwifruit Research, Promotion, and Consumer Information Act".

7 USC 7461.

SEC. 552. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) domestically produced kiwifruit are grown by many individual producers;

(2) virtually all domestically produced kiwifruit are grown in the State of California, although there is potential for production in many other areas of the United States;

(3) kiwifruit move in interstate and foreign commerce, and kiwifruit that do not move in channels of commerce directly burden or affect interstate commerce;

(4) in recent years, large quantities of kiwifruit have been imported into the United States;

(5) the maintenance and expansion of existing domestic and foreign markets for kiwifruit, and the development of additional and improved markets for kiwifruit, are vital to the welfare of kiwifruit producers and other persons concerned with producing, marketing, and processing kiwifruit;

(6) a coordinated program of research, promotion, and consumer information regarding kiwifruit is necessary for the maintenance and development of the markets; and

(7) kiwifruit producers, handlers, and importers are unable to implement and finance such a program without cooperative action.

(b) PURPOSES.—The purposes of this subtitle are—

(1) to authorize the establishment of an orderly procedure for the development and financing (through an assessment) of an effective and coordinated program of research, promotion, and consumer information regarding kiwifruit;

(2) to use the program to strengthen the position of the kiwifruit industry in domestic and foreign markets and maintain, develop, and expand markets for kiwifruit; and

(3) to treat domestically produced kiwifruit and imported kiwifruit equitably.

7 USC 7462.

SEC. 553. DEFINITIONS.

In this subtitle (unless the context otherwise requires):

(1) BOARD.—The term "Board" means the National Kiwifruit Board established under section 555.

(2) CONSUMER INFORMATION.—The term "consumer information" means any action taken to provide information to, and broaden the understanding of, the general public regarding the consumption, use, nutritional attributes, and care of kiwifruit.

(3) EXPORTER.—The term "exporter" means any person from outside the United States who exports kiwifruit into the United States.

(4) HANDLER.—The term "handler" means any person, excluding a common carrier, engaged in the business of buying and selling, packing, marketing, or distributing kiwifruit as specified in the order.

(5) IMPORTER.—The term "importer" means any person who imports kiwifruit into the United States.

(6) KIWIFRUIT.—The term "kiwifruit" means all varieties of fresh kiwifruit grown in or imported into the United States.

(7) MARKETING.—The term "marketing" means the sale or other disposition of kiwifruit into interstate, foreign, or intrastate commerce by buying, marketing, distribution, or otherwise placing kiwifruit into commerce.

(8) ORDER.—The term "order" means a kiwifruit research, promotion, and consumer information order issued by the Secretary under section 554.

(9) PERSON.—The term "person" means any individual, group of individuals, partnership, corporation, association, cooperative, or other legal entity.

(10) PROCESSING.—The term "processing" means canning, fermenting, distilling, extracting, preserving, grinding, crushing, or in any manner changing the form of kiwifruit for the purpose of preparing the kiwifruit for market or marketing the kiwifruit.

(11) PRODUCER.—The term "producer" means any person who grows kiwifruit in the United States for sale in commerce.

(12) PROMOTION.—The term "promotion" means any action taken under this subtitle (including paid advertising) to present a favorable image of kiwifruit to the general public for the purpose of improving the competitive position of kiwifruit and stimulating the sale of kiwifruit.

(13) RESEARCH.—The term "research" means any type of research relating to the use, nutritional value, and marketing of kiwifruit conducted for the purpose of advancing the image, desirability, marketability, or quality of kiwifruit.

(14) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(15) UNITED STATES.—The term "United States" means the 50 States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

SEC. 554. ISSUANCE OF ORDERS. 7 USC 7463.

(a) ISSUANCE.—To effectuate the purposes of this subtitle specified in section 552(b), the Secretary shall issue an order applicable to producers, handlers, and importers of kiwifruit. Any such order shall be national in scope. Not more than 1 order shall be in effect under this subtitle at any 1 time.

(b) PROCEDURE.—

(1) PROPOSAL FOR ISSUANCE OF ORDER.—Any person that will be affected by this subtitle may request the issuance of, and submit a proposal for, an order under this subtitle.

(2) PROPOSED ORDER.—Not later than 90 days after the receipt of a request and proposal for an order, the Secretary shall publish a proposed order and give due notice and opportunity for public comment on the proposed order. Publication.

(3) ISSUANCE OF ORDER.—After notice and opportunity for public comment are provided under paragraph (2), the Secretary shall issue an order, taking into consideration the comments received and including in the order provisions necessary to ensure that the order is in conformity with this subtitle.

(c) AMENDMENTS.—The Secretary may amend any order issued under this section. The provisions of this subtitle applicable to an order shall be applicable to an amendment to an order.

7 USC 7464.

SEC. 555. NATIONAL KIWIFRUIT BOARD.

(a) MEMBERSHIP.—An order issued by the Secretary under section 554 shall provide for the establishment of a National Kiwifruit Board that consists of the following 11 members:

(1) 6 members who are producers (or representatives of producers) and who are not exempt from an assessment under section 556(b).

(2) 4 members who are importers (or representatives of importers) and who are not exempt from an assessment under section 556(b) or are exporters (or representatives of exporters).

(3) 1 member appointed from the general public.

(b) ADJUSTMENT OF MEMBERSHIP.—

(1) IN GENERAL.—Subject to the 11-member limit and to paragraph (2), the Secretary may adjust membership on the Board to accommodate changes in production and import levels of kiwifruit.

(2) NUMBER OF PRODUCER MEMBERS.—Producers shall comprise not less than 51 percent of the membership of the Board.

(c) APPOINTMENT AND NOMINATION.—

(1) APPOINTMENT.—The Secretary shall appoint the members of the Board from nominations submitted in accordance with this subsection.

(2) PRODUCERS.—The members referred to in subsection (a)(1) shall be appointed from individuals nominated by producers.

(3) IMPORTERS AND EXPORTERS.—The members referred to in subsection (a)(2) shall be appointed from individuals nominated by importers or exporters.

(4) PUBLIC REPRESENTATIVE.—The public representative shall be appointed from nominations submitted by other members of the Board.

(5) FAILURE TO NOMINATE.—If producers, importers, and exporters fail to nominate individuals for appointment, the Secretary may appoint members and alternates on a basis provided for in the order. If the Board fails to nominate a public representative, the member may be appointed by the Secretary without a nomination.

(d) ALTERNATES.—The Secretary shall appoint an alternate for each member of the Board. An alternate shall—

(1) be appointed in the same manner as the member for whom the individual is an alternate; and

(2) serve on the Board if the member is absent from a meeting or is disqualified under subsection (f).

(e) TERMS.—A member of the Board shall be appointed for a term of 3 years. No member may serve more than 2 consecutive 3-year terms, except that of the members first appointed—

(1) 5 members shall be appointed for a term of 2 years; and

(2) 6 members shall be appointed for a term of 3 years.

(f) DISQUALIFICATION.—If a member or alternate of the Board who was appointed as a producer, importer, exporter, or public representative member ceases to belong to the group for which

the member was appointed, the member or alternate shall be disqualified from serving on the Board.

(g) COMPENSATION.—A member or alternate of the Board shall serve without pay.

(h) GENERAL POWERS AND DUTIES.—The Board shall—

(1) administer an order issued by the Secretary under section 554, and an amendment to the order, in accordance with the order and amendment and this subtitle;

(2) prescribe rules and regulations to carry out the order; Regulations.

(3) meet, organize, and select from among members of the Board a chairperson, other officers, and committees and subcommittees, as the Board determines appropriate;

(4) receive, investigate, and report to the Secretary accounts of violations of the order;

(5) make recommendations to the Secretary with respect to an amendment that should be made to the order; and

(6) employ or contract with a manager and staff to assist in administering the order, except that, to reduce administrative costs and increase efficiency, the Board shall seek, to the extent practicable, to employ or contract with personnel who are already associated with organizations involved in promoting kiwifruit that are chartered by a State, the District of Columbia, or the Commonwealth of Puerto Rico.

SEC. 556. REQUIRED TERMS IN ORDER. 7 USC 7465.

(a) BUDGETS AND PLANS.—

(1) IN GENERAL.—An order issued under section 554 shall provide for periodic budgets and plans in accordance with this subsection.

(2) BUDGETS.—The Board shall prepare and submit to the Secretary a budget prior to the beginning of the fiscal year of the anticipated expenses and disbursements of the Board in the administration of the order, including probable costs of research, promotion, and consumer information. A budget shall become effective on a ⅔-vote of a quorum of the Board and approval by the Secretary.

(3) PLANS.—Each budget shall include a plan for research, promotion, and consumer information regarding kiwifruit. A plan under this paragraph shall become effective on approval by the Secretary. The Board may enter into contracts and agreements, on approval by the Secretary, for—

(A) the development and carrying out of the plan; and

(B) the payment of the cost of the plan, with funds collected pursuant to this subtitle.

(b) ASSESSMENTS.—

(1) IN GENERAL.—The order shall provide for the imposition and collection of assessments with regard to the production and importation of kiwifruit in accordance with this subsection.

(2) RATE.—The assessment rate shall be the rate that is recommended by a ⅔-vote of a quorum of the Board and approved by the Secretary, except that the rate shall not exceed $0.10 per 7-pound tray of kiwifruit or an equivalent rate.

(3) COLLECTION BY FIRST HANDLERS.—Except as provided in paragraph (5), the first handler of kiwifruit shall—

(A) be responsible for the collection from the producer, and payment to the Board, of assessments required under this subsection; and

(B) maintain a separate record of the kiwifruit of each producer whose kiwifruit are so handled, including the kiwifruit owned by the handler.

(4) IMPORTERS.—The assessment on imported kiwifruit shall be paid by the importer to the United States Customs Service at the time of entry into the United States and shall be remitted to the Board.

(5) EXEMPTION FROM ASSESSMENT.—The following persons or activities are exempt from an assessment under this subsection:

(A) A producer who produces less than 500 pounds of kiwifruit per year.

(B) An importer who imports less than 10,000 pounds of kiwifruit per year.

(C) A sale of kiwifruit made directly from the producer to a consumer for a purpose other than resale.

(D) The production or importation of kiwifruit for processing.

(6) CLAIM OF EXEMPTION.—To claim an exemption under paragraph (5) for a particular year, a person shall—

(A) submit an application to the Board stating the basis for the exemption and certifying that the quantity of kiwifruit produced, imported, or sold by the person will not exceed any poundage limitation required for the exemption in the year; or

(B) be on a list of approved processors developed by the Board.

(c) USE OF ASSESSMENTS.—

(1) AUTHORIZED USES.—The order shall provide that funds paid to the Board as assessments under subsection (b) may be used by the Board—

(A) to pay for research, promotion, and consumer information described in the budget of the Board under subsection (a) and for other expenses incurred by the Board in the administration of an order;

(B) to pay such other expenses for the administration, maintenance, and functioning of the Board (including any enforcement efforts for the collection of assessments) as may be authorized by the Secretary, including interest and penalties for late payments; and

(C) to fund a reserve established under section 557(d).

(2) REQUIRED USES.—The order shall provide that funds paid to the Board as assessments under subsection (b) shall be used by the Board—

(A) to pay the expenses incurred by the Secretary, including salaries and expenses of Federal Government employees, in implementing and administering the order; and

(B) to reimburse the Secretary for any expenses incurred by the Secretary in conducting referenda under this subtitle.

(3) LIMITATION ON USE OF ASSESSMENTS.—Except for the first year of operation of the Board, expenses for the administra-

tion, maintenance, and functioning of the Board may not exceed 30 percent of the budget for a year.

(d) FALSE CLAIMS.—The order shall provide that any promotion funded with assessments collected under subsection (b) may not make—

(1) any false claims on behalf of kiwifruit; and

(2) any false statements with respect to the attributes or use of any product that competes with kiwifruit for sale in commerce.

(e) PROHIBITION ON USE OF FUNDS.—The order shall provide that funds collected by the Board under this subtitle through assessments may not, in any manner, be used for the purpose of influencing legislation or governmental policy or action, except for making recommendations to the Secretary as provided for under this subtitle.

(f) BOOKS, RECORDS, AND REPORTS.—

(1) BOARD.—The order shall require the Board—

(A) to maintain books and records with respect to the receipt and disbursement of funds received by the Board;

(B) to submit to the Secretary from time to time such reports as the Secretary may require for appropriate accounting; and

(C) to submit to the Secretary at the end of each fiscal year a complete audit report by an independent auditor regarding the activities of the Board during the fiscal year.

(2) OTHERS.—To make information and data available to the Board and the Secretary that is appropriate or necessary for the effectuation, administration, or enforcement of this subtitle (or any order or regulation issued under this subtitle), the order shall require handlers and importers who are responsible for the collection, payment, or remittance of assessments under subsection (b)—

(A) to maintain and make available for inspection by the employees and agents of the Board and the Secretary such books and records as may be required by the order; and

(B) to file, at the times and in the manner and content prescribed by the order, reports regarding the collection, payment, or remittance of the assessments.

(g) CONFIDENTIALITY.—

(1) IN GENERAL.—The order shall require that all information obtained pursuant to subsection (f)(2) be kept confidential by all officers, employees, and agents of the Department of Agriculture and of the Board. Only such information as the Secretary considers relevant shall be disclosed to the public and only in a suit or administrative hearing, brought at the request of the Secretary or to which the Secretary or any officer of the United States is a party, involving the order with respect to which the information was furnished or acquired.

(2) LIMITATIONS.—Nothing in this subsection prohibits—

(A) the issuance of general statements based on the reports of a number of handlers and importers subject to an order, if the statements do not identify the information furnished by any person; or

(B) the publication, by direction of the Secretary, of the name of any person violating an order issued under section 554(a), together with a statement of the particular provisions of the order violated by the person.

(3) PENALTY.—Any person who willfully violates this subsection, on conviction, shall be subject to a fine of not more than $1,000 or to imprisonment for not more than 1 year, or both, and, if the person is a member, officer, or agent of the Board or an employee of the Department of Agriculture, shall be removed from office.

(h) WITHHOLDING OF INFORMATION.—Nothing in this subtitle authorizes the withholding of information from Congress.

7 USC 7466.

SEC. 557. PERMISSIVE TERMS IN ORDER.

(a) PERMISSIVE TERMS.—On the recommendation of the Board and with the approval of the Secretary, an order issued under section 554 may include the terms and conditions specified in this section and such additional terms and conditions as the Secretary considers necessary to effectuate the other provisions of the order and are incidental to, and not inconsistent with, this subtitle.

(b) ALTERNATIVE PAYMENT AND REPORTING SCHEDULES.—The order may authorize the Board to designate different handler payment and reporting schedules to recognize differences in marketing practices and procedures.

(c) WORKING GROUPS.—The order may authorize the Board to convene working groups drawn from producers, handlers, importers, exporters, or the general public and utilize the expertise of the groups to assist in the development of research and marketing programs for kiwifruit.

(d) RESERVE FUNDS.—The order may authorize the Board to accumulate reserve funds from assessments collected pursuant to section 556(b) to permit an effective and continuous coordinated program of research, promotion, and consumer information in years in which production and assessment income may be reduced, except that any reserve fund may not exceed the amount budgeted for operation of this subtitle for 1 year.

(e) PROMOTION ACTIVITIES OUTSIDE UNITED STATES.—The order may authorize the Board to use, with the approval of the Secretary, funds collected under section 556(b) and funds from other sources for the development and expansion of sales in foreign markets of kiwifruit produced in the United States.

7 USC 7467.

SEC. 558. PETITION AND REVIEW.

(a) PETITION.—

(1) IN GENERAL.—A person subject to an order may file with the Secretary a petition—

(A) stating that the order, a provision of the order, or an obligation imposed in connection with the order is not in accordance with law; and

(B) requesting a modification of the order or an exemption from the order.

(2) HEARINGS.—A person submitting a petition under paragraph (1) shall be given an opportunity for a hearing on the petition, in accordance with regulations issued by the Secretary.

(3) RULING.—After the hearing, the Secretary shall issue a ruling on the petition which shall be final if the petition is in accordance with law.

(4) LIMITATION ON PETITION.—Any petition filed under this subtitle challenging an order, or any obligation imposed in connection with an order, shall be filed not later than 2 years after the effective date of the order or imposition of the obligation.

(b) REVIEW.— Courts.

(1) COMMENCEMENT OF ACTION.—The district court of the United States for any district in which the person who is a petitioner under subsection (a) resides or carries on business is vested with jurisdiction to review the ruling on the petition of the person, if a complaint for that purpose is filed not later than 20 days after the date of the entry of a ruling by the Secretary under subsection (a).

(2) PROCESS.—Service of process in the proceedings shall be conducted in accordance with the Federal Rules of Civil Procedure.

(3) REMANDS.—If the court determines that the ruling is not in accordance with law, the court shall remand the matter to the Secretary with directions—

(A) to make such ruling as the court shall determine to be in accordance with law; or

(B) to take such further action as, in the opinion of the court, the law requires.

(4) ENFORCEMENT.—The pendency of a proceeding instituted pursuant to subsection (a) shall not impede, hinder, or delay the Attorney General or the Secretary from obtaining relief pursuant to section 559.

SEC. 559. ENFORCEMENT. Courts. 7 USC 7468.

(a) JURISDICTION.—A district court of the United States shall have jurisdiction specifically to enforce, and to prevent and restrain any person from violating, any order or regulation made or issued by the Secretary under this subtitle.

(b) REFERRAL TO ATTORNEY GENERAL.—A civil action authorized to be brought under this section shall be referred to the Attorney General for appropriate action, except that the Secretary is not required to refer to the Attorney General a violation of this subtitle, or any order or regulation issued under this subtitle, if the Secretary believes that the administration and enforcement of this subtitle would be adequately served by administrative action under subsection (c) or suitable written notice or warning to the person committing the violation.

(c) CIVIL PENALTIES AND ORDERS.—

(1) CIVIL PENALTIES.—Any person who willfully violates any provision of any order or regulation issued by the Secretary under this subtitle, or who fails or refuses to pay, collect, or remit any assessment or fee duly required of the person under the order or regulation, may be assessed a civil penalty by the Secretary of not less than $500 nor more than $5,000 for each such violation. Each violation shall be a separate offense.

(2) CEASE-AND-DESIST ORDERS.—In addition to or in lieu of the civil penalty, the Secretary may issue an order requiring the person to cease and desist from continuing the violation.

(3) NOTICE AND HEARING.—No order assessing a civil penalty or cease-and-desist order may be issued by the Secretary under this subsection unless the Secretary gives the person

against whom the order is issued notice and opportunity for a hearing on the record before the Secretary with respect to the violation.

(4) FINALITY.—The order of the Secretary assessing a penalty or imposing a cease-and-desist order shall be final and conclusive unless the person against whom the order is issued files an appeal of the order in the appropriate district court of the United States, in accordance with subsection (d).

(d) REVIEW BY UNITED STATES DISTRICT COURT.—

(1) COMMENCEMENT OF ACTION.—Any person against whom a violation is found and a civil penalty assessed or cease-and-desist order issued under subsection (c) may obtain review of the penalty or cease-and-desist order in the district court of the United States for the district in which the person resides or carries on business, or the United States District Court for the District of Columbia, by—

(A) filing a notice of appeal in the court not later than 30 days after the date on which the penalty is assessed or cease-and-desist order issued; and

(B) simultaneously sending a copy of the notice by certified mail to the Secretary.

(2) RECORD.—The Secretary shall promptly file in the court a certified copy of the record on which the Secretary found that the person committed the violation.

(3) STANDARD OF REVIEW.—A finding of the Secretary shall be set aside only if the finding is found to be unsupported by substantial evidence.

(e) FAILURE TO OBEY CEASE-AND-DESIST ORDERS.—Any person who fails to obey a cease-and-desist order issued by the Secretary after the cease-and-desist order has become final and unappealable, or after the appropriate United States district court has entered a final judgment in favor of the Secretary, shall be subject to a civil penalty assessed by the Secretary, after opportunity for a hearing and for judicial review under the procedures specified in subsections (c) and (d), of not more than $500 for each offense. Each day during which the failure continues shall be considered a separate violation of the cease-and-desist order.

(f) FAILURE TO PAY PENALTIES.—If a person fails to pay an assessment of a civil penalty after the assessment has become a final and unappealable order issued by the Secretary, or after the appropriate United States district court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General for recovery of the amount assessed in the district court of the United States for any district in which the person resides or carries on business. In an action for recovery, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

7 USC 7469.

SEC. 560. INVESTIGATIONS AND POWER TO SUBPOENA.

(a) IN GENERAL.—The Secretary may make such investigations as the Secretary considers necessary—

(1) for the effective carrying out of the responsibilities of the Secretary under this subtitle; or

(2) to determine whether a person subject to this subtitle has engaged or is engaging in any act that constitutes a violation of this subtitle, or any order, rule, or regulation issued under this subtitle.

(b) POWER TO SUBPOENA.—

(1) INVESTIGATIONS.—For the purpose of an investigation made under subsection (a), the Secretary may administer oaths and affirmations and may issue subpoenas to require the production of any records that are relevant to the inquiry. The production of any such records may be required from any place in the United States.

(2) ADMINISTRATIVE HEARINGS.—For the purpose of an administrative hearing held under section 558 or 559, the presiding officer is authorized to administer oaths and affirmations, subpoena witnesses, compel the attendance of witnesses, take evidence, and require the production of any records that are relevant to the inquiry. The attendance of witnesses and the production of any such records may be required from any place in the United States.

(c) AID OF COURTS.—In the case of contumacy by, or refusal to obey a subpoena to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which the investigation or proceeding is carried on, or where the person resides or carries on business, to enforce a subpoena issued by the Secretary under subsection (b). The court may issue an order requiring the person to comply with the subpoena.

(d) CONTEMPT.—Any failure to obey the order of the court may be punished by the court as a contempt of the court.

(e) PROCESS.—Process in any such case may be served in the judicial district in which the person resides or carries on business or wherever the person may be found.

(f) HEARING SITE.—The site of any hearing held under section 558 or 559 shall be in the judicial district where the person affected by the hearing resides or has a principal place of business.

SEC. 561. REFERENDA. 7 USC 7470.

(a) INITIAL REFERENDUM.—

(1) REFERENDUM REQUIRED.—During the 60-day period immediately preceding the proposed effective date of an order issued under section 554, the Secretary shall conduct a referendum among kiwifruit producers and importers who will be subject to assessments under the order, to ascertain whether producers and importers approve the implementation of the order.

(2) APPROVAL OF ORDER.—The order shall become effective, as provided in section 554, if the Secretary determines that—

(A) the order has been approved by a majority of the producers and importers voting in the referendum; and

(B) the producers and importers favoring approval produce and import more than 50 percent of the total volume of kiwifruit produced and imported by persons voting in the referendum.

(b) SUBSEQUENT REFERENDA.—The Secretary may periodically conduct a referendum to determine if kiwifruit producers and importers favor the continuation, termination, or suspension of any order issued under section 554 that is in effect at the time of the referendum.

(c) REQUIRED REFERENDA.—The Secretary shall hold a referendum under subsection (b)—

(1) at the end of the 6-year period beginning on the effective date of the order and at the end of each subsequent 6-year period;

(2) at the request of the Board; or

(3) if not less than 30 percent of the kiwifruit producers and importers subject to assessments under the order submit a petition requesting the referendum.

(d) VOTE.—On completion of a referendum under subsection (b), the Secretary shall suspend or terminate the order that was subject to the referendum at the end of the marketing year if—

(1) the suspension or termination of the order is favored by not less than a majority of the producers and importers voting in the referendum; and

(2) the producers and importers produce and import more than 50 percent of the total volume of kiwifruit produced and imported by persons voting in the referendum.

(e) CONFIDENTIALITY.—The ballots and other information or reports that reveal, or tend to reveal, the vote of any person under this subtitle and the voting list shall be held strictly confidential and shall not be disclosed.

7 USC 7471.

SEC. 562. SUSPENSION OR TERMINATION.

(a) IN GENERAL.—If the Secretary finds that an order issued under section 554, or a provision of the order, obstructs or does not tend to effectuate the purposes of this subtitle, the Secretary shall suspend or terminate the operation of the order or provision.

(b) LIMITATION.—The suspension or termination of any order, or any provision of an order, shall not be considered an order under this subtitle.

7 USC 7472.

SEC. 563. REGULATIONS.

The Secretary may issue such regulations as are necessary to carry out this subtitle.

7 USC 7473.

SEC. 564. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for each fiscal year such sums as are necessary to carry out this subtitle.

Subtitle E—Popcorn

Popcorn Promotion, Research, and Consumer Information Act. 7 USC 7401 note.

SEC. 571. SHORT TITLE.

This subtitle may be cited as the "Popcorn Promotion, Research, and Consumer Information Act".

7 USC 7481.

SEC. 572. FINDINGS AND DECLARATION OF POLICY.

(a) FINDINGS.—Congress finds that—

(1) popcorn is an important food that is a valuable part of the human diet;

(2) the production and processing of popcorn plays a significant role in the economy of the United States in that popcorn is processed by several popcorn processors, distributed through wholesale and retail outlets, and consumed by millions of people throughout the United States and foreign countries;

(3) popcorn must be of high quality, readily available, handled properly, and marketed efficiently to ensure that the benefits of popcorn are available to the people of the United States;

(4) the maintenance and expansion of existing markets and uses and the development of new markets and uses for popcorn are vital to the welfare of processors and persons concerned with marketing, using, and producing popcorn for the market, as well as to the agricultural economy of the United States;

(5) the cooperative development, financing, and implementation of a coordinated program of popcorn promotion, research, consumer information, and industry information is necessary to maintain and expand markets for popcorn; and

(6) popcorn moves in interstate and foreign commerce, and popcorn that does not move in those channels of commerce directly burdens or affects interstate commerce in popcorn.

(b) POLICY.—It is the policy of Congress that it is in the public interest to authorize the establishment, through the exercise of the powers provided in this subtitle, of an orderly procedure for developing, financing (through adequate assessments on unpopped popcorn processed domestically), and carrying out an effective, continuous, and coordinated program of promotion, research, consumer information, and industry information designed to—

(1) strengthen the position of the popcorn industry in the marketplace; and

(2) maintain and expand domestic and foreign markets and uses for popcorn.

(c) PURPOSES.—The purposes of this subtitle are to—

(1) maintain and expand the markets for all popcorn products in a manner that—

(A) is not designed to maintain or expand any individual share of a producer or processor of the market;

(B) does not compete with or replace individual advertising or promotion efforts designed to promote individual brand name or trade name popcorn products; and

(C) authorizes and funds programs that result in government speech promoting government objectives; and

(2) establish a nationally coordinated program for popcorn promotion, research, consumer information, and industry information.

(d) STATUTORY CONSTRUCTION.—This subtitle treats processors equitably. Nothing in this subtitle—

(1) provides for the imposition of a trade barrier to the entry into the United States of imported popcorn for the domestic market; or

(2) provides for the control of production or otherwise limits the right of any individual processor to produce popcorn.

SEC. 573. DEFINITIONS. 7 USC 7482.

In this subtitle (unless the context otherwise requires):

(1) BOARD.—The term "Board" means the Popcorn Board established under section 575(b).

(2) COMMERCE.—The term "commerce" means interstate, foreign, or intrastate commerce.

(3) CONSUMER INFORMATION.—The term "consumer information" means information and programs that will assist consumers and other persons in making evaluations and decisions regarding the purchase, preparation, and use of popcorn.

(4) DEPARTMENT.—The term "Department" means the Department of Agriculture.

(5) INDUSTRY INFORMATION.—The term "industry information" means information or a program that will lead to the development of—

(A) new markets, new marketing strategies, or increased efficiency for the popcorn industry; or

(B) activities to enhance the image of the popcorn industry.

(6) MARKETING.—The term "marketing" means the sale or other disposition of unpopped popcorn for human consumption in a channel of commerce, but does not include a sale or disposition to or between processors.

(7) ORDER.—The term "order" means an order issued under section 574.

(8) PERSON.—The term "person" means an individual, group of individuals, partnership, corporation, association, or cooperative, or any other legal entity.

(9) POPCORN.—The term "popcorn" means unpopped popcorn (Zea Mays L) that is—

(A) commercially grown;

(B) processed in the United States by shelling, cleaning, or drying; and

(C) introduced into a channel of commerce.

(10) PROCESS.—The term "process" means to shell, clean, dry, and prepare popcorn for the market, but does not include packaging popcorn for the market without also engaging in another activity described in this paragraph.

(11) PROCESSOR.—The term "processor" means a person engaged in the preparation of unpopped popcorn for the market who owns or shares the ownership and risk of loss of the popcorn and who processes and distributes over 4,000,000 pounds of popcorn in the market per year.

(12) PROMOTION.—The term "promotion" means an action, including paid advertising, to enhance the image or desirability of popcorn.

(13) RESEARCH.—The term "research" means any type of study to advance the image, desirability, marketability, production, product development, quality, or nutritional value of popcorn.

(14) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(15) STATE.—The term "State" means each of the 50 States and the District of Columbia.

(16) UNITED STATES.—The term "United States" means all of the States.

7 USC 7483.

SEC. 574. ISSUANCE OF ORDERS.

(a) IN GENERAL.—To effectuate the policy described in section 572(b), the Secretary, subject to subsection (b), shall issue 1 or more orders applicable to processors. An order shall be applicable to all popcorn production and marketing areas in the United States. Not more than 1 order shall be in effect under this subtitle at any 1 time.

(b) PROCEDURE.—

(1) PROPOSAL OR REQUEST FOR ISSUANCE.—The Secretary may propose the issuance of an order, or an association of

processors or any other person that would be affected by an order may request the issuance of, and submit a proposal for, an order.

(2) NOTICE AND COMMENT CONCERNING PROPOSED ORDER.— Publication.
Not later than 60 days after the receipt of a request and proposal for an order under paragraph (1), or at such time as the Secretary determines to propose an order, the Secretary shall publish a proposed order and give due notice and opportunity for public comment on the proposed order.

(3) ISSUANCE OF ORDER.—After notice and opportunity for public comment under paragraph (2), the Secretary shall issue an order, taking into consideration the comments received and including in the order such provisions as are necessary to ensure that the order conforms to this subtitle. The order shall be issued and become effective not later than 150 days after the date of publication of the proposed order.

(c) AMENDMENTS.—The Secretary, as appropriate, may amend an order. The provisions of this subtitle applicable to an order shall be applicable to any amendment to an order, except that an amendment to an order may not require a referendum to become effective.

SEC. 575. REQUIRED TERMS IN ORDERS. 7 USC 7484.

(a) IN GENERAL.—An order shall contain the terms and conditions specified in this section.

(b) ESTABLISHMENT AND MEMBERSHIP OF POPCORN BOARD.—

(1) IN GENERAL.—The order shall provide for the establishment of, and appointment of members to, a Popcorn Board that shall consist of not fewer than 4 members and not more than 9 members.

(2) NOMINATIONS.—The members of the Board shall be processors appointed by the Secretary from nominations submitted by processors in a manner authorized by the Secretary, subject to paragraph (3). Not more than 1 member may be appointed to the Board from nominations submitted by any 1 processor.

(3) GEOGRAPHICAL DIVERSITY.—In making appointments, the Secretary shall take into account, to the extent practicable, the geographical distribution of popcorn production throughout the United States.

(4) TERMS.—The term of appointment of each member of the Board shall be 3 years, except that the members appointed to the initial Board shall serve, proportionately, for terms of 2, 3, and 4 years, as determined by the Secretary.

(5) COMPENSATION AND EXPENSES.—A member of the Board shall serve without compensation, but shall be reimbursed for the expenses of the member incurred in the performance of duties for the Board.

(c) POWERS AND DUTIES OF BOARD.—The order shall define the powers and duties of the Board, which shall include the power and duty—

(1) to administer the order in accordance with the terms and provisions of the order;

(2) to issue regulations to effectuate the terms and provisions of the order;

(3) to appoint members of the Board to serve on an executive committee;

(4) to propose, receive, evaluate, and approve budgets, plans, and projects of promotion, research, consumer information, and industry information, and to contract with appropriate persons to implement the plans or projects;

(5) to accept and receive voluntary contributions, gifts, and market promotion or similar funds;

(6) to invest, pending disbursement under a plan or project, funds collected through assessments authorized under subsection (f), only in—

(A) obligations of the United States or an agency of the United States;

(B) general obligations of a State or a political subdivision of a State;

(C) an interest-bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System; or

(D) obligations fully guaranteed as to principal and interest by the United States;

(7) to receive, investigate, and report to the Secretary complaints of violations of the order; and

(8) to recommend to the Secretary amendments to the order.

(d) PLANS AND BUDGETS.—

(1) IN GENERAL.—The order shall provide that the Board shall submit to the Secretary for approval any plan or project of promotion, research, consumer information, or industry information.

(2) BUDGETS.—The order shall require the Board to submit to the Secretary for approval budgets on a fiscal year basis of the anticipated expenses and disbursements of the Board in the implementation of the order, including projected costs of plans and projects of promotion, research, consumer information, and industry information.

(e) CONTRACTS AND AGREEMENTS.—

(1) IN GENERAL.—The order shall provide that the Board may enter into contracts or agreements for the implementation and carrying out of plans or projects of promotion, research, consumer information, or industry information, including contracts with a processor organization, and for the payment of the cost of the plans or projects with funds collected by the Board under the order.

(2) REQUIREMENTS.—A contract or agreement under paragraph (1) shall provide that—

(A) the contracting party shall develop and submit to the Board a plan or project, together with a budget that shows the estimated costs to be incurred for the plan or project;

Effective date.

(B) the plan or project shall become effective on the approval of the Secretary; and

Records.
Reports.

(C) the contracting party shall keep accurate records of each transaction of the party, account for funds received and expended, make periodic reports to the Board of activities conducted, and make such other reports as the Board or the Secretary may require.

(3) PROCESSOR ORGANIZATIONS.—The order shall provide that the Board may contract with processor organizations for any services required in addition to the services described in

paragraph (1). The contract shall include provisions comparable to the provisions required by paragraph (2).

(f) ASSESSMENTS.—

(1) PROCESSORS.—The order shall provide that each processor marketing popcorn in the United States or for export shall, in the manner prescribed in the order, pay assessments and remit the assessments to the Board.

(2) DIRECT MARKETERS.—A processor that markets popcorn produced by the processor directly to consumers shall pay and remit the assessments on the popcorn directly to the Board in the manner prescribed in the order.

(3) RATE.—

(A) IN GENERAL.—The rate of assessment prescribed in the order shall be a rate established by the Board but not more than $.08 per hundredweight of popcorn.

(B) ADJUSTMENT OF RATE.—The order shall provide that the Board, with the approval of the Secretary, may raise or lower the rate of assessment annually up to a maximum of $.08 per hundredweight of popcorn.

(4) USE OF ASSESSMENTS.—

(A) IN GENERAL.—Subject to subparagraphs (B) and (C) and subsection (c)(5), the order shall provide that the assessments collected shall be used by the Board—

(i) to pay expenses incurred in implementing and administering the order, with provision for a reasonable reserve; and

(ii) to cover such administrative costs as are incurred by the Secretary, except that the administrative costs incurred by the Secretary (other than any legal expenses incurred to defend and enforce the order) that may be reimbursed by the Board may not exceed 15 percent of the projected annual revenues of the Board.

(B) EXPENDITURES BASED ON SOURCE OF ASSESSMENTS.—In implementing plans and projects of promotion, research, consumer information, and industry information, the Board shall expend funds on—

(i) plans and projects for popcorn marketed in the United States or Canada in proportion to the amount of assessments collected on domestically marketed popcorn; and

(ii) plans and projects for exported popcorn in proportion to the amount of assessments collected on exported popcorn.

(C) NOTIFICATION.—If the administrative costs incurred by the Secretary that are reimbursed by the Board exceed 10 percent of the projected annual revenues of the Board, the Secretary shall notify as soon as practicable the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(g) PROHIBITION ON USE OF FUNDS.—The order shall prohibit any funds collected by the Board under the order from being used to influence government action or policy, other than the use of funds by the Board for the development and recommendation to the Secretary of amendments to the order.

(h) BOOKS AND RECORDS OF THE BOARD.—The order shall require the Board to—

(1) maintain such books and records (which shall be available to the Secretary for inspection and audit) as the Secretary may prescribe;

Reports. (2) prepare and submit to the Secretary, from time to time, such reports as the Secretary may prescribe; and

(3) account for the receipt and disbursement of all funds entrusted to the Board.

(i) BOOKS AND RECORDS OF PROCESSORS.—

(1) MAINTENANCE AND REPORTING OF INFORMATION.—The order shall require that each processor of popcorn for the market shall—

(A) maintain, and make available for inspection, such books and records as are required by the order; and

Reports. (B) file reports at such time, in such manner, and having such content as is prescribed in the order.

(2) USE OF INFORMATION.—The Secretary shall authorize the use of information regarding processors that may be accumulated under a law or regulation other than this subtitle or a regulation issued under this subtitle. The information shall be made available to the Secretary as appropriate for the administration or enforcement of this subtitle, the order, or any regulation issued under this subtitle.

(3) CONFIDENTIALITY.—

(A) IN GENERAL.—Subject to subparagraphs (B), (C), and (D), all information obtained by the Secretary under paragraphs (1) and (2) shall be kept confidential by all officers, employees, and agents of the Board and the Department.

(B) DISCLOSURE BY SECRETARY.—Information referred to in subparagraph (A) may be disclosed if—

(i) the Secretary considers the information relevant;

(ii) the information is revealed in a suit or administrative hearing brought at the request of the Secretary, or to which the Secretary or any officer of the United States is a party; and

(iii) the information relates to the order.

(C) DISCLOSURE TO OTHER AGENCY OF FEDERAL GOVERNMENT.—

(i) IN GENERAL.—No information obtained under the authority of this subtitle may be made available to another agency or officer of the Federal Government for any purpose other than the implementation of this subtitle and any investigatory or enforcement activity necessary for the implementation of this subtitle.

(ii) PENALTY.—A person who knowingly violates this subparagraph shall, on conviction, be subject to a fine of not more than $1,000 or to imprisonment for not more than 1 year, or both, and if an officer, employee, or agent of the Board or the Department, shall be removed from office or terminated from employment, as applicable.

(D) GENERAL STATEMENTS.—Nothing in this paragraph prohibits—

(i) the issuance of general statements based on the reports of a number of persons subject to an order or statistical data collected from the reports, if the statements do not identify the information provided by any person; or

(ii) the publication, by direction of the Secretary, of the name of a person violating the order, together with a statement of the particular provisions of the order violated by the person.

(j) OTHER TERMS AND CONDITIONS.—The order shall contain such other terms and conditions, consistent with this subtitle, as are necessary to effectuate this subtitle, including regulations relating to the assessment of late payment charges.

SEC. 576. REFERENDA. 7 USC 7485.

(a) INITIAL REFERENDUM.—

(1) IN GENERAL.—Within the 60-day period immediately preceding the effective date of an order, as provided in section 574(b)(3), the Secretary shall conduct a referendum among processors who, during a representative period as determined by the Secretary, have been engaged in processing, for the purpose of ascertaining whether the order shall go into effect.

(2) APPROVAL OF ORDER.—The order shall become effective, as provided in section 574(b), only if the Secretary determines that the order has been approved by not less than a majority of the processors voting in the referendum and if the majority processed more than 50 percent of the popcorn certified as having been processed, during the representative period, by the processors voting.

(b) ADDITIONAL REFERENDA.—

(1) IN GENERAL.—Not earlier than 3 years after the effective date of an order approved under subsection (a), on the request of the Board or a representative group of processors, as described in paragraph (2), the Secretary may conduct additional referenda to determine whether processors favor the suspension or termination of the order.

(2) REPRESENTATIVE GROUP OF PROCESSORS.—An additional referendum on an order shall be conducted if the referendum is requested by 30 percent or more of the number of processors who, during a representative period as determined by the Secretary, have been engaged in processing.

(3) DISAPPROVAL OF ORDER.—If the Secretary determines, in a referendum conducted under paragraph (1), that suspension or termination of the order is favored by at least ⅔ of the processors voting in the referendum, the Secretary shall— Termination date.

(A) suspend or terminate, as appropriate, collection of assessments under the order not later than 180 days after the date of determination; and

(B) suspend or terminate the order, as appropriate, in an orderly manner as soon as practicable after the date of determination.

(c) COSTS OF REFERENDUM.—The Secretary shall be reimbursed from assessments collected by the Board for any expenses incurred by the Secretary in connection with the conduct of any referendum under this section.

(d) METHOD OF CONDUCTING REFERENDUM.—Subject to this section, a referendum conducted under this section shall be conducted in such manner as is determined by the Secretary.

(e) CONFIDENTIALITY OF BALLOTS AND OTHER INFORMATION.—

(1) IN GENERAL.—The ballots and other information or reports that reveal or tend to reveal the vote of any processor, or any business operation of a processor, shall be considered to be strictly confidential and shall not be disclosed.

(2) PENALTY FOR VIOLATIONS.—An officer or employee of the Department who knowingly violates paragraph (1) shall be subject to the penalties described in section 575(i)(3)(C)(ii).

7 USC 7486.

SEC. 577. PETITION AND REVIEW.

(a) PETITION.—

(1) IN GENERAL.—A person subject to an order may file with the Secretary a petition—

(A) stating that the order, a provision of the order, or an obligation imposed in connection with the order is not established in accordance with law; and

(B) requesting a modification of the order or obligation or an exemption from the order or obligation.

(2) STATUTE OF LIMITATIONS.—A petition under paragraph (1) concerning an obligation may be filed not later than 2 years after the date of imposition of the obligation.

(3) HEARINGS.—The petitioner shall be given the opportunity for a hearing on a petition filed under paragraph (1), in accordance with regulations issued by the Secretary.

(4) RULING.—After a hearing under paragraph (3), the Secretary shall issue a ruling on the petition that is the subject of the hearing, which shall be final if the ruling is in accordance with applicable law.

Courts.

(b) REVIEW.—

(1) COMMENCEMENT OF ACTION.—The district court of the United States for any district in which a person who is a petitioner under subsection (a) resides or carries on business shall have jurisdiction to review a ruling on the petition, if the person files a complaint not later than 20 days after the date of issuance of the ruling under subsection (a)(4).

(2) PROCESS.—Service of process in a proceeding under paragraph (1) may be made on the Secretary by delivering a copy of the complaint to the Secretary.

(3) REMANDS.—If the court determines, under paragraph (1), that a ruling issued under subsection (a)(4) is not in accordance with applicable law, the court shall remand the matter to the Secretary with directions—

(A) to make such ruling as the court shall determine to be in accordance with law; or

(B) to take such further proceedings as, in the opinion of the court, the law requires.

(c) ENFORCEMENT.—The pendency of proceedings instituted under subsection (a) may not impede, hinder, or delay the Secretary or the Attorney General from taking action under section 578.

7 USC 7487.

SEC. 578. ENFORCEMENT.

(a) IN GENERAL.—The Secretary may issue an enforcement order to restrain or prevent any person from violating an order or regulation issued under this subtitle and may assess a civil penalty of not more than $1,000 for each violation of the enforce-

ment order, after an opportunity for an administrative hearing, if the Secretary determines that the administration and enforcement of the order and this subtitle would be adequately served by such a procedure.

(b) JURISDICTION.—The district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating, an order or regulation issued under this subtitle. Courts.

(c) REFERRAL TO ATTORNEY GENERAL.—A civil action authorized to be brought under this section shall be referred to the Attorney General for appropriate action.

SEC. 579. INVESTIGATIONS AND POWER TO SUBPOENA. 7 USC 7488.

(a) INVESTIGATIONS.—The Secretary may make such investigations as the Secretary considers necessary—

(1) for the effective administration of this subtitle; and

(2) to determine whether any person subject to this subtitle has engaged, or is about to engage, in an act that constitutes or will constitute a violation of this subtitle or of an order or regulation issued under this subtitle.

(b) OATHS, AFFIRMATIONS, AND SUBPOENAS.—For the purpose of an investigation under subsection (a), the Secretary may administer oaths and affirmations, subpoena witnesses, compel the attendance of witnesses, take evidence, and require the production of any records that are relevant to the inquiry. The attendance of witnesses and the production of records may be required from any place in the United States.

(c) AID OF COURTS.—

(1) REQUEST.—In the case of contumacy by, or refusal to obey a subpoena issued to, any person, the Secretary may request the aid of any court of the United States within the jurisdiction of which the investigation or proceeding is carried on, or where the person resides or carries on business, in requiring the attendance and testimony of the person and the production of records.

(2) ENFORCEMENT ORDER OF THE COURT.—The court may issue an enforcement order requiring the person to appear before the Secretary to produce records or to give testimony concerning the matter under investigation.

(3) CONTEMPT.—A failure to obey an enforcement order of the court under paragraph (2) may be punished by the court as a contempt of the court.

(4) PROCESS.—Process in a case under this subsection may be served in the judicial district in which the person resides or carries on business or wherever the person may be found.

SEC. 580. RELATION TO OTHER PROGRAMS. 7 USC 7489.

Nothing in this subtitle preempts or supersedes any other program relating to popcorn promotion organized and operated under the laws of the United States or any State.

SEC. 581. REGULATIONS. 7 USC 7490.

The Secretary may issue such regulations as are necessary to carry out this subtitle.

SEC. 582. AUTHORIZATION OF APPROPRIATIONS. 7 USC 7491.

There are authorized to be appropriated such sums as are necessary to carry out this subtitle. Amounts made available under

this section or otherwise made available to the Department, and amounts made available under any other marketing or promotion order, may not be used to pay any administrative expense of the Board.

Subtitle F—Miscellaneous

SEC. 591. MAINTENANCE OF RECORDS FOR HONEY PROMOTION PROGRAM.

Section 9(f) of the Honey Research, Promotion, and Consumer Information Act (7 U.S.C. 4608(f)) is amended by inserting "producers," after "importers,".

TITLE VI—CREDIT

Subtitle A—Farm Ownership Loans

SEC. 601. LIMITATION ON DIRECT FARM OWNERSHIP LOANS.

Section 302 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1922) is amended by striking subsection (b) and inserting the following:

"(b) DIRECT LOANS.—

"(1) IN GENERAL.—Subject to paragraph (3), the Secretary may make a direct loan under this subtitle only to a farmer or rancher who has operated a farm or ranch for not less than 3 years and—

"(A) is a qualified beginning farmer or rancher;

"(B) has not received a previous direct farm ownership loan made under this subtitle; or

"(C) has not received a direct farm ownership loan under this subtitle more than 10 years before the date the new loan would be made.

"(2) YOUTH LOANS.—The operation of an enterprise by a youth under section 311(b) shall not be considered the operation of a farm or ranch for purposes of paragraph (1).

"(3) TRANSITION RULE.—

"(A) IN GENERAL.—Subject to subparagraphs (B) and (C), the Secretary may make a direct loan under this subtitle to a farmer or rancher who has a direct loan outstanding under this subtitle on the date of enactment of this paragraph.

"(B) LESS THAN 5 YEARS.—If, as of the date of enactment of this paragraph, a farmer or rancher has had a direct loan outstanding under this subtitle for less than 5 years, the Secretary shall not make a loan to the farmer or rancher under subparagraph (A) after the date that is 10 years after the date of enactment of this paragraph.

"(C) 5 YEARS OR MORE.—If, as of the date of enactment of this paragraph, a farmer or rancher has had a direct loan outstanding under this subtitle for 5 years or more, the Secretary shall not make a loan to the farmer or rancher under subparagraph (A) after the date that is 5 years after the date of enactment of this paragraph.".

SEC. 602. PURPOSES OF LOANS.

(a) IN GENERAL.—Section 303 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1923) is amended to read as follows:

"SEC. 303. PURPOSES OF LOANS.

"(a) ALLOWED PURPOSES.—

"(1) DIRECT LOANS.—A farmer or rancher may use a direct loan made under this subtitle only for—

"(A) acquiring or enlarging a farm or ranch;

"(B) making capital improvements to a farm or ranch;

"(C) paying loan closing costs related to acquiring, enlarging, or improving a farm or ranch; or

"(D) paying for activities to promote soil and water conservation and protection described in section 304 on a farm or ranch.

"(2) GUARANTEED LOANS.—A farmer or rancher may use a loan guaranteed under this subtitle only for—

"(A) acquiring or enlarging a farm or ranch;

"(B) making capital improvements to a farm or ranch;

"(C) paying loan closing costs related to acquiring, enlarging, or improving a farm or ranch;

"(D) paying for activities to promote soil and water conservation and protection described in section 304 on a farm or ranch; or

"(E) refinancing indebtedness.

"(b) PREFERENCES.—In making or guaranteeing a loan under this subtitle for purchase of a farm or ranch, the Secretary shall give preference to a person who—

"(1) has a dependent family;

"(2) to the extent practicable, is able to make an initial down payment on the farm or ranch; or

"(3) is an owner of livestock or farm or ranch equipment that is necessary to successfully carry out farming or ranching operations.

"(c) HAZARD INSURANCE REQUIREMENT.—

"(1) IN GENERAL.—After the Secretary makes the determination required by paragraph (2), the Secretary may not make a loan to a farmer or rancher under this subtitle unless the farmer or rancher has, or agrees to obtain, hazard insurance on any real property to be acquired or improved with the loan.

"(2) DETERMINATION.—Not later than 180 days after the date of enactment of this subsection, the Secretary shall determine the appropriate level of insurance to be required under paragraph (1).".

(b) TRANSITIONAL PROVISION.—Section 303(c)(1) of the Consolidated Farm and Rural Development Act shall not apply until the Secretary of Agriculture makes the determination required by section 303(c)(2) of the Act. 7 USC 1923 note.

SEC. 603. SOIL AND WATER CONSERVATION AND PROTECTION.

Section 304 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1924) is amended—

(1) by striking subsections (b) and (c);

(2) by striking "SEC. 304. (a)(1) Loans" and inserting the following:

"SEC. 304. SOIL AND WATER CONSERVATION AND PROTECTION.

"(a) IN GENERAL.—Loans";

(3) by striking "(2) In making or insuring" and inserting the following:

"(b) PRIORITY.—In making or guaranteeing";

(4) by striking "(3) The Secretary" and inserting the following:

"(c) LOAN MAXIMUM.—The Secretary";

(5) by redesignating subparagraphs (A) through (F) of subsection (a) (as amended by paragraph (2)) as paragraphs (1) through (6), respectively; and

(6) by redesignating subparagraphs (A) and (B) of subsection (c) (as amended by paragraph (4)) as paragraphs (1) and (2), respectively.

SEC. 604. INTEREST RATE REQUIREMENTS.

Section 307(a)(3) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1927(a)(3)) is amended—

(1) in subparagraph (B), by inserting "subparagraph (D) and in" after "Except as provided in"; and

(2) by adding at the end the following:

"(D) JOINT FINANCING ARRANGEMENT.—If a direct farm ownership loan is made under this subtitle as part of a joint financing arrangement and the amount of the direct farm ownership loan does not exceed 50 percent of the total principal amount financed under the arrangement, the interest rate on the direct farm ownership loan shall be at least 4 percent annually.".

SEC. 605. INSURANCE OF LOANS.

Section 308 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1928) is amended to read as follows:

"SEC. 308. FULL FAITH AND CREDIT.

"(a) IN GENERAL.—A contract of insurance or guarantee executed by the Secretary under this title shall be an obligation supported by the full faith and credit of the United States.

"(b) CONTESTABILITY.—A contract of insurance or guarantee executed by the Secretary under this title shall be incontestable except for fraud or misrepresentation that the lender or any holder—

"(1) has actual knowledge of at the time the contract or guarantee is executed; or

"(2) participates in or condones.".

SEC. 606. LOANS GUARANTEED.

Section 309(h) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1929(h)) is amended by adding at the end the following:

"(4) MAXIMUM GUARANTEE OF 90 PERCENT.—Except as provided in paragraphs (5) and (6), a loan guarantee under this title shall be for not more than 90 percent of the principal and interest due on the loan.

"(5) REFINANCED LOANS GUARANTEED AT 95 PERCENT.—The Secretary shall guarantee 95 percent of—

"(A) in the case of a loan that solely refinances a direct loan made under this title, the principal and interest due on the loan on the date of the refinancing; or

"(B) in the case of a loan that is used for multiple purposes, the portion of the loan that refinances the principal and interest due on a direct loan made under this title that is outstanding on the date the loan is guaranteed.

"(6) BEGINNING FARMER LOANS GUARANTEED UP TO 95 PERCENT.—The Secretary may guarantee not more than 95 percent of—

"(A) a farm ownership loan for acquiring a farm or ranch to a borrower who is participating in the down payment loan program under section 310E; or

"(B) an operating loan to a borrower who is participating in the down payment loan program under section 310E that is made during the period that the borrower has a direct loan outstanding under this subtitle for acquiring a farm or ranch.".

Subtitle B—Operating Loans

SEC. 611. LIMITATION ON DIRECT OPERATING LOANS.

(a) IN GENERAL.—Section 311 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1941) is amended by striking subsection (c) and inserting the following:

"(c) DIRECT LOANS.—

"(1) IN GENERAL.—Subject to paragraph (3), the Secretary may make a direct loan under this subtitle only to a farmer or rancher who—

"(A) is a qualified beginning farmer or rancher who has not operated a farm or ranch, or who has operated a farm or ranch for not more than 5 years;

"(B) has not received a previous direct operating loan made under this subtitle; or

"(C) has received a previous direct operating loan made under this subtitle during 6 or fewer years.

"(2) YOUTH LOANS.—In this subsection, the term 'direct operating loan' shall not include a loan made to a youth under subsection (b).

"(3) TRANSITION RULE.—If, as of the date of enactment of this paragraph, a farmer or rancher has received a direct operating loan under this subtitle during each of 4 or more previous years, the borrower shall be eligible to receive a direct operating loan under this subtitle during 3 additional years after the date of enactment of this paragraph.".

(b) YOUTH ENTERPRISES NOT FARMING OR RANCHING.—Section 311(b) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1941(b)) is amended by adding at the end the following:

"(4) YOUTH ENTERPRISES NOT FARMING OR RANCHING.—The operation of an enterprise by a youth under this subsection shall not be considered the operation of a farm or ranch under this title.".

SEC. 612. PURPOSES OF OPERATING LOANS.

(a) IN GENERAL.—Section 312 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1942) is amended to read as follows:

"SEC. 312. PURPOSES OF LOANS.

"(a) IN GENERAL.—A direct loan may be made under this subtitle only for—

"(1) paying the costs incident to reorganizing a farm or ranch for more profitable operation;

"(2) purchasing livestock, poultry, or farm or ranch equipment;

"(3) purchasing feed, seed, fertilizer, insecticide, or farm or ranch supplies, or to meet other essential farm or ranch operating expenses, including cash rent;

"(4) financing land or water development, use, or conservation;

"(5) paying loan closing costs;

"(6) assisting a farmer or rancher in changing the equipment, facilities, or methods of operation of a farm or ranch to comply with a standard promulgated under section 6 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655) or a standard adopted by a State under a plan approved under section 18 of the Act (29 U.S.C. 667), if the Secretary determines that without assistance under this paragraph the farmer or rancher is likely to suffer substantial economic injury in complying with the standard;

"(7) training a limited-resource borrower receiving a loan under section 310D in maintaining records of farming and ranching operations;

"(8) training a borrower under section 359;

"(9) refinancing the indebtedness of a borrower, if the borrower—

"(A) has refinanced a loan under this subtitle not more than 4 times previously; and

"(B)(i) is a direct loan borrower under this title at the time of the refinancing and has suffered a qualifying loss because of a natural disaster declared by the Secretary under this title or a major disaster or emergency designated by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.); or

"(ii) is refinancing a debt obtained from a creditor other than the Secretary; or

"(10) providing other farm, ranch, or home needs, including family subsistence.

"(b) GUARANTEED LOANS.—A loan may be guaranteed under this subtitle only for—

"(1) paying the costs incident to reorganizing a farm or ranch for more profitable operation;

"(2) purchasing livestock, poultry, or farm or ranch equipment;

"(3) purchasing feed, seed, fertilizer, insecticide, or farm or ranch supplies, or to meet other essential farm or ranch operating expenses, including cash rent;

"(4) financing land or water development, use, or conservation;

"(5) refinancing indebtedness;

"(6) paying loan closing costs;

"(7) assisting a farmer or rancher in changing the equipment, facilities, or methods of operation of a farm or ranch to comply with a standard promulgated under section 6 of

the Occupational Safety and Health Act of 1970 (29 U.S.C. 655) or a standard adopted by a State under a plan approved under section 18 of the Act (29 U.S.C. 667), if the Secretary determines that without assistance under this paragraph the farmer or rancher is likely to suffer substantial economic injury due to compliance with the standard;

"(8) training a borrower under section 359; or

"(9) providing other farm, ranch, or home needs, including family subsistence.

"(c) HAZARD INSURANCE REQUIREMENT.—

"(1) IN GENERAL.—After the Secretary makes the determination required by paragraph (2), the Secretary may not make a loan to a farmer or rancher under this subtitle unless the farmer or rancher has, or agrees to obtain, hazard insurance on the property to be acquired with the loan.

"(2) DETERMINATION.—Not later than 180 days after the date of enactment of this paragraph, the Secretary shall determine the appropriate level of insurance to be required by paragraph (1).

"(d) PRIVATE RESERVE.—

"(1) IN GENERAL.—Notwithstanding any other provision of this title, the Secretary may reserve a portion of any loan made under this subtitle to be placed in an unsupervised bank account that may be used at the discretion of the borrower for the basic family needs of the borrower and the immediate family of the borrower.

"(2) LIMIT ON SIZE OF THE RESERVE.—The size of the reserve shall not exceed the least of—

"(A) 10 percent of the loan;

"(B) $5,000; or

"(C) the amount needed to provide for the basic family needs of the borrower and the borrower's immediate family for 3 calendar months.".

(b) TRANSITIONAL PROVISION.—Section 312(c)(1) of the Consolidated Farm and Rural Development Act shall not apply until the Secretary of Agriculture makes the determination required by section 312(c)(2) of the Act. 7 USC 1942 note.

SEC. 613. PARTICIPATION IN LOANS.

Section 315 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1945) is repealed.

SEC. 614. LINE-OF-CREDIT LOANS.

Section 316 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1946) is amended by adding at the end the following:

"(c) LINE-OF-CREDIT LOANS.—

"(1) IN GENERAL.—A loan made or guaranteed by the Secretary under this subtitle may be in the form of a line-of-credit loan.

"(2) TERM.—A line-of-credit loan under paragraph (1) shall terminate not later than 5 years after the date that the loan is made or guaranteed.

"(3) ELIGIBILITY.—For purposes of determining eligibility for a farm operating loan under this subtitle, each year during which a farmer or rancher takes an advance or draws on a line-of-credit loan the farmer or rancher shall be considered to have received an operating loan for 1 year.

"(4) TERMINATION OF DELINQUENT LOANS.—If a borrower does not pay an installment on a line-of-credit loan on schedule, the borrower may not take an advance or draw on the line-of-credit, unless the Secretary determines that—

"(A) the borrower's failure to pay on schedule was due to unusual conditions that the borrower could not control; and

"(B) the borrower will reduce the line-of-credit balance to the scheduled level at the end of—

"(i) the production cycle; or

"(ii) the marketing of the borrower's agricultural products.

"(5) AGRICULTURAL COMMODITIES.—A line-of-credit loan may be used to finance the production or marketing of an agricultural commodity that—

"(A) is eligible for a price support program of the Department of Agriculture; or

"(B) was eligible for a price support program of the Department of Agriculture on the day before the date of enactment of the Federal Agriculture Improvement and Reform Act of 1996.".

SEC. 615. INSURANCE OF OPERATING LOANS.

Section 317 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1947) is repealed.

SEC. 616. SPECIAL ASSISTANCE FOR BEGINNING FARMERS AND RANCHERS.

(a) IN GENERAL.—Section 318 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1948) is repealed.

(b) CONFORMING AMENDMENT.—Section 310F of the Consolidated Farm and Rural Development Act (7 U.S.C. 1936) is repealed.

SEC. 617. LIMITATION ON PERIOD FOR WHICH BORROWERS ARE ELIGIBLE FOR GUARANTEED ASSISTANCE.

Section 319 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1949) is amended by striking subsection (b) and inserting the following:

"(b) LIMITATION ON PERIOD BORROWERS ARE ELIGIBLE FOR GUARANTEED ASSISTANCE.—

"(1) GENERAL RULE.—Subject to paragraph (2), the Secretary shall not guarantee a loan under this subtitle for a borrower for any year after the 15th year that a loan is made to, or a guarantee is provided with respect to, the borrower under this subtitle.

"(2) TRANSITION RULE.—If, as of October 28, 1992, a farmer or rancher has received a direct or guaranteed operating loan under this subtitle during each of 10 or more previous years, the borrower shall be eligible to receive a guaranteed operating loan under this subtitle during 5 additional years after October 28, 1992.".

Subtitle C—Emergency Loans

SEC. 621. HAZARD INSURANCE REQUIREMENT.

(a) IN GENERAL.—Section 321 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961) is amended by striking subsection (b) and inserting the following:

"(b) HAZARD INSURANCE REQUIREMENT.—

"(1) IN GENERAL.—After the Secretary makes the determination required by paragraph (2), the Secretary may not make a loan to a farmer or rancher under this subtitle to cover a property loss unless the farmer or rancher had hazard insurance that insured the property at the time of the loss.

"(2) DETERMINATION.—Not later than 180 days after the date of enactment of this paragraph, the Secretary shall determine the appropriate level of insurance to be required under paragraph (1).".

(b) TRANSITIONAL PROVISION.—Section 321(b)(1) of the Consolidated Farm and Rural Development Act shall not apply until the Secretary of Agriculture makes the determination required by section 321(b)(2) of the Act. 7 USC 1961 note.

SEC. 622. NARROWING OF AUTHORITY TO WAIVE APPLICATION OF THE CREDIT ELSEWHERE TEST.

The second proviso of section 322(b) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1962(b)) is amended by striking "$300,000 or less" and inserting "$100,000 or less".

SEC. 623. LINKING OF EMERGENCY LOANS FOR CROP OR LIVESTOCK CHANGES TO NATURAL DISASTERS.

Section 323 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1963) is amended by inserting "that are necessitated by a natural disaster, major disaster, or emergency and that are" after "livestock changes".

SEC. 624. MAXIMUM EMERGENCY LOAN INDEBTEDNESS.

Section 324 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1964) is amended by striking "SEC. 324. (a) No loan" and all that follows through the end of subsection (a) and inserting the following:

"SEC. 324. TERMS OF LOANS.

"(a) MAXIMUM AMOUNT OF LOAN.—The Secretary may not make a loan under this subtitle to a borrower who has suffered a loss in an amount that—

"(1) exceeds the actual loss caused by a disaster; or

"(2) would cause the total indebtedness of the borrower under this subtitle to exceed $500,000.".

SEC. 625. ESTABLISHMENT OF DATE FOR EMERGENCY LOAN ASSET VALUATION.

The last sentence of section 324(d) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1964(d)) is amended by striking "value the assets" and all that follows through the period and inserting "establish the value of the assets as of the day before the occurrence of the natural disaster, major disaster, or emergency that is the basis for a request for assistance under

this subtitle or the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).".

SEC. 626. INSURANCE OF EMERGENCY LOANS.

Section 328 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1968) is repealed.

Subtitle D—Administrative Provisions

SEC. 631. TEMPORARY AUTHORITY TO ENTER INTO CONTRACTS.

Section 331 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981) is amended by adding at the end the following:

"(d) TEMPORARY AUTHORITY TO ENTER INTO CONTRACTS.—

"(1) DEFINITIONS.—In this subsection:

"(A) ELIGIBLE FINANCIAL INSTITUTION.—The term 'eligible financial institution' means a financial institution with substantial experience in farm, ranch, or aquaculture lending that is regulated by the Comptroller of the Currency, the Farm Credit Administration, or a similar regulatory body.

"(B) PILOT PROJECT.—The term 'pilot project' includes services related to borrower loan documentation, financial information, credit history, and appraisals of real estate and chattel.

"(2) AUTHORITY.—The Secretary may enter into a contract with an eligible financial institution for servicing a farmer program loan under this title, including 1 or more pilot projects.

"(3) REPORT.—Not later than September 30, 1997, and September 30 of each year thereafter, the Secretary shall report to Congress on—

"(A) the Secretary's experience in using contracts under paragraph (2); and

"(B) recommendations for legislation related to this subsection, if any.

"(4) SAVINGS CLAUSE.—Nothing in this subsection shall limit the authority of the Secretary or an eligible financial institution to contract for any services under this Act or any other law.

"(5) SUNSET PROVISION.—This subsection shall be effective until September 30, 2002.".

SEC. 632. USE OF COLLECTION AGENCIES.

Section 331 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981) (as amended by section 631) is amended by adding at the end the following:

"(e) PRIVATE COLLECTION AGENCY.—The Secretary may use a private collection agency to collect a claim or obligation described in subsection (b)(5).".

SEC. 633. NOTICE OF LOAN SERVICE PROGRAMS.

Section 331D(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981d(a)) is amended by striking "180 days delinquent in" and inserting "90 days past due on".

SEC. 634. CLARIFICATION OF WRITTEN STATEMENT REQUIRED OF BORROWERS.

Section 333(1)(B) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1983(1)(B)) is amended by striking "a written statement showing the applicant's net worth" and inserting "an appropriate written financial statement".

SEC. 635. ANNUAL REVIEW OF THE CREDIT HISTORY, BUSINESS OPERATION, AND CONTINUED ELIGIBILITY OF A BORROWER.

(a) IN GENERAL.—Section 333 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1983) is amended—

(1) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively; and

(2) by inserting after paragraph (1) the following:

"(2) except with respect to a loan under section 306, 310B, or 314, the county or area committee established under section 8(b)(5)(B) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)(5)(B)) to certify in writing—

"(A) that an annual review of the credit history and business operation of the borrower has been conducted; and

"(B) that a review of the continued eligibility of the borrower for the loan has been conducted;".

(b) CONFORMING AMENDMENT.—The third sentence of section 310B(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(a)) is amended by striking "(3) of" and inserting "(4) of".

SEC. 636. EXTENSION OF VETERANS PREFERENCE.

Section 333 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1983) (as amended by section 635(a)) is amended by striking paragraph (5) and inserting the following:

"(5) the application of a person who is a veteran of any war, as defined in section 101(12) of title 38, United States Code, for a loan under subtitle A or B to be given preference over a similar application from a person who is not a veteran of any war, if the applications are on file in a county or area office at the same time.".

SEC. 637. VERIFICATION OF THE CREDIT ELSEWHERE TEST.

Section 333A(f)(4) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1983a(f)(4)) is amended—

(1) by striking "(4) With" and all that follows through "seasoned" and inserting the following:

"(4) VERIFICATION.—

"(A) IN GENERAL.—The Secretary shall provide a prospectus of a seasoned"; and

(2) by striking "If the Secretary" and inserting the following:

"(B) NOTIFICATION.—The Secretary shall notify each borrower of a loan that a prospectus has been provided to a lender under subparagraph (A).

"(C) CREDIT EXTENDED.—If the Secretary".

SEC. 638. SALE OF PROPERTY.

Section 335 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1985) is amended—

(1) in subsection (b), by striking "subsection (e)" and inserting "subsections (c) and (e)";

(2) by striking subsection (c) and inserting the following:

"(c) SALE OF PROPERTY.—

"(1) IN GENERAL.—Subject to this subsection and subsection (e)(1)(A), the Secretary shall offer to sell real property that is acquired by the Secretary under this title using the following order and method of sale:

"(A) ADVERTISEMENT.—Not later than 15 days after acquiring real property, the Secretary shall publicly advertise the property for sale.

"(B) BEGINNING FARMER OR RANCHER.—

"(i) IN GENERAL.—Not later than 75 days after acquiring real property, the Secretary shall offer to sell the property to a qualified beginning farmer or rancher at current market value based on a current appraisal.

"(ii) RANDOM SELECTION.—If more than 1 qualified beginning farmer or rancher offers to purchase the property, the Secretary shall select between the qualified applicants on a random basis.

"(iii) APPEAL OF RANDOM SELECTION.—A random selection or denial by the Secretary of a beginning farmer or rancher for farm inventory property under this subparagraph shall be final and not administratively appealable.

"(C) PUBLIC SALE.—If no acceptable offer is received from a qualified beginning farmer or rancher under subparagraph (B) not later than 75 days after acquiring the real property, the Secretary shall, not later than 30 days after the 75-day period, sell the property after public notice at a public sale, and, if no acceptable bid is received, by negotiated sale, at the best price obtainable.

"(2) TRANSITIONAL RULES.—

"(A) PREVIOUS LEASE.—In the case of real property acquired prior to the date of enactment of this subparagraph that the Secretary leased prior to the date of enactment of this subparagraph, not later than 60 days after the lease expires, the Secretary shall offer to sell the property in accordance with paragraph (1).

"(B) PREVIOUSLY IN INVENTORY.—In the case of real property acquired prior to the date of enactment of this subparagraph that the Secretary has not leased, not later than 60 days after the date of enactment of this subparagraph, the Secretary shall offer to sell the property in accordance with paragraph (1).

"(3) INTEREST.—

"(A) IN GENERAL.—Subject to subparagraph (B), any conveyance of real property under this subsection shall include all of the interest of the United States in the property, including mineral rights.

"(B) CONSERVATION.—The Secretary may for conservation purposes grant or sell an easement, restriction, development right, or similar legal right to real property to a State, a political subdivision of a State, or a private nonprofit organization separately from the underlying fee or other rights to the property owned by the United States.

"(4) OTHER LAW.—The Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.) shall not apply to any exercise of authority under this title.

"(5) LEASE OF PROPERTY.—

"(A) IN GENERAL.—Subject to subparagraph (B), the Secretary may not lease any real property acquired under this title.

"(B) EXCEPTION.—

"(i) BEGINNING FARMER OR RANCHER.—The Secretary may lease or contract to sell to a beginning farmer or rancher a farm or ranch acquired by the Secretary under this title if the beginning farmer or rancher qualifies for a credit sale or direct farm ownership loan under subtitle A but credit sale authority for loans or direct farm ownership loan funds, respectively, are not available.

"(ii) TERM.—The term of a lease or contract to sell to a beginning farmer or rancher under clause (i) shall be until the earlier of—

"(I) the date that is 18 months after the date of the lease or sale; or

"(II) the date that direct farm ownership loan funds or credit sale authority for loans becomes available to the beginning farmer or rancher.

"(iii) INCOME-PRODUCING CAPABILITY.—In determining the rental rate on real property leased under this subparagraph, the Secretary shall consider the income-producing capability of the property during the term that the property is leased.

"(6) EXPEDITED DETERMINATION.—

"(A) IN GENERAL.—On the request of an applicant, not later than 30 days after denial of the applicant's application, the appropriate State director shall provide an expedited review and determination of whether the applicant is a beginning farmer or rancher for the purpose of acquiring farm inventory property.

"(B) APPEAL.—The determination of a State Director under subparagraph (A) shall be final and not administratively appealable.

"(C) EFFECTS OF DETERMINATIONS.—

"(i) IN GENERAL.—The Secretary shall maintain statistical data on the number and results of determinations made under subparagraph (A) and the effect of the determinations on— Records.

"(I) selling farm inventory property to beginning farmers and ranchers; and

"(II) disposing of real property in inventory.

"(ii) NOTIFICATION.—The Secretary shall notify the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate if the Secretary determines that the review process under subparagraph (A) is adversely affecting the selling of farm inventory property to beginning farmers or ranchers or the disposing of real property in inventory."; and

(3) in subsection (e)—

(A) in paragraph (1)—

(i) by striking subparagraphs (A) through (C);

(ii) by redesignating subparagraphs (D) through (G) as subparagraphs (A) through (D), respectively;

(iii) in subparagraph (A) (as redesignated by clause (ii))

(I) in clause (i)—

(aa) in the matter preceding subclause (I), by striking "(G)" and inserting "(D)";

(bb) by striking subclause (I) and inserting the following:

"(I) the Secretary acquires property under this title that is located within an Indian reservation; and";

(cc) in subclause (II), by striking ", and" at the end and inserting a semicolon; and

(dd) by striking subclause (III); and

(II) in clause (iii), by striking "The Secretary shall" and all that follows through "of subparagraph (A)," and inserting "Not later than 90 days after acquiring the property, the Secretary shall"; and

(iv) in subparagraph (D) (as redesignated by clause (ii))—

(I) in clause (i), by striking "(D)" in the matter following subclause (IV) and inserting "(A)";

(II) in clause (iii)(I), by striking "subparagraphs (C)(i), (C)(ii), and (D)" and inserting "subparagraph (A)"; and

(III) by striking clause (v) and inserting the following:

Native Americans.

"(v) FORECLOSURE PROCEDURES.—

"(I) NOTICE TO BORROWER.—If an Indian borrower-owner does not voluntarily convey to the Secretary real property described in clause (i), not less than 30 days before a foreclosure sale of the property, the Secretary shall provide the Indian borrower-owner with the option of—

"(aa) requiring the Secretary to assign the loan and security instruments to the Secretary of the Interior, if the Secretary of the Interior agrees to an assignment releasing the Secretary of Agriculture from all further responsibility for collection of any amounts with regard to the loan secured by the real property; or

"(bb) requiring the Secretary to assign the loan and security instruments to the tribe having jurisdiction over the reservation in which the real property is located, if the tribe agrees to the assignment.

"(II) NOTICE TO TRIBE.—If an Indian borrower-owner does not voluntarily convey to the Secretary real property described in clause (i), not less than 30 days before a foreclosure sale of the property, the Secretary shall provide written notice to the Indian tribe that has jurisdiction over the reservation in which the real property is located of—

"(aa) the sale;

"(bb) the fair market value of the property; and

"(cc) the requirements of this subparagraph.

"(III) ASSUMED LOANS.—If an Indian tribe assumes a loan under subclause (I)—

"(aa) the Secretary shall not foreclose the loan because of any default that occurred prior to the date of the assumption;

"(bb) the loan shall be for the lesser of the outstanding principal and interest of the loan or the fair market value of the property; and

"(cc) the loan shall be treated as though the loan was made under Public Law 91–229 (25 U.S.C. 488 et seq.).";

(B) by striking paragraph (3);

(C) in paragraph (4)—

(i) by striking subparagraph (B);

(ii) in subparagraph (A)—

(I) in clause (i), by striking "(i)"; and

(II) by redesignating clause (ii) as subparagraph (B); and

(iii) in subparagraph (B) (as redesignated by clause (ii)(II)), by striking "clause (i)" and inserting "subparagraph (A)";

(D) by striking paragraphs (5), (6), and (9); and

(E) by redesignating paragraphs (4), (7), (8), and (10) as paragraphs (3), (4), (5), and (6), respectively.

SEC. 639. EASEMENTS ON INVENTORIED PROPERTY.

Section 335(g) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1985(g)) is amended—

(1) in paragraph (1)—

(A) by striking "(g)(1) Subject to paragraphs (2) through (5)" and inserting the following:

"(g) EASEMENTS ON INVENTORIED PROPERTY.—

"(1) IN GENERAL.—Subject to paragraph (2)"; and

(B) by striking ", as determined" and all that follows through "3801 et seq.)";

(2) by striking paragraph (2) and inserting the following:

"(2) LIMITATION.—The Secretary shall not establish a wetland conservation easement on an inventoried property that—

"(A) was cropland on the date the property entered the inventory of the Secretary; or

"(B) was used for farming at any time during the period beginning on the date 5 years before the property entered the inventory of the Secretary and ending on the date the property entered the inventory of the Secretary.";

(3) by striking paragraphs (3), (4), (5), and (8);

(4) by striking "(6) The Secretary" and inserting the following:

"(3) NOTIFICATION.—The Secretary"; and

(5) by striking "(7) The appraised" and inserting the following:

"(4) APPRAISED VALUE.—The appraised".

SEC. 640. DEFINITIONS.

Section 343(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991(a)) is amended—

(1) in paragraph (11)—

(A) in the text preceding subparagraph (A), by striking "applicant—" and inserting "applicant, regardless of whether the applicant is participating in a program under section 310E—"; and

(B) in subparagraph (F)—

(i) by striking "15 percent" and inserting "25 percent"; and

(ii) by inserting before the semicolon at the end the following: ", except that this subparagraph shall not apply to a loan made or guaranteed under subtitle B"; and

(2) by adding at the end the following:

"(12) DEBT FORGIVENESS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'debt forgiveness' means reducing or terminating a farmer program loan made or guaranteed under this title, in a manner that results in a loss to the Secretary, through—

"(i) writing down or writing off a loan under section 353;

"(ii) compromising, adjusting, reducing, or charging-off a debt or claim under section 331;

"(iii) paying a loss on a guaranteed loan under section 357; or

"(iv) discharging a debt as a result of bankruptcy.

"(B) LOAN RESTRUCTURING.—The term 'debt forgiveness' does not include consolidation, rescheduling, reamortization, or deferral.".

SEC. 641. AUTHORIZATION FOR LOANS.

Section 346 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1994) is amended—

(1) in the second sentence of subsection (a), by striking "with or without" and all that follows through "administration"; and

(2) by striking subsection (b) and inserting the following:

"(b) AUTHORIZATION FOR LOANS.—

"(1) IN GENERAL.—The Secretary may make or guarantee loans under subtitles A and B from the Agricultural Credit Insurance Fund provided for in section 309 in not more than the following amounts:

"(A) FISCAL YEAR 1996.—For fiscal year 1996, $3,085,000,000, of which—

"(i) $585,000,000 shall be for direct loans, of which—

"(I) $85,000,000 shall be for farm ownership loans under subtitle A; and

"(II) $500,000,000 shall be for operating loans under subtitle B; and

"(ii) $2,500,000,000 shall be for guaranteed loans, of which—

"(I) $600,000,000 shall be for guarantees of farm ownership loans under subtitle A; and

"(II) $1,900,000,000 shall be for guarantees of operating loans under subtitle B.

"(B) FISCAL YEAR 1997.—For fiscal year 1997, $3,165,000,000, of which—

"(i) $585,000,000 shall be for direct loans, of which—

"(I) $85,000,000 shall be for farm ownership loans under subtitle A; and

"(II) $500,000,000 shall be for operating loans under subtitle B; and

"(ii) $2,580,000,000 shall be for guaranteed loans, of which—

"(I) $630,000,000 shall be for guarantees of farm ownership loans under subtitle A; and

"(II) $1,950,000,000 shall be for guarantees of operating loans under subtitle B.

"(C) FISCAL YEAR 1998.—For fiscal year 1998, $3,245,000,000, of which—

"(i) $585,000,000 shall be for direct loans, of which—

"(I) $85,000,000 shall be for farm ownership loans under subtitle A; and

"(II) $500,000,000 shall be for operating loans under subtitle B; and

"(ii) $2,660,000,000 shall be for guaranteed loans, of which—

"(I) $660,000,000 shall be for guarantees of farm ownership loans under subtitle A; and

"(II) $2,000,000,000 shall be for guarantees of operating loans under subtitle B.

"(D) FISCAL YEAR 1999.—For fiscal year 1999, $3,325,000,000, of which—

"(i) $585,000,000 shall be for direct loans, of which—

"(I) $85,000,000 shall be for farm ownership loans under subtitle A; and

"(II) $500,000,000 shall be for operating loans under subtitle B; and

"(ii) $2,740,000,000 shall be for guaranteed loans, of which—

"(I) $690,000,000 shall be for guarantees of farm ownership loans under subtitle A; and

"(II) $2,050,000,000 shall be for guarantees of operating loans under subtitle B.

"(E) FISCAL YEAR 2000.—For fiscal year 2000, $3,435,000,000, of which—

"(i) $585,000,000 shall be for direct loans, of which—

"(I) $85,000,000 shall be for farm ownership loans under subtitle A; and

"(II) $500,000,000 shall be for operating loans under subtitle B; and

"(ii) $2,850,000,000 shall be for guaranteed loans, of which—

"(I) $750,000,000 shall be for guarantees of farm ownership loans under subtitle A; and

"(II) $2,100,000,000 shall be for guarantees of operating loans under subtitle B.

"(F) FISCAL YEAR 2001.—For fiscal year 2001, $3,435,000,000, of which—

"(i) $585,000,000 shall be for direct loans, of which—

"(I) $85,000,000 shall be for farm ownership loans under subtitle A; and

"(II) $500,000,000 shall be for operating loans under subtitle B; and

"(ii) $2,850,000,000 shall be for guaranteed loans, of which—

"(I) $750,000,000 shall be for guarantees of farm ownership loans under subtitle A; and

"(II) $2,100,000,000 shall be for guarantees of operating loans under subtitle B.

"(G) FISCAL YEAR 2002.—For fiscal year 2002, $3,435,000,000, of which—

"(i) $585,000,000 shall be for direct loans, of which—

"(I) $85,000,000 shall be for farm ownership loans under subtitle A; and

"(II) $500,000,000 shall be for operating loans under subtitle B; and

"(ii) $2,850,000,000 shall be for guaranteed loans, of which—

"(I) $750,000,000 shall be for guarantees of farm ownership loans under subtitle A; and

"(II) $2,100,000,000 shall be for guarantees of operating loans under subtitle B.

"(2) BEGINNING FARMERS AND RANCHERS.—

"(A) DIRECT LOANS.—

"(i) FARM OWNERSHIP LOANS.—

"(I) IN GENERAL.—Of the amounts made available under paragraph (1) for direct farm ownership loans, the Secretary shall reserve 70 percent for qualified beginning farmers and ranchers.

"(II) DOWN PAYMENT LOANS.—Of the amounts reserved for a fiscal year under subclause (I), the Secretary shall reserve 60 percent for the down payment loan program under section 310E until April 1 of the fiscal year.

"(ii) OPERATING LOANS.—Of the amounts made available under paragraph (1) for direct operating loans, the Secretary shall reserve for qualified beginning farmers and ranchers—

"(I) for each of fiscal years 1996 through 1998, 25 percent;

"(II) for fiscal year 1999, 30 percent; and

"(III) for each of fiscal years 2000 through 2002, 35 percent.

"(iii) FUNDS RESERVED UNTIL SEPTEMBER 1.—Except as provided in clause (i)(II), funds reserved for qualified beginning farmers or ranchers under this subparagraph for a fiscal year shall be reserved only until September 1 of the fiscal year.

"(B) GUARANTEED LOANS.—

"(i) FARM OWNERSHIP LOANS.—Of the amounts made available under paragraph (1) for guarantees of farm ownership loans, the Secretary shall reserve 25 percent for qualified beginning farmers and ranchers.

"(ii) OPERATING LOANS.—Of the amounts made available under paragraph (1) for guarantees of operating loans, the Secretary shall reserve 40 percent for qualified beginning farmers and ranchers.

"(iii) FUNDS RESERVED UNTIL APRIL 1.—Funds reserved for qualified beginning farmers or ranchers under this subparagraph for a fiscal year shall be reserved only until April 1 of the fiscal year.

"(C) RESERVED FUNDS FOR ALL QUALIFIED BEGINNING FARMERS AND RANCHERS.—If a qualified beginning farmer or rancher meets the eligibility criteria for receiving a direct or guaranteed loan under section 302, 310E, or 311, the Secretary shall make or guarantee the loan if sufficient funds reserved under this paragraph are available to make or guarantee the loan.

"(3) TRANSFER FOR DOWN PAYMENT LOANS.—

"(A) IN GENERAL.—Notwithstanding subsection (a), subject to subparagraph (B)—

"(i) beginning on August 1 of each fiscal year, the Secretary shall use available unsubsidized guaranteed farm operating loan funds to provide direct farm ownership loans approved by the Secretary to qualified beginning farmers and ranchers under the down payment loan program established under section 310E, if sufficient direct farm ownership loan funds are not otherwise available; and

"(ii) beginning on September 1 of each fiscal year, the Secretary shall use available unsubsidized guaranteed farm operating loan funds to provide direct farm ownership loans approved by the Secretary to qualified beginning farmers and ranchers, if sufficient direct farm ownership loan funds are not otherwise available. Effective date.

"(B) LIMITATION.—The Secretary shall limit the transfer of funds under subparagraph (A) so that all guaranteed farm operating loans that have been approved, or will be approved, by the Secretary during the fiscal year will be made to the extent of available amounts.

"(4) TRANSFER FOR CREDIT SALES OF FARM INVENTORY PROPERTY.—

"(A) IN GENERAL.—Notwithstanding subsection (a), subject to subparagraphs (B) and (C), beginning on September 1 of each fiscal year, the Secretary may use available funds made available under subtitle C for the fiscal year to fund the credit sale of farm real estate in the inventory of the Secretary.

"(B) SUPPLEMENTAL APPROPRIATIONS.—The transfer authority provided under subparagraph (A) shall not apply to any funds made available to the Secretary for any fiscal year under an Act making supplemental appropriations.

"(C) LIMITATION.—The Secretary shall limit the transfer of funds under subparagraph (A) so that all emergency disaster loans that have been approved, or will be approved,

by the Secretary during the fiscal year will be made to the extent of available amounts.".

SEC. 642. CONTRACTS ON LOAN SECURITY PROPERTIES.

Section 349 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1997) is amended—

(1) by striking subsection (b) and inserting the following:

"(b) CONTRACTS ON LOAN SECURITY PROPERTIES.—Subject to subsection (c), the Secretary may enter into a contract related to real property for conservation, recreation, or wildlife purposes.";

(2) in subsection (c)—

(A) by striking "(c) Such easement" and all that follows through "if—" and inserting the following:

"(c) LIMITATIONS.—The Secretary may enter into a contract under subsection (b) if—";

(B) in paragraph (2), by adding "and" at the end;

(C) in paragraph (3)—

(i) by striking subparagraph (B);

(ii) by striking "(3)(A)(i)" and inserting "(3)(A)";

(iii) by striking "Farmers Home Administration" and inserting "Secretary";

(iv) by striking "(ii) such easement" and inserting "(B) such contract"; and

(v) by striking "; or" and inserting a period; and

(D) by striking paragraph (4);

(3) in subsection (d), by striking "easement" each place it appears and inserting "contract";

(4) in subsection (e)—

(A) in paragraph (1)—

(i) in the matter preceding subparagraph (A), by striking "purchase any such easement from the borrower—" and inserting "reduce or forgive the outstanding debt of a borrower—";

(ii) by striking "easement" each place it appears and inserting "contract"; and

(iii) by striking "Farmers Home Administration" each place it appears and inserting "Secretary"; and

(B) in paragraph (2)(A), by striking "easement is acquired" and inserting "contract is entered into";

(5) in subsection (f)—

(A) in paragraph (1), by striking "acquire easements" and inserting "enter into contracts"; and

(B) in paragraphs (2) and (3), by striking "easements" each place it appears and inserting "contracts"; and

(6) in subsection (g), by striking "an easement acquired" and inserting "a contract entered into".

SEC. 643. LIST OF CERTIFIED LENDERS AND INVENTORY PROPERTY DEMONSTRATION PROJECT.

(a) IN GENERAL.—Section 351 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1999) is amended—

(1) in subsection (f)—

(A) by striking "Each Farmers Home Administration county supervisor" and inserting "The Secretary";

(B) by striking "approved lenders" and inserting "lenders"; and

(C) by striking "the Farmers Home Administration"; and

(2) by striking subsection (h).

(b) TECHNICAL AMENDMENT.—Section 1320 of the Food Security Act of 1985 (Public Law 99–198; 7 U.S.C. 1999 note) is amended by striking "Effective only" and all that follows through "1995, the" and inserting "The".

SEC. 644. HOMESTEAD PROPERTY.

Section 352(c) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2000(c)) is amended—

(1) in paragraph (1)(A), by striking "90" each place it appears and inserting "30"; and

(2) in paragraph (6)—

(A) in the first sentence, by striking "Within 30" and all that follows through "title," and insert "Not later than the date of acquisition of the property securing a loan made under this title (or, in the case of real property in inventory on the date of enactment of the Federal Agriculture Improvement and Reform Act of 1996, not later than 5 days after the date of enactment of the Act),"; and

(B) by striking the second sentence.

SEC. 645. RESTRUCTURING.

Section 353 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2001) is amended—

(1) in subsection (c)—

(A) in paragraph (3), by striking subparagraph (C) and inserting the following:

"(C) CASH FLOW MARGIN.—For the purpose of assessing under subparagraph (A) the ability of a borrower to meet debt obligations and continue farming operations, the Secretary shall assume that the borrower needs up to 110 percent of the amount indicated for payment of farm operating expenses, debt service obligations, and family living expenses."; and

(B) by striking paragraph (6) and inserting the following:

"(6) TERMINATION OF LOAN OBLIGATIONS.—The obligations of a borrower to the Secretary under a loan shall terminate if—

"(A) the borrower satisfies the requirements of paragraphs (1) and (2) of subsection (b);

"(B) the value of the restructured loan is less than the recovery value; and

"(C) not later than 90 days after receipt of the notification described in paragraph (4)(B), the borrower pays (or obtains third-party financing to pay) the Secretary an amount equal to the current market value.";

(2) by striking subsection (k); and

(3) by redesignating subsections (l) through (p) as subsections (k) through (o), respectively.

SEC. 646. TRANSFER OF INVENTORY LAND FOR CONSERVATION PURPOSES.

Section 354 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2002) is amended—

(1) in the matter preceding paragraph (1), by striking "The Secretary, without reimbursement," and inserting the following:

"(a) IN GENERAL.—Subject to subsection (b), the Secretary";

(2) by striking paragraph (2) and inserting the following:

"(2) that is eligible to be disposed of in accordance with section 335; and"; and

(3) by adding at the end the following:

"(b) CONDITIONS.—The Secretary may not transfer any property or interest in property under subsection (a) unless—

"(1) at least 2 public notices are given of the transfer;

"(2) if requested, at least 1 public meeting is held prior to the transfer; and

"(3) the Governor and at least 1 elected county official of the State and county where the property is located are consulted prior to the transfer.".

SEC. 647. IMPLEMENTATION OF TARGET PARTICIPATION RATES.

Section 355 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2003) is amended by adding at the end the following:

"(f) IMPLEMENTATION CONSISTENT WITH SUPREME COURT HOLDING.—Not later than 180 days after the date of enactment of this subsection, the Secretary shall ensure that the implementation of this section is consistent with the holding of the Supreme Court in Adarand Constructors, Inc. v. Federico Pena, Secretary of Transportation, 115 S. Ct. 2097 (1995).".

SEC. 648. DELINQUENT BORROWERS.

(a) PAYMENT OF INTEREST AS A CONDITION OF LOAN SERVICING FOR BORROWERS.—The Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) is amended by adding at the end the following:

7 USC 2008g.

"SEC. 372. PAYMENT OF INTEREST AS A CONDITION OF LOAN SERVICING FOR BORROWERS.

"The Secretary may not reschedule or reamortize a loan for a borrower under this title who has not requested consideration under section 331D(e) unless the borrower pays a portion, as determined by the Secretary, of the interest due on the loan.".

(b) LOAN AND LOAN SERVICING LIMITATIONS.—The Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) (as amended by subsection (a)) is amended by adding at the end the following:

7 USC 2008h.

"SEC. 373. LOAN AND LOAN SERVICING LIMITATIONS.

"(a) DELINQUENT BORROWERS PROHIBITED FROM OBTAINING DIRECT OPERATING LOANS.—The Secretary may not make a direct operating loan under subtitle B to a borrower who is delinquent on any loan made or guaranteed under this title.

"(b) LOANS PROHIBITED FOR BORROWERS THAT HAVE RECEIVED DEBT FORGIVENESS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary may not make or guarantee a loan under this title to a borrower who received debt forgiveness on a loan made or guaranteed under this title.

"(2) EXCEPTION.—The Secretary may make a direct or guaranteed farm operating loan for paying annual farm or ranch operating expenses of a borrower who was restructured with a write-down under section 353.

"(c) NO MORE THAN 1 DEBT FORGIVENESS FOR A BORROWER ON A DIRECT LOAN.—The Secretary may not provide to a borrower debt forgiveness on a direct loan made under this title if the

borrower has received debt forgiveness on another direct loan made under this title.".

SEC. 649. SHORT FORM CERTIFICATION OF FARM PROGRAM BORROWER COMPLIANCE.

The Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) (as amended by section 648) is amended by adding at the end the following:

"SEC. 374. SHORT FORM CERTIFICATION OF FARM PROGRAM BORROWER COMPLIANCE. 7 USC 2008i.

"The Secretary shall develop and utilize a consolidated short form for farm program borrowers to use in certifying compliance with any applicable provision of law (including a regulation) that serves as an eligibility prerequisite for a loan made under this title.".

SEC. 650. CREDIT STUDY. 7 USC 2001 note.

(a) IN GENERAL.—The Secretary of Agriculture shall conduct a study and report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on the demand for and availability of credit in rural areas for agriculture, housing, and rural development. Reports.

(b) PURPOSE.—The purpose of the study shall be to ensure that Congress has current and comprehensive information to consider as Congress deliberates on rural credit needs and the availability of credit to satisfy the needs of rural areas of the United States.

(c) ITEMS IN STUDY.—In conducting the study, the Secretary shall base the study on the most current available data and analyze—

(1) rural demand for credit from the Farm Credit System, the ability of the Farm Credit System to meet the demand, and the extent to which the Farm Credit System provides loans to satisfy the demand;

(2) rural demand for credit from the United States banking system, the ability of banks to meet the demand, and the extent to which banks provide loans to satisfy the demand;

(3) rural demand for credit from the Secretary, the ability of the Secretary to meet the demand, and the extent to which the Secretary provides loans to satisfy the demand;

(4) rural demand for credit from other Federal agencies, the ability of the agencies to meet the demand, and the extent to which the agencies provide loans to satisfy the demand;

(5) what measure or measures exist to gauge the overall demand for rural credit, the extent to which rural demand for credit is satisfied, and what the measures have demonstrated;

(6) a comparison of the interest rates and terms charged by the Farm Credit System Farm Credit Banks, production credit associations, and banks for cooperatives with the rates and terms charged by the banks of the United States for credit of comparable risk and maturity;

(7) the advantages and disadvantages of the modernization and expansion proposals of the Farm Credit System on the Farm Credit System, the United States banking system, rural

users of credit, local rural communities, and the Federal Government, including—

(A) any added risk to the safety and soundness of the Farm Credit System that may result from approval of a proposal; and

(B) any positive or adverse impacts on competition between the Farm Credit System and the banks of the United States in providing credit to rural users;

(8) the nature and extent of the unsatisfied rural credit need that the Farm Credit System proposals are supposed to address and what aspects of the present Farm Credit System prevent the Farm Credit System from meeting the need;

(9) the advantages and disadvantages of the proposal by commercial bankers to allow banks access to the Farm Credit System as a funding source on the Farm Credit System, the United States banking system, rural users of credit, local rural communities, and the Federal Government, including—

(A) any added risk to the safety and soundness of the Farm Credit System that may result from approval of the proposal; and

(B) any positive or adverse impacts on competition between the Farm Credit System and the banks of the United States in providing credit to rural users; and

(10) problems that commercial banks have in obtaining capital for lending in rural areas, how access to Farm Credit System funds would improve the availability of capital in rural areas in ways that cannot be achieved in the system in existence on the date of enactment of this Act, and the possible effects on the viability of the Farm Credit System of granting banks access to Farm Credit System funds.

(d) INTERAGENCY TASK FORCE.—In completing the study, the Secretary shall use, among other things, data and information obtained by the interagency task force on rural credit.

Subtitle E—General Provisions

SEC. 661. CONFORMING AMENDMENTS.

(a) Section 307(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1927(a)) is amended—

(1) in paragraph (4), by striking "304(b), 306(a)(1), and 310B" and inserting "306(a)(1) and 310B"; and

(2) in paragraph (6)(B)—

(A) by striking clauses (i), (ii), (iv), and (vii);

(B) in clause (v), by adding "and" at the end;

(C) in clause (vi), by striking ", and" at the end and inserting a period; and

(D) by redesignating clauses (iii), (v), and (vi) as clauses (i), (ii), and (iii), respectively.

(b) The second sentence of section 309(g)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1929(g)(1)) is amended by striking "section 308,".

(c) Section 309A of the Consolidated Farm and Rural Development Act (7 U.S.C. 1929a) is amended—

(1) in the second sentence of subsection (a), by striking "304(b), 306(a)(1), 306(a)(14), 310B, and 312(b)" and inserting "306(a)(1), 306(a)(14), and 310B"; and

(2) in the first sentence of subsection (b), by striking "and section 308".

(d) Section 310B(d) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(d)) is amended—

(1) by striking "sections 304(b), 310B, and 312(b)" each place it appears in paragraphs (2), (3), and (4) and inserting "this section"; and

(2) in paragraph (6), by striking "this section, section 304, or section 312" and inserting "this section".

(e) The first sentence of section 310D(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1934(a)) is amended by striking "paragraphs (1) through (5) of section 303(a), or subparagraphs (A) through (E) of section 304(a)(1)" and inserting "section 303(a), or paragraphs (1) through (5) of section 304(a)".

(f) Section 311(b)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1941(b)(1)) is amended by striking "and for the purposes specified in section 312".

(g) Section 316(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1946(a)) is amended by striking paragraph (3).

(h) Section 343 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991) is amended—

(1) in subsection (a)(10), by striking "recreation loan (RL) under section 304,"; and

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking "351(h),"; and

(B) by striking paragraph (4) and inserting the following:

"(4) PRESERVATION LOAN SERVICE PROGRAM.—The term 'preservation loan service program' means homestead retention as authorized under section 352.".

(i) The first sentence of section 344 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1992) is amended by striking "304(b), 306(a)(1), 310B, 312(b), or 312(c)" and inserting "306(a)(1), 310B, or 312(c)".

(j) Section 353(l) of the Consolidated Farm and Rural Development Act (as redesignated by section 645(3)) is amended by striking "and subparagraphs (A)(i) and (C)(i) of section 335(e)(1),".

SEC. 662. ELECTRONIC FILING OF EFFECTIVE FINANCING STATEMENTS UNDER THE CLEAR TITLE PROVISIONS OF THE FOOD SECURITY ACT OF 1985.

Section 1324(c)(4) of the Food Security Act of 1985 (7 U.S.C. 1631(c)(4)) is amended—

(1) in subparagraph (A), by striking "thereof" and inserting "of the statement, or, in the case of a State which (under the applicable State law provisions of the Uniform Commercial Code) allows the electronic filing of financing statements without the signature of the debtor, is an electronically reproduced copy of the statement"; and

(2) in each of subparagraphs (B) and (C), by inserting "other than in the case of an electronically reproduced copy of the statement," before "is".

7 USC 1922 note.

SEC. 663. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this title shall become effective on the date of enactment of this Act.

(b) DELAYED EFFECTIVE DATES.—The amendments made by sections 601, 606, 611, 612, 622, 623, 625, 633, 640(1), 642, 645(1), 648(a), and 649 shall become effective 90 days after the date of enactment of this Act.

(c) TRANSITION PROVISION.—The amendments made by sections 638 and 644 shall not apply with respect to a complete application to acquire inventory property submitted prior to the date of enactment of this Act.

(d) REGULATIONS.—Notwithstanding any other provision of law, regulations to implement the amendments made by this title shall be published as interim final rules with request for comments and may be made effective immediately on publication.

TITLE VII—RURAL DEVELOPMENT

Subtitle A—Amendments to the Food, Agriculture, Conservation, and Trade Act of 1990

CHAPTER 1—GENERAL PROVISIONS

SEC. 701. RURAL INVESTMENT PARTNERSHIPS.

Subtitle B of title XXIII of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2007 et seq.) is repealed.

SEC. 702. WATER AND WASTE FACILITY FINANCING.

Section 2322 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1926–1) is repealed.

SEC. 703. RURAL WASTEWATER CIRCUIT RIDER PROGRAM.

Section 2324 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 7 U.S.C. 1926 note) is repealed.

SEC. 704. TELEMEDICINE AND DISTANCE LEARNING SERVICES IN RURAL AREAS.

Chapter 1 of subtitle D of title XXIII of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 950aaa et seq.) is amended to read as follows:

"CHAPTER 1—TELEMEDICINE AND DISTANCE LEARNING SERVICES IN RURAL AREAS

7 USC 950aaa.

"SEC. 2331. PURPOSE.

"The purpose of this chapter is to encourage and improve telemedicine services and distance learning services in rural areas through the use of telecommunications, computer networks, and related advanced technologies by students, teachers, medical professionals, and rural residents.

7 USC 950aaa–1.

"SEC. 2332. DEFINITIONS.

"In this chapter:

"(1) CONSTRUCT.—The term 'construct' means to construct, acquire, install, improve, or extend a facility or system.

"(2) COST OF MONEY LOAN.—The term 'cost of money loan' means a loan made under this chapter bearing interest at a rate equal to the then current cost to the Federal Government of loans of similar maturity.

"(3) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture.

"SEC. 2333. TELEMEDICINE AND DISTANCE LEARNING SERVICES IN RURAL AREAS. 7 USC 950aaa–2.

"(a) SERVICES TO RURAL AREAS.—The Secretary may provide financial assistance for the purpose of financing the construction of facilities and systems to provide telemedicine services and distance learning services in rural areas.

"(b) FINANCIAL ASSISTANCE.—

"(1) IN GENERAL.—Financial assistance shall consist of grants or cost of money loans, or both.

"(2) FORM.—The Secretary shall determine the portion of the financial assistance provided to a recipient that consists of grants and the portion that consists of cost of money loans so as to result in the maximum feasible repayment to the Federal Government of the financial assistance, based on the ability to repay of the recipient and full utilization of funds made available to carry out this chapter.

"(c) RECIPIENTS.—

"(1) IN GENERAL.—The Secretary may provide financial assistance under this chapter to—

"(A) entities using telemedicine services or distance learning services; and

"(B) entities providing or proposing to provide telemedicine service or distance learning service to other persons at rates calculated to ensure that the benefit of the financial assistance is passed through to the other persons.

"(2) ELECTRIC OR TELECOMMUNICATIONS BORROWERS.—

"(A) LOANS TO BORROWERS.—Subject to subparagraph (B), the Secretary may provide a cost of money loan under this chapter to a borrower of an electric or telecommunications loan under the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.). A borrower receiving a cost of money loan under this paragraph shall—

"(i) make the funds provided available to entities that qualify under paragraph (1) for projects satisfying the requirements of this chapter;

"(ii) use the funds provided to acquire, install, improve, or extend a system referred to in subsection (a); or

"(iii) use the funds provided to install, improve, or extend a facility referred to in subsection (a).

"(B) LIMITATIONS.—A borrower of an electric or telecommunications loan under the Rural Electrification Act of 1936 shall—

"(i) make a system or facility funded under subparagraph (A) available to entities that qualify under paragraph (1); and

"(ii) neither retain from the proceeds of a loan provided under subparagraph (A), nor assess a qualifying entity under paragraph (1), any amount except as may be required to pay the actual costs incurred in administering the loan or making the system or facility available.

"(3) APPEAL.—If the Secretary rejects the application of a borrower who applies for a cost of money loan or grant under this section, the borrower may appeal the decision to the Secretary not later than 10 days after the borrower is notified of the rejection.

"(4) ASSISTANCE TO PROVIDE OR IMPROVE SERVICES.—Financial assistance may be provided under this chapter for a facility regardless of the location of the facility if the Secretary determines that the assistance is necessary to provide or improve telemedicine services or distance learning services in a rural area.

"(d) PRIORITY.—The Secretary shall establish procedures to prioritize financial assistance under this chapter considering—

"(1) the need for the assistance in the affected rural area;

"(2) the financial need of the applicant;

"(3) the population sparsity of the affected rural area;

"(4) the local involvement in the project serving the affected rural area;

"(5) geographic diversity among the recipients of financial assistance;

"(6) the utilization of the telecommunications facilities of any telecommunications provider serving the affected rural area;

"(7) the portion of total project financing provided by the applicant from the funds of the applicant;

"(8) the portion of project financing provided by the applicant with funds obtained from non-Federal sources;

"(9) the joint utilization of facilities financed by other financial assistance;

"(10) the coordination of the proposed project with regional projects or networks;

"(11) service to the greatest practical number of persons within the general geographic area covered by the financial assistance;

"(12) conformity with the State strategic plan as prepared under section 381D of the Consolidated Farm and Rural Development Act; and

"(13) other factors determined appropriate by the Secretary.

Federal Register, publication.

"(e) MAXIMUM AMOUNT OF ASSISTANCE TO INDIVIDUAL RECIPIENTS.—The Secretary may establish the maximum amount of financial assistance to be made available to an individual recipient for each fiscal year under this chapter, by publishing notice of the maximum amount in the Federal Register not more than 45 days after funds are made available for the fiscal year to carry out this chapter.

"(f) USE OF FUNDS.—Financial assistance provided under this chapter shall be used for—

"(1) the development and acquisition of instructional programming;

"(2) the development and acquisition, through lease or purchase, of computer hardware and software, audio and visual

equipment, computer network components, telecommunications terminal equipment, telecommunications transmission facilities, data terminal equipment, or interactive video equipment, or other facilities that would further telemedicine services or distance learning services;

"(3) providing technical assistance and instruction for the development or use of the programming, equipment, or facilities referred to in paragraphs (1) and (2); or

"(4) other uses that are consistent with this chapter, as determined by the Secretary.

"(g) SALARIES AND EXPENSES.—Notwithstanding subsection (f), financial assistance provided under this chapter shall not be used for paying salaries or administrative expenses.

"(h) EXPEDITING COORDINATED TELEPHONE LOANS.—

"(1) IN GENERAL.—The Secretary may establish and carry out procedures to ensure that expedited consideration and determination is given to applications for loans and advances of funds submitted by local exchange carriers under this chapter and the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.) to enable the exchange carriers to provide advanced telecommunications services in rural areas in conjunction with any other projects carried out under this chapter.

"(2) DEADLINE IMPOSED ON SECRETARY.—Not later than 45 days after the receipt of a completed application for an expedited telephone loan under paragraph (1), the Secretary shall notify the applicant in writing of the decision of the Secretary regarding the application. Notification.

"(i) NOTIFICATION OF LOCAL EXCHANGE CARRIER.—

"(1) APPLICANTS.—Each applicant for a grant for a telemedicine or distance learning project established under this chapter shall notify the appropriate local telephone exchange carrier regarding the application filed with the Secretary for the grant.

"(2) SECRETARY.—The Secretary shall—

"(A) publish notice of applications received for grants under this chapter for telemedicine or distance learning projects; and

"(B) make the applications available for inspection.

"SEC. 2334. ADMINISTRATION. 7 USC 950aaa–3.

"(a) NONDUPLICATION.—The Secretary shall ensure that facilities constructed using financial assistance provided under this chapter do not duplicate adequate established telemedicine services or distance learning services.

"(b) LOAN MATURITY.—The maturities of cost of money loans shall be determined by the Secretary, based on the useful life of the facility being financed, except that the loan shall not be for a period of more than 10 years.

"(c) LOAN SECURITY AND FEASIBILITY.—The Secretary shall make a cost of money loan only if the Secretary determines that the security for the loan is reasonably adequate and that the loan will be repaid within the period of the loan.

"(d) ENCOURAGING CONSORTIA.—The Secretary shall encourage the development of consortia to provide telemedicine services or distance learning services through telecommunications in rural areas served by a telecommunications provider.

"(e) COORDINATION WITH OTHER AGENCIES.—The Secretary shall coordinate, to the extent practicable, with other Federal and State agencies with similar grant or loan programs to pool resources for funding meritorious proposals in rural areas.

"(f) INFORMATIONAL EFFORTS.—The Secretary shall establish and implement procedures to carry out informational efforts to advise potential end users located in rural areas of each State about the program authorized by this chapter.

7 USC 950aaa–4. **"SEC. 2335. REGULATIONS.**

"Not later than 180 days after the date of enactment of the Federal Agriculture Improvement and Reform Act of 1996, the Secretary shall issue regulations to carry out this chapter.

7 USC 950aaa–5. **"SEC. 2335A. AUTHORIZATION OF APPROPRIATIONS.**

"There are authorized to be appropriated to carry out this chapter $100,000,000 for each of fiscal years 1996 through 2002.".

SEC. 705. LIMITATION ON AUTHORIZATION OF APPROPRIATIONS FOR RURAL TECHNOLOGY GRANTS.

Section 2347 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 4034) is amended—

7 USC 1932. (1) by striking "(a) IN GENERAL.—"; and

(2) by striking subsection (b).

SEC. 706. DEMONSTRATION PROJECTS.

Section 2348 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2662a) is repealed.

SEC. 707. MONITORING THE ECONOMIC PROGRESS OF RURAL AMERICA.

Section 2382 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 13 U.S.C. 141 note) is repealed.

SEC. 708. ANALYSIS BY OFFICE OF TECHNOLOGY ASSESSMENT.

Section 2385 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 7 U.S.C. 950aaa–4 note) is repealed.

SEC. 709. RURAL HEALTH INFRASTRUCTURE IMPROVEMENT.

Section 2391 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 7 U.S.C. 2662 note) is repealed.

SEC. 710. CENSUS OF AGRICULTURE.

Section 2392 of the Food, Agriculture, Conservation, and Trade
13 USC 142 note. Act of 1990 (Public Law 101–624; 104 Stat. 4057) is repealed.

15 USC 714 note. **SEC. 711. STUDY OF THE TRANSPORTATION OF FERTILIZER AND AGRICULTURAL CHEMICALS TO FARMERS.**

Section 2517 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 4077) is repealed.

CHAPTER 2—ALTERNATIVE AGRICULTURAL RESEARCH AND COMMERCIALIZATION

SEC. 721. DEFINITIONS.

Section 1657(c) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5901(c)) is amended—

(1) by striking paragraphs (3) and (4);

(2) by redesignating paragraph (5) as paragraph (3);

(3) by redesignating paragraphs (6) through (12) as paragraphs (7) through (13), respectively; and

(4) by inserting after paragraph (3) (as redesignated by paragraph (2)) the following:

"(4) CORPORATE BOARD.—The term 'Corporate Board' means the Board of Directors of the Corporation described in section 1659.

"(5) CORPORATION.—The term 'Corporation' means the Alternative Agricultural Research and Commercialization Corporation established under section 1658.

"(6) EXECUTIVE DIRECTOR.—The term 'Executive Director' means the Executive Director of the Corporation appointed under section 1659(e).".

SEC. 722. ALTERNATIVE AGRICULTURAL RESEARCH AND COMMERCIALIZATION CORPORATION.

(a) IN GENERAL.—Section 1658 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5902) is amended to read as follows:

"SEC. 1658. ALTERNATIVE AGRICULTURAL RESEARCH AND COMMERCIALIZATION CORPORATION.

"(a) ESTABLISHMENT.—To carry out this subtitle, there is created a body corporate to be known as the Alternative Agricultural Research and Commercialization Corporation, which shall be an agency of the United States, within the Department of Agriculture, subject to the general supervision and direction of the Secretary, except as specifically provided for in this subtitle.

"(b) PURPOSE.—The purpose of the Corporation is to—

"(1) expedite the development and market penetration of industrial, nonfood, nonfeed products from agricultural and forestry materials; and

"(2) assist the private sector in bridging the gap between the results of research into nonfood, nonfeed products and the commercialization of the research.

"(c) PLACE OF INCORPORATION.—The Corporation shall be incorporated in the District of Columbia. District of Columbia.

"(d) CENTRAL OFFICE.—The Secretary shall provide facilities for the principal office of the Corporation within the Washington, D.C., metropolitan area.

"(e) WHOLLY-OWNED GOVERNMENT CORPORATION.—The Corporation shall be considered a wholly-owned government corporation in accordance with chapter 91 of title 31, United States Code.

"(f) GENERAL POWERS.—In addition to any other powers granted to the Corporation under this subtitle, the Corporation—

"(1) shall have succession in its corporate name;

"(2) may adopt, alter, and rescind any bylaw and adopt and alter a corporate seal, which shall be judicially noticed;

"(3) may enter into any agreement or contract with a person or private or governmental agency, except that the Corporation shall not provide any financial assistance unless specifically authorized by this subtitle;

"(4) may lease, purchase, accept a gift or donation of, or otherwise acquire, use, own, hold, improve, or otherwise deal in or with, and sell, convey, mortgage, pledge, lease, exchange, or otherwise dispose of, any property or interest in property, as the Corporation considers necessary in the transaction of

the business of the Corporation, except that this paragraph shall not provide authority for carrying out a program of real estate investment;

"(5) may sue and be sued in the corporate name of the Corporation, except that—

"(A) no attachment, injunction, garnishment, or similar process shall be issued against the Corporation or property of the Corporation; and

Courts.

"(B) exclusive original jurisdiction shall reside in the district courts of the United States, but the Corporation may intervene in any court in any suit, action, or proceeding in which the Corporation has an interest;

"(6) may independently retain legal representation;

"(7) may provide for and designate such committees, and the functions of the committees, as the Corporate Board considers necessary or desirable;

"(8) may indemnify the Executive Director and other officers of the Corporation, as the Corporate Board considers necessary and desirable, except that the Executive Director and officers shall not be indemnified for an act outside the scope of employment;

"(9) may, with the consent of any board, commission, independent establishment, or executive department of the Federal Government, including any field service, use information, services, facilities, officials, and employees in carrying out this subtitle, and pay for the use, which payments shall be transferred to the applicable appropriation account that incurred the expense;

"(10) may obtain the services and fix the compensation of any consultant and otherwise procure temporary and intermittent services under section 3109(b) of title 5, United States Code;

"(11) may use the United States mails on the same terms and conditions as the Executive agencies of the Federal Government;

"(12) shall have the rights, privileges, and immunities of the United States with respect to the right to priority of payment with respect to debts due from bankrupt, insolvent, or deceased creditors;

"(13) may collect or compromise any obligations assigned to or held by the Corporation, including any legal or equitable rights accruing to the Corporation;

"(14) shall determine the character of, and necessity for, obligations and expenditures of the Corporation and the manner in which the obligations and expenditures shall be incurred, allowed, and paid, subject to provisions of law specifically applicable to Government corporations;

"(15) may make final and conclusive settlement and adjustment of any claim by or against the Corporation or a fiscal officer of the Corporation;

"(16) may sell assets, loans, and equity interests acquired in connection with the financing of projects funded by the Corporation; and

"(17) may exercise all other lawful powers necessarily or reasonably related to the establishment of the Corporation to carry out this subtitle and the powers, purposes, functions, duties, and authorized activities of the Corporation.

"(g) SPECIFIC POWERS.—To carry out this subtitle, the Corporation may—

"(1) make grants to, and enter into cooperative agreements and contracts with, eligible applicants for research, development, and demonstration projects in accordance with section 1660;

"(2) make loans and interest subsidy payments and invest venture capital in accordance with section 1661;

"(3) collect and disseminate information concerning State, regional, and local commercialization projects;

"(4) search for new nonfood, nonfeed products that may be produced from agricultural commodities and for processes to produce the products;

"(5) administer, maintain, and dispense funds from the Fund to facilitate the conduct of activities under this subtitle; and

"(6) engage in other activities incident to carrying out the functions of the Corporation.".

(b) WHOLLY-OWNED GOVERNMENT CORPORATION.—Section 9101(3) of title 31, United States Code, is amended—

(1) by redesignating subparagraph (N) (relating to the Uranium Enrichment Corporation) as subparagraph (O); and

(2) by adding at the end the following:

"(Q) the Alternative Agricultural Research and Commercialization Corporation.".

(c) CONFORMING AMENDMENT.—Section 211(b)(5) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6911(b)(5)) is amended by striking "Alternative Agricultural Research and Commercialization Board" and inserting "Corporate Board of the Alternative Agricultural Research and Commercialization Corporation".

SEC. 723. BOARD OF DIRECTORS, EMPLOYEES, AND FACILITIES.

(a) IN GENERAL.—Section 1659 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5903) is amended to read as follows:

"SEC. 1659. BOARD OF DIRECTORS, EMPLOYEES, AND FACILITIES.

"(a) IN GENERAL.—The powers of the Corporation shall be vested in a Corporate Board.

"(b) MEMBERS OF THE CORPORATE BOARD.—The Corporate Board shall consist of 11 members as follows:

"(1) The Under Secretary of Agriculture for Rural Development.

"(2) The Under Secretary of Agriculture for Research, Education, and Economics.

"(3) 5 members appointed by the Secretary, of whom—

"(A) at least 1 member shall be a representative of the leading scientific disciplines relevant to the activities of the Corporation;

"(B) at least 1 member shall be a producer or processor of agricultural commodities;

"(C) at least 1 member shall be a person who is privately engaged in the commercialization of new nonfood, nonfeed products from agricultural commodities; and

"(D) at least 1 member shall have expertise in financial management.

A different member shall be appointed pursuant to each subparagraph of this paragraph.

"(4) 2 members appointed by the Secretary who—

"(A) have expertise in areas of applied research relating to the development or commercialization of new nonfood, nonfeed products; and

"(B) shall be appointed from a group of at least 4 individuals nominated by the Director of the National Science Foundation if the nominations are made not later than 60 days after the date a vacancy occurs.

"(5) 2 members appointed by the Secretary who—

"(A) have expertise in financial and managerial matters; and

"(B) shall be appointed from a group of at least 4 individuals nominated by the Secretary of Commerce if the nominations are made not later than 60 days after the date a vacancy occurs.

"(c) RESPONSIBILITIES OF THE CORPORATE BOARD.—

"(1) IN GENERAL.—The Corporate Board shall—

"(A) be responsible for the general supervision of the Corporation and Regional Centers established under section 1663;

"(B) determine (in consultation with Regional Centers) high priority commercialization areas to receive assistance under section 1663;

"(C) review any grant, contract, or cooperative agreement to be made or entered into by the Corporation under section 1660 and any financial assistance to be provided under section 1661;

"(D) make the final decision, by majority vote, on whether and how to provide assistance to an applicant; and

"(E) develop and establish a budget plan and a long-term operating plan to carry out this subtitle.

"(2) AUTHORITY OF THE SECRETARY.—

"(A) IN GENERAL.—The Secretary shall vacate and remand to the Corporate Board for reconsideration any decision made pursuant to paragraph (1)(D) if the Secretary determines that there has been a violation of subsection (j), or any conflict of interest provisions of the bylaws of the Corporate Board, with respect to the decision.

"(B) REASONS.—In the case of any violation and referral of a funding decision to the Corporate Board, the Secretary shall inform the Corporate Board of the reasons for any remand pursuant to subparagraph (A).

"(d) CHAIRPERSON.—The members of the Corporate Board shall select a Chairperson from among the members of the Corporate Board. The term of office of the Chairperson shall be 2 years. The members referred to in paragraphs (1) and (2) of subsection (b) may not serve as Chairperson.

"(e) EXECUTIVE DIRECTOR.—

"(1) APPOINTMENT.—The Corporate Board shall appoint an Executive Director, subject to the approval of the Secretary.

"(2) DUTIES.—The Executive Director shall be the chief executive officer of the Corporation, with such power and authority as may be conferred by the Corporate Board.

"(3) COMPENSATION.—The Executive Director shall receive basic pay at the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

"(f) OFFICERS.—The Corporate Board shall establish the offices and appoint the officers of the Corporation, including a Secretary, and define the duties of the officers in a manner consistent with this subtitle.

"(g) MEETINGS.—The Corporate Board shall meet at least 3 times each fiscal year at the call of the Chairperson or at the request of the Executive Director. The location of the meetings shall be subject to approval of the Executive Director. A quorum of the Corporate Board shall consist of a majority of the members. The decisions of the Corporate Board shall be made by majority vote.

"(h) TERM; VACANCIES.—

"(1) IN GENERAL.—The term of office of a member of the Corporate Board shall be 4 years, except that the members initially appointed shall be appointed to serve staggered terms. A member appointed to fill a vacancy for an unexpired term may be appointed only for the remainder of the term. A vacancy on the Corporate Board shall be filled in the same manner as the original appointment. The Secretary may remove a member of the Corporate Board only for cause.

"(2) TRANSITION MEASURE.—The Secretary may appoint to the Corporate Board an individual who, on the day before the date of enactment of the Federal Agriculture Improvement and Reform Act of 1996, was serving on the former Alternative Agricultural Research and Commercialization Board, for a term that does not exceed the term for which the individual was appointed to the former Board.

"(i) COMPENSATION.—A member of the Corporate Board who is an officer or employee of the United States shall not receive any additional compensation by reason of service on the Corporate Board. Any other member shall receive, for each day (including travel time) the member is engaged in the performance of the functions of the Corporate Board, compensation at a rate not to exceed the daily equivalent of the annual rate in effect for Level IV of the Executive Schedule. A member of the Corporate Board shall be reimbursed for travel, subsistence, and other necessary expenses incurred by the member in the performance of the duties of the member.

"(j) CONFLICT OF INTEREST; FINANCIAL DISCLOSURE.—

"(1) CONFLICT OF INTEREST.—Except as provided in paragraph (3), no member of the Corporate Board shall vote on any matter respecting any application, contract, claim, or other particular matter pending before the Corporation, in which, to the knowledge of the member, the member, spouse, or child of the member, partner, or organization in which the member is serving as officer, director, trustee, partner, or employee, or any person or organization with whom the member is negotiating or has any arrangement concerning prospective employment, has a financial interest.

"(2) VIOLATIONS.—Violation of paragraph (1) by a member of the Corporate Board shall be cause for removal of the member, but shall not impair or otherwise affect the validity of any otherwise lawful action by the Corporation in which the member participated.

"(3) EXCEPTIONS.—The prohibitions contained in paragraph (1) shall not apply if a member of the Corporate Board advises the Corporate Board of the nature of the particular matter in which the member proposes to participate, and if the member makes a full disclosure of the financial interest, prior to any participation, and the Corporate Board determines, by majority vote, that the financial interest is too remote or too inconsequential to affect the integrity of the member's services to the Corporation in that matter. The member involved shall not vote on the determination.

"(4) FINANCIAL DISCLOSURE.—A Board member shall be subject to the financial disclosure requirements set forth in subchapter B of chapter XVI of title 5, Code of Federal Regulations (or any corresponding or similar regulation or ruling), applicable to a special Government employee (as defined in section 202(a) of title 18, United States Code).

"(k) DELEGATION OF AUTHORITY.—

"(1) IN GENERAL.—The Corporate Board may, by resolution, delegate to the Chairperson, the Executive Director, or any other officer or employee any function, power, or duty assigned to the Corporation under this subtitle, other than a function, power, or duty expressly vested in the Corporate Board by subsections (c) through (n).

"(2) PROHIBITION ON DELEGATION.—Notwithstanding any other law, the Secretary and any other officer or employee of the United States shall not make any delegation to the Corporate Board, the Chairperson, the Executive Director, or the Corporation of any power, function, or authority not expressly authorized by this subtitle, unless the delegation is made pursuant to an authority in law that expressly makes reference to this section.

"(3) REORGANIZATION ACT.—Notwithstanding any other law, the President (through authorities provided under chapter 9 of title 5, United States Code) may not authorize the transfer to the Corporation of any power, function, or authority in addition to powers, functions, and authorities provided by law.

"(l) BYLAWS.—Notwithstanding section 1658(f)(2), the Corporate Board shall adopt, and may from time to time amend, any bylaw that is necessary for the proper management and functioning of the Corporation. The Corporate Board shall not adopt any bylaw that has not been reviewed and approved by the Secretary.

"(m) ORGANIZATION.—The Corporate Board shall provide a system of organization to fix responsibility and promote efficiency.

"(n) PERSONNEL AND FACILITIES OF CORPORATION.—

"(1) APPOINTMENT AND COMPENSATION OF PERSONNEL.—The Corporation may select and appoint officers, attorneys, employees, and agents, who shall be vested with such powers and duties as the Corporation may determine.

"(2) USE OF FACILITIES AND SERVICES OF THE DEPARTMENT OF AGRICULTURE.—Notwithstanding any other provision of law, to perform the responsibilities of the Corporation under this subtitle, the Corporation may partially or jointly utilize the facilities of and the services of employees of the Department of Agriculture, without cost to the Corporation.

"(3) GOVERNMENT EMPLOYMENT LAWS.—An officer or employee of the Corporation shall be subject to all laws of the United States relating to governmental employment.".

(b) CONFORMING AMENDMENT.—Section 5315 of title 5, United States Code, is amended by adding at the end the following:

"Executive Director of the Alternative Agricultural Research and Commercialization Corporation.".

SEC. 724. RESEARCH AND DEVELOPMENT GRANTS, CONTRACTS, AND AGREEMENTS.

Section 1660 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5904) is amended—

(1) by striking "Center" each place it appears and inserting "Corporation";

(2) in subsection (c), by striking "Board" and inserting "Corporate Board"; and

(3) in subsection (f), by striking "non-Center" and inserting "non-Corporation".

SEC. 725. COMMERCIALIZATION ASSISTANCE.

Section 1661 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5905) is amended—

(1) by striking "Center" each place it appears and inserting "Corporation";

(2) by striking "Board" each place it appears and inserting "Corporate Board";

(3) by striking subsection (c);

(4) by redesignating subsections (d), (e), and (f) as subsections (c), (d), and (e), respectively; and

(5) in subsection (c) (as so redesignated)—

(A) in the subsection heading of paragraph (1), by striking "DIRECTOR" and inserting "EXECUTIVE DIRECTOR"; and

(B) by striking "Director" each place it appears and inserting "Executive Director".

SEC. 726. GENERAL RULES REGARDING THE PROVISION OF ASSISTANCE.

Section 1662 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5906) is amended—

(1) by striking "Center" each place it appears (except in subsection (b)) and inserting "Corporation";

(2) by striking "Board" each place it appears and inserting "Corporate Board"; and

(3) in subsection (b)—

(A) in the second sentence, by striking "Board, a Regional Center, or the Advisory Council" and inserting "Board or a Regional Center"; and

(B) by striking the third sentence.

SEC. 727. REGIONAL CENTERS.

Section 1663 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5907) is amended—

(1) by striking "Board" each place it appears and inserting "Corporate Board";

(2) in subsection (e)(8), by striking "Center" and inserting "Corporation"; and

(3) in subsection (f)—

(A) in paragraph (2), by striking "in consultation with the Advisory Council appointed under section 1661(c)"; and

(B) by striking paragraphs (3) and (4) and inserting the following:

"(3) RECOMMENDATION.—The Regional Director, based on the comments of the reviewers, shall make and submit a recommendation to the Board, which shall not be binding on the Board.".

SEC. 728. ALTERNATIVE AGRICULTURAL RESEARCH AND COMMERCIALIZATION REVOLVING FUND.

Section 1664 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5908) is amended to read as follows:

"SEC. 1664. ALTERNATIVE AGRICULTURAL RESEARCH AND COMMERCIALIZATION REVOLVING FUND.

"(a) ESTABLISHMENT.—There is established in the Treasury of the United States a revolving fund to be known as the Alternative Agricultural Research and Commercialization Revolving Fund. The Fund shall be available to the Corporation, without fiscal year limitation, to carry out this subtitle.

"(b) CONTENTS OF FUND.—There shall be deposited in the Fund—

"(1) such amounts as may be appropriated or transferred to support programs and activities of the Corporation;

"(2) payments received from any source for products, services, or property furnished in connection with the activities of the Corporation;

"(3) fees and royalties collected by the Corporation from licensing or other arrangements relating to commercialization of products developed through projects funded in whole or part by grants, contracts, or cooperative agreements executed by the Corporation;

"(4) proceeds from the sale of assets, loans, and equity interests made in furtherance of the purposes of the Corporation;

"(5) donations or contributions accepted by the Corporation to support authorized programs and activities; and

"(6) any other funds acquired by the Corporation.

"(c) FUNDING ALLOCATIONS.—Funding of projects and activities under this subtitle shall be subject to the following restrictions:

"(1) Of the total amount of funds made available for a fiscal year under this subtitle—

"(A) not more than the lesser of 15 percent or $3,000,000 may be set aside to be used for authorized administrative expenses of the Corporation;

"(B) not more than 1 percent may be set aside to be used for generic studies and specific reviews of individual proposals for financial assistance; and

"(C) except as provided in subsection (e), not less than 84 percent shall be set aside to be awarded to qualified applicants who file project applications with, or respond to requests for proposals from, the Corporation under sections 1660 and 1661.

"(2) Any funds remaining uncommitted at the end of a fiscal year shall be credited to the Fund and added to the total program funds available to the Corporation for the next fiscal year.

"(d) AUTHORIZED ADMINISTRATIVE EXPENSES.—For the purposes of this section, authorized administrative expenses shall include

all ordinary and necessary expenses, including all compensation for personnel and consultants, expenses for computer usage, or space needs of the Corporation and similar expenses. Funds authorized for administrative expenses shall not be available for the acquisition of real property.

"(e) PROJECT MONITORING.—The Corporate Board may establish, in the bylaws of the Corporate Board, that a percentage (which shall not exceed 1 percent) of the funds provided under subsection (c) for any commercialization project shall be expended to ensure that project funds are being utilized in accordance with the project agreement.

"(f) TERMINATION OF THE FUND.—On expiration of the authority provided by this subtitle, all assets (after payment of all outstanding obligations) of the Fund shall revert to the general fund of the Treasury.

"(g) AUTHORIZATION OF APPROPRIATIONS; CAPITALIZATION.—

"(1) AUTHORIZATION OF APPROPRIATION.—There are authorized to be appropriated to the Fund $75,000,000 for each of fiscal years 1996 through 2002.

"(2) CAPITALIZATION.—The Executive Director may pay in as capital of the Corporation, out of dollar receipts made available through annual appropriations, $75,000,000 for each of fiscal years 1996 through 2002. On the payment of an amount of capital by the Executive Director, the Corporation shall issue an equivalent amount of capital stock to the Secretary of the Treasury.

"(3) TRANSFER.—All obligations, assets, and related rights and responsibilities of the former Alternative Agricultural Research and Commercialization Center established under former section 1658 of this Act (as in effect on the day before the date of enactment of the Federal Agriculture Improvement and Reform Act of 1996) are transferred to the Corporation.".

SEC. 729. PROCUREMENT PREFERENCES FOR PRODUCTS RECEIVING CORPORATION ASSISTANCE.

Subtitle G of title XVI of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5901 et seq.) is amended by adding at the end the following:

"SEC. 1665. PROCUREMENT OF ALTERNATIVE AGRICULTURAL RESEARCH AND COMMERCIALIZATION PRODUCTS. 7 USC 5909.

"(a) DEFINITION OF EXECUTIVE AGENCY.—In this section, the term 'executive agency' has the meaning provided the term in section 4(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(1)).

"(b) PROCUREMENT.—To further the achievement of the purposes specified in section 1657(b), an executive agency may, for any procurement involving the acquisition of property, establish set-asides and preferences for property that has been commercialized with assistance provided under this subtitle.

"(c) SET-ASIDES.—Procurements solely for property may be set aside exclusively for products developed with commercialization assistance provided under section 1661.

"(d) PREFERENCES.—Preferences for property developed with assistance provided under this subtitle in procurements involving the acquisition of property may be—

"(1) a price preference, if the procurement is solely for property, of not greater than a percentage to be determined

within the sole discretion of the head of the procuring agency; or

"(2) a technical evaluation preference included as an award factor or subfactor as determined within the sole discretion of the head of the procuring agency.

"(e) NOTICE.—Each competitive solicitation or invitation for bids selected by an executive agency for a set-aside or preference under this section shall contain a provision notifying offerors where a list of products eligible for the set-aside or preference may be obtained.

"(f) ELIGIBILITY.—Offerors shall receive the set-aside or preference required under this section if, in the case of products developed with financial assistance under—

"(1) section 1660, less than 10 years have elapsed since the expiration of the grant, cooperative agreement, or contract;

"(2) paragraph (1) or (2) of section 1661(a), less than 5 years have elapsed since the date the loan was made or insured;

"(3) section 1661(a)(3), less than 5 years have elapsed since the date of sale of any remaining government equity interest in the company; or

"(4) section 1661(a)(4), less than 5 years have elapsed since the date of the final payment on the repayable grant.".

7 USC 5902 note.

SEC. 730. BUSINESS PLAN AND FEASIBILITY STUDY AND REPORT.

(a) BUSINESS PLAN.—Not later than 180 days after the date of enactment of this Act, the Alternative Agricultural Research and Commercialization Corporation established by section 1658 of the Food, Agriculture, Conservation, and Trade Act of 1990 shall—

(1) develop a 5-year business plan pursuant to section 1659(c)(1)(E) of the Act; and

(2) submit the plan to the Secretary of Agriculture, the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(b) FEASIBILITY STUDY AND REPORT.—

(1) STUDY.—The Secretary of Agriculture shall conduct a study of, and prepare a report on, the continued feasibility of the Alternative Agricultural Research and Commercialization Corporation. In conducting the study, the Secretary shall examine options for privatizing the Corporation and converting the Corporation to a Government-sponsored enterprise.

(2) REPORT.—Not later than December 31, 2001, the Secretary shall transmit the report required by paragraph (1) to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

Subtitle B—Amendments to the Consolidated Farm and Rural Development Act

CHAPTER 1—GENERAL PROVISIONS

SEC. 741. WATER AND WASTE FACILITY LOANS AND GRANTS.

(a) IN GENERAL.—Section 306(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)) is amended—

(1) in the first sentence of paragraph (2), by striking "$500,000,000" and inserting "$590,000,000";

(2) by striking paragraph (7) and inserting the following:

"(7) DEFINITION OF RURAL AND RURAL AREAS.—For the purpose of water and waste disposal grants and direct and guaranteed loans provided under paragraphs (1) and (2), the terms 'rural' and 'rural area' mean a city, town, or unincorporated area that has a population of no more than 10,000 inhabitants.";

(3) by striking paragraphs (9), (10), and (11) and inserting the following:

"(9) CONFORMITY WITH STATE DRINKING WATER STANDARDS.—No Federal funds shall be made available under this section for a water system unless the Secretary determines that the water system will make significant progress toward meeting the standards established under title XIV of the Public Health Service Act (commonly known as the 'Safe Drinking Water Act') (42 U.S.C. 300f et seq.).

"(10) CONFORMITY WITH FEDERAL AND STATE WATER POLLUTION CONTROL STANDARDS.—No Federal funds shall be made available under this section for a water treatment discharge or waste disposal system unless the Secretary determines that the effluent from the system conforms with applicable Federal and State water pollution control standards.

"(11) RURAL BUSINESS OPPORTUNITY GRANTS.—

"(A) IN GENERAL.—The Secretary may make grants, not to exceed $1,500,000 annually, to public bodies, private nonprofit community development corporations or entities, or such other agencies as the Secretary may select to enable the recipients—

"(i) to identify and analyze business opportunities, including opportunities in export markets, that will use local rural economic and human resources;

"(ii) to identify, train, and provide technical assistance to existing or prospective rural entrepreneurs and managers;

"(iii) to establish business support centers and otherwise assist in the creation of new rural businesses, the development of methods of financing local businesses, and the enhancement of the capacity of local individuals and entities to engage in sound economic activities;

"(iv) to conduct regional, community, and local economic development planning and coordination, and leadership development; and

"(v) to establish centers for training, technology, and trade that will provide training to rural businesses in the utilization of interactive communications technologies to develop international trade opportunities and markets.

"(B) CRITERIA.—In awarding the grants, the Secretary shall consider, among other criteria to be established by the Secretary—

"(i) the extent to which the applicant provides development services in the rural service area of the applicant; and

"(ii) the capability of the applicant to accomplish the activities described in the relevant clauses of subparagraph (A).

"(C) COORDINATION.—The Secretary shall ensure, to the maximum extent practicable, that assistance provided under this paragraph is coordinated with and delivered in cooperation with similar services or assistance provided to rural residents by the Cooperative State Research, Education, and Extension Service or other Federal agencies.

"(D) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this paragraph $7,500,000 for each of fiscal years 1996 through 2002.";

(4) by striking paragraphs (14) and (15);

(5) by redesignating paragraphs (16) through (20) as paragraphs (14) through (18), respectively; and

(6) in paragraph (14) (as so redesignated)—

(A) by striking "(14)(A) The" and inserting the following:

"(14) RURAL WATER AND WASTEWATER TECHNICAL ASSISTANCE AND TRAINING PROGRAMS.—

"(A) IN GENERAL.—The";

(B) in subparagraph (A)—

(i) by striking "(i) identify" and inserting the following:

"(i) identify";

(ii) by striking "(ii) prepare" and inserting the following:

"(ii) prepare"; and

(iii) by striking "(iii) improve" and inserting the following:

"(iii) improve";

(C) in subparagraph (B), by striking "(B) In" and inserting the following:

"(B) SELECTION PRIORITY.—In"; and

(D) in subparagraph (C)—

(i) by striking "(C) Not" and inserting the following:

"(C) FUNDING.—Not"; and

(ii) by striking "2 per centum of any funds provided in appropriations Acts" and inserting "3 percent of any funds appropriated".

(b) CONFORMING AMENDMENT.—The second sentence of section 309A(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1929a(a)) (as amended by section 661(c)(1)) is amended by striking ", 306(a)(14),".

SEC. 742. EMERGENCY COMMUNITY WATER ASSISTANCE GRANT PROGRAM FOR SMALL COMMUNITIES.

Section 306A of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926a) is amended—

(1) in subsection (e)—

(A) in paragraph (1)(A), by striking "15,000" and inserting "10,000"; and

(B) in paragraph (2), by striking "5,000" and inserting "3,000"; and

(2) by striking subsection (i) and inserting the following:

"(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $35,000,000 for each of fiscal years 1996 through 2002.".

SEC. 743. EMERGENCY COMMUNITY WATER ASSISTANCE GRANT PROGRAM FOR SMALLEST COMMUNITIES.

Section 306B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926b) is repealed.

SEC. 744. AGRICULTURAL CREDIT INSURANCE FUND.

Section 309(f) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1929(f)) is amended—

(1) by striking paragraph (1); and

(2) by redesignating paragraphs (2) through (6) as paragraphs (1) through (5), respectively.

SEC. 745. RURAL DEVELOPMENT INSURANCE FUND.

Section 309A(g) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1929a(g)) is amended—

(1) by striking paragraph (1); and

(2) by redesignating paragraphs (2) through (8) as paragraphs (1) through (7), respectively.

SEC. 746. INSURED WATERSHED AND RESOURCE CONSERVATION AND DEVELOPMENT LOANS.

Section 310A of the Consolidated Farm and Rural Development Act (7 U.S.C. 1931) is repealed.

SEC. 747. RURAL INDUSTRIALIZATION ASSISTANCE.

(a) IN GENERAL.—Section 310B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932) is amended—

(1) in the first sentence of subsection (a)—

(A) by striking "and" at the end of clause (2); and

(B) by inserting before the period the following: ", and (4) to facilitate economic opportunity for industries undergoing adjustment from terminated Federal agricultural price and income support programs or increased competition from foreign trade";

(2) in subsection (b), by striking "(b)(1)" and all that follows through "(2) The" and inserting the following:

"(b) SOLID WASTE MANAGEMENT GRANTS.—The";

(3) in subsection (c)—

(A) by striking "(c)(1) The" and inserting the following:

"(c) RURAL BUSINESS ENTERPRISE GRANTS.—

"(1) IN GENERAL.—The";

(B) in paragraph (1), by inserting "(including nonprofit entities)" after "private business enterprises";

(C) in paragraph (2)—

(i) by striking "(2) The" and inserting the following:

"(2) PASSENGER TRANSPORTATION SERVICES OR FACILITIES.—The"; and

(ii) by striking "make grants" and inserting "award grants on a competitive basis"; and

(D) by adding at the end the following:

"(3) GRANTS TO AID INDUSTRIES IN ADJUSTING TO TERMINATED FEDERAL AGRICULTURAL PROGRAMS OR INCREASED FOREIGN COMPETITION.—The Secretary may make grants under this section to facilitate economic opportunity for industries

undergoing adjustment from terminated Federal agricultural price and income support programs or increased competition from foreign trade.";

(4) by striking subsection (e) and inserting the following:

"(e) RURAL COOPERATIVE DEVELOPMENT GRANTS.—

"(1) DEFINITIONS.—In this subsection:

"(A) NONPROFIT INSTITUTION.—The term 'nonprofit institution' means any organization or institution, including an accredited institution of higher education, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

"(B) UNITED STATES.—The term 'United States' means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the other territories and possessions of the United States.

"(2) GRANTS.—The Secretary shall make grants under this subsection to nonprofit institutions for the purpose of enabling the institutions to establish and operate centers for rural cooperative development.

"(3) GOALS.—The goals of a center funded under this subsection shall be to facilitate the creation of jobs in rural areas through the development of new rural cooperatives, value added processing, and rural businesses.

"(4) APPLICATION.—Any nonprofit institution seeking a grant under paragraph (2) shall submit to the Secretary an application containing a plan for the establishment and operation by the institution of a center or centers for cooperative development. The Secretary may approve the application if the plan contains the following:

"(A) A provision that substantiates that the center will effectively serve rural areas in the United States.

"(B) A provision that the primary objective of the center will be to improve the economic condition of rural areas through cooperative development.

"(C) A description of the activities that the center will carry out to accomplish the objective. The activities may include the following:

"(i) Programs for applied research and feasibility studies that may be useful to individuals, cooperatives, small businesses, and other similar entities in rural areas served by the center.

"(ii) Programs for the collection, interpretation, and dissemination of information that may be useful to individuals, cooperatives, small businesses, and other similar entities in rural areas served by the center.

"(iii) Programs providing training and instruction for individuals, cooperatives, small businesses, and other similar entities in rural areas served by the center.

"(iv) Programs providing loans and grants to individuals, cooperatives, small businesses, and other similar entities in rural areas served by the center.

"(v) Programs providing technical assistance, research services, and advisory services to individuals, cooperatives, small businesses, and other similar entities in rural areas served by the center.

"(vi) Programs providing for the coordination of services and sharing of information among the center.

"(D) A description of the contributions that the activities are likely to make to the improvement of the economic conditions of the rural areas for which the center will provide services.

"(E) Provisions that the center, in carrying out the activities, will seek, where appropriate, the advice, participation, expertise, and assistance of representatives of business, industry, educational institutions, the Federal Government, and State and local governments.

"(F) Provisions that the center will take all practicable steps to develop continuing sources of financial support for the center, particularly from sources in the private sector.

"(G) Provisions for—

"(i) monitoring and evaluating the activities by the nonprofit institution operating the center; and

"(ii) accounting for money received by the institution under this section.

"(5) AWARDING GRANTS.—Grants made under paragraph (2) shall be made on a competitive basis. In making grants under paragraph (2), the Secretary shall give preference to grant applications providing for the establishment of centers for rural cooperative development that—

"(A) demonstrate a proven track record in administering a nationally coordinated, regionally or State-wide operated project;

"(B) demonstrate previous expertise in providing technical assistance in rural areas;

"(C) demonstrate the ability to assist in the retention of businesses, facilitate the establishment of cooperatives and new cooperative approaches, and generate employment opportunities that will improve the economic conditions of rural areas;

"(D) demonstrate the ability to create horizontal linkages among businesses within and among various sectors in rural areas of the United States and vertical linkages to domestic and international markets;

"(E) commit to providing technical assistance and other services to underserved and economically distressed areas in rural areas of the United States; and

"(F) commit to providing greater than a 25 percent matching contribution with private funds and in-kind contributions.

"(6) 1-YEAR GRANTS; AUTHORITY TO APPROVE GRANT FOR 1 ADDITIONAL YEAR WITHOUT APPLICATION.—The Secretary shall make grants under this subsection for a period of 1 year. The Secretary shall evaluate programs receiving assistance under this subsection. If the Secretary determines it to be in the best interest of the program, the Secretary may award an additional grant to the program for the immediately succeeding year without application for the grant.

"(7) TECHNICAL ASSISTANCE TO PREVENT EXCESSIVE UNEMPLOYMENT OR UNDEREMPLOYMENT.—In carrying out this subsection, the Secretary may provide technical assistance to alleviate or prevent conditions of excessive unemployment,

underemployment, outmigration, or low employment growth in economically distressed rural areas that the Secretary determines have a substantial need for the assistance. The assistance may include planning and feasibility studies, management and operational assistance, and studies evaluating the need for development potential of projects that increase employment and improve economic growth in the areas.

"(8) GRANTS TO DEFRAY ADMINISTRATIVE COSTS.—The Secretary may make grants to defray not to exceed 75 percent of the costs incurred by organizations and public bodies to carry out projects for which grants or loans are made under this subsection. For purposes of determining the non-Federal share of the costs, the Secretary shall consider contributions in cash and in kind, fairly evaluated, including premises, equipment, and services.

"(9) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection $50,000,000 for each of fiscal years 1996 through 2002.";

(5) by striking subsections (f), (g), (h), and (i);

(6) by redesignating subsection (j) as subsection (f); and

(7) by adding at the end the following:

"(g) LOAN GUARANTEES FOR THE PURCHASE OF COOPERATIVE STOCK.—

"(1) DEFINITION OF FARMER.—In this subsection, the term 'farmer' means any farmer that the Secretary determines is a family farmer.

"(2) LOAN GUARANTEES.—The Secretary may guarantee loans under this section to individual farmers for the purpose of purchasing start-up capital stock of a farmer cooperative established for the purpose of processing an agricultural commodity.

"(3) ELIGIBILITY.—To be eligible for a loan guarantee under this subsection, a farmer must produce the agricultural commodity that will be processed by the cooperative.".

(b) CONFORMING AMENDMENTS.—

(1) Clause (iii) of section 307(a)(6)(B) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1927(a)(6)(B)) (as redesignated by section 661(a)(2)) is amended by striking "subsections (d) and (e) of section 310B" and inserting "section 310B(d)".

(2) Section 232(c)(2) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6942(c)(2)) is amended—

(A) by striking "310B(b)(2)" and inserting "310B(b)"; and

(B) by striking "1932(b)(2)" and inserting "1932(b)".

(3) Section 233(b) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6943(b)) is amended—

(A) by striking paragraph (2); and

(B) by redesignating paragraph (3) as paragraph (2).

SEC. 748. ADMINISTRATION.

Section 331(b)(4) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981(b)(4)) is amended—

(1) by inserting after "claims" the following: "(including debts and claims arising from loan guarantees)";

(2) by striking "Farmers Home Administration or" and inserting "Consolidated Farm Service Agency, Rural Utilities

Service, Rural Housing Service, Rural Business-Cooperative Service, or a successor agency, or"; and

(3) by inserting after "activities under the Housing Act of 1949." the following: "In the case of a security instrument entered into under the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.), the Secretary shall notify the Attorney General of the intent of the Secretary to exercise the authority of the Secretary under this paragraph.". Notification.

SEC. 749. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Section 338 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1988) is amended—

(1) by striking subsections (b), (c), (d), and (e); and

(2) by redesignating subsection (f) as subsection (b).

(b) CONFORMING AMENDMENTS.—

(1) The first sentence of section 309(g)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1929(g)(1)) is amended by inserting after "section 338(c)" the following: "(before the amendment made by section 749(a)(1) of the Federal Agriculture Improvement and Reform Act of 1996)".

(2) Section 343(b) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991(b)) is amended by striking "338(f)," and inserting "338(b),".

SEC. 750. TESTIMONY BEFORE CONGRESSIONAL COMMITTEES.

Section 345 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1993) is repealed.

SEC. 751. PROHIBITION ON USE OF LOANS FOR CERTAIN PURPOSES.

Section 363 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2006e) is amended by adding at the end the following: "This section shall not apply to a loan made or guaranteed under this title for a utility line.".

SEC. 752. RURAL DEVELOPMENT CERTIFIED LENDERS PROGRAM.

The Consolidated Farm and Rural Development Act is amended by inserting after section 363 (7 U.S.C. 2006e) the following:

"SEC. 364. RURAL DEVELOPMENT CERTIFIED LENDERS PROGRAM. 7 USC 2006f.

"(a) CERTIFIED LENDERS PROGRAM.—

"(1) IN GENERAL.—The Secretary may establish a program under which the Secretary may guarantee a loan for any rural development program that is made by a lender certified by the Secretary.

"(2) CERTIFICATION REQUIREMENTS.—The Secretary may certify a lender if the lender meets such criteria as the Secretary may prescribe in regulations, including the ability of the lender to properly make, service, and liquidate the guaranteed loans of the lender.

"(3) CONDITION OF CERTIFICATION.—As a condition of certification, the Secretary may require the lender to undertake to service the guaranteed loan using standards that are not less stringent than generally accepted banking standards concerning loan servicing that are used by prudent commercial or cooperative lenders.

"(4) GUARANTEE.—Notwithstanding any other provision of law, the Secretary may guarantee not more than 80 percent of a loan made by a certified lender described in paragraph

(1), if the borrower of the loan meets the eligibility requirements and such other criteria for the loan guarantee that are established by the Secretary.

"(5) CERTIFICATIONS.—With respect to loans to be guaranteed, the Secretary may permit a certified lender to make appropriate certifications (as provided in regulations issued by the Secretary)—

"(A) relating to issues such as creditworthiness, repayment ability, adequacy of collateral, and feasibility of the operation; and

"(B) that the borrower is in compliance with all requirements of law, including regulations issued by the Secretary.

"(6) RELATIONSHIP TO OTHER REQUIREMENTS.—This subsection shall not affect the responsibility of the Secretary to determine eligibility, review financial information, and otherwise assess an application.

"(b) PREFERRED CERTIFIED LENDERS PROGRAM.—

"(1) IN GENERAL.—The Secretary may establish a preferred certified lenders program for lenders who establish their—

"(A) knowledge of, and experience under, the program established under subsection (a);

"(B) knowledge of the regulations concerning the particular guaranteed loan program; and

"(C) proficiency related to the certified lender program requirements.

"(2) ADDITIONAL LENDING INSTITUTIONS.—The Secretary may certify any lending institution as a preferred certified lender if the institution meets such additional criteria as the Secretary may prescribe by regulation.

"(3) REVOCATION OF DESIGNATION.—The designation of a lender as a preferred certified lender shall be revoked if the Secretary determines that the lender is not adhering to the rules and regulations applicable to the program or if the loss experiences of the preferred certified lender are greater than other preferred certified lenders, except that the suspension or revocation shall not affect any outstanding guarantee.

"(4) CONDITION OF CERTIFICATION.—As a condition of the preferred certification, the Secretary shall require the lender to undertake to service the loan guaranteed by the Secretary under this subsection using generally accepted banking standards concerning loan servicing employed by prudent commercial or cooperative lenders. The Secretary shall, at least annually, monitor the performance of each preferred certified lender to ensure that the conditions of the certification are being met.

"(5) EFFECT OF PREFERRED LENDER CERTIFICATION.—Notwithstanding any other provision of law, the Secretary may—

"(A) guarantee not more than 80 percent of any approved loan made by a preferred certified lender as described in this subsection, if the borrower meets the eligibility requirements and such other criteria as may be applicable to loans guaranteed by the Secretary; and

"(B) permit preferred certified lenders to make all decisions, with respect to loans to be guaranteed by the Secretary under this subsection relating to creditworthiness, the closing, monitoring, collection, and liquidation of loans, and to accept appropriate certifications, as provided in regulations issued by the Secretary, that the borrower is

in compliance with all requirements of law and regulations issued by the Secretary.".

SEC. 753. SYSTEM FOR DELIVERY OF CERTAIN RURAL DEVELOPMENT PROGRAMS.

(a) IN GENERAL.—Section 365 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008) is repealed.

(b) CONFORMING AMENDMENTS.—

(1) Section 2375 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 6613) is amended—

(A) in subsection (e), by striking ", as defined in section 365(b)(2) of the Consolidated Farm and Rural Development Act,"; and

(B) by adding at the end the following:

"(g) DEFINITION OF DESIGNATED RURAL DEVELOPMENT PROGRAM.—In this section, the term 'designated rural development program' means a program carried out under section 304(b), 306(a), or 310B(e) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1924(b), 1926(a), and 1932(e)) for which funds are available at any time during the fiscal year.".

(2) Paragraph (2) of section 233(b) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6943(b)) (as redesignated by section 747(b)(3)(B)) is amended by striking "sections 365 through 369 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008–2008d)" and inserting "section 369 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008d)".

SEC. 754. STATE RURAL ECONOMIC DEVELOPMENT REVIEW PANEL.

Section 366 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008a) is repealed.

SEC. 755. LIMITED TRANSFER AUTHORITY OF LOAN AMOUNTS.

Section 367 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008b) is repealed.

SEC. 756. ALLOCATION AND TRANSFER OF LOAN GUARANTEE AUTHORITY.

Section 368 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008c) is repealed.

SEC. 757. WATER SYSTEMS FOR RURAL AND NATIVE VILLAGES IN ALASKA.

The Consolidated Farm and Rural Development Act is amended by inserting after section 306C (7 U.S.C. 1926c) the following:

"SEC. 306D. WATER SYSTEMS FOR RURAL AND NATIVE VILLAGES IN ALASKA. 7 USC 1926d.

"(a) IN GENERAL.—The Secretary may make grants to the State of Alaska for the benefit of rural or Native villages in Alaska to provide for the development and construction of water and wastewater systems to improve the health and sanitation conditions in those villages.

"(b) MATCHING FUNDS.—To be eligible to receive a grant under subsection (a), the State of Alaska shall provide equal matching funds from non-Federal sources.

"(c) CONSULTATION WITH THE STATE OF ALASKA.—The Secretary shall consult with the State of Alaska on a method of prioritizing

the allocation of grants under subsection (a) according to the needs of, and relative health and sanitation conditions in, each village.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $15,000,000 for each of fiscal years 1996 through 2002.".

SEC. 758. APPLICATION REQUIREMENTS RELATING TO WATER AND WASTE DISPOSAL LOAN AND GRANT PROGRAMS.

7 USC 1926.

Section 306(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 926(a)) is amended by inserting after paragraph (4) the following:

"(5) APPLICATION REQUIREMENTS.—Not earlier than 60 days before a preliminary application is filed for a loan under paragraph (1) or a grant under paragraph (2) for a water or waste disposal purpose, a notice of the intent of the applicant to apply for the loan or grant shall be published in a general circulation newspaper. The selection of engineers for a project design shall be done by a request for proposals by the applicant.".

SEC. 759. NATIONAL SHEEP INDUSTRY IMPROVEMENT CENTER.

The Consolidated Farm and Rural Development Act (as amended by section 649) is amended by adding at the end the following:

Goats.
7 USC 2008j.

"SEC. 375. NATIONAL SHEEP INDUSTRY IMPROVEMENT CENTER.

"(a) DEFINITIONS.—In this section:

"(1) BOARD.—The term 'Board' means the Board of Directors established under subsection (f).

"(2) CENTER.—The term 'Center' means the National Sheep Industry Improvement Center established under subsection (b).

"(3) ELIGIBLE ENTITY.—The term 'eligible entity' means an entity that promotes the betterment of the United States sheep or goat industries and that is—

"(A) a public, private, or cooperative organization;

"(B) an association, including a corporation not operated for profit;

"(C) a federally recognized Indian Tribe; or

"(D) a public or quasi-public agency.

"(4) FUND.—The term 'Fund' means the National Sheep Industry Improvement Center Revolving Fund established under subsection (e).

"(b) ESTABLISHMENT OF CENTER.—The Secretary shall establish a National Sheep Industry Improvement Center.

"(c) PURPOSES.—The purposes of the Center shall be to—

"(1) promote strategic development activities and collaborative efforts by private and State entities to maximize the impact of Federal assistance to strengthen and enhance production and marketing of sheep or goat products in the United States;

"(2) optimize the use of available human capital and resources within the sheep or goat industries;

"(3) provide assistance to meet the needs of the sheep or goat industry for infrastructure development, business development, production, resource development, and market and environmental research;

"(4) advance activities that empower and build the capacity of the United States sheep or goat industry to design unique

responses to the special needs of the sheep or goat industries on both a regional and national basis; and

"(5) adopt flexible and innovative approaches to solving the long-term needs of the United States sheep or goat industry.

"(d) STRATEGIC PLAN.—

"(1) IN GENERAL.—The Center shall submit to the Secretary an annual strategic plan for the delivery of financial assistance provided by the Center.

"(2) REQUIREMENTS.—A strategic plan shall identify—

"(A) goals, methods, and a benchmark for measuring the success of carrying out the plan and how the plan relates to the national and regional goals of the Center;

"(B) the amount and sources of Federal and non-Federal funds that are available for carrying out the plan;

"(C) funding priorities;

"(D) selection criteria for funding; and

"(E) a method of distributing funding.

"(e) REVOLVING FUND.—

"(1) ESTABLISHMENT.—There is established in the Treasury the National Sheep Industry Improvement Center Revolving Fund. The Fund shall be available to the Center, without fiscal year limitation, to carry out the authorized programs and activities of the Center under this section.

"(2) CONTENTS OF FUND.—There shall be deposited in the Fund—

"(A) such amounts as may be appropriated, transferred, or otherwise made available to support programs and activities of the Center;

"(B) payments received from any source for products, services, or property furnished in connection with the activities of the Center;

"(C) fees and royalties collected by the Center from licensing or other arrangements relating to commercialization of products developed through projects funded, in whole or part, by grants, contracts, or cooperative agreements executed by the Center;

"(D) proceeds from the sale of assets, loans, and equity interests made in furtherance of the purposes of the Center;

"(E) donations or contributions accepted by the Center to support authorized programs and activities; and

"(F) any other funds acquired by the Center.

"(3) USE OF FUND.—

"(A) IN GENERAL.—The Center may use amounts in the Fund to make grants and loans to eligible entities in accordance with a strategic plan submitted under subsection (d).

"(B) CONTINUED EXISTENCE.—The Center shall manage the Fund in a manner that ensures that sufficient amounts are available in the Fund to carry out subsection (c).

"(C) DIVERSE AREA.—The Center shall, to the maximum extent practicable, use the Fund to serve broad geographic areas and regions of diverse production.

"(D) VARIETY OF LOANS AND GRANTS.—The Center shall, to the maximum extent practicable, use the Fund to provide a variety of grants and intermediate- and long-term loans.

"(E) ADMINISTRATION.—The Center may not use more than 3 percent of the amounts in the Fund for a fiscal year for the administration of the Center.

"(F) INFLUENCING LEGISLATION.—None of the amounts in the Fund may be used to influence legislation.

"(G) ACCOUNTING.—To be eligible to receive amounts from the Fund, an entity must agree to account for the amounts using generally accepted accounting principles.

"(H) USES OF FUND.—The Center may use amounts in the Fund to—

"(i) participate with Federal and State agencies in financing activities that are in accordance with a strategic plan submitted under subsection (d), including participation with several States in a regional effort;

"(ii) participate with other public and private funding sources in financing activities that are in accordance with the strategic plan, including participation in a regional effort;

"(iii) provide security for, or make principal or interest payments on, revenue or general obligation bonds issued by a State, if the proceeds from the sale of the bonds are deposited in the Fund;

"(iv) accrue interest;

"(v) guarantee or purchase insurance for local obligations to improve credit market access or reduce interest rates for a project that is in accordance with the strategic plan; or

"(vi) sell assets, loans, and equity interests acquired in connection with the financing of projects funded by the Center.

"(4) LOANS.—

"(A) RATE.—A loan from the Fund may be made at an interest rate that is below the market rate or may be interest free.

"(B) TERM.—The term of a loan may not exceed the shorter of—

"(i) the useful life of the activity financed; or

"(ii) 40 years.

"(C) SOURCE OF REPAYMENT.—The Center may not make a loan from the Fund unless the recipient establishes an assured source of repayment.

"(D) PROCEEDS.—All payments of principal and interest on a loan made from the Fund shall be deposited into the Fund.

"(5) MAINTENANCE OF EFFORT.—The Center shall use the Fund only to supplement and not to supplant Federal, State, and private funds expended for rural development.

"(6) FUNDING.—

"(A) DEPOSIT OF FUNDS.—All Federal and non-Federal amounts received by the Center to carry out this section shall be deposited in the Fund.

"(B) MANDATORY FUNDS.—Out of any moneys in the Treasury not otherwise appropriated, the Secretary of the Treasury shall provide to the Center not to exceed $20,000,000 to carry out this section.

"(C) ADDITIONAL FUNDS.—In addition to any funds provided under subparagraph (B), there is authorized to be appropriated $30,000,000 to carry out this section.

"(D) PRIVATIZATION.—No additional Federal funds shall be used to carry out this section beginning on the earlier of—

"(i) the date that is 10 years after the date of enactment of this section; or

"(ii) the day after a total of $50,000,000 has been made available under subparagraphs (B) and (C) to carry out this section.

"(f) BOARD OF DIRECTORS.—

"(1) IN GENERAL.—The management of the Center shall be vested in a Board of Directors.

"(2) POWERS.—The Board shall—

"(A) be responsible for the general supervision of the Center;

"(B) review any grant, loan, contract, or cooperative agreement to be made or entered into by the Center and any financial assistance provided to the Center;

"(C) make the final decision, by majority vote, on whether and how to provide assistance to an applicant; and

"(D) develop and establish a budget plan and a long-term operating plan to carry out the goals of the Center.

"(3) COMPOSITION.—The Board shall be composed of—

"(A) 7 voting members, of whom—

"(i) 4 members shall be active producers of sheep or goats in the United States;

"(ii) 2 members shall have expertise in finance and management; and

"(iii) 1 member shall have expertise in lamb, wool, goat, or goat product marketing; and

"(B) 2 nonvoting members, of whom—

"(i) 1 member shall be the Under Secretary of Agriculture for Rural Development; and

"(ii) 1 member shall be the Under Secretary of Agriculture for Research, Education, and Economics.

"(4) NOMINATION.—

"(A) NOMINATING BODY.—The Secretary shall appoint the voting members of the Board from nominations submitted by organizations described in subparagraph (B).

"(B) NATIONAL ORGANIZATIONS.—A national organization is described in this subparagraph if the organization—

"(i) consists primarily of active sheep or goat producers in the United States; and

"(ii) has as the primary interest of the organization the production of sheep or goats in the United States.

"(5) TERM OF OFFICE.—

"(A) IN GENERAL.—Subject to subparagraph (B), the term of office of a voting member of the Board shall be 3 years.

"(B) STAGGERED INITIAL TERMS.—The initial voting members of the Board (other than the chairperson of the initially established Board) shall serve for staggered terms of 1, 2, and 3 years, as determined by the Secretary.

"(C) REELECTION.—A voting member may be reelected for not more than 1 additional term.

"(6) VACANCY.—

"(A) IN GENERAL.—A vacancy on the Board shall be filled in the same manner as the original Board.

"(B) REELECTION.—A member elected to fill a vacancy for an unexpired term may be reelected for 1 full term.

"(7) CHAIRPERSON.—

"(A) IN GENERAL.—The Board shall select a chairperson from among the voting members of the Board.

"(B) TERM.—The term of office of the chairperson shall be 2 years.

"(8) ANNUAL MEETING.—

"(A) IN GENERAL.—The Board shall meet not less than once each fiscal year at the call of the chairperson or at the request of the executive director appointed under subsection (g)(1).

"(B) LOCATION.—The location of a meeting of the Board shall be established by the Board.

"(9) VOTING.—

"(A) QUORUM.—A quorum of the Board shall consist of a majority of the voting members.

"(B) MAJORITY VOTE.—A decision of the Board shall be made by a majority of the voting members of the Board.

"(10) CONFLICTS OF INTEREST.—

"(A) IN GENERAL.—Except as provided in subparagraph (D), a member of the Board shall not vote on any matter respecting any application, contract, claim, or other particular matter pending before the Board in which, to the knowledge of the member, an interest is held by—

"(i) the member;

"(ii) any spouse of the member;

"(iii) any child of the member;

"(iv) any partner of the member;

"(v) any organization in which the member is serving as an officer, director, trustee, partner, or employee; or

"(vi) any person with whom the member is negotiating or has any arrangement concerning prospective employment or with whom the member has a financial interest.

"(B) REMOVAL.—Any action by a member of the Board that violates subparagraph (A) shall be cause for removal from the Board.

"(C) VALIDITY OF ACTION.—An action by a member of the Board that violates subparagraph (A) shall not impair or otherwise affect the validity of any otherwise lawful action by the Board.

"(D) DISCLOSURE.—

"(i) IN GENERAL.—If a member of the Board makes a full disclosure of an interest and, prior to any participation by the member, the Board determines, by majority vote, that the interest is too remote or too inconsequential to affect the integrity of any participation by the member, the member may participate in the matter relating to the interest, except as provided in subparagraph (E)(iii).

"(ii) VOTE.—A member that discloses an interest under clause (i) shall not vote on a determination of whether the member may participate in the matter relating to the interest.

"(E) REMANDS.—

"(i) IN GENERAL.—The Secretary may vacate and remand to the Board for reconsideration any decision made pursuant to subsection (e)(3)(H) if the Secretary determines that there has been a violation of this paragraph or any conflict of interest provision of the bylaws of the Board with respect to the decision.

"(ii) REASONS.—In the case of any violation and remand of a funding decision to the Board under clause (i), the Secretary shall inform the Board of the reasons for the remand.

"(iii) CONFLICTED MEMBERS NOT TO VOTE ON REMANDED DECISIONS.—If a decision with respect to a matter is remanded to the Board by reason of a conflict of interest faced by a Board member, the member may not participate in any subsequent decision with respect to the matter.

"(11) COMPENSATION.—

"(A) IN GENERAL.—A member of the Board shall not receive any compensation by reason of service on the Board.

"(B) EXPENSES.—A member of the Board shall be reimbursed for travel, subsistence, and other necessary expenses incurred by the member in the performance of a duty of the member.

"(12) BYLAWS.—The Board shall adopt, and may from time to time amend, any bylaw that is necessary for the proper management and functioning of the Center.

"(13) PUBLIC HEARINGS.—Not later than 1 year after the date of enactment of this section, the Board shall hold public hearings on policy objectives of the program established under this section.

"(14) ORGANIZATIONAL SYSTEM.—The Board shall provide a system of organization to fix responsibility and promote efficiency in carrying out the functions of the Board.

"(15) USE OF DEPARTMENT OF AGRICULTURE.—The Board may, with the consent of the Secretary, utilize the facilities of and the services of employees of the Department of Agriculture, without cost to the Center.

"(g) OFFICERS AND EMPLOYEES.—

"(1) EXECUTIVE DIRECTOR.—

"(A) IN GENERAL.—The Board shall appoint an executive director to be the chief executive officer of the Center.

"(B) TENURE.—The executive director shall serve at the pleasure of the Board.

"(C) COMPENSATION.—Compensation for the executive director shall be established by the Board.

"(2) OTHER OFFICERS AND EMPLOYEES.—The Board may select and appoint officers, attorneys, employees, and agents who shall be vested with such powers and duties as the Board may determine.

"(3) DELEGATION.—The Board may, by resolution, delegate to the chairperson, the executive director, or any other officer or employee any function, power, or duty of the Board other

than voting on a grant, loan, contract, agreement, budget, or annual strategic plan.

"(h) CONSULTATION.—To carry out this section, the Board may consult with—

"(1) State departments of agriculture;

"(2) Federal departments and agencies;

"(3) nonprofit development corporations;

"(4) colleges and universities;

"(5) banking and other credit-related agencies;

"(6) agriculture and agribusiness organizations; and

"(7) regional planning and development organizations.

"(i) OVERSIGHT.—

"(1) IN GENERAL.—The Secretary shall review and monitor compliance by the Board and the Center with this section.

"(2) SANCTIONS.—If, following notice and opportunity for a hearing, the Secretary finds that the Board or the Center is not in compliance with this section, the Secretary may—

"(A) cease making deposits to the Fund;

"(B) suspend the authority of the Center to withdraw funds from the Fund; or

"(C) impose other appropriate sanctions, including recoupment of money improperly expended for purposes prohibited or not authorized by this Act and disqualification from receipt of financial assistance under this section.

"(3) RESCISSION OF SANCTIONS.—The Secretary shall rescind sanctions imposed under paragraph (2) on a finding by the Secretary that there is no longer any failure by the Board or the Center to comply with this section or that the noncompliance will be promptly corrected.".

SEC. 759A. COOPERATIVE AGREEMENTS.

Section 607(b) of the Rural Development Act of 1972 (7 U.S.C. 2204b(b)) is amended by striking paragraph (4) and inserting the following:

"(4) COOPERATIVE AGREEMENTS.—

"(A) IN GENERAL.—Notwithstanding chapter 63 of title 31, United States Code, the Secretary may enter into cooperative agreements with other Federal agencies, State and local governments, and any other organization or individual to improve the coordination and effectiveness of Federal programs, services, and actions affecting rural areas, including the establishment and financing of interagency groups, if the Secretary determines that the objectives of the agreement will serve the mutual interest of the parties in rural development activities.

"(B) COOPERATORS.—Each cooperator, including each Federal agency, to the extent that funds are otherwise available, may participate in any cooperative agreement or working group established pursuant to this paragraph by contributing funds or other resources to the Secretary to carry out the agreement or functions of the group.".

SEC. 759B. ELIGIBILITY FOR GRANTS TO BROADCASTING SYSTEMS.

Section 310B(f) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(f)) (as redesignated by section 747(a)(6)) is amended by striking "SYSTEMS.—The" and inserting "SYSTEMS.—

"(1) DEFINITION OF STATEWIDE.—In this subsection, the term 'statewide' means having a coverage area of not less

than 90 percent of the population of a State and not less than 80 percent of the rural land area of the State (as determined by the Secretary).

"(2) GRANTS.—The".

CHAPTER 2—RURAL COMMUNITY ADVANCEMENT PROGRAM

SEC. 761. RURAL COMMUNITY ADVANCEMENT PROGRAM.

The Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) is amended by adding at the end the following:

"Subtitle E—Rural Community Advancement Program

"SEC. 381A. DEFINITIONS. 7 USC 2009.

"In this subtitle:

"(1) RURAL AND RURAL AREA.—The terms 'rural' and 'rural area' mean, subject to section 306(a)(7), a city, town, or unincorporated area that has a population of 50,000 inhabitants or less, other than an urbanized area immediately adjacent to a city, town, or unincorporated area that has a population in excess of 50,000 inhabitants.

"(2) STATE.—The term 'State' means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands of the United States, American Samoa, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the Federated States of Micronesia.

"(3) STATE DIRECTOR.—The term 'State director' means, with respect to a State, the Director of the Rural Economic and Community Development State Office.

"SEC. 381B. ESTABLISHMENT. 7 USC 2009a.

"The Secretary shall establish a rural community advancement program to provide grants, loans, loan guarantees, and other assistance to meet the rural development needs of local communities in States and federally recognized Indian tribes.

"SEC. 381C. NATIONAL OBJECTIVES. 7 USC 2009b.

"The national objectives of the program established under this subtitle shall be to—

"(1) promote strategic development activities and collaborative efforts by State and local communities, and federally recognized Indian tribes, to maximize the impact of Federal assistance;

"(2) optimize the use of resources;

"(3) provide assistance in a manner that reflects the complexity of rural needs, including the needs for business development, health care, education, infrastructure, cultural resources, the environment, and housing;

"(4) advance activities that empower, and build the capacity of, State and local communities to design unique responses to the special needs of the State and local communities, and federally recognized Indian tribes, for rural development assistance; and

"(5) adopt flexible and innovative approaches to solving rural development problems.

7 USC 2009c.

"SEC. 381D. STRATEGIC PLANS.

"(a) IN GENERAL.—The Secretary shall direct each of the Directors of Rural Economic and Community Development State Offices to prepare a strategic plan—

"(1) for each State for the delivery of assistance under this subtitle in the State; and

"(2) for each federally recognized Indian tribe for the delivery of assistance under this subtitle to the Indian tribe.

"(b) ASSISTANCE.—

"(1) IN GENERAL.—Financial assistance for rural development provided under this subtitle for a State or a federally recognized Indian tribe shall be used only for orderly community development that is consistent with the strategic plan of the State or Indian tribe.

"(2) RURAL AREA.—Assistance under this subtitle may only be provided in a rural area.

"(3) SMALL COMMUNITIES.—In carrying out this subtitle in a State, the Secretary shall give priority to communities with the smallest populations and lowest per capita income.

"(c) REVIEW.—The Secretary shall review the strategic plan of each State and federally recognized Indian tribe not later than 60 days after receiving the plan, and at least once every 5 years thereafter.

"(d) CONTENTS.—A strategic plan of a State or federally recognized Indian tribe under this section shall be a plan that—

"(1) coordinates economic, human, and community development plans and related activities proposed for an affected area;

"(2) provides that the State or federally recognized Indian tribe, as appropriate, and an affected community (including local institutions and organizations that have contributed to the planning process) shall act as full partners in the process of developing and implementing the plan;

"(3) identifies goals, methods, and benchmarks for measuring the success of carrying out the plan and how the plan relates to local or regional ecosystems;

"(4) in the case of a State, provides for the involvement, in the preparation of the plan, of State, local, private, and public persons, State rural development councils, federally recognized Indian tribes in the State, and community-based organizations;

"(5) identifies the amount and source of Federal and non-Federal resources that are available for carrying out the plan; and

"(6) includes such other information as may be required by the Secretary.

7 USC 2009d.

"SEC. 381E. RURAL DEVELOPMENT TRUST FUND.

"(a) ESTABLISHMENT.—There is established in the Treasury of the United States a trust fund which shall be known as the Rural Development Trust Fund (in this subtitle referred to as the 'Trust Fund').

"(b) ACCOUNTS.—There are established in the Trust Fund the following accounts:

"(1) The rural community facilities account.

"(2) The rural utilities account.

"(3) The rural business and cooperative development account.

"(4) The national reserve account.

"(5) The federally recognized Indian tribe account.

"(c) DEPOSITS INTO ACCOUNTS.—Notwithstanding any other provision of law, each fiscal year—

"(1) all amounts made available to carry out the authorities described in subsection (d)(1) for the fiscal year shall be deposited into the rural community facilities account of the Trust Fund;

"(2) all amounts made available to carry out the authorities described in subsection (d)(2) for the fiscal year shall be deposited into the rural utilities account of the Trust Fund; and

"(3) all amounts made available to carry out the authorities described in subsection (d)(3) for the fiscal year shall be deposited into the rural business and cooperative development account of the Trust Fund.

"(d) FUNCTION CATEGORIES.—The function categories described in this subsection are the following:

"(1) RURAL COMMUNITY FACILITIES.—The rural community development category consists of all amounts made available for—

"(A) community facility direct and guaranteed loans under section 306(a)(1); or

"(B) community facility grants under section 306(a)(19).

"(2) RURAL UTILITIES.—The rural utilities category consists of all amounts made available for—

"(A) water or waste disposal grants or direct or guaranteed loans under paragraph (1) or (2) of section 306(a);

"(B) rural water or wastewater technical assistance and training grants under section 306(a)(14);

"(C) emergency community water assistance grants under section 306A; or

"(D) solid waste management grants under section 310B(b).

"(3) RURAL BUSINESS AND COOPERATIVE DEVELOPMENT.—The rural business and cooperative development category consists of all amounts made available for—

"(A) rural business opportunity grants under section 306(a)(11)(A);

"(B) business and industry guaranteed loans under section 310B(a)(1); or

"(C) rural business enterprise grants or rural educational network grants under section 310B(c).

"(e) NATIONAL RESERVE ACCOUNT.—

"(1) TRANSFERS INTO ACCOUNT.—

"(A) INITIAL TRANSFER.—Each fiscal year, the Secretary shall transfer to the national reserve account of the Trust Fund from each account specified in subsection (c) not more than the applicable percentage of the amount deposited in each such account for the fiscal year under subsection (c).

"(B) REPOOLING OF UNOBLIGATED FUNDS ALLOCATED AMONG THE STATES.—Not earlier than July 15 of each fiscal year, the Secretary shall transfer to the national reserve account from each account specified in subsection (c) any amount in the account that is allocated for any

State, and has not been obligated by the State director or obligated for specific approved projects in the State.

"(2) USE.—The Secretary may use amounts in the national reserve account of the Trust Fund, pursuant to any authority described in subsection (d)—

"(A) in the case of a fiscal year other than fiscal year 2001 or 2002—

"(i) to meet situations of exceptional need;

"(ii) to meet emergency situations; or

"(iii) to provide funds to entities whose applications for funds provided under this subtitle have been approved and who have not received funds sufficient to meet the needs of the projects described in the applications; or

"(B) in the case of fiscal years 2001 and 2002—

"(i) to meet situations of exceptional need; or

"(ii) to meet emergency situations.

"(3) APPLICABLE PERCENTAGE DEFINED.—In paragraph (1), the term 'applicable percentage' means, with respect to a fiscal year—

"(A) 15 percent for fiscal year 1997;

"(B) 12.5 percent for fiscal year 1998;

"(C) 10 percent for fiscal year 1999;

"(D) 7.5 percent for fiscal year 2000;

"(E) 5 percent for fiscal year 2001; and

"(F) 5 percent for fiscal year 2002.

"(f) FEDERALLY RECOGNIZED INDIAN TRIBE ACCOUNT.—

"(1) TRANSFERS INTO ACCOUNT.—Each fiscal year, the Secretary shall transfer to the federally recognized Indian tribe account of the Trust Fund 3 percent of the amount deposited into the Trust Fund for the fiscal year under subsection (d).

"(2) USE OF FUNDS.—The Secretary shall make available to federally recognized Indian tribes the amounts in the federally recognized Indian tribe account for use pursuant to any authority described in subsection (d).

"(g) ALLOCATION AMONG STATES.—The Secretary shall allocate the amounts in each account specified in subsection (c) among the States in a fair, reasonable, and appropriate manner that takes into consideration rural population, levels of income, unemployment, and other relevant factors, as determined by the Secretary.

"(h) AVAILABILITY OF FUNDS ALLOCATED FOR STATES.—The Secretary shall make available to each State the total amount allocated for the State under subsection (g) of this section that remains after applying section 381G.

7 USC 2009e.

"SEC. 381F. TRANSFERS OF FUNDS.

"(a) GENERAL AUTHORITY.—Subject to subsection (b) of this section, the State Director of any State may, during any fiscal year, transfer from each account specified in section 381E(c) a total of not more than 25 percent of the amount in the account that is allocated for the State for the fiscal year to any other account in which amounts are allocated for the State for the fiscal year.

"(b) LIMITATION.—Except as provided in subsection (c) of this section, a transfer otherwise authorized by subsection (a) of this section to be made during a fiscal year may not be made to the extent that the sum of the amount to be transferred and all amounts

so transferred by State directors under subsection (a) of this section during the fiscal year exceeds 10 percent of the total amount made available to carry out the authorities described in section 381E(d) for the fiscal year.

"(c) EXCEPTIONS.—Subsections (a) and (b) shall not apply to a transfer of funds by a State director if the State director certifies to the Secretary that—

"(1) there is an approved application for a project in the function category to which the funds are to be transferred but funds are not available for the project in the function category; and

"(2)(A) there is no such approved application in the function category from which the funds are to be transferred; or

"(B) the community that would benefit from the project has a smaller population and a lesser per capita income than any community that would benefit from a project in the function category from which the funds are to be transferred.

"SEC. 381G. GRANTS TO STATES. 7 USC 2009f.

"(a) SIMPLE GRANTS.—

"(1) MANDATORY GRANT.—The Secretary shall make a grant to any eligible State for any fiscal year for which the State requests a grant under this section in an amount equal to 5 percent of the total amount allocated for the State under section 381E(g).

"(2) PERMISSIVE GRANT.—Before July 15 of each fiscal year, the Secretary may make a grant to any State to defray the cost of any subsidy associated with a guarantee provided by an eligible public entity of the State under section 381H in an amount that does not exceed 5 percent of the total amount allocated for the State under section 381E(g).

"(3) SOURCE OF FUNDS.—The Secretary shall make grants to a State under paragraphs (1) and (2) from amounts allocated for the State in the accounts specified in section 381E(c), by reducing each such allocated amount by the same percentage.

"(b) MATCHING GRANTS.—

"(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall make a grant to any eligible State for any fiscal year for which the State requests a grant under this section in an amount equal to 5 percent of the amount allocated for the State for the fiscal year under section 381E(h).

"(2) ELIGIBILITY.—A State shall be eligible for a grant under paragraph (1) if the State makes commitments to the Secretary to—

"(A) expend from non-Federal sources in accordance with subsection (c) an amount that is not less than 200 percent of the amount of the grant; and

"(B) maintain the amounts paid to the State under this subsection and the amount referred to in subparagraph (A) in an account separate from all other State funds until expended in accordance with subsection (c).

"(3) SOURCE OF FUNDS.—If the Secretary makes a grant under paragraph (1) before July 15 of the fiscal year, the grant shall be made from amounts allocated for the State in the accounts specified in section 381E(c) for the fiscal year, by reducing each allocated amount by the same percentage.

"(c) USE OF FUNDS.—A State to which funds are provided under this section shall use the funds in rural areas for any activity authorized under the authorities described in section 381E(d) in accordance with the State strategic plan referred to in section 381D.

"(d) MAINTENANCE OF EFFORT.—The State shall provide assurances to the Secretary that funds provided to the State under this section will be used only to supplement, not to supplant, the amount of Federal, State, and local funds otherwise expended for rural development assistance in the State.

"(e) APPEALS.—The Secretary shall provide to a State an opportunity to appeal any action taken with respect to the State under this section.

"(f) ADMINISTRATIVE COSTS.—Federal funds shall not be used for any administrative costs incurred by a State in carrying out this subtitle.

"(g) EXPENDITURE OF FUNDS BY STATE.—

"(1) IN GENERAL.—Payments to a State from a grant under this section for a fiscal year shall be obligated by the State in the fiscal year or in the succeeding fiscal year. A State shall obligate funds under this section to provide assistance to rural areas.

"(2) FAILURE TO OBLIGATE.—If a State fails to obligate payments in accordance with paragraph (1), the Secretary shall make an equal reduction in the amount of payments provided to the State under this section for the immediately succeeding fiscal year.

"(3) NONCOMPLIANCE.—

"(A) REVIEW.—The Secretary shall review and monitor State compliance with this section.

"(B) PENALTY.—If the Secretary finds that there has been misuse of grant funds provided under this section, or noncompliance with any of the terms and conditions of a grant, after reasonable notice and opportunity for a hearing—

"(i) the Secretary shall notify the State of the finding; and

"(ii) no further payments to the State shall be made with respect to the programs funded under this section until the Secretary is satisfied that there is no longer any failure to comply or that the noncompliance will be promptly corrected.

"(C) OTHER SANCTIONS.—In the case of a finding of noncompliance made pursuant to subparagraph (B), the Secretary may, in addition to, or in lieu of, imposing the sanctions described in subparagraph (B), impose other appropriate sanctions, including recoupment of money improperly expended for purposes prohibited or not authorized by this section and disqualification from the receipt of financial assistance under this section.

"(h) NO ENTITLEMENT TO CONTRACT, GRANT, OR ASSISTANCE.—Nothing in this subtitle—

"(1) entitles any person to assistance or a contract or grant; or

"(2) limits the right of a State to impose additional limitations or conditions on assistance or a contract or grant under this section.

"SEC. 381H. GUARANTEE AND COMMITMENT TO GUARANTEE LOANS. 7 USC 2009g.

"(a) DEFINITION OF ELIGIBLE PUBLIC ENTITY.—In this section, the term 'eligible public entity' means any unit of general local government.

"(b) GUARANTEE AND COMMITMENT.—The Secretary, on such terms and conditions as the Secretary may prescribe, may guarantee and make commitments to guarantee notes or other obligations issued by eligible public entities, or by public agencies designated by the eligible public entities, for the purposes of financing rural development activities authorized and funded under section 381G.

"(c) LIMITATION.—The Secretary may not make a guarantee or commitment to guarantee with respect to a note or other obligation if the total amount of outstanding notes or obligations guaranteed under this section (excluding any amount repaid under the contract entered into under subsection (e)(1)(A)) for issuers in the State would exceed an amount equal to 5 times the sum of the total amount of grants made to the State under section 381G.

"(d) PAYMENT OF PRINCIPAL, INTEREST, AND COSTS.—Notwithstanding any other provision of this subtitle, a State to which a grant is made under section 381G may use the grant (including program income derived from the grant) to pay principal and interest due (including such servicing, underwriting, or other costs as may be specified in regulations of the Secretary) on any note or other obligation guaranteed under this section.

"(e) REPAYMENT CONTRACT; SECURITY.—

"(1) IN GENERAL.—To ensure the repayment of notes or other obligations and charges incurred under this section and as a condition for receiving the guarantees, the Secretary shall require the issuer to—

"(A) enter into a contract, in a form acceptable to the Secretary, for repayment of notes or other obligations guaranteed under this section;

"(B) pledge any grant for which the issuer may become eligible under this subtitle; and

"(C) furnish, at the discretion of the Secretary, such other security as may be considered appropriate by the Secretary in making the guarantees.

"(2) SECURITY.—To assist in ensuring the repayment of notes or other obligations and charges incurred under this section, a State shall pledge any grant for which the State may become eligible under this subtitle as security for notes or other obligations and charges issued under this section by any eligible public entity in the State.

"(f) PLEDGED GRANTS FOR REPAYMENTS.—Notwithstanding any other provision of this subtitle, the Secretary may apply grants pledged pursuant to paragraphs (1)(B) and (2) of subsection (e) to any repayments due the United States as a result of the guarantees.

"(g) OUTSTANDING OBLIGATIONS.—The total amount of outstanding obligations guaranteed on a cumulative basis by the Secretary pursuant to subsection (b) shall not at any time exceed such amount as may be authorized to be appropriated for such purpose for any fiscal year.

"(h) PURCHASE OF GUARANTEED OBLIGATIONS BY FEDERAL FINANCING BANK.—Notes or other obligations guaranteed under this section may not be purchased by the Federal Financing Bank.

"(i) FULL FAITH AND CREDIT.—The full faith and credit of the United States is pledged to the payment of all guarantees made under this section. Any such guarantee made by the Secretary shall be conclusive evidence of the eligibility of the obligations for the guarantee with respect to principal and interest. The validity of the guarantee shall be incontestable in the hands of a holder of the guaranteed obligations.

7 USC 2009h.

"SEC. 381I. LOCAL INVOLVEMENT.

"An application for assistance under this subtitle shall include evidence of significant community support for the project for which the assistance is requested. In the case of assistance for a community facilities or infrastructure project, the evidence shall be in the form of a certification of support for the project from each affected general purpose local government.

7 USC 2009i.

"SEC. 381J. INTERSTATE COLLABORATION.

"The Secretary shall permit the establishment of voluntary pooling arrangements among States, and regional fund-sharing agreements, to carry out projects receiving assistance under this subtitle.

7 USC 2009j.

"SEC. 381K. ANNUAL REPORT.

"(a) IN GENERAL.—The Secretary, in collaboration with State, local, public, and private entities, State rural development councils, and community-based organizations, shall prepare an annual report that contains evaluations, assessments, and performance outcomes concerning the rural community advancement programs carried out under this subtitle.

"(b) SUBMISSION.—Not later than March 1 of each year, the Secretary shall—

"(1) submit the report required by subsection (a) to Congress and the chief executives of the States participating in the program established under this subtitle; and

"(2) make the report available to State and local participants.

7 USC 2009k.

"SEC. 381L. RURAL DEVELOPMENT INTERAGENCY WORKING GROUP.

"(a) IN GENERAL.—The Secretary shall provide leadership within the Executive branch for, and assume responsibility for, establishing an interagency working group chaired by the Secretary.

"(b) DUTIES.—The working group shall establish policy for, coordinate, make recommendations with respect to, and evaluate the performance of, all Federal rural development efforts.

7 USC 2009l.

"SEC. 381M. DUTIES OF RURAL ECONOMIC AND COMMUNITY DEVELOPMENT STATE OFFICES.

"In carrying out this subtitle, the Director of a Rural Economic and Community Development State Office shall—

"(1) to the maximum extent practicable, ensure that the State strategic plan referred to in section 381D is implemented;

"(2) coordinate community development objectives within the State;

"(3) establish links between local, State, and field office program administrators of the Department of Agriculture;

"(4) ensure that recipient communities comply with applicable Federal and State laws and requirements; and

"(5) integrate State development programs with assistance under this subtitle.

"SEC. 381N. ELECTRONIC TRANSFER. 7 USC 2009m.

"The Secretary shall transfer funds in accordance with this subtitle through electronic transfer as soon as practicable after the date of enactment of this subtitle.

"SEC. 381O. RURAL VENTURE CAPITAL DEMONSTRATION PROGRAM. 7 USC 2009n.

"(a) IN GENERAL.—The Secretary may designate for each fiscal year up to 10 community development venture capital organizations to demonstrate the utility of guarantees to attract increased private investment in rural private business enterprises.

"(b) RURAL BUSINESS INVESTMENT POOL.—

"(1) ESTABLISHMENT.—To be eligible to participate in the demonstration program, an organization referred to in subsection (a) shall establish a rural business private investment pool (referred to in this subsection as a 'pool') for the purpose of making equity investments in rural private business enterprises.

"(2) GUARANTEE.—From amounts in the national reserve account of the Trust Fund, the Secretary shall guarantee the funds in a pool against loss, except that the guarantee shall not exceed an amount equal to 30 percent of the total funds in the pool.

"(3) AMOUNT.—The Secretary shall issue guarantees covering not more than $15,000,000 of contingent liabilities for each of fiscal years 1996 through 2002.

"(4) TERM.—The term of a guarantee provided under this subsection shall not exceed 10 years.

"(5) SUBMISSION OF PLAN.—To be eligible to participate in the demonstration program, an organization referred to in subsection (a) shall submit a plan that describes—

"(A) potential sources and uses of the pool to be established by the organization;

"(B) the utility of the guarantee authority in attracting capital for the pool; and

"(C) on selection, mechanisms for notifying State, local, and private nonprofit business development organizations and businesses of the existence of the pool.

"(6) COMPETITION.—

"(A) IN GENERAL.—The Secretary shall conduct a competition for the designation and establishment of pools.

"(B) PRIORITY.—In conducting the competition, the Secretary shall give priority to organizations that—

"(i) have a demonstrated record of performance, or have a board and executive director with experience, in venture capital, small business equity investment, or community development finance;

"(ii) propose to serve low-income communities;

"(iii) propose to maintain an average investment of not more than $500,000 from the pool of the organization;

"(iv) invest funds statewide or in a multicounty region; and

"(v) propose to target job opportunities resulting from the investments primarily to economically dis-

advantaged individuals, as determined by the Secretary.

"(C) GEOGRAPHIC DIVERSITY.—To the extent practicable, the Secretary shall designate organizations in diverse geographic areas.".

7 USC 2204b note.

SEC. 762. SIMPLIFIED, UNIFORM APPLICATION FOR ASSISTANCE FROM ALL FEDERAL RURAL DEVELOPMENT PROGRAMS.

Not later than 1 year after the date of enactment of this Act, the Secretary of Agriculture shall develop a streamlined, simplified, and uniform application which shall be used in applying for assistance under all of the following:

(1) Sections 304(b), 306, 306A, 306C, 306D, 310B, and 375 and subtitle E of the Consolidated Farm and Rural Development Act (7 U.S.C. 1924(b), 1926, 1926a, 1926c, 1926d, and 1932).

(2) Subtitle G of title XVI and sections 2281, 2333, and 2381 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5901–5908, 5177a, 950aaa–2, and 3125b).

(3) Subtitle C of title IX of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991 (Public Law 102–237: 7 U.S.C. 5930 note).

(4) Section 1323(b) of the Food Security Act of 1985 (Public Law 99–198; 7 U.S.C. 1932 note).

(5) Title V and section 603(c) of the Rural Development Act of 1972 (7 U.S.C. 2661–2669 and 2204a(c)).

(6) Sections 5 and 311 and title IV of the Rural Electrification Act of 1936 (7 U.S.C. 905, 940a, and 941–950b).

SEC. 763. COMMUNITY FACILITIES GRANT PROGRAM.

Section 306(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)) (as amended by section 741(a)(5)) is amended by adding at the end the following:

"(19) COMMUNITY FACILITIES GRANT PROGRAM.—

"(A) IN GENERAL.—The Secretary may make grants, in a total amount not to exceed $10,000,000 for any fiscal year, to associations, units of general local government, nonprofit corporations, and federally recognized Indian tribes to provide the Federal share of the cost of developing specific essential community facilities in rural areas.

"(B) FEDERAL SHARE.—

"(i) IN GENERAL.—Except as provided in clauses (ii) and (iii), the Secretary shall, by regulation, establish the amount of the Federal share of the cost of the facility under this paragraph.

"(ii) MAXIMUM AMOUNT.—The amount of a grant provided under this paragraph for a facility shall not exceed 75 percent of the cost of developing the facility.

"(iii) GRADUATED SCALE.—The Secretary shall provide for a graduated scale for the amount of the Federal share provided under this paragraph, with higher Federal shares for facilities in communities that have lower community population and income levels, as determined by the Secretary.".

Subtitle C—Amendments to the Rural Electrification Act of 1936

SEC. 771. PURPOSES; INVESTIGATIONS AND REPORTS.

Section 2 of the Rural Electrification Act of 1936 (7 U.S.C. 902) is amended—

(1) by striking "SEC. 2. (a) The Secretary of Agriculture is" and inserting the following:

"SEC. 2. GENERAL AUTHORITY OF THE SECRETARY OF AGRICULTURE.

"(a) LOANS.—The Secretary of Agriculture (referred to in this Act as the 'Secretary') is";

(2) in subsection (a)—

(A) by striking "and the furnishing" the first place it appears and all that follows through "central station service"; and

(B) by striking "systems; to make" and all that follows and inserting "systems."; and

(3) by striking subsection (b) and inserting the following:

"(b) INVESTIGATIONS AND REPORTS.—The Secretary may make, or cause to be made, studies, investigations, and reports regarding matters, including financial, technological, and regulatory matters, affecting the condition and progress of electric, telecommunications, and economic development in rural areas, and publish and disseminate information with respect to the matters.".

SEC. 772. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Section 3 of the Rural Electrification Act of 1936 (7 U.S.C. 903) is amended to read as follows:

"SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated such sums as are necessary to carry out this Act.".

(b) CONFORMING AMENDMENTS.—

(1) Section 301(a) of the Rural Electrification Act of 1936 (7 U.S.C. 931(a)) is amended—

(A) by striking "(a)" the first place the term appears; and

(B) in paragraph (3), by striking "notwithstanding section 3(a) of title I,".

(2) Section 302(b)(2) of the Rural Electrification Act of 1936 (7 U.S.C. 932(b)(2)) is amended by striking "pursuant to section 3(a) of this Act".

(3) The last sentence of section 406(a) of the Rural Electrification Act of 1936 (7 U.S.C. 946(a)) is amended by striking "pursuant to section 3(a) of this Act".

SEC. 773. LOANS FOR ELECTRICAL PLANTS AND TRANSMISSION LINES.

Section 4 of the Rural Electrification Act of 1936 (7 U.S.C. 904) is amended—

(1) in the first sentence—

(A) by striking "for the furnishing of" and all that follows through "central station service and"; and

(B) by striking "the provisions of sections 3(d) and 3(e) but without regard to the 25 per centum limitation therein contained," and inserting "section 3,";

(2) in the second sentence, by striking ": *Provided further,* That all" and all that follows through "loan: *And provided further,* That" and inserting ", except that"; and

(3) in the third sentence, by striking "and section 5".

SEC. 774. LOANS FOR ELECTRICAL AND PLUMBING EQUIPMENT.

(a) IN GENERAL.—Section 5 of the Rural Electrification Act of 1936 (7 U.S.C. 905) is repealed.

(b) CONFORMING AMENDMENTS.—Section 12(a) of the Rural Electrification Act of 1936 (7 U.S.C. 912(a)) is amended—

(1) by striking ": *Provided, however,* That" and inserting ", except that,"; and

(2) by striking ", and with respect to any loan made under section 5," and all that follows through "section 3".

SEC. 775. TESTIMONY ON BUDGET REQUESTS.

Section 6 of the Rural Electrification Act of 1936 (7 U.S.C. 906) is amended by striking the second sentence.

SEC. 776. TRANSFER OF FUNCTIONS OF ADMINISTRATION CREATED BY EXECUTIVE ORDER.

Section 8 of the Rural Electrification Act of 1936 (7 U.S.C. 908) is repealed.

SEC. 777. ANNUAL REPORT.

Section 10 of the Rural Electrification Act of 1936 (7 U.S.C. 910) is repealed.

SEC. 778. PROHIBITION ON RESTRICTING WATER AND WASTE FACILITY SERVICES TO ELECTRIC CUSTOMERS.

The Rural Electrification Act of 1936 is amended by inserting after section 16 (7 U.S.C. 916) the following:

7 USC 917.

"SEC. 17. PROHIBITION ON RESTRICTING WATER AND WASTE FACILITY SERVICES TO ELECTRIC CUSTOMERS.

"(a) PROHIBITION.—Assistance under any rural development program administered by the Secretary or any agency of the Department of Agriculture shall not be conditioned on any requirement that the recipient of the assistance accept or receive electric service from any particular utility, supplier, or cooperative.

Regulations.

"(b) ENSURING COMPLIANCE.—The Secretary shall establish, by regulation, adequate safeguards to ensure that assistance under any rural development program is not subject to such a condition. The safeguards shall include periodic certifications and audits, and appropriate measures and sanctions against any person violating, or attempting to violate subsection (a).

"(c) DEFINITION OF RURAL DEVELOPMENT PROGRAMS.—In this section, the term 'rural development program' means the following:

"(1) Sections 304(b), 306, 306A, 306C, 306D, 310B, and 375 and subtitle E of the Consolidated Farm and Rural Development Act (7 U.S.C. 1924(b), 1926, 1926a, 1926c, 1926d, and 1932).

"(2) Subtitle G of title XVI and sections 2281, 2333, and 2381 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5901–5908, 5177a, 950aaa–2, and 3125b).

"(3) Subtitle C of title IX of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991 (Public Law 102–237; 7 U.S.C. 5930 note).

"(4) Section 1323(b) of the Food Security Act of 1985 (Public Law 99–198; 7 U.S.C. 1932 note).

"(5) Title V and section 603(c) of the Rural Development Act of 1972 (7 U.S.C. 2661–2669 and 2204a(c)).

"(6) Sections 5 and 311 and title IV of this Act (7 U.S.C. 905, 940a, and 941–950b).

"(d) REGULATIONS.—Not later than 60 days after the date of enactment of the Federal Agriculture Improvement and Reform Act of 1996, the Secretary shall issue final regulations to ensure compliance with subsection (a).".

SEC. 779. TELEPHONE LOAN TERMS AND CONDITIONS.

Section 309 of the Rural Electrification Act of 1936 (7 U.S.C. 939) is amended—

(1) in subsection (a), by striking "(a) IN GENERAL.—"; and

(2) by striking subsection (b).

SEC. 780. PRIVATIZATION PROGRAM.

Section 311 of the Rural Electrification Act of 1936 (7 U.S.C. 940a) is repealed.

SEC. 781. RURAL BUSINESS INCUBATOR FUND.

(a) IN GENERAL.—Section 502 of the Rural Electrification Act of 1936 (7 U.S.C. 950aa–1) is repealed.

(b) CONFORMING AMENDMENTS.—Section 501 of the Rural Electrification Act of 1936 (7 U.S.C. 950aa) is amended—

(1) in paragraph (5), by inserting "and" at the end;

(2) in paragraph (6), by striking "; and" at the end and inserting a period; and

(3) by striking paragraph (7).

Subtitle D—Miscellaneous Rural Development Provisions

SEC. 791. INTEREST RATE FORMULA.

(a) BANKHEAD-JONES FARM TENANT ACT.—Section 32(e) of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1011) is amended by striking the fifth sentence and inserting the following: "A loan under this subsection shall be made under a contract that provides, under such terms and conditions as the Secretary considers appropriate, for the repayment of the loan in not more than 30 years, with interest at a rate not to exceed the current market yield for outstanding municipal obligations with remaining periods to maturity comparable to the average maturity for the loan, adjusted to the nearest ⅛ of 1 percent.".

(b) WATERSHED PROTECTION AND FLOOD PREVENTION ACT.—Section 8 of the Watershed Protection and Flood Prevention Act (16 U.S.C. 1006a) is amended by striking the second sentence and inserting the following: "A loan or advance under this section shall be made under a contract or agreement that provides, under such terms and conditions as the Secretary considers appropriate, for the repayment of the loan or advance in not more than 50 years from the date when the principal benefits of the works of improvement first become available, with interest at a rate not to exceed the current market yield for outstanding municipal obliga-

tions with remaining periods to maturity comparable to the average maturity for the loan, adjusted to the nearest ⅛ of 1 percent.".

SEC. 792. GRANTS FOR FINANCIALLY STRESSED FARMERS, DISLOCATED FARMERS, AND RURAL FAMILIES.

(a) IN GENERAL.—Section 502 of the Rural Development Act of 1972 (7 U.S.C. 2662) is amended by striking subsection (f).

(b) CONFORMING AMENDMENTS.—

(1) Section 2389 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 7 U.S.C. 2662 note) is amended by striking subsection (d).

(2) Section 503(c) of the Rural Development Act of 1972 (7 U.S.C. 2663(c)) is amended—

(A) in paragraph (1)—

(i) by striking "(1)";

(ii) by striking "section 502(e)" and all that follows through "shall be distributed" and inserting "subsections (e), (h), and (i) of section 502 shall be distributed"; and

(iii) by striking "objectives of" and all that follows through "title" and inserting "objectives of subsections (e), (h), and (i) of section 502"; and

(B) by striking paragraph (2).

7 USC 2204f.

SEC. 793. FUND FOR RURAL AMERICA.

(a) IN GENERAL.—There is established in the Treasury of the United States an account to be known as the Fund for Rural America (referred to in this section as the "Account") to provide funds for activities described in subsection (c).

(b) FUNDING.—

(1) IN GENERAL.—On January 1, 1997, October 1, 1998, and October 1, 1999, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer $100,000,000 to the Account.

(2) ENTITLEMENT.— The Secretary of Agriculture (referred to in this section as the "Secretary")—

(A) shall be entitled to receive the funds transferred to the Account under paragraph (1);

(B) shall accept the funds; and

(C) shall use the funds to carry out this section.

(3) PURPOSES.—Subject to subsection (d), of the amounts transferred to the Account for a fiscal year, the Secretary shall make available—

(A) for activities described in subsection (c)(1), not less than ⅓ and not more than ⅔ of the funds in the Account; and

(B) for activities described in subsection (c)(2), all funds in the Account not made available by the Secretary for activities described in subsection (c)(1).

(c) ACTIVITIES.—

(1) RURAL DEVELOPMENT.—

(A) IN GENERAL.—The Secretary may use the funds in the Account for a rural development activity—

(i) authorized under the Housing Act of 1949 for—

(I) direct loans to low-income borrowers under section 502 (42 U.S.C. 1472);

(II) loans for financial assistance for housing for domestic farm laborers under section 514 (42 U.S.C. 1484);

(III) financial assistance for housing for domestic farm laborers under section 516 (42 U.S.C. 1486);

(IV) payments for elderly who are not now receiving rental assistance under section 521 (42 U.S.C. 1490a);

(V) grants and contracts for mutual and self-help housing under section 523(b)(1)(A) (42 U.S.C. 1490c(b)(1)(A)); or

(VI) grants for rural housing preservation under section 533 (42 U.S.C. 1490m); or

(ii) conducted under any rural development program, including a program authorized under—

(I) the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.);

(II) subtitle G of title XVI and title XXIII of the Food, Agriculture, Conservation, and Trade Act of 1990;

(III) title V of the Rural Development Act of 1971 (7 U.S.C. 2661 et seq.); or

(IV) section 1323(b) of the Food Security Act of 1985 (Public Law 99–198; 7 U.S.C. 1932 note).

(B) LIMITATION ON PROGRAMS FUNDED.—The Secretary may not expend funds made available to carry out activities described in subparagraph (A) for any activity that did not receive appropriations for fiscal year 1995. Funds expended under this section for any program purpose shall be spent in accordance with and subject to the applicable program limitations, restrictions, and priorities found in the underlying program authority and this Act.

(C) LIMITATION ON HOUSING ASSISTANCE.—Not more than 20 percent of the funds made available to carry out activities described in subparagraph (A) shall be made available to carry out activities described in subparagraph (A)(i).

(D) DISCLOSURE OF ALLOCATION.—For any fiscal year, the Secretary shall not disclose the allocation of funds under this section for any activity described in subparagraph (A) until the date that is 1 day after the date of enactment of legislation authorizing appropriations for the Department of Agriculture for any period in the fiscal year.

(2) RESEARCH.—

(A) IN GENERAL.—The Secretary may use the funds in the Account for research, extension, and education grants to—

(i) increase international competitiveness, efficiency, and farm profitability;

(ii) reduce economic and health risks;

(iii) conserve and enhance natural resources;

(iv) develop new crops, new crop uses, and new agricultural applications of biotechnology;

(v) enhance animal agricultural resources;

(vi) preserve plant and animal germplasm;

(vii) increase economic opportunities in farming and rural communities; and

(viii) expand locally-owned value-added processing.

(B) ELIGIBLE GRANTEE.—The Secretary may make a grant under this paragraph to—

(i) a Federal research agency;

(ii) a national laboratory;

(iii) a college or university or a research foundation maintained by a college or university; or

(iv) a private research organization with an established and demonstrated capacity to perform research or technology transfer.

(C) USE OF GRANT.—

(i) IN GENERAL.—A grant made under this paragraph may be used by a grantee for 1 or more of the following uses:

(I) Outcome-oriented research at the discovery end of the spectrum to provide breakthrough results.

(II) Exploratory and advanced development and technology with well-identified outcomes.

(III) A national, regional, or multi-State program oriented primarily toward extension programs and education programs demonstrating and supporting the competitiveness of United States agriculture.

(ii) SMALLER INSTITUTIONS.—Of the amounts made available for activities described in this paragraph, not less than 15 percent shall be awarded to colleges, universities, or research foundations eligible for a grant under subparagraph (B)(iii) that rank in the lowest ⅓ of such colleges, universities, and foundations on the basis of Federal research funds received under a provision of law other than this section.

(D) ADMINISTRATION.—

(i) PRIORITY.—In administering this paragraph, the Secretary shall—

(I) establish criteria for allocating grants based on the priorities in subparagraph (A) and in consultation with the National Agricultural Research, Extension, Education, and Economics Advisory Board established under section 1408 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3123);

(II) seek and accept proposals for grants;

(III) determine the relevance and merit of proposals through a system of peer review and review by the National Agricultural Research, Extension, Education, and Economics Advisory Board; and

(IV) award grants on the basis of merit, quality, and relevance to advancing the purposes of federally supported agricultural research, extension, and education provided in section 1402 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3101).

(ii) COMPETITIVE BASIS.—A grant under this paragraph shall be awarded on a competitive basis.

(iii) TERMS.—A grant under this paragraph shall have a term that does not exceed 5 years.

(iv) MATCHING FUNDS.—As a condition of making a grant under this paragraph, the Secretary shall require the funding of the grant with equal matching funds from a non-Federal source if the grant is—

(I) for applied research that is commodity-specific; and

(II) not of national scope.

(v) DELEGATION.—The Secretary shall administer this section through the Cooperative State Research, Education, and Extension Service of the Department of Agriculture.

(vi) AVAILABILITY OF FUNDS.—Funds shall be available for obligation under this paragraph for a 2-year period.

(vii) ADMINISTRATIVE COSTS.—The Secretary may use not more than 4 percent of the funds made available for activities described in this paragraph for administrative costs incurred by the Secretary in carrying out this paragraph.

(viii) BUILDINGS.—Funds made available for activities described in this paragraph shall not be used for the construction of a new building or the acquisition, expansion, remodeling, or alteration of an existing building (including site grading and improvement and architect fees).

(d) LIMITATIONS.—Amounts in the Account may not be used for an activity described in subsection (c) for a fiscal year if the program funding level for the fiscal year for the activity is less than 90 percent of the amount appropriated for the activity for fiscal year 1996, adjusted for inflation.

SEC. 794. UNDER SECRETARY OF AGRICULTURE FOR RURAL ECONOMIC AND COMMUNITY DEVELOPMENT RENAMED THE UNDER SECRETARY OF AGRICULTURE FOR RURAL DEVELOPMENT.

(a) IN GENERAL.—Section 231 of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6941) is amended—

(1) in the section heading, by striking "**ECONOMIC AND COMMUNITY**"; and

(2) by striking "Economic and Community" each place such term appears in subsections (a), (b), and (c).

(b) CONFORMING AMENDMENT.—Section 5314 of title 5, United States Code, is amended by striking "Economic and Community".

TITLE VIII—RESEARCH, EXTENSION, AND EDUCATION

Subtitle A—Modification and Extension of Activities Under 1977 Act

SEC. 801. PURPOSES OF AGRICULTURAL RESEARCH, EXTENSION, AND EDUCATION.

Section 1402 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3101) is amended to read as follows:

"SEC. 1402. PURPOSES OF AGRICULTURAL RESEARCH, EXTENSION, AND EDUCATION.

"The purposes of federally supported agricultural research, extension, and education are to—

"(1) enhance the competitiveness of the United States agriculture and food industry in an increasingly competitive world environment;

"(2) increase the long-term productivity of the United States agriculture and food industry while maintaining and enhancing the natural resource base on which rural America and the United States agricultural economy depend;

"(3) develop new uses and new products for agricultural commodities, such as alternative fuels, and develop new crops;

"(4) support agricultural research and extension to promote economic opportunity in rural communities and to meet the increasing demand for information and technology transfer throughout the United States agriculture industry;

"(5) improve risk management in the United States agriculture industry;

"(6) improve the safe production and processing of, and adding of value to, United States food and fiber resources using methods that maintain the balance between yield and environmental soundness;

"(7) support higher education in agriculture to give the next generation of Americans the knowledge, technology, and applications necessary to enhance the competitiveness of United States agriculture; and

"(8) maintain an adequate, nutritious, and safe supply of food to meet human nutritional needs and requirements.".

SEC. 802. NATIONAL AGRICULTURAL RESEARCH, EXTENSION, EDUCATION, AND ECONOMICS ADVISORY BOARD.

(a) IN GENERAL.—Section 1408 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3123) is amended to read as follows:

"SEC. 1408. NATIONAL AGRICULTURAL RESEARCH, EXTENSION, EDUCATION, AND ECONOMICS ADVISORY BOARD.

"(a) ESTABLISHMENT.—The Secretary shall establish within the Department of Agriculture a board to be known as the 'National Agricultural Research, Extension, Education, and Economics Advisory Board'.

"(b) MEMBERSHIP.—

"(1) IN GENERAL.—The Advisory Board shall consist of 30 members, appointed by the Secretary.

"(2) SELECTION OF MEMBERS.—The Secretary shall appoint members of the Advisory Board from nominations submitted by organizations, associations, societies, councils, federations, groups, and companies fitting the criteria specified in paragraph (3).

"(3) MEMBERSHIP CATEGORIES.—The Advisory Board shall consist of members from each of the following categories:

"(A) 1 member representing a national farm organization.

"(B) 1 member representing farm cooperatives.

"(C) 1 member actively engaged in the production of a food animal commodity.

"(D) 1 member actively engaged in the production of a plant commodity.

"(E) 1 member representing a national animal commodity organization.

"(F) 1 member representing a national crop commodity organization.

"(G) 1 member representing a national aquaculture association.

"(H) 1 member representing a national food animal science society.

"(I) 1 member representing a national crop, soil, agronomy, horticulture, or weed science society.

"(J) 1 member representing a national food science organization.

"(K) 1 member representing a national human health association.

"(L) 1 member representing a national nutritional science society.

"(M) 1 member representing the land-grant colleges and universities eligible to receive funds under the Act of July 2, 1862 (7 U.S.C. 301 et seq.).

"(N) 1 member representing the land-grant colleges and universities eligible to receive funds under the Act of August 30, 1890 (7 U.S.C. 321 et seq.), including Tuskegee University.

"(O) 1 member representing the 1994 Institutions (as defined in section 532 of the Equity in Educational Land-Grant Status Act of 1994 (Public Law 103–382; 7 U.S.C. 301 note)).

"(P) 1 member representing Hispanic-serving institutions.

"(Q) 1 member representing the American Colleges of Veterinary Medicine.

"(R) 1 member representing that portion of the scientific community not closely associated with agriculture.

"(S) 1 member engaged in the transportation of food and agricultural products to domestic and foreign markets.

"(T) 1 member representing food retailing and marketing interests.

"(U) 1 member representing food and fiber processors.

"(V) 1 member actively engaged in rural economic development.

"(W) 1 member representing a national consumer interest group.

"(X) 1 member representing a national forestry group.

"(Y) 1 member representing a national conservation or natural resource group.

"(Z) 1 member representing private sector organizations involved in international development.

"(AA) 1 member representing an agency within the Department of Agriculture that lacks research capabilities.

"(BB) 1 member representing a research agency of the Federal Government (other than the Department of Agriculture).

"(CC) 1 member representing a national social science association.

"(DD) 1 member representing national organizations directly concerned with agricultural research, education, and extension.

"(4) EX OFFICIO MEMBERS.—The Secretary, the Under Secretary of Agriculture for Research, Education, and Economics, the Administrator of the Agricultural Research Service, the Administrator of the Cooperative State Research, Education, and Extension Service, the Administrator of the Economic Research Service, and the Administrator of the National Agricultural Statistics Service shall serve as ex officio members of the Advisory Board.

"(5) OFFICERS.—At the first meeting of the Advisory Board each year, the members shall elect from among the members of the Advisory Board a chairperson, vice chairperson, and 7 additional members to serve on the executive committee established under paragraph (6).

"(6) EXECUTIVE COMMITTEE.—The Advisory Board shall establish an executive committee charged with the responsibility of working with the Secretary and officers and employees of the Department of Agriculture to summarize and disseminate the recommendations of the Advisory Board.

"(c) DUTIES.—The Advisory Board shall—

"(1) review and provide consultation to the Secretary and land-grant colleges and universities on long-term and short-term national policies and priorities, as set forth in section 1402, relating to agricultural research, extension, education, and economics;

"(2) evaluate the results and effectiveness of agricultural research, extension, education, and economics with respect to the policies and priorities;

"(3) review and make recommendations to the Under Secretary of Agriculture for Research, Education, and Economics on the research, extension, education, and economics portion of the draft strategic plan required under section 306 of title 5, United States Code; and

"(4) review the mechanisms of the Department of Agriculture for technology assessment (which should be conducted by qualified professionals) for the purposes of—

"(A) performance measurement and evaluation of the implementation by the Secretary of the strategic plan required under section 306 of title 5, United States Code;

"(B) implementation of the national research policies and priorities set forth in section 1402; and

"(C) the development of mechanisms for the assessment of emerging public and private agricultural research and technology transfer initiatives.

"(d) CONSULTATION.—In carrying out this section, the Advisory Board shall solicit opinions and recommendations from persons who will benefit from and use federally funded agricultural research, extension, education, and economics.

"(e) APPOINTMENT.—A member of the Advisory Board shall be appointed by the Secretary for a term of up to 3 years. The members of the Advisory Board shall be appointed to serve staggered terms.

"(f) FEDERAL ADVISORY COMMITTEE ACT.—The Advisory Board shall be deemed to have filed a charter for the purpose of section 9(c) of the Federal Advisory Committee Act (5 U.S.C. App.).

"(g) TERMINATION.—The Advisory Board shall remain in existence until September 30, 2002.".

(b) CONFORMING AMENDMENTS.—

(1) Section 1404(1) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103(1)) is amended by striking "National Agricultural Research and Extension Users Advisory Board" and inserting "National Agricultural Research, Extension, Education, and Economics Advisory Board".

(2) Section 1410(2) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3125(2)) is amended by striking "the recommendations of the Advisory Board developed under section 1408(g)," and inserting "any recommendations of the Advisory Board".

(3) The last sentence of section 4(a) of the Renewable Resources Extension Act of 1978 (16 U.S.C. 1673(a)) is amended by striking "National Agricultural Research and Extension Users Advisory Board" and inserting "National Agricultural Research, Extension, Education, and Economics Advisory Board".

SEC. 803. FEDERAL ADVISORY COMMITTEE ACT EXEMPTION FOR FEDERAL-STATE COOPERATIVE PROGRAMS.

Section 1409A of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3124a) is amended by adding at the end the following:

"(e) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—

"(1) PUBLIC MEETINGS.—All meetings of any entity described in paragraph (3) shall be publicly announced in advance and shall be open to the public. Detailed minutes of meetings and other appropriate records of the activities of such an entity shall be kept and made available to the public on request. Records.

"(2) EXEMPTION.—The Federal Advisory Committee Act (5 U.S.C. App.) and title XVIII of this Act shall not apply to any entity described in paragraph (3).

"(3) ENTITIES DESCRIBED.—This subsection shall apply to any committee, board, commission, panel, or task force, or similar entity that—

"(A) is created for the purpose of cooperative efforts in agricultural research, extension, or teaching; and

"(B) consists entirely of—

"(i) full-time Federal employees; and

"(ii) one or more individuals who are employed by, or are officials of—

"(I) a State cooperative institution or State cooperative agency; or

"(II) a public college or university or other postsecondary institution.".

SEC. 804. COORDINATION AND PLANNING OF AGRICULTURAL RESEARCH, EXTENSION, AND EDUCATION.

The National Agricultural Research, Extension, and Teaching Policy Act of 1977 is amended by inserting after section 1413 (7 U.S.C. 3128) the following:

7 USC 3129.

"SEC. 1413A. ACCOUNTABILITY.

"(a) REVIEW OF INFORMATION TECHNOLOGY SYSTEMS.—The Secretary shall conduct a comprehensive review of state-of-the-art information technology systems that are available for use in developing the system required by subsection (b).

"(b) MONITORING AND EVALUATION SYSTEM.—The Secretary shall develop and carry out a system to monitor and evaluate agricultural research and extension activities conducted or supported by the Department of Agriculture that will enable the Secretary to measure the impact and effectiveness of research, extension, and education programs according to priorities, goals, and mandates established by law. In developing the system, the Secretary shall incorporate information transfer technologies to optimize public access to research information.

"(c) CONSISTENCY WITH OTHER REQUIREMENTS.—The Secretary shall develop and implement the system in a manner consistent with the Government Performance and Results Act of 1993 (Public Law 103–62; 107 Stat. 285) and amendments made by the Act.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

7 USC 3129a.

"SEC. 1413B. FEDERAL ADVISORY COMMITTEE ACT EXEMPTION FOR COMPETITIVE RESEARCH, EXTENSION, AND EDUCATION PROGRAMS.

"The Federal Advisory Committee Act (5 U.S.C. App.) and title XVIII of this Act shall not apply to any committee, board, commission, panel, or task force, or similar entity, created solely for the purpose of reviewing applications or proposals requesting funding under any competitive research, extension, or education program carried out by the Secretary.".

SEC. 805. GRANTS AND FELLOWSHIPS FOR FOOD AND AGRICULTURAL SCIENCES EDUCATION.

(a) PURPOSE OF GRANTS.—Section 1417(b) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3152(b)) is amended by striking paragraph (4) and inserting the following:

"(4) to design and implement food and agricultural programs to build teaching and research capacity at colleges and universities having significant minority enrollments;".

(b) RESEARCH FOUNDATIONS.—Section 1417(c) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3152(c)) is amended by adding at the end the following:

"(3) RESEARCH FOUNDATIONS.—An eligible college or university under subsection (b) includes a research foundation maintained by the college or university.".

(c) EXTENSION OF PROGRAM.—Section 1417(i) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3152(i)) is amended by striking "1995" and inserting "1997".

(d) SECONDARY EDUCATION AND 2-YEAR POSTSECONDARY EDUCATION TEACHING PROGRAMS.—Section 1417 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3152) is amended—

(1) by redesignating subsections (h) and (i) as subsections (i) and (j), respectively; and

(2) by inserting after subsection (g) the following:

"(h) SECONDARY EDUCATION AND 2-YEAR POSTSECONDARY EDUCATION TEACHING PROGRAMS.—

"(1) DEFINITIONS.—In this subsection:

"(A) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given the term in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

"(B) SECONDARY SCHOOL.—The term 'secondary school' has the meaning given the term in section 14101(25) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801(25)).

"(2) AGRISCIENCE AND AGRIBUSINESS EDUCATION.—The Secretary shall—

"(A) promote and strengthen secondary education and 2-year postsecondary education in agriscience and agribusiness in order to help ensure the existence in the United States of a qualified workforce to serve the food and agricultural sciences system; and

"(B) promote complementary and synergistic linkages among secondary, 2-year postsecondary, and higher education programs in the food and agricultural sciences in order to promote excellence in education and encourage more young Americans to pursue and complete a baccalaureate or higher degree in the food and agricultural sciences.

"(3) GRANTS.—The Secretary may make competitive or noncompetitive grants, for grant periods not to exceed 5 years, to public secondary schools, and institutions of higher education that award an associate's degree, that the Secretary determines have made a commitment to teaching agriscience and agribusiness—

"(A) to enhance curricula in agricultural education;

"(B) to increase faculty teaching competencies;

"(C) to interest young people in pursuing higher education in order to prepare for scientific and professional careers in the food and agricultural sciences;

"(D) to promote the incorporation of agriscience and agribusiness subject matter into other instructional programs, particularly classes in science, business, and consumer education;

"(E) to facilitate joint initiatives by the grant recipient with other secondary schools, institutions of higher education that award an associate's degree, and institutions

of higher education that award a bachelor's degree to maximize the development and use of resources, such as faculty, facilities, and equipment, to improve agriscience and agribusiness education; and

"(F) to support other initiatives designed to meet local, State, regional, or national needs related to promoting excellence in agriscience and agribusiness education.".

SEC. 806. GRANTS FOR RESEARCH ON THE PRODUCTION AND MARKETING OF ALCOHOLS AND INDUSTRIAL HYDROCARBONS FROM AGRICULTURAL COMMODITIES AND FOREST PRODUCTS.

Section 1419(d) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3154(d)) is amended by striking "1995" and inserting "1997".

SEC. 807. POLICY RESEARCH CENTERS.

The National Agricultural Research, Extension, and Teaching Policy Act of 1977 is amended by inserting after section 1419 (7 U.S.C. 3154) the following:

7 USC 3155.

"SEC. 1419A. POLICY RESEARCH CENTERS.

"(a) IN GENERAL.—Consistent with this section, the Secretary may make grants, competitive grants, and special research grants to, and enter into cooperative agreements and other contracting instruments with, policy research centers described in subsection (b) to conduct research and education programs that are objective, operationally independent, and external to the Federal Government and that concern the effect of public policies on—

"(1) the farm and agricultural sectors;

"(2) the environment;

"(3) rural families, households, and economies; and

"(4) consumers, food, and nutrition.

"(b) ELIGIBLE RECIPIENTS.—State agricultural experiment stations, colleges and universities, other research institutions and organizations, private organizations, corporations, and individuals shall be eligible to apply for funding under subsection (a).

"(c) ACTIVITIES.—Under this section, funding may be provided for disciplinary and interdisciplinary research and education concerning policy research activities consistent with this section, including activities that—

"(1) quantify the implications of public policies and regulations;

"(2) develop theoretical and research methods;

"(3) collect and analyze data for policymakers, analysts, and individuals; and

"(4) develop programs to train analysts.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section for fiscal years 1996 and 1997.".

SEC. 808. HUMAN NUTRITION INTERVENTION AND HEALTH PROMOTION RESEARCH PROGRAM.

The National Agricultural Research, Extension, and Teaching Policy Act of 1977 is amended by striking section 1424 (7 U.S.C. 3174) and inserting the following:

"SEC. 1424. HUMAN NUTRITION INTERVENTION AND HEALTH PROMOTION RESEARCH PROGRAM. 7 USC 3174.

"(a) AUTHORITY OF SECRETARY.—The Secretary may establish, and award grants for projects for, a multi-year research initiative on human nutrition intervention and health promotion.

"(b) EMPHASIS OF INITIATIVE.—In administering human nutrition research projects under this section, the Secretary shall give specific emphasis to—

"(1) coordinated longitudinal research assessments of nutritional status; and

"(2) the implementation of unified, innovative intervention strategies,

to identify and solve problems of nutritional inadequacy and contribute to the maintenance of health, well-being, performance, and productivity of individuals, thereby reducing the need of the individuals to use the health care system and social programs of the United States.

"(c) ADMINISTRATION OF FUNDS.—The Administrator of the Agricultural Research Service shall administer funds made available to carry out this section to ensure a coordinated approach to health and nutrition research efforts.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section for fiscal years 1996 and 1997.

"SEC. 1424A. PILOT RESEARCH PROGRAM TO COMBINE MEDICAL AND AGRICULTURAL RESEARCH. 7 USC 3174a.

"(a) FINDINGS.—Congress finds the following:

"(1) Although medical researchers in recent years have demonstrated that there are several naturally occurring compounds in many vegetables and fruits that can aid in the prevention of certain forms of cancer, coronary heart disease, stroke, and atherosclerosis, there has been almost no research conducted to enhance these compounds in food plants by modern breeding and molecular genetic methods.

"(2) By linking the appropriate medical and agricultural research scientists in a highly-focused, targeted research program, it should be possible to develop new varieties of vegetables and fruits that would provide greater prevention of diet-related diseases that are a major cause of death in the United States.

"(b) PILOT RESEARCH PROGRAM.—The Secretary shall conduct, through the Cooperative State Research, Education, and Extension Service, a pilot research program to link major cancer and heart and other circulatory disease research efforts with agricultural research efforts to identify compounds in vegetables and fruits that prevent these diseases. Using information derived from such combined research efforts, the Secretary shall assist in the development of new varieties of vegetables and fruits having enhanced therapeutic properties for disease prevention.

"(c) AGREEMENTS.—The Secretary shall carry out the pilot program through agreements entered into with land-grant colleges or universities, other universities, State agricultural experiment stations, the State cooperative extension services, nonprofit organizations with demonstrable expertise, or Federal or State governmental entities. The Secretary shall enter into the agreements on a competitive basis.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $10,000,000 for fiscal year 1997 to carry out the pilot program.".

SEC. 809. FOOD AND NUTRITION EDUCATION PROGRAM.

Section 1425(c)(3) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3175(c)(3)) is amended by striking "$63,000,000" and all that follows through "fiscal year 1995" and inserting ", $83,000,000 for each of fiscal years 1996 and 1997".

SEC. 810. PURPOSES AND FINDINGS RELATING TO ANIMAL HEALTH AND DISEASE RESEARCH.

Section 1429 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3191) is amended to read as follows:

"SEC. 1429. PURPOSES AND FINDINGS RELATING TO ANIMAL HEALTH AND DISEASE RESEARCH.

"(a) PURPOSES.—The purposes of this subtitle are to—

"(1) promote the general welfare through the improved health and productivity of domestic livestock, poultry, aquatic animals, and other income-producing animals that are essential to the food supply of the United States and the welfare of producers and consumers of animal products;

"(2) improve the health of horses;

"(3) facilitate the effective treatment of, and, to the extent possible, prevent animal and poultry diseases in both domesticated and wild animals that, if not controlled, would be disastrous to the United States livestock and poultry industries and endanger the food supply of the United States;

"(4) improve methods for the control of organisms and residues in food products of animal origin that could endanger the human food supply;

"(5) improve the housing and management of animals to improve the well-being of livestock production species;

"(6) minimize livestock and poultry losses due to transportation and handling;

"(7) protect human health through control of animal diseases transmissible to humans;

"(8) improve methods of controlling the births of predators and other animals; and

"(9) otherwise promote the general welfare through expanded programs of research and extension to improve animal health.

"(b) FINDINGS.—Congress finds that—

"(1) the total animal health and disease research and extension efforts of State colleges and universities and of the Federal Government would be more effective if there were close coordination between the efforts; and

"(2) colleges and universities having accredited schools or colleges of veterinary medicine and State agricultural experiment stations that conduct animal health and disease research are especially vital in training research workers in animal health and related disciplines.".

SEC. 811. ANIMAL HEALTH AND DISEASE CONTINUING RESEARCH.

Section 1433 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3195) is amended—

(1) in the first sentence of subsection (a), by striking "1995" and inserting "1997";

(2) in subsection (b)(2)—

(A) by striking "domestic livestock and poultry" each place it appears and inserting "domestic livestock, poultry, and commercial aquaculture species"; and

(B) in the second sentence, by striking "horses, and poultry" and inserting "horses, poultry, and commercial aquaculture species";

(3) in subsection (d), by striking "domestic livestock and poultry" and inserting "domestic livestock, poultry, and commercial aquaculture species"; and

(4) in subsection (f), by striking "domestic livestock and poultry" and inserting "domestic livestock, poultry, and commercial aquaculture species".

SEC. 812. ANIMAL HEALTH AND DISEASE NATIONAL OR REGIONAL RESEARCH.

Section 1434 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3196) is amended—

(1) in subsection (a)—

(A) by inserting "or national or regional problems relating to pre-harvest, on-farm food safety, or animal well-being," after "problems,"; and

(B) by striking "1995" and inserting "1997";

(2) in subsection (b), by striking "eligible institutions" and inserting "State agricultural experiment stations, colleges and universities, other research institutions and organizations, Federal agencies, private organizations or corporations, and individuals";

(3) in subsection (c)—

(A) in the first sentence, by inserting ", food safety, and animal well-being" after "animal health and disease"; and

(B) in the fourth sentence—

(i) by redesignating paragraphs (2) and (3) as paragraphs (4) and (5), respectively; and

(ii) by inserting after paragraph (1) the following:

"(2) any food safety problem that has a significant pre-harvest (on-farm) component and is recognized as posing a significant health hazard to the consuming public;

"(3) issues of animal well-being related to production methods that will improve the housing and management of animals to improve the well-being of livestock production species;";

(4) in the first sentence of subsection (d), by striking "to eligible institutions"; and

(5) by adding at the end the following:

"(f) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) and title XVIII of this Act shall not apply to a panel or board created solely for the purpose of reviewing applications or proposals submitted under this subtitle.".

SEC. 813. GRANT PROGRAM TO UPGRADE AGRICULTURAL AND FOOD SCIENCES FACILITIES AT 1890 LAND-GRANT COLLEGES.

Section 1447(b) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3222b(b)) is amended by striking "$8,000,000 for each of the fiscal years 1991 through 1995" and inserting ", $15,000,000 for each of fiscal years 1996 and 1997".

SEC. 814. NATIONAL RESEARCH AND TRAINING CENTENNIAL CENTERS.

Section 1448 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3222c) is amended—

(1) in subsection (a)(1), by inserting ", or fiscal years 1996 and 1997," after "1995"; and

(2) in subsection (f), by striking "1995" and inserting "1997".

SEC. 815. PROGRAMS FOR HISPANIC-SERVING INSTITUTIONS.

(a) IN GENERAL.—The National Agricultural Research, Extension, and Teaching Policy Act of 1977 is amended by inserting after section 1448 (7 U.S.C. 3222c) the following:

"Subtitle H—Programs for Hispanic-Serving Institutions

7 USC 3241.

"SEC. 1455. EDUCATION GRANTS PROGRAMS FOR HISPANIC-SERVING INSTITUTIONS.

"(a) GRANT AUTHORITY.—The Secretary may make competitive grants (or grants without regard to any requirement for competition) to Hispanic-serving institutions for the purpose of promoting and strengthening the ability of Hispanic-serving institutions to carry out education, applied research, and related community development programs.

"(b) USE OF GRANT FUNDS.—Grants made under this section shall be used—

"(1) to support the activities of consortia of Hispanic-serving institutions to enhance educational equity for underrepresented students;

"(2) to strengthen institutional educational capacities, including libraries, curriculum, faculty, scientific instrumentation, instruction delivery systems, and student recruitment and retention, in order to respond to identified State, regional, national, or international educational needs in the food and agricultural sciences;

"(3) to attract and support undergraduate and graduate students from underrepresented groups in order to prepare them for careers related to the food, agricultural, and natural resource systems of the United States, beginning with the mentoring of students at the high school level and continuing with the provision of financial support for students through their attainment of a doctoral degree; and

"(4) to facilitate cooperative initiatives between 2 or more Hispanic-serving institutions, or between Hispanic-serving institutions and units of State government or the private sector, to maximize the development and use of resources, such as faculty, facilities, and equipment, to improve food and agricultural sciences teaching programs.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to make grants under this section $20,000,000 for fiscal year 1997.".

(b) HISPANIC-SERVING INSTITUTION DEFINED.—Paragraph (9) of section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103) is amended to read as follows:

"(9) the term 'Hispanic-serving institution' has the meaning given the term by section 316(b)(1) of the Higher Education Act of 1965 (20 U.S.C. 1059c(b)(1));".

SEC. 816. INTERNATIONAL AGRICULTURAL RESEARCH AND EXTENSION.

Section 1458(a)(8) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3291(a)(8)) is amended—

(1) by striking "establish" and inserting "continue"; and

(2) by striking "to be".

SEC. 817. AUTHORIZATION OF APPROPRIATIONS FOR AGRICULTURAL RESEARCH PROGRAMS.

Section 1463 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3311) is amended by striking "1995" both places it appears and inserting "1997".

SEC. 818. AUTHORIZATION OF APPROPRIATIONS FOR EXTENSION EDUCATION.

Section 1464 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3312) is amended by striking "fiscal year 1995" and inserting "each of fiscal years 1995 through 1997".

SEC. 819. SUPPLEMENTAL AND ALTERNATIVE CROPS RESEARCH.

(a) EXTENSION OF PROGRAM.—Section 1473D(a) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3319d(a)) is amended by striking "1995" and inserting "1997".

(b) ELIMINATION OF PILOT NATURE OF PROGRAM.—Section 1473D of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3319d) is amended—

(1) in subsection (a), by striking "and pilot";

(2) in subsection (c)(2)(B), by striking "at pilot sites" and all that follows through "the area";

(3) in subsection (c)(2)(C), by striking "from pilot sites";

(4) in subsection (c)(2)(D)—

(A) by striking "near such pilot sites"; and

(B) by striking "successful pilot program" and inserting "successful program"; and

(5) in paragraph (3), by striking "pilot".

(c) ADDITIONAL AUTHORITY.—Section 1473D(c)(3) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3319d(c)(3)) is amended—

(1) in subparagraph (C), by striking "and" at the end;

(2) in subparagraph (D), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(E) to conduct fundamental and applied research related to the development of new commercial products derived from

natural plant material for industrial, medical, and agricultural applications; and

"(F) to participate with colleges and universities, other Federal agencies, and private sector entities in conducting research described in subparagraph (E).".

SEC. 820. AQUACULTURE ASSISTANCE PROGRAMS.

(a) DEFINITION.—Section 1404(3) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103(3)) is amended by inserting "ornamental fish," after "reptile,".

(b) REPORTS.—Section 1475 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3322) is amended—

(1) by striking subsection (e); and

(2) by redesignating subsections (f) and (g) as subsections (e) and (f), respectively.

(c) AUTHORIZATION OF APPROPRIATIONS FOR AQUACULTURE RESEARCH FACILITIES.—Section 1476(b) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3323(b)) is amended by striking "1995" and inserting "1997".

(d) AUTHORIZATION OF APPROPRIATIONS FOR RESEARCH AND EXTENSION.—Section 1477 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3324) is amended by striking "1995" and inserting "1997".

SEC. 821. AUTHORIZATION OF APPROPRIATIONS FOR RANGELAND RESEARCH.

Section 1483(a) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3336(a)) is amended by striking "1995" and inserting "1997".

Subtitle B—Modification and Extension of Activities Under 1990 Act

SEC. 831. WATER QUALITY RESEARCH, EDUCATION, AND COORDINATION.

Section 1481(d) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5501(d)) is amended by striking "1995" and inserting "1997".

SEC. 832. NATIONAL GENETICS RESOURCES PROGRAM.

(a) FUNCTIONS.—Section 1632(d) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5841(d)) is amended by striking paragraph (4) and inserting the following:

"(4) unless otherwise prohibited by law, have the right to make available on request, without charge and without regard to the country from which the request originates, the genetic material that the program assembles;".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 1635(b) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5844(b)) is amended by striking "1995" and inserting "1997".

SEC. 833. NATIONAL AGRICULTURAL WEATHER INFORMATION SYSTEM.

Section 1641(c) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5855(c)) is amended by striking "1995" and inserting "1997".

SEC. 834. LIVESTOCK PRODUCT SAFETY AND INSPECTION PROGRAM.

Section 1670(e) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5923(e)) is amended by striking "1995" and inserting "1997".

SEC. 835. PLANT GENOME MAPPING PROGRAM.

Section 1671(g) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5924(g)) is amended by inserting "for fiscal years 1996 and 1997" after "appropriated".

SEC. 836. CERTAIN SPECIALIZED RESEARCH PROGRAMS.

Subsections (d)(4), (e)(4), and (i) of section 1672 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5925) are each amended by striking "1995" and inserting "1997".

SEC. 837. AGRICULTURAL TELECOMMUNICATIONS PROGRAM.

Section 1673(h) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5926(h)) is amended by striking "1995" and inserting "1997".

SEC. 838. NATIONAL CENTERS FOR AGRICULTURAL PRODUCT QUALITY RESEARCH.

(a) PURPOSES OF NATIONAL CENTERS.—Section 1675(a) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5928(a)) is amended—

(1) by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively; and

(2) by inserting after paragraph (4) the following:

"(5) enhance agricultural competitiveness through product quality research and technology implementation;".

(b) REGIONAL BASIS OF CENTERS.—Section 1675(b) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5928(b)) is amended by striking paragraph (1) and inserting the following:

"(1) REGIONAL BASIS.—The centers shall be regionally based units that conduct a broad spectrum of research, development, and education programs to enhance the competitiveness, quality, safety and wholesomeness of agricultural products.".

(c) PROGRAM PLAN AND REVIEW.—Section 1675(d) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5928(b)) is amended—

(1) in paragraph (1), by striking the second sentence; and

(2) in paragraph (2), by striking ", but not less" and all that follows through "the Secretary".

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 1675(g)(1) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5928(g)(1)) is amended by striking "1995" and inserting "1997".

SEC. 839. RED MEAT SAFETY RESEARCH CENTER.

Section 1676 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5929) is amended to read as follows:

"SEC. 1676. RED MEAT SAFETY RESEARCH CENTER.

"(a) ESTABLISHMENT OF CENTER.—The Secretary of Agriculture shall award a grant, on a competitive basis, to a research facility described in subsection (b) to establish a red meat safety research center. Grants.

"(b) ELIGIBLE RESEARCH FACILITY DESCRIBED.—A research facility eligible for a grant under subsection (a) is a research facility that—

"(1) is part of a land-grant college or university, or other federally supported agricultural research facility, located in close proximity to a livestock slaughter and processing facility; and

"(2) is staffed by professionals with a wide diversity of scientific expertise covering all aspects of meat science.

"(c) RESEARCH CONDUCTED.—The red meat safety research center established under subsection (a) shall carry out research related to general food safety, including—

"(1) the development of intervention strategies that reduce microbiological contamination of carcass surfaces;

"(2) research regarding microbiological mapping of carcass surfaces; and

"(3) the development of model hazard analysis and critical control point plans.

"(d) ADMINISTRATION OF FUNDS.—The Secretary of Agriculture shall administer funds appropriated to carry out this section.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary for fiscal year 1997 to carry out this section.".

SEC. 840. INDIAN RESERVATION EXTENSION AGENT PROGRAM.

Section 1677 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5930) is amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following:

"(f) REDUCED REGULATORY BURDEN.—On a determination by the Secretary of Agriculture that a program carried out under this section has been satisfactorily administered for not less than 2 years, the Secretary shall implement a reduced reapplication process for the continued operation of the program in order to reduce regulatory burdens on participating university and tribal entities.".

SEC. 841. ASSISTIVE TECHNOLOGY PROGRAM FOR FARMERS WITH DISABILITIES.

Section 1680 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5933) is amended—

(1) in subsection (a)(6)(B), by striking "1996" and inserting "1997"; and

(2) in subsection (b)(2), by striking "1996" and inserting "1997".

SEC. 842. NATIONAL RURAL INFORMATION CENTER CLEARINGHOUSE.

Section 2381(e) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 3125b(e)) is amended by striking "1995" and inserting "1997".

SEC. 843. GLOBAL CLIMATE CHANGE.

Section 2412 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 6710) is amended by striking "1996" and inserting "1997".

Subtitle C—Repeal of Certain Activities and Authorities

SEC. 851. SUBCOMMITTEE ON FOOD, AGRICULTURAL, AND FORESTRY RESEARCH.

Section 401(h) of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6651(h)) is amended by striking the second through fifth sentences.

SEC. 852. JOINT COUNCIL ON FOOD AND AGRICULTURAL SCIENCES.

(a) REPEAL.—Section 1407 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3122) is repealed.

(b) CONFORMING AMENDMENTS.—

(1) Section 1405 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3121) is amended—

(A) in paragraph (5), by striking "Joint Council, Advisory Board," and inserting "Advisory Board"; and

(B) in paragraph (11), by striking "the Joint Council,".

(2) Section 1410(2) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3125(2)) is amended by striking "the recommendations of the Joint Council developed under section 1407(f),".

(3) Section 1412 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3127) is amended—

(A) in the section heading, by striking "**THE JOINT COUNCIL, ADVISORY BOARD,**" and inserting "**ADVISORY BOARD**";

(B) in subsection (a)—

(i) by striking "Joint Council, the Advisory Board," and inserting "Advisory Board";

(ii) by striking "the cochairpersons of the Joint Council and" each place it appears; and

(iii) in paragraph (2), by striking "one shall serve as the executive secretary to the Joint Council, one shall serve as the executive secretary to the Advisory Board," and inserting "one shall serve as the executive secretary to the Advisory Board"; and

(C) in subsections (b) and (c), by striking "Joint Council, Advisory Board," each place it appears and inserting "Advisory Board".

(4) Section 1413 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3128) is amended—

(A) in subsection (a), by striking "Joint Council, the Advisory Board," and inserting "Advisory Board"; and

(B) in subsection (b), by striking "Joint Council, Advisory Board," and inserting "Advisory Board".

(5) Section 1434(c) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3196(c)) is amended—

(A) in the second sentence, by striking "Joint Council, the Advisory Board," and inserting "Advisory Board"; and

(B) in the fourth sentence, by striking "the Joint Council,".

SEC. 853. AGRICULTURAL SCIENCE AND TECHNOLOGY REVIEW BOARD.

(a) REPEAL.—Section 1408A of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3123a) is repealed.

(b) CONFORMING AMENDMENTS.—

(1) Section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103) is amended—

(A) in paragraph (16)(F), by adding "and" at the end;

(B) in paragraph (17), by striking "; and" at the end and inserting a period; and

(C) by striking paragraph (18).

(2) Section 1405(12) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3121(12)) is amended by striking ", after coordination with the Technology Board,".

(3) Section 1410(2) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3125(2)) (as amended by section 802(b)(2)) is amended by striking "and the recommendations of the Technology Board developed under section 1408A(d)".

(4) Section 1412 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3127) (as amended by section 852(b)(3)) is amended—

(A) in the section heading, by striking "**AND TECHNOLOGY BOARD**";

(B) in subsection (a)—

(i) by striking "and the Technology Board" each place it appears; and

(ii) in paragraph (2), by striking "and one shall serve as the executive secretary to the Technology Board"; and

(C) in subsections (b) and (c), by striking "and Technology Board" each place it appears.

(5) Section 1413 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3128) (as amended by section 852(b)(4)) is amended—

(A) in subsection (a), by striking "or the Technology Board"; and

(B) in subsection (b), by striking "and the Technology Board".

SEC. 854. ANIMAL HEALTH SCIENCE RESEARCH ADVISORY BOARD.

Section 1432 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3194) is repealed.

SEC. 855. RESIDENT INSTRUCTION PROGRAM AT 1890 LAND-GRANT COLLEGES.

Section 1446 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3222a) is repealed.

SEC. 856. GRANTS TO STATES FOR INTERNATIONAL TRADE DEVELOPMENT CENTERS.

Section 1458A of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3292) is repealed.

SEC. 857. RANGELAND RESEARCH.

(a) REPORTS.—Section 1481 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3334) is repealed.

(b) ADVISORY BOARD.—Section 1482 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3335) is repealed.

SEC. 858. COMPOSTING RESEARCH AND EXTENSION PROGRAM.

Section 1456 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 3130) is repealed.

SEC. 859. EDUCATION PROGRAM REGARDING HANDLING OF AGRICULTURAL CHEMICALS AND AGRICULTURAL CHEMICAL CONTAINERS.

(a) REPEAL.—Section 1499A of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 3125c) is repealed.

(b) CONFORMING AMENDMENT.—Section 1499(b) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5506(b)) is amended by striking "and section 1499A".

SEC. 860. PROGRAM ADMINISTRATION REGARDING SUSTAINABLE AGRICULTURE RESEARCH AND EDUCATION.

(a) REPORTING REQUIREMENT.—Section 1622 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5812) is amended by striking subsection (b).

(b) ADVISORY COUNCIL.—Section 1622 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5812) is amended—

(1) in subsection (a)—

(A) by striking paragraph (2);

(B) in paragraph (3), by striking "subsection (e)" and inserting "subsection (b)"; and

(C) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively;

(2) by striking subsections (c) and (d);

(3) by redesignating subsection (e) as subsection (b); and

(4) in subsection (b)(2) (as so redesignated)—

(A) by striking subparagraph (A); and

(B) by redesignating subparagraphs (B) through (F) as subparagraphs (A) through (E), respectively.

(c) CONFORMING AMENDMENTS.—

(1) Section 1619(b) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5801(b)) is amended—

(A) by striking paragraph (7); and

(B) by redesignating paragraphs (8), (9), and (10) as paragraphs (7), (8), and (9), respectively.

(2) Section 1621(c) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5811(c)) is amended—

(A) in paragraph (1)—

(i) by striking subparagraph (A); and

(ii) by redesignating subparagraphs (B) through (E) as subparagraphs (A) through (D), respectively; and

(B) in paragraph (2)—

(i) by striking subparagraph (A); and

(ii) by redesignating subparagraphs (B) through (F) as subparagraphs (A) through (E), respectively.

(3) Section 1628(b) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5831(b)) is amended by striking "Advisory Council, the Soil Conservation Service," and inserting "Natural Resources Conservation Service".

SEC. 861. RESEARCH REGARDING PRODUCTION, PREPARATION, PROCESSING, HANDLING, AND STORAGE OF AGRICULTURAL PRODUCTS.

Subtitle E of title XVI of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5871 et seq.) is repealed.

SEC. 862. PLANT AND ANIMAL PEST AND DISEASE CONTROL PROGRAM.

(a) REPEAL.—Subtitle F of title XVI of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5881 et seq.) is repealed.

(b) CONFORMING AMENDMENTS.—

(1) Section 28(b)(2)(A) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136w–3(b)(2)(A)) is amended by striking "and the information required by section 1651 of the Food, Agriculture, Conservation, and Trade Act of 1990".

(2) Section 1627(a)(3) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5821(a)(3)) is amended by striking "and section 1650".

(3) Section 1628 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5831) is amended by striking "section 1650," each place it appears in subsections (a) and (d).

(4) Section 1629 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5832) is amended by striking "section 1650," each place it appears in subsections (f) and (g)(11).

SEC. 863. CERTAIN SPECIALIZED RESEARCH PROGRAMS.

Section 1672 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5925) is amended—

(1) by striking subsections (a), (f), (g), (h), and (j); and

(2) by redesignating subsections (i) and (k) as subsections (f) and (g), respectively.

SEC. 864. COMMISSION ON AGRICULTURAL RESEARCH FACILITIES.

Section 1674 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5927) is repealed.

SEC. 865. SPECIAL GRANT TO STUDY CONSTRAINTS ON AGRICULTURAL TRADE.

Section 1678 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5931) is repealed.

SEC. 866. PILOT PROJECT TO COORDINATE FOOD AND NUTRITION EDUCATION PROGRAMS.

Section 1679 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5932) is repealed.

SEC. 867. DEMONSTRATION AREAS FOR RURAL ECONOMIC DEVELOPMENT.

Section 2348 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2662a) is repealed.

SEC. 868. TECHNICAL ADVISORY COMMITTEE REGARDING GLOBAL CLIMATE CHANGE.

Section 2404 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 6703) is repealed.

SEC. 869. COMMITTEE OF NINE UNDER HATCH ACT OF 1887.

Section 3(c)3 of the Act of March 2, 1887 (commonly known as the "Hatch Act of 1887"; 7 U.S.C. 361c(c)3) is amended by striking ", and shall be used" and all that follows through "by this paragraph".

SEC. 870. COTTON CROP REPORTS.

The Act of May 3, 1924 (43 Stat. 115, chapter 149; 7 U.S.C. 475), is repealed.

SEC. 871. RURAL ECONOMIC AND BUSINESS DEVELOPMENT AND ADDITIONAL RESEARCH GRANTS UNDER TITLE V OF RURAL DEVELOPMENT ACT OF 1972.

Section 502 of the Rural Development Act of 1972 (7 U.S.C. 2662) is amended by striking subsections (g) and (j).

SEC. 872. HUMAN NUTRITION RESEARCH.

Section 1452 of the National Agricultural Research, Extension, and Teaching Policy Act Amendments of 1985 (Public Law 99–198; 7 U.S.C. 3173 note) is repealed.

SEC. 873. GRANTS TO UPGRADE 1890 LAND-GRANT COLLEGE EXTENSION FACILITIES.

Section 1416 of the National Agricultural Research, Extension, and Teaching Policy Act Amendments of 1981 (7 U.S.C. 3224) is repealed.

SEC. 874. INDIAN SUBSISTENCE FARMING DEMONSTRATION GRANT PROGRAM.

Subtitle C of title IX of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991 (Public Law 102–237; 7 U.S.C. 5930 note) is repealed.

Subtitle D—Miscellaneous Research Provisions

SEC. 881. CRITICAL AGRICULTURAL MATERIALS RESEARCH.

(a) REPORTS.—Section 4 of the Critical Agricultural Materials Act (7 U.S.C. 178b) is amended—

(1) by striking subsection (g); and

(2) by redesignating subsection (h) as subsection (g).

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 16(a) of the Critical Agricultural Materials Act (7 U.S.C. 178n(a)) is amended by striking "1995" and inserting "1997".

SEC. 882. MEMORANDUM OF AGREEMENT REGARDING 1994 INSTITUTIONS.

Section 533 of the Equity in Educational Land-Grant Status Act of 1994 (Public Law 103–382; 7 U.S.C. 301 note) is amended by adding at the end the following:

"(d) MEMORANDUM OF AGREEMENT.—Not later than January 6, 1997, the Secretary shall develop and implement a formal memo- Native Americans.

randum of agreement with the 1994 Institutions to establish programs to ensure that tribally controlled colleges and Native American communities equitably participate in Department of Agriculture employment, programs, services, and resources.".

SEC. 883. SMITH-LEVER ACT FUNDING FOR 1890 LAND-GRANT COLLEGES, INCLUDING TUSKEGEE UNIVERSITY.

(a) ELIGIBILITY FOR FUNDS.—Section 3(d) of the Act of May 8, 1914 (commonly known as the "Smith-Lever Act"; 7 U.S.C. 343(d)), is amended by adding at the end the following: "A college or university eligible to receive funds under the Act of August 30, 1890 (7 U.S.C. 321 et seq.), including Tuskegee University, may apply for and receive directly from the Secretary of Agriculture—

"(1) amounts made available under this subsection after September 30, 1995, to carry out programs or initiatives for which no funds were made available under this subsection for fiscal year 1995, or any previous fiscal year, as determined by the Secretary; and

"(2) amounts made available after September 30, 1995, to carry out programs or initiatives funded under this subsection prior to that date that are in excess of the highest amount made available for the programs or initiatives under this subsection for fiscal year 1995, or any previous fiscal year, as determined by the Secretary.".

(b) CONFORMING AMENDMENT.—The third sentence of section 1444(a) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3221(a)) is amended by inserting before the period at the end the following: ", except that for the purpose of this calculation, the total appropriations shall not include amounts made available after September 30, 1995, under section 3(d) of that Act (7 U.S.C. 343(d)), to carry out programs or initiatives for which no funds were made available under section 3(d) of that Act for fiscal year 1995, or any previous fiscal year, as determined by the Secretary, and shall not include amounts made available after September 30, 1995, to carry out programs or initiatives funded under section 3(d) of that Act prior to that date that are in excess of the highest amount made available for the programs or initiatives for fiscal year 1995, or any previous fiscal year, as determined by the Secretary".

SEC. 884. AGRICULTURAL RESEARCH FACILITIES.

(a) RESEARCH FACILITIES.—The Research Facilities Act (7 U.S.C. 390 et seq.) is amended to read as follows:

7 USC 390 note. **"SECTION 1. SHORT TITLE.**

"This Act may be cited as the 'Research Facilities Act'.

7 USC 390. **"SEC. 2. DEFINITIONS.**

"In this Act:

"(1) AGRICULTURAL RESEARCH FACILITY.—The term 'agricultural research facility' means a proposed facility for research in food and agricultural sciences for which Federal funds are requested by a college, university, or nonprofit institution to assist in the construction, alteration, acquisition, modernization, renovation, or remodeling of the facility.

"(2) CONGRESSIONAL AGRICULTURE COMMITTEES.—The term 'congressional agriculture committees' means the Committee

on Appropriations and the Committee on Agriculture of the House of Representatives and the Committee on Appropriations and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

"(3) FOOD AND AGRICULTURAL SCIENCES.—The term 'food and agricultural sciences' means—

"(A) agriculture, including soil and water conservation and use, the use of organic materials to improve soil tilth and fertility, plant and animal production and protection, and plant and animal health;

"(B) the processing, distribution, marketing, and utilization of food and agricultural products;

"(C) forestry, including range management, production of forest and range products, multiple use of forests and rangelands, and urban forestry;

"(D) aquaculture (as defined in section 1404(3) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103(3));

"(E) human nutrition;

"(F) production inputs, such as energy, to improve productivity; and

"(G) germ plasm collection and preservation.

"(4) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture.

"(5) TASK FORCE.—The term 'task force' means the Strategic Planning Task Force established under section 4.

"SEC. 3. REVIEW PROCESS. 7 USC 390a.

"(a) SUBMISSION TO SECRETARY.—Each proposal for an agricultural research facility shall be submitted to the Secretary for review. The Secretary shall review the proposals in the order in which the proposals are received.

"(b) APPLICATION PROCESS.—In consultation with the congressional agriculture committees, the Secretary shall establish an application process for the submission of proposals for agricultural research facilities.

"(c) CRITERIA FOR APPROVAL.—

"(1) DETERMINATION BY SECRETARY.—With respect to each proposal for an agricultural research facility submitted under subsection (a), the Secretary shall determine whether the proposal meets the criteria set forth in paragraph (2).

"(2) CRITERIA.—A proposal for an agricultural research facility shall meet the following criteria:

"(A) NON-FEDERAL SHARE.—The proposal shall certify the availability of at least a 50 percent non-Federal share of the cost of the facility. The non-Federal share shall be paid in cash and may include funding from private sources or from units of State or local government.

"(B) NONDUPLICATION OF FACILITIES.—The proposal shall demonstrate how the agricultural research facility would be complementary to, and not duplicative of, facilities of colleges, universities, and nonprofit institutions, and facilities of the Agricultural Research Service, within the State and region.

"(C) NATIONAL RESEARCH PRIORITIES.—The proposal shall demonstrate how the agricultural research facility would serve—

"(i) 1 or more of the national research policies and priorities set forth in section 1402 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3101); and

"(ii) regional needs.

"(D) LONG-TERM SUPPORT.—The proposal shall demonstrate that the recipient college, university, or nonprofit institution has the ability and commitment to support the long-term, ongoing operating costs of—

"(i) the agricultural research facility after the facility is completed; and

"(ii) each program to be based at the facility.

"(d) EVALUATION OF PROPOSALS.—Not later than 90 days after receiving a proposal under subsection (a), the Secretary shall—

"(1) evaluate and assess the merits of the proposal, including the extent to which the proposal meets the criteria set forth in subsection (c); and

Reports.

"(2) report to the congressional agriculture committees on the results of the evaluation and assessment.

7 USC 390b.

"SEC. 4. TASK FORCE ON 10-YEAR STRATEGIC PLAN FOR AGRICULTURAL RESEARCH FACILITIES.

"(a) ESTABLISHMENT.—Not later than 6 months after the date of enactment of the Federal Agriculture Improvement and Reform Act of 1996, the Secretary shall establish a task force, to be known as the 'Strategic Planning Task Force'. The task force shall be comprised of 15 members.

"(b) COMPOSITION.—The Secretary shall select the members of the task force from a list of individuals recommended by the Advisory Board established under section 1408 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3123). In submitting the list to the Secretary, the Board may recommend for selection individuals (including members of the Advisory Board) who have expertise in facilities development, modernization, construction, consolidation, and closure.

"(c) DUTIES.—The task force shall review all currently operating agricultural research facilities constructed in whole or in part with Federal funds, and all planned agricultural research facilities proposed to be constructed with Federal funds, pursuant to criteria established by the Secretary, to ensure that a comprehensive research capacity is maintained.

"(d) 10-YEAR STRATEGIC PLAN.—Not later than 2 years after the task force is established, the task force shall prepare and submit to the Secretary and the congressional agriculture committees a 10-year strategic plan, reflecting both national and regional perspectives, for development, modernization, construction, consolidation, and closure of Federal agricultural research facilities and agricultural research facilities proposed to be constructed with Federal funds.

"(e) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—

"(1) PUBLIC MEETINGS.—All meetings of the task force shall be publicly announced in advance and shall be open to the public. Detailed minutes of meetings and other appropriate records of the activities of the task force shall be kept and made available to the public on request.

Records.

"(2) EXEMPTION.—The Federal Advisory Committee Act (5 U.S.C. App.) and title XVIII of the Food and Agriculture Act

of 1977 (7 U.S.C. 2281 et seq.) shall not apply to the task force.

"(f) DEFINITION OF AGRICULTURAL RESEARCH FACILITY.—Notwithstanding section 2(1), in this section the term 'agricultural research facility' means a facility for research in food and agricultural sciences.

"SEC. 5. APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT. 7 USC 390c.

"The Federal Advisory Committee Act (5 U.S.C. App.) and title XVIII of the Food and Agriculture Act of 1977 (7 U.S.C. 2281 et seq.) shall not apply to a panel or board created solely for the purpose of reviewing applications or proposals submitted under this Act.

"SEC. 6. AUTHORIZATION OF APPROPRIATIONS. 7 USC 390d.

"(a) IN GENERAL.—Subject to subsection (b), there are authorized to be appropriated such sums as are necessary for fiscal years 1996 and 1997 for the study, plan, design, structure, and related costs of agricultural research facilities under this Act.

"(b) ALLOWABLE ADMINISTRATIVE COSTS.—Not more than 3 percent of the funds made available for any project for an agricultural research facility shall be available for administration of the project.".

(b) APPLICATION OF AMENDMENT.—The amendment made by subsection (a), other than section 4 of the Research Facilities Act (as amended by subsection (a)), shall not apply to any project for an agricultural research facility for which funds have been made available for a feasibility study or for any phase of the project prior to October 1, 1995. 7 USC 390 note.

(c) AUTHORIZATION OF APPROPRIATIONS FOR FEDERAL FACILITIES.—Section 1431 of the National Agricultural Research, Extension, and Teaching Policy Act Amendments of 1985 (Public Law 99–198; 99 Stat. 1556) is amended—

(1) in subsection (a)—

(A) by striking "(a)"; and

(B) by striking "1995" and inserting "1997"; and

(2) by striking subsection (b).

(d) CONFORMING AMENDMENT.—Section 1463(a) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3311(a)) is amended by striking "1416,".

SEC. 885. NATIONAL COMPETITIVE RESEARCH INITIATIVE.

(a) AUTHORIZATION OF APPROPRIATIONS FOR COMPETITIVE GRANTS.—Subsection (b)(10) of the Competitive, Special, and Facilities Research Grant Act (7 U.S.C. 450i(b)(10)) is amended—

(1) by striking "fiscal year 1995" and inserting "each of fiscal years 1995 through 1997"; and

(2) in subparagraph (B), by striking "20 percent" and inserting "40 percent".

(b) AVAILABILITY OF FUNDS.—Subsection (b) of the Competitive, Special, and Facilities Research Grant Act (7 U.S.C. 450i(b)) is amended by adding at the end the following:

"(11) AVAILABILITY OF FUNDS.—Funds made available under paragraph (10) shall be available for obligation for a 2-year period beginning on October 1 of the fiscal year for which the funds are made available.".

SEC. 886. RURAL DEVELOPMENT RESEARCH AND EDUCATION.

Section 502(a) of the Rural Development Act of 1972 (7 U.S.C. 2662(a)) is amended by inserting after the first sentence the following: "The rural development extension programs shall also promote coordinated and integrated rural community initiatives that advance and empower capacity building through leadership development, entrepreneurship, business development and management training, and strategic planning to increase jobs, income, and quality of life in rural communities.".

SEC. 887. DAIRY GOAT RESEARCH PROGRAM.

Section 1432(b)(5) of the National Agricultural Research, Extension, and Teaching Policy Act Amendments of 1981 (Public Law 97–98; 7 U.S.C. 3222 note) is amended by striking "1995" and inserting "1997".

SEC. 888. COMPETITIVE GRANTS FOR RESEARCH TO ERADICATE AND CONTROL BROWN CITRUS APHID AND CITRUS TRISTEZA VIRUS.

Section 1672 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5925) (as amended by section 863) is amended by inserting before subsection (b) the following:

"(a) BROWN CITRUS APHID AND CITRUS TRISTEZA VIRUS.—

"(1) RESEARCH GRANTS AUTHORIZED.—The Secretary of Agriculture may make competitive grants available to support research for the purpose of—

"(A) developing methods to eradicate the brown citrus aphid and the citrus tristeza virus from citrus crops grown in the United States; or

"(B) adapting citrus crops grown in the United States to the brown citrus aphid and the citrus tristeza virus.

"(2) METHOD OF PROVIDING GRANTS.—Grants authorized under this subsection shall be made in the same manner, and shall be subject to the same conditions, as provided for competitive grants under the Competitive, Special, and Facilities Research Grant Act (7 U.S.C. 450i).

"(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection $3,000,000 for fiscal year 1997.".

Arkansas.

SEC. 889. STUTTGART NATIONAL AQUACULTURE RESEARCH CENTER.

(a) TRANSFER OF FUNCTIONS TO SECRETARY OF AGRICULTURE.—

(1) PURPOSE.—The first section of Public Law 85–342 (16 U.S.C. 778) is amended—

(A) by striking "Secretary of the Interior" and all that follows through "directed to" and inserting "Secretary of Agriculture shall";

(B) by striking "an experiment station or stations" and inserting "1 or more centers"; and

(C) in paragraph (5), by striking "Department of Agriculture" and inserting "Secretary of the Interior".

(2) AUTHORITY.—Section 2 of Public Law 85–342 (16 U.S.C. 778a) is amended by striking ", the Secretary" and all that follows through "authorized" and inserting ", the Secretary of Agriculture is authorized".

(3) ASSISTANCE.—Section 3 of Public Law 85–342 (16 U.S.C. 778b) is amended—

(A) by striking "Secretary of the Interior" and inserting "Secretary of Agriculture"; and

(B) by striking "Department of Agriculture" and inserting "Secretary of the Interior".

(b) TRANSFER OF FISH FARMING EXPERIMENTAL LABORATORY TO DEPARTMENT OF AGRICULTURE.—

(1) DESIGNATION OF STUTTGART NATIONAL AQUACULTURE RESEARCH CENTER.—

(A) IN GENERAL.—The Fish Farming Experimental Laboratory in Stuttgart, Arkansas (including the facilities in Kelso, Arkansas), shall be known and designated as the "Stuttgart National Aquaculture Research Center".

(B) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the laboratory referred to in subparagraph (A) shall be deemed to be a reference to the "Stuttgart National Aquaculture Research Center".

(2) TRANSFER OF LABORATORY TO DEPARTMENT OF AGRICULTURE.—Subject to section 1531 of title 31, United States Code, not later than 90 days after the date of enactment of this Act, there are transferred to the Department of Agriculture—

(A) the personnel employed in connection with the laboratory referred to in paragraph (1)(A);

(B) the assets, liabilities, contracts, and real and personal property of the laboratory;

(C) the records of the laboratory; and

(D) the unexpended balance of appropriations, authorizations, allocations, and other funds employed in connection with, held in connection with, arising from, available to, or to be made available in connection with the laboratory.

(3) NONDUPLICATION OF FACILITIES.—The research center referred to in paragraph (1)(A) shall be complementary to, and not duplicative of, facilities of colleges, universities, and nonprofit institutions, and facilities of the Agricultural Research Service, within the State and region, as determined by the Administrator of the Service.

SEC. 890. EXPANSION OF AUTHORITIES RELATED TO NATIONAL ARBORETUM.

(a) SOLICITATION OF GIFTS, BENEFITS, AND DEVISES.—The first sentence of section 5 of the Act of March 4, 1927 (20 U.S.C. 195), is amended by inserting "solicit," after "authorized to".

(b) CONCESSIONS, FEES, AND VOLUNTARY SERVICES.—The Act of March 4, 1927 (20 U.S.C. 191 et seq.), is amended by adding at the end the following:

"SEC. 6. CONCESSIONS, FEES, AND VOLUNTARY SERVICES. 20 USC 196.

"(a) IN GENERAL.—Notwithstanding the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.) and section 321 of the Act of June 30, 1932 (40 U.S.C. 303b), the Secretary of Agriculture, in furtherance of the mission of the National Arboretum, may—

"(1) negotiate agreements granting concessions at the National Arboretum to nonprofit scientific or educational organizations the interests of which are complementary to the mission of the National Arboretum, except that the net proceeds

of the organizations from the concessions shall be used exclusively for research and educational work for the benefit of the National Arboretum;

"(2) provide by concession, on such terms as the Secretary of Agriculture considers appropriate and necessary, for commercial services for food, drink, and nursery sales, if an agreement for a permanent concession under this paragraph is negotiated with a qualified person submitting a proposal after due consideration of all proposals received after the Secretary of Agriculture provides reasonable public notice of the intent of the Secretary to enter into such an agreement;

"(3) dispose of excess property, including excess plants and fish, in a manner designed to maximize revenue from any sale of the property, including by way of public auction, except that this paragraph shall not apply to the free dissemination of new varieties of seeds and germ plasm in accordance with section 520 of the Revised Statutes (commonly known as the 'Department of Agriculture Organic Act of 1862') (7 U.S.C. 2201);

"(4) charge such fees as the Secretary of Agriculture considers reasonable for temporary use by individuals or groups of National Arboretum facilities and grounds for any purpose consistent with the mission of the National Arboretum;

"(5) charge such fees as the Secretary of Agriculture considers reasonable for the use of the National Arboretum for commercial photography or cinematography;

"(6) publish, in print and electronically and without regard to laws relating to printing by the Federal Government, informational brochures, books, and other publications concerning the National Arboretum or the collections of the Arboretum; and

"(7) license use of the National Arboretum name and logo for public service or commercial uses.

"(b) USE OF FUNDS.—Any funds received or collected by the Secretary of Agriculture as a result of activities described in subsection (a) shall be retained in a special fund in the Treasury for the use and benefit of the National Arboretum as the Secretary of Agriculture considers appropriate.

"(c) ACCEPTANCE OF VOLUNTARY SERVICES.—The Secretary of Agriculture may accept the voluntary services of organizations described in subsection (a)(1), and the voluntary services of individuals (including employees of the National Arboretum), for the benefit of the National Arboretum.".

Alabama.

SEC. 891. TRANSFER OF AQUACULTURAL RESEARCH CENTER.

(a) TRANSFER OF FISH CULTURE LABORATORY TO DEPARTMENT OF AGRICULTURE.—

(1) DESIGNATION OF CLAUDE HARRIS NATIONAL AQUACULTURAL RESEARCH CENTER.—

(A) IN GENERAL.—The Southeastern Fish Culture Laboratory in Marion, Alabama, shall be known and designated as the "Claude Harris National Aquacultural Research Center".

(B) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the laboratory referred to in subparagraph (A) shall

be deemed to be a reference to the "Claude Harris National Aquacultural Research Center".

(2) TRANSFER OF LABORATORY TO DEPARTMENT OF AGRICULTURE.—Subject to section 1531 of title 31, United States Code, not later than 90 days after the date of enactment of this Act, the Secretary of the Interior may transfer, in whole or in part, to the Department of Agriculture, with the consent of the Secretary of Agriculture—

(A) the personnel employed in connection with the laboratory referred to in paragraph (1);

(B) the assets, liabilities, contracts, and real and personal property of the laboratory;

(C) the records of the laboratory; and

(D) the unexpended balance of appropriations, authorizations, allocations, and other funds employed in connection with, held in connection with, arising from, available to, or to be made available in connection with the laboratory.

(b) NONDUPLICATION OF FACILITIES.—The research center designated by subsection (a) shall be complementary to, and not duplicative of, facilities of colleges, universities, and nonprofit institutions, and facilities of the Agricultural Research Service, within the State and region, as determined by the Secretary of Agriculture.

SEC. 892. USE OF REMOTE SENSING DATA AND OTHER DATA TO ANTICIPATE POTENTIAL FOOD, FEED, AND FIBER SHORTAGES OR EXCESSES AND TO PROVIDE TIMELY INFORMATION TO ASSIST FARMERS WITH PLANTING DECISIONS.

7 USC 5935.

(a) FINDINGS.—Congress finds that—

(1) remote sensing data can be useful to predict impending famine problems and forest infestations in time to allow remedial action;

(2) remote sensing data can inform the agricultural community as to the condition of crops and the land that sustains those crops; and

(3) remote sensing data and other data can be valuable, when received on a timely basis, in determining the need for additional plantings of a particular crop or a substitute crop.

(b) INFORMATION DEVELOPMENT.—The Secretary of Agriculture and the Administrator of the National Aeronautics and Space Administration, maximizing private funding and involvement, shall provide farmers and other interested persons with timely information, through remote sensing, on crop conditions, fertilization and irrigation needs, pest infiltration, soil conditions, projected food, feed, and fiber production, and any other information available through remote sensing.

(c) COORDINATION.—The Secretary of Agriculture and the Administrator of the National Aeronautics and Space Administration shall jointly develop a proposal to provide farmers and other prospective users with supply and demand information for food and fibers.

(d) SUNSET.—The authorities provided by this section shall expire 5 years after the date of enactment of this Act.

SEC. 893. SENSE OF SENATE REGARDING METHYL BROMIDE ALTERNATIVE RESEARCH AND EXTENSION ACTIVITIES.

It is the sense of the Senate that—

(1) the Department of Agriculture should continue to make methyl bromide alternative research and extension activities a high priority of the Department; and

(2) the Department of Agriculture, the Environmental Protection Agency, producer and processor organizations, environmental organizations, and State agencies should continue their dialogue on the risks and benefits of extending the 2001 phaseout deadline.

Subtitle E—Research Authority After Fiscal Year 1997

SEC. 897. AUTHORIZATION OF APPROPRIATIONS.

Subject to section 898, there are authorized to be appropriated for fiscal years 1998 through 2002 such sums as are necessary to carry out the agricultural research, extension, and education activities and initiatives of the Department of Agriculture.

SEC. 898. ACTIVITIES SUBJECT TO AVAILABILITY OF APPROPRIATIONS.

During each of fiscal years 1998 through 2002, the Secretary of Agriculture shall conduct only those agricultural research, extension, and education activities and initiatives of the Department of Agriculture for which funds are specifically provided for the fiscal year in an appropriation Act.

TITLE IX—MISCELLANEOUS

7 USC 1901 note.

Subtitle A—Commercial Transportation of Equine for Slaughter

SEC. 901. FINDINGS.

Because of the unique and special needs of equine being transported to slaughter, Congress finds that it is appropriate for the Secretary of Agriculture to issue guidelines for the regulation of the commercial transportation of equine for slaughter by persons regularly engaged in that activity within the United States.

SEC. 902. DEFINITIONS.

In this subtitle:

(1) COMMERCIAL TRANSPORTATION.—The term "commercial transportation" means the regular operation for profit of a transport business that uses trucks, tractors, trailers, or semitrailers, or any combination thereof, propelled or drawn by mechanical power on any highway or public road.

(2) EQUINE FOR SLAUGHTER.—The term "equine for slaughter" means any member of the Equidae family being transferred to a slaughter facility, including an assembly point, feedlot, or stockyard.

(3) PERSON.—The term "person"—

(A) means any individual, partnership, corporation, or cooperative association that regularly engages in the commercial transportation of equine for slaughter; but

(B) does not include any individual or other entity referred to in subparagraph (A) that occasionally transports

equine for slaughter incidental to the principal activity of the individual or other entity in production agriculture.

SEC. 903. REGULATION OF COMMERCIAL TRANSPORTATION OF EQUINE FOR SLAUGHTER.

(a) IN GENERAL.—Subject to the availability of appropriations, the Secretary of Agriculture may issue guidelines for the regulation of the commercial transportation of equine for slaughter by persons regularly engaged in that activity within the United States.

(b) ISSUES FOR REVIEW.—In carrying out this section, the Secretary of Agriculture shall review the food, water, and rest provided to equine for slaughter in transit, the segregation of stallions from other equine during transit, and such other issues as the Secretary considers appropriate.

(c) ADDITIONAL AUTHORITY.—In carrying out this section, the Secretary of Agriculture may—

(1) require any person to maintain such records and reports as the Secretary considers necessary;

(2) conduct such investigations and inspections as the Secretary considers necessary; and

(3) establish and enforce appropriate and effective civil penalties.

SEC. 904. LIMITATION OF AUTHORITY TO EQUINE FOR SLAUGHTER.

Nothing in this subtitle authorizes the Secretary of Agriculture to regulate the routine or regular transportation, to slaughter or elsewhere, of—

(1) livestock other than equine; or

(2) poultry.

SEC. 905. EFFECTIVE DATE.

This subtitle shall become effective on the first day of the first month that begins 30 days or more after the date of enactment of this Act.

Subtitle B—General Provisions

SEC. 911. INTERSTATE QUARANTINE.

The fourth sentence of section 8 of the Act of August 20, 1912 (7 U.S.C. 161), is amended by inserting after "*Provided,* That" the following: "if the Secretary of Agriculture determines under this section that it is necessary to quarantine a State entirely comprised of islands, the Secretary of Agriculture, in implementing the restrictions authorized under this section, shall give consideration to enhancing passenger movement and commerce on and between islands in the State: *Provided further,* That".

SEC. 912. COTTON CLASSIFICATION SERVICES.

(a) EXTENSION OF AUTHORIZATION.—The first sentence of section 3a of the Act of March 3, 1927 (commonly known as the "Cotton Statistics and Estimates Act") (7 U.S.C. 473a), is amended by striking "1996" and inserting "2002".

(b) COTTON CLASSING OFFICE LOCATIONS.—Section 4 of the Act of March 3, 1927 (commonly known as the "Cotton Statistics and Estimates Act") (7 U.S.C. 474), is amended by adding at the end the following: "The Secretary of Agriculture shall maintain

Missouri.

until at least January 1, 1999, all cotton classing office locations in the State of Missouri that existed on January 1, 1996.".

SEC. 913. PLANT VARIETY PROTECTION FOR CERTAIN TUBER PROPAGATED PLANT VARIETIES.

(a) IN GENERAL.—Section 42(a)(1)(B)(i) of the Plant Variety Protection Act (7 U.S.C. 2402(a)(1)(B)(i)) is amended by inserting after "filing" the following: ", except that in the case of a tuber propagated plant variety the Secretary may waive the 4-year limitation for a period ending 1 year after the date of enactment of the Federal Agriculture Improvement and Reform Act of 1996".

(b) TERM OF PROTECTION.—Section 83(b) of the Plant Variety Protection Act (7 U.S.C. 2483(b)) is amended—

(1) by striking "(b) The term" and inserting the following:

"(b) TERM.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the term";

(2) in the second sentence, by striking "If the certificate" and inserting the following:

"(2) EXCEPTIONS.—If the certificate"; and

(3) in paragraph (2) (as so designated), by striking "except that, in the case" and inserting the following: "except that—

"(A) in the case of a tuber propagated plant variety subject to a waiver granted under section 42(a)(1)(B)(i), the term of the plant variety protection shall expire 20 years after the date of the original grant of the plant breeder's rights to the variety outside the United States; and

"(B) in the case".

SEC. 914. SWINE HEALTH PROTECTION.

(a) TERMINATION OF STATE PRIMARY ENFORCEMENT RESPONSIBILITY.—Section 10 of the Swine Health Protection Act (7 U.S.C. 3809) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following:

"(c) REQUEST OF STATE OFFICIAL.—

"(1) IN GENERAL.—On request of the Governor or other appropriate official of a State, the Secretary may terminate, effective as soon as the Secretary determines is practicable, the primary enforcement responsibility of a State under subsection (a). In terminating the primary enforcement responsibility under this subsection, the Secretary shall work with the appropriate State official to determine the level of support to be provided to the Secretary by the State under this Act.

"(2) REASSUMPTION.—Nothing in this subsection shall prevent a State from reassuming primary enforcement responsibility if the Secretary determines that the State meets the requirements of subsection (a).".

(b) ADVISORY COMMITTEE.—The Swine Health Protection Act is amended—

(1) by striking section 11 (7 U.S.C. 3810); and

(2) by redesignating sections 12, 13, and 14 (7 U.S.C. 3811, 3812, and 3813) as sections 11, 12, and 13, respectively.

SEC. 915. DESIGNATION OF MOUNT PLEASANT NATIONAL SCENIC AREA.

Sections 1, 2, and 3(a)(1) of the George Washington National Forest Mount Pleasant Scenic Area Act (Public Law 103–314; 16 U.S.C. 545 note) are each amended by striking "George Washington National Forest Mount Pleasant Scenic Area" and inserting "Mount Pleasant National Scenic Area".

SEC. 916. PSEUDORABIES ERADICATION PROGRAM.

Section 2506(d) of the Food, Agriculture, Conservation, and Trade Act of 1990 (21 U.S.C. 114i(d)) is amended by striking "1995" and inserting "2002".

SEC. 917. COLLECTION AND USE OF AGRICULTURAL QUARANTINE AND INSPECTION FEES.

Section 2509 of the Food, Agriculture, Conservation, and Trade Act of 1990 (21 U.S.C. 136a) is amended by striking subsection (a) and inserting the following:

"(a) QUARANTINE AND INSPECTION FEES.—

"(1) FEES AUTHORIZED.—The Secretary of Agriculture may prescribe and collect fees sufficient—

"(A) to cover the cost of providing agricultural quarantine and inspection services in connection with the arrival at a port in the customs territory of the United States, or the preclearance or preinspection at a site outside the customs territory of the United States, of an international passenger, commercial vessel, commercial aircraft, commercial truck, or railroad car;

"(B) to cover the cost of administering this subsection; and

"(C) through fiscal year 2002, to maintain a reasonable balance in the Agricultural Quarantine Inspection User Fee Account established under paragraph (5).

"(2) LIMITATION.—In setting the fees under paragraph (1), the Secretary shall ensure that the amount of the fees is commensurate with the costs of agricultural quarantine and inspection services with respect to the class of persons or entities paying the fees. The costs of the services with respect to passengers as a class includes the costs of related inspections of the aircraft or other vehicle.

"(3) STATUS OF FEES.—Fees collected under this subsection by any person on behalf of the Secretary are held in trust for the United States and shall be remitted to the Secretary in such manner and at such times as the Secretary may prescribe.

"(4) LATE PAYMENT PENALTIES.—If a person subject to a fee under this subsection fails to pay the fee when due, the Secretary shall assess a late payment penalty, and the overdue fees shall accrue interest, as required by section 3717 of title 31, United States Code.

"(5) AGRICULTURAL QUARANTINE INSPECTION USER FEE ACCOUNT.—

"(A) ESTABLISHMENT.—There is established in the Treasury of the United States a fund, to be known as the 'Agricultural Quarantine Inspection User Fee Account', which shall contain all of the fees collected under this

subsection and late payment penalties and interest charges collected under paragraph (4) through fiscal year 2002.

"(B) USE OF ACCOUNT.—For each of fiscal years 1996 through 2002, funds in the Agricultural Quarantine Inspection User Fee Account shall be available, in such amounts as are provided in advance in appropriations Acts, to cover the costs associated with the provision of agricultural quarantine and inspection services and the administration of this subsection. Amounts made available under this subparagraph shall be available until expended.

"(C) EXCESS FEES.—Fees and other amounts collected under this subsection in any of fiscal years 1996 through 2002 in excess of $100,000,000 shall be available for the purposes specified in subparagraph (B) until expended, without further appropriation.

"(6) USE OF AMOUNTS COLLECTED AFTER FISCAL YEAR 2002.—After September 30, 2002, the unobligated balance in the Agricultural Quarantine Inspection User Fee Account and fees and other amounts collected under this subsection shall be credited to the Department of Agriculture accounts that incur the costs associated with the provision of agricultural quarantine and inspection services and the administration of this subsection. The fees and other amounts shall remain available to the Secretary until expended without fiscal year limitation.

"(7) STAFF YEARS.—The number of full-time equivalent positions in the Department of Agriculture attributable to the provision of agricultural quarantine and inspection services and the administration of this subsection shall not be counted toward the limitation on the total number of full-time equivalent positions in all agencies specified in section 5(b) of the Federal Workforce Restructuring Act of 1994 (Public Law 103–226; 5 U.S.C. 3101 note) or other limitation on the total number of full-time equivalent positions.".

SEC. 918. MEAT AND POULTRY INSPECTION.

(a) ESTABLISHMENT OF SAFE MEAT AND POULTRY INSPECTION PANEL.—

(1) IN GENERAL.—The Federal Meat Inspection Act is amended—

(A) by redesignating section 410 (21 U.S.C. 680) as section 411; and

(B) by inserting after section 409 (21 U.S.C. 679) the following:

21 USC 679a.

"SEC. 410. SAFE MEAT AND POULTRY INSPECTION PANEL.

"(a) ESTABLISHMENT.—There is established in the Department of Agriculture a permanent advisory panel to be known as the 'Safe Meat and Poultry Inspection Panel' (referred to in this section as the 'panel').

"(b) DUTIES.—

"(1) REVIEW AND EVALUATION.—The panel shall review and evaluate, as the panel considers necessary, the adequacy, necessity, safety, cost-effectiveness, and scientific merit of—

"(A) inspection procedures of, and work rules and worker relations involving Federal employees employed in, plants inspected under this Act;

"(B) informal petitions or proposals for changes in inspection procedures, processes, and techniques of plants inspected under this Act;

"(C) formal changes in meat inspection regulations promulgated under this Act, whether in notice, proposed, or final form; and

"(D) such other matters as may be referred to the panel by the Secretary regarding the quality or effectiveness of a safe and cost-effective meat inspection system under this Act.

"(2) REPORTS.—

"(A) IN GENERAL.—The panel shall submit to the Secretary a report on the results of each review and evaluation carried out under paragraph (1), including such recommendations as the panel considers appropriate.

"(B) REPORTS ON FORMAL CHANGES.—In the case of a report concerning a formal change in meat inspection regulations, the report shall be made within the time limits prescribed for formal comments on such changes.

"(C) PUBLICATION IN FEDERAL REGISTER.—Each report of the panel to the Secretary shall be published in the Federal Register.

"(c) SECRETARIAL RESPONSE.—Not later than 90 days after the publication of a panel report under subsection (b)(2)(C), the Secretary shall publish in the Federal Register any response required of the Secretary to the report. Federal Register, publication.

"(d) COMPOSITION OF PANEL.—The panel shall be composed of 7 members, not fewer than 5 of whom shall be from the food science, meat science, or poultry science profession, appointed to staggered terms not to exceed 3 years by the Secretary from nominations received from the National Institutes of Health and the Federation of American Societies of Food Animal Science and based on the professional qualifications of the nominees.

"(e) NOMINATIONS.—

"(1) INITIAL PANEL.—In constituting the initial panel, the Secretary shall solicit 6 nominees from the National Institutes of Health and 6 nominees from the Federation of American Societies of Food Animal Science for membership on the panel.

"(2) VACANCIES.—Any subsequent vacancy on the panel shall be filled by the Secretary after soliciting 2 nominees from the National Institutes of Health and 2 nominees from the Federation of American Societies of Food Animal Science.

"(3) REQUIREMENTS FOR NOMINEES.—

"(A) IN GENERAL.—Each nominee provided under paragraph (1) or (2) shall have a background in public health issues and a scientific expertise in food, meat, or poultry science or in veterinary science.

"(B) SUBMISSION OF INFORMATION.—The Secretary may require nominees to submit such information as the Secretary considers necessary prior to completing the selection process

"(4) ADDITIONAL NOMINEES.—If any list of nominees provided under paragraph (1) or (2) is unsatisfactory to the Secretary, the Secretary may request the nominating entities to submit an additional list of nominees.

"(f) TRAVEL EXPENSES.—While away from the home or regular place of business of a member of the panel in the performance

of services for the panel, the member shall be allowed travel expenses, including per diem in lieu of subsistence, at the same rate as a person employed intermittently in the Government service would be allowed under section 5703 of title 5, United States Code.

Regulations.

"(g) CONFLICTS OF INTEREST.—The Secretary shall promulgate regulations regarding conflicts of interest with respect to the members of the panel.

"(h) EXEMPTION.—The Federal Advisory Committee Act (5 U.S.C. App.) and title XVIII of the Food and Agriculture Act of 1977 (7 U.S.C. 2281 et seq.) shall not apply to the panel.

"(i) FUNDING.—From funds available to the Secretary to carry out this Act and the Poultry Products Inspection Act (21 U.S.C. 451 et seq.), the Secretary shall allocate such sums as may be necessary to carry out this section.".

(2) CROSS REFERENCE IN POULTRY PRODUCTS INSPECTION ACT.—The Poultry Products Inspection Act (21 U.S.C. 451 et seq.) is amended by adding at the end the following:

21 USC 471.

"SEC. 30. SAFE MEAT AND POULTRY INSPECTION PANEL.

"(a) REVIEW AND EVALUATION.—The advisory panel known as the 'Safe Meat and Poultry Inspection Panel' established by section 410 of the Federal Meat Inspection Act shall review and evaluate, as the panel considers necessary, the adequacy, necessity, safety, cost-effectiveness, and scientific merit of—

"(1) inspection procedures of, and work rules and worker relations involving Federal employees employed in, plants inspected under this Act;

"(2) informal petitions or proposals for changes in inspection procedures, processes, and techniques of plants inspected under this Act;

"(3) formal changes in poultry inspection regulations promulgated under this Act, whether in notice, proposed, or final form; and

"(4) such other matters as may be referred to the panel by the Secretary regarding the quality or effectiveness of a safe and cost-effective poultry inspection system under this Act.

"(b) REPORTS.—

"(1) IN GENERAL.—The Safe Meat and Poultry Inspection Panel shall submit to the Secretary a report on the results of each review and evaluation carried out under paragraph (1), including such recommendations as the panel considers appropriate.

"(2) REPORTS ON FORMAL CHANGES.—In the case of a report concerning a formal change in poultry inspection regulations, the report shall be made within the time limits prescribed for formal comments on such changes.".

(b) INTERSTATE SHIPMENT OF STATE-INSPECTED MEAT AND POULTRY.—Not later than 90 days after the date of enactment of this Act, the Secretary of Agriculture shall submit to Congress recommendations concerning the steps necessary to achieve interstate shipment of—

(1) meat inspected under a State meat inspection program developed and administered under section 301 of the Federal Meat Inspection Act (21 U.S.C. 661); and

(2) poultry inspected under a State poultry product inspection program developed and administered under section 5 of the Poultry Products Inspection Act (21 U.S.C. 454).

SEC. 919. REIMBURSABLE AGREEMENTS. 7 USC 2260a.

(a) IN GENERAL.—The Secretary of Agriculture (referred to in this section as the "Secretary") may enter into reimbursable fee agreements with persons for preclearance at locations outside the United States of plants, plant products, animals, and articles for movement into the United States.

(b) OVERTIME, NIGHT, AND HOLIDAY WORK.—Notwithstanding any other provision of law, the Secretary may pay an employee of the Department of Agriculture performing services relating to imports into and exports from the United States for overtime, night, and holiday work performed by the employee at a rate of pay established by the Secretary.

(c) REIMBURSEMENT.—

(1) IN GENERAL.—The Secretary may require persons for whom preclearance services are performed to reimburse the Secretary for any amounts paid by the Secretary for performance of the services.

(2) CREDITING OF FUNDS.—All funds collected under paragraph (1) shall be credited to the account that incurs the costs and shall remain available until expended without fiscal year limitation.

(3) LATE PAYMENT PENALTY.—

(A) IN GENERAL.—On failure of a person to reimburse the Secretary for the costs of performance of preclearance services—

(i) the Secretary may assess a late payment penalty; and

(ii) the overdue funds shall accrue interest in accordance with section 3717 of title 31, United States Code.

(B) CREDITING OF FUNDS.—Any late payment penalty and any accrued interest collected under this paragraph shall be credited to the account that incurs the costs and shall remain available until expended without fiscal year limitation.

SEC. 920. OVERSEAS TORT CLAIMS. 7 USC 2262a.

(a) IN GENERAL.—The Secretary of Agriculture may pay a tort claim in the manner authorized by section 2672 of title 28, United States Code, if the claim arises outside the United States in connection with activities of individuals who are performing services for the Secretary.

(b) PERIOD FOR PRESENTATION OF CLAIM.—A claim may not be allowed under this section unless the claim is presented in writing to the Secretary of Agriculture within 2 years after the date on which the claim accrues.

(c) FINALITY.—Notwithstanding any other provision of law, an award or denial of a claim by the Secretary of Agriculture under this section is final.

SEC. 921. OPERATION OF GRADUATE SCHOOL OF DEPARTMENT OF AGRICULTURE AS NONAPPROPRIATED FUND INSTRUMENTALITY. 7 USC 2279b.

(a) DEFINITIONS.—In this section:

(1) GRADUATE SCHOOL.—The term "Graduate School" means the Graduate School of the Department of Agriculture.

(2) BOARD.—The term "Board" means the General Administration Board of the Graduate School.

(3) DIRECTOR.—The term "Director" means the Director of the Graduate School.

(4) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(b) OPERATION AS NONAPPROPRIATED FUND INSTRUMENTALITY.—On and after the date of enactment of this Act, the Graduate School of the Department of Agriculture shall continue to operate as a nonappropriated fund instrumentality of the United States under the jurisdiction of the Department of Agriculture.

(c) ACTIVITIES OF GRADUATE SCHOOL.—Under the general supervision of the Secretary, the Graduate School shall develop, administer, and provide educational, training, and professional development activities, including educational activities for Federal agencies, Federal employees, nonprofit organizations, other entities, and members of the general public.

(d) FEES AND DONATIONS.—

(1) COLLECTION OF FEES.—The Graduate School may charge and retain fair and reasonable fees for the activities provided by the Graduate School. The amount of the fees shall be based on the cost of the activities to the Graduate School.

(2) ACCEPTANCE OF DONATIONS.—

(A) ACCEPTANCE AND USE AUTHORIZED.—The Graduate School may accept, use, hold, dispose, and administer gifts, bequests, and devises of money, securities, and other real or personal property made for the benefit of, or in connection with, the Graduate School.

(B) EXCEPTION.—The Graduate School shall not accept a donation from a person that is actively engaged in a procurement activity with the Graduate School or has an interest that may be substantially affected by the performance or nonperformance of an official duty of a member of the Board or an employee of the Graduate School.

(3) NOT FEDERAL FUNDS.—Fees collected under paragraph (1) and amounts received under paragraph (2) shall not be considered to be Federal funds and shall not be required to be deposited in the Treasury of the United States.

(e) GENERAL ADMINISTRATION BOARD AND DIRECTOR.—

(1) APPOINTMENT AS GOVERNING BOARD.—The Secretary shall appoint a General Administration Board to serve as a governing board for the Graduate School and to supervise and direct the activities of the Graduate School. The Board shall be subject to regulation by the Secretary.

(2) DUTIES OF BOARD.—The Board shall—

(A) formulate broad policies in accordance with which the Graduate School shall be administered;

(B) take all steps necessary to ensure that the highest possible educational standards are maintained by the Graduate School;

(C) exercise general supervision over the administration of the Graduate School; and

(D) establish such bylaws, rules, and procedures as may be necessary for the fulfillment of the duties described in subparagraphs (A), (B), and (C).

(3) APPOINTMENT OF DIRECTOR AND OTHER OFFICERS.—The Board shall select a Director and such other officers as the Board considers necessary to administer the Graduate School. The Director and other officers shall serve on such terms and perform such duties as the Board may prescribe.

(4) DUTIES OF DIRECTOR.—The Director shall be responsible, subject to the supervision and direction of the Board, for carrying out the functions of the Graduate School.

(5) BORROWING AND INVESTMENT AUTHORITY.—The Board may authorize the Director—

(A) to borrow money on the credit of the Graduate School; and

(B) to invest funds held in excess of the current operating requirements of the Graduate School for purposes of maintaining a reasonable reserve.

(6) LIABILITY.—The Director and the members of the Board shall not be held personally liable for any loss or damage that may accrue to the funds of the Graduate School as the result of any act or exercise of discretion performed in carrying out their duties under this section.

(f) EMPLOYEES.—Employees of the Graduate School are employees of a nonappropriated fund instrumentality and shall not be considered to be Federal employees.

(g) NOT A FEDERAL AGENCY.—The Graduate School shall not be considered to be a Federal agency for purposes of—

(1) the Federal Advisory Committee Act (5 U.S.C. App.);

(2) section 552 or 552a of title 5, United States Code; or

(3) chapter 171 of title 28, United States Code.

(h) ACQUISITION AND DISPOSAL OF PROPERTY.—In order to carry out the activities of the Graduate School, the Graduate School may—

(1) acquire real property in the District of Columbia and in other places by lease, purchase, or otherwise;

(2) maintain, enlarge, or remodel any such property;

(3) have sole control of any such property; and

(4) dispose of real and personal property without regard to the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.).

(i) CONTRACT AUTHORITY.—The Graduate School may enter into contracts without regard to the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.) or any other law that prescribes procedures for the procurement of property or services by an executive agency.

(j) USE OF DEPARTMENT FACILITIES AND RESOURCES.—The Graduate School may use the facilities and resources of the Department of Agriculture, on the condition that any costs incurred by the Department that are attributable solely to Graduate School operations and all costs incurred by the Graduate School arising out of such operations shall be paid using funds of the Graduate School. Federal funds may not be used to pay the costs.

SEC. 922. STUDENT INTERNSHIP PROGRAMS. 7 USC 2279c.

(a) STUDENT INTERN SUBSISTENCE PROGRAM.—

(1) DEFINITION OF STUDENT INTERN.—In this subsection, the term "student intern" means a person who—

(A) is employed by the Department of Agriculture (referred to in this section as the "Department") to assist scientific, professional, administrative, or technical employees of the Department; and

(B) is a student in good standing at an institution of higher education (as defined in section 1201 of the Higher Education Act of 1965 (20 U.S.C. 1141)) pursuing a course of study related to the field in which the person is employed by the Department.

(2) PAYMENT OF CERTAIN EXPENSES BY THE SECRETARY.—The Secretary of Agriculture (referred to in this section as the "Secretary") may, out of user fee funds or funds appropriated to any agency of the Department, pay for lodging expenses, subsistence expenses, and transportation expenses of a student intern at the agency (including expenses of transportation to and from the student intern's residence at or near the institution of higher education attended by the student intern and the official duty station at which the student intern is employed).

(b) COOPERATION WITH ASSOCIATIONS OF COLLEGES AND UNIVERSITIES.—

(1) AUTHORITY TO COOPERATE.—Notwithstanding chapter 63 of title 31, United States Code, the Secretary may enter into cooperative agreements on an annual basis with 1 or more associations of institutions of higher education (as defined in section 1201 of the Higher Education Act of 1965 (20 U.S.C. 1141)) for the purpose of providing for Department participation in internship programs for graduate and undergraduate students who are selected by the associations from students attending member institutions of the associations and other institutions of higher education.

(2) INTERNSHIP PROGRAM.—An internship program supported under this subsection (referred to in this subsection as an "internship program") shall provide work assignments for students within the Department and such other activities as the association that enters into the cooperative agreement under paragraph (1) with respect to the internship program (referred to in this subsection as the "cooperating association") and the Secretary shall determine. The nature of Department participation in an internship program shall be developed jointly by the Secretary and the cooperating association.

(3) PROGRAM COORDINATION.—The cooperating association shall coordinate an internship program, including—

(A) the recruitment of students;

(B) arrangements for travel of the students to Washington, District of Columbia, and to agency field locations;

(C) the provision of housing for students, if required; and

(D) all activities for the students that take place outside the Department work assignments of the students.

(4) NUMBER AND SELECTION OF STUDENTS.—

(A) NUMBER.—A cooperative agreement entered into under paragraph (1) shall specify the number of students that the Department will host each year and a list of work assignments to be provided for the students.

(B) SELECTION.—The cooperating association shall provide the Department with a pool of student candidates

meeting the requirements for each work assignment identified by the Secretary. Final selection of the students for Department internship positions shall be made by the Secretary.

(5) COST REIMBURSEMENT.—From such amounts as the Secretary determines are available each fiscal year for internship programs, and subject to such regulations as the Secretary may issue, the Secretary may reimburse a cooperating association for the Department share of all direct and indirect costs of an internship program, including student stipends, transportation costs to the internship site, and other costs of an internship program.

(6) LEAD AGENCY.—The Secretary may designate a lead agency within the Department to carry out this subsection.

(7) INTERAGENCY AGREEMENTS.—Agencies and offices within the Department other than the lead agency—

(A) may enter into interagency agreements with the lead agency to provide work assignments for students participating in an internship program; and

(B) shall reimburse the lead agency for the direct and indirect costs of each student assigned to the agency under an internship program.

(8) FEDERAL EMPLOYEE STATUS.—A student who participates in an internship program shall not be considered a Federal employee, except for purposes of chapter 81 of title 5, and chapter 171 of title 28, United States Code.

SEC. 923. CONVEYANCE OF EXCESS FEDERAL PERSONAL PROPERTY. 7 USC 2206a.

Notwithstanding any other provision of law, the Secretary of Agriculture may—

(1) convey title to excess Federal personal property owned by the Department of Agriculture, with or without monetary compensation and for such purposes as are determined by the Secretary, to—

(A) any of the 1994 Institutions (as defined in section 532 of the Equity in Educational Land-Grant Status Act of 1994 (Public Law 103–382; 7 U.S.C. 301 note));

(B) any Hispanic-serving institution (as defined in section 316(b) of the Higher Education Act of 1965 (20 U.S.C. 1059c(b))); and

(C) any college or university eligible to receive funds under the Act of August 30, 1890 (7 U.S.C. 321 et seq.), including Tuskegee University; and

(2) acquire from, exchange with, or dispose of personal property to other Federal departments and agencies without monetary compensation in furtherance of the purposes of this section.

SEC. 924. CONVEYANCE OF LAND TO WHITE OAK CEMETERY. Arkansas.

(a) IN GENERAL.—

(1) RELEASE OF INTEREST.—After execution of the agreement described in subsection (b), the Secretary of Agriculture shall release the condition stated in the deed on the land described in subsection (c) that the land be used for public purposes, and that if the land is not so used, that the land revert to the United States. The release shall be on the condition that the land be used exclusively for cemetery purposes,

and that if the land is not so used, that the land revert to the United States.

(2) BANKHEAD-JONES FARM TENANT ACT.—Section 32(c) of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1011(c)) shall not apply to the release under paragraph (1).

(b) AGREEMENT.—The Secretary of Agriculture shall make the release under subsection (a) on execution by the Board of Trustees of the University of Arkansas, in consideration of the release, of an agreement, satisfactory to the Secretary of Agriculture, that—

(1) the Board of Trustees will not sell, lease, exchange, or otherwise dispose of the land described in subsection (c) except to the White Oak Cemetery Association of Washington County, Arkansas, or a successor organization, for exclusive use for an expansion of the cemetery maintained by the Association or successor organization; and

(2) the proceeds of such a disposition of the land will be deposited and held in an account open to inspection by the Secretary of Agriculture, and used, if withdrawn from the account, for public purposes.

(c) LAND DESCRIPTION.—The land described in this subsection is the land conveyed to the Board of Trustees of the University of Arkansas, with certain other land, by deed dated November 18, 1953, comprising approximately 2.2 acres located within property of the University of Arkansas in Washington County, Arkansas, commonly known as the "Savor property" and described as follows:

The part of Section 20, Township 17 north, range 31 west, beginning at the north corner of the White Oak Cemetery and the University of Arkansas Agricultural Experiment Station farm at Washington County road #874, running west approximately 330 feet, thence south approximately 135 feet, thence southeast approximately 384 feet, thence north approximately 330 feet to the point of beginning.

SEC. 925. SALE OF LAND BY THE UNIVERSITY OF ARKANSAS.

The Act of March 2, 1887 (commonly known as the "Hatch Act of 1887") (7 U.S.C. 361a et seq.) shall not apply to the sale by the University of Arkansas of the approximately 103.52 acres of land in Washington County, Arkansas, owned by the University and commonly known as the "Walker Tract", if the sale is made on the condition that all of the proceeds of the sale are used for agricultural research facilities and programs of the University of Arkansas.

Arkansas.

SEC. 926. DESIGNATION OF DALE BUMPERS SMALL FARMS RESEARCH CENTER.

(a) IN GENERAL.—The small farms research facility of the Agricultural Research Service located near Booneville, Arkansas, shall be known and designated as the "Dale Bumpers Small Farms Research Center".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the research facility referred to in subsection (a) shall be deemed to be a reference to the "Dale Bumpers Small Farms Research Center".

Maryland.

SEC. 927. DEPARTMENT OF AGRICULTURE WASHINGTON AREA STRATEGIC SPACE PLAN.

The Secretary of Agriculture may obligate not more than $5,000,000, from funds appropriated for agriculture buildings and

facilities and rental payments, for the improvement of State and local roads relating to the construction of an office complex at the Beltsville Agriculture Research Center, Maryland, as part of the implementation of the Department of Agriculture Washington Area Strategic Space Plan.

SEC. 928. SEVERABILITY. 7 USC 7201 note.

If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this Act that can be given effect without regard to the invalid provision or application, and to this end the provisions of this Act are severable.

Approved April 4, 1996.

LEGISLATIVE HISTORY—H.R. 2854 (S. 1541):

HOUSE REPORTS: Nos. 104–462, Pt. 1 (Comm. on Agriculture) and 104–494 (Comm. of Conference).

CONGRESSIONAL RECORD, Vol. 142 (1996):

Jan. 31, Feb. 1, 6, 7, S. 1541 considered and passed Senate.
Feb. 28, 29, H.R. 2854 considered and passed House.
Mar. 12, considered and passed Senate, amended, in lieu of S. 1541.
Mar. 27, Senate considered conference report.
Mar. 28, Senate and House agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 32 (1996):

Apr. 4, Presidential statement.

Public Law 104–128
104th Congress

An Act

Apr. 9, 1996
[H.R. 2969]

To eliminate the Board of Tea Experts by repealing the Tea Importation Act of 1897.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Federal Tea Tasters Repeal Act of 1996.
21 USC 41 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Tea Tasters Repeal Act of 1996".

SEC. 2. REPEAL OF TEA IMPORTATION ACT OF 1897.

The Tea Importation Act (21 U.S.C. 41 et seq.) is repealed.

21 USC 41 note.

SEC. 3. EFFECTIVE DATE.

This Act shall take effect on the date of enactment of this Act.

Approved April 9, 1996.

LEGISLATIVE HISTORY—H.R. 2969 (S. 1518):

HOUSE REPORTS: No. 104–467, Pt. 1 (Comm. on Ways and Means) and Pt. 2 (Comm. on Commerce).

CONGRESSIONAL RECORD, Vol. 142 (1996):

Feb. 1, S. 1518 considered and passed Senate.

Mar. 21, H.R. 2969 considered and passed House.

Mar. 25, considered and passed Senate.

Public Law 104–129
104th Congress

Joint Resolution

Waiving certain enrollment requirements with respect to two bills of the One Hundred Fourth Congress.

Apr. 9, 1996
[H.J. Res. 168]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the provisions of sections 106 and 107 of title 1, United States Code, are waived with respect to the printing (on parchment or otherwise) of the enrollment of H.R. 3019 and the enrollment of H.R. 3136, each of the One Hundred Fourth Congress. The enrollment of either such bill shall be in such form as the Committee on House Oversight of the House of Representatives certifies to be a true enrollment.

1 USC 106 note.

Approved April 9, 1996.

LEGISLATIVE HISTORY—H.J. Res. 168:

CONGRESSIONAL RECORD, Vol. 142 (1996):
Mar. 26, considered and passed House.
Mar. 28, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 32 (1996):
Apr. 9, Presidential statement.

Public Law 104–130
104th Congress

An Act

Apr. 9, 1996
[S. 4]

To give the President line item veto authority with respect to appropriations, new direct spending, and limited tax benefits.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Line Item Veto Act.
2 USC 681 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Line Item Veto Act".

SEC. 2. LINE ITEM VETO AUTHORITY.

(a) IN GENERAL.—Title X of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 681 et seq.) is amended by adding at the end the following new part:

"PART C—LINE ITEM VETO

"LINE ITEM VETO AUTHORITY

2 USC 691.

"SEC. 1021. (a) IN GENERAL.—Notwithstanding the provisions of parts A and B, and subject to the provisions of this part, the President may, with respect to any bill or joint resolution that has been signed into law pursuant to Article I, section 7, of the Constitution of the United States, cancel in whole—

"(1) any dollar amount of discretionary budget authority;
"(2) any item of new direct spending; or
"(3) any limited tax benefit;

if the President—

"(A) determines that such cancellation will—
"(i) reduce the Federal budget deficit;
"(ii) not impair any essential Government functions; and
"(iii) not harm the national interest; and

"(B) notifies the Congress of such cancellation by transmitting a special message, in accordance with section 1022, within five calendar days (excluding Sundays) after the enactment of the law providing the dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit that was canceled.

"(b) IDENTIFICATION OF CANCELLATIONS.—In identifying dollar amounts of discretionary budget authority, items of new direct spending, and limited tax benefits for cancellation, the President shall—

"(1) consider the legislative history, construction, and purposes of the law which contains such dollar amounts, items, or benefits;

"(2) consider any specific sources of information referenced in such law or, in the absence of specific sources of information, the best available information; and

"(3) use the definitions contained in section 1026 in applying this part to the specific provisions of such law.

"(c) EXCEPTION FOR DISAPPROVAL BILLS.—The authority granted by subsection (a) shall not apply to any dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit contained in any law that is a disapproval bill as defined in section 1026.

"SPECIAL MESSAGES

Congress.
2 USC 691a.

"SEC. 1022. (a) IN GENERAL.—For each law from which a cancellation has been made under this part, the President shall transmit a single special message to the Congress.

"(b) CONTENTS.—

"(1) The special message shall specify—

"(A) the dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit which has been canceled, and provide a corresponding reference number for each cancellation;

"(B) the determinations required under section 1021(a), together with any supporting material;

"(C) the reasons for the cancellation;

"(D) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect of the cancellation;

"(E) all facts, circumstances and considerations relating to or bearing upon the cancellation, and to the maximum extent practicable, the estimated effect of the cancellation upon the objects, purposes and programs for which the canceled authority was provided; and

"(F) include the adjustments that will be made pursuant to section 1024 to the discretionary spending limits under section 601 and an evaluation of the effects of those adjustments upon the sequestration procedures of section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985.

"(2) In the case of a cancellation of any dollar amount of discretionary budget authority or item of new direct spending, the special message shall also include, if applicable—

"(A) any account, department, or establishment of the Government for which such budget authority was to have been available for obligation and the specific project or governmental functions involved;

"(B) the specific States and congressional districts, if any, affected by the cancellation; and

"(C) the total number of cancellations imposed during the current session of Congress on States and congressional districts identified in subparagraph (B).

"(c) TRANSMISSION OF SPECIAL MESSAGES TO HOUSE AND SENATE.—

"(1) The President shall transmit to the Congress each special message under this part within five calendar days (excluding Sundays) after enactment of the law to which the cancellation applies. Each special message shall be transmitted to the House of Representatives and the Senate on the same calendar day. Such special message shall be delivered to the

Clerk of the House of Representatives if the House is not in session, and to the Secretary of the Senate if the Senate is not in session.

Federal Register, publication.

"(2) Any special message transmitted under this part shall be printed in the first issue of the Federal Register published after such transmittal.

"CANCELLATION EFFECTIVE UNLESS DISAPPROVED

2 USC 691b.

"SEC. 1023. (a) IN GENERAL.—The cancellation of any dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit shall take effect upon receipt in the House of Representatives and the Senate of the special message notifying the Congress of the cancellation. If a disapproval bill for such special message is enacted into law, then all cancellations disapproved in that law shall be null and void and any such dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit shall be effective as of the original date provided in the law to which the cancellation applied.

"(b) COMMENSURATE REDUCTIONS IN DISCRETIONARY BUDGET AUTHORITY.—Upon the cancellation of a dollar amount of discretionary budget authority under subsection (a), the total appropriation for each relevant account of which that dollar amount is a part shall be simultaneously reduced by the dollar amount of that cancellation.

"DEFICIT REDUCTION

2 USC 691c.

"SEC. 1024. (a) IN GENERAL.—

"(1) DISCRETIONARY BUDGET AUTHORITY.—OMB shall, for each dollar amount of discretionary budget authority and for each item of new direct spending canceled from an appropriation law under section 1021(a)—

"(A) reflect the reduction that results from such cancellation in the estimates required by section 251(a)(7) of the Balanced Budget and Emergency Deficit Control Act of 1985 in accordance with that Act, including an estimate of the reduction of the budget authority and the reduction in outlays flowing from such reduction of budget authority for each outyear; and

"(B) include a reduction to the discretionary spending limits for budget authority and outlays in accordance with the Balanced Budget and Emergency Deficit Control Act of 1985 for each applicable fiscal year set forth in section 601(a)(2) by amounts equal to the amounts for each fiscal year estimated pursuant to subparagraph (A).

"(2) DIRECT SPENDING AND LIMITED TAX BENEFITS.—(A) OMB shall, for each item of new direct spending or limited tax benefit canceled from a law under section 1021(a), estimate the deficit decrease caused by the cancellation of such item or benefit in that law and include such estimate as a separate entry in the report prepared pursuant to section 252(d) of the Balanced Budget and Emergency Deficit Control Act of 1985.

"(B) OMB shall not include any change in the deficit resulting from a cancellation of any item of new direct spending or limited tax benefit, or the enactment of a disapproval bill for any such cancellation, under this part in the estimates

and reports required by sections 252(b) and 254 of the Balanced Budget and Emergency Deficit Control Act of 1985.

"(b) ADJUSTMENTS TO SPENDING LIMITS.—After ten calendar days (excluding Sundays) after the expiration of the time period in section 1025(b)(1) for expedited congressional consideration of a disapproval bill for a special message containing a cancellation of discretionary budget authority, OMB shall make the reduction included in subsection (a)(1)(B) as part of the next sequester report required by section 254 of the Balanced Budget and Emergency Deficit Control Act of 1985.

"(c) EXCEPTION.—Subsection (b) shall not apply to a cancellation if a disapproval bill or other law that disapproves that cancellation is enacted into law prior to 10 calendar days (excluding Sundays) after the expiration of the time period set forth in section 1025(b)(1).

"(d) CONGRESSIONAL BUDGET OFFICE ESTIMATES.—As soon as practicable after the President makes a cancellation from a law under section 1021(a), the Director of the Congressional Budget Office shall provide the Committees on the Budget of the House of Representatives and the Senate with an estimate of the reduction of the budget authority and the reduction in outlays flowing from such reduction of budget authority for each outyear.

"EXPEDITED CONGRESSIONAL CONSIDERATION OF DISAPPROVAL BILLS

"SEC. 1025. (a) RECEIPT AND REFERRAL OF SPECIAL MESSAGE.— 2 USC 691d.
Each special message transmitted under this part shall be referred to the Committee on the Budget and the appropriate committee or committees of the Senate and the Committee on the Budget and the appropriate committee or committees of the House of Representatives. Each such message shall be printed as a document of the House of Representatives.

"(b) TIME PERIOD FOR EXPEDITED PROCEDURES.—

"(1) There shall be a congressional review period of 30 calendar days of session, beginning on the first calendar day of session after the date on which the special message is received in the House of Representatives and the Senate, during which the procedures contained in this section shall apply to both Houses of Congress.

"(2) In the House of Representatives the procedures set forth in this section shall not apply after the end of the period described in paragraph (1).

"(3) If Congress adjourns at the end of a Congress prior to the expiration of the period described in paragraph (1) and a disapproval bill was then pending in either House of Congress or a committee thereof (including a conference committee of the two Houses of Congress), or was pending before the President, a disapproval bill for the same special message may be introduced within the first five calendar days of session of the next Congress and shall be treated as a disapproval bill under this part, and the time period described in paragraph (1) shall commence on the day of introduction of that disapproval bill.

"(c) INTRODUCTION OF DISAPPROVAL BILLS.—(1) In order for a disapproval bill to be considered under the procedures set forth in this section, the bill must meet the definition of a disapproval bill and must be introduced no later than the fifth calendar day of session following the beginning of the period described in subsection (b)(1).

"(2) In the case of a disapproval bill introduced in the House of Representatives, such bill shall include in the first blank space referred to in section 1026(6)(C) a list of the reference numbers for all cancellations made by the President in the special message to which such disapproval bill relates.

Reports

"(d) CONSIDERATION IN THE HOUSE OF REPRESENTATIVES.—(1) Any committee of the House of Representatives to which a disapproval bill is referred shall report it without amendment, and with or without recommendation, not later than the seventh calendar day of session after the date of its introduction. If any committee fails to report the bill within that period, it is in order to move that the House discharge the committee from further consideration of the bill, except that such a motion may not be made after the committee has reported a disapproval bill with respect to the same special message. A motion to discharge may be made only by a Member favoring the bill (but only at a time or place designated by the Speaker in the legislative schedule of the day after the calendar day on which the Member offering the motion announces to the House his intention to do so and the form of the motion). The motion is highly privileged. Debate thereon shall be limited to not more than one hour, the time to be divided in the House equally between a proponent and an opponent. The previous question shall be considered as ordered on the motion to its adoption without intervening motion. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order.

"(2) After a disapproval bill is reported or a committee has been discharged from further consideration, it is in order to move that the House resolve into the Committee of the Whole House on the State of the Union for consideration of the bill. If reported and the report has been available for at least one calendar day, all points of order against the bill and against consideration of the bill are waived. If discharged, all points of order against the bill and against consideration of the bill are waived. The motion is highly privileged. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. During consideration of the bill in the Committee of the Whole, the first reading of the bill shall be dispensed with. General debate shall proceed, shall be confined to the bill, and shall not exceed one hour equally divided and controlled by a proponent and an opponent of the bill. The bill shall be considered as read for amendment under the five-minute rule. Only one motion to rise shall be in order, except if offered by the manager. No amendment to the bill is in order, except any Member if supported by 49 other Members (a quorum being present) may offer an amendment striking the reference number or numbers of a cancellation or cancellations from the bill. Consideration of the bill for amendment shall not exceed one hour excluding time for recorded votes and quorum calls. No amendment shall be subject to further amendment, except pro forma amendments for the purposes of debate only. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion. A motion to reconsider the vote on passage of the bill shall not be in order.

"(3) Appeals from decisions of the Chair regarding application of the rules of the House of Representatives to the procedure relating to a disapproval bill shall be decided without debate.

"(4) It shall not be in order to consider under this subsection more than one disapproval bill for the same special message except for consideration of a similar Senate bill (unless the House has already rejected a disapproval bill for the same special message) or more than one motion to discharge described in paragraph (1) with respect to a disapproval bill for that special message.

"(e) CONSIDERATION IN THE SENATE.—

"(1) REFERRAL AND REPORTING.—Any disapproval bill introduced in the Senate shall be referred to the appropriate committee or committees. A committee to which a disapproval bill has been referred shall report the bill not later than the seventh day of session following the date of introduction of that bill. If any committee fails to report the bill within that period, that committee shall be automatically discharged from further consideration of the bill and the bill shall be placed on the Calendar.

"(2) DISAPPROVAL BILL FROM HOUSE.—When the Senate receives from the House of Representatives a disapproval bill, such bill shall not be referred to committee and shall be placed on the Calendar.

"(3) CONSIDERATION OF SINGLE DISAPPROVAL BILL.—After the Senate has proceeded to the consideration of a disapproval bill for a special message, then no other disapproval bill originating in that same House relating to that same message shall be subject to the procedures set forth in this subsection.

"(4) AMENDMENTS.—

"(A) AMENDMENTS IN ORDER.—The only amendments in order to a disapproval bill are—

"(i) an amendment that strikes the reference number of a cancellation from the disapproval bill; and

"(ii) an amendment that only inserts the reference number of a cancellation included in the special message to which the disapproval bill relates that is not already contained in such bill.

"(B) WAIVER OR APPEAL.—An affirmative vote of three-fifths of the Senators, duly chosen and sworn, shall be required in the Senate—

"(i) to waive or suspend this paragraph; or

"(ii) to sustain an appeal of the ruling of the Chair on a point of order raised under this paragraph.

"(5) MOTION NONDEBATABLE.—A motion to proceed to consideration of a disapproval bill under this subsection shall not be debatable. It shall not be in order to move to reconsider the vote by which the motion to proceed was adopted or rejected, although subsequent motions to proceed may be made under this paragraph.

"(6) LIMIT ON CONSIDERATION.—(A) After no more than 10 hours of consideration of a disapproval bill, the Senate shall proceed, without intervening action or debate (except as permitted under paragraph (9)), to vote on the final disposition thereof to the exclusion of all amendments not then pending and to the exclusion of all motions, except a motion to reconsider or to table.

"(B) A single motion to extend the time for consideration under subparagraph (A) for no more than an additional five hours is in order prior to the expiration of such time and shall be decided without debate.

"(C) The time for debate on the disapproval bill shall be equally divided between the Majority Leader and the Minority Leader or their designees.

"(7) DEBATE ON AMENDMENTS.—Debate on any amendment to a disapproval bill shall be limited to one hour, equally divided and controlled by the Senator proposing the amendment and the majority manager, unless the majority manager is in favor of the amendment, in which case the minority manager shall be in control of the time in opposition.

"(8) NO MOTION TO RECOMMIT.—A motion to recommit a disapproval bill shall not be in order.

"(9) DISPOSITION OF SENATE DISAPPROVAL BILL.—If the Senate has read for the third time a disapproval bill that originated in the Senate, then it shall be in order at any time thereafter to move to proceed to the consideration of a disapproval bill for the same special message received from the House of Representatives and placed on the Calendar pursuant to paragraph (2), strike all after the enacting clause, substitute the text of the Senate disapproval bill, agree to the Senate amendment, and vote on final disposition of the House disapproval bill, all without any intervening action or debate.

"(10) CONSIDERATION OF HOUSE MESSAGE.—Consideration in the Senate of all motions, amendments, or appeals necessary to dispose of a message from the House of Representatives on a disapproval bill shall be limited to not more than four hours. Debate on each motion or amendment shall be limited to 30 minutes. Debate on any appeal or point of order that is submitted in connection with the disposition of the House message shall be limited to 20 minutes. Any time for debate shall be equally divided and controlled by the proponent and the majority manager, unless the majority manager is a proponent of the motion, amendment, appeal, or point of order, in which case the minority manager shall be in control of the time in opposition.

"(f) CONSIDERATION IN CONFERENCE.—

"(1) CONVENING OF CONFERENCE.—In the case of disagreement between the two Houses of Congress with respect to a disapproval bill passed by both Houses, conferees should be promptly appointed and a conference promptly convened, if necessary.

"(2) HOUSE CONSIDERATION.—(A) Notwithstanding any other rule of the House of Representatives, it shall be in order to consider the report of a committee of conference relating to a disapproval bill provided such report has been available for one calendar day (excluding Saturdays, Sundays, or legal holidays, unless the House is in session on such a day) and the accompanying statement shall have been filed in the House.

"(B) Debate in the House of Representatives on the conference report and any amendments in disagreement on any disapproval bill shall each be limited to not more than one hour equally divided and controlled by a proponent and an opponent. A motion to further limit debate is not debatable. A motion to recommit the conference report is not in order,

and it is not in order to move to reconsider the vote by which the conference report is agreed to or disagreed to.

"(3) SENATE CONSIDERATION.—Consideration in the Senate of the conference report and any amendments in disagreement on a disapproval bill shall be limited to not more than four hours equally divided and controlled by the Majority Leader and the Minority Leader or their designees. A motion to recommit the conference report is not in order.

"(4) LIMITS ON SCOPE.—(A) When a disagreement to an amendment in the nature of a substitute has been referred to a conference, the conferees shall report those cancellations that were included in both the bill and the amendment, and may report a cancellation included in either the bill or the amendment, but shall not include any other matter.

"(B) When a disagreement on an amendment or amendments of one House to the disapproval bill of the other House has been referred to a committee of conference, the conferees shall report those cancellations upon which both Houses agree and may report any or all of those cancellations upon which there is disagreement, but shall not include any other matter.

"DEFINITIONS

"SEC. 1026. As used in this part: 2 USC 691e.

"(1) APPROPRIATION LAW.—The term 'appropriation law' means an Act referred to in section 105 of title 1, United States Code, including any general or special appropriation Act, or any Act making supplemental, deficiency, or continuing appropriations, that has been signed into law pursuant to Article I, section 7, of the Constitution of the United States.

"(2) CALENDAR DAY.—The term 'calendar day' means a standard 24-hour period beginning at midnight.

"(3) CALENDAR DAYS OF SESSION.—The term 'calendar days of session' shall mean only those days on which both Houses of Congress are in session.

"(4) CANCEL.—The term 'cancel' or 'cancellation' means—

"(A) with respect to any dollar amount of discretionary budget authority, to rescind;

"(B) with respect to any item of new direct spending—

"(i) that is budget authority provided by law (other than an appropriation law), to prevent such budget authority from having legal force or effect;

"(ii) that is entitlement authority, to prevent the specific legal obligation of the United States from having legal force or effect; or

"(iii) through the food stamp program, to prevent the specific provision of law that results in an increase in budget authority or outlays for that program from having legal force or effect; and

"(C) with respect to a limited tax benefit, to prevent the specific provision of law that provides such benefit from having legal force or effect.

"(5) DIRECT SPENDING.—The term 'direct spending' means—

"(A) budget authority provided by law (other than an appropriation law);

"(B) entitlement authority; and

"(C) the food stamp program.

"(6) DISAPPROVAL BILL.—The term 'disapproval bill' means a bill or joint resolution which only disapproves one or more cancellations of dollar amounts of discretionary budget authority, items of new direct spending, or limited tax benefits in a special message transmitted by the President under this part and—

"(A) the title of which is as follows: 'A bill disapproving the cancellations transmitted by the President on _____', the blank space being filled in with the date of transmission of the relevant special message and the public law number to which the message relates;

"(B) which does not have a preamble; and

"(C) which provides only the following after the enacting clause: 'That Congress disapproves of cancellations _____', the blank space being filled in with a list by reference number of one or more cancellations contained in the President's special message, 'as transmitted by the President in a special message on _____', the blank space being filled in with the appropriate date, 'regarding _____.', the blank space being filled in with the public law number to which the special message relates.

"(7) DOLLAR AMOUNT OF DISCRETIONARY BUDGET AUTHORITY.—(A) Except as provided in subparagraph (B), the term 'dollar amount of discretionary budget authority' means the entire dollar amount of budget authority—

"(i) specified in an appropriation law, or the entire dollar amount of budget authority required to be allocated by a specific proviso in an appropriation law for which a specific dollar figure was not included;

"(ii) represented separately in any table, chart, or explanatory text included in the statement of managers or the governing committee report accompanying such law;

"(iii) required to be allocated for a specific program, project, or activity in a law (other than an appropriation law) that mandates the expenditure of budget authority from accounts, programs, projects, or activities for which budget authority is provided in an appropriation law;

"(iv) represented by the product of the estimated procurement cost and the total quantity of items specified in an appropriation law or included in the statement of managers or the governing committee report accompanying such law; and

"(v) represented by the product of the estimated procurement cost and the total quantity of items required to be provided in a law (other than an appropriation law) that mandates the expenditure of budget authority from accounts, programs, projects, or activities for which budget authority is provided in an appropriation law.

"(B) The term 'dollar amount of discretionary budget authority' does not include—

"(i) direct spending;

"(ii) budget authority in an appropriation law which funds direct spending provided for in other law;

"(iii) any existing budget authority rescinded or canceled in an appropriation law; or

"(iv) any restriction, condition, or limitation in an appropriation law or the accompanying statement of man-

agers or committee reports on the expenditure of budget authority for an account, program, project, or activity, or on activities involving such expenditure.

"(8) ITEM OF NEW DIRECT SPENDING.—The term 'item of new direct spending' means any specific provision of law that is estimated to result in an increase in budget authority or outlays for direct spending relative to the most recent levels calculated pursuant to section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985.

"(9) LIMITED TAX BENEFIT.—(A) The term 'limited tax benefit' means—

"(i) any revenue-losing provision which provides a Federal tax deduction, credit, exclusion, or preference to 100 or fewer beneficiaries under the Internal Revenue Code of 1986 in any fiscal year for which the provision is in effect; and

"(ii) any Federal tax provision which provides temporary or permanent transitional relief for 10 or fewer beneficiaries in any fiscal year from a change to the Internal Revenue Code of 1986.

"(B) A provision shall not be treated as described in subparagraph (A)(i) if the effect of that provision is that—

"(i) all persons in the same industry or engaged in the same type of activity receive the same treatment;

"(ii) all persons owning the same type of property, or issuing the same type of investment, receive the same treatment; or

"(iii) any difference in the treatment of persons is based solely on—

"(I) in the case of businesses and associations, the size or form of the business or association involved;

"(II) in the case of individuals, general demographic conditions, such as income, marital status, number of dependents, or tax return filing status;

"(III) the amount involved; or

"(IV) a generally-available election under the Internal Revenue Code of 1986.

"(C) A provision shall not be treated as described in subparagraph (A)(ii) if—

"(i) it provides for the retention of prior law with respect to all binding contracts or other legally enforceable obligations in existence on a date contemporaneous with congressional action specifying such date; or

"(ii) it is a technical correction to previously enacted legislation that is estimated to have no revenue effect.

"(D) For purposes of subparagraph (A)—

"(i) all businesses and associations which are related within the meaning of sections 707(b) and 1563(a) of the Internal Revenue Code of 1986 shall be treated as a single beneficiary;

"(ii) all qualified plans of an employer shall be treated as a single beneficiary;

"(iii) all holders of the same bond issue shall be treated as a single beneficiary; and

"(iv) if a corporation, partnership, association, trust or estate is the beneficiary of a provision, the shareholders of the corporation, the partners of the partnership, the

members of the association, or the beneficiaries of the trust or estate shall not also be treated as beneficiaries of such provision.

"(E) For purposes of this paragraph, the term 'revenue-losing provision' means any provision which results in a reduction in Federal tax revenues for any one of the two following periods—

"(i) the first fiscal year for which the provision is effective; or

"(ii) the period of the 5 fiscal years beginning with the first fiscal year for which the provision is effective.

"(F) The terms used in this paragraph shall have the same meaning as those terms have generally in the Internal Revenue Code of 1986, unless otherwise expressly provided.

"(10) OMB.—The term 'OMB' means the Director of the Office of Management and Budget.

"IDENTIFICATION OF LIMITED TAX BENEFITS

2 USC 691f.

"SEC. 1027. (a) STATEMENT BY JOINT TAX COMMITTEE.—The Joint Committee on Taxation shall review any revenue or reconciliation bill or joint resolution which includes any amendment to the Internal Revenue Code of 1986 that is being prepared for filing by a committee of conference of the two Houses, and shall identify whether such bill or joint resolution contains any limited tax benefits. The Joint Committee on Taxation shall provide to the committee of conference a statement identifying any such limited tax benefits or declaring that the bill or joint resolution does not contain any limited tax benefits. Any such statement shall be made available to any Member of Congress by the Joint Committee on Taxation immediately upon request.

"(b) STATEMENT INCLUDED IN LEGISLATION.—(1) Notwithstanding any other rule of the House of Representatives or any rule or precedent of the Senate, any revenue or reconciliation bill or joint resolution which includes any amendment to the Internal Revenue Code of 1986 reported by a committee of conference of the two Houses may include, as a separate section of such bill or joint resolution, the information contained in the statement of the Joint Committee on Taxation, but only in the manner set forth in paragraph (2).

Applicability.

"(2) The separate section permitted under paragraph (1) shall read as follows: 'Section 1021(a)(3) of the Congressional Budget and Impoundment Control Act of 1974 shall _____ apply to _____.', with the blank spaces being filled in with—

"(A) in any case in which the Joint Committee on Taxation identifies limited tax benefits in the statement required under subsection (a), the word 'only' in the first blank space and a list of all of the specific provisions of the bill or joint resolution identified by the Joint Committee on Taxation in such statement in the second blank space; or

"(B) in any case in which the Joint Committee on Taxation declares that there are no limited tax benefits in the statement required under subsection (a), the word 'not' in the first blank space and the phrase 'any provision of this Act' in the second blank space.

"(c) PRESIDENT'S AUTHORITY.—If any revenue or reconciliation bill or joint resolution is signed into law pursuant to Article I, section 7, of the Constitution of the United States—

"(1) with a separate section described in subsection (b)(2), then the President may use the authority granted in section 1021(a)(3) only to cancel any limited tax benefit in that law, if any, identified in such separate section; or

"(2) without a separate section described in subsection (b)(2), then the President may use the authority granted in section 1021(a)(3) to cancel any limited tax benefit in that law that meets the definition in section 1026.

"(d) CONGRESSIONAL IDENTIFICATIONS OF LIMITED TAX BENEFITS.—There shall be no judicial review of the congressional identification under subsections (a) and (b) of a limited tax benefit in a conference report.".

SEC. 3. JUDICIAL REVIEW. 2 USC 692.

(a) EXPEDITED REVIEW.—

(1) Any Member of Congress or any individual adversely affected by part C of title X of the Congressional Budget and Impoundment Control Act of 1974 may bring an action, in the United States District Court for the District of Columbia, for declaratory judgment and injunctive relief on the ground that any provision of this part violates the Constitution.

(2) A copy of any complaint in an action brought under paragraph (1) shall be promptly delivered to the Secretary of the Senate and the Clerk of the House of Representatives, and each House of Congress shall have the right to intervene in such action.

(3) Nothing in this section or in any other law shall infringe upon the right of the House of Representatives to intervene in an action brought under paragraph (1) without the necessity of adopting a resolution to authorize such intervention.

(b) APPEAL TO SUPREME COURT.—Notwithstanding any other provision of law, any order of the United States District Court for the District of Columbia which is issued pursuant to an action brought under paragraph (1) of subsection (a) shall be reviewable by appeal directly to the Supreme Court of the United States. Any such appeal shall be taken by a notice of appeal filed within 10 calendar days after such order is entered; and the jurisdictional statement shall be filed within 30 calendar days after such order is entered. No stay of an order issued pursuant to an action brought under paragraph (1) of subsection (a) shall be issued by a single Justice of the Supreme Court.

(c) EXPEDITED CONSIDERATION.—It shall be the duty of the District Court for the District of Columbia and the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of any matter brought under subsection (a).

SEC. 4. CONFORMING AMENDMENTS.

(a) SHORT TITLES.—Section 1(a) of the Congressional Budget and Impoundment Control Act of 1974 is amended by— 2 USC 621 note.

(1) striking "and" before "title X" and inserting a period;

(2) inserting "Parts A and B of" before "title X"; and

(3) inserting at the end the following new sentence: "Part C of title X may be cited as the 'Line Item Veto Act of 1996'.".

(b) TABLE OF CONTENTS.—The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by adding at the end the following: 88 Stat. 297.

"PART C—LINE ITEM VETO

"Sec. 1021. Line item veto authority.
"Sec. 1022. Special messages.
"Sec. 1023. Cancellation effective unless disapproved.
"Sec. 1024. Deficit reduction.
"Sec. 1025. Expedited congressional consideration of disapproval bills.
"Sec. 1026. Definitions.
"Sec. 1027. Identification of limited tax benefits.".

(c) EXERCISE OF RULEMAKING POWERS.—Section 904(a) of the Congressional Budget Act of 1974 is amended by striking "and 1017" and inserting ", 1017, 1025, and 1027". 2 USC 621 note.

2 USC 691 note.

SEC. 5. EFFECTIVE DATES.

This Act and the amendments made by it shall take effect and apply to measures enacted on the earlier of—

(1) the day after the enactment into law, pursuant to Article I, section 7, of the Constitution of the United States, of an Act entitled "An Act to provide for a seven-year plan for deficit reduction and achieve a balanced Federal budget."; or

(2) January 1, 1997;

and shall have no force or effect on or after January 1, 2005.

Approved April 9, 1996.

LEGISLATIVE HISTORY—S. 4 (H.R. 2):

HOUSE REPORTS: Nos. 104–11, Pt. 1 (Comm. on Rules) and Pt. 2 (Comm. on Government Reform and Oversight) both accompanying H.R. 2, and 104–491 (Comm. of Conference).

SENATE REPORTS: Nos. 104–9 (Comm. on the Budget) and 104–13 (Comm. on Governmental Affairs).

CONGRESSIONAL RECORD:

Vol. 141 (1995): Feb. 2, 3, 6, H.R. 2 considered and passed House.
Mar. 20–23, S. 4 considered and passed Senate.
May 17, considered and passed House, amended, in lieu of H.R. 2.

Vol. 142 (1996): Mar. 27, Senate agreed to conference report.
Mar. 28, House agreed to conference report pursuant to H. Res. 391.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 32 (1996):
Apr. 9, Presidential remarks and statement.

Public Law 104–131
104th Congress

Joint Resolution

Making further continuing appropriations for the fiscal year 1996, and for other purposes.

Apr. 24, 1996
[H.J. Res. 175]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Public Law 104–99 is further amended by striking out "April 24, 1996" in sections 106(c), 112, 126(c), 202(c), and 214 and inserting in lieu thereof "April 25, 1996"; and that Public Law 104–92 is further amended by striking out "April 24, 1996" in section 106(c) and inserting in lieu thereof "April 25, 1996".

Ante, pp. 27, 28, 33, 36, 38.
Ante, p. 18.

Approved April 24, 1996.

LEGISLATIVE HISTORY—H.J. Res. 175:

CONGRESSIONAL RECORD, Vol. 142 (1996):
Apr. 24, considered and passed House and Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 32 (1996):
Apr. 24, Presidential statement.

Public Law 104–132
104th Congress

An Act

Apr. 24, 1996
[S. 735]

To deter terrorism, provide justice for victims, provide for an effective death penalty, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Antiterrorism and Effective Death Penalty Act of 1996.
18 USC 1 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Antiterrorism and Effective Death Penalty Act of 1996".

SEC. 2. TABLE OF CONTENTS.

The table of contents of this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

Sec. 101. Filing deadlines.
Sec. 102. Appeal.
Sec. 103. Amendment of Federal Rules of Appellate Procedure.
Sec. 104. Section 2254 amendments.
Sec. 105. Section 2255 amendments.
Sec. 106. Limits on second or successive applications.
Sec. 107. Death penalty litigation procedures.
Sec. 108. Technical amendment.

TITLE II—JUSTICE FOR VICTIMS

Subtitle A—Mandatory Victim Restitution

Sec. 201. Short title.
Sec. 202. Order of restitution.
Sec. 203. Conditions of probation.
Sec. 204. Mandatory restitution.
Sec. 205. Order of restitution to victims of other crimes.
Sec. 206. Procedure for issuance of restitution order.
Sec. 207. Procedure for enforcement of fine or restitution order.
Sec. 208. Instruction to Sentencing Commission.
Sec. 209. Justice Department regulations.
Sec. 210. Special assessments on convicted persons.
Sec. 211. Effective date.

Subtitle B—Jurisdiction for Lawsuits Against Terrorist States

Sec. 221. Jurisdiction for lawsuits against terrorist states.

Subtitle C—Assistance to Victims of Terrorism

Sec. 231. Short title.
Sec. 232. Victims of Terrorism Act.
Sec. 233. Compensation of victims of terrorism.
Sec. 234. Crime victims fund.
Sec. 235. Closed circuit televised court proceedings for victims of crime.
Sec. 236. Technical correction.

TITLE III—INTERNATIONAL TERRORISM PROHIBITIONS

Subtitle A—Prohibition on International Terrorist Fundraising

Sec. 301. Findings and purpose.

Sec. 302. Designation of foreign terrorist organizations.
Sec. 303. Prohibition on terrorist fundraising.

Subtitle B—Prohibition on Assistance to Terrorist States

Sec. 321. Financial transactions with terrorists.
Sec. 322. Foreign air travel safety.
Sec. 323. Modification of material support provision.
Sec. 324. Findings.
Sec. 325. Prohibition on assistance to countries that aid terrorist states.
Sec. 326. Prohibition on assistance to countries that provide military equipment to terrorist states.
Sec. 327. Opposition to assistance by international financial institutions to terrorist states.
Sec. 328. Antiterrorism assistance.
Sec. 329. Definition of assistance.
Sec. 330. Prohibition on assistance under Arms Export Control Act for countries not cooperating fully with United States antiterrorism efforts.

TITLE IV—TERRORIST AND CRIMINAL ALIEN REMOVAL AND EXCLUSION

Subtitle A—Removal of Alien Terrorists

Sec. 401. Alien terrorist removal.

Subtitle B—Exclusion of Members and Representatives of Terrorist Organizations

Sec. 411. Exclusion of alien terrorists.
Sec. 412. Waiver authority concerning notice of denial of application for visas.
Sec. 413. Denial of other relief for alien terrorists.
Sec. 414. Exclusion of aliens who have not been inspected and admitted.

Subtitle C—Modification to Asylum Procedures

Sec. 421. Denial of asylum to alien terrorists.
Sec. 422. Inspection and exclusion by immigration officers.
Sec. 423. Judicial review.

Subtitle D—Criminal Alien Procedural Improvements

Sec. 431. Access to certain confidential immigration and naturalization files through court order.
Sec. 432. Criminal alien identification system.
Sec. 433. Establishing certain alien smuggling-related crimes as RICO-predicate offenses.
Sec. 434. Authority for alien smuggling investigations.
Sec. 435. Expansion of criteria for deportation for crimes of moral turpitude.
Sec. 436. Miscellaneous provisions.
Sec. 437. Interior repatriation program.
Sec. 438. Deportation of nonviolent offenders prior to completion of sentence of imprisonment.
Sec. 439. Authorizing State and local law enforcement officials to arrest and detain certain illegal aliens.
Sec. 440. Criminal alien removal.
Sec. 441. Limitation on collateral attacks on underlying deportation order.
Sec. 442. Deportation procedures for certain criminal aliens who are not permanent residents.
Sec. 443. Extradition of aliens.

TITLE V—NUCLEAR, BIOLOGICAL, AND CHEMICAL WEAPONS RESTRICTIONS

Subtitle A—Nuclear Materials

Sec. 501. Findings and purpose.
Sec. 502. Expansion of scope and jurisdictional bases of nuclear materials prohibitions.
Sec. 503. Report to Congress on thefts of explosive materials from armories.

Subtitle B—Biological Weapons Restrictions

Sec. 511. Enhanced penalties and control of biological agents.

Subtitle C—Chemical Weapons Restrictions

Sec. 521. Chemical weapons of mass destruction; study of facility for training and evaluation of personnel who respond to use of chemical or biological weapons in urban and suburban areas.

TITLE VI—IMPLEMENTATION OF PLASTIC EXPLOSIVES CONVENTION

Sec. 601. Findings and purposes.
Sec. 602. Definitions.
Sec. 603. Requirement of detection agents for plastic explosives.
Sec. 604. Criminal sanctions.
Sec. 605. Exceptions.
Sec. 606. Seizure and forfeiture of plastic explosives.
Sec. 607. Effective date.

TITLE VII—CRIMINAL LAW MODIFICATIONS TO COUNTER TERRORISM

Subtitle A—Crimes and Penalties

Sec. 701. Increased penalty for conspiracies involving explosives.
Sec. 702. Acts of terrorism transcending national boundaries.
Sec. 703. Expansion of provision relating to destruction or injury of property within special maritime and territorial jurisdiction.
Sec. 704. Conspiracy to harm people and property overseas.
Sec. 705. Increased penalties for certain terrorism crimes.
Sec. 706. Mandatory penalty for transferring an explosive material knowing that it will be used to commit a crime of violence.
Sec. 707. Possession of stolen explosives prohibited.
Sec. 708. Enhanced penalties for use of explosives or arson crimes.
Sec. 709. Determination of constitutionality of restricting the dissemination of bomb-making instructional materials.

Subtitle B—Criminal Procedures

Sec. 721. Clarification and extension of criminal jurisdiction over certain terrorism offenses overseas.
Sec. 722. Clarification of maritime violence jurisdiction.
Sec. 723. Increased and alternate conspiracy penalties for terrorism offenses.
Sec. 724. Clarification of Federal jurisdiction over bomb threats.
Sec. 725. Expansion and modification of weapons of mass destruction statute.
Sec. 726. Addition of terrorism offenses to the money laundering statute.
Sec. 727. Protection of Federal employees; protection of current or former officials, officers, or employees of the United States.
Sec. 728. Death penalty aggravating factor.
Sec. 729. Detention hearing.
Sec. 730. Directions to Sentencing Commission.
Sec. 731. Exclusion of certain types of information from definitions.
Sec. 732. Marking, rendering inert, and licensing of explosive materials.

TITLE VIII—ASSISTANCE TO LAW ENFORCEMENT

Subtitle A—Resources and Security

Sec. 801. Overseas law enforcement training activities.
Sec. 802. Sense of Congress.
Sec. 803. Protection of Federal Government buildings in the District of Columbia.
Sec. 804. Requirement to preserve record evidence.
Sec. 805. Deterrent against terrorist activity damaging a Federal interest computer.
Sec. 806. Commission on the Advancement of Federal Law Enforcement.
Sec. 807. Combatting international counterfeiting of United States currency.
Sec. 808. Compilation of statistics relating to intimidation of Government employees.
Sec. 809. Assessing and reducing the threat to law enforcement officers from the criminal use of firearms and ammunition.
Sec. 810. Study and report on electronic surveillance.

Subtitle B—Funding Authorizations for Law Enforcement

Sec. 811. Federal Bureau of Investigation.
Sec. 812. United States Customs Service.
Sec. 813. Immigration and Naturalization Service.
Sec. 814. Drug Enforcement Administration.
Sec. 815. Department of Justice.
Sec. 816. Department of the Treasury.
Sec. 817. United States Park Police.
Sec. 818. The Judiciary.
Sec. 819. Local firefighter and emergency services training.
Sec. 820. Assistance to foreign countries to procure explosive detection devices and other counterterrorism technology.
Sec. 821. Research and development to support counterterrorism technologies.

Sec. 822. Grants to State and local law enforcement for training and equipment.
Sec. 823. Funding source.

TITLE IX—MISCELLANEOUS

Sec. 901. Expansion of territorial sea.
Sec. 902. Proof of citizenship.
Sec. 903. Representation fees in criminal cases.
Sec. 904. Severability.

TITLE I—HABEAS CORPUS REFORM

Courts.

SEC. 101. FILING DEADLINES.

Section 2244 of title 28, United States Code, is amended by adding at the end the following new subsection:

"(d)(1) A 1-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of—

"(A) the date on which the judgment became final by the conclusion of direct review or the expiration of the time for seeking such review;

"(B) the date on which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, if the applicant was prevented from filing by such State action;

"(C) the date on which the constitutional right asserted was initially recognized by the Supreme Court, if the right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or

"(D) the date on which the factual predicate of the claim or claims presented could have been discovered through the exercise of due diligence.

"(2) The time during which a properly filed application for State post-conviction or other collateral review with respect to the pertinent judgment or claim is pending shall not be counted toward any period of limitation under this subsection.".

SEC. 102. APPEAL.

Section 2253 of title 28, United States Code, is amended to read as follows:

"§ 2253. Appeal

"(a) In a habeas corpus proceeding or a proceeding under section 2255 before a district judge, the final order shall be subject to review, on appeal, by the court of appeals for the circuit in which the proceeding is held.

"(b) There shall be no right of appeal from a final order in a proceeding to test the validity of a warrant to remove to another district or place for commitment or trial a person charged with a criminal offense against the United States, or to test the validity of such person's detention pending removal proceedings.

"(c)(1) Unless a circuit justice or judge issues a certificate of appealability, an appeal may not be taken to the court of appeals from—

"(A) the final order in a habeas corpus proceeding in which the detention complained of arises out of process issued by a State court; or

"(B) the final order in a proceeding under section 2255.

"(2) A certificate of appealability may issue under paragraph (1) only if the applicant has made a substantial showing of the denial of a constitutional right.

"(3) The certificate of appealability under paragraph (1) shall indicate which specific issue or issues satisfy the showing required by paragraph (2).".

SEC. 103. AMENDMENT OF FEDERAL RULES OF APPELLATE PROCEDURE.

28 USC app.

Rule 22 of the Federal Rules of Appellate Procedure is amended to read as follows:

"Rule 22. Habeas corpus and section 2255 proceedings

"(a) APPLICATION FOR THE ORIGINAL WRIT.—An application for a writ of habeas corpus shall be made to the appropriate district court. If application is made to a circuit judge, the application shall be transferred to the appropriate district court. If an application is made to or transferred to the district court and denied, renewal of the application before a circuit judge shall not be permitted. The applicant may, pursuant to section 2253 of title 28, United States Code, appeal to the appropriate court of appeals from the order of the district court denying the writ.

"(b) CERTIFICATE OF APPEALABILITY.—In a habeas corpus proceeding in which the detention complained of arises out of process issued by a State court, an appeal by the applicant for the writ may not proceed unless a district or a circuit judge issues a certificate of appealability pursuant to section 2253(c) of title 28, United States Code. If an appeal is taken by the applicant, the district judge who rendered the judgment shall either issue a certificate of appealability or state the reasons why such a certificate should not issue. The certificate or the statement shall be forwarded to the court of appeals with the notice of appeal and the file of the proceedings in the district court. If the district judge has denied the certificate, the applicant for the writ may then request issuance of the certificate by a circuit judge. If such a request is addressed to the court of appeals, it shall be deemed addressed to the judges thereof and shall be considered by a circuit judge or judges as the court deems appropriate. If no express request for a certificate is filed, the notice of appeal shall be deemed to constitute a request addressed to the judges of the court of appeals. If an appeal is taken by a State or its representative, a certificate of appealability is not required.".

SEC. 104. SECTION 2254 AMENDMENTS.

Section 2254 of title 28, United States Code, is amended—

(1) by amending subsection (b) to read as follows:

"(b)(1) An application for a writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a State court shall not be granted unless it appears that—

"(A) the applicant has exhausted the remedies available in the courts of the State; or

"(B)(i) there is an absence of available State corrective process; or

"(ii) circumstances exist that render such process ineffective to protect the rights of the applicant.

"(2) An application for a writ of habeas corpus may be denied on the merits, notwithstanding the failure of the applicant to exhaust the remedies available in the courts of the State.

"(3) A State shall not be deemed to have waived the exhaustion requirement or be estopped from reliance upon the requirement unless the State, through counsel, expressly waives the requirement.";

(2) by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively;

(3) by inserting after subsection (c) the following new subsection:

"(d) An application for a writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a State court shall not be granted with respect to any claim that was adjudicated on the merits in State court proceedings unless the adjudication of the claim—

"(1) resulted in a decision that was contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States; or

"(2) resulted in a decision that was based on an unreasonable determination of the facts in light of the evidence presented in the State court proceeding.";

(4) by amending subsection (e), as redesignated by paragraph (2), to read as follows:

"(e)(1) In a proceeding instituted by an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court, a determination of a factual issue made by a State court shall be presumed to be correct. The applicant shall have the burden of rebutting the presumption of correctness by clear and convincing evidence.

"(2) If the applicant has failed to develop the factual basis of a claim in State court proceedings, the court shall not hold an evidentiary hearing on the claim unless the applicant shows that—

"(A) the claim relies on—

"(i) a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable; or

"(ii) a factual predicate that could not have been previously discovered through the exercise of due diligence; and

"(B) the facts underlying the claim would be sufficient to establish by clear and convincing evidence that but for constitutional error, no reasonable factfinder would have found the applicant guilty of the underlying offense."; and

(5) by adding at the end the following new subsections:

"(h) Except as provided in section 408 of the Controlled Substances Act, in all proceedings brought under this section, and any subsequent proceedings on review, the court may appoint counsel for an applicant who is or becomes financially unable to afford counsel, except as provided by a rule promulgated by the Supreme Court pursuant to statutory authority. Appointment of counsel under this section shall be governed by section 3006A of title 18.

"(i) The ineffectiveness or incompetence of counsel during Federal or State collateral post-conviction proceedings shall not be a ground for relief in a proceeding arising under section 2254.".

SEC. 105. SECTION 2255 AMENDMENTS.

Section 2255 of title 28, United States Code, is amended—

(1) by striking the second and fifth undesignated paragraphs; and

(2) by adding at the end the following new undesignated paragraphs:

"A 1-year period of limitation shall apply to a motion under this section. The limitation period shall run from the latest of—

"(1) the date on which the judgment of conviction becomes final;

"(2) the date on which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, if the movant was prevented from making a motion by such governmental action;

"(3) the date on which the right asserted was initially recognized by the Supreme Court, if that right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or

"(4) the date on which the facts supporting the claim or claims presented could have been discovered through the exercise of due diligence.

"Except as provided in section 408 of the Controlled Substances Act, in all proceedings brought under this section, and any subsequent proceedings on review, the court may appoint counsel, except as provided by a rule promulgated by the Supreme Court pursuant to statutory authority. Appointment of counsel under this section shall be governed by section 3006A of title 18.

"A second or successive motion must be certified as provided in section 2244 by a panel of the appropriate court of appeals to contain—

"(1) newly discovered evidence that, if proven and viewed in light of the evidence as a whole, would be sufficient to establish by clear and convincing evidence that no reasonable factfinder would have found the movant guilty of the offense; or

"(2) a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable.".

SEC. 106. LIMITS ON SECOND OR SUCCESSIVE APPLICATIONS.

(a) CONFORMING AMENDMENT TO SECTION 2244(a).—Section 2244(a) of title 28, United States Code, is amended by striking "and the petition" and all that follows through "by such inquiry." and inserting ", except as provided in section 2255.".

(b) LIMITS ON SECOND OR SUCCESSIVE APPLICATIONS.—Section 2244(b) of title 28, United States Code, is amended to read as follows:

"(b)(1) A claim presented in a second or successive habeas corpus application under section 2254 that was presented in a prior application shall be dismissed.

"(2) A claim presented in a second or successive habeas corpus application under section 2254 that was not presented in a prior application shall be dismissed unless—

"(A) the applicant shows that the claim relies on a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable; or

"(B)(i) the factual predicate for the claim could not have been discovered previously through the exercise of due diligence; and

"(ii) the facts underlying the claim, if proven and viewed in light of the evidence as a whole, would be sufficient to establish by clear and convincing evidence that, but for constitutional error, no reasonable factfinder would have found the applicant guilty of the underlying offense.

"(3)(A) Before a second or successive application permitted by this section is filed in the district court, the applicant shall move in the appropriate court of appeals for an order authorizing the district court to consider the application.

"(B) A motion in the court of appeals for an order authorizing the district court to consider a second or successive application shall be determined by a three-judge panel of the court of appeals.

"(C) The court of appeals may authorize the filing of a second or successive application only if it determines that the application makes a prima facie showing that the application satisfies the requirements of this subsection.

"(D) The court of appeals shall grant or deny the authorization to file a second or successive application not later than 30 days after the filing of the motion.

"(E) The grant or denial of an authorization by a court of appeals to file a second or successive application shall not be appealable and shall not be the subject of a petition for rehearing or for a writ of certiorari.

"(4) A district court shall dismiss any claim presented in a second or successive application that the court of appeals has authorized to be filed unless the applicant shows that the claim satisfies the requirements of this section.".

SEC. 107. DEATH PENALTY LITIGATION PROCEDURES.

(a) ADDITION OF CHAPTER TO TITLE 28, UNITED STATES CODE.—Title 28, United States Code, is amended by inserting after chapter 153 the following new chapter:

"CHAPTER 154—SPECIAL HABEAS CORPUS PROCEDURES IN CAPITAL CASES

"Sec.
"2261. Prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment.
"2262. Mandatory stay of execution; duration; limits on stays of execution; successive petitions.
"2263. Filing of habeas corpus application; time requirements; tolling rules.
"2264. Scope of Federal review; district court adjudications.
"2265. Application to State unitary review procedure.
"2266. Limitation periods for determining applications and motions.

"§ 2261. Prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment

"(a) This chapter shall apply to cases arising under section 2254 brought by prisoners in State custody who are subject to a capital sentence. It shall apply only if the provisions of subsections (b) and (c) are satisfied.

"(b) This chapter is applicable if a State establishes by statute, rule of its court of last resort, or by another agency authorized

by State law, a mechanism for the appointment, compensation, and payment of reasonable litigation expenses of competent counsel in State post-conviction proceedings brought by indigent prisoners whose capital convictions and sentences have been upheld on direct appeal to the court of last resort in the State or have otherwise become final for State law purposes. The rule of court or statute must provide standards of competency for the appointment of such counsel.

"(c) Any mechanism for the appointment, compensation, and reimbursement of counsel as provided in subsection (b) must offer counsel to all State prisoners under capital sentence and must provide for the entry of an order by a court of record—

"(1) appointing one or more counsels to represent the prisoner upon a finding that the prisoner is indigent and accepted the offer or is unable competently to decide whether to accept or reject the offer;

"(2) finding, after a hearing if necessary, that the prisoner rejected the offer of counsel and made the decision with an understanding of its legal consequences; or

"(3) denying the appointment of counsel upon a finding that the prisoner is not indigent.

"(d) No counsel appointed pursuant to subsections (b) and (c) to represent a State prisoner under capital sentence shall have previously represented the prisoner at trial or on direct appeal in the case for which the appointment is made unless the prisoner and counsel expressly request continued representation.

"(e) The ineffectiveness or incompetence of counsel during State or Federal post-conviction proceedings in a capital case shall not be a ground for relief in a proceeding arising under section 2254. This limitation shall not preclude the appointment of different counsel, on the court's own motion or at the request of the prisoner, at any phase of State or Federal post-conviction proceedings on the basis of the ineffectiveness or incompetence of counsel in such proceedings.

"§ 2262. Mandatory stay of execution; duration; limits on stays of execution; successive petitions

"(a) Upon the entry in the appropriate State court of record of an order under section 2261(c), a warrant or order setting an execution date for a State prisoner shall be stayed upon application to any court that would have jurisdiction over any proceedings filed under section 2254. The application shall recite that the State has invoked the post-conviction review procedures of this chapter and that the scheduled execution is subject to stay.

"(b) A stay of execution granted pursuant to subsection (a) shall expire if—

"(1) a State prisoner fails to file a habeas corpus application under section 2254 within the time required in section 2263;

"(2) before a court of competent jurisdiction, in the presence of counsel, unless the prisoner has competently and knowingly waived such counsel, and after having been advised of the consequences, a State prisoner under capital sentence waives the right to pursue habeas corpus review under section 2254; or

"(3) a State prisoner files a habeas corpus petition under section 2254 within the time required by section 2263 and fails to make a substantial showing of the denial of a Federal

right or is denied relief in the district court or at any subsequent stage of review.

"(c) If one of the conditions in subsection (b) has occurred, no Federal court thereafter shall have the authority to enter a stay of execution in the case, unless the court of appeals approves the filing of a second or successive application under section 2244(b).

"§ 2263. Filing of habeas corpus application; time requirements; tolling rules

"(a) Any application under this chapter for habeas corpus relief under section 2254 must be filed in the appropriate district court not later than 180 days after final State court affirmance of the conviction and sentence on direct review or the expiration of the time for seeking such review.

"(b) The time requirements established by subsection (a) shall be tolled—

"(1) from the date that a petition for certiorari is filed in the Supreme Court until the date of final disposition of the petition if a State prisoner files the petition to secure review by the Supreme Court of the affirmance of a capital sentence on direct review by the court of last resort of the State or other final State court decision on direct review;

"(2) from the date on which the first petition for post-conviction review or other collateral relief is filed until the final State court disposition of such petition; and

"(3) during an additional period not to exceed 30 days, if—

"(A) a motion for an extension of time is filed in the Federal district court that would have jurisdiction over the case upon the filing of a habeas corpus application under section 2254; and

"(B) a showing of good cause is made for the failure to file the habeas corpus application within the time period established by this section.

"§ 2264. Scope of Federal review; district court adjudications

"(a) Whenever a State prisoner under capital sentence files a petition for habeas corpus relief to which this chapter applies, the district court shall only consider a claim or claims that have been raised and decided on the merits in the State courts, unless the failure to raise the claim properly is—

"(1) the result of State action in violation of the Constitution or laws of the United States;

"(2) the result of the Supreme Court's recognition of a new Federal right that is made retroactively applicable; or

"(3) based on a factual predicate that could not have been discovered through the exercise of due diligence in time to present the claim for State or Federal post-conviction review.

"(b) Following review subject to subsections (a), (d), and (e) of section 2254, the court shall rule on the claims properly before it.

"§ 2265. Application to State unitary review procedure

"(a) For purposes of this section, a 'unitary review' procedure means a State procedure that authorizes a person under sentence of death to raise, in the course of direct review of the judgment, such claims as could be raised on collateral attack. This chapter

shall apply, as provided in this section, in relation to a State unitary review procedure if the State establishes by rule of its court of last resort or by statute a mechanism for the appointment, compensation, and payment of reasonable litigation expenses of competent counsel in the unitary review proceedings, including expenses relating to the litigation of collateral claims in the proceedings. The rule of court or statute must provide standards of competency for the appointment of such counsel.

"(b) To qualify under this section, a unitary review procedure must include an offer of counsel following trial for the purpose of representation on unitary review, and entry of an order, as provided in section 2261(c), concerning appointment of counsel or waiver or denial of appointment of counsel for that purpose. No counsel appointed to represent the prisoner in the unitary review proceedings shall have previously represented the prisoner at trial in the case for which the appointment is made unless the prisoner and counsel expressly request continued representation.

"(c) Sections 2262, 2263, 2264, and 2266 shall apply in relation to cases involving a sentence of death from any State having a unitary review procedure that qualifies under this section. References to State 'post-conviction review' and 'direct review' in such sections shall be understood as referring to unitary review under the State procedure. The reference in section 2262(a) to 'an order under section 2261(c)' shall be understood as referring to the post-trial order under subsection (b) concerning representation in the unitary review proceedings, but if a transcript of the trial proceedings is unavailable at the time of the filing of such an order in the appropriate State court, then the start of the 180-day limitation period under section 2263 shall be deferred until a transcript is made available to the prisoner or counsel of the prisoner.

"§ 2266. Limitation periods for determining applications and motions

"(a) The adjudication of any application under section 2254 that is subject to this chapter, and the adjudication of any motion under section 2255 by a person under sentence of death, shall be given priority by the district court and by the court of appeals over all noncapital matters.

"(b)(1)(A) A district court shall render a final determination and enter a final judgment on any application for a writ of habeas corpus brought under this chapter in a capital case not later than 180 days after the date on which the application is filed.

"(B) A district court shall afford the parties at least 120 days in which to complete all actions, including the preparation of all pleadings and briefs, and if necessary, a hearing, prior to the submission of the case for decision.

"(C)(i) A district court may delay for not more than one additional 30-day period beyond the period specified in subparagraph (A), the rendering of a determination of an application for a writ of habeas corpus if the court issues a written order making a finding, and stating the reasons for the finding, that the ends of justice that would be served by allowing the delay outweigh the best interests of the public and the applicant in a speedy disposition of the application.

"(ii) The factors, among others, that a court shall consider in determining whether a delay in the disposition of an application is warranted are as follows:

"(I) Whether the failure to allow the delay would be likely to result in a miscarriage of justice.

"(II) Whether the case is so unusual or so complex, due to the number of defendants, the nature of the prosecution, or the existence of novel questions of fact or law, that it is unreasonable to expect adequate briefing within the time limitations established by subparagraph (A).

"(III) Whether the failure to allow a delay in a case that, taken as a whole, is not so unusual or so complex as described in subclause (II), but would otherwise deny the applicant reasonable time to obtain counsel, would unreasonably deny the applicant or the government continuity of counsel, or would deny counsel for the applicant or the government the reasonable time necessary for effective preparation, taking into account the exercise of due diligence.

"(iii) No delay in disposition shall be permissible because of general congestion of the court's calendar.

"(iv) The court shall transmit a copy of any order issued under clause (i) to the Director of the Administrative Office of the United States Courts for inclusion in the report under paragraph (5).

"(2) The time limitations under paragraph (1) shall apply to—

"(A) an initial application for a writ of habeas corpus;

"(B) any second or successive application for a writ of habeas corpus; and

"(C) any redetermination of an application for a writ of habeas corpus following a remand by the court of appeals or the Supreme Court for further proceedings, in which case the limitation period shall run from the date the remand is ordered.

"(3)(A) The time limitations under this section shall not be construed to entitle an applicant to a stay of execution, to which the applicant would otherwise not be entitled, for the purpose of litigating any application or appeal.

"(B) No amendment to an application for a writ of habeas corpus under this chapter shall be permitted after the filing of the answer to the application, except on the grounds specified in section 2244(b).

"(4)(A) The failure of a court to meet or comply with a time limitation under this section shall not be a ground for granting relief from a judgment of conviction or sentence.

"(B) The State may enforce a time limitation under this section by petitioning for a writ of mandamus to the court of appeals. The court of appeals shall act on the petition for a writ of mandamus not later than 30 days after the filing of the petition.

"(5)(A) The Administrative Office of the United States Courts shall submit to Congress an annual report on the compliance by the district courts with the time limitations under this section. Reports.

"(B) The report described in subparagraph (A) shall include copies of the orders submitted by the district courts under paragraph (1)(B)(iv).

"(c)(1)(A) A court of appeals shall hear and render a final determination of any appeal of an order granting or denying, in whole or in part, an application brought under this chapter in a capital case not later than 120 days after the date on which the reply brief is filed, or if no reply brief is filed, not later than 120 days after the date on which the answering brief is filed.

"(B)(i) A court of appeals shall decide whether to grant a petition for rehearing or other request for rehearing en banc not later than 30 days after the date on which the petition for rehearing is filed unless a responsive pleading is required, in which case the court shall decide whether to grant the petition not later than 30 days after the date on which the responsive pleading is filed.

"(ii) If a petition for rehearing or rehearing en banc is granted, the court of appeals shall hear and render a final determination of the appeal not later than 120 days after the date on which the order granting rehearing or rehearing en banc is entered.

"(2) The time limitations under paragraph (1) shall apply to—

"(A) an initial application for a writ of habeas corpus;

"(B) any second or successive application for a writ of habeas corpus; and

"(C) any redetermination of an application for a writ of habeas corpus or related appeal following a remand by the court of appeals en banc or the Supreme Court for further proceedings, in which case the limitation period shall run from the date the remand is ordered.

"(3) The time limitations under this section shall not be construed to entitle an applicant to a stay of execution, to which the applicant would otherwise not be entitled, for the purpose of litigating any application or appeal.

"(4)(A) The failure of a court to meet or comply with a time limitation under this section shall not be a ground for granting relief from a judgment of conviction or sentence.

"(B) The State may enforce a time limitation under this section by applying for a writ of mandamus to the Supreme Court.

Reports. "(5) The Administrative Office of the United States Courts shall submit to Congress an annual report on the compliance by the courts of appeals with the time limitations under this section.".

(b) TECHNICAL AMENDMENT.—The part analysis for part IV of title 28, United States Code, is amended by adding after the item relating to chapter 153 the following new item:

"154. Special habeas corpus procedures in capital cases ..... 2261.".

28 USC 2261 note. (c) EFFECTIVE DATE.—Chapter 154 of title 28, United States Code (as added by subsection (a)) shall apply to cases pending on or after the date of enactment of this Act.

SEC. 108. TECHNICAL AMENDMENT.

Section 408(q) of the Controlled Substances Act (21 U.S.C. 848(q)) is amended by amending paragraph (9) to read as follows:

"(9) Upon a finding that investigative, expert, or other services are reasonably necessary for the representation of the defendant, whether in connection with issues relating to guilt or the sentence, the court may authorize the defendant's attorneys to obtain such services on behalf of the defendant and, if so authorized, shall order the payment of fees and expenses therefor under paragraph (10). No ex parte proceeding, communication, or request may be considered pursuant to this section unless a proper showing is made concerning the need for confidentiality. Any such proceeding, communication, or request shall be transcribed and made a part of the record available for appellate review.".

TITLE II—JUSTICE FOR VICTIMS

Subtitle A—Mandatory Victim Restitution

Mandatory Victims Restitution Act of 1996.
Courts.

SEC. 201. SHORT TITLE.

This subtitle may be cited as the "Mandatory Victims Restitution Act of 1996".

SEC. 202. ORDER OF RESTITUTION.

Section 3556 of title 18, United States Code, is amended—

(1) by striking "may" and inserting "shall"; and

(2) by striking "sections 3663 and 3664." and inserting "section 3663A, and may order restitution in accordance with section 3663. The procedures under section 3664 shall apply to all orders of restitution under this section.".

SEC. 203. CONDITIONS OF PROBATION.

Section 3563 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (3), by striking "and" at the end;

(B) in the first paragraph (4) (relating to conditions of probation for a domestic crime of violence), by striking the period and inserting a semicolon;

(C) by redesignating the second paragraph (4) (relating to conditions of probation concerning drug use and testing) as paragraph (5);

(D) in paragraph (5), as redesignated, by striking the period at the end and inserting a semicolon; and

(E) by inserting after paragraph (5), as redesignated, the following new paragraphs:

"(6) that the defendant—

"(A) make restitution in accordance with sections 2248, 2259, 2264, 2327, 3663, 3663A, and 3664; and

"(B) pay the assessment imposed in accordance with section 3013; and

"(7) that the defendant will notify the court of any material change in the defendant's economic circumstances that might affect the defendant's ability to pay restitution, fines, or special assessments."; and

(2) in subsection (b)—

(A) by striking paragraph (2);

(B) by redesignating paragraphs (3) through (22) as paragraphs (2) through (21), respectively; and

(C) by amending paragraph (2), as redesignated, to read as follows:

"(2) make restitution to a victim of the offense under section 3556 (but not subject to the limitation of section 3663(a) or 3663A(c)(1)(A));".

SEC. 204. MANDATORY RESTITUTION.

(a) IN GENERAL.—Chapter 232 of title 18, United States Code, is amended by inserting immediately after section 3663 the following new section:

"§ 3663A. Mandatory restitution to victims of certain crimes

"(a)(1) Notwithstanding any other provision of law, when sentencing a defendant convicted of an offense described in sub-

section (c), the court shall order, in addition to, or in the case of a misdemeanor, in addition to or in lieu of, any other penalty authorized by law, that the defendant make restitution to the victim of the offense or, if the victim is deceased, to the victim's estate.

"(2) For the purposes of this section, the term 'victim' means a person directly and proximately harmed as a result of the commission of an offense for which restitution may be ordered including, in the case of an offense that involves as an element a scheme, conspiracy, or pattern of criminal activity, any person directly harmed by the defendant's criminal conduct in the course of the scheme, conspiracy, or pattern. In the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court, may assume the victim's rights under this section, but in no event shall the defendant be named as such representative or guardian.

"(3) The court shall also order, if agreed to by the parties in a plea agreement, restitution to persons other than the victim of the offense.

"(b) The order of restitution shall require that such defendant—

"(1) in the case of an offense resulting in damage to or loss or destruction of property of a victim of the offense—

"(A) return the property to the owner of the property or someone designated by the owner; or

"(B) if return of the property under subparagraph (A) is impossible, impracticable, or inadequate, pay an amount equal to—

"(i) the greater of—

"(I) the value of the property on the date of the damage, loss, or destruction; or

"(II) the value of the property on the date of sentencing, less

"(ii) the value (as of the date the property is returned) of any part of the property that is returned;

"(2) in the case of an offense resulting in bodily injury to a victim—

"(A) pay an amount equal to the cost of necessary medical and related professional services and devices relating to physical, psychiatric, and psychological care, including nonmedical care and treatment rendered in accordance with a method of healing recognized by the law of the place of treatment;

"(B) pay an amount equal to the cost of necessary physical and occupational therapy and rehabilitation; and

"(C) reimburse the victim for income lost by such victim as a result of such offense;

"(3) in the case of an offense resulting in bodily injury that results in the death of the victim, pay an amount equal to the cost of necessary funeral and related services; and

"(4) in any case, reimburse the victim for lost income and necessary child care, transportation, and other expenses incurred during participation in the investigation or prosecution of the offense or attendance at proceedings related to the offense.

"(c)(1) This section shall apply in all sentencing proceedings for convictions of, or plea agreements relating to charges for, any offense— Applicability.

"(A) that is—

"(i) a crime of violence, as defined in section 16;

"(ii) an offense against property under this title, including any offense committed by fraud or deceit; or

"(iii) an offense described in section 1365 (relating to tampering with consumer products); and

"(B) in which an identifiable victim or victims has suffered a physical injury or pecuniary loss.

"(2) In the case of a plea agreement that does not result in a conviction for an offense described in paragraph (1), this section shall apply only if the plea specifically states that an offense listed under such paragraph gave rise to the plea agreement.

"(3) This section shall not apply in the case of an offense described in paragraph (1)(A)(ii) if the court finds, from facts on the record, that—

"(A) the number of identifiable victims is so large as to make restitution impracticable; or

"(B) determining complex issues of fact related to the cause or amount of the victim's losses would complicate or prolong the sentencing process to a degree that the need to provide restitution to any victim is outweighed by the burden on the sentencing process.

"(d) An order of restitution under this section shall be issued and enforced in accordance with section 3664.".

(b) CLERICAL AMENDMENT.—The analysis for chapter 232 of title 18, United States Code, is amended by inserting immediately after the matter relating to section 3663 the following:

"3663A. Mandatory restitution to victims of certain crimes.".

SEC. 205. ORDER OF RESTITUTION TO VICTIMS OF OTHER CRIMES.

(a) IN GENERAL.—Section 3663 of title 18, United States Code, is amended—

(1) in subsection (a)(1)—

(A) by striking "(a)(1) The court" and inserting "(a)(1)(A) The court";

(B) by inserting ", section 401, 408(a), 409, 416, 420, or 422(a) of the Controlled Substances Act (21 U.S.C. 841, 848(a), 849, 856, 861, 863) (but in no case shall a participant in an offense under such sections be considered a victim of such offense under this section)," before "or section 46312,";

(C) by inserting "other than an offense described in section 3663A(c)," after "title 49,";

(D) by inserting before the period at the end the following: ", or if the victim is deceased, to the victim's estate";

(E) by adding at the end the following new subparagraph:

"(B)(i) The court, in determining whether to order restitution under this section, shall consider—

"(I) the amount of the loss sustained by each victim as a result of the offense; and

"(II) the financial resources of the defendant, the financial needs and earning ability of the defendant and the defendant's

dependents, and such other factors as the court deems appropriate.

"(ii) To the extent that the court determines that the complication and prolongation of the sentencing process resulting from the fashioning of an order of restitution under this section outweighs the need to provide restitution to any victims, the court may decline to make such an order."; and

(F) by amending paragraph (2) to read as follows:

"(2) For the purposes of this section, the term 'victim' means a person directly and proximately harmed as a result of the commission of an offense for which restitution may be ordered including, in the case of an offense that involves as an element a scheme, conspiracy, or pattern of criminal activity, any person directly harmed by the defendant's criminal conduct in the course of the scheme, conspiracy, or pattern. In the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court, may assume the victim's rights under this section, but in no event shall the defendant be named as such representative or guardian.";

(2) by striking subsections (c) through (i); and

(3) by adding at the end the following new subsections:

"(c)(1) Notwithstanding any other provision of law (but subject to the provisions of subsections (a)(1)(B) (i)(II) and (ii), when sentencing a defendant convicted of an offense described in section 401, 408(a), 409, 416, 420, or 422(a) of the Controlled Substances Act (21 U.S.C. 841, 848(a), 849, 856, 861, 863), in which there is no identifiable victim, the court may order that the defendant make restitution in accordance with this subsection.

"(2)(A) An order of restitution under this subsection shall be based on the amount of public harm caused by the offense, as determined by the court in accordance with guidelines promulgated by the United States Sentencing Commission.

"(B) In no case shall the amount of restitution ordered under this subsection exceed the amount of the fine ordered for the offense charged in the case.

"(3) Restitution under this subsection shall be distributed as follows:

"(A) 65 percent of the total amount of restitution shall be paid to the State entity designated to administer crime victim assistance in the State in which the crime occurred.

"(B) 35 percent of the total amount of restitution shall be paid to the State entity designated to receive Federal substance abuse block grant funds.

"(4) The court shall not make an award under this subsection if it appears likely that such award would interfere with a forfeiture under chapter 46 of this title or under the Controlled Substances Act (21 U.S.C. 801 et seq.).

"(5) Notwithstanding section 3612(c) or any other provision of law, a penalty assessment under section 3013 or a fine under subchapter C of chapter 227 shall take precedence over an order of restitution under this subsection.

"(6) Requests for community restitution under this subsection may be considered in all plea agreements negotiated by the United States.

"(7)(A) The United States Sentencing Commission shall promulgate guidelines to assist courts in determining the amount of restitution that may be ordered under this subsection. Guidelines.

"(B) No restitution shall be ordered under this subsection until such time as the Sentencing Commission promulgates guidelines pursuant to this paragraph.

"(d) An order of restitution made pursuant to this section shall be issued and enforced in accordance with section 3664.".

(b) SEXUAL ABUSE.—Section 2248 of title 18, United States Code, is amended—

(1) in subsection (a), by inserting "or 3663A" after "3663";

(2) in subsection (b)—

(A) by amending paragraph (1) to read as follows:

"(1) DIRECTIONS.—The order of restitution under this section shall direct the defendant to pay to the victim (through the appropriate court mechanism) the full amount of the victim's losses as determined by the court pursuant to paragraph (2).";

(B) by amending paragraph (2) to read as follows:

"(2) ENFORCEMENT.—An order of restitution under this section shall be issued and enforced in accordance with section 3664 in the same manner as an order under section 3663A.";

(C) in paragraph (4), by striking subparagraphs (C) and (D); and

(D) by striking paragraphs (5) through (10);

(3) by striking subsections (c) through (e); and

(4) by redesignating subsection (f) as subsection (c).

(c) SEXUAL EXPLOITATION AND OTHER ABUSE OF CHILDREN.—Section 2259 of title 18, United States Code, is amended—

(1) in subsection (a), by inserting "or 3663A" after "3663";

(2) in subsection (b)—

(A) by amending paragraph (1) to read as follows:

"(1) DIRECTIONS.—The order of restitution under this section shall direct the defendant to pay the victim (through the appropriate court mechanism) the full amount of the victim's losses as determined by the court pursuant to paragraph (2).";

(B) by amending paragraph (2) to read as follows:

"(2) ENFORCEMENT.—An order of restitution under this section shall be issued and enforced in accordance with section 3664 in the same manner as an order under section 3663A.";

(C) in paragraph (4), by striking subparagraphs (C) and (D); and

(D) by striking paragraphs (5) through (10);

(3) by striking subsections (c) through (e); and

(4) by redesignating subsection (f) as subsection (c).

(d) DOMESTIC VIOLENCE.—Section 2264 of title 18, United States Code, is amended—

(1) in subsection (a), by inserting "or 3663A" after "3663";

(2) in subsection (b)—

(A) by amending paragraph (1) to read as follows:

"(1) DIRECTIONS.—The order of restitution under this section shall direct the defendant to pay the victim (through the appropriate court mechanism) the full amount of the victim's losses as determined by the court pursuant to paragraph (2).";

(B) by amending paragraph (2) to read as follows:

"(2) ENFORCEMENT.—An order of restitution under this section shall be issued and enforced in accordance with section 3664 in the same manner as an order under section 3663A.";

(C) in paragraph (4), by striking subparagraphs (C) and (D); and

(D) by striking paragraphs (5) through (10);

(3) by striking subsections (c) through (g); and

(4) by adding at the end the following new subsection (c):

"(c) VICTIM DEFINED.—For purposes of this section, the term 'victim' means the individual harmed as a result of a commission of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court, but in no event shall the defendant be named as such representative or guardian.".

(e) TELEMARKETING FRAUD.—Section 2327 of title 18, United States Code, is amended—

(1) in subsection (a), by inserting "or 3663A" after "3663";

(2) in subsection (b)—

(A) by amending paragraph (1) to read as follows:

"(1) DIRECTIONS.—The order of restitution under this section shall direct the defendant to pay to the victim (through the appropriate court mechanism) the full amount of the victim's losses as determined by the court pursuant to paragraph (2).";

(B) by amending paragraph (2) to read as follows:

"(2) ENFORCEMENT.—An order of restitution under this section shall be issued and enforced in accordance with section 3664 in the same manner as an order under section 3663A.";

(C) in paragraph (4), by striking subparagraphs (C) and (D); and

(D) by striking paragraphs (5) through (10);

(3) by striking subsections (c) through (e); and

(4) by redesignating subsection (f) as subsection (c).

SEC. 206. PROCEDURE FOR ISSUANCE OF RESTITUTION ORDER.

(a) IN GENERAL.—Section 3664 of title 18, United States Code, is amended to read as follows:

"§ 3664. Procedure for issuance and enforcement of order of restitution

Reports.

"(a) For orders of restitution under this title, the court shall order the probation officer to obtain and include in its presentence report, or in a separate report, as the court may direct, information sufficient for the court to exercise its discretion in fashioning a restitution order. The report shall include, to the extent practicable, a complete accounting of the losses to each victim, any restitution owed pursuant to a plea agreement, and information relating to the economic circumstances of each defendant. If the number or identity of victims cannot be reasonably ascertained, or other circumstances exist that make this requirement clearly impracticable, the probation officer shall so inform the court.

"(b) The court shall disclose to both the defendant and the attorney for the Government all portions of the presentence or

other report pertaining to the matters described in subsection (a) of this section.

"(c) The provisions of this chapter, chapter 227, and Rule 32(c) of the Federal Rules of Criminal Procedure shall be the only rules applicable to proceedings under this section.

"(d)(1) Upon the request of the probation officer, but not later than 60 days prior to the date initially set for sentencing, the attorney for the Government, after consulting, to the extent practicable, with all identified victims, shall promptly provide the probation officer with a listing of the amounts subject to restitution.

"(2) The probation officer shall, prior to submitting the presentence report under subsection (a), to the extent practicable—

"(A) provide notice to all identified victims of—

"(i) the offense or offenses of which the defendant was convicted;

"(ii) the amounts subject to restitution submitted to the probation officer;

"(iii) the opportunity of the victim to submit information to the probation officer concerning the amount of the victim's losses;

"(iv) the scheduled date, time, and place of the sentencing hearing;

"(v) the availability of a lien in favor of the victim pursuant to subsection (m)(1)(B); and

"(vi) the opportunity of the victim to file with the probation officer a separate affidavit relating to the amount of the victim's losses subject to restitution; and

"(B) provide the victim with an affidavit form to submit pursuant to subparagraph (A)(vi).

"(3) Each defendant shall prepare and file with the probation officer an affidavit fully describing the financial resources of the defendant, including a complete listing of all assets owned or controlled by the defendant as of the date on which the defendant was arrested, the financial needs and earning ability of the defendant and the defendant's dependents, and such other information that the court requires relating to such other factors as the court deems appropriate.

"(4) After reviewing the report of the probation officer, the court may require additional documentation or hear testimony. The privacy of any records filed, or testimony heard, pursuant to this section shall be maintained to the greatest extent possible, and such records may be filed or testimony heard in camera. Privacy.

"(5) If the victim's losses are not ascertainable by the date that is 10 days prior to sentencing, the attorney for the Government or the probation officer shall so inform the court, and the court shall set a date for the final determination of the victim's losses, not to exceed 90 days after sentencing. If the victim subsequently discovers further losses, the victim shall have 60 days after discovery of those losses in which to petition the court for an amended restitution order. Such order may be granted only upon a showing of good cause for the failure to include such losses in the initial claim for restitutionary relief.

"(6) The court may refer any issue arising in connection with a proposed order of restitution to a magistrate judge or special master for proposed findings of fact and recommendations as to disposition, subject to a de novo determination of the issue by the court.

"(e) Any dispute as to the proper amount or type of restitution shall be resolved by the court by the preponderance of the evidence. The burden of demonstrating the amount of the loss sustained by a victim as a result of the offense shall be on the attorney for the Government. The burden of demonstrating the financial resources of the defendant and the financial needs of the defendant's dependents, shall be on the defendant. The burden of demonstrating such other matters as the court deems appropriate shall be upon the party designated by the court as justice requires.

"(f)(1)(A) In each order of restitution, the court shall order restitution to each victim in the full amount of each victim's losses as determined by the court and without consideration of the economic circumstances of the defendant.

"(B) In no case shall the fact that a victim has received or is entitled to receive compensation with respect to a loss from insurance or any other source be considered in determining the amount of restitution.

"(2) Upon determination of the amount of restitution owed to each victim, the court shall, pursuant to section 3572, specify in the restitution order the manner in which, and the schedule according to which, the restitution is to be paid, in consideration of—

"(A) the financial resources and other assets of the defendant, including whether any of these assets are jointly controlled;

"(B) projected earnings and other income of the defendant; and

"(C) any financial obligations of the defendant; including obligations to dependents.

"(3)(A) A restitution order may direct the defendant to make a single, lump-sum payment, partial payments at specified intervals, in-kind payments, or a combination of payments at specified intervals and in-kind payments.

"(B) A restitution order may direct the defendant to make nominal periodic payments if the court finds from facts on the record that the economic circumstances of the defendant do not allow the payment of any amount of a restitution order, and do not allow for the payment of the full amount of a restitution order in the foreseeable future under any reasonable schedule of payments.

"(4) An in-kind payment described in paragraph (3) may be in the form of—

"(A) return of property;

"(B) replacement of property; or

"(C) if the victim agrees, services rendered to the victim or a person or organization other than the victim.

"(g)(1) No victim shall be required to participate in any phase of a restitution order.

"(2) A victim may at any time assign the victim's interest in restitution payments to the Crime Victims Fund in the Treasury without in any way impairing the obligation of the defendant to make such payments.

"(h) If the court finds that more than 1 defendant has contributed to the loss of a victim, the court may make each defendant liable for payment of the full amount of restitution or may apportion liability among the defendants to reflect the level of contribution to the victim's loss and economic circumstances of each defendant.

"(i) If the court finds that more than 1 victim has sustained a loss requiring restitution by a defendant, the court may provide for a different payment schedule for each victim based on the type and amount of each victim's loss and accounting for the economic circumstances of each victim. In any case in which the United States is a victim, the court shall ensure that all other victims receive full restitution before the United States receives any restitution.

"(j)(1) If a victim has received compensation from insurance or any other source with respect to a loss, the court shall order that restitution be paid to the person who provided or is obligated to provide the compensation, but the restitution order shall provide that all restitution of victims required by the order be paid to the victims before any restitution is paid to such a provider of compensation.

"(2) Any amount paid to a victim under an order of restitution shall be reduced by any amount later recovered as compensatory damages for the same loss by the victim in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(k) A restitution order shall provide that the defendant shall notify the court and the Attorney General of any material change in the defendant's economic circumstances that might affect the defendant's ability to pay restitution. The court may also accept notification of a material change in the defendant's economic circumstances from the United States or from the victim. The Attorney General shall certify to the court that the victim or victims owed restitution by the defendant have been notified of the change in circumstances. Upon receipt of the notification, the court may, on its own motion, or the motion of any party, including the victim, adjust the payment schedule, or require immediate payment in full, as the interests of justice require. Certification.

"(l) A conviction of a defendant for an offense involving the act giving rise to an order of restitution shall estop the defendant from denying the essential allegations of that offense in any subsequent Federal civil proceeding or State civil proceeding, to the extent consistent with State law, brought by the victim.

"(m)(1)(A)(i) An order of restitution may be enforced by the United States in the manner provided for in subchapter C of chapter 227 and subchapter B of chapter 229 of this title; or

"(ii) by all other available and reasonable means.

"(B) At the request of a victim named in a restitution order, the clerk of the court shall issue an abstract of judgment certifying that a judgment has been entered in favor of such victim in the amount specified in the restitution order. Upon registering, recording, docketing, or indexing such abstract in accordance with the rules and requirements relating to judgments of the court of the State where the district court is located, the abstract of judgment shall be a lien on the property of the defendant located in such State in the same manner and to the same extent and under the same conditions as a judgment of a court of general jurisdiction in that State.

"(2) An order of in-kind restitution in the form of services shall be enforced by the probation officer.

"(n) If a person obligated to provide restitution, or pay a fine, receives substantial resources from any source, including inherit-

ance, settlement, or other judgment, during a period of incarceration, such person shall be required to apply the value of such resources to any restitution or fine still owed.

"(o) A sentence that imposes an order of restitution is a final judgment notwithstanding the fact that—

"(1) such a sentence can subsequently be—

"(A) corrected under Rule 35 of the Federal Rules of Criminal Procedure and section 3742 of chapter 235 of this title;

"(B) appealed and modified under section 3742;

"(C) amended under section 3664(d)(3); or

"(D) adjusted under section 3664(k), 3572, or 3613A; or

"(2) the defendant may be resentenced under section 3565 or 3614.

"(p) Nothing in this section or sections 2248, 2259, 2264, 2327, 3663, and 3663A and arising out of the application of such sections, shall be construed to create a cause of action not otherwise authorized in favor of any person against the United States or any officer or employee of the United States.".

(b) TECHNICAL AMENDMENT.—The item relating to section 3664 in the analysis for chapter 232 of title 18, United States Code, is amended to read as follows:

"3664. Procedure for issuance and enforcement of order of restitution.".

SEC. 207. PROCEDURE FOR ENFORCEMENT OF FINE OR RESTITUTION ORDER.

(a) AMENDMENT OF FEDERAL RULES OF CRIMINAL PROCEDURE.—Rule 32(b) of the Federal Rules of Criminal Procedure is amended— 18 USC app.

(1) in paragraph (1), by adding at the end the following: "Notwithstanding the preceding sentence, a presentence investigation and report, or other report containing information sufficient for the court to enter an order of restitution, as the court may direct, shall be required in any case in which restitution is required to be ordered."; and Reports.

(2) in paragraph (4)—

(A) by redesignating subparagraphs (F) and (G) as subparagraphs (G) and (H), respectively; and

(B) by inserting after subparagraph (E), the following new subparagraph:

"(F) in appropriate cases, information sufficient for the court to enter an order of restitution;".

(b) FINES.—Section 3572 of title 18, United States Code, is amended—

(1) in subsection (b) by inserting "other than the United States," after "offense,";

(2) in subsection (d)—

(A) in the first sentence, by striking "A person sentenced to pay a fine or other monetary penalty" and inserting "(1) A person sentenced to pay a fine or other monetary penalty, including restitution,";

(B) by striking the third sentence; and

(C) by adding at the end the following:

"(2) If the judgment, or, in the case of a restitution order, the order, permits other than immediate payment, the length of time over which scheduled payments will be made shall be set

by the court, but shall be the shortest time in which full payment can reasonably be made.

"(3) A judgment for a fine which permits payments in installments shall include a requirement that the defendant will notify the court of any material change in the defendant's economic circumstances that might affect the defendant's ability to pay the fine. Upon receipt of such notice the court may, on its own motion or the motion of any party, adjust the payment schedule, or require immediate payment in full, as the interests of justice require.";

(3) in subsection (f), by inserting "restitution" after "special assessment,";

(4) in subsection (h), by inserting "or payment of restitution" after "A fine"; and

(5) in subsection (i)—

(A) in the first sentence, by inserting "or payment of restitution" after "A fine"; and

(B) by amending the second sentence to read as follows: "Notwithstanding any installment schedule, when a fine or payment of restitution is in default, the entire amount of the fine or restitution is due within 30 days after notification of the default, subject to the provisions of section 3613A.".

(c) POSTSENTENCE ADMINISTRATION.—

(1) PAYMENT OF A FINE OR RESTITUTION.—Section 3611 of title 18, United States Code, is amended—

(A) by amending the heading to read as follows:

"§ 3611. Payment of a fine or restitution";

and

(B) by striking "or assessment shall pay the fine or assessment" and inserting ", assessment, or restitution, shall pay the fine, assessment, or restitution".

(2) COLLECTION.—Section 3612 of title 18, United States Code, is amended—

(A) by amending the heading to read as follows:

"§ 3612. Collection of unpaid fine or restitution";

(B) in subsection (b)(1)—

(i) in the matter preceding subparagraph (A), by inserting "or restitution order" after "fine";

(ii) in subparagraph (C), by inserting "or restitution order" after "fine";

(iii) in subparagraph (E), by striking "and";

(iv) in subparagraph (F)—

(I) by inserting "or restitution order" after "fine"; and

(II) by striking the period at the end and inserting "; and"; and

(v) by adding at the end the following new subparagraph:

"(G) in the case of a restitution order, information sufficient to identify each victim to whom restitution is owed. It shall be the responsibility of each victim to notify the Attorney General, or the appropriate entity of the court, by means of a form to be provided by the Attorney General or the court, of any change in the victim's mailing address while restitution is still owed the victim. The confidentiality Privacy.

of any information relating to a victim shall be maintained.";

(C) in subsection (c)—

(i) in the first sentence, by inserting "or restitution" after "fine"; and

(ii) by adding at the end the following: "Any money received from a defendant shall be disbursed so that each of the following obligations is paid in full in the following sequence:

"(1) A penalty assessment under section 3013 of title 18, United States Code.

"(2) Restitution of all victims.

"(3) All other fines, penalties, costs, and other payments required under the sentence.";

(D) in subsection (d)—

(i) by inserting "or restitution" after "fine"; and

(ii) by striking "is delinquent, to inform him that the fine is delinquent" and inserting "or restitution is delinquent, to inform the person of the delinquency";

(E) in subsection (e)—

(i) by inserting "or restitution" after "fine"; and

(ii) by striking "him that the fine is in default" and inserting "the person that the fine or restitution is in default";

(F) in subsection (f)—

(i) in the heading, by inserting "and restitution" after "on fines"; and

(ii) in paragraph (1), by inserting "or restitution" after "any fine";

(G) in subsection (g), by inserting "or restitution" after "fine" each place it appears; and

(H) in subsection (i), by inserting "and restitution" after "fines".

(3) CIVIL REMEDIES.—Section 3613 of title 18, United States Code, is amended to read as follows:

"§ 3613. Civil remedies for satisfaction of an unpaid fine

"(a) ENFORCEMENT.—The United States may enforce a judgment imposing a fine in accordance with the practices and procedures for the enforcement of a civil judgment under Federal law or State law. Notwithstanding any other Federal law (including section 207 of the Social Security Act), a judgment imposing a fine may be enforced against all property or rights to property of the person fined, except that—

"(1) property exempt from levy for taxes pursuant to section 6334(a) (1), (2), (3), (4), (5), (6), (7), (8), (10), and (12) of the Internal Revenue Code of 1986 shall be exempt from enforcement of the judgment under Federal law;

"(2) section 3014 of chapter 176 of title 28 shall not apply to enforcement under Federal law; and

"(3) the provisions of section 303 of the Consumer Credit Protection Act (15 U.S.C. 1673) shall apply to enforcement of the judgment under Federal law or State law.

"(b) TERMINATION OF LIABILITY.—The liability to pay a fine shall terminate the later of 20 years from the entry of judgment or 20 years after the release from imprisonment of the person fined, or upon the death of the individual fined.

"(c) LIEN.—A fine imposed pursuant to the provisions of subchapter C of chapter 227 of this title, or an order of restitution made pursuant to sections 2248, 2259, 2264, 2327, 3663, 3663A, or 3664 of this title, is a lien in favor of the United States on all property and rights to property of the person fined as if the liability of the person fined were a liability for a tax assessed under the Internal Revenue Code of 1986. The lien arises on the entry of judgment and continues for 20 years or until the liability is satisfied, remitted, set aside, or is terminated under subsection (b).

"(d) EFFECT OF FILING NOTICE OF LIEN.—Upon filing of a notice of lien in the manner in which a notice of tax lien would be filed under section 6323(f) (1) and (2) of the Internal Revenue Code of 1986, the lien shall be valid against any purchaser, holder of a security interest, mechanic's lienor or judgment lien creditor, except with respect to properties or transactions specified in subsection (b), (c), or (d) of section 6323 of the Internal Revenue Code of 1986 for which a notice of tax lien properly filed on the same date would not be valid. The notice of lien shall be considered a notice of lien for taxes payable to the United States for the purpose of any State or local law providing for the filing of a notice of a tax lien. A notice of lien that is registered, recorded, docketed, or indexed in accordance with the rules and requirements relating to judgments of the courts of the State where the notice of lien is registered, recorded, docketed, or indexed shall be considered for all purposes as the filing prescribed by this section. The provisions of section 3201(e) of chapter 176 of title 28 shall apply to liens filed as prescribed by this section.

"(e) DISCHARGE OF DEBT INAPPLICABLE.—No discharge of debts in a proceeding pursuant to any chapter of title 11, United States Code, shall discharge liability to pay a fine pursuant to this section, and a lien filed as prescribed by this section shall not be voided in a bankruptcy proceeding.

"(f) APPLICABILITY TO ORDER OF RESTITUTION.—In accordance with section 3664(m)(1)(A) of this title, all provisions of this section are available to the United States for the enforcement of an order of restitution.".

(4) DEFAULT.—Chapter 229 of title 18, United States Code, is amended by inserting after section 3613 the following new section:

"§ 3613A. Effect of default

"(a)(1) Upon a finding that the defendant is in default on a payment of a fine or restitution, the court may, pursuant to section 3565, revoke probation or a term of supervised release, modify the terms or conditions of probation or a term of supervised release, resentence a defendant pursuant to section 3614, hold the defendant in contempt of court, enter a restraining order or injunction, order the sale of property of the defendant, accept a performance bond, enter or adjust a payment schedule, or take any other action necessary to obtain compliance with the order of a fine or restitution.

"(2) In determining what action to take, the court shall consider the defendant's employment status, earning ability, financial resources, the willfulness in failing to comply with the fine or restitution order, and any other circumstances that may have a

bearing on the defendant's ability or failure to comply with the order of a fine or restitution.

"(b)(1) Any hearing held pursuant to this section may be conducted by a magistrate judge, subject to de novo review by the court.

"(2) To the extent practicable, in a hearing held pursuant to this section involving a defendant who is confined in any jail, prison, or other correctional facility, proceedings in which the prisoner's participation is required or permitted shall be conducted by telephone, video conference, or other communications technology without removing the prisoner from the facility in which the prisoner is confined.".

(5) RESENTENCING.—Section 3614 of title 18, United States Code, is amended—

(A) in the heading, by inserting "or restitution" after "fine";

(B) in subsection (a), by inserting "or restitution" after "fine"; and

(C) by adding at the end the following new subsection:

"(c) EFFECT OF INDIGENCY.—In no event shall a defendant be incarcerated under this section solely on the basis of inability to make payments because the defendant is indigent.".

(d) CLERICAL AMENDMENT.—The table of sections at the beginning of subchapter B of chapter 229 of title 18, United States Code, is amended to read as follows:

"Sec.
"3611. Payment of a fine or restitution.
"3612. Collection of an unpaid fine or restitution.
"3613. Civil remedies for satisfaction of an unpaid fine.
"3613A. Effect of default.
"3614. Resentencing upon failure to pay a fine or restitution.
"3615. Criminal default.".

28 USC 994 note.

SEC. 208. INSTRUCTION TO SENTENCING COMMISSION.

Pursuant to section 994 of title 28, United States Code, the United States Sentencing Commission shall promulgate guidelines or amend existing guidelines to reflect this subtitle and the amendments made by this subtitle.

18 USC 3551 note.

SEC. 209. JUSTICE DEPARTMENT REGULATIONS.

Not later than 90 days after the date of enactment of this subtitle, the Attorney General shall promulgate guidelines, or amend existing guidelines, to carry out this subtitle and the amendments made by this subtitle and to ensure that—

(1) in all plea agreements negotiated by the United States, consideration is given to requesting that the defendant provide full restitution to all victims of all charges contained in the indictment or information, without regard to the counts to which the defendant actually pleaded; and

(2) orders of restitution made pursuant to the amendments made by this subtitle are enforced to the fullest extent of the law.

SEC. 210. SPECIAL ASSESSMENTS ON CONVICTED PERSONS.

Section 3013(a)(2) of title 18, United States Code, is amended—

(1) in subparagraph (A), by striking "$50" and inserting "not less than $100"; and

(2) in subparagraph (B), by striking "$200" and inserting "not less than $400".

SEC. 211. EFFECTIVE DATE.

18 USC 2248 note.

The amendments made by this subtitle shall, to the extent constitutionally permissible, be effective for sentencing proceedings in cases in which the defendant is convicted on or after the date of enactment of this Act.

Subtitle B—Jurisdiction for Lawsuits Against Terrorist States

SEC. 221. JURISDICTION FOR LAWSUITS AGAINST TERRORIST STATES.

(a) EXCEPTION TO FOREIGN SOVEREIGN IMMUNITY FOR CERTAIN CASES.—Section 1605 of title 28, United States Code, is amended—

(1) in subsection (a)—

(A) by striking "or" at the end of paragraph (5);

(B) by striking the period at the end of paragraph (6) and inserting "; or"; and

(C) by adding at the end the following new paragraph:

"(7) not otherwise covered by paragraph (2), in which money damages are sought against a foreign state for personal injury or death that was caused by an act of torture, extrajudicial killing, aircraft sabotage, hostage taking, or the provision of material support or resources (as defined in section 2339A of title 18) for such an act if such act or provision of material support is engaged in by an official, employee, or agent of such foreign state while acting within the scope of his or her office, employment, or agency, except that the court shall decline to hear a claim under this paragraph—

"(A) if the foreign state was not designated as a state sponsor of terrorism under section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)) or section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371) at the time the act occurred, unless later so designated as a result of such act; and

"(B) even if the foreign state is or was so designated, if—

"(i) the act occurred in the foreign state against which the claim has been brought and the claimant has not afforded the foreign state a reasonable opportunity to arbitrate the claim in accordance with accepted international rules of arbitration; or

"(ii) the claimant or victim was not a national of the United States (as that term is defined in section 101(a)(22) of the Immigration and Nationality Act) when the act upon which the claim is based occurred."; and

(2) by adding at the end the following:

"(e) For purposes of paragraph (7) of subsection (a)—

"(1) the terms 'torture' and 'extrajudicial killing' have the meaning given those terms in section 3 of the Torture Victim Protection Act of 1991;

"(2) the term 'hostage taking' has the meaning given that term in Article 1 of the International Convention Against the Taking of Hostages; and

"(3) the term 'aircraft sabotage' has the meaning given that term in Article 1 of the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation.

"(f) No action shall be maintained under subsection (a)(7) unless the action is commenced not later than 10 years after the date on which the cause of action arose. All principles of equitable tolling, including the period during which the foreign state was immune from suit, shall apply in calculating this limitation period.

"(g) LIMITATION ON DISCOVERY.—

"(1) IN GENERAL.—(A) Subject to paragraph (2), if an action is filed that would otherwise be barred by section 1604, but for subsection (a)(7), the court, upon request of the Attorney General, shall stay any request, demand, or order for discovery on the United States that the Attorney General certifies would significantly interfere with a criminal investigation or prosecution, or a national security operation, related to the incident that gave rise to the cause of action, until such time as the Attorney General advises the court that such request, demand, or order will no longer so interfere.

"(B) A stay under this paragraph shall be in effect during the 12-month period beginning on the date on which the court issues the order to stay discovery. The court shall renew the order to stay discovery for additional 12-month periods upon motion by the United States if the Attorney General certifies that discovery would significantly interfere with a criminal investigation or prosecution, or a national security operation, related to the incident that gave rise to the cause of action.

"(2) SUNSET.—(A) Subject to subparagraph (B), no stay shall be granted or continued in effect under paragraph (1) after the date that is 10 years after the date on which the incident that gave rise to the cause of action occurred.

"(B) After the period referred to in subparagraph (A), the court, upon request of the Attorney General, may stay any request, demand, or order for discovery on the United States that the court finds a substantial likelihood would—

"(i) create a serious threat of death or serious bodily injury to any person;

"(ii) adversely affect the ability of the United States to work in cooperation with foreign and international law enforcement agencies in investigating violations of United States law; or

"(iii) obstruct the criminal case related to the incident that gave rise to the cause of action or undermine the potential for a conviction in such case.

"(3) EVALUATION OF EVIDENCE.—The court's evaluation of any request for a stay under this subsection filed by the Attorney General shall be conducted ex parte and in camera.

"(4) BAR ON MOTIONS TO DISMISS.—A stay of discovery under this subsection shall constitute a bar to the granting of a motion to dismiss under rules 12(b)(6) and 56 of the Federal Rules of Civil Procedure.

"(5) CONSTRUCTION.—Nothing in this subsection shall prevent the United States from seeking protective orders or asserting privileges ordinarily available to the United States.".

(b) EXCEPTION TO IMMUNITY FROM ATTACHMENT.—

(1) FOREIGN STATE.—Section 1610(a) of title 28, United States Code, is amended—

(A) by striking the period at the end of paragraph (6) and inserting ", or"; and

(B) by adding at the end the following new paragraph:

"(7) the judgment relates to a claim for which the foreign state is not immune under section 1605(a)(7), regardless of whether the property is or was involved with the act upon which the claim is based.".

(2) AGENCY OR INSTRUMENTALITY.—Section 1610(b)(2) of title 28, United States Code, is amended—

(A) by striking "or (5)" and inserting "(5), or (7)"; and

(B) by striking "used for the activity" and inserting "involved in the act".

(c) APPLICABILITY.—The amendments made by this subtitle shall apply to any cause of action arising before, on, or after the date of the enactment of this Act. 28 USC 1605 note.

Subtitle C—Assistance to Victims of Terrorism

Justice for Victims of Terrorism Act of 1996.

SEC. 231. SHORT TITLE. 42 USC 10601 note.

This subtitle may be cited as the "Justice for Victims of Terrorism Act of 1996".

SEC. 232. VICTIMS OF TERRORISM ACT.

(a) AUTHORITY TO PROVIDE ASSISTANCE AND COMPENSATION TO VICTIMS OF TERRORISM.—The Victims of Crime Act of 1984 (42 U.S.C. 10601 et seq.) is amended by inserting after section 1404A the following new section:

"SEC. 1404B. COMPENSATION AND ASSISTANCE TO VICTIMS OF TERRORISM OR MASS VIOLENCE. 42 USC 10603b.

"(a) VICTIMS OF ACTS OF TERRORISM OUTSIDE THE UNITED STATES.—The Director may make supplemental grants as provided in section 1404(a) to States to provide compensation and assistance to the residents of such States who, while outside of the territorial boundaries of the United States, are victims of a terrorist act or mass violence and are not persons eligible for compensation under title VIII of the Omnibus Diplomatic Security and Antiterrorism Act of 1986.

"(b) VICTIMS OF TERRORISM WITHIN THE UNITED STATES.—The Director may make supplemental grants as provided in section 1404(d)(4)(B) to States for eligible crime victim compensation and assistance programs to provide emergency relief, including crisis response efforts, assistance, training, and technical assistance, for the benefit of victims of terrorist acts or mass violence occurring within the United States and may provide funding to United States Attorney's Offices for use in coordination with State victim compensation and assistance efforts in providing emergency relief.".

(b) FUNDING OF COMPENSATION AND ASSISTANCE TO VICTIMS OF TERRORISM, MASS VIOLENCE, AND CRIME.—Section 1402(d)(4) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(d)(4)) is amended to read as follows:

"(4)(A) If the sums available in the Fund are sufficient to fully provide grants to the States pursuant to section 1403(a)(1), the Director may retain any portion of the Fund that was deposited during a fiscal year that was in excess

of 110 percent of the total amount deposited in the Fund during the preceding fiscal year as an emergency reserve. Such reserve shall not exceed $50,000,000.

"(B) The emergency reserve referred to in subparagraph (A) may be used for supplemental grants under section 1404B and to supplement the funds available to provide grants to States for compensation and assistance in accordance with sections 1403 and 1404 in years in which supplemental grants are needed.".

(c) CRIME VICTIMS FUND AMENDMENTS.—

(1) UNOBLIGATED FUNDS.—Section 1402 of the Victims of Crime Act of 1984 (42 U.S.C. 10601) is amended—

(A) in subsection (c), by striking "subsection" and inserting "chapter"; and

(B) by amending subsection (e) to read as follows:

"(e) AMOUNTS AWARDED AND UNSPENT.—Any amount awarded as part of a grant under this chapter that remains unspent at the end of a fiscal year in which the grant is made may be expended for the purpose for which the grant is made at any time during the 2 succeeding fiscal years, at the end of which period, any remaining unobligated sums in excess of $500,000 shall be returned to the Treasury. Any remaining unobligated sums in an amount less than $500,000 shall be returned to the Fund.".

(2) BASE AMOUNT.—Section 1404(a)(5) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(a)(5)) is amended to read as follows:

"(5) As used in this subsection, the term 'base amount' means—

"(A) except as provided in subparagraph (B), $500,000; and

"(B) for the territories of the Northern Mariana Islands, Guam, American Samoa, and the Republic of Palau, $200,000, with the Republic of Palau's share governed by the Compact of Free Association between the United States and the Republic of Palau.".

SEC. 233. COMPENSATION OF VICTIMS OF TERRORISM.

(a) REQUIRING COMPENSATION FOR TERRORIST CRIMES.—Section 1403(d)(3) of the Victims of Crime Act of 1984 (42 U.S.C. 10602(d)(3)) is amended—

(1) by inserting "crimes involving terrorism," before "driving while intoxicated"; and

(2) by inserting a comma after "driving while intoxicated".

(b) FOREIGN TERRORISM.—Section 1403(b)(6)(B) of the Victims of Crime Act of 1984 (42 U.S.C. 10602(b)(6)(B)) is amended by inserting "are outside of the United States (if the compensable crime is terrorism, as defined in section 2331 of title 18, United States Code), or" before "are States not having".

South Dakota.

(c) DESIGNATION OF CARTNEY MCRAVEN CHILD DEVELOPMENT CENTER.—

(1) DESIGNATION.—

(A) IN GENERAL.—The Federal building at 1314 LeMay Boulevard, Ellsworth Air Force Base, South Dakota, shall be known as the "Cartney McRaven Child Development Center".

(B) REPLACEMENT BUILDING.—If, after the date of enactment of this Act, a new Federal building is built

at the location described in subparagraph (A) to replace the building described in the paragraph, the new Federal building shall be known as the "Cartney McRaven Child Development Center".

(2) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to a Federal building referred to in paragraph (1) shall be deemed to be a reference to the "Cartney McRaven Child Development Center".

(d) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect 1 year after the date of enactment of this Act. 42 USC 10602 note.

SEC. 234. CRIME VICTIMS FUND.

(a) PROHIBITION OF PAYMENTS TO DELINQUENT CRIMINAL DEBTORS BY STATE CRIME VICTIM COMPENSATION PROGRAMS.—

(1) IN GENERAL.—Section 1403(b) of the Victims of Crime Act of 1984 (42 U.S.C. 10602(b)) is amended—

(A) by striking "and" at the end of paragraph (7);

(B) by redesignating paragraph (8) as paragraph (9); and

(C) by inserting after paragraph (7) the following new paragraph:

"(8) such program does not provide compensation to any person who has been convicted of an offense under Federal law with respect to any time period during which the person is delinquent in paying a fine, other monetary penalty, or restitution imposed for the offense; and".

(2) APPLICATION OF AMENDMENT.—Section 1403(b)(8) of the Victims of Crime Act of 1984, as added by paragraph (1) of this section, shall not be applied to deny victims compensation to any person until the date on which the Attorney General, in consultation with the Director of the Administrative Office of the United States Courts, issues a written determination that a cost-effective, readily available criminal debt payment tracking system operated by the agency responsible for the collection of criminal debt has established cost-effective, readily available communications links with entities that administer Federal victim compensation programs that are sufficient to ensure that victim compensation is not denied to any person except as authorized by law. 42 USC 10602 note.

(b) EXCLUSION FROM INCOME FOR PURPOSES OF MEANS TESTS.—Section 1403 of the Victims of Crime Act of 1984 (42 U.S.C. 10602) is amended by inserting after subsection (b) the following new subsection:

"(c) EXCLUSION FROM INCOME FOR PURPOSES OF MEANS TESTS.—Notwithstanding any other law, for the purpose of any maximum allowed income eligibility requirement in any Federal, State, or local government program using Federal funds that provides medical or other assistance (or payment or reimbursement of the cost of such assistance) that becomes necessary to an applicant for such assistance in full or in part because of the commission of a crime against the applicant, as determined by the Director, any amount of crime victim compensation that the applicant receives through a crime victim compensation program under this section shall not be included in the income of the applicant until the total amount of assistance that the applicant

receives from all such programs is sufficient to fully compensate the applicant for losses suffered as a result of the crime.".

42 USC 10608.

SEC. 235. CLOSED CIRCUIT TELEVISED COURT PROCEEDINGS FOR VICTIMS OF CRIME.

(a) IN GENERAL.—Notwithstanding any provision of the Federal Rules of Criminal Procedure to the contrary, in order to permit victims of crime to watch criminal trial proceedings in cases where the venue of the trial is changed—

(1) out of the State in which the case was initially brought; and

(2) more than 350 miles from the location in which those proceedings originally would have taken place;

the trial court shall order closed circuit televising of the proceedings to that location, for viewing by such persons the court determines have a compelling interest in doing so and are otherwise unable to do so by reason of the inconvenience and expense caused by the change of venue.

(b) LIMITED ACCESS.—

(1) GENERALLY.—No other person, other than official court and security personnel, or other persons specifically designated by the court, shall be permitted to view the closed circuit televising of the proceedings.

(2) EXCEPTION.—The court shall not designate a person under paragraph (1) if the presiding judge at the trial determines that testimony by that person would be materially affected if that person heard other testimony at the trial.

(c) RESTRICTIONS.—

(1) The signal transmitted pursuant to subsection (a) shall be under the control of the court at all times and shall only be transmitted subject to the terms and conditions imposed by the court.

(2) No public broadcast or dissemination shall be made of the signal transmitted pursuant to subsection (a). In the event any tapes are produced in carrying out subsection (a), such tapes shall be the property of the court and kept under seal.

(3) Any violations of this subsection, or any rule or order made pursuant to this section, shall be punishable as contempt of court as described in section 402 of title 18, United States Code.

(d) DONATIONS.—The Administrative Office of the United States Courts may accept donations to enable the courts to carry out subsection (a).

(e) CONSTRUCTION.—

(1) Nothing in this section shall be construed—

(i) to create in favor of any person a cause of action against the United States or any officer or employees thereof, or

(ii) to provide any person with a defense in any action in which application of this section is made.

(f) DEFINITION.—As used in this section, the term "State" means any State, the District of Columbia, or any possession or territory of the United States.

(g) RULES.—The Judicial Conference of the United States, pursuant to its rule making authority under section 331 of title 28, United States Code, may promulgate and issue rules, or amend

existing rules, to effectuate the policy addressed by this section. Upon the implementation of such rules, this section shall cease to be effective. Termination date.

(h) EFFECTIVE DATE.—This section shall only apply to cases filed after January 1, 1995.

SEC. 236. TECHNICAL CORRECTION.

Section 1402(d)(3)(B) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(d)(3)(B)) is amended by striking "1404A" and inserting "1404(a)".

TITLE III—INTERNATIONAL TERRORISM PROHIBITIONS

Subtitle A—Prohibition on International Terrorist Fundraising

SEC. 301. FINDINGS AND PURPOSE. 18 USC 2339B note.

(a) FINDINGS.—The Congress finds that—

(1) international terrorism is a serious and deadly problem that threatens the vital interests of the United States;

(2) the Constitution confers upon Congress the power to punish crimes against the law of nations and to carry out the treaty obligations of the United States, and therefore Congress may by law impose penalties relating to the provision of material support to foreign organizations engaged in terrorist activity;

(3) the power of the United States over immigration and naturalization permits the exclusion from the United States of persons belonging to international terrorist organizations;

(4) international terrorism affects the interstate and foreign commerce of the United States by harming international trade and market stability, and limiting international travel by United States citizens as well as foreign visitors to the United States;

(5) international cooperation is required for an effective response to terrorism, as demonstrated by the numerous multilateral conventions in force providing universal prosecutive jurisdiction over persons involved in a variety of terrorist acts, including hostage taking, murder of an internationally protected person, and aircraft piracy and sabotage;

(6) some foreign terrorist organizations, acting through affiliated groups or individuals, raise significant funds within the United States, or use the United States as a conduit for the receipt of funds raised in other nations; and

(7) foreign organizations that engage in terrorist activity are so tainted by their criminal conduct that any contribution to such an organization facilitates that conduct.

(b) PURPOSE.—The purpose of this subtitle is to provide the Federal Government the fullest possible basis, consistent with the Constitution, to prevent persons within the United States, or subject to the jurisdiction of the United States, from providing material support or resources to foreign organizations that engage in terrorist activities.

SEC. 302. DESIGNATION OF FOREIGN TERRORIST ORGANIZATIONS.

(a) IN GENERAL.—Chapter 2 of title II of the Immigration and Nationality Act (8 U.S.C. 1181 et seq.) is amended by adding at the end the following:

8 USC 1189.

"SEC. 219. DESIGNATION OF FOREIGN TERRORIST ORGANIZATIONS.

"(a) DESIGNATION.—

"(1) IN GENERAL.—The Secretary is authorized to designate an organization as a foreign terrorist organization in accordance with this subsection if the Secretary finds that—

"(A) the organization is a foreign organization;

"(B) the organization engages in terrorist activity (as defined in section 212(a)(3)(B)); and

"(C) the terrorist activity of the organization threatens the security of United States nationals or the national security of the United States.

"(2) PROCEDURE.—

"(A) NOTICE.—Seven days before making a designation under this subsection, the Secretary shall, by classified communication—

"(i) notify the Speaker and Minority Leader of the House of Representatives, the President pro tempore, Majority Leader, and Minority Leader of the Senate, and the members of the relevant committees, in writing, of the intent to designate a foreign organization under this subsection, together with the findings made under paragraph (1) with respect to that organization, and the factual basis therefor; and

Federal Register, publication.

"(ii) seven days after such notification, publish the designation in the Federal Register.

"(B) EFFECT OF DESIGNATION.—

"(i) For purposes of section 2339B of title 18, United States Code, a designation under this subsection shall take effect upon publication under subparagraph (A).

Termination date.

"(ii) Any designation under this subsection shall cease to have effect upon an Act of Congress disapproving such designation.

"(C) FREEZING OF ASSETS.—Upon notification under paragraph (2), the Secretary of the Treasury may require United States financial institutions possessing or controlling any assets of any foreign organization included in the notification to block all financial transactions involving those assets until further directive from either the Secretary of the Treasury, Act of Congress, or order of court.

"(3) RECORD.—

"(A) IN GENERAL.—In making a designation under this subsection, the Secretary shall create an administrative record.

"(B) CLASSIFIED INFORMATION.—The Secretary may consider classified information in making a designation under this subsection. Classified information shall not be subject to disclosure for such time as it remains classified, except that such information may be disclosed to a court ex parte and in camera for purposes of judicial review under subsection (c).

"(4) PERIOD OF DESIGNATION.—

"(A) IN GENERAL.—Subject to paragraphs (5) and (6), a designation under this subsection shall be effective for all purposes for a period of 2 years beginning on the effective date of the designation under paragraph (2)(B). Effective date.

"(B) REDESIGNATION.—The Secretary may redesignate a foreign organization as a foreign terrorist organization for an additional 2-year period at the end of the 2-year period referred to in subparagraph (A) (but not sooner than 60 days prior to the termination of such period) upon a finding that the relevant circumstances described in paragraph (1) still exist. The procedural requirements of paragraphs (2) and (3) shall apply to a redesignation under this subparagraph.

"(5) REVOCATION BY ACT OF CONGRESS.—The Congress, by an Act of Congress, may block or revoke a designation made under paragraph (1).

"(6) REVOCATION BASED ON CHANGE IN CIRCUMSTANCES.—

"(A) IN GENERAL.—The Secretary may revoke a designation made under paragraph (1) if the Secretary finds that—

"(i) the circumstances that were the basis for the designation have changed in such a manner as to warrant revocation of the designation; or

"(ii) the national security of the United States warrants a revocation of the designation.

"(B) PROCEDURE.—The procedural requirements of paragraphs (2) through (4) shall apply to a revocation under this paragraph.

"(7) EFFECT OF REVOCATION.—The revocation of a designation under paragraph (5) or (6) shall not affect any action or proceeding based on conduct committed prior to the effective date of such revocation.

"(8) USE OF DESIGNATION IN TRIAL OR HEARING.—If a designation under this subsection has become effective under paragraph (1)(B), a defendant in a criminal action shall not be permitted to raise any question concerning the validity of the issuance of such designation as a defense or an objection at any trial or hearing.

"(b) JUDICIAL REVIEW OF DESIGNATION.—

"(1) IN GENERAL.—Not later than 30 days after publication of the designation in the Federal Register, an organization designated as a foreign terrorist organization may seek judicial review of the designation in the United States Court of Appeals for the District of Columbia Circuit.

"(2) BASIS OF REVIEW.—Review under this subsection shall be based solely upon the administrative record, except that the Government may submit, for ex parte and in camera review, classified information used in making the designation.

"(3) SCOPE OF REVIEW.—The Court shall hold unlawful and set aside a designation the court finds to be—

"(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

"(B) contrary to constitutional right, power, privilege, or immunity; or

"(C) in excess of statutory jurisdiction, authority, or limitation, or short of statutory right.

"(4) JUDICIAL REVIEW INVOKED.—The pendency of an action for judicial review of a designation shall not affect the application of this section, unless the court issues a final order setting aside the designation.

"(c) DEFINITIONS.—As used in this section—

"(1) the term 'classified information' has the meaning given that term in section 1(a) of the Classified Information Procedures Act (18 U.S.C. App.);

"(2) the term 'national security' means the national defense, foreign relations, or economic interests of the United States;

"(3) the term 'relevant committees' means the Committees on the Judiciary, Intelligence, and Foreign Relations of the Senate and the Committees on the Judiciary, Intelligence, and International Relations of the House of Representatives; and

"(4) the term 'Secretary' means the Secretary of State, in consultation with the Secretary of the Treasury and the Attorney General.".

(b) CLERICAL AMENDMENT.—The table of contents for the Immigration and Nationality Act, relating to terrorism, is amended by inserting after the item relating to section 218 the following new item:

"Sec. 219. Designation of foreign terrorist organizations.".

SEC. 303. PROHIBITION ON TERRORIST FUNDRAISING.

(a) IN GENERAL.—Chapter 113B of title 18, United States Code, is amended by adding at the end the following new section:

"§ 2339B. Providing material support or resources to designated foreign terrorist organizations

"(a) PROHIBITED ACTIVITIES.—

"(1) UNLAWFUL CONDUCT.—Whoever, within the United States or subject to the jurisdiction of the United States, knowingly provides material support or resources to a foreign terrorist organization, or attempts or conspires to do so, shall be fined under this title or imprisoned not more than 10 years, or both.

"(2) FINANCIAL INSTITUTIONS.—Except as authorized by the Secretary, any financial institution that becomes aware that it has possession of, or control over, any funds in which a foreign terrorist organization, or its agent, has an interest, shall—

"(A) retain possession of, or maintain control over, such funds; and

Reports. Regulations.

"(B) report to the Secretary the existence of such funds in accordance with regulations issued by the Secretary.

"(b) CIVIL PENALTY.—Any financial institution that knowingly fails to comply with subsection (a)(2) shall be subject to a civil penalty in an amount that is the greater of—

"(A) $50,000 per violation; or

"(B) twice the amount of which the financial institution was required under subsection (a)(2) to retain possession or control.

"(c) INJUNCTION.—Whenever it appears to the Secretary or the Attorney General that any person is engaged in, or is about to engage in, any act that constitutes, or would constitute, a violation of this section, the Attorney General may initiate civil action in a district court of the United States to enjoin such violation.

"(d) EXTRATERRITORIAL JURISDICTION.—There is extraterritorial Federal jurisdiction over an offense under this section.

"(e) INVESTIGATIONS.—

"(1) IN GENERAL.—The Attorney General shall conduct any investigation of a possible violation of this section, or of any license, order, or regulation issued pursuant to this section.

"(2) COORDINATION WITH THE DEPARTMENT OF THE TREASURY.—The Attorney General shall work in coordination with the Secretary in investigations relating to—

"(A) the compliance or noncompliance by a financial institution with the requirements of subsection (a)(2); and

"(B) civil penalty proceedings authorized under subsection (b).

"(3) REFERRAL.—Any evidence of a criminal violation of this section arising in the course of an investigation by the Secretary or any other Federal agency shall be referred immediately to the Attorney General for further investigation. The Attorney General shall timely notify the Secretary of any action taken on referrals from the Secretary, and may refer investigations to the Secretary for remedial licensing or civil penalty action.

"(f) CLASSIFIED INFORMATION IN CIVIL PROCEEDINGS BROUGHT BY THE UNITED STATES.—

"(1) DISCOVERY OF CLASSIFIED INFORMATION BY DEFENDANTS.—

"(A) REQUEST BY UNITED STATES.—In any civil proceeding under this section, upon request made ex parte and in writing by the United States, a court, upon a sufficient showing, may authorize the United States to—

"(i) redact specified items of classified information from documents to be introduced into evidence or made available to the defendant through discovery under the Federal Rules of Civil Procedure;

"(ii) substitute a summary of the information for such classified documents; or

"(iii) substitute a statement admitting relevant facts that the classified information would tend to prove.

"(B) ORDER GRANTING REQUEST.—If the court enters an order granting a request under this paragraph, the entire text of the documents to which the request relates shall be sealed and preserved in the records of the court to be made available to the appellate court in the event of an appeal. Records.

"(C) DENIAL OF REQUEST.—If the court enters an order denying a request of the United States under this paragraph, the United States may take an immediate, interlocutory appeal in accordance with paragraph (5). For purposes of such an appeal, the entire text of the documents to which the request relates, together with any transcripts of arguments made ex parte to the court in connection therewith, shall be maintained under seal and delivered to the appellate court. Records.

"(2) INTRODUCTION OF CLASSIFIED INFORMATION; PRECAUTIONS BY COURT.—

"(A) EXHIBITS.—To prevent unnecessary or inadvertent disclosure of classified information in a civil proceeding

brought by the United States under this section, the United States may petition the court ex parte to admit, in lieu of classified writings, recordings, or photographs, one or more of the following:

"(i) Copies of items from which classified information has been redacted.

"(ii) Stipulations admitting relevant facts that specific classified information would tend to prove.

"(iii) A declassified summary of the specific classified information.

"(B) DETERMINATION BY COURT.—The court shall grant a request under this paragraph if the court finds that the redacted item, stipulation, or summary is sufficient to allow the defendant to prepare a defense.

"(3) TAKING OF TRIAL TESTIMONY.—

"(A) OBJECTION.—During the examination of a witness in any civil proceeding brought by the United States under this subsection, the United States may object to any question or line of inquiry that may require the witness to disclose classified information not previously found to be admissible.

"(B) ACTION BY COURT.—In determining whether a response is admissible, the court shall take precautions to guard against the compromise of any classified information, including—

"(i) permitting the United States to provide the court, ex parte, with a proffer of the witness's response to the question or line of inquiry; and

"(ii) requiring the defendant to provide the court with a proffer of the nature of the information that the defendant seeks to elicit.

"(C) OBLIGATION OF DEFENDANT.—In any civil proceeding under this section, it shall be the defendant's obligation to establish the relevance and materiality of any classified information sought to be introduced.

"(4) APPEAL.—If the court enters an order denying a request of the United States under this subsection, the United States may take an immediate interlocutory appeal in accordance with paragraph (5).

"(5) INTERLOCUTORY APPEAL.—

"(A) SUBJECT OF APPEAL.—An interlocutory appeal by the United States shall lie to a court of appeals from a decision or order of a district court—

"(i) authorizing the disclosure of classified information;

"(ii) imposing sanctions for nondisclosure of classified information; or

"(iii) refusing a protective order sought by the United States to prevent the disclosure of classified information.

"(B) EXPEDITED CONSIDERATION.—

"(i) IN GENERAL.—An appeal taken pursuant to this paragraph, either before or during trial, shall be expedited by the court of appeals.

"(ii) APPEALS PRIOR TO TRIAL.—If an appeal is of an order made prior to trial, an appeal shall be taken not later than 10 days after the decision or order

appealed from, and the trial shall not commence until the appeal is resolved.

"(iii) APPEALS DURING TRIAL.—If an appeal is taken during trial, the trial court shall adjourn the trial until the appeal is resolved, and the court of appeals—

"(I) shall hear argument on such appeal not later than 4 days after the adjournment of the trial;

"(II) may dispense with written briefs other than the supporting materials previously submitted to the trial court;

"(III) shall render its decision not later than 4 days after argument on appeal; and

"(IV) may dispense with the issuance of a written opinion in rendering its decision.

"(C) EFFECT OF RULING.—An interlocutory appeal and decision shall not affect the right of the defendant, in a subsequent appeal from a final judgment, to claim as error reversal by the trial court on remand of a ruling appealed from during trial.

"(6) CONSTRUCTION.—Nothing in this subsection shall prevent the United States from seeking protective orders or asserting privileges ordinarily available to the United States to protect against the disclosure of classified information, including the invocation of the military and State secrets privilege.

"(g) DEFINITIONS.—As used in this section—

"(1) the term 'classified information' has the meaning given that term in section 1(a) of the Classified Information Procedures Act (18 U.S.C. App.);

"(2) the term 'financial institution' has the same meaning as in section 5312(a)(2) of title 31, United States Code;

"(3) the term 'funds' includes coin or currency of the United States or any other country, traveler's checks, personal checks, bank checks, money orders, stocks, bonds, debentures, drafts, letters of credit, any other negotiable instrument, and any electronic representation of any of the foregoing;

"(4) the term 'material support or resources' has the same meaning as in section 2339A;

"(5) the term 'Secretary' means the Secretary of the Treasury; and

"(6) the term 'terrorist organization' means an organization designated as a terrorist organization under section 219 of the Immigration and Nationality Act.".

(b) CLERICAL AMENDMENT TO TABLE OF SECTIONS.—The table of sections at the beginning of chapter 113B of title 18, United States Code, is amended by adding at the end the following new item:

"2339B. Providing material support or resources to designated foreign terrorist organizations.".

(c) TECHNICAL AMENDMENT.—

(1) NEW ITEM.—Chapter 113B of title 18, United States Code, relating to torture, is redesignated as chapter 113C.

(2) TABLE OF CHAPTERS.—The table of chapters for part I of title 18, United States Code, is amended by striking "113B. Torture" and inserting "113C. Torture".

Subtitle B—Prohibition on Assistance to Terrorist States

SEC. 321. FINANCIAL TRANSACTIONS WITH TERRORISTS.

(a) IN GENERAL.—Chapter 113B of title 18, United States Code, relating to terrorism, is amended by inserting after the section 2332c added by section 521 of this Act the following new section:

"§ 2332d. Financial transactions

"(a) OFFENSE.—Except as provided in regulations issued by the Secretary of the Treasury, in consultation with the Secretary of State, whoever, being a United States person, knowing or having reasonable cause to know that a country is designated under section 6(j) of the Export Administration Act (50 U.S.C. App. 2405) as a country supporting international terrorism, engages in a financial transaction with the government of that country, shall be fined under this title, imprisoned for not more than 10 years, or both.

"(b) DEFINITIONS.—As used in this section—

"(1) the term 'financial transaction' has the same meaning as in section 1956(c)(4); and

"(2) the term 'United States person' means any—

"(A) United States citizen or national;

"(B) permanent resident alien;

"(C) juridical person organized under the laws of the United States; or

"(D) any person in the United States.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 113B of title 18, United States Code, relating to terrorism, is amended by inserting after the item added by section 521 of this Act the following new item:

"2332d. Financial transactions.".

18 USC 2332d note.

(c) EFFECTIVE DATE.—The amendments made by this section shall become effective 120 days after the date of enactment of this Act.

SEC. 322. FOREIGN AIR TRAVEL SAFETY.

Section 44906 of title 49, United States Code, is amended to read as follows:

"§ 44906. Foreign air carrier security programs

"The Administrator of the Federal Aviation Administration shall continue in effect the requirement of section 129.25 of title 14, Code of Federal Regulations, that a foreign air carrier must adopt and use a security program approved by the Administrator. The Administrator shall not approve a security program of a foreign air carrier under section 129.25, or any successor regulation, unless the security program requires the foreign air carrier in its operations to and from airports in the United States to adhere to the identical security measures that the Administrator requires air carriers serving the same airports to adhere to. The foregoing requirement shall not be interpreted to limit the ability of the Administrator to impose additional security measures on a foreign air carrier or an air carrier when the Administrator determines that a specific threat warrants such additional measures. The Administrator shall prescribe regulations to carry out this section.".

Regulations.

SEC. 323. MODIFICATION OF MATERIAL SUPPORT PROVISION.

Section 2339A of title 18, United States Code, is amended to read as follows:

"§ 2339A. Providing material support to terrorists

"(a) OFFENSE.—Whoever, within the United States, provides material support or resources or conceals or disguises the nature, location, source, or ownership of material support or resources, knowing or intending that they are to be used in preparation for, or in carrying out, a violation of section 32, 37, 81, 175, 351, 831, 842 (m) or (n), 844 (f) or (i), 956, 1114, 1116, 1203, 1361, 1362, 1363, 1366, 1751, 2155, 2156, 2280, 2281, 2332, 2332a, 2332b, or 2340A of this title or section 46502 of title 49, or in preparation for, or in carrying out, the concealment from the commission of any such violation, shall be fined under this title, imprisoned not more than 10 years, or both.

"(b) DEFINITION.—In this section, the term 'material support or resources' means currency or other financial securities, financial services, lodging, training, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, and other physical assets, except medicine or religious materials.".

SEC. 324. FINDINGS.

22 USC 2377 note.

The Congress finds that—

(1) international terrorism is among the most serious transnational threats faced by the United States and its allies, far eclipsing the dangers posed by population growth or pollution;

(2) the President should continue to make efforts to counter international terrorism a national security priority;

(3) because the United Nations has been an inadequate forum for the discussion of cooperative, multilateral responses to the threat of international terrorism, the President should undertake immediate efforts to develop effective multilateral responses to international terrorism as a complement to national counter terrorist efforts;

(4) the President should use all necessary means, including covert action and military force, to disrupt, dismantle, and destroy international infrastructure used by international terrorists, including overseas terrorist training facilities and safe havens;

(5) the Congress deplores decisions to ease, evade, or end international sanctions on state sponsors of terrorism, including the recent decision by the United Nations Sanctions Committee to allow airline flights to and from Libya despite Libya's noncompliance with United Nations resolutions; and

(6) the President should continue to undertake efforts to increase the international isolation of state sponsors of international terrorism, including efforts to strengthen international sanctions, and should oppose any future initiatives to ease sanctions on Libya or other state sponsors of terrorism.

SEC. 325. PROHIBITION ON ASSISTANCE TO COUNTRIES THAT AID TERRORIST STATES.

The Foreign Assistance Act of 1961 (22 U.S.C. 151 et seq.) is amended by adding immediately after section 620F the following new section:

President.
22 USC 2377.

"SEC. 620G. PROHIBITION ON ASSISTANCE TO COUNTRIES THAT AID TERRORIST STATES.

"(a) WITHHOLDING OF ASSISTANCE.—The President shall withhold assistance under this Act to the government of any country that provides assistance to the government of any other country for which the Secretary of State has made a determination under section 620A.

"(b) WAIVER.—Assistance prohibited by this section may be furnished to a foreign government described in subsection (a) if the President determines that furnishing such assistance is important to the national interests of the United States and, not later than 15 days before obligating such assistance, furnishes a report to the appropriate committees of Congress including—

"(1) a statement of the determination;

"(2) a detailed explanation of the assistance to be provided;

"(3) the estimated dollar amount of the assistance; and

"(4) an explanation of how the assistance furthers United States national interests.".

SEC. 326. PROHIBITION ON ASSISTANCE TO COUNTRIES THAT PROVIDE MILITARY EQUIPMENT TO TERRORIST STATES.

The Foreign Assistance Act of 1961 (22 U.S.C. 151 et seq.) is amended by adding immediately after section 620G the following new section:

President.
22 USC 2378.

"SEC. 620H. PROHIBITION ON ASSISTANCE TO COUNTRIES THAT PROVIDE MILITARY EQUIPMENT TO TERRORIST STATES.

"(a) PROHIBITION.—

"(1) IN GENERAL.—The President shall withhold assistance under this Act to the government of any country that provides lethal military equipment to a country the government of which the Secretary of State has determined is a terrorist government for the purposes of section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)), or 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371).

"(2) APPLICABILITY.—The prohibition under this section with respect to a foreign government shall terminate 1 year after that government ceases to provide lethal military equipment. This section applies with respect to lethal military equipment provided under a contract entered into after the date of enactment of this Act.

"(b) WAIVER.—Notwithstanding any other provision of law, assistance may be furnished to a foreign government described in subsection (a) if the President determines that furnishing such assistance is important to the national interests of the United States and, not later than 15 days before obligating such assistance, furnishes a report to the appropriate committees of Congress including—

"(1) a statement of the determination;

"(2) a detailed explanation of the assistance to be provided;

"(3) the estimated dollar amount of the assistance; and

"(4) an explanation of how the assistance furthers United States national interests.".

SEC. 327. OPPOSITION TO ASSISTANCE BY INTERNATIONAL FINANCIAL INSTITUTIONS TO TERRORIST STATES.

The International Financial Institutions Act (22 U.S.C. 262c et seq.) is amended by inserting after section 1620 the following new section:

"SEC. 1621. OPPOSITION TO ASSISTANCE BY INTERNATIONAL FINANCIAL INSTITUTIONS TO TERRORIST STATES. 22 USC 262p–4q.

"(a) IN GENERAL.—The Secretary of the Treasury shall instruct the United States executive director of each international financial institution to use the voice and vote of the United States to oppose any loan or other use of the funds of the respective institution to or for a country for which the Secretary of State has made a determination under section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)) or section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371).

"(b) DEFINITION.—For purposes of this section, the term 'international financial institution' includes—

"(1) the International Bank for Reconstruction and Development, the International Development Association, and the International Monetary Fund;

"(2) wherever applicable, the Inter-American Bank, the Asian Development Bank, the European Bank for Reconstruction and Development, the African Development Bank, and the African Development Fund; and

"(3) any similar institution established after the date of enactment of this section.".

SEC. 328. ANTITERRORISM ASSISTANCE. 22 USC 2349aa–10.

(a) FOREIGN ASSISTANCE ACT.—Section 573 of the Foreign Assistance Act of 1961 (22 U.S.C. 2349aa–2) is amended—

(1) in subsection (c), by striking "development and implementation of the antiterrorism assistance program under this chapter, including";

(2) by amending subsection (d) to read as follows:

"(d)(1) Arms and ammunition may be provided under this chapter only if they are directly related to antiterrorism assistance.

"(2) The value (in terms of original acquisition cost) of all equipment and commodities provided under this chapter in any fiscal year shall not exceed 30 percent of the funds made available to carry out this chapter for that fiscal year."; and

(3) by striking subsection (f).

(b) ASSISTANCE TO FOREIGN COUNTRIES TO PROCURE EXPLOSIVES DETECTION DEVICES AND OTHER COUNTERTERRORISM TECHNOLOGY.—(1) Subject to section 575(b), up to $3,000,000 in any fiscal year may be made available—

(A) to procure explosives detection devices and other counterterrorism technology; and

(B) for joint counterterrorism research and development projects on such technology conducted with NATO and major non-NATO allies under the auspices of the Technical Support Working Group of the Department of State.

(2) As used in this subsection, the term "major non-NATO allies" means those countries designated as major non-NATO allies for purposes of section 2350a(i)(3) of title 10, United States Code.

(c) ASSISTANCE TO FOREIGN COUNTRIES.—Notwithstanding any other provision of law (except section 620A of the Foreign Assistance Act of 1961) up to $1,000,000 in assistance may be provided to a foreign country for counterterrorism efforts in any fiscal year if—

(1) such assistance is provided for the purpose of protecting the property of the United States Government or the life and property of any United States citizen, or furthering the apprehension of any individual involved in any act of terrorism against such property or persons; and

(2) the appropriate committees of Congress are notified not later than 15 days prior to the provision of such assistance.

22 USC 2349aa–10 note.

SEC. 329. DEFINITION OF ASSISTANCE.

For purposes of this title—

(1) the term "assistance" means assistance to or for the benefit of a government of any country that is provided by grant, concessional sale, guaranty, insurance, or by any other means on terms more favorable than generally available in the applicable market, whether in the form of a loan, lease, credit, debt relief, or otherwise, including subsidies for exports to such country and favorable tariff treatment of articles that are the growth, product, or manufacture of such country; and

(2) the term "assistance" does not include assistance of the type authorized under chapter 9 of part 1 of the Foreign Assistance Act of 1961 (relating to international disaster assistance).

SEC. 330. PROHIBITION ON ASSISTANCE UNDER ARMS EXPORT CONTROL ACT FOR COUNTRIES NOT COOPERATING FULLY WITH UNITED STATES ANTITERRORISM EFFORTS.

Chapter 3 of the Arms Export Control Act (22 U.S.C. 2771 et seq.) is amended by adding at the end the following:

President. 22 USC 2781.

"SEC. 40A. TRANSACTIONS WITH COUNTRIES NOT FULLY COOPERATING WITH UNITED STATES ANTITERRORISM EFFORTS.—

"(a) PROHIBITED TRANSACTIONS.—No defense article or defense service may be sold or licensed for export under this Act in a fiscal year to a foreign country that the President determines and certifies to Congress, by May 15 of the calendar year in which that fiscal year begins, is not cooperating fully with United States antiterrorism efforts.

"(b) WAIVER.—The President may waive the prohibition set forth in subsection (a) with respect to a specific transaction if the President determines that the transaction is important to the national interests of the United States.".

TITLE IV—TERRORIST AND CRIMINAL ALIEN REMOVAL AND EXCLUSION

Subtitle A—Removal of Alien Terrorists

SEC. 401. ALIEN TERRORIST REMOVAL.

(a) IN GENERAL.—The Immigration and Nationality Act is amended by adding at the end the following new title:

"TITLE V—ALIEN TERRORIST REMOVAL PROCEDURES

"SEC. 501. DEFINITIONS. 8 USC 1531.

"As used in this title—

"(1) the term 'alien terrorist' means any alien described in section 241(a)(4)(B);

"(2) the term 'classified information' has the same meaning as in section 1(a) of the Classified Information Procedures Act (18 U.S.C. App.);

"(3) the term 'national security' has the same meaning as in section 1(b) of the Classified Information Procedures Act (18 U.S.C. App.);

"(4) the term 'removal court' means the court described in section 502;

"(5) the term 'removal hearing' means the hearing described in section 504; and

"(6) the term 'removal proceeding' means a proceeding under this title.

"SEC. 502. ESTABLISHMENT OF REMOVAL COURT. 8 USC 1532.

"(a) DESIGNATION OF JUDGES.—The Chief Justice of the United States shall publicly designate 5 district court judges from 5 of the United States judicial circuits who shall constitute a court that shall have jurisdiction to conduct all removal proceedings. The Chief Justice may, in the Chief Justice's discretion, designate the same judges under this section as are designated pursuant to section 103(a) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803(a)).

"(b) TERMS.—Each judge designated under subsection (a) shall serve for a term of 5 years and shall be eligible for redesignation, except that of the members first designated—

"(1) 1 member shall serve for a term of 1 year;

"(2) 1 member shall serve for a term of 2 years;

"(3) 1 member shall serve for a term of 3 years; and

"(4) 1 member shall serve for a term of 4 years.

"(c) CHIEF JUDGE.—

"(1) DESIGNATION.—The Chief Justice shall publicly designate one of the judges of the removal court to be the chief judge of the removal court.

"(2) RESPONSIBILITIES.—The chief judge shall—

"(A) promulgate rules to facilitate the functioning of the removal court; and

"(B) assign the consideration of cases to the various judges on the removal court.

"(d) EXPEDITIOUS AND CONFIDENTIAL NATURE OF PROCEEDINGS.—The provisions of section 103(c) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803(c)) shall apply to removal proceedings in the same manner as they apply to proceedings under that Act.

"SEC. 503. REMOVAL COURT PROCEDURE. 8 USC 1533.

"(a) APPLICATION.—

"(1) IN GENERAL.—In any case in which the Attorney General has classified information that an alien is an alien terrorist, the Attorney General may seek removal of the alien under

this title by filing an application with the removal court that contains—

"(A) the identity of the attorney in the Department of Justice making the application;

"(B) a certification by the Attorney General or the Deputy Attorney General that the application satisfies the criteria and requirements of this section;

"(C) the identity of the alien for whom authorization for the removal proceeding is sought; and

"(D) a statement of the facts and circumstances relied on by the Department of Justice to establish probable cause that—

"(i) the alien is an alien terrorist;

"(ii) the alien is physically present in the United States; and

"(iii) with respect to such alien, removal under title II would pose a risk to the national security of the United States.

"(2) FILING.—An application under this section shall be submitted ex parte and in camera, and shall be filed under seal with the removal court.

"(b) RIGHT TO DISMISS.—The Attorney General may dismiss a removal action under this title at any stage of the proceeding.

"(c) CONSIDERATION OF APPLICATION.—

"(1) BASIS FOR DECISION.—In determining whether to grant an application under this section, a single judge of the removal court may consider, ex parte and in camera, in addition to the information contained in the application—

"(A) other information, including classified information, presented under oath or affirmation; and

Records. "(B) testimony received in any hearing on the application, of which a verbatim record shall be kept.

"(2) APPROVAL OF ORDER.—The judge shall issue an order granting the application, if the judge finds that there is probable cause to believe that—

"(A) the alien who is the subject of the application has been correctly identified and is an alien terrorist present in the United States; and

"(B) removal under title II would pose a risk to the national security of the United States.

"(3) DENIAL OF ORDER.—If the judge denies the order requested in the application, the judge shall prepare a written statement of the reasons for the denial, taking all necessary precautions not to disclose any classified information contained in the Government's application.

"(d) EXCLUSIVE PROVISIONS.—If an order is issued under this section granting an application, the rights of the alien regarding removal and expulsion shall be governed solely by this title, and except as they are specifically referenced in this title, no other provisions of this Act shall be applicable.

8 USC 1534. **"SEC. 504. REMOVAL HEARING.**

"(a) IN GENERAL.—

"(1) EXPEDITIOUS HEARING.—In any case in which an application for an order is approved under section 503(c)(2), a removal hearing shall be conducted under this section as expeditiously as practicable for the purpose of determining

whether the alien to whom the order pertains should be removed from the United States on the grounds that the alien is an alien terrorist.

"(2) PUBLIC HEARING.—The removal hearing shall be open to the public.

"(b) NOTICE.—An alien who is the subject of a removal hearing under this title shall be given reasonable notice of—

"(1) the nature of the charges against the alien, including a general account of the basis for the charges; and

"(2) the time and place at which the hearing will be held.

"(c) RIGHTS IN HEARING.—

"(1) RIGHT OF COUNSEL.—The alien shall have a right to be present at such hearing and to be represented by counsel. Any alien financially unable to obtain counsel shall be entitled to have counsel assigned to represent the alien. Such counsel shall be appointed by the judge pursuant to the plan for furnishing representation for any person financially unable to obtain adequate representation for the district in which the hearing is conducted, as provided for in section 3006A of title 18, United States Code. All provisions of that section shall apply and, for purposes of determining the maximum amount of compensation, the matter shall be treated as if a felony was charged.

"(2) INTRODUCTION OF EVIDENCE.—Subject to the limitations in subsection (e), the alien shall have a reasonable opportunity to introduce evidence on the alien's own behalf.

"(3) EXAMINATION OF WITNESSES.—Subject to the limitations in subsection (e), the alien shall have a reasonable opportunity to examine the evidence against the alien and to cross-examine any witness.

"(4) RECORD.—A verbatim record of the proceedings and of all testimony and evidence offered or produced at such a hearing shall be kept.

"(5) REMOVAL DECISION BASED ON EVIDENCE AT HEARING.—The decision of the judge regarding removal shall be based only on that evidence introduced at the removal hearing.

"(d) SUBPOENAS.—

"(1) REQUEST.—At any time prior to the conclusion of the removal hearing, either the alien or the Department of Justice may request the judge to issue a subpoena for the presence of a named witness (which subpoena may also command the person to whom it is directed to produce books, papers, documents, or other objects designated therein) upon a satisfactory showing that the presence of the witness is necessary for the determination of any material matter. Such a request may be made ex parte except that the judge shall inform the Department of Justice of any request for a subpoena by the alien for a witness or material if compliance with such a subpoena would reveal classified evidence or the source of that evidence. The Department of Justice shall be given a reasonable opportunity to oppose the issuance of such a subpoena.

"(2) PAYMENT FOR ATTENDANCE.—If an application for a subpoena by the alien also makes a showing that the alien is financially unable to pay for the attendance of a witness so requested, the court may order the costs incurred by the process and the fees of the witness so subpoenaed to be paid from funds appropriated for the enforcement of title II.

"(3) NATIONWIDE SERVICE.—A subpoena under this subsection may be served anywhere in the United States.

"(4) WITNESS FEES.—A witness subpoenaed under this subsection shall receive the same fees and expenses as a witness subpoenaed in connection with a civil proceeding in a court of the United States.

"(5) NO ACCESS TO CLASSIFIED INFORMATION.—Nothing in this subsection is intended to allow an alien to have access to classified information.

"(e) DISCOVERY.—

"(1) IN GENERAL.—For purposes of this title—

"(A) discovery of information derived pursuant to the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.), or otherwise collected for national security purposes, shall not be authorized if disclosure would present a risk to the national security of the United States;

"(B) an alien subject to removal under this title shall not be entitled to suppress evidence that the alien alleges was unlawfully obtained; and

"(C) section 3504 of title 18, United States Code, and section 1806(c) of title 50, United States Code, shall not apply if the Attorney General determines that public disclosure would pose a risk to the national security of the United States because it would disclose classified information or otherwise threaten the integrity of a pending investigation.

"(2) PROTECTIVE ORDERS.—Nothing in this title shall prevent the United States from seeking protective orders and from asserting privileges ordinarily available to the United States to protect against the disclosure of classified information, including the invocation of the military and State secrets privileges.

"(3) TREATMENT OF CLASSIFIED INFORMATION.—

"(A) USE.—The judge shall examine, ex parte and in camera, any evidence for which the Attorney General determines that public disclosure would pose a risk to the national security of the United States or to the security of any individual because it would disclose classified information.

"(B) SUBMISSION.—With respect to such information, the Government shall submit to the removal court an unclassified summary of the specific evidence that does not pose that risk.

"(C) APPROVAL.—Not later than 15 days after submission, the judge shall approve the summary if the judge finds that it is sufficient to enable the alien to prepare a defense. The Government shall deliver to the alien a copy of the unclassified summary approved under this subparagraph.

"(D) DISAPPROVAL.—

"(i) IN GENERAL.—If an unclassified summary is not approved by the removal court under subparagraph (C), the Government shall be afforded 15 days to correct the deficiencies identified by the court and submit a revised unclassified summary.

"(ii) REVISED SUMMARY.—If the revised unclassified summary is not approved by the court within 15 days

of its submission pursuant to subparagraph (C), the removal hearing shall be terminated.

"(f) ARGUMENTS.—Following the receipt of evidence, the Government and the alien shall be given fair opportunity to present argument as to whether the evidence is sufficient to justify the removal of the alien. The Government shall open the argument. The alien shall be permitted to reply. The Government shall then be permitted to reply in rebuttal.

"(g) BURDEN OF PROOF.—In the hearing, it is the Government's burden to prove, by the preponderance of the evidence, that the alien is subject to removal because the alien is an alien terrorist.

"(h) RULES OF EVIDENCE.—The Federal Rules of Evidence shall not apply in a removal hearing.

"(i) DETERMINATION OF DEPORTATION.—If the judge, after considering the evidence on the record as a whole, finds that the Government has met its burden, the judge shall order the alien removed and detained pending removal from the United States. If the alien was released pending the removal hearing, the judge shall order the Attorney General to take the alien into custody.

"(j) WRITTEN ORDER.—At the time of issuing a decision as to whether the alien shall be removed, the judge shall prepare a written order containing a statement of facts found and conclusions of law.

"(k) NO RIGHT TO ANCILLARY RELIEF.—At no time shall the judge consider or provide for relief from removal based on—

"(1) asylum under section 208;

"(2) withholding of deportation under section 243(h);

"(3) suspension of deportation under subsection (a) or (e) of section 244;

"(4) adjustment of status under section 245; or

"(5) registry under section 249.

"SEC. 505. APPEALS. 8 USC 1535.

"(a) APPEAL OF DENIAL OF APPLICATION FOR REMOVAL PROCEEDINGS.—

"(1) IN GENERAL.—The Attorney General may seek a review of the denial of an order sought in an application filed pursuant to section 503. The appeal shall be filed in the United States Court of Appeals for the District of Columbia Circuit by notice of appeal filed not later than 20 days after the date of such denial.

"(2) RECORD ON APPEAL.—The entire record of the proceeding shall be transmitted to the Court of Appeals under seal, and the Court of Appeals shall hear the matter ex parte.

"(3) STANDARD OF REVIEW.—The Court of Appeals shall—

"(A) review questions of law de novo; and

"(B) set aside a finding of fact only if such finding was clearly erroneous.

"(b) APPEAL OF DETERMINATION REGARDING SUMMARY OF CLASSIFIED INFORMATION.—

"(1) IN GENERAL.—The United States may take an interlocutory appeal to the United States Court of Appeals for the District of Columbia Circuit of—

"(A) any determination by the judge pursuant to section 504(e)(3); or

"(B) the refusal of the court to make the findings permitted by section 504(e)(3).

"(2) RECORD.—In any interlocutory appeal taken pursuant to this subsection, the entire record, including any proposed order of the judge, any classified information and the summary of evidence, shall be transmitted to the Court of Appeals. The classified information shall be transmitted under seal. A verbatim record of such appeal shall be kept under seal in the event of any other judicial review.

"(c) APPEAL OF DECISION IN HEARING.—

"(1) IN GENERAL.—The decision of the judge after a removal hearing may be appealed by either the alien or the Attorney General to the United States Court of Appeals for the District of Columbia Circuit by notice of appeal filed not later than 20 days after the date on which the order is issued. The order shall not be enforced during the pendency of an appeal under this subsection.

"(2) TRANSMITTAL OF RECORD.—In an appeal or review to the Court of Appeals pursuant to this subsection—

"(A) the entire record shall be transmitted to the Court of Appeals; and

"(B) information received in camera and ex parte, and any portion of the order that would reveal the substance or source of such information, shall be transmitted under seal.

"(3) EXPEDITED APPELLATE PROCEEDING.—In an appeal or review to the Court of Appeals under this subsection—

"(A) the appeal or review shall be heard as expeditiously as practicable and the court may dispense with full briefing and hear the matter solely on the record of the judge of the removal court and on such briefs or motions as the court may require to be filed by the parties;

"(B) the Court of Appeals shall issue an opinion not later than 60 days after the date of the issuance of the final order of the district court;

"(C) the court shall review all questions of law de novo; and

"(D) a finding of fact shall be accorded deference by the reviewing court and shall not be set aside unless such finding was clearly erroneous.

"(d) CERTIORARI.—Following a decision by the Court of Appeals pursuant to subsection (c), the alien or the Attorney General may petition the Supreme Court for a writ of certiorari. In any such case, any information transmitted to the Court of Appeals under seal shall, if such information is also submitted to the Supreme Court, be transmitted under seal. Any order of removal shall not be stayed pending disposition of a writ of certiorari, except as provided by the Court of Appeals or a Justice of the Supreme Court.

"(e) APPEAL OF DETENTION ORDER.—

"(1) IN GENERAL.—Sections 3145 through 3148 of title 18, United States Code, pertaining to review and appeal of a release or detention order, penalties for failure to appear, penalties for an offense committed while on release, and sanctions for violation of a release condition shall apply to an alien to whom section 507(b)(1) applies. In applying the previous sentence—

"(A) for purposes of section 3145 of such title an appeal shall be taken to the United States Court of Appeals for the District of Columbia Circuit; and

"(B) for purposes of section 3146 of such title the alien shall be considered released in connection with a charge of an offense punishable by life imprisonment.

"(2) NO REVIEW OF CONTINUED DETENTION.—The determinations and actions of the Attorney General pursuant to section 507(b)(2)(C) shall not be subject to judicial review, including application for a writ of habeas corpus, except for a claim by the alien that continued detention violates the alien's rights under the Constitution. Jurisdiction over any such challenge shall lie exclusively in the United States Court of Appeals for the District of Columbia Circuit.

"SEC. 506. CUSTODY AND RELEASE PENDING REMOVAL HEARING. 8 USC 1536.

"(a) UPON FILING APPLICATION.—

"(1) IN GENERAL.—Subject to paragraphs (2) and (3), the Attorney General may—

"(A) take into custody any alien with respect to whom an application under section 503 has been filed; and

"(B) retain such an alien in custody in accordance with the procedures authorized by this title.

"(2) SPECIAL RULES FOR PERMANENT RESIDENT ALIENS.—

"(A) RELEASE HEARING.—An alien lawfully admitted for permanent residence shall be entitled to a release hearing before the judge assigned to hear the removal hearing. Such an alien shall be detained pending the removal hearing, unless the alien demonstrates to the court that the alien—

"(i) is a person lawfully admitted for permanent residence in the United States;

"(ii) if released upon such terms and conditions as the court may prescribe (including the posting of any monetary amount), is not likely to flee; and

"(iii) will not endanger national security, or the safety of any person or the community, if released.

"(B) INFORMATION CONSIDERED.—The judge may consider classified information submitted in camera and ex parte in making a determination whether to release an alien pending the removal hearing.

"(3) RELEASE IF ORDER DENIED AND NO REVIEW SOUGHT.—

"(A) IN GENERAL.—Subject to subparagraph (B), if a judge of the removal court denies the order sought in an application filed pursuant to section 503, and the Attorney General does not seek review of such denial, the alien shall be released from custody.

"(B) APPLICATION OF REGULAR PROCEDURES.—Subparagraph (A) shall not prevent the arrest and detention of the alien pursuant to title II.

"(b) CONDITIONAL RELEASE IF ORDER DENIED AND REVIEW SOUGHT.—

"(1) IN GENERAL.—If a judge of the removal court denies the order sought in an application filed pursuant to section 503 and the Attorney General seeks review of such denial, the judge shall release the alien from custody subject to the least restrictive condition, or combination of conditions, of release described in section 3142(b) and clauses (i) through (xiv) of section 3142(c)(1)(B) of title 18, United States Code, that—

"(A) will reasonably assure the appearance of the alien at any future proceeding pursuant to this title; and

"(B) will not endanger the safety of any other person or the community.

"(2) NO RELEASE FOR CERTAIN ALIENS.—If the judge finds no such condition or combination of conditions, as described in paragraph (1), the alien shall remain in custody until the completion of any appeal authorized by this title.

8 USC 1537.

"SEC. 507. CUSTODY AND RELEASE AFTER REMOVAL HEARING.

"(a) RELEASE.—

"(1) IN GENERAL.—Subject to paragraph (2), if the judge decides that an alien should not be removed, the alien shall be released from custody.

"(2) CUSTODY PENDING APPEAL.—If the Attorney General takes an appeal from such decision, the alien shall remain in custody, subject to the provisions of section 3142 of title 18, United States Code.

"(b) CUSTODY AND REMOVAL.—

"(1) CUSTODY.—If the judge decides that an alien shall be removed, the alien shall be detained pending the outcome of any appeal. After the conclusion of any judicial review thereof which affirms the removal order, the Attorney General shall retain the alien in custody and remove the alien to a country specified under paragraph (2).

"(2) REMOVAL.—

"(A) IN GENERAL.—The removal of an alien shall be to any country which the alien shall designate if such designation does not, in the judgment of the Attorney General, in consultation with the Secretary of State, impair the obligation of the United States under any treaty (including a treaty pertaining to extradition) or otherwise adversely affect the foreign policy of the United States.

"(B) ALTERNATE COUNTRIES.—If the alien refuses to designate a country to which the alien wishes to be removed or if the Attorney General, in consultation with the Secretary of State, determines that removal of the alien to the country so designated would impair a treaty obligation or adversely affect United States foreign policy, the Attorney General shall cause the alien to be removed to any country willing to receive such alien.

"(C) CONTINUED DETENTION.—If no country is willing to receive such an alien, the Attorney General may, notwithstanding any other provision of law, retain the alien in custody. The Attorney General, in coordination with the Secretary of State, shall make periodic efforts to reach agreement with other countries to accept such an alien and at least every 6 months shall provide to the attorney representing the alien at the removal hearing a written report on the Attorney General's efforts. Any alien in custody pursuant to this subparagraph shall be released from custody solely at the discretion of the Attorney General and subject to such conditions as the Attorney General shall deem appropriate.

"(D) FINGERPRINTING.—Before an alien is removed from the United States pursuant to this subsection, or pursuant to an order of exclusion because such alien is excludable

under section 212(a)(3)(B), the alien shall be photographed and fingerprinted, and shall be advised of the provisions of section 276(b).

"(c) CONTINUED DETENTION PENDING TRIAL.—

"(1) DELAY IN REMOVAL.—The Attorney General may hold in abeyance the removal of an alien who has been ordered removed, pursuant to this title, to allow the trial of such alien on any Federal or State criminal charge and the service of any sentence of confinement resulting from such a trial.

"(2) MAINTENANCE OF CUSTODY.—Pending the commencement of any service of a sentence of confinement by an alien described in paragraph (1), such an alien shall remain in the custody of the Attorney General, unless the Attorney General determines that temporary release of the alien to the custody of State authorities for confinement in a State facility is appropriate and would not endanger national security or public safety.

"(3) SUBSEQUENT REMOVAL.—Following the completion of a sentence of confinement by an alien described in paragraph (1), or following the completion of State criminal proceedings which do not result in a sentence of confinement of an alien released to the custody of State authorities pursuant to paragraph (2), such an alien shall be returned to the custody of the Attorney General who shall proceed to the removal of the alien under this title.

"(d) APPLICATION OF CERTAIN PROVISIONS RELATING TO ESCAPE OF PRISONERS.—For purposes of sections 751 and 752 of title 18, United States Code, an alien in the custody of the Attorney General pursuant to this title shall be subject to the penalties provided by those sections in relation to a person committed to the custody of the Attorney General by virtue of an arrest on a charge of a felony.

"(e) RIGHTS OF ALIENS IN CUSTODY.—

"(1) FAMILY AND ATTORNEY VISITS.—An alien in the custody of the Attorney General pursuant to this title shall be given reasonable opportunity, as determined by the Attorney General, to communicate with and receive visits from members of the alien's family, and to contact, retain, and communicate with an attorney.

"(2) DIPLOMATIC CONTACT.—An alien in the custody of the Attorney General pursuant to this title shall have the right to contact an appropriate diplomatic or consular official of the alien's country of citizenship or nationality or of any country providing representation services therefore. The Attorney General shall notify the appropriate embassy, mission, or consular office of the alien's detention.".

(b) JURISDICTION OVER EXCLUSION ORDERS FOR ALIEN TERRORISTS.—Section 106(b) of the Immigration and Nationality Act (8 U.S.C. 1105a(b)) is amended by adding at the end the following sentence: "Jurisdiction to review an order entered pursuant to the provisions of section 235(c) concerning an alien excludable under section 212(a)(3)(B) shall rest exclusively in the United States Court of Appeals for the District of Columbia Circuit.".

(c) CRIMINAL PENALTY FOR REENTRY OF ALIEN TERRORISTS.—Section 276(b) of such Act (8 U.S.C. 1326(b)) is amended—

(1) by striking "or" at the end of paragraph (1),

(2) by striking the period at the end of paragraph (2) and inserting "; or", and

(3) by inserting after paragraph (2) the following new paragraph:

"(3) who has been excluded from the United States pursuant to section 235(c) because the alien was excludable under section 212(a)(3)(B) or who has been removed from the United States pursuant to the provisions of title V, and who thereafter, without the permission of the Attorney General, enters the United States, or attempts to do so, shall be fined under title 18, United States Code, and imprisoned for a period of 10 years, which sentence shall not run concurrently with any other sentence.".

(d) TABLE OF CONTENTS.—The Immigration and Nationality Act is amended by adding at the end of the table of contents the following:

"TITLE V—ALIEN TERRORIST REMOVAL PROCEDURES

"Sec. 501. Definitions.
"Sec. 502. Establishment of removal court.
"Sec. 503. Removal court procedure.
"Sec. 504. Removal hearing.
"Sec. 505. Appeals.
"Sec. 506. Custody and release pending removal hearing.
"Sec. 507. Custody and release after removal hearing.".

(e) ELIMINATION OF CUSTODY REVIEW BY HABEAS CORPUS.—Section 106(a) of the Immigration and Nationality Act (8 U.S.C. 1105a(a)) is amended—

(1) in paragraph (8), by adding "and" at the end;

(2) in paragraph (9), by striking "; and" at the end and inserting a period; and

(3) by striking paragraph (10).

8 USC 1105a note.

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act and shall apply to all aliens without regard to the date of entry or attempted entry into the United States.

Subtitle B—Exclusion of Members and Representatives of Terrorist Organizations

SEC. 411. EXCLUSION OF ALIEN TERRORISTS.

Section 212(a)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)) is amended—

(1) in clause (i)—

(A) in subclause (I), by striking "or" at the end;

(B) in subclause (II), by inserting "is engaged in or" after "believe,"; and

(C) by inserting after subclause (II) the following:

"(III) is a representative (as defined in clause (iv)) of a foreign terrorist organization, as designated by the Secretary under section 219, or

"(IV) is a member of a foreign terrorist organization, as designated by the Secretary under section 219,"; and

(2) by adding at the end the following:

"(iv) REPRESENTATIVE DEFINED.—As used in this paragraph, the term 'representative' includes an officer,

official, or spokesman of an organization, and any person who directs, counsels, commands, or induces an organization or its members to engage in terrorist activity.".

SEC. 412. WAIVER AUTHORITY CONCERNING NOTICE OF DENIAL OF APPLICATION FOR VISAS.

Section 212(b) of the Immigration and Nationality Act (8 U.S.C. 1182(b)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and indenting each new subparagraph 2 ems to the right;

(2) by striking "If" and inserting "(1) Subject to paragraphs (2) and (3), if"; and

(3) by adding at the end the following new paragraphs:

"(2) The Secretary of State may waive the requirements of paragraph (1) with respect to a particular alien or any class or classes of excludable aliens.

"(3) Paragraph (1) does not apply to any alien excludable under paragraph (2) or (3) of subsection (a).".

SEC. 413. DENIAL OF OTHER RELIEF FOR ALIEN TERRORISTS.

(a) WITHHOLDING OF DEPORTATION.—Section 243(h)(2) of the Immigration and Nationality Act (8 U.S.C. 1253(h)(2)) is amended by adding at the end the following new sentence: "For purposes of subparagraph (D), an alien who is described in section 241(a)(4)(B) shall be considered to be an alien for whom there are reasonable grounds for regarding as a danger to the security of the United States.".

(b) SUSPENSION OF DEPORTATION.—Section 244(a) of such Act (8 U.S.C. 1254(a)) is amended by striking "section 241(a)(4)(D)" and inserting "subparagraph (B) or (D) of section 241(a)(4)".

(c) VOLUNTARY DEPARTURE.—Section 244(e)(2) of such Act (8 U.S.C. 1254(e)(2)) is amended by inserting "under section 241(a)(4)(B) or" after "who is deportable".

(d) ADJUSTMENT OF STATUS.—Section 245(c) of such Act (8 U.S.C. 1255(c)) is amended—

(1) by striking "or" before "(5)", and

(2) by inserting before the period at the end the following: ", or (6) an alien who is deportable under section 241(a)(4)(B)".

(e) REGISTRY.—Section 249(d) of such Act (8 U.S.C. 1259(d)) is amended by inserting "and is not deportable under section 241(a)(4)(B)" after "ineligible to citizenship".

(f) WAIVER.—Section 243(h) of such Act (8 U.S.C. 1253(h)) is amended by adding at the end the following:

"(3) Notwithstanding any other provision of law, paragraph (1) shall apply to any alien if the Attorney General determines, in the discretion of the Attorney General, that—

"(A) such alien's life or freedom would be threatened, in the country to which such alien would be deported or returned, on account of race, religion, nationality, membership in a particular social group, or political opinion; and

"(B) the application of paragraph (1) to such alien is necessary to ensure compliance with the 1967 United Nations Protocol Relating to the Status of Refugees.".

(g) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and 8 USC 1253 note.

shall apply to applications filed before, on, or after such date if final action has not been taken on them before such date.

SEC. 414. EXCLUSION OF ALIENS WHO HAVE NOT BEEN INSPECTED AND ADMITTED.

(a) IN GENERAL.—Section 241 of the Immigration and Nationality Act (8 U.S.C. 1251) is amended by adding at the end the following new subsection:

"(d) Notwithstanding any other provision of this title, an alien found in the United States who has not been admitted to the United States after inspection in accordance with section 235 is deemed for purposes of this Act to be seeking entry and admission to the United States and shall be subject to examination and exclusion by the Attorney General under chapter 4. In the case of such an alien the Attorney General shall provide by regulation an opportunity for the alien to establish that the alien was so admitted.".

8 USC 1251 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the first day of the first month beginning more than 180 days after the date of the enactment of this Act.

Subtitle C—Modification to Asylum Procedures

SEC. 421. DENIAL OF ASYLUM TO ALIEN TERRORISTS.

(a) IN GENERAL.—Section 208(a) of the Immigration and Nationality Act (8 U.S.C. 1158(a)) is amended by adding at the end the following: "The Attorney General may not grant an alien asylum if the Attorney General determines that the alien is excludable under subclause (I), (II), or (III) of section 212(a)(3)(B)(i) or deportable under section 241(a)(4)(B), unless the Attorney General determines, in the discretion of the Attorney General, that there are not reasonable grounds for regarding the alien as a danger to the security of the United States.".

8 USC 1158 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and apply to asylum determinations made on or after such date.

SEC. 422. INSPECTION AND EXCLUSION BY IMMIGRATION OFFICERS.

(a) IN GENERAL.—Subsection (b) of section 235 of the Immigration and Nationality Act (8 U.S.C. 1225) is amended to read as follows:

"(b)(1)(A) If the examining immigration officer determines that an alien seeking entry—

"(i) is excludable under section 212(a)(6)(C) or 212(a)(7), and

"(ii) does not indicate either an intention to apply for asylum under section 208 or a fear of persecution,

the officer shall order the alien excluded from the United States without further hearing or review.

"(B) The examining immigration officer shall refer for an interview by an asylum officer under subparagraph (C) any alien who is excludable under section 212(a)(6)(C) or 212(a)(7) and has indicated an intention to apply for asylum under section 208 or a fear of persecution.

"(C)(i) An asylum officer shall promptly conduct interviews of aliens referred under subparagraph (B).

"(ii) If the officer determines at the time of the interview that an alien has a credible fear of persecution (as defined in clause (v)), the alien shall be detained for an asylum hearing before an asylum officer under section 208.

"(iii)(I) Subject to subclause (II), if the officer determines that the alien does not have a credible fear of persecution, the officer shall order the alien excluded from the United States without further hearing or review.

"(II) The Attorney General shall promulgate regulations to provide for the immediate review by a supervisory asylum office at the port of entry of a determination under subclause (I). Regulations.

"(iv) The Attorney General shall provide information concerning the asylum interview described in this subparagraph to aliens who may be eligible. An alien who is eligible for such interview may consult with a person or persons of the alien's choosing prior to the interview or any review thereof, according to regulations prescribed by the Attorney General. Such consultation shall be at no expense to the Government and shall not delay the process.

"(v) For purposes of this subparagraph, the term 'credible fear of persecution' means (I) that it is more probable than not that the statements made by the alien in support of the alien's claim are true, and (II) that there is a significant possibility, in light of such statements and of such other facts as are known to the officer, that the alien could establish eligibility for asylum under section 208.

"(D) As used in this paragraph, the term 'asylum officer' means an immigration officer who—

"(i) has had professional training in country conditions, asylum law, and interview techniques; and

"(ii) is supervised by an officer who meets the condition in clause (i).

"(E)(i) An exclusion order entered in accordance with subparagraph (A) is not subject to administrative appeal, except that the Attorney General shall provide by regulation for prompt review of such an order against an alien who claims under oath, or as permitted under penalty of perjury under section 1746 of title 28, United States Code, after having been warned of the penalties for falsely making such claim under such conditions, to have been lawfully admitted for permanent residence.

"(ii) In any action brought against an alien under section 275(a) or section 276, the court shall not have jurisdiction to hear any claim attacking the validity of an order of exclusion entered under subparagraph (A).

"(2)(A) Except as provided in subparagraph (B), if the examining immigration officer determines that an alien seeking entry is not clearly and beyond a doubt entitled to enter, the alien shall be detained for a hearing before a special inquiry officer.

"(B) The provisions of subparagraph (A) shall not apply—

"(i) to an alien crewman,

"(ii) to an alien described in paragraph (1)(A) or (1)(C)(iii)(I), or

"(iii) if the conditions described in section 273(d) exist.

"(3) The decision of the examining immigration officer, if favorable to the admission of any alien, shall be subject to challenge by any other immigration officer and such challenge shall operate

to take the alien whose privilege to enter is so challenged, before a special inquiry officer for a hearing on exclusion of the alien.".

(b) CONFORMING AMENDMENT.—Section 237(a) of such Act (8 U.S.C. 1227(a)) is amended—

(1) in the second sentence of paragraph (1), by striking "Deportation" and inserting "Subject to section 235(b)(1), deportation", and

(2) in the first sentence of paragraph (2), by striking "If" and inserting "Subject to section 235(b)(1), if".

8 USC 1225 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first month that begins more than 180 days after the date of the enactment of this Act.

SEC. 423. JUDICIAL REVIEW.

(a) PRECLUSION OF JUDICIAL REVIEW.—Section 106 of the Immigration and Nationality Act (8 U.S.C. 1105a) is amended—

(1) by amending the section heading to read as follows:

"JUDICIAL REVIEW OF ORDERS OF DEPORTATION AND EXCLUSION, AND SPECIAL EXCLUSION"; and

(2) by adding at the end the following new subsection:

"(e)(1) Notwithstanding any other provision of law, and except as provided in this subsection, no court shall have jurisdiction to review any individual determination, or to entertain any other cause or claim, arising from or relating to the implementation or operation of section 235(b)(1). Regardless of the nature of the action or claim, or the party or parties bringing the action, no court shall have jurisdiction or authority to enter declaratory, injunctive, or other equitable relief not specifically authorized in this subsection nor to certify a class under Rule 23 of the Federal Rules of Civil Procedure.

"(2) Judicial review of any cause, claim, or individual determination covered under paragraph (1) shall only be available in habeas corpus proceedings, and shall be limited to determinations of—

"(A) whether the petitioner is an alien, if the petitioner makes a showing that the petitioner's claim of United States nationality is not frivolous;

"(B) whether the petitioner was ordered specially excluded under section 235(b)(1)(A); and

"(C) whether the petitioner can prove by a preponderance of the evidence that the petitioner is an alien lawfully admitted for permanent residence and is entitled to such review as is provided by the Attorney General pursuant to section 235(b)(1)(E)(i).

"(3) In any case where the court determines that an alien was not ordered specially excluded, or was not properly subject to special exclusion under the regulations adopted by the Attorney General, the court may order no relief beyond requiring that the alien receive a hearing in accordance with section 236, or a determination in accordance with section 235(c) or 273(d).

"(4) In determining whether an alien has been ordered specially excluded, the court's inquiry shall be limited to whether such an order was in fact issued and whether it relates to the petitioner.".

(b) PRECLUSION OF COLLATERAL ATTACKS.—Section 235 of such Act (8 U.S.C. 1225) is amended by adding at the end the following new subsection:

"(d) In any action brought for the assessment of penalties for improper entry or re-entry of an alien under section 275 or section 276, no court shall have jurisdiction to hear claims collaterally attacking the validity of orders of exclusion, special exclusion, or deportation entered under this section or sections 236 and 242.".

(c) CLERICAL AMENDMENT.—The item relating to section 106 in the table of contents of such Act is amended to read as follows:

"Sec. 106. Judicial review of orders of deportation and exclusion, and special exclusion.".

Subtitle D—Criminal Alien Procedural Improvements

SEC. 431. ACCESS TO CERTAIN CONFIDENTIAL IMMIGRATION AND NATURALIZATION FILES THROUGH COURT ORDER.

(a) CONFIDENTIALITY OF INFORMATION.—Section 245A(c)(5) of the Immigration and Nationality Act (8 U.S.C. 1255a(c)(5)) is amended—

(1) by inserting "(i)" after "except the Attorney General"; and

(2) by inserting after "Title 13" the following: "and (ii) may authorize an application to a Federal court of competent jurisdiction for, and a judge of such court may grant, an order authorizing disclosure of information contained in the application of the alien to be used—

"(I) for identification of the alien when there is reason to believe that the alien has been killed or severely incapacitated; or

"(II) for criminal law enforcement purposes against the alien whose application is to be disclosed.".

(b) APPLICATIONS FOR ADJUSTMENT OF STATUS.—Section 210(b) of the Immigration and Nationality Act (8 U.S.C. 1160(b)) is amended—

(1) in paragraph (5), by inserting ", except as allowed by a court order issued pursuant to paragraph (6) of this subsection" after "consent of the alien"; and

(2) in paragraph (6), by inserting the following sentence before "Anyone who uses": "Notwithstanding the preceding sentence, the Attorney General may authorize an application to a Federal court of competent jurisdiction for, and a judge of such court may grant an order authorizing, disclosure of information contained in the application of the alien to be used for identification of the alien when there is reason to believe that the alien has been killed or severely incapacitated, or for criminal law enforcement purposes against the alien whose application is to be disclosed or to discover information leading to the location or identity of the alien.".

SEC. 432. CRIMINAL ALIEN IDENTIFICATION SYSTEM.

Section 130002(a) of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322) is amended to read as follows: 8 USC 1252 note.

"(a) OPERATION AND PURPOSE.—The Commissioner of Immigration and Naturalization shall, under the authority of section 242(a)(3)(A) of the Immigration and Nationality Act (8 U.S.C. 1252(a)(3)(A)), operate a criminal alien identification system. The

criminal alien identification system shall be used to assist Federal, State, and local law enforcement agencies in identifying and locating aliens who may be subject to deportation by reason of their conviction of aggravated felonies.".

SEC. 433. ESTABLISHING CERTAIN ALIEN SMUGGLING-RELATED CRIMES AS RICO-PREDICATE OFFENSES.

Section 1961(1) of title 18, United States Code, is amended—

(1) by inserting "section 1028 (relating to fraud and related activity in connection with identification documents) if the act indictable under section 1028 was committed for the purpose of financial gain," before "section 1029";

(2) by inserting "section 1542 (relating to false statement in application and use of passport) if the act indictable under section 1542 was committed for the purpose of financial gain, section 1543 (relating to forgery or false use of passport) if the act indictable under section 1543 was committed for the purpose of financial gain, section 1544 (relating to misuse of passport) if the act indictable under section 1544 was committed for the purpose of financial gain, section 1546 (relating to fraud and misuse of visas, permits, and other documents) if the act indictable under section 1546 was committed for the purpose of financial gain, sections 1581–1588 (relating to peonage and slavery)," after "section 1513 (relating to retaliating against a witness, victim, or an informant),";

(3) by striking "or" before "(E)"; and

(4) by inserting before the period at the end the following: ", or (F) any act which is indictable under the Immigration and Nationality Act, section 274 (relating to bringing in and harboring certain aliens), section 277 (relating to aiding or assisting certain aliens to enter the United States), or section 278 (relating to importation of alien for immoral purpose) if the act indictable under such section of such Act was committed for the purpose of financial gain".

SEC. 434. AUTHORITY FOR ALIEN SMUGGLING INVESTIGATIONS.

Section 2516(1) of title 18, United States Code, is amended—

(1) by striking "and" at the end of paragraph (n),

(2) by redesignating paragraph (o) as paragraph (p), and

(3) by inserting after paragraph (n) the following new paragraph:

"(o) a felony violation of section 1028 (relating to production of false identification documents), section 1542 (relating to false statements in passport applications), section 1546 (relating to fraud and misuse of visas, permits, and other documents) of this title or a violation of section 274, 277, or 278 of the Immigration and Nationality Act (relating to the smuggling of aliens); or".

SEC. 435. EXPANSION OF CRITERIA FOR DEPORTATION FOR CRIMES OF MORAL TURPITUDE.

(a) IN GENERAL.—Section 241(a)(2)(A)(i)(II) of the Immigration and Nationality Act (8 U.S.C. 1251(a)(2)(A)(i)(II)) is amended to read as follows:

"(II) is convicted of a crime for which a sentence of one year or longer may be imposed,".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to aliens against whom deportation proceedings are initiated after the date of the enactment of this Act. 8 USC 1251 note.

SEC. 436. MISCELLANEOUS PROVISIONS.

(a) USE OF ELECTRONIC AND TELEPHONIC MEDIA IN DEPORTATION HEARINGS.—The second sentence of section 242(b) of the Immigration and Nationality Act (8 U.S.C. 1252(b)) is amended by inserting before the period the following: "; except that nothing in this subsection shall preclude the Attorney General from authorizing proceedings by electronic or telephonic media (with the consent of the alien) or, where waived or agreed to by the parties, in the absence of the alien".

(b) CODIFICATION.—

(1) Section 242(i) of such Act (8 U.S.C. 1252(i)) is amended by adding at the end the following: "Nothing in this subsection shall be construed to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.".

(2) Section 225 of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103–416) is amended by striking "and nothing in" and all that follows through "1252(i))". 8 USC 1101 note.

(3) The amendments made by this subsection shall take effect as if included in the enactment of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103–416). Effective date. 8 USC 1252 note.

SEC. 437. INTERIOR REPATRIATION PROGRAM. 8 USC 1253 note.

Not later than 180 days after the date of enactment of this Act, the Attorney General and the Commissioner of Immigration and Naturalization shall develop and implement a program in which aliens who previously have illegally entered the United States not less than 3 times and are deported or returned to a country contiguous to the United States will be returned to locations not less than 500 kilometers from that country's border with the United States.

SEC. 438. DEPORTATION OF NONVIOLENT OFFENDERS PRIOR TO COMPLETION OF SENTENCE OF IMPRISONMENT.

(a) IN GENERAL.—Section 242(h) of the Immigration and Nationality Act (8 U.S.C. 1252(h)) is amended to read as follows:

"(h)(1) Except as provided in paragraph (2), an alien sentenced to imprisonment may not be deported until such imprisonment has been terminated by the release of the alien from confinement. Parole, supervised release, probation, or possibility of rearrest or further confinement in respect of the same offense shall not be a ground for deferral of deportation.

"(2) The Attorney General is authorized to deport an alien in accordance with applicable procedures under this Act prior to the completion of a sentence of imprisonment—

"(A) in the case of an alien in the custody of the Attorney General, if the Attorney General determines that (i) the alien is confined pursuant to a final conviction for a nonviolent offense (other than alien smuggling), and (ii) such deportation of the alien is appropriate and in the best interest of the United States; or

"(B) in the case of an alien in the custody of a State (or a political subdivision of a State), if the chief State official exercising authority with respect to the incarceration of the alien determines that (i) the alien is confined pursuant to a final conviction for a nonviolent offense (other than alien smuggling), (ii) such deportation is appropriate and in the best interest of the State, and (iii) submits a written request to the Attorney General that such alien be so deported.

"(3) Any alien deported pursuant to this subsection shall be notified of the penalties under the laws of the United States relating to the reentry of deported aliens, particularly the expanded penalties for aliens deported under paragraph (2).".

(b) REENTRY OF ALIEN DEPORTED PRIOR TO COMPLETION OF TERM OF IMPRISONMENT.—Section 276 of the Immigration and Nationality Act (8 U.S.C. 1326) is amended by adding at the end the following new subsection:

"(c) Any alien deported pursuant to section 242(h)(2) who enters, attempts to enter, or is at any time found in, the United States (unless the Attorney General has expressly consented to such alien's reentry) shall be incarcerated for the remainder of the sentence of imprisonment which was pending at the time of deportation without any reduction for parole or supervised release. Such alien shall be subject to such other penalties relating to the reentry of deported aliens as may be available under this section or any other provision of law.".

8 USC 1252c.

SEC. 439. AUTHORIZING STATE AND LOCAL LAW ENFORCEMENT OFFICIALS TO ARREST AND DETAIN CERTAIN ILLEGAL ALIENS.

(a) IN GENERAL.—Notwithstanding any other provision of law, to the extent permitted by relevant State and local law, State and local law enforcement officials are authorized to arrest and detain an individual who—

(1) is an alien illegally present in the United States; and

(2) has previously been convicted of a felony in the United States and deported or left the United States after such conviction,

but only after the State or local law enforcement officials obtain appropriate confirmation from the Immigration and Naturalization Service of the status of such individual and only for such period of time as may be required for the Service to take the individual into Federal custody for purposes of deporting or removing the alien from the United States.

(b) COOPERATION.—The Attorney General shall cooperate with the States to assure that information in the control of the Attorney General, including information in the National Crime Information Center, that would assist State and local law enforcement officials in carrying out duties under subsection (a) is made available to such officials.

SEC. 440. CRIMINAL ALIEN REMOVAL.

(a) JUDICIAL REVIEW.—Section 106 of the Immigration and Nationality Act (8 U.S.C. 1105a(a)(10)) is amended to read as follows:

"(10) Any final order of deportation against an alien who is deportable by reason of having committed a criminal offense covered in section 241(a)(2) (A)(iii), (B), (C), or (D), or any offense covered by section 241(a)(2)(A)(ii) for which both predi-

cate offenses are covered by section 241(a)(2)(A)(i), shall not be subject to review by any court.".

(b) FINAL ORDER OF DEPORTATION DEFINED.—Section 101(a) of such Act (8 U.S.C. 1101(a)) is amended by adding at the end the following new paragraph:

"(47)(A) The term 'order of deportation' means the order of the special inquiry officer, or other such administrative officer to whom the Attorney General has delegated the responsibility for determining whether an alien is deportable, concluding that the alien is deportable or ordering deportation.

"(B) The order described under subparagraph (A) shall become final upon the earlier of—

"(i) a determination by the Board of Immigration Appeals affirming such order; or

"(ii) the expiration of the period in which the alien is permitted to seek review of such order by the Board of Immigration Appeals.".

(c) ARREST AND CUSTODY.—Section 242(a)(2) of such Act is amended— 8 USC 1252.

(1) in subparagraph (A)—

(A) by striking "(2)(A) The Attorney" and inserting "(2) The Attorney";

(B) by striking "an aggravated felony upon" and all that follows through "of the same offense)" and inserting "any criminal offense covered in section 241(a)(2) (A)(iii), (B), (C), or (D), or any offense covered by section 241(a)(2)(A)(ii) for which both predicate offenses are covered by section 241(a)(2)(A)(i), upon release of the alien from incarceration, shall deport the alien as expeditiously as possible"; and

(C) by striking "but subject to subparagraph (B)"; and

(2) by striking subparagraph (B).

(d) CLASSES OF EXCLUDABLE ALIENS.—Section 212(c) of such Act (8 U.S.C. 1182(c)) is amended—

(1) by striking "The first sentence of this" and inserting "This"; and

(2) by striking "has been convicted of one or more aggravated felonies" and all that follows through the end and inserting "is deportable by reason of having committed any criminal offense covered in section 241(a)(2) (A)(iii), (B), (C), or (D), or any offense covered by section 241(a)(2)(A)(ii) for which both predicate offenses are covered by section 241(a)(2)(A)(i).".

(e) AGGRAVATED FELONY DEFINED.—Section 101(a)(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)), as amended by section 222 of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103–416), is amended—

(1) in subparagraph (J), by inserting ", or an offense described in section 1084 (if it is a second or subsequent offense) or 1955 of that title (relating to gambling offenses)," after "corrupt organizations)";

(2) in subparagraph (K)—

(A) by striking "or" at the end of clause (i),

(B) by redesignating clause (ii) as clause (iii), and

(C) by inserting after clause (i) the following new clause:

"(ii) is described in section 2421, 2422, or 2423 of title 18, United States Code (relating to transpor-

tation for the purpose of prostitution) for commercial advantage; or";

(3) by amending subparagraph (N) to read as follows:

"(N) an offense described in paragraph (1)(A) or (2) of section 274(a) (relating to alien smuggling) for which the term of imprisonment imposed (regardless of any suspension of imprisonment) is at least 5 years;";

(4) by amending subparagraph (O) to read as follows:

"(O) an offense (i) which either is falsely making, forging, counterfeiting, mutilating, or altering a passport or instrument in violation of section 1543 of title 18, United States Code, or is described in section 1546(a) of such title (relating to document fraud) and (ii) for which the term of imprisonment imposed (regardless of any suspension of such imprisonment) is at least 18 months;";

(5) in subparagraph (P), by striking "15 years" and inserting "5 years", and by striking "and" at the end;

(6) by redesignating subparagraphs (O), (P), and (Q) as subparagraphs (P), (Q), and (U), respectively;

(7) by inserting after subparagraph (N) the following new subparagraph:

"(O) an offense described in section 275(a) or 276 committed by an alien who was previously deported on the basis of a conviction for an offense described in another subparagraph of this paragraph;"; and

(8) by inserting after subparagraph (Q), as so redesignated, the following new subparagraphs:

"(R) an offense relating to commercial bribery, counterfeiting, forgery, or trafficking in vehicles the identification numbers of which have been altered for which a sentence of 5 years' imprisonment or more may be imposed;

"(S) an offense relating to obstruction of justice, perjury or subornation of perjury, or bribery of a witness, for which a sentence of 5 years' imprisonment or more may be imposed;

"(T) an offense relating to a failure to appear before a court pursuant to a court order to answer to or dispose of a charge of a felony for which a sentence of 2 years' imprisonment or more may be imposed; and".

8 USC 1101 note.

(f) EFFECTIVE DATE.—The amendments made by subsection (e) shall apply to convictions entered on or after the date of the enactment of this Act, except that the amendment made by subsection (e)(3) shall take effect as if included in the enactment of section 222 of the Immigration and Nationality Technical Corrections Act of 1994.

(g) DEPORTATION OF CRIMINAL ALIENS.—Section 242A(a) of such Act (8 U.S.C. 1252a) is amended—

(1) in paragraph (1)—

(A) by striking "aggravated felonies (as defined in section 101(a)(43) of this title)" and inserting "any criminal offense covered in section 241(a)(2) (A)(iii), (B), (C), or (D), or any offense covered by section 241(a)(2)(A)(ii) for which both predicate offenses are covered by section 241(a)(2)(A)(i).";" and

(B) by striking ", where warranted,";

(2) in paragraph (2), by striking "aggravated felony" and all that follows through "before any scheduled hearings." and

inserting "any criminal offense covered in section 241(a)(2)(A)(iii), (B), (C), or (D), or any offense covered by section 241(a)(2)(A)(ii) for which both predicate offenses are covered by section 241(a)(2)(A)(i).".

(h) DEADLINES FOR DEPORTING ALIEN.—Section 242(c) of such Act (8 U.S.C. 1252(c)) is amended—

(1) by striking "(c) When a final order" and inserting "(c)(1) Subject to paragraph (2), when a final order"; and

(2) by inserting at the end the following new paragraph:

"(2) When a final order of deportation under administrative process is made against any alien who is deportable by reason of having committed a criminal offense covered in section 241(a)(2)(A)(iii), (B), (C), or (D) or any offense covered by section 241(a)(2)(A)(ii) for which both predicate offenses are covered by section 241(a)(2)(A)(i), the Attorney General shall have 30 days from the date of the order within which to effect the alien's departure from the United States. The Attorney General shall have sole and unreviewable discretion to waive the foregoing provision for aliens who are cooperating with law enforcement authorities or for purposes of national security.". Waiver.

SEC. 441. LIMITATION ON COLLATERAL ATTACKS ON UNDERLYING DEPORTATION ORDER.

(a) IN GENERAL.—Section 276 of the Immigration and Nationality Act (8 U.S.C. 1326) is amended by adding at the end the following new subsection:

"(d) In a criminal proceeding under this section, an alien may not challenge the validity of the deportation order described in subsection (a)(1) or subsection (b) unless the alien demonstrates that—

"(1) the alien exhausted any administrative remedies that may have been available to seek relief against the order;

"(2) the deportation proceedings at which the order was issued improperly deprived the alien of the opportunity for judicial review; and

"(3) the entry of the order was fundamentally unfair.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to criminal proceedings initiated after the date of enactment of this Act. 8 USC 1326 note.

SEC. 442. DEPORTATION PROCEDURES FOR CERTAIN CRIMINAL ALIENS WHO ARE NOT PERMANENT RESIDENTS.

(a) ADMINISTRATIVE HEARINGS.—Section 242A(b) of the Immigration and Nationality Act (8 U.S.C. 1252a(b)), as added by section 130004(a) of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322), is amended—

(1) in paragraph (2)—

(A) by striking "and" at the end of subparagraph (A) and inserting "or", and

(B) by amending subparagraph (B) to read as follows:

"(B) had permanent resident status on a conditional basis (as described in section 216) at the time that proceedings under this section commenced.";

(2) in paragraph (3), by striking "30 calendar days" and inserting "14 calendar days";

(3) in paragraph (4)(B), by striking "proccedings" and inserting "proceedings";

(4) in paragraph (4)—

(A) by redesignating subparagraphs (D) and (E) as subparagraphs (F) and (G), respectively; and

(B) by adding after subparagraph (C) the following new subparagraphs:

"(D) such proceedings are conducted in, or translated for the alien into, a language the alien understands;

"(E) a determination is made for the record at such proceedings that the individual who appears to respond in such a proceeding is an alien subject to such an expedited proceeding under this section and is, in fact, the alien named in the notice for such proceeding;".

(5) by adding at the end the following new paragraph:

"(5) No alien described in this section shall be eligible for any relief from deportation that the Attorney General may grant in the Attorney General's discretion.".

(b) LIMIT ON JUDICIAL REVIEW.—Subsection (d) of section 106 of the Immigration and Nationality Act (8 U.S.C. 1105a), as added by section 130004(b) of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322), is amended to read as follows:

"(d) Notwithstanding subsection (c), a petition for review or for habeas corpus on behalf of an alien described in section 242A(c) may only challenge whether the alien is in fact an alien described in such section, and no court shall have jurisdiction to review any other issue.".

(c) PRESUMPTION OF DEPORTABILITY.—Section 242A of the Immigration and Nationality Act (8 U.S.C. 1252a) is amended by inserting after subsection (b) the following new subsection:

"(c) PRESUMPTION OF DEPORTABILITY.—An alien convicted of an aggravated felony shall be conclusively presumed to be deportable from the United States.".

Regulations. Publication. 8 USC 1105a note.

(d) EFFECTIVE DATE.—The amendments made by this section shall become effective no later than 60 days after the publication by the Attorney General of implementing regulations that shall be published on or before January 1, 1997.

SEC. 443. EXTRADITION OF ALIENS.

(a) SCOPE.—Section 3181 of title 18, United States Code, is amended—

(1) by inserting "(a)" before "The provisions of this chapter"; and

(2) by adding at the end the following new subsections:

"(b) The provisions of this chapter shall be construed to permit, in the exercise of comity, the surrender of persons, other than citizens, nationals, or permanent residents of the United States, who have committed crimes of violence against nationals of the United States in foreign countries without regard to the existence of any treaty of extradition with such foreign government if the Attorney General certifies, in writing, that—

"(1) evidence has been presented by the foreign government that indicates that had the offenses been committed in the United States, they would constitute crimes of violence as defined under section 16 of this title; and

"(2) the offenses charged are not of a political nature.

"(c) As used in this section, the term 'national of the United States' has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).".

(b) FUGITIVES.—Section 3184 of title 18, United States Code, is amended—

(1) in the first sentence by inserting after "United States and any foreign government," the following: "or in cases arising under section 3181(b),";

(2) in the first sentence by inserting after "treaty or convention," the following: "or provided for under section 3181(b),"; and

(3) in the third sentence by inserting after "treaty or convention," the following: "or under section 3181(b),".

TITLE V—NUCLEAR, BIOLOGICAL, AND CHEMICAL WEAPONS RESTRICTIONS

Subtitle A—Nuclear Materials

SEC. 501. FINDINGS AND PURPOSE. 18 USC 831 note.

(a) FINDINGS.—The Congress finds that—

(1) nuclear materials, including byproduct materials, can be used to create radioactive dispersal devices that are capable of causing serious bodily injury as well as substantial damage to property and to the environment;

(2) the potential use of nuclear materials, including byproduct materials, enhances the threat posed by terrorist activities and thereby has a greater effect on the security interests of the United States;

(3) due to the widespread hazards presented by the threat of nuclear contamination, as well as nuclear bombs, the United States has a strong interest in ensuring that persons who are engaged in the illegal acquisition and use of nuclear materials, including byproduct materials, are prosecuted for their offenses;

(4) the threat that nuclear materials will be obtained and used by terrorist and other criminal organizations has increased substantially since the enactment in 1982 of the legislation that implemented the Convention on the Physical Protection of Nuclear Material, codified at section 831 of title 18, United States Code;

(5) the successful efforts to obtain agreements from other countries to dismantle nuclear weapons have resulted in increased packaging and transportation of nuclear materials, thereby decreasing the security of such materials by increasing the opportunity for unlawful diversion and theft;

(6) the trafficking in the relatively more common, commercially available, and usable nuclear and byproduct materials creates the potential for significant loss of life and environmental damage;

(7) report trafficking incidents in the early 1990's suggest that the individuals involved in trafficking in these materials from Eurasia and Eastern Europe frequently conducted their black market sales of these materials within the Federal Republic of Germany, the Baltic States, the former Soviet Union, Central Europe, and to a lesser extent in the Middle European countries;

(8) the international community has become increasingly concerned over the illegal possession of nuclear and nuclear byproduct materials;

(9) the potentially disastrous ramifications of increased access to nuclear and nuclear byproduct materials pose such a significant threat that the United States must use all lawful methods available to combat the illegal use of such materials;

(10) the United States has an interest in encouraging United States corporations to do business in the countries that comprised the former Soviet Union, and in other developing democracies;

(11) protection of such United States corporations from threats created by the unlawful use of nuclear materials is important to the success of the effort to encourage business ventures in these countries, and to further the foreign relations and commerce of the United States;

(12) the nature of nuclear contamination is such that it may affect the health, environment, and property of United States nationals even if the acts that constitute the illegal activity occur outside the territory of the United States, and are primarily directed toward foreign nationals; and

(13) there is presently no Federal criminal statute that provides adequate protection to United States interests from nonweapons grade, yet hazardous radioactive material, and from the illegal diversion of nuclear materials that are held for other than peaceful purposes.

(b) PURPOSE.—The purpose of this title is to provide Federal law enforcement agencies with the necessary means and the maximum authority permissible under the Constitution to combat the threat of nuclear contamination and proliferation that may result from the illegal possession and use of radioactive materials.

SEC. 502. EXPANSION OF SCOPE AND JURISDICTIONAL BASES OF NUCLEAR MATERIALS PROHIBITIONS.

Section 831 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by striking "nuclear material" each place it appears and inserting "nuclear material or nuclear byproduct material";

(B) in paragraph (1)—

(i) in subparagraph (A), by inserting "or to the environment" after "property"; and

(ii) so that subparagraph (B) reads as follows:

"(B) circumstances exist, or have been represented to the defendant to exist, that are likely to cause the death or serious bodily injury to any person, or substantial damage to property or to the environment;"; and

(C) in paragraph (6), by inserting "or to the environment" after "property";

(2) in subsection (c)—

(A) so that paragraph (2) reads as follows:

"(2) an offender or a victim is—

"(A) a national of the United States; or

"(B) a United States corporation or other legal entity;";

(B) in paragraph (3)—

(i) by striking "at the time of the offense the nuclear material is in use, storage, or transport, for peaceful purposes, and"; and

(ii) by striking "or" at the end of the paragraph;

(C) in paragraph (4)—

(i) by striking "nuclear material for peaceful purposes" and inserting "nuclear material or nuclear byproduct material"; and

(ii) by striking the period at the end of the paragraph and inserting "; or"; and

(D) by adding at the end the following new paragraph:

"(5) either—

"(A) the governmental entity under subsection (a)(5) is the United States; or

"(B) the threat under subsection (a)(6) is directed at the United States."; and

(3) in subsection (f)—

(A) in paragraph (1)—

(i) in subparagraph (A), by striking "with an isotopic concentration not in excess of 80 percent plutonium 238"; and

(ii) in subparagraph (C), by striking "uranium" and inserting "enriched uranium, defined as uranium";

(B) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively;

(C) by inserting after paragraph (1) the following new paragraph:

"(2) the term 'nuclear byproduct material' means any material containing any radioactive isotope created through an irradiation process in the operation of a nuclear reactor or accelerator;";

(D) in paragraph (4), as redesignated, by striking "and" at the end;

(E) in paragraph (5), as redesignated, by striking the period at the end and inserting a semicolon; and

(F) by adding at the end the following new paragraphs:

"(6) the term 'national of the United States' has the same meaning as in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)); and

"(7) the term 'United States corporation or other legal entity' means any corporation or other entity organized under the laws of the United States or any State, Commonwealth, territory, possession, or district of the United States.".

SEC. 503. REPORT TO CONGRESS ON THEFTS OF EXPLOSIVE MATERIALS FROM ARMORIES.

(a) STUDY.—The Attorney General and the Secretary of Defense shall jointly conduct a study of the number and extent of thefts from military arsenals (including National Guard armories) of firearms, explosives, and other materials that are potentially useful to terrorists.

(b) REPORT TO THE CONGRESS.—Not later than 6 months after the date of enactment of this Act, the Attorney General and the Secretary of Defense shall jointly prepare and transmit to the Congress a report on the findings of the study conducted under subsection (a).

Subtitle B—Biological Weapons Restrictions

42 USC 262 note.

SEC. 511. ENHANCED PENALTIES AND CONTROL OF BIOLOGICAL AGENTS.

(a) FINDINGS.—The Congress finds that—

(1) certain biological agents have the potential to pose a severe threat to public health and safety;

(2) such biological agents can be used as weapons by individuals or organizations for the purpose of domestic or international terrorism or for other criminal purposes;

(3) the transfer and possession of potentially hazardous biological agents should be regulated to protect public health and safety; and

(4) efforts to protect the public from exposure to such agents should ensure that individuals and groups with legitimate objectives continue to have access to such agents for clinical and research purposes.

(b) CRIMINAL ENFORCEMENT.—Chapter 10 of title 18, United States Code, is amended—

(1) in section 175(a), by inserting "or attempts, threatens, or conspires to do the same," after "to do so,";

(2) in section 177(a)(2), by inserting "threat," after "attempt,"; and

(3) in section 178—

(A) in paragraph (1), by striking "or infectious substance" and inserting "infectious substance, or biological product that may be engineered as a result of biotechnology, or any naturally occurring or bioengineered component of any such microorganism, virus, infectious substance, or biological product";

(B) in paragraph (2)—

(i) by inserting "the toxic material of plants, animals, microorganisms, viruses, fungi, or infectious substances, or a recombinant molecule" after "means";

(ii) by striking "production—" and inserting "production, including—";

(iii) in subparagraph (A), by inserting "or biological product that may be engineered as a result of biotechnology" after "substance"; and

(iv) in subparagraph (B), by inserting "or biological product" after "isomer"; and

(C) in paragraph (4), by inserting ", or molecule, including a recombinant molecule, or biological product that may be engineered as a result of biotechnology," after "organism".

(c) TERRORISM.—Section 2332a(a) of title 18, United States Code, is amended by inserting ", including any biological agent, toxin, or vector (as those terms are defined in section 178)" after "destruction".

(d) REGULATORY CONTROL OF BIOLOGICAL AGENTS.—

(1) LIST OF BIOLOGICAL AGENTS.—

(A) IN GENERAL.—The Secretary shall, through regulations promulgated under subsection (f), establish and maintain a list of each biological agent that has the potential to pose a severe threat to public health and safety.

(B) CRITERIA.—In determining whether to include an agent on the list under subparagraph (A), the Secretary shall—

(i) consider—

(I) the effect on human health of exposure to the agent;

(II) the degree of contagiousness of the agent and the methods by which the agent is transferred to humans;

(III) the availability and effectiveness of immunizations to prevent and treatments for any illness resulting from infection by the agent; and

(IV) any other criteria that the Secretary considers appropriate; and

(ii) consult with scientific experts representing appropriate professional groups.

(e) REGULATION OF TRANSFERS OF LISTED BIOLOGICAL AGENTS.—The Secretary shall, through regulations promulgated under subsection (f), provide for—

(1) the establishment and enforcement of safety procedures for the transfer of biological agents listed pursuant to subsection (d)(1), including measures to ensure—

(A) proper training and appropriate skills to handle such agents; and

(B) proper laboratory facilities to contain and dispose of such agents;

(2) safeguards to prevent access to such agents for use in domestic or international terrorism or for any other criminal purpose;

(3) the establishment of procedures to protect the public safety in the event of a transfer or potential transfer of a biological agent in violation of the safety procedures established under paragraph (1) or the safeguards established under paragraph (2); and

(4) appropriate availability of biological agents for research, education, and other legitimate purposes.

(f) REGULATIONS.—The Secretary shall carry out this section by issuing—

(1) proposed rules not later than 60 days after the date of enactment of this Act; and

(2) final rules not later than 120 days after the date of enactment of this Act.

(g) DEFINITIONS.—For purposes of this section—

(1) the term "biological agent" has the same meaning as in section 178 of title 18, United States Code; and

(2) the term "Secretary" means the Secretary of Health and Human Services.

Subtitle C—Chemical Weapons Restrictions

SEC. 521. CHEMICAL WEAPONS OF MASS DESTRUCTION; STUDY OF FACILITY FOR TRAINING AND EVALUATION OF PERSONNEL WHO RESPOND TO USE OF CHEMICAL OR BIOLOGICAL WEAPONS IN URBAN AND SUBURBAN AREAS.

(a) CHEMICAL WEAPONS OF MASS DESTRUCTION.—Chapter 113B of title 18, United States Code, relating to terrorism, is amended by inserting after section 2332b as added by section 702 of this Act the following new section:

"§ 2332c. Use of chemical weapons

"(a) PROHIBITED ACTS.—

"(1) OFFENSE.—A person shall be punished under paragraph (2) if that person, without lawful authority, uses, or attempts or conspires to use, a chemical weapon against—

"(A) a national of the United States while such national is outside of the United States;

"(B) any person within the United States; or

"(C) any property that is owned, leased, or used by the United States or by any department or agency of the United States, whether the property is within or outside of the United States.

"(2) PENALTIES.—A person who violates paragraph (1)—

"(A) shall be imprisoned for any term of years or for life; or

"(B) if death results from that violation, shall be punished by death or imprisoned for any term of years or for life.

"(b) DEFINITIONS.—As used in this section—

"(1) the term 'national of the United States' has the same meaning as in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)); and

"(2) the term 'chemical weapon' means any weapon that is designed or intended to cause widespread death or serious bodily injury through the release, dissemination, or impact of toxic or poisonous chemicals or precursors of toxic or poisonous chemicals.

50 USC 1522 note.

(b) STUDY OF FACILITY FOR TRAINING AND EVALUATION OF PERSONNEL WHO RESPOND TO USE OF CHEMICAL OR BIOLOGICAL WEAPONS IN URBAN AND SUBURBAN AREAS.—

(1) FINDINGS.—The Congress finds that—

(A) the threat of the use of chemical and biological weapons by Third World countries and by terrorist organizations has increased in recent years and is now a problem of worldwide significance;

(B) the military and law enforcement agencies in the United States that are responsible for responding to the use of such weapons require additional testing, training, and evaluation facilities to ensure that the personnel of such agencies discharge their responsibilities effectively; and

(C) a facility that recreates urban and suburban locations would provide an especially effective environment

in which to test, train, and evaluate such personnel for that purpose.

(2) STUDY OF FACILITY.—

(A) IN GENERAL.—The President shall establish an interagency task force to determine the feasibility and advisability of establishing a facility that recreates both an urban environment and a suburban environment in such a way as to permit the effective testing, training, and evaluation in such environments of government personnel who are responsible for responding to the use of chemical and biological weapons in the United States.

(B) DESCRIPTION OF FACILITY.—The facility considered under subparagraph (A) shall include—

(i) facilities common to urban environments (including a multistory building and an underground rail transit system) and to suburban environments;

(ii) the capacity to produce controllable releases of chemical and biological agents from a variety of urban and suburban structures, including laboratories, small buildings, and dwellings;

(iii) the capacity to produce controllable releases of chemical and biological agents into sewage, water, and air management systems common to urban areas and suburban areas;

(iv) chemical and biocontaminant facilities at the P3 and P4 levels;

(v) the capacity to test and evaluate the effectiveness of a variety of protective clothing and facilities and survival techniques in urban areas and suburban areas; and

(vi) the capacity to test and evaluate the effectiveness of variable sensor arrays (including video, audio, meteorological, chemical, and biosensor arrays) in urban areas and suburban areas.

(C) SENSE OF CONGRESS.—It is the sense of Congress that the facility considered under subparagraph (A) shall, if established—

(i) be under the jurisdiction of the Secretary of Defense; and

(ii) be located at a principal facility of the Department of Defense for the testing and evaluation of the use of chemical and biological weapons during any period of armed conflict.

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 113B of title 18, United States Code, relating to terrorism, is amended by inserting after the item added by section 702 of this Act that relates to section 2332b the following new item:

"2332c. Use of chemical weapons.".

TITLE VI—IMPLEMENTATION OF PLASTIC EXPLOSIVES CONVENTION

SEC. 601. FINDINGS AND PURPOSES. 18 USC 841 note.

(a) FINDINGS.—The Congress finds that—

(1) plastic explosives were used by terrorists in the bombings of Pan American Airlines flight number 103 in December 1988 and UTA flight number 722 in September 1989;

(2) plastic explosives can be used with little likelihood of detection for acts of unlawful interference with civil aviation, maritime navigation, and other modes of transportation;

(3) the criminal use of plastic explosives places innocent lives in jeopardy, endangers national security, affects domestic tranquility, and gravely affects interstate and foreign commerce;

(4) the marking of plastic explosives for the purpose of detection would contribute significantly to the prevention and punishment of such unlawful acts; and

(5) for the purpose of deterring and detecting such unlawful acts, the Convention on the Marking of Plastic Explosives for the Purpose of Detection, Done at Montreal on 1 March 1991, requires each contracting State to adopt appropriate measures to ensure that plastic explosives are duly marked and controlled.

(b) PURPOSE.—The purpose of this title is to fully implement the Convention on the Marking of Plastic Explosives for the Purpose of Detection, Done at Montreal on 1 March 1991.

SEC. 602. DEFINITIONS.

Section 841 of title 18, United States Code, is amended by adding at the end the following new subsections:

"(o) 'Convention on the Marking of Plastic Explosives' means the Convention on the Marking of Plastic Explosives for the Purpose of Detection, Done at Montreal on 1 March 1991.

"(p) 'Detection agent' means any one of the substances specified in this subsection when introduced into a plastic explosive or formulated in such explosive as a part of the manufacturing process in such a manner as to achieve homogeneous distribution in the finished explosive, including—

"(1) Ethylene glycol dinitrate (EGDN), $C_2H_4(NO_3)_2$, molecular weight 152, when the minimum concentration in the finished explosive is 0.2 percent by mass;

"(2) 2,3-Dimethyl-2,3-dinitrobutane (DMNB), $C_6H_{12}(NO_2)_2$, molecular weight 176, when the minimum concentration in the finished explosive is 0.1 percent by mass;

"(3) Para-Mononitrotoluene (p-MNT), $C_7H_7NO_2$, molecular weight 137, when the minimum concentration in the finished explosive is 0.5 percent by mass;

"(4) Ortho-Mononitrotoluene (o-MNT), $C_7H_7NO_2$, molecular weight 137, when the minimum concentration in the finished explosive is 0.5 percent by mass; and

"(5) any other substance in the concentration specified by the Secretary, after consultation with the Secretary of State and the Secretary of Defense, that has been added to the table in part 2 of the Technical Annex to the Convention on the Marking of Plastic Explosives.

"(q) 'Plastic explosive' means an explosive material in flexible or elastic sheet form formulated with one or more high explosives which in their pure form has a vapor pressure less than $10-^4$ Pa at a temperature of 25°C., is formulated with a binder material, and is as a mixture malleable or flexible at normal room temperature.".

SEC. 603. REQUIREMENT OF DETECTION AGENTS FOR PLASTIC EXPLOSIVES.

Section 842 of title 18, United States Code, is amended by adding at the end the following new subsections:

"(l) It shall be unlawful for any person to manufacture any plastic explosive that does not contain a detection agent.

"(m)(1) It shall be unlawful for any person to import or bring into the United States, or export from the United States, any plastic explosive that does not contain a detection agent.

"(2) This subsection does not apply to the importation or bringing into the United States, or the exportation from the United States, of any plastic explosive that was imported or brought into, or manufactured in the United States prior to the date of enactment of this subsection by or on behalf of any agency of the United States performing military or police functions (including any military reserve component) or by or on behalf of the National Guard of any State, not later than 15 years after the date of entry into force of the Convention on the Marking of Plastic Explosives, with respect to the United States.

"(n)(1) It shall be unlawful for any person to ship, transport, transfer, receive, or possess any plastic explosive that does not contain a detection agent.

"(2) This subsection does not apply to—

"(A) the shipment, transportation, transfer, receipt, or possession of any plastic explosive that was imported or brought into, or manufactured in the United States prior to the date of enactment of this subsection by any person during the period beginning on that date and ending 3 years after that date of enactment; or

"(B) the shipment, transportation, transfer, receipt, or possession of any plastic explosive that was imported or brought into, or manufactured in the United States prior to the date of enactment of this subsection by or on behalf of any agency of the United States performing a military or police function (including any military reserve component) or by or on behalf of the National Guard of any State, not later than 15 years after the date of entry into force of the Convention on the Marking of Plastic Explosives, with respect to the United States.

"(o) It shall be unlawful for any person, other than an agency of the United States (including any military reserve component) or the National Guard of any State, possessing any plastic explosive on the date of enactment of this subsection, to fail to report to the Secretary within 120 days after such date of enactment the quantity of such explosives possessed, the manufacturer or importer, any marks of identification on such explosives, and such other information as the Secretary may prescribe by regulation.".

SEC. 604. CRIMINAL SANCTIONS.

Section 844(a) of title 18, United States Code, is amended to read as follows:

"(a) Any person who violates any of subsections (a) through (i) or (l) through (o) of section 842 shall be fined under this title, imprisoned for not more than 10 years, or both.".

SEC. 605. EXCEPTIONS.

Section 845 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by inserting "(l), (m), (n), or (o) of section 842 and subsections" after "subsections"; and

(B) in paragraph (1), by inserting before the semicolon ", and which pertain to safety"; and

(2) by adding at the end the following new subsection:

"(c) It is an affirmative defense against any proceeding involving subsections (l) through (o) of section 842 if the proponent proves by a preponderance of the evidence that the plastic explosive—

"(1) consisted of a small amount of plastic explosive intended for and utilized solely in lawful—

"(A) research, development, or testing of new or modified explosive materials;

"(B) training in explosives detection or development or testing of explosives detection equipment; or

"(C) forensic science purposes; or

"(2) was plastic explosive that, within 3 years after the date of enactment of the Antiterrorism and Effective Death Penalty Act of 1996, will be or is incorporated in a military device within the territory of the United States and remains an integral part of such military device, or is intended to be, or is incorporated in, and remains an integral part of a military device that is intended to become, or has become, the property of any agency of the United States performing military or police functions (including any military reserve component) or the National Guard of any State, wherever such device is located.

"(3) For purposes of this subsection, the term 'military device' includes, but is not restricted to, shells, bombs, projectiles, mines, missiles, rockets, shaped charges, grenades, perforators, and similar devices lawfully manufactured exclusively for military or police purposes.".

SEC. 606. SEIZURE AND FORFEITURE OF PLASTIC EXPLOSIVES.

Section 596(c)(1) of the Tariff Act of 1930 (19 U.S.C. 1595a(c)(1)) is amended—

(1) in subparagraph (B), by striking "or" at the end;

(2) in subparagraph (C), by striking the period and inserting "; or"; and

(3) by adding at the end the following new subparagraph:

"(D) is a plastic explosive, as defined in section 841(q) of title 18, United States Code, which does not contain a detection agent, as defined in section 841(p) of such title.".

18 USC 841 note.

SEC. 607. EFFECTIVE DATE.

Except as otherwise provided in this title, this title and the amendments made by this title shall take effect 1 year after the date of enactment of this Act.

TITLE VII—CRIMINAL LAW MODIFICATIONS TO COUNTER TERRORISM

Subtitle A—Crimes and Penalties

SEC. 701. INCREASED PENALTY FOR CONSPIRACIES INVOLVING EXPLOSIVES.

Section 844 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(n) Except as otherwise provided in this section, a person who conspires to commit any offense defined in this chapter shall be subject to the same penalties (other than the penalty of death) as the penalties prescribed for the offense the commission of which was the object of the conspiracy.".

SEC. 702. ACTS OF TERRORISM TRANSCENDING NATIONAL BOUNDARIES.

(a) OFFENSE.—Chapter 113B of title 18, United States Code, relating to terrorism, is amended by inserting after section 2332a the following new section:

"§ 2332b. Acts of terrorism transcending national boundaries

"(a) PROHIBITED ACTS.—

"(1) OFFENSES.—Whoever, involving conduct transcending national boundaries and in a circumstance described in subsection (b)—

"(A) kills, kidnaps, maims, commits an assault resulting in serious bodily injury, or assaults with a dangerous weapon any person within the United States; or

"(B) creates a substantial risk of serious bodily injury to any other person by destroying or damaging any structure, conveyance, or other real or personal property within the United States or by attempting or conspiring to destroy or damage any structure, conveyance, or other real or personal property within the United States;

in violation of the laws of any State, or the United States, shall be punished as prescribed in subsection (c).

"(2) TREATMENT OF THREATS, ATTEMPTS AND CONSPIRACIES.—Whoever threatens to commit an offense under paragraph (1), or attempts or conspires to do so, shall be punished under subsection (c).

"(b) JURISDICTIONAL BASES.—

"(1) CIRCUMSTANCES.—The circumstances referred to in subsection (a) are—

"(A) any of the offenders uses the mail or any facility of interstate or foreign commerce in furtherance of the offense;

"(B) the offense obstructs, delays, or affects interstate or foreign commerce, or would have so obstructed, delayed, or affected interstate or foreign commerce if the offense had been consummated;

"(C) the victim, or intended victim, is the United States Government, a member of the uniformed services, or any official, officer, employee, or agent of the legislative, execu-

tive, or judicial branches, or of any department or agency, of the United States;

"(D) the structure, conveyance, or other real or personal property is, in whole or in part, owned, possessed, or leased to the United States, or any department or agency of the United States;

"(E) the offense is committed in the territorial sea (including the airspace above and the seabed and subsoil below, and artificial islands and fixed structures erected thereon) of the United States; or

"(F) the offense is committed within the special maritime and territorial jurisdiction of the United States.

"(2) CO-CONSPIRATORS AND ACCESSORIES AFTER THE FACT.—Jurisdiction shall exist over all principals and co-conspirators of an offense under this section, and accessories after the fact to any offense under this section, if at least one of the circumstances described in subparagraphs (A) through (F) of paragraph (1) is applicable to at least one offender.

"(c) PENALTIES.—

"(1) PENALTIES.—Whoever violates this section shall be punished—

"(A) for a killing, or if death results to any person from any other conduct prohibited by this section, by death, or by imprisonment for any term of years or for life;

"(B) for kidnapping, by imprisonment for any term of years or for life;

"(C) for maiming, by imprisonment for not more than 35 years;

"(D) for assault with a dangerous weapon or assault resulting in serious bodily injury, by imprisonment for not more than 30 years;

"(E) for destroying or damaging any structure, conveyance, or other real or personal property, by imprisonment for not more than 25 years;

"(F) for attempting or conspiring to commit an offense, for any term of years up to the maximum punishment that would have applied had the offense been completed; and

"(G) for threatening to commit an offense under this section, by imprisonment for not more than 10 years.

"(2) CONSECUTIVE SENTENCE.—Notwithstanding any other provision of law, the court shall not place on probation any person convicted of a violation of this section; nor shall the term of imprisonment imposed under this section run concurrently with any other term of imprisonment.

"(d) PROOF REQUIREMENTS.—The following shall apply to prosecutions under this section:

"(1) KNOWLEDGE.—The prosecution is not required to prove knowledge by any defendant of a jurisdictional base alleged in the indictment.

"(2) STATE LAW.—In a prosecution under this section that is based upon the adoption of State law, only the elements of the offense under State law, and not any provisions pertaining to criminal procedure or evidence, are adopted.

"(e) EXTRATERRITORIAL JURISDICTION.—There is extraterritorial Federal jurisdiction—

"(1) over any offense under subsection (a), including any threat, attempt, or conspiracy to commit such offense; and

"(2) over conduct which, under section 3, renders any person an accessory after the fact to an offense under subsection (a).

"(f) INVESTIGATIVE AUTHORITY.—In addition to any other investigative authority with respect to violations of this title, the Attorney General shall have primary investigative responsibility for all Federal crimes of terrorism, and the Secretary of the Treasury shall assist the Attorney General at the request of the Attorney General. Nothing in this section shall be construed to interfere with the authority of the United States Secret Service under section 3056.

"(g) DEFINITIONS.—As used in this section—

"(1) the term 'conduct transcending national boundaries' means conduct occurring outside of the United States in addition to the conduct occurring in the United States;

"(2) the term 'facility of interstate or foreign commerce' has the meaning given that term in section 1958(b)(2);

"(3) the term 'serious bodily injury' has the meaning given that term in section 1365(g)(3);

"(4) the term 'territorial sea of the United States' means all waters extending seaward to 12 nautical miles from the baselines of the United States, determined in accordance with international law; and

"(5) the term 'Federal crime of terrorism' means an offense that—

"(A) is calculated to influence or affect the conduct of government by intimidation or coercion, or to retaliate against government conduct; and

"(B) is a violation of—

"(i) section 32 (relating to destruction of aircraft or aircraft facilities), 37 (relating to violence at international airports), 81 (relating to arson within special maritime and territorial jurisdiction), 175 (relating to biological weapons), 351 (relating to congressional, cabinet, and Supreme Court assassination, kidnapping, and assault), 831 (relating to nuclear materials), 842 (m) or (n) (relating to plastic explosives), 844(e) (relating to certain bombings), 844 (f) or (i) (relating to arson and bombing of certain property), 956 (relating to conspiracy to injure property of a foreign government), 1114 (relating to protection of officers and employees of the United States), 1116 (relating to murder or manslaughter of foreign officials, official guests, or internationally protected persons), 1203 (relating to hostage taking), 1361 (relating to injury of Government property or contracts), 1362 (relating to destruction of communication lines, stations, or systems), 1363 (relating to injury to buildings or property within special maritime and territorial jurisdiction of the United States), 1366 (relating to destruction of an energy facility), 1751 (relating to Presidential and Presidential staff assassination, kidnapping, and assault), 2152 (relating to injury of fortifications, harbor defenses, or defensive sea areas), 2155 (relating to destruction of national defense materials, premises, or utilities),

2156 (relating to production of defective national defense materials, premises, or utilities), 2280 (relating to violence against maritime navigation), 2281 (relating to violence against maritime fixed platforms), 2332 (relating to certain homicides and other violence against United States nationals occurring outside of the United States), 2332a (relating to use of weapons of mass destruction), 2332b (relating to acts of terrorism transcending national boundaries), 2339A (relating to providing material support to terrorists), 2339B (relating to providing material support to terrorist organizations), or 2340A (relating to torture);

"(ii) section 236 (relating to sabotage of nuclear facilities or fuel) of the Atomic Energy Act of 1954 (42 U.S.C. 2284); or

"(iii) section 46502 (relating to aircraft piracy) or section 60123(b) (relating to destruction of interstate gas or hazardous liquid pipeline facility) of title 49.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 113B of title 18, United States Code, relating to terrorism, is amended by inserting after the item relating to section 2332a the following new item:

"2332b. Acts of terrorism transcending national boundaries.".

(c) STATUTE OF LIMITATIONS AMENDMENT.—Section 3286 of title 18, United States Code, is amended—

(1) by striking "any offense" and inserting "any non-capital offense";

(2) by striking "36" and inserting "37";

(3) by striking "2331" and inserting "2332";

(4) by striking "2339" and inserting "2332a"; and

(5) by inserting "2332b (acts of terrorism transcending national boundaries)," after "(use of weapons of mass destruction),".

(d) PRESUMPTIVE DETENTION.—Section 3142(e) of title 18, United States Code, is amended by inserting ", 956(a), or 2332b" after "section 924(c)".

SEC. 703. EXPANSION OF PROVISION RELATING TO DESTRUCTION OR INJURY OF PROPERTY WITHIN SPECIAL MARITIME AND TERRITORIAL JURISDICTION.

Section 1363 of title 18, United States Code, is amended by striking "any building," and all that follows through "shipping" and inserting "any structure, conveyance, or other real or personal property".

SEC. 704. CONSPIRACY TO HARM PEOPLE AND PROPERTY OVERSEAS.

(a) IN GENERAL.—Section 956 of chapter 45 of title 18, United States Code, is amended to read as follows:

"§ 956. Conspiracy to kill, kidnap, maim, or injure persons or damage property in a foreign country

"(a)(1) Whoever, within the jurisdiction of the United States, conspires with one or more other persons, regardless of where such other person or persons are located, to commit at any place outside the United States an act that would constitute the offense of murder, kidnapping, or maiming if committed in the special maritime and territorial jurisdiction of the United States shall,

if any of the conspirators commits an act within the jurisdiction of the United States to effect any object of the conspiracy, be punished as provided in subsection (a)(2).

"(2) The punishment for an offense under subsection (a)(1) of this section is—

"(A) imprisonment for any term of years or for life if the offense is conspiracy to murder or kidnap; and

"(B) imprisonment for not more than 35 years if the offense is conspiracy to maim.

"(b) Whoever, within the jurisdiction of the United States, conspires with one or more persons, regardless of where such other person or persons are located, to damage or destroy specific property situated within a foreign country and belonging to a foreign government or to any political subdivision thereof with which the United States is at peace, or any railroad, canal, bridge, airport, airfield, or other public utility, public conveyance, or public structure, or any religious, educational, or cultural property so situated, shall, if any of the conspirators commits an act within the jurisdiction of the United States to effect any object of the conspiracy, be imprisoned not more than 25 years.".

(b) CLERICAL AMENDMENT.—The item relating to section 956 in the table of sections at the beginning of chapter 45 of title 18, United States Code, is amended to read as follows:

"956. Conspiracy to kill, kidnap, maim, or injure persons or damage property in a foreign country.".

SEC. 705. INCREASED PENALTIES FOR CERTAIN TERRORISM CRIMES.

(a) IN GENERAL.—Title 18, United States Code, is amended—

(1) in section 114, by striking "maim or disfigure" and inserting "torture (as defined in section 2340), maim, or disfigure";

(2) in section 755, by striking "two years" and inserting "5 years";

(3) in section 756, by striking "one year" and inserting "five years";

(4) in section 878(a), by striking "by killing, kidnapping, or assaulting a foreign official, official guest, or internationally protected person";

(5) in section 1113, by striking "three years" and inserting "seven years"; and

(6) in section 2332(c), by striking "five" and inserting "ten".

(b) PENALTY FOR CARRYING WEAPONS OR EXPLOSIVES ON AN AIRCRAFT.—Section 46505 of title 49, United States Code, is amended—

(1) in subsection (b), by striking "one year" and inserting "10 years"; and

(2) in subsection (c), by striking "5" and inserting "15".

SEC. 706. MANDATORY PENALTY FOR TRANSFERRING AN EXPLOSIVE MATERIAL KNOWING THAT IT WILL BE USED TO COMMIT A CRIME OF VIOLENCE.

Section 844 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(o) Whoever knowingly transfers any explosive materials, knowing or having reasonable cause to believe that such explosive materials will be used to commit a crime of violence (as defined in section 924(c)(3)) or drug trafficking crime (as defined in section 924(c)(2)) shall be subject to the same penalties as may be imposed

under subsection (h) for a first conviction for the use or carrying of an explosive material.".

SEC. 707. POSSESSION OF STOLEN EXPLOSIVES PROHIBITED.

Section 842(h) of title 18, United States Code, is amended to read as follows:

"(h) It shall be unlawful for any person to receive, possess, transport, ship, conceal, store, barter, sell, dispose of, or pledge or accept as security for a loan, any stolen explosive materials which are moving as, which are part of, which constitute, or which have been shipped or transported in, interstate or foreign commerce, either before or after such materials were stolen, knowing or having reasonable cause to believe that the explosive materials were stolen.".

SEC. 708. ENHANCED PENALTIES FOR USE OF EXPLOSIVES OR ARSON CRIMES.

(a) IN GENERAL.—Section 844 of title 18, United States Code, is amended—

(1) in subsection (e), by striking "five" and inserting "10";

(2) by amending subsection (f) to read as follows:

"(f)(1) Whoever maliciously damages or destroys, or attempts to damage or destroy, by means of fire or an explosive, any building, vehicle, or other personal or real property in whole or in part owned or possessed by, or leased to, the United States, or any department or agency thereof, shall be imprisoned for not less than 5 years and not more than 20 years, fined under this title, or both.

"(2) Whoever engages in conduct prohibited by this subsection, and as a result of such conduct, directly or proximately causes personal injury or creates a substantial risk of injury to any person, including any public safety officer performing duties, shall be imprisoned for not less than 7 years and not more than 40 years, fined under this title, or both.

"(3) Whoever engages in conduct prohibited by this subsection, and as a result of such conduct directly or proximately causes the death of any person, including any public safety officer performing duties, shall be subject to the death penalty, or imprisoned for not less than 20 years or for life, fined under this title, or both.";

(3) in subsection (h)—

(A) in the first sentence, by striking "5 years but not more than 15 years" and inserting "10 years"; and

(B) in the second sentence, by striking "10 years but not more than 25 years" and inserting "20 years"; and

(4) in subsection (i)—

(A) by striking "not more than 20 years, fined the greater of the fine under this title or the cost of repairing or replacing any property that is damaged or destroyed," and inserting "not less than 5 years and not more than 20 years, fined under this title"; and

(B) by striking "not more than 40 years," fined the greater of a fine under this title or the cost of repairing or replacing any property that is damaged or destroyed," and inserting "not less than 7 years and not more than 40 years, fined under this title".

(b) CONFORMING AMENDMENT.—Section 81 of title 18, United States Code, is amended by striking "fined under this title or

imprisoned not more than five years, or both" and inserting "imprisoned for not more than 25 years, fined the greater of the fine under this title or the cost of repairing or replacing any property that is damaged or destroyed, or both".

(c) STATUTE OF LIMITATION FOR ARSON OFFENSES.—

(1) IN GENERAL.—Chapter 213 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 3295. Arson offenses

"No person shall be prosecuted, tried, or punished for any non-capital offense under section 81 or subsection (f), (h), or (i) of section 844 unless the indictment is found or the information is instituted not later than 10 years after the date on which the offense was committed.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 213 of title 18, United States Code, is amended by adding at the end the following new item:

"3295. Arson offenses.".

(3) CONFORMING AMENDMENT.—Section 844(i) of title 18, United States Code, is amended by striking the last sentence.

SEC. 709. DETERMINATION OF CONSTITUTIONALITY OF RESTRICTING THE DISSEMINATION OF BOMB-MAKING INSTRUCTIONAL MATERIALS.

(a) STUDY.—The Attorney General, in consultation with such other officials and individuals as the Attorney General considers appropriate, shall conduct a study concerning—

(1) the extent to which there is available to the public material in any medium (including print, electronic, or film) that provides instruction on how to make bombs, destructive devices, or weapons of mass destruction;

(2) the extent to which information gained from such material has been used in incidents of domestic or international terrorism;

(3) the likelihood that such information may be used in future incidents of terrorism;

(4) the application of Federal laws in effect on the date of enactment of this Act to such material;

(5) the need and utility, if any, for additional laws relating to such material; and

(6) an assessment of the extent to which the first amendment protects such material and its private and commercial distribution.

(b) REPORT.—

(1) REQUIREMENT.—Not later than 180 days after the date of enactment of this Act, the Attorney General shall submit to the Congress a report that contains the results of the study required by this section.

(2) AVAILABILITY.—The Attorney General shall make the report submitted under this subsection available to the public.

Subtitle B—Criminal Procedures

SEC. 721. CLARIFICATION AND EXTENSION OF CRIMINAL JURISDICTION OVER CERTAIN TERRORISM OFFENSES OVERSEAS.

(a) AIRCRAFT PIRACY.—Section 46502(b) of title 49, United States Code, is amended—

(1) in paragraph (1), by striking "and later found in the United States";

(2) so that paragraph (2) reads as follows:

"(2) There is jurisdiction over the offense in paragraph (1) if—

"(A) a national of the United States was aboard the aircraft;

"(B) an offender is a national of the United States; or

"(C) an offender is afterwards found in the United States."; and

(3) by inserting after paragraph (2) the following:

"(3) For purposes of this subsection, the term 'national of the United States' has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22))."

(b) DESTRUCTION OF AIRCRAFT OR AIRCRAFT FACILITIES.—Section 32(b) of title 18, United States Code, is amended—

(1) by striking ", if the offender is later found in the United States,"; and

(2) by inserting at the end the following: "There is jurisdiction over an offense under this subsection if a national of the United States was on board, or would have been on board, the aircraft; an offender is a national of the United States; or an offender is afterwards found in the United States. For purposes of this subsection, the term 'national of the United States' has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act.".

(c) MURDER OF FOREIGN OFFICIALS AND CERTAIN OTHER PERSONS.—Section 1116 of title 18, United States Code, is amended—

(1) in subsection (b), by adding at the end the following:

"(7) 'National of the United States' has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22))."; and

(2) in subsection (c), by striking the first sentence and inserting the following: "If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States.".

(d) PROTECTION OF FOREIGN OFFICIALS AND CERTAIN OTHER PERSONS.—Section 112 of title 18, United States Code, is amended—

(1) in subsection (c), by inserting "'national of the United States'," before "and"; and

(2) in subsection (e), by striking the first sentence and inserting the following: "If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is

a national of the United States, or (3) an offender is afterwards found in the United States.".

(e) THREATS AND EXTORTION AGAINST FOREIGN OFFICIALS AND CERTAIN OTHER PERSONS.—Section 878 of title 18, United States Code, is amended—

(1) in subsection (c), by inserting "'national of the United States'," before "and"; and

(2) in subsection (d), by striking the first sentence and inserting the following: "If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States.".

(f) KIDNAPPING OF INTERNATIONALLY PROTECTED PERSONS.—Section 1201(e) of title 18, United States Code, is amended—

(1) by striking the first sentence and inserting the following: "If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States."; and

(2) by adding at the end the following: "For purposes of this subsection, the term 'national of the United States' has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).".

(g) VIOLENCE AT INTERNATIONAL AIRPORTS.—Section 37(b)(2) of title 18, United States Code, is amended—

(1) by inserting "(A)" before "the offender is later found in the United States"; and

(2) by inserting "; or (B) an offender or a victim is a national of the United States (as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)))" after "the offender is later found in the United States".

(h) BIOLOGICAL WEAPONS.—Section 178 of title 18, United States Code, is amended—

(1) by striking "and" at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting "; and"; and

(3) by adding the following at the end:

"(5) the term 'national of the United States' has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).".

SEC. 722. CLARIFICATION OF MARITIME VIOLENCE JURISDICTION.

Section 2280(b)(1)(A) of title 18, United States Code, is amended—

(1) in clause (ii), by striking "and the activity is not prohibited as a crime by the State in which the activity takes place"; and

(2) in clause (iii), by striking "the activity takes place on a ship flying the flag of a foreign country or outside the United States,".

SEC. 723. INCREASED AND ALTERNATE CONSPIRACY PENALTIES FOR TERRORISM OFFENSES.

(a) TITLE 18 OFFENSES.—

(1) Sections 32(a)(7), 32(b)(4), 37(a), 115(a)(1)(A), 115(a)(2), 1203(a), 2280(a)(1)(H), and 2281(a)(1)(F) of title 18, United States Code, are each amended by inserting "or conspires" after "attempts".

(2) Section 115(b)(2) of title 18, United States Code, is amended by striking "or attempted kidnapping" both places it appears and inserting ", attempted kidnapping, or conspiracy to kidnap".

(3)(A) Section 115(b)(3) of title 18, United States Code, is amended by striking "or attempted murder" and inserting ", attempted murder, or conspiracy to murder".

(B) Section 115(b)(3) of title 18, United States Code, is amended by striking "and 1113" and inserting ", 1113, and 1117".

(b) AIRCRAFT PIRACY.—

(1) Section 46502(a)(2) of title 49, United States Code, is amended by inserting "or conspiring" after "attempting".

(2) Section 46502(b)(1) of title 49, United States Code, is amended by inserting "or conspiring to commit" after "committing".

SEC. 724. CLARIFICATION OF FEDERAL JURISDICTION OVER BOMB THREATS.

Section 844(e) of title 18, United States Code, is amended by striking "commerce," and inserting "interstate or foreign commerce, or in or affecting interstate or foreign commerce,".

SEC. 725. EXPANSION AND MODIFICATION OF WEAPONS OF MASS DESTRUCTION STATUTE.

Section 2332a of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) in the subsection heading, by inserting "AGAINST A NATIONAL OF THE UNITED STATES OR WITHIN THE UNITED STATES" after "OFFENSE";

(B) by striking "uses, or attempts" and inserting ", without lawful authority, uses, threatens, or attempts"; and

(C) in paragraph (2), by inserting ", and the results of such use affect interstate or foreign commerce or, in the case of a threat, attempt, or conspiracy, would have affected interstate or foreign commerce" before the semicolon at the end;

(2) in subsection (b), by striking subparagraph (B) and inserting the following:

"(B) any weapon that is designed or intended to cause death or serious bodily injury through the release, dissemination, or impact of toxic or poisonous chemicals, or their precursors;";

(3) by redesignating subsection (b) as subsection (c); and

(4) by inserting after subsection (a) the following new subsection:

"(b) OFFENSE BY NATIONAL OF THE UNITED STATES OUTSIDE OF THE UNITED STATES.—Any national of the United States who, without lawful authority, uses, or threatens, attempts, or conspires

to use, a weapon of mass destruction outside of the United States shall be imprisoned for any term of years or for life, and if death results, shall be punished by death, or by imprisonment for any term of years or for life.".

SEC. 726. ADDITION OF TERRORISM OFFENSES TO THE MONEY LAUNDERING STATUTE.

Section 1956(c)(7) of title 18, United States Code, is amended—

(1) in subparagraph (B), by amending clause (ii) to read as follows:

"(ii) murder, kidnapping, robbery, extortion, or destruction of property by means of explosive or fire;"; and

(2) in subparagraph (D)—

(A) by inserting after "an offense under" the following: "section 32 (relating to the destruction of aircraft), section 37 (relating to violence at international airports), section 115 (relating to influencing, impeding, or retaliating against a Federal official by threatening or injuring a family member),";

(B) by inserting after "section 215 (relating to commissions or gifts for procuring loans)," the following: "section 351 (relating to congressional or Cabinet officer assassination),";

(C) by inserting after "section 798 (relating to espionage)," the following: "section 831 (relating to prohibited transactions involving nuclear materials), section 844 (f) or (i) (relating to destruction by explosives or fire of Government property or property affecting interstate or foreign commerce),";

(D) by inserting after "section 875 (relating to interstate communications)," the following: "section 956 (relating to conspiracy to kill, kidnap, maim, or injure certain property in a foreign country),";

(E) by inserting after "section 1032 (relating to concealment of assets from conservator, receiver, or liquidating agent of financial institution)," the following: "section 1111 (relating to murder), section 1114 (relating to murder of United States law enforcement officials), section 1116 (relating to murder of foreign officials, official guests, or internationally protected persons),";

(F) by inserting after "section 1203 (relating to hostage taking)," the following: "section 1361 (relating to willful injury of Government property), section 1363 (relating to destruction of property within the special maritime and territorial jurisdiction),";

(G) by inserting after "section 1708 (relating to theft from the mail)," the following: "section 1751 (relating to Presidential assassination),";

(H) by inserting after "2114 (relating to bank and postal robbery and theft)," the following: "section 2280 (relating to violence against maritime navigation), section 2281 (relating to violence against maritime fixed platforms),";

(I) by striking "or section 2320" and inserting "section 2320"; and

(J) by striking "of this title" and inserting the following: ", section 2332 (relating to terrorist acts abroad against

United States nationals), section 2332a (relating to use of weapons of mass destruction), section 2332b (relating to international terrorist acts transcending national boundaries), or section 2339A (relating to providing material support to terrorists) of this title, section 46502 of title 49, United States Code,".

SEC. 727. PROTECTION OF FEDERAL EMPLOYEES; PROTECTION OF CURRENT OR FORMER OFFICIALS, OFFICERS, OR EMPLOYEES OF THE UNITED STATES.

(a) HOMICIDE.—Section 1114 of title 18, United States Code, is amended to read as follows:

"§ 1114. Protection of officers and employees of the United States

"Whoever kills or attempts to kill any officer or employee of the United States or of any agency in any branch of the United States Government (including any member of the uniformed services) while such officer or employee is engaged in or on account of the performance of official duties, or any person assisting such an officer or employee in the performance of such duties or on account of that assistance, shall be punished—

"(1) in the case of murder, as provided under section 1111;

"(2) in the case of manslaughter, as provided under section 1112; or

"(3) in the case of attempted murder or manslaughter, as provided in section 1113.".

(b) THREATS AGAINST FORMER OFFICERS AND EMPLOYEES.—

(1) IN GENERAL.—Section 115(a)(2) of title 18, United States Code, is amended by inserting ", or threatens to assault, kidnap, or murder, any person who formerly served as a person designated in paragraph (1), or" after "assaults, kidnaps, or murders, or attempts to kidnap or murder".

(2) LIMITATION.—Section 115 of title 18, United States Code, is amended by adding at the end the following:

"(d) This section shall not interfere with the investigative authority of the United States Secret Service, as provided under sections 3056, 871, and 879 of this title.".

(c) AMENDMENT TO CLARIFY THE MEANING OF THE TERM DEADLY OR DANGEROUS WEAPON IN THE PROHIBITION ON ASSAULT ON FEDERAL OFFICERS OR EMPLOYEES.—Section 111(b) of title 18, United States Code, is amended by inserting "(including a weapon intended to cause death or danger but that fails to do so by reason of a defective component)" after "deadly or dangerous weapon".

SEC. 728. DEATH PENALTY AGGRAVATING FACTOR.

Section 3592(c) of title 18, United States Code, is amended by inserting after paragraph (15) the following new paragraph:

"(16) MULTIPLE KILLINGS OR ATTEMPTED KILLINGS.—The defendant intentionally killed or attempted to kill more than one person in a single criminal episode.".

SEC. 729. DETENTION HEARING.

Section 3142(f) of title 18, United States Code, is amended by inserting "(not including any intermediate Saturday, Sunday, or legal holiday)" after "five days" and after "three days".

SEC. 730. DIRECTIONS TO SENTENCING COMMISSION. 28 USC 994 note.

The United States Sentencing Commission shall forthwith, in accordance with the procedures set forth in section 21(a) of the Sentencing Act of 1987, as though the authority under that section had not expired, amend the sentencing guidelines so that the chapter 3 adjustment relating to international terrorism only applies to Federal crimes of terrorism, as defined in section 2332b(g) of title 18, United States Code.

SEC. 731. EXCLUSION OF CERTAIN TYPES OF INFORMATION FROM DEFINITIONS.

Section 2510 of title 18, United States Code, is amended—

(1) in paragraph (12)—

(A) by striking "or" at the end of subparagraph (B);

(B) by adding "or" at the end of subparagraph (C); and

(C) by adding at the end the following new subparagraph:

"(D) electronic funds transfer information stored by a financial institution in a communications system used for the electronic storage and transfer of funds;"; and

(2) in paragraph (16)—

(A) by adding "or" at the end of subparagraph (D);

(B) by striking "or" at the end of subparagraph (E); and

(C) by striking subparagraph (F).

SEC. 732. MARKING, RENDERING INERT, AND LICENSING OF EXPLOSIVE MATERIALS. 18 USC 841 note.

(a) STUDY.—

(1) IN GENERAL.—Not later than 12 months after the date of enactment of this Act, the Secretary of the Treasury (referred to in this section as the "Secretary") shall conduct a study of—

(A) the tagging of explosive materials for purposes of detection and identification;

(B) the feasibility and practicability of rendering common chemicals used to manufacture explosive materials inert;

(C) the feasibility and practicability of imposing controls on certain precursor chemicals used to manufacture explosive materials; and

(D) State licensing requirements for the purchase and use of commercial high explosives, including—

(i) detonators;

(ii) detonating cords;

(iii) dynamite;

(iv) water gel;

(v) emulsion;

(vi) blasting agents; and

(vii) boosters.

(2) EXCLUSION.—No study conducted under this subsection or regulation proposed under subsection (e) shall include black or smokeless powder among the explosive materials considered.

(b) CONSULTATION.—

(1) IN GENERAL.—In conducting the study under subsection (a), the Secretary shall consult with—

(A) Federal, State, and local officials with expertise in the area of chemicals used to manufacture explosive materials; and

(B) such other individuals as the Secretary determines are necessary.

(2) FERTILIZER RESEARCH CENTERS.—In conducting any portion of the study under subsection (a) relating to the regulation and use of fertilizer as a pre-explosive material, the Secretary of the Treasury shall consult with and receive input from non-profit fertilizer research centers.

(c) REPORT.—Not later than 30 days after the completion of the study conducted under subsection (a), the Secretary shall submit a report to the Congress, which shall be made public, that contains—

(1) the results of the study;

(2) any recommendations for legislation; and

(3) any opinions and findings of the fertilizer research centers.

(d) HEARINGS.—Congress shall have not less than 90 days after the submission of the report under subsection (c) to—

(1) review the results of the study; and

(2) hold hearings and receive testimony regarding the recommendations of the Secretary.

(e) REGULATIONS.—

Federal Register, publication.

(1) IN GENERAL.—Not later than 6 months after the submission of the report required by subsection (c), the Secretary may submit to Congress and publish in the Federal Register draft regulations for the addition of tracer elements to explosive materials manufactured in or imported into the United States, of such character and in such quantity as the Secretary may authorize or require, if the results of the study conducted under subsection (a) indicate that the tracer elements—

(A) will not pose a risk to human life or safety;

(B) will substantially assist law enforcement officers in their investigative efforts;

(C) will not substantially impair the quality of the explosive materials for their intended lawful use;

(D) will not have a substantially adverse effect on the environment; and

(E) the costs associated with the addition of the tracers will not outweigh benefits of their inclusion.

(2) EFFECTIVE DATE.—The regulations under paragraph (1) shall take effect 270 days after the Secretary submits proposed regulations to Congress pursuant to paragraph (1), except to the extent that the effective date is revised or the regulation is otherwise modified or disapproved by an Act of Congress.

TITLE VIII—ASSISTANCE TO LAW ENFORCEMENT

Subtitle A—Resources and Security

28 USC 509 note.

SEC. 801. OVERSEAS LAW ENFORCEMENT TRAINING ACTIVITIES.

The Attorney General and the Secretary of the Treasury are authorized to support law enforcement training activities in foreign

countries, in consultation with the Secretary of State, for the purpose of improving the effectiveness of the United States in investigating and prosecuting transnational offenses.

SEC. 802. SENSE OF CONGRESS.

It is the sense of the Congress that, whenever practicable, each recipient of any sum authorized to be appropriated by this Act, should use the money to purchase American-made products.

SEC. 803. PROTECTION OF FEDERAL GOVERNMENT BUILDINGS IN THE DISTRICT OF COLUMBIA. 40 USC 137.

The Attorney General and the Secretary of the Treasury may prohibit—

(1) any vehicles from parking or standing on any street or roadway adjacent to any building in the District of Columbia used by law enforcement authorities subject to their jurisdiction, that is in whole or in part owned, possessed, or leased to the Federal Government; and

(2) any person or entity from conducting business on any property immediately adjacent to any building described in paragraph (1).

SEC. 804. REQUIREMENT TO PRESERVE RECORD EVIDENCE.

Section 2703 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(f) REQUIREMENT TO PRESERVE EVIDENCE.—

"(1) IN GENERAL.—A provider of wire or electronic communication services or a remote computing service, upon the request of a governmental entity, shall take all necessary steps to preserve records and other evidence in its possession pending the issuance of a court order or other process.

"(2) PERIOD OF RETENTION.—Records referred to in paragraph (1) shall be retained for a period of 90 days, which shall be extended for an additional 90-day period upon a renewed request by the governmental entity.".

SEC. 805. DETERRENT AGAINST TERRORIST ACTIVITY DAMAGING A FEDERAL INTEREST COMPUTER. 28 USC 994 note.

(a) REVIEW.—Not later than 60 calendar days after the date of enactment of this Act, the United States Sentencing Commission shall review the deterrent effect of existing guideline levels as they apply to paragraphs (4) and (5) of section 1030(a) of title 18, United States Code.

(b) REPORT.—The United States Sentencing Commission shall prepare and transmit a report to the Congress on the findings under the study conducted under subsection (a).

(c) AMENDMENT OF GUIDELINES.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend the sentencing guidelines to ensure any individual convicted of a violation of paragraph (4) or (5) of section 1030(a) of title 18, United States Code, is imprisoned for not less than 6 months.

SEC. 806. COMMISSION ON THE ADVANCEMENT OF FEDERAL LAW ENFORCEMENT. 18 USC prec. 1 note.

(a) ESTABLISHMENT.—There is established a commission to be known as the "Commission on the Advancement of Federal Law

Enforcement" (hereinafter in this section referred to as the "Commission").

(b) DUTIES.—The Commission shall review, ascertain, evaluate, report, and recommend action to the Congress on the following matters:

(1) The Federal law enforcement priorities for the 21st century, including Federal law enforcement capability to investigate and deter adequately the threat of terrorism facing the United States.

(2) In general, the manner in which significant Federal criminal law enforcement operations are conceived, planned, coordinated, and executed.

(3) The standards and procedures used by Federal law enforcement to carry out significant Federal criminal law enforcement operations, and their uniformity and compatibility on an interagency basis, including standards related to the use of deadly force.

(4) The investigation and handling of specific Federal criminal law enforcement cases by the United States Government and the Federal law enforcement agencies therewith, selected at the Commission's discretion.

(5) The necessity for the present number of Federal law enforcement agencies and units.

(6) The location and efficacy of the office or entity directly responsible, aside from the President of the United States, for the coordination on an interagency basis of the operations, programs, and activities of all of the Federal law enforcement agencies.

(7) The degree of assistance, training, education, and other human resource management assets devoted to increasing professionalism for Federal law enforcement officers.

(8) The independent accountability mechanisms that exist, if any, and their efficacy to investigate, address, and to correct Federal law enforcement abuses.

(9) The degree of coordination among law enforcement agencies in the area of international crime and the extent to which deployment of resources overseas diminishes domestic law enforcement.

(10) The extent to which Federal law enforcement agencies coordinate with State and local law enforcement agencies on Federal criminal enforcement operations and programs that directly affect a State or local law enforcement agency's geographical jurisdiction.

(11) Such other related matters as the Commission deems appropriate.

(c) MEMBERSHIP AND ADMINISTRATIVE PROVISIONS.—

(1) NUMBER AND APPOINTMENT.—The Commission shall be composed of 5 members appointed as follows:

(A) 1 member appointed by the President pro tempore of the Senate.

(B) 1 member appointed by the minority leader of the Senate.

(C) 1 member appointed by the Speaker of the House of Representatives.

(D) 1 member appointed by the minority leader of the House of Representatives.

(E) 1 member (who shall chair the Commission) appointed by the Chief Justice of the Supreme Court.

(2) DISQUALIFICATION.—A person who is an officer or employee of the United States shall not be appointed a member of the Commission.

(3) TERMS.—Each member shall be appointed for the life of the Commission.

(4) QUORUM.—3 members of the Commission shall constitute a quorum but a lesser number may hold hearings.

(5) MEETINGS.—The Commission shall meet at the call of the Chair of the Commission.

(6) COMPENSATION.—Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day, including travel time, during which the member is engaged in the performance of the duties of the Commission.

(d) STAFFING AND SUPPORT FUNCTIONS.—

(1) DIRECTOR.—The Commission shall have a director who shall be appointed by the Chair of the Commission.

(2) STAFF.—Subject to rules prescribed by the Commission, the Director may appoint additional personnel as the Commission considers appropriate.

(3) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The Director and staff of the Commission shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates.

(e) POWERS.—

(1) HEARINGS AND SESSIONS.—The Commission may, for the purposes of carrying out this Act, hold hearings, sit and act at times and places, take testimony, and receive evidence as the Commission considers appropriate. The Commission may administer oaths or affirmations to witnesses appearing before it. The Commission may establish rules for its proceedings.

(2) POWERS OF MEMBERS AND AGENTS.—Any member or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take by this section.

(3) OBTAINING OFFICIAL DATA.—The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this section. Upon request of the Chair of the Commission, the head of that department or agency shall furnish that information to the Commission, unless doing so would threaten the national security, the health or safety of any individual, or the integrity of an ongoing investigation.

(4) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its responsibilities under this title.

(f) REPORT.—The Commission shall transmit a report to the Congress and the public not later than 2 years after a quorum of the Commission has been appointed. The report shall contain a detailed statement of the findings and conclusions of the Commission, together with the Commission's recommendations for such actions as the Commission considers appropriate.

(g) TERMINATION.—The Commission shall terminate 30 days after submitting the report required by this section.

18 USC 470 note.

SEC. 807. COMBATTING INTERNATIONAL COUNTERFEITING OF UNITED STATES CURRENCY.

(a) IN GENERAL.—The Secretary of the Treasury (hereafter in this section referred to as the "Secretary"), in consultation with the advanced counterfeit deterrence steering committee, shall—

(1) study the use and holding of United States currency in foreign countries; and

(2) develop useful estimates of the amount of counterfeit United States currency that circulates outside the United States each year.

(b) EVALUATION AUDIT PLAN.—

(1) IN GENERAL.—The Secretary shall develop an effective international evaluation audit plan that is designed to enable the Secretary to carry out the duties described in subsection (a) on a regular and thorough basis.

(2) SUBMISSION OF DETAILED WRITTEN SUMMARY.—The Secretary shall submit a detailed written summary of the evaluation audit plan developed pursuant to paragraph (1) to the Congress before the end of the 6-month period beginning on the date of the enactment of this Act.

(3) FIRST EVALUATION AUDIT UNDER PLAN.—The Secretary shall begin the first evaluation audit pursuant to the evaluation audit plan no later than the end of the 1-year period beginning on the date of the enactment of this Act.

(4) SUBSEQUENT EVALUATION AUDITS.—At least 1 evaluation audit shall be performed pursuant to the evaluation audit plan during each 3-year period beginning after the date of the commencement of the evaluation audit referred to in paragraph (3).

(c) REPORTS.—

(1) IN GENERAL.—The Secretary shall submit a written report to the Committee on Banking and Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on the results of each evaluation audit conducted pursuant to subsection (b) within 90 days after the completion of the evaluation audit.

(2) CONTENTS.—In addition to such other information as the Secretary may determine to be appropriate, each report submitted to the Congress pursuant to paragraph (1) shall include the following information:

(A) A detailed description of the evaluation audit process and the methods used to develop estimates of the amount of counterfeit United States currency in circulation outside the United States.

(B) The method used to determine the currency sample examined in connection with the evaluation audit and a statistical analysis of the sample examined.

(C) A list of the regions of the world, types of financial institutions, and other entities included.

(D) An estimate of the total amount of United States currency found in each region of the world.

(E) The total amount of counterfeit United States currency and the total quantity of each counterfeit denomination found in each region of the world.

(3) CLASSIFICATION OF INFORMATION.—

(A) IN GENERAL.—To the greatest extent possible, each report submitted to the Congress under this subsection shall be submitted in an unclassified form.

(B) CLASSIFIED AND UNCLASSIFIED FORMS.—If, in the interest of submitting a complete report under this subsection, the Secretary determines that it is necessary to include classified information in the report, the report shall be submitted in a classified and an unclassified form.

(d) SUNSET PROVISION.—This section shall cease to be effective as of the end of the 10-year period beginning on the date of the enactment of this Act.

(e) RULE OF CONSTRUCTION.—No provision of this section shall be construed as authorizing any entity to conduct investigations of counterfeit United States currency.

(f) FINDINGS.—The Congress hereby finds the following:

(1) United States currency is being counterfeited outside the United States.

(2) The One Hundred Third Congress enacted, with the approval of the President on September 13, 1994, section 470 of title 18, United States Code, making such activity a crime under the laws of the United States.

(3) The expeditious posting of agents of the United States Secret Service to overseas posts, which is necessary for the effective enforcement of section 470 and related criminal provisions, has been delayed.

(4) While section 470 of title 18, United States Code, provides for a maximum term of imprisonment of 20 years as opposed to a maximum term of 15 years for domestic counterfeiting, the United States Sentencing Commission has failed to provide, in its sentencing guidelines, for an appropriate enhancement of punishment for defendants convicted of counterfeiting United States currency outside the United States.

(g) TIMELY CONSIDERATION OF REQUESTS FOR CONCURRENCE IN CREATION OF OVERSEAS POSTS.—

(1) IN GENERAL.—The Secretary of State shall—

(A) consider in a timely manner the request by the Secretary of the Treasury for the placement of such number of agents of the United States Secret Service as the Secretary of the Treasury considers appropriate in posts in overseas embassies; and

(B) reach an agreement with the Secretary of the Treasury on such posts as soon as possible and, in any event, not later than December 31, 1996.

(2) COOPERATION OF TREASURY REQUIRED.—The Secretary of the Treasury shall promptly provide any information requested by the Secretary of State in connection with such requests.

(3) REPORTS REQUIRED.—The Secretary of the Treasury and the Secretary of State shall each submit, by February 1, 1997, a written report to the Committee on Banking and Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate explaining the reasons for the rejection, if any, of any proposed post and the reasons for the failure, if any, to fill any approved post by such date.

(h) ENHANCED PENALTIES FOR INTERNATIONAL COUNTERFEITING OF UNITED STATES CURRENCY.—Pursuant to the authority of the United States Sentencing Commission under section 994 of title 28, United States Code, the Commission shall amend the sentencing guidelines prescribed by the Commission to provide an appropriate enhancement of the punishment for a defendant convicted under section 470 of title 18 of such Code.

28 USC 534 note.

SEC. 808. COMPILATION OF STATISTICS RELATING TO INTIMIDATION OF GOVERNMENT EMPLOYEES.

(a) FINDINGS.—The Congress finds that—

(1) threats of violence and acts of violence against Federal, State, and local government employees and their families are increasing as the result of attempts to stop public servants from performing their lawful duties;

(2) these acts are a danger to the constitutional form of government of the United States; and

(3) more information is needed relating to the extent and nature of the danger to these employees and their families so that actions can be taken to protect public servants at all levels of government in the performance of their duties.

(b) STATISTICS.—The Attorney General shall collect data, for the calendar year 1990 and each succeeding calendar year thereafter, relating to crimes and incidents of threats of violence and acts of violence against Federal, State, and local government employees and their families in the performance of their lawful duties. Such data shall include—

(1) in the case of crimes against such employees and their families, the nature of the crime; and

(2) in the case of incidents of threats of violence and acts of violence, including verbal and implicit threats against such employees and their families, the deterrent effect on the performance of their jobs.

(c) GUIDELINES.—The Attorney General shall establish guidelines for the collection of the data under subsection (b), including a definition of the sufficiency of evidence of noncriminal incidents required to be reported.

(d) USE OF DATA.—

(1) ANNUAL PUBLISHING.—The Attorney General shall publish an annual summary of the data collected under this section.

(2) USE OF DATA.—Except with respect to the summary published under paragraph (1), data collected under this section shall be used only for research and statistical purposes.

(e) EXEMPTION.—The Attorney General, the Secretary of State, and the United States Secret Service is not required to participate in any statistical reporting activity under this section with respect to any direct or indirect threat made against any individual for whom that official or Service is authorized to provide protection.

SEC. 809. ASSESSING AND REDUCING THE THREAT TO LAW ENFORCEMENT OFFICERS FROM THE CRIMINAL USE OF FIREARMS AND AMMUNITION.

42 USC 3721 note.

(a) The Secretary of the Treasury, in conjunction with the Attorney General, shall conduct a study and make recommendations concerning—

(1) the extent and nature of the deaths and serious injuries, in the line of duty during the last decade, for law enforcement officers, including—

(A) those officers who were feloniously killed or seriously injured and those that died or were seriously injured as a result of accidents or other non-felonious causes;

(B) those officers feloniously killed or seriously injured with firearms, those killed or seriously injured with, separately, handguns firing handgun caliber ammunition, handguns firing rifle caliber ammunition, rifles firing rifle caliber ammunition, rifles firing handgun caliber ammunition and shotguns;

(C) those officers feloniously killed or seriously injured with firearms, and killings or serious injuries committed with firearms taken by officers' assailants from officers, and those committed with other officers' firearms; and

(D) those killed or seriously injured because shots attributable to projectiles defined as "armor piercing ammunition" under section 921(a)(17)(B) (i) and (ii) of title 18, United States Code, pierced the protective material of bullet resistant vests and bullet resistant headgear;

(2) whether current passive defensive strategies, such as body armor, are adequate to counter the criminal use of firearms against law officers; and

(3) the calibers of ammunition that are—

(A) sold in the greatest quantities;

(B) their common uses, according to consultations with industry, sporting organizations and law enforcement;

(C) the calibers commonly used for civilian defensive or sporting uses that would be affected by any prohibition on non-law enforcement sales of such ammunition, if such ammunition is capable of penetrating minimum level bullet resistant vests; and

(D) recommendations for increase in body armor capabilities to further protect law enforcement from threat.

(b) In conducting the study, the Secretary shall consult with other Federal, State and local officials, non-governmental organizations, including all national police organizations, national sporting organizations and national industry associations with expertise in this area and such other individuals as shall be deemed necessary. Such study shall be presented to Congress twelve months after the enactment of this Act and made available to the public, including any data tapes or data used to form such recommendations.

(c) There are authorized to be appropriated for the study and recommendations such sums as may be necessary.

Appropriation authorization.

SEC. 810. STUDY AND REPORT ON ELECTRONIC SURVEILLANCE.

(a) STUDY.—The Attorney General and the Director of the Federal Bureau of Investigation shall study all applicable laws and guidelines relating to electronic surveillance and the use of pen registers and other trap and trace devices.

(b) REPORT.—Not later than 90 days after the date of enactment of this Act, the Attorney General shall submit a report to the Congress that includes—

(1) the findings of the study conducted pursuant to subsection (a);

(2) recommendations for the use of electronic devices in conducting surveillance of terrorist or other criminal organizations, and for any modifications in the law necessary to enable the Federal Government to fulfill its law enforcement responsibilities within appropriate constitutional parameters;

(3) a summary of instances in which Federal law enforcement authorities may have abused electronic surveillance powers and recommendations, if needed, for constitutional safeguards relating to the use of such powers; and

(4) a summary of efforts to use current wiretap authority, including detailed examples of situations in which expanded authority would have enabled law enforcement authorities to fulfill their responsibilities.

Subtitle B—Funding Authorizations for Law Enforcement

28 USC 531 note.

SEC. 811. FEDERAL BUREAU OF INVESTIGATION.

(a) IN GENERAL.—With funds made available pursuant to subsection (c)—

(1) the Attorney General shall—

(A) provide support and enhance the technical support center and tactical operations of the Federal Bureau of Investigation;

(B) create a Federal Bureau of Investigation counterterrorism and counterintelligence fund for costs associated with the investigation of cases involving cases of terrorism;

(C) expand and improve the instructional, operational support, and construction of the Federal Bureau of Investigation Academy;

(D) construct a Federal Bureau of Investigation laboratory, provide laboratory examination support, and provide for a command center;

(E) make grants to States to carry out the activities described in subsection (b); and

(F) increase personnel to support counterterrorism activities; and

(2) the Director of the Federal Bureau of Investigation may expand the combined DNA Identification System (CODIS) to include Federal crimes and crimes committed in the District of Columbia.

(b) STATE GRANTS.—

(1) AUTHORIZATION.—The Attorney General, in consultation with the Director of the Federal Bureau of Investigation, may make grants to each State eligible under paragraph (2) to be used by the chief executive officer of the State, in conjunction with units of local government, other States, or any combination thereof, to carry out all or part of a program to establish, develop, update, or upgrade—

(A) computerized identification systems that are compatible and integrated with the databases of the National Crime Information Center of the Federal Bureau of Investigation;

(B) the capability to analyze deoxyribonucleic acid (DNA) in a forensic laboratory in ways that are compatible and integrated with the combined DNA Identification System (CODIS) of the Federal Bureau of Investigation; and

(C) automated fingerprint identification systems that are compatible and integrated with the Integrated Automated Fingerprint Identification System (IAFIS) of the Federal Bureau of Investigation.

(2) ELIGIBILITY.—To be eligible to receive a grant under this subsection, a State shall require that each person convicted of a felony of a sexual nature shall provide to appropriate State law enforcement officials, as designated by the chief executive officer of the State, a sample of blood, saliva, or other specimen necessary to conduct a DNA analysis consistent with the standards established for DNA testing by the Director of the Federal Bureau of Investigation.

(3) INTERSTATE COMPACTS.—A State may enter into a compact or compacts with another State or States to carry out this subsection.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated for the activities of the Federal Bureau of Investigation, to help meet the increased demands for activities to combat terrorism—

(A) $114,000,000 for fiscal year 1997;

(B) $166,000,000 for fiscal year 1998;

(C) $96,000,000 for fiscal year 1999; and

(D) $92,000,000 for fiscal year 2000.

(2) AVAILABILITY OF FUNDS.—Funds made available pursuant to paragraph (1), in any fiscal year, shall remain available until expended.

(3) ALLOCATION.—

(A) IN GENERAL.—Of the total amount appropriated to carry out subsection (b) in a fiscal year—

(i) the greater of 0.25 percent of such amount or $500,000 shall be allocated to each eligible State; and

(ii) of the total funds remaining after the allocation under clause (i), there shall be allocated to each State an amount which bears the same ratio to the amount of remaining funds described in this subparagraph as the population of such State bears to the population of all States.

(B) DEFINITION.—For purposes of this paragraph, the term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands, except that for purposes of the allocation under this subparagraph, American Samoa and the Commonwealth of the Northern Mariana Islands shall be considered as one State and that for these purposes, 67 percent of the amounts allocated

shall be allocated to American Samoa, and 33 percent to the Commonwealth of the Northern Mariana Islands.

SEC. 812. UNITED STATES CUSTOMS SERVICE.

(a) IN GENERAL.—There are authorized to be appropriated for the activities of the United States Customs Service, to help meet the increased needs of the United States Customs Service—

(1) $8,000,000 for fiscal year 1997;
(2) $8,000,000 for fiscal year 1998;
(3) $8,000,000 for fiscal year 1999; and
(4) $7,000,000 for fiscal year 2000.

(b) AVAILABILITY OF FUNDS.—Funds made available pursuant to subsection (a), in any fiscal year, shall remain available until expended.

SEC. 813. IMMIGRATION AND NATURALIZATION SERVICE.

(a) IN GENERAL.—There are authorized to be appropriated for the activities of the Immigration and Naturalization Service, to help meet the increased needs of the Immigration and Naturalization Service, including the detention and removal of alien terrorists, $5,000,000 for each of the fiscal years 1997, 1998, 1999, and 2000.

(b) AVAILABILITY OF FUNDS.—Funds made available pursuant to subsection (a), in any fiscal year, shall remain available until expended.

SEC. 814. DRUG ENFORCEMENT ADMINISTRATION.

(a) ACTIVITIES OF DRUG ENFORCEMENT ADMINISTRATION.—The Attorney General shall use funds made available pursuant to subsection (b) to—

(1) fund antiviolence crime initiatives;
(2) fund initiatives to address major violators of Federal antidrug statutes; and
(3) enhance or replace infrastructure of the Drug Enforcement Administration.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Drug Enforcement Administration, to help meet the increased needs of the Drug Enforcement Administration—

(1) $35,000,000 for fiscal year 1997;
(2) $40,000,000 for fiscal year 1998;
(3) $45,000,000 for fiscal year 1999; and
(4) $52,000,000 for fiscal year 2000.

(c) AVAILABILITY OF FUNDS.—Funds made available pursuant to this section, in any fiscal year, shall remain available until expended.

SEC. 815. DEPARTMENT OF JUSTICE.

(a) IN GENERAL.—The Attorney General shall use funds made available pursuant to subsection (b) to—

(1) hire additional Assistant United States Attorneys and attorneys within the Criminal Division of the Department of Justice; and
(2) provide for increased security at courthouses and other facilities in which Federal workers are employed.

(b) AUTHORIZATION OF ADDITIONAL APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) $10,000,000 for fiscal year 1997;
(2) $10,000,000 for fiscal year 1998;

(3) $10,000,000 for fiscal year 1999; and
(4) $11,000,000 for fiscal year 2000.

(c) AVAILABILITY OF FUNDS.—Funds made available pursuant to this section, in any fiscal year, shall remain available until expended.

(d) EXEMPTION AUTHORITY.—Notwithstanding any other provision of law, section 102(b) of the Department of Justice and Related Agencies Appropriations Act, 1993 (Public Law 102–395), shall remain in effect until specifically repealed, subject to any limitation on appropriations contained in any Department of Justice Appropriation Authorization Act. 28 USC 533 note.

(e) GENERAL REWARD AUTHORITY OF THE ATTORNEY GENERAL.—

(1) IN GENERAL.—Chapter 203 of title 18, United States Code, is amended by adding immediately after section 3059A the following section:

"§ 3059B. General reward authority

"(a) Notwithstanding any other provision of law, the Attorney General may pay rewards and receive from any department or agency funds for the payment of rewards under this section to any individual who assists the Department of Justice in performing its functions.

"(b) Not later than 30 days after authorizing a reward under this section that exceeds $100,000, the Attorney General shall give notice to the respective chairmen of the Committees on Appropriations and the Committees on the Judiciary of the Senate and the House of Representatives.

"(c) A determination made by the Attorney General to authorize an award under this section and the amount of any reward authorized shall be final and conclusive, and not subject to judicial review.".

SEC. 816. DEPARTMENT OF THE TREASURY.

(a) IN GENERAL.—There are authorized to be appropriated for Department of Treasury law enforcement agencies engaged in counterterrorism efforts to augment those efforts—

(1) $10,000,000 for fiscal year 1997;
(2) $10,000,000 for fiscal year 1998;
(3) $10,000,000 for fiscal year 1999; and
(4) $10,000,000 for fiscal year 2000.

(b) UNITED STATES SECRET SERVICE.—There are authorized to be appropriated for the activities of the United States Secret Service, to augment White House security and expand Presidential protection activities—

(1) $11,000,000 for fiscal year 1997;
(2) $11,000,000 for fiscal year 1998;
(3) $13,000,000 for fiscal year 1999; and
(4) $15,000,000 for fiscal year 2000.

SEC. 817. UNITED STATES PARK POLICE.

(a) IN GENERAL.—There are authorized to be appropriated for the activities of the United States Park Police, to help meet the increased needs of the United States Park Police, $500,000 for each of the fiscal years 1997, 1998, 1999, and 2000.

(b) AVAILABILITY OF FUNDS.—Funds made available pursuant to this section, in any fiscal year, shall remain available until expended.

SEC. 818. THE JUDICIARY.

(a) IN GENERAL.—There are authorized to be appropriated to the Federal judiciary, to help meet the increased demands for judicial branch activities, including supervised release, and pretrial and probation services, resulting from the enactment of this Act—

(1) $10,000,000 for fiscal year 1997;
(2) $10,000,000 for fiscal year 1998;
(3) $10,000,000 for fiscal year 1999; and
(4) $11,000,000 for fiscal year 2000.

(b) AVAILABILITY OF FUNDS.—Funds made available pursuant to this section, in any fiscal year, shall remain available until expended.

15 USC 2201 note.

SEC. 819. LOCAL FIREFIGHTER AND EMERGENCY SERVICES TRAINING.

(a) GRANT AUTHORIZATION.—The Attorney General, in consultation with the Director of the Federal Emergency Management Agency, may make grants to provide specialized training and equipment to enhance the capability of metropolitan fire and emergency service departments to respond to terrorist attacks.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal year 1997, $5,000,000 to carry out this section.

SEC. 820. ASSISTANCE TO FOREIGN COUNTRIES TO PROCURE EXPLOSIVE DETECTION DEVICES AND OTHER COUNTERTERRORISM TECHNOLOGY.

There are authorized to be appropriated to the National Institute of Justice Office of Science and Technology not more than $10,000,000 for each of the fiscal years 1997 and 1998 to provide assistance to foreign countries facing an imminent danger of terrorist attack that threatens the national interest of the United States, or puts United States nationals at risk, in—

(1) obtaining explosive detection devices and other counterterrorism technology;

(2) conducting research and development projects on such technology; and

(3) testing and evaluating counterterrorism technologies in those countries.

SEC. 821. RESEARCH AND DEVELOPMENT TO SUPPORT COUNTERTERRORISM TECHNOLOGIES.

There are authorized to be appropriated to the National Institute of Justice Office of Science and Technology not more than $10,000,000 for fiscal year 1997, to—

(1) develop technologies that can be used to combat terrorism, including technologies in the areas of—

(A) detection of weapons, explosives, chemicals, and persons;
(B) tracking;
(C) surveillance;
(D) vulnerability assessment; and
(E) information technologies;

(2) develop standards to ensure the adequacy of products produced and compatibility with relevant national systems; and

(3) identify and assess requirements for technologies to assist State and local law enforcement in the national program to combat terrorism.

SEC. 822. GRANTS TO STATE AND LOCAL LAW ENFORCEMENT FOR TRAINING AND EQUIPMENT.

(a) AMENDMENT OF BYRNE GRANT PROGRAM.—Section 501(b) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3751(b)) is amended—

(1) by striking "and" at the end of paragraph (24);

(2) by striking the period at the end of paragraph (25) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(26) to develop and implement antiterrorism training programs and to procure equipment for use by local law enforcement authorities.".

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $25,000,000 for each of fiscal years 1997 through 2000 for grants under section 501 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3751(b)) to be used for the development and implementation of antiterrorism training programs and to procure equipment for use by local law enforcement authorities.

SEC. 823. FUNDING SOURCE.

Appropriations for activities authorized in this subtitle may be made from the Violent Crime Reduction Trust Fund.

TITLE IX—MISCELLANEOUS

SEC. 901. EXPANSION OF TERRITORIAL SEA.

18 USC 7 note.

(a) TERRITORIAL SEA EXTENDING TO TWELVE MILES INCLUDED IN SPECIAL MARITIME AND TERRITORIAL JURISDICTION.—The Congress declares that all the territorial sea of the United States, as defined by Presidential Proclamation 5928 of December 27, 1988, for purposes of Federal criminal jurisdiction is part of the United States, subject to its sovereignty, and is within the special maritime and territorial jurisdiction of the United States for the purposes of title 18, United States Code.

(b) ASSIMILATED CRIMES IN EXTENDED TERRITORIAL SEA.—Section 13 of title 18, United States Code, is amended—

(1) in subsection (a), by inserting after "title," the following: "or on, above, or below any portion of the territorial sea of the United States not within the jurisdiction of any State, Commonwealth, territory, possession, or district"; and

(2) by adding at the end the following new subsection:

"(c) Whenever any waters of the territorial sea of the United States lie outside the territory of any State, Commonwealth, territory, possession, or district, such waters (including the airspace above and the seabed and subsoil below, and artificial islands and fixed structures erected thereon) shall be deemed, for purposes of subsection (a), to lie within the area of the State, Commonwealth, territory, possession, or district that it would lie within if the boundaries of such State, Commonwealth, territory, possession, or district were extended seaward to the outer limit of the territorial sea of the United States.".

SEC. 902. PROOF OF CITIZENSHIP.

42 USC 1973gg note.

Notwithstanding any other provision of law, a Federal, State, or local government agency may not use a voter registration card (or other related document) that evidences registration for an elec-

tion for Federal office, as evidence to prove United States citizenship.

SEC. 903. REPRESENTATION FEES IN CRIMINAL CASES.

(a) IN GENERAL.—Section 3006A of title 18, United States Code, is amended—

(1) in subsection (d)—

(A) by redesignating paragraphs (4), (5), and (6) as paragraphs (5), (6), and (7), respectively; and

(B) by inserting after paragraph (3) the following:

"(4) DISCLOSURE OF FEES.—The amounts paid under this subsection, for representation in any case, shall be made available to the public."; and

(2) in subsection (e) by adding at the end the following:

"(4) DISCLOSURE OF FEES.—The amounts paid under this subsection for services in any case shall be made available to the public.".

(b) FEES AND EXPENSES AND CAPITAL CASES.—Section 408(q)(10) of the Controlled Substances Act (21 U.S.C. 848(q)(10)) is amended to read as follows:

"(10)(A) Compensation shall be paid to attorneys appointed under this subsection at a rate of not more than $125 per hour for in-court and out-of-court time. Not less than 3 years after the date of the enactment of the Antiterrorism and Effective Death Penalty Act of 1996, the Judicial Conference is authorized to raise the maximum for hourly payment specified in the paragraph up to the aggregate of the overall average percentages of the adjustments in the rates of pay for the General Schedule made pursuant to section 5305 of title 5 on or after such date. After the rates are raised under the preceding sentence, such hourly range may be raised at intervals of not less than one year, up to the aggregate of the overall average percentages of such adjustments made since the last raise under this paragraph.

"(B) Fees and expenses paid for investigative, expert, and other reasonably necessary services authorized under paragraph (9) shall not exceed $7,500 in any case, unless payment in excess of that limit is certified by the court, or by the United States magistrate judge, if the services were rendered in connection with the case disposed of entirely before such magistrate judge, as necessary to provide fair compensation for services of an unusual character or duration, and the amount of the excess payment is approved by the chief judge of the circuit. The chief judge of the circuit may delegate such approval authority to an active circuit judge.

"(C) The amounts paid under this paragraph for services in any case shall be disclosed to the public, after the disposition of the petition.".

18 USC 3006A note.

(c) EFFECTIVE DATE.—The amendments made by this section apply to—

(1) cases commenced on or after the date of the enactment of this Act; and

(2) appellate proceedings, in which an appeal is perfected, on or after the date of the enactment of this Act.

SEC. 904. SEVERABILITY. 18 USC 1 note.

If any provision of this Act, an amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

Approved April 24, 1996.

LEGISLATIVE HISTORY—S. 735 (H.R. 1710) (H.R. 2703):

HOUSE REPORTS: Nos. 104–383 accompanying H.R. 1710 (Comm. on the Judiciary) and 104–518 (Comm. of Conference).

CONGRESSIONAL RECORD:

Vol. 141 (1995): May 25, 26, June 5–7, considered and passed Senate.

Vol. 142 (1996): Mar. 13, 14, H.R. 2703 considered and passed House; S. 735, amended, passed in lieu.

Apr. 16, 17, Senate considered and agreed to conference report.

Apr. 18, House agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 32 (1996):

Apr. 24, Presidential remarks and statement.

Public Law 104–133
104th Congress

An Act

Apr. 25, 1996
[H.R. 3034]

To amend the Indian Self-Determination and Education Assistance Act to extend for two months the authority for promulgating regulations under the Act.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF AUTHORITY TO PROMULGATE REGULATIONS.

Section 107(a)(2)(B) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450k(a)(2)(B)) is amended by striking "18 months" and inserting "20 months".

Approved April 25, 1996.

LEGISLATIVE HISTORY—H.R. 3034:

CONGRESSIONAL RECORD, Vol. 142 (1996):
Apr. 16, considered and passed House.
Apr. 18, considered and passed Senate.

* Public Law 104–134
104th Congress

An Act

Making appropriations for fiscal year 1996 to make a further downpayment toward a balanced budget, and for other purposes.

Apr. 26, 1996
[H.R. 3019]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Omnibus Consolidated Rescissions and Appropriations Act of 1996.

SECTION 101. For programs, projects or activities in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1996, provided as follows, to be effective as if it had been enacted into law as the regular appropriations Act:

AN ACT

Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriation Act, 1996.

Making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1996, and for other purposes

TITLE I—DEPARTMENT OF JUSTICE

Department of Justice Appropriations Act, 1996.

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

For expenses necessary for the administration of the Department of Justice, $74,282,000; including not to exceed $3,317,000 for the Facilities Program 2000, and including $5,000,000 for management and oversight of Immigration and Naturalization Service activities, both sums to remain available until expended: *Provided,* That not to exceed 48 permanent positions and 55 full-time equivalent workyears and $7,477,000 shall be expended for the Department Leadership Program, exclusive of augmentation that occurred in these offices in fiscal year 1995: *Provided further,* That not to exceed 76 permanent positions and 90 full-time equivalent workyears and $9,487,000 shall be expended for the Offices of Legislative Affairs, Public Affairs and Policy Development: *Provided further,* That the latter three aforementioned offices shall not be augmented by personnel details, temporary transfers of personnel on either a reimbursable or non-reimbursable basis or any other type of formal or informal transfer or reimbursement of personnel or funds on either a temporary or long-term basis.

* Note: This is a typeset print of the original hand enrollment as signed by the President on April 26, 1996. The text is printed without corrections. Footnotes indicate missing or illegible text in the original.

COUNTERTERRORISM FUND

For necessary expenses, as determined by the Attorney General, $16,898,000, to remain available until expended, to reimburse any Department of Justice organization for (1) the costs incurred in reestablishing the operational capability of an office or facility which has been damaged or destroyed as a result of the bombing of the Alfred P. Murrah Federal Building in Oklahoma City or any domestic or international terrorist incident, (2) the costs of providing support to counter, investigate or prosecute domestic or international terrorism, including payment of rewards in connection with these activities, and (3) the costs of conducting a terrorism threat assessment of Federal agencies and their facilities: *Provided,* That funds provided under this section shall be available only after the Attorney General notifies the Committees on Appropriations of the House of Representatives and the Senate in accordance with section 605 of this Act.

ADMINISTRATIVE REVIEW AND APPEALS

For expenses necessary for the administration of pardon and clemency petitions and immigration related activities, $38,886,000: *Provided,* That the obligated and unobligated balances of funds previously appropriated to the General Administration, Salaries and Expenses appropriation for the Executive Office for Immigration Review and the Office of the Pardon Attorney shall be merged with this appropriation.

VIOLENT CRIME REDUCTION PROGRAMS, ADMINISTRATIVE REVIEW AND APPEALS

For activities authorized by sections 130005 and 130007 of Public Law 103–322, $47,780,000, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund: *Provided,* That the obligated and unobligated balances of funds previously appropriated to the General Administration, Salaries and Expenses appropriation under title VIII of Public Law 103–317 for the Executive Office for Immigration Review shall be merged with this appropriation.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $28,960,000; including not to exceed $10,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of, and to be accounted for solely under the certificate of, the Attorney General; and for the acquisition, lease, maintenance and operation of motor vehicles without regard to the general purchase price limitation.

UNITED STATES PAROLE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the United States Parole Commission as authorized by law, $5,446,000.

LEGAL ACTIVITIES

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

(INCLUDING TRANSFER OF FUNDS)

For expenses necessary for the legal activities of the Department of Justice, not otherwise provided for, including not to exceed $20,000 for expenses of collecting evidence, to be expended under the direction of, and to be accounted for solely under the certificate of, the Attorney General; and rent of private or Government-owned space in the District of Columbia; $401,929,000; of which not to exceed $10,000,000 for litigation support contracts shall remain available until expended: *Provided,* That of the funds available in this appropriation, not to exceed $22,618,000 shall remain available until expended for office automation systems for the legal divisions covered by this appropriation, and for the United States Attorneys, the Antitrust Division, and offices funded through "Salaries and Expenses", General Administration: *Provided further,* That of the total amount appropriated, not to exceed $1,000 shall be available to the United States National Central Bureau, INTERPOL, for official reception and representation expenses: *Provided further,* That notwithstanding 31 U.S.C. 1342, the Attorney General may accept on behalf of the United States and credit to this appropriation, gifts of money, personal property and services, for the purpose of hosting the International Criminal Police Organization's (INTERPOL) American Regional Conference in the United States during fiscal year 1996.

In addition, for reimbursement of expenses of the Department of Justice associated with processing cases under the National Childhood Vaccine Injury Act of 1986, not to exceed $4,028,000, to be appropriated from the Vaccine Injury Compensation Trust Fund, as authorized by section 6601 of the Omnibus Budget Reconciliation Act, 1989, as amended by Public Law 101–512 (104 Stat. 1289).

In addition, for Salaries and Expenses, General Legal Activities, $12,000,000 shall be made available to be derived by transfer from unobligated balances of the Working Capital Fund in the Department of Justice.

VIOLENT CRIME REDUCTION PROGRAMS, GENERAL LEGAL ACTIVITIES

For the expeditious deportation of denied asylum applicants, as authorized by section 130005 of Public Law 103–322, $7,591,000, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund.

SALARIES AND EXPENSES, ANTITRUST DIVISION

For expenses necessary for the enforcement of antitrust and kindred laws, $65,783,000: *Provided,* That notwithstanding any other provision of law, not to exceed $48,262,000 of offsetting collections derived from fees collected for premerger notification filings under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (15 U.S.C. 18(a)) shall be retained and used for necessary expenses in this appropriation, and shall remain available until expended: *Provided further,* That the sum herein appropriated from the General Fund shall be reduced as such offsetting collections are received during fiscal year 1996, so as to result in a final fiscal year 1996

appropriation from the General Fund estimated at not more than $17,521,000: *Provided further,* That any fees received in excess of $48,262,000 in fiscal year 1996, shall remain available until expended, but shall not be available for obligation until October 1, 1996.

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

For necessary expenses of the Office of the United States Attorneys, including intergovernmental agreements, $895,509,000, of which not to exceed $2,500,000 shall be available until September 30, 1997 for the purposes of (1) providing training of personnel of the Department of Justice in debt collection, (2) providing services to the Department of Justice related to locating debtors and their property, such as title searches, debtor skiptracing, asset searches, credit reports and other investigations, (3) paying the costs of the Department of Justice for the sale of property not covered by the sale proceeds, such as auctioneers' fees and expenses, maintenance and protection of property and businesses, advertising and title search and surveying costs, and (4) paying the costs of processing and tracking debts owed to the United States Government: *Provided,* That of the total amount appropriated, not to exceed $8,000 shall be available for official reception and representation expenses: *Provided further,* That not to exceed $10,000,000 of those funds available for automated litigation support contracts and $4,000,000 for security equipment shall remain available until expended: *Provided further,* That in addition to reimbursable full-time equivalent workyears available to the Office of the United States Attorneys, not to exceed 8,595 positions and 8,862 full-time equivalent workyears shall be supported from the funds appropriated in this Act for the United States Attorneys.

VIOLENT CRIME REDUCTION PROGRAMS, UNITED STATES ATTORNEYS

For activities authorized by sections 190001(d), 40114 and 130005 of Public Law 103–322, $30,000,000, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund, of which $20,269,000 shall be available to help meet increased demands for litigation and related activities, $500,000 to implement a program to appoint additional Federal Victim's Counselors, and $9,231,000 for expeditious deportation of denied asylum applicants.

UNITED STATES TRUSTEE SYSTEM FUND

For necessary expenses of the United States Trustee Program, $102,390,000, as authorized by 28 U.S.C. 589a(a), to remain available until expended, for activities authorized by section 115 of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (Public Law 99–554), which shall be derived from the United States Trustee System Fund: *Provided,* That deposits to the Fund are available in such amounts as may be necessary to pay refunds due depositors: *Provided further,* That, notwithstanding any other provision of law, not to exceed $44,191,000 of offsetting collections derived from fees collected pursuant to section 589a(f) of title 28, United States Code, as amended, shall be retained and used for necessary expenses in this appropriation: *Provided further,* That the $102,390,000 herein

appropriated from the United States Trustee System Fund shall be reduced as such offsetting collections are received during fiscal year 1996, so as to result in a final fiscal year 1996 appropriation from such Fund estimated at not more than $58,199,000: *Provided further,* That any of the aforementioned fees collected in excess of $44,191,000 in fiscal year 1996 shall remain available until expended, but shall not be available for obligation until October 1, 1996.

SALARIES AND EXPENSES, FOREIGN CLAIMS SETTLEMENT COMMISSION

For expenses necessary to carry out the activities of the Foreign Claims Settlement Commission, including services as authorized by 5 U.S.C. 3109, $830,000.

SALARIES AND EXPENSES, UNITED STATES MARSHALS SERVICE

For necessary expenses of the United States Marshals Service; including the acquisition, lease, maintenance, and operation of vehicles and aircraft, and the purchase of passenger motor vehicles for police-type use without regard to the general purchase price limitation for the current fiscal year; $423,248,000, as authorized by 28 U.S.C. 561(i), of which not to exceed $6,000 shall be available for official reception and representation expenses.

VIOLENT CRIME REDUCTION PROGRAMS, UNITED STATES MARSHALS SERVICE

For activities authorized by section 190001(b) of Public Law 103–322, $25,000,000, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund.

FEDERAL PRISONER DETENTION

(INCLUDING TRANSFER OF FUNDS)

For expenses related to United States prisoners in the custody of the United States Marshals Service as authorized in 18 U.S.C. 4013, but not including expenses otherwise provided for in appropriations available to the Attorney General; $252,820,000, as authorized by 28 U.S.C. 561(i), to remain available until expended.

In addition, for Federal Prisoner Detention, $9,000,000 shall be made available until expended to be derived by transfer from unobligated balances of the Working Capital Fund in the Department of Justice.

FEES AND EXPENSES OF WITNESSES

For expenses, mileage, compensation, and per diems of witnesses, for expenses of contracts for the procurement and supervision of expert witnesses, for private counsel expenses, and for per diems in lieu of subsistence, as authorized by law, including advances, $85,000,000, to remain available until expended; of which not to exceed $4,750,000 may be made available for planning, construction, renovations, maintenance, remodeling, and repair of buildings and the purchase of equipment incident thereto for protected witness safesites; of which not to exceed $1,000,000 may be made available for the purchase and maintenance of armored vehicles for transportation of protected witnesses; and of which not to exceed $4,000,000 may be made available for the purchase,

installation and maintenance of a secure automated information network to store and retrieve the identities and locations of protected witnesses.

SALARIES AND EXPENSES, COMMUNITY RELATIONS SERVICE

For necessary expenses of the Community Relations Service, established by title X of the Civil Rights Act of 1964, $5,319,000: *Provided,* That notwithstanding any other provision of law, upon a determination by the Attorney General that emergent circumstances require additional funding for conflict prevention and resolution activities of the Community Relations Service, the Attorney General may transfer such amounts to the Community Relations Service, from available appropriations for the current fiscal year for the Department of Justice, as may be necessary to respond to such circumstances: *Provided further,* That any transfer pursuant to this section shall be treated as a reprogramming under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

ASSETS FORFEITURE FUND

For expenses authorized by 28 U.S.C. 524(c)(1)(A)(ii), (B), (C), (F), and (G), as amended, $30,000,000 to be derived from the Department of Justice Assets Forfeiture Fund.

RADIATION EXPOSURE COMPENSATION

ADMINISTRATIVE EXPENSES

For necessary administrative expenses in accordance with the Radiation Exposure Compensation Act, $2,655,000.

PAYMENT TO RADIATION EXPOSURE COMPENSATION TRUST FUND

For payments to the Radiation Exposure Compensation Trust Fund, $16,264,000, to become available on October 1, 1996.

INTERAGENCY LAW ENFORCEMENT

INTERAGENCY CRIME AND DRUG ENFORCEMENT

For necessary expenses for the detection, investigation, and prosecution of individuals involved in organized crime drug trafficking not otherwise provided for, to include intergovernmental agreements with State and local law enforcement agencies engaged in the investigation and prosecution of individuals involved in organized crime drug trafficking, $359,843,000, of which $50,000,000 shall remain available until expended: *Provided,* That any amounts obligated from appropriations under this heading may be used under authorities available to the organizations reimbursed from this appropriation: *Provided further,* That any unobligated balances remaining available at the end of the fiscal year shall revert to the Attorney General for reallocation among participating organizations in succeeding fiscal years, subject to the reprogramming procedures described in section 605 of this Act.

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For expenses necessary for detection, investigation, and prosecution of crimes against the United States; including purchase for police-type use of not to exceed 1,815 passenger motor vehicles of which 1,300 will be for replacement only, without regard to the general purchase price limitation for the current fiscal year, and hire of passenger motor vehicles; acquisition, lease, maintenance and operation of aircraft; and not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of, and to be accounted for solely under the certificate of, the Attorney General; $2,189,183,000, of which not to exceed $50,000,000 for automated data processing and telecommunications and technical investigative equipment and $1,000,000 for undercover operations shall remain available until September 30, 1997; of which not less than $102,345,000 shall be for counterterrorism investigations, foreign counterintelligence, and other activities related to our national security; of which not to exceed $98,400,000 shall remain available until expended; of which not to exceed $10,000,000 is authorized to be made available for making payments or advances for expenses arising out of contractual or reimbursable agreements with State and local law enforcement agencies while engaged in cooperative activities related to violent crime, terrorism, organized crime, and drug investigations; and of which $1,500,000 shall be available to maintain an independent program office dedicated solely to the relocation of the Criminal Justice Information Services Division and the automation of fingerprint identification services: *Provided,* That not to exceed $45,000 shall be available for official reception and representation expenses: *Provided further,* That $58,000,000 shall be made available for NCIC 2000, of which not less than $35,000,000 shall be derived from ADP and Telecommunications unobligated balances, in addition, $22,000,000 shall be derived by transfer and available until expended from unobligated balances in the Working Capital Fund of the Department of Justice.

VIOLENT CRIME REDUCTION PROGRAMS

For activities authorized by Public Law 103–322, $218,300,000, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund, of which $208,800,000 shall be for activities authorized by section 190001(c); $4,000,000 for Training and Investigative Assistance authorized by section 210501(c)(2); and $5,500,000 for establishing DNA quality assurance and proficiency testing standards, establishing an index to facilitate law enforcement exchange of DNA identification information, and related activities authorized by section 210306.

CONSTRUCTION

For necessary expenses to construct or acquire buildings and sites by purchase, or as otherwise authorized by law (including equipment for such buildings); conversion and extension of federally-owned buildings; and preliminary planning and design of projects; $97,589,000, to remain available until expended.

DRUG ENFORCEMENT ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Drug Enforcement Administration, including not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of, and to be accounted for solely under the certificate of, the Attorney General; expenses for conducting drug education and training programs, including travel and related expenses for participants in such programs and the distribution of items of token value that promote the goals of such programs; purchase of not to exceed 1,208 passenger motor vehicles, of which 1,178 will be for replacement only, for police-type use without regard to the general purchase price limitation for the current fiscal year; and acquisition, lease, maintenance, and operation of aircraft; $750,168,000, of which not to exceed $1,800,000 for research and $15,000,000 for transfer to the Drug Diversion Control Fee Account for operating expenses shall remain available until expended, and of which not to exceed $4,000,000 for purchase of evidence and payments for information, not to exceed $4,000,000 for contracting for ADP and telecommunications equipment, and not to exceed $2,000,000 for technical and laboratory equipment shall remain available until September 30, 1997, and of which not to exceed $50,000 shall be available for official reception and representation expenses.

VIOLENT CRIME REDUCTION PROGRAMS

For activities authorized by sections 180104 and 190001(b) of Public Law 103–322, $60,000,000, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund.

IMMIGRATION AND NATURALIZATION SERVICE

SALARIES AND EXPENSES

For expenses, not otherwise provided for, necessary for the administration and enforcement of the laws relating to immigration, naturalization, and alien registration, including not to exceed $50,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of, and to be accounted for solely under the certificate of, the Attorney General; purchase for police-type use (not to exceed 813 of which 177 are for replacement only) without regard to the general purchase price limitation for the current fiscal year, and hire of passenger motor vehicles; acquisition, lease, maintenance and operation of aircraft; and research related to immigration enforcement; $1,394,825,000, of which $36,300,000 shall remain available until September 30, 1997; of which $506,800,000 is available for the Border Patrol; of which not to exceed $400,000 for research shall remain available until expended; and of which not to exceed $10,000,000 shall be available for costs associated with the training program for basic officer training: *Provided,* That none of the funds available to the Immigration and Naturalization Service shall be available for administrative expenses to pay any employee overtime pay in an amount in excess of $25,000 during the calendar year beginning January 1, 1996: *Provided further,* That uniforms may be purchased without regard

to the general purchase price limitation for the current fiscal year: *Provided further,* That not to exceed $5,000 shall be available for official reception and representation expenses: *Provided further,* That the Attorney General may transfer to the Department of Labor and the Social Security Administration not to exceed $10,000,000 for programs to verify the immigration status of persons seeking employment in the United States: *Provided further,* That none of the funds provided in this or any other Act shall be used for the continued operation of the San Clemente and Temecula checkpoints unless: (1) the checkpoints are open and traffic is being checked on a continuous 24-hour basis and (2) the Immigration and Naturalization Service undertakes a commuter lane facilitation pilot program at the San Clemente checkpoint within 90 days of enactment of this Act: *Provided further,* That the Immigration and Naturalization Service shall undertake the renovation and improvement of the San Clemente checkpoint, to include the addition of two to four lanes, and which shall be exempt from Federal procurement regulations for contract formation, from within existing balances in the Immigration and Naturalization Service Construction account: *Provided further,* That if renovation of the San Clemente checkpoint is not completed by July 1, 1996, the San Clemente checkpoint will close until such time as the renovations and improvements are completed unless funds for the continued operation of the checkpoint are provided and made available for obligation and expenditure in accordance with procedures set forth in section 605 of this Act, as the result of certification by the Attorney General that exigent circumstances require the checkpoint to be open and delays in completion of the renovations are not the result of any actions that are or have been in the control of the Department of Justice: *Provided further,* That the Office of Public Affairs at the Immigration and Naturalization Service shall conduct its business in areas only relating to its central mission, including: research, analysis, and dissemination of information, through the media and other communications outlets, relating to the activities of the Immigration and Naturalization Service: *Provided further,* That the Office of Congressional Relations at the Immigration and Naturalization Service shall conduct business in areas only relating to its central mission, including: providing services to Members of Congress relating to constituent inquiries and requests for information; and working with the relevant congressional committees on proposed legislation affecting immigration matters: *Provided further,* That in addition to amounts otherwise made available in this title to the Attorney General, the Attorney General is authorized to accept and utilize, on behalf of the United States, the $100,000 Innovation in American Government Award for 1995 from the Ford Foundation for the Immigration and Naturalization Service's Operation Jobs program.

VIOLENT CRIME REDUCTION PROGRAMS

For activities authorized by sections 130005, 130006, and 130007 of Public Law 103–322, $316,198,000, to remain available until expended, which will be derived from the Violent Crime Reduction Trust Fund, of which $38,704,000 shall be for expeditious deportation of denied asylum applicants, $231,570,000 for improving border controls, and $45,924,000 for expanded special deportation proceedings: *Provided,* That of the amounts made available, $75,765,000 shall be for the Border Patrol.

CONSTRUCTION

For planning, construction, renovation, equipping and maintenance of buildings and facilities necessary for the administration and enforcement of the laws relating to immigration, naturalization, and alien registration, not otherwise provided for, $25,000,000, to remain available until expended.

FEDERAL PRISON SYSTEM

SALARIES AND EXPENSES

For expenses necessary for the administration, operation, and maintenance of Federal penal and correctional institutions, including purchase (not to exceed 853, of which 559 are for replacement only) and hire of law enforcement and passenger motor vehicles; and for the provision of technical assistance and advice on corrections related issues to foreign governments; $2,567,578,000: *Provided,* That there may be transferred to the Health Resources and Services Administration such amounts as may be necessary, in the discretion of the Attorney General, for direct expenditures by that Administration for medical relief for inmates of Federal penal and correctional institutions: *Provided further,* That the Director of the Federal Prison System (FPS), where necessary, may enter into contracts with a fiscal agent/fiscal intermediary claims processor to determine the amounts payable to persons who, on behalf of the FPS, furnish health services to individuals committed to the custody of the FPS: *Provided further,* That uniforms may be purchased without regard to the general purchase price limitation for the current fiscal year: *Provided further,* That not to exceed $6,000 shall be available for official reception and representation expenses: *Provided further,* That not to exceed $50,000,000 for the activation of new facilities shall remain available until September 30, 1997: *Provided further,* That of the amounts provided for Contract Confinement, not to exceed $20,000,000 shall remain available until expended to make payments in advance for grants, contracts and reimbursable agreements and other expenses authorized by section 501(c) of the Refugee Education Assistance Act of 1980 for the care and security in the United States of Cuban and Haitian entrants: *Provided further,* That no funds appropriated in this Act shall be used to privatize any Federal prison facilities located in Forrest City, Arkansas, and Yazoo City, Mississippi.

42 USC 250a.

VIOLENT CRIME REDUCTION PROGRAMS

For substance abuse treatment in Federal prisons as authorized by section 32001(e) of Public Law 103–322, $13,500,000, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund.

BUILDINGS AND FACILITIES

For planning, acquisition of sites and construction of new facilities; leasing the Oklahoma City Airport Trust Facility; purchase and acquisition of facilities and remodeling and equipping of such facilities for penal and correctional use, including all necessary expenses incident thereto, by contract or force account; and constructing, remodeling, and equipping necessary buildings and facilities at existing penal and correctional institutions, including all

necessary expenses incident thereto, by contract or force account; $334,728,000, to remain available until expended, of which not to exceed $14,074,000 shall be available to construct areas for inmate work programs: *Provided,* That labor of United States prisoners may be used for work performed under this appropriation: *Provided further,* That not to exceed 10 percent of the funds appropriated to "Buildings and Facilities" in this Act or any other Act may be transferred to "Salaries and Expenses", Federal Prison System upon notification by the Attorney General to the Committees on Appropriations of the House of Representatives and the Senate in compliance with provisions set forth in section 605 of this Act: *Provided further,* That of the total amount appropriated, not to exceed $22,351,000 shall be available for the renovation and construction of United States Marshals Service prisoner holding facilities.

FEDERAL PRISON INDUSTRIES, INCORPORATED

The Federal Prison Industries, Incorporated, is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available, and in accord with the law, and to make such contracts and commitments, without regard to fiscal year limitations as provided by section 9104 of title 31, United States Code, as may be necessary in carrying out the program set forth in the budget for the current fiscal year for such corporation, including purchase of (not to exceed five for replacement only) and hire of passenger motor vehicles.

LIMITATION ON ADMINISTRATIVE EXPENSES, FEDERAL PRISON INDUSTRIES, INCORPORATED

Not to exceed $3,559,000 of the funds of the corporation shall be available for its administrative expenses, and for services as authorized by 5 U.S.C. 3109, to be computed on an accrual basis to be determined in accordance with the corporation's current prescribed accounting system, and such amounts shall be exclusive of depreciation, payment of claims, and expenditures which the said accounting system requires to be capitalized or charged to cost of commodities acquired or produced, including selling and shipping expenses, and expenses in connection with acquisition, construction, operation, maintenance, improvement, protection, or disposition of facilities and other property belonging to the corporation or in which it has an interest.

OFFICE OF JUSTICE PROGRAMS

JUSTICE ASSISTANCE

For grants, contracts, cooperative agreements, and other assistance authorized by title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, and the Missing Children's Assistance Act, as amended, including salaries and expenses in connection therewith, and with the Victims of Crime Act of 1984, as amended, $99,977,000, to remain available until expended, as authorized by section 1001 of title I of the Omnibus Crime Control and Safe Streets Act, as amended by Public Law 102–534 (106 Stat. 3524).

VIOLENT CRIME REDUCTION PROGRAMS, JUSTICE ASSISTANCE

For assistance (including amounts for administrative costs for management and administration, which amounts shall be transferred to and merged with the "Justice Assistance" account) authorized by the Violent Crime Control and Law Enforcement Act of 1994, Public Law 103–322 ("the 1994 Act"); the Omnibus Crime Control and Safe Streets Act of 1968, as amended ("the 1968 Act"); and the Victims of Child Abuse Act of 1990, as amended ("the 1990 Act"); $202,400,000, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund; of which $6,000,000 shall be for the Court Appointed Special Advocate Program, as authorized by section 218 of the 1990 Act; $750,000 for Child Abuse Training Programs for Judicial Personnel and Practitioners, as authorized by section 224 of the 1990 Act; $130,000,000 for Grants to Combat Violence Against Women to States, units of local governments and Indian tribal governments, as authorized by section 1001(a)(18) of the 1968 Act; $28,000,000 for Grants to Encourage Arrest Policies to States, units of local governments and Indian tribal governments, as authorized by section 1001(a)(19) of the 1968 Act; $7,000,000 for Rural Domestic Violence and Child Abuse Enforcement Assistance Grants, as authorized by section 40295 of the 1994 Act; $1,000,000 for training programs to assist probation and parole officers who work with released sex offenders, as authorized by section 40152(c) of the Violent Crime Control and Law Enforcement Act of 1994; $50,000 for grants for televised testimony, as authorized by section 1001(a)(7) of the Omnibus Crime Control and Safe Streets Act of 1968; $200,000 for the study of State databases on the incidence of sexual and domestic violence, as authorized by section 40292 of the Violent Crime Control and Law Enforcement Act of 1994; $1,500,000 for national stalker and domestic violence reduction, as authorized by section 40603 of the 1994 Act; $27,000,000 for grants for residential substance abuse treatment for State prisoners authorized by section 1001(a)(17) of the 1968 Act; and $900,000 for the Missing Alzheimer's Disease Patient Alert Program, as authorized by section 240001(d) of the 1994 Act: *Provided*, That any balances for these programs shall be transferred to and merged with this appropriation.

STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE

For grants, contracts, cooperative agreements, and other assistance authorized by part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, for State and Local Narcotics Control and Justice Assistance Improvements, notwithstanding the provisions of section 511 of said Act, $388,000,000, to remain available until expended, as authorized by section 1001 of title I of said Act, as amended by Public Law 102–534 (106 Stat. 3524), of which $60,000,000 shall be available to carry out the provisions of chapter A of subpart 2 of part E of title I of said Act, for discretionary grants under the Edward Byrne Memorial State and Local Law Enforcement Assistance Programs: *Provided,* That balances of amounts appropriated prior to fiscal year 1995 under the authorities of this account shall be transferred to and merged with this account.

VIOLENT CRIME REDUCTION PROGRAMS, STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE

For assistance (including amounts for administrative costs for management and administration, which amounts shall be transferred to and merged with the "Justice Assistance" account) authorized by the Violent Crime Control and Law Enforcement Act of 1994, Public Law 103–322 ("the 1994 Act"); the Omnibus Crime Control and Safe Streets Act of 1968, as amended ("the 1968 Act"); and the Victims of Child Abuse Act of 1990, as amended ("the 1990 Act"); $1,605,200,000, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund; of which $503,000,000 shall be for Local Law Enforcement Block Grants, pursuant to H.R. 728 as passed by the House of Representatives on February 14, 1995, except that for purposes of this Act, the Commonwealth of Puerto Rico shall be considered a "unit of local government" as well as a "state", for the purposes set forth in paragraphs (A), (B), (D), (F), and (I) of section 101(a)(2) of H.R. 728 and for establishing crime prevention programs involving cooperation between community residents and law enforcement personnel in order to control, detect, or investigate crime or the prosecution of criminals: *Provided,* That no funds provided under this heading may be used as matching funds for any other federal grant program: *Provided further,* That notwithstanding any other provision of this title, the Attorney General may transfer up to $18,000,000 of this amount for drug courts pursuant to title V of the 1994 Act, consistent with the reprogramming procedures outlined in section 605 of this Act: *Provided further,* That in lieu of any amount provided from the Local Law Enforcement Block Grant for the District of Columbia, $15,000,000 shall be deposited into an escrow account of the District of Columbia Financial Responsibility and Management Assistance Authority, pursuant to section 205 of Public Law 104–8, for the District of Columbia Metropolitan Police Department for law enforcement purposes and shall be disbursed from such escrow account pursuant to the instructions of the Authority and in accordance with a plan developed by the Chief of Police, after consultation with the Committees on Appropriations and Judiciary of the Senate and House of Representatives: *Provided further,* That $11,000,000 of this amount shall be for Boys & Girls Clubs of America for the establishment of Boys & Girls Clubs in public housing facilities and other areas in cooperation with State and local law enforcement: *Provided further,* That funds may also be used to defray the costs of indemnification insurance for law enforcement officers; $25,000,000 for grants to upgrade criminal records, as authorized by section 106(b) of the Brady Handgun Violence Prevention Act of 1993, as amended, and section 4(b) of the National Child Protection Act of 1993; $147,000,000 as authorized by section 1001 of title I of the 1968 Act, which shall be available to carry out the provisions of subpart 1, part E of title I of the 1968 Act, notwithstanding section 511 of said Act, for the Edward Byrne Memorial State and Local Law Enforcement Assistance Programs; $300,000,000 for the State Criminal Alien Assistance Program, as authorized by section 242(j) of the Immigration and Nationality Act, as amended; $617,500,000 for Violent Offender Incarceration and Truth in Sentencing Incentive Grants pursuant to subtitle A of title II of the Violent Crime Control and Law Enforcement Act of 1994 (as amended by section

114 of this Act), of which $200,000,000 shall be available for payments to States for incarceration of criminal aliens, and of which $12,500,000 shall be available for the Cooperative Agreement Program; $1,000,000 for grants to States and units of local government for projects to improve DNA analysis, as authorized by section 1001(a)(22) of the 1968 Act; $9,000,000 for Improved Training and Technical Automation Grants, as authorized by section 210501(c)(1) of the 1994 Act; $1,000,000 for Law Enforcement Family Support Programs, as authorized by section 1001(a)(21) of the 1968 Act; $500,000 for Motor Vehicle Theft Prevention Programs, as authorized by section 220002(h) of the 1994 Act; $1,000,000 for Gang Investigation Coordination and Information Collection, as authorized by section 150006 of the 1994 Act; $200,000 for grants as authorized by section 32201(c)(3) of the 1994 Act: *Provided further,* That funds made available in fiscal year 1996 under subpart 1 of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, may be obligated for programs to assist States in the litigation processing of death penalty Federal habeas corpus petitions: *Provided further,* That any 1995 balances for these programs shall be transferred to and merged with this appropriation: *Provided further,* That if a unit of local government uses any of the funds made available under this title to increase the number of law enforcement officers, the unit of local government will achieve a net gain in the number of law enforcement officers who perform nonadministrative public safety service.

COMMUNITY ORIENTED POLICING SERVICES

VIOLENT CRIME REDUCTION PROGRAMS

For activities authorized by the Violent Crime Control and Law Enforcement Act of 1994, Public Law 103–322 ("the 1994 Act") (including administrative costs); $1,400,000,000, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund, for Public Safety and Community Policing Grants pursuant to title I of the 1994 Act: *Provided,* That of this amount, $10,000,000 shall be available for programs of Police Corps education, training and service as set forth in sections 200101–200113 of the 1994 Act: *Provided further,* That not to exceed 130 permanent positions and 130 full-time equivalent workyears and $14,602,000 shall be expended for program management and administration.

WEED AND SEED PROGRAM FUND

For necessary expenses, including salaries and related expenses of the Executive Office for Weed and Seed, to implement "Weed and Seed" program activities, $28,500,000, which shall be derived from discretionary grants provided under the Edward Byrne Memorial State and Local Law Enforcement Assistance Programs, to remain available until expended for intergovernmental agreements, including grants, cooperative agreements, and contracts, with State and local law enforcement agencies engaged in the investigation and prosecution of violent crimes and drug offenses in "Weed and Seed" designated communities, and for either reimbursements or transfers to appropriation accounts of the Department of Justice and other Federal agencies which shall be specified by the Attorney General to execute the "Weed and Seed" program strategy: *Provided,*

That funds designated by Congress through language for other Department of Justice appropriation accounts for "Weed and Seed" program activities shall be managed and executed by the Attorney General through the Executive Office for Weed and Seed: *Provided further,* That the Attorney General may direct the use of other Department of Justice funds and personnel in support of "Weed and Seed" program activities only after the Attorney General notifies the Committees on Appropriations of the House of Representatives and the Senate in accordance with section 605 of this Act.

JUVENILE JUSTICE PROGRAMS

For grants, contracts, cooperative agreements, and other assistance authorized by the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, including salaries and expenses in connection therewith to be transferred to and merged with the appropriations for Justice Assistance, $144,000,000, to remain available until expended, as authorized by section 299 of part I of title II and section 506 of title V of the Act, as amended by Public Law 102–586, of which: (1) $100,000,000 shall be available for expenses authorized by parts A, B, and C of title II of the Act; (2) $10,000,000 shall be available for expenses authorized by sections 281 and 282 of part D of title II of the Act for prevention and treatment programs relating to juvenile gangs; (3) $10,000,000 shall be available for expenses authorized by section 285 of part E of title II of the Act; (4) $4,000,000 shall be available for expenses authorized by part G of title II of the Act for juvenile mentoring programs; and (5) $20,000,000 shall be available for expenses authorized by title V of the Act for incentive grants for local delinquency prevention programs.

In addition, for grants, contracts, cooperative agreements, and other assistance authorized by the Victims of Child Abuse Act of 1990, as amended, $4,500,000, to remain available until expended, as authorized by section 214B, of the Act: *Provided,* That balances of amounts appropriated prior to fiscal year 1995 under the authorities of this account shall be transferred to and merged with this account.

PUBLIC SAFETY OFFICERS BENEFITS

For payments authorized by part L of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796), as amended, such sums as are necessary, to remain available until expended, as authorized by section 6093 of Public Law 100–690 (102 Stat. 4339–4340), and, in addition, $2,134,000, to remain available until expended, for payments as authorized by section 1201(b) of said Act.

GENERAL PROVISIONS—DEPARTMENT OF JUSTICE

SEC. 114. (a) GRANT PROGRAM.—Subtitle A of title II of the Violent Crime Control and Law Enforcement Act of 1994 is amended to read as follows:

"Subtitle A—Violent Offender Incarceration and Truth-in-Sentencing Incentive Grants

42 USC 13701.

"SEC. 20101. DEFINITIONS.

"Unless otherwise provided, for purposes of this subtitle—

"(1) the term 'indeterminate sentencing' means a system by which—

"(A) the court may impose a sentence of a range defined by statute; and

"(B) an administrative agency, generally the parole board, or the court, controls release within the statutory range;

"(2) the term 'part 1 violent crime' means murder and nonnegligent manslaughter, forcible rape, robbery, and aggravated assault as reported to the Federal Bureau of Investigation for purposes of the Uniform Crime Reports; and

"(3) the term 'State' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands.

42 USC 13702.

"SEC. 20102. AUTHORIZATION OF GRANTS.

"(a) IN GENERAL.—The Attorney General shall provide Violent Offender Incarceration grants under section 20103 and Truth-in-Sentencing Incentive grants under section 20104 to eligible States—

"(1) to build or expand correctional facilities to increase the bed capacity for the confinement of persons convicted of a part 1 violent crime or adjudicated delinquent for an act which if committed by an adult, would be a part 1 violent crime;

"(2) to build or expand temporary or permanent correctional facilities, including facilities on military bases, prison barges, and boot camps, for the confinement of convicted nonviolent offenders and criminal aliens, for the purpose of freeing suitable existing prison space for the confinement of persons convicted of a part 1 violent crime; and

"(3) to build or expand jails.

"(b) REGIONAL COMPACTS.—

"(1) IN GENERAL.—Subject to paragraph (2), States may enter into regional compacts to carry out this subtitle. Such compacts shall be treated as States under this subtitle.

"(2) REQUIREMENT.—To be recognized as a regional compact for eligibility for a grant under section 20103 or 20104, each member State must be eligible individually.

"(3) LIMITATION ON RECEIPT OF FUNDS.—No State may receive a grant under this subtitle both individually and as part of a compact.

"(c) APPLICABILITY.—Notwithstanding the eligibility requirements of section 20104, a State that certifies to the Attorney General that, as of the date of enactment of the Department of Justice Appropriations Act, 1996, such State has enacted legislation in reliance on subtitle A of title II of the Violent Crime Control and Law Enforcement Act, as enacted on September 13, 1994, and would in fact qualify under those provisions, shall be eligible

to receive a grant for fiscal year 1996 as though such State qualifies under section 20104 of this subtitle.

"SEC. 20103. VIOLENT OFFENDER INCARCERATION GRANTS. 42 USC 13703.

"(a) ELIGIBILITY FOR MINIMUM GRANT.—To be eligible to receive a minimum grant under this section, a State shall submit an application to the Attorney General that provides assurances that the State has implemented, or will implement, correctional policies and programs, including truth-in-sentencing laws that ensure that violent offenders serve a substantial portion of the sentences imposed, that are designed to provide sufficiently severe punishment for violent offenders, including violent juvenile offenders, and that the prison time served is appropriately related to the determination that the inmate is a violent offender and for a period of time deemed necessary to protect the public.

"(b) ADDITIONAL AMOUNT FOR INCREASED PERCENTAGE OF PERSONS SENTENCED AND TIME SERVED.—A State that received a grant under subsection (a) is eligible to receive additional grant amounts if such State demonstrates that the State has, since 1993—

"(1) increased the percentage of persons arrested for a part 1 violent crime sentenced to prison; or

"(2) increased the average prison time actually served or the average percent of sentence served by persons convicted of a part 1 violent crime.

Receipt of grant amounts under this subsection does not preclude eligibility for a grant under subsection (c).

"(c) ADDITIONAL AMOUNT FOR INCREASED RATE OF INCARCERATION AND PERCENTAGE OF SENTENCE SERVED.—A State that received a grant under subsection (a) is eligible to receive additional grant amounts if such State demonstrates that the State has—

"(1) since 1993, increased the percentage of persons arrested for a part 1 violent crime sentenced to prison, and has increased the average percent of sentence served by persons convicted of a part 1 violent crime; or

"(2) has increased by 10 percent or more over the most recent 3-year period the number of new court commitments to prison of persons convicted of part 1 violent crimes.

Receipt of grant amounts under this subsection does not preclude eligibility for a grant under subsection (b).

"SEC. 20104. TRUTH-IN-SENTENCING INCENTIVE GRANTS. 42 USC 13704.

"(a) ELIGIBILITY.—To be eligible to receive a grant award under this section, a State shall submit an application to the Attorney General that demonstrates that—

"(1) such State has implemented truth-in-sentencing laws that—

"(A) require persons convicted of a part 1 violent crime to serve not less than 85 percent of the sentence imposed (without counting time not actually served, such as administrative or statutory incentives for good behavior); or

"(B) result in persons convicted of a part 1 violent crime serving on average not less than 85 percent of the sentence imposed (without counting time not actually served, such as administrative or statutory incentives for good behavior);

"(2) such State has truth-in-sentencing laws that have been enacted, but not yet implemented, that require such State,

not later than 3 years after such State submits an application to the Attorney General, to provide that persons convicted of a part 1 violent crime serve not less than 85 percent of the sentence imposed (without counting time not actually served, such as administrative or statutory incentives for good behavior); or

"(3) in the case of a State that on the date of enactment of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1996, practices indeterminate sentencing with regard to any part 1 violent crime—

"(A) persons convicted of a part 1 violent crime on average serve not less than 85 percent of the prison term established under the State's sentencing and release guidelines; or

"(B) persons convicted of a part 1 violent crime on average serve not less than 85 percent of the maximum prison term allowed under the sentence imposed by the court (not counting time not actually served such as administrative or statutory incentives for good behavior).

"(b) EXCEPTION.—Notwithstanding subsection (a), a State may provide that the Governor of the State may allow for the earlier release of—

"(1) a geriatric prisoner; or

"(2) a prisoner whose medical condition precludes the prisoner from posing a threat to the public, but only after a public hearing in which representatives of the public and the prisoner's victims have had an opportunity to be heard regarding a proposed release.

42 USC 13705.

"SEC. 20105. SPECIAL RULES.

"(a) SHARING OF FUNDS WITH COUNTIES AND OTHER UNITS OF LOCAL GOVERNMENT.—

"(1) RESERVATION.—Each State shall reserve not more than 15 percent of the amount of funds allocated in a fiscal year pursuant to section 20106 for counties and units of local government to construct, develop, expand, modify, or improve jails and other correctional facilities.

"(2) FACTORS FOR DETERMINATION OF AMOUNT.—To determine the amount of funds to be reserved under this subsection, a State shall consider the burden placed on a county or unit of local government that results from the implementation of policies adopted by the State to carry out section 20103 or 20104.

"(b) ADDITIONAL REQUIREMENT.—To be eligible to receive a grant under section 20103 or 20104, a State shall provide assurances to the Attorney General that the State has implemented or will implement not later than 18 months after the date of the enactment of this subtitle, policies that provide for the recognition of the rights and needs of crime victims.

"(c) FUNDS FOR JUVENILE OFFENDERS.—Notwithstanding any other provision of this subtitle, if a State, or unit of local government located in a State that otherwise meets the requirements of section 20103 or 20104, certifies to the Attorney General that exigent circumstances exist that require the State to expend funds to build or expand facilities to confine juvenile offenders other than juvenile offenders adjudicated delinquent for an act which, if committed

by an adult, would be a part 1 violent crime, the State may use funds received under this subtitle to build or expand juvenile correctional facilities or pretrial detention facilities for juvenile offenders.

"(d) PRIVATE FACILITIES.—A State may use funds received under this subtitle for the privatization of facilities to carry out the purposes of section 20102.

"(e) DEFINITION.—For purposes of this subtitle, "part 1 violent crime" means a part 1 violent crime as defined in section 20101(3), or a crime in a reasonably comparable class of serious violent crimes as approved by the Attorney General.

"SEC. 20106. FORMULA FOR GRANTS. 42 USC 13706.

"(a) ALLOCATION OF VIOLENT OFFENDER INCARCERATION GRANTS UNDER SECTION 20103.—

"(1) FORMULA ALLOCATION.—85 percent of the amount available for grants under section 20103 for any fiscal year shall be allocated as follows (except that a State may not receive more than 9 percent of the total amount of funds made available under this paragraph):

"(A) 0.75 percent shall be allocated to each State that meets the requirements of section 20103(a), except that the United States Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands, if eligible under section 20103(a), shall each be allocated 0.05 percent.

"(B) The amount remaining after application of subparagraph (A) shall be allocated to each State that meets the requirements of section 20103(b), in the ratio that the number of part 1 violent crimes reported by such State to the Federal Bureau of Investigation for the 3 years preceding the year in which the determination is made, bears to the average annual number of part 1 violent crimes reported by all States that meet the requirements of section 20103(b) to the Federal Bureau of Investigation for the 3 years preceding the year in which the determination is made.

"(2) ADDITIONAL ALLOCATION.—15 percent of the amount available for grants under section 20103 for any fiscal year shall be allocated to each State that meets the requirements of section 20103(c) as follows:

"(A) 3.0 percent shall be allocated to each State that meets the requirements of section 20103(c), except that the United States Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands, if eligible under such subsection, shall each be allocated 0.03 percent.

"(B) The amount remaining after application of subparagraph (A) shall be allocated to each State that meets the requirements of section 20103(c), in the ratio that the number of part 1 violent crimes reported by such State to the Federal Bureau of Investigation for the 3 years preceding the year in which the determination is made, bears to the average annual number of part 1 violent crimes reported by all States that meet the requirements of section 20102(c) to the Federal Bureau of Investigation for the 3 years preceding the year in which the determination is made.

"(b) ALLOCATION OF TRUTH-IN-SENTENCING GRANTS UNDER SECTION 20104.—The amounts available for grants for section 20104 shall be allocated to each State that meets the requirements of section 20104 in the ratio that the average annual number of part 1 violent crimes reported by such State to the Federal Bureau of Investigation for the 3 years preceding the year in which the determination is made bears to the average annual number of part 1 violent crimes reported by States that meet the requirements of section 20104 to the Federal Bureau of Investigation for the 3 years preceding the year in which the determination is made, except that a State may not receive more than 25 percent of the total amount available for such grants.

"(c) UNAVAILABLE DATA.—If data regarding part 1 violent crimes in any State is substantially inaccurate or is unavailable for the 3 years preceding the year in which the determination is made, the Attorney General shall utilize the best available comparable data regarding the number of violent crimes for the previous year for the State for the purposes of allocation of funds under this subtitle.

"(d) REGIONAL COMPACTS.—In determining the amount of funds that States organized as a regional compact may receive, the Attorney General shall first apply the formula in either subsection (a) or (b) and (c) of this section to each member State of the compact. The States organized as a regional compact may receive the sum of the amounts so determined.

42 USC 13707.

"SEC. 20107. ACCOUNTABILITY.

"(a) FISCAL REQUIREMENTS.—A State that receives funds under this subtitle shall use accounting, audit, and fiscal procedures that conform to guidelines prescribed by the Attorney General, and shall ensure that any funds used to carry out the programs under section 20102(a) shall represent the best value for the State governments at the lowest possible cost and employ the best available technology.

"(b) ADMINISTRATIVE PROVISIONS.—The administrative provisions of sections 801 and 802 of the Omnibus Crime Control and Safe Streets Act of 1968 shall apply to the Attorney General under this subtitle in the same manner that such provisions apply to the officials listed in such sections.

42 USC 13708.

"SEC. 20108. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—

"(1) AUTHORIZATIONS.—There are authorized to be appropriated to carry out this subtitle—

"(A) $997,500,000 for fiscal year 1996;

"(B) $1,330,000,000 for fiscal year 1997;

"(C) $2,527,000,000 for fiscal year 1998;

"(D) $2,660,000,000 for fiscal year 1999; and

"(E) $2,753,100,000 for fiscal year 2000.

"(2) DISTRIBUTION.—

"(A) IN GENERAL.—Of the amounts remaining after the allocation of funds for the purposes set forth under sections 20110, 20111, and 20109, the Attorney General shall, from amounts authorized to be appropriated under paragraph (1) for each fiscal year, distribute 50 percent for incarceration grants under section 20103, and 50 percent for incentive grants under section 20104.

"(B) DISTRIBUTION OF MINIMUM AMOUNTS.—The Attorney General shall distribute minimum amounts allocated for section 20103(a) to an eligible State not later than 30 days after receiving an application that demonstrates that such State qualifies for a Violent Offender Incarceration grant under section 20103 or a Truth-in-Sentencing Incentive grant under section 20104.

"(b) LIMITATIONS ON FUNDS.—

"(1) USES OF FUNDS.—Except as provided in section 20110 and 20111, funds made available pursuant to this section shall be used only to carry out the purposes described in section 20102(a).

"(2) NONSUPPLANTING REQUIREMENT.—Funds made available pursuant to this section shall not be used to supplant State funds, but shall be used to increase the amount of funds that would, in the absence of Federal funds, be made available from State sources.

"(3) ADMINISTRATIVE COSTS.—Not more than 3 percent of the funds that remain available after carrying out sections 20109, 20110, and 20111 shall be available to the Attorney General for purposes of—

"(A) administration;

"(B) research and evaluation, including assessment of the effect on public safety and other effects of the expansion of correctional capacity and sentencing reforms implemented pursuant to this subtitle;

"(C) technical assistance relating to the use of grant funds, and development and implementation of sentencing reforms implemented pursuant to this subtitle; and

"(D) data collection and improvement of information systems relating to the confinement of violent offenders and other sentencing and correctional matters.

"(4) CARRYOVER OF APPROPRIATIONS.—Funds appropriated pursuant to this section during any fiscal year shall remain available until expended.

"(5) MATCHING FUNDS.—The Federal share of a grant received under this subtitle may not exceed 90 percent of the costs of a proposal as described in an application approved under this subtitle.

"SEC. 20109. PAYMENTS FOR INCARCERATION ON TRIBAL LANDS. 42 USC 13709.

"(a) RESERVATION OF FUNDS.—Notwithstanding any other provision of this subtitle other than section 20108(a)(2), from amounts appropriated to carry out sections 20103 and 20104, the Attorney General shall reserve, to carry out this section—

"(1) 0.3 percent in each of fiscal years 1996 and 1997; and

"(2) 0.2 percent in each of fiscal years 1998, 1999, and 2000.

"(b) GRANTS TO INDIAN TRIBES.—From the amounts reserved under subsection (a), the Attorney General may make grants to Indian tribes for the purposes of constructing jails on tribal lands for the incarceration of offenders subject to tribal jurisdiction.

"(c) APPLICATIONS.—To be eligible to receive a grant under this section, an Indian tribe shall submit to the Attorney General an application in such form and containing such information as the Attorney General may by regulation require.

42 USC 13710.

"SEC. 20110. PAYMENTS TO ELIGIBLE STATES FOR INCARCERATION OF CRIMINAL ALIENS.

"(a) IN GENERAL.—The Attorney General shall make a payment to each State which is eligible under section 242(j) of the Immigration and Nationality Act in such amount as is determined under section 242(j), and for which payment is not made to such State for such fiscal year under such section.

"(b) AUTHORIZATION OF APPROPRIATIONS.—Notwithstanding any other provision of this subtitle, there are authorized to be appropriated to carry out this section from amounts authorized under section 20108, an amount which when added to amounts appropriated to carry out section 242(j) of the Immigration and Nationality Act for fiscal year 1996 equals $500,000,000 and for each of the fiscal years 1997 through 2000 does not exceed $650,000,000.

"(c) ADMINISTRATION.—The amounts appropriated to carry out this section shall be reserved from the total amount appropriated for each fiscal year and shall be added to the other funds appropriated to carry out section 242(j) of the Immigration and Nationality Act and administered under such section.

"(d) REPORT TO CONGRESS.—Not later than May 15, 1999, the Attorney General shall submit a report to the Congress which contains the recommendation of the Attorney General concerning the extension of the program under this section.

42 USC 13711.

"SEC. 20111. SUPPORT OF FEDERAL PRISONERS IN NON-FEDERAL INSTITUTIONS.

"(a) IN GENERAL.—The Attorney General may make payments to States and units of local government for the purposes authorized in section 4013 of title 18, United States Code.

"(b) AUTHORIZATION OF APPROPRIATIONS.—Notwithstanding any other provision of this subtitle other than section 20108(a)(2), there are authorized to be appropriated from amounts authorized under section 20108 for each of fiscal years 1996 through 2000 such sums as may be necessary to carry out this section.

42 USC 13712.

"SEC. 20112. REPORT BY THE ATTORNEY GENERAL.

"Beginning on October 1, 1996, and each subsequent July 1 thereafter, the Attorney General shall report to the Congress on the implementation of this subtitle, including a report on the eligibility of the States under sections 20103 and 20104, and the distribution and use of funds under this subtitle.".

(b) CONFORMING AMENDMENTS.—

(1) OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968.—

42 USC 3796ii *et seq.*

(A) PART V.—Part V of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is repealed.

(B) FUNDING.—

42 USC 3793.

(i) Section 1001(a) of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by striking paragraph (20).

42 USC 3793 note.

(ii) Notwithstanding the provisions of subparagraph (A), any funds that remain available to an applicant under paragraph (20) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 shall be used in accordance with part V of such Act as if such Act was in effect on the day preceding the date of enactment of this Act.

(2) VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1994.—

(A) TABLE OF CONTENTS.—The table of contents of the Violent Crime Control and Law Enforcement Act of 1994 is amended by striking the matter relating to title V.

(B) COMPLIANCE.—Notwithstanding the provisions of paragraph (1), any funds that remain available to an applicant under title V of the Violent Crime Control and Law Enforcement Act of 1994 shall be used in accordance with such subtitle as if such subtitle was in effect on the day preceding the date of enactment of this Act. 42 USC 3796ii note.

(C) TRUTH-IN-SENTENCING.—The table of contents of the Violent Crime Control and Law Enforcement Act of 1994 is amended by striking the matter relating to subtitle A of title II and inserting the following:

"SUBTITLE A—VIOLENT OFFENDER INCARCERATION AND TRUTH-IN-SENTENCING INCENTIVE GRANTS

"Sec. 20101. Definitions.
"Sec. 20102. Authorization of Grants.
"Sec. 20103. Violent offender incarceration grants.
"Sec. 20104. Truth-in-sentencing incentive grants.
"Sec. 20105. Special rules.
"Sec. 20106. Formula for grants.
"Sec. 20107. Accountability.
"Sec. 20108. Authorization of appropriations.
"Sec. 20109. Payments for Incarceration on Tribal Lands.
"Sec. 20110. Payments to eligible States for incarceration of criminal aliens.
"Sec. 20111. Support of Federal prisoners in non-Federal institutions.
"Sec. 20112. Report by the Attorney General.".

SEC. 120. The pilot debt collection project authorized by Public Law 99–578, as amended, is extended through September 30, 1997. 31 USC 3718 note.

SEC. 121. The definition of "educational expenses" in Section 200103 of the Violent Crime Control and Law Enforcement Act of 1994, Public Law 103–322, is amended to read as follows: "'educational expenses" means expenses that are directly attributable to a course of education leading to the award of either a baccalaureate or graduate degree in a course of study which, in the judgment of the State or local police force to which the participant will be assigned, includes appropriate preparation for police service including the cost of tuition, fees, books, supplies, transportation, room and board and miscellaneous expenses." 42 USC 14092.

SEC. 122. Section 524(c) of title 28, United States Code, is amended by striking subparagraph (8)(E), as added by section 110 of the Department of Justice and Related Agencies Appropriations Act, 1995 (P. L. 103–317, 108 Stat. 1735 (1994)).

This title may be cited as the "Department of Justice Appropriations Act, 1996".

Department of Commerce and Related Agencies Appropriations Act, 1996.

TITLE II—DEPARTMENT OF COMMERCE AND RELATED AGENCIES

TRADE AND INFRASTRUCTURE DEVELOPMENT

RELATED AGENCIES

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

SALARIES AND EXPENSES

For necessary expenses of the Office of the United States Trade Representative, including the hire of passenger motor vehicles and the employment of experts and consultants as authorized by 5 U.S.C. 3109, $20,889,000, of which $2,500,000 shall remain available until expended: *Provided,* That not to exceed $98,000 shall be available for official reception and representation expenses.

INTERNATIONAL TRADE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the International Trade Commission, including hire of passenger motor vehicles and services as authorized by 5 U.S.C. 3109, and not to exceed $2,500 for official reception and representation expenses, $40,000,000, to remain available until expended.

DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

OPERATIONS AND ADMINISTRATION

For necessary expenses for international trade activities of the Department of Commerce provided for by law, and engaging in trade promotional activities abroad, including expenses of grants and cooperative agreements for the purpose of promoting exports of United States firms, without regard to 44 U.S.C. 3702 and 3703; full medical coverage for dependent members of immediate families of employees stationed overseas and employees temporarily posted overseas; travel and transportation of employees of the United States and Foreign Commercial Service between two points abroad, without regard to 49 U.S.C. 1517; employment of Americans and aliens by contract for services; rental of space abroad for periods not exceeding ten years, and expenses of alteration, repair, or improvement; purchase or construction of temporary demountable exhibition structures for use abroad; payment of tort claims, in the manner authorized in the first paragraph of 28 U.S.C. 2672 when such claims arise in foreign countries; not to exceed $327,000 for official representation expenses abroad; purchase of passenger motor vehicles for official use abroad, not to exceed $30,000 per vehicle; obtain insurance on official motor vehicles; and rent tie lines and teletype equipment; $264,885,000, to remain available until expended: *Provided,* That the provisions of the first sentence of section 105(f) and all of section 108(c) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2455(f) and 2458(c)) shall apply in carrying out these activities without regard to 15 U.S.C. 4912; and that for the purpose of this Act, contributions

under the provisions of the Mutual Educational and Cultural Exchange Act shall include payment for assessments for services provided as part of these activities.

EXPORT ADMINISTRATION

OPERATIONS AND ADMINISTRATION

For necessary expenses for export administration and national security activities of the Department of Commerce, including costs associated with the performance of export administration field activities both domestically and abroad; full medical coverage for dependent members of immediate families of employees stationed overseas; employment of Americans and aliens by contract for services abroad; rental of space abroad for periods not exceeding ten years, and expenses of alteration, repair, or improvement; payment of tort claims, in the manner authorized in the first paragraph of 28 U.S.C. 2672 when such claims arise in foreign countries; not to exceed $15,000 for official representation expenses abroad; awards of compensation to informers under the Export Administration Act of 1979, and as authorized by 22 U.S.C. 401(b); purchase of passenger motor vehicles for official use and motor vehicles for law enforcement use with special requirement vehicles eligible for purchase without regard to any price limitation otherwise established by law; $38,604,000, to remain available until expended: *Provided,* That the provisions of the first sentence of section 105(f) and all of section 108(c) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2455(f) and 2458(c)) shall apply in carrying out these activities: *Provided further,* That payments and contributions collected and accepted for materials or services provided as part of such activities may be retained for use in covering the cost of such activities, and for providing information to the public with respect to the export administration and national security activities of the Department of Commerce and other export control programs of the United States and other governments.

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

For grants for economic development assistance as provided by the Public Works and Economic Development Act of 1965, as amended, Public Law 91–304, and such laws that were in effect immediately before September 30, 1982, and for trade adjustment assistance, $328,500,000: *Provided,* That none of the funds appropriated or otherwise made available under this heading may be used directly or indirectly for attorneys' or consultants' fees in connection with securing grants and contracts made by the Economic Development Administration: *Provided further,* That, notwithstanding any other provision of law, the Secretary of Commerce may provide financial assistance for projects to be located on military installations closed or scheduled for closure or realignment to grantees eligible for assistance under the Public Works and Economic Development Act of 1965, as amended, without it being required that the grantee have title or ability to obtain a lease for the property, for the useful life of the project, when in the opinion of the Secretary of Commerce, such financial assistance is necessary for the economic development of the area: *Provided*

further, That the Secretary of Commerce may, as the Secretary considers appropriate, consult with the Secretary of Defense regarding the title to land on military installations closed or scheduled for closure or realignment.

SALARIES AND EXPENSES

For necessary expenses of administering the economic development assistance programs as provided for by law, $20,000,000: *Provided,* That these funds may be used to monitor projects approved pursuant to title I of the Public Works Employment Act of 1976, as amended, title II of the Trade Act of 1974, as amended, and the Community Emergency Drought Relief Act of 1977.

MINORITY BUSINESS DEVELOPMENT AGENCY

MINORITY BUSINESS DEVELOPMENT

For necessary expenses of the Department of Commerce in fostering, promoting, and developing minority business enterprise, including expenses of grants, contracts, and other agreements with public or private organizations, $32,000,000.

ECONOMIC AND INFORMATION INFRASTRUCTURE

ECONOMIC AND STATISTICAL ANALYSIS

SALARIES AND EXPENSES

For necessary expenses, as authorized by law, of economic and statistical analysis programs of the Department of Commerce, $45,900,000, to remain available until September 30, 1997.

ECONOMICS AND STATISTICS ADMINISTRATION REVOLVING FUND

15 USC 1527a note.

The Secretary of Commerce is authorized to disseminate economic and statistical data products as authorized by 15 U.S.C. 1525–1527 and, notwithstanding 15 U.S.C. 4912, charge fees necessary to recover the full costs incurred in their production. Notwithstanding 31 U.S.C. 3302, receipts received from these data dissemination activities shall be credited to this account, to be available for carrying out these purposes without further appropriation.

BUREAU OF THE CENSUS

SALARIES AND EXPENSES

For expenses necessary for collecting, compiling, analyzing, preparing, and publishing statistics, provided for by law, $133,812,000.

PERIODIC CENSUSES AND PROGRAMS

For expenses necessary to collect and publish statistics for periodic censuses and programs provided for by law, $150,300,000, to remain available until expended.

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses, as provided for by law, of the National Telecommunications and Information Administration, $17,000,000 to remain available until expended: *Provided,* That notwithstanding 31 U.S.C. 1535(d), the Secretary of Commerce is authorized to charge Federal agencies for spectrum management, analysis, and operations, and related services: *Provided further,* That the Secretary of Commerce is authorized to retain and use as offsetting collections all funds transferred, or previously transferred, from other Government agencies for spectrum management, analysis, and operations, and related services and for all costs incurred in telecommunications research, engineering, and related activities by the Institute for Telecommunication Sciences of the NTIA in furtherance of its assigned functions under this paragraph, and such funds received from other Government agencies shall remain available until expended.

PUBLIC BROADCASTING FACILITIES, PLANNING AND CONSTRUCTION

For grants authorized by section 392 of the Communications Act of 1934, as amended, $15,500,000, to remain available until expended as authorized by section 391 of the Act, as amended: *Provided,* That not to exceed $2,200,000 shall be available for program administration as authorized by section 391 of the Act: *Provided further,* That notwithstanding the provisions of section 391 of the Act, the prior year unobligated balances may be made available for grants for projects for which applications have been submitted and approved during any fiscal year.

INFORMATION INFRASTRUCTURE GRANTS

For grants authorized by section 392 of the Communications Act of 1934, as amended, $21,500,000, to remain available until expended as authorized by section 391 of the Act, as amended: *Provided,* That not to exceed $3,000,000 shall be available for program administration and other support activities as authorized by section 391 of the Act including support of the Advisory Council on National Information Infrastructure: *Provided further,* That of the funds appropriated herein, not to exceed 5 percent may be available for telecommunications research activities for projects related directly to the development of a national information infrastructure: *Provided further,* That notwithstanding the requirements of section 392(a) and 392(c) of the Act, these funds may be used for the planning and construction of telecommunications networks for the provision of educational, cultural, health care, public information, public safety or other social services.

PATENT AND TRADEMARK OFFICE

SALARIES AND EXPENSES

For necessary expenses of the Patent and Trademark Office provided for by law, including defense of suits instituted against the Commissioner of Patents and Trademarks; $82,324,000, to remain available until expended: *Provided,* That the funds made

available under this heading are to be derived from deposits in the Patent and Trademark Office Fee Surcharge Fund as authorized by law: *Provided further,* That the amounts made available under the Fund shall not exceed amounts deposited; and such fees as shall be collected pursuant to 15 U.S.C. 1113 and 35 U.S.C. 41 and 376, shall remain available until expended.

SCIENCE AND TECHNOLOGY

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

For necessary expenses of the National Institute of Standards and Technology, $259,000,000, to remain available until expended, of which not to exceed $8,500,000 may be transferred to the "Working Capital Fund".

INDUSTRIAL TECHNOLOGY SERVICES

For necessary expenses of the Manufacturing Extension Partnership and the Advanced Technology Program of the National Institute of Standards and Technology, $301,000,000, to remain available until expended, of which $80,000,000 shall be for the Manufacturing Extension Partnership, and of which $221,000,000 shall be for the Advanced Technology Program: *Provided,* That not to exceed $500,000 may be transferred to the "Working Capital Fund".

CONSTRUCTION OF RESEARCH FACILITIES

For construction of new research facilities, including architectural and engineering design, and for renovation of existing facilities, not otherwise provided for the National Institute of Standards and Technology, as authorized by 15 U.S.C. 278c–278e, $60,000,000, to remain available until expended.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of activities authorized by law for the National Oceanic and Atmospheric Administration, including acquisition, maintenance, operation, and hire of aircraft; not to exceed 358 commissioned officers on the active list; grants, contracts, or other payments to nonprofit organizations for the purposes of conducting activities pursuant to cooperative agreements; and alteration, modernization, and relocation of facilities as authorized by 33 U.S.C. 883i; $1,795,677,000, to remain available until expended: *Provided,* That notwithstanding 31 U.S.C. 3302 but consistent with other existing law, fees shall be assessed, collected, and credited to this appropriation as offsetting collections to be available until expended, to recover the costs of administering aeronautical charting programs: *Provided further,* That the sum herein appropriated from the general fund shall be reduced as such additional fees are received during fiscal year 1996, so as to result in a final general fund appropriation estimated at not more than $1,792,677,000: *Provided further,* That any such additional fees

33 USC 851.

received in excess of $3,000,000 in fiscal year 1996 shall not be available for obligation until October 1, 1996: *Provided further,* That fees and donations received by the National Ocean Service for the management of the national marine sanctuaries may be retained and used for the salaries and expenses associated with those activities, notwithstanding 31 U.S.C. 3302: *Provided further,* That in addition, $63,000,000 shall be derived by transfer from the fund entitled "Promote and Develop Fishery Products and Research Pertaining to American Fisheries": *Provided further,* That grants to States pursuant to sections 306 and 306(a) of the Coastal Zone Management Act, as amended, shall not exceed $2,000,000.

COASTAL ZONE MANAGEMENT FUND

Of amounts collected pursuant to 16 U.S.C. 1456a, not to exceed $7,800,000, for purposes set forth in 16 U.S.C. 1456a(b)(2)(A), 16 U.S.C. 1456a(b)(2)(B)(v), and 16 U.S.C. 1461(e).

CONSTRUCTION

For repair and modification of, and additions to, existing facilities and construction of new facilities, and for facility planning and design and land acquisition not otherwise provided for the National Oceanic and Atmospheric Administration, $50,000,000, to remain available until expended.

FLEET MODERNIZATION, SHIPBUILDING AND CONVERSION

For expenses necessary for the repair, acquisition, leasing, or conversion of vessels, including related equipment to maintain and modernize the existing fleet and to continue planning the modernization of the fleet, for the National Oceanic and Atmospheric Administration, $8,000,000, to remain available until expended.

FISHING VESSEL AND GEAR DAMAGE COMPENSATION FUND

For carrying out the provisions of section 3 of Public Law 95–376, not to exceed $1,032,000, to be derived from receipts collected pursuant to 22 U.S.C. 1980 (b) and (f), to remain available until expended.

FISHERMEN'S CONTINGENCY FUND

For carrying out the provisions of title IV of Public Law 95–372, not to exceed $999,000, to be derived from receipts collected pursuant to that Act, to remain available until expended.

FOREIGN FISHING OBSERVER FUND

For expenses necessary to carry out the provisions of the Atlantic Tunas Convention Act of 1975, as amended (Public Law 96–339), the Magnuson Fishery Conservation and Management Act of 1976, as amended (Public Law 100–627) and the American Fisheries Promotion Act (Public Law 96–561), there are appropriated from the fees imposed under the foreign fishery observer program authorized by these Acts, not to exceed $196,000, to remain available until expended.

FISHING VESSEL OBLIGATIONS GUARANTEES

For the cost, as defined in section 502 of the Federal Credit Reform Act of 1990, of guaranteed loans authorized by the Merchant Marine Act of 1936, as amended, $250,000: *Provided,* That none of the funds made available under this heading may be used to guarantee loans for any new fishing vessel that will increase the harvesting capacity in any United States fishery.

TECHNOLOGY ADMINISTRATION

UNDER SECRETARY FOR TECHNOLOGY/OFFICE OF TECHNOLOGY POLICY

SALARIES AND EXPENSES

For necessary expenses for the Under Secretary for Technology/ Office of Technology Policy, $7,000,000.

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

For expenses necessary for the general administration of the Department of Commerce provided for by law, including not to exceed $3,000 for official entertainment, $29,100,000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended (5 U.S.C. App. 1–11 as amended by Public Law 100–504), $19,849,000.

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

CONSTRUCTION OF RESEARCH FACILITIES

(RESCISSION)

Of the unobligated balances available under this heading, $75,000,000 are rescinded.

GENERAL PROVISIONS—DEPARTMENT OF COMMERCE

SEC. 201. During the current fiscal year, applicable appropriations and funds made available to the Department of Commerce by this Act shall be available for the activities specified in the Act of October 26, 1949 (15 U.S.C. 1514), to the extent and in the manner prescribed by the Act, and, notwithstanding 31 U.S.C. 3324, may be used for advanced payments not otherwise authorized only upon the certification of officials designated by the Secretary that such payments are in the public interest.

SEC. 202. During the current fiscal year, appropriations made available to the Department of Commerce by this Act for salaries and expenses shall be available for hire of passenger motor vehicles as authorized by 31 U.S.C. 1343 and 1344; services as authorized by 5 U.S.C. 3109; and uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901–5902).

SEC. 203. None of the funds made available by this Act may be used to support the hurricane reconnaissance aircraft and activities that are under the control of the United States Air Force or the United States Air Force Reserve.

SEC. 204. None of the funds provided in this or any previous Act, or hereinafter made available to the Department of Commerce shall be available to reimburse the Unemployment Trust Fund or any other fund or account of the Treasury to pay for any expenses paid before October 1, 1992, as authorized by section 8501 of title 5, United States Code, for services performed after April 20, 1990, by individuals appointed to temporary positions within the Bureau of the Census for purposes relating to the 1990 decennial census of population. 13 USC 23 note.

SEC. 205. Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Department of Commerce in this Act may be transferred between such appropriations, but no such appropriation shall be increased by more than 10 percent by any such transfers: *Provided,* That any transfer pursuant to this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SEC. 206. (a) Should legislation be enacted to dismantle or reorganize the Department of Commerce, the Secretary of Commerce, no later than 90 days thereafter, shall submit to the Committees on Appropriations of the House and the Senate a plan for transferring funds provided in this Act to the appropriate successor organizations: *Provided,* That the plan shall include a proposal for transferring or rescinding funds appropriated herein for agencies or programs terminated under such legislation: *Provided further,* That such plan shall be transmitted in accordance with section 605 of this Act.

(b) The Secretary of Commerce or the appropriate head of any successor organization(s) may use any available funds to carry out legislation dismantling or reorganizing the Department of Commerce to cover the costs of actions relating to the abolishment, reorganization or transfer of functions and any related personnel action, including voluntary separation incentives if authorized by such legislation: *Provided,* That the authority to transfer funds between appropriations accounts that may be necessary to carry out this section is provided in addition to authorities included under section 205 of this Act: *Provided further,* That use of funds to carry out this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SEC. 207. Notwithstanding any other provision of law (including any regulation and including the Public Works and Economic Development Act of 1965), the transfer of title to the Rutland City Industrial Complex to Hilinex, Vermont (as related to Economic Development Administration Project Number 01–11–01742) shall not require compensation to the Federal Government for the fair share of the Federal Government of that real property.

SEC. 208. (a) IN GENERAL.—The Secretary of Commerce, acting through the Assistant Secretary for Economic Development of the Department of Commerce, shall—

(1) not later than January 1, 1996, commence the demolition of the structures on, and the cleanup and environmental remediation on, the parcel of land described in subsection (b);

(2) not later than March 31, 1996, complete the demolition, cleanup, and environmental remediation under paragraph (1); and

(3) not later than April 1, 1996, convey the parcel of land described in subsection (b), in accordance with the requirements of section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)), to the Tuscaloosa County Industrial Development Authority, on receipt of payment of the fair market value for the parcel by the Authority, as agreed on by the Secretary and the Authority.

(b) LAND PARCEL.—The parcel of land referred to in subsection (a) is the parcel of land consisting of approximately 41 acres in Holt, Alabama (in Tuscaloosa County), that is generally known as the "Central Foundry Property", as depicted on a map, and as described in a legal description, that the Secretary, acting through the Assistant Secretary for Economic Development, determines to be satisfactory.

SEC. 209. Any costs incurred by a Department or agency funded under this title resulting from personnel actions taken in response to funding reductions included in this title shall be absorbed within the total budgetary resources available to such Department or agency: *Provided,* That the authority to transfer funds between appropriations accounts as may be necessary to carry out this provision is provided in addition to authorities included elsewhere in this Act: *Provided further,* That use of funds to carry out this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

16 USC 1851 note.

SEC. 210. None of the funds appropriated under this Act or any other Act may be used to develop new fishery management plans, amendments or regulations which create new individual fishing quota, individual transferable quota, or new individual transferable effort allocation programs, or to implement any such plans, amendments or regulations approved by a Regional Fishery Management Council or the Secretary of Commerce after January 4, 1995, until offsetting fees to pay for the cost of administering such plans, amendments or regulations are expressly authorized under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.). This restriction shall not apply in any way to any such programs approved by the Secretary of Commerce prior to January 4, 1995.

SEC. 211. Section 308(d) of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107(d)) is amended—

(1) in the heading, by striking "GRANTS" and inserting "ASSISTANCE";

(2) in paragraph (1), by striking "award grants to persons engaged in commercial fisheries, for uninsured losses determined by the Secretary to have been suffered" and inserting "help persons engaged in commercial fisheries, either by providing assistance directly to those persons or by providing assistance indirectly through States and local government agencies and nonprofit organizations, for projects or other measures

to alleviate harm determined by the Secretary to have been incurred";

(3) in paragraph (3), by striking "a grant" and inserting "direct assistance to a person";

(4) in paragraph (3), by striking "gross revenues annually," and inserting "net revenues annually from commercial fishing,";

(5) by striking paragraph (4) and inserting the following:

"(4)(A) Assistance may not be provided under this subsection as part of a fishing capacity reduction program in a fishery unless the Secretary determines that adequate conservation and management measures are in place in that fishery.

"(B) As a condition of awarding assistance with respect to a vessel under a fishing capacity reduction program, the Secretary shall—

"(i) prohibit the vessel from being used for fishing; and

"(ii) require that the vessel be—

"(I) scrapped or otherwise disposed of in a manner approved by the Secretary; or

"(II) donated to a nonprofit organization and thereafter used only for purposes of research, education, or training; or

"(III) used for another non-fishing purpose provided the Secretary determines that adequate measures are in place to ensure that the vessel cannot reenter any fishery.

"(C) A vessel that is prohibited from fishing under subparagraph (B) shall not be eligible for a fishery endorsement under section 12108(a) of title 46, United States Code, and any such endorsement for the vessel shall not be effective."; and

(6) in paragraph (5), by striking "for awarding grants" and all that follows through the end of the paragraph and inserting "for receiving assistance under this subsection.".

SEC. 212. The Secretary may award contracts for hydrographic, geodetic, and photogrammetric surveying and mapping services in accordance with Title IX of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 541 et seq.).

This title may be cited as the "Department of Commerce and Related Agencies Appropriations Act, 1996".

TITLE III—THE JUDICIARY

The Judiciary Appropriations Act, 1996.

SUPREME COURT OF THE UNITED STATES

SALARIES AND EXPENSES

For expenses necessary for the operation of the Supreme Court, as required by law, excluding care of the building and grounds, including purchase or hire, driving, maintenance and operation of an automobile for the Chief Justice, not to exceed $10,000 for the purpose of transporting Associate Justices, and hire of passenger motor vehicles as authorized by 31 U.S.C. 1343 and 1344; not to exceed $10,000 for official reception and representation expenses; and for miscellaneous expenses, to be expended as the Chief Justice may approve, $25,834,000.

CARE OF THE BUILDING AND GROUNDS

For such expenditures as may be necessary to enable the Architect of the Capitol to carry out the duties imposed upon him by the Act approved May 7, 1934 (40 U.S.C. 13a–13b), $3,313,000, of which $500,000 shall remain available until expended.

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

SALARIES AND EXPENSES

For salaries of the chief judge, judges, and other officers and employees, and for necessary expenses of the court, as authorized by law, $14,288,000.

UNITED STATES COURT OF INTERNATIONAL TRADE

SALARIES AND EXPENSES

For salaries of the chief judge and eight judges, salaries of the officers and employees of the court, services as authorized by 5 U.S.C. 3109, and necessary expenses of the court, as authorized by law, $10,859,000.

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

SALARIES AND EXPENSES

For the salaries of circuit and district judges (including judges of the territorial courts of the United States), justices and judges retired from office or from regular active service, judges of the United States Court of Federal Claims, bankruptcy judges, magistrate judges, and all other officers and employees of the Federal Judiciary not otherwise specifically provided for, and necessary expenses of the courts, as authorized by law, $2,433,141,000 (including the purchase of firearms and ammunition); of which not to exceed $13,454,000 shall remain available until expended for space alteration projects; of which not to exceed $10,000,000 shall remain available until expended for furniture and furnishings related to new space alteration and construction projects; and of which $500,000 is to remain available until expended for acquisition of books, periodicals, and newspapers, and all other legal reference materials, including subscriptions.

In addition, for expenses of the United States Court of Federal Claims associated with processing cases under the National Childhood Vaccine Injury Act of 1986, not to exceed $2,318,000, to be appropriated from the Vaccine Injury Compensation Trust Fund.

VIOLENT CRIME REDUCTION PROGRAMS

For activities of the Federal Judiciary as authorized by law, $30,000,000, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund, as authorized by section 190001(a) of Public Law 103–322.

DEFENDER SERVICES

For the operation of Federal Public Defender and Community Defender organizations, the compensation and reimbursement of expenses of attorneys appointed to represent persons under the Criminal Justice Act of 1964, as amended, the compensation and reimbursement of expenses of persons furnishing investigative, expert and other services under the Criminal Justice Act (18 U.S.C. 3006A(e)), the compensation (in accordance with Criminal Justice Act maximums) and reimbursement of expenses of attorneys appointed to assist the court in criminal cases where the defendant has waived representation by counsel, the compensation and reimbursement of travel expenses of guardians ad litem acting on behalf of financially eligible minor or incompetent offenders in connection with transfers from the United States to foreign countries with which the United States has a treaty for the execution of penal sentences, and the compensation of attorneys appointed to represent jurors in civil actions for the protection of their employment, as authorized by 28 U.S.C. 1875(d), $267,217,000, to remain available until expended as authorized by 18 U.S.C. 3006A(i): *Provided,* That none of the funds provided in this Act shall be available for Death Penalty Resource Centers or Post-Conviction Defender Organizations after April 1, 1996.

FEES OF JURORS AND COMMISSIONERS

For fees and expenses of jurors as authorized by 28 U.S.C. 1871 and 1876; compensation of jury commissioners as authorized by 28 U.S.C. 1863; and compensation of commissioners appointed in condemnation cases pursuant to rule 71A(h) of the Federal Rules of Civil Procedure (28 U.S.C. Appendix Rule 71A(h)); $59,028,000, to remain available until expended: *Provided,* That the compensation of land commissioners shall not exceed the daily equivalent of the highest rate payable under section 5332 of title 5, United States Code.

COURT SECURITY

For necessary expenses, not otherwise provided for, incident to the procurement, installation, and maintenance of security equipment and protective services for the United States Courts in courtrooms and adjacent areas, including building ingress-egress control, inspection of packages, directed security patrols, and other similar activities as authorized by section 1010 of the Judicial Improvement and Access to Justice Act (Public Law 100–702); $102,000,000, to be expended directly or transferred to the United States Marshals Service which shall be responsible for administering elements of the Judicial Security Program consistent with standards or guidelines agreed to by the Director of the Administrative Office of the United States Courts and the Attorney General.

ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

SALARIES AND EXPENSES

For necessary expenses of the Administrative Office of the United States Courts as authorized by law, including travel as authorized by 31 U.S.C. 1345, hire of a passenger motor vehicle as authorized by 31 U.S.C. 1343(b), advertising and rent in the

District of Columbia and elsewhere, $47,500,000, of which not to exceed $7,500 is authorized for official reception and representation expenses.

FEDERAL JUDICIAL CENTER

SALARIES AND EXPENSES

For necessary expenses of the Federal Judicial Center, as authorized by Public Law 90–219, $17,914,000; of which $1,800,000 shall remain available through September 30, 1997, to provide education and training to Federal court personnel; and of which not to exceed $1,000 is authorized for official reception and representation expenses.

JUDICIAL RETIREMENT FUNDS

PAYMENT TO JUDICIARY TRUST FUNDS

For payment to the Judicial Officers' Retirement Fund, as authorized by 28 U.S.C. 377(o), $24,000,000, to the Judicial Survivors' Annuities Fund, as authorized by 28 U.S.C. 376(c), $7,000,000, and to the United States Court of Federal Claims Judges' Retirement Fund, as authorized by 28 U.S.C. 178(l), $1,900,000.

UNITED STATES SENTENCING COMMISSION

SALARIES AND EXPENSES

For the salaries and expenses necessary to carry out the provisions of chapter 58 of title 28, United States Code, $8,500,000, of which not to exceed $1,000 is authorized for official reception and representation expenses.

GENERAL PROVISIONS—THE JUDICIARY

SEC. 301. Appropriations and authorizations made in this title which are available for salaries and expenses shall be available for services as authorized by 5 U.S.C. 3109.

SEC. 302. Appropriations made in this title shall be available for salaries and expenses of the Special Court established under the Regional Rail Reorganization Act of 1973, Public Law 93–236.

SEC. 303. Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Judiciary in this Act may be transferred between such appropriations, but no such appropriation, except "Courts of Appeals, District Courts, and other Judicial Services, Defender Services", shall be increased by more than 10 percent by any such transfers: *Provided,* That any transfer pursuant to this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SEC. 304. Notwithstanding any other provision of law, the salaries and expenses appropriation for district courts, courts of appeals, and other judicial services shall be available for official reception and representation expenses of the Judicial Conference of the United States: *Provided,* That such available funds shall not exceed $10,000 and shall be administered by the Director of

the Administrative Office of the United States Courts in his capacity as Secretary of the Judicial Conference.

SEC. 305. Section 333 of title 28, United States Code, is amended—

(1) in the first paragraph by striking "shall" the first, second, and fourth place it appears and inserting "may"; and

(2) in the second paragraph—

(A) by striking "shall" the first place it appears and inserting "may"; and

(B) by striking ", and unless excused by the chief judge, shall remain throughout the conference".

This title may be cited as "The Judiciary Appropriations Act, 1996".

TITLE IV—DEPARTMENT OF STATE AND RELATED AGENCIES

Department of State and Related Agencies Appropriations Act, 1996.

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

DIPLOMATIC AND CONSULAR PROGRAMS

For necessary expenses of the Department of State and the Foreign Service not otherwise provided for, including expenses authorized by the State Department Basic Authorities Act of 1956, as amended; representation to certain international organizations in which the United States participates pursuant to treaties, ratified pursuant to the advice and consent of the Senate, or specific Acts of Congress; acquisition by exchange or purchase of passenger motor vehicles as authorized by 31 U.S.C. 1343, 40 U.S.C. 481(c) and 22 U.S.C. 2674; and for expenses of general administration, $1,708,800,000: *Provided,* That notwithstanding section 140(a)(5), and the second sentence of section 140(a)(3) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236), not to exceed $125,000,000 of fees may be collected during fiscal year 1996 under the authority of section 140(a)(1) of that Act: *Provided further,* That all fees collected under the preceding proviso shall be deposited in fiscal year 1996 as an offsetting collection to appropriations made under this heading to recover the costs of providing consular services and shall remain available until expended: *Provided further,* That starting in fiscal year 1997, a system shall be in place that allocates to each department and agency the full cost of its presence outside of the United States.

8 USC 1351 note.

22 USC 2695b.

Of the funds provided under this heading, $24,856,000 shall be available only for the Diplomatic Telecommunications Service for operation of existing base services and not to exceed $17,144,000 shall be available only for the enhancement of the Diplomatic Telecommunications Service and shall remain available until expended. Of the latter amount, $2,500,000 shall not be made available until expiration of the 15 day period beginning on the date when the Secretary of State and the Director of the Diplomatic Telecommunications Service submit the pilot program report required by section 507 of Public Law 103–317.

In addition, not to exceed $700,000 in registration fees collected pursuant to section 38 of the Arms Export Control Act, as amended, may be used in accordance with section 45 of the State Department Basic Authorities Act of 1956, 22 U.S.C. 2717; and in addition

not to exceed $1,223,000 shall be derived from fees from other executive agencies for lease or use of facilities located at the International Center in accordance with section 4 of the International Center Act (Public Law 90–553, as amended by section 120 of Public Law 101–246); and in addition not to exceed $15,000 which shall be derived from reimbursements, surcharges, and fees for use of Blair House facilities in accordance with section 46 of the State of Department Basic Authorities Act of 1956 (22 U.S.C. 2718(a)).

Notwithstanding section 402 of this Act, not to exceed 20 percent of the amounts made available in this Act in the appropriation accounts, "Diplomatic and Consular Programs" and "Salaries and Expenses" under the heading "Administration of Foreign Affairs" may be transferred between such appropriation accounts: *Provided,* That any transfer pursuant to this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

For an additional amount for security enhancements to counter the threat of terrorism, $9,720,000, to remain available until expended.

SALARIES AND EXPENSES

For expenses necessary for the general administration of the Department of State and the Foreign Service, provided for by law, including expenses authorized by section 9 of the Act of August 31, 1964, as amended (31 U.S.C. 3721), and the State Department Basic Authorities Act of 1956, as amended, $363,276,000.

For an additional amount for security enhancements to counter the threat of terrorism, $1,870,000, to remain available until expended.

CAPITAL INVESTMENT FUND

For necessary expenses of the Capital Investment Fund, $16,400,000, to remain available until expended, as authorized in Public Law 103–236: *Provided,* That section 135(e) of Public Law 103–236 shall not apply to funds appropriated under this heading.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended (5 U.S.C. App.), $27,369,000, notwithstanding section 209(a)(1) of the Foreign Service Act of 1980 (Public Law 96–465), as it relates to post inspections: *Provided,* That notwithstanding any other provision of law, (1) the Office of the Inspector General of the United States Information Agency is hereby merged with the Office of the Inspector General of the Department of State; (2) the functions exercised and assigned to the Office of the Inspector General of the United States Information Agency before the effective date of this Act (including all related functions) are transferred to the Office of the Inspector General of the Department of State; and (3) the Inspector General of the Department of State shall also serve as the Inspector General of the United States Information Agency.

5 USC app. 11 note.

REPRESENTATION ALLOWANCES

For representation allowances as authorized by section 905 of the Foreign Service Act of 1980, as amended (22 U.S.C. 4085), $4,500,000.

PROTECTION OF FOREIGN MISSIONS AND OFFICIALS

For expenses, not otherwise provided, to enable the Secretary of State to provide for extraordinary protective services in accordance with the provisions of section 214 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4314) and 3 U.S.C. 208, $8,579,000.

SECURITY AND MAINTENANCE OF UNITED STATES MISSIONS

For necessary expenses for carrying out the Foreign Service Buildings Act of 1926, as amended (22 U.S.C. 292–300), and the Diplomatic Security Construction Program as authorized by title IV of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 (22 U.S.C. 4851), $385,760,000, to remain available until expended as authorized by 22 U.S.C. 2696(c): *Provided,* That none of the funds appropriated in this paragraph shall be available for acquisition of furniture and furnishings and generators for other departments and agencies.

EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE

For expenses necessary to enable the Secretary of State to meet unforeseen emergencies arising in the Diplomatic and Consular Service pursuant to the requirement of 31 U.S.C. 3526(e), $6,000,000, to remain available until expended as authorized by 22 U.S.C. 2696(c), of which not to exceed $1,000,000 may be transferred to and merged with the Repatriation Loans Program Account, subject to the same terms and conditions.

REPATRIATION LOANS PROGRAM ACCOUNT

For the cost of direct loans, $593,000, as authorized by 22 U.S.C. 2671: *Provided,* That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974. In addition, for administrative expenses necessary to carry out the direct loan program, $183,000 which may be transferred to and merged with the Salaries and Expenses account under Administration of Foreign Affairs.

PAYMENT TO THE AMERICAN INSTITUTE IN TAIWAN

For necessary expenses to carry out the Taiwan Relations Act, Public Law 96–8 (93 Stat. 14), $15,165,000.

PAYMENT TO THE FOREIGN SERVICE RETIREMENT AND DISABILITY FUND

For payment to the Foreign Service Retirement and Disability Fund, as authorized by law, $125,402,000.

INTERNATIONAL ORGANIZATIONS AND CONFERENCES

22 USC 269a note.

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

For expenses, not otherwise provided for, necessary to meet annual obligations of membership in international multilateral organizations, pursuant to treaties ratified pursuant to the advice and consent of the Senate, conventions or specific Acts of Congress, $892,000,000: *Provided,* That any payment of arrearages shall be directed toward special activities that are mutually agreed upon by the United States and the respective international organization: *Provided further,* That 20 percent of the funds appropriated in this paragraph for the assessed contribution of the United States to the United Nations shall be withheld from obligation and expenditure until a certification is made under section 401(b) of Public Law 103–236 for fiscal year 1996: *Provided further,* That certification under section 401(b) of Public Law 103–236 for fiscal year 1996 may only be made if the Committees on Appropriations and Foreign Relations of the Senate and the Committees on Appropriations and International Relations of the House of Representatives are notified of the steps taken, and anticipated, to meet the requirements of section 401(b) of Public Law 103–236 at least 15 days in advance of the proposed certification: *Provided further,* That none of the funds appropriated in this paragraph shall be available for a United States contribution to an international organization for the United States share of interest costs made known to the United States Government by such organization for loans incurred on or after October 1, 1984, through external borrowings: *Provided further,* That of the funds appropriated in this paragraph, $80,000,000 may be made available only on a quarterly basis and only after the Secretary of State certifies on a quarterly basis that the United Nations has taken no action to increase funding for any United Nations program without identifying an offsetting decrease elsewhere in the United Nations budget and cause the United Nations to exceed its no growth budget for the biennium 1996–1997 adopted in December, 1995.

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

For necessary expenses to pay assessed and other expenses of international peacekeeping activities directed to the maintenance or restoration of international peace and security, $359,000,000: *Provided,* That none of the funds made available under this Act shall be obligated or expended for any new or expanded United Nations peacekeeping mission unless, at least fifteen days in advance of voting for the new or expanded mission in the United Nations Security Council (or in an emergency, as far in advance as is practicable), (1) the Committees on Appropriations of the House of Representatives and the Senate and other appropriate Committees of the Congress are notified of the estimated cost and length of the mission, the vital national interest that will be served, and the planned exit strategy; and (2) a reprogramming of funds pursuant to section 605 of this Act is submitted, and the procedures therein followed, setting forth the source of funds that will be used to pay for the cost of the new or expanded mission: *Provided further,* That funds shall be available for peacekeeping expenses only upon a certification by the Secretary of State to the appropriate committees of the Congress that American

manufacturers and suppliers are being given opportunities to provide equipment, services and material for United Nations peacekeeping activities equal to those being given to foreign manufacturers and suppliers.

INTERNATIONAL CONFERENCES AND CONTINGENCIES

For necessary expenses authorized by section 5 of the State Department Basic Authorities Act of 1956, in addition to funds otherwise available for these purposes, contributions for the United States share of general expenses of international organizations and conferences and representation to such organizations and conferences as provided for by 22 U.S.C. 2656 and 2672 and personal services without regard to civil service and classification laws as authorized by 5 U.S.C. 5102, $3,000,000, to remain available until expended as authorized by 22 U.S.C. 2696(c), of which not to exceed $200,000 may be expended for representation as authorized by 22 U.S.C. 4085.

INTERNATIONAL COMMISSIONS

For necessary expenses, not otherwise provided for, to meet obligations of the United States arising under treaties, or specific Acts of Congress, as follows: 22 USC 269a note.

INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO

For necessary expenses for the United States Section of the International Boundary and Water Commission, United States and Mexico, and to comply with laws applicable to the United States Section, including not to exceed $6,000 for representation; as follows:

SALARIES AND EXPENSES

For salaries and expenses, not otherwise provided for, $12,058,000.

CONSTRUCTION

For detailed plan preparation and construction of authorized projects, $6,644,000, to remain available until expended as authorized by 22 U.S.C. 2696(c).

AMERICAN SECTIONS, INTERNATIONAL COMMISSIONS

For necessary expenses, not otherwise provided for the International Joint Commission and the International Boundary Commission, United States and Canada, as authorized by treaties between the United States and Canada or Great Britain, and for the Border Environment Cooperation Commission as authorized by Public Law 103–182; $5,800,000, of which not to exceed $9,000 shall be available for representation expenses incurred by the International Joint Commission.

INTERNATIONAL FISHERIES COMMISSIONS

For necessary expenses for international fisheries commissions, not otherwise provided for, as authorized by law, $14,669,000: *Provided,* That the United States share of such expenses may be

advanced to the respective commissions, pursuant to 31 U.S.C. 3324.

OTHER

PAYMENT TO THE ASIA FOUNDATION

For a grant to the Asia Foundation, as authorized by section 501 of Public Law 101–246, $5,000,000, to remain available until expended as authorized by 22 U.S.C. 2696(c).

RELATED AGENCIES

ARMS CONTROL AND DISARMAMENT AGENCY

ARMS CONTROL AND DISARMAMENT ACTIVITIES

For necessary expenses not otherwise provided, for arms control, nonproliferation, and disarmament activities, $38,700,000, of which not to exceed $50,000 shall be for official reception and representation expenses as authorized by the Act of September 26, 1961, as amended (22 U.S.C. 2551 et seq.).

UNITED STATES INFORMATION AGENCY

SALARIES AND EXPENSES

For expenses, not otherwise provided for, necessary to enable the United States Information Agency, as authorized by the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451 et seq.), the United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. 1431 et seq.) and Reorganization Plan No. 2 of 1977 (91 Stat. 1636), to carry out international communication, educational and cultural activities; and to carry out related activities authorized by law, including employment, without regard to civil service and classification laws, of persons on a temporary basis (not to exceed $700,000 of this appropriation), as authorized by 22 U.S.C. 1471, and entertainment, including official receptions, within the United States, not to exceed $25,000 as authorized by 22 U.S.C. 1474(3); $445,645,000: *Provided,* That not to exceed $1,400,000 may be used for representation abroad as authorized by 22 U.S.C. 1452 and 4085: *Provided further,* That not to exceed $7,615,000 to remain available until expended, may be credited to this appropriation from fees or other payments received from or in connection with English teaching, library, motion pictures, and publication programs as authorized by section 810 of the United States Information and Educational Exchange Act of 1948, as amended: *Provided further,* That not to exceed $1,700,000 to remain available until expended may be used to carry out projects involving security construction and related improvements for agency facilities not physically located together with Department of State facilities abroad.

TECHNOLOGY FUND

For expenses necessary to enable the United States Information Agency to provide for the procurement of information technology improvements, as authorized by the United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. 1431 et seq.), the Mutual Educational and Cultural Exchange Act of

1961, as amended (22 U.S.C. 2451 et seq.), and Reorganization Plan No. 2 of 1977 (91 Stat. 1636), $5,050,000, to remain available until expended.

EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS

For expenses of educational and cultural exchange programs, as authorized by the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451 et seq.), and Reorganization Plan No. 2 of 1977 (91 Stat. 1636), $200,000,000, to remain available until expended as authorized by 22 U.S.C. 2455.

EISENHOWER EXCHANGE FELLOWSHIP PROGRAM TRUST FUND

For necessary expenses of Eisenhower Exchange Fellowships, Incorporated, as authorized by sections 4 and 5 of the Eisenhower Exchange Fellowship Act of 1990 (20 U.S.C. 5204–05), all interest and earnings accruing to the Eisenhower Exchange Fellowship Program Trust Fund on or before September 30, 1996, to remain available until expended: *Provided,* That none of the funds appropriated herein shall be used to pay any salary or other compensation, or to enter into any contract providing for the payment thereof, in excess of the rate authorized by 5 U.S.C. 5376; or for purposes which are not in accordance with OMB Circulars A–110 (Uniform Administrative Requirements) and A–122 (Cost Principles for Nonprofit Organizations), including the restrictions on compensation for personal services.

ISRAELI ARAB SCHOLARSHIP PROGRAM

For necessary expenses of the Israeli Arab Scholarship Program as authorized by section 214 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (22 U.S.C. 2452), all interest and earnings accruing to the Israeli Arab Scholarship Fund on or before September 30, 1996, to remain available until expended.

AMERICAN STUDIES COLLECTIONS ENDOWMENT FUND

For necessary expenses of American Studies Collections as authorized by section 235 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995, all interest and earnings accruing to the American Studies Collections Endowment Fund on or before September 30, 1996, to remain available until expended.

INTERNATIONAL BROADCASTING OPERATIONS

For expenses necessary to enable the United States Information Agency, as authorized by the United States Information and Educational Exchange Act of 1948, as amended, the United States International Broadcasting Act of 1994, as amended, and Reorganization Plan No. 2 of 1977, to carry out international communication activities; $325,191,000, of which $5,000,000 shall remain available until expended, not to exceed $16,000 may be used for official receptions within the United States as authorized by 22 U.S.C. 1474(3), not to exceed $35,000 may be used for representation abroad as authorized by 22 U.S.C. 1452 and 4085, and not to exceed $39,000 may be used for official reception and representation expenses of Radio Free Europe/Radio Liberty; and in addition, not to exceed $250,000 from fees as authorized by section 810 of the

United States Information and Educational Exchange Act of 1948, as amended, to remain available until expended for carrying out authorized purposes; and in addition, notwithstanding any other provision of law, not to exceed $1,000,000 in monies received (including receipts from advertising, if any) by or for the use of the United States Information Agency from or in connection with broadcasting resources owned by or on behalf of the Agency, to be available until expended for carrying out authorized purposes.

BROADCASTING TO CUBA

For expenses necessary to enable the United States Information Agency to carry out the Radio Broadcasting to Cuba Act, as amended, the Television Broadcasting to Cuba Act, and the International Broadcasting Act of 1994, including the purchase, rent, construction, and improvement of facilities for radio and television transmission and reception, and purchase and installation of necessary equipment for radio and television transmission and reception, $24,809,000 to remain available until expended: *Provided,* That not later than April 1, 1996, the headquarters of the Office of Cuba Broadcasting shall be relocated from Washington, D.C. to south Florida, and that any funds available under the headings "International Broadcasting Operations", "Broadcasting to Cuba", and "Radio Construction" may be available to carry out this relocation.

RADIO CONSTRUCTION

For an additional amount for the purchase, rent, construction, and improvement of facilities for radio transmission and reception and purchase and installation of necessary equipment for radio and television transmission and reception as authorized by 22 U.S.C. 1471, $40,000,000, to remain available until expended as authorized by 22 U.S.C. 1477b(a).

EAST-WEST CENTER

To enable the Director of the United States Information Agency to provide for carrying out the provisions of the Center for Cultural and Technical Interchange Between East and West Act of 1960 (22 U.S.C. 2054–2057), by grant to the Center for Cultural and Technical Interchange Between East and West in the State of Hawaii, $11,750,000: *Provided,* That none of the funds appropriated herein shall be used to pay any salary, or enter into any contract providing for the payment thereof, in excess of the rate authorized by 5 U.S.C. 5376.

NORTH/SOUTH CENTER

To enable the Director of the United States Information Agency to provide for carrying out the provisions of the North/South Center Act of 1991 (22 U.S.C. 2075), by grant to an educational institution in Florida known as the North/South Center, $2,000,000, to remain available until expended.

NATIONAL ENDOWMENT FOR DEMOCRACY

For grants made by the United States Information Agency to the National Endowment for Democracy as authorized by the National Endowment for Democracy Act, $30,000,000, to remain available until expended.

GENERAL PROVISIONS—DEPARTMENT OF STATE AND RELATED AGENCIES

SEC. 401. Funds appropriated under this title shall be available, except as otherwise provided, for allowances and differentials as authorized by subchapter 59 of 5 U.S.C.; for services as authorized by 5 U.S.C. 3109; and hire of passenger transportation pursuant to 31 U.S.C. 1343(b).

SEC. 402. Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Department of State in this Act may be transferred between such appropriations, but no such appropriation, except as otherwise specifically provided, shall be increased by more than 10 percent by any such transfers: *Provided,* That not to exceed 5 percent of any appropriation made available for the current fiscal year for the United States Information Agency in this Act may be transferred between such appropriations, but no such appropriation, except as otherwise specifically provided, shall be increased by more than 10 percent by any such transfers: *Provided further,* That any transfer pursuant to this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SEC. 403. Funds appropriated or otherwise made available under this Act or any other Act may be expended for compensation of the United States Commissioner of the International Boundary Commission, United States and Canada, only for actual hours worked by such Commissioner.

SEC. 404. (a) No later than 90 days after enactment of legislation consolidating, reorganizing or downsizing the functions of the Department of State, the United States Information Agency, and the Arms Control and Disarmament Agency, the Secretary of State, the Director of the United States Information Agency and the Director of the Arms Control and Disarmament Agency shall submit to the Committees on Appropriations of the House and the Senate a proposal for transferring or rescinding funds appropriated herein for functions that are consolidated, reorganized or downsized under such legislation: *Provided,* That such plan shall be transmitted in accordance with section 605 of this Act.

(b) The Secretary of State, the Director of the United States Information Agency, and the Director of the Arms Control and Disarmament Agency, as appropriate, may use any available funds to cover the costs of actions to consolidate, reorganize or downsize the functions under their authority required by such legislation, and of any related personnel action, including voluntary separation incentives if authorized by such legislation: *Provided,* That the authority to transfer funds between appropriations accounts that may be necessary to carry out this section is provided in addition to authorities included under section 402 of this Act: *Provided further,* That use of funds to carry out this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SEC. 405. Funds appropriated by this Act for the United States Information Agency, the Arms Control and Disarmament Agency, and the Department of State may be obligated and expended notwithstanding section 701 of the United States Information and

Educational Exchange Act of 1948 and section 313 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995, section 53 of the Arms Control and Disarmament Act, and section 15 of the State Department Basic Authorities Act of 1956.

SEC. 406. Section 36(a)(1) of the State Department Authorities Act of 1956, as amended (22 U.S.C. 2708), is amended to delete "may pay a reward" and insert in lieu thereof "shall establish and publicize a program under which rewards may be paid".

20 USC 5205. 20 USC 5203 note.

SEC. 407. Sections 6(a) and 6(b) of Public Law 101–454 are repealed. In addition, notwithstanding any other provision of law, Eisenhower Exchange Fellowships, Incorporated, may use one-third of any earned but unused trust income from the period 1992 through 1995 for Fellowship purposes in each of fiscal years 1996 through 1998.

SEC. 408. It is the sense of the Senate that none of the funds appropriated or otherwise made available pursuant to this Act should be used for the deployment of combat-equipped forces of the Armed Forces of the United States for any ground operations in Bosnia and Herzegovina unless—

(1) Congress approves in advance the deployment of such forces of the Armed Forces; or

(2) the temporary deployment of such forces of the Armed Forces of the United States into Bosnia and Herzegovina is necessary to evacuate United Nations peacekeeping forces from a situation of imminent danger, to undertake emergency air rescue operations, or to provide for the airborne delivery of humanitarian supplies, and the President reports as soon as practicable to Congress after the initiation of the temporary deployment, but in no case later than 48 hours after the initiation of the deployment.

SEC. 409. Any costs incurred by a Department or agency funded under this title resulting from personnel actions taken in response to funding reductions included in this title shall be absorbed within the total budgetary resources available to such Department or agency: *Provided,* That the authority to transfer funds between appropriations accounts as may be necessary to carry out this provision is provided in addition to authorities included elsewhere in this Act: *Provided further,* That use of funds to carry out this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SEC. 410. Section 235 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101–246) is amended by inserting "Tinian," after "Sao Tome,".

SEC. 411. The appropriation for the Arms Control and Disarmament Agency in Public Law 103–317 (108 Stat. 1768) is amended by deleting after "until expended" the following: "only for activities related to the implementation of the Chemical Weapons Convention": *Provided,* That amounts made available shall not be used to undertake new programs or to increase employment above levels on board at the time of enactment of this Act.

This title may be cited as the "Department of State and Related Agencies Appropriations Act, 1996".

TITLE V—RELATED AGENCIES

DEPARTMENT OF TRANSPORTATION

MARITIME ADMINISTRATION

OPERATING-DIFFERENTIAL SUBSIDIES

(LIQUIDATION OF CONTRACT AUTHORITY)

For the payment of obligations incurred for operating-differential subsidies as authorized by the Merchant Marine Act, 1936, as amended, $162,610,000, to remain available until expended.

MARITIME NATIONAL SECURITY PROGRAM

For necessary expenses to maintain and preserve a U.S.-flag merchant fleet to serve the national security needs of the United States as determined by the Secretary of Defense in consultation with the Secretary of Transportation, $46,000,000, to remain available until expended: *Provided,* That these funds will be available only upon enactment of an authorization for this program.

OPERATIONS AND TRAINING

For necessary expenses of operations and training activities authorized by law, $66,600,000, to remain available until expended: *Provided,* That notwithstanding any other provision of law, the Secretary of Transportation may use proceeds derived from the sale or disposal of National Defense Reserve Fleet vessels that are currently collected and retained by the Maritime Administration, to be used for facility and ship maintenance, modernization and repair, conversion, acquisition of equipment, and fuel costs necessary to maintain training at the United States Merchant Marine Academy and State maritime academies and may be transferred to the Secretary of the Interior for use as provided in the National Maritime Heritage Act (Public Law 103–451): *Provided further,* That reimbursements may be made to this appropriation from receipts to the "Federal Ship Financing Fund" for administrative expenses in support of that program in addition to any amount heretofore appropriated.

MARITIME GUARANTEED LOAN (TITLE XI) PROGRAM ACCOUNT

For the cost of guaranteed loans, as authorized by the Merchant Marine Act of 1936, $40,000,000, to remain available until expended: *Provided,* That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: *Provided further,* That these funds are available to subsidize total loan principal, any part of which is to be guaranteed, not to exceed $1,000,000,000.

In addition, for administrative expenses to carry out the guaranteed loan program, not to exceed $3,500,000, which shall be transferred to and merged with the appropriation for Operations and Training.

ADMINISTRATIVE PROVISIONS—MARITIME ADMINISTRATION

Notwithstanding any other provision of this Act, the Maritime Administration is authorized to furnish utilities and services and

make necessary repairs in connection with any lease, contract, or occupancy involving Government property under control of the Maritime Administration, and payments received therefor shall be credited to the appropriation charged with the cost thereof: *Provided,* That rental payments under any such lease, contract, or occupancy for items other than such utilities, services, or repairs shall be covered into the Treasury as miscellaneous receipts.

No obligations shall be incurred during the current fiscal year from the construction fund established by the Merchant Marine Act, 1936, or otherwise, in excess of the appropriations and limitations contained in this Act or in any prior appropriation Act, and all receipts which otherwise would be deposited to the credit of said fund shall be covered into the Treasury as miscellaneous receipts.

COMMISSION FOR THE PRESERVATION OF AMERICA'S HERITAGE ABROAD

SALARIES AND EXPENSES

For expenses for the Commission for the Preservation of America's Heritage Abroad, $206,000, as authorized by Public Law 99–83, section 1303.

COMMISSION ON CIVIL RIGHTS

SALARIES AND EXPENSES

For necessary expenses of the Commission on Civil Rights, including hire of passenger motor vehicles, $8,750,000: *Provided,* That not to exceed $50,000 may be used to employ consultants: *Provided further,* That none of the funds appropriated in this paragraph shall be used to employ in excess of four full-time individuals under Schedule C of the Excepted Service exclusive of one special assistant for each Commissioner: *Provided further,* That none of the funds appropriated in this paragraph shall be used to reimburse Commissioners for more than 75 billable days, with the exception of the Chairperson who is permitted 125 billable days.

COMMISSION ON IMMIGRATION REFORM

SALARIES AND EXPENSES

For necessary expenses of the Commission on Immigration Reform pursuant to section 141(f) of the Immigration Act of 1990, $1,894,000, to remain available until expended.

COMMISSION ON SECURITY AND COOPERATION IN EUROPE

SALARIES AND EXPENSES

For necessary expenses of the Commission on Security and Cooperation in Europe, as authorized by Public Law 94–304, $1,090,000, to remain available until expended as authorized by section 3 of Public Law 99–7.

COMPETITIVENESS POLICY COUNCIL

SALARIES AND EXPENSES

For necessary expenses of the Competitiveness Policy Council, $50,000: *Provided,* That this shall be the final Federal payment to the Competitiveness Policy Council.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Equal Employment Opportunity Commission as authorized by title VII of the Civil Rights Act of 1964, as amended (29 U.S.C. 206(d) and 621–634), the Americans with Disabilities Act of 1990 and the Civil Rights Act of 1991, including services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles as authorized by 31 U.S.C. 1343(b); nonmonetary awards to private citizens; not to exceed $26,500,000, for payments to State and local enforcement agencies for services to the Commission pursuant to title VII of the Civil Rights Act of 1964, as amended, sections 6 and 14 of the Age Discrimination in Employment Act, the Americans with Disabilities Act of 1990, and the Civil Rights Act of 1991; $233,000,000: *Provided,* That the Commission is authorized to make available for official reception and representation expenses not to exceed $2,500 from available funds.

FEDERAL COMMUNICATIONS COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Communications Commission, as authorized by law, including uniforms and allowances therefor, as authorized by 5 U.S.C. 5901–02; not to exceed $600,000 for land and structure; not to exceed $500,000 for improvement and care of grounds and repair to buildings; not to exceed $4,000 for official reception and representation expenses; purchase (not to exceed sixteen) and hire of motor vehicles; special counsel fees; and services as authorized by 5 U.S.C. 3109; $185,709,000, of which not to exceed $300,000 shall remain available until September 30, 1997, for research and policy studies: *Provided,* That $126,400,000 of offsetting collections shall be assessed and collected pursuant to section 9 of title I of the Communications Act of 1934, as amended, and shall be retained and used for necessary expenses in this appropriation, and shall remain available until expended: *Provided further,* That the sum herein appropriated shall be reduced as such offsetting collections are received during fiscal year 1996 so as to result in a final fiscal year 1996 appropriation estimated at $59,309,000: *Provided further,* That any offsetting collections received in excess of $126,400,000 in fiscal year 1996 shall remain available until expended, but shall not be available for obligation until October 1, 1996: *Provided further,* That the Commission shall amend its schedule of regulatory fees set forth in section 1.1153 of title 47, CFR, authorized by section 9 of title I of the Communications Act of 1934, as amended by: (1) striking "$22,420" in the Annual Regulatory Fee column for VHF Commercial Markets 1 through 10 and inserting "$32,000"; (2) striking "$19,925" in the Annual Regulatory Fee column for VHF Commercial Markets 11 through 25 and inserting "$26,000"; (3) striking

"$14,950" in the Annual Regulatory Fee column for VHF Commercial Markets 26 through 50 and inserting "$17,000"; (4) striking "$9,975" in the Annual Regulatory Fee column for VHF Commercial Markets 51 through 100 and inserting "$9,000"; (5) striking "$6,225" in the Annual Regulatory Fee column for VHF Commercial Remaining Markets and inserting "$2,500"; and (6) striking "$17,925" in the Annual Regulatory Fee column for UHF Commercial Markets 1 through 10 and inserting "$25,000"; (7) striking "$15,950" in the Annual Regulatory Fee column for UHF Commercial Markets 11 through 25 and inserting "$20,000"; (8) striking "$11,950" in the Annual Regulatory Fee column for UHF Commercial Markets 26 through 50 and inserting "$13,000"; (9) striking "$7,975" in the Annual Regulatory Fee column for UHF Commercial Markets 51 through 100 and inserting "$7,000"; and (10) striking "$4,975" in the Annual Regulatory Fee column for UHF Commercial Remaining Markets and inserting "$2,000": *Provided further,* That the Federal Communications Commission shall, not later than 30 days after receipt of a petition by WQED, Pittsburgh, determine, without conducting a rulemaking or other proceeding, whether to amend section 73.606 of Title 47, Code of Federal Regulations, by deleting the asterisk for the channel operating on 482–488 MHz in Pittsburgh, Pennsylvania, based on the public interest, the existing common ownership of two non-commercial broadcasting stations in Pittsburgh, the financial distress of the licensee, and the threat to the public of losing or impairing local public broadcasting service in the area: *Provided further,* That the Federal Communications Commission may solicit such comments as it deems necessary in making this determination: *Provided further,* That a[1] part of the determination, the Federal Communications Commission shall not be required, notwithstanding any other provision of law, to open the channel to general application, and may determine that the license therefor may be assigned by the licensee, subject to prompt approval of the proposed assignee by the Federal Communications Commission, and that the proceeds of the initial assignment of the license for such channel, or any portion thereof, shall be used solely in furtherance of noncommercial broadcast operations, or for such other purpose as the Federal Communications Commission may determine appropriate.

FEDERAL MARITIME COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Maritime Commission as authorized by section 201(d) of the Merchant Marine Act of 1936, as amended (46 App. U.S.C. 1111), including services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles as authorized by 31 U.S.C. 1343(b); and uniforms or allowances therefor, as authorized by 5 U.S.C. 5901–02; $14,855,000: *Provided,* That not to exceed $2,000 shall be available for official reception and representation expenses.

[1] Missing text, probably "as".

FEDERAL TRADE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Trade Commission, including uniforms or allowances therefor, as authorized by 5 U.S.C. 5901–5902; services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; and not to exceed $2,000 for official reception and representation expenses; $79,568,000: *Provided,* That not to exceed $300,000 shall be available for use to contract with a person or persons for collection services in accordance with the terms of 31 U.S.C. 3718, as amended: *Provided further,* That notwithstanding any other provision of law, not to exceed $48,262,000 of offsetting collections derived from fees collected for premerger notification filings under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (15 U.S.C. 18(a)) shall be retained and used for necessary expenses in this appropriation, and shall remain available until expended: *Provided further,* That the sum herein appropriated from the General Fund shall be reduced as such offsetting collections are received during fiscal year 1996, so as to result in a final fiscal year 1996 appropriation from the General Fund estimated at not more than $31,306,000, to remain available until expended: *Provided further,* That any fees received in excess of $48,262,000 in fiscal year 1996 shall remain available until expended, but shall not be available for obligation until October 1, 1996: *Provided further,* That none of the funds made available to the Federal Trade Commission shall be available for obligation for expenses authorized by section 151 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (Public Law 102–242, 105 Stat. 2282–2285).

JAPAN-UNITED STATES FRIENDSHIP COMMISSION

JAPAN-UNITED STATES FRIENDSHIP TRUST FUND

For expenses of the Japan-United States Friendship Commission, as authorized by Public Law 94–118, as amended, from the interest earned on the Japan-United States Friendship Trust Fund, $1,247.000; and an amount of Japanese currency not to exceed the equivalent of $1,420,000 based on exchange rates at the time of payment of such amounts as authorized by Public Law 94–118.

LEGAL SERVICES CORPORATION

PAYMENT TO THE LEGAL SERVICES CORPORATION

For payment to the Legal Services Corporation to carry out the purposes of the Legal Services Corporation Act of 1974, as amended, $278,000,000, of which $269,400,000 is for basic field programs and required independent audits carried out in accordance with section 509; $1,500,000 is for the Office of the Inspector General, of which such amounts as may be necessary may be used to conduct additional audits of recipients in accordance with section 509 of this Act; and $7,100,000 is for management and administration: *Provided,* That $198,750,000 of the total amount provided under this heading for basic field programs shall not be available except for the competitive award of grants and contracts under section 503 of this Act.

ADMINISTRATIVE PROVISIONS—LEGAL SERVICES CORPORATION

SEC. 501. (a) Funds appropriated under this Act to the Legal Services Corporation for basic field programs shall be distributed as follows:

(1) The Corporation shall define geographic areas and make the funds available for each geographic area on a per capita basis relative to the number of individuals in poverty determined by the Bureau of the Census to be within the geographic area, except as provided in paragraph (2)(B). Funds for such a geographic area may be distributed by the Corporation to 1 or more persons or entities eligible for funding under section 1006(a)(1)(A) of the Legal Services Corporation Act (42 U.S.C. 2996e(a)(1)(A)), subject to sections 502 and 504.

(2) Funds for grants from the Corporation, and contracts entered into by the Corporation for basic field programs, shall be allocated so as to provide—

(A) except as provided in subparagraph (B), an equal figure per individual in poverty for all geographic areas, as determined on the basis of the most recent decennial census of population conducted pursuant to section 141 of title 13, United States Code (or, in the case of the Republic of Palau, the Federated States of Micronesia, the Republic of the Marshall Islands, Alaska, Hawaii, and the United States Virgin Islands, on the basis of the adjusted population counts historically used as the basis for such determinations); and

(B) an additional amount for Native American communities that received assistance under the Legal Services Corporation Act for fiscal year 1995, so that the proportion of the funds appropriated to the Legal Services Corporation for basic field programs for fiscal year 1996 that is received by the Native American communities shall be not less than the proportion of such funds appropriated for fiscal year 1995 that was received by the Native American communities.

(b) As used in this section:

(1) The term "individual in poverty" means an individual who is a member of a family (of 1 or more members) with an income at or below the poverty line.

(2) The term "poverty line" means the poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) applicable to a family of the size involved.

SEC. 502. None of the funds appropriated in this Act to the Legal Services Corporation shall be used by the Corporation to make a grant, or enter into a contract, for the provision of legal assistance unless the Corporation ensures that the person or entity receiving funding to provide such legal assistance is—

(1) a private attorney admitted to practice in a State or the District of Columbia;

(2) a qualified nonprofit organization, chartered under the laws of a State or the District of Columbia, that—

(A) furnishes legal assistance to eligible clients; and

(B) is governed by a board of directors or other governing body, the majority of which is comprised of attorneys who—

(i) are admitted to practice in a State or the District of Columbia; and

(ii) are appointed to terms of office on such board or body by the governing body of a State, county, or municipal bar association, the membership of which represents a majority of the attorneys practicing law in the locality in which the organization is to provide legal assistance;

(3) a State or local government (without regard to section 1006(a)(1)(A)(ii) of the Legal Services Corporation Act (42 U.S.C. 2996e(a)(1)(A)(ii)); or

(4) a substate regional planning or coordination agency that serves a substate area and whose governing board is controlled by locally elected officials.

SEC. 503. (a)(1) Not later than April 1, 1996, the Legal Services Corporation shall implement a system of competitive awards of grants and contracts for all basic field programs, which shall apply to all such grants and contracts awarded by the Corporation after March 31, 1996, from funds appropriated in this Act.

(2) Any grant or contract awarded before April 1, 1996, by the Legal Services Corporation to a basic field program for 1996—

(A) shall not be for an amount greater than the amount required for the period ending March 31, 1996;

(B) shall terminate at the end of such period; and

(C) shall not be renewable except in accordance with the system implemented under paragraph (1).

(3) The amount of grants and contracts awarded before April 1, 1996, by the Legal Services Corporation for basic field programs for 1996 in any geographic area described in section 501 shall not exceed an amount equal to 3/12 of the total amount to be distributed for such programs for 1996 in such area.

(b) Not later than 60 days after the date of enactment of this Act, the Legal Services Corporation shall promulgate regulations to implement a competitive selection process for the recipients of such grants and contracts. Regulations.

(c) Such regulations shall specify selection criteria for the recipients, which shall include—

(1) a demonstration of a full understanding of the basic legal needs of the eligible clients to be served and a demonstration of the capability of serving the needs;

(2) the quality, feasibility, and cost effectiveness of a plan submitted by an applicant for the delivery of legal assistance to the eligible clients to be served; and

(3) the experience of the Legal Services Corporation with the applicant, if the applicant has previously received financial assistance from the Corporation, including the record of the applicant of past compliance with Corporation policies, practices, and restrictions.

(d) Such regulations shall ensure that timely notice regarding an opportunity to submit an application for such an award is published in periodicals of local and State bar associations and in at least 1 daily newspaper of general circulation in the area to be served by the person or entity receiving the award. Publication.

(e) No person or entity that was previously awarded a grant or contract by the Legal Services Corporation for the provision of legal assistance may be given any preference in the competitive selection process.

(f) For the purposes of the funding provided in this Act, rights under sections 1007(a)(9) and 1011 of the Legal Services Corporation Act (42 U.S.C. 2996f(a)(9) and 42 U.S.C. 2996j) shall not apply.

SEC. 504. (a) None of the funds appropriated in this Act to the Legal Services Corporation may be used to provide financial assistance to any person or entity (which may be referred to in this section as a "recipient")—

(1) that makes available any funds, personnel, or equipment for use in advocating or opposing any plan or proposal, or represents any party or participates in any other way in litigation, that is intended to or has the effect of altering, revising, or reapportioning a legislative, judicial, or elective district at any level of government, including influencing the timing or manner of the taking of a census;

(2) that attempts to influence the issuance, amendment, or revocation of any executive order, regulation, or other statement of general applicability and future effect by any Federal, State, or local agency;

(3) that attempts to influence any part of any adjudicatory proceeding of any Federal, State, or local agency if such part of the proceeding is designed for the formulation or modification of any agency policy of general applicability and future effect;

(4) that attempts to influence the passage or defeat of any legislation, constitutional amendment, referendum, initiative, or any similar procedure of the Congress or a State or local legislative body;

(5) that attempts to influence the conduct of oversight proceedings of the Corporation or any person or entity receiving financial assistance provided by the Corporation;

(6) that pays for any personal service, advertisement, telegram, telephone communication, letter, printed or written matter, administrative expense, or related expense, associated with an activity prohibited in this section;

(7) that initiates or participates in a class action suit;

(8) that files a complaint or otherwise initiates or participates in litigation against a defendant, or engages in a precomplaint settlement negotiation with a prospective defendant, unless—

(A) each plaintiff has been specifically identified, by name, in any complaint filed for purposes of such litigation or prior to the precomplaint settlement negotiation; and

(B) a statement or statements of facts written in English and, if necessary, in a language that the plaintiffs understand, that enumerate the particular facts known to the plaintiffs on which the complaint is based, have been signed by the plaintiffs, are kept on file by the recipient, and are made available to any Federal department or agency that is auditing or monitoring the activities of the Corporation or of the recipient, and to any auditor or monitor receiving Federal funds to conduct such auditing or monitoring, including any auditor or monitor of the Corporation:

Provided, That upon establishment of reasonable cause that an injunction is necessary to prevent probable, serious harm to such potential plaintiff, a court of competent jurisdiction may enjoin the disclosure of the identity of any potential plaintiff pending the outcome of such litigation or negotiations after notice and an opportunity for a hearing is provided to potential parties to the litigation or the negotiations: *Provided further,* That other parties to the litigation or negotiation shall have access to the statement of facts referred to in subparagraph (B) only through the discovery process after litigation has begun;

(9) unless—

(A) prior to the provision of financial assistance—

(i) if the person or entity is a nonprofit organization, the governing board of the person or entity has set specific priorities in writing, pursuant to section 1007(a)(2)(C)(i) of the Legal Services Corporation Act (42 U.S.C. 2996f(a)(2)(C)(i)), of the types of matters and cases to which the staff of the nonprofit organization shall devote time and resources; and

(ii) the staff of such person or entity has signed a written agreement not to undertake cases or matters other than in accordance with the specific priorities set by such governing board, except in emergency situations defined by such board and in accordance with the written procedures of such board for such situations; and

(B) the staff of such person or entity provides to the governing board on a quarterly basis, and to the Corporation on an annual basis, information on all cases or matters undertaken other than cases or matters undertaken in accordance with such priorities;

(10) unless—

(A) prior to receiving the financial assistance, such person or entity agrees to maintain records of time spent on each case or matter with respect to which the person or entity is engaged;

(B) any funds, including Interest on Lawyers Trust Account funds, received from a source other than the Corporation by the person or entity, and disbursements of such funds, are accounted for and reported as receipts and disbursements, respectively, separate and distinct from Corporation funds; and

(C) the person or entity agrees (notwithstanding section 1006(b)(3) of the Legal Services Corporation Act (42 U.S.C. 2996e(b)(3)) to make the records described in this paragraph available to any Federal department or agency that is auditing or monitoring the activities of the Corporation or of the recipient, and to any independent auditor or monitor receiving Federal funds to conduct such auditing or monitoring, including any auditor or monitor of the Corporation;

(11) that provides legal assistance for or on behalf of any alien, unless the alien is present in the United States and is—

(A) an alien lawfully admitted for permanent residence as defined in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20));

(B) an alien who—

(i) is married to a United States citizen or is a parent or an unmarried child under the age of 21 years of such a citizen; and

(ii) has filed an application to adjust the status of the alien to the status of a lawful permanent resident under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), which application has not been rejected;

(C) an alien who is lawfully present in the United States pursuant to an admission under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157) (relating to refugee admission) or who has been granted asylum by the Attorney General under such Act;

(D) an alien who is lawfully present in the United States as a result of withholding of deportation by the Attorney General pursuant to section 243(h) of the Immigration and Nationality Act (8 U.S.C. 1253(h));

(E) an alien to whom section 305 of the Immigration Reform and Control Act of 1986 (8 U.S.C. 1101 note) applies, but only to the extent that the legal assistance provided is the legal assistance described in such section; or

(F) an alien who is lawfully present in the United States as a result of being granted conditional entry to the United States before April 1, 1980, pursuant to section 203(a)(7) of the Immigration and Nationality Act (8 U.S.C. 1153(a)(7)), as in effect on March 31, 1980, because of persecution or fear of persecution on account of race, religion, or political calamity;

(12) that supports or conducts a training program for the purpose of advocating a particular public policy or encouraging a political activity, a labor or antilabor activity, a boycott, picketing, a strike, or a demonstration, including the dissemination of information about such a policy or activity, except that this paragraph shall not be construed to prohibit the provision of training to an attorney or a paralegal to prepare the attorney or paralegal to provide—

(A) adequate legal assistance to eligible clients; or

(B) advice to any eligible client as to the legal rights of the client;

(13) that claims (or whose employee claims), or collects and retains, attorneys' fees pursuant to any Federal or State law permitting or requiring the awarding of such fees;

(14) that participates in any litigation with respect to abortion;

(15) that participates in any litigation on behalf of a person incarcerated in a Federal, State, or local prison;

(16) that initiates legal representation or participates in any other way, in litigation, lobbying, or rulemaking, involving an effort to reform a Federal or State welfare system, except that this paragraph shall not be construed to preclude a recipient from representing an individual eligible client who is seeking specific relief from a welfare agency if such relief does

not involve an effort to amend or otherwise challenge existing law in effect on the date of the initiation of the representation;

(17) that defends a person in a proceeding to evict the person from a public housing project if— Public housing.

(A) the person has been charged with the illegal sale or distribution of a controlled substance; and

(B) the eviction proceeding is brought by a public housing agency because the illegal drug activity of the person threatens the health or safety of another tenant residing in the public housing project or employee of the public housing agency;

(18) unless such person or entity agrees that the person or entity, and the employees of the person or entity, will not accept employment resulting from in-person unsolicited advice to a nonattorney that such nonattorney should obtain counsel or take legal action, and will not refer such nonattorney to another person or entity or an employee of the person or entity, that is receiving financial assistance provided by the Corporation; or

(19) unless such person or entity enters into a contractual agreement to be subject to all provisions of Federal law relating to the proper use of Federal funds, the violation of which shall render any grant or contractual agreement to provide funding null and void, and, for such purposes, the Corporation shall be considered to be a Federal agency and all funds provided by the Corporation shall be considered to be Federal funds provided by grant or contract.

(b) Nothing in this section shall be construed to prohibit a recipient from using funds from a source other than the Legal Services Corporation for the purpose of contacting, communicating with, or responding to a request from, a State or local government agency, a State or local legislative body or committee, or a member thereof, regarding funding for the recipient, including a pending or proposed legislative or agency proposal to fund such recipient.

(c) Not later than 30 days after the date of enactment of this Act, the Legal Services Corporation shall promulgate a suggested list of priorities that boards of directors may use in setting priorities under subsection (a)(9).

(d)(1) The Legal Services Corporation shall not accept any non-Federal funds, and no recipient shall accept funds from any source other than the Corporation, unless the Corporation or the recipient, as the case may be, notifies in writing the source of the funds that the funds may not be expended for any purpose prohibited by the Legal Services Corporation Act or this title.

(2) Paragraph (1) shall not prevent a recipient from—

(A) receiving Indian tribal funds (including funds from private nonprofit organizations for the benefit of Indians or Indian tribes) and expending the tribal funds in accordance with the specific purposes for which the tribal funds are provided; or

(B) using funds received from a source other than the Legal Services Corporation to provide legal assistance to a covered individual if such funds are used for the specific purposes for which such funds were received, except that such funds may not be expended by recipients for any purpose prohibited by this Act or by the Legal Services Corporation Act.

(e) Nothing in this section shall be construed to prohibit a recipient from using funds derived from a source other than the Legal Services Corporation to comment on public rulemaking or to respond to a written request for information or testimony from a Federal, State or local agency, legislative body or committee, or a member of such an agency, body, or committee, so long as the response is made only to the parties that make the request and the recipient does not arrange for the request to be made.

(f) As used in this section:

(1) The term "controlled substance" has the meaning given the term in section 102 of the Controlled Substances Act (21 U.S.C. 802).

(2) The term "covered individual" means any person who—

(A) except as provided in subparagraph (B), meets the requirements of this Act and the Legal Services Corporation Act relating to eligibility for legal assistance; and

(B) may or may not be financially unable to afford legal assistance.

(3) The term "public housing project" has the meaning as used within, and the term "public housing agency" has the meaning given the term, in section 3 of the United States Housing Act of 1937 (42 U.S.C. 1437a).

SEC. 505. None of the funds appropriated in this Act to the Legal Services Corporation or provided by the Corporation to any entity or person may be used to pay membership dues to any private or nonprofit organization.

SEC. 506. None of the funds appropriated in this Act to the Legal Services Corporation may be used by any person or entity receiving financial assistance from the Corporation to file or pursue a lawsuit against the Corporation.

SEC. 507. None of the funds appropriated in this Act to the Legal Services Corporation may be used for any purpose prohibited or contrary to any of the provisions of authorization legislation for fiscal year 1996 for the Legal Services Corporation that is enacted into law. Upon the enactment of such Legal Services Corporation reauthorization legislation, funding provided in this Act shall from that date be subject to the provisions of that legislation and any provisions in this Act that are inconsistent with that legislation shall no longer have effect.

SEC. 508. (a) The requirements of section 504 shall apply to the activities of a recipient described in section 501, or an employee of such a recipient, during the provision of legal assistance for a case or matter, if the recipient or employee begins to provide the legal assistance on or after the date of enactment of this Act.

(b) If the recipient or employee began to provide legal assistance for the case or matter prior to the date of enactment of this Act—

(1) each of the requirements of section 504 (other than paragraphs (7), (11), (13), and (15) of subsection (a) of such section) shall, beginning on the date of enactment of this Act, apply to the activities of the recipient or employee during the provision of legal assistance for the case or matter;

(2) the requirements of paragraphs (7), (11), and (15) of section 504(a) shall apply—

(A) beginning on the date of enactment of this Act, to the activities of the recipient or employee during the provision of legal assistance for any additional related claim

for which the recipient or employee begins to provide legal assistance on or after such date; and

(B) beginning August 1, 1996, to all other activities of the recipient or employee during the provision of legal assistance for the case or matter; and

(3) the requirements of paragraph (13) of section 504(a)—

(A) shall apply beginning on the date of enactment of this Act to the activities of the recipient or employee during the provision of legal assistance for any additional related claim for which the recipient or employee begins to provide legal assistance on or after such date; and

(B) shall not apply to all other activities of the recipient or employee during the provision of legal assistance for the case or matter.

(c) The Legal Services Corporation shall, every 60 days, submit to the Committees on Appropriations of the Senate and House of Representatives a report setting forth the status of cases and matters referred to in subsection (b)(2). Reports.

SEC. 509. (a) An audit of each person or entity receiving financial assistance from the Legal Services Corporation under this Act (referred to in this section as a "recipient") shall be conducted in accordance with generally accepted government auditing standards and guidance established by the Office of the Inspector General and shall report whether— Audits.

(1) the financial statements of the recipient present fairly its financial position and the results of its financial operations in accordance with generally accepted accounting principles;

(2) the recipient has internal control systems to provide reasonable assurance that it is managing funds, regardless of source, in compliance with Federal laws and regulations; and

(3) the recipient has complied with Federal laws and regulations applicable to funds received, regardless of source.

(b) In carrying out the requirements of subsection (a)(3), the auditor shall select and test a representative number of transactions and report all instances of noncompliance to the recipient. The recipient shall report in writing any noncompliance found by the auditor during the audit under this section within 5 business days to the Office of the Inspector General and shall provide a copy of the report simultaneously to the auditor. If the recipient fails to report the noncompliance, the auditor shall report the noncompliance directly to the Office of the Inspector General within 5 business days of the recipient's failure to report. The auditor shall not be liable in a private action for any finding, conclusion, or statement expressed in a report made pursuant to this section.

(c) The audits required under this section shall be provided for by the recipients and performed by independent public accountants. The cost of such audits shall be shared on a pro rata basis among all of the recipient's funding providers and the appropriate share shall be an allowable charge to the Federal funds provided by the Legal Services Corporation. No audit costs may be charged to the Federal funds when the audit required by this section has not been made in accordance with the guidance promulgated by the Office of the Inspector General.

If the recipient fails to have an acceptable audit in accordance with the guidance promulgated by the Office of the Inspector Gen-

eral, the following sanctions shall be available to the Corporation as recommended by the Office of the Inspector General:

(1) The withholding of a percentage of the recipient's funding until the audit is completed satisfactorily.

(2) The suspension of recipient's funding until an acceptable audit is completed.

(d) The Office of the Inspector General may remove, suspend, or bar an independent public accountant, upon a showing of good cause, from performing audit services required by this section. Any such action to remove, suspend, or bar an auditor shall be only after notice to the auditor and an opportunity for hearing. The Office of the Inspector General shall develop and issue rules of practice to implement this paragraph.

(e) Any independent public accountant performing an audit under this section who subsequently ceases to be the accountant for the recipient shall promptly notify the Office of the Inspector General pursuant to such rules as the Office of the Inspector General shall prescribe.

(f) Audits conducted in accordance with this section shall be in lieu of the financial audits otherwise required by section 1009(c) of the Legal Services Corporation Act (42 U.S.C. 2996h(c)).

(g) The Office of the Inspector General is authorized to conduct on-site monitoring, audits, and inspections in accordance with Federal standards.

(h) Notwithstanding section 1006(b)(3) of the Legal Services Corporation Act (42 U.S.C. 2996e(b)(3)), financial records, time records, retainer agreements, client trust fund and eligibility records, and client names, for each recipient shall be made available to any auditor or monitor of the recipient, including any Federal department or agency that is auditing or monitoring the activities of the Corporation or of the recipient, and any independent auditor or monitor receiving Federal funds to conduct such auditing or monitoring, including any auditor or monitor of the Corporation, except for reports or records subject to the attorney-client privilege.

(i) The Legal Services Corporation shall not disclose any name or document referred to in subsection (h), except to—

(1) a Federal, State, or local law enforcement official; or

(2) an official of an appropriate bar association for the purpose of enabling the official to conduct an investigation of a rule of professional conduct.

(j) The recipient management shall be responsible for expeditiously resolving all reported audit reportable conditions, findings, and recommendations, including those of sub-recipients.

(k) The Legal Services Corporation shall—

(1) follow up on significant reportable conditions, findings, and recommendations found by the independent public accountants and reported to Corporation management by the Office of the Inspector General to ensure that instances of deficiencies and noncompliance are resolved in a timely manner, and

(2) Develop procedures to ensure effective follow-up that meet at a minimum the requirements of Office of Management and Budget Circular Number A–50.

(l) The requirements of this section shall apply to a recipient for its first fiscal year beginning on or after January 1, 1996.

MARINE MAMMAL COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Marine Mammal Commission as authorized by title II of Public Law 92–522, as amended, $1,190,000.

MARTIN LUTHER KING, JR. FEDERAL HOLIDAY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Martin Luther King, Jr. Federal Holiday Commission, as authorized by Public Law 98–399, as amended, $350,000: *Provided,* That this shall be the final Federal payment to the Martin Luther King, Jr. Federal Holiday Commission for operations and necessary closing costs. Termination.

OUNCE OF PREVENTION COUNCIL

For activities authorized by sections 30101 and 30102 of Public Law 103–322 (including administrative costs), $1,500,000, to remain available until expended, for the Ounce of Prevention Grant Program: *Provided,* That the Council may accept and use gifts and donations, both real and personal, for the purpose of aiding or facilitating the authorized activities of the Council, of which not to exceed $5,000 may be used for official reception and representation expenses.

SECURITIES AND EXCHANGE COMMISSION

SALARIES AND EXPENSES

For necessary expenses for the Securities and Exchange Commission, including services as authorized by 5 U.S.C. 3109, the rental of space (to include multiple year leases) in the District of Columbia and elsewhere, and not to exceed $3,000 for official reception and representation expenses, $287,738,000, of which $3,000,000 is for the Office of Economic Analysis, to be headed by the Chief Economist of the Commission, and of which not to exceed $10,000 may be used toward funding a permanent secretariat for the International Organization of Securities Commissions, and of which not to exceed $100,000 shall be available for expenses for consultations and meetings hosted by the Commission with foreign governmental and other regulatory officials, members of their delegations, appropriate representatives and staff to exchange views concerning developments relating to securities matters, development and implementation of cooperation agreements concerning securities matters and provision of technical assistance for the development of foreign securities markets, such expenses to include necessary logistic and administrative expenses and the expenses of Commission staff and foreign invitees in attendance at such consultations and meetings including: (i) such incidental expenses as meals taken in the course of such attendance, (ii) any travel and transportation to or from such meetings, and (iii) any other related lodging or subsistence: *Provided,* That immediately upon enactment of this Act, the rate of fees under section 6(b) of the Securities Act of 1933 (15 U.S.C. 77f(b)) shall increase from one-fiftieth of one percentum to one-twenty-ninth of one percentum, 15 USC 77f note.

and such increase shall be deposited as an offsetting collection to this appropriation, to remain available until expended, to recover costs of services of the securities registration process: *Provided further,* That the total amount appropriated for fiscal year 1996 under this heading shall be reduced as such fees are deposited to this appropriation so as to result in a final total fiscal year 1996 appropriation from the General Fund estimated at not more than $103,445,000: *Provided further,* That any such fees collected in excess of $184,293,000 shall remain available until expended but shall not be available for obligation until October 1, 1996: *Provided further,* That $1,000,000 of the funds appropriated for the Commission shall be available for the enforcement of the Investment Advisers Act of 1940 in addition to any other appropriated funds designated by the Commission for enforcement of such Act.

SMALL BUSINESS ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, of the Small Business Administration as authorized by Public Law 103–403, including hire of passenger motor vehicles as authorized by 31 U.S.C. 1343 and 1344, and not to exceed $3,500 for official reception and representation expenses, $219,190,000: *Provided,* That the Administrator is authorized to charge fees to cover the cost of publications developed by the Small Business Administration, and certain loan servicing activities: *Provided further,* That notwithstanding 31 U.S.C. 3302, revenues received from all such activities shall be credited to this account, to be available for carrying out these purposes without further appropriations.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended (5 U.S.C. App. 1–11 as amended by Public Law 100–504), $8,500,000.

BUSINESS LOANS PROGRAM ACCOUNT

For the cost of direct loans, $4,500,000, and for the cost of guaranteed loans, $156,226,000, as authorized by 15 U.S.C. 631 note, of which $1,216,000, to be available until expended, shall be for the Microloan Guarantee Program, and of which $40,510,000 shall remain available until September 30, 1997: *Provided,* That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further,* That during fiscal year 1996, commitments to guarantee loans under section 503 of the Small Business Investment Act of 1958, as amended, shall not exceed the amount of financings authorized under section 20(n)(2)(B) of the Small Business Act, as amended.

In addition, for administrative expenses to carry out the direct and guaranteed loan programs, $92,622,000, which may be transferred to and merged with the appropriations for Salaries and Expenses.

DISASTER LOANS PROGRAM ACCOUNT

For the cost of direct loans authorized by section 7(b) of the Small Business Act, as amended, $34,432,000, to remain available until expended: *Provided,* That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974.

In addition, for administrative expenses to carry out the direct loan program, $71,578,000, which may be transferred to and merged with the appropriations for Salaries and Expenses.

SURETY BOND GUARANTEES REVOLVING FUND

For additional capital for the "Surety Bond Guarantees Revolving Fund", authorized by the Small Business Investment Act, as amended, $2,530,000, to remain available without fiscal year limitation as authorized by 15 U.S.C. 631 note.

ADMINISTRATIVE PROVISION—SMALL BUSINESS ADMINISTRATION

SEC. 510. Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Small Business Administration in this Act may be transferred between such appropriations, but no such appropriation shall be increased by more than 10 percent by any such transfers: *Provided,* That any transfer pursuant to this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

STATE JUSTICE INSTITUTE

SALARIES AND EXPENSES

For necessary expenses of the State Justice Institute, as authorized by The State Justice Institute Authorization Act of 1992 (Public Law 102–572 (106 Stat. 4515–4516)), $5,000,000 to remain available until expended: *Provided,* That not to exceed $2,500 shall be available for official reception and representation expenses.

TITLE VI—GENERAL PROVISIONS

SEC. 601. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

SEC. 602. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 603. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 604. If any provision of this Act or the application of such provision to any person or circumstances shall be held invalid, the remainder of the Act and the application of each provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby.

SEC. 605 (a) None of the funds provided under this Act, or provided under previous Appropriations Acts to the agencies funded by this Act that remain available for obligation or expenditure in fiscal year 1996, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure through a reprogramming of funds which (1) creates new programs; (2) eliminates a program, project, or activity; (3) increases funds or personnel by any means for any project or activity for which funds have been denied or restricted; (4) relocates an office or employees; (5) reorganizes offices, programs, or activities; or (6) contracts out or privatizes any functions or activities presently performed by Federal employees; unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such reprogramming of funds.

(b) None of the funds provided under this Act, or provided under previous Appropriations Acts to the agencies funded by this Act that remain available for obligation or expenditure in fiscal year 1996, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure for activities, programs, or projects through a reprogramming of funds in excess of $500,000 or 10 percent, whichever is less, that (1) augments existing programs, projects, or activities; (2) reduces by 10 percent funding for any existing program, project, or activity, or numbers of personnel by 10 percent as approved by Congress; or (3) results from any general savings from a reduction in personnel which would result in a change in existing programs, activities, or projects as approved by Congress; unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such reprogramming of funds.

SEC. 606. None of the funds made available in this Act may be used for the construction, repair (other than emergency repair), overhaul, conversion, or modernization of vessels for the National Oceanic and Atmospheric Administration in shipyards located outside of the United States.

SEC. 607. (a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American-made.

(b) NOTICE REQUIREMENT.—In providing financial assistance to, or entering into any contract with, any entity using funds made available in this Act, the head of each Federal agency, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.

SEC. 608. None of the funds made available in this Act may be used to implement, administer, or enforce any guidelines of the Equal Employment Opportunity Commission covering harassment based on religion, when it is made known to the Federal entity or official to which such funds are made available that such guidelines do not differ in any respect from the proposed guidelines published by the Commission on October 1, 1993 (58 Fed. Reg. 51266).

SEC. 609. None of the funds appropriated or otherwise made available by this Act may be obligated or expended to pay for any cost incurred for (1) opening or operating any United States

diplomatic or consular post in the Socialist Republic of Vietnam that was not operating on July 11, 1995; (2) expanding any United States diplomatic or consular post in the Socialist Republic of Vietnam that was operating on July 11, 1995; or (3) increasing the total number of personnel assigned to United States diplomatic or consular posts in the Socialist Republic of Vietnam above the levels existing on July 11, 1995, unless the President certifies within 60 days, based upon all information available to the United States Government that the Government of the Socialist Republic of Vietnam is cooperating in full faith with the United States in the following four areas:

(1) Resolving discrepancy cases, live sightings and field activities,

(2) Recovering and repatriating American remains,

(3) Accelerating efforts to provide documents that will help lead to fullest possible accounting of POW/MIA's,

(4) Providing further assistance in implementing trilateral investigations with Laos.

SEC. 610. None of the funds made available by this Act may be used for any United Nations undertaking when it is made known to the Federal official having authority to obligate or expend such funds (1) that the United Nations undertaking is a peacekeeping mission, (2) that such undertaking will involve United States Armed Forces under the command or operational control of a foreign national, and (3) that the President's military advisors have not submitted to the President a recommendation that such involvement is in the national security interests of the United States and the President has not submitted to the Congress such a recommendation.

SEC. 611. None of the funds made available in this Act shall be used to provide the following amenities or personal comforts in the Federal prison system—

(1) in-cell television viewing except for prisoners who are segregated from the general prison population for their own safety;

(2) the viewing of R, X, and NC–17 rated movies, through whatever medium presented;

(3) any instruction (live or through broadcasts) or training equipment for boxing, wrestling, judo, karate, or other martial art, or any bodybuilding or weightlifting equipment of any sort;

(4) possession of in-cell coffee pots, hot plates, or heating elements; or

(5) the use or possession of any electric or electronic musical instrument.

SEC. 612. None of the funds made available in title II for the National Oceanic and Atmospheric Administration under the heading "Fleet Modernization, Shipbuilding and Conversion" may be used to implement sections 603, 604, and 605 of Public Law 102–567.

SEC. 613. None of the funds made available in this Act may be used for "USIA Television Marti Program" under the Television Broadcasting to Cuba Act or any other program of United States Government television broadcasts to Cuba, when it is made known to the Federal official having authority to obligate or expend such funds that such use would be inconsistent with the applicable

provisions of the March 1995 Office of Cuba Broadcasting Reinventing Plan of the United States Information Agency.

SEC. 614. (a)(1) Section 5002 of title 18, United States Code, is repealed.

(2) The table of sections for chapter 401 of title 18, United States Code, is amended by striking out the item relating to the Advisory Corrections Council.

Effective date. 18 USC 5002 note.

(b) This section shall take effect 30 days after the date of the enactment of this Act.

SEC. 615. Any costs incurred by a Department or agency funded under this Act resulting from personnel actions taken in response to funding reductions included in this Act shall be absorbed within the total budgetary resources available to such Department or agency: *Provided,* That the authority to transfer funds between appropriations accounts as may be necessary to carry out this provision is provided in addition to authorities included elsewhere in this Act: *Provided further,* That use of funds to carry out this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SEC. 616. Notwithstanding section 106 of Public Law 104–91, the general provisions for the Department of Justice that were included in the conference report to accompany H.R. 2076 and were identified in the amendment to Public Law 104–91 made by section 211 of Public Law 104–99 shall continue to remain in effect as enacted into law.

SEC. 617. Upon enactment of this Act, the provisions of section 201(a) of Public Law 104–99 are superseded.

TITLE VII—RESCISSIONS

DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

WORKING CAPITAL FUND

(RESCISSION)

Of the unobligated balances available under this heading, $65,000,000 are rescinded.

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

ACQUISITION AND MAINTENANCE OF BUILDINGS ABROAD

(RESCISSION)

Of the unobligated balances available under this heading, $64,500,000 are rescinded.

RELATED AGENCIES

UNITED STATES INFORMATION AGENCY

RADIO CONSTRUCTION

(RESCISSION)

Of the unobligated balances available under this heading, $7,400,000 are rescinded.

TITLE VIII—PRISON LITIGATION REFORM

Prison Litigation Reform Act of 1995. 18 USC 3601 note.

SEC. 801. SHORT TITLE.

This title may be cited as the "Prison Litigation Reform Act of 1995".

SEC. 802. APPROPRIATE REMEDIES FOR PRISON CONDITIONS.

(a) IN GENERAL.—Section 3626 of title 18, United States Code, is amended to read as follows:

"§ 3626. Appropriate remedies with respect to prison conditions

"(a) REQUIREMENTS FOR RELIEF.—

"(1) PROSPECTIVE RELIEF.—(A) Prospective relief in any civil action with respect to prison conditions shall extend no further than necessary to correct the violation of the Federal right of a particular plaintiff or plaintiffs. The court shall not grant or approve any prospective relief unless the court finds that such relief is narrowly drawn, extends no further than necessary to correct the violation of the Federal right, and is the least intrusive means necessary to correct the violation of the Federal right. The court shall give substantial weight to any adverse impact on public safety or the operation of a criminal justice system caused by the relief.

"(B) The court shall not order any prospective relief that requires or permits a government official to exceed his or her authority under State or local law or otherwise violates State or local law, unless—

"(i) Federal law permits such relief to be ordered in violation of State or local law;

"(ii) the relief is necessary to correct the violation of a Federal right; and

"(iii) no other relief will correct the violation of the Federal right.

"(C) Nothing in this section shall be construed to authorize the courts, in exercising their remedial powers, to order the construction of prisons or the raising of taxes, or to repeal or detract from otherwise applicable limitations on the remedial powers of the courts.

"(2) PRELIMINARY INJUNCTIVE RELIEF.—In any civil action with respect to prison conditions, to the extent otherwise authorized by law, the court may enter a temporary restraining order or an order for preliminary injunctive relief. Preliminary injunctive relief must be narrowly drawn, extend no further than necessary to correct the harm the court finds requires preliminary relief, and be the least intrusive means necessary to correct that harm. The court shall give substantial weight

to any adverse impact on public safety or the operation of a criminal justice system caused by the preliminary relief and shall respect the principles of comity set out in paragraph (1)(B) in tailoring any preliminary relief. Preliminary injunctive relief shall automatically expire on the date that is 90 days after its entry, unless the court makes the findings required under subsection (a)(1) for the entry of prospective relief and makes the order final before the expiration of the 90-day period.

"(3) PRISONER RELEASE ORDER.—(A) In any civil action with respect to prison conditions, no prisoner release order shall be entered unless—

"(i) a court has previously entered an order for less intrusive relief that has failed to remedy the deprivation of the Federal right sought to be remedied through the prisoner release order; and

"(ii) the defendant has had a reasonable amount of time to comply with the previous court orders.

"(B) In any civil action in Federal court with respect to prison conditions, a prisoner release order shall be entered only by a three-judge court in accordance with section 2284 of title 28, if the requirements of subparagraph (E) have been met.

"(C) A party seeking a prisoner release order in Federal court shall file with any request for such relief, a request for a three-judge court and materials sufficient to demonstrate that the requirements of subparagraph (A) have been met.

"(D) If the requirements under subparagraph (A) have been met, a Federal judge before whom a civil action with respect to prison conditions is pending who believes that a prison release order should be considered may sua sponte request the convening of a three-judge court to determine whether a prisoner release order should be entered.

"(E) The three-judge court shall enter a prisoner release order only if the court finds by clear and convincing evidence that—

"(i) crowding is the primary cause of the violation of a Federal right; and

"(ii) no other relief will remedy the violation of the Federal right.

"(F) Any State or local official or unit of government whose jurisdiction or function includes the appropriation of funds for the construction, operation, or maintenance of program facilities, or the prosecution or custody of persons who may be released from, or not admitted to, a prison as a result of a prisoner release order shall have standing to oppose the imposition or continuation in effect of such relief and to seek termination of such relief, and shall have the right to intervene in any proceeding relating to such relief.

"(b) TERMINATION OF RELIEF.—

"(1) TERMINATION OF PROSPECTIVE RELIEF.—(A) In any civil action with respect to prison conditions in which prospective relief is ordered, such relief shall be terminable upon the motion of any party or intervener—

"(i) 2 years after the date the court granted or approved the prospective relief;

"(ii) 1 year after the date the court has entered an order denying termination of prospective relief under this paragraph; or

"(iii) in the case of an order issued on or before the date of enactment of the Prison Litigation Reform Act, 2 years after such date of enactment.

"(B) Nothing in this section shall prevent the parties from agreeing to terminate or modify relief before the relief is terminated under subparagraph (A).

"(2) IMMEDIATE TERMINATION OF PROSPECTIVE RELIEF.—In any civil action with respect to prison conditions, a defendant or intervener shall be entitled to the immediate termination of any prospective relief if the relief was approved or granted in the absence of a finding by the court that the relief is narrowly drawn, extends no further than necessary to correct the violation of the Federal right, and is the least intrusive means necessary to correct the violation of the Federal right.

"(3) LIMITATION.—Prospective relief shall not terminate if the court makes written findings based on the record that prospective relief remains necessary to correct a current or ongoing violation of the Federal right, extends no further than necessary to correct the violation of the Federal right, and that the prospective relief is narrowly drawn and the least intrusive means to correct the violation.

"(4) TERMINATION OR MODIFICATION OF RELIEF.—Nothing in this section shall prevent any party or intervener from seeking modification or termination before the relief is terminable under paragraph (1) or (2), to the extent that modification or termination would otherwise be legally permissible.

"(c) SETTLEMENTS.—

"(1) CONSENT DECREES.—In any civil action with respect to prison conditions, the court shall not enter or approve a consent decree unless it complies with the limitations on relief set forth in subsection (a).

"(2) PRIVATE SETTLEMENT AGREEMENTS.—(A) Nothing in this section shall preclude parties from entering into a private settlement agreement that does not comply with the limitations on relief set forth in subsection (a), if the terms of that agreement are not subject to court enforcement other than the reinstatement of the civil proceeding that the agreement settled.

"(B) Nothing in this section shall preclude any party claiming that a private settlement agreement has been breached from seeking in State court any remedy available under State law.

"(d) STATE LAW REMEDIES.—The limitations on remedies in this section shall not apply to relief entered by a State court based solely upon claims arising under State law.

"(e) PROCEDURE FOR MOTIONS AFFECTING PROSPECTIVE RELIEF.—

"(1) GENERALLY.—The court shall promptly rule on any motion to modify or terminate prospective relief in a civil action with respect to prison conditions.

"(2) AUTOMATIC STAY.—Any prospective relief subject to a pending motion shall be automatically stayed during the period—

"(A)(i) beginning on the 30th day after such motion is filed, in the case of a motion made under paragraph (1) or (2) of subsection (b); or

"(ii) beginning on the 180th day after such motion is filed, in the case of a motion made under any other law; and

"(B) ending on the date the court enters a final order ruling on the motion.

"(f) SPECIAL MASTERS.—

"(1) IN GENERAL.—(A) In any civil action in a Federal court with respect to prison conditions, the court may appoint a special master who shall be disinterested and objective and who will give due regard to the public safety, to conduct hearings on the record and prepare proposed findings of fact.

"(B) The court shall appoint a special master under this subsection during the remedial phase of the action only upon a finding that the remedial phase will be sufficiently complex to warrant the appointment.

"(2) APPOINTMENT.—(A) If the court determines that the appointment of a special master is necessary, the court shall request that the defendant institution and the plaintiff each submit a list of not more than 5 persons to serve as a special master.

"(B) Each party shall have the opportunity to remove up to 3 persons from the opposing party's list.

"(C) The court shall select the master from the persons remaining on the list after the operation of subparagraph (B).

"(3) INTERLOCUTORY APPEAL.—Any party shall have the right to an interlocutory appeal of the judge's selection of the special master under this subsection, on the ground of partiality.

"(4) COMPENSATION.—The compensation to be allowed to a special master under this section shall be based on an hourly rate not greater than the hourly rate established under section 3006A for payment of court-appointed counsel, plus costs reasonably incurred by the special master. Such compensation and costs shall be paid with funds appropriated to the Judiciary.

"(5) REGULAR REVIEW OF APPOINTMENT.—In any civil action with respect to prison conditions in which a special master is appointed under this subsection, the court shall review the appointment of the special master every 6 months to determine whether the services of the special master continue to be required under paragraph (1). In no event shall the appointment of a special master extend beyond the termination of the relief.

"(6) LIMITATIONS ON POWERS AND DUTIES.—A special master appointed under this subsection—

"(A) may be authorized by a court to conduct hearings and prepare proposed findings of fact, which shall be made on the record;

"(B) shall not make any findings or communications ex parte;

"(C) may be authorized by a court to assist in the development of remedial plans; and

"(D) may be removed at any time, but shall be relieved of the appointment upon the termination of relief.

"(g) DEFINITIONS.—As used in this section—

"(1) the term 'consent decree' means any relief entered by the court that is based in whole or in part upon the consent or acquiescence of the parties but does not include private settlements;

"(2) the term 'civil action with respect to prison conditions' means any civil proceeding arising under Federal law with respect to the conditions of confinement or the effects of actions by government officials on the lives of persons confined in prison, but does not include habeas corpus proceedings challenging the fact or duration of confinement in prison;

"(3) the term 'prisoner' means any person subject to incarceration, detention, or admission to any facility who is accused of, convicted of, sentenced for, or adjudicated delinquent for, violations of criminal law or the terms and conditions of parole, probation, pretrial release, or diversionary program;

"(4) the term 'prisoner release order' includes any order, including a temporary restraining order or preliminary injunctive relief, that has the purpose or effect of reducing or limiting the prison population, or that directs the release from or nonadmission of prisoners to a prison;

"(5) the term 'prison' means any Federal, State, or local facility that incarcerates or detains juveniles or adults accused of, convicted of, sentenced for, or adjudicated delinquent for, violations of criminal law;

"(6) the term 'private settlement agreement' means an agreement entered into among the parties that is not subject to judicial enforcement other than the reinstatement of the civil proceeding that the agreement settled;

"(7) the term 'prospective relief' means all relief other than compensatory monetary damages;

"(8) the term 'special master' means any person appointed by a Federal court pursuant to Rule 53 of the Federal Rules of Civil Procedure or pursuant to any inherent power of the court to exercise the powers of a master, regardless of the title or description given by the court; and

"(9) the term 'relief' means all relief in any form that may be granted or approved by the court, and includes consent decrees but does not include private settlement agreements.".

(b) APPLICATION OF AMENDMENT.—

(1) IN GENERAL.—Section 3626 of title 18, United States Code, as amended by this section, shall apply with respect to all prospective relief whether such relief was originally granted or approved before, on, or after the date of the enactment of this title. 18 USC 3626 note.

(2) TECHNICAL AMENDMENT.—Subsections (b) and (d) of section 20409 of the Violent Crime Control and Law Enforcement Act of 1994 are repealed. 18 USC 3626 note.

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of subchapter C of chapter 229 of title 18, United States Code, is amended to read as follows:

"3626. Appropriate remedies with respect to prison conditions.".

SEC. 803. AMENDMENTS TO CIVIL RIGHTS OF INSTITUTIONALIZED PERSONS ACT.

(a) INITIATION OF CIVIL ACTIONS.—Section 3(c) of the Civil Rights of Institutionalized Persons Act (42 U.S.C. 1997a(c)) (referred to in this section as the "Act") is amended to read as follows:

"(c) The Attorney General shall personally sign any complaint filed pursuant to this section.".

(b) CERTIFICATION REQUIREMENTS.—Section 4 of the Act (42 U.S.C. 1997b) is amended—

(1) in subsection (a)—

(A) by striking "he" each place it appears and inserting "the Attorney General"; and

(B) by striking "his" and inserting "the Attorney General's"; and

(2) by amending subsection (b) to read as follows:

"(b) The Attorney General shall personally sign any certification made pursuant to this section.".

(c) INTERVENTION IN ACTIONS.—Section 5 of the Act (42 U.S.C. 1997c) is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking "he" each place it appears and inserting "the Attorney General"; and

(B) by amending paragraph (2) to read as follows:

"(2) The Attorney General shall personally sign any certification made pursuant to this section."; and

(2) by amending subsection (c) to read as follows:

"(c) The Attorney General shall personally sign any motion to intervene made pursuant to this section.".

(d) SUITS BY PRISONERS.—Section 7 of the Act (42 U.S.C. 1997e) is amended to read as follows:

"SEC. 7. SUITS BY PRISONERS.

"(a) APPLICABILITY OF ADMINISTRATIVE REMEDIES.—No action shall be brought with respect to prison conditions under section 1979 of the Revised Statutes of the United States (42 U.S.C. 1983), or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted.

"(b) FAILURE OF STATE TO ADOPT OR ADHERE TO ADMINISTRATIVE GRIEVANCE PROCEDURE.—The failure of a State to adopt or adhere to an administrative grievance procedure shall not constitute the basis for an action under section 3 or 5 of this Act.

"(c) DISMISSAL.—(1) The court shall on its own motion or on the motion of a party dismiss any action brought with respect to prison conditions under section 1979 of the Revised Statutes of the United States (42 U.S.C. 1983), or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility if the court is satisfied that the action is frivolous, malicious, fails to state a claim upon which relief can be granted, or seeks monetary relief from a defendant who is immune from such relief.

"(2) In the event that a claim is, on its face, frivolous, malicious, fails to state a claim upon which relief can be granted, or seeks monetary relief from a defendant who is immune from such relief, the court may dismiss the underlying claim without first requiring the exhaustion of administrative remedies.

"(d) ATTORNEY'S FEES.—(1) In any action brought by a prisoner who is confined to any jail, prison, or other correctional facility, in which attorney's fees are authorized under section 2 of the Revised Statutes of the United States (42 U.S.C. 1988), such fees shall not be awarded, except to the extent that—

"(A) the fee was directly and reasonably incurred in proving an actual violation of the plaintiff's rights protected by a statute

pursuant to which a fee may be awarded under section 2 of the Revised Statutes; and

"(B)(i) the amount of the fee is proportionately related to the court ordered relief for the violation; or

"(ii) the fee was directly and reasonably incurred in enforcing the relief ordered for the violation.

"(2) Whenever a monetary judgment is awarded in an action described in paragraph (1), a portion of the judgment (not to exceed 25 percent) shall be applied to satisfy the amount of attorney's fees awarded against the defendant. If the award of attorney's fees is not greater than 150 percent of the judgment, the excess shall be paid by the defendant.

"(3) No award of attorney's fees in an action described in paragraph (1) shall be based on an hourly rate greater than 150 percent of the hourly rate established under section 3006A of title 18, United States Code, for payment of court-appointed counsel.

"(4) Nothing in this subsection shall prohibit a prisoner from entering into an agreement to pay an attorney's fee in an amount greater than the amount authorized under this subsection, if the fee is paid by the individual rather than by the defendant pursuant to section 2 of the Revised Statutes of the United States (42 U.S.C. 1988).

"(e) LIMITATION ON RECOVERY.—No Federal civil action may be brought by a prisoner confined in a jail, prison, or other correctional facility, for mental or emotional injury suffered while in custody without a prior showing of physical injury.

"(f) HEARINGS.—(1) To the extent practicable, in any action brought with respect to prison conditions in Federal court pursuant to section 1979 of the Revised Statutes of the United States (42 U.S.C. 1983), or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility, pretrial proceedings in which the prisoner's participation is required or permitted shall be conducted by telephone, video conference, or other telecommunications technology without removing the prisoner from the facility in which the prisoner is confined.

"(2) Subject to the agreement of the official of the Federal, State, or local unit of government with custody over the prisoner, hearings may be conducted at the facility in which the prisoner is confined. To the extent practicable, the court shall allow counsel to participate by telephone, video conference, or other communications technology in any hearing held at the facility.

"(g) WAIVER OF REPLY.—(1) Any defendant may waive the right to reply to any action brought by a prisoner confined in any jail, prison, or other correctional facility under section 1979 of the Revised Statutes of the United States (42 U.S.C. 1983) or any other Federal law. Notwithstanding any other law or rule of procedure, such waiver shall not constitute an admission of the allegations contained in the complaint. No relief shall be granted to the plaintiff unless a reply has been filed.

"(2) The court may require any defendant to reply to a complaint brought under this section if it finds that the plaintiff has a reasonable opportunity to prevail on the merits.

"(h) DEFINITION.—As used in this section, the term 'prisoner' means any person incarcerated or detained in any facility who is accused of, convicted of, sentenced for, or adjudicated delinquent for, violations of criminal law or the terms and conditions of parole, probation, pretrial release, or diversionary program.".

(e) REPORT TO CONGRESS.—Section 8 of the Act (42 U.S.C. 1997f) is amended by striking "his report" and inserting "the report".

(f) NOTICE TO FEDERAL DEPARTMENTS.—Section 10 of the Act (42 U.S.C. 1997h) is amended—

(1) by striking "his action" and inserting "the action"; and

(2) by striking "he is satisfied" and inserting "the Attorney General is satisfied".

SEC. 804. PROCEEDINGS IN FORMA PAUPERIS.

(a) FILING FEES.—Section 1915 of title 28, United States Code, is amended—

(1) in subsection (a)—

(A) by striking "(a) Any" and inserting "(a)(1) Subject to subsection (b), any";

(B) by striking "and costs";

(C) by striking "makes affidavit" and inserting "submits an affidavit that includes a statement of all assets such prisoner possesses";

(D) by striking "such costs" and inserting "such fees";

(E) by striking "he" each place it appears and inserting "the person";

(F) by adding immediately after paragraph (1), the following new paragraph:

"(2) A prisoner seeking to bring a civil action or appeal a judgment in a civil action or proceeding without prepayment of fees or security therefor, in addition to filing the affidavit filed under paragraph (1), shall submit a certified copy of the trust fund account statement (or institutional equivalent) for the prisoner for the 6-month period immediately preceding the filing of the complaint or notice of appeal, obtained from the appropriate official of each prison at which the prisoner is or was confined."; and

(G) by striking "An appeal" and inserting "(3) An appeal";

(2) by redesignating subsections (b), (c), (d), and (e) as subsections (c), (d), (e), and (f), respectively;

(3) by inserting after subsection (a) the following new subsection:

"(b)(1) Notwithstanding subsection (a), if a prisoner brings a civil action or files an appeal in forma pauperis, the prisoner shall be required to pay the full amount of a filing fee. The court shall assess and, when funds exist, collect, as a partial payment of any court fees required by law, an initial partial filing fee of 20 percent of the greater of—

"(A) the average monthly deposits to the prisoner's account; or

"(B) the average monthly balance in the prisoner's account for the 6-month period immediately preceding the filing of the complaint or notice of appeal.

"(2) After payment of the initial partial filing fee, the prisoner shall be required to make monthly payments of 20 percent of the preceding month's income credited to the prisoner's account. The agency having custody of the prisoner shall forward payments from the prisoner's account to the clerk of the court each time the amount in the account exceeds $10 until the filing fees are paid.

"(3) In no event shall the filing fee collected exceed the amount of fees permitted by statute for the commencement of a civil action or an appeal of a civil action or criminal judgment.

"(4) In no event shall a prisoner be prohibited from bringing a civil action or appealing a civil or criminal judgment for the reason that the prisoner has no assets and no means by which to pay the initial partial filing fee.";

(4) in subsection (c), as redesignated by paragraph (2), by striking "subsection (a) of this section" and inserting "subsections (a) and (b) and the prepayment of any partial filing fee as may be required under subsection (b)"; and

(5) by amending subsection (e), as redesignated by paragraph (2), to read as follows:

"(e)(1) The court may request an attorney to represent any person unable to afford counsel.

"(2) Notwithstanding any filing fee, or any portion thereof, that may have been paid, the court shall dismiss the case at any time if the court determines that—

"(A) the allegation of poverty is untrue; or

"(B) the action or appeal—

"(i) is frivolous or malicious;

"(ii) fails to state a claim on which relief may be granted; or

"(iii) seeks monetary relief against a defendant who is immune from such relief.".

(b) EXCEPTION TO DISCHARGE OF DEBT IN BANKRUPTCY PROCEEDING.—Section 523(a) of title 11, United States Code, is amended—

(1) in paragraph (16), by striking the period at the end and inserting "; or"; and

(2) by adding at the end the following new paragraph:

"(17) for a fee imposed by a court for the filing of a case, motion, complaint, or appeal, or for other costs and expenses assessed with respect to such filing, regardless of an assertion of poverty by the debtor under section 1915 (b) or (f) of title 28, or the debtor's status as a prisoner, as defined in section 1915(h) of title 28.".

(c) COSTS.—Section 1915(f) of title 28, United States Code (as redesignated by subsection (a)(2)), is amended—

(1) by striking "(f) Judgment" and inserting "(f)(1) Judgment";

(2) by striking "cases" and inserting "proceedings"; and

(3) by adding at the end the following new paragraph:

"(2)(A) If the judgment against a prisoner includes the payment of costs under this subsection, the prisoner shall be required to pay the full amount of the costs ordered.

"(B) The prisoner shall be required to make payments for costs under this subsection in the same manner as is provided for filing fees under subsection (a)(2).

"(C) In no event shall the costs collected exceed the amount of the costs ordered by the court.".

(d) SUCCESSIVE CLAIMS.—Section 1915 of title 28, United States Code, is amended by adding at the end the following new subsection:

"(g) In no event shall a prisoner bring a civil action or appeal a judgment in a civil action or proceeding under this section if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court

of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.".

(e) DEFINITION.—Section 1915 of title 28, United States Code, is amended by adding at the end the following new subsection:

"(h) As used in this section, the term 'prisoner' means any person incarcerated or detained in any facility who is accused of, convicted of, sentenced for, or adjudicated delinquent for, violations of criminal law or the terms and conditions of parole, probation, pretrial release, or diversionary program.".

SEC. 805. JUDICIAL SCREENING.

(a) IN GENERAL.—Chapter 123 of title 28, United States Code, is amended by inserting after section 1915 the following new section:

"§ 1915A. Screening

"(a) SCREENING.—The court shall review, before docketing, if feasible or, in any event, as soon as practicable after docketing, a complaint in a civil action in which a prisoner seeks redress from a governmental entity or officer or employee of a governmental entity.

"(b) GROUNDS FOR DISMISSAL.—On review, the court shall identify cognizable claims or dismiss the complaint, or any portion of the complaint, if the complaint—

"(1) is frivolous, malicious, or fails to state a claim upon which relief may be granted; or

"(2) seeks monetary relief from a defendant who is immune from such relief.

"(c) DEFINITION.—As used in this section, the term 'prisoner' means any person incarcerated or detained in any facility who is accused of, convicted of, sentenced for, or adjudicated delinquent for, violations of criminal law or the terms and conditions of parole, probation, pretrial release, or diversionary program.".

(b) TECHNICAL AMENDMENT.—The analysis for chapter 123 of title 28, United States Code, is amended by inserting after the item relating to section 1915 the following new item:

"1915A. Screening.".

SEC. 806. FEDERAL TORT CLAIMS.

Section 1346(b) of title 28, United States Code, is amended—

(1) by striking "(b)" and inserting "(b)(1)"; and

(2) by adding at the end the following:

"(2) No person convicted of a felony who is incarcerated while awaiting sentencing or while serving a sentence may bring a civil action against the United States or an agency, officer, or employee of the Government, for mental or emotional injury suffered while in custody without a prior showing of physical injury.".

18 USC 3626 note.

SEC. 807. PAYMENT OF DAMAGE AWARD IN SATISFACTION OF PENDING RESTITUTION ORDERS.

Any compensatory damages awarded to a prisoner in connection with a civil action brought against any Federal, State, or local jail, prison, or correctional facility or against any official or agent of such jail, prison, or correctional facility, shall be paid directly to satisfy any outstanding restitution orders pending against the

prisoner. The remainder of any such award after full payment of all pending restitution orders shall be forwarded to the prisoner.

SEC. 808. NOTICE TO CRIME VICTIMS OF PENDING DAMAGE AWARD. 18 USC 3626 note.

Prior to payment of any compensatory damages awarded to a prisoner in connection with a civil action brought against any Federal, State, or local jail, prison, or correctional facility or against any official or agent of such jail, prison, or correctional facility, reasonable efforts shall be made to notify the victims of the crime for which the prisoner was convicted and incarcerated concerning the pending payment of any such compensatory damages.

SEC. 809. EARNED RELEASE CREDIT OR GOOD TIME CREDIT REVOCATION.

(a) IN GENERAL.—Chapter 123 of title 28, United States Code, is amended by adding at the end the following new section:

"§ 1932. Revocation of earned release credit

"In any civil action brought by an adult convicted of a crime and confined in a Federal correctional facility, the court may order the revocation of such earned good time credit under section 3624(b) of title 18, United States Code, that has not yet vested, if, on its own motion or the motion of any party, the court finds that—

"(1) the claim was filed for a malicious purpose;

"(2) the claim was filed solely to harass the party against which it was filed; or

"(3) the claimant testifies falsely or otherwise knowingly presents false evidence or information to the court.".

(b) TECHNICAL AMENDMENT.—The analysis for chapter 123 of title 28, United States Code, is amended by inserting after the item relating to section 1931 the following:

"1932. Revocation of earned release credit.".

(c) AMENDMENT OF SECTION 3624 OF TITLE 18.—Section 3624(b) of title 18, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking the first sentence;

(B) in the second sentence—

(i) by striking "A prisoner" and inserting "Subject to paragraph (2), a prisoner";

(ii) by striking "for a crime of violence,"; and

(iii) by striking "such";

(C) in the third sentence, by striking "If the Bureau" and inserting "Subject to paragraph (2), if the Bureau";

(D) by striking the fourth sentence and inserting the following: "In awarding credit under this section, the Bureau shall consider whether the prisoner, during the relevant period, has earned, or is making satisfactory progress toward earning, a high school diploma or an equivalent degree."; and

(E) in the sixth sentence, by striking "Credit for the last" and inserting "Subject to paragraph (2), credit for the last"; and

(2) by amending paragraph (2) to read as follows:

"(2) Notwithstanding any other law, credit awarded under this subsection after the date of enactment of the Prison Litigation Reform Act shall vest on the date the prisoner is released from custody.".

18 USC 3626 note.

SEC. 810. SEVERABILITY.

If any provision of this title, an amendment made by this title, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this title, the amendments made by this title, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

This Act may be cited as the "Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1996.".

(b) For programs, projects or activities in the District of Columbia Appropriations Act, 1996, provided as follows, to be effective as if it had been enacted into law as the regular appropriations Act:

AN ACT

Making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1996, and for other purposes.

District of Columbia Appropriations Act, 1996.

TITLE I—FISCAL YEAR 1996 APPROPRIATIONS

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA

For payment to the District of Columbia for the fiscal year ending September 30, 1996, $660,000,000, as authorized by section 502(a) of the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93–198, as amended (D.C. Code, sec. 47–3406.1).

FEDERAL CONTRIBUTION TO RETIREMENT FUNDS

For the Federal contribution to the Police Officers and Fire Fighters', Teachers', and Judges' Retirement Funds, as authorized by the District of Columbia Retirement Reform Act, approved November 17, 1979 (93 Stat. 866; Public Law 96–122), $52,070,000.

DIVISION OF EXPENSES

The following amounts are appropriated for the District of Columbia for the current fiscal year out of the general fund of the District of Columbia, except as otherwise specifically provided.

GOVERNMENTAL DIRECTION AND SUPPORT

Governmental direction and support, $149,130,000 and 1,498 full-time equivalent positions (end of year) (including $117,464,000 and 1,158 full-time equivalent positions from local funds, $2,464,000 and 5 full-time equivalent positions from Federal funds, $4,474,000 and 71 full-time equivalent positions from other funds, and $24,728,000 and 264 full-time equivalent positions from intra-District funds): *Provided,* That not to exceed $2,500 for the Mayor, $2,500 for the Chairman of the Council of the District of Columbia, and $2,500 for the City Administrator shall be available from this appropriation for expenditures for official purposes: *Provided further,* That any program fees collected from the issuance of debt

shall be available for the payment of expenses of the debt management program of the District of Columbia: *Provided further,* That no revenues from Federal sources shall be used to support the operations or activities of the Statehood Commission and Statehood Compact Commission: *Provided further,* That the District of Columbia shall identify the sources of funding for Admission to Statehood from its own locally-generated revenues: *Provided further,* That $29,500,000 is for pay-as-you-go capital projects of which $1,500,000 shall be for a capital needs assessment study, and $28,000,000 shall be for a new financial management system, if so determined following the evaluation and review process subsequently described in this paragraph, of which $2,000,000 shall be used to develop a needs analysis and assessment of the existing financial management environment, and the remaining $26,000,000 shall be used to procure the necessary hardware and installation of new software, conversion, testing and training: *Provided further,* That the $26,000,000 shall not be obligated or expended until: (1) the District of Columbia Financial Responsibility and Management Assistance Authority submits a report to the Committees on Appropriations of the House and the Senate, the Committee on Governmental Reform and Oversight of the House, and the Committee on Governmental Affairs of the Senate reporting the results of a needs analysis and assessment of the existing financial management environment, specifying the deficiencies in, and recommending necessary improvements to or replacement of the District's financial management system including a detailed explanation of each recommendation and its estimated cost; and (2) 30 days lapse after receipt of the report by Congress: *Provided further,* That the District of Columbia government shall enter into negotiations with Gallaudet University to transfer, at a fair market value rate, Hamilton School from the District of Columbia to Gallaudet University with the proceeds, if such a sale takes place, deposited into the general fund of the District and used to improve public school facilities in the same ward as the Hamilton School.

Reports.

Gallaudet University.

ECONOMIC DEVELOPMENT AND REGULATION

Economic development and regulation, $140,983,000 and 1,692 full-time equivalent positions (end-of-year) (including $68,203,000 and 698 full-time equivalent positions from local funds, $38,792,000 and 509 full-time equivalent positions from Federal funds, $17,658,000 and 258 full-time equivalent positions from other funds, and $16,330,000 and 227 full-time equivalent positions from intra-District funds): *Provided,* That the District of Columbia Housing Finance Agency, established by section 201 of the District of Columbia Housing Finance Agency Act, effective March 3, 1979 (D.C. Law 2–135; D.C. Code, sec. 45–2111), based upon its capability of repayments as determined each year by the Council of the District of Columbia from the Housing Finance Agency's annual audited financial statements to the Council of the District of Columbia, shall repay to the general fund an amount equal to the appropriated administrative costs plus interest at a rate of four percent per annum for a term of 15 years, with a deferral of payments for the first three years: *Provided further,* That notwithstanding the foregoing provision, the obligation to repay all or part of the amounts due shall be subject to the rights of the owners of any bonds or notes issued by the Housing Finance Agency and shall

be repaid to the District of Columbia government only from available operating revenues of the Housing Finance Agency that are in excess of the amounts required for debt service, reserve funds, and operating expenses: *Provided further,* That upon commencement of the debt service payments, such payments shall be deposited into the general fund of the District of Columbia.

PUBLIC SAFETY AND JUSTICE

Public safety and justice, including purchase of 135 passenger-carrying vehicles for replacement only, including 130 for police-type use and five for fire-type use, without regard to the general purchase price limitation for the current fiscal year, $963,848,000 and 11,544 full-time equivalent positions (end-of-year) (including $940,631,000 and 11,365 full-time equivalent positions from local funds, $8,942,000 and 70 full-time equivalent positions from Federal funds, $5,160,000 and 4 full-time equivalent positions from other funds, and $9,115,000 and 105 full-time equivalent positions from intra-District funds): *Provided,* That the Metropolitan Police Department is authorized to replace not to exceed 25 passenger-carrying vehicles and the Fire Department of the District of Columbia is authorized to replace not to exceed five passenger-carrying vehicles annually whenever the cost of repair to any damaged vehicle exceeds three-fourths of the cost of the replacement: *Provided further,* That not to exceed $500,000 shall be available from this appropriation for the Chief of Police for the prevention and detection of crime: *Provided further,* That the Metropolitan Police Department shall provide quarterly reports to the Committees on Appropriations of the House and Senate on efforts to increase efficiency and improve the professionalism in the department: *Provided further,* That notwithstanding any other provision of law, or Mayor's Order 86–45, issued March 18, 1986, the Metropolitan Police Department's delegated small purchase authority shall be $500,000: *Provided further,* That the District of Columbia government may not require the Metropolitan Police Department to submit to any other procurement review process, or to obtain the approval of or be restricted in any manner by any official or employee of the District of Columbia government, for purchases that do not exceed $500,000: *Provided further,* That $250,000 is used for the Georgetown Summer Detail; $200,000 is used for East of the River Detail; $100,000 is used for Adams Morgan Detail; and $100,000 is used for the Capitol Hill Summer Detail: *Provided further,* That the Metropolitan Police Department shall employ an authorized level of sworn officers not to be less than 3,800 sworn officers for the fiscal year ending September 30, 1996: *Provided further,* That funds appropriated for expenses under the District of Columbia Criminal Justice Act, approved September 3, 1974 (88 Stat. 1090; Public Law 93–412; D.C. Code, sec. 11–2601 et seq.), for the fiscal year ending September 30, 1996, shall be available for obligations incurred under the Act in each fiscal year since inception in the fiscal year 1975: *Provided further,* That funds appropriated for expenses under the District of Columbia Neglect Representation Equity Act of 1984, effective March 13, 1985 (D.C. Law 5–129; D.C. Code, sec. 16–2304), for the fiscal year ending September 30, 1996, shall be available for obligations incurred under the Act in each fiscal year since inception in the fiscal year 1985: *Provided further,* That funds appropriated for expenses under the District of Columbia Guardian-

Reports.

ship, Protective Proceedings, and Durable Power of Attorney Act of 1986, effective February 27, 1987 (D.C. Law 6–204; D.C. Code, sec. 21–2060), for the fiscal year ending September 30, 1996, shall be available for obligations incurred under the Act in each fiscal year since inception in fiscal year 1989: *Provided further,* That not to exceed $1,500 for the Chief Judge of the District of Columbia Court of Appeals, $1,500 for the Chief Judge of the Superior Court of the District of Columbia, and $1,500 for the Executive Officer of the District of Columbia Courts shall be available from this appropriation for official purposes: *Provided further,* That the District of Columbia shall operate and maintain a free, 24-hour telephone information service whereby residents of the area surrounding Lorton prison in Fairfax County, Virginia, can promptly obtain information from District of Columbia government officials on all disturbances at the prison, including escapes, riots, and similar incidents: *Provided further,* That the District of Columbia government shall also take steps to publicize the availability of the 24-hour telephone information service among the residents of the area surrounding the Lorton prison: *Provided further,* That not to exceed $100,000 of this appropriation shall be used to reimburse Fairfax County, Virginia, and Prince William County, Virginia, for expenses incurred by the counties during the fiscal year ending September 30, 1996, in relation to the Lorton prison complex: *Provided further,* That such reimbursements shall be paid in all instances in which the District requests the counties to provide police, fire, rescue, and related services to help deal with escapes, fires, riots, and similar disturbances involving the prison: *Provided further,* That the Mayor shall reimburse the District of Columbia National Guard for expenses incurred in connection with services that are performed in emergencies by the National Guard in a militia status and are requested by the Mayor, in amounts that shall be jointly determined and certified as due and payable for these services by the Mayor and the Commanding General of the District of Columbia National Guard: *Provided further,* That such sums as may be necessary for reimbursement to the District of Columbia National Guard under the preceding proviso shall be available from this appropriation, and the availability of the sums shall be deemed as constituting payment in advance for emergency services involved.

Communications.
Prisons.
Virginia.

PUBLIC EDUCATION SYSTEM

Public education system, including the development of national defense education programs, $795,201,000 and 11,670 full-time equivalent positions (end-of-year) (including $676,251,000 and 9,996 full-time equivalent positions from local funds, $87,385,000 and 1,227 full-time equivalent positions from Federal funds, $21,719,000 and 234 full-time equivalent positions from other funds, and $9,846,000 and 213 full-time equivalent positions from intra-District funds), to be allocated as follows: $580,996,000 and 10,167 full-time equivalent positions (including $498,310,000 and 9,014 full-time equivalent positions from local funds, $75,786,000 and 1,058 full-time equivalent positions from Federal funds, $4,343,000 and 44 full-time equivalent positions from other funds, and $2,557,000 and 51 full-time equivalent positions from intra-District funds), for the public schools of the District of Columbia; $111,800,000 (including $111,000,000 from local funds and $800,000 from intra-District funds) shall be allocated for the District of Columbia Teach-

ers' Retirement Fund; $79,396,000 and 1,079 full-time equivalent positions (including $45,377,000 and 572 full-time equivalent positions from local funds, $10,611,000 and 156 full-time equivalent positions from Federal funds, $16,922,000 and 189 full-time equivalent positions from other funds, and $6,486,000 and 162 full-time equivalent positions from intra-District funds) for the University of the District of Columbia; $20,742,000 and 415 full-time equivalent positions (including $19,839,000 and 408 full-time equivalent positions from local funds, $446,000 and 6 full-time equivalent positions from Federal funds, $454,000 and 1 full-time equivalent position from other funds, and $3,000 from intra-District funds) for the Public Library; $2,267,000 and 9 full-time equivalent positions (including $1,725,000 and 2 full-time equivalent positions from local funds and $542,000 and 7 full-time equivalent positions from Federal funds) for the Commission on the Arts and Humanities: *Provided,* That the public schools of the District of Columbia are authorized to accept not to exceed 31 motor vehicles for exclusive use in the driver education program: *Provided further,* That not to exceed $2,500 for the Superintendent of Schools, $2,500 for the President of the University of the District of Columbia, and $2,000 for the Public Librarian shall be available from this appropriation for expenditures for official purposes: *Provided further,* That this appropriation shall not be available to subsidize the education of nonresidents of the District of Columbia at the University of the District of Columbia, unless the Board of Trustees of the University of the District of Columbia adopts, for the fiscal year ending September 30, 1996, a tuition rate schedule that will establish the tuition rate for nonresident students at a level no lower than the nonresident tuition rate charged at comparable public institutions of higher education in the metropolitan area.

HUMAN SUPPORT SERVICES

Human support services, $1,855,014,000 and 6,469 full-time equivalent positions (end-of-year) (including $1,076,856,000 and 3,650 full-time equivalent positions from local funds, $726,685,000 and 2,639 full-time equivalent positions from Federal funds, $46,799,000 and 66 full-time equivalent positions from other funds, and $4,674,000 and 114 full-time equivalent positions from intra-District funds): *Provided,* That $26,000,000 of this appropriation, to remain available until expended, shall be available solely for District of Columbia employees' disability compensation: *Provided further,* That the District shall not provide free government services such as water, sewer, solid waste disposal or collection, utilities, maintenance, repairs, or similar services to any legally constituted private nonprofit organization (as defined in section 411(5) of Public Law 100–77, approved July 22, 1987) providing emergency shelter services in the District, if the District would not be qualified to receive reimbursement pursuant to the Stewart B. McKinney Homeless Assistance Act, approved July 22, 1987 (101 Stat. 485; Public Law 100–77; 42 U.S.C. 11301 et seq.).

PUBLIC WORKS

Public works, including rental of one passenger-carrying vehicle for use by the Mayor and three passenger-carrying vehicles for use by the Council of the District of Columbia and purchase of passenger-carrying vehicles for replacement only, $297,568,000 and

1,914 full-time equivalent positions (end-of-year) (including $225,915,000 and 1,158 full-time equivalent positions from local funds, $2,682,000 and 32 full-time equivalent positions from Federal funds, $18,342,000 and 68 full-time equivalent positions from other funds, and $50,629,000 and 656 full-time equivalent positions from intra-District funds): *Provided,* That this appropriation shall not be available for collecting ashes or miscellaneous refuse from hotels and places of business.

WASHINGTON CONVENTION CENTER FUND TRANSFER PAYMENT

For payment to the Washington Convention Center Enterprise Fund, $5,400,000 from local funds.

REPAYMENT OF LOANS AND INTEREST

For reimbursement to the United States of funds loaned in compliance with An Act to provide for the establishment of a modern, adequate, and efficient hospital center in the District of Columbia, approved August 7, 1946 (60 Stat. 896; Public Law 79–648); section 1 of An Act to authorize the Commissioners of the District of Columbia to borrow funds for capital improvement programs and to amend provisions of law relating to Federal Government participation in meeting costs of maintaining the Nation's Capital City, approved June 6, 1958 (72 Stat. 183; Public Law 85–451; D.C. Code, sec. 9–219); section 4 of An Act to authorize the Commissioners of the District of Columbia to plan, construct, operate, and maintain a sanitary sewer to connect the Dulles International Airport with the District of Columbia system, approved June 12, 1960 (74 Stat. 211; Public Law 86–515); sections 723 and 743(f) of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973, as amended (87 Stat. 821; Public Law 93–198; D.C. Code, sec. 47–321, note; 91 Stat. 1156; Public Law 95–131; D.C. Code, sec. 9–219, note), including interest as required thereby, $327,787,000 from local funds.

REPAYMENT OF GENERAL FUND RECOVERY DEBT

For the purpose of eliminating the $331,589,000 general fund accumulated deficit as of September 30, 1990, $38,678,000 from local funds, as authorized by section 461(a) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973, as amended (105 Stat. 540; Public Law 102–106; D.C. Code, sec. 47–321(a)).

PAYMENT OF INTEREST ON SHORT-TERM BORROWING

For payment of interest on short-term borrowing, $9,698,000 from local funds.

PAY RENEGOTIATION OR REDUCTION IN COMPENSATION

The Mayor shall reduce appropriations and expenditures for personal services in the amount of $46,409,000, by decreasing rates of compensation for District government employees; such decreased rates are to be realized from employees who are subject to collective bargaining agreements to the extent possible through the renegoti-

ation of existing collective bargaining agreements: *Provided,* That, if a sufficient reduction from employees who are subject to collective bargaining agreements is not realized through renegotiating existing agreements, the Mayor shall decrease rates of compensation for such employees, notwithstanding the provisions of any collective bargaining agreements: *Provided further,* That the Congress hereby ratifies and approves legislation enacted by the Council of the District of Columbia during fiscal year 1995 to reduce the compensation and benefits of all employees of the District of Columbia government during that fiscal year: *Provided further,* That notwithstanding any other provision of law, the legislation enacted by the Council of the District of Columbia during fiscal year 1995 to reduce the compensation and benefits of all employees of the District of Columbia government during that fiscal year shall be deemed to have been ratified and approved by the Congress during fiscal year 1995.

RAINY DAY FUND

For mandatory unavoidable expenditures within one or several of the various appropriation headings of this Act, to be allocated to the budgets for personal services and nonpersonal services as requested by the Mayor and approved by the Council pursuant to the procedures in section 4 of the Reprogramming Policy Act of 1980, effective September 16, 1980 (D.C. Law 3–100; D.C. Code, sec. 47–363), $4,563,000 from local funds: *Provided,* That the District of Columbia shall provide to the Committees on Appropriations of the House of Representatives and the Senate quarterly reports by the 15th day of the month following the end of the quarter showing how monies provided under this fund are expended with a final report providing a full accounting of the fund due October 15, 1996 or not later than 15 days after the last amount remaining in the fund is disbursed.

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INCENTIVE BUYOUT PROGRAM

For the purpose of funding costs associated with the incentive buyout program, to be apportioned by the Mayor of the District of Columbia within the various appropriation headings in this Act from which costs are properly payable, $19,000,000.

OUTPLACEMENT SERVICES

For the purpose of funding outplacement services for employees who leave the District of Columbia government involuntarily, $1,500,000.

BOARDS AND COMMISSIONS

The Mayor shall reduce appropriations and expenditures for boards and commissions under the various headings in this title in the amount of $500,000: *Provided,* That this provision shall not apply to any board or commission established under title II of this Act.

GOVERNMENT RE-ENGINEERING PROGRAM

The Mayor shall reduce appropriations and expenditures for personal and nonpersonal services in the amount of $16,000,000

within one or several of the various appropriation headings in this Title.

CAPITAL OUTLAY

(INCLUDING RESCISSIONS)

For construction projects, $168,222,000 (including $82,850,000 from local funds and $85,372,000 from Federal funds), as authorized by An Act authorizing the laying of water mains and service sewers in the District of Columbia, the levying of assessments therefor, and for other purposes, approved April 22, 1904 (33 Stat. 244; Public Law 58–140; D.C. Code, secs. 43–1512 through 43–1519); the District of Columbia Public Works Act of 1954, approved May 18, 1954 (68 Stat. 101; Public Law 83–364); An Act to authorize the Commissioners of the District of Columbia to borrow funds for capital improvement programs and to amend provisions of law relating to Federal Government participation in meeting costs of maintaining the Nation's Capital City, approved June 6, 1958 (72 Stat. 183; Public Law 85–451; including acquisition of sites, preparation of plans and specifications, conducting preliminary surveys, erection of structures, including building improvement and alteration and treatment of grounds, to remain available until expended: *Provided,* That $105,660,000 from local funds appropriated under this heading in prior fiscal years is rescinded: *Provided further,* That funds for use of each capital project implementing agency shall be managed and controlled in accordance with all procedures and limitations established under the Financial Management System: *Provided further,* That all funds provided by this appropriation title shall be available only for the specific projects and purposes intended: *Provided further,* That notwithstanding the foregoing, all authorizations for capital outlay projects, except those projects covered by the first sentence of section 23(a) of the Federal-Aid Highway Act of 1968, approved August 23, 1968 (82 Stat. 827; Public Law 90–495; D.C. Code, sec. 7–134, note), for which funds are provided by this appropriation title, shall expire on September 30, 1997, except authorizations for projects as to which funds have been obligated in whole or in part prior to September 30, 1997: *Provided further,* That upon expiration of any such project authorization the funds provided herein for the project shall lapse.

WATER AND SEWER ENTERPRISE FUND

For the Water and Sewer Enterprise Fund, $242,253,000 and 1,024 full-time equivalent positions (end-of-year) (including $237,076,000 and 924 full-time equivalent positions from local funds, $433,000 from other funds, and $4,744,000 and 100 full-time equivalent positions from intra-District funds), of which $41,036,000 shall be apportioned and payable to the debt service fund for repayment of loans and interest incurred for capital improvement projects.

For construction projects, $39,477,000 from Federal funds, as authorized by An Act authorizing the laying of water mains and service sewers in the District of Columbia, the levying of assessments therefor, and for other purposes, approved April 22, 1904 (33 Stat. 244; Public Law 58–140; D.C. Code, sec. 43–1512 et seq.): *Provided,* That the requirements and restrictions that are applicable to general fund capital improvement projects and set

forth in this Act under the Capital Outlay appropriation title shall apply to projects approved under this appropriation title.

LOTTERY AND CHARITABLE GAMES ENTERPRISE FUND

For the Lottery and Charitable Games Enterprise Fund, established by the District of Columbia Appropriation Act for the fiscal year ending September 30, 1982, approved December 4, 1981 (95 Stat. 1174, 1175; Public Law 97–91), as amended, for the purpose of implementing the Law to Legalize Lotteries, Daily Numbers Games, and Bingo and Raffles for Charitable Purposes in the District of Columbia, effective March 10, 1981 (D.C. Law 3–172; D.C. Code, secs. 2–2501 et seq. and 22–1516 et seq.), $229,950,000 and 88 full-time equivalent positions (end-of-year) (including $7,950,000 and 88 full-time equivalent positions for administrative expenses and $222,000,000 for non-administrative expenses from revenue generated by the Lottery Board), to be derived from non-Federal District of Columbia revenues: *Provided,* That the District of Columbia shall identify the source of funding for this appropriation title from the District's own locally-generated revenues: *Provided further,* That no revenues from Federal sources shall be used to support the operations or activities of the Lottery and Charitable Games Control Board.

CABLE TELEVISION ENTERPRISE FUND

For the Cable Television Enterprise Fund, established by the Cable Television Communications Act of 1981, effective October 22, 1983 (D.C. Law 5–36; D.C. Code, sec. 43–1801 et seq.), $2,351,000 and 8 full-time equivalent positions (end-of-year) (including $2,019,000 and 8 full-time equivalent positions from local funds and $332,000 from other funds), of which $572,000 shall be transferred to the general fund of the District of Columbia.

STARPLEX FUND

For the Starplex Fund, $6,580,000 from other funds for the expenses incurred by the Armory Board in the exercise of its powers granted by An Act To Establish A District of Columbia Armory Board, and for other purposes, approved June 4, 1948 (62 Stat. 339; D.C. Code, sec. 2–301 et seq.) and the District of Columbia Stadium Act of 1957, approved September 7, 1957 (71 Stat. 619; Public Law 85–300; D.C. Code, sec. 2–321 et seq.): *Provided,* That the Mayor shall submit a budget for the Armory Board for the forthcoming fiscal year as required by section 442(b) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 824; Public Law 93–198; D.C. Code, sec. 47–301(b)).

D.C. GENERAL HOSPITAL

For the District of Columbia General Hospital, established by Reorganization Order No. 57 of the Board of Commissioners, effective August 15, 1953, $115,034,000, of which $56,735,000 shall be derived by transfer as intra-District funds from the general fund, $52,684,000 is to be derived from the other funds, and $5,615,000 is to be derived from intra-District funds.

D.C. RETIREMENT BOARD

For the D.C. Retirement Board, established by section 121 of the District of Columbia Retirement Reform Act of 1989, approved November 17, 1989 (93 Stat. 866; D.C. Code, sec. 1–711), $13,440,000 and 11 full-time equivalent positions (end-of-year) from the earnings of the applicable retirement funds to pay legal, management, investment, and other fees and administrative expenses of the District of Columbia Retirement Board: *Provided,* That the District of Columbia Retirement Board shall provide to the Congress and to the Council of the District of Columbia a quarterly report of the allocations of charges by fund and of expenditures of all funds: *Provided further,* That the District of Columbia Retirement Board shall provide the Mayor, for transmittal to the Council of the District of Columbia, an item accounting of the planned use of appropriated funds in time for each annual budget submission and the actual use of such funds in time for each annual audited financial report. Reports.

CORRECTIONAL INDUSTRIES FUND

For the Correctional Industries Fund, established by the District of Columbia Correctional Industries Establishment Act, approved October 3, 1964 (78 Stat. 1000; Public Law 88–622), $10,516,000 and 66 full-time equivalent positions (end-of-year) (including $3,415,000 and 22 full-time equivalent positions from other funds and $7,101,000 and 44 full-time equivalent positions from intra-District funds).

WASHINGTON CONVENTION CENTER ENTERPRISE FUND

For the Washington Convention Center Enterprise Fund, $37,957,000, of which $5,400,000 shall be derived by transfer from the general fund.

DISTRICT OF COLUMBIA FINANCIAL RESPONSIBILITY AND MANAGEMENT ASSISTANCE AUTHORITY

For the District of Columbia Financial Responsibility and Management Assistance Authority, established by section 101(a) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, approved April 17, 1995 (109 Stat. 97; Public Law 104–8), $3,500,000.

PERSONAL AND NONPERSONAL SERVICES ADJUSTMENTS

Notwithstanding any other provision of law, the Chief Financial Officer established under section 302 of Public Law 104–8, approved April 17, 1995 (109 Stat. 142) shall, on behalf of the Mayor, adjust appropriations and expenditures for personal and nonpersonal services, together with the related full-time equivalent positions, in accordance with the direction of the District of Columbia Financial Responsibility and Management Assistance Authority such that there is a net reduction of $150,907,000, within or among one or several of the various appropriation headings in this Title, pursuant to section 208 of Public Law 104–8, approved April 17, 1995 (109 Stat. 134).

GENERAL PROVISIONS

Public inspection.

SEC. 101. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 102. Except as otherwise provided in this Act, all vouchers covering expenditures of appropriations contained in this Act shall be audited before payment by the designated certifying official and the vouchers as approved shall be paid by checks issued by the designated disbursing official.

SEC. 103. Whenever in this Act, an amount is specified within an appropriation for particular purposes or objects of expenditure, such amount, unless otherwise specified, shall be considered as the maximum amount that may be expended for said purpose or object rather than an amount set apart exclusively therefor.

SEC. 104. Appropriations in this Act shall be available, when authorized by the Mayor, for allowances for privately owned automobiles and motorcycles used for the performance of official duties at rates established by the Mayor: *Provided,* That such rates shall not exceed the maximum prevailing rates for such vehicles as prescribed in the Federal Property Management Regulations 101–7 (Federal Travel Regulations).

SEC. 105. Appropriations in this Act shall be available for expenses of travel and for the payment of dues of organizations concerned with the work of the District of Columbia government, when authorized by the Mayor: *Provided,* That the Council of the District of Columbia and the District of Columbia Courts may expend such funds without authorization by the Mayor.

SEC. 106. There are appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making refunds and for the payment of judgments that have been entered against the District of Columbia government: *Provided,* That nothing contained in this section shall be construed as modifying or affecting the provisions of section 11(c)(3) of title XII of the District of Columbia Income and Franchise Tax Act of 1947, approved March 31, 1956 (70 Stat. 78; Public Law 84–460; D.C. Code, sec. 47–1812.11(c)(3)).

SEC. 107. Appropriations in this Act shall be available for the payment of public assistance without reference to the requirement of section 544 of the District of Columbia Public Assistance Act of 1982, effective April 6, 1982 (D.C. Law 4–101; D.C. Code, sec. 3–205.44), and for the non-Federal share of funds necessary to qualify for Federal assistance under the Juvenile Delinquency Prevention and Control Act of 1968, approved July 31, 1968 (82 Stat. 462; Public Law 90–445, 42 U.S.C. 3801 et seq.).

SEC. 108. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 109. No funds appropriated in this Act for the District of Columbia government for the operation of educational institutions, the compensation of personnel, or for other educational purposes may be used to permit, encourage, facilitate, or further partisan political activities. Nothing herein is intended to prohibit

the availability of school buildings for the use of any community or partisan political group during non-school hours.

SEC. 110. The annual budget for the District of Columbia government for the fiscal year ending September 30, 1997, shall be transmitted to the Congress no later than April 15, 1996 or as provided for under the provisions of Public Law 104–8, approved April 17, 1995. District of Columbia budget.

SEC. 111. None of the funds appropriated in this Act shall be made available to pay the salary of any employee of the District of Columbia government whose name, title, grade, salary, past work experience, and salary history are not available for inspection by the House and Senate Committees on Appropriations, the House Committee on Government Reform and Oversight, District of Columbia Subcommittee, the Subcommittee on Oversight of Government Management, of the Senate Committee on Governmental Affairs, and the Council of the District of Columbia, or their duly authorized representative: *Provided,* That none of the funds contained in this Act shall be made available to pay the salary of any employee of the District of Columbia government whose name and salary are not available for public inspection.

SEC. 112. There are appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making payments authorized by the District of Columbia Revenue Recovery Act of 1977, effective September 23, 1977 (D.C. Law 2–20; D.C. Code, sec. 47–421 et seq.).

SEC. 113. No part of this appropriation shall be used for publicity or propaganda purposes or implementation of any policy including boycott designed to support or defeat legislation pending before Congress or any State legislature.

SEC. 114. At the start of the fiscal year, the Mayor shall develop an annual plan, by quarter and by project, for capital outlay borrowings: *Provided,* That within a reasonable time after the close of each quarter, the Mayor shall report to the Council of the District of Columbia and the Congress the actual borrowings and spending progress compared with projections. Reports.

SEC. 115. The Mayor shall not borrow any funds for capital projects unless the Mayor has obtained prior approval from the Council of the District of Columbia, by resolution, identifying the projects and amounts to be financed with such borrowings.

SEC. 116. The Mayor shall not expend any moneys borrowed for capital projects for the operating expenses of the District of Columbia government.

SEC. 117. None of the funds appropriated by this Act may be obligated or expended by reprogramming except pursuant to advance approval of the reprogramming granted according to the procedure set forth in the Joint Explanatory Statement of the Committee of Conference (House Report No. 96–443), which accompanied the District of Columbia Appropriation Act, 1980, approved October 30, 1979 (93 Stat. 713; Public Law 96–93), as modified in House Report No. 98–265, and in accordance with the Reprogramming Policy Act of 1980, effective September 16, 1980 (D.C. Law 3–100; D.C. Code, sec. 47–361 et seq.): *Provided,* That for the fiscal year ending September 30, 1996 the above shall apply except as modified by Public Law 104–8.

SEC. 118. None of the Federal funds provided in this Act shall be obligated or expended to provide a personal cook, chauffeur,

or other personal servants to any officer or employee of the District of Columbia.

SEC. 119. None of the Federal Funds provided in this Act shall be obligated or expended to procure passenger automobiles as defined in the Automobile Fuel Efficiency Act of 1980, approved October 10, 1980 (94 Stat. 1824; Public Law 96–425; 15 U.S.C. 2001(2)), with an Environmental Protection Agency estimated miles per gallon average of less than 22 miles per gallon: *Provided,* That this section shall not apply to security, emergency rescue, or armored vehicles.

SEC. 120. (a) Notwithstanding section 422(7) of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973 (87 Stat. 790; Public Law 93–198; D.C. Code, sec. 1–242(7)), the City Administrator shall be paid, during any fiscal year, a salary at a rate established by the Mayor, not to exceed the rate established for level IV of the Executive Schedule under 5 U.S.C. 5315.

(b) For purposes of applying any provision of law limiting the availability of funds for payment of salary or pay in any fiscal year, the highest rate of pay established by the Mayor under subsection (a) of this section for any position for any period during the last quarter of calendar year 1995 shall be deemed to be the rate of pay payable for that position for September 30, 1995.

(c) Notwithstanding section 4(a) of the District of Columbia Redevelopment Act of 1945, approved August 2, 1946 (60 Stat. 793; Public Law 79–592; D.C. Code, sec. 5–803(a)), the Board of Directors of the District of Columbia Redevelopment Land Agency shall be paid, during any fiscal year, per diem compensation at a rate established by the Mayor.

SEC. 121. Notwithstanding any other provisions of law, the provisions of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2–139; D.C. Code, sec. 1–601.1 et seq.), enacted pursuant to section 422(3) of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973 (87 Stat. 790; Public Law 93–198; D.C. Code, sec. 1–242(3)), shall apply with respect to the compensation of District of Columbia employees: *Provided,* That for pay purposes, employees of the District of Columbia government shall not be subject to the provisions of title 5 of the United States Code.

SEC. 122. The Director of the Department of Administrative Services may pay rentals and repair, alter, and improve rented premises, without regard to the provisions of section 322 of the Economy Act of 1932 (Public Law 72–212; 40 U.S.C. 278a), upon a determination by the Director, that by reason of circumstances set forth in such determination, the payment of these rents and the execution of this work, without reference to the limitations of section 322, is advantageous to the District in terms of economy, efficiency, and the District's best interest.

SEC. 123. No later than 30 days after the end of the first quarter of the fiscal year ending September 30, 1996, the Mayor of the District of Columbia shall submit to the Council of the District of Columbia the new fiscal year 1996 revenue estimates as of the end of the first quarter of fiscal year 1996. These estimates shall be used in the budget request for the fiscal year ending September 30, 1997. The officially revised estimates at midyear shall be used for the midyear report.

SEC. 124. No sole source contract with the District of Columbia government or any agency thereof may be renewed or extended without opening that contract to the competitive bidding process as set forth in section 303 of the District of Columbia Procurement Practices Act of 1985, effective February 21, 1986 (D.C. Law 6–85; D.C. Code, sec. 1–1183.3), except that the District of Columbia Public Schools may renew or extend sole source contracts for which competition is not feasible or practical, provided that the determination as to whether to invoke the competitive bidding process has been made in accordance with duly promulgated Board of Education rules and procedures.

SEC. 125. For purposes of the Balanced Budget and Emergency Deficit Control Act of 1985, approved December 12, 1985 (99 Stat. 1037; Public Law 99–177), as amended, the term "program, project, and activity" shall be synonymous with and refer specifically to each account appropriating Federal funds in this Act, and any sequestration order shall be applied to each of the accounts rather than to the aggregate total of those accounts: *Provided,* That sequestration orders shall not be applied to any account that is specifically exempted from sequestration by the Balanced Budget and Emergency Deficit Control Act of 1985, approved December 12, 1985 (99 Stat. 1037; Public Law 99–177), as amended.

SEC. 126. In the event a sequestration order is issued pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985, approved December 12, 1985 (99 Stat. 1037: Public Law 99–177), as amended, after the amounts appropriated to the District of Columbia for the fiscal year involved have been paid to the District of Columbia, the Mayor of the District of Columbia shall pay to the Secretary of the Treasury, within 15 days after receipt of a request therefor from the Secretary of the Treasury, such amounts as are sequestered by the order: *Provided,* That the sequestration percentage specified in the order shall be applied proportionately to each of the Federal appropriation accounts in this Act that are not specifically exempted from sequestration by the Balanced Budget and Emergency Deficit Control Act of 1985, approved December 12, 1985 (99 Stat. 1037; Public Law 99–177), as amended. Sequestration.

SEC. 127. For the fiscal year ending September 30, 1996, the District of Columbia shall pay interest on its quarterly payments to the United States that are made more than 60 days from the date of receipt of an itemized statement from the Federal Bureau of Prisons of amounts due for housing District of Columbia convicts in Federal penitentiaries for the preceding quarter.

SEC. 128. Nothing in this Act shall be construed to authorize any office, agency or entity to expend funds for programs or functions for which a reorganization plan is required but has not been approved by the Council pursuant to section 422(12) of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973 (87 Stat. 790; Public Law 93–198; D.C. Code, sec. 1–242(12)) and the Governmental Reorganization Procedures Act of 1981, effective October 17, 1981 (D.C. Law 4–42; D.C. Code, sec. 1–299.1 to 1–299.7). Appropriations made by this Act for such programs or functions are conditioned on the approval by the Council, prior to October 1, 1995, of the required reorganization plans.

SEC. 129. (a) An entity of the District of Columbia government may accept and use a gift or donation during fiscal year 1996 if—

(1) the Mayor approves the acceptance and use of the gift or donation: *Provided,* That the Council of the District of Columbia may accept and use gifts without prior approval by the Mayor; and

(2) the entity uses the gift or donation to carry out its authorized functions or duties.

Records.
Public inspection.

(b) Each entity of the District of Columbia government shall keep accurate and detailed records of the acceptance and use of any gift or donation under subsection (a) of this section, and shall make such records available for audit and public inspection.

(c) For the purposes of this section, the term "entity of the District of Columbia government" includes an independent agency of the District of Columbia.

(d) This section shall not apply to the District of Columbia Board of Education, which may, pursuant to the laws and regulations of the District of Columbia, accept and use gifts to the public schools without prior approval by the Mayor.

SEC. 130. None of the Federal funds provided in this Act may be used by the District of Columbia to provide for salaries, expenses, or other costs associated with the offices of United States Senator or United States Representative under section 4(d) of the District of Columbia Statehood Constitutional Convention Initiatives of 1979, effective March 10, 1981 (D.C. Law 3–171; D.C. Code, sec. 1–113(d)).

PROHIBITION AGAINST USE OF FUNDS FOR ABORTIONS

SEC. 131. None of the funds appropriated under this Act shall be expended for any abortion except where the life of the mother would be endangered if the fetus were carried to term or where the pregnancy is the result of an act of rape or incest.

PROHIBITION ON DOMESTIC PARTNERS ACT

SEC. 132. No funds made available pursuant to any provision of this Act shall be used to implement or enforce any system of registration of unmarried, cohabiting couples whether they are homosexual, lesbian, or heterosexual, including but not limited to registration for the purpose of extending employment, health, or governmental benefits to such couples on the same basis that such benefits are extended to legally married couples; nor shall any funds made available pursuant to any provision of this Act otherwise be used to implement or enforce D.C. Act 9–188, signed by the Mayor of the District of Columbia on April 15, 1992.

COMPENSATION FOR THE COMMISSION ON JUDICIAL DISABILITIES AND TENURE AND FOR THE JUDICIAL NOMINATION COMMISSION

SEC. 133. Sections 431(f) and 433(b)(5) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 813; Public Law 93–198; D.C. Code, secs. 11–1524 and title 11, App. 433), are amended to read as follows:

(a) Section 431(f) (D.C. Code, sec. 11–1524) is amended to read as follows:

"(f) Members of the Tenure Commission shall serve without compensation for services rendered in connection with their official duties on the Commission.".

(b) Section 433(b)(5) (title 11, App. 433) is amended to read as follows:

"(5) Members of the Commission shall serve without compensation for services rendered in connection with their official duties on the Commission.".

MULTIYEAR CONTRACTS

SEC. 134. Section 451 of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973 (87 Stat. 803; Public Law 93–198; D.C. Code, sec. 1–1130), is amended by adding a new subsection (c) to read as follows:

"(c)(1) The District may enter into multiyear contracts to obtain goods and services for which funds would otherwise be available for obligation only within the fiscal year for which appropriated.

"(2) If the funds are not made available for the continuation of such a contract into a subsequent fiscal year, the contract shall be cancelled or terminated, and the cost of cancellation or termination may be paid from—

"(A) appropriations originally available for the performance of the contract concerned;

"(B) appropriations currently available for procurement of the type of acquisition covered by the contract, and not otherwise obligated; or

"(C) funds appropriated for those payments.

"(3) No contract entered into under this section shall be valid unless the Mayor submits the contract to the Council for its approval and the Council approves the contract (in accordance with criteria established by act of the Council). The Council shall be required to take affirmative action to approve the contract within 45 days. If no action is taken to approve the contract within 45 calendar days, the contract shall be deemed disapproved.".

CALCULATED REAL PROPERTY TAX RATE RESCISSION AND REAL PROPERTY TAX FREEZE

SEC. 135. The District of Columbia Real Property Tax Revision Act of 1974, approved September 3, 1974 (88 Stat. 1051; D.C. Code, sec. 47–801 et seq.), is amended as follows:

(1) Section 412 (D.C. Code, sec. 47–812) is amended as follows:

(A) Subsection (a) is amended by striking the third and fourth sentences and inserting the following sentences in their place: "If the Council does extend the time for establishing the rates of taxation on real property, it must establish those rates for the tax year by permanent legislation. If the Council does not establish the rates of taxation of real property by October 15, and does not extend the time for establishing rates, the rates of taxation applied for the prior year shall be the rates of taxation applied during the tax year.".

(B) A new subsection (a–2) is added to read as follows:

"(a–2) Notwithstanding the provisions of subsection (a) of this section, the real property tax rates for taxable real property in the District of Columbia for the tax year beginning October 1, 1995, and ending September 30, 1996, shall be the same rates

in effect for the tax year beginning October 1, 1993, and ending September 30, 1994.".

(2) Section 413(c) (D.C. Code, sec. 47–815(c)) is repealed.

PRISONS INDUSTRIES

SEC. 136. Title 18 U.S.C. 1761(b) is amended by striking the period at the end and inserting the phrase "or not-for-profit organizations." in its place.

REPORTS ON REDUCTIONS

SEC. 137. Within 120 days of the effective date of this Act, the Mayor shall submit to the Congress and the Council a report delineating the actions taken by the executive to effect the directives of the Council in this Act, including--

(1) negotiations with representatives of collective bargaining units to reduce employee compensation;

(2) actions to restructure existing long-term city debt;

(3) actions to apportion the spending reductions anticipated by the directives of this Act to the executive for unallocated reductions; and

(4) a list of any position that is backfilled including description, title, and salary of the position.

MONTHLY REPORTING REQUIREMENTS—BOARD OF EDUCATION

SEC. 138. The Board of Education shall submit to the Congress, Mayor, and Council of the District of Columbia no later than fifteen (15) calendar days after the end of each month a report that sets forth—

(1) current month expenditures and obligations, year-to-date expenditures and obligations, and total fiscal year expenditure projections vs. budget broken out on the basis of control center, responsibility center, agency reporting code, and object class, and for all funds, including capital financing.

(2) a breakdown of FTE positions and staff for the most current pay period broken out on the basis of control center, responsibility center, and agency reporting code within each responsibility center, for all funds, including capital funds;

(3) a list of each account for which spending is frozen and the amount of funds frozen, broken out by control center, responsibility center, detailed object, and agency reporting code, and for all funding sources;

(4) a list of all active contracts in excess of $10,000 annually, which contains; the name of each contractor; the budget to which the contract is charged broken out on the basis of control center, responsibility center, and agency reporting code; and contract identifying codes used by the D.C. Public Schools; payments made in the last month and year-to-date, the total amount of the contract and total payments made for the contract and any modifications, extensions, renewals; and specific modifications made to each contract in the last month;

(5) all reprogramming requests and reports that are required to be, and have been submitted to the Board of Education; and

(6) changes made in the last month to the organizational structure of the D.C. Public Schools, displaying previous and current control centers and responsibility centers, the names of the organizational entities that have been changed, the name of the staff member supervising each entity affected, and the reasons for the structural change.

MONTHLY REPORTING REQUIREMENTS

UNIVERSITY OF THE DISTRICT OF COLUMBIA

SEC. 139. The University of the District of Columbia shall submit to the Congress, Mayor, and Council of the District of Columbia no later than fifteen (15) calendar days after the end of each month a report that sets forth—

(1) current month expenditures and obligations, year-to-date expenditures and obligations, and total fiscal year expenditure projections vs. budget broken out on the basis of control center, responsibility center, and object class, and for all funds, including capital financing;

(2) a breakdown of FTE positions and all employees for the most current pay period broken out on the basis of control center, responsibility center, for all funds, including capital funds;

(3) a list of each account for which spending is frozen and the amount of funds frozen, broken out by control center, responsibility center, detailed object, and for all funding sources;

(4) a list of all active contracts in excess of $10,000 annually, which contains; the name of each contractor; the budget to which the contract is charged broken out on the basis of control center and responsibility center, and contract identifying codes used by the University of the District of Columbia; payments made in the last month and year-to-date, the total amount of the contract and total payments made for the contract and any modifications, extensions, renewals; and specific modifications made to each contract in the last month;

(5) all reprogramming requests and reports that have been made by the University of the District of Columbia within the last month in compliance with applicable law; and

(6) changes in the last month to the organizational structure of the University of the District of Columbia, displaying previous and current control centers and responsibility centers, the names of the organizational entities that have been changed, the name of the staff member supervising each entity affected, and the reasons for the structural change.

ANNUAL REPORTING REQUIREMENTS

SEC. 140. (a) The Board of Education of the District of Columbia and the University of the District of Columbia shall annually compile an accurate and verifiable report on the positions and employees in the public school system and the university, respectively. The annual report shall set forth—

(1) the number of validated schedule A positions in the District of Columbia Public Schools and the University of the District of Columbia for fiscal year 1995, fiscal year 1996,

and thereafter on full-time equivalent basis, including a compilation of all positions by control center, responsibility center, funding source, position type, position title, pay plan, grade, and annual salary; and

(2) a compilation of all employees in the District of Columbia Public Schools and the University of the District of Columbia as of the preceding December 31, verified as to its accuracy in accordance with the functions that each employee actually performs, by control center, responsibility center, agency reporting code, program (including funding source), activity, location for accounting purposes, job title, grade and classification, annual salary, and position control number.

(b) SUBMISSION.—The annual report required by subsection (a) shall be submitted to the Congress, the Mayor, the District of Columbia Council, the Consensus Commission, and the Authority, not later than May 1, 1996, and each February 15 thereafter.

ANNUAL BUDGETS AND BUDGET REVISIONS

SEC. 141. (a) Not later than October 1, 1995, or within 15 calendar days after the date of the enactment of the District of Columbia Appropriations Act, 1996, whichever occurs later, and each succeeding year, the Board of Education and the University of the District of Columbia shall submit to the appropriate congressional committees, the Mayor, the District of Columbia Council, the Consensus Commission, and the Authority, a revised appropriated funds operating budget for the public school system and the University of the District of Columbia for such fiscal year that is in the total amount of the approved appropriation and that realigns budgeted data for personal services and other-than-personal services, respectively, with anticipated actual expenditures.

(b) The revised budget required by subsection (a) of this section shall be submitted in the format of the budget that the Board of Education and the University of the District of Columbia submit to the Mayor of the District of Columbia for inclusion in the Mayor's budget submission to the Council of the District of Columbia pursuant to section 442 of the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93–198, as amended (D.C. Code, sec. 47–301).

BUDGET APPROVAL

SEC. 142. The Board of Education, the Board of Trustees of the University of the District of Columbia, the Board of Library Trustees, and the Board of Governors of the D.C. School of Law shall vote on and approve their respective annual or revised budgets before submission to the Mayor of the District of Columbia for inclusion in the Mayor's budget submission to the Council of the District of Columbia in accordance with section 442 of the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93–198, as amended (D.C. Code, sec. 47–301), or before submitting their respective budgets directly to the Council.

PUBLIC SCHOOL EMPLOYEE EVALUATIONS

SEC. 143. Notwithstanding any other provision of law, rule, or regulation, the evaluation process and instruments for evaluating

District of Columbia Public Schools employees shall be a non-negotiable item for collective bargaining purposes.

POSITION VACANCIES

SEC. 144. (a) No agency, including an independent agency, shall fill a position wholly funded by appropriations authorized by this Act, which is vacant on October 1, 1995, or becomes vacant between October 1, 1995, and September 30, 1996, unless the Mayor or independent agency submits a proposed resolution of intent to fill the vacant position to the Council. The Council shall be required to take affirmative action on the Mayor's resolution within 30 legislative days. If the Council does not affirmatively approve the resolution within 30 legislative days, the resolution shall be deemed disapproved.

(b) No reduction in the number of full-time equivalent positions or reduction-in-force due to privatization or contracting out shall occur if the District of Columbia Financial Responsibility and Management Assistance Authority, established by section 101(a) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, approved April 17, 1995 (109 Stat. 97; Public Law 104–8), disallows the full-time equivalent position reduction provided in this act in meeting the maximum ceiling of 35,984 for the fiscal year ending September 30, 1996.

(c) This section shall not prohibit the appropriate personnel authority from filling a vacant position with a District government employee currently occupying a position that is funded with appropriated funds.

(d) This section shall not apply to local school-based teachers, school-based officers, or school-based teachers' aides; or court personnel covered by title 11 of the D.C. Code, except chapter 23.

MODIFICATIONS OF BOARD OF EDUCATION REDUCTION-IN-FORCE PROCEDURES

SEC. 145. The District of Columbia Government Comprehensive Merit Personnel Act of 1978, (D.C. Code, sec. 1–601.1 et seq.) is amended—

(1) in section 301 (D.C. Code, sec. 1.603.1)—

(A) by inserting after paragraph (13), the following new paragraph:

"(13A) The term 'nonschool-based personnel' means any employee of the District of Columbia public schools who is not based at a local school or who does not provide direct services to individual students."; and

(B) by inserting after paragraph (15), the following new paragraph:

"(15A) The term 'school administrators' means principals, assistant principals, school program directors, coordinators, instructional supervisors, and support personnel of the District of Columbia public schools.";

(2) in section 801A(b)(2) (D.C. Code, sec. 1–609.1(b)(2)(L)—

(A) by striking "(L) reduction-in-force" and inserting "(L)(i) reduction-in-force"; and

(B) by inserting after subparagraph (L)(i), the following new clause:

"(ii) Notwithstanding any other provision of law, the Board of Education shall not issue rules that require or permit nonschool-based personnel or school administrators to be assigned or reassigned to the same competitive level as classroom teachers;"; and

(3) in section 2402 (D.C. Code, sec. 1–625.2), by adding at the end the following new subsection:

"(f) Notwithstanding any other provision of law, the Board of Education shall not require or permit nonschool-based personnel or school administrators to be assigned or reassigned to the same competitive level as classroom teachers.".

SEC. 146. (a) Notwithstanding any other provision of law, rule, or regulation, an employee of the District of Columbia Public Schools shall be—

(1) classified as an Educational Service employee;

(2) placed under the personnel authority of the Board of Education; and

(3) subject to all Board of Education rules.

(b) School-based personnel shall constitute a separate competitive area from nonschool-based personnel who shall not compete with school-based personnel for retention purposes.

SEC. 147. None of the funds provided in this Act may be used directly or indirectly for the renovation of the property located at 227 7th Street Southeast (commonly known as Eastern Market), except that funds provided in this Act may be used for the regular maintenance and upkeep of the current structure and grounds located at such property.

CAPITAL PROJECT EMPLOYEES

Reports.

SEC. 148. (a) Not later than 15 days after the end of every fiscal quarter (beginning October 1, 1995), the Mayor shall submit to the Council of the District of Columbia, the District of Columbia Financial Responsibility and Management Assistance Authority, and the Committees on Appropriations of the House of Representatives and the Senate a report with respect to the employees on the capital project budget for the previous quarter.

(b) Each report submitted pursuant to subsection (a) of this section shall include the following information—

(1) a list of all employees by position, title, grade and step;

(2) a job description, including the capital project for which each employee is working;

(3) the date that each employee began working on the capital project and the ending date that each employee completed or is projected to complete work on the capital project; and

(4) a detailed explanation justifying why each employee is being paid with capital funds.

MODIFICATION OF REDUCTION-IN-FORCE PROCEDURES

SEC. 149. The District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2–139; D.C. Code, sec. 1–601.1 et seq.), is amended as follows:

(a) Section 2401 (D.C. Code, sec. 1–625.1) is amended by amending the third sentence to read as follows: "A personnel authority may establish lesser competitive areas within an

agency on the basis of all or a clearly identifiable segment of an agency's mission or a division or major subdivision of an agency.".

(b) A new section 2406 is added to read as follows:

"SEC. 2406. ABOLISHMENT OF POSITIONS FOR FISCAL YEAR 1996.

"(a) Notwithstanding any other provision of law, regulation, or collective bargaining agreement either in effect or to be negotiated while this legislation is in effect for the fiscal year ending September 30, 1996, each agency head is authorized, within the agency head's discretion, to identify positions for abolishment.

"(b) Prior to August 1, 1996, each personnel authority shall make a final determination that a position within the personnel authority is to be abolished.

"(c) Notwithstanding any rights or procedures established by any other provision of this title, any District government employee, regardless of date of hire, who encumbers a position identified for abolishment shall be separated without competition or assignment rights, except as provided in this section.

"(d) An employee affected by the abolishment of a position pursuant to this section who, but for this section would be entitled to compete for retention, shall be entitled to 1 round of lateral competition pursuant to Chapter 24 of the District of Columbia Personnel Manual, which shall be limited to positions in the employee's competitive level.

"(e) Each employee who is a bona fide resident of the District of Columbia shall have added 5 years to his or her creditable service for reduction-in-force purposes. For purposes of this subsection only, a nonresident District employee who was hired by the District government prior to January 1, 1980, and has not had a break in service since that date, or a former employee of the U.S. Department of Health and Human Services at Saint Elizabeths Hospital who accepted employment with the District government on October 1, 1987, and has not had a break in service since that date, shall be considered a District resident.

"(f) Each employee selected for separation pursuant to this section shall be given written notice of at least 30 days before the effective date of his or her separation.

"(g) Neither the establishment of a competitive area smaller than an agency, nor the determination that a specific position is to be abolished, nor separation pursuant to this section shall be subject to review except as follows—

"(1) an employee may file a complaint contesting a determination or a separation pursuant to title XV of this Act or section 303 of the Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2–38; D.C. Code, sec. 1–2543); and

"(2) an employee may file with the Office of Employee Appeals an appeal contesting that the separation procedures of subsections (d) and (f) of this section were not properly applied.

"(h) An employee separated pursuant to this section shall be entitled to severance pay in accordance with title XI of this Act, except that the following shall be included in computing creditable service for severance pay for employees separated pursuant to this section—

"(1) four years for an employee who qualified for veteran's preference under this Act, and

"(2) three years for an employee who qualified for residency preference under this Act.

"(i) Separation pursuant to this section shall not affect an employee's rights under either the Agency Reemployment Priority Program or the Displaced Employee Program established pursuant to Chapter 24 of the District Personnel Manual.

"(j) The Mayor shall submit to the Council a listing of all positions to be abolished by agency and responsibility center by March 1, 1996, or upon the delivery of termination notices to individual employees.

"(k) Notwithstanding the provisions of section 1708 or section 2402(d), the provisions of this Act shall not be deemed negotiable.

"(l) A personnel authority shall cause a 30-day termination notice to be served, no later than September 1, 1996, on any incumbent employee remaining in any position identified to be abolished pursuant to subsection (b) of this section".

OPERATING EXPENSES AND GRANTS

SEC. 150. (a) CEILING ON TOTAL OPERATING EXPENSES.—Notwithstanding any other provision of law, the total amount appropriated in this Act for operating expenses for the District of Columbia for fiscal year 1996 under the caption "Division of Expenses" shall not exceed $4,994,000,000 of which $165,339,000 shall be from intra-District funds.

(b) ACCEPTANCE AND USE OF GRANTS NOT INCLUDED IN CEILING.—

(1) IN GENERAL.—Notwithstanding subsection (a), the Mayor of the District of Columbia may accept, obligate, and expend Federal, private, and other grants received by the District government that are not reflected in the amounts appropriated in this Act.

(2) REQUIREMENT OF CHIEF FINANCIAL OFFICER REPORT AND FINANCIAL RESPONSIBILITY AND MANAGEMENT ASSISTANCE AUTHORITY APPROVAL.—No such Federal, private, or other grant may be accepted, obligated, or expended pursuant to paragraph (1) until—

(A) the Chief Financial Officer of the District submits to the District of Columbia Financial Responsibility and Management Assistance Authority established by Public Law 104–8 (109 Stat. 97) a report setting forth detailed information regarding such grant; and

(B) the District of Columbia Financial Responsibility and Management Assistance Authority has reviewed and approved the acceptance, obligation, and expenditure of such grant in accordance with review and approval procedures consistent with the provisions of Public Law 104–8.

(3) PROHIBITION ON SPENDING IN ANTICIPATION OF APPROVAL OR RECEIPT.—No amount may be obligated or expended from the general fund or other funds of the District government in anticipation of the approval or receipt of a grant under paragraph (2)(B) or in anticipation of the approval or receipt of a Federal, private, or other grant not subject to such paragraph.

(4) MONTHLY REPORTS.—The Chief Financial Officer of the District shall prepare a monthly report setting forth detailed information regarding all Federal, private, and other grants subject to this subsection. Each such report shall be submitted to the Council of the District of Columbia, and to the Committees on Appropriations of the House of Representatives and the Senate, not later than 15 days after the end of the month covered by the report.

DEVELOPMENT OF PLANS REGARDING DISTRICT OF COLUMBIA CORRECTIONS

SEC. 151. (a) PLAN FOR SHORT-TERM IMPROVEMENTS.—

(1) IN GENERAL.—Not later than July 1, 1996, the National Institute of Corrections (acting for and on behalf of the District of Columbia) shall enter into an agreement with a private contractor to develop a plan for short-term improvements in the administration of the District of Columbia Department of Corrections (hereafter referred to as the "Department") and the administration and physical plant of the Lorton Correctional Complex (hereafter referred to as the "Complex") which may be initiated during a period not to exceed 5 months.

(2) CONTENTS OF PLAN.—The plan developed under paragraph (1) shall address the following issues:

(A) The reorganization of the central office of the Department, including the consolidation of units and the redeployment of personnel.

(B) The establishment of a centralized inmate classification unit.

(C) The implementation of a revised classification system for sentenced inmates.

(D) The development of a projection for the number of inmates under the authority of the Department over a 10-year period.

(E) The improvement of Department security operations.

(F) Capital improvements.

(G) The preparation of a methodology for developing and assessing options for the long-term status of the Complex and the Department (consistent with the requirements for the development of plans under subsection (b)).

(H) Other appropriate miscellaneous issues.

(3) SUBMISSION OF PLAN.—Upon completing the plan under paragraph (1) (but in no event later than September 30, 1996), the National Institute of Corrections shall submit the plan to the Mayor of the District of Columbia, the President, Congress, and the District of Columbia Financial Responsibility and Management Assistance Authority.

(b) OPTIONAL PLANS FOR LONG-TERM TREATMENT OF COMPLEX.—

(1) IN GENERAL.—Not later than July 1, 1996, the National Institute of Corrections (acting for and on behalf of the District of Columbia) shall enter into an agreement with a private contractor to develop a series of alternative plans regarding the long-term status of the Complex and the future operations of the Department, including the following: Contracts.

(A) A separate plan under which the Complex will be closed and inmates transferred to new facilities constructed and operated by private entities.

(B) A separate plan under which the Complex will remain in operation under the management of the District of Columbia subject to such modifications as the District considers appropriate.

(C) A separate plan under which the Federal government will operate the Complex and inmates will be sentenced and treated in accordance with guidelines applicable to Federal prisoners.

(D) A separate plan under which the Complex will be operated under private management.

(E) Such other plans as the District of Columbia consider appropriate.

(2) REQUIREMENTS FOR PLANS.—Each of the alternative plans developed under paragraph (1) shall meet the following requirements:

(A) The plan shall provide for an appropriate transition period for implementation (not to exceed 5 years) to begin January 1, 1997.

(B) The plan shall specify the extent to which the Department will utilize alternative and cost-effective management methods, including the use of private management and vendors for the operation of the facilities and activities of the Department, including (where appropriate) the Complex.

(C) The plan shall include an implementation schedule specifying timetables for the completion of all significant activities, including site selection for new facilities, design, financing, construction, recruitment and hiring of personnel, training, adoption of new policies and procedures, and the establishment of essential administrative organizational structures to carry out the plan.

(D) In determining the bed capacity required for the Department through 2002, the plan shall use the population projections developed under the plan under subsection (a).

(E) The plan shall identify any Federal or District legislation which is required to be enacted, and any District regulations, policies, or procedures which are required to be adopted, in order for the plan to take effect.

(F) The plan shall take into account any court orders and consent decrees in effect with respect to the Department and shall describe how the plan will enable the District to comply with such orders and decrees.

(G) The plan shall include estimates of the operating and capital expenses for the Department for each year of the plan's transition period, together with the primary assumptions underlying such estimates.

(H) The plan shall require the Mayor of the District of Columbia to submit a semi-annual report to the President, Congress, and the District of Columbia Financial Responsibility and Management Assistance Authority describing the actions taken by the District under the plan, and in addition shall require the Mayor to regularly report to the President, Congress, and the District of

Columbia Financial Responsibility and Management Assistance Authority on all measures taken under the plan as soon as such measures are taken.

(I) For each year for which the plan is in effect, the plan shall be consistent with the financial plan and budget for the District of Columbia for the year under subtitle A of title II of the District of Columbia Financial Responsibility and Management Assistance Act of 1995.

(3) SUBMISSION OF PLAN.—Upon completing the development of the alternative plans under paragraph (1) (but in no event later than December 31, 1996), the National Institute of Corrections shall submit the plan to the Mayor of the District of Columbia, the President, Congress, and the District of Columbia Financial Responsibility and Management Assistance Authority.

CHIEF FINANCIAL OFFICER POWERS

SEC. 152. Notwithstanding any other provision of law, for the fiscal years ending September 30, 1996 and September 30, 1997—

(a) the heads and all personnel of the following offices, together with all other District of Columbia executive branch accounting, budget, and financial management personnel, shall be appointed by, shall serve at the pleasure of, and shall act under the direction and control of the Chief Financial Officer:

The Office of the Treasurer.
The Controller of the District of Columbia.
The Office of the Budget.
The Office of Financial Information Services.
The Department of Finance and Revenue.

The District of Columbia Financial Responsibility and Management Assistance Authority established pursuant to Public Law 104–8, approved April 17, 1995, may remove such individuals from office for cause, after consultation with the Mayor and the Chief Financial Officer.

(b) the Chief Financial Officer shall prepare and submit to the Mayor, for inclusion in the annual budget of the District of Columbia under part D of title IV of the District of Columbia Self-Government and Governmental Reorganization Act of 1993, approved December 24, 1973 (87 Stat. 774; Public Law 93–198), as amended, for fiscal years 1996, 1997 and 1998, annual estimates of the expenditures and appropriations necessary for the operation of the Office of the Chief Financial Officer for the year. All such estimates shall be forwarded by the Mayor to the Council of the District of Columbia for its action pursuant to sections 446 and 603(c) of such Act, without revision but subject to recommendations. Notwithstanding any other provisions of such Act, the Council may comment or make recommendations concerning such estimates, but shall have no authority to revise such estimates.

TECHNICAL CORRECTIONS TO FINANCIAL RESPONSIBILITY AND MANAGEMENT ASSISTANCE ACT

SEC. 153. (a) REQUIRING GSA TO PROVIDE SUPPORT SERVICES.—Section 103(f) of the District of Columbia Financial Responsibility

and Management Assistance Act of 1995 is amended by striking "may provide" and inserting "shall promptly provide".

(b) AVAILABILITY OF CERTAIN FEDERAL BENEFITS FOR INDIVIDUALS WHO BECOME EMPLOYED BY THE AUTHORITY.—

(1) FORMER FEDERAL EMPLOYEES.—Subsection (e) of section 102 of such Act is amended to read as follows:

"(e) PRESERVATION OF RETIREMENT AND CERTAIN OTHER RIGHTS OF FEDERAL EMPLOYEES WHO BECOME EMPLOYED BY THE AUTHORITY.—

"(1) IN GENERAL.—Any Federal employee who becomes employed by the Authority—

"(A) may elect, for the purposes set forth in paragraph (2)(A), to be treated, for so long as that individual remains continuously employed by the Authority, as if such individual had not separated from service with the Federal Government, subject to paragraph (3); and

"(B) shall, if such employee subsequently becomes reemployed by the Federal Government, be entitled to have such individual's service with the Authority treated, for purposes of determining the appropriate leave accrual rate, as if it had been service with the Federal Government.

"(2) EFFECT OF AN ELECTION.—An election made by an individual under the provisions of paragraph (1)(A)—

"(A) shall qualify such individual for the treatment described in such provisions for purposes of—

"(i) chapter 83 or 84 of title 5, United States Code, as appropriate (relating to retirement), including the Thrift Savings Plan;

"(ii) chapter 87 of such title (relating to life insurance); and

"(iii) chapter 89 of such title (relating to health insurance); and

"(B) shall disqualify such individual, while such election remains in effect, from participating in the programs offered by the government of the District of Columbia (if any) corresponding to the respective programs referred to in subparagraph (A).

"(3) CONDITIONS FOR AN ELECTION TO BE EFFECTIVE.—An election made by an individual under paragraph (1)(A) shall be ineffective unless—

"(A) it is made before such individual separates from service with the Federal Government; and

"(B) such individual's service with the Authority commences within 3 days after so separating (not counting any holiday observed by the government of the District of Columbia).

"(4) CONTRIBUTIONS.—If an individual makes an election under paragraph (1)(A), the Authority shall, in accordance with applicable provisions of law referred to in paragraph (2)(A), be responsible for making the same deductions from pay and the same agency contributions as would be required if it were a Federal agency.

"(5) REGULATIONS.—Any regulations necessary to carry out this subsection shall be prescribed in consultation with the Authority by—

"(A) the Office of Personnel Management, to the extent that any program administered by the office is involved;

"(B) the appropriate office or agency of the government of the District of Columbia, to the extent that any program administered by such office or agency is involved; and

"(C) the Executive Director referred to in section 8474 of title 5, United States Code, to the extent that the Thrift Savings Plan is involved.".

(2) OTHER INDIVIDUALS.—Section 102 of such Act is further amended by adding at the end the following:

"(f) FEDERAL BENEFITS FOR OTHERS.—

"(1) IN GENERAL.—The Office of Personnel Management, in conjunction with each corresponding office or agency of the government of the District of Columbia and in consultation with the Authority, shall prescribe regulations under which any individual who becomes employed by the Authority (under circumstances other than as described in subsection (e)) may elect either—

"(A) to be deemed a Federal employee for purposes of the programs referred to in subsection (e)(2)(A) (i)–(iii); or

"(B) to participate in 1 or more of the corresponding programs offered by the government of the District of Columbia.

"(2) EFFECT OF AN ELECTION.—An individual who elects the option under subparagraph (A) or (B) of paragraph (1) shall be disqualified, while such election remains in effect, from participating in any of the programs referred to in the other such subparagraph.

"(3) DEFINITION OF 'CORRESPONDING OFFICE OR AGENCY'.—For purposes of paragraph (1), the term 'corresponding office or agency of the government of the District of Columbia' means, with respect to any program administered by the Office of Personnel Management, the office or agency responsible for administering the corresponding program (if any) offered by the government of the District of Columbia.

"(4) THRIFT SAVINGS PLAN.—To the extent that the Thrift Savings Plan is involved, the preceding provisions of this subsection shall be applied by substituting 'the Executive Director referred to in section 8474 of title 5, United States Code' for 'the Office of Personnel Management'.".

(3) "Effective date; additional election for former federal employees serving on date of enactment; election for employees appointed during interim period.—

(A) EFFECTIVE DATE.—Not later than 6 months after the date of enactment of this Act, there shall be prescribed in consultation with the Authority (and take effect)—

(i) regulations to carry out the amendments made by this subsection; and

(ii) any other regulations necessary to carry out this subsection.

(B) ADDITIONAL ELECTION FOR FORMER FEDERAL EMPLOYEES SERVING ON DATE OF ENACTMENT.—

(i) IN GENERAL.—Any former Federal employee employed by the Authority on the effective date of the regulations referred to in subparagraph (A)(i) may, within such period as may be provided for under those regulations, make an election similar, to the maximum extent practicable, to the election provided for under

section 102(e) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, as amended by this subsection. Such regulations shall be prescribed jointly by the Office of Personnel Management and each corresponding office or agency of the government of the District of Columbia (in the same manner as provided for in section 102(f) of such Act, as so amended).

(ii) EXCEPTION.—An election under this subparagraph may not be made by any individual who—

(I) is not then participating in a retirement system for Federal employees (disregarding Social Security); or

(II) is then participating in any program of the government of the District of Columbia referred to in section 102(e)(2)(B) of such Act (as so amended).

(C) ELECTION FOR EMPLOYEES APPOINTED DURING INTERIM PERIOD.—

(i) FROM THE FEDERAL GOVERNMENT.—Subsection (e) of section 102 of the District of Columbia Financial Responsibility and Management Assistance Act of 1995 (as last in effect before the date of enactment of this Act) shall be deemed to have remained in effect for purposes of any Federal employee who becomes employed by the District of Columbia Financial Responsibility and Management Assistance Authority during the period beginning on such date of enactment and ending on the day before the effective date of the regulations prescribed to carry out subparagraph (B).

(ii) OTHER INDIVIDUALS.—The regulations prescribed to carry out subsection (f) of section 102 of the District of Columbia Financial Responsibility and Management Assistance Act of 1995 (as amended by this subsection) shall include provisions under which an election under such subsection shall be available to any individual who—

(I) becomes employed by the District of Columbia Financial Responsibility and Management Assistance Authority during the period beginning on the date of enactment of this Act and ending on the day before the effective date of such regulations;

(II) would have been eligible to make an election under such regulations had those regulations been in effect when such individual became so employed; and

(III) is not then participating in any program of the government of the District of Columbia referred to in subsection (f)(1)(B) of such section 102 (as so amended).

(c) EXEMPTION FROM LIABILITY FOR CLAIMS FOR AUTHORITY EMPLOYEES.—Section 104 of such Act is amended—

(1) by striking "the Authority and its members" and inserting "the Authority, its members, and its employees"; and

(2) by striking "the District of Columbia" and inserting "the Authority or its members or employees or the District of Columbia".

(d) PERMITTING REVIEW OF EMERGENCY LEGISLATION.—Section 203(a)(3) of such Act is amended by striking subparagraph (C).

ESTABLISHMENT OF EXCLUSIVE ACCOUNTS FOR BLUE PLAINS ACTIVITIES

SEC. 154. (a) OPERATION AND MAINTENANCE ACCOUNT.—

(1) CONTENTS OF ACCOUNT.—There is hereby established within the Water and Sewer Enterprise Fund the Operation and Maintenance Account, consisting of all funds paid to the District of Columbia on or after the date of the enactment of this Act which are—

(A) attributable to waste water treatment user charges;

(B) paid by users jurisdictions for the operation and maintenance of the Blue Plains Wastewater Treatment Facility and related waste water treatment works; or

(C) appropriated or otherwise provided for the operation and maintenance of the Blue Plains Wastewater Treatment Facility and related waste water treatment works.

(2) USE OF FUNDS IN ACCOUNT.—Funds in the Operation and Maintenance Account shall be used solely for funding the operation and maintenance of the Blue Plains Wastewater Treatment Facility and related waste water treatment works and may not be obligated or expended for any other purpose, and may be used for related debt service and capital costs if such funds are not attributable to user charges assessed for purposes of section 204(b)(1) of the Federal Water Pollution Control Act.

(b) EPA GRANT ACCOUNT.—

(1) CONTENTS OF ACCOUNT.—There is hereby established within the Water and Sewer Enterprise Fund and EPA Grant Account, consisting of all funds paid to the District of Columbia on or after the date of the enactment of this Act which are—

(A) attributable to grants from the Environmental Protection Agency for construction at the Blue Plains Wastewater Treatment Facility and related waste water treatment works; or

(B) appropriated or otherwise provided for construction at the Blue Plains Wastewater Treatment Facility and related waste water treatment works.

(2) USE OF FUNDS IN ACCOUNT.—Funds in the EPA Grant Account shall be used solely for the purposes specified under the terms of the grants and appropriations involved, and may not be obligated or expended for any other purpose.

POLICE AND FIRE FIGHTER DISABILITY RETIREMENTS

SEC. 155. (a) Up to 50 police officers and up to 50 Fire and Emergency Medical Services members with less than 20 years of departmental service who were hired before February 14, 1980, and who retire on disability before the end of calendar year 1996 shall be excluded from the computation of the rate of disability retirements under subsection 145(a) of the District of Columbia Retirement Reform Act of 1979 (93 Stat. 882; D.C. Code, sec.

1–725(a)), for purposes of reducing the authorized Federal payment to the District of Columbia Police Officers and Fire Fighters' Retirement Fund pursuant to subsection 145(c) of the District of Columbia Retirement Reform Act of 1979.

(b) The Mayor, within 30 days after the enactment of this provision, shall engage an enrolled actuary, to be paid by the District of Columbia Retirement Board, and shall comply with the requirements of section 142(d) and section 144(d) of the District of Columbia Retirement Reform Act of 1979 (Public Law 96–122, approved November 17, 1979; D.C. Code, secs. 1–722(d) and 1–724(d)).

(c) This section shall not go into effect until 15 days after the Mayor transmits the actuarial report required by section 142(d) of the District of Columbia Retirement Reform Act of 1979 (Public Law 96–122, approved November 17, 1979) to the D.C. Retirement Board, the Speaker of the House of Representatives, and the President pro tempore of the Senate.

CONVEYANCE OF CERTAIN PROPERTY TO ARCHITECT OF THE CAPITOL

D.C. Village.

SEC. 156. Pursuant to section 1(b)(2) of Public Law 98–340 and in accordance with the agreement entered into between the Architect of the Capitol and the District of Columbia pursuant to such Act (as executed on September 28, 1984), not later than 30 days after the date of the enactment of this Act the District of Columbia shall convey without consideration by general warranty deed to the Architect of the Capitol on behalf of the United States all right, title, and interest of the District of Columbia in the real property (including improvements and appurtenances thereon) within the area known as "D.C. Village" and described in Attachment A of the agreement.

This title may be cited as the "District of Columbia Appropriations Act, 1996".

District of Columbia School Reform Act of 1995.

TITLE II—DISTRICT OF COLUMBIA SCHOOL REFORM

SEC. 2001. SHORT TITLE.

This title may be cited as the "District of Columbia School Reform Act of 1995".

SEC. 2002. DEFINITIONS.

Except as otherwise provided, for purposes of this title:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means—

(A) the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate;

(B) the Committee on Economic and Educational Opportunities of the House of Representatives and the Committee on Labor and Human Resources of the Senate; and

(C) the Committee on Government Reform and Oversight of the House of Representatives and the Committee on Governmental Affairs of the Senate.

(2) AUTHORITY.—The term "Authority" means the District of Columbia Financial Responsibility and Management Assist-

ance Authority established under section 101(a) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995 (Public Law 104–8).

(3) AVERAGE DAILY ATTENDANCE.—The term "average daily attendance" means the aggregate attendance of students of the school during the period divided by the number of days during the period in which—

(A) the school is in session; and

(B) the students of the school are under the guidance and direction of teachers.

(4) AVERAGE DAILY MEMBERSHIP.—The term "average daily membership" means the aggregate enrollment of students of the school during the period divided by the number of days during the period in which—

(A) the school is in session; and

(B) the students of the school are under the guidance and direction of teachers.

(5) BOARD OF EDUCATION.—The term "Board of Education" means the Board of Education of the District of Columbia.

(6) BOARD OF TRUSTEES.—The term "Board of Trustees" means the governing board of a public charter school, the members of which are selected pursuant to the charter granted to the school and in a manner consistent with this title.

(7) CONSENSUS COMMISSION.—The term "Consensus Commission" means the Commission on Consensus Reform in the District of Columbia public schools established under subtitle H.

(8) CORE CURRICULUM.—The term "core curriculum" means the concepts, factual knowledge, and skills that students in the District of Columbia should learn in kindergarten through grade 12 in academic content areas, including, at a minimum, English, mathematics, science, and history.

(9) DISTRICT OF COLUMBIA COUNCIL.—The term "District of Columbia Council" means the Council of the District of Columbia established pursuant to section 401 of the District of Columbia Self-Government and Governmental Reorganization Act (D.C. Code, sec. 1–221).

(10) DISTRICT OF COLUMBIA GOVERNMENT.—

(A) IN GENERAL.—The term "District of Columbia Government" means the government of the District of Columbia, including—

(i) any department, agency, or instrumentality of the government of the District of Columbia;

(ii) any independent agency of the District of Columbia established under part F of title IV of the District of Columbia Self-Government and Governmental Reorganization Act;

(iii) any other agency, board, or commission established by the Mayor or the District of Columbia Council;

(iv) the courts of the District of Columbia;

(v) the District of Columbia Council; and

(vi) any other agency, public authority, or public nonprofit corporation that has the authority to receive moneys directly or indirectly from the District of Columbia (other than moneys received from the sale

of goods, the provision of services, or the loaning of funds to the District of Columbia).

(B) EXCEPTION.—The term "District of Columbia Government" neither includes the Authority nor a public charter school.

(11) DISTRICT OF COLUMBIA GOVERNMENT RETIREMENT SYSTEM.—The term "District of Columbia Government retirement system" means the retirement programs authorized by the District of Columbia Council or the Congress for employees of the District of Columbia Government.

(12) DISTRICT OF COLUMBIA PUBLIC SCHOOL.—

(A) IN GENERAL.—The term "District of Columbia public school" means a public school in the District of Columbia that offers classes—

(i) at any of the grade levels from prekindergarten through grade 12; or

(ii) leading to a secondary school diploma, or its recognized equivalent.

(B) EXCEPTION.—The term "District of Columbia public school" does not include a public charter school.

(13) DISTRICTWIDE ASSESSMENTS.—The term "districtwide assessments" means a variety of assessment tools and strategies (including individual student assessments under subparagraph (E)(ii)) administered by the Superintendent to students enrolled in District of Columbia public schools and public charter schools that—

(A) are aligned with the District of Columbia's content standards and core curriculum;

(B) provide coherent information about student attainment of such standards;

(C) are used for purposes for which such assessments are valid, reliable, and unbiased, and are consistent with relevant nationally recognized professional and technical standards for such assessments;

(D) involve multiple up-to-date measures of student performance, including measures that assess higher order thinking skills and understanding; and

(E) provide for—

(i) the participation in such assessments of all students;

(ii) individual student assessments for students that fail to reach minimum acceptable levels of performance;

(iii) the reasonable adaptations and accommodations for students with special needs (as defined in paragraph (32)) necessary to measure the achievement of such students relative to the District of Columbia's content standards; and

(iv) the inclusion of limited-English proficient students, who shall be assessed, to the extent practicable, in the language and form most likely to yield accurate and reliable information regarding such students' knowledge and abilities.

(14) ELECTRONIC DATA TRANSFER SYSTEM.—The term "electronic data transfer system" means a computer-based process for the maintenance and transfer of student records designed

to permit the transfer of individual student records among District of Columbia public schools and public charter schools.

(15) ELEMENTARY SCHOOL.—The term "elementary school" means an institutional day or residential school that provides elementary education, as determined under District of Columbia law.

(16) ELIGIBLE APPLICANT.—The term "eligible applicant" means a person, including a private, public, or quasi-public entity, or an institution of higher education (as defined in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a))), that seeks to establish a public charter school in the District of Columbia.

(17) ELIGIBLE CHARTERING AUTHORITY.—The term "eligible chartering authority" means any of the following:

(A) The Board of Education.

(B) The Public Charter School Board.

(C) Any one entity designated as an eligible chartering authority by enactment of a bill by the District of Columbia Council after the date of the enactment of this Act.

(18) FAMILY RESOURCE CENTER.—The term "family resource center" means an information desk—

(A) located in a District of Columbia public school or a public charter school serving a majority of students whose family income is not greater than 185 percent of the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act applicable to a family of the size involved (42 U.S.C. 9902(3))); and

(B) which links students and families to local resources and public and private entities involved in child care, adult education, health and social services, tutoring, mentoring, and job training.

(19) INDIVIDUAL CAREER PATH.—The term "individual career path" means a program of study that provides a secondary school student the skills necessary to compete in the 21st century workforce.

(20) LITERACY.—The term "literacy" means—

(A) in the case of a minor student, such student's ability to read, write, and speak in English, and compute and solve problems at levels of proficiency necessary to function in society, to achieve such student's goals, and develop such student's knowledge and potential; and

(B) in the case of an adult, such adult's ability to read, write, and speak in English, and compute and solve problems at levels of proficiency necessary to function on the job and in society, to achieve such adult's goals, and develop such adult's knowledge and potential.

(21) LONG-TERM REFORM PLAN.—The term "long-term reform plan" means the plan submitted by the Superintendent under section 2101.

(22) MAYOR.—The term "Mayor" means the Mayor of the District of Columbia.

(23) METROBUS AND METRORAIL TRANSIT SYSTEM.—The term "Metrobus and Metrorail Transit System" means the bus and rail systems administered by the Washington Metropolitan Area Transit Authority.

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(24) MINOR STUDENT.—The term "minor student" means an individual who—

(A) is enrolled in a District of Columbia public school or a public charter school; and

(B) is not beyond the age of compulsory school attendance, as prescribed in section 1 of article I, and section 1 of article II, of the Act of February 4, 1925 (sections 31–401 and 31–402, D.C. Code).

(25) NONRESIDENT STUDENT.—The term "nonresident student" means—

(A) an individual under the age of 18 who is enrolled in a District of Columbia public school or a public charter school, and does not have a parent residing in the District of Columbia; or

(B) an individual who is age 18 or older and is enrolled in a District of Columbia public school or public charter school, and does not reside in the District of Columbia.

(26) PARENT.—The term "parent" means a person who has custody of a child, and who—

(A) is a natural parent of the child;

(B) is a stepparent of the child;

(C) has adopted the child; or

(D) is appointed as a guardian for the child by a court of competent jurisdiction.

(27) PETITION.—The term "petition" means a written application.

(28) PROMOTION GATE.—The term "promotion gate" means the criteria, developed by the Superintendent and approved by the Board of Education, that are used to determine student promotion at different grade levels. Such criteria shall include student achievement on districtwide assessments established under subtitle C.

(29) PUBLIC CHARTER SCHOOL.—The term "public charter school" means a publicly funded school in the District of Columbia that—

(A) is established pursuant to subtitle B; and

(B) except as provided under sections 2212(d)(5) and 2213(c)(5) is not a part of the District of Columbia public schools.

(30) PUBLIC CHARTER SCHOOL BOARD.—The term "Public Charter School Board" means the Public Charter School Board established under section 2214.

(31) SECONDARY SCHOOL.—The term "secondary school" means an institutional day or residential school that provides secondary education, as determined by District of Columbia law, except that such term does not include any education beyond grade 12.

(32) STUDENT WITH SPECIAL NEEDS.—The term "student with special needs" means a student who is a child with a disability as provided in section 602(a)(1) of the Individuals with Disabilities Education Act (20 U.S.C. 1401(a)(1)) or a student who is an individual with a disability as provided in section 7(8) of the Rehabilitation Act of 1973 (29 U.S.C. 706(8)).

(33) SUPERINTENDENT.—The term "Superintendent" means the Superintendent of the District of Columbia public schools.

(34) TEACHER.—The term "teacher" means any person employed as a teacher by the Board of Education or by a public charter school.

SEC. 2003. GENERAL EFFECTIVE DATE.

Except as otherwise provided in this title, this title shall be effective during the period beginning on the date of enactment of this Act and ending 5 years after such date.

Subtitle A—District of Columbia Reform Plan

SEC. 2101. LONG-TERM REFORM PLAN.

(a) IN GENERAL.—

(1) PLAN.—The Superintendent, with the approval of the Board of Education, shall submit to the Mayor, the District of Columbia Council, the Authority, the Consensus Commission, and the appropriate congressional committees, a long-term reform plan, not later than 90 days after the date of enactment of this Act, and each February 15 thereafter. The long-term reform plan shall be consistent with the financial plan and budget for the District of Columbia for fiscal year 1996, and each financial plan and budget for a subsequent fiscal year, as the case may be, required under section 201 of the District of Columbia Financial Responsibility and Management Assistance Act of 1995.

(2) CONSULTATION.—

(A) IN GENERAL.—In developing the long-term reform plan, the Superintendent—

(i) shall consult with the Board of Education, the Mayor, the District of Columbia Council, the Authority, and the Consensus Commission; and

(ii) shall afford the public, interested organizations, and groups an opportunity to present their views and make recommendations regarding the long-term reform plan.

(B) SUMMARY OF RECOMMENDATIONS.—The Superintendent shall include in the long-term plan a summary of the recommendations made under subparagraph (A)(ii) and the response of the Superintendent to the recommendations.

(b) CONTENTS.—

(1) AREAS TO BE ADDRESSED.—The long-term reform plan shall describe how the District of Columbia public schools will become a world-class education system that prepares students for lifetime learning in the 21st century and which is on a par with the best education systems of other cities, States, and nations. The long-term reform plan shall include a description of how the District of Columbia public schools will accomplish the following:

(A) Achievement at nationally and internationally competitive levels by students attending District of Columbia public schools.

(B) The preparation of students for the workforce, including—

(i) providing special emphasis for students planning to obtain a postsecondary education; and

(ii) the development of individual career paths.

(C) The improvement of the health and safety of students in District of Columbia public schools.

(D) Local school governance, decentralization, autonomy, and parental choice among District of Columbia public schools.

(E) The implementation of a comprehensive and effective adult education and literacy program.

(F) The identification, beginning in grade 3, of each student who does not meet minimum standards of academic achievement in reading, writing, and mathematics in order to ensure that such student meets such standards prior to grade promotion.

(G) The achievement of literacy, and the possession of the knowledge and skills necessary to think critically, communicate effectively, and perform competently on districtwide assessments, by students attending District of Columbia public schools prior to such student's completion of grade 8.

(H) The establishment of after-school programs that promote self-confidence, self-discipline, self-respect, good citizenship, and respect for leaders, through such activities as arts classes, physical fitness programs, and community service.

(I) Steps necessary to establish an electronic data transfer system.

(J) Encourage parental involvement in all school activities, particularly parent teacher conferences.

(K) Development and implementation, through the Board of Education and the Superintendent, of a uniform dress code for the District of Columbia public schools, that—

(i) shall include a prohibition of gang membership symbols;

(ii) shall take into account the relative costs of any such code for each student; and

(iii) may include a requirement that students wear uniforms.

(L) The establishment of classes, beginning not later than grade 3, to teach students how to use computers effectively.

(M) The development of community schools that enable District of Columbia public schools to collaborate with other public and nonprofit agencies and organizations, local businesses, recreational, cultural, and other community and human service entities, for the purpose of meeting the needs and expanding the opportunities available to residents of the communities served by such schools.

(N) The establishment of programs which provide counseling, mentoring (especially peer mentoring), academic support, outreach, and supportive services to elementary, middle, and secondary school students who are at risk of dropping out of school.

(O) The establishment of a comprehensive remedial education program to assist students who do not meet basic literacy standards, or the criteria of promotion gates established in section 2321.

(P) The establishment of leadership development projects for middle school principals, which projects shall increase student learning and achievement and strengthen such principals as instructional school leaders.

(Q) The implementation of a policy for performance-based evaluation of principals and teachers, after consultation with the Superintendent and unions (including unions that represent teachers and unions that represent principals).

(R) The implementation of policies that require competitive appointments for all District of Columbia public school positions.

(S) The implementation of policies regarding alternative teacher certification requirements.

(T) The implementation of testing requirements for teacher licensing renewal.

(U) A review of the District of Columbia public school central office budget and staffing reductions for each fiscal year compared to the level of such budget and reductions at the end of fiscal year 1995.

(V) The implementation of the discipline policy for the District of Columbia public schools in order to ensure a safe, disciplined environment conducive to learning.

(2) OTHER INFORMATION.—For each of the items described in subparagraphs (A) through (V) of paragraph (1), the long-term reform plan shall include—

(A) a statement of measurable, objective performance goals;

(B) a description of the measures of performance to be used in determining whether the Superintendent and Board of Education have met the goals;

(C) dates by which the goals shall be met;

(D) plans for monitoring and reporting progress to District of Columbia residents, the Mayor, the District of Columbia Council, the Authority, the Consensus Commission, and the appropriate congressional committees regarding the carrying out of the long-term reform plan; and

(E) the title of the management employee of the District of Columbia public schools most directly responsible for the achievement of each goal and, with respect to each such employee, the title of the employee's immediate supervisor or superior.

(c) AMENDMENTS.—The Superintendent, with the approval of the Board of Education, shall submit any amendment to the long-term reform plan to the Mayor, the District of Columbia Council, the Authority, the Consensus Commission, and the appropriate congressional committees. Any amendment to the long-term reform plan shall be consistent with the financial plan and budget for fiscal year 1996, and each financial plan and budget for a subsequent fiscal year, as the case may be, for the District of Columbia required under section 201 of the District of Columbia Financial Responsibility and Management Assistance Act of 1995.

SEC. 2102. SUPERINTENDENT'S REPORT ON REFORMS.

Not later than December 1, 1996, the Superintendent shall submit to the appropriate congressional committees, the Board of Education, the Mayor, the Consensus Commission, and the District

of Columbia Council a report regarding the progress of the District of Columbia public schools toward achieving the goals of the long-term reform plan.

SEC. 2103. DISTRICT OF COLUMBIA COUNCIL REPORT.

Not later than April 1, 1997, the Chairperson of the District of Columbia Council shall submit to the appropriate congressional committees a report describing legislative and other actions the District of Columbia Council has taken or will take to facilitate the implementation of the goals of the long-term reform plan.

Subtitle B—Public Charter Schools

SEC. 2201. PROCESS FOR FILING CHARTER PETITIONS.

(a) EXISTING PUBLIC SCHOOL.—An eligible applicant seeking to convert a District of Columbia public school into a public charter school—

(1) shall prepare a petition to establish a public charter school that meets the requirements of section 2202;

(2) shall provide a copy of the petition to—

(A) the parents of minor students attending the existing school;

(B) adult students attending the existing school; and

(C) employees of the existing school; and

(3) shall file the petition with an eligible chartering authority for approval after the petition—

(A) is signed by two-thirds of the sum of—

(i) the total number of parents of minor students attending the school; and

(ii) the total number of adult students attending the school; and

(B) is endorsed by at least two-thirds of full-time teachers employed in the school.

(b) PRIVATE OR INDEPENDENT SCHOOL.—An eligible applicant seeking to convert an existing private or independent school in the District of Columbia into a public charter school—

(1) shall prepare a petition to establish a public charter school that is approved by the Board of Trustees or authority responsible for the school and that meets the requirements of section 2202;

(2) shall provide a copy of the petition to—

(A) the parents of minor students attending the existing school;

(B) adult students attending the existing school; and

(C) employees of the existing school; and

(3) shall file the petition with an eligible chartering authority for approval after the petition—

(A) is signed by two-thirds of the sum of—

(i) the total number of parents of minor students attending the school; and

(ii) the total number of adult students attending the school; and

(B) is endorsed by at least two-thirds of full-time teachers employed in the school.

(c) NEW SCHOOL.—An eligible applicant seeking to establish in the District of Columbia a public charter school, but not seeking to convert a District of Columbia public school or a private or

independent school into a public charter school, shall file with an eligible chartering authority for approval a petition to establish a public charter school that meets the requirements of section 2202.

SEC. 2202. CONTENTS OF PETITION.

A petition under section 2201 to establish a public charter school shall include the following:

(1) A statement defining the mission and goals of the proposed school and the manner in which the school will conduct any districtwide assessments.

(2) A statement of the need for the proposed school in the geographic area of the school site.

(3) A description of the proposed instructional goals and methods for the proposed school, which shall include, at a minimum—

(A) the area of focus of the proposed school, such as mathematics, science, or the arts, if the school will have such a focus;

(B) the methods that will be used, including classroom technology, to provide students with the knowledge, proficiency, and skills needed—

(i) to become nationally and internationally competitive students and educated individuals in the 21st century; and

(ii) to perform competitively on any districtwide assessments; and

(C) the methods that will be used to improve student self-motivation, classroom instruction, and learning for all students.

(4) A description of the scope and size of the proposed school's program that will enable students to successfully achieve the goals established by the school, including the grade levels to be served by the school and the projected and maximum enrollment of each grade level.

(5) A description of the plan for evaluating student academic achievement at the proposed school and the procedures for remedial action that will be used by the school when the academic achievement of a student falls below the expectations of the school.

(6) An operating budget for the first 2 years of the proposed school that is based on anticipated enrollment and contains—

(A) a description of the method for conducting annual audits of the financial, administrative, and programmatic operations of the school;

(B) either—

(i) an identification of the site where the school will be located, including a description of any buildings on the site and any buildings proposed to be constructed on the site; or

(ii) a timetable by which such an identification will be made;

(C) a description of any major contracts planned, with a value equal to or exceeding $10,000, for equipment and services, leases, improvements, purchases of real property, or insurance; and

(D) a timetable for commencing operations as a public charter school.

(7) A description of the proposed rules and policies for governance and operation of the proposed school.

(8) Copies of the proposed articles of incorporation and bylaws of the proposed school.

(9) The names and addresses of the members of the proposed Board of Trustees and the procedures for selecting trustees.

(10) A description of the student enrollment, admission, suspension, expulsion, and other disciplinary policies and procedures of the proposed school, and the criteria for making decisions in such areas.

(11) A description of the procedures the proposed school plans to follow to ensure the health and safety of students, employees, and guests of the school and to comply with applicable health and safety laws, and all applicable civil rights statutes and regulations of the Federal Government and the District of Columbia.

(12) An explanation of the qualifications that will be required of employees of the proposed school.

(13) An identification, and a description, of the individuals and entities submitting the petition, including their names and addresses, and the names of the organizations or corporations of which such individuals are directors or officers.

(14) A description of how parents, teachers, and other members of the community have been involved in the design and will continue to be involved in the implementation of the proposed school.

(15) A description of how parents and teachers will be provided an orientation and other training to ensure their effective participation in the operation of the public charter school.

(16) An assurance the proposed school will seek, obtain, and maintain accreditation from at least one of the following:

(A) The Middle States Association of Colleges and Schools.

(B) The Association of Independent Maryland Schools.

(C) The Southern Association of Colleges and Schools.

(D) The Virginia Association of Independent Schools.

(E) American Montessori Internationale.

(F) The American Montessori Society.

(G) The National Academy of Early Childhood Programs.

(H) Any other accrediting body deemed appropriate by the eligible chartering authority that granted the charter to the school.

(17) In the case that the proposed school's educational program includes preschool or prekindergarten, an assurance the proposed school will be licensed as a child development center by the District of Columbia Government not later than the first date on which such program commences.

(18) An explanation of the relationship that will exist between the public charter school and the school's employees.

(19) A statement of whether the proposed school elects to be treated as a local educational agency or a District of Columbia public school for purposes of part B of the Individuals

With Disabilities Education Act (20 U.S.C. 1411 et seq.) and section 504 of the Rehabilitation Act of 1973 (20 U.S.C. 794), and notwithstanding any other provision of law the eligible chartering authority shall not have the authority to approve or disapprove such election.

SEC. 2203. PROCESS FOR APPROVING OR DENYING PUBLIC CHARTER SCHOOL PETITIONS.

(a) SCHEDULE.—An eligible chartering authority shall establish a schedule for receiving petitions to establish a public charter school and shall publish any such schedule in the District of Columbia Register and newspapers of general circulation.

(b) PUBLIC HEARING.—Not later than 45 days after a petition to establish a public charter school is filed with an eligible chartering authority, the eligible chartering authority shall hold a public hearing on the petition to gather the information that is necessary for the eligible chartering authority to make the decision to approve or deny the petition.

(c) NOTICE.—Not later than 10 days prior to the scheduled date of a public hearing on a petition to establish a public charter school, an eligible chartering authority—

(1) shall publish a notice of the hearing in the District of Columbia Register and newspapers of general circulation; and

(2) shall send a written notification of the hearing date to the eligible applicant who filed the petition.

(d) APPROVAL.—Subject to subsection (i), an eligible chartering authority may approve a petition to establish a public charter school, if—

(1) the eligible chartering authority determines that the petition satisfies the requirements of this subtitle;

(2) the eligible applicant who filed the petition agrees to satisfy any condition or requirement, consistent with this subtitle and other applicable law, that is set forth in writing by the eligible chartering authority as an amendment to the petition; and

(3) the eligible chartering authority determines that the public charter school has the ability to meet the educational objectives outlined in the petition.

(e) TIMETABLE.—An eligible chartering authority shall approve or deny a petition to establish a public charter school not later than 45 days after the conclusion of the public hearing on the petition.

(f) EXTENSION.—An eligible chartering authority and an eligible applicant may agree to extend the 45-day time period referred to in subsection (e) by a period that shall not exceed 30 days.

(g) DENIAL EXPLANATION.—If an eligible chartering authority denies a petition or finds the petition to be incomplete, the eligible chartering authority shall specify in writing the reasons for its decision and indicate, when the eligible chartering authority determines appropriate, how the eligible applicant who filed the petition may revise the petition to satisfy the requirements for approval.

(h) APPROVED PETITION.—

(1) NOTICE.—Not later than 10 days after an eligible chartering authority approves a petition to establish a public charter school, the eligible chartering authority shall provide a written notice of the approval, including a copy of the

approved petition and any conditions or requirements agreed to under subsection (d)(2), to the eligible applicant and to the Chief Financial Officer of the District of Columbia. The eligible chartering authority shall publish a notice of the approval of the petition in the District of Columbia Register and newspapers of general circulation.

(2) CHARTER.—The provisions described in paragraphs (1), (7), (8), (11), (16), (17), and (18) of section 2202 of a petition to establish a public charter school that are approved by an eligible chartering authority, together with any amendments to such provisions in the petition containing conditions or requirements agreed to by the eligible applicant under subsection (d)(2), shall be considered a charter granted to the school by the eligible chartering authority.

(i) NUMBER OF PETITIONS.—

(1) FIRST YEAR.—For academic year 1996–1997, not more than 10 petitions to establish public charter schools may be approved under this subtitle.

(2) SUBSEQUENT YEARS.—For academic year 1997–1998 and each academic year thereafter each eligible chartering authority shall not approve more than 5 petitions to establish a public charter school under this subtitle.

(j) EXCLUSIVE AUTHORITY OF THE ELIGIBLE CHARTERING AUTHORITY.—No governmental entity, elected official, or employee of the District of Columbia shall make, participate in making, or intervene in the making of, the decision to approve or deny a petition to establish a public charter school, except for officers or employees of the eligible chartering authority with which the petition is filed.

SEC. 2204. DUTIES, POWERS, AND OTHER REQUIREMENTS, OF PUBLIC CHARTER SCHOOLS.

(a) DUTIES.—A public charter school shall comply with all of the terms and provisions of its charter.

(b) POWERS.—A public charter school shall have the following powers:

(1) To adopt a name and corporate seal, but only if the name selected includes the words "public charter school".

(2) To acquire real property for use as the public charter school's facilities, from public or private sources.

(3) To receive and disburse funds for public charter school purposes.

(4) Subject to subsection (c)(1), to secure appropriate insurance and to make contracts and leases, including agreements to procure or purchase services, equipment, and supplies.

(5) To incur debt in reasonable anticipation of the receipt of funds from the general fund of the District of Columbia or the receipt of Federal or private funds.

(6) To solicit and accept any grants or gifts for public charter school purposes, if the public charter school—

(A) does not accept any grants or gifts subject to any condition contrary to law or contrary to its charter; and

(B) maintains for financial reporting purposes separate accounts for grants or gifts.

(7) To be responsible for the public charter school's operation, including preparation of a budget and personnel matters.

(8) To sue and be sued in the public charter school's own name.

(c) PROHIBITIONS AND OTHER REQUIREMENTS.—

(1) CONTRACTING AUTHORITY.—

(A) NOTICE REQUIREMENT.—Except in the case of an emergency (as determined by the eligible chartering authority of a public charter school), with respect to any contract proposed to be awarded by the public charter school and having a value equal to or exceeding $10,000, the school shall publish a notice of a request for proposals in the District of Columbia Register and newspapers of general circulation not less than 30 days prior to the award of the contract.

(B) SUBMISSION TO THE AUTHORITY.—

(i) DEADLINE FOR SUBMISSION.—With respect to any contract described in subparagraph (A) that is awarded by a public charter school, the school shall submit to the Authority, not later than 3 days after the date on which the award is made, all bids for the contract received by the school, the name of the contractor who is awarded the contract, and the rationale for the award of the contract.

(ii) EFFECTIVE DATE OF CONTRACT.—

(I) IN GENERAL.—Subject to subclause (II), a contract described in subparagraph (A) shall become effective on the date that is 15 days after the date the school makes the submission under clause (i) with respect to the contract, or the effective date specified in the contract, whichever is later.

(II) EXCEPTION.—A contract described in subparagraph (A) shall be considered null and void if the Authority determines, within 12 days of the date the school makes the submission under clause (i) with respect to the contract, that the contract endangers the economic viability of the public charter school.

(2) TUITION.—A public charter school may not charge tuition, fees, or other mandatory payments, except to nonresident students, or for field trips or similar activities.

(3) CONTROL.—A public charter school—

(A) shall exercise exclusive control over its expenditures, administration, personnel, and instructional methods, within the limitations imposed in this subtitle; and

(B) shall be exempt from District of Columbia statutes, policies, rules, and regulations established for the District of Columbia public schools by the Superintendent, Board of Education, Mayor, District of Columbia Council, or Authority, except as otherwise provided in the school's charter or this subtitle.

(4) HEALTH AND SAFETY.—A public charter school shall maintain the health and safety of all students attending such school.

(5) CIVIL RIGHTS AND IDEA.—The Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.), title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), section 504

of the Rehabilitation Act of 1973 (29 U.S.C. 794), part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.), and the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), shall apply to a public charter school.

(6) GOVERNANCE.—A public charter school shall be governed by a Board of Trustees in a manner consistent with the charter granted to the school and the provisions of this subtitle.

(7) OTHER STAFF.—No employee of the District of Columbia public schools may be required to accept employment with, or be assigned to, a public charter school.

(8) OTHER STUDENTS.—No student enrolled in a District of Columbia public school may be required to attend a public charter school.

(9) TAXES OR BONDS.—A public charter school shall not levy taxes or issue bonds.

(10) CHARTER REVISION.—A public charter school seeking to revise its charter shall prepare a petition for approval of the revision and file the petition with the eligible chartering authority that granted the charter. The provisions of section 2203 shall apply to such a petition in the same manner as such provisions apply to a petition to establish a public charter school.

(11) ANNUAL REPORT.—

(A) IN GENERAL.—A public charter school shall submit an annual report to the eligible chartering authority that approved its charter. The school shall permit a member of the public to review any such report upon request.

(B) CONTENTS.—A report submitted under subparagraph (A) shall include the following data:

(i) A report on the extent to which the school is meeting its mission and goals as stated in the petition for the charter school.

(ii) Student performance on any districtwide assessments.

(iii) Grade advancement for students enrolled in the public charter school.

(iv) Graduation rates, college admission test scores, and college admission rates, if applicable.

(v) Types and amounts of parental involvement.

(vi) Official student enrollment.

(vii) Average daily attendance.

(viii) Average daily membership.

(ix) A financial statement audited by an independent certified public accountant in accordance with Government auditing standards for financial audits issued by the Comptroller General of the United States.

(x) A report on school staff indicating the qualifications and responsibilities of such staff.

(xi) A list of all donors and grantors that have contributed monetary or in-kind donations having a value equal to or exceeding $500 during the year that is the subject of the report.

(C) NONIDENTIFYING DATA.—Data described in clauses (i) through (ix) of subparagraph (B) that are included in an annual report shall not identify the individuals to whom the data pertain.

(12) CENSUS.—A public charter school shall provide to the Board of Education student enrollment data necessary for the Board of Education to comply with section 3 of article II of the Act of February 4, 1925 (D.C. Code, sec. 31–404) (relating to census of minors).

(13) COMPLAINT RESOLUTION PROCESS.—A public charter school shall establish an informal complaint resolution process.

(14) PROGRAM OF EDUCATION.—A public charter school shall provide a program of education which shall include one or more of the following:

(A) Preschool.

(B) Prekindergarten.

(C) Any grade or grades from kindergarten through grade 12.

(D) Residential education.

(E) Adult, community, continuing, and vocational education programs.

(15) NONSECTARIAN NATURE OF SCHOOLS.—A public charter school shall be nonsectarian and shall not be affiliated with a sectarian school or religious institution.

(16) NONPROFIT STATUS OF SCHOOL.—A public charter school shall be organized under the District of Columbia Nonprofit Corporation Act (D.C. Code, sec. 29–501 et seq.).

(17) IMMUNITY FROM CIVIL LIABILITY.—

(A) IN GENERAL.—A public charter school, and its incorporators, Board of Trustees, officers, employees, and volunteers, shall be immune from civil liability, both personally and professionally, for any act or omission within the scope of their official duties unless the act or omission—

(i) constitutes gross negligence;

(ii) constitutes an intentional tort; or

(iii) is criminal in nature.

(B) COMMON LAW IMMUNITY PRESERVED.—Subparagraph (A) shall not be construed to abrogate any immunity under common law of a person described in such subparagraph.

SEC. 2205. BOARD OF TRUSTEES OF A PUBLIC CHARTER SCHOOL.

(a) BOARD OF TRUSTEES.—The members of a Board of Trustees of a public charter school shall be elected or selected pursuant to the charter granted to the school. Such Board of Trustees shall have an odd number of members that does not exceed 7, of which—

(1) a majority shall be residents of the District of Columbia; and

(2) at least 2 shall be parents of a student attending the school.

(b) ELIGIBILITY.—An individual is eligible for election or selection to the Board of Trustees of a public charter school if the person—

(1) is a teacher or staff member who is employed at the school;

(2) is a parent of a student attending the school; or

(3) meets the election or selection criteria set forth in the charter granted to the school.

(c) ELECTION OR SELECTION OF PARENTS.—In the case of the first Board of Trustees of a public charter school to be elected

or selected after the date on which the school is granted a charter, the election or selection of the members under subsection (a)(2) shall occur on the earliest practicable date after classes at the school have commenced. Until such date, any other members who have been elected or selected shall serve as an interim Board of Trustees. Such an interim Board of Trustees may exercise all of the powers, and shall be subject to all of the duties, of a Board of Trustees.

(d) FIDUCIARIES.—The Board of Trustees of a public charter school shall be fiduciaries of the school and shall set overall policy for the school. The Board of Trustees may make final decisions on matters related to the operation of the school, consistent with the charter granted to the school, this subtitle, and other applicable law.

SEC. 2206. STUDENT ADMISSION, ENROLLMENT, AND WITHDRAWAL.

(a) OPEN ENROLLMENT.—Enrollment in a public charter school shall be open to all students who are residents of the District of Columbia and, if space is available, to nonresident students who meet the tuition requirement in subsection (e).

(b) CRITERIA FOR ADMISSION.—A public charter school may not limit enrollment on the basis of a student's race, color, religion, national origin, language spoken, intellectual or athletic ability, measures of achievement or aptitude, or status as a student with special needs. A public charter school may limit enrollment to specific grade levels.

(c) RANDOM SELECTION.—If there are more applications to enroll in a public charter school from students who are residents of the District of Columbia than there are spaces available, students shall be admitted using a random selection process.

(d) ADMISSION TO AN EXISTING SCHOOL.—During the 5-year period beginning on the date that a petition, filed by an eligible applicant seeking to convert a District of Columbia public school or a private or independent school into a public charter school, is approved, the school may give priority in enrollment to—

(1) students enrolled in the school at the time the petition is granted;

(2) the siblings of students described in paragraph (1); and

(3) in the case of the conversion of a District of Columbia public school, students who reside within the attendance boundaries, if any, in which the school is located.

(e) NONRESIDENT STUDENTS.—Nonresident students shall pay tuition to attend a public charter school at the applicable rate established for District of Columbia public schools administered by the Board of Education for the type of program in which the student is enrolled.

(f) STUDENT WITHDRAWAL.—A student may withdraw from a public charter school at any time and, if otherwise eligible, enroll in a District of Columbia public school administered by the Board of Education.

(g) EXPULSION AND SUSPENSION.—The principal of a public charter school may expel or suspend a student from the school based on criteria set forth in the charter granted to the school.

SEC. 2207. EMPLOYEES.

(a) EXTENDED LEAVE OF ABSENCE WITHOUT PAY.—

(1) LEAVE OF ABSENCE FROM DISTRICT OF COLUMBIA PUBLIC SCHOOLS.—The Superintendent shall grant, upon request, an extended leave of absence, without pay, to an employee of the District of Columbia public schools for the purpose of permitting the employee to accept a position at a public charter school for a 2-year term.

(2) REQUEST FOR EXTENSION.—At the end of a 2-year term referred to in paragraph (1), an employee granted an extended leave of absence without pay under such paragraph may submit a request to the Superintendent for an extension of the leave of absence for an unlimited number of 2-year terms. The Superintendent may not unreasonably (as determined by the eligible chartering authority) withhold approval of the request.

(3) RIGHTS UPON TERMINATION OF LEAVE.—An employee granted an extended leave of absence without pay for the purpose described in paragraph (1) or (2) shall have the same rights and benefits under law upon termination of such leave of absence as an employee of the District of Columbia public schools who is granted an extended leave of absence without pay for any other purpose.

(b) RETIREMENT SYSTEM.—

(1) CREDITABLE SERVICE.—An employee of a public charter school who has received a leave of absence under subsection (a) shall receive creditable service, as defined in section 2604 of D.C. Law 2–139, effective March 3, 1979 (D.C. Code, sec. 1–627.4) and the rules established under such section, for the period of the employee's employment at the public charter school.

(2) AUTHORITY TO ESTABLISH SEPARATE SYSTEM.—A public charter school may establish a retirement system for employees under its authority.

(3) ELECTION OF RETIREMENT SYSTEM.—A former employee of the District of Columbia public schools who becomes an employee of a public charter school within 60 days after the date the employee's employment with the District of Columbia public schools is terminated may, at the time the employee commences employment with the public charter school, elect—

(A) to remain in a District of Columbia Government retirement system and continue to receive creditable service for the period of their employment at a public charter school; or

(B) to transfer into a retirement system established by the public charter school pursuant to paragraph (2).

(4) PROHIBITED EMPLOYMENT CONDITIONS.—No public charter school may require a former employee of the District of Columbia public schools to transfer to the public charter school's retirement system as a condition of employment.

(5) CONTRIBUTIONS.—

(A) EMPLOYEES ELECTING NOT TO TRANSFER.—In the case of a former employee of the District of Columbia public schools who elects to remain in a District of Columbia Government retirement system pursuant to paragraph (3)(A), the public charter school that employs the person shall make the same contribution to such system on behalf of the person as the District of Columbia would have been required to make if the person had continued to be an employee of the District of Columbia public schools.

(B) EMPLOYEES ELECTING TO TRANSFER.—In the case of a former employee of the District of Columbia public schools who elects to transfer into a retirement system of a public charter school pursuant to paragraph (3)(B), the applicable District of Columbia Government retirement system from which the former employee is transferring shall compute the employee's contribution to that system and transfer this amount, to the retirement system of the public charter school.

(c) EMPLOYMENT STATUS.—Notwithstanding any other provision of law and except as provided in this section, an employee of a public charter school shall not be considered to be an employee of the District of Columbia Government for any purpose.

SEC. 2208. REDUCED FARES FOR PUBLIC TRANSPORTATION.

A student attending a public charter school shall be eligible for reduced fares on the Metrobus and Metrorail Transit System on the same terms and conditions as are applicable under section 2 of D.C. Law 2–152, effective March 9, 1979 (D.C. Code, sec. 44–216 et seq.), to a student attending a District of Columbia public school.

SEC. 2209. DISTRICT OF COLUMBIA PUBLIC SCHOOL SERVICES TO PUBLIC CHARTER SCHOOLS.

The Superintendent may provide services, such as facilities maintenance, to public charter schools. All compensation for costs of such services shall be subject to negotiation and mutual agreement between a public charter school and the Superintendent.

SEC. 2210. APPLICATION OF LAW.

(a) ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.—

(1) TREATMENT AS LOCAL EDUCATIONAL AGENCY.—

(A) IN GENERAL.—For any fiscal year, a public charter school shall be considered to be a local educational agency for purposes of part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.), and shall be eligible for assistance under such part, if the fraction the numerator of which is the number of low-income students enrolled in the public charter school during the fiscal year preceding the fiscal year for which the determination is made and the denominator of which is the total number of students enrolled in such public charter school for such preceding year, is equal to or greater than the lowest fraction determined for any District of Columbia public school receiving assistance under such part A where the numerator is the number of low-income students enrolled in such public school for such preceding year and the denominator is the total number of students enrolled in such public school for such preceding year.

(B) DEFINITION.—For the purposes of this subsection, the term "low-income student" means a student from a low-income family determined according to the measure adopted by the District of Columbia to carry out the provisions of part A of title I of the Elementary and Secondary Education Act of 1965 that is consistent with the measures described in section 1113(a)(5) of such Act (20 U.S.C. 6313(a)(5)) for the fiscal year for which the determination is made.

(2) ALLOCATION FOR FISCAL YEARS 1996 THROUGH 1998.—

(A) PUBLIC CHARTER SCHOOLS.—For fiscal years 1996 through 1998, each public charter school that is eligible to receive assistance under part A of title I of the Elementary and Secondary Education Act of 1965 shall receive a portion of the District of Columbia's total allocation under such part which bears the same ratio to such total allocation as the number described in subparagraph (C) bears to the number described in subparagraph (D).

(B) DISTRICT OF COLUMBIA PUBLIC SCHOOLS.—For fiscal years 1996 through 1998, the District of Columbia public schools shall receive a portion of the District of Columbia's total allocation under part A of title I of the Elementary and Secondary Education Act of 1965 which bears the same ratio to such total allocation as the total of the numbers described in clauses (ii) and (iii) of subparagraph (D) bears to the aggregate total described in subparagraph (D).

(C) NUMBER OF ELIGIBLE STUDENTS ENROLLED IN THE PUBLIC CHARTER SCHOOL.—The number described in this subparagraph is the number of low-income students enrolled in the public charter school during the fiscal year preceding the fiscal year for which the determination is made.

(D) AGGREGATE NUMBER OF ELIGIBLE STUDENTS.—The number described in this subparagraph is the aggregate total of the following numbers:

(i) The number of low-income students who, during the fiscal year preceding the fiscal year for which the determination is made, were enrolled in a public charter school.

(ii) The number of low-income students who, during the fiscal year preceding the fiscal year for which the determination is made, were enrolled in a District of Columbia public school selected to provide services under part A of title I of the Elementary and Secondary Education Act of 1965.

(iii) The number of low-income students who, during the fiscal year preceding the fiscal year for which the determination is made—

(I) were enrolled in a private or independent school; and

(II) resided in an attendance area of a District of Columbia public school selected to provide services under part A of title I of the Elementary and Secondary Education Act of 1965.

(3) ALLOCATION FOR FISCAL YEAR 1999 AND THEREAFTER.—

(A) CALCULATION BY SECRETARY.—Notwithstanding sections 1124(a)(2), 1124A(a)(4), and 1125(d) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6333(a)(2), 6334(a)(4), and 6335(d)), for fiscal year 1999 and each fiscal year thereafter, the total allocation under part A of title I of such Act for all local educational agencies in the District of Columbia, including public charter schools that are eligible to receive assistance under such part, shall be calculated by the Secretary of Education. In making such calculation, such Secretary shall treat all

such local educational agencies as if such agencies were a single local educational agency for the District of Columbia.

(B) ALLOCATION.—

(i) PUBLIC CHARTER SCHOOLS.—For fiscal year 1999 and each fiscal year thereafter, each public charter school that is eligible to receive assistance under part A of title I of the Elementary and Secondary Education Act of 1965 shall receive a portion of the total allocation calculated under subparagraph (A) which bears the same ratio to such total allocation as the number described in paragraph (2)(C) bears to the aggregate total described in paragraph (2)(D).

(ii) DISTRICT OF COLUMBIA PUBLIC SCHOOL.—For fiscal year 1999 and each fiscal year thereafter, the District of Columbia public schools shall receive a portion of the total allocation calculated under subparagraph (A) which bears the same ratio to such total allocation as the total of the numbers described in clauses (ii) and (iii) of paragraph (2)(D) bears to the aggregate total described in paragraph (2)(D).

(4) USE OF ESEA FUNDS.—The Board of Education may not direct a public charter school in the school's use of funds under part A of title I of the Elementary and Secondary Education Act of 1965.

(5) ESEA REQUIREMENTS.—Except as provided in paragraph (6), a public charter school receiving funds under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) shall comply with all requirements applicable to schools receiving such funds.

(6) INAPPLICABILITY OF CERTAIN ESEA PROVISIONS.—The following provisions of the Elementary and Secondary Education Act of 1965 shall not apply to a public charter school:

(A) Paragraphs (5) and (8) of section 1112(b) (20 U.S.C. 6312(b)).

(B) Paragraphs (1)(A), (1)(B), (1)(C), (1)(D), (1)(F), (1)(H), and (3) of section 1112(c) (20 U.S.C. 6312(c)).

(C) Section 1113 (20 U.S.C. 6313).

(D) Section 1115A (20 U.S.C. 6316).

(E) Subsections (a), (b), and (c) of section 1116 (20 U.S.C. 6317).

(F) Subsections (d) and (e) of section 1118 (20 U.S.C. 6319).

(G) Section 1120 (20 U.S.C. 6321).

(H) Subsections (a) and (c) of section 1120A (20 U.S.C. 6322).

(I) Section 1126 (20 U.S.C. 6337).

(b) PROPERTY AND SALES TAXES.—A public charter school shall be exempt from District of Columbia property and sales taxes.

(c) EDUCATION OF CHILDREN WITH DISABILITIES.—Notwithstanding any other provision of this title, each public charter school shall elect to be treated as a local educational agency or a District of Columbia public school for the purpose of part B of the Individuals With Disabilities Education Act (20 U.S.C. 1411 et seq.) and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

SEC. 2211. POWERS AND DUTIES OF ELIGIBLE CHARTERING AUTHORITIES.

(a) OVERSIGHT.—

(1) IN GENERAL.—An eligible chartering authority—

(A) shall monitor the operations of each public charter school to which the eligible chartering authority has granted a charter;

(B) shall ensure that each such school complies with applicable laws and the provisions of the charter granted to such school; and

(C) shall monitor the progress of each such school in meeting student academic achievement expectations specified in the charter granted to such school.

(2) PRODUCTION OF BOOKS AND RECORDS.—An eligible chartering authority may require a public charter school to which the eligible chartering authority has granted a charter to produce any book, record, paper, or document, if the eligible chartering authority determines that such production is necessary for the eligible chartering authority to carry out its functions under this subtitle.

(b) FEES.—

(1) APPLICATION FEE.—An eligible chartering authority may charge an eligible applicant a fee, not to exceed $150, for processing a petition to establish a public charter school.

(2) ADMINISTRATION FEE.—In the case of an eligible chartering authority that has granted a charter to a public charter school, the eligible chartering authority may charge the school a fee, not to exceed one-half of one percent of the annual budget of the school, to cover the cost of undertaking the ongoing administrative responsibilities of the eligible chartering authority with respect to the school that are described in this subtitle. The school shall pay the fee to the eligible chartering authority not later than November 15 of each year.

(c) IMMUNITY FROM CIVIL LIABILITY.—

(1) IN GENERAL.—An eligible chartering authority, the Board of Trustees of such an eligible chartering authority, and a director, officer, employee, or volunteer of such an eligible chartering authority, shall be immune from civil liability, both personally and professionally, for any act or omission within the scope of their official duties unless the act or omission—

(A) constitutes gross negligence;

(B) constitutes an intentional tort; or

(C) is criminal in nature.

(2) COMMON LAW IMMUNITY PRESERVED.—Paragraph (1) shall not be construed to abrogate any immunity under common law of a person described in such paragraph.

(d) ANNUAL REPORT.—On or before July 30 of each year, each eligible chartering authority that issues a charter under this subtitle shall submit a report to the Mayor, the District of Columbia Council, the Board of Education, the Secretary of Education, the appropriate congressional committees, and the Consensus Commission that includes the following information:

(1) A list of the members of the eligible chartering authority and the addresses of such members.

(2) A list of the dates and places of each meeting of the eligible chartering authority during the year preceding the report.

(3) The number of petitions received by the eligible chartering authority for the conversion of a District of Columbia public school or a private or independent school to a public charter school, and for the creation of a new school as a public charter school.

(4) The number of petitions described in paragraph (3) that were approved and the number that were denied, as well as a summary of the reasons for which such petitions were denied.

(5) A description of any new charters issued by the eligible chartering authority during the year preceding the report.

(6) A description of any charters renewed by the eligible chartering authority during the year preceding the report.

(7) A description of any charters revoked by the eligible chartering authority during the year preceding the report.

(8) A description of any charters refused renewal by the eligible chartering authority during the year preceding the report.

(9) Any recommendations the eligible chartering authority has concerning ways to improve the administration of public charter schools.

SEC. 2212. CHARTER RENEWAL.

(a) TERM.—A charter granted to a public charter school shall remain in force for a 5-year period, but may be renewed for an unlimited number of times, each time for a 5-year period.

(b) APPLICATION FOR CHARTER RENEWAL.—In the case of a public charter school that desires to renew its charter, the Board of Trustees of the school shall file an application to renew the charter with the eligible chartering authority that granted the charter not later than 120 days nor earlier than 365 days before the expiration of the charter. The application shall contain the following:

(1) A report on the progress of the public charter school in achieving the goals, student academic achievement expectations, and other terms of the approved charter.

(2) All audited financial statements for the public charter school for the preceding 4 years.

(c) APPROVAL OF CHARTER RENEWAL APPLICATION.—The eligible chartering authority that granted a charter shall approve an application to renew the charter that is filed in accordance with subsection (b), except that the eligible chartering authority shall not approve such application if the eligible chartering authority determines that—

(1) the school committed a material violation of applicable laws or a material violation of the conditions, terms, standards, or procedures set forth in its charter, including violations relating to the education of children with disabilities; or

(2) the school failed to meet the goals and student academic achievement expectations set forth in its charter.

(d) PROCEDURES FOR CONSIDERATION OF CHARTER RENEWAL.—

(1) NOTICE OF RIGHT TO HEARING.—An eligible chartering authority that has received an application to renew a charter that is filed by a Board of Trustees in accordance with subsection (b) shall provide to the Board of Trustees written notice of the right to an informal hearing on the application. The eligible chartering authority shall provide the notice not later

than 15 days after the date on which the eligible chartering authority received the application.

(2) REQUEST FOR HEARING.—Not later than 15 days after the date on which a Board of Trustees receives a notice under paragraph (1), the Board of Trustees may request, in writing, an informal hearing on the application before the eligible chartering authority.

(3) DATE AND TIME OF HEARING.—

(A) NOTICE.—Upon receiving a timely written request for a hearing under paragraph (2), an eligible chartering authority shall set a date and time for the hearing and shall provide reasonable notice of the date and time, as well as the procedures to be followed at the hearing, to the Board of Trustees.

(B) DEADLINE.—An informal hearing under this subsection shall take place not later than 30 days after an eligible chartering authority receives a timely written request for the hearing under paragraph (2).

(4) FINAL DECISION.—

(A) DEADLINE.—An eligible chartering authority shall render a final decision, in writing, on an application to renew a charter—

(i) not later than 30 days after the date on which the eligible chartering authority provided the written notice of the right to a hearing, in the case of an application with respect to which such a hearing is not held; and

(ii) not later than 30 days after the date on which the hearing is concluded, in the case of an application with respect to which a hearing is held.

(B) REASONS FOR NONRENEWAL.—An eligible chartering authority that denies an application to renew a charter shall state in its decision the reasons for denial.

(5) ALTERNATIVES UPON NONRENEWAL.—If an eligible chartering authority denies an application to renew a charter granted to a public charter school, the Board of Education may—

(A) manage the school directly until alternative arrangements can be made for students at the school; or

(B) place the school in a probationary status that requires the school to take remedial actions, to be determined by the Board of Education, that directly relate to the grounds for the denial.

(6) JUDICIAL REVIEW.—

(A) AVAILABILITY OF REVIEW.—A decision by an eligible chartering authority to deny an application to renew a charter shall be subject to judicial review by an appropriate court of the District of Columbia.

(B) STANDARD OF REVIEW.—A decision by an eligible chartering authority to deny an application to renew a charter shall be upheld unless the decision is arbitrary and capricious or clearly erroneous.

SEC. 2213. CHARTER REVOCATION.

(a) CHARTER OR LAW VIOLATIONS.—An eligible chartering authority that has granted a charter to a public charter school may revoke the charter if the eligible chartering authority deter-

mines that the school has committed a violation of applicable laws or a material violation of the conditions, terms, standards, or procedures set forth in the charter, including violations relating to the education of children with disabilities.

(b) FISCAL MISMANAGEMENT.—An eligible chartering authority that has granted a charter to a public charter school shall revoke the charter if the eligible chartering authority determines that the school—

(1) has engaged in a pattern of nonadherence to generally accepted accounting principles;

(2) has engaged in a pattern of fiscal mismanagement; or

(3) is no longer economically viable.

(c) PROCEDURES FOR CONSIDERATION OF REVOCATION.—

(1) NOTICE OF RIGHT TO HEARING.—An eligible chartering authority that is proposing to revoke a charter granted to a public charter school shall provide to the Board of Trustees of the school a written notice stating the reasons for the proposed revocation. The notice shall inform the Board of Trustees of the right of the Board of Trustees to an informal hearing on the proposed revocation.

(2) REQUEST FOR HEARING.—Not later than 15 days after the date on which a Board of Trustees receives a notice under paragraph (1), the Board of Trustees may request, in writing, an informal hearing on the proposed revocation before the eligible chartering authority.

(3) DATE AND TIME OF HEARING.—

(A) NOTICE.—Upon receiving a timely written request for a hearing under paragraph (2), an eligible chartering authority shall set a date and time for the hearing and shall provide reasonable notice of the date and time, as well as the procedures to be followed at the hearing, to the Board of Trustees.

(B) DEADLINE.—An informal hearing under this subsection shall take place not later than 30 days after an eligible chartering authority receives a timely written request for the hearing under paragraph (2).

(4) FINAL DECISION.—

(A) DEADLINE.—An eligible chartering authority shall render a final decision, in writing, on the revocation of a charter—

(i) not later than 30 days after the date on which the eligible chartering authority provided the written notice of the right to a hearing, in the case of a proposed revocation with respect to which such a hearing is not held; and

(ii) not later than 30 days after the date on which the hearing is concluded, in the case of a proposed revocation with respect to which a hearing is held.

(B) REASONS FOR REVOCATION.—An eligible chartering authority that revokes a charter shall state in its decision the reasons for the revocation.

(5) ALTERNATIVES UPON REVOCATION.—If an eligible chartering authority revokes a charter granted to a public charter school, the Board of Education may manage the school directly until alternative arrangements can be made for students at the school.

(6) JUDICIAL REVIEW.—

(A) AVAILABILITY OF REVIEW.—A decision by an eligible chartering authority to revoke a charter shall be subject to judicial review by an appropriate court of the District of Columbia.

(B) STANDARD OF REVIEW.—A decision by an eligible chartering authority to revoke a charter shall be upheld unless the decision is arbitrary and capricious or clearly erroneous.

SEC. 2214. PUBLIC CHARTER SCHOOL BOARD.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established within the District of Columbia Government a Public Charter School Board (in this section referred to as the "Board").

(2) MEMBERSHIP.—The Secretary of Education shall present the Mayor a list of 15 individuals the Secretary determines are qualified to serve on the Board. The Mayor, in consultation with the District of Columbia Council, shall appoint 7 individuals from the list to serve on the Board. The Secretary of Education shall recommend, and the Mayor shall appoint, members to serve on the Board so that a knowledge of each of the following areas is represented on the Board:

(A) Research about and experience in student learning, quality teaching, and evaluation of and accountability in successful schools.

(B) The operation of a financially sound enterprise, including leadership and management techniques, as well as the budgeting and accounting skills critical to the startup of a successful enterprise.

(C) The educational, social, and economic development needs of the District of Columbia.

(D) The needs and interests of students and parents in the District of Columbia, as well as methods of involving parents and other members of the community in individual schools.

(3) VACANCIES.—Any time there is a vacancy in the membership of the Board, the Secretary of Education shall present the Mayor a list of 3 individuals the Secretary determines are qualified to serve on the Board. The Mayor, in consultation with the District of Columbia Council, shall appoint 1 individual from the list to serve on the Board. The Secretary shall recommend and the Mayor shall appoint, such member of the Board taking into consideration the criteria described in paragraph (2). Any member appointed to fill a vacancy occurring prior to the expiration of the term of a predecessor shall be appointed only for the remainder of the term.

(4) TIME LIMIT FOR APPOINTMENTS.—If, at any time, the Mayor does not appoint members to the Board sufficient to bring the Board's membership to 7 within 30 days of receiving a recommendation from the Secretary of Education under paragraph (2) or (3), the Secretary shall make such appointments as are necessary to bring the membership of the Board to 7.

(5) TERMS OF MEMBERS.—

(A) IN GENERAL.—Members of the Board shall serve for terms of 4 years, except that, of the initial appointments made under paragraph (2), the Mayor shall designate—

(i) 2 members to serve terms of 3 years;

(ii) 2 members to serve terms of 2 years; and

(iii) 1 member to serve a term of 1 year.

(B) REAPPOINTMENT.—Members of the Board shall be eligible to be reappointed for one 4-year term beyond their initial term of appointment.

(6) INDEPENDENCE.—No person employed by the District of Columbia public schools or a public charter school shall be eligible to be a member of the Board or to be employed by the Board.

(b) OPERATIONS OF THE BOARD.—

(1) CHAIR.—The members of the Board shall elect from among their membership 1 individual to serve as Chair. Such election shall be held each year after members of the Board have been appointed to fill any vacancies caused by the regular expiration of previous members' terms, or when requested by a majority vote of the members of the Board.

(2) QUORUM.—A majority of the members of the Board, not including any positions that may be vacant, shall constitute a quorum sufficient for conducting the business of the Board.

(3) MEETINGS.—The Board shall meet at the call of the Chair, subject to the hearing requirements of sections 2203, 2212(d)(3), and 2213(c)(3).

(c) NO COMPENSATION FOR SERVICE.—Members of the Board shall serve without pay, but may receive reimbursement for any reasonable and necessary expenses incurred by reason of service on the Board.

(d) PERSONNEL AND RESOURCES.—

(1) IN GENERAL.—Subject to such rules as may be made by the Board, the Chair shall have the power to appoint, terminate, and fix the pay of an Executive Director and such other personnel of the Board as the Chair considers necessary, but no individual so appointed shall be paid in excess of the rate payable for level EG–16 of the Educational Service of the District of Columbia.

(2) SPECIAL RULE.—The Board is authorized to use the services, personnel, and facilities of the District of Columbia.

(e) EXPENSES OF BOARD.—Any expenses of the Board shall be paid from such funds as may be available to the Mayor: *Provided,* That within 45 days of the enactment of this Act the Mayor shall make available not less than $130,000 to the Board.

(f) AUDIT.—The Board shall provide for an audit of the financial statements of the Board by an independent certified public accountant in accordance with Government auditing standards for financial audits issued by the Comptroller General of the United States.

(g) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out the provisions of this section and conducting the Board's functions required by this subtitle, there are authorized to be appropriated $300,000 for fiscal year 1997 and such sums as may be necessary for each of the 3 succeeding fiscal years.

SEC. 2215. FEDERAL ENTITIES.

(a) IN GENERAL.—The following Federal agencies and federally established entities are encouraged to explore whether it is feasible

for the agency or entity to establish one or more public charter schools:

(1) The Library of Congress.
(2) The National Aeronautics and Space Administration.
(3) The Drug Enforcement Administration.
(4) The National Science Foundation.
(5) The Department of Justice.
(6) The Department of Defense.
(7) The Department of Education.
(8) The Smithsonian Institution, including the National Zoological Park, the National Museum of American History, the John F. Kennedy Center for the Performing Arts, and the National Gallery of Art.

(b) REPORT.—Not later than 120 days after date of enactment of this Act, any agency or institution described in subsection (a) that has explored the feasibility of establishing a public charter school shall report its determination on the feasibility to the appropriate congressional committees.

Subtitle C—World Class Schools Task Force, Core Curriculum, Content Standards, Assessments, and Promotion Gates

PART 1—WORLD CLASS SCHOOLS TASK FORCE, CORE CURRICULUM, CONTENT STANDARDS, AND ASSESSMENTS

SEC. 2311. GRANT AUTHORIZED AND RECOMMENDATION REQUIRED.

(a) GRANT AUTHORIZED.—

(1) IN GENERAL.—The Superintendent is authorized to award a grant to a World Class Schools Task Force to enable such task force to make the recommendation described in subsection (b).

(2) DEFINITION.—For the purpose of this subtitle, the term "World Class Schools Task Force" means 1 nonprofit organization located in the District of Columbia that—

(A) has a national reputation for advocating content standards;

(B) has a national reputation for advocating a strong liberal arts curriculum;

(C) has experience with at least 4 urban school districts for the purpose of establishing content standards;

(D) has developed and managed professional development programs in science, mathematics, the humanities and the arts; and

(E) is governed by an independent board of directors composed of citizens with a variety of experiences in education and public policy.

(b) RECOMMENDATION REQUIRED.—

(1) IN GENERAL.—The World Class Schools Task Force shall recommend to the Superintendent, the Board of Education, and the District of Columbia Goals Panel the following:

(A) Content standards in the core academic subjects that are developed by working with the District of Columbia community, which standards shall be developed not later than 12 months after the date of enactment of this Act.

(B) A core curriculum developed by working with the District of Columbia community, which curriculum shall include the teaching of computer skills.

(C) Districtwide assessments for measuring student achievement in accordance with content standards developed under subparagraph (A). Such assessments shall be developed at several grade levels, including at a minimum, the grade levels with respect to which the Superintendent establishes promotion gates under section 2321. To the extent feasible, such assessments shall, at a minimum, be designed to provide information that permits comparisons between—

(i) individual District of Columbia public schools and public charter schools; and

(ii) individual students attending such schools.

(D) Model professional development programs for teachers using the standards and curriculum developed under subparagraphs (A) and (B).

(2) SPECIAL RULE.—The World Class Schools Task Force is encouraged, to the extent practicable, to develop districtwide assessments described in paragraph (1)(C) that permit comparisons among—

(A) individual District of Columbia public schools and public charter schools, and individual students attending such schools; and

(B) students of other nations.

(c) CONTENT.—The content standards and assessments recommended under subsection (b) shall be judged by the World Class Schools Task Force to be world class, including having a level of quality and rigor, or being analogous to content standards and assessments of other States or nations (including nations whose students historically score high on international studies of student achievement).

(d) SUBMISSION TO BOARD OF EDUCATION FOR ADOPTION.—If the content standards, curriculum, assessments, and programs recommended under subsection (b) are approved by the Superintendent, the Superintendent may submit such content standards, curriculum, assessments, and programs to the Board of Education for adoption.

SEC. 2312. CONSULTATION.

The World Class Schools Task Force shall conduct its duties under this part in consultation with—

(1) the District of Columbia Goals Panel;

(2) officials of the District of Columbia public schools who have been identified by the Superintendent as having responsibilities relevant to this part, including the Deputy Superintendent for Curriculum;

(3) the District of Columbia community, with particular attention given to educators, and parent and business organizations; and

(4) any other persons or groups that the task force deems appropriate.

SEC. 2313. ADMINISTRATIVE PROVISIONS.

The World Class Schools Task Force shall ensure public access to its proceedings (other than proceedings, or portions of proceedings, relating to internal personnel and management matters) that

are relevant to its duties under this part and shall make available to the public, at reasonable cost, transcripts of such proceedings.

SEC. 2314. CONSULTANTS.

Upon the request of the World Class Schools Task Force, the head of any department or agency of the Federal Government may detail any of the personnel of such agency to such task force to assist such task force in carrying out such task force's duties under this part.

SEC. 2315. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $2,000,000 for fiscal year 1997 to carry out this part. Such funds shall remain available until expended.

PART 2—PROMOTION GATES

SEC. 2321. PROMOTION GATES.

(a) KINDERGARTEN THROUGH 4TH GRADE.—Not later than one year after the date of adoption in accordance with section 2311(d) of the assessments described in section 2311(b)(1)(C), the Superintendent shall establish and implement promotion gates for mathematics, reading, and writing, for not less than one grade level from kindergarten through grade 4, including at least grade 4, and shall establish dates for establishing such other promotion gates for other subject areas.

(b) 5TH THROUGH 8TH GRADES.—Not later than one year after the adoption in accordance with section 2311(d) of the assessments described in section 2311(b)(1)(C), the Superintendent shall establish and implement promotion gates with respect to not less than one grade level from grade 5 through grade 8, including at least grade 8.

(c) 9TH THROUGH 12TH GRADES.—Not later than one year after the adoption in accordance with section 2311(d) of the assessments described in section 2311(b)(1)(C), the Superintendent shall establish and implement promotion gates with respect to not less than one grade level from grade 9 through grade 12, including at least grade 12.

Subtitle D—Per Capita District of Columbia Public School and Public Charter School Funding

SEC. 2401. ANNUAL BUDGETS FOR SCHOOLS.

(a) IN GENERAL.—For fiscal year 1997 and for each subsequent fiscal year, the Mayor shall make annual payments from the general fund of the District of Columbia in accordance with the formula established under subsection (b).

(b) FORMULA.—

(1) IN GENERAL.—The Mayor and the District of Columbia Council, in consultation with the Board of Education and the Superintendent, shall establish not later than 90 days after enactment of this Act, a formula to determine the amount of—

(A) the annual payment to the Board of Education for the operating expenses of the District of Columbia public schools, which for purposes of this paragraph includes the

operating expenses of the Board of Education and the Office of the Superintendent; and

(B) the annual payment to each public charter school for the operating expenses of each public charter school.

(2) FORMULA CALCULATION.—Except as provided in paragraph (3), the amount of the annual payment under paragraph (1) shall be calculated by multiplying a uniform dollar amount used in the formula established under such paragraph by—

(A) the number of students calculated under section 2402 that are enrolled at District of Columbia public schools, in the case of the payment under paragraph (1)(A); or

(B) the number of students calculated under section 2402 that are enrolled at each public charter school, in the case of a payment under paragraph (1)(B).

(3) EXCEPTIONS.—

(A) FORMULA.—Notwithstanding paragraph (2), the Mayor and the District of Columbia Council, in consultation with the Board of Education and the Superintendent, may adjust the formula to increase or decrease the amount of the annual payment to the District of Columbia public schools or each public charter school based on a calculation of—

(i) the number of students served by such schools in certain grade levels; and

(ii) the cost of educating students at such certain grade levels.

(B) PAYMENT.—Notwithstanding paragraph (2), the Mayor and the District of Columbia Council, in consultation with the Board of Education and the Superintendent, may adjust the amount of the annual payment under paragraph (1) to increase the amount of such payment if a District of Columbia public school or a public charter school serves a high number of students—

(i) with special needs; or

(ii) who do not meet minimum literacy standards.

SEC. 2402. CALCULATION OF NUMBER OF STUDENTS.

(a) SCHOOL REPORTING REQUIREMENT.—

(1) IN GENERAL.—Not later than September 15, 1996, and not later than September 15 of each year thereafter, each District of Columbia public school and public charter school shall submit a report to the Mayor and the Board of Education containing the information described in subsection (b) that is applicable to such school.

(2) SPECIAL RULE.—Not later than April 1, 1997, and not later than April 1 of each year thereafter, each public charter school shall submit a report in the same form and manner as described in paragraph (1) to ensure accurate payment under section 2403(a)(2)(B)(ii).

(b) CALCULATION OF NUMBER OF STUDENTS.—Not later than 30 days after the date of the enactment of this Act, and not later than October 15 of each year thereafter, the Board of Education shall calculate the following:

(1) The number of students, including nonresident students and students with special needs, enrolled in each grade from kindergarten through grade 12 of the District of Columbia

public schools and in public charter schools, and the number of students whose tuition for enrollment in other schools is paid for with funds available to the District of Columbia public schools.

(2) The amount of fees and tuition assessed and collected from the nonresident students described in paragraph (1).

(3) The number of students, including nonresident students, enrolled in preschool and prekindergarten in the District of Columbia public schools and in public charter schools.

(4) The amount of fees and tuition assessed and collected from the nonresident students described in paragraph (3).

(5) The number of full time equivalent adult students enrolled in adult, community, continuing, and vocational education programs in the District of Columbia public schools and in public charter schools.

(6) The amount of fees and tuition assessed and collected from resident and nonresident adult students described in paragraph (5).

(7) The number of students, including nonresident students, enrolled in nongrade level programs in District of Columbia public schools and in public charter schools.

(8) The amount of fees and tuition assessed and collected from nonresident students described in paragraph (7).

(c) ANNUAL REPORTS.—Not later than 30 days after the date of the enactment of this Act, and not later than October 15 of each year thereafter, the Board of Education shall prepare and submit to the Authority, the Mayor, the District of Columbia Council, the Consensus Commission, the Comptroller General of the United States, and the appropriate congressional committees a report containing a summary of the most recent calculations made under subsection (b).

(d) AUDIT OF INITIAL CALCULATIONS.—

(1) IN GENERAL.—The Board of Education shall arrange with the Authority to provide for the conduct of an independent audit of the initial calculations described in subsection (b).

(2) CONDUCT OF AUDIT.—In conducting the audit, the independent auditor—

(A) shall provide an opinion as to the accuracy of the information contained in the report described in subsection (c); and

(B) shall identify any material weaknesses in the systems, procedures, or methodology used by the Board of Education—

(i) in determining the number of students, including nonresident students, enrolled in the District of Columbia public schools and in public charter schools, and the number of students whose tuition for enrollment in other school systems is paid for by funds available to the District of Columbia public schools; and

(ii) in assessing and collecting fees and tuition from nonresident students.

(3) SUBMISSION OF AUDIT.—Not later than 45 days, or as soon thereafter as is practicable, after the date on which the Authority receives the initial annual report from the Board of Education under subsection (c), the Authority shall submit to the Board of Education, the Mayor, the District of Columbia

Council, and the appropriate congressional committees, the audit conducted under this subsection.

(4) COST OF THE AUDIT.—The Board of Education shall reimburse the Authority for the cost of the independent audit, solely from amounts appropriated to the Board of Education for staff, stipends, and other-than-personal-services of the Board of Education by an Act making appropriations for the District of Columbia.

SEC. 2403. PAYMENTS.

(a) IN GENERAL.—

(1) ESCROW FOR PUBLIC CHARTER SCHOOLS.—Except as provided in subsection (b), for any fiscal year, not later than 10 days after the date of enactment of an Act making appropriations for the District of Columbia for such fiscal year, the Mayor shall place in escrow an amount equal to the aggregate of the amounts determined under section 2401(b)(1)(B) for use only by District of Columbia public charter schools.

(2) TRANSFER OF ESCROW FUNDS.—

(A) INITIAL PAYMENT.—Not later than October 15, 1996, and not later than October 15 of each year thereafter, the Mayor shall transfer, by electronic funds transfer, an amount equal to 75 percent of the amount of the annual payment for each public charter school determined by using the formula established pursuant to section 2401(b) to a bank designated by such school.

(B) FINAL PAYMENT.—

(i) Except as provided in clause (ii), not later than May 1, 1997, and not later than May 1 of each year thereafter, the Mayor shall transfer the remainder of the annual payment for a public charter school in the same manner as the initial payment was made under subparagraph (A).

(ii) Not later than March 15, 1997, and not later than March 15 of each year thereafter, if the enrollment number of a public charter school has changed from the number reported to the Mayor and the Board of Education, as required under section 2402(a), the Mayor shall increase the payment in an amount equal to 50 percent of the amount provided for each student who has enrolled in such school in excess of such enrollment number, or shall reduce the payment in an amount equal to 50 percent of the amount provided for each student who has withdrawn or dropped out of such school below such enrollment number.

(C) PRO RATA REDUCTION OR INCREASE IN PAYMENTS.—

(i) PRO RATA REDUCTION.—If the funds made available to the District of Columbia Government for the District of Columbia public school system and each public charter school for any fiscal year are insufficient to pay the full amount that such system and each public charter school is eligible to receive under this subtitle for such year, the Mayor shall ratably reduce such amounts for such year on the basis of the formula described in section 2401(b).

(ii) INCREASE.—If additional funds become available for making payments under this subtitle for such

fiscal year, amounts that were reduced under subparagraph (A) shall be increased on the same basis as such amounts were reduced.

(D) UNEXPENDED FUNDS.—Any funds that remain in the escrow account for public charter schools on September 30 of a fiscal year shall revert to the general fund of the District of Columbia.

(b) EXCEPTION FOR NEW SCHOOLS.—

(1) AUTHORIZATION.—There are authorized to be appropriated $200,000 for each fiscal year to carry out this subsection.

(2) DISBURSEMENT TO MAYOR.—The Secretary of the Treasury shall make available and disburse to the Mayor, not later than August 1 of each of the fiscal years 1996 through 2000, such funds as have been appropriated under paragraph (1).

(3) ESCROW.—The Mayor shall place in escrow, for use by public charter schools, any sum disbursed under paragraph (2) and not paid under paragraph (4).

(4) PAYMENTS TO SCHOOLS.—The Mayor shall pay to public charter schools described in paragraph (5), in accordance with this subsection, any sum disbursed under paragraph (2).

(5) SCHOOLS DESCRIBED.—The schools referred to in paragraph (4) are public charter schools that—

(A) did not operate as public charter schools during any portion of the fiscal year preceding the fiscal year for which funds are authorized to be appropriated under paragraph (1); and

(B) operated as public charter schools during the fiscal year for which funds are authorized to be appropriated under paragraph (1).

(6) FORMULA.—

(A) 1996.—The amount of the payment to a public charter school described in paragraph (5) that begins operation in fiscal year 1996 shall be calculated by multiplying $6,300 by 1/12 of the total anticipated enrollment as set forth in the petition to establish the public charter school; and

(B) 1997 THROUGH 2000.—The amount of the payment to a public charter school described in paragraph (5) that begins operation in any of fiscal years 1997 through 2000 shall be calculated by multiplying the uniform dollar amount used in the formula established under section 2401(b) by 1/12 of the total anticipated enrollment as set forth in the petition to establish the public charter school.

(7) PAYMENT TO SCHOOLS.—

(A) TRANSFER.—On September 1 of each of the years 1996 through 2000, the Mayor shall transfer, by electronic funds transfer, the amount determined under paragraph (6) for each public charter school from the escrow account established under subsection (a) to a bank designated by each such school.

(B) PRO RATA AND REMAINING FUNDS.—Subparagraphs (C) and (D) of subsection (a)(2) shall apply to payments made under this subsection, except that for purposes of this subparagraph references to District of Columbia public schools in such subparagraphs (C) and (D) shall be read to refer to public charter schools.

Subtitle E—School Facilities Repair and Improvement

SEC. 2550. DEFINITIONS.

For purposes of this subtitle—

(1) the term "facilities" means buildings, structures, and real property of the District of Columbia public schools, except that such term does not include any administrative office building that is not located in a building containing classrooms; and

(2) the term "repair and improvement" includes administration, construction, and renovation.

PART 1—SCHOOL FACILITIES

SEC. 2551. TECHNICAL ASSISTANCE.

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act the Administrator of the General Services Administration shall enter into a Memorandum of Agreement or Understanding (referred to in this subtitle as the "Agreement") with the Superintendent regarding the terms under which the Administrator will provide technical assistance and related services with respect to District of Columbia public schools facilities management in accordance with this section.

(b) TECHNICAL ASSISTANCE AND RELATED SERVICES.—The technical assistance and related services described in subsection (a) shall include—

(1) the Administrator consulting with and advising District of Columbia public school personnel responsible for public schools facilities management, including repair and improvement with respect to facilities management of such schools;

(2) the Administrator assisting the Superintendent in developing a systemic and comprehensive facilities revitalization program, for the repair and improvement of District of Columbia public school facilities, which program shall—

(A) include a list of facilities to be repaired and improved in a recommended order of priority;

(B) provide the repair and improvement required to support modern technology; and

(C) take into account the Preliminary Facilities Master Plan 2005 (prepared by the Superintendent's Task Force on Education Infrastructure for the 21st Century);

(3) the method by which the Superintendent will accept donations of private goods and services for use by the District of Columbia public schools without regard to any law or regulation of the District of Columbia;

(4) the Administrator recommending specific repair and improvement projects in District of Columbia public school facilities to the Superintendent that are appropriate for completion by members and units of the National Guard and the Reserves in accordance with the program developed under paragraph (2);

(5) upon the request of the Superintendent, the Administrator assisting the appropriate District of Columbia public school officials in the preparation of an action plan for the performance of any repair and improvement recommended in

the program developed under paragraph (2), which action plan shall detail the technical assistance and related services the Administrator proposes to provide in the accomplishment of the repair and improvement;

(6) upon the request of the Superintendent, and if consistent with the efficient use of resources as determined by the Administrator, the coordination of the accomplishment of any repair and improvement in accordance with the action plan prepared under paragraph (5), except that in carrying out this paragraph, the Administrator shall not be subject to the requirements of title III of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq., and 41 U.S.C. 251 et seq.), the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), nor shall such action plan be subject to review under the bid protest procedures described in sections 3551 through 3556 of title 31, United States Code, or the Contract Disputes Act of 1978 (41 U.S.C. 601 et seq.);

(7) providing access for the Administrator to all District of Columbia public school facilities as well as permitting the Administrator to request and obtain any record or document regarding such facilities as the Administrator determines necessary, except that any such record or document shall not become a record (as defined in section 552a of title 5, United States Code) of the General Services Administration; and

(8) the Administrator making recommendations regarding how District of Columbia public school facilities may be used by the District of Columbia community for multiple purposes.

(c) AGREEMENT PROVISIONS.—The Agreement shall include—

(1) the procedures by which the Superintendent and Administrator will consult with respect to carrying out this section, including reasonable time frames for such consultation;

(2) the scope of the technical assistance and related services to be provided by the General Services Administration in accordance with this section;

(3) assurances by the Administrator and the Superintendent to cooperate with each other in any way necessary to ensure implementation of the Agreement, including assurances that funds available to the District of Columbia shall be used to pay the obligations of the District of Columbia public school system that are incurred as a result of actions taken under, or in furtherance of, the Agreement, in addition to funds available to the Administrator for purposes of this section; and

(4) the duration of the Agreement, except that in no event shall the Agreement remain in effect later than the day that is 24 months after the date that the Agreement is signed, or the day that the agency designated pursuant to section 2552(a)(2) assumes responsibility for the District of Columbia public school facilities, whichever day is earlier.

(d) LIMITATION ON ADMINISTRATOR'S LIABILITY.—No claim, suit, or action may be brought against the Administrator in connection with the discharge of the Administrator's responsibilities under this subtitle.

(e) SPECIAL RULE.—Notwithstanding any other provision of law, the Administrator is authorized to accept and use a conditioned gift made for the express purpose of repairing or improving a District of Columbia public school, except that the Administrator shall not be required to carry out any repair or improvement

under this section unless the Administrator accepts a donation of private goods or services sufficient to cover the costs of such repair or improvement.

(f) EFFECTIVE DATE.—This subtitle shall cease to be effective on the earlier day specified in subsection (c)(4).

SEC. 2552. FACILITIES REVITALIZATION PROGRAM.

(a) PROGRAM.—Not later than 12 months after the date of enactment of this Act, the Mayor and the District of Columbia Council in consultation with the Administrator, the Authority, the Board of Education, and the Superintendent, shall—

(1) design and implement a comprehensive long-term program for the repair and improvement, and maintenance and management, of the District of Columbia public school facilities, which program shall incorporate the work completed in accordance with the program described in section 2551(b)(2); and

(2) designate a new or existing agency or authority within the District of Columbia Government to administer such program.

(b) PROCEEDS.—Such program shall include—

(1) identifying short-term funding for capital and maintenance of facilities, which may include retaining proceeds from the sale or lease of a District of Columbia public school facility; and

(2) identifying and designating long-term funding for capital and maintenance of facilities.

(c) IMPLEMENTATION.—Upon implementation of such program, the agency or authority created or designated pursuant to subsection (a)(2) shall assume authority and responsibility for the repair and improvement, and maintenance and management, of District of Columbia public schools.

PART 2—WAIVERS

SEC. 2561. WAIVERS.

(a) IN GENERAL.—

(1) REQUIREMENTS WAIVED.—Subject to subsection (b), all District of Columbia fees and all requirements contained in the document entitled "District of Columbia Public Schools Standard Contract Provisions" (as such document was in effect on November 2, 1995 and including any revisions or modifications to such document) published by the District of Columbia public schools for use with construction or maintenance projects, are waived, for purposes of repair and improvement of District of Columbia public schools facilities for a period beginning on the date of enactment of this Act and ending 24 months after such date.

(2) DONATIONS.—Any individual may volunteer his or her services or may donate materials to a District of Columbia public school facility for the repair and improvement of such facility provided that the provision of voluntary services meets the requirements of 29 U.S.C. 203(e)(4).

(b) LIMITATION.—A waiver under subsection (a) shall not apply to requirements under 40 U.S.C. 276a–276a–7.

PART 3—GIFTS, DONATIONS, BEQUESTS, AND DEVISES

SEC. 2571. GIFTS, DONATIONS, BEQUESTS, AND DEVISES.

(a) IN GENERAL.—A District of Columbia public school or a public charter school may accept directly from any person a gift, donation, bequest, or devise of any property, real or personal, without regard to any law or regulation of the District of Columbia.

(b) TAX LAWS.—For the purposes of the income tax, gift tax, and estate tax laws of the Federal Government, any money or other property given, donated, bequeathed, or devised to a District of Columbia public school or a public charter school, shall be deemed to have been given, donated, bequeathed, or devised to or for the use of the District of Columbia.

Subtitle F—Partnerships With Business

SEC. 2601. PURPOSE.

The purpose of this subtitle is—

(1) to leverage private sector funds utilizing initial Federal investments in order to provide students and teachers within the District of Columbia public schools and public charter schools with access to state-of-the-art educational technology;

(2) to establish a regional job training and employment center;

(3) to strengthen workforce preparation initiatives for students within the District of Columbia public schools and public charter schools;

(4) to coordinate private sector investments in carrying out this title; and

(5) to assist the Superintendent with the development of individual career paths in accordance with the long-term reform plan.

SEC. 2602. DUTIES OF THE SUPERINTENDENT OF THE DISTRICT OF COLUMBIA PUBLIC SCHOOLS.

The Superintendent is authorized to provide a grant to a private, nonprofit corporation that meets the eligibility criteria under section 2603 for the purposes of carrying out the duties under sections 2604 and 2607.

SEC. 2603. ELIGIBILITY CRITERIA FOR PRIVATE, NONPROFIT CORPORATION.

A private, nonprofit corporation shall be eligible to receive a grant under section 2602 if the corporation is a national business organization incorporated in the District of Columbia, that—

(1) has a board of directors which includes members who are also chief executive officers of technology-related corporations involved in education and workforce development issues;

(2) has extensive practical experience with initiatives that link business resources and expertise with education and training systems;

(3) has experience in working with State and local educational agencies throughout the United States with respect to the integration of academic studies with workforce preparation programs; and

(4) has a nationwide structure through which additional resources can be leveraged and innovative practices disseminated.

SEC. 2604. DUTIES OF THE PRIVATE, NONPROFIT CORPORATION.

(a) DISTRICT EDUCATION AND LEARNING TECHNOLOGIES ADVANCEMENT COUNCIL.—

(1) ESTABLISHMENT—The private, nonprofit corporation shall establish a council to be known as the "District Education and Learning Technologies Advancement Council" (in this subtitle referred to as the "council").

(2) MEMBERSHIP.—

(A) IN GENERAL.—The private, nonprofit corporation shall appoint members to the council. An individual shall be appointed as a member to the council on the basis of the commitment of the individual, or the entity which the individual is representing, to providing time, energy, and resources to the council.

(B) COMPENSATION.—Members of the council shall serve without compensation.

(3) DUTIES.—The council—

(A) shall advise the private, nonprofit corporation with respect to the duties of the corporation under subsections (b) through (d) of this section; and

(B) shall assist the corporation in leveraging private sector resources for the purpose of carrying out such duties.

(b) ACCESS TO STATE-OF-THE-ART EDUCATIONAL TECHNOLOGY.—

(1) IN GENERAL—The private, nonprofit corporation, in conjunction with the Superintendent, students, parents, and teachers, shall establish and implement strategies to ensure access to state-of-the-art educational technology within the District of Columbia public schools and public charter schools.

(2) ELECTRONIC DATA TRANSFER SYSTEM.—The private, nonprofit corporation shall assist the Superintendent in acquiring the necessary equipment, including computer hardware and software, to establish an electronic data transfer system. The private, nonprofit corporation shall also assist in arranging for training of District of Columbia public school employees in using such equipment.

(3) TECHNOLOGY ASSESSMENT.—

(A) IN GENERAL.—In establishing and implementing the strategies under paragraph (1), the private, nonprofit corporation, not later than September 1, 1996, shall provide for an assessment of the availability, on the date of enactment of this Act, of state-of-the-art educational technology within the District of Columbia public schools and public charter schools.

(B) CONDUCT OF ASSESSMENT.—In providing for the assessment under subparagraph (A), the private, nonprofit corporation—

(i) shall provide for onsite inspections of the state-of-the-art educational technology within a minimum sampling of District of Columbia public schools and public charter schools; and

(ii) shall ensure proper input from students, parents, teachers, and other school officials through the use of focus groups and other appropriate mechanisms.

(C) RESULTS OF ASSESSMENT.—The private, nonprofit corporation shall ensure that the assessment carried out under this paragraph provides, at a minimum, necessary information on state-of-the-art educational technology within the District of Columbia public schools and public charter schools, including—

(i) the extent to which typical District of Columbia public schools have access to such state-of-the-art educational technology and training for such technology;

(ii) how such schools are using such technology;

(iii) the need for additional technology and the need for infrastructure for the implementation of such additional technology;

(iv) the need for computer hardware, software, training, and funding for such additional technology or infrastructure; and

(v) the potential for computer linkages among District of Columbia public schools and public charter schools.

(4) SHORT-TERM TECHNOLOGY PLAN.—

(A) IN GENERAL.—Based upon the results of the technology assessment under paragraph (3), the private, nonprofit corporation shall develop a 3-year plan that includes goals, priorities, and strategies for obtaining the resources necessary to implement strategies to ensure access to state-of-the-art educational technology within the District of Columbia public schools and public charter schools.

(B) IMPLEMENTATION.—The private, nonprofit corporation, in conjunction with schools, students, parents, and teachers, shall implement the plan developed under subparagraph (A).

(5) LONG-TERM TECHNOLOGY PLAN.—Prior to the completion of the implementation of the short-term technology plan under paragraph (4), the private, nonprofit corporation shall develop a plan under which the corporation will continue to coordinate the donation of private sector resources for maintaining the continuous improvement and upgrading of state-of-the-art educational technology within the District of Columbia public schools and public charter schools.

(c) DISTRICT EMPLOYMENT AND LEARNING CENTER.—

(1) ESTABLISHMENT.—The private, nonprofit corporation shall establish a center to be known as the "District Employment and Learning Center" (in this subtitle referred to as the "center"), which shall serve as a regional institute providing job training and employment assistance.

(2) DUTIES.—

(A) JOB TRAINING AND EMPLOYMENT ASSISTANCE PROGRAM.—The center shall establish a program to provide job training and employment assistance in the District of Columbia and shall coordinate with career preparation programs in existence on the date of enactment of this Act, such as vocational education, school-to-work, and career academies in the District of Columbia public schools.

(B) CONDUCT OF PROGRAM.—In carrying out the program established under subparagraph (A), the center—

(i) shall provide job training and employment assistance to youths who have attained the age of

18 but have not attained the age of 26, who are residents of the District of Columbia, and who are in need of such job training and employment assistance for an appropriate period not to exceed 2 years;

(ii) shall work to establish partnerships and enter into agreements with appropriate agencies of the District of Columbia Government to serve individuals participating in appropriate Federal programs, including programs under the Job Training Partnership Act (29 U.S.C. 1501 et seq.), the Job Opportunities and Basic Skills Training Program under part F of title IV of the Social Security Act (42 U.S.C. 681 et seq.), the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.), and the School-to-Work Opportunities Act of 1994 (20 U.S.C. 6101 et seq.);

(iii) shall conduct such job training, as appropriate, through a consortium of colleges, universities, community colleges, businesses, and other appropriate providers, in the District of Columbia metropolitan area;

(iv) shall design modular training programs that allow students to enter and leave the training curricula depending on their opportunities for job assignments with employers; and

(v) shall utilize resources from businesses to enhance work-based learning opportunities and facilitate access by students to work-based learning and work experience through temporary work assignments with employers in the District of Columbia metropolitan area.

(C) COMPENSATION.—The center may provide compensation to youths participating in the program under this paragraph for part-time work assigned in conjunction with training. Such compensation may include need-based payments and reimbursement of expenses.

(d) WORKFORCE PREPARATION INITIATIVES.—

(1) IN GENERAL.—The private, nonprofit corporation shall establish initiatives with the District of Columbia public schools, and public charter schools, appropriate governmental agencies, and businesses and other private entities, to facilitate the integration of rigorous academic studies with workforce preparation programs in District of Columbia public schools and public charter schools.

(2) CONDUCT OF INITIATIVES.—In carrying out the initiatives under paragraph (1), the private, nonprofit corporation shall, at a minimum, actively develop, expand, and promote the following programs:

(A) Career academy programs in secondary schools, as such programs are established in certain District of Columbia public schools, which provide a school-within-a-school concept, focusing on career preparation and the integration of the academy programs with vocational and technical curriculum.

(B) Programs carried out in the District of Columbia that are funded under the School-to-Work Opportunities Act of 1994 (20 U.S.C. 6101 et seq.).

SEC. 2605. MATCHING FUNDS.

The private, nonprofit corporation, to the extent practicable, shall provide matching funds, or in-kind contributions, or a combination thereof, for the purpose of carrying out the duties of the corporation under section 2604, as follows:

(1) For fiscal year 1997, the nonprofit corporation shall provide matching funds or in-kind contributions of $1 for every $1 of Federal funds provided under this subtitle for such year for activities under section 2604.

(2) For fiscal year 1998, the nonprofit corporation shall provide matching funds or in-kind contributions of $3 for every $1 of Federal funds provided under this subtitle for such year for activities under section 2604.

(3) For fiscal year 1999, the nonprofit corporation shall provide matching funds or in-kind contributions of $5 for every $1 of Federal funds provided under this subtitle for such year for activities under section 2604.

SEC. 2606. REPORT.

The private, nonprofit corporation shall prepare and submit to the appropriate congressional committees on a quarterly basis, or, with respect to fiscal year 1997, on a semiannual basis, a report which shall contain—

(1) the activities the corporation has carried out, including the duties of the corporation described in section 2604, for the 3-month period ending on the date of the submission of the report, or, with respect to fiscal year 1997, the 6-month period ending on the date of the submission of the report;

(2) an assessment of the use of funds or other resources donated to the corporation;

(3) the results of the assessment carried out under section 2604(b)(3); and

(4) a description of the goals and priorities of the corporation for the 3-month period beginning on the date of the submission of the report, or, with respect to fiscal year 1997, the 6-month period beginning on the date of the submission of the report.

SEC. 2607. JOBS FOR D.C. GRADUATES PROGRAM. Establishment.

(a) IN GENERAL.—The nonprofit corporation shall establish a program, to be known as the "Jobs for D.C. Graduates Program", to assist District of Columbia public schools and public charter schools in organizing and implementing a school-to-work transition system, which system shall give priority to providing assistance to at-risk youths and disadvantaged youths.

(b) CONDUCT OF PROGRAM.—In carrying out the program established under subsection (a), the nonprofit corporation, consistent with the policies of the nationally recognized Jobs for America's Graduates, Inc., shall—

(1) establish performance standards for such program;

(2) provide ongoing enhancement and improvements in such program;

(3) provide research and reports on the results of such program; and

(4) provide preservice and inservice training.

SEC. 2608. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—

(1) DELTA COUNCIL; ACCESS TO STATE-OF-THE-ART EDUCATIONAL TECHNOLOGY; AND WORKFORCE PREPARATION INITIATIVES.—There are authorized to be appropriated to carry out subsections (a), (b), and (d) of section 2604, $1,000,000 for each of the fiscal years 1997, 1998, and 1999.

(2) DEAL CENTER.—There are authorized to be appropriated to carry out section 2604(c), $2,000,000 for each of the fiscal years 1997, 1998, and 1999.

(3) JOBS FOR D.C. GRADUATES PROGRAM.—There are authorized to be appropriated to carry out section 2607—

(A) $2,000,000 for fiscal year 1997; and

(B) $3,000,000 for each of the fiscal years 1998 through 2001.

(b) AVAILABILITY.—Amounts authorized to be appropriated under subsection (a) are authorized to remain available until expended.

SEC. 2609. TERMINATION OF FEDERAL SUPPORT; SENSE OF THE CONGRESS RELATING TO CONTINUATION OF ACTIVITIES.

(a) TERMINATION OF FEDERAL SUPPORT.—The authority under this subtitle to provide assistance to the private, nonprofit corporation or any other entity established pursuant to this subtitle shall terminate on October 1, 1999.

(b) SENSE OF THE CONGRESS RELATING TO CONTINUATION OF ACTIVITIES.—It is the sense of the Congress that—

(1) the activities of the private, nonprofit corporation under section 2604 should continue to be carried out after October 1, 1999, with resources made available from the private sector; and

(2) the corporation should provide oversight and coordination for such activities after such date.

Subtitle G—Management and Fiscal Accountability; Preservation of School-Based Resources

SEC. 2751. MANAGEMENT SUPPORT SYSTEMS.

Contracts.

(a) FOOD SERVICES AND SECURITY SERVICES.—Notwithstanding any other law, rule, or regulation, the Board of Education shall enter into a contract for academic year 1995–1996 and each succeeding academic year, for the provision of all food services operations and security services for the District of Columbia public schools, unless the Superintendent determines that it is not feasible and provides the Superintendent's reasons in writing to the Board of Education and the Authority.

(b) DEVELOPMENT OF NEW MANAGEMENT AND DATA SYSTEMS.—Notwithstanding any other law, rule, or regulation, the Board of Education shall, in academic year 1995–1996, consult with the Authority on the development of new management and data systems, as well as training of personnel to use and manage the systems in areas of budget, finance, personnel and human resources, management information services, procurement, supply management, and other systems recommended by the Authority. Such plans shall be consistent with, and contemporaneous to, the District of Columbia Government's development and implementation of a replacement for the financial management system for the District of Columbia Government in use on the date of enactment of this Act.

SEC. 2752. ACCESS TO FISCAL AND STAFFING DATA.

(a) IN GENERAL.—The budget, financial-accounting, personnel, payroll, procurement, and management information systems of the District of Columbia public schools shall be coordinated and interface with related systems of the District of Columbia Government.

(b) ACCESS.—The Board of Education shall provide read-only access to its internal financial management systems and all other data bases to designated staff of the Mayor, the Council, the Authority, and appropriate congressional committees.

SEC. 2753. DEVELOPMENT OF FISCAL YEAR 1997 BUDGET REQUEST.

(a) IN GENERAL.—The Board of Education shall develop its fiscal year 1997 gross operating budget and its fiscal year 1997 appropriated funds budget request in accordance with this section.

(b) FISCAL YEAR 1996 BUDGET REVISION.—Not later than 60 days after enactment of this Act, the Board of Education shall develop, approve, and submit to the Mayor, the District of Columbia Council, the Authority, and appropriate congressional committees, a revised fiscal year 1996 gross operating budget that reflects the amount appropriated in the District of Columbia Appropriations Act, 1996, and which—

(1) is broken out on the basis of appropriated funds and nonappropriated funds, control center, responsibility center, agency reporting code, object class, and object; and

(2) indicates by position title, grade, and agency reporting code, all staff allocated to each District of Columbia public school as of October 15, 1995, and indicates on an object class basis all other-than-personal-services financial resources allocated to each school.

(c) ZERO-BASE BUDGET.—For fiscal year 1997, the Board of Education shall build its gross operating budget and appropriated funds request from a zero-base, starting from the local school level through the central office level.

(d) SCHOOL-BY-SCHOOL BUDGETS.—The Board of Education's initial fiscal year 1997 gross operating budget and appropriated funds budget request submitted to the Mayor, the District of Columbia Council, and the Authority shall contain school-by-school budgets and shall also—

(1) be broken out on the basis of appropriated funds and nonappropriated funds, control center, responsibility center, agency reporting code, object class, and object;

(2) indicate by position title, grade, and agency reporting code all staff budgeted for each District of Columbia public school, and indicate on an object class basis all other-than-personal-services financial resources allocated to each school; and

(3) indicate the amount and reason for all changes made to the initial fiscal year 1997 gross operating budget and appropriated funds request from the revised fiscal year 1996 gross operating budget required by subsection (b).

SEC. 2754. TECHNICAL AMENDMENTS.

Section 1120A of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6322) is amended—

(1) in subsection (b)(1), by—

(A) striking "(A) Except as provided in subparagraph (B), a State" and inserting "A State"; and

(B) striking subparagraph (B); and

(2) by adding at the end thereof the following new subsection:

"(d) EXCLUSION OF FUNDS.—For the purpose of complying with subsections (b) and (c), a State or local educational agency may exclude supplemental State or local funds expended in any school attendance area or school for programs that meet the intent and purposes of this part.".

SEC. 2755. EVEN START FAMILY LITERACY PROGRAMS.

Part B of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6361 et seq.) is amended—

(a) in section 1204(a) (20 U.S.C. 6364(a)), by inserting "intensive" after "cost of providing"; and

(b) in section 1205(4) (20 U.S.C. 6365(4)), by inserting ", intensive" after "high-quality".

SEC. 2756. PRESERVATION OF SCHOOL-BASED STAFF POSITIONS.

(a) RESTRICTIONS ON REDUCTIONS OF SCHOOL-BASED EMPLOYEES.—To the extent that a reduction in the number of full-time equivalent positions for the District of Columbia public schools is required to remain within the number of full-time equivalent positions established for the public schools in appropriations Acts, no reductions shall be made from the full-time equivalent positions for school-based teachers, principals, counselors, librarians, or other school-based educational positions that were established as of the end of fiscal year 1995, unless the Authority makes a determination based on student enrollment that—

(1) fewer school-based positions are needed to maintain established pupil-to-staff ratios; or

(2) reductions in positions for other than school-based employees are not practicable.

(b) DEFINITION.—The term "school-based educational position" means a position located at a District of Columbia public school or other position providing direct support to students at such a school, including a position for a clerical, stenographic, or secretarial employee, but not including any part-time educational aide position.

Subtitle H—Establishment and Organization of the Commission on Consensus Reform in the District of Columbia Public Schools

SEC. 2851. COMMISSION ON CONSENSUS REFORM IN THE DISTRICT OF COLUMBIA PUBLIC SCHOOLS.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established within the District of Columbia Government a Commission on Consensus Reform in the District of Columbia Public Schools, consisting of 7 members to be appointed in accordance with paragraph (2).

President.

(2) MEMBERSHIP.—The Consensus Commission shall consist of the following members:

(A) 1 member to be appointed by the President chosen from a list of 3 proposed members submitted by the Majority Leader of the Senate.

(B) 1 member to be appointed by the President chosen from a list of 3 proposed members submitted by the Speaker of the House of Representatives.

(C) 2 members to be appointed by the President, of which 1 shall represent the local business community and 1 of which shall be a teacher in a District of Columbia public school.

(D) The President of the District of Columbia Congress of Parents and Teachers.

(E) The President of the Board of Education.

(F) The Superintendent.

(G) The Mayor and District of Columbia Council Chairman shall each name 1 nonvoting ex officio member.

(H) The Chief of the National Guard Bureau who shall be an ex officio member.

(3) TERMS OF SERVICE.—The members of the Consensus Commission shall serve for a term of 3 years.

(4) VACANCIES.—Any vacancy in the membership of the Consensus Commission shall be filled by the appointment of a new member in the same manner as provided for the vacated membership. A member appointed under this paragraph shall serve the remaining term of the vacated membership.

(5) QUALIFICATIONS.—Members of the Consensus Commission appointed under subparagraphs (A), (B), and (C) of paragraph (2) shall be residents of the District of Columbia and shall have a knowledge of public education in the District of Columbia.

(6) CHAIR.—The Chair of the Consensus Commission shall be chosen by the Consensus Commission from among its members, except that the President of the Board of Education and the Superintendent shall not be eligible to serve as Chair.

(7) NO COMPENSATION FOR SERVICE.—Members of the Consensus Commission shall serve without pay, but may receive reimbursement for any reasonable and necessary expenses incurred by reason of service on the Consensus Commission.

(b) EXECUTIVE DIRECTOR.—The Consensus Commission shall have an Executive Director who shall be appointed by the Chair with the consent of the Consensus Commission. The Executive Director shall be paid at a rate determined by the Consensus Commission, except that such rate may not exceed the highest rate of pay payable for level EG–16 of the Educational Service of the District of Columbia.

(c) STAFF.—With the approval of the Chair and the Authority, the Executive Director may appoint and fix the pay of additional personnel as the Executive Director considers appropriate, except that no individual appointed by the Executive Director may be paid at a rate greater than the rate of pay for the Executive Director.

(d) SPECIAL RULE.—The Board of Education, or the Authority, shall reprogram such funds, as the Chair of the Consensus Commission shall in writing request, subject to the approval of the Authority from amounts available to the Board of Education.

SEC. 2852. PRIMARY PURPOSE AND FINDINGS.

(a) PURPOSE.—The primary purpose of the Consensus Commission is to assist in developing a long-term reform plan that has the support of the District of Columbia community through the participation of representatives of various critical segments of such community in helping to develop and approve the plan.

(b) FINDINGS.—The Congress finds that—

(1) experience has shown that the failure of the District of Columbia educational system has been due more to the failure to implement a plan than the failure to develop a plan;

(2) national studies indicate that 50 percent of secondary school graduates lack basic literacy skills, and over 30 percent of the 7th grade students in the District of Columbia public schools drop out of school before graduating;

(3) standard student assessments indicate only average performance for grade level and fail to identify individual students who lack basic skills, allowing too many students to graduate lacking these basic skills and diminishing the worth of a diploma;

(4) experience has shown that successful schools have good community, parent, and business involvement;

(5) experience has shown that reducing dropout rates in the critical middle and secondary school years requires individual student involvement and attention through such activities as arts or athletics; and

(6) experience has shown that close coordination between educators and business persons is required to provide noncollege-bound students the skills necessary for employment, and that personal attention is vitally important to assist each student in developing an appropriate career path.

SEC. 2853. DUTIES AND POWERS OF THE CONSENSUS COMMISSION.

(a) PRIMARY RESPONSIBILITY.—The Board of Education and the Superintendent shall have primary responsibility for developing and implementing the long-term reform plan for education in the District of Columbia.

(b) DUTIES.—The Consensus Commission shall—

(1) identify any obstacles to implementation of the long-term reform plan and suggest ways to remove such obstacles;

(2) assist in developing programs that—

(A) ensure every student in a District of Columbia public school achieves basic literacy skills;

(B) ensure every such student possesses the knowledge and skills necessary to think critically and communicate effectively by the completion of grade 8; and

(C) lower the dropout rate in the District of Columbia public schools;

(3) assist in developing districtwide assessments, including individual assessments, that identify District of Columbia public school students who lack basic literacy skills, with particular attention being given to grade 4 and the middle school years, and establish procedures to ensure that a teacher is made accountable for the performance of every such student in such teacher's class;

(4) make recommendations to improve community, parent, and business involvement in District of Columbia public schools and public charter schools;

(5) assess opportunities in the District of Columbia to increase individual student involvement and attention through such activities as arts or athletics, and make recommendations on how to increase such involvement; and

(6) assist in the establishment of procedures that ensure every District of Columbia public school student is provided the skills necessary for employment, including the development of individual career paths.

(c) POWERS.—The Consensus Commission shall have the following powers:

(1) To monitor and comment on the development and implementation of the long-term reform plan.

(2) To exercise its authority, as provided in this subtitle, as necessary to facilitate implementation of the long-term reform plan.

(3) To review and comment on the budgets of the Board of Education, the District of Columbia public schools and public charter schools.

(4) To recommend rules concerning the management and direction of the Board of Education that address obstacles to the development or implementation of the long-term reform plan.

(5) To review and comment on the core curriculum for kindergarten through grade 12 developed under subtitle C.

(6) To review and comment on a core curriculum for prekindergarten, vocational and technical training, and adult education.

(7) To review and comment on all other educational programs carried out by the Board of Education and public charter schools.

(8) To review and comment on the districtwide assessments for measuring student achievement in the core curriculum developed under subtitle C.

(9) To review and comment on the model professional development programs for teachers using the core curriculum developed under subtitle C.

(d) LIMITATIONS.—

(1) IN GENERAL.—Except as otherwise provided in this subtitle, the Consensus Commission shall have no powers to involve itself in the management or operation of the Board of Education with respect to the implementation of the long-term reform plan.

SEC. 2854. IMPROVING ORDER AND DISCIPLINE.

(a) COMMUNITY SERVICE REQUIREMENT FOR SUSPENDED STUDENTS.—

(1) IN GENERAL.—Any student suspended from classes at a District of Columbia public school who is required to serve the suspension outside the school shall perform community service for the period of suspension. The community service required by this subsection shall be subject to rules and regulations promulgated by the Mayor.

(2) EFFECTIVE DATE.—This subsection shall take effect on the first day of the 1996–1997 academic year.

(b) EXPIRATION DATE.—This section, and sections 2101(b)(1)(K) and 2851(a)(2)(H), shall cease to be effective on the last day of the 1997–1998 academic year.

(c) REPORT.—The Consensus Commission shall study the effectiveness of the policies implemented pursuant to this section in improving order and discipline in District of Columbia public schools and report its findings to the appropriate congressional

committees not later than 60 days prior to the last day of the 1997–1998 academic year.

SEC. 2855. EDUCATIONAL PERFORMANCE AUDITS.

(a) IN GENERAL.—The Consensus Commission may examine and request the Inspector General of the District of Columbia or the Authority to audit the records of the Board of Education to ensure, monitor, and evaluate the performance of the Board of Education with respect to compliance with the long-term reform plan and such plan's overall educational achievement. The Consensus Commission shall conduct an annual review of the educational performance of the Board of Education with respect to meeting the goals of such plan for such year. The Board of Education shall cooperate and assist in the review or audit as requested by the Consensus Commission.

(b) AUDIT.—The Consensus Commission may examine and request the Inspector General of the District of Columbia or the Authority to audit the records of any public charter school to assure, monitor, and evaluate the performance of the public charter school with respect to the content standards and districtwide assessments described in section 2311(b). The Consensus Commission shall receive a copy of each public charter school's annual report.

SEC. 2856. INVESTIGATIVE POWERS.

The Consensus Commission may investigate any action or activity which may hinder the progress of any part of the long-term reform plan. The Board of Education shall cooperate and assist the Consensus Commission in any investigation. Reports of the findings of any such investigation shall be provided to the Board of Education, the Superintendent, the Mayor, the District of Columbia Council, the Authority, and the appropriate congressional committees.

SEC. 2857. RECOMMENDATIONS OF THE CONSENSUS COMMISSION.

(a) IN GENERAL.—The Consensus Commission may at any time submit recommendations to the Board of Education, the Mayor, the District of Columbia Council, the Authority, the Board of Trustees of any public charter school and the Congress with respect to actions the District of Columbia Government or the Federal Government should take to ensure implementation of the long-term reform plan.

(b) AUTHORITY ACTIONS.—Pursuant to the District of Columbia Financial Responsibility and Management Assistance Act of 1995 or upon the recommendation of the Consensus Commission, the Authority may take whatever actions the Authority deems necessary to ensure the implementation of the long-term reform plan.

SEC. 2858. EXPIRATION DATE.

Except as otherwise provided in this subtitle, this subtitle shall be effective during the period beginning on the date of enactment of this Act and ending 7 years after such date.

Subtitle I—Parent Attendance at Parent-Teacher Conferences

SEC. 2901. POLICY.

Notwithstanding any other provision of law, the Mayor is authorized to develop and implement a policy encouraging all resi-

dents of the District of Columbia with children attending a District of Columbia public school to attend and participate in at least one parent-teacher conference every 90 days during the academic year.

This title may be cited as the "District of Columbia School Reform Act of 1995".

(c) For programs, projects or activities in the Department of the Interior and Related Agencies Appropriations Act, 1996, provided as follows, to be effective as if it had been enacted into law as the regular appropriations Act:

AN ACT

Department of the Interior and Related Agencies Appropriations Act, 1996.

Making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1996, and for other purposes.

TITLE I—DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

MANAGEMENT OF LANDS AND RESOURCES

For expenses necessary for protection, use, improvement, development, disposal, cadastral surveying, classification, acquisition of easements and other interests in lands, and performance of other functions, including maintenance of facilities, as authorized by law, in the management of lands and their resources under the jurisdiction of the Bureau of Land Management, including the general administration of the Bureau, and assessment of mineral potential of public lands pursuant to Public Law 96–487 (16 U.S.C. 3150(a)), $567,453,000, to remain available until expended, of which $2,000,000 shall be available for assessment of the mineral potential of public lands in Alaska pursuant to section 1010 of Public Law 96–487 (16 U.S.C. 3150), and of which $4,000,000 shall be derived from the special receipt account established by section 4 of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l–6a(i)): *Provided,* That appropriations herein made shall not be available for the destruction of healthy, unadopted, wild horses and burros in the care of the Bureau or its contractors; and in addition, $27,650,000 for Mining Law Administration program operations, to remain available until expended, to be reduced by amounts collected by the Bureau of Land Management and credited to this appropriation from annual mining claim fees so as to result in a final appropriation estimated at not more than $567,453,000: *Provided further,* That in addition to funds otherwise available, and to remain available until expended, not to exceed $5,000,000 from annual mining claim fees shall be credited to this account for the costs of administering the mining claim fee program, and $2,000,000 from communication site rental fees established by the Bureau.

WILDLAND FIRE MANAGEMENT

For necessary expenses for fire use and management, fire preparedness, emergency presuppression, suppression operations, emergency rehabilitation, and renovation or construction of fire facilities in the Department of the Interior, $235,924,000, to remain

available until expended, of which not to exceed $5,025,000, shall be available for the renovation or construction of fire facilities: *Provided,* That notwithstanding any other provision of law, persons hired pursuant to 43 U.S.C. 1469 may be furnished subsistence and lodging without cost from funds available from this appropriation: *Provided further,* That such funds are also available for repayment of advances to other appropriation accounts from which funds were previously transferred for such purposes: *Provided further,* That unobligated balances of amounts previously appropriated to the Fire Protection and Emergency Department of the Interior Firefighting Fund may be transferred or merged with this appropriation.

CENTRAL HAZARDOUS MATERIALS FUND

For expenses necessary for use by the Department of the Interior and any of its component offices and bureaus for the remedial action, including associated activities, of hazardous waste substances, pollutants, or contaminants pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, as amended (42 U.S.C. 9601 et seq.), $10,000,000, to remain available until expended: *Provided,* That, notwithstanding 31 U.S.C. 3302, sums recovered from or paid by a party in advance of or as reimbursement for remedial action or response activities conducted by the Department pursuant to sections 107 or 113(f) of the Comprehensive Environmental Response, Compensation and Liability Act, as amended (42 U.S.C. 9607 or 9613(f)), shall be credited to this account and shall be available without further appropriation and shall remain available until expended: *Provided further,* That such sums recovered from or paid by any party are not limited to monetary payments and may include stocks, bonds or other personal or real property, which may be retained, liquidated, or otherwise disposed of by the Secretary of the Interior and which shall be credited to this account.

CONSTRUCTION AND ACCESS

For acquisition of lands and interests therein, and construction of buildings, recreation facilities, roads, trails, and appurtenant facilities, $3,115,000, to remain available until expended.

PAYMENTS IN LIEU OF TAXES

For expenses necessary to implement the Act of October 20, 1976, as amended (31 U.S.C. 6901–07), $113,500,000, of which not to exceed $400,000 shall be available for administrative expenses.

LAND ACQUISITION

For expenses necessary to carry out the provisions of sections 205, 206, and 318(d) of Public Law 94–579 including administrative expenses and acquisition of lands or waters, or interests therein, $12,800,000 to be derived from the Land and Water Conservation Fund, to remain available until expended.

OREGON AND CALIFORNIA GRANT LANDS

For expenses necessary for management, protection, and development of resources and for construction, operation, and mainte-

nance of access roads, reforestation, and other improvements on the revested Oregon and California Railroad grant lands, on other Federal lands in the Oregon and California land-grant counties of Oregon, and on adjacent rights-of-way; and acquisition of lands or interests therein including existing connecting roads on or adjacent to such grant lands; $97,452,000, to remain available until expended: *Provided,* That 25 per centum of the aggregate of all receipts during the current fiscal year from the revested Oregon and California Railroad grant lands is hereby made a charge against the Oregon and California land-grant fund and shall be transferred to the General Fund in the Treasury in accordance with the provisions of the second paragraph of subsection (b) of title II of the Act of August 28, 1937 (50 Stat. 876).

RANGE IMPROVEMENTS

For rehabilitation, protection, and acquisition of lands and interests therein, and improvement of Federal rangelands pursuant to section 401 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701), notwithstanding any other Act, sums equal to 50 per centum of all moneys received during the prior fiscal year under sections 3 and 15 of the Taylor Grazing Act (43 U.S.C. 315 et seq.) and the amount designated for range improvements from grazing fees and mineral leasing receipts from Bankhead-Jones lands transferred to the Department of the Interior pursuant to law, but not less than $9,113,000, to remain available until expended: *Provided,* That not to exceed $600,000 shall be available for administrative expenses.

SERVICE CHARGES, DEPOSITS, AND FORFEITURES

For administrative expenses and other costs related to processing application documents and other authorizations for use and disposal of public lands and resources, for costs of providing copies of official public land documents, for monitoring construction, operation, and termination of facilities in conjunction with use authorizations, and for rehabilitation of damaged property, such amounts as may be collected under sections 209(b), 304(a), 304(b), 305(a), and 504(g) of the Act approved October 21, 1976 (43 U.S.C. 1701), and sections 101 and 203 of Public Law 93–153, to be immediately available until expended: *Provided,* That notwithstanding any provision to the contrary of section 305(a) of the Act of October 21, 1976 (43 U.S.C. 1735(a)), any moneys that have been or will be received pursuant to that section, whether as a result of forfeiture, compromise, or settlement, if not appropriate for refund pursuant to section 305(c) of that Act (43 U.S.C. 1735(c)), shall be available and may be expended under the authority of this or subsequent appropriations Acts by the Secretary to improve, protect, or rehabilitate any public lands administered through the Bureau of Land Management which have been damaged by the action of a resource developer, purchaser, permittee, or any unauthorized person, without regard to whether all moneys collected from each such forfeiture, compromise, or settlement are used on the exact lands damage to which led to the forfeiture, compromise, or settlement: *Provided further,* That such moneys are in excess of amounts needed to repair damage to the exact land for which collected.

43 USC 1735 note.

MISCELLANEOUS TRUST FUNDS

In addition to amounts authorized to be expended under existing law, there is hereby appropriated such amounts as may be contributed under section 307 of the Act of October 21, 1976 (43 U.S.C. 1701), and such amounts as may be advanced for administrative costs, surveys, appraisals, and costs of making conveyances of omitted lands under section 211(b) of that Act, to remain available until expended.

ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Land Management shall be available for purchase, erection, and dismantlement of temporary structures, and alteration and maintenance of necessary buildings and appurtenant facilities to which the United States has title; up to $100,000 for payments, at the discretion of the Secretary, for information or evidence concerning violations of laws administered by the Bureau of Land Management; miscellaneous and emergency expenses of enforcement activities authorized or approved by the Secretary and to be accounted for solely on his certificate, not to exceed $10,000: *Provided,* That notwithstanding 44 U.S.C. 501, the Bureau may, under cooperative cost-sharing and partnership arrangements authorized by law, procure printing services from cooperators in connection with jointly-produced publications for which the cooperators share the cost of printing either in cash or in services, and the Bureau determines the cooperator is capable of meeting accepted quality standards.

UNITED STATES FISH AND WILDLIFE SERVICE

RESOURCE MANAGEMENT

For expenses necessary for scientific and economic studies, conservation, management, investigations, protection, and utilization of fishery and wildlife resources, except whales, seals, and sea lions, and for the performance of other authorized functions related to such resources; for the general administration of the United States Fish and Wildlife Service; and for maintenance of the herd of long-horned cattle on the Wichita Mountains Wildlife Refuge; and not less than $1,000,000 for high priority projects within the scope of the approved budget which shall be carried out by the Youth Conservation Corps as authorized by the Act of August 13, 1970, as amended by Public Law 93–408, $501,010,000, to remain available for obligation until September 30, 1997, of which $4,000,000 shall be available for activities under section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533), of which $11,557,000 shall be available until expended for operation and maintenance of fishery mitigation facilities constructed by the Corps of Engineers under the Lower Snake River Compensation Plan, authorized by the Water Resources Development Act of 1976 (90 Stat. 2921), to compensate for loss of fishery resources from water development projects on the Lower Snake River: *Provided,* That unobligated and unexpended balances in the Resource Management account at the end of fiscal year 1995, shall be merged with and made a part of the fiscal year 1996 Resource Management appropriation, and shall remain available for obligation until September 30, 1997: *Provided further,* That no monies appropriated under this or any other Act shall be used by the Secretary of

the Interior or by the Secretary of Commerce to implement subsections (a), (b), (c), (e), (g) or (i) of section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533), until such time as legislation reauthorizing the Act is enacted or until the end of fiscal year 1996, whichever is earlier, except that monies may be used to delist or reclassify species pursuant to sections 4(a)(2)(B), 4(c)(2)(B)(i), and 4(c)(2)(B)(ii) of the Endangered Species Act, and to issue emergency listings under section 4(b)(7) of the Endangered Species Act: *Provided further,* That the President is authorized to suspend the provisions of the preceeding proviso if he determines that such suspension is appropriate based upon the public interest in sound environmental management, sustainable resource use, protection of national or locally-affected interests, or protection of any cultural, biological or historic resources. Any suspension by the President shall take effect on such date, and continue in effect for such period (not to extend beyond the period in which the preceeding proviso would otherwise be in effect), as the President may determine, and shall be reported to the Congress.

President. Reports.

CONSTRUCTION

For construction and acquisition of buildings and other facilities required in the conservation, management, investigation, protection, and utilization of fishery and wildlife resources, and the acquisition of lands and interests therein; $37,655,000, to remain available until expended.

NATURAL RESOURCE DAMAGE ASSESSMENT FUND

To conduct natural resource damage assessment activities by the Department of the Interior necessary to carry out the provisions of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (42 U.S.C. 9601, et seq.), Federal Water Pollution Control Act, as amended (33 U.S.C. 1251, et seq.), the Oil Pollution Act of 1990 (Public Law 101–380), and the Act of July 27, 1990 (Public Law 101–337); $4,000,000, to remain available until expended: *Provided,* That sums provided by any party in fiscal year 1996 and thereafter are not limited to monetary payments and may include stocks, bonds or other personal or real property, which may be retained, liquidated or otherwise disposed of by the Secretary and such sums or properties shall be utilized for the restoration of injured resources, and to conduct new damage assessment activities.

43 USC 1474b–1.

LAND ACQUISITION

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l–4–11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the United States Fish and Wildlife Service, $36,900,000, to be derived from the Land and Water Conservation Fund, to remain available until expended.

COOPERATIVE ENDANGERED SPECIES CONSERVATION FUND

For expenses necessary to carry out the provisions of the Endangered Species Act of 1973 (16 U.S.C. 1531–1543), as amended by Public Law 100–478, $8,085,000 for grants to States, to be

derived from the Cooperative Endangered Species Conservation Fund, and to remain available until expended.

NATIONAL WILDLIFE REFUGE FUND

For expenses necessary to implement the Act of October 17, 1978 (16 U.S.C. 715s), $10,779,000.

REWARDS AND OPERATIONS

For expenses necessary to carry out the provisions of the African Elephant Conservation Act (16 U.S.C. 4201–4203, 4211–4213, 4221–4225, 4241–4245, and 1538), $600,000, to remain available until expended.

NORTH AMERICAN WETLANDS CONSERVATION FUND

For expenses necessary to carry out the provisions of the North American Wetlands Conservation Act, Public Law 101–233, $6,750,000, to remain available until expended.

LAHONTAN VALLEY AND PYRAMID LAKE FISH AND WILDLIFE FUND

For carrying out section 206(f) of Public Law 101–618, such sums as have previously been credited or may be credited hereafter to the Lahontan Valley and Pyramid Lake Fish and Wildlife Fund, to be available until expended without further appropriation.

RHINOCEROS AND TIGER CONSERVATION FUND

For deposit to the Rhinoceros and Tiger Conservation Fund, $200,000, to remain available until expended, to be available to carry out the provisions of the Rhinoceros and Tiger Conservation Act of 1994 (Public Law 103–391).

WILDLIFE CONSERVATION AND APPRECIATION FUND

For deposit to the Wildlife Conservation and Appreciation Fund, $800,000, to remain available until expended.

ADMINISTRATIVE PROVISIONS

Appropriations and funds available to the United States Fish and Wildlife Service shall be available for purchase of not to exceed 113 passenger motor vehicles; not to exceed $400,000 for payment, at the discretion of the Secretary, for information, rewards, or evidence concerning violations of laws administered by the United States Fish and Wildlife Service, and miscellaneous and emergency expenses of enforcement activities, authorized or approved by the Secretary and to be accounted for solely on his certificate; repair of damage to public roads within and adjacent to reservation areas caused by operations of the United States Fish and Wildlife Service; options for the purchase of land at not to exceed $1 for each option; facilities incident to such public recreational uses on conservation areas as are consistent with their primary purpose; and the maintenance and improvement of aquaria, buildings, and other facilities under the jurisdiction of the United States Fish and Wildlife Service and to which the United States has title, and which are utilized pursuant to law in connection with management and

investigation of fish and wildlife resources: *Provided,* That notwithstanding 44 U.S.C. 501, the Service may, under cooperative cost sharing and partnership arrangements authorized by law, procure printing services from cooperators in connection with jointly-produced publications for which the cooperators share at least one-half the cost of printing either in cash or services and the Service determines the cooperator is capable of meeting accepted quality standards: *Provided further,* That the United States Fish and Wildlife Service may accept donated aircraft as replacements for existing aircraft: *Provided further,* That notwithstanding any other provision of law, the Secretary of the Interior may not spend any of the funds appropriated in this Act for the purchase of lands or interests in lands to be used in the establishment of any new unit of the National Wildlife Refuge System unless the purchase is approved in advance by the House and Senate Committees on Appropriations in compliance with the reprogramming procedures contained in House Report 103–551: *Provided further,* That none of the funds made available in this Act may be used by the U.S. Fish and Wildlife Service to impede or delay the issuance of a wetlands permit by the U.S. Army Corps of Engineers to the City of Lake Jackson, Texas, for the development of a public golf course west of Buffalo Camp Bayou between the Brazos River and Highway 332: *Provided further,* That the Director of the Fish and Wildlife Service may charge reasonable fees for expenses to the Federal Government for providing training by the National Education and Training Center: *Provided further,* That all training fees collected shall be available to the Director, until expended, without further appropriation, to be used for the costs of training and education provided by the National Education and Training Center: *Provided further,* That with respect to lands leased for farming pursuant to Public Law 88–567, if for any reason the Secretary disapproves for use in 1996 or does not finally approve for use in 1996 any pesticide or chemical which was approved for use in 1995 or had been requested for use in 1996 by the submission of a pesticide use proposal as of September 19, 1995, none of the funds in this Act may be used to develop, implement, or enforce regulations or policies (including pesticide use proposals) related to the use of chemicals and pest management that are more restrictive than the requirements of applicable State and Federal laws related to the use of chemicals and pest management practices on non-Federal lands.

NATIONAL PARK SERVICE

OPERATION OF THE NATIONAL PARK SYSTEM

For expenses necessary for the management, operation, and maintenance of areas and facilities administered by the National Park Service (including special road maintenance service to trucking permittees on a reimbursable basis), and for the general administration of the National Park Service, including not to exceed $1,593,000 for the Volunteers-in-Parks program, and not less than $1,000,000 for high priority projects within the scope of the approved budget which shall be carried out by the Youth Conservation Corps as authorized by the Act of August 13, 1970, as amended by Public Law 93–408, $1,082,481,000, without regard to the Act of August 24, 1912, as amended (16 U.S.C. 451), of which not to exceed $72,000,000, to remain available until expended is to be derived

from the special fee account established pursuant to title V, section 5201, of Public Law 100–203.

NATIONAL RECREATION AND PRESERVATION

For expenses necessary to carry out recreation programs, natural programs, cultural programs, environmental compliance and review, international park affairs, statutory or contractual aid for other activities, and grant administration, not otherwise provided for, $37,649,000: *Provided*, That $236,000 of the funds provided herein are for the William O. Douglas Outdoor Education Center, subject to authorization.

HISTORIC PRESERVATION FUND

For expenses necessary in carrying out the provisions of the Historic Preservation Act of 1966 (80 Stat. 915), as amended (16 U.S.C. 470), $36,212,000, to be derived from the Historic Preservation Fund, established by section 108 of that Act, as amended, to remain available for obligation until September 30, 1997.

CONSTRUCTION

For construction, improvements, repair or replacement of physical facilities, $143,225,000, to remain available until expended: *Provided,* That not to exceed $4,500,000 of the funds provided herein shall be paid to the Army Corps of Engineers for modifications authorized by section 104 of the Everglades National Park Protection and Expansion Act of 1989: *Provided further,* That funds provided under this head, derived from the Historic Preservation Fund, established by the Historic Preservation Act of 1966 (80 Stat. 915), as amended (16 U.S.C. 470), may be available until expended to render sites safe for visitors and for building stabilization.

LAND AND WATER CONSERVATION FUND

(RESCISSION)

16 USC 460*l*–10a note.

The contract authority provided for fiscal year 1996 by 16 U.S.C. 460l–10a is rescinded.

LAND ACQUISITION AND STATE ASSISTANCE

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l–4–11), including administrative expenses, and for acquisition of lands or waters, or interest therein, in accordance with statutory authority applicable to the National Park Service, $49,100,000, to be derived from the Land and Water Conservation Fund, to remain available until expended, and of which $1,500,000 is to administer the State assistance program: *Provided,* That any funds made available for the purpose of acquisition of the Elwha and Glines dams shall be used solely for acquisition, and shall not be expended until the full purchase amount has been appropriated by the Congress.

ADMINISTRATIVE PROVISIONS

Appropriations for the National Park Service shall be available for the purchase of not to exceed 518 passenger motor vehicles,

of which 323 shall be for replacement only, including not to exceed 411 for police-type use, 12 buses, and 5 ambulances: *Provided,* That none of the funds appropriated to the National Park Service may be used to process any grant or contract documents which do not include the text of 18 U.S.C. 1913: *Provided further,* That none of the funds appropriated to the National Park Service may be used to implement an agreement for the redevelopment of the southern end of Ellis Island until such agreement has been submitted to the Congress and shall not be implemented prior to the expiration of 30 calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) from the receipt by the Speaker of the House of Representatives and the President of the Senate of a full and comprehensive report on the development of the southern end of Ellis Island, including the facts and circumstances relied upon in support of the proposed project.

None of the funds in this Act may be spent by the National Park Service for activities taken in direct response to the United Nations Biodiversity Convention.

The National Park Service may enter into cooperative agreements that involve the transfer of National Park Service appropriated funds to State, local and tribal governments, other public entities, educational institutions, and private nonprofit organizations for the public purpose of carrying out National Park Service programs.

Alaska.
16 USC 347 note.

The National Park Service shall, within existing funds, conduct a Feasibility Study for a northern access route into Denali National Park and Preserve in Alaska, to be completed within one year of the enactment of this Act and submitted to the House and Senate Committees on Appropriations and to the Senate Committee on Energy and Natural Resources and the House Committee on Resources. The Feasibility Study shall ensure that resource impacts from any plan to create such access route are evaluated with accurate information and according to a process that takes into consideration park values, visitor needs, a full range of alternatives, the viewpoints of all interested parties, including the tourism industry and the State of Alaska, and potential needs for compliance with the National Environmental Policy Act. The Study shall also address the time required for development of alternatives and identify all associated costs.

16 USC 347 note.

This Feasibility Study shall be conducted solely by the National Park Service planning personnel permanently assigned to National Park Service offices located in the State of Alaska in consultation with the State of Alaska Department of Transportation.

UNITED STATES GEOLOGICAL SURVEY

SURVEYS, INVESTIGATIONS, AND RESEARCH

For expenses necessary for the United States Geological Survey to perform surveys, investigations, and research covering topography, geology, hydrology, and the mineral and water resources of the United States, its Territories and possessions, and other areas as authorized by law (43 U.S.C. 31, 1332 and 1340); classify lands as to their mineral and water resources; give engineering supervision to power permittees and Federal Energy Regulatory Commission licensees; administer the minerals exploration program (30 U.S.C. 641); and publish and disseminate data relative to the

foregoing activities; and to conduct inquiries into the economic conditions affecting mining and materials processing industries (30 U.S.C. 3, 21a, and 1603; 50 U.S.C. 98g(1)) and related purposes as authorized by law and to publish and disseminate data; $730,163,000, of which $62,130,000 shall be available for cooperation with States or municipalities for water resources investigations, and of which $137,000,000 for resource research and the operations of Cooperative Research Units shall remain available until September 30, 1997, and of which $16,000,000 shall remain available until expended for conducting inquiries into the economic conditions affecting mining and materials processing industries: *Provided,* That no part of this appropriation shall be used to pay more than one-half the cost of any topographic mapping or water resources investigations carried on in cooperation with any State or municipality: *Provided further,* That funds available herein for resource research may be used for the purchase of not to exceed 61 passenger motor vehicles, of which 55 are for replacement only: *Provided further,* That none of the funds available under this head for resource research shall be used to conduct new surveys on private property, including new aerial surveys for the designation of habitat under the Endangered Species Act, except when it is made known to the Federal official having authority to obligate or expend such funds that the survey or research has been requested and authorized in writing by the property owner or the owner's authorized representative: *Provided further,* That none of the funds provided herein for resource research may be used to administer a volunteer program when it is made known to the Federal official having authority to obligate or expend such funds that the volunteers are not properly trained or that information gathered by the volunteers is not carefully verified: *Provided further,* That no later than April 1, 1996, the Director of the United States Geological Survey shall issue agency guidelines for resource research that ensure that scientific and technical peer review is utilized as fully as possible in selection of projects for funding and ensure the validity and reliability of research and data collection on Federal lands: *Provided further,* That no funds available for resource research may be used for any activity that was not authorized prior to the establishment of the National Biological Survey: *Provided further,* That once every five years the National Academy of Sciences shall review and report on the resource research activities of the Survey: *Provided further,* That if specific authorizing legislation is enacted during or before the start of fiscal year 1996, the resource research component of the Survey should comply with the provisions of that legislation: *Provided further,* That unobligated and unexpended balances in the National Biological Survey, Research, inventories and surveys account at the end of fiscal year 1995, shall be merged with and made a part of the United States Geological Survey, Surveys, investigations, and research account and shall remain available for obligation until September 30, 1996: *Provided further,* That the authority granted to the United States Bureau of Mines to conduct mineral surveys and to determine mineral values by section 603 of Public Law 94–579 is hereby transferred to, and vested in, the Director of the United States Geological Survey.

43 USC 50.

Guidelines.

Reports.
43 USC 31i.

Government organization.
43 USC 1782 note.

ADMINISTRATIVE PROVISIONS

The amount appropriated for the United States Geological Survey shall be available for purchase of not to exceed 22 passenger motor vehicles, for replacement only; reimbursement to the General Services Administration for security guard services; contracting for the furnishing of topographic maps and for the making of geophysical or other specialized surveys when it is administratively determined that such procedures are in the public interest; construction and maintenance of necessary buildings and appurtenant facilities; acquisition of lands for gauging stations and observation wells; expenses of the United States National Committee on Geology; and payment of compensation and expenses of persons on the rolls of the United States Geological Survey appointed, as authorized by law, to represent the United States in the negotiation and administration of interstate compacts: *Provided,* That activities funded by appropriations herein made may be accomplished through the use of contracts, grants, or cooperative agreements as defined in 31 U.S.C. 6302, et seq.

MINERALS MANAGEMENT SERVICE

ROYALTY AND OFFSHORE MINERALS MANAGEMENT

For expenses necessary for minerals leasing and environmental studies, regulation of industry operations, and collection of royalties, as authorized by law; for enforcing laws and regulations applicable to oil, gas, and other minerals leases, permits, licenses and operating contracts; and for matching grants or cooperative agreements; including the purchase of not to exceed eight passenger motor vehicles for replacement only; $182,555,000, of which not less than $70,105,000 shall be available for royalty management activities; and an amount not to exceed $15,400,000 for the Technical Information Management System and Related Activities of the Outer Continental Shelf (OCS) Lands Activity, to be credited to this appropriation and to remain available until expended, from additions to receipts resulting from increases to rates in effect on August 5, 1993, from rate increases to fee collections for OCS administrative activities performed by the Minerals Management Service over and above the rates in effect on September 30, 1993, and from additional fees for OCS administrative activities established after September 30, 1993: *Provided,* That beginning in fiscal year 1996 and thereafter, fees for royalty rate relief applications shall be established (and revised as needed) in Notices to Lessees, and shall be credited to this account in the program areas performing the function, and remain available until expended for the costs of administering the royalty rate relief authorized by 43 U.S.C. 1337(a)(3): *Provided further,* That $1,500,000 for computer acquisitions shall remain available until September 30, 1997: *Provided further,* That funds appropriated under this Act shall be available for the payment of interest in accordance with 30 U.S.C. 1721 (b) and (d): *Provided further,* That not to exceed $3,000 shall be available for reasonable expenses related to promoting volunteer beach and marine cleanup activities: *Provided further,* That notwithstanding any other provision of law, $15,000 under this head shall be available for refunds of overpayments in connection with certain Indian leases in which the Director of the Minerals Management Service concurred with the claimed refund due, to pay amounts owed to Indian allottees

43 USC 1337 note.

30 USC 191b.

or Tribes, or to correct prior unrecoverable erroneous payments: *Provided further,* That beginning in fiscal year 1996 and thereafter, the Secretary shall take appropriate action to collect unpaid and underpaid royalties and late payment interest owed by Federal and Indian mineral lessees and other royalty payors on amounts received in settlement or other resolution of disputes under, and for partial or complete termination of, sales agreements for minerals from Federal and Indian leases.

OIL SPILL RESEARCH

For necessary expenses to carry out the purposes of title I, section 1016, title IV, sections 4202 and 4303, title VII, and title VIII, section 8201 of the Oil Pollution Act of 1990, $6,440,000, which shall be derived from the Oil Spill Liability Trust Fund, to remain available until expended.

BUREAU OF MINES

MINES AND MINERALS

For expenses necessary for, and incidental to, the closure of the United States Bureau of Mines, $64,000,000, to remain available until expended, of which not to exceed $5,000,000 may be used for the completion and/or transfer of certain ongoing projects within the United States Bureau of Mines, such projects to be identified by the Secretary of the Interior within 90 days of enactment of this Act: *Provided,* That there hereby are transferred to, and vested in, the Secretary of Energy: (1) the functions pertaining to the promotion of health and safety in mines and the mineral industry through research vested by law in the Secretary of the Interior or the United States Bureau of Mines and performed in fiscal year 1995 by the United States Bureau of Mines at its Pittsburgh Research Center in Pennsylvania, and at its Spokane Research Center in Washington; (2) the functions pertaining to the conduct of inquiries, technological investigations and research concerning the extraction, processing, use and disposal of mineral substances vested by law in the Secretary of the Interior or the United States Bureau of Mines and performed in fiscal year 1995 by the United States Bureau of Mines under the minerals and materials science programs at its Pittsburgh Research Center in Pennsylvania, and at its Albany Research Center in Oregon; and (3) the functions pertaining to mineral reclamation industries and the development of methods for the disposal, control, prevention, and reclamation of mineral waste products vested by law in the Secretary of the Interior or the United States Bureau of Mines and performed in fiscal year 1995 by the United States Bureau of Mines at its Pittsburgh Research Center in Pennsylvania: *Provided further,* That, if any of the same functions were performed in fiscal year 1995 at locations other than those listed above, such functions shall not be transferred to the Secretary of Energy from those other locations: *Provided further,* That the Director of the Office of Management and Budget, in consultation with the Secretary of Energy and the Secretary of the Interior, is authorized to make such determinations as may be necessary with regard to the transfer of functions which relate to or are used by the Department of the Interior, or component thereof affected by this transfer of functions, and to make such dispositions of personnel, facilities, assets,

Government organization.
30 USC 1 note.

liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to or to be made available in connection with, the functions transferred herein as are deemed necessary to accomplish the purposes of this transfer: *Provided further,* That all reductions in personnel complements resulting from the provisions of this Act shall, as to the functions transferred to the Secretary of Energy, be done by the Secretary of the Interior as though these transfers had not taken place but had been required of the Department of the Interior by all other provisions of this Act before the transfers of function became effective: *Provided further,* That the transfers of function to the Secretary of Energy shall become effective on the date specified by the Director of the Office of Management and Budget, but in no event later than 90 days after enactment into law of this Act: *Provided further,* That the reference to "function" includes, but is not limited to, any duty, obligation, power, authority, responsibility, right, privilege, and activity, or the plural thereof, as the case may be.

Effective date.

ADMINISTRATIVE PROVISIONS

The Secretary is authorized to accept lands, buildings, equipment, other contributions, and fees from public and private sources, and to prosecute projects using such contributions and fees in cooperation with other Federal, State or private agencies: *Provided,* That the Bureau of Mines is authorized, during the current fiscal year, to sell directly or through any Government agency, including corporations, any metal or mineral products that may be manufactured in pilot plants operated by the Bureau of Mines, and the proceeds of such sales shall be covered into the Treasury as miscellaneous receipts: *Provided further,* That notwithstanding any other provision of law, the Secretary is authorized to convey, without reimbursement, title and all interest of the United States in property and facilities of the United States Bureau of Mines in Juneau, Alaska, to the City and Borough of Juneau, Alaska; in Tuscaloosa, Alabama, to the University of Alabama; in Rolla, Missouri, to the University of Missouri-Rolla; and in other localities to such university or government entities as the Secretary deems appropriate.

43 USC 1473a note.

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

REGULATION AND TECHNOLOGY

For necessary expenses to carry out the provisions of the Surface Mining Control and Reclamation Act of 1977, Public Law 95–87, as amended, including the purchase of not to exceed 15 passenger motor vehicles for replacement only; $95,470,000, and notwithstanding 31 U.S.C. 3302, an additional amount shall be credited to this account, to remain available until expended, from performance bond forfeitures in fiscal year 1996: *Provided,* That notwithstanding any other provision of law, the Secretary of the Interior, pursuant to regulations, may utilize directly or through grants to States, moneys collected in fiscal year 1996 pursuant to the assessment of civil penalties under section 518 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1268), to reclaim lands adversely affected by coal mining practices after August 3, 1977, to remain available until expended: *Provided further,* That notwithstanding any other provision of law, appropria-

30 USC 1211 note.

tions for the Office of Surface Mining Reclamation and Enforcement may provide for the travel and per diem expenses of State and tribal personnel attending Office of Surface Mining Reclamation and Enforcement sponsored training.

ABANDONED MINE RECLAMATION FUND

For necessary expenses to carry out the provisions of title IV of the Surface Mining Control and Reclamation Act of 1977, Public Law 95–87, as amended, including the purchase of not more than 22 passenger motor vehicles for replacement only, $173,887,000, to be derived from receipts of the Abandoned Mine Reclamation Fund and to remain available until expended: *Provided,* That grants to minimum program States will be $1,500,000 per State in fiscal year 1996: *Provided further,* That of the funds herein provided up to $18,000,000 may be used for the emergency program authorized by section 410 of Public Law 95–87, as amended, of which no more than 25 per centum shall be used for emergency reclamation projects in any one State and funds for Federally-administered emergency reclamation projects under this proviso shall not exceed $11,000,000: *Provided further,* That prior year unobligated funds appropriated for the emergency reclamation program shall not be subject to the 25 per centum limitation per State and may be used without fiscal year limitation for emergency projects: *Provided further,* That pursuant to Public Law 97–365, the Department of the Interior is authorized to utilize up to 20 per centum from the recovery of the delinquent debt owed to the United States Government to pay for contracts to collect these debts: *Provided further,* That funds made available to States under title IV of Public Law 95–87 may be used, at their discretion, for any required non-Federal share of the cost of projects funded by the Federal Government for the purpose of environmental restoration related to treatment or abatement of acid mine drainage from abandoned mines: *Provided further,* That such projects must be consistent with the purposes and priorities of the Surface Mining Control and Reclamation Act.

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

For operation of Indian programs by direct expenditure, contracts, cooperative agreements, compacts, and grants including expenses necessary to provide education and welfare services for Indians, either directly or in cooperation with States and other organizations, including payment of care, tuition, assistance, and other expenses of Indians in boarding homes, or institutions, or schools; grants and other assistance to needy Indians; maintenance of law and order; management, development, improvement, and protection of resources and appurtenant facilities under the jurisdiction of the Bureau of Indian Affairs, including payment of irrigation assessments and charges; acquisition of water rights; advances for Indian industrial and business enterprises; operation of Indian arts and crafts shops and museums; development of Indian arts and crafts, as authorized by law; for the general administration of the Bureau of Indian Affairs, including such expenses in field offices; maintaining of Indian reservation roads as defined in section 101 of title 23, United States Code; and construction, repair, and

improvement of Indian housing, $1,384,434,000, of which not to exceed $100,255,000 shall be for welfare assistance grants and not to exceed $104,626,000 shall be for payments to tribes and tribal organizations for contract support costs associated with ongoing contracts or grants or compacts entered into with the Bureau of Indian Affairs prior to fiscal year 1996, as authorized by the Indian Self-Determination Act of 1975, as amended, and up to $5,000,000 shall be for the Indian Self-Determination Fund, which shall be available for the transitional cost of initial or expanded tribal contracts, grants, compacts, or cooperative agreements with the Bureau of Indian Affairs under the provisions of the Indian Self-Determination Act; and of which not to exceed $330,711,000 for school operations costs of Bureau-funded schools and other education programs shall become available for obligation on July 1, 1996, and shall remain available for obligation until September 30, 1997; and of which not to exceed $68,209,000 for higher education scholarships, adult vocational training, and assistance to public schools under the Act of April 16, 1934 (48 Stat. 596), as amended (25 U.S.C. 452 et seq.), shall remain available for obligation until September 30, 1997; and of which not to exceed $71,854,000 shall remain available until expended for housing improvement, road maintenance, attorney fees, litigation support, self-governance grants, the Indian Self-Determination Fund, and the Navajo-Hopi Settlement Program: *Provided,* That tribes and tribal contractors may use their tribal priority allocations for unmet indirect costs of ongoing contracts, grants or compact agreements: *Provided further,* That funds made available to tribes and tribal organizations through contracts or grants obligated during fiscal year 1996, as authorized by the Indian Self-Determination Act of 1975 (88 Stat. 2203; 25 U.S.C. 450 et seq.), or grants authorized by the Indian Education Amendments of 1988 (25 U.S.C. 2001 and 2008A) shall remain available until expended by the contractor or grantee: *Provided further,* That to provide funding uniformity within a Self-Governance Compact, any funds provided in this Act with availability for more than one year may be reprogrammed to one year availability but shall remain available within the Compact until expended: *Provided further,* That notwithstanding any other provision of law, Indian tribal governments may, by appropriate changes in eligibility criteria or by other means, change eligibility for general assistance or change the amount of general assistance payments for individuals within the service area of such tribe who are otherwise deemed eligible for general assistance payments so long as such changes are applied in a consistent manner to individuals similarly situated: *Provided further,* That any savings realized by such changes shall be available for use in meeting other priorities of the tribes: *Provided further,* That any net increase in costs to the Federal Government which result solely from tribally increased payment levels for general assistance shall be met exclusively from funds available to the tribe from within its tribal priority allocation: *Provided further,* That any forestry funds allocated to a tribe which remain unobligated as of September 30, 1996, may be transferred during fiscal year 1997 to an Indian forest land assistance account established for the benefit of such tribe within the tribe's trust fund account: *Provided further,* That any such unobligated balances not so transferred shall expire on September 30, 1997: *Provided further,* That notwithstanding any other provision of law, no funds available to the Bureau of Indian Affairs,

other than the amounts provided herein for assistance to public schools under the Act of April 16, 1934 (48 Stat. 596), as amended (25 U.S.C. 452 et seq.), shall be available to support the operation of any elementary or secondary school in the State of Alaska in fiscal year 1996: *Provided further,* That funds made available in this or any other Act for expenditure through September 30, 1997 for schools funded by the Bureau of Indian Affairs shall be available only to the schools which are in the Bureau of Indian Affairs school system as of September 1, 1995: *Provided further,* That no funds available to the Bureau of Indian Affairs shall be used to support expanded grades for any school beyond the grade structure in place at each school in the Bureau of Indian Affairs school system as of October 1, 1995: *Provided further,* That notwithstanding the provisions of 25 U.S.C. 2011(h)(1)(B) and (c), upon the recommendation of a local school board for a Bureau of Indian Affairs operated school, the Secretary shall establish rates of basic compensation or annual salary rates for the positions of teachers and counselors (including dormitory and homeliving counselors) at the school at a level not less than that for comparable positions in public school districts in the same geographic area, to become effective on July 1, 1997: *Provided further,* That of the funds available only through September 30, 1995, not to exceed $8,000,000 in unobligated and unexpended balances in the Operation of Indian Programs account shall be merged with and made a part of the fiscal year 1996 Operation of Indian Programs appropriation, and shall remain available for obligation for employee severance, relocation, and related expenses, until September 30, 1996.

25 USC 2012 note.

CONSTRUCTION

For construction, major repair, and improvement of irrigation and power systems, buildings, utilities, and other facilities, including architectural and engineering services by contract; acquisition of lands and interests in lands; and preparation of lands for farming, $100,833,000, to remain available until expended: *Provided,* That such amounts as may be available for the construction of the Navajo Indian Irrigation Project and for other water resource development activities related to the Southern Arizona Water Rights Settlement Act may be transferred to the Bureau of Reclamation: *Provided further,* That not to exceed 6 per centum of contract authority available to the Bureau of Indian Affairs from the Federal Highway Trust Fund may be used to cover the road program management costs of the Bureau of Indian Affairs: *Provided further,* That any funds provided for the Safety of Dams program pursuant to 25 U.S.C. 13 shall be made available on a non-reimbursable basis: *Provided further,* That for the fiscal year ending September 30, 1996, in implementing new construction or facilities improvement and repair project grants in excess of $100,000 that are provided to tribally controlled grant schools under Public Law 100–297, as amended, the Secretary of the Interior shall use the Administrative and Audit Requirements and Cost Principles for Assistance Programs contained in 43 CFR part 12 as the regulatory requirements: *Provided further,* That such grants shall not be subject to section 12.61 of 43 CFR; the Secretary and the grantee shall negotiate and determine a schedule of payments for the work to be performed: *Provided further,* That in considering applications, the Secretary shall consider whether the Indian tribe or tribal organization would be deficient in assuring that the construction

projects conform to applicable building standards and codes and Federal, tribal, or State health and safety standards as required by 25 U.S.C. 2005(a), with respect to organizational and financial management capabilities: *Provided further,* That if the Secretary declines an application, the Secretary shall follow the requirements contained in 25 U.S.C. 2505(f): *Provided further,* That any disputes between the Secretary and any grantee concerning a grant shall be subject to the disputes provision in 25 U.S.C. 2508(e).

INDIAN LAND AND WATER CLAIM SETTLEMENTS AND MISCELLANEOUS PAYMENTS TO INDIANS

For miscellaneous payments to Indian tribes and individuals and for necessary administrative expenses, $80,645,000, to remain available until expended; of which $78,600,000 shall be available for implementation of enacted Indian land and water claim settlements pursuant to Public Laws 87–483, 97–293, 101–618, 102–374, 102–441, 102–575, and 103–116, and for implementation of other enacted water rights settlements, including not to exceed $8,000,000, which shall be for the Federal share of the Catawba Indian Tribe of South Carolina Claims Settlement, as authorized by section 5(a) of Public Law 103–116; and of which $1,045,000 shall be available pursuant to Public Laws 98–500, 99–264, and 100–580; and of which $1,000,000 shall be available (1) to liquidate obligations owed tribal and individual Indian payees of any checks canceled pursuant to section 1003 of the Competitive Equality Banking Act of 1987 (Public Law 100–86 (101 Stat. 659)), 31 U.S.C. 3334(b), (2) to restore to Individual Indian Monies trust funds, Indian Irrigation Systems, and Indian Power Systems accounts amounts invested in credit unions or defaulted savings and loan associations and which were not Federally insured, and (3) to reimburse Indian trust fund account holders for losses to their respective accounts where the claim for said loss(es) has been reduced to a judgment or settlement agreement approved by the Department of Justice.

TECHNICAL ASSISTANCE OF INDIAN ENTERPRISES

For payment of management and technical assistance requests associated with loans and grants approved under the Indian Financing Act of 1974, as amended, $500,000.

INDIAN GUARANTEED LOAN PROGRAM ACCOUNT

For the cost of guaranteed loans $4,500,000, as authorized by the Indian Financing Act of 1974, as amended: *Provided,* That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: *Provided further,* That these funds are available to subsidize total loan principal, any part of which is to be guaranteed, not to exceed $35,914,000.

In addition, for administrative expenses necessary to carry out the guaranteed loan program, $500,000.

ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Indian Affairs shall be available for expenses of exhibits, and purchase of not to exceed 275

passenger carrying motor vehicles, of which not to exceed 215 shall be for replacement only.

TERRITORIAL AND INTERNATIONAL AFFAIRS

ASSISTANCE TO TERRITORIES

For expenses necessary for assistance to territories under the jurisdiction of the Department of the Interior, $65,188,000, of which (1) $61,661,000 shall be available until expended for technical assistance, including maintenance assistance, disaster assistance, insular management controls, and brown tree snake control and research; grants to the judiciary in American Samoa for compensation and expenses, as authorized by law (48 U.S.C. 1661(c)); grants to the Government of American Samoa, in addition to current local revenues, for construction and support of governmental functions; grants to the Government of the Virgin Islands as authorized by law; grants to the Government of Guam, as authorized by law; and grants to the Government of the Northern Mariana Islands as authorized by law (Public Law 94–241; 90 Stat. 272); and (2) $3,527,000 shall be available for salaries and expenses of the Office of Insular Affairs: *Provided,* That all financial transactions of the territorial and local governments herein provided for, including such transactions of all agencies or instrumentalities established or utilized by such governments, may be audited by the General Accounting Office, at its discretion, in accordance with chapter 35 of title 31, United States Code: *Provided further,* That Northern Mariana Islands Covenant grant funding shall be provided according to those terms of the Agreement of the Special Representatives on Future United States Financial Assistance for the Northern Mariana Islands approved by Public Law 99–396, or any subsequent legislation related to Commonwealth of the Northern Mariana Islands Covenant grant funding: *Provided further,* That of the amounts provided for technical assistance, sufficient funding shall be made available for a grant to the Close Up Foundation: *Provided further,* That the funds for the program of operations and maintenance improvement are appropriated to institutionalize routine operations and maintenance of capital infrastructure in American Samoa, Guam, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Republic of Palau, the Republic of the Marshall Islands, and the Federated States of Micronesia through assessments of long-range operations and maintenance needs, improved capability of local operations and maintenance institutions and agencies (including management and vocational education training), and project-specific maintenance (with territorial participation and cost sharing to be determined by the Secretary based on the individual territory's commitment to timely maintenance of its capital assets): *Provided further,* That any appropriation for disaster assistance under this head in this Act or previous appropriations Acts may be used as non-Federal matching funds for the purpose of hazard mitigation grants provided pursuant to section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170c).

48 USC 1469b.

COMPACT OF FREE ASSOCIATION

For economic assistance and necessary expenses for the Federated States of Micronesia and the Republic of the Marshall Islands

as provided for in sections 122, 221, 223, 232, and 233 of the Compacts of Free Association, and for economic assistance and necessary expenses for the Republic of Palau as provided for in sections 122, 221, 223, 232, and 233 of the Compact of Free Association, $24,938,000, to remain available until expended, as authorized by Public Law 99–239 and Public Law 99–658: *Provided,* That notwithstanding section 112 of Public Law 101–219 (103 Stat. 1873), the Secretary of the Interior may agree to technical changes in the specifications for the project described in the subsidiary agreement negotiated under section 212(a) of the Compact of Free Association, Public Law 99–658, or its annex, if the changes do not result in increased costs to the United States.

DEPARTMENTAL OFFICES

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For necessary expenses for management of the Department of the Interior, $56,912,000, of which not to exceed $7,500 may be for official reception and representation expenses.

OFFICE OF THE SOLICITOR

SALARIES AND EXPENSES

For necessary expenses of the Office of the Solicitor, $34,427,000.

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

For necessary expenses of the Office of Inspector General, $23,939,000.

CONSTRUCTION MANAGEMENT

SALARIES AND EXPENSES

For necessary expenses of the Office of Construction Management, $500,000.

NATIONAL INDIAN GAMING COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the National Indian Gaming Commission, pursuant to Public Law 100–497, $1,000,000: *Provided,* That on March 1, 1996, the Chairman shall submit to the Secretary a report detailing those Indian tribes or tribal organizations with gaming operations that are in full compliance, partial compliance, or non-compliance with the provisions of the Indian Gaming Regulatory Act (25 U.S.C. 2701, et seq.): *Provided further,* That the information contained in the report shall be updated on a continuing basis. Reports.

OFFICE OF SPECIAL TRUSTEE FOR AMERICAN INDIANS

FEDERAL TRUST PROGRAMS

For operation of trust programs for Indians by direct expenditure, contracts, cooperative agreements, compacts, and grants, $16,338,000, of which $15,891,000 shall remain available until expended for trust funds management: *Provided,* That funds made available to tribes and tribal organizations through contracts or grants obligated during fiscal year 1996, as authorized by the Indian Self-Determination Act of 1975 (88 Stat. 2203; 25 U.S.C. 450 et seq.), shall remain available until expended by the contractor or grantee: *Provided further,* That notwithstanding any other provision of law, the statute of limitations shall not commence to run on any claim, including any claim in litigation pending on the date of this Act, concerning losses to or mismanagement of trust funds, until the affected tribe or individual Indian has been furnished with the accounting of such funds from which the beneficiary can determine whether there has been a loss: *Provided further,* That obligated and unobligated balances provided for trust funds management within "Operation of Indian programs", Bureau of Indian Affairs are hereby transferred to and merged with this appropriation.

ADMINISTRATIVE PROVISIONS

There is hereby authorized for acquisition from available resources within the Working Capital Fund, 15 aircraft, 10 of which shall be for replacement and which may be obtained by donation, purchase or through available excess surplus property: *Provided,* That notwithstanding any other provision of law, existing aircraft being replaced may be sold, with proceeds derived or trade-in value used to offset the purchase price for the replacement aircraft: *Provided further,* That no programs funded with appropriated funds in "Departmental Management", "Office of the Solicitor", and "Office of Inspector General" may be augmented through the Working Capital Fund or the Consolidated Working Fund.

GENERAL PROVISIONS, DEPARTMENT OF THE INTERIOR

SEC. 101. Appropriations made in this title shall be available for expenditure or transfer (within each bureau or office), with the approval of the Secretary, for the emergency reconstruction, replacement, or repair of aircraft, buildings, utilities, or other facilities or equipment damaged or destroyed by fire, flood, storm, or other unavoidable causes: *Provided,* That no funds shall be made available under this authority until funds specifically made available to the Department of the Interior for emergencies shall have been exhausted: *Provided further,* That all funds used pursuant to this section are hereby designated by Congress to be "emergency requirements" pursuant to section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985 and must be replenished by a supplemental appropriation which must be requested as promptly as possible.

SEC. 102. The Secretary may authorize the expenditure or transfer of any no year appropriation in this title, in addition to the amounts included in the budget programs of the several agencies, for the suppression or emergency prevention of forest or range fires on or threatening lands under the jurisdiction of

the Department of the Interior; for the emergency rehabilitation of burned-over lands under its jurisdiction; for emergency actions related to potential or actual earthquakes, floods, volcanoes, storms, or other unavoidable causes; for contingency planning subsequent to actual oilspills; response and natural resource damage assessment activities related to actual oilspills; for the prevention, suppression, and control of actual or potential grasshopper and Mormon cricket outbreaks on lands under the jurisdiction of the Secretary, pursuant to the authority in section 1773(b) of Public Law 99–198 (99 Stat. 1658); for emergency reclamation projects under section 410 of Public Law 95–87; and shall transfer, from any no year funds available to the Office of Surface Mining Reclamation and Enforcement, such funds as may be necessary to permit assumption of regulatory authority in the event a primacy State is not carrying out the regulatory provisions of the Surface Mining Act: *Provided,* That appropriations made in this title for fire suppression purposes shall be available for the payment of obligations incurred during the preceding fiscal year, and for reimbursement to other Federal agencies for destruction of vehicles, aircraft, or other equipment in connection with their use for fire suppression purposes, such reimbursement to be credited to appropriations currently available at the time of receipt thereof: *Provided further,* That for emergency rehabilitation and wildfire suppression activities, no funds shall be made available under this authority until funds appropriated to the "Emergency Department of the Interior Firefighting Fund" shall have been exhausted: *Provided further,* That all funds used pursuant to this section are hereby designated by Congress to be "emergency requirements" pursuant to section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985 and must be replenished by a supplemental appropriation which must be requested as promptly as possible: *Provided further,* That such replenishment funds shall be used to reimburse, on a pro rata basis, accounts from which emergency funds were transferred.

SEC. 103. Appropriations made in this title shall be available for operation of warehouses, garages, shops, and similar facilities, wherever consolidation of activities will contribute to efficiency or economy, and said appropriations shall be reimbursed for services rendered to any other activity in the same manner as authorized by sections 1535 and 1536 of title 31, United States Code: *Provided,* That reimbursements for costs and supplies, materials, equipment, and for services rendered may be credited to the appropriation current at the time such reimbursements are received.

SEC. 104. Appropriations made to the Department of the Interior in this title shall be available for services as authorized by 5 U.S.C. 3109, when authorized by the Secretary, in total amount not to exceed $500,000; hire, maintenance, and operation of aircraft; hire of passenger motor vehicles; purchase of reprints; payment for telephone service in private residences in the field, when authorized under regulations approved by the Secretary; and the payment of dues, when authorized by the Secretary, for library membership in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members.

SEC. 105. Appropriations available to the Department of the Interior for salaries and expenses shall be available for uniforms

or allowances therefor, as authorized by law (5 U.S.C. 5901–5902 and D.C. Code 4–204).

SEC. 106. Appropriations made in this title shall be available for obligation in connection with contracts issued for services or rentals for periods not in excess of twelve months beginning at any time during the fiscal year.

SEC. 107. Appropriations made in this title from the Land and Water Conservation Fund for acquisition of lands and waters, or interests therein, shall be available for transfer, with the approval of the Secretary, between the following accounts: Bureau of Land Management, Land acquisition, United States Fish and Wildlife Service, Land acquisition, and National Park Service, Land acquisition and State assistance. Use of such funds are subject to the reprogramming guidelines of the House and Senate Committees on Appropriations.

SEC. 108. Prior to the transfer of Presidio properties to the Presidio Trust, when authorized, the Secretary may not obligate in any calendar month more than 1/12 of the fiscal year 1996 appropriation for operation of the Presidio: *Provided,* That this section shall expire on December 31, 1995.

Termination date.

33 USC 2753.

SEC. 109. Section 6003 of Public Law 101–380 is hereby repealed.

SEC. 110. None of the funds appropriated or otherwise made available by this Act may be obligated or expended by the Secretary of the Interior for developing, promulgating, and thereafter implementing a rule concerning rights-of-way under section 2477 of the Revised Statutes.

SEC. 111. No funds provided in this title may be expended by the Department of the Interior for the conduct of offshore leasing and related activities placed under restriction in the President's moratorium statement of June 26, 1990, in the areas of Northern, Central, and Southern California; the North Atlantic; Washington and Oregon; and the Eastern Gulf of Mexico south of 26 degrees north latitude and east of 86 degrees west longitude.

SEC. 112. No funds provided in this title may be expended by the Department of the Interior for the conduct of leasing, or the approval or permitting of any drilling or other exploration activity, on lands within the North Aleutian Basin planning area.

SEC. 113. No funds provided in this title may be expended by the Department of the Interior for the conduct of preleasing and leasing activities in the Eastern Gulf of Mexico for Outer Continental Shelf Lease Sale 151 in the Outer Continental Shelf Natural Gas and Oil Resource Management Comprehensive Program, 1992–1997.

SEC. 114. No funds provided in this title may be expended by the Department of the Interior for the conduct of preleasing and leasing activities in the Atlantic for Outer Continental Shelf Lease Sale 164 in the Outer Continental Shelf Natural Gas and Oil Resource Management Comprehensive Program, 1992–1997.

Native Americans. Washington.

SEC. 115. (a) Of the funds appropriated by this Act or any subsequent Act providing for appropriations in fiscal years 1996 and 1997, not more than 50 percent of any self-governance funds that would otherwise be allocated to each Indian tribe in the State of Washington shall actually be paid to or on account of such Indian tribe from and after the time at which such tribe shall—

(1) take unilateral action that adversely impacts the existing rights to and/or customary uses of, nontribal member own-

ers of fee simple land within the exterior boundary of the tribe's reservation to water, electricity, or any other similar utility or necessity for the nontribal members' residential use of such land; or

(2) restrict or threaten to restrict said owners use of or access to publicly maintained rights-of-way necessary or desirable in carrying the utilities or necessities described above.

(b) Such penalty shall not attach to the initiation of any legal actions with respect to such rights or the enforcement of any final judgments, appeals from which have been exhausted, with respect thereto.

SEC. 116. Within 30 days after the enactment of this Act, the Department of the Interior shall issue a specific schedule for the completion of the Lake Cushman Land Exchange Act (Public Law 102–436) and shall complete the exchange not later than September 30, 1996. 16 USC 251 note.

SEC. 117. Notwithstanding Public Law 90–544, as amended, the National Park Service is authorized to expend appropriated funds for maintenance and repair of the Company Creek Road in the Lake Chelan National Recreation Area: *Provided,* That appropriated funds shall not be expended for the purpose of improving the property of private individuals unless specifically authorized by law.

SEC. 118. Section 4(b) of Public Law 94–241 (90 Stat. 263) as added by section 10 of Public Law 99–396 is amended by deleting "until Congress otherwise provides by law." and inserting in lieu thereof: "except that, for fiscal years 1996 through 2002, payments to the Commonwealth of the Northern Mariana Islands pursuant to the multi-year funding agreements contemplated under the Covenant shall be $11,000,000 annually, subject to an equal local match and all other requirements set forth in the Agreement of the Special Representatives on Future Federal Financial Assistance of the Northern Mariana Islands, executed on December 17, 1992 between the special representative of the President of the United States and special representatives of the Governor of the Northern Mariana Islands with any additional amounts otherwise made available under this section in any fiscal year and not required to meet the schedule of payments in this subsection to be provided as set forth in subsection (c) until Congress otherwise provides by law. Northern Mariana Islands. 48 USC 1804.

"(c) The additional amounts referred to in subsection (b) shall be made available to the Secretary for obligation as follows:

"(1) for fiscal years 1996 through 2001, $4,580,000 annually for capital infrastructure projects as Impact Aid for Guam under section 104(c)(6) of Public Law 99–239;

"(2) for fiscal year 1996, $7,700,000 shall be provided for capital infrastructure projects in American Samoa; $4,420,000 for resettlement of Rongelap Atoll; and

"(3) for fiscal years 1997 and thereafter, all such amounts shall be available solely for capital infrastructure projects in Guam, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of Palau, the Federated States of Micronesia and the Republic of the Marshall Islands: *Provided,* That, in fiscal year 1997, $3,000,000 of such amounts shall be made available to the College of the Northern Marianas and beginning in fiscal year 1997, and in each year thereafter, not to exceed $3,000,000 may be allo-

cated, as provided in appropriations Acts, to the Secretary of the Interior for use by Federal agencies or the Commonwealth of the Northern Mariana Islands to address immigration, labor, and law enforcement issues in the Northern Mariana Islands. The specific projects to be funded in American Samoa shall be set forth in a five-year plan for infrastructure assistance developed by the Secretary of the Interior in consultation with the American Samoa Government and updated annually and submitted to the Congress concurrent with the budget justifications for the Department of the Interior. In developing budget recommendations for capital infrastructure funding, the Secretary shall indicate the highest priority projects, consider the extent to which particular projects are part of an overall master plan, whether such project has been reviewed by the Corps of Engineers and any recommendations made as a result of such review, the extent to which a set-aside for maintenance would enhance the life of the project, the degree to which a local cost-share requirement would be consistent with local economic and fiscal capabilities, and may propose an incremental set-aside, not to exceed $2,000,000 per year, to remain available without fiscal year limitation, as an emergency fund in the event of natural or other disasters to supplement other assistance in the repair, replacement, or hardening of essential facilities: *Provided further,* That the cumulative amount set aside for such emergency fund may not exceed $10,000,000 at any time.

"(d) Within the amounts allocated for infrastructure pursuant to this section, and subject to the specific allocations made in subsection (c), additional contributions may be made, as set forth in appropriations Acts, to assist in the resettlement of Rongelap Atoll: *Provided,* That the total of all contributions from any Federal source after enactment of this Act may not exceed $32,000,000 and shall be contingent upon an agreement, satisfactory to the President, that such contributions are a full and final settlement of all obligations of the United States to assist in the resettlement of Rongelop Atoll and that such funds will be expended solely on resettlement activities and will be properly audited and accounted for. In order to provide such contributions in a timely manner, each Federal agency providing assistance or services, or conducting activities, in the Republic of the Marshall Islands, is authorized to make funds available through the Secretary of the Interior, to assist in the resettlement of Rongelap. Nothing in this subsection shall be construed to limit the provision of ex gratia assistance pursuant to section 105(c)(2) of the Compact of Free Association Act of 1985 (Public Law 99–239, 99 Stat. 1770, 1792) including for individuals choosing not to resettle at Rongelap, except that no such assistance for such individuals may be provided until the Secretary notifies the Congress that the full amount of all funds necessary for resettlement at Rongelap has been provided.".

SEC. 119. (a) Until the National Park Service has prepared a final conceptual management plan for the Mojave National Preserve that incorporates traditional multiple uses of the region, the Secretary of the Interior shall not take any action to change the management of the area which differs from the historical management practices of the Bureau of Land Management. Prior to using any funds in excess of $1,100,000 for operation of the

Preserve in fiscal year 1996, the Secretary must obtain the approval of the House and Senate Committees on Appropriations. This provision expires on September 30, 1996.

Termination date.

(b) The President is authorized to suspend the provisions of subsection (a) of this section if he determines that such suspension is appropriate based upon the public interest in sound environmental management, sustainable resource use, protection of national or locally-affected interests, or protection of any cultural, biological or historic resources. Any suspension by the President shall take effect on such date, and continue in effect for such period (not to extend beyond the period in which subsection (a) would otherwise be in effect), as the President may determine, and shall be reported to the Congress.

President. Reports.

TITLE II—RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

FOREST RESEARCH

For necessary expenses of forest research as authorized by law, $178,000,000, to remain available until September 30, 1997.

STATE AND PRIVATE FORESTRY

For necessary expenses of cooperating with, and providing technical and financial assistance to States, Territories, possessions, and others and for forest pest management activities, cooperative forestry and education and land conservation activities, $136,884,000, to remain available until expended, as authorized by law: *Provided,* That of funds available under this heading for Pacific Northwest Assistance in this or prior appropriations Acts, $200,000 shall be provided to the World Forestry Center for purposes of continuing scientific research and other authorized efforts regarding the land exchange efforts in the Umpqua River Basin Region.

NATIONAL FOREST SYSTEM

For necessary expenses of the Forest Service, not otherwise provided for, for management, protection, improvement, and utilization of the National Forest System, for ecosystem planning, inventory, and monitoring, and for administrative expenses associated with the management of funds provided under the heads "Forest Research", "State and Private Forestry", "National Forest System", "Construction", "Fire Protection and Emergency Suppression", and "Land Acquisition", $1,257,057,000, to remain available for obligation until September 30, 1997, and including 65 per centum of all monies received during the prior fiscal year as fees collected under the Land and Water Conservation Fund Act of 1965, as amended, in accordance with section 4 of the Act (16 U.S.C. 460l–6a(i)): *Provided,* That unobligated and unexpended balances in the National Forest System account at the end of fiscal year 1995, shall be merged with and made a part of the fiscal year 1996 National Forest System appropriation, and shall remain available for obligation until September 30, 1997: *Provided further,* That

up to $5,000,000 of the funds provided herein for road maintenance shall be available for the planned obliteration of roads which are no longer needed.

WILDLAND FIRE MANAGEMENT

For necessary expenses for forest fire presuppression activities on National Forest System lands, for emergency fire suppression on or adjacent to National Forest System lands or other lands under fire protection agreement, and for emergency rehabilitation of burned over National Forest System lands, $385,485,000, to remain available until expended: *Provided,* That unexpended balances of amounts previously appropriated under any other headings for Forest Service fire activities may be transferred to and merged with this appropriation: *Provided further,* That such funds are available for repayment of advances from other appropriations accounts previously transferred for such purposes.

CONSTRUCTION

For necessary expenses of the Forest Service, not otherwise provided for, $163,600,000, to remain available until expended, for construction and acquisition of buildings and other facilities, and for construction and repair of forest roads and trails by the Forest Service as authorized by 16 U.S.C. 532–538 and 23 U.S.C. 101 and 205: *Provided,* That funds becoming available in fiscal year 1996 under the Act of March 4, 1913 (16 U.S.C. 501) shall be transferred to the General Fund of the Treasury of the United States: *Provided further,* That not to exceed $50,000,000, to remain available until expended, may be obligated for the construction of forest roads by timber purchasers: *Provided further,* That $2,500,000 of the funds appropriated herein shall be available for a grant to the "Non-Profit Citizens for the Columbia Gorge Discovery Center" for the construction of the Columbia Gorge Discovery Center: *Provided further,* That the Forest Service is authorized to grant the unobligated balance of funds appropriated in fiscal year 1995 for the construction of the Columbia Gorge Discovery Center and related trail construction funds to the "Non-Profit Citizens for the Columbia Gorge Discovery Center" to be used for the same purpose: *Provided further,* That the Forest Service is authorized to convey the land needed for the construction of the Columbia Gorge Discovery Center without cost to the "Non-Profit Citizens for the Columbia Gorge Discovery Center": *Provided further,* That notwithstanding any other provision of law, funds originally appropriated under this head in Public Law 101–512 for the Forest Service share of a new research facility at the University of Missouri, Columbia, shall be available for a grant to the University of Missouri, as the Federal share in the construction of the new facility: *Provided further,* That agreed upon lease of space in the new facility shall be provided to the Forest Service without charge for the life of the building.

LAND ACQUISITION

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l–4–11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory

authority applicable to the Forest Service, $39,400,000, to be derived from the Land and Water Conservation Fund, to remain available until expended: *Provided,* That funding for specific land acquisitions are subject to the approval of the House and Senate Committees on Appropriations.

ACQUISITION OF LANDS FOR NATIONAL FORESTS SPECIAL ACTS

For acquisition of lands within the exterior boundaries of the Cache, Uinta, and Wasatch National Forests, Utah; the Toiyabe National Forest, Nevada; and the Angeles, San Bernardino, Sequoia, and Cleveland National Forests, California, as authorized by law, $1,069,000, to be derived from forest receipts.

ACQUISITION OF LANDS TO COMPLETE LAND EXCHANGES

For acquisition of lands, to be derived from funds deposited by State, county, or municipal governments, public school districts, or other public school authorities pursuant to the Act of December 4, 1967, as amended (16 U.S.C. 484a), to remain available until expended.

RANGE BETTERMENT FUND

For necessary expenses of range rehabilitation, protection, and improvement, 50 per centum of all moneys received during the prior fiscal year, as fees for grazing domestic livestock on lands in National Forests in the sixteen Western States, pursuant to section 401(b)(1) of Public Law 94–579, as amended, to remain available until expended, of which not to exceed 6 per centum shall be available for administrative expenses associated with on-the-ground range rehabilitation, protection, and improvements.

GIFTS, DONATIONS AND BEQUESTS FOR FOREST AND RANGELAND RESEARCH

For expenses authorized by 16 U.S.C. 1643(b), $92,000, to remain available until expended, to be derived from the fund established pursuant to the above Act.

SOUTHEAST ALASKA ECONOMIC DISASTER FUND

(a) There is hereby established in the Treasury a Southeast Alaska Economic Disaster Fund. There are hereby appropriated $110,000,000, which shall be deposited into this account, which shall be available without further appropriation or fiscal year limitation. All monies from the Fund shall be distributed by the Secretary of Agriculture in accordance with the provisions set forth herein.

(b) None of the funds provided under this heading shall be available unless the President exercises the authority provided in section 325(c) of this Act.

(c)(1) The Secretary shall provide $40,000,000 in direct grants from the Fund for fiscal year 1996 and $10,000,000 in each of fiscal years 1997, 1998, and 1999 to communities in Alaska as follows: Grants.

(A) to the City and Borough of Sitka, $8,000,000 in fiscal year 1996 and $2,000,000 in each of fiscal years 1997, 1998, and 1999;

(B) to the City of Wrangell, $18,700,000 in fiscal year 1996 and $4,700,000 in each of fiscal years 1997, 1998, and 1999; and

(C) to the City and Borough of Ketchikan, $13,300,000 in fiscal year 1996 and $3,300,000 in each of fiscal years 1997, 1998, and 1999.

(2) The funds provided under paragraph (1) shall be used to employ former timber workers in Wrangell and Sitka, and for related community development projects in Sitka, Wrangell, and Ketchikan.

(3) The Secretary shall allocate an additional $10,000,000 from the Fund for each of fiscal years 1996, 1997, 1998, and 1999 to communities in Alaska according to the following percentages:

(A) the Borough of Haines, 5.5 percent;

(B) the City and Borough of Juneau, 10.3 percent;

(C) the Ketchikan Gateway Borough, 4.5 percent;

(D) the City and Borough of Sitka, 10.8 percent;

(E) the City and Borough of Yakutat, 7.4 percent; and

(F) the unorganized Boroughs within the Tongass National Forest, 61.5 percent.

(4) Funds provided pursuant to paragraph (3)(F) shall be allocated by the Secretary of Agriculture to the unorganized Boroughs in the Tongass National Forest in the same proportion as timber receipts were made available to such Boroughs in fiscal year 1995, and shall be in addition to any other monies provided to such Boroughs under this Act or any other law.

ADMINISTRATIVE PROVISIONS, FOREST SERVICE

Appropriations to the Forest Service for the current fiscal year shall be available for: (a) purchase of not to exceed 183 passenger motor vehicles of which 32 will be used primarily for law enforcement purposes and of which 151 shall be for replacement; acquisition of 22 passenger motor vehicles from excess sources, and hire of such vehicles; operation and maintenance of aircraft, the purchase of not to exceed two for replacement only, and acquisition of 20 aircraft from excess sources; notwithstanding other provisions of law, existing aircraft being replaced may be sold, with proceeds derived or trade-in value used to offset the purchase price for the replacement aircraft; (b) services pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $100,000 for employment under 5 U.S.C. 3109; (c) purchase, erection, and alteration of buildings and other public improvements (7 U.S.C. 2250); (d) acquisition of land, waters, and interests therein, pursuant to the Act of August 3, 1956 (7 U.S.C. 428a); (e) for expenses pursuant to the Volunteers in the National Forest Act of 1972 (16 U.S.C. 558a, 558d, 558a note); and (f) for debt collection contracts in accordance with 31 U.S.C. 3718(c).

None of the funds made available under this Act shall be obligated or expended to change the boundaries of any region, to abolish any region, to move or close any regional office for research, State and private forestry, or National Forest System administration of the Forest Service, Department of Agriculture, or to implement any reorganization, "reinvention" or other type of organizational restructuring of the Forest Service, other than the relocation of the Regional Office for Region 5 of the Forest Service from San Francisco to excess military property at Mare

Island, Vallejo, California, without the consent of the House and Senate Committees on Appropriations and the Committee on Agriculture, Nutrition, and Forestry and the Committee on Energy and Natural Resources in the United States Senate and the Committee on Agriculture and the Committee on Resources in the United States House of Representatives.

Any appropriations or funds available to the Forest Service may be advanced to the Fire and Emergency Suppression appropriation and may be used for forest firefighting and the emergency rehabilitation of burned-over lands under its jurisdiction: *Provided,* That no funds shall be made available under this authority until funds appropriated to the "Emergency Forest Service Firefighting Fund" shall have been exhausted.

Any funds available to the Forest Service may be used for retrofitting Mare Island facilities to accommodate the relocation: *Provided,* That funds for the move must come from funds otherwise available to Region 5: *Provided further,* That any funds to be provided for such purposes shall only be available upon approval of the House and Senate Committees on Appropriations.

Funds appropriated to the Forest Service shall be available for assistance to or through the Agency for International Development and the Foreign Agricultural Service in connection with forest and rangeland research, technical information, and assistance in foreign countries, and shall be available to support forestry and related natural resource activities outside the United States and its territories and possessions, including technical assistance, education and training, and cooperation with United States and international organizations.

None of the funds made available to the Forest Service under this Act shall be subject to transfer under the provisions of section 702(b) of the Department of Agriculture Organic Act of 1944 (7 U.S.C. 2257) or 7 U.S.C. 147b unless the proposed transfer is approved in advance by the House and Senate Committees on Appropriations in compliance with the reprogramming procedures contained in House Report 103–551.

No funds appropriated to the Forest Service shall be transferred to the Working Capital Fund of the Department of Agriculture without the approval of the Chief of the Forest Service.

Notwithstanding any other provision of law, any appropriations or funds available to the Forest Service may be used to disseminate program information to private and public individuals and organizations through the use of nonmonetary items of nominal value and to provide nonmonetary awards of nominal value and to incur necessary expenses for the nonmonetary recognition of private individuals and organizations that make contributions to Forest Service programs.

Notwithstanding any other provision of law, money collected, in advance or otherwise, by the Forest Service under authority of section 101 of Public Law 93–153 (30 U.S.C. 185(1)) as reimbursement of administrative and other costs incurred in processing pipeline right-of-way or permit applications and for costs incurred in monitoring the construction, operation, maintenance, and termination of any pipeline and related facilities, may be used to reimburse the applicable appropriation to which such costs were originally charged.

Funds available to the Forest Service shall be available to conduct a program of not less than $1,000,000 for high priority

projects within the scope of the approved budget which shall be carried out by the Youth Conservation Corps as authorized by the Act of August 13, 1970, as amended by Public Law 93–408.

None of the funds available in this Act shall be used for timber sale preparation using clearcutting in hardwood stands in excess of 25 percent of the fiscal year 1989 harvested volume in the Wayne National Forest, Ohio: *Provided,* That this limitation shall not apply to hardwood stands damaged by natural disaster: *Provided further,* That landscape architects shall be used to maintain a visually pleasing forest.

Any money collected from the States for fire suppression assistance rendered by the Forest Service on non-Federal lands not in the vicinity of National Forest System lands shall be used to reimburse the applicable appropriation and shall remain available until expended as the Secretary may direct in conducting activities authorized by 16 U.S.C. 2101 (note), 2101–2110, 1606, and 2111.

Of the funds available to the Forest Service, $1,500 is available to the Chief of the Forest Service for official reception and representation expenses.

Notwithstanding any other provision of law, the Forest Service is authorized to employ or otherwise contract with persons at regular rates of pay, as determined by the Service, to perform work occasioned by emergencies such as fires, storms, floods, earthquakes or any other unavoidable cause without regard to Sundays, Federal holidays, and the regular workweek.

To the greatest extent possible, and in accordance with the Final Amendment to the Shawnee National Forest Plan, none of the funds available in this Act shall be used for preparation of timber sales using clearcutting or other forms of even aged management in hardwood stands in the Shawnee National Forest, Illinois.

Funds appropriated to the Forest Service shall be available for interactions with and providing technical assistance to rural communities for sustainable rural development purposes.

Notwithstanding any other provision of law, eighty percent of the funds appropriated to the Forest Service in the National Forest System and Construction accounts and planned to be allocated to activities under the "Jobs in the Woods" program for projects on National Forest land in the State of Washington may be granted directly to the Washington State Department of Fish and Wildlife for accomplishment of planned projects. Twenty percent of said funds shall be retained by the Forest Service for planning and administering projects. Project selection and prioritization shall be accomplished by the Forest Service with such consultation with the State of Washington as the Forest Service deems appropriate.

For one year after enactment of this Act, the Secretary shall continue the current Tongass Land Management Plan (TLMP) and may accommodate commercial tourism (if an agreement is signed between the Forest Service and the Alaska Visitors' Association) except that during this period, the Secretary shall maintain at least the number of acres of suitable available and suitable scheduled timber lands, and Allowable Sale Quantity as identified in the Preferred Alternative (Alternative P) in the Tongass Land and Resources Management Plan and Final Environmental Impact Statement (dated October 1992) as selected in the Record of Decision Review Draft #3–2/93. Nothing in this paragraph shall be interpreted to mandate clear-cutting or require the sale of timber and nothing in this paragraph, including the ASQ identified in Alter-

native P, shall be construed to limit the Secretary's consideration of new information or to prejudice future revision, amendment or modification of TLMP based upon sound, verifiable scientific data.

If the Forest Service determines in a Supplemental Evaluation to an Environmental Impact Statement that no additional analysis under the National Environmental Policy Act or section 810 of the Alaska National Interest Lands Conservation Act is necessary for any timber sale or offering which has been prepared for acceptance by, or award to, a purchaser after December 31, 1988, that has been subsequently determined by the Forest Service to be available for sale or offering to one or more other purchaser, the change of purchasers for whatever reason shall not be considered a significant new circumstance, and the Forest Service may offer or award such timber sale or offering to a different purchaser or offeree, notwithstanding any other provision of law. A determination by the Forest Service pursuant to this paragraph shall not be subject to judicial review.

None of the funds appropriated under this Act for the Forest Service shall be made available for the purpose of applying paint to rocks, or rock colorization: *Provided,* That notwithstanding any other provision of law, the Forest Service shall not require of any individual or entity, as part of any permitting process under its authority, or as a requirement of compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4231 et seq.), the painting or colorization of rocks.

DEPARTMENT OF ENERGY

FOSSIL ENERGY RESEARCH AND DEVELOPMENT

For necessary expenses in carrying out fossil energy research and development activities, under the authority of the Department of Energy Organization Act (Public Law 95–91), including the acquisition of interest, including defeasible and equitable interests in any real property or any facility or for plant or facility acquisition or expansion, and for promoting health and safety in mines and the mineral industry through research (30 U.S.C. 3, 861(b), and 951(a)), for conducting inquiries, technological investigations and research concerning the extraction, processing, use, and disposal of mineral substances without objectionable social and environmental costs (30 U.S.C. 3, 1602, and 1603), and for the development of methods for the disposal, control, prevention, and reclamation of waste products in the mining, minerals, metal, and mineral reclamation industries (30 U.S.C. 3 and 21a), $417,018,000, to remain available until expended: *Provided,* That no part of the sum herein made available shall be used for the field testing of nuclear explosives in the recovery of oil and gas.

ALTERNATIVE FUELS PRODUCTION

(INCLUDING TRANSFER OF FUNDS)

Monies received as investment income on the principal amount in the Great Plains Project Trust at the Norwest Bank of North Dakota, in such sums as are earned as of October 1, 1995, shall be deposited in this account and immediately transferred to the General Fund of the Treasury. Monies received as revenue sharing

from the operation of the Great Plains Gasification Plant shall be immediately transferred to the General Fund of the Treasury.

NAVAL PETROLEUM AND OIL SHALE RESERVES

For necessary expenses in carrying out naval petroleum and oil shale reserve activities, $148,786,000, to remain available until expended: *Provided,* That the requirements of 10 U.S.C. 7430(b)(2)(B) shall not apply to fiscal year 1996: *Provided further,* That section 501 of Public Law 101–45 is hereby repealed.

10 USC 7430 note.

10 USC 7431 note.

ENERGY CONSERVATION

For necessary expenses in carrying out energy conservation activities, $553,189,000, to remain available until expended, including, notwithstanding any other provision of law, the excess amount for fiscal year 1996 determined under the provisions of section 3003(d) of Public Law 99–509 (15 U.S.C. 4502), and of which $16,000,000 shall be derived from available unobligated balances in the Biomass Energy Development account: *Provided,* That $140,696,000 shall be for use in energy conservation programs as defined in section 3008(3) of Public Law 99–509 (15 U.S.C. 4507) and shall not be available until excess amounts are determined under the provisions of section 3003(d) of Public Law 99–509 (15 U.S.C. 4502): *Provided further,* That notwithstanding section 3003(d)(2) of Public Law 99–509 such sums shall be allocated to the eligible programs as follows: $114,196,000 for the weatherization assistance program and $26,500,000 for the State energy conservation program.

ECONOMIC REGULATION

For necessary expenses in carrying out the activities of the Economic Regulatory Administration and the Office of Hearings and Appeals, $6,297,000, to remain available until expended.

STRATEGIC PETROLEUM RESERVE

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for Strategic Petroleum Reserve facility development and operations and program management activities pursuant to the Energy Policy and Conservation Act of 1975, as amended (42 U.S.C. 6201 et seq.), $287,000,000, to remain available until expended, of which $187,000,000 shall be derived by transfer of unobligated balances from the "SPR petroleum account" and $100,000,000 shall be derived by transfer from the "SPR Decommissioning Fund": *Provided,* That notwithstanding section 161 of the Energy Policy and Conservation Act, the Secretary shall draw down and sell up to seven million barrels of oil from the Strategic Petroleum Reserve: *Provided further,* That the proceeds from the sale shall be deposited into a special account in the Treasury, to be established and known as the "SPR Decommissioning Fund", and shall be available for the purpose of removal of oil from and decommissioning of the Weeks Island site and for other purposes related to the operations of the Strategic Petroleum Reserve.

SPR PETROLEUM ACCOUNT

Notwithstanding 42 U.S.C. 6240(d) the United States share of crude oil in Naval Petroleum Reserve Numbered 1 (Elk Hills) may be sold or otherwise disposed of to other than the Strategic Petroleum Reserve: *Provided,* That outlays in fiscal year 1996 resulting from the use of funds in this account shall not exceed $5,000,000.

ENERGY INFORMATION ADMINISTRATION

For necessary expenses in carrying out the activities of the Energy Information Administration, $72,266,000, to remain available until expended: *Provided,* That notwithstanding section 4(d) of the Service Contract Act of 1965 (41 U.S.C. 353(d)) or any other provision of law, funds appropriated under this heading hereafter may be used to enter into a contract for end use consumption surveys for a term not to exceed eight years: *Provided further,* That notwithstanding any other provision of law, hereafter the Manufacturing Energy Consumption Survey shall be conducted on a triennial basis. 42 USC 7135 note.

ADMINISTRATIVE PROVISIONS, DEPARTMENT OF ENERGY

Appropriations under this Act for the current fiscal year shall be available for hire of passenger motor vehicles; hire, maintenance, and operation of aircraft; purchase, repair, and cleaning of uniforms; and reimbursement to the General Services Administration for security guard services.

From appropriations under this Act, transfers of sums may be made to other agencies of the Government for the performance of work for which the appropriation is made.

None of the funds made available to the Department of Energy under this Act shall be used to implement or finance authorized price support or loan guarantee programs unless specific provision is made for such programs in an appropriations Act.

The Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, private, or foreign: *Provided,* That revenues and other moneys received by or for the account of the Department of Energy or otherwise generated by sale of products in connection with projects of the Department appropriated under this Act may be retained by the Secretary of Energy, to be available until expended, and used only for plant construction, operation, costs, and payments to cost-sharing entities as provided in appropriate cost-sharing contracts or agreements: *Provided further,* That the remainder of revenues after the making of such payments shall be covered into the Treasury as miscellaneous receipts: *Provided further,* That any contract, agreement, or provision thereof entered into by the Secretary pursuant to this authority shall not be executed prior to the expiration of 30 calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) from the receipt by the Speaker of the House of Representatives and the President of the Senate of a full comprehensive report on such project, including the facts and circumstances relied upon in support of the proposed project. Reports.

No funds provided in this Act may be expended by the Department of Energy to prepare, issue, or process procurement documents for programs or projects for which appropriations have not been made.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

INDIAN HEALTH SERVICE

INDIAN HEALTH SERVICES

For expenses necessary to carry out the Act of August 5, 1954 (68 Stat. 674), the Indian Self-Determination Act, the Indian Health Care Improvement Act, and titles II and III of the Public Health Service Act with respect to the Indian Health Service, $1,747,842,000, together with payments received during the fiscal year pursuant to 42 U.S.C. 300aaa–2 for services furnished by the Indian Health Service: *Provided,* That funds made available to tribes and tribal organizations through contracts, grant agreements, or any other agreements or compacts authorized by the Indian Self-Determination and Education Assistance Act of 1975 (88 Stat. 2203; 25 U.S.C. 450), shall be deemed to be obligated at the time of the grant or contract award and thereafter shall remain available to the tribe or tribal organization without fiscal year limitation: *Provided further,* That $12,000,000 shall remain available until expended, for the Indian Catastrophic Health Emergency Fund: *Provided further,* That $350,564,000 for contract medical care shall remain available for obligation until September 30, 1997: *Provided further,* That of the funds provided, not less than $11,306,000 shall be used to carry out the loan repayment program under section 108 of the Indian Health Care Improvement Act, as amended: *Provided further,* That funds provided in this Act may be used for one-year contracts and grants which are to be performed in two fiscal years, so long as the total obligation is recorded in the year for which the funds are appropriated: *Provided further,* That the amounts collected by the Secretary of Health and Human Services under the authority of title IV of the Indian Health Care Improvement Act shall be available for two fiscal years after the fiscal year in which they were collected, for the purpose of achieving compliance with the applicable conditions and requirements of titles XVIII and XIX of the Social Security Act (exclusive of planning, design, or construction of new facilities): *Provided further,* That of the funds provided, $7,500,000 shall remain available until expended, for the Indian Self-Determination Fund, which shall be available for the transitional costs of initial or expanded tribal contracts, grants or cooperative agreements with the Indian Health Service under the provisions of the Indian Self-Determination Act: *Provided further,* That funding contained herein, and in any earlier appropriations Acts for scholarship programs under the Indian Health Care Improvement Act (25 U.S.C. 1613) shall remain available for obligation until September 30, 1997: *Provided further,* That amounts received by tribes and tribal organizations under title IV of the Indian Health Care Improvement Act, as amended, shall be reported and accounted for and available to the receiving tribes and tribal organizations until expended.

INDIAN HEALTH FACILITIES

For construction, repair, maintenance, improvement, and equipment of health and related auxiliary facilities, including quarters for personnel; preparation of plans, specifications, and drawings; acquisition of sites, purchase and erection of modular buildings, and purchases of trailers; and for provision of domestic and community sanitation facilities for Indians, as authorized by section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a), the Indian Self-Determination Act and the Indian Health Care Improvement Act, and for expenses necessary to carry out the Act of August 5, 1954 (68 Stat. 674), the Indian Self-Determination Act, the Indian Health Care Improvement Act, and titles II and III of the Public Health Service Act with respect to environmental health and facilities support activities of the Indian Health Service, $238,958,000, to remain available until expended: *Provided,* That notwithstanding any other provision of law, funds appropriated for the planning, design, construction or renovation of health facilities for the benefit of an Indian tribe or tribes may be used to purchase land for sites to construct, improve, or enlarge health or related facilities.

ADMINISTRATIVE PROVISIONS, INDIAN HEALTH SERVICE

Appropriations in this Act to the Indian Health Service shall be available for services as authorized by 5 U.S.C. 3109 but at rates not to exceed the per diem rate equivalent to the maximum rate payable for senior-level positions under 5 U.S.C. 5376; hire of passenger motor vehicles and aircraft; purchase of medical equipment; purchase of reprints; purchase, renovation and erection of modular buildings and renovation of existing facilities; payments for telephone service in private residences in the field, when authorized under regulations approved by the Secretary; and for uniforms or allowances therefor as authorized by law (5 U.S.C. 5901–5902); and for expenses of attendance at meetings which are concerned with the functions or activities for which the appropriation is made or which will contribute to improved conduct, supervision, or management of those functions or activities: *Provided,* That in accordance with the provisions of the Indian Health Care Improvement Act, non-Indian patients may be extended health care at all tribally administered or Indian Health Service facilities, subject to charges, and the proceeds along with funds recovered under the Federal Medical Care Recovery Act (42 U.S.C. 2651–53) shall be credited to the account of the facility providing the service and shall be available without fiscal year limitation: *Provided further,* That notwithstanding any other law or regulation, funds transferred from the Department of Housing and Urban Development to the Indian Health Service shall be administered under Public Law 86–121 (the Indian Sanitation Facilities Act) and Public Law 93–638, as amended: *Provided further,* That funds appropriated to the Indian Health Service in this Act, except those used for administrative and program direction purposes, shall not be subject to limitations directed at curtailing Federal travel and transportation: *Provided further,* That the Indian Health Service shall neither bill nor charge those Indians who may have the economic means to pay unless and until such time as Congress has agreed upon a specific policy to do so and has directed the Indian Health Service to implement such a policy: *Provided further,* That, notwithstanding any other provision of law, funds previously or herein

25 USC 1681.

made available to a tribe or tribal organization through a contract, grant or agreement authorized by title I of the Indian Self-Determination and Education Assistance Act of 1975 (88 Stat. 2203; 25 U.S.C. 450), may be deobligated and reobligated to a self-governance funding agreement under title III of the Indian Self-Determination and Education Assistance Act of 1975 and thereafter shall remain available to the tribe or tribal organization without fiscal year limitation: *Provided further,* That none of the funds made available to the Indian Health Service in this Act shall be used to implement the final rule published in the Federal Register on September 16, 1987, by the Department of Health and Human Services, relating to eligibility for the health care services of the Indian Health Service until the Indian Health Service has submitted a budget request reflecting the increased costs associated with the proposed final rule, and such request has been included in an appropriations Act and enacted into law: *Provided further,* That funds made available in this Act are to be apportioned to the Indian Health Service as appropriated in this Act, and accounted for in the appropriation structure set forth in this Act: *Provided further,* That the appropriation structure for the Indian Health Service may not be altered without advance approval of the House and Senate Committees on Appropriations.

DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

INDIAN EDUCATION

For necessary expenses to carry out, to the extent not otherwise provided, title IX, part A, subpart 1 of the Elementary and Secondary Education Act of 1965, as amended, and section 215 of the Department of Education Organization Act, $52,500,000.

OTHER RELATED AGENCIES

OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION

SALARIES AND EXPENSES

For necessary expenses of the Office of Navajo and Hopi Indian Relocation as authorized by Public Law 93–531, $20,345,000, to remain available until expended: *Provided,* That funds provided in this or any other appropriations Act are to be used to relocate eligible individuals and groups including evictees from District 6, Hopi-partitioned lands residents, those in significantly substandard housing, and all others certified as eligible and not included in the preceding categories: *Provided further,* That none of the funds contained in this or any other Act may be used by the Office of Navajo and Hopi Indian Relocation to evict any single Navajo or Navajo family who, as of November 30, 1985, was physically domiciled on the lands partitioned to the Hopi Tribe unless a new or replacement home is provided for such household: *Provided further,* That no relocatee will be provided with more than one new or replacement home: *Provided further,* That the Office shall relocate any certified eligible relocatees who have selected and received an approved homesite on the Navajo reservation or selected

a replacement residence off the Navajo reservation or on the land acquired pursuant to 25 U.S.C. 640d–10.

INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT

PAYMENT TO THE INSTITUTE

For payment to the Institute of American Indian and Alaska Native Culture and Arts Development, as authorized by title XV of Public Law 99–498 (20 U.S.C. 4401 et seq.), $5,500,000.

SMITHSONIAN INSTITUTION

SALARIES AND EXPENSES

For necessary expenses of the Smithsonian Institution, as authorized by law, including research in the fields of art, science, and history; development, preservation, and documentation of the National Collections; presentation of public exhibits and performances; collection, preparation, dissemination, and exchange of information and publications; conduct of education, training, and museum assistance programs; maintenance, alteration, operation, lease (for terms not to exceed thirty years), and protection of buildings, facilities, and approaches; not to exceed $100,000 for services as authorized by 5 U.S.C. 3109; up to 5 replacement passenger vehicles; purchase, rental, repair, and cleaning of uniforms for employees; $311,188,000, of which not to exceed $3,000,000 for voluntary incentive payments and other costs associated with employee separations pursuant to section 339 of this Act shall remain available until expended, and of which not to exceed $30,472,000 for the instrumentation program, collections acquisition, Museum Support Center equipment and move, exhibition reinstallation, the National Museum of the American Indian, the repatriation of skeletal remains program, research equipment, information management, and Latino programming shall remain available until expended and, including such funds as may be necessary to support American overseas research centers and a total of $125,000 for the Council of American Overseas Research Centers: *Provided*, That funds appropriated herein are available for advance payments to independent contractors performing research services or participating in official Smithsonian presentations.

CONSTRUCTION AND IMPROVEMENTS, NATIONAL ZOOLOGICAL PARK

For necessary expenses of planning, construction, remodeling, and equipping of buildings and facilities at the National Zoological Park, by contract or otherwise, $3,250,000, to remain available until expended.

REPAIR AND RESTORATION OF BUILDINGS

For necessary expenses of repair and restoration of buildings owned or occupied by the Smithsonian Institution, by contract or otherwise, as authorized by section 2 of the Act of August 22, 1949 (63 Stat. 623), including not to exceed $10,000 for services as authorized by 5 U.S.C. 3109, $33,954,000, to remain available

until expended: *Provided*, That contracts awarded for environmental systems, protection systems, and exterior repair or restoration of buildings of the Smithsonian Institution may be negotiated with selected contractors and awarded on the basis of contractor qualifications as well as price.

CONSTRUCTION

For necessary expenses for construction, $27,700,000, to remain available until expended.

NATIONAL GALLERY OF ART

SALARIES AND EXPENSES

For the upkeep and operations of the National Gallery of Art, the protection and care of the works of art therein, and administrative expenses incident thereto, as authorized by the Act of March 24, 1937 (50 Stat. 51), as amended by the public resolution of April 13, 1939 (Public Resolution 9, Seventy-sixth Congress), including services as authorized by 5 U.S.C. 3109; payment in advance when authorized by the treasurer of the Gallery for membership in library, museum, and art associations or societies whose publications or services are available to members only, or to members at a price lower than to the general public; purchase, repair, and cleaning of uniforms for guards, and uniforms, or allowances therefor, for other employees as authorized by law (5 U.S.C. 5901–5902); purchase or rental of devices and services for protecting buildings and contents thereof, and maintenance, alteration, improvement, and repair of buildings, approaches, and grounds; and purchase of services for restoration and repair of works of art for the National Gallery of Art by contracts made, without advertising, with individuals, firms, or organizations at such rates or prices and under such terms and conditions as the Gallery may deem proper, $51,844,000, of which not to exceed $3,026,000 for the special exhibition program shall remain available until expended.

REPAIR, RESTORATION AND RENOVATION OF BUILDINGS

For necessary expenses of repair, restoration and renovation of buildings, grounds and facilities owned or occupied by the National Gallery of Art, by contract or otherwise, as authorized, $6,442,000, to remain available until expended: *Provided,* That contracts awarded for environmental systems, protection systems, and exterior repair or renovation of buildings of the National Gallery of Art may be negotiated with selected contractors and awarded on the basis of contractor qualifications as well as price.

JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

OPERATIONS AND MAINTENANCE

For necessary expenses for the operation, maintenance and security of the John F. Kennedy Center for the Performing Arts, $10,323,000: *Provided,* That 40 U.S.C. 193n is hereby amended by striking the word "and" after the word "Institution" and inserting in lieu thereof a comma, and by inserting "and the Trustees of

the John F. Kennedy Center for the Performing Arts," after the word "Art,".

CONSTRUCTION

For necessary expenses of capital repair and rehabilitation of the existing features of the building and site of the John F. Kennedy Center for the Performing Arts, $8,983,000, to remain available until expended.

WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS

SALARIES AND EXPENSES

For expenses necessary in carrying out the provisions of the Woodrow Wilson Memorial Act of 1968 (82 Stat. 1356) including hire of passenger vehicles and services as authorized by 5 U.S.C. 3109, $5,840,000.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

NATIONAL ENDOWMENT FOR THE ARTS

GRANTS AND ADMINISTRATION

For necessary expenses to carry out the National Foundation on the Arts and the Humanities Act of 1965, as amended, $82,259,000, shall be available to the National Endowment for the Arts for the support of projects and productions in the arts through assistance to groups and individuals pursuant to section 5(c) of the Act, and for administering the functions of the Act, to remain available until September 30, 1997.

MATCHING GRANTS

To carry out the provisions of section 10(a)(2) of the National Foundation on the Arts and the Humanities Act of 1965, as amended, $17,235,000, to remain available until September 30, 1997, to the National Endowment for the Arts, of which $7,500,000 shall be available for purposes of section 5(p)(1): *Provided,* That this appropriation shall be available for obligation only in such amounts as may be equal to the total amounts of gifts, bequests, and devises of money, and other property accepted by the Chairman or by grantees of the Endowment under the provisions of section 10(a)(2), subsections 11(a)(2)(A) and 11(a)(3)(A) during the current and preceding fiscal years for which equal amounts have not previously been appropriated.

NATIONAL ENDOWMENT FOR THE HUMANITIES

GRANTS AND ADMINISTRATION

For necessary expenses to carry out the National Foundation on the Arts and the Humanities Act of 1965, as amended, $94,000,000, shall be available to the National Endowment for the Humanities for support of activities in the humanities, pursuant to section 7(c) of the Act, and for administering the functions of the Act, to remain available until September 30, 1997.

MATCHING GRANTS

To carry out the provisions of section 10(a)(2) of the National Foundation on the Arts and the Humanities Act of 1965, as amended, $16,000,000, to remain available until September 30, 1997, of which $10,000,000 shall be available to the National Endowment for the Humanities for the purposes of section 7(h): *Provided,* That this appropriation shall be available for obligation only in such amounts as may be equal to the total amounts of gifts, bequests, and devises of money, and other property accepted by the Chairman or by grantees of the Endowment under the provisions of subsections 11(a)(2)(B) and 11(a)(3)(B) during the current and preceding fiscal years for which equal amounts have not previously been appropriated.

INSTITUTE OF MUSEUM SERVICES

GRANTS AND ADMINISTRATION

For carrying out title II of the Arts, Humanities, and Cultural Affairs Act of 1976, as amended, $21,000,000, to remain available until September 30, 1997.

ADMINISTRATIVE PROVISIONS

None of the funds appropriated to the National Foundation on the Arts and the Humanities may be used to process any grant or contract documents which do not include the text of 18 U.S.C. 1913: *Provided,* That none of the funds appropriated to the National Foundation on the Arts and the Humanities may be used for official reception and representation expenses.

COMMISSION OF FINE ARTS

SALARIES AND EXPENSES

For expenses made necessary by the Act establishing a Commission of Fine Arts (40 U.S.C. 104), $834,000.

NATIONAL CAPITAL ARTS AND CULTURAL AFFAIRS

For necessary expenses as authorized by Public Law 99–190 (99 Stat. 1261; 20 U.S.C. 956(a)), as amended, $6,000,000.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

SALARIES AND EXPENSES

For expenses necessary for the Advisory Council on Historic Preservation, $2,500,000.

NATIONAL CAPITAL PLANNING COMMISSION

SALARIES AND EXPENSES

For necessary expenses, as authorized by the National Capital Planning Act of 1952 (40 U.S.C. 71–71i), including services as authorized by 5 U.S.C. 3109, $5,090,000: *Provided,* That all appointed members will be compensated at a rate not to exceed the rate for Executive Schedule Level IV.

FRANKLIN DELANO ROOSEVELT MEMORIAL COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Franklin Delano Roosevelt Memorial Commission, established by the Act of August 11, 1955 (69 Stat. 694), as amended by Public Law 92–332 (86 Stat. 401), $147,000, to remain available until September 30, 1997.

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

PUBLIC DEVELOPMENT

Funds made available under this heading in prior years shall be available for operating and administrative expenses and for the orderly closure of the Corporation, as well as operating and administrative expenses for the functions transferred to the General Services Administration.

UNITED STATES HOLOCAUST MEMORIAL COUNCIL

HOLOCAUST MEMORIAL COUNCIL

For expenses of the Holocaust Memorial Council, as authorized by Public Law 96–388, as amended, $28,707,000; of which $1,575,000 for the Museum's repair and rehabilitation program and $1,264,000 for the Museum's exhibition program shall remain available until expended.

TITLE III—GENERAL PROVISIONS

Contracts.

SEC. 301. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 302. No part of any appropriation under this Act shall be available to the Secretary of the Interior or the Secretary of Agriculture for the leasing of oil and natural gas by noncompetitive bidding on publicly owned lands within the boundaries of the Shawnee National Forest, Illinois: *Provided,* That nothing herein is intended to inhibit or otherwise affect the sale, lease, or right to access to minerals owned by private individuals.

SEC. 303. No part of any appropriation contained in this Act shall be available for any activity or the publication or distribution of literature that in any way tends to promote public support or opposition to any legislative proposal on which congressional action is not complete.

SEC. 304. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 305. None of the funds provided in this Act to any department or agency shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of such department or agency except as otherwise provided by law.

SEC. 306. No assessments may be levied against any program, budget activity, subactivity, or project funded by this Act unless notice of such assessments and the basis therefor are presented to the Committees on Appropriations and are approved by such Committees.

SEC. 307. (a) COMPLIANCE WITH BUY AMERICAN ACT.—None of the funds made available in this Act may be expended by an entity unless the entity agrees that in expending the funds the entity will comply with sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a–10c; popularly known as the "Buy American Act").

(b) SENSE OF CONGRESS; REQUIREMENT REGARDING NOTICE.—

(1) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—In the case of any equipment or product that may be authorized to be purchased with financial assistance provided using funds made available in this Act, it is the sense of the Congress that entities receiving the assistance should, in expending the assistance, purchase only American-made equipment and products.

(2) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance using funds made available in this Act, the head of each Federal agency shall provide to each recipient of the assistance a notice describing the statement made in paragraph (1) by the Congress.

(c) PROHIBITION OF CONTRACTS WITH PERSONS FALSELY LABELING PRODUCTS AS MADE IN AMERICA.—If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a "Made in America" inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, the person shall be ineligible to receive any contract or subcontract made with funds made available in this Act, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

SEC. 308. None of the funds in this Act may be used to plan, prepare, or offer for sale timber from trees classified as giant sequoia (sequoiadendron giganteum) which are located on National Forest System or Bureau of Land Management lands in a manner different than such sales were conducted in fiscal year 1995.

SEC. 309. None of the funds made available by this Act may be obligated or expended by the National Park Service to enter into or implement a concession contract which permits or requires the removal of the underground lunchroom at the Carlsbad Caverns National Park.

SEC. 310. Where the actual costs of construction projects under self-determination contracts, compacts, or grants, pursuant to Public Laws 93–638, 103–413, or 100–297, are less than the estimated costs thereof, use of the resulting excess funds shall be determined by the appropriate Secretary after consultation with the tribes.

SEC. 311. Notwithstanding Public Law 103–413, quarterly payments of funds to tribes and tribal organizations under annual funding agreements pursuant to section 108 of Public Law 93–638, as amended, may be made on the first business day following the first day of a fiscal quarter.

SEC. 312. None of funds appropriated or otherwise made available by this Act may be used for the AmeriCorps program, unless the relevant agencies of the Department of the Interior and/or

Agriculture follow appropriate reprogramming guidelines: *Provided,* That if no funds are provided for the AmeriCorps program by the VA–HUD and Independent Agencies fiscal year 1996 appropriations bill, then none of the funds appropriated or otherwise made available by this Act may be used for the AmeriCorps programs.

Pennsylvania Avenue Development Corporation. Effective date. 40 USC 872 note.

SEC. 313. (a) On or before April 1, 1996, the Pennsylvania Avenue Development Corporation shall—

(1) transfer and assign in accordance with this section all of its rights, title, and interest in and to all of the leases, covenants, agreements, and easements it has executed or will execute by March 31, 1996, in carrying out its powers and duties under the Pennsylvania Avenue Development Corporation Act (40 U.S.C. 871–885) and the Federal Triangle Development Act (40 U.S.C. 1101–1109) to the General Services Administration, National Capital Planning Commission, or the National Park Service; and

(2) except as provided by subsection (d), transfer all rights, title, and interest in and to all property, both real and personal, held in the name of the Pennsylvania Avenue Development Corporation to the General Services Administration.

40 USC 872 note.

(b) The responsibilities of the Pennsylvania Avenue Development Corporation transferred to the General Services Administration under subsection (a) include, but are not limited to, the following:

(1) Collection of revenue owed the Federal Government as a result of real estate sales or lease agreements entered into by the Pennsylvania Avenue Development Corporation and private parties, including, at a minimum, with respect to the following projects:

(A) The Willard Hotel property on Square 225.

(B) The Gallery Row project on Square 457.

(C) The Lansburgh's project on Square 431.

(D) The Market Square North project on Square 407.

(2) Collection of sale or lease revenue owed the Federal Government (if any) in the event two undeveloped sites owned by the Pennsylvania Avenue Development Corporation on Squares 457 and 406 are sold or leased prior to April 1, 1996.

(3) Application of collected revenue to repay United States Treasury debt incurred by the Pennsylvania Avenue Development Corporation in the course of acquiring real estate.

(4) Performing financial audits for projects in which the Pennsylvania Avenue Development Corporation has actual or potential revenue expectation, as identified in paragraphs (1) and (2), in accordance with procedures described in applicable sale or lease agreements.

(5) Disposition of real estate properties which are or become available for sale and lease or other uses.

(6) Payment of benefits in accordance with the Uniform Relocation Assistance and Real Property Acquisitions Policies Act of 1970 to which persons in the project area squares are entitled as a result of the Pennsylvania Avenue Development Corporation's acquisition of real estate.

(7) Carrying out the responsibilities of the Pennsylvania Avenue Development Corporation under the Federal Triangle Development Act (40 U.S.C. 1101–1109), including responsibilities for managing assets and liabilities of the Corporation under such Act.

40 USC 872 note.

(c) In carrying out the responsibilities of the Pennsylvania Avenue Development Corporation transferred under this section, the Administrator of the General Services Administration shall have the following powers:

(1) To acquire lands, improvements, and properties by purchase, lease or exchange, and to sell, lease, or otherwise dispose of real or personal property as necessary to complete the development plan developed under section 5 of the Pennsylvania Avenue Development Corporation Act of 1972 (40 U.S.C. 874) if a notice of intention to carry out such acquisition or disposal is first transmitted to the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives and the Committee on Environment and Public Works and the Committee on Appropriations of the Senate and at least 60 days elapse after the date of such transmission.

(2) To modify from time to time the plan referred to in paragraph (1) if such modification is first transmitted to the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives and the Committee on Environment and Public Works and the Committee on Appropriations of the Senate and at least 60 days elapse after the date of such transmission.

(3) To maintain any existing Pennsylvania Avenue Development Corporation insurance programs.

(4) To enter into and perform such leases, contracts, or other transactions with any agency or instrumentality of the United States, the several States, or the District of Columbia or with any person, firm, association, or corporation as may be necessary to carry out the responsibilities of the Pennsylvania Avenue Development Corporation under the Federal Triangle Development Act (40 U.S.C. 1101–1109).

(5) To request the Council of the District of Columbia to close any alleys necessary for the completion of development in Square 457.

(6) To use all of the funds transferred from the Pennsylvania Avenue Development Corporation or income earned on Pennsylvania Avenue Development Corporation property to complete any pending development projects.

Effective date.
40 USC 872 note.

(d)(1)(A) On or before April 1, 1996, the Pennsylvania Avenue Development Corporation shall transfer all its right, title, and interest in and to the property described in subparagraph (B) to the National Park Service, Department of the Interior.

(B) The property referred to in subparagraph (A) is the property located within the Pennsylvania Avenue National Historic Site depicted on a map entitled "Pennsylvania Avenue National Historic Park", dated June 1, 1995, and numbered 840–82441, which shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior. The Pennsylvania Avenue National Historic Site includes the parks, plazas, sidewalks, special lighting, trees, sculpture, and memorials.

(2) Jurisdiction of Pennsylvania Avenue and all other roadways from curb to curb shall remain with the District of Columbia but vendors shall not be permitted to occupy street space except during temporary special events.

(3) The National Park Service shall be responsible for management, administration, maintenance, law enforcement, visitor serv-

Fish and Wildlife Service) and the Secretary of Agriculture (acting through the Forest Service) shall each implement a fee program to demonstrate the feasibility of user-generated cost recovery for the operation and maintenance of recreation areas or sites and habitat enhancement projects on Federal lands.

(b) In carrying out the pilot program established pursuant to this section, the appropriate Secretary shall select from areas under the jurisdiction of each of the four agencies referred to in subsection (a) no fewer than 10, but as many as 50, areas, sites or projects for fee demonstration. For each such demonstration, the Secretary, notwithstanding any other provision of law—

(1) shall charge and collect fees for admission to the area or for the use of outdoor recreation sites, facilities, visitor centers, equipment, and services by individuals and groups, or any combination thereof;

(2) shall establish fees under this section based upon a variety of cost recovery and fair market valuation methods to provide a broad basis for feasibility testing;

(3) may contract, including provisions for reasonable commissions, with any public or private entity to provide visitor services, including reservations and information, and may accept services of volunteers to collect fees charged pursuant to paragraph (1);

(4) may encourage private investment and partnerships to enhance the delivery of quality customer services and resource enhancement, and provide appropriate recognition to such partners or investors; and

(5) may assess a fine of not more than $100 for any violation of the authority to collect fees for admission to the area or for the use of outdoor recreation sites, facilities, visitor centers, equipment, and services.

(c)(1) Amounts collected at each fee demonstration area, site or project shall be distributed as follows:

(A) Of the amount in excess of 104% of the amount collected in fiscal year 1995, and thereafter annually adjusted upward by 4%, eighty percent to a special account in the Treasury for use without further appropriation, by the agency which administers the site, to remain available for expenditures in accordance with paragraph (2)(A).

(B) Of the amount in excess of 104% of the amount collected in fiscal year 1995, and thereafter annually adjusted upward by 4%, 20 percent to a special account in the Treasury for use without further appropriation, by the agency which administers the site, to remain available for expenditure in accordance with paragraph (2)(B).

(C) For agencies other than the Fish and Wildlife Service, up to 15% of current year collections of each agency, but not greater than fee collection costs for that fiscal year, to remain available for expenditure without further appropriation in accordance with paragraph (2)(C).

(D) For agencies other than the Fish and Wildlife Service, the balance to the special account established pursuant to subparagraph (A) of section 4(i)(1) of the Land and Water Conservation Fund Act, as amended.

(E) For the Fish and Wildlife Service, the balance shall be distributed in accordance with section 201(c) of the Emergency Wetlands Resources Act.

(2)(A) Expenditures from site specific special funds shall be for further activities of the area, site or project from which funds are collected, and shall be accounted for separately.

(B) Expenditures from agency specific special funds shall be for use on an agency-wide basis and shall be accounted for separately.

(C) Expenditures from the fee collection support fund shall be used to cover fee collection costs in accordance with section 4(i)(1)(B) of the Land and Water Conservation Fund Act, as amended: *Provided,* That funds unexpended and unobligated at the end of the fiscal year shall not be deposited into the special account established pursuant to section 4(i)(1)(A) of said Act and shall remain available for expenditure without further appropriation.

(3) In order to increase the quality of the visitor experience at public recreational areas and enhance the protection of resources, amounts available for expenditure under this section may only be used for the area, site or project concerned, for backlogged repair and maintenance projects (including projects relating to health and safety) and for interpretation, signage, habitat or facility enhancement, resource preservation, annual operation (including fee collection), maintenance, and law enforcement relating to public use. The agencywide accounts may be used for the same purposes set forth in the preceding sentence, but for areas, sites or projects selected at the discretion of the respective agency head.

(d)(1) Amounts collected under this section shall not be taken into account for the purposes of the Act of May 23, 1908 and the Act of March 1, 1911 (16 U.S.C. 500), the Act of March 4, 1913 (16 U.S.C. 501), the Act of July 22, 1937 (7 U.S.C. 1012), the Act of August 8, 1937 and the Act of May 24, 1939 (43 U.S.C. 1181f et seq.), the Act of June 14, 1926 (43 U.S.C. 869–4), chapter 69 of title 31, United States Code, section 401 of the Act of June 15, 1935 (16 U.S.C. 715s), the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l), and any other provision of law relating to revenue allocation.

(2) Fees charged pursuant to this section shall be in lieu of fees charged under any other provision of law.

(e) The Secretary of the Interior and the Secretary of Agriculture shall carry out this section without promulgating regulations.

(f) The authority to collect fees under this section shall commence on October 1, 1995, and end on September 30, 1998. Funds in accounts established shall remain available through September 30, 2001.

Effective date. Termination date.

SEC. 316. Section 2001(a)(2) of Public Law 104–19 is amended as follows: Strike "September 30, 1997" and insert in lieu thereof "December 31, 1996".

16 USC 1611 note.

SEC. 317. None of the funds made available in this Act may be used for any program, project, or activity when it is made known to the Federal entity or official to which the funds are made available that the program, project, or activity is not in compliance with any applicable Federal law relating to risk assessment, the protection of private property rights, or unfunded mandates.

SEC. 318. None of the funds provided in this Act may be made available for the Mississippi River Corridor Heritage Commission.

SEC. 319. GREAT BASIN NATIONAL PARK.—Section 3 of the Great Basin National Park Act of 1986 (16 U.S.C. 410mm–1) is amended—

(1) in the first sentence of subsection (e) by striking "shall" and inserting "may"; and

(2) in subsection (f)—

(A) by striking "At the request" and inserting the following:

"(1) EXCHANGES.—At the request";

(B) by striking "grazing permits" and inserting "grazing permits and grazing leases"; and

(C) by adding after "Federal lands." the following:

"(2) ACQUISITION BY DONATION.—

(A) IN GENERAL.—The Secretary may acquire by donation valid existing permits and grazing leases authorizing grazing on land in the park.

(B) TERMINATION.—The Secretary shall terminate a grazing permit or grazing lease acquired under subparagraph (A) so as to end grazing previously authorized by the permit or lease.".

SEC. 320. None of the funds made available in this Act shall be used by the Department of Energy in implementing the Codes and Standards Program to propose, issue, or prescribe any new or amended standard: *Provided,* That this section shall expire on September 30, 1996: *Provided further,* That nothing in this section shall preclude the Federal Government from promulgating rules concerning energy efficiency standards for the construction of new federally-owned commercial and residential buildings.

Termination date.

SEC. 321. None of the funds made available in this Act may be used (1) to demolish the bridge between Jersey City, New Jersey, and Ellis Island; or (2) to prevent pedestrian use of such bridge, when it is made known to the Federal official having authority to obligate or expend such funds that such pedestrian use is consistent with generally accepted safety standards.

SEC. 322. (a) None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to accept or process applications for a patent for any mining or mill site claim located under the general mining laws.

(b) The provisions of subsection (a) shall not apply if the Secretary of the Interior determines that, for the claim concerned: (1) a patent application was filed with the Secretary on or before September 30, 1994, and (2) all requirements established under sections 2325 and 2326 of the Revised Statutes (30 U.S.C. 29 and 30) for vein or lode claims and sections 2329, 2330, 2331, and 2333 of the Revised Statutes (30 U.S.C. 35, 36, and 37) for placer claims, and section 2337 of the Revised Statutes (30 U.S.C. 42) for mill site claims, as the case may be, were fully complied with by the applicant by that date.

(c) PROCESSING SCHEDULE.—For those applications for patents pursuant to subsection (b) which were filed with the Secretary of the Interior, prior to September 30, 1994, the Secretary of the Interior shall—

Reports.

(1) Within three months of the enactment of this Act, file with the House and Senate Committees on Appropriations and the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the United States Senate a plan which details how the Department of the Interior will make a final determination

as to whether or not an applicant is entitled to a patent under the general mining laws on at least 90 percent of such applications within five years of the enactment of this Act and file reports annually thereafter with the same committees detailing actions taken by the Department of the Interior to carry out such plan; and

(2) Take such actions as may be necessary to carry out such plan.

(d) MINERAL EXAMINATIONS.—In order to process patent applications in a timely and responsible manner, upon the request of a patent applicant, the Secretary of the Interior shall allow the applicant to fund a qualified third-party contractor to be selected by the Bureau of Land Managment to conduct a mineral examination of the mining claims or mill sites contained in a patent application as set forth in subsection (b). The Bureau of Land Management shall have the sole responsibility to choose and pay the third-party contractor in accordance with the standard procedures employed by the Bureau of Land Management in the retention of third-party contractors.

SEC. 323. None of the funds appropriated or otherwise made available by this Act may be used for the purposes of acquiring lands in the counties of Lawrence, Monroe, or Washington, Ohio, for the Wayne National Forest.

SEC. 324. No part of any appropriation contained in this Act or any other Act shall be expended or obligated to fund the activities of the Office of Forestry and Economic Development after December 31, 1995.

SEC. 325. (a) For one year after enactment of this Act, the Secretary shall continue the current Tongass Land Management Plan (TLMP) and may accommodate commercial tourism (if an agreement is signed between the Forest Service and the Alaska Visitors' Association) except that during this period, the Secretary shall maintain at least the number of acres of suitable available and suitable scheduled timber lands, and Allowable Sale Quantity as identified in the Preferred Alternative (Alternative P) in the Tongass Land and Resources Management Plan and Final Environmental Impact Statement (dated October 1992) as selected in the Record of Decision Review Draft #3–2/93. Nothing in this paragraph shall be interpreted to mandate clear-cutting or require the sale of timber and nothing in this paragraph, including the ASQ identified in Alternative P, shall be construed to limit the Secretary's consideration of new information or to prejudice future revision, amendment or modification of TLMP based upon sound, verifiable scientific data.

(b) If the Forest Service determines in a Supplemental Evaluation to an Environmental Impact Statement that no additional analysis under the National Environmental Policy Act or section 810 of the Alaska National Interest Lands Conservation Act is necessary for any timber sale or offering which has been prepared for acceptance by, or award to, a purchaser after December 31, 1988, that has been subsequently determined by the Forest Service to be available for sale or offering to one or more other purchaser, the change of purchasers for whatever reason shall not be considered a significant new circumstance, and the Forest Service may offer or award such timber sale or offering to a different purchaser or offeree, notwithstanding any other provision of law. A determina-

tion by the Forest Service pursuant to this paragraph shall not be subject to judicial review.

(c) The President is authorized to suspend the provisions of subsections (a) or (b), or both, if he determines that such suspension is appropriate based upon the public interest in sound environmental management, or protection of any cultural, biological, or historic resources. Any suspension by the President shall take effect on the date of execution, and continue in effect for such period, not to extend beyond the period in which this section would otherwise be in effect, as the President may determine, and shall be reported to the Congress prior to public release by the President. If the President suspends the provisions of subsections (a) or (b) or both, then such provisions shall have no legal force or effect during such suspension.

SEC. 326. (a) LAND EXCHANGE.—The Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to convey to the Boise Cascade Corporation (hereinafter referred to as the "Corporation"), a corporation formed under the statutes of the State of Delaware, with its principal place of business at Boise, Idaho, title to approximately seven acres of land, more or less, located in sections 14 and 23, township 36 north, range 37 east, Willamette Meridian, Stevens County, Washington, further identified in the records of the Bureau of Reclamation, Department of the Interior, as Tract No. GC–19860, and to accept from the Corporation in exchange therefor, title to approximately one hundred and thirty-six acres of land located in section 19, township 37 north, range 38 east and section 33, township 38 north, range 37 east, Willamette Meridian, Stevens County, Washington, and further identified in the records of the Bureau of Reclamation, Department of the Interior, as Tract No. GC–19858 and Tract No. GC–19859, respectively.

(b) APPRAISAL.—The properties so exchanged either shall be approximately equal in fair market value or if they are not approximately equal, shall be equalized by the payment of cash to the Corporation or to the Secretary as required or in the event the value of the Corporation's lands is greater, the acreage may be reduced so that the fair market value is approximately equal: *Provided,* That the Secretary shall order appraisals made of the fair market value of each tract of land included in the exchange without consideration for improvements thereon: *Provided further,* That any cash payment received by the Secretary shall be covered in the Reclamation Fund and credited to the Columbia Basin project.

(c) ADMINISTRATIVE COSTS.—Costs of conducting the necessary land surveys, preparing the legal descriptions of the lands to be conveyed, performing the appraisals, and administrative costs incurred in completing the exchange shall be borne by the Corporation.

(d) LIABILITY FOR HAZARDOUS SUBSTANCES.—(1) The Secretary shall not acquire any lands under this Act if the Secretary determines that such lands, or any portion thereof, have become contaminated with hazardous substances (as defined in the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601)).

(2) Notwithstanding any other provision of law, the United States shall have no responsibility or liability with respect to any hazardous wastes or other substances placed on any of the lands

covered by this Act after their transfer to the ownership of any party, but nothing in this Act shall be construed as either diminishing or increasing any responsibility or liability of the United States based on the condition of such lands on the date of their transfer to the ownership of another party. The Corporation shall indemnify the United States for liabilities arising under the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601), and the Resource Conservation Recovery Act (42 U.S.C. 6901 et seq.).

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

SEC. 327. TIMBER SALES PIPELINE RESTORATION FUNDS.—(a) The Secretary of Agriculture and the Secretary of the Interior shall each establish a Timber Sales Pipeline Restoration Fund (hereinafter "Agriculture Fund" and "Interior Fund" or "Funds"). Any revenues received from sales released under section 2001(k) of the fiscal year 1995 Supplemental Appropriations for Disaster Assistance and Rescissions Act, minus the funds necessary to make payments to States or local governments under other law concerning the distribution of revenues derived from the affected lands, which are in excess of $37,500,000 (hereinafter "excess revenues") shall be deposited into the Funds. The distribution of excess revenues between the Agriculture Fund and Interior Fund shall be calculated by multiplying the total of excess revenues times a fraction with a denominator of the total revenues received from all sales released under such section 2001(k) and numerators of the total revenues received from such sales on lands within the National Forest System and the total revenues received from such sales on lands administered by the Bureau of Land Management, respectively: *Provided,* That revenues or portions thereof from sales released under such section 2001(k), minus the amounts necessary for State and local government payments and other necessary deposits, may be deposited into the Funds immediately upon receipt thereof and subsequently redistributed between the Funds or paid into the United States Treasury as miscellaneous receipts as may be required when the calculation of excess revenues is made. 16 USC 1611 note.

(b)(1) From the funds deposited into the Agriculture Fund and into the Interior Fund pursuant to subsection (a)—

(A) seventy-five percent shall be available, without fiscal year limitation or further appropriation, for preparation of timber sales, other than salvage sales as defined in section 2001(a)(3) of the fiscal year 1995 Supplemental Appropriations for Disaster Assistance and Rescissions Act, which—

(i) are situated on lands within the National Forest System and lands administered by the Bureau of Land Management, respectively; and

(ii) are in addition to timber sales for which funds are otherwise available in this Act or other appropriations Acts; and

(B) twenty-five percent shall be available, without fiscal year limitation or further appropriation, to expend on the backlog of recreation projects on lands within the National Forest System and lands administered by the Bureau of Land Management, respectively.

(2) Expenditures under this subsection for preparation of timber sales may include expenditures for Forest Service activities within

the forest land management budget line item and associated timber roads, and Bureau of Land Management activities within the Oregon and California grant lands account and the forestry management area account, as determined by the Secretary concerned.

(c) Revenues received from any timber sale prepared under subsection (b) or under this subsection, minus the amounts necessary for State and local government payments and other necessary deposits, shall be deposited into the Fund from which funds were expended on such sale. Such deposited revenues shall be available for preparation of additional timber sales and completion of additional recreation projects in accordance with the requirements set forth in subsection (b).

Federal Register, publication.

(d) The Secretary concerned shall terminate all payments into the Agriculture Fund or the Interior Fund, and pay any unobligated funds in the affected Fund into the United States Treasury as miscellaneous receipts, whenever the Secretary concerned makes a finding, published in the Federal Register, that sales sufficient to achieve the total allowable sales quantity of the National Forest System for the Forest Service or the allowable sales level for the Oregon and California grant lands for the Bureau of Land Management, respectively, have been prepared.

(e) Any timber sales prepared and recreation projects completed under this section shall comply with all applicable environmental and natural resource laws and regulations.

Reports.

(f) The Secretary concerned shall report annually to the Committees on Appropriations of the United States Senate and the House of Representatives on expenditures made from the Fund for timber sales and recreation projects, revenues received into the Fund from timber sales, and timber sale preparation and recreation project work undertaken during the previous year and projected for the next year under the Fund. Such information shall be provided for each Forest Service region and Bureau of Land Management State office.

Termination date.

(g) The authority of this section shall terminate upon the termination of both Funds in accordance with the provisions of subsection (d).

SEC. 328. Of the funds provided to the National Endowment for the Arts:

Grants.

(a) The Chairperson shall only award a grant to an individual if such grant is awarded to such individual for a literature fellowship, National Heritage Fellowship, or American Jazz Masters Fellowship.

Procedures.

(b) The Chairperson shall establish procedures to ensure that no funding provided through a grant, except a grant made to a State or regional group, may be used to make a grant to any other organization or individual to conduct activity independent of the direct grant recipient. Nothing in this subsection shall prohibit payments made in exchange for goods and services.

(c) No grant shall be used for seasonal support to a group, unless the application is specific to the contents of the season, including identified programs and/or projects.

SEC. 329. DELAY IN IMPLEMENTATION OF THE ADMINISTRATION'S RANGELAND REFORM PROGRAM.—None of the funds made available under this or any other Act may be used to implement or enforce the final rule published by the Secretary of the Interior on February 22, 1995 (60 Fed. Reg. 9894), making amendments to parts 4,

1780, and 4100 of title 43, Code of Federal Regulations, to take effect August 21, 1995, until November 21, 1995. None of the funds made available under this or any other Act may be used to publish proposed or enforce final regulations governing the management of livestock grazing on lands administered by the Forest Service until November 21, 1995.

SEC. 330. Section 1864 of title 18, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (2), by striking "twenty" and inserting "40";

(B) in paragraph (3), by striking "ten" and inserting "20";

(C) in paragraph (4), by striking "if damage exceeding $10,000 to the property of any individual results," and inserting "if damage to the property of any individual results or if avoidance costs have been incurred exceeding $10,000, in the aggregate,"; and

(D) in paragraph (4), by striking "ten" and inserting "20";

(2) in subsection (c) by striking "ten" and inserting "20";

(3) in subsection (d), by—

(A) striking "and" at the end of paragraph (2);

(B) striking the period at the end of paragraph (3) and inserting "; and"; and

(C) adding at the end the following:

"(4) the term 'avoidance costs' means costs incurred by any individual for the purpose of—

"(A) detecting a hazardous or injurious device; or

"(B) preventing death, serious bodily injury, bodily injury, or property damage likely to result from the use of a hazardous or injurious device in violation of subsection (a).";

(4) by adding at the end thereof the following:

"(e) Any person injured as the result of a violation of subsection (a) may commence a civil action on his own behalf against any person who is alleged to be in violation of subsection (a). The district courts shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, in such civil actions. The court may award, in addition to monetary damages for any injury resulting from an alleged violation of subsection (a), costs of litigation, including reasonable attorney and expert witness fees, to any prevailing or substantially prevailing party, whenever the court determines such award is appropriate.". Courts.

SEC. 331. (a) PURPOSES OF NATIONAL ENDOWMENT FOR THE ARTS.—Section 2 of the National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 951), sets out findings and purposes for which the National Endowment for the Arts was established, among which are—

(1) "The arts and humanities belong to all the people of the United States";

(2) "The arts and humanities reflect the high place accorded by the American people . . . to the fostering of mutual respect for the diverse beliefs and values of all persons and groups";

(3) "Public funding of the arts and humanities is subject to the conditions that traditionally govern the use of public

money [and] such funding should contribute to public support and confidence in the use of taxpayer funds"; and

(4) "Public funds provided by the Federal Government must ultimately serve public purposes the Congress defines".

(b) ADDITIONAL CONGRESSIONAL FINDINGS.—Congress further finds and declares that the use of scarce funds, which have been taken from all taxpayers of the United States, to promote, disseminate, sponsor, or produce any material or performance that—

(1) denigrates the religious objects or religious beliefs of the adherents of a particular religion, or

(2) depicts or describes, in a patently offensive way, sexual or excretory activities or organs,

is contrary to the express purposes of the National Foundation on the Arts and the Humanities Act of 1965, as amended.

(c) PROHIBITION ON FUNDING THAT IS NOT CONSISTENT WITH THE PURPOSES OF THE ACT.—Notwithstanding any other provision of law, none of the scarce funds which have been taken from all taxpayers of the United States and made available under this Act to the National Endowment for the Arts may be used to promote, disseminate, sponsor, or produce any material or performance that—

(1) denigrates the religious objects or religious beliefs of the adherents of a particular religion, or

(2) depicts or describes, in a patently offensive way, sexual or excretory activities or organs,

and this prohibition shall be strictly applied without regard to the content or viewpoint of the material or performance.

(d) SECTION NOT TO AFFECT OTHER WORKS.—Nothing in this section shall be construed to affect in any way the freedom of any artist or performer to create any material or performance using funds which have not been made available under this Act to the National Endowment for the Arts.

SEC. 332. For purposes related to the closure of the Bureau of Mines, funds made available to the United States Geological Survey, the United States Bureau of Mines, and the Bureau of Land Management shall be available for transfer, with the approval of the Secretary of the Interior, among the following accounts: United States Geological Survey, Surveys, investigations, and research; Bureau of Mines, Mines and minerals; and Bureau of Land Management, Management of lands and resources. The Secretary of Energy shall reimburse the Secretary of the Interior, in an amount to be determined by the Director of the Office of Management and Budget, for the expenses of the transferred functions between October 1, 1995 and the effective date of the transfers of function. Such transfers shall be subject to the reprogramming guidelines of the House and Senate Committees on Appropriations.

Guidelines.

SEC. 333. No funds appropriated under this or any other Act shall be used to review or modify sourcing areas previously approved under section 490(c)(3) of the Forest Resources Conservation and Shortage Relief Act of 1990 (Public Law 101–382) or to enforce or implement Federal regulations 36 CFR part 223 promulgated on September 8, 1995. The regulations and interim rules in effect prior to September 8, 1995 (36 CFR 223.48, 36 CFR 223.87, 36 CFR 223 Subpart D, 36 CFR 223 Subpart F, and 36 CFR 261.6) shall remain in effect. The Secretary of Agriculture or the Secretary of the Interior shall not adopt any policies concerning Public Law 101–382 or existing regulations that would restrain domestic

transportation or processing of timber from private lands or impose additional accountability requirements on any timber. The Secretary of Commerce shall extend until September 30, 1996, the order issued under section 491(b)(2)(A) of Public Law 101–382 and shall issue an order under section 491(b)(2)(B) of such law that will be effective October 1, 1996.

Extension date. Effective date. 16 USC 620c note.

SEC. 334. The National Park Service, in accordance with the Memorandum of Agreement between the United States National Park Service and the City of Vancouver dated November 4, 1994, shall permit general aviation on its portion of Pearson Field in Vancouver, Washington until the year 2022, during which time a plan and method for transitioning from general aviation aircraft to historic aircraft shall be completed; such transition to be accomplished by that date. This action shall not be construed to limit the authority of the Federal Aviation Administration over air traffic control or aviation activities at Pearson Field or limit operations and airspace of Portland International Airport.

Washington. Aviation.

SEC. 335. The United States Forest Service approval of Alternative site 2 (ALT 2), issued on December 6, 1993, is hereby authorized and approved and shall be deemed to be consistent with, and permissible under, the terms of Public Law 100–696 (the Arizona-Idaho Conservation Act of 1988).

SEC. 336. None of the funds made available to the Department of the Interior or the Department of Agriculture by this or any other Act may be used to issue or implement final regulations, rules, or policies pursuant to Title VIII of the Alaska National Interest Lands Conservation Act to assert jurisdiction, management, or control over navigable waters transferred to the State of Alaska pursuant to the Submerged Lands Act of 1953 or the Alaska Statehood Act of 1959.

SEC. 337. Directs the Department of the Interior to transfer to the Daughters of the American Colonists a plaque in the possession of the National Park Service. The Park Service currently has this plaque in storage and this provision provides for its return to the organization that originally placed the plaque on the Great Southern Hotel in Saint Louis, Missouri in 1933 to mark the site of Fort San Carlos.

Daughters of the American Colonists.

SEC. 338. Upon enactment of this Act, all funds obligated in fiscal year 1996 under "Salaries and expenses", Pennsylvania Avenue Development Corporation are to be offset by unobligated balances made available under this Act under the account "Public development", Pennsylvania Avenue Development Corporation and all funds obligated in fiscal year 1996 under "International forestry", Forest Service are to be offset, as appropriate, by funds made available under this Act under the accounts "Forest research", "State and private forestry", "National forest system", and "Construction" in the Forest Service.

SEC. 339. (a) Notwithstanding any other provision of law, in order to avoid or minimize the need for involuntary separations due to a reduction in force, reorganizations, transfer of function, or other similar action, the Secretary of the Smithsonian Institution may pay, or authorize the payment of, voluntary separation incentive payments to Smithsonian Institution employees who separate from Federal service voluntarily through October 1, 1996 (whether by retirement or resignation).

5 USC 5597 note.

(b) A voluntary separation incentive payment—

(1) shall be paid in a lump sum after the employee's separation in an amount to be determined by the Secretary, but shall not exceed $25,000; and

(2) shall not be a basis for payment, and shall not be included in the computation, of any other type of benefit.

(c)(1) An employee who has received a voluntary separation incentive payment under this section and accepts employment with any agency or instrumentality of the United States within 5 years after the date of the separation on which the payment is based shall be required to repay the entire amount of the incentive payment to the Smithsonian Institution.

(2) The repayment required by paragraph (1) may be waived only by the Secretary.

(d) In addition to any other payments which it is required to make under subchapter III of chapter 83 of title 5, United States Code, the Smithsonian shall remit to the Office of Personnel Management for deposit in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund an amount equal to 15 percent of the final basic pay of each employee of the Smithsonian to whom a voluntary separation incentive payment has been paid.

This Act may be cited as the "Department of the Interior and Related Agencies Appropriations Act, 1996".

(d) For programs, projects or activities in the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1996, provided as follows, to be effective as if it had been enacted into law as the regular appropriations Act:

Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1996.
Department of Labor Appropriations Act, 1996.

AN ACT

Making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1996 and for other purposes.

TITLE I—DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

TRAINING AND EMPLOYMENT SERVICES

For expenses necessary to carry into effect the Job Training Partnership Act, as amended, including the purchase and hire of passenger motor vehicles, the construction, alteration, and repair of buildings and other facilities, and the purchase of real property for training centers as authorized by the Job Training Partnership Act; title II of the Civil Rights Act of 1991; the Women in Apprenticeship and Nontraditional Occupations Act; National Skill Standards Act of 1994; and the School-to-Work Opportunities Act; $4,146,278,000 plus reimbursements, of which $3,226,559,000 is available for obligation for the period July 1, 1996 through June 30, 1997; of which $121,467,000 is available for the period July 1, 1996 through June 30, 1999 for necessary expenses of construction, rehabilitation, and acquisition of Job Corps centers; and of which $170,000,000 shall be available from July 1, 1996 through September 30, 1997, for carrying out activities of the School-to-Work Opportunities Act: *Provided,* That $52,502,000 shall be for carrying out section 401 of the Job Training Partnership Act,

$69,285,000 shall be for carrying out section 402 of such Act, $7,300,000 shall be for carrying out section 441 of such Act, $8,000,000 shall be for all activities conducted by and through the National Occupational Information Coordinating Committee under such Act, $850,000,000 shall be for carrying out title II, part A of such Act, $126,672,000 shall be for carrying out title II, part C of such Act and $2,500,000 shall be available for obligation from October 1, 1995 through September 30, 1996 to support short-term training and employment-related activities incurred by the organizer of the 1996 Paralympic Games: *Provided further,* That no funds from any other appropriation shall be used to provide meal services at or for Job Corps centers: *Provided further,* That notwithstanding any other provision of law, the Secretary of Labor may waive any of the requirements contained in sections 4, 104, 105, 107, 108, 121, 164, 204, 253, 254, 264, 301, 311, 313, 314, and 315 of the Job Training Partnership Act in order to assist States in improving State workforce development systems, pursuant to a request submitted by a State that has prior to the date of enactment of this Act executed a Memorandum of Understanding with the United States requiring such State to meet agreed upon outcomes: *Provided further,* That funds used from this Act to carry out title III of the Job Training Partnership Act shall not be subject to the limitation contained in subsection (b) of section 315 of such Act; that the waiver allowing a reduction in the cost limitation relating to retraining services described in subsection (a)(2) of such section 315 may be granted with respect to funds from this Act if a substate grantee demonstrates to the Governor that such waiver is appropriate due to the availability of low-cost retraining services, is necessary to facilitate the provision of needs-related payments to accompany long-term training, or is necessary to facilitate the provision of appropriate basic readjustment services and that funds used from this Act to carry out the Secretary's discretionary grants under part B of such title III may be used to provide needs-related payments to participants who, in lieu of meeting the requirements relating to enrollment in training under section 314(e) of such Act, are enrolled in training by the end of the sixth week after funds have been awarded: *Provided further,* That service delivery areas may transfer funding provided herein under authority of titles II–B and II–C of the Job Training Partnership Act between the programs authorized by those titles of that Act, if such transfer is approved by the Governor: *Provided further,* That service delivery areas and substate areas may transfer funding provided herein under authority of title II–A and title III of the Job Training Partnership Act between the programs authorized by those titles of the Act, if such transfer is approved by the Governor: *Provided further,* That, notwithstanding any other provision of law, any proceeds from the sale of Job Corps Center facilities shall be retained by the Secretary of Labor to carry out the Job Corps program.

COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

To carry out the activities for national grants or contracts with public agencies and public or private nonprofit organizations under paragraph (1)(A) of section 506(a) of title V of the Older Americans Act of 1965, as amended, or to carry out older worker activities as subsequently authorized, $290,940,000.

To carry out the activities for grants to States under paragraph (3) of section 506(a) of title V of the Older Americans Act of 1965, as amended, or to carry out older worker activities as subsequently authorized, $82,060,000.

FEDERAL UNEMPLOYMENT BENEFITS AND ALLOWANCES

For payments during the current fiscal year of trade adjustment benefit payments and allowances under part I, and for training, for allowances for job search and relocation, and for related State administrative expenses under part II, subchapters B and D, chapter 2, title II of the Trade Act of 1974, as amended, $346,100,000, together with such amounts as may be necessary to be charged to the subsequent appropriation for payments for any period subsequent to September 15 of the current year.

STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS

For activities authorized by the Act of June 6, 1933, as amended (29 U.S.C. 49–49l–1; 39 U.S.C. 3202(a)(1)(E)); title III of the Social Security Act, as amended (42 U.S.C. 502–504); necessary administrative expenses for carrying out 5 U.S.C. 8501–8523, and sections 225, 231–235, 243–244, and 250(d)(1), 250(d)(3), title II of the Trade Act of 1974, as amended; as authorized by section 7c of the Act of June 6, 1933, as amended, necessary administrative expenses under sections 101(a)(15)(H), 212(a)(5)(A), (m) (2) and (3), (n)(1), and 218(g) (1), (2), and (3), and 258(c) of the Immigration and Nationality Act, as amended (8 U.S.C. 1101 et seq.); necessary administrative expenses to carry out section 221(a) of the Immigration Act of 1990, $135,328,000, together with not to exceed $3,102,194,000 (including not to exceed $1,653,000 which may be used for amortization payments to States which had independent retirement plans in their State employment service agencies prior to 1980, and including not to exceed $2,000,000 which may be obligated in contracts with non-State entities for activities such as occupational and test research activities which benefit the Federal-State Employment Service System), which may be expended from the Employment Security Administration account in the Unemployment Trust Fund, and of which the sums available in the allocation for activities authorized by title III of the Social Security Act, as amended (42 U.S.C. 502–504), and the sums available in the allocation for necessary administrative expenses for carrying out 5 U.S.C. 8501–8523, shall be available for obligation by the States through December 31, 1996, except that funds used for automation acquisitions shall be available for obligation by States through September 30, 1998; and of which $133,452,000, together with not to exceed $738,283,000 of the amount which may be expended from said trust fund shall be available for obligation for the period July 1, 1996, through June 30, 1997, to fund activities under the Act of June 6, 1933, as amended, including the cost of penalty mail made available to States in lieu of allotments for such purpose, and of which $216,333,000 shall be available only to the extent necessary for additional State allocations to administer unemployment compensation laws to finance increases in the number of unemployment insurance claims filed and claims paid or changes in a State law: *Provided,* That to the extent that the Average Weekly Insured Unemployment (AWIU)

for fiscal year 1996 is projected by the Department of Labor to exceed 2.785 million, an additional $28,600,000 shall be available for obligation for every 100,000 increase in the AWIU level (including a pro rata amount for any increment less than 100,000) from the Employment Security Administration Account of the Unemployment Trust Fund: *Provided further,* That funds appropriated in this Act which are used to establish a national one-stop career center network may be obligated in contracts, grants or agreements with non-State entities: *Provided further,* That funds appropriated under this Act for activities authorized under the Wagner-Peyser Act, as amended, and title III of the Social Security Act, may be used by the States to fund integrated Employment Service and Unemployment Insurance automation efforts, notwithstanding cost allocation principles prescribed under Office of Management and Budget Circular A–87.

ADVANCES TO THE UNEMPLOYMENT TRUST FUND AND OTHER FUNDS

For repayable advances to the Unemployment Trust Fund as authorized by sections 905(d) and 1203 of the Social Security Act, as amended, and to the Black Lung Disability Trust Fund as authorized by section 9501(c)(1) of the Internal Revenue Code of 1954, as amended; and for nonrepayable advances to the Unemployment Trust Fund as authorized by section 8509 of title 5, United States Code, and section 104(d) of Public Law 102–164, and section 5 of Public Law 103–6, and to the "Federal unemployment benefits and allowances" account, to remain available until September 30, 1997, $369,000,000.

In addition, for making repayable advances to the Black Lung Disability Trust Fund in the current fiscal year after September 15, 1996, for costs incurred by the Black Lung Disability Trust Fund in the current fiscal year, such sums as may be necessary.

ADVANCES TO THE EMPLOYMENT SECURITY ADMINISTRATION ACCOUNT OF THE UNEMPLOYMENT TRUST FUND

(RESCISSION)

Amounts remaining unobligated under this heading as of September 30, 1995, are hereby rescinded.

PAYMENTS TO THE UNEMPLOYMENT TRUST FUND AND OTHER FUNDS

(RESCISSION)

Of the amounts remaining unobligated under this heading as of September 30, 1995, $266,000,000 are hereby rescinded.

PROGRAM ADMINISTRATION

For expenses of administering employment and training programs and for carrying out section 908 of the Social Security Act, $83,054,000, together with not to exceed $40,793,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

PENSION AND WELFARE BENEFITS ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for Pension and Welfare Benefits Administration, $67,497,000.

PENSION BENEFIT GUARANTY CORPORATION

PENSION BENEFIT GUARANTY CORPORATION FUND

The Pension Benefit Guaranty Corporation is authorized to make such expenditures, including financial assistance authorized by section 104 of Public Law 96–364, within limits of funds and borrowing authority available to such Corporation, and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended (31 U.S.C. 9104), as may be necessary in carrying out the program through September 30, 1996, for such Corporation: *Provided,* That not to exceed $10,603,000 shall be available for administrative expenses of the Corporation: *Provided further,* That expenses of such Corporation in connection with the collection of premiums, the termination of pension plans, for the acquisition, protection or management, and investment of trust assets, and for benefits administration services shall be considered as non-administrative expenses for the purposes hereof, and excluded from the above limitation.

EMPLOYMENT STANDARDS ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Employment Standards Administration, including reimbursement to State, Federal, and local agencies and their employees for inspection services rendered, $265,637,000, together with $1,007,000 which may be expended from the Special Fund in accordance with sections 39(c) and 44(j) of the Longshore and Harbor Workers' Compensation Act: *Provided,* That the Secretary of Labor is authorized to accept, retain, and spend, until expended, in the name of the Department of Labor, all sums of money ordered to be paid to the Secretary of Labor, in accordance with the terms of the Consent Judgment in Civil Action No. 91–0027 of the United States District Court for the District of the Northern Mariana Islands (May 21, 1992): *Provided further,* That the Secretary of Labor is authorized to establish and, in accordance with 31 U.S.C. 3302, collect and deposit in the Treasury fees for processing applications and issuing certificates under sections 11(d) and 14 of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 211(d) and 214) and for processing applications and issuing registrations under Title I of the Migrant and Seasonal Agricultural Worker Protection Act, 29 U.S.C. 1801 et seq.

SPECIAL BENEFITS

(INCLUDING TRANSFER OF FUNDS)

For the payment of compensation, benefits, and expenses (except administrative expenses) accruing during the current or

any prior fiscal year authorized by title 5, chapter 81 of the United States Code; continuation of benefits as provided for under the head "Civilian War Benefits" in the Federal Security Agency Appropriation Act, 1947; the Employees' Compensation Commission Appropriation Act, 1944; and sections 4(c) and 5(f) of the War Claims Act of 1948 (50 U.S.C. App. 2012); and 50 per centum of the additional compensation and benefits required by section 10(h) of the Longshore and Harbor Workers' Compensation Act, as amended, $218,000,000 together with such amounts as may be necessary to be charged to the subsequent year appropriation for the payment of compensation and other benefits for any period subsequent to August 15 of the current year: *Provided,* That such sums as are necessary may be used under section 8104 of title 5, United States Code, by the Secretary to reimburse an employer, who is not the employer at the time of injury, for portions of the salary of a reemployed, disabled beneficiary: *Provided further,* That balances of reimbursements unobligated on September 30, 1995, shall remain available until expended for the payment of compensation, benefits, and expenses: *Provided further,* That in addition there shall be transferred to this appropriation from the Postal Service and from any other corporation or instrumentality required under section 8147(c) of title 5, United States Code, to pay an amount for its fair share of the cost of administration, such sums as the Secretary of Labor determines to be the cost of administration for employees of such fair share entities through September 30, 1996: *Provided further,* That of those funds transferred to this account from the fair share entities to pay the cost of administration, $19,383,000 shall be made available to the Secretary of Labor for expenditures relating to capital improvements in support of Federal Employees' Compensation Act administration, and the balance of such funds shall be paid into the Treasury as miscellaneous receipts: *Provided further,* That the Secretary may require that any person filing a notice of injury or a claim for benefits under Subchapter 5, U.S.C., chapter 81, or under subchapter 33, U.S.C. 901, et seq. (the Longshore and Harbor Workers' Compensation Act, as amended), provide as part of such notice and claim, such identifying information (including Social Security account number) as such regulations may prescribe.

BLACK LUNG DISABILITY TRUST FUND

(INCLUDING TRANSFER OF FUNDS)

For payments from the Black Lung Disability Trust Fund, $996,763,000, of which $949,494,000 shall be available until September 30, 1997, for payment of all benefits as authorized by section 9501(d) (1), (2), (4), and (7), of the Internal Revenue Code of 1954, as amended, and interest on advances as authorized by section 9501(c)(2) of that Act, and of which $27,350,000 shall be available for transfer to Employment Standards Administration, Salaries and Expenses, and $19,621,000 for transfer to Departmental Management, Salaries and Expenses, and $298,000 for transfer to Departmental Management, Office of Inspector General, for expenses of operation and administration of the Black Lung Benefits program as authorized by section 9501(d)(5)(A) of that Act: *Provided,* That in addition, such amounts as may be necessary may be charged to the subsequent year appropriation for the payment of compensation, interest, or other benefits for any period

subsequent to August 15 of the current year: *Provided further,* That in addition such amounts shall be paid from this fund into miscellaneous receipts as the Secretary of the Treasury determines to be the administrative expenses of the Department of the Treasury for administering the fund during the current fiscal year, as authorized by section 9501(d)(5)(B) of that Act.

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Occupational Safety and Health Administration, $304,984,000 including not to exceed $68,295,000 which shall be the maximum amount available for grants to States under section 23(g) of the Occupational Safety and Health Act, which grants shall be no less than fifty percent of the costs of State occupational safety and health programs required to be incurred under plans approved by the Secretary under section 18 of the Occupational Safety and Health Act of 1970; and, in addition, notwithstanding 31 U.S.C. 3302, the Occupational Safety and Health Administration may retain up to $750,000 per fiscal year of training institute course tuition fees, otherwise authorized by law to be collected, and may utilize such sums for occupational safety and health training and education grants: *Provided,* That none of the funds appropriated under this paragraph shall be obligated or expended to prescribe, issue, administer, or enforce any standard, rule, regulation, or order under the Occupational Safety and Health Act of 1970 which is applicable to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs ten or fewer employees: *Provided further,* That no funds appropriated under this paragraph shall be obligated or expended to administer or enforce any standard, rule, regulation, or order under the Occupational Safety and Health Act of 1970 with respect to any employer of ten or fewer employees who is included within a category having an occupational injury lost workday case rate, at the most precise Standard Industrial Classification Code for which such data are published, less than the national average rate as such rates are most recently published by the Secretary, acting through the Bureau of Labor Statistics, in accordance with section 24 of that Act (29 U.S.C. 673), except—

29 USC 670 note.

(1) to provide, as authorized by such Act, consultation, technical assistance, educational and training services, and to conduct surveys and studies;

(2) to conduct an inspection or investigation in response to an employee complaint, to issue a citation for violations found during such inspection, and to assess a penalty for violations which are not corrected within a reasonable abatement period and for any willful violations found;

(3) to take any action authorized by such Act with respect to imminent dangers;

(4) to take any action authorized by such Act with respect to health hazards;

(5) to take any action authorized by such Act with respect to a report of an employment accident which is fatal to one or more employees or which results in hospitalization of two

or more employees, and to take any action pursuant to such investigation authorized by such Act; and

(6) to take any action authorized by such Act with respect to complaints of discrimination against employees for exercising rights under such Act:

Provided further, That the foregoing proviso shall not apply to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs ten or fewer employees.

MINE SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Mine Safety and Health Administration, $196,673,000, including purchase and bestowal of certificates and trophies in connection with mine rescue and first-aid work, and the hire of passenger motor vehicles; the Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, or private; the Mine Safety and Health Administration is authorized to promote health and safety education and training in the mining community through cooperative programs with States, industry, and safety associations; and any funds available to the Department may be used, with the approval of the Secretary, to provide for the costs of mine rescue and survival operations in the event of a major disaster: *Provided,* That none of the funds appropriated under this paragraph shall be obligated or expended to carry out section 115 of the Federal Mine Safety and Health Act of 1977 or to carry out that portion of section 104(g)(1) of such Act relating to the enforcement of any training requirements, with respect to shell dredging, or with respect to any sand, gravel, surface stone, surface clay, colloidal phosphate, or surface limestone mine. 30 USC 962.

BUREAU OF LABOR STATISTICS

SALARIES AND EXPENSES

For necessary expenses for the Bureau of Labor Statistics, including advances or reimbursements to State, Federal, and local agencies and their employees for services rendered, $293,181,000, of which $11,549,000 shall be for expenses of revising the Consumer Price Index and shall remain available until September 30, 1997, together with not to exceed $51,278,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For necessary expenses for Departmental Management, including the hire of three sedans, and including up to $4,358,000 for the President's Committee on Employment of People With Disabilities, $141,047,000; together with not to exceed $303,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund: *Provided,* That no funds 33 USC 921 note.

made available by this Act may be used by the Solicitor of Labor to participate in a review in any United States court of appeals of any decision made by the Benefits Review Board under section 21 of the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 921) where such participation is precluded by the decision of the United States Supreme Court in *Director, Office of Workers' Compensation Programs* v. *Newport News Shipbuilding*, 115 S. Ct. 1278, (1995): *Provided further,* That no funds made available by this Act may be used by the Secretary of Labor after September 12, 1996, to review a decision under the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 901 et seq.) that has been appealed and that has been pending before the Benefits Review Board for more than 12 months, except as otherwise specified herein: *Provided further,* That any such decision pending a review by the Benefits Review Board for more than one year shall, if not acted upon by the Board before September 12, 1996, be considered affirmed by the Benefits Review Board on that date, and shall be considered the final order of the Board for purposes of obtaining a review in the United States courts of appeals: *Provided further*, that beginning on September 13, 1996, the Benefits Review Board shall make a decision on an appeal of a decision under the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 901 et seq.) not later than 1 year after the date the appeal to the Benefits Review Board was filed; however, if the Benefits Review Board fails to make a decision within the 1-year period, the decision under review shall be considered the final order of the Board for purposes of obtaining a review in the United States courts of appeals: *Provided further* that these provisions shall not be applicable to the review of any decision issued under the Black Lung Benefits Act (30 USC 901 et seq.).

Effective date.

Effective date.

Beginning on September 13, 1996, in any appeal to the Benefits Review Board that has been pending for one year, the petitioner may elect to maintain the proceeding before the Benefits Review Board for a period of 60 days. Such election shall be filed with the Board no later than 30 days prior to the end of the one-year period. If no decision is rendered during this 60-day period, the decision under review shall be considered affirmed by the Board on the last day of such period, and shall be considered the final order of the Board for purposes of obtaining a review in the United States courts of appeals.

Effective date.
33 USC 921 note.

WORKING CAPITAL FUND

The language under this heading in Public Law 85–67, as amended, is further amended by adding the following before the last period: ": *Provided further,* That within the Working Capital Fund, there is established an Investment in Reinvention Fund (IRF), which shall be available to invest in projects of the Department designed to produce measurable improvements in agency efficiency and significant taxpayer savings. Notwithstanding any other provision of law, the Secretary of Labor may retain up to $3,900,000 of the unobligated balances in the Department's annual Salaries and Expenses accounts as of September 30, 1995, and transfer those amounts to the IRF to provide the initial capital for the IRF, to remain available until expended, to make loans to agencies of the Department for projects designed to enhance productivity and generate cost savings. Such loans shall be repaid to the IRF no later than September 30 of the fiscal year following the fiscal

29 USC 563.

year in which the project is completed. Such repayments shall be deposited in the IRF, to be available without further appropriation action."

ASSISTANT SECRETARY FOR VETERANS EMPLOYMENT AND TRAINING

Not to exceed $170,390,000 may be derived from the Employment Security Administration account in the Unemployment Trust Fund to carry out the provisions of 38 U.S.C. 4100–4110A and 4321–4327, and Public Law 103–353, and which shall be available for obligation by the States through December 31, 1996.

OFFICE OF INSPECTOR GENERAL

For salaries and expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $44,426,000, together with not to exceed $3,615,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

GENERAL PROVISIONS

SEC. 101. None of the funds appropriated in this title for the Job Corps shall be used to pay the compensation of an individual, either as direct costs or any proration as an indirect cost, at a rate in excess of $125,000.

Ergonomics.

SEC. 102. None of the funds made available in this Act may be used by the Occupational Safety and Health Administration directly or through section 23(g) of the Occupational Safety and Health Act to promulgate or issue any proposed or final standard or guideline regarding ergonomic protection. Nothing in this section shall be construed to limit the Occupational Safety and Health Administration from conducting any peer reviewed risk assessment activity regarding ergonomics, including conducting peer reviews of the scientific basis for establishing any standard or guideline, direct or contracted research, or other activity necessary to fully establish the scientific basis for promulgating any standard or guideline on ergonomic protection.

(TRANSFER OF FUNDS)

SEC. 103. Not to exceed 1 percent of any appropriation made available for the current fiscal year for the Department of Labor in this Act may be transferred between such appropriations, but no such appropriation shall be increased by more than 3 percent by any such transfers: *Provided,* That the Appropriations Committees of both Houses of Congress are notified at least fifteen days in advance of any transfers.

SEC. 104. Funds shall be available for carrying out Title IV–B of the Job Training Partnership Act, notwithstanding section 427(c) of that Act, if a Job Corps center fails to meet national performance standards established by the Secretary.

This title may be cited as the "Department of Labor Appropriations Act, 1996".

Department of Health and Human Services Appropriations Act, 1996.

TITLE II—DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH RESOURCES AND SERVICES ADMINISTRATION

HEALTH RESOURCES AND SERVICES

For carrying out titles II, III, VII, VIII, X, XVI, XIX, and XXVI of the Public Health Service Act, section 427(a) of the Federal Coal Mine Health and Safety Act, title V of the Social Security Act, the Health Care Quality Improvement Act of 1986, as amended, Public Law 101–527, and the Native Hawaiian Health Care Act of 1988, as amended, $3,077,857,000, of which $391,700,000 shall be for part A of title XXVI of the Public Health Service Act and $260,847,000 shall be for part B of title XXVI of the Public Health Service Act, and of which $411,000 shall remain available until expended for interest subsidies on loan guarantees made prior to fiscal year 1981 under part B of title VII of the Public Health Service Act: *Provided,* That the Division of Federal Occupational Health may utilize personal services contracting to employ professional management/administrative, and occupational health professionals: *Provided further,* That of the funds made available under this heading, $858,000 shall be available until expended for facilities renovations at the Gillis W. Long Hansen's Disease Center: *Provided further,* That in addition to fees authorized by section 427(b) of the Health Care Quality Improvement Act of 1986, fees shall be collected for the full disclosure of information under the Act sufficient to recover the full costs of operating the National Practitioner Data Bank, and shall remain available until expended to carry out that Act: *Provided further,* That no more than $5,000,000 is available for carrying out the provisions of Public Law 104–73: *Provided further,* That of the funds made available under this heading, $193,349,000 shall be for the program under title X of the Public Health Service Act to provide for voluntary family planning projects: *Provided further,* That amounts provided to said projects under such title shall not be expended for abortions, that all pregnancy counseling shall be nondirective, and that such amounts shall not be expended for any activity (including the publication or distribution of literature) that in any way tends to promote public support or opposition to any legislative proposal or candidate for public office: *Provided further,* That notwithstanding any other provision of law, funds made available under this heading may be used to continue operating the Council on Graduate Medical Education established by section 301 of Public Law 102–408: *Provided further,* That the Secretary shall use amounts available for section 2603(b) of the Public Health Service Act as necessary to ensure that fiscal year 1996 grant awards made under section 2603(a) of such Act to eligible areas that received such grants in fiscal year 1995 are not less than 99 percent of the fiscal year 1995 level: *Provided further,* That funds made available under this heading for activities authorized by part A of title XXVI of the Public Health Service Act are available only for those metropolitan areas previously funded under Public Law 103–333 or with a cumulative total of more than 2,000 cases of AIDS, as reported to the Centers for Disease Control and Prevention as of March 31, 1995, and have a population of 500,000 or more: *Provided further,* That of the amounts provided for part B of title XXVI

Family planning.

Abortion.

AIDS.

of the Public Health Service Act $52,000,000 shall be used only for State AIDS Drug Assistance Programs authorized by section 2616 of the Public Health Service Act and shall be distributed to States as authorized by section 2618(b)(2) of such Act.

MEDICAL FACILITIES GUARANTEE AND LOAN FUND

FEDERAL INTEREST SUBSIDIES FOR MEDICAL FACILITIES

For carrying out subsections (d) and (e) of section 1602 of the Public Health Service Act, $8,000,000, together with any amounts received by the Secretary in connection with loans and loan guarantees under title VI of the Public Health Service Act, to be available without fiscal year limitation for the payment of interest subsidies. During the fiscal year, no commitments for direct loans or loan guarantees shall be made.

HEALTH EDUCATION ASSISTANCE LOANS PROGRAM

For the cost of guaranteed loans, such sums as may be necessary to carry out the purpose of the program, as authorized by title VII of the Public Health Service Act, as amended: *Provided,* That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further,* That these funds are available to subsidize gross obligations for the total loan principal any part of which is to be guaranteed at not to exceed $210,000,000. In addition, for administrative expenses to carry out the guaranteed loan program, $2,688,000.

VACCINE INJURY COMPENSATION PROGRAM TRUST FUND

For payments from the Vaccine Injury Compensation Program Trust Fund, such sums as may be necessary for claims associated with vaccine-related injury or death with respect to vaccines administered after September 30, 1988, pursuant to subtitle 2 of title XXI of the Public Health Service Act, to remain available until expended: *Provided,* That for necessary administrative expenses, not to exceed $3,000,000 shall be available from the Trust Fund to the Secretary of Health and Human Services.

VACCINE INJURY COMPENSATION

For payment of claims resolved by the United States Court of Federal Claims related to the administration of vaccines before October 1, 1988, $110,000,000, to remain available until expended.

CENTERS FOR DISEASE CONTROL AND PREVENTION

DISEASE CONTROL, RESEARCH, AND TRAINING

(RESCISSION)

Of the amounts made available under this heading in Public Law 103–333, Public Law 103–112, and Public Law 102–394 for immunization activities, $53,000,000 are hereby rescinded: *Provided,* That the Director may redirect the total amount made available under authority of Public Law 101–502, section 3, dated November 3, 1990, to activities the Director may so designate:

Provided further, That the Congress is to be notified promptly of any such transfer.

SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION

SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES

For carrying out titles V and XIX of the Public Health Service Act with respect to substance abuse and mental health services, the Protection and Advocacy for Mentally Ill Individuals Act of 1986, and section 301 of the Public Health Service Act with respect to program management, $1,883,715,000.

RETIREMENT PAY AND MEDICAL BENEFITS FOR COMMISSIONED OFFICERS

For retirement pay and medical benefits of Public Health Service Commissioned Officers as authorized by law, and for payments under the Retired Serviceman's Family Protection Plan and Survivor Benefit Plan and for medical care of dependents and retired personnel under the Dependents' Medical Care Act (10 U.S.C. ch. 55), and for payments pursuant to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), such amounts as may be required during the current fiscal year.

AGENCY FOR HEALTH CARE POLICY AND RESEARCH

HEALTH CARE POLICY AND RESEARCH

For carrying out titles III and IX of the Public Health Service Act, and part A of title XI of the Social Security Act, $65,186,000; in addition, amounts received from Freedom of Information Act fees, reimbursable and interagency agreements, and the sale of data tapes shall be credited to this appropriation and shall remain available until expended: *Provided,* That the amount made available pursuant to section 926(b) of the Public Health Service Act shall not exceed $60,124,000.

HEALTH CARE FINANCING ADMINISTRATION

GRANTS TO STATES FOR MEDICAID

For carrying out, except as otherwise provided, titles XI and XIX of the Social Security Act, $55,094,355,000, to remain available until expended.

For making, after May 31, 1996, payments to States under title XIX of the Social Security Act for the last quarter of fiscal year 1996 for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary.

For making payments to States under title XIX of the Social Security Act for the first quarter of fiscal year 1997, $26,155,350,000, to remain available until expended.

Payment under title XIX may be made for any quarter with respect to a State plan or plan amendment in effect during such quarter, if submitted in or prior to such quarter and approved in that or any subsequent quarter.

PAYMENTS TO HEALTH CARE TRUST FUNDS

For payment to the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds, as provided under sections 217(g) and 1844 of the Social Security Act, sections 103(c) and 111(d) of the Social Security Amendments of 1965, section 278(d) of Public Law 97–248, and for administrative expenses incurred pursuant to section 201(g) of the Social Security Act, $63,313,000,000.

PROGRAM MANAGEMENT

For carrying out, except as otherwise provided, titles XI, XVIII, and XIX of the Social Security Act, and title XIII of the Public Health Service Act, the Clinical Laboratory Improvement Amendments of 1988, and section 4005(e) of Public Law 100–203, not to exceed $1,734,810,000, together with all funds collected in accordance with section 353 of the Public Health Service Act, the latter funds to remain available until expended, together with such sums as may be collected from authorized user fees and the sale of data, which shall remain available until expended, the $1,734,810,000, to be transferred to this appropriation as authorized by section 201(g) of the Social Security Act, from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds: *Provided,* That all funds derived in accordance with 31 U.S.C. 9701 from organizations established under title XIII of the Public Health Service Act are to be credited to this appropriation.

HEALTH MAINTENANCE ORGANIZATION LOAN AND LOAN GUARANTEE FUND

For carrying out subsections (d) and (e) of section 1308 of the Public Health Service Act, any amounts received by the Secretary in connection with loans and loan guarantees under title XIII of the Public Health Service Act, to be available without fiscal year limitation for the payment of outstanding obligations. During fiscal year 1996, no commitments for direct loans or loan guarantees shall be made.

ADMINISTRATION FOR CHILDREN AND FAMILIES

FAMILY SUPPORT PAYMENTS TO STATES

For making payments to States or other non-Federal entities, except as otherwise provided, under titles I, IV–A (other than section 402(g)(6)) and D, X, XI, XIV, and XVI of the Social Security Act, and the Act of July 5, 1960 (24 U.S.C. ch. 9), $13,614,307,000, to remain available until expended.

For making, after May 31 of the current fiscal year, payments to States or other non-Federal entities under titles I, IV–A and D, X, XI, XIV, and XVI of the Social Security Act, for the last three months of the current year for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary.

For making payments to States or other non-Federal entities under titles I, IV–A (other than section 402(g)(6)) and D, X, XI, XIV, and XVI of the Social Security Act and the Act of July 5,

1960 (24 U.S.C. ch. 9) for the first quarter of fiscal year 1997, $4,800,000,000, to remain available until expended.

JOB OPPORTUNITIES AND BASIC SKILLS

For carrying out aid to families with dependent children work programs, as authorized by part F of title IV of the Social Security Act, $1,000,000,000.

LOW INCOME HOME ENERGY ASSISTANCE

(INCLUDING RESCISSION)

Of the funds made available beginning on October 1, 1995 under this heading in Public Law 103–333, $100,000,000 are hereby rescinded.

For making payments under title XXVI of the Omnibus Budget Reconciliation Act of 1981, $300,000,000 to be available for obligation in the period October 1, 1996 through September 30, 1997: *Provided,* That all of the funds available under this paragraph are hereby designated by Congress to be emergency requirements pursuant to section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985: *Provided further,* That these funds shall be made available only after submission to Congress of a formal budget request by the President that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985.

President.

Funds made available in the fourth paragraph under this heading in Public Law 103–333 that remain unobligated as of September 30, 1996 shall remain available until September 30, 1997.

REFUGEE AND ENTRANT ASSISTANCE

For making payments for refugee and entrant assistance activities authorized by title IV of the Immigration and Nationality Act and section 501 of the Refugee Education Assistance Act of 1980 (Public Law 96–422), $402,172,000: *Provided,* That funds appropriated pursuant to section 414(a) of the Immigration and Nationality Act under Public Law 103–112 for fiscal year 1994 shall be available for the costs of assistance provided and other activities conducted in such year and in fiscal years 1995 and 1996.

CHILD CARE AND DEVELOPMENT BLOCK GRANT

For carrying out sections 658A through 658R of the Omnibus Budget Reconciliation Act of 1981 (The Child Care and Development Block Grant Act of 1990), $934,642,000, which shall be available for obligation under the same statutory terms and conditions applicable in the prior fiscal year.

SOCIAL SERVICES BLOCK GRANT

For making grants to States pursuant to section 2002 of the Social Security Act, $2,381,000,000: *Provided,* That notwithstanding section 2003(c) of such Act, the amount specified for allocation under such section for fiscal year 1996 shall be $2,381,000,000.

CHILDREN AND FAMILIES SERVICES PROGRAMS

For carrying out, except as otherwise provided, the Runaway and Homeless Youth Act, the Developmental Disabilities Assistance and Bill of Rights Act, the Head Start Act, the Child Abuse Prevention and Treatment Act, the Family Violence Prevention and Services Act, the Native American Programs Act of 1974, title II of Public Law 95–266 (adoption opportunities), the Temporary Child Care for Children with Disabilities and Crisis Nurseries Act of 1986, the Abandoned Infants Assistance Act of 1988, and part B(1) of title IV of the Social Security Act; for making payments under the Community Services Block Grant Act; and for necessary administrative expenses to carry out said Acts and titles I, IV, X, XI, XIV, XVI, and XX of the Social Security Act, the Act of July 5, 1960 (24 U.S.C. ch. 9), the Omnibus Budget Reconciliation Act of 1981, title IV of the Immigration and Nationality Act, section 501 of the Refugee Education Assistance Act of 1980, and section 126 and titles IV and V of Public Law 100–485, $4,767,006,000, of which $435,463,000 shall be for making payments under the Community Services Block Grant Act: *Provided,* That to the extent Community Services Block Grant funds are distributed as grant funds by a State to an eligible entity as provided under the Act, and have not been expended by such entity, they shall remain with such entity for carryover into the next fiscal year for expenditure by such entity consistent with program purposes.

In addition, $21,358,000, to be derived from the Violent Crime Reduction Trust Fund, for carrying out sections 40155, 40211, 40241, and 40251 of Public Law 103–322.

FAMILY PRESERVATION AND SUPPORT

For carrying out section 430 of the Social Security Act, $225,000,000.

PAYMENTS TO STATES FOR FOSTER CARE AND ADOPTION ASSISTANCE

For making payments to States or other non-Federal entities, under title IV–E of the Social Security Act, $4,322,238,000.

ADMINISTRATION ON AGING

AGING SERVICES PROGRAMS

For carrying out, to the extent not otherwise provided, the Older Americans Act of 1965, as amended, $829,393,000, of which $4,449,000 shall be for section 712 and $4,732,000 shall be for section 721: *Provided,* That notwithstanding section 308(b)(1) of such Act, the amounts available to each State for administration of the State plan under title III of such Act shall be reduced not more than 5 percent below the amount that was available to such State for such purpose for fiscal year 1995.

OFFICE OF THE SECRETARY

GENERAL DEPARTMENTAL MANAGEMENT

For necessary expenses, not otherwise provided, for general departmental management, including hire of six medium sedans,

and for carrying out titles III, XVII, and XX of the Public Health Service Act, $139,499,000, together with $6,628,000, to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from the Hospital Insurance Trust Fund and the Supplemental Medical Insurance Trust Fund: *Provided,* That of the funds made available under this heading for carrying out title XVII of the Public Health Service Act, $7,500,000 shall be available until expended for extramural construction.

OFFICE OF INSPECTOR GENERAL

For expenses necessary for the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $36,162,000, together with any funds, to remain available until expended, that represent the equitable share from the forfeiture of property in investigations in which the Office of Inspector General participated, and which are transferred to the Office of the Inspector General by the Department of Justice, the Department of the Treasury, or the United States Postal Service.

OFFICE FOR CIVIL RIGHTS

For expenses necessary for the Office for Civil Rights, $16,153,000, together with not to exceed $3,314,000, to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from the Hospital Insurance Trust Fund and the Supplemental Medical Insurance Trust Fund.

POLICY RESEARCH

For carrying out, to the extent not otherwise provided, research studies under section 1110 of the Social Security Act, $9,000,000.

PUBLIC HEALTH AND SOCIAL SERVICES EMERGENCY FUND

For expenses necessary to prepare to respond to the health and medical consequences of nuclear, chemical, or biologic attack in the United States, $7,000,000, to remain available until expended and, in addition, for clinical trials, applying imaging technology used for missile guidance and target recognition to new uses improving the early detection of breast cancer, $2,000,000, to remain available until expended.

GENERAL PROVISIONS

SEC. 201. Funds appropriated in this title shall be available for not to exceed $37,000 for official reception and representation expenses when specifically approved by the Secretary.

Children, youth and families. AIDS.

SEC. 202. The Secretary shall make available through assignment not more than 60 employees of the Public Health Service to assist in child survival activities and to work in AIDS programs through and with funds provided by the Agency for International Development, the United Nations International Children's Emergency Fund or the World Health Organization.

SEC. 203. None of the funds appropriated under this Act may be used to implement section 399L(b) of the Public Health Service Act or section 1503 of the National Institutes of Health Revitalization Act of 1993, Public Law 103–43.

SEC. 204. None of the funds made available by this Act may be used to withhold payment to any State under the Child Abuse Prevention and Treatment Act by reason of a determination that the State is not in compliance with section 1340.2(d)(2)(ii) of title 45 of the Code of Federal Regulations. This provision expires upon the date of enactment of the reauthorization of the Child Abuse Prevention and Treatment Act or upon September 30, 1996, whichever occurs first.

Termination date.

SEC. 205. None of the funds appropriated in this or any other Act for the National Institutes of Health and the Substance Abuse and Mental Health Services Administration shall be used to pay the salary of an individual, through a grant or other extramural mechanism, at a rate in excess of $125,000 per year.

Sec. 206. None of the funds appropriated in this Act may be expended pursuant to section 241 of the Public Health Service Act, except for funds specifically provided for in this Act, or for other taps and assessments made by any office located in the Department of Health and Human Services, prior to the Secretary's preparation and submission of a report to the Committee on Appropriations of the Senate and of the House detailing the planned uses of such funds.

Reports.

(TRANSFER OF FUNDS)

SEC. 207. Of the funds appropriated or otherwise made available for the Department of Health and Human Services, General Departmental Management, for fiscal year 1996, the Secretary of Health and Human Services shall transfer to the Office of the Inspector General such sums as may be necessary for any expenses with respect to the provision of security protection for the Secretary of Health and Human Services.

SEC. 208. Notwithstanding section 106 of Public Law 104–91 and section 106 of Public Law 104–99, appropriations for the National Institutes of Health and the Centers for Disease Control and Prevention shall be available for fiscal year 1996 as specified in section 101 of Public Law 104–91 and section 128 of Public Law 104–99.

SEC. 209. None of the funds appropriated in this Act may be obligated or expended for the Federal Council on Aging under the Older Americans Act or the Advisory Board on Child Abuse and Neglect under the Child Abuse Prevention and Treatment Act.

SEC. 210. Of the funds provided for the account heading "Disease Control, Research, and Training" in Public Law 104–91, $31,642,000, to be derived from the Violent Crime Reduction Trust Fund, is hereby available for carrying out sections 40151, 40261, and 40293 of Public Law 103–322 notwithstanding any provision of Public Law 104–91.

(TRANSFER OF FUNDS)

SEC. 211. Not to exceed 1 percent of any appropriation made available for the current fiscal year for the Department of Health and Human Services in this Act may be transferred between such appropriations, but no such appropriation shall be increased by more than 3 percent by any such transfers: *Provided,* That the Appropriations Committees of both Houses of Congress are notified at least fifteen days in advance of any transfers.

(TRANSFER OF FUNDS)

SEC. 212. The Director, National Institutes of Health, jointly with the Director, Office of AIDS Research, may transfer up to 3 percent among Institutes, Centers, and the National Library of Medicine from the total amounts identified in the apportionment for each Institute, Center, or the National Library of Medicine for AIDS research: *Provided,* That such transfers shall be within 30 days of enactment of this Act and be based on the scientific priorities established in the plan developed by the Director, Office of AIDS Research, in accordance with section 2353 of the[2] Act: *Provided further,* That the Congress is promptly notified of the transfer.

SEC. 213. In fiscal year 1996, the National Library of Medicine may enter into personal services contracts for the provision of services in facilities owned, operated, or constructed under the jurisdiction of the National Institutes of Health.

SEC. 214. (a) REIMBURSEMENT OF CERTAIN CLAIMS UNDER THE MEDICAID PROGRAM.—Notwithstanding any other provision of law, and subject to subsection (b), in the case where payment has been made by a State under title XIX of the Social Security Act between December 31, 1993, and December 31, 1995, to a State-operated psychiatric hospital for services provided directly by the hospital or by providers under contract or agreement with the hospital, and the Secretary of Health and Human Services has notified the State that the Secretary intends to defer the determination of claims for reimbursement related to such payment but for which a deferral of such claims has not been taken as of March 1, 1996, (or, if such claims have been deferred as of such date, such claims have not been disallowed by such date), the Secretary shall—

(1) if, as of the date of the enactment of this title, such claims have been formally deferred or disallowed, discontinue any such action, and if a disallowance of such claims has been taken as of such date, rescind any payment reductions effected;

(2) not initiate any deferral or disallowance proceeding related to such claims; and

(3) allow reimbursement of such claims.

(b) LIMITATION ON RESCISSION OR REIMBURSEMENT OF CLAIMS.—The total amount of payment reductions rescinded or reimbursement of claims allowed under subsection (a) shall not exceed $54,000,000.

This title may be cited as the "Department of Health and Human Services Appropriations Act, 1996".

Department of Education Appropriations Act, 1996.

TITLE III—DEPARTMENT OF EDUCATION

EDUCATION REFORM

For carrying out activities authorized by titles III and IV of the Goals 2000: Educate America Act and the School-to-Work Opportunities Act, $530,000,000, of which $340,000,000 for the Goals 2000: Educate America Act and $180,000,000 for the School-to-Work Opportunities Act shall become available on July 1, 1996, and remain available through September 30, 1997: *Provided,* That notwithstanding section 311(e) of Public Law 103-227, the Secretary

20 USC 5891 note.

[2] Illegible text, probably "the Public Health Service".

is authorized to grant up to six additional State education agencies authority to waive Federal statutory or regulatory requirements for fiscal year 1996 and succeeding fiscal years: *Provided further,* That none of the funds appropriated under this heading shall be obligated or expended to carry out section 304(a)(2)(A) of the Goals 2000: Educate America Act.

EDUCATION FOR THE DISADVANTAGED

For carrying out title I of the Elementary and Secondary Education Act of 1965, and section 418A of the Higher Education Act, $7,228,116,000, of which $5,913,391,000 shall become available on July 1, 1996 and shall remain available through September 30, 1997 and of which $1,298,386,000 shall become available on October 1, 1996 and shall remain available through September 30, 1997 for academic year 1996–1997: *Provided,* That $5,985,839,000 shall be available for basic grants under section 1124: *Provided further,* That up to $3,500,000 of these funds shall be available to the Secretary on October 1, 1995, to obtain updated local-educational-agency-level census poverty data from the Bureau of the Census: *Provided further,* That $677,241,000 shall be available for concentration grants under section 1124(A) and $3,370,000 shall be available for evaluations under section 1501.

IMPACT AID

For carrying out programs of financial assistance to federally affected schools authorized by title VIII of the Elementary and Secondary Education Act of 1965, $693,000,000, of which $581,707,000 shall be for basic support payments under section 8003(b), $40,000,000 shall be for payments for children with disabilities under section 8003(d), $50,000,000, to remain available until expended, shall be for payments under section 8003(f), $5,000,000 shall be for construction under section 8007, and $16,293,000 shall be for Federal property payments under section 8002.

SCHOOL IMPROVEMENT PROGRAMS

For carrying out school improvement activities authorized by titles II, IV–A–1 and 2, V–A, VI, section 7203, and titles IX, X and XIII of the Elementary and Secondary Education Act of 1965; the Stewart B. McKinney Homeless Assistance Act; and the Civil Rights Act of 1964; $1,223,708,000 of which $1,015,481,000 shall become available on July 1, 1996, and remain available through September 30, 1997: *Provided,* That of the amount appropriated, $275,000,000 shall be for Eisenhower professional development State grants under title II–B and $275,000,000 shall be for innovative education program strategies State grants under title VI–A: *Provided further,* That not less than $3,000,000 shall be for innovative programs under section 5111.

BILINGUAL AND IMMIGRANT EDUCATION

For carrying out, to the extent not otherwise provided, bilingual and immigrant education activities authorized by title VII of the Elementary and Secondary Education Act, without regard to section 7103(b), $178,000,000 of which $50,000,000 shall be for immigrant education programs authorized by part C: *Provided,* That State

educational agencies may use all, or any part of, their part C allocation for competitive grants to local educational agencies: *Provided further,* That the Department of Education should only support instructional programs which ensure that students completely master English in a timely fashion (a period of three to five years) while meeting rigorous achievement standards in the academic content areas.

Territories.

SPECIAL EDUCATION

For carrying out parts B, C, D, E, F, G, and H and section 610(j)(2)(C) of the Individuals with Disabilities Education Act, $3,245,447,000, of which $3,000,000,000 shall become available for obligation on July 1, 1996, and shall remain available through September 30, 1997: *Provided,* That notwithstanding section 621(e), funds made available for section 621 shall be distributed among each of the regional centers and the Federal center in proportion to the amount that each such center received in fiscal year 1995: *Provided further,* That the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau shall be considered public or private nonprofit entities or organizations for the purpose of parts C, D, E, F, and G of the Individuals with Disabilities Education Act: *Provided further,* That, from the funds available under section 611 of the Act, the Secretary shall award grants, for which Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau shall be eligible, to carry out the purposes set forth in section 601(c) of the Act, and that the amount of funds available for such grants shall be equal to the amount that the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau would be eligible to receive if they were considered jurisdictions for the purpose of section 611(e) of the Act: *Provided further,* That the Secretary shall award grants in accordance with the recommendations of the entity specified in section 1121(b)(2)(A) of the Elementary and Secondary Education Act, including the provision of administrative costs to such entity not to exceed five percent: *Provided further,* That to be eligible for a competitive award under the Individuals with Disabilities Education Act, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau must meet the conditions applicable to States under part B of the Act.

Grants.

Grants.

REHABILITATION SERVICES AND DISABILITY RESEARCH

For carrying out, to the extent not otherwise provided, the Rehabilitation Act of 1973, the Technology-Related Assistance for Individuals with Disabilities Act, and the Helen Keller National Center Act, as amended, and the 1996 Paralympics Games, $2,456,120,000 of which $7,000,000 will be used to support the Paralympics Games: *Provided,* That $1,000,000 of the funds provided for Special Demonstrations shall be used to continue the two head injury centers that were first funded under this program in fiscal year 1992.

SPECIAL INSTITUTIONS FOR PERSONS WITH DISABILITIES

AMERICAN PRINTING HOUSE FOR THE BLIND

For carrying out the Act of March 3, 1879, as amended (20 U.S.C. 101 et seq.), $6,680,000.

NATIONAL TECHNICAL INSTITUTE FOR THE DEAF

For the National Technical Institute for the Deaf under titles I and II of the Education of the Deaf Act of 1986 (20 U.S.C. 4301 et seq.), $42,180,000: *Provided,* That from the amount available, the Institute may at its discretion use funds for the endowment program as authorized under section 207.

GALLAUDET UNIVERSITY

For the Kendall Demonstration Elementary School, the Model Secondary School for the Deaf, and the partial support of Gallaudet University under titles I and II of the Education of the Deaf Act of 1986 (20 U.S.C. 4301 et seq.), $77,629,000: *Provided,* That from the amount available, the University may at its discretion use funds for the endowment program as authorized under section 207.

VOCATIONAL AND ADULT EDUCATION

For carrying out, to the extent not otherwise provided, the Carl D. Perkins Vocational and Applied Technology Education Act, the Adult Education Act, and the National Literacy Act of 1991, $1,340,261,000, of which $4,869,000 shall be for the National Institute for Literacy; and of which $1,337,342,000 shall become available on July 1, 1996 and shall remain available through September 30, 1997: *Provided,* That of the amounts made available under the Carl D. Perkins Vocational and Applied Technology Education Act, $5,000,000 shall be for national programs under title IV without regard to section 451 and $350,000 shall be for evaluations under section 346(b) of the Act and no funds shall be awarded to a State Council under section 112(f), and no State shall be required to operate such a Council.

STUDENT FINANCIAL ASSISTANCE

For carrying out subparts 1, 3, and 4 of part A, part C, and part E of title IV of the Higher Education Act of 1965, as amended, $6,312,033,000, which shall remain available through September 30, 1997: *Provided,* That notwithstanding section 401(a)(1) of the Act, there shall be not to exceed 3,650,000 Pell Grant recipients in award year 1995–1996.

The maximum Pell Grant for which a student shall be eligible during award year 1996–1997 shall be $2,470: *Provided*, That notwithstanding section 401(g) of the Act, as amended, if the Secretary determines, prior to publication of the payment schedule for award year 1996–1997, that the $4,967,446,000 included within this appropriation for Pell Grant awards for award year 1996–1997, and any funds available from the fiscal year 1995 appropriation for Pell Grant awards, are insufficient to satisfy fully all such awards for which students are eligible, as calculated under section 401(b) of the Act, the amount paid for each such award shall be reduced by either a fixed or variable percentage, or by a fixed dollar amount,

20 USC 1070a note.

as determined in accordance with a schedule of reductions established by the Secretary for this purpose.

FEDERAL FAMILY EDUCATION LOAN PROGRAM ACCOUNT

For Federal administrative expenses to carry out guaranteed student loans authorized by title IV, part B, of the Higher Education Act, as amended, $30,066,000.

HIGHER EDUCATION

For carrying out, to the extent not otherwise provided, parts A and B of title III, without regard to section 360(a)(1)(B)(ii), titles IV, V, VI, VII, and IX, part A and subpart 1 of part B of title X, and title XI of the Higher Education Act of 1965, as amended, Public Law 102–423, and the Mutual Educational and Cultural Exchange Act of 1961; $836,964,000, of which $16,712,000 for interest subsidies under title VII of the Higher Education Act, as amended, shall remain available until expended: *Provided,* That notwithstanding sections 419D, 419E, and 419H of the Higher Education Act, as amended, scholarships made under title IV, part A, subpart 6 shall be prorated to maintain the same number of new scholarships in fiscal year 1996 as in fiscal year 1995.

HOWARD UNIVERSITY

For partial support of Howard University (20 U.S.C. 121 et seq.), $182,348,000: *Provided,* That from the amount available, the University may at its discretion use funds for the endowment program as authorized under the Howard University Endowment Act (Public Law 98–480).

HIGHER EDUCATION FACILITIES LOANS

The Secretary is hereby authorized to make such expenditures, within the limits of funds available under this heading and in accord with law, and to make such contracts and commitments without regard to fiscal year limitation, as provided by section 104 of the Government Corporation Control Act (31 U.S.C. 9104), as may be necessary in carrying out the program for the current fiscal year.

COLLEGE HOUSING AND ACADEMIC FACILITIES LOANS PROGRAM

For administrative expenses to carry out the existing direct loan program of college housing and academic facilities loans entered into pursuant to title VII, part C, of the Higher Education Act, as amended, $700,000.

COLLEGE HOUSING LOANS

Contracts.

Pursuant to title VII, part C of the Higher Education Act, as amended, for necessary expenses of the college housing loans program, previously carried out under title IV of the Housing Act of 1950, the Secretary shall make expenditures and enter into contracts without regard to fiscal year limitation using loan repayments and other resources available to this account. Any unobligated balances becoming available from fixed fees paid into this account pursuant to 12 U.S.C. 1749d, relating to payment of costs

for inspections and site visits, shall be available for the operating expenses of this account.

HISTORICALLY BLACK COLLEGE AND UNIVERSITY CAPITAL FINANCING, PROGRAM ACCOUNT

The total amount of bonds insured pursuant to section 724 of title VII, part B of the Higher Education Act shall not exceed $357,000,000, and the cost, as defined in section 502 of the Congressional Budget Act of 1974, of such bonds shall not exceed zero.

For administrative expenses to carry out the Historically Black College and University Capital Financing Program entered into pursuant to title VII, part B of the Higher Education Act, as amended, $166,000.

EDUCATION RESEARCH, STATISTICS, AND IMPROVEMENT

For carrying out activities authorized by the Educational Research, Development, Dissemination, and Improvement Act; the National Education Statistics Act; sections 2102, 3136, 3141 and parts B, C, and D of title III, parts A, B, I, and K, and section 10601 of title X, part C of title XIII of the Elementary and Secondary Education Act of 1965, as amended, and title VI of the Goals 2000: Educate America Act, $351,268,000: *Provided,* That $48,000,000 shall be for sections 3136 and 3141 of the Elementary and Secondary Education Act: *Provided further,* That $3,000,000 shall be for the elementary mathematics and science equipment projects under the fund for the improvement of education: *Provided further,* That funds shall be used to extend star schools partnership projects that received continuation grants in fiscal year 1995: Provided further, That none of the funds appropriated in this paragraph may be obligated or expended for the Goals 2000 Community Partnerships Program: Provided further, That funds for International Education Exchange shall be used to extend the two grants awarded in fiscal year 1995.

LIBRARIES

For carrying out, to the extent not otherwise provided, titles I, II, III, and IV of the Library Services and Construction Act, and title II–B of the Higher Education Act, $132,505,000, of which $16,369,000 shall be used to carry out the provisions of title II of the Library Services and Construction Act and shall remain available until expended; and $2,500,000 shall be for section 222 and $3,000,000 shall be for section 223 of the Higher Education Act: *Provided,* That $1,000,000 shall be awarded to the Survivors of the Shoah Visual History Foundation to document and archive holocaust survivors' testimony: *Provided further,* That $1,000,000 shall be for the continued funding of an existing demonstration project making information available for public use by connecting Internet to a multistate consortium: Provided further, That $1,000,000 shall be awarded to the National Museum of Women in the Arts.

DEPARTMENTAL MANAGEMENT

PROGRAM ADMINISTRATION

For carrying out, to the extent not otherwise provided, the Department of Education Organization Act, including rental of con-

ference rooms in the District of Columbia and hire of two passenger motor vehicles, $327,319,000.

OFFICE FOR CIVIL RIGHTS

For expenses necessary for the Office for Civil Rights, as authorized by section 203 of the Department of Education Organization Act, $55,451,000.

OFFICE OF THE INSPECTOR GENERAL

For expenses necessary for the Office of the Inspector General, as authorized by section 212 of the Department of Education Organization Act, $28,654,000.

HEADQUARTERS RENOVATION

For necessary expenses for the renovation of the Department of Education headquarters building, $7,000,000, to remain available until September 30, 1998.

GENERAL PROVISIONS

Schools.
Busing.
Desegregation.

SEC. 301. No funds appropriated in this Act may be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any school or school system, or for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to carry out a plan of racial desegregation of any school or school system.

SEC. 302. None of the funds contained in this Act shall be used to require, directly or indirectly, the transportation of any student to a school other than the school which is nearest the student's home, except for a student requiring special education, to the school offering such special education, in order to comply with title VI of the Civil Rights Act of 1964. For the purpose of this section an indirect requirement of transportation of students includes the transportation of students to carry out a plan involving the reorganization of the grade structure of schools, the pairing of schools, or the clustering of schools, or any combination of grade restructuring, pairing or clustering. The prohibition described in this section does not include the establishment of magnet schools.

School prayer.

SEC. 303. No funds appropriated under this Act may be used to prevent the implementation of programs of voluntary prayer and meditation in the public schools.

SEC. 304. No funds appropriated under this Act shall be made available for opportunity to learn standards or strategies.

SEC. 305. Notwithstanding any other provision of law, funds available under section 458 of the Higher Education Act shall not exceed $436,000,000 for fiscal year 1996. The Department of Education shall pay administrative cost allowances owed to guaranty agencies for fiscal year 1995 estimated to be $95,000,000 and administrative cost allowances owed to guaranty agencies for fiscal year 1996 estimated to be $81,000,000. The Department of Education shall pay administrative cost allowances to guaranty agencies, to be paid quarterly, calculated on the basis of 0.85 percent of the total principal amount of loans upon which insurance was issued on or after October 1, 1995 by such guaranty agencies.

Receipt of such funds and uses of such funds by guaranty agencies shall be in accordance with section 428(f) of the Higher Education Act.

Notwithstanding section 458 of the Higher Education Act, the Secretary may not use funds available under that section or any other section for subsequent fiscal years for administrative expenses of the William D. Ford Direct Loan Program. The Secretary may not require the return of guaranty agency reserve funds during fiscal year 1996, except after consultation with both the Chairmen and Ranking Members of the House Economic and Educational Opportunities Committee and the Senate Labor and Human Resources Committee. Any reserve funds recovered by the Secretary shall be returned to the Treasury of the United States for purposes of reducing the Federal deficit. 20 USC 1087h note.

No funds available to the Secretary may be used for (1) the hiring of advertising agencies or other third parties to provide advertising services for student loan programs, or (2) payment of administrative fees relating to the William D. Ford Direct Loan Program to institutions of higher education.

SEC. 306. (a) From any unobligated funds that are available to the Secretary of Education to carry out sections 5 or 14 of the Act of September 23, 1950 (Public Law 815, 81st Congress) (as such Act was in effect on September 30, 1994)

(1) half of the funds shall be available to the Secretary of Education to carry out subsection (c) of this section; and

(2) half of the funds shall be available to the Secretary of Education to carry out subparagraphs (B), (C), and (D) of section 8007(a)(2) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7707(a)(2)), as amended by subsection (b) of this section.

(b) Subparagraph (B) of section 8007(a)(2) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7707(a)(2)) is amended by striking "and in which the agency" and all that follows through "renovation".

(c)(1) The Secretary of Education shall award the funds described in subsection (a)(1) to local educational agencies, under such terms and conditions as the Secretary of Education determines appropriate, for the construction of public elementary or secondary schools on Indian reservations or in school districts that—

(A) the Secretary of Education determines are in dire need of construction funding;

(B) contain a public elementary or secondary school that serves a student population which is 90 percent Indian students; and

(C) serve students who are taught in inadequate or unsafe structures, or in a public elementary or secondary school that has been condemned.

(2) A local educational agency that receives construction funding under this subsection for fiscal year 1996 shall not be eligible to receive any funds under section 8007 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7707) for school construction for fiscal years 1996 and 1997.

(3) As used in this subsection, the term "construction" has the meaning given that term in section 8013(3) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7713(3)).

(4) No request for construction funding under this subsection shall be approved unless the request is received by the Secretary

of Education not later than 30 days after the date of enactment of this Act.

Reports.

(d) The Secretary of Education shall report to the House and Senate Appropriations Committees on the total amounts available pursuant to subsections (a)(1) and (a)(2) within 30 days of enactment of this Act.

SEC. 307. None of the funds appropriated in this Act may be obligated or expended to carry out sections 727, 932, and 1002 of the Higher Education Act of 1965, and section 621(b) of Public Law 101–589.

(TRANSFER OF FUNDS)

SEC. 308. Not to exceed 1 percent of any appropriation made available for the current fiscal year for the Department of Education in this Act may be transferred between such appropriations, but no such appropriation shall be increased by more than 3 percent by any such transfers: *Provided,* That the Appropriations Committees of both Houses of Congress are notified at least fifteen days in advance of any transfers.

This title may be cited as the "Department of Education Appropriations Act, 1996".

TITLE IV—RELATED AGENCIES

ARMED FORCES RETIREMENT HOME

For expenses necessary for the Armed Forces Retirement Home to operate and maintain the United States Soldiers' and Airmen's Home and the United States Naval Home, to be paid from funds available in the Armed Forces Retirement Home Trust Fund, $55,971,000, of which $1,954,000 shall remain available until expended for construction and renovation of the physical plants at the United States Soldiers' and Airmen's Home and the United States Naval Home: *Provided,* That this appropriation shall not be available for the payment of hospitalization of members of the Soldiers' and Airmen's Home in United States Army hospitals at rates in excess of those prescribed by the Secretary of the Army upon recommendation of the Board of Commissioners and the Surgeon General of the Army.

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

DOMESTIC VOLUNTEER SERVICE PROGRAMS, OPERATING EXPENSES

For expenses necessary for the Corporation for National and Community Service to carry out the provisions of the Domestic Volunteer Service Act of 1973, as amended, $198,393,000.

CORPORATION FOR PUBLIC BROADCASTING

For payment to the Corporation for Public Broadcasting, as authorized by the Communications Act of 1934, an amount which shall be available within limitations specified by that Act, for the fiscal year 1998, $250,000,000: *Provided,* That no funds made available to the Corporation for Public Broadcasting by this Act shall be used to pay for receptions, parties, or similar forms of entertainment for Government officials or employees: *Provided further,* That none of the funds contained in this paragraph shall be available

or used to aid or support any program or activity from which any person is excluded, or is denied benefits, or is discriminated against, on the basis of race, color, national origin, religion, or sex.

FEDERAL MEDIATION AND CONCILIATION SERVICE

SALARIES AND EXPENSES

For expenses necessary for the Federal Mediation and Conciliation Service to carry out the functions vested in it by the Labor Management Relations Act, 1947 (29 U.S.C. 171–180, 182–183), including hire of passenger motor vehicles; and for expenses necessary for the Labor-Management Cooperation Act of 1978 (29 U.S.C. 175a); and for expenses necessary for the Service to carry out the functions vested in it by the Civil Service Reform Act, Public Law 95–454 (5 U.S.C. chapter 71), $32,896,000 including $1,500,000, to remain available through September 30, 1997, for activities authorized by the Labor Management Cooperation Act of 1978 (29 U.S.C. 175a): *Provided,* That notwithstanding 31 U.S.C. 3302, fees charged for special training activities up to full-cost recovery shall be credited to and merged with this account, and shall remain available until expended: *Provided further,* That the Director of the Service is authorized to accept on behalf of the United States gifts of services and real, personal, or other property in the aid of any projects or functions within the Director's jurisdiction.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

SALARIES AND EXPENSES

For expenses necessary for the Federal Mine Safety and Health Review Commission (30 U.S.C. 801 et seq.), $6,200,000.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

SALARIES AND EXPENSES

For necessary expenses for the National Commission on Libraries and Information Science, established by the Act of July 20, 1970 (Public Law 91–345, as amended by Public Law 102–95), $829,000.

NATIONAL COUNCIL ON DISABILITY

SALARIES AND EXPENSES

For expenses necessary for the National Council on Disability as authorized by title IV of the Rehabilitation Act of 1973, as amended, $1,793,000.

NATIONAL EDUCATION GOALS PANEL

For expenses necessary for the National Education Goals Panel, as authorized by title II, part A of the Goals 2000: Educate America Act, $1,000,000.

NATIONAL LABOR RELATIONS BOARD

SALARIES AND EXPENSES

For expenses necessary for the National Labor Relations Board to carry out the functions vested in it by the Labor-Management Relations Act, 1947, as amended (29 U.S.C. 141–167), and other laws, $170,743,000: *Provided,* That no part of this appropriation shall be available to organize or assist in organizing agricultural laborers or used in connection with investigations, hearings, directives, or orders concerning bargaining units composed of agricultural laborers as referred to in section 2(3) of the Act of July 5, 1935 (29 U.S.C. 152), and as amended by the Labor-Management Relations Act, 1947, as amended, and as defined in section 3(f) of the Act of June 25, 1938 (29 U.S.C. 203), and including in said definition employees engaged in the maintenance and operation of ditches, canals, reservoirs, and waterways when maintained or operated on a mutual, nonprofit basis and at least 95 per centum of the water stored or supplied thereby is used for farming purposes: *Provided further,* That none of the funds made available by this Act shall be used in any way to promulgate a final rule (altering 29 CFR part 103) regarding single location bargaining units in representation cases.

NATIONAL MEDIATION BOARD

SALARIES AND EXPENSES

For expenses necessary to carry out the provisions of the Railway Labor Act, as amended (45 U.S.C. 151–188), including emergency boards appointed by the President, $7,837,000.

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

SALARIES AND EXPENSES

For expenses necessary for the Occupational Safety and Health Review Commission (29 U.S.C. 661), $8,100,000.

PHYSICIAN PAYMENT REVIEW COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out section 1845(a) of the Social Security Act, $2,923,000, to be transferred to this appropriation from the Federal Supplementary Medical Insurance Trust Fund.

PROSPECTIVE PAYMENT ASSESSMENT COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out section 1886(e) of the Social Security Act, $3,267,000, to be transferred to this appropriation from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds.

SOCIAL SECURITY ADMINISTRATION

PAYMENTS TO SOCIAL SECURITY TRUST FUNDS

For payment to the Federal Old-Age and Survivors Insurance and the Federal Disability Insurance trust funds, as provided under sections 201(m), 228(g), and 1131(b)(2) of the Social Security Act, $22,641,000.

In addition, to reimburse these trust funds for administrative expenses to carry out sections 9704 and 9706 of the Internal Revenue Code of 1986, $10,000,000, to remain available until expended.

SPECIAL BENEFITS FOR DISABLED COAL MINERS

For carrying out title IV of the Federal Mine Safety and Health Act of 1977, $485,396,000, to remain available until expended.

For making, after July 31 of the current fiscal year, benefit payments to individuals under title IV of the Federal Mine Safety and Health Act of 1977, for costs incurred in the current fiscal year, such amounts as may be necessary.

For making benefit payments under title IV of the Federal Mine Safety and Health Act of 1977 for the first quarter of fiscal year 1997, $170,000,000, to remain available until expended.

SUPPLEMENTAL SECURITY INCOME PROGRAM

For carrying out titles XI and XVI of the Social Security Act, section 401 of Public Law 92–603, section 212 of Public Law 93–66, as amended, and section 405 of Public Law 95–216, including payment to the Social Security trust funds for administrative expenses incurred pursuant to section 201(g)(1) of the Social Security Act, $18,545,512,000, to remain available until expended, of which $1,500,000 shall be for a demonstration program to foster economic independence among people with disabilities through disability sport, in connection with the Tenth Paralympic Games: *Provided,* That any portion of the funds provided to a State in the current fiscal year and not obligated by the State during that year shall be returned to the Treasury.

In addition, $15,000,000, to remain available until September 30, 1997, for continuing disability reviews as authorized by section 103 of Public Law 104–121. The term "continuing disability reviews" has the meaning given such term by section 201(g)(1)(A) of the Social Security Act.

For making, after June 15 of the current fiscal year, benefit payments to individuals under title XVI of the Social Security Act, for unanticipated costs incurred for the current fiscal year, such sums as may be necessary.

For carrying out title XVI of the Social Security Act for the first quarter of fiscal year 1997, $9,260,000,000, to remain available until expended.

LIMITATION ON ADMINISTRATIVE EXPENSES

For necessary expenses, including the hire of two medium size passenger motor vehicles, and not to exceed $10,000 for official reception and representation expenses, not more than $5,267,268,000 may be expended, as authorized by section 201(g)(1) of the Social Security Act or as necessary to carry out sections

9704 and 9706 of the Internal Revenue Code of 1986 from any one or all of the trust funds referred to therein: *Provided,* That reimbursement to the trust funds under this heading for administrative expenses to carry out sections 9704 and 9706 of the Internal Revenue Code of 1986 shall be made, with interest, not later than September 30, 1997: *Provided further,* That unobligated balances at the end of fiscal year 1996 not needed for fiscal year 1996 shall remain available until expended for a state-of-the-art computing network, including related equipment and administrative expenses associated solely with this network.

In addition to funding already available under this heading, and subject to the same terms and conditions, $387,500,000, for disability caseload processing.

From funds provided under the previous two paragraphs, not less than $200,000,000 shall be available for conducting continuing disability reviews.

In addition to funding already available under this heading, and subject to the same terms and conditions, $60,000,000, to remain available until September 30, 1997, for continuing disability reviews as authorized by section 103 of Public Law 104–121. The term "continuing disability reviews" has the meaning given such term by section 201(g)(1)(A) of the Social Security Act.

In addition to funding already available under this heading, and subject to the same terms and conditions, $167,000,000, which shall remain available until expended, to invest in a state-of-the-art computing network, including related equipment and administrative expenses associated solely with this network, for the Social Security Administration and the State Disability Determination Services, may be expended from any or all of the trust funds as authorized by section 201(g)(1) of the Social Security Act.

OFFICE OF INSPECTOR GENERAL

For expenses necessary for the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $4,816,000, together with not to exceed $21,076,000, to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund.

RAILROAD RETIREMENT BOARD

DUAL BENEFITS PAYMENTS ACCOUNT

For payment to the Dual Benefits Payments Account, authorized under section 15(d) of the Railroad Retirement Act of 1974, $239,000,000, which shall include amounts becoming available in fiscal year 1996 pursuant to section 224(c)(1)(B) of Public Law 98–76; and in addition, an amount, not to exceed 2 percent of the amount provided herein, shall be available proportional to the amount by which the product of recipients and the average benefit received exceeds $239,000,000: *Provided,* That the total amount provided herein shall be credited in 12 approximately equal amounts on the first day of each month in the fiscal year.

FEDERAL PAYMENTS TO THE RAILROAD RETIREMENT ACCOUNTS

For payment to the accounts established in the Treasury for the payment of benefits under the Railroad Retirement Act for interest earned on unnegotiated checks, $300,000, to remain available through September 30, 1997, which shall be the maximum amount available for payment pursuant to section 417 of Public Law 98–76.

LIMITATION ON ADMINISTRATION

For necessary expenses for the Railroad Retirement Board, $73,169,000, to be derived from the railroad retirement accounts.

LIMITATION ON RAILROAD UNEMPLOYMENT INSURANCE ADMINISTRATION FUND

For further expenses necessary for the Railroad Retirement Board, for administration of the Railroad Unemployment Insurance Act, not less than $16,786,000 shall be apportioned for fiscal year 1996 from moneys credited to the railroad unemployment insurance administration fund.

SPECIAL MANAGEMENT IMPROVEMENT FUND

To effect management improvements, including the reduction of backlogs, accuracy of taxation accounting, and debt collection, $659,000, to be derived from the railroad retirement accounts and railroad unemployment insurance account: *Provided,* That these funds shall supplement, not supplant, existing resources devoted to such operations and improvements.

LIMITATION ON THE OFFICE OF INSPECTOR GENERAL

For expenses necessary for the Office of Inspector General for audit, investigatory and review activities, as authorized by the Inspector General Act of 1978, as amended, not more than $5,673,000, to be derived from the railroad retirement accounts and railroad unemployment insurance account.

UNITED STATES INSTITUTE OF PEACE

OPERATING EXPENSES

For necessary expenses of the United States Institute of Peace as authorized in the United States Institute of Peace Act, $11,500,000.

TITLE V—GENERAL PROVISIONS

SEC. 501. The Secretaries of Labor, Health and Human Services, and Education are authorized to transfer unexpended balances of prior appropriations to accounts corresponding to current appropriations provided in this Act: *Provided,* That such transferred balances are used for the same purpose, and for the same periods of time, for which they were originally appropriated.

SEC. 502. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 503. (a) No part of any appropriation contained in this Act shall be used, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or film presentation designed to support or defeat legislation pending before the Congress, except in presentation to the Congress itself.

(b) No part of any appropriation contained in this Act shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence legislation or appropriations pending before the Congress.

SEC. 504. The Secretaries of Labor and Education are each authorized to make available not to exceed $15,000 from funds available for salaries and expenses under titles I and III, respectively, for official reception and representation expenses; the Director of the Federal Mediation and Conciliation Service is authorized to make available for official reception and representation expenses not to exceed $2,500 from the funds available for "Salaries and expenses, Federal Mediation and Conciliation Service"; and the Chairman of the National Mediation Board is authorized to make available for official reception and representation expenses not to exceed $2,500 from funds available for "Salaries and expenses, National Mediation Board".

AIDS.

SEC. 505. Notwithstanding any other provision of this Act, no funds appropriated under this Act shall be used to carry out any program of distributing sterile needles for the hypodermic injection of any illegal drug unless the Secretary of Health and Human Services determines that such programs are effective in preventing the spread of HIV and do not encourage the use of illegal drugs.

SEC. 506. (a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American-made.

(b) NOTICE REQUIREMENT.—In providing financial assistance to, or entering into any contract with, any entity using funds made available in this Act, the head of each Federal agency, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.

SEC. 507. When issuing statements, press releases, requests for proposals, bid solicitations and other documents describing projects or programs funded in whole or in part with Federal money, all grantees receiving Federal funds, including but not limited to State and local governments and recipients of Federal research grants, shall clearly state (1) the percentage of the total costs of the program or project which will be financed with Federal money, (2) the dollar amount of Federal funds for the project or program, and (3) percentage and dollar amount of the total costs of the project or program that will be financed by nongovernmental sources.

Abortion.

SEC. 508. None of the funds appropriated under this Act shall be expended for any abortion except when it is made known to the Federal entity or official to which funds are appropriated under this Act that such procedure is necessary to save the life of the mother or that the pregnancy is the result of an act of rape or incest.

SEC. 509. Notwithstanding any other provision of law— 31 USC 1301 note.

(1) no amount may be transferred from an appropriation account for the Departments of Labor, Health and Human Services, and Education except as authorized in this or any subsequent appropriation act, or in the Act establishing the program or activity for which funds are contained in this Act;

(2) no department, agency, or other entity, other than the one responsible for administering the program or activity for which an appropriation is made in this Act, may exercise authority for the timing of the obligation and expenditure of such appropriation, or for the purposes for which it is obligated and expended, except to the extent and in the manner otherwise provided in sections 1512 and 1513 of title 31, United States Code; and

(3) no funds provided under this Act shall be available for the salary (or any part thereof) of an employee who is reassigned on a temporary detail basis to another position in the employing agency or department or in any other agency or department, unless the detail is independently approved by the head of the employing department or agency.

SEC. 510. LIMITATION ON USE OF FUNDS.—None of the funds made available in this Act may be used for the expenses of an electronic benefit transfer (EBT) task force.

SEC. 511. None of the funds made available in this Act may be used to enforce the requirements of section 428(b)(1)(U)(iii) of the Higher Education Act of 1965 with respect to any lender when it is made known to the Federal official having authority to obligate or expend such funds that the lender has a loan portfolio under part B of title IV of such Act that is equal to or less than $5,000,000.

SEC. 512. None of the funds made available in this Act may be used for Pell Grants under subpart 1 of part A of title IV of the Higher Education Act of 1965 to students attending an institution of higher education that is ineligible to participate in a loan program under such title as a result of a final default rate determination made by the Secretary under the Federal Family Education Loan or Federal Direct Loan program under parts B and D of such title, respectively, and issued by the Secretary on or after February 14, 1996. The preceding sentence shall not apply to an institution that (1) was not participating in either such loan program on such date (or would not have been participating on such date but for the pendency of an appeal of a default rate determination issued prior to such date) unless the institution subsequently participates in either such loan program; or (2) has a participation rate index (as defined at 34 CFR 668.17) that is less than or equal to 0.0375. No institution may be subject to the terms of this section unless it has had the opportunity to appeal its default rate determination under regulations issued by the Secretary for the FFEL and Federal Direct Loan Programs.

SEC. 513. No more than 1 percent of salaries appropriated for each Agency in this Act may be expended by that Agency on cash performance awards: *Provided,* That of the budgetary resources available to Agencies in this Act for salaries and expenses during fiscal year 1996, $30,500,000, to be allocated by the Office of Management and Budget, are permanently canceled: *Provided further,* That the foregoing proviso shall not apply to the Food and Drug Administration and the Indian Health Service.

SEC. 514. (a) HIGH COST TRAINING EXCEPTION.—Section 428H(d)(2) of the Higher Education Act of 1965 (20 U.S.C. 1078–8(d)(2)) is amended by striking out the period at the end thereof and inserting in lieu thereof a semicolon and the following:

"except in cases where the Secretary determines, that a higher amount is warranted in order to carry out the purpose of this part with respect to students engaged in specialized training requiring exceptionally high costs of education, but the annual insurable limit per student shall not be deemed to be exceeded by a line of credit under which actual payments by the lender to the borrower will not be made in any years in excess of the annual limit.".

20 USC 1078–8 note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall be effective for loans made to cover the cost of instruction for periods of enrollment beginning on or after July 1, 1996.

ESTABLISHMENT OF PROHIBITION AGAINST ABORTION-RELATED DISCRIMINATION IN TRAINING AND LICENSING OF PHYSICIANS.

SEC. 515. Part B of title II of the Public Health Service Act (42 U.S.C. 238 et seq.) is amended by adding at the end the following section:

"ABORTION-RELATED DISCRIMINATION IN GOVERNMENTAL ACTIVITIES REGARDING TRAINING AND LICENSING OF PHYSICIANS

42 USC 238n.

"SEC. 245. (a) IN GENERAL.—The Federal Government, and any State or local government that receives Federal financial assistance, may not subject any health care entity to discrimination on the basis that—

"(1) the entity refuses to undergo training in the performance of induced abortions, to require or provide such training, to perform such abortions, or to provide referrals for such training or such abortions;

"(2) the entity refuses to make arrangements for any of the activities specified in paragraph (1); or

"(3) the entity attends (or attended) a post-graduate physician training program, or any other program of training in the health professions, that does not (or did not) perform induced abortions or require, provide or refer for training in the performance of induced abortions, or make arrangements for the provision of such training.

"(b) ACCREDITATION OF POSTGRADUATE PHYSICIAN TRAINING PROGRAMS.—

"(1) IN GENERAL.—In determining whether to grant a legal status to a health care entity (including a license or certificate), or to provide such entity with financial assistance, services or other benefits, the Federal Government, or any State or local government that receives Federal financial assistance, shall deem accredited any postgraduate physician training program that would be accredited but for the accrediting agency's reliance upon an accreditation standards that requires an entity to perform an induced abortion or require, provide, or refer for training in the performance of induced abortions, or make arrangements for such training, regardless of whether such standard provides exceptions or exemptions. The government involved shall formulate such regulations or other mechanisms,

Regulations.

or enter into such agreements with accrediting agencies, as are necessary to comply with this subsection.

"(2) RULES OF CONSTRUCTION.—

"(A) IN GENERAL.—With respect to subclauses (I) and (II) of section 705(a)(2)(B)(i) (relating to a program of insured loans for training in the health professions), the requirements in such subclauses regarding accredited internship or residency programs are subject to paragraph (1) of this subsection.

"(B) EXCEPTIONS.—This section shall not—

"(i) prevent any health care entity from voluntarily electing to be trained, to train, or to arrange for training in the performance of, to perform, or to make referrals for induced abortions; or

"(ii) prevent an accrediting agency or a Federal, State or local government from establishing standards of medical competency applicable only to those individuals who have voluntarily elected to perform abortions.

"(c) DEFINITIONS.—For purposes of this section:

"(1) The term 'financial assistance', with respect to a government program, includes governmental payments provided as reimbursement for carrying out health-related activities.

"(2) The term 'health care entity' includes an individual physician, a postgraduate physician training program, and a participant in a program of training in the health professions.

"(3) The term 'postgraduate physician training program' includes a residency training program.".

SEC. 516. SURVEY AND CERTIFICATION OF MEDICARE PROVIDERS.

(a) INTERVALS BETWEEN STANDARD SURVEYS FOR HOME HEALTH AGENCIES.—Section 1891(c)(2)(A) of the Social Security Act (42 U.S.C. 1395bbb(c)(2)(A)) is amended—

(1) by striking "15 months" and inserting "36 months", and

(2) by amending the second sentence to read as follows: "The Secretary shall establish a frequency for surveys of home health agencies within this 36-month interval commensurate with the need to assure the delivery of quality home health services.".

(b) RECOGNITION OF ACCREDITATION.—Section 1865 of such Act (42 U.S.C. 1395bb) is amended—

(1) by redesignating subsection (b) as subsection (d),

(2) by redesignating the fourth sentence of subsection (a) as subsection (c), and

(3) by striking the third sentence of subsection (a) and inserting after and below the second sentence the following new subsection:

"(b)(1) In addition, if the Secretary finds that accreditation of a provider entity (as defined in paragraph (4)) by the American Osteopathic Association or any other national accreditation body demonstrates that all of the applicable conditions or requirements of this title (other than the requirements of section 1834(j) or the conditions and requirements under section 1881(b)) are met or exceeded—

"(A) in the case of a provider entity not described in paragraph (3)(B), the Secretary shall treat such entity as meeting

those conditions or requirements with respect to which the Secretary made such finding; or

"(B) in the case of a provider entity described in paragraph (3)(B), the Secretary may treat such entity as meeting those conditions or requirements with respect to which the Secretary made such finding.

"(2) In making such a finding, the Secretary shall consider, among other factors with respect to a national accreditation body, its requirements for accreditation, its survey procedures, its ability to provide adequate resources for conducting required surveys and supplying information for use in enforcement activities, its monitoring procedures for provider entities found out of compliance with the conditions or requirements, and its ability to provide the Secretary with necessary data for validation.

Publications.

"(3)(A) Except as provided in subparagraph (B), not later than 60 days after the date of receipt of a written request for a finding under paragraph (1) (with any documentation necessary to make a determination on the request), the Secretary shall publish a notice identifying the national accreditation body making the request, describing the nature of the request, and providing a period of at least 30 days for the public to comment on the request. The Secretary shall approve or deny a request for such a finding, and shall publish notice of such approval or denial, not later than

Effective date.

210 days after the date of receipt of the request (with such documentation). Such an approval shall be effective with respect to accreditation determinations made on or after such effective date (which may not be later than the date of publication of the approval) as the Secretary specifies in the publication notice.

"(B) The 210-day and 60-day deadlines specified in subparagraph (A) shall not apply in the case of any request for a finding with respect to accreditation of a provider entity to which the conditions and requirements of section 1819 and 1861(j) apply.

"(4) For purposes of this section, the term 'provider entity' means a provider of services, supplier, facility, clinic, agency, or laboratory.".

(c) AUTHORITY FOR VALIDATION SURVEYS.—

(1) IN GENERAL.—The first sentence of section 1864(c) of such Act (42 U.S.C. 1395aa(c)) is amended by striking "hospitals" and all that follows and inserting "provider entities that, pursuant to subsection (a) or (b)(1) of section 1865, are treated as meeting the conditions or requirements of this title.".

(2) CONFORMING AMENDMENTS.—Section 1865 of such Act, as amended by subsection (b), is further amended—

(A) in subsection (d), as redesignated by subsection (b)(1)—

(i) by striking "a hospital" and inserting "a provider entity",

(ii) by striking "the hospital" each place it appears and inserting "the entity", and

(iii) by striking "the requirements of the numbered paragraphs of section 1861(e)" and inserting "the conditions or requirements the entity has been treated as meeting pursuant to subsection (a) or (b)(1)"; and

(B) by adding at the end the following new subsection:

"(e) For provisions relating to validation surveys of entities that are treated as meeting applicable conditions or requirements of this title pursuant to subsection (a) or (b)(1), see section 1864(c).".

(d) STUDY AND REPORT ON DEEMING FOR NURSING FACILITIES AND RENAL DIALYSIS FACILITIES.—

(1) STUDY.—The Secretary of Health and Human Services shall provide for—

(A) a study concerning the effectiveness and appropriateness of the current mechanisms for surveying and certifying skilled nursing facilities for compliance with the conditions and requirements of sections 1819 and 1861(j) of the Social Security Act and nursing facilities for compliance with the conditions of section 1919 of such Act, and

(B) a study concerning the effectiveness and appropriateness of the current mechanisms for surveying and certifying renal dialysis facilities for compliance with the conditions and requirements of section 1881(b) of the Social Security Act.

(2) REPORT. Not later than July 1, 1997, the Secretary shall transmit to Congress a report on each of the studies provided for under paragraph (1). The report on the study under paragraph (1)(A) shall include (and the report on the study under paragraph (1)(B) may include) a specific framework, where appropriate, for implementing a process under which facilities covered under the respective study may be deemed to meet applicable medicare conditions and requirements if they are accredited by a national accreditation body.

SEC. 517. The Secretary of Health and Human Services shall grant a waiver of the requirements set forth in section 1903(m)(2)(A)(ii) of the Social Security Act to D.C. Chartered Health Plan, Inc. of the District of Columbia: *Provided*, That such waiver shall be deemed to have been in place for all contract periods from October 1, 1991 through the current contract period or October 1, 1999, whichever shall be later.

SEC. 518. Section 119 of Public Law 104–99 is hereby repealed. 20 USC 1070a note.

OPTIONAL, ALTERNATIVE MEDICAID PAYMENT METHOD

SEC. 519. (a) ELECTION.—A heavily impacted high-DSH State (as defined in subsection (d)) may elect to receive payments for expenditures under title XIX of the Social Security Act for the period beginning October 1, 1995, and ending June 30, 1996 (in this section referred to as the "9-month period"), for State fiscal year 1996–1997, and (subject to subsection (c)(4)) for State fiscal year 1997–1998 in accordance with the alternative payment method specified in subsection (b) rather than in accordance with section 1903(a) of such Act.

(b) ALTERNATIVE PAYMENT METHOD.—

(1) IN GENERAL.—Under the alternative payment method specified in this subsection—

(A) any percentage otherwise specified in section 1903(a) of the Social Security Act for expenditures in the 9-month period or a State fiscal year for which the election is in effect shall be equal to 100 percent minus the non-Federal participation percentage (specified under paragraph (2)) for the State for that period or State fiscal year, and

(B) the total payment for the 9-month period or a State fiscal year in which the election is in effect may not exceed the maximum Federal financial participation specified in paragraph (5) for the period or year.

In applying subparagraph (B), there shall not be counted as payments for any period or fiscal year any payment that is attributable to an expenditure which is exempt under subsection (c)(1). In applying such subparagraph to the 9-month period, there shall be counted payments (other than those described in the previous sentence) that are attributable to an expenditure for periods occurring in the 9-month period and before the date of the enactment of this Act.

(2) NON-FEDERAL PARTICIPATION PERCENTAGE.—For purposes of paragraph (1), the "non-Federal participation percentage" for a State for the 9-month period or State fiscal year is equal to the ratio of—

(A) the State's base State expenditures (as defined in paragraph (3)) plus the applicable percentage (as defined in paragraph (4)) of the difference between the amount of such expenditures and the amount of the State expenditures that would be required for the State to qualify for the maximum Federal financial participation specified in paragraph (5) under title XIX of the Social Security Act if this section did not apply for such period or State fiscal year; to

(B) the total expenditures under the State plan of the State under such title for such period or State fiscal year.

Such ratio shall be calculated as if total expenditures under the State plan were no greater than necessary for the State to receive the maximum Federal financial participation specified in paragraph (5).

(3) BASE STATE EXPENDITURES.—For purposes of this subsection, the term "base State expenditures" means—

(A) for the 9-month period, $266,250,000, or

(B) for State fiscal year 1996–1997, $355,000,000, or

(C) for State fiscal year 1997–1998, $355,000,000.

(4) APPLICABLE PERCENTAGE.—For purposes of this subsection, the "applicable percentage"—

(A) for the 9-month period is 20 percent,

(B) for State fiscal year 1996–1997 is 35 percent, and

(C) for State fiscal year 1997–1998 is 55 percent.

(5) MAXIMUM FEDERAL PARTICIPATION.—For purposes of this section, the maximum Federal financial participation specified in this paragraph for a State—

(A) for the 9-month period, is $1,966,500,000

(B) for State fiscal year 1996–1997 is $2,622,000,000, and

(C) for State fiscal year 1997–1998 is $2,622,000,000.

(c) ADDITIONAL RULES.—

(1) LIMITING APPLICATION TO EXPENDITURES FOR PERIODS IN WHICH ELECTION IN EFFECT.—This section (and the maximum Federal financial participation specified in subsection (b)(5)) shall not apply to any expenditure that is applicable to a reporting period that is not covered under an election under subsection (a), including any expenditure applicable to any reporting period before October 1, 1995.

(2) ELECTION PROCESS.—An election of a State under subsection (a) shall be made, by notice from the Governor of the State to the Secretary of Health and Human Services,

not later than 30 days after the date of the enactment of this Act.

(3) LIMITATION.—For any period (on or after the date of an election under this section) in which an election is in effect for a State under this section—

(A) the Federal Government has no obligation to provide payment with respect to items and services provided under title XIX of the Social Security Act in excess of the maximum Federal financial participation specified in subsection (b)(5) and such title shall not be construed as providing for an entitlement, under Federal law in relation to the Federal Government, in an individual or person (including any provider) at the time of provision or receipt of services; and

(B) the State shall provide an entitlement to any person to receive any service or other benefit to the extent that such person would, but for this paragraph, be entitled to such service or other benefit under such title.

(4) CONDITION FOR STATE FISCAL YEAR 1997–1998.—This section shall not apply to State fiscal year 1997–1998 except to the extent provided for in a subsequent appropriation Act.

(d) DEFINITION.—For purposes of this section, the term "heavily impacted high-DSH State" means the State of Louisiana.

(e) STATE FISCAL YEARS DEFINED.—For purposes of this section—

(1) the term "State fiscal year 1996–1997" means the period beginning July 1, 1996, and ending June 30, 1997, and

(2) the term "State fiscal year 1997–1998" means the period beginning July 1, 1997, and ending June 30, 1998.

Female genital mutilation.
42 USC 241 note.

SEC. 520. (a) Congress finds that—

(1) the practice of female genital mutilation is carried out by members of certain cultural and religious groups within the United States; and

(2) the practice of female genital mutilation often results in the occurrence of physical and psychological health effects that harm the women involved.

(b) The Secretary of Health and Human Services shall do the following:

(1) Compile data on the number of females living in the United States who have been subjected to female genital mutilation (whether in the United States or in their countries of origin), including a specification of the number of girls under the age of 18 who have been subjected to such mutilation.

(2) Identify communities in the United States that practice female genital mutilation, and design and carry out outreach activities to educate individuals in the communities on the physical and psychological health effects of such practice. Such outreach activities shall be designed and implemented in collaboration with representatives of the ethnic groups practicing such mutilation and with representatives of organizations with expertise in preventing such practice.

(3) Develop recommendations for the education of students of schools of medicine and osteopathic medicine regarding female genital mutilation and complications arising from such mutilation. Such recommendations shall be disseminated to such schools.

(c) For purposes of this section the term "female genital mutilation" means the removal or infibulation (or both) of the whole or part of the clitoris, the labia minor, or the labia major.

Effective date.

(d) The Secretary of Health and Human Services shall commence carrying out this section not later than 90 days after the date of enactment of this Act.

TITLE VI—ADDITIONAL APPROPRIATIONS

SEC. 601. In addition to amounts otherwise provided in this Act, the following amounts are hereby appropriated as specified for the following appropriation accounts: Health Care Financing Administration, "Program Management", $396,000,000; and Office of the Secretary, "Office of Inspector General", $22,330,000, together with not to exceed $20,670,000 to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from the Hospital Insurance Trust Fund and the Supplemental Medical Insurance Trust Fund

SEC. 602. Appropriations and funds made available pursuant to section 601 of this Act shall be available until enactment into law of a subsequent appropriation for fiscal year 1996 for any project or activity provided for in section 601.

TITLE VII—AMENDMENTS TO THE GOALS 2000: EDUCATE AMERICA ACT

SEC. 701. ELIMINATION OF THE NATIONAL EDUCATION STANDARDS AND IMPROVEMENT COUNCIL AND OPPORTUNITY-TO-LEARN STANDARDS.

The Goals 2000: Educate America Act (20 U.S.C. 5801 et seq.) is amended—

(1) by repealing part B of title II (20 U.S.C. 5841 et seq.);

(2) by redesignating parts C and D of title II (20 U.S.C. 5861 et seq. and 5871 et seq.) as parts B and C, respectively, of title II; and

(3) in section 241 (20 U.S.C. 5871)—

(A) in subsection (a), by striking "(a) NATIONAL EDUCATION GOALS PANEL.—"; and

(B) by striking subsections (b) through (d).

SEC. 702. STATE AND LOCAL EDUCATION SYSTEMIC IMPROVEMENT.

(a) PANEL COMPOSITION; OPPORTUNITY-TO-LEARN STANDARDS; AND SUBMISSION OF PLAN TO THE SECRETARY FOR APPROVAL.—

(1) STATE IMPROVEMENT PLAN.—Section 306 of the Goals 2000: Educate America Act (20 U.S.C. 5886) is amended—

(A) by amending subsection (b) to read as follows:

"(b) PLAN DEVELOPMENT.—A State improvement plan under this title shall be developed by a broad-based State panel in cooperation with the State educational agency and the Governor.";

(B) by striking subsection (d).

(b) LOCAL PANEL COMPOSITION.—Section 309(a)(3)(A) of such Act (20 U.S.C. 5889(a)(3)(A)) is amended—

(1) in the matter preceding clause (i), by striking "that—" and inserting a semicolon; and

(2) by striking clauses (i) and (ii).

SEC. 703. TECHNICAL AND CONFORMING AMENDMENTS.

(a) GOALS 2000: EDUCATE AMERICA ACT.—

(1) The table of contents for the Goals 2000: Educate America Act is amended, in the items relating to title II—

(A) by striking the items relating to part B;

(B) by striking "PART C" and inserting "PART B"; and

(C) by striking "PART D" and inserting "PART C".

(2) Section 2 of such Act (20 U.S.C. 5801) is amended—

(A) in paragraph (4)—

(i) in subparagraph (B), by inserting "and" after the semicolon;

(ii) by striking subparagraph (C); and

(iii) by redesignating subparagraph (D) as subparagraph (C); and

(B) in paragraph (6)—

(i) by striking subparagraph (C); and

(ii) by redesignating subparagraphs (D) through (F) as subparagraphs (C) through (E), respectively.

(3) Section 3(a) of such Act (20 U.S.C. 5802) is amended—

(A) by striking paragraph (7); and

(B) by redesignating paragraphs (8) through (14) as paragraphs (7) through (13), respectively.

(4) Section 201(3) of such Act (20 U.S.C. 5821(3)) is amended by striking ", voluntary national student performance" and all that follows through "such Council" and inserting "and voluntary national student performance standards".

(5) Section 202(j) of such Act (20 U.S.C. 5822(j)) is amended by striking ", student performance, or opportunity-to-learn" and inserting "or student performance".

(6) Section 203 of such Act (20 U.S.C. 5823) is amended—

(A) in subsection (a)—

(i) by striking paragraphs (2) and (3);

(ii) by redesignating paragraphs (4) through (6) as paragraphs (2) through (4), respectively; and

(iii) by amending paragraph (2) (as redesignated by clause (ii)) to read as follows:

"(2) review voluntary national content standards and voluntary national student performance standards;"; and

(B) in subsection (b)(1)—

(i) in subparagraph (A), by inserting "and" after the semicolon;

(ii) in subparagraph (B), by striking "; and" and inserting a period; and

(iii) by striking subparagraph (C).

(7) Section 204(a)(2) of such Act (20 U.S.C. 5824(a)(2)) is amended—

(A) by striking "voluntary national opportunity-to-learn standards,"; and

(B) by striking "described in section 213(f)".

(8) Section 304(a)(2) of such Act (20 U.S.C. 5884(a)(2)) is amended—

(A) in subparagraph (A), by adding "and" after the semicolon;

(B) in subparagraph (B), by striking "; and" and inserting a period; and

(C) by striking subparagraph (C).

(9) Section 306(o) of such Act (20 U.S.C. 5886(o)) is amended by striking "State opportunity-to-learn standards or strategies,".

(10) Section 308 of such Act (20 U.S.C. 5888) is amended—

(A) in subsection (b)(2)—

(i) in the matter preceding clause (i) of subparagraph (A), by striking "State opportunity-to-learn standards,"; and

(ii) in subparagraph (A), by striking "including— " and all that follows through "part B of title II;" and inserting "including through consortia of States;"; and

(B) in subsection (c), by striking "306(b)(1)" and inserting "306(b)".

(11) For the purpose of expanding the use and availability of computers and computer technology, section 309(a)(6)(A)(ii) of such Act (20 U.S.C. 5889(a)(6)(A)(ii)) is amended by inserting after "new public schools" the following "and the acquisition of technology and use of technology-enhanced curricula and instruction"

(12) Section 312(b) of such Act (20 U.S.C. 5892(b)) is amended—

(A) by striking paragraph (1); and

(B) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(13) Section 314(a)(6)(A) of such Act (20 U.S.C. 5894(a)(6)(A)) is amended by striking "certified by the National Education Standards and Improvement Council and".

(14) Section 315 of such Act (20 U.S.C. 5895) is amended—

(A) in subsection (b)—

(i) in paragraph (1)(C), by striking ", including the requirements for timetables for opportunity-to-learn standards,";

(ii) by striking paragraph (2);

(iii) by redesignating paragraphs (3) through (5) as paragraphs (2) through (4), respectively;

(iv) in paragraph (1)(A), by striking "paragraph (4) of this subsection" and inserting "paragraph (3)";

(v) in paragraph (2) (as redesignated by clause (iii))—

(I) by striking subparagraph (A);

(II) by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively; and

(III) in subparagraph (A) (as redesignated by subclause (II)) by striking ", voluntary natural student performance standards, and voluntary natural opportunity-to-learn standards developed under part B of title II of this Act" and inserting "and voluntary national student performance standards";

(vi) in subparagraph (B) of paragraph (3) (as redesignated by clause (iii)), by striking "paragraph (5)," and inserting "paragraph (4),"; and

(vii) in paragraph (4) (as redesignated by clause (ii)), by striking "paragraph (4)" each place it appears and inserting "paragraph (3)";

(B) in the matter preceding subparagraph (A) of subsection (c)(2)—

(i) by striking "subsection (b)(4)" and inserting "subsection (b)(3)"; and

(ii) by striking "and to provide a framework for the implementation of opportunity-to-learn standards or strategies"; and

(C) in subsection (f), by striking "subsection (b)(4)" each place it appears and inserting "subsection (b)(3)".

(15)(A) Section 316 of such Act (20 U.S.C. 5896) is repealed.

(B) The table of contents for such Act is amended by striking the item relating to section 316.

(16) Section 317 of such Act (20 U.S.C. 5897) is amended—

(A) in subsection (d)(4), by striking "promote the standards and strategies described in section 306(d),"; and

(B) in subsection (e)—

(i) in paragraph (2), by inserting "and" after the semicolon;

(ii) by striking paragraph (3); and

(iii) by redesignating paragraph (4) as paragraph (3).

(17) Section 503 of such Act (20 U.S.C. 5933) is amended—

(A) in subsection (b)—

(i) in paragraph (1)—

(I) in the matter preceding subparagraph (A), by striking "28" and inserting "27";

(II) by striking subparagraph (D); and

(III) by redesignating subparagraphs (E) through (G) as subparagraphs (D) through (F), respectively;

(ii) in paragraphs (2), (3), and (5), by striking "subparagraphs (E), (F), and (G)" each place it appears and inserting "subparagraphs (D), (E), and (F)";

(iii) in paragraph (2), by striking "subparagraph (G)" and inserting "subparagraph (F)";

(iv) in paragraph (4), by striking "(C), and (D)" and inserting "and (C)"; and

(v) in the matter preceding subparagraph (A) of paragraph (5), by striking "subparagraph (E), (F), or (G)" and inserting "subparagraph (D), (E), or (F)"; and

(B) in subsection (e)—

(i) in paragraph (1)(B), by striking "subparagraph (E)" and inserting "subparagraph (D)"; and

(ii) in paragraph (2), by striking "subparagraphs (E), (F), and (G)" and inserting "subparagraphs (D), (E), and (F)".

(18) Section 504 of such Act (20 U.S.C. 5934) is amended—

(A) by striking subsection (f); and

(B) by redesignating subsection (g) as subsection (f).

(b) ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.—

(1) Section 1111 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311) is amended—

(A) in subsection (b)(8)(B), by striking "(which may include opportunity-to-learn standards or strategies developed under the Goals 2000: Educate America Act)";

(B) in subsection (f), by striking "opportunity-to-learn standards or strategies,";

(C) by striking subsection (g); and

(D) by redesignating subsection (h) as subsection (g).

(2) Section 1116 of such Act (20 U.S.C. 6317) is amended—

(A) in subsection (c)—

(i) in paragraph (2)(A)(i), by striking all beginning with ", which may" through "Act"; and

(ii) in paragraph (5)(B)(i)—

(I) in subclause (VI), by inserting "and" after the semicolon;

(II) in subclause (VII), by striking "; and" and inserting a period; and

(III) by striking subclause (VIII); and

(B) in subsection (d)—

(i) in paragraph (4)(B), by striking all beginning with ", and may" through "Act"; and

(ii) in paragraph (6)(B)(i)—

(I) by striking subclause (IV); and

(II) by redesignating subclauses (V) through (VIII) as subclauses (IV) through (VII), respectively.

(3) Section 1501(a)(2)(B) of such Act (20 U.S.C. 6491(a)(2)(B)) is amended—

(A) by striking clause (v); and

(B) by redesignating clauses (vi) through (x) as clauses (v) through (ix), respectively.

(4) Section 10101(b)(1)(A)(i) of such Act (20 U.S.C. 8001(b)(1)(A)(i)) is amended by striking "and opportunity-to-learn standards or strategies for student learning".

(5) Section 14701(b)(1)(B)(v) of such Act (20 U.S.C. 8941(b)(1)(B)(v)) is amended by striking "the National Education Goals Panel," and all that follows through "assessments)" and inserting "and the National Education Goals Panel".

(c) GENERAL EDUCATION PROVISIONS ACT.—Section 428 of the General Education Provisions Act (20 U.S.C. 1228b), as amended by section 237 of the Improving America's Schools Act of 1994 (Public Law 103–382), is amended by striking "the National Education Standards and Improvement Council,".

(d) EDUCATION AMENDMENTS OF 1978.—Section 1121(b) of the Education Amendments of 1978 (25 U.S.C. 2001(b)), as amended by section 381 of the Improving America's Schools Act of 1994 (Public Law 103–382), is amended by striking "213(a)" and inserting "203(a)(2)".

SEC. 704. DIRECT GRANTS TO LOCAL EDUCATIONAL AGENCIES.

Section 304 of the Goals 2000: Educate America Act (20 U.S.C. 5884) is amended by adding at the end the following new subsection:

"(e) DIRECT GRANTS TO LOCAL EDUCATIONAL AGENCIES.—

"(1) IN GENERAL.—Notwithstanding subsection (c), if a State educational agency was not participating in the program under this section as of October 20, 1995, and the State educational agency approves, the Secretary shall use all or a portion of the allotment that the State would have received under this section for a fiscal year to award grants to local educational agencies in the State that have approved applications under paragraph (2) for such fiscal year.

"(2) APPLICATION.—Any local educational agency that desires to receive a grant under this subsection shall submit

an application to the Secretary that is consistent with the provisions of this Act and shall notify the State educational agency of such application in accordance with paragraph (1). The Secretary may establish a deadline for the submission of such applications.

"(3) AWARD BASIS.—The Secretary may use the student enrollment of a local educational agency or other factors as a basis for awarding grants under this subsection."

SEC. 705. ALTERNATIVE TO SECRETARIAL APPROVAL OF STATE PLANS.

(a) STATE IMPROVEMENT PLANS.—Section 306(n) of the Goals 2000: Educate America Act (20 U.S.C. 5886(n)) is amended by adding at the end the following new paragraph:

"(4) ALTERNATIVE SUBMISSION.—

"(A) IN GENERAL.—Notwithstanding any other provision of this title, any State educational agency that wishes to receive an allotment under this title after the first year such State educational agency receives such an allotment may, in lieu of submitting its State improvement plan for approval by the Secretary under this subsection and section 305(c)(2), or submitting major amendments to the Secretary under subsection (p), provide the Secretary, as part of an application under section 305(c) or as an amendment to a previously approved application—

"(i) an assurance, from the Governor and the chief State school officer of the State, that—

"(I) the State has a plan that meets the requirements of this section and that is widely available throughout the State; and

"(II) any amendments the State makes to the plan will meet the requirements of this section; and

"(ii) the State's benchmarks of improved student performance and of progress in implementing the plan, and the timelines against which the State's progress in carrying out the plan can be measured.

"(B) ANNUAL REPORT.—Any State educational agency that chooses to use the alternative method described in paragraph (1) shall annually report to the public summary information on the use of funds under this title by the State and local educational agencies in the State, as well as the State's progress toward meeting the benchmarks and timelines described in subparagraph (A)(ii).".

(b) STATE APPLICATIONS.—Section 305(c)(2) of such Act (20 U.S.C. 5885(c)(2)) is amended by inserting "except in the case of a State educational agency submitting the information described in section 306(n)(4)," before "include".

(c) SECRETARY'S REVIEW OF APPLICATIONS.—Section 307(b)(1) of such Act (20 U.S.C. 5887(b)(1)) is amended—

(1) in subparagraph (A), by striking "or" after the semicolon;

(2) in subparagraph (B), by striking "and" after the semicolon and inserting "or"; and

(3) by adding at the end the following new subparagraph:

"(C) the State educational agency has submitted the information described in section 306(n)(4); and".

(d) PROGRESS REPORTS.—The matter preceding paragraph (1) of section 312(a) of such Act (20 U.S.C. 5892(a)) is amended by striking "Each" and inserting "Except in the case of a State educational agency submitting the information described in section 306(n)(4), each".

SEC. 706. LIMITATIONS.

Title III of the Goals 2000: Educate America Act (20 U.S.C. 5881 et seq.) is further amended by adding at the end the following new section:

20 USC 5900.

"SEC. 320. LIMITATIONS.

"(a) PROHIBITED CONDITIONS.—Nothing in this Act shall be construed to require a State, a local educational agency, or a school, as a condition of receiving assistance under this title—

"(1) to provide outcomes-based education; or

"(2) to provide school-based health clinics or any other health or social service.

"(b) LIMITATION ON GOVERNMENT OFFICIALS.—Nothing in this Act shall be construed to require or permit any Federal or State official to inspect a home, judge how parents raise their children, or remove children from their parents, as a result of the participation of a State, local educational agency, or school in any program or activity carried out under this Act.".

This Act may be cited as the "Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1996".

(e) For programs, projects or activities in the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996, provided as follows, to be effective as if it had been enacted into law as the regular appropriations Act:

Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996.

AN ACT

Making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1996, and for other purposes.

TITLE I

DEPARTMENT OF VETERANS AFFAIRS

VETERANS BENEFITS ADMINISTRATION

COMPENSATION AND PENSIONS

(INCLUDING TRANSFER OF FUNDS)

For the payment of compensation benefits to or on behalf of veterans as authorized by law (38 U.S.C. 107, chapters 11, 13, 51, 53, 55, and 61); pension benefits to or on behalf of veterans as authorized by law (38 U.S.C. chapters 15, 51, 53, 55, and 61; 92 Stat. 2508); and burial benefits, emergency and other officers' retirement pay, adjusted-service credits and certificates, payment of premiums due on commercial life insurance policies guaranteed under the provisions of Article IV of the Soldiers' and Sailors' Civil Relief Act of 1940, as amended, and for other benefits as

authorized by law (38 U.S.C. 107, 1312, 1977, and 2106, chapters 23, 51, 53, 55, and 61; 50 U.S.C. App. 540–548; 43 Stat. 122, 123; 45 Stat. 735; 76 Stat. 1198); $18,331,561,000, to remain available until expended: *Provided,* That not to exceed $25,180,000 of the amount appropriated shall be reimbursed to "General operating expenses" and "Medical care" for necessary expenses in implementing those provisions authorized in the Omnibus Budget Reconciliation Act of 1990, and in the Veterans' Benefits Act of 1992 (38 U.S.C. chapters 51, 53, and 55), the funding source for which is specifically provided as the "Compensation and pensions" appropriation: *Provided further,* That such sums as may be earned on an actual qualifying patient basis, shall be reimbursed to "Medical facilities revolving fund" to augment the funding of individual medical facilities for nursing home care provided to pensioners as authorized by the Veterans' Benefits Act of 1992 (38 U.S.C. chapter 55): *Provided further,* That $12,000,000 previously transferred from "Compensation and pensions" to "Medical facilities revolving fund" shall be transferred to this heading.

READJUSTMENT BENEFITS

For the payment of readjustment and rehabilitation benefits to or on behalf of veterans as authorized by law (38 U.S.C. chapters 21, 30, 31, 34, 35, 36, 39, 51, 53, 55, and 61), $1,345,300,000, to remain available until expended: *Provided,* That funds shall be available to pay any court order, court award or any compromise settlement arising from litigation involving the vocational training program authorized by section 18 of Public Law 98–77, as amended.

VETERANS INSURANCE AND INDEMNITIES

For military and naval insurance, national service life insurance, servicemen's indemnities, service-disabled veterans insurance, and veterans mortgage life insurance as authorized by law (38 U.S.C. chapter 19; 70 Stat. 887; 72 Stat. 487), $24,890,000, to remain available until expended.

GUARANTY AND INDEMNITY PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct and guaranteed loans, such sums as may be necessary to carry out the purpose of the program, as authorized by 38 U.S.C. chapter 37, as amended: *Provided,* That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended.

In addition, for administrative expenses to carry out the direct and guaranteed loan programs, $65,226,000, which may be transferred to and merged with the appropriation for "General operating expenses".

LOAN GUARANTY PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct and guaranteed loans, such sums as may be necessary to carry out the purpose of the program, as authorized by 38 U.S.C. chapter 37, as amended: *Provided,* That such costs, including the cost of modifying such loans, shall be

as defined in section 502 of the Congressional Budget Act of 1974, as amended.

In addition, for administrative expenses to carry out the direct and guaranteed loan programs, $52,138,000, which may be transferred to and merged with the appropriation for "General operating expenses".

DIRECT LOAN PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct loans, such sums as may be necessary to carry out the purpose of the program, as authorized by 38 U.S.C. chapter 37, as amended: *Provided,* That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: *Provided further,* That during 1996, within the resources available, not to exceed $300,000 in gross obligations for direct loans are authorized for specially adapted housing loans (38 U.S.C. chapter 37).

In addition, for administrative expenses to carry out the direct loan program, $459,000, which may be transferred to and merged with the appropriation for "General operating expenses".

EDUCATION LOAN FUND PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct loans, $1,000, as authorized by 38 U.S.C. 3698, as amended: *Provided,* That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: *Provided further,* That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $4,000.

In addition, for administrative expenses necessary to carry out the direct loan program, $195,000, which may be transferred to and merged with the appropriation for "General operating expenses".

VOCATIONAL REHABILITATION LOANS PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct loans, $54,000, as authorized by 38 U.S.C. chapter 31, as amended: *Provided,* That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: *Provided further,* That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $1,964,000.

In addition, for administrative expenses necessary to carry out the direct loan program, $377,000, which may be transferred to and merged with the appropriation for "General operating expenses".

NATIVE AMERICAN VETERAN HOUSING LOAN PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For administrative expenses to carry out the direct loan program authorized by 38 U.S.C. chapter 37, subchapter V, as

amended, $205,000, which may be transferred to and merged with the appropriation for "General operating expenses".

VETERANS HEALTH ADMINISTRATION

MEDICAL CARE

For necessary expenses for the maintenance and operation of hospitals, nursing homes, and domiciliary facilities; for furnishing, as authorized by law, inpatient and outpatient care and treatment to beneficiaries of the Department of Veterans Affairs, including care and treatment in facilities not under the jurisdiction of the Department of Veterans Affairs, and furnishing recreational facilities, supplies, and equipment; funeral, burial, and other expenses incidental thereto for beneficiaries receiving care in Department of Veterans Affairs facilities; administrative expenses in support of planning, design, project management, real property acquisition and disposition, construction and renovation of any facility under the jurisdiction or for the use of the Department of Veterans Affairs; oversight, engineering and architectural activities not charged to project cost; repairing, altering, improving or providing facilities in the several hospitals and homes under the jurisdiction of the Department of Veterans Affairs, not otherwise provided for, either by contract or by the hire of temporary employees and purchase of materials; uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901–5902); aid to State homes as authorized by law (38 U.S.C. 1741); and not to exceed $8,000,000 to fund cost comparison studies as referred to in 38 U.S.C. 8110(a)(5); $16,564,000,000, plus reimbursements: *Provided*, That of the funds made available under this heading, $789,000,000 is for the equipment and land and structures object classifications only, which amount shall not become available for obligation until August 1, 1996, and shall remain available for obligation until September 30, 1997.

MEDICAL AND PROSTHETIC RESEARCH

For necessary expenses in carrying out programs of medical and prosthetic research and development as authorized by law (38 U.S.C. chapter 73), to remain available until September 30, 1997, $257,000,000, plus reimbursements.

MEDICAL ADMINISTRATION AND MISCELLANEOUS OPERATING EXPENSES

For necessary expenses in the administration of the medical, hospital, nursing home, domiciliary, construction, supply, and research activities, as authorized by law; administrative expenses in support of planning, design, project management, architectural, engineering, real property acquisition and disposition, construction and renovation of any facility under the jurisdiction or for the use of the Department of Veterans Affairs, including site acquisition; engineering and architectural activities not charged to project cost; and research and development in building construction technology; $63,602,000, plus reimbursements.

TRANSITIONAL HOUSING LOAN PROGRAM

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct loans, $7,000, as authorized by Public Law 102–54, section 8, which shall be transferred from the "General post fund": *Provided,* That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: *Provided further,* That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $70,000. In addition, for administrative expenses to carry out the direct loan program, $54,000, which shall be transferred from the "General post fund", as authorized by Public Law 102–54, section 8.

DEPARTMENTAL ADMINISTRATION

GENERAL OPERATING EXPENSES

For necessary operating expenses of the Department of Veterans Affairs, not otherwise provided for, including uniforms or allowances therefor, as authorized by law; not to exceed $25,000 for official reception and representation expenses; hire of passenger motor vehicles; and reimbursement of the General Services Administration for security guard services, and the Department of Defense for the cost of overseas employee mail; $848,143,000: *Provided,* That of the amount appropriated and any other funds made available from any other source for activities funded under this heading, except reimbursements, not to exceed $214,109,000 shall be available for General Administration; including not to exceed (1) $3,206,000 for personnel compensation and benefits and $50,000 for travel in the Office of the Secretary, (2) $75,000 for travel in the Office of the Assistant Secretary for Policy and Planning, (3) $33,000 for travel in the Office of the Assistant Secretary for Congressional Affairs, and (4) $100,000 for travel in the Office of Assistant Secretary for Public and Intergovernmental Affairs: *Provided further,* That during fiscal year 1996, notwithstanding any other provision of law, the number of individuals employed by the Department of Veterans Affairs (1) in other than "career appointee" positions in the Senior Executive Service shall not exceed 6, and (2) in schedule C positions shall not exceed 11: *Provided further,* That not to exceed $6,000,000 of the amount appropriated shall be available for administrative expenses to carry out the direct and guaranteed loan programs under the Loan Guaranty Program Account: *Provided further,* That funds under this heading shall be available to administer the Service Members Occupational Conversion and Training Act: *Provided further,* That none of the funds under this heading may be obligated or expended for the acquisition of automated data processing equipment and services for Department of Veterans Affairs regional offices to support Stage III of the automated data equipment modernization program of the Veterans Benefits Administration.

NATIONAL CEMETERY SYSTEM

For necessary expenses for the maintenance and operation of the National Cemetery System not otherwise provided for, including uniforms or allowances therefor, as authorized by law; cemeterial

expenses as authorized by law; purchase of three passenger motor vehicles, for use in cemeterial operations; and hire of passenger motor vehicles, $72,604,000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $30,900,000.

CONSTRUCTION, MAJOR PROJECTS

(INCLUDING TRANSFER OF FUNDS)

For constructing, altering, extending and improving any of the facilities under the jurisdiction or for the use of the Department of Veterans Affairs, or for any of the purposes set forth in sections 316, 2404, 2406, 8102, 8103, 8106, 8108, 8109, 8110, and 8122 of title 38, United States Code, including planning, architectural and engineering services, maintenance or guarantee period services costs associated with equipment guarantees provided under the project, services of claims analysts, offsite utility and storm drainage system construction costs, and site acquisition, where the estimated cost of a project is $3,000,000 or more or where funds for a project were made available in a previous major project appropriation, $136,155,000, to remain available until expended: *Provided,* That except for advance planning of projects funded through the advance planning fund and the design of projects funded through the design fund, none of these funds shall be used for any project which has not been considered and approved by the Congress in the budgetary process: *Provided further,* That funds provided in this appropriation for fiscal year 1996, for each approved project shall be obligated (1) by the awarding of a construction documents contract by September 30, 1996, and (2) by the awarding of a construction contract by September 30, 1997: *Provided further,* That the Secretary shall promptly report in writing to the Comptroller General and to the Committees on Appropriations any approved major construction project in which obligations are not incurred within the time limitations established above; and the Comptroller General shall review the report in accordance with the procedures established by section 1015 of the Impoundment Control Act of 1974 (title X of Public Law 93–344): *Provided further,* That no funds from any other account except the "Parking revolving fund", may be obligated for constructing, altering, extending, or improving a project which was approved in the budget process and funded in this account until one year after substantial completion and beneficial occupancy by the Department of Veterans Affairs of the project or any part thereof with respect to that part only: *Provided further,* That of the funds made available under this heading in Public Law 103–327, $7,000,000 shall be transferred to the "Parking revolving fund". Reports.

CONSTRUCTION, MINOR PROJECTS

For constructing, altering, extending, and improving any of the facilities under the jurisdiction or for the use of the Department of Veterans Affairs, including planning, architectural and engineering services, maintenance or guarantee period services costs associated with equipment guarantees provided under the project, services

of claims analysts, offsite utility and storm drainage system construction costs, and site acquisition, or for any of the purposes set forth in sections 316, 2404, 2406, 8102, 8103, 8106, 8108, 8109, 8110, and 8122 of title 38, United States Code, where the estimated cost of a project is less than $3,000,000, $190,000,000, to remain available until expended, along with unobligated balances of previous "Construction, minor projects" appropriations which are hereby made available for any project where the estimated cost is less than $3,000,000: *Provided,* That funds in this account shall be available for (1) repairs to any of the nonmedical facilities under the jurisdiction or for the use of the Department of Veterans Affairs which are necessary because of loss or damage caused by any natural disaster or catastrophe, and (2) temporary measures necessary to prevent or to minimize further loss by such causes.

PARKING REVOLVING FUND

For the parking revolving fund as authorized by law (38 U.S.C. 8109), income from fees collected, to remain available until expended. Resources of this fund shall be available for all expenses authorized by 38 U.S.C. 8109 except operations and maintenance costs which will be funded from "Medical care".

GRANTS FOR CONSTRUCTION OF STATE EXTENDED CARE FACILITIES

For grants to assist the several States to acquire or construct State nursing home and domiciliary facilities and to remodel, modify or alter existing hospital, nursing home and domiciliary facilities in State homes, for furnishing care to veterans as authorized by law (38 U.S.C. 8131–8137), $47,397,000, to remain available until expended.

GRANTS FOR THE CONSTRUCTION OF STATE VETERANS CEMETERIES

For grants to aid States in establishing, expanding, or improving State veteran cemeteries as authorized by law (38 U.S.C. 2408), $1,000,000, to remain available until September 30, 1998.

ADMINISTRATIVE PROVISIONS

(INCLUDING TRANSFER OF FUNDS)

SEC. 101. Any appropriation for 1996 for "Compensation and pensions", "Readjustment benefits", and "Veterans insurance and indemnities" may be transferred to any other of the mentioned appropriations.

SEC. 102. Appropriations available to the Department of Veterans Affairs for 1996 for salaries and expenses shall be available for services as authorized by 5 U.S.C. 3109.

SEC. 103. No part of the appropriations in this Act for the Department of Veterans Affairs (except the appropriations for "Construction, major projects", "Construction, minor projects", and the "Parking revolving fund") shall be available for the purchase of any site for or toward the construction of any new hospital or home.

SEC. 104. No part of the foregoing appropriations shall be available for hospitalization or examination of any persons except beneficiaries entitled under the laws bestowing such benefits to

veterans, unless reimbursement of cost is made to the appropriation at such rates as may be fixed by the Secretary of Veterans Affairs.

SEC. 105. Appropriations available to the Department of Veterans Affairs for fiscal year 1996 for "Compensation and pensions", "Readjustment benefits", and "Veterans insurance and indemnities" shall be available for payment of prior year accrued obligations required to be recorded by law against the corresponding prior year accounts within the last quarter of fiscal year 1995.

SEC. 106. Appropriations accounts available to the Department of Veterans Affairs for fiscal year 1996 shall be available to pay prior year obligations of corresponding prior year appropriations accounts resulting from title X of the Competitive Equality Banking Act, Public Law 100–86, except that if such obligations are from trust fund accounts they shall be payable from "Compensation and pensions".

SEC. 107. Notwithstanding any other provision of law, the Secretary of Veterans Affairs is authorized to transfer, without compensation or reimbursement, the jurisdiction and control of a parcel of land consisting of approximately 6.3 acres, located on the south edge of the Department of Veterans Affairs Medical and Regional Office Center, Wichita, Kansas, including buildings Nos. 8 and 30 and other improvements thereon, to the Secretary of Transportation for the purpose of expanding and modernizing United States Highway 54: *Provided,* That if necessary, the exact acreage and legal description of the real property transferred shall be determined by a survey satisfactory to the Secretary of Veterans Affairs and the Secretary of Transportation shall bear the cost of such survey: *Provided further,* That the Secretary of Transportation shall be responsible for all costs associated with the transferred land and improvements thereon, and compliance with all existing statutes and regulations: *Provided further,* That the Secretary of Veterans Affairs and the Secretary of Transportation may require such additional terms and conditions as each Secretary considers appropriate to effectuate this transfer of land.

SEC. 108. CONSTRUCTION AUTHORIZATION—Authorization of major medical facility projects and major medical facility leases for the Department of Veterans Affairs for fiscal year 1996.

(a) AUTHORIZATION OF MAJOR MEDICAL FACILITY PROJECTS—The Secretary of Veterans Affairs may carry out the following major medical facility projects, with each project to be carried out in the amount authorized for that project:

(1) Construction of an outpatient clinic in Brevard County, Florida, in the amount of $25,000,000.

(2) Construction of an outpatient clinic at Travis Air Force Base in Fairfield, California, in the amount of $25,000,000.

(3) Construction of an ambulatory care addition at the Department of Veterans Affairs medical center in Boston, Massachusetts in the amount of $28,000,000.

(4) Construction of a medical research addition at the Department of Veterans Affairs medical center in Portland, Oregon, an additional authorization in the amount of $16,000,000, for a total amount of $32,100,000.

(b) AUTHORIZATION OF MAJOR MEDICAL FACILITY LEASES—The Secretary of Veterans Affairs may enter into leases for medical facilities as follows:

(1) Lease of a satellite outpatient clinic in Fort Myers, Florida, in the amount of $1,736,000.

(2) Lease of a National Footwear Center in New York, New York, in the amount of $1,054,000.

(c) AUTHORIZATION OF APPROPRIATIONS—There are authorized to be appropriated to the Secretary of Veterans Affairs for fiscal year 1996—

(1) $94,000,000 for the major medical facility projects authorized in subsection (a); and

(2) $2,790,000 for the major medical facility leases authorized in subsection (b).

(d) LIMITATION—The projects authorized in subsection (a) may only be carried out using—

(1) funds appropriated for fiscal year 1996 and subsequent fiscal years pursuant to the authorization of appropriations in subsection (c).

(2) funds appropriated for Construction, Major Projects for a fiscal year before fiscal year 1996 that remain available for obligation; and

(3) funds appropriated for Construction, Major Projects for fiscal year 1996 for a category of activity not specific to a project.

(e) LIMITATION CONCERNING OUTPATIENT CLINIC PROJECTS—In the case of either of the projects for a new outpatient clinic authorized in paragraphs (1) and (2) of subsection (a)—

Certification.

(1) the Secretary of Veterans Affairs may not obligate any funds for that project until the Secretary determines, and certifies to the Committees on Veterans' Affairs of the Senate and House of Representatives, the amount required for the project; and

(2) the amount obligated for the project may not exceed the amount certified under paragraph (1) with respect to that project.

Federal buildings and facilities. Washington.

SEC. 109. (a) DESIGNATION.—The Walla Walla Veterans Medical Center located at 77 Wainwright Drive, Walla Walla, Washington, shall be known and designated as the "Jonathan M. Wainwright Memorial VA Medical Center".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the Walla Walla Veterans Medical Center referred to in subsection (a) shall be deemed to be a reference to the "Jonathan M. Wainwright Memorial VA Medical Center".

TITLE II

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING PROGRAMS

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

For assistance under the United States Housing Act of 1937, as amended ("the Act" herein) (42 U.S.C. 1437), not otherwise provided for, $9,818,795,000 to remain available until expended: *Provided,* That of the total amount provided under this head, $160,000,000 shall be for the development or acquisition cost of public housing for Indian families, including amounts for housing under the mutual help homeownership opportunity program under section 202 of the Act (42 U.S.C. 1437bb): *Provided further,* That of the total amount provided under this head, $2,500,000,000 shall

be for modernization of existing public housing projects pursuant to section 14 of the Act (42 U.S.C. 1437l), including up to $20,000,000 for the inspection of public housing units, contract expertise, and training and technical assistance, directly or indirectly, under grants, contracts, or cooperative agreements, to assist in the oversight and management of public and Indian housing (whether or not the housing is being modernized with assistance under this proviso) or tenant-based assistance, including, but not limited to, an annual resident survey, data collection and analysis, training and technical assistance by or to officials and employees of the Department and of public housing agencies and to residents in connection with the public and Indian housing program, or for carrying out activities under section 6(j) of the Act: *Provided further,* That of the total amount provided under this head, $400,000,000 shall be for rental subsidy contracts under the section 8 existing housing certificate program and the housing voucher program under section 8 of the Act, except that such amounts shall be used only for units necessary to provide housing assistance for residents to be relocated from existing federally subsidized or assisted housing, for replacement housing for units demolished or disposed of (including units to be disposed of pursuant to a homeownership program under section 5(h) or title III of the United States Housing Act of 1937) from the public housing inventory, for funds related to litigation settlements, for the conversion of section 23 projects to assistance under section 8, for public housing agencies to implement allocation plans approved by the Secretary for designated housing, for funds to carry out the family unification program, and for the relocation of witnesses in connection with efforts to combat crime in public and assisted housing pursuant to a request from a law enforcement or prosecution agency: *Provided further,* That of the total amount provided under this head, $4,007,862,000 shall be for assistance under the United States Housing Act of 1937 (42 U.S.C. 1437) for use in connection with expiring or terminating section 8 subsidy contracts, such amounts shall be merged with all remaining obligated and unobligated balances heretofore appropriated under the heading "Renewal of expiring section 8 subsidy contracts": *Provided further,* That notwithstanding any other provision of law, assistance reserved under the two preceding provisos may be used in connection with any provision of Federal law enacted in this Act or after the enactment of this Act that authorizes the use of rental assistance amounts in connection with such terminated or expired contracts: *Provided further,* That the Secretary may determine not to apply section 8(o)(6)(B) of the Act to housing vouchers during fiscal year 1996: *Provided further,* That of the total amount provided under this head, $610,575,000 shall be for amendments to section 8 contracts other than contracts for projects developed under section 202 of the Housing Act of 1959, as amended; and $192,000,000 shall be for section 8 assistance and rehabilitation grants for property disposition: *Provided further,* That 50 per centum of the amounts of budget authority, or in lieu thereof 50 per centum of the cash amounts associated with such budget authority, that are recaptured from projects described in section 1012(a) of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (Public Law 100–628, 102 Stat. 3224, 3268) shall be rescinded, or in the case of cash, shall be remitted to the Treasury, and such amounts of budget authority or cash recaptured and not rescinded or remitted

to the Treasury shall be used by State housing finance agencies or local governments or local housing agencies with projects approved by the Secretary of Housing and Urban Development for which settlement occurred after January 1, 1992, in accordance with such section: *Provided further,* That of the total amount provided under this head, $171,000,000 shall be for housing opportunities for persons with AIDS under title VIII, subtitle D of the Cranston-Gonzalez National Affordable Housing Act; and $65,000,000 shall be for the lead-based paint hazard reduction program as authorized under sections 1011 and 1053 of the Residential Lead-Based Hazard Reduction Act of 1992: *Provided further,* That the Secretary may make up to $5,000,000 of any amount recaptured in this account available for the development of performance and financial systems.

12 USC 4101 note.

Of the total amount provided under this head, $624,000,000, plus amounts recaptured from interest reduction payment contracts for section 236 projects whose owners prepay their mortgages during fiscal year 1996 (which amounts shall be transferred and merged with this account), shall be for use in conjunction with properties that are eligible for assistance under the Low Income Housing Preservation and Resident Homeownership Act of 1990 (LIHPRHA) or the Emergency Low-Income Housing Preservation Act of 1987 (ELIHPA): *Provided,* That prior to August 15, 1996, funding to carry out plans of action shall be limited to sales of projects to non-profit organizations, tenant-sponsored organizations, and other priority purchasers: *Provided further,* That of the amount made available by this paragraph, up to $10,000,000 shall be available for preservation technical assistance grants pursuant to section 253 of the Housing and Community Development Act of 1987, as amended: *Provided further,* That with respect to amounts made available by this paragraph, after August 15, 1996, if the Secretary determines that the demand for funding may exceed amounts available for such funding, the Secretary (1) may determine priorities for distributing available funds, including giving priority funding to tenants displaced due to mortgage prepayment and to projects that have not yet been funded but which have approved plans of action; and (2) may impose a temporary moratorium on applications by potential recipients of such funding: *Provided further,* That an owner of eligible low-income housing may prepay the mortgage or request voluntary termination of a mortgage insurance contract, so long as said owner agrees not to raise rents for sixty days after such prepayment: *Provided further,* That an owner of eligible low-income housing who has not timely filed a second notice under section 216(d) prior to the effective date of this Act may file such notice by April 15, 1996: *Provided further,* That such developments have been determined to have preservation equity at least equal to the lesser of $5,000 per unit or $500,000 per project or the equivalent of eight times the most recently published fair market rent for the area in which the project is located as the appropriate unit size for all of the units in the eligible project: *Provided further,* That the Secretary may modify the regulatory agreement to permit owners and priority purchasers to retain rental income in excess of the basic rental charge in projects assisted under section 236 of the National Housing Act, for the purpose of preserving the low and moderate income character of the housing: *Provided further,* That the Secretary may give priority to funding and processing the following projects provided that the funding

is obligated not later than September 15, 1996: (1) projects with approved plans of action to retain the housing that file a modified plan of action no later than August 15, 1996 to transfer the housing; (2) projects with approved plans of action that are subject to a repayment or settlement agreement that was executed between the owner and the Secretary prior to September 1, 1995; (3) projects for which submissions were delayed as a result of their location in areas that were designated as a Federal disaster area in a Presidential Disaster Declaration; and (4) projects whose processing was, in fact, or in practical effect, suspended, deferred, or interrupted for a period of nine months or more because of differing interpretations, by the Secretary and an owner concerning the time of the ability of an uninsured section 236 property to prepay or by the Secretary and a State or local rent regulatory agency, concerning the effect of a presumptively applicable State or local rent control law or regulation on the determination of preservation value under section 213 of LIHPRHA, as amended, if the owner of such project filed notice of intent to extend the low-income affordability restrictions of the housing, or transfer to a qualified purchaser who would extend such restrictions, on or before November 1, 1993: *Provided further,* That eligible low-income housing shall include properties meeting the requirements of this paragraph with mortgages that are held by a State agency as a result of a sale by the Secretary without insurance, which immediately before the sale would have been eligible low-income housing under LIHPRHA: *Provided further,* That notwithstanding any other provision of law, subject to the availability of appropriated funds, each unassisted low-income family residing in the housing on the date of prepayment or voluntary termination, and whose rent, as a result of a rent increase occurring no later than one year after the date of the prepayment, exceeds 30 percent of adjusted income, shall be offered tenant-based assistance in accordance with section 8 or any successor program, under which the family shall pay no less for rent than it paid on such date: *Provided further,* That any family receiving tenant-based assistance under the preceding proviso may elect (1) to remain in the unit of the housing and if the rent exceeds the fair market rent or payment standard, as applicable, the rent shall be deemed to be the applicable standard, so long as the administering public housing agency finds that the rent is reasonable in comparison with rents charged for comparable unassisted housing units in the market or (2) to move from the housing and the rent will be subject to the fair market rent of the payment standard, as applicable, under existing program rules and procedures: *Provided further,* That rents and rent increases for tenants of projects for which plans of action are funded under section 220(d)(3)(B) of LIHPRHA shall be governed in accordance with the requirements of the program under which the first mortgage is insured or made (sections 236 or 221(d)(3) BMIR, as appropriate): *Provided further,* That the immediately foregoing proviso shall apply hereafter to projects for which plans of action are to be funded under such section 220(d)(3)(B), and shall apply to any project that has been funded under such section starting one year after the date that such project was funded: *Provided further,* That up to $10,000,000 of the amount made available by this paragraph may be used at the discretion of the Secretary to reimburse owners of eligible properties for which plans of action were submitted prior to the effective date of this Act,

but were not executed for lack of available funds, with such reimbursement available only for documented costs directly applicable to the preparation of the plan of action as determined by the Secretary, and shall be made available on terms and conditions to be established by the Secretary: *Provided further,* That, notwithstanding any other provision of law, effective October 1, 1996, the Secretary shall suspend further processing of preservation applications which do not have approved plans of action.

Effective date.

Of the total amount provided under this head, $780,190,000 shall be for capital advances, including amendments to capital advance contracts, for housing for the elderly, as authorized by section 202 of the Housing Act of 1959, as amended, and for project rental assistance, and amendments to contracts for project rental assistance, for supportive housing for the elderly under section 202(c)(2) of the Housing Act of 1959; and $233,168,000 shall be for capital advances, including amendments to capital advance contracts, for supportive housing for persons with disabilities, as authorized by section 811 of the Cranston-Gonzalez National Affordable Housing Act; and for project rental assistance, and amendments to contracts for project rental assistance, for supportive housing for persons with disabilities as authorized by section 811 of the Cranston-Gonzalez National Affordable Housing Act: *Provided,* That the Secretary may designate up to 25 percent of the amounts earmarked under this paragraph for section 811 of the Cranston-Gonzalez National Affordable Housing Act for tenant-based assistance, as authorized under that section, which assistance is five-years in duration: *Provided further,* That the Secretary may waive any provision of section 202 of the Housing Act of 1959 and section 811 of the National Affordable Housing Act (including the provisions governing the terms and conditions of project rental assistance) that the Secretary determines is not necessary to achieve the objectives of these programs, or that otherwise impedes the ability to develop, operate or administer projects assisted under these programs, and may make provision for alternative conditions or terms where appropriate.

Of the total amount provided under this heading, and in addition to funds otherwise earmarked in the previous paragraph, for section 202 of the Housing Act of 1959 and section 811 of the Cranston-Gonzalez National Affordable Housing Act, $75,000,000: *Provided,* That $50,000,000 of such sum shall be available for purposes authorized by section 202 of the Housing Act of 1959, and $25,000,000 shall be available for purposes authorized by section 811 of the Cranston-Gonzalez National Affordable Housing Act: *Provided further,* That such additional sums shall be available only to provide for rental subsidy terms of a longer duration than would otherwise be permitted by this Act.

PUBLIC HOUSING DEMOLITION, SITE REVITALIZATION, AND REPLACEMENT HOUSING GRANTS

For grants to public housing agencies for the purposes of enabling the demolition of obsolete public housing projects or portions thereof, the revitalization (where appropriate) of sites (including remaining public housing units) on which such projects are located, replacement housing which will avoid or lessen concentrations of very low-income families, and tenant-based assistance in accordance with section 8 of the United States Housing Act of 1937 for the purpose of providing replacement housing and assisting

tenants to be displaced by the demolition, $480,000,000, to remain available until expended: *Provided,* That the Secretary of Housing and Urban Development shall award such funds to public housing agencies based upon, among other relevant criteria, the local and national impact of the proposed demolition and revitalization activities and the extent to which the public housing agency could undertake such activities without the additional assistance to be provided hereunder: *Provided further,* That eligible expenditures hereunder shall be those expenditures eligible under section 8 and section 14 of the United States Housing Act of 1937 (42 U.S.C. 1437f and l): *Provided further,* That the Secretary may impose such conditions and requirements as the Secretary deems appropriate to effectuate the purposes of this paragraph: *Provided further,* That the Secretary may require an agency selected to receive funding to make arrangements satisfactory to the Secretary for use of an entity other than the agency to carry out this program where the Secretary determines that such action will help to effectuate the purpose of this paragraph: *Provided further,* That in the event an agency selected to receive funding does not proceed expeditiously as determined by the Secretary, the Secretary shall withdraw any funding made available pursuant to this paragraph that has not been obligated by the agency and distribute such funds to one or more other eligible agencies, or to other entities capable of proceeding expeditiously in the same locality with the original program: *Provided further,* That of the foregoing $480,000,000, the Secretary may use up to .67 per centum for technical assistance, to be provided directly or indirectly by grants, contracts or cooperative agreements, including training and cost of necessary travel for participants in such training, by or to officials and employees of the Department and of public housing agencies and to residents: *Provided further,* That any replacement housing provided with assistance under this head shall be subject to section 18(f) of the United States Housing Act of 1937, as amended by section 201(b)(2) of this Act.

FLEXIBLE SUBSIDY FUND

(INCLUDING TRANSFER OF FUNDS)

From the fund established by section 236(g) of the National Housing Act, as amended, all uncommitted balances of excess rental charges as of September 30, 1995, and any collections during fiscal year 1996 shall be transferred, as authorized under such section, to the fund authorized under section 201(j) of the Housing and Community Development Amendments of 1978, as amended.

RENTAL HOUSING ASSISTANCE

(RESCISSION)

The limitation otherwise applicable to the maximum payments that may be required in any fiscal year by all contracts entered into under section 236 of the National Housing Act (12 U.S.C. 1715z–1) is reduced in fiscal year 1996 by not more than $2,000,000 in uncommitted balances of authorizations provided for this purpose in appropriations Acts: *Provided,* That up to $163,000,000 of recaptured section 236 budget authority resulting from the prepayment of mortgages subsidized under section 236 of the National Housing Act (12 U.S.C. 1715z–1) shall be rescinded in fiscal year 1996.

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PAYMENTS FOR OPERATION OF LOW-INCOME HOUSING PROJECTS

For payments to public housing agencies and Indian housing authorities for operating subsidies for low-income housing projects as authorized by section 9 of the United States Housing Act of 1937, as amended (42 U.S.C. 1437g), $2,800,000,000.

DRUG ELIMINATION GRANTS FOR LOW-INCOME HOUSING

For grants to public and Indian housing agencies for use in eliminating crime in public housing projects authorized by 42 U.S.C. 11901–11908, for grants for federally assisted low-income housing authorized by 42 U.S.C. 11909, and for drug information clearinghouse services authorized by 42 U.S.C. 11921–11925, $290,000,000, to remain available until expended, of which $10,000,000 shall be for grants, technical assistance, contracts and other assistance training, program assessment, and execution for or on behalf of public housing agencies and resident organizations (including the cost of necessary travel for participants in such training) and of which $2,500,000 shall be used in connection with efforts to combat violent crime in public and assisted housing under the Operation Safe Home program administered by the Inspector General of the Department of Housing and Urban Development: *Provided,* That the term "drug-related crime", as defined in 42 U.S.C. 11905(2), shall also include other types of crime as determined by the Secretary: *Provided further,* That notwithstanding section 5130(c) of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11909(c)), the Secretary may determine not to use any such funds to provide public housing youth sports grants.

HOME INVESTMENT PARTNERSHIPS PROGRAM

For the HOME investment partnerships program, as authorized under title II of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101–625), as amended, $1,400,000,000, to remain available until expended.

INDIAN HOUSING LOAN GUARANTEE FUND PROGRAM ACCOUNT

For the cost of guaranteed loans, $3,000,000, as authorized by section 184 of the Housing and Community Development Act of 1992 (106 Stat. 3739): *Provided,* That such costs, including the costs of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: *Provided further,* That these funds are available to subsidize total loan principal, any part of which is to be guaranteed, not to exceed $36,900,000.

HOMELESS ASSISTANCE

HOMELESS ASSISTANCE GRANTS

For the emergency shelter grants program (as authorized under subtitle B of title IV of the Stewart B. McKinney Homeless Assistance Act (Public Law 100–77), as amended); the supportive housing program (as authorized under subtitle C of title IV of such Act); the section 8 moderate rehabilitation single room occupancy program (as authorized under the United States Housing Act of 1937, as amended) to assist homeless individuals pursuant to section 441 of the Stewart B. McKinney Homeless Assistance Act; and

the shelter plus care program (as authorized under subtitle F of title IV of such Act), $823,000,000, to remain available until expended.

COMMUNITY PLANNING AND DEVELOPMENT

COMMUNITY DEVELOPMENT GRANTS

(INCLUDING TRANSFER OF FUNDS)

For grants to States and units of general local government and for related expenses, not otherwise provided for, necessary for carrying out a community development grants program as authorized by title I of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301), $4,600,000,000, to remain available until September 30, 1998: *Provided,* That $50,000,000 shall be available for grants to Indian tribes pursuant to section 106(a)(1) of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301), $2,000,000 shall be available as a grant to the Housing Assistance Council, $1,000,000 shall be available as a grant to the National American Indian Housing Council, and $27,000,000 shall be available for "special purpose grants" pursuant to section 107 of such Act: *Provided further,* That not to exceed 20 per centum of any grant made with funds appropriated herein (other than a grant made available under the preceding proviso to the Housing Assistance Council or the National American Indian Housing Council, or a grant using funds under section 107(b)(3) of the Housing and Community Development Act of 1974) shall be expended for "Planning and Management Development" and "Administration" as defined in regulations promulgated by the Department of Housing and Urban Development: *Provided further,* That section 105(a)(25) of such Act, as added by section 907(b)(1) of the Cranston-Gonzalez National Affordable Housing Act, shall continue to be effective after September 30, 1995, notwithstanding section 907(b)(2) of such Act: *Provided further,* That section 916 of the Cranston-Gonzalez National Affordable Housing Act shall apply with respect to fiscal year 1996, notwithstanding section 916(f) of that Act.

42 USC 5305 note.

Applicability. 42 USC 5306 note.

Of the amount provided under this heading, the Secretary of Housing and Urban Development may use up to $53,000,000 for grants to public housing agencies (including Indian housing authorities), nonprofit corporations, and other appropriate entities for a supportive services program to assist residents of public and assisted housing, former residents of such housing receiving tenant-based assistance under section 8 of such Act (42 U.S.C. 1437f), and other low-income families and individuals to become self-sufficient: *Provided,* That the program shall provide supportive services, principally for the benefit of public housing residents, to the elderly and the disabled, and to families with children where the head of the household would benefit from the receipt of supportive services and is working, seeking work, or is preparing for work by participating in job training or educational programs: *Provided further,* That the supportive services shall include congregate services for the elderly and disabled, service coordinators, and coordinated educational, training, and other supportive services, including academic skills training, job search assistance, assistance related to retaining employment, vocational and entrepreneurship development and support programs, transportation, and child care: *Provided further,* That the Secretary shall require applicants to dem-

onstrate firm commitments of funding or services from other sources: *Provided further,* That the Secretary shall select public and Indian housing agencies to receive assistance under this head on a competitive basis, taking into account the quality of the proposed program (including any innovative approaches), the extent of the proposed coordination of supportive services, the extent of commitments of funding or services from other sources, the extent to which the proposed program includes reasonably achievable, quantifiable goals for measuring performance under the program over a three-year period, the extent of success an agency has had in carrying out other comparable initiatives, and other appropriate criteria established by the Secretary.

Of the amount made available under this heading, notwithstanding any other provision of law, $12,000,000 shall be available for contracts, grants, and other assistance, other than loans, not otherwise provided for, for providing counseling and advice to tenants and homeowners both current and prospective, with respect to property maintenance, financial management, and such other matters as may be appropriate to assist them in improving their housing conditions and meeting the responsibilities of tenancy or homeownership, including provisions for training and for support of voluntary agencies and services as authorized by section 106 of the Housing and Urban Development Act of 1968, as amended, notwithstanding section 106(c)(9) and section 106(d)(13) of such Act.

Of the amount made available under this heading, notwithstanding any other provision of law, $15,000,000 shall be available for the tenant opportunity program.

Of the amount made available under this heading, notwithstanding any other provision of law, $20,000,000 shall be available for youthbuild program activities authorized by subtitle D of title IV of the Cranston-Gonzalez National Affordable Housing Act, as amended, and such activities shall be an eligible activity with respect to any funds made available under this heading.

Of the amount made available under this heading, notwithstanding any other provision of law, $50,000,000 shall be available for Economic Development Initiative grants as authorized by section 232 of the Multifamily Housing Property Disposition Reform Act of 1994, Public Law 103–233, on a competitive basis as required by section 102 of the HUD Reform Act.

For the cost of guaranteed loans, $31,750,000, as authorized by section 108 of the Housing and Community Development Act of 1974: *Provided,* That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: *Provided further,* That these funds are available to subsidize total loan principal, any part of which is to be guaranteed, not to exceed $1,500,000,000: *Provided further,* That the Secretary of Housing and Urban Development may make guarantees not to exceed the immediately foregoing amount notwithstanding the aggregate limitation on guarantees set forth in section 108(k) of the Housing and Community Development Act of 1974. In addition, for administrative expenses to carry out the guaranteed loan program, $675,000 which shall be transferred to and merged with the appropriation for departmental salaries and expenses.

The amount made available for fiscal year 1995 for a special purpose grant for the renovation of the central terminal in Buffalo,

New York, shall be made available for the central terminal and for other public facilities in Buffalo, New York.

POLICY DEVELOPMENT AND RESEARCH

RESEARCH AND TECHNOLOGY

For contracts, grants, and necessary expenses of programs of research and studies relating to housing and urban problems, not otherwise provided for, as authorized by title V of the Housing and Urban Development Act of 1970, as amended (12 U.S.C. 1701z–1 et seq.), including carrying out the functions of the Secretary under section 1(a)(1)(i) of Reorganization Plan No. 2 of 1968, $34,000,000, to remain available until September 30, 1997.

FAIR HOUSING AND EQUAL OPPORTUNITY

FAIR HOUSING ACTIVITIES

For contracts, grants, and other assistance, not otherwise provided for, as authorized by title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988, and for contracts with qualified fair housing enforcement organizations, as authorized by section 561 of the Housing and Community Development Act of 1987, as amended by the Housing and Community Development Act of 1992, $30,000,000, to remain available until September 30, 1997.

MANAGEMENT AND ADMINISTRATION

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For necessary administrative and nonadministrative expenses of the Department of Housing and Urban Development, not otherwise provided for, including not to exceed $7,000 for official reception and representation expenses, $962,558,000, of which $532,782,000 shall be provided from the various funds of the Federal Housing Administration, and $9,101,000 shall be provided from funds of the Government National Mortgage Association, and $675,000 shall be provided from the Community Development Grants Program account.

OFFICE OF INSPECTOR GENERAL

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $47,850,000, of which $11,283,000 shall be transferred from the various funds of the Federal Housing Administration.

OFFICE OF FEDERAL HOUSING ENTERPRISE OVERSIGHT

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For carrying out the Federal Housing Enterprise Financial Safety and Soundness Act of 1992, $14,895,000, to remain available until expended, from the Federal Housing Enterprise Oversight Fund: *Provided,* That such amounts shall be collected by the Director as authorized by section 1316 (a) and (b) of such Act, and deposited in the Fund under section 1316(f) of such Act.

FEDERAL HOUSING ADMINISTRATION

FHA—MUTUAL MORTGAGE INSURANCE PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

During fiscal year 1996, commitments to guarantee loans to carry out the purposes of section 203(b) of the National Housing Act, as amended, shall not exceed a loan principal of $110,000,000,000: *Provided,* That during fiscal year 1996, the Secretary shall sell assigned mortgage notes having an unpaid principal balance of up to $4,000,000,000, which notes were originally insured under section 203(b) of the National Housing Act: *Provided further,* That the Secretary may use any negative subsidy amounts from the sale of such assigned mortgage notes during fiscal year 1996 for the disposition of properties or notes under this heading.

During fiscal year 1996, obligations to make direct loans to carry out the purposes of section 204(g) of the National Housing Act, as amended, shall not exceed $200,000,000: *Provided,* That the foregoing amount shall be for loans to nonprofit and governmental entities in connection with sales of single family real properties owned by the Secretary and formerly insured under section 203 of such Act.

For administrative expenses necessary to carry out the guaranteed and direct loan program, $341,595,000, to be derived from the FHA-mutual mortgage insurance guaranteed loans receipt account, of which not to exceed $334,483,000 shall be transferred to the appropriation for departmental salaries and expenses; and of which not to exceed $7,112,000 shall be transferred to the appropriation for the Office of Inspector General.

FHA—GENERAL AND SPECIAL RISK PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For the cost of guaranteed loans, as authorized by sections 238 and 519 of the National Housing Act (12 U.S.C. 1715z-3 and 1735c), including the cost of modifying such loans, $85,000,000, to remain available until expended: *Provided,* That such costs shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: *Provided further,* That these funds are available to subsidize total loan principal any part of which is to be guaranteed of not to exceed $17,400,000,000: *Provided further,* That during fiscal year 1996, the Secretary shall sell assigned notes having an unpaid principal balance of up to $4,000,000,000, which notes were originally obligations of the funds established under sections

238 and 519 of the National Housing Act: *Provided further,* That the Secretary may use any negative subsidy amounts, to remain available until expended, from the sale of such assigned mortgage notes, in addition to amounts otherwise provided, for the disposition of properties or notes under this heading (including the credit subsidy for the guarantee of loans or the reduction of positive credit subsidy amounts that would otherwise be required for the sale of such properties or notes), and for any other purpose under this heading: *Provided further,* That any amounts made available in any prior appropriation Act for the cost (as such term is defined in section 502 of the Congressional Budget Act of 1974) of guaranteed loans that are obligations of the funds established under section 238 or 519 of the National Housing Act that have not been obligated or that are deobligated shall be available to the Secretary of Housing and Urban Development in connection with the making of such guarantees and shall remain available until expended, notwithstanding the expiration of any period of availability otherwise applicable to such amounts.

Gross obligations for the principal amount of direct loans, as authorized by sections 204(g), 207(l), 238(a), and 519(a) of the National Housing Act, shall not exceed $120,000,000; of which not to exceed $100,000,000 shall be for bridge financing in connection with the sale of multifamily real properties owned by the Secretary and formerly insured under such Act; and of which not to exceed $20,000,000 shall be for loans to nonprofit and governmental entities in connection with the sale of single-family real properties owned by the Secretary and formerly insured under such Act.

In addition, for administrative expenses necessary to carry out the guaranteed and direct loan programs, $202,470,000, of which $198,299,000 shall be transferred to the appropriation for departmental salaries and expenses; and of which $4,171,000 shall be transferred to the appropriation for the Office of Inspector General.

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION

GUARANTEES OF MORTGAGE-BACKED SECURITIES LOAN GUARANTEE PROGRAM ACCOUNT

(INCLUDES TRANSFER OF FUNDS)

During fiscal year 1996, new commitments to issue guarantees to carry out the purposes of section 306 of the National Housing Act, as amended (12 U.S.C. 1721(g)), shall not exceed $110,000,000,000.

For administrative expenses necessary to carry out the guaranteed mortgage-backed securities program, $9,101,000, to be derived from the GNMA—guarantees of mortgage-backed securities guaranteed loan receipt account, of which not to exceed $9,101,000 shall be transferred to the appropriation for departmental salaries and expenses.

ADMINISTRATIVE PROVISIONS

(INCLUDING TRANSFER OF FUNDS)

EXTEND ADMINISTRATIVE PROVISIONS FROM THE RESCISSION ACT

SEC. 201. (a) PUBLIC AND INDIAN HOUSING MODERNIZATION.—

(1) EXPANSION OF USE OF MODERNIZATION FUNDING.—Subsection 14(q) of the United States Housing Act of 1937 is amended to read as follows:

42 USC 1437*l*.

"(q)(1) In addition to the purposes enumerated in subsections (a) and (b), a public housing agency may use modernization assistance provided under section 14, and development assistance provided under section 5(a) that was not allocated, as determined by the Secretary, for priority replacement housing, for any eligible activity authorized by this section, by section 5, or by applicable Appropriations Acts for a public housing agency, including the demolition, rehabilitation, revitalization, and replacement of existing units and projects and, for up to 10 percent of its allocation of such funds in any fiscal year, for any operating subsidy purpose authorized in section 9. Except for assistance used for operating subsidy purposes under the preceding sentence, assistance provided to a public housing agency under this section shall principally be used for the physical improvement, replacement of public housing, other capital purposes, and for associated management improvements, and such other extraordinary purposes as may be approved by the Secretary. Low-income and very low-income units assisted under this paragraph shall be eligible for operating subsidies, unless the Secretary determines that such units or projects do not meet other requirements of this Act.

"(2) A public housing agency may provide assistance to developments that include units, other than units assisted under this Act (except for units assisted under section 8 hereof) ('mixed income developments'), in the form of a grant, loan, operating assistance, or other form of investment which may be made to—

"(A) a partnership, a limited liability company, or other legal entity in which the public housing agency or its affiliate is a general partner, managing member, or otherwise participates in the activities of such entity; or

"(B) any entity which grants to the public housing agency the option to purchase the development within 20 years after initial occupancy in accordance with section 42(i)(7) of the Internal Revenue Code of 1986, as amended.

"Units shall be made available in such developments for periods of not less than 20 years, by master contract or by individual lease, for occupancy by low-income and very low-income families referred from time to time by the public housing agency. The number of such units shall be:

"(i) in the same proportion to the total number of units in such development that the total financial commitment provided by the public housing agency bears to the value of the total financial commitment in the development, or

"(ii) not be less than the number of units that could have been developed under the conventional public housing program with the assistance involved, or

"(iii) as may otherwise be approved by the Secretary.

"(3) A mixed income development may elect to have all units subject only to the applicable local real estate taxes, notwithstanding that the low-income units assisted by public housing funds would otherwise be subject to section 6(d) of the Housing Act of 1937.

"(4) If an entity that owns or operates a mixed-income project under this subsection enters into a contract with a public housing agency, the terms of which obligate the entity to operate and maintain a specified number of units in the project as public housing units in accordance with the requirements of this Act for the period required by law, such contractual terms may provide that, if, as a result of a reduction in appropriations under section 9, or any other change in applicable law, the public housing agency is unable to fulfill its contractual obligations with respect to those public housing units, that entity may deviate, under procedures and requirements developed through regulations by the Secretary, from otherwise applicable restrictions under this Act regarding rents, income eligibility, and other areas of public housing management with respect to a portion or all of those public housing units, to the extent necessary to preserve the viability of those units while maintaining the low-income character of the units, to the maximum extent practicable.".

(2) APPLICABILITY.—Section 14(q) of the United States Housing Act of 1937, as amended by subsection (a) of this section, shall be effective only with respect to assistance provided from funds made available for fiscal year 1996 or any preceding fiscal year. 42 USC 1437*l* note.

(3) APPLICABILITY TO IHAS.—In accordance with section 201(b)(2) of the United States Housing Act of 1937, the amendment made by this subsection shall apply to public housing developed or operated pursuant to a contract between the Secretary of Housing and Urban Development and an Indian housing authority. 42 USC 1437aa note.

(b) ONE-FOR-ONE REPLACEMENT OF PUBLIC AND INDIAN HOUSING.—

(1) EXTENDED AUTHORITY.—Section 1002(d) of Public Law 104–19 is amended to read as follows: 42 USC 1437c note.

"(d) Subsections (a), (b), and (c) shall be effective for applications for the demolition, disposition, or conversion to homeownership of public housing approved by the Secretary, and other consolidation and relocation activities of public housing agencies undertaken, on, before, or after September 30, 1995 and before September 30, 1996.".

(2) Section 18(f) of the United States Housing Act of 1937 is amended by adding at the end the following new sentence: "No one may rely on the preceding sentence as the basis for reconsidering a final order of a court issued, or a settlement approved, by a court.". 42 USC 1437p.

(3) APPLICABILITY.—In accordance with section 201(b)(2) of the United States Housing Act of 1937, the amendments made by this subsection and by sections 1002 (a), (b), and (c) of Public Law 104–19 shall apply to public housing developed or operated pursuant to a contract between the Secretary of Housing and Urban Development and an Indian housing authority. 42 USC 1437aa note.

CONVERSION OF CERTAIN PUBLIC HOUSING TO VOUCHERS

42 USC 1437l note.

SEC. 202. (a) IDENTIFICATION OF UNITS.—Each public housing agency shall identify any public housing developments—

(1) that are on the same or contiguous sites;

(2) that total more than 300 dwelling units;

(3) that have a vacancy rate of at least 10 percent for dwelling units not in funded, on-schedule modernization programs;

(4) identified as distressed housing that the public housing agency cannot assure the long-term viability as public housing through reasonable revitalization, density reduction, or achievement of a broader range of household income; and

(5) for which the estimated cost of continued operation and modernization of the developments as public housing exceeds the cost of providing tenant-based assistance under section 8 of the United States Housing Act of 1937 for all families in occupancy, based on appropriate indicators of cost (such as the percentage of total development cost required for modernization).

(b) IMPLEMENTATION AND ENFORCEMENT.—

(1) STANDARDS FOR IMPLEMENTATION.—The Secretary shall establish standards to permit implementation of this section in fiscal year 1996.

(2) CONSULTATION.—Each public housing agency shall consult with the applicable public housing tenants and the unit of general local government in identifying any public housing developments under subsection (a).

(3) FAILURE OF PHAS TO COMPLY WITH SUBSECTION (a).—Where the Secretary determines that—

(A) a public housing agency has failed under subsection (a) to identify public housing developments for removal from the inventory of the agency in a timely manner;

(B) a public housing agency has failed to identify one or more public housing developments which the Secretary determines should have been identified under subsection (a); or

(C) one or more of the developments identified by the public housing agency pursuant to subsection (a) should not, in the determination of the Secretary, have been identified under that subsection;

the Secretary may designate the developments to be removed from the inventory of the public housing agency pursuant to this section.

(c) REMOVAL OF UNITS FROM THE INVENTORIES OF PUBLIC HOUSING AGENCIES.—

(1) Each public housing agency shall develop and carry out a plan in conjunction with the Secretary for the removal of public housing units identified under subsection (a) or subsection (b)(3), over a period of up to five years, from the inventory of the public housing agency and the annual contributions contract. The plan shall be approved by the relevant local official as not inconsistent with the Comprehensive Housing Affordability Strategy under title I of the Housing and Community Development Act of 1992, including a description of any disposition and demolition plan for the public housing units.

(2) The Secretary may extend the deadline in paragraph (1) for up to an additional five years where the Secretary makes a determination that the deadline is impracticable.

(3) The Secretary shall take appropriate actions to ensure removal of developments identified under subsection (a) or subsection (b)(3) from the inventory of a public housing agency, if the public housing agency fails to adequately develop a plan under paragraph (1), or fails to adequately implement such plan in accordance with the terms of the plan.

(4) To the extent approved in appropriations Acts, the Secretary may establish requirements and provide funding under the Urban Revitalization Demonstration program for demolition and disposition of public housing under this section.

(5) Notwithstanding any other provision of law, if a development is removed from the inventory of a public housing agency and the annual contributions contract pursuant to paragraph (1), the Secretary may authorize or direct the transfer of—

(A) in the case of an agency receiving assistance under the comprehensive improvement assistance program, any amounts obligated by the Secretary for the modernization of such development pursuant to section 14 of the United States Housing Act of 1937;

(B) in the case of an agency receiving public and Indian housing modernization assistance by formula pursuant to section 14 of the United States Housing Act of 1937, any amounts provided to the agency which are attributable pursuant to the formula for allocating such assistance to the development removed from the inventory of that agency; and

(C) in the case of an agency receiving assistance for the major reconstruction of obsolete projects, any amounts obligated by the Secretary for the major reconstruction of the development pursuant to section 5 of such Act,

to the tenant-based assistance program or appropriate site revitalization of such agency.

(6) CESSATION OF UNNECESSARY SPENDING.—Notwithstanding any other provision of law, if, in the determination of the Secretary, a development meets or is likely to meet the criteria set forth in subsection (a), the Secretary may direct the public housing agency to cease additional spending in connection with the development, except to the extent that additional spending is necessary to ensure decent, safe, and sanitary housing until the Secretary determines or approves an appropriate course of action with respect to such development under this section.

(d) CONVERSION TO TENANT-BASED ASSISTANCE.—

(1) The Secretary shall make authority available to a public housing agency to provide tenant-based assistance pursuant to section 8 to families residing in any development that is removed from the inventory of the public housing agency and the annual contributions contract pursuant to subsection (b).

(2) Each conversion plan under subsection (c) shall—

(A) require the agency to notify families residing in the development, consistent with any guidelines issued by the Secretary governing such notifications, that the development shall be removed from the inventory of the public housing agency and the families shall receive tenant-based

or project-based assistance, and to provide any necessary counseling for families; and

(B) ensure that all tenants affected by a determination under this section that a development shall be removed from the inventory of a public housing agency shall be offered tenant-based or project-based assistance and shall be relocated, as necessary, to other decent, safe, sanitary, and affordable housing which is, to the maximum extent practicable, housing of their choice.

(e) IN GENERAL.—

(1) The Secretary may require a public housing agency to provide such information as the Secretary considers necessary for the administration of this section.

(2) As used in this section, the term "development" shall refer to a project or projects, or to portions of a project or projects, as appropriate.

(3) Section 18 of the United States Housing Act of 1937 shall not apply to the demolition of developments removed from the inventory of the public housing agency under this section.

STREAMLINING SECTION 8 TENANT-BASED ASSISTANCE

SEC. 203. (a) "TAKE-ONE, TAKE-ALL".—Section 8(t) of the United States Housing Act of 1937 is hereby repealed. 42 USC 1437f.

(b) EXEMPTION FROM NOTICE REQUIREMENTS FOR THE CERTIFICATE AND VOUCHER PROGRAMS.—Section 8(c) of such Act is amended—

(1) in paragraph (8), by inserting after "section" the following: "(other than a contract for assistance under the certificate or voucher program)"; and

(2) in the first sentence of paragraph (9), by striking "(but not less than 90 days in the case of housing certificates or vouchers under subsection (b) or (o))" and inserting ", other than a contract under the certificate or voucher program".

(c) ENDLESS LEASE.—Section 8(d)(1)(B) of such Act is amended—

(1) in clause (ii), by inserting "during the term of the lease," after "(ii)"; and

(2) in clause (iii), by striking "provide that" and inserting "during the term of the lease,".

(d) APPLICABILITY.—The provisions of this section shall be effective for fiscal year 1996 only. 42 USC 1437f note.

PUBLIC HOUSING/SECTION 8 MOVING TO WORK DEMONSTRATION

SEC. 204. (a) PURPOSE.—The purpose of this demonstration is to give public housing agencies and the Secretary of Housing and Urban Development the flexibility to design and test various approaches for providing and administering housing assistance that: reduce cost and achieve greater cost effectiveness in Federal expenditures; give incentives to families with children where the head of household is working, seeking work, or is preparing for work by participating in job training, educational programs, or programs that assist people to obtain employment and become economically self-sufficient; and increase housing choices for low-income families. 42 USC 1437f note.

(b) PROGRAM AUTHORITY.—The Secretary of Housing and Urban Development shall conduct a demonstration program under this

section beginning in fiscal year 1996 under which up to 30 public housing agencies (including Indian housing authorities) administering the public or Indian housing program and the section 8 housing assistance payments program may be selected by the Secretary to participate. The Secretary shall provide training and technical assistance during the demonstration and conduct detailed evaluations of up to 15 such agencies in an effort to identify replicable program models promoting the purpose of the demonstration. Under the demonstration, notwithstanding any provision of the United States Housing Act of 1937 except as provided in subsection (e), an agency may combine operating assistance provided under section 9 of the United States Housing Act of 1937, modernization assistance provided under section 14 of such Act, and assistance provided under section 8 of such Act for the certificate and voucher programs, to provide housing assistance for low-income families, as defined in section 3(b)(2) of the United States Housing Act of 1937, and services to facilitate the transition to work on such terms and conditions as the agency may propose and the Secretary may approve.

(c) APPLICATION.—An application to participate in the demonstration—

(1) shall request authority to combine assistance under sections 8, 9, and 14 of the United States Housing Act of 1937;

(2) shall be submitted only after the public housing agency provides for citizen participation through a public hearing and, if appropriate, other means;

(3) shall include a plan developed by the agency that takes into account comments from the public hearing and any other public comments on the proposed program, and comments from current and prospective residents who would be affected, and that includes criteria for—

(A) families to be assisted, which shall require that at least 75 percent of the families assisted by participating demonstration public housing authorities shall be very low-income families, as defined in section 3(b)(2) of the United States Housing Act of 1937;

(B) establishing a reasonable rent policy, which shall be designed to encourage employment and self-sufficiency by participating families, consistent with the purpose of this demonstration, such as by excluding some or all of a family's earned income for purposes of determining rent;

(C) continuing to assist substantially the same total number of eligible low-income families as would have been served had the amounts not been combined;

(D) maintaining a comparable mix of families (by family size) as would have been provided had the amounts not been used under the demonstration; and

(E) assuring that housing assisted under the demonstration program meets housing quality standards established or approved by the Secretary; and

(4) may request assistance for training and technical assistance to assist with design of the demonstration and to participate in a detailed evaluation.

(d) SELECTION.—In selecting among applications, the Secretary shall take into account the potential of each agency to plan and carry out a program under the demonstration, the relative perform-

ance by an agency under the public housing management assessment program under section 6(j) of the United States Housing Act of 1937, and other appropriate factors as determined by the Secretary.

(e) APPLICABILITY OF 1937 ACT PROVISIONS.—

(1) Section 18 of the United States Housing Act of 1937 shall continue to apply to public housing notwithstanding any use of the housing under this demonstration.

(2) Section 12 of such Act shall apply to housing assisted under the demonstration, other than housing assisted solely due to occupancy by families receiving tenant-based assistance.

(f) EFFECT ON SECTION 8, OPERATING SUBSIDIES, AND COMPREHENSIVE GRANT PROGRAM ALLOCATIONS.—The amount of assistance received under section 8, section 9, or pursuant to section 14 by a public housing agency participating in the demonstration under this part shall not be diminished by its participation.

(g) RECORDS, REPORTS, AND AUDITS.—

(1) KEEPING OF RECORDS.—Each agency shall keep such records as the Secretary may prescribe as reasonably necessary to disclose the amounts and the disposition of amounts under this demonstration, to ensure compliance with the requirements of this section, and to measure performance.

(2) REPORTS.—Each agency shall submit to the Secretary a report, or series of reports, in a form and at a time specified by the Secretary. Each report shall—

(A) document the use of funds made available under this section;

(B) provide such data as the Secretary may request to assist the Secretary in assessing the demonstration; and

(C) describe and analyze the effect of assisted activities in addressing the objectives of this part.

(3) ACCESS TO DOCUMENTS BY THE SECRETARY.—The Secretary shall have access for the purpose of audit and examination to any books, documents, papers, and records that are pertinent to assistance in connection with, and the requirements of, this section.

(4) ACCESS TO DOCUMENTS BY THE COMPTROLLER GENERAL.—The Comptroller General of the United States, or any of the duly authorized representatives of the Comptroller General, shall have access for the purpose of audit and examination to any books, documents, papers, and records that are pertinent to assistance in connection with, and the requirements of, this section.

(h) EVALUATION AND REPORT.—

(1) CONSULTATION WITH PHA AND FAMILY REPRESENTATIVES.—In making assessments throughout the demonstration, the Secretary shall consult with representatives of public housing agencies and residents.

(2) REPORT TO CONGRESS.—Not later than 180 days after the end of the third year of the demonstration, the Secretary shall submit to the Congress a report evaluating the programs carried out under the demonstration. The report shall also include findings and recommendations for any appropriate legislative action.

(i) FUNDING FOR TECHNICAL ASSISTANCE AND EVALUATION.—From amounts appropriated for assistance under section 14 of the

United States Housing Act of 1937 for fiscal years 1996, 1997, and 1998, the Secretary may use up to a total of $5,000,000—

(1) to provide, directly or by contract, training and technical assistance—

(A) to public housing agencies that express an interest to apply for training and technical assistance pursuant to subsection (c)(4), to assist them in designing programs to be proposed for the demonstration; and

(B) to up to 10 agencies selected to receive training and technical assistance pursuant to subsection (c)(4), to assist them in implementing the approved program; and

(2) to conduct detailed evaluations of the activities of the public housing agencies under paragraph (1)(B), directly or by contract.

EXTENSION OF MULTIFAMILY HOUSING FINANCE PROGRAM

SEC. 205. (a) The first sentence of section 542(b)(5) of the Housing and Community Development Act of 1992 (12 U.S.C. 1707 note) is amended by striking "on not more than 15,000 units over fiscal years 1993 and 1994" and inserting "on not more than 7,500 units during fiscal year 1996".

(b) The first sentence of section 542(c)(4) of the Housing and Community Development Act of 1992 (12 U.S.C. 1707 note) is amended by striking "on not to exceed 30,000 units over fiscal years 1993, 1994, and 1995" and inserting "on not more than 12,000 units during fiscal year 1996".

FORECLOSURE OF HUD-HELD MORTGAGES THROUGH THIRD PARTIES

SEC. 206. During fiscal year 1996, the Secretary of Housing and Urban Development may delegate to one or more entities the authority to carry out some or all of the functions and responsibilities of the Secretary in connection with the foreclosure of mortgages held by the Secretary under the National Housing Act.

RESTRUCTURING OF THE HUD MULTIFAMILY MORTGAGE PORTFOLIO THROUGH STATE HOUSING FINANCE AGENCIES

SEC. 207. During fiscal year 1996, the Secretary of Housing and Urban Development may sell or otherwise transfer multifamily mortgages held by the Secretary under the National Housing Act to a State housing finance agency in connection with a program authorized under section 542 (b) or (c) of the Housing and Community Development Act of 1992 without regard to the unit limitations in section 542(b)(5) or 542(c)(4) of such Act.

TRANSFER OF SECTION 8 AUTHORITY

SEC. 208. Section 8 of the United States Housing Act of 1937 is amended by adding the following new subsection at the end: 42 USC 1437f.

"(bb) TRANSFER OF BUDGET AUTHORITY.—If an assistance contract under this section, other than a contract for tenant-based assistance, is terminated or is not renewed, or if the contract expires, the Secretary shall, in order to provide continued assistance to eligible families, including eligible families receiving the benefit of the project-based assistance at the time of the termination, transfer any budget authority remaining in the contract to another

contract. The transfer shall be under such terms as the Secretary may prescribe.".

DOCUMENTATION OF MULTIFAMILY REFINANCINGS

Effective date. 12 USC 1715n note.

SEC. 209. Notwithstanding the 16th paragraph under the item relating to "administrative provisions" in title II of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1995 (Public Law 103–327; 108 Stat. 2316), the amendments to section 223(a)(7) of the National Housing Act made by the 15th paragraph of such Act shall be effective during fiscal year 1996 and thereafter.

FHA MULTIFAMILY DEMONSTRATION AUTHORITY

42 USC 1437f note.

SEC. 210. (a) On and after October 1, 1995, and before October 1, 1997, the Secretary of Housing and Urban Development shall initiate a demonstration program with respect to multifamily projects whose owners agree to participate and whose mortgages are insured under the National Housing Act and that are assisted under section 8 of the United States Housing Act of 1937 and whose present section 8 rents are, in the aggregate, in excess of the fair market rent of the locality in which the project is located. These programs shall be designed to test the feasibility and desirability of the goal of ensuring, to the maximum extent practicable, that the debt service and operating expenses, including adequate reserves, attributable to such multifamily projects can be supported with or without mortgage insurance under the National Housing Act and with or without above-market rents and utilizing project-based assistance or, with the consent of the property owner, tenant-based assistance, while taking into account the need for assistance of low- and very low-income families in such projects. In carrying out this demonstration, the Secretary may use arrangements with third parties, under which the Secretary may provide for the assumption by the third parties (by delegation, contract, or otherwise) of some or all of the functions, obligations, and benefits of the Secretary.

(1) GOALS.—The Secretary of Housing and Urban Development shall carry out the demonstration programs under this section in a manner that—

(A) will protect the financial interests of the Federal Government;

(B) will result in significant discretionary cost savings through debt restructuring and subsidy reduction; and

(C) will, in the least costly fashion, address the goals of—

(i) maintaining existing housing stock in a decent, safe, and sanitary condition;

(ii) minimizing the involuntary displacement of tenants;

(iii) restructuring the mortgages of such projects in a manner that is consistent with local housing market conditions;

(iv) supporting fair housing strategies;

(v) minimizing any adverse income tax impact on property owners; and

(vi) minimizing any adverse impact on residential neighborhoods.

In determining the manner in which a mortgage is to be restructured or the subsidy reduced, the Secretary may balance competing goals relating to individual projects in a manner that will further the purposes of this section.

(2) DEMONSTRATION APPROACHES.—In carrying out the demonstration programs, subject to the appropriation in subsection (f), the Secretary may use one or more of the following approaches:

(A) Joint venture arrangements with third parties, under which the Secretary may provide for the assumption by the third parties (by delegation, contract, or otherwise) of some or all of the functions, obligations, and benefits of the Secretary.

(B) Subsidization of the debt service of the project to a level that can be paid by an owner receiving an unsubsidized market rent.

(C) Renewal of existing project-based assistance contracts where the Secretary shall approve proposed initial rent levels that do not exceed the greater of 120 percent of fair market rents or comparable market rents for the relevant metropolitan market area or at rent levels under a budget-based approach.

(D) Nonrenewal of expiring existing project-based assistance contracts and providing tenant-based assistance to previously assisted households.

(b) For purposes of carrying out demonstration programs under subsection (a)—

(1) the Secretary may manage and dispose of multifamily properties owned by the Secretary as of October 1, 1995 and multifamily mortgages held by the Secretary as of October 1, 1995 for properties assisted under section 8 with rents above 110 percent of fair market rents without regard to any other provision of law; and

(2) the Secretary may delegate to one or more entities the authority to carry out some or all of the functions and responsibilities of the Secretary in connection with the foreclosure of mortgages held by the Secretary under the National Housing Act.

(c) For purposes of carrying out demonstration programs under subsection (a), subject to such third party consents (if any) as are necessary including but not limited to (i) consent by the Government National Mortgage Association where it owns a mortgage insured by the Secretary; (ii) consent by an issuer under the mortgage-backed securities program of the Association, subject to the responsibilities of the issuer to its security holders and the Association under such program; and (iii) parties to any contractual agreement which the Secretary proposes to modify or discontinue, and subject to the appropriation in subsection (c), the Secretary or one or more third parties designated by the Secretary may take the following actions:

(1) Notwithstanding any other provision of law, and subject to the agreement of the project owner, the Secretary or third party may remove, relinquish, extinguish, modify, or agree to the removal of any mortgage, regulatory agreement, project-based assistance contract, use agreement, or restriction that had been imposed or required by the Secretary, including restrictions on distributions of income which the Secretary or

third party determines would interfere with the ability of the project to operate without above market rents. The Secretary or third party may require an owner of a property assisted under the section 8 new construction/substantial rehabilitation program to apply any accumulated residual receipts toward effecting the purposes of this section.

(2) Notwithstanding any other provision of law, the Secretary of Housing and Urban Development may enter into contracts to purchase reinsurance, or enter into participations or otherwise transfer economic interest in contracts of insurance or in the premiums paid, or due to be paid, on such insurance to third parties, on such terms and conditions as the Secretary may determine.

(3) The Secretary may offer project-based assistance with rents at or below fair market rents for the locality in which the project is located and may negotiate such other terms as are acceptable to the Secretary and the project owner.

(4) The Secretary may offer to pay all or a portion of the project's debt service, including payments monthly from the appropriate Insurance Fund, for the full remaining term of the insured mortgage.

(5) Notwithstanding any other provision of law, the Secretary may forgive and cancel any FHA-insured mortgage debt that a demonstration program property cannot carry at market rents while bearing full operating costs.

(6) For demonstration program properties that cannot carry full operating costs (excluding debt service) at market rents, the Secretary may approve project-based rents sufficient to carry such full operating costs and may offer to pay the full debt service in the manner provided in paragraph (4).

(d) COMMUNITY AND TENANT INPUT.—In carrying out this section, the Secretary shall develop procedures to provide appropriate and timely notice to officials of the unit of general local government affected, the community in which the project is situated, and the tenants of the project.

(e) LIMITATION ON DEMONSTRATION AUTHORITY.—The Secretary may carry out demonstration programs under this section with respect to mortgages not to exceed 15,000 units. The demonstration authorized under this section shall not be expanded until the reports required under subsection (g) are submitted to the Congress.

(f) APPROPRIATION.—For the cost of modifying loans held or guaranteed by the Federal Housing Administration, as authorized by this subsection (a)(2) and subsection (c), $30,000,000, to remain available until September 30, 1997: *Provided,* That such costs shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended.

(g) REPORT TO CONGRESS.—The Secretary shall submit to the Congress every six months after the date of enactment of this Act a report describing and assessing the programs carried out under the demonstrations. The Secretary shall also submit a final report to the Congress not later than six months after the end of the demonstrations. The reports shall include findings and recommendations for any legislative action appropriate. The reports shall also include a description of the status of each multifamily housing project selected for the demonstrations under this section. The final report may include—

(1) the size of the projects;

(2) the geographic locations of the projects, by State and region;

(3) the physical and financial condition of the projects;

(4) the occupancy profile of the projects, including the income, family size, race, and ethnic origin of current tenants, and the rents paid by such tenants;

(5) a description of actions undertaken pursuant to this section, including a description of the effectiveness of such actions and any impediments to the transfer or sale of multifamily housing projects;

(6) a description of the extent to which the demonstrations under this section have displaced tenants of multifamily housing projects;

(7) a description of any of the functions performed in connection with this section that are transferred or contracted out to public or private entities or to States;

(8) a description of the impact to which the demonstrations under this section have affected the localities and communities where the selected multifamily housing projects are located; and

(9) a description of the extent to which the demonstrations under this section have affected the owners of multifamily housing projects.

ASSESSMENT COLLECTION DATES FOR OFFICE OF FEDERAL HOUSING ENTERPRISE OVERSIGHT

SEC. 211. Section 1316(b) of the Housing and Community Development Act of 1992 (12 U.S.C. 4516(b)) is amended by striking paragraph (2) and inserting the following new paragraph:

"(2) TIMING OF PAYMENT.—The annual assessment shall be payable semiannually for each fiscal year, on October 1 and April 1.".

MERGER LANGUAGE FOR ASSISTANCE FOR THE RENEWAL OF EXPIRING SECTION 8 SUBSIDY CONTRACTS AND ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

SEC. 212. All remaining obligated and unobligated balances in the Renewal of Expiring Section 8 Subsidy Contracts account on September 30, 1995, shall immediately thereafter be transferred to and merged with the obligated and unobligated balances, respectively, of the Annual Contributions for Assisted Housing account.

DEBT FORGIVENESS

SEC. 213. (a) The Secretary of Housing and Urban Development shall cancel the indebtedness of the Hubbard Hospital Authority of Hubbard, Texas, relating to the public facilities loan for Project Number PFL–TEX–215, issued under title II of the Housing Amendments of 1955. Such hospital authority is relieved of all liability to the Government for the outstanding principal balance on such loan, for the amount of accrued interest on such loan, and for any fees and charges payable in connection with such loan. Hubbard Hospital Authority. Texas.

(b) The Secretary of Housing and Urban Development shall cancel the indebtedness of the Groveton Texas Hospital Authority relating to the public facilities loan for Project Number TEX–41–PFL0162, issued under title II of the Housing Amendments of Groveton Texas Hospital Authority. Texas.

1955. Such hospital authority is relieved of all liability to the Government for the outstanding principal balance on such loan, for the amount of accrued interest on such loan, and for any fees and charges payable in connection with such loan.

Hepzibah Public Service District. West Virginia.

(c) The Secretary of Housing and Urban Development shall cancel the indebtedness of the Hepzibah Public Service District of Hepzibah, West Virginia, relating to the public facilities loan for Project Number WV–46–PFL0031, issued under title II of the Housing Amendments of 1955. Such public service district is relieved of all liability to the Government for the outstanding principal balance on such loan, for the amount of accrued interest on such loan, and for any fees and charges payable in connection with such loan.

CLARIFICATIONS

California.

SEC. 214. For purposes of Federal law, the Paul Mirabile Center in San Diego, California, including areas within such Center that are devoted to the delivery of supportive services, has been determined to satisfy the "continuum of care" requirements of the Department of Housing and Urban Development, and shall be treated as—

(a) consisting solely of residential units that (i) contain sleeping accommodations and kitchen and bathroom facilities, (ii) are located in a building that is used exclusively to facilitate the transition of homeless individuals (within the meaning of section 103 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11302), as in effect on December 19, 1989) to independent living within 24 months, (iii) are suitable for occupancy, with each cubicle constituting a separate bedroom and residential unit, (iv) are used on other than a transient basis, and (v) shall be originally placed in service on November 1, 1995; and

(b) property that is entirely residential rental property, namely, a project for residential rental property.

EMPLOYMENT LIMITATIONS

SEC. 215. (a) By the end of fiscal year 1996 the Department of Housing and Urban Development shall employ no more than eight Assistant Secretaries, notwithstanding section 4(a) of the Department of Housing and Urban Development Act.

(b) By the end of fiscal year 1996 the Department of Housing and Urban Development shall employ no more than 77 schedule C and 20 non-career senior executive service employees.

USE OF FUNDS

SEC. 216. (a) Of the $93,400,000 earmarked in Public Law 101–144 (103 Stat. 850), as amended by Public Law 101–302 (104 Stat. 237), for special projects and purposes, any amounts remaining of the $500,000 made available to Bethlehem House in Highland, California, for site planning and loan acquisition shall instead be made available to the County of San Bernardino in California to assist with the expansion of the Los Padrinos Gang Intervention Program, the Unity Home Domestic Violence Shelter, and San Bernardino Drug Court Program.

(b) The amount made available for fiscal year 1995 for the removal of asbestos from an abandoned public school building in

Toledo, Ohio shall be made available for the renovation and rehabilitation of an industrial building at the University of Toledo in Toledo, Ohio.

LEAD-BASED PAINT ABATEMENT

SEC. 217. (a) Section 1011 of Title X—Residential Lead-Based Paint Hazard Reduction Act of 1992 is amended as follows: Strike "priority housing" wherever it appears in said section and insert "housing". 42 USC 4852.

(b) Section 1011(a) shall be amended as follows: At the end of the subsection after the period, insert: "Grants shall only be made under this section to provide assistance for housing which meets the following criteria— Grants.

"(1) for grants made to assist rental housing, at least 50 percent of the units must be occupied by or made available to families with incomes at or below 50 percent of the area median income level and the remaining units shall be occupied or made available to families with incomes at or below 80 percent of the area median income level, and in all cases the landlord shall give priority in renting units assisted under this section, for not less than 3 years following the completion of lead abatement activities, to families with a child under the age of six years, except that buildings with five or more units may have 20 percent of the units occupied by families with incomes above 80 percent of area median income level;

"(2) for grants made to assist housing owned by owner-occupants, all units assisted with grants under this section shall be the principal residence of families with income at or below 80 percent of the area median income level, and not less than 90 percent of the units assisted with grants under this section shall be occupied by a child under the age of six years or shall be units where a child under the age of six years spends a significant amount of time visiting; and

"(3) notwithstanding paragraphs (1) and (2), Round II grantees who receive assistance under this section may use such assistance for priority housing.".

EXTENSION PERIOD FOR SHARING UTILITY COST SAVINGS WITH PHAS

SEC. 218. Section 9(a)(3)(B)(i) of the United States Housing Act of 1937 is amended by striking "for a period not to exceed 6 years". 42 USC 1437g.

MORTGAGE NOTE SALES

SEC. 219. The first sentence of section 221(g)(4)(C)(viii) of the National Housing Act is amended by striking "September 30, 1995" and inserting in lieu thereof "September 30, 1996". 12 USC 1715*l*.

REPEAL OF FROST-LELAND

SEC. 220. Section 415 of the Department of Housing and Urban Development—Independent Agencies Appropriations Act, 1988 (Public Law 100–202; 101 Stat. 1329–213) is repealed.

FHA SINGLE-FAMILY ASSIGNMENT PROGRAM REFORM

SEC. 221. (a) CORRECTION TO FORECLOSURE AVOIDANCE PROVISION.—The penultimate proviso of section 204(a) of the National

Housing Act (12 U.S.C. 1710(a)), as added by section 407(a) of the Balanced Budget Downpayment Act, I (Public Law 104–99), is amended by striking "special foreclosure" and inserting in lieu thereof "special forebearance".

12 USC 1715u note.

(b) SAVINGS PROVISION.—(1) Any mortgage for which the mortgagor has applied to the Secretary, before the date of enactment of this Act, for assignment to the Secretary pursuant to section 230(b) of the National Housing Act shall continue to be governed by the provisions of such section, as in effect immediately before enactment of the Balanced Budget Downpayment Act, I.

(2) Section 230(d) of the National Housing Act, as amended by section 407(b) of the Balanced Budget Downpayment Act, I, is repealed.

12 USC 1715u.

12 USC 1710 note.

(c) REGULATIONS.—(1) Not later than 30 days after the date of enactment of this Act, the Secretary of Housing and Urban Development shall issue interim regulations to implement section 407 of the Balanced Budget Downpayment Act, I, and the amendments to the National Housing Act made by that section.

(2) Section 407(d) of the Balanced Budget Downpayment Act, I, is repealed.

Ante, p. 45.

(d) EXTENSION OF REFORM TO MORTGAGES ORIGINATED IN FISCAL YEAR 1996.—Section 407(c) of the Balanced Budget Downpayment Act, I, is amended by striking "originated before October 1, 1995" and inserting "executed before October 1, 1996".

SPENDING LIMITATIONS

SEC. 222. (a) None of the funds in this Act may be used by the Secretary to impose any sanction, or penalty because of the enactment of any State or local law or regulation declaring English as the official language.

(b) No part of any appropriation contained in this Act shall be used for lobbying activities as prohibited by law.

SEC. 223. None of the funds provided in this Act may be used during fiscal year 1996 to investigate or prosecute under the Fair Housing Act (42 U.S.C. 3601, et seq.) any otherwise lawful activity engaged in by one or more persons, including the filing or maintaining of non-frivolous legal action, that is engaged in solely for the purposes of achieving or preventing action by a Government official, entity, or court of competent jurisdiction.

SEC. 224. None of the funds provided in this Act many be used to take any enforcement action with respect to a complaint of discrimination under the Fair Housing Act (42 U.S.C. 3601, et seq.) on the basis of familial status and which involves an occupancy standard established by the housing provider except to the extent that it is found that there has been discrimination in contravention of the standards provided in the March 20, 1991 Memorandum from the General Counsel of the Department of Housing and Urban Development to all Regional Counsel or until such time that HUD issues a final rule in accordance with section 553 of title 5, United States Code.

CDBG ELIGIBLE ACTIVITIES

SEC. 225. Section 105(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)) is amended—

(1) in paragraph (4)—

(A) by inserting "reconstruction," after "removal,"; and

(B) by striking "acquisition for rehabilitation, and rehabilitation" and inserting "acquisition for reconstruction or rehabilitation, and reconstruction or rehabilitation";

(2) in paragraph (13), by striking "and" at the end;

(3) by striking paragraph (19);

(4) in paragraph (24), by striking "and" at the end;

(5) in paragraph (25), by striking the period at the end and inserting "; and";

(6) by redesignating paragraphs (20) through (25) as paragraphs (19) through (24), respectively; and

(7) by redesignating paragraph (21) (as added by section 1012(f)(3) of the Housing and Community Development Act of 1992) as paragraph (25).

SEC. 226. The Secretary shall award for the community development grants program, as authorized by title I of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301), for the State of New York, not more than 35 percent of the funds made available for fiscal year 1996 for grants allocated for any multi-year commitment. The Secretary shall issue proposed and final rulemaking for the requirements of the community development grants program for the State of New York before issuing a Notice of Funding Availability for funds made available for fiscal year 1997. Rules.

SEC. 227. All funds allocated for the State of New York for fiscal years 1995 and 1996 under the HOME investment partnerships program, as authorized under title II of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101–625) shall be made available to the Chief Executive Officer of the State, or an entity designated by the Chief Executive Officer, to be used for activities in accordance with the requirements of the HOME investment partnerships program, notwithstanding the memorandum from the General Counsel of the Department of Housing and Urban Development dated March 5, 1996.

SEC. 228. (a) The second sentence of section 236(f)(1) of the National Housing Act, as amended by section 405(d)(1) of The Balanced Budget Downpayment Act, I, is amended— 12 USC 1715z–1.

(1) by striking "or (ii)" and inserting "(ii)"; and

(2) by striking "located," and inserting: "located, or (iii) the actual rent (as determined by the Secretary) paid for a comparable unit in comparable unassisted housing in the market area in which the housing assisted under this section is located,".

(b) The first sentence of section 236(g) of the National Housing Act is amended by inserting the phrase "on a unit-by-unit basis" after "collected".

TECHNICAL CORRECTION TO MINIMUM RENT AUTHORITY

SEC. 229. Section 402(a) of the Balanced Budget Downpayment Act, I (Public Law 104–99), is amended by inserting after "as amended," the following: "or section 206(d) of the Housing and Urban-Rural Recovery Act of 1983 (including section 206(d)(5) of such Act),". *Ante*, p. 40.

MINIMUM RENT WAIVER AUTHORITY

SEC. 230. Notwithstanding section 402(a) of the Balanced Budget Downpayment Act, I (Public Law 104–99), the Secretary of Housing and Urban Development or a public housing agency

(including an Indian housing authority) may waive the minimum rent requirement of that section to provide a transition period for affected families. The term of a waiver approved pursuant to this section may be retroactive, but may not apply for more than three months with respect to any family.

TITLE III

INDEPENDENT AGENCIES

AMERICAN BATTLE MONUMENTS COMMISSION

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, of the American Battle Monuments Commission, including the acquisition of land or interest in land in foreign countries; purchases and repair of uniforms for caretakers of national cemeteries and monuments outside of the United States and its territories and possessions; rent of office and garage space in foreign countries; purchase (one for replacement only) and hire of passenger motor vehicles; and insurance of official motor vehicles in foreign countries, when required by law of such countries; $20,265,000, to remain available until expended: *Provided,* That where station allowance has been authorized by the Department of the Army for officers of the Army serving the Army at certain foreign stations, the same allowance shall be authorized for officers of the Armed Forces assigned to the Commission while serving at the same foreign stations, and this appropriation is hereby made available for the payment of such allowance: *Provided further,* That when traveling on business of the Commission, officers of the Armed Forces serving as members or as Secretary of the Commission may be reimbursed for expenses as provided for civilian members of the Commission: *Provided further,* That the Commission shall reimburse other Government agencies, including the Armed Forces, for salary, pay, and allowances of personnel assigned to it.

36 USC 121b.

36 USC 122.

36 USC 122a.

DEPARTMENT OF THE TREASURY

COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS FUND

PROGRAM ACCOUNT

For grants, loans, and technical assistance to qualifying community development financial institutions, and administrative expenses of the Fund, $45,000,000, to remain available until September 30, 1997: *Provided,* That of the funds made available under this heading not to exceed $4,000,000 may be used for the cost of direct loans, and not to exceed $400,000 may be used for administrative expenses to carry out the direct loan program: *Provided further,* That the cost of direct loans, including the cost of modifying such loans, shall be defined as in section 502 of the Congressional Budget Act of 1974: *Provided further,* That such funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $28,440,000: *Provided further,* That none of these funds shall be used to supplement existing resources provided to the Department for activities such as external affairs, general counsel, administration, finance, or office of inspec-

tor general: *Provided further,* That none of these funds shall be available for expenses of an Administrator as defined in section 104 of the Community Development Banking and Financial Institutions Act of 1994 (CDBFI Act): *Provided further,* That notwithstanding any other provision of law, for purposes of administering the Community Development Financial Institutions Fund, the Secretary of the Treasury shall have all powers and rights of the Administrator of the CDBFI Act and the Fund shall be within the Department of the Treasury. 12 USC 4703 note.

CONSUMER PRODUCT SAFETY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Consumer Product Safety Commission, including hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS–18, purchase of nominal awards to recognize non-Federal officials' contributions to Commission activities, and not to exceed $500 for official reception and representation expenses, $40,000,000.

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

NATIONAL AND COMMUNITY SERVICE PROGRAMS OPERATING EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for the Corporation for National and Community Service (referred to in the matter under this heading as the "Corporation") in carrying out programs, activities, and initiatives under the National and Community Service Act of 1990 (referred to in the matter under this heading as the "Act") (42 U.S.C. 12501 et seq.), $400,500,000, of which $265,000,000 shall be available for obligation from September 1, 1996, through September 30, 1997: *Provided,* That not more than $25,000,000 shall be available for administrative expenses authorized under section 501(a)(4) of the Act (42 U.S.C. 12671(a)(4)): *Provided further,* That not more than $2,500 shall be for official reception and representation expenses: *Provided further,* That not more than $59,000,000, to remain available without fiscal year limitation, shall be transferred to the National Service Trust account for educational awards authorized under subtitle D of title I of the Act (42 U.S.C. 12601 et seq.): *Provided further,* That not more than $215,000,000 of the amount provided under this heading shall be available for grants under the National Service Trust program authorized under subtitle C of title I of the Act (42 U.S.C. 12571 et seq.) (relating to activities including the Americorps program), of which not more than $40,000,000 may be used to administer, reimburse or support any national service program authorized under section 121(d)(2) of such Act (42 U.S.C. 12581(d)(2)): *Provided further,* That not more than $5,500,000 of the funds made available under this heading shall be made available for the Points of Light Foundation for activities authorized under title III of the Act (42 U.S.C. 12661 et seq.): *Provided further,* That no funds shall be available for national service programs run by Federal agencies authorized under section 121(b) of such Act (42 U.S.C. 12581(b)): *Provided further,* That, to the maximum extent feasible, funds appropriated in the

preceding proviso shall be provided in a manner that is consistent with the recommendations of peer review panels in order to ensure that priority is given to programs that demonstrate quality, innovation, replicability, and sustainability: *Provided further,* That not more than $18,000,000 of the funds made available under this heading shall be available for the Civilian Community Corps authorized under subtitle E of title I of the Act (42 U.S.C. 12611 et seq.): *Provided further,* That not more than $43,000,000 shall be available for school-based and community-based service-learning programs authorized under subtitle B of title I of the Act (41 U.S.C. 12521 et seq.): *Provided further,* That not more than $30,000,000 shall be available for quality and innovation activities authorized under subtitle H of title I of the Act (42 U.S.C. 12853 et seq.): *Provided further,* That not more than $5,000,000 shall be available for audits and other evaluations authorized under section 179 of the Act (42 U.S.C. 12639), of which up to $500,000 shall be available for a study by the National Academy of Public Administration on the structure, organization, and management of the Corporation and activities supported by the Corporation, including an assessment of the quality, innovation, replicability, and sustainability without Federal funds of such activities, and the Federal and non-Federal cost of supporting participants in community service activities: *Provided further,* That no funds from any other appropriation, or from funds otherwise made available to the Corporation, shall be used to pay for personnel compensation and benefits, travel, or any other administrative expense for the Board of Directors, the Office of the Chief Executive Officer, the Office of the Managing Director, the Office of the Chief Financial Officer, the Office of National and Community Service Programs, the Civilian Community Corps, or any field office or staff of the Corporation working on the National and Community Service or Civilian Community Corps programs: *Provided further,* That to the maximum extent practicable, the Corporation shall increase significantly the level of matching funds and in-kind contributions provided by the private sector, shall expand significantly the number of educational awards provided under subtitle D of title I, and shall reduce the total Federal cost per participant in all programs: *Provided further,* That prior to September 30, 1996, the General Accounting Office shall report to the Congress the results of a study of State commission programs which evaluates the cost per participant, the commissions' ability to oversee the programs, and other relevant considerations.

Reports.

SENSE OF CONGRESS

It is the sense of the Congress that accounting for taxpayers' funds must be a top priority for all Federal agencies and Government corporations. The Congress is deeply concerned about the findings of the recent audit of the Corporation for National and Community Service required under the Government Corporation Control Act of 1945. The Congress urges the President to expeditiously nominate a qualified Chief Financial Officer for the Corporation. Further, to the maximum extent practicable and as quickly as possible, the Corporation should implement the recommendations of the independent auditors contracted for by the Corporation's Inspector General, as well as the Chief Financial Officer, to improve the financial management of taxpayers' funds. Should the Chief Financial Officer determine that additional resources are needed

to implement these recommendations, the Corporation should submit a reprogramming proposal for up to $3,000,000 to carry out reforms of the financial management system.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, $2,000,000.

COURT OF VETERANS APPEALS

SALARIES AND EXPENSES

For necessary expenses for the operation of the United States Court of Veterans Appeals as authorized by 38 U.S.C. sections 7251–7292, $9,000,000, of which not to exceed $678,000, to remain available until September 30, 1997, shall be available for the purpose of providing financial assistance as described, and in accordance with the process and reporting procedures set forth, under this head in Public Law 102–229.

DEPARTMENT OF DEFENSE—CIVIL CEMETERIAL EXPENSES, ARMY

SALARIES AND EXPENSES

For necessary expenses, as authorized by law, for maintenance, operation, and improvement of Arlington National Cemetery and Soldiers' and Airmen's Home National Cemetery, and not to exceed $1,000 for official reception and representation expenses; $11,946,000, to remain available until expended.

ENVIRONMENTAL PROTECTION AGENCY

SCIENCE AND TECHNOLOGY

For science and technology, including research and development activities, which shall include research and development activities under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), as amended; necessary expenses for personnel and related costs and travel expenses, including uniforms, or allowances therefore, as authorized by 5 U.S.C. 5901–5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS–18; procurement of laboratory equipment and supplies; other operating expenses in support of research and development; construction, alteration, repair, rehabilitation and renovation of facilities, not to exceed $75,000 per project; $525,000,000, which shall remain available until September 30, 1997.

ENVIRONMENTAL PROGRAMS AND MANAGEMENT

For environmental programs and management, including necessary expenses, not otherwise provided for, for personnel and related costs and travel expenses, including uniforms, or allowances therefore, as authorized by 5 U.S.C. 5901–5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS–18; hire of passenger motor vehicles; hire, maintenance, and operation of aircraft; purchase of reprints; library memberships in societies or associations

which issue publications to members only or at a price to members lower than to subscribers who are not members; construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $75,000 per project; and not to exceed $6,000 for official reception and representation expenses; $1,677,300,000, which shall remain available until September 30, 1997: *Provided,* That, notwithstanding any other provision of law, for this fiscal year and hereafter, an industrial discharger that is a pharmaceutical manufacturing facility and discharged to the Kalamazoo Water Reclamation Plant (an advanced wastewater treatment plant with activated carbon) prior to the date of enactment of this Act may be exempted from categorical pretreatment standards under section 307(b) of the Federal Water Pollution Control Act, as amended, if the following conditions are met:

(1) the owner or operator of the Kalamazoo Water Reclamation Plant applies to the State of Michigan for an exemption for such industrial discharger,

(2) the State or Administrator, as applicable, approves such exemption request based upon a determination that the Kalamazoo Water Reclamation Plant will provide treatment and pollution removal equivalent to or better than that which would be required through a combination of pretreatment by such industrial discharger and treatment by the Kalamazoo Water Reclamation Plant in the absence of the exemption, and

(3) compliance with paragraph (2) is addressed by the provisions and conditions of a permit issued to the Kalamazoo Water Reclamation Plant under section 402 of such Act, and there exists an operative financial contract between the City of Kalamazoo and the industrial user and an approved local pretreatment program, including a joint monitoring program and local controls to prevent against interference and pass through.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, and for construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $75,000 per project, $28,500,000.

BUILDINGS AND FACILITIES

For construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities of, or use by, the Environmental Protection Agency, $110,000,000, to remain available until expended.

HAZARDOUS SUBSTANCE SUPERFUND

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), as amended, including sections 111 (c)(3), (c)(5), (c)(6), and (e)(4) (42 U.S.C. 9611), and for construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $75,000 per project; not to exceed $1,313,400,000, to remain available until expended, consisting of $1,063,400,000 as authorized by section 517(a) of the Superfund Amendments and Reauthorization Act of

1986 (SARA), as amended by Public Law 101–508 (of which, $100,000,000 shall not become available until September 1, 1996), and $250,000,000 as a payment from general revenues to the Hazardous Substance Superfund as authorized by section 517(b) of SARA, as amended by Public Law 101–508: *Provided,* That funds appropriated under this heading may be allocated to other Federal agencies in accordance with section 111(a) of CERCLA: *Provided further,* That $11,000,000 of the funds appropriated under this heading shall be transferred to the Office of Inspector General appropriation to remain available until September 30, 1996: *Provided further,* That notwithstanding section 111(m) of CERCLA or any other provision of law, not to exceed $59,000,000 of the funds appropriated under this heading shall be available to the Agency for Toxic Substances and Disease Registry to carry out activities described in sections 104(i), 111(c)(4), and 111(c)(14) of CERCLA and section 118(f) of the Superfund Amendments and Reauthorization Act of 1986: *Provided further,* That none of the funds appropriated under this heading shall be available for the Agency for Toxic Substances and Disease Registry to issue in excess of 40 toxicological profiles pursuant to section 104(i) of CERCLA during fiscal year 1996: *Provided further,* That none of the funds made available under this heading may be used by the Environmental Protection Agency to propose for listing or to list any additional facilities on the National Priorities List established by section 105 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), as amended (42 U.S.C. 9605), unless the Administrator receives a written request to propose for listing or to list a facility from the Governor of the State in which the facility is located, or unless legislation to reauthorize CERCLA is enacted.

LEAKING UNDERGROUND STORAGE TANK TRUST FUND

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out leaking underground storage tank cleanup activities authorized by section 205 of the Superfund Amendments and Reauthorization Act of 1986, and for construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $75,000 per project, $45,827,000, to remain available until expended: *Provided,* That no more than $7,000,000 shall be available for administrative expenses: *Provided further,* That $500,000 shall be transferred to the Office of Inspector General appropriation to remain available until September 30, 1996.

OIL SPILL RESPONSE

(INCLUDING TRANSFER OF FUNDS)

For expenses necessary to carry out the Environmental Protection Agency's responsibilities under the Oil Pollution Act of 1990, $15,000,000, to be derived from the Oil Spill Liability trust fund, and to remain available until expended: *Provided,* That not more than $8,000,000 of these funds shall be available for administrative expenses.

STATE AND TRIBAL ASSISTANCE GRANTS

For environmental programs and infrastructure assistance, including capitalization grants for State revolving funds and performance partnership grants, $2,813,000,0[3] to remain available until expended, of which $1,848,500,000 shall be for making capitalization grants for State revolving funds to support water infrastructure financing; $100,000,000 for architectural, engineering, design, construction and related activities in connection with the construction of high priority water and wastewater facilities in the area of the United States-Mexico Border, after consultation with the appropriate border commission; $50,000,000 for grants to the State of Texas, which shall be matched by an equal amount of State funds from State resources, for the purpose of improving wastewater treatment for colonias; $15,000,000 for grants to the State of Alaska, subject to an appropriate cost share as determined by the Administrator, to address wastewater infrastructure needs of rural and Alaska Native villages; and $141,500,000 for making grants for the construction of wastewater treatment facilities and the development of groundwater in accordance with the terms and conditions specified for such grants in the Conference Reports and statements of the managers accompanying H.R. 2099 and this Act: *Provided,* That beginning in fiscal year 1996 and each fiscal year thereafter, and notwithstanding any other provision of law, the Administrator is authorized to make grants annually from funds appropriated under this heading, subject to such terms and conditions as the Administrator shall establish, to any State or federally recognized Indian tribe for multimedia or single media pollution prevention, control and abatement and related environmental activities at the request of the Governor or other appropriate State official or the tribe: *Provided further,* That from funds appropriated under this heading, the Administrator may make grants to federally recognized Indian governments for the development of multimedia environmental programs: *Provided further,* That of the $1,848,500,000 for capitalization grants for State revolving funds to support water infrastructure financing, $500,000,000 shall be for drinking water State revolving funds, but if no drinking water State revolving fund legislation is enacted by August 1, 1996, these funds shall immediately be available for making capitalization grants under title VI of the Federal Water Pollution Control Act, as amended: *Provided further,* That of the funds made available in Public Law 103–327 and in Public Law 103–124 for capitalization grants for State revolving funds to support water infrastructure financing, $225,000,000 shall be made available for capitalization grants for State revolving funds under title VI of the Federal Water Pollution Control Act, as amended, if no drinking water State revolving fund legislation is enacted by August 1, 1996: *Provided further,* That of the funds made available under this heading for capitalization grants for State Revolving Funds under title VI of the Federal Water Pollution Control Act, as amended, $50,000,000 shall be for wastewater treatment in impoverished communities pursuant to section 102(d) of H.R. 961 as approved by the United States House of Representatives on May 16, 1995: *Provided further,* That of the funds appropriated in the Construction Grants and Water Infrastructure/State Revolving Funds accounts since the appropria-

33 USC 1281 note.

33 USC 1281 note.

[3] Remainder of figure missing, complete figure probably should read "$2,813,000,000".

tion for the fiscal year ending September 30, 1992, and hereafter, for making grants for wastewater treatment works construction projects, portions may be provided by the recipients to States for managing construction grant activities, on condition that the States agree to reimburse the recipients from State funding sources: *Provided further,* That the funds made available in Public Law 103–327 for a grant to the City of Mt. Arlington, New Jersey, in accordance with House Report 103–715, shall be available for a grant to that city for water and sewer improvements.

ADMINISTRATIVE PROVISIONS

SEC. 301. None of the funds provided in this Act may be used within the Environmental Protection Agency for any final action by the Administrator or her delegate for signing and publishing for promulgation of a rule concerning any new standard for radon in drinking water.

SEC. 302. None of the funds provided in this Act may be used during fiscal year 1996 to sign, promulgate, implement or enforce the requirement proposed as "Regulation of Fuels and Fuel Additives: Individual Foreign Refinery Baseline Requirements for Reformulated Gasoline" at volume 59 of the Federal Register at pages 22800 through 22814.

SEC. 303. None of the funds appropriated under this Act may be used to implement the requirements of section 186(b)(2), section 187(b) or section 211(m) of the Clean Air Act (42 U.S.C. 7512(b)(2), 7512a(b), or 7545(m)) with respect to any moderate nonattainment area in which the average daily winter temperature is below 0 degrees Fahrenheit. The preceding sentence shall not be interpreted to preclude assistance from the Environmental Protection Agency to the State of Alaska to make progress toward meeting the carbon monoxide standard in such areas and to resolve remaining issues regarding the use of oxygenated fuels in such areas.

Michigan.
Public lands.

SEC. 304. Notwithstanding any other provision of law, the Environmental Protection Agency shall: (1) transfer all real property acquired in Bay City, Michigan, for the creation of the Center for Ecology, Research and Training (CERT) to the City of Bay City or other local public or municipal entity; and (2) make a grant in fiscal year 1996 to the recipient of the property of not less than $3,000,000 from funds previously appropriated for the CERT project for the purpose of environmental remediation and rehabilitation of real property included in the boundaries of the CERT project. The disposition of property shall be by donation or no-cost transfer and shall be made to the City of Bay City, Michigan or other local public or municipal entity.

Further, notwithstanding any other provision of law, the agency shall have the authority to demolish or dispose of any improvements on such real property, or to donate, sell, or transfer any personal property or improvements on such real property to members of the general public, by auction or public sale, and to apply any funds received to costs related to the transfer of the real property authorized hereunder.

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

For necessary expenses of the Office of Science and Technology Policy, in carrying out the purposes of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6601 and 6671), hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109, not to exceed $2,500 for official reception and representation expenses, and rental of conference rooms in the District of Columbia, $4,981,000: *Provided,* That the Office of Science and Technology Policy shall reimburse other agencies for not less than one-half of the personnel compensation costs of individuals detailed to it.

COUNCIL ON ENVIRONMENTAL QUALITY AND OFFICE OF ENVIRONMENTAL QUALITY

For necessary expenses to continue functions assigned to the Council on Environmental Quality and Office of Environmental Quality pursuant to the National Environmental Policy Act of 1969, the Environmental Improvement Act of 1970 and Reorganization Plan No. 1 of 1977, $2,150,000.

FEDERAL EMERGENCY MANAGEMENT AGENCY

DISASTER RELIEF

For necessary expenses in carrying out the functions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), $222,000,000, to remain available until expended.

DISASTER ASSISTANCE DIRECT LOAN PROGRAM ACCOUNT

For the cost of direct loans, $2,155,000, as authorized by section 319 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.): *Provided,* That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: *Provided further,* That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $25,000,000.

In addition, for administrative expenses to carry out the direct loan program, $95,000.

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, including hire and purchase of motor vehicles (31 U.S.C. 1343); uniforms, or allowances therefor, as authorized by 5 U.S.C. 5901–5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS–18; expenses of attendance of cooperating officials and individuals at meetings concerned with the work of emergency preparedness; transportation in connection with the continuity of Government programs to the same extent and in the same manner as permitted the Secretary of a Military Department under 10 U.S.C. 2632; and not to exceed $2,500 for official reception and representation expenses; $168,900,000.

OFFICE OF THE INSPECTOR GENERAL

For necessary expenses of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $4,673,000.

EMERGENCY MANAGEMENT PLANNING AND ASSISTANCE

For necessary expenses, not otherwise provided for, to carry out activities under the National Flood Insurance Act of 1968, as amended, and the Flood Disaster Protection Act of 1973, as amended (42 U.S.C. 4001 et seq.), the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Earthquake Hazards Reduction Act of 1977, as amended (42 U.S.C. 7701 et seq.), the Federal Fire Prevention and Control Act of 1974, as amended (15 U.S.C. 2201 et seq.), the Defense Production Act of 1950, as amended (50 U.S.C. App. 2061 et seq.), sections 107 and 303 of the National Security Act of 1947, as amended (50 U.S.C. 404–405), and Reorganization Plan No. 3 of 1978, $203,044,000.

EMERGENCY FOOD AND SHELTER PROGRAM

Notwithstanding any other provision of law, for fiscal year 1996, there is hereby appropriated a total of $100,000,000 to the Federal Emergency Management Agency to carry out an emergency food and shelter program pursuant to title III of Public Law 100–77, as amended: *Provided*, That total administrative costs shall not exceed three and one-half per centum of the total appropriation.

NATIONAL FLOOD INSURANCE FUND

For activities under the National Flood Insurance Act of 1968, the Flood Disaster Protection Act of 1973, and the National Flood Insurance Reform Act of 1994, not to exceed $20,562,000 for salaries and expenses associated with flood mitigation and flood insurance operations, and not to exceed $70,464,000 for flood mitigation, including up to $12,000,000 for expenses under section 1366 of the National Flood Insurance Act of 1968, as amended, which amount shall be available until September 30, 1997. In fiscal year 1996, no funds in excess of (1) $47,000,000 for operating expenses, (2) $292,526,000 for agents' commissions and taxes, and (3) $3,500,000 for interest on Treasury borrowings shall be available from the National Flood Insurance Fund without prior notice to the Committees on Appropriations.

ADMINISTRATIVE PROVISION

The Director of the Federal Emergency Management Agency shall promulgate through rulemaking a methodology for assessment and collection of fees to be assessed and collected beginning in fiscal year 1996 applicable to persons subject to the Federal Emergency Management Agency's radiological emergency preparedness regulations. The aggregate charges assessed pursuant to this section during fiscal year 1996 shall approximate, but not be less than, 100 per centum of the amounts anticipated by the Federal Emergency Management Agency to be obligated for its radiological emergency preparedness program for such fiscal year. The methodology for assessment and collection of fees shall be fair and equitable, Rules.

and shall reflect the full amount of costs of providing radiological emergency planning, preparedness, response and associated services. Such fees will be assessed in a manner that reflects the use of agency resources for classes of regulated persons and the administrative costs of collecting such fees. Fees received pursuant to this section shall be deposited in the general fund of the Treasury as offsetting receipts. Assessment and collection of such fees are only authorized during fiscal year 1996.

GENERAL SERVICES ADMINISTRATION

CONSUMER INFORMATION CENTER

For necessary expenses of the Consumer Information Center, including services authorized by 5 U.S.C. 3109, $2,061,000, to be deposited into the Consumer Information Center Fund: *Provided,* That the appropriations, revenues and collections deposited into the fund shall be available for necessary expenses of Consumer Information Center activities in the aggregate amount of $7,500,000. Administrative expenses of the Consumer Information Center in fiscal year 1996 shall not exceed $2,602,000. Appropriations, revenues, and collections accruing to this fund during fiscal year 1996 in excess of $7,500,000 shall remain in the fund and shall not be available for expenditure except as authorized in appropriations Acts.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

OFFICE OF CONSUMER AFFAIRS

For necessary expenses of the Office of Consumer Affairs, including services authorized by 5 U.S.C. 3109, $1,800,000: *Provided,* That notwithstanding any other provision of law, that Office may accept and deposit to this account, during fiscal year 1996, gifts for the purpose of defraying its costs of printing, publishing, and distributing consumer information and educational materials; may expend up to $1,110,000 of those gifts for those purposes, in addition to amounts otherwise appropriated; and the balance shall remain available for expenditure for such purposes to the extent authorized in subsequent appropriations Acts: *Provided further,* That none of the funds provided under this heading may be made available for any other activities within the Department of Health and Human Services.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

HUMAN SPACE FLIGHT

For necessary expenses, not otherwise provided for, in the conduct and support of human space flight research and development activities, including research; development; operations; services; maintenance; construction of facilities including repair, rehabilitation, and modification of real and personal property, and acquisition or condemnation of real property, as authorized by law; space flight, spacecraft control and communications activities including operations, production, and services; and purchase, lease, charter, maintenance, and operation of mission and administrative aircraft; $5,456,600,000, to remain available until September 30, 1997.

SCIENCE, AERONAUTICS AND TECHNOLOGY

For necessary expenses, not otherwise provided for, for the conduct and support of science, aeronautics, and technology research and development activities, including research; development; operations; services; maintenance; construction of facilities including repair, rehabilitation and modification of real and personal property, and acquisition or condemnation of real property, as authorized by law; space flight, spacecraft control and communications activities including operations, production, and services; and purchase, lease, charter, maintenance, and operation of mission and administrative aircraft; $5,928,900,000, to remain available until September 30, 1997.

MISSION SUPPORT

For necessary expenses, not otherwise provided for, in carrying out mission support for human space flight programs and science, aeronautical, and technology programs, including research operations and support; space communications activities including operations, production, and services; maintenance; construction of facilities including repair, rehabilitation, and modification of facilities, minor construction of new facilities and additions to existing facilities, facility planning and design, environmental compliance and restoration, and acquisition or condemnation of real property, as authorized by law; program management; personnel and related costs, including uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901–5902); travel expenses; purchase, lease, charter, maintenance, and operation of mission and administrative aircraft; not to exceed $35,000 for official reception and representation expenses; and purchase (not to exceed thirty-three for replacement only) and hire of passenger motor vehicles; $2,502,200,000, to remain available until September 30, 1997.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $16,000,000.

ADMINISTRATIVE PROVISIONS

(INCLUDING TRANSFER OF FUNDS)

Notwithstanding the limitation on the availability of funds appropriated for "Human space flight", "Science, aeronautics and technology", or "Mission support" by this appropriations Act, when any activity has been initiated by the incurrence of obligations for construction of facilities as authorized by law, the amount available for such activity shall remain available until expended. This provision does not apply to the amounts appropriated in "Mission support" pursuant to the authorization for repair, rehabilitation and modification of facilities, minor construction of new facilities and additions to existing facilities, and facility planning and design.

Notwithstanding the limitation on the availability of funds appropriated for "Human space flight", "Science, aeronautics and technology", or "Mission support" by this appropriations Act, the amounts appropriated for construction of facilities shall remain available until September 30, 1998.

Notwithstanding the limitation on the availability of funds appropriated for "Mission support" and "Office of Inspector General", amounts made available by this Act for personnel and related costs and travel expenses of the National Aeronautics and Space Administration shall remain available until September 30, 1996 and may be used to enter into contracts for training, investigations, cost associated with personnel relocation, and for other services, to be provided during the next fiscal year.

The unexpired balances of prior appropriations to NASA for activities for which funds are provided under this Act may be transferred to the new account established for the appropriation that provides funds for such activity under this Act. Balances so transferred may be merged with funds in the newly established account and thereafter may be accounted for as one fund to be available for the same purposes and under the same terms and conditions.

Upon the determination by the Administrator that such action is necessary, the Administrator may, with the approval of the Office of Management and Budget, transfer not to exceed $50,000,000 of funds made available in this Act to the National Aeronautics and Space Administration between such appropriations or any subdivision thereof, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation to which transferred: *Provided,* That such authority to transfer may not be used unless for higher priority items, based on unforeseen requirements, than those for which originally appropriated: *Provided further,* That the Administrator of the National Aeronautics and Space Administration shall notify the Congress promptly of all transfers made pursuant to this authority.

Notification.

Notwithstanding section 202 of Public Law 104–99, section 212 of Public Law 104–99 shall remain in effect as if enacted as part of this Act.

Ante, p. 38.

Within its Mission to Planet Earth program, NASA is urged to fund Phase A studies for a radar satellite initiative.

NATIONAL CREDIT UNION ADMINISTRATION

CENTRAL LIQUIDITY FACILITY

During fiscal year 1996, gross obligations of the Central Liquidity Facility for the principal amount of new direct loans to member credit unions as authorized by the National Credit Union Central Liquidity Facility Act (12 U.S.C. 1795) shall not exceed $600,000,000: *Provided,* That administrative expenses of the Central Liquidity Facility in fiscal year 1996 shall not exceed $560,000.

NATIONAL SCIENCE FOUNDATION

RESEARCH AND RELATED ACTIVITIES

For necessary expenses in carrying out the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875), and the Act to establish a National Medal of Science (42 U.S.C. 1880–1881); services as authorized by 5 U.S.C. 3109; maintenance and operation of aircraft and purchase of flight services for research support; acquisition of aircraft; $2,314,000,000, of which not to exceed $235,000,000 shall remain available until expended for Polar research and operations support, and for

reimbursement to other Federal agencies for operational and science support and logistical and other related activities for the United States Antarctic program; the balance to remain available until September 30, 1997: *Provided,* That receipts for scientific support services and materials furnished by the National Research Centers and other National Science Foundation supported research facilities may be credited to this appropriation: *Provided further,* That to the extent that the amount appropriated is less than the total amount authorized to be appropriated for included program activities, all amounts, including floors and ceilings, specified in the authorizing Act for those program activities or their subactivities shall be reduced proportionally.

MAJOR RESEARCH EQUIPMENT

For necessary expenses in carrying out major construction projects, and related expenses, pursuant to the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875), $70,000,000, to remain available until expended.

ACADEMIC RESEARCH INFRASTRUCTURE

For necessary expenses in carrying out an academic research infrastructure program pursuant to the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875), including services as authorized by 5 U.S.C. 3109 and rental of conference rooms in the District of Columbia, $100,000,000, to remain available until September 30, 1997.

EDUCATION AND HUMAN RESOURCES

For necessary expenses in carrying out science and engineering education and human resources programs and activities pursuant to the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875), including services as authorized by 5 U.S.C. 3109 and rental of conference rooms in the District of Columbia, $599,000,000, to remain available until September 30, 1997: *Provided,* That to the extent that the amount of this appropriation is less than the total amount authorized to be appropriated for included program activities, all amounts, including floors and ceilings, specified in the authorizing Act for those program activities or their subactivities shall be reduced proportionally.

SALARIES AND EXPENSES

For necessary salaries and expenses in carrying out the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875); services authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; not to exceed $9,000 for official reception and representation expenses; uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901–5902); rental of conference rooms in the District of Columbia; reimbursement of the General Services Administration for security guard services; $127,310,000: *Provided,* That contracts may be entered into under salaries and expenses in fiscal year 1996 for maintenance and operation of facilities, and for other services, to be provided during the next fiscal year.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $4,490,000, to remain available until September 30, 1997.

NATIONAL SCIENCE FOUNDATION HEADQUARTERS RELOCATION

For necessary support of the relocation of the National Science Foundation, $5,200,000: *Provided,* That these funds shall be used to reimburse the General Services Administration for services and related acquisitions in support of relocating the National Science Foundation.

NEIGHBORHOOD REINVESTMENT CORPORATION

PAYMENT TO THE NEIGHBORHOOD REINVESTMENT CORPORATION

For payment to the Neighborhood Reinvestment Corporation for use in neighborhood reinvestment activities, as authorized by the Neighborhood Reinvestment Corporation Act (42 U.S.C. 8101–8107), $38,667,000.

SELECTIVE SERVICE SYSTEM

SALARIES AND EXPENSES

For necessary expenses of the Selective Service System, including expenses of attendance at meetings and of training for uniformed personnel assigned to the Selective Service System, as authorized by law (5 U.S.C. 4101–4118) for civilian employees; and not to exceed $1,000 for official reception and representation expenses; $22,930,000: *Provided,* That during the current fiscal year, the President may exempt this appropriation from the provisions of 31 U.S.C. 1341, whenever he deems such action to be necessary in the interest of national defense: *Provided further,* That none of the funds appropriated by the Act may be expended for or in connection with the induction of any person into the Armed Forces of the United States.

TITLE IV

CORPORATIONS

Corporations and agencies of the Department of Housing and Urban Development which are subject to the Government Corporation Control Act, as amended, are hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to each such corporation or agency and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Act as may be necessary in carrying out the programs set forth in the budget for 1996 for such corporation or agency except as hereinafter provided: *Provided,* That collections of these corporations and agencies may be used for new loan or mortgage purchase commitments only to the extent expressly provided for in this Act (unless such loans are in support of other forms of assistance provided for in this or prior appropriations Acts), except that this proviso

shall not apply to the mortgage insurance or guaranty operations of these corporations, or where loans or mortgage purchases are necessary to protect the financial interest of the United States Government.

RESOLUTION TRUST CORPORATION

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $11,400,000.

TITLE V

GENERAL PROVISIONS

SEC. 501. Where appropriations in titles I, II, and III of this Act are expendable for travel expenses and no specific limitation has been placed thereon, the expenditures for such travel expenses may not exceed the amounts set forth therefor in the budget estimates submitted for the appropriations: *Provided,* That this section shall not apply to travel performed by uncompensated officials of local boards and appeal boards of the Selective Service System; to travel performed directly in connection with care and treatment of medical beneficiaries of the Department of Veterans Affairs; to travel performed in connection with major disasters or emergencies declared or determined by the President under the provisions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act; to travel performed by the Offices of Inspector General in connection with audits and investigations; or to payments to interagency motor pools where separately set forth in the budget schedules: *Provided further,* That if appropriations in titles I, II, and III exceed the amounts set forth in budget estimates initially submitted for such appropriations, the expenditures for travel may correspondingly exceed the amounts therefor set forth in the estimates in the same proportion.

SEC. 502. Appropriations and funds available for the administrative expenses of the Department of Housing and Urban Development and the Selective Service System shall be available in the current fiscal year for purchase of uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901–5902); hire of passenger motor vehicles; and services as authorized by 5 U.S.C. 3109.

SEC. 503. Funds of the Department of Housing and Urban Development subject to the Government Corporation Control Act or section 402 of the Housing Act of 1950 shall be available, without regard to the limitations on administrative expenses, for legal services on a contract or fee basis, and for utilizing and making payment for services and facilities of Federal National Mortgage Association, Government National Mortgage Association, Federal Home Loan Mortgage Corporation, Federal Financing Bank, Resolution Trust Corporation, Federal Reserve banks or any member thereof, Federal Home Loan banks, and any insured bank within the meaning of the Federal Deposit Insurance Corporation Act, as amended (12 U.S.C. 1811–1831).

SEC. 504. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 505. No funds appropriated by this Act may be expended—

(1) pursuant to a certification of an officer or employee of the United States unless—

(A) such certification is accompanied by, or is part of, a voucher or abstract which describes the payee or payees and the items or services for which such expenditure is being made, or

(B) the expenditure of funds pursuant to such certification, and without such a voucher or abstract, is specifically authorized by law; and

(2) unless such expenditure is subject to audit by the General Accounting Office or is specifically exempt by law from such audit.

SEC. 506. None of the funds provided in this Act to any department or agency may be expended for the transportation of any officer or employee of such department or agency between his domicile and his place of employment, with the exception of any officer or employee authorized such transportation under title 31, United States Code, section 1344.

SEC. 507. None of the funds provided in this Act may be used for payment, through grants or contracts, to recipients that do not share in the cost of conducting research resulting from proposals not specifically solicited by the Government: *Provided,* That the extent of cost sharing by the recipient shall reflect the mutuality of interest of the grantee or contractor and the Government in the research.

SEC. 508. None of the funds provided in this Act may be used, directly or through grants, to pay or to provide reimbursement for payment of the salary of a consultant (whether retained by the Federal Government or a grantee) at more than the daily equivalent of the rate paid for Level IV of the Executive Schedule, unless specifically authorized by law.

SEC. 509. None of the funds in this Act shall be used to pay the expenses of, or otherwise compensate, non-Federal parties intervening in regulatory or adjudicatory proceedings. Nothing herein affects the authority of the Consumer Product Safety Commission pursuant to section 7 of the Consumer Product Safety Act (15 U.S.C. 2056 et seq.).

Contracts.
Public information.

SEC. 510. Except as otherwise provided under existing law or under an existing Executive order issued pursuant to an existing law, the obligation or expenditure of any appropriation under this Act for contracts for any consulting service shall be limited to contracts which are (1) a matter of public record and available for public inspection, and (2) thereafter included in a publicly available list of all contracts entered into within twenty-four months prior to the date on which the list is made available to the public and of all contracts on which performance has not been completed by such date. The list required by the preceding sentence shall be updated quarterly and shall include a narrative description of the work to be performed under each such contract.

Records.

SEC. 511. Except as otherwise provided by law, no part of any appropriation contained in this Act shall be obligated or expended by any executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) for a contract for services unless such executive agency (1) has awarded and entered into such contract in full compliance with such Act and the regulations promulgated thereunder, and (2) requires any report prepared pursuant to such contract, including plans, evalua-

tions, studies, analyses and manuals, and any report prepared by the agency which is substantially derived from or substantially includes any report prepared pursuant to such contract, to contain information concerning (A) the contract pursuant to which the report was prepared, and (B) the contractor who prepared the report pursuant to such contract.

SEC. 512. Except as otherwise provided in section 506, none of the funds provided in this Act to any department or agency shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of such department or agency.

SEC. 513. None of the funds provided in this Act to any department or agency shall be obligated or expended to procure passenger automobiles as defined in 15 U.S.C. 2001 with an EPA estimated miles per gallon average of less than 22 miles per gallon.

SEC. 514. Such sums as may be necessary for fiscal year 1996 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

SEC. 515. None of the funds appropriated in title I of this Act shall be used to enter into any new lease of real property if the estimated annual rental is more than $300,000 unless the Secretary submits, in writing, a report to the Committees on Appropriations of the Congress and a period of 30 days has expired following the date on which the report is received by the Committees on Appropriations. Reports.

SEC. 516. (a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American-made.

(b) NOTICE REQUIREMENT.—In providing financial assistance to, or entering into any contract with, any entity using funds made available in this Act, the head of each Federal agency, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.

SEC. 517. None of the funds appropriated in this Act may be used to implement any cap on reimbursements to grantees for indirect costs, except as published in Office of Management and Budget Circular A–21.

SEC. 518. None of the funds made available in this Act may be used for any program, project, or activity, when it is made known to the Federal entity or official to which the funds are made available that the program, project, or activity is not in compliance with any Federal law relating to risk assessment, the protection of private property rights, or unfunded mandates.

SEC. 519. In fiscal year 1996, the Director of the Federal Emergency Management Agency shall sell the disaster housing inventory of mobile homes and trailers, and the proceeds thereof shall be deposited in the Treasury.

SEC. 520. Such funds as may be necessary to carry out the orderly termination of the Office of Consumer Affairs shall be made available from funds appropriated to the Department of Health and Human Services for fiscal year 1996. Government organization.

SEC. 521. Upon enactment of this Act, the provisions of section 201(b) of Public Law 104–99, except the last proviso, are superseded. *Ante*, p. 36.

This Act may be cited as the "Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996".

Supplemental Appropriations Act of 1996.

TITLE II—SUPPLEMENTAL APPROPRIATIONS FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 1996

CHAPTER 1

DEPARTMENT OF AGRICULTURE

FOOD SAFETY AND INSPECTION SERVICE

Of the funds appropriated by Public Law 104–37 or otherwise made available to the Food Safety and Inspection Service for fiscal year 1996, not less than $363,000,000 shall be available for salaries and benefits of in-plant personnel: *Provided*, That this limitation shall not apply if the Secretary of Agriculture certifies to the House and Senate Committees on Appropriations that a lesser amount will be adequate to fully meet in-plant inspection requirements for the fiscal year.

Certification.

NATURAL RESOURCES CONSERVATION SERVICE

WATERSHED AND FLOOD PREVENTION OPERATIONS

For an additional amount for "Watershed and Flood Prevention Operations" to repair damages to waterways and watersheds resulting from flooding in the Pacific Northwest, the Northeast blizzards and floods, and other natural disasters, $80,514,000, to remain available until expended: *Provided,* That if the Secretary determines that the cost of land and farm structures restoration exceeds the fair market value of an affected cropland, the Secretary may use sufficient amounts, not to exceed $7,288,000, from funds provided under this heading to accept bids from willing sellers to provide conservation easements for such cropland inundated by floods as provided for by the Wetlands Reserve Program, authorized by subchapter C of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3837): *Provided further,* That the entire amount shall be available only to the extent that an official budget request for $80,514,000, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress: *Provided further,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

President.

CONSOLIDATED FARM SERVICE AGENCY

EMERGENCY CONSERVATION PROGRAM

For necessary expenses to carry into effect the program authorized in sections 401, 402, and 404 of title IV of the Agricultural Credit Act of 1978 (16 U.S.C. 2201–2205) for expenses resulting from floods in the Pacific Northwest and other natural disasters, $30,000,000, to remain available until expended, as authorized by 16 U.S.C. 2204: *Provided,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

RURAL HOUSING AND COMMUNITY DEVELOPMENT SERVICE

RURAL HOUSING INSURANCE FUND PROGRAM ACCOUNT

For an additional amount for "Rural housing insurance fund program account" for the additional cost of direct loans, including the cost of modifying loans as defined in section 502 of the Congressional Budget Act of 1974, for emergency expenses resulting from flooding in the Pacific Northwest, the Northeast blizzards and floods, Hurricane Marilyn, and other natural disasters, to be available from funds in the rural housing insurance fund as follows: $5,000,000 for section 502 direct loans and $1,500,000 for section 504 housing repair loans, to remain available until expended: *Provided,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

VERY LOW-INCOME HOUSING REPAIR GRANTS

For an additional amount for "Very low-income housing repair grants" under section 504 of the Housing Act of 1949, as amended, for emergency expenses resulting from flooding in the Pacific Northwest, the Northeast blizzards and floods, Hurricane Marilyn, and other natural disasters, $1,100,000, to remain available until expended: *Provided,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

RURAL UTILITIES SERVICE

RURAL UTILITIES ASSISTANCE PROGRAM

For an additional amount for the "Rural Utilities Assistance Program" for the cost of direct loans and grants, including the cost of modifying loans as defined in section 502 of the Congressional Budget Act of 1974, to assist in the recovery from flooding in the Pacific Northwest and other natural disasters, $11,000,000, to remain available until expended: *Provided,* That such funds may be available for emergency community water assistance grants as authorized by 7 U.S.C. 1926b: *Provided,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

GENERAL PROVISIONS

SECTION 2001. SEAFOOD SAFETY.

Notwithstanding any other provision of law, any domestic fish or fish product produced in compliance with food safety standards or procedures accepted by the Food and Drug Administration as satisfying the requirements of the "Procedures for the Safe and Sanitary Processing and Importing of Fish and Fish Products" (published by the Food and Drug Administration as a final regulation in the Federal Register of December 18, 1995), shall be deemed to have met any inspection requirements of the Department of Agriculture or other Federal agency for any Federal commodity

purchase program, including the program authorized under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c) except that the Department of Agriculture or other Federal agency may utilize lot inspection to establish a reasonable degree of certainty that fish or fish products purchased under a Federal commodity purchase program, including the program authorized under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), meet Federal product specifications.

7 USC 1941 note.

SEC. 2002.

Notwithstanding any other provision of law, the Secretary of Agriculture is hereby authorized to make or guarantee an operating loan under Subtitle B or an emergency loan under Subtitle C of the Consolidated Farm and Rural Development Act (7 U.S.C. 1922 et. seq.), as in effect prior to April 4, 1996, to a loan applicant who was less than 90 days delinquent on April 4, 1996, if the loan applicant had submitted an application for the loan prior to April 5, 1996.

FDA Export Reform and Enhancement Act of 1996.

CHAPTER 1A

FOOD AND DRUG EXPORT REFORM

SEC. 2101. SHORT TITLE; REFERENCE.

21 USC 301 note.

(a) SHORT TITLE.—This chapter may be cited as the "FDA Export Reform and Enhancement Act of 1996".

(b) REFERENCE.—Wherever in this chapter (other than in section 2104) an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Food, Drug, and Cosmetic Act. (21 U.S.C. 321 et seq.)

SEC. 2102. EXPORT OF DRUGS AND DEVICES.

(a) IMPORTS FOR EXPORT.—Section 801 (21 U.S.C. 381) is amended—

(1) in subsection (d), by adding at the end thereof the following:

"(3) No component of a drug, no component part or accessory of a device which is ready or suitable for use for health-related purposes, and no food additive, color additive, or dietary supplement, including a product in bulk form, shall be excluded from importation into the United States under subsection (a) if—

"(A) the importer of such article of a drug or device or importer of the food additive, color additive, or dietary supplement submits a statement to the Secretary, at the time of initial importation, that such article of a drug or device, food additive, color additive, or dietary supplement is intended to be incorporated by the initial owner or consignee into a drug, biological product, device, food, food additive, color additive, or dietary supplement that will be exported by such owner or consignee from the United States in accordance with section 801(e) or 802 or section 351(h) of the Public Health Service Act;

Records. Reports.

"(B) the initial owner or consignee responsible for such imported article maintains records that identify the use of such imported article and upon request of the Secretary submits a report that provides an accounting of the exportation or

the disposition of the imported article, including portions that have been destroyed, and the manner in which such person complied with the requirements of this paragraph; and

"(C) any imported component, part, or accessory of a drug or device and any food additive, color additive, or dietary supplement not incorporated as described in subparagraph (A) is destroyed or exported by the owner or consignee.

"(4) The importation into the United States of blood, blood components, source plasma, or source leukocytes or of a component, accessory, or part thereof is not permitted pursuant to paragraph (3) unless the importation complies with section 351(a) of the Public Health Service Act or the Secretary permits the importation under appropriate circumstances and conditions, as determined by the Secretary. The importation of tissue or a component or part of tissue is not permitted pursuant to paragraph (3) unless the importation complies with section 361 of the Public Health Service Act.";

(b) EXPORT OF CERTAIN PRODUCTS.—Section 801 (21 U.S.C. 381) is amended—

(1) in subsection (e)(1), by striking the second sentence;

(2) in subsection (e)(2)—

(A) by striking "the Secretary" and inserting "either (i) the Secretary"; and

(B) by inserting before the period at the end thereof the following: "or (ii) the device is eligible for export under section 802"; and

(3) in subsection (e), by adding at the end thereof the following:;

"(3) A new animal drug that requires approval under section 512 shall not be exported pursuant to paragraph (1) if such drug has been banned in the United States.

"(4)(A) Any person who exports a drug, animal drug, or device may request that the Secretary—

"(i) certify in writing that the exported drug, animal drug, or device meets the requirements of paragraph (1) or section 802; or

"(ii) certify in writing that the drug, animal drug, or device being exported meets the applicable requirements of this Act upon a showing that the drug or device meets the applicable requirements of this Act.

The Secretary shall issue such a certification within 20 days of the receipt of a request for such certification. Certification.

"(B) If the Secretary issues a written export certification within the 20 days prescribed by subparagraph (A), a fee for such certification may be charged but shall not exceed $175 for each certification. Fees collected for a fiscal year pursuant to this subparagraph shall be credited to the appropriation account for salaries and expenses of the Food and Drug Administration and shall be available in accordance with appropriations Acts until expended without fiscal year limitation. Such fees shall be collected in each fiscal year in an amount equal to the amount specified in appropriations Acts for such fiscal year and shall only be collected and available for the costs of the Food and Drug Administration.".

(c) LABELING OF EXPORTED DRUGS.—Section 801 (21 U.S.C. 381) is amended by adding at the end the following:

"(f)(1) If a drug being exported in accordance with subsection (e) is being exported to a country that has different or additional

labeling requirements or conditions for use and such country requires the drug to be labeled in accordance with those requirements or uses, such drug may be labeled in accordance with such requirements and conditions for use in the country to which such drug is being exported if it also is labeled in accordance with the requirements of this Act.

"(2) If, pursuant to paragraph (1), the labeling of an exported drug includes conditions for use that have not been approved under this Act, the labeling must state that such conditions for use have not been approved under this Act.".

(d) EXPORT OF CERTAIN UNAPPROVED DRUGS AND DEVICES.—

(1) AMENDMENT.—Section 802 (21 U.S.C. 382) is amended to read as follows:

"EXPORTS OF CERTAIN UNAPPROVED PRODUCTS

"SEC. 802. (a) A drug or device—

"(1) which, in the case of a drug—

"(A)(i) requires approval by the Secretary under section 505 before such drug may be introduced or delivered for introduction into interstate commerce; or

"(ii) requires licensing by the Secretary under section 351 of the Public Health Service Act or by the Secretary of Agriculture under the Act of March 4, 1913 (known as the Virus-Serum Toxin Act) before it may be introduced or delivered for introduction into interstate commerce;

"(B) does not have such approval or license; and

"(C) is not exempt from such sections or Act; and

"(2) which, in the case of a device—

"(A) does not comply with an applicable requirement under section 514 or 515;

"(B) under section 520(g) is exempt from either such section; or

"(C) is a banned device under section 516, is adulterated, misbranded, and in violation of such sections or Act unless the export of the drug or device is, except as provided in subsection (f), authorized under subsection (b), (c), (d), or (e) or section 801(e)(2). If a drug or device described in paragraphs (1) and (2) may be exported under subsection (b) and if an application for such drug or device under section 505 or 515 or section 351 of the Public Health Service Act was disapproved, the Secretary shall notify the appropriate public health official of the country to which such drug will be exported of such disapproval.

"(b)(1)(A) A drug or device described in subsection (a) may be exported to any country, if the drug or device complies with the laws of that country and has valid marketing authorization by the appropriate authority—

"(i) in Australia, Canada, Israel, Japan, New Zealand, Switzerland, or South Africa; or

"(ii) in the European Union or a country in the European Economic Area (the countries in the European Union and the European Free Trade Association) if the drug or device is marketed in that country or the drug or device is authorized for general marketing in the European Economic Area.

"(B) The Secretary may designate an additional country to be included in the list of countries described in clauses (i) and

(ii) of subparagraph (A) if all of the following requirements are met in such country:

"(i) Statutory or regulatory requirements which require the review of drugs and devices for safety and effectiveness by an entity of the government of such country and which authorize the approval of only those drugs and devices which have been determined to be safe and effective by experts employed by or acting on behalf of such entity and qualified by scientific training and experience to evaluate the safety and effectiveness of drugs and devices on the basis of adequate and well-controlled investigations, including clinical investigations, conducted by experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs and devices.

"(ii) Statutory or regulatory requirements that the methods used in, and the facilities and controls used for—

"(I) the manufacture, processing, and packing of drugs in the country are adequate to preserve their identity, quality, purity, and strength; and

"(II) the manufacture, preproduction design validation, packing, storage, and installation of a device are adequate to assure that the device will be safe and effective.

"(iii) Statutory or regulatory requirements for the reporting of adverse reactions to drugs and devices and procedures to withdraw approval and remove drugs and devices found not to be safe or effective.

"(iv) Statutory or regulatory requirements that the labeling and promotion of drugs and devices must be in accordance with the approval of the drug or device.

"(v) The valid marketing authorization system in such country or countries is equivalent to the systems in the countries described in clauses (i) and (ii) of subparagraph (A).

The Secretary shall not delegate the authority granted under this subparagraph.

"(C) An appropriate country official, manufacturer, or exporter may request the Secretary to take action under subparagraph (B) to designate an additional country or countries to be added to the list of countries described in clauses (i) and (ii) of subparagraph (A) by submitting documentation to the Secretary in support of such designation. Any person other than a country requesting such designation shall include, along with the request, a letter from the country indicating the desire of such country to be designated.

"(2) A drug described in subsection (a) may be directly exported to a country which is not listed in clause (i) or (ii) of paragraph (1)(A) if—

"(A) the drug complies with the laws of that country and has valid marketing authorization by the responsible authority in that country; and

"(B) the Secretary determines that all of the following requirements are met in that country:

"(i) Statutory or regulatory requirements which require the review of drugs for safety and effectiveness by an entity of the government of such country and which authorize the approval of only those drugs which have been determined to be safe and effective by experts employed by or acting on behalf of such entity and qualified by scientific training and experience to evaluate the safety

and effectiveness of drugs on the basis of adequate and well-controlled investigations, including clinical investigations, conducted by experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs.

"(ii) Statutory or regulatory requirements that the methods used in, and the facilities and controls used for the manufacture, processing, and packing of drugs in the country are adequate to preserve their identity, quality, purity, and strength.

"(iii) Statutory or regulatory requirements for the reporting of adverse reactions to drugs and procedures to withdraw approval and remove drugs found not to be safe or effective.

"(iv) Statutory or regulatory requirements that the labeling and promotion of drugs must be in accordance with the approval of the drug.

"(3) The exporter of a drug described in subsection (a) which would not meet the conditions for approval under this Act or conditions for approval of a country described in clause (i) or (ii) of paragraph (1)(A) may petition the Secretary for authorization to export such drug to a country which is not described in clause (i) or (ii) of paragraph (1)(A) or which is not described in paragraph (2). The Secretary shall permit such export if—

"(A) the person exporting the drug—

"(i) certifies that the drug would not meet the conditions for approval under this Act or the conditions for approval of a country described in clause (i) or (ii) of paragraph (1)(A); and

"(ii) provides the Secretary with credible scientific evidence, acceptable to the Secretary, that the drug would be safe and effective under the conditions of use in the country to which it is being exported; and

"(B) the appropriate health authority in the country to which the drug is being exported—

"(i) requests approval of the export of the drug to such country;

"(ii) certifies that the health authority understands that the drug is not approved under this Act or in a country described in clause (i) or (ii) of paragraph (1)(A); and

"(iii) concurs that the scientific evidence provided pursuant to subparagraph (A) is credible scientific evidence that the drug would be reasonably safe and effective in such country.

The Secretary shall take action on a request for export of a drug under this paragraph within 60 days of receiving such request.

"(c) A drug or device intended for investigational use in any country described in clause (i) or (ii) of subsection (b)(1)(A) may be exported in accordance with the laws of that country and shall be exempt from regulation under section 505(i) or 520(g).

"(d) A drug or device intended for formulation, filling, packaging, labeling, or further processing in anticipation of market authorization in any country described in clause (i) or (ii) of subsection (b)(1)(A) may be exported for use in accordance with the laws of that country.

"(e)(1) A drug or device which is used in the diagnosis, prevention, or treatment of a tropical disease or another disease not of significant prevalence in the United States and which does not otherwise qualify for export under this section shall, upon approval of an application, be permitted to be exported if the Secretary finds that the drug or device will not expose patients in such country to an unreasonable risk of illness or injury and the probable benefit to health from the use of the drug or device (under conditions of use prescribed, recommended, or suggested in the labeling or proposed labeling of the drug or device) outweighs the risk of injury or illness from its use, taking into account the probable risks and benefits of currently available drug or device treatment.

"(2) The holder of an approved application for the export of a drug or device under this subsection shall report to the Secretary— Reports.

"(A) the receipt of any credible information indicating that the drug or device is being or may have been exported from a country for which the Secretary made a finding under paragraph (1)(A) to a country for which the Secretary cannot make such a finding; and

"(B) the receipt of any information indicating adverse reactions to such drug.

"(3)(A) If the Secretary determines that—

"(i) a drug or device for which an application is approved under paragraph (1) does not continue to meet the requirements of such paragraph; or

"(ii) the holder of an approved application under paragraph (1) has not made the report required by paragraph (2),

the Secretary may, after providing the holder of the application an opportunity for an informal hearing, withdraw the approved application.

"(B) If the Secretary determines that the holder of an approved application under paragraph (1) or an importer is exporting a drug or device from the United States to an importer and such importer is exporting the drug or device to a country for which the Secretary cannot make a finding under paragraph (1) and such export presents an imminent hazard, the Secretary shall immediately prohibit the export of the drug or device to such importer, provide the person exporting the drug or device from the United States prompt notice of the prohibition, and afford such person an opportunity for an expedited hearing.

"(f) A drug or device may not be exported under this section—

"(1) if the drug or device is not manufactured, processed, packaged, and held in substantial conformity with current good manufacturing practice requirements or does not meet international standards as certified by an international standards organization recognized by the Secretary;

"(2) if the drug or device is adulterated under clause (1), (2)(A), or (3) of section 501(a) or subsection (c) or (d) of section 501;

"(3) if the requirements of subparagraphs (A) through (D) of section 801(e)(1) have not been met;

"(4)(A) if the drug or device is the subject of a notice by the Secretary or the Secretary of Agriculture of a determination that the probability of reimportation of the exported drug or device would present an imminent hazard to the public health and safety of the United States and the only means

of limiting the hazard is to prohibit the export of the drug or device; or

"(B) if the drug or device presents an imminent hazard to the public health of the country to which the drug or device would be exported;

"(5) if the drug or device is not labeled—

"(A) in accordance with the requirements and conditions for use in—

"(i) the country in which the drug or device received valid marketing authorization under subsection (b); and

"(ii) the country to which the drug or device would be exported; and

"(B) in the language and units of measurement of the country to which the drug or device would be exported or in the language designated by such country; or

"(6) if the drug or device is not promoted in accordance with the labeling requirements set forth in paragraph (5).

In making a finding under paragraph (4)(B), (5), or (6) the Secretary shall consult with the appropriate public health official in the affected country.

"(g) The exporter of a drug or device exported under subsection (b)(1) shall provide a simple notification to the Secretary identifying the drug or device when the exporter first begins to export such drug or device to any country listed in clause (i) or (ii) of subsection (b)(1)(A). When an exporter of a drug or device first begins to export a drug or device to a country which is not listed in clause (i) or (ii) of subsection (b)(1)A), the exporter shall provide a simple notification to the Secretary identifying the drug or device and the country to which such drug or device is being exported. Any exporter of a drug or device shall maintain records of all drugs or devices exported and the countries to which they were exported.

Records.

"(h) For purposes of this section—

"(1) a reference to the Secretary shall in the case of a biological product which is required to be licensed under the Act of March 4, 1913 (37 Stat. 832–833) (commonly known as the Virus-Serum Toxin Act) be considered to be a reference to the Secretary of Agriculture, and

"(2) the term 'drug' includes drugs for human use as well as biologicals under section 351 of the Public Health Service Act or the Act of March 4, 1913 (37 Stat. 832–833) (commonly known as the Virus-Serum Toxin Act).".

(2) CONFORMING AMENDMENTS.—Section 351(h) of the Public Health Service Act (42 U.S.C. 262(h)) is amended by striking "802(b)(A)" and inserting "802(b)(1)" and by striking "802(b)(4)" and inserting "802(b)(1)".

SEC. 2103. PROHIBITED ACT.

Section 301 (21 U.S.C. 331) is amended—

(1) by redesignating the second subsection (u) as subsection (v); and

(2) by adding at the end thereof the following:

"(w) The making of a knowingly false statement in any record or report required or requested under subparagraph (A) or (B) of section 801(d)(3), the failure to submit or maintain records as required by sections 801(d)(3)(A) and 801(d)(3)(B), the release into interstate commerce of any article imported into the United States

under section 801(d)(3) or any finished product made from such article (except for export in accordance with section 801(e) or 802 or section 351(h) of the Public Health Service Act), or the failure to export or destroy any component, part or accessory not incorporated into a drug, biological product or device that will be exported in accordance with section 801(e) or 802 or section 351(h) of the Public Health Service Act.".

SEC. 2104. PARTIALLY PROCESSED BIOLOGICAL PRODUCTS.

Subsection (h) of section 351 of the Public Health Service Act (42 U.S.C. 262) is amended to read as follows:

"(h) A partially processed biological product which—

"(1) is not in a form applicable to the prevention, treatment, or cure of diseases or injuries of man;

"(2) is not intended for sale in the United States; and

"(3) is intended for further manufacture into final dosage form outside the United States,

shall be subject to no restriction on the export of the product under this Act or the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321 et. seq.) if the product is manufactured, processed, packaged, and held in conformity with current good manufacturing practice requirements or meets international manufacturing standards as certified by an international standards organization recognized by the Secretary and meets the requirements of section 801(e)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381(e)).".

SEC. 2105. (a) IN GENERAL.—Any owner on the date of enactment of this Act of the right to market a nonsteroidal antiinflammatory drug that—

(1) contains a previously patented active agent;

(2) has been reviewed by the Federal Food and Drug Administration for a period of more than 120 months as a new drug application; and

(3) was approved as safe and effective by the Federal Food and Drug Administration on October 29, 1992,

shall be entitled, for the 2-year period beginning on October 29, 1997, to exclude others from making, using, offering for sale, selling, or importing into the United States such active agent, in accordance with section 154(a)(1) of title 35, United States Code.

(b) INFRINGEMENT.—Section 271 of title 35, United States Code shall apply to the infringement of the entitlement provided under subsection (a). No application described in section 271(e)(2)(A) of title 35, United States Code, regardless of purpose, may be submitted prior to the expiration of the entitlement provided under subsection (a).

(c) NOTIFICATION.—Not later than 30 days after the date of the enactment of this Act, any owner granted an entitlement under subsection (a) shall notify the Commissioner of Patents and Trademarks and the Secretary for Health and Human Services of such entitlement. Not later than 7 days after the receipt of such notice, the Commissioner and the Secretary shall publish an appropriate notice of the receipt of such notice. Publication.

CHAPTER 2

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES

DEPARTMENT OF COMMERCE

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

For an additional amount for emergency expenses including mitigation relating to flooding and other natural disasters, $18,000,000, to remain available until expended, for grants and related expenses pursuant to the Public Works and Economic Development Act of 1965, as amended, and for administrative expenses which may be transferred to and merged with the appropriations for "Salaries and expenses": *Provided,* That the entire amount is hereby designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further,* That the entire amount shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted to Congress.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

CONSTRUCTION

For an additional amount for "Construction" for emergency expenses resulting from flooding in the Pacific Northwest and other natural disasters, $7,500,000, to remain available until expended: *Provided,* That the entire amount is hereby designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

RELATED AGENCY

SMALL BUSINESS ADMINISTRATION

DISASTER LOANS PROGRAM ACCOUNT

For an additional amount for "Disaster Loans Program Account", $71,000,000 for the cost of direct loans, to remain available until expended: *Provided,* That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974; and for administrative expenses to carry out the disaster loan program, $29,000,000, to remain available until expended: *Provided,* That both amounts are hereby designated by Congress as emergency requirements pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

CHAPTER 3

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

GENERAL INVESTIGATIONS

Any funds heretofore appropriated and made available in Public Law 102–104 and Public Law 102–377 to carry out the provisions for the project for navigation, St. Louis Harbor, Missouri and Illinois; may be utilized by the Secretary of the Army in carrying out the Upper Mississippi and Illinois Waterway System Navigation Study, Iowa, Illinois, Missouri, Wisconsin, Minnesota, in fiscal year 1996 or until expended.

OPERATION AND MAINTENANCE, GENERAL

For an additional amount for "Operation and Maintenance, General", for the Northeast and Northwest floods of 1996, $30,000,000, to remain available until expended: *Provided,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

FLOOD CONTROL AND COASTAL EMERGENCIES

For an additional amount for "Flood Control and Coastal Emergencies", for the Northeast and Northwest floods of 1996 and other disasters, and to replenish funds transferred pursuant to Public Law 84–99, $135,000,000, to remain available until expended: *Provided,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(D)(2)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION

CONSTRUCTION PROGRAM

For an additional amount for "Construction Program", $9,000,000, to remain available until expended: *Provided,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(D)(2)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

DEPARTMENT OF ENERGY

ATOMIC ENERGY DEFENSE ACTIVITIES

OTHER DEFENSE ACTIVITIES

For an additional amount for "Other Defense Activities", for the Materials Protection, Control and Accounting program, $15,000,000 to remain available until expended, not withstanding any other provision of law.

POWER MARKETING ADMINISTRATIONS

CONSTRUCTION, REHABILITATION, OPERATION AND MAINTENANCE, WESTERN AREA POWER ADMINISTRATION

(TRANSFER OF FUNDS)

$5,500,000 of funds appropriated under this heading in the Energy and Water Development Appropriations Act, 1995 (Public Law 103–316), shall be transferred to the appropriation account "Operation and Maintenance, Alaska Power Administration", to remain available until expended, only for necessary termination expenses.

CHAPTER 4

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS

FUNDS APPROPRIATED TO THE PRESIDENT

UNANTICIPATED NEEDS

UNANTICIPATED NEEDS FOR DEFENSE OF ISRAEL AGAINST TERRORISM

For emergency expenses necessary to meet unanticipated needs for the acquisition and provision of goods, services, and/or grants for Israel necessary to support the eradication of terrorism in and around Israel, $50,000,000: *Provided,* That none of the funds appropriated in this paragraph shall be available for obligation except through the regular notification procedures of the Committees on Appropriations: *Provided further,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

MILITARY ASSISTANCE

FOREIGN MILITARY FINANCING PROGRAM

For an additional amount for "Foreign Military Financing Program" for grants for Jordan pursuant to section 23 of the Arms Export Control Act, $70,000,000: *Provided,* That such funds may be used for Jordan to finance transfers by lease of defense articles under chapter 6 of such Act.

CHAPTER 5

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES

DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

CONSTRUCTION AND ACCESS

For an additional amount for "Construction and Access", $5,000,000, to remain available until expended, to repair roads,

culverts, bridges, facilities, fish and wildlife protective structures, and recreation sites, damaged due to the Pacific Northwest flooding: *Provided,* That Congress hereby designates this amount as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further,* That $758,000 of this amount shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress. President.

OREGON AND CALIFORNIA GRANT LANDS

For an additional amount for "Oregon and California Grant Lands", $35,000,000, to remain available until expended, to repair roads, culverts, bridges, facilities, fish and wildlife protective structures, and recreation sites, damaged due to the Pacific Northwest flooding: *Provided,* That Congress hereby designates this amount as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further,* That $15,452,000 of this amount shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress. President.

UNITED STATES FISH AND WILDLIFE SERVICE

RESOURCE MANAGEMENT

For an additional amount for Resource Management, $1,600,000, to remain available until expended, to provide technical assistance to the Natural Resource Conservation Service, the Federal Emergency Management Agency, the United States Army Corps of Engineers and other agencies on fish and wildlife habitat issues related to damage caused by floods, storms and other acts of nature: *Provided,* That the entire amount shall be available only to the extent that an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress: *Provided further,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

CONSTRUCTION

For an additional amount for "Construction", $37,300,000, to remain available until expended, to repair damage caused by hurricanes, floods and other acts of nature, and to protect natural resources *Provided,* That Congress hereby designates this amount as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985,

President. as amended: *Provided further,* That $16,795,000 of this amount shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

NATIONAL PARK SERVICE

CONSTRUCTION

For an additional amount for "Construction", $47,000,000, to remain available until expended, to repair damage caused by hurricanes, floods and other acts of nature: *Provided* that Congress hereby designates this amount as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency
President. Deficit Control Act of 1985, as amended: *Provided further,* That $13,399,000 of this amount shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

UNITED STATES GEOLOGICAL SURVEY

SURVEYS, INVESTIGATIONS, AND RESEARCH

For an additional amount for "Surveys, investigations, and research", $2,000,000, to remain available until September 30, 1997, for the costs related to hurricanes, floods and other acts of nature: *Provided,* That Congress hereby designates this amount as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amend-
President. ed: *Provided further,* That $824,000 of this amount shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

For an additional amount for "Operation of Indian Programs", $500,000, to remain available until September 30, 1997, for emergency operations and repairs related to winter floods: *Provided,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

CONSTRUCTION

For an additional amount for "Construction", $16,500,000, to remain available until expended, for emergency repairs related to winter floods: *Provided,* That Congress hereby designates this amount as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Con-

trol Act of 1985, as amended: *Provided further,* That $7,072,000 of this amount shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress. President.

TERRITORIAL AND INTERNATIONAL AFFAIRS

ASSISTANCE TO TERRITORIES

For an additional amount for "Assistance to Territories", $13,000,000, to remain available until expended, for recovery efforts from Hurricane Marilyn: *Provided,* That Congress hereby designates this amount as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further,* That $11,000,000 of this amount shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress. President.

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

NATIONAL FOREST SYSTEM

For an additional amount for "National Forest System", $26,600,000, to remain available until expended, to repair damage caused by hurricanes, floods and other acts of nature: *Provided* that Congress hereby designates this amount as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further,* That $6,600,000 of this amount shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress. President.

CONSTRUCTION

For an additional amount for "Construction", $60,800,000, to remain available until expended: *Provided,* That Congress hereby designates this amount as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further,* That $20,800,000 of this amount shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress. President.

CHAPTER 6

DEPARTMENT OF DEFENSE

MILITARY CONSTRUCTION

NORTH ATLANTIC TREATY ORGANIZATION SECURITY INVESTMENT PROGRAM

For an additional amount for "North Atlantic Treaty Organization Security Investment Program", $37,500,000, to remain available until expended: *Provided,* That the Secretary of Defense may make additional contributions for the North Atlantic Treaty Organization as provided in section 2806 of title 10, United States Code: *Provided further,* That such amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

GENERAL PROVISION

SEC. 2601. LAND CONVEYANCE, U.S. ARMY RESERVE, GREENSBORO, ALABAMA.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey, without consideration, to Hale County, Alabama, all right, title, and interest of the United States in and to a parcel of real property consisting of approximately 5.17 acres and located in Greensboro, Alabama, that was conveyed by Hale County, Alabama, to the United States by warranty deed dated September 12, 1988.

(b) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property conveyed under subsection (a) shall be as described in the deed referred to in that subsection.

(c) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under this section as the Secretary considers appropriate to protect the interests of the United States.

CHAPTER 7

DEPARTMENT OF DEFENSE—MILITARY

MILITARY PERSONNEL

MILITARY PERSONNEL, ARMY

For an additional amount for "Military Personnel, Army", $257,200,000: *Provided,* That such amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

MILITARY PERSONNEL, NAVY

For an additional amount for "Military Personnel, Navy", $11,700,000: *Provided,* That such amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

MILITARY PERSONNEL, MARINE CORPS

For an additional amount for "Military Personnel, Marine Corps", $2,600,000: *Provided,* That such amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

MILITARY PERSONNEL, AIR FORCE

For an additional amount for "Military Personnel, Air Force", $27,300,000: *Provided,* That such amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

For an additional amount for "Operation and Maintenance, Army", $241,500,000: *Provided,* That such amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

OPERATION AND MAINTENANCE, MARINE CORPS

For an additional amount for "Operation and Maintenance, Marine Corps", $900,000: *Provided,* That such amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

OPERATION AND MAINTENANCE, AIR FORCE

For an additional amount for "Operation and Maintenance, Air Force", $173,000,000: *Provided,* That such amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

OPERATION AND MAINTENANCE, DEFENSE-WIDE

For an additional amount for "Operation and Maintenance, Defense-Wide", $79,800,000: *Provided,* That such amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

PROCUREMENT

OTHER PROCUREMENT, AIR FORCE

For an additional amount for "Other Procurement, Air Force", $26,000,000: *Provided,* That such amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

GENERAL PROVISIONS

(TRANSFER OF FUNDS)

109 Stat. 652.

SEC. 2701. Section 8005 of the Department of Defense Appropriations Act, 1996 (Public Law 104-61), is amended by striking out "$2,400,000,000" and inserting in lieu thereof "$3,100,000,000": *Provided*, That the additional transfer authority provided herein shall be available only to the extent funds are transferred, or have been transferred, during the current fiscal year to cover the costs associated with United States military operations in support of the NATO-led Peace Implementation Force (IFOR) in and around the former Yugoslavia.

SEC. 2702. Notwithstanding any other provision of law, funds appropriated in the Department of Defense Appropriations Act, 1996 (Public Law 104-61) under the heading "Aircraft Procurement, Air Force" may be obligated for advance procurement and procurement of F-15E aircraft.

SEC. 2703. (a) Funds appropriated under the heading, "Aircraft Procurement, Air Force", in Public Laws 104-61, 103-335 and 103-139 that are or remain available for C-17 airframes, C-17 aircraft engines, and complementary widebody aircraft/NDAA may be used for multiyear procurement contracts for C-17 aircraft: *Provided,* That the duration of multiyear contracts awarded under the authority of this subsection may be for a period not to exceed seven program years, notwithstanding section 2306b(k) of title 10, United States Code: *Provided further,* That the funds referred to in this subsection also may be used for advance procurement for up to ten C-17 aircraft in fiscal year 1997: *Provided further,* That the advance procurement funds referred to in this subsection may be used to fund Economic Order Quantities for up to eighty aircraft.

Contracts.

(b) Immediately upon enactment of this Act, the Secretary of Defense shall enter into negotiations with the C-17 aircraft and engine prime contractors for a baseline fixed price contract for multiyear procurement of eighty C-17 aircraft over a period of seven program years, and alternatives for multiyear procurement of eighty C-17 aircraft over a period of six program years.

Certification.

(c) The authority to award a multiyear contract as provided in subsection (a) shall not be effective until the Secretary of Defense certifies to the Congressional defense committees that the Air Force will realize a savings of more than 5 percent in the total flyaway price for the eighty C-17 aircraft under a C-17 multiyear contract as compared to annual lot procurement of the aircraft at the maximum affordable rate profile approved in the November 3, 1995, Acquisition Decision Memorandum: *Provided,* That these savings shall exceed the estimates presented in the "Multiyear Procurement Criteria Program: C-17" documents submitted pursuant to the request for a fiscal year 1996 supplemental appropriation transmitted to the Congress.

(d) The authority under subsection (a) may not be used to execute a multiyear procurement contract until the earlier of (1) May 24, 1996, or (2) the day after the date of the enactment of an Act that contains a provision authorizing the Department of Defense to enter into a multiyear contract for the C-17 aircraft program.

Reports.

(e) Not later than May 24, 1996, the Secretary of Defense shall submit to the Congressional defense committees a report providing a detailed program plan for the six-year multiyear

procurement program; such report also shall include the latest estimate of any additional savings potentially generated from such an accelerated multiyear procurement of C–17 aircraft.

SEC. 2704. In addition to the amounts made available in Public Law 104–61 under the heading "Research, Development, Test and Evaluation, Defense-Wide", $50,000,000 is hereby appropriated and made available to continue the activities of the semiconductor manufacturing consortium known as Sematech.

(TRANSFER OF FUNDS)

SEC. 2705. Of the funds appropriated in title II of Public Law 104–61, under the heading "Overseas Humanitarian, Disaster, and Civic Aid", for training and activities related to the clearing of landmines for humanitarian purposes, up to $15,000,000 may be transferred to "Operation and Maintenance, Defense-Wide", to be available for the payment of travel, transportation and subsistence expenses of Department of Defense personnel incurred in carrying out humanitarian assistance activities related to the detection and clearance of landmines.

SEC. 2706. Notwithstanding any other provision of law, $15,000,000 of the amount made available in title II, under the heading "Operation and Maintenance, Army" in Public Law 104–61 shall be paid to National Presto Industries, Inc. for the purpose of environmental restoration at the National Presto Industries, Inc. site in Eau Claire, Wisconsin, in recognition of the 1988 Agreement between the Department of the Army and National Presto Industries, Inc.

SEC. 2707. (a)(1) Section 1177 of title 10, United States Code, relating to mandatory discharge or retirement of members of the Armed Forces infected with HIV–1 virus, is repealed. AIDS.

(2) The table of sections at the beginning of chapter 59 of such title is amended by striking out the item relating to section 1177.

(b) Subsection (b) of section 567 of the National Defense Authorization Act for Fiscal Year 1996 is repealed. 10 USC 1177 note.

SEC. 2708. In addition to the amounts made available in title II of Public Law 104–61, under the heading "Operation and Maintenance, Air Force", $44,900,000 is hereby appropriated and made available for the operation and maintenance of 94 B–52H bomber aircraft in active status or in attrition reserve.

SEC. 2709. In addition to the amounts made available in title IV of Public Law 104–61, under the heading "Research, Development, Test and Evaluation, Navy", $10,000,000 is hereby appropriated and made available for Shallow Water Mine Countermeasure Demonstrations, of which $5,000,000 shall be made available for the Advanced Lightweight Influence Sweep System Development program.

(TRANSFER OF FUNDS)

SEC. 2710. Of the funds appropriated or otherwise made available in title VI of Public Law 104–61, under the heading "Defense Health Program", $8,000,000 are transferred to and merged with funds appropriated or otherwise made available under title IV of that Act under the heading "Research, Development, Test and Evaluation, Army" and shall be available only for obligation and expenditure for advanced research into neurofibromatosis.

SEC. 2711. Of the funds available to the Department of Defense in title VI, Public Law 104–61, under the heading "Drug Interdiction and Counter-Drug Activities, Defense", $220,000 shall be made available only for the procurement of Kevlar vests for personal protection of counter-drug personnel: *Provided,* That notwithstanding any other provision of law, the Department is authorized to transfer these Kevlar vests to local counter-drug personnel in high crime areas.

SEC. 2712. Before the period at the end of section 8105 of Public Law 104–61, insert the following: ": *Provided,* That the Department of Defense shall release to the Department of the Air Force all such funds not later than May 31, 1996, and the Air Force shall obligate all such funds in compliance with this section not later than June 30, 1996".

109 Stat. 673.

CHAPTER 8

DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

PAYMENTS TO AIR CARRIERS

The first proviso under the head "Payments to Air Carriers" in Title I of the Department of Transportation and Related Agencies Appropriations Act, 1996 (Public Law 104–50), is amended to read as follows: "*Provided,* That none of the funds in this Act shall be available for the implementation or execution of programs in excess of $22,600,000 from the Airport and Airway Trust Fund for the Payments to Air Carriers program in fiscal year 1996:".

109 Stat. 437.

FEDERAL HIGHWAY ADMINISTRATION

FEDERAL-AID HIGHWAYS

(HIGHWAY TRUST FUND)

For the Emergency Fund authorized by 23 U.S.C. 125 to cover expenses arising from the January 1996 flooding in the Mid-Atlantic, Northeast, and Northwest States and other disasters, $300,000,000, to be derived from the Highway Trust Fund and to remain available until expended: *Provided,* That the entire amount shall be available only to the extent that an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress: *Provided further,* That such amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further,* That the provisions of 23 U.S.C. 125(b)(1) shall not apply to projects relating to the January 1996 flooding in the Mid-Atlantic, Northeast, and Northwest States.

President.

FEDERAL TRANSIT ADMINISTRATION

MASS TRANSIT CAPITAL FUND

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

For an additional amount for payment of obligations incurred in carrying out 49 U.S.C. 5338(b) administered by the Federal Transit Administration, $375,000,000, to be derived from the Highway Trust Fund and to remain available until expended.

OTHER INDEPENDENT AGENCIES

PANAMA CANAL COMMISSION

PANAMA CANAL REVOLVING FUND

For an additional amount for administrative expenses, $2,000,000, to be derived from the Panama Canal Revolving Fund.

GENERAL PROVISIONS

SEC. 2801. Notwithstanding any other provision of law, limitations deducted pursuant to the provisions of section 310 of the Department of Transportation and Related Agencies Appropriations Act, 1996, for discretionary programs and the limitation on general operating expenses for both annual and no-year programs, not to exceed $28,000,000 shall be available for making obligations for construction of a new Hannibal Bridge in Hannibal, Missouri: *Provided further,* That such limitation shall be restored to categories from which it was transferred before making redistribution of obligation in August of 1996 as provided by section 310 of the Act.

SEC. 2802. Notwithstanding any other provision of law, of the funds identified for distribution to the State of Vermont and the Marble Valley Regional Transit District in the matter under the heading "HIGHWAY TRUST FUND", under the heading "LIMITATION ON OBLIGATIONS", under the heading "DISCRETIONARY GRANTS" in the explanatory statement for the conference report to accompany H.R. 2002, House of Representatives report numbered 104–286, an amount not to exceed $3,500,000 may be used for improvements to support commuter rail operations on the Clarendon-Pittsford rail line between White Hall, New York, and Rutland, Vermont.

SEC. 2803. In amending parts 119, 121, 125, or 135 of title 14, Code of Federal Regulations in a manner affecting intrastate aviation in Alaska, the Administrator of the Federal Aviation Administration shall consider the extent to which Alaska is not served by transportation modes other than aviation, and shall establish such regulatory distinctions as the Administrator deems appropriate effective through June 1, 1997.

SEC. 2804. Notwithstanding any other provision of law, $23,909,325 funds made available under Public Law 103–122 together with $21,534,347 funds made available under Public Law 103–331 for the "Chicago Central Area Circulator Project" shall be available only for the purposes of constructing a 5.2 mile light rail loop within the downtown Chicago business district as described

in the full funding grant agreement signed on December 15, 1994, and shall not be available for any other purposes.

CHAPTER 9

TREASURY, POSTAL SERVICE AND GENERAL GOVERNMENT EXECUTIVE OFFICE OF THE PRESIDENT AND FUNDS APPROPRIATED TO THE PRESIDENT

OFFICE OF NATIONAL DRUG CONTROL POLICY

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Salaries and Expenses," $3,400,000.

GENERAL PROVISIONS

109 Stat. 473. SEC. 2901. Title I of Public Law 104–52 is hereby amended by deleting ", not to exceed $1,406,000," under the heading "CUSTOMS SERVICES AT SMALL AIRPORTS".

109 Stat. 474. SEC. 2902. Title I of Public Law 104–52 is hereby amended by adding the following new section under the heading "ADMINISTRATIVE PROVISIONS—INTERNAL REVENUE SERVICE":

"SEC. 3. The funds provided in this Act shall be used to provide a level of service, staffing, and funding for Taxpayer Services Division operations which is not less than that provided in fiscal year 1995.".

109 Stat. 479. SEC. 2903. Title III of Public Law 104–52 is hereby amended by adding the following proviso before the last period under the heading "OFFICE OF NATIONAL DRUG CONTROL POLICY, SALARIES AND EXPENSES": ": *Provided*, That of the amounts available to the Counter-Drug Technology Assessment Center, no less than $1,000,000 shall be dedicated to conferences on model state drug laws".

SEC. 2904. COMPOSITION OF NATIONAL COMMISSION ON RESTRUCTURING THE INTERNAL REVENUE SERVICE.

(a) IN GENERAL.—Section 637(b)(2) of the Treasury, Postal Service, and General Government Appropriations Act, 1996 (Public Law 104–52, 109 Stat. 509) is amended— 26 USC 7801 note.

(1) by striking "thirteen" and inserting "seventeen", and

(2) in subparagraphs (B) and (D)—

(A) by striking "Two" and inserting "Four", and

(B) by striking "one from private life" and inserting "three from private life".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the provisions of the Treasury, Postal Service, and General Government Appropriations Act, 1996. 26 USC 7801 note.

CHAPTER 10

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT AND INDEPENDENT AGENCIES

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

COMMUNITY PLANNING AND DEVELOPMENT

COMMUNITY DEVELOPMENT GRANTS

For an additional amount for "Community development grants", $50,000,000, to remain available until September 30, 1998, for emergency expenses and repairs related to recent Presidentially declared flood disasters, including up to $10,000,000 which may be for rental subsidy contracts under the section 8 existing housing certificate program and the housing voucher program under section 8 of the United States Housing Act of 1937, as amended, except that such amount shall be available only for temporary housing assistance, not in excess of one year in duration, and shall not be subject to renewal: *Provided,* That the entire amount shall be available only to the extent that an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress: *Provided further,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended. President.

FEDERAL EMERGENCY MANAGEMENT AGENCY

DISASTER RELIEF

(INCLUDING TRANSFER OF FUNDS)

Of the funds made available under this heading in Public Law 104–19 up to $104,000,000 may be transferred to the Disaster Assistance Direct Loan Program Account for the cost of direct loans as authorized under section 417 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.): *Provided,* That such transfer may be made to subsidize gross obligations for the principal amount of direct loans not to exceed $119,000,000 under section 417 of the Stafford Act: *Provided further,* That any such transfer of funds shall be made only upon certification by the Director of the Federal Emergency Management Agency that all requirements of section 417 of the Stafford Act will be complied with: *Provided further,* That the entire amount of this appropriation shall be available only to the extent that an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress: *Provided further,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended. President.

GENERAL PROVISIONS

SEC. 21101. In administering funds provided in this title for domestic assistance, the Secretary of any involved department may waive or specify alternative requirements for any provision of any statute or regulation that the Secretary administers in connection with the obligation by the Secretary or any use of the recipient of these funds, except for the requirement related to civil rights, fair housing and nondiscrimination, the environment, and labor standards, upon finding that such waiver is required to facilitate the obligation and use of such funds would not be inconsistent with the overall purpose of the statute or regulation.

SEC. 21102. No part of any appropriation contained in this title shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

Ante, p. 27, 30, 34.

SEC. 21103. Notwithstanding section 106 of Public Law 104–99, sections 118, 121, and 129 of Public Law 104–99 shall remain in effect as if enacted as part of this Act.

Reports.

SEC. 21104. The President may make available funds for assistance activities under titles II and IV of P. L. 104–107, beginning immediately upon enactment of this Act and without regard to monthly apportionment limitations, notwithstanding the provisions of section 518A of such Act, if he determines and reports to the Congress that the effects of the restrictions contained in that section would be that the demand for family planning services would be less likely to be met and that there would be a significant increase in abortions than would otherwise be the case in the absence of such restrictions; *Provided*, That none of the funds appropriated or otherwise made available in P. L. 104–107 may be made available for obligation for the major foreign donor federation of international population assistance except through the regular notifications procedures of the Committees on Appropriations.

This title may be cited as the "Supplemental Appropriations Act of 1996".

TITLE III

RESCISSIONS AND OFFSETS

CHAPTER 1

ENERGY AND WATER DEVELOPMENT

USEC Privatization Act.

SUBCHAPTER A—UNITED STATES ENRICHMENT CORPORATION PRIVATIZATION

42 USC 2011 note.

SEC. 3101. SHORT TITLE.

This subchapter may be cited as the "USEC Privatization Act".

42 USC 2297h.

SEC. 3102. DEFINITIONS.

For purposes of this subchapter:

(1) The term "AVLIS" means atomic vapor laser isotope separation technology.

(2) The term "Corporation" means the United States Enrichment Corporation and, unless the context otherwise requires, includes the private corporation and any successor thereto following privatization.

(3) The term "gaseous diffusion plants" means the Paducah Gaseous Diffusion Plant at Paducah, Kentucky and the Portsmouth Gaseous Diffusion Plant at Piketon, Ohio.

(4) The term "highly enriched uranium" means uranium enriched to 20 percent or more of the uranium-235 isotope.

(5) The term "low-enriched uranium" means uranium enriched to less than 20 percent of the uranium-235 isotope, including that which is derived from highly enriched uranium.

(6) The term "low-level radioactive waste" has the meaning given such term in section 2(9) of the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021b(9)).

(7) The term "private corporation" means the corporation established under section 3105.

(8) The term "privatization" means the transfer of ownership of the Corporation to private investors.

(9) The term "privatization date" means the date on which 100 percent of the ownership of the Corporation has been transferred to private investors.

(10) The term "public offering" means an underwritten offering to the public of the common stock of the private corporation pursuant to section 3104.

(11) The "Russian HEU Agreement" means the Agreement Between the Government of the United States of America and the Government of the Russian Federation Concerning the Disposition of Highly Enriched Uranium Extracted from Nuclear Weapons, dated February 18, 1993.

(12) The term "Secretary" means the Secretary of Energy.

(13) The "Suspension Agreement" means the Agreement to Suspend the Antidumping Investigation on Uranium from the Russian Federation, as amended.

(14) The term "uranium enrichment" means the separation of uranium of a given isotopic content into 2 components, 1 having a higher percentage of a fissile isotope and 1 having a lower percentage.

SEC. 3103. SALE OF THE CORPORATION. 42 USC 2297h–1.

(a) AUTHORIZATION.—The Board of Directors of the Corporation, with the approval of the Secretary of the Treasury, shall transfer the interest of the United States in the United States Enrichment Corporation to the private sector in a manner that provides for the long-term viability of the Corporation, provides for the continuation by the Corporation of the operation of the Department of Energy's gaseous diffusion plants, provides for the protection of the public interest in maintaining a reliable and economical domestic source of uranium mining, enrichment and conversion services, and, to the extent not inconsistent with such purposes, secures the maximum proceeds to the United States.

(b) PROCEEDS.—Proceeds from the sale of the United States' interest in the Corporation shall be deposited in the general fund of the Treasury.

SEC. 3104. METHOD OF SALE. 42 USC 2297h–2.

(a) AUTHORIZATION.—The Board of Directors of the Corporation, with the approval of the Secretary of the Treasury, shall transfer ownership of the assets and obligations of the Corporation to the private corporation established under section 3105 (which may be consummated through a merger or consolidation effected in accordance with, and having the effects provided under, the law of the

State of incorporation of the private corporation, as if the Corporation were incorporated thereunder).

(b) BOARD DETERMINATION.—The Board, with the approval of the Secretary of the Treasury, shall select the method of transfer and establish terms and conditions for the transfer that will provide the maximum proceeds to the Treasury of the United States and will provide for the long-term viability of the private corporation, the continued operation of the gaseous diffusion plants, and the public interest in maintaining reliable and economical domestic uranium mining and enrichment industries.

(c) ADEQUATE PROCEEDS.—The Secretary of the Treasury shall not allow the privatization of the Corporation unless before the sale date the Secretary of the Treasury determines that the method of transfer will provide the maximum proceeds to the Treasury consistent with the principles set forth in section 3103(a).

(d) APPLICATION OF SECURITIES LAWS.—Any offering or sale of securities by the private corporation shall be subject to the Securities Act of 1933 (15 U.S.C. 77a et seq.), the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), and the provisions of the Constitution and laws of any State, territory, or possession of the United States relating to transactions in securities.

(e) EXPENSES.—Expenses of privatization shall be paid from Corporation revenue accounts in the United States Treasury.

42 USC 2297h–3.

SEC. 3105. ESTABLISHMENT OF PRIVATE CORPORATION.

(a) INCORPORATION.—(1) The directors of the Corporation shall establish a private for-profit corporation under the laws of a State for the purpose of receiving the assets and obligations of the Corporation at privatization and continuing the business operations of the Corporation following privatization.

(2) The directors of the Corporation may serve as incorporators of the private corporation and shall take all steps necessary to establish the private corporation, including the filing of articles of incorporation consistent with the provisions of this subchapter.

(3) Employees and officers of the Corporation (including members of the Board of Directors) acting in accordance with this section on behalf of the private corporation shall be deemed to be acting in their official capacities as employees or officers of the Corporation for purposes of section 205 of title 18, United States Code.

(b) STATUS OF THE PRIVATE CORPORATION.—(1) The private corporation shall not be an agency, instrumentality, or establishment of the United States, a Government corporation, or a Government-controlled corporation.

(2) Except as otherwise provided by this subchapter, financial obligations of the private corporation shall not be obligations of, or guaranteed as to principal or interest by, the Corporation or the United States, and the obligations shall so plainly state.

(3) No action under section 1491 of title 28, United States Code, shall be allowable against the United States based on actions of the private corporation.

(c) APPLICATION OF POST-GOVERNMENT EMPLOYMENT RESTRICTIONS.—Beginning on the privatization date, the restrictions stated in section 207 (a), (b), (c), and (d) of title 18, United States Code, shall not apply to the acts of an individual done in carrying out official duties as a director, officer, or employee of the private corporation, if the individual was an officer or employee of the

Corporation (including a director) continuously during the 45 days prior to the privatization date.

(d) DISSOLUTION.—In the event that the privatization does not occur, the Corporation will provide for the dissolution of the private corporation within 1 year of the private corporation's incorporation unless the Secretary of the Treasury or his delegate, upon the Corporation's request, agrees to delay any such dissolution for an additional year.

SEC. 3106. TRANSFERS TO THE PRIVATE CORPORATION. 42 USC 2297h–4.

Concurrent with privatization, the Corporation shall transfer to the private corporation—

(1) the lease of the gaseous diffusion plants in accordance with section 3107,

(2) all personal property and inventories of the Corporation,

(3) all contracts, agreements, and leases under section 3108(a),

(4) the Corporation's right to purchase power from the Secretary under section 3108(b),

(5) such funds in accounts of the Corporation held by the Treasury or on deposit with any bank or other financial institution as approved by the Secretary of the Treasury, and

(6) all of the Corporation's records, including all of the papers and other documentary materials, regardless of physical form or characteristics, made or received by the Corporation. Records.

SEC. 3107. LEASING OF GASEOUS DIFFUSION FACILITIES. 42 USC 2297h–5.

(a) TRANSFER OF LEASE.—Concurrent with privatization, the Corporation shall transfer to the private corporation the lease of the gaseous diffusion plants and related property for the remainder of the term of such lease in accordance with the terms of such lease.

(b) RENEWAL.—The private corporation shall have the exclusive option to lease the gaseous diffusion plants and related property for additional periods following the expiration of the initial term of the lease.

(c) EXCLUSION OF FACILITIES FOR PRODUCTION OF HIGHLY ENRICHED URANIUM.—The Secretary shall not lease to the private corporation any facilities necessary for the production of highly enriched uranium but may, subject to the requirements of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.), grant the Corporation access to such facilities for purposes other than the production of highly enriched uranium.

(d) DOE RESPONSIBILITY FOR PREEXISTING CONDITIONS.—The payment of any costs of decontamination and decommissioning, response actions, or corrective actions with respect to conditions existing before July 1, 1993, at the gaseous diffusion plants shall remain the sole responsibility of the Secretary.

(e) ENVIRONMENTAL AUDIT.—For purposes of subsection (d), the conditions existing before July 1, 1993, at the gaseous diffusion plants shall be determined from the environmental audit conducted pursuant to section 1403(e) of the Atomic Energy Act of 1954 (42 U.S.C. 2297c–2(e)).

(f) TREATMENT UNDER PRICE-ANDERSON PROVISIONS.—Any lease executed between the Secretary and the Corporation or the private corporation, and any extension or renewal thereof, under this section shall be deemed to be a contract for purposes of section 170d. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)).

(g) WAIVER OF EIS REQUIREMENT.—The execution or transfer of the lease between the Secretary and the Corporation or the private corporation, and any extension or renewal thereof, shall not be considered to be a major Federal action significantly affecting the quality of the human environment for purposes of section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

42 USC 2297h–6.

SEC. 3108. TRANSFER OF CONTRACTS.

(a) TRANSFER OF CONTRACTS.—Concurrent with privatization, the Corporation shall transfer to the private corporation all contracts, agreements, and leases, including all uranium enrichment contracts, that were—

(1) transferred by the Secretary to the Corporation pursuant to section 1401(b) of the Atomic Energy Act of 1954 (42 U.S.C. 2297c(b)), or

(2) entered into by the Corporation before the privatization date.

(b) NONTRANSFERABLE POWER CONTRACTS.—The Corporation shall transfer to the private corporation the right to purchase power from the Secretary under the power purchase contracts for the gaseous diffusion plants executed by the Secretary before July 1, 1993. The Secretary shall continue to receive power for the gaseous diffusion plants under such contracts and shall continue to resell such power to the private corporation at cost during the term of such contracts.

(c) EFFECT OF TRANSFER.—(1) Notwithstanding subsection (a), the United States shall remain obligated to the parties to the contracts, agreements, and leases transferred under subsection (a) for the performance of its obligations under such contracts, agreements, or leases during their terms. Performance of such obligations by the private corporation shall be considered performance by the United States.

(2) If a contract, agreement, or lease transferred under subsection (a) is terminated, extended, or materially amended after the privatization date—

(A) the private corporation shall be responsible for any obligation arising under such contract, agreement, or lease after any extension or material amendment, and

(B) the United States shall be responsible for any obligation arising under the contract, agreement, or lease before the termination, extension, or material amendment.

(3) The private corporation shall reimburse the United States for any amount paid by the United States under a settlement agreement entered into with the consent of the private corporation or under a judgment, if the settlement or judgment—

(A) arises out of an obligation under a contract, agreement, or lease transferred under subsection (a), and

(B) arises out of actions of the private corporation between the privatization date and the date of a termination, extension, or material amendment of such contract, agreement, or lease.

(d) PRICING.—The Corporation may establish prices for its products, materials, and services provided to customers on a basis that will allow it to attain the normal business objectives of a profit making corporation.

42 USC 2297h–7.

SEC. 3109. LIABILITIES.

(a) LIABILITY OF THE UNITED STATES.—(1) Except as otherwise provided in this subchapter, all liabilities arising out of the oper-

ation of the uranium enrichment enterprise before July 1, 1993, shall remain the direct liabilities of the Secretary.

(2) Except as provided in subsection (a)(3) or otherwise provided in a memorandum of agreement entered into by the Corporation and the Office of Management and Budget prior to the privatization date, all liabilities arising out of the operation of the Corporation between July 1, 1993, and the privatization date shall remain the direct liabilities of the United States.

(3) All liabilities arising out of the disposal of depleted uranium generated by the Corporation between July 1, 1993, and the privatization date shall become the direct liabilities of the Secretary.

(4) Any stated or implied consent for the United States, or any agent or officer of the United States, to be sued by any person for any legal, equitable, or other relief with respect to any claim arising from any action taken by any agent or officer of the United States in connection with the privatization of the Corporation is hereby withdrawn.

(5) To the extent that any claim against the United States under this section is of the type otherwise required by Federal statute or regulation to be presented to a Federal agency or official for adjudication or review, such claim shall be presented to the Department of Energy in accordance with procedures to be established by the Secretary. Nothing in this paragraph shall be construed to impose on the Department of Energy liability to pay any claim presented pursuant to this paragraph.

(6) The Attorney General shall represent the United States in any action seeking to impose liability under this subsection.

(b) LIABILITY OF THE CORPORATION.—Notwithstanding any provision of any agreement to which the Corporation is a party, the Corporation shall not be considered in breach, default, or violation of any agreement because of the transfer of such agreement to the private corporation under section 3108 or any other action the Corporation is required to take under this subchapter.

(c) LIABILITY OF THE PRIVATE CORPORATION.—Except as provided in this subchapter, the private corporation shall be liable for any liabilities arising out of its operations after the privatization date.

(d) LIABILITY OF OFFICERS AND DIRECTORS.—(1) No officer, director, employee, or agent of the Corporation shall be liable in any civil proceeding to any party in connection with any action taken in connection with the privatization if, with respect to the subject matter of the action, suit, or proceeding, such person was acting within the scope of his employment.

(2) This subsection shall not apply to claims arising under the Securities Act of 1933 (15 U.S.C. 77a. et seq.), the Securities Exchange Act of 1934 (15 U.S.C. 78a. et seq.), or under the Constitution or laws of any State, territory, or possession of the United States relating to transactions in securities.

SEC. 3110. EMPLOYEE PROTECTIONS. 42 USC 2297h–8.

(a) CONTRACTOR EMPLOYEES.—(1) Privatization shall not diminish the accrued, vested pension benefits of employees of the Corporation's operating contractor at the two gaseous diffusion plants.

(2) In the event that the private corporation terminates or changes the contractor at either or both of the gaseous diffusion plants, the plan sponsor or other appropriate fiduciary of the pension plan covering employees of the prior operating contractor shall

arrange for the transfer of all plan assets and liabilities relating to accrued pension benefits of such plan's participants and beneficiaries from such plant to a pension plan sponsored by the new contractor or the private corporation or a joint labor-management plan, as the case may be.

(3) In addition to any obligations arising under the National Labor Relations Act (29 U.S.C. 151 et seq.), any employer (including the private corporation if it operates a gaseous diffusion plant without a contractor or any contractor of the private corporation) at a gaseous diffusion plant shall—

(A) abide by the terms of any unexpired collective bargaining agreement covering employees in bargaining units at the plant and in effect on the privatization date until the stated expiration or termination date of the agreement; or

(B) in the event a collective bargaining agreement is not in effect upon the privatization date, have the same bargaining obligations under section 8(d) of the National Labor Relations Act (29 U.S.C. 158(d)) as it had immediately before the privatization date.

(4) If the private corporation replaces its operating contractor at a gaseous diffusion plant, the new employer (including the new contractor or the private corporation if it operates a gaseous diffusion plant without a contractor) shall—

(A) offer employment to non-management employees of the predecessor contractor to the extent that their jobs still exist or they are qualified for new jobs, and

(B) abide by the terms of the predecessor contractor's collective bargaining agreement until the agreement expires or a new agreement is signed.

(5) In the event of a plant closing or mass layoff (as such terms are defined in section 2101(a) (2) and (3) of title 29, United States Code) at either of the gaseous diffusion plants, the Secretary of Energy shall treat any adversely affected employee of an operating contractor at either plant who was an employee at such plant on July 1, 1993, as a Department of Energy employee for purposes of sections 3161 and 3162 of the National Defense Authorization Act for Fiscal Year 1993 (42 U.S.C. 7274h–7274i).

(6)(A) The Secretary and the private corporation shall cause the post-retirement health benefits plan provider (or its successor) to continue to provide benefits for eligible persons, as described under subparagraph (B), employed by an operating contractor at either of the gaseous diffusion plants in an economically efficient manner and at substantially the same level of coverage as eligible retirees are entitled to receive on the privatization date.

(B) Persons eligible for coverage under subparagraph (A) shall be limited to:

(i) persons who retired from active employment at one of the gaseous diffusion plants on or before the privatization date as vested participants in a pension plan maintained either by the Corporation's operating contractor or by a contractor employed prior to July 1, 1993, by the Department of Energy to operate a gaseous diffusion plant; and

(ii) persons who are employed by the Corporation's operating contractor on or before the privatization date and are vested participants in a pension plan maintained either by the Corporation's operating contractor or by a contractor employed

prior to July 1, 1993, by the Department of Energy to operate a gaseous diffusion plant.

(C) The Secretary shall fund the entire cost of post-retirement health benefits for persons who retired from employment with an operating contractor prior to July 1, 1993.

(D) The Secretary and the Corporation shall fund the cost of post-retirement health benefits for persons who retire from employment with an operating contractor on or after July 1, 1993, in proportion to the retired person's years and months of service at a gaseous diffusion plant under their respective management.

(7)(A) Any suit under this subsection alleging a violation of an agreement between an employer and a labor organization shall be brought in accordance with section 301 of the Labor Management Relations Act (29 U.S.C. 185).

(B) Any charge under this subsection alleging an unfair labor practice violative of section 8 of the National Labor Relations Act (29 U.S.C. 158) shall be pursued in accordance with section 10 of the National Labor Relations Act (29 U.S.C. 160).

(C) Any suit alleging a violation of any provision of this subsection, to the extent it does not allege a violation of the National Labor Relations Act, may be brought in any district court of the United States having jurisdiction over the parties, without regard to the amount in controversy or the citizenship of the parties.

(b) FORMER FEDERAL EMPLOYEES.—(1)(A) An employee of the Corporation that was subject to either the Civil Service Retirement System (referred to in this section as "CSRS") or the Federal Employees' Retirement System (referred to in this section as "FERS") on the day immediately preceding the privatization date shall elect—

(i) to retain the employee's coverage under either CSRS or FERS, as applicable, in lieu of coverage by the Corporation's retirement system, or

(ii) to receive a deferred annuity or lump-sum benefit payable to a terminated employee under CSRS or FERS, as applicable.

(B) An employee that makes the election under subparagraph (A)(ii) shall have the option to transfer the balance in the employee's Thrift Savings Plan account to a defined contribution plan under the Corporation's retirement system, consistent with applicable law and the terms of the Corporation's defined contribution plan.

(2) The Corporation shall pay to the Civil Service Retirement and Disability Fund—

(A) such employee deductions and agency contributions as are required by sections 8334, 8422, and 8423 of title 5, United States Code, for those employees who elect to retain their coverage under either CSRS or FERS pursuant to paragraph (1);

(B) such additional agency contributions as are determined necessary by the Office of Personnel Management to pay, in combination with the sums under subparagraph (A), the "normal cost" (determined using dynamic assumptions) of retirement benefits for those employees who elect to retain their coverage under CSRS pursuant to paragraph (1), with the concept of "normal cost" being used consistent with generally accepted actuarial standards and principles; and

(C) such additional amounts, not to exceed two percent of the amounts under subparagraphs (A) and (B), as are deter-

mined necessary by the Office of Personnel Management to pay the cost of administering retirement benefits for employees who retire from the Corporation after the privatization date under either CSRS or FERS, for their survivors, and for survivors of employees of the Corporation who die after the privatization date (which amounts shall be available to the Office of Personnel Management as provided in section 8348(a)(1)(B) of title 5, United States Code).

(3) The Corporation shall pay to the Thrift Savings Fund such employee and agency contributions as are required by section 8432 of title 5, United States Code, for those employees who elect to retain their coverage under FERS pursuant to paragraph (1).

(4) Any employee of the Corporation who was subject to the Federal Employee Health Benefits Program (referred to in this section as "FEHBP") on the day immediately preceding the privatization date and who elects to retain coverage under either CSRS or FERS pursuant to paragraph (1) shall have the option to receive health benefits from a health benefit plan established by the Corporation or to continue without interruption coverage under the FEHBP, in lieu of coverage by the Corporation's health benefit system.

(5) The Corporation shall pay to the Employees Health Benefits Fund—

(A) such employee deductions and agency contributions as are required by section 8906 (a)–(f) of title 5, United States Code, for those employees who elect to retain their coverage under FEHBP pursuant to paragraph (4); and

(B) such amounts as are determined necessary by the Office of Personnel Management under paragraph (6) to reimburse the Office of Personnel Management for contributions under section 8906(g)(1) of title 5, United States Code, for those employees who elect to retain their coverage under FEHBP pursuant to paragraph (4).

(6) The amounts required under paragraph (5)(B) shall pay the Government contributions for retired employees who retire from the Corporation after the privatization date under either CSRS or FERS, for survivors of such retired employees, and for survivors of employees of the Corporation who die after the privatization date, with said amounts prorated to reflect only that portion of the total service of such employees and retired persons that was performed for the Corporation after the privatization date.

42 USC 2297h–9.

SEC. 3111. OWNERSHIP LIMITATIONS.

(a) SECURITIES LIMITATIONS.—No director, officer, or employee of the Corporation may acquire any securities, or any rights to acquire any securities of the private corporation on terms more favorable than those offered to the general public—

(1) in a public offering designed to transfer ownership of the Corporation to private investors,

(2) pursuant to any agreement, arrangement, or understanding entered into before the privatization date, or

(3) before the election of the directors of the private corporation.

(b) OWNERSHIP LIMITATION.—Immediately following the consummation of the transaction or series of transactions pursuant to which 100 percent of the ownership of the Corporation is transferred to private investors, and for a period of three years thereafter,

no person may acquire, directly or indirectly, beneficial ownership of securities representing more than 10 percent of the total votes of all outstanding voting securities of the Corporation. The foregoing limitation shall not apply to—

(1) any employee stock ownership plan of the Corporation,

(2) members of the underwriting syndicate purchasing shares in stabilization transactions in connection with the privatization, or

(3) in the case of shares beneficially held in the ordinary course of business for others, any commercial bank, broker-dealer, or clearing agency.

SEC. 3112. URANIUM TRANSFERS AND SALES.

42 USC 2297h–10.

(a) TRANSFERS AND SALES BY THE SECRETARY.—The Secretary shall not provide enrichment services or transfer or sell any uranium (including natural uranium concentrates, natural uranium hexafluoride, or enriched uranium in any form) to any person except as consistent with this section.

(b) RUSSIAN HEU.—(1) On or before December 31, 1996, the United States Executive Agent under the Russian HEU Agreement shall transfer to the Secretary without charge title to an amount of uranium hexafluoride equivalent to the natural uranium component of low-enriched uranium derived from at least 18 metric tons of highly enriched uranium purchased from the Russian Executive Agent under the Russian HEU Agreement. The quantity of such uranium hexafluoride delivered to the Secretary shall be based on a tails assay of 0.30 U^{235}. Uranium hexafluoride transferred to the Secretary pursuant to this paragraph shall be deemed under United States law for all purposes to be of Russian origin.

(2) Within 7 years of the date of enactment of this Act, the Secretary shall sell, and receive payment for, the uranium hexafluoride transferred to the Secretary pursuant to paragraph (1). Such uranium hexafluoride shall be sold—

(A) at any time for use in the United States for the purpose of overfeeding;

(B) at any time for end use outside the United States;

(C) in 1995 and 1996 to the Russian Executive Agent at the purchase price for use in matched sales pursuant to the Suspension Agreement; or,

(D) in calendar year 2001 for consumption by end users in the United States not prior to January 1, 2002, in volumes not to exceed 3,000,000 pounds U_3O_8 equivalent per year.

(3) With respect to all enriched uranium delivered to the United States Executive Agent under the Russian HEU Agreement on or after January 1, 1997, the United States Executive Agent shall, upon request of the Russian Executive Agent, enter into an agreement to deliver concurrently to the Russian Executive Agent an amount of uranium hexafluoride equivalent to the natural uranium component of such uranium. An agreement executed pursuant to a request of the Russian Executive Agent, as contemplated in this paragraph, may pertain to any deliveries due during any period remaining under the Russian HEU Agreement. The quantity of such uranium hexafluoride delivered to the Russian Executive Agent shall be based on a tails assay of 0.30 U^{235}. Title to uranium hexafluoride delivered to the Russian Executive Agent pursuant to this paragraph shall transfer to the Russian Executive Agent upon delivery of such material to the Russian Executive Agent,

with such delivery to take place at a North American facility designated by the Russian Executive Agent. Uranium hexafluoride delivered to the Russian Executive Agent pursuant to this paragraph shall be deemed under U.S. law for all purposes to be of Russian origin. Such uranium hexafluoride may be sold to any person or entity for delivery and use in the United States only as permitted in subsections (b)(5), (b)(6) and (b)(7) of this section.

(4) In the event that the Russian Executive Agent does not exercise its right to enter into an agreement to take delivery of the natural uranium component of any low-enriched uranium, as contemplated in paragraph (3), within 90 days of the date such low-enriched uranium is delivered to the United States Executive Agent, or upon request of the Russian Executive Agent, then the United States Executive Agent shall engage an independent entity through a competitive selection process to auction an amount of uranium hexafluoride or U_3O_8 (in the event that the conversion component of such hexafluoride has previously been sold) equivalent to the natural uranium component of such low-enriched uranium. An agreement executed pursuant to a request of the Russian Executive Agent, as contemplated in this paragraph, may pertain to any deliveries due during any period remaining under the Russian HEU Agreement. Such independent entity shall sell such uranium hexafluoride in one or more lots to any person or entity to maximize the proceeds from such sales, for disposition consistent with the limitations set forth in this subsection. The independent entity shall pay to the Russian Executive Agent the proceeds of any such auction less all reasonable transaction and other administrative costs. The quantity of such uranium hexafluoride auctioned shall be based on a tails assay of 0.30 U^{235}. Title to uranium hexafluoride auctioned pursuant to this paragraph shall transfer to the buyer of such material upon delivery of such material to the buyer. Uranium hexafluoride auctioned pursuant to this paragraph shall be deemed under United States law for all purposes to be of Russian origin.

(5) Except as provided in paragraphs (6) and (7), uranium hexafluoride delivered to the Russian Executive Agent under paragraph (3) or auctioned pursuant to paragraph (4), may not be delivered for consumption by end users in the United States either directly or indirectly prior to January 1, 1998, and thereafter only in accordance with the following schedule:

Annual Maximum Deliveries to End Users

Year:	(millions lbs. U_3O_8 equivalent)
1998	2
1999	4
2000	6
2001	8
2002	10
2003	12
2004	14
2005	16
2006	17
2007	18
2008	19
2009 and each year thereafter	20.

(6) Uranium hexafluoride delivered to the Russian Executive Agent under paragraph (3) or auctioned pursuant to paragraph (4) may be sold at any time as Russian-origin natural uranium

in a matched sale pursuant to the Suspension Agreement, and in such case shall not be counted against the annual maximum deliveries set forth in paragraph (5).

(7) Uranium hexafluoride delivered to the Russian Executive Agent under paragraph (3) or auctioned pursuant to paragraph (4) may be sold at any time for use in the United States for the purpose of overfeeding in the operations of enrichment facilities.

(8) Nothing in this subsection (b) shall restrict the sale of the conversion component of such uranium hexafluoride.

(9) The Secretary of Commerce shall have responsibility for the administration and enforcement of the limitations set forth in this subsection. The Secretary of Commerce may require any person to provide any certifications, information, or take any action that may be necessary to enforce these limitations. The United States Customs Service shall maintain and provide any information required by the Secretary of Commerce and shall take any action requested by the Secretary of Commerce which is necessary for the administration and enforcement of the uranium delivery limitations set forth in this section.

(10) The President shall monitor the actions of the United States Executive Agent under the Russian HEU Agreement and shall report to the Congress not later than December 31 of each year on the effect the low-enriched uranium delivered under the Russian HEU Agreement is having on the domestic uranium mining, conversion, and enrichment industries, and the operation of the gaseous diffusion plants. Such report shall include a description of actions taken or proposed to be taken by the President to prevent or mitigate any material adverse impact on such industries or any loss of employment at the gaseous diffusion plants as a result of the Russian HEU Agreement. President. Reports.

(c) TRANSFERS TO THE CORPORATION.—(1) The Secretary shall transfer to the Corporation without charge up to 50 metric tons of enriched uranium and up to 7,000 metric tons of natural uranium from the Department of Energy's stockpile, subject to the restrictions in subsection (c)(2).

(2) The Corporation shall not deliver for commercial end use in the United States—

(A) any of the uranium transferred under this subsection before January 1, 1998;

(B) more than 10 percent of the uranium (by uranium hexafluoride equivalent content) transferred under this subsection or more than 4,000,000 pounds, whichever is less, in any calendar year after 1997; or

(C) more than 800,000 separative work units contained in low-enriched uranium transferred under this subsection in any calendar year.

(d) INVENTORY SALES.—(1) In addition to the transfers authorized under subsections (c) and (e), the Secretary may, from time to time, sell natural and low-enriched uranium (including low-enriched uranium derived from highly enriched uranium) from the Department of Energy's stockpile.

(2) Except as provided in subsections (b), (c), and (e), no sale or transfer of natural or low-enriched uranium shall be made unless—

(A) the President determines that the material is not necessary for national security needs, President.

(B) the Secretary determines that the sale of the material will not have an adverse material impact on the domestic uranium mining, conversion, or enrichment industry, taking into account the sales of uranium under the Russian HEU Agreement and the Suspension Agreement, and

(C) the price paid to the Secretary will not be less than the fair market value of the material.

(e) GOVERNMENT TRANSFERS.—Notwithstanding subsection (d)(2), the Secretary may transfer or sell enriched uranium—

(1) to a Federal agency if the material is transferred for the use of the receiving agency without any resale or transfer to another entity and the material does not meet commercial specifications;

(2) to any person for national security purposes, as determined by the Secretary; or

(3) to any State or local agency or nonprofit, charitable, or educational institution for use other than the generation of electricity for commercial use.

(f) SAVINGS PROVISION.—Nothing in this subchapter shall be read to modify the terms of the Russian HEU Agreement.

42 USC 2297h–11.

SEC. 3113. LOW-LEVEL WASTE.

(a) RESPONSIBILITY OF DOE.—(1) The Secretary, at the request of the generator, shall accept for disposal low-level radioactive waste, including depleted uranium if it were ultimately determined to be low-level radioactive waste, generated by—

(A) the Corporation as a result of the operations of the gaseous diffusion plants or as a result of the treatment of such wastes at a location other than the gaseous diffusion plants, or

(B) any person licensed by the Nuclear Regulatory Commission to operate a uranium enrichment facility under sections 53, 63, and 193 of the Atomic Energy Act of 1954 (42 U.S.C. 2073, 2093, and 2243).

(2) Except as provided in paragraph (3), the generator shall reimburse the Secretary for the disposal of low-level radioactive waste pursuant to paragraph (1) in an amount equal to the Secretary's costs, including a pro rata share of any capital costs, but in no event more than an amount equal to that which would be charged by commercial, State, regional, or interstate compact entities for disposal of such waste.

(3) In the event depleted uranium were ultimately determined to be low-level radioactive waste, the generator shall reimburse the Secretary for the disposal of depleted uranium pursuant to paragraph (1) in an amount equal to the Secretary's costs, including a pro rata share of any capital costs.

(b) AGREEMENTS WITH OTHER PERSONS.—The generator may also enter into agreements for the disposal of low-level radioactive waste subject to subsection (a) with any person other than the Secretary that is authorized by applicable laws and regulations to dispose of such wastes.

(c) STATE OR INTERSTATE COMPACTS.—Notwithstanding any other provision of law, no State or interstate compact shall be liable for the treatment, storage, or disposal of any low-level radioactive waste (including mixed waste) attributable to the operation, decontamination, and decommissioning of any uranium enrichment facility.

SEC. 3114. AVLIS. 42 USC 2297h–12.

(a) EXCLUSIVE RIGHT TO COMMERCIALIZE.—The Corporation shall have the exclusive commercial right to deploy and use any AVLIS patents, processes. and technical information owned or controlled by the Government, upon completion of a royalty agreement with the Secretary.

(b) TRANSFER OF RELATED PROPERTY TO CORPORATION.—

(1) IN GENERAL.—To the extent requested by the Corporation and subject to the requirements of the Atomic Energy Act of 1954 (42 U.S.C. 2011, et seq.), the President shall transfer without charge to the Corporation all of the right, title, or interest in and to property owned by the United States under control or custody of the Secretary that is directly related to and materially useful in the performance of the Corporation's purposes regarding AVLIS and alternative technologies for uranium enrichment, including— President.

(A) facilities, equipment, and materials for research, development, and demonstration activities; and

(B) all other facilities, equipment, materials, processes, patents, technical information of any kind, contracts, agreements, and leases.

(2) EXCEPTION.—Facilities, real estate, improvements, and equipment related to the gaseous diffusion, and gas centrifuge, uranium enrichment programs of the Secretary shall not transfer under paragraph (1)(B).

(3) EXPIRATION OF TRANSFER AUTHORITY.—The President's authority to transfer property under this subsection shall expire upon the privatization date.

(c) LIABILITY FOR PATENT AND RELATED CLAIMS.—With respect to any right, title, or interest provided to the Corporation under subsection (a) or (b), the Corporation shall have sole liability for any payments made or awards under section 157b.(3) of the Atomic Energy Act of 1954 (42 U.S.C. 2187(b)(3)), or any settlements or judgments involving claims for alleged patent infringement. Any royalty agreement under subsection (a) of this section shall provide for a reduction of royalty payments to the Secretary to offset any payments, awards, settlements, or judgments under this subsection.

SEC. 3115. APPLICATION OF CERTAIN LAWS. 42 USC 2297h–13.

(a) OSHA.—(1) As of the privatization date, the private corporation shall be subject to and comply with the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.).

(2) The Nuclear Regulatory Commission and the Occupational Safety and Health Administration shall, within 90 days after the date of enactment of this Act, enter into a memorandum of agreement to govern the exercise of their authority over occupational safety and health hazards at the gaseous diffusion plants, including inspection, investigation, enforcement, and rulemaking relating to such hazards. Contracts.

(b) ANTITRUST LAWS.—For purposes of the antitrust laws, the performance by the private corporation of a "matched import" contract under the Suspension Agreement shall be considered to have occurred prior to the privatization date, if at the time of privatization, such contract had been agreed to by the parties in all material terms and confirmed by the Secretary of Commerce under the Suspension Agreement.

(c) ENERGY REORGANIZATION ACT REQUIREMENTS.—(1) The private corporation and its contractors and subcontractors shall be subject to the provisions of section 211 of the Energy Reorganization Act of 1974 (42 U.S.C. 5851) to the same extent as an employer subject to such section.

(2) With respect to the operation of the facilities leased by the private corporation, section 206 of the Energy Reorganization Act of 1974 (42 U.S.C. 5846) shall apply to the directors and officers of the private corporation.

SEC. 3116. AMENDMENTS TO THE ATOMIC ENERGY ACT.

(a) REPEAL.—(1) Chapters 22 through 26 of the Atomic Energy Act of 1954 (42 U.S.C. 2297–2297e–7) are repealed as of the privatization date.

(2) The table of contents of such Act is amended as of the privatization date by striking the items referring to sections repealed by paragraph (1).

(b) NRC LICENSING.—(1) Section 11v. of the Atomic Energy Act of 1954 (42 U.S.C. 2014v.) is amended by striking "or the construction and operation of a uranium enrichment facility using Atomic Vapor Laser Isotope Separation technology".

(2) Section 193 of the Atomic Energy Act of 1954 (42 U.S.C. 2243) is amended by adding at the end the following:

"(f) LIMITATION.—No license or certificate of compliance may be issued to the United States Enrichment Corporation or its successor under this section or sections 53, 63, or 1701, if the Commission determines that—

"(1) the Corporation is owned, controlled, or dominated by an alien, a foreign corporation, or a foreign government; or

"(2) the issuance of such a license or certificate of compliance would be inimical to—

"(A) the common defense and security of the United States; or

"(B) the maintenance of a reliable and economical domestic source of enrichment services.".

(3) Section 1701(c)(2) of the Atomic Energy Act of 1954 (42 U.S.C. 2297f(c)(2)) is amended to read as follows:

"(2) PERIODIC APPLICATION FOR CERTIFICATE OF COMPLIANCE.—The Corporation shall apply to the Nuclear Regulatory Commission for a certificate of compliance under paragraph (1) periodically, as determined by the Commission, but not less than every 5 years. The Commission shall review any such application and any determination made under subsection (b)(2) shall be based on the results of any such review.".

(4) Section 1702(a) of the Atomic Energy Act of 1954 (42 U.S.C. 2297f–1(a)) is amended—

(1) by striking "other than" and inserting "including", and

(2) by striking "sections 53 and 63" and inserting "sections 53, 63, and 193".

(c) JUDICIAL REVIEW OF NRC ACTIONS.—Section 189b. of the Atomic Energy Act of 1954 (42 U.S.C. 2239(b)) is amended to read as follows:

"b. The following Commission actions shall be subject to judicial review in the manner prescribed in chapter 158 of title 28, United States Code, and chapter 7 of title 5, United States Code:

"(1) Any final order entered in any proceeding of the kind specified in subsection (a).

"(2) Any final order allowing or prohibiting a facility to begin operating under a combined construction and operating license.

"(3) Any final order establishing by regulation standards to govern the Department of Energy's gaseous diffusion uranium enrichment plants, including any such facilities leased to a corporation established under the USEC Privatization Act.

"(4) Any final determination under section 1701(c) relating to whether the gaseous diffusion plants, including any such facilities leased to a corporation established under the USEC Privatization Act, are in compliance with the Commission's standards governing the gaseous diffusion plants and all applicable laws.".

(d) CIVIL PENALTIES.—Section 234 a. of the Atomic Energy Act of 1954 (42 U.S.C. 2282(a) is amended by—

(1) striking "any licensing provision of section 53, 57, 62, 63, 81, 82, 101, 103, 104, 107, or 109" and inserting: "any licensing or certification provision of section 53, 57, 62, 63, 81, 82, 101, 103, 104, 107, 109, or 1701"; and

(2) by striking "any license issued thereunder" and inserting: "any license or certification issued thereunder".

(e) REFERENCES TO THE CORPORATION.—Following the privatization date, all references in the Atomic Energy Act of 1954 to the United States Enrichment Corporation shall be deemed to be references to the private corporation. 42 USC 2297 note.

SEC. 3117. AMENDMENTS TO OTHER LAWS.

(a) DEFINITION OF GOVERNMENT CORPORATION.—As of the privatization date, section 9101(3) of title 31, United States Code, is amended by striking subparagraph (N) as added by section 902(b) of Public Law 102–486.

(b) DEFINITION OF THE CORPORATION.—Section 1018(1) of the Energy Policy Act of 1992 (42 U.S.C. 2296b–7(1)) is amended by inserting "or its successor" before the period.

SUBCHAPTER B

SEC. 3201. BONNEVILLE POWER ADMINISTRATION REFINANCING. 16 USC 838*l*.

(a) DEFINITIONS.—

For the purposes of this section—

(1) "Administrator" means the Administrator of the Bonneville Power Administration;

(2) "capital investment" means a capitalized cost funded by Federal appropriations that—

(A) is for a project, facility, or separable unit or feature of a project or facility;

(B) is a cost for which the Administrator is required by law to establish rates to repay to the United States Treasury through the sale of electric power, transmission, or other services;

(C) excludes a Federal irrigation investment; and

(D) excludes an investment financed by the current revenues of the Administrator or by bonds issued and sold, or authorized to be issued and sold, by the

Administrator under section 13 of the Federal Columbia River Transmission System Act (16 U.S.C. 838k);

(3) "new capital investment" means a capital investment for a project, facility, or separable unit or feature of a project or facility, placed in service after September 30, 1996;

(4) "old capital investment" means a capital investment the capitalized cost of which—

(A) was incurred, but not repaid, before October 1, 1996, and

(B) was for a project, facility, or separable unit or feature of a project or facility, placed in service before October 1, 1996;

(5) "repayment date" means the end of the period within which the Administrator's rates are to assure the repayment of the principal amount of a capital investment; and

(6) "Treasury rate" means—

(A) for an old capital investment, a rate determined by the Secretary of the Treasury, taking into consideration prevailing market yields, during the month preceding October 1, 1996, on outstanding interest-bearing obligations of the United States with periods to maturity comparable to the period between October 1, 1996, and the repayment date for the old capital investment; and

(B) for a new capital investment, a rate determined by the Secretary of the Treasury, taking into consideration prevailing market yields, during the month preceding the beginning of the fiscal year in which the related project, facility, or separable unit or feature is placed in service, on outstanding interest-bearing obligations of the United States with periods to maturity comparable to the period between the beginning of the fiscal year and the repayment date for the new capital investment.

(b) NEW PRINCIPAL AMOUNTS.—

Effective date.

(1) PRINCIPAL AMOUNT.—Effective October 1, 1996, an old capital investment has a new principal amount that is the sum of—

(A) the present value of the old payment amounts for the old capital investment, calculated using a discount rate equal to the Treasury rate for the old capital investment; and

(B) an amount equal to $100,000,000 multiplied by a fraction whose numerator is the principal amount of the old payment amounts for the old capital investment and whose denominator is the sum of the principal amounts of the old payment amounts for all old capital investments.

(2) DETERMINATION.—With the approval of the Secretary of the Treasury based solely on consistency with this section, the Administrator shall determine the new principal amounts under subsection (b) and the assignment of interest rates to the new principal amounts under subsection (c).

(3) OLD PAYMENT AMOUNTS.—For the purposes of this subsection, "old payment amounts" means, for an old capital investment, the annual interest and principal that the Administrator

would have paid to the United States Treasury from October 1, 1996, if this section had not been enacted, assuming that—

(A) the principal were repaid—

(i) on the repayment date the Administrator assigned before October 1, 1994, to the old capital investment, or

(ii) with respect to an old capital investment for which the Administrator has not assigned a repayment date before October 1, 1994, on a repayment date the Administrator shall assign to the old capital investment in accordance with paragraph 10(d)(1) of the version of Department of Energy Order RA 6120.2 in effect on October 1, 1994; and

(B) interest were paid—

(i) at the interest rate the Administrator assigned before October 1, 1994, to the old capital investment, or

(ii) with respect to an old capital investment for which the Administrator has not assigned an interest rate before October 1, 1994, at a rate determined by the Secretary of the Treasury, taking into consideration prevailing market yields, during the month preceding the beginning of the fiscal year in which the related project, facility, or separable unit or feature is placed in service, on outstanding interest-bearing obligations of the United States with periods to maturity comparable to the period between the beginning of the fiscal year and the repayment date for the old capital investment.

(c) INTEREST RATE FOR NEW PRINCIPAL AMOUNTS.—

As of October 1, 1996, the unpaid balance on the new principal amount established for an old capital investment under subsection (b) bears interest annually at the Treasury rate for the old capital investment until the earlier of the date that the new principal amount is repaid or the repayment date for the new principal amount.

(d) REPAYMENT DATES.—

As of October 1, 1996, the repayment date for the new principal amount established for an old capital investment under subsection (b) is no earlier than the repayment date for the old capital investment assumed in subsection (b)(3)(A).

(e) PREPAYMENT LIMITATIONS.—

During the period October 1, 1996, through September 30, 2001, the total new principal amounts of old capital investments, as established under subsection (b), that the Administrator may pay before their respective repayment dates shall not exceed $100,000,000.

(f) INTEREST RATES FOR NEW CAPITAL INVESTMENTS DURING CONSTRUCTION.—

(1) NEW CAPITAL INVESTMENT.—The principal amount of a new capital investment includes interest in each fiscal year of construction of the related project, facility, or separable unit or feature at a rate equal to the one-year rate for the fiscal year on the sum of—

(A) construction expenditures that were made from the date construction commenced through the end of the fiscal year, and

(B) accrued interest during construction.

(2) PAYMENT.—The Administrator is not required to pay, during construction of the project, facility, or separable unit or feature, the interest calculated, accrued, and capitalized under subsection (f)(1).

(3) ONE-YEAR RATE.—For the purposes of this section, "one-year rate" for a fiscal year means a rate determined by the Secretary of the Treasury, taking into consideration prevailing market yields, during the month preceding the beginning of the fiscal year, on outstanding interest-bearing obligations of the United States with periods to maturity of approximately one year.

(g) INTEREST RATES FOR NEW CAPITAL INVESTMENTS.—

The unpaid balance on the principal amount of a new capital investment bears interest at the Treasury rate for the new capital investment from the date the related project, facility, or separable unit or feature is placed in service until the earlier of the date the new capital investment is repaid or the repayment date for the new capital investment.

(h) CREDITS TO ADMINISTRATOR'S REPAYMENT TO THE UNITED STATES TREASURY.—

The Confederated Tribe of the Colville Reservation Grand Coulee Dam Settlement Act (Public Law No. 103–436; 108 Stat. 4577) is amended by striking section 6 and inserting the following:

"SEC. 6. CREDITS TO ADMINISTRATOR'S REPAYMENT TO THE UNITED STATES TREASURY.

"So long as the Administrator makes annual payments to the tribes under the settlement agreement, the Administrator shall apply against amounts otherwise payable by the Administrator to the United States Treasury a credit that reduces the Administrator's payment, in the amount and for each fiscal year as follows: $15,860,000 in fiscal year 1997; $16,490,000 in fiscal year 1998; $17,150,000 in fiscal year 1999; $17,840,000 in fiscal year 2000; $18,550,000 in fiscal year 2001; and $4,600,000 in each succeeding fiscal year.".

(i) CONTRACT PROVISIONS.—

In each contract of the Administrator that provides for the Administrator to sell electric power, transmission, or related services, and that is in effect after September 30, 1996, the Administrator shall offer to include, or as the case may be, shall offer to amend to include, provisions specifying that after September 30, 1996—

(1) the Administrator shall establish rates and charges on the basis that—

(A) the principal amount of an old capital investment shall be no greater than the new principal amount established under subsection (b);

(B) the interest rate applicable to the unpaid balance of the new principal amount of an old capital investment shall be no greater than the interest rate established under subsection (c);

(C) any payment of principal of an old capital investment shall reduce the outstanding principal balance of the old capital investment in the amount of the payment at the time the payment is tendered; and

(D) any payment of interest on the unpaid balance of the new principal amount of an old capital investment shall be a credit against the appropriate interest account in the amount of the payment at the time the payment is tendered;

(2) apart from charges necessary to repay the new principal amount of an old capital investment as established under subsection (b) and to pay the interest on the principal amount under subsection (c), no amount may be charged for return to the United States Treasury as repayment for or return on an old capital investment, whether by way of rate, rent, lease payment, assessment, user charge, or any other fee;

(3) amounts provided under section 1304 of title 31, United States Code, shall be available to pay, and shall be the sole source for payment of, a judgment against or settlement by the Administrator or the United States on a claim for a breach of the contract provisions required by this Part; and

(4) the contract provisions specified in this Part do not—

(A) preclude the Administrator from recovering, through rates or other means, any tax that is generally imposed on electric utilities in the United States, or

(B) affect the Administrator's authority under applicable law, including section 7(g) of the Pacific Northwest Electric Power Planning and Conservation Act (16 U.S.C. 839e(g)), to—

(i) allocate costs and benefits, including but not limited to fish and wildlife costs, to rates or resources, or

(ii) design rates.

(j) SAVINGS PROVISIONS.—

(1) REPAYMENT.—This subchapter does not affect the obligation of the Administrator to repay the principal associated with each capital investment, and to pay interest on the principal, only from the "Administrator's net proceeds," as defined in section 13 of the Federal Columbia River Transmission System Act (16 U.S.C. 838k(b)).

(2) PAYMENT OF CAPITAL INVESTMENT.—Except as provided in subsection (e), this section does not affect the authority of the Administrator to pay all or a portion of the principal amount associated with a capital investment before the repayment date for the principal amount.

CHAPTER 2

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS

EXPORT AND INVESTMENT ASSISTANCE

EXPORT-IMPORT BANK OF THE UNITED STATES

SUBSIDY APPROPRIATION

(RESCISSION)

Of the unobligated balances available under this heading $42,000,000 are rescinded.

CHAPTER 3

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES

DEPARTMENT OF ENERGY

STRATEGIC PETROLEUM RESERVE

Notwithstanding section 161 of the Energy Policy and Conservation Act (42 U.S.C. 6241), the Secretary of Energy shall draw down and sell in fiscal year 1996, $227,000,000 worth of Strategic Petroleum Reserve oil from the Weeks Island site.

CHAPTER 4

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION

DEPARTMENT OF HEALTH AND HUMAN SERVICES

ADMINISTRATION FOR CHILDREN AND FAMILIES

JOB OPPORTUNITIES AND BASIC SKILLS

(RESCISSION)

Of the funds made available under this heading elsewhere in this Act, there is rescinded an amount equal to the total of the funds within each State's limitation for fiscal year 1996 that are not necessary to pay such State's allowable claims for such fiscal year.

42 USC 603.

Section 403(k)(3)(F) of the Social Security Act (as amended by Public Law 100–485) is amended by adding: "reduced by an amount equal to the total of those funds that are within each State's limitation for fiscal year 1996 that are not necessary to pay such State's allowable claims for such fiscal year (except that such amount for such year shall be deemed to be $1,000,000,000 for the purpose of determining the amount of the payment under subsection (1) to which each State is entitled),".

DEPARTMENT OF EDUCATION

STUDENT FINANCIAL ASSISTANCE

Notwithstanding any other provision of this Act, the first and third dollar amounts provided in Title I of this Act under the heading "Student Financial Assistance" are hereby reduced by $53,446,000.

CHAPTER 5

MILITARY CONSTRUCTION

(RESCISSIONS)

Of the funds provided in Public Law 104–32, the Military Construction Appropriations Act, 1996, the following funds are hereby rescinded from the following accounts in the specified amounts:

Military Construction, Army, $6,385,000;

Military Construction, Navy, $6,385,000;
Military Construction, Air Force, $6,385,000; and
Military Construction, Defense-wide, $18,345,000.

CHAPTER 6

DEPARTMENT OF DEFENSE—MILITARY PROCUREMENT

MISSILE PROCUREMENT, AIR FORCE

(RESCISSION)

Of the funds made available under this heading in Public Law 103–335, $310,000,000 are rescinded.

OTHER PROCUREMENT, AIR FORCE

(RESCISSION)

Of the funds made available under this heading in Public Law 103–335, $265,000,000 are rescinded.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY

(RESCISSION)

Of the funds made available under this heading in Public Law 104–61, $19,500,000 are rescinded: *Provided,* That this reduction shall be applied proportionally to each budget activity, activity group and subactivity group and each program, project, and activity within this appropriation account.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY

(RESCISSION)

Of the funds made available under this heading in Public Law 104–61, $45,000,000 are rescinded: *Provided,* That this reduction shall be applied proportionally to each budget activity, activity group and subactivity group and each program, project, and activity within this appropriation account.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE

(RESCISSIONS)

Of the funds made available under this heading in Public Law 103–335, $245,000,000 are rescinded.

Of the funds made available under this heading in Public Law 104–61, $69,800,000 are rescinded: *Provided,* That this reduction shall be applied proportionally to each budget activity, activity group and subactivity group and each program, project, and activity within this appropriation account.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE

(RESCISSION)

Of the funds made available under this heading in Public Law 104–61, $40,600,000 are rescinded: *Provided,* That this reduction shall be applied proportionally to each budget activity, activity group and subactivity group and each program, project, and activity within this appropriation account: *Provided further,* That no reduction may be taken against the funds made available to the Department of Defense for Ballistic Missile Defense.

CHAPTER 7

DEPARTMENT OF TRANSPORTATION

FEDERAL AVIATION ADMINISTRATION

GRANTS-IN-AID FOR AIRPORTS

(AIRPORT AND AIRWAY TRUST FUND)

(RESCISSION OF CONTRACT AUTHORIZATION)

Of the available contract authority balances under this account, $664,000,000 are rescinded.

FEDERAL HIGHWAY ADMINISTRATION

HIGHWAY-RELATED SAFETY GRANTS

(HIGHWAY TRUST FUND)

(RESCISSION OF CONTRACT AUTHORIZATION)

Of the available contract authority balances under this account, $9,000,000 are rescinded.

MOTOR CARRIER SAFETY GRANTS

(HIGHWAY TRUST FUND)

(RESCISSION OF CONTRACT AUTHORIZATION)

Of the available contract authority balances under this account, $33,000,000 are rescinded.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

HIGHWAY TRAFFIC SAFETY GRANTS

(HIGHWAY TRUST FUND)

(RESCISSION OF CONTRACT AUTHORIZATION)

Of the available contract authority balances under this account, $56,000,000 are rescinded.

CHAPTER 8

TREASURY, POSTAL SERVICE AND GENERAL GOVERNMENT

INDEPENDENT AGENCIES

GENERAL SERVICES ADMINISTRATION

FEDERAL BUILDINGS FUND

LIMITATIONS ON AVAILABILITY OF REVENUE

(RESCISSION)

Of the funds made available for installment acquisition payments under this heading in Public Law 104–52, $3,400,000 are rescinded: *Provided,* That the aggregate amount made available to the Fund shall be $5,062,749,000.

CHAPTER 9

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT AND INDEPENDENT AGENCIES

FEDERAL EMERGENCY MANAGEMENT AGENCY

DISASTER RELIEF

Of the funds made available under this heading and under the heading "Disaster relief emergency contingency fund" in Public Law 104–19, $1,000,000,000 are rescinded.

CHAPTER 10

DEBT COLLECTION IMPROVEMENTS

SEC. 31001. DEBT COLLECTION IMPROVEMENT ACT OF 1996.

Debt Collection Improvement Act of 1996.
31 USC 3701 note.

(a)(1) This section may be cited as the "Debt Collection Improvement Act of 1996".

Effective date.
31 USC 3322 note.

(2)(A) IN GENERAL.—The provisions of this section and the amendments made by this section shall take effect on the date of the enactment of this Act.

Applicability.
31 USC 3716 note.

(B) OFFSETS FROM SOCIAL SECURITY PAYMENTS, ETC.—Subparagraph (A) of section 3716(c)(3) of title 31, United States Code (as added by subsection (d)(2) of this section), shall apply only to payments made after the date which is 4 months after the date of the enactment of this Act.

31 USC 3701 note.

(b) The purposes of this section are the following:

(1) To maximize collections of delinquent debts owed to the Government by ensuring quick action to enforce recovery of debts and the use of all appropriate collection tools.

(2) To minimize the costs of debt collection by consolidating related functions and activities and utilizing interagency teams.

(3) To reduce losses arising from debt management activities by requiring proper screening of potential borrowers, aggressive monitoring of all accounts, and sharing of information within and among Federal agencies.

(4) To ensure that the public is fully informed of the Federal Government's debt collection policies and that debtors are cog-

nizant of their financial obligations to repay amounts owed to the Federal Government.

(5) To ensure that debtors have all appropriate due process rights, including the ability to verify, challenge, and compromise claims, and access to administrative appeals procedures which are both reasonable and protect the interests of the United States.

(6) To encourage agencies, when appropriate, to sell delinquent debt, particularly debts with underlying collateral.

(7) To rely on the experience and expertise of private sector professionals to provide debt collection services to Federal agencies.

(c) Chapter 37 of title 31, United States Code, is amended—

(1) in each of sections 3711, 3716, 3717, and 3718, by striking "the head of an executive or legislative agency" each place it appears and inserting "the head of an executive, judicial, or legislative agency"; and

(2) by amending section 3701(a)(4) to read as follows:

"(4) 'executive, judicial, or legislative agency' means a department, agency, court, court administrative office, or instrumentality in the executive, judicial, or legislative branch of Government, including government corporations.".

(d)(1) PERSONS SUBJECT TO ADMINISTRATIVE OFFSET.—Section 3701(c) of title 31, United States Code, is amended to read as follows:

"(c) In sections 3716 and 3717 of this title, the term 'person' does not include an agency of the United States Government.".

(2) REQUIREMENTS AND PROCEDURES.—Section 3716 of title 31, United States Code, is amended—

(A) by amending subsection (b) to read as follows:

"(b) Before collecting a claim by administrative offset, the head of an executive, judicial, or legislative agency must either—

"(1) adopt, without change, regulations on collecting by administrative offset promulgated by the Department of Justice, the General Accounting Office, or the Department of the Treasury; or

"(2) prescribe regulations on collecting by administrative offset consistent with the regulations referred to in paragraph (1).";

(B) by amending subsection (c)(2) to read as follows:

"(2) when a statute explicitly prohibits using administrative offset or setoff to collect the claim or type of claim involved.";

(C) by redesignating subsection (c) as subsection (e); and

(D) by inserting after subsection (b) the following new subsections:

"(c)(1)(A) Except as otherwise provided in this subsection, a disbursing official of the Department of the Treasury, the Department of Defense, the United States Postal Service, or any other government corporation, or any disbursing official of the United States designated by the Secretary of the Treasury, shall offset at least annually the amount of a payment which a payment certifying agency has certified to the disbursing official for disbursement, by an amount equal to the amount of a claim which a creditor agency has certified to the Secretary of the Treasury pursuant to this subsection.

"(B) An agency that designates disbursing officials pursuant to section 3321(c) of this title is not required to certify claims

arising out of its operations to the Secretary of the Treasury before such agency's disbursing officials offset such claims.

"(C) Payments certified by the Department of Education under a program administered by the Secretary of Education under title IV of the Higher Education Act of 1965 shall not be subject to administrative offset under this subsection.

"(2) Neither the disbursing official nor the payment certifying agency shall be liable—

"(A) for the amount of the administrative offset on the basis that the underlying obligation, represented by the payment before the administrative offset was taken, was not satisfied; or

"(B) for failure to provide timely notice under paragraph (8).

"(3)(A)(i) Notwithstanding any other provision of law (including sections 207 and 1631(d)(1) of the Social Security Act (42 U.S.C. 407 and 1383(d)(1)), section 413(b) of Public Law 91–173 (30 U.S.C. 923(b)), and section 14 of the Act of August 29, 1935 (45 U.S.C. 231m)), except as provided in clause (ii), all payments due to an individual under—

"(I) the Social Security Act,

"(II) part B of the Black Lung Benefits Act, or

"(III) any law administered by the Railroad Retirement Board (other than payments that such Board determines to be tier 2 benefits),

shall be subject to offset under this section.

"(ii) An amount of $9,000 which a debtor may receive under Federal benefit programs cited under clause (i) within a 12-month period shall be exempt from offset under this subsection. In applying the $9,000 exemption, the disbursing official shall—

"(I) reduce the $9,000 exemption amount for the 12-month period by the amount of all Federal benefit payments made during such 12-month period which are not subject to offset under this subsection; and

"(II) apply a prorated amount of the exemption to each periodic benefit payment to be made to the debtor during the applicable 12-month period.

For purposes of the preceding sentence, the amount of a periodic benefit payment shall be the amount after any reduction or deduction required under the laws authorizing the program under which such payment is authorized to be made (including any reduction or deduction to recover any overpayment under such program).

"(B) The Secretary of the Treasury shall exempt from administrative offset under this subsection payments under means-tested programs when requested by the head of the respective agency. The Secretary may exempt other payments from administrative offset under this subsection upon the written request of the head of a payment certifying agency. A written request for exemption of other payments must provide justification for the exemption under standards prescribed by the Secretary. Such standards shall give due consideration to whether administrative offset would tend to interfere substantially with or defeat the purposes of the payment certifying agency's program. The Secretary shall report to the Congress annually on exemptions granted under this section. Reports.

"(C) The provisions of sections 205(b)(1) and 1631(c)(1) of the Social Security Act shall not apply to any administrative offset

executed pursuant to this section against benefits authorized by either title II or title XVI of the Social Security Act, respectively.

"(4) The Secretary of the Treasury may charge a fee sufficient to cover the full cost of implementing this subsection. The fee may be collected either by the retention of a portion of amounts collected pursuant to this subsection, or by billing the agency referring or transferring a claim for those amounts. Fees charged to the agencies shall be based on actual administrative offsets completed. Amounts received by the United States as fees under this subsection shall be deposited into the account of the Department of the Treasury under section 3711(g)(7) of this title, and shall be collected and accounted for in accordance with the provisions of that section.

"(5) The Secretary of the Treasury in consultation with the Commissioner of Social Security and the Director of the Office of Management and Budget, may prescribe such rules, regulations, and procedures as the Secretary of the Treasury considers necessary to carry out this subsection. The Secretary shall consult with the heads of affected agencies in the development of such rules, regulations, and procedures.

Rules, regulations, and procedures.

Notification.

"(6) Any Federal agency that is owed by a person a past due, legally enforceable nontax debt that is over 180 days delinquent, including nontax debt administered by a third party acting as an agent for the Federal Government, shall notify the Secretary of the Treasury of all such nontax debts for purposes of administrative offset under this subsection.

Notification.

"(7)(A) The disbursing official conducting an administrative offset with respect to a payment to a payee shall notify the payee in writing of—

"(i) the occurrence of the administrative offset to satisfy a past due legally enforceable debt, including a description of the type and amount of the payment otherwise payable to the payee against which the offset was executed;

"(ii) the identity of the creditor agency requesting the offset; and

"(iii) a contact point within the creditor agency that will handle concerns regarding the offset.

"(B) If the payment to be offset is a periodic benefit payment, the disbursing official shall take reasonable steps, as determined by the Secretary of the Treasury, to provide the notice to the payee not later than the date on which the payee is otherwise scheduled to receive the payment, or as soon as practical thereafter, but no later than the date of the administrative offset. Notwithstanding the preceding sentence, the failure of the debtor to receive such notice shall not impair the legality of such administrative offset.

"(8) A levy pursuant to the Internal Revenue Code of 1986 shall take precedence over requests for administrative offset pursuant to other laws.

"(d) Nothing in this section is intended to prohibit the use of any other administrative offset authority existing under statute or common law.".

(3) NONTAX DEBT OR CLAIM DEFINED.—Section 3701 of title 31, United States Code, is amended in subsection (a) by adding at the end the following new paragraph:

"(8) 'nontax' means, with respect to any debt or claim, any debt or claim other than a debt or claim under the Internal Revenue Code of 1986.".

(4) TREASURY CHECK WITHHOLDING.—Section 3712 of title 31, United States Code, is amended by adding at the end the following new subsection:

"(e) TREASURY CHECK OFFSET.—

"(1) IN GENERAL.—To facilitate collection of amounts owed by presenting banks pursuant to subsection (a) or (b), upon the direction of the Secretary, a Federal reserve bank shall withhold credit from banks presenting Treasury checks for ultimate charge to the account of the United States Treasury. By presenting Treasury checks for payment a presenting bank is deemed to authorize this offset.

"(2) ATTEMPT TO COLLECT REQUIRED.—Prior to directing offset under subsection (a)(1), the Secretary shall first attempt to collect amounts owed in the manner provided by sections 3711 and 3716.".

(e) Section 3716 of title 31, United States Code, as amended by subsection (d)(2) of this section, is further amended by adding at the end the following new subsections:

"(f) The Secretary may waive the requirements of sections 552a(o) and (p) of title 5 for administrative offset or claims collection upon written certification by the head of a State or an executive, judicial, or legislative agency seeking to collect the claim that the requirements of subsection (a) of this section have been met.

"(g) The Data Integrity Board of the Department of the Treasury established under 552a(u) of title 5 shall review and include in reports under paragraph (3)(D) of that section a description of any matching activities conducted under this section. If the Secretary has granted a waiver under subsection (f) of this section, no other Data Integrity Board is required to take any action under section 552a(u) of title 5.".

(f) Section 3716 of title 31, United States Code, as amended by subsections (d) and (e) of this section, is further amended by adding at the end the following new subsection:

"(h)(1) The Secretary may, in the discretion of the Secretary, apply subsection (a) with respect to any past-due, legally-enforceable debt owed to a State if—

"(A) the appropriate State disbursing official requests that an offset be performed; and

"(B) a reciprocal agreement with the State is in effect which contains, at a minimum—

"(i) requirements substantially equivalent to subsection (b) of this section; and

"(ii) any other requirements which the Secretary considers appropriate to facilitate the offset and prevent duplicative efforts.

"(2) This subsection does not apply to—

"(A) the collection of a debt or claim on which the administrative costs associated with the collection of the debt or claim exceed the amount of the debt or claim;

"(B) any collection of any other type, class, or amount of claim, as the Secretary considers necessary to protect the interest of the United States; or

"(C) the disbursement of any class or type of payment exempted by the Secretary of the Treasury at the request of a Federal agency.

"(3) In applying this section with respect to any debt owed to a State, subsection (c)(3)(A) shall not apply.".

(g)(1) TITLE 31.—Title 31, United States Code, is amended—

(A) in section 3322(a), by inserting "section 3716 and section 3720A of this title and" after "Except as provided in";

(B) in section 3325(a)(3), by inserting "or pursuant to payment intercepts or offsets pursuant to section 3716 or 3720A of this title," after "voucher"; and

(C) in each of sections 3711(e)(2) and 3717(h) by inserting ", the Secretary of the Treasury," after "Attorney General".

(2) INTERNAL REVENUE CODE OF 1986.—Subparagraph (A) of section 6103(l)(10) of the Internal Revenue Code of 1986 (26 U.S.C. 6103(l)(10)) is amended by inserting "and to officers and employees of the Department of the Treasury in connection with such reduction" after "6402".

(h) Section 5514 of title 5, United States Code, is amended—

(A) in subsection (a)—

(i) by adding at the end of paragraph (1) the following: "All Federal agencies to which debts are owed and which have outstanding delinquent debts shall participate in a computer match at least annually of their delinquent debt records with records of Federal employees to identify those employees who are delinquent in repayment of those debts. The preceding sentence shall not apply to any debt under the Internal Revenue Code of 1986. Matched Federal employee records shall include, but shall not be limited to, records of active Civil Service employees governmentwide, military active duty personnel, military reservists, United States Postal Service employees, employees of other government corporations, and seasonal and temporary employees. The Secretary of the Treasury shall establish and maintain an interagency consortium to implement centralized salary offset computer matching, and promulgate regulations for this program. Agencies that perform centralized salary offset computer matching services under this subsection are authorized to charge a fee sufficient to cover the full cost for such services.";

Records.

(ii) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively;

(iii) by inserting after paragraph (2) the following new paragraph:

"(3) Paragraph (2) shall not apply to routine intra-agency adjustments of pay that are attributable to clerical or administrative errors or delays in processing pay documents that have occurred within the four pay periods preceding the adjustment and to any adjustment that amounts to $50 or less, if at the time of such adjustment, or as soon thereafter as practical, the individual is provided written notice of the nature and the amount of the adjustment and a point of contact for contesting such adjustment."; and

(iv) by amending paragraph (5)(B) (as redesignated by clause (ii) of this subparagraph) to read as follows:

"(B) 'agency' includes executive departments and agencies, the United States Postal Service, the Postal Rate Commission, the United States Senate, the United States

House of Representatives, and any court, court administrative office, or instrumentality in the judicial or legislative branches of the Government, and government corporations.";

(B) by adding after subsection (c) the following new subsection:

"(d) A levy pursuant to the Internal Revenue Code of 1986 shall take precedence over other deductions under this section.".

(i)(1) IN GENERAL.—Section 7701 of title 31, United States Code, is amended by adding at the end the following new subsections:

"(c)(1) The head of each Federal agency shall require each person doing business with that agency to furnish to that agency such person's taxpayer identifying number.

"(2) For purposes of this subsection, a person shall be considered to be doing business with a Federal agency if the person is—

"(A) a lender or servicer in a Federal guaranteed or insured loan program administered by the agency;

"(B) an applicant for, or recipient of, a Federal license, permit, right-of-way, grant, or benefit payment administered by the agency or insurance administered by the agency;

"(C) a contractor of the agency;

"(D) assessed a fine, fee, royalty or penalty by the agency; and

"(E) in a relationship with the agency that may give rise to a receivable due to that agency, such as a partner of a borrower in or a guarantor of a Federal direct or insured loan administered by the agency.

"(3) Each agency shall disclose to a person required to furnish a taxpayer identifying number under this subsection its intent to use such number for purposes of collecting and reporting on any delinquent amounts arising out of such person's relationship with the Government.

"(4) For purposes of this subsection, a person shall not be treated as doing business with a Federal agency solely by reason of being a debtor under third party claims of the United States. The preceding sentence shall not apply to a debtor owing claims resulting from petroleum pricing violations or owing claims resulting from Federal loan or loan guarantee/insurance programs.

"(d) Notwithstanding section 552a(b) of title 5, United States Code, creditor agencies to which a delinquent claim is owed, and their agents, may match their debtor records with Department of Health and Human Services, and Department of Labor records to obtain names (including names of employees), name controls, names of employers, taxpayer identifying numbers, addresses (including addresses of employers), and dates of birth. The preceding sentence shall apply to the disclosure of taxpayer identifying numbers only if such disclosure is not otherwise prohibited by section 6103 of the Internal Revenue Code of 1986. The Department of Health and Human Services, and the Department of Labor shall release that information to creditor agencies and may charge reasonable fees sufficient to pay the costs associated with that release.".

(2) INCLUDED FEDERAL LOAN PROGRAM DEFINED.—Subparagraph (C) of section 6103(l)(3) of the Internal Revenue Code of 1986 (relating to disclosure that applicant for Federal loan has tax delinquent account) is amended to read as follows:

"(C) INCLUDED FEDERAL LOAN PROGRAM DEFINED.—For purposes of this paragraph, the term 'included Federal loan program' means any program under which the United States or a Federal agency makes, guarantees, or insures loans.".

(3) CLERICAL AMENDMENTS.—

(A) The chapter title to chapter 77 of subtitle VI of title 31, United States Code, is amended to read as follows:

"CHAPTER 77—ACCESS TO INFORMATION FOR DEBT COLLECTION".

(B) The table of chapters for subtitle VI of title 31, United States Code, is amended by inserting before the item relating to chapter 91 the following new item:

"77. Access to information for debt collection ..... 7701".

(j)(1) IN GENERAL.—Title 31, United States Code, is amended by inserting after section 3720A the following new section:

"§ 3720B. Barring delinquent Federal debtors from obtaining Federal loans or loan insurance guarantees

Standards.

"(a) Unless this subsection is waived by the head of a Federal agency, a person may not obtain any Federal financial assistance in the form of a loan (other than a disaster loan) or loan insurance or guarantee administered by the agency if the person has an outstanding debt (other than a debt under the Internal Revenue Code of 1986) with any Federal agency which is in a delinquent status, as determined under standards prescribed by the Secretary of the Treasury. Such a person may obtain additional loans or loan guarantees only after such delinquency is resolved in accordance with those standards. The Secretary of the Treasury may exempt, at the request of an agency, any class of claims.

"(b) The head of a Federal agency may delegate the waiver authority under subsection (a) to the Chief Financial Officer of the agency. The waiver authority may be redelegated only to the Deputy Chief Financial Officer of the agency."

(2) CLERICAL AMENDMENT.—The table of sections for subchapter II of chapter 37 of title 31, United States Code, is amended by inserting after the item relating to section 3720A the following new item:

"3720B. Barring delinquent Federal debtors from obtaining Federal loans or loan insurance guarantees.".

(k) Section 3711(f) of title 31, United States Code, is amended—

(1) by striking "may" the first place it appears and inserting "shall";

(2) by striking "an individual" each place it appears and inserting "a person";

(3) by striking "the individual" each place it appears and inserting "the person"; and

(4) by adding at the end the following new paragraphs:

"(4) The head of each executive agency shall require, as a condition for insuring or guaranteeing any loan, financing, or other extension of credit under any law to a person, that the lender provide information relating to the extension of credit to consumer reporting agencies or commercial reporting agencies, as appropriate.

"(5) The head of each executive agency may provide to a consumer reporting agency or commercial reporting agency information from a system of records that a person is responsible for a claim which is current, if notice required by section 552a(e)(4)

of title 5 indicates that information in the system may be disclosed to a consumer reporting agency or commercial reporting agency, respectively.".

(l) Section 3718 of title 31, United States Code, is amended—

(1) in subsection (a), by striking the first sentence and inserting the following: "Under conditions the head of an executive, judicial, or legislative agency considers appropriate, the head of the agency may enter into a contract with a person for collection service to recover indebtedness owed, or to locate or recover assets of, the United States Government. The head of an agency may not enter into a contract under the preceding sentence to locate or recover assets of the United States held by a State government or financial institution unless that agency has established procedures approved by the Secretary of the Treasury to identify and recover such assets."; and

(2) in subsection (d), by inserting ", or to locate or recover assets of," after "owed".

(m)(1) IN GENERAL.—Section 3711 of title 31, United States Code, is amended by adding at the end the following new subsections:

"(g)(1) If a nontax debt or claim owed to the United States has been delinquent for a period of 180 days—

"(A) the head of the executive, judicial, or legislative agency that administers the program that gave rise to the debt or claim shall transfer the debt or claim to the Secretary of the Treasury; and

"(B) upon such transfer the Secretary of the Treasury shall take appropriate action to collect or terminate collection actions on the debt or claim.

"(2) Paragraph (1) shall not apply—

"(A) to any debt or claim that—

"(i) is in litigation or foreclosure;

"(ii) will be disposed of under an asset sales program within 1 year after becoming eligible for sale, or later than 1 year if consistent with an asset sales program and a schedule established by the agency and approved by the Director of the Office of Management and Budget;

"(iii) has been referred to a private collection contractor for collection for a period of time determined by the Secretary of the Treasury;

"(iv) has been referred by, or with the consent of, the Secretary of the Treasury to a debt collection center for a period of time determined by the Secretary of the Treasury; or

"(v) will be collected under internal offset, if such offset is sufficient to collect the claim within 3 years after the date the debt or claim is first delinquent; and

"(B) to any other specific class of debt or claim, as determined by the Secretary of the Treasury at the request of the head of an executive, judicial, or legislative agency or otherwise.

"(3) For purposes of this section, the Secretary of the Treasury may designate, and withdraw such designation of debt collection centers operated by other Federal agencies. The Secretary of the Treasury shall designate such centers on the basis of their performance in collecting delinquent claims owed to the Government.

"(4) At the discretion of the Secretary of the Treasury, referral of a nontax claim may be made to—

"(A) any executive department or agency operating a debt collection center for servicing, collection, compromise, or suspension or termination of collection action;

"(B) a private collection contractor operating under a contract for servicing or collection action; or

"(C) the Department of Justice for litigation.

"(5) Nontax claims referred or transferred under this section shall be serviced, collected, or compromised, or collection action thereon suspended or terminated, in accordance with otherwise applicable statutory requirements and authorities. Executive departments and agencies operating debt collection centers may enter into agreements with the Secretary of the Treasury to carry out the purposes of this subsection. The Secretary of the Treasury shall—

"(A) maintain competition in carrying out this subsection;

"(B) maximize collections of delinquent debts by placing delinquent debts quickly;

"(C) maintain a schedule of private collection contractors and debt collection centers eligible for referral of claims; and

"(D) refer delinquent debts to the person most appropriate to collect the type or amount of claim involved.

"(6) Any agency operating a debt collection center to which nontax claims are referred or transferred under this subsection may charge a fee sufficient to cover the full cost of implementing this subsection. The agency transferring or referring the nontax claim shall be charged the fee, and the agency charging the fee shall collect such fee by retaining the amount of the fee from amounts collected pursuant to this subsection. Agencies may agree to pay through a different method, or to fund an activity from another account or from revenue received from the procedure described under section 3720C of this title. Amounts charged under this subsection concerning delinquent claims may be considered as costs pursuant to section 3717(e) of this title.

"(7) Notwithstanding any other law concerning the depositing and collection of Federal payments, including section 3302(b) of this title, agencies collecting fees may retain the fees from amounts collected. Any fee charged pursuant to this subsection shall be deposited into an account to be determined by the executive department or agency operating the debt collection center charging the fee (in this subsection referred to in this section as the 'Account'). Amounts deposited in the Account shall be available until expended to cover costs associated with the implementation and operation of Governmentwide debt collection activities. Costs properly chargeable to the Account include—

"(A) the costs of computer hardware and software, word processing and telecommunications equipment, and other equipment, supplies, and furniture;

"(B) personnel training and travel costs;

"(C) other personnel and administrative costs;

"(D) the costs of any contract for identification, billing, or collection services; and

"(E) reasonable costs incurred by the Secretary of the Treasury, including services and utilities provided by the Secretary, and administration of the Account.

"(8) Not later than January 1 of each year, there shall be deposited into the Treasury as miscellaneous receipts an amount equal to the amount of unobligated balances remaining in the Account at the close of business on September 30 of the preceding year, minus any part of such balance that the executive department or agency operating the debt collection center determines is necessary to cover or defray the costs under this subsection for the fiscal year in which the deposit is made.

"(9) Before discharging any delinquent debt owed to any executive, judicial, or legislative agency, the head of such agency shall take all appropriate steps to collect such debt, including (as applicable)—

"(A) administrative offset,
"(B) tax refund offset,
"(C) Federal salary offset,
"(D) referral to private collection contractors,
"(E) referral to agencies operating a debt collection center,
"(F) reporting delinquencies to credit reporting bureaus,
"(G) garnishing the wages of delinquent debtors, and
"(H) litigation or foreclosure.

"(10) To carry out the purposes of this subsection, the Secretary of the Treasury may prescribe such rules, regulations, and procedures as the Secretary considers necessary and transfer such funds from funds appropriated to the Department of the Treasury as may be necessary to meet existing liabilities and obligations incurred prior to the receipt of revenues that result from debt collections.

"(h)(1) The head of an executive, judicial, or legislative agency acting under subsection (a)(1), (2), or (3) of this section to collect a claim, compromise a claim, or terminate collection action on a claim may obtain a consumer report (as that term is defined in section 603 of the Fair Credit Reporting Act (15 U.S.C. 1681a)) or comparable credit information on any person who is liable for the claim.

"(2) The obtaining of a consumer report under this subsection is deemed to be a circumstance or purpose authorized or listed under section 604 of the Fair Credit Reporting Act (15 U.S.C. 1681b).".

(2) RETURNS RELATING TO CANCELLATION OF INDEBTEDNESS BY CERTAIN ENTITIES.—

(A) IN GENERAL.—Subsection (a) of section 6050P of the Internal Revenue Code of 1986 (relating to returns relating to the cancellation of indebtedness by certain financial entities) is amended by striking "applicable financial entity" and inserting "applicable entity".

(B) ENTITIES TO WHICH REQUIREMENT APPLIES.—Subsection (c) of section 6050P of such Code is amended—

(i) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively, and inserting before paragraph (2) (as so redesignated) the following new paragraph:

"(1) APPLICABLE ENTITY.—The term 'applicable entity' means—

"(A) an executive, judicial, or legislative agency (as defined in section 3701(a)(4) of title 31, United States Code), and

"(B) an applicable financial entity.", and

(ii) in paragraph (3), as so redesignated, by striking "(1)(B)" and inserting "(1)(A) or (2)(B)".

(C) ALTERNATIVE PROCEDURE.—Section 6050P of such Code is amended by adding at the end the following new subsection:

"(e) ALTERNATIVE PROCEDURE.—In lieu of making a return required under subsection (a), an agency described in subsection (c)(1)(A) may submit to the Secretary (at such time and in such form as the Secretary may by regulations prescribe) information sufficient for the Secretary to complete such a return on behalf of such agency. Upon receipt of such information, the Secretary shall complete such return and provide a copy of such return to such agency."

(D) CONFORMING AMENDMENTS.—

(i) Subsection (d) of section 6050P of such Code is amended by striking "applicable financial entity" and inserting "applicable entity".

(ii) The heading of section 6050P of such Code is amended to read as follows:

"SEC. 6050P. RETURNS RELATING TO THE CANCELLATION OF INDEBTEDNESS BY CERTAIN ENTITIES."

(iii) The table of sections for subpart B of part III of subchapter A of chapter 61 of such Code is amended by striking the item relating to section 6050P and inserting the following new item:

"Sec. 6050P. Returns relating to the cancellation of indebtedness by certain entities."

Effective date. 31 USC 3711 note.

(n) Effective October 1, 1995, section 11 of the Administrative Dispute Resolution Act (Public Law 101–552, 5 U.S.C. 571 note) shall not apply to the amendment made by section 8(b) of such Act.

(o)(1) IN GENERAL.—Chapter 37 of title 31, United States Code, is amended in subchapter II by adding after section 3720C, as added by subsection (t) of this section, the following new section:

"§ 3720D. Garnishment

"(a) Notwithstanding any provision of State law, the head of an executive, judicial, or legislative agency that administers a program that gives rise to a delinquent nontax debt owed to the United States by an individual may in accordance with this section garnish the disposable pay of the individual to collect the amount owed, if the individual is not currently making required repayment in accordance with any agreement between the agency head and the individual.

"(b) In carrying out any garnishment of disposable pay of an individual under subsection (a), the head of an executive, judicial, or legislative agency shall comply with the following requirements:

"(1) The amount deducted under this section for any pay period may not exceed 15 percent of disposable pay, except that a greater percentage may be deducted with the written consent of the individual.

Notification.

"(2) The individual shall be provided written notice, sent by mail to the individual's last known address, a minimum of 30 days prior to the initiation of proceedings, from the head of the executive, judicial, or legislative agency, informing the individual of—

"(A) the nature and amount of the debt to be collected;

"(B) the intention of the agency to initiate proceedings to collect the debt through deductions from pay; and

"(C) an explanation of the rights of the individual under this section.

"(3) The individual shall be provided an opportunity to inspect and copy records relating to the debt. Records.

"(4) The individual shall be provided an opportunity to enter into a written agreement with the executive, judicial, or legislative agency, under terms agreeable to the head of the agency, to establish a schedule for repayment of the debt. Contracts.

"(5) The individual shall be provided an opportunity for a hearing in accordance with subsection (c) on the determination of the head of the executive, judicial, or legislative agency concerning—

"(A) the existence or the amount of the debt, and

"(B) in the case of an individual whose repayment schedule is established other than by a written agreement pursuant to paragraph (4), the terms of the repayment schedule.

"(6) If the individual has been reemployed within 12 months after having been involuntarily separated from employment, no amount may be deducted from the disposable pay of the individual until the individual has been reemployed continuously for at least 12 months.

"(c)(1) A hearing under subsection (b)(5) shall be provided prior to issuance of a garnishment order if the individual, on or before the 15th day following the mailing of the notice described in subsection (b)(2), and in accordance with such procedures as the head of the executive, judicial, or legislative agency may prescribe, files a petition requesting such a hearing.

"(2) If the individual does not file a petition requesting a hearing prior to such date, the head of the agency shall provide the individual a hearing under subsection (a)(5) upon request, but such hearing need not be provided prior to issuance of a garnishment order.

"(3) The hearing official shall issue a final decision at the earliest practicable date, but not later than 60 days after the filing of the petition requesting the hearing.

"(d) The notice to the employer of the withholding order shall contain only such information as may be necessary for the employer to comply with the withholding order.

"(e)(1) An employer may not discharge from employment, refuse to employ, or take disciplinary action against an individual subject to wage withholding in accordance with this section by reason of the fact that the individual's wages have been subject to garnishment under this section, and such individual may sue in a State or Federal court of competent jurisdiction any employer who takes such action.

"(2) The court shall award attorneys' fees to a prevailing employee and, in its discretion, may order reinstatement of the individual, award punitive damages and back pay to the employee, or order such other remedy as may be reasonably necessary. Courts.

"(f)(1) The employer of an individual—

"(A) shall pay to the head of an executive, judicial, or legislative agency as directed in a withholding order issued in an action under this section with respect to the individual, and

"(B) shall be liable for any amount that the employer fails to withhold from wages due an employee following receipt by such employer of notice of the withholding order, plus attorneys' fees, costs, and, in the court's discretion, punitive damages.

"(2)(A) The head of an executive, judicial, or legislative agency may sue an employer in a State or Federal court of competent jurisdiction to recover amounts for which the employer is liable under paragraph (1)(B).

"(B) A suit under this paragraph may not be filed before the termination of the collection action, unless earlier filing is necessary to avoid expiration of any applicable statute of limitations period.

"(3) Notwithstanding paragraphs (1) and (2), an employer shall not be required to vary its normal pay and disbursement cycles in order to comply with this subsection.

"(g) For the purpose of this section, the term 'disposable pay' means that part of the compensation of any individual from an employer remaining after the deduction of any amounts required by any other law to be withheld.

Regulations. "(h) The Secretary of the Treasury shall issue regulations to implement this section.".

(2) CLERICAL AMENDMENT.—The table of sections for subchapter II of chapter 37 of title 31, United States Code, is amended by inserting after the item relating to section 3720C (as added by subsection (t) of this section) the following new item:

"3720D. Garnishment.".

(p) Section 3711 of title 31, United States Code, as amended by subsection (m) of this section, is further amended by adding at the end the following new subsection:

"(i)(1) The head of an executive, judicial, or legislative agency may sell, subject to section 504(b) of the Federal Credit Reform Act of 1990 and using competitive procedures, any nontax debt owed to the United States that is delinquent for more than 90 days. Appropriate fees charged by a contractor to assist in the conduct of a sale under this subsection may be payable from the proceeds of the sale.

"(2) After terminating collection action, the head of an executive, judicial, or legislative agency shall sell, using competitive procedures, any nontax debt or class of nontax debts owed to the United States, if the Secretary of the Treasury determines the sale is in the best interests of the United States.

"(3) Sales of nontax debt under this subsection—

"(A) shall be for—

"(i) cash, or

"(ii) cash and a residuary equity or profit participation, if the head of the agency reasonably determines that the proceeds will be greater than sale solely for cash,

"(B) shall be without recourse, but may include the use of guarantees if otherwise authorized, and

"(C) shall transfer to the purchaser all rights of the Government to demand payment of the nontax debt, other than with respect to a residuary equity or profit participation under subparagraph (A)(ii).

Reports. "(4)(A) Within one year after the date of enactment of the Debt Collection Improvement Act of 1996, each executive agency with current and delinquent collateralized nontax debts shall report to the Congress on the valuation of its existing portfolio of loans,

notes and guarantees, and other collateralized debts based on standards developed by the Director of the Office of Management and Budget, in consultation with the Secretary of the Treasury.

"(B) The Director of the Office of Management and Budget shall determine what information is required to be reported to comply with subparagraph (A). At a minimum, for each financing account and for each liquidating account (as those terms are defined in sections 502(7) and 502(8), respectively, of the Federal Credit Reform Act of 1990) the following information shall be reported:

"(i) The cumulative balance of current debts outstanding, the estimated net present value of such debts, the annual administrative expenses of those debts (including the portion of salaries and expenses that are directly related thereto), and the estimated net proceeds that would be received by the Government if such debts were sold.

"(ii) The cumulative balance of delinquent debts, debts outstanding, the estimated net present value of such debts, the annual administrative expenses of those debts (including the portion of salaries and expenses that are directly related thereto), and the estimated net proceeds that would be received by the Government if such debts were sold.

"(iii) The cumulative balance of guaranteed loans outstanding, the estimated net present value of such guarantees, the annual administrative expenses of such guarantees (including the portion of salaries and expenses that are directly related to such guaranteed loans), and the estimated net proceeds that would be received by the Government if such loan guarantees were sold.

"(iv) The cumulative balance of defaulted loans that were previously guaranteed and have resulted in loans receivables, the estimated net present value of such loan assets, the annual administrative expenses of such loan assets (including the portion of salaries and expenses that are directly related to such loan assets), and the estimated net proceeds that would be received by the Government if such loan assets were sold.

"(v) The marketability of all debts.

"(5) This subsection is not intended to limit existing statutory authority of agencies to sell loans, debts, or other assets.".

(q) Section 3717 of title 31, United States Code, is amended by adding at the end of subsection (h) the following new subsection:

"(i)(1) The head of an executive, judicial, or legislative agency may increase an administrative claim by the cost of living adjustment in lieu of charging interest and penalties under this section. Adjustments under this subsection will be computed annually.

"(2) For the purpose of this subsection—

"(A) the term 'cost of living adjustment' means the percentage by which the Consumer Price Index for the month of June of the calendar year preceding the adjustment exceeds the Consumer Price Index for the month of June of the calendar year in which the claim was determined or last adjusted; and

"(B) the term 'administrative claim' includes all debt that is not based on an extension of Government credit through direct loans, loan guarantees, or insurance, including fines, penalties, and overpayments.".

(r)(1) IN GENERAL.—Chapter 37 of title 31, United States Code, is amended in subchapter II by adding after section 3720D, as added by subsection (o) of this section, the following new section:

"§ 3720E. Dissemination of information regarding identity of delinquent debtors

"(a) The head of any agency may, with the review of the Secretary of the Treasury, for the purpose of collecting any delinquent nontax debt owed by any person, publish or otherwise publicly disseminate information regarding the identity of the person and the existence of the nontax debt.

Regulations.

"(b)(1) The Secretary of the Treasury, in consultation with the Director of the Office of Management and Budget and the heads of other appropriate Federal agencies, shall issue regulations establishing procedures and requirements the Secretary considers appropriate to carry out this section.

"(2) Regulations under this subsection shall include—

"(A) standards for disseminating information that maximize collections of delinquent nontax debts, by directing actions under this section toward delinquent debtors that have assets or income sufficient to pay their delinquent nontax debt;

"(B) procedures and requirements that prevent dissemination of information under this section regarding persons who have not had an opportunity to verify, contest, and compromise their nontax debt in accordance with this subchapter; and

"(C) procedures to ensure that persons are not incorrectly identified pursuant to this section.".

(2) CLERICAL AMENDMENT.—The table of sections for subchapter II of chapter 37 of title 31, United States Code, is amended by adding after the item relating to section 3720D (as added by subsection (o) of this section) the following new item:

"3720E. Dissemination of information regarding identity of delinquent debtors.".

(s)(1) IN GENERAL.—The Federal Civil Penalties Inflation Adjustment Act of 1990 (Public Law 101–410, 104 Stat. 890; 28 U.S.C. 2461 note) is amended—

(A) by amending section 4 to read as follows:

"SEC. 4. The head of each agency shall, not later than 180 days after the date of enactment of the Debt Collection Improvement Act of 1996, and at least once every 4 years thereafter—

Regulations.

"(1) by regulation adjust each civil monetary penalty provided by law within the jurisdiction of the Federal agency, except for any penalty (including any addition to tax and additional amount) under the Internal Revenue Code of 1986, the Tariff Act of 1930, the Occupational Safety and Health Act of 1970, or the Social Security Act, by the inflation adjustment described under section 5 of this Act; and

Federal Register, publication.

"(2) publish each such regulation in the Federal Register.";

(B) in section 5(a), by striking "The adjustment described under paragraphs (4) and (5)(A) of section 4" and inserting "The inflation adjustment under section 4"; and

(C) by adding at the end the following new section:

"SEC. 7. Any increase under this Act in a civil monetary penalty shall apply only to violations which occur after the date the increase takes effect.".

28 USC 2461 note.

(2) LIMITATION ON INITIAL ADJUSTMENT.—The first adjustment of a civil monetary penalty made pursuant to the amendment made by paragraph (1) may not exceed 10 percent of such penalty.

(t)(1) IN GENERAL.—Title 31, United States Code, is amended by inserting after section 3720B (as added by subsection (j) of this section) the following new section:

"§ 3720C. Debt Collection Improvement Account

Nomenclature.

"(a)(1) There is hereby established in the Treasury a special fund to be known as the 'Debt Collection Improvement Account' (hereinafter in this section referred to as the 'Account').

"(2) The Account shall be maintained and managed by the Secretary of the Treasury, who shall ensure that agency programs are credited with amounts transferred under subsection (b)(1).

"(b)(1) Not later than 30 days after the end of a fiscal year, an agency may transfer to the Account the amount described in paragraph (3), as adjusted under paragraph (4).

"(2) Agency transfers to the Account may include collections from—

"(A) salary, administrative, and tax refund offsets;

"(B) the Department of Justice;

"(C) private collection agencies;

"(D) sales of delinquent loans; and

"(E) contracts to locate or recover assets.

"(3) The amount referred to in paragraph (1) shall be 5 percent of the amount of delinquent debt collected by an agency in a fiscal year, minus the greater of—

"(A) 5 percent of the amount of delinquent nontax debt collected by the agency in the previous fiscal year, or

"(B) 5 percent of the average annual amount of delinquent nontax debt collected by the agency in the previous 4 fiscal years.

"(4) In consultation with the Secretary of the Treasury, the Office of Management and Budget may adjust the amount described in paragraph (3) for an agency to reflect the level of effort in credit management programs by the agency. As an indicator of the level of effort in credit management, the Office of Management and Budget shall consider the following:

"(A) The number of days between the date a claim or debt became delinquent and the date which an agency referred the debt or claim to the Secretary of the Treasury or obtained an exemption from this referral under section 3711(g)(2) of this title.

"(B) The ratio of delinquent debts or claims to total receivables for a given program, and the change in this ratio over a period of time.

"(c)(1) The Secretary of the Treasury may make payments from the Account solely to reimburse agencies for qualified expenses. For agencies with franchise funds, such payments may be credited to subaccounts designated for debt collection.

"(2) For purposes of this section, the term 'qualified expenses' means expenditures for the improvement of credit management, debt collection, and debt recovery activities, including—

"(A) account servicing (including cross-servicing under section 3711(g) of this title),

"(B) automatic data processing equipment acquisitions,

"(C) delinquent debt collection,

"(D) measures to minimize delinquent debt,

"(E) sales of delinquent debt,

"(F) asset disposition, and

"(G) training of personnel involved in credit and debt management.

"(3)(A) Amounts transferred to the Account shall be available to the Secretary of the Treasury for purposes of this section to

the extent and in amounts provided in advance in appropriations Acts.

"(B) As soon as practicable after the end of the third fiscal year after which amounts transferred are first available pursuant to this section, and every 3 years thereafter, any uncommitted balance in the Account shall be transferred to the general fund of the Treasury as miscellaneous receipts.

"(d) For direct loans and loan guarantee programs subject to title V of the Congressional Budget Act of 1974, amounts credited in accordance with subsection (c) shall be considered administrative costs.

Rules, regulations, and procedures.

"(e) The Secretary of the Treasury shall prescribe such rules, regulations, and procedures as the Secretary considers necessary or appropriate to carry out the purposes of this section.".

(2) CLERICAL AMENDMENT.—The table of sections for chapter 37 of title 31, United States Code, is amended by inserting after the item relating to section 3720B (as added by subsection (j) of this section) the following new item:

"3720C. Debt Collection Improvement Account.".

(u)(1) DISCRETIONARY AUTHORITY.—Section 3720A of title 31, United States Code, is amended by adding after subsection (h) the following new subsection:

"(i) An agency subject to section 9 of the Act of May 18, 1933 (16 U.S.C. 831h), may implement this section at its discretion.".

(2) FEDERAL AGENCY DEFINED.—Section 6402(f) of the Internal Revenue Code of 1986 (26 U.S.C. 6402(f)) is amended to read as follows:

"(f) FEDERAL AGENCY.—For purposes of this section, the term 'Federal agency' means a department, agency, or instrumentality of the United States, and includes a Government corporation (as such term is defined in section 103 of title 5, United States Code).".

(v)(1) NOTIFICATION OF SECRETARY OF THE TREASURY.—Section 3720A(a) of title 31, United States Code, is amended to read as follows:

Notification.

"(a) Any Federal agency that is owed by a person a past-due, legally enforceable debt (including debt administered by a third party acting as an agent for the Federal Government) shall, and any agency subject to section 9 of the Act of May 18, 1933 (16 U.S.C. 831h), owed such a debt may, in accordance with regulations issued pursuant to subsections (b) and (d), notify the Secretary of the Treasury at least once each year of the amount of such debt.".

(2) IMPLEMENTATION OF SUPPORT COLLECTION BY SECRETARY OF THE TREASURY.—Section 464(a) of the Social Security Act (42 U.S.C. 664(a)) is amended—

(1) in paragraph (1), by adding at the end the following: "This subsection may be executed by the disbursing official of the Department of the Treasury."; and

(2) in paragraph (2)(A), by adding at the end the following: "This subsection may be executed by the Secretary of the Department of the Treasury or his designee.".

(w) Section 3720A(h) of title 31, United States Code, is amended to read as follows:

"(h)(1) The disbursing official of the Department of the Treasury—

Notification.

"(1) shall notify a taxpayer in writing of—

"(A) the occurrence of an offset to satisfy a past-due legally enforceable nontax debt;

"(B) the identity of the creditor agency requesting the offset; and

"(C) a contact point within the creditor agency that will handle concerns regarding the offset;

"(2) shall notify the Internal Revenue Service on a weekly basis of— Notification.

"(A) the occurrence of an offset to satisfy a past-due legally enforceable non-tax debt;

"(B) the amount of such offset; and

"(C) any other information required by regulations; and

"(3) shall match payment records with requests for offset by using a name control, taxpayer identifying number (as that term is used in section 6109 of the Internal Revenue Code of 1986), and any other necessary identifiers.". Records.

"(h)(2) The term 'disbursing official' of the Department of the Treasury means the Secretary or his designee."

(x)(1) AMENDMENTS RELATING TO ELECTRONIC FUNDS TRANSFER.—Section 3332 of title 31, United States Code, popularly known as the Federal Financial Management Act of 1994, is amended—

(A) by redesignating subsection (e) as subsection (h), and inserting after subsection (d) the following new subsections:

"(e)(1) Notwithstanding subsections (a) through (d) of this section, sections 5120 (a) and (d) of title 38, and any other provision of law, all Federal payments to a recipient who becomes eligible for that type of payment after 90 days after the date of the enactment of the Debt Collection Improvement Act of 1996 shall be made by electronic funds transfer.

"(2) The head of a Federal agency shall, with respect to Federal payments made or authorized by the agency, waive the application of paragraph (1) to a recipient of those payments upon receipt of written certification from the recipient that the recipient does not have an account with a financial institution or an authorized payment agent.

"(f)(1) Notwithstanding any other provision of law (including subsections (a) through (e) of this section and sections 5120 (a) and (d) of title 38), except as provided in paragraph (2) all Federal payments made after January 1, 1999, shall be made by electronic funds transfer.

"(2)(A) The Secretary of the Treasury may waive application of this subsection to payments—

"(i) for individuals or classes of individuals for whom compliance imposes a hardship;

"(ii) for classifications or types of checks; or

"(iii) in other circumstances as may be necessary.

"(B) The Secretary of the Treasury shall make determinations under subparagraph (A) based on standards developed by the Secretary.

"(g) Each recipient of Federal payments required to be made by electronic funds transfer shall—

"(1) designate 1 or more financial institutions or other authorized agents to which such payments shall be made; and

"(2) provide to the Federal agency that makes or authorizes the payments information necessary for the recipient to receive

electronic funds transfer payments through each institution or agent designated under paragraph (1)."; and

(B) by adding after subsection (h) (as so redesignated) the following new subsections:

"(i)(1) The Secretary of the Treasury may prescribe regulations that the Secretary considers necessary to carry out this section.

"(2) Regulations under this subsection shall ensure that individuals required under subsection (g) to have an account at a financial institution because of the application of subsection (f)(1)—

"(A) will have access to such an account at a reasonable cost; and

"(B) are given the same consumer protections with respect to the account as other account holders at the same financial institution.

"(j) For purposes of this section—

"(1) The term 'electronic funds transfer' means any transfer of funds, other than a transaction originated by cash, check, or similar paper instrument, that is initiated through an electronic terminal, telephone, computer, or magnetic tape, for the purpose of ordering, instructing, or authorizing a financial institution to debit or credit an account. The term includes Automated Clearing House transfers, Fed Wire transfers, transfers made at automatic teller machines, and point-of-sale terminals.

"(2) The term 'Federal agency' means—

"(A) an agency (as defined in section 101 of this title); and

"(B) a Government corporation (as defined in section 103 of title 5).

"(3) The term 'Federal payments' includes—

"(A) Federal wage, salary, and retirement payments;

"(B) vendor and expense reimbursement payments; and

"(C) benefit payments.

Such term shall not include any payment under the Internal Revenue Code of 1986."

(2) AMENDMENTS RELATING TO SUBSTITUTE CHECKS.—Section 3331 of title 31, United States Code, is amended—

(A) in subsection (b), by striking "subsection (c)" and inserting "subsection (c) or (f)";

(B) by redesignating subsection (f) as subsection (g); and

(C) by inserting after subsection (e) the following new subsection:

"(f) The Secretary may waive any provision of this section as may be necessary to ensure that claimants receive timely payments.".

(3) PERMANENT FUNDING OF THE CHECK FORGERY INSURANCE FUND.—Section 3343 of title 31, United States Code, is amended—

(A) in subsection (a), by amending the second sentence to read as follows: "Necessary amounts are hereafter appropriated to the Fund out of any moneys in the Treasury not otherwise appropriated, and shall remain available until expended to make the payments required or authorized under this section.";

(B) in subsection (b)—

(i) by inserting "in the determination of the Secretary the payee or special endorse establishes that" after "without interest if";

(ii) in paragraph (2), by inserting "and" after the semicolon;

(iii) in paragraph (3), by striking "; and" and inserting a period; and

(iv) by striking paragraph (4);

(C) in subsection (d), by inserting after the first sentence the following new sentence: "The Secretary may use amounts in the Fund to reimburse payment certifying or authorizing agencies for any payment that the Secretary determines would otherwise have been payable from the Fund, and may reimburse certifying or authorizing agencies with amounts recovered because of payee nonentitlement.";

(D) by redesignating subsection (e) as subsection (g); and

(E) by inserting after subsection (d) the following new subsections:

"(e) The Secretary may waive any provision of this section as may be necessary to ensure that claimants receive timely payments.

"(f) Under such conditions as the Secretary may prescribe, the Secretary may delegate duties and powers of the Secretary under this section to the head of an agency. Consistent with a delegation from the Secretary under this subsection, the head of an agency may redelegate those duties and powers to officers or employees of the agency.".

(y) Section 3325 of title 31, United States Code, is amended by adding at the end the following new subsection:

"(d) The head of an executive agency or an officer or employee of an executive agency referred to in subsection (a)(1)(B), as applicable, shall include with each certified voucher submitted to a disbursing official pursuant to this section the taxpayer identifying number of each person to whom payment may be made under the voucher.".

(z)(1) IN GENERAL.—Section 3701 of title 31, United States Code, is amended—

(A) by amending subsection (a)(1) to read as follows:

"(1) 'administrative offset' means withholding funds payable by the United States (including funds payable by the United States on behalf of a State government) to, or held by the United States for, a person to satisfy a claim.";

(B) by amending subsection (b) to read as follows:

"(b)(1) In subchapter II of this chapter and subsection (a)(8) of this section, the term 'claim' or 'debt' means any amount of funds or property that has been determined by an appropriate official of the Federal Government to be owed to the United States by a person, organization, or entity other than another Federal agency. A claim includes, without limitation—

"(A) funds owed on account of loans made, insured, or guaranteed by the Government, including any deficiency or any difference between the price obtained by the Government in the sale of a property and the amount owed to the Government on a mortgage on the property,

"(B) expenditures of nonappropriated funds,

"(C) over-payments, including payments disallowed by audits performed by the Inspector General of the agency administering the program,

"(D) any amount the United States is authorized by statute to collect for the benefit of any person,

"(E) the unpaid share of any non-Federal partner in a program involving a Federal payment and a matching, or cost-sharing, payment by the non-Federal partner,

"(F) any fines or penalties assessed by an agency; and

"(G) other amounts of money or property owed to the Government.

"(2) For purposes of section 3716 of this title, each of the terms 'claim' and 'debt' includes an amount of funds or property owed by a person to a State (including any past-due support being enforced by the State), the District of Columbia, American Samoa, Guam, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, or the Commonwealth of Puerto Rico.";

(C) by adding after subsection (d) the following new subsection:

"(e) In section 3716 of this title—

"(1) 'creditor agency' means any agency owed a claim that seeks to collect that claim through administrative offset; and

"(2) 'payment certifying agency' means any agency that has transmitted a voucher to a disbursing official for disbursement.

"(f) In section 3711 of this title, 'private collection contractor' means private debt collectors under contract with an agency to collect a nontax debt or claim owed the United States. The term includes private debt collectors, collection agencies, and commercial attorneys."; and

(D) by amending subsection (d) to read as follows:

"(d) Sections 3711(f) and 3716–3719 of this title do not apply to a claim or debt under, or to an amount payable under—

"(1) the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.),

"(2) the Social Security Act (42 U.S.C. 301 et seq.), except to the extent provided under section 204(f) of such Act and section 3716(c) of this title, or

"(3) the tariff laws of the United States.".

(2) SOCIAL SECURITY.—

(A) APPLICATION OF AMENDMENTS MADE BY THIS ACT.—Subsection (f) of section 204 of the Social Security Act (42 U.S.C. 404) is amended to read as follows:

"(f)(1) With respect to any deliquent amount, the Commissioner of Social Security may use the collection practices described in sections 3711(f), 3716, 3717, and 3718 of title 31, United States Code and in section 5514 of title 5, United States Code, as in effect immediately after the enactment of the Debt Collection Improvement Act of 1996."

(B) PERMANENT APPLICATION.—Subsection (c) of section 5 of the Social Security Domestic Reform Act of 1994 (Public Law 103–387) is amended by striking "and before" and all that follows and inserting a period.

31 USC 3701 note.

31 USC 3711 note.

(aa)(1) GUIDELINES.—The Secretary of the Treasury, in consultation with concerned Federal agencies, may establish guidelines, including information on outstanding debt, to assist agencies in the performance and monitoring of debt collection activities.

31 USC 3711 note.

(2) REPORT.—Not later than 3 years after the date of enactment of this Act, the Secretary of the Treasury shall report to the Congress on collection services provided by Federal agencies or entities collecting debt on behalf of other Federal agencies under the

authorities contained in section 3711(g) of title 31, United States Code, as added by subsection (m) of this section.

(3) AGENCY REPORTS.—Section 3719 of title 31, United States Code, is amended—

(A) in subsection (a)—

(i) by amending the first sentence to read as follows: "In consultation with the Comptroller General of the United States, the Secretary of the Treasury shall prescribe regulations requiring the head of each agency with outstanding nontax claims to prepare and submit to the Secretary at least once each year a report summarizing the status of loans and accounts receivable that are managed by the head of the agency."; and Regulations.

(ii) in paragraph (3), by striking "Director" and inserting "Secretary"; and

(B) in subsection (b), by striking "Director" and inserting "Secretary".

(4) CONSOLIDATION OF REPORTS.—Notwithstanding any other provision of law, the Secretary of the Treasury may consolidate reports concerning debt collection otherwise required to be submitted by the Secretary into one annual report. 31 USC 3719 note.

(bb) The Director of the Office of Management and Budget shall— 31 USC 3711 note.

(1) review the standards and policies of each Federal agency for compromising, writing-down, forgiving, or discharging indebtedness arising from programs of the agency;

(2) determine whether those standards and policies are consistent and protect the interests of the United States;

(3) in the case of any Federal agency standard or policy that the Director determines is not consistent or does not protect the interests of the United States, direct the head of the agency to make appropriate modifications to the standard or policy; and

(4) report annually to the Congress on—

(A) deficiencies in the standards and policies of Federal agencies for compromising, writing-down, forgiving, or discharging indebtedness; and

(B) progress made in improving those standards and policies.

(cc)(1) ELIMINATION OF MINIMUM NUMBER OF CONTRACTS.—Section 3718(b)(1)(A) of title 31, United States Code, is amended by striking the fourth sentence.

(2) REPEAL.—Sections 3 and 5 of the Act of October 28, 1986 (popularly known as the Federal Debt Recovery Act; Public Law 99–578, 100 Stat. 3305) are hereby repealed. 31 USC 3718 notes.

FEDERAL ADMINISTRATIVE AND PERSONAL SERVICES EXPENSES

(RECISSIONS)

SEC. 31002. (a) Of the funds available to the agencies of the Federal Government, $500,000,000 are hereby rescinded: *Provided,* That rescissions pursuant to this paragraph shall be taken only from administrative and personal services and contractual services and supplies accounts: *Provided further,* That rescissions shall be taken on a pro rata basis from funds available to every Federal

agency, department, and office in the Executive Branch, including the Office of the President.

Records.

(b) Within 30 days of enactment of this Act, the Director of the Office of Management and Budget shall submit to the Committees on Appropriations of the House and Senate a listing of the amounts by account of the reductions made pursuant to the provisions of subsections (a) and (b) of this section.

This Act may be cited as the "Omnibus Consolidated Rescissions and Appropriations Act of 1996".

Approved April 26, 1996.

LEGISLATIVE HISTORY—H.R. 3019 (S. 1594):

HOUSE REPORTS: No. 104–537 (Comm. of Conference).
SENATE REPORTS: No. 104–236 accompanying S. 1594 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 142 (1996):
Mar. 7, considered and passed House.
Mar. 11–15, 18, 19, considered and passed Senate, amended.
Apr. 25, House and Senate agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 32 (1996):
Apr. 26, Presidential statement.

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Public Law 104–135
104th Congress

An Act

Apr. 30, 1996
[H.R. 255]

To designate the Federal Justice Building in Miami, Florida, as the "James Lawrence King Federal Justice Building".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Federal Justice Building located at 99 Northeast Fourth Street in Miami, Florida, shall be known and designated as the "James Lawrence King Federal Justice Building".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in section 1 shall be deemed to be a reference to the "James Lawrence King Federal Justice Building".

Approved April 30, 1996.

LEGISLATIVE HISTORY—H.R. 255:

HOUSE REPORTS: No. 104–361 (Comm. on Transportation and Infrastructure).
CONGRESSIONAL RECORD:
Vol. 141 (1995): Dec. 5, considered and passed House.
Vol. 142 (1996): Apr. 16, considered and passed Senate.

Public Law 104–136
104th Congress

An Act

To designate the Federal building and United States courthouse located at 125 Market Street in Youngstown, Ohio, as the "Thomas D. Lambros Federal Building and United States Courthouse".

Apr. 30, 1996
[H.R. 869]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Federal building and United States courthouse located at 125 Market Street in Youngstown, Ohio, shall be known and designated as the "Thomas D. Lambros Federal Building and United States Courthouse".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building and United States courthouse referred to in section 1 shall be deemed to be a reference to the "Thomas D. Lambros Federal Building and United States Courthouse".

Approved April 30, 1996.

LEGISLATIVE HISTORY—H.R. 869:

HOUSE REPORTS: No. 104–365 (Comm. on Transportation and Infrastructure).
CONGRESSIONAL RECORD:
Vol. 141 (1995): Dec. 5, considered and passed House.
Vol. 142 (1996): Apr. 16, considered and passed Senate.

Public Law 104–137
104th Congress

An Act

Apr. 30, 1996
[H.R. 1804]

To designate the United States Post Office–Courthouse located at South 6th and Rogers Avenue, Fort Smith, Arkansas, as the "Judge Isaac C. Parker Federal Building".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The United States Post Office–Courthouse located at South 6th and Rogers Avenue, Fort Smith, Arkansas, shall be known and designated as the "Judge Isaac C. Parker Federal Building".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States Post Office–Courthouse referred to in section 1 shall be deemed to be a reference to the "Judge Isaac C. Parker Federal Building".

Approved April 30, 1996.

LEGISLATIVE HISTORY—H.R. 1804:

HOUSE REPORTS: No. 104–367 (Comm. on Transportation and Infrastructure).
CONGRESSIONAL RECORD:
Vol. 141 (1995): Dec. 5, considered and passed House.
Vol. 142 (1996): Apr. 16, considered and passed Senate.

Public Law 104–138
104th Congress

An Act

To designate the United States Customs Administrative Building at the Ysleta/Zaragosa Port of Entry located at 797 South Zaragosa Road in El Paso, Texas, as the "Timothy C. McCaghren Customs Administrative Building".

Apr. 30, 1996
[H.R. 2415]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The United States Customs Administrative Building at the Ysleta/Zaragosa Port of Entry located at 797 South Zaragosa Road in El Paso, Texas, shall be known and designated as the "Timothy C. McCaghren Customs Administrative Building".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the building referred to in section 1 shall be deemed to be a reference to the "Timothy C. McCaghren Customs Administrative Building".

Approved April 30, 1996.

LEGISLATIVE HISTORY—H.R. 2415:

HOUSE REPORTS: No. 104–415 (Comm. on Transportation and Infrastructure).
CONGRESSIONAL RECORD:
Vol. 141 (1995): Dec. 18, considered and passed House.
Vol. 142 (1996): Apr. 16, considered and passed Senate.

Public Law 104–139
104th Congress

An Act

Apr. 30, 1996
[H.R. 2556]

To redesignate the Federal building located at 345 Middlefield Road in Menlo Park, California, and known as the Earth Sciences and Library Building, as the "Vincent E. McKelvey Federal Building".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REDESIGNATION.

The Federal building located at 345 Middlefield Road, in Menlo Park, California, and known as the Earth Sciences and Library Building, shall be known and designated as the "Vincent E. McKelvey Federal Building".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in section 1 shall be deemed to be a reference to the "Vincent E. McKelvey Federal Building".

Approved April 30, 1996.

LEGISLATIVE HISTORY—H.R 2556:

HOUSE REPORTS: No. 104–418 (Comm. on Transportation and Infrastructure).
CONGRESSIONAL RECORD:
Vol. 141 (1995): Dec. 18, considered and passed House.
Vol. 142 (1996): Apr. 16, considered and passed Senate.

Public Law 104–140
104th Congress

Joint Resolution

Making corrections to Public Law 104–134.

May 2, 1996
[S.J. Res. 53]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That:

(a) In Public Law 104–134, insert after the enacting clause: *Ante*, p. 1321.

"TITLE I—OMNIBUS APPROPRIATIONS".

(b) The two penultimate undesignated paragraphs under the subheading "ADMINISTRATIVE PROVISIONS, FOREST SERVICE" under the heading "TITLE II—RELATED AGENCIES, DEPARTMENT OF AGRICULTURE" of the Department of the Interior and Related Agencies Appropriations Act, 1996, as contained in section 101(c) of Public Law 104–134, are repealed.

(c) Section 520 under the heading "TITLE V—GENERAL PROVISIONS" of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996, as contained in section 101(e) of Public Law 104–134, is repealed.

(d) Strike out section 337 under the heading "TITLE III—GENERAL PROVISIONS" of the Department of the Interior and Related Agencies Appropriations Act, 1996, as contained in section 101(c) of Public Law 104–134, and insert in lieu thereof:

"SEC. 337. The Secretary of the Interior shall promptly convey to the Daughters of the American Colonists, without reimbursement, all right, title and interest in the plaque that in 1933 was placed on the Great Southern Hotel in Saint Louis, Missouri by the Daughters of the American Colonists to mark the site of Fort San Carlos.".

(e) Section 21104 of Public Law 104–134 is repealed.

Approved May 2, 1996.

LEGISLATIVE HISTORY—S.J. Res. 53:

CONGRESSIONAL RECORD, Vol. 142 (1996):
Apr. 30, considered and passed Senate and House.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 32 (1996):
May 2, Presidential statement.

Public Law 104–141
104th Congress

An Act

May 6, 1996
[H.R. 3055]

To amend section 326 of the Higher Education Act of 1965 to permit continued participation by Historically Black Graduate Professional Schools in the grant program authorized by that section.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

20 USC 1063b note.

SECTION 1. FINDINGS.

The Congress finds the following:

(1) The Historically Black Graduate Professional Schools identified under section 326 of the Higher Education Act may receive grant funds if the Secretary of Education determines that such institutions make a substantial contribution to the legal, medical, dental, veterinary, or other graduate opportunity for African Americans.

(2) The health professions schools which participate under section 326 train 50 percent of the Nation's African American physicians, 50 percent of the Nation's African American dentists, 50 percent of the Nation's African American pharmacists, and 75 percent of the Nation's African American veterinarians.

(3) A majority of the graduates of these schools practice in poor urban and rural areas of the country providing care to many disadvantaged Americans.

(4) The survival of these schools will contribute to the improved health status of disadvantaged persons, and of all Americans.

SEC. 2. ELIMINATION OF GRANT RENEWAL LIMITATION.

Section 326(b) of the Higher Education Act of 1965 (20 U.S.C. 1063b(b)) is amended by striking the second sentence.

Approved May 6, 1996.

LEGISLATIVE HISTORY—H.R. 3055:

HOUSE REPORTS: No. 104–504 (Comm. on Economic and Educational Opportunities).

CONGRESSIONAL RECORD, Vol. 142 (1996):

Apr. 23, considered and passed House.

Apr. 24, considered and passed Senate.

Public Law 104–142
104th Congress

An Act

To phase out the use of mercury in batteries and provide for the efficient and cost-effective collection and recycling or proper disposal of used nickel cadmium batteries, small sealed lead-acid batteries, and certain other batteries, and for other purposes.

May 13, 1996
[H.R. 2024]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

Mercury-Containing and Rechargeable Battery Management Act.
Environmental protection.
42 USC 14301 note.

This Act may be cited as the "Mercury-Containing and Rechargeable Battery Management Act".

SEC. 2. FINDINGS.

42 USC 14301.

The Congress finds that—

(1) it is in the public interest to—

(A) phase out the use of mercury in batteries and provide for the efficient and cost-effective collection and recycling or proper disposal of used nickel cadmium batteries, small sealed lead-acid batteries, and other regulated batteries; and

(B) educate the public concerning the collection, recycling, and proper disposal of such batteries;

(2) uniform national labeling requirements for regulated batteries, rechargeable consumer products, and product packaging will significantly benefit programs for regulated battery collection and recycling or proper disposal; and

(3) it is in the public interest to encourage persons who use rechargeable batteries to participate in collection for recycling of used nickel-cadmium, small sealed lead-acid, and other regulated batteries.

SEC. 3. DEFINITIONS.

42 USC 14302.

For purposes of this Act:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) BUTTON CELL.—The term "button cell" means a button- or coin-shaped battery.

(3) EASILY REMOVABLE.—The term "easily removable", with respect to a battery, means detachable or removable at the end of the life of the battery—

(A) from a consumer product by a consumer with the use of common household tools; or

(B) by a retailer of replacements for a battery used as the principal electrical power source for a vehicle.

(4) MERCURIC-OXIDE BATTERY.—The term "mercuric-oxide battery" means a battery that uses a mercuric-oxide electrode.

(5) RECHARGEABLE BATTERY.—The term "rechargeable battery"—

(A) means 1 or more voltaic or galvanic cells, electrically connected to produce electric energy, that is designed to be recharged for repeated uses; and

(B) includes any type of enclosed device or sealed container consisting of 1 or more such cells, including what is commonly called a battery pack (and in the case of a battery pack, for the purposes of the requirements of easy removability and labeling under section 103, means the battery pack as a whole rather than each component individually); but

(C) does not include—

(i) a lead-acid battery used to start an internal combustion engine or as the principal electrical power source for a vehicle, such as an automobile, a truck, construction equipment, a motorcycle, a garden tractor, a golf cart, a wheelchair, or a boat;

(ii) a lead-acid battery used for load leveling or for storage of electricity generated by an alternative energy source, such as a solar cell or wind-driven generator;

(iii) a battery used as a backup power source for memory or program instruction storage, timekeeping, or any similar purpose that requires uninterrupted electrical power in order to function if the primary energy supply fails or fluctuates momentarily; or

(iv) a rechargeable alkaline battery.

(6) RECHARGEABLE CONSUMER PRODUCT.—The term "rechargeable consumer product"—

(A) means a product that, when sold at retail, includes a regulated battery as a primary energy supply, and that is primarily intended for personal or household use; but

(B) does not include a product that only uses a battery solely as a source of backup power for memory or program instruction storage, timekeeping, or any similar purpose that requires uninterrupted electrical power in order to function if the primary energy supply fails or fluctuates momentarily.

(7) REGULATED BATTERY.—The term "regulated battery" means a rechargeable battery that—

(A) contains a cadmium or a lead electrode or any combination of cadmium and lead electrodes; or

(B) contains other electrode chemistries and is the subject of a determination by the Administrator under section 103(d).

(8) REMANUFACTURED PRODUCT.—The term "remanufactured product" means a rechargeable consumer product that has been altered by the replacement of parts, repackaged, or repaired after initial sale by the original manufacturer.

42 USC 14303.

SEC. 4. INFORMATION DISSEMINATION.

The Administrator shall, in consultation with representatives of rechargeable battery manufacturers, rechargeable consumer product manufacturers, and retailers, establish a program to provide

information to the public concerning the proper handling and disposal of used regulated batteries and rechargeable consumer products with nonremovable batteries.

SEC. 5. ENFORCEMENT. 42 USC 14304.

(a) CIVIL PENALTY.—When on the basis of any information the Administrator determines that a person has violated, or is in violation of, any requirement of this Act (except a requirement of section 104) the Administrator—

(1) in the case of any violation, may issue an order assessing a civil penalty of not more than $10,000 for each violation, or requiring compliance immediately or within a reasonable specified time period, or both; or

(2) in the case of any violation or failure to comply with an order issued under this section, may commence a civil action in the United States district court in the district in which the violation occurred or in the district in which the violator resides for appropriate relief, including a temporary or permanent injunction.

(b) CONTENTS OF ORDER.—An order under subsection (a)(1) shall state with reasonable specificity the nature of the violation.

(c) CONSIDERATIONS.—In assessing a civil penalty under subsection (a)(1), the Administrator shall take into account the seriousness of the violation and any good faith efforts to comply with applicable requirements.

(d) FINALITY OF ORDER; REQUEST FOR HEARING.—An order under subsection (a)(1) shall become final unless, not later than 30 days after the order is served, a person named in the order requests a hearing on the record.

(e) HEARING.—On receiving a request under subsection (d), the Administrator shall promptly conduct a hearing on the record.

(f) SUBPOENA POWER.—In connection with any hearing on the record under this section, the Administrator may issue subpoenas for the attendance and testimony of witnesses and for the production of relevant papers, books, and documents.

(g) CONTINUED VIOLATION AFTER EXPIRATION OF PERIOD FOR COMPLIANCE.—If a violator fails to take corrective action within the time specified in an order under subsection (a)(1), the Administrator may assess a civil penalty of not more than $10,000 for the continued noncompliance with the order.

(h) SAVINGS PROVISION.—The Administrator may not take any enforcement action against a person for selling, offering for sale, or offering for promotional purposes to the ultimate consumer a battery or product covered by this Act that was—

(1) purchased ready for sale to the ultimate consumer; and

(2) sold, offered for sale, or offered for promotional purposes without modification.

The preceding sentence shall not apply to a person—

(A) who is the importer of a battery covered by this Act, and

(B) who has knowledge of the chemical contents of the battery

when such chemical contents make the sale, offering for sale, or offering for promotional purposes of such battery unlawful under title II of this Act.

42 USC 14305.

SEC. 6. INFORMATION GATHERING AND ACCESS.

(a) RECORDS AND REPORTS.—A person who is required to carry out the objectives of this Act, including—

(1) a regulated battery manufacturer;

(2) a rechargeable consumer product manufacturer;

(3) a mercury-containing battery manufacturer; and

(4) an authorized agent of a person described in paragraph (1), (2), or (3),

shall establish and maintain such records and report such information as the Administrator may by regulation reasonably require to carry out the objectives of this Act.

(b) ACCESS AND COPYING.—The Administrator or the Administrator's authorized representative, on presentation of credentials of the Administrator, may at reasonable times have access to and copy any records required to be maintained under subsection (a).

(c) CONFIDENTIALITY.—The Administrator shall maintain the confidentiality of documents and records that contain proprietary information.

42 USC 14306.

SEC. 7. STATE AUTHORITY.

Nothing in this Act shall be construed to prohibit a State from enacting and enforcing a standard or requirement that is identical to a standard or requirement established or promulgated under this Act. Except as provided in sections 103(e) and 104, nothing in this Act shall be construed to prohibit a State from enacting and enforcing a standard or requirement that is more stringent than a standard or requirement established or promulgated under this Act.

42 USC 14307.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

Rechargeable Battery Recycling Act.

TITLE I—RECHARGEABLE BATTERY RECYCLING ACT

42 USC 14301 note.

SEC. 101. SHORT TITLE.

This title may be cited as the "Rechargeable Battery Recycling Act".

42 USC 14321.

SEC. 102. PURPOSE.

The purpose of this title is to facilitate the efficient recycling or proper disposal of used nickel-cadmium rechargeable batteries, used small sealed lead-acid rechargeable batteries, other regulated batteries, and such rechargeable batteries in used consumer products, by—

(1) providing for uniform labeling requirements and streamlined regulatory requirements for regulated battery collection programs; and

(2) encouraging voluntary industry programs by eliminating barriers to funding the collection and recycling or proper disposal of used rechargeable batteries.

42 USC 14322.

SEC. 103. RECHARGEABLE CONSUMER PRODUCTS AND LABELING.

(a) PROHIBITION.—

(1) IN GENERAL.—No person shall sell for use in the United States a regulated battery that is ready for retail sale or a rechargeable consumer product that is ready for retail sale, if such battery or product was manufactured on or after the date 12 months after the date of enactment of this Act, unless the labeling requirements of subsection (b) are met and, in the case of a regulated battery, the regulated battery—

(A) is easily removable from the rechargeable consumer product; or

(B) is sold separately.

(2) APPLICATION.—Paragraph (1) does not apply to any of the following:

(A) The sale of a remanufactured product unit unless paragraph (1) applied to the sale of the unit when originally manufactured.

(B) The sale of a product unit intended for export purposes only.

(b) LABELING.—Each regulated battery or rechargeable consumer product without an easily removable battery manufactured on or after the date that is 1 year after the date of enactment of this Act, whether produced domestically or imported shall bear the following labels:

(1) 3 chasing arrows or a comparable recycling symbol.

(2)(A) On each regulated battery which is a nickel-cadmium battery, the chemical name or the abbreviation "Ni-Cd" and the phrase "BATTERY MUST BE RECYCLED OR DISPOSED OF PROPERLY.".

(B) On each regulated battery which is a lead-acid battery, "Pb" or the words "LEAD", "RETURN", and "RECYCLE" and if the regulated battery is sealed, the phrase "BATTERY MUST BE RECYCLED.".

(3) On each rechargeable consumer product containing a regulated battery that is not easily removable, the phrase "CONTAINS NICKEL-CADMIUM BATTERY. BATTERY MUST BE RECYCLED OR DISPOSED OF PROPERLY." or "CONTAINS SEALED LEAD BATTERY. BATTERY MUST BE RECYCLED.", as applicable.

(4) On the packaging of each rechargeable consumer product, and the packaging of each regulated battery sold separately from such a product, unless the required label is clearly visible through the packaging, the phrase "CONTAINS NICKEL-CADMIUM BATTERY. BATTERY MUST BE RECYCLED OR DISPOSED OF PROPERLY." or "CONTAINS SEALED LEAD BATTERY. BATTERY MUST BE RECYCLED.", as applicable.

(c) EXISTING OR ALTERNATIVE LABELING.—

(1) INITIAL PERIOD.—For a period of 2 years after the date of enactment of this Act, regulated batteries, rechargeable consumer products containing regulated batteries, and rechargeable consumer product packages that are labeled in substantial compliance with subsection (b) shall be deemed to comply with the labeling requirements of subsection (b).

(2) CERTIFICATION.—

(A) IN GENERAL.—On application by persons subject to the labeling requirements of subsection (b) or the labeling requirements promulgated by the Administrator under subsection (d), the Administrator shall certify that a dif-

ferent label meets the requirements of subsection (b) or (d), respectively, if the different label—

(i) conveys the same information as the label required under subsection (b) or (d), respectively; or

(ii) conforms with a recognized international standard that is consistent with the overall purposes of this title.

(B) CONSTRUCTIVE CERTIFICATION.—Failure of the Administrator to object to an application under subparagraph (A) on the ground that a different label does not meet either of the conditions described in subparagraph (A) (i) or (ii) within 120 days after the date on which the application is made shall constitute certification for the purposes of this Act.

(d) RULEMAKING AUTHORITY OF THE ADMINISTRATOR.—

(1) IN GENERAL.—If the Administrator determines that other rechargeable batteries having electrode chemistries different from regulated batteries are toxic and may cause substantial harm to human health and the environment if discarded into the solid waste stream for land disposal or incineration, the Administrator may, with the advice and counsel of State regulatory authorities and manufacturers of rechargeable batteries and rechargeable consumer products, and after public comment—

(A) promulgate labeling requirements for the batteries with different electrode chemistries, rechargeable consumer products containing such batteries that are not easily removable batteries, and packaging for the batteries and products; and

(B) promulgate requirements for easy removability of regulated batteries from rechargeable consumer products designed to contain such batteries.

(2) SUBSTANTIAL SIMILARITY.—The regulations promulgated under paragraph (1) shall be substantially similar to the requirements set forth in subsections (a) and (b).

(e) UNIFORMITY.—After the effective dates of a requirement set forth in subsection (a), (b), or (c) or a regulation promulgated by the Administrator under subsection (d), no Federal agency, State, or political subdivision of a State may enforce any easy removability or environmental labeling requirement for a rechargeable battery or rechargeable consumer product that is not identical to the requirement or regulation.

(f) EXEMPTIONS.—

(1) IN GENERAL.—With respect to any rechargeable consumer product, any person may submit an application to the Administrator for an exemption from the requirements of subsection (a) in accordance with the procedures under paragraph (2). The application shall include the following information:

(A) A statement of the specific basis for the request for the exemption.

(B) The name, business address, and telephone number of the applicant.

(2) GRANTING OF EXEMPTION.—Not later than 60 days after receipt of an application under paragraph (1), the Administrator shall approve or deny the application. On approval of the application the Administrator shall grant an exemption to the

applicant. The exemption shall be issued for a period of time that the Administrator determines to be appropriate, except that the period shall not exceed 2 years. The Administrator shall grant an exemption on the basis of evidence supplied to the Administrator that the manufacturer has been unable to commence manufacturing the rechargeable consumer product in compliance with the requirements of this section and with an equivalent level of product performance without the product—

(A) posing a threat to human health, safety, or the environment; or

(B) violating requirements for approvals from governmental agencies or widely recognized private standard-setting organizations (including Underwriters Laboratories).

(3) RENEWAL OF EXEMPTION.—A person granted an exemption under paragraph (2) may apply for a renewal of the exemption in accordance with the requirements and procedures described in paragraphs (1) and (2). The Administrator may grant a renewal of such an exemption for a period of not more than 2 years after the date of the granting of the renewal.

SEC. 104. REQUIREMENTS. 42 USC 14323.

(a) BATTERIES SUBJECT TO CERTAIN REGULATIONS.—The collection, storage, or transportation of used rechargeable batteries, batteries described in section 3(5)(C) or in title II, and used rechargeable consumer products containing rechargeable batteries that are not easily removable rechargeable batteries, shall, notwithstanding any law of a State or political subdivision thereof governing such collection, storage, or transportation, be regulated under applicable provisions of the regulations promulgated by the Environmental Protection Agency at 60 Fed. Reg. 25492 (May 11, 1995), as effective on May 11, 1995, except as provided in paragraph (2) of subsection (b) and except that—

(1) the requirements of 40 CFR 260.20, 260.40, and 260.41 and the equivalent requirements of an approved State program shall not apply, and

(2) this section shall not apply to any lead acid battery managed under 40 CFR 266 subpart G or the equivalent requirements of an approved State program.

(b) ENFORCEMENT UNDER SOLID WASTE DISPOSAL ACT.—(1) Any person who fails to comply with the requirements imposed by subsection (a) of this section may be subject to enforcement under applicable provisions of the Solid Waste Disposal Act.

(2) States may implement and enforce the requirements of subsection (a) if the Administrator finds that—

(A) the State has adopted requirements that are identical to those referred to in subsection (a) governing the collection, storage, or transportation of batteries referred to in subsection (a); and

(B) the State provides for enforcement of such requirements.

Mercury-Containing Battery Management Act.

TITLE II—MERCURY-CONTAINING BATTERY MANAGEMENT ACT

42 USC 14301 note.

SEC. 201. SHORT TITLE.

This title may be cited as the "Mercury-Containing Battery Management Act".

42 USC 14331.

SEC. 202. PURPOSE.

The purpose of this title is to phase out the use of batteries containing mercury.

42 USC 14332.

SEC. 203. LIMITATIONS ON THE SALE OF ALKALINE-MANGANESE BATTERIES CONTAINING MERCURY.

No person shall sell, offer for sale, or offer for promotional purposes any alkaline-manganese battery manufactured on or after the date of enactment of this Act, with a mercury content that was intentionally introduced (as distinguished from mercury that may be incidentally present in other materials), except that the limitation on mercury content in alkaline-manganese button cells shall be 25 milligrams of mercury per button cell.

42 USC 14333.

SEC. 204. LIMITATIONS ON THE SALE OF ZINC-CARBON BATTERIES CONTAINING MERCURY.

No person shall sell, offer for sale, or offer for promotional purposes any zinc-carbon battery manufactured on or after the date of enactment of this Act, that contains mercury that was intentionally introduced as described in section 203.

42 USC 14334.

SEC. 205. LIMITATIONS ON THE SALE OF BUTTON CELL MERCURIC-OXIDE BATTERIES.

No person shall sell, offer for sale, or offer for promotional purposes any button cell mercuric-oxide battery for use in the United States on or after the date of enactment of this Act.

42 USC 14335.

SEC. 206. LIMITATIONS ON THE SALE OF OTHER MERCURIC-OXIDE BATTERIES.

(a) PROHIBITION.—On or after the date of enactment of this Act, no person shall sell, offer for sale, or offer for promotional purposes a mercuric-oxide battery for use in the United States unless the battery manufacturer, or the importer of such a battery—

(1) identifies a collection site in the United States that has all required Federal, State, and local government approvals, to which persons may send used mercuric-oxide batteries for recycling or proper disposal;

(2) informs each of its purchasers of mercuric-oxide batteries of the collection site identified under paragraph (1); and

(3) informs each of its purchasers of mercuric-oxide batteries of a telephone number that the purchaser may call to get information about sending mercuric-oxide batteries for recycling or proper disposal.

(b) APPLICATION OF SECTION.—This section does not apply to a sale or offer of a mercuric-oxide button cell battery.

42 USC 14336.

SEC. 207. NEW PRODUCT OR USE.

On petition of a person that proposes a new use for a battery technology described in this title or the use of a battery described in this title in a new product, the Administrator may exempt

from this title the new use of the technology or the use of such a battery in the new product on the condition, if appropriate, that there exist reasonable safeguards to ensure that the resulting battery or product without an easily removable battery will not be disposed of in an incinerator, composting facility, or landfill (other than a facility regulated under subtitle C of the Solid Waste Disposal Act (42 U.S.C. 6921 et seq.)).

Approved May 13, 1996.

LEGISLATIVE HISTORY—H.R. 2024 (S. 619):

HOUSE REPORTS: No. 104–530 (Comm. on Commerce).
SENATE REPORTS: No. 104–136 accompanying S. 619 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD:
Vol. 141 (1995): Sept. 21, S. 619 considered and passed Senate.
Vol. 142 (1996): Apr. 23, H.R. 2024 considered and passed House.
Apr. 25, considered and passed Senate.

29-194 O - 96 - 18 : QL 3 Part 2

Public Law 104–143
104th Congress

An Act

May 15, 1996
[H.R. 2243]

To amend the Trinity River Basin Fish and Wildlife Management Act of 1984, to extend for three years the availability of moneys for the restoration of fish and wildlife in the Trinity River, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Trinity River Basin Fish and Wildlife Management Reauthorization Act of 1995. California.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Trinity River Basin Fish and Wildlife Management Reauthorization Act of 1995".

SEC. 2. CLARIFICATION OF FINDINGS.

Section 1 of the Act entitled "An Act to provide for the restoration of the fish and wildlife in the Trinity River Basin, California, and for other purposes", approved October 24, 1984 (98 Stat. 2721), as amended, is amended—

(1) by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively;

(2) by adding after paragraph (4) the following:

"(5) Trinity Basin fisheries restoration is to be measured not only by returning adult anadromous fish spawners, but by the ability of dependent tribal, commercial, and sport fisheries to participate fully, through enhanced in-river and ocean harvest opportunities, in the benefits of restoration;"; and

(3) by amending paragraph (7), as so redesignated, to read as follows:

"(7) the Secretary requires additional authority to implement a management program, in conjunction with other appropriate agencies, to achieve the long-term goals of restoring fish and wildlife populations in the Trinity River Basin, and, to the extent these restored populations will contribute to ocean populations of adult salmon, steelhead, and other anadromous fish, such management program will aid in the resumption of commercial, including ocean harvest, and recreational fishing activities.".

SEC. 3. CHANGES TO MANAGEMENT PROGRAM.

(a) OCEAN FISH LEVELS.—Section 2(a) of the Act entitled "An Act to provide for the restoration of the fish and wildlife in the Trinity River Basin, California, and for other purposes", approved October 24, 1984 (98 Stat. 2722), as amended, is amended—

(1) in the matter preceding paragraph (1)—

(A) by inserting ", in consultation with the Secretary of Commerce where appropriate," after "Secretary"; and

(B) by adding the following after "such levels.": "To the extent these restored fish and wildlife populations will contribute to ocean populations of adult salmon, steelhead, and other anadromous fish, such management program is intended to aid in the resumption of commercial, including ocean harvest, and recreational fishing activities.".

(b) FISH HABITATS IN THE KLAMATH RIVER.—Paragraph (1)(A) of such section (98 Stat. 2722) is amended by striking "Weitchpec;" and inserting "Weitchpec and in the Klamath River downstream of the confluence with the Trinity River;".

(c) TRINITY RIVER FISH HATCHERY.—Paragraph (1)(C) of such section (98 Stat. 2722) is amended by inserting before the period the following: ", so that it can best serve its purpose of mitigation of fish habitat loss above Lewiston Dam while not impairing efforts to restore and maintain naturally reproducing anadromous fish stocks within the basin".

(d) ADDITION OF INDIAN TRIBES.—Section 2(b)(2) of such Act (98 Stat. 2722) is amended by striking "tribe" and inserting "tribes".

SEC. 4. ADDITIONS TO TASK FORCE.

(a) IN GENERAL.—Section 3(a) of the Act entitled "An Act to provide for the restoration of the fish and wildlife in the Trinity River Basin, California, and for other purposes", approved October 24, 1984 (98 Stat. 2722), as amended, is amended—

(1) by striking "fourteen" and inserting "nineteen";

(2) by striking "United States Soil Conservation Service" in paragraph (10) and inserting "Natural Resources Soil and Conservation Service"; and

(3) by inserting after paragraph (14) the following:

"(15) One individual to be appointed by the Yurok Tribe.

"(16) One individual to be appointed by the Karuk Tribe.

"(17) One individual to represent commercial fishing interests, to be appointed by the Secretary after consultation with the Board of Directors of the Pacific Coast Federation of Fishermen's Associations.

"(18) One individual to represent sport fishing interests, to be appointed by the Secretary after consultation with the Board of Directors of the California Advisory Committee on Salmon and Steelhead Trout.

"(19) One individual to be appointed by the Secretary, in consultation with the Secretary of Agriculture, to represent the timber industry.".

(b) COORDINATION.—Section 3 of such Act (98 Stat. 2722) is further amended by adding at the end thereof the following new subsection:

"(d) Task Force actions or management on the Klamath River from Weitchpec downstream to the Pacific Ocean shall be coordinated with, and conducted with the full knowledge of, the Klamath River Basin Fisheries Task Force and the Klamath Fishery Management Council, as established under Public Law 99–552. The Secretary shall appoint a designated representative to ensure such coordination and the exchange of information between the Trinity River Task Force and these two entities.".

(c) REIMBURSEMENT.—Section 3(c)(2) of such Act (98 Stat. 2723) is amended by adding at the end the following: "Members of the Task Force who are not full-time officers or employees of the United States, the State of California (or a political subdivision thereof),

or an Indian tribe, may be reimbursed for such expenses as may be incurred by reason of their service on the Task Force, as consistent with applicable laws and regulations.".

(d) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to actions taken by the Trinity River Basin Fish and Wildlife Task Force on and after 120 days after the date of the enactment of this Act.

SEC. 5. APPROPRIATIONS.

(a) EXTENSION OF AUTHORIZATION.—Section 4(a) of the Act entitled "An Act to provide for the restoration of the fish and wildlife in the Trinity River Basin, California, and for other purposes", approved October 24, 1984 (98 Stat. 2723), as amended, is amended—

(1) in paragraph (1), by striking "October 1, 1995" and inserting in lieu thereof "October 1, 1998"; and

(2) in paragraph (2), by striking "ten-year" and inserting in lieu thereof "13-year".

(b) IN-KIND SERVICES; OVERHEAD; AND FINANCIAL AND AUDIT REPORTS.—Section 4 of such Act (98 Stat. 2724) is amended—

(1) by designating subsection (d) as subsection (h); and

(2) by inserting after subsection (c) the following new subsections:

"(d) The Secretary is authorized to accept in-kind services as payment for obligations incurred under subsection (b)(1).

"(e) Not more than 20 percent of the amounts appropriated under subsection (a) may be used for overhead and indirect costs. For the purposes of this subsection, the term 'overhead and indirect costs' means costs incurred in support of accomplishing specific work activities and jobs. Such costs are primarily administrative in nature and are such that they cannot be practically identified and charged directly to a project or activity and must be distributed to all jobs on an equitable basis. Such costs include compensation for administrative staff, general staff training, rent, travel expenses, communications, utility charges, miscellaneous materials and supplies, janitorial services, depreciation and replacement expenses on capitalized equipment. Such costs do not include inspection and design of construction projects and environmental compliance activities, including (but not limited to) preparation of documents in compliance with the National Environmental Policy Act of 1969.

"(f) Not later than December 31 of each year, the Secretary shall prepare reports documenting and detailing all expenditures incurred under this Act for the fiscal year ending on September 30 of that same year. Such reports shall contain information adequate for the public to determine how such funds were used to carry out the purposes of this Act. Copies of such reports shall be submitted to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

"(g) The Secretary shall periodically conduct a programmatic audit of the in-river fishery monitoring and enforcement programs under this Act and submit a report concerning such audit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.".

(c) AUTHORITY TO SEEK APPROPRIATIONS.—Section 4 of such Act, as amended by subsection (b) of this section, is further amended by inserting after subsection (h) the following new subsection:

"(i) Beginning in the fiscal year immediately following the year the restoration effort is completed and annually thereafter, the Secretary is authorized to seek appropriations as necessary to monitor, evaluate, and maintain program investments and fish and wildlife populations in the Trinity River Basin for the purpose of achieving long-term fish and wildlife restoration goals.".

SEC. 6. NO RIGHTS AFFECTED.

The Act entitled "An Act to provide for the restoration of the fish and wildlife in the Trinity River Basin, California, and for other purposes", approved October 24, 1984 (98 Stat. 2721), as amended, is further amended by inserting at the end thereof the following:

"PRESERVATION OF RIGHTS

"SEC. 5. Nothing in this Act shall be construed as establishing or affecting any past, present, or future rights of any Indian or Indian tribe or any other individual or entity.".

SEC. 7. SHORT TITLE OF 1984 ACT.

The Act entitled "An Act to provide for the restoration of the fish and wildlife in the Trinity River Basin, California, and for other purposes", approved October 24, 1984 (98 Stat. 2721), as amended by section 6 of this Act, is further amended by adding at the end the following:

"SHORT TITLE

"SEC. 6. This Act may be cited as the 'Trinity River Basin Fish and Wildlife Management Act of 1984'.". Trinity River Basin Fish and Wildlife Management Act of 1984.

Approved May 15, 1996.

LEGISLATIVE HISTORY—H.R. 2243:

HOUSE REPORTS: No. 104–395 (Comm. on Resources).
SENATE REPORTS: No. 104–253 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD:
Vol. 141 (1995): Dec. 12, considered and passed House.
Vol. 142 (1996): May 3, considered and passed Senate.

Public Law 104–144
104th Congress

An Act

May 16, 1996
[H.R. 2064]

To grant the consent of Congress to an amendment of the Historic Chattahoochee Compact between the States of Alabama and Georgia.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Historic preservation.

SECTION 1. CONSENT OF CONGRESS TO THE HISTORIC CHATTAHOOCHEE COMPACT BETWEEN THE STATES OF ALABAMA AND GEORGIA.

The consent of Congress is given to the amendment of articles I, II, and III of the Historic Chattahoochee Compact between the States of Alabama and Georgia, which articles, as amended, read as follows:

"ARTICLE I

"The purpose of this compact is to promote the cooperative development of the Chattahoochee valley's full potential for historic preservation and tourism and to establish a joint interstate authority to assist in these efforts.

"ARTICLE II

Effective date.

"This compact shall become effective immediately as to the States ratifying it whenever the States of Alabama and Georgia have ratified it and Congress has given consent thereto.

"ARTICLE III

Establishment.

"The States which are parties to this compact (hereinafter referred to as 'party States') do hereby establish and create a joint agency which shall be known as the Historic Chattahoochee Commission (hereinafter referred to as the 'Commission'). The Commission shall consist of 28 members who shall be bona fide residents and qualified voters of the party States and counties served by the Commission. Election for vacant seats shall be by majority vote of the voting members of the Commission board at a regularly scheduled meeting. In Alabama, two shall be residents of Barbour County, two shall be residents of Russell County, two shall be residents of Henry County, two shall be residents of Chambers County, two shall be residents of Lee County, two shall be residents of Houston County, and two shall be residents of Dale County. In Georgia, one shall be a resident of Troup County, one shall be a resident of Harris County, one shall be a resident of Muscogee County, one shall be a resident of Chattahoochee County, one shall be a resident of Stewart County, one shall be a resident

of Randolph County, one shall be a resident of Clay County, one shall be a resident of Quitman County, one shall be a resident of Early County, one shall be a resident of Seminole County, and one shall be a resident of Decatur County. In addition, there shall be three at-large members who shall be selected from any three of the Georgia member counties listed above. The Commission at its discretion may appoint as many advisory members as it deems necessary from any Georgia or Alabama County which is located in the Chattahoochee Valley area. The contribution of each party State shall be in equal amounts. If the party States fail to appropriate equal amounts to the Commission during any given fiscal year, voting membership on the Commission board shall be determined as follows: The State making the larger appropriation shall be entitled to full voting membership. The total number of members from the other State shall be divided into the amount of the larger appropriation and the resulting quotient shall be divided into the amount of the smaller appropriation. The then resulting quotient, rounded to the next lowest whole number, shall be the number of voting members from the State making the smaller contribution. The members of the Commission from the State making the larger contribution shall decide which of the members from the other State shall serve as voting members, based upon the level of tourism, preservation, promotional activity, and general support of the Commission's activities by and in the county of residence of each of the members of the State making the smaller appropriation. Such determination shall be made at the next meeting of the Commission following September 30 of each year. Members of the Commission shall serve for terms of office as follows: Of the 14 Alabama members, one from each of said counties shall serve for two years and the remaining member of each county shall serve for four years. Upon the expiration of the original terms of office of Alabama members, all successor Alabama members shall be appointed for four-year terms of office, with seven vacancies in the Alabama membership occurring every two years. Of the 14 Georgia members, seven shall serve four-year terms and seven two-year terms for the initial term of this compact. The terms of the individual Georgia voting members shall be determined by their place in the alphabet by alternating the four- and two-year terms beginning with Chattahoochee County, four years, Clay County, two years, Decatur County, four years, etc. Upon the expiration of the original terms of office of Georgia members, all successor Georgia members shall be appointed for four-year terms of office, with seven vacancies in the Georgia membership occurring every two years. Of the three Georgia at-large board members, one shall serve a four-year term and two shall serve two-year terms.

"All board members shall serve until their successors are appointed and qualified. Vacancies shall be filled by the voting members of the Commission. The first chairman of the commission created by this compact shall be elected by the board of directors from among its voting membership. Annually thereafter, each succeeding chairman shall be selected by the members of the Commission. The chairmanship shall rotate each year among the party States in order of their acceptance of this compact. Members of the Commission shall serve without compensation but shall be entitled to reimbursement for actual expenses incurred in the performance of the duties of the Commission.".

Approved May 16, 1996.

LEGISLATIVE HISTORY—H.R. 2064 (S. 848):

HOUSE REPORTS: No. 104–376 (Comm. on the Judiciary).
CONGRESSIONAL RECORD:
Vol. 141 (1995): Nov. 9, S. 848 considered and passed Senate.
Vol. 142 (1996): Mar. 12, H.R. 2064 considered and passed House.
May 3, considered and passed Senate.

Public Law 104–145
104th Congress

An Act

To amend the Violent Crime Control and Law Enforcement Act of 1994 to require the release of relevant information to protect the public from sexually violent offenders.

May 17, 1996
[H.R. 2137]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Megan's Law.

SECTION 1. SHORT TITLE.

42 USC 13701 note.

This Act may be cited as "Megan's Law".

SEC. 2. RELEASE OF INFORMATION AND CLARIFICATION OF PUBLIC NATURE OF INFORMATION.

Section 170101(d) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14071(d)) is amended to read as follows:

"(d) RELEASE OF INFORMATION.—

"(1) The information collected under a State registration program may be disclosed for any purpose permitted under the laws of the State.

"(2) The designated State law enforcement agency and any local law enforcement agency authorized by the State agency shall release relevant information that is necessary to protect the public concerning a specific person required to register under this section, except that the identity of a victim of an offense that requires registration under this section shall not be released.".

Approved May 17, 1996.

LEGISLATIVE HISTORY—H.R. 2137:

HOUSE REPORTS: No. 104–555 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 142 (1996):
May 7, considered and passed House.
May 9, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 32 (1996):
May 17, Presidential remarks.

Public Law 104–146
104th Congress

An Act

May 20, 1996
[S. 641]

An Act to amend the Public Health Service Act to revise and extend programs established pursuant to the Ryan White Comprehensive AIDS Resources Emergency Act of 1990.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Ryan White CARE Act Amendments of 1996.
42 USC 201 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Ryan White CARE Act Amendments of 1996".

SEC. 2. REFERENCES.

Whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act (42 U.S.C. 201 et seq.).

SEC. 3. GENERAL AMENDMENTS.

(a) PROGRAM OF GRANTS.—

(1) NUMBER OF CASES.—Section 2601(a) (42 U.S.C. 300ff–11) is amended—

(A) by striking "subject to subsection (b)" and inserting "subject to subsections (b) through (d)"; and

(B) by striking "metropolitan area" and all that follows and inserting the following: "metropolitan area for which there has been reported to the Director of the Centers for Disease Control and Prevention a cumulative total of more than 2,000 cases of acquired immune deficiency syndrome for the most recent period of 5 calendar years for which such data are available.".

(2) OTHER PROVISIONS REGARDING ELIGIBILITY.—Section 2601 (42 U.S.C. 300ff–11) is amended by adding at the end thereof the following new subsections:

"(c) REQUIREMENTS REGARDING POPULATION.—

"(1) NUMBER OF INDIVIDUALS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary may not make a grant under this section for a metropolitan area unless the area has a population of 500,000 or more individuals.

"(B) LIMITATION.—Subparagraph (A) does not apply to any metropolitan area that was an eligible area under this part for fiscal year 1995 or any prior fiscal year.

"(2) GEOGRAPHIC BOUNDARIES.—For purposes of eligibility under this part, the boundaries of each metropolitan area are

the boundaries that were in effect for the area for fiscal year 1994.

"(d) CONTINUED STATUS AS ELIGIBLE AREA.—Notwithstanding any other provision of this section, a metropolitan area that was an eligible area under this part for fiscal year 1996 is an eligible area for fiscal year 1997 and each subsequent fiscal year.".

(3) CONFORMING AMENDMENT REGARDING DEFINITION OF ELIGIBLE AREA.—Section 2607(1) (42 U.S.C. 300ff–17(1)) is amended by striking "The term" and all that follows and inserting the following: "The term 'eligible area' means a metropolitan area meeting the requirements of section 2601 that are applicable to the area.".

(b) EMERGENCY RELIEF FOR AREAS WITH SUBSTANTIAL NEED FOR SERVICES.—

(1) HIV HEALTH SERVICES PLANNING COUNCIL.—Subsection (b) of section 2602 (42 U.S.C. 300ff–12(b)) is amended—

(A) in paragraph (1)—

(i) by striking "include" and all that follows through the end thereof, and inserting "reflect in its composition the demographics of the epidemic in the eligible area involved, with particular consideration given to disproportionately affected and historically underserved groups and subpopulations."; and

(ii) by adding at the end thereof the following new sentences: "Nominations for membership on the council shall be identified through an open process and candidates shall be selected based on locally delineated and publicized criteria. Such criteria shall include a conflict-of-interest standard that is in accordance with paragraph (5).";

(B) in paragraph (2), by adding at the end thereof the following new subparagraph:

"(C) CHAIRPERSON.—A planning council may not be chaired solely by an employee of the grantee.";

(C) in paragraph (3)—

(i) in subparagraph (A), by striking "area;" and inserting "area, including how best to meet each such priority and additional factors that a grantee should consider in allocating funds under a grant based on the—

"(i) documented needs of the HIV-infected population;

"(ii) cost and outcome effectiveness of proposed strategies and interventions, to the extent that such data are reasonably available (either demonstrated or probable);

"(iii) priorities of the HIV-infected communities for whom the services are intended; and

"(iv) availability of other governmental and nongovernmental resources;";

(ii) by striking "and" at the end of subparagraph (B);

(iii) by striking the period at the end of subparagraph (C) and inserting ", and at the discretion of the planning council, assess the effectiveness, either directly or through contractual arrangements, of the services offered in meeting the identified needs;"; and

(iv) by adding at the end thereof the following new subparagraphs:

"(D) participate in the development of the statewide coordinated statement of need initiated by the State public health agency responsible for administering grants under part B; and

"(E) establish methods for obtaining input on community needs and priorities which may include public meetings, conducting focus groups, and convening ad-hoc panels.";

(D) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

(E) by inserting after paragraph (1), the following new paragraph:

"(2) REPRESENTATION.—The HIV health services planning council shall include representatives of—

"(A) health care providers, including federally qualified health centers;

"(B) community-based organizations serving affected populations and AIDS service organizations;

"(C) social service providers;

"(D) mental health and substance abuse providers;

"(E) local public health agencies;

"(F) hospital planning agencies or health care planning agencies;

"(G) affected communities, including people with HIV disease or AIDS and historically underserved groups and subpopulations;

"(H) nonelected community leaders;

"(I) State government (including the State medicaid agency and the agency administering the program under part B);

"(J) grantees under subpart II of part C;

"(K) grantees under section 2671, or, if none are operating in the area, representatives of organizations with a history of serving children, youth, women, and families living with HIV and operating in the area; and

"(L) grantees under other Federal HIV programs."; and

(F) by adding at the end thereof the following:

"(5) CONFLICTS OF INTEREST.—

"(A) IN GENERAL.—The planning council under paragraph (1) may not be directly involved in the administration of a grant under section 2601(a). With respect to compliance with the preceding sentence, the planning council may not designate (or otherwise be involved in the selection of) particular entities as recipients of any of the amounts provided in the grant.

"(B) REQUIRED AGREEMENTS.—An individual may serve on the planning council under paragraph (1) only if the individual agrees that if the individual has a financial interest in an entity, if the individual is an employee of a public or private entity, or if the individual is a member of a public or private organization, and such entity or organization is seeking amounts from a grant under section 2601(a), the individual will not, with respect to the purpose for which the entity seeks such amounts, participate

(directly or in an advisory capacity) in the process of selecting entities to receive such amounts for such purpose.

"(6) GRIEVANCE PROCEDURES.—A planning council under paragraph (1) shall develop procedures for addressing grievances with respect to funding under this part, including procedures for submitting grievances that cannot be resolved to binding arbitration. Such procedures shall be described in the by-laws of the planning council and be consistent with the requirements of subsection (c).

"(c) GRIEVANCE PROCEDURES.—

"(1) FEDERAL RESPONSIBILITY.—

"(A) MODELS.—The Secretary shall, through a process that includes consultations with grantees under this part and public and private experts in grievance procedures, arbitration, and mediation, develop model grievance procedures that may be implemented by the planning council under subsection (b)(1) and grantees under this part. Such model procedures shall describe the elements that must be addressed in establishing local grievance procedures and provide grantees with flexibility in the design of such local procedures.

"(B) REVIEW.—The Secretary shall review grievance procedures established by the planning council and grantees under this part to determine if such procedures are adequate. In making such a determination, the Secretary shall assess whether such procedures permit legitimate grievances to be filed, evaluated, and resolved at the local level.

"(2) GRANTEES.—To be eligible to receive funds under this part, a grantee shall develop grievance procedures that are determined by the Secretary to be consistent with the model procedures developed under paragraph (1)(A). Such procedures shall include a process for submitting grievances to binding arbitration.".

(2) DISTRIBUTION OF GRANTS.—Section 2603 (42 U.S.C. 300ff–13) is amended—

(A) in subsection (a)(2), by striking "Not later than—" and all that follows through "the Secretary shall" and inserting the following: "Not later than 60 days after an appropriation becomes available to carry out this part for each of the fiscal years 1996 through 2000, the Secretary shall"; and

(B) in subsection (b)

(i) in paragraph (1)—

(I) by striking "and" at the end of subparagraph (D);

(II) by striking the period at the end of subparagraph (E) and inserting a semicolon; and

(III) by adding at the end thereof the following new subparagraphs:

"(F) demonstrates the inclusiveness of the planning council membership, with particular emphasis on affected communities and individuals with HIV disease; and

"(G) demonstrates the manner in which the proposed services are consistent with the local needs assessment and the statewide coordinated statement of need."; and

(ii) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively; and

(iii) by inserting after paragraph (1), the following new paragraph:

"(2) DEFINITION.—

"(A) SEVERE NEED.—In determining severe need in accordance with paragraph (1)(B), the Secretary shall consider the ability of the qualified applicant to expend funds efficiently and the impact of relevant factors on the cost and complexity of delivering health care and support services to individuals with HIV disease in the eligible area, including factors such as—

"(i) sexually transmitted diseases, substance abuse, tuberculosis, severe mental illness, or other comorbid factors determined relevant by the Secretary;

"(ii) new or growing subpopulations of individuals with HIV disease; and

"(iii) homelessness.

"(B) PREVALENCE.—In determining the impact of the factors described in subparagraph (A), the Secretary shall, to the extent practicable, use national, quantitative incidence data that are available for each eligible area. Not later than 2 years after the date of enactment of this paragraph, the Secretary shall develop a mechanism to utilize such data. In the absence of such data, the Secretary may consider a detailed description and qualitative analysis of severe need, as determined under subparagraph (A), including any local prevalence data gathered and analyzed by the eligible area.

"(C) PRIORITY.—Subsequent to the development of the quantitative mechanism described in subparagraph (B), the Secretary shall phase in, over a 3-year period beginning in fiscal year 1998, the use of such a mechanism to determine the severe need of an eligible area compared to other eligible areas and to determine, in part, the amount of supplemental funds awarded to the eligible area under this part.".

(3) DISTRIBUTION OF FUNDS.—

(A) IN GENERAL.—Section 2603(a)(2) (42 U.S.C. 300ff–13(a)(2)) (as amended by paragraph (2)) is further amended—

(i) by inserting ", in accordance with paragraph (3)" before the period; and

(ii) by adding at the end thereof the following new sentences: "The Secretary shall reserve an additional percentage of the amount appropriated under section 2677 for a fiscal year for grants under part A to make grants to eligible areas under section 2601(a) in accordance with paragraph (4).".

(B) INCREASE IN GRANT.—Section 2603(a) (42 U.S.C. 300ff–13(a)) is amended by adding at the end thereof the following new paragraph:

"(4) INCREASE IN GRANT.—With respect to an eligible area under section 2601(a), the Secretary shall increase the amount of a grant under paragraph (2) for a fiscal year to ensure that such eligible area receives not less than—

"(A) with respect to fiscal year 1996, 100 percent;

"(B) with respect to fiscal year 1997, 99 percent;
"(C) with respect to fiscal year 1998, 98 percent;
"(D) with respect to fiscal year 1999, 96.5 percent; and
"(E) with respect to fiscal year 2000, 95 percent;
of the amount allocated for fiscal year 1995 to such entity under this subsection.".

(C) ADDITIONAL REQUIREMENTS FOR GRANTS.—Section 2603 (42 U.S.C. 300ff–13) is amended by adding at the end thereof the following subsection:

"(c) COMPLIANCE WITH PRIORITIES OF HIV PLANNING COUNCIL.—Notwithstanding any other provision of this part, the Secretary, in carrying out section 2601(a), may not make any grant under subsection (a) or (b) to an eligible area unless the application submitted by such area under section 2605 for the grant involved demonstrates that the grants made under subsections (a) and (b) to the area for the preceding fiscal year (if any) were expended in accordance with the priorities applicable to such year that were established, pursuant to section 2602(b)(3)(A), by the planning council serving the area.".

(4) USE OF AMOUNTS.—Section 2604 (42 U.S.C. 300ff–14) is amended—

(A) in subsection (b)(1)(A)—

(i) by inserting ", substance abuse treatment and mental health treatment," after "case management"; and

(ii) by inserting "which shall include treatment education and prophylactic treatment for opportunistic infections," after "treatment services,";

(B) in subsection (b)(2)(A)—

(i) by inserting ", or private for-profit entities if such entities are the only available provider of quality HIV care in the area," after "nonprofit private entities,"; and

(ii) by striking "and homeless health centers" and inserting "homeless health centers, substance abuse treatment programs, and mental health programs";

(C) by adding at the end of subsection (b), the following new paragraph:

"(3) PRIORITY FOR WOMEN, INFANTS AND CHILDREN.—For the purpose of providing health and support services to infants, children, and women with HIV disease, including treatment measures to prevent the perinatal transmission of HIV, the chief elected official of an eligible area, in accordance with the established priorities of the planning council, shall use, from the grants made for the area under section 2601(a) for a fiscal year, not less than the percentage constituted by the ratio of the population in such area of infants, children, and women with acquired immune deficiency syndrome to the general population in such area of individuals with such syndrome."; and

(C) in subsection (e)—

(i) in the subsection heading, by striking "AND PLANNING;

(ii) by striking "The chief" and inserting:

"(1) IN GENERAL.—The chief";

(iii) by striking "accounting, reporting, and program oversight functions";

(iv) by adding at the end thereof the following new sentence: "In the case of entities and subcontractors to which such officer allocates amounts received by the officer under the grant, the officer shall ensure that, of the aggregate amount so allocated, the total of the expenditures by such entities for administrative expenses does not exceed 10 percent (without regard to whether particular entities expend more than 10 percent for such expenses)."; and

(v) by adding at the end thereof the following new paragraphs:

"(2) ADMINISTRATIVE ACTIVITIES.—For the purposes of paragraph (1), amounts may be used for administrative activities that include—

"(A) routine grant administration and monitoring activities, including the development of applications for part A funds, the receipt and disbursal of program funds, the development and establishment of reimbursement and accounting systems, the preparation of routine programmatic and financial reports, and compliance with grant conditions and audit requirements; and

"(B) all activities associated with the grantee's contract award procedures, including the development of requests for proposals, contract proposal review activities, negotiation and awarding of contracts, monitoring of contracts through telephone consultation, written documentation or onsite visits, reporting on contracts, and funding reallocation activities.

"(3) SUBCONTRACTOR ADMINISTRATIVE COSTS.—For the purposes of this subsection, subcontractor administrative activities include—

"(A) usual and recognized overhead, including established indirect rates for agencies;

"(B) management oversight of specific programs funded under this title; and

"(C) other types of program support such as quality assurance, quality control, and related activities.".

(5) APPLICATION.—Section 2605 (42 U.S.C. 300ff–15) is amended—

(A) in subsection (a)—

(i) in the matter preceding paragraph (1), by inserting ", in accordance with subsection (c) regarding a single application and grant award," after "application";

(ii) in paragraph (1)(B), by striking "1-year period" and all that follows through "eligible area" and inserting "preceding fiscal year";

(iii) in paragraph (4), by striking "and" at the end thereof;

(iv) in paragraph (5), by striking the period at the end thereof and inserting "; and"; and

(v) by adding at the end thereof the following new paragraph:

"(6) that the applicant has participated, or will agree to participate, in the statewide coordinated statement of need

process where it has been initiated by the State public health agency responsible for administering grants under part B, and ensure that the services provided under the comprehensive plan are consistent with the statewide coordinated statement of need.";

(B) in subsection (b)—

(i) in the subsection heading, by striking "ADDITIONAL"; and

(ii) in the matter preceding paragraph (1), by striking "additional application" and inserting "application, in accordance with subsection (c) regarding a single application and grant award,"; and

(C) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(D) by inserting after subsection (b), the following new subsection:

"(c) SINGLE APPLICATION AND GRANT AWARD.—

"(1) APPLICATION.—The Secretary may phase in the use of a single application that meets the requirements of subsections (a) and (b) of section 2603 with respect to an eligible area that desires to receive grants under section 2603 for a fiscal year.

"(2) GRANT AWARD.—The Secretary may phase in the awarding of a single grant to an eligible area that submits an approved application under paragraph (1) for a fiscal year.".

(6) TECHNICAL ASSISTANCE.—Section 2606 (42 U.S.C. 300ff–16) is amended—

(A) by striking "may" and inserting "shall";

(B) by inserting after "technical assistance" the following: ", including assistance from other grantees, contractors or subcontractors under this title to assist newly eligible metropolitan areas in the establishment of HIV health services planning councils and,"; and

(C) by adding at the end thereof the following new sentences: "The Administrator may make planning grants available to metropolitan areas, in an amount not to exceed $75,000 for any metropolitan area, projected to be eligible for funding under section 2601 in the following fiscal year. Such grant amounts shall be deducted from the first year formula award to eligible areas accepting such grants. Not to exceed 1 percent of the amount appropriated for a fiscal year under section 2677 for grants under part A may be used to carry out this section.".

(c) CARE GRANT PROGRAM.—

(1) PRIORITY FOR WOMEN, INFANTS AND CHILDREN.—Section 2611 (42 U.S.C. 300ff–21) is amended—

(A) by striking "The" and inserting "(a) IN GENERAL.—The"; and

(B) by adding at the end thereof the following new subsection:

"(b) PRIORITY FOR WOMEN, INFANTS AND CHILDREN.—For the purpose of providing health and support services to infants, children, and women with HIV disease, including treatment measures to prevent the perinatal transmission of HIV, a State shall use, of the funds allocated under this part to the State for a fiscal year, not less than the percentage constituted by the ratio of the population in the State of infants, children, and women with

acquired immune deficiency syndrome to the general population in the State of individuals with such syndrome.".

(2) USE OF GRANTS.—Section 2612 (42 U.S.C. 300ff–22) is amended—

(A) in subsection (a)—

(i) by striking the subsection designation and heading;

(ii) by redesignating paragraphs (1) through (4) as paragraphs (2) through (5), respectively;

(iii) by inserting the following new paragraph:

"(1) to provide the services described in section 2604(b)(1) for individuals with HIV disease;";

(iv) in paragraph (5) (as so redesignated), by striking "treatments" and all that follows through "health," and inserting "therapeutics to treat HIV disease"; and

(v) by adding at the end thereof the following flush sentences:

"Services described in paragraph (1) shall be delivered through consortia designed as described in paragraph (2), where such consortia exist, unless the State demonstrates to the Secretary that delivery of such services would be more effective when other delivery mechanisms are used. In making a determination regarding the delivery of services, the State shall consult with appropriate representatives of service providers and recipients of services who would be affected by such determination, and shall include in its demonstration to the Secretary the findings of the State regarding such consultation."; and

(B) by striking subsection (b).

(2) HIV CARE CONSORTIA.—Section 2613 (42 U.S.C. 300ff–23) is amended—

(A) in subsection (a)—

(i) in paragraph (1), by inserting "(or private for-profit providers or organizations if such entities are the only available providers of quality HIV care in the area)" after "nonprofit private,"; and

(ii) in paragraph (2)(A)—

(I) by inserting "substance abuse treatment, mental health treatment," after "nursing,"; and

(II) by inserting "prophylactic treatment for opportunistic infections, treatment education to take place in the context of health care delivery," after "monitoring,"; and

(B) in subsection (c)—

(i) in subparagraph (C) of paragraph (1), by inserting before "care" "and youth centered"; and

(ii) in paragraph (2)—

(I) in clause (ii) of subparagraph (A), by striking "served; and" and inserting "served;";

(II) in subparagraph (B), by striking the period at the end and inserting "; and"; and

(III) by adding after subparagraph (B), the following new subparagraph:

"(C) grantees under section 2671, or, if none are operating in the area, representatives in the area of organizations with a history of serving children, youth, women, and families living with HIV.".

(3) PROVISION OF TREATMENTS.—Section 2616 (42 U.S.C. 300ff–26) is amended—

(A) in subsection (a)—

(i) by striking "may use amounts" and inserting "shall use a portion of the amounts";

(ii) by striking "section 2612(a)(4)" and all that follows through "prolong life" and inserting "section 2612(a)(5) to provide therapeutics to treat HIV disease"; and

(iii) by inserting before the period the following: ", including measures for the prevention and treatment of opportunistic infections";

(B) in subsection (c)—

(i) in paragraph (3), by striking "and" at the end thereof;

(ii) in paragraph (4), by striking the period and inserting "; and"; and

(iii) by adding at the end thereof the following new paragraph:

"(5) document the progress made in making therapeutics described in subsection (a) available to individuals eligible for assistance under this section."; and

(C) by adding at the end thereof the following new subsection:

"(d) DUTIES OF THE SECRETARY.—In carrying out this section, the Secretary shall review the current status of State drug reimbursement programs established under section 2612(2) and assess barriers to the expanded availability of the treatments described in subsection (a). The Secretary shall also examine the extent to which States coordinate with other grantees under this title to reduce barriers to the expanded availability of the treatments described in subsection (a).".

(4) STATE APPLICATION.—Section 2617(b) (42 U.S.C. 300ff–27(b)) is amended—

(A) in paragraph (2)—

(i) in subparagraph (A), by striking "and" at the end thereof; and

(ii) by adding at the end thereof the following new subparagraph:

"(C) a description of how the allocation and utilization of resources are consistent with the statewide coordinated statement of need (including traditionally underserved populations and subpopulations) developed in partnership with other grantees in the State that receive funding under this title; and";

(B) by redesignating paragraph (3) as paragraph (4);

(C) by inserting after paragraph (2), the following new paragraph:

"(3) an assurance that the public health agency administering the grant for the State will periodically convene a meeting of individuals with HIV, representatives of grantees under each part under this title, providers, and public agency representatives for the purpose of developing a statewide coordinated statement of need; and".

(5) PLANNING, EVALUATION AND ADMINISTRATION.—Section 2618(c) (42 U.S.C. 300ff–28(c)) is amended—

(A) by striking paragraph (1);

(B) in paragraphs (3) and (4), to read as follows:

"(3) PLANNING AND EVALUATIONS.—Subject to paragraph (5) and except as provided in paragraph (6), a State may not use more than 10 percent of amounts received under a grant awarded under this part for planning and evaluation activities.

"(4) ADMINISTRATION.—

"(A) IN GENERAL.—Subject to paragraph (5) and except as provided in paragraph (6), a State may not use more than 10 percent of amounts received under a grant awarded under this part for administration. In the case of entities and subcontractors to which the State allocates amounts received by the State under the grant (including consortia under section 2613), the State shall ensure that, of the aggregate amount so allocated, the total of the expenditures by such entities for administrative expenses does not exceed 10 percent (without regard to whether particular entities expend more than 10 percent for such expenses).

"(B) ADMINISTRATIVE ACTIVITIES.—For the purposes of subparagraph (A), amounts may be used for administrative activities that include routine grant administration and monitoring activities.

"(C) SUBCONTRACTOR ADMINISTRATIVE COSTS.—For the purposes of this paragraph, subcontractor administrative activities include—

"(i) usual and recognized overhead, including established indirect rates for agencies;

"(ii) management oversight of specific programs funded under this title; and

"(iii) other types of program support such as quality assurance, quality control, and related activities.";

(C) by redesignating paragraph (5) as paragraph (7); and

(D) by inserting after paragraph (4), the following new paragraphs:

"(5) LIMITATION ON USE OF FUNDS.—Except as provided in paragraph (6), a State may not use more than a total of 15 percent of amounts received under a grant awarded under this part for the purposes described in paragraphs (3) and (4).

"(6) EXCEPTION.—With respect to a State that receives the minimum allotment under subsection (a)(1) for a fiscal year, such State, from the amounts received under a grant awarded under this part for such fiscal year for the activities described in paragraphs (3) and (4), may, notwithstanding paragraphs (3), (4), and (5), use not more than that amount required to support one full-time-equivalent employee.".

(6) TECHNICAL ASSISTANCE.—Section 2619 (42 U.S.C. 300ff–29) is amended—

(A) by striking "may" and inserting "shall"; and

(B) by inserting before the period the following: ", including technical assistance for the development and implementation of statewide coordinated statements of need".

(7) COORDINATION.—Part B of title XXVI (42 U.S.C. 300ff–21 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 2621. COORDINATION. 42 USC 300ff–31.

"The Secretary shall ensure that the Health Resources and Services Administration, the Centers for Disease Control and Prevention, and the Substance Abuse and Mental Health Services Administration coordinate the planning and implementation of Federal HIV programs in order to facilitate the local development of a complete continuum of HIV-related services for individuals with HIV disease and those at risk of such disease. Not later than October 1, 1996, and biennially thereafter, the Secretary shall submit to the appropriate committees of the Congress a report concerning coordination efforts under this title at the Federal, State, and local levels, including a statement of whether and to what extent there exist Federal barriers to integrating HIV-related programs.". Reports.

(d) EARLY INTERVENTION SERVICES.—

(1) ESTABLISHMENT OF PROGRAM.—Section 2651(b) (42 U.S.C. 300ff–51(b)) is amended—

(A) in paragraph (1), by inserting before the period the following: ", and unless the applicant agrees to expend not less than 50 percent of the grant for such services that are specified in subparagraphs (B) through (E) of such paragraph for individuals with HIV disease"; and

(B) in paragraph (4)—

(i) by striking "The Secretary" and inserting "(A) IN GENERAL.—The Secretary";

(ii) by inserting ", or private for-profit entities if such entities are the only available provider of quality HIV care in the area," after "nonprofit private entities";

(iii) by realigning the margin of subparagraph (A) so as to align with the margin of paragraph (3)(A); and

(iv) by adding at the end thereof the following new subparagraph:

"(B) OTHER REQUIREMENTS.—Grantees described in—

"(i) paragraphs (1), (2), (5), and (6) of section 2652(a) shall use not less than 50 percent of the amount of such a grant to provide the services described in subparagraphs (A), (B), (D), and (E) of section 2651(b)(2) directly and on-site or at sites where other primary care services are rendered; and

"(ii) paragraphs (3) and (4) of section 2652(a) shall ensure the availability of early intervention services through a system of linkages to community-based primary care providers, and to establish mechanisms for the referrals described in section 2651(b)(2)(C), and for follow-up concerning such referrals.".

(2) MINIMUM QUALIFICATIONS.—Section 2652(b)(1)(B) (42 U.S.C. 300ff–52(b)(1)(B)) is amended by inserting ", or a private for-profit entity if such entity is the only available provider of quality HIV care in the area," after "nonprofit private entity".

(3) MISCELLANEOUS PROVISIONS.—Section 2654 (42 U.S.C. 300ff–54) is amended by adding at the end thereof the following new subsection:

"(c) PLANNING AND DEVELOPMENT GRANTS.—

"(1) IN GENERAL.—The Secretary may provide planning grants, in an amount not to exceed $50,000 for each such grant, to public and nonprofit private entities for the purpose

of enabling such entities to provide HIV early intervention services.

"(2) REQUIREMENT.—The Secretary may only award a grant to an entity under paragraph (1) if the Secretary determines that the entity will use such grant to assist the entity in qualifying for a grant under section 2651.

"(3) PREFERENCE.—In awarding grants under paragraph (1), the Secretary shall give preference to entities that provide primary care services in rural or underserved communities.

"(4) LIMITATION.—Not to exceed 1 percent of the amount appropriated for a fiscal year under section 2655 may be used to carry out this section.".

(4) AUTHORIZATION OF APPROPRIATIONS.—Section 2655 (42 U.S.C. 300ff–55) is amended by striking "$75,000,000" and all that follows through the end of the section, and inserting "such sums as may be necessary in each of the fiscal years 1996, 1997, 1998, 1999, and 2000.".

(5) REQUIRED AGREEMENTS.—Section 2664(g) (42 U.S.C. 300ff–64(g)) is amended—

(A) in paragraph (2), by striking "and" at the end thereof;

(B) in paragraph (3)—

(i) by striking "5 percent" and inserting "7.5 percent including planning and evaluation"; and

(ii) by striking the period and inserting "; and"; and

(C) by adding at the end thereof the following new paragraph:

"(4) the applicant will submit evidence that the proposed program is consistent with the statewide coordinated statement of need and agree to participate in the ongoing revision of such statement of need.".

(e) DEMONSTRATION GRANTS FOR RESEARCH AND SERVICES FOR PEDIATRIC PATIENTS.—Section 2671 (42 U.S.C. 300f–71) is amended to read as follows:

42 USC 300ff–71.

"SEC. 2671. GRANTS FOR COORDINATED SERVICES AND ACCESS TO RESEARCH FOR WOMEN, INFANTS, CHILDREN, AND YOUTH.

"(a) IN GENERAL.—The Secretary, acting through the Administrator of the Health Resources and Services Administration and in consultation with the Director of the National Institutes of Health, shall make grants to public and nonprofit private entities that provide primary care (directly or through contracts) for the following purposes:

"(1) Providing through such entities, in accordance with this section, opportunities for women, infants, children, and youth to be voluntary participants in research of potential clinical benefit to individuals with HIV disease.

"(2) In the case of women, infants, children, and youth with HIV disease, and the families of such individuals, providing to such individuals—

"(A) health care on an outpatient basis; and

"(B) additional services in accordance with subsection (d).

"(b) PROVISIONS REGARDING PARTICIPATION IN RESEARCH.—

"(1) IN GENERAL.—With respect to the projects of research with which an applicant under subsection (a) is concerned, the Secretary may make a grant under such subsection to the applicant only if the following conditions are met:

"(A) The applicant agrees to make reasonable efforts—

"(i) to identify which of the patients of the applicant are women, infants, children, and youth who would be appropriate participants in the projects;

"(ii) to carry out clause (i) through the use of criteria provided for such purpose by the entities that will be conducting the projects of research; and

"(iii) to offer women, infants, children, and youth the opportunity to participate in the projects (as appropriate), including the provision of services under subsection (d)(3).

"(B) The applicant agrees that, in the case of the research-related functions to be carried out by the applicant pursuant to subsection (a)(1), the applicant will comply with accepted standards that are applicable to such functions (including accepted standards regarding informed consent and other protections for human subjects).

"(C) For the first and second fiscal years for which grants under subsection (a) are to be made to the applicant, the applicant agrees that, not later than the end of the second fiscal year of receiving such a grant, a significant number of women, infants, children, and youth who are patients of the applicant will be participating in the projects of research.

"(D) Except as provided in paragraph (3) (and paragraph (4), as applicable), for the third and subsequent fiscal years for which such grants are to be made to the applicant, the Secretary has determined that a significant number of such individuals are participating in the projects.

"(2) PROHIBITION.—Receipt of services by a patient shall not be conditioned upon the consent of the patient to participate in research.

"(3) SIGNIFICANT PARTICIPATION; CONSIDERATION BY SECRETARY OF CERTAIN CIRCUMSTANCES.—In administering the requirement of paragraph (1)(D), the Secretary shall take into account circumstances in which a grantee under subsection (a) is temporarily unable to comply with the requirement for reasons beyond the control of the grantee, and shall in such circumstances provide to the grantee a reasonable period of opportunity in which to reestablish compliance with the requirement.

"(4) SIGNIFICANT PARTICIPATION; TEMPORARY WAIVER FOR ORIGINAL GRANTEES.—

"(A) IN GENERAL.—In the case of an applicant under subsection (a) who received a grant under such subsection for fiscal year 1995, the Secretary may, subject to subparagraph (B), provide to the applicant a waiver of the requirement of paragraph (1)(D) if the Secretary determines that the applicant is making reasonable progress toward meeting the requirement.

"(B) TERMINATION OF AUTHORITY FOR WAIVERS.—The Secretary may not provide any waiver under subparagraph (A) on or after October 1, 1998. Any such waiver provided

prior to such date terminates on such date, or on such earlier date as the Secretary may specify.

"(c) PROVISIONS REGARDING CONDUCT OF RESEARCH.—

"(1) IN GENERAL.—With respect to eligibility for a grant under subsection (a):

"(A) A project of research for which subjects are sought pursuant to such subsection may be conducted by the applicant for the grant, or by an entity with which the applicant has made arrangements for purposes of the grant. The grant may not be expended for the conduct of any project of research, except for such research-related functions as are appropriate for providing opportunities under subsection (a)(1) (including the functions specified in subsection (b)(1)).

"(B) The grant may be made only if the Secretary makes the following determinations:

"(i) The applicant or other entity (as the case may be under subparagraph (A)) is appropriately qualified to conduct the project of research. An entity shall be considered to be so qualified if any research protocol of the entity has been recommended for funding under this Act pursuant to technical and scientific peer review through the National Institutes of Health.

"(ii) The project of research is being conducted in accordance with a research protocol to which the Secretary gives priority regarding the prevention or treatment of HIV disease in women, infants, children, or youth, subject to paragraph (2).

"(2) LIST OF RESEARCH PROTOCOLS.—

"(A) IN GENERAL.—From among the research protocols described in paragraph (1)(B)(ii), the Secretary shall establish a list of research protocols that are appropriate for purposes of subsection (a)(1). Such list shall be established only after consultation with public and private entities that conduct such research, and with providers of services under subsection (a) and recipients of such services.

"(B) DISCRETION OF SECRETARY.—The Secretary may authorize the use, for purposes of subsection (a)(1), of a research protocol that is not included on the list under subparagraph (A). The Secretary may waive the requirement specified in paragraph (1)(B)(ii) in such circumstances as the Secretary determines to be appropriate.

"(d) ADDITIONAL SERVICES FOR PATIENTS AND FAMILIES.—A grant under subsection (a) may be made only if the applicant for the grant agrees as follows:

"(1) The applicant will provide for the case management of the patient involved and the family of the patient.

"(2) The applicant will provide for the patient and the family of the patient—

"(A) referrals for inpatient hospital services, treatment for substance abuse, and mental health services; and

"(B) referrals for other social and support services, as appropriate.

"(3) The applicant will provide the patient and the family of the patient with such transportation, child care, and other incidental services as may be necessary to enable the patient

and the family to participate in the program established by the applicant pursuant to such subsection.

"(e) COORDINATION WITH OTHER ENTITIES.—A grant under subsection (a) may be made only if the applicant for the grant agrees as follows:

"(1) The applicant will coordinate activities under the grant with other providers of health care services under this Act, and under title V of the Social Security Act.

"(2) The applicant will participate in the statewide coordinated statement of need under part B (where it has been initiated by the public health agency responsible for administering grants under part B) and in revisions of such statement.

"(f) APPLICATION.—A grant under subsection (a) may be made only if an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"(g) COORDINATION WITH NATIONAL INSTITUTES OF HEALTH.—The Secretary shall develop and implement a plan that provides for the coordination of the activities of the National Institutes of Health with the activities carried out under this section. In carrying out the preceding sentence, the Secretary shall ensure that projects of research conducted or supported by such Institutes are made aware of applicants and grantees under subsection (a), shall require that the projects, as appropriate, enter into arrangements for purposes of such subsection, and shall require that each project entering into such an arrangement inform the applicant or grantee under such subsection of the needs of the project for the participation of women, infants, children, and youth.

"(h) ANNUAL REVIEW OF PROGRAMS; EVALUATIONS.—

"(1) REVIEW REGARDING ACCESS TO AND PARTICIPATION IN PROGRAMS.—With respect to a grant under subsection (a) for an entity for a fiscal year, the Secretary shall, not later than 180 days after the end of the fiscal year, provide for the conduct and completion of a review of the operation during the year of the program carried out under such subsection by the entity. The purpose of such review shall be the development of recommendations, as appropriate, for improvements in the following:

"(A) Procedures used by the entity to allocate opportunities and services under subsection (a) among patients of the entity who are women, infants, children, or youth.

"(B) Other procedures or policies of the entity regarding the participation of such individuals in such program.

"(2) EVALUATIONS.—The Secretary shall, directly or through contracts with public and private entities, provide for evaluations of programs carried out pursuant to subsection (a).

"(i) TRAINING AND TECHNICAL ASSISTANCE.—Of the amounts appropriated under subsection (j) for a fiscal year, the Secretary may use not more than five percent to provide, directly or through contracts with public and private entities (which may include grantees under subsection (a)), training and technical assistance to assist applicants and grantees under subsection (a) in complying with the requirements of this section.

"(j) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated

such sums as may be necessary for each of the fiscal years 1996 through 2000.".

(f) EVALUATIONS AND REPORTS.—Section 2674 (42 U.S.C. 300ff–74) is amended—

(1) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking "not later than 1 year" and all that follows through "title," and inserting the following: "not later than October 1, 1996,";

(B) by striking paragraphs (1) through (3) and inserting the following paragraph:

"(1) evaluating the programs carried out under this title; and"; and

(C) by redesignating paragraph (4) as paragraph (2); and

(2) by adding at the end the following subsection:

"(d) ALLOCATION OF FUNDS.—The Secretary shall carry out this section with amounts available under section 241. Such amounts are in addition to any other amounts that are available to the Secretary for such purpose.".

(g) DEMONSTRATION AND TRAINING.—

(1) IN GENERAL.—Title XXVI is amended by adding at the end, the following new part:

"PART F—DEMONSTRATION AND TRAINING

"Subpart I—Special Projects of National Significance

42 USC 300ff–101.

"SEC. 2691. SPECIAL PROJECTS OF NATIONAL SIGNIFICANCE.

"(a) IN GENERAL.—Of the amount appropriated under each of parts A, B, C, and D of this title for each fiscal year, the Secretary shall use the greater of $20,000,000 or 3 percent of such amount appropriated under each such part, but not to exceed $25,000,000, to administer a special projects of national significance program to award direct grants to public and nonprofit private entities including community-based organizations to fund special programs for the care and treatment of individuals with HIV disease.

"(b) GRANTS.—The Secretary shall award grants under subsection (a) based on—

"(1) the need to assess the effectiveness of a particular model for the care and treatment of individuals with HIV disease;

"(2) the innovative nature of the proposed activity; and

"(3) the potential replicability of the proposed activity in other similar localities or nationally.

"(c) SPECIAL PROJECTS.—Special projects of national significance shall include the development and assessment of innovative service delivery models that are designed to—

"(1) address the needs of special populations;

"(2) assist in the development of essential community-based service delivery infrastructure; and

"(3) ensure the ongoing availability of services for Native American communities to enable such communities to care for Native Americans with HIV disease.

"(d) SPECIAL POPULATIONS.—Special projects of national significance may include the delivery of HIV health care and support services to traditionally underserved populations including—

"(1) individuals and families with HIV disease living in rural communities;

"(2) adolescents with HIV disease;

"(3) Indian individuals and families with HIV disease;

"(4) homeless individuals and families with HIV disease;

"(5) hemophiliacs with HIV disease; and

"(6) incarcerated individuals with HIV disease.

"(e) SERVICE DEVELOPMENT GRANTS.—Special projects of national significance may include the development of model approaches to delivering HIV care and support services including—

"(1) programs that support family-based care networks and programs that build organizational capacity critical to the delivery of care in minority communities;

"(2) programs designed to prepare AIDS service organizations and grantees under this title for operation within the changing health care environment; and

"(3) programs designed to integrate the delivery of mental health and substance abuse treatment with HIV services.

"(f) COORDINATION.—The Secretary may not make a grant under this section unless the applicant submits evidence that the proposed program is consistent with the statewide coordinated statement of need, and the applicant agrees to participate in the ongoing revision process of such statement of need.

"(g) REPLICATION.—The Secretary shall make information concerning successful models developed under this part available to grantees under this title for the purpose of coordination, replication, and integration. To facilitate efforts under this subsection, the Secretary may provide for peer-based technical assistance from grantees funded under this part.".

(2) REPEAL.—Subsection (a) of section 2618 (42 U.S.C. 300ff–28(a)) is repealed.

(h) HIV/AIDS COMMUNITIES, SCHOOLS, CENTERS.—

(1) NEW PART.—Part F of title XXVI (as added by subsection (e)) is further amended by adding at the end, the following new subpart:

"Subpart II—AIDS Education and Training Centers

"SEC. 2692. HIV/AIDS COMMUNITIES, SCHOOLS, AND CENTERS.". 42 USC 300ff–111.

(2) AMENDMENTS.—Section 776 (42 U.S.C. 294n) is amended—

(A) by striking the section heading; and

(B) in subsection (a)(1)—

(i) by striking subparagraphs (B) and (C);

(ii) by redesignating subparagraphs (A) and (D) as subparagraphs (B) and (C), respectively;

(iii) by inserting before subparagraph (B) (as so redesignated) the following new subparagraph:

"(A) training health personnel, including practitioners in title XXVI programs and other community providers, in the diagnosis, treatment, and prevention of HIV infection and disease, including the prevention of the perinatal trans-

mission of the disease and including measures for the prevention and treatment of opportunistic infections;"; and

(iv) in subparagraph (B) (as so redesignated) by adding "and" after the semicolon.

(3) TRANSFER.—Section 776 (42 U.S.C. 294n) (as amended by paragraph (2)) is amended by transferring such section to section 2692 (as added by paragraph (1)).

42 USC 300ff–111.

(4) AUTHORIZATION OF APPROPRIATIONS.—Section 2692 (as added by paragraph (1)) is amended by adding at the end thereof the following new subsection:

42 USC 300ff–111.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, such sums as may be necessary for each of the fiscal years 1996 through 2000.".

SEC. 4. AMOUNT OF EMERGENCY RELIEF GRANTS.

Paragraph (3) of section 2603(a) (42 U.S.C. 300ff–13(a)(3)) is amended to read as follows:

"(3) AMOUNT OF GRANT.—

"(A) IN GENERAL.—Subject to the extent of amounts made available in appropriations Acts, a grant made for purposes of this paragraph to an eligible area shall be made in an amount equal to the product of—

"(i) an amount equal to the amount available for distribution under paragraph (2) for the fiscal year involved; and

"(ii) the percentage constituted by the ratio of the distribution factor for the eligible area to the sum of the respective distribution factors for all eligible areas.

"(B) DISTRIBUTION FACTOR.—For purposes of subparagraph (A)(ii), the term 'distribution factor' means an amount equal to the estimated number of living cases of acquired immune deficiency syndrome in the eligible area involved, as determined under subparagraph (C).

"(C) ESTIMATE OF LIVING CASES.—The amount determined in this subparagraph is an amount equal to the product of—

"(i) the number of cases of acquired immune deficiency syndrome in the eligible area during each year in the most recent 120-month period for which data are available with respect to all eligible areas, as indicated by the number of such cases reported to and confirmed by the Director of the Centers for Disease Control and Prevention for each year during such period; and

"(ii) with respect to—

"(I) the first year during such period, .06;

"(II) the second year during such period, .06;

"(III) the third year during such period, .08;

"(IV) the fourth year during such period, .10;

"(V) the fifth year during such period, .16;

"(VI) the sixth year during such period, .16;

"(VII) the seventh year during such period, .24;

"(VIII) the eighth year during such period, .40;

"(IX) the ninth year during such period, .57; and

"(X) the tenth year during such period, .88.

The yearly percentage described in subparagraph (ii) shall be updated biennially by the Secretary, after consultation with the Centers for Disease Control and Prevention. The first such update shall occur prior to the determination of grant awards under this part for fiscal year 1998.

"(D) UNEXPENDED FUNDS.—The Secretary may, in determining the amount of a grant for a fiscal year under this paragraph, adjust the grant amount to reflect the amount of unexpended and uncanceled grant funds remaining at the end of the fiscal year preceding the year for which the grant determination is to be made. The amount of any such unexpended funds shall be determined using the financial status report of the grantee.".

SEC. 5. AMOUNT OF CARE GRANTS.

Paragraphs (1) and (2) of section 2618(b) (42 U.S.C. 300ff–28(b) (1) and (2)) are amended to read as follows:

"(1) MINIMUM ALLOTMENT.—Subject to the extent of amounts made available under section 2677, the amount of a grant to be made under this part for—

"(A) each of the several States and the District of Columbia for a fiscal year shall be the greater of—

"(i)(I) with respect to a State or District that has less than 90 living cases of acquired immune deficiency syndrome, as determined under paragraph (2)(D), $100,000; or

"(II) with respect to a State or District that has 90 or more living cases of acquired immune deficiency syndrome, as determined under paragraph (2)(D), $250,000;

"(ii) an amount determined under paragraph (2); and

"(B) each territory of the United States, as defined in paragraph (3), shall be an amount determined under paragraph (2).

"(2) DETERMINATION.—

"(A) FORMULA.—The amount referred to in paragraph (1)(A)(ii) for a State and paragraph (1)(B) for a territory of the United States shall be the product of—

"(i) an amount equal to the amount appropriated under section 2677 for the fiscal year involved for grants under part B, subject to subparagraph (H); and

"(ii) the percentage constituted by the sum of—

"(I) the product of .80 and the ratio of the State distribution factor for the State or territory (as determined under subsection (B)) to the sum of the respective State distribution factors for all States or territories; and

"(II) the product of .20 and the ratio of the non-EMA distribution factor for the State or territory (as determined under subparagraph (C)) to the sum of the respective distribution factors for all States or territories.

"(B) STATE DISTRIBUTION FACTOR.—For purposes of subparagraph (A)(ii)(I), the term 'State distribution factor' means an amount equal to the estimated number of living cases of acquired immune deficiency syndrome in the eligible area involved, as determined under subparagraph (D).

"(C) NON-EMA DISTRIBUTION FACTOR.—For purposes of subparagraph (A)(ii)(II), the term 'non-ema distribution factor' means an amount equal to the sum of—

"(i) the estimated number of living cases of acquired immune deficiency syndrome in the State or territory involved, as determined under subparagraph (D); less

"(ii) the estimated number of living cases of acquired immune deficiency syndrome in such State or territory that are within an eligible area (as determined under part A).

"(D) ESTIMATE OF LIVING CASES.—The amount determined in this subparagraph is an amount equal to the product of—

"(i) the number of cases of acquired immune deficiency syndrome in the State or territory during each year in the most recent 120-month period for which data are available with respect to all States and territories, as indicated by the number of such cases reported to and confirmed by the Director of the Centers for Disease Control and Prevention for each year during such period; and

"(ii) with respect to each of the first through the tenth year during such period, the amount referred to in section 2603(a)(3)(C)(ii).

"(E) PUERTO RICO, VIRGIN ISLANDS, GUAM.—For purposes of subparagraph (D), the cost index for Puerto Rico, the Virgin Islands, and Guam shall be 1.0.

"(F) UNEXPENDED FUNDS.—The Secretary may, in determining the amount of a grant for a fiscal year under this subsection, adjust the grant amount to reflect the amount of unexpended and uncanceled grant funds remaining at the end of the fiscal year preceding the year for which the grant determination is to be made. The amount of any such unexpended funds shall be determined using the financial status report of the grantee.

"(G) LIMITATION.—

"(i) IN GENERAL.—The Secretary shall ensure that the amount of a grant awarded to a State or territory for a fiscal year under this part is equal to not less than—

"(I) with respect to fiscal year 1996, 100 percent;

"(II) with respect to fiscal year 1997, 99 percent;

"(III) with respect to fiscal year 1998, 98 percent;

"(IV) with respect to fiscal year 1999, 96.5 percent; and

"(V) with respect to fiscal year 2000, 95 percent;

of the amount such State or territory received for fiscal year 1995 under this part. In administering this subparagraph, the Secretary shall, with respect to States that will receive grants in amounts that exceed the amounts that such States received under this part in fiscal year 1995, proportionally reduce such amounts to ensure compliance with this subparagraph. In making such reductions, the Secretary shall ensure that no such State receives less than that State received for fiscal year 1995.

"(ii) RATABLE REDUCTION.—If the amount appropriated under section 2677 and available for allocation under this part is less than the amount appropriated and available under this part for fiscal year 1995, the limitation contained in clause (i) shall be reduced by a percentage equal to the percentage of the reduction in such amounts appropriated and available.

"(H) APPROPRIATIONS FOR TREATMENT DRUG PROGRAM.—With respect to the fiscal year involved, if under section 2677 an appropriations Act provides an amount exclusively for carrying out section 2616, the portion of such amount allocated to a State shall be the product of—

"(i) 100 percent of such amount; and

"(ii) the percentage constituted by the ratio of the State distribution factor for the State (as determined under subparagraph (B)) to the sum of the State distribution factors for all States.".

SEC. 6. CONSOLIDATION OF AUTHORIZATIONS OF APPROPRIATIONS.

(a) IN GENERAL.—Part D of title XXVI (42 U.S.C. 300ff–71) is amended by adding at the end thereof the following new section:

"SEC. 2677. AUTHORIZATION OF APPROPRIATIONS. 42 USC 300ff–77.

"(a) IN GENERAL.—Subject to subsection (b), there are authorized to be appropriated to make grants under parts A and B, such sums as may be necessary for each of the fiscal years 1996 through 2000.

"(b) DEVELOPMENT OF METHODOLOGY.—

"(1) IN GENERAL.—With respect to each of the fiscal years 1997 through 2000, the Secretary shall develop and implement a methodology for adjusting the percentages allocated to part A and part B to account for grants to new eligible areas under part A and other relevant factors. Not later than July 1, 1996, the Secretary shall prepare and submit to the appropriate committees of Congress a report regarding the findings with respect to the methodology developed under this paragraph. Reports.

"(2) FAILURE TO IMPLEMENT.—If the Secretary determines that such a methodology under paragraph (1) cannot be developed, there are authorized to be appropriated—

"(A) such sums as may be necessary to carry out part A for each of the fiscal years 1997 through 2000; and

"(B) such sums as may be necessary to carry out part B for each of the fiscal years 1997 through 2000.".

(b) REPEALS.—Sections 2608 and 2620 (42 U.S.C. 300ff–18 and 300ff–30) are repealed.

(c) CONFORMING AMENDMENTS.—Title XXVI is amended—

(1) in section 2603 (42 U.S.C. 300ff–13)—

(A) in subsection (a)(2), by striking "2608" and inserting "2677"; and

(B) in subsection (b)(1), by striking "2608" and inserting "2677";

(2) in section 2605(c)(1) (42 U.S.C. 300ff–15(c)(1)) is amended by striking "2608" and inserting "2677"; and

(3) in section 2618 (42 U.S.C. 300ff–28)—

(A) in subsection (a)(1), is amended by striking "2620" and inserting "2677"; and

(B) in subsection (b)(1), is amended by striking "2620" and inserting "2677".

SEC. 7. PERINATAL TRANSMISSION OF HIV DISEASE.

42 USC 300ff–33 note.

(a) FINDINGS.—The Congress finds as follows:

(1) Research studies and statewide clinical experiences have demonstrated that administration of anti-retroviral medication during pregnancy can significantly reduce the transmission of the human immunodeficiency virus (commonly known as HIV) from an infected mother to her baby.

(2) The Centers for Disease Control and Prevention have recommended that all pregnant women receive HIV counseling; voluntary, confidential HIV testing; and appropriate medical treatment (including anti-retroviral therapy) and support services.

(3) The provision of such testing without access to such counseling, treatment, and services will not improve the health of the woman or the child.

(4) The provision of such counseling, testing, treatment, and services can reduce the number of pediatric cases of acquired immune deficiency syndrome, can improve access to and provision of medical care for the woman, and can provide opportunities for counseling to reduce transmission among adults, and from mother to child.

(5) The provision of such counseling, testing, treatment, and services can reduce the overall cost of pediatric cases of acquired immune deficiency syndrome.

(6) The cancellation or limitation of health insurance or other health coverage on the basis of HIV status should be impermissible under applicable law. Such cancellation or limitation could result in disincentives for appropriate counseling, testing, treatment, and services.

(7) For the reasons specified in paragraphs (1) through (6)—

(A) routine HIV counseling and voluntary testing of pregnant women should become the standard of care; and

(B) the relevant medical organizations as well as public health officials should issue guidelines making such counseling and testing the standard of care.

(b) ADDITIONAL REQUIREMENTS FOR GRANTS.—Part B of title XXVI (42 U.S.C. 300ff–21 et seq.) is amended—

(1) by inserting after the part heading the following:

"Subpart I—General Grant Provisions";

42 USC 300ff–21.

(2) in section 2611(a), by adding at the end the following sentence: "The authority of the Secretary to provide grants under part B is subject to section 2626(e)(2) (relating to the decrease in perinatal transmission of HIV disease)."; and

(3) by adding at the end thereof the following new subpart:

"Subpart II—Provisions Concerning Pregnancy and Perinatal Transmission of HIV

"SEC. 2625. CDC GUIDELINES FOR PREGNANT WOMEN. 42 USC 300ff–33.

"(a) REQUIREMENT.—Notwithstanding any other provision of law, a State shall, not later than 120 days after the date of enactment of this subpart, certify to the Secretary that such State has in effect regulations or measures to adopt the guidelines issued by the Centers for Disease Control and Prevention concerning recommendations for human immunodeficiency virus counseling and voluntary testing for pregnant women. Certification.

"(b) NONCOMPLIANCE.—If a State does not provide the certification required under subsection (a) within the 120-day period described in such subsection, such State shall not be eligible to receive assistance for HIV counseling and testing under this section until such certification is provided.

"(c) ADDITIONAL FUNDS REGARDING WOMEN AND INFANTS.—

"(1) IN GENERAL.—If a State provides the certification required in subsection (a) and is receiving funds under part B for a fiscal year, the Secretary may (from the amounts available pursuant to paragraph (2)) make a grant to the State for the fiscal year for the following purposes:

"(A) Making available to pregnant women appropriate counseling on HIV disease.

"(B) Making available outreach efforts to pregnant women at high risk of HIV who are not currently receiving prenatal care.

"(C) Making available to such women voluntary HIV testing for such disease.

"(D) Offsetting other State costs associated with the implementation of this section and subsections (a) and (b) of section 2626.

"(E) Offsetting State costs associated with the implementation of mandatory newborn testing in accordance with this title or at an earlier date than is required by this title.

"(2) FUNDING.—For purposes of carrying out this subsection, there are authorized to be appropriated $10,000,000 for each of the fiscal years 1996 through 2000. Amounts made available under section 2677 for carrying out this part are not available for carrying out this section unless otherwise authorized.

"(3) PRIORITY.—In awarding grants under this subsection the Secretary shall give priority to States that have the greatest proportion of HIV seroprevalance among child bearing women using the most recent data available as determined by the Centers for Disease Control and Prevention.

"SEC. 2626. PERINATAL TRANSMISSION OF HIV DISEASE; CONTINGENT REQUIREMENT REGARDING STATE GRANTS UNDER THIS PART. 42 USC 300ff–34.

"(a) ANNUAL DETERMINATION OF REPORTED CASES.—A State shall annually determine the rate of reported cases of AIDS as a result of perinatal transmission among residents of the State.

"(b) CAUSES OF PERINATAL TRANSMISSION.—In determining the rate under subsection (a), a State shall also determine the possible causes of perinatal transmission. Such causes may include—

"(1) the inadequate provision within the State of prenatal counseling and testing in accordance with the guidelines issued by the Centers for Disease Control and Prevention;

"(2) the inadequate provision or utilization within the State of appropriate therapy or failure of such therapy to reduce perinatal transmission of HIV, including—

"(A) that therapy is not available, accessible or offered to mothers; or

"(B) that available therapy is offered but not accepted by mothers; or

"(3) other factors (which may include the lack of prenatal care) determined relevant by the State.

"(c) CDC REPORTING SYSTEM.—Not later than 4 months after the date of enactment of this subpart, the Director of the Centers for Disease Control and Prevention shall develop and implement a system to be used by States to comply with the requirements of subsections (a) and (b). The Director shall issue guidelines to ensure that the data collected is statistically valid.

Guidelines.

Federal Register, publication.

"(d) DETERMINATION BY SECRETARY.—Not later than 180 days after the expiration of the 18-month period beginning on the date on which the system is implemented under subsection (c), the Secretary shall publish in the Federal Register a determination of whether it has become a routine practice in the provision of health care in the United States to carry out each of the activities described in paragraphs (1) through (5) of section 2627. In making the determination, the Secretary shall consult with the States and with other public or private entities that have knowledge or expertise relevant to the determination.

"(e) CONTINGENT APPLICABILITY.—

"(1) IN GENERAL.—If the determination published in the Federal Register under subsection (d) is that (for purposes of such subsection) the activities involved have become routine practices, paragraph (2) shall apply on and after the expiration of the 18-month period beginning on the date on which the determination is so published.

"(2) REQUIREMENT.—Subject to subsection (f), the Secretary shall not make a grant under part B to a State unless the State meets not less than one of the following requirements:

"(A) A 50 percent reduction (or a comparable measure for States with less than 10 cases) in the rate of new cases of AIDS (recognizing that AIDS is a suboptimal proxy for tracking HIV in infants and was selected because such data is universally available) as a result of perinatal transmission as compared to the rate of such cases reported in 1993 (a State may use HIV data if such data is available).

"(B) At least 95 percent of women in the State who have received at least two prenatal visits (consultations) prior to 34 weeks gestation with a health care provider or provider group have been tested for the human immunodeficiency virus.

"(C) The State has in effect, in statute or through regulations, the requirements specified in paragraphs (1) through (5) of section 2627.

"(f) LIMITATION REGARDING AVAILABILITY OF FUNDS.—With respect to an activity described in any of paragraphs (1) through (5) of section 2627, the requirements established by a State under this section apply for purposes of this section only to the extent that the following sources of funds are available for carrying out the activity:

"(1) Federal funds provided to the State in grants under part B or under section 2625, or through other Federal sources under which payments for routine HIV testing, counseling or treatment are an eligible use.

"(2) Funds that the State or private entities have elected to provide, including through entering into contracts under which health benefits are provided. This section does not require any entity to expend non-Federal funds.

"SEC. 2627. TESTING OF PREGNANT WOMEN AND NEWBORN INFANTS. 42 USC 300ff–35.

"An activity or requirement described in this section is any of the following:

"(1) In the case of newborn infants who are born in the State and whose biological mothers have not undergone prenatal testing for HIV disease, that each such infant undergo testing for such disease.

"(2) That the results of such testing of a newborn infant be promptly disclosed in accordance with the following, as applicable to the infant involved:

"(A) To the biological mother of the infant (without regard to whether she is the legal guardian of the infant).

"(B) If the State is the legal guardian of the infant:

"(i) To the appropriate official of the State agency with responsibility for the care of the infant.

"(ii) To the appropriate official of each authorized agency providing assistance in the placement of the infant.

"(iii) If the authorized agency is giving significant consideration to approving an individual as a foster parent of the infant, to the prospective foster parent.

"(iv) If the authorized agency is giving significant consideration to approving an individual as an adoptive parent of the infant, to the prospective adoptive parent.

"(C) If neither the biological mother nor the State is the legal guardian of the infant, to another legal guardian of the infant.

"(D) To the child's health care provider.

"(3) That, in the case of prenatal testing for HIV disease that is conducted in the State, the results of such testing be promptly disclosed to the pregnant woman involved.

"(4) That, in disclosing the test results to an individual under paragraph (2) or (3), appropriate counseling on the human immunodeficiency virus be made available to the individual (except in the case of a disclosure to an official of a State or an authorized agency).

"(5) With respect to State insurance laws, that such laws require—

"(A) that, if health insurance is in effect for an individual, the insurer involved may not (without the consent of the individual) discontinue the insurance, or alter the terms of the insurance (except as provided in subparagraph

(C)), solely on the basis that the individual is infected with HIV disease or solely on the basis that the individual has been tested for the disease or its manifestation;

"(B) that subparagraph (A) does not apply to an individual who, in applying for the health insurance involved, knowingly misrepresented the HIV status of the individual; and

"(C) that subparagraph (A) does not apply to any reasonable alteration in the terms of health insurance for an individual with HIV disease that would have been made if the individual had a serious disease other than HIV disease.

For purposes of this subparagraph, a statute or regulation shall be deemed to regulate insurance for purposes of this paragraph only to the extent that such statute or regulation is treated as regulating insurance for purposes of section 514(b)(2) of the Employee Retirement Income Security Act of 1974.

42 USC 300ff–36.

"SEC. 2628. REPORT BY THE INSTITUTE OF MEDICINE.

"(a) IN GENERAL.—The Secretary shall request that the Institute of Medicine of the National Academy of Sciences conduct an evaluation of the extent to which State efforts have been effective in reducing the perinatal transmission of the human immuno deficiency virus, and an analysis of the existing barriers to the further reduction in such transmission.

"(b) REPORT TO CONGRESS.—The Secretary shall ensure that, not later than 2 years after the date of enactment of this section, the evaluation and analysis described in subsection (a) is completed and a report summarizing the results of such evaluation and analysis is prepared by the Institute of Medicine and submitted to the appropriate committees of Congress together with the recommendations of the Institute.

42 USC 300ff–37.

"SEC. 2629. STATE HIV TESTING PROGRAMS ESTABLISHED PRIOR TO OR AFTER ENACTMENT.

"Nothing in this subpart shall be construed to disqualify a State from receiving grants under this title if such State has established at any time prior to or after the date of enactment of this subpart a program of mandatory HIV testing.".

42 USC 300ff–27a.

SEC. 8. SPOUSAL NOTIFICATION.

(a) IN GENERAL.—The Secretary of Health and Human Services shall not make a grant under part B of title XXVI of the Public Health Service Act (42 U.S.C. 300ff–21 et seq.) to any State unless such State takes administrative or legislative action to require that a good faith effort be made to notify a spouse of a known HIV-infected patient that such spouse may have been exposed to the human immunodeficiency virus and should seek testing.

(b) DEFINITIONS.—For purposes of this section:

(1) SPOUSE.—The term "spouse" means any individual who is the marriage partner of an HIV-infected patient, or who has been the marriage partner of that patient at any time within the 10-year period prior to the diagnosis of HIV infection.

(2) HIV-INFECTED PATIENT.—The term "HIV-infected patient" means any individual who has been diagnosed to be infected with the human immunodeficiency virus.

(3) STATE.—The term "State" means any of the 50 States, the District of Columbia, or any territory of the United States.

SEC. 9. OPTIONAL PARTICIPATION OF FEDERAL EMPLOYEES IN AIDS TRAINING PROGRAMS. 5 USC 4103 note.

(a) IN GENERAL.—Notwithstanding any other provision of law, a Federal employee may not be required to attend or participate in an AIDS or HIV training program if such employee refuses to consent to such attendance or participation, except for training necessary to protect the health and safety of the Federal employee and the individuals served by such employees. An employer may not retaliate in any manner against such an employee because of the refusal of such employee to consent to such attendance or participation.

(b) DEFINITION.—As used in subsection (a), the term "Federal employee" has the same meaning given the term "employee" in section 2105 of title 5, United States Code, and such term shall include members of the armed forces.

SEC. 10. PROHIBITION ON PROMOTION OF CERTAIN ACTIVITIES.

Part D of title XXVI of the Public Health Service Act (42 U.S.C. 300ff–71) as amended by section 6, is further amended by adding at the end thereof the following new section:

"SEC. 2678. PROHIBITION ON PROMOTION OF CERTAIN ACTIVITIES. 42 USC 300ff–78.

"None of the funds authorized under this title shall be used to fund AIDS programs, or to develop materials, designed to promote or encourage, directly, intravenous drug use or sexual activity, whether homosexual or heterosexual. Funds authorized under this title may be used to provide medical treatment and support services for individuals with HIV.".

SEC. 11. LIMITATION ON APPROPRIATIONS. 42 USC 300cc note.

Notwithstanding any other provision of law, the total amounts of Federal funds expended in any fiscal year for AIDS and HIV activities may not exceed the total amounts expended in such fiscal year for activities related to cancer.

SEC. 12. ADDITIONAL PROVISIONS.

(a) DEFINITIONS.—Section 2676(4) (42 U.S.C. 300ff–76(4)) is amended by inserting "funeral-service practitioners," after "emergency medical technicians,".

(b) MISCELLANEOUS AMENDMENT.—Section 1201(a) (42 U.S.C. 300d(a)) is amended in the matter preceding paragraph (1) by striking "The Secretary," and all that follows through "shall," and inserting "The Secretary shall,".

(c) TECHNICAL CORRECTIONS.—Title XXVI (42 U.S.C. 300ff–11 et seq.) is amended—

(1) in section 2601(a), by inserting "section" before "2604"; 42 USC 300ff–11.

(2) in section 2603(b)(4)(B), by striking "an expedited grants" and inserting "an expedited grant"; 42 USC 300ff–13.

(3) in section 2617(b)(3)(B)(iv), by inserting "section" before "2615"; 42 USC 300ff–27.

(4) in section 2647— 42 USC 300ff–47.

(A) in subsection (a)(1), by inserting "to" before "HIV";

(B) in subsection (c), by striking "section 2601" and inserting "section 2641"; and

(C) in subsection (d)—

(i) in the matter preceding paragraph (1), by striking "section 2601" and inserting "section 2641"; and

(ii) in paragraph (1), by striking "has in place" and inserting "will have in place";

42 USC 300ff–48. (5) in section 2648—

(A) by converting the heading for the section to boldface type; and

(B) by redesignating the second subsection (g) as subsection (h);

42 USC 300ff–49. (6) in section 2649—

(A) in subsection (b)(1), by striking "subsection (a) of"; and

(B) in subsection (c)(1), by striking "this subsection" and inserting "subsection";

42 USC 300ff–51. (7) in section 2651—

(A) in subsection (b)(3)(B), by striking "facility" and inserting "facilities"; and

(B) in subsection (c), by striking "exist" and inserting "exists";

42 USC 300ff–76. (8) in section 2676—

(A) in paragraph (2), by striking "section" and all that follows through "by the" and inserting "section 2686 by the"; and

(B) in paragraph (10), by striking "673(a)" and inserting "673(2)";

(9) in part E, by converting the headings for subparts I and II to Roman typeface; and

42 USC 300ff–84. (10) in section 2684(b), in the matter preceding paragraph (1), by striking "section 2682(d)(2)" and inserting "section 2683(d)(2)".

42 USC 300ff–11 note.

SEC. 13. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), this Act, and the amendments made by this Act, shall become effective on October 1, 1996.

(b) EXCEPTION.—The amendments made by sections 3(a), 5, 6, and 7 of this Act to sections 2601(c), 2601(d), 2603(a), 2618(b), 2626, 2677, and 2691 of the Public Health Service Act, shall become effective on the date of enactment of this Act.

Approved May 20, 1996.

LEGISLATIVE HISTORY—S. 641 (H.R. 1872):

HOUSE REPORTS: Nos. 104–245 accompanying H.R. 1872 (Comm. on Commerce) and 104–545 (Comm. of Conference).
SENATE REPORTS: No. 104–25 (Comm. on Labor and Human Resources).
CONGRESSIONAL RECORD:
Vol. 141 (1995): July 21, 26, 27, considered and passed Senate.
Sept. 18, H.R. 1872 considered and passed House; S. 641, amended, passed in lieu.
Vol. 142 (1996): May 1, House agreed to conference report.
May 2, Senate agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 32 (1996):
May 20, Presidential remarks and statement.

Public Law 104–147
104th Congress

An Act

To amend the Water Resources Research Act of 1984 to extend the authorizations of appropriations through fiscal year 2000, and for other purposes.

May 24, 1996
[H.R. 1743]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

Section 102 of the Water Resources Research Act of 1984 (42 U.S.C. 10301) is amended—

(1) in paragraph (2), by inserting ", productivity of natural resources and agricultural systems," after "environmental quality";

(2) in paragraph (6), by striking "and" at the end;

(3) in paragraph (7), by striking the period at the end and inserting "; and"; and

(4) by adding at the end the following:

"(8) long-term planning and policy development are essential to ensure the availability of an abundant supply of high quality water for domestic and other uses; and

"(9) the States must have the research and problem-solving capacity necessary to effectively manage their water resources.".

SEC. 2. PURPOSE.

Section 103 of the Water Resources Research Act of 1984 (42 U.S.C. 10302) is amended—

(1) in paragraph (5)—

(A) by striking "to"; and

(B) by striking "and" at the end;

(2) in paragraph (6), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(7) encourage long-term planning and research to meet future water management, quality, and supply challenges.".

SEC. 3. GRANTS; MATCHING FUNDS.

Section 104(c) of the Water Resources Research Act of 1984 (42 U.S.C. 10303(c)) is amended by striking "one non-Federal dollar" and all that follows through "thereafter" and inserting "2 non-Federal dollars for every 1 Federal dollar".

SEC. 4. GENERAL AUTHORIZATIONS OF APPROPRIATIONS.

Section 104(f)(1) of the Water Resources Research Act of 1984 (42 U.S.C. 10303(f)(1)) is amended by striking "of $10,000,000 for each of the fiscal years ending September 30, 1989, through September 30, 1995," and inserting "of $5,000,000 for fiscal year 1996, $7,000,000 for each of fiscal years 1997 and 1998, and $9,000,000 for each of fiscal years 1999 and 2000".

SEC. 5. AUTHORIZATION OF APPROPRIATIONS FOR RESEARCH FOCUSED ON WATER PROBLEMS OF INTERSTATE NATURE.

The first sentence of section 104(g)(1) of the Water Resources Research Act of 1984 (42 U.S.C. 10303(g)(1)) is amended by striking "of $5,000,000 for each of the fiscal years 1991, 1992, 1993, 1994, and 1995" and inserting "of $3,000,000 for each of fiscal years 1996 through 2000".

SEC. 6. COORDINATION.

Section 104 of the Water Resources Research Act of 1984 (42 U.S.C. 10303) is amended by adding at the end the following:

"(h) COORDINATION.—

"(1) IN GENERAL.—To carry out this Act, the Secretary—

"(A) shall encourage other Federal departments, agencies (including agencies within the Department of the Interior), and instrumentalities to use and take advantage of the expertise and capabilities that are available through the institutes established by this section, on a cooperative or other basis;

"(B) shall encourage cooperation and coordination with other Federal programs concerned with water resources problems and issues;

"(C) may enter into contracts, cooperative agreements, and other transactions without regard to section 3709 of the Revised Statutes (41 U.S.C. 5);

"(D) may accept funds from other Federal departments, agencies (including agencies within the Department of the Interior), and instrumentalities to pay for and add to grants made, and contracts entered into, by the Secretary;

"(E) may promulgate such regulations as the Secretary considers appropriate; and

"(F) may support a program of internships for qualified individuals at the undergraduate and graduate levels to carry out the educational and training objectives of this Act.

"(2) REPORT.—The Secretary shall report to Congress annually on coordination efforts with other Federal departments, agencies, and instrumentalities under paragraph (1).

"(3) RELATIONSHIP TO STATE RIGHTS.—Nothing in this Act shall preempt the rights and authorities of any State with respect to its water resources or management of those resources.".

Approved May 24, 1996.

LEGISLATIVE HISTORY—H.R. 1743:

HOUSE REPORTS: No. 104–242 (Comm. on Resources).
SENATE REPORTS: No. 104–252 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD:
Vol. 141 (1995): Oct. 17, considered and passed House.
Vol. 142 (1996): May 3, considered and passed Senate.
May 14, House concurred in Senate amendment.

Public Law 104–148
104th Congress

An Act

May 24, 1996
[H.R. 1836]

To authorize the Secretary of the Interior to acquire property in the town of East Hampton, Suffolk County, New York, for inclusion in the Amagansett National Wildlife Refuge.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

16 USC 668dd note.

SECTION 1. AUTHORITY TO ACQUIRE PROPERTY FOR INCLUSION IN THE AMAGANSETT NATIONAL WILDLIFE REFUGE.

(a) AUTHORITY TO ACQUIRE PROPERTY.—The Secretary of the Interior may acquire, for inclusion in the Amagansett National Wildlife Refuge, the area known as the Shadmoor Parcel, consisting of approximately 98 acres (as determined by the Secretary) located along the Atlantic Ocean adjacent to municipal park land in the town of East Hampton, Suffolk County, New York.

(b) MANAGEMENT OF ACQUIRED INTERESTS.—Lands and interests acquired by the United States under this section shall be managed by the Secretary of the Interior as part of the Amagansett National Wildlife Refuge.

16 USC 3503 note.

SEC. 2. CORRECTIONS TO COASTAL BARRIER RESOURCES MAP.

(a) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the Secretary of the Interior shall make such corrections to the map described in subsection (b) as are necessary—

(1) to move the eastern boundary of the excluded area covering Ocean Beach, Seaview, Ocean Bay Park, and part of Point O'Woods to the western boundary of the Sunken Forest Preserve; and

(2) to ensure that the depiction of areas as "otherwise protected areas" does not include any area that is owned by the Point O'Woods Association (a privately held corporation under the laws of the State of New York).

(b) MAP DESCRIBED.—The map described in this subsection is the map that is included in a set of maps entitled "Coastal Barrier Resources System", dated October 24, 1990, that relates to the unit of the Coastal Barrier Resources System entitled "Fire Island Unit NY–59P".

Approved May 24, 1996.

LEGISLATIVE HISTORY—H.R. 1836 (S. 1422):

HOUSE REPORTS: No. 104–529 (Comm. on Resources).
SENATE REPORTS: No. 104–255 accompanying S. 1422 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD, Vol. 142 (1996):
Apr. 23, considered and passed House.
May 3, considered and passed Senate, amended.
May 14, House concurred in Senate amendment.

Public Law 104–149
104th Congress

An Act

To amend the National School Lunch Act to provide greater flexibility to schools to meet the Dietary Guidelines for Americans under the school lunch and school breakfast programs.

May 29, 1996
[H.R. 2066]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Healthy Meals for Children Act.
42 USC 1751 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Healthy Meals for Children Act".

SEC. 2. INCREASED FLEXIBILITY FOR SCHOOLS TO MEET THE DIETARY GUIDELINES FOR AMERICANS UNDER THE NATIONAL SCHOOL LUNCH ACT.

Section 9(f)(2) of the National School Lunch Act (42 U.S.C. 1758(f)(2)) is amended by striking subparagraph (D) and inserting the following:

"(D) USE OF ANY REASONABLE APPROACH.—

"(i) IN GENERAL.—A school food service authority may use any reasonable approach, within guidelines established by the Secretary in a timely manner, to meet the requirements of this paragraph, including—

"(I) using the school nutrition meal pattern in effect for the 1994–1995 school year; and

"(II) using any of the approaches described in subparagraph (C).

"(ii) NUTRIENT ANALYSIS.—The Secretary may not require a school to conduct or use a nutrient analysis to meet the requirements of this paragraph.".

Approved May 29, 1996.

LEGISLATIVE HISTORY—H.R. 2066:

HOUSE REPORTS: No. 104–561 (Comm. on Economic and Educational Opportunities).

CONGRESSIONAL RECORD, Vol. 142 (1996):

May 14, considered and passed House.

May 16, considered and passed Senate.

Public Law 104–150
104th Congress

An Act

June 3, 1996
[H.R. 1965]

To reauthorize the Coastal Zone Management Act of 1972, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Coastal Zone Protection Act of 1996.
16 USC 1451 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Coastal Zone Protection Act of 1996".

SEC. 2. FINANCIAL ASSISTANCE FOR DEVELOPMENT OF STATE COASTAL PROGRAMS.

(a) REAUTHORIZATION OF PROGRAM.—Section 305(a) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1454(a)) is amended—

(1) by striking "1991, 1992, and 1993" and inserting "1997, 1998, and 1999"; and

(2) by striking "two" and inserting "four".

(b) TERMINATION OF PROGRAM.—

(1) IN GENERAL.—Section 305 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1454) is amended—

(A) by striking subsection (a);

(B) by striking "(b)"; and

(C) by amending the heading to read as follows:

"SUBMITTAL OF STATE PROGRAM FOR APPROVAL".

16 USC 1456a.

(2) CONFORMING AMENDMENTS.—Section 308(b)(2)(B) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1457(b)(2)(B)) is amended—

(A) in clause (iv) by adding "and" after the semicolon;

(B) by striking clause (v); and

(C) by redesignating clause (vi) as clause (v).

16 USC 1454 note.

(3) EFFECTIVE DATE.—This subsection shall take effect on October 1, 1999.

SEC. 3. IMPLEMENTATION ASSISTANCE FOR COASTAL ZONE ENHANCEMENT.

Section 309(b) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456b(b)) is amended—

(1) by inserting "(1)" before "Subject to"; and

(2) by adding at the end the following new paragraph:

"(2)(A) In addition to any amounts provided under section 306, and subject to the availability of appropriations, the Secretary may make grants under this subsection to States for implementing program changes approved by the Secretary in accordance with section 306(e).

"(B) Grants under this paragraph to implement a program change may not be made in any fiscal year after the second fiscal year that begins after the approval of that change by the Secretary.".

SEC. 4. AUTHORIZATION OF APPROPRIATIONS FOR GRANTS.

Section 318 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1464) is amended—

(1) by striking "SEC. 318." and all that follows through subsection (a) and inserting the following:

"SEC. 318. (a) There are authorized to be appropriated to the Secretary, to remain available until expended—

"(1) for grants under sections 306, 306A, and 309—

"(A) $47,600,000 for fiscal year 1997;

"(B) $49,000,000 for fiscal year 1998; and

"(C) $50,500,000 for fiscal year 1999; and

"(2) for grants under section 315—

"(A) $4,400,000 for fiscal year 1997;

"(B) $4,500,000 for fiscal year 1998; and

"(C) $4,600,000 for fiscal year 1999.";

(2) by striking subsection (b); and

(3) by redesignating subsections (c) and (d) in order as subsections (b) and (c).

SEC. 5. COASTAL ZONE MANAGEMENT FUND.

(a) AUTHORIZATION FOR ADMINISTRATIVE EXPENSES.—Section 308(b)(2)(A) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456a(b)(2)(A)) is amended to read as follows:

"(A) Expenses incident to the administration of this title, in an amount not to exceed for each of fiscal years 1997, 1998, and 1999 the higher of—

"(i) $4,000,000; or

"(ii) 8 percent of the total amount appropriated under this title for the fiscal year.".

(b) AUTHORIZATION FOR PROGRAM DEVELOPMENT GRANTS.—Section 308(b)(2)(B)(v) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456a(b)(2)(B)(v)) is amended to read as follows:

"(v) program development grants as authorized by section 305, in an amount not to exceed $200,000 for each of fiscal years 1997, 1998, and 1999; and".

SEC. 6. MATCHING REQUIREMENT.

Section 315(e)(3) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1461(e)(3)) is amended by adding at the end the following new subparagraph:

"(C) Notwithstanding subparagraphs (A) and (B), financial assistance under this subsection provided from amounts recovered as a result of damage to natural resources located in the coastal zone may be used to pay 100 percent of the costs of activities carried out with the assistance.".

SEC. 7. AQUACULTURE IN THE COASTAL ZONE.

The Coastal Zone Management Act of 1972 is amended—

(1) in section 306A(b) (16 U.S.C. 1455a(b)) by adding at the end of the following:

"(4) The development of a coordinated process among State agencies to regulate and issue permits for aquaculture facilities in the coastal zone."; and

(2) in section 309(a) (16 U.S.C. 1456b(a)) by adding at the end the following:

"(9) Adoption of procedures and policies to evaluate and facilitate the siting of public and private aquaculture facilities in the coastal zone, which will enable States to formulate, administer, and implement strategic plans for marine aquaculture.".

SEC. 8. APPEALS TO THE SECRETARY.

The Coastal Zone Management Act of 1972 is amended by adding at the end the following new section:

"APPEALS TO THE SECRETARY

Federal Register, publication. 16 USC 1465.

"SEC. 319. (a) NOTICE.—The Secretary shall publish in the Federal Register a notice indicating when the decision record has been closed on any appeal to the Secretary taken from a consistency determination under section 307(c) or (d). No later than 90 days after the date of publication of this notice, the Secretary shall—

"(1) issue a final decision in the appeal; or

"(2) publish a notice in the Federal Register detailing why a decision cannot be issued within the 90-day period.

"(b) DEADLINE.—In the case where the Secretary publishes a notice under subsection (a)(2), the Secretary shall issue a decision in any appeal filed under section 307 no later than 45 days after the date of the publication of the notice.

"(c) APPLICATION.—This section applies to appeals initiated by the Secretary and appeals filed by an applicant.".

Approved June 3, 1996.

LEGISLATIVE HISTORY—H.R. 1965:

HOUSE REPORTS: No. 104–521 (Comm. on Resources).
CONGRESSIONAL RECORD, Vol. 142 (1996):
Apr. 23, considered and passed House.
May 21, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 32 (1996):
June 3, Presidential statement.

Public Law 104–151
104th Congress

An Act

To designate the United States courthouse in Washington, District of Columbia, as the "E. Barrett Prettyman United States Courthouse".

July 1, 1996
[H.R. 3029]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF COURTHOUSE.

40 USC 129a note.

The United States courthouse located at 3rd Street and Constitution Avenue, Northwest, in Washington, District of Columbia, shall be designated and known as the "E. Barrett Prettyman United States Courthouse".

SEC. 2. REFERENCES.

40 USC 129a note.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States courthouse referred to in section 1 shall be deemed to be a reference to the "E. Barrett Prettyman United States Courthouse".

Approved July 1, 1996.

LEGISLATIVE HISTORY—H.R. 3029 (S. 1510):

HOUSE REPORTS: No. 104–588 (Comm. on Transportation and Infrastructure).
CONGRESSIONAL RECORD, Vol. 142 (1996):
Feb. 7, S. 1510 considered and passed Senate.
June 10, H.R. 3029 considered and passed House.
June 18, considered and passed Senate.

Public Law 104–152
104th Congress

An Act

July 2, 1996
[H.R. 2803]

To amend the anti-car theft provisions of title 49, United States Code, to increase the utility of motor vehicle title information to State and Federal law enforcement officials, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Anti-Car Theft Improvements Act of 1996.
49 USC 30101 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Anti-Car Theft Improvements Act of 1996".

SEC. 2. SYSTEM NAME AND IMPLEMENTATION DATE.

(a) SYSTEM DATE.—Section 30502(a)(1) of title 49, United States Code, is amended by striking "January 31, 1996" and inserting "December 31, 1997".

(b) SECTION 30503.—Section 30503(d) of title 49, United States Code, is amended by striking "January 1, 1997" and inserting "October 1, 1998".

(c) SYSTEM NAME.—Chapter 305 of title 49, United States Code, is amended by striking "National Automobile Title Information System" each place it occurs in the chapter heading, the table of sections for chapter 305, the section heading for section 30502, and in the texts of sections 30502 and 30503 and inserting "National Motor Vehicle Title Information System".

SEC. 3. DELEGATION OF AUTHORITY.

(a) SECRETARY OF TRANSPORTATION.—Sections 30501, 30502, 30503, 30504, and 30505 of title 49, United States Code, are each amended by striking each reference to "Secretary of Transportation" or "Secretary" and inserting "Attorney General".

(b) ATTORNEY GENERAL.—Section 30502 of title 49, United States Code, is amended by striking each reference to "Attorney General" and inserting "Secretary of Transportation".

SEC. 4. TITLE INFORMATION SYSTEM.

Section 30502 of title 49, United States Code, is amended by adding at the end the following:

"(f) IMMUNITY.—Any person performing any activity under this section or sections 30503 or 30504 in good faith and with the reasonable belief that such activity was in accordance with this section or section 30503 or 30504, as the case may be, shall be immune from any civil action respecting such activity which is seeking money damages or equitable relief in any court of the United States or a State.".

SEC. 5. STOLEN VEHICLE INFORMATION SYSTEM.

Section 33109 of title 49, United States Code, is amended by adding at the end the following:

"(d) IMMUNITY.—Any person performing any activity under this section or section 33110 or 33111 in good faith and with the reasonable belief that such activity was in accordance with such section shall be immune from any civil action respecting such activity which is seeking money damages or equitable relief in any court of the United States or a State.".

SEC. 6. GRANTS TO STATES.

(a) AMENDMENT.—Section 30503(c)(2) of title 49, United States Code, is amended to read as follows:

"(2) The Attorney General may make reasonable and necessary grants to participating States to be used in making titling information maintained by those States available to the operator.".

(b) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to carry out sections 30503 and 33109 of title 49, United States Code.

(c) INFORMATION SYSTEM.—The information system established under section 30502 of title 49, United States Code, shall be effective as provided in the rules promulgated by the Attorney General. 49 USC 30502 note.

Approved July 2, 1996.

LEGISLATIVE HISTORY—H.R. 2803:

HOUSE REPORTS: No. 104–618 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 142 (1996):
June 18, considered and passed House.
June 20, considered and passed Senate.

Public Law 104–153
104th Congress

An Act

July 2, 1996
[S. 1136]

To control and prevent commercial counterfeiting, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Anticounterfeiting Consumer Protection Act of 1996.
Law enforcement and crime.
18 USC 2311 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Anticounterfeiting Consumer Protection Act of 1996".

18 USC 2311 note.

SEC. 2. FINDINGS.

The counterfeiting of trademarked and copyrighted merchandise—

(1) has been connected with organized crime;

(2) deprives legitimate trademark and copyright owners of substantial revenues and consumer goodwill;

(3) poses health and safety threats to United States consumers;

(4) eliminates United States jobs; and

(5) is a multibillion-dollar drain on the United States economy.

SEC. 3. COUNTERFEITING AS RACKETEERING.

Section 1961(1)(B) of title 18, United States Code, is amended by inserting ", section 2318 (relating to trafficking in counterfeit labels for phonorecords, computer programs or computer program documentation or packaging and copies of motion pictures or other audiovisual works), section 2319 (relating to criminal infringement of a copyright), section 2319A (relating to unauthorized fixation of and trafficking in sound recordings and music videos of live musical performances), section 2320 (relating to trafficking in goods or services bearing counterfeit marks)" after "sections 2314 and 2315 (relating to interstate transportation of stolen property)".

SEC. 4. APPLICATION TO COMPUTER PROGRAMS, COMPUTER PROGRAM DOCUMENTATION, OR PACKAGING.

(a) IN GENERAL.—Section 2318 of title 18, United States Code, is amended—

(1) in subsection (a), by striking "a motion picture or other audiovisual work," and inserting "a computer program or documentation or packaging for a computer program, or a copy of a motion picture or other audiovisual work, and whoever, in any of the circumstances described in subsection (c) of this section, knowingly traffics in counterfeit documentation or packaging for a computer program,";

(2) in subsection (b)(3) by inserting "'computer program'," after "'motion picture',"; and

(3) in subsection (c)—

(A) by striking "or" at the end of paragraph (2);

(B) in paragraph (3)—

(i) by inserting "a copy of a copyrighted computer program or copyrighted documentation or packaging for a computer program," after "enclose,"; and

(ii) by striking the period at the end and inserting "; or"; and

(C) by adding after paragraph (3) the following:

"(4) the counterfeited documentation or packaging for a computer program is copyrighted.".

(b) CONFORMING AMENDMENTS.—(1) The section caption for section 2318 of title 18, United States Code, is amended to read as follows:

"§ 2318. Trafficking in counterfeit labels for phonorecords, copies of computer programs or computer program documentation or packaging, and copies of motion pictures or other audio visual works, and trafficking in counterfeit computer program documentation or packaging".

(2) The item relating to section 2318 in the table of sections for chapter 113 of such title is amended to read as follows:

"2318. Trafficking in counterfeit labels for phonorecords, copies of computer programs or computer program documentation or packaging, and copies of motion pictures or other audio visual works, and trafficking in counterfeit computer program documentation or packaging.".

SEC. 5. TRAFFICKING IN COUNTERFEIT GOODS OR SERVICES.

Section 2320 of title 18, United States Code, is amended by adding at the end the following:

"(e) Beginning with the first year after the date of enactment of this subsection, the Attorney General shall include in the report of the Attorney General to Congress on the business of the Department of Justice prepared pursuant to section 522 of title 28, an accounting, on a district by district basis, of the following with respect to all actions taken by the Department of Justice that involve trafficking in counterfeit labels for phonorecords, copies of computer programs or computer program documentation or packaging, copies of motion pictures or other audiovisual works (as defined in section 2318 of title 18), criminal infringement of copyrights (as defined in section 2319 of title 18), unauthorized fixation of and trafficking in sound recordings and music videos of live musical performances (as defined in section 2319A of title 18), or trafficking in goods or services bearing counterfeit marks (as defined in section 2320 of title 18): Reports.

"(1) The number of open investigations.

"(2) The number of cases referred by the United States Customs Service.

"(3) The number of cases referred by other agencies or sources.

"(4) The number and outcome, including settlements, sentences, recoveries, and penalties, of all prosecutions brought under sections 2318, 2319, 2319A, and 2320 of title 18.".

SEC. 6. SEIZURE OF COUNTERFEIT GOODS.

Courts.

Section 34(d)(9) of the Act of July 5, 1946 (60 Stat. 427, chapter 540; 15 U.S.C. 1116(d)(9)), is amended by striking the first sentence and inserting the following: "The court shall order that service of a copy of the order under this subsection shall be made by a Federal law enforcement officer (such as a United States marshal or an officer or agent of the United States Customs Service, Secret Service, Federal Bureau of Investigation, or Post Office) or may be made by a State or local law enforcement officer, who, upon making service, shall carry out the seizure under the order.".

SEC. 7. RECOVERY FOR VIOLATION OF RIGHTS.

Section 35 of the Act of July 5, 1946 (60 Stat. 427, chapter 540; 15 U.S.C. 1117), is amended by adding at the end the following new subsection:

"(c) In a case involving the use of a counterfeit mark (as defined in section 34(d) (15 U.S.C. 1116(d)) in connection with the sale, offering for sale, or distribution of goods or services, the plaintiff may elect, at any time before final judgment is rendered by the trial court, to recover, instead of actual damages and profits under subsection (a), an award of statutory damages for any such use in connection with the sale, offering for sale, or distribution of goods or services in the amount of—

"(1) not less than $500 or more than $100,000 per counterfeit mark per type of goods or services sold, offered for sale, or distributed, as the court considers just; or

"(2) if the court finds that the use of the counterfeit mark was willful, not more than $1,000,000 per counterfeit mark per type of goods or services sold, offered for sale, or distributed, as the court considers just.".

SEC. 8. DISPOSITION OF EXCLUDED ARTICLES.

Section 603(c) of title 17, United States Code, is amended in the second sentence by striking "as the case may be;" and all that follows through the end and inserting "as the case may be.".

SEC. 9. DISPOSITION OF MERCHANDISE BEARING AMERICAN TRADEMARK.

Section 526(e) of the Tariff Act of 1930 (19 U.S.C. 1526(e)) is amended—

(1) in the second sentence, by inserting "destroy the merchandise. Alternatively, if the merchandise is not unsafe or a hazard to health, and the Secretary has the consent of the trademark owner, the Secretary may" after "shall, after forfeiture,";

(2) by inserting "or" at the end of paragraph (2);

(3) by striking ", or" at the end of paragraph (3) and inserting a period; and

(4) by striking paragraph (4).

SEC. 10. CIVIL PENALTIES.

Section 526 of the Tariff Act of 1930 (19 U.S.C. 1526) is amended by adding at the end the following new subsection:

"(f) CIVIL PENALTIES.—(1) Any person who directs, assists financially or otherwise, or aids and abets the importation of merchandise for sale or public distribution that is seized under subsection (e) shall be subject to a civil fine.

"(2) For the first such seizure, the fine shall be not more than the value that the merchandise would have had if it were genuine, according to the manufacturer's suggested retail price, determined under regulations promulgated by the Secretary.

"(3) For the second seizure and thereafter, the fine shall be not more than twice the value that the merchandise would have had if it were genuine, as determined under regulations promulgated by the Secretary.

"(4) The imposition of a fine under this subsection shall be within the discretion of the Customs Service, and shall be in addition to any other civil or criminal penalty or other remedy authorized by law.".

SEC. 11. PUBLIC DISCLOSURE OF AIRCRAFT MANIFESTS.

Section 431(c)(1) of the Tariff Act of 1930 (19 U.S.C. 1431(c)(1)) is amended—

(1) in the matter preceding subparagraph (A), by inserting "vessel or aircraft" before "manifest";

(2) by amending subparagraph (D) to read as follows:

"(D) The name of the vessel, aircraft, or carrier.";

(3) by amending subparagraph (E) to read as follows:

"(E) The seaport or airport of loading.";

(4) by amending subparagraph (F) to read as follows:

"(F) The seaport or airport of discharge."; and

(5) by adding after subparagraph (G) the following new subparagraph:

"(H) The trademarks appearing on the goods or packages.".

SEC. 12. CUSTOMS ENTRY DOCUMENTATION.

Section 484(d) of the Tariff Act of 1930 (19 U.S.C. 1484(d)) is amended—

(1) by striking "Entries" and inserting "(1) Entries"; and

(2) by adding at the end the following new paragraph:

"(2) The Secretary, in prescribing regulations governing the content of entry documentation, shall require that entry documentation contain such information as may be necessary to determine whether the imported merchandise bears an infringing trademark in violation of section 42 of the Act of July 5, 1946 (commonly referred to as the 'Trademark Act of 1946'; 15 U.S.C. 1124), or any other applicable law, including a trademark appearing on the goods or packaging.".

SEC. 13. UNLAWFUL USE OF VESSELS, VEHICLES, AND AIRCRAFT IN AID OF COMMERCIAL COUNTERFEITING.

Section 80302(a) of title 49, United States Code, is amended—

(1) by striking "or" at the end of paragraph (4);

(2) by striking the period at the end of paragraph (5) and inserting "; or"; and

(3) by adding at the end the following new paragraph:

"(6)(A) a counterfeit label for a phonorecord, copy of a computer program or computer program documentation or packaging, or copy of a motion picture or other audiovisual work (as defined in section 2318 of title 18);

"(B) a phonorecord or copy in violation of section 2319 of title 18;

"(C) a fixation of a sound recording or music video of a live musical performance in violation of section 2319A of title 18; or

"(D) any good bearing a counterfeit mark (as defined in section 2320 of title 18).".

19 USC 1431 note.

SEC. 14. REGULATIONS.

Not later than 6 months after the date of the enactment of this Act, the Secretary of the Treasury shall prescribe such regulations or amendments to existing regulations that may be necessary to carry out the amendments made by sections 9, 10, 11, 12, and 13 of this Act.

Approved July 2, 1996.

LEGISLATIVE HISTORY—S. 1136 (H.R. 2511):

HOUSE REPORTS: No. 104–556 accompanying H.R. 2511 (Comm. on the Judiciary).
SENATE REPORTS: No. 104–177 (Comm. on the Judiciary).
CONGRESSIONAL RECORD:
Vol. 141 (1995): Dec. 13, considered and passed Senate.
Vol. 142 (1996): June 4, H.R. 2511 considered and passed House; S. 1136, amended, passed in lieu.
June 14, Senate concurred in House amendment.

Public Law 104–154
104th Congress

An Act

To designate the bridge, estimated to be completed in the year 2000, that replaces the bridge on Missouri highway 74 spanning from East Cape Girardeau, Illinois, to Cape Girardeau, Missouri, as the "Bill Emerson Memorial Bridge", and for other purposes.

July 2, 1996
[S. 1903]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF BILL EMERSON BRIDGE.

The bridge, estimated to be completed in the year 2000, that replaces the bridge on highway 74 spanning from East Cape Girardeau, Illinois, to Cape Girardeau, Missouri, shall be known and designated as the "Bill Emerson Memorial Bridge".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the bridge referred to in section 1 shall be deemed to be a reference to the "Bill Emerson Memorial Bridge".

Approved July 2, 1996.

LEGISLATIVE HISTORY—S. 1903:

CONGRESSIONAL RECORD, Vol. 142 (1996):
June 25, considered and passed Senate and House.

Public Law 104–155
104th Congress

An Act

July 3, 1996
[H.R. 3525]

To amend title 18, United States Code, to clarify the Federal jurisdiction over offenses relating to damage to religious property.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Church Arson Prevention Act of 1996.
18 USC 241 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Church Arson Prevention Act of 1996".

18 USC 247 note.

SEC. 2. FINDINGS.

The Congress finds the following:

(1) The incidence of arson or other destruction or vandalism of places of religious worship, and the incidence of violent interference with an individual's lawful exercise or attempted exercise of the right of religious freedom at a place of religious worship pose a serious national problem.

(2) The incidence of arson of places of religious worship has recently increased, especially in the context of places of religious worship that serve predominantly African-American congregations.

(3) Changes in Federal law are necessary to deal properly with this problem.

(4) Although local jurisdictions have attempted to respond to the challenges posed by such acts of destruction or damage to religious property, the problem is sufficiently serious, widespread, and interstate in scope to warrant Federal intervention to assist State and local jurisdictions.

(5) Congress has authority, pursuant to the Commerce Clause of the Constitution, to make acts of destruction or damage to religious property a violation of Federal law.

(6) Congress has authority, pursuant to section 2 of the 13th amendment to the Constitution, to make actions of private citizens motivated by race, color, or ethnicity that interfere with the ability of citizens to hold or use religious property without fear of attack, violations of Federal criminal law.

SEC. 3. PROHIBITION OF VIOLENT INTERFERENCE WITH RELIGIOUS WORSHIP.

Section 247 of title 18, United States Code, is amended—

(1) in subsection (a), by striking "subsection (c) of this section" and inserting "subsection (d)";

(2) by redesignating subsections (c), (d), and (e), as subsections (d), (e), and (f), respectively;

(3) by striking subsection (b) and inserting the following:

"(b) The circumstances referred to in subsection (a) are that the offense is in or affects interstate or foreign commerce.

"(c) Whoever intentionally defaces, damages, or destroys any religious real property because of the race, color, or ethnic characteristics of any individual associated with that religious property, or attempts to do so, shall be punished as provided in subsection (d).";

(4) in subsection (d), as redesignated—

(A) in paragraph (2)—

(i) by inserting "to any person, including any public safety officer performing duties as a direct or proximate result of conduct prohibited by this section," after "bodily injury"; and

(ii) by striking "ten years" and inserting "20 years";

(B) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

(C) by inserting after paragraph (1) the following:

"(2) if bodily injury results to any person, including any public safety officer performing duties as a direct or proximate result of conduct prohibited by this section, and the violation is by means of fire or an explosive, a fine under this title or imprisonment for not more that 40 years, or both;";

(5) in subsection (f), as redesignated—

(A) by striking "religious property" and inserting "religious real property" both places it appears; and

(B) by inserting ", including fixtures or religious objects contained within a place of religious worship" before the period; and

(6) by adding at the end the following new subsection:

"(g) No person shall be prosecuted, tried, or punished for any noncapital offense under this section unless the indictment is found or the information is instituted not later than 7 years after the date on which the offense was committed.".

SEC. 4. LOAN GUARANTEE RECOVERY FUND.

(a) IN GENERAL.—

(1) IN GENERAL.—Using amounts described in paragraph (2), the Secretary of Housing and Urban Development (referred to as the "Secretary") shall make guaranteed loans to financial institutions in connection with loans made by such institutions to assist organizations described in section 501(c)(3) of the Internal Revenue Code of 1986 that have been damaged as a result of acts of arson or terrorism in accordance with such procedures as the Secretary shall establish by regulation. Regulations.

(2) USE OF CREDIT SUBSIDY.—Notwithstanding any other provision of law, for the cost of loan guarantees under this section, the Secretary may use not more than $5,000,000 of the amounts made available for fiscal year 1996 for the credit subsidy provided under the General Insurance Fund and the Special Risk Insurance Fund.

(b) TREATMENT OF COSTS.—The costs of guaranteed loans under this section, including the cost of modifying loans, shall be as defined in section 502 of the Congressional Budget Act of 1974.

(c) LIMIT ON LOAN PRINCIPAL.—Funds made available under this section shall be available to subsidize total loan principal, any part of which is to be guaranteed, not to exceed $10,000,000.

(d) TERMS AND CONDITIONS.—The Secretary shall—

(1) establish such terms and conditions as the Secretary considers to be appropriate to provide loan guarantees under this section, consistent with section 503 of the Credit Reform Act; and

(2) include in the terms and conditions a requirement that the decision to provide a loan guarantee to a financial institution and the amount of the guarantee does not in any way depend on the purpose, function, or identity of the organization to which the financial institution has made, or intends to make, a loan.

SEC. 5. COMPENSATION OF VICTIMS; REQUIREMENT OF INCLUSION IN LIST OF CRIMES ELIGIBLE FOR COMPENSATION.

Section 1403(d)(3) of the Victims of Crime Act of 1984 (42 U.S.C. 10602(d)(3)) is amended by inserting "crimes, whose victims suffer death or personal injury, that are described in section 247 of title 18, United States Code," after "includes".

SEC. 6. AUTHORIZATION FOR ADDITIONAL PERSONNEL TO ASSIST STATE AND LOCAL LAW ENFORCEMENT.

There are authorized to be appropriated to the Department of the Treasury and the Department of Justice, including the Community Relations Service, in fiscal years 1996 and 1997 such sums as are necessary to increase the number of personnel, investigators, and technical support personnel to investigate, prevent, and respond to potential violations of sections 247 and 844 of title 18, United States Code.

SEC. 7. REAUTHORIZATION OF HATE CRIMES STATISTICS ACT.

The first section of the Hate Crimes Statistics Act (28 U.S.C. 534 note) is amended—

(1) in subsection (b), by striking "for the calendar year 1990 and each of the succeeding 4 calendar years" and inserting "for each calendar year"; and

(2) in subsection (c), by striking "1994" and inserting "2002".

SEC. 8. SENSE OF THE CONGRESS.

The Congress—

(1) commends those individuals and entities that have responded with funds to assist in the rebuilding of places of worship that have been victimized by arson; and

(2) encourages the private sector to continue these efforts so that places of worship that are victimized by arson, and their affected communities, can continue the rebuilding process with maximum financial support from private individuals, businesses, charitable organizations, and other non-profit entities.

Approved July 3, 1996.

LEGISLATIVE HISTORY—H.R. 3525 (S. 1890):

HOUSE REPORTS: No. 104–621 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 142 (1996):
June 18, considered and passed House.
June 26, considered and passed Senate, amended.
June 27, House concurred in Senate amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 32 (1996):
July 3, Presidential statement.

Public Law 104–156
104th Congress

An Act

July 5, 1996
[S. 1579]

To streamline and improve the effectiveness of chapter 75 of title 31, United States Code (commonly referred to as the "Single Audit Act").

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Single Audit Act Amendments of 1996.
31 USC 7501 note.

SECTION 1. SHORT TITLE; PURPOSES.

(a) SHORT TITLE.—This Act may be cited as the "Single Audit Act Amendments of 1996".

(b) PURPOSES.—The purposes of this Act are to—

(1) promote sound financial management, including effective internal controls, with respect to Federal awards administered by non-Federal entities;

(2) establish uniform requirements for audits of Federal awards administered by non-Federal entities;

(3) promote the efficient and effective use of audit resources;

(4) reduce burdens on State and local governments, Indian tribes, and nonprofit organizations; and

(5) ensure that Federal departments and agencies, to the maximum extent practicable, rely upon and use audit work done pursuant to chapter 75 of title 31, United States Code (as amended by this Act).

SEC. 2. AMENDMENT TO TITLE 31, UNITED STATES CODE.

Chapter 75 of title 31, United States Code, is amended to read as follows:

"CHAPTER 75—REQUIREMENTS FOR SINGLE AUDITS

"Sec.
"7501. Definitions.
"7502. Audit requirements; exemptions.
"7503. Relation to other audit requirements.
"7504. Federal agency responsibilities and relations with non-Federal entities.
"7505. Regulations.
"7506. Monitoring responsibilities of the Comptroller General.
"7507. Effective date.

"§ 7501. Definitions

"(a) As used in this chapter, the term—

"(1) 'Comptroller General' means the Comptroller General of the United States;

"(2) 'Director' means the Director of the Office of Management and Budget;

"(3) 'Federal agency' has the same meaning as the term 'agency' in section 551(1) of title 5;

"(4) 'Federal awards' means Federal financial assistance and Federal cost-reimbursement contracts that non-Federal entities receive directly from Federal awarding agencies or indirectly from pass-through entities;

"(5) 'Federal financial assistance' means assistance that non-Federal entities receive or administer in the form of grants, loans, loan guarantees, property, cooperative agreements, interest subsidies, insurance, food commodities, direct appropriations, or other assistance, but does not include amounts received as reimbursement for services rendered to individuals in accordance with guidance issued by the Director;

"(6) 'Federal program' means all Federal awards to a non-Federal entity assigned a single number in the Catalog of Federal Domestic Assistance or encompassed in a group of numbers or other category as defined by the Director;

"(7) 'generally accepted government auditing standards' means the government auditing standards issued by the Comptroller General;

"(8) 'independent auditor' means—

"(A) an external State or local government auditor who meets the independence standards included in generally accepted government auditing standards; or

"(B) a public accountant who meets such independence standards;

"(9) 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community, including any Alaskan Native village or regional or village corporation (as defined in, or established under, the Alaskan Native Claims Settlement Act) that is recognized by the United States as eligible for the special programs and services provided by the United States to Indians because of their status as Indians;

"(10) 'internal controls' means a process, effected by an entity's management and other personnel, designed to provide reasonable assurance regarding the achievement of objectives in the following categories:

"(A) Effectiveness and efficiency of operations.

"(B) Reliability of financial reporting.

"(C) Compliance with applicable laws and regulations;

"(11) 'local government' means any unit of local government within a State, including a county, borough, municipality, city, town, township, parish, local public authority, special district, school district, intrastate district, council of governments, any other instrumentality of local government and, in accordance with guidelines issued by the Director, a group of local governments;

"(12) 'major program' means a Federal program identified in accordance with risk-based criteria prescribed by the Director under this chapter, subject to the limitations described under subsection (b);

"(13) 'non-Federal entity' means a State, local government, or nonprofit organization;

"(14) 'nonprofit organization' means any corporation, trust, association, cooperative, or other organization that—

"(A) is operated primarily for scientific, educational, service, charitable, or similar purposes in the public interest;

"(B) is not organized primarily for profit; and

"(C) uses net proceeds to maintain, improve, or expand the operations of the organization;

"(15) 'pass-through entity' means a non-Federal entity that provides Federal awards to a subrecipient to carry out a Federal program;

"(16) 'program-specific audit' means an audit of one Federal program;

"(17) 'recipient' means a non-Federal entity that receives awards directly from a Federal agency to carry out a Federal program;

"(18) 'single audit' means an audit, as described under section 7502(d), of a non-Federal entity that includes the entity's financial statements and Federal awards;

"(19) 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, any instrumentality thereof, any multi-State, regional, or interstate entity which has governmental functions, and any Indian tribe; and

"(20) 'subrecipient' means a non-Federal entity that receives Federal awards through another non-Federal entity to carry out a Federal program, but does not include an individual who receives financial assistance through such awards.

"(b) In prescribing risk-based program selection criteria for major programs, the Director shall not require more programs to be identified as major for a particular non-Federal entity, except as prescribed under subsection (c) or as provided under subsection (d), than would be identified if the major programs were defined as any program for which total expenditures of Federal awards by the non-Federal entity during the applicable year exceed—

"(1) the larger of $30,000,000 or 0.15 percent of the non-Federal entity's total Federal expenditures, in the case of a non-Federal entity for which such total expenditures for all programs exceed $10,000,000,000;

"(2) the larger of $3,000,000, or 0.30 percent of the non-Federal entity's total Federal expenditures, in the case of a non-Federal entity for which such total expenditures for all programs exceed $100,000,000 but are less than or equal to $10,000,000,000; or

"(3) the larger of $300,000, or 3 percent of such total Federal expenditures for all programs, in the case of a non-Federal entity for which such total expenditures for all programs equal or exceed $300,000 but are less than or equal to $100,000,000.

"(c) When the total expenditures of a non-Federal entity's major programs are less than 50 percent of the non-Federal entity's total expenditures of all Federal awards (or such lower percentage as specified by the Director), the auditor shall select and test additional programs as major programs as necessary to achieve audit coverage of at least 50 percent of Federal expenditures by the non-Federal entity (or such lower percentage as specified by the Director), in accordance with guidance issued by the Director.

"(d) Loan or loan guarantee programs, as specified by the Director, shall not be subject to the application of subsection (b).

"§ 7502. Audit requirements; exemptions

"(a)(1)(A) Each non-Federal entity that expends a total amount of Federal awards equal to or in excess of $300,000 or such other amount specified by the Director under subsection (a)(3) in any fiscal year of such non-Federal entity shall have either a single audit or a program-specific audit made for such fiscal year in accordance with the requirements of this chapter.

"(B) Each such non-Federal entity that expends Federal awards under more than one Federal program shall undergo a single audit in accordance with the requirements of subsections (b) through (i) of this section and guidance issued by the Director under section 7505.

"(C) Each such non-Federal entity that expends awards under only one Federal program and is not subject to laws, regulations, or Federal award agreements that require a financial statement audit of the non-Federal entity, may elect to have a program-specific audit conducted in accordance with applicable provisions of this section and guidance issued by the Director under section 7505.

"(2)(A) Each non-Federal entity that expends a total amount of Federal awards of less than $300,000 or such other amount specified by the Director under subsection (a)(3) in any fiscal year of such entity, shall be exempt for such fiscal year from compliance with—

"(i) the audit requirements of this chapter; and

"(ii) any applicable requirements concerning financial audits contained in Federal statutes and regulations governing programs under which such Federal awards are provided to that non-Federal entity.

"(B) The provisions of subparagraph (A)(ii) of this paragraph shall not exempt a non-Federal entity from compliance with any provision of a Federal statute or regulation that requires such non-Federal entity to maintain records concerning Federal awards provided to such non-Federal entity or that permits a Federal agency, pass-through entity, or the Comptroller General access to such records.

"(3) Every 2 years, the Director shall review the amount for requiring audits prescribed under paragraph (1)(A) and may adjust such dollar amount consistent with the purposes of this chapter, provided the Director does not make such adjustments below $300,000.

"(b)(1) Except as provided in paragraphs (2) and (3), audits conducted pursuant to this chapter shall be conducted annually.

"(2) A State or local government that is required by constitution or statute, in effect on January 1, 1987, to undergo its audits less frequently than annually, is permitted to undergo its audits pursuant to this chapter biennially. Audits conducted biennially under the provisions of this paragraph shall cover both years within the biennial period.

"(3) Any nonprofit organization that had biennial audits for all biennial periods ending between July 1, 1992, and January 1, 1995, is permitted to undergo its audits pursuant to this chapter biennially. Audits conducted biennially under the provisions of this paragraph shall cover both years within the biennial period.

"(c) Each audit conducted pursuant to subsection (a) shall be conducted by an independent auditor in accordance with generally accepted government auditing standards, except that, for the

purposes of this chapter, performance audits shall not be required except as authorized by the Director.

"(d) Each single audit conducted pursuant to subsection (a) for any fiscal year shall—

"(1) cover the operations of the entire non-Federal entity; or

"(2) at the option of such non-Federal entity such audit shall include a series of audits that cover departments, agencies, and other organizational units which expended or otherwise administered Federal awards during such fiscal year provided that each such audit shall encompass the financial statements and schedule of expenditures of Federal awards for each such department, agency, and organizational unit, which shall be considered to be a non-Federal entity.

"(e) The auditor shall—

"(1) determine whether the financial statements are presented fairly in all material respects in conformity with generally accepted accounting principles;

"(2) determine whether the schedule of expenditures of Federal awards is presented fairly in all material respects in relation to the financial statements taken as a whole;

"(3) with respect to internal controls pertaining to the compliance requirements for each major program—

"(A) obtain an understanding of such internal controls;

"(B) assess control risk; and

"(C) perform tests of controls unless the controls are deemed to be ineffective; and

"(4) determine whether the non-Federal entity has complied with the provisions of laws, regulations, and contracts or grants pertaining to Federal awards that have a direct and material effect on each major program.

"(f)(1) Each Federal agency which provides Federal awards to a recipient shall—

"(A) provide such recipient the program names (and any identifying numbers) from which such awards are derived, and the Federal requirements which govern the use of such awards and the requirements of this chapter; and

"(B) review the audit of a recipient as necessary to determine whether prompt and appropriate corrective action has been taken with respect to audit findings, as defined by the Director, pertaining to Federal awards provided to the recipient by the Federal agency.

"(2) Each pass-through entity shall—

"(A) provide such subrecipient the program names (and any identifying numbers) from which such assistance is derived, and the Federal requirements which govern the use of such awards and the requirements of this chapter;

"(B) monitor the subrecipient's use of Federal awards through site visits, limited scope audits, or other means;

"(C) review the audit of a subrecipient as necessary to determine whether prompt and appropriate corrective action has been taken with respect to audit findings, as defined by the Director, pertaining to Federal awards provided to the subrecipient by the pass-through entity; and

"(D) require each of its subrecipients of Federal awards to permit, as a condition of receiving Federal awards, the independent auditor of the pass-through entity to have such

access to the subrecipient's records and financial statements as may be necessary for the pass-through entity to comply with this chapter.

"(g)(1) The auditor shall report on the results of any audit conducted pursuant to this section, in accordance with guidance issued by the Director. Reports.

"(2) When reporting on any single audit, the auditor shall include a summary of the auditor's results regarding the non-Federal entity's financial statements, internal controls, and compliance with laws and regulations.

"(h) The non-Federal entity shall transmit the reporting package, which shall include the non-Federal entity's financial statements, schedule of expenditures of Federal awards, corrective action plan defined under subsection (i), and auditor's reports developed pursuant to this section, to a Federal clearinghouse designated by the Director, and make it available for public inspection within the earlier of—

"(1) 30 days after receipt of the auditor's report; or

"(2)(A) for a transition period of at least 2 years after the effective date of the Single Audit Act Amendments of 1996, as established by the Director, 13 months after the end of the period audited; or

"(B) for fiscal years beginning after the period specified in subparagraph (A), 9 months after the end of the period audited, or within a longer timeframe authorized by the Federal agency, determined under criteria issued under section 7504, when the 9-month timeframe would place an undue burden on the non-Federal entity.

"(i) If an audit conducted pursuant to this section discloses any audit findings, as defined by the Director, including material noncompliance with individual compliance requirements for a major program by, or reportable conditions in the internal controls of, the non-Federal entity with respect to the matters described in subsection (e), the non-Federal entity shall submit to Federal officials designated by the Director, a plan for corrective action to eliminate such audit findings or reportable conditions or a statement describing the reasons that corrective action is not necessary. Such plan shall be consistent with the audit resolution standard promulgated by the Comptroller General (as part of the standards for internal controls in the Federal Government) pursuant to section 3512(c).

"(j) The Director may authorize pilot projects to test alternative methods of achieving the purposes of this chapter. Such pilot projects may begin only after consultation with the Chair and Ranking Minority Member of the Committee on Governmental Affairs of the Senate and the Chair and Ranking Minority Member of the Committee on Government Reform and Oversight of the House of Representatives.

"§ 7503. Relation to other audit requirements

"(a) An audit conducted in accordance with this chapter shall be in lieu of any financial audit of Federal awards which a non-Federal entity is required to undergo under any other Federal law or regulation. To the extent that such audit provides a Federal agency with the information it requires to carry out its responsibilities under Federal law or regulation, a Federal agency shall rely upon and use that information.

"(b) Notwithstanding subsection (a), a Federal agency may conduct or arrange for additional audits which are necessary to carry out its responsibilities under Federal law or regulation. The provisions of this chapter do not authorize any non-Federal entity (or subrecipient thereof) to constrain, in any manner, such agency from carrying out or arranging for such additional audits, except that the Federal agency shall plan such audits to not be duplicative of other audits of Federal awards.

"(c) The provisions of this chapter do not limit the authority of Federal agencies to conduct, or arrange for the conduct of, audits and evaluations of Federal awards, nor limit the authority of any Federal agency Inspector General or other Federal official.

"(d) Subsection (a) shall apply to a non-Federal entity which undergoes an audit in accordance with this chapter even though it is not required by section 7502(a) to have such an audit.

"(e) A Federal agency that provides Federal awards and conducts or arranges for audits of non-Federal entities receiving such awards that are in addition to the audits of non-Federal entities conducted pursuant to this chapter shall, consistent with other applicable law, arrange for funding the full cost of such additional audits. Any such additional audits shall be coordinated with the Federal agency determined under criteria issued under section 7504 to preclude duplication of the audits conducted pursuant to this chapter or other additional audits.

"(f) Upon request by a Federal agency or the Comptroller General, any independent auditor conducting an audit pursuant to this chapter shall make the auditor's working papers available to the Federal agency or the Comptroller General as part of a quality review, to resolve audit findings, or to carry out oversight responsibilities consistent with the purposes of this chapter. Such access to auditor's working papers shall include the right to obtain copies.

"§ 7504. Federal agency responsibilities and relations with non-Federal entities

"(a) Each Federal agency shall, in accordance with guidance issued by the Director under section 7505, with regard to Federal awards provided by the agency—

"(1) monitor non-Federal entity use of Federal awards, and

"(2) assess the quality of audits conducted under this chapter for audits of entities for which the agency is the single Federal agency determined under subsection (b).

"(b) Each non-Federal entity shall have a single Federal agency, determined in accordance with criteria established by the Director, to provide the non-Federal entity with technical assistance and assist with implementation of this chapter.

"(c) The Director shall designate a Federal clearinghouse to—

"(1) receive copies of all reporting packages developed in accordance with this chapter;

"(2) identify recipients that expend $300,000 or more in Federal awards or such other amount specified by the Director under section 7502(a)(3) during the recipient's fiscal year but did not undergo an audit in accordance with this chapter; and

"(3) perform analyses to assist the Director in carrying out responsibilities under this chapter.

"§ 7505. Regulations

"(a) The Director, after consultation with the Comptroller General, and appropriate officials from Federal, State, and local governments and nonprofit organizations shall prescribe guidance to implement this chapter. Each Federal agency shall promulgate such amendments to its regulations as may be necessary to conform such regulations to the requirements of this chapter and of such guidance.

"(b)(1) The guidance prescribed pursuant to subsection (a) shall include criteria for determining the appropriate charges to Federal awards for the cost of audits. Such criteria shall prohibit a non-Federal entity from charging to any Federal awards—

"(A) the cost of any audit which is—

"(i) not conducted in accordance with this chapter; or

"(ii) conducted in accordance with this chapter when expenditures of Federal awards are less than amounts cited in section 7502(a)(1)(A) or specified by the Director under section 7502(a)(3), except that the Director may allow the cost of limited scope audits to monitor subrecipients in accordance with section 7502(f)(2)(B); and

"(B) more than a reasonably proportionate share of the cost of any such audit that is conducted in accordance with this chapter.

"(2) The criteria prescribed pursuant to paragraph (1) shall not, in the absence of documentation demonstrating a higher actual cost, permit the percentage of the cost of audits performed pursuant to this chapter charged to Federal awards, to exceed the ratio of total Federal awards expended by such non-Federal entity during the applicable fiscal year or years, to such non-Federal entity's total expenditures during such fiscal year or years.

"(c) Such guidance shall include such provisions as may be necessary to ensure that small business concerns and business concerns owned and controlled by socially and economically disadvantaged individuals will have the opportunity to participate in the performance of contracts awarded to fulfill the audit requirements of this chapter.

"§ 7506. Monitoring responsibilities of the Comptroller General

"(a) The Comptroller General shall review provisions requiring financial audits of non-Federal entities that receive Federal awards that are contained in bills and resolutions reported by the committees of the Senate and the House of Representatives.

"(b) If the Comptroller General determines that a bill or resolution contains provisions that are inconsistent with the requirements of this chapter, the Comptroller General shall, at the earliest practicable date, notify in writing—

"(1) the committee that reported such bill or resolution; and

"(2)(A) the Committee on Governmental Affairs of the Senate (in the case of a bill or resolution reported by a committee of the Senate); or

"(B) the Committee on Government Reform and Oversight of the House of Representatives (in the case of a bill or resolution reported by a committee of the House of Representatives).

"§ 7507. Effective date

"This chapter shall apply to any non-Federal entity with respect to any of its fiscal years which begin after June 30, 1996.".

31 USC 7501 note.

SEC. 3. TRANSITIONAL APPLICATION.

Subject to section 7507 of title 31, United States Code (as amended by section 2 of this Act) the provisions of chapter 75 of such title (before amendment by section 2 of this Act) shall continue to apply to any State or local government with respect to any of its fiscal years beginning before July 1, 1996.

Approved July 5, 1996.

LEGISLATIVE HISTORY—S. 1579 (H.R. 3184):

HOUSE REPORTS: No. 104–607 accompanying H.R. 3184 (Comm. on Government Reform and Oversight).
SENATE REPORTS: No. 104–266 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD, Vol. 142 (1996):
June 14, considered and passed Senate.
June 18, considered and passed House.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 32 (1996):
July 5, Presidential statement.

Public Law 104–157
104th Congress

An Act

To designate the United States Post Office building located at 102 South McLean, Lincoln, Illinois, as the "Edward Madigan Post Office Building".

July 9, 1996
[H.R. 1880]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The United States Post Office building located at 102 South McLean, Lincoln, Illinois, shall be known and designated as the "Edward Madigan Post Office Building".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States Post Office building referred to in section 1 shall be deemed to be a reference to the "Edward Madigan Post Office Building".

Approved July 9, 1996.

LEGISLATIVE HISTORY—H.R. 1880:

CONGRESSIONAL RECORD:
Vol. 141 (1995): Dec. 19, considered and passed House.
Vol. 142 (1996): June 27, considered and passed Senate.

Public Law 104–158
104th Congress

An Act

July 9, 1996
[H.R. 2437]

To provide for the exchange of certain lands in Gilpin County, Colorado.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds and declares that—

(1) certain scattered parcels of Federal land located within Gilpin County, Colorado, are currently administered by the Secretary of the Interior as part of the Royal Gorge Resource Area, Canon City District, United States Bureau of Land Management;

(2) these land parcels, which comprises approximately 133 separate tracts of land, and range in size from approximately 38 acres to much less than an acre have been identified as suitable for disposal by the Bureau of Land Management through its resource management planning process and are appropriate for disposal; and

(3) even though the Federal land parcels in Gilpin County, Colorado, are scattered and small in size, they nevertheless by virtue of their proximity to existing communities appear to have a fair market value which may be used by the Federal Government to exchange for lands which will better lend themselves to Federal management and have higher values for future public access, use and enjoyment, recreation, the protection and enhancement of fish and wildlife and fish and wildlife habitat, and the protection of riparian lands, wetlands, scenic beauty and other public values.

(b) PURPOSE.—It is the purpose of this Act to authorize, direct, facilitate and expedite the land exchange set forth herein in order to further the public interest by disposing of Federal lands with limited public utility and acquire in exchange therefor lands with important values for permanent public management and protection.

SEC. 2. LAND EXCHANGE.

Lake Gulch, Inc.

(a) IN GENERAL.—The exchange directed by this Act shall be consummated if within 90 days after enactment of this Act, Lake Gulch, Inc., a Colorado Corporation (as defined in section 4 of this Act) offers to transfer to the United States pursuant to the provisions of this Act the offered lands or interests in land described herein.

(b) CONVEYANCE BY LAKE GULCH.—Subject to the provisions of section 3 of this Act, Lake Gulch shall convey to the Secretary of the Interior all right, title, and interest in and to the following offered lands—

16 USC 191 note.

(1) certain lands comprising approximately 40 acres with improvements thereon located in Larimer County, Colorado, and lying within the boundaries of Rocky Mountain National Park as generally depicted on a map entitled "Circle C Church Camp", dated August 1994, which shall upon their acquisition by the United States and without further action by the Secretary of the Interior be incorporated into Rocky Mountain National Park and thereafter be administered in accordance with the laws, rules and regulations generally applicable to the National Park System and Rocky Mountain National Park;

(2) certain lands located within and adjacent to the United States Bureau of Land Management San Luis Resource Area in Conejos County, Colorado, which comprise approximately 3,993 acres and are generally depicted on a map entitled "Quinlan Ranches Tract", dated August 1994; and

(3) certain lands located within the United States Bureau of Land Management Royal Gorge Resource Area in Huerfano County, Colorado, which comprise approximately 4,700 acres and are generally depicted on a map entitled "Bonham Ranch-Cucharas Canyon", dated June 1995: *Provided, however,* That it is the intention of Congress that such lands may remain available for the grazing of livestock as determined appropriate by the Secretary in accordance with applicable laws, rules, and regulations: *Provided further,* That if the Secretary determines that certain of the lands acquired adjacent to Cucharas Canyon hereunder are not needed for public purposes they may be sold in accordance with the provisions of section 203 of the Federal Land Policy and Management Act of 1976 and other applicable law.

(c) SUBSTITUTION OF LANDS.—If one or more of the precise offered land parcels identified above is unable to be conveyed to the United States due to appraisal or other problems, Lake Gulch and the Secretary may mutually agree to substitute therefor alternative offered lands acceptable to the Secretary.

(d) CONVEYANCE BY THE UNITED STATES.—(1) Upon receipt of title to the lands identified in subsection (a) the Secretary shall simultaneously convey to Lake Gulch all right, title, and interest of the United States, subject to valid existing rights, in and to the following selected lands—

(A) certain surveyed lands located in Gilpin County, Colorado, Township 3 South, Range 72 West, Sixth Principal Meridian, Section 18, Lots 118–220, which comprise approximately 195 acres and are intended to include all federally owned lands in section 18, as generally depicted on a map entitled "Lake Gulch Selected Lands", dated July 1994;

(B) certain surveyed lands located in Gilpin County, Colorado, Township 3 South, Range 72 West, Sixth Principal Meridian, Section 17, Lots 37, 38, 39, 40, 52, 53, and 54, which comprise approximately 96 acres, as generally depicted on a map entitled "Lake Gulch Selected Lands", dated July 1994; and

(C) certain unsurveyed lands located in Gilpin County, Colorado, Township 3 South, Range 73 West, Sixth Principal Meridian, Section 13, which comprise approximately 11 acres, and are generally depicted as parcels 302–304, 306 and 308–326 on a map entitled "Lake Gulch Selected Lands", dated July 1994: *Provided, however,* That a parcel or parcels of land

in section 13 shall not be transferred to Lake Gulch if at the time of the proposed transfer the parcel or parcels are under formal application for transfer to a qualified unit of local government. Due to the small and unsurveyed nature of such parcels proposed for transfer to Lake Gulch in section 13, and the high cost of surveying such small parcels, the Secretary is authorized to transfer such section 13 lands to Lake Gulch without survey based on such legal or other description as the Secretary determines appropriate to carry out the basic intent of the map cited in this subparagraph.

(2) If the Secretary and Lake Gulch mutually agree, and the Secretary determines it is in the public interest, the Secretary may utilize the authority and direction of this Act to transfer to Lake Gulch lands in sections 17 and 13 that are in addition to those precise selected lands shown on the map cited herein, and which are not under formal application for transfer to a qualified unit of local government, upon transfer to the Secretary of additional offered lands acceptable to the Secretary or upon payment to the Secretary by Lake Gulch of cash equalization money amounting to the full appraised fair market value of any such additional lands. If any such additional lands are located in section 13 they may be transferred to Lake Gulch without survey based on such legal or other description as the Secretary determines appropriate as long as the Secretary determines that the boundaries of any adjacent lands not owned by Lake Gulch can be properly identified so as to avoid possible future boundary conflicts or disputes. If the Secretary determines surveys are necessary to convey any such additional lands to Lake Gulch, the costs of such surveys shall be paid by Lake Gulch but shall not be eligible for any adjustment in the value of such additional lands pursuant to section 206(f)(2) of the Federal Land Policy and Management Act of 1976 (as amended by the Federal Land Exchange Facilitation Act of 1988) (43 U.S.C. 1716(f)(2)).

Notification.

(3) Prior to transferring out of public ownership pursuant to this Act or other authority of law any lands which are contiguous to North Clear Creek southeast of the City of Black Hawk, Colorado in the County of Gilpin, Colorado, the Secretary shall notify and consult with the County and City and afford such units of local government an opportunity to acquire or reserve pursuant to the Federal Land Policy and Management Act of 1976 or other applicable law, such easements or rights-of-way parallel to North Clear Creek as may be necessary to serve public utility line or recreation path needs: *Provided, however*, That any survey or other costs associated with the acquisition or reservation of such easements or rights-of-way shall be paid for by the unit or units of local government concerned.

SEC. 3. TERMS AND CONDITIONS OF EXCHANGE.

(a) EQUALIZATION OF VALUES.—(1) The values of the lands to be exchanged pursuant to this Act shall be equal as determined by the Secretary of the Interior utilizing comparable sales of surface and subsurface property and nationally recognized appraisal standards, including, to the extent appropriate, the Uniform Standards for Federal Land Acquisition, the Uniform Standards of Professional Appraisal Practice, the provisions of section 206(d) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(d)), and other applicable law.

(2) In the event any cash equalization or land sale moneys are received by the United States pursuant to this Act, any such moneys shall be retained by the Secretary of the Interior and may be utilized by the Secretary until fully expended to purchase from willing sellers land or water rights, or a combination thereof, to augment wildlife habitat and protect and restore wetlands in the Bureau of Land Management's Blanca Wetlands, Alamosa County, Colorado.

(3) Any water rights acquired by the United States pursuant to this section shall be obtained by the Secretary of the Interior in accordance with all applicable provisions of Colorado law, including the requirement to change the time, place, and type of use of said water rights through the appropriate State legal proceedings and to comply with any terms, conditions, or other provisions contained in an applicable decree of the Colorado Water Court. The use of any water rights acquired pursuant to this section shall be limited to water that can be used or exchanged for water that can be used on the Blanca Wetlands. Any requirement or proposal to utilize facilities of the San Luis Valley Project, Closed Basin Diversion, in order to effectuate the use of any such water rights shall be subject to prior approval of the Rio Grande Water Conservation District.

(b) RESTRICTIONS ON SELECTED LANDS.—(1) Conveyance of the selected lands to Lake Gulch pursuant to this Act shall be contingent upon Lake Gulch executing an agreement with the United States prior to such conveyance, the terms of which are acceptable to the Secretary of the Interior, and which—

(A) grant the United States a covenant that none of the selected lands (which currently lie outside the legally approved gaming area) shall ever be used for purposes of gaming should the current legal gaming area ever be expanded by the State of Colorado; and

(B) permanently hold the United States harmless for liability and indemnify the United States against all costs arising from any activities, operations (including the storing, handling, and dumping of hazardous materials or substances) or other acts conducted by Lake Gulch or its employees, agents, successors or assigns on the selected lands after their transfer to Lake Gulch: *Provided, however*, That nothing in this Act shall be construed as either diminishing or increasing any responsibility or liability of the United States based on the condition of the selected lands prior to or on the date of their transfer to Lake Gulch.

(2) Conveyance of the selected lands to Lake Gulch pursuant to this Act shall be subject to the existing easement for Gilpin County Road 6.

(3) The above terms and restrictions of this subsection shall not be considered in determining, or result in any diminution in, the fair market value of the selected land for purposes of the appraisals of the selected land required pursuant to section 3 of this Act.

(c) REVOCATION OF WITHDRAWAL.—The Public Water Reserve established by Executive order dated April 17, 1926 (Public Water Reserve 107), Serial Number Colorado 17321, is hereby revoked insofar as it affects the NW¼ SW¼ of Section 17, Township 3 South, Range 72 West, Sixth Principal Meridian, which covers a portion of the selected lands identified in this Act.

SEC. 4. MISCELLANEOUS PROVISIONS.

(a) DEFINITIONS.—As used in this Act:

(1) The term "Secretary" means the Secretary of the Interior.

(2) The term "Lake Gulch" means Lake Gulch, Inc., a Colorado corporation, or its successors, heirs or assigns.

(3) The term "offered land" means lands to be conveyed to the United States pursuant to this Act.

(4) The term "selected land" means lands to be transferred to Lake Gulch, Inc., or its successors, heirs or assigns pursuant to this Act.

(5) The term "Blanca Wetlands" means an area of land comprising approximately 9,290 acres, as generally depicted on a map entitled "Blanca Wetlands", dated August 1994, or such land as the Secretary may add thereto by purchase from willing sellers after the date of enactment of this Act utilizing funds provided by this Act or such other moneys as Congress may appropriate.

(b) TIME REQUIREMENT FOR COMPLETING TRANSFER.—It is the intent of Congress that unless the Secretary and Lake Gulch mutually agree otherwise the exchange of lands authorized and directed by this Act shall be completed not later than 6 months after the date of enactment of this Act. In the event the exchange cannot be consummated within such 6-month-time period, the Secretary, upon application by Lake Gulch, is directed to sell to Lake Gulch at appraised fair market value any or all of the parcels (comprising a total of approximately 11 acres) identified in section 2(d)(1)(C) of this Act as long as the parcel or parcels applied for are not under formal application for transfer to a qualified unit of local government.

(c) ADMINISTRATION OF LANDS ACQUIRED BY UNITED STATES.—In accordance with the provisions of section 206(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(c)), all lands acquired by the United States pursuant to this Act shall upon acceptance of title by the United States and without further action by the Secretary concerned become part of and be managed as part of the administrative unit or area within which they are located.

Approved July 9, 1996.

LEGISLATIVE HISTORY—H.R. 2437:

HOUSE REPORTS: No. 104–305 (Comm. on Resources).
SENATE REPORTS: No. 104–196 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 141 (1995): Nov. 7, considered and passed House.
Vol. 142 (1996): June 26, considered and passed Senate.

Public Law 104–159
104th Congress

An Act

To provide that the United States Post Office building that is to be located at 7436 South Exchange Avenue, Chicago, Illinois, shall be known and designated as the "Charles A. Hayes Post Office Building".

July 9, 1996
[H.R. 2704]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The United States Post Office building that is to be located at 7436 South Exchange Avenue, Chicago, Illinois, shall be known and designated as the "Charles A. Hayes Post Office Building".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States Post Office building referred to in section 1 shall be deemed to be a reference to the "Charles A. Hayes Post Office Building".

Approved July 9, 1996.

LEGISLATIVE HISTORY—H.R. 2704:

CONGRESSIONAL RECORD:
Vol. 141 (1995): Dec. 19, considered and passed House.
Vol. 142 (1996): June 27, considered and passed Senate.

Public Law 104–160
104th Congress

An Act

July 9, 1996
[H.R. 3364]

To designate the Federal building and United States courthouse located at 235 North Washington Avenue in Scranton, Pennsylvania, as the "William J. Nealon Federal Building and United States Courthouse".

SECTION 1. DESIGNATION.

The Federal building and United States courthouse located at 235 North Washington Avenue in Scranton, Pennsylvania, shall be known and designated as the "William J. Nealon Federal Building and United States Courthouse".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building and United States courthouse referred to in section 1 shall be deemed to be a reference to the "William J. Nealon Federal Building and United States Courthouse".

Approved July 9, 1996.

LEGISLATIVE HISTORY—H.R. 3364:

HOUSE REPORTS: No. 104–611 (Comm. on Transportation and Infrastructure).
CONGRESSIONAL RECORD, Vol. 142 (1996):
June 10, considered and passed House.
June 27, considered and passed Senate.

Public Law 104–161
104th Congress

An Act

To provide for the distribution within the United States of the United States Information Agency film entitled "Fragile Ring of Life".

July 18, 1996
[H.R. 2070]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DISTRIBUTION WITHIN THE UNITED STATES OF UNITED STATES INFORMATION AGENCY FILM ENTITLED "FRAGILE RING OF LIFE".

Notwithstanding section 208 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (22 U.S.C. 1461–1(a)) and the second sentence of section 501 of the United States Information and Education Exchange Act of 1948 (22 U.S.C. 1461)—

(1) the Director of the United States Information Agency shall make available to the Archivist of the United States a master copy of the film entitled "Fragile Ring of Life"; and

Historic preservation.

(2) upon evidence that necessary United States rights and licenses have been secured and paid for by the person seeking domestic release of the film, the Archivist shall—

(A) reimburse the Director for any expenses of the Agency in making that master copy available;

(B) deposit that film in the National Archives of the United States; and

(C) make copies of that film available for purchase and public viewing within the United States.

Any reimbursement to the Director pursuant to this section shall be credited to the applicable appropriation of the United States Information Agency.

Approved July 18, 1996.

LEGISLATIVE HISTORY—H.R. 2070:

CONGRESSIONAL RECORD:
Vol. 141 (1995): Oct. 17, considered and passed House.
Vol. 142 (1996): June 28, considered and passed Senate.

Public Law 104–162
104th Congress

An Act

July 18, 1996
[H.R. 2853]

To authorize the extension of nondiscriminatory treatment (most-favored-nation treatment) to the products of Bulgaria.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Exports and imports.
19 USC 2434 note.

SECTION 1. CONGRESSIONAL FINDINGS AND SUPPLEMENTAL ACTION.

(a) CONGRESSIONAL FINDINGS.—The Congress finds that Bulgaria—

(1) has received most-favored-nation treatment since 1991 and has been found to be in full compliance with the freedom of emigration requirements under title IV of the Trade Act of 1974 since 1993;

(2) has reversed many years of Communist dictatorship and instituted a constitutional republic ruled by a democratically elected government as well as basic market-oriented reforms, including privatization;

(3) is in the process of acceding to the General Agreement on Tariffs and Trade (GATT) and the World Trade Organization (WTO), and extension of unconditional most-favored-nation treatment would enable the United States to avail itself of all rights under the GATT and the WTO with respect to Bulgaria; and

(4) has demonstrated a strong desire to build friendly relationships and to cooperate fully with the United States on trade matters.

(b) SUPPLEMENTAL ACTION.—The Congress notes that the United States Trade Representative intends to negotiate with Bulgaria in order to preserve the commitments of that country under the bilateral commercial agreement in effect between that country and the United States that are consistent with the GATT and the WTO.

SEC. 2. TERMINATION OF APPLICATION OF TITLE IV OF THE TRADE ACT OF 1974 TO BULGARIA.

19 USC 2434 note.

(a) PRESIDENTIAL DETERMINATIONS AND EXTENSION OF NONDISCRIMINATORY TREATMENT.—Notwithstanding any provision of title IV of the Trade Act of 1974 (19 U.S.C. 2431 et seq.), the President may—

(1) determine that such title should no longer apply to Bulgaria; and

(2) after making a determination under paragraph (1) with respect to Bulgaria, proclaim the extension of nondiscriminatory treatment (most-favored-nation treatment) to the products of that country.

(b) TERMINATION OF APPLICATION OF TITLE IV.—On and after the effective date of the extension under subsection (a)(2) of nondiscriminatory treatment to the products of Bulgaria, title IV of the Trade Act of 1974 shall cease to apply to that country.

Approved July 18, 1996.

LEGISLATIVE HISTORY—H.R. 2853:

HOUSE REPORTS: No. 104–466 (Comm. on Ways and Means).
SENATE REPORTS: No. 104–265 (Comm. on Finance).
CONGRESSIONAL RECORD, Vol. 142 (1996):
Mar. 5, considered and passed House.
June 28, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 32 (1996):
July 18, Presidential statement.

Public Law 104–163
104th Congress

An Act

July 19, 1996
[H.R. 1508]

To require the transfer of title to the District of Columbia of certain real property in Anacostia Park to facilitate the construction of National Children's Island, a cultural, educational, and family-oriented park.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

National Children's Island Act of 1995.

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Children's Island Act of 1995".

SEC. 2. DEFINITIONS.

For the purposes of this Act:

(1) The term "plat" means the plat filed in the Office of the Surveyor of the District of Columbia under S.O. 92–252.

(2) The term "District" means the District of Columbia.

(3) The term "Islands" means Heritage Island and all of that portion of Kingman Island located south of Benning Road and within the District of Columbia and the Anacostia River, being a portion of United States Reservation 343, Section F, as specified and legally described on the Survey.

(4) The term "National Children's Island" means a cultural, educational, and family-oriented recreation park, together with a children's playground, to be developed and operated in accordance with the Children's Island Development Plan Act of 1993, D.C. Act 10–110.

(5) The term "playground" means the children's playground that is part of National Children's Island and includes all lands on the Islands located south of East Capitol Street.

(6) The term "recreation park" means the cultural, educational, and family-oriented recreation park that is part of National Children's Island.

(7) The term "Secretary" means the Secretary of the Interior.

(8) The term "Survey" means the ALTA/ACSM Land Title Survey prepared by Dewberry & Davis and dated February 12, 1994.

SEC. 3. PROPERTY TRANSFER.

(a) TRANSFER OF TITLE.—In order to facilitate the construction, development, and operation of National Children's Island, the Secretary shall, not later than six months after the date of enactment of this Act and subject to this Act, transfer by quitclaim deed, without consideration, to the District all right, title, and interest

of the United States in and to the Islands. Unbudgeted actual costs incurred by the Secretary for such transfer shall be borne by the District. The District may seek reimbursement from any third party for such costs.

(b) GRANT OF EASEMENTS.—(1) The Secretary shall, not later than six months after the date of enactment of this Act, grant, without consideration, to the District, permanent easements across the waterways and bed of the Anacostia River as described in the Survey as Leased Riverbed Areas A, B, C, and D, and across the shoreline of the Anacostia River as depicted on the plat map recorded in the Office of the Surveyor of the District as S.O. 92–252.

(2) Easements granted under paragraph (1) shall run with the land and shall be for the purposes of—

(A) constructing, reconstructing, maintaining, operating, and otherwise using only such bridges, roads, and other improvements as are necessary or desirable for vehicular and pedestrian egress and ingress to and from the Islands and which satisfy the District Building Code and applicable safety requirements;

(B) installing, reinstalling, maintaining, and operating utility transmission corridors, including (but not limited to) all necessary electricity, water, sewer, gas, necessary or desirable for the construction, reconstruction, maintenance, and operation of the Islands and any and all improvements located thereon from time to time; and

(C) constructing, reconstructing, maintaining, operating, and otherwise providing necessary informational kiosk, ticketing booth, and security for the Islands.

(3) Easements granted under paragraph (1) shall be assignable by the District to any lessee, sublessee, or operator, or any combination thereof, of the Islands.

(c) DEVELOPMENT.—The development of National Children's Island shall proceed as specified in paragraph 3 of the legend on the plat or as otherwise authorized by the District by agreement, lease, resolution, appropriate executive action, or otherwise.

(d) REVERSION.—(1) The transfer under subsection (a) and the grant of easements under subsection (b) shall be subject to the condition that the Islands only be used for the purposes of National Children's Island. Title in the property transferred under subsection (a) and the easements granted under subsection (b), shall revert to the United States 60 days after the date on which the Secretary provides written notice of the reversion to the District based on the Secretary's determination, which shall be made in accordance with chapter 5 of title 5, United States Code (relating to administrative procedures), that one of the following has occurred:

(A) Failure to commence improvements in the recreational park within the earlier of—

(i) three years after building permits are obtained for construction of such improvements; or

(ii) four years after title has been transferred, as provided in subsection (a).

(B) Failure to commence operation of the recreation park within the earlier of—

(i) five years after building permits are obtained for construction of such improvements; or

(ii) seven years after title has been transferred, as provided in subsection (a).

(C) After completion of construction and commencement of operation, the abandonment or non-use of the recreation park for a period of two years.

(D) After completion of construction and commencement of operation, conversion of the Islands to a use other than that specified in this Act or conversion to a parking use not in accordance with section 4(b).

(2) The periods referred to in paragraph (1) shall be extended during the pendency of any lawsuit which seeks to enjoin the development or operation of National Children's Island or the administrative process leading to such development or operation.

(3) Following any reconveyance or reversion to the National Park Service, any and all claims and judgments arising during the period the District holds title to the Islands, the playground, and premises shall remain the responsibility of the District, and such reconveyance or reversion shall extinguish any and all leases, rights or privileges to the Islands and the playground granted by the District.

(4) The District shall require any nongovernmental entity authorized to construct, develop, and operate National Children's Island to establish an escrow fund, post a surety bond, provide a letter of credit or otherwise provide such security for the benefit of the National Park Service, substantially equivalent to that specified in paragraph 11 of the legend on the plat, to serve as the sole source of funding for restoration of the recreation park to a condition suitable for National Park Service purposes (namely, the removal of all buildings and grading, seeding and landscaping of the recreation park) upon reversion of the property. If, on the date which is two years from the date of reversion of the property, the National Park Service has not commenced restoration or is not diligently proceeding with such restoration, any amount in the escrow fund shall be distributed to such nongovernmental entity.

SEC. 4. PROVISIONS RELATING TO LANDS TRANSFERRED AND EASEMENTS GRANTED.

(a) PLAYGROUND.—Operation of the recreation park may only commence simultaneously with or subsequent to improvement and opening of a children's playground at National Children's Island that is available to the public free of charge. The playground shall only include those improvements traditionally or ordinarily included in a publicly maintained children's playground. Operation of the recreation park is at all times dependent on the continued maintenance of the children's playground.

(b) PUBLIC PARKING.—Public parking on the Islands is prohibited, except for handicapped parking, emergency and government vehicles, and parking related to constructing, and servicing National Children's Island.

(c) REQUIRED APPROVALS.—Before construction commences, the final design plans for the recreation park and playground, and all related structures, including bridges and roads, are subject to the review and approval of the National Capital Planning Commission and of the District of Columbia in accordance with the Children's Island Development Plan Act of 1993 (D.C. Act 10–110). The District of Columbia shall carry out its review of

this project in full compliance with all applicable provisions of the National Environmental Policy Act of 1969.

SEC. 5. EFFECT OF PROPERTY TRANSFER.

(a) EFFECT OF PROPERTY TRANSFER.—Upon the transfer of the Islands to the District pursuant to this Act:

(1) The Transfer of Jurisdiction concerning the Islands from the National Park Service to the District dated February 1993, as set out on the plat map recorded in the Office of the Surveyor of the District as S.O. 92–252 and as approved by the Council of the District by Resolution 10–91, shall become null and void and of no further force and effect, except for the references in this Act to paragraphs 3 and 11 of the legend on the plat.

(2) The Islands shall no longer be considered to be part of Anacostia Park and shall not be considered to be within the park system of the District; therefore, the provisions of section 2 of the Act entitled "An Act to vest in the Commissioners of the District of Columbia control of street parking in said District", approved July 1, 1898 (ch. 543, 30 Stat. 570; D.C. Code 8–104), shall not apply to the Islands, and the District shall have exclusive charge and control over the Islands and easements transferred.

(3) The Islands shall cease to be a reservation, park, or public grounds of the United States for the purposes of the Act of August 24, 1912 (ch. 355, 37 Stat. 444; 40 U.S.C. 68; 8–128 D.C. Code).

(b) USE OF CERTAIN LANDS FOR PARKING AND OTHER PURPOSES.—Notwithstanding any other provision of law, the District is hereby authorized to grant via appropriate instrument to a nongovernmental individual or entity any and all of its rights to use the lands currently being leased by the United States to the District pursuant to the District of Columbia Stadium Act of 1957 (Public Law 85–300, September 7, 1957, 71 Stat. 619) for parking facilities (and necessary informational kiosk, ticketing booth, and security) as the Mayor of the District in his discretion may determine necessary or appropriate in connection with or in support of National Children's Island.

SEC. 6. SAVINGS PROVISIONS.

No provision of this Act shall be construed—

(1) as an express or implied endorsement or approval by the Congress of any such construction, development, or operation of National Children's Island;

(2) except as provided in section 5, to exempt the recreational park and playground from the laws of the United States or the District, including laws relating to the environment, health, and safety; or

(3) to prevent additional conditions on the National Children's Island development or operation to mitigate adverse impacts on adjacent residential neighborhoods and park lands and the Anacostia River.

Approved July 19, 1996.

LEGISLATIVE HISTORY—H.R. 1508:

HOUSE REPORTS: No. 104–277, Pt. 1 (Comm. on Resources).
CONGRESSIONAL RECORD:
Vol. 141 (1995): Oct. 30, considered and passed House.
Vol. 142 (1996): June 28, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 32 (1996):
July 19, Presidential statement.

Public Law 104–164
104th Congress

An Act

To amend the Foreign Assistance Act of 1961 and the Arms Export Control Act to make improvements to certain defense and security assistance provisions under those Acts, to authorize the transfer of naval vessels to certain foreign countries, and for other purposes.

July 21, 1996
[H.R. 3121]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TABLE OF CONTENTS.

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CHAPTER 5—OTHER PROVISIONS

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Sec. 147. Designation of major non-NATO allies.
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Sec. 149. Depleted uranium ammunition.
Sec. 150. End-use monitoring of defense articles and defense services.
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Sec. 155. Publication of arms sales certifications.
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TITLE II—TRANSFER OF NAVAL VESSELS TO CERTAIN FOREIGN COUNTRIES

Sec. 201. Authority to transfer naval vessels.
Sec. 202. Costs of transfers.
Sec. 203. Expiration of authority.
Sec. 204. Repair and refurbishment of vessels in United States shipyards.

TITLE I—DEFENSE AND SECURITY ASSISTANCE

CHAPTER 1—MILITARY AND RELATED ASSISTANCE

SEC. 101. TERMS OF LOANS UNDER THE FOREIGN MILITARY FINANCING PROGRAM.

Section 31(c) of the Arms Export Control Act (22 U.S.C. 2771(c)) is amended to read as follows:

"(c) Loans available under section 23 shall be provided at rates of interest that are not less than the current average market yield on outstanding marketable obligations of the United States of comparable maturities.".

SEC. 102. ADDITIONAL REQUIREMENTS UNDER THE FOREIGN MILITARY FINANCING PROGRAM.

(a) AUDIT OF CERTAIN PRIVATE FIRMS.—Section 23 of the Arms Export Control Act (22 U.S.C. 2763) is amended by adding at the end the following new subsection:

"(f) For each fiscal year, the Secretary of Defense, as requested by the Director of the Defense Security Assistance Agency, shall conduct audits on a nonreimbursable basis of private firms that have entered into contracts with foreign governments under which defense articles, defense services, or design and construction services are to be procured by such firms for such governments from financing under this section.".

(b) NOTIFICATION REQUIREMENT WITH RESPECT TO CASH FLOW FINANCING.—Section 23 of such Act (22 U.S.C. 2763), as amended by this Act, is further amended by adding at the end the following new subsection:

"(g)(1) For each country and international organization that has been approved for cash flow financing under this section, any letter of offer and acceptance or other purchase agreement, or any amendment thereto, for a procurement of defense articles, defense services, or design and construction services in excess of $100,000,000 that is to be financed in whole or in part with funds made available under this Act or the Foreign Assistance Act of 1961 shall be submitted to the congressional committees specified in section 634A(a) of the Foreign Assistance Act of 1961 in accordance with the procedures applicable to reprogramming notifications under that section.

"(2) For purposes of this subsection, the term 'cash flow financing' has the meaning given such term in subsection (d) of section 25, as added by section 112(b) of Public Law 99–83.".

(c) LIMITATIONS ON USE OF FUNDS FOR DIRECT COMMERCIAL CONTRACTS.—Section 23 of such Act (22 U.S.C. 2763), as amended

by this Act, is further amended by adding at the end the following new subsection:

"(h) Of the amounts made available for a fiscal year to carry out this section, not more than $100,000,000 for such fiscal year may be made available for countries other than Israel and Egypt for the purpose of financing the procurement of defense articles, defense services, and design and construction services that are not sold by the United States Government under this Act.".

(d) ANNUAL ESTIMATE AND JUSTIFICATION FOR SALES PROGRAM.—Section 25(a) of such Act (22 U.S.C. 2765(a)) is amended—

(1) by striking the "and" at the end of paragraph (11);

(2) by redesignating paragraph (12) as paragraph (13); and

(3) by inserting after paragraph (11) the following:

"(12)(A) a detailed accounting of all articles, services, credits, guarantees, or any other form of assistance furnished by the United States to each country and international organization, including payments to the United Nations, during the preceding fiscal year for the detection and clearance of landmines, including activities relating to the furnishing of education, training, and technical assistance for the detection and clearance of landmines; and

"(B) for each provision of law making funds available or authorizing appropriations for demining activities described in subparagraph (A), an analysis and description of the objectives and activities undertaken during the preceding fiscal year, including the number of personnel involved in performing such activities; and".

SEC. 103. DRAWDOWN SPECIAL AUTHORITIES.

(a) UNFORESEEN EMERGENCY DRAWDOWN.—Section 506(a)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2318(a)(1)) is amended by striking "$75,000,000" and inserting "$100,000,000".

(b) ADDITIONAL DRAWDOWN.—Section 506 of such Act (22 U.S.C. 2318) is amended—

(1) in subsection (a)(2)(A), by striking "defense articles from the stocks" and all that follows and inserting the following: "articles and services from the inventory and resources of any agency of the United States Government and military education and training from the Department of Defense, the President may direct the drawdown of such articles, services, and military education and training—

"(i) for the purposes and under the authorities of—

"(I) chapter 8 of part I (relating to international narcotics control assistance);

"(II) chapter 9 of part I (relating to international disaster assistance); or

"(III) the Migration and Refugee Assistance Act of 1962; or

"(ii) for the purpose of providing such articles, services, and military education and training to Vietnam, Cambodia, and Laos as the President determines are necessary—

"(I) to support cooperative efforts to locate and repatriate members of the United States Armed Forces and civilians employed directly or indirectly by the United States Government who remain unaccounted for from the Vietnam War; and

"(II) to ensure the safety of United States Government personnel engaged in such cooperative efforts and to support Department of Defense-sponsored humanitarian projects associated with such efforts.";

(2) in subsection (a)(2)(B), by striking "$75,000,000" and all that follows and inserting "$150,000,000 in any fiscal year of such articles, services, and military education and training may be provided pursuant to subparagraph (A) of this paragraph—

"(i) not more than $75,000,000 of which may be provided from the drawdown from the inventory and resources of the Department of Defense;

"(ii) not more than $75,000,000 of which may be provided pursuant to clause (i)(I) of such subparagraph; and

"(iii) not more than $15,000,000 of which may be provided to Vietnam, Cambodia, and Laos pursuant to clause (ii) of such subparagraph."; and

(3) in subsection (b)(1), by adding at the end the following: "In the case of drawdowns authorized by subclauses (I) and (III) of subsection (a)(2)(A)(i), notifications shall be provided to those committees at least 15 days in advance of the drawdowns in accordance with the procedures applicable to reprogramming notifications under section 634A.".

(c) NOTICE TO CONGRESS OF EXERCISE OF SPECIAL AUTHORITIES.—Section 652 of such Act (22 U.S.C. 2411) is amended by striking "prior to the date" and inserting "before".

SEC. 104. TRANSFER OF EXCESS DEFENSE ARTICLES.

(a) IN GENERAL.—Section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j) is amended to read as follows:

"SEC. 516. AUTHORITY TO TRANSFER EXCESS DEFENSE ARTICLES.

"(a) AUTHORIZATION.—The President is authorized to transfer excess defense articles under this section to countries for which receipt of such articles was justified pursuant to the annual congressional presentation documents for military assistance programs, or for programs under chapter 8 of part I of this Act, submitted under section 634 of this Act, or for which receipt of such articles was separately justified to the Congress, for the fiscal year in which the transfer is authorized.

"(b) LIMITATIONS ON TRANSFERS.—(1) The President may transfer excess defense articles under this section only if—

"(A) such articles are drawn from existing stocks of the Department of Defense;

"(B) funds available to the Department of Defense for the procurement of defense equipment are not expended in connection with the transfer;

"(C) the transfer of such articles will not have an adverse impact on the military readiness of the United States;

"(D) with respect to a proposed transfer of such articles on a grant basis, such a transfer is preferable to a transfer on a sales basis, after taking into account the potential proceeds from, and likelihood of, such sales, and the comparative foreign policy benefits that may accrue to the United States as the result of a transfer on either a grant or sales basis;

"(E) the President determines that the transfer of such articles will not have an adverse impact on the national technology and industrial base and, particularly, will not reduce

the opportunities of entities in the national technology and industrial base to sell new or used equipment to the countries to which such articles are transferred; and

"(F) the transfer of such articles is consistent with the policy framework for the Eastern Mediterranean established under section 620C of this Act.

"(2) Accordingly, for the four-year period beginning on October 1, 1996, the President shall ensure that excess defense articles offered to Greece and Turkey under this section will be made available consistent with the manner in which the President made available such excess defense articles during the four-year period that began on October 1, 1992, pursuant to section 573(e) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990. Effective date. President.

"(c) TERMS OF TRANSFERS.—

"(1) NO COST TO RECIPIENT COUNTRY.—Excess defense articles may be transferred under this section without cost to the recipient country.

"(2) PRIORITY.—Notwithstanding any other provision of law, the delivery of excess defense articles under this section to member countries of the North Atlantic Treaty Organization (NATO) on the southern and southeastern flank of NATO and to major non-NATO allies on such southern and southeastern flank shall be given priority to the maximum extent feasible over the delivery of such excess defense articles to other countries.

"(d) WAIVER OF REQUIREMENT FOR REIMBURSEMENT OF DEPARTMENT OF DEFENSE EXPENSES.—Section 632(d) shall not apply with respect to transfers of excess defense articles (including transportation and related costs) under this section.

"(e) TRANSPORTATION AND RELATED COSTS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), funds available to the Department of Defense may not be expended for crating, packing, handling, and transportation of excess defense articles transferred under the authority of this section.

"(2) EXCEPTION.—The President may provide for the transportation of excess defense articles without charge to a country for the costs of such transportation if—

"(A) it is determined that it is in the national interest of the United States to do so;

"(B) the recipient is a developing country receiving less than $10,000,000 of assistance under chapter 5 of this part of this Act (relating to international military education and training) or section 23 of the Arms Export Control Act (22 U.S.C. 2763; relating to the Foreign Military Financing program) in the fiscal year in which the transportation is provided;

"(C) the total weight of the transfer does not exceed 25,000 pounds; and

"(D) such transportation is accomplished on a space available basis.

"(f) ADVANCE NOTIFICATION TO CONGRESS FOR TRANSFER OF CERTAIN EXCESS DEFENSE ARTICLES.—

"(1) IN GENERAL.—The President may not transfer excess defense articles that are significant military equipment (as defined in section 47(9) of the Arms Export Control Act) or

excess defense articles valued (in terms of original acquisition cost) at $7,000,000 or more, under this section or under the Arms Export Control Act (22 U.S.C. 2751 et seq.) until 30 days after the date on which the President has provided notice of the proposed transfer to the congressional committees specified in section 634A(a) in accordance with procedures applicable to reprogramming notifications under that section.

"(2) CONTENTS.—Such notification shall include—

"(A) a statement outlining the purposes for which the article is being provided to the country, including whether such article has been previously provided to such country;

"(B) an assessment of the impact of the transfer on the military readiness of the United States;

"(C) an assessment of the impact of the transfer on the national technology and industrial base and, particularly, the impact on opportunities of entities in the national technology and industrial base to sell new or used equipment to the countries to which such articles are to be transferred; and

"(D) a statement describing the current value of such article and the value of such article at acquisition.

"(g) AGGREGATE ANNUAL LIMITATION.—

"(1) IN GENERAL.—The aggregate value of excess defense articles transferred to countries under this section in any fiscal year may not exceed $350,000,000.

"(2) EFFECTIVE DATE.—The limitation contained in paragraph (1) shall apply only with respect to fiscal years beginning after fiscal year 1996.

"(h) CONGRESSIONAL PRESENTATION DOCUMENTS.—Documents described in subsection (a) justifying the transfer of excess defense articles shall include an explanation of the general purposes of providing excess defense articles as well as a table which provides an aggregate annual total of transfers of excess defense articles in the preceding year by country in terms of offers and actual deliveries and in terms of acquisition cost and current value. Such table shall indicate whether such excess defense articles were provided on a grant or sale basis.

"(i) EXCESS COAST GUARD PROPERTY.—For purposes of this section, the term 'excess defense articles' shall be deemed to include excess property of the Coast Guard, and the term 'Department of Defense' shall be deemed, with respect to such excess property, to include the Coast Guard.".

(b) CONFORMING AMENDMENTS.—

(1) ARMS EXPORT CONTROL ACT.—Section 21(k) of the Arms Export Control Act (22 U.S.C. 2761(k)) is amended by striking "the President shall" and all that follows and inserting the following: "the President shall determine that the sale of such articles will not have an adverse impact on the national technology and industrial base and, particularly, will not reduce the opportunities of entities in the national technology and industrial base to sell new or used equipment to the countries to which such articles are transferred.".

President.

(2) REPEALS.—The following provisions of law are hereby repealed:

(A) Section 502A of the Foreign Assistance Act of 1961 (22 U.S.C. 2303).

(B) Sections 517 through 520 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321k through 2321n).

(C) Section 31(d) of the Arms Export Control Act (22 U.S.C. 2771(d)).

SEC. 105. EXCESS DEFENSE ARTICLES FOR CERTAIN EUROPEAN COUNTRIES.

Notwithstanding section 516(e) of the Foreign Assistance Act of 1961, as added by this Act, during each of the fiscal years 1996 and 1997, funds available to the Department of Defense may be expended for crating, packing, handling, and transportation of excess defense articles transferred under the authority of section 516 of such Act to countries that are eligible to participate in the Partnership for Peace and that are eligible for assistance under the Support for East European Democracy (SEED) Act of 1989.

CHAPTER 2—INTERNATIONAL MILITARY EDUCATION AND TRAINING

SEC. 111. ASSISTANCE FOR INDONESIA.

Funds made available for fiscal years 1996 and 1997 to carry out chapter 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2347 et seq.) may be obligated for Indonesia only for expanded military and education training that meets the requirements of clauses (i) through (iv) of the second sentence of section 541 of such Act (22 U.S.C. 2347).

SEC. 112. ADDITIONAL REQUIREMENTS.

(a) GENERAL AUTHORITY.—Section 541 of the Foreign Assistance Act of 1961 (22 U.S.C. 2347) is amended in the second sentence in the matter preceding clause (i) by inserting "and individuals who are not members of the government" after "legislators".

(b) EXCHANGE TRAINING.—Section 544 of such Act (22 U.S.C. 2347c) is amended—

(1) by striking "In carrying out this chapter" and inserting "(a) In carrying out this chapter"; and

(2) by adding at the end the following new subsection:

"(b) The President may provide for the attendance of foreign military and civilian defense personnel at flight training schools and programs (including test pilot schools) in the United States without charge, and without charge to funds available to carry out this chapter (notwithstanding section 632(d) of this Act), if such attendance is pursuant to an agreement providing for the exchange of students on a one-for-one basis each fiscal year between those United States flight training schools and programs (including test pilot schools) and comparable flight training schools and programs of foreign countries.".

(c) ASSISTANCE FOR CERTAIN HIGH-INCOME FOREIGN COUNTRIES.—

(1) AMENDMENT TO THE FOREIGN ASSISTANCE ACT OF 1961.—Chapter 5 of part II of such Act (22 U.S.C. 2347 et seq.) is amended by adding at the end the following new section:

"SEC. 546. PROHIBITION ON GRANT ASSISTANCE FOR CERTAIN HIGH INCOME FOREIGN COUNTRIES. 22 USC 2347c.

"(a) IN GENERAL.—None of the funds made available for a fiscal year for assistance under this chapter may be made available for assistance on a grant basis for any of the high-income foreign

countries described in subsection (b) for military education and training of military and related civilian personnel of such country.

"(b) HIGH-INCOME FOREIGN COUNTRIES DESCRIBED.—The high-income foreign countries described in this subsection are Austria, Finland, the Republic of Korea, Singapore, and Spain.".

(2) AMENDMENT TO THE ARMS EXPORT CONTROL ACT.—Section 21(a)(1)(C) of the Arms Export Control Act (22 U.S.C. 2761(a)(1)(C)) is amended by inserting "or to any high-income foreign country (as described in that chapter)" after "Foreign Assistance Act of 1961".

CHAPTER 3—ANTITERRORISM ASSISTANCE

SEC. 121. ANTITERRORISM TRAINING ASSISTANCE.

(a) IN GENERAL.—Section 571 of the Foreign Assistance Act of 1961 (22 U.S.C. 2349aa) is amended by striking "Subject to the provisions of this chapter" and inserting "Notwithstanding any other provision of law that restricts assistance to foreign countries (other than sections 502B and 620A of this Act)".

(b) LIMITATIONS.—Section 573 of such Act (22 U.S.C. 2349aa–2) is amended—

(1) in the heading, by striking "SPECIFIC AUTHORITIES AND";

(2) by striking subsection (a);

(3) by redesignating subsections (b) through (f) as subsections (a) through (e), respectively; and

(4) in subsection (c) (as redesignated)—

(A) by striking paragraphs (1) and (2);

(B) by redesignating paragraphs (3) through (5) as paragraphs (1) through (3), respectively; and

(C) by amending paragraph (2) (as redesignated) to read as follows:

"(2)(A) Except as provided in subparagraph (B), funds made available to carry out this chapter shall not be made available for the procurement of weapons and ammunition.

"(B) Subparagraph (A) shall not apply to small arms and ammunition in categories I and III of the United States Munitions List that are integrally and directly related to antiterrorism training provided under this chapter if, at least 15 days before obligating those funds, the President notifies the appropriate congressional committees specified in section 634A of this Act in accordance with the procedures applicable to reprogramming notifications under such section.

"(C) The value (in terms of original acquisition cost) of all equipment and commodities provided under this chapter in any fiscal year may not exceed 25 percent of the funds made available to carry out this chapter for that fiscal year.".

(c) ANNUAL REPORT.—Section 574 of such Act (22 U.S.C. 2349aa–3) is hereby repealed.

(d) TECHNICAL CORRECTIONS.—Section 575 (22 U.S.C. 2349aa–4) and section 576 (22 U.S.C. 2349aa–5) of such Act are redesignated as sections 574 and 575, respectively.

SEC. 122. RESEARCH AND DEVELOPMENT EXPENSES.

Funds made available for fiscal years 1996 and 1997 to carry out chapter 8 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2349aa et seq.; relating to antiterrorism assistance) may be made available to the Technical Support Working Group

of the Department of State for research and development expenses related to contraband detection technologies or for field demonstrations of such technologies (whether such field demonstrations take place in the United States or outside the United States).

CHAPTER 4—INTERNATIONAL NARCOTICS CONTROL ASSISTANCE

SEC. 131. ADDITIONAL REQUIREMENTS.

(a) POLICY AND GENERAL AUTHORITIES.—Section 481(a) of the Foreign Assistance Act (22 U.S.C. 2291(a)) is amended—

(1) in paragraph (1)—

(A) by redesignating subparagraphs (D) through (F) as subparagraphs (E) through (G), respectively; and

(B) by inserting after subparagraph (C) the following:

"(D) International criminal activities, particularly international narcotics trafficking, money laundering, and corruption, endanger political and economic stability and democratic development, and assistance for the prevention and suppression of international criminal activities should be a priority for the United States."; and

(2) in paragraph (4), by adding before the period at the end the following: ", or for other anticrime purposes".

(b) CONTRIBUTIONS AND REIMBURSEMENT.—Section 482(c) of that Act (22 U.S.C. 2291a(c)) is amended—

(1) by striking "CONTRIBUTION BY RECIPIENT COUNTRY.—To" and inserting "CONTRIBUTIONS AND REIMBURSEMENT.—(1) To"; and

(2) by adding at the end the following new paragraphs:

"(2)(A) The President is authorized to accept contributions from foreign governments to carry out the purposes of this chapter. Such contributions shall be deposited as an offsetting collection to the applicable appropriation account and may be used under the same terms and conditions as funds appropriated pursuant to this chapter.

"(B) At the time of submission of the annual congressional presentation documents required by section 634(a), the President shall provide a detailed report on any contributions received in the preceding fiscal year, the amount of such contributions, and the purposes for which such contributions were used. President. Reports.

"(3) The President is authorized to provide assistance under this chapter on a reimbursable basis. Such reimbursements shall be deposited as an offsetting collection to the applicable appropriation and may be used under the same terms and conditions as funds appropriated pursuant to this chapter.".

(c) IMPLEMENTATION OF LAW ENFORCEMENT ASSISTANCE.—Section 482 of such Act (22 U.S.C. 2291a) is amended by adding at the end the following new subsections:

"(f) TREATMENT OF FUNDS.—Funds transferred to and consolidated with funds appropriated pursuant to this chapter may be made available on such terms and conditions as are applicable to funds appropriated pursuant to this chapter. Funds so transferred or consolidated shall be apportioned directly to the bureau within the Department of State responsible for administering this chapter.

"(g) EXCESS PROPERTY.—For purposes of this chapter, the Secretary of State may use the authority of section 608, without regard

to the restrictions of such section, to receive nonlethal excess property from any agency of the United States Government for the purpose of providing such property to a foreign government under the same terms and conditions as funds authorized to be appropriated for the purposes of this chapter.".

21 USC 1502 note.

SEC. 132. NOTIFICATION REQUIREMENT.

(a) IN GENERAL.—The authority of section 1003(d) of the National Narcotics Control Leadership Act of 1988 (21 U.S.C. 1502(d)) may be exercised with respect to funds authorized to be appropriated pursuant to the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) and with respect to the personnel of the Department of State only to the extent that the appropriate congressional committees have been notified 15 days in advance in accordance with the reprogramming procedures applicable under section 634A of that Act (22 U.S.C. 2394–1).

(b) DEFINITION.—For purposes of this section, the term "appropriate congressional committees" means the Committee on International Relations and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

22 USC 2151 note.

SEC. 133. WAIVER OF RESTRICTIONS FOR NARCOTICS-RELATED ECONOMIC ASSISTANCE.

For each of the fiscal years 1996 and 1997, narcotics-related assistance under part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) may be provided notwithstanding any other provision of law that restricts assistance to foreign countries (other than section 490(e) or section 502B of that Act (22 U.S.C. 2291j(e) and 2304)) if, at least 15 days before obligating funds for such assistance, the President notifies the appropriate congressional committees (as defined in section 481(e) of that Act (22 U.S.C. 2291(e))) in accordance with the procedures applicable to reprogramming notifications under section 634A of that Act (22 U.S.C. 2394–1).

CHAPTER 5—OTHER PROVISIONS

SEC. 141. STANDARDIZATION OF CONGRESSIONAL REVIEW PROCEDURES FOR ARMS TRANSFERS.

(a) THIRD COUNTRY TRANSFERS UNDER FMS SALES.—Section 3(d)(2) of the Arms Export Control Act (22 U.S.C. 2753(d)(2)) is amended—

(1) in subparagraph (A), by striking ", as provided for in sections 36(b)(2) and 36(b)(3) of this Act";

(2) in subparagraph (B), by striking "law" and inserting "joint resolution"; and

(3) by adding at the end the following:

President.

"(C) If the President states in his certification under subparagraph (A) or (B) that an emergency exists which requires that consent to the proposed transfer become effective immediately in the national security interests of the United States, thus waiving the requirements of that subparagraph, the President shall set forth in the certification a detailed justification for his determination, including a description of the emergency circumstances which necessitate immediate consent to the transfer and a discussion of the national security interests involved.

"(D)(i) Any joint resolution under this paragraph shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

"(ii) For the purpose of expediting the consideration and enactment of joint resolutions under this paragraph, a motion to proceed to the consideration of any such joint resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.".

(b) THIRD COUNTRY TRANSFERS UNDER COMMERCIAL SALES.—Section 3(d)(3) of such Act (22 U.S.C. 2753(d)(3)) is amended—

(1) by inserting "(A)" after "(3)";

(2) in the first sentence—

(A) by striking "at least 30 calendar days"; and

(B) by striking "report" and inserting "certification"; and

(3) by striking the last sentence and inserting the following: "Such certification shall be submitted—

"(i) at least 15 calendar days before such consent is given in the case of a transfer to a country which is a member of the North Atlantic Treaty Organization or Australia, Japan, or New Zealand; and

"(ii) at least 30 calendar days before such consent is given in the case of a transfer to any other country,

unless the President states in his certification that an emergency exists which requires that consent to the proposed transfer become effective immediately in the national security interests of the United States. If the President states in his certification that such an emergency exists (thus waiving the requirements of clause (i) or (ii), as the case may be, and of subparagraph (B)) the President shall set forth in the certification a detailed justification for his determination, including a description of the emergency circumstances which necessitate that consent to the proposed transfer become effective immediately and a discussion of the national security interests involved. President.

"(B) Consent to a transfer subject to subparagraph (A) shall become effective after the end of the 15-day or 30-day period specified in subparagraph (A)(i) or (ii), as the case may be, only if the Congress does not enact, within that period, a joint resolution prohibiting the proposed transfer. Effective date.

"(C)(i) Any joint resolution under this paragraph shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

"(ii) For the purpose of expediting the consideration and enactment of joint resolutions under this paragraph, a motion to proceed to the consideration of any such joint resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.".

(c) COMMERCIAL SALES.—Section 36(c)(2) of such Act (22 U.S.C. 2776(c)(2)) is amended by amending subparagraphs (A) and (B) to read as follows:

"(A) in the case of a license for an export to the North Atlantic Treaty Organization, any member country of that Organization or Australia, Japan, or New Zealand, shall not be issued until at least 15 calendar days after the Congress receives such certification, and shall not be issued then if

the Congress, within that 15-day period, enacts a joint resolution prohibiting the proposed export; and

"(B) in the case of any other license, shall not be issued until at least 30 calendar days after the Congress receives such certification, and shall not be issued then if the Congress, within that 30-day period, enacts a joint resolution prohibiting the proposed export.".

(d) COMMERCIAL MANUFACTURING AGREEMENTS.—Section 36(d) of such Act (22 U.S.C. 2776(d)) is amended—

(1) by inserting "(1)" after "(d)";

(2) by striking "for or in a country not a member of the North Atlantic Treaty Organization"; and

(3) by adding at the end the following:

"(2) A certification under this subsection shall be submitted—

"(A) at least 15 days before approval is given in the case of an agreement for or in a country which is a member of the North Atlantic Treaty Organization or Australia, Japan, or New Zealand; and

"(B) at least 30 days before approval is given in the case of an agreement for or in any other country;

unless the President states in his certification that an emergency exists which requires the immediate approval of the agreement in the national security interests of the United States.

President. "(3) If the President states in his certification that an emergency exists which requires the immediate approval of the agreement in the national security interests of the United States, thus waiving the requirements of paragraph (4), he shall set forth in the certification a detailed justification for his determination, including a description of the emergency circumstances which necessitate the immediate approval of the agreement and a discussion of the national security interests involved.

"(4) Approval for an agreement subject to paragraph (1) may not be given under section 38 if the Congress, within the 15-day or 30-day period specified in paragraph (2)(A) or (B), as the case may be, enacts a joint resolution prohibiting such approval.

"(5)(A) Any joint resolution under paragraph (4) shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

"(B) For the purpose of expediting the consideration and enactment of joint resolutions under paragraph (4), a motion to proceed to the consideration of any such joint resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.".

(e) GOVERNMENT-TO-GOVERNMENT LEASES.—

(1) CONGRESSIONAL REVIEW PERIOD.—Section 62 of such Act (22 U.S.C. 2796a) is amended—

(A) in subsection (a), by striking "Not less than 30 days before" and inserting "Before";

(B) in subsection (b)—

(i) by striking "determines, and immediately reports to the Congress" and inserting "states in his certification"; and

(ii) by adding at the end of the subsection the following: "If the President states in his certification that such an emergency exists, he shall set forth in the certification a detailed justification for his deter-

President.

mination, including a description of the emergency circumstances which necessitate that the lease be entered into immediately and a discussion of the national security interests involved."; and

(C) by adding at the end of the section the following:

"(c) The certification required by subsection (a) shall be transmitted—

"(1) not less than 15 calendar days before the agreement is entered into or renewed in the case of an agreement with the North Atlantic Treaty Organization, any member country of that Organization or Australia, Japan, or New Zealand; and

"(2) not less than 30 calendar days before the agreement is entered into or renewed in the case of an agreement with any other organization or country.".

(2) CONGRESSIONAL DISAPPROVAL.—Section 63(a) of such Act (22 U.S.C. 2796b(a)) is amended—

(A) by striking "(a)(1)" and inserting "(a)";

(B) by striking "30 calendar days after receiving the certification with respect to that proposed agreement pursuant to section 62(a)," and inserting "the 15-day or 30-day period specified in section 62(c) (1) or (2), as the case may be,"; and

(C) by striking paragraph (2).

(f) EFFECTIVE DATE.—The amendments made by this section apply with respect to certifications required to be submitted on or after the date of the enactment of this Act. 22 USC 2753 note.

SEC. 142. STANDARDIZATION OF THIRD COUNTRY TRANSFERS OF DEFENSE ARTICLES.

Section 3 of the Arms Export Control Act (22 U.S.C. 2753) is amended by inserting after subsection (a) the following new subsection:

"(b) The consent of the President under paragraph (2) of subsection (a) or under paragraph (1) of section 505(a) of the Foreign Assistance Act of 1961 (as it relates to subparagraph (B) of such paragraph) shall not be required for the transfer by a foreign country or international organization of defense articles sold by the United States under this Act if—

"(1) such articles constitute components incorporated into foreign defense articles;

"(2) the recipient is the government of a member country of the North Atlantic Treaty Organization, the Government of Australia, the Government of Japan, or the Government of New Zealand;

"(3) the recipient is not a country designated under section 620A of the Foreign Assistance Act of 1961;

"(4) the United States-origin components are not—

"(A) significant military equipment (as defined in section 47(9));

"(B) defense articles for which notification to Congress is required under section 36(b); and

"(C) identified by regulation as Missile Technology Control Regime items; and

"(5) the foreign country or international organization provides notification of the transfer of the defense articles to

the United States Government not later than 30 days after the date of such transfer.".

SEC. 143. INCREASED STANDARDIZATION, RATIONALIZATION, AND INTEROPERABILITY OF ASSISTANCE AND SALES PROGRAMS.

Paragraph (6) of section 515(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321i(a)(6)) is amended by striking "among members of the North Atlantic Treaty Organization and with the Armed Forces of Japan, Australia, and New Zealand".

SEC. 144. DEFINITION OF SIGNIFICANT MILITARY EQUIPMENT.

Section 47 of the Arms Export Control Act (22 U.S.C. 2794) is amended—

(1) in paragraph (7), by striking "and" at the end;

(2) in paragraph (8), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(9) 'significant military equipment' means articles—

"(A) for which special export controls are warranted because of the capacity of such articles for substantial military utility or capability; and

"(B) identified on the United States Munitions List.".

SEC. 145. ELIMINATION OF ANNUAL REPORTING REQUIREMENT RELATING TO THE SPECIAL DEFENSE ACQUISITION FUND.

(a) IN GENERAL.—Section 53 of the Arms Export Control Act (22 U.S.C. 2795b) is hereby repealed.

(b) CONFORMING AMENDMENT.—Section 51(a)(4) of such Act (22 U.S.C. 2795(a)(4)) is amended—

(1) by striking "(A)"; and

(2) by striking subparagraph (B).

SEC. 146. COST OF LEASED DEFENSE ARTICLES THAT HAVE BEEN LOST OR DESTROYED.

Section 61(a)(4) of the Arms Export Control Act (22 U.S.C. 2796(a)(4)) is amended by striking "and the replacement cost" and all that follows and inserting the following: "and, if the articles are lost or destroyed while leased—

"(A) in the event the United States intends to replace the articles lost or destroyed, the replacement cost (less any depreciation in the value) of the articles; or

"(B) in the event the United States does not intend to replace the articles lost or destroyed, an amount not less than the actual value (less any depreciation in the value) specified in the lease agreement.".

SEC. 147. DESIGNATION OF MAJOR NON-NATO ALLIES.

(a) DESIGNATION.—

(1) NOTICE TO CONGRESS.—Chapter 2 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2311 et seq.), as amended by this Act, is further amended by adding at the end the following new section:

22 USC 2321k.

"SEC. 517. DESIGNATION OF MAJOR NON-NATO ALLIES.

President.

"(a) NOTICE TO CONGRESS.—The President shall notify the Congress in writing at least 30 days before—

"(1) designating a country as a major non-NATO ally for purposes of this Act and the Arms Export Control Act (22 U.S.C. 2751 et seq.); or

"(2) terminating such a designation.

"(b) INITIAL DESIGNATIONS.—Australia, Egypt, Israel, Japan, the Republic of Korea, and New Zealand shall be deemed to have been so designated by the President as of the effective date of this section, and the President is not required to notify the Congress of such designation of those countries.".

(2) DEFINITION.—Section 644 of such Act (22 U.S.C. 2403) is amended by adding at the end the following:

"(q) 'Major non-NATO ally' means a country which is designated in accordance with section 517 as a major non-NATO ally for purposes of this Act and the Arms Export Control Act (22 U.S.C. 2751 et seq.).".

(3) EXISTING DEFINITIONS.—(A) The last sentence of section 21(g) of the Arms Export Control Act (22 U.S.C. 2761(g)) is repealed.

(B) Section 65(d) of such Act (22 U.S.C. 2796d(d)) is amended—

(i) by striking "or major non-NATO"; and

(ii) by striking out "or a" and all that follows through "Code".

(b) COOPERATIVE TRAINING AGREEMENTS.—Section 21(g) of the Arms Export Control Act (22 U.S.C. 2761(g)) is amended in the first sentence by striking "similar agreements" and all that follows through "other countries" and inserting "similar agreements with countries".

SEC. 148. ANNUAL MILITARY ASSISTANCE REPORT.

Section 655 of the Foreign Assistance Act of 1961 (22 U.S.C. 2415) is amended to read as follows:

"SEC. 655. ANNUAL MILITARY ASSISTANCE REPORT.

"(a) REPORT REQUIRED.—Not later than February 1 of each year, the President shall transmit to the Congress an annual report for the fiscal year ending the previous September 30. President.

"(b) INFORMATION RELATING TO MILITARY ASSISTANCE AND MILITARY EXPORTS.—Each such report shall show the aggregate dollar value and quantity of defense articles (including excess defense articles), defense services, and international military education and training authorized by the United States, excluding that which is pursuant to activies reportable under title V of the National Security Act of 1947, to each foreign country and international organization. The report shall specify, by category, whether such defense articles—

"(1) were furnished by grant under chapter 2 or chapter 5 of part II of this Act or under any other authority of law or by sale under chapter 2 of the Arms Export Control Act; or

"(2) were licensed for export under section 38 of the Arms Export Control Act.

"(c) INFORMATION RELATING TO MILITARY IMPORTS.—Each such report shall also include the total amount of military items manufactured outside the United States that were imported into the United States during the fiscal year covered by the report. For each country of origin the report shall show the type of item being imported and the total amount of the items.".

SEC. 149. DEPLETED URANIUM AMMUNITION.

Chapter 1 of part III of the Foreign Assistance Act of 1961 (22 U.S.C. 2370 et seq.), is amended by adding at the end the following new section:

22 USC 2378a.

"SEC. 620G. DEPLETED URANIUM AMMUNITION.

"(a) PROHIBITION.—Except as provided in subsection (b), none of the funds made available to carry out this Act or any other Act may be made available to facilitate in any way the sale of M–833 antitank shells or any comparable antitank shells containing a depleted uranium penetrating component to any country other than—

"(1) a country that is a member of the North Atlantic Treaty Organization;

"(2) a country that has been designated as a major non-NATO ally (as defined in section 644(q)); or

"(3) Taiwan.

"(b) EXCEPTION.—The prohibition contained in subsection (a) shall not apply with respect to the use of funds to facilitate the sale of antitank shells to a country if the President determines that to do so is in the national security interest of the United States.".

SEC. 150. END-USE MONITORING OF DEFENSE ARTICLES AND DEFENSE SERVICES.

(a) IN GENERAL.—The Arms Export Control Act (22 U.S.C. 2751 et seq.) is amended by inserting after chapter 3 the following new chapter:

"CHAPTER 3A—END-USE MONITORING OF DEFENSE ARTICLES AND DEFENSE SERVICES

President.
22 USC 2785.

"SEC. 40A. END-USE MONITORING OF DEFENSE ARTICLES AND DEFENSE SERVICES.

"(a) ESTABLISHMENT OF MONITORING PROGRAM.—

"(1) IN GENERAL.—In order to improve accountability with respect to defense articles and defense services sold, leased, or exported under this Act or the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.), the President shall establish a program which provides for the end-use monitoring of such articles and services.

"(2) REQUIREMENTS OF PROGRAM.—To the extent practicable, such program—

"(A) shall provide for the end-use monitoring of defense articles and defense services in accordance with the standards that apply for identifying high-risk exports for regular end-use verification developed under section 38(g)(7) of this Act (commonly referred to as the 'Blue Lantern' program); and

"(B) shall be designed to provide reasonable assurance that—

"(i) the recipient is complying with the requirements imposed by the United States Government with respect to use, transfers, and security of defense articles and defense services; and

"(ii) such articles and services are being used for the purposes for which they are provided.

"(b) CONDUCT OF PROGRAM.—In carrying out the program established under subsection (a), the President shall ensure that the program—

"(1) provides for the end-use verification of defense articles and defense services that incorporate sensitive technology, defense articles and defense services that are particularly vulnerable to diversion or other misuse, or defense articles or defense services whose diversion or other misuse could have significant consequences; and

"(2) prevents the diversion (through reverse engineering or other means) of technology incorporated in defense articles.

"(c) REPORT TO CONGRESS.—Not later than 6 months after the date of the enactment of this section, and annually thereafter as a part of the annual congressional presentation documents submitted under section 634 of the Foreign Assistance Act of 1961, the President shall transmit to the Congress a report describing the actions taken to implement this section, including a detailed accounting of the costs and number of personnel associated with the monitoring program.

"(d) THIRD COUNTRY TRANSFERS.—For purposes of this section, defense articles and defense services sold, leased, or exported under this Act or the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) includes defense articles and defense services that are transferred to a third country or other third party.".

(b) EFFECTIVE DATE.—Section 40A of the Arms Export Control Act, as added by subsection (a), applies with respect to defense articles and defense services provided before or after the date of the enactment of this Act. 22 USC 2785 note.

SEC. 151. BROKERING ACTIVITIES RELATING TO COMMERCIAL SALES OF DEFENSE ARTICLES AND SERVICES.

(a) IN GENERAL.—Section 38(b)(1)(A) of the Arms Export Control Act (22 U.S.C. 2778(b)(1)(A)) is amended—

(1) in the first sentence, by striking "As prescribed in regulations" and inserting "(i) As prescribed in regulations"; and

(2) by adding at the end the following new clause:

"(ii)(I) As prescribed in regulations issued under this section, every person (other than an officer or employee of the United States Government acting in official capacity) who engages in the business of brokering activities with respect to the manufacture, export, import, or transfer of any defense article or defense service designated by the President under subsection (a)(1), or in the business of brokering activities with respect to the manufacture, export, import, or transfer of any foreign defense article or defense service (as defined in subclause (IV)), shall register with the United States Government agency charged with the administration of this section, and shall pay a registration fee which shall be prescribed by such regulations. Regulations.

"(II) Such brokering activities shall include the financing, transportation, freight forwarding, or taking of any other action that facilitates the manufacture, export, or import of a defense article or defense service.

"(III) No person may engage in the business of brokering activities described in subclause (I) without a license, issued in accordance with this Act, except that no license shall be required for such

activities undertaken by or for an agency of the United States Government—

"(aa) for use by an agency of the United States Government; or

"(bb) for carrying out any foreign assistance or sales program authorized by law and subject to the control of the President by other means.

"(IV) For purposes of this clause, the term 'foreign defense article or defense service' includes any non-United States defense article or defense service of a nature described on the United States Munitions List regardless of whether such article or service is of United States origin or whether such article or service contains United States origin components.".

22 USC 2778 note.

(b) EFFECTIVE DATE.—Section 38(b)(1)(A)(ii) of the Arms Export Control Act, as added by subsection (a), shall apply with respect to brokering activities engaged in beginning on or after 120 days after the enactment of this Act.

SEC. 152. RETURN AND EXCHANGES OF DEFENSE ARTICLES PREVIOUSLY TRANSFERRED PURSUANT TO THE ARMS EXPORT CONTROL ACT.

(a) REPAIR OF DEFENSE ARTICLES.—Section 21 of the Arms Export Control Act (22 U.S.C. 2761) is amended by adding at the end the following new subsection:

"(l) REPAIR OF DEFENSE ARTICLES.—

"(1) IN GENERAL.—The President may acquire a repairable defense article from a foreign country or international organization if such defense article—

"(A) previously was transferred to such country or organization under this Act;

"(B) is not an end item; and

"(C) will be exchanged for a defense article of the same type that is in the stocks of the Department of Defense.

"(2) LIMITATION.—The President may exercise the authority provided in paragraph (1) only to the extent that the Department of Defense—

"(A)(i) has a requirement for the defense article being returned; and

"(ii) has available sufficient funds authorized and appropriated for such purpose; or

"(B)(i) is accepting the return of the defense article for subsequent transfer to another foreign government or international organization pursuant to a letter of offer and acceptance implemented in accordance with this Act; and

"(ii) has available sufficient funds provided by or on behalf of such other foreign government or international organization pursuant to a letter of offer and acceptance implemented in accordance with this Act.

"(3) REQUIREMENT.—(A) The foreign government or international organization receiving a new or repaired defense article in exchange for a repairable defense article pursuant to paragraph (1) shall, upon the acceptance by the United States Government of the repairable defense article being returned, be charged the total cost associated with the repair and replacement transaction.

"(B) The total cost charged pursuant to subparagraph (A) shall be the same as that charged the United States Armed Forces for a similar repair and replacement transaction, plus an administrative surcharge in accordance with subsection (e)(1)(A) of this section.

"(4) RELATIONSHIP TO CERTAIN OTHER PROVISIONS OF LAW.—The authority of the President to accept the return of a repairable defense article as provided in subsection (a) shall not be subject to chapter 137 of title 10, United States Code, or any other provision of law relating to the conclusion of contracts.".

(b) RETURN OF DEFENSE ARTICLES.—Section 21 of such Act (22 U.S.C. 2761), as amended by this Act, is further amended by adding at the end the following new subsection:

"(m) RETURN OF DEFENSE ARTICLES.—

"(1) IN GENERAL.—The President may accept the return of a defense article from a foreign country or international organization if such defense article—

"(A) previously was transferred to such country or organization under this Act;

"(B) is not significant military equipment (as defined in section 47(9) of this Act); and

"(C) is in fully functioning condition without need of repair or rehabilitation.

"(2) LIMITATION.—The President may exercise the authority provided in paragraph (1) only to the extent that the Department of Defense—

"(A)(i) has a requirement for the defense article being returned; and

"(ii) has available sufficient funds authorized and appropriated for such purpose; or

"(B)(i) is accepting the return of the defense article for subsequent transfer to another foreign government or international organization pursuant to a letter of offer and acceptance implemented in accordance with this Act; and

"(ii) has available sufficient funds provided by or on behalf of such other foreign government or international organization pursuant to a letter of offer and acceptance implemented in accordance with this Act.

"(3) CREDIT FOR TRANSACTION.—Upon acquisition and acceptance by the United States Government of a defense article under paragraph (1), the appropriate Foreign Military Sales account of the provider shall be credited to reflect the transaction.

"(4) RELATIONSHIP TO CERTAIN OTHER PROVISIONS OF LAW.—The authority of the President to accept the return of a defense article as provided in paragraph (1) shall not be subject to chapter 137 of title 10, United States Code, or any other provision of law relating to the conclusion of contracts.".

(c) REGULATIONS.—Under the direction of the President, the Secretary of Defense shall promulgate regulations to implement subsections (l) and (m) of section 21 of the Arms Export Control Act, as added by this section. 22 USC 2761 note.

SEC. 153. NATIONAL SECURITY INTEREST DETERMINATION TO WAIVE REIMBURSEMENT OF DEPRECIATION FOR LEASED DEFENSE ARTICLES.

(a) IN GENERAL.—Section 61(a) of the Arms Export Control Act (22 U.S.C. 2796(a)) is amended—

(1) in the second sentence, by striking ", or to any defense article which has passed three-quarters of its normal service life"; and

(2) by inserting after the second sentence the following new sentence: "The President may waive the requirement of paragraph (4) for reimbursement of depreciation for any defense article which has passed three-quarters of its normal service life if the President determines that to do so is important to the national security interest of the United States.".

22 USC 2796 note.

(b) EFFECTIVE DATE.—The third sentence of section 61(a) of the Arms Export Control Act, as added by subsection (a)(2), shall apply only with respect to a defense article leased on or after the date of the enactment of this Act.

22 USC 2751 note.

SEC. 154. ELIGIBILITY OF PANAMA UNDER THE ARMS EXPORT CONTROL ACT.

The Government of the Republic of Panama shall be eligible to purchase defense articles and defense services under the Arms Export Control Act (22 U.S.C. 2751 et seq.), except as otherwise specifically provided by law.

President. Federal Register, publication.

SEC. 155. PUBLICATION OF ARMS SALES CERTIFICATIONS.

Section 36 of the Arms Export Control Act (22 U.S.C. 2776) is amended by adding at the end the following new subsection:

"(e) The President shall cause to be published in the Federal Register, upon transmittal to the Speaker of the House of Representatives and to the chairman of the Committee on Foreign Relations of the Senate, the full unclassified text of each numbered certification submitted pursuant to subsection (b) and each notification of a proposed commercial sale submitted under subsection (c).".

President.

SEC. 156. RELEASE OF INFORMATION.

Section 38(e) of the Arms Export Control Act (22 U.S.C. 2778(e)) is amended by inserting in the first sentence before the period at the end the following: ", except that the names of the countries and the types and quantities of defense articles for which licenses are issued under this section shall not be withheld from public disclosure unless the President determines that the release of such information would be contrary to the national interest".

SEC. 157. REPEAL OF TERMINATION OF PROVISIONS OF THE NUCLEAR PROLIFERATION PREVENTION ACT OF 1994; PRESIDENTIAL DETERMINATIONS.

(a) REPEAL.—Part D of the Nuclear Proliferation Prevention Act of 1994 (part D of title VIII of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995; Public Law 103–236; 108 Stat. 525) is hereby repealed.

22 USC 3201 note.

(b) JUDICIAL REVIEW.—Section 824 of the Nuclear Proliferation Prevention Act of 1994 (22 U.S.C. 3201 note) is amended—

(1) in subsection (c), by striking "in writing after opportunity for a hearing on the record";

(2) by striking subsection (e); and

(3) by redesignating subsections (f) through (k) as subsections (e) through (j), respectively.

TITLE II—TRANSFER OF NAVAL VESSELS TO CERTAIN FOREIGN COUNTRIES

SEC. 201. AUTHORITY TO TRANSFER NAVAL VESSELS.

(a) EGYPT.—The Secretary of the Navy is authorized to transfer to the Government of Egypt the "OLIVER HAZARD PERRY CLASS" frigate GALLERY. Such transfer shall be on a sales basis under section 21 of the Arms Export Control Act (22 U.S.C. 2761; relating to the foreign military sales program).

(b) MEXICO.—The Secretary of the Navy is authorized to transfer to the Government of Mexico the "KNOX" class frigates STEIN (FF 1065) and MARVIN SHIELDS (FF 1066). Such transfers shall be on a sales basis under section 21 of the Arms Export Control Act (22 U.S.C. 2761; relating to the foreign military sales program).

(c) NEW ZEALAND.—The Secretary of the Navy is authorized to transfer to the Government of New Zealand the "STALWART" class ocean surveillance ship TENACIOUS. Such transfer shall be on a sales basis under section 21 of the Arms Export Control Act (22 U.S.C. 2761; relating to the foreign military sales program).

(d) PORTUGAL.—The Secretary of the Navy is authorized to transfer to the Government of Portugal the "STALWART" class ocean surveillance ship AUDACIOUS. Such transfer shall be on a grant basis under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j; relating to transfers of excess defense articles).

(e) TAIWAN.—The Secretary of the Navy is authorized to transfer to the Taipei Economic and Cultural Representative Office in the United States (which is the Taiwan instrumentality designated pursuant to section 10(a) of the Taiwan Relations Act) the following:

(1) The "KNOX" class frigates AYLWIN (FF 1081), PHARRIS (FF 1094), and VALDEZ (FF 1096). Such transfers shall be on a sales basis under section 21 of the Arms Export Control Act (22 U.S.C. 2761; relating to the foreign military sales program).

(2) The "NEWPORT" class tank landing ship NEWPORT (LST 1179). Such transfer shall be on a lease basis under section 61 of the Arms Export Control Act (22 U.S.C. 2796).

(f) THAILAND.—The Secretary of the Navy is authorized to transfer to the Government of Thailand the "KNOX" class frigate OUELLET (FF 1077). Such transfer shall be on a sales basis under section 21 of the Arms Export Control Act (22 U.S.C. 2761; relating to the foreign military sales program).

SEC. 202. COSTS OF TRANSFERS.

Any expense of the United States in connection with a transfer authorized by this title shall be charged to the recipient.

SEC. 203. EXPIRATION OF AUTHORITY.

The authority granted by section 201 shall expire at the end of the 2-year period beginning on the date of the enactment of this Act.

SEC. 204. REPAIR AND REFURBISHMENT OF VESSELS IN UNITED STATES SHIPYARDS.

The Secretary of the Navy shall require, to the maximum extent possible, as a condition of a transfer of a vessel under this title, that the country to which the vessel is transferred have such repair or refurbishment of the vessel as is needed, before the vessel joins the naval forces of that country, performed at a shipyard located in the United States, including a United States Navy shipyard.

Approved July 21, 1996.

LEGISLATIVE HISTORY—H.R. 3121:

HOUSE REPORTS: No. 104–519, Pt. 1 (Comm. on International Relations).
CONGRESSIONAL RECORD, Vol. 142 (1996):
Apr. 16, considered and passed House.
June 27, considered and passed Senate, amended.
July 9, House concurred in Senate amendments.

Public Law 104–165
104th Congress

An Act

To authorize the Secretary of Agriculture to convey lands to the city of Rolla, Missouri.

July 24, 1996
[H.R. 701]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LAND CONVEYANCE, ROLLA RANGER DISTRICT ADMINISTRATIVE SITE, ROLLA, MISSOURI.

(a) CONVEYANCE AUTHORIZED.—Subject to the terms and conditions specified in this section, the Secretary of Agriculture may sell to the city of Rolla, Missouri (in this section referred to as the "City"), all right, title, and interest of the United States in and to the following:

The property identified as the Rolla Ranger District Administrative Site of the Forest Service located in Rolla, Phelps County, Missouri, encompassing ten acres more or less, the conveyance of which by C.D. and Oma A. Hazlewood to the United States was recorded on May 6, 1936, in book 104, page 286 of the Record of Deeds of Phelps County, Missouri.

(b) CONSIDERATION.—As consideration for the conveyance under subsection (a), the City shall pay to the Secretary an amount equal to the fair market value of the property as determined by an appraisal acceptable to the Secretary and prepared in accordance with the Uniform Appraisal Standards for Federal Land Acquisition as published by the Department of Justice. Payment shall be due in full within six months after the date the conveyance is made, or, at the option of the City, in twenty equal annual installments commencing on January 1 of the first year following the conveyance and annually thereafter until the total amount due has been paid.

(c) DEPOSIT OF FUNDS RECEIVED.—Funds received by the Secretary under subsection (b) as consideration for the conveyance shall be deposited into the special fund in the Treasury authorized by the Act of December 4, 1967 (16 U.S.C. 484a, commonly known as the Sisk Act). Such funds shall be available, subject to appropriation, until expended by the Secretary.

(d) RELEASE.—Subject to compliance with all Federal environmental laws prior to transfer, the City, upon conveyance of the property under subsection (a), shall agree in writing to hold the United States harmless from any and all claims relating to the property including all claims resulting from hazardous materials on the conveyed lands.

(e) RIGHT OF REENTRY.—The conveyance to the City under subsection (a) shall be made by quitclaim deed in fee simple, subject to a right of reentry in the United States if the Secretary determines that the City is not in compliance with the compensation require-

ments specified in subsection (b) or other condition prescribed by the Secretary in the deed of conveyance.

(f) CONSERVATION OF HISTORIC RESOURCES.—In consultation with the State Historic Preservation Office of the State of Missouri, the Secretary shall ensure that the historic resources on the property to be conveyed are conserved by requiring, at the closing on the conveyance of the property, that the City convey an historic preservation easement to the State of Missouri assuring the right of the State to enter the property for historic preservation purposes. The historic preservation easement shall be negotiated between the State of Missouri and the City, and the conveyance of the easement shall be a condition to the conveyance authorized under subsection (a). The protection of the historic resources on the conveyed property shall be the responsibility of the State of Missouri and the City, and not that of the Secretary.

Approved July 24, 1996.

LEGISLATIVE HISTORY—H.R. 701:

HOUSE REPORTS: No. 104–215 (Comm. on Agriculture).
CONGRESSIONAL RECORD:
Vol. 141 (1995): July 31, considered and passed House.
Vol. 142 (1996): July 9, considered and passed Senate.

Public Law 104–166
104th Congress

An Act

To amend the Public Health Service Act to provide for the conduct of expanded studies and the establishment of innovative programs with respect to traumatic brain injury, and for other purposes.

July 29, 1996
[H.R. 248]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PROGRAMS OF CENTERS FOR DISEASE CONTROL AND PREVENTION.

Part J of title III of the Public Health Service Act (42 U.S.C. 280b et seq.) is amended by inserting after section 393 the following section:

"PREVENTION OF TRAUMATIC BRAIN INJURY

"SEC. 393A. (a) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, may carry out projects to reduce the incidence of traumatic brain injury. Such projects may be carried out by the Secretary directly or through awards of grants or contracts to public or nonprofit private entities. The Secretary may directly or through such awards provide technical assistance with respect to the planning, development, and operation of such projects. 42 USC 280b–1b.

"(b) CERTAIN ACTIVITIES.—Activities under subsection (a) may include—

"(1) the conduct of research into identifying effective strategies for the prevention of traumatic brain injury; and

"(2) the implementation of public information and education programs for the prevention of such injury and for broadening the awareness of the public concerning the public health consequences of such injury.

"(c) COORDINATION OF ACTIVITIES.—The Secretary shall ensure that activities under this section are coordinated as appropriate with other agencies of the Public Health Service that carry out activities regarding traumatic brain injury.

"(d) DEFINITION.—For purposes of this section, the term 'traumatic brain injury' means an acquired injury to the brain. Such term does not include brain dysfunction caused by congenital or degenerative disorders, nor birth trauma, but may include brain injuries caused by anoxia due to near drowning. The Secretary may revise the definition of such term as the Secretary determines necessary.".

SEC. 2. PROGRAMS OF NATIONAL INSTITUTES OF HEALTH.

Section 1261 of the Public Health Service Act (42 U.S.C. 300d–61) is amended—

(1) in subsection (d)—

(A) in paragraph (2), by striking "and" after the semicolon at the end;

(B) in paragraph (3), by striking the period and inserting "; and"; and

(C) by adding at the end the following paragraph:

"(4) the authority to make awards of grants or contracts to public or nonprofit private entities for the conduct of basic and applied research regarding traumatic brain injury, which research may include—

"(A) the development of new methods and modalities for the more effective diagnosis, measurement of degree of injury, post-injury monitoring and prognostic assessment of head injury for acute, subacute and later phases of care;

"(B) the development, modification and evaluation of therapies that retard, prevent or reverse brain damage after acute head injury, that arrest further deterioration following injury and that provide the restitution of function for individuals with long-term injuries;

"(C) the development of research on a continuum of care from acute care through rehabilitation, designed, to the extent practicable, to integrate rehabilitation and long-term outcome evaluation with acute care research; and

"(D) the development of programs that increase the participation of academic centers of excellence in head injury treatment and rehabilitation research and training."; and

(2) in subsection (h), by adding at the end the following paragraph:

"(4) The term 'traumatic brain injury' means an acquired injury to the brain. Such term does not include brain dysfunction caused by congenital or degenerative disorders, nor birth trauma, but may include brain injuries caused by anoxia due to near drowning. The Secretary may revise the definition of such term as the Secretary determines necessary.".

SEC. 3. PROGRAMS OF HEALTH RESOURCES AND SERVICES ADMINISTRATION.

Part E of title XII of the Public Health Service Act (42 U.S.C. 300d–51 et seq.) is amended by adding at the end the following section:

42 USC 300d–52.

"SEC. 1252. STATE GRANTS FOR DEMONSTRATION PROJECTS REGARDING TRAUMATIC BRAIN INJURY.

"(a) IN GENERAL.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, may make grants to States for the purpose of carrying out demonstration projects to improve access to health and other services regarding traumatic brain injury.

"(b) STATE ADVISORY BOARD.—

"(1) IN GENERAL.—The Secretary may make a grant under subsection (a) only if the State involved agrees to establish an advisory board within the appropriate health department of the State or within another department as designated by the chief executive officer of the State.

"(2) FUNCTIONS.—An advisory board established under paragraph (1) shall advise and make recommendations to the

State on ways to improve services coordination regarding traumatic brain injury. Such advisory boards shall encourage citizen participation through the establishment of public hearings and other types of community outreach programs. In developing recommendations under this paragraph, such boards shall consult with Federal, State, and local governmental agencies and with citizens groups and other private entities.

"(3) COMPOSITION.—An advisory board established under paragraph (1) shall be composed of—

"(A) representatives of—

"(i) the corresponding State agencies involved;

"(ii) public and nonprofit private health related organizations;

"(iii) other disability advisory or planning groups within the State;

"(iv) members of an organization or foundation representing traumatic brain injury survivors in that State; and

"(v) injury control programs at the State or local level if such programs exist; and

"(B) a substantial number of individuals who are survivors of traumatic brain injury, or the family members of such individuals.

"(c) MATCHING FUNDS.—

"(1) IN GENERAL.—With respect to the costs to be incurred by a State in carrying out the purpose described in subsection (a), the Secretary may make a grant under such subsection only if the State agrees to make available, in cash, non-Federal contributions toward such costs in an amount that is not less than $1 for each $2 of Federal funds provided under the grant.

"(2) DETERMINATION OF AMOUNT CONTRIBUTED.—In determining the amount of non-Federal contributions in cash that a State has provided pursuant to paragraph (1), the Secretary may not include any amounts provided to the State by the Federal Government.

"(d) APPLICATION FOR GRANT.—The Secretary may make a grant under subsection (a) only if an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"(e) COORDINATION OF ACTIVITIES.—The Secretary shall ensure that activities under this section are coordinated as appropriate with other agencies of the Public Health Service that carry out activities regarding traumatic brain injury.

"(f) REPORT.—Not later than 2 years after the date of the enactment of this section, the Secretary shall submit to the Committee on Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report describing the findings and results of the programs established under this section, including measures of outcomes and consumer and surrogate satisfaction.

"(g) DEFINITION.—For purposes of this section, the term 'traumatic brain injury' means an acquired injury to the brain. Such term does not include brain dysfunction caused by congenital or degenerative disorders, nor birth trauma, but may include brain injuries caused by anoxia due to near drowning. The Secretary

may revise the definition of such term as the Secretary determines necessary.

"(h) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there is authorized to be appropriated $5,000,000 for each of the fiscal years 1997 through 1999.".

42 USC 300d–61 note.

SEC. 4. STUDY; CONSENSUS CONFERENCE.

(a) STUDY.—

(1) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the "Secretary"), acting through the appropriate agencies of the Public Health Service, shall conduct a study for the purpose of carrying out the following with respect to traumatic brain injury:

(A) In collaboration with appropriate State and local health-related agencies—

(i) determine the incidence and prevalence of traumatic brain injury; and

(ii) develop a uniform reporting system under which States report incidents of traumatic brain injury, if the Secretary determines that such a system is appropriate.

(B) Identify common therapeutic interventions which are used for the rehabilitation of individuals with such injuries, and shall, subject to the availability of information, include an analysis of—

(i) the effectiveness of each such intervention in improving the functioning of individuals with brain injuries;

(ii) the comparative effectiveness of interventions employed in the course of rehabilitation of individuals with brain injuries to achieve the same or similar clinical outcome; and

(iii) the adequacy of existing measures of outcomes and knowledge of factors influencing differential outcomes.

(C) Develop practice guidelines for the rehabilitation of traumatic brain injury at such time as appropriate scientific research becomes available.

(2) DATES CERTAIN FOR REPORTS.—

(A) Not later than 18 months after the date of the enactment of this Act, the Secretary shall submit to the Committee on Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report describing the findings made as a result of carrying out paragraph (1)(A).

(B) Not later than 3 years after the date of the enactment of this Act, the Secretary shall submit to the Committees specified in subparagraph (A) a report describing the findings made as a result of carrying out subparagraphs (B) and (C) of paragraph (1).

(b) CONSENSUS CONFERENCE.—The Secretary, acting through the Director of the National Center for Medical Rehabilitation Research within the National Institute for Child Health and Human Development, shall conduct a national consensus conference on managing traumatic brain injury and related rehabilitation concerns.

(c) DEFINITION.—For purposes of this section, the term "traumatic brain injury" means an acquired injury to the brain. Such term does not include brain dysfunction caused by congenital or degenerative disorders, nor birth trauma, but may include brain injuries caused by anoxia due to near drowning. The Secretary may revise the definition of such term as the Secretary determines necessary.

(d) AUTHORIZATIONS OF APPROPRIATIONS.—For the purpose of carrying out subsection (a)(1)(A), there is authorized to be appropriated $3,000,000 for each of the fiscal years 1997 through 1999. For the purpose of carrying out the other provisions of this section, there is authorized to be appropriated an aggregate $500,000 for the fiscal years 1997 through 1999. Amounts appropriated for such other provisions remain available until expended.

SEC. 5. TECHNICAL AMENDMENTS.

Title XXVI of the Public Health Service Act (42 U.S.C. 300ff–11 et seq.), as amended by Public Law 104–146 (the Ryan White CARE Act Amendments of 1996), is amended—

(1) in section 2626— *Ante*, p. 1369.

(A) in subsection (d), in the first sentence, by striking "(1) through (5)" and inserting "(1) through (4)"; and

(B) in subsection (f), in the matter preceding paragraph (1), by striking "(1) through (5)" and inserting "(1) through (4)"; and

(2) in section 2692— *Ante*, p. 1363.

(A) in subsection (a)(1)(A)—

(i) by striking "title XXVI programs" and inserting "programs under this title"; and

(ii) by striking "infection and"; and

(B) by striking subsection (c) and all that follows and inserting the following:

"(c) AUTHORIZATION OF APPROPRIATIONS.—

"(1) SCHOOLS; CENTERS.—For the purpose of grants under subsection (a), there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1996 through 2000.

"(2) DENTAL SCHOOLS.—For the purpose of grants under subsection (b), there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1996 through 2000.".

Approved July 29, 1996.

LEGISLATIVE HISTORY—H.R. 248:

HOUSE REPORTS: No. 104–652 (Comm. on Commerce).
CONGRESSIONAL RECORD, Vol. 142 (1996):
July 9, considered and passed House.
July 12, considered and passed Senate.

Public Law 104–167
104th Congress

An Act

Entitled the "Mollie Beattie Wilderness Area Act".

July 29, 1996
[S. 1899]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 702(3) of Public Law 96–487 is amended by striking "Arctic National Wildlife Refuge Wilderness" and inserting "Mollie Beattie Wilderness". The Secretary of the Interior is authorized to place a monument in honor of Mollie Beattie's contributions to fish, wildlife, and waterfowl conservation and management at a suitable location that he designates within the Mollie Beattie Wilderness.

16 USC 1132 note.

Approved July 29, 1996.

LEGISLATIVE HISTORY—S. 1899:

CONGRESSIONAL RECORD, Vol. 142 (1996):
June 28, considered and passed Senate.
July 16, considered and passed House.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 32 (1996):
July 29, Presidential statement.

Public Law 104–168
104th Congress

An Act

July 30, 1996
[H.R. 2337]

To amend the Internal Revenue Code of 1986 to provide for increased taxpayer protections.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Taxpayer Bill of Rights 2.

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE; TABLE OF CONTENTS.

26 USC 1 note.

(a) SHORT TITLE.—This Act may be cited as the "Taxpayer Bill of Rights 2".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—

Sec. 1. Short title; amendment of 1986 Code; table of contents.

TITLE I—TAXPAYER ADVOCATE

Sec. 101. Establishment of position of Taxpayer Advocate within Internal Revenue Service.
Sec. 102. Expansion of authority to issue Taxpayer Assistance Orders.

TITLE II—MODIFICATIONS TO INSTALLMENT AGREEMENT PROVISIONS

Sec. 201. Notification of reasons for termination of installment agreements.
Sec. 202. Administrative review of termination of installment agreement.

TITLE III—ABATEMENT OF INTEREST AND PENALTIES

Sec. 301. Expansion of authority to abate interest.
Sec. 302. Review of IRS failure to abate interest.
Sec. 303. Extension of interest-free period for payment of tax after notice and demand.
Sec. 304. Abatement of penalty for failure to make required deposits of payroll taxes in certain cases.

TITLE IV—JOINT RETURNS

Sec. 401. Studies of joint return-related issues.
Sec. 402. Joint return may be made after separate returns without full payment of tax.
Sec. 403. Disclosure of collection activities.

TITLE V—COLLECTION ACTIVITIES

Sec. 501. Modifications to lien and levy provisions.
Sec. 502. Modifications to certain levy exemption amounts.
Sec. 503. Offers-in-compromise.

TITLE VI—INFORMATION RETURNS

Sec. 601. Civil damages for fraudulent filing of information returns.
Sec. 602. Requirement to conduct reasonable investigations of information returns.

TITLE VII—AWARDING OF COSTS AND CERTAIN FEES

Sec. 701. United States must establish that its position in proceeding was substantially justified.
Sec. 702. Increased limit on attorney fees.
Sec. 703. Failure to agree to extension not taken into account.
Sec. 704. Award of litigation costs permitted in declaratory judgment proceedings.

TITLE VIII—MODIFICATION TO RECOVERY OF CIVIL DAMAGES FOR UNAUTHORIZED COLLECTION ACTIONS

Sec. 801. Increase in limit on recovery of civil damages for unauthorized collection actions.
Sec. 802. Court discretion to reduce award for litigation costs for failure to exhaust administrative remedies.

TITLE IX—MODIFICATIONS TO PENALTY FOR FAILURE TO COLLECT AND PAY OVER TAX

Sec. 901. Preliminary notice requirement.
Sec. 902. Disclosure of certain information where more than 1 person liable for penalty for failure to collect and pay over tax.
Sec. 903. Right of contribution where more than 1 person liable for penalty for failure to collect and pay over tax.
Sec. 904. Volunteer board members of tax-exempt organizations exempt from penalty for failure to collect and pay over tax.

TITLE X—MODIFICATIONS OF RULES RELATING TO SUMMONSES

Sec. 1001. Enrolled agents included as third-party recordkeepers.
Sec. 1002. Safeguards relating to designated summonses.
Sec. 1003. Annual report to Congress concerning designated summonses.

TITLE XI—RELIEF FROM RETROACTIVE APPLICATION OF TREASURY DEPARTMENT REGULATIONS

Sec. 1101. Relief from retroactive application of Treasury Department regulations.

TITLE XII—MISCELLANEOUS PROVISIONS

Sec. 1201. Phone number of person providing payee statements required to be shown on such statement.
Sec. 1202. Required notice of certain payments.
Sec. 1203. Unauthorized enticement of information disclosure.
Sec. 1204. Annual reminders to taxpayers with outstanding delinquent accounts.
Sec. 1205. 5-year extension of authority for undercover operations.
Sec. 1206. Disclosure of Form 8300 information on cash transactions.
Sec. 1207. Disclosure of returns and return information to designee of taxpayer.
Sec. 1208. Study of netting of interest on overpayments and liabilities.
Sec. 1209. Expenses of detection of underpayments and fraud, etc.
Sec. 1210. Use of private delivery services for timely-mailing-as-timely-filing rule.
Sec. 1211. Reports on misconduct of IRS employees.

TITLE XIII—REVENUE OFFSETS

Subtitle A—Application of Failure-to-Pay Penalty to Substitute Returns

Sec. 1301. Application of failure-to-pay penalty to substitute returns.

Subtitle B—Excise Taxes on Amounts of Private Excess Benefits

Sec. 1311. Excise taxes for failure by certain charitable organizations to meet certain qualification requirements.
Sec. 1312. Reporting of certain excise taxes and other information.
Sec. 1313. Exempt organizations required to provide copy of return.
Sec. 1314. Increase in penalties on exempt organizations for failure to file complete and timely annual returns.

TITLE I—TAXPAYER ADVOCATE

SEC. 101. ESTABLISHMENT OF POSITION OF TAXPAYER ADVOCATE WITHIN INTERNAL REVENUE SERVICE.

(a) GENERAL RULE.—Section 7802 (relating to Commissioner of Internal Revenue; Assistant Commissioner (Employee Plans and

Exempt Organizations)) is amended by adding at the end the following new subsection:

Establishment. Government organization.

"(d) OFFICE OF TAXPAYER ADVOCATE.—

"(1) IN GENERAL.—There is established in the Internal Revenue Service an office to be known as the 'Office of the Taxpayer Advocate'. Such office shall be under the supervision and direction of an official to be known as the 'Taxpayer Advocate' who shall be appointed by and report directly to the Commissioner of Internal Revenue. The Taxpayer Advocate shall be entitled to compensation at the same rate as the highest level official reporting directly to the Deputy Commissioner of the Internal Revenue Service.

"(2) FUNCTIONS OF OFFICE.—

"(A) IN GENERAL.—It shall be the function of the Office of Taxpayer Advocate to—

"(i) assist taxpayers in resolving problems with the Internal Revenue Service,

"(ii) identify areas in which taxpayers have problems in dealings with the Internal Revenue Service,

"(iii) to the extent possible, propose changes in the administrative practices of the Internal Revenue Service to mitigate problems identified under clause (ii), and

"(iv) identify potential legislative changes which may be appropriate to mitigate such problems.

"(B) ANNUAL REPORTS.—

"(i) OBJECTIVES.—Not later than June 30 of each calendar year after 1995, the Taxpayer Advocate shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the objectives of the Taxpayer Advocate for the fiscal year beginning in such calendar year. Any such report shall contain full and substantive analysis, in addition to statistical information.

"(ii) ACTIVITIES.—Not later than December 31 of each calendar year after 1995, the Taxpayer Advocate shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the activities of the Taxpayer Advocate during the fiscal year ending during such calendar year. Any such report shall contain full and substantive analysis, in addition to statistical information, and shall—

"(I) identify the initiatives the Taxpayer Advocate has taken on improving taxpayer services and Internal Revenue Service responsiveness,

"(II) contain recommendations received from individuals with the authority to issue Taxpayer Assistance Orders under section 7811,

"(III) contain a summary of at least 20 of the most serious problems encountered by taxpayers, including a description of the nature of such problems,

"(IV) contain an inventory of the items described in subclauses (I), (II), and (III) for which action has been taken and the result of such action,

"(V) contain an inventory of the items described in subclauses (I), (II), and (III) for which action remains to be completed and the period during which each item has remained on such inventory,

"(VI) contain an inventory of the items described in subclauses (II) and (III) for which no action has been taken, the period during which each item has remained on such inventory, the reasons for the inaction, and identify any Internal Revenue Service official who is responsible for such inaction,

"(VII) identify any Taxpayer Assistance Order which was not honored by the Internal Revenue Service in a timely manner, as specified under section 7811(b),

"(VIII) contain recommendations for such administrative and legislative action as may be appropriate to resolve problems encountered by taxpayers,

"(IX) describe the extent to which regional problem resolution officers participate in the selection and evaluation of local problem resolution officers, and

"(X) include such other information as the Taxpayer Advocate may deem advisable.

"(iii) REPORT TO BE SUBMITTED DIRECTLY.—Each report required under this subparagraph shall be provided directly to the Committees referred to in clauses (i) and (ii) without any prior review or comment from the Commissioner, the Secretary of the Treasury, any other officer or employee of the Department of the Treasury, or the Office of Management and Budget.

"(3) RESPONSIBILITIES OF COMMISSIONER.—The Commissioner of Internal Revenue shall establish procedures requiring a formal response to all recommendations submitted to the Commissioner by the Taxpayer Advocate within 3 months after submission to the Commissioner.".

(b) CONFORMING AMENDMENTS.—

(1) Section 7811 (relating to Taxpayer Assistance Orders) is amended—

(A) by striking "the Office of Ombudsman" in subsection (a) and inserting "the Office of the Taxpayer Advocate", and

(B) by striking "Ombudsman" each place it appears (including in the headings of subsections (e) and (f)) and inserting "Taxpayer Advocate".

(2) The heading for section 7802 is amended to read as follows:

"SEC. 7802. COMMISSIONER OF INTERNAL REVENUE; ASSISTANT COMMISSIONERS; TAXPAYER ADVOCATE.".

(3) The table of sections for subchapter A of chapter 80 is amended by striking the item relating to section 7802 and inserting the following new item:

"Sec. 7802. Commissioner of Internal Revenue; Assistant Commissioners; Taxpayer Advocate.".

26 USC 7802 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 102. EXPANSION OF AUTHORITY TO ISSUE TAXPAYER ASSISTANCE ORDERS.

(a) TERMS OF ORDERS.—Subsection (b) of section 7811 (relating to terms of Taxpayer Assistance Orders) is amended—

(1) by inserting "within a specified time period" after "the Secretary", and

(2) by inserting "take any action as permitted by law," after "cease any action,".

(b) LIMITATION ON AUTHORITY TO MODIFY OR RESCIND.—Section 7811(c) (relating to authority to modify or rescind) is amended to read as follows:

"(c) AUTHORITY TO MODIFY OR RESCIND.—Any Taxpayer Assistance Order issued by the Taxpayer Advocate under this section may be modified or rescinded—

"(1) only by the Taxpayer Advocate, the Commissioner of Internal Revenue, or the Deputy Commissioner of Internal Revenue, and

"(2) only if a written explanation of the reasons for the modification or rescission is provided to the Taxpayer Advocate.".

26 USC 7811 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

TITLE II—MODIFICATIONS TO INSTALLMENT AGREEMENT PROVISIONS

SEC. 201. NOTIFICATION OF REASONS FOR TERMINATION OF INSTALLMENT AGREEMENTS.

(a) TERMINATIONS.—Subsection (b) of section 6159 (relating to extent to which agreements remain in effect) is amended by adding at the end the following new paragraph:

"(5) NOTICE REQUIREMENTS.—The Secretary may not take any action under paragraph (2), (3), or (4) unless—

"(A) a notice of such action is provided to the taxpayer not later than the day 30 days before the date of such action, and

"(B) such notice includes an explanation why the Secretary intends to take such action.

The preceding sentence shall not apply in any case in which the Secretary believes that collection of any tax to which an agreement under this section relates is in jeopardy.".

(b) CONFORMING AMENDMENT.—Paragraph (3) of section 6159(b) is amended to read as follows:

"(3) SUBSEQUENT CHANGE IN FINANCIAL CONDITIONS.—If the Secretary makes a determination that the financial condition

of a taxpayer with whom the Secretary has entered into an agreement under subsection (a) has significantly changed, the Secretary may alter, modify, or terminate such agreement.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date 6 months after the date of the enactment of this Act. 26 USC 6159 note.

SEC. 202. ADMINISTRATIVE REVIEW OF TERMINATION OF INSTALLMENT AGREEMENT.

(a) GENERAL RULE.—Section 6159 (relating to agreements for payment of tax liability in installments) is amended by adding at the end the following new subsection:

"(c) ADMINISTRATIVE REVIEW.—The Secretary shall establish procedures for an independent administrative review of terminations of installment agreements under this section for taxpayers who request such a review.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 1997. 26 USC 6159 note.

TITLE III—ABATEMENT OF INTEREST AND PENALTIES

SEC. 301. EXPANSION OF AUTHORITY TO ABATE INTEREST.

(a) GENERAL RULE.—Paragraph (1) of section 6404(e) (relating to abatement of interest in certain cases) is amended—

(1) by inserting "unreasonable" before "error" each place it appears in subparagraphs (A) and (B), and

(2) by striking "in performing a ministerial act" each place it appears and inserting "in performing a ministerial or managerial act".

(b) CLERICAL AMENDMENT.—The subsection heading for subsection (e) of section 6404 is amended—

(1) by striking "ASSESSMENTS" and inserting "ABATEMENT", and

(2) by inserting "UNREASONABLE" before "ERRORS".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to interest accruing with respect to deficiencies or payments for taxable years beginning after the date of the enactment of this Act. 26 USC 6404 note.

SEC. 302. REVIEW OF IRS FAILURE TO ABATE INTEREST.

(a) IN GENERAL.—Section 6404 is amended by adding at the end the following new subsection:

"(g) REVIEW OF DENIAL OF REQUEST FOR ABATEMENT OF INTEREST.—

"(1) IN GENERAL.—The Tax Court shall have jurisdiction over any action brought by a taxpayer who meets the requirements referred to in section 7430(c)(4)(A)(iii) to determine whether the Secretary's failure to abate interest under this section was an abuse of discretion, and may order an abatement, if such action is brought within 180 days after the date of the mailing of the Secretary's final determination not to abate such interest. Courts.

"(2) SPECIAL RULES.— Applicability.

"(A) DATE OF MAILING.—Rules similar to the rules of section 6213 shall apply for purposes of determining the date of the mailing referred to in paragraph (1).

"(B) RELIEF.—Rules similar to the rules of section 6512(b) shall apply for purposes of this subsection.

"(C) REVIEW.—An order of the Tax Court under this subsection shall be reviewable in the same manner as a decision of the Tax Court, but only with respect to the matters determined in such order.".

26 USC 6404 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to requests for abatement after the date of the enactment of this Act.

SEC. 303. EXTENSION OF INTEREST-FREE PERIOD FOR PAYMENT OF TAX AFTER NOTICE AND DEMAND.

(a) GENERAL RULE.—Paragraph (3) of section 6601(e) (relating to payments made within 10 days after notice and demand) is amended to read as follows:

"(3) PAYMENTS MADE WITHIN SPECIFIED PERIOD AFTER NOTICE AND DEMAND.—If notice and demand is made for payment of any amount and if such amount is paid within 21 calendar days (10 business days if the amount for which such notice and demand is made equals or exceeds $100,000) after the date of such notice and demand, interest under this section on the amount so paid shall not be imposed for the period after the date of such notice and demand.".

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (A) of section 6601(e)(2) is amended by striking "10 days from the date of notice and demand therefor" and inserting "21 calendar days from the date of notice and demand therefor (10 business days if the amount for which such notice and demand is made equals or exceeds $100,000)".

(2) Paragraph (3) of section 6651(a) is amended by striking "10 days of the date of the notice and demand therefor" and inserting "21 calendar days from the date of notice and demand therefor (10 business days if the amount for which such notice and demand is made equals or exceeds $100,000)".

26 USC 6601 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply in the case of any notice and demand given after December 31, 1996.

SEC. 304. ABATEMENT OF PENALTY FOR FAILURE TO MAKE REQUIRED DEPOSITS OF PAYROLL TAXES IN CERTAIN CASES.

(a) IN GENERAL.—Section 6656 (relating to failure to make deposit of taxes) is amended by adding at the end the following new subsections:

"(c) EXCEPTION FOR FIRST-TIME DEPOSITORS OF EMPLOYMENT TAXES.—The Secretary may waive the penalty imposed by subsection (a) on a person's inadvertent failure to deposit any employment tax if—

"(1) such person meets the requirements referred to in section 7430(c)(4)(A)(iii),

"(2) such failure occurs during the 1st quarter that such person was required to deposit any employment tax, and

"(3) the return of such tax was filed on or before the due date.

For purposes of this subsection, the term 'employment taxes' means the taxes imposed by subtitle C.

"(d) AUTHORITY TO ABATE PENALTY WHERE DEPOSIT SENT TO SECRETARY.—The Secretary may abate the penalty imposed by subsection (a) with respect to the first time a depositor is required to make a deposit if the amount required to be deposited is inadvertently sent to the Secretary instead of to the appropriate government depository.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to deposits required to be made after the date of the enactment of this Act. 26 USC 6656 note.

TITLE IV—JOINT RETURNS

SEC. 401. STUDIES OF JOINT RETURN-RELATED ISSUES.

The Secretary of the Treasury or his delegate and the Comptroller General of the United States shall each conduct separate studies of—

(1) the effects of changing the liability for tax on a joint return from being joint and several to being proportionate to the tax attributable to each spouse,

(2) the effects of providing that, if a divorce decree allocates liability for tax on a joint return filed before the divorce, the Secretary may collect such liability only in accordance with the decree,

(3) whether those provisions of the Internal Revenue Code of 1986 intended to provide relief to innocent spouses provide meaningful relief in all cases where such relief is appropriate, and

(4) the effect of providing that community income (as defined in section 66(d) of such Code) which, in accordance with the rules contained in section 879(a) of such Code, would be treated as the income of one spouse is exempt from a levy for failure to pay any tax imposed by subtitle A by the other spouse for a taxable year ending before their marriage.

The reports of such studies shall be submitted to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate within 6 months after the date of the enactment of this Act. Reports.

SEC. 402. JOINT RETURN MAY BE MADE AFTER SEPARATE RETURNS WITHOUT FULL PAYMENT OF TAX.

(a) GENERAL RULE.—Paragraph (2) of section 6013(b) (relating to limitations on filing of joint return after filing separate returns) is amended by striking subparagraph (A) and redesignating the following subparagraphs accordingly.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after the date of the enactment of this Act. 26 USC 6013 note.

SEC. 403. DISCLOSURE OF COLLECTION ACTIVITIES.

(a) IN GENERAL.—Subsection (e) of section 6103 (relating to disclosure to persons having material interest) is amended by adding at the end the following new paragraph:

"(8) DISCLOSURE OF COLLECTION ACTIVITIES WITH RESPECT TO JOINT RETURN.—If any deficiency of tax with respect to a joint return is assessed and the individuals filing such return are no longer married or no longer reside in the same household, upon request in writing by either of such individuals,

the Secretary shall disclose in writing to the individual making the request whether the Secretary has attempted to collect such deficiency from such other individual, the general nature of such collection activities, and the amount collected. The preceding sentence shall not apply to any deficiency which may not be collected by reason of section 6502.".

26 USC 6103 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to requests made after the date of the enactment of this Act.

TITLE V—COLLECTION ACTIVITIES

SEC. 501. MODIFICATIONS TO LIEN AND LEVY PROVISIONS.

(a) WITHDRAWAL OF CERTAIN NOTICES.—Section 6323 (relating to validity and priority against certain persons) is amended by adding at the end the following new subsection:

"(j) WITHDRAWAL OF NOTICE IN CERTAIN CIRCUMSTANCES.—

"(1) IN GENERAL.—The Secretary may withdraw a notice of a lien filed under this section and this chapter shall be applied as if the withdrawn notice had not been filed, if the Secretary determines that—

"(A) the filing of such notice was premature or otherwise not in accordance with administrative procedures of the Secretary,

"(B) the taxpayer has entered into an agreement under section 6159 to satisfy the tax liability for which the lien was imposed by means of installment payments, unless such agreement provides otherwise,

"(C) the withdrawal of such notice will facilitate the collection of the tax liability, or

"(D) with the consent of the taxpayer or the Taxpayer Advocate, the withdrawal of such notice would be in the best interests of the taxpayer (as determined by the Taxpayer Advocate) and the United States.

Any such withdrawal shall be made by filing notice at the same office as the withdrawn notice. A copy of such notice of withdrawal shall be provided to the taxpayer.

"(2) NOTICE TO CREDIT AGENCIES, ETC.—Upon written request by the taxpayer with respect to whom a notice of a lien was withdrawn under paragraph (1), the Secretary shall promptly make reasonable efforts to notify credit reporting agencies, and any financial institution or creditor whose name and address is specified in such request, of the withdrawal of such notice. Any such request shall be in such form as the Secretary may prescribe.".

(b) RETURN OF LEVIED PROPERTY IN CERTAIN CASES.—Section 6343 (relating to authority to release levy and return property) is amended by adding at the end the following new subsection:

"(d) RETURN OF PROPERTY IN CERTAIN CASES.—If—

"(1) any property has been levied upon, and

"(2) the Secretary determines that—

"(A) the levy on such property was premature or otherwise not in accordance with administrative procedures of the Secretary,

"(B) the taxpayer has entered into an agreement under section 6159 to satisfy the tax liability for which the levy

was imposed by means of installment payments, unless such agreement provides otherwise,

"(C) the return of such property will facilitate the collection of the tax liability, or

"(D) with the consent of the taxpayer or the Taxpayer Advocate, the return of such property would be in the best interests of the taxpayer (as determined by the Taxpayer Advocate) and the United States,

the provisions of subsection (b) shall apply in the same manner as if such property had been wrongly levied upon, except that no interest shall be allowed under subsection (c).".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act. 26 USC 6323 note.

SEC. 502. MODIFICATIONS TO CERTAIN LEVY EXEMPTION AMOUNTS.

(a) FUEL, ETC.—Paragraph (2) of section 6334(a) (relating to fuel, provisions, furniture, and personal effects exempt from levy) is amended—

(1) by striking "If the taxpayer is the head of a family, so" and inserting "So",

(2) by striking "his household" and inserting "the taxpayer's household", and

(3) by striking "$1,650 ($1,550 in the case of levies issued during 1989)" and inserting "$2,500".

(b) BOOKS, ETC.—Paragraph (3) of section 6334(a) (relating to books and tools of a trade, business, or profession) is amended by striking "$1,100 ($1,050 in the case of levies issued during 1989)" and inserting "$1,250".

(c) INFLATION ADJUSTMENT.—Section 6334 (relating to property exempt from levy) is amended by adding at the end the following new subsection:

"(f) INFLATION ADJUSTMENT.—

"(1) IN GENERAL.—In the case of any calendar year beginning after 1997, each dollar amount referred to in paragraphs (2) and (3) of subsection (a) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year, by substituting 'calendar year 1996' for 'calendar year 1992' in subparagraph (B) thereof.

"(2) ROUNDING.—If any dollar amount after being increased under paragraph (1) is not a multiple of $10, such dollar amount shall be rounded to the nearest multiple of $10.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect with respect to levies issued after December 31, 1996. 26 USC 6334 note.

SEC. 503. OFFERS-IN-COMPROMISE.

(a) REVIEW REQUIREMENTS.—Subsection (b) of section 7122 (relating to records) is amended by striking "$500." and inserting "$50,000. However, such compromise shall be subject to continuing quality review by the Secretary.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act. 26 USC 7122 note.

TITLE VI—INFORMATION RETURNS

SEC. 601. CIVIL DAMAGES FOR FRAUDULENT FILING OF INFORMATION RETURNS.

(a) GENERAL RULE.—Subchapter B of chapter 76 (relating to proceedings by taxpayers and third parties) is amended by redesignating section 7434 as section 7435 and by inserting after section 7433 the following new section:

"SEC. 7434. CIVIL DAMAGES FOR FRAUDULENT FILING OF INFORMATION RETURNS.

"(a) IN GENERAL.—If any person willfully files a fraudulent information return with respect to payments purported to be made to any other person, such other person may bring a civil action for damages against the person so filing such return.

"(b) DAMAGES.—In any action brought under subsection (a), upon a finding of liability on the part of the defendant, the defendant shall be liable to the plaintiff in an amount equal to the greater of $5,000 or the sum of—

"(1) any actual damages sustained by the plaintiff as a proximate result of the filing of the fraudulent information return (including any costs attributable to resolving deficiencies asserted as a result of such filing),

"(2) the costs of the action, and

"(3) in the court's discretion, reasonable attorneys fees.

"(c) PERIOD FOR BRINGING ACTION.—Notwithstanding any other provision of law, an action to enforce the liability created under this section may be brought without regard to the amount in controversy and may be brought only within the later of—

"(1) 6 years after the date of the filing of the fraudulent information return, or

"(2) 1 year after the date such fraudulent information return would have been discovered by exercise of reasonable care.

"(d) COPY OF COMPLAINT FILED WITH IRS—Any person bringing an action under subsection (a) shall provide a copy of the complaint to the Internal Revenue Service upon the filing of such complaint with the court.

"(e) FINDING OF COURT TO INCLUDE CORRECT AMOUNT OF PAYMENT.—The decision of the court awarding damages in an action brought under subsection (a) shall include a finding of the correct amount which should have been reported in the information return.

"(f) INFORMATION RETURN.—For purposes of this section, the term 'information return' means any statement described in section 6724(d)(1)(A).".

(b) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 76 is amended by striking the item relating to section 7434 and inserting the following:

"Sec. 7434. Civil damages for fraudulent filing of information returns.

"Sec. 7435. Cross references.".

26 USC 7434 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to fraudulent information returns filed after the date of the enactment of this Act.

SEC. 602. REQUIREMENT TO CONDUCT REASONABLE INVESTIGATIONS OF INFORMATION RETURNS.

(a) GENERAL RULE.—Section 6201 (relating to assessment authority) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) REQUIRED REASONABLE VERIFICATION OF INFORMATION RETURNS.—In any court proceeding, if a taxpayer asserts a reasonable dispute with respect to any item of income reported on an information return filed with the Secretary under subpart B or C of part III of subchapter A of chapter 61 by a third party and the taxpayer has fully cooperated with the Secretary (including providing, within a reasonable period of time, access to and inspection of all witnesses, information, and documents within the control of the taxpayer as reasonably requested by the Secretary), the Secretary shall have the burden of producing reasonable and probative information concerning such deficiency in addition to such information return.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act. 26 USC 6201 note.

TITLE VII—AWARDING OF COSTS AND CERTAIN FEES

SEC. 701. UNITED STATES MUST ESTABLISH THAT ITS POSITION IN PROCEEDING WAS SUBSTANTIALLY JUSTIFIED.

(a) GENERAL RULE.—Subparagraph (A) of section 7430(c)(4) (defining prevailing party) is amended by striking clause (i) and by redesignating clauses (ii) and (iii) as clauses (i) and (ii), respectively.

(b) BURDEN OF PROOF ON UNITED STATES.—Paragraph (4) of section 7430(c) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

"(B) EXCEPTION IF UNITED STATES ESTABLISHES THAT ITS POSITION WAS SUBSTANTIALLY JUSTIFIED.—

"(i) GENERAL RULE.—A party shall not be treated as the prevailing party in a proceeding to which subsection (a) applies if the United States establishes that the position of the United States in the proceeding was substantially justified.

"(ii) PRESUMPTION OF NO JUSTIFICATION IF INTERNAL REVENUE SERVICE DID NOT FOLLOW CERTAIN PUBLISHED GUIDANCE.—For purposes of clause (i), the position of the United States shall be presumed not to be substantially justified if the Internal Revenue Service did not follow its applicable published guidance in the administrative proceeding. Such presumption may be rebutted.

"(iii) APPLICABLE PUBLISHED GUIDANCE.—For purposes of clause (ii), the term 'applicable published guidance' means—

"(I) regulations, revenue rulings, revenue procedures, information releases, notices, and announcements, and

"(II) any of the following which are issued to the taxpayer: private letter rulings, technical advice memoranda, and determination letters.".

(c) CONFORMING AMENDMENTS.—

(1) Subparagraph (B) of section 7430(c)(2) is amended by striking "paragraph (4)(B)" and inserting "paragraph (4)(C)".

(2) Subparagraph (C) of section 7430(c)(4), as redesignated by subsection (b), is amended by striking "subparagraph (A)" and inserting "this paragraph".

(3) Sections 6404(g) and 6656(c)(1), as amended by this Act, are each amended by striking "section 7430(c)(4)(A)(iii)" and inserting "section 7430(c)(4)(A)(ii)".

26 USC 6404 note.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply in the case of proceedings commenced after the date of the enactment of this Act.

SEC. 702. INCREASED LIMIT ON ATTORNEY FEES.

(a) IN GENERAL.—Paragraph (1) of section 7430(c) (defining reasonable litigation costs) is amended—

(1) by striking "$75" in clause (iii) of subparagraph (B) and inserting "$110",

(2) by striking "an increase in the cost of living or" in clause (iii) of subparagraph (B), and

(3) by adding after clause (iii) the following:

"In the case of any calendar year beginning after 1996, the dollar amount referred to in clause (iii) shall be increased by an amount equal to such dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) for such calendar year, by substituting 'calendar year 1995' for 'calendar year 1992' in subparagraph (B) thereof. If any dollar amount after being increased under the preceding sentence is not a multiple of $10, such dollar amount shall be rounded to the nearest multiple of $10.".

26 USC 7430 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply in the case of proceedings commenced after the date of the enactment of this Act.

SEC. 703. FAILURE TO AGREE TO EXTENSION NOT TAKEN INTO ACCOUNT.

(a) IN GENERAL.—Paragraph (1) of section 7430(b) (relating to requirement that administrative remedies be exhausted) is amended by adding at the end the following new sentence: "Any failure to agree to an extension of the time for the assessment of any tax shall not be taken into account for purposes of determining whether the prevailing party meets the requirements of the preceding sentence.".

26 USC 7430 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply in the case of proceedings commenced after the date of the enactment of this Act.

SEC. 704. AWARD OF LITIGATION COSTS PERMITTED IN DECLARATORY JUDGMENT PROCEEDINGS.

(a) IN GENERAL.—Subsection (b) of section 7430 is amended by striking paragraph (3) and by redesignating paragraph (4) as paragraph (3).

26 USC 7430 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply in the case of proceedings commenced after the date of the enactment of this Act.

TITLE VIII—MODIFICATION TO RECOVERY OF CIVIL DAMAGES FOR UNAUTHORIZED COLLECTION ACTIONS

SEC. 801. INCREASE IN LIMIT ON RECOVERY OF CIVIL DAMAGES FOR UNAUTHORIZED COLLECTION ACTIONS.

(a) GENERAL RULE.—Subsection (b) of section 7433 (relating to damages) is amended by striking "$100,000" and inserting "$1,000,000".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to actions by officers or employees of the Internal Revenue Service after the date of the enactment of this Act. 26 USC 7433 note.

SEC. 802. COURT DISCRETION TO REDUCE AWARD FOR LITIGATION COSTS FOR FAILURE TO EXHAUST ADMINISTRATIVE REMEDIES.

(a) GENERAL RULE.—Paragraph (1) of section 7433(d) (relating to civil damages for certain unauthorized collection actions) is amended to read as follows:

"(1) AWARD FOR DAMAGES MAY BE REDUCED IF ADMINISTRATIVE REMEDIES NOT EXHAUSTED.—The amount of damages awarded under subsection (b) may be reduced if the court determines that the plaintiff has not exhausted the administrative remedies available to such plaintiff within the Internal Revenue Service.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply in the case of proceedings commenced after the date of the enactment of this Act. 26 USC 7433 note.

TITLE IX—MODIFICATIONS TO PENALTY FOR FAILURE TO COLLECT AND PAY OVER TAX

SEC. 901. PRELIMINARY NOTICE REQUIREMENT.

(a) IN GENERAL.—Section 6672 (relating to failure to collect and pay over tax, or attempt to evade or defeat tax) is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection:

"(b) PRELIMINARY NOTICE REQUIREMENT.—

"(1) IN GENERAL.—No penalty shall be imposed under subsection (a) unless the Secretary notifies the taxpayer in writing by mail to an address as determined under section 6212(b) that the taxpayer shall be subject to an assessment of such penalty.

"(2) TIMING OF NOTICE.—The mailing of the notice described in paragraph (1) shall precede any notice and demand of any penalty under subsection (a) by at least 60 days.

"(3) STATUTE OF LIMITATIONS.—If a notice described in paragraph (1) with respect to any penalty is mailed before the expiration of the period provided by section 6501 for the assessment of such penalty (determined without regard to this paragraph), the period provided by such section for the assessment of such penalty shall not expire before the later of—

"(A) the date 90 days after the date on which such notice was mailed, or

"(B) if there is a timely protest of the proposed assessment, the date 30 days after the Secretary makes a final administrative determination with respect to such protest.

"(4) EXCEPTION FOR JEOPARDY.—This subsection shall not apply if the Secretary finds that the collection of the penalty is in jeopardy.".

26 USC 6672 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to proposed assessments made after June 30, 1996.

SEC. 902. DISCLOSURE OF CERTAIN INFORMATION WHERE MORE THAN 1 PERSON LIABLE FOR PENALTY FOR FAILURE TO COLLECT AND PAY OVER TAX.

(a) IN GENERAL.—Subsection (e) of section 6103 (relating to disclosure to persons having material interest), as amended by section 403, is amended by adding at the end the following new paragraph:

"(9) DISCLOSURE OF CERTAIN INFORMATION WHERE MORE THAN 1 PERSON SUBJECT TO PENALTY UNDER SECTION 6672.—If the Secretary determines that a person is liable for a penalty under section 6672(a) with respect to any failure, upon request in writing of such person, the Secretary shall disclose in writing to such person—

"(A) the name of any other person whom the Secretary has determined to be liable for such penalty with respect to such failure, and

"(B) whether the Secretary has attempted to collect such penalty from such other person, the general nature of such collection activities, and the amount collected.".

26 USC 6103 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 903. RIGHT OF CONTRIBUTION WHERE MORE THAN 1 PERSON LIABLE FOR PENALTY FOR FAILURE TO COLLECT AND PAY OVER TAX.

(a) IN GENERAL.—Section 6672 (relating to failure to collect and pay over tax, or attempt to evade or defeat tax) is amended by adding at the end the following new subsection:

"(d) RIGHT OF CONTRIBUTION WHERE MORE THAN 1 PERSON LIABLE FOR PENALTY.—If more than 1 person is liable for the penalty under subsection (a) with respect to any tax, each person who paid such penalty shall be entitled to recover from other persons who are liable for such penalty an amount equal to the excess of the amount paid by such person over such person's proportionate share of the penalty. Any claim for such a recovery may be made only in a proceeding which is separate from, and is not joined or consolidated with—

"(1) an action for collection of such penalty brought by the United States, or

"(2) a proceeding in which the United States files a counterclaim or third-party complaint for the collection of such penalty.".

26 USC 6672 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to penalties assessed after the date of the enactment of this Act.

SEC. 904. VOLUNTEER BOARD MEMBERS OF TAX-EXEMPT ORGANIZATIONS EXEMPT FROM PENALTY FOR FAILURE TO COLLECT AND PAY OVER TAX.

(a) IN GENERAL.—Section 6672 is amended by adding at the end the following new subsection:

"(e) EXCEPTION FOR VOLUNTARY BOARD MEMBERS OF TAX-EXEMPT ORGANIZATIONS.—No penalty shall be imposed by subsection (a) on any unpaid, volunteer member of any board of trustees or directors of an organization exempt from tax under subtitle A if such member—

"(1) is solely serving in an honorary capacity,

"(2) does not participate in the day-to-day or financial operations of the organization, and

"(3) does not have actual knowledge of the failure on which such penalty is imposed.

The preceding sentence shall not apply if it results in no person being liable for the penalty imposed by subsection (a).".

(b) PUBLIC INFORMATION REQUIREMENTS.— 26 USC 6672 note.

(1) IN GENERAL.—The Secretary of the Treasury or the Secretary's delegate (hereafter in this subsection referred to as the "Secretary") shall take such actions as may be appropriate to ensure that employees are aware of their responsibilities under the Federal tax depository system, the circumstances under which employees may be liable for the penalty imposed by section 6672 of the Internal Revenue Code of 1986, and the responsibility to promptly report to the Internal Revenue Service any failure referred to in subsection (a) of such section 6672. Such actions shall include—

(A) printing of a warning on deposit coupon booklets and the appropriate tax returns that certain employees may be liable for the penalty imposed by such section 6672, and

(B) the development of a special information packet.

(2) DEVELOPMENT OF EXPLANATORY MATERIALS.—The Secretary shall develop materials explaining the circumstances under which board members of tax-exempt organizations (including voluntary and honorary members) may be subject to penalty under section 6672 of such Code. Such materials shall be made available to tax-exempt organizations.

(3) IRS INSTRUCTIONS.—The Secretary shall clarify the instructions to Internal Revenue Service employees on the application of the penalty under section 6672 of such Code with regard to voluntary members of boards of trustees or directors of tax-exempt organizations.

TITLE X—MODIFICATIONS OF RULES RELATING TO SUMMONSES

SEC. 1001. ENROLLED AGENTS INCLUDED AS THIRD-PARTY RECORDKEEPERS.

(a) IN GENERAL.—Paragraph (3) of section 7609(a) (relating to third-party recordkeeper defined) is amended by striking "and" at the end of subparagraph (G), by striking the period at the end of subparagraph (H) and inserting "; and", and by adding at the end the following the subparagraph:

"(I) any enrolled agent.".

26 USC 7609 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to summonses issued after the date of the enactment of this Act.

SEC. 1002. SAFEGUARDS RELATING TO DESIGNATED SUMMONSES.

(a) STANDARD OF REVIEW.—Subparagraph (A) of section 6503(k)(2) (defining designated summons) is amended by redesignating clauses (i) and (ii) as clauses (ii) and (iii), respectively, and by inserting before clause (ii) (as so redesignated) the following new clause:

"(i) the issuance of such summons is preceded by a review of such issuance by the regional counsel of the Office of Chief Counsel for the region in which the examination of the corporation is being conducted,".

(b) LIMITATION ON PERSONS TO WHOM DESIGNATED SUMMONS MAY BE ISSUED.—Paragraph (1) of section 6503(k) is amended by striking "with respect to any return of tax by a corporation" and inserting "to a corporation (or to any other person to whom the corporation has transferred records) with respect to any return of tax by such corporation for a taxable year (or other period) for which such corporation is being examined under the coordinated examination program (or any successor program) of the Internal Revenue Service".

(c) CLERICAL AMENDMENT.—Section 6503 is amended by redesignating subsections (k) and (l) (as amended by this section) as subsections (j) and (k), respectively.

26 USC 6503 note.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to summonses issued after the date of the enactment of this Act.

26 USC 6503 note.

SEC. 1003. ANNUAL REPORT TO CONGRESS CONCERNING DESIGNATED SUMMONSES.

Not later than December 31 of each calendar year after 1995, the Secretary of the Treasury or his delegate shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the number of designated summonses (as defined in section 6503(j) of the Internal Revenue Code of 1986) which were issued during the preceding 12 months.

TITLE XI—RELIEF FROM RETROACTIVE APPLICATION OF TREASURY DEPARTMENT REGULATIONS

SEC. 1101. RELIEF FROM RETROACTIVE APPLICATION OF TREASURY DEPARTMENT REGULATIONS.

(a) IN GENERAL.—Subsection (b) of section 7805 (relating to rules and regulations) is amended to read as follows:

"(b) RETROACTIVITY OF REGULATIONS.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, no temporary, proposed, or final regulation relating to the internal revenue laws shall apply to any taxable period ending before the earliest of the following dates:

"(A) The date on which such regulation is filed with the Federal Register.

"(B) In the case of any final regulation, the date on which any proposed or temporary regulation to which such final regulation relates was filed with the Federal Register.

"(C) The date on which any notice substantially describing the expected contents of any temporary, proposed, or final regulation is issued to the public.

"(2) EXCEPTION FOR PROMPTLY ISSUED REGULATIONS.—Paragraph (1) shall not apply to regulations filed or issued within 18 months of the date of the enactment of the statutory provision to which the regulation relates.

"(3) PREVENTION OF ABUSE.—The Secretary may provide that any regulation may take effect or apply retroactively to prevent abuse.

"(4) CORRECTION OF PROCEDURAL DEFECTS.—The Secretary may provide that any regulation may apply retroactively to correct a procedural defect in the issuance of any prior regulation.

"(5) INTERNAL REGULATIONS.—The limitation of paragraph (1) shall not apply to any regulation relating to internal Treasury Department policies, practices, or procedures.

"(6) CONGRESSIONAL AUTHORIZATION.—The limitation of paragraph (1) may be superseded by a legislative grant from Congress authorizing the Secretary to prescribe the effective date with respect to any regulation.

"(7) ELECTION TO APPLY RETROACTIVELY.—The Secretary may provide for any taxpayer to elect to apply any regulation before the dates specified in paragraph (1).

"(8) APPLICATION TO RULINGS.—The Secretary may prescribe the extent, if any, to which any ruling (including any judicial decision or any administrative determination other than by regulation) relating to the internal revenue laws shall be applied without retroactive effect.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to regulations which relate to statutory provisions enacted on or after the date of the enactment of this Act.

26 USC 7805 note.

TITLE XII—MISCELLANEOUS PROVISIONS

SEC. 1201. PHONE NUMBER OF PERSON PROVIDING PAYEE STATEMENTS REQUIRED TO BE SHOWN ON SUCH STATEMENT.

(a) GENERAL RULE.—The following provisions are each amended by striking "name and address" and inserting "name, address, and phone number of the information contact":

(1) Section 6041(d)(1).
(2) Section 6041A(e)(1).
(3) Section 6042(c)(1).
(4) Section 6044(e)(1).
(5) Section 6045(b)(1).
(6) Section 6049(c)(1)(A).
(7) Section 6050B(b)(1).
(8) Section 6050H(d)(1).
(9) Section 6050I(e)(1).

(10) Section 6050J(e).
(11) Section 6050K(b)(1).
(12) Section 6050N(b)(1).

26 USC 6041 note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to statements required to be furnished after December 31, 1996 (determined without regard to any extension).

26 USC 6311 note.

SEC. 1202. REQUIRED NOTICE OF CERTAIN PAYMENTS.

If any payment is received by the Secretary of the Treasury or his delegate from any taxpayer and the Secretary cannot associate such payment with such taxpayer, the Secretary shall make reasonable efforts to notify the taxpayer of such inability within 60 days after the receipt of such payment.

SEC. 1203. UNAUTHORIZED ENTICEMENT OF INFORMATION DISCLOSURE.

(a) IN GENERAL.—Subchapter B of chapter 76 (relating to proceedings by taxpayers and third parties), as amended by section 601(a), is amended by redesignating section 7435 as section 7436 and by inserting after section 7434 the following new section:

"SEC. 7435. CIVIL DAMAGES FOR UNAUTHORIZED ENTICEMENT OF INFORMATION DISCLOSURE.

"(a) IN GENERAL.—If any officer or employee of the United States intentionally compromises the determination or collection of any tax due from an attorney, certified public accountant, or enrolled agent representing a taxpayer in exchange for information conveyed by the taxpayer to the attorney, certified public accountant, or enrolled agent for purposes of obtaining advice concerning the taxpayer's tax liability, such taxpayer may bring a civil action for damages against the United States in a district court of the United States. Such civil action shall be the exclusive remedy for recovering damages resulting from such actions.

"(b) DAMAGES.—In any action brought under subsection (a), upon a finding of liability on the part of the defendant, the defendant shall be liable to the plaintiff in an amount equal to the lesser of $500,000 or the sum of—

"(1) actual, direct economic damages sustained by the plaintiff as a proximate result of the information disclosure, and

"(2) the costs of the action.

Damages shall not include the taxpayer's liability for any civil or criminal penalties, or other losses attributable to incarceration or the imposition of other criminal sanctions.

"(c) PAYMENT AUTHORITY.—Claims pursuant to this section shall be payable out of funds appropriated under section 1304 of title 31, United States Code.

"(d) PERIOD FOR BRINGING ACTION.—Notwithstanding any other provision of law, an action to enforce liability created under this section may be brought without regard to the amount in controversy and may be brought only within 2 years after the date the actions creating such liability would have been discovered by exercise of reasonable care.

"(e) MANDATORY STAY.—Upon a certification by the Commissioner or the Commissioner's delegate that there is an ongoing investigation or prosecution of the taxpayer, the district court before which an action under this section is pending shall stay all proceedings with respect to such action pending the conclusion of the investigation or prosecution.

"(f) CRIME-FRAUD EXCEPTION.—Subsection (a) shall not apply to information conveyed to an attorney, certified public accountant, or enrolled agent for the purpose of perpetrating a fraud or crime.".

(b) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 76, as amended by section 601(b), is amended by striking the item relating to section 7435 and by adding at the end the following new items:

"Sec. 7435. Civil damages for unauthorized enticement of information disclosure.
"Sec. 7436. Cross references.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to actions after the date of the enactment of this Act. 26 USC 7435 note.

SEC. 1204. ANNUAL REMINDERS TO TAXPAYERS WITH OUTSTANDING DELINQUENT ACCOUNTS.

(a) IN GENERAL.—Chapter 77 (relating to miscellaneous provisions) is amended by adding at the end the following new section:

"SEC. 7524. ANNUAL NOTICE OF TAX DELINQUENCY.

"Not less often than annually, the Secretary shall send a written notice to each taxpayer who has a tax delinquent account of the amount of the tax delinquency as of the date of the notice.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 77 is amended by adding at the end the following new item:

"Sec. 7524. Annual notice of tax delinquency.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar years after 1996. 26 USC 7524 note.

SEC. 1205. 5-YEAR EXTENSION OF AUTHORITY FOR UNDERCOVER OPERATIONS.

(a) IN GENERAL.—Paragraph (3) of section 7601(c) of the Anti-Drug Abuse Act of 1988 is amended by striking all that follows "this Act" and inserting a period.

(b) RESTORATION OF AUTHORITY FOR 5 YEARS.—Subsection (c) of section 7608 is amended by adding at the end the following new paragraph:

"(6) APPLICATION OF SECTION.—The provisions of this subsection—

"(A) shall apply after November 17, 1988, and before January 1, 1990, and

"(B) shall apply after the date of the enactment of this paragraph and before January 1, 2001.

All amounts expended pursuant to this subsection during the period described in subparagraph (B) shall be recovered to the extent possible, and deposited in the Treasury of the United States as miscellaneous receipts, before January 1, 2001.".

(c) ENHANCED OVERSIGHT.—

(1) ADDITIONAL INFORMATION REQUIRED IN REPORTS TO CONGRESS.—Subparagraph (B) of section 7608(c)(4) is amended—

(A) by striking "preceding the period" in clause (ii),

(B) by striking "and" at the end of clause (ii), and

(C) by striking clause (iii) and inserting the following:

"(iii) the number, by programs, of undercover investigative operations closed in the 1-year period for which such report is submitted, and

"(iv) the following information with respect to each undercover investigative operation pending as of the

end of the 1-year period for which such report is submitted or closed during such 1-year period—

"(I) the date the operation began and the date of the certification referred to in the last sentence of paragraph (1),

"(II) the total expenditures under the operation and the amount and use of the proceeds from the operation,

"(III) a detailed description of the operation including the potential violation being investigated and whether the operation is being conducted under grand jury auspices, and

"(IV) the results of the operation including the results of criminal proceedings.".

(2) AUDITS REQUIRED WITHOUT REGARD TO AMOUNTS INVOLVED.—Subparagraph (C) of section 7608(c)(5) is amended to read as follows:

"(C) UNDERCOVER INVESTIGATIVE OPERATION.—The term 'undercover investigative operation' means any undercover investigative operation of the Service; except that, for purposes of subparagraphs (A) and (C) of paragraph (4), such term only includes an operation which is exempt from section 3302 or 9102 of title 31, United States Code.".

26 USC 7608 note.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of the enactment of this Act.

SEC. 1206. DISCLOSURE OF FORM 8300 INFORMATION ON CASH TRANSACTIONS.

(a) IN GENERAL.—Subsection (l) of section 6103 (relating to disclosure of returns and return information for purposes other than tax administration) is amended by adding at the end the following new paragraph:

"(15) DISCLOSURE OF RETURNS FILED UNDER SECTION 6050I.—The Secretary may, upon written request, disclose to officers and employees of—

"(A) any Federal agency,

"(B) any agency of a State or local government, or

"(C) any agency of the government of a foreign country,

information contained on returns filed under section 6050I. Any such disclosure shall be made on the same basis, and subject to the same conditions, as apply to disclosures of information on reports filed under section 5313 of title 31, United States Code; except that no disclosure under this paragraph shall be made for purposes of the administration of any tax law.".

(b) CONFORMING AMENDMENTS.—

(1) Subsection (i) of section 6103 is amended by striking paragraph (8).

(2) Subparagraph (A) of section 6103(p)(3) is amended—

(A) by striking "(7)(A)(ii), or (8)" and inserting "or (7)(A)(ii)", and

(B) by striking "or (14)" and inserting "(14), or (15)".

(3) The material preceding subparagraph (A) of section 6103(p)(4) is amended—

(A) by striking "(5), or (8)" and inserting "or (5)",

(B) by striking "(i)(3)(B)(i), or (8)" and inserting "(i)(3)(B)(i),", and

(C) by striking "or (12)" and inserting "(12), or (15)".

(4) Clause (ii) of section 6103(p)(4)(F) is amended—

(A) by striking "(5), or (8)" and inserting "or (5)", and

(B) by striking "or (14)" and inserting "(14), or (15)".

(5) Paragraph (2) of section 7213(a) is amended by striking "or (12)" and inserting "(12), or (15)".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act. 26 USC 6103 note.

SEC. 1207. DISCLOSURE OF RETURNS AND RETURN INFORMATION TO DESIGNEE OF TAXPAYER.

Subsection (c) of section 6103 (relating to disclosure of returns and return information to designee of taxpayer) is amended by striking "written request for or consent to such disclosure" and inserting "request for or consent to such disclosure".

SEC. 1208. STUDY OF NETTING OF INTEREST ON OVERPAYMENTS AND LIABILITIES.

(a) IN GENERAL.—The Secretary of the Treasury or his delegate shall—

(1) conduct a study of the manner in which the Internal Revenue Service has implemented the netting of interest on overpayments and underpayments and of the policy and administrative implications of global netting, and

(2) before submitting the report of such study, hold a public hearing to receive comments on the matters included in such study.

(b) REPORT.—The report of such study shall be submitted not later than 6 months after the date of the enactment of this Act to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

SEC. 1209. EXPENSES OF DETECTION OF UNDERPAYMENTS AND FRAUD, ETC.

(a) IN GENERAL.—Section 7623 (relating to expenses of detection and punishment of frauds) is amended to read as follows:

"SEC. 7623. EXPENSES OF DETECTION OF UNDERPAYMENTS AND FRAUD, ETC.

"The Secretary, under regulations prescribed by the Secretary, is authorized to pay such sums as he deems necessary for— Regulations.

"(1) detecting underpayments of tax, and

"(2) detecting and bringing to trial and punishment persons guilty of violating the internal revenue laws or conniving at the same,

in cases where such expenses are not otherwise provided for by law. Any amount payable under the preceding sentence shall be paid from the proceeds of amounts (other than interest) collected by reason of the information provided, and any amount so collected shall be available for such payments.".

(b) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 78 is amended by striking the item relating to section 7623 and inserting the following new item:

"Sec. 7623. Expenses of detection of underpayments and fraud, etc.".

26 USC 7623 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date which is 6 months after the date of the enactment of this Act.

26 USC 7623 note.

(d) REPORT.—The Secretary of the Treasury or his delegate shall submit an annual report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the payments under section 7623 of the Internal Revenue Code of 1986 during the year and on the amounts collected for which such payments were made.

SEC. 1210. USE OF PRIVATE DELIVERY SERVICES FOR TIMELY-MAILING-AS-TIMELY-FILING RULE.

Section 7502 (relating to timely mailing treated as timely filing and paying) is amended by adding at the end the following new subsection:

"(f) TREATMENT OF PRIVATE DELIVERY SERVICES.—

"(1) IN GENERAL.—Any reference in this section to the United States mail shall be treated as including a reference to any designated delivery service, and any reference in this section to a postmark by the United States Postal Service shall be treated as including a reference to any date recorded or marked as described in paragraph (2)(C) by any designated delivery service.

"(2) DESIGNATED DELIVERY SERVICE.—For purposes of this subsection, the term 'designated delivery service' means any delivery service provided by a trade or business if such service is designated by the Secretary for purposes of this section. The Secretary may designate a delivery service under the preceding sentence only if the Secretary determines that such service—

"(A) is available to the general public,

"(B) is at least as timely and reliable on a regular basis as the United States mail,

"(C) records electronically to its data base, kept in the regular course of its business, or marks on the cover in which any item referred to in this section is to be delivered, the date on which such item was given to such trade or business for delivery, and

"(D) meets such other criteria as the Secretary may prescribe.

"(3) EQUIVALENTS OF REGISTERED AND CERTIFIED MAIL.—The Secretary may provide a rule similar to the rule of paragraph (1) with respect to any service provided by a designated delivery service which is substantially equivalent to United States registered or certified mail.".

26 USC 7803 note.

SEC. 1211. REPORTS ON MISCONDUCT OF IRS EMPLOYEES.

On or before June 1 of each calendar year after 1996, the Secretary of the Treasury shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on—

(1) all categories of instances involving the misconduct of employees of the Internal Revenue Service during the preceding calendar year, and

(2) the disposition during the preceding calendar year of any such instances (without regard to the year of the misconduct).

TITLE XIII—REVENUE OFFSETS

Subtitle A—Application of Failure-to-Pay Penalty to Substitute Returns

SEC. 1301. APPLICATION OF FAILURE-TO-PAY PENALTY TO SUBSTITUTE RETURNS.

(a) GENERAL RULE.—Section 6651 (relating to failure to file tax return or to pay tax) is amended by adding at the end the following new subsection:

"(g) TREATMENT OF RETURNS PREPARED BY SECRETARY UNDER SECTION 6020(b).—In the case of any return made by the Secretary under section 6020(b)—

"(1) such return shall be disregarded for purposes of determining the amount of the addition under paragraph (1) of subsection (a), but

"(2) such return shall be treated as the return filed by the taxpayer for purposes of determining the amount of the addition under paragraphs (2) and (3) of subsection (a).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply in the case of any return the due date for which (determined without regard to extensions) is after the date of the enactment of this Act. 26 USC 6651 note.

Subtitle B—Exicse Taxes on Amounts of Private Excess Benefits

SEC. 1311. EXCISE TAXES FOR FAILURE BY CERTAIN CHARITABLE ORGANIZATIONS TO MEET CERTAIN QUALIFICATION REQUIREMENTS.

(a) IN GENERAL.—Chapter 42 (relating to private foundations and certain other tax-exempt organizations) is amended by redesignating subchapter D as subchapter E and by inserting after subchapter C the following new subchapter:

"Subchapter D—Failure by Certain Charitable Organizations To Meet Certain Qualification Requirements

"Sec. 4958. Taxes on excess benefit transactions.

"SEC. 4958. TAXES ON EXCESS BENEFIT TRANSACTIONS.

"(a) INITIAL TAXES.—

"(1) ON THE DISQUALIFIED PERSON.—There is hereby imposed on each excess benefit transaction a tax equal to 25 percent of the excess benefit. The tax imposed by this paragraph shall be paid by any disqualified person referred to in subsection (f)(1) with respect to such transaction.

"(2) ON THE MANAGEMENT.—In any case in which a tax is imposed by paragraph (1), there is hereby imposed on the participation of any organization manager in the excess benefit transaction, knowing that it is such a transaction, a tax equal to 10 percent of the excess benefit, unless such participation is not willful and is due to reasonable cause. The tax imposed by this paragraph shall be paid by any organization manager who participated in the excess benefit transaction.

"(b) ADDITIONAL TAX ON THE DISQUALIFIED PERSON.—In any case in which an initial tax is imposed by subsection (a)(1) on an excess benefit transaction and the excess benefit involved in such transaction is not corrected within the taxable period, there is hereby imposed a tax equal to 200 percent of the excess benefit involved. The tax imposed by this subsection shall be paid by any disqualified person referred to in subsection (f)(1) with respect to such transaction.

"(c) EXCESS BENEFIT TRANSACTION; EXCESS BENEFIT.—For purposes of this section—

"(1) EXCESS BENEFIT TRANSACTION.—

"(A) IN GENERAL.—The term 'excess benefit transaction' means any transaction in which an economic benefit is provided by an applicable tax-exempt organization directly or indirectly to or for the use of any disqualified person if the value of the economic benefit provided exceeds the value of the consideration (including the performance of services) received for providing such benefit. For purposes of the preceding sentence, an economic benefit shall not be treated as consideration for the performance of services unless such organization clearly indicated its intent to so treat such benefit.

"(B) EXCESS BENEFIT.—The term 'excess benefit' means the excess referred to in subparagraph (A).

"(2) AUTHORITY TO INCLUDE CERTAIN OTHER PRIVATE INUREMENT.—To the extent provided in regulations prescribed by the Secretary, the term 'excess benefit transaction' includes any transaction in which the amount of any economic benefit provided to or for the use of a disqualified person is determined in whole or in part by the revenues of 1 or more activities of the organization but only if such transaction results in inurement not permitted under paragraph (3) or (4) of section 501(c), as the case may be. In the case of any such transaction, the excess benefit shall be the amount of the inurement not so permitted.

"(d) SPECIAL RULES.—For purposes of this section—

"(1) JOINT AND SEVERAL LIABILITY.—If more than 1 person is liable for any tax imposed by subsection (a) or subsection (b), all such persons shall be jointly and severally liable for such tax.

"(2) LIMIT FOR MANAGEMENT.—With respect to any 1 excess benefit transaction, the maximum amount of the tax imposed by subsection (a)(2) shall not exceed $10,000.

"(e) APPLICABLE TAX-EXEMPT ORGANIZATION.—For purposes of this subchapter, the term 'applicable tax-exempt organization' means—

"(1) any organization which (without regard to any excess benefit) would be described in paragraph (3) or (4) of section 501(c) and exempt from tax under section 501(a), and

"(2) any organization which was described in paragraph (1) at any time during the 5-year period ending on the date of the transaction.

Such term shall not include a private foundation (as defined in section 509(a)).

"(f) OTHER DEFINITIONS.—For purposes of this section—

"(1) DISQUALIFIED PERSON.—The term 'disqualified person' means, with respect to any transaction—

"(A) any person who was, at any time during the 5-year period ending on the date of such transaction, in a position to exercise substantial influence over the affairs of the organization,

"(B) a member of the family of an individual described in subparagraph (A), and

"(C) a 35-percent controlled entity.

"(2) ORGANIZATION MANAGER.—The term 'organization manager' means, with respect to any applicable tax-exempt organization, any officer, director, or trustee of such organization (or any individual having powers or responsibilities similar to those of officers, directors, or trustees of the organization).

"(3) 35-PERCENT CONTROLLED ENTITY.—

"(A) IN GENERAL.—The term '35-percent controlled entity' means—

"(i) a corporation in which persons described in subparagraph (A) or (B) of paragraph (1) own more than 35 percent of the total combined voting power,

"(ii) a partnership in which such persons own more than 35 percent of the profits interest, and

"(iii) a trust or estate in which such persons own more than 35 percent of the beneficial interest.

"(B) CONSTRUCTIVE OWNERSHIP RULES.—Rules similar to the rules of paragraphs (3) and (4) of section 4946(a) shall apply for purposes of this paragraph.

"(4) FAMILY MEMBERS.—The members of an individual's family shall be determined under section 4946(d); except that such members also shall include the brothers and sisters (whether by the whole or half blood) of the individual and their spouses.

"(5) TAXABLE PERIOD.—The term 'taxable period' means, with respect to any excess benefit transaction, the period beginning with the date on which the transaction occurs and ending on the earliest of—

"(A) the date of mailing a notice of deficiency under section 6212 with respect to the tax imposed by subsection (a)(1), or

"(B) the date on which the tax imposed by subsection (a)(1) is assessed.

"(6) CORRECTION.—The terms 'correction' and 'correct' mean, with respect to any excess benefit transaction, undoing the excess benefit to the extent possible, and taking any additional measures necessary to place the organization in a financial position not worse than that in which it would be if the disqualified person were dealing under the highest fiduciary standards.".

(b) APPLICATION OF PRIVATE INUREMENT RULE TO TAX-EXEMPT ORGANIZATIONS DESCRIBED IN SECTION 501(c)(4).—

(1) IN GENERAL.—Paragraph (4) of section 501(c) is amended by inserting "(A)" after "(4)" and by adding at the end the following:

"(B) Subparagraph (A) shall not apply to an entity unless no part of the net earnings of such entity inures to the benefit of any private shareholder or individual.".

26 USC 501 note.

(2) SPECIAL RULE FOR CERTAIN COOPERATIVES.—In the case of an organization operating on a cooperative basis which, before the date of the enactment of this Act, was determined by the Secretary of the Treasury or his delegate, to be described in section 501(c)(4) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code, the allocation or return of net margins or capital to the members of such organization in accordance with its incorporating statute and bylaws shall not be treated for purposes of such Code as the inurement of the net earnings of such organization to the benefit of any private shareholder or individual. The preceding sentence shall apply only if such statute and bylaws are substantially as such statute and bylaws were in existence on the date of the enactment of this Act.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Subsection (e) of section 4955 is amended—

(A) by striking "SECTION 4945" in the heading and inserting "SECTIONS 4945 AND 4958", and

(B) by inserting before the period "or an excess benefit for purposes of section 4958".

(2) Subsections (a), (b), and (c) of section 4963 are each amended by inserting "4958," after "4955,".

(3) Subsection (e) of section 6213 is amended by inserting "4958 (relating to private excess benefit)," before "4971".

(4) Paragraphs (2) and (3) of section 7422(g) are each amended by inserting "4958," after "4955,".

(5) Subsection (b) of section 7454 is amended by inserting "or whether an organization manager (as defined in section 4958(f)(2)) has 'knowingly' participated in an excess benefit transaction (as defined in section 4958(c))," after "section 4912(b),".

(6) The table of subchapters for chapter 42 is amended by striking the last item and inserting the following:

"SUBCHAPTER D. Failure by certain charitable organizations to meet certain qualification requirements.

"SUBCHAPTER E. Abatement of first and second tier taxes in certain cases.".

(d) EFFECTIVE DATES.—

26 USC 4955 note.

(1) IN GENERAL.—The amendments made by this section (other than subsection (b)) shall apply to excess benefit transactions occurring on or after September 14, 1995.

26 USC 4955 note.

(2) BINDING CONTRACTS.—The amendments referred to in paragraph (1) shall not apply to any benefit arising from a transaction pursuant to any written contract which was binding on September 13, 1995, and at all times thereafter before such transaction occurred.

26 USC 501 note.

(3) APPLICATION OF PRIVATE INUREMENT RULE TO TAX-EXEMPT ORGANIZATIONS DESCRIBED IN SECTION 501(c)(4).—

(A) IN GENERAL.—The amendment made by subsection (b) shall apply to inurement occurring on or after September 14, 1995.

(B) BINDING CONTRACTS.—The amendment made by subsection (b) shall not apply to any inurement occurring before January 1, 1997, pursuant to a written contract which was binding on September 13, 1995, and at all times thereafter before such inurement occurred.

SEC. 1312. REPORTING OF CERTAIN EXCISE TAXES AND OTHER INFORMATION.

(a) REPORTING BY ORGANIZATIONS DESCRIBED IN SECTION 501(c)(3).—Subsection (b) of section 6033 (relating to certain organizations described in section 501(c)(3)) is amended by striking "and" at the end of paragraph (9), by redesignating paragraph (10) as paragraph (14), and by inserting after paragraph (9) the following new paragraphs:

"(10) the respective amounts (if any) of the taxes paid by the organization during the taxable year under the following provisions:

"(A) section 4911 (relating to tax on excess expenditures to influence legislation),

"(B) section 4912 (relating to tax on disqualifying lobbying expenditures of certain organizations), and

"(C) section 4955 (relating to taxes on political expenditures of section 501(c)(3) organizations),

"(11) the respective amounts (if any) of the taxes paid by the organization, or any disqualified person with respect to such organization, during the taxable year under section 4958 (relating to taxes on private excess benefit from certain charitable organizations),

"(12) such information as the Secretary may require with respect to any excess benefit transaction (as defined in section 4958),

"(13) such information with respect to disqualified persons as the Secretary may prescribe, and".

(b) ORGANIZATIONS DESCRIBED IN SECTION 501(c)(4).—Section 6033 is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) CERTAIN ORGANIZATIONS DESCRIBED IN SECTION 501(c)(4).—Every organization described in section 501(c)(4) which is subject to the requirements of subsection (a) shall include on the return required under subsection (a) the information referred to in paragraphs (11), (12) and (13) of subsection (b) with respect to such organization.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns for taxable years beginning after the date of the enactment of this Act. 26 USC 6033 note.

SEC. 1313. EXEMPT ORGANIZATIONS REQUIRED TO PROVIDE COPY OF RETURN.

(a) REQUIREMENT TO PROVIDE COPY.—

(1) Subparagraph (A) of section 6104(e)(1) (relating to public inspection of annual returns) is amended to read as follows:

"(A) IN GENERAL.—During the 3-year period beginning on the filing date—

"(i) a copy of the annual return filed under section 6033 (relating to returns by exempt organizations) by any organization to which this paragraph applies shall be made available by such organization for inspection during regular business hours by any individual at

the principal office of such organization and, if such organization regularly maintains 1 or more regional or district offices having 3 or more employees, at each such regional or district office, and

"(ii) upon request of an individual made at such principal office or such a regional or district office, a copy of such annual return shall be provided to such individual without charge other than a reasonable fee for any reproduction and mailing costs.

The request described in clause (ii) must be made in person or in writing. If the request under clause (ii) is made in person, such copy shall be provided immediately and, if made in writing, shall be provided within 30 days.".

(2) Clause (ii) of section 6104(e)(2)(A) is amended by inserting before the period at the end the following: "(and, upon request of an individual made at such principal office or such a regional or district office, a copy of the material requested to be available for inspection under this subparagraph shall be provided (in accordance with the last sentence of paragraph (1)(A)) to such individual without charge other than reasonable fee for any reproduction and mailing costs)".

(3) Subsection (e) of section 6104 is amended by adding at the end the following new paragraph:

"(3) LIMITATION.—Paragraph (1)(A)(ii) (and the corresponding provision of paragraph (2)) shall not apply to any request if, in accordance with regulations promulgated by the Secretary, the organization has made the requested documents widely available, or, the Secretary determines, upon application by an organization, that such request is part of a harassment campaign and that compliance with such request is not in the public interest.".

(b) INCREASE IN PENALTY FOR WILLFUL FAILURE TO ALLOW PUBLIC INSPECTION OF CERTAIN RETURNS, ETC.—Section 6685 is amended by striking "$1,000" and inserting "$5,000".

26 USC 6104 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to requests made on or after the 60th day after the Secretary of the Treasury first issues the regulations referred to section 6104(e)(3) of the Internal Revenue Code of 1986 (as added by subsection (a)(3)).

SEC. 1314. INCREASE IN PENALTIES ON EXEMPT ORGANIZATIONS FOR FAILURE TO FILE COMPLETE AND TIMELY ANNUAL RETURNS.

(a) IN GENERAL.—Subparagraph (A) of section 6652(c)(1) (relating to annual returns under section 6033) is amended by striking "$10" and inserting "$20" and by striking "$5,000" and inserting "$10,000".

(b) LARGER PENALTY ON ORGANIZATIONS HAVING GROSS RECEIPTS IN EXCESS OF $1,000,000.—Subparagraph (A) of section 6652(c)(1) is amended by adding at the end the following new sentence: "In the case of an organization having gross receipts exceeding $1,000,000 for any year, with respect to the return required under section 6033 for such year, the first sentence of this subparagraph shall be applied by substituting '$100' for '$20' and, in lieu of applying the second sentence of this subparagraph, the maximum penalty under this subparagraph shall not exceed $50,000.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns for taxable years ending on or after the date of the enactment of this Act. 26 USC 6652 note.

Approved July 30, 1996.

LEGISLATIVE HISTORY—H.R. 2337:

HOUSE REPORTS: No. 104–506 (Comm. on Ways and Means).
CONGRESSIONAL RECORD, Vol. 142 (1996):
Apr. 16, considered and passed House.
July 11, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 32 (1996):
July 30, Presidential remarks.

Public Law 104–169
104th Congress

An Act

Aug. 3, 1996
[H.R. 497]

To create the National Gambling Impact and Policy Commission.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

National Gambling Impact Study Commission Act.
18 USC 1955 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Gambling Impact Study Commission Act".

18 USC 1955 note.

SEC. 2. FINDINGS.

The Congress finds that—

(1) the most recent Federal study of gambling in the United States was completed in 1976;

(2) legalization of gambling has increased substantially over the past 20 years, and State, local, and Native American tribal governments have established gambling as a source of jobs and additional revenue;

(3) the growth of various forms of gambling, including electronic gambling and gambling over the Internet, could affect interstate and international matters under the jurisdiction of the Federal Government;

(4) questions have been raised regarding the social and economic impacts of gambling, and Federal, State, local, and Native American tribal governments lack recent, comprehensive information regarding those impacts; and

(5) a Federal commission should be established to conduct a comprehensive study of the social and economic impacts of gambling in the United States.

18 USC 1955 note.

SEC. 3. NATIONAL GAMBLING IMPACT STUDY COMMISSION.

(a) ESTABLISHMENT OF COMMISSION.—There is established a commission to be known as the National Gambling Impact Study Commission (hereinafter referred to in this Act as "the Commission"). The Commission shall—

(1) be composed of 9 members appointed in accordance with subsection (b); and

(2) conduct its business in accordance with the provisions of this Act.

President.

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Commissioners shall be appointed for the life of the Commission as follows:

(A) 3 shall be appointed by the President of the United States.

(B) 3 shall be appointed by the Speaker of the House of Representatives.

(C) 3 shall be appointed by the Majority Leader of the Senate.

(2) PERSONS ELIGIBLE.—The members of the Commission shall be individuals who have knowledge or expertise, whether by experience or training, in matters to be studied by the Commission under section 4. The members may be from the public or private sector, and may include Federal, State, local, or Native American tribal officers or employees, members of academia, non-profit organizations, or industry, or other interested individuals.

(3) CONSULTATION REQUIRED.—The President, the Speaker of the House of Representatives, and the Majority Leader of the Senate shall consult among themselves prior to the appointment of the members of the Commission in order to achieve, to the maximum extent possible, fair and equitable representation of various points of view with respect to the matters to be studied by the Commission under section 4.

(4) COMPLETION OF APPOINTMENTS; VACANCIES.—The President, the Speaker of the House of Representatives, and the Majority Leader of the Senate shall conduct the consultation required under paragraph (3) and shall each make their respective appointments not later than 60 days after the date of enactment of this Act. Any vacancy that occurs during the life of the Commission shall not affect the powers of the Commission, and shall be filled in the same manner as the original appointment not later than 60 days after the vacancy occurs.

(5) OPERATION OF THE COMMISSION.—

(A) CHAIRMANSHIP.—The President, the Speaker of the House of Representatives, and the Majority Leader of the Senate shall jointly designate one member as the Chairman of the Commission. In the event of a disagreement among the appointing authorities, the Chairman shall be determined by a majority vote of the appointing authorities. The determination of which member shall be Chairman shall be made not later than 15 days after the appointment of the last member of the Commission, but in no case later than 75 days after the date of enactment of this Act.

(B) MEETINGS.—The Commission shall meet at the call of the Chairman. The initial meeting of the Commission shall be conducted not later than 30 days after the appointment of the last member of the Commission, or not later than 30 days after the date on which appropriated funds are available for the Commission, whichever is later.

(C) QUORUM; VOTING; RULES.—A majority of the members of the Commission shall constitute a quorum to conduct business, but the Commission may establish a lesser quorum for conducting hearings scheduled by the Commission. Each member of the Commission shall have one vote, and the vote of each member shall be accorded the same weight. The Commission may establish by majority vote any other rules for the conduct of the Commission's business, if such rules are not inconsistent with this Act or other applicable law.

18 USC 1955 note.

SEC. 4. DUTIES OF THE COMMISSION.

(a) STUDY.—

(1) IN GENERAL.—It shall be the duty of the Commission to conduct a comprehensive legal and factual study of the social and economic impacts of gambling in the United States on—

(A) Federal, State, local, and Native American tribal governments; and

(B) communities and social institutions generally, including individuals, families, and businesses within such communities and institutions.

(2) MATTERS TO BE STUDIED.—The matters studied by the Commission under paragraph (1) shall at a minimum include—

(A) a review of existing Federal, State, local, and Native American tribal government policies and practices with respect to the legalization or prohibition of gambling, including a review of the costs of such policies and practices;

(B) an assessment of the relationship between gambling and levels of crime, and of existing enforcement and regulatory practices that are intended to address any such relationship;

(C) an assessment of pathological or problem gambling, including its impact on individuals, families, businesses, social institutions, and the economy;

(D) an assessment of the impacts of gambling on individuals, families, businesses, social institutions, and the economy generally, including the role of advertising in promoting gambling and the impact of gambling on depressed economic areas;

(E) an assessment of the extent to which gambling provides revenues to State, local, and Native American tribal governments, and the extent to which possible alternative revenue sources may exist for such governments; and

(F) an assessment of the interstate and international effects of gambling by electronic means, including the use of interactive technologies and the Internet.

(b) REPORT.—No later than 2 years after the date on which the Commission first meets, the Commission shall submit to the President, the Congress, State Governors, and Native American tribal governments a comprehensive report of the Commission's findings and conclusions, together with any recommendations of the Commission. Such report shall include a summary of the reports submitted to the Commission by the Advisory Commission on Intergovernmental Relations and National Research Council under section 7, as well as a summary of any other material relied on by the Commission in the preparation of its report.

18 USC 1955 note.

SEC. 5. POWERS OF THE COMMISSION.

(a) HEARINGS.—

(1) IN GENERAL.—The Commission may hold such hearings, sit and act at such times and places, administer such oaths, take such testimony, and receive such evidence as the Commission considers advisable to carry out its duties under section 4.

(2) WITNESS EXPENSES.—Witnesses requested to appear before the Commission shall be paid the same fees as are paid to witnesses under section 1821 of title 28, United States Code. The per diem and mileage allowances for witnesses shall be paid from funds appropriated to the Commission.

(b) SUBPOENAS.—

(1) IN GENERAL.—If a person fails to supply information requested by the Commission, the Commission may by majority vote require by subpoena the production of any written or recorded information, document, report, answer, record, account, paper, computer file, or other data or documentary evidence necessary to carry out its duties under section 4. The Commission shall transmit to the Attorney General a confidential, written notice at least 10 days in advance of the issuance of any such subpoena. A subpoena under this paragraph may require the production of materials from any place within the United States.

Confidentiality.
Notice.

(2) INTERROGATORIES.—The Commission may, with respect only to information necessary to understand any materials obtained through a subpoena under paragraph (1), issue a subpoena requiring the person producing such materials to answer, either through a sworn deposition or through written answers provided under oath (at the election of the person upon whom the subpoena is served), to interrogatories from the Commission regarding such information. A complete recording or transcription shall be made of any deposition made under this paragraph.

Records.

(3) CERTIFICATION.—Each person who submits materials or information to the Commission pursuant to a subpoena issued under paragraph (1) or (2) shall certify to the Commission the authenticity and completeness of all materials or information submitted. The provisions of section 1001 of title 18, United States Code, shall apply to any false statements made with respect to the certification required under this paragraph.

(4) TREATMENT OF SUBPOENAS.—Any subpoena issued by the Commission under paragraph (1) or (2) shall comply with the requirements for subpoenas issued by a United States district court under the Federal Rules of Civil Procedure.

(5) FAILURE TO OBEY A SUBPOENA.—If a person refuses to obey a subpoena issued by the Commission under paragraph (1) or (2), the Commission may apply to a United States district court for an order requiring that person to comply with such subpoena. The application may be made within the judicial district in which that person is found, resides, or transacts business. Any failure to obey the order of the court may be punished by the court as civil contempt.

(c) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out its duties under section 4. Upon the request of the Commission, the head of such department or agency may furnish such information to the Commission.

(d) INFORMATION TO BE KEPT CONFIDENTIAL.—The Commission shall be considered an agency of the Federal Government for purposes of section 1905 of title 18, United States Code, and any individual employed by an individual, entity, or organization under

contract to the Commission under section 7 shall be considered an employee of the Commission for the purposes of section 1905 of title 18, United States Code. Information obtained by the Commission, other than information available to the public, shall not be disclosed to any person in any manner, except—

(1) to Commission employees or employees of any individual, entity, or organization under contract to the Commission under section 7 for the purpose of receiving, reviewing, or processing such information;

(2) upon court order; or

(3) when publicly released by the Commission in an aggregate or summary form that does not directly or indirectly disclose—

(A) the identity of any person or business entity; or

(B) any information which could not be released under section 1905 of title 18, United States Code.

18 USC 1955 note.

SEC. 6. COMMISSION PERSONNEL MATTERS.

(a) COMPENSATION OF MEMBERS.—Each member of the Commission who is not an officer or employee of the Federal Government, or whose compensation is not precluded by a State, local, or Native American tribal government position, shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for Level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(b) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of service for the Commission.

(c) STAFF.—

(1) IN GENERAL.—The Chairman of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment and termination of an executive director shall be subject to confirmation by a majority of the members of the Commission.

(2) COMPENSATION.—The executive director shall be compensated at a rate not to exceed the rate payable for Level V of the Executive Schedule under section 5316 of title 5, United States Code. The Chairman may fix the compensation of other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for such personnel may not exceed the rate payable for Level V of the Executive Schedule under section 5316 of such title.

(3) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee, with the approval of the head of the appropriate Federal agency, may be detailed to the Commission

without reimbursement, and such detail shall be without interruption or loss of civil service status, benefits, or privilege.

(d) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairman of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals not to exceed the daily equivalent of the annual rate of basic pay prescribed for Level V of the Executive Schedule under section 5316 of such title.

SEC. 7. CONTRACTS FOR RESEARCH.

18 USC 1955 note.

(a) ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS.—

(1) IN GENERAL.—In carrying out its duties under section 4, the Commission shall contract with the Advisory Commission on Intergovernmental Relations for—

(A) a thorough review and cataloging of all applicable Federal, State, local, and Native American tribal laws, regulations, and ordinances that pertain to gambling in the United States; and

(B) assistance in conducting the studies required by the Commission under section 4(a), and in particular the review and assessments required in subparagraphs (A), (B), and (E) of paragraph (2) of such section.

(2) REPORT REQUIRED.—The contract entered into under paragraph (1) shall require that the Advisory Commission on Intergovernmental Relations submit a report to the Commission detailing the results of its efforts under the contract no later than 15 months after the date upon which the Commission first meets.

(b) NATIONAL RESEARCH COUNCIL.—

(1) IN GENERAL.—In carrying out its duties under section 4, the Commission shall contract with the National Research Council of the National Academy of Sciences for assistance in conducting the studies required by the Commission under section 4(a), and in particular the assessment required under subparagraph (C) of paragraph (2) of such section.

(2) REPORT REQUIRED.—The contract entered into under paragraph (1) shall require that the National Research Council submit a report to the Commission detailing the results of its efforts under the contract no later than 15 months after the date upon which the Commission first meets.

(c) OTHER ORGANIZATIONS.—Nothing in this section shall be construed to limit the ability of the Commission to enter into contracts with other entities or organizations for research necessary to carry out the Commission's duties under section 4.

SEC. 8. DEFINITIONS.

18 USC 1955 note.

For the purposes of this Act:

(1) GAMBLING.—The term "gambling" means any legalized form of wagering or betting conducted in a casino, on a riverboat, on an Indian reservation, or at any other location under the jurisdiction of the United States. Such term includes any casino game, parimutuel betting, sports-related betting, lottery, pull-tab game, slot machine, any type of video gaming, computerized wagering or betting activities (including any such activity conducted over the Internet), and philanthropic or charitable gaming activities.

(2) NATIVE AMERICAN TRIBAL GOVERNMENT.—The term "Native American tribal government" means an Indian tribe, as defined under section 4(5) of the Indian Gaming Regulatory Act of 1988 (25 U.S.C. 2703(5)).

(3) STATE.—The term "State" means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

18 USC 1955 note.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to the Commission, the Advisory Commission on Intergovernmental Relations, and the National Academy of Sciences such sums as may be necessary to carry out the purposes of this Act. Any sums appropriated shall remain available, without fiscal year limitation, until expended.

(b) LIMITATION.—No payment may be made under section 6 or 7 of this Act except to the extent provided for in advance in an appropriation Act.

18 USC 1955 note.

SEC. 10. TERMINATION OF THE COMMISSION.

The Commission shall terminate 60 days after the Commission submits the report required under section 4(b).

Approved August 3, 1996.

LEGISLATIVE HISTORY—H.R. 497 (S. 704):

HOUSE REPORTS: No. 104–440, Pt. 1 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 142 (1996):
Mar. 5, considered and passed House.
July 17, considered and passed Senate, amended, in lieu of S. 704.
July 22, House concurred in Senate amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 32 (1996):
Aug. 3, Presidential statement.

Public Law 104–170
104th Congress

An Act

To amend the Federal Insecticide, Fungicide, and Rodenticide Act and the Federal Food, Drug, and Cosmetic Act, and for other purposes.

Aug. 3, 1996
[H.R. 1627]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Food Quality Protection Act of 1996.
7 USC 136 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Food Quality Protection Act of 1996".

TITLE I—SUSPENSION-APPLICATORS

SEC. 101. REFERENCE.

Whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Insecticide, Fungicide, and Rodenticide Act.

Subtitle A—Suspension

SEC. 102. SUSPENSION.

(a) SECTION 6(c)(1).—The second sentence of section 6(c)(1) (7 U.S.C. 136d(c)(1)) is amended to read: "Except as provided in paragraph (3), no order of suspension may be issued under this subsection unless the Administrator has issued, or at the same time issues, a notice of intention to cancel the registration or change the classification of the pesticide under subsection (b).".

(b) SECTION 6(c)(3).—Section 6(c)(3) (7 U.S.C. 136d(c)(3)) is amended—

(1) by inserting after the first sentence the following new sentence: "The Administrator may issue an emergency order under this paragraph before issuing a notice of intention to cancel the registration or change the classification of the pesticide under subsection (b) and the Administrator shall proceed to issue the notice under subsection (b) within 90 days of issuing an emergency order. If the Administrator does not issue a notice under subsection (b) within 90 days of issuing an emergency order, the emergency order shall expire."; and

(2) by striking "In that case" and inserting "In the case of an emergency order".

SEC. 103. TOLERANCE REEVALUATION AS PART OF REREGISTRATION.

Section 4(g)(2) (7 U.S.C. 136a–1(g)(2)) is amended by adding at the end the following:

"(E) As soon as the Administrator has sufficient information with respect to the dietary risk of a particular active ingredient, but in any event no later than the time the Administrator makes a determination under subparagraph (C) or (D) with respect to pesticides containing a particular active ingredient, the Administrator shall—

"(i) reassess each associated tolerance and exemption from the requirement for a tolerance issued under section 408 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a);

"(ii) determine whether such tolerance or exemption meets the requirements of that Act;

"(iii) determine whether additional tolerances or exemptions should be issued;

Federal Register, publication.

"(iv) publish in the Federal Register a notice setting forth the determinations made under this subparagraph; and

"(v) commence promptly such proceedings under this Act and section 408 of the Federal Food, Drug, and Cosmetic Act as are warranted by such determinations.".

SEC. 104. SCIENTIFIC ADVISORY PANEL.

Section 25(d) (7 U.S.C. 136w(d)) is amended—

(1) in the first sentence, by striking "The Administrator shall" and inserting:

"(1) IN GENERAL.—The Administrator shall"; and

(2) by adding at the end the following:

Establishment.

"(2) SCIENCE REVIEW BOARD.—There is established a Science Review Board to consist of 60 scientists who shall be available to the Scientific Advisory Panel to assist in reviews conducted by the Panel. Members of the Board shall be selected in the same manner as members of temporary subpanels created under paragraph (1). Members of the Board shall be compensated in the same manner as members of the Panel.".

SEC. 105. NITROGEN STABILIZER.

(a) SECTION 2.—Section 2 (7 U.S.C. 136) is amended—

(1) in subsection (a)—

(A) in paragraph (1) by striking "or" after "defoliant," and inserting ", or nitrogen stabilizer" after "desiccant";

(B) at the end of paragraph (3) by striking "and";

(C) at the end of paragraph (4) by striking the period and inserting "; and"; and

(D) at the end by adding the following:

"(5) in the case of a nitrogen stabilizer, an ingredient which will prevent or hinder the process of nitrification, denitrification, ammonia volatilization, or urease production through action affecting soil bacteria.";

(2) in subsection (u), by striking "and" before "(2)" and by inserting "and (3) any nitrogen stabilizer," after "desiccant,"; and

(3) at the end by adding the following:

"(hh) NITROGEN STABILIZER.—The term 'nitrogen stabilizer' means any substance or mixture of substances intended for preventing or hindering the process of nitrification, denitrification, ammonia volatilization, or urease production through action upon soil bacteria. Such term shall not include—

"(1) dicyandiamide;

"(2) ammonium thiosulfate; or

"(3) any substance or mixture of substances.—

"(A) that was not registered pursuant to section 3 prior to January 1, 1992; and

"(B) that was in commercial agronomic use prior to January 1, 1992, with respect to which after January 1, 1992, the distributor or seller of the substance or mixture has made no specific claim of prevention or hindering of the process of nitrification, denitrification, ammonia volatilization urease production regardless of the actual use or purpose for, or future use or purpose for, the substance or mixture.

Statements made in materials required to be submitted to any State legislative or regulatory authority, or required by such authority to be included in the labeling or other literature accompanying any such substance or mixture shall not be deemed a specific claim within the meaning of this subsection.".

(b) SECTION 3(f).—Section 3(f) (7 U.S.C. 136a(f)) is amended by adding at the end the following:

"(4) MIXTURES OF NITROGEN STABILIZERS AND FERTILIZER PRODUCTS.—Any mixture or other combination of—

"(A) 1 or more nitrogen stabilizers registered under this Act; and

"(B) 1 or more fertilizer products,

shall not be subject to the provisions of this section or sections 4, 5, 7, 15, and 17(a)(2) if the mixture or other combination is accompanied by the labeling required under this Act for the nitrogen stabilizer contained in the mixture or other combination, the mixture or combination is mixed or combined in accordance with such labeling, and the mixture or combination does not contain any active ingredient other than the nitrogen stabilizer.".

SEC. 106. PERIODIC REGISTRATION REVIEW.

(a) SECTION 6.—Section 6 (7 U.S.C. 136d) is amended—

(1) in subsection (a), by striking the heading and inserting the following:

"(a) EXISTING STOCKS AND INFORMATION.—"; and

(2) by amending paragraph (1) of subsection (a) to read as follows:

"(1) EXISTING STOCKS.—The Administrator may permit the continued sale and use of existing stocks of a pesticide whose registration is suspended or canceled under this section, or section 3 or 4, to such extent, under such conditions, and for such uses as the Administrator determines that such sale or use is not inconsistent with the purposes of this Act.".

(b) SECTION 3.—Section 3 (7 U.S.C. 136a) is amended by adding at the end the following:

"(g) REGISTRATION REVIEW.—

"(1)(A) GENERAL RULE.—The registrations of pesticides are to be periodically reviewed. The Administrator shall by regula- Regulations.

tion establish a procedure for accomplishing the periodic review of registrations. The goal of these regulations shall be a review of a pesticide's registration every 15 years. No registration shall be canceled as a result of the registration review process unless the Administrator follows the procedures and substantive requirements of section 6.

"(B) LIMITATION.—Nothing in this subsection shall prohibit the Administrator from undertaking any other review of a pesticide pursuant to this Act.

"(2)(A) DATA.—The Administrator shall use the authority in subsection (c)(2)(B) to require the submission of data when such data are necessary for a registration review.

"(B) DATA SUBMISSION, COMPENSATION, AND EXEMPTION.—For purposes of this subsection, the provisions of subsections (c)(1), (c)(2)(B), and (c)(2)(D) shall be utilized for and be applicable to any data required for registration review.".

Subtitle B—Training for Maintenance Applicators and Service Technicians

SEC. 120. MAINTENANCE APPLICATORS AND SERVICE TECHNICIANS DEFINITIONS.

Section 2 (7 U.S.C. 136), as amended by section 106, is amended by adding at the end the following:

"(jj) MAINTENANCE APPLICATOR.—The term 'maintenance applicator' means any individual who, in the principal course of such individual's employment, uses, or supervises the use of, a pesticide not classified for restricted use (other than a ready to use consumer products pesticide); for the purpose of providing structural pest control or lawn pest control including janitors, general maintenance personnel, sanitation personnel, and grounds maintenance personnel. The term 'maintenance applicator' does not include private applicators as defined in section 2(e)(2); individuals who use antimicrobial pesticides, sanitizers or disinfectants; individuals employed by Federal, State, and local governments or any political subdivisions thereof, or individuals who use pesticides not classified for restricted use in or around their homes, boats, sod farms, nurseries, greenhouses, or other noncommercial property.

"(kk) SERVICE TECHNICIAN.—The term 'service technician' means any individual who uses or supervises the use of pesticides (other than a ready to use consumer products pesticide) for the purpose of providing structural pest control or lawn pest control on the property of another for a fee. The term 'service technician' does not include individuals who use antimicrobial pesticides, sanitizers or disinfectants; or who otherwise apply ready to use consumer products pesticides.".

SEC. 121. MINIMUM REQUIREMENTS FOR TRAINING OF MAINTENANCE APPLICATORS AND SERVICE TECHNICIANS.

The Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.) is amended—

7 USC 136x, 136y.

(1) by redesignating sections 30 and 31 as sections 33 and 34, respectively; and

(2) by adding after section 29 the following:

"SEC. 30. MINIMUM REQUIREMENTS FOR TRAINING OF MAINTENANCE APPLICATORS AND SERVICE TECHNICIANS. 7 USC 136w–5.

"Each State may establish minimum requirements for training of maintenance applicators and service technicians. Such training may include instruction in the safe and effective handling and use of pesticides in accordance with the Environmental Protection Agency approved labeling, and instruction in integrated pest management techniques. The authority of the Administrator with respect to minimum requirements for training of maintenance applicators and service technicians shall be limited to ensuring that each State understands the provisions of this section.".

TITLE II—MINOR USE CROP PROTECTION, ANTIMICROBIAL PESTICIDE REGISTRATION REFORM, AND PUBLIC HEALTH PESTICIDES

SEC. 201. REFERENCE.

Whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Insecticide, Fungicide, and Rodenticide Act.

Subtitle A—Minor Use Crop Protection

SEC. 210. MINOR CROP PROTECTION.

(a) DEFINITION.—Section 2 (7 U.S.C. 136), as amended by section 120, is further amended by adding at the end the following:

"(ll) MINOR USE.—The term 'minor use' means the use of a pesticide on an animal, on a commercial agricultural crop or site, or for the protection of public health where—

"(1) the total United States acreage for the crop is less than 300,000 acres, as determined by the Secretary of Agriculture; or

"(2) the Administrator, in consultation with the Secretary of Agriculture, determines that, based on information provided by an applicant for registration or a registrant, the use does not provide sufficient economic incentive to support the initial registration or continuing registration of a pesticide for such use and—

"(A) there are insufficient efficacious alternative registered pesticides available for the use;

"(B) the alternatives to the pesticide use pose greater risks to the environment or human health;

"(C) the minor use pesticide plays or will play a significant part in managing pest resistance; or

"(D) the minor use pesticide plays or will play a significant part in an integrated pest management program.

The status as a minor use under this subsection shall continue as long as the Administrator has not determined that, based on existing data, such use may cause an unreasonable adverse effect on the environment and the use otherwise qualifies for such status.".

(b) EXCLUSIVE USE OF MINOR USE PESTICIDES.—Section 3(c)(1)(F) (7 U.S.C. 136a(c)(1)(F)) is amended—

(1) by redesignating clauses (ii) and (iii) as clauses (iii) and (iv), respectively; and

(2) by inserting after clause (i) the following:

"(ii) The period of exclusive data use provided under clause (i) shall be extended 1 additional year for each 3 minor uses registered after the date of enactment of this clause and within 7 years of the commencement of the exclusive use period, up to a total of 3 additional years for all minor uses registered by the Administrator if the Administrator, in consultation with the Secretary of Agriculture, determines that, based on information provided by an applicant for registration or a registrant, that—

"(I) there are insufficient efficacious alternative registered pesticides available for the use;

"(II) the alternatives to the minor use pesticide pose greater risks to the environment or human health;

"(III) the minor use pesticide plays or will play a significant part in managing pest resistance; or

"(IV) the minor use pesticide plays or will play a significant part in an integrated pest management program.

The registration of a pesticide for a minor use on a crop grouping established by the Administrator shall be considered for purposes of this clause 1 minor use for each representative crop for which data are provided in the crop grouping. Any additional exclusive use period under this clause shall be modified as appropriate or terminated if the registrant voluntarily cancels the product or deletes from the registration the minor uses which formed the basis for the extension of the additional exclusive use period or if the Administrator determines that the registrant is not actually marketing the product for such minor uses.";

(3) in clause (iv), as amended by paragraph (1), by striking "and (ii)" and inserting ", (ii), and (iii)"; and

(4) at the end of the section, as amended by paragraph (1), by adding the following:

Effective date.

"(v) The period of exclusive use provided under clause (ii) shall not take effect until 1 year after enactment of this clause, except where an applicant or registrant is applying for the registration of a pesticide containing an active ingredient not previously registered.

"(vi) With respect to data submitted after the date of enactment of this clause by an applicant or registrant to support an amendment adding a new use to an existing registration that does not retain any period of exclusive use, if such data relates solely to a minor use of a pesticide, such data shall not, without the written permission of the original data submitter, be considered by the Administrator to support an application for a minor use by another person during

the period of 10 years following the date of submission of such data. The applicant or registrant at the time the new minor use is requested shall notify the Administrator that to the best of their knowledge the exclusive use period for the pesticide has expired and that the data pertaining solely to the minor use of a pesticide is eligible for the provisions of this paragraph. If the minor use registration which is supported by data submitted pursuant to this subsection is voluntarily canceled or if such data are subsequently used to support a nonminor use, the data shall no longer be subject to the exclusive use provisions of this clause but shall instead be considered by the Administrator in accordance with the provisions of clause (i), as appropriate.". Notification.

(c) TIME EXTENSIONS FOR DEVELOPMENT OF MINOR USE DATA.—

(1) DATA CALL-IN.—Section 3(c)(2)(B) (7 U.S.C. 136a(c)(2)(B)) is amended by adding at the end the following:

"(vi) Upon the request of a registrant the Administrator shall, in the case of a minor use, extend the deadline for the production of residue chemistry data under this subparagraph for data required solely to support that minor use until the final deadline for submission of data under section 4 for the other uses of the pesticide established as of the date of enactment of the Food Quality Protection Act of 1996, if—

"(I) the data to support other uses of the pesticide on a food are being provided;

"(II) the registrant, in submitting a request for such an extension, provides a schedule, including interim dates to measure progress, to assure that the data production will be completed before the expiration of the extension period;

"(III) the Administrator has determined that such extension will not significantly delay the Administrator's schedule for issuing a reregistration eligibility determination required under section 4; and

"(IV) the Administrator has determined that based on existing data, such extension would not significantly increase the risk of any unreasonable adverse effect on the environment. If the Administrator grants an extension under this clause, the Administrator shall monitor the development of the data and shall ensure that the registrant is meeting the schedule for the production of the data. If the Administrator determines that the registrant is not meeting or has not met the schedule for the production of such data, the Administrator may proceed in accordance with clause (iv) regarding the continued registration of the affected products with the minor use and shall inform the public of such action. Notwithstanding the provisions of this clause, the Administrator may take action to modify or revoke the extension under this clause if the Administrator determines that the extension for the minor use may cause an unreasonable adverse effect on the environment. In such circumstance, the Administrator shall provide, in writing to the reg- Notice.

istrant, a notice revoking the extension of time for submission of data. Such data shall instead be due in accordance with the date established by the Administrator for the submission of the data.".

(2) REREGISTRATION.—Sections 4(d)(4)(B), 4(e)(2)(B), and 4(f)(2)(B) (7 U.S.C. 136a–1(d)(4)(B), (e)(2)(B), and (f)(2)(B)) are each amended by adding at the end the following: "Upon application of a registrant, the Administrator shall, in the case of a minor use, extend the deadline for the production of residue chemistry data under this subparagraph for data required solely to support that minor use until the final deadline for submission of data under this section for the other uses of the pesticide established as of the date of enactment of the Food Quality Protection Act of 1996 if—

"(i) the data to support other uses of the pesticide on a food are being provided;

"(ii) the registrant, in submitting a request for such an extension provides a schedule, including interim dates to measure progress, to assure that the data production will be completed before the expiration of the extension period;

"(iii) the Administrator has determined that such extension will not significantly delay the Administrator's schedule for issuing a reregistration eligibility determination required under this section; and

"(iv) the Administrator has determined that based on existing data, such extension would not significantly increase the risk of any unreasonable adverse effect on the environment. If the Administrator grants an extension under this subparagraph, the Administrator shall monitor the development of the data and shall ensure that the registrant is meeting the schedule for the production of the data. If the Administrator determines that the registrant is not meeting or has not met the schedule for the production of such data, the Administrator may proceed in accordance with clause (iv) of section 3(c)(2)(B) or other provisions of this section, as appropriate, regarding the continued registration of the affected products with the minor use and shall inform the public of such action. Notwithstanding the provisions of this subparagraph, the Administrator may take action to modify or revoke the extension under this subparagraph if the Administrator determines that the extension for the minor use may cause an unreasonable adverse effect on the environment. In such circumstance, the Administrator shall provide written notice to the registrant revoking the extension of time for submission of data. Such data shall instead be due in accordance with the date then established by the Administrator for submission of the data.".

(d) MINOR USE WAIVER.—Section 3(c)(2) (7 U.S.C. 136a(c)(2)) is amended—

(1) by inserting "IN GENERAL.—" after "(A)";

(2) by inserting "ADDITIONAL DATA.—" after "(B)";

(3) by inserting "SIMPLIFIED PROCEDURES.—" after "(C)"; and

(4) by adding at the end the following:

"(E) MINOR USE WAIVER.—In handling the registration of a pesticide for a minor use, the Administrator may waive otherwise applicable data requirements if the Administrator determines that the absence of such data will not prevent the Administrator from determining—

"(i) the incremental risk presented by the minor use of the pesticide; and

"(ii) that such risk, if any, would not be an unreasonable adverse effect on the environment.".

(e) EXPEDITING MINOR USE REGISTRATIONS.—Section 3(c)(3) (7 U.S.C. 136a(c)(3)) is amended—

(1) by inserting after "(A)" the following: "IN GENERAL.—";

(2) by inserting after "(B)" the following: "IDENTICAL OR SUBSTANTIALLY SIMILAR.—"; and

(3) by adding at the end the following:

"(C) MINOR USE REGISTRATION.—

"(i) The Administrator shall, as expeditiously as possible, review and act on any complete application— Review.

"(I) that proposes the initial registration of a new pesticide active ingredient if the active ingredient is proposed to be registered solely for minor uses, or proposes a registration amendment solely for minor uses to an existing registration; or

"(II) for a registration or a registration amendment that proposes significant minor uses.

"(ii) For the purposes of clause (i)—

"(I) the term 'as expeditiously as possible' means that the Administrator shall, to the greatest extent practicable, complete a review and evaluation of all data, submitted with a complete application, within 12 months after the submission of the complete application, and the failure of the Administrator to complete such a review and evaluation under clause (i) shall not be subject to judicial review; and

"(II) the term 'significant minor uses' means 3 or more minor uses proposed for every nonminor use, a minor use that would, in the judgment of the Administrator, serve as a replacement for any use which has been canceled in the 5 years preceding the receipt of the application, or a minor use that in the opinion of the Administrator would avoid the reissuance of an emergency exemption under section 18 for that minor use.

"(D) ADEQUATE TIME FOR SUBMISSION OF MINOR USE DATA.—If a registrant makes a request for a minor use waiver, regarding data required by the Administrator, pursuant to paragraph (2)(E), and if the Administrator denies in whole or in part such data waiver request, the registrant shall have a full-time period for providing such data. For purposes of this subparagraph, the term 'full-time period' means the time period originally established by the Administrator for submission of such data, beginning

with the date of receipt by the registrant of the Administrator's notice of denial.".

(f) TEMPORARY EXTENSION OF REGISTRATION FOR UNSUPPORTED MINOR USES.—

(1) REREGISTRATION.—

(A) Sections 4(d)(6) and 4(f)(3) (7 U.S.C. 136a–1(d)(6) and (f)(3)) are each amended by adding at the end the following: "If the registrant does not commit to support a specific minor use of the pesticide, but is supporting and providing data in a timely and adequate fashion to support uses of the pesticide on a food, or if all uses of the pesticide are nonfood uses and the registrant does not commit to support a specific minor use of the pesticide but is supporting and providing data in a timely and adequate fashion to support other nonfood uses of the pesticide, the Administrator, at the written request of the registrant, shall not take any action pursuant to this paragraph in regard to such unsupported minor use until the final deadline established as of the date of enactment of the Food Quality Protection Act of 1996, for the submission of data under this section for the supported uses identified pursuant to this paragraph unless the Administrator determines that the absence of the data is significant enough to cause human health or environmental concerns. On such a determination the Administrator may refuse the request for extension by the registrant. Upon receipt of the request from the registrant, the Administrator shall publish in the Federal Register a notice of the receipt of the request and the effective date upon which the uses not being supported will be voluntarily deleted from the registration pursuant to section 6(f)(1). If the Administrator grants an extension under this paragraph, the Administrator shall monitor the development of the data for the uses being supported and shall ensure that the registrant is meeting the schedule for the production of such data. If the Administrator determines that the registrant is not meeting or has not met the schedule for the production of such data, the Administrator may proceed in accordance with section 3(c)(2)(B)(iv) regarding the continued registration of the affected products with the minor and other uses and shall inform the public of such action in accordance with section 6(f)(2). Notwithstanding this subparagraph, the Administrator may deny, modify, or revoke the temporary extension under this paragraph if the Administrator determines that the continuation of the minor use may cause an unreasonable adverse effect on the environment. In the event of modification or revocation, the Administrator shall provide, in writing, to the registrant a notice revoking the temporary extension and establish a new effective date by which the minor use shall be deleted from the registration.".

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(B) Section 4(e)(3)(A) (7 U.S.C. 136a–1(e)(3)(A)) is amended by adding at the end the following: "If the registrant does not commit to support a specific minor use of the pesticide, but is supporting and providing data in a timely and adequate fashion to support uses of the pesticide on a food, or if all uses of the pesticide are nonfood uses and the registrant does not commit to support a

specific minor use of the pesticide but is supporting and providing data in a timely and adequate fashion to support other nonfood uses of the pesticide, the Administrator, at the written request of the registrant, shall not take any action pursuant to this subparagraph in regard to such unsupported minor use until the final deadline established as of the date of enactment of the Food Quality Protection Act of 1996, for the submission of data under this section for the supported uses identified pursuant to this subparagraph unless the Administrator determines that the absence of the data is significant enough to cause human health or environmental concerns. On the basis of such determination, the Administrator may refuse the request for extension by the registrant. Upon receipt of the request from the registrant, the Administrator shall publish in the Federal Register a notice of the receipt of the request and the effective date upon which the uses not being supported will be voluntarily deleted from the registration pursuant to section 6(f)(1). If the Administrator grants an extension under this subparagraph, the Administrator shall monitor the development of the data for the uses being supported and shall ensure that the registrant is meeting the schedule for the production of such data. If the Administrator determines that the registrant is not meeting or has not met the schedule for the production of such data, the Administrator may proceed in accordance with section 3(c)(2)(B)(iv) regarding the continued registration of the affected products with the minor and other uses and shall inform the public of such action in accordance with section 6(f)(2). Notwithstanding this subparagraph, the Administrator may deny, modify, or revoke the temporary extension under this subparagraph if the Administrator determines that the continuation of the minor use may cause an unreasonable adverse effect on the environment. In the event of modification or revocation, the Administrator shall provide, in writing, to the registrant a notice revoking the temporary extension and establish a new effective date by which the minor use shall be deleted from the registration.".

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(2) DATA.—Section 3(c)(2)(B) (7 U.S.C. 136a(c)(2)(B)), as amended by subsection (c)(1), is further amended by adding at the end the following:

"(vii) If the registrant does not commit to support a specific minor use of the pesticide, but is supporting and providing data in a timely and adequate fashion to support uses of the pesticide on a food, or if all uses of the pesticide are nonfood uses and the registrant does not commit to support a specific minor use of the pesticide but is supporting and providing data in a timely and adequate fashion to support other nonfood uses of the pesticide, the Administrator, at the written request of the registrant, shall not take any action pursuant to this clause in regard to such unsupported minor use until the final deadline established as of the date of enactment of the Food Quality Protection Act of 1996, for the submission of data under section 4 for the supported uses identified pursuant to this clause unless the Administrator determines that the

absence of the data is significant enough to cause human health or environmental concerns. On the basis of such determination, the Administrator may refuse the request for extension by the registrant. Upon receipt of the request from the registrant, the Administrator shall publish in the Federal Register a notice of the receipt of the request and the effective date upon which the uses not being supported will be voluntarily deleted from the registration pursuant to section 6(f)(1). If the Administrator grants an extension under this clause, the Administrator shall monitor the development of the data for the uses being supported and shall ensure that the registrant is meeting the schedule for the production of such data. If the Administrator determines that the registrant is not meeting or has not met the schedule for the production of such data, the Administrator may proceed in accordance with clause (iv) of this subparagraph regarding the continued registration of the affected products with the minor and other uses and shall inform the public of such action in accordance with section 6(f)(2). Notwithstanding the provisions of this clause, the Administrator may deny, modify, or revoke the temporary extension under this subparagraph if the Administrator determines that the continuation of the minor use may cause an unreasonable adverse effect on the environment. In the event of modification or revocation, the Administrator shall provide, in writing, to the registrant a notice revoking the temporary extension and establish a new effective date by which the minor use shall be deleted from the registration.".

Federal Register, publication.

Notice.

(g) Section 6(f) (7 U.S.C. 136d(f)) is amended—

(1) in paragraph (1)(C)(ii) by striking "90-day" each place it appears and inserting "180-day"; and

(2) in paragraph (3)(A) by striking "90-day" and inserting "180-day".

(h) UTILIZATION OF DATA FOR VOLUNTARILY CANCELED CHEMICALS.—Section 6(f) (7 U.S.C. 136d(f)) is amended by adding at the end the following:

"(4) UTILIZATION OF DATA FOR VOLUNTARILY CANCELED PESTICIDE.—When an application is filed with the Administrator for the registration of a pesticide for a minor use and another registrant subsequently voluntarily cancels its registration for an identical or substantially similar pesticide for an identical or substantially similar use, the Administrator shall process, review, and evaluate the pending application as if the voluntary cancellation had not yet taken place except that the Administrator shall not take such action if the Administrator determines that such minor use may cause an unreasonable adverse effect on the environment. In order to rely on this subsection, the applicant must certify that it agrees to satisfy any outstanding data requirements necessary to support the reregistration of the pesticide in accordance with the data submission schedule established by the Administrator.".

(i) ENVIRONMENTAL PROTECTION AGENCY MINOR USE PROGRAM.—The Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.), as amended by section 121, is amended by adding after section 30 the following:

"SEC. 31. ENVIRONMENTAL PROTECTION AGENCY MINOR USE PROGRAM. 7 USC 136w–6.

"(a) The Administrator shall assure coordination of minor use issues through the establishment of a minor use program within the Office of Pesticide Programs. Such office shall be responsible for coordinating the development of minor use programs and policies and consulting with growers regarding minor use issues and registrations and amendments which are submitted to the Environmental Protection Agency.

"(b) The Office of Pesticide Programs shall prepare a public report concerning the progress made on the registration of minor uses, including implementation of the exclusive use as an incentive for registering new minor uses, within 3 years of the passage of the Food Quality Protection Act of 1996.". Public information. Reports.

(j) DEPARTMENT OF AGRICULTURE MINOR USE PROGRAM.—The Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.), as amended by subsection (i), is amended by adding after section 31 the following:

"SEC. 32. DEPARTMENT OF AGRICULTURE MINOR USE PROGRAM. 7 USC 136w–7.

"(a) IN GENERAL.—The Secretary of Agriculture (hereinafter in this section referred to as the 'Secretary') shall assure the coordination of the responsibilities of the Department of Agriculture related to minor uses of pesticides, including—

"(1) carrying out the Inter-Regional Project Number 4 (IR–4) as described in section 2 of Public Law 89–106 (7 U.S.C. 450i(e)) and the national pesticide resistance monitoring program established under section 1651 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5882);

"(2) supporting integrated pest management research;

"(3) consulting with growers to develop data for minor uses; and

"(4) providing assistance for minor use registrations, tolerances, and reregistrations with the Environmental Protection Agency.

"(b)(1) MINOR USE PESTICIDE DATA.—

"(A) GRANT AUTHORITY.—The Secretary, in consultation with the Administrator, shall establish a program to make grants for the development of data to support minor use pesticide registrations and reregistrations. The amount of any such grant shall not exceed ½ of the cost of the project for which the grant is made.

"(B) APPLICANTS.—Any person who wants to develop data to support minor use pesticide registrations and reregistrations may apply for a grant under subparagraph (A). Priority shall be given to an applicant for such a grant who does not directly receive funds from the sale of pesticides registered for minor uses.

"(C) DATA OWNERSHIP.—Any data that is developed under a grant under subparagraph (A) shall be jointly owned by the Department of Agriculture and the person who received the grant. Such a person shall enter into an agreement with the Secretary under which such person shall share any fee paid to such person under section 3(c)(1)(F).

"(2) MINOR USE PESTICIDE DATA REVOLVING FUND.—

"(A) ESTABLISHMENT.—There is established in the Treasury of the United States a revolving fund to be known as the Nomenclature.

Minor Use Pesticide Data Revolving Fund. The Fund shall be available without fiscal year limitation to carry out the authorized purposes of this subsection.

"(B) CONTENTS OF THE FUND.—There shall be deposited in the Fund—

"(i) such amounts as may be appropriated to support the purposes of this subsection; and

"(ii) fees collected by the Secretary for any data developed under a grant under paragraph (1)(A).

"(C) AUTHORIZATIONS OF APPROPRIATIONS.—There are authorized to be appropriated for each fiscal year to carry out the purposes of this subsection $10,000,000 to remain available until expended.".

Subtitle B—Antimicrobial Pesticide Registration Reform

SEC. 221. DEFINITIONS.

Section 2 (7 U.S.C. 136), as amended by section 210(a) is further amended—

(1) in subsection (u), by adding at the end the following: "The term 'pesticide' does not include liquid chemical sterilant products (including any sterilant or subordinate disinfectant claims on such products) for use on a critical or semi-critical device, as defined in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321). For purposes of the preceding sentence, the term 'critical device' includes any device which is introduced directly into the human body, either into or in contact with the bloodstream or normally sterile areas of the body and the term 'semi-critical device' includes any device which contacts intact mucous membranes but which does not ordinarily penetrate the blood barrier or otherwise enter normally sterile areas of the body."; and

(2) by adding at the end the following:

"(mm) ANTIMICROBIAL PESTICIDE.—

"(1) IN GENERAL.—The term 'antimicrobial pesticide' means a pesticide that—

"(A) is intended to—

"(i) disinfect, sanitize, reduce, or mitigate growth or development of microbiological organisms; or

"(ii) protect inanimate objects, industrial processes or systems, surfaces, water, or other chemical substances from contamination, fouling, or deterioration caused by bacteria, viruses, fungi, protozoa, algae, or slime; and

"(B) in the intended use is exempt from, or otherwise not subject to, a tolerance under section 408 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a and 348) or a food additive regulation under section 409 of such Act.

"(2) EXCLUDED PRODUCTS.—The term 'antimicrobial pesticide' does not include —

"(A) a wood preservative or antifouling paint product for which a claim of pesticidal activity other than or in addition to an activity described in paragraph (1) is made;

"(B) an agricultural fungicide product; or

"(C) an aquatic herbicide product.

"(3) INCLUDED PRODUCTS.—The term 'antimicrobial pesticide' does include any other chemical sterilant product (other than liquid chemical sterilant products exempt under subsection (u)), any other disinfectant product, any other industrial microbiocide product, and any other preservative product that is not excluded by paragraph (2).".

SEC. 222. FEDERAL AND STATE DATA COORDINATION.

Section 3(c)(2)(B) (7 U.S.C. 136a(c)(2)(B)), as amended by section 210(f)(2), is amended by adding at the end the following:

"(viii)(I) If data required to support registration of a pesticide under subparagraph (A) is requested by a Federal or State regulatory authority, the Administrator shall, to the extent practicable, coordinate data requirements, test protocols, timetables, and standards of review and reduce burdens and redundancy caused to the registrant by multiple requirements on the registrant.

"(II) The Administrator may enter into a cooperative agreement with a State to carry out subclause (I).

"(III) Not later than 1 year after the date of enactment of this clause, the Administrator shall develop a process to identify and assist in alleviating future disparities between Federal and State data requirements.".

SEC. 223. LABEL AND LABELING.

Section 3(c) (7 U.S.C. 136a(c)) is amended by adding at the end the following:

"(9) LABELING.—

"(A) ADDITIONAL STATEMENTS.—Subject to subparagraphs (B) and (C), it shall not be a violation of this Act for a registrant to modify the labeling of an antimicrobial pesticide product to include relevant information on product efficacy, product composition, container composition or design, or other characteristics that do not relate to any pesticidal claim or pesticidal activity.

"(B) REQUIREMENTS.—Proposed labeling information under subparagraph (A) shall not be false or misleading, shall not conflict with or detract from any statement required by law or the Administrator as a condition of registration, and shall be substantiated on the request of the Administrator.

"(C) NOTIFICATION AND DISAPPROVAL.—

"(i) NOTIFICATION.—A registration may be modified under subparagraph (A) if —

"(I) the registrant notifies the Administrator in writing not later than 60 days prior to distribution or sale of a product bearing the modified labeling; and

"(II) the Administrator does not disapprove of the modification under clause (ii).

"(ii) DISAPPROVAL.—Not later than 30 days after receipt of a notification under clause (i), the Administrator may disapprove the modification by sending the registrant notification in writing stating that the proposed language is not acceptable and stating the reasons why the Administrator finds the proposed modification unacceptable.

"(iii) RESTRICTION ON SALE.—A registrant may not sell or distribute a product bearing a disapproved modification.

"(iv) OBJECTION.—A registrant may file an objection in writing to a disapproval under clause (ii) not later than 30 days after receipt of notification of the disapproval.

"(v) FINAL ACTION.—A decision by the Administrator following receipt and consideration of an objection filed under clause (iv) shall be considered a final agency action.

"(D) USE DILUTION.—The label or labeling required under this Act for an antimicrobial pesticide that is or may be diluted for use may have a different statement of caution or protective measures for use of the recommended diluted solution of the pesticide than for use of a concentrate of the pesticide if the Administrator determines that —

"(i) adequate data have been submitted to support the statement proposed for the diluted solution uses; and

"(ii) the label or labeling provides adequate protection for exposure to the diluted solution of the pesticide.".

SEC. 224. REGISTRATION REQUIREMENTS FOR ANTIMICROBIAL PESTICIDES.

Section 3 (7 U.S.C. 136a), as amended by section 106(b), is further amended by adding at the end the following:

"(h) REGISTRATION REQUIREMENTS FOR ANTIMICROBIAL PESTICIDES.—

"(1) EVALUATION OF PROCESS.—To the maximum extent practicable consistent with the degrees of risk presented by an antimicrobial pesticide and the type of review appropriate to evaluate the risks, the Administrator shall identify and evaluate reforms to the antimicrobial registration process that would reduce review periods existing as of the date of enactment of this subsection for antimicrobial pesticide product registration applications and applications for amended registration of antimicrobial pesticide products, including—

"(A) new antimicrobial active ingredients;

"(B) new antimicrobial end-use products;

"(C) substantially similar or identical antimicrobial pesticides; and

"(D) amendments to antimicrobial pesticide registrations.

"(2) REVIEW TIME PERIOD REDUCTION GOAL.—Each reform identified under paragraph (1) shall be designed to achieve the goal of reducing the review period following submission of a complete application, consistent with the degree of risk, to a period of not more than—

"(A) 540 days for a new antimicrobial active ingredient pesticide registration;

"(B) 270 days for a new antimicrobial use of a registered active ingredient;

"(C) 120 days for any other new antimicrobial product;

"(D) 90 days for a substantially similar or identical antimicrobial product;

"(E) 90 days for an amendment to an antimicrobial registration that does not require scientific review of data; and

"(F) 90 to 180 days for an amendment to an antimicrobial registration that requires scientific review of data and that is not otherwise described in this paragraph.

"(3) IMPLEMENTATION.—

"(A) PROPOSED RULEMAKING.—

"(i) ISSUANCE.—Not later than 270 days after the date of enactment of this subsection, the Administrator shall publish in the Federal Register proposed regulations to accelerate and improve the review of antimicrobial pesticide products designed to implement, to the extent practicable, the goals set forth in paragraph (2). Federal Register, publication.

"(ii) REQUIREMENTS.—Proposed regulations issued under clause (i) shall—

"(I) define the various classes of antimicrobial use patterns, including household, industrial, and institutional disinfectants and sanitizing pesticides, preservatives, water treatment, and pulp and paper mill additives, and other such products intended to disinfect, sanitize, reduce, or mitigate growth or development of microbiological organisms, or protect inanimate objects, industrial processes or systems, surfaces, water, or other chemical substances from contamination, fouling, or deterioration caused by bacteria, viruses, fungi, protozoa, algae, or slime;

"(II) differentiate the types of review undertaken for antimicrobial pesticides;

"(III) conform the degree and type of review to the risks and benefits presented by antimicrobial pesticides and the function of review under this Act, considering the use patterns of the product, toxicity, expected exposure, and product type;

"(IV) ensure that the registration process is sufficient to maintain antimicrobial pesticide efficacy and that antimicrobial pesticide products continue to meet product performance standards and effectiveness levels for each type of label claim made; and

"(V) implement effective and reliable deadlines for process management.

"(iii) COMMENTS.—In developing the proposed regulations, the Administrator shall solicit the views from registrants and other affected parties to maximize the effectiveness of the rule development process.

"(B) FINAL REGULATIONS.—

"(i) ISSUANCE.—The Administrator shall issue final regulations not later than 240 days after the close of the comment period for the proposed regulations.

"(ii) FAILURE TO MEET GOAL.—If a goal described in paragraph (2) is not met by the final regulations, the Administrator shall identify the goal, explain why the goal was not attained, describe the element of the regulations included instead, and identify future steps to attain the goal.

"(iii) REQUIREMENTS.—In issuing final regulations, the Administrator shall—

"(I) consider the establishment of a certification process for regulatory actions involving risks that can be responsibly managed, consistent with the degree of risk, in the most cost-efficient manner;

"(II) consider the establishment of a certification process by approved laboratories as an adjunct to the review process;

"(III) use all appropriate and cost-effective review mechanisms, including—

"(aa) expanded use of notification and non-notification procedures;

"(bb) revised procedures for application review; and

"(cc) allocation of appropriate resources to ensure streamlined management of antimicrobial pesticide registrations; and

"(IV) clarify criteria for determination of the completeness of an application.

"(C) EXPEDITED REVIEW.—This subsection does not affect the requirements or extend the deadlines or review periods contained in subsection (c)(3).

"(D) ALTERNATIVE REVIEW PERIODS.—If the final regulations to carry out this paragraph are not effective 630 days after the date of enactment of this subsection, until the final regulations become effective, the review period, beginning on the date of receipt by the Agency of a complete application, shall be—

"(i) 2 years for a new antimicrobial active ingredient pesticide registration;

"(ii) 1 year for a new antimicrobial use of a registered active ingredient;

"(iii) 180 days for any other new antimicrobial product;

"(iv) 90 days for a substantially similar or identical antimicrobial product;

"(v) 90 days for an amendment to an antimicrobial registration that does not require scientific review of data; and

"(vi) 240 days for an amendment to an antimicrobial registration that requires scientific review of data and that is not otherwise described in this subparagraph.

Review.

"(E) WOOD PRESERVATIVES.—An application for the registration, or for an amendment to the registration, of a wood preservative product for which a claim of pesticidal activity listed in section 2(mm) is made (regardless of any other pesticidal claim that is made with respect to the product) shall be reviewed by the Administrator within

the same period as that established under this paragraph for an antimicrobial pesticide product application, consistent with the degree of risk posed by the use of the wood preservative product, if the application requires the applicant to satisfy the same data requirements as are required to support an application for a wood preservative product that is an antimicrobial pesticide.

"(F) NOTIFICATION.—

"(i) IN GENERAL.—Subject to clause (iii), the Administrator shall notify an applicant whether an application has been granted or denied not later than the final day of the appropriate review period under this paragraph, unless the applicant and the Administrator agree to a later date.

"(ii) FINAL DECISION.—If the Administrator fails to notify an applicant within the period of time required under clause (i), the failure shall be considered an agency action unlawfully withheld or unreasonably delayed for purposes of judicial review under chapter 7 of title 5, United States Code.

"(iii) EXEMPTION.—This subparagraph does not apply to an application for an antimicrobial pesticide that is filed under subsection (c)(3)(B) prior to 90 days after the date of enactment of this subsection.

"(4) ANNUAL REPORT.—

"(A) SUBMISSION.—Beginning on the date of enactment of this subsection and ending on the date that the goals under paragraph (2) are achieved, the Administrator shall, not later than March 1 of each year, prepare and submit an annual report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

"(B) REQUIREMENTS.—A report submitted under subparagraph (A) shall include a description of—

"(i) measures taken to reduce the backlog of pending registration applications;

"(ii) progress toward achieving reforms under this subsection; and

"(iii) recommendations to improve the activities of the Agency pertaining to antimicrobial registrations.".

SEC. 225. DISPOSAL OF HOUSEHOLD, INDUSTRIAL, OR INSTITUTIONAL ANTIMICROBIAL PRODUCTS.

Section 19(h) (7 U.S.C. 136q(h)) is amended—

(1) by striking "Nothing in" and inserting the following: "(1) IN GENERAL.—Nothing in"; and

(2) by adding at the end the following:

"(2) ANTIMICROBIAL PRODUCTS.—A household, industrial, or institutional antimicrobial product that is not subject to regulation under the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) shall not be subject to the provisions of subsections (a), (e), and (f), unless the Administrator determines that such product must be subject to such provisions to prevent an unreasonable adverse effect on the environment.".

Subtitle C—Public Health Pesticides

SEC. 230. DEFINITIONS.

(a) ADVERSE EFFECTS.—Section 2(bb) (7 U.S.C. 136(bb)) is amended by adding at the end the following: "The Administrator shall consider the risks and benefits of public health pesticides separate from the risks and benefits of other pesticides. In weighing any regulatory action concerning a public health pesticide under this Act, the Administrator shall weigh any risks of the pesticide against the health risks such as the diseases transmitted by the vector to be controlled by the pesticide.".

(b) NEW DEFINITIONS.—Section 2 (7 U.S.C. 136), as amended by section 221, is amended by adding at the end the following:

"(nn) PUBLIC HEALTH PESTICIDE.—The term 'public health pesticide' means any minor use pesticide product registered for use and used predominantly in public health programs for vector control or for other recognized health protection uses, including the prevention or mitigation of viruses, bacteria, or other microorganisms (other than viruses, bacteria, or other microorganisms on or in living man or other living animal) that pose a threat to public health.

"(oo) VECTOR.—The term 'vector' means any organism capable of transmitting the causative agent of human disease or capable of producing human discomfort or injury, including mosquitoes, flies, fleas, cockroaches, or other insects and ticks, mites, or rats.".

SEC. 231. REGISTRATION.

Section 3(c)(2)(A) (7 U.S.C. 136a(c)(2)(A)) is amended—

(1) by inserting after "pattern of use," the following: "the public health and agricultural need for such minor use,"; and

(2) by striking "potential exposure of man and the environment to the pesticide" and inserting "potential beneficial or adverse effects on man and the environment".

SEC. 232. REREGISTRATION.

Section 4 (7 U.S.C. 136a–1) is amended—

(1) in subsection (i)(4), by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively, and by adding after subparagraph (A) the following:

"(B) The Administrator shall exempt any public health pesticide from the payment of the fee prescribed under paragraph (3) if, in consultation with the Secretary of Health and Human Services, the Administrator determines, based on information supplied by the registrant, that the economic return to the registrant from sales of the pesticide does not support the registration or reregistration of the pesticide.";

(2) in subsection (i)(5), by redesignating subparagraphs (F) and (G) as subparagraphs (G) and (H), respectively, and by adding after subparagraph (E) the following:

"(F) The Administrator shall exempt any public health pesticide from the payment of the fee prescribed under paragraph (3) if, in consultation with the Secretary of Health and Humans Services, the Administrator determines, based on information supplied by the registrant, that the economic return to the registrant from sales of

the pesticide does not support the registration or reregistration of the pesticide.";

(3) in subsection (i)(7)(B), by striking "or to determine" and inserting ", to determine" and by inserting before the period the following: ", or to determine the volume usage for public health pesticides"; and

(4) in subsection (k)(3)(A), by striking "or" at the end of clause (i), by striking the period at the end of clause (ii) and inserting thereof "; or", and by adding after clause (ii) the following:

"(iii) proposes the initial or amended registration of an end use pesticide that, if registered as proposed, would be used for a public health pesticide.".

SEC. 233. CANCELLATION.

Section 6(b) (7 U.S.C. 136d(b)) is amended by adding after the eighth sentence the following: "When a public health use is affected, the Secretary of Health and Human Services should provide available benefits and use information, or an analysis thereof, in accordance with the procedures followed and subject to the same conditions as the Secretary of Agriculture in the case of agricultural pesticides.".

SEC. 234. VIEWS OF THE SECRETARY OF HEALTH AND HUMAN SERVICES.

Section 21 (7 U.S.C. 136s) is amended by redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and by adding after subsection (a) the following:

"(b) SECRETARY OF HEALTH AND HUMAN SERVICES.—The Administrator, before publishing regulations under this Act for any public health pesticide, shall solicit the views of the Secretary of Health and Human Services in the same manner as the views of the Secretary of Agriculture are solicited under section 25(a)(2).".

SEC. 235. AUTHORITY OF ADMINISTRATOR.

Section 25(a)(1) (7 U.S.C. 136w(a)(1)) is amended—

(1) by inserting after "various classes of pesticides" the following: ", including public health pesticides,"; and

(2) by striking "and nonagricultural pesticides" and inserting ", nonagricultural, and public health pesticides".

SEC. 236. IDENTIFICATION OF PESTS.

Section 28 (7 U.S.C. 136w–3) is amended by adding at the end the following:

"(d) PUBLIC HEALTH PESTS.—The Administrator, in coordination with the Secretary of Agriculture and the Secretary of Health and Human Services, shall identify pests of significant public health importance and, in coordination with the Public Health Service, develop and implement programs to improve and facilitate the safe and necessary use of chemical, biological, and other methods to combat and control such pests of public health importance.".

SEC. 237. PUBLIC HEALTH DATA.

Section 4 (7 U.S.C. 136a–1) is amended by adding at the end the following:

"(m) AUTHORIZATION OF FUNDS TO DEVELOP PUBLIC HEALTH DATA.—

"(1) DEFINITION.—For the purposes of this section, 'Secretary' means the Secretary of Health and Human Services, acting through the Public Health Service.

"(2) CONSULTATION.—In the case of a pesticide registered for use in public health programs for vector control or for other uses the Administrator determines to be human health protection uses, the Administrator shall, upon timely request by the registrant or any other interested person, or on the Administrator's own initiative may, consult with the Secretary prior to taking final action to suspend registration under section 3(c)(2)(B)(iv), or cancel a registration under section 4, 6(e), or 6(f). In consultation with the Secretary, the Administrator shall prescribe the form and content of requests under this section.

Regulations.

"(3) BENEFITS TO SUPPORT FAMILY.—The Administrator, after consulting with the Secretary, shall make a determination whether the potential benefits of continued use of the pesticide for public health or health protection purposes are of such significance as to warrant a commitment by the Secretary to conduct or to arrange for the conduct of the studies required by the Administrator to support continued registration under section 3 or reregistration under section 4.

"(4) ADDITIONAL TIME.—If the Administrator determines that such a commitment is warranted and in the public interest, the Administrator shall notify the Secretary and shall, to the extent necessary, amend a notice issued under section 3(c)(2)(B) to specify additional reasonable time periods for submission of the data.

Notification.

"(5) ARRANGEMENTS.—The Secretary shall make such arrangements for the conduct of required studies as the Secretary finds necessary and appropriate to permit submission of data in accordance with the time periods prescribed by the Administrator. Such arrangements may include Public Health Service intramural research activities, grants, contracts, or cooperative agreements with academic, public health, or other organizations qualified by experience and training to conduct such studies.

"(6) SUPPORT.—The Secretary may provide for support of the required studies using funds authorized to be appropriated under this section, the Public Health Service Act, or other appropriate authorities. After a determination is made under subsection (d), the Secretary shall notify the Committees on Appropriations of the House of Representatives and the Senate of the sums required to conduct the necessary studies.

Notification.

"(7) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out the purposes of this section $12,000,000 for fiscal year 1997, and such sums as may be necessary for succeeding fiscal years.".

Subtitle D—Expedited Registration of Reduced Risk Pesticides

SEC. 250. EXPEDITED REGISTRATION OF PESTICIDES.

Section 3(c) (7 U.S.C. 136a(c)), as amended by section 223, is amended—

(1) by adding at the end of paragraph (1) the following:

"(G) If the applicant is requesting that the registration or amendment to the registration of a pesticide be expedited, an explanation of the basis for the request must be submitted, in accordance with paragraph (10) of this subsection."; and

(2) by adding at the end the following:

"(10) EXPEDITED REGISTRATION OF PESTICIDES.—

"(A) Not later than 1 year after the date of enactment of this paragraph, the Administrator shall, utilizing public comment, develop procedures and guidelines, and expedite the review of an application for registration of a pesticide or an amendment to a registration that satisfies such guidelines. Guidelines.

"(B) Any application for registration or an amendment, including biological and conventional pesticides, will be considered for expedited review under this paragraph. An application for registration or an amendment shall qualify for expedited review if use of the pesticide proposed by the application may reasonably be expected to accomplish 1 or more of the following:

"(i) Reduce the risks of pesticides to human health.

"(ii) Reduce the risks of pesticides to nontarget organisms.

"(iii) Reduce the potential for contamination of groundwater, surface water, or other valued environmental resources.

"(iv) Broaden the adoption of integrated pest management strategies, or make such strategies more available or more effective.

"(C) The Administrator, not later than 30 days after receipt of an application for expedited review, shall notify the applicant whether the application is complete. If it is found to be incomplete, the Administrator may either reject the request for expedited review or ask the applicant for additional information to satisfy the guidelines developed under subparagraph (A).". Notification.

TITLE III—DATA COLLECTION ACTIVITIES TO ASSURE THE HEALTH OF INFANTS AND CHILDREN AND OTHER MEASURES

SEC. 301. DATA COLLECTION ACTIVITIES TO ASSURE THE HEALTH OF INFANTS AND CHILDREN.

21 USC 346a note.

(a) IN GENERAL.—The Secretary of Agriculture, in consultation with the Administrator of the Environmental Protection Agency and the Secretary of Health and Human Services, shall coordinate the development and implementation of survey procedures to ensure that adequate data on food consumption patterns of infants and children are collected.

(b) PROCEDURES.—To the extent practicable, the procedures referred to in subsection (a) shall include the collection of data on food consumption patterns of a statistically valid sample of infants and children.

(c) RESIDUE DATA COLLECTION.—The Secretary of Agriculture shall ensure that the residue data collection activities conducted by the Department of Agriculture in cooperation with the Environmental Protection Agency and the Department of Health and Human Services, provide for the improved data collection of pesticide residues, including guidelines for the use of comparable analytical and standardized reporting methods, and the increased sampling of foods most likely consumed by infants and children.

7 USC 136i–2.

SEC. 302. COLLECTION OF PESTICIDE USE INFORMATION.

(a) IN GENERAL.—The Secretary of Agriculture shall collect data of statewide or regional significance on the use of pesticides to control pests and diseases of major crops and crops of dietary significance, including fruits and vegetables.

(b) COLLECTION.—The data shall be collected by surveys of farmers or from other sources offering statistically reliable data.

(c) COORDINATION.—The Secretary of Agriculture shall, as appropriate, coordinate with the Administrator of the Environmental Protection Agency in the design of the surveys and make available to the Administrator the aggregate results of the surveys to assist the Administrator.

7 USC 136r–1.

SEC. 303. INTEGRATED PEST MANAGEMENT.

The Secretary of Agriculture, in cooperation with the Administrator, shall implement research, demonstration, and education programs to support adoption of Integrated Pest Management. Integrated Pest Management is a sustainable approach to managing pests by combining biological, cultural, physical, and chemical tools in a way that minimizes economic, health, and environmental risks. The Secretary of Agriculture and the Administrator shall make information on Integrated Pest Management widely available to pesticide users, including Federal agencies. Federal agencies shall use Integrated Pest Management techniques in carrying out pest management activities and shall promote Integrated Pest Management through procurement and regulatory policies, and other activities.

SEC. 304. COORDINATION OF CANCELLATION.

Section 2(bb) (7 U.S.C. 136(bb)) is amended—

(1) by inserting "(1)" after "means"; and

(2) by striking the period at the end of the first sentence and inserting ", or (2) a human dietary risk from residues that result from a use of a pesticide in or on any food inconsistent with the standard under section 408 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a).".

7 USC 136i–2 note. Reports.

SEC. 305. PESTICIDE USE INFORMATION STUDY.

(a) The Secretary of Agriculture shall, in consultation with the Administrator of the Environmental Protection Agency, prepare a report to Congress evaluating the current status and potential improvements in Federal pesticide use information gathering activities. This report shall at least include—

(1) an analysis of the quality and reliability of the information collected by the Department of Agriculture, the Environmental Protection Agency, and other Federal agencies regarding the agricultural use of pesticides; and

(2) an analysis of options to increase the effectiveness of national pesticide use information collection, including an

analysis of costs, burdens placed on agricultural producers and other pesticide users, and effectiveness in tracking risk reduction by those options.

(b) The Secretary shall submit this report to Congress not later than 1 year following the date of enactment of this section.

TITLE IV—AMENDMENTS TO THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

Food Quality Protection Act of 1996.

SEC 401. SHORT TITLE AND REFERENCE.

21 USC 301 note.

(a) SHORT TITLE.—This title may be cited as the "Food Quality Protection Act of 1996 ".

(b) REFERENCE.—Whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Food, Drug, and Cosmetic Act.

SEC. 402. DEFINITIONS.

(a) SECTION 201(q).—Section 201(q) (21 U.S.C. 321(q)) is amended to read as follows:

"(q)(1) The term 'pesticide chemical' means any substance that is a pesticide within the meaning of the Federal Insecticide, Fungicide, and Rodenticide Act, including all active and inert ingredients of such pesticide.

"(2) The term 'pesticide chemical residue' means a residue in or on raw agricultural commodity or processed food of—

"(A) a pesticide chemical; or

"(B) any other added substance that is present on or in the commodity or food primarily as a result of the metabolism or other degradation of a pesticide chemical.

"(3) Notwithstanding paragraphs (1) and (2), the Administrator may by regulation except a substance from the definition of 'pesticide chemical' or 'pesticide chemical residue' if—

"(A) its occurrence as a residue on or in a raw agricultural commodity or processed food is attributable primarily to natural causes or to human activities not involving the use of any substances for a pesticidal purpose in the production, storage, processing, or transportation of any raw agricultural commodity or processed food; and

"(B) the Administrator, after consultation with the Secretary, determines that the substance more appropriately should be regulated under one or more provisions of this Act other than sections 402(a)(2)(B) and 408.".

(b) SECTION 201(s).—Paragraphs (1) and (2) of section 201(s) (21 U.S.C. 321(s)) are amended to read as follows:

"(1) a pesticide chemical residue in or on a raw agricultural commodity or processed food; or

"(2) a pesticide chemical; or".

(c) SECTION 201.—Section 201 (21 U.S.C. 321) is amended by adding at the end the following:

"(gg) The term 'processed food' means any food other than a raw agricultural commodity and includes any raw agricultural

commodity that has been subject to processing, such as canning, cooking, freezing, dehydration, or milling.

"(hh) The term 'Administrator' means the Administrator of the United States Environmental Protection Agency.".

SEC. 403. PROHIBITED ACTS.

Section 301(j) (21 U.S.C. 331(j)) is amended in the first sentence by inserting before the period the following: "; or the violating of section 408(i)(2) or any regulation issued under that section.".

SEC. 404. ADULTERATED FOOD.

Section 402(a) (21 U.S.C. 342(a)) is amended by striking "(2)(A) if it bears" and all that follows through "(3) if it consists" and inserting the following: "(2)(A) if it bears or contains any added poisonous or added deleterious substance (other than a substance that is a pesticide chemical residue in or on a raw agricultural commodity or processed food, a food additive, a color additive, or a new animal drug) that is unsafe within the meaning of section 406; or (B) if it bears or contains a pesticide chemical residue that is unsafe within the meaning of section 408(a); or (C) if it is or if it bears or contains (i) any food additive that is unsafe within the meaning of section 409; or (ii) a new animal drug (or conversion product thereof) that is unsafe within the meaning of section 512; or (3) if it consists".

SEC. 405. TOLERANCES AND EXEMPTIONS FOR PESTICIDE CHEMICAL RESIDUES.

Section 408 (21 U.S.C. 346a) is amended to read as follows:

"TOLERANCES AND EXEMPTIONS FOR PESTICIDE CHEMICAL RESIDUES

"SEC. 408. (a) REQUIREMENT FOR TOLERANCE OR EXEMPTION.—

"(1) GENERAL RULE.—Except as provided in paragraph (2) or (3), any pesticide chemical residue in or on a food shall be deemed unsafe for the purpose of section 402(a)(2)(B) unless—

"(A) a tolerance for such pesticide chemical residue in or on such food is in effect under this section and the quantity of the residue is within the limits of the tolerance; or

"(B) an exemption from the requirement of a tolerance is in effect under this section for the pesticide chemical residue.

For the purposes of this section, the term 'food', when used as a noun without modification, shall mean a raw agricultural commodity or processed food.

"(2) PROCESSED FOOD.—Notwithstanding paragraph (1)—

"(A) if a tolerance is in effect under this section for a pesticide chemical residue in or on a raw agricultural commodity, a pesticide chemical residue that is present in or on a processed food because the food is made from that raw agricultural commodity shall not be considered unsafe within the meaning of section 402(a)(2)(B) despite the lack of a tolerance for the pesticide chemical residue in or on the processed food if the pesticide chemical has been used in or on the raw agricultural commodity in conformity with a tolerance under this section, such residue in or on the raw agricultural commodity has been removed

to the extent possible in good manufacturing practice, and the concentration of the pesticide chemical residue in the processed food is not greater than the tolerance prescribed for the pesticide chemical residue in the raw agricultural commodity; or

"(B) if an exemption for the requirement for a tolerance is in effect under this section for a pesticide chemical residue in or on a raw agricultural commodity, a pesticide chemical residue that is present in or on a processed food because the food is made from that raw agricultural commodity shall not be considered unsafe within the meaning of section 402(a)(2)(B).

"(3) RESIDUES OF DEGRADATION PRODUCTS.—If a pesticide chemical residue is present in or on a food because it is a metabolite or other degradation product of a precursor substance that itself is a pesticide chemical or pesticide chemical residue, such a residue shall not be considered to be unsafe within the meaning of section 402(a)(2)(B) despite the lack of a tolerance or exemption from the need for a tolerance for such residue in or on such food if—

"(A) the Administrator has not determined that the degradation product is likely to pose any potential health risk from dietary exposure that is of a different type than, or of a greater significance than, any risk posed by dietary exposure to the precursor substance;

"(B) either—

"(i) a tolerance is in effect under this section for residues of the precursor substance in or on the food, and the combined level of residues of the degradation product and the precursor substance in or on the food is at or below the stoichiometrically equivalent level that would be permitted by the tolerance if the residue consisted only of the precursor substance rather than the degradation product; or

"(ii) an exemption from the need for a tolerance is in effect under this section for residues of the precursor substance in or on the food; and

"(C) the tolerance or exemption for residues of the precursor substance does not state that it applies only to particular named substances and does not state that it does not apply to residues of the degradation product.

"(4) EFFECT OF TOLERANCE OR EXEMPTION.—While a tolerance or exemption from the requirement for a tolerance is in effect under this section for a pesticide chemical residue with respect to any food, the food shall not by reason of bearing or containing any amount of such a residue be considered to be adulterated within the meaning of section 402(a)(1).

"(b) AUTHORITY AND STANDARD FOR TOLERANCE.—

"(1) AUTHORITY.—The Administrator may issue regulations establishing, modifying, or revoking a tolerance for a pesticide chemical residue in or on a food—

"(A) in response to a petition filed under subsection (d); or

"(B) on the Administrator's own initiative under subsection (e).

As used in this section, the term 'modify' shall not mean expanding the tolerance to cover additional foods.

"(2) STANDARD.—

"(A) GENERAL RULE.—

"(i) STANDARD.—The Administrator may establish or leave in effect a tolerance for a pesticide chemical residue in or on a food only if the Administrator determines that the tolerance is safe. The Administrator shall modify or revoke a tolerance if the Administrator determines it is not safe.

"(ii) DETERMINATION OF SAFETY.—As used in this section, the term 'safe', with respect to a tolerance for a pesticide chemical residue, means that the Administrator has determined that there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.

"(iii) RULE OF CONSTRUCTION.—With respect to a tolerance, a pesticide chemical residue meeting the standard under clause (i) is not an eligible pesticide chemical residue for purposes of subparagraph (B).

"(B) TOLERANCES FOR ELIGIBLE PESTICIDE CHEMICAL RESIDUES.—

"(i) DEFINITION.—As used in this subparagraph, the term 'eligible pesticide chemical residue' means a pesticide chemical residue as to which—

"(I) the Administrator is not able to identify a level of exposure to the residue at which the residue will not cause or contribute to a known or anticipated harm to human health (referred to in this section as a 'nonthreshold effect');

"(II) the lifetime risk of experiencing the nonthreshold effect is appropriately assessed by quantitative risk assessment; and

"(III) with regard to any known or anticipated harm to human health for which the Administrator is able to identify a level at which the residue will not cause such harm (referred to in this section as a 'threshold effect'), the Administrator determines that the level of aggregate exposure is safe.

"(ii) DETERMINATION OF TOLERANCE.—Notwithstanding subparagraph (A)(i), a tolerance for an eligible pesticide chemical residue may be left in effect or modified under this subparagraph if—

"(I) at least one of the conditions described in clause (iii) is met; and

"(II) both of the conditions described in clause (iv) are met.

"(iii) CONDITIONS REGARDING USE.—For purposes of clause (ii), the conditions described in this clause with respect to a tolerance for an eligible pesticide chemical residue are the following:

"(I) Use of the pesticide chemical that produces the residue protects consumers from adverse effects on health that would pose a greater risk than the dietary risk from the residue.

"(II) Use of the pesticide chemical that produces the residue is necessary to avoid a significant

disruption in domestic production of an adequate, wholesome, and economical food supply.

"(iv) CONDITIONS REGARDING RISK.—For purposes of clause (ii), the conditions described in this clause with respect to a tolerance for an eligible pesticide chemical residue are the following:

"(I) The yearly risk associated with the nonthreshold effect from aggregate exposure to the residue does not exceed 10 times the yearly risk that would be allowed under subparagraph (A) for such effect.

"(II) The tolerance is limited so as to ensure that the risk over a lifetime associated with the nonthreshold effect from aggregate exposure to the residue is not greater than twice the lifetime risk that would be allowed under subparagraph (A) for such effect.

"(v) REVIEW.—Five years after the date on which the Administrator makes a determination to leave in effect or modify a tolerance under this subparagraph, and thereafter as the Administrator deems appropriate, the Administrator shall determine, after notice and opportunity for comment, whether it has been demonstrated to the Administrator that a condition described in clause (iii)(I) or clause (iii)(II) continues to exist with respect to the tolerance and that the yearly and lifetime risks from aggregate exposure to such residue continue to comply with the limits specified in clause (iv). If the Administrator determines by such date that such demonstration has not been made, the Administrator shall, not later than 180 days after the date of such determination, issue a regulation under subsection (e)(1) to modify or revoke the tolerance. Regulations.

"(vi) INFANTS AND CHILDREN.—Any tolerance under this subparagraph shall meet the requirements of subparagraph (C).

"(C) EXPOSURE OF INFANTS AND CHILDREN.—In establishing, modifying, leaving in effect, or revoking a tolerance or exemption for a pesticide chemical residue, the Administrator—

"(i) shall assess the risk of the pesticide chemical residue based on—

"(I) available information about consumption patterns among infants and children that are likely to result in disproportionately high consumption of foods containing or bearing such residue among infants and children in comparison to the general population;

"(II) available information concerning the special susceptibility of infants and children to the pesticide chemical residues, including neurological differences between infants and children and adults, and effects of in utero exposure to pesticide chemicals; and

"(III) available information concerning the cumulative effects on infants and children of such

residues and other substances that have a common mechanism of toxicity; and

"(ii) shall—

"(I) ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue; and

Publication.

"(II) publish a specific determination regarding the safety of the pesticide chemical residue for infants and children.

Surveys.

The Secretary of Health and Human Services and the Secretary of Agriculture, in consultation with the Administrator, shall conduct surveys to document dietary exposure to pesticides among infants and children. In the case of threshold effects, for purposes of clause (ii)(I) an additional tenfold margin of safety for the pesticide chemical residue and other sources of exposure shall be applied for infants and children to take into account potential pre- and postnatal toxicity and completeness of the data with respect to exposure and toxicity to infants and children. Notwithstanding such requirement for an additional margin of safety, the Administrator may use a different margin of safety for the pesticide chemical residue only if, on the basis of reliable data, such margin will be safe for infants and children.

"(D) FACTORS.—In establishing, modifying, leaving in effect, or revoking a tolerance or exemption for a pesticide chemical residue, the Administrator shall consider, among other relevant factors—

"(i) the validity, completeness, and reliability of the available data from studies of the pesticide chemical and pesticide chemical residue;

"(ii) the nature of any toxic effect shown to be caused by the pesticide chemical or pesticide chemical residue in such studies;

"(iii) available information concerning the relationship of the results of such studies to human risk;

"(iv) available information concerning the dietary consumption patterns of consumers (and major identifiable subgroups of consumers);

"(v) available information concerning the cumulative effects of such residues and other substances that have a common mechanism of toxicity;

"(vi) available information concerning the aggregate exposure levels of consumers (and major identifiable subgroups of consumers) to the pesticide chemical residue and to other related substances, including dietary exposure under the tolerance and all other tolerances in effect for the pesticide chemical residue, and exposure from other non-occupational sources;

"(vii) available information concerning the variability of the sensitivities of major identifiable subgroups of consumers;

"(viii) such information as the Administrator may require on whether the pesticide chemical may have an effect in humans that is similar to an effect pro-

duced by a naturally occurring estrogen or other endocrine effects; and

"(ix) safety factors which in the opinion of experts qualified by scientific training and experience to evaluate the safety of food additives are generally recognized as appropriate for the use of animal experimentation data.

"(E) DATA AND INFORMATION REGARDING ANTICIPATED AND ACTUAL RESIDUE LEVELS.—

"(i) AUTHORITY.—In establishing, modifying, leaving in effect, or revoking a tolerance for a pesticide chemical residue, the Administrator may consider available data and information on the anticipated residue levels of the pesticide chemical in or on food and the actual residue levels of the pesticide chemical that have been measured in food, including residue data collected by the Food and Drug Administration.

"(ii) REQUIREMENT.—If the Administrator relies on anticipated or actual residue levels in establishing, modifying, or leaving in effect a tolerance, the Administrator shall pursuant to subsection (f)(1) require that data be provided five years after the date on which the tolerance is established, modified, or left in effect, and thereafter as the Administrator deems appropriate, demonstrating that such residue levels are not above the levels so relied on. If such data are not so provided, or if the data do not demonstrate that the residue levels are not above the levels so relied on, the Administrator shall, not later than 180 days after the date on which the data were required to be provided, issue a regulation under subsection (e)(1), or an order under subsection (f)(2), as appropriate, to modify or revoke the tolerance. Regulations.

"(F) PERCENT OF FOOD ACTUALLY TREATED.—In establishing, modifying, leaving in effect, or revoking a tolerance for a pesticide chemical residue, the Administrator may, when assessing chronic dietary risk, consider available data and information on the percent of food actually treated with the pesticide chemical (including aggregate pesticide use data collected by the Department of Agriculture) only if the Administrator—

"(i) finds that the data are reliable and provide a valid basis to show what percentage of the food derived from such crop is likely to contain such pesticide chemical residue;

"(ii) finds that the exposure estimate does not understate exposure for any significant subpopulation group;

"(iii) finds that, if data are available on pesticide use and consumption of food in a particular area, the population in such area is not dietarily exposed to residues above those estimated by the Administrator; and

"(iv) provides for the periodic reevaluation of the estimate of anticipated dietary exposure.

"(3) DETECTION METHODS.—

"(A) GENERAL RULE.—A tolerance for a pesticide chemical residue in or on a food shall not be established or

modified by the Administrator unless the Administrator determines, after consultation with the Secretary, that there is a practical method for detecting and measuring the levels of the pesticide chemical residue in or on the food.

"(B) DETECTION LIMIT.—A tolerance for a pesticide chemical residue in or on a food shall not be established at or modified to a level lower than the limit of detection of the method for detecting and measuring the pesticide chemical residue specified by the Administrator under subparagraph (A).

"(4) INTERNATIONAL STANDARDS.—In establishing a tolerance for a pesticide chemical residue in or on a food, the Administrator shall determine whether a maximum residue level for the pesticide chemical has been established by the Codex Alimentarius Commission. If a Codex maximum residue level has been established for the pesticide chemical and the Administrator does not propose to adopt the Codex level, the Administrator shall publish for public comment a notice explaining the reasons for departing from the Codex level.

Publication.

"(c) AUTHORITY AND STANDARD FOR EXEMPTIONS.—

"(1) AUTHORITY.—The Administrator may issue a regulation establishing, modifying, or revoking an exemption from the requirement for a tolerance for a pesticide chemical residue in or on food—

"(A) in response to a petition filed under subsection (d); or

"(B) on the Administrator's initiative under subsection (e).

"(2) STANDARD.—

"(A) GENERAL RULE.—

"(i) STANDARD.—The Administrator may establish or leave in effect an exemption from the requirement for a tolerance for a pesticide chemical residue in or on food only if the Administrator determines that the exemption is safe. The Administrator shall modify or revoke an exemption if the Administrator determines it is not safe.

"(ii) DETERMINATION OF SAFETY.—The term 'safe', with respect to an exemption for a pesticide chemical residue, means that the Administrator has determined that there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.

"(B) FACTORS.—In making a determination under this paragraph, the Administrator shall take into account, among other relevant considerations, the considerations set forth in subparagraphs (C) and (D) of subsection (b)(2).

"(3) LIMITATION.—An exemption from the requirement for a tolerance for a pesticide chemical residue in or on food shall not be established or modified by the Administrator unless the Administrator determines, after consultation with the Secretary—

"(A) that there is a practical method for detecting and measuring the levels of such pesticide chemical residue in or on food; or

"(B) that there is no need for such a method, and states the reasons for such determination in issuing the regulation establishing or modifying the exemption.

"(d) PETITION FOR TOLERANCE OR EXEMPTION.—

"(1) PETITIONS AND PETITIONERS.—Any person may file with the Administrator a petition proposing the issuance of a regulation—

"(A) establishing, modifying, or revoking a tolerance for a pesticide chemical residue in or on a food; or

"(B) establishing, modifying, or revoking an exemption from the requirement of a tolerance for such a residue.

"(2) PETITION CONTENTS.—

"(A) ESTABLISHMENT.—A petition under paragraph (1) to establish a tolerance or exemption for a pesticide chemical residue shall be supported by such data and information as are specified in regulations issued by the Administrator, including— Regulations.

"(i)(I) an informative summary of the petition and of the data, information, and arguments submitted or cited in support of the petition; and

"(II) a statement that the petitioner agrees that such summary or any information it contains may be published as a part of the notice of filing of the petition to be published under this subsection and as part of a proposed or final regulation issued under this section;

"(ii) the name, chemical identity, and composition of the pesticide chemical residue and of the pesticide chemical that produces the residue;

"(iii) data showing the recommended amount, frequency, method, and time of application of that pesticide chemical;

"(iv) full reports of tests and investigations made with respect to the safety of the pesticide chemical, including full information as to the methods and controls used in conducting those tests and investigations;

"(v) full reports of tests and investigations made with respect to the nature and amount of the pesticide chemical residue that is likely to remain in or on the food, including a description of the analytical methods used;

"(vi) a practical method for detecting and measuring the levels of the pesticide chemical residue in or on the food, or for exemptions, a statement why such a method is not needed;

"(vii) a proposed tolerance for the pesticide chemical residue, if a tolerance is proposed;

"(viii) if the petition relates to a tolerance for a processed food, reports of investigations conducted using the processing method(s) used to produce that food;

"(ix) such information as the Administrator may require to make the determination under subsection (b)(2)(C);

"(x) such information as the Administrator may require on whether the pesticide chemical may have an effect in humans that is similar to an effect produced by a naturally occurring estrogen or other endocrine effects;

"(xi) information regarding exposure to the pesticide chemical residue due to any tolerance or exemption already granted for such residue;

"(xii) practical methods for removing any amount of the residue that would exceed any proposed tolerance; and

"(xiii) such other data and information as the Administrator requires by regulation to support the petition.

If information or data required by this subparagraph is available to the Administrator, the person submitting the petition may cite the availability of the information or data in lieu of submitting it. The Administrator may require a petition to be accompanied by samples of the pesticide chemical with respect to which the petition is filed.

"(B) MODIFICATION OR REVOCATION.—The Administrator may by regulation establish the requirements for information and data to support a petition to modify or revoke a tolerance or to modify or revoke an exemption from the requirement for a tolerance.

Publication.

"(3) NOTICE.—A notice of the filing of a petition that the Administrator determines has met the requirements of paragraph (2) shall be published by the Administrator within 30 days after such determination. The notice shall announce the availability of a description of the analytical methods available to the Administrator for the detection and measurement of the pesticide chemical residue with respect to which the petition is filed or shall set forth the petitioner's statement of why such a method is not needed. The notice shall include the summary required by paragraph (2)(A)(i)(I).

"(4) ACTIONS BY THE ADMINISTRATOR.—

Regulations.

"(A) IN GENERAL.—The Administrator shall, after giving due consideration to a petition filed under paragraph (1) and any other information available to the Administrator—

"(i) issue a final regulation (which may vary from that sought by the petition) establishing, modifying, or revoking a tolerance for the pesticide chemical residue or an exemption of the pesticide chemical residue from the requirement of a tolerance (which final regulation shall be issued without further notice and without further period for public comment);

"(ii) issue a proposed regulation under subsection (e), and thereafter issue a final regulation under such subsection; or

"(iii) issue an order denying the petition.

"(B) PRIORITIES.—The Administrator shall give priority to petitions for the establishment or modification of a tolerance or exemption for a pesticide chemical residue that appears to pose a significantly lower risk to human health

from dietary exposure than pesticide chemical residues that have tolerances in effect for the same or similar uses.

"(C) EXPEDITED REVIEW OF CERTAIN PETITIONS.—

"(i) DATE CERTAIN FOR REVIEW.—If a person files a complete petition with the Administrator proposing the issuance of a regulation establishing a tolerance or exemption for a pesticide chemical residue that presents a lower risk to human health than a pesticide chemical residue for which a tolerance has been left in effect or modified under subsection (b)(2)(B), the Administrator shall complete action on such petition under this paragraph within 1 year.

"(ii) REQUIRED DETERMINATIONS.—If the Administrator issues a final regulation establishing a tolerance or exemption for a safer pesticide chemical residue under clause (i), the Administrator shall, not later than 180 days after the date on which the regulation is issued, determine whether a condition described in subclause (I) or (II) of subsection (b)(2)(B)(iii) continues to exist with respect to a tolerance that has been left in effect or modified under subsection (b)(2)(B). If such condition does not continue to exist, the Administrator shall, not later than 180 days after the date on which the determination under the preceding sentence is made, issue a regulation under subsection (e)(1) to modify or revoke the tolerance. Regulations.

"(e) ACTION ON ADMINISTRATOR'S OWN INITIATIVE.—

"(1) GENERAL RULE.—The Administrator may issue a regulation—

"(A) establishing, modifying, suspending under subsection (l)(3), or revoking a tolerance for a pesticide chemical or a pesticide chemical residue;

"(B) establishing, modifying, suspending under subsection (l)(3), or revoking an exemption of a pesticide chemical residue from the requirement of a tolerance; or

"(C) establishing general procedures and requirements to implement this section.

"(2) NOTICE.—Before issuing a final regulation under paragraph (1), the Administrator shall issue a notice of proposed rulemaking and provide a period of not less than 60 days for public comment on the proposed regulation, except that a shorter period for comment may be provided if the Administrator for good cause finds that it would be in the public interest to do so and states the reasons for the finding in the notice of proposed rulemaking.

"(f) SPECIAL DATA REQUIREMENTS.—

"(1) REQUIRING SUBMISSION OF ADDITIONAL DATA.—If the Administrator determines that additional data or information are reasonably required to support the continuation of a tolerance or exemption that is in effect under this section for a pesticide chemical residue on a food, the Administrator shall—

"(A) issue a notice requiring the person holding the pesticide registrations associated with such tolerance or exemption to submit the data or information under section 3(c)(2)(B) of the Federal Insecticide, Fungicide, and Rodenticide Act; Notice.

Rules.

"(B) issue a rule requiring that testing be conducted on a substance or mixture under section 4 of the Toxic Substances Control Act; or

Federal Register, publication.

"(C) publish in the Federal Register, after first providing notice and an opportunity for comment of not less than 60 days' duration, an order—

"(i) requiring the submission to the Administrator by one or more interested persons of a notice identifying the person or persons who will submit the required data and information;

"(ii) describing the type of data and information required to be submitted to the Administrator and stating why the data and information could not be obtained under the authority of section 3(c)(2)(B) of the Federal Insecticide, Fungicide, and Rodenticide Act or section 4 of the Toxic Substances Control Act;

"(iii) describing the reports of the Administrator required to be prepared during and after the collection of the data and information;

"(iv) requiring the submission to the Administrator of the data, information, and reports referred to in clauses (ii) and (iii); and

"(v) establishing dates by which the submissions described in clauses (i) and (iv) must be made.

The Administrator may under subparagraph (C) revise any such order to correct an error. The Administrator may under this paragraph require data or information pertaining to whether the pesticide chemical may have an effect in humans that is similar to an effect produced by a naturally occurring estrogen or other endocrine effects.

"(2) NONCOMPLIANCE.—If a submission required by a notice issued in accordance with paragraph (1)(A), a rule issued under paragraph (1)(B), or an order issued under paragraph (1)(C) is not made by the time specified in such notice, rule, or order, the Administrator may by order published in the Federal Register modify or revoke the tolerance or exemption in question. In any review of such an order under subsection (g)(2), the only material issue shall be whether a submission required under paragraph (1) was not made by the time specified.

"(g) EFFECTIVE DATE, OBJECTIONS, HEARINGS, AND ADMINISTRATIVE REVIEW.—

"(1) EFFECTIVE DATE.—A regulation or order issued under subsection (d)(4), (e)(1), or (f)(2) shall take effect upon publication unless the regulation or order specifies otherwise. The Administrator may stay the effectiveness of the regulation or order if, after issuance of such regulation or order, objections are filed with respect to such regulation or order pursuant to paragraph (2).

"(2) FURTHER PROCEEDINGS.—

"(A) OBJECTIONS.—Within 60 days after a regulation or order is issued under subsection (d)(4), (e)(1)(A), (e)(1)(B), (f)(2), (n)(3), or (n)(5)(C), any person may file objections thereto with the Administrator, specifying with particularity the provisions of the regulation or order deemed objectionable and stating reasonable grounds therefor. If the regulation or order was issued in response to a petition under subsection (d)(1), a copy of each objection filed by

a person other than the petitioner shall be served by the Administrator on the petitioner.

"(B) HEARING.—An objection may include a request for a public evidentiary hearing upon the objection. The Administrator shall, upon the initiative of the Administrator or upon the request of an interested person and after due notice, hold a public evidentiary hearing if and to the extent the Administrator determines that such a public hearing is necessary to receive factual evidence relevant to material issues of fact raised by the objections. The presiding officer in such a hearing may authorize a party to obtain discovery from other persons and may upon a showing of good cause made by a party issue a subpoena to compel testimony or production of documents from any person. The presiding officer shall be governed by the Federal Rules of Civil Procedure in making any order for the protection of the witness or the content of documents produced and shall order the payment of reasonable fees and expenses as a condition to requiring testimony of the witness. On contest, such a subpoena may be enforced by a Federal district court.

"(C) FINAL DECISION.—As soon as practicable after receiving the arguments of the parties, the Administrator shall issue an order stating the action taken upon each such objection and setting forth any revision to the regulation or prior order that the Administrator has found to be warranted. If a hearing was held under subparagraph (B), such order and any revision to the regulation or prior order shall, with respect to questions of fact at issue in the hearing, be based only on substantial evidence of record at such hearing, and shall set forth in detail the findings of facts and the conclusions of law or policy upon which the order or regulation is based. Orders.

"(h) JUDICIAL REVIEW.—

"(1) PETITION.—In a case of actual controversy as to the validity of any regulation issued under subsection (e)(1)(C), or any order issued under subsection (f)(1)(C) or (g)(2)(C), or any regulation that is the subject of such an order, any person who will be adversely affected by such order or regulation may obtain judicial review by filing in the United States Court of Appeals for the circuit wherein that person resides or has its principal place of business, or in the United States Court of Appeals for the District of Columbia Circuit, within 60 days after publication of such order or regulation, a petition praying that the order or regulation be set aside in whole or in part.

"(2) RECORD AND JURISDICTION.—A copy of the petition under paragraph (1) shall be forthwith transmitted by the clerk of the court to the Administrator, or any officer designated by the Administrator for that purpose, and thereupon the Administrator shall file in the court the record of the proceedings on which the Administrator based the order or regulation, as provided in section 2112 of title 28, United States Code. Upon the filing of such a petition, the court shall have exclusive jurisdiction to affirm or set aside the order or regulation complained of in whole or in part. As to orders issued following a public evidentiary hearing, the findings of the Administrator with respect to questions of fact shall be sustained only if

supported by substantial evidence when considered on the record as a whole.

"(3) ADDITIONAL EVIDENCE.—If a party applies to the court for leave to adduce additional evidence and shows to the satisfaction of the court that the additional evidence is material and that there were reasonable grounds for the failure to adduce the evidence in the proceeding before the Administrator, the court may order that the additional evidence (and evidence in rebuttal thereof) shall be taken before the Administrator in the manner and upon the terms and conditions the court deems proper. The Administrator may modify prior findings as to the facts by reason of the additional evidence so taken and may modify the order or regulation accordingly. The Administrator shall file with the court any such modified finding, order, or regulation.

"(4) FINAL JUDGMENT; SUPREME COURT REVIEW.—The judgment of the court affirming or setting aside, in whole or in part, any regulation or any order and any regulation which is the subject of such an order shall be final, subject to review by the Supreme Court of the United States as provided in section 1254 of title 28 of the United States Code. The commencement of proceedings under this subsection shall not, unless specifically ordered by the court to the contrary, operate as a stay of a regulation or order.

"(5) APPLICATION.—Any issue as to which review is or was obtainable under this subsection shall not be the subject of judicial review under any other provision of law.

"(i) CONFIDENTIALITY AND USE OF DATA.—

"(1) GENERAL RULE.—Data and information that are or have been submitted to the Administrator under this section or section 409 in support of a tolerance or an exemption from a tolerance shall be entitled to confidential treatment for reasons of business confidentiality and to exclusive use and data compensation to the same extent provided by sections 3 and 10 of the Federal Insecticide, Fungicide, and Rodenticide Act.

"(2) EXCEPTIONS.—

"(A) IN GENERAL.—Data and information that are entitled to confidential treatment under paragraph (1) may be disclosed, under such security requirements as the Administrator may provide by regulation, to—

"(i) employees of the United States authorized by the Administrator to examine such data and information in the carrying out of their official duties under this Act or other Federal statutes intended to protect the public health; or

"(ii) contractors with the United States authorized by the Administrator to examine such data and information in the carrying out of contracts under this Act or such statutes.

"(B) CONGRESS.—This subsection does not authorize the withholding of data or information from either House of Congress or from, to the extent of matter within its jurisdiction, any committee or subcommittee of such committee or any joint committee of Congress or any subcommittee of such joint committee.

"(3) SUMMARIES.—Notwithstanding any provision of this subsection or other law, the Administrator may publish the

informative summary required by subsection (d)(2)(A)(i) and may, in issuing a proposed or final regulation or order under this section, publish an informative summary of the data relating to the regulation or order.

"(j) STATUS OF PREVIOUSLY ISSUED REGULATIONS.—

"(1) REGULATIONS UNDER SECTION 406.—Regulations affecting pesticide chemical residues in or on raw agricultural commodities promulgated, in accordance with section 701(e), under the authority of section 406(a) upon the basis of public hearings instituted before January 1, 1953, shall be deemed to be regulations issued under this section and shall be subject to modification or revocation under subsections (d) and (e), and shall be subject to review under subsection (q).

"(2) REGULATIONS UNDER SECTION 409.—Regulations that established tolerances for substances that are pesticide chemical residues in or on processed food, or that otherwise stated the conditions under which such pesticide chemicals could be safely used, and that were issued under section 409 on or before the date of the enactment of this paragraph, shall be deemed to be regulations issued under this section and shall be subject to modification or revocation under subsection (d) or (e), and shall be subject to review under subsection (q).

"(3) REGULATIONS UNDER SECTION 408.—Regulations that established tolerances or exemptions under this section that were issued on or before the date of the enactment of this paragraph shall remain in effect unless modified or revoked under subsection (d) or (e), and shall be subject to review under subsection (q).

"(k) TRANSITIONAL PROVISION.—If, on the day before the date of the enactment of this subsection, a substance that is a pesticide chemical was, with respect to a particular pesticidal use of the substance and any resulting pesticide chemical residue in or on a particular food—

"(1) regarded by the Administrator or the Secretary as generally recognized as safe for use within the meaning of the provisions of subsection (a) or section 201(s) as then in effect; or

"(2) regarded by the Secretary as a substance described by section 201(s)(4);

such a pesticide chemical residue shall be regarded as exempt from the requirement for a tolerance, as of the date of enactment of this subsection. The Administrator shall by regulation indicate which substances are described by this subsection. Any exemption under this subsection may be modified or revoked as if it had been issued under subsection (c). Regulations.

"(l) HARMONIZATION WITH ACTION UNDER OTHER LAWS.—

"(1) COORDINATION WITH FIFRA.—To the extent practicable and consistent with the review deadlines in subsection (q), in issuing a final rule under this subsection that suspends or revokes a tolerance or exemption for a pesticide chemical residue in or on food, the Administrator shall coordinate such action with any related necessary action under the Federal Insecticide, Fungicide, and Rodenticide Act.

"(2) REVOCATION OF TOLERANCE OR EXEMPTION FOLLOWING CANCELLATION OF ASSOCIATED REGISTRATIONS.—If the Administrator, acting under the Federal Insecticide, Fungicide, and Rodenticide Act, cancels the registration of each pesticide that

contains a particular pesticide chemical and that is labeled for use on a particular food, or requires that the registration of each such pesticide be modified to prohibit its use in connection with the production, storage, or transportation of such food, due in whole or in part to dietary risks to humans posed by residues of that pesticide chemical on that food, the Administrator shall revoke any tolerance or exemption that allows the presence of the pesticide chemical, or any pesticide chemical residue that results from its use, in or on that food. Subsection (e) shall apply to actions taken under this paragraph. A revocation under this paragraph shall become effective not later than 180 days after—

Effective date.

"(A) the date by which each such cancellation of a registration has become effective; or

"(B) the date on which the use of the canceled pesticide becomes unlawful under the terms of the cancellation, whichever is later.

"(3) SUSPENSION OF TOLERANCE OR EXEMPTION FOLLOWING SUSPENSION OF ASSOCIATED REGISTRATIONS.—

"(A) SUSPENSION.—If the Administrator, acting under the Federal Insecticide, Fungicide, and Rodenticide Act, suspends the use of each registered pesticide that contains a particular pesticide chemical and that is labeled for use on a particular food, due in whole or in part to dietary risks to humans posed by residues of that pesticide chemical on that food, the Administrator shall suspend any tolerance or exemption that allows the presence of the pesticide chemical, or any pesticide chemical residue that results from its use, in or on that food. Subsection (e) shall apply to actions taken under this paragraph. A suspension under this paragraph shall become effective not later than 60 days after the date by which each such suspension of use has become effective.

Applicability.
Effective date.

"(B) EFFECT OF SUSPENSION.—The suspension of a tolerance or exemption under subparagraph (A) shall be effective as long as the use of each associated registration of a pesticide is suspended under the Federal Insecticide, Fungicide, and Rodenticide Act. While a suspension of a tolerance or exemption is effective the tolerance or exemption shall not be considered to be in effect. If the suspension of use of the pesticide under that Act is terminated, leaving the registration of the pesticide for such use in effect under that Act, the Administrator shall rescind any associated suspension of tolerance or exemption.

"(4) TOLERANCES FOR UNAVOIDABLE RESIDUES.—In connection with action taken under paragraph (2) or (3), or with respect to pesticides whose registrations were suspended or canceled prior to the date of the enactment of this paragraph under the Federal Insecticide, Fungicide, and Rodenticide Act, if the Administrator determines that a residue of the canceled or suspended pesticide chemical will unavoidably persist in the environment and thereby be present in or on a food, the Administrator may establish a tolerance for the pesticide chemical residue. In establishing such a tolerance, the Administrator shall take into account both the factors set forth in subsection (b)(2) and the unavoidability of the residue. Subsection (e) shall apply to the establishment of such tolerance. The Adminis-

Applicability.
Review.

trator shall review any such tolerance periodically and modify it as necessary so that it allows no greater level of the pesticide chemical residue than is unavoidable.

"(5) PESTICIDE RESIDUES RESULTING FROM LAWFUL APPLICATION OF PESTICIDE.—Notwithstanding any other provision of this Act, if a tolerance or exemption for a pesticide chemical residue in or on a food has been revoked, suspended, or modified under this section, an article of that food shall not be deemed unsafe solely because of the presence of such pesticide chemical residue in or on such food if it is shown to the satisfaction of the Secretary that—

"(A) the residue is present as the result of an application or use of a pesticide at a time and in a manner that was lawful under the Federal Insecticide, Fungicide, and Rodenticide Act; and

"(B) the residue does not exceed a level that was authorized at the time of that application or use to be present on the food under a tolerance, exemption, food additive regulation, or other sanction then in effect under this Act;

unless, in the case of any tolerance or exemption revoked, suspended, or modified under this subsection or subsection (d) or (e), the Administrator has issued a determination that consumption of the legally treated food during the period of its likely availability in commerce will pose an unreasonable dietary risk.

"(6) TOLERANCE FOR USE OF PESTICIDES UNDER AN EMERGENCY EXEMPTION.—If the Administrator grants an exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136p) for a pesticide chemical, the Administrator shall establish a tolerance or exemption from the requirement for a tolerance for the pesticide chemical residue. Such a tolerance or exemption from a tolerance shall have an expiration date. The Administrator may establish such a tolerance or exemption without providing notice or a period for comment on the tolerance or exemption. The Administrator shall promulgate regulations within 365 days after the date of the enactment of this paragraph governing the establishment of tolerances and exemptions under this paragraph. Such regulations shall be consistent with the safety standard under subsections (b)(2) and (c)(2) and with section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act. Regulations.

"(m) FEES.—

"(1) AMOUNT.—The Administrator shall by regulation require the payment of such fees as will in the aggregate, in the judgment of the Administrator, be sufficient over a reasonable term to provide, equip, and maintain an adequate service for the performance of the Administrator's functions under this section. Under the regulations, the performance of the Administrator's services or other functions under this section, including— Regulations.

"(A) the acceptance for filing of a petition submitted under subsection (d);

"(B) establishing, modifying, leaving in effect, or revoking a tolerance or establishing, modifying, leaving in effect, or revoking an exemption from the requirement for a tolerance under this section;

"(C) the acceptance for filing of objections under subsection (g); or

"(D) the certification and filing in court of a transcript of the proceedings and the record under subsection (h);

may be conditioned upon the payment of such fees. The regulations may further provide for waiver or refund of fees in whole or in part when in the judgment of the Administrator such a waiver or refund is equitable and not contrary to the purposes of this subsection.

"(2) DEPOSIT.—All fees collected under paragraph (1) shall be deposited in the Reregistration and Expedited Processing Fund created by section 4(k) of the Federal Insecticide, Fungicide, and Rodenticide Act. Such fees shall be available to the Administrator, without fiscal year limitation, for the performance of the Administrator's services or functions as specified in paragraph (1).

"(n) NATIONAL UNIFORMITY OF TOLERANCES.—

"(1) QUALIFYING PESTICIDE CHEMICAL RESIDUE.—For purposes of this subsection, the term 'qualifying pesticide chemical residue' means a pesticide chemical residue resulting from the use, in production, processing, or storage of a food, of a pesticide chemical that is an active ingredient and that—

"(A) was first approved for such use in a registration of a pesticide issued under section 3(c)(5) of the Federal Insecticide, Fungicide, and Rodenticide Act on or after April 25, 1985, on the basis of data determined by the Administrator to meet all applicable requirements for data prescribed by regulations in effect under that Act on April 25, 1985; or

"(B) was approved for such use in a reregistration eligibility determination issued under section 4(g) of that Act on or after the date of enactment of this subsection.

"(2) QUALIFYING FEDERAL DETERMINATION.—For purposes of this subsection, the term 'qualifying Federal determination' means a tolerance or exemption from the requirement for a tolerance for a qualifying pesticide chemical residue that—

"(A) is issued under this section after the date of the enactment of this subsection and determined by the Administrator to meet the standard under subsection (b)(2)(A) (in the case of a tolerance) or (c)(2) (in the case of an exemption); or

"(B)(i) pursuant to subsection (j) is remaining in effect or is deemed to have been issued under this section, or is regarded under subsection (k) as exempt from the requirement for a tolerance; and

"(ii) is determined by the Administrator to meet the standard under subsection (b)(2)(A) (in the case of a tolerance) or (c)(2) (in the case of an exemption).

"(3) LIMITATION.—The Administrator may make the determination described in paragraph (2)(B)(ii) only by issuing a rule in accordance with the procedure set forth in subsection (d) or (e) and only if the Administrator issues a proposed rule and allows a period of not less than 30 days for comment on the proposed rule. Any such rule shall be reviewable in accordance with subsections (g) and (h).

"(4) STATE AUTHORITY.—Except as provided in paragraphs (5), (6), and (8) no State or political subdivision may establish

or enforce any regulatory limit on a qualifying pesticide chemical residue in or on any food if a qualifying Federal determination applies to the presence of such pesticide chemical residue in or on such food, unless such State regulatory limit is identical to such qualifying Federal determination. A State or political subdivision shall be deemed to establish or enforce a regulatory limit on a pesticide chemical residue in or on a food if it purports to prohibit or penalize the production, processing, shipping, or other handling of a food because it contains a pesticide residue (in excess of a prescribed limit).

"(5) PETITION PROCEDURE.—

"(A) IN GENERAL.—Any State may petition the Administrator for authorization to establish in such State a regulatory limit on a qualifying pesticide chemical residue in or on any food that is not identical to the qualifying Federal determination applicable to such qualifying pesticide chemical residue.

"(B) PETITION REQUIREMENTS.—Any petition under subparagraph (A) shall—

"(i) satisfy any requirements prescribed, by rule, by the Administrator; and

"(ii) be supported by scientific data about the pesticide chemical residue that is the subject of the petition or about chemically related pesticide chemical residues, data on the consumption within such State of food bearing the pesticide chemical residue, and data on exposure of humans within such State to the pesticide chemical residue.

"(C) AUTHORIZATION.—The Administrator may, by order, grant the authorization described in subparagraph (A) if the Administrator determines that the proposed State regulatory limit—

"(i) is justified by compelling local conditions; and

"(ii) would not cause any food to be a violation of Federal law.

"(D) TREATMENT.—In lieu of any action authorized under subparagraph (C), the Administrator may treat a petition under this paragraph as a petition under subsection (d) to modify or revoke a tolerance or an exemption. If the Administrator determines to treat a petition under this paragraph as a petition under subsection (d), the Administrator shall thereafter act on the petition pursuant to subsection (d).

"(E) REVIEW.—Any order of the Administrator granting or denying the authorization described in subparagraph (A) shall be subject to review in the manner described in subsections (g) and (h).

"(6) URGENT PETITION PROCEDURE.—Any State petition to the Administrator pursuant to paragraph (5) that demonstrates that consumption of a food containing such pesticide residue level during the period of the food's likely availability in the State will pose a significant public health threat from acute exposure shall be considered an urgent petition. If an order by the Administrator to grant or deny the requested authorization in an urgent petition is not made within 30 days of receipt of the petition, the petitioning State may establish and enforce a temporary regulatory limit on a qualifying pesticide chemical

residue in or on the food. The temporary regulatory limit shall be validated or terminated by the Administrator's final order on the petition.

"(7) RESIDUES FROM LAWFUL APPLICATION.—No State or political subdivision may enforce any regulatory limit on the level of a pesticide chemical residue that may appear in or on any food if, at the time of the application of the pesticide that resulted in such residue, the sale of such food with such residue level was lawful under this section and under the law of such State, unless the State demonstrates that consumption of the food containing such pesticide residue level during the period of the food's likely availability in the State will pose an unreasonable dietary risk to the health of persons within such State.

"(8) SAVINGS.—Nothing in this Act preempts the authority of any State or political subdivision to require that a food containing a pesticide chemical residue bear or be the subject of a warning or other statement relating to the presence of the pesticide chemical residue in or on such food.

Publication. Public information.

"(o) CONSUMER RIGHT TO KNOW.—Not later than 2 years after the date of the enactment of the Food Quality Protection Act of 1996, and annually thereafter, the Administrator shall, in consultation with the Secretary of Agriculture and the Secretary of Health and Human Services, publish in a format understandable to a lay person, and distribute to large retail grocers for public display (in a manner determined by the grocer), the following information, at a minimum:

"(1) A discussion of the risks and benefits of pesticide chemical residues in or on food purchased by consumers.

"(2) A listing of actions taken under subparagraph (B) of subsection (b)(2) that may result in pesticide chemical residues in or on food that present a yearly or lifetime risk above the risk allowed under subparagraph (A) of such subsection, and the food on which the pesticide chemicals producing the residues are used.

"(3) Recommendations to consumers for reducing dietary exposure to pesticide chemical residues in a manner consistent with maintaining a healthy diet, including a list of food that may reasonably substitute for food listed under paragraph (2).

Nothing in this subsection shall prevent retail grocers from providing additional information.

"(p) ESTROGENIC SUBSTANCES SCREENING PROGRAM.—

"(1) DEVELOPMENT.—Not later than 2 years after the date of enactment of this section, the Administrator shall in consultation with the Secretary of Health and Human Services develop a screening program, using appropriate validated test systems and other scientifically relevant information, to determine whether certain substances may have an effect in humans that is similar to an effect produced by a naturally occurring estrogen, or such other endocrine effect as the Administrator may designate.

"(2) IMPLEMENTATION.—Not later than 3 years after the date of enactment of this section, after obtaining public comment and review of the screening program described in paragraph (1) by the scientific advisory panel established under section 25(d) of the Federal Insecticide, Fungicide, and Rodenticide Act or the science advisory board established by

section 8 of the Environmental Research, Development, and Demonstration Act of 1978 (42 U.S.C. 4365), the Administrator shall implement the program.

"(3) SUBSTANCES.—In carrying out the screening program described in paragraph (1), the Administrator—

"(A) shall provide for the testing of all pesticide chemicals; and

"(B) may provide for the testing of any other substance that may have an effect that is cumulative to an effect of a pesticide chemical if the Administrator determines that a substantial population may be exposed to such substance.

"(4) EXEMPTION.—Notwithstanding paragraph (3), the Administrator may, by order, exempt from the requirements of this section a biologic substance or other substance if the Administrator determines that the substance is anticipated not to produce any effect in humans similar to an effect produced by a naturally occurring estrogen.

"(5) COLLECTION OF INFORMATION.—

"(A) IN GENERAL.—The Administrator shall issue an order to a registrant of a substance for which testing is required under this subsection, or to a person who manufactures or imports a substance for which testing is required under this subsection, to conduct testing in accordance with the screening program described in paragraph (1), and submit information obtained from the testing to the Administrator, within a reasonable time period that the Administrator determines is sufficient for the generation of the information. Orders.

"(B) PROCEDURES.—To the extent practicable the Administrator shall minimize duplicative testing of the same substance for the same endocrine effect, develop, as appropriate, procedures for fair and equitable sharing of test costs, and develop, as necessary, procedures for handling of confidential business information.

"(C) FAILURE OF REGISTRANTS TO SUBMIT INFORMATION.—

"(i) SUSPENSION.—If a registrant of a substance referred to in paragraph (3)(A) fails to comply with an order under subparagraph (A) of this paragraph, the Administrator shall issue a notice of intent to suspend the sale or distribution of the substance by the registrant. Any suspension proposed under this paragraph shall become final at the end of the 30-day period beginning on the date that the registrant receives the notice of intent to suspend, unless during that period a person adversely affected by the notice requests a hearing or the Administrator determines that the registrant has complied fully with this paragraph. Notice.

"(ii) HEARING.—If a person requests a hearing under clause (i), the hearing shall be conducted in accordance with section 554 of title 5, United States Code. The only matter for resolution at the hearing shall be whether the registrant has failed to comply with an order under subparagraph (A) of this paragraph. A decision by the Administrator after comple-

tion of a hearing shall be considered to be a final agency action.

"(iii) TERMINATION OF SUSPENSIONS.—The Administrator shall terminate a suspension under this subparagraph issued with respect to a registrant if the Administrator determines that the registrant has complied fully with this paragraph.

"(D) NONCOMPLIANCE BY OTHER PERSONS.—Any person (other than a registrant) who fails to comply with an order under subparagraph (A) shall be liable for the same penalties and sanctions as are provided under section 16 of the Toxic Substances Control Act (15 U.S.C. 2601 and following) in the case of a violation referred to in that section. Such penalties and sanctions shall be assessed and imposed in the same manner as provided in such section 16.

"(6) AGENCY ACTION.—In the case of any substance that is found, as a result of testing and evaluation under this section, to have an endocrine effect on humans, the Administrator shall, as appropriate, take action under such statutory authority as is available to the Administrator, including consideration under other sections of this Act, as is necessary to ensure the protection of public health.

"(7) REPORT TO CONGRESS.—Not later than 4 years after the date of enactment of this section, the Administrator shall prepare and submit to Congress a report containing—

"(A) the findings of the Administrator resulting from the screening program described in paragraph (1);

"(B) recommendations for further testing needed to evaluate the impact on human health of the substances tested under the screening program; and

"(C) recommendations for any further actions (including any action described in paragraph (6)) that the Administrator determines are appropriate based on the findings.

"(q) SCHEDULE FOR REVIEW.—

"(1) IN GENERAL.—The Administrator shall review tolerances and exemptions for pesticide chemical residues in effect on the day before the date of the enactment of the Food Quality Protection Act of 1996, as expeditiously as practicable, assuring that—

"(A) 33 percent of such tolerances and exemptions are reviewed within 3 years of the date of enactment of such Act;

"(B) 66 percent of such tolerances and exemptions are reviewed within 6 years of the date of enactment of such Act; and

"(C) 100 percent of such tolerances and exemptions are reviewed within 10 years of the date of enactment of such Act.

Regulations.

In conducting a review of a tolerance or exemption, the Administrator shall determine whether the tolerance or exemption meets the requirements of subsections (b)(2) or (c)(2) and shall, by the deadline for the review of the tolerance or exemption, issue a regulation under subsection (d)(4) or (e)(1) to modify or revoke the tolerance or exemption if the tolerance or exemption does not meet such requirements.

"(2) PRIORITIES.—In determining priorities for reviewing tolerances and exemptions under paragraph (1), the Administrator shall give priority to the review of the tolerances or exemptions that appear to pose the greatest risk to public health.

"(3) PUBLICATION OF SCHEDULE.—Not later than 12 months after the date of the enactment of the Food Quality Protection Act of 1996, the Administrator shall publish a schedule for review of tolerances and exemptions established prior to the date of the enactment of the Food Quality Protection Act of 1996. The determination of priorities for the review of tolerances and exemptions pursuant to this subsection is not a rulemaking and shall not be subject to judicial review, except that failure to take final action pursuant to the schedule established by this paragraph shall be subject to judicial review.

"(r) TEMPORARY TOLERANCE OR EXEMPTION.—The Administrator may, upon the request of any person who has obtained an experimental permit for a pesticide chemical under the Federal Insecticide, Fungicide, and Rodenticide Act or upon the Administrator's own initiative, establish a temporary tolerance or exemption for the pesticide chemical residue for the uses covered by the permit. Subsections (b)(2), (c)(2), (d), and (e) shall apply to actions taken under this subsection.

"(s) SAVINGS CLAUSE.—Nothing in this section shall be construed to amend or modify the provisions of the Toxic Substances Control Act or the Federal Insecticide, Fungicide, and Rodenticide Act.".

SEC. 406. AUTHORIZATION FOR INCREASED MONITORING.

For the fiscal years 1997 through 1999, there is authorized to be appropriated in the aggregate an additional $12,000,000 for increased monitoring by the Secretary of Health and Human Services of pesticide residues in imported and domestic food.

SEC. 407. ALTERNATIVE ENFORCEMENT.

Section 303(g) (21 U.S.C. 333(f)) is amended—

(1) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively;

(2) by inserting after paragraph (1) the following:

"(2)(A) Any person who introduces into interstate commerce or delivers for introduction into interstate commerce an article of food that is adulterated within the meaning of section 402(a)(2)(B) shall be subject to a civil money penalty of not more than $50,000 in the case of an individual and $250,000 in the case of any other person for such introduction or delivery, not to exceed $500,000 for all such violations adjudicated in a single proceeding.

"(B) This paragraph shall not apply to any person who grew the article of food that is adulterated. If the Secretary assesses a civil penalty against any person under this paragraph, the Secretary may not use the criminal authorities under this section to sanction such person for the introduction or delivery for introduction into interstate commerce of the article of food that is adulterated. If the Secretary assesses a civil penalty against any person under this paragraph, the Secretary may not use the seizure authorities of section 304 or the injunction authorities of section 302 with respect to the article of food that is adulterated.

"(C) In a hearing to assess a civil penalty under this paragraph, the presiding officer shall have the same authority with regard

to compelling testimony or production of documents as a presiding officer has under section 408(g)(2)(B). The third sentence of paragraph (3)(A) shall not apply to any investigation under this paragraph.";

(3) in paragraph (3), as so redesignated, by striking "paragraph (1)" each place it occurs and inserting "paragraph (1) or (2)";

(4) in paragraph (4), as so redesignated, by striking "(2)(A)" and inserting "(3)(A)"; and

(5) in paragraph (5), as so redesignated, by striking "(3)" each place it occurs and inserting "(4)".

TITLE V—FEES

SEC. 501. REREGISTRATION FEES.

(a) SECTION 4(i).—Section 4(i) (7 U.S.C. 136a–1(i)), as amended by section 232(2), is amended—

(1) in paragraphs (5)(H) and (6), by striking "1997" and inserting "2001"; and

(2) in paragraph (5)(C), by inserting "(i)" after "(C)" and by adding at the end the following:

"(ii) in each of the fiscal years 1998, 1999, and 2000, the Administrator is authorized to collect up to an additional $2,000,000 in a manner consistent with subsection (k)(5) and the recommendations of the Inspector General of the Environmental Protection Agency. The total fees that may be collected under this clause shall not exceed $6,000,000.".

(b) SECTION 4(k)(1).—Section 4(k)(1) (7 U.S.C. 136a–1(k)(1)) is amended by inserting before the period the following: "which shall be known as the Reregistration and Expedited Processing Fund".

(c) SECTION 4(k)(2).—Section 4(k)(2) (7 U.S.C. 136a–1(k)(2)) is amended to read as follows:

"(2) SOURCE AND USE.—

"(A) All moneys derived from fees collected by the Administrator under subsection (i) shall be deposited in the fund and shall be available to the Administrator, without fiscal year limitation, specifically to offset the costs of reregistration and expedited processing of the applications specified in paragraph (3). Such moneys derived from fees may not be expended in any fiscal year to the extent such moneys derived from fees would exceed money appropriated for use by the Administrator and expended in such year for such costs of reregistration and expedited processing of such applications. The Administrator shall, prior to expending any such moneys derived from fees—

Effective date. Rules and procedures.

"(i) effective October 1, 1997, adopt specific and cost accounting rules and procedures as approved by the General Accounting Office and the Inspector General of the Environmental Protection Agency to ensure that moneys derived from fees are allocated solely to the costs of reregistration and expedited processing of the applications specified in paragraph (3) in the same portion as appropriated funds;

"(ii) prohibit the use of such moneys derived from fees to pay for any costs other than those necessary to achieve reregistration and expedited processing of the applications specified in paragraph (3); and

"(iii) ensure that personnel and facility costs associated with the functions to be carried out under this paragraph do not exceed agency averages for comparable personnel and facility costs.

"(B) The Administrator shall also—

"(i) complete the review of unreviewed reregistration studies required to support the reregistration eligibility decisions scheduled for completion in accordance with subsection (l)(2); and Review.

"(ii) contract for such outside assistance as may be necessary for review of required studies, using a generally accepted competitive process for the selection of vendors of such assistance.". Contracts.

(d) SECTION 4(k)(3).—Section 4(k)(3) (7 U.S.C. 136a–1(k)(3)) is amended—

(1) in subparagraph (A), by striking out "for each of the fiscal years 1992, 1993, and 1994, 1/7th of the maintenance fees collected, up to 2 million each year" and inserting in lieu thereof "for each of the fiscal years 1997 through 2001, not more than 1/7 of the maintenance fees collected in such fiscal year"; and

(2) by adding a new subparagraph (C) to read as follows:

"(C) So long as the Administrator has not met the time frames specified in clause (ii) of section 3(c)(3)(B) with respect to any application subject to section 3(c)(3)(B) that was received prior to the date of enactment of the Food Quality Protection Act of 1996, the Administrator shall use the full amount of the fees specified in subparagraph (A) for the purposes specified therein. Once all applications subject to section 3(c)(3)(B) that were received prior to such date of enactment have been acted upon, no limitation shall be imposed by the preceding sentence of this subparagraph so long as the Administrator meets the time frames specified in clause (ii) of section 3(c)(3)(B) on 90 percent of affected applications in a fiscal year. Should the Administrator not meet such time frames in a fiscal year, the limitations imposed by the first sentence of this subparagraph shall apply until all overdue applications subject to section 3(c)(3)(B) have been acted upon.". Applicability.

(e) SECTION 4(k)(5).—Section 4(k)(5) (7 U.S.C. 136a–1(k)(5)) is amended to read as follows:

"(5) ACCOUNTING AND PERFORMANCE.—The Administrator shall take all steps necessary to ensure that expenditures from fees authorized by subsection (i)(5)(C)(ii) are used only to carry out the goals established under subsection (l). The Reregistration and Expedited Processing Fund shall be designated as an Environmental Protection Agency component for purposes of section 3515(c) of title 31, United States Code. The annual audit required under section 3521 of such title of the financial statements of activities under this Act under section 3515(b) of such title shall include an audit of the fees collected under subsection (i)(5)(C) and disbursed, of the amount appropriated to match such fees, and of the Administrator's attainment

of performance measures and goals established under subsection (l). Such an audit shall also include a review of the reasonableness of the overhead allocation and adequacy of disclosures of direct and indirect costs associated with carrying out the reregistration and expedited processing of the applications specified in paragraph (3), and the basis for and accuracy of all costs paid with moneys derived from such fees. The Inspector General shall conduct the annual audit and report the findings and recommendations of such audit to the Administrator and to the Committees on Agriculture of the House of Representatives and the Senate. The cost of such audit shall be paid for out of the fees collected under subsection (i)(5)(C).".

Reports.

(f) GOALS.—Subsections (l) and (m) of section 4 (7 U.S.C. 136a–1), as amended by section 237, are redesignated as subsections (m) and (n) respectively and the following is inserted after subsection (k):

"(l) PERFORMANCE MEASURES AND GOAL.—The Administrator shall establish and publish annually in the Federal Register performance measures and goals. Such measures and goals shall include—

Federal Register, publication.

"(1) the number of products reregistered, canceled, or amended, the status of reregistration, the number and type of data requests under section 3(c)(2)(B) issued to support product reregistration by active ingredient, the progress in reducing the number of unreviewed, required reregistration studies, the aggregate status of tolerances reassessed, and the number of applications for registration submitted under subsection (k)(3) that were approved or disapproved;

"(2) the future schedule for reregistrations, including the projection for such schedules that will be issued under subsection (g)(2)(A) and (B) in the current fiscal year and the succeeding fiscal year; and

"(3) the projected year of completion of the reregistrations under this section.".

Approved August 3, 1996.

LEGISLATIVE HISTORY—H.R. 1627:

HOUSE REPORTS: No. 104–669, Pt. 1 (Comm. on Agriculture) and Pt. 2 (Comm. on Commerce).

CONGRESSIONAL RECORD, Vol. 142 (1996):

July 23, considered and passed House.

July 24, considered and passed Senate.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 32 (1996):

Aug. 3, Presidential remarks and statement.

Public Law 104–171
104th Congress

An Act

To authorize the extension of nondiscriminatory treatment (most-favored-nation treatment) to the products of Romania.

Aug. 3, 1996
[H.R. 3161]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Exports and imports.
19 USC 2434 note.

SECTION 1. FINDINGS.

The Congress finds that—

(1) Romania emerged from years of brutal Communist dictatorship in 1989 and approved a new Constitution and elected a Parliament by 1991, laying the foundation for a modern parliamentary democracy charged with guaranteeing fundamental human rights, freedom of expression, and respect for private property;

(2) local elections, parliamentary elections, and presidential elections have been held in Romania, and 1996 will mark the second nationwide presidential elections under the new Constitution;

(3) Romania has undertaken significant economic reforms, including the establishment of a two-tier banking system, the introduction of a modern tax system, the freeing of most prices and elimination of most subsidies, the adoption of a tariff-based trade regime, and the rapid privatization of industry and nearly all agriculture;

(4) Romania concluded a bilateral investment treaty with the United States in 1993, and both United States investment in Romania and bilateral trade are increasing rapidly;

(5) Romania has received most-favored-nation treatment since 1993, and has been found by the President to be in full compliance with the freedom of emigration requirements under title IV of the Trade Act of 1974;

(6) Romania is a member of the World Trade Organization and extension of unconditional most-favored-nation treatment to the products of Romania would enable the United States to avail itself of all rights under the World Trade Organization with respect to Romania; and

(7) Romania has demonstrated a strong desire to build friendly relationships and to cooperate fully with the United States on trade matters.

SEC. 2. TERMINATION OF APPLICATION OF TITLE IV OF THE TRADE ACT OF 1974 TO ROMANIA.

19 USC 2434 note.

(a) PRESIDENTIAL DETERMINATIONS AND EXTENSION OF NONDISCRIMINATORY TREATMENT.—Notwithstanding any provision of

title IV of the Trade Act of 1974 (19 U.S.C. 2431 et seq.), the President may—

(1) determine that such title should no longer apply to Romania; and

(2) after making a determination under paragraph (1), proclaim the extension of nondiscriminatory treatment (most-favored-nation treatment) to the products of that country.

(b) TERMINATION OF APPLICATION OF TITLE IV.—On and after the effective date of the extension under subsection (a)(2) of nondiscriminatory treatment to the products of Romania, title IV of the Trade Act of 1974 shall cease to apply to that country.

Approved August 3, 1996.

LEGISLATIVE HISTORY—H.R. 3161:

HOUSE REPORTS: No. 104–629 (Comm. on Ways and Means).
CONGRESSIONAL RECORD, Vol. 142 (1996):
July 16, 17, considered and passed House.
July 18, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 32 (1996):
Aug. 3, Presidential statement.

Public Law 104–172
104th Congress

An Act

To impose sanctions on persons making certain investments directly and significantly contributing to the enhancement of the ability of Iran or Libya to develop its petroleum resources, and on persons exporting certain items that enhance Libya's weapons or aviation capabilities or enhance Libya's ability to develop its petroleum resources, and for other purposes.

Aug. 5, 1996
[H.R. 3107]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Iran and Libya Sanctions Act of 1996.
50 USC 1701 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Iran and Libya Sanctions Act of 1996".

SEC. 2. FINDINGS.

50 USC 1701 note.

The Congress makes the following findings:

(1) The efforts of the Government of Iran to acquire weapons of mass destruction and the means to deliver them and its support of acts of international terrorism endanger the national security and foreign policy interests of the United States and those countries with which the United States shares common strategic and foreign policy objectives.

(2) The objective of preventing the proliferation of weapons of mass destruction and acts of international terrorism through existing multilateral and bilateral initiatives requires additional efforts to deny Iran the financial means to sustain its nuclear, chemical, biological, and missile weapons programs.

(3) The Government of Iran uses its diplomatic facilities and quasi-governmental institutions outside of Iran to promote acts of international terrorism and assist its nuclear, chemical, biological, and missile weapons programs.

(4) The failure of the Government of Libya to comply with Resolutions 731, 748, and 883 of the Security Council of the United Nations, its support of international terrorism, and its efforts to acquire weapons of mass destruction constitute a threat to international peace and security that endangers the national security and foreign policy interests of the United States and those countries with which it shares common strategic and foreign policy objectives.

SEC. 3. DECLARATION OF POLICY.

50 USC 1701 note.

(a) POLICY WITH RESPECT TO IRAN.—The Congress declares that it is the policy of the United States to deny Iran the ability to support acts of international terrorism and to fund the development and acquisition of weapons of mass destruction and the means to deliver them by limiting the development of Iran's ability to

explore for, extract, refine, or transport by pipeline petroleum resources of Iran.

(b) POLICY WITH RESPECT TO LIBYA.—The Congress further declares that it is the policy of the United States to seek full compliance by Libya with its obligations under Resolutions 731, 748, and 883 of the Security Council of the United Nations, including ending all support for acts of international terrorism and efforts to develop or acquire weapons of mass destruction.

President. 50 USC 1701 note.

SEC. 4. MULTILATERAL REGIME.

(a) MULTILATERAL NEGOTIATIONS.—In order to further the objectives of section 3, the Congress urges the President to commence immediately diplomatic efforts, both in appropriate international fora such as the United Nations, and bilaterally with allies of the United States, to establish a multilateral sanctions regime against Iran, including provisions limiting the development of petroleum resources, that will inhibit Iran's efforts to carry out activities described in section 2.

(b) REPORTS TO CONGRESS.—The President shall report to the appropriate congressional committees, not later than 1 year after the date of the enactment of this Act, and periodically thereafter, on the extent that diplomatic efforts described in subsection (a) have been successful. Each report shall include—

(1) the countries that have agreed to undertake measures to further the objectives of section 3 with respect to Iran, and a description of those measures; and

(2) the countries that have not agreed to measures described in paragraph (1), and, with respect to those countries, other measures (in addition to that provided in subsection (d)) the President recommends that the United States take to further the objectives of section 3 with respect to Iran.

(c) WAIVER.—The President may waive the application of section 5(a) with respect to nationals of a country if—

(1) that country has agreed to undertake substantial measures, including economic sanctions, that will inhibit Iran's efforts to carry out activities described in section 2 and information required by subsection (b)(1) has been included in a report submitted under subsection (b); and

Notification.

(2) the President, at least 30 days before the waiver takes effect, notifies the appropriate congressional committees of his intention to exercise the waiver.

(d) ENHANCED SANCTION.—

(1) SANCTION.—With respect to nationals of countries except those with respect to which the President has exercised the waiver authority of subsection (c), at any time after the first report is required to be submitted under subsection (b), section 5(a) shall be applied by substituting "$20,000,000" for "$40,000,000" each place it appears, and by substituting "$5,000,000" for "$10,000,000".

(2) REPORT TO CONGRESS.—The President shall report to the appropriate congressional committees any country with respect to which paragraph (1) applies.

(e) INTERIM REPORT ON MULTILATERAL SANCTIONS; MONITORING.—The President, not later than 90 days after the date of the enactment of this Act, shall report to the appropriate congressional committees on—

(1) whether the member states of the European Union, the Republic of Korea, Australia, Israel, or Japan have legislative or administrative standards providing for the imposition of trade sanctions on persons or their affiliates doing business or having investments in Iran or Libya;

(2) the extent and duration of each instance of the application of such sanctions; and

(3) the disposition of any decision with respect to such sanctions by the World Trade Organization or its predecessor organization.

SEC. 5. IMPOSITION OF SANCTIONS.

President. 50 USC 1701 note.

(a) SANCTIONS WITH RESPECT TO IRAN.—Except as provided in subsection (f), the President shall impose 2 or more of the sanctions described in paragraphs (1) through (6) of section 6 if the President determines that a person has, with actual knowledge, on or after the date of the enactment of this Act, made an investment of $40,000,000 or more (or any combination of investments of at least $10,000,000 each, which in the aggregate equals or exceeds $40,000,000 in any 12-month period), that directly and significantly contributed to the enhancement of Iran's ability to develop petroleum resources of Iran.

(b) MANDATORY SANCTIONS WITH RESPECT TO LIBYA.—

(1) VIOLATIONS OF PROHIBITED TRANSACTIONS.—Except as provided in subsection (f), the President shall impose 2 or more of the sanctions described in paragraphs (1) through (6) of section 6 if the President determines that a person has, with actual knowledge, on or after the date of the enactment of this Act, exported, transferred, or otherwise provided to Libya any goods, services, technology, or other items the provision of which is prohibited under paragraph 4(b) or 5 of Resolution 748 of the Security Council of the United Nations, adopted March 31, 1992, or under paragraph 5 or 6 of Resolution 883 of the Security Council of the United Nations, adopted November 11, 1993, if the provision of such items significantly and materially—

(A) contributed to Libya's ability to acquire chemical, biological, or nuclear weapons or destabilizing numbers and types of advanced conventional weapons or enhanced Libya's military or paramilitary capabilities;

(B) contributed to Libya's ability to develop its petroleum resources; or

(C) contributed to Libya's ability to maintain its aviation capabilities.

(2) INVESTMENTS THAT CONTRIBUTE TO THE DEVELOPMENT OF PETROLEUM RESOURCES.—Except as provided in subsection (f), the President shall impose 2 or more of the sanctions described in paragraphs (1) through (6) of section 6 if the President determines that a person has, with actual knowledge, on or after the date of the enactment of this Act, made an investment of $40,000,000 or more (or any combination of investments of at least $10,000,000 each, which in the aggregate equals or exceeds $40,000,000 in any 12-month period), that directly and significantly contributed to the enhancement of Libya's ability to develop its petroleum resources.

(c) PERSONS AGAINST WHICH THE SANCTIONS ARE TO BE IMPOSED.—The sanctions described in subsections (a) and (b) shall be imposed on—

(1) any person the President determines has carried out the activities described in subsection (a) or (b); and

(2) any person the President determines—

(A) is a successor entity to the person referred to in paragraph (1);

(B) is a parent or subsidiary of the person referred to in paragraph (1) if that parent or subsidiary, with actual knowledge, engaged in the activities referred to in paragraph (1); or

(C) is an affiliate of the person referred to in paragraph (1) if that affiliate, with actual knowledge, engaged in the activities referred to in paragraph (1) and if that affiliate is controlled in fact by the person referred to in paragraph (1).

For purposes of this Act, any person or entity described in this subsection shall be referred to as a "sanctioned person".

(d) PUBLICATION IN FEDERAL REGISTER.—The President shall cause to be published in the Federal Register a current list of persons and entities on whom sanctions have been imposed under this Act. The removal of persons or entities from, and the addition of persons and entities to, the list, shall also be so published.

(e) PUBLICATION OF PROJECTS.—The President shall cause to be published in the Federal Register a list of all significant projects which have been publicly tendered in the oil and gas sector in Iran.

(f) EXCEPTIONS.—The President shall not be required to apply or maintain the sanctions under subsection (a) or (b)—

(1) in the case of procurement of defense articles or defense services—

(A) under existing contracts or subcontracts, including the exercise of options for production quantities to satisfy requirements essential to the national security of the United States;

(B) if the President determines in writing that the person to which the sanctions would otherwise be applied is a sole source supplier of the defense articles or services, that the defense articles or services are essential, and that alternative sources are not readily or reasonably available; or

(C) if the President determines in writing that such articles or services are essential to the national security under defense coproduction agreements;

(2) in the case of procurement, to eligible products, as defined in section 308(4) of the Trade Agreements Act of 1979 (19 U.S.C. 2518(4)), of any foreign country or instrumentality designated under section 301(b)(1) of that Act (19 U.S.C. 2511(b)(1));

(3) to products, technology, or services provided under contracts entered into before the date on which the President publishes in the Federal Register the name of the person on whom the sanctions are to be imposed;

(4) to—

(A) spare parts which are essential to United States products or production;

(B) component parts, but not finished products, essential to United States products or production; or

(C) routine servicing and maintenance of products, to the extent that alternative sources are not readily or reasonably available;

(6) to information and technology essential to United States products or production; or

(7) to medicines, medical supplies, or other humanitarian items.

SEC. 6. DESCRIPTION OF SANCTIONS.

50 USC 1701 note.

The sanctions to be imposed on a sanctioned person under section 5 are as follows:

(1) EXPORT-IMPORT BANK ASSISTANCE FOR EXPORTS TO SANCTIONED PERSONS.—The President may direct the Export-Import Bank of the United States not to give approval to the issuance of any guarantee, insurance, extension of credit, or participation in the extension of credit in connection with the export of any goods or services to any sanctioned person.

(2) EXPORT SANCTION.—The President may order the United States Government not to issue any specific license and not to grant any other specific permission or authority to export any goods or technology to a sanctioned person under—

(i) the Export Administration Act of 1979;

(ii) the Arms Export Control Act;

(iii) the Atomic Energy Act of 1954; or

(iv) any other statute that requires the prior review and approval of the United States Government as a condition for the export or reexport of goods or services.

(3) LOANS FROM UNITED STATES FINANCIAL INSTITUTIONS.—The United States Government may prohibit any United States financial institution from making loans or providing credits to any sanctioned person totaling more than $10,000,000 in any 12-month period unless such person is engaged in activities to relieve human suffering and the loans or credits are provided for such activities.

(4) PROHIBITIONS ON FINANCIAL INSTITUTIONS.—The following prohibitions may be imposed against a sanctioned person that is a financial institution:

(A) PROHIBITION ON DESIGNATION AS PRIMARY DEALER.—Neither the Board of Governors of the Federal Reserve System nor the Federal Reserve Bank of New York may designate, or permit the continuation of any prior designation of, such financial institution as a primary dealer in United States Government debt instruments.

(B) PROHIBITION ON SERVICE AS A REPOSITORY OF GOVERNMENT FUNDS.—Such financial institution may not serve as agent of the United States Government or serve as repository for United States Government funds.

The imposition of either sanction under subparagraph (A) or (B) shall be treated as 1 sanction for purposes of section 5, and the imposition of both such sanctions shall be treated as 2 sanctions for purposes of section 5.

(5) PROCUREMENT SANCTION.—The United States Government may not procure, or enter into any contract for the procurement of, any goods or services from a sanctioned person.

(6) ADDITIONAL SANCTIONS.—The President may impose sanctions, as appropriate, to restrict imports with respect to a sanctioned person, in accordance with the International Emergency Economic Powers Act (50 U.S.C. 1701 and following).

50 USC 1701 note.

SEC. 7. ADVISORY OPINIONS.

The Secretary of State may, upon the request of any person, issue an advisory opinion to that person as to whether a proposed activity by that person would subject that person to sanctions under this Act. Any person who relies in good faith on such an advisory opinion which states that the proposed activity would not subject a person to such sanctions, and any person who thereafter engages in such activity, will not be made subject to such sanctions on account of such activity.

50 USC 1701 note.

SEC. 8. TERMINATION OF SANCTIONS.

(a) IRAN.—The requirement under section 5(a) to impose sanctions shall no longer have force or effect with respect to Iran if the President determines and certifies to the appropriate congressional committees that Iran—

(1) has ceased its efforts to design, develop, manufacture, or acquire—

(A) a nuclear explosive device or related materials and technology;

(B) chemical and biological weapons; and

(C) ballistic missiles and ballistic missile launch technology; and

(2) has been removed from the list of countries the governments of which have been determined, for purposes of section 6(j) of the Export Administration Act of 1979, to have repeatedly provided support for acts of international terrorism.

(b) LIBYA.—The requirement under section 5(b) to impose sanctions shall no longer have force or effect with respect to Libya if the President determines and certifies to the appropriate congressional committees that Libya has fulfilled the requirements of United Nations Security Council Resolution 731, adopted January 21, 1992, United Nations Security Council Resolution 748, adopted March 31, 1992, and United Nations Security Council Resolution 883, adopted November 11, 1993.

50 USC 1701 note.

SEC. 9. DURATION OF SANCTIONS; PRESIDENTIAL WAIVER.

(a) DELAY OF SANCTIONS.—

(1) CONSULTATIONS.—If the President makes a determination described in section 5(a) or 5(b) with respect to a foreign person, the Congress urges the President to initiate consultations immediately with the government with primary jurisdiction over that foreign person with respect to the imposition of sanctions under this Act.

(2) ACTIONS BY GOVERNMENT OF JURISDICTION.—In order to pursue consultations under paragraph (1) with the government concerned, the President may delay imposition of sanctions under this Act for up to 90 days. Following such consultations, the President shall immediately impose sanctions unless the President determines and certifies to the Congress that the government has taken specific and effective actions, including, as appropriate, the imposition of appropriate penalties, to terminate the involvement of the foreign person in the activi-

ties that resulted in the determination by the President under section 5(a) or 5(b) concerning such person.

(3) ADDITIONAL DELAY IN IMPOSITION OF SANCTIONS.—The President may delay the imposition of sanctions for up to an additional 90 days if the President determines and certifies to the Congress that the government with primary jurisdiction over the person concerned is in the process of taking the actions described in paragraph (2).

(4) REPORT TO CONGRESS.—Not later than 90 days after making a determination under section 5(a) or 5(b), the President shall submit to the appropriate congressional committees a report on the status of consultations with the appropriate foreign government under this subsection, and the basis for any determination under paragraph (3).

(b) DURATION OF SANCTIONS.—A sanction imposed under section 5 shall remain in effect—

(1) for a period of not less than 2 years from the date on which it is imposed; or

(2) until such time as the President determines and certifies to the Congress that the person whose activities were the basis for imposing the sanction is no longer engaging in such activities and that the President has received reliable assurances that such person will not knowingly engage in such activities in the future, except that such sanction shall remain in effect for a period of at least 1 year.

(c) PRESIDENTIAL WAIVER.—

(1) AUTHORITY.—The President may waive the requirement in section 5 to impose a sanction or sanctions on a person described in section 5(c), and may waive the continued imposition of a sanction or sanctions under subsection (b) of this section, 30 days or more after the President determines and so reports to the appropriate congressional committees that it is important to the national interest of the United States to exercise such waiver authority. Reports.

(2) CONTENTS OF REPORT.—Any report under paragraph (1) shall provide a specific and detailed rationale for the determination under paragraph (1), including—

(A) a description of the conduct that resulted in the determination under section 5(a) or (b), as the case may be;

(B) in the case of a foreign person, an explanation of the efforts to secure the cooperation of the government with primary jurisdiction over the sanctioned person to terminate or, as appropriate, penalize the activities that resulted in the determination under section 5(a) or (b), as the case may be;

(C) an estimate as to the significance—

(i) of the provision of the items described in section 5(a) to Iran's ability to develop its petroleum resources, or

(ii) of the provision of the items described in section 5(b)(1) to the abilities of Libya described in subparagraph (A), (B), or (C) of section 5(b)(1), or of the investment described in section 5(b)(2) on Libya's ability to develop its petroleum resources,

as the case may be; and

(D) a statement as to the response of the United States in the event that the person concerned engages in other activities that would be subject to section 5(a) or (b).

(3) EFFECT OF REPORT ON WAIVER.—If the President makes a report under paragraph (1) with respect to a waiver of sanctions on a person described in section 5(c), sanctions need not be imposed under section 5(a) or (b) on that person during the 30-day period referred to in paragraph (1).

President. 50 USC 1701 note.

SEC. 10. REPORTS REQUIRED.

(a) REPORT ON CERTAIN INTERNATIONAL INITIATIVES.—Not later than 6 months after the date of the enactment of this Act, and every 6 months thereafter, the President shall transmit a report to the appropriate congressional committees describing—

(1) the efforts of the President to mount a multilateral campaign to persuade all countries to pressure Iran to cease its nuclear, chemical, biological, and missile weapons programs and its support of acts of international terrorism;

(2) the efforts of the President to persuade other governments to ask Iran to reduce the presence of Iranian diplomats and representatives of other government and military or quasi-governmental institutions of Iran and to withdraw any such diplomats or representatives who participated in the takeover of the United States embassy in Tehran on November 4, 1979, or the subsequent holding of United States hostages for 444 days;

(3) the extent to which the International Atomic Energy Agency has established regular inspections of all nuclear facilities in Iran, including those presently under construction; and

(4) Iran's use of Iranian diplomats and representatives of other government and military or quasi-governmental institutions of Iran to promote acts of international terrorism or to develop or sustain Iran's nuclear, chemical, biological, and missile weapons programs.

(b) OTHER REPORTS.—The President shall ensure the continued transmittal to the Congress of reports describing—

(1) the nuclear and other military capabilities of Iran, as required by section 601(a) of the Nuclear Non-Proliferation Act of 1978 and section 1607 of the National Defense Authorization Act for Fiscal Year 1993; and

(2) the support provided by Iran for acts of international terrorism, as part of the Department of State's annual report on international terrorism.

50 USC 1701 note.

SEC. 11. DETERMINATIONS NOT REVIEWABLE.

A determination to impose sanctions under this Act shall not be reviewable in any court.

50 USC 1701 note.

SEC. 12. EXCLUSION OF CERTAIN ACTIVITIES.

Nothing in this Act shall apply to any activities subject to the reporting requirements of title V of the National Security Act of 1947.

50 USC 1701 note.

SEC. 13. EFFECTIVE DATE; SUNSET.

(a) EFFECTIVE DATE.—This Act shall take effect on the date of the enactment of this Act.

(b) SUNSET.—This Act shall cease to be effective on the date that is 5 years after the date of the enactment of this Act.

SEC. 14. DEFINITIONS.

50 USC 1701 note.

As used in this Act:

(1) ACT OF INTERNATIONAL TERRORISM.—The term "act of international terrorism" means an act—

(A) which is violent or dangerous to human life and that is a violation of the criminal laws of the United States or of any State or that would be a criminal violation if committed within the jurisdiction of the United States or any State; and

(B) which appears to be intended—

(i) to intimidate or coerce a civilian population;

(ii) to influence the policy of a government by intimidation or coercion; or

(iii) to affect the conduct of a government by assassination or kidnapping.

(2) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means the Committee on Finance, the Committee on Banking, Housing, and Urban Affairs, and the Committee on Foreign Relations of the Senate and the Committee on Ways and Means, the Committee on Banking and Financial Services, and the Committee on International Relations of the House of Representatives.

(3) COMPONENT PART.—The term "component part" has the meaning given that term in section 11A(e)(1) of the Export Administration Act of 1979 (50 U.S.C. App. 2410a(e)(1)).

(4) DEVELOP AND DEVELOPMENT.—To "develop", or the "development" of, petroleum resources means the exploration for, or the extraction, refining, or transportation by pipeline of, petroleum resources.

(5) FINANCIAL INSTITUTION.—The term "financial institution" includes—

(A) a depository institution (as defined in section 3(c)(1) of the Federal Deposit Insurance Act), including a branch or agency of a foreign bank (as defined in section 1(b)(7) of the International Banking Act of 1978);

(B) a credit union;

(C) a securities firm, including a broker or dealer;

(D) an insurance company, including an agency or underwriter; and

(E) any other company that provides financial services.

(6) FINISHED PRODUCT.—The term "finished product" has the meaning given that term in section 11A(e)(2) of the Export Administration Act of 1979 (50 U.S.C. App. 2410a(e)(2)).

(7) FOREIGN PERSON.—The term "foreign person" means—

(A) an individual who is not a United States person or an alien lawfully admitted for permanent residence into the United States; or

(B) a corporation, partnership, or other nongovernmental entity which is not a United States person.

(8) GOODS AND TECHNOLOGY.—The terms "goods" and "technology" have the meanings given those terms in section 16 of the Export Administration Act of 1979 (50 U.S.C. App. 2415).

(9) INVESTMENT.—The term "investment" means any of the following activities if such activity is undertaken pursuant to an agreement, or pursuant to the exercise of rights under such an agreement, that is entered into with the Government of Iran or a nongovenmental entity in Iran, or with the Govern-

ment of Libya or a nongovernmental entity in Libya, on or after the date of the enactment of this Act:

(A) The entry into a contract that includes responsibility for the development of petroleum resources located in Iran or Libya (as the case may be), or the entry into a contract providing for the general supervision and guarantee of another person's performance of such a contract.

(B) The purchase of a share of ownership, including an equity interest, in that development.

(C) The entry into a contract providing for the participation in royalties, earnings, or profits in that development, without regard to the form of the participation.

The term "investment" does not include the entry into, performance, or financing of a contract to sell or purchase goods, services, or technology.

(10) IRAN.—The term "Iran" includes any agency or instrumentality of Iran.

(11) IRANIAN DIPLOMATS AND REPRESENTATIVES OF OTHER GOVERNMENT AND MILITARY OR QUASI-GOVERNMENTAL INSTITUTIONS OF IRAN.—The term "Iranian diplomats and representatives of other government and military or quasi-governmental institutions of Iran" includes employees, representatives, or affiliates of Iran's—

(A) Foreign Ministry;
(B) Ministry of Intelligence and Security;
(C) Revolutionary Guard Corps;
(D) Crusade for Reconstruction;
(E) Qods (Jerusalem) Forces;
(F) Interior Ministry;
(G) Foundation for the Oppressed and Disabled;
(H) Prophet's Foundation;
(I) June 5th Foundation;
(J) Martyr's Foundation;
(K) Islamic Propagation Organization; and
(L) Ministry of Islamic Guidance.

(12) LIBYA.—The term "Libya" includes any agency or instrumentality of Libya.

(13) NUCLEAR EXPLOSIVE DEVICE.—The term "nuclear explosive device" means any device, whether assembled or disassembled, that is designed to produce an instantaneous release of an amount of nuclear energy from special nuclear material (as defined in section 11(aa) of the Atomic Energy Act of 1954) that is greater than the amount of energy that would be released from the detonation of one pound of trinitrotoluene (TNT).

(14) PERSON.—The term "person" means—

(A) a natural person;

(B) a corporation, business association, partnership, society, trust, any other nongovernmental entity, organization, or group, and any governmental entity operating as a business enterprise; and

(C) any successor to any entity described in subparagraph (B).

(15) PETROLEUM RESOURCES.—The term "petroleum resources" includes petroleum and natural gas resources.

(16) UNITED STATES OR STATE.—The term "United States" or "State" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, the United States Virgin Islands, and any other territory or possession of the United States.

(17) UNITED STATES PERSON.—The term "United States person" means—

(A) a natural person who is a citizen of the United States or who owes permanent allegiance to the United States; and

(B) a corporation or other legal entity which is organized under the laws of the United States, any State or territory thereof, or the District of Columbia, if natural persons described in subparagraph (A) own, directly or indirectly, more than 50 percent of the outstanding capital stock or other beneficial interest in such legal entity.

Approved August 5, 1996.

LEGISLATIVE HISTORY—H.R. 3107 (S. 1228):

HOUSE REPORTS: No. 104–523, Pt. 1 (Comm. on International Relations) and Pt. 2 (Comm. on Ways and Means).

SENATE REPORTS: No. 104–187 accompanying S. 1228 (Comm. on Banking, Housing, and Urban Affairs).

CONGRESSIONAL RECORD, Vol. 142 (1996):

June 18, 19, considered and passed House.

July 16, considered and passed Senate, amended.

July 23, House concurred in Senate amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 32 (1996):

Aug. 5, Presidential remarks.

Public Law 104–173
104th Congress

An Act

Aug. 6, 1996
[H.R. 1051]

To provide for the extension of certain hydroelectric projects located in the State of West Virginia.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF DEADLINE.

(a) IN GENERAL.—Notwithstanding the time period specified in section 13 of the Federal Power Act (16 U.S.C. 806) that would otherwise apply to Federal Energy Regulatory Commission projects numbered 6901 and 6902, the Commission shall, upon the request of the licensee for those projects, in accordance with the good faith, due diligence, and public interest requirements of that section, the Commission's procedures under that section, and the procedures specified in that section, extend the time period during which the licensee is required to commence construction of those projects so as to terminate on October 3, 1999.

(b) APPLICABILITY.—Subsection (a) shall take effect for the projects upon the expiration of the extension, issued by the Commission under section 13 of the Federal Power Act (16 U.S.C. 806), of the period required for commencement of construction of the projects.

(c) REINSTATEMENT OF EXPIRED LICENSE.—If a license for a project described in subsection (a) has expired prior to the date of enactment of this Act, the Commission shall reinstate the license effective as of the date of its expiration and extend the time required for commencement of construction of the project until October 3, 1999.

Approved August 6, 1996.

LEGISLATIVE HISTORY—H.R. 1051 (S. 359):

HOUSE REPORTS: No. 104–319 (Comm. on Commerce).
SENATE REPORTS: No. 104–71 accompanying S. 359 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 141 (1995): Nov. 13, considered and passed House.
Vol. 142 (1996): July 25, considered and passed Senate.

Public Law 104–174
104th Congress

An Act

To authorize minors who are under the child labor provisions of the Fair Labor Standards Act of 1938 and who are under 18 years of age to load materials into balers and compactors that meet appropriate American National Standards Institute design safety standards.

Aug. 6, 1996
[H.R. 1114]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORITY FOR 16- AND 17-YEAR-OLDS TO LOAD MATERIALS INTO SCRAP PAPER BALERS AND PAPER BOX COMPACTORS.

Section 13(c) of the Fair Labor Standards Act of 1938 (29 U.S.C. 213(c)) is amended by adding to the end thereof the following new paragraph:

"(5)(A) In the administration and enforcement of the child labor provisions of this Act, employees who are 16 and 17 years of age shall be permitted to load materials into, but not operate or unload materials from, scrap paper balers and paper box compactors—

"(i) that are safe for 16- and 17-year-old employees loading the scrap paper balers or paper box compactors; and

"(ii) that cannot be operated while being loaded.

"(B) For purposes of subparagraph (A), scrap paper balers and paper box compactors shall be considered safe for 16- or 17-year-old employees to load only if—

"(i)(I) the scrap paper balers and paper box compactors meet the American National Standards Institute's Standard ANSI Z245.5–1990 for scrap paper balers and Standard ANSI Z245.2–1992 for paper box compactors; or

"(II) the scrap paper balers and paper box compactors meet an applicable standard that is adopted by the American National Standards Institute after the date of enactment of this paragraph and that is certified by the Secretary to be at least as protective of the safety of minors as the standard described in subclause (I);

"(ii) the scrap paper balers and paper box compactors include an on-off switch incorporating a key-lock or other system and the control of the system is maintained in the custody of employees who are 18 years of age or older;

"(iii) the on-off switch of the scrap paper balers and paper box compactors is maintained in an off position when the scrap paper balers and paper box compactors are not in operation; and

"(iv) the employer of 16- and 17-year-old employees provides notice, and posts a notice, on the scrap paper balers and paper box compactors stating that—

"(I) the scrap paper balers and paper box compactors meet the applicable standard described in clause (i);

"(II) 16- and 17-year-old employees may only load the scrap paper balers and paper box compactors; and

"(III) any employee under the age of 18 may not operate or unload the scrap paper balers and paper box compactors.

Federal Register, publication.

The Secretary shall publish in the Federal Register a standard that is adopted by the American National Standards Institute for scrap paper balers or paper box compactors and certified by the Secretary to be protective of the safety of minors under clause (i)(II).

Reports.

"(C)(i) Employers shall prepare and submit to the Secretary reports—

"(I) on any injury to an employee under the age of 18 that requires medical treatment (other than first aid) resulting from the employee's contact with a scrap paper baler or paper box compactor during the loading, operation, or unloading of the baler or compactor; and

"(II) on any fatality of an employee under the age of 18 resulting from the employee's contact with a scrap paper baler or paper box compactor during the loading, operation, or unloading of the baler or compactor.

"(ii) The reports described in clause (i) shall be used by the Secretary to determine whether or not the implementation of subparagraph (A) has had any effect on the safety of children.

"(iii) The reports described in clause (i) shall provide—

"(I) the name, telephone number, and address of the employer and the address of the place of employment where the incident occurred;

"(II) the name, telephone number, and address of the employee who suffered an injury or death as a result of the incident;

"(III) the date of the incident;

"(IV) a description of the injury and a narrative describing how the incident occurred; and

"(V) the name of the manufacturer and the model number of the scrap paper baler or paper box compactor involved in the incident.

"(iv) The reports described in clause (i) shall be submitted to the Secretary promptly, but not later than 10 days after the date on which an incident relating to an injury or death occurred.

"(v) The Secretary may not rely solely on the reports described in clause (i) as the basis for making a determination that any of the employers described in clause (i) has violated a provision of section 12 relating to oppressive child labor or a regulation or order issued pursuant to section 12. The Secretary shall, prior to making such a determination, conduct an investigation and inspection in accordance with section 12(b).

"(vi) The reporting requirements of this subparagraph shall expire 2 years after the date of enactment of this subparagraph.".

SEC. 2. CIVIL MONEY PENALTY.

Section 16(e) of the Fair Labor Standards Act of 1938 (29 U.S.C. 216(e)) is amended in the first sentence—

(1) by striking "section 12," and inserting "section 12 or section 13(c)(5),"; and

(2) by striking "that section" and inserting "section 12 or section 13(c)(5)".

SEC. 3. CONSTRUCTION. 29 USC 213 note.

Section 1 shall not be construed as affecting the exemption for apprentices and student learners published in section 570.63 of title 29, Code of Federal Regulations.

Approved August 6, 1996.

LEGISLATIVE HISTORY—H.R. 1114:

HOUSE REPORTS: No. 104–278 (Comm. on Economic and Educational Opportunities).

CONGRESSIONAL RECORD:

Vol. 141 (1995): Oct. 24, considered and passed House.

Vol. 142 (1996): July 16, considered and passed Senate, amended.

July 25, House concurred in Senate amendment.

Public Law 104–175
104th Congress

An Act

Aug. 6, 1996
[S. 531]

To authorize a circuit judge who has taken part in an in banc hearing of a case to continue to participate in that case after taking senior status, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENT.

The last sentence of section 46(c) of title 28, United States Code, is amended by inserting "(1)" after "eligible" and by inserting before the period at the end of the sentence ", or (2) to continue to participate in the decision of a case or controversy that was heard or reheard by the court in banc at a time when such judge was in regular active service".

Approved August 6, 1996.

LEGISLATIVE HISTORY—S. 531:

HOUSE REPORTS: No. 104–697 (Comm. on the Judiciary).
CONGRESSIONAL RECORD:
Vol. 141 (1995): Sept. 28, considered and passed Senate.
Vol. 142 (1996): July 29, considered and passed House.

Public Law 104–176
104th Congress

Joint Resolution

Granting the consent of Congress to the compact to provide for joint natural resource management and enforcement of laws and regulations pertaining to natural resources and boating at the Jennings Randolph Lake Project lying in Garrett County, Maryland and Mineral County, West Virginia, entered into between the States of West Virginia and Maryland.

Aug. 6, 1996
[S.J. Res. 20]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONGRESSIONAL CONSENT.

The Congress hereby consents to the Jennings Randolph Lake Project Compact entered into between the States of West Virginia and Maryland which compact is substantially as follows:

"COMPACT

Jennings Randolph Lake Project Compact.

"Whereas the State of Maryland and the State of West Virginia, with the concurrence of the United States Department of the Army, Corps of Engineers, have approved and desire to enter into a compact to provide for joint natural resource management and enforcement of laws and regulations pertaining to natural resources and boating at the Jennings Randolph Lake Project lying in Garrett County, Maryland and Mineral County, West Virginia, for which they seek the approval of Congress, and which compact is as follows:

"Whereas the signatory parties hereto desire to provide for joint natural resource management and enforcement of laws and regulations pertaining to natural resources and boating at the Jennings Randolph Lake Project lying in Garrett County, Maryland and Mineral County, West Virginia, for which they have a joint responsibility; and they declare as follows:

"1. The Congress, under Public Law 87–874, authorized the development of the Jennings Randolph Lake Project for the North Branch of the Potomac River substantially in accordance with House Document Number 469, 87th Congress, 2nd Session for flood control, water supply, water quality, and recreation; and

"2. Section 4 of the Flood Control Act of 1944 (Ch 665, 58 Stat. 534) provides that the Chief of Engineers, under the supervision of the Secretary of War (now Secretary of the Army), is authorized to construct, maintain and operate public park and recreational facilities in reservoir areas under control of such Secretary for the purpose of boating, swimming, bathing, fishing, and other recreational purposes, so long as the same is not inconsistent with the laws for the protection of

fish and wildlife of the State(s) in which such area is situated; and

"3. Pursuant to the authorities cited above, the U.S. Army Engineer District (Baltimore), hereinafter 'District', did construct and now maintains and operates the Jennings Randolph Lake Project; and

"4. The National Environmental Policy Act of 1969 (P.L. 91–190) encourages productive and enjoyable harmony between man and his environment, promotes efforts which will stimulate the health and welfare of man, and encourages cooperation with State and local governments to achieve these ends; and

"5. The Fish and Wildlife Coordination Act (16 U.S.C. 661–666c) provides for the consideration and coordination with other features of water-resource development programs through the effectual and harmonious planning, development, maintenance, and coordination of wildlife conservation and rehabilitation; and

"6. The District has Fisheries and Wildlife Plans as part of the District's project Operational Management Plan; and

"7. In the respective States, the Maryland Department of Natural Resources (hereinafter referred to as 'Maryland DNR') and the West Virginia Division of Natural Resources (hereinafter referred to as 'West Virginia DNR') are responsible for providing a system of control, propagation, management, protection, and regulation of natural resources and boating in Maryland and West Virginia and the enforcement of laws and regulations pertaining to those resources as provided in Annotated Code of Maryland Natural Resources Article and West Virginia Chapter 20, respectively, and the successors thereof; and

"8. The District, the Maryland DNR, and the West Virginia DNR are desirous of conserving, perpetuating and improving fish and wildlife resources and recreational benefits of the Jennings Randolph Lake Project; and

"9. The District and the States of Maryland and West Virginia wish to implement the aforesaid acts and responsibilities through this Compact and they each recognize that consistent enforcement of the natural resources and boating laws and regulations can best be achieved by entering this Compact:

"Now, therefore, be it *Resolved,* That the States of Maryland and West Virginia, with the concurrence of the United States Department of the Army, Corps of Engineers, hereby solemnly covenant and agree with each other, upon enactment of concurrent legislation by The Congress of the United States and by the respective state legislatures, to the Jennings Randolph Lake Project Compact, which consists of this preamble and the articles that follow:

"Article I—Name, Findings, and Purpose

"1.1 This compact shall be known and may be cited as the Jennings Randolph Lake Project Compact.

"1.2 The legislative bodies of the respective signatory parties, with the concurrence of the U.S. Army Corps of Engineers, hereby find and declare:

"1. The water resources and project lands of the Jennings Randolph Lake Project are affected with local, state, regional, and national interest, and the planning, conservation, utilization, protec-

tion and management of these resources, under appropriate arrangements for inter-governmental cooperation, are public purposes of the respective signatory parties.

"2. The lands and waters of the Jennings Randolph Lake Project are subject to the sovereign rights and responsibilities of the signatory parties, and it is the purpose of this compact that, notwithstanding any boundary between Maryland and West Virginia that preexisted the creation of Jennings Randolph Lake, the parties will have and exercise concurrent jurisdiction over any lands and waters of the Jennings Randolph Lake Project concerning natural resources and boating laws and regulations in the common interest of the people of the region.

"Article II—District Responsibilities

"The District, within the Jennings Randolph Lake Project,

"2.1 Acknowledges that the Maryland DNR and West Virginia DNR have authorities and responsibilities in the establishment, administration and enforcement of the natural resources and boating laws and regulations applicable to this project, provided that the laws and regulations promulgated by the States support and implement, where applicable, the intent of the Rules and Regulations Governing Public Use of Water Resources Development Projects administered by the Chief of Engineers in Title 36, Chapter RI, Part 327, Code of Federal Regulations,

"2.2 Agrees to practice those forms of resource management as determined jointly by the District, Maryland DNR and West Virginia DNR to be beneficial to natural resources and which will enhance public recreational opportunities compatible with other authorized purposes of the project,

"2.3 Agrees to consult with the Maryland DNR and West Virginia DNR prior to the issuance of any permits for activities or special events which would include, but not necessarily be limited to: fishing tournaments, training exercises, regattas, marine parades, placement of ski ramps, slalom water ski courses and the establishment of private markers and/or lighting. All such permits issued by the District will require the permittee to comply with all State laws and regulations,

"2.4 Agrees to consult with the Maryland DNR and West Virginia DNR regarding any recommendations for regulations affecting natural resources, including, but not limited to, hunting, trapping, fishing or boating at the Jennings Randolph Lake Project which the District believes might be desirable for reasons of public safety, administration of public use and enjoyment,

"2.5 Agrees to consult with the Maryland DNR and West Virginia DNR relative to the marking of the lake with buoys, aids to navigation, regulatory markers and establishing and posting of speed limits, no wake zones, restricted or other control areas and to provide, install and maintain such buoys, aids to navigation and regulatory markers as are necessary for the implementation of the District's Operational Management Plan. All buoys, aids to navigation and regulatory markers to be used shall be marked in conformance with the Uniform State Waterway Marking System,

"2.6 Agrees to allow hunting, trapping, boating and fishing by the public in accordance with the laws and regulations relating to the Jennings Randolph Lake Project,

"2.7 Agrees to provide, install and maintain public ramps, parking areas, courtesy docks, etc., as provided for by the approved Corps of Engineers Master Plan, and

"2.8 Agrees to notify the Maryland DNR and the West Virginia DNR of each reservoir drawdown prior thereto excepting drawdown for the reestablishment of normal lake levels following flood control operations and drawdown resulting from routine water control management operations described in the reservoir regulation manual including releases requested by water supply owners and normal water quality releases. In case of emergency releases or emergency flow curtailments, telephone or oral notification will be provided. The District reserves the right, following issuance of the above notice, to make operational and other tests which may be necessary to insure the safe and efficient operation of the dam, for inspection and maintenance purposes, and for the gathering of water quality data both within the impoundment and in the Potomac River downstream from the dam.

"Article III—State Responsibilities

"The State of Maryland and the State of West Virginia agree:

"3.1 That each State will have and exercise concurrent jurisdiction with the District and the other State for the purpose of enforcing the civil and criminal laws of the respective States pertaining to natural resources and boating laws and regulations over any lands and waters of the Jennings Randolph Lake Project;

"3.2 That existing natural resources and boating laws and regulations already in effect in each State shall remain in force on the Jennings Randolph Lake Project until either State amends, modifies or rescinds its laws and regulations;

"3.3 That the Agreement for Fishing Privileges dated June 24, 1985 between the State of Maryland and the State of West Virginia, as amended, remains in full force and effect;

"3.4 To enforce the natural resources and boating laws and regulations applicable to the Jennings Randolph Lake Project;

"3.5 To supply the District with the name, address and telephone number of the person(s) to be contacted when any drawdown except those resulting from normal regulation procedures occurs;

"3.6 To inform the Reservoir Manager of all emergencies or unusual activities occurring on the Jennings Randolph Lake Project;

"3.7 To provide training to District employees in order to familiarize them with natural resources and boating laws and regulations as they apply to the Jennings Randolph Lake Project; and

"3.8 To recognize that the District and other Federal Agencies have the right and responsibility to enforce, within the boundaries of the Jennings Randolph Lake Project, all applicable Federal laws, rules and regulations so as to provide the public with safe and healthful recreational opportunities and to provide protection to all federal property within the project.

"Article IV—Mutual Cooperation

"4.1 Pursuant to the aims and purposes of this Compact, the State of Maryland, the State of West Virginia and the District mutually agree that representatives of their natural resource management and enforcement agencies will cooperate to further the purposes of this Compact. This cooperation includes, but is not limited to, the following:

"4.2 Meeting jointly at least once annually, and providing for other meetings as deemed necessary for discussion of matters relating to the management of natural resources and visitor use on lands and waters within the Jennings Randolph Lake Project;

"4.3 Evaluating natural resources and boating, to develop natural resources and boating management plans and to initiate and carry out management programs;

"4.4 Encouraging the dissemination of joint publications, press releases or other public information and the interchange between parties of all pertinent agency policies and objectives for the use and perpetuation of natural resources of the Jennings Randolph Lake Project; and

"4.5 Entering into working arrangements as occasion demands for the use of lands, waters, construction and use of buildings and other facilities at the project.

"Article V—General Provisions

"5.1 Each and every provision of this Compact is subject to the laws of the States of Maryland and West Virginia and the laws of the United States, and the delegated authority in each instance.

"5.2 The enforcement and applicability of natural resources and boating laws and regulations referenced in this Compact shall be limited to the lands and waters of the Jennings Randolph Lake Project, including but not limited to the prevailing reciprocal fishing laws and regulations between the States of Maryland and West Virginia.

"5.3 Nothing in this Compact shall be construed as obligating any party hereto to the expenditure of funds or the future payment of money in excess of appropriations authorized by law.

"5.4 The provisions of this Compact shall be severable, and if any phrase, clause, sentence or provision of the Jennings Randolph Lake Project Compact is declared to be unconstitutional or inapplicable to any signatory party or agency of any party, the constitutionality and applicability of the Compact shall not be otherwise affected as to any provision, party, or agency. It is the legislative intent that the provisions of the Compact be reasonably and liberally construed to effectuate the stated purposes of the Compact.

"5.5 No member of or delegate to Congress, or signatory shall be admitted to any share or part of this Compact, or to any benefit that may arise therefrom; but this provision shall not be construed to extend to this agreement if made with a corporation for its general benefit.

"5.6 When this Compact has been ratified by the legislature of each respective State, when the Governor of West Virginia and the Governor of Maryland have executed this Compact on behalf of their respective States and have caused a verified copy thereof to be filed with the Secretary of State of each respective State, when the Baltimore District of the U.S. Army Corps of Engineers has executed its concurrence with this Compact, and when this Compact has been consented to by the Congress of the United States, then this Compact shall become operative and effective. Effective date.

"5.7 Either State may, by legislative act, after one year's written notice to the other, withdraw from this Compact. The U.S. Army Corps of Engineers may withdraw its concurrence with this Compact

upon one year's written notice from the Baltimore District Engineer to the Governor of each State.

Effective date.

"5.8 This Compact may be amended from time to time. Each proposed amendment shall be presented in resolution form to the Governor of each State and the Baltimore District Engineer of the U.S. Army Corps of Engineers. An amendment to this Compact shall become effective only after it has been ratified by the legislatures of both signatory States and concurred in by the U.S. Army Corps of Engineers, Baltimore District. Amendments shall become effective thirty days after the date of the last concurrence or ratification.".

SEC. 2. The right to alter, amend or repeal this joint resolution is hereby expressly reserved. The consent granted by this joint resolution shall not be construed as impairing or in any manner affecting any right or jurisdiction of the United States in and over the region which forms the subject of the compact.

Approved August 6, 1996.

LEGISLATIVE HISTORY—S.J. Res. 20 (H.J. Res. 113):

HOUSE REPORTS: No. 104–706 accompanying H.J. Res. 113 (Comm. on the Judiciary).

CONGRESSIONAL RECORD:

Vol. 141 (1995): Sept. 20, considered and passed Senate.

Vol. 142 (1996): July 29, H.J. Res. 113 and S.J. Res. 20 considered and passed House.

Public Law 104–177
104th Congress

An Act

To amend title 18 of the United States Code to allow members of employee associations to represent their views before the United States Government.

Aug. 6, 1996
[H.R. 782]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

Federal Employee Representation Improvement Act of 1996.
18 USC 201 note.

This Act may be cited as the "Federal Employee Representation Improvement Act of 1996".

SEC. 2. REPRESENTATION BY FEDERAL OFFICERS AND EMPLOYEES.

(a) EXTENSION OF EXEMPTION TO PROHIBITION.—Subsection (d) of section 205 of title 18, United States Code, is amended to read as follows:

"(d)(1) Nothing in subsection (a) or (b) prevents an officer or employee, if not inconsistent with the faithful performance of that officer's or employee's duties, from acting without compensation as agent or attorney for, or otherwise representing—

"(A) any person who is the subject of disciplinary, loyalty, or other personnel administration proceedings in connection with those proceedings; or

"(B) except as provided in paragraph (2), any cooperative, voluntary, professional, recreational, or similar organization or group not established or operated for profit, if a majority of the organization's or groups's members are current officers or employees of the United States or of the District of Columbia, or their spouses or dependent children.

"(2) Paragraph (1)(B) does not apply with respect to a covered matter that—

"(A) is a claim under subsection (a)(1) or (b)(1);

"(B) is a judicial or administrative proceeding where the organization or group is a party; or

"(C) involves a grant, contract, or other agreement (including a request for any such grant, contract, or agreement) providing for the disbursement of Federal funds to the organization or group.".

(b) APPLICATION TO LABOR-MANAGEMENT RELATIONS.—Section 205 of title 18, United States Code, is amended by adding at the end the following:

"(i) Nothing in this section prevents an employee from acting pursuant to—

"(1) chapter 71 of title 5;

"(2) section 1004 or chapter 12 of title 39;

"(3) section 3 of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831b);

"(4) chapter 10 of title I of the Foreign Service Act of 1980 (22 U.S.C. 4104 et seq.); or

"(5) any provision of any other Federal or District of Columbia law that authorizes labor-management relations between an agency or instrumentality of the United States or the District of Columbia and any labor organization that represents its employees.".

Approved August 6, 1996.

LEGISLATIVE HISTORY—H.R. 782:

HOUSE REPORTS: No. 104–230 (Comm. on the Judiciary).
CONGRESSIONAL RECORD:
Vol. 141 (1995): Oct. 24, considered and passed House.
Vol. 142 (1996): July 25, considered and passed Senate, amended.
Aug. 1, House concurred in Senate amendment.

Public Law 104–178
104th Congress

An Act

To amend title 18, United States Code, to repeal the provision relating to Federal employees contracting or trading with Indians.

Aug. 6, 1996
[H.R. 3215]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FEDERAL EMPLOYEES CONTRACTING OR TRADING WITH INDIANS.

(a) REPEAL.—Section 437 of title 18, United States Code, is repealed.

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 23 of title 18, United States Code, is amended by striking the item relating to section 437.

(c) EFFECTIVE DATE.—The repeal made by subsection (a) shall— 18 USC 437 note.

(1) take effect on the date of enactment of this Act; and

(2) apply with respect to any contract obtained, and any purchase or sale occurring, on or after the date of enactment of this Act.

Approved August 6, 1996.

LEGISLATIVE HISTORY—H.R. 3215:

HOUSE REPORTS: No. 104–681 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 142 (1996):
July 29, considered and passed House.
July 31, considered and passed Senate.

Public Law 104–179
104th Congress

An Act

Aug. 6, 1996
[H.R. 3235]

To amend the Ethics in Government Act of 1978, to extend the authorization of appropriations for the Office of Government Ethics for 3 years, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Office of Government Ethics Authorization Act of 1996.
5 USC app. 101 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Office of Government Ethics Authorization Act of 1996".

SEC. 2. GIFT ACCEPTANCE AUTHORITY.

Section 403 of the Ethics in Government Act of 1978 (5 U.S.C. App. 5) is amended—

(1) by inserting "(a)" before "Upon the request"; and

(2) by adding at the end the following:

"(b)(1) The Director is authorized to accept and utilize on behalf of the United States, any gift, donation, bequest, or devise of money, use of facilities, personal property, or services for the purpose of aiding or facilitating the work of the Office of Government Ethics.

"(2) No gift may be accepted—

"(A) that attaches conditions inconsistent with applicable laws or regulations; or

"(B) that is conditioned upon or will require the expenditure of appropriated funds that are not available to the Office of Government Ethics.

Rules.

"(3) The Director shall establish written rules setting forth the criteria to be used in determining whether the acceptance of contributions of money, services, use of facilities, or personal property under this subsection would reflect unfavorably upon the ability of the Office of Government Ethics, or any employee of such Office, to carry out its responsibilities or official duties in a fair and objective manner, or would compromise the integrity or the appearance of the integrity of its programs or any official involved in those programs.".

SEC. 3. EXTENSION OF AUTHORIZATION OF APPROPRIATIONS.

The text of section 405 of the Ethics in Government Act of 1978 (5 U.S.C. App. 5) is amended to read as follows: "There are authorized to be appropriated to carry out this title such sums as may be necessary for each of fiscal years 1997 through 1999.".

SEC. 4. REPEAL AND CONFORMING AMENDMENTS.

(a) REPEAL OF DISPLAY REQUIREMENT.—The Act entitled "An Act to provide for the display of the Code of Ethics for Government Service," approved July 3, 1980 (5 U.S.C. 7301 note), is repealed.

(b) CONFORMING AMENDMENTS.—

(1) FDIA.—Section 12(f)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1822(f)(3)) is amended by striking ", with the concurrence of the Office of Government Ethics,".

(2) ETHICS IN GOVERNMENT ACT OF 1978.—(A) The heading for section 401 of the Ethics in Government Act of 1978 is amended to read as follows: 5 USC app. 401.

"ESTABLISHMENT; APPOINTMENT OF DIRECTOR".

(B) Section 408 of such Act is amended by striking "March 31" and inserting "April 30". 5 USC app. 408.

SEC. 5. LIMITATION ON POSTEMPLOYMENT RESTRICTIONS.

Section 207(j) of title 18, United States Code, is amended by adding at the end the following new paragraph:

"(7) POLITICAL PARTIES AND CAMPAIGN COMMITTEES.—(A) Except as provided in subparagraph (B), the restrictions contained in subsections (c), (d), and (e) shall not apply to a communication or appearance made solely on behalf of a candidate in his or her capacity as a candidate, an authorized committee, a national committee, a national Federal campaign committee, a State committee, or a political party.

"(B) Subparagraph (A) shall not apply to—

"(i) any communication to, or appearance before, the Federal Election Commission by a former officer or employee of the Federal Election Commission; or

"(ii) a communication or appearance made by a person who is subject to the restrictions contained in subsections (c), (d), or (e) if, at the time of the communication or appearance, the person is employed by a person or entity other than—

"(I) a candidate, an authorized committee, a national committee, a national Federal campaign committee, a State committee, or a political party; or

"(II) a person or entity who represents, aids, or advises only persons or entities described in subclause (I).

"(C) For purposes of this paragraph—

"(i) the term 'candidate' means any person who seeks nomination for election, or election, to Federal or State office or who has authorized others to explore on his or her behalf the possibility of seeking nomination for election, or election, to Federal or State office;

"(ii) the term 'authorized committee' means any political committee designated in writing by a candidate as authorized to receive contributions or make expenditures to promote the nomination for election, or the election, of such candidate, or to explore the possibility of seeking nomination for election, or the election, of such candidate, except that a political committee that receives contributions or makes expenditures to promote more than 1 candidate may not be designated as an authorized committee for purposes of subparagraph (A);

"(iii) the term 'national committee' means the organization which, by virtue of the bylaws of a political party,

is responsible for the day-to-day operation of such political party at the national level;

"(iv) the term 'national Federal campaign committee' means an organization that, by virtue of the bylaws of a political party, is established primarily for the purpose of providing assistance, at the national level, to candidates nominated by that party for election to the office of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress;

"(v) the term 'State committee' means the organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of such political party at the State level;

"(vi) the term 'political party' means an association, committee, or organization that nominates a candidate for election to any Federal or State elected office whose name appears on the election ballot as the candidate of such association, committee, or organization; and

"(vii) the term 'State' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.".

SEC. 6. PAY LEVEL.

Section 207(c)(2)(A)(ii) of title 18, United States Code, is amended by striking "level V of the Executive Schedule," and inserting "level 5 of the Senior Executive Service,".

Approved August 6, 1996.

LEGISLATIVE HISTORY—H.R. 3235 (S. 699):

HOUSE REPORTS: No. 104–595, Pt. 1 (Comm. on the Judiciary).
SENATE REPORTS: No. 104–244 accompanying S. 699 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD, Vol. 142 (1996):
June 4, considered and passed House.
July 24, considered and passed Senate.

Public Law 104–180
104th Congress

An Act

Making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1997, and for other purposes.

Aug. 6, 1996
[H.R. 3603]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1997, and for other purposes, namely:

Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1997.

TITLE I

AGRICULTURAL PROGRAMS

PRODUCTION, PROCESSING, AND MARKETING

OFFICE OF THE SECRETARY

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Office of the Secretary of Agriculture, and not to exceed $75,000 for employment under 5 U.S.C. 3109, $2,836,000: *Provided,* That not to exceed $11,000 of this amount, along with any unobligated balances of representation funds in the Foreign Agricultural Service shall be available for official reception and representation expenses, not otherwise provided for, as determined by the Secretary: *Provided,* That none of the funds appropriated or otherwise made available by this Act may be used to pay the salaries and expenses of personnel of the Department of Agriculture to carry out section 793(c)(1)(C) of Public Law 104–127: *Provided further,* That none of the funds made available by this Act may be used to enforce section 793(d) of Public Law 104–127.

EXECUTIVE OPERATIONS

CHIEF ECONOMIST

For necessary expenses of the Chief Economist, including economic analysis, risk assessment, cost-benefit analysis, and the functions of the World Agricultural Outlook Board, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1622g), and including employment pursuant to the second sentence of section 706(a)

of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed $5,000 is for employment under 5 U.S.C. 3109, $4,231,000.

NATIONAL APPEALS DIVISION

For necessary expenses of the National Appeals Division, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed $25,000 is for employment under 5 U.S.C. 3109, $11,718,000.

OFFICE OF BUDGET AND PROGRAM ANALYSIS

For necessary expenses of the Office of Budget and Program Analysis, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed $5,000 is for employment under 5 U.S.C. 3109, $5,986,000.

CHIEF FINANCIAL OFFICER

For necessary expenses of the Office of the Chief Financial Officer, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed $10,000 is for employment under 5 U.S.C. 3109, $4,283,000: *Provided,* That the Chief Financial Officer shall actively market cross-servicing activities of the National Finance Center.

OFFICE OF THE ASSISTANT SECRETARY FOR ADMINISTRATION

For necessary salaries and expenses of the Office of the Assistant Secretary for Administration to carry out the programs funded in this Act, $613,000.

AGRICULTURE BUILDINGS AND FACILITIES AND RENTAL PAYMENTS

(INCLUDING TRANSFERS OF FUNDS)

For payment of space rental and related costs pursuant to Public Law 92–313, including authorities pursuant to the 1984 delegation of authority from the Administrator of General Services to the Department of Agriculture under 40 U.S.C. 486, for programs and activities of the Department which are included in this Act, and for the operation, maintenance, and repair of Agriculture buildings, $120,548,000: *Provided,* That in the event an agency within the Department should require modification of space needs, the Secretary of Agriculture may transfer a share of that agency's appropriation made available by this Act to this appropriation, or may transfer a share of this appropriation to that agency's appropriation, but such transfers shall not exceed 5 percent of the funds made available for space rental and related costs to or from this account. In addition, for construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities as necessary to carry out the programs of the Department, where not otherwise provided, $23,505,000, to remain available until expended; making a total appropriation of $144,053,000.

HAZARDOUS WASTE MANAGEMENT

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Department of Agriculture, to comply with the requirement of section 107(g) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. 9607(g), and section 6001 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6961, $15,700,000, to remain available until expended: *Provided,* That appropriations and funds available herein to the Department for Hazardous Waste Management may be transferred to any agency of the Department for its use in meeting all requirements pursuant to the above Acts on Federal and non-Federal lands.

DEPARTMENTAL ADMINISTRATION

(INCLUDING TRANSFERS OF FUNDS)

For Departmental Administration, $30,529,000, to provide for necessary expenses for management support services to offices of the Department and for general administration and disaster management of the Department, repairs and alterations, and other miscellaneous supplies and expenses not otherwise provided for and necessary for the practical and efficient work of the Department, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed $10,000 is for employment under 5 U.S.C. 3109: *Provided,* That this appropriation shall be reimbursed from applicable appropriations in this Act for travel expenses incident to the holding of hearings as required by 5 U.S.C. 551–558.

OFFICE OF THE ASSISTANT SECRETARY FOR CONGRESSIONAL RELATIONS

(INCLUDING TRANSFERS OF FUNDS)

For necessary salaries and expenses of the Office of the Assistant Secretary for Congressional Relations to carry out the programs funded in this Act, including programs involving intergovernmental affairs and liaison within the executive branch, $3,668,000: *Provided,* That no other funds appropriated to the Department in this Act shall be available to the Department for support of activities of congressional relations: *Provided further,* That not less than $2,241,000 shall be transferred to agencies funded in this Act to maintain personnel at the agency level.

OFFICE OF COMMUNICATIONS

For necessary expenses to carry on services relating to the coordination of programs involving public affairs, for the dissemination of agricultural information, and the coordination of information, work, and programs authorized by Congress in the Department, $8,138,000, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed $10,000 shall be available for employment under 5 U.S.C. 3109, and not to exceed $2,000,000 may be used for farmers' bulletins.

OFFICE OF THE INSPECTOR GENERAL

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Office of the Inspector General, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and the Inspector General Act of 1978, as amended, $63,028,000, including such sums as may be necessary for contracting and other arrangements with public agencies and private persons pursuant to section 6(a)(9) of the Inspector General Act of 1978, as amended, including a sum not to exceed $50,000 for employment under 5 U.S.C. 3109; and including a sum not to exceed $95,000 for certain confidential operational expenses including the payment of informants, to be expended under the direction of the Inspector General pursuant to Public Law 95–452 and section 1337 of Public Law 97–98: *Provided,* That funds transferred to the Office of the Inspector General through forfeiture proceedings or from the Department of Justice Assets Forfeiture Fund or the Department of the Treasury Forfeiture Fund, as a participating agency, as an equitable share from the forfeiture of property in investigations in which the Office of the Inspector General participates, or through the granting of a Petition for Remission or Mitigation, shall be deposited to the credit of this account for law enforcement activities authorized under the Inspector General Act of 1978, as amended, to remain available until expended.

OFFICE OF THE GENERAL COUNSEL

For necessary expenses of the Office of the General Counsel, $27,749,000.

OFFICE OF THE UNDER SECRETARY FOR RESEARCH, EDUCATION AND ECONOMICS

For necessary salaries and expenses of the Office of the Under Secretary for Research, Education and Economics to administer the laws enacted by the Congress for the Economic Research Service, the National Agricultural Statistics Service, the Agricultural Research Service, and the Cooperative State Research, Education, and Extension Service, $540,000.

ECONOMIC RESEARCH SERVICE

For necessary expenses of the Economic Research Service in conducting economic research and analysis, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1621–1627) and other laws, $53,109,000: *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225).

NATIONAL AGRICULTURAL STATISTICS SERVICE

For necessary expenses of the National Agricultural Statistics Service in conducting statistical reporting and service work, including crop and livestock estimates, statistical coordination and improvements, marketing surveys, and the Census of Agriculture notwithstanding 13 U.S.C. 142(a–b), as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1621–1627) and other laws,

$100,221,000, of which up to $17,500,000 shall be available until expended for the Census of Agriculture: *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $40,000 shall be available for employment under 5 U.S.C. 3109.

AGRICULTURAL RESEARCH SERVICE

For necessary expenses to enable the Agricultural Research Service to perform agricultural research and demonstration relating to production, utilization, marketing, and distribution (not otherwise provided for); home economics or nutrition and consumer use including the acquisition, preservation, and dissemination of agricultural information; and for acquisition of lands by donation, exchange, or purchase at a nominal cost not to exceed $100, $716,826,000: *Provided,* That appropriations hereunder shall be available for temporary employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $115,000 shall be available for employment under 5 U.S.C. 3109: *Provided further,* That appropriations hereunder shall be available for the operation and maintenance of aircraft and the purchase of not to exceed one for replacement only: *Provided further,* That appropriations hereunder shall be available pursuant to 7 U.S.C. 2250 for the construction, alteration, and repair of buildings and improvements, but unless otherwise provided the cost of constructing any one building shall not exceed $250,000, except for headhouses or greenhouses which shall each be limited to $1,000,000, and except for ten buildings to be constructed or improved at a cost not to exceed $500,000 each, and the cost of altering any one building during the fiscal year shall not exceed 10 percent of the current replacement value of the building or $250,000, whichever is greater: *Provided further,* That the limitations on alterations contained in this Act shall not apply to modernization or replacement of existing facilities at Beltsville, Maryland: *Provided further,* That the foregoing limitations shall not apply to replacement of buildings needed to carry out the Act of April 24, 1948 (21 U.S.C. 113a): *Provided further,* That funds may be received from any State, other political subdivision, organization, or individual for the purpose of establishing or operating any research facility or research project of the Agricultural Research Service, as authorized by law: *Provided further,* That all rights and title of the United States in the property known as the National Agricultural Water Quality Laboratory of the United States Department of Agriculture, consisting of approximately 9.161 acres in the city of Durant, Oklahoma, including facilities and fixed equipment, shall be conveyed to Southeastern Oklahoma State University.

7 USC 2254.

7 USC 2254.

Public lands. Southeastern Oklahoma State University.

None of the funds in the foregoing paragraph shall be available to carry out research related to the production, processing or marketing of tobacco or tobacco products.

BUILDINGS AND FACILITIES

For acquisition of land, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities as necessary to carry out the agricultural research programs of the Department of Agriculture, where not otherwise provided,

$69,100,000, to remain available until expended (7 U.S.C. 2209b): *Provided,* That funds may be received from any State, other political subdivision, organization, or individual for the purpose of establishing any research facility of the Agricultural Research Service, as authorized by law.

COOPERATIVE STATE RESEARCH, EDUCATION, AND EXTENSION SERVICE

RESEARCH AND EDUCATION ACTIVITIES

For payments to agricultural experiment stations, for cooperative forestry and other research, for facilities, and for other expenses, including $168,734,000 to carry into effect the provisions of the Hatch Act (7 U.S.C. 361a–361i); $20,497,000 for grants for cooperative forestry research (16 U.S.C. 582a–582–a7); $27,735,000 for payments to the 1890 land-grant colleges, including Tuskegee University (7 U.S.C. 3222); $49,767,000 for special grants for agricultural research (7 U.S.C. 450i(c)); $11,769,000 for special grants for agricultural research on improved pest control (7 U.S.C. 450i(c)); $94,203,000 for competitive research grants (7 U.S.C. 450i(b)); $4,775,000 for the support of animal health and disease programs (7 U.S.C. 3195); $650,000 for supplemental and alternative crops and products (7 U.S.C. 3319d); $500,000 for grants for research pursuant to the Critical Agricultural Materials Act of 1984 (7 U.S.C. 178) and section 1472 of the Food and Agriculture Act of 1977, as amended (7 U.S.C. 3318), to remain available until expended; $475,000 for rangeland research grants (7 U.S.C. 3331–3336); $3,000,000 for higher education graduate fellowships grants (7 U.S.C. 3152(b)(6)), to remain available until expended (7 U.S.C. 2209b); $4,000,000 for higher education challenge grants (7 U.S.C. 3152(b)(1)); $1,000,000 for a higher education minority scholars program (7 U.S.C. 3152(b)(5)), to remain available until expended (7 U.S.C. 2209b); $1,500,000 for an education grants program for Hispanic-serving Institutions (7 U.S.C. 3241); $4,000,000 for aquaculture grants (7 U.S.C. 3322); $8,000,000 for sustainable agriculture research and education (7 U.S.C. 5811); $9,200,000 for a program of capacity building grants (7 U.S.C. 3152(b)(4)) to colleges eligible to receive funds under the Act of August 30, 1890 (7 U.S.C. 321–326 and 328), including Tuskegee University, to remain available until expended (7 U.S.C. 2209b); $1,450,000 for payments to the 1994 Institutions pursuant to section 534(a)(1) of Public Law 103–382; and $10,249,000 for necessary expenses of Research and Education Activities, of which not to exceed $100,000 shall be for employment under 5 U.S.C. 3109; in all, $421,504,000.

None of the funds in the foregoing paragraph shall be available to carry out research related to the production, processing or marketing of tobacco or tobacco products.

NATIVE AMERICAN INSTITUTIONS ENDOWMENT FUND

For establishment of a Native American institutions endowment fund, as authorized by Public Law 130–382 (7 U.S.C. 301 note), $4,600,000.

BUILDINGS AND FACILITIES

For acquisition of land, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities and for grants to States and other eligible recipients for such purposes, as necessary to carry out the agricultural research, extension, and teaching programs of the Department of Agriculture, where not otherwise provided, $61,591,000, to remain available until expended (7 U.S.C. 2209b).

EXTENSION ACTIVITIES

Payments to States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, Micronesia, Northern Marianas, and American Samoa: For payments for cooperative extension work under the Smith-Lever Act, as amended, to be distributed under sections 3(b) and 3(c) of said Act, and under section 208(c) of Public Law 93–471, for retirement and employees' compensation costs for extension agents and for costs of penalty mail for cooperative extension agents and State extension directors, $268,493,000; $2,000,000 for extension work at the 1994 Institutions under the Smith-Lever Act (7 U.S.C. 343(b)(3)); payments for the nutrition and family education program for low-income areas under section 3(d) of the Act, $58,695,000; payments for the pest management program under section 3(d) of the Act, $10,783,000; payments for the farm safety program under section 3(d) of the Act, $2,855,000; payments for the pesticide impact assessment program under section 3(d) of the Act, $3,214,000; payments to upgrade 1890 land-grant college research, extension, and teaching facilities as authorized by section 1447 of Public Law 95–113, as amended (7 U.S.C. 3222b), $7,549,000, to remain available until expended; payments for the rural development centers under section 3(d) of the Act, $908,000; payments for a groundwater quality program under section 3(d) of the Act, $10,733,000; payments for the agricultural telecommunications program, as authorized by Public Law 101–624 (7 U.S.C. 5926), $1,167,000; payments for youth-at-risk programs under section 3(d) of the Act, $9,554,000; payments for a food safety program under section 3(d) of the Act, $2,365,000; payments for carrying out the provisions of the Renewable Resources Extension Act of 1978, $3,192,000; payments for Indian reservation agents under section 3(d) of the Act, $1,672,000; payments for sustainable agriculture programs under section 3(d) of the Act, $3,309,000; payments for rural health and safety education as authorized by section 2390 of Public Law 101–624 (7 U.S.C. 2661 note, 2662), $2,628,000; payments for cooperative extension work by the colleges receiving the benefits of the second Morrill Act (7 U.S.C. 321–326, 328) and Tuskegee University, $24,337,000; and for Federal administration and coordination including administration of the Smith-Lever Act, as amended, and the Act of September 29, 1977 (7 U.S.C. 341–349), as amended, and section 1361(c) of the Act of October 3, 1980 (7 U.S.C. 301 note), and to coordinate and provide program leadership for the extension work of the Department and the several States and insular possessions, $12,066,000; in all, $425,520,000: *Provided,* That funds hereby appropriated pursuant to section 3(c) of the Act of June 26, 1953, and section 506 of the Act of June 23, 1972, as amended, shall not be paid to any State, the District of Columbia, Puerto Rico, Guam, or the Virgin Islands, Micronesia, Northern Marianas, and

American Samoa prior to availability of an equal sum from non-Federal sources for expenditure during the current fiscal year.

OFFICE OF THE ASSISTANT SECRETARY FOR MARKETING AND REGULATORY PROGRAMS

For necessary salaries and expenses of the Office of the Assistant Secretary for Marketing and Regulatory Programs to administer programs under the laws enacted by the Congress for the Animal and Plant Health Inspection Service, Agricultural Marketing Service, and the Grain Inspection, Packers and Stockyards Administration, $618,000.

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For expenses, not otherwise provided for, including those pursuant to the Act of February 28, 1947, as amended (21 U.S.C. 114b–c), necessary to prevent, control, and eradicate pests and plant and animal diseases; to carry out inspection, quarantine, and regulatory activities; to discharge the authorities of the Secretary of Agriculture under the Act of March 2, 1931 (46 Stat. 1468; 7 U.S.C. 426–426b); and to protect the environment, as authorized by law, $434,909,000, of which $4,500,000 shall be available for the control of outbreaks of insects, plant diseases, animal diseases and for control of pest animals and birds to the extent necessary to meet emergency conditions: *Provided,* That no funds shall be used to formulate or administer a brucellosis eradication program for the current fiscal year that does not require minimum matching by the States of at least 40 percent: *Provided further,* That this appropriation shall be available for field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $40,000 shall be available for employment under 5 U.S.C. 3109: *Provided further,* That this appropriation shall be available for the operation and maintenance of aircraft and the purchase of not to exceed four, of which two shall be for replacement only: *Provided further,* That, in addition, in emergencies which threaten any segment of the agricultural production industry of this country, the Secretary may transfer from other appropriations or funds available to the agencies or corporations of the Department such sums as he may deem necessary, to be available only in such emergencies for the arrest and eradication of contagious or infectious disease or pests of animals, poultry, or plants, and for expenses in accordance with the Act of February 28, 1947, as amended, and section 102 of the Act of September 21, 1944, as amended, and any unexpended balances of funds transferred for such emergency purposes in the next preceding fiscal year shall be merged with such transferred amounts: *Provided further,* That appropriations hereunder shall be available pursuant to law (7 U.S.C. 2250) for the repair and alteration of leased buildings and improvements, but unless otherwise provided the cost of altering any one building during the fiscal year shall not exceed 10 percent of the current replacement value of the building.

21 USC 129.

In fiscal year 1997 the agency is authorized to collect fees to cover the total costs of providing technical assistance, goods, or services requested by States, other political subdivisions, domestic and international organizations, foreign governments, or individuals, provided that such fees are structured such that any entity's liability for such fees is reasonably based on the technical assistance, goods, or services provided to the entity by the agency, and such fees shall be credited to this account, to remain available until expended, without further appropriation, for providing such assistance, goods, or services.

Of the total amount available under this heading in fiscal year 1997, $98,000,000 shall be derived from user fees deposited in the Agricultural Quarantine Inspection User Fee Account.

BUILDINGS AND FACILITIES

For plans, construction, repair, preventive maintenance, environmental support, improvement, extension, alteration, and purchase of fixed equipment or facilities, as authorized by 7 U.S.C. 2250, and acquisition of land as authorized by 7 U.S.C. 428a, $3,200,000, to remain available until expended.

AGRICULTURAL MARKETING SERVICE

MARKETING SERVICES

For necessary expenses to carry on services related to consumer protection, agricultural marketing and distribution, transportation, and regulatory programs, as authorized by law, and for administration and coordination of payments to States; including field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $90,000 for employment under 5 U.S.C. 3109, $38,507,000, including funds for the wholesale market development program for the design and development of wholesale and farmer market facilities for the major metropolitan areas of the country: *Provided*, That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but the cost of altering any one building during the fiscal year shall not exceed 10 percent of the current replacement value of the building.

Fees may be collected for the cost of standardization activities, as established by regulation pursuant to law (31 U.S.C. 9701).

LIMITATION ON ADMINISTRATIVE EXPENSES

Not to exceed $59,012,000 (from fees collected) shall be obligated during the current fiscal year for administrative expenses: *Provided,* That if crop size is understated and/or other uncontrollable events occur, the agency may exceed this limitation by up to 10 percent with notification to the Appropriations Committees.

FUNDS FOR STRENGTHENING MARKETS, INCOME, AND SUPPLY (SECTION 32)

(INCLUDING TRANSFERS OF FUNDS)

Funds available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c) shall be used only for commodity program expenses as authorized therein, and other related operating

expenses, except for: (1) transfers to the Department of Commerce as authorized by the Fish and Wildlife Act of August 8, 1956; (2) transfers otherwise provided in this Act; and (3) not more than $10,576,000 for formulation and administration of marketing agreements and orders pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and the Agricultural Act of 1961.

PAYMENTS TO STATES AND POSSESSIONS

For payments to departments of agriculture, bureaus and departments of markets, and similar agencies for marketing activities under section 204(b) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1623(b)), $1,200,000.

GRAIN INSPECTION, PACKERS AND STOCKYARDS ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of the United States Grain Standards Act, as amended, for the administration of the Packers and Stockyards Act, for certifying procedures used to protect purchasers of farm products, and the standardization activities related to grain under the Agricultural Marketing Act of 1946, as amended, including field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $25,000 for employment under 5 U.S.C. 3109, $23,128,000: *Provided,* That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but the cost of altering any one building during the fiscal year shall not exceed 10 percent of the current replacement value of the building.

INSPECTION AND WEIGHING SERVICES

LIMITATION ON INSPECTION AND WEIGHING SERVICE EXPENSES

Not to exceed $43,207,000 (from fees collected) shall be obligated during the current fiscal year for inspection and weighing services: *Provided,* That if grain export activities require additional supervision and oversight, or other uncontrollable factors occur, this limitation may be exceeded by up to 10 percent with notification to the Appropriations Committees.

OFFICE OF THE UNDER SECRETARY FOR FOOD SAFETY

For necessary salaries and expenses of the Office of the Under Secretary for Food Safety to administer the laws enacted by the Congress for the Food Safety and Inspection Service, $446,000.

FOOD SAFETY AND INSPECTION SERVICE

For necessary expenses to carry on services authorized by the Federal Meat Inspection Act, as amended, the Poultry Products Inspection Act, as amended, and the Egg Products Inspection Act, as amended, $574,000,000, and in addition, $1,000,000 may be credited to this account from fees collected for the cost of laboratory accreditation as authorized by section 1017 of Public Law 102–237: *Provided,* That this appropriation shall not be available for

shell egg surveillance under section 5(d) of the Egg Products Inspection Act (21 U.S.C. 1034(d)): *Provided further,* That this appropriation shall be available for field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $75,000 shall be available for employment under 5 U.S.C. 3109: *Provided further,* That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but the cost of altering any one building during the fiscal year shall not exceed 10 percent of the current replacement value of the building.

OFFICE OF THE UNDER SECRETARY FOR FARM AND FOREIGN AGRICULTURAL SERVICES

For necessary salaries and expenses of the Office of the Under Secretary for Farm and Foreign Agricultural Services to administer the laws enacted by Congress for the Farm Service Agency, Foreign Agricultural Service, and the Commodity Credit Corporation, $572,000.

FARM SERVICE AGENCY

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses for carrying out the administration and implementation of programs administered by the Farm Service Agency, $746,440,000: *Provided,* That the Secretary is authorized to use the services, facilities, and authorities (but not the funds) of the Commodity Credit Corporation to make program payments for all programs administered by the Agency: *Provided further,* That other funds made available to the Agency for authorized activities may be advanced to and merged with this account: *Provided further,* That these funds shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $1,000,000 shall be available for employment under 5 U.S.C. 3109.

STATE MEDIATION GRANTS

For grants pursuant to section 502(b) of the Agricultural Credit Act of 1987, as amended (7 U.S.C. 5101–5106), $2,000,000.

DAIRY INDEMNITY PROGRAM

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses involved in making indemnity payments to dairy farmers for milk or cows producing such milk and manufacturers of dairy products who have been directed to remove their milk or dairy products from commercial markets because it contained residues of chemicals registered and approved for use by the Federal Government, and in making indemnity payments for milk, or cows producing such milk, at a fair market value to any dairy farmer who is directed to remove his milk from commercial markets because of (1) the presence of products of nuclear radiation or fallout if such contamination is not due to the fault of the farmer, or (2) residues of chemicals or toxic substances

not included under the first sentence of the Act of August 13, 1968, as amended (7 U.S.C. 450j), if such chemicals or toxic substances were not used in a manner contrary to applicable regulations or labeling instructions provided at the time of use and the contamination is not due to the fault of the farmer, $100,000, to remain available until expended (7 U.S.C. 2209b): *Provided,* That none of the funds contained in this Act shall be used to make indemnity payments to any farmer whose milk was removed from commercial markets as a result of his willful failure to follow procedures prescribed by the Federal Government: *Provided further,* That this amount shall be transferred to the Commodity Credit Corporation: *Provided further,* That the Secretary is authorized to utilize the services, facilities, and authorities of the Commodity Credit Corporation for the purpose of making dairy indemnity disbursements.

OUTREACH FOR SOCIALLY DISADVANTAGED FARMERS

For grants and contracts pursuant to section 2501 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279), $1,000,000, to remain available until expended.

AGRICULTURAL CREDIT INSURANCE FUND PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For gross obligations for the principal amount of direct and guaranteed loans as authorized by 7 U.S.C. 1928–1929, to be available from funds in the Agricultural Credit Insurance Fund, as follows: farm ownership loans, $600,000,000, of which $550,000,000 shall be for guaranteed loans; operating loans, $2,345,071,000, of which $1,700,000,000 shall be for unsubsidized guaranteed loans and $200,000,000 shall be for subsidized guaranteed loans; Indian tribe land acquisition loans as authorized by 25 U.S.C. 488, $1,000,000; for emergency insured loans, $25,000,000 to meet the needs resulting from natural disasters; for boll weevil eradication program loans as authorized by 7 U.S.C. 1989, $34,653,000; and for credit sales of acquired property, $25,000,000.

For the cost of direct and guaranteed loans, including the cost of modifying loans as defined in section 502 of the Congressional Budget Act of 1974, as follows: farm ownership loans, $27,975,000, of which $22,055,000 shall be for guaranteed loans; operating loans, $96,840,000, of which $19,210,000 shall be for unsubsidized guaranteed loans and $18,480,000 shall be for subsidized guaranteed loans; Indian tribe land acquisition loans as authorized by 25 U.S.C. 488, $54,000; for emergency insured loans, $6,365,000 to meet the needs resulting from natural disasters for boll weevil eradication program loans as authorized by 7 U.S.C. 1989, $499,000; and for credit sales of acquired property, $2,530,000.

In addition, for administrative expenses necessary to carry out the direct and guaranteed loan programs, $221,046,000, of which $208,446,000 shall be transferred to and merged with the "Farm Service Agency, Salaries and Expenses" account.

OFFICE OF RISK MANAGEMENT

For administrative and operating expenses, as authorized by the Federal Agriculture Improvement and Reform Act of 1996 (7

U.S.C. 6933), $64,000,000: *Provided,* That not to exceed $700 shall be available for official reception and representation expenses, as authroized by 7 U.S.C. 1506(i).

CORPORATIONS

The following corporations and agencies are hereby authorized to make expenditures, within the limits of funds and borrowing authority available to each such corporation or agency and in accord with law, and to make contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs set forth in the budget for the current fiscal year for such corporation or agency, except as hereinafter provided.

FEDERAL CROP INSURANCE CORPORATION FUND

For payments as authorized by section 516 of the Federal Crop Insurance Act, as amended, such sums as may be necessary, to remain available until expended (7 U.S.C. 2209b).

COMMODITY CREDIT CORPORATION FUND

REIMBURSEMENT FOR NET REALIZED LOSSES

For fiscal year 1997, such sums as may be necessary to reimburse the Commodity Credit Corporation for net realized losses sustained, but not previously reimbursed (estimated to be $1,500,000,000 in the President's fiscal year 1997 Budget Request (H. Doc. 104–162)), but not to exceed $1,500,000,000, pursuant to section 2 of the Act of August 17, 1961, as amended (15 U.S.C. 713a–11).

OPERATIONS AND MAINTENANCE FOR HAZARDOUS WASTE MANAGEMENT

For fiscal year 1997, the Commodity Credit Corporation shall not expend more than $5,000,000 for expenses to comply with the requirement of section 107(g) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. 9607(g), and section 6001 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6961: *Provided,* That expenses shall be for operations and maintenance costs only and that other hazardous waste management costs shall be paid for by the USDA Hazardous Waste Management appropriation in this Act.

TITLE II

CONSERVATION PROGRAMS

OFFICE OF THE UNDER SECRETARY FOR NATURAL RESOURCES AND ENVIRONMENT

For necessary salaries and expenses of the Office of the Under Secretary for Natural Resources and Environment to administer the laws enacted by the Congress for the Forest Service and the Natural Resources Conservation Service, $693,000.

NATURAL RESOURCES CONSERVATION SERVICE

CONSERVATION OPERATIONS

For necessary expenses for carrying out the provisions of the Act of April 27, 1935 (16 U.S.C. 590a–590f) including preparation of conservation plans and establishment of measures to conserve soil and water (including farm irrigation and land drainage and such special measures for soil and water management as may be necessary to prevent floods and the siltation of reservoirs and to control agricultural related pollutants); operation of conservation plant materials centers; classification and mapping of soil; dissemination of information; acquisition of lands, water, and interests therein for use in the plant materials program by donation, exchange, or purchase at a nominal cost not to exceed $100 pursuant to the Act of August 3, 1956 (7 U.S.C. 428a); purchase and erection or alteration or improvement of permanent and temporary buildings; and operation and maintenance of aircraft, $619,742,000, to remain available until expended (7 U.S.C. 2209b), of which not less than $5,835,000 is for snow survey and water forecasting and not less than $8,825,000 is for operation and establishment of the plant materials centers: *Provided,* That appropriations hereunder shall be available pursuant to 7 U.S.C. 2250 for construction and improvement of buildings and public improvements at plant materials centers, except that the cost of alterations and improvements to other buildings and other public improvements shall not exceed $250,000: *Provided further,* That when buildings or other structures are erected on non-Federal land, that the right to use such land is obtained as provided in 7 U.S.C. 2250a: *Provided further,* That this appropriation shall be available for technical assistance and related expenses to carry out programs authorized by section 202(c) of title II of the Colorado River Basin Salinity Control Act of 1974, as amended (43 U.S.C. 1592(c)): *Provided further,* That no part of this appropriation may be expended for soil and water conservation operations under the Act of April 27, 1935 (16 U.S.C. 590a–590f) in demonstration projects: *Provided further,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225) and not to exceed $25,000 shall be available for employment under 5 U.S.C. 3109: *Provided further,* That qualified local engineers may be temporarily employed at per diem rates to perform the technical planning work of the Service (16 U.S.C. 590e–2).

WATERSHED SURVEYS AND PLANNING

For necessary expenses to conduct research, investigation, and surveys of watersheds of rivers and other waterways, and for small watershed investigations and planning, in accordance with the Watershed Protection and Flood Prevention Act approved August 4, 1954, as amended (16 U.S.C. 1001–1009), $12,381,000: *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $110,000 shall be available for employment under 5 U.S.C. 3109.

WATERSHED AND FLOOD PREVENTION OPERATIONS

For necessary expenses to carry out preventive measures, including but not limited to research, engineering operations, methods of cultivation, the growing of vegetation, rehabilitation of existing works and changes in use of land, in accordance with the Watershed Protection and Flood Prevention Act approved August 4, 1954, as amended (16 U.S.C. 1001–1005, 1007–1009), the provisions of the Act of April 27, 1935 (16 U.S.C. 590a–f), and in accordance with the provisions of laws relating to the activities of the Department, $101,036,000, to remain available until expended (7 U.S.C. 2209b) (of which up to $15,000,000 may be available for the watersheds authorized under the Flood Control Act approved June 22, 1936 (33 U.S.C. 701, 16 U.S.C. 1006a), as amended and supplemented: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $200,000 shall be available for employment under 5 U.S.C. 3109: *Provided further*, That not to exceed $1,000,000 of this appropriation is available to carry out the purposes of the Endangered Species Act of 1973 (Public Law 93–205), as amended, including cooperative efforts as contemplated by that Act to relocate endangered or threatened species to other suitable habitats as may be necessary to expedite project construction.

RESOURCE CONSERVATION AND DEVELOPMENT

For necessary expenses in planning and carrying out projects for resource conservation and development and for sound land use pursuant to the provisions of section 32(e) of title III of the Bankhead-Jones Farm Tenant Act, as amended (7 U.S.C. 1010–1011; 76 Stat. 607), the Act of April 27, 1935 (16 U.S.C. 590a–f), and the Agriculture and Food Act of 1981 (16 U.S.C. 3451–3461), $29,377,000, to remain available until expended (7 U.S.C. 2209b): *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $50,000 shall be available for employment under 5 U.S.C. 3109.

FORESTRY INCENTIVES PROGRAM

For necessary expenses, not otherwise provided for, to carry out the program of forestry incentives, as authorized in the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2101), including technical assistance and related expenses, $6,325,000, to remain available until expended, as authorized by that Act.

TITLE III

RURAL ECONOMIC AND COMMUNITY DEVELOPMENT PROGRAMS

OFFICE OF THE UNDER SECRETARY FOR RURAL DEVELOPMENT

For necessary salaries and expenses of the Office of the Under Secretary for Rural Development to administer programs under the laws enacted by the Congress for the Rural Housing Service,

Rural Business-Cooperative Service, and the Rural Utilities Service of the Department of Agriculture, $588,000.

RURAL HOUSING SERVICE

RURAL HOUSING INSURANCE FUND PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For gross obligations for the principal amount of direct and guaranteed loans as authorized by title V of the Housing Act of 1949, as amended, to be available from funds in the rural housing insurance fund, as follows: $3,300,000,000 for loans to section 502 borrowers, as determined by the Secretary, of which $2,300,000,000 shall be for unsubsidized guaranteed loans; $35,000,000 for section 504 housing repair loans; $15,000,000 for section 514 farm labor housing; $58,654,000 for section 515 rental housing; $600,000 for section 524 site loans; $50,000,000 for credit sales of acquired property; and $600,000 for section 523 self-help housing land development loans.

For the cost of direct and guaranteed loans, including the cost of modifying loans, as defined in section 502 of the Congressional Budget Act of 1974, as follows: section 502 loans, $89,210,000, of which $6,210,000 shall be for unsubsidized guaranteed loans; section 504 housing repair loans, $11,081,000; section 514 farm labor housing, $6,885,000; section 515 rental housing, $28,987,000; credit sales of acquired property, $4,050,000; and section 523 self-help housing land development loans, $17,000.

In addition, for administrative expenses necessary to carry out the direct and guaranteed loan programs, $366,205,000, which shall be transferred to and merged with the appropriation for "Rural Housing Service, Salaries and Expenses".

RENTAL ASSISTANCE PROGRAM

For rental assistance agreements entered into or renewed pursuant to the authority under section 521(a)(2) or agreements entered into in lieu of debt forgiveness or payments for eligible households as authorized by section 502(c)(5)(D) of the Housing Act of 1949, as amended, $493,870,000; and in addition such sums as may be necessary, as authorized by section 521(c) of the Act, to liquidate debt incurred prior to fiscal year 1992 to carry out the rental assistance program under section 521(a)(2) of the Act: *Provided,* That of this amount not more than $5,900,000 shall be available for debt forgiveness or payments for eligible households as authorized by section 502(c)(5)(D) of the Act, and not to exceed $10,000 per project for advances to nonprofit organizations or public agencies to cover direct costs (other than purchase price) incurred in purchasing projects pursuant to section 502(c)(5)(C) of the Act: *Provided further,* That agreements entered into or renewed during fiscal year 1997 shall be funded for a five-year period, although the life of any such agreement may be extended to fully utilize amounts obligated.

MUTUAL AND SELF-HELP HOUSING GRANTS

For grants and contracts pursuant to section 523(b)(1)(A) of the Housing Act of 1949 (42 U.S.C. 1490c), $26,000,000, to remain available until expended (7 U.S.C. 2209b).

RURAL HOUSING ASSISTANCE PROGRAM

(INCLUDING TRANSFERS OF FUNDS)

For the cost of direct loans, loan guarantees, agreements, and grants, as authorized by 7 U.S.C. 1926, 42 U.S.C. 1472, 1474, 1479, 1486, and 1490(a), except for sections 381E, 381H, 381N of the Consolidated Farm and Rural Development Act, $130,433,000, to remain available until expended, for direct loans and loan guarantees for community facilities, community facilities grant program, rental assistance associated with and direct loans for new construction of section 515 rental housing, rural housing for domestic farm labor grants, supervisory and technical assistance grants, very low-income housing repair grants, rural community fire protection grants, rural housing preservation grants, and compensation for construction defects of the Rural Housing Service: *Provided,* That the cost of direct loans and loan guarantees shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: *Provided further,* That the amounts appropriated shall be transferred to loan program and grant accounts as determined by the Secretary: *Provided further,* That of the funds made available in this paragraph not more than $1,200,000 shall be available for the multi-family rural housing loan guarantee program as authorized by section 5 of Public Law 104–120: *Provided further,* That if such funds are not obligated for multi-family rural housing loan guarantees by June 30, 1997, they remain available for other authorized purposes under this head: *Provided further,* That of the total amount appropriated, not to exceed $1,200,000 shall be available for the cost of direct loans, loan guarantees, and grants to be made available for empowerment zones and enterprise communities as authorized by Public Law 103–66: *Provided further,* That if such funds are not obligated for empowerment zones and enterprise communities by June 30, 1997, they remain available for other authorized purposes under this head.

SALARIES AND EXPENSES

For necessary expenses of the Rural Housing Service, including administering the programs authorized by the Consolidated Farm and Rural Development Act, as amended, title V of the Housing Act of 1949, as amended, and cooperative agreements, $60,743,000: *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of 706(a) of the Organic Act of 1944, and not to exceed $520,000 may be used for employment under 5 U.S.C. 3109.

RURAL BUSINESS-COOPERATIVE SERVICE

RURAL DEVELOPMENT LOAN FUND PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For the cost of direct loans, $17,270,000, as authorized by the Rural Development Loan Fund (42 U.S.C. 9812(a)): *Provided,* That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further,* That these funds are available to subsidize gross obligations for the principal amount of direct loans of $37,544,000: *Provided further,* That through June 30, 1997, of the total amount appropriated $3,345,000 shall be available for the cost of direct loans, for empowerment zones and enterprise communities, as authorized by title XIII of the Omnibus Budget Reconciliation Act of 1993, to subsidize gross obligations for the principal amount of direct loans, $7,246,000.

RURAL ECONOMIC DEVELOPMENT LOANS PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For the principal amount of direct loans, as authorized under section 313 of the Rural Electrification Act, for the purpose of promoting rural economic development and job creation projects, $12,865,000.

For the cost of direct loans, including the cost of modifying loans as defined in section 502 of the Congressional Budget Act of 1974, $2,830,000. In addition, for administrative expenses necessary to carry out the direct loan program, $654,000, which shall be transferred to and merged with the appropriation for "Salaries and Expenses.".

ALTERNATIVE AGRICULTURAL RESEARCH AND COMMERCIALIZATION REVOLVING FUND

For necessary expenses to carry out the Alternative Agricultural Research and Commercialization Act of 1990 (7 U.S.C. 5901–5908), $7,000,000 is appropriated to the alternative agricultural research and commercialization revolving fund.

RURAL BUSINESS—COOPERATIVE ASSISTANCE PROGRAM

(INCLUDING TRANSFERS OF FUNDS)

For the cost of direct loans, loan guarantees, and grants, as authorized by 7 U.S.C. 1926, 1928, and 1932, except for 381E, 381H, 381N of the Consolidated Farm and Rural Development Act, $51,400,000, to remain available until expended, for direct loans and loan guarantees for business and industry assistance, rural business grants, rural cooperative development grants, and rural business opportunity grants of the Rural Business—Cooperative Service: *Provided,* That the cost of direct loans and loan guarantees shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: *Provided further,* That $500,000 shall be available for grants to qualified nonprofit organizations as authorized under section 310B(c)(2) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932): *Provided further,* That

the amounts appropriated shall be transferred to loan program and grant accounts as determined by the Secretary: *Provided further,* That, of the total amount appropriated, not to exceed $3,000,000 shall be available for cooperative development: *Provided further,* That, of the total amount appropriated, not to exceed $148,000 shall be available for the cost of direct loans, loan guarantees, and grants to be made available for business and industry loans for empowerment zones and enterprise communities as authorized by Public Law 103–66 and rural development loans for empowerment zones and enterprise communities as authorized by title XIII of the Omnibus Budget Reconciliation Act of 1993: *Provided further,* That if such funds are not obligated for empowerment zones and enterprise communities by June 30, 1997, they remain available for other authorized purposes under this head.

SALARIES AND EXPENSES

For necessary expenses of the Rural Business—Cooperative Service, including administering the programs authorized by the Consolidated Farm and Rural Development Act, as amended; section 1323 of the Food Security Act of 1985; the Cooperative Marketing Act of 1926; for activities relating to the marketing aspects of cooperatives, including economic research findings, as authorized by the Agricultural Marketing Act of 1946; for activities with institutions concerning the development and operation of agricultural cooperatives; and cooperative agreements; $25,680,000: *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of 706(a) of the Organic Act of 1944, and not to exceed $260,000 may be used for employment under 5 U.S.C. 3109.

RURAL UTILITIES SERVICE

RURAL ELECTRIFICATION AND TELECOMMUNICATIONS LOANS PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

Insured loans pursuant to the authority of section 305 of the Rural Electrification Act of 1936, as amended (7 U.S.C. 935), shall be made as follows: 5 percent rural electrification loans, $125,000,000, 5 percent rural telecommunications loans, $75,000,000; cost of money rural telecommunications loans, $300,000,000; municipal rate rural electric loans, $525,000,000; and loans made pursuant to section 306 of that Act, rural electric, $300,000,000, and rural telecommunications, $120,000,000, to remain available until expended.

For the cost, as defined in section 502 of the Congressional Budget Act of 1974, including the cost of modifying loans, of direct and guaranteed loans authorized by the Rural Electrification Act of 1936, as amended (7 U.S.C. 935), as follows: cost of direct loans, $4,818,000; cost of municipal rate loans, $28,245,000; cost of money rural telecommunications loans, $60,000; cost of loans guaranteed pursuant to section 306, $2,790,000: *Provided,* That notwithstanding section 305(d)(2) of the Rural Electrification Act of 1936, borrower interest rates may exceed 7 percent per year.

In addition, for administrative expenses necessary to carry out the direct and guaranteed loan programs, $29,982,000, which shall be transferred to and merged with the appropriation for "Salaries and Expenses.".

RURAL TELEPHONE BANK PROGRAM ACCOUNT

The Rural Telephone Bank is hereby authorized to make such expenditures, within the limits of funds available to such corporation in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out its authorized programs for the current fiscal year. During fiscal year 1997 and within the resources and authority available, gross obligations for the principal amount of direct loans shall be $175,000,000.

For the cost, as defined in section 502 of the Congressional Budget Act of 1974, including the cost of modifying loans, of direct loans authorized by the Rural Electrification Act of 1936, as amended (7 U.S.C. 935), $2,328,000.

In addition, for administrative expenses necessary to carry out the loan programs, $3,500,000.

DISTANCE LEARNING AND MEDICAL LINK PROGRAM

For the cost of direct loans and grants, as authorized by 7 U.S.C. 950aaa et seq., as amended, $9,000,000, to remain available until expended, to be available for loans and grants for telemedicine and distance learning services in rural areas: *Provided,* That the costs of direct loans shall be as defined in section 502 of the Congressional Budget Act of 1974.

RURAL UTILITIES ASSISTANCE PROGRAM

(INCLUDING TRANSFERS OF FUNDS)

For the cost of direct loans, loan guarantees, and grants, as authorized by 7 U.S.C. 1926, 1928, and 1932, except for 381E, 381H, 381N of the Consolidated Farm and Rural Development Act, $566,935,000, to remain available until expended, for direct loans and loan guarantees and grants for rural water and waste disposal, and solid waste management grants of the Rural Utilities Service: *Provided,* That the cost of direct loans and loan guarantees shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: *Provided further,* That the amounts appropriated shall be transferred to loan program and grant accounts as determined by the Secretary: *Provided further,* That, through June 30, 1997, of the total amount appropriated, $18,700,000 shall be available for the costs of direct loans, loan guarantees, and grants to be made available for empowerment zones and enterprise communities, as authorized by Public Law 103–66: *Provided further,* That, of the total amount appropriated, not to exceed $18,700,000 shall be for water and waste disposal systems to benefit the Colonias along the United States/Mexico border, including grants pursuant to section 306C of the Consolidated Farm and Rural Development Act, as amended: *Provided further,* That, of the total amount appropriated, not to exceed $5,200,000 shall be available for contracting with qualified national organizations for a circuit rider program

to provide technical assistance for rural water systems: *Provided further,* That an amount not less than that available in fiscal year 1996 be set aside and made available for ongoing technical assistance under sections 306(a)(14) (7 U.S.C. 1926) and 310(B)(b) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932): *Provided further,* That of the total amount appropriated, not to exceed $8,750,000 shall be for water and waste disposal systems pursuant to section 757 of Public Law 104–127: *Provided further,* That notwithstanding section 306(a)(7) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(7)), the town of Berlin, New Hampshire, shall be eligible during fiscal year 1997 for a grant under the rural utilities assistance program.

SALARIES AND EXPENSES

For necessary expenses of the Rural Utilities Service, including administering the programs authorized by the Rural Electrification Act of 1936, as amended, and the Consolidated Farm and Rural Development Act, as amended, and cooperative agreements, $33,195,000: *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of 706(a) of the Organic Act of 1944, and not to exceed $105,000 may be used for employment under 5 U.S.C. 3109.

TITLE IV

DOMESTIC FOOD PROGRAMS

OFFICE OF THE UNDER SECRETARY FOR FOOD, NUTRITION AND CONSUMER SERVICES

For necessary salaries and expenses of the Office of the Under Secretary for Food, Nutrition and Consumer Services to administer the laws enacted by the Congress for the Food and Consumer Service, $454,000.

CHILD NUTRITION PROGRAMS

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to carry out the National School Lunch Act (42 U.S.C. 1751–1769b), except section 21, and the Child Nutrition Act of 1966 (42 U.S.C. 1772–1785, and 1789); except sections 17 and 19; $8,653,297,000, to remain available through September 30, 1998, of which $3,219,544,000 is hereby appropriated and $5,433,753,000 shall be derived by transfer from funds available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c): *Provided,* That not to exceed $1,000,000 of the funds made available under this heading shall be used for studies and evaluations: *Provided further,* That up to $4,031,000 shall be available for independent verification of school food service claims.

SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC)

For necessary expenses to carry out the special supplemental nutrition program as authorized by section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), $3,729,807,000, to remain available through September 30, 1998: *Provided,* That none of the funds

made available under this heading may be used to begin more than two studies and evaluations: *Provided further,* That up to $6,750,000 may be used to carry out the farmers' market nutrition program from any funds not needed to maintain current caseload levels: *Provided further,* That once the amount for fiscal year 1996 carryover funds has been determined by the Secretary, any funds in excess of $100,000,000 may be transferred by the Secretary of Agriculture to the Rural Utilities Assistance Program and/or to the Rural Housing Insurance Fund for the cost of direct section 502 loans, including the cost of modifying loans, as defined in section 502 of the Congressional Budget Act of 1974: *Provided further,* That none of the funds in this Act shall be available to pay administrative expenses of WIC clinics except those that have an announced policy of prohibiting smoking within the space used to carry out the program: *Provided further,* That none of the funds provided in this account shall be available for the purchase of infant formula except in accordance with the cost containment and competitive bidding requirements specified in section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786): *Provided further,* That State agencies required to procure infant formula using a competitive bidding system may use funds appropriated by this Act to purchase infant formula under a cost containment contract entered into after September 30, 1996 only if the contract was awarded to the bidder offering the lowest net price, as defined by section 17(b)(20) of the Child Nutrition Act of 1966, unless the State agency demonstrates to the satisfaction of the Secretary that the weighted average retail price for different brands of infant formula in the State does not vary by more than five percent.

FOOD STAMP PROGRAM

For necessary expenses to carry out the Food Stamp Act (7 U.S.C. 2011 et seq.), $27,618,029,000: *Provided,* That funds provided herein shall remain available through September 30, 1997, in accordance with section 18(a) of the Food Stamp Act: *Provided further,* That $100,000,000 of the foregoing amount shall be placed in reserve for use only in such amounts and at such times as may become necessary to carry out program operations: *Provided further,* That not to exceed $3,000,000 of the funds made available under this heading shall be used for studies and evaluations: *Provided further,* That funds provided herein shall be expended in accordance with section 16 of the Food Stamp Act: *Provided further,* That this appropriation shall be subject to any work registration or workfare requirements as may be required by law: *Provided further,* That $1,174,000,000 of the foregoing amount shall be available for nutrition assistance for Puerto Rico as authorized by 7 U.S.C. 2028.

COMMODITY ASSISTANCE PROGRAM

For necessary expenses to carry out the commodity supplemental food program as authorized by section 4(a) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c (note)), the Emergency Food Assistance Act of 1983, as amended, and section 110 of the Hunger Prevention Act of 1988, $166,000,000, to remain available through September 30, 1998: *Provided,* That none of these funds shall be available to reimburse the Commodity Credit Corporation for commodities donated to the program.

FOOD DONATIONS PROGRAMS FOR SELECTED GROUPS

For necessary expenses to carry out section 4(a) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c (note)), and section 311 of the Older Americans Act of 1965, as amended (42 U.S.C. 3030a), $141,250,000, to remain available through September 30, 1998.

FOOD PROGRAM ADMINISTRATION

For necessary administrative expenses of the domestic food programs funded under this Act, $106,128,000, of which $5,000,000 shall be available only for simplifying procedures, reducing overhead costs, tightening regulations, improving food stamp coupon handling, and assistance in the prevention, identification, and prosecution of fraud and other violations of law: *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $150,000 shall be available for employment under 5 U.S.C. 3109.

TITLE V

FOREIGN ASSISTANCE AND RELATED PROGRAMS

FOREIGN AGRICULTURAL SERVICE AND GENERAL SALES MANAGER

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Foreign Agricultural Service, including carrying out title VI of the Agricultural Act of 1954, as amended (7 U.S.C. 1761–1768), market development activities abroad, and for enabling the Secretary to coordinate and integrate activities of the Department in connection with foreign agricultural work, including not to exceed $128,000 for representation allowances and for expenses pursuant to section 8 of the Act approved August 3, 1956 (7 U.S.C. 1766), $135,561,000, of which $3,231,000 may be transferred from the Export Loan Program account in this Act, and $1,035,000 may be transferred from the Public Law 480 program account in this Act: *Provided,* That the Service may utilize advances of funds, or reimburse this appropriation for expenditures made on behalf of Federal agencies, public and private organizations and institutions under agreements executed pursuant to the agricultural food production assistance programs (7 U.S.C. 1736) and the foreign assistance programs of the International Development Cooperation Administration (22 U.S.C. 2392).

None of the funds in the foregoing paragraph shall be available to promote the sale or export of tobacco or tobacco products.

PUBLIC LAW 480 PROGRAM AND GRANT ACCOUNTS

(INCLUDING TRANSFERS OF FUNDS)

For expenses during the current fiscal year, not otherwise recoverable, and unrecovered prior years' costs, including interest thereon, under the Agricultural Trade Development and Assistance Act of 1954, as amended (7 U.S.C. 1691, 1701–1715, 1721–1726, 1727–1727f, 1731–1736g), as follows: (1) $226,900,000 for Public Law 480 title I credit, including Food for Progress programs; (2)

$13,905,000 is hereby appropriated for ocean freight differential costs for the shipment of agricultural commodities pursuant to title I of said Act and the Food for Progress Act of 1985, as amended; (3) $837,000,000 is hereby appropriated for commodities supplied in connection with dispositions abroad pursuant to title II of said Act; and (4) $29,500,000 is hereby appropriated for commodities supplied in connection with dispositions abroad pursuant to title III of said Act: *Provided,* That not to exceed 15 percent of the funds made available to carry out any title of said Act may be used to carry out any other title of said Act: *Provided further,* That such sums shall remain available until expended (7 U.S.C. 2209b).

For the cost, as defined in section 502 of the Congressional Budget Act of 1974, of direct credit agreements as authorized by the Agricultural Trade Development and Assistance Act of 1954, as amended, and the Food for Progress Act of 1985, as amended, including the cost of modifying credit agreements under said Act, $185,589,000.

In addition, for administrative expenses to carry out the Public Law 480 title I credit program, and the Food for Progress Act of 1985, as amended, to the extent funds appropriated for Public Law 480 are utilized, $1,780,000.

COMMODITY CREDIT CORPORATION EXPORT LOANS PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For administrative expenses to carry out the Commodity Credit Corporation's export guarantee program, GSM 102 and GSM 103, $3,820,000; to cover common overhead expenses as permitted by section 11 of the Commodity Credit Corporation Charter Act and in conformity with the Federal Credit Reform Act of 1990, of which not to exceed $3,231,000 may be transferred to and merged with the appropriation for the salaries and expenses of the Foreign Agricultural Service, and of which not to exceed $589,000 may be transferred to and merged with the appropriation for the salaries and expenses of the Farm Service Agency.

EXPORT CREDIT

The Commodity Credit Corporation shall make available not less than $5,500,000,000 in credit guarantees under its export credit guarantee program extended to finance the export sales of United States agricultural commodities and the products thereof, as authorized by section 202 (a) and (b) of the Agricultural Trade Act of 1978 (7 U.S.C. 5641).

TITLE VI

RELATED AGENCIES AND FOOD AND DRUG ADMINISTRATION

DEPARTMENT OF HEALTH AND HUMAN SERVICES

FOOD AND DRUG ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Food and Drug Administration, including hire and purchase of passenger motor vehicles; for rental of special purpose space in the District of Columbia or elsewhere; and for miscellaneous and emergency expenses of enforcement activities, authorized and approved by the Secretary and to be accounted for solely on the Secretary's certificate, not to exceed $25,000; $907,499,000, of which not to exceed $87,528,000 in fees pursuant to section 736 of the Federal Food, Drug, and Cosmetic Act may be credited to this appropriation and remain available until expended: *Provided,* That fees derived from applications received during fiscal year 1997 shall be subject to the fiscal year 1997 limitation: *Provided further,* That none of these funds shall be used to develop, establish, or operate any program of user fees authorized by 31 U.S.C. 9701.

In addition, fees pursuant to section 354 of the Public Health Service Act may be credited to this account, to remain available until expended.

In addition, fees pursuant to section 801 of the Federal Food, Drug, and Cosmetic Act may be credited to this account, to remain available until expended.

GENERAL PROVISIONS

SEC. 601. EFFECTIVE MEDICATION GUIDES.— 21 USC 353 note.

(a) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the Secretary of the Department of Health and Human Services shall request that national organizations representing health care professionals, consumer organizations, voluntary health agencies, the pharmaceutical industry, drug wholesalers, patient drug information database companies, and other relevant parties collaborate to develop a long-range comprehensive action plan to achieve goals consistent with the goals of the proposed rule of the Food and Drug Administration on "Prescription Drug Product Labeling: Medication Guide Requirements" (60 Fed. Reg. 44182; relating to the provision of oral and written prescription information to consumers).

(b) GOALS.—Goals consistent with the proposed rule described in subsection (a) are the distribution of useful written information to 75 percent of individuals receiving new precriptions by the year 2000 and to 95 percent by the year 2006.

(c) PLAN.—The plan described in subsection (a) shall—

(1) identify the plan goals;

(2) assess the effectiveness of the current private-sector approaches used to provide oral and written prescription information to consumers;

Guidelines.

(3) develop guidelines for providing effective oral and written prescription information consistent with the findings of any such assessment;

(4) contain elements necessary to ensure the transmittal of useful information to the consuming public, including being scientifically accurate, non-promotional in tone and content, sufficiently specific and comprehensive as to adequately inform consumers about the use of the product, and in an understandable, legible format that is readily comprehensible and not confusing to consumers expected to use the product.

(5) develop a mechanism to assess periodically the quality of the oral and written prescription information and the frequency with which the information is provided to consumers; and

(6) provide for compliance with relevant State board regulations.

(d) LIMITATION ON THE AUTHORITY OF THE SECRETARY.—The Secretary of the Department of Health and Human Services shall have no authority to implement the proposed rule described in subsection (a), or to develop any similar regulation, policy statement, or other guideline specifying a uniform content or format for written information voluntarily provided to consumers about prescription drugs if, (1) not later than 120 days after the date of enactment of this Act, the national organizations described in subsection (a) develop and submit to the Secretary for Health and Human Services a comprehensive, long-range action plan (as described in subsection (a)) which shall be acceptable to the Secretary of Health and Human Services; (2) the aforementioned plan is submitted to the Secretary of Health and Human Services for review and acceptance: *Provided,* That the Secretary shall give due consideration to the submitted plan and that any such acceptance shall not be arbitrarily withheld; and (3) the implementation of (a) a plan accepted by the Secretary commences within 30 days of the Secretary's acceptance of such plan, or (b) the plan submitted to the Secretary commences within 60 days of the submission of such plan if the Secretary fails to take any action on the plan within 30 days of the submission of the plan. The Secretary shall accept, reject or suggest modifications to the plan submitted within 30 days of its submission. The Secretary may confer with and assist private parties in the development of the plan described in subsections (a) and (b).

(e) SECRETARY REVIEW.—Not later than January 1, 2001, the Secretary of the Department of Health and Human Services shall review the status of private-sector initiatives designed to achieve the goals of the plan described in subsection (a), and if such goals are not achieved, the limitation in subsection (d) shall not apply, and the Secretary shall seek public comment on other initiatives that may be carried out to meet such goals.

SEC. 602. Section 3 of the Saccharin Study and Labeling Act (21 U.S.C 348 note) is amended by striking out "May 1, 1997" and inserting in lieu thereof "May 1, 2002".

SEC. 603. AMENDMENTS TO THE FEDERAL FOOD, DRUG, AND COSMETIC ACT.—

(a) IMPORTS FOR EXPORT.—Section 801(d)(3) of the Federal Food, Drug, and Cosmetic Act is amended— 21 USC 381.

(1) by striking "accessory of a device which is ready" and inserting "accessory of a device, or other article of device requiring further processing, which is ready";

(2) in subparagraph (A), by striking "is intended to be" and inserting "is intended to be further processed by the initial owner or consignee, or"; and

(3) in subparagraph (C)—

(A) by striking "part," and inserting "part, article,"; and

(B) by striking "incorporated" and inserting "incorporated or further processed".

(b) LABELING OF EXPORTED DRUGS.—Section 801(f) of the Federal Food, Drug, and Cosmetic Act is amended— 21 USC 381.

(1) in paragraph (1), by striking "If a drug" and inserting "If a drug (other than insulin, an antibiotic drug, an animal drug, or a drug exported under section 802)"; and

(2) in paragraph (2), by adding at the end the following new sentence: "A drug exported under section 802 is exempt from this section.".

(c) EXPORT OF CERTAIN UNAPPROVED DRUGS AND DEVICES.—Section 802(f)(5) of the Federal Food, Drug, and Cosmetic Act is amended by striking "if the drug or device is not labeled" and inserting "if the labeling of the drug or device is not". 21 USC 382.

BUILDINGS AND FACILITIES

For plans, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities of or used by the Food and Drug Administration, where not otherwise provided, $21,350,000, to remain available until expended (7 U.S.C. 2209b).

RENTAL PAYMENTS (FDA)

(INCLUDING TRANSFERS OF FUNDS)

For payment of space rental and related costs pursuant to Public Law 92–313 for programs and activities of the Food and Drug Administration which are included in this Act, $46,294,000: *Provided,* That in the event the Food and Drug Administration should require modification of space needs, a share of the salaries and expenses appropriation may be transferred to this appropriation, or a share of this appropriation may be transferred to the salaries and expenses appropriation, but such transfers shall not exceed 5 percent of the funds made available for rental payments (FDA) to or from this account.

DEPARTMENT OF THE TREASURY

FINANCIAL MANAGEMENT SERVICE

PAYMENTS TO THE FARM CREDIT SYSTEM FINANCIAL ASSISTANCE CORPORATION

For necessary payments to the Farm Credit System Financial Assistance Corporation by the Secretary of the Treasury, as authorized by section 6.28(c) of the Farm Credit Act of 1971, as amended, for reimbursement of interest expenses incurred by the Financial

Assistance Corporation on obligations issued through 1994, as authorized $10,290,000.

INDEPENDENT AGENCIES

COMMODITY FUTURES TRADING COMMISSION

For necessary expenses to carry out the provisions of the Commodity Exchange Act, as amended (7 U.S.C. 1 et seq.), including the purchase and hire of passenger motor vehicles; the rental of space (to include multiple year leases) in the District of Columbia and elsewhere; and not to exceed $25,000 for employment under 5 U.S.C. 3109; $55,101,000, including not to exceed $1,000 for official reception and representation expenses: *Provided,* That the Commission is authorized to charge reasonable fees to attendees of Commission sponsored educational events and symposia to cover the Commission's costs of providing those events and symposia, and notwithstanding 31 U.S.C. 3302, said fees shall be credited to this account, to be available without further appropriation.

FARM CREDIT ADMINISTRATION

LIMITATION ON ADMINISTRATIVE EXPENSES

Not to exceed $37,478,000 (from assessments collected from farm credit institutions and from the Federal Agricultural Mortgage Corporation) shall be obligated during the current fiscal year for administrative expenses as authorized under 12 U.S.C. 2249: *Provided,* That this limitation shall not apply to expenses associated with receiverships.

TITLE VII—GENERAL PROVISIONS

SEC. 701. Within the unit limit of cost fixed by law, appropriations and authorizations made for the Department of Agriculture for the fiscal year 1997 under this Act shall be available for the purchase, in addition to those specifically provided for, of not to exceed 667 passenger motor vehicles, of which 643 shall be for replacement only, and for the hire of such vehicles.

SEC. 702. Funds in this Act available to the Department of Agriculture shall be available for uniforms or allowances therefore as authorized by law (5 U.S.C. 5901–5902).

7 USC 1623a.

SEC. 703. Not less than $1,500,000 of the appropriations of the Department of Agriculture in this Act for research and service work authorized by the Acts of August 14, 1946, and July 28, 1954 (7 U.S.C. 427, 1621–1629), and by chapter 63 of title 31, United States Code, shall be available for contracting in accordance with said Acts and chapter.

SEC. 704. The cumulative total of transfers to the Working Capital Fund for the purpose of accumulating growth capital for data services and National Finance Center operations shall not exceed $2,000,000: *Provided,* That no funds in this Act appropriated to an agency of the Department shall be transferred to the Working Capital Fund without the approval of the agency administrator.

7 USC 2209b.

SEC. 705. New obligational authority provided for the following appropriation items in this Act shall remain available until expended (7 U.S.C. 2209b): Animal and Plant Health Inspection Service, the contingency fund to meet emergency conditions, fruit

fly program, and integrated systems acquisition project; Farm Service Agency, salaries and expenses funds made available to county committees; and Foreign Agricultural Service, middle-income country training program.

New obligational authority for the boll weevil program; up to 10 percent of the screwworm program of the Animal and Plant Health Inspection Service; Food Safety and Inspection Service, field automation and information management project; funds appropriated for rental payments; funds for the Native American institutions endowment fund in the Cooperative State Research, Education, and Extension Service, and funds for the competitive research grants (7 U.S.C. 450i(b)), shall remain available until expended.

SEC. 706. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 707. Not to exceed $50,000 of the appropriations available to the Department of Agriculture in this Act shall be available to provide appropriate orientation and language training pursuant to Public Law 94–449.

SEC. 708. No funds appropriated by this Act may be used to pay negotiated indirect cost rates on cooperative agreements or similar arrangements between the United States Department of Agriculture and nonprofit institutions in excess of 10 percent of the total direct cost of the agreement when the purpose of such cooperative arrangements is to carry out programs of mutual interest between the two parties. This does not preclude appropriate payment of indirect costs on grants and contracts with such institutions when such indirect costs are computed on a similar basis for all agencies for which appropriations are provided in this Act.

SEC. 709. Notwithstanding any other provision of this Act, commodities acquired by the Department in connection with Commodity Credit Corporation and section 32 price support operations may be used, as authorized by law (15 U.S.C. 714c and 7 U.S.C. 612c), to provide commodities to individuals in cases of hardship as determined by the Secretary of Agriculture. 7 USC 612c note.

SEC. 710. None of the funds in this Act shall be available to reimburse the General Services Administration for payment of space rental and related costs in excess of the amounts specified in this Act; nor shall this or any other provision of law require a reduction in the level of rental space or services below that of fiscal year 1996 or prohibit an expansion of rental space or services with the use of funds otherwise appropriated in this Act. Further, no agency of the Department of Agriculture, from funds otherwise available, shall reimburse the General Services Administration for payment of space rental and related costs provided to such agency at a percentage rate which is greater than is available in the case of funds appropriated in this Act.

SEC. 711. None of the funds in this Act shall be available to restrict the authority of the Commodity Credit Corporation to lease space for its own use or to lease space on behalf of other agencies of the Department of Agriculture when such space will be jointly occupied.

SEC. 712. With the exception of grants awarded under the Small Business Innovation Development Act of 1982, Public Law 97–219, as amended (15 U.S.C. 638), none of the funds in this Act shall be available to pay indirect costs on research grants

awarded competitively by the Cooperative State Research, Education, and Extension Service that exceed 14 percent of total Federal funds provided under each award.

SEC. 713. Notwithstanding any other provisions of this Act, all loan levels provided in this Act shall be considered estimates, not limitations.

SEC. 714. Appropriations to the Department of Agriculture for the cost of direct and guaranteed loans made available in fiscal year 1997 shall remain available until expended to cover obligations made in fiscal year 1997 for the following accounts: the rural development loan fund program account; the Rural Telephone Bank program account; the rural electrification and telecommunications loans program account; and the rural economic development loans program account.

SEC. 715. Such sums as may be necessary for fiscal year 1997 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

SEC. 716. (a) COMPLIANCE WITH BUY AMERICAN ACT.—None of the funds made available in this Act may be expended by an entity unless the entity agrees that in expending the funds the entity will comply with sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a–10c; popularly known as the "Buy American Act").

(b) SENSE OF CONGRESS; REQUIREMENT REGARDING NOTICE.—

(1) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—In the case of any equipment or product that may be authorized to be purchased with financial assistance provided using funds made available in this Act, it is the sense of the Congress that entities receiving the assistance should, in expending the assistance, purchase only American-made equipment and products.

(2) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance using funds made available in this Act, the head of each Federal agency shall provide to each recipient of the assistance a notice describing the statement made in paragraph (1) by the Congress.

(c) PROHIBITION OF CONTRACTS WITH PERSONS FALSELY LABELING PRODUCTS AS MADE IN AMERICA.—If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a "Made in America" inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, the person shall be ineligible to receive any contract or subcontract made with funds made available in this Act, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

SEC. 717. Notwithstanding the Federal Grant and Cooperative Agreement Act, marketing services of the Agricultural Marketing Service and the Animal and Plant Health Inspection Service may use cooperative agreements to reflect a relationship between Agricultural Marketing Service or the Animal and Plant Health Inspection Service and a State or Cooperator to carry out agricultural marketing programs or to carry out programs to protect the Nation's animal and plant resources.

SEC. 718. None of the funds in this Act may be used to retire more than 5% of the Class A stock of the Rural Telephone Bank or to maintain any account or subaccount within the accounting

records of the Rural Telephone Bank the creation of which has not specifically been authorized by statute: *Provided,* That notwithstanding any other provision of law, none of the funds appropriated or otherwise made available in this Act may be used to transfer to the Treasury or to the Federal Financing Bank any unobligated balance of the Rural Telephone Bank telephone liquidating account which is in excess of current requirements and such balance shall receive interest as set forth for financial accounts in section 505(c) of the Federal Credit Reform Act of 1990.

SEC. 719. None of the funds appropriated or otherwise made available by this Act may be used to provide food stamp benefits to households whose benefits are calculated using a standard deduction greater than the standard deduction in effect for fiscal year 1995.

SEC. 720. None of the funds made available in this Act may be used to provide assistance to, or to pay the salaries of personnel who carry out a market promotion/market access program pursuant to section 203 of the Agricultural Trade Act of 1978 (7 U.S.C. 5623) that provides assistance to the United States Mink Export Development Council or any mink industry trade association.

SEC. 721. None of the funds appropriated or otherwise made available by this Act, or made available through the Commodity Credit Corporation, shall be used to enroll in excess of 130,000 acres in the fiscal year 1997 wetlands reserve program, as authorized by section 3837 of title 16, United States Code: *Provided,* That additional acreage may be enrolled in the program to the extent that non-Federal funds available to the Secretary are used to fully compensate for the cost of additional enrollments: *Provided further,* That the condition on enrollments provided in section 1237(b)(2)(B) of the Food Security Act of 1985, as amended (16 U.S.C. 3837(b)(2)(B)) shall be deemed met upon the enrollment of 43,333 acres through the use of temporary easements: *Provided further,* That the Secretary shall not enroll acres in the wetlands reserve program through the use of new permanent easements in fiscal year 1998 until the Secretary has enrolled at least 31,667 acres in the program through the use of temporary easements.

SEC. 722. Of the funds made available by this Act, not more than $1,000,000 shall be used to cover necessary expenses of activities related to all advisory committees, panels, commissions, and task forces of the Department of Agriculture except for panels used to comply with negotiated rule makings and panels used to evaluate competitively awarded grants.

SEC. 723. None of the funds appropriated or otherwise made available by this Act shall be used to pay the salaries and expenses of personnel who carry out an export enhancement program if the aggregate amount of funds and/or commodities under such program exceeds $100,000,000.

SEC. 724. None of the funds appropriated or otherwise made available by this Act shall be used to pay the salaries and expenses of personnel who carry out a farmland protection program in excess of $2,000,000 authorized by section 388 of Public Law 104–127.

SEC. 725. None of the funds appropriated or otherwise made available by this Act shall be used to pay the salaries and expenses of personnel who carry out a conservation farm option program in excess of $2,000,000 authorized by section 335 of Public Law 104–127.

SEC. 726. None of the funds made available in this Act may be used to pay the salaries of employees of the Department of Agriculture who make payments pursuant to a production flexibility contract entered into under section 111 of the Federal Agriculture Improvement and Reform Act of 1996 (Public Law 104–127; 7 U.S.C. 7211) when it is made known to the Federal official having authority to obligate or expend such funds that the land covered by that production flexibility contract is not being used for the production of an agricultural commodity or is not devoted to a conserving use, unless it is also made known to that Federal official that the lack of agricultural production or the lack of a conserving use is a consequence of drought, flood, or other natural disaster.

SEC. 727. None of the funds appropriated or otherwise made available by this Act shall be used to extend any existing or expiring contract in the Conservation Reserve Program authorized by 16 U.S.C. 3831–3845.

SEC. 728. None of the funds appropriated in this Act may be used to carry out the provisions of section 918 of Public Law 104–127, the Federal Agriculture Improvement and Reform Act.

7 USC 2272a.

SEC. 729. Hereafter, funds appropriated to the Department of Agriculture may be used for incidental expenses such as transportation, uniforms, lodging, and subsistence for volunteers serving under the authority of 7 U.S.C. 2272, when such volunteers are engaged in the work of the United States Department of Agriculture; and for promotional items of nominal value relating to the United States Department of Agriculture Volunteer Programs.

SEC. 730. No employee of the Department of Agriculture may be detailed or assigned from an agency or office funded by this Act to any other agency or office of the Department for more than 30 days unless the individual's employing agency or office is fully reimbursed by the receiving agency or office for the salary and expenses of the employee for the period of assignment.

Ante, p. 1125.

SEC. 731. Section 747 of the Federal Agriculture Improvement and Reform Act of 1996 is amended by inserting, "effective October 1, 1996," following "The Secretary shall make grants" in section 310B(e)(2) of the Consolidated Farm and Rural Development Act: *Provided,* That this section shall take effect upon enactment of this Act into law.

Effective date.

SEC. 732. LABELING OF RAW POULTRY PRODUCTS.—

(a) IN GENERAL.—Notwithstanding any other provision of law, none of the funds appropriated or otherwise made available by this Act may be used to implement or enforce the final rule related to the labeling of raw poultry products promulgated by the Food Safety and Inspection Service on August 25, 1995 (60 Fed. Reg. 44395), and the final rule shall not be effective during fiscal year 1997.

(b) FINAL RULE.—Not later than 90 days after the date of enactment of this Act, the Secretary of Agriculture shall issue a revised final rule related to the labeling of raw poultry products that—

(1) maintains the standard that the term "fresh" may be used only for raw poultry products the internal core temperature of which has not fallen below 26° Fahrenheit;

(2) deletes the requirement that poultry products the internal core temperature of which has ever been less than 26° Fahrenheit, but more than 0° Fahrenheit, be labeled as "hard chilled" or "previously hard chilled", except that—

(A) the products shall be prohibited under the rule from being labeled as "fresh" but shall not be required to bear any specific alternative labeling; and

(B) nothing in this section shall be interpreted as modifying the requirements for labeling of all poultry products the internal core temperature of which has ever fallen to 0° Fahrenheit as "frozen";

(3) provides for a tolerance from the 26° Fahrenheit standard established by the rule of—

(A) 1° Fahrenheit for poultry products within an official processing establishment;

(B) 2° Fahrenheit for poultry products in commerce;

(4) exempts from temperature testing wings, tenders, hearts, livers, gizzards, necks, and products that undergo special processing, such as sliced poultry products; and

(5) in all other terms and conditions (including the period of time permitted for implementation) is substantively identical to the rule referred to in subsection (a).

(c) REVISED LABELING STANDARDS.—Not later than 60 days after the issuance of a revised final rule under subsection (b), the Secretary of Agriculture, acting through the Administrator of the Food Safety and Inspection Service, shall issue a compliance directive for the enforcement of the revised labeling standards established by the rule, including standards for—

(1) temperature testing that are based on measurements at the center of the deepest muscle; and

(2) sampling methods that ensure that the average of individual temperatures within poultry product lots of each specific product type (such as whole birds, whole muscle leg products, and whole muscle breast products) meet the standards.

(d) SEVERABILITY.—If any provision of this section or the application thereof to any person or circumstance is held invalid, the validity of the remainder of this section and of the application of the provision to any other persons or circumstances shall not be affected.

21 USC 342 note.

SEC. 733. Hereafter, notwithstanding any other provision of law, any domestic fish or fish product produced in compliance with food safety standards or procedures accepted by the Food and Drug Administration as satisfying the requirements of the "Procedures for the Safe and Sanitary Processing and Importing of Fish and Fish Products" (published by the Food and Drug Administration as a final regulation in the Federal Register of December 18, 1995), shall be deemed to have met any inspection requirements of the Department of Agriculture or other Federal agency for any Federal commodity purchase program, including the program authorized under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c) except that the Department of Agriculture or other Federal agency may utilize lot inspection to establish a reasonable degree of certainty that fish or fish products purchased under a Federal commodity purchase program, including the program authorized under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), meet Federal product specifications.

SEC. 734. Rural Housing Program Extensions.—

(a) EXTENSION OF MULTIFAMILY RURAL HOUSING LOAN PROGRAM.—

(1) AUTHORITY TO MAKE LOANS.—Section 515(b)(4) of the Housing Act of 1949 (42 U.S.C. 1485(b)(4)) is amended by striking "September 30, 1996" and inserting "September 30, 1997".

(2) SET-ASIDE FOR NONPROFIT ENTITIES.—The first sentence of section 515(w)(1) of the Housing Act of 1949 (42 U.S.C. 1485(w)(1)) is amended by striking "fiscal year 1996" and inserting "fiscal year 1997".

(b) EXTENSION OF HOUSING IN UNDERSERVED AREAS PROGRAM.—The first sentence of section 509(f)(4)(A) of the Housing Act of 1949 (42 U.S.C. 1479(f)(4)(A)) is amended by striking "fiscal year 1996" and inserting "fiscal year 1997".

(c) REFORMS FOR MULTIFAMILY RURAL HOUSING LOAN PROGRAM.—

(1) LIMITATION ON PROJECT TRANSFERS.—Section 515 of the Housing Act of 1949 (42 U.S.C. 1485) is amended by inserting after subsection (g) the following new subsection:

"(h) PROJECT TRANSFERS.—After the date of the enactment of the Act entitled 'An Act making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1997, and for other purposes', the ownership or control of a project for which a loan is made or insured under this section may be transferred only if the Secretary determines that such transfer would further the provision of housing and related facilities for low-income families or persons and would be in the best interests of residents and the Federal Government.".

(2) EQUITY LOANS.—Section 515(t) of the Housing Act of 1949 (42 U.S.C. 1485(t)) is amended—

(A) by striking paragraphs (4) and (5); and

(B) by redesignating paragraphs (6) through (8) as paragraphs (4) through (6), respectively.

(3) EQUITY TAKEOUT LOANS TO EXTEND LOW-INCOME USE.—

(A) AUTHORITY AND LIMITATION.—Section 502(c)(4)(B)(iv) of the Housing Act of 1949 (42 U.S.C. 1472(c)(4)(B)(iv)) is amended by inserting before the period at the end the following: "or under paragraphs (1) and (2) of section 514(j), except that an equity loan referred to in this clause may not be made available after the date of the enactment of the Act entitled 'An Act making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1997, and for other purposes', unless the Secretary determines that the other incentives available under this subparagraph are not adequate to provide a fair return on the investment of the borrower, to prevent prepayment of the loan insured under section 514 or 515, or to prevent the displacement of tenants of the housing for which the loan was made".

(B) APPROVAL OF ASSISTANCE.—Section 502(c)(4)(C) of the Housing Act of 1949 (42 U.S.C. 1472(c)(4)(C)) is amended by striking "(C)" and all that follows through "provided—" and inserting the following:

"(C) APPROVAL OF ASSISTANCE.—The Secretary may approve assistance under subparagraph (B) for assisted housing only if the restrictive period has expired for any loan for the housing made or insured under section 514 or 515 pursuant to a contract

entered into after December 21, 1979, but before the date of the enactment of the Department of Housing and Urban Development Reform Act of 1989, and the Secretary determines that the combination of assistance provided—".

(C) TECHNICAL CORRECTION.—Section 515(c)(1) of the Housing Act of 1949 (42 U.S.C. 1485(c)(1)) is amended by striking "December 21, 1979" and inserting "December 15, 1989".

(d) REFORM OF SECTION 515.—Section 515 of the Housing Act of 1949 (42 U.S.C. 1485) is amended—

(1) by striking subsection (r) and inserting the following:

"(r)(1) the Secretary—

"(A) may require that the initial operating reserve under this section may be in the form of an irrevocable letter of credit; and

"(B) except as provided in paragraph (2), may require not more than a 3 percent contribution to equity, except that the Secretary shall require a 5 percent contribution in the case of a project that is allocated a low-income housing tax credit pursuant to section 42 of the Internal Revenue Code of 1986.

"(2) The Secretary may adjust the amount of equity contribution to ensure that assistance provided is not more than is necessary to provide affordable housing after taking account of assistance from all Federal, State, and local sources.

"(3) Not later than 60 days after the date of enactment of the Act entitled 'An Act making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1997, and for other purposes', the Secretary shall issue regulations to implement subsection (r)(2) in accordance with the negotiated rulemaking procedures set forth in subchapter III of chapter 5 of title 5, United States Code: *Provided,* That if the negotiated rulemaking is not completed within the designated time, the Secretary shall proceed to promulgate regulations under the rulemaking authority contained in 5 U.S.C. 557."; and Regulations.

(2) by striking subsection (z).

(e) EQUITY SKIMMING PENALTIES.—

(1) INSURANCE OF LOANS FOR THE PROVISION OF HOUSING AND RELATED FACILITIES FOR DOMESTIC FARM LABOR.—Section 514 of the Housing Act of 1949 (42 U.S.C. 1484) is amended by adding at the end the following new subsection:

"(j) EQUITY SKIMMING PENALTY.—Whoever, as an owner, agent, or manger, or who is otherwise in custody, control, or possession of property that is security for a loan made or insured under this section willfully uses, or authorizes the use, of any part of the rents, assets, proceeds, income, or other funds derived from such property, for any purpose other than to meet actual or necessary expenses of the property, or for any other purpose not authorized by this title or the regulations adopted pursuant to this title, shall be fined not more than $250,000 or imprisoned not more than 5 years, or both.".

(2) DIRECT AND INSURED LOANS TO PROVIDE HOUSING AND RELATED FACILITIES FOR ELDERLY PERSONS AND FAMILIES IN RURAL AREAS.—Section 515 of the Housing Act of 1949 (42 U.S.C. 1485), as amended by subsection (d)(2) of this section, is amended by adding at the end the following new subsection:

"(z) EQUITY SKIMMING PENALTY.—Whoever, as an owner, agent, or manager, or who is otherwise in custody, control, or possession of property that is security for a loan made or insured under this section willfully uses, or authorizes the use, of any part of the rents, assets, proceeds, income, or other fund derived from such property, for any purpose other than to meet actual or necessary expenses of the property, or for any other purpose not authorized by this title or the regulations adopted pursuant to this title, shall be fined not more than $250,000 or imprisoned not more than 5 years, or both.".

(f) PRIORITIZATION OF ASSISTANCE.—Section 532 of the Housing Act of 1949 (42 U.S.C. 1490l) is amended—

(1) in subsection (a), by striking "The Secretary" and inserting "Except as otherwise provided in subsection (c), the Secretary"; and

(2) by adding at the end the following new subsection:

"(c) PRIORITIZATION OF SECTION 515 HOUSING ASSISTANCE.—

"(1) IN GENERAL.—The Secretary shall make assistance under section 515 available pursuant to an objective procedure established by the Secretary, under which the Secretary shall identify counties and communities having the greatest need for such assistance and designate such counties and communities to receive such assistance.

"(2) OBJECTIVE MEASURES.—The Secretary shall use the following objective measures to determine the need for rental housing assistance under paragraph (1):

"(A) The incidence of poverty.

"(B) The lack of affordable housing and the existence of substandard housing.

"(C) The lack of mortgage credit.

"(D) The rural characteristics of the location.

"(E) Other factors as determined by the Secretary, demonstrating the need for affordable housing.

"(3) INFORMATION.—In administering this subsection, the Secretary shall use information from the most recent decennial census of the United States, relevant comprehensive affordable housing strategies under section 105 of the Cranston-Gonzalez National Affordable Housing Act, and other reliable sources obtained by the Secretary which demonstrate the need for affordable housing in rural areas.

"(4) DESIGNATION.—A designation under this subsection shall not be effective for a period of more than 3 years, but may be renewed by the Secretary in accordance with the procedure set forth in this subsection. The Secretary shall take such other reasonable actions as the Secretary considers to be appropriate to notify the public of such designations.".

5 USC 5597 note.

SEC. 735. DEPARTMENT OF AGRICULTURE VOLUNTARY SEPARATION INCENTIVE PAYMENTS.—

(a) DEFINITIONS.—For the purposes of this section—

(1) the term "agency" means the Department of Agriculture;

(2) the term "employee" means an employee (as defined by section 2105 of title 5, United States Code) who is employed by the agency (or an individual employed by a county committee established under section 8(b)(5) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)(5))), is serving under an appointment without time limitation, and has been currently

employed for a continuous period of at least 3 years, but does not include—

(A) a reemployed annuitant under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, or another retirement system for employees of the agency;

(B) an employee having a disability on the basis of which such employee is or would be eligible for disability retirement under the applicable retirement system referred to in subparagraph (A);

(C) an employee who is in receipt of a specific notice of involuntary separation for misconduct or unacceptable performance;

(D) an employee who, upon completing an additional period of service as referred to in section 3(b)(2)(B)(ii) of the Federal Workforce Restructuring Act of 1994 (5 U.S.C. 5597 note), would qualify for a voluntary separation incentive payment under section 3 of such Act;

(E) an employee who has previously received any voluntary separation incentive payment by the Federal Government under this section or any other authority and has not repaid such payment;

(F) an employee covered by statutory reemployment rights who is on transfer to another organization; or

(G) any employee who, during the twenty-four month period preceding the date of separation, has received a recruitment or relocation bonus under section 5753 of title 5, United States Code, or who, within the twelve month period preceding the date of separation, received a retention allowance under section 5754 of title 5, United States Code.

(b) AGENCY STRATEGIC PLAN.—

(1) IN GENERAL.—The head of the agency, prior to obligating any resources for voluntary separation incentive payments, shall submit to the House and Senate Committees on Appropriations and the Committee on Governmental Affairs of the Senate and the Committee on Government Reform and Oversight of the House of Representatives a strategic plan outlining the intended use of such incentive payments and a proposed organizational chart for the agency once such incentive payments have been completed.

(2) CONTENTS.—The agency's plan shall include—

(A) the positions and functions to be reduced or eliminated, identified by organizational unit, geographic location, occupational category and grade level;

(B) the number and amounts of voluntary separation incentive payments to be offered; and

(C) a description of how the agency will operate without the eliminated positions and functions.

(c) AUTHORITY TO PROVIDE VOLUNTARY SEPARATION INCENTIVE PAYMENTS.—

(1) IN GENERAL.—A voluntary separation incentive payment under this section may be paid by an agency to any employee only to the extent necessary to eliminate the positions and functions identified by the strategic plan.

(2) AMOUNT AND TREATMENT OF PAYMENTS.—A voluntary separation incentive payment—

(A) shall be paid in a lump sum after the employee's separation;

(B) shall be paid from appropriations or funds available for the payment of the basic pay of the employees;

(C) shall be equal to the lesser of—

(i) an amount equal to the amount the employee would be entitled to receive under section 5595(c) of title 5, United States Code; or

(ii) an amount determined by the agency head not to exceed $25,000 in fiscal year 1997, $20,000 in fiscal year 1998, $15,000 in fiscal year 1999, or $10,000 in fiscal year 2000;

(D) shall not be a basis for payment, and shall not be included in the computation, of any other type of Government benefit; and

(E) shall not be taken into account in determining the amount of any severance pay to which the employee may be entitled under section 5595 of title 5, United States Code, based on any other separation.

(3) LIMITATION.—No amount shall be payable under this section based on any separation occurring before the date of the enactment of this Act, or after September 30, 2000.

(d) ADDITIONAL AGENCY CONTRIBUTIONS TO THE RETIREMENT FUND.—

(1) IN GENERAL.—In addition to any other payments which it is required to make under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, the agency shall remit to the Office of Personnel Management for deposit in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund an amount equal to 15 percent of the final basic pay of each employee of the agency who is covered under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, to whom a voluntary separation incentive has been paid under this section.

(2) DEFINITION.—For the purpose of paragraph (1), the term "final basic pay", with respect to an employee, means the total amount of basic pay which would be payable for a year of service by such employee, computed using the employee's final rate of basic pay, and, if last serving on other than a full-time basis, with appropriate adjustment therefor.

(e) EFFECT OF SUBSEQUENT EMPLOYMENT WITH THE GOVERNMENT.—An individual who has received a voluntary separation incentive payment under this section and accepts any employment for compensation with the Government of the United States, or who works for any agency of the United States Government through a personal services contract, within 5 years after the date of the separation on which the payment is based shall be required to pay, prior to the individual's first day of employment, the entire amount of the incentive payment to the agency that paid the incentive payment.

(f) REDUCTION OF AGENCY EMPLOYMENT LEVELS.—

(1) IN GENERAL.—The total number of funded employee positions in the agency shall be reduced by one position for each vacancy created by the separation of any employee who has received, or is due to receive, a voluntary separation incentive payment under this section. For the purposes of this subsection, positions shall be counted on a full-time-equivalent basis.

(2) ENFORCEMENT.—The President, through the Office of Management and Budget, shall monitor the agency and take any action necessary to ensure that the requirements of this subsection are met. President.

(g) EFFECTIVE DATE.—This section shall take effect October 1, 1996.

SEC. 736. Interim Moratorium on Bypass Flows.—

(a) MORATORIUM.—Section 389(a) of Public Law 104–127 is amended by striking "an 18-month" after the word "be" and inserting "a 20-month". *Ante*, p. 1021.

(b) REPORT.—Section 389(d)(4) of Public Law 104–127 is amended by striking "1 year" after the word "than" and inserting "14 months".

(c) EXTENSION FOR DELAY.—Section 389 of Public Law 104–127 is amended by adding at the end the following new subsection—

"(e) EXTENSION FOR DELAY.—There shall be a day-for-day extension to the 20-month moratorium required by subsection (a) and a day-for-day extension to the report required by subsection (d)(4)—

"(1) for every day of delay in implementing or establishing the Water Rights Task Force caused by a failure to nominate Task Force members by the Administration or by the Congress; or

"(2) for every day of delay caused by a failure by the Secretary of Agriculture to identify adequate resources as determined by the Secretary of Agriculture to carry out the purposes of the Task Force.".

TITLE VIII—SUPPLEMENTAL APPROPRIATIONS AND RESCISSION FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 1996

DEPARTMENT OF AGRICULTURE

FARM SERVICE AGENCY

AGRICULTURAL CREDIT INSURANCE FUND PROGRAM ACCOUNT

For an additional amount for the Agricultural Credit Insurance Fund Program Account for the additional cost of emergency insured loans authorized by 7 U.S.C. 1928–1929, including the cost of modifying such loans as defined in section 502 of the Congressional Budget Act of 1974, resulting from droughts in the Western United States, Hurricane Bertha, and other natural disasters, to remain available until expended, $32,244,000: *Provided,* That these funds are available to subsidize additional gross obligations for the principal amount of direct loans of $110,000,000: *Provided further,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further,* That the amount shall be available to the extent that the President notifies Congress of his designation of any or all of these amounts as an emergency requirement under section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985. President.

DEPARTMENT OF THE TREASURY

BUREAU OF ALCOHOL, TOBACCO, AND FIREARMS

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", to be used in connection with investigations of arson or violence against religious institutions, $12,011,000, to remain available until expended.

INTERNAL REVENUE SERVICE

INFORMATION SYSTEMS

(RESCISSION)

Of the funds made available under this heading in Public Law 104–52, $16,500,000 are rescinded.

This Act may be cited as the "Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1997".

Approved August 6, 1996.

LEGISLATIVE HISTORY—H.R. 3603:

HOUSE REPORTS: Nos. 104–613 (Comm. on Appropriations) and 104–726 (Comm. of Conference).
SENATE REPORTS: No. 104–317 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 142 (1996):
June 11, 12, considered and passed House.
July 22–24, considered and passed Senate, amended.
Aug. 1, House and Senate agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 32 (1996):
Aug. 6, Presidential statement.

Public Law 104–181
104th Congress

Joint Resolution

Granting the consent of Congress to the Mutual Aid Agreement between the city of Bristol, Virginia, and the city of Bristol, Tennessee.

Aug. 6, 1996
[H.J. Res. 166]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONGRESSIONAL CONSENT.

The Congress consents to the Mutual Aid Agreement entered into between the city of Bristol, Virginia, and the city of Bristol, Tennessee. The agreement reads as follows:

"THIS MUTUAL AID AGREEMENT, made and entered into by and between the CITY OF BRISTOL VIRGINIA, a municipality incorporated under the laws of the Commonwealth of Virginia (hereinafter 'Bristol Virginia'); and the CITY OF BRISTOL TENNESSEE, a municipality incorporated under the laws of the State of Tennessee (hereinafter 'Bristol Tennessee').

"WITNESSETH:

"WHEREAS, Section 15.1–131 of the Code of Virginia and Sections 6–54–307 and 12–9–101 et seq. of the Tennessee Code Annotated authorize Bristol Virginia and Bristol Tennessee to enter into an agreement providing for mutual law enforcement assistance;

"WHEREAS, the two cities desire to avail themselves of the authority conferred by these respective laws;

"WHEREAS, it is the intention of the two cities to enter into mutual assistance commitments with a pre-determined plan by which each city might render aid to the other in case of need, or in case of an emergency which demands law enforcement services to a degree beyond the existing capabilities of either city; and,

"WHEREAS, it is in the public interest of each city to enter into an agreement for mutual assistance in law enforcement to assure adequate protection for each city.

"NOW, THEREFORE, for and in consideration of the mutual promises and the benefits to be derived therefrom, the City of Bristol Virginia and the City of Bristol Tennessee agree as follows:

"1. Each city will respond to calls for law enforcement assistance by the other city only upon request for such assistance made by the senior law enforcement officer on duty for the requesting city, or his designee, in accordance with the terms of this Agreement. All requests for law enforcement assistance shall be directed to the senior law enforcement officer on duty for the city from which aid is requested.

"2. Upon request for law enforcement assistance as provided in Paragraph 1, the senior law enforcement officer on duty in the responding city will authorize a response as follows:

"a. The responding city will attempt to provide at least the following personnel and equipment in response to the request:

"(1) A minimum response of one vehicle and one person.

"(2) A maximum response of fifty percent (50%) of available personnel and resources.

"b. The response will be determined by the severity of the circumstances in the requesting city which prompted such request as determined by the senior law enforcement officer on duty in the responding city after discussion with the senior law enforcement officer on duty in the requesting city. Any decision reached by such senior officer of the responding city as to such response shall be final.

"c. If an emergency exists in the responding city at the time the request is made, or if such an emergency occurs during the course of responding to a request under this Agreement, and if the senior law enforcement officer on duty in the responding city reasonably determines, after a consideration of the severity of the emergency in his jurisdiction, that the responding city cannot comply with the minimal requirements under this Agreement without endangering life or incurring significant property damage in his city, or both, he may choose to use all equipment and personnel in his own jurisdiction. In such event, such officer of the responding city shall immediately attempt to inform the senior law enforcement officer on duty in the requesting city of his decision.

"3. The city which requests mutual aid under this Agreement shall not be deemed liable or responsible for the equipment and other personal property of personnel of the responding city which might be lost, stolen or damaged during the course of responding under the terms of this Agreement.

"4. The city responding to a request for mutual aid under this Agreement assumes all liabilities and responsibility as between the two cities for damage to its own equipment and other personal property. The responding city also assumes all liability and responsibility, as between the two cities, for any damage caused by its own equipment and/or the negligence of its personnel occurring outside the jurisdiction of the requesting city while en route thereto pursuant to a request for assistance under this Agreement, or while returning therefrom.

"5. The city responding under this Agreement assumes no responsibility or liability for damage to property or injury to any person that may occur due to actions taken in responding under this Agreement; all such liability and responsibility shall rest solely with the city requesting such aid and within which boundaries the property exists or the incident occurs, and the requesting party hereby assumes all of such liability and responsibility.

"6. Each city hereby waives any and all claims against the other city which may arise out of their activities in the other city's jurisdiction under this Agreement. To the extent permitted by law, the city requesting assistance under this

Agreement shall indemnify and hold harmless the responding city (and its officers, agents and employees) from any and all claims by third parties for property damage or personal injury which may arise out of the activities of the responding city within the jurisdiction of the requesting city under this Agreement.

"7. The city responding to a request for assistance under this Agreement assumes no responsibility or liability for damage to property or injury to any person that may occur within the jurisdiction of the requesting city due to actions taken in responding under this Agreement. In accordance with Section 15.1–131 of the Code of Virginia and Section 29–20–107(f) of the Tennessee Code Annotated, all personnel of the responding city shall, during such time as they providing assistance in the requesting city under this Agreement, be deemed to be employees of the requesting city for tort liability purposes.

"8. No compensation will be due or paid by either city for mutual aid law enforcement assistance rendered under this Agreement.

"9. Except as provided in Paragraph 7 of this Agreement, neither city will make any claim for compensation against the other city for any loss, damage or personal injury which may occur as a result of law enforcement assistance rendered under this Agreement, and all such rights or claims are hereby expressly waived.

"10. When law enforcement assistance is rendered under this Agreement, the senior law enforcement officer on duty in the requesting city shall in all instances be in command as to strategy, tactics and overall direction of the operations. All orders or directions regarding the operations of the responding party shall be relayed to the senior law enforcement officer in command of the responding city.

"11. Either city may terminate this Agreement upon sixty (60) days' written notice to the other city.

"12. This Agreement shall take effect upon its execution by the Mayor and Chief of Police for each city after approval of the City Council of each city, and upon its approval by the Congress of the United States as provided in Section 15.1–131 of the Code of Virginia. Each city will promptly submit this Agreement to its respective Congressman and Senators for submission to the Congress.". Effective date.

SEC. 2. RIGHT TO ALTER, AMEND, OR REPEAL.

The right to alter, amend, or repeal this joint resolution is hereby expressly reserved by the Congress. The consent granted by this joint resolution shall not be construed as impairing or in any manner affecting any right or jurisdiction of the United States in and over the region which forms the subject of the agreement.

SEC. 3. CONSTRUCTION AND SEVERABILITY.

It is intended that the provisions of this agreement shall be reasonably and liberally construed to effectuate the purposes thereof. If any part or application of this agreement, or legislation enabling the agreement, is held invalid, the remainder of the agreement or its application to other situations or persons shall not be affected.

Approved August 6, 1996.

LEGISLATIVE HISTORY—H.J. Res. 166:

HOUSE REPORTS: No. 104–705 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 142 (1996):
July 29, considered and passed House.
July 31, considered and passed Senate.

Public Law 104–182
104th Congress

An Act

To reauthorize and amend title XIV of the Public Health Service Act (commonly known as the "Safe Drinking Water Act"), and for other purposes.

Aug. 6, 1996
[S. 1316]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Safe Drinking Water Act Amendments of 1996.
Intergovernmental relations.
Environmental protection.
42 USC 201 note.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Safe Drinking Water Act Amendments of 1996".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.
Sec. 2. References; effective date; disclaimer.
Sec. 3. Findings.

TITLE I—AMENDMENTS TO SAFE DRINKING WATER ACT

Sec. 101. Definitions.
Sec. 102. General authority.
Sec. 103. Risk assessment, management, and communication.
Sec. 104. Standard-setting.
Sec. 105. Treatment technologies for small systems.
Sec. 106. Limited alternative to filtration.
Sec. 107. Ground water disinfection.
Sec. 108. Effective date for regulations.
Sec. 109. Arsenic, sulfate, and radon.
Sec. 110. Recycling of filter backwash.
Sec. 111. Technology and treatment techniques.
Sec. 112. State primacy.
Sec. 113. Enforcement; judicial review.
Sec. 114. Public notification.
Sec. 115. Variances.
Sec. 116. Small systems variances.
Sec. 117. Exemptions.
Sec. 118. Lead plumbing and pipes.
Sec. 119. Capacity development.
Sec. 120. Authorization of appropriations for certain ground water programs.
Sec. 121. Amendments to section 1442.
Sec. 122. Technical assistance.
Sec. 123. Operator certification.
Sec. 124. Public water system supervision program.
Sec. 125. Monitoring and information gathering.
Sec. 126. Occurrence data base.
Sec. 127. Drinking Water Advisory Council.
Sec. 128. New York City watershed protection program.
Sec. 129. Federal agencies.
Sec. 130. State revolving loan funds.
Sec. 131. State ground water protection grants.
Sec. 132. Source water assessment.
Sec. 133. Source water petition program.
Sec. 134. Water conservation plan.
Sec. 135. Drinking water assistance to colonias.
Sec. 136. Estrogenic substances screening program.
Sec. 137. Drinking water studies.

TITLE II—DRINKING WATER RESEARCH

Sec. 201. Drinking water research authorization.

Sec. 202. Scientific research review.
Sec. 203. National center for ground water research.

TITLE III—MISCELLANEOUS PROVISIONS

Sec. 301. Water return flows.
Sec. 302 Transfer of funds.
Sec. 303. Grants to Alaska to improve sanitation in rural and Native villages.
Sec. 304. Sense of the Congress.
Sec. 305. Bottled drinking water standards.
Sec. 306. Washington Aqueduct.
Sec. 307. Wastewater assistance to colonias.
Sec. 308. Prevention and control of zebra mussel infestation of Lake Champlain.

TITLE IV—ADDITIONAL ASSISTANCE FOR WATER INFRASTRUCTURE AND WATERSHEDS

Sec. 401. National program.

TITLE V—CLERICAL AMENDMENTS

Sec. 501. Clerical amendments.

SEC. 2. REFERENCES; EFFECTIVE DATE; DISCLAIMER.

(a) REFERENCES TO SAFE DRINKING WATER ACT.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to that section or other provision of title XIV of the Public Health Service Act (commonly known as the "Safe Drinking Water Act") (42 U.S.C. 300f et seq.).

42 USC 300f note.

(b) EFFECTIVE DATE.—Except as otherwise specified in this Act or in the amendments made by this Act, this Act and the amendments made by this Act shall take effect on the date of enactment of this Act.

42 USC 300f note.

(c) DISCLAIMER.—Except for the provisions of section 302 (relating to transfers of funds), nothing in this Act or in any amendments made by this Act to title XIV of the Public Health Service Act (commonly known as the "Safe Drinking Water Act") or any other law shall be construed by the Administrator of the Environmental Protection Agency or the courts as affecting, modifying, expanding, changing, or altering—

(1) the provisions of the Federal Water Pollution Control Act;

(2) the duties and responsibilities of the Administrator under that Act; or

(3) the regulation or control of point or nonpoint sources of pollution discharged into waters covered by that Act.

The Administrator shall identify in the agency's annual budget all funding and full-time equivalents administering such title XIV separately from funding and staffing for the Federal Water Pollution Control Act.

42 USC 300f note.

SEC. 3. FINDINGS.

The Congress finds that—

(1) safe drinking water is essential to the protection of public health;

(2) because the requirements of the Safe Drinking Water Act (42 U.S.C. 300f et seq.) now exceed the financial and technical capacity of some public water systems, especially many small public water systems, the Federal Government needs to provide assistance to communities to help the communities meet Federal drinking water requirements;

(3) the Federal Government commits to maintaining and improving its partnership with the States in the administration and implementation of the Safe Drinking Water Act;

(4) States play a central role in the implementation of safe drinking water programs, and States need increased financial resources and appropriate flexibility to ensure the prompt and effective development and implementation of drinking water programs;

(5) the existing process for the assessment and selection of additional drinking water contaminants needs to be revised and improved to ensure that there is a sound scientific basis for setting priorities in establishing drinking water regulations;

(6) procedures for assessing the health effects of contaminants establishing drinking water standards should be revised to provide greater opportunity for public education and participation;

(7) in considering the appropriate level of regulation for contaminants in drinking water, risk assessment, based on sound and objective science, and benefit-cost analysis are important analytical tools for improving the efficiency and effectiveness of drinking water regulations to protect human health;

(8) more effective protection of public health requires—

(A) a Federal commitment to set priorities that will allow scarce Federal, State, and local resources to be targeted toward the drinking water problems of greatest public health concern;

(B) maximizing the value of the different and complementary strengths and responsibilities of the Federal and State governments in those States that have primary enforcement responsibility for the Safe Drinking Water Act; and

(C) prevention of drinking water contamination through well-trained system operators, water systems with adequate managerial, technical, and financial capacity, and enhanced protection of source waters of public water systems;

(9) compliance with the requirements of the Safe Drinking Water Act continues to be a concern at public water systems experiencing technical and financial limitations, and Federal, State, and local governments need more resources and more effective authority to attain the objectives of the Safe Drinking Water Act; and

(10) consumers served by public water systems should be provided with information on the source of the water they are drinking and its quality and safety, as well as prompt notification of any violation of drinking water regulations.

TITLE I—AMENDMENTS TO SAFE DRINKING WATER ACT

SEC. 101. DEFINITIONS.

(a) IN GENERAL.—Section 1401 (42 U.S.C. 300f) is amended as follows:

(1) In paragraph (1)—

(A) in subparagraph (D), by inserting "accepted methods for" before "quality control"; and

Federal Register, publication.

(B) by adding at the end the following: "At any time after promulgation of a regulation referred to in this paragraph, the Administrator may add equally effective quality control and testing procedures by guidance published in the Federal Register. Such procedures shall be treated as an alternative for public water systems to the quality control and testing procedures listed in the regulation.".

(2) In paragraph (13)—

(A) by striking "The" and inserting "(A) Except as provided in subparagraph (B), the"; and

(B) by adding at the end the following:

"(B) For purposes of section 1452, the term 'State' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.".

(3) In paragraph (14), by adding at the end the following: "For purposes of section 1452, the term includes any Native village (as defined in section 3(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(c))).".

(4) By adding at the end the following:

"(15) COMMUNITY WATER SYSTEM.—The term 'community water system' means a public water system that—

"(A) serves at least 15 service connections used by year-round residents of the area served by the system; or

"(B) regularly serves at least 25 year-round residents.

"(16) NONCOMMUNITY WATER SYSTEM.—The term 'noncommunity water system' means a public water system that is not a community water system.".

(b) PUBLIC WATER SYSTEM.—

(1) IN GENERAL.—Section 1401(4) (42 U.S.C. 300f(4)) is amended as follows:

(A) In the first sentence, by striking "piped water for human consumption" and inserting "water for human consumption through pipes or other constructed conveyances".

(B) By redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively.

(C) By striking "(4) The" and inserting the following:

"(4) PUBLIC WATER SYSTEM.—

"(A) IN GENERAL.—The"; and

(D) by adding at the end the following:

"(B) CONNECTIONS.—

"(i) IN GENERAL.—For purposes of subparagraph (A), a connection to a system that delivers water by a constructed conveyance other than a pipe shall not be considered a connection, if—

"(I) the water is used exclusively for purposes other than residential uses (consisting of drinking, bathing, and cooking, or other similar uses);

"(II) the Administrator or the State (in the case of a State exercising primary enforcement responsibility for public water systems) determines that alternative water to achieve the equivalent level of public health protection provided by the applicable national primary drinking water regulation is provided for residential or similar uses for drinking and cooking; or

"(III) the Administrator or the State (in the case of a State exercising primary enforcement responsibility for public water systems) determines that the water provided for residential or similar uses for drinking, cooking, and bathing is centrally treated or treated at the point of entry by the provider, a pass-through entity, or the user to achieve the equivalent level of protection provided by the applicable national primary drinking water regulations.

"(ii) IRRIGATION DISTRICTS.—An irrigation district in existence prior to May 18, 1994, that provides primarily agricultural service through a piped water system with only incidental residential or similar use shall not be considered to be a public water system if the system or the residential or similar users of the system comply with subclause (II) or (III) of clause (i).

"(C) TRANSITION PERIOD.—A water supplier that would be a public water system only as a result of modifications made to this paragraph by the Safe Drinking Water Act Amendments of 1996 shall not be considered a public water system for purposes of the Act until the date that is two years after the date of enactment of this subparagraph. If a water supplier does not serve 15 service connections (as defined in subparagraphs (A) and (B)) or 25 people at any time after the conclusion of the 2-year period, the water supplier shall not be considered a public water system.".

(2) GAO STUDY.—The Comptroller General of the United States shall undertake a study to— 42 USC 300f note.

(A) ascertain the numbers and locations of individuals and households relying for their residential water needs, including drinking, bathing, and cooking (or other similar uses) on irrigation water systems, mining water systems, industrial water systems, or other water systems covered by section 1401(4)(B) of the Safe Drinking Water Act that are not public water systems subject to the Safe Drinking Water Act;

(B) determine the sources and costs and affordability (to users and systems) of water used by such populations for their residential water needs; and

(C) review State and water system compliance with the exclusion provisions of section 1401(4)(B) of such Act.

The Comptroller General shall submit a report to the Congress within 3 years after the date of enactment of this Act containing the results of such study. Reports.

SEC. 102. GENERAL AUTHORITY.

(a) STANDARDS.—Section 1412(b) (42 U.S.C. 300g–1(b)) is amended by striking "(b)(1)" and all that follows through the end of paragraph (3) and inserting the following:

"(b) STANDARDS.—

"(1) IDENTIFICATION OF CONTAMINANTS FOR LISTING.—

"(A) GENERAL AUTHORITY.—The Administrator shall, in accordance with the procedures established by this subsection, publish a maximum contaminant level goal and Publication. Regulations.

promulgate a national primary drinking water regulation for a contaminant (other than a contaminant referred to in paragraph (2) for which a national primary drinking water regulation has been promulgated as of the date of enactment of the Safe Drinking Water Act Amendments of 1996) if the Administrator determines that—

"(i) the contaminant may have an adverse effect on the health of persons;

"(ii) the contaminant is known to occur or there is a substantial likelihood that the contaminant will occur in public water systems with a frequency and at levels of public health concern; and

"(iii) in the sole judgment of the Administrator, regulation of such contaminant presents a meaningful opportunity for health risk reduction for persons served by public water systems.

"(B) REGULATION OF UNREGULATED CONTAMINANTS.—

Publication.

"(i) LISTING OF CONTAMINANTS FOR CONSIDERATION.—(I) Not later than 18 months after the date of enactment of the Safe Drinking Water Act Amendments of 1996 and every 5 years thereafter, the Administrator, after consultation with the scientific community, including the Science Advisory Board, after notice and opportunity for public comment, and after considering the occurrence data base established under section 1445(g), shall publish a list of contaminants which, at the time of publication, are not subject to any proposed or promulgated national primary drinking water regulation, which are known or anticipated to occur in public water systems, and which may require regulation under this title.

"(II) The unregulated contaminants considered under subclause (I) shall include, but not be limited to, substances referred to in section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and substances registered as pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act.

"(III) The Administrator's decision whether or not to select an unregulated contaminant for a list under this clause shall not be subject to judicial review.

"(ii) DETERMINATION TO REGULATE.—(I) Not later than 5 years after the date of enactment of the Safe Drinking Water Act Amendments of 1996, and every 5 years thereafter, the Administrator shall, after notice of the preliminary determination and opportunity for public comment, for not fewer than 5 contaminants included on the list published under clause (i), make determinations of whether or not to regulate such contaminants.

"(II) A determination to regulate a contaminant shall be based on findings that the criteria of clauses (i), (ii), and (iii) of subparagraph (A) are satisfied. Such findings shall be based on the best available public health information, including the occurrence data base established under section 1445(g).

"(III) The Administrator may make a determination to regulate a contaminant that does not appear on a list under clause (i) if the determination to regulate is made pursuant to subclause (II).

"(IV) A determination under this clause not to regulate a contaminant shall be considered final agency action and subject to judicial review.

"(iii) REVIEW.—Each document setting forth the determination for a contaminant under clause (ii) shall be available for public comment at such time as the determination is published.

"(C) PRIORITIES.—In selecting unregulated contaminants for consideration under subparagraph (B), the Administrator shall select contaminants that present the greatest public health concern. The Administrator, in making such selection, shall take into consideration, among other factors of public health concern, the effect of such contaminants upon subgroups that comprise a meaningful portion of the general population (such as infants, children, pregnant women, the elderly, individuals with a history of serious illness, or other subpopulations) that are identifiable as being at greater risk of adverse health effects due to exposure to contaminants in drinking water than the general population.

"(D) URGENT THREATS TO PUBLIC HEALTH.—The Administrator may promulgate an interim national primary drinking water regulation for a contaminant without making a determination for the contaminant under paragraph (4)(C), or completing the analysis under paragraph (3)(C), to address an urgent threat to public health as determined by the Administrator after consultation with and written response to any comments provided by the Secretary of Health and Human Services, acting through the director of the Centers for Disease Control and Prevention or the director of the National Institutes of Health. A determination for any contaminant in accordance with paragraph (4)(C) subject to an interim regulation under this subparagraph shall be issued, and a completed analysis meeting the requirements of paragraph (3)(C) shall be published, not later than 3 years after the date on which the regulation is promulgated and the regulation shall be repromulgated, or revised if appropriate, not later than 5 years after that date. Publication.

"(E) REGULATION.—For each contaminant that the Administrator determines to regulate under subparagraph (B), the Administrator shall publish maximum contaminant level goals and promulgate, by rule, national primary drinking water regulations under this subsection. The Administrator shall propose the maximum contaminant level goal and national primary drinking water regulation for a contaminant not later than 24 months after the determination to regulate under subparagraph (B), and may publish such proposed regulation concurrent with the determination to regulate. The Administrator shall publish a maximum contaminant level goal and promulgate a national primary drinking water regulation within 18 months after the proposal thereof. The Administrator, by notice in the Publication. Federal Register, publication.

Federal Register, may extend the deadline for such promulgation for up to 9 months.

"(F) HEALTH ADVISORIES AND OTHER ACTIONS.—The Administrator may publish health advisories (which are not regulations) or take other appropriate actions for contaminants not subject to any national primary drinking water regulation.

"(2) SCHEDULES AND DEADLINES.—

Publication. Regulations.

"(A) IN GENERAL.—In the case of the contaminants listed in the Advance Notice of Proposed Rulemaking published in volume 47, Federal Register, page 9352, and in volume 48, Federal Register, page 45502, the Administrator shall publish maximum contaminant level goals and promulgate national primary drinking water regulations—

"(i) not later than 1 year after June 19, 1986, for not fewer than 9 of the listed contaminants;

"(ii) not later than 2 years after June 19, 1986, for not fewer than 40 of the listed contaminants; and

"(iii) not later than 3 years after June 19, 1986, for the remainder of the listed contaminants.

"(B) SUBSTITUTION OF CONTAMINANTS.—If the Administrator identifies a drinking water contaminant the regulation of which, in the judgment of the Administrator, is more likely to be protective of public health (taking into account the schedule for regulation under subparagraph (A)) than a contaminant referred to in subparagraph (A), the Administrator may publish a maximum contaminant level goal and promulgate a national primary drinking water regulation for the identified contaminant in lieu of regulating the contaminant referred to in subparagraph (A). Substitutions may be made for not more than 7 contaminants referred to in subparagraph (A). Regulation of a contaminant identified under this subparagraph shall be in accordance with the schedule applicable to the contaminant for which the substitution is made.

Rules.

"(C) DISINFECTANTS AND DISINFECTION BYPRODUCTS.—The Administrator shall promulgate an Interim Enhanced Surface Water Treatment Rule, a Final Enhanced Surface Water Treatment Rule, a Stage I Disinfectants and Disinfection Byproducts Rule, and a Stage II Disinfectants and Disinfection Byproducts Rule in accordance with the schedule published in volume 59, Federal Register, page 6361 (February 10, 1994), in table III.13 of the proposed Information Collection Rule. If a delay occurs with respect to the promulgation of any rule in the schedule referred to in this subparagraph, all subsequent rules shall be completed as expeditiously as practicable but no later than a revised date that reflects the interval or intervals for the rules in the schedule.".

42 USC 300g–1 note.

(b) APPLICABILITY OF PRIOR REQUIREMENTS.—The requirements of subparagraphs (C) and (D) of section 1412(b)(3) of the Safe Drinking Water Act as in effect before the date of enactment of this Act, and any obligation to promulgate regulations pursuant to such subparagraphs not promulgated as of the date of enactment of this Act, are superseded by the amendments made by subsection (a).

(c) CONFORMING AMENDMENTS.—(1) Section 1415(d) (42 U.S.C. 300g–4(d)) is amended by striking "1412(b)(3)" and inserting "1412(b)".

(2) Section 1412(a)(3) (42 U.S.C. 300g–1(a)(3)) is amended by striking "paragraph (1), (2), or (3) of" in each place it appears.

SEC. 103. RISK ASSESSMENT, MANAGEMENT, AND COMMUNICATION.

Section 1412(b) (42 U.S.C. 300g–1(b)) is amended by inserting after paragraph (2) the following:

"(3) RISK ASSESSMENT, MANAGEMENT, AND COMMUNICATION.—

"(A) USE OF SCIENCE IN DECISIONMAKING.—In carrying out this section, and, to the degree that an Agency action is based on science, the Administrator shall use—

"(i) the best available, peer-reviewed science and supporting studies conducted in accordance with sound and objective scientific practices; and

"(ii) data collected by accepted methods or best available methods (if the reliability of the method and the nature of the decision justifies use of the data).

"(B) PUBLIC INFORMATION.—In carrying out this section, the Administrator shall ensure that the presentation of information on public health effects is comprehensive, informative, and understandable. The Administrator shall, in a document made available to the public in support of a regulation promulgated under this section, specify, to the extent practicable—

"(i) each population addressed by any estimate of public health effects;

"(ii) the expected risk or central estimate of risk for the specific populations;

"(iii) each appropriate upper-bound or lower-bound estimate of risk;

"(iv) each significant uncertainty identified in the process of the assessment of public health effects and studies that would assist in resolving the uncertainty; and

"(v) peer-reviewed studies known to the Administrator that support, are directly relevant to, or fail to support any estimate of public health effects and the methodology used to reconcile inconsistencies in the scientific data.

"(C) HEALTH RISK REDUCTION AND COST ANALYSIS.—

"(i) MAXIMUM CONTAMINANT LEVELS.—When proposing any national primary drinking water regulation that includes a maximum contaminant level, the Administrator shall, with respect to a maximum contaminant level that is being considered in accordance with paragraph (4) and each alternative maximum contaminant level that is being considered pursuant to paragraph (5) or (6)(A), publish, seek public comment on, and use for the purposes of paragraphs (4), (5), and (6) an analysis of each of the following: Publication.

"(I) Quantifiable and nonquantifiable health risk reduction benefits for which there is a factual basis in the rulemaking record to conclude that

such benefits are likely to occur as the result of treatment to comply with each level.

"(II) Quantifiable and nonquantifiable health risk reduction benefits for which there is a factual basis in the rulemaking record to conclude that such benefits are likely to occur from reductions in co-occurring contaminants that may be attributed solely to compliance with the maximum contaminant level, excluding benefits resulting from compliance with other proposed or promulgated regulations.

"(III) Quantifiable and nonquantifiable costs for which there is a factual basis in the rulemaking record to conclude that such costs are likely to occur solely as a result of compliance with the maximum contaminant level, including monitoring, treatment, and other costs and excluding costs resulting from compliance with other proposed or promulgated regulations.

"(IV) The incremental costs and benefits associated with each alternative maximum contaminant level considered.

"(V) The effects of the contaminant on the general population and on groups within the general population such as infants, children, pregnant women, the elderly, individuals with a history of serious illness, or other subpopulations that are identified as likely to be at greater risk of adverse health effects due to exposure to contaminants in drinking water than the general population.

"(VI) Any increased health risk that may occur as the result of compliance, including risks associated with co-occurring contaminants.

"(VII) Other relevant factors, including the quality and extent of the information, the uncertainties in the analysis supporting subclauses (I) through (VI), and factors with respect to the degree and nature of the risk.

Publication.

"(ii) TREATMENT TECHNIQUES.—When proposing a national primary drinking water regulation that includes a treatment technique in accordance with paragraph (7)(A), the Administrator shall publish and seek public comment on an analysis of the health risk reduction benefits and costs likely to be experienced as the result of compliance with the treatment technique and alternative treatment techniques that are being considered, taking into account, as appropriate, the factors described in clause (i).

"(iii) APPROACHES TO MEASURE AND VALUE BENEFITS.—The Administrator may identify valid approaches for the measurement and valuation of benefits under this subparagraph, including approaches to identify consumer willingness to pay for reductions in health risks from drinking water contaminants.

"(iv) AUTHORIZATION.—There are authorized to be appropriated to the Administrator, acting through the Office of Ground Water and Drinking Water, to conduct

studies, assessments, and analyses in support of regulations or the development of methods, $35,000,000 for each of fiscal years 1996 through 2003.".

SEC. 104. STANDARD-SETTING.

(a) IN GENERAL.—Section 1412(b) (42 U.S.C. 300g–1(b)) is amended as follows:

(1) In paragraph (4)—

(A) by striking "(4) Each" and inserting the following:
"(4) GOALS AND STANDARDS.—
"(A) MAXIMUM CONTAMINANT LEVEL GOALS.—Each";

(B) in the last sentence—

(i) by striking "Each national" and inserting the following:
"(B) MAXIMUM CONTAMINANT LEVELS.— Except as provided in paragraphs (5) and (6), each national"; and

(ii) by striking "maximum level" and inserting "maximum contaminant level"; and

(C) by adding at the end the following:
"(C) DETERMINATION.—At the time the Administrator proposes a national primary drinking water regulation under this paragraph, the Administrator shall publish a determination as to whether the benefits of the maximum contaminant level justify, or do not justify, the costs based on the analysis conducted under paragraph (3)(C).". Publication.

(2) By striking "(5) For the" and inserting the following:
"(D) DEFINITION OF FEASIBLE.—For the".

(3) In the second sentence of paragraph (4)(D) (as so designated), by striking "paragraph (4)" and inserting "this paragraph".

(4) By striking "(6) Each national" and inserting the following:
"(E) FEASIBLE TECHNOLOGIES.—
"(i) IN GENERAL.—Each national".

(5) In paragraph (4)(E)(i) (as so designated), by striking "this paragraph" and inserting "this subsection".

(6) By inserting after paragraph (4) (as so amended) the following:
"(5) ADDITIONAL HEALTH RISK CONSIDERATIONS.—
"(A) IN GENERAL.—Notwithstanding paragraph (4), the Administrator may establish a maximum contaminant level for a contaminant at a level other than the feasible level, if the technology, treatment techniques, and other means used to determine the feasible level would result in an increase in the health risk from drinking water by—
"(i) increasing the concentration of other contaminants in drinking water; or
"(ii) interfering with the efficacy of drinking water treatment techniques or processes that are used to comply with other national primary drinking water regulations.
"(B) ESTABLISHMENT OF LEVEL.—If the Administrator establishes a maximum contaminant level or levels or requires the use of treatment techniques for any contaminant or contaminants pursuant to the authority of this paragraph—

"(i) the level or levels or treatment techniques shall minimize the overall risk of adverse health effects by balancing the risk from the contaminant and the risk from other contaminants the concentrations of which may be affected by the use of a treatment technique or process that would be employed to attain the maximum contaminant level or levels; and

"(ii) the combination of technology, treatment techniques, or other means required to meet the level or levels shall not be more stringent than is feasible (as defined in paragraph (4)(D)).

"(6) ADDITIONAL HEALTH RISK REDUCTION AND COST CONSIDERATIONS.—

"(A) IN GENERAL.—Notwithstanding paragraph (4), if the Administrator determines based on an analysis conducted under paragraph (3)(C) that the benefits of a maximum contaminant level promulgated in accordance with paragraph (4) would not justify the costs of complying with the level, the Administrator may, after notice and opportunity for public comment, promulgate a maximum contaminant level for the contaminant that maximizes health risk reduction benefits at a cost that is justified by the benefits.

"(B) EXCEPTION.—The Administrator shall not use the authority of this paragraph to promulgate a maximum contaminant level for a contaminant, if the benefits of compliance with a national primary drinking water regulation for the contaminant that would be promulgated in accordance with paragraph (4) experienced by—

"(i) persons served by large public water systems; and

"(ii) persons served by such other systems as are unlikely, based on information provided by the States, to receive a variance under section 1415(e) (relating to small system variances);

would justify the costs to the systems of complying with the regulation. This subparagraph shall not apply if the contaminant is found almost exclusively in small systems eligible under section 1415(e) for a small system variance.

"(C) DISINFECTANTS AND DISINFECTION BYPRODUCTS.—The Administrator may not use the authority of this paragraph to establish a maximum contaminant level in a Stage I or Stage II national primary drinking water regulation (as described in paragraph (2)(C)) for contaminants that are disinfectants or disinfection byproducts, or to establish a maximum contaminant level or treatment technique requirement for the control of cryptosporidium. The authority of this paragraph may be used to establish regulations for the use of disinfection by systems relying on ground water sources as required by paragraph (8).

"(D) JUDICIAL REVIEW.—A determination by the Administrator that the benefits of a maximum contaminant level or treatment requirement justify or do not justify the costs of complying with the level shall be reviewed by the court pursuant to section 1448 only as part of a review of a final national primary drinking water regulation that has been promulgated based on the determination

and shall not be set aside by the court under that section unless the court finds that the determination is arbitrary and capricious.".

(b) DISINFECTANTS AND DISINFECTION BYPRODUCTS.—The Administrator of the Environmental Protection Agency may use the authority of section 1412(b)(5) of the Safe Drinking Water Act (as amended by this Act) to promulgate the Stage I and Stage II Disinfectants and Disinfection Byproducts Rules as proposed in volume 59, Federal Register, page 38668 (July 29, 1994). The considerations used in the development of the July 29, 1994, proposed national primary drinking water regulation on disinfectants and disinfection byproducts shall be treated as consistent with such section 1412(b)(5) for purposes of such Stage I and Stage II rules. 42 USC 300g–1 note.

(c) REVIEW OF STANDARDS.—Section 1412(b)(9) (42 U.S.C. 300g–1(b)(9)) is amended to read as follows:

"(9) REVIEW AND REVISION.—The Administrator shall, not less often than every 6 years, review and revise, as appropriate, each national primary drinking water regulation promulgated under this title. Any revision of a national primary drinking water regulation shall be promulgated in accordance with this section, except that each revision shall maintain, or provide for greater, protection of the health of persons.".

SEC. 105. TREATMENT TECHNOLOGIES FOR SMALL SYSTEMS.

Section 1412(b)(4)(E) (42 U.S.C. 300g–1(b)(4)(E)) is amended by adding at the end the following:

"(ii) LIST OF TECHNOLOGIES FOR SMALL SYSTEMS.—The Administrator shall include in the list any technology, treatment technique, or other means that is affordable, as determined by the Administrator in consultation with the States, for small public water systems serving—

"(I) a population of 10,000 or fewer but more than 3,300;

"(II) a population of 3,300 or fewer but more than 500; and

"(III) a population of 500 or fewer but more than 25;

and that achieves compliance with the maximum contaminant level or treatment technique, including packaged or modular systems and point-of-entry or point-of-use treatment units. Point-of-entry and point-of-use treatment units shall be owned, controlled and maintained by the public water system or by a person under contract with the public water system to ensure proper operation and maintenance and compliance with the maximum contaminant level or treatment technique and equipped with mechanical warnings to ensure that customers are automatically notified of operational problems. The Administrator shall not include in the list any point-of-use treatment technology, treatment technique, or other means to achieve compliance with a maximum contaminant level or treatment technique requirement for a microbial contaminant (or an indicator of a microbial contaminant). If the American National Standards Institute

has issued product standards applicable to a specific type of point-of-entry or point-of-use treatment unit, individual units of that type shall not be accepted for compliance with a maximum contaminant level or treatment technique requirement unless they are independently certified in accordance with such standards. In listing any technology, treatment technique, or other means pursuant to this clause, the Administrator shall consider the quality of the source water to be treated.

"(iii) LIST OF TECHNOLOGIES THAT ACHIEVE COMPLIANCE.—Except as provided in clause (v), not later than 2 years after the date of enactment of this clause and after consultation with the States, the Administrator shall issue a list of technologies that achieve compliance with the maximum contaminant level or treatment technique for each category of public water systems described in subclauses (I), (II), and (III) of clause (ii) for each national primary drinking water regulation promulgated prior to the date of enactment of this paragraph.

"(iv) ADDITIONAL TECHNOLOGIES.—The Administrator may, at any time after a national primary drinking water regulation has been promulgated, supplement the list of technologies describing additional or new or innovative treatment technologies that meet the requirements of this paragraph for categories of small public water systems described in subclauses (I), (II), and (III) of clause (ii) that are subject to the regulation.

Records.

"(v) TECHNOLOGIES THAT MEET SURFACE WATER TREATMENT RULE.—Within one year after the date of enactment of this clause, the Administrator shall list technologies that meet the Surface Water Treatment Rule for each category of public water systems described in subclauses (I), (II), and (III) of clause (ii).".

SEC. 106. LIMITED ALTERNATIVE TO FILTRATION.

Section 1412(b)(7)(C) (42 U.S.C. 300g–1(b)(7)(C)) is amended by adding the following after clause (iv):

"(v) As an additional alternative to the regulations promulgated pursuant to clauses (i) and (iii), including the criteria for avoiding filtration contained in 40 CFR 141.71, a State exercising primary enforcement responsibility for public water systems may, on a case-by-case basis, and after notice and opportunity for public comment, establish treatment requirements as an alternative to filtration in the case of systems having uninhabited, undeveloped watersheds in consolidated ownership, and having control over access to, and activities in, those watersheds, if the State determines (and the Administrator concurs) that the quality of the source water and the alternative treatment requirements established by the State ensure greater removal or inactivation efficiencies of pathogenic organisms for which national primary drinking water regulations have been promulgated or that are of public health concern than would be achieved by the combination of filtration and chlorine disinfection (in compliance with this section).".

SEC. 107. GROUND WATER DISINFECTION. Regulations.

Paragraph (8) of section 1412(b) (42 U.S.C. 300g–1(b)(8)) is amended by moving the margins of such paragraph 2 ems to the right and by striking the first sentence and inserting the following: "DISINFECTION.—At any time after the end of the 3-year period that begins on the date of enactment of the Safe Drinking Water Act Amendments of 1996, but not later than the date on which the Administrator promulgates a Stage II rulemaking for disinfectants and disinfection byproducts (as described in paragraph (2)(C)), the Administrator shall also promulgate national primary drinking water regulations requiring disinfection as a treatment technique for all public water systems, including surface water systems and, as necessary, ground water systems. After consultation with the States, the Administrator shall (as part of the regulations) promulgate criteria that the Administrator, or a State that has primary enforcement responsibility under section 1413, shall apply to determine whether disinfection shall be required as a treatment technique for any public water system served by ground water.".

SEC. 108. EFFECTIVE DATE FOR REGULATIONS.

Section 1412(b)(10) (42 U.S.C. 300g–1(b)(10)) is amended to read as follows:

"(10) EFFECTIVE DATE.—A national primary drinking water regulation promulgated under this section (and any amendment thereto) shall take effect on the date that is 3 years after the date on which the regulation is promulgated unless the Administrator determines that an earlier date is practicable, except that the Administrator, or a State (in the case of an individual system), may allow up to 2 additional years to comply with a maximum contaminant level or treatment technique if the Administrator or State (in the case of an individual system) determines that additional time is necessary for capital improvements.".

SEC. 109. ARSENIC, SULFATE, AND RADON.

(a) ARSENIC AND SULFATE.—Section 1412(b) (42 U.S.C. 300g–1(b)) is amended by inserting after paragraph (11) the following:

"(12) CERTAIN CONTAMINANTS.—

"(A) ARSENIC.—

"(i) SCHEDULE AND STANDARD.—Notwithstanding the deadlines set forth in paragraph (1), the Administrator shall promulgate a national primary drinking water regulation for arsenic pursuant to this subsection, in accordance with the schedule established by this paragraph.

"(ii) STUDY PLAN.—Not later than 180 days after the date of enactment of this paragraph, the Administrator shall develop a comprehensive plan for study in support of drinking water rulemaking to reduce the uncertainty in assessing health risks associated with exposure to low levels of arsenic. In conducting such study, the Administrator shall consult with the National Academy of Sciences, other Federal agencies, and interested public and private entities.

"(iii) COOPERATIVE AGREEMENTS.—In carrying out the study plan, the Administrator may enter into cooperative agreements with other Federal agencies,

State and local governments, and other interested public and private entities.

"(iv) PROPOSED REGULATIONS.—The Administrator shall propose a national primary drinking water regulation for arsenic not later than January 1, 2000.

"(v) FINAL REGULATIONS.—Not later than January 1, 2001, after notice and opportunity for public comment, the Administrator shall promulgate a national primary drinking water regulation for arsenic.

"(vi) AUTHORIZATION.—There are authorized to be appropriated $2,500,000 for each of fiscal years 1997 through 2000 for the studies required by this paragraph.

"(B) SULFATE.—

"(i) ADDITIONAL STUDY.—Prior to promulgating a national primary drinking water regulation for sulfate, the Administrator and the Director of the Centers for Disease Control and Prevention shall jointly conduct an additional study to establish a reliable dose-response relationship for the adverse human health effects that may result from exposure to sulfate in drinking water, including the health effects that may be experienced by groups within the general population (including infants and travelers) that are potentially at greater risk of adverse health effects as the result of such exposure. The study shall be conducted in consultation with interested States, shall be based on the best available, peer-reviewed science and supporting studies conducted in accordance with sound and objective scientific practices, and shall be completed not later than 30 months after the date of enactment of the Safe Drinking Water Act Amendments of 1996.

"(ii) DETERMINATION.—The Administrator shall include sulfate among the 5 or more contaminants for which a determination is made pursuant to paragraph (3)(B) not later than 5 years after the date of enactment of the Safe Drinking Water Act Amendments of 1996.

"(iii) PROPOSED AND FINAL RULE.—Notwithstanding the deadlines set forth in paragraph (2), the Administrator may, pursuant to the authorities of this subsection and after notice and opportunity for public comment, promulgate a final national primary drinking water regulation for sulfate. Any such regulation shall include requirements for public notification and options for the provision of alternative water supplies to populations at risk as a means of complying with the regulation in lieu of a best available treatment technology or other means.".

(b) RADON.—Section 1412(b) (42 U.S.C. 300g–1(b)) is amended by inserting after paragraph (12) the following:

"(13) RADON IN DRINKING WATER.—

"(A) NATIONAL PRIMARY DRINKING WATER REGULATION.—Notwithstanding paragraph (2), the Administrator shall withdraw any national primary drinking water regulation for radon proposed prior to the date of enactment of this paragraph and shall propose and promulgate a regulation for radon under this section, as amended by the Safe Drinking Water Act Amendments of 1996.

"(B) RISK ASSESSMENT AND STUDIES.—

"(i) ASSESSMENT BY NAS.—Prior to proposing a national primary drinking water regulation for radon, the Administrator shall arrange for the National Academy of Sciences to prepare a risk assessment for radon in drinking water using the best available science in accordance with the requirements of paragraph (3). The risk assessment shall consider each of the risks associated with exposure to radon from drinking water and consider studies on the health effects of radon at levels and under conditions likely to be experienced through residential exposure. The risk assessment shall be peer-reviewed.

"(ii) STUDY OF OTHER MEASURES.—The Administrator shall arrange for the National Academy of Sciences to prepare an assessment of the health risk reduction benefits associated with various mitigation measures to reduce radon levels in indoor air. The assessment may be conducted as part of the risk assessment authorized by clause (i) and shall be used by the Administrator to prepare the guidance and approve State programs under subparagraph (G).

"(iii) OTHER ORGANIZATION.—If the National Academy of Sciences declines to prepare the risk assessment or studies required by this subparagraph, the Administrator shall enter into a contract or cooperative agreement with another independent, scientific organization to prepare such assessments or studies. Contracts.

"(C) HEALTH RISK REDUCTION AND COST ANALYSIS.— Publication.
Not later than 30 months after the date of enactment of this paragraph, the Administrator shall publish, and seek public comment on, a health risk reduction and cost analysis meeting the requirements of paragraph (3)(C) for potential maximum contaminant levels that are being considered for radon in drinking water. The Administrator shall include a response to all significant public comments received on the analysis with the preamble for the proposed rule published under subparagraph (D).

"(D) PROPOSED REGULATION.—Not later than 36 months after the date of enactment of this paragraph, the Administrator shall propose a maximum contaminant level goal and a national primary drinking water regulation for radon pursuant to this section.

"(E) FINAL REGULATION.—Not later than 12 months after the date of the proposal under subparagraph (D), the Administrator shall publish a maximum contaminant level goal and promulgate a national primary drinking water regulation for radon pursuant to this section based on the risk assessment prepared pursuant to subparagraph (B) and the health risk reduction and cost analysis published pursuant to subparagraph (C). In considering the risk assessment and the health risk reduction and cost analysis in connection with the promulgation of such a standard, the Administrator shall take into account the costs and benefits of control programs for radon from other sources.

Regulations.

"(F) ALTERNATIVE MAXIMUM CONTAMINANT LEVEL.—If the maximum contaminant level for radon in drinking water promulgated pursuant to subparagraph (E) is more stringent than necessary to reduce the contribution to radon in indoor air from drinking water to a concentration that is equivalent to the national average concentration of radon in outdoor air, the Administrator shall, simultaneously with the promulgation of such level, promulgate an alternative maximum contaminant level for radon that would result in a contribution of radon from drinking water to radon levels in indoor air equivalent to the national average concentration of radon in outdoor air. If the Administrator promulgates an alternative maximum contaminant level under this subparagraph, the Administrator shall, after notice and opportunity for public comment and in consultation with the States, publish guidelines for State programs, including criteria for multimedia measures to mitigate radon levels in indoor air, to be used by the States in preparing programs under subparagraph (G). The guidelines shall take into account data from existing radon mitigation programs and the assessment of mitigation measures prepared under subparagraph (B).

Publication.
Guidelines.

"(G) MULTIMEDIA RADON MITIGATION PROGRAMS.—

"(i) IN GENERAL.—A State may develop and submit a multimedia program to mitigate radon levels in indoor air for approval by the Administrator under this subparagraph. If, after notice and the opportunity for public comment, such program is approved by the Administrator, public water systems in the State may comply with the alternative maximum contaminant level promulgated under subparagraph (F) in lieu of the maximum contaminant level in the national primary drinking water regulation promulgated under subparagraph (E).

"(ii) ELEMENTS OF PROGRAMS.—State programs may rely on a variety of mitigation measures including public education, testing, training, technical assistance, remediation grant and loan or incentive programs, or other regulatory or nonregulatory measures. The effectiveness of elements in State programs shall be evaluated by the Administrator based on the assessment prepared by the National Academy of Sciences under subparagraph (B) and the guidelines published by the Administrator under subparagraph (F).

"(iii) APPROVAL.—The Administrator shall approve a State program submitted under this paragraph if the health risk reduction benefits expected to be achieved by the program are equal to or greater than the health risk reduction benefits that would be achieved if each public water system in the State complied with the maximum contaminant level promulgated under subparagraph (E). The Administrator shall approve or disapprove a program submitted under this paragraph within 180 days of receipt. A program that is not disapproved during such period shall be deemed approved. A program that is disapproved may be modi-

fied to address the objections of the Administrator and be resubmitted for approval.

"(iv) REVIEW.—The Administrator shall periodically, but not less often than every 5 years, review each multimedia mitigation program approved under this subparagraph to determine whether it continues to meet the requirements of clause (iii) and shall, after written notice to the State and an opportunity for the State to correct any deficiency in the program, withdraw approval of programs that no longer comply with such requirements.

"(v) EXTENSION.—If, within 90 days after the promulgation of an alternative maximum contaminant level under subparagraph (F), the Governor of a State submits a letter to the Administrator committing to develop a multimedia mitigation program under this subparagraph, the effective date of the national primary drinking water regulation for radon in the State that would be applicable under paragraph (10) shall be extended for a period of 18 months.

"(vi) LOCAL PROGRAMS.—In the event that a State chooses not to submit a multimedia mitigation program for approval under this subparagraph or has submitted a program that has been disapproved, any public water system in the State may submit a program for approval by the Administrator according to the same criteria, conditions, and approval process that would apply to a State program. The Administrator shall approve a multimedia mitigation program if the health risk reduction benefits expected to be achieved by the program are equal to or greater than the health risk reduction benefits that would result from compliance by the public water system with the maximum contaminant level for radon promulgated under subparagraph (E).".

SEC. 110. RECYCLING OF FILTER BACKWASH.

Regulations.

Section 1412(b) (42 U.S.C. 300g–1(b)) is amended by adding the following new paragraph after paragraph (13):

"(14) RECYCLING OF FILTER BACKWASH.—The Administrator shall promulgate a regulation to govern the recycling of filter backwash water within the treatment process of a public water system. The Administrator shall promulgate such regulation not later than 4 years after the date of enactment of the Safe Drinking Water Act Amendments of 1996 unless such recycling has been addressed by the Administrator's Enhanced Surface Water Treatment Rule prior to such date.".

SEC. 111. TECHNOLOGY AND TREATMENT TECHNIQUES.

(a) VARIANCE TECHNOLOGIES.—Section 1412(b) (42 U.S.C. 300g–1(b)) is amended by adding the following new paragraph after paragraph (14):

"(15) VARIANCE TECHNOLOGIES.— Regulations.

"(A) IN GENERAL.—At the same time as the Administrator promulgates a national primary drinking water regulation for a contaminant pursuant to this section, the Administrator shall issue guidance or regulations describing the best treatment technologies, treatment techniques,

or other means (referred to in this paragraph as 'variance technology') for the contaminant that the Administrator finds, after examination for efficacy under field conditions and not solely under laboratory conditions, are available and affordable, as determined by the Administrator in consultation with the States, for public water systems of varying size, considering the quality of the source water to be treated. The Administrator shall identify such variance technologies for public water systems serving—

"(i) a population of 10,000 or fewer but more than 3,300;

"(ii) a population of 3,300 or fewer but more than 500; and

"(iii) a population of 500 or fewer but more than 25,

if, considering the quality of the source water to be treated, no treatment technology is listed for public water systems of that size under paragraph (4)(E). Variance technologies identified by the Administrator pursuant to this paragraph may not achieve compliance with the maximum contaminant level or treatment technique requirement of such regulation, but shall achieve the maximum reduction or inactivation efficiency that is affordable considering the size of the system and the quality of the source water. The guidance or regulations shall not require the use of a technology from a specific manufacturer or brand.

"(B) LIMITATION.—The Administrator shall not identify any variance technology under this paragraph, unless the Administrator has determined, considering the quality of the source water to be treated and the expected useful life of the technology, that the variance technology is protective of public health.

"(C) ADDITIONAL INFORMATION.—The Administrator shall include in the guidance or regulations identifying variance technologies under this paragraph any assumptions supporting the public health determination referred to in subparagraph (B), where such assumptions concern the public water system to which the technology may be applied, or its source waters. The Administrator shall provide any assumptions used in determining affordability, taking into consideration the number of persons served by such systems. The Administrator shall provide as much reliable information as practicable on performance, effectiveness, limitations, costs, and other relevant factors including the applicability of variance technology to waters from surface and underground sources.

"(D) REGULATIONS AND GUIDANCE.—Not later than 2 years after the date of enactment of this paragraph and after consultation with the States, the Administrator shall issue guidance or regulations under subparagraph (A) for each national primary drinking water regulation promulgated prior to the date of enactment of this paragraph for which a variance may be granted under section 1415(e). The Administrator may, at any time after a national primary drinking water regulation has been promulgated, issue guidance or regulations describing additional variance technologies. The Administrator shall, not less often than

every 7 years, or upon receipt of a petition supported by substantial information, review variance technologies identified under this paragraph. The Administrator shall issue revised guidance or regulations if new or innovative variance technologies become available that meet the requirements of this paragraph and achieve an equal or greater reduction or inactivation efficiency than the variance technologies previously identified under this subparagraph. No public water system shall be required to replace a variance technology during the useful life of the technology for the sole reason that a more efficient variance technology has been listed under this subparagraph.".

(b) AVAILABILITY OF INFORMATION ON SMALL SYSTEM TECHNOLOGIES.—Section 1445 (42 U.S.C. 300j–4) is amended by adding the following new subsection after subsection (g):

"(h) AVAILABILITY OF INFORMATION ON SMALL SYSTEM TECHNOLOGIES.—For purposes of sections 1412(b)(4)(E) and 1415(e) (relating to small system variance program), the Administrator may request information on the characteristics of commercially available treatment systems and technologies, including the effectiveness and performance of the systems and technologies under various operating conditions. The Administrator may specify the form, content, and submission date of information to be submitted by manufacturers, States, and other interested persons for the purpose of considering the systems and technologies in the development of regulations or guidance under sections 1412(b)(4)(E) and 1415(e).".

SEC. 112. STATE PRIMACY.

(a) STATE PRIMARY ENFORCEMENT RESPONSIBILITY.—Section 1413 (42 U.S.C. 300g–2) is amended as follows:

(1) In subsection (a), by amending paragraph (1) to read as follows:

"(1) has adopted drinking water regulations that are no less stringent than the national primary drinking water regulations promulgated by the Administrator under subsections (a) and (b) of section 1412 not later than 2 years after the date on which the regulations are promulgated by the Administrator, except that the Administrator may provide for an extension of not more than 2 years if, after submission and review of appropriate, adequate documentation from the State, the Administrator determines that the extension is necessary and justified;".

(2) By adding at the end the following subsection:

"(c) INTERIM PRIMARY ENFORCEMENT AUTHORITY.—A State that has primary enforcement authority under this section with respect to each existing national primary drinking water regulation shall be considered to have primary enforcement authority with respect to each new or revised national primary drinking water regulation during the period beginning on the effective date of a regulation adopted and submitted by the State with respect to the new or revised national primary drinking water regulation in accordance with subsection (b)(1) and ending at such time as the Administrator makes a determination under subsection (b)(2)(B) with respect to the regulation.".

(b) EMERGENCY PLANS.—Section 1413(a)(5) (42 U.S.C. 300g–2(a)(5)) is amended by inserting after "emergency circumstances"

the following: "including earthquakes, floods, hurricanes, and other natural disasters, as appropriate".

SEC. 113. ENFORCEMENT; JUDICIAL REVIEW.

(a) IN GENERAL.—Section 1414 (42 U.S.C. 300g–3) is amended as follows:

(1) In subsection (a)—

(A) in paragraph (1)—

(i) in subparagraph (A)—

(I) in clause (i), by striking "any national primary drinking water regulation in effect under section 1412" and inserting "any applicable requirement"; and

(II) by striking "with such regulation or requirement" and inserting "with the requirement"; and

(ii) in subparagraph (B), by striking "regulation or" and inserting "applicable"; and

(B) by striking paragraph (2) and inserting the following:

"(2) ENFORCEMENT IN NONPRIMACY STATES.—

"(A) IN GENERAL.—If, on the basis of information available to the Administrator, the Administrator finds, with respect to a period in which a State does not have primary enforcement responsibility for public water systems, that a public water system in the State—

"(i) for which a variance under section 1415 or an exemption under section 1416 is not in effect, does not comply with any applicable requirement; or

"(ii) for which a variance under section 1415 or an exemption under section 1416 is in effect, does not comply with any schedule or other requirement imposed pursuant to the variance or exemption;

Orders. the Administrator shall issue an order under subsection (g) requiring the public water system to comply with the requirement, or commence a civil action under subsection (b).

"(B) NOTICE.—If the Administrator takes any action pursuant to this paragraph, the Administrator shall notify an appropriate local elected official, if any, with jurisdiction over the public water system of the action prior to the time that the action is taken.".

(2) In the first sentence of subsection (b), by striking "a national primary drinking water regulation" and inserting "any applicable requirement".

(3) In subsection (g)—

(A) in paragraph (1), by striking "regulation, schedule, or other" each place it appears and inserting "applicable";

(B) in paragraph (2)—

(i) in the first sentence—

(I) by striking "effect until after notice and opportunity for public hearing and," and inserting "effect,"; and

(II) by striking "proposed order" and inserting "order"; and

(ii) in the second sentence, by striking "proposed to be"; and

(C) in paragraph (3)—

(i) by striking subparagraph (B) and inserting the following:

"(B) In a case in which a civil penalty sought by the Administrator under this paragraph does not exceed $5,000, the penalty shall be assessed by the Administrator after notice and opportunity for a public hearing (unless the person against whom the penalty is assessed requests a hearing on the record in accordance with section 554 of title 5, United States Code). In a case in which a civil penalty sought by the Administrator under this paragraph exceeds $5,000, but does not exceed $25,000, the penalty shall be assessed by the Administrator after notice and opportunity for a hearing on the record in accordance with section 554 of title 5, United States Code."; and

(ii) in subparagraph (C), by striking "paragraph exceeds $5,000" and inserting "subsection for a violation of an applicable requirement exceeds $25,000".

(4) By adding at the end the following:

"(h) CONSOLIDATION INCENTIVE.—

"(1) IN GENERAL.—An owner or operator of a public water system may submit to the State in which the system is located (if the State has primary enforcement responsibility under section 1413) or to the Administrator (if the State does not have primary enforcement responsibility) a plan (including specific measures and schedules) for—

"(A) the physical consolidation of the system with 1 or more other systems;

"(B) the consolidation of significant management and administrative functions of the system with 1 or more other systems; or

"(C) the transfer of ownership of the system that may reasonably be expected to improve drinking water quality.

"(2) CONSEQUENCES OF APPROVAL.—If the State or the Administrator approves a plan pursuant to paragraph (1), no enforcement action shall be taken pursuant to this part with respect to a specific violation identified in the approved plan prior to the date that is the earlier of the date on which consolidation is completed according to the plan or the date that is 2 years after the plan is approved.

"(i) DEFINITION OF APPLICABLE REQUIREMENT.—In this section, the term 'applicable requirement' means—

"(1) a requirement of section 1412, 1414, 1415, 1416, 1417, 1441, or 1445;

"(2) a regulation promulgated pursuant to a section referred to in paragraph (1);

"(3) a schedule or requirement imposed pursuant to a section referred to in paragraph (1); and

"(4) a requirement of, or permit issued under, an applicable State program for which the Administrator has made a determination that the requirements of section 1413 have been satisfied, or an applicable State program approved pursuant to this part.".

(b) STATE AUTHORITY FOR ADMINISTRATIVE PENALTIES.—Section 1413(a) (42 U.S.C. 300g–2(a)) is amended—

(1) by striking "and" at the end of paragraph (4);

(2) by striking the period at the end of paragraph (5) and inserting "; and"; and

(3) by adding at the end the following:

"(6) has adopted authority for administrative penalties (unless the constitution of the State prohibits the adoption of the authority) in a maximum amount—

"(A) in the case of a system serving a population of more than 10,000, that is not less than $1,000 per day per violation; and

"(B) in the case of any other system, that is adequate to ensure compliance (as determined by the State);

except that a State may establish a maximum limitation on the total amount of administrative penalties that may be imposed on a public water system per violation.".

(c) JUDICIAL REVIEW.—Section 1448(a) (42 U.S.C. 300j–7(a)) is amended—

(1) in paragraph (2) of the first sentence, by inserting "final" after "any other";

(2) in the second sentence, by striking "or issuance of the order" and inserting "or any other final Agency action"; and

(3) by adding at the end the following "In any petition concerning the assessment of a civil penalty pursuant to section 1414(g)(3)(B), the petitioner shall simultaneously send a copy of the complaint by certified mail to the Administrator and the Attorney General. The court shall set aside and remand the penalty order if the court finds that there is not substantial evidence in the record to support the finding of a violation or that the assessment of the penalty by the Administrator constitutes an abuse of discretion.".

(d) EMERGENCY POWERS.—Section 1431(b) (42 U.S.C. 300i(b)) is amended by striking "$5,000" and inserting "$15,000".

SEC. 114. PUBLIC NOTIFICATION.

(a) PUBLIC WATER SYSTEMS.—Section 1414(c) (42 U.S.C. 300g–3(c)) is amended to read as follows:

"(c) NOTICE TO PERSONS SERVED.—

"(1) IN GENERAL.—Each owner or operator of a public water system shall give notice of each of the following to the persons served by the system:

"(A) Notice of any failure on the part of the public water system to—

"(i) comply with an applicable maximum contaminant level or treatment technique requirement of, or a testing procedure prescribed by, a national primary drinking water regulation; or

"(ii) perform monitoring required by section 1445(a).

"(B) If the public water system is subject to a variance granted under subsection (a)(1)(A), (a)(2), or (e) of section 1415 for an inability to meet a maximum contaminant level requirement or is subject to an exemption granted under section 1416, notice of—

"(i) the existence of the variance or exemption; and

"(ii) any failure to comply with the requirements of any schedule prescribed pursuant to the variance or exemption.

"(C) Notice of the concentration level of any unregulated contaminant for which the Administrator has required public notice pursuant to paragraph (2)(E).

"(2) FORM, MANNER, AND FREQUENCY OF NOTICE.—

"(A) IN GENERAL.—The Administrator shall, by regulation, and after consultation with the States, prescribe the manner, frequency, form, and content for giving notice under this subsection. The regulations shall— Regulations.

"(i) provide for different frequencies of notice based on the differences between violations that are intermittent or infrequent and violations that are continuous or frequent; and

"(ii) take into account the seriousness of any potential adverse health effects that may be involved.

"(B) STATE REQUIREMENTS.—

"(i) IN GENERAL.—A State may, by rule, establish alternative notification requirements—

"(I) with respect to the form and content of notice given under and in a manner in accordance with subparagraph (C); and

"(II) with respect to the form and content of notice given under subparagraph (D).

"(ii) CONTENTS.—The alternative requirements shall provide the same type and amount of information as required pursuant to this subsection and regulations issued under subparagraph (A).

"(iii) RELATIONSHIP TO SECTION 1413.—Nothing in this subparagraph shall be construed or applied to modify the requirements of section 1413.

"(C) VIOLATIONS WITH POTENTIAL TO HAVE SERIOUS ADVERSE EFFECTS ON HUMAN HEALTH.—Regulations issued under subparagraph (A) shall specify notification procedures for each violation by a public water system that has the potential to have serious adverse effects on human health as a result of short-term exposure. Each notice of violation provided under this subparagraph shall—

"(i) be distributed as soon as practicable after the occurrence of the violation, but not later than 24 hours after the occurrence of the violation;

"(ii) provide a clear and readily understandable explanation of—

"(I) the violation;

"(II) the potential adverse effects on human health;

"(III) the steps that the public water system is taking to correct the violation; and

"(IV) the necessity of seeking alternative water supplies until the violation is corrected;

"(iii) be provided to the Administrator or the head of the State agency that has primary enforcement responsibility under section 1413 as soon as practicable, but not later than 24 hours after the occurrence of the violation; and

"(iv) as required by the State agency in general regulations of the State agency, or on a case-by-case basis after the consultation referred to in clause (iii), considering the health risks involved—

"(I) be provided to appropriate broadcast media;

"(II) be prominently published in a newspaper of general circulation serving the area not later than 1 day after distribution of a notice pursuant to clause (i) or the date of publication of the next issue of the newspaper; or

"(III) be provided by posting or door-to-door notification in lieu of notification by means of broadcast media or newspaper.

"(D) WRITTEN NOTICE.—

"(i) IN GENERAL.—Regulations issued under subparagraph (A) shall specify notification procedures for violations other than the violations covered by subparagraph (C). The procedures shall specify that a public water system shall provide written notice to each person served by the system by notice (I) in the first bill (if any) prepared after the date of occurrence of the violation, (II) in an annual report issued not later than 1 year after the date of occurrence of the violation, or (III) by mail or direct delivery as soon as practicable, but not later than 1 year after the date of occurrence of the violation.

Reports.

"(ii) FORM AND MANNER OF NOTICE.—The Administrator shall prescribe the form and manner of the notice to provide a clear and readily understandable explanation of the violation, any potential adverse health effects, and the steps that the system is taking to seek alternative water supplies, if any, until the violation is corrected.

"(E) UNREGULATED CONTAMINANTS.—The Administrator may require the owner or operator of a public water system to give notice to the persons served by the system of the concentration levels of an unregulated contaminant required to be monitored under section 1445(a).

"(3) REPORTS.—

"(A) ANNUAL REPORT BY STATE.—

"(i) IN GENERAL.—Not later than January 1, 1998, and annually thereafter, each State that has primary enforcement responsibility under section 1413 shall prepare, make readily available to the public, and submit to the Administrator an annual report on violations of national primary drinking water regulations by public water systems in the State, including violations with respect to (I) maximum contaminant levels, (II) treatment requirements, (III) variances and exemptions, and (IV) monitoring requirements determined to be significant by the Administrator after consultation with the States.

Publication.

"(ii) DISTRIBUTION.—The State shall publish and distribute summaries of the report and indicate where the full report is available for review.

Native Americans.

"(B) ANNUAL REPORT BY ADMINISTRATOR.—Not later than July 1, 1998, and annually thereafter, the Administrator shall prepare and make available to the public an annual report summarizing and evaluating reports submitted by States pursuant to subparagraph (A) and notices

submitted by public water systems serving Indian Tribes provided to the Administrator pursuant to subparagraph (C) or (D) of paragraph (2) and making recommendations concerning the resources needed to improve compliance with this title. The report shall include information about public water system compliance on Indian reservations and about enforcement activities undertaken and financial assistance provided by the Administrator on Indian reservations, and shall make specific recommendations concerning the resources needed to improve compliance with this title on Indian reservations.

"(4) CONSUMER CONFIDENCE REPORTS BY COMMUNITY WATER SYSTEMS.—

"(A) ANNUAL REPORTS TO CONSUMERS.—The Administrator, in consultation with public water systems, environmental groups, public interest groups, risk communication experts, and the States, and other interested parties, shall issue regulations within 24 months after the date of enactment of this paragraph to require each community water system to mail to each customer of the system at least once annually a report on the level of contaminants in the drinking water purveyed by that system (referred to in this paragraph as a 'consumer confidence report'). Such regulations shall provide a brief and plainly worded definition of the terms 'maximum contaminant level goal', 'maximum contaminant level', 'variances', and 'exemptions' and brief statements in plain language regarding the health concerns that resulted in regulation of each regulated contaminant. The regulations shall also include a brief and plainly worded explanation regarding contaminants that may reasonably be expected to be present in drinking water, including bottled water. The regulations shall also provide for an Environmental Protection Agency toll-free hotline that consumers can call for more information and explanation. Regulations.

"(B) CONTENTS OF REPORT.—The consumer confidence reports under this paragraph shall include, but not be limited to, each of the following:

"(i) Information on the source of the water purveyed.

"(ii) A brief and plainly worded definition of the terms 'maximum contaminant level goal', 'maximum contaminant level', 'variances', and 'exemptions' as provided in the regulations of the Administrator.

"(iii) If any regulated contaminant is detected in the water purveyed by the public water system, a statement setting forth (I) the maximum contaminant level goal, (II) the maximum contaminant level, (III) the level of such contaminant in such water system, and (IV) for any regulated contaminant for which there has been a violation of the maximum contaminant level during the year concerned, the brief statement in plain language regarding the health concerns that resulted in regulation of such contaminant, as provided by the Administrator in regulations under subparagraph (A).

"(iv) Information on compliance with national primary drinking water regulations, as required by the Administrator, and notice if the system is operating under a variance or exemption and the basis on which the variance or exemption was granted.

"(v) Information on the levels of unregulated contaminants for which monitoring is required under section 1445(a)(2) (including levels of cryptosporidium and radon where States determine they may be found).

"(vi) A statement that the presence of contaminants in drinking water does not necessarily indicate that the drinking water poses a health risk and that more information about contaminants and potential health effects can be obtained by calling the Environmental Protection Agency hotline.

A public water system may include such additional information as it deems appropriate for public education. The Administrator may, for not more than 3 regulated contaminants other than those referred to in subclause (IV) of clause (iii), require a consumer confidence report under this paragraph to include the brief statement in plain language regarding the health concerns that resulted in regulation of the contaminant or contaminants concerned, as provided by the Administrator in regulations under subparagraph (A).

"(C) COVERAGE.—The Governor of a State may determine not to apply the mailing requirement of subparagraph (A) to a community water system serving fewer than 10,000 persons. Any such system shall—

Newspapers.

"(i) inform, in the newspaper notice required by clause (iii) or by other means, its customers that the system will not be mailing the report as required by subparagraph (A);

"(ii) make the consumer confidence report available upon request to the public; and

Publication.

"(iii) publish the report referred to in subparagraph (A) annually in one or more local newspapers serving the area in which customers of the system are located.

"(D) ALTERNATIVE TO PUBLICATION.—For any community water system which, pursuant to subparagraph (C), is not required to meet the mailing requirement of subparagraph (A) and which serves 500 persons or fewer, the community water system may elect not to comply with clause (i) or (iii) of subparagraph (C). If the community water system so elects, the system shall, at a minimum—

Reports.

"(i) prepare an annual consumer confidence report pursuant to subparagraph (B); and

"(ii) provide notice at least once per year to each of its customers by mail, by door-to-door delivery, by posting or by other means authorized by the regulations of the Administrator that the consumer confidence report is available upon request.

"(E) ALTERNATIVE FORM AND CONTENT.—A State exercising primary enforcement responsibility may establish, by rule, after notice and public comment, alternative requirements with respect to the form and content of consumer confidence reports under this paragraph.".

(b) BOTTLED WATER STUDY.—Not later than 18 months after the date of enactment of this Act, the Administrator of the Food and Drug Administration, in consultation with the Administrator of the Environmental Protection Agency, shall publish for public notice and comment a draft study on the feasibility of appropriate methods, if any, of informing customers of the contents of bottled water. The Administrator of the Food and Drug Administration shall publish a final study not later than 30 months after the date of enactment of this Act. Publication. 21 USC 349 note.

SEC. 115. VARIANCES.

The second sentence of section 1415(a)(1)(A) (42 U.S.C. 300g–4(a)(1)(A)) is amended—

(1) by striking "only be issued to a system after the system's application of" and inserting "be issued to a system on condition that the system install"; and

(2) by inserting before the period at the end the following: ", and based upon an evaluation satisfactory to the State that indicates that alternative sources of water are not reasonably available to the system".

SEC. 116. SMALL SYSTEMS VARIANCES.

Section 1415 (42 U.S.C. 300g–4) is amended by adding at the end the following:

"(e) SMALL SYSTEM VARIANCES.—

"(1) IN GENERAL.—A State exercising primary enforcement responsibility for public water systems under section 1413 (or the Administrator in nonprimacy States) may grant a variance under this subsection for compliance with a requirement specifying a maximum contaminant level or treatment technique contained in a national primary drinking water regulation to—

"(A) public water systems serving 3,300 or fewer persons; and

"(B) with the approval of the Administrator pursuant to paragraph (9), public water systems serving more than 3,300 persons but fewer than 10,000 persons,

if the variance meets each requirement of this subsection.

"(2) AVAILABILITY OF VARIANCES.—A public water system may receive a variance pursuant to paragraph (1), if—

"(A) the Administrator has identified a variance technology under section 1412(b)(15) that is applicable to the size and source water quality conditions of the public water system;

"(B) the public water system installs, operates, and maintains, in accordance with guidance or regulations issued by the Administrator, such treatment technology, treatment technique, or other means; and

"(C) the State in which the system is located determines that the conditions of paragraph (3) are met.

"(3) CONDITIONS FOR GRANTING VARIANCES.—A variance under this subsection shall be available only to a system—

"(A) that cannot afford to comply, in accordance with affordability criteria established by the Administrator (or the State in the case of a State that has primary enforcement responsibility under section 1413), with a national primary drinking water regulation, including compliance through—

"(i) treatment;

"(ii) alternative source of water supply; or

"(iii) restructuring or consolidation (unless the Administrator (or the State in the case of a State that has primary enforcement responsibility under section 1413) makes a written determination that restructuring or consolidation is not practicable); and

"(B) for which the Administrator (or the State in the case of a State that has primary enforcement responsibility under section 1413) determines that the terms of the variance ensure adequate protection of human health, considering the quality of the source water for the system and the removal efficiencies and expected useful life of the treatment technology required by the variance.

"(4) COMPLIANCE SCHEDULES.—A variance granted under this subsection shall require compliance with the conditions of the variance not later than 3 years after the date on which the variance is granted, except that the Administrator (or the State in the case of a State that has primary enforcement responsibility under section 1413) may allow up to 2 additional years to comply with a variance technology, secure an alternative source of water, restructure or consolidate if the Administrator (or the State) determines that additional time is necessary for capital improvements, or to allow for financial assistance provided pursuant to section 1452 or any other Federal or State program.

Review.

"(5) DURATION OF VARIANCES.—The Administrator (or the State in the case of a State that has primary enforcement responsibility under section 1413) shall review each variance granted under this subsection not less often than every 5 years after the compliance date established in the variance to determine whether the system remains eligible for the variance and is conforming to each condition of the variance.

"(6) INELIGIBILITY FOR VARIANCES.—A variance shall not be available under this subsection for—

"(A) any maximum contaminant level or treatment technique for a contaminant with respect to which a national primary drinking water regulation was promulgated prior to January 1, 1986; or

"(B) a national primary drinking water regulation for a microbial contaminant (including a bacterium, virus, or other organism) or an indicator or treatment technique for a microbial contaminant.

"(7) REGULATIONS AND GUIDANCE.—

"(A) IN GENERAL.—Not later than 2 years after the date of enactment of this subsection and in consultation with the States, the Administrator shall promulgate regulations for variances to be granted under this subsection. The regulations shall, at a minimum, specify—

"(i) procedures to be used by the Administrator or a State to grant or deny variances, including requirements for notifying the Administrator and consumers of the public water system that a variance is proposed to be granted (including information regarding the contaminant and variance) and requirements for a public hearing on the variance before the variance is granted;

"(ii) requirements for the installation and proper operation of variance technology that is identified (pursuant to section 1412(b)(15)) for small systems and the financial and technical capability to operate the treatment system, including operator training and certification;

"(iii) eligibility criteria for a variance for each national primary drinking water regulation, including requirements for the quality of the source water (pursuant to section 1412(b)(15)(A)); and

"(iv) information requirements for variance applications.

"(B) AFFORDABILITY CRITERIA.—Not later than 18 months after the date of enactment of the Safe Drinking Water Act Amendments of 1996, the Administrator, in consultation with the States and the Rural Utilities Service of the Department of Agriculture, shall publish information to assist the States in developing affordability criteria. The affordability criteria shall be reviewed by the States not less often than every 5 years to determine if changes are needed to the criteria. Publication. Review.

"(8) REVIEW BY THE ADMINISTRATOR.—

"(A) IN GENERAL.—The Administrator shall periodically review the program of each State that has primary enforcement responsibility for public water systems under section 1413 with respect to variances to determine whether the variances granted by the State comply with the requirements of this subsection. With respect to affordability, the determination of the Administrator shall be limited to whether the variances granted by the State comply with the affordability criteria developed by the State.

"(B) NOTICE AND PUBLICATION.—If the Administrator determines that variances granted by a State are not in compliance with affordability criteria developed by the State and the requirements of this subsection, the Administrator shall notify the State in writing of the deficiencies and make public the determination.

"(9) APPROVAL OF VARIANCES.—A State proposing to grant a variance under this subsection to a public water system serving more than 3,300 and fewer than 10,000 persons shall submit the variance to the Administrator for review and approval prior to the issuance of the variance. The Administrator shall approve the variance if it meets each of the requirements of this subsection. The Administrator shall approve or disapprove the variance within 90 days. If the Administrator disapproves a variance under this paragraph, the Administrator shall notify the State in writing of the reasons for disapproval and the variance may be resubmitted with modifications to address the objections stated by the Administrator. Notification.

"(10) OBJECTIONS TO VARIANCES.—

"(A) BY THE ADMINISTRATOR.—The Administrator may review and object to any variance proposed to be granted by a State, if the objection is communicated to the State not later than 90 days after the State proposes to grant the variance. If the Administrator objects to the granting of a variance, the Administrator shall notify the State in writing of each basis for the objection and propose a Notification.

modification to the variance to resolve the concerns of the Administrator. The State shall make the recommended modification or respond in writing to each objection. If the State issues the variance without resolving the concerns of the Administrator, the Administrator may overturn the State decision to grant the variance if the Administrator determines that the State decision does not comply with this subsection.

"(B) PETITION BY CONSUMERS.—Not later than 30 days after a State exercising primary enforcement responsibility for public water systems under section 1413 proposes to grant a variance for a public water system, any person served by the system may petition the Administrator to object to the granting of a variance. The Administrator shall respond to the petition and determine whether to object to the variance under subparagraph (A) not later than 60 days after the receipt of the petition.

"(C) TIMING.—No variance shall be granted by a State until the later of the following:

"(i) 90 days after the State proposes to grant a variance.

"(ii) If the Administrator objects to the variance, the date on which the State makes the recommended modifications or responds in writing to each objection.".

SEC. 117. EXEMPTIONS.

(a) IN GENERAL.—Section 1416 (42 U.S.C. 300g–5) is amended as follows:

(1) In subsection (a)(1)—

(A) by inserting after "(which may include economic factors" the following: ", including qualification of the public water system as a system serving a disadvantaged community pursuant to section 1452(d)"; and

(B) by inserting after "treatment technique requirement," the following: "or to implement measures to develop an alternative source of water supply,".

(2) In subsection (a), by striking "and" at the end of paragraph (2), striking the period at the end of paragraph (3) and inserting "; and" and by adding the following at the end thereof:

"(4) management or restructuring changes (or both) cannot reasonably be made that will result in compliance with this title or, if compliance cannot be achieved, improve the quality of the drinking water.".

(3) In subsection (b)(1)(A)—

(A) by striking "(including increments of progress)" and inserting "(including increments of progress or measures to develop an alternative source of water supply)"; and

(B) by striking "requirement and treatment" and inserting "requirement or treatment".

(4) In subsection (b)(2)—

(A) by striking "(except as provided in subparagraph (B))" in subparagraph (A) and all that follows through "3 years after the date of the issuance of the exemption if" in subparagraph (B) and inserting the following: "not

later than 3 years after the otherwise applicable compliance date established in section 1412(b)(10).

"(B) No exemption shall be granted unless";

(B) in subparagraph (B)(i), by striking "within the period of such exemption" and inserting "prior to the date established pursuant to section 1412(b)(10)";

(C) in subparagraph (B)(ii), by inserting after "such financial assistance" the following: "or assistance pursuant to section 1452, or any other Federal or State program is reasonably likely to be available within the period of the exemption";

(D) in subparagraph (C)—

(i) by striking "500 service connections" and inserting "a population of 3,300"; and

(ii) by inserting ", but not to exceed a total of 6 years," after "for one or more additional 2-year periods"; and

(E) by adding at the end the following:

"(D) LIMITATION.—A public water system may not receive an exemption under this section if the system was granted a variance under section 1415(e).".

(b) LIMITED ADDITIONAL COMPLIANCE PERIOD.—(1) The State of New York, on a case-by-case basis and after notice and an opportunity of at least 60 days for public comment, may allow an additional period for compliance with the Surface Water Treatment Rule established pursuant to section 1412(b)(7)(C) of the Safe Drinking Water Act in the case of unfiltered systems in Essex, Columbia, Greene, Dutchess, Rensselaer, Schoharie, Saratoga, Washington, and Warren Counties serving a population of less than 5,000, which meet appropriate disinfection requirements and have adequate watershed protections, so long as the State determines that the public health will be protected during the duration of the additional compliance period and the system agrees to implement appropriate control measures as determined by the State.

(2) The additional compliance period referred to in paragraph (1) shall expire on the earlier of the date 3 years after the date on which the Administrator identifies appropriate control technology for the Surface Water Treatment Rule for public water systems in the category that includes such system pursuant to section 1412(b)(4)(E) of the Safe Drinking Water Act or 5 years after the date of enactment of the Safe Drinking Water Act Amendments of 1996. Expiration.

SEC. 118. LEAD PLUMBING AND PIPES.

Section 1417 (42 U.S.C. 300g–6) is amended as follows:

(1) In subsection (a), by striking paragraph (1) and inserting the following:

"(1) PROHIBITIONS.—

"(A) IN GENERAL.—No person may use any pipe, any pipe or plumbing fitting or fixture, any solder, or any flux, after June 19, 1986, in the installation or repair of—

"(i) any public water system; or

"(ii) any plumbing in a residential or nonresidential facility providing water for human consumption,

that is not lead free (within the meaning of subsection (d)).

"(B) LEADED JOINTS.—Subparagraph (A) shall not apply to leaded joints necessary for the repair of cast iron pipes.".

(2) In subsection (a)(2)(A), by inserting "owner or operator of a" after "Each".

(3) By adding at the end of subsection (a) the following:

Effective date.

"(3) UNLAWFUL ACTS.—Effective 2 years after the date of enactment of this paragraph, it shall be unlawful—

"(A) for any person to introduce into commerce any pipe, or any pipe or plumbing fitting or fixture, that is not lead free, except for a pipe that is used in manufacturing or industrial processing;

"(B) for any person engaged in the business of selling plumbing supplies, except manufacturers, to sell solder or flux that is not lead free; or

"(C) for any person to introduce into commerce any solder or flux that is not lead free unless the solder or flux bears a prominent label stating that it is illegal to use the solder or flux in the installation or repair of any plumbing providing water for human consumption.".

(4) In subsection (d)—

(A) by striking "lead, and" in paragraph (1) and inserting "lead;";

(B) by striking "lead." in paragraph (2) and inserting "lead; and"; and

(C) by adding at the end the following:

"(3) when used with respect to plumbing fittings and fixtures, refers to plumbing fittings and fixtures in compliance with standards established in accordance with subsection (e).".

(5) By adding at the end the following:

"(e) PLUMBING FITTINGS AND FIXTURES.—

"(1) IN GENERAL.—The Administrator shall provide accurate and timely technical information and assistance to qualified third-party certifiers in the development of voluntary standards and testing protocols for the leaching of lead from new plumbing fittings and fixtures that are intended by the manufacturer to dispense water for human ingestion.

"(2) STANDARDS.—

"(A) IN GENERAL.—If a voluntary standard for the leaching of lead is not established by the date that is 1 year after the date of enactment of this subsection, the Administrator shall, not later than 2 years after the date of enactment of this subsection, promulgate regulations setting a health-effects-based performance standard establishing maximum leaching levels from new plumbing fittings and fixtures that are intended by the manufacturer to dispense water for human ingestion. The standard shall become effective on the date that is 5 years after the date of promulgation of the standard.

Effective date.

"(B) ALTERNATIVE REQUIREMENT.—If regulations are required to be promulgated under subparagraph (A) and have not been promulgated by the date that is 5 years after the date of enactment of this subsection, no person may import, manufacture, process, or distribute in commerce a new plumbing fitting or fixture, intended by the

manufacturer to dispense water for human ingestion, that contains more than 4 percent lead by dry weight.".

SEC. 119. CAPACITY DEVELOPMENT.

Part B (42 U.S.C. 300g et seq.) is amended by adding after section 1419 the following:

"CAPACITY DEVELOPMENT

"SEC. 1420. (a) STATE AUTHORITY FOR NEW SYSTEMS.—A State shall receive only 80 percent of the allotment that the State is otherwise entitled to receive under section 1452 (relating to State loan funds) unless the State has obtained the legal authority or other means to ensure that all new community water systems and new nontransient, noncommunity water systems commencing operation after October 1, 1999, demonstrate technical, managerial, and financial capacity with respect to each national primary drinking water regulation in effect, or likely to be in effect, on the date of commencement of operations. 42 USC 300g–9.

"(b) SYSTEMS IN SIGNIFICANT NONCOMPLIANCE.—

"(1) LIST.—Beginning not later than 1 year after the date of enactment of this section, each State shall prepare, periodically update, and submit to the Administrator a list of community water systems and nontransient, noncommunity water systems that have a history of significant noncompliance with this title (as defined in guidelines issued prior to the date of enactment of this section or any revisions of the guidelines that have been made in consultation with the States) and, to the extent practicable, the reasons for noncompliance.

"(2) REPORT.—Not later than 5 years after the date of enactment of this section and as part of the capacity development strategy of the State, each State shall report to the Administrator on the success of enforcement mechanisms and initial capacity development efforts in assisting the public water systems listed under paragraph (1) to improve technical, managerial, and financial capacity.

"(3) WITHHOLDING.—The list and report under this subsection shall be considered part of the capacity development strategy of the State required under subsection (c) of this section for purposes of the withholding requirements of section 1452(a)(1)(G)(i) (relating to State loan funds).

"(c) CAPACITY DEVELOPMENT STRATEGY.—

"(1) IN GENERAL.—Beginning 4 years after the date of enactment of this section, a State shall receive only—

"(A) 90 percent in fiscal year 2001;

"(B) 85 percent in fiscal year 2002; and

"(C) 80 percent in each subsequent fiscal year,

of the allotment that the State is otherwise entitled to receive under section 1452 (relating to State loan funds), unless the State is developing and implementing a strategy to assist public water systems in acquiring and maintaining technical, managerial, and financial capacity.

"(2) CONTENT.—In preparing the capacity development strategy, the State shall consider, solicit public comment on, and include as appropriate—

"(A) the methods or criteria that the State will use to identify and prioritize the public water systems most

in need of improving technical, managerial, and financial capacity;

"(B) a description of the institutional, regulatory, financial, tax, or legal factors at the Federal, State, or local level that encourage or impair capacity development;

"(C) a description of how the State will use the authorities and resources of this title or other means to—

"(i) assist public water systems in complying with national primary drinking water regulations;

"(ii) encourage the development of partnerships between public water systems to enhance the technical, managerial, and financial capacity of the systems; and

"(iii) assist public water systems in the training and certification of operators;

"(D) a description of how the State will establish a baseline and measure improvements in capacity with respect to national primary drinking water regulations and State drinking water law; and

"(E) an identification of the persons that have an interest in and are involved in the development and implementation of the capacity development strategy (including all appropriate agencies of Federal, State, and local governments, private and nonprofit public water systems, and public water system customers).

"(3) REPORT.—Not later than 2 years after the date on which a State first adopts a capacity development strategy under this subsection, and every 3 years thereafter, the head of the State agency that has primary responsibility to carry out this title in the State shall submit to the Governor a report that shall also be available to the public on the efficacy of the strategy and progress made toward improving the technical, managerial, and financial capacity of public water systems in the State.

"(4) REVIEW.—The decisions of the State under this section regarding any particular public water system are not subject to review by the Administrator and may not serve as the basis for withholding funds under section 1452.

"(d) FEDERAL ASSISTANCE.—

"(1) IN GENERAL.—The Administrator shall support the States in developing capacity development strategies.

"(2) INFORMATIONAL ASSISTANCE.—

"(A) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Administrator shall—

Review. Publication.

"(i) conduct a review of State capacity development efforts in existence on the date of enactment of this section and publish information to assist States and public water systems in capacity development efforts; and

"(ii) initiate a partnership with States, public water systems, and the public to develop information for States on recommended operator certification requirements.

"(B) PUBLICATION OF INFORMATION.—The Administrator shall publish the information developed through the partnership under subparagraph (A)(ii) not later than 18 months after the date of enactment of this section.

"(3) PROMULGATION OF DRINKING WATER REGULATIONS.—In promulgating a national primary drinking water regulation, the Administrator shall include an analysis of the likely effect of compliance with the regulation on the technical, financial, and managerial capacity of public water systems.

"(4) GUIDANCE FOR NEW SYSTEMS.—Not later than 2 years after the date of enactment of this section, the Administrator shall publish guidance developed in consultation with the States describing legal authorities and other means to ensure that all new community water systems and new nontransient, noncommunity water systems demonstrate technical, managerial, and financial capacity with respect to national primary drinking water regulations. Publication.

"(e) VARIANCES AND EXEMPTIONS.—Based on information obtained under subsection (c)(3), the Administrator shall, as appropriate, modify regulations concerning variances and exemptions for small public water systems to ensure flexibility in the use of the variances and exemptions. Nothing in this subsection shall be interpreted, construed, or applied to affect or alter the requirements of section 1415 or 1416.

"(f) SMALL PUBLIC WATER SYSTEMS TECHNOLOGY ASSISTANCE CENTERS.—

"(1) GRANT PROGRAM.—The Administrator is authorized to make grants to institutions of higher learning to establish and operate small public water system technology assistance centers in the United States.

"(2) RESPONSIBILITIES OF THE CENTERS.—The responsibilities of the small public water system technology assistance centers established under this subsection shall include the conduct of training and technical assistance relating to the information, performance, and technical needs of small public water systems or public water systems that serve Indian Tribes.

"(3) APPLICATIONS.—Any institution of higher learning interested in receiving a grant under this subsection shall submit to the Administrator an application in such form and containing such information as the Administrator may require by regulation.

"(4) SELECTION CRITERIA.—The Administrator shall select recipients of grants under this subsection on the basis of the following criteria:

"(A) The small public water system technology assistance center shall be located in a State that is representative of the needs of the region in which the State is located for addressing the drinking water needs of small and rural communities or Indian Tribes.

"(B) The grant recipient shall be located in a region that has experienced problems, or may reasonably be foreseen to experience problems, with small and rural public water systems.

"(C) The grant recipient shall have access to expertise in small public water system technology management.

"(D) The grant recipient shall have the capability to disseminate the results of small public water system technology and training programs.

"(E) The projects that the grant recipient proposes to carry out under the grant are necessary and appropriate.

"(F) The grant recipient has regional support beyond the host institution.

"(5) CONSORTIA OF STATES.—At least 2 of the grants under this subsection shall be made to consortia of States with low population densities.

"(6) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to make grants under this subsection $2,000,000 for each of the fiscal years 1997 through 1999, and $5,000,000 for each of the fiscal years 2000 through 2003.

"(g) ENVIRONMENTAL FINANCE CENTERS.—

"(1) IN GENERAL.—The Administrator shall provide initial funding for one or more university-based environmental finance centers for activities that provide technical assistance to State and local officials in developing the capacity of public water systems. Any such funds shall be used only for activities that are directly related to this title.

Establishment.

"(2) NATIONAL CAPACITY DEVELOPMENT CLEARINGHOUSE.—The Administrator shall establish a national public water system capacity development clearinghouse to receive and disseminate information with respect to developing, improving, and maintaining financial and managerial capacity at public water systems. The Administrator shall ensure that the clearinghouse does not duplicate other federally supported clearinghouse activities.

"(3) CAPACITY DEVELOPMENT TECHNIQUES.—The Administrator may request an environmental finance center funded under paragraph (1) to develop and test managerial, financial, and institutional techniques for capacity development. The techniques may include capacity assessment methodologies, manual and computer based public water system rate models and capital planning models, public water system consolidation procedures, and regionalization models.

"(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection $1,500,000 for each of the fiscal years 1997 through 2003.

"(5) LIMITATION.—No portion of any funds made available under this subsection may be used for lobbying expenses.".

SEC. 120. AUTHORIZATION OF APPROPRIATIONS FOR CERTAIN GROUND WATER PROGRAMS.

(a) CRITICAL AQUIFER PROTECTION.—Section 1427 (42 U.S.C. 300h–6) is amended as follows:

(1) Subsection (b)(1) is amended by striking "not later than 24 months after the enactment of the Safe Drinking Water Act Amendments of 1986".

(2) The table in subsection (m) is amended by adding at the end the following:

"1992–2003	15,000,000.".

(b) WELLHEAD PROTECTION AREAS.—The table in section 1428(k) (42 U.S.C. 300h–7(k)) is amended by adding at the end the following:

"1992–2003	30,000,000.".

(c) UNDERGROUND INJECTION CONTROL GRANT.—The table in section 1443(b)(5) (42 U.S.C. 300j–2(b)(5)) is amended by adding at the end the following:

"1992–2003 ..... 15,000,000.".

SEC. 121. AMENDMENTS TO SECTION 1442.

Section 1442 (42 U.S.C. 300j–1) is amended—

(1) by redesignating paragraph (3) of subsection (b) as paragraph (3) of subsection (d) and moving such paragraph to appear after paragraph (2) of subsection (d);

(2) by striking subsection (b) (as so amended);

(3) by redesignating subparagraph (B) of subsection (a)(2) as subsection (b) and moving such subsection to appear after subsection (a);

(4) in subsection (a)—

(A) by striking paragraph (2) (as so amended) and inserting the following:

"(2) INFORMATION AND RESEARCH FACILITIES.—In carrying out this title, the Administrator is authorized to—

"(A) collect and make available information pertaining to research, investigations, and demonstrations with respect to providing a dependably safe supply of drinking water, together with appropriate recommendations in connection with the information; and

"(B) make available research facilities of the Agency to appropriate public authorities, institutions, and individuals engaged in studies and research relating to this title.";

(B) by striking paragraph (3); and

(C) by redesignating paragraph (11) as paragraph (3) and moving such paragraph to appear before paragraph (4).

SEC. 122. TECHNICAL ASSISTANCE.

Section 1442(e) (42 U.S.C. 300j–1(e)) is amended to read as follows:

"(e) TECHNICAL ASSISTANCE.—The Administrator may provide technical assistance to small public water systems to enable such systems to achieve and maintain compliance with applicable national primary drinking water regulations. Such assistance may include circuit-rider and multi-State regional technical assistance programs, training, and preliminary engineering evaluations. The Administrator shall ensure that technical assistance pursuant to this subsection is available in each State. Each nonprofit organization receiving assistance under this subsection shall consult with the State in which the assistance is to be expended or otherwise made available before using assistance to undertake activities to carry out this subsection. There are authorized to be appropriated to the Administrator to be used for such technical assistance $15,000,000 for each of the fiscal years 1997 through 2003. No portion of any State loan fund established under section 1452 (relating to State loan funds) and no portion of any funds made available under this subsection may be used for lobbying expenses. Of the total amount appropriated under this subsection, 3 percent shall be used for technical assistance to public water systems owned or operated by Indian Tribes.".

Nonprofit organizations.

Appropriation authorization.

SEC. 123. OPERATOR CERTIFICATION.

Part B (42 U.S.C. 300g et seq.) is amended by adding the following after section 1418:

"OPERATOR CERTIFICATION

Federal Register, publication. 42 USC 300g–8.

"SEC. 1419. (a) GUIDELINES.—Not later than 30 months after the date of enactment of the Safe Drinking Water Act Amendments of 1996 and in cooperation with the States, the Administrator shall publish guidelines in the Federal Register, after notice and opportunity for comment from interested persons, including States and public water systems, specifying minimum standards for certification (and recertification) of the operators of community and nontransient noncommunity public water systems. Such guidelines shall take into account existing State programs, the complexity of the system, and other factors aimed at providing an effective program at reasonable cost to States and public water systems, taking into account the size of the system.

"(b) STATE PROGRAMS.—Beginning 2 years after the date on which the Administrator publishes guidelines under subsection (a), the Administrator shall withhold 20 percent of the funds a State is otherwise entitled to receive under section 1452 unless the State has adopted and is implementing a program for the certification of operators of community and nontransient noncommunity public water systems that meets the requirements of the guidelines published pursuant to subsection (a) or that has been submitted in compliance with subsection (c) and that has not been disapproved.

"(c) EXISTING PROGRAMS.—For any State exercising primary enforcement responsibility for public water systems or any other State which has an operator certification program, the guidelines under subsection (a) shall allow the State to enforce such program in lieu of the guidelines under subsection (a) if the State submits the program to the Administrator within 18 months after the publication of the guidelines unless the Administrator determines (within 9 months after the State submits the program to the Administrator) that such program is not substantially equivalent to such guidelines. In making this determination, an existing State program shall be presumed to be substantially equivalent to the guidelines, notwithstanding program differences, based on the size of systems or the quality of source water, providing the State program meets the overall public health objectives of the guidelines. If disapproved, the program may be resubmitted within 6 months after receipt of notice of disapproval.

"(d) EXPENSE REIMBURSEMENT.—

"(1) IN GENERAL.—The Administrator shall provide reimbursement for the costs of training, including an appropriate per diem for unsalaried operators, and certification for persons operating systems serving 3,300 persons or fewer that are required to undergo training pursuant to this section.

"(2) STATE GRANTS.—The reimbursement shall be provided through grants to States with each State receiving an amount sufficient to cover the reasonable costs for training all such operators in the State, as determined by the Administrator, to the extent required by this section. Grants received by a State pursuant to this paragraph shall first be used to provide reimbursement for training and certification costs of persons operating systems serving 3,300 persons or fewer. If a State

has reimbursed all such costs, the State may, after notice to the Administrator, use any remaining funds from the grant for any of the other purposes authorized for grants under section 1452.

"(3) AUTHORIZATION.—There are authorized to be appropriated to the Administrator to provide grants for reimbursement under this section $30,000,000 for each of fiscal years 1997 through 2003.

"(4) RESERVATION.—If the appropriation made pursuant to paragraph (3) for any fiscal year is not sufficient to satisfy the requirements of paragraph (1), the Administrator shall, prior to any other allocation or reservation, reserve such sums as necessary from the funds appropriated pursuant to section 1452(m) to provide reimbursement for the training and certification costs mandated by this subsection.".

SEC. 124. PUBLIC WATER SYSTEM SUPERVISION PROGRAM.

Section 1443(a) (42 U.S.C. 300j–2(a)) is amended as follows:

(1) Paragraph (7) is amended to read as follows:

"(7) AUTHORIZATION.—For the purpose of making grants under paragraph (1), there are authorized to be appropriated $100,000,000 for each of fiscal years 1997 through 2003.".

(2) By adding at the end the following:

"(8) RESERVATION OF FUNDS BY THE ADMINISTRATOR.—If the Administrator assumes the primary enforcement responsibility of a State public water system supervision program, the Administrator may reserve from funds made available pursuant to this subsection an amount equal to the amount that would otherwise have been provided to the State pursuant to this subsection. The Administrator shall use the funds reserved pursuant to this paragraph to ensure the full and effective administration of a public water system supervision program in the State.

"(9) STATE LOAN FUNDS.—

"(A) RESERVATION OF FUNDS.—For any fiscal year for which the amount made available to the Administrator by appropriations to carry out this subsection is less than the amount that the Administrator determines is necessary to supplement funds made available pursuant to paragraph (8) to ensure the full and effective administration of a public water system supervision program in a State, the Administrator may reserve from the funds made available to the State under section 1452 (relating to State loan funds) an amount that is equal to the amount of the shortfall. This paragraph shall not apply to any State not exercising primary enforcement responsibility for public water systems as of the date of enactment of the Safe Drinking Water Act Amendments of 1996.

"(B) DUTY OF ADMINISTRATOR.—If the Administrator reserves funds from the allocation of a State under subparagraph (A), the Administrator shall carry out in the State each of the activities that would be required of the State if the State had primary enforcement authority under section 1413.".

SEC. 125. MONITORING AND INFORMATION GATHERING.

(a) REVIEW OF EXISTING REQUIREMENTS.—Paragraph (1) of section 1445(a) (42 U.S.C. 300j–4(a)(1)) is amended to read as follows:

Records.

"(1)(A) Every person who is subject to any requirement of this title or who is a grantee, shall establish and maintain such records, make such reports, conduct such monitoring, and provide such information as the Administrator may reasonably require by regulation to assist the Administrator in establishing regulations under this title, in determining whether such person has acted or is acting in compliance with this title, in administering any program of financial assistance under this title, in evaluating the health risks of unregulated contaminants, or in advising the public of such risks. In requiring a public water system to monitor under this subsection, the Administrator may take into consideration the system size and the contaminants likely to be found in the system's drinking water.

"(B) Every person who is subject to a national primary drinking water regulation under section 1412 shall provide such information as the Administrator may reasonably require, after consultation with the State in which such person is located if such State has primary enforcement responsibility for public water systems, on a case-by-case basis, to determine whether such person has acted or is acting in compliance with this title.

"(C) Every person who is subject to a national primary drinking water regulation under section 1412 shall provide such information as the Administrator may reasonably require to assist the Administrator in establishing regulations under section 1412 of this title, after consultation with States and suppliers of water. The Administrator may not require under this subparagraph the installation of treatment equipment or process changes, the testing of treatment technology, or the analysis or processing of monitoring samples, except where the Administrator provides the funding for such activities. Before exercising this authority, the Administrator shall first seek to obtain the information by voluntary submission.

Regulations.

"(D) The Administrator shall not later than 2 years after the date of enactment of this subparagraph, after consultation with public health experts, representatives of the general public, and officials of State and local governments, review the monitoring requirements for not fewer than 12 contaminants identified by the Administrator, and promulgate any necessary modifications.".

(b) MONITORING RELIEF.—Part B is amended by adding the following new section after section 1417 (42 U.S.C. 300g–6):

"MONITORING OF CONTAMINANTS

42 USC 300g–7.

"SEC. 1418. (a) INTERIM MONITORING RELIEF AUTHORITY.—

"(1) IN GENERAL.—A State exercising primary enforcement responsibility for public water systems may modify the monitoring requirements for any regulated or unregulated contaminants for which monitoring is required other than microbial contaminants (or indicators thereof), disinfectants and disinfection byproducts or corrosion byproducts for an interim period to provide that any public water system serving 10,000 persons or fewer shall not be required to conduct additional quarterly monitoring during an interim relief period for such contaminants if—

"(A) monitoring, conducted at the beginning of the period for the contaminant concerned and certified to the State by the public water system, fails to detect the presence of the contaminant in the ground or surface water supplying the public water system; and

"(B) the State, considering the hydrogeology of the area and other relevant factors, determines in writing that the contaminant is unlikely to be detected by further monitoring during such period.

"(2) TERMINATION; TIMING OF MONITORING.—The interim relief period referred to in paragraph (1) shall terminate when permanent monitoring relief is adopted and approved for such State, or at the end of 36 months after the date of enactment of the Safe Drinking Water Act Amendments of 1996, whichever comes first. In order to serve as a basis for interim relief, the monitoring conducted at the beginning of the period must occur at the time determined by the State to be the time of the public water system's greatest vulnerability to the contaminant concerned in the relevant ground or surface water, taking into account in the case of pesticides the time of application of the pesticide for the source water area and the travel time for the pesticide to reach such waters and taking into account, in the case of other contaminants, seasonality of precipitation and contaminant travel time.

"(b) PERMANENT MONITORING RELIEF AUTHORITY.—

"(1) IN GENERAL.—Each State exercising primary enforcement responsibility for public water systems under this title and having an approved source water assessment program may adopt, in accordance with guidance published by the Administrator, tailored alternative monitoring requirements for public water systems in such State (as an alternative to the monitoring requirements for chemical contaminants set forth in the applicable national primary drinking water regulations) where the State concludes that (based on data available at the time of adoption concerning susceptibility, use, occurrence, or wellhead protection, or from the State's drinking water source water assessment program) such alternative monitoring would provide assurance that it complies with the Administrator's guidelines. The State program must be adequate to assure compliance with, and enforcement of, applicable national primary drinking water regulations. Alternative monitoring shall not apply to regulated microbiological contaminants (or indicators thereof), disinfectants and disinfection byproducts, or corrosion byproducts. The preceding sentence is not intended to limit other authority of the Administrator under other provisions of this title to grant monitoring flexibility.

"(2) GUIDELINES.—

"(A) IN GENERAL.—The Administrator shall issue, after notice and comment and at the same time as guidelines are issued for source water assessment under section 1453, guidelines for States to follow in proposing alternative monitoring requirements under paragraph (1) for chemical contaminants. The Administrator shall publish such guidelines in the Federal Register. The guidelines shall assure that the public health will be protected from drinking water contamination. The guidelines shall require that a State alternative monitoring program apply on a contaminant-by-contaminant basis and that, to be eligible for such alternative monitoring program, a public water system must show the State that the contaminant is not present in the drinking water supply or, if present, it is reliably and consistently below the maximum contaminant level.

Federal Register, publication.

"(B) DEFINITION.—For purposes of subparagraph (A), the phrase 'reliably and consistently below the maximum contaminant level' means that, although contaminants have been detected in a water supply, the State has sufficient knowledge of the contamination source and extent of contamination to predict that the maximum contaminant level will not be exceeded. In determining that a contaminant is reliably and consistently below the maximum contaminant level, States shall consider the quality and completeness of data, the length of time covered and the volatility or stability of monitoring results during that time, and the proximity of such results to the maximum contaminant level. Wide variations in the analytical results, or analytical results close to the maximum contaminant level, shall not be considered to be reliably and consistently below the maximum contaminant level.

"(3) EFFECT OF DETECTION OF CONTAMINANTS.—The guidelines issued by the Administrator under paragraph (2) shall require that if, after the monitoring program is in effect and operating, a contaminant covered by the alternative monitoring program is detected at levels at or above the maximum contaminant level or is no longer reliably or consistently below the maximum contaminant level, the public water system must either—

"(A) demonstrate that the contamination source has been removed or that other action has been taken to eliminate the contamination problem; or

"(B) test for the detected contaminant pursuant to the applicable national primary drinking water regulation.

"(4) STATES NOT EXERCISING PRIMARY ENFORCEMENT RESPONSIBILITY.—The Governor of any State not exercising primary enforcement responsibility under section 1413 on the date of enactment of this section may submit to the Administrator a request that the Administrator modify the monitoring requirements established by the Administrator and applicable to public water systems in that State. After consultation with the Governor, the Administrator shall modify the requirements for public water systems in that State if the request of the Governor is in accordance with each of the requirements of this subsection that apply to alternative monitoring requirements established by States that have primary enforcement responsibility. A decision by the Administrator to approve a request under this clause shall be for a period of 3 years and may subsequently be extended for periods of 5 years.

"(c) TREATMENT AS NPDWR.—All monitoring relief granted by a State to a public water system for a regulated contaminant under subsection (a) or (b) shall be treated as part of the national primary drinking water regulation for that contaminant.

"(d) OTHER MONITORING RELIEF.—Nothing in this section shall be construed to affect the authority of the States under applicable national primary drinking water regulations to alter monitoring requirements through waivers or other existing authorities. The Administrator shall periodically review and, as appropriate, revise such authorities.".

(c) UNREGULATED CONTAMINANTS.—Section 1445(a) (42 U.S.C. 300j–4(a)) is amended by striking paragraphs (2) through (8) and inserting the following:

"(2) MONITORING PROGRAM FOR UNREGULATED CONTAMINANTS.—

"(A) ESTABLISHMENT.—The Administrator shall promulgate regulations establishing the criteria for a monitoring program for unregulated contaminants. The regulations shall require monitoring of drinking water supplied by public water systems and shall vary the frequency and schedule for monitoring requirements for systems based on the number of persons served by the system, the source of supply, and the contaminants likely to be found, ensuring that only a representative sample of systems serving 10,000 persons or fewer are required to monitor. Regulations.

"(B) MONITORING PROGRAM FOR CERTAIN UNREGULATED CONTAMINANTS.—

"(i) INITIAL LIST.—Not later than 3 years after the date of enactment of the Safe Drinking Water Act Amendments of 1996 and every 5 years thereafter, the Administrator shall issue a list pursuant to subparagraph (A) of not more than 30 unregulated contaminants to be monitored by public water systems and to be included in the national drinking water occurrence data base maintained pursuant to subsection (g). Records.

"(ii) GOVERNORS' PETITION.—The Administrator shall include among the list of contaminants for which monitoring is required under this paragraph each contaminant recommended in a petition signed by the Governor of each of 7 or more States, unless the Administrator determines that the action would prevent the listing of other contaminants of a higher public health concern.

"(C) MONITORING PLAN FOR SMALL AND MEDIUM SYSTEMS.—

"(i) IN GENERAL.—Based on the regulations promulgated by the Administrator, each State may develop a representative monitoring plan to assess the occurrence of unregulated contaminants in public water systems that serve a population of 10,000 or fewer in that State. The plan shall require monitoring for systems representative of different sizes, types, and geographic locations in the State.

"(ii) GRANTS FOR SMALL SYSTEM COSTS.—From funds reserved under section 1452(o) or appropriated under subparagraph (H), the Administrator shall pay the reasonable cost of such testing and laboratory analysis as are necessary to carry out monitoring under the plan.

"(D) MONITORING RESULTS.—Each public water system that conducts monitoring of unregulated contaminants pursuant to this paragraph shall provide the results of the monitoring to the primary enforcement authority for the system.

"(E) NOTIFICATION.—Notification of the availability of the results of monitoring programs required under paragraph (2)(A) shall be given to the persons served by the system.

"(F) WAIVER OF MONITORING REQUIREMENT.—The Administrator shall waive the requirement for monitoring for a contaminant under this paragraph in a State, if the State demonstrates that the criteria for listing the contaminant do not apply in that State.

"(G) ANALYTICAL METHODS.—The State may use screening methods approved by the Administrator under subsection (i) in lieu of monitoring for particular contaminants under this paragraph.

"(H) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this paragraph $10,000,000 for each of the fiscal years 1997 through 2003.".

(d) SCREENING METHODS.—Section 1445 (42 U.S.C. 300j–4) is amended by adding the following after subsection (h):

"(i) SCREENING METHODS.—The Administrator shall review new analytical methods to screen for regulated contaminants and may approve such methods as are more accurate or cost-effective than established reference methods for use in compliance monitoring.".

SEC. 126. OCCURRENCE DATA BASE.

Section 1445 (42 U.S.C. 300j–4) is amended by adding the following new subsection after subsection (f):

"(g) OCCURRENCE DATA BASE.—

"(1) IN GENERAL.—Not later than 3 years after the date of enactment of the Safe Drinking Water Act Amendments of 1996, the Administrator shall assemble and maintain a national drinking water contaminant occurrence data base, using information on the occurrence of both regulated and unregulated contaminants in public water systems obtained under subsection (a)(1)(A) or subsection (a)(2) and reliable information from other public and private sources.

"(2) PUBLIC INPUT.—In establishing the occurrence data base, the Administrator shall solicit recommendations from the Science Advisory Board, the States, and other interested parties concerning the development and maintenance of a national drinking water contaminant occurrence data base, including such issues as the structure and design of the data base, data input parameters and requirements, and the use and interpretation of data.

"(3) USE.—The data shall be used by the Administrator in making determinations under section 1412(b)(1) with respect to the occurrence of a contaminant in drinking water at a level of public health concern.

"(4) PUBLIC RECOMMENDATIONS.—The Administrator shall periodically solicit recommendations from the appropriate officials of the National Academy of Sciences and the States, and any person may submit recommendations to the Administrator, with respect to contaminants that should be included in the national drinking water contaminant occurrence data base, including recommendations with respect to additional unregulated contaminants that should be listed under subsection (a)(2). Any recommendation submitted under this clause shall be accompanied by reasonable documentation that—

"(A) the contaminant occurs or is likely to occur in drinking water; and

"(B) the contaminant poses a risk to public health.

"(5) PUBLIC AVAILABILITY.—The information from the data base shall be available to the public in readily accessible form.

"(6) REGULATED CONTAMINANTS.—With respect to each contaminant for which a national primary drinking water regulation has been established, the data base shall include information on the detection of the contaminant at a quantifiable level in public water systems (including detection of the contaminant at levels not constituting a violation of the maximum contaminant level for the contaminant).

"(7) UNREGULATED CONTAMINANTS.—With respect to contaminants for which a national primary drinking water regulation has not been established, the data base shall include—

"(A) monitoring information collected by public water systems that serve a population of more than 10,000, as required by the Administrator under subsection (a);

"(B) monitoring information collected from a representative sampling of public water systems that serve a population of 10,000 or fewer; and

"(C) other reliable and appropriate monitoring information on the occurrence of the contaminants in public water systems that is available to the Administrator.".

SEC. 127. DRINKING WATER ADVISORY COUNCIL.

The second sentence of section 1446(a) (42 U.S.C. 300j–6(a)) is amended by inserting before the period at the end the following: ", of which two such members shall be associated with small, rural public water systems". 42 USC 300j–5.

SEC. 128. NEW YORK CITY WATERSHED PROTECTION PROGRAM.

Section 1443 (42 U.S.C. 300j–2) is amended by adding at the end the following:

"(d) NEW YORK CITY WATERSHED PROTECTION PROGRAM.—

"(1) IN GENERAL.—The Administrator is authorized to provide financial assistance to the State of New York for demonstration projects implemented as part of the watershed program for the protection and enhancement of the quality of source waters of the New York City water supply system, including projects that demonstrate, assess, or provide for comprehensive monitoring and surveillance and projects necessary to comply with the criteria for avoiding filtration contained in 40 CFR 141.71. Demonstration projects which shall be eligible for financial assistance shall be certified to the Administrator by the State of New York as satisfying the purposes of this subsection. In certifying projects to the Administrator, the State of New York shall give priority to monitoring projects that have undergone peer review.

"(2) REPORT.—Not later than 5 years after the date on which the Administrator first provides assistance pursuant to this paragraph, the Governor of the State of New York shall submit a report to the Administrator on the results of projects assisted.

"(3) MATCHING REQUIREMENTS.—Federal assistance provided under this subsection shall not exceed 50 percent of the total cost of the protection program being carried out for any particular watershed or ground water recharge area.

"(4) AUTHORIZATION.—There are authorized to be appropriated to the Administrator to carry out this subsection for

each of fiscal years 1997 through 2003, $15,000,000 for the purpose of providing assistance to the State of New York to carry out paragraph (1).".

SEC. 129. FEDERAL AGENCIES.

(a) IN GENERAL.—Section 1447 (42 U.S.C. 300j–6) is amended by redesignating subsection (c) as subsection (d) and by striking subsections (a) and (b) and inserting the following:

"(a) IN GENERAL.—Each department, agency, and instrumentality of the executive, legislative, and judicial branches of the Federal Government—

"(1) owning or operating any facility in a wellhead protection area;

"(2) engaged in any activity at such facility resulting, or which may result, in the contamination of water supplies in any such area;

"(3) owning or operating any public water system; or

"(4) engaged in any activity resulting, or which may result in, underground injection which endangers drinking water (within the meaning of section 1421(d)(2)),

shall be subject to, and comply with, all Federal, State, interstate, and local requirements, both substantive and procedural (including any requirement for permits or reporting or any provisions for injunctive relief and such sanctions as may be imposed by a court to enforce such relief), respecting the protection of such wellhead areas, respecting such public water systems, and respecting any underground injection in the same manner and to the same extent as any person is subject to such requirements, including the payment of reasonable service charges. The Federal, State, interstate, and local substantive and procedural requirements referred to in this subsection include, but are not limited to, all administrative orders and all civil and administrative penalties and fines, regardless of whether such penalties or fines are punitive or coercive in nature or are imposed for isolated, intermittent, or continuing violations. The United States hereby expressly waives any immunity otherwise applicable to the United States with respect to any such substantive or procedural requirement (including, but not limited to, any injunctive relief, administrative order or civil or administrative penalty or fine referred to in the preceding sentence, or reasonable service charge). The reasonable service charges referred to in this subsection include, but are not limited to, fees or charges assessed in connection with the processing and issuance of permits, renewal of permits, amendments to permits, review of plans, studies, and other documents, and inspection and monitoring of facilities, as well as any other nondiscriminatory charges that are assessed in connection with a Federal, State, interstate, or local regulatory program respecting the protection of wellhead areas or public water systems or respecting any underground injection. Neither the United States, nor any agent, employee, or officer thereof, shall be immune or exempt from any process or sanction of any State or Federal Court with respect to the enforcement of any such injunctive relief. No agent, employee, or officer of the United States shall be personally liable for any civil penalty under any Federal, State, interstate, or local law concerning the protection of wellhead areas or public water systems or concerning underground injection with respect to any act or omission within the scope of the official duties of the agent, employee, or officer.

An agent, employee, or officer of the United States shall be subject to any criminal sanction (including, but not limited to, any fine or imprisonment) under any Federal or State requirement adopted pursuant to this title, but no department, agency, or instrumentality of the executive, legislative, or judicial branch of the Federal Government shall be subject to any such sanction. The President may exempt any facility of any department, agency, or instrumentality in the executive branch from compliance with such a requirement if he determines it to be in the paramount interest of the United States to do so. No such exemption shall be granted due to lack of appropriation unless the President shall have specifically requested such appropriation as a part of the budgetary process and the Congress shall have failed to make available such requested appropriation. Any exemption shall be for a period not in excess of 1 year, but additional exemptions may be granted for periods not to exceed 1 year upon the President's making a new determination. The President shall report each January to the Congress all exemptions from the requirements of this section granted during the preceding calendar year, together with his reason for granting each such exemption.

President. Reports.

"(b) ADMINISTRATIVE PENALTY ORDERS.—

"(1) IN GENERAL.—If the Administrator finds that a Federal agency has violated an applicable requirement under this title, the Administrator may issue a penalty order assessing a penalty against the Federal agency.

"(2) PENALTIES.—The Administrator may, after notice to the agency, assess a civil penalty against the agency in an amount not to exceed $25,000 per day per violation.

"(3) PROCEDURE.—Before an administrative penalty order issued under this subsection becomes final, the Administrator shall provide the agency an opportunity to confer with the Administrator and shall provide the agency notice and an opportunity for a hearing on the record in accordance with chapters 5 and 7 of title 5, United States Code.

"(4) PUBLIC REVIEW.—

"(A) IN GENERAL.—Any interested person may obtain review of an administrative penalty order issued under this subsection. The review may be obtained in the United States District Court for the District of Columbia or in the United States District Court for the district in which the violation is alleged to have occurred by the filing of a complaint with the court within the 30-day period beginning on the date the penalty order becomes final. The person filing the complaint shall simultaneously send a copy of the complaint by certified mail to the Administrator and the Attorney General.

"(B) RECORD.—The Administrator shall promptly file in the court a certified copy of the record on which the order was issued.

"(C) STANDARD OF REVIEW.—The court shall not set aside or remand the order unless the court finds that there is not substantial evidence in the record, taken as a whole, to support the finding of a violation or that the assessment of the penalty by the Administrator constitutes an abuse of discretion.

"(D) PROHIBITION ON ADDITIONAL PENALTIES.—The court may not impose an additional civil penalty for a

violation that is subject to the order unless the court finds that the assessment constitutes an abuse of discretion by the Administrator.

"(c) LIMITATION ON STATE USE OF FUNDS COLLECTED FROM FEDERAL GOVERNMENT.—Unless a State law in effect on the date of enactment of the Safe Drinking Water Act Amendments of 1996 or a State constitution requires the funds to be used in a different manner, all funds collected by a State from the Federal Government from penalties and fines imposed for violation of any substantive or procedural requirement referred to in subsection (a) shall be used by the State only for projects designed to improve or protect the environment or to defray the costs of environmental protection or enforcement.".

(b) CITIZEN ENFORCEMENT.—(1) The first sentence of section 1449(a) (42 U.S.C. 300j–8(a)) is amended—

(A) in paragraph (1), by striking ", or" and inserting a semicolon;

(B) in paragraph (2), by striking the period at the end and inserting "; or"; and

(C) by adding at the end the following:

"(3) for the collection of a penalty by the United States Government (and associated costs and interest) against any Federal agency that fails, by the date that is 18 months after the effective date of a final order to pay a penalty assessed by the Administrator under section 1429(b), to pay the penalty.".

(2) Subsection (b) of section 1449 (42 U.S.C. 300j–8(b)) is amended by striking the period at the end of paragraph (2) and inserting "; or" and by adding the following new paragraph after paragraph (2):

"(3) under subsection (a)(3) prior to 60 days after the plaintiff has given notice of such action to the Attorney General and to the Federal agency.".

(c) WASHINGTON AQUEDUCT.—Section 1447 (42 U.S.C. 300j–6) is amended by adding at the end the following:

"(e) WASHINGTON AQUEDUCT.—The Secretary of the Army shall not pass the cost of any penalty assessed under this title on to any customer, user, or other purchaser of drinking water from the Washington Aqueduct system, including finished water from the Dalecarlia or McMillan treatment plant.".

SEC. 130. STATE REVOLVING LOAN FUNDS.

Part E (42 U.S.C. 300j et seq.) is amended by adding the following new section after section 1451:

"STATE REVOLVING LOAN FUNDS

42 USC 300j–12.

"SEC. 1452. (a) GENERAL AUTHORITY.—

"(1) GRANTS TO STATES TO ESTABLISH STATE LOAN FUNDS.—

"(A) IN GENERAL.—The Administrator shall offer to enter into agreements with eligible States to make capitalization grants, including letters of credit, to the States under this subsection to further the health protection objectives of this title, promote the efficient use of fund resources, and for other purposes as are specified in this title.

"(B) ESTABLISHMENT OF FUND.—To be eligible to receive a capitalization grant under this section, a State shall

establish a drinking water treatment revolving loan fund (referred to in this section as a 'State loan fund') and comply with the other requirements of this section. Each grant to a State under this section shall be deposited in the State loan fund established by the State, except as otherwise provided in this section and in other provisions of this title. No funds authorized by other provisions of this title to be used for other purposes specified in this title shall be deposited in any State loan fund.

"(C) EXTENDED PERIOD.—The grant to a State shall be available to the State for obligation during the fiscal year for which the funds are authorized and during the following fiscal year, except that grants made available from funds provided prior to fiscal year 1997 shall be available for obligation during each of the fiscal years 1997 and 1998.

"(D) ALLOTMENT FORMULA.—Except as otherwise provided in this section, funds made available to carry out this section shall be allotted to States that have entered into an agreement pursuant to this section (other than the District of Columbia) in accordance with—

"(i) for each of fiscal years 1995 through 1997, a formula that is the same as the formula used to distribute public water system supervision grant funds under section 1443 in fiscal year 1995, except that the minimum proportionate share established in the formula shall be 1 percent of available funds and the formula shall be adjusted to include a minimum proportionate share for the State of Wyoming and the District of Columbia; and

"(ii) for fiscal year 1998 and each subsequent fiscal year, a formula that allocates to each State the proportional share of the State needs identified in the most recent survey conducted pursuant to subsection (h), except that the minimum proportionate share provided to each State shall be the same as the minimum proportionate share provided under clause (i).

"(E) REALLOTMENT.—The grants not obligated by the last day of the period for which the grants are available shall be reallotted according to the appropriate criteria set forth in subparagraph (D), except that the Administrator may reserve and allocate 10 percent of the remaining amount for financial assistance to Indian Tribes in addition to the amount allotted under subsection (i) and none of the funds reallotted by the Administrator shall be reallotted to any State that has not obligated all sums allotted to the State pursuant to this section during the period in which the sums were available for obligation.

"(F) NONPRIMACY STATES.—The State allotment for a State not exercising primary enforcement responsibility for public water systems shall not be deposited in any such fund but shall be allotted by the Administrator under this subparagraph. Pursuant to section 1443(a)(9)(A) such sums allotted under this subparagraph shall be reserved as needed by the Administrator to exercise primary enforcement responsibility under this title in such State and the remainder shall be reallotted to States exercising primary

enforcement responsibility for public water systems for deposit in such funds. Whenever the Administrator makes a final determination pursuant to section 1413(b) that the requirements of section 1413(a) are no longer being met by a State, additional grants for such State under this title shall be immediately terminated by the Administrator. This subparagraph shall not apply to any State not exercising primary enforcement responsibility for public water systems as of the date of enactment of the Safe Drinking Water Act Amendments of 1996.

"(G) OTHER PROGRAMS.—

"(i) NEW SYSTEM CAPACITY.—Beginning in fiscal year 1999, the Administrator shall withhold 20 percent of each capitalization grant made pursuant to this section to a State unless the State has met the requirements of section 1420(a) (relating to capacity development) and shall withhold 10 percent for fiscal year 2001, 15 percent for fiscal year 2002, and 20 percent for fiscal year 2003 if the State has not complied with the provisions of section 1420(c) (relating to capacity development strategies). Not more than a total of 20 percent of the capitalization grants made to a State in any fiscal year may be withheld under the preceding provisions of this clause. All funds withheld by the Administrator pursuant to this clause shall be reallotted by the Administrator on the basis of the same ratio as is applicable to funds allotted under subparagraph (D). None of the funds reallotted by the Administrator pursuant to this paragraph shall be allotted to a State unless the State has met the requirements of section 1420 (relating to capacity development).

"(ii) OPERATOR CERTIFICATION.—The Administrator shall withhold 20 percent of each capitalization grant made pursuant to this section unless the State has met the requirements of 1419 (relating to operator certification). All funds withheld by the Administrator pursuant to this clause shall be reallotted by the Administrator on the basis of the same ratio as applicable to funds allotted under subparagraph (D). None of the funds reallotted by the Administrator pursuant to this paragraph shall be allotted to a State unless the State has met the requirements of section 1419 (relating to operator certification).

"(2) USE OF FUNDS.—Except as otherwise authorized by this title, amounts deposited in a State loan fund, including loan repayments and interest earned on such amounts, shall be used only for providing loans or loan guarantees, or as a source of reserve and security for leveraged loans, the proceeds of which are deposited in a State loan fund established under paragraph (1), or other financial assistance authorized under this section to community water systems and nonprofit noncommunity water systems, other than systems owned by Federal agencies. Financial assistance under this section may be used by a public water system only for expenditures (not including monitoring, operation, and maintenance expenditures) of a type or category which the Administrator has determined, through guidance, will facilitate compliance with

national primary drinking water regulations applicable to the system under section 1412 or otherwise significantly further the health protection objectives of this title. The funds may also be used to provide loans to a system referred to in section 1401(4)(B) for the purpose of providing the treatment described in section 1401(4)(B)(i)(III). The funds shall not be used for the acquisition of real property or interests therein, unless the acquisition is integral to a project authorized by this paragraph and the purchase is from a willing seller. Of the amount credited to any State loan fund established under this section in any fiscal year, 15 percent shall be available solely for providing loan assistance to public water systems which regularly serve fewer than 10,000 persons to the extent such funds can be obligated for eligible projects of public water systems.

"(3) LIMITATION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), no assistance under this section shall be provided to a public water system that—

"(i) does not have the technical, managerial, and financial capability to ensure compliance with the requirements of this title; or

"(ii) is in significant noncompliance with any requirement of a national primary drinking water regulation or variance.

"(B) RESTRUCTURING.—A public water system described in subparagraph (A) may receive assistance under this section if—

"(i) the use of the assistance will ensure compliance; and

"(ii) if subparagraph (A)(i) applies to the system, the owner or operator of the system agrees to undertake feasible and appropriate changes in operations (including ownership, management, accounting, rates, maintenance, consolidation, alternative water supply, or other procedures) if the State determines that the measures are necessary to ensure that the system has the technical, managerial, and financial capability to comply with the requirements of this title over the long term.

"(C) REVIEW.—Prior to providing assistance under this section to a public water system that is in significant noncompliance with any requirement of a national primary drinking water regulation or variance, the State shall conduct a review to determine whether subparagraph (A)(i) applies to the system.

"(b) INTENDED USE PLANS.—

"(1) IN GENERAL.—After providing for public review and comment, each State that has entered into a capitalization agreement pursuant to this section shall annually prepare a plan that identifies the intended uses of the amounts available to the State loan fund of the State.

"(2) CONTENTS.—An intended use plan shall include—

"(A) a list of the projects to be assisted in the first fiscal year that begins after the date of the plan, including a description of the project, the expected terms of financial assistance, and the size of the community served;

"(B) the criteria and methods established for the distribution of funds; and

"(C) a description of the financial status of the State loan fund and the short-term and long-term goals of the State loan fund.

"(3) USE OF FUNDS.—

"(A) IN GENERAL.—An intended use plan shall provide, to the maximum extent practicable, that priority for the use of funds be given to projects that—

"(i) address the most serious risk to human health;

"(ii) are necessary to ensure compliance with the requirements of this title (including requirements for filtration); and

"(iii) assist systems most in need on a per household basis according to State affordability criteria.

Publications. Records.

"(B) LIST OF PROJECTS.—Each State shall, after notice and opportunity for public comment, publish and periodically update a list of projects in the State that are eligible for assistance under this section, including the priority assigned to each project and, to the extent known, the expected funding schedule for each project.

"(c) FUND MANAGEMENT.—Each State loan fund under this section shall be established, maintained, and credited with repayments and interest. The fund corpus shall be available in perpetuity for providing financial assistance under this section. To the extent amounts in the fund are not required for current obligation or expenditure, such amounts shall be invested in interest bearing obligations.

"(d) ASSISTANCE FOR DISADVANTAGED COMMUNITIES.—

"(1) LOAN SUBSIDY.—Notwithstanding any other provision of this section, in any case in which the State makes a loan pursuant to subsection (a)(2) to a disadvantaged community or to a community that the State expects to become a disadvantaged community as the result of a proposed project, the State may provide additional subsidization (including forgiveness of principal).

"(2) TOTAL AMOUNT OF SUBSIDIES.—For each fiscal year, the total amount of loan subsidies made by a State pursuant to paragraph (1) may not exceed 30 percent of the amount of the capitalization grant received by the State for the year.

"(3) DEFINITION OF DISADVANTAGED COMMUNITY.—In this subsection, the term 'disadvantaged community' means the service area of a public water system that meets affordability criteria established after public review and comment by the State in which the public water system is located. The Administrator may publish information to assist States in establishing affordability criteria.

"(e) STATE CONTRIBUTION.—Each agreement under subsection (a) shall require that the State deposit in the State loan fund from State moneys an amount equal to at least 20 percent of the total amount of the grant to be made to the State on or before the date on which the grant payment is made to the State, except that a State shall not be required to deposit such amount into the fund prior to the date on which each grant payment is made for fiscal years 1994, 1995, 1996, and 1997 if the State deposits the State contribution amount into the State loan fund prior to September 30, 1999.

"(f) TYPES OF ASSISTANCE.—Except as otherwise limited by State law, the amounts deposited into a State loan fund under this section may be used only—

"(1) to make loans, on the condition that—

"(A) the interest rate for each loan is less than or equal to the market interest rate, including an interest free loan;

"(B) principal and interest payments on each loan will commence not later than 1 year after completion of the project for which the loan was made, and each loan will be fully amortized not later than 20 years after the completion of the project, except that in the case of a disadvantaged community (as defined in subsection (d)(3)), a State may provide an extended term for a loan, if the extended term—

"(i) terminates not later than the date that is 30 years after the date of project completion; and

"(ii) does not exceed the expected design life of the project;

"(C) the recipient of each loan will establish a dedicated source of revenue (or, in the case of a privately owned system, demonstrate that there is adequate security) for the repayment of the loan; and

"(D) the State loan fund will be credited with all payments of principal and interest on each loan;

"(2) to buy or refinance the debt obligation of a municipality or an intermunicipal or interstate agency within the State at an interest rate that is less than or equal to the market interest rate in any case in which a debt obligation is incurred after July 1, 1993;

"(3) to guarantee, or purchase insurance for, a local obligation (all of the proceeds of which finance a project eligible for assistance under this section) if the guarantee or purchase would improve credit market access or reduce the interest rate applicable to the obligation;

"(4) as a source of revenue or security for the payment of principal and interest on revenue or general obligation bonds issued by the State if the proceeds of the sale of the bonds will be deposited into the State loan fund; and

"(5) to earn interest on the amounts deposited into the State loan fund.

"(g) ADMINISTRATION OF STATE LOAN FUNDS.—

"(1) COMBINED FINANCIAL ADMINISTRATION.—Notwithstanding subsection (c), a State may (as a convenience and to avoid unnecessary administrative costs) combine, in accordance with State law, the financial administration of a State loan fund established under this section with the financial administration of any other revolving fund established by the State if otherwise not prohibited by the law under which the State loan fund was established and if the Administrator determines that—

"(A) the grants under this section, together with loan repayments and interest, will be separately accounted for and used solely for the purposes specified in subsection (a); and

"(B) the authority to establish assistance priorities and carry out oversight and related activities (other than financial administration) with respect to assistance remains with

the State agency having primary responsibility for administration of the State program under section 1413, after consultation with other appropriate State agencies (as determined by the State): *Provided*, That in nonprimacy States eligible to receive assistance under this section, the Governor shall determine which State agency will have authority to establish priorities for financial assistance from the State loan fund.

"(2) COST OF ADMINISTERING FUND.—Each State may annually use up to 4 percent of the funds allotted to the State under this section to cover the reasonable costs of administration of the programs under this section, including the recovery of reasonable costs expended to establish a State loan fund which are incurred after the date of enactment of this section, and to provide technical assistance to public water systems within the State. For fiscal year 1995 and each fiscal year thereafter, each State may use up to an additional 10 percent of the funds allotted to the State under this section—

"(A) for public water system supervision programs under section 1443(a);

"(B) to administer or provide technical assistance through source water protection programs;

"(C) to develop and implement a capacity development strategy under section 1420(c); and

"(D) for an operator certification program for purposes of meeting the requirements of section 1419,

if the State matches the expenditures with at least an equal amount of State funds. At least half of the match must be additional to the amount expended by the State for public water supervision in fiscal year 1993. An additional 2 percent of the funds annually allotted to each State under this section may be used by the State to provide technical assistance to public water systems serving 10,000 or fewer persons in the State. Funds utilized under subparagraph (B) shall not be used for enforcement actions.

Publication.

"(3) GUIDANCE AND REGULATIONS.—The Administrator shall publish guidance and promulgate regulations as may be necessary to carry out the provisions of this section, including—

"(A) provisions to ensure that each State commits and expends funds allotted to the State under this section as efficiently as possible in accordance with this title and applicable State laws;

"(B) guidance to prevent waste, fraud, and abuse; and

"(C) guidance to avoid the use of funds made available under this section to finance the expansion of any public water system in anticipation of future population growth.

The guidance and regulations shall also ensure that the States, and public water systems receiving assistance under this section, use accounting, audit, and fiscal procedures that conform to generally accepted accounting standards.

"(4) STATE REPORT.—Each State administering a loan fund and assistance program under this subsection shall publish and submit to the Administrator a report every 2 years on its activities under this section, including the findings of the most recent audit of the fund and the entire State allotment. The Administrator shall periodically audit all State loan funds established by, and all other amounts allotted to, the States

pursuant to this section in accordance with procedures established by the Comptroller General.

"(h) NEEDS SURVEY.—The Administrator shall conduct an assessment of water system capital improvement needs of all eligible public water systems in the United States and submit a report to the Congress containing the results of the assessment within 180 days after the date of enactment of the Safe Drinking Water Act Amendments of 1996 and every 4 years thereafter. Reports.

"(i) INDIAN TRIBES.—

"(1) IN GENERAL.—1½ percent of the amounts appropriated annually to carry out this section may be used by the Administrator to make grants to Indian Tribes and Alaska Native villages that have not otherwise received either grants from the Administrator under this section or assistance from State loan funds established under this section. The grants may only be used for expenditures by tribes and villages for public water system expenditures referred to in subsection (a)(2).

"(2) USE OF FUNDS.—Funds reserved pursuant to paragraph (1) shall be used to address the most significant threats to public health associated with public water systems that serve Indian Tribes, as determined by the Administrator in consultation with the Director of the Indian Health Service and Indian Tribes.

"(3) ALASKA NATIVE VILLAGES.—In the case of a grant for a project under this subsection in an Alaska Native village, the Administrator is also authorized to make grants to the State of Alaska for the benefit of Native villages. An amount not to exceed 4 percent of the grant amount may be used by the State of Alaska for project management.

"(4) NEEDS ASSESSMENT.—The Administrator, in consultation with the Director of the Indian Health Service and Indian Tribes, shall, in accordance with a schedule that is consistent with the needs surveys conducted pursuant to subsection (h), prepare surveys and assess the needs of drinking water treatment facilities to serve Indian Tribes, including an evaluation of the public water systems that pose the most significant threats to public health.

"(j) OTHER AREAS.—Of the funds annually available under this section for grants to States, the Administrator shall make allotments in accordance with section 1443(a)(4) for the Virgin Islands, the Commonwealth of the Northern Mariana Islands, American Samoa, and Guam. The grants allotted as provided in this subsection may be provided by the Administrator to the governments of such areas, to public water systems in such areas, or to both, to be used for the public water system expenditures referred to in subsection (a)(2). The grants, and grants for the District of Columbia, shall not be deposited in State loan funds. The total allotment of grants under this section for all areas described in this subsection in any fiscal year shall not exceed 0.33 percent of the aggregate amount made available to carry out this section in that fiscal year.

"(k) OTHER AUTHORIZED ACTIVITIES.—

"(1) IN GENERAL.—Notwithstanding subsection (a)(2), a State may take each of the following actions:

"(A) Provide assistance, only in the form of a loan, to one or more of the following:

"(i) Any public water system described in subsection (a)(2) to acquire land or a conservation easement from a willing seller or grantor, if the purpose of the acquisition is to protect the source water of the system from contamination and to ensure compliance with national primary drinking water regulations.

"(ii) Any community water system to implement local, voluntary source water protection measures to protect source water in areas delineated pursuant to section 1453, in order to facilitate compliance with national primary drinking water regulations applicable to the system under section 1412 or otherwise significantly further the health protection objectives of this title. Funds authorized under this clause may be used to fund only voluntary, incentive-based mechanisms.

"(iii) Any community water system to provide funding in accordance with section 1454(a)(1)(B)(i).

"(B) Provide assistance, including technical and financial assistance, to any public water system as part of a capacity development strategy developed and implemented in accordance with section 1420(c).

"(C) Make expenditures from the capitalization grant of the State for fiscal years 1996 and 1997 to delineate and assess source water protection areas in accordance with section 1453, except that funds set aside for such expenditure shall be obligated within 4 fiscal years.

"(D) Make expenditures from the fund for the establishment and implementation of wellhead protection programs under section 1428.

"(2) LIMITATION.—For each fiscal year, the total amount of assistance provided and expenditures made by a State under this subsection may not exceed 15 percent of the amount of the capitalization grant received by the State for that year and may not exceed 10 percent of that amount for any one of the following activities:

"(A) To acquire land or conservation easements pursuant to paragraph (1)(A)(i).

"(B) To provide funding to implement voluntary, incentive-based source water quality protection measures pursuant to clauses (ii) and (iii) of paragraph (1)(A).

"(C) To provide assistance through a capacity development strategy pursuant to paragraph (1)(B).

"(D) To make expenditures to delineate or assess source water protection areas pursuant to paragraph (1)(C).

"(E) To make expenditures to establish and implement wellhead protection programs pursuant to paragraph (1)(D).

"(3) STATUTORY CONSTRUCTION.—Nothing in this section creates or conveys any new authority to a State, political subdivision of a State, or community water system for any new regulatory measure, or limits any authority of a State, political subdivision of a State or community water system.

"(l) SAVINGS.—The failure or inability of any public water system to receive funds under this section or any other loan or grant program, or any delay in obtaining the funds, shall not alter the obligation of the system to comply in a timely manner with all applicable drinking water standards and requirements of this title.

"(m) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out the purposes of this section $599,000,000 for the fiscal year 1994 and $1,000,000,000 for each of the fiscal years 1995 through 2003. To the extent amounts authorized to be appropriated under this subsection in any fiscal year are not appropriated in that fiscal year, such amounts are authorized to be appropriated in a subsequent fiscal year (prior to the fiscal year 2004). Such sums shall remain available until expended.

"(n) HEALTH EFFECTS STUDIES.—From funds appropriated pursuant to this section for each fiscal year, the Administrator shall reserve $10,000,000 for health effects studies on drinking water contaminants authorized by the Safe Drinking Water Act Amendments of 1996. In allocating funds made available under this subsection, the Administrator shall give priority to studies concerning the health effects of cryptosporidium (as authorized by section 1458(c)), disinfection byproducts (as authorized by section 1458(c)), and arsenic (as authorized by section 1412(b)(12)(A)), and the implementation of a plan for studies of subpopulations at greater risk of adverse effects (as authorized by section 1458(a)).

"(o) MONITORING FOR UNREGULATED CONTAMINANTS.—From funds appropriated pursuant to this section for each fiscal year beginning with fiscal year 1998, the Administrator shall reserve $2,000,000 to pay the costs of monitoring for unregulated contaminants under section 1445(a)(2)(C).

"(p) DEMONSTRATION PROJECT FOR STATE OF VIRGINIA.—Notwithstanding the other provisions of this section limiting the use of funds deposited in a State loan fund from any State allotment, the State of Virginia may, as a single demonstration and with the approval of the Virginia General Assembly and the Administrator, conduct a program to demonstrate alternative approaches to intergovernmental coordination to assist in the financing of new drinking water facilities in the following rural communities in southwestern Virginia where none exists on the date of enactment of the Safe Drinking Water Act Amendments of 1996 and where such communities are experiencing economic hardship: Lee County, Wise County, Scott County, Dickenson County, Russell County, Buchanan County, Tazewell County, and the city of Norton, Virginia. The funds allotted to that State and deposited in the State loan fund may be loaned to a regional endowment fund for the purpose set forth in this subsection under a plan to be approved by the Administrator. The plan may include an advisory group that includes representatives of such counties.

"(q) SMALL SYSTEM TECHNICAL ASSISTANCE.—The Administrator may reserve up to 2 percent of the total funds appropriated pursuant to subsection (m) for each of the fiscal years 1997 through 2003 to carry out the provisions of section 1442(e) (relating to technical assistance for small systems), except that the total amount of funds made available for such purpose in any fiscal year through appropriations (as authorized by section 1442(e)) and reservations made pursuant to this subsection shall not exceed the amount authorized by section 1442(e).

"(r) EVALUATION.—The Administrator shall conduct an evaluation of the effectiveness of the State loan funds through fiscal year 2001. The evaluation shall be submitted to the Congress at the same time as the President submits to the Congress, pursuant to section 1108 of title 31, United States Code, an appropriations

request for fiscal year 2003 relating to the budget of the Environmental Protection Agency.".

SEC. 131. STATE GROUND WATER PROTECTION GRANTS.

Part C (42 U.S.C. 300h et seq.) is amended by adding at the end the following:

"STATE GROUND WATER PROTECTION GRANTS

Publication. Regulations. 42 USC 300h–8.

"SEC. 1429. (a) IN GENERAL.—The Administrator may make a grant to a State for the development and implementation of a State program to ensure the coordinated and comprehensive protection of ground water resources within the State.

"(b) GUIDANCE.—Not later than 1 year after the date of enactment of the Safe Drinking Water Act Amendments of 1996, and annually thereafter, the Administrator shall publish guidance that establishes procedures for application for State ground water protection program assistance and that identifies key elements of State ground water protection programs.

"(c) CONDITIONS OF GRANTS.—

"(1) IN GENERAL.—The Administrator shall award grants to States that submit an application that is approved by the Administrator. The Administrator shall determine the amount of a grant awarded pursuant to this paragraph on the basis of an assessment of the extent of ground water resources in the State and the likelihood that awarding the grant will result in sustained and reliable protection of ground water quality.

"(2) INNOVATIVE PROGRAM GRANTS.—The Administrator may also award a grant pursuant to this subsection for innovative programs proposed by a State for the prevention of ground water contamination.

"(3) ALLOCATION OF FUNDS.—The Administrator shall, at a minimum, ensure that, for each fiscal year, not less than 1 percent of funds made available to the Administrator by appropriations to carry out this section are allocated to each State that submits an application that is approved by the Administrator pursuant to this section.

"(4) LIMITATION ON GRANTS.—No grant awarded by the Administrator may be used for a project to remediate ground water contamination.

"(d) AMOUNT OF GRANTS.—The amount of a grant awarded pursuant to paragraph (1) shall not exceed 50 percent of the eligible costs of carrying out the ground water protection program that is the subject of the grant (as determined by the Administrator) for the 1-year period beginning on the date that the grant is awarded. The State shall pay a State share to cover the costs of the ground water protection program from State funds in an amount that is not less than 50 percent of the cost of conducting the program.

"(e) EVALUATIONS AND REPORTS.—Not later than 3 years after the date of enactment of the Safe Drinking Water Act Amendments of 1996, and every 3 years thereafter, the Administrator shall evaluate the State ground water protection programs that are the subject of grants awarded pursuant to this section and report to the Congress on the status of ground water quality in the United States and the effectiveness of State programs for ground water protection.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $15,000,000 for each of fiscal years 1997 through 2003.".

SEC. 132. SOURCE WATER ASSESSMENT.

(a) IN GENERAL.—Part E (42 U.S.C. 300j et seq.) is amended by adding at the end the following:

"SOURCE WATER QUALITY ASSESSMENT

"SEC. 1453. (a) SOURCE WATER ASSESSMENT.— 42 USC 300j–13.

"(1) GUIDANCE.—Within 12 months after the date of enactment of the Safe Drinking Water Act Amendments of 1996, after notice and comment, the Administrator shall publish guidance for States exercising primary enforcement responsibility for public water systems to carry out directly or through delegation (for the protection and benefit of public water systems and for the support of monitoring flexibility) a source water assessment program within the State's boundaries. Each State adopting modifications to monitoring requirements pursuant to section 1418(b) shall, prior to adopting such modifications, have an approved source water assessment program under this section and shall carry out the program either directly or through delegation. Publication.

"(2) PROGRAM REQUIREMENTS.—A source water assessment program under this subsection shall—

"(A) delineate the boundaries of the assessment areas in such State from which one or more public water systems in the State receive supplies of drinking water, using all reasonably available hydrogeologic information on the sources of the supply of drinking water in the State and the water flow, recharge, and discharge and any other reliable information as the State deems necessary to adequately determine such areas; and

"(B) identify for contaminants regulated under this title for which monitoring is required under this title (or any unregulated contaminants selected by the State, in its discretion, which the State, for the purposes of this subsection, has determined may present a threat to public health), to the extent practical, the origins within each delineated area of such contaminants to determine the susceptibility of the public water systems in the delineated area to such contaminants.

"(3) APPROVAL, IMPLEMENTATION, AND MONITORING RELIEF.—A State source water assessment program under this subsection shall be submitted to the Administrator within 18 months after the Administrator's guidance is issued under this subsection and shall be deemed approved 9 months after the date of such submittal unless the Administrator disapproves the program as provided in section 1428(c). States shall begin implementation of the program immediately after its approval. The Administrator's approval of a State program under this subsection shall include a timetable, established in consultation with the State, allowing not more than 2 years for completion after approval of the program. Public water systems seeking monitoring relief in addition to the interim relief provided under section 1418(a) shall be eligible for monitoring relief, consistent with section 1418(b), upon completion of the assess-

ment in the delineated source water assessment area or areas concerned.

"(4) TIMETABLE.—The timetable referred to in paragraph (3) shall take into consideration the availability to the State of funds under section 1452 (relating to State loan funds) for assessments and other relevant factors. The Administrator may extend any timetable included in a State program approved under paragraph (3) to extend the period for completion by an additional 18 months.

"(5) DEMONSTRATION PROJECT.—The Administrator shall, as soon as practicable, conduct a demonstration project, in consultation with other Federal agencies, to demonstrate the most effective and protective means of assessing and protecting source waters serving large metropolitan areas and located on Federal lands.

"(6) USE OF OTHER PROGRAMS.—To avoid duplication and to encourage efficiency, the program under this section may make use of any of the following:

"(A) Vulnerability assessments, sanitary surveys, and monitoring programs.

"(B) Delineations or assessments of ground water sources under a State wellhead protection program developed pursuant to this section.

"(C) Delineations or assessments of surface or ground water sources under a State pesticide management plan developed pursuant to the Pesticide and Ground Water State Management Plan Regulation (subparts I and J of part 152 of title 40, Code of Federal Regulations), promulgated under section 3(d) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136a(d)).

"(D) Delineations or assessments of surface water sources under a State watershed initiative or to satisfy the watershed criterion for determining if filtration is required under the Surface Water Treatment Rule (section 141.70 of title 40, Code of Federal Regulations).

"(E) Delineations or assessments of surface or ground water sources under programs or plans pursuant to the Federal Water Pollution Control Act.

"(7) PUBLIC AVAILABILITY.—The State shall make the results of the source water assessments conducted under this subsection available to the public.

"(b) APPROVAL AND DISAPPROVAL.—For provisions relating to program approval and disapproval, see section 1428(c).".

(b) APPROVAL AND DISAPPROVAL OF STATE PROGRAMS.—Section 1428 (42 U.S.C. 300h–7) is amended as follows:

(1) Amend the first sentence of subsection (c)(1) to read as follows: "If, in the judgment of the Administrator, a State program or portion thereof under subsection (a) is not adequate to protect public water systems as required by subsection (a) or a State program under section 1453 or section 1418(b) does not meet the applicable requirements of section 1453 or section 1418(b), the Administrator shall disapprove such program or portion thereof.".

(2) Add after the second sentence of subsection (c)(1) the following: "A State program developed pursuant to section 1453 or section 1418(b) shall be deemed to meet the applicable requirements of section 1453 or section 1418(b) unless the

Administrator determines within 9 months of the receipt of the program that such program (or portion thereof) does not meet such requirements.".

(3) In the third sentence of subsection (c)(1) and in subsection (c)(2), strike "is inadequate" and insert "is disapproved".

(4) In subsection (b), add the following before the period at the end of the first sentence: "and source water assessment programs under section 1453".

SEC. 133. SOURCE WATER PETITION PROGRAM.

(a) IN GENERAL.—Part E (42 U.S.C. 300j et seq.) is amended by adding at the end the following:

"SOURCE WATER PETITION PROGRAM

"SEC. 1454. (a) PETITION PROGRAM.— 42 USC 300j–14.

"(1) IN GENERAL.—

"(A) ESTABLISHMENT.—A State may establish a program under which an owner or operator of a community water system in the State, or a municipal or local government or political subdivision of a State, may submit a source water quality protection partnership petition to the State requesting that the State assist in the local development of a voluntary, incentive-based partnership, among the owner, operator, or government and other persons likely to be affected by the recommendations of the partnership, to—

"(i) reduce the presence in drinking water of contaminants that may be addressed by a petition by considering the origins of the contaminants, including to the maximum extent practicable the specific activities that affect the drinking water supply of a community;

"(ii) obtain financial or technical assistance necessary to facilitate establishment of a partnership, or to develop and implement recommendations of a partnership for the protection of source water to assist in the provision of drinking water that complies with national primary drinking water regulations with respect to contaminants addressed by a petition; and

"(iii) develop recommendations regarding voluntary and incentive-based strategies for the long-term protection of the source water of community water systems.

"(B) FUNDING.—Each State may—

"(i) use funds set aside pursuant to section 1452(k)(1)(A)(iii) by the State to carry out a program described in subparagraph (A), including assistance to voluntary local partnerships for the development and implementation of partnership recommendations for the protection of source water such as source water quality assessment, contingency plans, and demonstration projects for partners within a source water area delineated under section 1453(a); and

"(ii) provide assistance in response to a petition submitted under this subsection using funds referred to in subsection (b)(2)(B).

"(2) OBJECTIVES.—The objectives of a petition submitted under this subsection shall be to—

"(A) facilitate the local development of voluntary, incentive-based partnerships among owners and operators of community water systems, governments, and other persons in source water areas; and

"(B) obtain assistance from the State in identifying resources which are available to implement the recommendations of the partnerships to address the origins of drinking water contaminants that may be addressed by a petition (including to the maximum extent practicable the specific activities contributing to the presence of the contaminants) that affect the drinking water supply of a community.

"(3) CONTAMINANTS ADDRESSED BY A PETITION.—A petition submitted to a State under this subsection may address only those contaminants—

"(A) that are pathogenic organisms for which a national primary drinking water regulation has been established or is required under section 1412; or

"(B) for which a national primary drinking water regulation has been promulgated or proposed and that are detected by adequate monitoring methods in the source water at the intake structure or in any collection, treatment, storage, or distribution facilities by the community water systems at levels—

"(i) above the maximum contaminant level; or

"(ii) that are not reliably and consistently below the maximum contaminant level.

"(4) CONTENTS.—A petition submitted under this subsection shall, at a minimum—

"(A) include a delineation of the source water area in the State that is the subject of the petition;

"(B) identify, to the maximum extent practicable, the origins of the drinking water contaminants that may be addressed by a petition (including to the maximum extent practicable the specific activities contributing to the presence of the contaminants) in the source water area delineated under section 1453;

"(C) identify any deficiencies in information that will impair the development of recommendations by the voluntary local partnership to address drinking water contaminants that may be addressed by a petition;

"(D) specify the efforts made to establish the voluntary local partnership and obtain the participation of—

"(i) the municipal or local government or other political subdivision of the State with jurisdiction over the source water area delineated under section 1453; and

"(ii) each person in the source water area delineated under section 1453—

"(I) who is likely to be affected by recommendations of the voluntary local partnership; and

"(II) whose participation is essential to the success of the partnership;

"(E) outline how the voluntary local partnership has or will, during development and implementation of recommendations of the voluntary local partnership, identify, recognize and take into account any voluntary or other activities already being undertaken by persons in the source water area delineated under section 1453 under Federal or State law to reduce the likelihood that contaminants will occur in drinking water at levels of public health concern; and

"(F) specify the technical, financial, or other assistance that the voluntary local partnership requests of the State to develop the partnership or to implement recommendations of the partnership.

"(b) APPROVAL OR DISAPPROVAL OF PETITIONS.—

"(1) IN GENERAL.—After providing notice and an opportunity for public comment on a petition submitted under subsection (a), the State shall approve or disapprove the petition, in whole or in part, not later than 120 days after the date of submission of the petition.

"(2) APPROVAL.—The State may approve a petition if the petition meets the requirements established under subsection (a). The notice of approval shall, at a minimum, include for informational purposes—

"(A) an identification of technical, financial, or other assistance that the State will provide to assist in addressing the drinking water contaminants that may be addressed by a petition based on—

"(i) the relative priority of the public health concern identified in the petition with respect to the other water quality needs identified by the State;

"(ii) any necessary coordination that the State will perform of the program established under this section with programs implemented or planned by other States under this section; and

"(iii) funds available (including funds available from a State revolving loan fund established under title VI of the Federal Water Pollution Control Act (33 U.S.C. 1381 et seq.)) or section 1452;

"(B) a description of technical or financial assistance pursuant to Federal and State programs that is available to assist in implementing recommendations of the partnership in the petition, including—

"(i) any program established under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);

"(ii) the program established under section 6217 of the Coastal Zone Act Reauthorization Amendments of 1990 (16 U.S.C. 1455b);

"(iii) the agricultural water quality protection program established under chapter 2 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3838 et seq.);

"(iv) the sole source aquifer protection program established under section 1427;

"(v) the community wellhead protection program established under section 1428;

"(vi) any pesticide or ground water management plan;

"(vii) any voluntary agricultural resource management plan or voluntary whole farm or whole ranch management plan developed and implemented under a process established by the Secretary of Agriculture; and

"(viii) any abandoned well closure program; and

"(C) a description of activities that will be undertaken to coordinate Federal and State programs to respond to the petition.

Notification.

"(3) DISAPPROVAL.—If the State disapproves a petition submitted under subsection (a), the State shall notify the entity submitting the petition in writing of the reasons for disapproval. A petition may be resubmitted at any time if—

"(A) new information becomes available;

"(B) conditions affecting the source water that is the subject of the petition change; or

"(C) modifications are made in the type of assistance being requested.

"(c) GRANTS TO SUPPORT STATE PROGRAMS.—

"(1) IN GENERAL.—The Administrator may make a grant to each State that establishes a program under this section that is approved under paragraph (2). The amount of each grant shall not exceed 50 percent of the cost of administering the program for the year in which the grant is available.

"(2) APPROVAL.—In order to receive grant assistance under this subsection, a State shall submit to the Administrator for approval a plan for a source water quality protection partnership program that is consistent with the guidance published under subsection (d). The Administrator shall approve the plan if the plan is consistent with the guidance published under subsection (d).

"(d) GUIDANCE.—

Publication.

"(1) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Administrator, in consultation with the States, shall publish guidance to assist—

"(A) States in the development of a source water quality protection partnership program; and

"(B) municipal or local governments or political subdivisions of a State and community water systems in the development of source water quality protection partnerships and in the assessment of source water quality.

"(2) CONTENTS OF THE GUIDANCE.—The guidance shall, at a minimum—

"(A) recommend procedures for the approval or disapproval by a State of a petition submitted under subsection (a);

"(B) recommend procedures for the submission of petitions developed under subsection (a);

"(C) recommend criteria for the assessment of source water areas within a State; and

"(D) describe technical or financial assistance pursuant to Federal and State programs that is available to address the contamination of sources of drinking water and to develop and respond to petitions submitted under subsection (a).

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $5,000,000 for each

of the fiscal years 1997 through 2003. Each State with a plan for a program approved under subsection (b) shall receive an equitable portion of the funds available for any fiscal year.

"(f) STATUTORY CONSTRUCTION.—Nothing in this section—

"(1)(A) creates or conveys new authority to a State, political subdivision of a State, or community water system for any new regulatory measure; or

"(B) limits any authority of a State, political subdivision, or community water system; or

"(2) precludes a community water system, municipal or local government, or political subdivision of a government from locally developing and carrying out a voluntary, incentive-based, source water quality protection partnership to address the origins of drinking water contaminants of public health concern.".

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that each State in establishing priorities under section 606(c)(1) of the Federal Water Pollution Control Act should give special consideration to projects that are eligible for funding under that Act and have been recommended pursuant to a petition submitted under section 1454 of the Safe Drinking Water Act.

SEC. 134. WATER CONSERVATION PLAN.

Part E (42 U.S.C. 300j et seq.) is amended by adding at the end the following:

"WATER CONSERVATION PLAN

"SEC. 1455. (a) GUIDELINES.—Not later than 2 years after the date of enactment of the Safe Drinking Water Act Amendments of 1996, the Administrator shall publish in the Federal Register guidelines for water conservation plans for public water systems serving fewer than 3,300 persons, public water systems serving between 3,300 and 10,000 persons, and public water systems serving more than 10,000 persons, taking into consideration such factors as water availability and climate. Federal Register, publication. 42 USC 300j–15.

"(b) LOANS OR GRANTS.—Within 1 year after publication of the guidelines under subsection (a), a State exercising primary enforcement responsibility for public water systems may require a public water system, as a condition of receiving a loan or grant from a State loan fund under section 1452, to submit with its application for such loan or grant a water conservation plan consistent with such guidelines.".

SEC. 135. DRINKING WATER ASSISTANCE TO COLONIAS.

Part E (42 U.S.C. 300j et seq.) is amended by adding the following new section at the end thereof:

"ASSISTANCE TO COLONIAS

"SEC. 1456. (a) DEFINITIONS.—As used in this section: 42 USC 300j–16.

"(1) BORDER STATE.—The term 'border State' means Arizona, California, New Mexico, and Texas.

"(2) ELIGIBLE COMMUNITY.—The term 'eligible community' means a low-income community with economic hardship that—

"(A) is commonly referred to as a colonia;

"(B) is located along the United States-Mexico border (generally in an unincorporated area); and

"(C) lacks a safe drinking water supply or adequate facilities for the provision of safe drinking water for human consumption.

"(b) GRANTS TO ALLEVIATE HEALTH RISKS.—The Administrator of the Environmental Protection Agency and the heads of other appropriate Federal agencies are authorized to award grants to a border State to provide assistance to eligible communities to facilitate compliance with national primary drinking water regulations or otherwise significantly further the health protection objectives of this title.

"(c) USE OF FUNDS.—Each grant awarded pursuant to subsection (b) shall be used to provide assistance to one or more eligible communities with respect to which the residents are subject to a significant health risk (as determined by the Administrator or the head of the Federal agency making the grant) attributable to the lack of access to an adequate and affordable drinking water supply system.

"(d) COST SHARING.—The amount of a grant awarded pursuant to this section shall not exceed 50 percent of the costs of carrying out the project that is the subject of the grant.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $25,000,000 for each of the fiscal years 1997 through 1999.".

SEC. 136. ESTROGENIC SUBSTANCES SCREENING PROGRAM.

Part E (42 U.S.C. 300j et seq.) is amended by adding at the end the following:

"ESTROGENIC SUBSTANCES SCREENING PROGRAM

42 USC 300j–17.

"SEC. 1457. In addition to the substances referred to in section 408(p)(3)(B) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(p)(3)(B)) the Administrator may provide for testing under the screening program authorized by section 408(p) of such Act, in accordance with the provisions of section 408(p) of such Act, of any other substance that may be found in sources of drinking water if the Administrator determines that a substantial population may be exposed to such substance.".

SEC. 137. DRINKING WATER STUDIES.

Part E (42 U.S.C. 300j et seq.) is amended by adding after section 1457 the following:

"DRINKING WATER STUDIES

42 USC 300j–18.

"SEC. 1458. (a) SUBPOPULATIONS AT GREATER RISK.—

"(1) IN GENERAL.—The Administrator shall conduct a continuing program of studies to identify groups within the general population that may be at greater risk than the general population of adverse health effects from exposure to contaminants in drinking water. The study shall examine whether and to what degree infants, children, pregnant women, the elderly, individuals with a history of serious illness, or other subpopulations that can be identified and characterized are likely to experience elevated health risks, including risks of cancer, from contaminants in drinking water.

"(2) REPORT.—Not later than 4 years after the date of enactment of this subsection and periodically thereafter as new

and significant information becomes available, the Administrator shall report to the Congress on the results of the studies.

"(b) BIOLOGICAL MECHANISMS.—The Administrator shall conduct biomedical studies to—

"(1) understand the mechanisms by which chemical contaminants are absorbed, distributed, metabolized, and eliminated from the human body, so as to develop more accurate physiologically based models of the phenomena;

"(2) understand the effects of contaminants and the mechanisms by which the contaminants cause adverse effects (especially noncancer and infectious effects) and the variations in the effects among humans, especially subpopulations at greater risk of adverse effects, and between test animals and humans; and

"(3) develop new approaches to the study of complex mixtures, such as mixtures found in drinking water, especially to determine the prospects for synergistic or antagonistic interactions that may affect the shape of the dose-response relationship of the individual chemicals and microbes, and to examine noncancer endpoints and infectious diseases, and susceptible individuals and subpopulations.

"(c) STUDIES ON HARMFUL SUBSTANCES IN DRINKING WATER.—

"(1) DEVELOPMENT OF STUDIES.—The Administrator shall, not later than 180 days after the date of enactment of this section and after consultation with the Secretary of Health and Human Services, the Secretary of Agriculture, and, as appropriate, the heads of other Federal agencies, conduct the studies described in paragraph (2) to support the development and implementation of the most current version of each of the following:

"(A) Enhanced Surface Water Treatment Rule (59 Fed. Reg. 38832 (July 29, 1994)).

"(B) Disinfectant and Disinfection Byproducts Rule (59 Fed. Reg. 38668 (July 29, 1994)).

"(C) Ground Water Disinfection Rule (availability of draft summary announced at (57 Fed. Reg. 33960; July 31, 1992)).

"(2) CONTENTS OF STUDIES.—The studies required by paragraph (1) shall include, at a minimum, each of the following:

"(A) Toxicological studies and, if warranted, epidemiological studies to determine what levels of exposure from disinfectants and disinfection byproducts, if any, may be associated with developmental and birth defects and other potential toxic end points.

"(B) Toxicological studies and, if warranted, epidemiological studies to quantify the carcinogenic potential from exposure to disinfection byproducts resulting from different disinfectants.

"(C) The development of dose-response curves for pathogens, including cryptosporidium and the Norwalk virus.

"(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection $12,500,000 for each of fiscal years 1997 through 2003.

"(d) WATERBORNE DISEASE OCCURRENCE STUDY.—

"(1) SYSTEM.—The Director of the Centers for Disease Control and Prevention, and the Administrator shall jointly—

"(A) within 2 years after the date of enactment of this section, conduct pilot waterborne disease occurrence studies for at least 5 major United States communities or public water systems; and

Reports.

"(B) within 5 years after the date of enactment of this section, prepare a report on the findings of the pilot studies, and a national estimate of waterborne disease occurrence.

"(2) TRAINING AND EDUCATION.—The Director and Administrator shall jointly establish a national health care provider training and public education campaign to inform both the professional health care provider community and the general public about waterborne disease and the symptoms that may be caused by infectious agents, including microbial contaminants. In developing such a campaign, they shall seek comment from interested groups and individuals, including scientists, physicians, State and local governments, environmental groups, public water systems, and vulnerable populations.

"(3) FUNDING.—There are authorized to be appropriated for each of the fiscal years 1997 through 2001, $3,000,000 to carry out this subsection. To the extent funds under this subsection are not fully appropriated, the Administrator may use not more than $2,000,000 of the funds from amounts reserved under section 1452(n) for health effects studies for purposes of this subsection. The Administrator may transfer a portion of such funds to the Centers for Disease Control and Prevention for such purposes.".

TITLE II—DRINKING WATER RESEARCH

SEC. 201. DRINKING WATER RESEARCH AUTHORIZATION.

Other than amounts authorized to be appropriated to the Administrator of the Environmental Protection Agency under other titles of this Act, there are authorized to be appropriated such additional sums as may be necessary for drinking water research for fiscal years 1997 through 2003. The annual total of such additional sums authorized to be appropriated under this section shall not exceed $26,593,000.

42 USC 300j–1 note.

SEC. 202. SCIENTIFIC RESEARCH REVIEW.

(a) IN GENERAL.—The Administrator shall—

(1) develop a strategic plan for drinking water research activities throughout the Environmental Protection Agency (in this section referred to as the "Agency");

(2) integrate that strategic plan into ongoing Agency planning activities; and

(3) review all Agency drinking water research to ensure the research—

(A) is of high quality; and

(B) does not duplicate any other research being conducted by the Agency.

Public information.

(b) PLAN.—The Administrator shall transmit the plan to the Committees on Commerce and Science of the House of Representatives and the Committee on Environment and Public Works of the Senate and the plan shall be made available to the public.

SEC. 203. NATIONAL CENTER FOR GROUND WATER RESEARCH. 42 USC 300j–1 note.

The Administrator of the Environmental Protection Agency, acting through the Robert S. Kerr Environmental Research Laboratory, is authorized to reestablish a partnership between the Laboratory and the National Center for Ground Water Research, a university consortium, to conduct research, training, and technology transfer for ground water quality protection and restoration. No funds are authorized by this section.

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301. WATER RETURN FLOWS.

Section 3013 of Public Law 102–486 (42 U.S.C. 13551) is repealed.

SEC. 302. TRANSFER OF FUNDS. 42 USC 300j–12 note.

(a) IN GENERAL.—Notwithstanding any other provision of law, at any time after the date 1 year after a State establishes a State loan fund pursuant to section 1452 of the Safe Drinking Water Act but prior to fiscal year 2002, a Governor of the State may—

(1) reserve up to 33 percent of a capitalization grant made pursuant to such section 1452 and add the funds reserved to any funds provided to the State pursuant to section 601 of the Federal Water Pollution Control Act (33 U.S.C. 1381); and

(2) reserve in any year a dollar amount up to the dollar amount that may be reserved under paragraph (1) for that year from capitalization grants made pursuant to section 601 of such Act (33 U.S.C. 1381) and add the reserved funds to any funds provided to the State pursuant to section 1452 of the Safe Drinking Water Act.

(b) REPORT.—Not later than 4 years after the date of enactment of this Act, the Administrator shall submit a report to the Congress regarding the implementation of this section, together with the Administrator's recommendations, if any, for modifications or improvement.

(c) STATE MATCH.—Funds reserved pursuant to this section shall not be considered to be a State match of a capitalization grant required pursuant to section 1452 of the Safe Drinking Water Act or the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.).

SEC. 303. GRANTS TO ALASKA TO IMPROVE SANITATION IN RURAL AND NATIVE VILLAGES. 33 USC 1263a.

(a) IN GENERAL.—The Administrator of the Environmental Protection Agency may make grants to the State of Alaska for the benefit of rural and Native villages in Alaska to pay the Federal share of the cost of—

(1) the development and construction of public water systems and wastewater systems to improve the health and sanitation conditions in the villages; and

(2) training, technical assistance, and educational programs relating to the operation and management of sanitation services in rural and Native villages.

(b) FEDERAL SHARE.—The Federal share of the cost of the activities described in subsection (a) shall be 50 percent.

(c) ADMINISTRATIVE EXPENSES.—The State of Alaska may use an amount not to exceed 4 percent of any grant made available under this subsection for administrative expenses necessary to carry out the activities described in subsection (a).

(d) CONSULTATION WITH THE STATE OF ALASKA.—The Administrator shall consult with the State of Alaska on a method of prioritizing the allocation of grants under subsection (a) according to the needs of, and relative health and sanitation conditions in, each eligible village.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $15,000,000 for each of the fiscal years 1997 through 2000 to carry out this section.

SEC. 304. SENSE OF THE CONGRESS.

It is the sense of the Congress that appropriations for grants under section 128 (relating to New York City watershed), section 135 (relating to colonias), and section 307 (relating to Alaska Native villages) should not be provided if such appropriations would prevent the adequate capitalization of State revolving loan funds.

SEC. 305. BOTTLED DRINKING WATER STANDARDS.

Section 410 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 349) is amended as follows:

(1) By striking "Whenever" and inserting "(a) Except as provided in subsection (b), whenever".

(2) By adding at the end the following new subsection:

"(b)(1) Not later than 180 days before the effective date of a national primary drinking water regulation promulgated by the Administrator of the Environmental Protection Agency for a contaminant under section 1412 of the Safe Drinking Water Act (42 U.S.C. 300g–1), the Secretary shall promulgate a standard of quality regulation under this subsection for that contaminant in bottled water or make a finding that such a regulation is not necessary to protect the public health because the contaminant is contained in water in public water systems (as defined under section 1401(4) of such Act (42 U.S.C. 300f(4))) but not in water used for bottled drinking water. The effective date for any such standard of quality regulation shall be the same as the effective date for such national primary drinking water regulation, except for any standard of quality of regulation promulgated by the Secretary before the date of enactment of the Safe Drinking Water Act Amendments of 1996 for which (as of such date of enactment) an effective date had not been established. In the case of a standard of quality regulation to which such exception applies, the Secretary shall promulgate monitoring requirements for the contaminants covered by the regulation not later than 2 years after such date of enactment.

Effective date.

"(2) A regulation issued by the Secretary as provided in this subsection shall include any monitoring requirements that the Secretary determines appropriate for bottled water.

"(3) A regulation issued by the Secretary as provided in this subsection shall require the following:

"(A) In the case of contaminants for which a maximum contaminant level is established in a national primary drinking water regulation under section 1412 of the Safe Drinking Water Act (42 U.S.C. 300g–1), the regulation under this subsection

shall establish a maximum contaminant level for the contaminant in bottled water which is no less stringent than the maximum contaminant level provided in the national primary drinking water regulation.

"(B) In the case of contaminants for which a treatment technique is established in a national primary drinking water regulation under section 1412 of the Safe Drinking Water Act (42 U.S.C. 300g–1), the regulation under this subsection shall require that bottled water be subject to requirements no less protective of the public health than those applicable to water provided by public water systems using the treatment technique required by the national primary drinking water regulation.

"(4)(A) If the Secretary does not promulgate a regulation under this subsection within the period described in paragraph (1), the national primary drinking water regulation referred to in paragraph (1) shall be considered, as of the date on which the Secretary is required to establish a regulation under paragraph (1), as the regulation applicable under this subsection to bottled water.

"(B) In the case of a national primary drinking water regulation that pursuant to subparagraph (A) is considered to be a standard of quality regulation, the Secretary shall, not later than the applicable date referred to in such subparagraph, publish in the Federal Register a notice— Federal Register, publication.

"(i) specifying the contents of such regulation, including monitoring requirements; and

"(ii) providing that for purposes of this paragraph the effective date for such regulation is the same as the effective date for the regulation for purposes of the Safe Drinking Water Act (or, if the exception under paragraph (1) applies to the regulation, that the effective date for the regulation is not later than 2 years and 180 days after the date of enactment of the Safe Drinking Water Act Amendments of 1996).". Effective date.

SEC. 306. WASHINGTON AQUEDUCT. District of Columbia. Virginia. 40 USC 45 note.

(a) DEFINITIONS.—In this section:

(1) NON-FEDERAL PUBLIC WATER SUPPLY CUSTOMER.—The terms "non-Federal public water supply customer" and "customer" mean—

(A) the District of Columbia;

(B) Arlington County, Virginia; and

(C) the city of Falls Church, Virginia.

(2) SECRETARY.—The term "Secretary" means the Secretary of the Army, acting through the Chief of Engineers.

(3) VALUE TO THE GOVERNMENT.—The term "value to the Government" means the net present value of a contract entered into under subsection (e)(2), calculated in accordance with subparagraphs (A) and (B) of section 502(5) of the Congressional Budget Act of 1974 (2 U.S.C. 661a(5)), other than section 502(5)(B)(I) of the Act, as though the contract provided for repayment of a direct loan to a customer.

(4) WASHINGTON AQUEDUCT.—The term "Washington Aqueduct" means the Washington Aqueduct facilities and related facilities owned by the Federal Government as of the date of enactment of this Act, including—

(A) the dams, intake works, conduits, and pump stations that capture and transport raw water from the Potomac River to the Dalecarlia Reservoir;

(B) the infrastructure and appurtenances used to treat water taken from the Potomac River to potable standards; and

(C) related water distribution facilities.

(b) REGIONAL ENTITY.—

(1) IN GENERAL.—The Congress encourages and grants consent to the customers to establish a non-Federal public or private entity, or to enter into an agreement with an existing non-Federal public or private entity, to—

(A) receive title to the Washington Aqueduct; and

(B) operate, maintain, and manage the Washington Aqueduct in a manner that adequately represents all interests of its customers.

(2) CONSIDERATION.—If an entity receiving title to the Washington Aqueduct is not composed entirely of non-Federal public water supply customers, the entity shall consider the customers' historical provision of equity for the Aqueduct.

(3) PRIORITY ACCESS.—The customers shall have priority access to any water produced by the Washington Aqueduct.

(4) CONSENT OF THE CONGRESS.—The Congress grants consent to the customers to enter into any interstate agreement or compact required to carry out this section.

(5) STATUTORY CONSTRUCTION.—This section shall not preclude the customers from pursuing any option regarding ownership, operation, maintenance, and management of the Washington Aqueduct.

(c) PROGRESS REPORT AND PLAN.—Not later than 1 year after the date of enactment of this Act, the Secretary shall report to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives on any progress in achieving the objectives of subsection (b)(1) and shall submit a plan for the transfer of ownership, operation, maintenance, and management of the Washington Aqueduct to a non-Federal public or private entity. Such plan shall include a detailed consideration of any proposal to transfer such ownership, maintenance, or management to a private entity.

(d) TRANSFER.—

(1) IN GENERAL.—Subject to subsection (b)(2), the other provisions of this subsection, and any other terms and conditions the Secretary considers appropriate to protect the interests of the United States, the Secretary shall, not later than 3 years after the date of enactment of this Act and with the consent of a majority of the customers and without consideration to the Federal Government, transfer all right, title, and interest of the United States in the Washington Aqueduct, and its real property, facilities, and personalty, to a non-Federal, public or private entity. Approval of such transfer shall not be unreasonably withheld by the Secretary.

(2) ADEQUATE CAPABILITIES.—The Secretary shall transfer ownership of the Washington Aqueduct under paragraph (1) only if the Secretary determines, after opportunity for public input, that the entity to receive ownership of the Aqueduct has the technical, managerial, and financial capability to operate, maintain, and manage the Aqueduct.

(3) RESPONSIBILITIES.—The Secretary shall not transfer title under this subsection unless the entity to receive title

assumes full responsibility for performing and financing the operation, maintenance, repair, replacement, rehabilitation, and necessary capital improvements of the Washington Aqueduct so as to ensure the continued operation of the Washington Aqueduct consistent with the Aqueduct's intended purpose of providing an uninterrupted supply of potable water sufficient to meet the current and future needs of the Aqueduct's service area.

(e) BORROWING AUTHORITY.—

(1) BORROWING.—

(A) IN GENERAL.—Subject to the other provisions of this paragraph and paragraph (2), the Secretary is authorized to borrow from the Treasury of the United States such amounts for fiscal years 1997, 1998, and 1999 as are sufficient to cover any obligations that the Army Corps of Engineers is required to incur in carrying out capital improvements during fiscal years 1997, 1998, and 1999 for the Washington Aqueduct to ensure continued operation of the Aqueduct until such time as a transfer of title to the Aqueduct has taken place.

(E) LIMITATION.—The amount borrowed by the Secretary under subparagraph (A) may not exceed $29,000,000 for fiscal year 1997, $24,000,000 for fiscal year 1998, and $22,000,000 for fiscal year 1999.

(C) AGREEMENT.—Amounts borrowed under subparagraph (A) may only be used for capital improvements agreed to by the Army Corps of Engineers and the customers.

(D) TERMS OF BORROWING.—

(i) IN GENERAL.—The Secretary of the Treasury shall provide the funds borrowed under subparagraph (A) under such terms and conditions as the Secretary of Treasury determines to be necessary and in the public interest and subject to the contracts required under paragraph (2).

(ii) TERM.—The term of any loan made under subparagraph (A) shall be for a period of not less than 20 years.

(iii) PREPAYMENT.—There shall be no penalty for the prepayment of any amounts borrowed under subparagraph (A).

(2) CONTRACTS WITH CUSTOMERS.—

(A) IN GENERAL.—The borrowing authority under paragraph (1)(A) shall be effective only after the Chief of Engineers has entered into contracts with each customer under which the customer commits to repay a pro rata share (based on water purchase) of the principal and interest owed by the Secretary to the Secretary of the Treasury under paragraph (1).

(B) PREPAYMENT.—Any customer may repay, at any time, the pro rata share of the principal and interest then owed by the customer and outstanding, or any portion thereof, without penalty.

(C) RISK OF DEFAULT.—Under each of the contracts, the customer that enters into the contract shall commit to pay any additional amount necessary to fully offset the risk of default on the contract.

(D) OBLIGATIONS.—Each contract under subparagraph (A) shall include such terms and conditions as the Secretary of the Treasury may require so that the value to the Government of the contracts entered into under subparagraph (A) is estimated to be equal to the obligations of the Army Corps of Engineers for carrying out capital improvements at the Washington Aqueduct at the time that each series of contracts is entered into.

(E) OTHER CONDITIONS.—Each contract entered into under subparagraph (A) shall—

(i) provide that the customer pledges future income only from fees assessed for principal and interest payments required by such contracts and costs to operate and maintain the Washington Aqueduct;

(ii) provide the United States priority in regard to income from fees assessed to operate and maintain the Washington Aqueduct; and

(iii) include other conditions consistent with this section that the Secretary of the Treasury determines to be appropriate.

(3) LIMITATIONS.—

(A) BORROWING AUTHORITY.—The Secretary's borrowing authority for making capital improvements at the Washington Aqueduct under paragraph (1) shall not extend beyond fiscal year 1999.

(B) OBLIGATION AUTHORITY.—Upon expiration of the borrowing authority exercised under paragraph (1), the Secretary shall not obligate funds for making capital improvements at the Washington Aqueduct except funds which are provided in advance by the customers. This limitation does not affect the Secretary's authority to conduct normal operation and maintenance activities, including minor repair and replacement work.

Reports.

(4) IMPACT ON IMPROVEMENT PROGRAM.—Not later than 180 days after the date of enactment of this Act, the Secretary, in consultation with other Federal agencies, shall transmit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that assesses the impact of the borrowing authority provided under this subsection on the near-term improvement projects in the Washington Aqueduct Improvement Program, work scheduled, and the financial liability to be incurred.

(f) REISSUANCE OF NPDES PERMIT.—Prior to reissuing a National Pollutant Discharge Elimination System (NPDES) permit for the Washington Aqueduct, the Administrator of the Environmental Protection Agency shall consult with the customers and the Secretary regarding opportunities for more efficient water facility configurations that might be achieved through various possible transfers of the Washington Aqueduct. Such consultation shall include specific consideration of concerns regarding a proposed solids recovery facility, and may include a public hearing.

33 USC 1281 note.

SEC. 307. WASTEWATER ASSISTANCE TO COLONIAS.

(a) DEFINITIONS.—As used in this section:

(1) BORDER STATE.—The term "border State" means Arizona, California, New Mexico, and Texas.

(2) ELIGIBLE COMMUNITY.—The term "eligible community" means a low-income community with economic hardship that—

(A) is commonly referred to as a colonia;

(B) is located along the United States-Mexico border (generally in an unincorporated area); and

(C) lacks basic sanitation facilities such as household plumbing or a proper sewage disposal system.

(3) TREATMENT WORKS.—The term "treatment works" has the meaning provided in section 212(2) of the Federal Water Pollution Control Act (33 U.S.C. 1292(2)).

(b) GRANTS FOR WASTEWATER ASSISTANCE.—The Administrator of the Environmental Protection Agency and the heads of other appropriate Federal agencies are authorized to award grants to a border State to provide assistance to eligible communities for the planning, design, and construction or improvement of sewers, treatment works, and appropriate connections for wastewater treatment.

(c) USE OF FUNDS.—Each grant awarded pursuant to subsection (b) shall be used to provide assistance to one or more eligible communities with respect to which the residents are subject to a significant health risk (as determined by the Administrator or the head of the Federal agency making the grant) attributable to the lack of access to an adequate and affordable treatment works for wastewater.

(d) COST SHARING.—The amount of a grant awarded pursuant to this section shall not exceed 50 percent of the costs of carrying out the project that is the subject of the grant.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $25,000,000 for each of the fiscal years 1997 through 1999.

SEC. 308. PREVENTION AND CONTROL OF ZEBRA MUSSEL INFESTATION OF LAKE CHAMPLAIN.

(a) FINDINGS.—Section 1002(a) of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4701(a)) is amended as follows:

(1) By striking "and" at the end of paragraph (3).

(2) By striking the period at the end of paragraph (4) and inserting "; and".

(3) By adding at the end the following new paragraph:

"(5) the zebra mussel was discovered on Lake Champlain during 1993 and the opportunity exists to act quickly to establish zebra mussel controls before Lake Champlain is further infested and management costs escalate.".

(b) EX OFFICIO MEMBERS OF AQUATIC NUISANCE SPECIES TASK FORCE.—Section 1201(c) of such Act (16 U.S.C. 4721(c)) is amended by inserting ", the Lake Champlain Basin Program," after "Great Lakes Commission".

TITLE IV—ADDITIONAL ASSISTANCE FOR WATER INFRASTRUCTURE AND WATERSHEDS

42 USC 300j–3c.

SEC. 401. NATIONAL PROGRAM.

(a) TECHNICAL AND FINANCIAL ASSISTANCE.—The Administrator of the Environmental Protection Agency may provide technical and financial assistance in the form of grants to States (1) for the construction, rehabilitation, and improvement of water supply systems, and (2) consistent with nonpoint source management programs established under section 319 of the Federal Water Pollution Control Act, for source water quality protection programs to address pollutants in navigable waters for the purpose of making such waters usable by water supply systems.

(b) LIMITATION.—Not more than 30 percent of the amounts appropriated to carry out this section in a fiscal year may be used for source water quality protection programs described in subsection (a)(2).

(c) CONDITION.—As a condition to receiving assistance under this section, a State shall ensure that such assistance is carried out in the most cost-effective manner, as determined by the State.

(d) AUTHORIZATION OF APPROPRIATIONS.—

(1) UNCONDITIONAL AUTHORIZATION.—There are authorized to be appropriated to carry out this section $25,000,000 for each of fiscal years 1997 through 2003. Such sums shall remain available until expended.

(2) CONDITIONAL AUTHORIZATION.—In addition to amounts authorized under paragraph (1), there are authorized to be appropriated to carry out this title $25,000,000 for each of fiscal years 1997 through 2003, provided that such authorization shall be in effect for a fiscal year only if at least 75 percent of the total amount of funds authorized to be appropriated for such fiscal year by section 1452(m) of the Safe Drinking Water Act are appropriated.

(e) ACQUISITION OF LANDS.—Assistance provided with funds made available under this title may be used for the acquisition of lands and other interests in lands; however, nothing in this title authorizes the acquisition of lands or other interests in lands from other than willing sellers.

(f) FEDERAL SHARE.—The Federal share of the cost of activities for which grants are made under this title shall be 50 percent.

(g) DEFINITIONS.—In this section, the following definitions apply:

(1) STATE.—The term "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(2) WATER SUPPLY SYSTEM.—The term "water supply system" means a system for the provision to the public of piped water for human consumption if such system has at least 15 service connections or regularly serves at least 25 individuals and a draw and fill system for the provision to the public of water for human consumption. Such term does not include a system owned by a Federal agency. Such term includes (A) any collection, treatment, storage, and distribution facilities

under control of the operator of such system and used primarily in connection with such system, and (B) any collection or pretreatment facilities not under such control that are used primarily in connection with such system.

TITLE V—CLERICAL AMENDMENTS

SEC. 501. CLERICAL AMENDMENTS.

(a) PART B.—Part B (42 U.S.C. 300g et seq.) is amended as follows:

(1) In section 1412(b), move the margins of paragraph (11) 2 ems to the right. 42 USC 300g–1.

(2) In section 1412(b)(8), strike "1442(g)" and insert "1442(e)".

(3) In section 1415(a)(1)(A), insert "the" before "time the variance is granted". 42 USC 300g–4.

(b) PART C.—Part C (42 U.S.C. 300h et seq.) is amended as follows:

(1) In section 1421(b)(3)(B)(i), strike "number or States" and inserting "number of States". 42 USC 300h.

(2) In section 1427(k), strike "this subsection" and inserting "this section". 42 USC 300h–6.

(c) PART E.—Section 1441(f) (42 U.S.C. 300j(f)) is amended by inserting a period at the end.

(d) SECTION 1465(b).—Section 1465(b) (42 U.S.C. 300j–25(b)) is amended by striking "as by" and inserting "by".

(e) SHORT TITLE.—Section 1 of Public Law 93–523 (88 Stat. 1600) is amended by inserting "of 1974" after "Act" the second place it appears and title XIV of the Public Health Service Act is amended by inserting the following immediately before part A: 42 USC 201 note.

"SHORT TITLE

"SEC. 1400. This title may be cited as the 'Safe Drinking Water Act'.".

(f) TECHNICAL AMENDMENTS TO SECTION HEADINGS.—

(1) The section heading and subsection designation of subsection (a) of section 1417 (42 U.S.C. 300g–6) are amended to read as follows:

"PROHIBITION ON USE OF LEAD PIPES, SOLDER, AND FLUX

"SEC. 1417. (a)".

(2) The section heading and subsection designation of subsection (a) of section 1426 (42 U.S.C. 300h–5) are amended to read as follows:

"REGULATION OF STATE PROGRAMS

"SEC. 1426. (a)".

(3) The section heading and subsection designation of subsection (a) of section 1427 (42 U.S.C. 300h–6) are amended to read as follows:

"SOLE SOURCE AQUIFER DEMONSTRATION PROGRAM

"SEC. 1427. (a)".

(4) The section heading and subsection designation of subsection (a) of section 1428 (42 U.S.C. 300h–7) are amended to read as follows:

"STATE PROGRAMS TO ESTABLISH WELLHEAD PROTECTION AREAS

"SEC. 1428. (a)".

(5) The section heading and subsection designation of subsection (a) of section 1432 (42 U.S.C. 300i–1) are amended to read as follows:

"TAMPERING WITH PUBLIC WATER SYSTEMS

"SEC. 1432. (a)".

(6) The section heading and subsection designation of subsection (a) of section 1451 (42 U.S.C. 300j–11) are amended to read as follows:

"INDIAN TRIBES

"SEC. 1451. (a)".

(7) The section heading and first word of section 1461 (42 U.S.C. 300j–21) are amended to read as follows:

"DEFINITIONS

"SEC. 1461. As".

(8) The section heading and first word of section 1462 (42 U.S.C. 300j–22) are amended to read as follows:

"RECALL OF DRINKING WATER COOLERS WITH LEAD-LINED TANKS

"SEC. 1462. For".

(9) The section heading and subsection designation of subsection (a) of section 1463 (42 U.S.C. 300j–23) are amended to read as follows:

"DRINKING WATER COOLERS CONTAINING LEAD

"SEC. 1463. (a)".

(10) The section heading and subsection designation of subsection (a) of section 1464 (42 U.S.C. 300j–24) are amended to read as follows:

"LEAD CONTAMINATION IN SCHOOL DRINKING WATER

"SEC. 1464. (a)".

(11) The section heading and subsection designation of subsection (a) of section 1465 (42 U.S.C. 300j–25) are amended to read as follows:

"FEDERAL ASSISTANCE FOR STATE PROGRAMS REGARDING LEAD CONTAMINATION IN SCHOOL DRINKING WATER

"SEC. 1465. (a)".

Approved August 6, 1996.

LEGISLATIVE HISTORY—S. 1316 (H.R. 3604):

HOUSE REPORTS: Nos. 104–632, Pt. 1 accompanying H.R. 3604 (Comm. on Commerce) and 104–741 (Comm. of Conference).
SENATE REPORTS: No. 104–169 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD:
Vol. 141 (1995): Nov. 29, considered and passed Senate.
Vol. 142 (1996): June 25, H.R. 3604 considered and passed House.
July 17, S. 1316 considered and passed House, amended, in lieu of H.R. 3604.
Aug. 2, House and Senate agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 32 (1996):
Aug. 6, Presidential remarks and statement.

Public Law 104–183
104th Congress

An Act

Aug. 6, 1996
[S. 1757]

To amend the Developmental Disabilities Assistance and Bill of Rights Act to extend the Act, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1996.
42 USC 6000 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1996".

SEC. 2. REAUTHORIZATION OF ALLOTMENTS FOR STATES.

Section 130 of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6030) is amended by striking "the fiscal years 1995 and 1996" and inserting "the fiscal years 1995 through 1999".

SEC. 3. REAUTHORIZATION OF AUTHORITIES RELATING TO PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS.

Section 143 of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6043) is amended by striking "the fiscal years 1995 and 1996" and inserting "the fiscal years 1995 through 1999".

SEC. 4. REAUTHORIZATION OF AUTHORITIES RELATING TO UNIVERSITY AFFILIATED PROGRAMS.

Section 156(a) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6066(a)) is amended by striking "the fiscal years 1995 and 1996" and inserting "the fiscal years 1995 through 1999".

SEC. 5. REAUTHORIZATION OF AUTHORITIES RELATING TO PROJECTS OF NATIONAL SIGNIFICANCE.

Section 163(a) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6083(a)) is amended by striking "the fiscal years 1995 and 1996" and inserting "the fiscal years 1995 through 1999".

Approved August 6, 1996.

LEGISLATIVE HISTORY—S. 1757 (H.R. 3867):

HOUSE REPORTS: No. 104–719 accompanying H.R. 3867 (Comm. on Commerce).
CONGRESSIONAL RECORD, Vol. 142 (1996):
July 12, considered and passed Senate.
July 30, H.R. 3867 and S. 1757 considered and passed House.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 32 (1996):
Aug. 6, Presidential statement.

Public Law 104–184
104th Congress

An Act

Aug. 6, 1996
[H.R. 3663]

To amend the District of Columbia Self-Government and Governmental Reorganization Act to permit the Council of the District of Columbia to authorize the issuance of revenue bonds with respect to water and sewer facilities, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

District of Columbia Water and Sewer Authority Act of 1996.

SECTION 1. SHORT TITLE.

This Act may be cited as the "District of Columbia Water and Sewer Authority Act of 1996".

SEC. 2. PERMITTING ISSUANCE OF REVENUE BONDS FOR WASTEWATER TREATMENT ACTIVITIES.

(a) AUTHORITY TO ISSUE BONDS.—

(1) IN GENERAL.—The first sentence of section 490(a)(1) of the District of Columbia Self-Government and Governmental Reorganization Act (sec. 47–334(a)(1), D.C. Code) is amended—

(A) by striking "and industrial" and inserting "industrial"; and

(B) by striking the period at the end and inserting the following: ", and water and sewer facilities (as defined in paragraph (5)).".

(2) WATER AND SEWER FACILITIES DEFINED.—Section 490(a) of such Act (sec. 47–334(a), D.C. Code) is amended by adding at the end the following new paragraph:

"(5) In paragraph (1), the term 'water and sewer facilities' means facilities for the obtaining, treatment, storage, and distribution of water, the collection, storage, treatment, and transportation of wastewater, storm drainage, and the disposal of liquids and solids resulting from treatment.".

(b) USE OF REVENUES TO MAKE PAYMENTS ON BONDS.—The second sentence of section 490(a)(3) of such Act (sec. 47–334(a)(3), D.C. Code) is amended by inserting after "property" each place it appears in subparagraphs (A) and (B) the following: "(including water and sewer enterprise fund revenues, assets, or other property in the case of bonds, notes, or obligations issued with respect to water and sewer facilities)".

(c) PERMITTING DELEGATION OF AUTHORITY TO ISSUE REVENUE BONDS TO WATER AND SEWER AUTHORITY.—

(1) IN GENERAL.—Section 490 of such Act (sec. 47–334, D.C. Code) is amended by adding at the end the following new subsection:

"(h)(1) The Council may delegate to the District of Columbia Water and Sewer Authority established pursuant to the Water

and Sewer Authority Establishment and Department of Public Works Reorganization Act of 1996 the authority of the Council under subsection (a) to issue revenue bonds, notes, and other obligations to borrow money to finance or assist in the financing or refinancing of undertakings in the area of utilities facilities, pollution control facilities, and water and sewer facilities (as defined in subsection (a)(5)). The Authority may exercise authority delegated to it by the Council as described in the first sentence of this paragraph (whether such delegation is made before or after the date of the enactment of this subsection) only in accordance with this subsection.

"(2) Revenue bonds, notes, and other obligations issued by the District of Columbia Water and Sewer Authority under a delegation of authority described in paragraph (1) shall be issued by resolution of the Authority, and any such resolution shall not be considered to be an act of the Council.

"(3) The fourth sentence of section 446 shall not apply to—

"(A) any amount (including the amount of any accrued interest or premium) obligated or expended from the proceeds of the sale of any revenue bond, note, or other obligation issued pursuant to this subsection;

"(B) any amount obligated or expended for the payment of the principal of, interest on, or any premium for any revenue bond, note, or other obligation issued pursuant to this subsection;

"(C) any amount obligated or expended to secure any revenue bond, note, or other obligation issued pursuant to this subsection; or

"(D) any amount obligated or expended for repair, maintenance, and capital improvements to facilities financed pursuant to this subsection.".

(2) CONFORMING AMENDMENT.—The fourth sentence of section 446 of such Act (sec. 47–304, D.C. Code) is amended by striking "(f) and (g)(3)" and inserting "(f), (g)(3), and (h)(3)".

SEC. 3. TREATMENT OF REVENUES AND OBLIGATIONS.

(a) EXCLUSION OF REVENUES FOR PURPOSES OF CAP ON AGGREGATE DISTRICT DEBT.—Paragraphs (1) and (3)(A) of section 603(b) of the District of Columbia Self-Government and Governmental Reorganization Act (sec. 47–313(b), D.C. Code) are each amended by inserting after "revenue bonds," the following: "any revenues, charges, or fees dedicated for the purposes of water and sewer facilities described in section 490(a) (including fees or revenues directed to servicing or securing revenue bonds issued for such purposes),".

(b) EXCLUSION OF OBLIGATIONS RELATING TO DEBT SERVICING PAYMENTS ON CERTAIN GENERAL OBLIGATION BONDS.—

(1) IN GENERAL.—Section 603(b)(2) of such Act (sec. 47–313(b)(2), D.C. Code) is amended—

(A) by striking "and obligations" and inserting "obligations"; and

(B) by inserting after "establishment," the following: "and obligations incurred pursuant to general obligation bonds of the District of Columbia issued prior to October 1, 1996, for the financing of Department of Public Works, Water and Sewer Utility Administration capital projects,".

(2) CONFORMING AMENDMENT.—Section 603(b)(3)(B) of such Act (sec. 47–313(b)(3)(B), D.C. Code) is amended by inserting after "bonds" the following: "(less the allocable portion of principal and interest to be paid during the year on general obligation bonds of the District of Columbia issued prior to October 1, 1996, for the financing of Department of Public Works, Water and Sewer Utility Administration capital projects)".

SEC. 4. TREATMENT OF BUDGET OF WATER AND SEWER AUTHORITY.

(a) PREPARATION OF INDEPENDENT BUDGET.—Subpart 1 of part D of title IV of the District of Columbia Self-Government and Governmental Reorganization Act is amended by inserting after section 445 the following new section:

"WATER AND SEWER AUTHORITY BUDGET

"SEC. 445A. The District of Columbia Water and Sewer Authority established pursuant to the Water and Sewer Authority Establishment and Department of Public Works Reorganization Act of 1996 shall prepare and annually submit to the Mayor, for inclusion in the annual budget, annual estimates of the expenditures and appropriations necessary for the operation of the Authority for the year. All such estimates shall be forwarded by the Mayor to the Council for its action pursuant to sections 446 and 603(c), without revision but subject to his recommendations. Notwithstanding any other provision of this Act, the Council may comment or make recommendations concerning such annual estimates, but shall have no authority under this Act to revise such estimates.".

(b) EXEMPTION FROM REDUCTIONS OF BUDGETS OF INDEPENDENT AGENCIES.—Section 453(c) of such Act (sec. 47–304.1(c), D.C. Code) is amended—

(1) by striking "courts or the Council, or to" and inserting "courts, the Council,"; and

(2) by striking the period at the end and inserting the following: ", or the District of Columbia Water and Sewer Authority established pursuant to the Water and Sewer Authority Establishment and Department of Public Works Reorganization Act of 1996.".

(c) CONFORMING AMENDMENT.—Section 442(b) of such Act (sec. 47–301(b), D.C. Code) is amended—

(1) by striking "and the Commission" and inserting "the Commission"; and

(2) by striking the period at the end and inserting the following: ", and the District of Columbia Water and Sewer Authority.".

(d) CLERICAL AMENDMENT.—The table of contents of subpart 1 of part D of title IV of the District of Columbia Self-Government and Governmental Reorganization Act is amended by inserting after the item relating to section 445 the following new item:

"Sec. 445A. Water and Sewer Authority budget.".

SEC. 5. CLARIFICATION OF COMPENSATION OF CURRENT EMPLOYEES OF DEPARTMENT OF PUBLIC WORKS.

The first sentence of section 205(b)(2) of the Water and Sewer Authority Establishment and Department of Public Works Reorganization Act of 1996 (sec. 43–1675(b)(2), D.C. Code) is amended by striking "duties)" and inserting "duties, and except as may

otherwise be provided under the personnel system developed pursuant to subsection (a)(4) or a collective bargaining agreement entered into after the date of the enactment of this Act)".

Approved August 6, 1996.

LEGISLATIVE HISTORY—H.R. 3663:

HOUSE REPORTS: No. 104–635 (Comm. on Government Reform and Oversight).
CONGRESSIONAL RECORD, Vol. 142 (1996):
June 27, considered and passed House.
July 30, considered and passed Senate.

Public Law 104–185
104th Congress

An Act

Aug. 13, 1996
[H.R. 1975]

To improve the management of royalties from Federal and Outer Continental Shelf oil and gas leases, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Federal Oil and Gas Royalty Simplification and Fairness Act of 1996.
30 USC 1701 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Oil and Gas Royalty Simplification and Fairness Act of 1996".

30 USC 1702.

SEC. 2. DEFINITIONS.

Section 3 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et seq.) is amended—

(1) by amending paragraph (7) to read as follows:

"(7) 'lessee' means any person to whom the United States issues an oil and gas lease or any person to whom operating rights in a lease have been assigned;"; and

(2) by striking "and" at the end of paragraph (15), by striking the period at the end of paragraph (16) and inserting a semicolon, and by adding at the end the following:

"(17) 'adjustment' means an amendment to a previously filed report on an obligation, and any additional payment or credit, if any, applicable thereto, to rectify an underpayment or overpayment on an obligation;

"(18) 'administrative proceeding' means any Department of the Interior agency process in which a demand, decision or order issued by the Secretary or a delegated State is subject to appeal or has been appealed;

"(19) 'assessment' means any fee or charge levied or imposed by the Secretary or a delegated State other than—

"(A) the principal amount of any royalty, minimum royalty, rental bonus, net profit share or proceed of sale;

"(B) any interest; or

"(C) any civil or criminal penalty;

"(20) 'commence' means—

"(A) with respect to a judicial proceeding, the service of a complaint, petition, counterclaim, cross claim, or other pleading seeking affirmative relief or seeking credit or recoupment: *Provided,* That if the Secretary commences a judicial proceeding against a designee, the Secretary shall give notice of that commencement to the lessee who designated the designee, but the Secretary is not required to give notice to other lessees who may be liable pursuant to section 102(a) of this Act, for the obligation that is the subject of the judicial proceeding; or

"(B) with respect to a demand, the receipt by the Secretary or a delegated State or a lessee or its designee (with written notice to the lessee who designated the designee) of the demand;

"(21) 'credit' means the application of an overpayment (in whole or in part) against an obligation which has become due to discharge, cancel or reduce the obligation;

"(22) 'delegated State' means a State which, pursuant to an agreement or agreements under section 205 of this Act, performs authorities, duties, responsibilities, or activities of the Secretary;

"(23) 'demand' means—

"(A) an order to pay issued by the Secretary or the applicable delegated State to a lessee or its designee (with written notice to the lessee who designated the designee) that has a reasonable basis to conclude that the obligation in the amount of the demand is due and owing; or

"(B) a separate written request by a lessee or its designee which asserts an obligation due the lessee or its designee that provides a reasonable basis to conclude that the obligation in the amount of the demand is due and owing, but does not mean any royalty or production report, or any information contained therein, required by the Secretary or a delegated State;

"(24) 'designee' means the person designated by a lessee pursuant to section 102(a) of this Act, with such written designation effective on the date such designation is received by the Secretary and remaining in effect until the Secretary receives notice in writing that the designation is modified or terminated;

"(25) 'obligation' means—

"(A) any duty of the Secretary or, if applicable, a delegated State—

"(i) to take oil or gas royalty in kind; or

"(ii) to pay, refund, offset, or credit monies including (but not limited to)—

"(I) the principal amount of any royalty, minimum royalty, rental, bonus, net profit share or proceed of sale; or

"(II) any interest; and

"(B) any duty of a lessee or its designee (subject to the provision of section 102(a) of this Act)—

"(i) to deliver oil or gas royalty in kind; or

"(ii) to pay, offset or credit monies including (but not limited to)—

"(I) the principal amount of any royalty, minimum royalty, rental, bonus, net profit share or proceed of sale;

"(II) any interest;

"(III) any penalty; or

"(IV) any assessment,

which arises from or relates to any lease administered by the Secretary for, or any mineral leasing law related to, the exploration, production and development of oil or gas on Federal lands or the Outer Continental Shelf;

"(26) 'order to pay' means a written order issued by the Secretary or the applicable delegated State to a lessee or its

designee (with notice to the lessee who designated the designee) which—

"(A) asserts a specific, definite, and quantified obligation claimed to be due, and

"(B) specifically identifies the obligation by lease, production month and monetary amount of such obligation claimed to be due and ordered to be paid, as well as the reason or reasons such obligation is claimed to be due, but such term does not include any other communication or action by or on behalf of the Secretary or a delegated State;

"(27) 'overpayment' means any payment by a lessee or its designee in excess of an amount legally required to be paid on an obligation and includes the portion of any estimated payment for a production month that is in excess of the royalties due for that month;

"(28) 'payment' means satisfaction, in whole or in part, of an obligation;

"(29) 'penalty' means a statutorily authorized civil fine levied or imposed for a violation of this Act, any mineral leasing law, or a term or provision of a lease administered by the Secretary;

"(30) 'refund' means the return of an overpayment;

"(31) 'State concerned' means, with respect to a lease, a State which receives a portion of royalties or other payments under the mineral leasing laws from such lease;

"(32) 'underpayment' means any payment or nonpayment by a lessee or its designee that is less than the amount legally required to be paid on an obligation; and

"(33) 'United States' means the United States Government and any department, agency, or instrumentality thereof, the several States, the District of Columbia, and the territories of the United States.".

SEC. 3. DELEGATION OF ROYALTY COLLECTIONS AND RELATED ACTIVITIES.

(a) GENERAL AUTHORITY.—Section 205 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1735) is amended to read as follows:

30 USC 1735.

"SEC. 205. DELEGATION OF ROYALTY COLLECTIONS AND RELATED ACTIVITIES.

"(a) Upon written request of any State, the Secretary is authorized to delegate, in accordance with the provisions of this section, all or part of the authorities and responsibilities of the Secretary under this Act to:

"(1) conduct inspections, audits, and investigations;

"(2) receive and process production and financial reports;

"(3) correct erroneous report data;

"(4) perform automated verification; and

"(5) issue demands, subpoenas, and orders to perform restructured accounting, for royalty management enforcement purposes,

to any State with respect to all Federal land within the State.

"(b) After notice and opportunity for a hearing, the Secretary is authorized to delegate such authorities and responsibilities granted under this section as the State has requested, if the Secretary finds that—

"(1) it is likely that the State will provide adequate resources to achieve the purposes of this Act;

"(2) the State has demonstrated that it will effectively and faithfully administer the rules and regulations of the Secretary under this Act in accordance with the requirements of subsections (c) and (d) of this section;

"(3) such delegation will not create an unreasonable burden on any lessee;

"(4) the State agrees to adopt standardized reporting procedures prescribed by the Secretary for royalty and production accounting purposes, unless the State and all affected parties (including the Secretary) otherwise agree;

"(5) the State agrees to follow and adhere to regulations and guidelines issued by the Secretary pursuant to the mineral leasing laws regarding valuation of production; and

"(6) where necessary for a State to have authority to carry out and enforce a delegated activity, the State agrees to enact such laws and promulgate such regulations as are consistent with relevant Federal laws and regulations

with respect to the Federal lands within the State.

"(c) After notice and opportunity for hearing, the Secretary shall issue a ruling as to the consistency of a State's proposal with the provisions of this section and regulations under subsection (d) within 90 days after submission of such proposal. In any unfavorable ruling, the Secretary shall set forth the reasons therefor and state whether the Secretary will agree to delegate to the State if the State meets the conditions set forth in such ruling.

"(d) After consultation with State authorities, the Secretary shall by rule promulgate, within 12 months after the date of enactment of this section, standards and regulations pertaining to the authorities and responsibilities to be delegated under subsection (a), including standards and regulations pertaining to— Regulations.

"(1) audits to be performed;

"(2) records and accounts to be maintained;

"(3) reporting procedures to be required by States under this section;

"(4) receipt and processing of production and financial reports;

"(5) correction of erroneous report data;

"(6) performance of automated verification;

"(7) issuance of standards and guidelines in order to avoid duplication of effort;

"(8) transmission of report data to the Secretary; and

"(9) issuance of demands, subpoenas, and orders to perform restructured accounting, for royalty management enforcement purposes.

Such standards and regulations shall be designed to provide reasonable assurance that a uniform and effective royalty management system will prevail among the States. The records and accounts under paragraph (2) shall be sufficient to allow the Secretary to monitor the performance of any State under this section.

"(e) If, after notice and opportunity for a hearing, the Secretary finds that any State to which any authority or responsibility of the Secretary has been delegated under this section is in violation of any requirement of this section or any rule thereunder, or that an affirmative finding by the Secretary under subsection (b) can no longer be made, the Secretary may revoke such delegation.

If, after providing written notice to a delegated State and a reasonable opportunity to take corrective action requested by the Secretary, the Secretary determines that the State has failed to issue a demand or order to a Federal lessee within the State, that such failure may result in an underpayment of an obligation due the United States by such lessee, and that such underpayment may be uncollected without Secretarial intervention, the Secretary may issue such demand or order in accordance with the provisions of this Act prior to or absent the withdrawal of delegated authority.

"(f) Subject to appropriations, the Secretary shall compensate any State for those costs which may be necessary to carry out the delegated activities under this Section. Payment shall be made no less than every quarter during the fiscal year. Compensation to a State may not exceed the Secretary's reasonably anticipated expenditure for performance of such delegated activities by the Secretary. Such costs shall be allocable for the purposes of section 35(b) of the Act entitled 'An act to promote the mining of coal, phosphate, oil, oil shale, gas and sodium on the public domain', approved February 25, 1920 (commonly known as the Mineral Leasing Act) (30 U.S.C. 191 (b)) to the administration and enforcement of laws providing for the leasing of any onshore lands or interests in land owned by the United States. Any further allocation of costs under section 35(b) made by the Secretary for oil and gas activities, other than those costs to compensate States for delegated activities under this Act, shall be only those costs associated with onshore oil and gas activities and may not include any duplication of costs allocated pursuant to the previous sentence. Nothing in this section affects the Secretary's authority to make allocations under section 35(b) for non-oil and gas mineral activities. All moneys received from sales, bonuses, rentals, royalties, assessments and interest, including money claimed to be due and owing pursuant to a delegation under this section, shall be payable and paid to the Treasury of the United States.

"(g) Any action of the Secretary to approve or disapprove a proposal submitted by a State under this section shall be subject to judicial review in the United States district court which includes the capital of the State submitting the proposal.

"(h) Any State operating pursuant to a delegation existing on the date of enactment of this Act may continue to operate under the terms and conditions of the delegation, except to the extent that a revision of the existing agreement is adopted pursuant to this section.".

(b) CLERICAL AMENDMENT.—The item relating to section 205 in the table of contents in section 1 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701) is amended to read as follows:

"Sec. 205. Delegation of royalty collections and related activities.".

SEC. 4. SECRETARIAL AND DELEGATED STATES' ACTIONS AND LIMITATION PERIODS.

(a) IN GENERAL.—The Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et seq.) is amended by adding after section 114 the following new section:

"SEC. 115. SECRETARIAL AND DELEGATED STATES' ACTIONS AND LIMITATION PERIODS. 30 USC 1724.

"(a) IN GENERAL.—The respective duties, responsibilities, and activities with respect to a lease shall be performed by the Secretary, delegated States, and lessees or their designees in a timely manner.

"(b) LIMITATION PERIOD.—

"(1) IN GENERAL.—A judicial proceeding or demand which arises from, or relates to an obligation, shall be commenced within seven years from the date on which the obligation becomes due and if not so commenced shall be barred. If commencement of a judicial proceeding or demand for an obligation is barred by this section, the Secretary, a delegated State, or a lessee or its designee (A) shall not take any other or further action regarding that obligation, including (but not limited to) the issuance of any order, request, demand or other communication seeking any document, accounting, determination, calculation, recalculation, payment, principal, interest, assessment, or penalty or the initiation, pursuit or completion of an audit with respect to that obligation; and (B) shall not pursue any other equitable or legal remedy, whether under statute or common law, with respect to an action on or an enforcement of said obligation.

"(2) RULE OF CONSTRUCTION.—A judicial proceeding or demand that is timely commenced under paragraph (1) against a designee shall be considered timely commenced as to any lessee who is liable pursuant to section 102(a) of this Act for the obligation that is the subject of the judicial proceeding or demand.

"(3) APPLICATION OF CERTAIN LIMITATIONS.—The limitations set forth in sections 2401, 2415, 2416, and 2462 of title 28, United States Code, and section 42 of the Mineral Leasing Act (30 U.S.C. 226–2) shall not apply to any obligation to which this Act applies. Section 3716 of title 31, United States Code, may be applied to an obligation the enforcement of which is not barred by this Act, but may not be applied to any obligation the enforcement of which is barred by this Act.

"(c) OBLIGATION BECOMES DUE.—

"(1) IN GENERAL.—For purposes of this Act, an obligation becomes due when the right to enforce the obligation is fixed.

"(2) ROYALTY OBLIGATIONS.—The right to enforce any royalty obligation for any given production month for a lease is fixed for purposes of this Act on the last day of the calendar month following the month in which oil or gas is produced.

"(d) TOLLING OF LIMITATION PERIOD.—The running of the limitation period under subsection (b) shall not be suspended, tolled, extended, or enlarged for any obligation for any reason by any action, including an action by the Secretary or a delegated State, other than the following:

"(1) TOLLING AGREEMENT.—A written agreement executed during the limitation period between the Secretary or a delegated State and a lessee or its designee (with notice to the lessee who designated the designee) shall toll the limitation period for the amount of time during which the agreement is in effect.

"(2) SUBPOENA.—

"(A) The issuance of a subpoena to a lessee or its designee (with notice to the lessee who designated the designee, which notice shall not constitute a subpoena to the lessee) in accordance with the provisions of subparagraph (B)(i) shall toll the limitation period with respect to the obligation which is the subject of a subpoena only for the period beginning on the date the lessee or its designee receives the subpoena and ending on the date on which (i) the lessee or its designee has produced such subpoenaed records for the subject obligation, (ii) the Secretary or a delegated State receives written notice that the subpoenaed records for the subject obligation are not in existence or are not in the lessee's or its designee's possession or control, or (iii) a court has determined in a final decision that such records are not required to be produced, whichever occurs first.

"(B)(i) A subpoena for the purposes of this section which requires a lessee or its designee to produce records necessary to determine the proper reporting and payment of an obligation due the Secretary may be issued only by an Assistant Secretary of the Interior or an Acting Assistant Secretary of the Interior who is a schedule C employee (as defined by section 213.3301 of title 5, Code of Federal Regulations), or the Director or Acting Director of the respective bureau or agency, and may not be delegated to any other person. If a State has been delegated authority pursuant to section 205, the State, acting through the highest State official having ultimate authority over the collection of royalties from leases on Federal lands within the State, may issue such subpoena, but may not delegate such authority to any other person.

"(ii) A subpoena described in clause (i) may only be issued against a lessee or its designee during the limitation period provided in this section and only after the Secretary or a delegated State has in writing requested the records from the lessee or its designee related to the obligation which is the subject of the subpoena and has determined that—

"(I) the lessee or its designee has failed to respond within a reasonable period of time to the Secretary's or the applicable delegated State's written request for such records necessary for an audit, investigation or other inquiry made in accordance with the Secretary's or such delegated State's responsibilities under this Act; or

"(II) the lessee or its designee has in writing denied the Secretary's or the applicable delegated State's written request to produce such records in the lessee's or its designee's possession or control necessary for an audit, investigation or other inquiry made in accordance with the Secretary's or such delegated State's responsibilities under this Act; or

"(III) the lessee or its designee has unreasonably delayed in producing records necessary for an audit, investigation or other inquiry made in accordance with the Secretary's or the applicable delegated State's

responsibilities under this Act after the Secretary's or delegated State's written request.

"(C) In seeking records, the Secretary or the applicable delegated State shall afford the lessee or its designee a reasonable period of time after a written request by the Secretary or such delegated State in which to provide such records prior to the issuance of any subpoena.

"(3) MISREPRESENTATION OR CONCEALMENT.—The intentional misrepresentation or concealment of a material fact for the purpose of evading the payment of an obligation in which case the limitation period shall be tolled for the period of such misrepresentation or such concealment.

"(4) ORDER TO PERFORM RESTRUCTURED ACCOUNTING.—A)(i) The issuance of a notice under subparagraph (D) that the lessee or its designee has not substantially complied with the requirement to perform a restructured accounting shall toll the limitation period with respect to the obligation which is the subject of the notice only for the period beginning on the date the lessee or its designee receives the notice and ending 120 days after the date on which (I) the Secretary or the applicable delegated State receives written notice that the accounting or other requirement has been performed, or (II) a court has determined in a final decision that the lessee is not required to perform the accounting, whichever occurs first.

"(ii) If the lessee or its designee initiates an administrative appeal or judicial proceeding to contest an order to perform a restructured accounting issued under subparagraph (B)(i), the limitation period in subsection (b) shall be tolled from the date the lessee or its designee received the order until a final, nonappealable decision is issued in any such proceeding.

"(B)(i) The Secretary or the applicable delegated State may issue an order to perform a restructured accounting to a lessee or its designee when the Secretary or such delegated State determines during an audit of a lessee or its designee that the lessee or its designee should recalculate royalty due on an obligation based upon the Secretary's or the delegated State's finding that the lessee or its designee has made identified underpayments or overpayments which are demonstrated by the Secretary or the delegated State to be based upon repeated, systemic reporting errors for a significant number of leases or a single lease for a significant number of reporting months with the same type of error which constitutes a pattern of violations and which are likely to result in either significant underpayments or overpayments.

"(ii) The power of the Secretary to issue an order to perform a restructured accounting may not be delegated below the most senior career professional position having responsibility for the royalty management program, which position is currently designated as the 'Associate Director for Royalty Management', and may not be delegated to any other person. If a State has been delegated authority pursuant to section 205 of this Act, the State, acting through the highest ranking State official having ultimate authority over the collection of royalties from leases on Federal lands within the State, may issue such order to perform, which may not be delegated to any other person. An order to perform a restructured accounting shall—

"(I) be issued within a reasonable period of time from when the audit identifies the systemic, reporting errors;

"(II) specify the reasons and factual bases for such order;

"(III) be specifically identified as an 'order to perform a restructured accounting';

"(IV) provide the lessee or its designee a reasonable period of time (but not less than 60 days) within which to perform the restructured accounting; and

"(V) provide the lessee or its designee 60 days within which to file an administrative appeal of the order to perform a restructured accounting.

"(C) An order to perform a restructured accounting shall not mean or be construed to include any other action by or on behalf of the Secretary or a delegated State.

Notice.

"(D) If a lessee or its designee fails to substantially comply with the requirement to perform a restructured accounting pursuant to this subsection, a notice shall be issued to the lessee or its designee that the lessee or its designee has not substantially complied with the requirements to perform a restructured accounting. A lessee or its designee shall be given a reasonable time within which to perform the restructured accounting. Such notice may be issued under this section only by an Assistant Secretary of the Interior or an acting Assistant Secretary of the Interior who is a schedule C employee (as defined by section 213.3301 of title 5, Code of Federal Regulations) and may not be delegated to any other person. If a State has been delegated authority pursuant to section 205, the State, acting through the highest State official having ultimate authority over the collection of royalties from leases on Federal lands within the State, may issue such notice, which may not be delegated to any other person.

"(e) TERMINATION OF LIMITATIONS PERIOD.—An action or an enforcement of an obligation by the Secretary or delegated State or a lessee or its designee shall be barred under this section prior to the running of the seven-year period provided in subsection (b) in the event—

"(1) the Secretary or a delegated State has notified the lessee or its designee in writing that a time period is closed to further audit; or

"(2) the Secretary or a delegated State and a lessee or its designee have so agreed in writing.

For purposes of this subsection, notice to, or an agreement by, the designee shall be binding on any lessee who is liable pursuant to section 102(a) for obligations that are the subject of the notice or agreement.

"(f) RECORDS REQUIRED FOR DETERMINING COLLECTIONS.—Records required pursuant to section 103 of this Act by the Secretary or any delegated State for the purpose of determining obligations due and compliance with any applicable mineral leasing law, lease provision, regulation or order with respect to oil and gas leases from Federal lands or the Outer Continental Shelf shall be maintained for the same period of time during which a judicial proceeding or demand may be commenced under subsection (b). If a judicial proceeding or demand is timely commenced, the record holder shall maintain such records until the final nonappealable decision in such judicial proceeding is made, or with respect to

that demand is rendered, unless the Secretary or the applicable delegated State authorizes in writing an earlier release of the requirement to maintain such records. Notwithstanding anything herein to the contrary, under no circumstance shall a record holder be required to maintain or produce any record relating to an obligation for any time period which is barred by the applicable limitation in this section. In connection with any hearing, administrative proceeding, inquiry, investigation, or audit by the Secretary or a delegated State under this Act, the Secretary or the delegated State shall minimize the submission of multiple or redundant information and make a good faith effort to locate records previously submitted by a lessee or a designee to the Secretary or the delegated State, prior to requiring the lessee or the designee to provide such records.

"(g) TIMELY COLLECTIONS.—In order to most effectively utilize resources available to the Secretary to maximize the collection of oil and gas receipts from lease obligations to the Treasury within the seven-year period of limitations, and consequently to maximize the State share of such receipts, the Secretary should not perform or require accounting, reporting, or audit activities if the Secretary and the State concerned determine that the cost of conducting or requiring the activity exceeds the expected amount to be collected by the activity, based on the most current 12 months of activity. This subsection shall not provide a defense to a demand or an order to perform a restructured accounting. To the maximum extent possible, the Secretary and delegated States shall reduce costs to the United States Treasury and the States by discontinuing requirements for unnecessary or duplicative data and other information, such as separate allowances and payor information, relating to obligations due. If the Secretary and the State concerned determine that collection will result sooner, the Secretary or the applicable delegated State may waive or forego interest in whole or in part.

"(h) APPEALS AND FINAL AGENCY ACTION.—

"(1) 33-MONTH PERIOD.—Demands or orders issued by the Secretary or a delegated State are subject to administrative appeal in accordance with the regulations of the Secretary. No State shall impose any conditions which would hinder a lessee's or its designee's immediate appeal of an order to the Secretary or the Secretary's designee. The Secretary shall issue a final decision in any administrative proceeding, including any administrative proceedings pending on the date of enactment of this section, within 33 months from the date such proceeding was commenced or 33 months from the date of such enactment, whichever is later. The 33-month period may be extended by any period of time agreed upon in writing by the Secretary and the appellant.

"(2) EFFECT OF FAILURE TO ISSUE DECISION.—If no such decision has been issued by the Secretary within the 33-month period referred to in paragraph (1)—

"(A) the Secretary shall be deemed to have issued and granted a decision in favor of the appellant as to any nonmonetary obligation and any monetary obligation the principal amount of which is less than $10,000; and

"(B) the Secretary shall be deemed to have issued a final decision in favor of the Secretary, which decision shall be deemed to affirm those issues for which the agency

rendered a decision prior to the end of such period, as to any monetary obligation the principal amount of which is $10,000 or more, and the appellant shall have a right to judicial review of such deemed final decision in accordance with title 5 of the United States Code.

"(i) COLLECTIONS OF DISPUTED AMOUNTS DUE.—To expedite collections relating to disputed obligations due within the seven-year period beginning on the date the obligation became due, the parties shall hold not less than one settlement consultation and the Secretary and the State concerned may take such action as is appropriate to compromise and settle a disputed obligation, including waiving or reducing interest and allowing offsetting of obligations among leases.

"(j) ENFORCEMENT OF A CLAIM FOR JUDICIAL REVIEW.—In the event a demand subject to this section is properly and timely commenced, the obligation which is the subject of the demand may be enforced beyond the seven-year limitations period without being barred by this statute of limitations. In the event a demand subject to this section is properly and timely commenced, a judicial proceeding challenging the final agency action with respect to such demand shall be deemed timely so long as such judicial proceeding is commenced within 180 days from receipt of notice by the lessee or its designee of the final agency action.

"(k) IMPLEMENTATION OF FINAL DECISION.—In the event a judicial proceeding or demand subject to this section is timely commenced and thereafter the limitation period in this section lapses during the pendency of such proceeding, any party to such proceeding shall not be barred from taking such action as is required or necessary to implement a final unappealable judicial or administrative decision, including any action required or necessary to implement such decision by the recovery or recoupment of an underpayment or overpayment by means of refund or credit.

"(l) STAY OF PAYMENT OBLIGATION PENDING REVIEW.—Any person ordered by the Secretary or a delegated State to pay any obligation (other than an assessment) shall be entitled to a stay of such payment without bond or other surety instrument pending an administrative or judicial proceeding if the person periodically demonstrates to the satisfaction of the Secretary that such person is financially solvent or otherwise able to pay the obligation. In the event the person is not able to demonstrate, the Secretary may require a bond or other surety instrument satisfactory to cover the obligation. Any person ordered by the Secretary or a delegated State to pay an assessment shall be entitled to a stay without bond or other surety instrument.".

(b) CLERICAL AMENDMENT.—The table of contents in section 1 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701) is amended by inserting after the item relating to section 114 the following new item:

"Sec. 115. Secretarial and delegated States' actions and limitation periods.".

SEC. 5. ADJUSTMENT AND REFUNDS.

(a) IN GENERAL.—The Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et seq.) is amended by inserting after section 111 the following:

"SEC. 111A. ADJUSTMENTS AND REFUNDS. 30 USC 1721a.

"(a) ADJUSTMENTS TO ROYALTIES PAID TO THE SECRETARY OR A DELEGATED STATE.—

"(1) If, during the adjustment period, a lessee or its designee determines that an adjustment or refund request is necessary to correct an underpayment or overpayment of an obligation, the lessee or its designee shall make such adjustment or request a refund within a reasonable period of time and only during the adjustment period. The filing of a royalty report which reflects the underpayment or overpayment of an obligation shall constitute prior written notice to the Secretary or the applicable delegated State of an adjustment.

"(2)(A) For any adjustment, the lessee or its designee shall calculate and report the interest due attributable to such adjustment at the same time the lessee or its designee adjusts the principle amount of the subject obligation, except as provided by subparagraph (B).

"(B) In the case of a lessee or its designee who determines that subparagraph (A) would impose a hardship, the Secretary or such delegated State shall calculate the interest due and notify the lessee or its designee within a reasonable time of the amount of interest due, unless such lessee or its designee elects to calculate and report interest in accordance with subparagraph (A).

"(3) An adjustment or a request for a refund for an obligation may be made after the adjustment period only upon written notice to and approval by the Secretary or the applicable delegated State, as appropriate, during an audit of the period which includes the production month for which the adjustment is being made. If an overpayment is identified during an audit, then the Secretary or the applicable delegated State, as appropriate, shall allow a credit or refund in the amount of the overpayment.

"(4) For purposes of this section, the adjustment period for any obligation shall be the six-year period following the date on which an obligation became due. The adjustment period shall be suspended, tolled, extended, enlarged, or terminated by the same actions as the limitation period in section 115.

"(b) REFUNDS.—

"(1) IN GENERAL.—A request for refund is sufficient if it—

"(A) is made in writing to the Secretary and, for purposes of section 115, is specifically identified as a demand;

"(B) identifies the person entitled to such refund;

"(C) provides the Secretary information that reasonably enables the Secretary to identify the overpayment for which such refund is sought; and

"(D) provides the reasons why the payment was an overpayment.

"(2) PAYMENT BY SECRETARY OF THE TREASURY.—The Secretary shall certify the amount of the refund to be paid under paragraph (1) to the Secretary of the Treasury who shall make such refund. Such refund shall be paid from amounts received as current receipts from sales, bonuses, royalties (including interest charges collected under this section) and rentals of the public lands and the Outer Continental Shelf under the provisions of the Mineral Leasing Act and the Outer Continental Shelf Lands Act, which are not payable to a State or

the Reclamation Fund. The portion of any such refund attributable to any amounts previously disbursed to a State, the Reclamation Fund, or any recipient prescribed by law shall be deducted from the next disbursements to that recipient made under the applicable law. Such amounts deducted from subsequent disbursements shall be credited to miscellaneous receipts in the Treasury.

"(3) PAYMENT PERIOD.—A refund under this subsection shall be paid or denied (with an explanation of the reasons for the denial) within 120 days of the date on which the request for refund is received by the Secretary. Such refund shall be subject to later audit by the Secretary or the applicable delegated State and subject to the provisions of this Act.

"(4) PROHIBITION AGAINST REDUCTION OF REFUNDS OR CREDITS.—In no event shall the Secretary or any delegated State directly or indirectly claim or offset any amount or amounts against, or reduce any refund or credit (or interest accrued thereon) by the amount of any obligation the enforcement of which is barred by section 115 of this Act.".

(b) CLERICAL AMENDMENT.—The table of contents in section 1 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701) is amended by inserting after the item relating to section 111 the following new item:

"Sec. 111A. Adjustments and refunds.".

SEC. 6. ROYALTY TERMS AND CONDITIONS, INTEREST, AND PENALTIES.

(a) LESSEE OR DESIGNEE INTEREST.—Section 111 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1721) is amended by adding after subsection (g) the following:

"(h) Interest shall be allowed and paid or credited on any overpayment, with such interest to accrue from the date such overpayment was made, at the rate obtained by applying the provisions of subparagraphs (A) and (B) of section 6621(a)(1) of the Internal Revenue Code of 1986, but determined without regard to the sentence following subparagraph (B) of section 6621(a)(1). Interest which has accrued on any overpayment may be applied to reduce an underpayment. This subsection applies to overpayments made later than six months after the date of enactment of this subsection or September 1, 1996, whichever is later. Such interest shall be paid from amounts received as current receipts from sales, bonuses, royalties (including interest charges collected under this section) and rentals of the public lands and the Outer Continental Shelf under the provisions of the Mineral Leasing Act, and the Outer Continental Shelf Lands Act, which are not payable to a State or the Reclamation Fund. The portion of any such interest payment attributable to any amounts previously disbursed to a State, the Reclamation Fund, or any other recipient designated by law shall be deducted from the next disbursements to that recipient made under the applicable law. Such amounts deducted from subsequent disbursements shall be credited to miscellaneous receipts in the Treasury.".

(b) LIMITATION ON INTEREST.—Section 111 of the Federal Oil and Gas Royalty Management Act of 1982, as amended by subsection (a), is further amended by adding at the end the following:

"(i) Upon a determination by the Secretary that an excessive overpayment (based upon all obligations of a lessee or its designee

for a given reporting month) was made for the sole purpose of receiving interest, interest shall be paid on the excessive amount of such overpayment. For purposes of this Act, an 'excessive overpayment' shall be the amount that any overpayment a lessee or its designee pays for a given reporting month (excluding payments for demands for obligations determined to be due as a result of judicial or administrative proceedings or agreed to be paid pursuant to settlement agreements) for the aggregate of all of its Federal leases exceeds 10 percent of the total royalties paid that month for those leases.".

(c) ESTIMATED PAYMENT.—Section 111 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1721), as amended by subsections (a) and (b), is further amended by adding at the end the following:

"(j) A lessee or its designee may make a payment for the approximate amount of royalties (hereinafter in this subsection 'estimated payment') that would otherwise be due for such lease by the rate royalties are due for that lease. When an estimated payment is made, actual royalties are payable at the end of the month following the month in which the estimated payment is made. If the estimated payment was less than the amount of actual royalties due, interest is owned on the underpaid amount. If the estimated payment exceeds the actual royalties due, interest is owned on the overpayment. If the lessee or its designee makes a payment for such actual royalties, the lessee or its designee may apply the estimated payment to future royalties. Any estimated payment may be adjusted, recouped, or reinstated at any time by the lessee or its designee.".

(d) VOLUME ALLOCATION OF OIL AND GAS PRODUCTION.—Section 111 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1721), as amended by subsections (a) through (c), is amended by adding at the end the following:

"(k)(1) Except as otherwise provided by this subsection—

"(A) a lessee or its designee of a lease in a unit or communitization agreement which contains only Federal leases with the same royalty rate and funds distribution shall report and pay royalties on oil and gas production for each production month based on the actual volume of production sold by or on behalf of that lessee;

"(B) a lessee or its designee of a lease in any other unit or communitization agreement shall report and pay royalties on oil and gas production for each production month based on the volume of oil and gas produced from such agreement and allocated to the lease in accordance with the terms of the agreement; and

"(C) a lessee or its designee of a lease that is not contained in a unit or communitization agreement shall report and pay royalties on oil and gas production for each production month based on the actual volume of production sold by or on behalf of that lessee.

"(2) This subsection applies only to requirements for reporting and paying royalties. Nothing in this subsection is intended to alter a lessee's liability for royalties on oil or gas production based on the share of production allocated to the lease in accordance with the terms of the lease, a unit or communitization agreement, or any other agreement.

"(3) For any unit or communitization agreement if all lessees contractually agree to an alternative method of royalty reporting and payment, the lessees may submit such alternative method to the Secretary or the delegated State for approval and make payments in accordance with such approved alternative method so long as such alternative method does not reduce the amount of the royalty obligation.

"(4) The Secretary or the delegated State shall grant an exception from the reporting and payment requirements for marginal properties by allowing for any calendar year or portion thereof royalties to be paid each month based on the volume of production sold. Interest shall not accrue on the difference for the entire calendar year or portion thereof between the amount of oil and gas actually sold and the share of production allocated to the lease until the beginning of the month following such calendar year or portion thereof. Any additional royalties dues or overpaid royalties and associated interest shall be paid, refunded, or credited within six months after the end of each calendar year in which royalties are paid based on volumes of production sold. For the purpose of this subsection, the term 'marginal property' means a lease that produces on average the combined equivalent of less than 15 barrels of oil per well per day or 90 thousand cubic feet of gas per well per day, or a combination thereof, determined by dividing the average daily production of crude oil and natural gas from producing wells on such lease by the number of such wells, unless the Secretary, together with the State concerned, determines that a different production is more appropriate.

"(5) Not later than two years after the date of the enactment of this subsection, the Secretary shall issue any appropriate demand for all outstanding royalty payment disputes regarding who is required to report and pay royalties on production from units and communitization agreements outstanding on the date of the enactment of this subsection, and collect royalty amounts owed on such production.".

(e) PRODUCTION ALLOCATION.—Section 111 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1721), as amended by subsections (a) through (d), is amended by adding at the end the following:

"(l) The Secretary shall issue all determinations of allocations of production for units and communitization agreements within 120 days of a request for determination. If the Secretary fails to issue a determination within such 120-day period, the Secretary shall waive interest due on obligations subject to the determination until the end of the month following the month in which the determination is made.".

(f) NEW ASSESSMENT TO ENCOURAGE PROPER ROYALTY PAYMENTS.—

(1) IN GENERAL.—The Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1721), as amended by section 4(a), is further amended by adding at the end the following:

30 USC 1725.

"SEC. 116. ASSESSMENTS.

"Beginning eighteen months after the date of enactment of this section, to encourage proper royalty payment the Secretary or the delegated State shall impose assessments on a person who chronically submits erroneous reports under this Act. Assessments under this Act may only be issued as provided for in this section.".

(2) CLERICAL AMENDMENT.—The table of contents in section 1 of such Act (30 U.S.C. 1701) is amended by adding after the item relating to section 115 the following new item:

"Sec. 116. Assessments.".

(g) LIABILITY FOR ROYALTY PAYMENTS.—Section 102(a) of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1712(a)) is amended to read as follows:

"(a) In order to increase receipts and achieve effective collections of royalty and other payments, a lessee who is required to make any royalty or other payment under a lease or under the mineral leasing laws, shall make such payments in the time and manner as may be specified by the Secretary or the applicable delegated State. A lessee may designate a person to make all or part of the payments due under a lease on the lessee's behalf and shall notify the Secretary or the applicable delegated State in writing of such designation, in which event said designated person may, in its own name, pay, offset or credit monies, make adjustments, request and receive refunds and submit reports with respect to payments required by the lessee. Notwithstanding any other provision of this Act to the contrary, a designee shall not be liable for any payment obligation under the lease. The person owning operating rights in a lease shall be primarily liable for its pro rata share of payment obligations under the lease. If the person owning the legal record title in a lease is other than the operating rights owner, the person owning the legal record title shall be secondarily liable for its pro rata share of such payment obligations under the lease.".

(h) CLERICAL AMENDMENTS.—(1) The heading of section 111 of the Federal Oil and Gas Royalty management Act of 1982 (30 U.S.C. 1721) is amended to read as follows:

"ROYALTY TERMS AND CONDITIONS, INTEREST, AND PENALTIES".

(2) The item relating to section 111 in the table of contents in section 1 of such Act (30 U.S.C. 1701) is amended to read as follows:

"Sec. 111. Royalty terms and conditions, interest, and penalties.".

SEC. 7. ALTERNATIVES FOR MARGINAL PROPERTIES.

(a) IN GENERAL.—The Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et seq.), as amended by section 6 of this Act, is further amended by adding at the end the following:

"SEC. 117. ALTERNATIVES FOR MARGINAL PROPERTIES. 30 USC 1726.

"(a) DETERMINATION OF BEST INTERESTS OF STATE CONCERNED AND THE UNITED STATES.—The Secretary and the State concerned, acting in the best interests of the United States and the State concerned to promote production, reduce administrative costs, and increase net receipts to the United States and the States, shall jointly determine, on a case by case basis, the amount of what marginal production from a lease or leases or well or wells, or parts thereof, shall be subject to a prepayment under subsection (b) or regulatory relief under subsection (c). If the State concerned does not consent, such prepayments or regulatory relief shall not be made available under this section for such marginal production: *Provided,* That if royalty payments from a lease or leases, or well or wells are not shared with any State, such determination shall be made solely by the Secretary.

"(b) PREPAYMENT OF ROYALTY.—

"(1) IN GENERAL.—Notwithstanding the provisions of any lease to the contrary, for any lease or leases or well or wells identified by the Secretary and the State concerned pursuant to subsection (a), the Secretary is authorized to accept a prepayment for royalties in lieu of monthly royalty payments under the lease for the remainder of the lease term if the affected lessee so agrees. Any prepayment agreed to by the Secretary, State concerned and lessee which is less than an average $500 per month in total royalties shall be effectuated under this section not earlier than two years after the date of enactment of this section and, any prepayment which is greater than an average $500 per month in total royalties shall be effectuated under this section not earlier than three years after the date of enactment of this section. The Secretary and the State concerned may condition their acceptance of the prepayment authorized under this section on the lessee's agreeing to such terms and conditions as the Secretary and the State concerned deem appropriate and consistent with the purposes of this Act. Such terms may—

"(A) provide for prepayment that does not result in a loss of revenue to the United States in present value terms;

"(B) include provisions for receiving additional prepayments or royalties for developments in the lease or leases or well or wells that deviate significantly from the assumptions and facts on which the valuation is determined; and

"(C) require the lessee or it designee to provide such periodic production reports as may be necessary to allow the Secretary and the State concerned to monitor production for the purposes of subparagraph (B).

"(2) STATE SHARE.—A prepayment under this section shall be shared by the Secretary with any State or other recipient to the same extent as any royalty payment for such lease.

"(3) SATISFACTION OF OBLIGATION.—Except as may be provided in the terms and conditions established by the Secretary under subsection (b), a lessee or its designee who makes a prepayment under this section shall have satisfied in full the lessee's obligation to pay royalty on the production stream sold from the lease or leases or well or wells.

"(c) ALTERNATIVE ACCOUNTING AND AUDITING REQUIREMENTS.—Within one year after the date of the enactment of this section, the Secretary or the delegated State shall provide accounting, reporting, and auditing relief that will encourage lessees to continue to produce and develop properties subject to subsection (a): *Provided,* That such relief will only be available to lessees in a State that concurs, which concurrence is not required if royalty payments from the lease or leases or well or wells are not shared with any State. Prior to granting such relief, the Secretary and, if appropriate, the State concerned shall agree that the type of marginal wells and relief provided under this paragraph is in the best interest of the United States and, if appropriate, the State concerned.".

(b) CLERICAL AMENDMENT.—The table of contents in section 1 of such Act (30 U.S.C. 1701) is amended by adding after the item relating to section 116 the following new item:

"Sec. 117. Alternatives for marginal properties.".

SEC. 8. APPLICABILITY.

30 USC 1732 note.

(a) FOGRMA.—With respect to Federal lands, sections 202 and 307 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1732 and 1755), are no longer applicable. The applicability of those sections to Indian leases is not affected.

(b) OCSLA.—Effective on the date of the enactment of this Act, section 10 of the Outer Continental Shelf Lands Act (43 U.S.C. 1339) is repealed.

SEC. 9. INDIAN LANDS.

30 USC 1701 note.

The amendments made by this Act shall not apply with respect to Indian lands, and the provisions of the Federal Oil and Gas Royalty Management Act of 1982 as in effect on the day before the date of enactment of this Act shall continue to apply after such date with respect to Indian lands.

SEC. 10. PRIVATE LANDS.

30 USC 1701 note.

This Act shall not apply to any privately owned minerals.

SEC. 11. EFFECTIVE DATE.

30 USC 1701 note.

Except as provided by section 115(h), section 111(h), section 111(k)(5), and section 117 of the Federal Oil and Gas Royalty Management Act of 1982 (as added by this Act), this Act, and the amendments made by this Act, shall apply with respect to the production of oil and gas after the first day of the month following the date of the enactment of this Act.

SEC. 12. SAVINGS CLAUSE.

30 USC 1701 note.

Nothing in this Act shall be construed to give a State a property right or interest in any Federal lease or land.

Approved August 13, 1996.

LEGISLATIVE HISTORY—H.R. 1975:

HOUSE REPORTS: No. 104–667 (Comm. on Resources).
CONGRESSIONAL RECORD, Vol. 142 (1996):
July 16, considered and passed House.
Aug. 2, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 32 (1996):
Aug. 13, Presidential remarks and statement.

Public Law 104–186
104th Congress

An Act

Aug. 20, 1996
[H.R. 2739]

To provide for a representational allowance for Members of the House of Representatives, to make technical and conforming changes to sundry provisions of law in consequence of administrative reforms in the House of Representatives, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

House of Representatives Administrative Reform Technical Corrections Act.
2 USC 31 note.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "House of Representatives Administrative Reform Technical Corrections Act".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—PROVISIONS RELATING TO ALLOWANCES AND ACCOUNTS IN THE HOUSE OF REPRESENTATIVES AND OTHER ADMINISTRATIVE MATTERS

Sec. 101. Representational allowance for Members of House of Representatives.
Sec. 102. Adjustment of House of Representatives allowances by Committee on House Oversight.
Sec. 103. Limitation on allowance authority of Committee on House Oversight.
Sec. 104. Clerk hire employees of Members of House of Representatives.
Sec. 105. Payments from applicable accounts of House of Representatives.
Sec. 106. Report of disbursements for House of Representatives.
Sec. 107. Annotated United States Code for Members of House of Representatives to be paid for from Members' Representational Allowance.
Sec. 108. Capitol Police citation release.

TITLE II—TECHNICAL AND CONFORMING AMENDMENTS AND REPEALS RELATING TO ADMINISTRATIVE REFORMS IN THE HOUSE OF REPRESENTATIVES

Sec. 201. Provisions relating to election of Representatives.
Sec. 202. Provisions relating to organization of Congress.
Sec. 203. Provisions relating to compensation and allowances of Members.
Sec. 204. Provisions relating to officers and employees of House of Representatives.
Sec. 205. Provisions relating to Library of Congress.
Sec. 206. Provisions relating to congressional and committee procedure; investigations.
Sec. 207. Provisions relating to Office of Law Revision Counsel.
Sec. 208. Provisions relating to Legislative Classification Office.
Sec. 209. Provisions relating to classification of employees of House of Representatives.
Sec. 210. Provisions relating to payroll administration in House of Representatives.
Sec. 211. Provisions relating to contested elections.
Sec. 212. Provisions relating to Joint Committee on Congressional Operations.
Sec. 213. Provisions relating to Congressional Budget Office.
Sec. 214. Provisions relating to the States.
Sec. 215. Provisions relating to Government organization and employees.
Sec. 216. Provisions codified in appendices to title 5, United States Code.
Sec. 217. Provisions relating to commerce and trade.
Sec. 218. Provisions relating to foreign relations and intercourse.
Sec. 219. Provisions relating to money and finance.

Sec. 220. Provisions relating to Postal Service.
Sec. 221. Provisions relating to public buildings, property, and works.
Sec. 222. Provisions relating to the public health and welfare.
Sec. 223. Provisions relating to public printing and documents.
Sec. 224. Provisions relating to territories and insular possessions.
Sec. 225. Miscellaneous uncodified provisions relating to House of Representatives.

TITLE I—PROVISIONS RELATING TO ALLOWANCES AND ACCOUNTS IN THE HOUSE OF REPRESENTATIVES AND OTHER ADMINISTRATIVE MATTERS

SEC. 101. REPRESENTATIONAL ALLOWANCE FOR MEMBERS OF HOUSE OF REPRESENTATIVES. 2 USC 57b.

(a) IN GENERAL.—There is established for the House of Representatives a single allowance, to be known as the "Members' Representational Allowance", which shall be available to support the conduct of the official and representational duties of a Member of the House of Representatives with respect to the district from which the Member is elected.

(b) MERGER.—The Clerk Hire Allowance, the Official Expenses Allowance, and the Official Mail Allowance, as in effect on the day before the effective date of this section, are merged into the Members' Representational Allowance.

(c) DEFINITION.—As used in this section, the term "Member of the House of Representatives" means a Representative in, or a Delegate or Resident Commissioner to, the Congress.

(d) REGULATIONS.—The Committee on House Oversight of the House of Representatives shall have authority to prescribe regulations to carry out this section.

(e) EFFECTIVE DATE.—This section shall take effect on September 1, 1995 and shall apply with respect to official and representational duties carried out on or after that date.

SEC. 102. ADJUSTMENT OF HOUSE OF REPRESENTATIVES ALLOWANCES BY COMMITTEE ON HOUSE OVERSIGHT.

House Resolution 457, Ninety-second Congress, agreed to July 21, 1971, as enacted into permanent law by chapter IV of the Supplemental Appropriations Act, 1972 (2 U.S.C. 57), is amended to read as follows:

"SECTION 1. ADJUSTMENT OF HOUSE OF REPRESENTATIVES ALLOWANCES BY COMMITTEE ON HOUSE OVERSIGHT.

"(a) IN GENERAL.—Subject to the provision of law specified in subsection (b), the Committee on House Oversight of the House of Representatives may, by order of the Committee, fix and adjust the amounts, terms, and conditions of, and other matters relating to, allowances of the House of Representatives within the following categories:

"(1) For Members of the House of Representatives, the Members' Representational Allowance, including all aspects of the Official Mail Allowance within the jurisdiction of the Committee under section 311 of the Legislative Branch Appropriations Act, 1991.

"(2) For committees, the Speaker, the Majority and Minority Leaders, the Clerk, the Sergeant at Arms, and the

Chief Administrative Officer, allowances for official mail (including all aspects of the Official Mail Allowance within the jurisdiction of the Committee under section 311 of the Legislative Branch Appropriations Act, 1991), stationery, and telephone and telegraph and other communications.

"(b) PROVISION SPECIFIED.—The provision of law referred to in subsection (a) is House Resolution 1372, Ninety-fourth Congress, agreed to July 1, 1976, as enacted into permanent law by section 101 of the Legislative Branch Appropriation Act, 1977 (2 U.S.C. 57a).

"(c) DEFINITION.—As used in this section, the term 'Member of the House of Representatives' means a Representative in, or a Delegate or Resident Commissioner to, the Congress.".

SEC. 103. LIMITATION ON ALLOWANCE AUTHORITY OF COMMITTEE ON HOUSE OVERSIGHT.

House Resolution 1372, Ninety-fourth Congress, agreed to July 1, 1976, as enacted into permanent law by section 101 of the Legislative Branch Appropriation Act, 1977 (2 U.S.C. 57a), is amended to read as follows:

"SECTION 1. LIMITATION ON ALLOWANCE AUTHORITY OF COMMITTEE ON HOUSE OVERSIGHT.

"(a) IN GENERAL.—An order under the provision of law specified in subsection (c) may fix or adjust the allowances of the House of Representatives only by reason of—

"(1) a change in the price of materials, services, or office space;

"(2) a technological change or other improvement in office equipment; or

"(3) an increase under section 5303 of title 5, United States Code, in rates of pay under the General Schedule.

"(b) RESOLUTION REQUIREMENT.—In the case of reasons other than the reasons specified in paragraph (1), (2), or (3) of subsection (a), the fixing and adjustment of the allowances of the House of Representatives in the categories described in the provision of law specified in subsection (c) may be carried out only by resolution of the House of Representatives.

"(c) PROVISION SPECIFIED.—The provision of law referred to in subsections (a) and (b) is House Resolution 457, Ninety-second Congress, agreed to July 21, 1971, as enacted into permanent law by chapter IV of the Supplemental Appropriations Act, 1972 (2 U.S.C. 57).".

2 USC 92.

SEC. 104. CLERK HIRE EMPLOYEES OF MEMBERS OF HOUSE OF REPRESENTATIVES.

(a) IN GENERAL.—Under the Members' Representational Allowance, each Member of the House of Representatives may employ not more than 18 permanent clerk hire employees and a total of not more than 4 additional clerk hire employees in the following categories:

(1) Interns.
(2) Part-time employees.
(3) Shared employees.
(4) Temporary employees.
(5) Employees on leave without pay.

(b) BENEFIT EXCLUSION.—For purposes of this section, interns and temporary employees shall be excluded from the operation of the following provisions of title 5, United States Code:

(1) Chapter 84 (relating to the Federal Employees' Retirement System).

(2) Chapter 87 (relating to life insurance).

(3) Chapter 89 (relating to health insurance).

(c) DEFINITIONS.—As used in this section—

(1) the term "Member of the House of Representatives" means a Representative in, or a Delegate or Resident Commissioner to, the Congress;

(2) the term "intern" means, with respect to a Member of the House of Representatives, an individual who serves in the office of the Member in the District of Columbia for not more than 120 days in a 12-month period and whose service is primarily for the educational experience of the individual;

(3) the term "part-time employee" means, with respect to a Member of the House of Representatives, an individual who is employed by the Member and whose normally assigned work schedule is not more than the equivalent of 15 full working days per month;

(4) the term "temporary employee" means, with respect to a Member of the House of Representatives, an individual who is employed for a specific purpose or task and who is employed for not more than 90 days in a 12-month period, except that the term of such employment may be extended with the written approval of the Committee on House Oversight; and

(5) the term "shared employee" means an employee who is paid by more than one employing authority of the House of Representatives.

(d) REGULATIONS.—The Committee on House Oversight shall have authority to prescribe regulations to carry out this section.

(e) CONFORMING AMENDMENTS.—The following provisions of law are repealed:

(1) The first section of the Joint Resolution entitled "Joint resolution providing for pay to clerks to Members of Congress and Delegates", approved January 25, 1923 (2 U.S.C. 92).

(2) House Resolution 359, Ninety-sixth Congress, agreed to July 20, 1979, as enacted into permanent law by the bill H.R. 7593, entitled the "Legislative Branch Appropriation Act, 1981", as passed by the House of Representatives on July 21, 1980, and enacted into permanent law by section 101(c) of Public Law 96–536 (2 U.S.C. 92 note).

(3) The first section of House Resolution 357, Ninety-first Congress, agreed to June 25, 1969, as enacted into permanent law by section 103 of the Legislative Branch Appropriation Act, 1970 (2 U.S.C. 92 note).

SEC. 105. PAYMENTS FROM APPLICABLE ACCOUNTS OF HOUSE OF REPRESENTATIVES. 2 USC 95–1.

(a) IN GENERAL.—No payment may be made from the applicable accounts of the House of Representatives (as determined by the Committee on House Oversight of the House of Representatives), unless sanctioned by that Committee. Payments on vouchers approved in the manner directed by that Committee shall be

deemed, held, and taken, and are declared to be conclusive upon all the departments and officers of the Government.

(b) DEFINITIONS.—As used in this section—

(1) the term "applicable accounts of the House of Representatives" means accounts for salaries and expenses of committees (other than the Committee on Appropriations), the computer support organization of the House of Representatives, and allowances and expenses of Members of the House of Representatives, officers of the House of Representatives, and administrative and support offices of the House of Representatives; and

(2) the term "Member of the House of Representatives" means a Representative in, or a Delegate or Resident Commissioner to, the Congress.

2 USC 68, 95.

(c) CONFORMING AMENDMENTS.—The paragraph beginning "Hereafter" under the heading "UNDER LEGISLATIVE." and the subheading "HOUSE OF REPRESENTATIVES." in the first section of the Act entitled "An Act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and eighty-nine, and for other purposes", approved October 2, 1888 (2 U.S.C. 95), is amended—

(1) in the first sentence, by striking out ", or from the contingent fund" and all that follows through the end of the sentence and inserting in lieu thereof a period; and

(2) in the second sentence—

(A) by striking out "made upon vouchers approved by the Committee on House Administration of the House of Representatives, and payments"; and

(B) in the proviso, by striking out "funds" and all that follows through the end of the sentence and inserting in lieu thereof "fund as additional salary or compensation to any officer or employee of the Senate.".

2 USC 104b.

SEC. 106. REPORT OF DISBURSEMENTS FOR HOUSE OF REPRESENTATIVES.

(a) IN GENERAL.—Not later than 60 days after the last day of each semiannual period, the Chief Administrative Officer of the House of Representatives shall submit to the House of Representatives, with respect to that period, a detailed, itemized report of the disbursements for the operations of the House of Representatives.

(b) CONTENTS.—The report required by subsection (a) shall include—

(1) the name of each person who receives a payment from the House of Representatives;

(2) the quantity and price of any item furnished to the House of Representatives;

(3) a description of any service rendered to the House of Representatives, together with a statement of the time required for the service, and the name, title, and amount paid to each person who renders the service;

(4) a statement of all amounts appropriated to, or received, or expended by the House of Representatives, and any unexpended balances of such amounts;

(5) the information submitted to the Comptroller General under section 3523(a) of title 31, United States Code; and

(6) such additional information as may be required by regulation of the Committee on House Oversight of the House of Representatives.

(c) EXCLUSION.—Notwithstanding subsection (b), if a voucher is for payment to an individual for attendance as a witness before a committee of the Congress in executive session, the report for the semiannual period in which the appearance occurs shall show only the date of payment, voucher number, and amount paid. Any information excluded from a report under the preceding sentence shall be included in the report for the next period.

(d) HOUSE DOCUMENT.—Each report under this section shall be printed as a House document.

(e) CONFORMING PROVISION.—The provisions of—

(1) sections 60, 61, 62, and 63 of the Revised Statutes of the United States (2 U.S.C. 102, 103, and 104); and

(2) section 105(a) of the Legislative Branch Appropriation Act, 1965 (2 U.S.C. 104a);

that require submission and printing of statements and reports are not applicable to the House of Representatives.

(f) EFFECTIVE DATE.—This section shall apply to the semiannual periods of January 1 through June 30 and July 1 through December 31 of each year, beginning with the semiannual period in which this section is enacted.

SEC. 107. ANNOTATED UNITED STATES CODE FOR MEMBERS OF HOUSE OF REPRESENTATIVES TO BE PAID FOR FROM MEMBERS' REPRESENTATIONAL ALLOWANCE. 2 USC 54.

(a) IN GENERAL.—The Clerk of the House of Representatives shall, at the request of a Member of the House of Representatives, furnish to the Member, for official use only, one set of a privately published annotated version of the United States Code, including supplements and pocket parts. The furnishing of a set of the United States Code under this section shall be in lieu of any distribution under section 212 of title 1, United States Code, and shall be paid for from the Members' Representational Allowance.

(b) DEFINITION.—As used in this section, the term "Member of the House of Representatives" means a Representative in, or a Delegate or Resident Commissioner to, the Congress.

(c) REGULATIONS.—The Committee on House Oversight of the House of Representatives shall have authority to prescribe regulations to carry out this section.

(d) CONFORMING AMENDMENT.—House Resolution 506, Ninetieth Congress, agreed to August 21, 1967, as enacted into permanent law by chapter VIII of the Second Supplemental Appropriation Act, 1968 (2 U.S.C. 54), is repealed.

SEC. 108. CAPITOL POLICE CITATION RELEASE. 40 USC 212a–5.

(a) IN GENERAL.—The Chief of the Capitol Police, with the approval of the Capitol Police Board, may designate a member of the Capitol Police to have responsibility for citation release.

(b) AUTHORITY.—(1) In the same manner as provided for with respect to an official of the Metropolitan Police Department of the District of Columbia under section 23–1110(a) of the District of Columbia Code, the Superior Court of the District of Columbia shall have the authority to appoint the member of the Capitol Police designated under subsection (a) of this section to take bail or collateral from persons charged with offenses triable in the Courts.

Superior Court of the District of Columbia. Pursuant to that authority—

(A) the citation power described in subsection (b) of section 23–1110 of the District of Columbia Code shall be exercised by such member of the Capitol Police in the same manner as by an official of the Metropolitan Police Department; and

(B) paragraph (4) of subsection (b) of section 23–1110 of the District of Columbia Code, relating to failure to appear, shall apply with respect to citations under subparagraph (A) of this paragraph.

(2) The United States District Court for the District of Columbia shall have the power to authorize the member of the Capitol Police referred to in subsection (a) of this section to take bond from persons arrested upon writs and process from that court in criminal cases in the same manner as provided for with respect to an official of the Metropolitan Police Department of the District of Columbia under the third sentence of section 23–1110(a) of the District of Columbia Code.

TITLE II—TECHNICAL AND CONFORMING AMENDMENTS AND REPEALS RELATING TO ADMINISTRATIVE REFORMS IN THE HOUSE OF REPRESENTATIVES

SEC. 201. PROVISIONS RELATING TO ELECTION OF REPRESENTATIVES.

The provisions of law relating to election of Representatives, as codified in chapter 1 of title 2, United States Code, are amended as follows:

The third sentence of section 22(b) of the Act entitled "An Act to provide for the fifteenth and subsequent decennial censuses and to provide for apportionment of Representatives in Congress", approved June 28, 1929 (2 U.S.C. 2a(b)), is amended by striking out the semicolon after "Representatives" the first place it appears and all that follows through the end of the sentence and inserting in lieu thereof a period.

SEC. 202. PROVISIONS RELATING TO ORGANIZATION OF CONGRESS.

The provisions of law relating to organization of Congress, as codified in chapter 2 of title 2, United States Code, are amended as follows:

(1) Section 204(a) of the District of Columbia Delegate Act (2 U.S.C. 25b) is repealed.

(2) Section 33 of the Revised Statutes of the United States (2 U.S.C. 26, third sentence) is repealed.

(3) Section 2(c) of Public Law 94–551 (2 U.S.C. 28c(c)) is amended—

(A) in paragraph (2), by striking out "Representives" and inserting in lieu thereof "Representatives"; and

(B) in paragraph (5), by striking out ", to the Sergeant" and all that follows through the end of the paragraph and inserting in lieu thereof "and to the Sergeant at Arms of the House of Representatives, each two sets;".

(4) Section 202 of House Resolution 988, Ninety-third Congress, agreed to October 8, 1974, as enacted into permanent law by chapter III of title I of the Supplemental Appropriations Act, 1975 (2 U.S.C. 29a), is amended—

(A) in subsection (b)(2), by striking out "House Administration" each place it appears and inserting in lieu thereof "House Oversight"; and

(B) in subsection (c), by striking out "contingent fund of the House is" and inserting in lieu thereof "applicable accounts of the House of Representatives are".

SEC. 203. PROVISIONS RELATING TO COMPENSATION AND ALLOWANCES OF MEMBERS.

The provisions of law relating to compensation and allowances of Members, as codified in chapter 3 of title 2, United States Code, are amended as follows:

(1) Subsection (e) of the first section of the Act entitled "An Act to increase rates of compensation of the President, Vice President, and the Speaker of the House of Representatives", approved January 19, 1949 (2 U.S.C. 31b), is amended by striking out "(which shall be in lieu of the allowance provided by section 601(b) of the Legislative Reorganization Act of 1946, as amended)".

(2) Section 2 of House Resolution 1238, Ninety-first Congress, agreed to December 23, 1970, as enacted into permanent law by chapter VIII of the Supplemental Appropriations Act, 1971 (2 U.S.C. 31b–2), is amended—

(A) by striking out "contingent fund of the House" and inserting in lieu thereof "applicable accounts of the House of Representatives"; and

(B) by striking out "base allowance" and all that follows through "Member of the House" and inserting in lieu thereof "Members' Representational Allowance".

(3) The first sentence of section 5 of House Resolution 1238, Ninety-first Congress, agreed to December 22, 1970 (as enacted into permanent law by chapter VIII of the Supplemental Appropriations Act, 1971, and supplemented by the Act entitled "An Act relating to former Speakers of the House of Representatives" (88 Stat. 1723)) (2 U.S.C. 31b–5), is amended by striking out "to enable the Clerk of the House to pay" and inserting in lieu thereof "for payment of".

(4) Sections 49 and 50 of the Revised Statutes of the United States (2 U.S.C. 38) are repealed.

(5) Section 105 of the Legislative Branch Appropriation Act, 1955 (2 U.S.C. 38a) is amended—

(A) in the first undesignated paragraph, by striking out "(including amounts held in the trust fund account in the office of the Sergeant at Arms)"; and

(B) in the second undesignated paragraph, by striking out "Sergeant at Arms, and received by the Sergeant at Arms" and inserting in lieu thereof "Chief Administrative Officer of the House of Representatives and received by the Chief Administrative Officer".

(6) The proviso in the first paragraph under the heading "LEGISLATIVE BRANCH" and the subheading "HOUSE OF REPRESENTATIVES" in chapter I of the Third Supplemental Appropriation Act, 1952 (2 U.S.C. 38b; 2 U.S.C. 125a) is

amended by striking out "contingent fund of the House of Representatives or" and inserting in lieu thereof "applicable accounts of the House of Representatives or the contingent fund".

(7) Section 40 of the Revised Statutes of the United States (2 U.S.C. 39) is amended by striking out "Sergeant-at-Arms of the House" and inserting in lieu thereof "the Chief Administrative Officer of the House of Representatives (upon certification by the Clerk of the House of Representatives)".

(8) The proviso in the last undesignated paragraph under the center heading "LEGISLATIVE ESTABLISHMENT" and the center subheading "HOUSE OF REPRESENTATIVES" in the Deficiency Appropriation Act, fiscal year 1934 (2 U.S.C. 40a) is amended—

(A) by striking out "Sergeant at Arms of the House" the first place it appears and inserting in lieu thereof "Chief Administrative Officer of the House of Representatives"; and

(B) by striking out "Sergeant at Arms of the House shall be paid to the Clerk of the House and" inserting in lieu thereof "Chief Administrative Officer of the House of Representatives shall be".

(9)(A) Section 43 of the Revised Statutes of the United States (2 U.S.C. 41) is repealed.

(B) Section 302(c) of House Resolution 287, Ninety-fifth Congress, agreed to March 2, 1977, as enacted into permanent law by section 115 of the Legislative Branch Appropriation Act, 1978 (2 U.S.C. 41 note), is repealed.

(10) The first section of House Resolution 420, Ninety-second Congress, agreed to May 18, 1971, as enacted into permanent law by chapter IV of the Supplemental Appropriations Act, 1972 (2 U.S.C. 42), is repealed.

(11) Section 44 of the Revised Statutes of the United States (2 U.S.C. 42 note) is repealed.

(12)(A) The provisions of law specified in subparagraph (B), codified as sections 42c, 42c note, and 42d of title 2, United States Code, are repealed.

(B) The provisions of law referred to in subparagraph (A) are—

(i) the Act entitled "An Act to provide airmail and special delivery postage stamps for Members of the House of Representatives on the basis of regular sessions of Congress, and for other purposes", approved August 27, 1958;

(ii) House Resolution 532, Eighty-eighth Congress, agreed to October 2, 1963, as enacted into permanent law by section 103 of the Legislative Branch Appropriation Act, 1965; and

(iii) House Resolution 1003, Ninetieth Congress, agreed to December 14, 1967, as enacted into permanent law by chapter VIII of title I of the Second Supplemental Appropriation Act, 1968.

(13) The last paragraph under the heading "SENATE" and the subheading "ADMINISTRATIVE PROVISIONS" in the first section of the Legislative Branch Appropriation Act, 1959 (2 U.S.C. 43b) is repealed.

(14) Section 2 of Public Law 89–147 (2 U.S.C. 43b–1) is repealed.

(15) Section 2 of House Resolution 10, Ninety-fourth Congress, agreed to January 14, 1975, as enacted into permanent law by section 201 of the Legislative Branch Appropriation Act, 1976 (2 U.S.C. 43b–3), is amended by striking out "House Administration" each place it appears and inserting in lieu thereof "House Oversight".

(16)(A) The provisions of law specified in subparagraph (B), codified as section 46b of title 2, United States Code, are amended, repealed, or affected as provided in that subparagraph.

(B) The amendments, repeals, and effects referred to in subparagraph (A) are as follows:

(i) The paragraph beginning "Stationery" under the heading "HOUSE OF REPRESENTATIVES" and the subheading "CONTINGENT EXPENSES OF THE HOUSE" in the Legislative Appropriation Act, 1955, is amended by striking out "(which hereafter shall be $1,200 per regular session)".

(ii) That portion of the paragraph under the heading "HOUSE OF REPRESENTATIVES" and the subheading "STATIONERY (REVOLVING FUND)" in the first section of the Legislative Branch Appropriation Act, 1961, that has been interpreted as increasing the stationery allowance from $1,200 to $1,800 shall have no further force or effect.

(iii) House Resolution 533, Eighty-eighth Congress, agreed to October 2, 1963, as enacted into permanent law by section 103 of the Legislative Branch Appropriation Act, 1965, is repealed.

(iv) House Resolution 1029, Eighty-ninth Congress, agreed to October 5, 1966, as continued by House Resolution 112, Ninetieth Congress, agreed to March 8, 1967, as enacted into permanent law by chapter VIII of the Second Supplemental Appropriation Act, 1967, is repealed.

(17) The Act entitled "An Act to provide for a prorated stationery allowance in the case of a Member of the House of Representatives elected for a portion of a term", approved February 27, 1956 (2 U.S.C. 46b–2), is repealed.

(18)(A) The first section of the Act entitled "An Act relating to telephone and telegraph service and clerk hire for Members of the House of Representatives", approved June 23, 1949 (2 U.S.C. 46f) is repealed.

(B)(i) The provisions of law specified in clause (ii), codified as section 46g of title 2, United States Code, are repealed.

(ii) The provisions of law referred to in clause (i) are—

(I) section 2 of the Act entitled "An Act relating to telephone and telegraph service and clerk hire for Members of the House of Representatives", approved June 23, 1949;

(II) House Resolution 735, Eighty-seventh Congress, agreed to July 25, 1962, as enacted into permanent law by section 103 of the Legislative Branch Appropriation Act, 1964;

(III) House Resolution 531, Eighty-eighth Congress agreed to October 2, 1963, as enacted into permanent law by section 103 of the Legislative Branch Appropriation Act, 1965; and

(IV) House Resolution 901, Eighty-ninth Congress, agreed to June 29, 1966, as enacted into permanent law by chapter VI of the Supplemental Appropriation Act, 1967.

(C) Section 6 of the Act entitled "An Act relating to telephone and telegraph service and clerk hire for Members of the House of Representatives", approved June 23, 1949 (2 U.S.C. 46i) is repealed.

(19) The first section of House Resolution 418, Ninety-second Congress, agreed to May 18, 1971, as enacted into permanent law by chapter IV of the Supplemental Appropriations Act, 1972 (2 U.S.C. 46g–1), is repealed.

(20)(A) Section 2 of House Resolution 418, Ninety-second Congress, agreed to May 18, 1971, as enacted into permanent law by chapter IV of the Supplemental Appropriations Act, 1972 (2 U.S.C. 56), is repealed.

(B) The section designation and subsections (a), (b), and (d) of section 302 of House Resolution 287, Ninety-fifth Congress, agreed to March 2, 1977, as enacted into permanent law by section 115 of the Legislative Branch Appropriation Act, 1978 (2 U.S.C. 56 note, 2 U.S.C. 122a note), are repealed.

(21)(A) The second undesignated paragraph of the first section of House Resolution 1297, Ninety-fifth Congress, agreed to August 16, 1978, as enacted into permanent law by section 111(1) of the Congressional Operations Appropriation Act, 1984 (2 U.S.C. 59d(a)), is amended by striking out "Clerk of the House of Representatives" and inserting in lieu thereof "Chief Administrative Officer of the House of Representatives".

(B) The first undesignated paragraph of the first section of House Resolution 1297, Ninety-fifth Congress, agreed to August 16, 1978, as enacted into permanent law by section 111(1) of the Congressional Operations Appropriation Act, 1984 (2 U.S.C. 59d(a)), is amended by striking out "contingent fund" and inserting in lieu thereof "applicable accounts".

(C) The second undesignated paragraph of the first section of House Resolution 1297, Ninety-fifth Congress, agreed to August 16, 1978, as enacted into permanent law by section 111(1) of the Congressional Operations Appropriation Act, 1984 (2 U.S.C. 59d(a)), as amended by subparagraph (A), is further amended by striking out "House Administration" and inserting in lieu thereof "House Oversight".

(D) Section 2(1) of House Resolution 1297, Ninety-fifth Congress, agreed to August 16, 1978, as enacted into permanent law by section 111(1) of the Congressional Operations Appropriation Act, 1984 (2 U.S.C. 59d(b)(1)), is amended to read as follows:

"(1) the term 'Member of the House of Representatives' means a Representative in, or a Delegate or Resident Commissioner to, the Congress; and".

(22)(A) Section 311(a)(3) of the Legislative Branch Appropriations Act, 1991 (2 U.S.C. 59e(a)(3)) is amended by striking out "Clerk of the House of Representatives" and inserting in lieu thereof "Chief Administrative Officer of the House of Representatives".

(B) Section 311 of the Legislative Branch Appropriations Act, 1991 (2 U.S.C. 59e) is amended—

(i) in the matter before paragraph (1) in subsection (a), by striking out "House Administration" and inserting in lieu thereof "House Oversight";

(ii) in subsection (a)(3), by striking out "House Administration" and inserting in lieu thereof "House Oversight";

(iii) in subsection (b), by striking out "House Administration" and inserting in lieu thereof "House Oversight";

(iv) in subsection (e)(1)(A), by striking out "House Administration" and inserting in lieu thereof "House Oversight";

(v) in subsection (e)(2)(A), by striking out "only";

(vi) in subsection (e)(3)(A), by striking out "Official Expenses Allowance and the Clerk Hire Allowance" and inserting in lieu thereof "Members' Representational Allowance"; and

(vii) in subsection (e)(4), by striking out "Official Expenses Allowance" and inserting in lieu thereof "Members' Representational Allowance".

SEC. 204. PROVISIONS RELATING TO OFFICERS AND EMPLOYEES OF HOUSE OF REPRESENTATIVES.

The provisions of law relating to officers and employees of the House of Representatives, as codified in chapter 4 of title 2, United States Code, are amended as follows:

(1) Section 5 of the Federal Pay Comparability Act of 1970 (2 U.S.C. 60a–2) is amended—

(A) in the matter before paragraph (1) in subsection (a), by striking out "Clerk of the House of Representatives" and inserting in lieu thereof "Chief Administrative Officer of the House of Representatives";

(B) in subsection (a)(1)(A), by striking out "Clerk of the House" and inserting in lieu thereof "Chief Administrative Officer";

(C) in subsection (a)(1)(B), by striking out ", including" and all that follows through the end of clause (ii) and inserting in lieu thereof a semicolon;

(D) in the matter following subparagraph (B) in subsection (a)(1), by striking out "Clerk" and inserting in lieu thereof "Chief Administrative Officer";

(E) in subsection (a)(2), by striking out "Clerk" each place it appears and inserting in lieu thereof "Chief Administrative Officer";

(F) in subsection (b), by striking out "Clerk of the House" and inserting in lieu thereof "Chief Administrative Officer"; and

(G) in subsection (d), by striking out "Clerk of the House of Representatives" and inserting in lieu thereof "Chief Administrative Officer".

(2) Paragraph (1) of subsection (d) of section 311 of the Legislative Branch Appropriations Act, 1988 (2 U.S.C. 60a–2a(1)) is amended, in the matter before subparagraph (A), by striking out "Clerk of the House of Representatives" and inserting in lieu thereof "Chief Administrative Officer of the House of Representatives".

(3) The first section and section 2 of the Joint Resolution entitled "Joint resolution authorizing the payment of salaries of the officers and employees of Congress for December on the 20th day of that month each year", approved May 21, 1937 (2 U.S.C. 60d and 60e), are each amended by striking out "Clerk" and inserting in lieu thereof "Chief Administrative Officer".

(4) The first section of House Resolution 732, Ninety-fourth Congress, agreed to November 4, 1975, as enacted into permanent law by section 101 of the Legislative Branch Appropriation Act, 1977 (2 U.S.C. 60e–1a), is amended—

(A) in the first sentence of subsection (a), by striking out "Clerk" the first place it appears and all that follows through "provisions of" and inserting in lieu thereof "Chief Administrative Officer of the House of Representatives shall, in accordance with";

(B) in the second sentence of subsection (a), by striking out "provide that—" and all that follows through "shall withhold" and inserting in lieu thereof "provide that the Chief Administrative Officer shall withhold";

(C) in subsection (b), by striking out "Clerk or the Sergeant at Arms" and inserting in lieu thereof "Chief Administrative Officer";

(D) in subsection (c)(1), by striking out "Clerk and the Sergeant at Arms" and inserting in lieu thereof "Chief Administrative Officer";

(E) in subsection (c)(2), by striking out "Clerk or the Sergeant at Arms, as the case may be," each place it appears and inserting in lieu thereof "Chief Administrative Officer"; and

(F) in subsections (d) and (e), by striking out "Clerk or the Sergeant at Arms" each place it appears and inserting in lieu thereof "Chief Administrative Officer".

(5)(A) The first section of House Resolution 12, Ninety-fifth Congress, agreed to August 5, 1977, as enacted into permanent law by section 111 of the Legislative Branch Appropriation Act, 1979 (2 U.S.C. 60e–1c), is amended—

(i) in subsection (a), by striking out "Clerk" and inserting in lieu thereof "Chief Administrative Officer"; and

(ii) in subsection (b) and subsection (d), by striking out "Clerk" each place it appears and inserting in lieu thereof "Chief Administrative Officer of the House of Representatives".

(B) Section 2 of House Resolution 12, Ninety-fifth Congress, agreed to August 5, 1977, as enacted into permanent law by section 111 of the Legislative Branch Appropriation Act, 1979 (2 U.S.C. 60e–1d), is amended—

(i) in paragraph (1), by adding "and" after the semicolon at the end;

(ii) by striking out paragraph (2);

(iii) in paragraph (3), by striking out "Clerk" and inserting in lieu thereof "Chief Administrative Officer of the House of Representatives"; and

(iv) by redesignating paragraph (3), as amended by clause (iii), as paragraph (2).

(6) Subsection (b) of the first section of House Resolution 420, Ninety-third Congress, agreed to September 18, 1973, as enacted into permanent law by chapter VI of the Supplemental Appropriations Act, 1974 (2 U.S.C. 60g–2(b)), is amended by striking out "Clerk" and inserting in lieu thereof "Chief Administrative Officer".

(7) The first section of House Resolution 420, Ninety-third Congress, agreed to September 18, 1973, as enacted into perma-

nent law by chapter VI of the Supplemental Appropriations Act, 1974 (2 U.S.C. 60g–2), is amended—

(A) in the third sentence of subsection (a), by striking out "contingent fund of the House" and inserting in lieu thereof "applicable accounts of the House of Representatives"; and

(B) in subsection (c), by striking out "House Administration" and inserting in lieu thereof "House Oversight".

(8) Section 310(a) of the Legislative Branch Appropriation Act, 1979 (2 U.S.C. 60j–2) is amended—

(A) by striking out "Clerk" each place it appears and inserting in lieu thereof "Chief Administrative Officer"; and

(B) by striking out "SEC. 310. (a)" and inserting in lieu thereof "SEC. 310.".

(9) Section 105 of the Legislative Branch Appropriation Act, 1968 is amended by striking out subsection (j) (2 U.S.C. 61–1(g)).

(10)(A) Subsections (f), (i)(1), and (i)(3) of section 202 of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(f), (i)(1), and (i)(3)) are each amended by striking out "House Administration" each place it appears and inserting in lieu thereof "House Oversight".

(B) Subsection (i)(1) of section 202 of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i)(1)), as amended by subparagraph (A), is further amended—

(i) by striking out "contingent funds of the respective Houses pursuant to resolutions, which" and inserting in lieu thereof "contingent fund of the Senate or the applicable accounts of the House of Representatives pursuant to resolutions which, in the case of the Senate,"; and

(ii) by striking out "such respective Houses" and inserting in lieu thereof "the appropriate House".

(11) Subsection (j)(1) of section 202 of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(j)(1)) is amended—

(A) in the first sentence, by striking out "Committee on House Administration" and all that follows through "respective Houses" and inserting in lieu thereof "committee involved in the case of standing committees of the House of Representatives, and within the limits of funds made available from the contingent fund of the Senate or the applicable accounts of the House of Representatives pursuant to resolutions, which, in the case of the Senate, shall specify the maximum amounts which may be used for such purpose, approved by the appropriate House"; and

(B) in the second sentence, by striking out "Clerk of the House" and inserting in lieu thereof "Chief Administrative Officer of the House of Representatives".

(12) The paragraph beginning "The appropriation for committee employees" under the heading "HOUSE OF REPRESENTATIVES" and the subheading "CONTINGENT EXPENSES OF THE HOUSE" in the first section of the Legislative Branch Appropriation Act, 1948 (2 U.S.C. 72b) is amended by striking out "House Administration" and inserting in lieu thereof "House Oversight".

(13) The last undesignated paragraph under the center heading "HOUSE OF REPRESENTATIVES" and the center subheading "CONTINGENT EXPENSES OF THE HOUSE" in the first section of the Legislative Branch Appropriation Act, 1948 (2 U.S.C. 72c) is repealed.

(14) The first section of House Resolution 487, Eighty-seventh Congress, agreed to January 10, 1962, as enacted into permanent law by section 103 of the Legislative Branch Appropriation Act, 1963 (2 U.S.C. 74–1), is amended by striking out "contingent fund of the House" and inserting in lieu thereof "applicable accounts of the House of Representatives".

(15)(A) Subsection (b) of the first section of House Resolution 393, Ninety-fifth Congress, as enacted into permanent law by section 115 of the Legislative Branch Appropriation Act, 1978 (2 U.S.C. 74a–3), is amended by striking out "contingent fund of the House" and inserting in lieu thereof "applicable accounts of the House of Representatives".

(B) Section 2 of House Resolution 393, Ninety-fifth Congress, as enacted into permanent law by section 115 of the Legislative Branch Appropriation Act, 1978 (2 U.S.C. 74a–4), is amended by striking out "contingent fund of the House" and inserting in lieu thereof "applicable accounts of the House of Representatives".

(16) Section 112 of the Congressional Operations Appropriation Act, 1984 (2 U.S.C. 74a–5 and 2 U.S.C. 333a) is amended by striking out "sections 74(a)–4 and 333 of title 2, United States Code," and inserting in lieu thereof "section 2 of House Resolution 393, Ninety-fifth Congress, agreed to March 31, 1977, as enacted into permanent law by section 115 of the Congressional Operations Appropriation Act, 1978, and section 473 of the Legislative Reorganization Act of 1970,".

(17) Section 101 of the Legislative Branch Appropriations Act, 1995 (2 U.S.C. 74a–6) is repealed.

(18) Section 244 of the Legislative Reorganization Act of 1946 (2 U.S.C. 74b) is amended—

(A) by striking out "and the Clerk of the House are" and inserting in lieu thereof "is"; and

(B) by striking out "their respective jurisdictions" and inserting in lieu thereof "the jurisdiction of the Secretary".

(19) Section 7 of the Legislative Branch Appropriation Act, 1943 (2 U.S.C. 75a) is amended—

(A) in the first sentence—

(i) by striking out "Clerk of the House of Representatives, the accounts of such Clerk" and inserting in lieu thereof "Chief Administrative Officer of the House of Representatives, the accounts of the Chief Administrative Officer"; and

(ii) by striking out "new Clerk of the House of Representatives shall have been elected and qualified" and inserting in lieu thereof "new Chief Administrative Officer shall have been appointed";

(B) in the second sentence—

(i) by striking out ", audited,";

(ii) by striking out "former Clerk of the House of Representatives" and inserting in lieu thereof "former Chief Administrative Officer"; and

(iii) by striking out "such former Clerk" and inserting in lieu thereof "the former Chief Administrative Officer";

(C) in the third sentence—

(i) by striking out "The former Clerk" and inserting in lieu thereof "The former Chief Administrative Officer"; and

(ii) by striking out "such former Clerk" and inserting in lieu thereof "the former Chief Administrative Officer"; and

(D) by adding at the end the following new sentence: "The accounts and payments referred to in the second sentence shall be audited by the Inspector General of the House of Representatives.".

(20) Section 208(a) of the Legislative Reorganization Act of 1946 (2 U.S.C. 75a–1(a)) is amended by striking out "Doorkeeper, Postmaster," each place it appears and inserting in lieu thereof "Chief Administrative Officer".

(21) Section 7 of the Revised Statutes of the United States (2 U.S.C. 76) is repealed.

(22)(A) The first section of House Resolution 8, Ninety-fifth Congress, agreed to January 4, 1977, as enacted into permanent law by section 115 of the Legislative Branch Appropriation Act, 1978 (2 U.S.C. 76–1), is amended—

(i) in paragraph (1), by striking out the comma after "1976" and inserting in lieu thereof "; and";

(ii) in paragraph (2), by striking out ", and" after "91–510" and inserting in lieu thereof a period; and

(iii) by striking out paragraph (3).

2 USC 75–1, 76–1, 77a.

(B)(i) The provisions of law specified in clause (ii), codified in section 76–1 note of title 2, United States Code, are repealed or amended as provided in that clause.

(ii) The repeals and amendments clause (i) are as follows:

(I) House Resolution 909, Eighty-ninth Congress, agreed to September 8, 1966, as enacted into permanent law by chapter VI of the Supplemental Appropriation Act, 1967, is repealed.

(II) Subsection (a) of the first section of House Resolution 890, Ninety-second Congress, agreed to October 4, 1972, as enacted into permanent law by the paragraph under the heading "LEGISLATIVE BRANCH" and the subheadings "HOUSE OF REPRESENTATIVES" and "ADMINISTRATIVE PROVISION", in chapter V of the Supplemental Appropriations Act, 1973, is amended by striking out "the Doorkeeper,".

(23) House Resolution 560, Eighty-seventh Congress, agreed to March 27, 1962, as enacted into permanent law by section 103 of the Legislative Branch Appropriation Act, 1963 (2 U.S.C. 76a), is repealed.

(24) Section 2 of House Resolution 603, Eighty-seventh Congress, agreed to April 16, 1962, as enacted into permanent law by section 103 of the Legislative Branch Appropriation Act, 1964 (2 U.S.C. 76b), is repealed.

(25) The Act entitled "An Act defining certain duties of the Sergeant-at-Arms of the House of Representatives, and for other purposes", approved October 1, 1890, is amended—

(A) in the first section (2 U.S.C. 78), by striking out ", keep the" and all that follows through "by law"; and

(B) in section 3 (2 U.S.C. 80), by striking out "Sergeant-at-Arms" and inserting in lieu thereof "Chief Administrative Officer".

(26) The next to the last undesignated paragraph under the center heading "LEGISLATIVE" and the center subheading "HOUSE OF REPRESENTATIVES", in the first section of the Second Deficiency Act, fiscal year, 1928 (2 U.S.C. 80a), is amended by striking out "Sergeant-at-Arms of the House" and inserting in lieu thereof "Chief Administrative Officer of the House of Representatives".

(27) The Joint Resolution entitled "Joint resolution to provide for on-the-spot audits by the General Accounting Office of the fiscal records of the Office of the Sergeant at Arms of the House of Representatives", approved July 26, 1949 (2 U.S.C. 81a), is repealed.

(28) House Resolution 465, Eighty-fourth Congress, agreed to April 11, 1956, as enacted into permanent law by section 103 of the Legislative Branch Appropriation Act, 1957 (2 U.S.C. 81b), is repealed.

(29) House Resolution 144, Eighty-fifth Congress, agreed to February 7, 1957, as enacted into permanent law by section 103 of the Legislative Branch Appropriation Act, 1958 (2 U.S.C. 81c), is repealed.

(30) Section 7 of the Act entitled "An Act defining certain duties of the Sergeant-at-Arms of the House of Representatives, and for other purposes", approved October 1, 1890 (2 U.S.C. 84), is repealed.

(31) House Resolution 6, Ninety-eighth Congress, agreed to January 3, 1983, as enacted into permanent law by section 110 of the Congressional Operations Appropriation Act, 1984 (2 U.S.C. 84–1), is repealed.

(32) House Resolution 1495, Ninety-fourth Congress, agreed to September 30, 1976, as enacted into permanent law by section 115 of the Legislative Branch Appropriation Act, 1978 (2 U.S.C. 84a–1), is repealed.

(33) The eighth, ninth, tenth, eleventh, thirteenth, and fourteenth undesignated paragraphs relating to contingent expenses, under the center heading "LEGISLATIVE." and the center subheading "HOUSE OF REPRESENTATIVES.", in the first section of the Act entitled "An Act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June thirtieth, nineteen hundred and two, and for other purposes", approved March 3, 1901 (2 U.S.C. 85, 86, 87, 88, 90, and 91), are repealed.

(34)(A) Section 243 of the Legislative Reorganization Act of 1946 (2 U.S.C. 88a) is repealed.

(B) The table of contents of the Legislative Reorganization Act of 1946 is amended, in the matter relating to part 3 of title II (60 Stat. 813), by striking out the item relating to section 243.

(C) Section 492(i) of the Legislative Reorganization Act of 1970 (40 U.S.C. 184a(i)) is amended by striking out "section 243" and all that follows through "or".

(35)(A) The provisions of law specified in subparagraph (B), codified as section 88b of title 2, United States Code, are amended or repealed as provided in that subparagraph.

(B) The amendments and repeals referred to in subparagraph (A) are as follows:

(i) The proviso in the paragraph beginning under the center heading "LEGISLATIVE" and the center subheading "EDUCATION OF SENATE AND HOUSE PAGES" in title I of the Act entitled "An Act making appropriations to supply urgent deficiencies in certain appropriations for the fiscal year ending June 30, 1947, and for other purposes", approved March 22, 1947, is amended—

(I) by striking out "congressional" and inserting in lieu thereof "Senate"; and

(II) by striking out "and the Clerk of the House of Representatives".

(ii) House Resolution 279, Ninety-eighth Congress, agreed to July 21, 1983, as enacted into permanent law by section 103 of the Legislative Branch Appropriations Act, 1985, is repealed.

(36) Section 491 of the Legislative Reorganization Act of 1970 (2 U.S.C. 88b–1) is amended—

(A) in subsection (a)(1), by striking out "a period of not less than two months" and inserting in lieu thereof "the period specified in writing at the time of the appointment"; and

(B) in subsection (b), by striking out "; or" at the end of paragraph (2) and all that follows through the end of the subsection and inserting in lieu thereof a period.

(37) Section 2(a)(2) of House Resolution 611, Ninety-seventh Congress, agreed to November 30, 1982, as enacted into permanent law by section 127 of Public Law 97–377 (2 U.S.C. 88b–3(a)(2)), is amended by striking out ", Doorkeeper, and" and inserting in lieu thereof "and the".

(38) House Resolution 64, Ninety-eighth Congress, agreed to February 8, 1983, as enacted into permanent law by section 110 of the Congressional Operations Appropriation Act, 1984 (2 U.S.C. 88b–5), is amended—

(A) in the first sentence of section 2, by striking out "Clerk" and inserting in lieu thereof "Chief Administrative Officer of the House of Representatives";

(B) in the second sentence of section 2, by striking out "Clerk" and inserting in lieu thereof "Chief Administrative Officer of the House of Representatives, as determined by the Clerk of the House of Representatives,";

(C) by striking out section 3; and

(D) by redesignating section 4 as section 3.

(39) Section 902 of the Supplemental Appropriations Act, 1983 (2 U.S.C. 88b–6) is repealed.

(40) House Resolution 234, Ninety-eighth Congress, agreed to June 29, 1983, as enacted into permanent law by section 103 of the Legislative Branch Appropriations Act, 1985 (2 U.S.C. 88c–1 et seq.) is amended—

(A) by striking out the first section; 2 USC 88c–1.

2 USC 88c–2.

(B) in section 2, by striking out "terms of the academic year plus a" and inserting in lieu thereof "semesters of the academic year, plus a non-academic";

2 USC 88c–3.

(C) in section 3(a)(1)(B), by striking out "term or two full terms" and inserting in lieu thereof "semester or two full semesters";

(D) in section 3 (b)(1), by striking out "but no appointment to fill that vacancy shall be for a period of less than two months" and inserting in lieu thereof "except that no appointment may be made under this paragraph for service to begin on or after October 1 with respect to the first semester or on or after March 1 with respect to the second semester";

(E) in section 3(b)(2), by striking out "terms" and inserting in lieu thereof "semesters or terms, as the case may be,"; and

2 USC 88c–4.

(F) in section 4(1), by striking out "terms" and inserting in lieu thereof "semesters".

(41) The twelfth undesignated paragraph relating to contingent expenses, under the center heading "LEGISLATIVE." and the center subheading "HOUSE OF REPRESENTATIVES.", in the first section of the Act entitled "An Act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June thirtieth, nineteen hundred and two, and for other purposes", approved March 3, 1901 (2 U.S.C. 89), is amended by striking out "Doorkeeper, and Postmaster" and inserting in lieu thereof "and Chief Administrative Officer".

(42)(A) The first sentence of the first section of the Act entitled "An Act to authorize the Clerk of the House of Representatives to withhold certain amounts due employees of the House of Representatives", approved July 2, 1958 (2 U.S.C. 89a), is amended by striking out ", or to the trust fund" and all that follows through the end of the sentence and inserting in lieu thereof the following:

"and fails to pay the indebtedness, the chairman of the committee or the elected officer of the House of Representatives that has jurisdiction over the activity under which the indebtedness arises may certify to the Chief Administrative Officer of the House of Representatives the amount of the indebtedness.".

(B) The second and fourth sentences of such first section are each amended by striking out "Clerk" and inserting in lieu thereof "Chief Administrative Officer".

(43) Section 2 of House Resolution 294, Eighty-eighth Congress, agreed to August 14, 1964, as continued by House Resolution 7, Eighty-ninth Congress, agreed to January 4, 1965, as enacted into permanent law by section 103 of the Legislative Branch Appropriation Act, 1966 (2 U.S.C. 92–1), is repealed.

(44) Section 2 and section 3 of House Resolution 804, Ninety-sixth Congress, agreed to October 2, 1980, as enacted into permanent law by the bill H.R. 4120, entitled the "Legislative Branch Appropriation Act, 1982", as reported in the House of Representatives on July 9, 1981, and enacted into permanent law by section 101(c) of Public Law 97–51 (2 U.S.C. 92b–2; 2 U.S.C. 92b–3), are each amended by striking out "House Administration" and inserting in lieu thereof "House Oversight of the House of Representatives".

(45) The proviso in the fifth paragraph under the heading "UNDER LEGISLATIVE." and the subheading "SENATE." in the first section of the Act entitled "An Act making appropriations to supply urgent deficiencies in the appropriations for the fiscal year ending June thirtieth, nineteen hundred and two, and for prior years, and for other purposes", approved February 14, 1902 (2 U.S.C. 95a), is amended by striking out "contingent expenses of the House of Representatives or" and inserting in lieu thereof "expenses of the House of Representatives or contingent expenses of". 2 USC 68–2, 95a.

(46) The fifth undesignated paragraph relating to contingent expenses, under the center heading "LEGISLATIVE." and the center subheading "HOUSE OF REPRESENTATIVES.", in the first section of the Act entitled "An Act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June thirtieth, nineteen hundred and fifteen, and for other purposes", approved July 16, 1914 (2 U.S.C. 96), is repealed.

(47) Section 311 of the Legislative Branch Appropriations Act, 1994 (2 U.S.C. 96a) is repealed.

(48) The first paragraph after the paragraph with the side heading "OFFICE OF THE SPEAKER:" under the heading "LEGISLATIVE." and the subheading "HOUSE OF REPRESENTATIVES." in the first section of the Act entitled "An Act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and ninety-six, and for other purposes", approved March 2, 1895 (2 U.S.C. 97) is repealed.

(49) The first undesignated paragraph under the center heading "HOUSE OF REPRESENTATIVES" in the first section of the Act entitled "An Act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and eighty-six, and for other purposes", approved March 3, 1885 (2 U.S.C. 98), is repealed.

(50) The first undesignated paragraph after the paragraph with the side heading "OFFICE OF POSTMASTER:", under the center heading "LEGISLATIVE." and the center subheading "HOUSE OF REPRESENTATIVES.", in the first section of the Act entitled "An Act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and ninety-two, and for other purposes", approved March 3, 1891 (2 U.S.C. 99), is amended by striking out "; and hereafter" and all that follows through the end of the paragraph and inserting in lieu thereof a period.

(51) The second sentence of the fourth undesignated paragraph relating to contingent expenses, under the center heading "LEGISLATIVE." and the center subheading "HOUSE OF REPRESENTATIVES.", in the first section of the Act entitled "An Act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June thirtieth, nineteen hundred and two, and for other purposes", approved March 3, 1901 (2 U.S.C. 100), is repealed.

(52) Sections 60 and 61 of the Revised Statutes of the United States (2 U.S.C. 102) are repealed.

(53) The first sentence of the undesignated paragraph under the center heading "GENERAL PROVISION" in chapter XI

of the Third Supplemental Appropriation Act, 1957 (2 U.S.C. 102a) is amended by striking out "Clerk" and inserting in lieu thereof "Chief Administrative Officer".

(54) Section 105(a)(1) of the Legislative Branch Appropriation Act, 1965 (2 U.S.C. 104a(1)) is amended by striking out "Clerk" each place it appears and inserting in lieu thereof "Chief Administrative Officer".

(55) Section 65 of the Revised Statutes of the United States (2 U.S.C. 106) is amended—

(A) by striking out "and Clerk of the House of Representatives"; and

(B) by striking out "and House of Representatives, respectively,".

(56) Section 68 of the Revised Statutes of the United States (2 U.S.C. 108) is amended by striking out "either the Secretary or the Clerk" and inserting in lieu thereof "the Secretary".

(57) Section 69 of the Revised Statutes of the United States (2 U.S.C. 109) is amended by striking out "Clerk" and inserting in lieu thereof "Chief Administrative Officer".

(58) The proviso in the last sentence of the fifth paragraph after the paragraph with the side heading "FOR CONTINGENT EXPENSES, NAMELY:" under the heading "LEGISLATIVE." and the subheading "SENATE." in the Act entitled "An Act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and eighty-eight, and for other purposes", approved March 3, 1887 (2 U.S.C. 112) is amended by striking out "or the Committee on Accounts of the House of Representatives respectively".

(59)(A) The first section of the Act entitled "An Act to provide certain equipment for use in the offices of Members, officers, and committees of the House of Representatives, and for other purposes", approved December 5, 1969 (2 U.S.C. 112e), is amended—

(i) in the first sentence of subsection (a), by striking out "Clerk of the House shall furnish electrical and mechanical" and inserting in lieu thereof "Chief Administrative Officer of the House of Representatives shall furnish"; and

(ii) in subsection (b), by striking out "Clerk" and inserting in lieu thereof "Chief Administrative Officer".

(B) The first section of the Act entitled "An Act to provide certain equipment for use in the offices of Members, officers, and committees of the House of Representatives, and for other purposes", approved December 5, 1969 (2 U.S.C. 112e), as amended by subparagraph (A) is further amended—

(i) by striking out "House Administration" each place it appears and inserting in lieu there of "House Oversight";

(ii) in subsection (c), by striking out "contingent fund" and inserting in lieu thereof "applicable accounts"; and

(iii) in subsection (d), by striking out the second sentence.

(60) Section 70 of the Revised Statutes of the United States (2 U.S.C. 113) is amended by striking out "Clerk" and inserting in lieu thereof "Chief Administrative Officer".

(61) Section 71 of the Revised Statutes of the United States (2 U.S.C. 114) is amended—

(A) by striking out "and the Clerk of the House of Representatives, respectively, are" and inserting in lieu thereof "is"; and

(B) by striking out "or from the journal of the House of Representatives,".

(62) The third undesignated paragraph under the center heading "MISCELLANEOUS" in the first section of the Act entitled "An Act making appropriations for sundry civil expenses of the government for the fiscal year ending June thirtieth, eighteen hundred and eighty-three, and for other purposes", approved August 7, 1882 (2 U.S.C. 117), is amended—

(A) by striking out "Clerk and Doorkeeper of the House of Representatives and the"; and

(B) by striking out "direction" and all that follows through "cover" and inserting in lieu thereof "direction of the Committee on Rules and Administration of the Senate and cover".

(63)(A) Section 104(a) of the Legislative Branch Appropriations Act, 1987 (as enacted by reference in identical form by section 101(j) of Public Law 99–500 and Public Law 99–591) (2 U.S.C. 117e) is amended—

(i) in the first sentence of paragraph (1), by striking out "Clerk" and inserting in lieu thereof "Chief Administrative Officer"; and

(ii) in the first sentence of paragraph (2), by striking out "Clerk" and inserting in lieu thereof "Chief Administrative Officer".

(B) Section 104(a) of the Legislative Branch Appropriations Act, 1987 (as enacted by reference in identical form by section 101(j) of Public Law 99–500 and Public Law 99–591) (2 U.S.C. 117e), as amended by subparagraph (A), is further amended—

(i) in paragraph (3), by striking out "House Administration" and inserting in lieu thereof "House Oversight"; and

(ii) in paragraph (4)(B), by striking out "House Administration" and inserting in lieu thereof "House Oversight".

(64) Section 306 of the Legislative Branch Appropriations Act, 1989 (2 U.S.C. 117f), is amended—

(A) in subsection (a), by striking out "Clerk" and inserting in lieu thereof "Chief Administrative Officer"; and

(B) in subsection (b)—

(i) by striking out "Clerk" and inserting in lieu thereof "Chief Administrative Officer";

(ii) by striking out "but not limited to Legislative Service Organizations,"; and

(iii) by striking out ": *Provided*, That" and all that follows through "House" and inserting in lieu thereof ", except that no amount charged to the Members' Representational Allowance".

(65) The second sentence of section 2 of the Act entitled "An Act making appropriations for the Legislative Branch of the Government for the fiscal year ending June 30, 1927, and for other purposes", approved May 13, 1926 (2 U.S.C. 119), is amended by striking out "Accounts" and inserting in lieu thereof "House Oversight".

(66)(A) The provisions of law specified in subparagraph (B), codified as section 122a of title 2, United States Code, are repealed.

(B) The provisions of law referred to in subparagraph (A) are—

(i) the nineteenth paragraph under the center heading "HOUSE OF REPRESENTATIVES" and the center subheading "CONTINGENT EXPENSES OF THE HOUSE" in title I of the Legislative Branch Appropriation Act, 1955; and

(ii) House Resolution 831, Eighty-eighth Congress, agreed to August 14, 1964, as enacted into permanent law by section 103 of the Legislative Branch Appropriation Act, 1966.

(67) The first section and sections 2, 3, 4, 5, and 7 of House Resolution 687, Ninety-fifth Congress, agreed to September 20, 1977, as enacted into permanent law by section 111 of the Legislative Branch Appropriation Act, 1979 (2 U.S.C. 122b, 122c, 122d, 122e, 122f, and 122g), are repealed.

(68) Section 105 of the Legislative Branch Appropriation Act, 1957 (2 U.S.C. 123b) is amended—

(A) in subsections (c), (d), (f), and (h) by striking out "Clerk" each place it appears and inserting in lieu thereof "Chief Administrative Officer"; and

(B) in the first sentence of subsection (g), by striking out "within the contingent fund of the House of Representatives".

(69) The second sentence of the second paragraph under the heading "HOUSE OF REPRESENTATIVES" and the subheading "ADMINISTRATIVE PROVISIONS" in the first section of the Legislative Branch Appropriation Act, 1963 (2 U.S.C. 124) is amended—

(A) by striking out "contingent fund of the House" and inserting in lieu thereof "applicable accounts of the House of Representatives"; and

(B) by striking out "House Administration" and inserting in lieu thereof "House Oversight".

(70)(A) The first sentence of the last undesignated paragraph under the center heading "HOUSE OF REPRESENTATIVES" and the center subheading "CONTINGENT EXPENSES OF THE HOUSE" in the first section of the Legislative Branch Appropriation Act, 1955 (2 U.S.C. 125) is amended by striking out "Clerk of the House" and inserting in lieu thereof "Chief Administrative Officer of the House of Representatives".

(B) The first sentence of the last undesignated paragraph under the center heading "HOUSE OF REPRESENTATIVES" and the center subheading "CONTINGENT EXPENSES OF THE HOUSE" in the first section of the Legislative Branch Appropriation Act, 1955 (2 U.S.C. 125), as amended by subparagraph (A), is further amended by striking out "contingent fund of the House" and inserting in lieu thereof "applicable accounts of the House of Representatives".

(71) Section 3 of Public Law 89–147 (2 U.S.C. 127a) is amended—

(A) in the first sentence, by striking out "contingent fund" and inserting in lieu thereof "applicable accounts"; and

(B) in the last sentence, by striking out "House Administration" and inserting in lieu thereof "House Oversight".

(72) Subsection (b) of the first section of House Resolution 1047, Ninety-fifth Congress, agreed to April 4, 1978, as enacted into permanent law by section 111 of the Legislative Branch Appropriation Act, 1979 (2 U.S.C. 130–1), is amended—

(A) in the first sentence, by striking out "contingent fund of the House" and inserting in lieu thereof "applicable accounts of the House of Representatives"; and

(B) in the second sentence, by striking out "House Administration" and inserting in lieu thereof "House Oversight".

(73) The first section of the Act entitled "An Act to preserve the benefits of the Civil Service Retirement Act, the Federal Employees' Group Life Insurance Act of 1954, and the Federal Employees Health Benefits Act of 1959 for congressional employees receiving certain congressional staff fellowships", approved March 30, 1966 (2 U.S.C. 130a), is amended—

(A) by striking out "That, with respect" and inserting in lieu thereof "That (a) with respect";

(B) in paragraph (1) of subsection (a), as so redesignated by subparagraph (A), by striking out "Clerk" and inserting in lieu thereof "Chief Administrative Officer";

(C) by striking out "the purposes of—" and all that follows through "if the award" and inserting in lieu thereof the following: "the purposes of the provisions of law specified in subsection (b), if the award";

(D) by striking out "Clerk of the House of Representatives, as appropriate" and inserting in lieu thereof "Chief Administrative Officer of the House of Representatives, as appropriate";

(E) by striking out "Clerk of the House by records" and inserting in lieu thereof "Chief Administrative Officer of the House of Representatives by records"; and

(F) by adding at the end the following new subsection:

"(b) The provisions of law referred to in subsection (a) are—

"(1) subchapter III (relating to civil service retirement) of chapter 83 of title 5, United States Code;

"(2) chapter 87 (relating to Federal employees group life insurance) of title 5, United States Code; and

"(3) chapter 89 (relating to Federal employees group health insurance) of title 5, United States Code.".

(74) Section 6(a)(1) of the Act entitled "An Act to amend title 5, United States Code, to revise, clarify, and extend the provisions relating to court leave for employees of the United States and the District of Columbia", approved December 19, 1970 (2 U.S.C. 130b(a)(1)), is amended by striking out "Clerk" and inserting in lieu thereof "Chief Administrative Officer".

(75) Section 6(f) of the Act entitled "An Act to amend title 5, United States Code, to revise, clarify, and extend the provisions relating to court leave for employees of the United States and the District of Columbia", approved December 19, 1970 (2 U.S.C. 130b(f)), is amended by striking out "House Administration" and inserting in lieu thereof "House Oversight".

(76) Subsection (a) and subsection (b) of section 3 of the Act entitled "An Act to authorize the waiver of claims of the United States arising out of erroneous payments of pay and allowances to certain officers and employees of the legislative branch", approved July 25, 1974 (2 U.S.C. 130d(a) and (b)), are each amended by striking out "Clerk" and inserting in lieu thereof "Chief Administrative Officer".

SEC. 205. PROVISIONS RELATING TO LIBRARY OF CONGRESS.

The provisions of law relating to the Library of Congress, as codified in chapter 5 of title 2, United States Code, are amended as follows: section 223 of the Legislative Reorganization Act of 1946 (2 U.S.C. 132b) is amended by striking out "House Administration" and inserting in lieu thereof "House Oversight".

SEC. 206. PROVISIONS RELATING TO CONGRESSIONAL AND COMMITTEE PROCEDURE; INVESTIGATIONS.

The provisions of law relating to congressional and committee procedure; investigations, as codified in chapter 6 of title 2, United States Code, are amended as follows:

(1) Section 136(c) of the Legislative Reorganization Act of 1946 (2 U.S.C. 190d(c)) is amended by striking out "House Administration" and inserting in lieu thereof "House Oversight".

(2) The fourth sentence of section 2 of the Act entitled "An Act to provide for taking testimony, to be used before Congress, in cases of private claims against the United States", approved February 3, 1879 (2 U.S.C. 190m) is amended by striking out "contingent fund of the branch of Congress appointing such committee." and inserting in lieu thereof the following: "contingent fund of the Senate, in the case of a committee of the Senate, or the applicable accounts of the House of Representatives, in the case of a committee of the House of Representatives.".

SEC. 207. PROVISIONS RELATING TO OFFICE OF LAW REVISION COUNSEL.

The provisions of law relating to the Office of the Law Revision Counsel, as codified in chapter 9A of title 2, United States Code, are amended as follows: section 205(h) of House Resolution 988, Ninety-third Congress, agreed to October 8, 1974, as enacted into permanent law by chapter III of title I of the Supplemental Appropriations Act, 1975 (2 U.S.C. 285g), is amended by striking out "contingent fund of the House" and inserting in lieu thereof "applicable accounts of the House of Representatives".

SEC. 208. PROVISIONS RELATING TO LEGISLATIVE CLASSIFICATION OFFICE.

The provisions of law relating to the Legislative Classification Office, as codified in chapter 9B of title 2, United States Code, are amended as follows: section 203 of House Resolution 988, Ninety-third Congress, agreed to October 8, 1974, as enacted into permanent law by chapter III of title I of the Supplemental Appropriations Act, 1975 (2 U.S.C. 286 et seq.), is repealed.

SEC. 209. PROVISIONS RELATING TO CLASSIFICATION OF EMPLOYEES OF HOUSE OF REPRESENTATIVES.

The provisions of law relating to classification of employees of the House of Representatives, as codified in chapter 10 of title 2, United States Code, are amended as follows:

(1) Section 4(a)(1) of the House Employees Position Classification Act (2 U.S.C. 293(a)(1)) is amended by striking out "House Administration" and inserting in lieu thereof "House Oversight".

(2) Section 5(b)(1)(C) of the House Employees Position Classification Act (2 U.S.C. 294(b)(1)(C)) is amended by striking out "Doorkeeper" and inserting in lieu thereof "Chief Administrative Officer".

(3) The second sentence of section 11 of the House Employees Position Classification Act (2 U.S.C. 300) is amended by striking out "contingent fund" and inserting in lieu thereof "applicable accounts".

SEC. 210. PROVISIONS RELATING TO PAYROLL ADMINISTRATION IN HOUSE OF REPRESENTATIVES.

The provisions of law relating to payroll administration in the House of Representatives, as codified in chapter 10A of title 2, United States Code, are amended as follows:

(1) Section 471 of the Legislative Reorganization Act of 1970 (2 U.S.C. 331) is amended by striking out "Clerk" and inserting in lieu thereof "Chief Administrative Officer".

(2)(A) Section 472 of the Legislative Reorganization Act of 1970 (2 U.S.C. 332) is repealed.

(B) The table of contents of the Legislative Reorganization Act of 1970 is amended, in the matter relating to part 7 of title IV (84 Stat. 1142), by striking out the item relating to section 472.

(3)(A) Section 474 of the Legislative Reorganization Act of 1970 (2 U.S.C. 334) is repealed.

(B) The table of contents of the Legislative Reorganization Act of 1970 is amended, in the matter relating to part 7 of title IV (84 Stat. 1142), by striking out the item relating to section 474.

(4) Section 475(1) of the Legislative Reorganization Act of 1970 (2 U.S.C. 335(1)) is amended by striking out "Clerk" and inserting in lieu thereof "Chief Administrative Officer".

(5) Section 476 of the Legislative Reorganization Act of 1970 (2 U.S.C. 336) is amended by striking out "Clerk" each place it appears and inserting in lieu thereof "Chief Administrative Officer".

SEC. 211. PROVISIONS RELATING TO CONTESTED ELECTIONS.

The provisions of law relating to contested elections, as codified in chapter 12 of title 2, United States Code, are amended as follows:

(1) Section 2 of the Federal Contested Elections Act (2 U.S.C. 381) is amended—

(A) by redesignating subdivisions (a) through (i) as paragraphs (1) through (9), respectively;

(B) in the matter before paragraph (1), as so redesignated by subparagraph (A), by striking out "Act—" and inserting in lieu thereof "Act:";

(C) by indenting paragraphs (1) through (9), as so redesignated by subparagraph (A), two ems; and

(D) in paragraph (2), as so redesignated by subparagraph (A)—

(i) by striking out "(1) whose" and inserting in lieu thereof "(A) whose"; and

(ii) by striking out "or (2)" and inserting in lieu thereof "or (B)".

(2) Section 2 of the Federal Contested Elections Act (2 U.S.C. 381), as amended by paragraph (1), is further amended—

(A) in paragraph (1), by striking out "or Resident Commissioner" and all that follows through "but" and inserting in lieu thereof ", or Delegate or Resident Commissioner to, the Congress, but that term";

(B) in paragraph (2), as amended by paragraph (1) of this section—

(i) by striking out "House of Representatives of the United States" in subparagraph (A) and inserting in lieu thereof "office of Representative in, or Delegate or Resident Commissioner to, the Congress"; and

(ii) by striking out "House of Representatives" in subparagraph (B) and inserting in lieu thereof "office of Representative in, or Delegate or Resident Commissioner to, the Congress";

(C) in paragraph (3), by striking out "of the United States";

(D) in paragraph (4), by striking out "of the United States";

(E) in paragraph (5), by striking out "term" and all that follows through "offices" and inserting in lieu thereof "term 'Member of the House of Representatives' means an incumbent Representative in, or Delegate or Resident Commissioner to, the Congress, or an individual who has been elected to such office";

(F) in paragraph (6), by striking out "of the United States";

(G) in paragraph (7), by striking out "House Administration of the House of Representatives of the United States" and inserting in lieu thereof "House Oversight of the House of Representatives"; and

(H) in paragraph (8), by striking out "includes territory and" and inserting in lieu thereof "means a State of the United States and any territory or".

(3) Section 3 of the Federal Contested Elections Act (2 U.S.C. 382) is amended—

(A) in subsection (a), by striking out "to the House of Representatives"; and

(B) in subsection (c)—

(i) by striking out "or" after the semicolon at the end of paragraph (4); and

(ii) by inserting "or" after the semicolon at the end of paragraph (5).

(4) Section 17 of the Federal Contested Elections Act (2 U.S.C. 396) is amended by striking out "contingent fund" and inserting in lieu thereof "applicable accounts".

SEC. 212. PROVISIONS RELATING TO JOINT COMMITTEE ON CONGRESSIONAL OPERATIONS.

The provisions of law relating to the Joint Committee on Government Operations, as codified in chapter 13 of title 2, United States Code, are amended as follows:

(1)(A) Part 1 of title IV of the Legislative Reorganization Act of 1970 (2 U.S.C. 411–417) is repealed.

(B) The table of contents of the Legislative Reorganization Act of 1970 is amended, in the matter relating to title IV (84 Stat. 1141), by striking out the matter relating to part 1.

(2) Section 206 of House Resolution 988, Ninety-third Congress, agreed to October 8, 1974, as enacted into permanent law by chapter III of title I of the Supplemental Appropriations Act, 1975 (2 U.S.C. 412a), is repealed.

SEC. 213. PROVISIONS RELATING TO CONGRESSIONAL BUDGET OFFICE.

The provisions of law relating to the Congressional Budget Office, as codified in chapter 17 of title 2, United States Code, are amended as follows: section 202(g) of the Congressional Budget Act of 1974 (2 U.S.C. 602(g)) is amended by striking out "House Administration" and inserting in lieu thereof "House Oversight".

SEC. 214. PROVISIONS RELATING TO THE STATES.

The provisions of law relating to the States, as codified under chapter 4 of title 4, United States Code, are amended as follows: section 307(b)(1) of the Legislative Branch Appropriations Act, 1988 (4 U.S.C. 105 note) by striking out "House Administration" and inserting in lieu thereof "House Oversight".

SEC. 215. PROVISIONS RELATING TO GOVERNMENT ORGANIZATION AND EMPLOYEES.

The provisions of law relating to Government organization and employees, enacted as title 5, United States Code, are amended as follows:

(1) Section 2107(5) of title 5, United States Code, is amended by striking out "Clerk" and inserting in lieu thereof "Chief Administrative Officer".

(2) Section 3304(c)(1) of title 5, United States Code, is amended by striking out "Clerk" and inserting in lieu thereof "Chief Administrative Officer".

(3) Section 5306(a)(1)(A) of title 5, United States Code, is amended by striking out "Clerk" and inserting in lieu thereof "Chief Administrative Officer".

(4) Section 5334(c) of title 5, United States Code, is amended by striking out "Clerk" and inserting in lieu thereof "Chief Administrative Officer".

(5) Section 5515 of title 5, United States Code, is amended by striking out "Clerk" and inserting in lieu thereof "Chief Administrative Officer".

(6) Section 5531(5) of title 5, United States Code, is amended by striking out "Clerk" and inserting in lieu thereof "Chief Administrative Officer".

(7) Subsections (c)(1), (c)(2), and (d)(5)(A) of section 5533 of title 5, United States Code, are each amended by striking out "Clerk" and inserting in lieu thereof "Chief Administrative Officer".

(8) Section 5537(a) of title 5, United States Code, is amended by striking out "Clerk" and inserting in lieu thereof "Chief Administrative Officer".

(9) Section 5751 of title 5, United States Code, is amended by striking out "Clerk" both places it appears and inserting in lieu thereof "Chief Administrative Officer".

(10) Section 6322 of title 5, United States Code, is amended by striking out "Clerk" both places it appears and inserting in lieu thereof "Chief Administrative Officer".

(11) Section 8332(b) of title 5, United States Code, is amended in the fourth sentence in the matter following paragraph (16) by striking out "Clerk" and inserting in lieu thereof "Chief Administrative Officer".

(12)(A) The third sentence of section 8334(a)(1) of title 5, United States Code, is amended by striking out "Clerk of the House of Representatives, the Clerk may pay from the contingent fund of the House" and inserting in lieu thereof "Chief Administrative Officer of the House of Representatives, the Chief Administrative Officer may pay from the applicable accounts of the House of Representatives".

(B) Paragraph (1)(A) and paragraph (3) of section 8334(j) of title 5, United States Code, are each amended by striking out "Clerk" and inserting in lieu thereof "Chief Administrative Officer".

(13) Section 8402(c)(5) of title 5, United States Code, is amended—

(A) in the matter before subparagraph (A), by striking out "Clerk" and inserting in lieu thereof "Chief Administrative Officer"; and

(B) in subparagraph (B), by striking out "Clerk" and inserting in lieu thereof "Chief Administrative Officer".

(14) Paragraph (1)(A) and paragraph (3) of section 8422(e) of title 5, United States Code, are each amended by striking out "Clerk" and inserting in lieu thereof "Chief Administrative Officer".

(15) Section 8423(a)(3)(C) of title 5, United States Code, is amended by striking out "Clerk of the House of Representatives, from the contingent fund of the House" and inserting in lieu thereof "Chief Administrative Officer of the House of Representatives, from the applicable accounts of the House of Representatives".

(16) The second sentence of section 8432(e) of title 5, United States Code, is amended by striking out "Clerk of the House of Representatives, the Clerk may pay from the contingent fund" and inserting in lieu thereof "Chief Administrative Officer of the House of Representatives, the Chief Administrative Officer may pay from the applicable accounts".

(17) The second sentence of section 8432a(c) of title 5, United States Code, is amended by striking out "Clerk of the House of Representatives, the Clerk may pay from the contingent fund" and inserting in lieu thereof "Chief Administrative Officer of the House of Representatives, the Chief Administrative Officer may pay from the applicable accounts".

(18) Subsection (b) of section 8708 of title 5, United States Code, is amended by striking out "Clerk" the first place it appears and all that follows through the end of the subsection and inserting in lieu thereof the following: "Chief Administra-

tive Officer of the House of Representatives, the Chief Administrative Officer may contribute the sum required by subsection (a) of this section from the applicable accounts of the House of Representatives.".

(19) Section 8906(f)(3) of title 5, United States Code, is amended by striking out "Clerk of the House of Representatives, from the contingent fund of the House" and inserting in lieu thereof "Chief Administrative Officer of the House of Representatives, from the applicable accounts of the House of Representatives".

SEC. 216. PROVISIONS CODIFIED IN APPENDICES TO TITLE 5, UNITED STATES CODE.

The provisions of law codified in appendices to title 5, United States Code, are amended as follows:

(1) Section 103(h)(1)(A)(i)(I) of the Ethics in Government Act of 1978 (5 U.S.C. App. 103(h)(1)(A)(i)(I)) is amended by striking out "Clerk" the second place it appears and inserting in lieu thereof "Chief Administrative Officer".

(2) Section 109(13)(A) of the Ethics in Government Act of 1978 (5 U.S.C. App. 103(13)(A)) is amended by striking out "Clerk" and inserting in lieu thereof "Chief Administrative Officer". 5 USC app. 109.

SEC. 217. PROVISIONS RELATING TO COMMERCE AND TRADE.

The provisions of law relating to commerce and trade, as codified in title 15, United States Code, are amended as follows: the Joint Resolution entitled "Joint resolution to print the monthly publication entitled 'Economic Indicators'", approved June 23, 1949 (15 U.S.C. 1025), is amended by striking out "Doorkeeper" and inserting in lieu thereof "Chief Administrative Officer".

SEC. 218. PROVISIONS RELATING TO FOREIGN RELATIONS AND INTERCOURSE.

The provisions of law relating to foreign relations and intercourse, as codified in title 22, United States Code, are amended as follows:

(1) The last sentence of section 105(b) of the Legislative Branch Appropriation Act, 1961 (22 U.S.C. 276c–1) is amended by striking out "Committee on House Administration" and inserting in lieu thereof "Clerk".

(2) The first sentence of subsection (b)(2) and the first sentence of subsection (b)(3)(A) of section 502 of the Mutual Security Act of 1954 (22 U.S.C. 1754) are each amended by striking out "Clerk" the second place it appears and inserting in lieu thereof "Chief Administrative Officer".

(3) Section 8(d)(2) of the Act entitled "An Act to establish a Commission on Security and Cooperation in Europe", approved June 3, 1976 (22 U.S.C. 3008(d)(2)), is amended by striking out "Clerk" and inserting in lieu thereof "Chief Administrative Officer".

SEC. 219. PROVISIONS RELATING TO MONEY AND FINANCE.

(a) USE OF VEHICLES AMENDMENT.—Section 802(d) of the Ethics Reform Act of 1989 (31 U.S.C. 1344 note) is amended by striking out "House Administration" and inserting in lieu thereof "House Oversight".

(b) TITLE 31, UNITED STATES CODE, AMENDMENTS.—The provisions of law relating to money and finance, enacted as title 31, United States Code, are amended as follows:

(1) Section 1551(c)(2) of title 31, United States Code, is amended by striking out "Clerk" and inserting in lieu thereof "Chief Administrative Officer".

(2) Section 6102a(c) of title 31, United States Code, is amended by striking out "House Administration" and inserting in lieu thereof "House Oversight".

(3) Section 6203(a)(3) of title 31, United States Code, is amended by striking out "House Administration" and inserting in lieu thereof "House Oversight".

SEC. 220. PROVISIONS RELATING TO POSTAL SERVICE.

The provisions of law relating to the Postal Service, enacted as title 39, United States Code, are amended as follows:

(1) Paragraphs (1) and (2) of subsection (e), section 3216, title 39, United States Code, are each amended by striking out "Clerk of the House" and inserting in lieu thereof "Chief Administrative Officer of the House of Representatives".

(2) Section 3216(e)(2) of title 39, United States Code, is amended by striking out "House Administration" each place it appears and inserting in lieu thereof "House Oversight".

SEC. 221. PROVISIONS RELATING TO PUBLIC BUILDINGS, PROPERTY, AND WORKS.

The provisions of law relating to public buildings, property, and works, as codified in title 40, United States Code, are amended as follows:

(1) The first section of House Resolution 291, Eighty-eighth Congress, agreed to June 18, 1963, as enacted into permanent law by section 103 of the Legislative Branch Appropriation Act, 1965 (40 U.S.C. 166b–4), is amended—

(A) in the first sentence, by striking out "contingent fund" and inserting in lieu thereof "applicable accounts"; and

(B) by striking out "House Administration" each place it appears and inserting in lieu thereof "House Oversight".

(2) Section 1816 of the Revised Statutes of the United States (40 U.S.C. 170) is amended by striking out "Accounts of the House of Representatives, for the House" and inserting in lieu thereof "House Oversight of the House of Representatives, for the House of Representatives".

(3)(A) Subsections (a), (b), and (c) of section 2 of House Resolution 317, Ninety-second Congress, agreed to March 25, 1971, as enacted into permanent law by the paragraph under the heading "HOUSE OF REPRESENTATIVES" and the subheadings "CONTINGENT EXPENSES OF THE HOUSE" and "MISCELLANEOUS ITEMS" in the first section of the Legislative Branch Appropriation Act, 1972 (40 U.S.C. 174k (a), (b), and (c)), are each amended by striking out "House Administration" each place it appears and inserting in lieu thereof "House Oversight".

(B) Section 208 of the First Supplemental Civil Functions Appropriation Act, 1941 (40 U.S.C. 174k note) is repealed.

(4)(A) The proviso in the paragraph under the heading "ARCHITECT OF THE CAPITOL" and the subheading "HOUSE OFFICE BUILDINGS" in the Legislative Branch Appropriations Act, 1989 (40 U.S.C. 175 note), is amended by striking out

"House Administration" and inserting in lieu thereof "House Oversight".

(B) The first section of House Resolution 208, Ninety-fourth Congress, agreed to February 24, 1975, as enacted into permanent law by section 201 of the Legislative Branch Appropriation Act, 1976 (40 U.S.C. 175 note), is amended—

(i) by striking out "House Administration" and inserting in lieu thereof "House Oversight of the House of Representatives"; and

(ii) by striking out "contingent fund" and inserting in lieu thereof "applicable accounts".

(5)(A) Section 312 of the Legislative Branch Appropriations Act, 1992 (40 U.S.C. 184g) is amended by striking out "Clerk" each place it appears and inserting in lieu thereof "Chief Administrative Officer".

(B) Section 312(a)(1)(A) of the Legislative Branch Appropriations Act, 1992 (40 U.S.C. 184g(a)(1)(A)) is amended by striking out "or the Sergeant at Arms of the House of Representatives".

(C) Section 312(d)(2) of the Legislative Branch Appropriations Act, 1992 (40 U.S.C. 184g(d)(2)) is amended by striking out "with" and inserting in lieu thereof "With".

(6) Section 312 of the Legislative Branch Appropriations Act, 1992 (40 U.S.C. 184g) is amended—

(A) in subsection (b)(1)(A), by striking out "Minority Leader" and inserting in lieu thereof "minority leader";

(B) in subsection (c), by striking out "House Administration" and inserting in lieu thereof "House Oversight"; and

(C) in subsection (d)(1), by striking out "in the contingent fund of the House of Representatives".

(7) Section 801(b)(3) of the Arizona-Idaho Conservation Act of 1988 (40 U.S.C. 188a(b)(3)) is amended by striking out "House Administration" and inserting in lieu thereof "House Oversight".

(8) The second sentence of section 1001(a) of the Arizona-Idaho Conservation Act of 1988 (40 U.S.C. 188c(a)) is amended by striking out "House Administration" and inserting in lieu thereof "House Oversight".

(9)(A) Section 2(a) of House Resolution 661, Ninety-fifth Congress, agreed to July 29, 1977, as enacted into permanent law by section 111 of the Legislative Branch Appropriation Act, 1979 (40 U.S.C. 206 note), is amended by striking out "House Administration" and inserting in lieu thereof "House Oversight".

(B) House Resolution 199, One Hundred Second Congress, agreed to August 1, 1991, as enacted into permanent law by section 102 of the Legislative Branch Appropriations Act, 1993 (40 U.S.C. 206 note), is amended by striking out "House Administration" each place it appears and inserting in lieu thereof "House Oversight".

(C) House Resolution 420, One Hundred First Congress, agreed to June 26, 1990, as enacted into permanent law by section 105 of the Legislative Branch Appropriations Act, 1991 (40 U.S.C. 206 note), is amended—

(i) in section 2(1), by striking out "House Administration" and inserting in lieu thereof "House Oversight"; and

(ii) in section 3(2), by striking out "from the contingent fund of the House of Representatives or".

(10) Section 3(a)(1) of House Resolution 449, Ninety-second Congress, agreed to June 2, 1971, as enacted into permanent law by chapter IV of the Supplemental Appropriations Act, 1972 (40 U.S.C. 206b(a)(1)), is amended by striking out "Clerk" and inserting in lieu thereof "Chief Administrative Officer".

(11)(A) Section 3(d) of House Resolution 449, Ninety-second Congress, agreed to June 2, 1971, as enacted into permanent law by chapter IV of the Supplemental Appropriations Act, 1972 (40 U.S.C. 206b(d), is amended by striking out "House Administration" and inserting in lieu thereof "House Oversight".

(B)(i) The provisions of law specified in clause (ii) (40 U.S.C. 206b(g); 40 U.S.C. 206b note) are amended as provided in such clause.

(ii) House Resolution 449, Ninety-second Congress, agreed to June 2, 1971, as enacted into permanent law by chapter IV of the Supplemental Appropriations Act, 1972, is amended by striking out section 5. House Resolution 1309, Ninety-third Congress, agreed to October 10, 1974, as enacted into permanent law by chapter III of the Supplemental Appropriations Act, 1975, is amended by striking out section 3.

(12) Section 9C of the Act entitled "An Act to define the area of the United States Capitol Grounds, to regulate the use thereof, and for other purposes", approved July 31, 1946 (40 U.S.C. 207a) is amended by striking out "House Administration" and inserting in lieu thereof "House Oversight".

(13) Section 9B(a) of the Act entitled "An Act to define the area of the United States Capitol Grounds, to regulate the use thereof, and for other purposes", approved July 31, 1946 (40 U.S.C. 212a–3(a)) is amended by striking out "House Administration" and inserting in lieu thereof "House Oversight".

(14) Subsection (b)(1) and subsection (c) of section 3 of Public Law 98–392 (40 U.S.C. 214b (b)(1) and (c)) are each amended by striking out "House Administration" and inserting in lieu thereof "House Oversight".

(15) Section 151(a) of Public Law 99–500 (100 Stat. 1783–352), enacted in identical form as section 151(a) of Public Law 99–591 (100 Stat. 3341–355), (40 U.S.C. 756b) is amended by striking out "Clerk" and inserting in lieu thereof "Chief Administrative Officer".

(16) The second sentence of section 301 of the National Visitor Center Facilities Act of 1968 (40 U.S.C. 831) is amended by striking out "House Committee on House Administration" and inserting in lieu thereof "Committee on House Oversight of the House of Representatives".

(17) Section 441 of the Legislative Reorganization Act of 1970 (40 U.S.C. 851) is amended—

(A) in subsection (c)(1), subsection (c)(4), and subsection (h), by striking out "House Administration" and inserting in lieu thereof "House Oversight"; and

(B) by striking out subsection (j).

(18) Section 3(d) of Public Law 99–652 (40 U.S.C. 1003(b)) is amended by striking out "House Administration" and inserting in lieu thereof "House Oversight".

SEC. 222. PROVISIONS RELATING TO THE PUBLIC HEALTH AND WELFARE.

The provisions of law relating to the public health and welfare, as codified in title 42, United States Code, are amended as follows:

(1) Section 303d. of the Atomic Energy Act of 1954 (42 U.S.C. 2259(d)) is amended by striking out "House Administration" and inserting in lieu thereof "House Oversight".

(2) Section 6004(a)(4) of the Solid Waste Disposal Act (42 U.S.C. 6964) is amended by striking out "House Administration" and inserting in lieu thereof "House Oversight".

SEC. 223. PROVISIONS RELATING TO PUBLIC PRINTING AND DOCUMENTS.

The provisions of law relating to public printing and documents, enacted as title 44, United States Code, are amended as follows:

(1) Section 101 of title 44, United States Code, is amended by striking out "House Administration" and inserting in lieu thereof "House Oversight".

(2) The third sentence of section 703 of title 44, United States Code, is amended by striking out "House Administration" and inserting in lieu thereof "House Oversight".

(3) Section 730 of title 44, United States Code, is amended by striking out ", Sergeant at Arms, and Doorkeeper" and inserting in lieu thereof "and Sergeant at Arms".

(4)(A) Section 735 of title 44, United States Code, is amended—

(i) in the section heading, by striking out "**Members of Congress**" and inserting in lieu thereof "**Senators**";

(ii) by striking out "Member of Congress" and inserting in lieu thereof "Senator"; and

(iii) by striking out "and Clerk of the House of Representatives, respectively".

(B) The table of sections for chapter 7 of title 44, United States Code, is amended by striking out the item relating to section 735 and inserting in lieu thereof the following new item:

"735. Binding for Senators.".

(5) The second sentence of section 739 of title 44, United States Code, is amended by striking out "Doorkeeper" and inserting in lieu thereof "Clerk".

(6) The first sentence of section 740 of title 44, United States Code, is amended by striking out "Doorkeeper of the House" and inserting in lieu thereof "Chief Administrative Officer of the House of Representatives".

(7)(A) The first undesignated paragraph of section 906 of title 44, United States Code, is amended—

(i) in the fifth undesignated subdivision of the matter relating to furnishing of the bound edition of the Congressional Record, by striking out ", Sergeant at Arms, and Doorkeeper" and inserting in lieu thereof "and the Sergeant at Arms";

(ii) in the seventh undesignated subdivision of the matter relating to furnishing of the daily edition of the Congressional Record, by striking out ", Sergeant at Arms, and Doorkeeper" and inserting in lieu thereof "and the Sergeant at Arms"; and

(iii) in the eighth undesignated subdivision of the matter relating to furnishing of the daily edition of the Congressional Record, by striking out "Doorkeeper" and inserting in lieu thereof "Clerk".

(B) The third undesignated paragraph of section 906 of title 44, United States Code, is amended—

(i) in the fourth undesignated subdivision of the matter relating to furnishing of the Congressional Record in unstitched form, by striking out ", Sergeant at Arms, and Doorkeeper" and inserting in lieu thereof "and the Sergeant at Arms"; and

(ii) in the twelfth undesignated subdivision of the matter relating to furnishing of the Congressional Record in unstitched form—

(I) by striking out "to the Secretaries" and inserting in lieu thereof "and to the Secretaries"; and

(II) by striking out ", and to the Doorkeeper of the House of Representatives".

(8) Section 908 of title 44, United States Code, is amended by striking out "Sergeant at Arms of the House" and inserting in lieu thereof "Chief Administrative Officer of the House of Representatives".

(9) Section 2203(e) of title 44, United States Code, is amended by striking out "House Administration" and inserting in lieu thereof "House Oversight".

(10) Section 3303a(c) of title 44, United States Code, is amended by striking out "House Administration" and inserting in lieu thereof "House Oversight".

SEC. 224. PROVISIONS RELATING TO TERRITORIES AND INSULAR POSSESSIONS.

The provisions of law relating to territories and insular possessions, as codified in title 48, United States Code, are amended as follows:

(1) The last undesignated paragraph after the center heading "MINTS AND ASSAY OFFICES." and the center subheading "GOVERNMENT IN THE TERRITORIES" in the first section of the Act entitled "An Act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June thirtieth, nineteen hundred and seven, and for other purposes", approved June 22, 1906 (48 U.S.C. 894), is amended by striking out "Sergeant-at-Arms" and inserting in lieu thereof "Chief Administrative Officer".

(2) Section 35 of the Organic Act of Guam (48 U.S.C. 1421k–1) is repealed.

(3) Section 15 of the Revised Organic Act of the Virgin Islands (48 U.S.C. 1596) is repealed.

(4) The last two provisos of section 5 of Public Law 92–271 (48 U.S.C. 1715 note) are repealed.

SEC. 225. MISCELLANEOUS UNCODIFIED PROVISIONS RELATING TO HOUSE OF REPRESENTATIVES.

The following miscellaneous uncodified provisions relating to the House of Representatives are amended as follows:

(1) The next to the last undesignated paragraph under the center heading "HOUSE OF REPRESENTATIVES" and the center subheadings "ADMINISTRATIVE PROVISIONS" and "HOUSE BEAUTY SHOP" in the first section of the Legislative

Branch Appropriation Act, 1970 (83 Stat. 347) is amended by striking out the last two sentences.

(2) The last undesignated paragraph under the center heading "HOUSE OF REPRESENTATIVES" and the center subheadings "ADMINISTRATIVE PROVISIONS" and "HOUSE BEAUTY SHOP" in the first section of the Legislative Branch Appropriation Act, 1970 (83 Stat. 347) is repealed.

Approved August 20, 1996.

LEGISLATIVE HISTORY—H.R. 2739:

HOUSE REPORTS: No. 104–482 (Comm. on House Oversight).
CONGRESSIONAL RECORD, Vol. 142 (1996):
Mar. 19, considered and passed House.
June 28, considered and passed Senate, amended.
Aug. 2, House concurred in Senate amendment.

29–194 O - 96 - 31 : QL 3 Part 2

Public Law 104–187
104th Congress

An Act

Aug. 20, 1996
[H.R. 3139]

To redesignate the United States Post Office building located at 245 Centereach Mall on Middle Country Road in Centereach, New York, as the "Rose Y. Caracappa United States Post Office Building".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REDESIGNATION.

The United States Post Office building located at 245 Centereach Mall on Middle Country Road in Centereach, New York, shall be known and designated as the "Rose Y. Caracappa United States Post Office Building".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States Post Office building referred to in section 1 shall be deemed to be a reference to the "Rose Y. Caracappa United States Post Office Building".

Approved August 20, 1996.

LEGISLATIVE HISTORY—H.R. 3139:

CONGRESSIONAL RECORD, Vol. 142 (1996):
July 30, considered and passed House.
Aug. 2, considered and passed Senate.

Public Law 104–188
104th Congress

An Act

To provide tax relief for small businesses, to protect jobs, to create opportunities, to increase the take home pay of workers, to amend the Portal-to-Portal Act of 1947 relating to the payment of wages to employees who use employer owned vehicles, and to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rate and to prevent job loss by providing flexibility to employers in complying with minimum wage and overtime requirements under that Act.

Aug. 20, 1996
[H.R. 3448]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Small Business Job Protection Act of 1996.
26 USC 1 note.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Small Business Job Protection Act of 1996".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.

TITLE I—SMALL BUSINESS AND OTHER TAX PROVISIONS

Sec. 1101. Amendment of 1986 Code.
Sec. 1102. Underpayments of estimated tax.

Subtitle A—Expensing; Etc.

Sec. 1111. Increase in expense treatment for small businesses.
Sec. 1112. Treatment of employee tips.
Sec. 1113. Treatment of storage of product samples.
Sec. 1114. Treatment of certain charitable risk pools.
Sec. 1115. Treatment of dues paid to agricultural or horticultural organizations.
Sec. 1116. Clarification of employment tax status of certain fishermen.
Sec. 1117. Modifications of tax-exempt bond rules for first-time farmers.
Sec. 1118. Newspaper distributors treated as direct sellers.
Sec. 1119. Application of involuntary conversion rules to presidentially declared disasters.
Sec. 1120. Class life for gas station convenience stores and similar structures.
Sec. 1121. Treatment of abandonment of lessor improvements at termination of lease.
Sec. 1122. Special rules relating to determination whether individuals are employees for purposes of employment taxes.
Sec. 1123. Treatment of housing provided to employees by academic health centers.

Subtitle B—Extension of Certain Expiring Provisions

Sec. 1201. Work opportunity tax credit.
Sec. 1202. Employer-provided educational assistance programs.
Sec. 1203. FUTA exemption for alien agricultural workers.
Sec. 1204. Research credit.
Sec. 1205. Orphan drug tax credit.
Sec. 1206. Contributions of stock to private foundations.
Sec. 1207. Extension of binding contract date for biomass and coal facilities.
Sec. 1208. Moratorium for excise tax on diesel fuel sold for use or used in diesel-powered motorboats.

Subtitle C—Provisions Relating to S Corporations

Sec. 1301. S corporations permitted to have 75 shareholders.
Sec. 1302. Electing small business trusts.

Sec. 1303. Expansion of post-death qualification for certain trusts.
Sec. 1304. Financial institutions permitted to hold safe harbor debt.
Sec. 1305. Rules relating to inadvertent terminations and invalid elections.
Sec. 1306. Agreement to terminate year.
Sec. 1307. Expansion of post-termination transition period.
Sec. 1308. S corporations permitted to hold subsidiaries.
Sec. 1309. Treatment of distributions during loss years.
Sec. 1310. Treatment of S corporations under subchapter C.
Sec. 1311. Elimination of certain earnings and profits.
Sec. 1312. Carryover of disallowed losses and deductions under at-risk rules allowed.
Sec. 1313. Adjustments to basis of inherited S stock to reflect certain items of income.
Sec. 1314. S corporations eligible for rules applicable to real property subdivided for sale by noncorporate taxpayers.
Sec. 1315. Financial institutions.
Sec. 1316. Certain exempt organizations allowed to be shareholders.
Sec. 1317. Effective date.

Subtitle D—Pension Simplification

CHAPTER 1—SIMPLIFIED DISTRIBUTION RULES

Sec. 1401. Repeal of 5-year income averaging for lump-sum distributions.
Sec. 1402. Repeal of $5,000 exclusion of employees' death benefits.
Sec. 1403. Simplified method for taxing annuity distributions under certain employer plans.
Sec. 1404. Required distributions.

CHAPTER 2—INCREASED ACCESS TO RETIREMENT PLANS

SUBCHAPTER A—SIMPLE SAVINGS PLANS

Sec. 1421. Establishment of savings incentive match plans for employees of small employers.
Sec. 1422. Extension of simple plan to 401(k) arrangements.

SUBCHAPTER B—OTHER PROVISIONS

Sec. 1426. Tax-exempt organizations eligible under section 401(k).
Sec. 1427. Homemakers eligible for full IRA deduction.

CHAPTER 3—NONDISCRIMINATION PROVISIONS

Sec. 1431. Definition of highly compensated employees; repeal of family aggregation.
Sec. 1432. Modification of additional participation requirements.
Sec. 1433. Nondiscrimination rules for qualified cash or deferred arrangements and matching contributions.
Sec. 1434. Definition of compensation for section 415 purposes.

CHAPTER 4—MISCELLANEOUS PROVISIONS

Sec. 1441. Plans covering self-employed individuals.
Sec. 1442. Elimination of special vesting rule for multiemployer plans.
Sec. 1443. Distributions under rural cooperative plans.
Sec. 1444. Treatment of governmental plans under section 415.
Sec. 1445. Uniform retirement age.
Sec. 1446. Contributions on behalf of disabled employees.
Sec. 1447. Treatment of deferred compensation plans of State and local governments and tax-exempt organizations.
Sec. 1448. Trust requirement for deferred compensation plans of State and local governments.
Sec. 1449. Transition rule for computing maximum benefits under section 415 limitations.
Sec. 1450. Modifications of section 403(b).
Sec. 1451. Special rules relating to joint and survivor annuity explanations.
Sec. 1452. Repeal of limitation in case of defined benefit plan and defined contribution plan for same employee; excess distributions.
Sec. 1453. Tax on prohibited transactions.
Sec. 1454. Treatment of leased employees.
Sec. 1455. Uniform penalty provisions to apply to certain pension reporting requirements.
Sec. 1456. Retirement benefits of ministers not subject to tax on net earnings from self-employment.
Sec. 1457. Sample language for spousal consent and qualified domestic relations forms.

Sec. 1458. Treatment of length of service awards to volunteers performing fire fighting or prevention services, emergency medical services, or ambulance services.
Sec. 1459. Alternative nondiscrimination rules for certain plans that provide for early participation.
Sec. 1460. Clarification of application of ERISA to insurance company general accounts.
Sec. 1461. Special rules for chaplains and self-employed ministers.
Sec. 1462. Definition of highly compensated employee for pre-ERISA rules for church plans.
Sec. 1463. Rule relating to investment in contract not to apply to foreign missionaries.
Sec. 1464. Waiver of excise tax on failure to pay liquidity shortfall.
Sec. 1465. Date for adoption of plan amendments.

Subtitle E—Foreign Simplification

Sec. 1501. Repeal of inclusion of certain earnings invested in excess passive assets.

Subtitle F—Revenue Offsets

PART I—GENERAL PROVISIONS

Sec. 1601. Modifications of Puerto Rico and possession tax credit.
Sec. 1602. Repeal of exclusion for interest on loans used to acquire employer securities.
Sec. 1603. Certain amounts derived from foreign corporations treated as unrelated business taxable income.
Sec. 1604. Depreciation under income forecast method.
Sec. 1605. Repeal of exclusion for punitive damages and for damages not attributable to physical injuries or sickness.
Sec. 1606. Repeal of diesel fuel tax rebate to purchasers of diesel-powered automobiles and light trucks.
Sec. 1607. Extension and phasedown of luxury passenger automobile tax.
Sec. 1608. Termination of future tax-exempt bond financing for local furnishers of electricity and gas.
Sec. 1609. Extension of Airport and Airway Trust Fund excise taxes.
Sec. 1610. Basis adjustment to property held by corporation where stock in corporation is replacement property under involuntary conversion rules.
Sec. 1611. Treatment of certain insurance contracts on retired lives.
Sec. 1612. Treatment of modified guaranteed contracts.
Sec. 1613. Treatment of contributions in aid of construction.
Sec. 1614. Election to cease status as qualified scholarship funding corporation.
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Sec. 1616. Repeal of bad debt reserve method for thrift savings associations.
Sec. 1617. Exclusion for energy conservation subsidies limited to subsidies with respect to dwelling units.

PART II—FINANCIAL ASSET SECURITIZATION INVESTMENTS

Sec. 1621. Financial Asset Securitization Investment Trusts.

Subtitle G—Technical Corrections

Sec. 1701. Coordination with other subtitles.
Sec. 1702. Amendments related to Revenue Reconciliation Act of 1990.
Sec. 1703. Amendments related to Revenue Reconciliation Act of 1993.
Sec. 1704. Miscellaneous provisions.

Subtitle H—Other Provisions

Sec. 1801. Exemption from diesel fuel dyeing requirements with respect to certain States.
Sec. 1802. Treatment of certain university accounts.
Sec. 1803. Modifications to excise tax on ozone-depleting chemicals.
Sec. 1804. Tax-exempt bonds for sale of Alaska Power Administration facility.
Sec. 1805. Nonrecognition treatment for certain transfers by common trust funds to regulated investment companies.
Sec. 1806. Qualified State tuition programs.
Sec. 1807. Adoption assistance.
Sec. 1808. Removal of barriers to interethnic adoption.
Sec. 1809. 6-month delay of electronic fund transfer requirement.

Subtitle I—Foreign Trust Tax Compliance

Sec. 1901. Improved information reporting on foreign trusts.

Sec. 1902. Comparable penalties for failure to file return relating to transfers to foreign entities.
Sec. 1903. Modifications of rules relating to foreign trusts having one or more United States beneficiaries.
Sec. 1904. Foreign persons not to be treated as owners under grantor trust rules.
Sec. 1905. Information reporting regarding foreign gifts.
Sec. 1906. Modification of rules relating to foreign trusts which are not grantor trusts.
Sec. 1907. Residence of trusts, etc.

Subtitle J—Generalized System of Preferences

Sec. 1951. Short title.
Sec. 1952. Generalized System of Preferences.
Sec. 1953. Effective date.
Sec. 1954. Conforming amendments.

TITLE II—PAYMENT OF WAGES

Sec. 2101. Short title.
Sec. 2102. Proper compensation for use of employer vehicles.
Sec. 2103. Effective date.
Sec. 2104. Minimum wage increase.
Sec. 2105. Fair Labor Standards Act Amendments.

TITLE I—SMALL BUSINESS AND OTHER TAX PROVISIONS

SEC. 1101. AMENDMENT OF 1986 CODE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

26 USC 6654 note.

SEC. 1102. UNDERPAYMENTS OF ESTIMATED TAX.

No addition to the tax shall be made under section 6654 or 6655 of the Internal Revenue Code of 1986 (relating to failure to pay estimated tax) with respect to any underpayment of an installment required to be paid before the date of the enactment of this Act to the extent such underpayment was created or increased by any provision of this title.

Subtitle A—Expensing; Etc.

SEC. 1111. INCREASE IN EXPENSE TREATMENT FOR SMALL BUSINESSES.

26 USC 179.

(a) GENERAL RULE.—Paragraph (1) of section 179(b) (relating to dollar limitation) is amended to read as follows:

"(1) DOLLAR LIMITATION.—The aggregate cost which may be taken into account under subsection (a) for any taxable year shall not exceed the following applicable amount:

"If the taxable year begins in:	The applicable amount is:
1997	18,000
1998	18,500
1999	19,000
2000	20,000
2001 or 2002	24,000
2003 or thereafter	25,000.".

26 USC 179 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1996.

SEC. 1112. TREATMENT OF EMPLOYEE TIPS.

(a) EMPLOYEE CASH TIPS.—

(1) REPORTING REQUIREMENT NOT CONSIDERED.—Subparagraph (A) of section 45B(b)(1) (relating to excess employer social security tax) is amended by inserting "(without regard to whether such tips are reported under section 6053)" after "section 3121(q)".

(2) TAXES PAID.—Subsection (d) of section 13443 of the Revenue Reconciliation Act of 1993 is amended by inserting ", with respect to services performed before, on, or after such date" after "1993". 26 USC 38 note.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect as if included in the amendments made by, and the provisions of, section 13443 of the Revenue Reconciliation Act of 1993. 26 USC 45B note.

(b) TIPS FOR EMPLOYEES DELIVERING FOOD OR BEVERAGES.—

(1) IN GENERAL.—Paragraph (2) of section 45B(b) is amended to read as follows:

"(2) ONLY TIPS RECEIVED FOR FOOD OR BEVERAGES TAKEN INTO ACCOUNT.—In applying paragraph (1), there shall be taken into account only tips received from customers in connection with the providing, delivering, or serving of food or beverages for consumption if the tipping of employees delivering or serving food or beverages by customers is customary.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to tips received for services performed after December 31, 1996. 26 USC 45B note.

SEC. 1113. TREATMENT OF STORAGE OF PRODUCT SAMPLES.

(a) IN GENERAL.—Paragraph (2) of section 280A(c) is amended by striking "inventory" and inserting "inventory or product samples".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1995. 26 USC 280A note.

SEC. 1114. TREATMENT OF CERTAIN CHARITABLE RISK POOLS.

(a) GENERAL RULE.—Section 501 (relating to exemption from tax on corporations, certain trusts, etc.) is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

"(n) CHARITABLE RISK POOLS.—

"(1) IN GENERAL.—For purposes of this title—

"(A) a qualified charitable risk pool shall be treated as an organization organized and operated exclusively for charitable purposes, and

"(B) subsection (m) shall not apply to a qualified charitable risk pool.

"(2) QUALIFIED CHARITABLE RISK POOL.—For purposes of this subsection, the term 'qualified charitable risk pool' means any organization—

"(A) which is organized and operated solely to pool insurable risks of its members (other than risks related to medical malpractice) and to provide information to its members with respect to loss control and risk management,

"(B) which is comprised solely of members that are organizations described in subsection (c)(3) and exempt from tax under subsection (a), and

"(C) which meets the organizational requirements of paragraph (3).

"(3) ORGANIZATIONAL REQUIREMENTS.—An organization (hereinafter in this subsection referred to as the 'risk pool') meets the organizational requirements of this paragraph if—

"(A) such risk pool is organized as a nonprofit organization under State law provisions authorizing risk pooling arrangements for charitable organizations,

"(B) such risk pool is exempt from any income tax imposed by the State (or will be so exempt after such pool qualifies as an organization exempt from tax under this title),

"(C) such risk pool has obtained at least $1,000,000 in startup capital from nonmember charitable organizations,

"(D) such risk pool is controlled by a board of directors elected by its members, and

"(E) the organizational documents of such risk pool require that—

"(i) each member of such pool shall at all times be an organization described in subsection (c)(3) and exempt from tax under subsection (a),

"(ii) any member which receives a final determination that it no longer qualifies as an organization described in subsection (c)(3) shall immediately notify the pool of such determination and the effective date of such determination, and

"(iii) each policy of insurance issued by the risk pool shall provide that such policy will not cover the insured with respect to events occurring after the date such final determination was issued to the insured.

An organization shall not cease to qualify as a qualified charitable risk pool solely by reason of the failure of any of its members to continue to be an organization described in subsection (c)(3) if, within a reasonable period of time after such pool is notified as required under subparagraph (C)(ii), such pool takes such action as may be reasonably necessary to remove such member from such pool.

"(4) OTHER DEFINITIONS.—For purposes of this subsection—

"(A) STARTUP CAPITAL.—The term 'startup capital' means any capital contributed to, and any program-related investments (within the meaning of section 4944(c)) made in, the risk pool before such pool commences operations.

"(B) NONMEMBER CHARITABLE ORGANIZATION.—The term 'nonmember charitable organization' means any organization which is described in subsection (c)(3) and exempt from tax under subsection (a) and which is not a member of the risk pool and does not benefit (directly or indirectly) from the insurance coverage provided by the pool to its members.".

26 USC 501 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 1115. TREATMENT OF DUES PAID TO AGRICULTURAL OR HORTICULTURAL ORGANIZATIONS.

(a) GENERAL RULE.—Section 512 (defining unrelated business taxable income) is amended by adding at the end the following new subsection:

"(d) TREATMENT OF DUES OF AGRICULTURAL OR HORTICULTURAL ORGANIZATIONS.—

"(1) IN GENERAL.—If—

"(A) an agricultural or horticultural organization described in section 501(c)(5) requires annual dues to be paid in order to be a member of such organization, and

"(B) the amount of such required annual dues does not exceed $100,

in no event shall any portion of such dues be treated as derived by such organization from an unrelated trade or business by reason of any benefits or privileges to which members of such organization are entitled.

"(2) INDEXATION OF $100 AMOUNT.—In the case of any taxable year beginning in a calendar year after 1995, the $100 amount in paragraph (1) shall be increased by an amount equal to—

"(A) $100, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, by substituting 'calendar year 1994' for 'calendar year 1992' in subparagraph (B) thereof.

"(3) DUES.—For purposes of this subsection, the term 'dues' means any payment (whether or not designated as dues) which is required to be made in order to be recognized by the organization as a member of the organization.".

(b) EFFECTIVE DATES.— 26 USC 512 note.

(1) IN GENERAL.—The amendment made by this section shall apply to taxable years beginning after December 31, 1986.

(2) TRANSITIONAL RULE.—If—

(A) for purposes of applying part III of subchapter F of chapter 1 of the Internal Revenue Code of 1986 to any taxable year beginning before January 1, 1987, an agricultural or horticultural organization did not treat any portion of membership dues received by it as income derived in an unrelated trade or business, and

(B) such organization had a reasonable basis for not treating such dues as income derived in an unrelated trade or business,

then, for purposes of applying such part III to any such taxable year, in no event shall any portion of such dues be treated as derived in an unrelated trade or business.

(3) REASONABLE BASIS.—For purposes of paragraph (2), an organization shall be treated as having a reasonable basis for not treating membership dues as income derived in an unrelated trade or business if the taxpayer's treatment of such dues was in reasonable reliance on any of the following:

(A) Judicial precedent, published rulings, technical advice with respect to the organization, or a letter ruling to the organization.

(B) A past Internal Revenue Service audit of the organization in which there was no assessment attributable

to the reclassification of membership dues for purposes of the tax on unrelated business income.

(C) Long-standing recognized practice of agricultural or horticultural organizations.

SEC. 1116. CLARIFICATION OF EMPLOYMENT TAX STATUS OF CERTAIN FISHERMEN.

(a) CLARIFICATION OF EMPLOYMENT TAX STATUS.—

(1) AMENDMENTS OF INTERNAL REVENUE CODE OF 1986.—

(A) DETERMINATION OF SIZE OF CREW.—Subsection (b) of section 3121 (defining employment) is amended by adding at the end the following new sentence:

"For purposes of paragraph (20), the operating crew of a boat shall be treated as normally made up of fewer than 10 individuals if the average size of the operating crew on trips made during the preceding 4 calendar quarters consisted of fewer than 10 individuals.".

(B) CERTAIN CASH REMUNERATION PERMITTED.—Subparagraph (A) of section 3121(b)(20) is amended to read as follows:

"(A) such individual does not receive any cash remuneration other than as provided in subparagraph (B) and other than cash remuneration—

"(i) which does not exceed $100 per trip;

"(ii) which is contingent on a minimum catch; and

"(iii) which is paid solely for additional duties (such as mate, engineer, or cook) for which additional cash remuneration is traditional in the industry,".

(C) CONFORMING AMENDMENT.—Section 6050A(a) is amended by striking "and" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting "; and", and by adding at the end the following new paragraph:

"(5) any cash remuneration described in section 3121(b)(20)(A).".

(2) AMENDMENT OF SOCIAL SECURITY ACT.—

(A) DETERMINATION OF SIZE OF CREW.—Subsection (a) of section 210 of the Social Security Act is amended by adding at the end the following new sentence:

42 USC 410.

"For purposes of paragraph (20), the operating crew of a boat shall be treated as normally made up of fewer than 10 individuals if the average size of the operating crew on trips made during the preceding 4 calendar quarters consisted of fewer than 10 individuals.".

(B) CERTAIN CASH REMUNERATION PERMITTED.—Subparagraph (A) of section 210(a)(20) of such Act is amended to read as follows:

"(A) such individual does not receive any additional compensation other than as provided in subparagraph (B) and other than cash remuneration—

"(i) which does not exceed $100 per trip;

"(ii) which is contingent on a minimum catch; and

"(iii) which is paid solely for additional duties (such as mate, engineer, or cook) for which additional cash remuneration is traditional in the industry,".

26 USC 3121 note.

(3) EFFECTIVE DATES.—

(A) IN GENERAL.—The amendments made by this subsection shall apply to remuneration paid—

(i) after December 31, 1994, and

(ii) after December 31, 1984, and before January 1, 1995, unless the payor treated such remuneration (when paid) as being subject to tax under chapter 21 of the Internal Revenue Code of 1986.

(B) REPORTING REQUIREMENT.—The amendment made by paragraph (1)(C) shall apply to remuneration paid after December 31, 1996.

(b) INFORMATION REPORTING.—

(1) IN GENERAL.—Subpart B of part III of subchapter A of chapter 68 (relating to information concerning transactions with other persons) is amended by inserting after section 6050Q the following new section:

"SEC. 6050R. RETURNS RELATING TO CERTAIN PURCHASES OF FISH.

"(a) REQUIREMENT OF REPORTING.—Every person—

"(1) who is engaged in the trade or business of purchasing fish for resale from any person engaged in the trade or business of catching fish; and

"(2) who makes payments in cash in the course of such trade or business to such a person of $600 or more during any calendar year for the purchase of fish,

shall make a return (at such times as the Secretary may prescribe) described in subsection (b) with respect to each person to whom such a payment was made during such calendar year.

"(b) RETURN.—A return is described in this subsection if such return—

"(1) is in such form as the Secretary may prescribe, and

"(2) contains—

"(A) the name, address, and TIN of each person to whom a payment described in subsection (a)(2) was made during the calendar year;

"(B) the aggregate amount of such payments made to such person during such calendar year and the date and amount of each such payment, and

"(C) such other information as the Secretary may require.

"(c) STATEMENT TO BE FURNISHED WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under subsection (a) shall furnish to each person whose name is required to be set forth in such return a written statement showing—

"(1) the name and address of the person required to make such a return, and

"(2) the aggregate amount of payments to the person required to be shown on the return.

The written statement required under the preceding sentence shall be furnished to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) is required to be made.

"(d) DEFINITIONS.—For purposes of this section:

"(1) CASH.—The term 'cash' has the meaning given such term by section 6050I(d).

"(2) FISH.—The term 'fish' includes other forms of aquatic life.".

(2) TECHNICAL AMENDMENTS.—

(A) Subparagraph (A) of section 6724(d)(1) is amended by striking "or" at the end of clause (vi), by striking "and" at the end of clause (vii) and inserting "or", and by adding at the end the following new clause:

"(viii) section 6050R (relating to returns relating to certain purchases of fish), and".

(B) Paragraph (2) of section 6724(d) is amended by redesignating subparagraphs (R) through (U) as subparagraphs (S) through (V), respectively, and by inserting after subparagraph (Q) the following new subparagraph:

"(R) section 6050R(c) (relating to returns relating to certain purchases of fish),".

(C) The table of sections for subpart B of part III of subchapter A of chapter 68 is amended by inserting after the item relating to 6050Q the following new item:

"Sec. 6050R. Returns relating to certain purchases of fish.".

26 USC 6050R note.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to payments made after December 31, 1997.

SEC. 1117. MODIFICATIONS OF TAX-EXEMPT BOND RULES FOR FIRST-TIME FARMERS.

(a) ACQUISITION FROM RELATED PERSON ALLOWED.—Section 147(c)(2) (relating to exception for first-time farmers) is amended by adding at the end the following new subparagraph:

"(G) ACQUISITION FROM RELATED PERSON.—For purposes of this paragraph and section 144(a), the acquisition by a first-time farmer of land or personal property from a related person (within the meaning of section 144(a)(3)) shall not be treated as an acquisition from a related person, if—

"(i) the acquisition price is for the fair market value of such land or property, and

"(ii) subsequent to such acquisition, the related person does not have a financial interest in the farming operation with respect to which the bond proceeds are to be used.".

(b) SUBSTANTIAL FARMLAND AMOUNT DOUBLED.—Clause (i) of section 147(c)(2)(E) (defining substantial farmland) is amended by striking "15 percent" and inserting "30 percent".

26 USC 147 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act.

SEC. 1118. NEWSPAPER DISTRIBUTORS TREATED AS DIRECT SELLERS.

(a) IN GENERAL.—Section 3508(b)(2)(A) is amended by striking "or" at the end of clause (i), by inserting "or" at the end of clause (ii), and by inserting after clause (ii) the following new clause:

"(iii) is engaged in the trade or business of the delivering or distribution of newspapers or shopping news (including any services directly related to such trade or business),".

26 USC 3508 note.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to services performed after December 31, 1995.

SEC. 1119. APPLICATION OF INVOLUNTARY CONVERSION RULES TO PRESIDENTIALLY DECLARED DISASTERS.

(a) IN GENERAL.—Section 1033(h) is amended by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and by inserting after paragraph (1) the following new paragraph:

"(2) TRADE OR BUSINESS AND INVESTMENT PROPERTY.—If a taxpayer's property held for productive use in a trade or business or for investment is compulsorily or involuntarily converted as a result of a Presidentially declared disaster, tangible property of a type held for productive use in a trade or business shall be treated for purposes of subsection (a) as property similar or related in service or use to the property so converted.".

(b) CONFORMING AMENDMENTS.—Section 1033(h) is amended—

(1) by striking "residence" in paragraph (3) (as redesignated by subsection (a)) and inserting "property",

(2) by striking "PRINCIPAL RESIDENCES" in the heading and inserting "PROPERTY", and

(3) by striking "(1) IN GENERAL.—" and inserting "(1) PRINCIPAL RESIDENCES.—".

(c) EXPANSION OF OKLAHOMA CITY ENTERPRISE COMMUNITY.—Notwithstanding sections 1391 and 1392(a)(3)(D) of the Internal Revenue Code of 1986, the boundaries of the enterprise community for Oklahoma City, Oklahoma, designated by the Secretary of Housing and Urban Development on December 21, 1994, may be extended with respect to census tracts located in the area damaged due to the bombing of the Alfred P. Murrah Federal Building in Oklahoma City on April 19, 1995, primarily in the area bounded on the south by Robert S. Kerr Avenue, on the north by North 13th Street, on the east by Oklahoma Avenue, and on the west by Shartel Avenue.

(d) EFFECTIVE DATE.— 26 USC 1033 note.

(1) IN GENERAL.—The amendments made by this section shall apply to disasters declared after December 31, 1994, in taxable years ending after such date.

(2) SUBSECTION (c).—Subsection (c) shall take effect on the date of the enactment of this Act.

SEC. 1120. CLASS LIFE FOR GAS STATION CONVENIENCE STORES AND SIMILAR STRUCTURES.

(a) IN GENERAL.—Section 168(e)(3)(E) (classifying certain property as 15-year property) is amended by striking "and" at the end of clause (i), by striking the period at the end of clause (ii) and inserting ", and", and by adding at the end the following new clause:

"(iii) any section 1250 property which is a retail motor fuels outlet (whether or not food or other convenience items are sold at the outlet).".

(b) CONFORMING AMENDMENT.—Subparagraph (B) of section 168(g)(3) is amended by inserting after the item relating to subparagraph (E)(ii) in the table contained therein the following new item:

"(E)(iii)..... 20".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property which is placed in service on or after the date of the enactment of this Act and to which section 168 of the Internal Revenue Code of 1986 applies after the amendment made by section 201 of the Tax Reform Act of 1986. A taxpayer 26 USC 168 note.

may elect (in such form and manner as the Secretary of the Treasury may prescribe) to have such amendments apply with respect to any property placed in service before such date and to which such section so applies.

SEC. 1121. TREATMENT OF ABANDONMENT OF LESSOR IMPROVEMENTS AT TERMINATION OF LEASE.

(a) IN GENERAL.—Paragraph (8) of section 168(i) is amended to read as follows:

"(8) TREATMENT OF LEASEHOLD IMPROVEMENTS.—

"(A) IN GENERAL.—In the case of any building erected (or improvements made) on leased property, if such building or improvement is property to which this section applies, the depreciation deduction shall be determined under the provisions of this section.

"(B) TREATMENT OF LESSOR IMPROVEMENTS WHICH ARE ABANDONED AT TERMINATION OF LEASE.—An improvement—

"(i) which is made by the lessor of leased property for the lessee of such property, and

"(ii) which is irrevocably disposed of or abandoned by the lessor at the termination of the lease by such lessee,

shall be treated for purposes of determining gain or loss under this title as disposed of by the lessor when so disposed of or abandoned.".

26 USC 168 note.

(b) EFFECTIVE DATE.—Subparagraph (B) of section 168(i)(8) of the Internal Revenue Code of 1986, as added by the amendment made by subsection (a), shall apply to improvements disposed of or abandoned after June 12, 1996.

SEC. 1122. SPECIAL RULES RELATING TO DETERMINATION WHETHER INDIVIDUALS ARE EMPLOYEES FOR PURPOSES OF EMPLOYMENT TAXES.

26 USC 3401 note.

(a) IN GENERAL.—Section 530 of the Revenue Act of 1978 is amended by adding at the end the following new subsection:

"(e) SPECIAL RULES FOR APPLICATION OF SECTION.—

"(1) NOTICE OF AVAILABILITY OF SECTION.—An officer or employee of the Internal Revenue Service shall, before or at the commencement of any audit inquiry relating to the employment status of one or more individuals who perform services for the taxpayer, provide the taxpayer with a written notice of the provisions of this section.

"(2) RULES RELATING TO STATUTORY STANDARDS.—For purposes of subsection (a)(2)—

"(A) a taxpayer may not rely on an audit commenced after December 31, 1996, for purposes of subparagraph (B) thereof unless such audit included an examination for employment tax purposes of whether the individual involved (or any individual holding a position substantially similar to the position held by the individual involved) should be treated as an employee of the taxpayer,

"(B) in no event shall the significant segment requirement of subparagraph (C) thereof be construed to require a reasonable showing of the practice of more than 25 percent of the industry (determined by not taking into account the taxpayer), and

"(C) in applying the long-standing recognized practice requirement of subparagraph (C) thereof—

"(i) such requirement shall not be construed as requiring the practice to have continued for more than 10 years, and

"(ii) a practice shall not fail to be treated as long-standing merely because such practice began after 1978.

"(3) AVAILABILITY OF SAFE HARBORS.—Nothing in this section shall be construed to provide that subsection (a) only applies where the individual involved is otherwise an employee of the taxpayer.

"(4) BURDEN OF PROOF.—

"(A) IN GENERAL.—If—

"(i) a taxpayer establishes a prima facie case that it was reasonable not to treat an individual as an employee for purposes of this section, and

"(ii) the taxpayer has fully cooperated with reasonable requests from the Secretary of the Treasury or his delegate,

then the burden of proof with respect to such treatment shall be on the Secretary.

"(B) EXCEPTION FOR OTHER REASONABLE BASIS.—In the case of any issue involving whether the taxpayer had a reasonable basis not to treat an individual as an employee for purposes of this section, subparagraph (A) shall only apply for purposes of determining whether the taxpayer meets the requirements of subparagraph (A), (B), or (C) of subsection (a)(2).

"(5) PRESERVATION OF PRIOR PERIOD SAFE HARBOR.—If—

"(A) an individual would (but for the treatment referred to in subparagraph (B)) be deemed not to be an employee of the taxpayer under subsection (a) for any prior period, and

"(B) such individual is treated by the taxpayer as an employee for employment tax purposes for any subsequent period,

then, for purposes of applying such taxes for such prior period with respect to the taxpayer, the individual shall be deemed not to be an employee.

"(6) SUBSTANTIALLY SIMILAR POSITION.—For purposes of this section, the determination as to whether an individual holds a position substantially similar to a position held by another individual shall include consideration of the relationship between the taxpayer and such individuals.".

(b) EFFECTIVE DATES.— 26 USC 3401 note.

(1) IN GENERAL.—The amendment made by this section shall apply to periods after December 31, 1996.

(2) NOTICE BY INTERNAL REVENUE SERVICE.—Section 530(e)(1) of the Revenue Act of 1978 (as added by subsection (a)) shall apply to audits which commence after December 31, 1996.

(3) BURDEN OF PROOF.—

(A) IN GENERAL.—Section 530(e)(4) of the Revenue Act of 1978 (as added by subsection (a)) shall apply to disputes involving periods after December 31, 1996.

(B) NO INFERENCE.—Nothing in the amendments made by this section shall be construed to infer the proper treat-

ment of the burden of proof with respect to disputes involving periods before January 1, 1997.

SEC. 1123. TREATMENT OF HOUSING PROVIDED TO EMPLOYEES BY ACADEMIC HEALTH CENTERS.

(a) IN GENERAL.—Paragraph (4) of section 119(d) (relating to lodging furnished by certain educational institutions to employees) is amended to read as follows:

"(4) EDUCATIONAL INSTITUTION, ETC.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'educational institution' means—

"(i) an institution described in section 170(b)(1)(A)(ii) (or an entity organized under State law and composed of public institutions so described), or

"(ii) an academic health center.

"(B) ACADEMIC HEALTH CENTER.—For purposes of subparagraph (A), the term 'academic health center' means an entity—

"(i) which is described in section 170(b)(1)(A)(iii),

"(ii) which receives (during the calendar year in which the taxable year of the taxpayer begins) payments under subsection (d)(5)(B) or (h) of section 1886 of the Social Security Act (relating to graduate medical education), and

"(iii) which has as one of its principal purposes or functions the providing and teaching of basic and clinical medical science and research with the entity's own faculty.".

26 USC 119 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1995.

Subtitle B—Extension of Certain Expiring Provisions

SEC. 1201. WORK OPPORTUNITY TAX CREDIT.

(a) AMOUNT OF CREDIT.—Subsection (a) of section 51 (relating to amount of credit) is amended by striking "40 percent" and inserting "35 percent".

(b) MEMBERS OF TARGETED GROUPS.—Subsection (d) of section 51 is amended to read as follows:

"(d) MEMBERS OF TARGETED GROUPS.—For purposes of this subpart—

"(1) IN GENERAL.—An individual is a member of a targeted group if such individual is—

"(A) a qualified IV–A recipient,

"(B) a qualified veteran,

"(C) a qualified ex-felon,

"(D) a high-risk youth,

"(E) a vocational rehabilitation referral,

"(F) a qualified summer youth employee, or

"(G) a qualified food stamp recipient.

"(2) QUALIFIED IV–A RECIPIENT.—

"(A) IN GENERAL.—The term 'qualified IV–A recipient' means any individual who is certified by the designated local agency as being a member of a family receiving assist-

ance under a IV–A program for at least a 9-month period ending during the 9-month period ending on the hiring date.

"(B) IV–A PROGRAM.—For purposes of this paragraph, the term 'IV–A program' means any program providing assistance under a State plan approved under part A of title IV of the Social Security Act (relating to assistance for needy families with minor children) and any successor of such program.

"(3) QUALIFIED VETERAN.—

"(A) IN GENERAL.—The term 'qualified veteran' means any veteran who is certified by the designated local agency as being—

"(i) a member of a family receiving assistance under a IV–A program (as defined in paragraph (2)(B)) for at least a 9-month period ending during the 12-month period ending on the hiring date, or

"(ii) a member of a family receiving assistance under a food stamp program under the Food Stamp Act of 1977 for at least a 3-month period ending during the 12-month period ending on the hiring date.

"(B) VETERAN.—For purposes of subparagraph (A), the term 'veteran' means any individual who is certified by the designated local agency as—

"(i)(I) having served on active duty (other than active duty for training) in the Armed Forces of the United States for a period of more than 180 days, or

"(II) having been discharged or released from active duty in the Armed Forces of the United States for a service-connected disability, and

"(ii) not having any day during the 60-day period ending on the hiring date which was a day of extended active duty in the Armed Forces of the United States.

For purposes of clause (ii), the term 'extended active duty' means a period of more than 90 days during which the individual was on active duty (other than active duty for training).

"(4) QUALIFIED EX-FELON.—The term 'qualified ex-felon' means any individual who is certified by the designated local agency—

"(A) as having been convicted of a felony under any statute of the United States or any State,

"(B) as having a hiring date which is not more than 1 year after the last date on which such individual was so convicted or was released from prison, and

"(C) as being a member of a family which had an income during the 6 months immediately preceding the earlier of the month in which such income determination occurs or the month in which the hiring date occurs, which, on an annual basis, would be 70 percent or less of the Bureau of Labor Statistics lower living standard.

Any determination under subparagraph (C) shall be valid for the 45-day period beginning on the date such determination is made.

"(5) HIGH-RISK YOUTH.—

"(A) IN GENERAL.—The term 'high-risk youth' means any individual who is certified by the designated local agency—

"(i) as having attained age 18 but not age 25 on the hiring date, and

"(ii) as having his principal place of abode within an empowerment zone or enterprise community.

"(B) YOUTH MUST CONTINUE TO RESIDE IN ZONE.—In the case of a high-risk youth, the term 'qualified wages' shall not include wages paid or incurred for services performed while such youth's principal place of abode is outside an empowerment zone or enterprise community.

"(6) VOCATIONAL REHABILITATION REFERRAL.—The term 'vocational rehabilitation referral' means any individual who is certified by the designated local agency as—

"(A) having a physical or mental disability which, for such individual, constitutes or results in a substantial handicap to employment, and

"(B) having been referred to the employer upon completion of (or while receiving) rehabilitative services pursuant to—

"(i) an individualized written rehabilitation plan under a State plan for vocational rehabilitation services approved under the Rehabilitation Act of 1973, or

"(ii) a program of vocational rehabilitation carried out under chapter 31 of title 38, United States Code.

"(7) QUALIFIED SUMMER YOUTH EMPLOYEE.—

"(A) IN GENERAL.—The term 'qualified summer youth employee' means any individual—

"(i) who performs services for the employer between May 1 and September 15,

"(ii) who is certified by the designated local agency as having attained age 16 but not 18 on the hiring date (or if later, on May 1 of the calendar year involved),

"(iii) who has not been an employee of the employer during any period prior to the 90-day period described in subparagraph (B)(i), and

"(iv) who is certified by the designated local agency as having his principal place of abode within an empowerment zone or enterprise community.

"(B) SPECIAL RULES FOR DETERMINING AMOUNT OF CREDIT.—For purposes of applying this subpart to wages paid or incurred to any qualified summer youth employee—

"(i) subsection (b)(2) shall be applied by substituting 'any 90-day period between May 1 and September 15' for 'the 1-year period beginning with the day the individual begins work for the employer', and

"(ii) subsection (b)(3) shall be applied by substituting '$3,000' for '$6,000'.

The preceding sentence shall not apply to an individual who, with respect to the same employer, is certified as a member of another targeted group after such individual has been a qualified summer youth employee.

"(C) YOUTH MUST CONTINUE TO RESIDE IN ZONE.—Paragraph (5)(B) shall apply for purposes of subparagraph (A)(iv).

"(8) QUALIFIED FOOD STAMP RECIPIENT.—

"(A) IN GENERAL.—The term 'qualified food stamp recipient' means any individual who is certified by the designated local agency—

"(i) as having attained age 18 but not age 25 on the hiring date, and

"(ii) as being a member of a family—

"(I) receiving assistance under a food stamp program under the Food Stamp Act of 1977 for the 6-month period ending on the hiring date, or

"(II) receiving such assistance for at least 3 months of the 5-month period ending on the hiring date, in the case of a member of a family who ceases to be eligible for such assistance under section 6(o) of the Food Stamp Act of 1977.

"(B) PARTICIPATION INFORMATION.—Notwithstanding any other provision of law, the Secretary of the Treasury and the Secretary of Agriculture shall enter into an agreement to provide information to designated local agencies with respect to participation in the food stamp program. Contracts.

"(9) HIRING DATE.—The term 'hiring date' means the day the individual is hired by the employer.

"(10) DESIGNATED LOCAL AGENCY.—The term 'designated local agency' means a State employment security agency established in accordance with the Act of June 6, 1933, as amended (29 U.S.C. 49–49n).

"(11) SPECIAL RULES FOR CERTIFICATIONS.—

"(A) IN GENERAL.—An individual shall not be treated as a member of a targeted group unless—

"(i) on or before the day on which such individual begins work for the employer, the employer has received a certification from a designated local agency that such individual is a member of a targeted group, or

"(ii)(I) on or before the day the individual is offered employment with the employer, a pre-screening notice is completed by the employer with respect to such individual, and

"(II) not later than the 21st day after the individual begins work for the employer, the employer submits such notice, signed by the employer and the individual under penalties of perjury, to the designated local agency as part of a written request for such a certification from such agency.

For purposes of this paragraph, the term 'pre-screening notice' means a document (in such form as the Secretary shall prescribe) which contains information provided by the individual on the basis of which the employer believes that the individual is a member of a targeted group.

"(B) INCORRECT CERTIFICATIONS.—If—

"(i) an individual has been certified by a designated local agency as a member of a targeted group, and

"(ii) such certification is incorrect because it was based on false information provided by such individual,

the certification shall be revoked and wages paid by the employer after the date on which notice of revocation is

received by the employer shall not be treated as qualified wages.

"(C) EXPLANATION OF DENIAL OF REQUEST.—If a designated local agency denies a request for certification of membership in a targeted group, such agency shall provide to the person making such request a written explanation of the reasons for such denial.".

(c) MINIMUM EMPLOYMENT PERIOD.—Paragraph (3) of section 51(i) (relating to certain individuals ineligible) is amended to read as follows:

"(3) INDIVIDUALS NOT MEETING MINIMUM EMPLOYMENT PERIOD.—No wages shall be taken into account under subsection (a) with respect to any individual unless such individual either—

"(A) is employed by the employer at least 180 days (20 days in the case of a qualified summer youth employee), or

"(B) has completed at least 400 hours (120 hours in the case of a qualified summer youth employee) of services performed for the employer.".

(d) TERMINATION.—Paragraph (4) of section 51(c) (relating to wages defined) is amended to read as follows:

"(4) TERMINATION.—The term 'wages' shall not include any amount paid or incurred to an individual who begins work for the employer—

"(A) after December 31, 1994, and before October 1, 1996, or

"(B) after September 30, 1997.".

(e) REDESIGNATION OF CREDIT.—

(1) Sections 38(b)(2), 41(b)(2)(D)(iii), 45A(b)(1)(B), 51 (a) and (g), and 196(c) are each amended in the text by striking "targeted jobs credit" each place it appears and inserting "work opportunity credit".

(2) The subpart heading for subpart F of part IV of subchapter A of chapter 1 is amended by striking "**Targeted Jobs Credit**" and inserting "**Work Opportunity Credit**".

(3) The table of subparts for such part IV is amended by striking "targeted jobs credit" and inserting "work opportunity credit".

(4) The headings for sections 41(b)(2)(D)(iii) and 1396(c)(3) are each amended by striking "TARGETED JOBS CREDIT" and inserting "WORK OPPORTUNITY CREDIT".

(5) The heading for subsection (j) of section 51 is amended by striking "TARGETED JOBS CREDIT" and inserting "WORK OPPORTUNITY CREDIT".

(f) TECHNICAL AMENDMENT.—Paragraph (1) of section 51(c) is amended by striking ", subsection (d)(8)(D),".

26 USC 38 note.

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to individuals who begin work for the employer after September 30, 1996.

SEC. 1202. EMPLOYER-PROVIDED EDUCATIONAL ASSISTANCE PROGRAMS.

(a) EXTENSION.—Subsection (d) of section 127 (relating to educational assistance programs) is amended by striking "December 31, 1994." and inserting "May 31, 1997. In the case of any taxable year beginning in 1997, only expenses paid with respect to courses

beginning before July 1, 1997, shall be taken into account in determining the amount excluded under this section.".

(b) LIMITATION TO EDUCATION BELOW GRADUATE LEVEL.—The last sentence of section 127(c)(1) is amended by inserting before the period the following: ", and such term also does not include any payment for, or the provision of any benefits with respect to, any graduate level course of a kind normally taken by an individual pursuing a program leading to a law, business, medical, or other advanced academic or professional degree".

(c) EFFECTIVE DATES.— 26 USC 127 note.

(1) EXTENSION.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1994.

(2) GRADUATE EDUCATION.—The amendment made by subsection (b) shall apply with respect to expenses relating to courses beginning after June 30, 1996.

(3) EXPEDITED PROCEDURES.—The Secretary of the Treasury shall establish expedited procedures for the refund of any overpayment of taxes imposed by the Internal Revenue Code of 1986 which is attributable to amounts excluded from gross income during 1995 or 1996 under section 127 of such Code, including procedures waiving the requirement that an employer obtain an employee's signature where the employer demonstrates to the satisfaction of the Secretary that any refund collected by the employer on behalf of the employee will be paid to the employee.

SEC. 1203. FUTA EXEMPTION FOR ALIEN AGRICULTURAL WORKERS.

(a) IN GENERAL.—Subparagraph (B) of section 3306(c)(1) (defining employment) is amended by striking "before January 1, 1995,".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services performed after December 31, 1994.

SEC. 1204. RESEARCH CREDIT.

(a) IN GENERAL.—Subsection (h) of section 41 (relating to credit for research activities) is amended to read as follows:

"(h) TERMINATION.—

"(1) IN GENERAL.—This section shall not apply to any amount paid or incurred—

"(A) after June 30, 1995, and before July 1, 1996, or

"(B) after May 31, 1997.

Notwithstanding the preceding sentence, in the case of a taxpayer making an election under subsection (c)(4) for its first taxable year beginning after June 30, 1996, and before July 1, 1997, this section shall apply to amounts paid or incurred during the first 11 months of such taxable year.

"(2) COMPUTATION OF BASE AMOUNT.—In the case of any taxable year with respect to which this section applies to a number of days which is less than the total number of days in such taxable year, the base amount with respect to such taxable year shall be the amount which bears the same ratio to the base amount for such year (determined without regard to this paragraph) as the number of days in such taxable year to which this section applies bears to the total number of days in such taxable year.".

(b) BASE AMOUNT FOR START-UP COMPANIES.—Clause (i) of section 41(c)(3)(B) (relating to start-up companies) is amended to read as follows:

"(i) TAXPAYERS TO WHICH SUBPARAGRAPH APPLIES.—The fixed-base percentage shall be determined under this subparagraph if—

"(I) the first taxable year in which a taxpayer had both gross receipts and qualified research expenses begins after December 31, 1983, or

"(II) there are fewer than 3 taxable years beginning after December 31, 1983, and before January 1, 1989, in which the taxpayer had both gross receipts and qualified research expenses.".

(c) ELECTION OF ALTERNATIVE INCREMENTAL CREDIT.—Subsection (c) of section 41 is amended by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively, and by inserting after paragraph (3) the following new paragraph:

"(4) ELECTION OF ALTERNATIVE INCREMENTAL CREDIT.—

"(A) IN GENERAL.—At the election of the taxpayer, the credit determined under subsection (a)(1) shall be equal to the sum of—

"(i) 1.65 percent of so much of the qualified research expenses for the taxable year as exceeds 1 percent of the average described in subsection (c)(1)(B) but does not exceed 1.5 percent of such average,

"(ii) 2.2 percent of so much of such expenses as exceeds 1.5 percent of such average but does not exceed 2 percent of such average, and

"(iii) 2.75 percent of so much of such expenses as exceeds 2 percent of such average.

"(B) ELECTION.—An election under this paragraph may be made only for the first taxable year of the taxpayer beginning after June 30, 1996. Such an election shall apply to the taxable year for which made and all succeeding taxable years unless revoked with the consent of the Secretary.".

(d) INCREASED CREDIT FOR CONTRACT RESEARCH EXPENSES WITH RESPECT TO CERTAIN RESEARCH CONSORTIA.—Paragraph (3) of section 41(b) is amended by adding at the end the following new subparagraph:

"(C) AMOUNTS PAID TO CERTAIN RESEARCH CONSORTIA.—

"(i) IN GENERAL.—Subparagraph (A) shall be applied by substituting '75 percent' for '65 percent' with respect to amounts paid or incurred by the taxpayer to a qualified research consortium for qualified research on behalf of the taxpayer and 1 or more unrelated taxpayers. For purposes of the preceding sentence, all persons treated as a single employer under subsection (a) or (b) of section 52 shall be treated as related taxpayers.

"(ii) QUALIFIED RESEARCH CONSORTIUM.—The term 'qualified research consortium' means any organization which—

"(I) is described in section 501(c)(3) or 501(c)(6) and is exempt from tax under section 501(a),

"(II) is organized and operated primarily to conduct scientific research, and

"(III) is not a private foundation.".

(e) CONFORMING AMENDMENT.—Subparagraph (D) of section 28(b)(1) is amended by inserting ", and before July 1, 1996, and periods after May 31, 1997" after "June 30, 1995".

(f) EFFECTIVE DATES.— 26 USC 41 note.

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years ending after June 30, 1996.

(2) SUBSECTIONS (c) AND (d).—The amendments made by subsections (c) and (d) shall apply to taxable years beginning after June 30, 1996.

(3) ESTIMATED TAX.—The amendments made by this section shall not be taken into account under section 6654 or 6655 of the Internal Revenue Code of 1986 (relating to failure to pay estimated tax) in determining the amount of any installment required to be paid for a taxable year beginning in 1997.

SEC. 1205. ORPHAN DRUG TAX CREDIT.

(a) RECATEGORIZED AS A BUSINESS CREDIT.—

(1) IN GENERAL.—Section 28 (relating to clinical testing expenses for certain drugs for rare diseases or conditions) is transferred to subpart D of part IV of subchapter A of chapter 1, inserted after section 45B, and redesignated as section 45C.

(2) CONFORMING AMENDMENT.—Subsection (b) of section 38 (relating to general business credit) is amended by striking "plus" at the end of paragraph (10), by striking the period at the end of paragraph (11) and inserting ", plus", and by adding at the end the following new paragraph:

"(12) the orphan drug credit determined under section 45C(a).".

(3) CLERICAL AMENDMENTS.—

(A) The table of sections for subpart B of such part IV is amended by striking the item relating to section 28.

(B) The table of sections for subpart D of such part IV is amended by adding at the end the following new item:

"Sec. 45C. Clinical testing expenses for certain drugs for rare diseases or conditions.".

(b) CREDIT TERMINATION.—Subsection (e) of section 45C, as redesignated by subsection (a)(1), is amended to read as follows:

"(e) TERMINATION.—This section shall not apply to any amount paid or incurred—

"(1) after December 31, 1994, and before July 1, 1996, or

"(2) after May 31, 1997.".

(c) NO PRE-JULY 1, 1996 CARRYBACKS.—Subsection (d) of section 39 (relating to carryback and carryforward of unused credits) is amended by adding at the end the following new paragraph:

"(7) NO CARRYBACK OF SECTION 45C CREDIT BEFORE JULY 1, 1996.—No portion of the unused business credit for any taxable year which is attributable to the orphan drug credit determined under section 45C may be carried back to a taxable year ending before July 1, 1996.".

(d) ADDITIONAL CONFORMING AMENDMENTS.—

(1) Section 45C(a), as redesignated by subsection (a)(1), is amended by striking "There shall be allowed as a credit against the tax imposed by this chapter for the taxable year"

and inserting "For purposes of section 38, the credit determined under this section for the taxable year is".

(2) Section 45C(d), as so redesignated, is amended by striking paragraph (2) and by redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4).

(3) Section 29(b)(6)(A) is amended by striking "sections 27 and 28" and inserting "section 27".

(4) Section 30(b)(3)(A) is amended by striking "sections 27, 28, and 29" and inserting "sections 27 and 29".

(5) Section 53(d)(1)(B) is amended—

(A) by striking "or not allowed under section 28 solely by reason of the application of section 28(d)(2)(B)," in clause (iii), and

(B) by striking "or not allowed under section 28 solely by reason of the application of section 28(d)(2)(B)" in clause (iv)(II).

(6) Section 55(c)(2) is amended by striking "28(d)(2),".

(7) Section 280C(b) is amended—

(A) by striking "section 28(b)" in paragraph (1) and inserting "section 45C(b)",

(B) by striking "section 28" in paragraphs (1) and (2)(A) and inserting "section 45C", and

(C) by striking "subsection (d)(2) thereof" in paragraphs (1) and (2)(A) and inserting "section 38(c)".

26 USC 29 note. (e) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred in taxable years ending after June 30, 1996.

SEC. 1206. CONTRIBUTIONS OF STOCK TO PRIVATE FOUNDATIONS.

(a) IN GENERAL.—Subparagraph (D) of section 170(e)(5) (relating to special rule for contributions of stock for which market quotations are readily available) is amended to read as follows:

"(D) TERMINATION.—This paragraph shall not apply to contributions made—

"(i) after December 31, 1994, and before July 1, 1996, or

"(ii) after May 31, 1997.".

26 USC 170 note. (b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made after June 30, 1996.

SEC. 1207. EXTENSION OF BINDING CONTRACT DATE FOR BIOMASS AND COAL FACILITIES.

(a) IN GENERAL.—Subparagraph (A) of section 29(g)(1) (relating to extension of certain facilities) is amended by striking "January 1, 1997" and inserting "July 1, 1998" and by striking "January 1, 1996" and inserting "January 1, 1997".

26 USC 29 note. (b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 1208. MORATORIUM FOR EXCISE TAX ON DIESEL FUEL SOLD FOR USE OR USED IN DIESEL-POWERED MOTORBOATS.

Subparagraph (D) of section 4041(a)(1) (relating to the imposition of tax on diesel fuel and special motor fuels) is amended by redesignating clauses (i) and (ii) as clauses (ii) and (iii), respectively, and by inserting before clause (ii) (as redesignated) the following new clause:

"(i) no tax shall be imposed by subsection (a) or (d)(1) during the period beginning on the date which

is 7 days after the date of the enactment of the Small Business Job Protection Act of 1996 and ending on December 31, 1997,".

Subtitle C—Provisions Relating to S Corporations

SEC. 1301. S CORPORATIONS PERMITTED TO HAVE 75 SHAREHOLDERS.

Subparagraph (A) of section 1361(b)(1) (defining small business corporation) is amended by striking "35 shareholders" and inserting "75 shareholders".

SEC. 1302. ELECTING SMALL BUSINESS TRUSTS.

(a) GENERAL RULE.—Subparagraph (A) of section 1361(c)(2) (relating to certain trusts permitted as shareholders) is amended by inserting after clause (iv) the following new clause:

"(v) An electing small business trust.".

(b) CURRENT BENEFICIARIES TREATED AS SHAREHOLDERS.—Subparagraph (B) of section 1361(c)(2) is amended by adding at the end the following new clause:

"(v) In the case of a trust described in clause (v) of subparagraph (A), each potential current beneficiary of such trust shall be treated as a shareholder; except that, if for any period there is no potential current beneficiary of such trust, such trust shall be treated as the shareholder during such period.".

(c) ELECTING SMALL BUSINESS TRUST DEFINED.—Section 1361 (defining S corporation) is amended by adding at the end the following new subsection:

"(e) ELECTING SMALL BUSINESS TRUST DEFINED.—

"(1) ELECTING SMALL BUSINESS TRUST.—For purposes of this section—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'electing small business trust' means any trust if—

"(i) such trust does not have as a beneficiary any person other than (I) an individual, (II) an estate, or (III) an organization described in paragraph (2), (3), (4), or (5) of section 170(c) which holds a contingent interest and is not a potential current beneficiary,

"(ii) no interest in such trust was acquired by purchase, and

"(iii) an election under this subsection applies to such trust.

"(B) CERTAIN TRUSTS NOT ELIGIBLE.—The term 'electing small business trust' shall not include—

"(i) any qualified subchapter S trust (as defined in subsection (d)(3)) if an election under subsection (d)(2) applies to any corporation the stock of which is held by such trust, and

"(ii) any trust exempt from tax under this subtitle.

"(C) PURCHASE.—For purposes of subparagraph (A), the term 'purchase' means any acquisition if the basis of the property acquired is determined under section 1012.

"(2) POTENTIAL CURRENT BENEFICIARY.—For purposes of this section, the term 'potential current beneficiary' means,

with respect to any period, any person who at any time during such period is entitled to, or at the discretion of any person may receive, a distribution from the principal or income of the trust. If a trust disposes of all of the stock which it holds in an S corporation, then, with respect to such corporation, the term 'potential current beneficiary' does not include any person who first met the requirements of the preceding sentence during the 60-day period ending on the date of such disposition.

"(3) ELECTION.—An election under this subsection shall be made by the trustee. Any such election shall apply to the taxable year of the trust for which made and all subsequent taxable years of such trust unless revoked with the consent of the Secretary.

"(4) CROSS REFERENCE.—

"For special treatment of electing small business trusts, see section 641(d).".

(d) TAXATION OF ELECTING SMALL BUSINESS TRUSTS.—Section 641 (relating to imposition of tax on trusts) is amended by adding at the end the following new subsection:

"(d) SPECIAL RULES FOR TAXATION OF ELECTING SMALL BUSINESS TRUSTS.—

"(1) IN GENERAL.—For purposes of this chapter—

"(A) the portion of any electing small business trust which consists of stock in 1 or more S corporations shall be treated as a separate trust, and

"(B) the amount of the tax imposed by this chapter on such separate trust shall be determined with the modifications of paragraph (2).

"(2) MODIFICATIONS.—For purposes of paragraph (1), the modifications of this paragraph are the following:

"(A) Except as provided in section 1(h), the amount of the tax imposed by section 1(e) shall be determined by using the highest rate of tax set forth in section 1(e).

"(B) The exemption amount under section 55(d) shall be zero.

"(C) The only items of income, loss, deduction, or credit to be taken into account are the following:

"(i) The items required to be taken into account under section 1366.

"(ii) Any gain or loss from the disposition of stock in an S corporation.

"(iii) To the extent provided in regulations, State or local income taxes or administrative expenses to the extent allocable to items described in clauses (i) and (ii).

No deduction or credit shall be allowed for any amount not described in this paragraph, and no item described in this paragraph shall be apportioned to any beneficiary.

"(D) No amount shall be allowed under paragraph (1) or (2) of section 1211(b).

"(3) TREATMENT OF REMAINDER OF TRUST AND DISTRIBUTIONS.—For purposes of determining—

"(A) the amount of the tax imposed by this chapter on the portion of any electing small business trust not treated as a separate trust under paragraph (1), and

"(B) the distributable net income of the entire trust,

the items referred to in paragraph (2)(C) shall be excluded. Except as provided in the preceding sentence, this subsection shall not affect the taxation of any distribution from the trust.

"(4) TREATMENT OF UNUSED DEDUCTIONS WHERE TERMINATION OF SEPARATE TRUST.—If a portion of an electing small business trust ceases to be treated as a separate trust under paragraph (1), any carryover or excess deduction of the separate trust which is referred to in section 642(h) shall be taken into account by the entire trust.

"(5) ELECTING SMALL BUSINESS TRUST.—For purposes of this subsection, the term 'electing small business trust' has the meaning given such term by section 1361(e)(1).".

(e) TECHNICAL AMENDMENT.—Paragraph (1) of section 1366(a) is amended by inserting ", or of a trust or estate which terminates," after "who dies".

SEC. 1303. EXPANSION OF POST-DEATH QUALIFICATION FOR CERTAIN TRUSTS.

Subparagraph (A) of section 1361(c)(2) (relating to certain trusts permitted as shareholders) is amended—

(1) by striking "60-day period" each place it appears in clauses (ii) and (iii) and inserting "2-year period", and

(2) by striking the last sentence in clause (ii).

SEC. 1304. FINANCIAL INSTITUTIONS PERMITTED TO HOLD SAFE HARBOR DEBT.

Clause (iii) of section 1361(c)(5)(B) (defining straight debt) is amended by striking "or a trust described in paragraph (2)" and inserting "a trust described in paragraph (2), or a person which is actively and regularly engaged in the business of lending money".

SEC. 1305. RULES RELATING TO INADVERTENT TERMINATIONS AND INVALID ELECTIONS.

(a) GENERAL RULE.—Subsection (f) of section 1362 (relating to inadvertent terminations) is amended to read as follows:

"(f) INADVERTENT INVALID ELECTIONS OR TERMINATIONS.—If—

"(1) an election under subsection (a) by any corporation—

"(A) was not effective for the taxable year for which made (determined without regard to subsection (b)(2)) by reason of a failure to meet the requirements of section 1361(b) or to obtain shareholder consents, or

"(B) was terminated under paragraph (2) or (3) of subsection (d),

"(2) the Secretary determines that the circumstances resulting in such ineffectiveness or termination were inadvertent,

"(3) no later than a reasonable period of time after discovery of the circumstances resulting in such ineffectiveness or termination, steps were taken—

"(A) so that the corporation is a small business corporation, or

"(B) to acquire the required shareholder consents, and

"(4) the corporation, and each person who was a shareholder in the corporation at any time during the period specified pursuant to this subsection, agrees to make such adjustments (consistent with the treatment of the corporation as an S corporation) as may be required by the Secretary with respect to such period,

then, notwithstanding the circumstances resulting in such ineffectiveness or termination, such corporation shall be treated as an S corporation during the period specified by the Secretary.".

(b) LATE ELECTIONS, ETC.—Subsection (b) of section 1362 is amended by adding at the end the following new paragraph:

"(5) AUTHORITY TO TREAT LATE ELECTIONS, ETC., AS TIMELY.—If—

"(A) an election under subsection (a) is made for any taxable year (determined without regard to paragraph (3)) after the date prescribed by this subsection for making such election for such taxable year or no such election is made for any taxable year, and

"(B) the Secretary determines that there was reasonable cause for the failure to timely make such election, the Secretary may treat such an election as timely made for such taxable year (and paragraph (3) shall not apply).".

26 USC 1362 note.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply with respect to elections for taxable years beginning after December 31, 1982.

SEC. 1306. AGREEMENT TO TERMINATE YEAR.

Paragraph (2) of section 1377(a) (relating to pro rata share) is amended to read as follows:

"(2) ELECTION TO TERMINATE YEAR.—

"(A) IN GENERAL.—Under regulations prescribed by the Secretary, if any shareholder terminates the shareholder's interest in the corporation during the taxable year and all affected shareholders and the corporation agree to the application of this paragraph, paragraph (1) shall be applied to the affected shareholders as if the taxable year consisted of 2 taxable years the first of which ends on the date of the termination.

"(B) AFFECTED SHAREHOLDERS.—For purposes of subparagraph (A), the term 'affected shareholders' means the shareholder whose interest is terminated and all shareholders to whom such shareholder has transferred shares during the taxable year. If such shareholder has transferred shares to the corporation, the term 'affected shareholders' shall include all persons who are shareholders during the taxable year.".

SEC. 1307. EXPANSION OF POST-TERMINATION TRANSITION PERIOD.

(a) IN GENERAL.—Paragraph (1) of section 1377(b) (relating to post-termination transition period) is amended by striking "and" at the end of subparagraph (A), by redesignating subparagraph (B) as subparagraph (C), and by inserting after subparagraph (A) the following new subparagraph:

"(B) the 120-day period beginning on the date of any determination pursuant to an audit of the taxpayer which follows the termination of the corporation's election and which adjusts a subchapter S item of income, loss, or deduction of the corporation arising during the S period (as defined in section 1368(e)(2)), and".

(b) DETERMINATION DEFINED.—Paragraph (2) of section 1377(b) is amended by striking subparagraphs (A) and (B), by redesignating subparagraph (C) as subparagraph (B), and by inserting before subparagraph (B) (as so redesignated) the following new subparagraph:

"(A) a determination as defined in section 1313(a), or".

(c) REPEAL OF SPECIAL AUDIT PROVISIONS FOR SUBCHAPTER S ITEMS.—

(1) GENERAL RULE.—Subchapter D of chapter 63 (relating to tax treatment of subchapter S items) is hereby repealed. 26 USC 6241 *et seq.*

(2) CONSISTENT TREATMENT REQUIRED.—Section 6037 (relating to return of S corporation) is amended by adding at the end the following new subsection:

"(c) SHAREHOLDER'S RETURN MUST BE CONSISTENT WITH CORPORATE RETURN OR SECRETARY NOTIFIED OF INCONSISTENCY.—

"(1) IN GENERAL.—A shareholder of an S corporation shall, on such shareholder's return, treat a subchapter S item in a manner which is consistent with the treatment of such item on the corporate return.

"(2) NOTIFICATION OF INCONSISTENT TREATMENT.—

"(A) IN GENERAL.—In the case of any subchapter S item, if—

"(i)(I) the corporation has filed a return but the shareholder's treatment on his return is (or may be) inconsistent with the treatment of the item on the corporate return, or

"(II) the corporation has not filed a return, and

"(ii) the shareholder files with the Secretary a statement identifying the inconsistency,

paragraph (1) shall not apply to such item.

"(B) SHAREHOLDER RECEIVING INCORRECT INFORMATION.—A shareholder shall be treated as having complied with clause (ii) of subparagraph (A) with respect to a subchapter S item if the shareholder—

"(i) demonstrates to the satisfaction of the Secretary that the treatment of the subchapter S item on the shareholder's return is consistent with the treatment of the item on the schedule furnished to the shareholder by the corporation, and

"(ii) elects to have this paragraph apply with respect to that item.

"(3) EFFECT OF FAILURE TO NOTIFY.—In any case—

"(A) described in subparagraph (A)(i)(I) of paragraph (2), and

"(B) in which the shareholder does not comply with subparagraph (A)(ii) of paragraph (2),

any adjustment required to make the treatment of the items by such shareholder consistent with the treatment of the items on the corporate return shall be treated as arising out of mathematical or clerical errors and assessed according to section 6213(b)(1). Paragraph (2) of section 6213(b) shall not apply to any assessment referred to in the preceding sentence.

"(4) SUBCHAPTER S ITEM.—For purposes of this subsection, the term 'subchapter S item' means any item of an S corporation to the extent that regulations prescribed by the Secretary provide that, for purposes of this subtitle, such item is more appropriately determined at the corporation level than at the shareholder level.

"(5) ADDITION TO TAX FOR FAILURE TO COMPLY WITH SECTION.—

"For addition to tax in the case of a shareholder's negligence in connection with, or disregard of, the requirements of this section, see part II of subchapter A of chapter 68.".

(3) CONFORMING AMENDMENTS.—

(A) Section 1366 is amended by striking subsection (g).

(B) Subsection (b) of section 6233 is amended to read as follows:

"(b) SIMILAR RULES IN CERTAIN CASES.—If a partnership return is filed for any taxable year but it is determined that there is no entity for such taxable year, to the extent provided in regulations, rules similar to the rules of subsection (a) shall apply.".

(C) The table of subchapters for chapter 63 is amended by striking the item relating to subchapter D.

SEC. 1308. S CORPORATIONS PERMITTED TO HOLD SUBSIDIARIES.

(a) IN GENERAL.—Paragraph (2) of section 1361(b) (defining ineligible corporation) is amended by striking subparagraph (A) and by redesignating subparagraphs (B), (C), (D), and (E) as subparagraphs (A), (B), (C), and (D), respectively.

(b) TREATMENT OF CERTAIN WHOLLY OWNED S CORPORATION SUBSIDIARIES.—Section 1361(b) (defining small business corporation) is amended by adding at the end the following new paragraph:

"(3) TREATMENT OF CERTAIN WHOLLY OWNED SUBSIDIARIES.—

"(A) IN GENERAL.—For purposes of this title—

"(i) a corporation which is a qualified subchapter S subsidiary shall not be treated as a separate corporation, and

"(ii) all assets, liabilities, and items of income, deduction, and credit of a qualified subchapter S subsidiary shall be treated as assets, liabilities, and such items (as the case may be) of the S corporation.

"(B) QUALIFIED SUBCHAPTER S SUBSIDIARY.—For purposes of this paragraph, the term 'qualified subchapter S subsidiary' means any domestic corporation which is not an ineligible corporation (as defined in paragraph (2)), if—

"(i) 100 percent of the stock of such corporation is held by the S corporation, and

"(ii) the S corporation elects to treat such corporation as a qualified subchapter S subsidiary.

"(C) TREATMENT OF TERMINATIONS OF QUALIFIED SUBCHAPTER S SUBSIDIARY STATUS.—For purposes of this title, if any corporation which was a qualified subchapter S subsidiary ceases to meet the requirements of subparagraph (B), such corporation shall be treated as a new corporation acquiring all of its assets (and assuming all of its liabilities) immediately before such cessation from the S corporation in exchange for its stock.

"(D) ELECTION AFTER TERMINATION.—If a corporation's status as a qualified subchapter S subsidiary terminates, such corporation (and any successor corporation) shall not be eligible to make—

"(i) an election under subparagraph (B)(ii) to be treated as a qualified subchapter S subsidiary, or

"(ii) an election under section 1362(a) to be treated as an S corporation,

before its 5th taxable year which begins after the 1st taxable year for which such termination was effective, unless the Secretary consents to such election.".

(c) CERTAIN DIVIDENDS NOT TREATED AS PASSIVE INVESTMENT INCOME.—Paragraph (3) of section 1362(d) is amended by adding at the end the following new subparagraph:

"(F) TREATMENT OF CERTAIN DIVIDENDS.—If an S corporation holds stock in a C corporation meeting the requirements of section 1504(a)(2), the term 'passive investment income' shall not include dividends from such C corporation to the extent such dividends are attributable to the earnings and profits of such C corporation derived from the active conduct of a trade or business.".

(d) CONFORMING AMENDMENTS.—

(1) Subsection (c) of section 1361 is amended by striking paragraph (6).

(2) Subsection (b) of section 1504 (defining includible corporation) is amended by adding at the end the following new paragraph:

"(8) An S corporation.".

SEC. 1309. TREATMENT OF DISTRIBUTIONS DURING LOSS YEARS.

(a) ADJUSTMENTS FOR DISTRIBUTIONS TAKEN INTO ACCOUNT BEFORE LOSSES.—

(1) Subparagraph (A) of section 1366(d)(1) (relating to losses and deductions cannot exceed shareholder's basis in stock and debt) is amended by striking "paragraph (1)" and inserting "paragraphs (1) and (2)(A)".

(2) Subsection (d) of section 1368 (relating to certain adjustments taken into account) is amended by adding at the end the following new flush sentence:

"In the case of any distribution made during any taxable year, the adjusted basis of the stock shall be determined with regard to the adjustments provided in paragraph (1) of section 1367(a) for the taxable year.".

(b) ACCUMULATED ADJUSTMENTS ACCOUNT.—Paragraph (1) of section 1368(e) (relating to accumulated adjustments account) is amended by adding at the end the following new subparagraph:

"(C) NET LOSS FOR YEAR DISREGARDED.—

"(i) IN GENERAL.—In applying this section to distributions made during any taxable year, the amount in the accumulated adjustments account as of the close of such taxable year shall be determined without regard to any net negative adjustment for such taxable year.

"(ii) NET NEGATIVE ADJUSTMENT.—For purposes of clause (i), the term 'net negative adjustment' means, with respect to any taxable year, the excess (if any) of—

"(I) the reductions in the account for the taxable year (other than for distributions), over

"(II) the increases in such account for such taxable year.".

(c) CONFORMING AMENDMENTS.—Subparagraph (A) of section 1368(e)(1) is amended—

(1) by striking "as provided in subparagraph (B)" and inserting "as otherwise provided in this paragraph", and

(2) by striking "section 1367(b)(2)(A)" and inserting "section 1367(a)(2)".

SEC. 1310. TREATMENT OF S CORPORATIONS UNDER SUBCHAPTER C.

Subsection (a) of section 1371 (relating to application of subchapter C rules) is amended to read as follows:

"(a) APPLICATION OF SUBCHAPTER C RULES.—Except as otherwise provided in this title, and except to the extent inconsistent with this subchapter, subchapter C shall apply to an S corporation and its shareholders.".

26 USC 1361 note.

SEC. 1311. ELIMINATION OF CERTAIN EARNINGS AND PROFITS.

(a) IN GENERAL.—If—

(1) a corporation was an electing small business corporation under subchapter S of chapter 1 of the Internal Revenue Code of 1986 for any taxable year beginning before January 1, 1983, and

(2) such corporation is an S corporation under subchapter S of chapter 1 of such Code for its first taxable year beginning after December 31, 1996,

the amount of such corporation's accumulated earnings and profits (as of the beginning of such first taxable year) shall be reduced by an amount equal to the portion (if any) of such accumulated earnings and profits which were accumulated in any taxable year beginning before January 1, 1983, for which such corporation was an electing small business corporation under such subchapter S.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (3) of section 1362(d), as amended by section 1308, is amended—

(A) by striking "SUBCHAPTER C" in the paragraph heading and inserting "ACCUMULATED",

(B) by striking "subchapter C" in subparagraph (A)(i)(I) and inserting "accumulated", and

(C) by striking subparagraph (B) and redesignating the following subparagraphs accordingly.

(2)(A) Subsection (a) of section 1375 is amended by striking "subchapter C" in paragraph (1) and inserting "accumulated".

(B) Paragraph (3) of section 1375(b) is amended to read as follows:

"(3) PASSIVE INVESTMENT INCOME, ETC.—The terms 'passive investment income' and 'gross receipts' have the same respective meanings as when used in paragraph (3) of section 1362(d).".

(C) The section heading for section 1375 is amended by striking "**subchapter C**" and inserting "**accumulated**".

(D) The table of sections for part III of subchapter S of chapter 1 is amended by striking "subchapter C" in the item relating to section 1375 and inserting "accumulated".

(3) Clause (i) of section 1042(c)(4)(A) is amended by striking "section 1362(d)(3)(D)" and inserting "section 1362(d)(3)(C)".

SEC. 1312. CARRYOVER OF DISALLOWED LOSSES AND DEDUCTIONS UNDER AT-RISK RULES ALLOWED.

Paragraph (3) of section 1366(d) (relating to carryover of disallowed losses and deductions to post-termination transition period) is amended by adding at the end the following new subparagraph:

"(D) AT-RISK LIMITATIONS.—To the extent that any increase in adjusted basis described in subparagraph (B) would have increased the shareholder's amount at risk under section 465 if such increase had occurred on the day preceding the commencement of the post-termination transition period, rules similar to the rules described in subparagraphs (A) through (C) shall apply to any losses disallowed by reason of section 465(a).".

SEC. 1313. ADJUSTMENTS TO BASIS OF INHERITED S STOCK TO REFLECT CERTAIN ITEMS OF INCOME.

(a) IN GENERAL.—Subsection (b) of section 1367 (relating to adjustments to basis of stock of shareholders, etc.) is amended by adding at the end the following new paragraph:

"(4) ADJUSTMENTS IN CASE OF INHERITED STOCK.—

"(A) IN GENERAL.—If any person acquires stock in an S corporation by reason of the death of a decedent or by bequest, devise, or inheritance, section 691 shall be applied with respect to any item of income of the S corporation in the same manner as if the decedent had held directly his pro rata share of such item.

"(B) ADJUSTMENTS TO BASIS.—The basis determined under section 1014 of any stock in an S corporation shall be reduced by the portion of the value of the stock which is attributable to items constituting income in respect of the decedent.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply in the case of decedents dying after the date of the enactment of this Act. 26 USC 1367 note.

SEC. 1314. S CORPORATIONS ELIGIBLE FOR RULES APPLICABLE TO REAL PROPERTY SUBDIVIDED FOR SALE BY NONCORPORATE TAXPAYERS.

(a) IN GENERAL.—Subsection (a) of section 1237 (relating to real property subdivided for sale) is amended by striking "other than a corporation" in the material preceding paragraph (1) and inserting "other than a C corporation".

(b) CONFORMING AMENDMENT.—Subparagraph (A) of section 1237(a)(2) is amended by inserting "an S corporation which included the taxpayer as a shareholder," after "controlled by the taxpayer,".

SEC. 1315. FINANCIAL INSTITUTIONS.

Subparagraph (A) of section 1361(b)(2) (defining ineligible corporation), as redesignated by section 1308(a), is amended to read as follows:

"(A) a financial institution which uses the reserve method of accounting for bad debts described in section 585,".

SEC. 1316. CERTAIN EXEMPT ORGANIZATIONS ALLOWED TO BE SHAREHOLDERS.

(a) ELIGIBILITY TO BE SHAREHOLDERS.—

(1) IN GENERAL.—Subparagraph (B) of section 1361(b)(1) (defining small business corporation) is amended to read as follows:

"(B) have as a shareholder a person (other than an estate, a trust described in subsection (c)(2), or an organiza-

tion described in subsection (c)(7)) who is not an individual,".

(2) ELIGIBLE EXEMPT ORGANIZATIONS.—Section 1361(c) (relating to special rules for applying subsection (b)) is amended by adding at the end the following new paragraph:

"(7) CERTAIN EXEMPT ORGANIZATIONS PERMITTED AS SHAREHOLDERS.—For purposes of subsection (b)(1)(B), an organization which is—

"(A) described in section 401(a) or 501(c)(3), and

"(B) exempt from taxation under section 501(a),

may be a shareholder in an S corporation.".

(b) CONTRIBUTIONS OF S CORPORATION STOCK.—Section 170(e)(1) (relating to certain contributions of ordinary income and capital gain property) is amended by adding at the end the following new sentence: "For purposes of applying this paragraph in the case of a charitable contribution of stock in an S corporation, rules similar to the rules of section 751 shall apply in determining whether gain on such stock would have been long-term capital gain if such stock were sold by the taxpayer.".

(c) TREATMENT OF INCOME.—Section 512 (relating to unrelated business taxable income), as amended by section 1113, is amended by adding at the end the following new subsection:

"(e) SPECIAL RULES APPLICABLE TO S CORPORATIONS.—

"(1) IN GENERAL.—If an organization described in section 1361(c)(7) holds stock in an S corporation—

"(A) such interest shall be treated as an interest in an unrelated trade or business, and

"(B) notwithstanding any other provision of this part—

"(i) all items of income, loss, or deduction taken into account under section 1366(a), and

"(ii) any gain or loss on the disposition of the stock in the S corporation,

shall be taken into account in computing the unrelated business taxable income of such organization.

"(2) BASIS REDUCTION.—Except as provided in regulations, for purposes of paragraph (1), the basis of any stock acquired by purchase (within the meaning of section 1012) shall be reduced by the amount of any dividends received by the organization with respect to the stock.".

(d) CERTAIN BENEFITS NOT APPLICABLE TO S CORPORATIONS.—

(1) CONTRIBUTION TO ESOPS.—Paragraph (9) of section 404(a) (relating to certain contributions to employee ownership plans) is amended by inserting at the end the following new subparagraph:

"(C) S CORPORATIONS.—This paragraph shall not apply to an S corporation.".

(2) DIVIDENDS ON EMPLOYER SECURITIES.—Paragraph (1) of section 404(k) (relating to deduction for dividends on certain employer securities) is amended by striking "a corporation" and inserting "a C corporation".

(3) EXCHANGE TREATMENT.—Subparagraph (A) of section 1042(c)(1) (defining qualified securities) is amended by striking "domestic corporation" and inserting "domestic C corporation".

(e) CONFORMING AMENDMENT.—Clause (i) of section 1361(e)(1)(A), as added by section 1302, is amended by striking "which holds a contingent interest and is not a potential current beneficiary".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997. 26 USC 170 note.

SEC. 1317. EFFECTIVE DATE.

(a) IN GENERAL.—Except as otherwise provided in this subtitle, the amendments made by this subtitle shall apply to taxable years beginning after December 31, 1996. 26 USC 641 note.

(b) TREATMENT OF CERTAIN ELECTIONS UNDER PRIOR LAW.—For purposes of section 1362(g) of the Internal Revenue Code of 1986 (relating to election after termination), any termination under section 1362(d) of such Code in a taxable year beginning before January 1, 1997, shall not be taken into account. 26 USC 1362 note.

Subtitle D—Pension Simplification

CHAPTER 1—SIMPLIFIED DISTRIBUTION RULES

SEC. 1401. REPEAL OF 5-YEAR INCOME AVERAGING FOR LUMP-SUM DISTRIBUTIONS.

(a) IN GENERAL.—Subsection (d) of section 402 (relating to taxability of beneficiary of employees' trust) is amended to read as follows:

"(d) TAXABILITY OF BENEFICIARY OF CERTAIN FOREIGN SITUS TRUSTS.—For purposes of subsections (a), (b), and (c), a stock bonus, pension, or profit-sharing trust which would qualify for exemption from tax under section 501(a) except for the fact that it is a trust created or organized outside the United States shall be treated as if it were a trust exempt from tax under section 501(a).".

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (D) of section 402(e)(4) (relating to other rules applicable to exempt trusts) is amended to read as follows:

"(D) LUMP-SUM DISTRIBUTION.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'lump-sum distribution' means the distribution or payment within one taxable year of the recipient of the balance to the credit of an employee which becomes payable to the recipient—

"(I) on account of the employee's death,

"(II) after the employee attains age 59½,

"(III) on account of the employee's separation from service, or

"(IV) after the employee has become disabled (within the meaning of section 72(m)(7)),

from a trust which forms a part of a plan described in section 401(a) and which is exempt from tax under section 501 or from a plan described in section 403(a). Subclause (III) of this clause shall be applied only with respect to an individual who is an employee without regard to section 401(c)(1), and subclause (IV) shall be applied only with respect to an employee within the meaning of section 401(c)(1). For purposes of this clause, a distribution to two or more trusts shall be treated as a distribution to one recipient. For purposes of this paragraph, the balance to the credit of the employee does not include the accumulated deductible employee contributions under the plan (within the meaning of section 72(o)(5)).

"(ii) AGGREGATION OF CERTAIN TRUSTS AND PLANS.—For purposes of determining the balance to the credit of an employee under clause (i)—

"(I) all trusts which are part of a plan shall be treated as a single trust, all pension plans maintained by the employer shall be treated as a single plan, all profit-sharing plans maintained by the employer shall be treated as a single plan, and all stock bonus plans maintained by the employer shall be treated as a single plan, and

"(II) trusts which are not qualified trusts under section 401(a) and annuity contracts which do not satisfy the requirements of section 404(a)(2) shall not be taken into account.

"(iii) COMMUNITY PROPERTY LAWS.—The provisions of this paragraph shall be applied without regard to community property laws.

"(iv) AMOUNTS SUBJECT TO PENALTY.—This paragraph shall not apply to amounts described in subparagraph (A) of section 72(m)(5) to the extent that section 72(m)(5) applies to such amounts.

"(v) BALANCE TO CREDIT OF EMPLOYEE NOT TO INCLUDE AMOUNTS PAYABLE UNDER QUALIFIED DOMESTIC RELATIONS ORDER.—For purposes of this paragraph, the balance to the credit of an employee shall not include any amount payable to an alternate payee under a qualified domestic relations order (within the meaning of section 414(p)).

"(vi) TRANSFERS TO COST-OF-LIVING ARRANGEMENT NOT TREATED AS DISTRIBUTION.—For purposes of this paragraph, the balance to the credit of an employee under a defined contribution plan shall not include any amount transferred from such defined contribution plan to a qualified cost-of-living arrangement (within the meaning of section 415(k)(2)) under a defined benefit plan.

"(vii) LUMP-SUM DISTRIBUTIONS OF ALTERNATE PAYEES.—If any distribution or payment of the balance to the credit of an employee would be treated as a lump-sum distribution, then, for purposes of this paragraph, the payment under a qualified domestic relations order (within the meaning of section 414(p)) of the balance to the credit of an alternate payee who is the spouse or former spouse of the employee shall be treated as a lump-sum distribution. For purposes of this clause, the balance to the credit of the alternate payee shall not include any amount payable to the employee.".

(2) Section 402(c) (relating to rules applicable to rollovers from exempt trusts) is amended by striking paragraph (10).

(3) Paragraph (1) of section 55(c) (defining regular tax) is amended by striking "shall not include any tax imposed by section 402(d) and".

(4) Paragraph (8) of section 62(a) (relating to certain portion of lump-sum distributions from pension plans taxed under section 402(d)) is hereby repealed.

(5) Section 401(a)(28)(B) (relating to coordination with distribution rules) is amended by striking clause (v).

(6) Subparagraph (B)(ii) of section 401(k)(10) (relating to distributions that must be lump-sum distributions) is amended to read as follows:

"(ii) LUMP-SUM DISTRIBUTION.—For purposes of this subparagraph, the term 'lump-sum distribution' has the meaning given such term by section 402(e)(4)(D) (without regard to subclauses (I), (II), (III), and (IV) of clause (i) thereof).".

(7) Section 406(c) (relating to termination of status as deemed employee not to be treated as separation from service for purposes of limitation of tax) is hereby repealed.

(8) Section 407(c) (relating to termination of status as deemed employee not to be treated as separation from service for purposes of limitation of tax) is hereby repealed.

(9) Section 691(c) (relating to deduction for estate tax) is amended by striking paragraph (5).

(10) Paragraph (1) of section 871(b) (relating to imposition of tax) is amended by striking "section 1, 55, or 402(d)(1)" and inserting "section 1 or 55".

(11) Subsection (b) of section 877 (relating to alternative tax) is amended by striking "section 1, 55, or 402(d)(1)" and inserting "section 1 or 55".

(12) Section 4980A(c)(4) is amended—

(A) by striking "to which an election under section 402(d)(4)(B) applies" and inserting "(as defined in section 402(e)(4)(D)) with respect to which the individual elects to have this paragraph apply",

(B) by adding at the end the following new flush sentence:

"An individual may elect to have this paragraph apply to only one lump-sum distribution.", and

(C) by striking the heading and inserting:

"(4) SPECIAL ONE-TIME ELECTION.—".

(13) Section 402(e) is amended by striking paragraph (5).

(c) EFFECTIVE DATES.— 26 USC 402 note.

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1999.

(2) RETENTION OF CERTAIN TRANSITION RULES.—The amendments made by this section shall not apply to any distribution for which the taxpayer is eligible to elect the benefits of section 1122(h) (3) or (5) of the Tax Reform Act of 1986. Notwithstanding the preceding sentence, individuals who elect such benefits after December 31, 1999, shall not be eligible for 5-year averaging under section 402(d) of the Internal Revenue Code of 1986 (as in effect immediately before such amendments).

SEC. 1402. REPEAL OF $5,000 EXCLUSION OF EMPLOYEES' DEATH BENEFITS.

(a) IN GENERAL.—Subsection (b) of section 101 is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1) Subsection (c) of section 101 is amended by striking "subsection (a) or (b)" and inserting "subsection (a)".

(2) Sections 406(e) and 407(e) are each amended by striking paragraph (2) and by redesignating paragraph (3) as paragraph (2).

(3) Section 7701(a)(20) is amended by striking ", for the purpose of applying the provisions of section 101(b) with respect to employees' death benefits".

26 USC 101 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to decedents dying after the date of the enactment of this Act.

SEC. 1403. SIMPLIFIED METHOD FOR TAXING ANNUITY DISTRIBUTIONS UNDER CERTAIN EMPLOYER PLANS.

(a) GENERAL RULE.—Subsection (d) of section 72 (relating to annuities; certain proceeds of endowment and life insurance contracts) is amended to read as follows:

"(d) SPECIAL RULES FOR QUALIFIED EMPLOYER RETIREMENT PLANS.—

"(1) SIMPLIFIED METHOD OF TAXING ANNUITY PAYMENTS.—

"(A) IN GENERAL.—In the case of any amount received as an annuity under a qualified employer retirement plan—

"(i) subsection (b) shall not apply, and

"(ii) the investment in the contract shall be recovered as provided in this paragraph.

"(B) METHOD OF RECOVERING INVESTMENT IN CONTRACT.—

"(i) IN GENERAL.—Gross income shall not include so much of any monthly annuity payment under a qualified employer retirement plan as does not exceed the amount obtained by dividing—

"(I) the investment in the contract (as of the annuity starting date), by

"(II) the number of anticipated payments determined under the table contained in clause (iii) (or, in the case of a contract to which subsection (c)(3)(B) applies, the number of monthly annuity payments under such contract).

"(ii) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of paragraphs (2) and (3) of subsection (b) shall apply for purposes of this paragraph.

"(iii) NUMBER OF ANTICIPATED PAYMENTS.—

"If the age of the primary annuitant on the annuity starting date is:	The number of anticipated payments is:
Not more than 55	360
More than 55 but not more than 60	310
More than 60 but not more than 65	260
More than 65 but not more than 70	210
More than 70	160.

"(C) ADJUSTMENT FOR REFUND FEATURE NOT APPLICABLE.—For purposes of this paragraph, investment in the contract shall be determined under subsection (c)(1) without regard to subsection (c)(2).

"(D) SPECIAL RULE WHERE LUMP SUM PAID IN CONNECTION WITH COMMENCEMENT OF ANNUITY PAYMENTS.—If, in connection with the commencement of annuity payments under any qualified employer retirement plan, the taxpayer receives a lump-sum payment—

"(i) such payment shall be taxable under subsection (e) as if received before the annuity starting date, and

"(ii) the investment in the contract for purposes of this paragraph shall be determined as if such payment had been so received.

"(E) EXCEPTION.—This paragraph shall not apply in any case where the primary annuitant has attained age 75 on the annuity starting date unless there are fewer than 5 years of guaranteed payments under the annuity.

"(F) ADJUSTMENT WHERE ANNUITY PAYMENTS NOT ON MONTHLY BASIS.—In any case where the annuity payments are not made on a monthly basis, appropriate adjustments in the application of this paragraph shall be made to take into account the period on the basis of which such payments are made.

"(G) QUALIFIED EMPLOYER RETIREMENT PLAN.—For purposes of this paragraph, the term 'qualified employer retirement plan' means any plan or contract described in paragraph (1), (2), or (3) of section 4974(c).

"(2) TREATMENT OF EMPLOYEE CONTRIBUTIONS UNDER DEFINED CONTRIBUTION PLANS.—For purposes of this section, employee contributions (and any income allocable thereto) under a defined contribution plan may be treated as a separate contract.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply in cases where the annuity starting date is after the 90th day after the date of the enactment of this Act. 26 USC 72 note.

SEC. 1404. REQUIRED DISTRIBUTIONS.

(a) IN GENERAL.—Section 401(a)(9)(C) (defining required beginning date) is amended to read as follows:

"(C) REQUIRED BEGINNING DATE.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'required beginning date' means April 1 of the calendar year following the later of—

"(I) the calendar year in which the employee attains age 70½, or

"(II) the calendar year in which the employee retires.

"(ii) EXCEPTION.—Subclause (II) of clause (i) shall not apply—

"(I) except as provided in section 409(d), in the case of an employee who is a 5-percent owner (as defined in section 416) with respect to the plan year ending in the calendar year in which the employee attains age 70½, or

"(II) for purposes of section 408 (a)(6) or (b)(3).

"(iii) ACTUARIAL ADJUSTMENT.—In the case of an employee to whom clause (i)(II) applies who retires in a calendar year after the calendar year in which the employee attains age 70½, the employee's accrued benefit shall be actuarially increased to take into account the period after age 70½ in which the employee was not receiving any benefits under the plan.

"(iv) EXCEPTION FOR GOVERNMENTAL AND CHURCH PLANS.—Clauses (ii) and (iii) shall not apply in the case of a governmental plan or church plan. For purposes of this clause, the term 'church plan' means a plan maintained by a church for church employees, and the term 'church' means any church (as defined in section 3121(w)(3)(A)) or qualified church-controlled organization (as defined in section 3121(w)(3)(B)).".

26 USC 401 note. (b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to years beginning after December 31, 1996.

CHAPTER 2—INCREASED ACCESS TO RETIREMENT PLANS

Subchapter A—Simple Savings Plans

SEC. 1421. ESTABLISHMENT OF SAVINGS INCENTIVE MATCH PLANS FOR EMPLOYEES OF SMALL EMPLOYERS.

(a) IN GENERAL.—Section 408 (relating to individual retirement accounts) is amended by redesignating subsection (p) as subsection (q) and by inserting after subsection (o) the following new subsection:

"(p) SIMPLE RETIREMENT ACCOUNTS.—

"(1) IN GENERAL.—For purposes of this title, the term 'simple retirement account' means an individual retirement plan (as defined in section 7701(a)(37))—

"(A) with respect to which the requirements of paragraphs (3), (4), and (5) are met; and

"(B) with respect to which the only contributions allowed are contributions under a qualified salary reduction arrangement.

"(2) QUALIFIED SALARY REDUCTION ARRANGEMENT.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'qualified salary reduction arrangement' means a written arrangement of an eligible employer under which—

"(i) an employee eligible to participate in the arrangement may elect to have the employer make payments—

"(I) as elective employer contributions to a simple retirement account on behalf of the employee, or

"(II) to the employee directly in cash,

"(ii) the amount which an employee may elect under clause (i) for any year is required to be expressed as a percentage of compensation and may not exceed a total of $6,000 for any year,

"(iii) the employer is required to make a matching contribution to the simple retirement account for any year in an amount equal to so much of the amount the employee elects under clause (i)(I) as does not exceed the applicable percentage of compensation for the year, and

"(iv) no contributions may be made other than contributions described in clause (i) or (iii).

"(B) EMPLOYER MAY ELECT 2-PERCENT NONELECTIVE CONTRIBUTION.—

"(i) IN GENERAL.—An employer shall be treated as meeting the requirements of subparagraph (A)(iii) for any year if, in lieu of the contributions described in such clause, the employer elects to make nonelective contributions of 2 percent of compensation for each employee who is eligible to participate in the arrangement and who has at least $5,000 of compensation from the employer for the year. If an employer makes an election under this subparagraph for any year, the employer shall notify employees of such election within a reasonable period of time before the 60-day period for such year under paragraph (5)(C).

"(ii) COMPENSATION LIMITATION.—The compensation taken into account under clause (i) for any year shall not exceed the limitation in effect for such year under section 401(a)(17).

"(C) DEFINITIONS.—For purposes of this subsection—

"(i) ELIGIBLE EMPLOYER.—

"(I) IN GENERAL.—The term 'eligible employer' means, with respect to any year, an employer which had no more than 100 employees who received at least $5,000 of compensation from the employer for the preceding year.

"(II) 2-YEAR GRACE PERIOD.—An eligible employer who establishes and maintains a plan under this subsection for 1 or more years and who fails to be an eligible employer for any subsequent year shall be treated as an eligible employer for the 2 years following the last year the employer was an eligible employer. If such failure is due to any acquisition, disposition, or similar transaction involving an eligible employer, the preceding sentence shall apply only in accordance with rules similar to the rules of section 410(b)(6)(C)(i).

"(ii) APPLICABLE PERCENTAGE.—

"(I) IN GENERAL.—The term 'applicable percentage' means 3 percent.

"(II) ELECTION OF LOWER PERCENTAGE.—An employer may elect to apply a lower percentage (not less than 1 percent) for any year for all employees eligible to participate in the plan for such year if the employer notifies the employees of such lower percentage within a reasonable period of time before the 60-day election period for such year under paragraph (5)(C). An employer may not elect a lower percentage under this subclause for any year if that election would result in the applicable percentage being lower than 3 percent in more than 2 of the years in the 5-year period ending with such year.

"(III) SPECIAL RULE FOR YEARS ARRANGEMENT NOT IN EFFECT.—If any year in the 5-year period described in subclause (II) is a year prior to the first year for which any qualified salary reduction arrangement is in effect with respect to the employer (or any predecessor), the employer shall be treated as if the level of the employer matching

contribution was at 3 percent of compensation for such prior year.

"(D) ARRANGEMENT MAY BE ONLY PLAN OF EMPLOYER.—

"(i) IN GENERAL.—An arrangement shall not be treated as a qualified salary reduction arrangement for any year if the employer (or any predecessor employer) maintained a qualified plan with respect to which contributions were made, or benefits were accrued, for service in any year in the period beginning with the year such arrangement became effective and ending with the year for which the determination is being made.

"(ii) QUALIFIED PLAN.—For purposes of this subparagraph, the term 'qualified plan' means a plan, contract, pension, or trust described in subparagraph (A) or (B) of section 219(g)(5).

"(E) COST-OF-LIVING ADJUSTMENT.—The Secretary shall adjust the $6,000 amount under subparagraph (A)(ii) at the same time and in the same manner as under section 415(d), except that the base period taken into account shall be the calendar quarter ending September 30, 1996, and any increase under this subparagraph which is not a multiple of $500 shall be rounded to the next lower multiple of $500.

"(3) VESTING REQUIREMENTS.—The requirements of this paragraph are met with respect to a simple retirement account if the employee's rights to any contribution to the simple retirement account are nonforfeitable. For purposes of this paragraph, rules similar to the rules of subsection (k)(4) shall apply.

"(4) PARTICIPATION REQUIREMENTS.—

"(A) IN GENERAL.—The requirements of this paragraph are met with respect to any simple retirement account for a year only if, under the qualified salary reduction arrangement, all employees of the employer who—

"(i) received at least $5,000 in compensation from the employer during any 2 preceding years, and

"(ii) are reasonably expected to receive at least $5,000 in compensation during the year,

are eligible to make the election under paragraph (2)(A)(i) or receive the nonelective contribution described in paragraph (2)(B).

"(B) EXCLUDABLE EMPLOYEES.—An employer may elect to exclude from the requirement under subparagraph (A) employees described in section 410(b)(3).

"(5) ADMINISTRATIVE REQUIREMENTS.—The requirements of this paragraph are met with respect to any simplified retirement account if, under the qualified salary reduction arrangement—

"(A) an employer must—

"(i) make the elective employer contributions under paragraph (2)(A)(i) not later than the close of the 30-day period following the last day of the month with respect to which the contributions are to be made, and

"(ii) make the matching contributions under paragraph (2)(A)(iii) or the nonelective contributions under

paragraph (2)(B) not later than the date described in section 404(m)(2)(B),

"(B) an employee may elect to terminate participation in such arrangement at any time during the year, except that if an employee so terminates, the arrangement may provide that the employee may not elect to resume participation until the beginning of the next year, and

"(C) each employee eligible to participate may elect, during the 60-day period before the beginning of any year (and the 60-day period before the first day such employee is eligible to participate), to participate in the arrangement, or to modify the amounts subject to such arrangement, for such year.

"(6) DEFINITIONS.—For purposes of this subsection—

"(A) COMPENSATION.—

"(i) IN GENERAL.—The term 'compensation' means amounts described in paragraphs (3) and (8) of section 6051(a).

"(ii) SELF-EMPLOYED.—In the case of an employee described in subparagraph (B), the term 'compensation' means net earnings from self-employment determined under section 1402(a) without regard to any contribution under this subsection.

"(B) EMPLOYEE.—The term 'employee' includes an employee as defined in section 401(c)(1).

"(C) YEAR.—The term 'year' means the calendar year.

"(7) USE OF DESIGNATED FINANCIAL INSTITUTION.—A plan shall not be treated as failing to satisfy the requirements of this subsection or any other provision of this title merely because the employer makes all contributions to the individual retirement accounts or annuities of a designated trustee or issuer. The preceding sentence shall not apply unless each plan participant is notified in writing (either separately or as part of the notice under subsection (l)(2)(C)) that the participant's balance may be transferred without cost or penalty to another individual account or annuity in accordance with subsection (d)(3)(G).".

(b) TAX TREATMENT OF SIMPLE RETIREMENT ACCOUNTS.—

(1) DEDUCTIBILITY OF CONTRIBUTIONS BY EMPLOYEES.—

(A) Section 219(b) (relating to maximum amount of deduction) is amended by adding at the end the following new paragraph:

"(4) SPECIAL RULE FOR SIMPLE RETIREMENT ACCOUNTS.—This section shall not apply with respect to any amount contributed to a simple retirement account established under section 408(p).".

(B) Section 219(g)(5)(A) (defining active participant) is amended by striking "or" at the end of clause (iv) and by adding at the end the following new clause:

"(vi) any simple retirement account (within the meaning of section 408(p)), or".

(2) DEDUCTIBILITY OF EMPLOYER CONTRIBUTIONS.—Section 404 (relating to deductions for contributions of an employer to pension, etc. plans) is amended by adding at the end the following new subsection:

"(m) SPECIAL RULES FOR SIMPLE RETIREMENT ACCOUNTS.—

"(1) IN GENERAL.—Employer contributions to a simple retirement account shall be treated as if they are made to a plan subject to the requirements of this section.

"(2) TIMING.—

"(A) DEDUCTION.—Contributions described in paragraph (1) shall be deductible in the taxable year of the employer with or within which the calendar year for which the contributions were made ends.

"(B) CONTRIBUTIONS AFTER END OF YEAR.—For purposes of this subsection, contributions shall be treated as made for a taxable year if they are made on account of the taxable year and are made not later than the time prescribed by law for filing the return for the taxable year (including extensions thereof).".

(3) CONTRIBUTIONS AND DISTRIBUTIONS.—

(A) Section 402 (relating to taxability of beneficiary of employees' trust) is amended by adding at the end the following new subsection:

"(k) TREATMENT OF SIMPLE RETIREMENT ACCOUNTS.—Rules similar to the rules of paragraphs (1) and (3) of subsection (h) shall apply to contributions and distributions with respect to a simple retirement account under section 408(p).".

(B) Section 408(d)(3) is amended by adding at the end the following new subparagraph:

"(G) SIMPLE RETIREMENT ACCOUNTS.—This paragraph shall not apply to any amount paid or distributed out of a simple retirement account (as defined in subsection (p)) unless—

"(i) it is paid into another simple retirement account, or

"(ii) in the case of any payment or distribution to which section 72(t)(6) does not apply, it is paid into an individual retirement plan.".

(C) Clause (i) of section 457(c)(2)(B) is amended by striking "section 402(h)(1)(B)" and inserting "section 402(h)(1)(B) or (k)".

(4) PENALTIES.—

(A) EARLY WITHDRAWALS.—Section 72(t) (relating to additional tax in early distributions) is amended by adding at the end the following new paragraph:

"(6) SPECIAL RULES FOR SIMPLE RETIREMENT ACCOUNTS.—In the case of any amount received from a simple retirement account (within the meaning of section 408(p)) during the 2-year period beginning on the date such individual first participated in any qualified salary reduction arrangement maintained by the individual's employer under section 408(p)(2), paragraph (1) shall be applied by substituting '25 percent' for '10 percent'.".

(B) FAILURE TO REPORT.—Section 6693 is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) PENALTIES RELATING TO SIMPLE RETIREMENT ACCOUNTS.—

"(1) EMPLOYER PENALTIES.—An employer who fails to provide 1 or more notices required by section 408(l)(2)(C) shall pay a penalty of $50 for each day on which such failures continue.

"(2) TRUSTEE PENALTIES.—A trustee who fails—

"(A) to provide 1 or more statements required by the last sentence of section 408(i) shall pay a penalty of $50 for each day on which such failures continue, or

"(B) to provide 1 or more summary descriptions required by section 408(l)(2)(B) shall pay a penalty of $50 for each day on which such failures continue.

"(3) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this subsection with respect to any failure which the taxpayer shows was due to reasonable cause.".

(5) REPORTING REQUIREMENTS.—

(A) Section 408(l) is amended by adding at the end the following new paragraph:

"(2) SIMPLE RETIREMENT ACCOUNTS.—

"(A) NO EMPLOYER REPORTS.—Except as provided in this paragraph, no report shall be required under this section by an employer maintaining a qualified salary reduction arrangement under subsection (p).

"(B) SUMMARY DESCRIPTION.—The trustee of any simple retirement account established pursuant to a qualified salary reduction arrangement under subsection (p) shall provide to the employer maintaining the arrangement, each year a description containing the following information:

"(i) The name and address of the employer and the trustee.

"(ii) The requirements for eligibility for participation.

"(iii) The benefits provided with respect to the arrangement.

"(iv) The time and method of making elections with respect to the arrangement.

"(v) The procedures for, and effects of, withdrawals (including rollovers) from the arrangement.

"(C) EMPLOYEE NOTIFICATION.—The employer shall notify each employee immediately before the period for which an election described in subsection (p)(5)(C) may be made of the employee's opportunity to make such election. Such notice shall include a copy of the description described in subparagraph (B).".

(B) Section 408(l) is amended by striking "An employer" and inserting the following:

"(1) IN GENERAL.—An employer".

(6) REPORTING REQUIREMENTS.—Section 408(i) is amended by adding at the end the following new flush sentence:

"In the case of a simple retirement account under subsection (p), only one report under this subsection shall be required to be submitted each calendar year to the Secretary (at the time provided under paragraph (2)) but, in addition to the report under this subsection, there shall be furnished, within 30 days after each calendar year, to the individual on whose behalf the account is maintained a statement with respect to the account balance as of the close of, and the account activity during, such calendar year.".

(7) EXEMPTION FROM TOP-HEAVY PLAN RULES.—Section 416(g)(4) (relating to special rules for top-heavy plans) is amended by adding at the end the following new subparagraph:

"(G) SIMPLE RETIREMENT ACCOUNTS.—The term 'top-heavy plan' shall not include a simple retirement account under section 408(p).".

(8) EMPLOYMENT TAXES.—

(A) Paragraph (5) of section 3121(a) is amended by striking "or" at the end of subparagraph (F), by inserting "or" at the end of subparagraph (G), and by adding at the end the following new subparagraph:

"(H) under an arrangement to which section 408(p) applies, other than any elective contributions under paragraph (2)(A)(i) thereof,".

26 USC 409.

(B) Section 209(a)(4) of the Social Security Act is amended by inserting "; or (J) under an arrangement to which section 408(p) of such Code applies, other than any elective contributions under paragraph (2)(A)(i) thereof" before the semicolon at the end thereof.

(C) Paragraph (5) of section 3306(b) is amended by striking "or" at the end of subparagraph (F), by inserting "or" at the end of subparagraph (G), and by adding at the end the following new subparagraph:

"(H) under an arrangement to which section 408(p) applies, other than any elective contributions under paragraph (2)(A)(i) thereof,".

(D) Paragraph (12) of section 3401(a) is amended by adding the following new subparagraph:

"(D) under an arrangement to which section 408(p) applies; or".

(9) CONFORMING AMENDMENTS.—

(A) Section 280G(b)(6) is amended by striking "or" at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting ", or" and by adding after subparagraph (C) the following new subparagraph:

"(D) a simple retirement account described in section 408(p).".

(B) Section 402(g)(3) is amended by striking "and" at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting ", and", and by adding after subparagraph (C) the following new subparagraph:

"(D) any elective employer contribution under section 408(p)(2)(A)(i).".

(C) Subsections (b), (c), (m)(4)(B), and (n)(3)(B) of section 414 are each amended by inserting "408(p)," after "408(k),".

(D) Section 4972(d)(1)(A) is amended by striking "and" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ", and", and by adding after clause (iii) the following new clause:

"(iv) any simple retirement account (within the meaning of section 408(p)).".

(c) REPEAL OF SALARY REDUCTION SIMPLIFIED EMPLOYEE PENSIONS.—Section 408(k)(6) is amended by adding at the end the following new subparagraph:

"(H) TERMINATION.—This paragraph shall not apply to years beginning after December 31, 1996. The preceding sentence shall not apply to a simplified employee pension

if the terms of such pension, as in effect on December 31, 1996, provide that an employee may make the election described in subparagraph (A).".

(d) MODIFICATIONS OF ERISA.—

(1) REPORTING REQUIREMENTS.—Section 101 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

"(g) SIMPLE RETIREMENT ACCOUNTS.—

"(1) NO EMPLOYER REPORTS.—Except as provided in this subsection, no report shall be required under this section by an employer maintaining a qualified salary reduction arrangement under section 408(p) of the Internal Revenue Code of 1986.

"(2) SUMMARY DESCRIPTION.—The trustee of any simple retirement account established pursuant to a qualified salary reduction arrangement under section 408(p) of such Code shall provide to the employer maintaining the arrangement each year a description containing the following information:

"(A) The name and address of the employer and the trustee.

"(B) The requirements for eligibility for participation.

"(C) The benefits provided with respect to the arrangement.

"(D) The time and method of making elections with respect to the arrangement.

"(E) The procedures for, and effects of, withdrawals (including rollovers) from the arrangement.

"(3) EMPLOYEE NOTIFICATION.—The employer shall notify each employee immediately before the period for which an election described in section 408(p)(5)(C) of such Code may be made of the employee's opportunity to make such election. Such notice shall include a copy of the description described in paragraph (2)."

(2) FIDUCIARY DUTIES.—Section 404(c) of such Act (29 U.S.C. 1104(c)) is amended by inserting "(1)" after "(c)", by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and by adding at the end the following new paragraph:

"(2) In the case of a simple retirement account established pursuant to a qualified salary reduction arrangement under section 408(p) of the Internal Revenue Code of 1986, a participant or beneficiary shall, for purposes of paragraph (1), be treated as exercising control over the assets in the account upon the earliest of—

"(A) an affirmative election among investment options with respect to the initial investment of any contribution,

"(B) a rollover to any other simple retirement account or individual retirement plan, or

"(C) one year after the simple retirement account is established.

No reports, other than those required under section 101(g), shall be required with respect to a simple retirement account established pursuant to such a qualified salary reduction arrangement.".

26 USC 72 note.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

SEC. 1422. EXTENSION OF SIMPLE PLAN TO 401(k) ARRANGEMENTS.

(a) ALTERNATIVE METHOD OF SATISFYING SECTION 401(k) NONDISCRIMINATION TESTS.—Section 401(k) (relating to cash or deferred arrangements) is amended by adding at the end the following new paragraph:

"(11) ADOPTION OF SIMPLE PLAN TO MEET NONDISCRIMINATION TESTS.—

"(A) IN GENERAL.—A cash or deferred arrangement maintained by an eligible employer shall be treated as meeting the requirements of paragraph (3)(A)(ii) if such arrangement meets—

"(i) the contribution requirements of subparagraph (B),

"(ii) the exclusive plan requirements of subparagraph (C), and

"(iii) the vesting requirements of section 408(p)(3).

"(B) CONTRIBUTION REQUIREMENTS.—

"(i) IN GENERAL.—The requirements of this subparagraph are met if, under the arrangement—

"(I) an employee may elect to have the employer make elective contributions for the year on behalf of the employee to a trust under the plan in an amount which is expressed as a percentage of compensation of the employee but which in no event exceeds $6,000,

"(II) the employer is required to make a matching contribution to the trust for the year in an amount equal to so much of the amount the employee elects under subclause (I) as does not exceed 3 percent of compensation for the year, and

"(III) no other contributions may be made other than contributions described in subclause (I) or (II).

"(ii) EMPLOYER MAY ELECT 2-PERCENT NONELECTIVE CONTRIBUTION.—An employer shall be treated as meeting the requirements of clause (i)(II) for any year if, in lieu of the contributions described in such clause, the employer elects (pursuant to the terms of the arrangement) to make nonelective contributions of 2 percent of compensation for each employee who is eligible to participate in the arrangement and who has at least $5,000 of compensation from the employer for the year. If an employer makes an election under this subparagraph for any year, the employer shall notify employees of such election within a reasonable period of time before the 60th day before the beginning of such year.

"(C) EXCLUSIVE PLAN REQUIREMENT.—The requirements of this subparagraph are met for any year to which this paragraph applies if no contributions were made, or benefits were accrued, for services during such year under any qualified plan of the employer on behalf of any employee eligible to participate in the cash or deferred

arrangement, other than contributions described in subparagraph (B).

"(D) DEFINITIONS AND SPECIAL RULE.—

"(i) DEFINITIONS.—For purposes of this paragraph, any term used in this paragraph which is also used in section 408(p) shall have the meaning given such term by such section.

"(ii) COORDINATION WITH TOP-HEAVY RULES.—A plan meeting the requirements of this paragraph for any year shall not be treated as a top-heavy plan under section 416 for such year.".

(b) ALTERNATIVE METHODS OF SATISFYING SECTION 401(m) NONDISCRIMINATION TESTS.—Section 401(m) (relating to nondiscrimination test for matching contributions and employee contributions) is amended by redesignating paragraph (10) as paragraph (11) and by adding after paragraph (9) the following new paragraph:

"(10) ALTERNATIVE METHOD OF SATISFYING TESTS.—A defined contribution plan shall be treated as meeting the requirements of paragraph (2) with respect to matching contributions if the plan—

"(A) meets the contribution requirements of subparagraph (B) of subsection (k)(11),

"(B) meets the exclusive plan requirements of subsection (k)(11)(C), and

"(C) meets the vesting requirements of section 408(p)(3).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 1996. 26 USC 401 note.

Subchapter B—Other Provisions

SEC. 1426. TAX-EXEMPT ORGANIZATIONS ELIGIBLE UNDER SECTION 401(k).

(a) IN GENERAL.—Subparagraph (B) of section 401(k)(4) is amended to read as follows:

"(B) ELIGIBILITY OF STATE AND LOCAL GOVERNMENTS AND TAX-EXEMPT ORGANIZATIONS.—

"(i) TAX-EXEMPTS ELIGIBLE.—Except as provided in clause (ii), any organization exempt from tax under this subtitle may include a qualified cash or deferred arrangement as part of a plan maintained by it.

"(ii) GOVERNMENTS INELIGIBLE.—A cash or deferred arrangement shall not be treated as a qualified cash or deferred arrangement if it is part of a plan maintained by a State or local government or political subdivision thereof, or any agency or instrumentality thereof. This clause shall not apply to a rural cooperative plan or to a plan of an employer described in clause (iii).

"(iii) TREATMENT OF INDIAN TRIBAL GOVERNMENTS.—An employer which is an Indian tribal government (as defined in section 7701(a)(40)), a subdivision of an Indian tribal government (determined in accordance with section 7871(d)), an agency or instrumentality of an Indian tribal government or subdivision thereof, or a corporation chartered under Federal, State, or tribal law which is owned in whole or in

part by any of the foregoing may include a qualified cash or deferred arrangement as part of a plan maintained by the employer.".

26 USC 401 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to plan years beginning after December 31, 1996, but shall not apply to any cash or deferred arrangement to which clause (i) of section 1116(f)(2)(B) of the Tax Reform Act of 1986 applies.

SEC. 1427. HOMEMAKERS ELIGIBLE FOR FULL IRA DEDUCTION.

(a) SPOUSAL IRA COMPUTED ON BASIS OF COMPENSATION OF BOTH SPOUSES.—Subsection (c) of section 219 (relating to special rules for certain married individuals) is amended to read as follows:

"(c) SPECIAL RULES FOR CERTAIN MARRIED INDIVIDUALS.—

"(1) IN GENERAL.—In the case of an individual to whom this paragraph applies for the taxable year, the limitation of paragraph (1) of subsection (b) shall be equal to the lesser of—

"(A) the dollar amount in effect under subsection (b)(1)(A) for the taxable year, or

"(B) the sum of—

"(i) the compensation includible in such individual's gross income for the taxable year, plus

"(ii) the compensation includible in the gross income of such individual's spouse for the taxable year reduced by the amount allowed as a deduction under subsection (a) to such spouse for such taxable year.

"(2) INDIVIDUALS TO WHOM PARAGRAPH (1) APPLIES.—Paragraph (1) shall apply to any individual if—

"(A) such individual files a joint return for the taxable year, and

"(B) the amount of compensation (if any) includible in such individual's gross income for the taxable year is less than the compensation includible in the gross income of such individual's spouse for the taxable year.".

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 219(f) (relating to other definitions and special rules) is amended by striking "subsections (b) and (c)" and inserting "subsection (b)".

(2) Section 219(g)(1) is amended by striking "(c)(2)" and inserting "(c)(1)(A)".

(3) Section 408(d)(5) is amended by striking "$2,250" and inserting "the dollar amount in effect under section 219(b)(1)(A)".

26 USC 219 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

CHAPTER 3—NONDISCRIMINATION PROVISIONS

SEC. 1431. DEFINITION OF HIGHLY COMPENSATED EMPLOYEES; REPEAL OF FAMILY AGGREGATION.

(a) IN GENERAL.—Paragraph (1) of section 414(q) (defining highly compensated employee) is amended to read as follows:

"(1) IN GENERAL.—The term 'highly compensated employee' means any employee who—

"(A) was a 5-percent owner at any time during the year or the preceding year, or

"(B) for the preceding year—

"(i) had compensation from the employer in excess of $80,000, and

"(ii) if the employer elects the application of this clause for such preceding year, was in the top-paid group of employees for such preceding year.

The Secretary shall adjust the $80,000 amount under subparagraph (B) at the same time and in the same manner as under section 415(d), except that the base period shall be the calendar quarter ending September 30, 1996.".

(b) REPEAL OF FAMILY AGGREGATION RULES.—

(1) IN GENERAL.—Paragraph (6) of section 414(q) is hereby repealed.

(2) COMPENSATION LIMIT.—Paragraph (17)(A) of section 401(a) is amended by striking the last sentence.

(3) DEDUCTION.—Subsection (l) of section 404 is amended by striking the last sentence.

(c) CONFORMING AMENDMENTS.—

(1)(A) Subsection (q) of section 414 is amended by striking paragraphs (2), (5), and (12) and by redesignating paragraphs (3), (4), (7), (8), (9), (10), and (11) as paragraphs (2) through (8), respectively.

(B) Sections 129(d)(8)(B), 401(a)(5)(D)(ii), 408(k)(2)(C), and 416(i)(1)(D) are each amended by striking "section 414(q)(7)" and inserting "section 414(q)(4)".

(C) Section 416(i)(1)(A) is amended by striking "section 414(q)(8)" and inserting "section 414(q)(5)".

(D) Subparagraph (A) of section 414(r)(2) is amended by striking "subsection (q)(8)" and inserting "subsection (q)(5)".

(E) Section 414(q)(5), as redesignated by subparagraph (A), is amended by striking "under paragraph (4), or the number of officers taken into account under paragraph (5)".

(2) Section 1114(c)(4) of the Tax Reform Act of 1986 is amended by adding at the end the following new sentence: "Any reference in this paragraph to section 414(q) shall be treated as a reference to such section as in effect on the day before the date of the enactment of the Small Business Job Protection Act of 1996.". 26 USC 414 note.

(d) EFFECTIVE DATE.— 26 USC 414 note.

(1) IN GENERAL.—The amendments made by this section shall apply to years beginning after December 31, 1996, except that in determining whether an employee is a highly compensated employee for years beginning in 1997, such amendments shall be treated as having been in effect for years beginning in 1996.

(2) FAMILY AGGREGATION.—The amendments made by subsection (b) shall apply to years beginning after December 31, 1996.

SEC. 1432. MODIFICATION OF ADDITIONAL PARTICIPATION REQUIREMENTS.

(a) GENERAL RULE.—Section 401(a)(26)(A) (relating to additional participation requirements) is amended to read as follows:

"(A) IN GENERAL.—In the case of a trust which is a part of a defined benefit plan, such trust shall not constitute a qualified trust under this subsection unless on

each day of the plan year such trust benefits at least the lesser of—

"(i) 50 employees of the employer, or

"(ii) the greater of—

"(I) 40 percent of all employees of the employer, or

"(II) 2 employees (or if there is only 1 employee, such employee).".

(b) SEPARATE LINE OF BUSINESS TEST.—Section 401(a)(26)(G) (relating to separate line of business) is amended by striking "paragraph (7)" and inserting "paragraph (2)(A) or (7)".

26 USC 401 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1996.

SEC. 1433. NONDISCRIMINATION RULES FOR QUALIFIED CASH OR DEFERRED ARRANGEMENTS AND MATCHING CONTRIBUTIONS.

(a) ALTERNATIVE METHODS OF SATISFYING SECTION 401(k) NONDISCRIMINATION TESTS.—Section 401(k) (relating to cash or deferred arrangements), as amended by section 1422, is amended by adding at the end the following new paragraph:

"(12) ALTERNATIVE METHODS OF MEETING NONDISCRIMINATION REQUIREMENTS.—

"(A) IN GENERAL.—A cash or deferred arrangement shall be treated as meeting the requirements of paragraph (3)(A)(ii) if such arrangement—

"(i) meets the contribution requirements of subparagraph (B) or (C), and

"(ii) meets the notice requirements of subparagraph (D).

"(B) MATCHING CONTRIBUTIONS.—

"(i) IN GENERAL.—The requirements of this subparagraph are met if, under the arrangement, the employer makes matching contributions on behalf of each employee who is not a highly compensated employee in an amount equal to—

"(I) 100 percent of the elective contributions of the employee to the extent such elective contributions do not exceed 3 percent of the employee's compensation, and

"(II) 50 percent of the elective contributions of the employee to the extent that such elective contributions exceed 3 percent but do not exceed 5 percent of the employee's compensation.

"(ii) RATE FOR HIGHLY COMPENSATED EMPLOYEES.—The requirements of this subparagraph are not met if, under the arrangement, the rate of matching contribution with respect to any elective contribution of a highly compensated employee at any rate of elective contribution is greater than that with respect to an employee who is not a highly compensated employee.

"(iii) ALTERNATIVE PLAN DESIGNS.—If the rate of any matching contribution with respect to any rate of elective contribution is not equal to the percentage required under clause (i), an arrangement shall not be treated as failing to meet the requirements of clause (i) if—

"(I) the rate of an employer's matching contribution does not increase as an employee's rate of elective contributions increase, and

"(II) the aggregate amount of matching contributions at such rate of elective contribution is at least equal to the aggregate amount of matching contributions which would be made if matching contributions were made on the basis of the percentages described in clause (i).

"(C) NONELECTIVE CONTRIBUTIONS.—The requirements of this subparagraph are met if, under the arrangement, the employer is required, without regard to whether the employee makes an elective contribution or employee contribution, to make a contribution to a defined contribution plan on behalf of each employee who is not a highly compensated employee and who is eligible to participate in the arrangement in an amount equal to at least 3 percent of the employee's compensation.

"(D) NOTICE REQUIREMENT.—An arrangement meets the requirements of this paragraph if, under the arrangement, each employee eligible to participate is, within a reasonable period before any year, given written notice of the employee's rights and obligations under the arrangement which—

"(i) is sufficiently accurate and comprehensive to apprise the employee of such rights and obligations, and

"(ii) is written in a manner calculated to be understood by the average employee eligible to participate.

"(E) OTHER REQUIREMENTS.—

"(i) WITHDRAWAL AND VESTING RESTRICTIONS.—An arrangement shall not be treated as meeting the requirements of subparagraph (B) or (C) of this paragraph unless the requirements of subparagraphs (B) and (C) of paragraph (2) are met with respect to all employer contributions (including matching contributions) taken into account in determining whether the requirements of subparagraphs (B) and (C) of this paragraph are met.

"(ii) SOCIAL SECURITY AND SIMILAR CONTRIBUTIONS NOT TAKEN INTO ACCOUNT.—An arrangement shall not be treated as meeting the requirements of subparagraph (B) or (C) unless such requirements are met without regard to subsection (l), and, for purposes of subsection (l), employer contributions under subparagraph (B) or (C) shall not be taken into account.

"(F) OTHER PLANS.—An arrangement shall be treated as meeting the requirements under subparagraph (A)(i) if any other plan maintained by the employer meets such requirements with respect to employees eligible under the arrangement.".

(b) ALTERNATIVE METHODS OF SATISFYING SECTION 401(m) NONDISCRIMINATION TESTS.—Section 401(m) (relating to nondiscrimination test for matching contributions and employee contributions), as amended by section 1422(b), is amended by redesignating paragraph (11) as paragraph (12) and by adding after paragraph (10) the following new paragraph:

"(11) ALTERNATIVE METHOD OF SATISFYING TESTS.—

"(A) IN GENERAL.—A defined contribution plan shall be treated as meeting the requirements of paragraph (2) with respect to matching contributions if the plan—

"(i) meets the contribution requirements of subparagraph (B) or (C) of subsection (k)(12),

"(ii) meets the notice requirements of subsection (k)(12)(D), and

"(iii) meets the requirements of subparagraph (B).

"(B) LIMITATION ON MATCHING CONTRIBUTIONS.—The requirements of this subparagraph are met if—

"(i) matching contributions on behalf of any employee may not be made with respect to an employee's contributions or elective deferrals in excess of 6 percent of the employee's compensation,

"(ii) the rate of an employer's matching contribution does not increase as the rate of an employee's contributions or elective deferrals increase, and

"(iii) the matching contribution with respect to any highly compensated employee at any rate of an employee contribution or rate of elective deferral is not greater than that with respect to an employee who is not a highly compensated employee.".

(c) YEAR FOR COMPUTING NONHIGHLY COMPENSATED EMPLOYEE PERCENTAGE.—

(1) CASH OR DEFERRED ARRANGEMENTS.—Section 401(k)(3)(A) is amended—

(A) by striking "such year" in clause (ii) and inserting "the plan year",

(B) by striking "for such plan year" in clause (ii) and inserting "for the preceding plan year", and

(C) by adding at the end the following new sentence: "An arrangement may apply clause (ii) by using the plan year rather than the preceding plan year if the employer so elects, except that if such an election is made, it may not be changed except as provided by the Secretary.".

(2) MATCHING AND EMPLOYEE CONTRIBUTIONS.—Section 401(m)(2)(A) is amended—

(A) by inserting "for such plan year" after "highly compensated employees",

(B) by inserting "for the preceding plan year" after "eligible employees" each place it appears in clause (i) and clause (ii), and

(C) by adding at the end the following flush sentence: "This subparagraph may be applied by using the plan year rather than the preceding plan year if the employer so elects, except that if such an election is made, it may not be changed except as provided by the Secretary.".

(d) SPECIAL RULE FOR DETERMINING AVERAGE DEFERRAL PERCENTAGE FOR FIRST PLAN YEAR, ETC.—

(1) Paragraph (3) of section 401(k) is amended by adding at the end the following new subparagraph:

"(E) For purposes of this paragraph, in the case of the first plan year of any plan (other than a successor plan), the amount taken into account as the actual deferral percentage of nonhighly compensated employees for the preceding plan year shall be—

"(i) 3 percent, or

"(ii) if the employer makes an election under this subclause, the actual deferral percentage of nonhighly compensated employees determined for such first plan year.".

(2) Paragraph (3) of section 401(m) is amended by adding at the end the following: "Rules similar to the rules of subsection (k)(3)(E) shall apply for purposes of this subsection.".

(e) DISTRIBUTION OF EXCESS CONTRIBUTIONS AND EXCESS AGGREGATE CONTRIBUTIONS.—

(1) Subparagraph (C) of section 401(k)(8) (relating to arrangement not disqualified if excess contributions distributed) is amended by striking "on the basis of the respective portions of the excess contributions attributable to each of such employees" and inserting "on the basis of the amount of contributions by, or on behalf of, each of such employees".

(2) Subparagraph (C) of section 401(m)(6) (relating to method of distributing excess aggregate contributions) is amended by striking "on the basis of the respective portions of such amounts attributable to each of such employees" and inserting "on the basis of the amount of contributions on behalf of, or by, each such employee".

(f) EFFECTIVE DATES.— 26 USC 401 note.

(1) IN GENERAL.—The amendments made by this section shall apply to years beginning after December 31, 1998.

(2) EXCEPTIONS.—The amendments made by subsections (c), (d), and (e) shall apply to years beginning after December 31, 1996.

SEC. 1434. DEFINITION OF COMPENSATION FOR SECTION 415 PURPOSES.

(a) GENERAL RULE.—Section 415(c)(3) (defining participant's compensation) is amended by adding at the end the following new subparagraph:

"(D) CERTAIN DEFERRALS INCLUDED.—The term 'participant's compensation' shall include—

"(i) any elective deferral (as defined in section 402(g)(3)), and

"(ii) any amount which is contributed or deferred by the employer at the election of the employee and which is not includible in the gross income of the employee by reason of section 125 or 457.".

(b) CONFORMING AMENDMENTS.—

(1) Section 414(q)(4), as redesignated by section 1431, is amended to read as follows:

"(4) COMPENSATION.—For purposes of this subsection, the term 'compensation' has the meaning given such term by section 415(c)(3).".

(2) Section 414(s)(2) is amended by inserting "not" after "elect" in the text and heading thereof.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1997. 26 USC 414 note.

CHAPTER 4—MISCELLANEOUS PROVISIONS

SEC. 1441. PLANS COVERING SELF-EMPLOYED INDIVIDUALS.

(a) AGGREGATION RULES.—Section 401(d) (relating to additional requirements for qualification of trusts and plans benefiting owner-employees) is amended to read as follows:

"(d) CONTRIBUTION LIMIT ON OWNER-EMPLOYEES.—A trust forming part of a pension or profit-sharing plan which provides contributions or benefits for employees some or all of whom are owner-employees shall constitute a qualified trust under this section only if, in addition to meeting the requirements of subsection (a), the plan provides that contributions on behalf of any owner-employee may be made only with respect to the earned income of such owner-employee which is derived from the trade or business with respect to which such plan is established.".

26 USC 401 note.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1996.

SEC. 1442. ELIMINATION OF SPECIAL VESTING RULE FOR MULTIEMPLOYER PLANS.

(a) AMENDMENTS TO 1986 CODE.—Paragraph (2) of section 411(a) (relating to minimum vesting standards) is amended—

(1) by striking "subparagraph (A), (B), or (C)" and inserting "subparagraph (A) or (B)"; and

(2) by striking subparagraph (C).

(b) AMENDMENTS TO ERISA.—Paragraph (2) of section 203(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1053(a)) is amended—

(1) by striking "subparagraph (A), (B), or (C)" and inserting "subparagraph (A) or (B)"; and

(2) by striking subparagraph (C).

26 USC 411 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning on or after the earlier of—

(1) the later of—

(A) January 1, 1997, or

(B) the date on which the last of the collective bargaining agreements pursuant to which the plan is maintained terminates (determined without regard to any extension thereof after the date of the enactment of this Act), or

(2) January 1, 1999.

Such amendments shall not apply to any individual who does not have more than 1 hour of service under the plan on or after the 1st day of the 1st plan year to which such amendments apply.

SEC. 1443. DISTRIBUTIONS UNDER RURAL COOPERATIVE PLANS.

(a) DISTRIBUTIONS FOR HARDSHIP OR AFTER A CERTAIN AGE.—Section 401(k)(7) is amended by adding at the end the following new subparagraph:

"(C) SPECIAL RULE FOR CERTAIN DISTRIBUTIONS.—A rural cooperative plan which includes a qualified cash or deferred arrangement shall not be treated as violating the requirements of section 401(a) or of paragraph (2) merely by reason of a hardship distribution or a distribution to a participant after attainment of age 59½. For purposes of this section, the term 'hardship distribution' means a distribution described in paragraph (2)(B)(i)(IV) (without

regard to the limitation of its application to profit-sharing or stock bonus plans).".

(b) PUBLIC UTILITY DISTRICTS.—Clause (i) of section 401(k)(7)(B) (defining rural cooperative) is amended to read as follows:

"(i) any organization which—

"(I) is engaged primarily in providing electric service on a mutual or cooperative basis, or

"(II) is engaged primarily in providing electric service to the public in its area of service and which is exempt from tax under this subtitle or which is a State or local government (or an agency or instrumentality thereof), other than a municipality (or an agency or instrumentality thereof),".

(c) EFFECTIVE DATES.— 26 USC 401 note.

(1) DISTRIBUTIONS.—The amendments made by subsection (a) shall apply to distributions after the date of the enactment of this Act.

(2) PUBLIC UTILITY DISTRICTS.—The amendments made by subsection (b) shall apply to plan years beginning after December 31, 1996.

SEC. 1444. TREATMENT OF GOVERNMENTAL PLANS UNDER SECTION 415.

(a) COMPENSATION LIMIT.—Subsection (b) of section 415 is amended by adding immediately after paragraph (10) the following new paragraph:

"(11) SPECIAL LIMITATION RULE FOR GOVERNMENTAL PLANS.—In the case of a governmental plan (as defined in section 414(d)), subparagraph (B) of paragraph (1) shall not apply.".

(b) TREATMENT OF CERTAIN EXCESS BENEFIT PLANS.—

(1) IN GENERAL.—Section 415 is amended by adding at the end the following new subsection:

"(m) TREATMENT OF QUALIFIED GOVERNMENTAL EXCESS BENEFIT ARRANGEMENTS.—

"(1) GOVERNMENTAL PLAN NOT AFFECTED.—In determining whether a governmental plan (as defined in section 414(d)) meets the requirements of this section, benefits provided under a qualified governmental excess benefit arrangement shall not be taken into account. Income accruing to a governmental plan (or to a trust that is maintained solely for the purpose of providing benefits under a qualified governmental excess benefit arrangement) in respect of a qualified governmental excess benefit arrangement shall constitute income derived from the exercise of an essential governmental function upon which such governmental plan (or trust) shall be exempt from tax under section 115.

"(2) TAXATION OF PARTICIPANT.—For purposes of this chapter—

"(A) the taxable year or years for which amounts in respect of a qualified governmental excess benefit arrangement are includible in gross income by a participant, and

"(B) the treatment of such amounts when so includible by the participant,

shall be determined as if such qualified governmental excess benefit arrangement were treated as a plan for the deferral of compensation which is maintained by a corporation not

exempt from tax under this chapter and which does not meet the requirements for qualification under section 401.

"(3) QUALIFIED GOVERNMENTAL EXCESS BENEFIT ARRANGEMENT.—For purposes of this subsection, the term 'qualified governmental excess benefit arrangement' means a portion of a governmental plan if—

"(A) such portion is maintained solely for the purpose of providing to participants in the plan that part of the participant's annual benefit otherwise payable under the terms of the plan that exceeds the limitations on benefits imposed by this section,

"(B) under such portion no election is provided at any time to the participant (directly or indirectly) to defer compensation, and

"(C) benefits described in subparagraph (A) are not paid from a trust forming a part of such governmental plan unless such trust is maintained solely for the purpose of providing such benefits.".

(2) COORDINATION WITH SECTION 457.—Subsection (e) of section 457 is amended by adding at the end the following new paragraph:

"(14) TREATMENT OF QUALIFIED GOVERNMENTAL EXCESS BENEFIT ARRANGEMENTS.—Subsections (b)(2) and (c)(1) shall not apply to any qualified governmental excess benefit arrangement (as defined in section 415(m)(3)), and benefits provided under such an arrangement shall not be taken into account in determining whether any other plan is an eligible deferred compensation plan.".

(3) CONFORMING AMENDMENT.—Paragraph (2) of section 457(f) is amended by striking "and" at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting ", and", and by inserting immediately thereafter the following new subparagraph:

"(E) a qualified governmental excess benefit arrangement described in section 415(m).".

(c) EXEMPTION FOR SURVIVOR AND DISABILITY BENEFITS.—Paragraph (2) of section 415(b) is amended by adding at the end the following new subparagraph:

"(I) EXEMPTION FOR SURVIVOR AND DISABILITY BENEFITS PROVIDED UNDER GOVERNMENTAL PLANS.—Subparagraph (C) of this paragraph and paragraph (5) shall not apply to—

"(i) income received from a governmental plan (as defined in section 414(d)) as a pension, annuity, or similar allowance as the result of the recipient becoming disabled by reason of personal injuries or sickness, or

"(ii) amounts received from a governmental plan by the beneficiaries, survivors, or the estate of an employee as the result of the death of the employee.".

(d) REVOCATION OF GRANDFATHER ELECTION.—

(1) IN GENERAL.—Subparagraph (C) of section 415(b)(10) is amended by adding at the end the following new clause:

"(ii) REVOCATION OF ELECTION.—An election under clause (i) may be revoked not later than the last day of the third plan year beginning after the date of the enactment of this clause. The revocation shall

apply to all plan years to which the election applied and to all subsequent plan years. Any amount paid by a plan in a taxable year ending after the revocation shall be includible in income in such taxable year under the rules of this chapter in effect for such taxable year, except that, for purposes of applying the limitations imposed by this section, any portion of such amount which is attributable to any taxable year during which the election was in effect shall be treated as received in such taxable year.".

(2) CONFORMING AMENDMENT.—Subparagraph (C) of section 415(b)(10) is amended by striking "This" and inserting:

"(i) IN GENERAL.—This".

(e) EFFECTIVE DATE.— 26 USC 415 note.

(1) IN GENERAL.—The amendments made by subsections (a), (b), and (c) shall apply to years beginning after December 31, 1994. The amendments made by subsection (d) shall apply with respect to revocations adopted after the date of the enactment of this Act.

(2) TREATMENT FOR YEARS BEGINNING BEFORE JANUARY 1, 1995.—Nothing in the amendments made by this section shall be construed to imply that a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986) fails to satisfy the requirements of section 415 of such Code for any taxable year beginning before January 1, 1995.

SEC. 1445. UNIFORM RETIREMENT AGE.

(a) DISCRIMINATION TESTING.—Paragraph (5) of section 401(a) (relating to special rules relating to nondiscrimination requirements) is amended by adding at the end the following new subparagraph:

"(F) SOCIAL SECURITY RETIREMENT AGE.—For purposes of testing for discrimination under paragraph (4)—

"(i) the social security retirement age (as defined in section 415(b)(8)) shall be treated as a uniform retirement age, and

"(ii) subsidized early retirement benefits and joint and survivor annuities shall not be treated as being unavailable to employees on the same terms merely because such benefits or annuities are based in whole or in part on an employee's social security retirement age (as so defined).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to years beginning after December 31, 1996. 26 USC 401 note.

SEC. 1446. CONTRIBUTIONS ON BEHALF OF DISABLED EMPLOYEES.

(a) ALL DISABLED PARTICIPANTS RECEIVING CONTRIBUTIONS.—Section 415(c)(3)(C) is amended by adding at the end the following: "If a defined contribution plan provides for the continuation of contributions on behalf of all participants described in clause (i) for a fixed or determinable period, this subparagraph shall be applied without regard to clauses (ii) and (iii).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to years beginning after December 31, 1996. 26 USC 415 note.

SEC. 1447. TREATMENT OF DEFERRED COMPENSATION PLANS OF STATE AND LOCAL GOVERNMENTS AND TAX-EXEMPT ORGANIZATIONS.

(a) SPECIAL RULES FOR PLAN DISTRIBUTIONS.—Paragraph (9) of section 457(e) (relating to other definitions and special rules) is amended to read as follows:

"(9) BENEFITS NOT TREATED AS MADE AVAILABLE BY REASON OF CERTAIN ELECTIONS, ETC.—

"(A) TOTAL AMOUNT PAYABLE IS $3,500 OR LESS.—The total amount payable to a participant under the plan shall not be treated as made available merely because the participant may elect to receive such amount (or the plan may distribute such amount without the participant's consent) if—

"(i) such amount does not exceed $3,500, and

"(ii) such amount may be distributed only if—

"(I) no amount has been deferred under the plan with respect to such participant during the 2-year period ending on the date of the distribution, and

"(II) there has been no prior distribution under the plan to such participant to which this subparagraph applied.

A plan shall not be treated as failing to meet the distribution requirements of subsection (d) by reason of a distribution to which this subparagraph applies.

"(B) ELECTION TO DEFER COMMENCEMENT OF DISTRIBUTIONS.—The total amount payable to a participant under the plan shall not be treated as made available merely because the participant may elect to defer commencement of distributions under the plan if—

"(i) such election is made after amounts may be available under the plan in accordance with subsection (d)(1)(A) and before commencement of such distributions, and

"(ii) the participant may make only 1 such election.".

(b) COST-OF-LIVING ADJUSTMENT OF MAXIMUM DEFERRAL AMOUNT.—Subsection (e) of section 457, as amended by section 1444(b)(2) (relating to governmental plans), is amended by adding at the end the following new paragraph:

"(15) COST-OF-LIVING ADJUSTMENT OF MAXIMUM DEFERRAL AMOUNT.—The Secretary shall adjust the $7,500 amount specified in subsections (b)(2) and (c)(1) at the same time and in the same manner as under section 415(d), except that the base period shall be the calendar quarter ending September 30, 1994, and any increase under this paragraph which is not a multiple of $500 shall be rounded to the next lowest multiple of $500.".

26 USC 457 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

SEC. 1448. TRUST REQUIREMENT FOR DEFERRED COMPENSATION PLANS OF STATE AND LOCAL GOVERNMENTS.

(a) IN GENERAL.—Section 457 is amended by adding at the end the following new subsection:

"(g) GOVERNMENTAL PLANS MUST MAINTAIN SET-ASIDES FOR EXCLUSIVE BENEFIT OF PARTICIPANTS.—

"(1) IN GENERAL.—A plan maintained by an eligible employer described in subsection (e)(1)(A) shall not be treated as an eligible deferred compensation plan unless all assets and income of the plan described in subsection (b)(6) are held in trust for the exclusive benefit of participants and their beneficiaries.

"(2) TAXABILITY OF TRUSTS AND PARTICIPANTS.—For purposes of this title—

"(A) a trust described in paragraph (1) shall be treated as an organization exempt from taxation under section 501(a), and

"(B) notwithstanding any other provision of this title, amounts in the trust shall be includible in the gross income of participants and beneficiaries only to the extent, and at the time, provided in this section.

"(3) CUSTODIAL ACCOUNTS AND CONTRACTS.—For purposes of this subsection, custodial accounts and contracts described in section 401(f) shall be treated as trusts under rules similar to the rules under section 401(f).".

(b) CONFORMING AMENDMENT.—Paragraph (6) of section 457(b) is amended by inserting "except as provided in subsection (g)," before "which provides that".

(c) EFFECTIVE DATES.— 26 USC 457 note.

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to assets and income described in section 457(b)(6) of the Internal Revenue Code of 1986 held by a plan on and after the date of the enactment of this Act.

(2) TRANSITION RULE.—In the case of a plan in existence on the date of the enactment of this Act, a trust need not be established by reason of the amendments made by this section before January 1, 1999.

SEC. 1449. TRANSITION RULE FOR COMPUTING MAXIMUM BENEFITS UNDER SECTION 415 LIMITATIONS.

(a) IN GENERAL.—Subparagraph (A) of section 767(d)(3) of the Uruguay Round Agreements Act is amended to read as follows: 26 USC 411 note.

"(A) EXCEPTION.—A plan that was adopted and in effect before December 8, 1994, shall not be required to apply the amendments made by subsection (b) with respect to benefits accrued before the earlier of—

"(i) the later of the date a plan amendment applying the amendments made by subsection (b) is adopted or made effective, or

"(ii) the first day of the first limitation year beginning after December 31, 1999.

Determinations under section 415(b)(2)(E) of the Internal Revenue Code of 1986 before such earlier date shall be made with respect to such benefits on the basis of such section as in effect on December 7, 1994 (except that the modification made by section 1449(b) of the Small Business Job Protection Act of 1996 shall be taken into account), and the provisions of the plan as in effect on December 7, 1994, but only if such provisions of the plan meet the requirements of such section (as so in effect).".

(b) MODIFICATION OF CERTAIN ASSUMPTIONS FOR ADJUSTING BENEFITS OF DEFINED BENEFIT PLANS FOR EARLY RETIREES.—Subparagraph (E) of section 415(b)(2) (relating to limitation on certain assumptions) is amended—

(1) by striking "Except as provided in clause (ii), for purposes of adjusting any benefit or limitation under subparagraph (B) or (C)," in clause (i) and inserting "For purposes of adjusting any limitation under subparagraph (C) and, except as provided in clause (ii), for purposes of adjusting any benefit under subparagraph (B),", and

(2) by striking "For purposes of adjusting the benefit or limitation of any form of benefit subject to section 417(e)(3)," in clause (ii) and inserting "For purposes of adjusting any benefit under subparagraph (B) for any form of benefit subject to section 417(e)(3),".

26 USC 415 note. (c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the provisions of section 767 of the Uruguay Round Agreements Act.

26 USC 411 note. (d) TRANSITIONAL RULE.—In the case of a plan that was adopted and in effect before December 8, 1994, if—

(1) a plan amendment was adopted or made effective on or before the date of the enactment of this Act applying the amendments made by section 767 of the Uruguay Round Agreements Act, and

(2) within 1 year after the date of the enactment of this Act, a plan amendment is adopted which repeals the amendment referred to in paragraph (1),

the amendment referred to in paragraph (1) shall not be taken into account in applying section 767(d)(3)(A) of the Uruguay Round Agreements Act, as amended by subsection (a).

SEC. 1450. MODIFICATIONS OF SECTION 403(b).

26 USC 403 note. (a) MULTIPLE SALARY REDUCTION AGREEMENTS PERMITTED.—

(1) GENERAL RULE.—For purposes of section 403(b) of the Internal Revenue Code of 1986, the frequency that an employee is permitted to enter into a salary reduction agreement, the salary to which such an agreement may apply, and the ability to revoke such an agreement shall be determined under the rules applicable to cash or deferred elections under section 401(k) of such Code.

(2) CONSTRUCTIVE RECEIPT.—Section 402(e)(3) is amended by inserting "or which is part of a salary reduction agreement under section 403(b)" after "section 401(k)(2))".

(3) EFFECTIVE DATE.—This subsection shall apply to taxable years beginning after December 31, 1995.

(b) TREATMENT OF INDIAN TRIBAL GOVERNMENTS.—

(1) IN GENERAL.—In the case of any contract purchased in a plan year beginning before January 1, 1995, section 403(b) of the Internal Revenue Code of 1986 shall be applied as if any reference to an employer described in section 501(c)(3) of the Internal Revenue Code of 1986 which is exempt from tax under section 501 of such Code included a reference to an employer which is an Indian tribal government (as defined by section 7701(a)(40) of such Code), a subdivision of an Indian tribal government (determined in accordance with section 7871(d) of such Code), an agency or instrumentality of an Indian tribal government or subdivision thereof, or a corpora-

tion chartered under Federal, State, or tribal law which is owned in whole or in part by any of the foregoing.

(2) ROLLOVERS.—Solely for purposes of applying section 403(b)(8) of such Code to a contract to which paragraph (1) applies, a qualified cash or deferred arrangement under section 401(k) of such Code shall be treated as if it were a plan or contract described in clause (ii) of section 403(b)(8)(A) of such Code.

(c) ELECTIVE DEFERRALS.—

(1) IN GENERAL.—Subparagraph (E) of section 403(b)(1) is amended to read as follows:

"(E) in the case of a contract purchased under a salary reduction agreement, the contract meets the requirements of section 401(a)(30),".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to years beginning after December 31, 1995, except a contract shall not be required to meet any change in any requirement by reason of such amendment before the 90th day after the date of the enactment of this Act. 26 USC 403 note.

SEC. 1451. SPECIAL RULES RELATING TO JOINT AND SURVIVOR ANNUITY EXPLANATIONS.

(a) AMENDMENT TO INTERNAL REVENUE CODE.—Section 417(a) is amended by adding at the end the following new paragraph:

"(7) SPECIAL RULES RELATING TO TIME FOR WRITTEN EXPLANATION.—Notwithstanding any other provision of this subsection—

"(A) EXPLANATION MAY BE PROVIDED AFTER ANNUITY STARTING DATE.—

"(i) IN GENERAL.—A plan may provide the written explanation described in paragraph (3)(A) after the annuity starting date. In any case to which this subparagraph applies, the applicable election period under paragraph (6) shall not end before the 30th day after the date on which such explanation is provided.

"(ii) REGULATORY AUTHORITY.—The Secretary may by regulations limit the application of clause (i), except that such regulations may not limit the period of time by which the annuity starting date precedes the provision of the written explanation other than by providing that the annuity starting date may not be earlier than termination of employment.

"(B) WAIVER OF 30-DAY PERIOD.—A plan may permit a participant to elect (with any applicable spousal consent) to waive any requirement that the written explanation be provided at least 30 days before the annuity starting date (or to waive the 30-day requirement under subparagraph (A)) if the distribution commences more than 7 days after such explanation is provided.".

(b) AMENDMENT TO ERISA.—Section 205(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1055(c)) is amended by adding at the end the following new paragraph:

"(8) Notwithstanding any other provision of this subsection—

"(A)(i) A plan may provide the written explanation described in paragraph (3)(A) after the annuity starting

date. In any case to which this subparagraph applies, the applicable election period under paragraph (7) shall not end before the 30th day after the date on which such explanation is provided.

"(ii) The Secretary may by regulations limit the application of clause (i), except that such regulations may not limit the period of time by which the annuity starting date precedes the provision of the written explanation other than by providing that the annuity starting date may not be earlier than termination of employment.

"(B) A plan may permit a participant to elect (with any applicable spousal consent) to waive any requirement that the written explanation be provided at least 30 days before the annuity starting date (or to waive the 30-day requirement under subparagraph (A)) if the distribution commences more than 7 days after such explanation is provided.".

26 USC 417 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 1996.

SEC. 1452. REPEAL OF LIMITATION IN CASE OF DEFINED BENEFIT PLAN AND DEFINED CONTRIBUTION PLAN FOR SAME EMPLOYEE; EXCESS DISTRIBUTIONS.

(a) IN GENERAL.—Section 415(e) is repealed.

(b) EXCESS DISTRIBUTIONS.—Section 4980A is amended by adding at the end the following new subsection:

"(g) LIMITATION ON APPLICATION.—This section shall not apply to distributions during years beginning after December 31, 1996, and before January 1, 2000, and such distributions shall be treated as made first from amounts not described in subsection (f).".

(c) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 415(a) is amended—

(A) by adding "or" at the end of subparagraph (A),

(B) by striking ", or" at the end of subparagraph (B) and inserting a period, and

(C) by striking subparagraph (C).

(2) Subparagraph (B) of section 415(b)(5) is amended by striking "and subsection (e)".

(3) Paragraph (1) of section 415(f) is amended by striking "subsections (b), (c), and (e)" and inserting "subsections (b) and (c)".

(4) Subsection (g) of section 415 is amended by striking "subsections (e) and (f)" in the last sentence and inserting "subsection (f)".

(5) Clause (i) of section 415(k)(2)(A) is amended to read as follows:

"(i) any contribution made directly by an employee under such an arrangement shall not be treated as an annual addition for purposes of subsection (c), and".

(6) Clause (ii) of section 415(k)(2)(A) is amended by striking "subsections (c) and (e)" and inserting "subsection (c)".

(7) Section 416 is amended by striking subsection (h).

26 USC 415 note.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to limitation years beginning after December 31, 1999.

(2) EXCESS DISTRIBUTIONS.—The amendment made by subsection (b) shall apply to years beginning after December 31, 1996.

SEC. 1453. TAX ON PROHIBITED TRANSACTIONS.

(a) IN GENERAL.—Section 4975(a) is amended by striking "5 percent" and inserting "10 percent".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to prohibited transactions occurring after the date of the enactment of this Act. 26 USC 4975 note.

SEC. 1454. TREATMENT OF LEASED EMPLOYEES.

(a) GENERAL RULE.—Subparagraph (C) of section 414(n)(2) (defining leased employee) is amended to read as follows:

"(C) such services are performed under primary direction or control by the recipient.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to years beginning after December 31, 1996, but shall not apply to any relationship determined under an Internal Revenue Service ruling issued before the date of the enactment of this Act pursuant to section 414(n)(2)(C) of the Internal Revenue Code of 1986 (as in effect on the day before such date) not to involve a leased employee. 26 USC 414 note.

SEC. 1455. UNIFORM PENALTY PROVISIONS TO APPLY TO CERTAIN PENSION REPORTING REQUIREMENTS.

(a) PENALTIES.—

(1) STATEMENTS.—Paragraph (1) of section 6724(d) is amended by striking "and" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", and", and by inserting after subparagraph (B) the following new subparagraph:

"(C) any statement of the amount of payments to another person required to be made to the Secretary under—

"(i) section 408(i) (relating to reports with respect to individual retirement accounts or annuities), or

"(ii) section 6047(d) (relating to reports by employers, plan administrators, etc.).".

(2) REPORTS.—Paragraph (2) of section 6724(d) is amended by striking "or" at the end of subparagraph (U), by striking the period at the end of subparagraph (V) and inserting a comma, and by inserting after subparagraph (V) the following new subparagraphs:

"(W) section 408(i) (relating to reports with respect to individual retirement plans) to any person other than the Secretary with respect to the amount of payments made to such person, or

"(X) section 6047(d) (relating to reports by plan administrators) to any person other than the Secretary with respect to the amount of payments made to such person.".

(b) MODIFICATION OF REPORTABLE DESIGNATED DISTRIBUTIONS.—

(1) SECTION 408.—Subsection (i) of section 408 (relating to individual retirement account reports) is amended by inserting "aggregating $10 or more in any calendar year" after "distributions".

(2) SECTION 6047.—Paragraph (1) of section 6047(d) (relating to reports by employers, plan administrators, etc.) is amended by adding at the end the following new sentence: "No return or report may be required under the preceding sentence with respect to distributions to any person during any year unless such distributions aggregate $10 or more.".

(c) QUALIFYING ROLLOVER DISTRIBUTIONS.—Section 6652(i) is amended—

(1) by striking "the $10" and inserting "$100", and

(2) by striking "$5,000" and inserting "$50,000".

(d) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 6047(f) is amended to read as follows:

"(1) For provisions relating to penalties for failures to file returns and reports required under this section, see sections 6652(e), 6721, and 6722.".

(2) Subsection (e) of section 6652 is amended by adding at the end the following new sentence: "This subsection shall not apply to any return or statement which is an information return described in section 6724(d)(1)(C)(ii) or a payee statement described in section 6724(d)(2)(X).".

(3) Subsection (a) of section 6693 is amended by adding at the end the following new sentence: "This subsection shall not apply to any report which is an information return described in section 6724(d)(1)(C)(i) or a payee statement described in section 6724(d)(2)(W).".

26 USC 408 note.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to returns, reports, and other statements the due date for which (determined without regard to extensions) is after December 31, 1996.

SEC. 1456. RETIREMENT BENEFITS OF MINISTERS NOT SUBJECT TO TAX ON NET EARNINGS FROM SELF-EMPLOYMENT.

(a) IN GENERAL.—Section 1402(a)(8) (defining net earnings from self-employment) is amended by inserting ", but shall not include in such net earnings from self-employment the rental value of any parsonage or any parsonage allowance (whether or not excludable under section 107) provided after the individual retires, or any other retirement benefit received by such individual from a church plan (as defined in section 414(e)) after the individual retires" before the semicolon at the end.

26 USC 1402 note.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning before, on, or after December 31, 1994.

26 USC 414 note.

SEC. 1457. SAMPLE LANGUAGE FOR SPOUSAL CONSENT AND QUALIFIED DOMESTIC RELATIONS FORMS.

(a) DEVELOPMENT OF SAMPLE LANGUAGE.—Not later than January 1, 1997, the Secretary of the Treasury shall develop—

(1) sample language for inclusion in a form for the spousal consent required under section 417(a)(2) of the Internal Revenue Code of 1986 and section 205(c)(2) of the Employee Retirement Income Security Act of 1974 which—

(A) is written in a manner calculated to be understood by the average person, and

(B) discloses in plain form—

(i) whether the waiver to which the spouse consents is irrevocable, and

(ii) whether such waiver may be revoked by a qualified domestic relations order, and

(2) sample language for inclusion in a form for a qualified domestic relations order described in section 414(p)(1)(A) of such Code and section 206(d)(3)(B)(i) of such Act which—

(A) meets the requirements contained in such sections, and

(B) the provisions of which focus attention on the need to consider the treatment of any lump sum payment, qualified joint and survivor annuity, or qualified preretirement survivor annuity.

(b) PUBLICITY.—The Secretary of the Treasury shall include publicity for the sample language developed under subsection (a) in the pension outreach efforts undertaken by the Secretary.

SEC. 1458. TREATMENT OF LENGTH OF SERVICE AWARDS TO VOLUNTEERS PERFORMING FIRE FIGHTING OR PREVENTION SERVICES, EMERGENCY MEDICAL SERVICES, OR AMBULANCE SERVICES.

(a) IN GENERAL.—Paragraph (11) of section 457(e) (relating to deferred compensation plans of State and local governments and tax-exempt organizations) is amended to read as follows:

"(11) CERTAIN PLANS EXCLUDED.—

"(A) IN GENERAL.—The following plans shall be treated as not providing for the deferral of compensation:

"(i) Any bona fide vacation leave, sick leave, compensatory time, severance pay, disability pay, or death benefit plan.

"(ii) Any plan paying solely length of service awards to bona fide volunteers (or their beneficiaries) on account of qualified services performed by such volunteers.

"(B) SPECIAL RULES APPLICABLE TO LENGTH OF SERVICE AWARD PLANS.—

"(i) BONA FIDE VOLUNTEER.—An individual shall be treated as a bona fide volunteer for purposes of subparagraph (A)(ii) if the only compensation received by such individual for performing qualified services is in the form of—

"(I) reimbursement for (or a reasonable allowance for) reasonable expenses incurred in the performance of such services, or

"(II) reasonable benefits (including length of service awards), and nominal fees for such services, customarily paid by eligible employers in connection with the performance of such services by volunteers.

"(ii) LIMITATION ON ACCRUALS.—A plan shall not be treated as described in subparagraph (A)(ii) if the aggregate amount of length of service awards accruing with respect to any year of service for any bona fide volunteer exceeds $3,000.

"(C) QUALIFIED SERVICES.—For purposes of this paragraph, the term 'qualified services' means fire fighting and prevention services, emergency medical services, and ambulance services.".

(b) EXEMPTION FROM SOCIAL SECURITY TAXES.—

(1) Subsection (a)(5) of section 3121, as amended by section 1421, is amended by striking "(or)" at the end of subparagraph (G), by inserting "or" at the end of subparagraph (H), and by adding at the end the following new subparagraph:

"(I) under a plan described in section 457(e)(11)(A)(ii) and maintained by an eligible employer (as defined in section 457(e)(1)).".

42 USC 409.

(2) Section 209(a)(4) of the Social Security Act is amended by inserting "; or (K) under a plan described in section 457(e)(11)(A)(ii) of the Internal Revenue Code of 1986 and maintained by an eligible employer (as defined in section 457(e)(1) of such Code)" before the semicolon at the end thereof.

(c) EFFECTIVE DATE.—

26 USC 457 note.

(1) SUBSECTION (a).—The amendment made by subsection (a) shall apply to accruals of length of service awards after December 31, 1996.

26 USC 3121 note.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to remuneration paid after December 31, 1996.

SEC. 1459. ALTERNATIVE NONDISCRIMINATION RULES FOR CERTAIN PLANS THAT PROVIDE FOR EARLY PARTICIPATION.

(a) CASH OR DEFERRED ARRANGEMENTS.—Paragraph (3) of section 401(k) (relating to application of participation and discrimination standards), as amended by section 1433(d)(1) of this Act, is amended by adding at the end the following new subparagraph:

"(F) SPECIAL RULE FOR EARLY PARTICIPATION.—If an employer elects to apply section 410(b)(4)(B) in determining whether a cash or deferred arrangement meets the requirements of subparagraph (A)(i), the employer may, in determining whether the arrangement meets the requirements of subparagraph (A)(ii), exclude from consideration all eligible employees (other than highly compensated employees) who have not met the minimum age and service requirements of section 410(a)(1)(A).".

(b) MATCHING CONTRIBUTIONS.—Paragraph (5) of section 401(m) (relating to employees taken into consideration) is amended by adding at the end the following new subparagraph:

"(C) SPECIAL RULE FOR EARLY PARTICIPATION.—If an employer elects to apply section 410(b)(4)(B) in determining whether a plan meets the requirements of section 410(b), the employer may, in determining whether the plan meets the requirements of paragraph (2), exclude from consideration all eligible employees (other than highly compensated employees) who have not met the minimum age and service requirements of section 410(a)(1)(A).".

26 USC 401 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 1998.

SEC. 1460. CLARIFICATION OF APPLICATION OF ERISA TO INSURANCE COMPANY GENERAL ACCOUNTS.

(a) IN GENERAL.—Section 401 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1101) is amended by adding at the end the following new subsection:

Proposed regulations.

"(c)(1)(A) Not later than June 30, 1997, the Secretary shall issue proposed regulations to provide guidance for the purpose of determining, in cases where an insurer issues 1 or more policies to or for the benefit of an employee benefit plan (and such policies are supported by assets of such insurer's general account), which

assets held by the insurer (other than plan assets held in its separate accounts) constitute assets of the plan for purposes of this part and section 4975 of the Internal Revenue Code of 1986 and to provide guidance with respect to the application of this title to the general account assets of insurers.

"(B) The proposed regulations under subparagraph (A) shall be subject to public notice and comment until September 30, 1997.

"(C) The Secretary shall issue final regulations providing the guidance described in subparagraph (A) not later than December 31, 1997. Regulations.

"(D) Such regulations shall only apply with respect to policies which are issued by an insurer on or before December 31, 1998, to or for the benefit of an employee benefit plan which is supported by assets of such insurer's general account. With respect to policies issued on or before December 31, 1998, such regulations shall take effect at the end of the 18-month period following the date on which such regulations become final.

"(2) The Secretary shall ensure that the regulations issued under paragraph (1)—

"(A) are administratively feasible, and

"(B) protect the interests and rights of the plan and of its participants and beneficiaries (including meeting the requirements of paragraph (3)).

"(3) The regulations prescribed by the Secretary pursuant to paragraph (1) shall require, in connection with any policy issued by an insurer to or for the benefit of an employee benefit plan to the extent that the policy is not a guaranteed benefit policy (as defined in subsection (b)(2)(B))—

"(A) that a plan fiduciary totally independent of the insurer authorize the purchase of such policy (unless such purchase is a transaction exempt under section 408(b)(5)),

"(B) that the insurer describe (in such form and manner as shall be prescribed in such regulations), in annual reports and in policies issued to the policyholder after the date on which such regulations are issued in final form pursuant to paragraph (1)(C)—

"(i) a description of the method by which any income and expenses of the insurer's general account are allocated to the policy during the term of the policy and upon the termination of the policy, and

"(ii) for each report, the actual return to the plan under the policy and such other financial information as the Secretary may deem appropriate for the period covered by each such annual report,

"(C) that the insurer disclose to the plan fiduciary the extent to which alternative arrangements supported by assets of separate accounts of the insurer (which generally hold plan assets) are available, whether there is a right under the policy to transfer funds to a separate account and the terms governing any such right, and the extent to which support by assets of the insurer's general account and support by assets of separate accounts of the insurer might pose differing risks to the plan, and

"(D) that the insurer manage those assets of the insurer which are assets of such insurer's general account (irrespective of whether any such assets are plan assets) with the care, skill, prudence, and diligence under the circumstances then

prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims, taking into account all obligations supported by such enterprise.

"(4) Compliance by the insurer with all requirements of the regulations issued by the Secretary pursuant to paragraph (1) shall be deemed compliance by such insurer with sections 404, 406, and 407 with respect to those assets of the insurer's general account which support a policy described in paragraph (3).

"(5)(A) Subject to subparagraph (B), any regulations issued under paragraph (1) shall not take effect before the date on which such regulations become final.

"(B) No person shall be subject to liability under this part or section 4975 of the Internal Revenue Code of 1986 for conduct which occurred before the date which is 18 months following the date described in subparagraph (A) on the basis of a claim that the assets of an insurer (other than plan assets held in a separate account) constitute assets of the plan, except—

"(i) as otherwise provided by the Secretary in regulations intended to prevent avoidance of the regulations issued under paragraph (1), or

"(ii) as provided in an action brought by the Secretary pursuant to paragraph (2) or (5) of section 502(a) for a breach of fiduciary responsibilities which would also constitute a violation of Federal or State criminal law.

The Secretary shall bring a cause of action described in clause (ii) if a participant, beneficiary, or fiduciary demonstrates to the satisfaction of the Secretary that a breach described in clause (ii) has occurred.

"(6) Nothing in this subsection shall preclude the application of any Federal criminal law.

"(7) For purposes of this subsection, the term 'policy' includes a contract.".

29 USC 1101 note.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by this section shall take effect on January 1, 1975.

(2) CIVIL ACTIONS.—The amendment made by this section shall not apply to any civil action commenced before November 7, 1995.

SEC. 1461. SPECIAL RULES FOR CHAPLAINS AND SELF-EMPLOYED MINISTERS.

(a) IN GENERAL.—Section 414(e) (defining church plan) is amended by adding at the end the following new paragraph:

"(5) SPECIAL RULES FOR CHAPLAINS AND SELF-EMPLOYED MINISTERS.—

"(A) CERTAIN MINISTERS MAY PARTICIPATE.—For purposes of this part—

"(i) IN GENERAL.—An employee of a church or a convention or association of churches shall include a duly ordained, commissioned, or licensed minister of a church who, in connection with the exercise of his or her ministry—

"(I) is a self-employed individual (within the meaning of section 401(c)(1)(B)), or

"(II) is employed by an organization other than an organization described in section 501(c)(3).

"(ii) TREATMENT AS EMPLOYER AND EMPLOYEE.—

"(I) SELF-EMPLOYED.—A minister described in clause (i)(I) shall be treated as his or her own employer which is an organization described in section 501(c)(3) and which is exempt from tax under section 501(a).

"(II) OTHERS.—A minister described in clause (i)(II) shall be treated as employed by an organization described in section 501(c)(3) and exempt from tax under section 501(a).

"(B) SPECIAL RULES FOR APPLYING SECTION 403(b) TO SELF-EMPLOYED MINISTERS.—In the case of a minister described in subparagraph (A)(i)(I)—

"(i) the minister's includible compensation under section 403(b)(3) shall be determined by reference to the minister's earned income (within the meaning of section 401(c)(2)) from such ministry rather than the amount of compensation which is received from an employer, and

"(ii) the years (and portions of years) in which such minister was a self-employed individual (within the meaning of section 401(c)(1)(B)) with respect to such ministry shall be included for purposes of section 403(b)(4).

"(C) EFFECT ON NON-DENOMINATIONAL PLANS.—If a duly ordained, commissioned, or licensed minister of a church in the exercise of his or her ministry participates in a church plan (within the meaning of this section) and in the exercise of such ministry is employed by an employer not eligible to participate in such church plan, then such employer may exclude such minister from being treated as an employee of such employer for purposes of applying sections 401(a)(3), 401(a)(4), and 401(a)(5), as in effect on September 1, 1974, and sections 401(a)(4), 401(a)(5), 401(a)(26), 401(k)(3), 401(m), 403(b)(1)(D) (including section 403(b)(12)), and 410 to any stock bonus, pension, profit-sharing, or annuity plan (including an annuity described in section 403(b) or a retirement income account described in section 403(b)(9)). The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purpose of, and prevent the abuse of, this subparagraph. Regulations.

"(D) COMPENSATION TAKEN INTO ACCOUNT ONLY ONCE.—If any compensation is taken into account in determining the amount of any contributions made to, or benefits to be provided under, any church plan, such compensation shall not also be taken into account in determining the amount of any contributions made to, or benefits to be provided under, any other stock bonus, pension, profit-sharing, or annuity plan which is not a church plan.".

(b) CONTRIBUTIONS BY CERTAIN MINISTERS TO RETIREMENT INCOME ACCOUNTS.—Section 404(a) (relating to deduction for contributions of an employer to an employees' trust or annuity plan and compensation under a deferred-payment plan) is amended by adding at the end the following new paragraph:

"(10) CONTRIBUTIONS BY CERTAIN MINISTERS TO RETIREMENT INCOME ACCOUNTS.—In the case of contributions made by a minister described in section 414(e)(5) to a retirement income account described in section 403(b)(9) and not by a person other than such minister, such contributions—

"(A) shall be treated as made to a trust which is exempt from tax under section 501(a) and which is part of a plan which is described in section 401(a), and

"(B) shall be deductible under this subsection to the extent such contributions do not exceed the limit on elective deferrals under section 402(g), the exclusion allowance under section 403(b)(2), or the limit on annual additions under section 415.

For purposes of this paragraph, all plans in which the minister is a participant shall be treated as one plan.".

26 USC 404 note. (c) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1996.

SEC. 1462. DEFINITION OF HIGHLY COMPENSATED EMPLOYEE FOR PRE-ERISA RULES FOR CHURCH PLANS.

(a) IN GENERAL.—Section 414(q) (defining highly compensated employee), as amended by section 1431(c)(1)(A) of this Act, is amended by adding at the end the following new paragraph:

"(7) CERTAIN EMPLOYEES NOT CONSIDERED HIGHLY COMPENSATED AND EXCLUDED EMPLOYEES UNDER PRE-ERISA RULES FOR CHURCH PLANS.—In the case of a church plan (as defined in subsection (e)), no employee shall be considered an officer, a person whose principal duties consist of supervising the work of other employees, or a highly compensated employee for any year unless such employee is a highly compensated employee under paragraph (1) for such year.".

26 USC 414 note. (b) SAFEHARBOR AUTHORITY.—The Secretary of the Treasury may design nondiscrimination and coverage safe harbors for church plans.

26 USC 414 note. (c) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to years beginning after December 31, 1996.

SEC. 1463. RULE RELATING TO INVESTMENT IN CONTRACT NOT TO APPLY TO FOREIGN MISSIONARIES.

(a) IN GENERAL.—The last sentence of section 72(f) is amended by inserting ", or to the extent such credits are attributable to services performed as a foreign missionary (within the meaning of section 403(b)(2)(D)(iii))" before the last period.

26 USC 72 note. (b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1996.

SEC. 1464. WAIVER OF EXCISE TAX ON FAILURE TO PAY LIQUIDITY SHORTFALL.

(a) IN GENERAL.—Section 4971(f) (relating to failure to pay liquidity shortfall) is amended by adding at the end the following new paragraph:

"(4) WAIVER BY SECRETARY.—If the taxpayer establishes to the satisfaction of the Secretary that—

"(A) the liquidity shortfall described in paragraph (1) was due to reasonable cause and not willful neglect, and

"(B) reasonable steps have been taken to remedy such liquidity shortfall,

the Secretary may waive all or part of the tax imposed by this subsection.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the amendment made by clause (ii) of section 751(a)(9)(B) of the Retirement Protection Act of 1994 (108 Stat. 5020). 26 USC 4971 note.

SEC. 1465. DATE FOR ADOPTION OF PLAN AMENDMENTS. 26 USC 401 note

If any amendment made by this subtitle requires an amendment to any plan or annuity contract, such amendment shall not be required to be made before the first day of the first plan year beginning on or after January 1, 1998, if—

(1) during the period after such amendment takes effect and before such first plan year, the plan or contract is operated in accordance with the requirements of such amendment, and

(2) such amendment applies retroactively to such period.

In the case of a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986), this section shall be applied by substituting "2000" for "1998".

Subtitle E—Foreign Simplification

SEC. 1501. REPEAL OF INCLUSION OF CERTAIN EARNINGS INVESTED IN EXCESS PASSIVE ASSETS.

(a) IN GENERAL.—

(1) REPEAL OF INCLUSION.—Paragraph (1) of section 951(a) (relating to amounts included in gross income of United States shareholders) is amended by striking subparagraph (C), by striking "; and" at the end of subparagraph (B) and inserting a period, and by adding "and" at the end of subparagraph (A).

(2) REPEAL OF INCLUSION AMOUNT.—Section 956A (relating to earnings invested in excess passive assets) is repealed.

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (G) of section 904(d)(3), as amended by section 1703(i)(1), is amended by striking "subparagraph (B) or (C) of section 951(a)(1)" and inserting "section 951(a)(1)(B)".

(2) Paragraph (1) of section 956(b) is amended to read as follows:

"(1) APPLICABLE EARNINGS.—For purposes of this section, the term 'applicable earnings' means, with respect to any controlled foreign corporation, the sum of—

"(A) the amount (not including a deficit) referred to in section 316(a)(1), and

"(B) the amount referred to in section 316(a)(2),

but reduced by distributions made during the taxable year and by earnings and profits described in section 959(c)(1).".

(3) Paragraph (3) of section 956(b) is amended to read as follows:

"(3) SPECIAL RULE WHERE CORPORATION CEASES TO BE CONTROLLED FOREIGN CORPORATION.—If any foreign corporation ceases to be a controlled foreign corporation during any taxable year—

"(A) the determination of any United States shareholder's pro rata share shall be made on the basis of stock owned (within the meaning of section 958(a)) by such share-

holder on the last day during the taxable year on which the foreign corporation is a controlled foreign corporation,

"(B) the average referred to in subsection (a)(1)(A) for such taxable year shall be determined by only taking into account quarters ending on or before such last day, and

"(C) in determining applicable earnings, the amount taken into account by reason of being described in paragraph (2) of section 316(a) shall be the portion of the amount so described which is allocable (on a pro rata basis) to the part of such year during which the corporation is a controlled foreign corporation.".

(4) Subsection (a) of section 959 (relating to exclusion from gross income of previously taxed earnings and profits) is amended by adding "or" at the end of paragraph (1), by striking "or" at the end of paragraph (2), and by striking paragraph (3).

(5) Subsection (a) of section 959 is amended by striking "paragraphs (2) and (3)" in the last sentence and inserting "paragraph (2)".

(6) Subsection (c) of section 959 is amended by adding at the end the following flush sentence:

"References in this subsection to section 951(a)(1)(C) and subsection (a)(3) shall be treated as references to such provisions as in effect on the day before the date of the enactment of the Small Business Job Protection Act of 1996.".

(7) Paragraph (1) of section 959(f) is amended to read as follows:

"(1) IN GENERAL.—For purposes of this section, amounts that would be included under subparagraph (B) of section 951(a)(1) (determined without regard to this section) shall be treated as attributable first to earnings described in subsection (c)(2), and then to earnings described in subsection (c)(3).".

(8) Paragraph (2) of section 959(f) is amended by striking "subparagraphs (B) and (C) of section 951(a)(1)" and inserting "section 951(a)(1)(B)".

(9) Subsection (b) of section 989 is amended by striking "subparagraph (B) or (C) of section 951(a)(1)" and inserting "section 951(a)(1)(B)".

(10) Paragraph (9) of section 1297(b) is amended by striking "subparagraph (B) or (C) of section 951(a)(1)" and inserting "section 951(a)(1)(B)".

(11) Subsections (d)(3)(B) and (e)(2)(B)(ii) of section 1297 are each amended by striking "or section 956A".

(12) Subparagraph (G) of section 904(d)(3) is amended by striking "subparagraph (B) or (C) of section 951(a)(1)" and inserting "section 951(a)(1)(B)".

(c) CLERICAL AMENDMENT.—The table of sections for subpart F of part III of subchapter N of chapter 1 is amended by striking the item relating to section 956A.

26 USC 904 note.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years of foreign corporations beginning after December 31, 1996, and to taxable years of United States shareholders within which or with which such taxable years of foreign corporations end.

Subtitle F—Revenue Offsets

PART I—GENERAL PROVISIONS

SEC. 1601. TERMINATION OF PUERTO RICO AND POSSESSION TAX CREDIT.

(a) IN GENERAL.—Section 936 is amended by adding at the end the following new subsection:

"(j) TERMINATION.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, this section shall not apply to any taxable year beginning after December 31, 1995.

"(2) TRANSITION RULES FOR ACTIVE BUSINESS INCOME CREDIT.—Except as provided in paragraph (3)—

"(A) ECONOMIC ACTIVITY CREDIT.—In the case of an existing credit claimant—

"(i) with respect to a possession other than Puerto Rico, and

"(ii) to which subsection (a)(4)(B) does not apply, the credit determined under subsection (a)(1)(A) shall be allowed for taxable years beginning after December 31, 1995, and before January 1, 2002.

"(B) SPECIAL RULE FOR REDUCED CREDIT.—

"(i) IN GENERAL.—In the case of an existing credit claimant to which subsection (a)(4)(B) applies, the credit determined under subsection (a)(1)(A) shall be allowed for taxable years beginning after December 31, 1995, and before January 1, 1998.

"(ii) ELECTION IRREVOCABLE AFTER 1997.—An election under subsection (a)(4)(B)(iii) which is in effect for the taxpayer's last taxable year beginning before 1997 may not be revoked unless it is revoked for the taxpayer's first taxable year beginning in 1997 and all subsequent taxable years.

"(C) ECONOMIC ACTIVITY CREDIT FOR PUERTO RICO.—

"For economic activity credit for Puerto Rico, see section 30A.

"(3) ADDITIONAL RESTRICTED CREDIT.—

"(A) IN GENERAL.—In the case of an existing credit claimant—

"(i) the credit under subsection (a)(1)(A) shall be allowed for the period beginning with the first taxable year after the last taxable year to which subparagraph (A) or (B) of paragraph (2), whichever is appropriate, applied and ending with the last taxable year beginning before January 1, 2006, except that

"(ii) the aggregate amount of taxable income taken into account under subsection (a)(1)(A) for any such taxable year shall not exceed the adjusted base period income of such claimant.

"(B) COORDINATION WITH SUBSECTION (a)(4).—The amount of income described in subsection (a)(1)(A) which is taken into account in applying subsection (a)(4) shall be such income as reduced under this paragraph.

"(4) ADJUSTED BASE PERIOD INCOME.—For purposes of paragraph (3)—

"(A) IN GENERAL.—The term 'adjusted base period income' means the average of the inflation-adjusted possession incomes of the corporation for each base period year.

"(B) INFLATION-ADJUSTED POSSESSION INCOME.—For purposes of subparagraph (A), the inflation-adjusted possession income of any corporation for any base period year shall be an amount equal to the sum of—

"(i) the possession income of such corporation for such base period year, plus

"(ii) such possession income multiplied by the inflation adjustment percentage for such base period year.

"(C) INFLATION ADJUSTMENT PERCENTAGE.—For purposes of subparagraph (B), the inflation adjustment percentage for any base period year means the percentage (if any) by which—

"(i) the CPI for 1995, exceeds

"(ii) the CPI for the calendar year in which the base period year for which the determination is being made ends.

For purposes of the preceding sentence, the CPI for any calendar year is the CPI (as defined in section 1(f)(5)) for such year under section 1(f)(4).

"(D) INCREASE IN INFLATION ADJUSTMENT PERCENTAGE FOR GROWTH DURING BASE YEARS.—The inflation adjustment percentage (determined under subparagraph (C) without regard to this subparagraph) for each of the 5 taxable years referred to in paragraph (5)(A) shall be increased by—

"(i) 5 percentage points in the case of a taxable year ending during the 1-year period ending on October 13, 1995;

"(ii) 10.25 percentage points in the case of a taxable year ending during the 1-year period ending on October 13, 1994;

"(iii) 15.76 percentage points in the case of a taxable year ending during the 1-year period ending on October 13, 1993;

"(iv) 21.55 percentage points in the case of a taxable year ending during the 1-year period ending on October 13, 1992; and

"(v) 27.63 percentage points in the case of a taxable year ending during the 1-year period ending on October 13, 1991.

"(5) BASE PERIOD YEAR.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'base period year' means each of 3 taxable years which are among the 5 most recent taxable years of the corporation ending before October 14, 1995, determined by disregarding—

"(i) one taxable year for which the corporation had the largest inflation-adjusted possession income, and

"(ii) one taxable year for which the corporation had the smallest inflation-adjusted possession income.

"(B) CORPORATIONS NOT HAVING SIGNIFICANT POSSESSION INCOME THROUGHOUT 5-YEAR PERIOD.—

"(i) IN GENERAL.—If a corporation does not have significant possession income for each of the most

recent 5 taxable years ending before October 14, 1995, then, in lieu of applying subparagraph (A), the term 'base period year' means only those taxable years (of such 5 taxable years) for which the corporation has significant possession income; except that, if such corporation has significant possession income for 4 of such 5 taxable years, the rule of subparagraph (A)(ii) shall apply.

"(ii) SPECIAL RULE.—If there is no year (of such 5 taxable years) for which a corporation has significant possession income—

"(I) the term 'base period year' means the first taxable year ending on or after October 14, 1995, but

"(II) the amount of possession income for such year which is taken into account under paragraph (4) shall be the amount which would be determined if such year were a short taxable year ending on September 30, 1995.

"(iii) SIGNIFICANT POSSESSION INCOME.—For purposes of this subparagraph, the term 'significant possession income' means possession income which exceeds 2 percent of the possession income of the taxpayer for the taxable year (of the period of 6 taxable years ending with the first taxable year ending on or after October 14, 1995) having the greatest possession income.

"(C) ELECTION TO USE ONE BASE PERIOD YEAR.—

"(i) IN GENERAL.—At the election of the taxpayer, the term 'base period year' means—

"(I) only the last taxable year of the corporation ending in calendar year 1992, or

"(II) a deemed taxable year which includes the first ten months of calendar year 1995.

"(ii) BASE PERIOD INCOME FOR 1995.—In determining the adjusted base period income of the corporation for the deemed taxable year under clause (i)(II), the possession income shall be annualized and shall be determined without regard to any extraordinary item.

"(iii) ELECTION.—An election under this subparagraph by any possession corporation may be made only for the corporation's first taxable year beginning after December 31, 1995, for which it is a possession corporation. The rules of subclauses (II) and (III) of subsection (a)(4)(B)(iii) shall apply to the election under this subparagraph.

"(D) ACQUISITIONS AND DISPOSITIONS.—Rules similar to the rules of subparagraphs (A) and (B) of section 41(f)(3) shall apply for purposes of this subsection.

"(6) POSSESSION INCOME.—For purposes of this subsection, the term 'possession income' means, with respect to any possession, the income referred to in subsection (a)(1)(A) determined with respect to that possession. In no event shall possession income be treated as being less than zero.

"(7) SHORT YEARS.—If the current year or a base period year is a short taxable year, the application of this subsection

shall be made with such annualizations as the Secretary shall prescribe.

"(8) SPECIAL RULES FOR CERTAIN POSSESSIONS.—

"(A) IN GENERAL.—In the case of an existing credit claimant with respect to an applicable possession, this section (other than the preceding paragraphs of this subsection) shall apply to such claimant with respect to such applicable possession for taxable years beginning after December 31, 1995, and before January 1, 2006.

"(B) APPLICABLE POSSESSION.—For purposes of this paragraph, the term 'applicable possession' means Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

"(9) EXISTING CREDIT CLAIMANT.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'existing credit claimant' means a corporation—

"(i)(I) which was actively conducting a trade or business in a possession on October 13, 1995, and

"(II) with respect to which an election under this section is in effect for the corporation's taxable year which includes October 13, 1995, or

"(ii) which acquired all of the assets of a trade or business of a corporation which—

"(I) satisfied the requirements of subclause (I) of clause (i) with respect to such trade or business, and

"(II) satisfied the requirements of subclause (II) of clause (i).

"(B) NEW LINES OF BUSINESS PROHIBITED.—If, after October 13, 1995, a corporation which would (but for this subparagraph) be an existing credit claimant adds a substantial new line of business (other than in an acquisition described in subparagraph (A)(ii)), such corporation shall cease to be treated as an existing credit claimant as of the close of the taxable year ending before the date of such addition.

"(C) BINDING CONTRACT EXCEPTION.—If, on October 13, 1995, and at all times thereafter, there is in effect with respect to a corporation a binding contract for the acquisition of assets to be used in, or for the sale of assets to be produced from, a trade or business, the corporation shall be treated for purposes of this paragraph as actively conducting such trade or business on October 13, 1995. The preceding sentence shall not apply if such trade or business is not actively conducted before January 1, 1996.

"(10) SEPARATE APPLICATION TO EACH POSSESSION.—For purposes of determining—

"(A) whether a taxpayer is an existing credit claimant, and

"(B) the amount of the credit allowed under this section,

this subsection (and so much of this section as relates to this subsection) shall be applied separately with respect to each possession.".

(b) ECONOMIC ACTIVITY CREDIT FOR PUERTO RICO.—

(1) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 is amended by adding at the end the following new section:

"SEC. 30A. PUERTO RICAN ECONOMIC ACTIVITY CREDIT.

"(a) ALLOWANCE OF CREDIT.—

"(1) IN GENERAL.—Except as otherwise provided in this section, if the conditions of both paragraph (1) and paragraph (2) of subsection (b) are satisfied with respect to a qualified domestic corporation, there shall be allowed as a credit against the tax imposed by this chapter an amount equal to the portion of the tax which is attributable to the taxable income, from sources without the United States, from—

"(A) the active conduct of a trade or business within Puerto Rico, or

"(B) the sale or exchange of substantially all of the assets used by the taxpayer in the active conduct of such trade or business.

In the case of any taxable year beginning after December 31, 2001, the aggregate amount of taxable income taken into account under the preceding sentence (and in applying subsection (d)) shall not exceed the adjusted base period income of such corporation, as determined in the same manner as under section 936(j).

"(2) QUALIFIED DOMESTIC CORPORATION.—For purposes of paragraph (1), the term 'qualified domestic corporation' means a domestic corporation—

"(A) which is an existing credit claimant with respect to Puerto Rico, and

"(B) with respect to which section 936(a)(4)(B) does not apply for the taxable year.

"(3) SEPARATE APPLICATION.—For purposes of determining—

"(A) whether a taxpayer is an existing credit claimant with respect to Puerto Rico, and

"(B) the amount of the credit allowed under this section,

this section (and so much of section 936 as relates to this section) shall be applied separately with respect to Puerto Rico.

"(b) CONDITIONS WHICH MUST BE SATISFIED.—The conditions referred to in subsection (a) are—

"(1) 3-YEAR PERIOD.—If 80 percent or more of the gross income of the qualified domestic corporation for the 3-year period immediately preceding the close of the taxable year (or for such part of such period immediately preceding the close of such taxable year as may be applicable) was derived from sources within a possession (determined without regard to section 904(f)).

"(2) TRADE OR BUSINESS.—If 75 percent or more of the gross income of the qualified domestic corporation for such period or such part thereof was derived from the active conduct of a trade or business within a possession.

"(c) CREDIT NOT ALLOWED AGAINST CERTAIN TAXES.—The credit provided by subsection (a) shall not be allowed against the tax imposed by—

"(1) section 59A (relating to environmental tax),

"(2) section 531 (relating to the tax on accumulated earnings),

"(3) section 541 (relating to personal holding company tax), or

"(4) section 1351 (relating to recoveries of foreign expropriation losses).

"(d) LIMITATIONS ON CREDIT FOR ACTIVE BUSINESS INCOME.—The amount of the credit determined under subsection (a) for any taxable year shall not exceed the sum of the following amounts:

"(1) 60 percent of the sum of—

"(A) the aggregate amount of the qualified domestic corporation's qualified possession wages for such taxable year, plus

"(B) the allocable employee fringe benefit expenses of the qualified domestic corporation for such taxable year.

"(2) The sum of—

"(A) 15 percent of the depreciation allowances for the taxable year with respect to short-life qualified tangible property,

"(B) 40 percent of the depreciation allowances for the taxable year with respect to medium-life qualified tangible property, and

"(C) 65 percent of the depreciation allowances for the taxable year with respect to long-life qualified tangible property.

"(3) If the qualified domestic corporation does not have an election to use the method described in section 936(h)(5)(C)(ii) (relating to profit split) in effect for the taxable year, the amount of the qualified possession income taxes for the taxable year allocable to nonsheltered income.

"(e) ADMINISTRATIVE PROVISIONS.—For purposes of this title—

"(1) the provisions of section 936 (including any applicable election thereunder) shall apply in the same manner as if the credit under this section were a credit under section 936(a)(1)(A) for a domestic corporation to which section 936(a)(4)(A) applies,

"(2) the credit under this section shall be treated in the same manner as the credit under section 936, and

"(3) a corporation to which this section applies shall be treated in the same manner as if it were a corporation electing the application of section 936.

"(f) DEFINITIONS.—For purposes of this section, any term used in this section which is also used in section 936 shall have the same meaning given such term by section 936.

"(g) APPLICATION OF SECTION.—This section shall apply to taxable years beginning after December 31, 1995, and before January 1, 2006.".

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (1) of section 55(c) is amended by striking "and the section 936 credit allowable under section 27(b)" and inserting ", the section 936 credit allowable under section 27(b), and the Puerto Rican economic activity credit under section 30A".

(B) Subclause (I) of section 56(g)(4)(C)(ii) is amended—

(i) by inserting "30A," before "936", and

(ii) by striking "and (i)" and inserting ", (i), and (j)".

(C) Clause (iii) of section 56(g)(4)(C) is amended by adding at the end the following new subclause:

"(VI) APPLICATION TO SECTION 30A CORPORATIONS.—References in this clause to section 936 shall be treated as including references to section 30A.".

(D) Subsection (b) of section 59 is amended by striking "section 936," and all that follows and inserting "section 30A or 936, alternative minimum taxable income shall not include any income with respect to which a credit is determined under section 30A or 936.".

(E) The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

"Sec. 30A. Puerto Rican economic activity credit.".

(F)(i) The heading for subpart B of part IV of subchapter A of chapter 1 is amended to read as follows:

"Subpart B—Other Credits".

(ii) The table of subparts for part IV of subchapter A of chapter 1 is amended by striking the item relating to subpart B and inserting the following new item:

"Subpart B. Other credits.".

(c) EFFECTIVE DATE.— 26 USC 30A note.

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1995.

(2) SPECIAL RULE FOR QUALIFIED POSSESSION SOURCE INVESTMENT INCOME.—The amendments made by this section shall not apply to qualified possession source investment income received or accrued before July 1, 1996, without regard to the taxable year in which received or accrued.

(3) SPECIAL TRANSITION RULE FOR PAYMENT OF ESTIMATED TAX INSTALLMENT.—In determining the amount of any installment due under section 6655 of the Internal Revenue Code of 1986 after the date of the enactment of this Act and before October 1, 1996, only ½ of any increase in tax (for the taxable year for which such installment is made) by reason of the amendments made by subsections (a) and (b) shall be taken into account. Any reduction in such installment by reason of the preceding sentence shall be recaptured by increasing the next required installment for such year by the amount of such reduction.

SEC. 1602. REPEAL OF EXCLUSION FOR INTEREST ON LOANS USED TO ACQUIRE EMPLOYER SECURITIES.

(a) IN GENERAL.—Section 133 (relating to interest on certain loans used to acquire employer securities) is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (B) of section 291(e)(1) is amended by striking clause (iv) and by redesignating clause (v) as clause (iv).

(2) Section 812 is amended by striking subsection (g).

(3) Paragraph (5) of section 852(b) is amended by striking subparagraph (C).

(4) Paragraph (2) of section 4978(b) is amended by striking subparagraph (A) and all that follows and inserting the following:

"(A) first from qualified securities to which section 1042 applied acquired during the 3-year period ending on the date of the disposition, beginning with the securities first so acquired, and

"(B) then from any other employer securities.

If subsection (d) applies to a disposition, the disposition shall be treated as made from employer securities in the opposite order of the preceding sentence.".

(5)(A) Section 4978B (relating to tax on disposition of employer securities to which section 133 applied) is hereby repealed.

(B) The table of sections for chapter 43 is amended by striking the item relating to section 4978B.

(6) Subsection (e) of section 6047 is amended by striking paragraphs (1), (2), and (3) and inserting the following new paragraphs:

"(1) any employer maintaining, or the plan administrator (within the meaning of section 414(g)) of, an employee stock ownership plan which holds stock with respect to which section 404(k) applies to dividends paid on such stock, or

"(2) both such employer or plan administrator,".

(7) Subsection (f) of section 7872 is amended by striking paragraph (12).

(8) The table of sections for part III of subchapter B of chapter 1 is amended by striking the item relating to section 133.

26 USC 133 note.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to loans made after the date of the enactment of this Act.

(2) REFINANCINGS.—The amendments made by this section shall not apply to loans made after the date of the enactment of this Act to refinance securities acquisition loans (determined without regard to section 133(b)(1)(B) of the Internal Revenue Code of 1986, as in effect on the day before the date of the enactment of this Act) made on or before such date or to refinance loans described in this paragraph if—

(A) the refinancing loans meet the requirements of section 133 of such Code (as so in effect),

(B) immediately after the refinancing the principal amount of the loan resulting from the refinancing does not exceed the principal amount of the refinanced loan (immediately before the refinancing), and

(C) the term of such refinancing loan does not extend beyond the last day of the term of the original securities acquisition loan.

For purposes of this paragraph, the term "securities acquisition loan" includes a loan from a corporation to an employee stock ownership plan described in section 133(b)(3) of such Code (as so in effect).

(3) EXCEPTION.—Any loan made pursuant to a binding written contract in effect before June 10, 1996, and at all times thereafter before such loan is made, shall be treated

for purposes of paragraphs (1) and (2) as a loan made on or before the date of the enactment of this Act.

SEC. 1603. CERTAIN AMOUNTS DERIVED FROM FOREIGN CORPORATIONS TREATED AS UNRELATED BUSINESS TAXABLE INCOME.

(a) GENERAL RULE.—Subsection (b) of section 512 (relating to modifications) is amended by adding at the end the following new paragraph:

"(17) TREATMENT OF CERTAIN AMOUNTS DERIVED FROM FOREIGN CORPORATIONS.—

"(A) IN GENERAL.—Notwithstanding paragraph (1), any amount included in gross income under section 951(a)(1)(A) shall be included as an item of gross income derived from an unrelated trade or business to the extent the amount so included is attributable to insurance income (as defined in section 953) which, if derived directly by the organization, would be treated as gross income from an unrelated trade or business. There shall be allowed all deductions directly connected with amounts included in gross income under the preceding sentence.

"(B) EXCEPTION.—

"(i) IN GENERAL.—Subparagraph (A) shall not apply to income attributable to a policy of insurance or reinsurance with respect to which the person (directly or indirectly) insured is—

"(I) such organization,

"(II) an affiliate of such organization which is exempt from tax under section 501(a), or

"(III) a director or officer of, or an individual who (directly or indirectly) performs services for, such organization or affiliate but only if the insurance covers primarily risks associated with the performance of services in connection with such organization or affiliate.

"(ii) AFFILIATE.—For purposes of this subparagraph—

"(I) IN GENERAL.—The determination as to whether an entity is an affiliate of an organization shall be made under rules similar to the rules of section 168(h)(4)(B).

"(II) SPECIAL RULE.—Two or more organizations (and any affiliates of such organizations) shall be treated as affiliates if such organizations are colleges or universities described in section 170(b)(1)(A)(ii) or organizations described in section 170(b)(1)(A)(iii) and participate in an insurance arrangement that provides for any profits from such arrangement to be returned to the policyholders in their capacity as such.

"(C) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this paragraph, including regulations for the application of this paragraph in the case of income paid through 1 or more entities or between 2 or more chains of entities.".

26 USC 512 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to amounts included in gross income in any taxable year beginning after December 31, 1995.

SEC. 1604. DEPRECIATION UNDER INCOME FORECAST METHOD.

(a) GENERAL RULE.—Section 167 (relating to depreciation) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

"(g) DEPRECIATION UNDER INCOME FORECAST METHOD.—

"(1) IN GENERAL.—If the depreciation deduction allowable under this section to any taxpayer with respect to any property is determined under the income forecast method or any similar method—

"(A) the income from the property to be taken into account in determining the depreciation deduction under such method shall be equal to the amount of income earned in connection with the property before the close of the 10th taxable year following the taxable year in which the property was placed in service,

"(B) the adjusted basis of the property shall only include amounts with respect to which the requirements of section 461(h) are satisfied,

"(C) the depreciation deduction under such method for the 10th taxable year beginning after the taxable year in which the property was placed in service shall be equal to the adjusted basis of such property as of the beginning of such 10th taxable year, and

"(D) such taxpayer shall pay (or be entitled to receive) interest computed under the look-back method of paragraph (2) for any recomputation year.

"(2) LOOK-BACK METHOD.—The interest computed under the look-back method of this paragraph for any recomputation year shall be determined by—

"(A) first determining the depreciation deductions under this section with respect to such property which would have been allowable for prior taxable years if the determination of the amounts so allowable had been made on the basis of the sum of the following (instead of the estimated income from such property)—

"(i) the actual income earned in connection with such property for periods before the close of the recomputation year, and

"(ii) an estimate of the future income to be earned in connection with such property for periods after the recomputation year and before the close of the 10th taxable year following the taxable year in which the property was placed in service,

"(B) second, determining (solely for purposes of computing such interest) the overpayment or underpayment of tax for each such prior taxable year which would result solely from the application of subparagraph (A), and

"(C) then using the adjusted overpayment rate (as defined in section 460(b)(7)), compounded daily, on the overpayment or underpayment determined under subparagraph (B).

For purposes of the preceding sentence, any cost incurred after the property is placed in service (which is not treated as a

separate property under paragraph (5)) shall be taken into account by discounting (using the Federal mid-term rate determined under section 1274(d) as of the time such cost is incurred) such cost to its value as of the date the property is placed in service. The taxpayer may elect with respect to any property to have the preceding sentence not apply to such property.

"(3) EXCEPTION FROM LOOK-BACK METHOD.—Paragraph (1)(D) shall not apply with respect to any property which had a cost basis of $100,000 or less.

"(4) RECOMPUTATION YEAR.—For purposes of this subsection, except as provided in regulations, the term 'recomputation year' means, with respect to any property, the 3d and the 10th taxable years beginning after the taxable year in which the property was placed in service, unless the actual income earned in connection with the property for the period before the close of such 3d or 10th taxable year is within 10 percent of the income earned in connection with the property for such period which was taken into account under paragraph (1)(A).

"(5) SPECIAL RULES.—

"(A) CERTAIN COSTS TREATED AS SEPARATE PROPERTY.—For purposes of this subsection, the following costs shall be treated as separate properties:

"(i) Any costs incurred with respect to any property after the 10th taxable year beginning after the taxable year in which the property was placed in service.

"(ii) Any costs incurred after the property is placed in service and before the close of such 10th taxable year if such costs are significant and give rise to a significant increase in the income from the property which was not included in the estimated income from the property.

"(B) SYNDICATION INCOME FROM TELEVISION SERIES.—In the case of property which is 1 or more episodes in a television series, income from syndicating such series shall not be required to be taken into account under this subsection before the earlier of—

"(i) the 4th taxable year beginning after the date the first episode in such series is placed in service, or

"(ii) the earliest taxable year in which the taxpayer has an arrangement relating to the future syndication of such series.

"(C) SPECIAL RULES FOR FINANCIAL EXPLOITATION OF CHARACTERS, ETC.—For purposes of this subsection, in the case of television and motion picture films, the income from the property shall include income from the exploitation of characters, designs, scripts, scores, and other incidental income associated with such films, but only to the extent that such income is earned in connection with the ultimate use of such items by, or the ultimate sale of merchandise to, persons who are not related persons (within the meaning of section 267(b)) to the taxpayer.

"(D) COLLECTION OF INTEREST.—For purposes of subtitle F (other than sections 6654 and 6655), any interest required to be paid by the taxpayer under paragraph (1)

for any recomputation year shall be treated as an increase in the tax imposed by this chapter for such year.

"(E) DETERMINATIONS.—For purposes of paragraph (2), determinations of the amount of income earned in connection with any property shall be made in the same manner as for purposes of applying the income forecast method; except that any income from the disposition of such property shall be taken into account.

"(F) TREATMENT OF PASS-THRU ENTITIES.—Rules similar to the rules of section 460(b)(4) shall apply for purposes of this subsection."

26 USC 167 note.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to property placed in service after September 13, 1995.

(2) BINDING CONTRACTS.—The amendment made by subsection (a) shall not apply to any property produced or acquired by the taxpayer pursuant to a written contract which was binding on September 13, 1995, and at all times thereafter before such production or acquisition.

(3) UNDERPAYMENTS OF INCOME TAX.—No addition to tax shall be made under section 6662 of such Code as a result of the application of subsection (d) of that section (relating to substantial understatements of income tax) with respect to any underpayment of income tax for any taxable year ending before such date of enactment, to the extent such underpayment was created or increased by the amendments made by subsection (a).

SEC. 1605. REPEAL OF EXCLUSION FOR PUNITIVE DAMAGES AND FOR DAMAGES NOT ATTRIBUTABLE TO PHYSICAL INJURIES OR SICKNESS.

(a) IN GENERAL.—Paragraph (2) of section 104(a) (relating to compensation for injuries or sickness) is amended to read as follows:

"(2) the amount of any damages (other than punitive damages) received (whether by suit or agreement and whether as lump sums or as periodic payments) on account of personal physical injuries or physical sickness;".

(b) EMOTIONAL DISTRESS AS SUCH TREATED AS NOT PHYSICAL INJURY OR PHYSICAL SICKNESS.—Section 104(a) is amended by striking the last sentence and inserting the following new sentence: "For purposes of paragraph (2), emotional distress shall not be treated as a physical injury or physical sickness. The preceding sentence shall not apply to an amount of damages not in excess of the amount paid for medical care (described in subparagraph (A) or (B) of section 213(d)(1)) attributable to emotional distress.".

(c) APPLICATION OF PRIOR LAW FOR STATES IN WHICH ONLY PUNITIVE DAMAGES MAY BE AWARDED IN WRONGFUL DEATH ACTIONS.—Section 104 is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) APPLICATION OF PRIOR LAW IN CERTAIN CASES.—The phrase '(other than punitive damages)' shall not apply to punitive damages awarded in a civil action—

"(1) which is a wrongful death action, and

"(2) with respect to which applicable State law (as in effect on September 13, 1995 and without regard to any modification

after such date) provides, or has been construed to provide by a court of competent jurisdiction pursuant to a decision issued on or before September 13, 1995, that only punitive damages may be awarded in such an action.

This subsection shall cease to apply to any civil action filed on or after the first date on which the applicable State law ceases to provide (or is no longer construed to provide) the treatment described in paragraph (2).".

(d) EFFECTIVE DATE.— 26 USC 104 note.

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to amounts received after the date of the enactment of this Act, in taxable years ending after such date.

(2) EXCEPTION.—The amendments made by this section shall not apply to any amount received under a written binding agreement, court decree, or mediation award in effect on (or issued on or before) September 13, 1995.

SEC. 1606. REPEAL OF DIESEL FUEL TAX REBATE TO PURCHASERS OF DIESEL-POWERED AUTOMOBILES AND LIGHT TRUCKS.

(a) IN GENERAL.—Section 6427 (relating to fuels not used for taxable purposes) is amended by striking subsection (g).

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (3) of section 34(a) is amended to read as follows:

"(3) under section 6427 with respect to fuels used for nontaxable purposes or resold during the taxable year (determined without regard to section 6427(k)).".

(2) Paragraphs (1) and (2)(A) of section 6427(i) are each amended—

(A) by striking "(g),", and

(B) by striking "(or a qualified diesel powered highway vehicle purchased)" each place it appears.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to vehicles purchased after the date of the enactment of this Act. 26 USC 34 note.

SEC. 1607. EXTENSION AND PHASEDOWN OF LUXURY PASSENGER AUTOMOBILE TAX.

(a) EXTENSION.—Subsection (f) of section 4001 is amended by striking "1999" and inserting "2002".

(b) PHASEDOWN.—Section 4001 is amended by redesignating subsection (f) (as amended by subsection (a) of this section) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) PHASEDOWN.—For sales occurring in calendar years after 1995 and before 2003, subsection (a) shall be applied by substituting for '10 percent' the percentage determined in accordance with the following table:

"If the calendar year is:	The percentage is:
1996	9 percent
1997	8 percent
1998	7 percent
1999	6 percent
2000	5 percent
2001	4 percent
2002	3 percent .".

26 USC 4001 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to sales occurring after the date which is 7 days after the date of the enactment of this Act.

SEC. 1608. TERMINATION OF FUTURE TAX-EXEMPT BOND FINANCING FOR LOCAL FURNISHERS OF ELECTRICITY AND GAS.

(a) IN GENERAL.—Section 142(f) (relating to local furnishing of electric energy or gas) is amended by adding at the end the following new paragraphs:

"(3) TERMINATION OF FUTURE FINANCING.—For purposes of this section, no bond may be issued as part of an issue described in subsection (a)(8) with respect to a facility for the local furnishing of electric energy or gas on or after the date of the enactment of this paragraph unless—

"(A) the facility will—

"(i) be used by a person who is engaged in the local furnishing of that energy source on January 1, 1997, and

"(ii) be used to provide service within the area served by such person on January 1, 1997, (or within a county or city any portion of which is within such area), or

"(B) the facility will be used by a successor in interest to such person for the same use and within the same service area as described in subparagraph (A).

"(4) ELECTION TO TERMINATE TAX-EXEMPT BOND FINANCING BY CERTAIN FURNISHERS.—

"(A) IN GENERAL.—In the case of a facility financed with bonds issued before the date of the enactment of this paragraph which would cease to be tax-exempt by reason of the failure to meet the local furnishing requirement of subsection (a)(8) as a result of a service area expansion, such bonds shall not cease to be tax-exempt bonds (and section 150(b)(4) shall not apply) if the person engaged in such local furnishing by such facility makes an election described in subparagraph (B).

"(B) ELECTION.—An election is described in this subparagraph if it is an election made in such manner as the Secretary prescribes, and such person (or its predecessor in interest) agrees that—

"(i) such election is made with respect to all facilities for the local furnishing of electric energy or gas, or both, by such person,

"(ii) no bond exempt from tax under section 103 and described in subsection (a)(8) may be issued on or after the date of the enactment of this paragraph with respect to all such facilities of such person,

"(iii) any expansion of the service area—

"(I) is not financed with the proceeds of any exempt facility bond described in subsection (a)(8), and

"(II) is not treated as a nonqualifying use under the rules of paragraph (2), and

"(iv) all outstanding bonds used to finance the facilities for such person are redeemed not later than 6 months after the later of—

"(I) the earliest date on which such bonds may be redeemed, or

"(II) the date of the election.

"(C) RELATED PERSONS.—For purposes of this paragraph, the term 'person' includes a group of related persons (within the meaning of section 144(a)(3)) which includes such person.".

(b) NO INFERENCE WITH RESPECT TO OUTSTANDING BONDS.— The use of the term "person" in section 142(f)(3) of the Internal Revenue Code of 1986, as added by subsection (a), shall not be construed to affect the tax-exempt status of interest on any bonds issued before the date of the enactment of this Act. 26 USC 142 note.

SEC. 1609. EXTENSION OF AIRPORT AND AIRWAY TRUST FUND EXCISE TAXES.

(a) FUEL TAX.—

(1) Subparagraph (A) of section 4091(b)(3) is amended to read as follows:

"(A) The rate of tax specified in paragraph (1) shall be 4.3 cents per gallon—

"(i) after December 31, 1995, and before the date which is 7 calendar days after the date of the enactment of the Small Business Job Protection Act of 1996, and

"(ii) after December 31, 1996.".

(2) Section 4081(d) is amended—

(A) by adding at the end the following new paragraph:

"(3) AVIATION GASOLINE.—After December 31, 1996, the rate of tax specified in subsection (a)(2)(A)(i) on aviation gasoline shall be 4.3 cents per gallon.", and

(B) by inserting "(other than the tax on aviation gasoline)" after "subsection (a)(2)(A)".

(3) Section 4041(c)(5) is amended by inserting ", and during the period beginning on the date which is 7 calendar days after the date of the enactment of the Small Business Job Protection Act of 1996 and ending on December 31, 1996" after "December 31, 1995".

(b) TICKET TAXES.—Sections 4261(g) and 4271(d) are each amended by striking "January 1, 1996" and inserting "January 1, 1996, and to transportation beginning on or after the date which is 7 calendar days after the date of the enactment of the Small Business Job Protection Act of 1996 and before January 1, 1997".

(c) TRANSFERS TO AIRPORT AND AIRWAY TRUST FUND.—

(1) Subsection (b) of section 9502 is amended by striking "January 1, 1996" each place it appears and inserting "January 1, 1997".

(2) Paragraph (3) of section 9502(f) is amended to read as follows:

"(3) TERMINATION.—Notwithstanding the preceding provisions of this subsection, the Airport and Airway Trust Fund financing rate shall be zero with respect to—

"(A) taxes imposed after December 31, 1995, and before the date which is 7 calendar days after the date of the enactment of the Small Business Job Protection Act of 1996, and

"(B) taxes imposed after December 31, 1996.".

(3) Subsection (d) of section 9502 is amended by adding at the end the following new paragraph:

"(5) TRANSFERS FROM AIRPORT AND AIRWAY TRUST FUND ON ACCOUNT OF REFUNDS OF TAXES ON TRANSPORTATION BY AIR.—The Secretary of the Treasury shall pay from time to time from the Airport and Airway Trust Fund into the general fund of the Treasury amounts equivalent to the amounts paid after December 31, 1995, under section 6402 (relating to authority to make credits or refunds) or section 6415 (relating to credits or refunds to persons who collected certain taxes) in respect of taxes under sections 4261 and 4271.".

(d) EXCISE TAX EXEMPTION FOR CERTAIN EMERGENCY MEDICAL TRANSPORTATION BY AIR AMBULANCE.—Subsection (f) of section 4261 (relating to imposition of tax on transportation by air) is amended to read as follows:

"(f) EXEMPTION FOR AIR AMBULANCES PROVIDING CERTAIN EMERGENCY MEDICAL TRANSPORTATION.—No tax shall be imposed under this section or section 4271 on any air transportation for the purpose of providing emergency medical services—

"(1) by helicopter, or

"(2) by a fixed-wing aircraft equipped for and exclusively dedicated to acute care emergency medical services.".

(e) EXEMPTION FOR CERTAIN HELICOPTER USES.—Subsection (e) of section 4261 is amended by adding at the end the following new sentence: "In the case of helicopter transportation described in paragraph (1), this subsection shall be applied by treating each flight segment as a distinct flight.".

(f) FLIGHT-BY-FLIGHT DETERMINATION OF AVAILABILITY FOR HIRE FOR AFFILIATED GROUPS.—Section 4282 is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection:

"(b) AVAILABILITY FOR HIRE.—For purposes of subsection (a), the determination of whether an aircraft is available for hire by persons who are not members of an affiliated group shall be made on a flight-by-flight basis."

(g) CONSOLIDATION OF TAXES ON AVIATION GASOLINE.—

(1) IN GENERAL.—Subparagraph (A) of section 4081(a)(2) (relating to imposition of tax on gasoline and diesel fuel) is amended by redesignating clause (ii) as clause (iii) and by striking clause (i) and inserting the following:

"(i) in the case of gasoline other than aviation gasoline, 18.3 cents per gallon,

"(ii) in the case of aviation gasoline, 19.3 cents per gallon, and".

(2) TERMINATION.—Subsection (d) of section 4081 is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

"(2) AVIATION GASOLINE.—On and after January 1, 1997, the rate specified in subsection (a)(2)(A)(ii) shall be 4.3 cents per gallon."

(3) REPEAL OF RETAIL LEVEL TAX.—

(A) Subsection (c) of section 4041 is amended by striking paragraphs (2) and (3) and by redesignating paragraphs (4) and (5) as paragraphs (2) and (3), respectively.

(B) Paragraph (3) of section 4041(c), as redesignated by paragraph (1), is amended by striking "paragraphs (1) and (2)" and inserting "paragraph (1)".

(4) CONFORMING AMENDMENTS.—

(A) Paragraph (1) of section 4041(k) is amended by adding "and" at the end of subparagraph (A), by striking ", and" at the end of subparagraph (B) and inserting a period, and by striking subparagraph (C).

(B) Paragraph (1) of section 4081(d) is amended by striking "each rate of tax specified in subsection (a)(2)(A)" and inserting "the rates of tax specified in clauses (i) and (iii) of subsection (a)(2)(A)".

(C) Sections 6421(f)(2)(A) and 9502(f)(1)(A) are each amended by striking "section 4041(c)(4)" and inserting "section 4041(c)(2)".

(D) Paragraph (2) of section 9502(b) is amended by striking "14 cents" and inserting "15 cents".

(h) FLOOR STOCKS TAXES ON AVIATION FUEL.— 26 USC 4091 note.

(1) IMPOSITION OF TAX.—In the case of aviation fuel on which tax was imposed under section 4091 of the Internal Revenue Code of 1986 before the tax-increase date described in paragraph (3)(A)(i) and which is held on such date by any person, there is hereby imposed a floor stocks tax of 17.5 cents per gallon.

(2) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—A person holding aviation fuel on a tax-increase date to which the tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be paid in such manner as the Secretary shall prescribe.

(C) TIME FOR PAYMENT.—The tax imposed by paragraph (1) with respect to any tax-increase date shall be paid on or before the first day of the 7th month beginning after such tax-increase date.

(3) DEFINITIONS.—For purposes of this subsection—

(A) TAX INCREASE DATE.—The term "tax-increase date" means the date which is 7 calendar days after the date of the enactment of this Act.

(B) AVIATION FUEL.—The term "aviation fuel" has the meaning given such term by section 4093 of such Code.

(C) HELD BY A PERSON.—Aviation fuel shall be considered as "held by a person" if title thereto has passed to such person (whether or not delivery to the person has been made).

(D) SECRETARY.—The term "Secretary" means the Secretary of the Treasury or his delegate.

(4) EXCEPTION FOR EXEMPT USES.—The tax imposed by paragraph (1) shall not apply to aviation fuel held by any person on any tax-increase date exclusively for any use for which a credit or refund of the entire tax imposed by section 4091 of such Code is allowable for aviation fuel purchased on or after such tax-increase date for such use.

(5) EXCEPTION FOR CERTAIN AMOUNTS OF FUEL.—

(A) IN GENERAL.—No tax shall be imposed by paragraph (1) on aviation fuel held on any tax-increase date by any person if the aggregate amount of aviation fuel

held by such person on such date does not exceed 2,000 gallons. The preceding sentence shall apply only if such person submits to the Secretary (at the time and in the manner required by the Secretary) such information as the Secretary shall require for purposes of this paragraph.

(B) EXEMPT FUEL.—For purposes of subparagraph (A), there shall not be taken into account fuel held by any person which is exempt from the tax imposed by paragraph (1) by reason of paragraph (4).

(C) CONTROLLED GROUPS.—For purposes of this paragraph—

(i) CORPORATIONS.—

(I) IN GENERAL.—All persons treated as a controlled group shall be treated as 1 person.

(II) CONTROLLED GROUP.—The term "controlled group" has the meaning given to such term by subsection (a) of section 1563 of such Code; except that for such purposes the phrase "more than 50 percent" shall be substituted for the phrase "at least 80 percent" each place it appears in such subsection.

(ii) NONINCORPORATED PERSONS UNDER COMMON CONTROL.—Under regulations prescribed by the Secretary, principles similar to the principles of clause (i) shall apply to a group of persons under common control where 1 or more of such persons is not a corporation.

(6) OTHER LAW APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4091 of such Code shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply with respect to the floor stock taxes imposed by paragraph (1) to the same extent as if such taxes were imposed by such section 4091.

26 USC 4041 note.

(i) EFFECTIVE DATE.—The amendments made by this section shall take effect on the 7th calendar day after the date of the enactment of this Act, except that the amendments made by subsection (b) shall not apply to any amount paid before such date.

SEC. 1610. BASIS ADJUSTMENT TO PROPERTY HELD BY CORPORATION WHERE STOCK IN CORPORATION IS REPLACEMENT PROPERTY UNDER INVOLUNTARY CONVERSION RULES.

(a) IN GENERAL.—Subsection (b) of section 1033 is amended to read as follows:

"(b) BASIS OF PROPERTY ACQUIRED THROUGH INVOLUNTARY CONVERSION.—

"(1) CONVERSIONS DESCRIBED IN SUBSECTION (a)(1).—If the property was acquired as the result of a compulsory or involuntary conversion described in subsection (a)(1), the basis shall be the same as in the case of the property so converted—

"(A) decreased in the amount of any money received by the taxpayer which was not expended in accordance with the provisions of law (applicable to the year in which such conversion was made) determining the taxable status of the gain or loss upon such conversion, and

"(B) increased in the amount of gain or decreased in the amount of loss to the taxpayer recognized upon

such conversion under the law applicable to the year in which such conversion was made.

"(2) CONVERSIONS DESCRIBED IN SUBSECTION (a)(2).—In the case of property purchased by the taxpayer in a transaction described in subsection (a)(2) which resulted in the nonrecognition of any part of the gain realized as the result of a compulsory or involuntary conversion, the basis shall be the cost of such property decreased in the amount of the gain not so recognized; and if the property purchased consists of more than 1 piece of property, the basis determined under this sentence shall be allocated to the purchased properties in proportion to their respective costs.

"(3) PROPERTY HELD BY CORPORATION THE STOCK OF WHICH IS REPLACEMENT PROPERTY.—

"(A) IN GENERAL.—If the basis of stock in a corporation is decreased under paragraph (2), an amount equal to such decrease shall also be applied to reduce the basis of property held by the corporation at the time the taxpayer acquired control (as defined in subsection (a)(2)(E)) of such corporation.

"(B) LIMITATION.—Subparagraph (A) shall not apply to the extent that it would (but for this subparagraph) require a reduction in the aggregate adjusted bases of the property of the corporation below the taxpayer's adjusted basis of the stock in the corporation (determined immediately after such basis is decreased under paragraph (2)).

"(C) ALLOCATION OF BASIS REDUCTION.—The decrease required under subparagraph (A) shall be allocated—

"(i) first to property which is similar or related in service or use to the converted property,

"(ii) second to depreciable property (as defined in section 1017(b)(3)(B)) not described in clause (i), and

"(iii) then to other property.

"(D) SPECIAL RULES.—

"(i) REDUCTION NOT TO EXCEED ADJUSTED BASIS OF PROPERTY.—No reduction in the basis of any property under this paragraph shall exceed the adjusted basis of such property (determined without regard to such reduction).

"(ii) ALLOCATION OF REDUCTION AMONG PROPERTIES.—If more than 1 property is described in a clause of subparagraph (C), the reduction under this paragraph shall be allocated among such property in proportion to the adjusted bases of such property (as so determined).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to involuntary conversions occurring after the date of the enactment of this Act. 26 USC 1033 note.

SEC. 1611. TREATMENT OF CERTAIN INSURANCE CONTRACTS ON RETIRED LIVES.

(a) GENERAL RULE.—

(1) Paragraph (2) of section 817(d) (defining variable contract) is amended by striking "or" at the end of subparagraph (A), by striking "and" at the end of subparagraph (B) and

inserting "or", and by inserting after subparagraph (B) the following new subparagraph:

"(C) provides for funding of insurance on retired lives as described in section 807(c)(6), and".

(2) Paragraph (3) of section 817(d) is amended by striking "or" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", or", and by inserting after subparagraph (B) the following new subparagraph:

"(C) in the case of funds held under a contract described in paragraph (2)(C), the amounts paid in, or the amounts paid out, reflect the investment return and the market value of the segregated asset account.".

26 USC 817 note.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 1612. TREATMENT OF MODIFIED GUARANTEED CONTRACTS.

(a) GENERAL RULE.—Subpart E of part I of subchapter L of chapter 1 (relating to definitions and special rules) is amended by inserting after section 817 the following new section:

"SEC. 817A. SPECIAL RULES FOR MODIFIED GUARANTEED CONTRACTS.

"(a) COMPUTATION OF RESERVES.—In the case of a modified guaranteed contract, clause (ii) of section 807(e)(1)(A) shall not apply.

"(b) SEGREGATED ASSETS UNDER MODIFIED GUARANTEED CONTRACTS MARKED TO MARKET.—

"(1) IN GENERAL.—In the case of any life insurance company, for purposes of this subtitle—

"(A) Any gain or loss with respect to a segregated asset shall be treated as ordinary income or loss, as the case may be.

"(B) If any segregated asset is held by such company as of the close of any taxable year—

"(i) such company shall recognize gain or loss as if such asset were sold for its fair market value on the last business day of such taxable year, and

"(ii) any such gain or loss shall be taken into account for such taxable year.

Proper adjustment shall be made in the amount of any gain or loss subsequently realized for gain or loss taken into account under the preceding sentence. The Secretary may provide by regulations for the application of this subparagraph at times other than the times provided in this subparagraph.

"(2) SEGREGATED ASSET.—For purposes of paragraph (1), the term 'segregated asset' means any asset held as part of a segregated account referred to in subsection (d)(1) under a modified guaranteed contract.

"(c) SPECIAL RULE IN COMPUTING LIFE INSURANCE RESERVES.—For purposes of applying section 816(b)(1)(A) to any modified guaranteed contract, an assumed rate of interest shall include a rate of interest determined, from time to time, with reference to a market rate of interest.

"(d) MODIFIED GUARANTEED CONTRACT DEFINED.—For purposes of this section, the term 'modified guaranteed contract' means a contract not described in section 817—

"(1) all or part of the amounts received under which are allocated to an account which, pursuant to State law or regulation, is segregated from the general asset accounts of the company and is valued from time to time with reference to market values,

"(2) which—

"(A) provides for the payment of annuities,

"(B) is a life insurance contract, or

"(C) is a pension plan contract which is not a life, accident, or health, property, casualty, or liability contract,

"(3) for which reserves are valued at market for annual statement purposes, and

"(4) which provides for a net surrender value or a policyholder's fund (as defined in section 807(e)(1)).

If only a portion of a contract is not described in section 817, such portion shall be treated for purposes of this section as a separate contract.

"(e) REGULATIONS.—The Secretary may prescribe regulations—

"(1) to provide for the treatment of market value adjustments under sections 72, 7702, 7702A, and 807(e)(1)(B),

"(2) to determine the interest rates applicable under sections 807(c)(3), 807(d)(2)(B), and 812 with respect to a modified guaranteed contract annually, in a manner appropriate for modified guaranteed contracts and, to the extent appropriate for such a contract, to modify or waive the applicability of section 811(d),

"(3) to provide rules to limit ordinary gain or loss treatment to assets constituting reserves for modified guaranteed contracts (and not other assets) of the company,

"(4) to provide appropriate treatment of transfers of assets to and from the segregated account, and

"(5) as may be necessary or appropriate to carry out the purposes of this section.".

(b) CLERICAL AMENDMENT.—The table of sections for subpart E of part I of subchapter L of chapter 1 is amended by inserting after the item relating to section 817 the following new item:

"Sec. 817A. Special rules for modified guaranteed contracts.".

(c) EFFECTIVE DATE.— 26 USC 817A note.

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

(2) TREATMENT OF NET ADJUSTMENTS.—Except as provided in paragraph (3), in the case of any taxpayer required by the amendments made by this section to change its calculation of reserves to take into account market value adjustments and to mark segregated assets to market for any taxable year—

(A) such changes shall be treated as a change in method of accounting initiated by the taxpayer,

(B) such changes shall be treated as made with the consent of the Secretary, and

(C) the adjustments required by reason of section 481 of the Internal Revenue Code of 1986, shall be taken into account as ordinary income by the taxpayer for the taxpayer's first taxable year beginning after December 31, 1995.

(3) LIMITATION ON LOSS RECOGNITION AND ON DEDUCTION FOR RESERVE INCREASES.—

(A) LIMITATION ON LOSS RECOGNITION.—

(i) IN GENERAL.—The aggregate loss recognized by reason of the application of section 481 of the Internal Revenue Code of 1986 with respect to section 817A(b) of such Code (as added by this section) for the first taxable year of the taxpayer beginning after December 31, 1995, shall not exceed the amount included in the taxpayer's gross income for such year by reason of the excess (if any) of—

(I) the amount of life insurance reserves as of the close of the prior taxable year, over

(II) the amount of such reserves as of the beginning of such first taxable year,

to the extent such excess is attributable to subsection (a) of such section 817A. Notwithstanding the preceding sentence, the adjusted basis of each segregated asset shall be determined as if all such losses were recognized.

(ii) DISALLOWED LOSS ALLOWED OVER PERIOD.—The amount of the loss which is not allowed under clause (i) shall be allowed ratably over the period of 7 taxable years beginning with the taxpayer's first taxable year beginning after December 31, 1995.

(B) LIMITATION ON DEDUCTION FOR INCREASE IN RESERVES.—

(i) IN GENERAL.—The deduction allowed for the first taxable year of the taxpayer beginning after December 31, 1995, by reason of the application of section 481 of such Code with respect to section 817A(a) of such Code (as added by this section) shall not exceed the aggregate built-in gain recognized by reason of the application of such section 481 with respect to section 817A(b) of such Code (as added by this section) for such first taxable year.

(ii) DISALLOWED DEDUCTION ALLOWED OVER PERIOD.—The amount of the deduction which is disallowed under clause (i) shall be allowed ratably over the period of 7 taxable years beginning with the taxpayer's first taxable year beginning after December 31, 1995.

(iii) BUILT-IN GAIN.—For purposes of this subparagraph, the built-in gain on an asset is the amount equal to the excess of—

(I) the fair market value of the asset as of the beginning of the first taxable year of the taxpayer beginning after December 31, 1995, over

(II) the adjusted basis of such asset as of such time.

SEC. 1613. TREATMENT OF CONTRIBUTIONS IN AID OF CONSTRUCTION.

(a) TREATMENT OF CONTRIBUTIONS IN AID OF CONSTRUCTION.—

(1) IN GENERAL.—Section 118 (relating to contributions to the capital of a corporation) is amended—

(A) by redesignating subsection (c) as subsection (e), and

(B) by inserting after subsection (b) the following new subsections:

"(c) SPECIAL RULES FOR WATER AND SEWERAGE DISPOSAL UTILITIES.—

"(1) GENERAL RULE.—For purposes of this section, the term 'contribution to the capital of the taxpayer' includes any amount of money or other property received from any person (whether or not a shareholder) by a regulated public utility which provides water or sewerage disposal services if—

"(A) such amount is a contribution in aid of construction,

"(B) in the case of contribution of property other than water or sewerage disposal facilities, such amount meets the requirements of the expenditure rule of paragraph (2), and

"(C) such amount (or any property acquired or constructed with such amount) is not included in the taxpayer's rate base for ratemaking purposes.

"(2) EXPENDITURE RULE.—An amount meets the requirements of this paragraph if—

"(A) an amount equal to such amount is expended for the acquisition or construction of tangible property described in section 1231(b)—

"(i) which is the property for which the contribution was made or is of the same type as such property, and

"(ii) which is used predominantly in the trade or business of furnishing water or sewerage disposal services,

"(B) the expenditure referred to in subparagraph (A) occurs before the end of the second taxable year after the year in which such amount was received, and

"(C) accurate records are kept of the amounts contributed and expenditures made, the expenditures to which contributions are allocated, and the year in which the contributions and expenditures are received and made.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) CONTRIBUTION IN AID OF CONSTRUCTION.—The term 'contribution in aid of construction' shall be defined by regulations prescribed by the Secretary, except that such term shall not include amounts paid as service charges for starting or stopping services.

"(B) PREDOMINANTLY.—The term 'predominantly' means 80 percent or more.

"(C) REGULATED PUBLIC UTILITY.—The term 'regulated public utility' has the meaning given such term by section 7701(a)(33), except that such term shall not include any utility which is not required to provide water or sewerage disposal services to members of the general public in its service area.

"(4) DISALLOWANCE OF DEDUCTIONS AND CREDITS; ADJUSTED BASIS.—Notwithstanding any other provision of this subtitle, no deduction or credit shall be allowed for, or by reason of, any expenditure which constitutes a contribution in aid of construction to which this subsection applies. The adjusted basis of any property acquired with contributions in aid of construction to which this subsection applies shall be zero.

"(d) STATUTE OF LIMITATIONS.—If the taxpayer for any taxable year treats an amount as a contribution to the capital of the taxpayer described in subsection (c), then—

"(1) the statutory period for the assessment of any deficiency attributable to any part of such amount shall not expire before the expiration of 3 years from the date the Secretary is notified by the taxpayer (in such manner as the Secretary may prescribe) of—

"(A) the amount of the expenditure referred to in subparagraph (A) of subsection (c)(2),

"(B) the taxpayer's intention not to make the expenditures referred to in such subparagraph, or

"(C) a failure to make such expenditure within the period described in subparagraph (B) of subsection (c)(2), and

"(2) such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.".

(2) CONFORMING AMENDMENT.—Section 118(b) is amended by inserting "except as provided in subsection (c)," before "the term".

26 USC 118 note.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to amounts received after June 12, 1996.

(b) RECOVERY METHOD AND PERIOD FOR WATER UTILITY PROPERTY.—

(1) REQUIREMENT TO USE STRAIGHT LINE METHOD.—Section 168(b)(3) is amended by adding at the end the following new subparagraph:

"(F) Water utility property described in subsection (e)(5).".

(2) 25-YEAR RECOVERY PERIOD.—The table contained in section 168(c)(1) is amended by inserting the following item after the item relating to 20-year property:

"Water utility property ..... 25 years".

(3) WATER UTILITY PROPERTY.—

(A) IN GENERAL.—Section 168(e) is amended by adding at the end the following new paragraph:

"(5) WATER UTILITY PROPERTY.—The term 'water utility property' means property—

"(A) which is an integral part of the gathering, treatment, or commercial distribution of water, and which, without regard to this paragraph, would be 20-year property, and

"(B) any municipal sewer.".

(B) CONFORMING AMENDMENTS.—Section 168 is amended—

(i) by striking subparagraph (F) of subsection (e)(3), and

(ii) by striking the item relating to subparagraph (F) in the table in subsection (g)(3).

(4) ALTERNATIVE SYSTEM.—Clause (iv) of section 168(g)(2)(C) is amended by inserting "or water utility property" after "tunnel bore".

26 USC 168 note.

(5) EFFECTIVE DATE.—The amendments made by this subsection shall apply to property placed in service after June 12, 1996, other than property placed in service pursuant to

a binding contract in effect before June 10, 1996, and at all times thereafter before the property is placed in service.

SEC. 1614. ELECTION TO CEASE STATUS AS QUALIFIED SCHOLARSHIP FUNDING CORPORATION.

(a) IN GENERAL.—Subsection (d) of section 150 (relating to definitions and special rules) is amended by adding at the end the following new paragraph:

"(3) ELECTION TO CEASE STATUS AS QUALIFIED SCHOLARSHIP FUNDING CORPORATION.—

"(A) IN GENERAL.—Any qualified scholarship funding bond, and qualified student loan bond, outstanding on the date of the issuer's election under this paragraph (and any bond (or series of bonds) issued to refund such a bond) shall not fail to be a tax-exempt bond solely because the issuer ceases to be described in subparagraphs (A) and (B) of paragraph (2) if the issuer meets the requirements of subparagraphs (B) and (C) of this paragraph.

"(B) ASSETS AND LIABILITIES OF ISSUER TRANSFERRED TO TAXABLE SUBSIDIARY.—The requirements of this subparagraph are met by an issuer if—

"(i) all of the student loan notes of the issuer and other assets pledged to secure the repayment of qualified scholarship funding bond indebtedness of the issuer are transferred to another corporation within a reasonable period after the election is made under this paragraph;

"(ii) such transferee corporation assumes or otherwise provides for the payment of all of the qualified scholarship funding bond indebtedness of the issuer within a reasonable period after the election is made under this paragraph;

"(iii) to the extent permitted by law, such transferee corporation assumes all of the responsibilities, and succeeds to all of the rights, of the issuer under the issuer's agreements with the Secretary of Education in respect of student loans;

"(iv) immediately after such transfer, the issuer, together with any other issuer which has made an election under this paragraph in respect of such transferee, hold all of the senior stock in such transferee corporation; and

"(v) such transferee corporation is not exempt from tax under this chapter.

"(C) ISSUER TO OPERATE AS INDEPENDENT ORGANIZATION DESCRIBED IN SECTION 501(C)(3).—The requirements of this subparagraph are met by an issuer if, within a reasonable period after the transfer referred to in subparagraph (B)—

"(i) the issuer is described in section 501(c)(3) and exempt from tax under section 501(a);

"(ii) the issuer no longer is described in subparagraphs (A) and (B) of paragraph (2); and

"(iii) at least 80 percent of the members of the board of directors of the issuer are independent members.

"(D) SENIOR STOCK.—For purposes of this paragraph, the term 'senior stock' means stock—

"(i) which participates pro rata and fully in the equity value of the corporation with all other common stock of the corporation but which has the right to payment of liquidation proceeds prior to payment of liquidation proceeds in respect of other common stock of the corporation;

"(ii) which has a fixed right upon liquidation and upon redemption to an amount equal to the greater of—

"(I) the fair market value of such stock on the date of liquidation or redemption (whichever is applicable); or

"(II) the fair market value of all assets transferred in exchange for such stock and reduced by the amount of all liabilities of the corporation which has made an election under this paragraph assumed by the transferee corporation in such transfer;

"(iii) the holder of which has the right to require the transferee corporation to redeem on a date that is not later than 10 years after the date on which an election under this paragraph was made and pursuant to such election such stock was issued; and

"(iv) in respect of which, during the time such stock is outstanding, there is not outstanding any equity interest in the corporation having any liquidation, redemption or dividend rights in the corporation which are superior to those of such stock.

"(E) INDEPENDENT MEMBER.—The term 'independent member' means a member of the board of directors of the issuer who (except for services as a member of such board) receives no compensation directly or indirectly—

"(i) for services performed in connection with such transferee corporation, or

"(ii) for services as a member of the board of directors or as an officer of such transferee corporation.

For purposes of clause (ii), the term 'officer' includes any individual having powers or responsibilities similar to those of officers.

"(F) COORDINATION WITH CERTAIN PRIVATE FOUNDATION TAXES.—For purposes of sections 4942 (relating to the excise tax on a failure to distribute income) and 4943 (relating to the excise tax on excess business holdings), the transferee corporation referred to in subparagraph (B) shall be treated as a functionally related business (within the meaning of section 4942(j)(4)) with respect to the issuer during the period commencing with the date on which an election is made under this paragraph and ending on the date that is the earlier of—

"(i) the last day of the last taxable year for which more than 50 percent of the gross income of such transferee corporation is derived from, or more than 50 percent of the assets (by value) of such transferee corporation consists of, student loan notes incurred under the Higher Education Act of 1965; or

"(ii) the last day of the taxable year of the issuer during which occurs the date which is 10 years after the date on which the election under this paragraph is made.

"(G) ELECTION.—An election under this paragraph may be revoked only with the consent of the Secretary.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act. 26 USC 150 note.

SEC. 1615. CERTAIN TAX BENEFITS DENIED TO INDIVIDUALS FAILING TO PROVIDE TAXPAYER IDENTIFICATION NUMBERS.

(a) PERSONAL EXEMPTION.—

(1) IN GENERAL.—Section 151 (relating to allowance of deductions for personal exemptions) is amended by adding at the end the following new subsection:

"(e) IDENTIFYING INFORMATION REQUIRED.—No exemption shall be allowed under this section with respect to any individual unless the TIN of such individual is included on the return claiming the exemption.".

(2) CONFORMING AMENDMENTS.—

(A) Subsection (e) of section 6109 is repealed.

(B) Section 6724(d)(3) is amended by adding "and" at the end of subparagraph (C), by striking subparagraph (D), and by redesignating subparagraph (E) as subparagraph (D).

(b) DEPENDENT CARE CREDIT.—Subsection (e) of section 21 (relating to expenses for household and dependent care services necessary for gainful employment) is amended by adding at the end the following new paragraph:

"(10) IDENTIFYING INFORMATION REQUIRED WITH RESPECT TO QUALIFYING INDIVIDUALS.—No credit shall be allowed under this section with respect to any qualifying individual unless the TIN of such individual is included on the return claiming the credit.".

(c) EXTENSION OF PROCEDURES APPLICABLE TO MATHEMATICAL OR CLERICAL ERRORS.—Section 6213(g)(2) (relating to the definition of mathematical or clerical errors), as amended by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, is amended by striking "and" at the end of subparagraph (F), by striking the period at the end of subparagraph (G) and inserting ", and", and by inserting at the end the following new subparagraph:

"(H) an omission of a correct TIN required under section 21 (relating to expenses for household and dependent care services necessary for gainful employment) or section 151 (relating to allowance of deductions for personal exemptions).".

(d) EFFECTIVE DATE.— 26 USC 21 note.

(1) IN GENERAL.—The amendments made by this section shall apply with respect to returns the due date for which (without regard to extensions) is on or after the 30th day after the date of the enactment of this Act.

(2) SPECIAL RULE FOR 1995 AND 1996.—In the case of returns for taxable years beginning in 1995 or 1996, a taxpayer shall not be required by the amendments made by this section to provide a taxpayer identification number for a child who is born after October 31, 1995, in the case of a taxable year

beginning in 1995 or November 30, 1996, in the case of a taxable year beginning in 1996.

SEC. 1616. REPEAL OF BAD DEBT RESERVE METHOD FOR THRIFT SAVINGS ASSOCIATIONS.

(a) IN GENERAL.—Section 593 (relating to reserves for losses on loans) is amended by adding at the end the following new subsections:

"(f) TERMINATION OF RESERVE METHOD.—Subsections (a), (b), (c), and (d) shall not apply to any taxable year beginning after December 31, 1995.

"(g) 6-YEAR SPREAD OF ADJUSTMENTS.—

"(1) IN GENERAL.—In the case of any taxpayer who is required by reason of subsection (f) to change its method of computing reserves for bad debts—

"(A) such change shall be treated as a change in a method of accounting,

"(B) such change shall be treated as initiated by the taxpayer and as having been made with the consent of the Secretary, and

"(C) the net amount of the adjustments required to be taken into account by the taxpayer under section 481(a)—

"(i) shall be determined by taking into account only applicable excess reserves, and

"(ii) as so determined, shall be taken into account ratably over the 6-taxable year period beginning with the first taxable year beginning after December 31, 1995.

"(2) APPLICABLE EXCESS RESERVES.—

"(A) IN GENERAL.—For purposes of paragraph (1), the term 'applicable excess reserves' means the excess (if any) of—

"(i) the balance of the reserves described in subsection (c)(1) (other than the supplemental reserve) as of the close of the taxpayer's last taxable year beginning before January 1, 1996, over

"(ii) the lesser of—

"(I) the balance of such reserves as of the close of the taxpayer's last taxable year beginning before January 1, 1988, or

"(II) the balance of the reserves described in subclause (I), reduced in the same manner as under section 585(b)(2)(B)(ii) on the basis of the taxable years described in clause (i) and this clause.

"(B) SPECIAL RULE FOR THRIFTS WHICH BECOME SMALL BANKS.—In the case of a bank (as defined in section 581) which was not a large bank (as defined in section 585(c)(2)) for its first taxable year beginning after December 31, 1995—

"(i) the balance taken into account under subparagraph (A)(ii) shall not be less than the amount which would be the balance of such reserves as of the close of its last taxable year beginning before such date if the additions to such reserves for all taxable years had been determined under section 585(b)(2)(A), and

"(ii) the opening balance of the reserve for bad debts as of the beginning of such first taxable year shall be the balance taken into account under subparagraph (A)(ii) (determined after the application of clause (i) of this subparagraph).

The preceding sentence shall not apply for purposes of paragraphs (5) and (6) or subsection (e)(1).

"(3) RECAPTURE OF PRE-1988 RESERVES WHERE TAXPAYER CEASES TO BE BANK.—If, during any taxable year beginning after December 31, 1995, a taxpayer to which paragraph (1) applied is not a bank (as defined in section 581), paragraph (1) shall apply to the reserves described in paragraph (2)(A)(ii) and the supplemental reserve; except that such reserves shall be taken into account ratably over the 6-taxable year period beginning with such taxable year.

"(4) SUSPENSION OF RECAPTURE IF RESIDENTIAL LOAN REQUIREMENT MET.—

"(A) IN GENERAL.—In the case of a bank which meets the residential loan requirement of subparagraph (B) for the first taxable year beginning after December 31, 1995, or for the following taxable year—

"(i) no adjustment shall be taken into account under paragraph (1) for such taxable year, and

"(ii) such taxable year shall be disregarded in determining—

"(I) whether any other taxable year is a taxable year for which an adjustment is required to be taken into account under paragraph (1), and

"(II) the amount of such adjustment.

"(B) RESIDENTIAL LOAN REQUIREMENT.—A taxpayer meets the residential loan requirement of this subparagraph for any taxable year if the principal amount of the residential loans made by the taxpayer during such year is not less than the base amount for such year.

"(C) RESIDENTIAL LOAN.—For purposes of this paragraph, the term 'residential loan' means any loan described in clause (v) of section 7701(a)(19)(C) but only if such loan is incurred in acquiring, constructing, or improving the property described in such clause.

"(D) BASE AMOUNT.—For purposes of subparagraph (B), the base amount is the average of the principal amounts of the residential loans made by the taxpayer during the 6 most recent taxable years beginning on or before December 31, 1995. At the election of the taxpayer who made such loans during each of such 6 taxable years, the preceding sentence shall be applied without regard to the taxable year in which such principal amount was the highest and the taxable year in such principal amount was the lowest. Such an election may be made only for the first taxable year beginning after such date, and, if made for such taxable year, shall apply to the succeeding taxable year unless revoked with the consent of the Secretary.

"(E) CONTROLLED GROUPS.—In the case of a taxpayer which is a member of any controlled group of corporations described in section 1563(a)(1), subparagraph (B) shall be applied with respect to such group.

"(5) CONTINUED APPLICATION OF FRESH START UNDER SECTION 585 TRANSITIONAL RULES.—In the case of a taxpayer to which paragraph (1) applied and which was not a large bank (as defined in section 585(c)(2)) for its first taxable year beginning after December 31, 1995:

"(A) IN GENERAL.—For purposes of determining the net amount of adjustments referred to in section 585(c)(3)(A)(iii), there shall be taken into account only the excess (if any) of the reserve for bad debts as of the close of the last taxable year before the disqualification year over the balance taken into account by such taxpayer under paragraph (2)(A)(ii) of this subsection.

"(B) TREATMENT UNDER ELECTIVE CUT-OFF METHOD.—For purposes of applying section 585(c)(4)—

"(i) the balance of the reserve taken into account under subparagraph (B) thereof shall be reduced by the balance taken into account by such taxpayer under paragraph (2)(A)(ii) of this subsection, and

"(ii) no amount shall be includible in gross income by reason of such reduction.

"(6) SUSPENDED RESERVE INCLUDED AS SECTION 381(c) ITEMS.—The balance taken into account by a taxpayer under paragraph (2)(A)(ii) of this subsection and the supplemental reserve shall be treated as items described in section 381(c).

"(7) CONVERSIONS TO CREDIT UNIONS.—In the case of a taxpayer to which paragraph (1) applied which becomes a credit union described in section 501(c) and exempt from taxation under section 501(a)—

"(A) any amount required to be included in the gross income of the credit union by reason of this subsection shall be treated as derived from an unrelated trade or business (as defined in section 513), and

"(B) for purposes of paragraph (3), the credit union shall not be treated as if it were a bank.

"(8) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out this subsection and subsection (e), including regulations providing for the application of such subsections in the case of acquisitions, mergers, spin-offs, and other reorganizations.".

(b) CONFORMING AMENDMENTS.—

(1) Subsection (d) of section 50 is amended by adding at the end the following new sentence:

"Paragraphs (1)(A), (2)(A), and (4) of the section 46(e) referred to in paragraph (1) of this subsection shall not apply to any taxable year beginning after December 31, 1995."

(2) Subsection (e) of section 52 is amended by striking paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(3) Subsection (a) of section 57 is amended by striking paragraph (4).

(4) Section 246 is amended by striking subsection (f).

(5) Clause (i) of section 291(e)(1)(B) is amended by striking "or to which section 593 applies".

(6) Subparagraph (A) of section 585(a)(2) is amended by striking "other than an organization to which section 593 applies".

(7)(A) The material preceding subparagraph (A) of section 593(e)(1) is amended by striking "by a domestic building and loan association or an institution that is treated as a mutual savings bank under section 591(b)" and inserting "by a taxpayer having a balance described in subsection (g)(2)(A)(ii)".

(B) Subparagraph (B) of section 593(e)(1) is amended to read as follows:

"(B) then out of the balance taken into account under subsection (g)(2)(A)(ii) (properly adjusted for amounts charged against such reserves for taxable years beginning after December 31, 1987),".

(C) The second sentence of section 593(e)(1) is amended by striking "the association or an institution that is treated as a mutual savings bank under section 591(b)" and inserting "a taxpayer having a balance described in subsection (g)(2)(A)(ii)".

(D) The third sentence of section 593(e)(1) is amended by striking "an association" and inserting "a taxpayer having a balance described in subsection (g)(2)(A)(ii)".

(E) Paragraph (1) of section 593(e) is amended by adding at the end the following new sentence: "This paragraph shall not apply to any distribution of all of the stock of a bank (as defined in section 581) to another corporation if, immediately after the distribution, such bank and such other corporation are members of the same affiliated group (as defined in section 1504) and the provisions of section 5(e) of the Federal Deposit Insurance Act (as in effect on December 31, 1995) or similar provisions are in effect.".

(8) Section 595 is hereby repealed.

(9) Section 596 is hereby repealed.

(10) Subsection (a) of section 860E is amended—

(A) by striking "Except as provided in paragraph (2), the" in paragraph (1) and inserting "The",

(B) by striking paragraphs (2) and (4) and redesignating paragraphs (3), (5), and (6) as paragraphs (2), (3), and (4), respectively,

(C) by striking in paragraph (2) (as so redesignated) all that follows "subsection" and inserting a period, and

(D) by striking the last sentence of paragraph (4) (as so redesignated).

(11) Paragraph (3) of section 992(d) is amended by striking "or 593".

(12) Section 1038 is amended by striking subsection (f).

(13) Clause (ii) of section 1042(c)(4)(B) is amended by striking "or 593".

(14) Subsection (c) of section 1277 is amended by striking "or to which section 593 applies".

(15) Subparagraph (B) of section 1361(b)(2) is amended by striking "or to which section 593 applies".

(16) The table of sections for part II of subchapter H of chapter 1 is amended by striking the items relating to sections 595 and 596.

(c) EFFECTIVE DATES.— 26 USC 593 note.

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years beginning after December 31, 1995.

(2) SUBSECTION (b)(7)(B).—The amendments made by subsection (b)(7)(B) shall not apply to any distribution with respect to preferred stock if—

(A) such stock is outstanding at all times after October 31, 1995, and before the distribution, and

(B) such distribution is made before the date which is 1 year after the date of the enactment of this Act (or, in the case of stock which may be redeemed, if later, the date which is 30 days after the earliest date that such stock may be redeemed).

(3) SUBSECTION (b)(8).—The amendment made by subsection (b)(8) shall apply to property acquired in taxable years beginning after December 31, 1995.

(4) SUBSECTION (b)(10).—The amendments made by subsection (b)(10) shall not apply to any residual interest held by a taxpayer if such interest has been held by such taxpayer at all times after October 31, 1995.

SEC. 1617. EXCLUSION FOR ENERGY CONSERVATION SUBSIDIES LIMITED TO SUBSIDIES WITH RESPECT TO DWELLING UNITS.

(a) IN GENERAL.—Paragraph (1) of section 136(c) (defining energy conservation measure) is amended by striking "energy demand—" and all that follows and inserting "energy demand with respect to a dwelling unit.".

(b) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 136 is amended to read as follows:

"(a) EXCLUSION.—Gross income shall not include the value of any subsidy provided (directly or indirectly) by a public utility to a customer for the purchase or installation of any energy conservation measure.".

(2) Paragraph (2) of section 136(c) is amended—

(A) by striking subparagraph (A) and by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively, and

(B) by striking "AND SPECIAL RULES" in the paragraph heading.

26 USC 136 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts received after December 31, 1996, unless received pursuant to a written binding contract in effect on September 13, 1995, and at all times thereafter.

PART II—FINANCIAL ASSET SECURITIZATION INVESTMENTS

SEC. 1621. FINANCIAL ASSET SECURITIZATION INVESTMENT TRUSTS.

(a) IN GENERAL.—Subchapter M of chapter 1 is amended by adding at the end the following new part:

"PART V—FINANCIAL ASSET SECURITIZATION INVESTMENT TRUSTS

"Sec. 860H. Taxation of a FASIT; other general rules.
"Sec. 860I. Gain recognition on contributions to a FASIT and in other cases.
"Sec. 860J. Non-FASIT losses not to offset certain FASIT inclusions.
"Sec. 860K. Treatment of transfers of high-yield interests to disqualified holders.

"Sec. 860L. Definitions and other special rules.

"SEC. 860H. TAXATION OF A FASIT; OTHER GENERAL RULES.

"(a) TAXATION OF FASIT.—A FASIT as such shall not be subject to taxation under this subtitle (and shall not be treated as a trust, partnership, corporation, or taxable mortgage pool).

"(b) TAXATION OF HOLDER OF OWNERSHIP INTEREST.—In determining the taxable income of the holder of the ownership interest in a FASIT—

"(1) all assets, liabilities, and items of income, gain, deduction, loss, and credit of a FASIT shall be treated as assets, liabilities, and such items (as the case may be) of such holder,

"(2) the constant yield method (including the rules of section 1272(a)(6)) shall be applied under an accrual method of accounting in determining all interest, acquisition discount, original issue discount, and market discount and all premium deductions or adjustments with respect to each debt instrument of the FASIT,

"(3) there shall not be taken into account any item of income, gain, or deduction allocable to a prohibited transaction, and

"(4) interest accrued by the FASIT which is exempt from tax imposed by this subtitle shall, when taken into account by such holder, be treated as ordinary income.

"(c) TREATMENT OF REGULAR INTERESTS.—For purposes of this title—

"(1) a regular interest in a FASIT, if not otherwise a debt instrument, shall be treated as a debt instrument,

"(2) section 163(e)(5) shall not apply to such an interest, and

"(3) amounts includible in gross income with respect to such an interest shall be determined under an accrual method of accounting.

"SEC. 860I. GAIN RECOGNITION ON CONTRIBUTIONS TO A FASIT AND IN OTHER CASES.

"(a) TREATMENT OF PROPERTY ACQUIRED BY FASIT.—

"(1) PROPERTY ACQUIRED FROM HOLDER OF OWNERSHIP INTEREST OR RELATED PERSON.—If property is sold or contributed to a FASIT by the holder of the ownership interest in such FASIT (or by a related person) gain (if any) shall be recognized to such holder (or person) in an amount equal to the excess (if any) of such property's value under subsection (d) on the date of such sale or contribution over its adjusted basis on such date.

"(2) PROPERTY ACQUIRED OTHER THAN FROM HOLDER OF OWNERSHIP INTEREST OR RELATED PERSON.—Property which is acquired by a FASIT other than in a transaction to which paragraph (1) applies shall be treated—

"(A) as having been acquired by the holder of the ownership interest in the FASIT for an amount equal to the FASIT's cost of acquiring such property, and

"(B) as having been sold by such holder to the FASIT at its value under subsection (d) on such date.

"(b) GAIN RECOGNITION ON PROPERTY OUTSIDE FASIT WHICH SUPPORTS REGULAR INTERESTS.—If property held by the holder of the ownership interest in a FASIT (or by any person related to such holder) supports any regular interest in such FASIT—

"(1) gain shall be recognized to such holder (or person) in the same manner as if such holder (or person) had sold such property at its value under subsection (d) on the earliest date such property supports such an interest, and

"(2) such property shall be treated as held by such FASIT for purposes of this part.

"(c) DEFERRAL OF GAIN RECOGNITION.—The Secretary may prescribe regulations which—

"(1) provide that gain otherwise recognized under subsection (a) or (b) shall not be recognized before the earliest date on which such property supports any regular interest in such FASIT or any indebtedness of the holder of the ownership interest (or of any person related to such holder), and

"(2) provide such adjustments to the other provisions of this part to the extent appropriate in the context of the treatment provided under paragraph (1).

"(d) VALUATION.—For purposes of this section—

"(1) IN GENERAL.—The value of any property under this subsection shall be—

"(A) in the case of a debt instrument which is not traded on an established securities market, the sum of the present values of the reasonably expected payments under such instrument determined (in the manner provided by regulations prescribed by the Secretary)—

"(i) as of the date of the event resulting in the gain recognition under this section, and

"(ii) by using a discount rate equal to 120 percent of the applicable Federal rate (as defined in section 1274(d)), or such other discount rate specified in such regulations, compounded semiannually, and

"(B) in the case of any other property, its fair market value.

"(2) SPECIAL RULE FOR REVOLVING LOAN ACCOUNTS.—For purposes of paragraph (1)—

"(A) each extension of credit (other than the accrual of interest) on a revolving loan account shall be treated as a separate debt instrument, and

"(B) payments on such extensions of credit having substantially the same terms shall be applied to such extensions beginning with the earliest such extension.

"(e) SPECIAL RULES.—

"(1) NONRECOGNITION RULES NOT TO APPLY.—Gain required to be recognized under this section shall be recognized notwithstanding any other provision of this subtitle.

"(2) BASIS ADJUSTMENTS.—The basis of any property on which gain is recognized under this section shall be increased by the amount of gain so recognized.

"SEC. 860J. NON-FASIT LOSSES NOT TO OFFSET CERTAIN FASIT INCLUSIONS.

"(a) IN GENERAL.—The taxable income of the holder of the ownership interest or any high-yield interest in a FASIT for any taxable year shall in no event be less than the sum of—

"(1) such holder's taxable income determined solely with respect to such interests (including gains and losses from sales and exchanges of such interests), and

"(2) the excess inclusion (if any) under section 860E(a)(1) for such taxable year.

"(b) COORDINATION WITH SECTION 172.—Any increase in the taxable income of any holder of the ownership interest or a high-yield interest in a FASIT for any taxable year by reason of subsection (a) shall be disregarded—

"(1) in determining under section 172 the amount of any net operating loss for such taxable year, and

"(2) in determining taxable income for such taxable year for purposes of the second sentence of section 172(b)(2).

"(c) COORDINATION WITH MINIMUM TAX.—For purposes of part VI of subchapter A of this chapter—

"(1) the reference in section 55(b)(2) to taxable income shall be treated as a reference to taxable income determined without regard to this section,

"(2) the alternative minimum taxable income of any holder of the ownership interest or a high-yield interest in a FASIT for any taxable year shall in no event be less than such holder's taxable income determined solely with respect to such interests, and

"(3) any increase in taxable income under this section shall be disregarded for purposes of computing the alternative tax net operating loss deduction.

"(d) AFFILIATED GROUPS.—All members of an affiliated group filing a consolidated return shall be treated as one taxpayer for purposes of this section.

"SEC. 860K. TREATMENT OF TRANSFERS OF HIGH-YIELD INTERESTS TO DISQUALIFIED HOLDERS.

"(a) GENERAL RULE.—In the case of any high-yield interest which is held by a disqualified holder—

"(1) the gross income of such holder shall not include any income (other than gain) attributable to such interest, and

"(2) amounts not includible in the gross income of such holder by reason of paragraph (1) shall be included (at the time otherwise includible under paragraph (1)) in the gross income of the most recent holder of such interest which is not a disqualified holder.

"(b) EXCEPTIONS.—Rules similar to the rules of paragraphs (4) and (7) of section 860E(e) shall apply to the tax imposed by reason of the inclusion in gross income under subsection (a).

"(c) DISQUALIFIED HOLDER.—For purposes of this section, the term 'disqualified holder' means any holder other than—

"(1) an eligible corporation (as defined in section 860L(a)(2)), or

"(2) a FASIT.

"(d) TREATMENT OF INTERESTS HELD BY SECURITIES DEALERS.—

"(1) IN GENERAL.—Subsection (a) shall not apply to any high-yield interest held by a disqualified holder if such holder is a dealer in securities who acquired such interest exclusively for sale to customers in the ordinary course of business (and not for investment).

"(2) CHANGE IN DEALER STATUS.—

"(A) IN GENERAL.—In the case of a dealer in securities which is not an eligible corporation (as defined in section 860L(a)(2)), if—

"(i) such dealer ceases to be a dealer in securities, or

"(ii) such dealer commences holding the high-yield interest for investment,

there is hereby imposed (in addition to other taxes) an excise tax equal to the product of the highest rate of tax specified in section 11(b)(1) and the income of such dealer attributable to such interest for periods after the date of such cessation or commencement.

"(B) HOLDING FOR 31 DAYS OR LESS.—For purposes of subparagraph (A)(ii), a dealer shall not be treated as holding an interest for investment before the thirty-second day after the date such dealer acquired such interest unless such interest is so held as part of a plan to avoid the purposes of this paragraph.

"(C) ADMINISTRATIVE PROVISIONS.—The deficiency procedures of subtitle F shall apply to the tax imposed by this paragraph.

"(e) TREATMENT OF HIGH-YIELD INTERESTS IN PASS-THRU ENTITIES.—

"(1) IN GENERAL.—If a pass-thru entity (as defined in section 860E(e)(6)) issues a debt or equity interest—

"(A) which is supported by any regular interest in a FASIT, and

"(B) which has an original yield to maturity which is greater than each of—

"(i) the sum determined under clauses (i) and (ii) of section 163(i)(1)(B) with respect to such debt or equity interest, and

"(ii) the yield to maturity to such entity on such regular interest (determined as of the date such entity acquired such interest),

there is hereby imposed on the pass-thru entity a tax (in addition to other taxes) equal to the product of the highest rate of tax specified in section 11(b)(1) and the income of the holder of such debt or equity interest which is properly attributable to such regular interest. For purposes of the preceding sentence, the yield to maturity of any equity interest shall be determined under regulations prescribed by the Secretary.

Regulations.

"(2) EXCEPTION.—Paragraph (1) shall not apply to arrangements not having as a principal purpose the avoidance of the purposes of this subsection.

"SEC. 860L. DEFINITIONS AND OTHER SPECIAL RULES.

"(a) FASIT.—

"(1) IN GENERAL.—For purposes of this title, the terms 'financial asset securitization investment trust' and 'FASIT' mean any entity—

"(A) for which an election to be treated as a FASIT applies for the taxable year,

"(B) all of the interests in which are regular interests or the ownership interest,

"(C) which has only one ownership interest and such ownership interest is held directly by an eligible corporation,

"(D) as of the close of the third month beginning after the day of its formation and at all times thereafter, substan-

tially all of the assets of which (including assets treated as held by the entity under section 860I(b)(2)) consist of permitted assets, and

"(E) which is not described in section 851(a).

A rule similar to the rule of the last sentence of section 860D(a) shall apply for purposes of this paragraph.

"(2) ELIGIBLE CORPORATION.—For purposes of paragraph (1)(C), the term 'eligible corporation' means any domestic C corporation other than—

"(A) a corporation which is exempt from, or is not subject to, tax under this chapter,

"(B) an entity described in section 851(a) or 856(a),

"(C) a REMIC, and

"(D) an organization to which part I of subchapter T applies.

"(3) ELECTION.—An entity (otherwise meeting the requirements of paragraph (1)) may elect to be treated as a FASIT. Except as provided in paragraph (5), such an election shall apply to the taxable year for which made and all subsequent taxable years unless revoked with the consent of the Secretary.

"(4) TERMINATION.—If any entity ceases to be a FASIT at any time during the taxable year, such entity shall not be treated as a FASIT after the date of such cessation.

"(5) INADVERTENT TERMINATIONS, ETC.—Rules similar to the rules of section 860D(b)(2)(B) shall apply to inadvertent failures to qualify or remain qualified as a FASIT.

"(6) PERMITTED ASSETS NOT TREATED AS INTEREST IN FASIT.—Except as provided in regulations prescribed by the Secretary, any asset which is a permitted asset at the time acquired by a FASIT shall not be treated at any time as an interest in such FASIT.

"(b) INTERESTS IN FASIT.—For purposes of this part—

"(1) REGULAR INTEREST.—

"(A) IN GENERAL.—The term 'regular interest' means any interest which is issued by a FASIT after the startup date with fixed terms and which is designated as a regular interest if—

"(i) such interest unconditionally entitles the holder to receive a specified principal amount (or other similar amount),

"(ii) interest payments (or other similar amounts), if any, with respect to such interest are determined based on a fixed rate, or, except as otherwise provided by the Secretary, at a variable rate permitted under section 860G(a)(1)(B)(i),

"(iii) such interest does not have a stated maturity (including options to renew) greater than 30 years (or such longer period as may be permitted by regulations),

"(iv) the issue price of such interest does not exceed 125 percent of its stated principal amount, and

"(v) the yield to maturity on such interest is less than the sum determined under section 163(i)(1)(B) with respect to such interest.

An interest shall not fail to meet the requirements of clause (i) merely because the timing (but not the amount) of the principal payments (or other similar amounts) may

be contingent on the extent that payments on debt instruments held by the FASIT are made in advance of anticipated payments and on the amount of income from permitted assets.

"(B) HIGH-YIELD INTERESTS.—

"(i) IN GENERAL.—The term 'regular interest' includes any high-yield interest.

"(ii) HIGH-YIELD INTEREST.—The term 'high-yield interest' means any interest which would be described in subparagraph (A) but for—

"(I) failing to meet the requirements of one or more of clauses (i), (iv), or (v) thereof, or

"(II) failing to meet the requirement of clause (ii) thereof but only if interest payments (or other similar amounts), if any, with respect to such interest consist of a specified portion of the interest payments on permitted assets and such portion does not vary during the period such interest is outstanding.

"(2) OWNERSHIP INTEREST.—The term 'ownership interest' means the interest issued by a FASIT after the startup day which is designated as an ownership interest and which is not a regular interest.

"(c) PERMITTED ASSETS.—For purposes of this part—

"(1) IN GENERAL.—The term 'permitted asset' means—

"(A) cash or cash equivalents,

"(B) any debt instrument (as defined in section 1275(a)(1)) under which interest payments (or other similar amounts), if any, at or before maturity meet the requirements applicable under clause (i) or (ii) of section 860G(a)(1)(B),

"(C) foreclosure property,

"(D) any asset—

"(i) which is an interest rate or foreign currency notional principal contract, letter of credit, insurance, guarantee against payment defaults, or other similar instrument permitted by the Secretary, and

"(ii) which is reasonably required to guarantee or hedge against the FASIT's risks associated with being the obligor on interests issued by the FASIT,

"(E) contract rights to acquire debt instruments described in subparagraph (B) or assets described in subparagraph (D),

"(F) any regular interest in another FASIT, and

"(G) any regular interest in a REMIC.

"(2) DEBT ISSUED BY HOLDER OF OWNERSHIP INTEREST NOT PERMITTED ASSET.—The term 'permitted asset' shall not include any debt instrument issued by the holder of the ownership interest in the FASIT or by any person related to such holder or any direct or indirect interest in such a debt instrument. The preceding sentence shall not apply to cash equivalents and to any other investment specified in regulations prescribed by the Secretary.

"(3) FORECLOSURE PROPERTY.—

"(A) IN GENERAL.—The term 'foreclosure property' means property—

"(i) which would be foreclosure property under section 856(e) (determined without regard to paragraph (5) thereof) if such property were real property acquired by a real estate investment trust, and

"(ii) which is acquired in connection with the default or imminent default of a debt instrument held by the FASIT unless the security interest in such property was created for the principal purpose of permitting the FASIT to invest in such property.

Solely for purposes of subsection (a)(1), the determination of whether any property is foreclosure property shall be made without regard to section 856(e)(4).

"(B) AUTHORITY TO REDUCE GRACE PERIOD.—In the case of property other than real property and other than personal property incident to real property, the Secretary may by regulation reduce for purposes of subparagraph (A) the periods otherwise applicable under paragraphs (2) and (3) of section 856(e).

"(d) STARTUP DAY.—For purposes of this part—

"(1) IN GENERAL.—The term 'startup day' means the date designated in the election under subsection (a)(3) as the startup day of the FASIT. Such day shall be the beginning of the first taxable year of the FASIT.

"(2) TREATMENT OF PROPERTY HELD ON STARTUP DAY.—All property held (or treated as held under section 860I(c)(2)) by an entity as of the startup day shall be treated as contributed to such entity on such day by the holder of the ownership interest in such entity.

"(e) TAX ON PROHIBITED TRANSACTIONS.—

"(1) IN GENERAL.—There is hereby imposed for each taxable year of a FASIT a tax equal to 100 percent of the net income derived from prohibited transactions. Such tax shall be paid by the holder of the ownership interest in the FASIT.

"(2) PROHIBITED TRANSACTIONS.—For purposes of this part, the term 'prohibited transaction' means—

"(A) the receipt of any income derived from any asset that is not a permitted asset,

"(B) except as provided in paragraph (3), the disposition of any permitted asset,

"(C) the receipt of any income derived from any loan originated by the FASIT, and

"(D) the receipt of any income representing a fee or other compensation for services (other than any fee received as compensation for a waiver, amendment, or consent under permitted assets (other than foreclosure property) held by the FASIT).

"(3) EXCEPTION FOR INCOME FROM CERTAIN DISPOSITIONS.—

"(A) IN GENERAL.—Paragraph (2)(B) shall not apply to a disposition which would not be a prohibited transaction (as defined in section 860F(a)(2)) by reason of—

"(i) clause (ii), (iii), or (iv) of section 860F(a)(2)(A), or

"(ii) section 860F(a)(5), if the FASIT were treated as a REMIC and debt instruments described in subsection (c)(1)(B) were treated as qualified mortgages.

"(B) SUBSTITUTION OF DEBT INSTRUMENTS; REDUCTION OF OVER-COLLATERALIZATION.—Paragraph (2)(B) shall not apply to—

"(i) the substitution of a debt instrument described in subsection (c)(1)(B) for another debt instrument which is a permitted asset, or

"(ii) the distribution of a debt instrument contributed by the holder of the ownership interest to such holder in order to reduce over-collateralization of the FASIT,

but only if a principal purpose of acquiring the debt instrument which is disposed of was not the recognition of gain (or the reduction of a loss) as a result of an increase in the market value of the debt instrument after its acquisition by the FASIT.

"(C) LIQUIDATION OF CLASS OF REGULAR INTERESTS.—Paragraph (2)(B) shall not apply to the complete liquidation of any class of regular interests.

"(4) NET INCOME.—For purposes of this subsection, net income shall be determined in accordance with section 860F(a)(3).

"(f) COORDINATION WITH OTHER PROVISIONS.—

"(1) WASH SALES RULES.—Rules similar to the rules of section 860F(d) shall apply to the ownership interest in a FASIT.

"(2) SECTION 475.—Except as provided by the Secretary by regulations, if any security which is sold or contributed to a FASIT by the holder of the ownership interest in such FASIT was required to be marked-to-market under section 475 by such holder, section 475 shall continue to apply to such security; except that in applying section 475 while such security is held by the FASIT, the fair market value of such security for purposes of section 475 shall not be less than its value under section 860I(d).

"(g) RELATED PERSON.—For purposes of this part, a person (hereinafter in this subsection referred to as the 'related person') is related to any person if—

"(1) the related person bears a relationship to such person specified in section 267(b) or section 707(b)(1), or

"(2) the related person and such person are engaged in trades or businesses under common control (within the meaning of subsections (a) and (b) of section 52).

For purposes of paragraph (1), in applying section 267(b) or 707(b)(1), '20 percent' shall be substituted for '50 percent'.

"(h) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this part, including regulations to prevent the abuse of the purposes of this part through transactions which are not primarily related to securitization of debt instruments by a FASIT.".

(b) TECHNICAL AMENDMENTS.—

(1) Paragraph (2) of section 26(b) is amended by striking "and" at the end of subparagraph (M), by striking the period at the end of subparagraph (N) and inserting ", and", and by adding at the end the following new subparagraph:

"(O) section 860K (relating to treatment of transfers of high-yield interests to disqualified holders).".

(2) Paragraph (6) of section 56(g) is amended by striking "or REMIC" and inserting "REMIC, or FASIT".

(3) Clause (ii) of section 382(l)(4)(B) is amended by striking "or a REMIC to which part IV of subchapter M applies" and inserting "a REMIC to which part IV of subchapter M applies, or a FASIT to which part V of subchapter M applies".

(4) Paragraph (1) of section 582(c) is amended by inserting ", and any regular interest in a FASIT," after "REMIC".

(5) Subparagraph (E) of section 856(c)(6) is amended by adding at the end the following new sentence: "The principles of the preceding provisions of this subparagraph shall apply to regular interests in a FASIT.".

(6) Paragraph (3) of section 860G(a) is amended by striking "and" at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting ", and", and by inserting after subparagraph (C) the following new subparagraph:

"(D) any regular interest in a FASIT which is transferred to, or purchased by, the REMIC as described in clauses (i) and (ii) of subparagraph (A) but only if 95 percent or more of the value of the assets of such FASIT is at all times attributable to obligations described in subparagraph (A) (without regard to such clauses).".

(7) Subparagraph (C) of section 1202(e)(4) is amended by striking "or REMIC" and inserting "REMIC, or FASIT".

(8) Clause (xi) of section 7701(a)(19)(C) is amended to read as follows:

"(xi) any regular or residual interest in a REMIC, and any regular interest in a FASIT, but only in the proportion which the assets of such REMIC or FASIT consist of property described in any of the preceding clauses of this subparagraph; except that if 95 percent or more of the assets of such REMIC or FASIT are assets described in clauses (i) through (x), the entire interest in the REMIC or FASIT shall qualify.".

(9) Subparagraph (A) of section 7701(i)(2) is amended by inserting "or a FASIT" after "a REMIC".

(c) CLERICAL AMENDMENT.—The table of parts for subchapter M of chapter 1 is amended by adding at the end the following new item:

"Part V. Financial asset securitization investment trusts.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on September 1, 1997. 26 USC 26 note.

(e) TREATMENT OF EXISTING SECURITIZATION ENTITIES.— 26 USC 860I note.

(1) IN GENERAL.—In the case of the holder of the ownership interest in a pre-effective date FASIT—

(A) gain shall not be recognized under section 860L(d)(2) of the Internal Revenue Code of 1986 on property deemed contributed to the FASIT, and

(B) gain shall not be recognized under section 860I of such Code on property contributed to such FASIT,

until such property (or portion thereof) ceases to be properly allocable to a pre-FASIT interest.

(2) ALLOCATION OF PROPERTY TO PRE-FASIT INTEREST.—For purposes of paragraph (1), property shall be allocated to a pre-FASIT interest in such manner as the Secretary of the Treasury may prescribe, except that all property in a FASIT

shall be treated as properly allocable to pre-FASIT interests if the fair market value of all such property does not exceed 107 percent of the aggregate principal amount of all outstanding pre-FASIT interests.

(3) DEFINITIONS.—For purposes of this subsection—

(A) PRE-EFFECTIVE DATE FASIT.—The term "pre-effective date FASIT" means any FASIT if the entity (with respect to which the election under section 860L(a)(3) of such Code was made) is in existence on August 31, 1997.

(B) PRE-FASIT INTEREST.—The term "pre-FASIT interest" means any interest in the entity referred to in subparagraph (A) which was issued before the startup day (other than any interest held by the holder of the ownership interest in the FASIT).

Subtitle G—Technical Corrections

SEC. 1701. COORDINATION WITH OTHER SUBTITLES.

For purposes of applying the amendments made by any subtitle of this title other than this subtitle, the provisions of this subtitle shall be treated as having been enacted immediately before the provisions of such other subtitles.

26 USC 1 note.

SEC. 1702. AMENDMENTS RELATED TO REVENUE RECONCILIATION ACT OF 1990.

(a) AMENDMENTS RELATED TO SUBTITLE A.—

(1) Subparagraph (B) of section 59(j)(3) is amended by striking "section 1(i)(3)(B)" and inserting "section 1(g)(3)(B)".

(2) Clause (i) of section 151(d)(3)(C) is amended by striking "joint of a return" and inserting "joint return".

(b) AMENDMENTS RELATED TO SUBTITLE B.—

(1) Paragraph (1) of section 11212(e) of the Revenue Reconciliation Act of 1990 is amended by striking "Paragraph (1) of section 6724(d)" and inserting "Subparagraph (B) of section 6724(d)(1)".

26 USC 6724.

(2)(A) Subparagraph (B) of section 4093(c)(2), as in effect before the amendments made by the Revenue Reconciliation Act of 1993, is amended by inserting before the period "unless such fuel is sold for exclusive use by a State or any political subdivision thereof".

(B) Paragraph (4) of section 6427(l), as in effect before the amendments made by the Revenue Reconciliation Act of 1993, is amended by inserting before the period "unless such fuel was used by a State or any political subdivision thereof".

(3) Paragraph (1) of section 6416(b) is amended by striking "chapter 32 or by section 4051" and inserting "chapter 31 or 32".

(4) Section 7012 is amended—

(A) by striking "production or importation of gasoline" in paragraph (3) and inserting "taxes on gasoline and diesel fuel", and

(B) by striking paragraph (4) and redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively.

(5) Subsection (c) of section 5041 is amended by striking paragraph (6) and by inserting the following new paragraphs:

"(6) CREDIT FOR TRANSFEREE IN BOND.—If—

"(A) wine produced by any person would be eligible for any credit under paragraph (1) if removed by such person during the calendar year,

"(B) wine produced by such person is removed during such calendar year by any other person (hereafter in this paragraph referred to as the 'transferee') to whom such wine was transferred in bond and who is liable for the tax imposed by this section with respect to such wine, and

"(C) such producer holds title to such wine at the time of its removal and provides to the transferee such information as is necessary to properly determine the transferee's credit under this paragraph,

then, the transferee (and not the producer) shall be allowed the credit under paragraph (1) which would be allowed to the producer if the wine removed by the transferee had been removed by the producer on that date.

"(7) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary to carry out the purposes of this subsection, including regulations—

"(A) to prevent the credit provided in this subsection from benefiting any person who produces more than 250,000 wine gallons of wine during a calendar year, and

"(B) to assure proper reduction of such credit for persons producing more than 150,000 wine gallons of wine during a calendar year.".

(6) Paragraph (3) of section 5061(b) is amended to read as follows:

"(3) section 5041(f),".

(7) Section 5354 is amended by inserting "(taking into account the appropriate amount of credit with respect to such wine under section 5041(c))" after "any one time".

(c) AMENDMENTS RELATED TO SUBTITLE C.—

(1) Paragraph (4) of section 56(g) is amended by redesignating subparagraphs (I) and (J) as subparagraphs (H) and (I), respectively.

(2) Subparagraph (B) of section 6724(d)(1) is amended—

(A) by striking "or" at the end of clause (xii), and

(B) by striking the period at the end of clause (xiii) and inserting ", or".

(3) Subsection (g) of section 6302 is amended by inserting ", 22," after "chapters 21".

(4) The earnings and profits of any insurance company to which section 11305(c)(3) of the Revenue Reconciliation Act of 1990 applies shall be determined without regard to any deduction allowed under such section; except that, for purposes of applying sections 56 and 902, and subpart F of part III of subchapter N of chapter 1 of the Internal Revenue Code of 1986, such deduction shall be taken into account. 26 USC 832 note.

(5) Subparagraph (D) of section 6038A(e)(4) is amended—

(A) by striking "any transaction to which the summons relates" and inserting "any affected taxable year", and

(B) by adding at the end thereof the following new sentence: "For purposes of this subparagraph, the term 'affected taxable year' means any taxable year if the determination of the amount of tax imposed for such taxable

year is affected by the treatment of the transaction to which the summons relates.".

(6) Subparagraph (A) of section 6621(c)(2) is amended by adding at the end thereof the following new flush sentence:

"The preceding sentence shall be applied without regard to any such letter or notice which is withdrawn by the Secretary.".

(7) Clause (i) of section 6621(c)(2)(B) is amended by striking "this subtitle" and inserting "this title".

(d) AMENDMENTS RELATED TO SUBTITLE D.—

26 USC 41 note.

(1) Notwithstanding section 11402(c) of the Revenue Reconciliation Act of 1990, the amendment made by section 11402(b)(1) of such Act shall apply to taxable years ending after December 31, 1989.

(2) Clause (ii) of section 143(m)(4)(C) is amended—

(A) by striking "any month of the 10-year period" and inserting "any year of the 4-year period",

(B) by striking "succeeding months" and inserting "succeeding years", and

(C) by striking "over the remainder of such period (or, if lesser, 5 years)" and inserting "to zero over the succeeding 5 years".

(e) AMENDMENTS RELATED TO SUBTITLE E.—

(1)(A) Clause (ii) of section 56(d)(1)(B) is amended to read as follows:

"(ii) appropriate adjustments in the application of section 172(b)(2) shall be made to take into account the limitation of subparagraph (A).".

26 USC 56 note.

(B) For purposes of applying sections 56(g)(1) and 56(g)(3) of the Internal Revenue Code of 1986 with respect to taxable years beginning in 1991 and 1992, the reference in such sections to the alternative tax net operating loss deduction shall be treated as including a reference to the deduction under section 56(h) of such Code as in effect before the amendments made by section 1915 of the Energy Policy Act of 1992.

(2) Clause (i) of section 613A(c)(3)(A) is amended by striking "the table contained in".

(3) Section 6501 is amended—

(A) by striking subsection (m) (relating to deficiency attributable to election under section 44B) and by redesignating subsections (n) and (o) as subsections (m) and (n), respectively, and

(B) by striking "section 40(f) or 51(j)" in subsection (m) (as redesignated by subparagraph (A)) and inserting "section 40(f), 43, or 51(j)".

(4) Subparagraph (C) of section 38(c)(2) (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990) is amended by inserting before the period at the end of the first sentence the following: "and without regard to the deduction under section 56(h)".

26 USC 53 note.

(5) The amendment made by section 1913(b)(2)(C)(i) of the Energy Policy Act of 1992 shall apply to taxable years beginning after December 31, 1990.

(f) AMENDMENTS RELATED TO SUBTITLE F.—

(1)(A) Section 2701(a)(3) is amended by adding at the end thereof the following new subparagraph:

"(C) VALUATION OF QUALIFIED PAYMENTS WHERE NO LIQUIDATION, ETC. RIGHTS.—In the case of an applicable retained interest which is described in subparagraph (B)(i) but not subparagraph (B)(ii), the value of the distribution right shall be determined without regard to this section.".

(B) Section 2701(a)(3)(B) is amended by inserting "CERTAIN" before "QUALIFIED" in the heading thereof.

(C) Sections 2701 (d)(1) and (d)(4) are each amended by striking "subsection (a)(3)(B)" and inserting "subsection (a)(3)(B) or (C)".

(2) Clause (i) of section 2701(a)(4)(B) is amended by inserting "(or, to the extent provided in regulations, the rights as to either income or capital)" after "income and capital".

(3)(A) Section 2701(b)(2) is amended by adding at the end thereof the following new subparagraph:

"(C) APPLICABLE FAMILY MEMBER.—For purposes of this subsection, the term 'applicable family member' includes any lineal descendant of any parent of the transferor or the transferor's spouse.".

(B) Section 2701(e)(3) is amended—

(i) by striking subparagraph (B), and

(ii) by striking so much of paragraph (3) as precedes "shall be treated as holding" and inserting:

"(3) ATTRIBUTION OF INDIRECT HOLDINGS AND TRANSFERS.—An individual".

(C) Section 2704(c)(3) is amended by striking "section 2701(e)(3)(A)" and inserting "section 2701(e)(3)".

(4) Clause (i) of section 2701(c)(1)(B) is amended to read as follows:

"(i) a right to distributions with respect to any interest which is junior to the rights of the transferred interest,".

(5)(A) Clause (i) of section 2701(c)(3)(C) is amended to read as follows:

"(i) IN GENERAL.—Payments under any interest held by a transferor which (without regard to this subparagraph) are qualified payments shall be treated as qualified payments unless the transferor elects not to treat such payments as qualified payments. Payments described in the preceding sentence which are held by an applicable family member shall be treated as qualified payments only if such member elects to treat such payments as qualified payments.".

(B) The first sentence of section 2701(c)(3)(C)(ii) is amended to read as follows: "A transferor or applicable family member holding any distribution right which (without regard to this subparagraph) is not a qualified payment may elect to treat such right as a qualified payment, to be paid in the amounts and at the times specified in such election.".

(C) The time for making an election under the second sentence of section 2701(c)(3)(C)(i) of the Internal Revenue Code of 1986 (as amended by subparagraph (A)) shall not expire before the due date (including extensions) for filing the transferor's return of the tax imposed by section 2501 of such Code for the first calendar year ending after the date of enactment. 26 USC 2701 note.

(6) Section 2701(d)(3)(A)(iii) is amended by striking "the period ending on the date of".

(7) Subclause (I) of section 2701(d)(3)(B)(ii) is amended by inserting "or the exclusion under section 2503(b)," after "section 2523,".

(8) Section 2701(e)(5) is amended—

(A) by striking "such contribution to capital or such redemption, recapitalization, or other change" in subparagraph (A) and inserting "such transaction", and

(B) by striking "the transfer" in subparagraph (B) and inserting "such transaction".

(9) Section 2701(d)(4) is amended by adding at the end thereof the following new subparagraph:

"(C) TRANSFER TO TRANSFERORS.—In the case of a taxable event described in paragraph (3)(A)(ii) involving a transfer of an applicable retained interest from an applicable family member to a transferor, this subsection shall continue to apply to the transferor during any period the transferor holds such interest.".

(10) Section 2701(e)(6) is amended by inserting "or to reflect the application of subsection (d)" before the period at the end thereof.

(11)(A) Section 2702(a)(3)(A) is amended—

(i) by striking "to the extent" and inserting "if" in clause (i),

(ii) by striking "or" at the end of clause (i),

(iii) by striking the period at the end of clause (ii) and inserting ", or", and

(iv) by adding at the end thereof the following new clause:

"(iii) to the extent that regulations provide that such transfer is not inconsistent with the purposes of this section.".

(B)(i) Section 2702(a)(3) is amended by striking "incomplete transfer" each place it appears and inserting "incomplete gift".

(ii) The heading for section 2702(a)(3)(B) is amended by striking "INCOMPLETE TRANSFER" and inserting "INCOMPLETE GIFT".

(g) AMENDMENTS RELATED TO SUBTITLE G.—

(1)(A) Subsection (a) of section 1248 is amended—

(i) by striking ", or if a United States person receives a distribution from a foreign corporation which, under section 302 or 331, is treated as an exchange of stock" in paragraph (1), and

(ii) by adding at the end thereof the following new sentence: "For purposes of this section, a United States person shall be treated as having sold or exchanged any stock if, under any provision of this subtitle, such person is treated as realizing gain from the sale or exchange of such stock.".

(B) Paragraph (1) of section 1248(e) is amended by striking ", or receives a distribution from a domestic corporation which, under section 302 or 331, is treated as an exchange of stock".

(C) Subparagraph (B) of section 1248(f)(1) is amended by striking "or 361(c)(1)" and inserting "355(c)(1), or 361(c)(1)".

(D) Paragraph (1) of section 1248(i) is amended to read as follows:

"(1) IN GENERAL.—If any shareholder of a 10-percent corporate shareholder of a foreign corporation exchanges stock of the 10-percent corporate shareholder for stock of the foreign corporation, such 10-percent corporate shareholder shall recognize gain in the same manner as if the stock of the foreign corporation received in such exchange had been—

"(A) issued to the 10-percent corporate shareholder, and

"(B) then distributed by the 10-percent corporate shareholder to such shareholder in redemption or liquidation (whichever is appropriate).

The amount of gain recognized by such 10-percent corporate shareholder under the preceding sentence shall not exceed the amount treated as a dividend under this section.".

(2) Section 897 is amended by striking subsection (f).

(3) Paragraph (13) of section 4975(d) is amended by striking "section 408(b)" and inserting "section 408(b)(12)".

(4) Clause (iii) of section 56(g)(4)(D) is amended by inserting ", but only with respect to taxable years beginning after December 31, 1989" before the period at the end thereof.

(5)(A) Paragraph (11) of section 11701(a) of the Revenue Reconciliation Act of 1990 (and the amendment made by such paragraph) are hereby repealed, and section 7108(r)(2) of the Revenue Reconciliation Act of 1989 shall be applied as if such paragraph (and amendment) had never been enacted. 26 USC 42 note.

(B) Subparagraph (A) shall not apply to any building if the owner of such building establishes to the satisfaction of the Secretary of the Treasury or his delegate that such owner reasonably relied on the amendment made by such paragraph (11).

(h) AMENDMENTS RELATED TO SUBTITLE H.—

(1)(A) Clause (vi) of section 168(e)(3)(B) is amended by striking "or" at the end of subclause (I), by striking the period at the end of subclause (II) and inserting ", or", and by adding at the end thereof the following new subclause:

"(III) is described in section 48(l)(3)(A)(ix) (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).".

(B) Subparagraph (B) of section 168(e)(3) (relating to 5-year property) is amended by adding at the end the following flush sentence:

"Nothing in any provision of law shall be construed to treat property as not being described in clause (vi)(I) (or the corresponding provisions of prior law) by reason of being public utility property (within the meaning of section 48(a)(3)).".

(C) Subparagraph (K) of section 168(g)(4) is amended by striking "section 48(a)(3)(A)(iii)" and inserting "section 48(l)(3)(A)(ix) (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990)".

(2) Clause (ii) of section 172(b)(1)(E) is amended by striking "subsection (m)" and inserting "subsection (h)".

(3) Sections 805(a)(4)(E), 832(b)(5)(C)(ii)(II), and 832(b)(5)(D)(ii)(II) are each amended by striking "243(b)(5)" and inserting "243(b)(2)".

(4) Subparagraph (A) of section 243(b)(3) is amended by inserting "of" after "In the case".

(5) The subsection heading for subsection (a) of section 280F is amended by striking "INVESTMENT TAX CREDIT AND".

(6) Clause (i) of section 1504(c)(2)(B) is amended by inserting "section" before "243(b)(2)".

(7) Paragraph (3) of section 341(f) is amended by striking "351, 361, 371(a), or 374(a)" and inserting "351, or 361".

(8) Paragraph (2) of section 243(b) is amended to read as follows:

"(2) AFFILIATED GROUP.—For purposes of this subsection:

"(A) IN GENERAL.—The term 'affiliated group' has the meaning given such term by section 1504(a), except that for such purposes sections 1504(b)(2), 1504(b)(4), and 1504(c) shall not apply.

"(B) GROUP MUST BE CONSISTENT IN FOREIGN TAX TREATMENT.—The requirements of paragraph (1)(A) shall not be treated as being met with respect to any dividend received by a corporation if, for any taxable year which includes the day on which such dividend is received—

"(i) 1 or more members of the affiliated group referred to in paragraph (1)(A) choose to any extent to take the benefits of section 901, and

"(ii) 1 or more other members of such group claim to any extent a deduction for taxes otherwise creditable under section 901.".

26 USC 861. (9) The amendment made by section 11813(b)(17) of the Revenue Reconciliation Act of 1990 shall be applied as if the material stricken by such amendment included the closing parenthesis after "section 48(a)(5)".

(10) Paragraph (1) of section 179(d) is amended by striking "in a trade or business" and inserting "a trade or business".

(11) Subparagraph (E) of section 50(a)(2) is amended by striking "section 48(a)(5)(A)" and inserting "section 48(a)(5)".

26 USC 56. (12) The amendment made by section 11801(c)(9)(G)(ii) of the Revenue Reconciliation Act of 1990 shall be applied as if it struck "Section 422A(c)(2)" and inserted "Section 422(c)(2)".

(13) Subparagraph (B) of section 424(c)(3) is amended by striking "a qualified stock option, an incentive stock option, an option granted under an employee stock purchase plan, or a restricted stock option" and inserting "an incentive stock option or an option granted under an employee stock purchase plan".

(14) Subparagraph (E) of section 1367(a)(2) is amended by striking "section 613A(c)(13)(B)" and inserting "section 613A(c)(11)(B)".

(15) Subparagraph (B) of section 460(e)(6) is amended by striking "section 167(k)" and inserting "section 168(e)(2)(A)(ii)".

(16) Subparagraph (C) of section 172(h)(4) is amended by striking "subsection (b)(1)(M)" and inserting "subsection (b)(1)(E)".

(17) Section 6503 is amended—

(A) by redesignating the subsection relating to extension in case of certain summonses as subsection (j), and

(B) by redesignating the subsection relating to cross references as subsection (k).

(18) Paragraph (4) of section 1250(e) is hereby repealed.

(19) Paragraph (1) of section 179(d) is amended by adding at the end the following new sentence: "Such term shall not

include any property described in section 50(b) and shall not include air conditioning or heating units.".

"(i) EFFECTIVE DATE.—Except as otherwise expressly provided, any amendment made by this section shall take effect as if included in the provision of the Revenue Reconciliation Act of 1990 to which such amendment relates.". 26 USC 38 note.

SEC. 1703. AMENDMENTS RELATED TO REVENUE RECONCILIATION ACT OF 1993.

(a) AMENDMENT RELATED TO SECTION 13114.—Paragraph (2) of section 1044(c) is amended to read as follows: 26 USC 1044.

"(2) PURCHASE.—The taxpayer shall be considered to have purchased any property if, but for subsection (d), the unadjusted basis of such property would be its cost within the meaning of section 1012.".

(b) AMENDMENTS RELATED TO SECTION 13142.—

(1) Subparagraph (B) of section 13142(b)(6) of the Revenue Reconciliation Act of 1993 is amended to read as follows: 26 USC 42 note.

"(B) FULL-TIME STUDENTS, WAIVER AUTHORITY, AND PROHIBITED DISCRIMINATION.—The amendments made by paragraphs (2), (3), and (4) shall take effect on the date of the enactment of this Act.".

(2) Subparagraph (C) of section 13142(b)(6) of such Act is amended by striking "paragraph (2)" and inserting "paragraph (5)".

(c) AMENDMENT RELATED TO SECTION 13161.—

(1) IN GENERAL.—Subsection (e) of section 4001 (relating to inflation adjustment) is amended to read as follows: 26 USC 4001.

"(e) INFLATION ADJUSTMENT.—

"(1) IN GENERAL.—The $30,000 amount in subsection (a) and section 4003(a) shall be increased by an amount equal to—

"(A) $30,000, multiplied by

"(B) the cost-of-living adjustment under section 1(f)(3) for the calendar year in which the vehicle is sold, determined by substituting 'calendar year 1990' for 'calendar year 1992' in subparagraph (B) thereof.

"(2) ROUNDING.—If any amount as adjusted under paragraph (1) is not a multiple of $2,000, such amount shall be rounded to the next lowest multiple of $2,000.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act. 26 USC 4001 note.

(d) AMENDMENT RELATED TO SECTION 13201.—Clause (ii) of section 135(b)(2)(B) is amended by inserting before the period at the end thereof the following: ", determined by substituting 'calendar year 1989' for 'calendar year 1992' in subparagraph (B) thereof". 26 USC 135.

(e) AMENDMENTS RELATED TO SECTION 13203.—Subsection (a) of section 59 is amended— 26 USC 59.

(1) by striking "the amount determined under section 55(b)(1)(A)" in paragraph (1)(A) and (2)(A)(i) and inserting "the pre-credit tentative minimum tax",

(2) by striking "specified in section 55(b)(1)(A)" in paragraph (1)(C) and inserting "specified in subparagraph (A)(i) or (B)(i) of section 55(b)(1) (whichever applies)",

(3) by striking "which would be determined under section 55(b)(1)(A)" in paragraph (2)(A)(ii) and inserting "which would be the pre-credit tentative minimum tax", and

(4) by adding at the end thereof the following new paragraph:

"(3) PRE-CREDIT TENTATIVE MINIMUM TAX.—For purposes of this subsection, the term 'pre-credit tentative minimum tax' means—

"(A) in the case of a taxpayer other than a corporation, the amount determined under the first sentence of section 55(b)(1)(A)(i), or

"(B) in the case of a corporation, the amount determined under section 55(b)(1)(B)(i).".

(f) AMENDMENT RELATED TO SECTION 13221.—Sections 1201(a) and 1561(a) are each amended by striking "last sentence" each place it appears and inserting "last 2 sentences".

(g) AMENDMENTS RELATED TO SECTION 13222.—

(1) Subparagraph (B) of section 6033(e)(1) is amended by adding at the end thereof the following new clause:

"(iii) COORDINATION WITH SECTION 527(f).—This subsection shall not apply to any amount on which tax is imposed by reason of section 527(f).".

(2) Clause (i) of section 6033(e)(1)(B) is amended by striking "this subtitle" and inserting "section 501".

(h) AMENDMENT RELATED TO SECTION 13225.—Paragraph (3) of section 6655(g) is amended by striking all that follows "'3rd month'" in the sentence following subparagraph (C) and inserting ", subsection (e)(2)(A) shall be applied by substituting '2 months' for '3 months' in clause (i)(I), the election under clause (i) of subsection (e)(2)(C) may be made separately for each installment, and clause (ii) of subsection (e)(2)(C) shall not apply.".

(i) AMENDMENTS RELATED TO SECTION 13231.—

(1) Subparagraph (G) of section 904(d)(3) is amended by striking "section 951(a)(1)(B)" and inserting "subparagraph (B) or (C) of section 951(a)(1)".

(2) Paragraph (1) of section 956A(b) is amended to read as follows:

"(1) the amount (not including a deficit) referred to in section 316(a)(1) to the extent such amount was accumulated in prior taxable years beginning after September 30, 1993, and".

(3) Subsection (f) of section 956A is amended by inserting before the period at the end thereof: "and regulations coordinating the provisions of subsections (c)(3)(A) and (d)".

(4) Subsection (b) of section 958 is amended by striking "956(b)(2)" each place it appears and inserting "956(c)(2)".

(5)(A) Subparagraph (A) of section 1297(d)(2) is amended by striking "The adjusted basis of any asset" and inserting "The amount taken into account under section 1296(a)(2) with respect to any asset".

(B) The paragraph heading of paragraph (2) of section 1297(d) is amended to read as follows:

"(2) AMOUNT TAKEN INTO ACCOUNT.—".

(6) Subsection (e) of section 1297 is amended by inserting "For purposes of this part—" after the subsection heading.

(j) AMENDMENT RELATED TO SECTION 13241.—Subparagraph (B) of section 40(e)(1) is amended to read as follows:

"(B) for any period before January 1, 2001, during which the rates of tax under section 4081(a)(2)(A) are 4.3 cents per gallon.".

(k) AMENDMENT RELATED TO SECTION 13242.—Paragraph (4) of section 6427(f) is amended by striking "1995" and inserting "1999".

(l) AMENDMENT RELATED TO SECTION 13261.—Clause (iii) of section 13261(g)(2)(A) of the Revenue Reconciliation Act of 1993 is amended by striking "by the taxpayer" and inserting "by the taxpayer or a related person". 26 USC 197 note.

(m) AMENDMENT RELATED TO SECTION 13301.—Subparagraph (B) of section 1397B(d)(5) is amended by striking "preceding".

(n) CLERICAL AMENDMENTS.—

(1) Subsection (d) of section 39 is amended—

(A) by striking "45" in the heading of paragraph (5) and inserting "45A", and

(B) by striking "45" in the heading of paragraph (6) and inserting "45B".

(2) Subparagraph (A) of section 108(d)(9) is amended by striking "paragraph (3)(B)" and inserting "paragraph (3)(C)".

(3) Subparagraph (C) of section 143(d)(2) is amended by striking the period at the end thereof and inserting a comma.

(4) Clause (ii) of section 163(j)(6)(E) is amended by striking "which is a" and inserting "which is".

(5) Subparagraph (A) of section 1017(b)(4) is amended by striking "subsection (b)(2)(D)" and inserting "subsection (b)(2)(E)".

(6) So much of section 1245(a)(3) as precedes subparagraph (A) thereof is amended to read as follows:

"(3) SECTION 1245 PROPERTY.—For purposes of this section, the term 'section 1245 property' means any property which is or has been property of a character subject to the allowance for depreciation provided in section 167 and is either—".

(7) Paragraph (2) of section 1394(e) is amended—

(A) by striking "(i)" and inserting "(A)", and

(B) by striking "(ii)" and inserting "(B)".

(8) Subsection (m) of section 6501 (as redesignated by section 1602) is amended by striking "or 51(j)" and inserting "45B, or 51(j)".

(9)(A) The section 6714 added by section 13242(b)(1) of the Revenue Reconciliation Act of 1993 is hereby redesignated as section 6715.

(B) The table of sections for part I of subchapter B of chapter 68 is amended by striking "6714" in the item added by such section 13242(b)(2) of such Act and inserting "6715".

(10) Paragraph (2) of section 9502(b) is amended by inserting "and before" after "1982,".

(11) Subsection (a)(3) of section 13206 of the Revenue Reconciliation Act of 1993 is amended by striking "this section" and inserting "this subsection". 26 USC 1258 note.

(12) Paragraph (1) of section 13215(c) of the Revenue Reconciliation Act of 1993 is amended by striking "Public Law 92–21" and inserting "Public Law 98–21". 42 USC 401 note.

(13) Paragraph (2) of section 13311(e) of the Revenue Reconciliation Act of 1993 is amended by striking "section 1393(a)(3)" and inserting "section 1393(a)(2)". 26 USC 38 note.

(14) Subparagraph (B) of section 117(d)(2) is amended by striking "section 132(f)" and inserting "section 132(h)".

26 USC 39 note. (o) EFFECTIVE DATE.—Any amendment made by this section shall take effect as if included in the provision of the Revenue Reconciliation Act of 1993 to which such amendment relates.

SEC. 1704. MISCELLANEOUS PROVISIONS.

26 USC 401, 420, 4980. (a) APPLICATION OF AMENDMENTS MADE BY TITLE XII OF OMNIBUS BUDGET RECONCILIATION ACT OF 1990.—Except as otherwise expressly provided, whenever in title XII of the Omnibus Budget Reconciliation Act of 1990 an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(b) TREATMENT OF CERTAIN AMOUNTS UNDER HEDGE BOND RULES.—

(1) IN GENERAL.—Clause (iii) of section 149(g)(3)(B) is amended to read as follows:

"(iii) AMOUNTS HELD PENDING REINVESTMENT OR REDEMPTION.—Amounts held for not more than 30 days pending reinvestment or bond redemption shall be treated as invested in bonds described in clause (i).".

26 USC 149 note. (2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if included in the amendments made by section 7651 of the Omnibus Budget Reconciliation Act of 1989.

(c) TREATMENT OF CERTAIN DISTRIBUTIONS UNDER SECTION 1445.—

(1) IN GENERAL.—Paragraph (3) of section 1445(e) is amended by adding at the end thereof the following new sentence: "Rules similar to the rules of the preceding provisions of this paragraph shall apply in the case of any distribution to which section 301 applies and which is not made out of the earnings and profits of such a domestic corporation.".

26 USC 1445 note. (2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to distributions after the date of the enactment of this Act.

(d) TREATMENT OF CERTAIN CREDITS UNDER SECTION 469.—

(1) IN GENERAL.—Subparagraph (B) of section 469(c)(3) is amended by adding at the end thereof the following new sentence: "If the preceding sentence applies to the net income from any property for any taxable year, any credits allowable under subpart B (other than section 27(a)) or D of part IV of subchapter A for such taxable year which are attributable to such property shall be treated as credits not from a passive activity to the extent the amount of such credits does not exceed the regular tax liability of the taxpayer for the taxable year which is allocable to such net income.".

26 USC 469 note. (2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1986.

(e) TREATMENT OF DISPOSITIONS UNDER PASSIVE LOSS RULES.—

(1) IN GENERAL.—Subparagraph (A) of section 469(g)(1) is amended to read as follows:

"(A) IN GENERAL.—If all gain or loss realized on such disposition is recognized, the excess of—

"(i) any loss from such activity for such taxable year (determined after the application of subsection (b)), over

"(ii) any net income or gain for such taxable year from all other passive activities (determined after the application of subsection (b)),

shall be treated as a loss which is not from a passive activity.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1986. 26 USC 469 note.

(f) MISCELLANEOUS AMENDMENTS TO FOREIGN PROVISIONS.—

(1) COORDINATION OF UNIFIED ESTATE TAX CREDIT WITH TREATIES.—Subparagraph (A) of section 2102(c)(3) is amended by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, property shall not be treated as situated in the United States if such property is exempt from the tax imposed by this subchapter under any treaty obligation of the United States.".

(2) TREATMENT OF CERTAIN INTEREST PAID TO RELATED PERSON.—

(A) Subparagraph (B) of section 163(j)(1) is amended by inserting before the period at the end thereof the following: "(and clause (ii) of paragraph (2)(A) shall not apply for purposes of applying this subsection to the amount so treated)".

(B) Subsection (j) of section 163 is amended by redesignating paragraph (7) as paragraph (8) and by inserting after paragraph (6) the following new paragraph:

"(7) COORDINATION WITH PASSIVE LOSS RULES, ETC.—This subsection shall be applied before sections 465 and 469.".

(C) The amendments made by this paragraph shall apply as if included in the amendments made by section 7210(a) of the Revenue Reconciliation Act of 1989. 26 USC 163 note.

(3) TREATMENT OF INTEREST ALLOCABLE TO EFFECTIVELY CONNECTED INCOME.—

(A) IN GENERAL.—

(i) Subparagraph (B) of section 884(f)(1) is amended by striking "to the extent" and all that follows down through "subparagraph (A)" and inserting "to the extent that the allocable interest exceeds the interest described in subparagraph (A)".

(ii) The second sentence of section 884(f)(1) is amended by striking "reasonably expected" and all that follows down through the period at the end thereof and inserting "reasonably expected to be allocable interest.".

(iii) Paragraph (2) of section 884(f) is amended to read as follows:

"(2) ALLOCABLE INTEREST.—For purposes of this subsection, the term 'allocable interest' means any interest which is allocable to income which is effectively connected (or treated as effectively connected) with the conduct of a trade or business in the United States.".

(B) EFFECTIVE DATE.—The amendments made by subparagraph (A) shall take effect as if included in the 26 USC 884 note.

amendments made by section 1241(a) of the Tax Reform Act of 1986.

(4) CLARIFICATION OF SOURCE RULE.—

(A) IN GENERAL.—Paragraph (2) of section 865(b) is amended by striking "863(b)" and inserting "863".

26 USC 865 note.

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall take effect as if included in the amendments made by section 1211 of the Tax Reform Act of 1986.

(5) REPEAL OF OBSOLETE PROVISIONS.—

(A) Paragraph (1) of section 6038(a) is amended by striking ", and" at the end of subparagraph (E) and inserting a period, and by striking subparagraph (F).

(B) Subsection (b) of section 6038A is amended by adding "and" at the end of paragraph (2), by striking ", and" at the end of paragraph (3) and inserting a period, and by striking paragraph (4).

(g) CLARIFICATION OF TREATMENT OF MEDICARE ENTITLEMENT UNDER COBRA PROVISIONS.—

(1) IN GENERAL.—

(A) Subclause (V) of section 4980B(f)(2)(B)(i) is amended to read as follows:

"(V) MEDICARE ENTITLEMENT FOLLOWED BY QUALIFYING EVENT.—In the case of a qualifying event described in paragraph (3)(B) that occurs less than 18 months after the date the covered employee became entitled to benefits under title XVIII of the Social Security Act, the period of coverage for qualified beneficiaries other than the covered employee shall not terminate under this clause before the close of the 36-month period beginning on the date the covered employee became so entitled.".

(B) Clause (v) of section 602(2)(A) of the Employee

29 USC 1162.

Retirement Income Security Act of 1974 is amended to read as follows:

"(v) MEDICARE ENTITLEMENT FOLLOWED BY QUALIFYING EVENT.—In the case of a qualifying event described in section 603(2) that occurs less than 18 months after the date the covered employee became entitled to benefits under title XVIII of the Social Security Act, the period of coverage for qualified beneficiaries other than the covered employee shall not terminate under this subparagraph before the close of the 36-month period beginning on the date the covered employee became so entitled.".

(C) Clause (iv) of section 2202(2)(A) of the Public

42 USC 300bb–2.

Health Service Act is amended to read as follows:

"(iv) MEDICARE ENTITLEMENT FOLLOWED BY QUALIFYING EVENT.—In the case of a qualifying event described in section 2203(2) that occurs less than 18 months after the date the covered employee became entitled to benefits under title XVIII of the Social Security Act, the period of coverage for qualified beneficiaries other than the covered employee shall not terminate under this subparagraph before the close

of the 36-month period beginning on the date the covered employee became so entitled.".

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to plan years beginning after December 31, 1989. 26 USC 4980B note.

(h) TREATMENT OF CERTAIN REMIC INCLUSIONS.—

(1) IN GENERAL.—Subsection (a) of section 860E is amended by adding at the end thereof the following new paragraph:

"(6) COORDINATION WITH MINIMUM TAX.—For purposes of part VI of subchapter A of this chapter—

"(A) the reference in section 55(b)(2) to taxable income shall be treated as a reference to taxable income determined without regard to this subsection,

"(B) the alternative minimum taxable income of any holder of a residual interest in a REMIC for any taxable year shall in no event be less than the excess inclusion for such taxable year, and

"(C) any excess inclusion shall be disregarded for purposes of computing the alternative tax net operating loss deduction.

The preceding sentence shall not apply to any organization to which section 593 applies, except to the extent provided in regulations prescribed by the Secretary under paragraph (2).".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if included in the amendments made by section 671 of the Tax Reform Act of 1986 unless the taxpayer elects to apply such amendment only to taxable years beginning after the date of the enactment of this Act. 26 USC 860E note.

(i) EXEMPTION FROM HARBOR MAINTENANCE TAX FOR CERTAIN PASSENGERS.—

(1) IN GENERAL.—Subparagraph (D) of section 4462(b)(1) (relating to special rule for Alaska, Hawaii, and possessions) is amended by inserting before the period the following: ", or passengers transported on United States flag vessels operating solely within the State waters of Alaska or Hawaii and adjacent international waters".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if included in the amendments made by section 1402(a) of the Harbor Maintenance Revenue Act of 1986. 26 USC 4462 note.

(j) AMENDMENTS RELATED TO REVENUE PROVISIONS OF ENERGY POLICY ACT OF 1992.—

(1) Effective with respect to taxable years beginning after December 31, 1990, subclause (II) of section 53(d)(1)(B)(iv) is amended to read as follows:

"(II) the adjusted net minimum tax for any taxable year is the amount of the net minimum tax for such year increased in the manner provided in clause (iii).".

(2) Subsection (g) of section 179A is redesignated as subsection (f).

(3) Subparagraph (E) of section 6724(d)(3) is amended by striking "section 6109(f)" and inserting "section 6109(h)".

(4)(A) Subsection (d) of section 30 is amended—

(i) by inserting "(determined without regard to subsection (b)(3))" before the period at the end of paragraph (1) thereof, and

(ii) by adding at the end thereof the following new paragraph:

"(4) ELECTION TO NOT TAKE CREDIT.—No credit shall be allowed under subsection (a) for any vehicle if the taxpayer elects to not have this section apply to such vehicle.".

(B) Subsection (m) of section 6501 (as redesignated by section 1602) is amended by striking "section 40(f)" and inserting "sections 30(d)(4), 40(f)".

(5) Subclause (III) of section 501(c)(21)(D)(ii) is amended by striking "section 101(6)" and inserting "section 101(7)" and by striking "1752(6)" and inserting "1752(7)".

26 USC 468A. (6) Paragraph (1) of section 1917(b) of the Energy Policy Act of 1992 shall be applied as if "at a rate" appeared instead of "at the rate" in the material proposed to be stricken.

26 USC 142. (7) Paragraph (2) of section 1921(b) of the Energy Policy Act of 1992 shall be applied as if a comma appeared after "(2)" in the material proposed to be stricken.

26 USC 737. (8) Subsection (a) of section 1937 of the Energy Policy Act of 1992 shall be applied as if "Subpart B" appeared instead of "Subpart C".

26 USC 401 note. (k) TREATMENT OF QUALIFIED FOOTBALL COACHES PLAN.—

(1) IN GENERAL.—For purposes of the Internal Revenue Code of 1986, a qualified football coaches plan—

(A) shall be treated as a multiemployer collectively bargained plan, and

(B) notwithstanding section 401(k)(4)(B) of such Code, may include a qualified cash and deferred arrangement under section 401(k) of such Code.

(2) QUALIFIED FOOTBALL COACHES PLAN.—For purposes of this subsection, the term "qualified football coaches plan" means any defined contribution plan which is established and maintained by an organization—

(A) which is described in section 501(c) of such Code,

(B) the membership of which consists entirely of individuals who primarily coach football as full-time employees of 4-year colleges or universities described in section 170(b)(1)(A)(ii) of such Code, and

(C) which was in existence on September 18, 1986.

(3) EFFECTIVE DATE.—This subsection shall apply to years beginning after December 22, 1987.

(l) DETERMINATION OF UNRECOVERED INVESTMENT IN ANNUITY CONTRACT.—

(1) IN GENERAL.—Subparagraph (A) of section 72(b)(4) is amended by inserting "(determined without regard to subsection (c)(2))" after "contract".

26 USC 72 note. (2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if included in the amendments made by section 1122(c) of the Tax Reform Act of 1986.

(m) MODIFICATIONS TO ELECTION TO INCLUDE CHILD'S INCOME ON PARENT'S RETURN.—

(1) ELIGIBILITY FOR ELECTION.—Clause (ii) of section 1(g)(7)(A) (relating to election to include certain unearned income of child on parent's return) is amended to read as follows:

"(ii) such gross income is more than the amount described in paragraph (4)(A)(ii)(I) and less than 10 times the amount so described,".

(2) COMPUTATION OF TAX.—Subparagraph (B) of section 1(g)(7) (relating to income included on parent's return) is amended—

(A) by striking "$1,000" in clause (i) and inserting "twice the amount described in paragraph (4)(A)(ii)(I)", and

(B) by amending subclause (II) of clause (ii) to read as follows:

"(II) for each such child, 15 percent of the lesser of the amount described in paragraph (4)(A)(ii)(I) or the excess of the gross income of such child over the amount so described, and".

(3) MINIMUM TAX.—Subparagraph (B) of section 59(j)(1) is amended by striking "$1,000" and inserting "twice the amount in effect for the taxable year under section 63(c)(5)(A)".

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 1995. 26 USC 1 note.

(n) TREATMENT OF CERTAIN VETERANS' REEMPLOYMENT RIGHTS.—

(1) IN GENERAL.—Section 414 is amended by adding at the end the following new subsection:

"(u) SPECIAL RULES RELATING TO VETERANS' REEMPLOYMENT RIGHTS UNDER USERRA.—

"(1) TREATMENT OF CERTAIN CONTRIBUTIONS MADE PURSUANT TO VETERANS' REEMPLOYMENT RIGHTS.—If any contribution is made by an employer or an employee under an individual account plan with respect to an employee, or by an employee to a defined benefit plan that provides for employee contributions, and such contribution is required by reason of such employee's rights under chapter 43 of title 38, United States Code, resulting from qualified military service, then—

"(A) such contribution shall not be subject to any otherwise applicable limitation contained in section 402(g), 402(h), 403(b), 404(a), 404(h), 408, 415, or 457, and shall not be taken into account in applying such limitations to other contributions or benefits under such plan or any other plan, with respect to the year in which the contribution is made,

"(B) such contribution shall be subject to the limitations referred to in subparagraph (A) with respect to the year to which the contribution relates (in accordance with rules prescribed by the Secretary), and

"(C) such plan shall not be treated as failing to meet the requirements of section 401(a)(4), 401(a)(26), 401(k)(3), 401(k)(11), 401(k)(12), 401(m), 403(b)(12), 408(k)(3), 408(k)(6), 408(p), 410(b), or 416 by reason of the making of (or the right to make) such contribution.

For purposes of the preceding sentence, any elective deferral or employee contribution made under paragraph (2) shall be treated as required by reason of the employee's rights under such chapter 43.

"(2) REEMPLOYMENT RIGHTS UNDER USERRA WITH RESPECT TO ELECTIVE DEFERRALS.—

"(A) IN GENERAL.—For purposes of this subchapter and section 457, if an employee is entitled to the benefits of chapter 43 of title 38, United States Code, with respect to any plan which provides for elective deferrals, the employer sponsoring the plan shall be treated as meeting the requirements of such chapter 43 with respect to such elective deferrals only if such employer—

"(i) permits such employee to make additional elective deferrals under such plan (in the amount determined under subparagraph (B) or such lesser amount as is elected by the employee) during the period which begins on the date of the reemployment of such employee with such employer and has the same length as the lesser of—

"(I) the product of 3 and the period of qualified military service which resulted in such rights, and

"(II) 5 years, and

"(ii) makes a matching contribution with respect to any additional elective deferral made pursuant to clause (i) which would have been required had such deferral actually been made during the period of such qualified military service.

"(B) AMOUNT OF MAKEUP REQUIRED.—The amount determined under this subparagraph with respect to any plan is the maximum amount of the elective deferrals that the individual would have been permitted to make under the plan in accordance with the limitations referred to in paragraph (1)(A) during the period of qualified military service if the individual had continued to be employed by the employer during such period and received compensation as determined under paragraph (7). Proper adjustment shall be made to the amount determined under the preceding sentence for any elective deferrals actually made during the period of such qualified military service.

"(C) ELECTIVE DEFERRAL.—For purposes of this paragraph, the term 'elective deferral' has the meaning given such term by section 402(g)(3); except that such term shall include any deferral of compensation under an eligible deferred compensation plan (as defined in section 457(b)).

"(D) AFTER-TAX EMPLOYEE CONTRIBUTIONS.—References in subparagraphs (A) and (B) to elective deferrals shall be treated as including references to employee contributions.

"(3) CERTAIN RETROACTIVE ADJUSTMENTS NOT REQUIRED.—For purposes of this subchapter and subchapter E, no provision of chapter 43 of title 38, United States Code, shall be construed as requiring—

"(A) any crediting of earnings to an employee with respect to any contribution before such contribution is actually made, or

"(B) any allocation of any forfeiture with respect to the period of qualified military service.

"(4) LOAN REPAYMENT SUSPENSIONS PERMITTED.—If any plan suspends the obligation to repay any loan made to an employee from such plan for any part of any period during which such employee is performing service in the uniformed services (as defined in chapter 43 of title 38, United States

Code), whether or not qualified military service, such suspension shall not be taken into account for purposes of section 72(p), 401(a), or 4975(d)(1).

"(5) QUALIFIED MILITARY SERVICE.—For purposes of this subsection, the term 'qualified military service' means any service in the uniformed services (as defined in chapter 43 of title 38, United States Code) by any individual if such individual is entitled to reemployment rights under such chapter with respect to such service.

"(6) INDIVIDUAL ACCOUNT PLAN.—For purposes of this subsection, the term 'individual account plan' means any defined contribution plan (including any tax-sheltered annuity plan under section 403(b), any simplified employee pension under section 408(k), any qualified salary reduction arrangement under section 408(p), and any eligible deferred compensation plan (as defined in section 457(b)).

"(7) COMPENSATION.—For purposes of sections 403(b)(3), 415(c)(3), and 457(e)(5), an employee who is in qualified military service shall be treated as receiving compensation from the employer during such period of qualified military service equal to—

"(A) the compensation the employee would have received during such period if the employee were not in qualified military service, determined based on the rate of pay the employee would have received from the employer but for absence during the period of qualified military service, or

"(B) if the compensation the employee would have received during such period was not reasonably certain, the employee's average compensation from the employer during the 12-month period immediately preceding the qualified military service (or, if shorter, the period of employment immediately preceding the qualified military service).

"(8) USERRA REQUIREMENTS FOR QUALIFIED RETIREMENT PLANS.—For purposes of this subchapter and section 457, an employer sponsoring a retirement plan shall be treated as meeting the requirements of chapter 43 of title 38, United States Code, only if each of the following requirements is met:

"(A) An individual reemployed under such chapter is treated with respect to such plan as not having incurred a break in service with the employer maintaining the plan by reason of such individual's period of qualified military service.

"(B) Each period of qualified military service served by an individual is, upon reemployment under such chapter, deemed with respect to such plan to constitute service with the employer maintaining the plan for the purpose of determining the nonforfeitability of the individual's accrued benefits under such plan and for the purpose of determining the accrual of benefits under such plan.

"(C) An individual reemployed under such chapter is entitled to accrued benefits that are contingent on the making of, or derived from, employee contributions or elective deferrals only to the extent the individual makes payment to the plan with respect to such contributions or deferrals. No such payment may exceed the amount the

individual would have been permitted or required to contribute had the individual remained continuously employed by the employer throughout the period of qualified military service. Any payment to such plan shall be made during the period beginning with the date of reemployment and whose duration is 3 times the period of the qualified military service (but not greater than 5 years).

"(9) PLANS NOT SUBJECT TO TITLE 38.—This subsection shall not apply to any retirement plan to which chapter 43 of title 38, United States Code, does not apply.

"(10) REFERENCES.—For purposes of this section, any reference to chapter 43 of title 38, United States Code, shall be treated as a reference to such chapter as in effect on December 12, 1994 (without regard to any subsequent amendment).".

(2) AMENDMENT TO ERISA.—Section 408(b)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1148(b)) is amended by adding at the end the following new sentence: "A loan made by a plan shall not fail to meet the requirements of the preceding sentence by reason of a loan repayment suspension described under section 414(u)(4) of the Internal Revenue Code of 1986.".

29 USC 1108.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall be effective as of December 12, 1994.

26 USC 414 note.

(o) REPORTING OF REAL ESTATE TRANSACTIONS.—

(1) IN GENERAL.—Paragraph (3) of section 6045(e) (relating to prohibition of separate charge for filing return) is amended by adding at the end the following new sentence: "Nothing in this paragraph shall be construed to prohibit the real estate reporting person from taking into account its cost of complying with such requirement in establishing its charge (other than a separate charge for complying with such requirement) to any customer for performing services in the case of a real estate transaction.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if included in section 1015(e)(2)(A) of the Technical and Miscellaneous Revenue Act of 1988.

26 USC 6045 note.

(p) CLARIFICATION OF DENIAL OF DEDUCTION FOR STOCK REDEMPTION EXPENSES.

(1) IN GENERAL.—Paragraph (1) of section 162(k) is amended by striking "the redemption of its stock" and inserting "the reacquisition of its stock or of the stock of any related person (as defined in section 465(b)(3)(C))".

(2) CERTAIN DEDUCTIONS PERMITTED.—Subparagraph (A) of section 162(k)(2) is amended by striking "or" at the end of clause (i), by redesignating clause (ii) as clause (iii), and by inserting after clause (i) the following new clause:

"(ii) deduction for amounts which are properly allocable to indebtedness and amortized over the term of such indebtedness, or".

(3) CLERICAL AMENDMENT.—The subsection heading for subsection (k) of section 162 is amended by striking "REDEMPTION" and inserting "REACQUISITION".

26 USC 162 note.

(4) EFFECTIVE DATE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by this subsection shall apply

to amounts paid or incurred after September 13, 1995, in taxable years ending after such date.

(B) PARAGRAPH (2).—The amendment made by paragraph (2) shall take effect as if included in the amendment made by section 613 of the Tax Reform Act of 1986.

(q) CLERICAL AMENDMENT TO SECTION 404.—

(1) IN GENERAL.—Paragraph (1) of section 404(j) is amended by striking "(10)" and inserting "(9)".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if included in the amendments made by section 713(d)(4)(A) of the Deficit Reduction Act of 1984. 26 USC 404 note.

(r) PASSIVE INCOME NOT TO INCLUDE FSC INCOME, ETC.—

(1) IN GENERAL.—Paragraph (2) of section 1296(b) is amended by striking "or" at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting ", or", and by inserting after subparagraph (C) the following new subparagraph:

"(D) which is foreign trade income of an FSC or export trade income of an export trade corporation (as defined in section 971).".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect as if included in the amendments made by section 1235 of the Tax Reform Act of 1986. 26 USC 1296 note.

(s) TECHNICAL CORRECTION OF INTERMEDIATE SANCTIONS PROVISIONS.—

(1) Subparagraph (C) of section 6652(c)(1) is amended by striking "$10" and inserting "$20", and by striking "$5,000" and inserting "$10,000".

(2) Subparagraph (D) of section 6652(c)(1) is amended by striking "$10" and inserting "$20".

(t) MISCELLANEOUS CLERICAL AMENDMENTS.—

(1) Subclause (II) of section 56(g)(4)(C)(ii) is amended by striking "of the subclause" and inserting "of subclause".

(2) Paragraph (2) of section 72(m) is amended by inserting "and" at the end of subparagraph (A), by striking subparagraph (B), and by redesignating subparagraph (C) as subparagraph (B).

(3) Paragraph (2) of section 86(b) is amended by striking "adusted" and inserting "adjusted".

(4)(A) The heading for section 112 is amended by striking "**COMBAT PAY**" and inserting "**COMBAT ZONE COMPENSATION**".

(B) The item relating to section 112 in the table of sections for part III of subchapter B of chapter 1 is amended by striking "combat pay" and inserting "combat zone compensation".

(C) Paragraph (1) of section 3401(a) is amended by striking "combat pay" and inserting "combat zone compensation".

(5) Clause (i) of section 172(h)(3)(B) is amended by striking the comma at the end thereof and inserting a period.

(6) Clause (ii) of section 543(a)(2)(B) is amended by striking "section 563(c)" and inserting "section 563(d)".

(7) Paragraph (1) of section 958(a) is amended by striking "sections 955(b)(1) (A) and (B), 955(c)(2)(A)(ii), and 960(a)(1)" and inserting "section 960(a)(1)".

(8) Subsection (g) of section 642 is amended by striking "under 2621(a)(2)" and inserting "under section 2621(a)(2)".

(9) Section 1463 is amended by striking "this subsection" and inserting "this section".

(10) Subsection (k) of section 3306 is amended by inserting a period at the end thereof.

(11) The item relating to section 4472 in the table of sections for subchapter B of chapter 36 is amended by striking "and special rules".

(12) Paragraph (3) of section 5134(c) is amended by striking "section 6662(a)" and inserting "section 6665(a)".

(13) Paragraph (2) of section 5206(f) is amended by striking "section 5(e)" and inserting "section 105(e)".

(14) Paragraph (1) of section 6050B(c) is amended by striking "section 85(c)" and inserting "section 85(b)".

(15) Subsection (k) of section 6166 is amended by striking paragraph (6).

(16) Subsection (e) of section 6214 is amended to read as follows:

"(e) CROSS REFERENCE.—

"For provision giving Tax Court jurisdiction to order a refund of an overpayment and to award sanctions, see section 6512(b)(2).".

(17) The section heading for section 6043 is amended by striking the semicolon and inserting a comma.

(18) The item relating to section 6043 in the table of sections for subpart B of part III of subchapter A of chapter 61 is amended by striking the semicolon and inserting a comma.

(19) The table of sections for part I of subchapter A of chapter 68 is amended by striking the item relating to section 6662.

(20)(A) Section 7232 is amended—

(i) by striking "**LUBRICATING OIL**," in the heading, and

(ii) by striking "lubricating oil," in the text.

(B) The table of sections for part II of subchapter A of chapter 75 is amended by striking "lubricating oil," in the item relating to section 7232.

(21) Paragraph (1) of section 6701(a) of the Omnibus Budget Reconciliation Act of 1989 is amended by striking "subclause (IV)" and inserting "subclause (V)". 26 USC 4980B.

(22) Clause (ii) of section 7304(a)(2)(D) of such Act is amended by striking "subsection (c)(2)" and inserting "subsection (c)". 26 USC 4979A.

(23) Paragraph (1) of section 7646(b) of such Act is amended by striking "section 6050H(b)(1)" and inserting "section 6050H(b)(2)". 26 USC 6050H.

(24) Paragraph (10) of section 7721(c) of such Act is amended by striking "section 6662(b)(2)(C)(ii)" and inserting "section 6661(b)(2)(C)(ii)". 26 USC 461.

(25) Subparagraph (A) of section 7811(i)(3) of such Act is amended by inserting "the first place it appears" before "in clause (i)". 26 USC 954.

(26) Paragraph (10) of section 7841(d) of such Act is amended by striking "section 381(a)" and inserting "section 381(c)". 26 USC 381.

(27) Paragraph (2) of section 7861(c) of such Act is amended by inserting "the second place it appears" before "and inserting". 26 USC 401 note.

(28) Paragraph (1) of section 460(b) is amended by striking "the look-back method of paragraph (3)" and inserting "the look-back method of paragraph (2)".

(29) Subparagraph (C) of section 50(a)(2) is amended by striking "subsection (c)(4)" and inserting "subsection (d)(5)".

(30) Subparagraph (B) of section 172(h)(4) is amended by striking the material following the heading and preceding clause (i) and inserting "For purposes of subsection (b)(2)—".

(31) Subparagraph (A) of section 355(d)(7) is amended by inserting "section" before "267(b)".

(32) Subparagraph (C) of section 420(e)(1) is amended by striking "mean" and inserting "means".

(33) Paragraph (4) of section 537(b) is amended by striking "section 172(i)" and inserting "section 172(f)".

(34) Subparagraph (B) of section 613(e)(1) is amended by striking the comma at the end thereof and inserting a period.

(35) Paragraph (4) of section 856(a) is amended by striking "section 582(c)(5)" and inserting "section 582(c)(2)".

(36) Sections 904(f)(2)(B)(i) and 907(c)(4)(B)(iii) are each amended by inserting "(as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990)" after "section 172(h)".

(37) Subsection (b) of section 936 is amended by striking "subparagraphs (D)(ii)(I)" and inserting "subparagraphs (D)(ii)".

(38) Subsection (c) of section 2104 is amended by striking "subparagraph (A), (C), or (D) of section 861(a)(1)" and inserting "section 861(a)(1)(A)".

(39) Subparagraph (A) of section 280A(c)(1) is amended to read as follows:

"(A) as the principal place of business for any trade or business of the taxpayer,".

(40) Section 6038 is amended by redesignating the subsection relating to cross references as subsection (f).

(41) Clause (iv) of section 6103(e)(1)(A) is amended by striking all that follows "provisions of" and inserting "section 1(g) or 59(j);".

(42) The subsection (f) of section 6109 of the Internal Revenue Code of 1986 which was added by section 2201(d) of Public Law 101–624 is redesignated as subsection (g).

(43) Subsection (b) of section 7454 is amended by striking "section 4955(e)(2)" and inserting "section 4955(f)(2)".

(44) Subsection (d) of section 11231 of the Revenue Reconciliation Act of 1990 shall be applied as if "comma" appeared instead of "period" and as if the paragraph (9) proposed to be added ended with a comma. 26 USC 9507 note.

(45) Paragraph (1) of section 11303(b) of the Revenue Reconciliation Act of 1990 shall be applied as if "paragraph" appeared instead of "subparagraph" in the material proposed to be stricken. 26 USC 832.

(46) Subsection (f) of section 11701 of the Revenue Reconciliation Act of 1990 is amended by inserting "(relating to definitions)" after "section 6038(e)". 26 USC 6038.

(47) Subsection (i) of section 11701 of the Revenue Reconciliation Act of 1990 shall be applied as if "subsection" appeared instead of "section" in the material proposed to be stricken. 26 USC 1253.

(48) Subparagraph (B) of section 11801(c)(2) of the Revenue Reconciliation Act of 1990 shall be applied as if "section 56(g)" appeared instead of "section 59(g)". 26 USC 56.

26 USC 247. (49) Subparagraph (C) of section 11801(c)(8) of the Revenue Reconciliation Act of 1990 shall be applied as if "reorganizations" appeared instead of "reorganization" in the material proposed to be stricken.

26 USC 1042. (50) Subparagraph (H) of section 11801(c)(9) of the Revenue Reconciliation Act of 1990 shall be applied as if "section 1042(c)(1)(B)" appeared instead of "section 1042(c)(2)(B)".

26 USC 593. (51) Subparagraph (F) of section 11801(c)(12) of the Revenue Reconciliation Act of 1990 shall be applied as if "and (3)" appeared instead of "and (E)".

26 USC 6302. (52) Subparagraph (A) of section 11801(c)(22) of the Revenue Reconciliation Act of 1990 shall be applied as if "chapters 21" appeared instead of "chapter 21" in the material proposed to be stricken.

26 USC 42. (53) Paragraph (3) of section 11812(b) of the Revenue Reconciliation Act of 1990 shall be applied by not executing the amendment therein to the heading of section 42(d)(5)(B).

26 USC 168. (54) Clause (i) of section 11813(b)(9)(A) of the Revenue Reconciliation Act of 1990 shall be applied as if a comma appeared after "(3)(A)(ix)" in the material proposed to be stricken.

26 USC prec. 261. (55) Subparagraph (F) of section 11813(b)(13) of the Revenue Reconciliation Act of 1990 shall be applied as if "tax" appeared after "investment" in the material proposed to be stricken.

26 USC 1016. (56) Paragraph (19) of section 11813(b) of the Revenue Reconciliation Act of 1990 shall be applied as if "Paragraph (20) of section 1016(a), as redesignated by section 11801," appeared instead of "Paragraph (21) of section 1016(a)".

26 USC 4481. (57) Paragraph (5) section 8002(a) of the Surface Transportation Revenue Act of 1991 shall be applied as if "4481(e)" appeared instead of "4481(c)".

(58) Section 7872 is amended—

(A) by striking "foregone" each place it appears in subsections (a) and (e)(2) and inserting "forgone", and

(B) by striking "FOREGONE" in the heading for subsection (e) and the heading for paragraph (2) of subsection (e) and inserting "FORGONE".

(59) Paragraph (7) of section 7611(h) is amended by striking "approporiate" and inserting "appropriate".

(60) The heading of paragraph (3) of section 419A(c) is amended by striking "SEVERENCE" and inserting "SEVERANCE".

(61) Clause (ii) of section 807(d)(3)(B) is amended by striking "Commissoners' " and inserting "Commissioners' ".

(62) Subparagraph (B) of section 1274A(c)(1) is amended by striking "instument" and inserting "instrument".

(63) Subparagraph (B) of section 724(d)(3) by striking "Subparagaph" and inserting "Subparagraph".

(64) The last sentence of paragraph (2) of section 42(c) is amended by striking "of 1988".

(65) Paragraph (1) of section 9707(d) is amended by striking "diligence," and inserting "diligence".

(66) Subsection (c) of section 4977 is amended by striking "section 132(i)(2)" and inserting "section 132(h)".

(67) The last sentence of section 401(a)(20) is amended by striking "section 211" and inserting "section 521".

(68) Subparagraph (A) of section 402(g)(3) is amended by striking "subsection (a)(8)" and inserting "subsection (e)(3)".

(69) The last sentence of section 403(b)(10) is amended by striking "an direct" and inserting "a direct".

(70) Subparagraph (A) of section 4973(b)(1) is amended by striking "sections 402(c)" and inserting "section 402(c)".

(71) Paragraph (12) of section 3405(e) is amended by striking "(b)(3)" and inserting "(b)(2)".

(72) Paragraph (41) of section 521(b) of the Unemployment Compensation Amendments of 1992 shall be applied as if "section" appeared instead of "sections" in the material proposed to be stricken. 26 USC 4973.

(73) Paragraph (27) of section 521(b) of the Unemployment Compensation Amendments of 1992 shall be applied as if "Section 691(c)(5)" appeared instead of "Section 691(c)". 26 USC 691.

(74) Paragraph (5) of section 860F(a) is amended by striking "paragraph (1)" and inserting "paragraph (2)".

(75) Paragraph (1) of section 415(k) is amended by adding "or" at the end of subparagraph (C), by striking subparagraphs (D) and (E), and by redesignating subparagraph (F) as subparagraph (D).

(76) Paragraph (2) of section 404(a) is amended by striking "(18),".

(77) Clause (ii) of section 72(p)(4)(A) is amended to read as follows:

> "(ii) SPECIAL RULE.—The term 'qualified employer plan' shall include any plan which was (or was determined to be) a qualified employer plan or a government plan.".

(78) Sections 461(i)(3)(C) and 1274(b)(3)(B)(i) are each amended by striking "section 6662(d)(2)(C)(ii)" and inserting "section 6662(d)(2)(C)(iii)".

(79) Subsection (a) of section 164 is amended by striking the paragraphs relating to the generation-skipping tax and the environmental tax imposed by section 59A and by inserting after paragraph (3) the following new paragraphs:

"(4) The GST tax imposed on income distributions.

"(5) The environmental tax imposed by section 59A.".

(80) Subclause (I) of section 936(a)(4)(A)(ii) is amended by striking "deprecation" and inserting "depreciation".

Subtitle H—Other Provisions

SEC. 1801. EXEMPTION FROM DIESEL FUEL DYEING REQUIREMENTS WITH RESPECT TO CERTAIN STATES.

(a) IN GENERAL.—Section 4082 (relating to exemptions for diesel fuel) is amended by redesignating subsections (c) and (d) as subsections (d) and (e), respectively, and by inserting after subsection (b) the following new subsection:

"(c) EXCEPTION TO DYEING REQUIREMENTS.—Paragraph (2) of subsection (a) shall not apply with respect to any diesel fuel—

> "(1) removed, entered, or sold in a State for ultimate sale or use in an area of such State during the period such area is exempted from the fuel dyeing requirements under subsection (i) of section 211 of the Clean Air Act (as in effect on the date of the enactment of this subsection) by the Administrator

of the Environmental Protection Agency under paragraph (4) of such subsection (i) (as so in effect), and

"(2) the use of which is certified pursuant to regulations issued by the Secretary.".

26 USC 4082 note.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to fuel removed, entered, or sold on or after the first day of the first calendar quarter beginning after the date of the enactment of this Act.

26 USC 3121 note.

SEC. 1802. TREATMENT OF CERTAIN UNIVERSITY ACCOUNTS.

(a) IN GENERAL.—For purposes of subsection (s) of section 3121 of the Internal Revenue Code of 1986 (relating to concurrent employment by 2 or more employers)—

(1) the following entities shall be deemed to be related corporations that concurrently employ the same individual:

(A) a State university which employs health professionals as faculty members at a medical school, and

(B) an agency account of a State university which is described in subparagraph (A) and from which there is distributed to such faculty members payments forming a part of the compensation that the State, or such State university, as the case may be, agrees to pay to such faculty members, but only if—

(i) such agency account is authorized by State law and receives the funds for such payments from a faculty practice plan described in section 501(c)(3) of such Code and exempt from tax under section 501(a) of such Code,

(ii) such payments are distributed by such agency account to such faculty members who render patient care at such medical school, and

(iii) such faculty members comprise at least 30 percent of the membership of such faculty practice plan, and

(2) remuneration which is disbursed by such agency account to any such faculty member of the medical school described in paragraph (1)(A) shall be deemed to have been actually disbursed by the State, or such State university, as the case may be, as a common paymaster and not to have been actually disbursed by such agency account.

(b) EFFECTIVE DATE.—The provisions of subsection (a) shall apply to remuneration paid after December 31, 1996.

SEC. 1803. MODIFICATIONS TO EXCISE TAX ON OZONE-DEPLETING CHEMICALS.

(a) RECYCLED HALON.—

(1) IN GENERAL.—Section 4682(d)(1) (relating to recycling) is amended by inserting ", or on any recycled halon imported from any country which is a signatory to the Montreal Protocol on Substances that Deplete the Ozone Layer" before the period at the end.

26 USC 4682 note.

(2) CERTIFICATION SYSTEM.—The Secretary of the Treasury, after consultation with the Administrator of the Environmental Protection Agency, shall develop a certification system to ensure compliance with the recycling requirement for imported halon under section 4682(d)(1) of the Internal Revenue Code of 1986, as amended by paragraph (1).

(b) CHEMICALS USED AS PROPELLANTS IN METERED-DOSE INHALERS TAX-EXEMPT.—Paragraph (4) of section 4682(g) (relating to phase-in of tax on certain substances) is amended to read as follows:

"(4) CHEMICALS USED AS PROPELLANTS IN METERED-DOSE INHALERS.—

"(A) TAX-EXEMPT.—

"(i) IN GENERAL.—No tax shall be imposed by section 4681 on—

"(I) any use of any substance as a propellant in metered-dose inhalers, or

"(II) any qualified sale by the manufacturer, producer, or importer of any substance.

"(ii) QUALIFIED SALE.—For purposes of clause (i), the term 'qualified sale' means any sale by the manufacturer, producer, or importer of any substance—

"(I) for use by the purchaser as a propellant in metered-dose inhalers, or

"(II) for resale by the purchaser to a 2d purchaser for such use by the 2d purchaser.

The preceding sentence shall apply only if the manufacturer, producer, and importer, and the 1st and 2d purchasers (if any) meet such registration requirements as may be prescribed by the Secretary.

"(B) OVERPAYMENTS.—If any substance on which tax was paid under this subchapter is used by any person as a propellant in metered-dose inhalers, credit or refund without interest shall be allowed to such person in an amount equal to the tax so paid. Amounts payable under the preceding sentence with respect to uses during the taxable year shall be treated as described in section 34(a) for such year unless claim thereof has been timely filed under this subparagraph.".

(c) EFFECTIVE DATES.— 26 USC 4682 note.

(1) RECYCLED HALON.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendment made by subsection (a)(1) shall take effect on January 1, 1997.

(B) HALON-1211.—In the case of Halon-1211, the amendment made by subsection (a)(1) shall take effect on January 1, 1998.

(2) METERED-DOSE INHALERS.—The amendment made by subsection (b) shall take effect on the 7th day after the date of the enactment of this Act.

SEC. 1804. TAX-EXEMPT BONDS FOR SALE OF ALASKA POWER ADMINISTRATION FACILITY. 26 USC 142 note.

Sections 142(f)(3) (as added by section 1608) and 147(d) of the Internal Revenue Code of 1986 shall not apply in determining whether any private activity bond issued after the date of the enactment of this Act and used to finance the acquisition of the Snettisham hydroelectric project from the Alaska Power Administration is a qualified bond for purposes of such Code.

SEC. 1805. NONRECOGNITION TREATMENT FOR CERTAIN TRANSFERS BY COMMON TRUST FUNDS TO REGULATED INVESTMENT COMPANIES.

(a) GENERAL RULE.—Section 584 (relating to common trust funds) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) NONRECOGNITION TREATMENT FOR CERTAIN TRANSFERS TO REGULATED INVESTMENT COMPANIES.—

"(1) IN GENERAL.—If—

"(A) a common trust fund transfers substantially all of its assets to one or more regulated investment companies in exchange solely for stock in the company or companies to which such assets are so transferred, and

"(B) such stock is distributed by such common trust fund to participants in such common trust fund in exchange solely for their interests in such common trust fund,

no gain or loss shall be recognized by such common trust fund by reason of such transfer or distribution, and no gain or loss shall be recognized by any participant in such common trust fund by reason of such exchange.

"(2) BASIS RULES.—

"(A) REGULATED INVESTMENT COMPANY.—The basis of any asset received by a regulated investment company in a transfer referred to in paragraph (1)(A) shall be the same as it would be in the hands of the common trust fund.

"(B) PARTICIPANTS.—The basis of the stock which is received in an exchange referred to in paragraph (1)(B) shall be the same as that of the property exchanged. If stock in more than one regulated investment company is received in such exchange, the basis determined under the preceding sentence shall be allocated among the stock in each such company on the basis of respective fair market values.

"(3) TREATMENT OF ASSUMPTIONS OF LIABILITY.—

"(A) IN GENERAL.—In determining whether the transfer referred to in paragraph (1)(A) is in exchange solely for stock in one or more regulated investment companies, the assumption by any such company of a liability of the common trust fund, and the fact that any property transferred by the common trust fund is subject to a liability, shall be disregarded.

"(B) SPECIAL RULE WHERE ASSUMED LIABILITIES EXCEED BASIS.—

"(i) IN GENERAL.—If, in any transfer referred to in paragraph (1)(A), the assumed liabilities exceed the aggregate adjusted bases (in the hands of the common trust fund) of the assets transferred to the regulated investment company or companies—

"(I) notwithstanding paragraph (1), gain shall be recognized to the common trust fund on such transfer in an amount equal to such excess,

"(II) the basis of the assets received by the regulated investment company or companies in such transfer shall be increased by the amount so recognized, and

"(III) any adjustment to the basis of a participant's interest in the common trust fund as a result of the gain so recognized shall be treated as occurring immediately before the exchange referred to in paragraph (1)(B).

If the transfer referred to in paragraph (1)(A) is to two or more regulated investment companies, the basis increase under subclause (II) shall be allocated among such companies on the basis of the respective fair market values of the assets received by each of such companies.

"(ii) ASSUMED LIABILITIES.—For purposes of clause (i), the term 'assumed liabilities' means the aggregate of—

"(I) any liability of the common trust fund assumed by any regulated investment company in connection with the transfer referred to in paragraph (1)(A), and

"(II) any liability to which property so transferred is subject.

"(4) COMMON TRUST FUND MUST MEET DIVERSIFICATION RULES.—This subsection shall not apply to any common trust fund which would not meet the requirements of section 368(a)(2)(F)(ii) if it were a corporation. For purposes of the preceding sentence, Government securities shall not be treated as securities of an issuer in applying the 25-percent and 50-percent test and such securities shall not be excluded for purposes of determining total assets under clause (iv) of section 368(a)(2)(F).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to transfers after December 31, 1995. 26 USC 584 note.

SEC. 1806. QUALIFIED STATE TUITION PROGRAMS.

(a) IN GENERAL.—Subchapter F of chapter 1 (relating to exempt organizations) is amended by adding at the end the following new part:

"PART VIII—QUALIFIED STATE TUITION PROGRAMS

"Sec. 529. Qualified State tuition programs.

"SEC. 529. QUALIFIED STATE TUITION PROGRAMS.

"(a) GENERAL RULE.—A qualified State tuition program shall be exempt from taxation under this subtitle. Notwithstanding the preceding sentence, such program shall be subject to the taxes imposed by section 511 (relating to imposition of tax on unrelated business income of charitable organizations).

"(b) QUALIFIED STATE TUITION PROGRAM.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified State tuition program' means a program established and maintained by a State or agency or instrumentality thereof—

"(A) under which a person—

"(i) may purchase tuition credits or certificates on behalf of a designated beneficiary which entitle the beneficiary to the waiver or payment of qualified higher education expenses of the beneficiary, or

"(ii) may make contributions to an account which is established for the purpose of meeting the qualified higher education expenses of the designated beneficiary of the account, and

"(B) which meets the other requirements of this subsection.

"(2) CASH CONTRIBUTIONS.—A program shall not be treated as a qualified State tuition program unless it provides that purchases or contributions may only be made in cash.

"(3) REFUNDS.—A program shall not be treated as a qualified State tuition program unless it imposes a more than de minimis penalty on any refund of earnings from the account which are not—

"(A) used for qualified higher education expenses of the designated beneficiary,

"(B) made on account of the death or disability of the designated beneficiary, or

"(C) made on account of a scholarship (or allowance or payment described in section 135(d)(1) (B) or (C)) received by the designated beneficiary to the extent the amount of the refund does not exceed the amount of the scholarship, allowance, or payment.

"(4) SEPARATE ACCOUNTING.—A program shall not be treated as a qualified State tuition program unless it provides separate accounting for each designated beneficiary.

"(5) NO INVESTMENT DIRECTION.—A program shall not be treated as a qualified State tuition program unless it provides that any contributor to, or designated beneficiary under, such program may not direct the investment of any contributions to the program (or any earnings thereon).

"(6) NO PLEDGING OF INTEREST AS SECURITY.—A program shall not be treated as a qualified State tuition program if it allows any interest in the program or any portion thereof to be used as security for a loan.

"(7) PROHIBITION ON EXCESS CONTRIBUTIONS.—A program shall not be treated as a qualified State tuition program unless it provides adequate safeguards to prevent contributions on behalf of a designated beneficiary in excess of those necessary to provide for the qualified higher education expenses of the beneficiary.

"(c) TAX TREATMENT OF DESIGNATED BENEFICIARIES AND CONTRIBUTORS.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, no amount shall be includible in gross income of—

"(A) a designated beneficiary under a qualified State tuition program, or

"(B) a contributor to such program on behalf of a designated beneficiary,

with respect to any distribution or earnings under such program.

"(2) CONTRIBUTIONS.—In no event shall a contribution to a qualified State tuition program on behalf of a designated beneficiary be treated as a taxable gift for purposes of chapter 12.

"(3) DISTRIBUTIONS.—

"(A) IN GENERAL.—Any distribution under a qualified State tuition program shall be includible in the gross

income of the distributee in the manner as provided under section 72 to the extent not excluded from gross income under any other provision of this chapter.

"(B) IN-KIND DISTRIBUTIONS.—Any benefit furnished to a designated beneficiary under a qualified State tuition program shall be treated as a distribution to the beneficiary.

"(C) CHANGE IN BENEFICIARIES.—

"(i) ROLLOVERS.—Subparagraph (A) shall not apply to that portion of any distribution which, within 60 days of such distribution, is transferred to the credit of another designated beneficiary under a qualified State tuition program who is a member of the family of the designated beneficiary with respect to which the distribution was made.

"(ii) CHANGE IN DESIGNATED BENEFICIARIES.—Any change in the designated beneficiary of an interest in a qualified State tuition program shall not be treated as a distribution for purposes of subparagraph (A) if the new beneficiary is a member of the family of the old beneficiary.

"(D) OPERATING RULES.—For purposes of applying section 72—

"(i) to the extent provided by the Secretary, all qualified State tuition programs of which an individual is a designated beneficiary shall be treated as one program,

"(ii) all distributions during a taxable year shall be treated as one distribution, and

"(iii) the value of the contract, income on the contract, and investment in the contract shall be computed as of the close of the calendar year in which the taxable year begins.

"(4) ESTATE TAX INCLUSION.—The value of any interest in any qualified State tuition program which is attributable to contributions made by an individual to such program on behalf of any designated beneficiary shall be includible in the gross estate of the contributor for purposes of chapter 11.

"(5) SPECIAL RULE FOR APPLYING SECTION 2503(e).—For purposes of section 2503(e), the waiver (or payment to an educational institution) of qualified higher education expenses of a designated beneficiary under a qualified State tuition program shall be treated as a qualified transfer.

"(d) REPORTING REQUIREMENTS.—

"(1) IN GENERAL.—If there is a distribution to any individual with respect to an interest in a qualified State tuition program during any calendar year, each officer or employee having control of the qualified State tuition program or their designee shall make such reports as the Secretary may require regarding such distribution to the Secretary and to the designated beneficiary or the individual to whom the distribution was made. Any such report shall include such information as the Secretary may prescribe.

"(2) TIMING OF REPORTS.—Any report required by this subsection—

"(A) shall be filed at such time and in such matter as the Secretary prescribes, and

"(B) shall be furnished to individuals not later than January 31 of the calendar year following the calendar year to which such report relates.

"(e) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) DESIGNATED BENEFICIARY.—The term 'designated beneficiary' means—

"(A) the individual designated at the commencement of participation in the qualified State tuition program as the beneficiary of amounts paid (or to be paid) to the program,

"(B) in the case of a change in beneficiaries described in subsection (c)(2)(C), the individual who is the new beneficiary, and

"(C) in the case of an interest in a qualified State tuition program purchased by a State or local government or an organization described in section 501(c)(3) and exempt from taxation under section 501(a) as part of a scholarship program operated by such government or organization, the individual receiving such interest as a scholarship.

"(2) MEMBER OF FAMILY.—The term 'member of the family' has the same meaning given such term as section 2032A(e)(2).

"(3) QUALIFIED HIGHER EDUCATION EXPENSES.—The term 'qualified higher education expenses' means tuition, fees, books, supplies, and equipment required for the enrollment or attendance of a designated beneficiary at an eligible educational institution (as defined in section 135(c)(3)).

"(4) APPLICATION OF SECTION 514.—An interest in a qualified State tuition program shall not be treated as debt for purposes of section 514.".

(b) CONFORMING AMENDMENTS.—

(1) Section 135(d)(1) is amended by striking "or" at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting ", or", and by adding at the end the following new subparagraph:

"(D) a payment, waiver, or reimbursement of qualified higher education expenses under a qualified State tuition program (within the meaning of section 529(b)).".

(2) The table of parts for subchapter F of chapter 1 is amended by adding at the end the following new item:

"Part VIII. Qualified State tuition programs.".

26 USC 529 note.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

(2) TRANSITION RULE.—If—

(A) a State or agency or instrumentality thereof maintains, on the date of the enactment of this Act, a program under which persons may purchase tuition credits or certificates on behalf of, or make contributions for education expenses of, a designated beneficiary, and

(B) such program meets the requirements of a qualified State tuition program before the later of—

(i) the date which is 1 year after such date of enactment, or

(ii) the first day of the first calendar quarter after the close of the first regular session of the State legislature that begins after such date of enactment,

the amendments made by this section shall apply to contributions (and earnings allocable thereto) made before the date such program meets the requirements of such amendments without regard to whether any requirements of such amendments are met with respect to such contributions and earnings.

For purposes of subparagraph (B)(ii), if a State has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

SEC. 1807. ADOPTION ASSISTANCE.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits) is amended by inserting after section 22 the following new section:

"SEC. 23. ADOPTION EXPENSES.

"(a) ALLOWANCE OF CREDIT.—

"(1) IN GENERAL.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter the amount of the qualified adoption expenses paid or incurred by the taxpayer.

"(2) YEAR CREDIT ALLOWED.—The credit under paragraph (1) with respect to any expense shall be allowed—

"(A) for the taxable year following the taxable year during which such expense is paid or incurred, or

"(B) in the case of an expense which is paid or incurred during the taxable year in which the adoption becomes final, for such taxable year.

"(b) LIMITATIONS.—

"(1) DOLLAR LIMITATION.—The aggregate amount of qualified adoption expenses which may be taken into account under subsection (a) for all taxable years with respect to the adoption of a child by the taxpayer shall not exceed $5,000 ($6,000, in the case of a child with special needs).

"(2) INCOME LIMITATION.—

"(A) IN GENERAL.—The amount allowable as a credit under subsection (a) for any taxable year shall be reduced (but not below zero) by an amount which bears the same ratio to the amount so allowable (determined without regard to this paragraph but with regard to paragraph (1)) as—

"(i) the amount (if any) by which the taxpayer's adjusted gross income exceeds $75,000, bears to

"(ii) $40,000.

"(B) DETERMINATION OF ADJUSTED GROSS INCOME.—For purposes of subparagraph (A), adjusted gross income shall be determined—

"(i) without regard to sections 911, 931, and 933, and

"(ii) after the application of sections 86, 135, 137, 219, and 469.

"(3) DENIAL OF DOUBLE BENEFIT.—

"(A) IN GENERAL.—No credit shall be allowed under subsection (a) for any expense for which a deduction or credit is allowed under any other provision of this chapter.

"(B) GRANTS.—No credit shall be allowed under subsection (a) for any expense to the extent that funds for such expense are received under any Federal, State, or local program.

"(c) CARRYFORWARDS OF UNUSED CREDIT.—If the credit allowable under subsection (a) for any taxable year exceeds the limitation imposed by section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section), such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such taxable year. No credit may be carried forward under this subsection to any taxable year following the fifth taxable year after the taxable year in which the credit arose. For purposes of the preceding sentence, credits shall be treated as used on a first-in first-out basis.

"(d) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED ADOPTION EXPENSES.—The term 'qualified adoption expenses' means reasonable and necessary adoption fees, court costs, attorney fees, and other expenses—

"(A) which are directly related to, and the principal purpose of which is for, the legal adoption of an eligible child by the taxpayer,

"(B) which are not incurred in violation of State or Federal law or in carrying out any surrogate parenting arrangement,

"(C) which are not expenses in connection with the adoption by an individual of a child who is the child of such individual's spouse, and

"(D) which are not reimbursed under an employer program or otherwise.

"(2) ELIGIBLE CHILD.—The term 'eligible child' means any individual—

"(A) who—

"(i) has not attained age 18, or

"(ii) is physically or mentally incapable of caring for himself, and

"(B) in the case of qualified adoption expenses paid or incurred after December 31, 2001, who is a child with special needs.

"(3) CHILD WITH SPECIAL NEEDS.—The term 'child with special needs' means any child if—

"(A) a State has determined that the child cannot or should not be returned to the home of his parents,

"(B) such State has determined that there exists with respect to the child a specific factor or condition (such as his ethnic background, age, or membership in a minority or sibling group, or the presence of factors such as medical conditions or physical, mental, or emotional handicaps) because of which it is reasonable to conclude that such child cannot be placed with adoptive parents without providing adoption assistance, and

"(C) such child is a citizen or resident of the United States (as defined in section 217(h)(3)).

"(e) SPECIAL RULES FOR FOREIGN ADOPTIONS.—In the case of an adoption of a child who is not a citizen or resident of the United States (as defined in section 217(h)(3))—

"(1) subsection (a) shall not apply to any qualified adoption expense with respect to such adoption unless such adoption becomes final, and

"(2) any such expense which is paid or incurred before the taxable year in which such adoption becomes final shall be taken into account under this section as if such expense were paid or incurred during such year.

"(f) FILING REQUIREMENTS.—

"(1) MARRIED COUPLES MUST FILE JOINT RETURNS.—Rules similar to the rules of paragraphs (2), (3), and (4) of section 21(e) shall apply for purposes of this section.

"(2) TAXPAYER MUST INCLUDE TIN.—

"(A) IN GENERAL.—No credit shall be allowed under this section with respect to any eligible child unless the taxpayer includes (if known) the name, age, and TIN of such child on the return of tax for the taxable year.

"(B) OTHER METHODS.—The Secretary may, in lieu of the information referred to in subparagraph (A), require other information meeting the purposes of subparagraph (A), including identification of an agent assisting with the adoption.

"(g) BASIS ADJUSTMENTS.—For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

"(h) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out this section and section 137, including regulations which treat unmarried individuals who pay or incur qualified adoption expenses with respect to the same child as 1 taxpayer for purposes of applying the dollar limitation in subsection (b)(1) of this section and in section 137(b)(1).".

(b) EXCLUSION OF AMOUNTS RECEIVED UNDER EMPLOYER'S ADOPTION ASSISTANCE PROGRAMS.—Part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income) is amended by redesignating section 137 as section 138 and by inserting after section 136 the following new section:

"SEC. 137. ADOPTION ASSISTANCE PROGRAMS.

"(a) IN GENERAL.—Gross income of an employee does not include amounts paid or expenses incurred by the employer for qualified adoption expenses in connection with the adoption of a child by an employee if such amounts are furnished pursuant to an adoption assistance program.

"(b) LIMITATIONS.—

"(1) DOLLAR LIMITATION.—The aggregate amount excludable from gross income under subsection (a) for all taxable years with respect to the adoption of a child by the taxpayer shall not exceed $5,000 ($6,000, in the case of a child with special needs).

"(2) INCOME LIMITATION.—The amount excludable from gross income under subsection (a) for any taxable year shall be reduced (but not below zero) by an amount which bears the same ratio to the amount so excludable (determined without regard to this paragraph but with regard to paragraph (1)) as—

"(A) the amount (if any) by which the taxpayer's adjusted gross income exceeds $75,000, bears to

"(B) $40,000.

"(3) DETERMINATION OF ADJUSTED GROSS INCOME.—For purposes of paragraph (2), adjusted gross income shall be determined—

"(A) without regard to this section and sections 911, 931, and 933, and

"(B) after the application of sections 86, 135, 219, and 469.

"(c) ADOPTION ASSISTANCE PROGRAM.—For purposes of this section, an adoption assistance program is a separate written plan of an employer for the exclusive benefit of such employer's employees—

"(1) under which the employer provides such employees with adoption assistance, and

"(2) which meets requirements similar to the requirements of paragraphs (2), (3), (5), and (6) of section 127(b).

An adoption reimbursement program operated under section 1052 of title 10, United States Code (relating to armed forces) or section 514 of title 14, United States Code (relating to members of the Coast Guard) shall be treated as an adoption assistance program for purposes of this section.

"(d) QUALIFIED ADOPTION EXPENSES.—For purposes of this section, the term 'qualified adoption expenses' has the meaning given such term by section 23(d) (determined without regard to reimbursements under this section).

"(e) CERTAIN RULES TO APPLY.—Rules similar to the rules of subsections (e), (f), and (g) of section 23 shall apply for purposes of this section.

"(f) TERMINATION.—This section shall not apply to amounts paid or expenses incurred after December 31, 2001.".

(c) CONFORMING AMENDMENTS.—

(1) Subparagraph (C) of section 25(e)(1) is amended by inserting "and section 23" after "this section".

(2) Sections 86(b)(2)(A) and 135(c)(4)(A) are each amended by inserting "137," before "911".

(3) Clause (i) of section 219(g)(3)(A) is amended by inserting ", 137," before "and 911".

(4) Clause (ii) of section 469(i)(3)(E) is amended to read as follows:

"(ii) the amounts excludable from gross income under sections 135 and 137,".

(5) Subsection (a) of section 1016 is amended by striking "and" at the end of paragraph (24), by striking the period at the end of paragraph (25) and inserting ", and", and by adding at the end the following new paragraph:

"(26) to the extent provided in sections 23(g) and 137(e).".

(6) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 22 the following new item:

"Sec. 23. Adoption expenses.".

(7) The table of sections for part III of subchapter B of chapter 1 is amended by striking the item relating to section 137 and inserting the following:

"Sec. 137. Adoption assistance programs.
"Sec. 138. Cross reference to other Acts.".

(d) STUDY AND REPORT.—The Secretary of the Treasury shall study the effect on adoptions of the tax credit and gross income exclusion established by the amendments made by this section and shall submit a report regarding the study to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives not later than January 1, 2000. 26 USC 23 note.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

SEC. 1808. REMOVAL OF BARRIERS TO INTERETHNIC ADOPTION.

(a) STATE PLAN REQUIREMENTS.—Section 471(a) of the Social Security Act (42 U.S.C 671(a)) is amended—

(1) by striking "and" at the end of paragraph (16);

(2) by striking the period at the end of paragraph (17) and inserting "; and"; and

(3) by adding at the end the following:

"(18) not later than January 1, 1997, provides that neither the State nor any other entity in the State that receives funds from the Federal Government and is involved in adoption or foster care placements may—

"(A) deny to any person the opportunity to become an adoptive or a foster parent, on the basis of the race, color, or national origin of the person, or of the child, involved; or

"(B) delay or deny the placement of a child for adoption or into foster care, on the basis of the race, color, or national origin of the adoptive or foster parent, or the child, involved.".

(b) ENFORCEMENT.—Section 474 of such Act (42 U.S.C. 674) is amended by adding at the end the following:

"(d)(1) If, during any quarter of a fiscal year, a State's program operated under this part is found, as a result of a review conducted under section 1123A, or otherwise, to have violated section 471(a)(18) with respect to a person or to have failed to implement a corrective action plan within a period of time not to exceed 6 months with respect to such violation, then, notwithstanding subsection (a) of this section and any regulations promulgated under section 1123A(b)(3), the Secretary shall reduce the amount otherwise payable to the State under this part, for that fiscal year quarter and for any subsequent quarter of such fiscal year, until the State program is found, as a result of a subsequent review under section 1123A, to have implemented a corrective action plan with respect to such violation, by—

"(A) 2 percent of such otherwise payable amount, in the case of the 1st such finding for the fiscal year with respect to the State;

"(B) 3 percent of such otherwise payable amount, in the case of the 2nd such finding for the fiscal year with respect to the State; or

"(C) 5 percent of such otherwise payable amount, in the case of the 3rd or subsequent such finding for the fiscal year with respect to the State.

In imposing the penalties described in this paragraph, the Secretary shall not reduce any fiscal year payment to a State by more than 5 percent.

"(2) Any other entity which is in a State that receives funds under this part and which violates section 471(a)(18) during a

fiscal year quarter with respect to any person shall remit to the Secretary all funds that were paid by the State to the entity during the quarter from such funds.

"(3)(A) Any individual who is aggrieved by a violation of section 471(a)(18) by a State or other entity may bring an action seeking relief from the State or other entity in any United States district court.

"(B) An action under this paragraph may not be brought more than 2 years after the date the alleged violation occurred.

"(4) This subsection shall not be construed to affect the application of the Indian Child Welfare Act of 1978.".

42 USC 1996b.

(c) CIVIL RIGHTS.—

(1) PROHIBITED CONDUCT.—A person or government that is involved in adoption or foster care placements may not—

(A) deny to any individual the opportunity to become an adoptive or a foster parent, on the basis of the race, color, or national origin of the individual, or of the child, involved; or

(B) delay or deny the placement of a child for adoption or into foster care, on the basis of the race, color, or national origin of the adoptive or foster parent, or the child, involved.

(2) ENFORCEMENT.—Noncompliance with paragraph (1) is deemed a violation of title VI of the Civil Rights Act of 1964.

(3) NO EFFECT ON THE INDIAN CHILD WELFARE ACT OF 1978.—This subsection shall not be construed to affect the application of the Indian Child Welfare Act of 1978.

(d) CONFORMING AMENDMENT.—Section 553 of the Howard M. Metzenbaum Multiethnic Placement Act of 1994 (42 U.S.C. 5115a) is repealed.

26 USC 6302 note.

SEC. 1809. 6-MONTH DELAY OF ELECTRONIC FUND TRANSFER REQUIREMENT.

Notwithstanding any other provision of law, the increase in the applicable required percentages for fiscal year 1997 in clauses (i)(IV) and (ii)(IV) of section 6302(h)(2)(C) of the Internal Revenue Code of 1986 shall not take effect before July 1, 1997.

Subtitle I—Foreign Trust Tax Compliance

SEC. 1901. IMPROVED INFORMATION REPORTING ON FOREIGN TRUSTS.

(a) IN GENERAL.—Section 6048 (relating to returns as to certain foreign trusts) is amended to read as follows:

"SEC. 6048. INFORMATION WITH RESPECT TO CERTAIN FOREIGN TRUSTS.

"(a) NOTICE OF CERTAIN EVENTS.—

"(1) GENERAL RULE.—On or before the 90th day (or such later day as the Secretary may prescribe) after any reportable event, the responsible party shall provide written notice of such event to the Secretary in accordance with paragraph (2).

"(2) CONTENTS OF NOTICE.—The notice required by paragraph (1) shall contain such information as the Secretary may prescribe, including—

"(A) the amount of money or other property (if any) transferred to the trust in connection with the reportable event, and

"(B) the identity of the trust and of each trustee and beneficiary (or class of beneficiaries) of the trust.

"(3) REPORTABLE EVENT.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'reportable event' means—

"(i) the creation of any foreign trust by a United States person,

"(ii) the transfer of any money or property (directly or indirectly) to a foreign trust by a United States person, including a transfer by reason of death, and

"(iii) the death of a citizen or resident of the United States if—

"(I) the decedent was treated as the owner of any portion of a foreign trust under the rules of subpart E of part I of subchapter J of chapter 1, or

"(II) any portion of a foreign trust was included in the gross estate of the decedent.

"(B) EXCEPTIONS.—

"(i) FAIR MARKET VALUE SALES.—Subparagraph (A)(ii) shall not apply to any transfer of property to a trust in exchange for consideration of at least the fair market value of the transferred property. For purposes of the preceding sentence, consideration other than cash shall be taken into account at its fair market value and the rules of section 679(a)(3) shall apply.

"(ii) DEFERRED COMPENSATION AND CHARITABLE TRUSTS.—Subparagraph (A) shall not apply with respect to a trust which is—

"(I) described in section 402(b), 404(a)(4), or 404A, or

"(II) determined by the Secretary to be described in section 501(c)(3).

"(4) RESPONSIBLE PARTY.—For purposes of this subsection, the term 'responsible party' means—

"(A) the grantor in the case of the creation of an inter vivos trust,

"(B) the transferor in the case of a reportable event described in paragraph (3)(A)(ii) other than a transfer by reason of death, and

"(C) the executor of the decedent's estate in any other case.

"(b) UNITED STATES GRANTOR OF FOREIGN TRUST.—

"(1) IN GENERAL.—If, at any time during any taxable year of a United States person, such person is treated as the owner of any portion of a foreign trust under the rules of subpart E of part I of subchapter J of chapter 1, such person shall be responsible to ensure that—

"(A) such trust makes a return for such year which sets forth a full and complete accounting of all trust activities and operations for the year, the name of the United States agent for such trust, and such other information as the Secretary may prescribe, and

"(B) such trust furnishes such information as the Secretary may prescribe to each United States person (i) who

is treated as the owner of any portion of such trust or (ii) who receives (directly or indirectly) any distribution from the trust.

"(2) TRUSTS NOT HAVING UNITED STATES AGENT.—

"(A) IN GENERAL.—If the rules of this paragraph apply to any foreign trust, the determination of amounts required to be taken into account with respect to such trust by a United States person under the rules of subpart E of part I of subchapter J of chapter 1 shall be determined by the Secretary.

"(B) UNITED STATES AGENT REQUIRED.—The rules of this paragraph shall apply to any foreign trust to which paragraph (1) applies unless such trust agrees (in such manner, subject to such conditions, and at such time as the Secretary shall prescribe) to authorize a United States person to act as such trust's limited agent solely for purposes of applying sections 7602, 7603, and 7604 with respect to—

"(i) any request by the Secretary to examine records or produce testimony related to the proper treatment of amounts required to be taken into account under the rules referred to in subparagraph (A), or

"(ii) any summons by the Secretary for such records or testimony.

The appearance of persons or production of records by reason of a United States person being such an agent shall not subject such persons or records to legal process for any purpose other than determining the correct treatment under this title of the amounts required to be taken into account under the rules referred to in subparagraph (A). A foreign trust which appoints an agent described in this subparagraph shall not be considered to have an office or a permanent establishment in the United States, or to be engaged in a trade or business in the United States, solely because of the activities of such agent pursuant to this subsection.

"(C) OTHER RULES TO APPLY.—Rules similar to the rules of paragraphs (2) and (4) of section 6038A(e) shall apply for purposes of this paragraph.

"(c) REPORTING BY UNITED STATES BENEFICIARIES OF FOREIGN TRUSTS.—

"(1) IN GENERAL.—If any United States person receives (directly or indirectly) during any taxable year of such person any distribution from a foreign trust, such person shall make a return with respect to such trust for such year which includes—

"(A) the name of such trust,

"(B) the aggregate amount of the distributions so received from such trust during such taxable year, and

"(C) such other information as the Secretary may prescribe.

"(2) INCLUSION IN INCOME IF RECORDS NOT PROVIDED.—

"(A) IN GENERAL.—If adequate records are not provided to the Secretary to determine the proper treatment of any distribution from a foreign trust, such distribution shall be treated as an accumulation distribution includible in the gross income of the distributee under chapter 1. To

the extent provided in regulations, the preceding sentence shall not apply if the foreign trust elects to be subject to rules similar to the rules of subsection (b)(2)(B).

"(B) APPLICATION OF ACCUMULATION DISTRIBUTION RULES.—For purposes of applying section 668 in a case to which subparagraph (A) applies, the applicable number of years for purposes of section 668(a) shall be ½ of the number of years the trust has been in existence.

"(d) SPECIAL RULES.—

"(1) DETERMINATION OF WHETHER UNITED STATES PERSON MAKES TRANSFER OR RECEIVES DISTRIBUTION.—For purposes of this section, in determining whether a United States person makes a transfer to, or receives a distribution from, a foreign trust, the fact that a portion of such trust is treated as owned by another person under the rules of subpart E of part I of subchapter J of chapter 1 shall be disregarded.

"(2) DOMESTIC TRUSTS WITH FOREIGN ACTIVITIES.—To the extent provided in regulations, a trust which is a United States person shall be treated as a foreign trust for purposes of this section and section 6677 if such trust has substantial activities, or holds substantial property, outside the United States.

"(3) TIME AND MANNER OF FILING INFORMATION.—Any notice or return required under this section shall be made at such time and in such manner as the Secretary shall prescribe.

"(4) MODIFICATION OF RETURN REQUIREMENTS.—The Secretary is authorized to suspend or modify any requirement of this section if the Secretary determines that the United States has no significant tax interest in obtaining the required information.".

(b) INCREASED PENALTIES.—Section 6677 (relating to failure to file information returns with respect to certain foreign trusts) is amended to read as follows:

"SEC. 6677. FAILURE TO FILE INFORMATION WITH RESPECT TO CERTAIN FOREIGN TRUSTS.

"(a) CIVIL PENALTY.—In addition to any criminal penalty provided by law, if any notice or return required to be filed by section 6048—

"(1) is not filed on or before the time provided in such section, or

"(2) does not include all the information required pursuant to such section or includes incorrect information,

the person required to file such notice or return shall pay a penalty equal to 35 percent of the gross reportable amount. If any failure described in the preceding sentence continues for more than 90 days after the day on which the Secretary mails notice of such failure to the person required to pay such penalty, such person shall pay a penalty (in addition to the amount determined under the preceding sentence) of $10,000 for each 30-day period (or fraction thereof) during which such failure continues after the expiration of such 90-day period. In no event shall the penalty under this subsection with respect to any failure exceed the gross reportable amount.

"(b) SPECIAL RULES FOR RETURNS UNDER SECTION 6048(b).—In the case of a return required under section 6048(b)—

"(1) the United States person referred to in such section shall be liable for the penalty imposed by subsection (a), and

"(2) subsection (a) shall be applied by substituting '5 percent' for '35 percent'.

"(c) GROSS REPORTABLE AMOUNT.—For purposes of subsection (a), the term 'gross reportable amount' means—

"(1) the gross value of the property involved in the event (determined as of the date of the event) in the case of a failure relating to section 6048(a),

"(2) the gross value of the portion of the trust's assets at the close of the year treated as owned by the United States person in the case of a failure relating to section 6048(b)(1), and

"(3) the gross amount of the distributions in the case of a failure relating to section 6048(c).

"(d) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed by this section on any failure which is shown to be due to reasonable cause and not due to willful neglect. The fact that a foreign jurisdiction would impose a civil or criminal penalty on the taxpayer (or any other person) for disclosing the required information is not reasonable cause.

"(e) DEFICIENCY PROCEDURES NOT TO APPLY.—Subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and certain excise taxes) shall not apply in respect of the assessment or collection of any penalty imposed by subsection (a).".

(c) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 6724(d) is amended by striking "or" at the end of subparagraph (S), by striking the period at the end of subparagraph (T) and inserting ", or", and by inserting after subparagraph (T) the following new subparagraph:

"(U) section 6048(b)(1)(B) (relating to foreign trust reporting requirements).".

(2) The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by striking the item relating to section 6048 and inserting the following new item:

"Sec. 6048. Information with respect to certain foreign trusts.".

(3) The table of sections for part I of subchapter B of chapter 68 is amended by striking the item relating to section 6677 and inserting the following new item:

"Sec. 6677. Failure to file information with respect to certain foreign trusts.".

26 USC 6048 note.

(d) EFFECTIVE DATES.—

(1) REPORTABLE EVENTS.—To the extent related to subsection (a) of section 6048 of the Internal Revenue Code of 1986, as amended by this section, the amendments made by this section shall apply to reportable events (as defined in such section 6048) occurring after the date of the enactment of this Act.

(2) GRANTOR TRUST REPORTING.—To the extent related to subsection (b) of such section 6048, the amendments made by this section shall apply to taxable years of United States persons beginning after December 31, 1995.

(3) REPORTING BY UNITED STATES BENEFICIARIES.—To the extent related to subsection (c) of such section 6048, the amendments made by this section shall apply to distributions received after the date of the enactment of this Act.

SEC. 1902. COMPARABLE PENALTIES FOR FAILURE TO FILE RETURN RELATING TO TRANSFERS TO FOREIGN ENTITIES.

(a) IN GENERAL.—Section 1494 is amended by adding at the end the following new subsection:

"(c) PENALTY.—In the case of any failure to file a return required by the Secretary with respect to any transfer described in section 1491, the person required to file such return shall be liable for the penalties provided in section 6677 in the same manner as if such failure were a failure to file a notice under section 6048(a).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to transfers after the date of the enactment of this Act. 26 USC 1494 note.

SEC. 1903. MODIFICATIONS OF RULES RELATING TO FOREIGN TRUSTS HAVING ONE OR MORE UNITED STATES BENEFICIARIES.

(a) TREATMENT OF TRUST OBLIGATIONS, ETC.—

(1) Paragraph (2) of section 679(a) is amended by striking subparagraph (B) and inserting the following:

"(B) TRANSFERS AT FAIR MARKET VALUE.—To any transfer of property to a trust in exchange for consideration of at least the fair market value of the transferred property. For purposes of the preceding sentence, consideration other than cash shall be taken into account at its fair market value.".

(2) Subsection (a) of section 679 (relating to foreign trusts having one or more United States beneficiaries) is amended by adding at the end the following new paragraph:

"(3) CERTAIN OBLIGATIONS NOT TAKEN INTO ACCOUNT UNDER FAIR MARKET VALUE EXCEPTION.—

"(A) IN GENERAL.—In determining whether paragraph (2)(B) applies to any transfer by a person described in clause (ii) or (iii) of subparagraph (C), there shall not be taken into account—

"(i) except as provided in regulations, any obligation of a person described in subparagraph (C), and

"(ii) to the extent provided in regulations, any obligation which is guaranteed by a person described in subparagraph (C).

"(B) TREATMENT OF PRINCIPAL PAYMENTS ON OBLIGATION.—Principal payments by the trust on any obligation referred to in subparagraph (A) shall be taken into account on and after the date of the payment in determining the portion of the trust attributable to the property transferred.

"(C) PERSONS DESCRIBED.—The persons described in this subparagraph are—

"(i) the trust,

"(ii) any grantor or beneficiary of the trust, and

"(iii) any person who is related (within the meaning of section 643(i)(2)(B)) to any grantor or beneficiary of the trust.".

(b) EXEMPTION OF TRANSFERS TO CHARITABLE TRUSTS.—Subsection (a) of section 679 is amended by striking "section 404(a)(4) or 404A" and inserting "section 6048(a)(3)(B)(ii)".

(c) OTHER MODIFICATIONS.—Subsection (a) of section 679 is amended by adding at the end the following new paragraphs:

"(4) SPECIAL RULES APPLICABLE TO FOREIGN GRANTOR WHO LATER BECOMES A UNITED STATES PERSON.—

"(A) IN GENERAL.—If a nonresident alien individual has a residency starting date within 5 years after directly or indirectly transferring property to a foreign trust, this section and section 6048 shall be applied as if such individual transferred to such trust on the residency starting date an amount equal to the portion of such trust attributable to the property transferred by such individual to such trust in such transfer.

"(B) TREATMENT OF UNDISTRIBUTED INCOME.—For purposes of this section, undistributed net income for periods before such individual's residency starting date shall be taken into account in determining the portion of the trust which is attributable to property transferred by such individual to such trust but shall not otherwise be taken into account.

"(C) RESIDENCY STARTING DATE.—For purposes of this paragraph, an individual's residency starting date is the residency starting date determined under section 7701(b)(2)(A).

"(5) OUTBOUND TRUST MIGRATIONS.—If—

"(A) an individual who is a citizen or resident of the United States transferred property to a trust which was not a foreign trust, and

"(B) such trust becomes a foreign trust while such individual is alive,

then this section and section 6048 shall be applied as if such individual transferred to such trust on the date such trust becomes a foreign trust an amount equal to the portion of such trust attributable to the property previously transferred by such individual to such trust. A rule similar to the rule of paragraph (4)(B) shall apply for purposes of this paragraph.".

(d) MODIFICATIONS RELATING TO WHETHER TRUST HAS UNITED STATES BENEFICIARIES.—Subsection (c) of section 679 is amended by adding at the end the following new paragraph:

"(3) CERTAIN UNITED STATES BENEFICIARIES DISREGARDED.—A beneficiary shall not be treated as a United States person in applying this section with respect to any transfer of property to foreign trust if such beneficiary first became a United States person more than 5 years after the date of such transfer.".

(e) TECHNICAL AMENDMENT.—Subparagraph (A) of section 679(c)(2) is amended to read as follows:

"(A) in the case of a foreign corporation, such corporation is a controlled foreign corporation (as defined in section 957(a)),".

(f) REGULATIONS.—Section 679 is amended by adding at the end the following new subsection:

"(d) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.".

26 USC 679 note.

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers of property after February 6, 1995.

SEC. 1904. FOREIGN PERSONS NOT TO BE TREATED AS OWNERS UNDER GRANTOR TRUST RULES.

(a) GENERAL RULE.—

(1) Subsection (f) of section 672 (relating to special rule where grantor is foreign person) is amended to read as follows:

"(f) SUBPART NOT TO RESULT IN FOREIGN OWNERSHIP.—

"(1) IN GENERAL.—Notwithstanding any other provision of this subpart, this subpart shall apply only to the extent such application results in an amount (if any) being currently taken into account (directly or through 1 or more entities) under this chapter in computing the income of a citizen or resident of the United States or a domestic corporation.

"(2) EXCEPTIONS.—

"(A) CERTAIN REVOCABLE AND IRREVOCABLE TRUSTS.—Paragraph (1) shall not apply to any portion of a trust if—

"(i) the power to revest absolutely in the grantor title to the trust property to which such portion is attributable is exercisable solely by the grantor without the approval or consent of any other person or with the consent of a related or subordinate party who is subservient to the grantor, or

"(ii) the only amounts distributable from such portion (whether income or corpus) during the lifetime of the grantor are amounts distributable to the grantor or the spouse of the grantor.

"(B) COMPENSATORY TRUSTS.—Except as provided in regulations, paragraph (1) shall not apply to any portion of a trust distributions from which are taxable as compensation for services rendered.

"(3) SPECIAL RULES.—Except as otherwise provided in regulations prescribed by the Secretary—

"(A) a controlled foreign corporation (as defined in section 957) shall be treated as a domestic corporation for purposes of paragraph (1), and

"(B) paragraph (1) shall not apply for purposes of applying section 1296.

"(4) RECHARACTERIZATION OF PURPORTED GIFTS.—In the case of any transfer directly or indirectly from a partnership or foreign corporation which the transferee treats as a gift or bequest, the Secretary may recharacterize such transfer in such circumstances as the Secretary determines to be appropriate to prevent the avoidance of the purposes of this subsection.

"(5) SPECIAL RULE WHERE GRANTOR IS FOREIGN PERSON.—If—

"(A) but for this subsection, a foreign person would be treated as the owner of any portion of a trust, and

"(B) such trust has a beneficiary who is a United States person,

such beneficiary shall be treated as the grantor of such portion to the extent such beneficiary has made (directly or indirectly) transfers of property (other than in a sale for full and adequate consideration) to such foreign person. For purposes of the preceding sentence, any gift shall not be taken into account to the extent such gift would be excluded from taxable gifts under section 2503(b).

"(6) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out

the purposes of this subsection, including regulations providing that paragraph (1) shall not apply in appropriate cases.".

(2) The last sentence of subsection (c) of section 672 is amended by inserting "subsection (f) and" before "sections 674".

(b) CREDIT FOR CERTAIN TAXES.—

(1) Paragraph (2) of section 665(d) is amended by adding at the end the following new sentence: "Under rules or regulations prescribed by the Secretary, in the case of any foreign trust of which the settlor or another person would be treated as owner of any portion of the trust under subpart E but for section 672(f), the term 'taxes imposed on the trust' includes the allocable amount of any income, war profits, and excess profits taxes imposed by any foreign country or possession of the United States on the settlor or such other person in respect of trust income.".

(2) Paragraph (5) of section 901(b) is amended by adding at the end the following new sentence: "Under rules or regulations prescribed by the Secretary, in the case of any foreign trust of which the settlor or another person would be treated as owner of any portion of the trust under subpart E but for section 672(f), the allocable amount of any income, war profits, and excess profits taxes imposed by any foreign country or possession of the United States on the settlor or such other person in respect of trust income.".

(c) DISTRIBUTIONS BY CERTAIN FOREIGN TRUSTS THROUGH NOMINEES.—

(1) Section 643 is amended by adding at the end the following new subsection:

"(h) DISTRIBUTIONS BY CERTAIN FOREIGN TRUSTS THROUGH NOMINEES.—For purposes of this part, any amount paid to a United States person which is derived directly or indirectly from a foreign trust of which the payor is not the grantor shall be deemed in the year of payment to have been directly paid by the foreign trust to such United States person.".

(2) Section 665 is amended by striking subsection (c).

26 USC 643 note.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided by paragraph (2), the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) EXCEPTION FOR CERTAIN TRUSTS.—The amendments made by this section shall not apply to any trust—

(A) which is treated as owned by the grantor under section 676 or 677 (other than subsection (a)(3) thereof) of the Internal Revenue Code of 1986, and

(B) which is in existence on September 19, 1995.

The preceding sentence shall not apply to the portion of any such trust attributable to any transfer to such trust after September 19, 1995.

26 USC 1491 note.

(e) TRANSITIONAL RULE.—If—

(1) by reason of the amendments made by this section, any person other than a United States person ceases to be treated as the owner of a portion of a domestic trust, and

(2) before January 1, 1997, such trust becomes a foreign trust, or the assets of such trust are transferred to a foreign trust,

no tax shall be imposed by section 1491 of the Internal Revenue Code of 1986 by reason of such trust becoming a foreign trust or the assets of such trust being transferred to a foreign trust.

SEC. 1905. INFORMATION REPORTING REGARDING FOREIGN GIFTS.

(a) IN GENERAL.—Subpart A of part III of subchapter A of chapter 61 is amended by inserting after section 6039E the following new section:

"SEC. 6039F. NOTICE OF LARGE GIFTS RECEIVED FROM FOREIGN PERSONS.

"(a) IN GENERAL.—If the value of the aggregate foreign gifts received by a United States person (other than an organization described in section 501(c) and exempt from tax under section 501(a)) during any taxable year exceeds $10,000, such United States person shall furnish (at such time and in such manner as the Secretary shall prescribe) such information as the Secretary may prescribe regarding each foreign gift received during such year.

"(b) FOREIGN GIFT.—For purposes of this section, the term 'foreign gift' means any amount received from a person other than a United States person which the recipient treats as a gift or bequest. Such term shall not include any qualified transfer (within the meaning of section 2503(e)(2)) or any distribution properly disclosed in a return under section 6048(c).

"(c) PENALTY FOR FAILURE TO FILE INFORMATION.—

"(1) IN GENERAL.—If a United States person fails to furnish the information required by subsection (a) with respect to any foreign gift within the time prescribed therefor (including extensions)—

"(A) the tax consequences of the receipt of such gift shall be determined by the Secretary, and

"(B) such United States person shall pay (upon notice and demand by the Secretary and in the same manner as tax) an amount equal to 5 percent of the amount of such foreign gift for each month for which the failure continues (not to exceed 25 percent of such amount in the aggregate).

"(2) REASONABLE CAUSE EXCEPTION.—Paragraph (1) shall not apply to any failure to report a foreign gift if the United States person shows that the failure is due to reasonable cause and not due to willful neglect.

"(d) COST-OF-LIVING ADJUSTMENT.—In the case of any taxable year beginning after December 31, 1996, the $10,000 amount under subsection (a) shall be increased by an amount equal to the product of such amount and the cost-of-living adjustment for such taxable year under section 1(f)(3), except that subparagraph (B) thereof shall be applied by substituting '1995' for '1992'.

"(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.".

(b) CLERICAL AMENDMENT.—The table of sections for such subpart is amended by inserting after the item relating to section 6039E the following new item:

"Sec. 6039F. Notice of large gifts received from foreign persons.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts received after the date of the enactment of this Act in taxable years ending after such date.

26 USC 6039F note.

SEC. 1906. MODIFICATION OF RULES RELATING TO FOREIGN TRUSTS WHICH ARE NOT GRANTOR TRUSTS.

(a) MODIFICATION OF INTEREST CHARGE ON ACCUMULATION DISTRIBUTIONS.—Subsection (a) of section 668 (relating to interest charge on accumulation distributions from foreign trusts) is amended to read as follows:

"(a) GENERAL RULE.—For purposes of the tax determined under section 667(a)—

"(1) INTEREST DETERMINED USING UNDERPAYMENT RATES.—The interest charge determined under this section with respect to any distribution is the amount of interest which would be determined on the partial tax computed under section 667(b) for the period described in paragraph (2) using the rates and the method under section 6621 applicable to underpayments of tax.

"(2) PERIOD.—For purposes of paragraph (1), the period described in this paragraph is the period which begins on the date which is the applicable number of years before the date of the distribution and which ends on the date of the distribution.

"(3) APPLICABLE NUMBER OF YEARS.—For purposes of paragraph (2)—

"(A) IN GENERAL.—The applicable number of years with respect to a distribution is the number determined by dividing—

"(i) the sum of the products described in subparagraph (B) with respect to each undistributed income year, by

"(ii) the aggregate undistributed net income.

The quotient determined under the preceding sentence shall be rounded under procedures prescribed by the Secretary.

"(B) PRODUCT DESCRIBED.—For purposes of subparagraph (A), the product described in this subparagraph with respect to any undistributed income year is the product of—

"(i) the undistributed net income for such year, and

"(ii) the sum of the number of taxable years between such year and the taxable year of the distribution (counting in each case the undistributed income year but not counting the taxable year of the distribution).

"(4) UNDISTRIBUTED INCOME YEAR.—For purposes of this subsection, the term 'undistributed income year' means any prior taxable year of the trust for which there is undistributed net income, other than a taxable year during all of which the beneficiary receiving the distribution was not a citizen or resident of the United States.

"(5) DETERMINATION OF UNDISTRIBUTED NET INCOME.—Notwithstanding section 666, for purposes of this subsection, an accumulation distribution from the trust shall be treated as reducing proportionately the undistributed net income for undistributed income years.

"(6) PERIODS BEFORE 1996.—Interest for the portion of the period described in paragraph (2) which occurs before January 1, 1996, shall be determined—

"(A) by using an interest rate of 6 percent, and

"(B) without compounding until January 1, 1996.".

(b) ABUSIVE TRANSACTIONS.—Section 643(a) is amended by inserting after paragraph (6) the following new paragraph:

"(7) ABUSIVE TRANSACTIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this part, including regulations to prevent avoidance of such purposes.".

(c) TREATMENT OF LOANS FROM TRUSTS.—

(1) IN GENERAL.—Section 643 (relating to definitions applicable to subparts A, B, C, and D) is amended by adding at the end the following new subsection:

"(i) LOANS FROM FOREIGN TRUSTS.—For purposes of subparts B, C, and D—

"(1) GENERAL RULE.—Except as provided in regulations, if a foreign trust makes a loan of cash or marketable securities directly or indirectly to—

"(A) any grantor or beneficiary of such trust who is a United States person, or

"(B) any United States person not described in subparagraph (A) who is related to such grantor or beneficiary,

the amount of such loan shall be treated as a distribution by such trust to such grantor or beneficiary (as the case may be).

"(2) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) CASH.—The term 'cash' includes foreign currencies and cash equivalents.

"(B) RELATED PERSON.—

"(i) IN GENERAL.—A person is related to another person if the relationship between such persons would result in a disallowance of losses under section 267 or 707(b). In applying section 267 for purposes of the preceding sentence, section 267(c)(4) shall be applied as if the family of an individual includes the spouses of the members of the family.

"(ii) ALLOCATION.—If any person described in paragraph (1)(B) is related to more than one person, the grantor or beneficiary to whom the treatment under this subsection applies shall be determined under regulations prescribed by the Secretary.

"(C) EXCLUSION OF TAX-EXEMPTS.—The term 'United States person' does not include any entity exempt from tax under this chapter.

"(D) TRUST NOT TREATED AS SIMPLE TRUST.—Any trust which is treated under this subsection as making a distribution shall be treated as not described in section 651.

"(3) SUBSEQUENT TRANSACTIONS REGARDING LOAN PRINCIPAL.—If any loan is taken into account under paragraph (1), any subsequent transaction between the trust and the original borrower regarding the principal of the loan (by way of complete or partial repayment, satisfaction, cancellation, discharge, or otherwise) shall be disregarded for purposes of this title.".

(2) TECHNICAL AMENDMENT.—Paragraph (8) of section 7872(f) is amended by inserting ", 643(i)," before "or 1274" each place it appears.

(d) EFFECTIVE DATES.—

26 USC 668 note.

(1) INTEREST CHARGE.—The amendment made by subsection (a) shall apply to distributions after the date of the enactment of this Act.

26 USC 643 note.

(2) ABUSIVE TRANSACTIONS.—The amendment made by subsection (b) shall take effect on the date of the enactment of this Act.

26 USC 643 note.

(3) LOANS FROM TRUSTS.—The amendment made by subsection (c) shall apply to loans of cash or marketable securities made after September 19, 1995.

SEC. 1907. RESIDENCE OF TRUSTS, ETC.

(a) TREATMENT AS UNITED STATES PERSON.—

(1) IN GENERAL.—Paragraph (30) of section 7701(a) is amended by striking "and" at the end of subparagraph (C) and by striking subparagraph (D) and by inserting the following new subparagraphs:

"(D) any estate (other than a foreign estate, within the meaning of paragraph (31)), and

"(E) any trust if—

"(i) a court within the United States is able to exercise primary supervision over the administration of the trust, and

"(ii) one or more United States fiduciaries have the authority to control all substantial decisions of the trust.".

(2) CONFORMING AMENDMENT.—Paragraph (31) of section 7701(a) is amended to read as follows:

"(31) FOREIGN ESTATE OR TRUST.—

"(A) FOREIGN ESTATE.—The term 'foreign estate' means an estate the income of which, from sources without the United States which is not effectively connected with the conduct of a trade or business within the United States, is not includible in gross income under subtitle A.

"(B) FOREIGN TRUST.—The term 'foreign trust' means any trust other than a trust described in subparagraph (E) of paragraph (30).".

26 USC 7701 note.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply—

(A) to taxable years beginning after December 31, 1996, or

(B) at the election of the trustee of a trust, to taxable years ending after the date of the enactment of this Act.

Such an election, once made, shall be irrevocable.

(b) DOMESTIC TRUSTS WHICH BECOME FOREIGN TRUSTS.—

(1) IN GENERAL.—Section 1491 (relating to imposition of tax on transfers to avoid income tax) is amended by adding at the end the following new flush sentence:

"If a trust which is not a foreign trust becomes a foreign trust, such trust shall be treated for purposes of this section as having transferred, immediately before becoming a foreign trust, all of its assets to a foreign trust.".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect on the date of the enactment of this Act. 26 USC 1491 note.

Subtitle J—Generalized System of Preferences

GSP Renewal Act of 1996.

SEC. 1951. SHORT TITLE. 19 USC 2101 note.

This subtitle may be cited as the "GSP Renewal Act of 1996".

SEC. 1952. GENERALIZED SYSTEM OF PREFERENCES.

(a) IN GENERAL.—Title V of the Trade Act of 1974 is amended to read as follows:

"TITLE V—GENERALIZED SYSTEM OF PREFERENCES

"SEC. 501. AUTHORITY TO EXTEND PREFERENCES. 19 USC 2461.

"The President may provide duty-free treatment for any eligible article from any beneficiary developing country in accordance with the provisions of this title. In taking any such action, the President shall have due regard for—

"(1) the effect such action will have on furthering the economic development of developing countries through the expansion of their exports;

"(2) the extent to which other major developed countries are undertaking a comparable effort to assist developing countries by granting generalized preferences with respect to imports of products of such countries;

"(3) the anticipated impact of such action on United States producers of like or directly competitive products; and

"(4) the extent of the beneficiary developing country's competitiveness with respect to eligible articles.

"SEC. 502. DESIGNATION OF BENEFICIARY DEVELOPING COUNTRIES. 19 USC 2462.

"(a) AUTHORITY TO DESIGNATE COUNTRIES.—

"(1) BENEFICIARY DEVELOPING COUNTRIES.—The President is authorized to designate countries as beneficiary developing countries for purposes of this title.

"(2) LEAST-DEVELOPED BENEFICIARY DEVELOPING COUNTRIES.—The President is authorized to designate any beneficiary developing country as a least-developed beneficiary developing country for purposes of this title, based on the considerations in section 501 and subsection (c) of this section.

"(b) COUNTRIES INELIGIBLE FOR DESIGNATION.—

"(1) SPECIFIC COUNTRIES.—The following countries may not be designated as beneficiary developing countries for purposes of this title:

"(A) Australia.
"(B) Canada.
"(C) European Union member states.
"(D) Iceland.
"(E) Japan.
"(F) Monaco.
"(G) New Zealand.

"(H) Norway.

"(I) Switzerland.

President. "(2) OTHER BASES FOR INELIGIBILITY.—The President shall not designate any country a beneficiary developing country under this title if any of the following applies:

"(A) Such country is a Communist country, unless—

"(i) the products of such country receive nondiscriminatory treatment,

"(ii) such country is a WTO Member (as such term is defined in section 2(10) of the Uruguay Round Agreements Act) (19 U.S.C. 3501(10)) and a member of the International Monetary Fund, and

"(iii) such country is not dominated or controlled by international communism.

"(B) Such country is a party to an arrangement of countries and participates in any action pursuant to such arrangement, the effect of which is—

"(i) to withhold supplies of vital commodity resources from international trade or to raise the price of such commodities to an unreasonable level, and

"(ii) to cause serious disruption of the world economy.

"(C) Such country affords preferential treatment to the products of a developed country, other than the United States, which has, or is likely to have, a significant adverse effect on United States commerce.

"(D)(i) Such country—

"(I) has nationalized, expropriated, or otherwise seized ownership or control of property, including patents, trademarks, or copyrights, owned by a United States citizen or by a corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens,

"(II) has taken steps to repudiate or nullify an existing contract or agreement with a United States citizen or a corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens, the effect of which is to nationalize, expropriate, or otherwise seize ownership or control of property, including patents, trademarks, or copyrights, so owned, or

"(III) has imposed or enforced taxes or other exactions, restrictive maintenance or operational conditions, or other measures with respect to property, including patents, trademarks, or copyrights, so owned, the effect of which is to nationalize, expropriate, or otherwise seize ownership or control of such property, unless clause (ii) applies.

"(ii) This clause applies if the President determines that—

"(I) prompt, adequate, and effective compensation has been or is being made to the citizen, corporation, partnership, or association referred to in clause (i),

"(II) good faith negotiations to provide prompt, adequate, and effective compensation under the applicable provisions of international law are in progress, or the country described in clause (i) is other-

wise taking steps to discharge its obligations under international law with respect to such citizen, corporation, partnership, or association, or

"(III) a dispute involving such citizen, corporation, partnership, or association over compensation for such a seizure has been submitted to arbitration under the provisions of the Convention for the Settlement of Investment Disputes, or in another mutually agreed upon forum,

and the President promptly furnishes a copy of such determination to the Senate and House of Representatives.

"(E) Such country fails to act in good faith in recognizing as binding or in enforcing arbitral awards in favor of United States citizens or a corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens, which have been made by arbitrators appointed for each case or by permanent arbitral bodies to which the parties involved have submitted their dispute.

"(F) Such country aids or abets, by granting sanctuary from prosecution to, any individual or group which has committed an act of international terrorism.

"(G) Such country has not taken or is not taking steps to afford internationally recognized worker rights to workers in the country (including any designated zone in that country).

Subparagraphs (D), (E), (F), and (G) shall not prevent the designation of any country as a beneficiary developing country under this title if the President determines that such designation will be in the national economic interest of the United States and reports such determination to the Congress with the reasons therefor.

"(c) FACTORS AFFECTING COUNTRY DESIGNATION.—In determining whether to designate any country as a beneficiary developing country under this title, the President shall take into account—

"(1) an expression by such country of its desire to be so designated;

"(2) the level of economic development of such country, including its per capita gross national product, the living standards of its inhabitants, and any other economic factors which the President deems appropriate;

"(3) whether or not other major developed countries are extending generalized preferential tariff treatment to such country;

"(4) the extent to which such country has assured the United States that it will provide equitable and reasonable access to the markets and basic commodity resources of such country and the extent to which such country has assured the United States that it will refrain from engaging in unreasonable export practices;

"(5) the extent to which such country is providing adequate and effective protection of intellectual property rights;

"(6) the extent to which such country has taken action to—

"(A) reduce trade distorting investment practices and policies (including export performance requirements); and

"(B) reduce or eliminate barriers to trade in services; and

"(7) whether or not such country has taken or is taking steps to afford to workers in that country (including any designated zone in that country) internationally recognized worker rights.

"(d) WITHDRAWAL, SUSPENSION, OR LIMITATION OF COUNTRY DESIGNATION.—

"(1) IN GENERAL.—The President may withdraw, suspend, or limit the application of the duty-free treatment accorded under this title with respect to any country. In taking any action under this subsection, the President shall consider the factors set forth in section 501 and subsection (c) of this section.

"(2) CHANGED CIRCUMSTANCES.—The President shall, after complying with the requirements of subsection (f)(2), withdraw or suspend the designation of any country as a beneficiary developing country if, after such designation, the President determines that as the result of changed circumstances such country would be barred from designation as a beneficiary developing country under subsection (b)(2). Such country shall cease to be a beneficiary developing country on the day on which the President issues an Executive order or Presidential proclamation revoking the designation of such country under this title.

President.

"(3) ADVICE TO CONGRESS.—The President shall, as necessary, advise the Congress on the application of section 501 and subsection (c) of this section, and the actions the President has taken to withdraw, to suspend, or to limit the application of duty-free treatment with respect to any country which has failed to adequately take the actions described in subsection (c).

"(e) MANDATORY GRADUATION OF BENEFICIARY DEVELOPING COUNTRIES.—If the President determines that a beneficiary developing country has become a 'high income' country, as defined by the official statistics of the International Bank for Reconstruction and Development, then the President shall terminate the designation of such country as a beneficiary developing country for purposes of this title, effective on January 1 of the second year following the year in which such determination is made.

"(f) CONGRESSIONAL NOTIFICATION.—

"(1) NOTIFICATION OF DESIGNATION.—

"(A) IN GENERAL.—Before the President designates any country as a beneficiary developing country under this title, the President shall notify the Congress of the President's intention to make such designation, together with the considerations entering into such decision.

"(B) DESIGNATION AS LEAST-DEVELOPED BENEFICIARY DEVELOPING COUNTRY.—At least 60 days before the President designates any country as a least-developed beneficiary developing country, the President shall notify the Congress of the President's intention to make such designation.

"(2) NOTIFICATION OF TERMINATION.—If the President has designated any country as a beneficiary developing country under this title, the President shall not terminate such designation unless, at least 60 days before such termination, the President has notified the Congress and has notified such country

of the President's intention to terminate such designation, together with the considerations entering into such decision.

"SEC. 503. DESIGNATION OF ELIGIBLE ARTICLES. 19 USC 2463.

"(a) ELIGIBLE ARTICLES.—

"(1) DESIGNATION.—

"(A) IN GENERAL.—Except as provided in subsection (b), the President is authorized to designate articles as eligible articles from all beneficiary developing countries for purposes of this title by Executive order or Presidential proclamation after receiving the advice of the International Trade Commission in accordance with subsection (e).

"(B) LEAST-DEVELOPED BENEFICIARY DEVELOPING COUNTRIES.—Except for articles described in subparagraphs (A), (B), and (E) of subsection (b)(1) and articles described in paragraphs (2) and (3) of subsection (b), the President may, in carrying out section 502(d)(1) and subsection (c)(1) of this section, designate articles as eligible articles only for countries designated as least-developed beneficiary developing countries under section 502(a)(2) if, after receiving the advice of the International Trade Commission in accordance with subsection (e) of this section, the President determines that such articles are not import-sensitive in the context of imports from least-developed beneficiary developing countries.

"(C) THREE-YEAR RULE.—If, after receiving the advice of the International Trade Commission under subsection (e), an article has been formally considered for designation as an eligible article under this title and denied such designation, such article may not be reconsidered for such designation for a period of 3 years after such denial.

"(2) RULE OF ORIGIN.—

"(A) GENERAL RULE.—The duty-free treatment provided under this title shall apply to any eligible article which is the growth, product, or manufacture of a beneficiary developing country if—

"(i) that article is imported directly from a beneficiary developing country into the customs territory of the United States; and

"(ii) the sum of—

"(I) the cost or value of the materials produced in the beneficiary developing country or any two or more such countries that are members of the same association of countries and are treated as one country under section 507(2), plus

"(II) the direct costs of processing operations performed in such beneficiary developing country or such member countries, is not less than 35 percent of the appraised value of such article at the time it is entered.

"(B) EXCLUSIONS.—An article shall not be treated as the growth, product, or manufacture of a beneficiary developing country by virtue of having merely undergone—

"(i) simple combining or packaging operations, or

"(ii) mere dilution with water or mere dilution with another substance that does not materially alter the characteristics of the article.

"(3) REGULATIONS.—The Secretary of the Treasury, after consulting with the United States Trade Representative, shall prescribe such regulations as may be necessary to carry out paragraph (2), including, but not limited to, regulations providing that, in order to be eligible for duty-free treatment under this title, an article—

"(A) must be wholly the growth, product, or manufacture of a beneficiary developing country, or

"(B) must be a new or different article of commerce which has been grown, produced, or manufactured in the beneficiary developing country.

"(b) ARTICLES THAT MAY NOT BE DESIGNATED AS ELIGIBLE ARTICLES.—

"(1) IMPORT SENSITIVE ARTICLES.—The President may not designate any article as an eligible article under subsection (a) if such article is within one of the following categories of import-sensitive articles:

"(A) Textile and apparel articles which were not eligible articles for purposes of this title on January 1, 1994, as this title was in effect on such date.

"(B) Watches, except those watches entered after June 30, 1989, that the President specifically determines, after public notice and comment, will not cause material injury to watch or watch band, strap, or bracelet manufacturing and assembly operations in the United States or the United States insular possessions.

"(C) Import-sensitive electronic articles.

"(D) Import-sensitive steel articles.

"(E) Footwear, handbags, luggage, flat goods, work gloves, and leather wearing apparel which were not eligible articles for purposes of this title on January 1, 1995, as this title was in effect on such date.

"(F) Import-sensitive semimanufactured and manufactured glass products.

"(G) Any other articles which the President determines to be import-sensitive in the context of the Generalized System of Preferences.

"(2) ARTICLES AGAINST WHICH OTHER ACTIONS TAKEN.—An article shall not be an eligible article for purposes of this title for any period during which such article is the subject of any action proclaimed pursuant to section 203 of this Act (19 U.S.C. 2253) or section 232 or 351 of the Trade Expansion Act of 1962 (19 U.S.C. 1862, 1981).

"(3) AGRICULTURAL PRODUCTS.—No quantity of an agricultural product subject to a tariff-rate quota that exceeds the in-quota quantity shall be eligible for duty-free treatment under this title.

"(c) WITHDRAWAL, SUSPENSION, OR LIMITATION OF DUTY-FREE TREATMENT; COMPETITIVE NEED LIMITATION.—

"(1) IN GENERAL.—The President may withdraw, suspend, or limit the application of the duty-free treatment accorded under this title with respect to any article, except that no rate of duty may be established with respect to any article pursuant to this subsection other than the rate which would apply but for this title. In taking any action under this subsection, the President shall consider the factors set forth in sections 501 and 502(c).

"(2) COMPETITIVE NEED LIMITATION.—

"(A) BASIS FOR WITHDRAWAL OF DUTY-FREE TREATMENT.—

"(i) IN GENERAL.—Except as provided in clause (ii) and subject to subsection (d), whenever the President determines that a beneficiary developing country has exported (directly or indirectly) to the United States during any calendar year beginning after December 31, 1995—

"(I) a quantity of an eligible article having an appraised value in excess of the applicable amount for the calendar year, or

"(II) a quantity of an eligible article equal to or exceeding 50 percent of the appraised value of the total imports of that article into the United States during any calendar year,

the President shall, not later than July 1 of the next calendar year, terminate the duty-free treatment for that article from that beneficiary developing country.

"(ii) ANNUAL ADJUSTMENT OF APPLICABLE AMOUNT.—For purposes of applying clause (i), the applicable amount is—

"(I) for 1996, $75,000,000, and

"(II) for each calendar year thereafter, an amount equal to the applicable amount in effect for the preceding calendar year plus $5,000,000.

"(B) COUNTRY DEFINED.—For purposes of this paragraph, the term 'country' does not include an association of countries which is treated as one country under section 507(2), but does include a country which is a member of any such association.

"(C) REDESIGNATIONS.—A country which is no longer treated as a beneficiary developing country with respect to an eligible article by reason of subparagraph (A) may, subject to the considerations set forth in sections 501 and 502, be redesignated a beneficiary developing country with respect to such article if imports of such article from such country did not exceed the limitations in subparagraph (A) during the preceding calendar year.

"(D) LEAST-DEVELOPED BENEFICIARY DEVELOPING COUNTRIES.—Subparagraph (A) shall not apply to any least-developed beneficiary developing country.

"(E) ARTICLES NOT PRODUCED IN THE UNITED STATES EXCLUDED.—Subparagraph (A)(i)(II) shall not apply with respect to any eligible article if a like or directly competitive article was not produced in the United States on January 1, 1995.

"(F) DE MINIMIS WAIVERS.—

"(i) IN GENERAL.—The President may disregard subparagraph (A)(i)(II) with respect to any eligible article from any beneficiary developing country if the aggregate appraised value of the imports of such article into the United States during the preceding calendar year does not exceed the applicable amount for such preceding calendar year.

"(ii) APPLICABLE AMOUNT.—For purposes of applying clause (i), the applicable amount is—

"(I) for calendar year 1996, $13,000,000, and

"(II) for each calendar year thereafter, an amount equal to the applicable amount in effect for the preceding calendar year plus $500,000.

"(d) WAIVER OF COMPETITIVE NEED LIMITATION.—

"(1) IN GENERAL.—The President may waive the application of subsection (c)(2) with respect to any eligible article of any beneficiary developing country if, before July 1 of the calendar year beginning after the calendar year for which a determination described in subsection (c)(2)(A) was made with respect to such eligible article, the President—

"(A) receives the advice of the International Trade Commission under section 332 of the Tariff Act of 1930 on whether any industry in the United States is likely to be adversely affected by such waiver,

"(B) determines, based on the considerations described in sections 501 and 502(c) and the advice described in subparagraph (A), that such waiver is in the national economic interest of the United States, and

"(C) publishes the determination described in subparagraph (B) in the Federal Register.

"(2) CONSIDERATIONS BY THE PRESIDENT.—In making any determination under paragraph (1), the President shall give great weight to—

"(A) the extent to which the beneficiary developing country has assured the United States that such country will provide equitable and reasonable access to the markets and basic commodity resources of such country, and

"(B) the extent to which such country provides adequate and effective protection of intellectual property rights.

"(3) OTHER BASES FOR WAIVER.—The President may waive the application of subsection (c)(2) if, before July 1 of the calendar year beginning after the calendar year for which a determination described in subsection (c)(2) was made with respect to a beneficiary developing country, the President determines that—

"(A) there has been a historical preferential trade relationship between the United States and such country,

"(B) there is a treaty or trade agreement in force covering economic relations between such country and the United States, and

"(C) such country does not discriminate against, or impose unjustifiable or unreasonable barriers to, United States commerce,

and the President publishes that determination in the Federal Register.

"(4) LIMITATIONS ON WAIVERS.—

"(A) IN GENERAL.—The President may not exercise the waiver authority under this subsection with respect to a quantity of an eligible article entered during any calendar year beginning after 1995, the aggregate appraised value of which equals or exceeds 30 percent of the aggregate appraised value of all articles that entered duty-free under this title during the preceding calendar year.

"(B) OTHER WAIVER LIMITS.—The President may not exercise the waiver authority provided under this sub-

section with respect to a quantity of an eligible article entered during any calendar year beginning after 1995, the aggregate appraised value of which exceeds 15 percent of the aggregate appraised value of all articles that have entered duty-free under this title during the preceding calendar year from those beneficiary developing countries which for the preceding calendar year—

"(i) had a per capita gross national product (calculated on the basis of the best available information, including that of the International Bank for Reconstruction and Development) of $5,000 or more; or

"(ii) had exported (either directly or indirectly) to the United States a quantity of articles that was duty-free under this title that had an aggregate appraised value of more than 10 percent of the aggregate appraised value of all articles that entered duty-free under this title during that year.

"(C) CALCULATION OF LIMITATIONS.—There shall be counted against the limitations imposed under subparagraphs (A) and (B) for any calendar year only that value of any eligible article of any country that—

"(i) entered duty-free under this title during such calendar year; and

"(ii) is in excess of the value of that article that would have been so entered during such calendar year if the limitations under subsection (c)(2)(A) applied.

"(5) EFFECTIVE PERIOD OF WAIVER.—Any waiver granted under this subsection shall remain in effect until the President determines that such waiver is no longer warranted due to changed circumstances.

"(e) INTERNATIONAL TRADE COMMISSION ADVICE.—Before designating articles as eligible articles under subsection (a)(1), the President shall publish and furnish the International Trade Commission with lists of articles which may be considered for designation as eligible articles for purposes of this title. The provisions of sections 131, 132, 133, and 134 shall be complied with as though action under section 501 and this section were action under section 123 to carry out a trade agreement entered into under section 123.

"(f) SPECIAL RULE CONCERNING PUERTO RICO.—No action under this title may affect any tariff duty imposed by the Legislature of Puerto Rico pursuant to section 319 of the Tariff Act of 1930 on coffee imported into Puerto Rico.

"SEC. 504. REVIEW AND REPORT TO CONGRESS. 19 USC 2464.

"The President shall submit an annual report to the Congress on the status of internationally recognized worker rights within each beneficiary developing country. President.

"SEC. 505. DATE OF TERMINATION. 19 USC 2465.

"No duty-free treatment provided under this title shall remain in effect after May 31, 1997.

"SEC. 506. AGRICULTURAL EXPORTS OF BENEFICIARY DEVELOPING COUNTRIES. 19 USC 2466.

"The appropriate agencies of the United States shall assist beneficiary developing countries to develop and implement meas-

ures designed to assure that the agricultural sectors of their economies are not directed to export markets to the detriment of the production of foodstuffs for their citizenry.

19 USC 2467.

"SEC. 507. DEFINITIONS.

"For purposes of this title:

"(1) BENEFICIARY DEVELOPING COUNTRY.—The term 'beneficiary developing country' means any country with respect to which there is in effect an Executive order or Presidential proclamation by the President designating such country as a beneficiary developing country for purposes of this title.

"(2) COUNTRY.—The term 'country' means any foreign country or territory, including any overseas dependent territory or possession of a foreign country, or the Trust Territory of the Pacific Islands. In the case of an association of countries which is a free trade area or customs union, or which is contributing to comprehensive regional economic integration among its members through appropriate means, including, but not limited to, the reduction of duties, the President may by Executive order or Presidential proclamation provide that all members of such association other than members which are barred from designation under section 502(b) shall be treated as one country for purposes of this title.

"(3) ENTERED.—The term 'entered' means entered, or withdrawn from warehouse for consumption, in the customs territory of the United States.

"(4) INTERNATIONALLY RECOGNIZED WORKER RIGHTS.—The term 'internationally recognized worker rights' includes—

"(A) the right of association;

"(B) the right to organize and bargain collectively;

"(C) a prohibition on the use of any form of forced or compulsory labor;

"(D) a minimum age for the employment of children; and

"(E) acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health.

"(5) LEAST-DEVELOPED BENEFICIARY DEVELOPING COUNTRY.—The term 'least-developed beneficiary developing country' means a beneficiary developing country that is designated as a least-developed beneficiary developing country under section 502(a)(2).".

(b) TABLE OF CONTENTS.—The items relating to title V in the table of contents of the Trade Act of 1974 are amended to read as follows:

"TITLE V—GENERALIZED SYSTEM OF PREFERENCES

"Sec. 501. Authority to extend preferences.
"Sec. 502. Designation of beneficiary developing countries.
"Sec. 503. Designation of eligible articles.
"Sec. 504. Review and reports to Congress.
"Sec. 505. Date of termination.
"Sec. 506. Agricultural exports of beneficiary developing countries.
"Sec. 507. Definitions.".

19 USC 2461 note.

SEC. 1953. EFFECTIVE DATE.

(a) IN GENERAL.—The amendments made by this subtitle apply to articles entered on or after October 1, 1996.

(b) RETROACTIVE APPLICATION.—

(1) GENERAL RULE.—Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law and subject to subsection (c)—

(A) any article that was entered—

(i) after July 31, 1995, and

(ii) before January 1, 1996, and

to which duty-free treatment under title V of the Trade Act of 1974 would have applied if the entry had been made on July 31, 1995, shall be liquidated or reliquidated as free of duty, and the Secretary of the Treasury shall refund any duty paid with respect to such entry, and

(B) any article that was entered—

(i) after December 31, 1995, and

(ii) before October 1, 1996, and

to which duty-free treatment under title V of the Trade Act of 1974 (as amended by this subtitle) would have applied if the entry had been made on or after October 1, 1996, shall be liquidated or reliquidated as free of duty, and the Secretary of the Treasury shall refund any duty paid with respect to such entry.

(2) LIMITATION ON REFUNDS.—No refund shall be made pursuant to this subsection before October 1, 1996.

(3) ENTRY.—As used in this subsection, the term "entry" includes a withdrawal from warehouse for consumption.

(c) REQUESTS.—Liquidation or reliquidation may be made under subsection (b) with respect to an entry only if a request therefor is filed with the Customs Service, within 180 days after the date of the enactment of this Act, that contains sufficient information to enable the Customs Service—

(1) to locate the entry; or

(2) to reconstruct the entry if it cannot be located.

SEC. 1954. CONFORMING AMENDMENTS.

(a) TRADE LAWS.—

(1) Section 1211(b) of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 3011(b)) is amended—

(A) in paragraph (1), by striking "(19 U.S.C. 2463(a), 2464(c)(3))" and inserting "(as in effect on July 31, 1995)"; and

(B) in paragraph (2), by striking "(19 U.S.C. 2464(c)(1))" and inserting the following: "(as in effect on July 31, 1995)".

(2) Section 203(c)(7) of the Andean Trade Preference Act (19 U.S.C. 3202(c)(7)) is amended by striking "502(a)(4)" and inserting "507(4)".

(3) Section 212(b)(7) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702(b)(7)) is amended by striking "502(a)(4)" and inserting "507(4)".

(4) General note 3(a)(iv)(C) of the Harmonized Tariff Schedule of the United States is amended by striking "sections 503(b) and 504(c)" and inserting "subsections (a), (c), and (d) of section 503".

(5) Section 201(a)(2) of the North American Free Trade Agreement Implementation Act (19 U.S.C. 3331(a)(2)) is amended by striking "502(a)(2) of the Trade Act of 1974 (19 U.S.C. 2462(a)(2))" and inserting "502(f)(2) of the Trade Act of 1974".

(6) Section 131 of the Uruguay Round Agreements Act (19 U.S.C. 3551) is amended in subsections (a) and (b)(1) by striking "502(a)(4)" and inserting "507(4)".

(b) OTHER LAWS.—

(1) Section 871(f)(2)(B) of the Internal Revenue Code of 1986 is amended by striking "within the meaning of section 502" and inserting "under title V".

(2) Section 2202(8) of the Export Enhancement Act of 1988 (15 U.S.C. 4711(8)) is amended by striking "502(a)(4)" and inserting "507(4)".

(3) Section 231A(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2191a(a)) is amended—

(A) in paragraph (1) by striking "502(a)(4) of the Trade Act of 1974 (19 U.S.C. 2462(a)(4))" and inserting "507(4) of the Trade Act of 1974";

(B) in paragraph (2) by striking "505(c) of the Trade Act of 1974 (19 U.S.C. 2465(c))" and inserting "504 of the Trade Act of 1974"; and

(C) in paragraph (4) by striking "502(a)(4)" and inserting "507(4)".

(4) Section 1621(a)(1) of the International Financial Institutions Act (22 U.S.C. 262p–4p(a)(1)) is amended by striking "502(a)(4)" and inserting "507(4)".

(5) Section 103B of the Agricultural Act of 1949 (7 U.S.C. 1444–2) is amended in subsections (a)(5)(F)(v) and (n)(1)(C) by striking "503(d) of the Trade Act of 1974 (19 U.S.C. 2463(d))" and inserting "503(b)(3) of the Trade Act of 1974".

Employee Commuting Flexibility Act of 1996.
29 USC 251 note.

SEC. 2101. SHORT TITLE.

This section and sections 2102 and 2103 may be cited as the "Employee Commuting Flexibility Act of 1996".

SEC. 2102. PROPER COMPENSATION FOR USE OF EMPLOYER VEHICLES.

Section 4(a) of the Portal-to-Portal Act of 1947 (29 U.S.C. 254(a)) is amended by adding at the end the following: "For purposes of this subsection, the use of an employer's vehicle for travel by an employee and activities performed by an employee which are incidental to the use of such vehicle for commuting shall not be considered part of the employee's principal activities if the use of such vehicle for travel is within the normal commuting area for the employer's business or establishment and the use of the employer's vehicle is subject to an agreement on the part of the employer and the employee or representative of such employee.".

29 USC 254 note.

SEC. 2103. EFFECTIVE DATE.

The amendment made by section 2101 shall take effect on the date of the enactment of this Act and shall apply in determining the application of section 4 of the Portal-to-Portal Act of 1947 to an employee in any civil action brought before such date of enactment but pending on such date.

Minimum Wage Increase Act of 1996.
29 USC 201 note.

SEC. 2104. MINIMUM WAGE INCREASE.

(a) SHORT TITLE.—This section may be cited as the "Minimum Wage Increase Act of 1996".

(b) AMENDMENT.—Paragraph (1) of section 6(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)) is amended to read as follows:

"(1) except as otherwise provided in this section, not less than $4.25 an hour during the period ending on September 30, 1996, not less than $4.75 an hour during the year beginning on October 1, 1996, and not less than $5.15 an hour beginning September 1, 1997;".

(c) CONFORMING AMENDMENT.—Section 6 of such Act (29 U.S.C. 206) is amended by striking subsection (c).

SEC. 2105. FAIR LABOR STANDARDS ACT AMENDMENTS.

(a) COMPUTER PROFESSIONALS.—Section 13(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 213(a)) is amended by striking the period at the end of paragraph (16) and inserting "; or" and by adding after that paragraph the following:

"(17) any employee who is a computer systems analyst, computer programmer, software engineer, or other similarly skilled worker, whose primary duty is—

"(A) the application of systems analysis techniques and procedures, including consulting with users, to determine hardware, software, or system functional specifications;

"(B) the design, development, documentation, analysis, creation, testing, or modification of computer systems or programs, including prototypes, based on and related to user or system design specifications;

"(C) the design, documentation, testing, creation, or modification of computer programs related to machine operating systems; or

"(D) a combination of duties described in subparagraphs (A), (B), and (C) the performance of which requires the same level of skills, and

who, in the case of an employee who is compensated on an hourly basis, is compensated at a rate of not less than $27.63 an hour.".

(b) TIP CREDIT.—The last sentence of section 3(m) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(m)) is amended by striking "previous sentence" and inserting "preceding 2 sentences" and by striking "(1)" and "(2)" and such section is amended by striking the next to last sentence and inserting the following: "In determining the wage an employer is required to pay a tipped employee, the amount paid such employee by the employee's employer shall be an amount equal to—

"(1) the cash wage paid such employee which for purposes of such determination shall be not less than the cash wage required to be paid such an employee on the date of the enactment of this paragraph; and

"(2) an additional amount on account of the tips received by such employee which amount is equal to the difference between the wage specified in paragraph (1) and the wage in effect under section 6(a)(1).

The additional amount on account of tips may not exceed the value of the tips actually received by an employee.".

(c) OPPORTUNITY WAGE.—Section 6 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206) is amended by adding at the end the following:

"(g)(1) In lieu of the rate prescribed by subsection (a)(1), any employer may pay any employee of such employer, during the first 90 consecutive calendar days after such employee is initially

employed by such employer, a wage which is not less than $4.25 an hour.

"(2) No employer may take any action to displace employees (including partial displacements such as reduction in hours, wages, or employment benefits) for purposes of hiring individuals at the wage authorized in paragraph (1).

"(3) Any employer who violates this subsection shall be considered to have violated section 15(a)(3).

"(4) This subsection shall only apply to an employee who has not attained the age of 20 years.".

Approved August 20, 1996.

LEGISLATIVE HISTORY—H.R. 3448:

HOUSE REPORTS: Nos. 104–586 (Comm. on Ways and Means) and 104–737 (Comm. of Conference).

SENATE REPORTS: No. 104–281 (Comm. on Finance).

CONGRESSIONAL RECORD, Vol. 142 (1996):

May 22, considered and passed House.

July 8, 9, considered and passed Senate, amended.

Aug. 2, House and Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 32 (1996):

Aug. 20, Presidential remarks and statement.

Public Law 104–189
104th Congress

An Act

To redesignate the Dunning Post Office in Chicago, Illinois, as the "Roger P. McAuliffe Post Office".

Aug. 20, 1996
[H.R. 3834]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REDESIGNATION.

The Dunning Post Office, located at 6441 West Irving Park Road, Chicago, Illinois, shall be redesignated and known as the "Roger P. McAuliffe Post Office".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States Post Office referred to in section 1 shall be deemed to be a reference to the "Roger P. McAuliffe Post Office".

Approved August 20, 1996.

LEGISLATIVE HISTORY—H.R. 3834:

CONGRESSIONAL RECORD, Vol. 142 (1996):
July 30, considered and passed House.
Aug. 2, considered and passed Senate.

Public Law 104–190
104th Congress

An Act

Aug. 20, 1996
[H.R. 3870]

To authorize the Agency for International Development to offer voluntary separation incentive payments to employees of that agency.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

5 USC 5597 note.

SECTION 1. VOLUNTARY SEPARATION INCENTIVES FOR EMPLOYEES OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT.

(a) DEFINITIONS.—For the purposes of this Act—

(1) the term "agency" means the Agency for International Development;

(2) the term "Administrator" means the Administrator, Agency for International Development; and

(3) the term "employee" means an employee (as defined by section 2105 of title 5, United States Code) who is employed by the agency, is serving under an appointment without time limitation, and has been currently employed for a continuous period of at least 12 months, but does not include—

(A) any employee who, upon separation and application, would then be eligible for an immediate annuity under subchapter III of chapter 83 (except for section 8336(d)(2)) or chapter 84 (except for section 8414(b)(1)(B)) of title 5, United States Code, or corresponding provisions of another retirement system for employees of the agency;

(B) a reemployed annuitant under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, or another retirement system for employees of the agency;

(C) an employee having a disability on the basis of which such employee is or would be eligible for disability retirement under the applicable retirement system referred to in subparagraph (A);

(D) an employee who is to be separated involuntarily for misconduct or unacceptable performance, and to whom specific notice has been given with respect to that separation;

(E) an employee who, upon completing an additional period of service, as referred to in section 3(b)(2)(B)(ii) of the Federal Workforce Restructuring Act of 1994 (5 U.S.C. 5597 note), would qualify for a voluntary separation incentive payment under section 3 of such Act;

(F) an employee who has previously received any voluntary separation incentive payment by the Government of the United States under this Act or any other authority and has not repaid such payment;

(G) an employee covered by statutory reemployment rights who is on transfer to another organization; or

(H) any employee who, during the 24-month period preceding the date of separation, received a recruitment or relocation bonus under section 5753 of title 5, United States Code, or who, within the 12-month period preceding the date of separation, received a retention allowance under section 5754 of such title 5.

(b) AGENCY STRATEGIC PLAN.—

(1) IN GENERAL.—The Administrator, before obligating any resources for voluntary separation incentive payments under this Act, shall submit to the House and Senate Committees on Appropriations and the Committee on Governmental Affairs of the Senate and the Committee on Government Reform and Oversight of the House of Representatives a strategic plan outlining the intended use of such incentive payments and a proposed organizational chart for the agency once such incentive payments have been completed.

(2) CONTENTS.—The agency's plan shall include—

(A) the positions and functions to be reduced or eliminated, identified by organizational unit, geographic location, occupational category and grade level;

(B) the number and amounts of voluntary separation incentive payments to be offered; and

(C) a description of how the agency will operate without the eliminated positions and functions.

(c) AUTHORITY TO PROVIDE VOLUNTARY SEPARATION INCENTIVE PAYMENTS.—

(1) IN GENERAL.—A voluntary separation incentive payment under this Act may be paid by the agency to not more than 100 employees of such agency and only to the extent necessary to eliminate the positions and functions identified by the strategic plan.

(2) AMOUNT AND TREATMENT OF PAYMENTS.—A voluntary separation incentive payment under this Act—

(A) shall be paid in a lump sum after the employee's separation;

(B) shall be paid from appropriations or funds available for the payment of the basic pay of the employees;

(C) shall be equal to the lesser of—

(i) an amount equal to the amount the employee would be entitled to receive under section 5595(c) of title 5, United States Code, if the employee were entitled to payment under such section; or

(ii) an amount determined by the agency head not to exceed $25,000;

(D) may not be made except in the case of any employee who voluntarily separates (whether by retirement or resignation) before February 1, 1997;

(E) shall not be a basis for payment, and shall not be included in the computation, of any other type of Government benefit; and

(F) shall not be taken into account in determining the amount of any severance pay to which the employee may be entitled under section 5595 of title 5, United States Code, based on any other separation.

(d) ADDITIONAL AGENCY CONTRIBUTIONS TO THE RETIREMENT FUND.—

(1) IN GENERAL.—In addition to any other payments which it is required to make under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, the agency shall remit to the Office of Personnel Management for deposit in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund an amount equal to 15 percent of the final basic pay of each employee of the agency who is covered under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, to whom a voluntary separation incentive has been paid under this Act.

(2) DEFINITION.—For the purpose of paragraph (1), the term "final basic pay", with respect to an employee, means the total amount of basic pay which would be payable for a year of service by such employee, computed using the employee's final rate of basic pay, and, if last serving on other than a full-time basis, with appropriate adjustment therefor.

(e) EFFECT OF SUBSEQUENT EMPLOYMENT WITH THE GOVERNMENT.—An individual who has received a voluntary separation incentive payment under this Act and accepts any employment for compensation with the Government of the United States, or who works for any agency of the Government of the United States through a personal services contract, within 5 years after the date of the separation on which the payment is based shall be required to pay, prior to the individual's first day of employment, the entire amount of the incentive payment to the agency that paid the incentive payment.

(f) REDUCTION OF AGENCY EMPLOYMENT LEVELS.—

(1) IN GENERAL.—The total number of funded employee positions in the agency shall be reduced by one position for each vacancy created by the separation of any employee who has received, or is due to receive, a voluntary separation incentive payment under this Act. For the purposes of this subsection, positions shall be counted on a full-time-equivalent basis.

(2) ENFORCEMENT.—The President, through the Office of Management and Budget, shall monitor the agency and take any action necessary to ensure that the requirements of this subsection are met. President.

Approved August 20, 1996.

LEGISLATIVE HISTORY—H.R. 3870:

CONGRESSIONAL RECORD, Vol. 142 (1996):
July 29, considered and passed House.
Aug. 2, considered and passed Senate.

Public Law 104–191
104th Congress

An Act

To amend the Internal Revenue Code of 1986 to improve portability and continuity of health insurance coverage in the group and individual markets, to combat waste, fraud, and abuse in health insurance and health care delivery, to promote the use of medical savings accounts, to improve access to long-term care services and coverage, to simplify the administration of health insurance, and for other purposes.

Aug. 21, 1996
[H.R. 3103]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Health Insurance Portability and Accountability Act of 1996.
42 USC 201 note.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Health Insurance Portability and Accountability Act of 1996".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—HEALTH CARE ACCESS, PORTABILITY, AND RENEWABILITY

Subtitle A—Group Market Rules

PART 1—PORTABILITY, ACCESS, AND RENEWABILITY REQUIREMENTS

Sec. 101. Through the Employee Retirement Income Security Act of 1974.

"PART 7—GROUP HEALTH PLAN PORTABILITY, ACCESS, AND RENEWABILITY REQUIREMENTS

"Sec. 701. Increased portability through limitation on preexisting condition exclusions.
"Sec. 702. Prohibiting discrimination against individual participants and beneficiaries based on health status.
"Sec. 703. Guaranteed renewability in multiemployer plans and multiple employer welfare arrangements.
"Sec. 704. Preemption; State flexibility; construction.
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Sec. 321. Treatment of long-term care insurance.
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TITLE IV—APPLICATION AND ENFORCEMENT OF GROUP HEALTH PLAN REQUIREMENTS

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Subtitle C—Repeal of Financial Institution Transition Rule to Interest Allocation Rules

Sec. 521. Repeal of financial institution transition rule to interest allocation rules.

TITLE I—HEALTH CARE ACCESS, PORTABILITY, AND RENEWABILITY

Subtitle A—Group Market Rules

PART 1—PORTABILITY, ACCESS, AND RENEWABILITY REQUIREMENTS

SEC. 101. THROUGH THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

(a) IN GENERAL.—Subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended by adding at the end the following new part:

"PART 7—GROUP HEALTH PLAN PORTABILITY, ACCESS, AND RENEWABILITY REQUIREMENTS

"SEC. 701. INCREASED PORTABILITY THROUGH LIMITATION ON PREEXISTING CONDITION EXCLUSIONS. 29 USC 1181.

"(a) LIMITATION ON PREEXISTING CONDITION EXCLUSION PERIOD; CREDITING FOR PERIODS OF PREVIOUS COVERAGE.—Subject to subsection (d), a group health plan, and a health insurance issuer

offering group health insurance coverage, may, with respect to a participant or beneficiary, impose a preexisting condition exclusion only if—

"(1) such exclusion relates to a condition (whether physical or mental), regardless of the cause of the condition, for which medical advice, diagnosis, care, or treatment was recommended or received within the 6-month period ending on the enrollment date;

"(2) such exclusion extends for a period of not more than 12 months (or 18 months in the case of a late enrollee) after the enrollment date; and

"(3) the period of any such preexisting condition exclusion is reduced by the aggregate of the periods of creditable coverage (if any, as defined in subsection (c)(1)) applicable to the participant or beneficiary as of the enrollment date.

"(b) DEFINITIONS.—For purposes of this part—

"(1) PREEXISTING CONDITION EXCLUSION.—

"(A) IN GENERAL.—The term 'preexisting condition exclusion' means, with respect to coverage, a limitation or exclusion of benefits relating to a condition based on the fact that the condition was present before the date of enrollment for such coverage, whether or not any medical advice, diagnosis, care, or treatment was recommended or received before such date.

"(B) TREATMENT OF GENETIC INFORMATION.—Genetic information shall not be treated as a condition described in subsection (a)(1) in the absence of a diagnosis of the condition related to such information.

"(2) ENROLLMENT DATE.—The term 'enrollment date' means, with respect to an individual covered under a group health plan or health insurance coverage, the date of enrollment of the individual in the plan or coverage or, if earlier, the first day of the waiting period for such enrollment.

"(3) LATE ENROLLEE.—The term 'late enrollee' means, with respect to coverage under a group health plan, a participant or beneficiary who enrolls under the plan other than during—

"(A) the first period in which the individual is eligible to enroll under the plan, or

"(B) a special enrollment period under subsection (f).

"(4) WAITING PERIOD.—The term 'waiting period' means, with respect to a group health plan and an individual who is a potential participant or beneficiary in the plan, the period that must pass with respect to the individual before the individual is eligible to be covered for benefits under the terms of the plan.

"(c) RULES RELATING TO CREDITING PREVIOUS COVERAGE.—

"(1) CREDITABLE COVERAGE DEFINED.—For purposes of this part, the term 'creditable coverage' means, with respect to an individual, coverage of the individual under any of the following:

"(A) A group health plan.

"(B) Health insurance coverage.

"(C) Part A or part B of title XVIII of the Social Security Act.

"(D) Title XIX of the Social Security Act, other than coverage consisting solely of benefits under section 1928.

"(E) Chapter 55 of title 10, United States Code.

"(F) A medical care program of the Indian Health Service or of a tribal organization.

"(G) A State health benefits risk pool.

"(H) A health plan offered under chapter 89 of title 5, United States Code.

"(I) A public health plan (as defined in regulations).

"(J) A health benefit plan under section 5(e) of the Peace Corps Act (22 U.S.C. 2504(e)).

Such term does not include coverage consisting solely of coverage of excepted benefits (as defined in section 706(c)).

"(2) NOT COUNTING PERIODS BEFORE SIGNIFICANT BREAKS IN COVERAGE.—

"(A) IN GENERAL.—A period of creditable coverage shall not be counted, with respect to enrollment of an individual under a group health plan, if, after such period and before the enrollment date, there was a 63-day period during all of which the individual was not covered under any creditable coverage.

"(B) WAITING PERIOD NOT TREATED AS A BREAK IN COVERAGE.—For purposes of subparagraph (A) and subsection (d)(4), any period that an individual is in a waiting period for any coverage under a group health plan (or for group health insurance coverage) or is in an affiliation period (as defined in subsection (g)(2)) shall not be taken into account in determining the continuous period under subparagraph (A).

"(3) METHOD OF CREDITING COVERAGE.—

"(A) STANDARD METHOD.—Except as otherwise provided under subparagraph (B), for purposes of applying subsection (a)(3), a group health plan, and a health insurance issuer offering group health insurance coverage, shall count a period of creditable coverage without regard to the specific benefits covered during the period.

"(B) ELECTION OF ALTERNATIVE METHOD.—A group health plan, or a health insurance issuer offering group health insurance coverage, may elect to apply subsection (a)(3) based on coverage of benefits within each of several classes or categories of benefits specified in regulations rather than as provided under subparagraph (A). Such election shall be made on a uniform basis for all participants and beneficiaries. Under such election a group health plan or issuer shall count a period of creditable coverage with respect to any class or category of benefits if any level of benefits is covered within such class or category.

"(C) PLAN NOTICE.—In the case of an election with respect to a group health plan under subparagraph (B) (whether or not health insurance coverage is provided in connection with such plan), the plan shall—

"(i) prominently state in any disclosure statements concerning the plan, and state to each enrollee at the time of enrollment under the plan, that the plan has made such election, and

"(ii) include in such statements a description of the effect of this election.

"(4) ESTABLISHMENT OF PERIOD.—Periods of creditable coverage with respect to an individual shall be established through

presentation of certifications described in subsection (e) or in such other manner as may be specified in regulations.

"(d) EXCEPTIONS.—

"(1) EXCLUSION NOT APPLICABLE TO CERTAIN NEWBORNS.—Subject to paragraph (4), a group health plan, and a health insurance issuer offering group health insurance coverage, may not impose any preexisting condition exclusion in the case of an individual who, as of the last day of the 30-day period beginning with the date of birth, is covered under creditable coverage.

"(2) EXCLUSION NOT APPLICABLE TO CERTAIN ADOPTED CHILDREN.—Subject to paragraph (4), a group health plan, and a health insurance issuer offering group health insurance coverage, may not impose any preexisting condition exclusion in the case of a child who is adopted or placed for adoption before attaining 18 years of age and who, as of the last day of the 30-day period beginning on the date of the adoption or placement for adoption, is covered under creditable coverage. The previous sentence shall not apply to coverage before the date of such adoption or placement for adoption.

"(3) EXCLUSION NOT APPLICABLE TO PREGNANCY.—A group health plan, and health insurance issuer offering group health insurance coverage, may not impose any preexisting condition exclusion relating to pregnancy as a preexisting condition.

"(4) LOSS IF BREAK IN COVERAGE.—Paragraphs (1) and (2) shall no longer apply to an individual after the end of the first 63-day period during all of which the individual was not covered under any creditable coverage.

"(e) CERTIFICATIONS AND DISCLOSURE OF COVERAGE.—

"(1) REQUIREMENT FOR CERTIFICATION OF PERIOD OF CREDITABLE COVERAGE.—

"(A) IN GENERAL.—A group health plan, and a health insurance issuer offering group health insurance coverage, shall provide the certification described in subparagraph (B)—

"(i) at the time an individual ceases to be covered under the plan or otherwise becomes covered under a COBRA continuation provision,

"(ii) in the case of an individual becoming covered under such a provision, at the time the individual ceases to be covered under such provision, and

"(iii) on the request on behalf of an individual made not later than 24 months after the date of cessation of the coverage described in clause (i) or (ii), whichever is later.

The certification under clause (i) may be provided, to the extent practicable, at a time consistent with notices required under any applicable COBRA continuation provision.

"(B) CERTIFICATION.—The certification described in this subparagraph is a written certification of—

"(i) the period of creditable coverage of the individual under such plan and the coverage (if any) under such COBRA continuation provision, and

"(ii) the waiting period (if any) (and affiliation period, if applicable) imposed with respect to the individual for any coverage under such plan.

"(C) ISSUER COMPLIANCE.—To the extent that medical care under a group health plan consists of group health insurance coverage, the plan is deemed to have satisfied the certification requirement under this paragraph if the health insurance issuer offering the coverage provides for such certification in accordance with this paragraph.

"(2) DISCLOSURE OF INFORMATION ON PREVIOUS BENEFITS.—In the case of an election described in subsection (c)(3)(B) by a group health plan or health insurance issuer, if the plan or issuer enrolls an individual for coverage under the plan and the individual provides a certification of coverage of the individual under paragraph (1)—

"(A) upon request of such plan or issuer, the entity which issued the certification provided by the individual shall promptly disclose to such requesting plan or issuer information on coverage of classes and categories of health benefits available under such entity's plan or coverage, and

"(B) such entity may charge the requesting plan or issuer for the reasonable cost of disclosing such information.

"(3) REGULATIONS.—The Secretary shall establish rules to prevent an entity's failure to provide information under paragraph (1) or (2) with respect to previous coverage of an individual from adversely affecting any subsequent coverage of the individual under another group health plan or health insurance coverage.

"(f) SPECIAL ENROLLMENT PERIODS.—

"(1) INDIVIDUALS LOSING OTHER COVERAGE.—A group health plan, and a health insurance issuer offering group health insurance coverage in connection with a group health plan, shall permit an employee who is eligible, but not enrolled, for coverage under the terms of the plan (or a dependent of such an employee if the dependent is eligible, but not enrolled, for coverage under such terms) to enroll for coverage under the terms of the plan if each of the following conditions is met:

"(A) The employee or dependent was covered under a group health plan or had health insurance coverage at the time coverage was previously offered to the employee or dependent.

"(B) The employee stated in writing at such time that coverage under a group health plan or health insurance coverage was the reason for declining enrollment, but only if the plan sponsor or issuer (if applicable) required such a statement at such time and provided the employee with notice of such requirement (and the consequences of such requirement) at such time.

"(C) The employee's or dependent's coverage described in subparagraph (A)—

"(i) was under a COBRA continuation provision and the coverage under such provision was exhausted; or

"(ii) was not under such a provision and either the coverage was terminated as a result of loss of eligibility for the coverage (including as a result of legal separation, divorce, death, termination of employment, or reduction in the number of hours of employ-

ment) or employer contributions toward such coverage were terminated.

"(D) Under the terms of the plan, the employee requests such enrollment not later than 30 days after the date of exhaustion of coverage described in subparagraph (C)(i) or termination of coverage or employer contribution described in subparagraph (C)(ii).

"(2) FOR DEPENDENT BENEFICIARIES.—

"(A) IN GENERAL.—If—

"(i) a group health plan makes coverage available with respect to a dependent of an individual,

"(ii) the individual is a participant under the plan (or has met any waiting period applicable to becoming a participant under the plan and is eligible to be enrolled under the plan but for a failure to enroll during a previous enrollment period), and

"(iii) a person becomes such a dependent of the individual through marriage, birth, or adoption or placement for adoption,

the group health plan shall provide for a dependent special enrollment period described in subparagraph (B) during which the person (or, if not otherwise enrolled, the individual) may be enrolled under the plan as a dependent of the individual, and in the case of the birth or adoption of a child, the spouse of the individual may be enrolled as a dependent of the individual if such spouse is otherwise eligible for coverage.

"(B) DEPENDENT SPECIAL ENROLLMENT PERIOD.—A dependent special enrollment period under this subparagraph shall be a period of not less than 30 days and shall begin on the later of—

"(i) the date dependent coverage is made available, or

"(ii) the date of the marriage, birth, or adoption or placement for adoption (as the case may be) described in subparagraph (A)(iii).

"(C) NO WAITING PERIOD.—If an individual seeks to enroll a dependent during the first 30 days of such a dependent special enrollment period, the coverage of the dependent shall become effective—

"(i) in the case of marriage, not later than the first day of the first month beginning after the date the completed request for enrollment is received;

"(ii) in the case of a dependent's birth, as of the date of such birth; or

"(iii) in the case of a dependent's adoption or placement for adoption, the date of such adoption or placement for adoption.

"(g) USE OF AFFILIATION PERIOD BY HMOS AS ALTERNATIVE TO PREEXISTING CONDITION EXCLUSION.—

"(1) IN GENERAL.—In the case of a group health plan that offers medical care through health insurance coverage offered by a health maintenance organization, the plan may provide for an affiliation period with respect to coverage through the organization only if—

"(A) no preexisting condition exclusion is imposed with respect to coverage through the organization,

"(B) the period is applied uniformly without regard to any health status-related factors, and

"(C) such period does not exceed 2 months (or 3 months in the case of a late enrollee).

"(2) AFFILIATION PERIOD.—

"(A) DEFINED.—For purposes of this part, the term 'affiliation period' means a period which, under the terms of the health insurance coverage offered by the health maintenance organization, must expire before the health insurance coverage becomes effective. The organization is not required to provide health care services or benefits during such period and no premium shall be charged to the participant or beneficiary for any coverage during the period.

"(B) BEGINNING.—Such period shall begin on the enrollment date.

"(C) RUNS CONCURRENTLY WITH WAITING PERIODS.—An affiliation period under a plan shall run concurrently with any waiting period under the plan.

"(3) ALTERNATIVE METHODS.—A health maintenance organization described in paragraph (1) may use alternative methods, from those described in such paragraph, to address adverse selection as approved by the State insurance commissioner or official or officials designated by the State to enforce the requirements of part A of title XXVII of the Public Health Service Act for the State involved with respect to such issuer.

"SEC. 702. PROHIBITING DISCRIMINATION AGAINST INDIVIDUAL PARTICIPANTS AND BENEFICIARIES BASED ON HEALTH STATUS.

29 USC 1182.

"(a) IN ELIGIBILITY TO ENROLL.—

"(1) IN GENERAL.—Subject to paragraph (2), a group health plan, and a health insurance issuer offering group health insurance coverage in connection with a group health plan, may not establish rules for eligibility (including continued eligibility) of any individual to enroll under the terms of the plan based on any of the following health status-related factors in relation to the individual or a dependent of the individual:

"(A) Health status.

"(B) Medical condition (including both physical and mental illnesses).

"(C) Claims experience.

"(D) Receipt of health care.

"(E) Medical history.

"(F) Genetic information.

"(G) Evidence of insurability (including conditions arising out of acts of domestic violence).

"(H) Disability.

"(2) NO APPLICATION TO BENEFITS OR EXCLUSIONS.—To the extent consistent with section 701, paragraph (1) shall not be construed—

"(A) to require a group health plan, or group health insurance coverage, to provide particular benefits other than those provided under the terms of such plan or coverage, or

"(B) to prevent such a plan or coverage from establishing limitations or restrictions on the amount, level, extent,

or nature of the benefits or coverage for similarly situated individuals enrolled in the plan or coverage.

"(3) CONSTRUCTION.—For purposes of paragraph (1), rules for eligibility to enroll under a plan include rules defining any applicable waiting periods for such enrollment.

"(b) IN PREMIUM CONTRIBUTIONS.—

"(1) IN GENERAL.—A group health plan, and a health insurance issuer offering health insurance coverage in connection with a group health plan, may not require any individual (as a condition of enrollment or continued enrollment under the plan) to pay a premium or contribution which is greater than such premium or contribution for a similarly situated individual enrolled in the plan on the basis of any health status-related factor in relation to the individual or to an individual enrolled under the plan as a dependent of the individual.

"(2) CONSTRUCTION.—Nothing in paragraph (1) shall be construed—

"(A) to restrict the amount that an employer may be charged for coverage under a group health plan; or

"(B) to prevent a group health plan, and a health insurance issuer offering group health insurance coverage, from establishing premium discounts or rebates or modifying otherwise applicable copayments or deductibles in return for adherence to programs of health promotion and disease prevention.

29 USC 1183.

"SEC. 703. GUARANTEED RENEWABILITY IN MULTIEMPLOYER PLANS AND MULTIPLE EMPLOYER WELFARE ARRANGEMENTS.

"A group health plan which is a multiemployer plan or which is a multiple employer welfare arrangement may not deny an employer whose employees are covered under such a plan continued access to the same or different coverage under the terms of such a plan, other than—

"(1) for nonpayment of contributions;

"(2) for fraud or other intentional misrepresentation of material fact by the employer;

"(3) for noncompliance with material plan provisions;

"(4) because the plan is ceasing to offer any coverage in a geographic area;

"(5) in the case of a plan that offers benefits through a network plan, there is no longer any individual enrolled through the employer who lives, resides, or works in the service area of the network plan and the plan applies this paragraph uniformly without regard to the claims experience of employers or any health status-related factor in relation to such individuals or their dependents; and

"(6) for failure to meet the terms of an applicable collective bargaining agreement, to renew a collective bargaining or other agreement requiring or authorizing contributions to the plan, or to employ employees covered by such an agreement.

29 USC 1191.

"SEC. 704. PREEMPTION; STATE FLEXIBILITY; CONSTRUCTION.

"(a) CONTINUED APPLICABILITY OF STATE LAW WITH RESPECT TO HEALTH INSURANCE ISSUERS.—

"(1) IN GENERAL.—Subject to paragraph (2) and except as provided in subsection (b), this part shall not be construed to supersede any provision of State law which establishes,

implements, or continues in effect any standard or requirement solely relating to health insurance issuers in connection with group health insurance coverage except to the extent that such standard or requirement prevents the application of a requirement of this part.

"(2) CONTINUED PREEMPTION WITH RESPECT TO GROUP HEALTH PLANS.—Nothing in this part shall be construed to affect or modify the provisions of section 514 with respect to group health plans.

"(b) SPECIAL RULES IN CASE OF PORTABILITY REQUIREMENTS.—

"(1) IN GENERAL.—Subject to paragraph (2), the provisions of this part relating to health insurance coverage offered by a health insurance issuer supersede any provision of State law which establishes, implements, or continues in effect a standard or requirement applicable to imposition of a preexisting condition exclusion specifically governed by section 701 which differs from the standards or requirements specified in such section.

"(2) EXCEPTIONS.—Only in relation to health insurance coverage offered by a health insurance issuer, the provisions of this part do not supersede any provision of State law to the extent that such provision—

"(A) substitutes for the reference to '6-month period' in section 701(a)(1) a reference to any shorter period of time;

"(B) substitutes for the reference to '12 months' and '18 months' in section 701(a)(2) a reference to any shorter period of time;

"(C) substitutes for the references to '63 days' in sections 701 (c)(2)(A) and (d)(4)(A) a reference to any greater number of days;

"(D) substitutes for the reference to '30-day period' in sections 701 (b)(2) and (d)(1) a reference to any greater period;

"(E) prohibits the imposition of any preexisting condition exclusion in cases not described in section 701(d) or expands the exceptions described in such section;

"(F) requires special enrollment periods in addition to those required under section 701(f); or

"(G) reduces the maximum period permitted in an affiliation period under section 701(g)(1)(B).

"(c) RULES OF CONSTRUCTION.—Nothing in this part shall be construed as requiring a group health plan or health insurance coverage to provide specific benefits under the terms of such plan or coverage.

"(d) DEFINITIONS.—For purposes of this section—

"(1) STATE LAW.—The term 'State law' includes all laws, decisions, rules, regulations, or other State action having the effect of law, of any State. A law of the United States applicable only to the District of Columbia shall be treated as a State law rather than a law of the United States.

"(2) STATE.—The term 'State' includes a State, the Northern Mariana Islands, any political subdivisions of a State or such Islands, or any agency or instrumentality of either.

29 USC 1191a.

"SEC. 705. SPECIAL RULES RELATING TO GROUP HEALTH PLANS.

"(a) GENERAL EXCEPTION FOR CERTAIN SMALL GROUP HEALTH PLANS.—The requirements of this part shall not apply to any group health plan (and group health insurance coverage offered in connection with a group health plan) for any plan year if, on the first day of such plan year, such plan has less than 2 participants who are current employees.

"(b) EXCEPTION FOR CERTAIN BENEFITS.—The requirements of this part shall not apply to any group health plan (and group health insurance coverage) in relation to its provision of excepted benefits described in section 706(c)(1).

"(c) EXCEPTION FOR CERTAIN BENEFITS IF CERTAIN CONDITIONS MET.—

"(1) LIMITED, EXCEPTED BENEFITS.—The requirements of this part shall not apply to any group health plan (and group health insurance coverage offered in connection with a group health plan) in relation to its provision of excepted benefits described in section 706(c)(2) if the benefits—

"(A) are provided under a separate policy, certificate, or contract of insurance; or

"(B) are otherwise not an integral part of the plan.

"(2) NONCOORDINATED, EXCEPTED BENEFITS.—The requirements of this part shall not apply to any group health plan (and group health insurance coverage offered in connection with a group health plan) in relation to its provision of excepted benefits described in section 706(c)(3) if all of the following conditions are met:

"(A) The benefits are provided under a separate policy, certificate, or contract of insurance.

"(B) There is no coordination between the provision of such benefits and any exclusion of benefits under any group health plan maintained by the same plan sponsor.

"(C) Such benefits are paid with respect to an event without regard to whether benefits are provided with respect to such an event under any group health plan maintained by the same plan sponsor.

"(3) SUPPLEMENTAL EXCEPTED BENEFITS.—The requirements of this part shall not apply to any group health plan (and group health insurance coverage) in relation to its provision of excepted benefits described in section 706(c)(4) if the benefits are provided under a separate policy, certificate, or contract of insurance.

"(d) TREATMENT OF PARTNERSHIPS.—For purposes of this part—

"(1) TREATMENT AS A GROUP HEALTH PLAN.—Any plan, fund, or program which would not be (but for this subsection) an employee welfare benefit plan and which is established or maintained by a partnership, to the extent that such plan, fund, or program provides medical care (including items and services paid for as medical care) to present or former partners in the partnership or to their dependents (as defined under the terms of the plan, fund, or program), directly or through insurance, reimbursement, or otherwise, shall be treated (subject to paragraph (2)) as an employee welfare benefit plan which is a group health plan.

"(2) EMPLOYER.—In the case of a group health plan, the term 'employer' also includes the partnership in relation to any partner.

"(3) PARTICIPANTS OF GROUP HEALTH PLANS.—In the case of a group health plan, the term 'participant' also includes—

"(A) in connection with a group health plan maintained by a partnership, an individual who is a partner in relation to the partnership, or

"(B) in connection with a group health plan maintained by a self-employed individual (under which one or more employees are participants), the self-employed individual, if such individual is, or may become, eligible to receive a benefit under the plan or such individual's beneficiaries may be eligible to receive any such benefit.

"SEC. 706. DEFINITIONS. 29 USC 1191b.

"(a) GROUP HEALTH PLAN.—For purposes of this part—

"(1) IN GENERAL.—The term 'group health plan' means an employee welfare benefit plan to the extent that the plan provides medical care (as defined in paragraph (2) and including items and services paid for as medical care) to employees or their dependents (as defined under the terms of the plan) directly or through insurance, reimbursement, or otherwise.

"(2) MEDICAL CARE.—The term 'medical care' means amounts paid for—

"(A) the diagnosis, cure, mitigation, treatment, or prevention of disease, or amounts paid for the purpose of affecting any structure or function of the body,

"(B) amounts paid for transportation primarily for and essential to medical care referred to in subparagraph (A), and

"(C) amounts paid for insurance covering medical care referred to in subparagraphs (A) and (B).

"(b) DEFINITIONS RELATING TO HEALTH INSURANCE.—For purposes of this part—

"(1) HEALTH INSURANCE COVERAGE.—The term 'health insurance coverage' means benefits consisting of medical care (provided directly, through insurance or reimbursement, or otherwise and including items and services paid for as medical care) under any hospital or medical service policy or certificate, hospital or medical service plan contract, or health maintenance organization contract offered by a health insurance issuer.

"(2) HEALTH INSURANCE ISSUER.—The term 'health insurance issuer' means an insurance company, insurance service, or insurance organization (including a health maintenance organization, as defined in paragraph (3)) which is licensed to engage in the business of insurance in a State and which is subject to State law which regulates insurance (within the meaning of section 514(b)(2)). Such term does not include a group health plan.

"(3) HEALTH MAINTENANCE ORGANIZATION.—The term 'health maintenance organization' means—

"(A) a federally qualified health maintenance organization (as defined in section 1301(a) of the Public Health Service Act (42 U.S.C. 300e(a))),

"(B) an organization recognized under State law as a health maintenance organization, or

"(C) a similar organization regulated under State law for solvency in the same manner and to the same extent as such a health maintenance organization.

"(4) GROUP HEALTH INSURANCE COVERAGE.—The term 'group health insurance coverage' means, in connection with a group health plan, health insurance coverage offered in connection with such plan.

"(c) EXCEPTED BENEFITS.—For purposes of this part, the term 'excepted benefits' means benefits under one or more (or any combination thereof) of the following:

"(1) BENEFITS NOT SUBJECT TO REQUIREMENTS.—

"(A) Coverage only for accident, or disability income insurance, or any combination thereof.

"(B) Coverage issued as a supplement to liability insurance.

"(C) Liability insurance, including general liability insurance and automobile liability insurance.

"(D) Workers' compensation or similar insurance.

"(E) Automobile medical payment insurance.

"(F) Credit-only insurance.

"(G) Coverage for on-site medical clinics.

"(H) Other similar insurance coverage, specified in regulations, under which benefits for medical care are secondary or incidental to other insurance benefits.

"(2) BENEFITS NOT SUBJECT TO REQUIREMENTS IF OFFERED SEPARATELY.—

"(A) Limited scope dental or vision benefits.

"(B) Benefits for long-term care, nursing home care, home health care, community-based care, or any combination thereof.

"(C) Such other similar, limited benefits as are specified in regulations.

"(3) BENEFITS NOT SUBJECT TO REQUIREMENTS IF OFFERED AS INDEPENDENT, NONCOORDINATED BENEFITS.—

"(A) Coverage only for a specified disease or illness.

"(B) Hospital indemnity or other fixed indemnity insurance.

"(4) BENEFITS NOT SUBJECT TO REQUIREMENTS IF OFFERED AS SEPARATE INSURANCE POLICY.—Medicare supplemental health insurance (as defined under section 1882(g)(1) of the Social Security Act), coverage supplemental to the coverage provided under chapter 55 of title 10, United States Code, and similar supplemental coverage provided to coverage under a group health plan.

"(d) OTHER DEFINITIONS.—For purposes of this part—

"(1) COBRA CONTINUATION PROVISION.—The term 'COBRA continuation provision' means any of the following:

"(A) Part 6 of this subtitle.

"(B) Section 4980B of the Internal Revenue Code of 1986, other than subsection (f)(1) of such section insofar as it relates to pediatric vaccines.

"(C) Title XXII of the Public Health Service Act.

"(2) HEALTH STATUS-RELATED FACTOR.—The term 'health status-related factor' means any of the factors described in section 702(a)(1).

"(3) NETWORK PLAN.—The term 'network plan' means health insurance coverage offered by a health insurance issuer under which the financing and delivery of medical care (including items and services paid for as medical care) are provided,

in whole or in part, through a defined set of providers under contract with the issuer.

"(4) PLACED FOR ADOPTION.—The term 'placement', or being 'placed', for adoption, has the meaning given such term in section 609(c)(3)(B).

"SEC. 707. REGULATIONS. 29 USC 1191c.

"The Secretary, consistent with section 104 of the Health Care Portability and Accountability Act of 1996, may promulgate such regulations as may be necessary or appropriate to carry out the provisions of this part. The Secretary may promulgate any interim final rules as the Secretary determines are appropriate to carry out this part.".

(b) ENFORCEMENT WITH RESPECT TO HEALTH INSURANCE ISSUERS.—Section 502(b) of such Act (29 U.S.C. 1132(b)) is amended by adding at the end the following new paragraph:

"(3) The Secretary is not authorized to enforce under this part any requirement of part 7 against a health insurance issuer offering health insurance coverage in connection with a group health plan (as defined in section 706(a)(1)). Nothing in this paragraph shall affect the authority of the Secretary to issue regulations to carry out such part.".

(c) DISCLOSURE OF INFORMATION TO PARTICIPANTS AND BENEFICIARIES.—

(1) IN GENERAL.—Section 104(b)(1) of such Act (29 U.S.C. 1024(b)(1)) is amended in the matter following subparagraph (B)—

(A) by striking "102(a)(1)," and inserting "102(a)(1) (other than a material reduction in covered services or benefits provided in the case of a group health plan (as defined in section 706(a)(1))),"; and

(B) by adding at the end the following new sentences: "If there is a modification or change described in section 102(a)(1) that is a material reduction in covered services or benefits provided under a group health plan (as defined in section 706(a)(1)), a summary description of such modification or change shall be furnished to participants and beneficiaries not later than 60 days after the date of the adoption of the modification or change. In the alternative, the plan sponsors may provide such description at regular intervals of not more than 90 days. The Secretary shall issue regulations within 180 days after the date of enactment of the Health Insurance Portability and Accountability Act of 1996, providing alternative mechanisms to delivery by mail through which group health plans (as so defined) may notify participants and beneficiaries of material reductions in covered services or benefits.".

(2) PLAN DESCRIPTION AND SUMMARY.—Section 102(b) of such Act (29 U.S.C. 1022(b)) is amended—

(A) by inserting "in the case of a group health plan (as defined in section 706(a)(1)), whether a health insurance issuer (as defined in section 706(b)(2)) is responsible for the financing or administration (including payment of claims) of the plan and (if so) the name and address of such issuer;" after "type of administration of the plan;"; and

(B) by inserting "including the office at the Department of Labor through which participants and beneficiaries may seek assistance or information regarding their rights under this Act and the Health Insurance Portability and Accountability Act of 1996 with respect to health benefits that are offered through a group health plan (as defined in section 706(a)(1))" after "benefits under the plan".

(d) TREATMENT OF HEALTH INSURANCE ISSUERS OFFERING HEALTH INSURANCE COVERAGE TO NONCOVERED PLANS.—Section 4(b) of such Act (29 U.S.C. 1003(b)) is amended by adding at the end (after and below paragraph (5)) the following:

"The provisions of part 7 of subtitle B shall not apply to a health insurance issuer (as defined in section 706(b)(2)) solely by reason of health insurance coverage (as defined in section 706(b)(1)) provided by such issuer in connection with a group health plan (as defined in section 706(a)(1)) if the provisions of this title do not apply to such group health plan.".

(e) REPORTING AND ENFORCEMENT WITH RESPECT TO CERTAIN ARRANGEMENTS.—

(1) IN GENERAL.—Section 101 of such Act (29 U.S.C. 1021) is amended—

(A) by redesignating subsection (g) as subsection (h), and

(B) by inserting after subsection (f) the following new subsection:

"(g) REPORTING BY CERTAIN ARRANGEMENTS.—The Secretary may, by regulation, require multiple employer welfare arrangements providing benefits consisting of medical care (within the meaning of section 706(a)(2)) which are not group health plans to report, not more frequently than annually, in such form and such manner as the Secretary may require for the purpose of determining the extent to which the requirements of part 7 are being carried out in connection with such benefits.".

(2) ENFORCEMENT.—

(A) IN GENERAL.—Section 502 of such Act (29 U.S.C. 1132) is amended—

(i) in subsection (a)(6), by striking "under subsection (c)(2) or (i) or (l)" and inserting "under paragraph (2), (4), or (5) of subsection (c) or under subsection (i) or (l)"; and

(ii) in the last 2 sentences of subsection (c), by striking "For purposes of this paragraph" and all that follows through "The Secretary and" and inserting the following:

"(5) The Secretary may assess a civil penalty against any person of up to $1,000 a day from the date of the person's failure or refusal to file the information required to be filed by such person with the Secretary under regulations prescribed pursuant to section 101(g).

"(6) The Secretary and".

(B) TECHNICAL AND CONFORMING AMENDMENT.—Section 502(c)(1) of such Act (29 U.S.C. 1132(c)(1)) is amended by adding at the end the following sentence: "For purposes of this paragraph, each violation described in subparagraph (A) with respect to any single participant, and each violation described in subparagraph (B) with respect to any

single participant or beneficiary, shall be treated as a separate violation.".

(3) COORDINATION.—Section 506 of such Act (29 U.S.C. 1136) is amended by adding at the end the following new subsection:

"(c) COORDINATION OF ENFORCEMENT WITH STATES WITH RESPECT TO CERTAIN ARRANGEMENTS.—A State may enter into an agreement with the Secretary for delegation to the State of some or all of the Secretary's authority under sections 502 and 504 to enforce the requirements under part 7 in connection with multiple employer welfare arrangements, providing medical care (within the meaning of section 706(a)(2)), which are not group health plans.".

(f) CONFORMING AMENDMENTS.—

(1) Section 514(b) of such Act (29 U.S.C. 1144(b)) is amended by adding at the end the following new paragraph:

"(9) For additional provisions relating to group health plans, see section 704.".

(2)(A) Part 6 of subtitle B of title I of such Act (29 U.S.C. 1161 et seq.) is amended by striking the heading and inserting the following:

"PART 6—CONTINUATION COVERAGE AND ADDITIONAL STANDARDS FOR GROUP HEALTH PLANS".

(B) The table of contents in section 1 of such Act is amended by striking the item relating to the heading for part 6 of subtitle B of title I and inserting the following:

"PART 6—CONTINUATION COVERAGE AND ADDITIONAL STANDARDS FOR GROUP HEALTH PLANS".

(3) The table of contents in section 1 of such Act (as amended by the preceding provisions of this section) is amended by inserting after the items relating to part 6 the following new items:

"PART 7—GROUP HEALTH PLAN PORTABILITY, ACCESS, AND RENEWABILITY REQUIREMENTS

"Sec. 701. Increased portability through limitation on preexisting condition exclusions.
"Sec. 702. Prohibiting discrimination against individual participants and beneficiaries based on health status.
"Sec. 703. Guaranteed renewability in multiemployer plans and multiple employer welfare arrangements.
"Sec. 704. Preemption; State flexibility; construction.
"Sec. 705. Special rules relating to group health plans.
"Sec. 706. Definitions.
"Sec. 707. Regulations.".

(g) EFFECTIVE DATES.— 29 USC 1181 note.

(1) IN GENERAL.—Except as provided in this section, this section (and the amendments made by this section) shall apply with respect to group health plans for plan years beginning after June 30, 1997.

(2) DETERMINATION OF CREDITABLE COVERAGE.—

(A) PERIOD OF COVERAGE.—

(i) IN GENERAL.—Subject to clause (ii), no period before July 1, 1996, shall be taken into account under part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (as added by this section) in determining creditable coverage.

(ii) SPECIAL RULE FOR CERTAIN PERIODS.—The Secretary of Labor, consistent with section 104, shall provide for a process whereby individuals who need to establish creditable coverage for periods before July 1, 1996, and who would have such coverage credited but for clause (i) may be given credit for creditable coverage for such periods through the presentation of documents or other means.

(B) CERTIFICATIONS, ETC.—

(i) IN GENERAL.—Subject to clauses (ii) and (iii), subsection (e) of section 701 of the Employee Retirement Income Security Act of 1974 (as added by this section) shall apply to events occurring after June 30, 1996.

(ii) NO CERTIFICATION REQUIRED TO BE PROVIDED BEFORE JUNE 1, 1997.—In no case is a certification required to be provided under such subsection before June 1, 1997.

(iii) CERTIFICATION ONLY ON WRITTEN REQUEST FOR EVENTS OCCURRING BEFORE OCTOBER 1, 1996.—In the case of an event occurring after June 30, 1996, and before October 1, 1996, a certification is not required to be provided under such subsection unless an individual (with respect to whom the certification is otherwise required to be made) requests such certification in writing.

(C) TRANSITIONAL RULE.—In the case of an individual who seeks to establish creditable coverage for any period for which certification is not required because it relates to an event occurring before June 30, 1996—

(i) the individual may present other credible evidence of such coverage in order to establish the period of creditable coverage; and

(ii) a group health plan and a health insurance issuer shall not be subject to any penalty or enforcement action with respect to the plan's or issuer's crediting (or not crediting) such coverage if the plan or issuer has sought to comply in good faith with the applicable requirements under the amendments made by this section.

(3) SPECIAL RULE FOR COLLECTIVE BARGAINING AGREEMENTS.—Except as provided in paragraph (2), in the case of a group health plan maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers ratified before the date of the enactment of this Act, part 7 of subtitle B of title I of Employee Retirement Income Security Act of 1974 (other than section 701(e) thereof) shall not apply to plan years beginning before the later of—

(A) the date on which the last of the collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of the enactment of this Act), or

(B) July 1, 1997.

For purposes of subparagraph (A), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any require-

ment of such part shall not be treated as a termination of such collective bargaining agreement.

(4) TIMELY REGULATIONS.—The Secretary of Labor, consistent with section 104, shall first issue by not later than April 1, 1997, such regulations as may be necessary to carry out the amendments made by this section.

(5) LIMITATION ON ACTIONS.—No enforcement action shall be taken, pursuant to the amendments made by this section, against a group health plan or health insurance issuer with respect to a violation of a requirement imposed by such amendments before January 1, 1998, or, if later, the date of issuance of regulations referred to in paragraph (4), if the plan or issuer has sought to comply in good faith with such requirements.

SEC. 102. THROUGH THE PUBLIC HEALTH SERVICE ACT.

(a) IN GENERAL.—The Public Health Service Act is amended by adding at the end the following new title:

"TITLE XXVII—ASSURING PORTABILITY, AVAILABILITY, AND RENEWABILITY OF HEALTH INSURANCE COVERAGE

"PART A—GROUP MARKET REFORMS

"Subpart 1—Portability, Access, and Renewability Requirements

"SEC. 2701. INCREASED PORTABILITY THROUGH LIMITATION ON PREEXISTING CONDITION EXCLUSIONS. 42 USC 300gg.

"(a) LIMITATION ON PREEXISTING CONDITION EXCLUSION PERIOD; CREDITING FOR PERIODS OF PREVIOUS COVERAGE.—Subject to subsection (d), a group health plan, and a health insurance issuer offering group health insurance coverage, may, with respect to a participant or beneficiary, impose a preexisting condition exclusion only if—

"(1) such exclusion relates to a condition (whether physical or mental), regardless of the cause of the condition, for which medical advice, diagnosis, care, or treatment was recommended or received within the 6-month period ending on the enrollment date;

"(2) such exclusion extends for a period of not more than 12 months (or 18 months in the case of a late enrollee) after the enrollment date; and

"(3) the period of any such preexisting condition exclusion is reduced by the aggregate of the periods of creditable coverage (if any, as defined in subsection (c)(1)) applicable to the participant or beneficiary as of the enrollment date.

"(b) DEFINITIONS.—For purposes of this part—

"(1) PREEXISTING CONDITION EXCLUSION.—

"(A) IN GENERAL.—The term 'preexisting condition exclusion' means, with respect to coverage, a limitation or exclusion of benefits relating to a condition based on the fact that the condition was present before the date of enrollment for such coverage, whether or not any medical advice, diagnosis, care, or treatment was recommended or received before such date.

"(B) TREATMENT OF GENETIC INFORMATION.—Genetic information shall not be treated as a condition described in subsection (a)(1) in the absence of a diagnosis of the condition related to such information.

"(2) ENROLLMENT DATE.—The term 'enrollment date' means, with respect to an individual covered under a group health plan or health insurance coverage, the date of enrollment of the individual in the plan or coverage or, if earlier, the first day of the waiting period for such enrollment.

"(3) LATE ENROLLEE.—The term 'late enrollee' means, with respect to coverage under a group health plan, a participant or beneficiary who enrolls under the plan other than during—

"(A) the first period in which the individual is eligible to enroll under the plan, or

"(B) a special enrollment period under subsection (f).

"(4) WAITING PERIOD.—The term 'waiting period' means, with respect to a group health plan and an individual who is a potential participant or beneficiary in the plan, the period that must pass with respect to the individual before the individual is eligible to be covered for benefits under the terms of the plan.

"(c) RULES RELATING TO CREDITING PREVIOUS COVERAGE.—

"(1) CREDITABLE COVERAGE DEFINED.—For purposes of this title, the term 'creditable coverage' means, with respect to an individual, coverage of the individual under any of the following:

"(A) A group health plan.

"(B) Health insurance coverage.

"(C) Part A or part B of title XVIII of the Social Security Act.

"(D) Title XIX of the Social Security Act, other than coverage consisting solely of benefits under section 1928.

"(E) Chapter 55 of title 10, United States Code.

"(F) A medical care program of the Indian Health Service or of a tribal organization.

"(G) A State health benefits risk pool.

"(H) A health plan offered under chapter 89 of title 5, United States Code.

"(I) A public health plan (as defined in regulations).

"(J) A health benefit plan under section 5(e) of the Peace Corps Act (22 U.S.C. 2504(e)).

Such term does not include coverage consisting solely of coverage of excepted benefits (as defined in section 2791(c)).

"(2) NOT COUNTING PERIODS BEFORE SIGNIFICANT BREAKS IN COVERAGE.—

"(A) IN GENERAL.—A period of creditable coverage shall not be counted, with respect to enrollment of an individual under a group health plan, if, after such period and before the enrollment date, there was a 63-day period during all of which the individual was not covered under any creditable coverage.

"(B) WAITING PERIOD NOT TREATED AS A BREAK IN COVERAGE.—For purposes of subparagraph (A) and subsection (d)(4), any period that an individual is in a waiting period for any coverage under a group health plan (or for group health insurance coverage) or is in an affiliation period (as defined in subsection (g)(2)) shall not be taken into

account in determining the continuous period under subparagraph (A).

"(3) METHOD OF CREDITING COVERAGE.—

"(A) STANDARD METHOD.—Except as otherwise provided under subparagraph (B), for purposes of applying subsection (a)(3), a group health plan, and a health insurance issuer offering group health insurance coverage, shall count a period of creditable coverage without regard to the specific benefits covered during the period.

"(B) ELECTION OF ALTERNATIVE METHOD.—A group health plan, or a health insurance issuer offering group health insurance, may elect to apply subsection (a)(3) based on coverage of benefits within each of several classes or categories of benefits specified in regulations rather than as provided under subparagraph (A). Such election shall be made on a uniform basis for all participants and beneficiaries. Under such election a group health plan or issuer shall count a period of creditable coverage with respect to any class or category of benefits if any level of benefits is covered within such class or category.

"(C) PLAN NOTICE.—In the case of an election with respect to a group health plan under subparagraph (B) (whether or not health insurance coverage is provided in connection with such plan), the plan shall—

"(i) prominently state in any disclosure statements concerning the plan, and state to each enrollee at the time of enrollment under the plan, that the plan has made such election, and

"(ii) include in such statements a description of the effect of this election.

"(D) ISSUER NOTICE.—In the case of an election under subparagraph (B) with respect to health insurance coverage offered by an issuer in the small or large group market, the issuer—

"(i) shall prominently state in any disclosure statements concerning the coverage, and to each employer at the time of the offer or sale of the coverage, that the issuer has made such election, and

"(ii) shall include in such statements a description of the effect of such election.

"(4) ESTABLISHMENT OF PERIOD.—Periods of creditable coverage with respect to an individual shall be established through presentation of certifications described in subsection (e) or in such other manner as may be specified in regulations.

"(d) EXCEPTIONS.—

"(1) EXCLUSION NOT APPLICABLE TO CERTAIN NEWBORNS.—Subject to paragraph (4), a group health plan, and a health insurance issuer offering group health insurance coverage, may not impose any preexisting condition exclusion in the case of an individual who, as of the last day of the 30-day period beginning with the date of birth, is covered under creditable coverage.

"(2) EXCLUSION NOT APPLICABLE TO CERTAIN ADOPTED CHILDREN.—Subject to paragraph (4), a group health plan, and a health insurance issuer offering group health insurance coverage, may not impose any preexisting condition exclusion in the case of a child who is adopted or placed for adoption

before attaining 18 years of age and who, as of the last day of the 30-day period beginning on the date of the adoption or placement for adoption, is covered under creditable coverage. The previous sentence shall not apply to coverage before the date of such adoption or placement for adoption.

"(3) EXCLUSION NOT APPLICABLE TO PREGNANCY.—A group health plan, and health insurance issuer offering group health insurance coverage, may not impose any preexisting condition exclusion relating to pregnancy as a preexisting condition.

"(4) LOSS IF BREAK IN COVERAGE.—Paragraphs (1) and (2) shall no longer apply to an individual after the end of the first 63-day period during all of which the individual was not covered under any creditable coverage.

"(e) CERTIFICATIONS AND DISCLOSURE OF COVERAGE.—

"(1) REQUIREMENT FOR CERTIFICATION OF PERIOD OF CREDITABLE COVERAGE.—

"(A) IN GENERAL.—A group health plan, and a health insurance issuer offering group health insurance coverage, shall provide the certification described in subparagraph (B)—

"(i) at the time an individual ceases to be covered under the plan or otherwise becomes covered under a COBRA continuation provision,

"(ii) in the case of an individual becoming covered under such a provision, at the time the individual ceases to be covered under such provision, and

"(iii) on the request on behalf of an individual made not later than 24 months after the date of cessation of the coverage described in clause (i) or (ii), whichever is later.

The certification under clause (i) may be provided, to the extent practicable, at a time consistent with notices required under any applicable COBRA continuation provision.

"(B) CERTIFICATION.—The certification described in this subparagraph is a written certification of—

"(i) the period of creditable coverage of the individual under such plan and the coverage (if any) under such COBRA continuation provision, and

"(ii) the waiting period (if any) (and affiliation period, if applicable) imposed with respect to the individual for any coverage under such plan.

"(C) ISSUER COMPLIANCE.—To the extent that medical care under a group health plan consists of group health insurance coverage, the plan is deemed to have satisfied the certification requirement under this paragraph if the health insurance issuer offering the coverage provides for such certification in accordance with this paragraph.

"(2) DISCLOSURE OF INFORMATION ON PREVIOUS BENEFITS.—In the case of an election described in subsection (c)(3)(B) by a group health plan or health insurance issuer, if the plan or issuer enrolls an individual for coverage under the plan and the individual provides a certification of coverage of the individual under paragraph (1)—

"(A) upon request of such plan or issuer, the entity which issued the certification provided by the individual shall promptly disclose to such requesting plan or issuer

information on coverage of classes and categories of health benefits available under such entity's plan or coverage, and

"(B) such entity may charge the requesting plan or issuer for the reasonable cost of disclosing such information.

"(3) REGULATIONS.—The Secretary shall establish rules to prevent an entity's failure to provide information under paragraph (1) or (2) with respect to previous coverage of an individual from adversely affecting any subsequent coverage of the individual under another group health plan or health insurance coverage.

"(f) SPECIAL ENROLLMENT PERIODS.—

"(1) INDIVIDUALS LOSING OTHER COVERAGE.—A group health plan, and a health insurance issuer offering group health insurance coverage in connection with a group health plan, shall permit an employee who is eligible, but not enrolled, for coverage under the terms of the plan (or a dependent of such an employee if the dependent is eligible, but not enrolled, for coverage under such terms) to enroll for coverage under the terms of the plan if each of the following conditions is met:

"(A) The employee or dependent was covered under a group health plan or had health insurance coverage at the time coverage was previously offered to the employee or dependent.

"(B) The employee stated in writing at such time that coverage under a group health plan or health insurance coverage was the reason for declining enrollment, but only if the plan sponsor or issuer (if applicable) required such a statement at such time and provided the employee with notice of such requirement (and the consequences of such requirement) at such time.

"(C) The employee's or dependent's coverage described in subparagraph (A)—

"(i) was under a COBRA continuation provision and the coverage under such provision was exhausted; or

"(ii) was not under such a provision and either the coverage was terminated as a result of loss of eligibility for the coverage (including as a result of legal separation, divorce, death, termination of employment, or reduction in the number of hours of employment) or employer contributions toward such coverage were terminated.

"(D) Under the terms of the plan, the employee requests such enrollment not later than 30 days after the date of exhaustion of coverage described in subparagraph (C)(i) or termination of coverage or employer contribution described in subparagraph (C)(ii).

"(2) FOR DEPENDENT BENEFICIARIES.—

"(A) IN GENERAL.—If—

"(i) a group health plan makes coverage available with respect to a dependent of an individual,

"(ii) the individual is a participant under the plan (or has met any waiting period applicable to becoming a participant under the plan and is eligible to be

enrolled under the plan but for a failure to enroll during a previous enrollment period), and

"(iii) a person becomes such a dependent of the individual through marriage, birth, or adoption or placement for adoption,

the group health plan shall provide for a dependent special enrollment period described in subparagraph (B) during which the person (or, if not otherwise enrolled, the individual) may be enrolled under the plan as a dependent of the individual, and in the case of the birth or adoption of a child, the spouse of the individual may be enrolled as a dependent of the individual if such spouse is otherwise eligible for coverage.

"(B) DEPENDENT SPECIAL ENROLLMENT PERIOD.—A dependent special enrollment period under this subparagraph shall be a period of not less than 30 days and shall begin on the later of—

"(i) the date dependent coverage is made available, or

"(ii) the date of the marriage, birth, or adoption or placement for adoption (as the case may be) described in subparagraph (A)(iii).

"(C) NO WAITING PERIOD.—If an individual seeks to enroll a dependent during the first 30 days of such a dependent special enrollment period, the coverage of the dependent shall become effective—

"(i) in the case of marriage, not later than the first day of the first month beginning after the date the completed request for enrollment is received;

"(ii) in the case of a dependent's birth, as of the date of such birth; or

"(iii) in the case of a dependent's adoption or placement for adoption, the date of such adoption or placement for adoption.

"(g) USE OF AFFILIATION PERIOD BY HMOS AS ALTERNATIVE TO PREEXISTING CONDITION EXCLUSION.—

"(1) IN GENERAL.—A health maintenance organization which offers health insurance coverage in connection with a group health plan and which does not impose any preexisting condition exclusion allowed under subsection (a) with respect to any particular coverage option may impose an affiliation period for such coverage option, but only if—

"(A) such period is applied uniformly without regard to any health status-related factors; and

"(B) such period does not exceed 2 months (or 3 months in the case of a late enrollee).

"(2) AFFILIATION PERIOD.—

"(A) DEFINED.—For purposes of this title, the term 'affiliation period' means a period which, under the terms of the health insurance coverage offered by the health maintenance organization, must expire before the health insurance coverage becomes effective. The organization is not required to provide health care services or benefits during such period and no premium shall be charged to the participant or beneficiary for any coverage during the period.

"(B) BEGINNING.—Such period shall begin on the enrollment date.

"(C) RUNS CONCURRENTLY WITH WAITING PERIODS.—An affiliation period under a plan shall run concurrently with any waiting period under the plan.

"(3) ALTERNATIVE METHODS.—A health maintenance organization described in paragraph (1) may use alternative methods, from those described in such paragraph, to address adverse selection as approved by the State insurance commissioner or official or officials designated by the State to enforce the requirements of this part for the State involved with respect to such issuer.

"SEC. 2702. PROHIBITING DISCRIMINATION AGAINST INDIVIDUAL PARTICIPANTS AND BENEFICIARIES BASED ON HEALTH STATUS. 42 USC 300gg–1.

"(a) IN ELIGIBILITY TO ENROLL.—

"(1) IN GENERAL.—Subject to paragraph (2), a group health plan, and a health insurance issuer offering group health insurance coverage in connection with a group health plan, may not establish rules for eligibility (including continued eligibility) of any individual to enroll under the terms of the plan based on any of the following health status-related factors in relation to the individual or a dependent of the individual:

"(A) Health status.

"(B) Medical condition (including both physical and mental illnesses).

"(C) Claims experience.

"(D) Receipt of health care.

"(E) Medical history.

"(F) Genetic information.

"(G) Evidence of insurability (including conditions arising out of acts of domestic violence).

"(H) Disability.

"(2) NO APPLICATION TO BENEFITS OR EXCLUSIONS.—To the extent consistent with section 701, paragraph (1) shall not be construed—

"(A) to require a group health plan, or group health insurance coverage, to provide particular benefits other than those provided under the terms of such plan or coverage, or

"(B) to prevent such a plan or coverage from establishing limitations or restrictions on the amount, level, extent, or nature of the benefits or coverage for similarly situated individuals enrolled in the plan or coverage.

"(3) CONSTRUCTION.—For purposes of paragraph (1), rules for eligibility to enroll under a plan include rules defining any applicable waiting periods for such enrollment.

"(b) IN PREMIUM CONTRIBUTIONS.—

"(1) IN GENERAL.—A group health plan, and a health insurance issuer offering health insurance coverage in connection with a group health plan, may not require any individual (as a condition of enrollment or continued enrollment under the plan) to pay a premium or contribution which is greater than such premium or contribution for a similarly situated individual enrolled in the plan on the basis of any health status-related factor in relation to the individual or to an

individual enrolled under the plan as a dependent of the individual.

"(2) CONSTRUCTION.—Nothing in paragraph (1) shall be construed—

"(A) to restrict the amount that an employer may be charged for coverage under a group health plan; or

"(B) to prevent a group health plan, and a health insurance issuer offering group health insurance coverage, from establishing premium discounts or rebates or modifying otherwise applicable copayments or deductibles in return for adherence to programs of health promotion and disease prevention.

"Subpart 2—Provisions Applicable Only to Health Insurance Issuers

42 USC 300gg–11.

"SEC. 2711. GUARANTEED AVAILABILITY OF COVERAGE FOR EMPLOYERS IN THE GROUP MARKET.

"(a) ISSUANCE OF COVERAGE IN THE SMALL GROUP MARKET.—

"(1) IN GENERAL.—Subject to subsections (c) through (f), each health insurance issuer that offers health insurance coverage in the small group market in a State—

"(A) must accept every small employer (as defined in section 2791(e)(4)) in the State that applies for such coverage; and

"(B) must accept for enrollment under such coverage every eligible individual (as defined in paragraph (2)) who applies for enrollment during the period in which the individual first becomes eligible to enroll under the terms of the group health plan and may not place any restriction which is inconsistent with section 2702 on an eligible individual being a participant or beneficiary.

"(2) ELIGIBLE INDIVIDUAL DEFINED.—For purposes of this section, the term 'eligible individual' means, with respect to a health insurance issuer that offers health insurance coverage to a small employer in connection with a group health plan in the small group market, such an individual in relation to the employer as shall be determined—

"(A) in accordance with the terms of such plan,

"(B) as provided by the issuer under rules of the issuer which are uniformly applicable in a State to small employers in the small group market, and

"(C) in accordance with all applicable State laws governing such issuer and such market.

"(b) ASSURING ACCESS IN THE LARGE GROUP MARKET.—

"(1) REPORTS TO HHS.—The Secretary shall request that the chief executive officer of each State submit to the Secretary, by not later December 31, 2000, and every 3 years thereafter a report on—

"(A) the access of large employers to health insurance coverage in the State, and

"(B) the circumstances for lack of access (if any) of large employers (or one or more classes of such employers) in the State to such coverage.

"(2) TRIENNIAL REPORTS TO CONGRESS.—The Secretary, based on the reports submitted under paragraph (1) and such other information as the Secretary may use, shall prepare

and submit to Congress, every 3 years, a report describing the extent to which large employers (and classes of such employers) that seek health insurance coverage in the different States are able to obtain access to such coverage. Such report shall include such recommendations as the Secretary determines to be appropriate.

"(3) GAO REPORT ON LARGE EMPLOYER ACCESS TO HEALTH INSURANCE COVERAGE.—The Comptroller General shall provide for a study of the extent to which classes of large employers in the different States are able to obtain access to health insurance coverage and the circumstances for lack of access (if any) to such coverage. The Comptroller General shall submit to Congress a report on such study not later than 18 months after the date of the enactment of this title.

"(c) SPECIAL RULES FOR NETWORK PLANS.—

"(1) IN GENERAL.—In the case of a health insurance issuer that offers health insurance coverage in the small group market through a network plan, the issuer may—

"(A) limit the employers that may apply for such coverage to those with eligible individuals who live, work, or reside in the service area for such network plan; and

"(B) within the service area of such plan, deny such coverage to such employers if the issuer has demonstrated, if required, to the applicable State authority that—

"(i) it will not have the capacity to deliver services adequately to enrollees of any additional groups because of its obligations to existing group contract holders and enrollees, and

"(ii) it is applying this paragraph uniformly to all employers without regard to the claims experience of those employers and their employees (and their dependents) or any health status-related factor relating to such employees and dependents.

"(2) 180-DAY SUSPENSION UPON DENIAL OF COVERAGE.—An issuer, upon denying health insurance coverage in any service area in accordance with paragraph (1)(B), may not offer coverage in the small group market within such service area for a period of 180 days after the date such coverage is denied.

"(d) APPLICATION OF FINANCIAL CAPACITY LIMITS.—

"(1) IN GENERAL.—A health insurance issuer may deny health insurance coverage in the small group market if the issuer has demonstrated, if required, to the applicable State authority that—

"(A) it does not have the financial reserves necessary to underwrite additional coverage; and

"(B) it is applying this paragraph uniformly to all employers in the small group market in the State consistent with applicable State law and without regard to the claims experience of those employers and their employees (and their dependents) or any health status-related factor relating to such employees and dependents.

"(2) 180-DAY SUSPENSION UPON DENIAL OF COVERAGE.—A health insurance issuer upon denying health insurance coverage in connection with group health plans in accordance with paragraph (1) in a State may not offer coverage in connection with group health plans in the small group market in the State for a period of 180 days after the date such coverage

is denied or until the issuer has demonstrated to the applicable State authority, if required under applicable State law, that the issuer has sufficient financial reserves to underwrite additional coverage, whichever is later. An applicable State authority may provide for the application of this subsection on a service-area-specific basis.

"(e) EXCEPTION TO REQUIREMENT FOR FAILURE TO MEET CERTAIN MINIMUM PARTICIPATION OR CONTRIBUTION RULES.—

"(1) IN GENERAL.—Subsection (a) shall not be construed to preclude a health insurance issuer from establishing employer contribution rules or group participation rules for the offering of health insurance coverage in connection with a group health plan in the small group market, as allowed under applicable State law.

"(2) RULES DEFINED.—For purposes of paragraph (1)—

"(A) the term 'employer contribution rule' means a requirement relating to the minimum level or amount of employer contribution toward the premium for enrollment of participants and beneficiaries; and

"(B) the term 'group participation rule' means a requirement relating to the minimum number of participants or beneficiaries that must be enrolled in relation to a specified percentage or number of eligible individuals or employees of an employer.

"(f) EXCEPTION FOR COVERAGE OFFERED ONLY TO BONA FIDE ASSOCIATION MEMBERS.—Subsection (a) shall not apply to health insurance coverage offered by a health insurance issuer if such coverage is made available in the small group market only through one or more bona fide associations (as defined in section 2791(d)(3)).

42 USC 300gg–12.

"SEC. 2712. GUARANTEED RENEWABILITY OF COVERAGE FOR EMPLOYERS IN THE GROUP MARKET.

"(a) IN GENERAL.—Except as provided in this section, if a health insurance issuer offers health insurance coverage in the small or large group market in connection with a group health plan, the issuer must renew or continue in force such coverage at the option of the plan sponsor of the plan.

"(b) GENERAL EXCEPTIONS.—A health insurance issuer may nonrenew or discontinue health insurance coverage offered in connection with a group health plan in the small or large group market based only on one or more of the following:

"(1) NONPAYMENT OF PREMIUMS.—The plan sponsor has failed to pay premiums or contributions in accordance with the terms of the health insurance coverage or the issuer has not received timely premium payments.

"(2) FRAUD.—The plan sponsor has performed an act or practice that constitutes fraud or made an intentional misrepresentation of material fact under the terms of the coverage.

"(3) VIOLATION OF PARTICIPATION OR CONTRIBUTION RULES.—The plan sponsor has failed to comply with a material plan provision relating to employer contribution or group participation rules, as permitted under section 2711(e) in the case of the small group market or pursuant to applicable State law in the case of the large group market.

"(4) TERMINATION OF COVERAGE.—The issuer is ceasing to offer coverage in such market in accordance with subsection (c) and applicable State law.

"(5) MOVEMENT OUTSIDE SERVICE AREA.—In the case of a health insurance issuer that offers health insurance coverage in the market through a network plan, there is no longer any enrollee in connection with such plan who lives, resides, or works in the service area of the issuer (or in the area for which the issuer is authorized to do business) and, in the case of the small group market, the issuer would deny enrollment with respect to such plan under section 2711(c)(1)(A).

"(6) ASSOCIATION MEMBERSHIP CEASES.—In the case of health insurance coverage that is made available in the small or large group market (as the case may be) only through one or more bona fide associations, the membership of an employer in the association (on the basis of which the coverage is provided) ceases but only if such coverage is terminated under this paragraph uniformly without regard to any health status-related factor relating to any covered individual.

"(c) REQUIREMENTS FOR UNIFORM TERMINATION OF COVERAGE.—

"(1) PARTICULAR TYPE OF COVERAGE NOT OFFERED.—In any case in which an issuer decides to discontinue offering a particular type of group health insurance coverage offered in the small or large group market, coverage of such type may be discontinued by the issuer in accordance with applicable State law in such market only if—

"(A) the issuer provides notice to each plan sponsor provided coverage of this type in such market (and participants and beneficiaries covered under such coverage) of such discontinuation at least 90 days prior to the date of the discontinuation of such coverage;

"(B) the issuer offers to each plan sponsor provided coverage of this type in such market, the option to purchase all (or, in the case of the large group market, any) other health insurance coverage currently being offered by the issuer to a group health plan in such market; and

"(C) in exercising the option to discontinue coverage of this type and in offering the option of coverage under subparagraph (B), the issuer acts uniformly without regard to the claims experience of those sponsors or any health status-related factor relating to any participants or beneficiaries covered or new participants or beneficiaries who may become eligible for such coverage.

"(2) DISCONTINUANCE OF ALL COVERAGE.—

"(A) IN GENERAL.—In any case in which a health insurance issuer elects to discontinue offering all health insurance coverage in the small group market or the large group market, or both markets, in a State, health insurance coverage may be discontinued by the issuer only in accordance with applicable State law and if—

"(i) the issuer provides notice to the applicable State authority and to each plan sponsor (and participants and beneficiaries covered under such coverage) of such discontinuation at least 180 days prior to the date of the discontinuation of such coverage; and

"(ii) all health insurance issued or delivered for issuance in the State in such market (or markets) are discontinued and coverage under such health insur-

ance coverage in such market (or markets) is not renewed.

"(B) PROHIBITION ON MARKET REENTRY.—In the case of a discontinuation under subparagraph (A) in a market, the issuer may not provide for the issuance of any health insurance coverage in the market and State involved during the 5-year period beginning on the date of the discontinuation of the last health insurance coverage not so renewed.

"(d) EXCEPTION FOR UNIFORM MODIFICATION OF COVERAGE.—At the time of coverage renewal, a health insurance issuer may modify the health insurance coverage for a product offered to a group health plan—

"(1) in the large group market; or

"(2) in the small group market if, for coverage that is available in such market other than only through one or more bona fide associations, such modification is consistent with State law and effective on a uniform basis among group health plans with that product.

"(e) APPLICATION TO COVERAGE OFFERED ONLY THROUGH ASSOCIATIONS.—In applying this section in the case of health insurance coverage that is made available by a health insurance issuer in the small or large group market to employers only through one or more associations, a reference to 'plan sponsor' is deemed, with respect to coverage provided to an employer member of the association, to include a reference to such employer.

42 USC 300gg–13.

"SEC. 2713. DISCLOSURE OF INFORMATION.

"(a) DISCLOSURE OF INFORMATION BY HEALTH PLAN ISSUERS.—In connection with the offering of any health insurance coverage to a small employer, a health insurance issuer—

"(1) shall make a reasonable disclosure to such employer, as part of its solicitation and sales materials, of the availability of information described in subsection (b), and

"(2) upon request of such a small employer, provide such information.

"(b) INFORMATION DESCRIBED.—

"(1) IN GENERAL.—Subject to paragraph (3), with respect to a health insurance issuer offering health insurance coverage to a small employer, information described in this subsection is information concerning—

"(A) the provisions of such coverage concerning issuer's right to change premium rates and the factors that may affect changes in premium rates;

"(B) the provisions of such coverage relating to renewability of coverage;

"(C) the provisions of such coverage relating to any preexisting condition exclusion; and

"(D) the benefits and premiums available under all health insurance coverage for which the employer is qualified.

"(2) FORM OF INFORMATION.—Information under this subsection shall be provided to small employers in a manner determined to be understandable by the average small employer, and shall be sufficient to reasonably inform small employers of their rights and obligations under the health insurance coverage.

"(3) EXCEPTION.—An issuer is not required under this section to disclose any information that is proprietary and trade secret information under applicable law.

"Subpart 3—Exclusion of Plans; Enforcement; Preemption

"SEC. 2721. EXCLUSION OF CERTAIN PLANS.

42 USC 300gg–21.

"(a) EXCEPTION FOR CERTAIN SMALL GROUP HEALTH PLANS.—The requirements of subparts 1 and 2 shall not apply to any group health plan (and health insurance coverage offered in connection with a group health plan) for any plan year if, on the first day of such plan year, such plan has less than 2 participants who are current employees.

"(b) LIMITATION ON APPLICATION OF PROVISIONS RELATING TO GROUP HEALTH PLANS.—

"(1) IN GENERAL.—The requirements of subparts 1 and 2 shall apply with respect to group health plans only—

"(A) subject to paragraph (2), in the case of a plan that is a nonfederal governmental plan, and

"(B) with respect to health insurance coverage offered in connection with a group health plan (including such a plan that is a church plan or a governmental plan).

"(2) TREATMENT OF NONFEDERAL GOVERNMENTAL PLANS.—

"(A) ELECTION TO BE EXCLUDED.—If the plan sponsor of a nonfederal governmental plan which is a group health plan to which the provisions of subparts 1 and 2 otherwise apply makes an election under this subparagraph (in such form and manner as the Secretary may by regulations prescribe), then the requirements of such subparts insofar as they apply directly to group health plans (and not merely to group health insurance coverage) shall not apply to such governmental plans for such period except as provided in this paragraph.

"(B) PERIOD OF ELECTION.—An election under subparagraph (A) shall apply—

"(i) for a single specified plan year, or

"(ii) in the case of a plan provided pursuant to a collective bargaining agreement, for the term of such agreement.

An election under clause (i) may be extended through subsequent elections under this paragraph.

"(C) NOTICE TO ENROLLEES.—Under such an election, the plan shall provide for—

"(i) notice to enrollees (on an annual basis and at the time of enrollment under the plan) of the fact and consequences of such election, and

"(ii) certification and disclosure of creditable coverage under the plan with respect to enrollees in accordance with section 2701(e).

"(c) EXCEPTION FOR CERTAIN BENEFITS.—The requirements of subparts 1 and 2 shall not apply to any group health plan (or group health insurance coverage) in relation to its provision of excepted benefits described in section 2791(c)(1).

"(d) EXCEPTION FOR CERTAIN BENEFITS IF CERTAIN CONDITIONS MET.—

"(1) LIMITED, EXCEPTED BENEFITS.—The requirements of subparts 1 and 2 shall not apply to any group health plan

(and group health insurance coverage offered in connection with a group health plan) in relation to its provision of excepted benefits described in section 2791(c)(2) if the benefits—

"(A) are provided under a separate policy, certificate, or contract of insurance; or

"(B) are otherwise not an integral part of the plan.

"(2) NONCOORDINATED, EXCEPTED BENEFITS.—The requirements of subparts 1 and 2 shall not apply to any group health plan (and group health insurance coverage offered in connection with a group health plan) in relation to its provision of excepted benefits described in section 2791(c)(3) if all of the following conditions are met:

"(A) The benefits are provided under a separate policy, certificate, or contract of insurance.

"(B) There is no coordination between the provision of such benefits and any exclusion of benefits under any group health plan maintained by the same plan sponsor.

"(C) Such benefits are paid with respect to an event without regard to whether benefits are provided with respect to such an event under any group health plan maintained by the same plan sponsor.

"(3) SUPPLEMENTAL EXCEPTED BENEFITS.—The requirements of this part shall not apply to any group health plan (and group health insurance coverage) in relation to its provision of excepted benefits described in section 27971(c)(4) if the benefits are provided under a separate policy, certificate, or contract of insurance.

"(e) TREATMENT OF PARTNERSHIPS.—For purposes of this part—

"(1) TREATMENT AS A GROUP HEALTH PLAN.—Any plan, fund, or program which would not be (but for this subsection) an employee welfare benefit plan and which is established or maintained by a partnership, to the extent that such plan, fund, or program provides medical care (including items and services paid for as medical care) to present or former partners in the partnership or to their dependents (as defined under the terms of the plan, fund, or program), directly or through insurance, reimbursement, or otherwise, shall be treated (subject to paragraph (2)) as an employee welfare benefit plan which is a group health plan.

"(2) EMPLOYER.—In the case of a group health plan, the term 'employer' also includes the partnership in relation to any partner.

"(3) PARTICIPANTS OF GROUP HEALTH PLANS.—In the case of a group health plan, the term 'participant' also includes—

"(A) in connection with a group health plan maintained by a partnership, an individual who is a partner in relation to the partnership, or

"(B) in connection with a group health plan maintained by a self-employed individual (under which one or more employees are participants), the self-employed individual,

if such individual is, or may become, eligible to receive a benefit under the plan or such individual's beneficiaries may be eligible to receive any such benefit.

42 USC 300gg–22.

"SEC. 2722. ENFORCEMENT.

"(a) STATE ENFORCEMENT.—

"(1) STATE AUTHORITY.—Subject to section 2723, each State may require that health insurance issuers that issue, sell, renew, or offer health insurance coverage in the State in the small or large group markets meet the requirements of this part with respect to such issuers.

"(2) FAILURE TO IMPLEMENT PROVISIONS.—In the case of a determination by the Secretary that a State has failed to substantially enforce a provision (or provisions) in this part with respect to health insurance issuers in the State, the Secretary shall enforce such provision (or provisions) under subsection (b) insofar as they relate to the issuance, sale, renewal, and offering of health insurance coverage in connection with group health plans in such State.

"(b) SECRETARIAL ENFORCEMENT AUTHORITY.—

"(1) LIMITATION.—The provisions of this subsection shall apply to enforcement of a provision (or provisions) of this part only—

"(A) as provided under subsection (a)(2); and

"(B) with respect to group health plans that are non-Federal governmental plans.

"(2) IMPOSITION OF PENALTIES.—In the cases described in paragraph (1)—

"(A) IN GENERAL.—Subject to the succeeding provisions of this subsection, any non-Federal governmental plan that is a group health plan and any health insurance issuer that fails to meet a provision of this part applicable to such plan or issuer is subject to a civil money penalty under this subsection.

"(B) LIABILITY FOR PENALTY.—In the case of a failure by—

"(i) a health insurance issuer, the issuer is liable for such penalty, or

"(ii) a group health plan that is a non-Federal governmental plan which is—

"(I) sponsored by 2 or more employers, the plan is liable for such penalty, or

"(II) not so sponsored, the employer is liable for such penalty.

"(C) AMOUNT OF PENALTY.—

"(i) IN GENERAL.—The maximum amount of penalty imposed under this paragraph is $100 for each day for each individual with respect to which such a failure occurs.

"(ii) CONSIDERATIONS IN IMPOSITION.—In determining the amount of any penalty to be assessed under this paragraph, the Secretary shall take into account the previous record of compliance of the entity being assessed with the applicable provisions of this part and the gravity of the violation.

"(iii) LIMITATIONS.—

"(I) PENALTY NOT TO APPLY WHERE FAILURE NOT DISCOVERED EXERCISING REASONABLE DILIGENCE.—No civil money penalty shall be imposed under this paragraph on any failure during any period for which it is established to the satisfaction of the Secretary that none of the entities against whom the penalty would be imposed knew, or

exercising reasonable diligence would have known, that such failure existed.

"(II) PENALTY NOT TO APPLY TO FAILURES CORRECTED WITHIN 30 DAYS.—No civil money penalty shall be imposed under this paragraph on any failure if such failure was due to reasonable cause and not to willful neglect, and such failure is corrected during the 30-day period beginning on the first day any of the entities against whom the penalty would be imposed knew, or exercising reasonable diligence would have known, that such failure existed.

"(D) ADMINISTRATIVE REVIEW.—

"(i) OPPORTUNITY FOR HEARING.—The entity assessed shall be afforded an opportunity for hearing by the Secretary upon request made within 30 days after the date of the issuance of a notice of assessment. In such hearing the decision shall be made on the record pursuant to section 554 of title 5, United States Code. If no hearing is requested, the assessment shall constitute a final and unappealable order.

"(ii) HEARING PROCEDURE.—If a hearing is requested, the initial agency decision shall be made by an administrative law judge, and such decision shall become the final order unless the Secretary modifies or vacates the decision. Notice of intent to modify or vacate the decision of the administrative law judge shall be issued to the parties within 30 days after the date of the decision of the judge. A final order which takes effect under this paragraph shall be subject to review only as provided under subparagraph (E).

"(E) JUDICIAL REVIEW.—

"(i) FILING OF ACTION FOR REVIEW.—Any entity against whom an order imposing a civil money penalty has been entered after an agency hearing under this paragraph may obtain review by the United States district court for any district in which such entity is located or the United States District Court for the District of Columbia by filing a notice of appeal in such court within 30 days from the date of such order, and simultaneously sending a copy of such notice by registered mail to the Secretary.

"(ii) CERTIFICATION OF ADMINISTRATIVE RECORD.—The Secretary shall promptly certify and file in such court the record upon which the penalty was imposed.

"(iii) STANDARD FOR REVIEW.—The findings of the Secretary shall be set aside only if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5, United States Code.

"(iv) APPEAL.—Any final decision, order, or judgment of the district court concerning such review shall be subject to appeal as provided in chapter 83 of title 28 of such Code.

"(F) FAILURE TO PAY ASSESSMENT; MAINTENANCE OF ACTION.—

"(i) FAILURE TO PAY ASSESSMENT.—If any entity fails to pay an assessment after it has become a final and unappealable order, or after the court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General who shall recover the amount assessed by action in the appropriate United States district court.

"(ii) NONREVIEWABILITY.—In such action the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

"(G) PAYMENT OF PENALTIES.—Except as otherwise provided, penalties collected under this paragraph shall be paid to the Secretary (or other officer) imposing the penalty and shall be available without appropriation and until expended for the purpose of enforcing the provisions with respect to which the penalty was imposed.

"SEC. 2723. PREEMPTION; STATE FLEXIBILITY; CONSTRUCTION.

42 USC 300gg–23.

"(a) CONTINUED APPLICABILITY OF STATE LAW WITH RESPECT TO HEALTH INSURANCE ISSUERS.—

"(1) IN GENERAL.—Subject to paragraph (2) and except as provided in subsection (b), this part and part C insofar as it relates to this part shall not be construed to supersede any provision of State law which establishes, implements, or continues in effect any standard or requirement solely relating to health insurance issuers in connection with group health insurance coverage except to the extent that such standard or requirement prevents the application of a requirement of this part.

"(2) CONTINUED PREEMPTION WITH RESPECT TO GROUP HEALTH PLANS.—Nothing in this part shall be construed to affect or modify the provisions of section 514 of the Employee Retirement Income Security Act of 1974 with respect to group health plans.

"(b) SPECIAL RULES IN CASE OF PORTABILITY REQUIREMENTS.—

"(1) IN GENERAL.—Subject to paragraph (2), the provisions of this part relating to health insurance coverage offered by a health insurance issuer supersede any provision of State law which establishes, implements, or continues in effect a standard or requirement applicable to imposition of a preexisting condition exclusion specifically governed by section 701 which differs from the standards or requirements specified in such section.

"(2) EXCEPTIONS.—Only in relation to health insurance coverage offered by a health insurance issuer, the provisions of this part do not supersede any provision of State law to the extent that such provision—

"(i) substitutes for the reference to '6-month period' in section 2701(a)(1) a reference to any shorter period of time;

"(ii) substitutes for the reference to '12 months' and '18 months' in section 2701(a)(2) a reference to any shorter period of time;

"(iii) substitutes for the references to '63' days in sections 2701(c)(2)(A) and 2701(d)(4)(A) a reference to any greater number of days;

"(iv) substitutes for the reference to '30-day period' in sections 2701(b)(2) and 2701(d)(1) a reference to any greater period;

"(v) prohibits the imposition of any preexisting condition exclusion in cases not described in section 2701(d) or expands the exceptions described in such section;

"(vi) requires special enrollment periods in addition to those required under section 2701(f); or

"(vii) reduces the maximum period permitted in an affiliation period under section 2701(g)(1)(B).

"(c) RULES OF CONSTRUCTION.—Nothing in this part shall be construed as requiring a group health plan or health insurance coverage to provide specific benefits under the terms of such plan or coverage.

"(d) DEFINITIONS.—For purposes of this section—

"(1) STATE LAW.—The term 'State law' includes all laws, decisions, rules, regulations, or other State action having the effect of law, of any State. A law of the United States applicable only to the District of Columbia shall be treated as a State law rather than a law of the United States.

"(2) STATE.—The term 'State' includes a State (including the Northern Mariana Islands), any political subdivisions of a State or such Islands, or any agency or instrumentality of either.

"PART C—DEFINITIONS; MISCELLANEOUS PROVISIONS

42 USC 300gg–91.

"SEC. 2791. DEFINITIONS.

"(a) GROUP HEALTH PLAN.—

"(1) DEFINITION.—The term 'group health plan' means an employee welfare benefit plan (as defined in section 3(1) of the Employee Retirement Income Security Act of 1974) to the extent that the plan provides medical care (as defined in paragraph (2)) and including items and services paid for as medical care) to employees or their dependents (as defined under the terms of the plan) directly or through insurance, reimbursement, or otherwise.

"(2) MEDICAL CARE.—The term 'medical care' means amounts paid for—

"(A) the diagnosis, cure, mitigation, treatment, or prevention of disease, or amounts paid for the purpose of affecting any structure or function of the body,

"(B) amounts paid for transportation primarily for and essential to medical care referred to in subparagraph (A), and

"(C) amounts paid for insurance covering medical care referred to in subparagraphs (A) and (B).

"(3) TREATMENT OF CERTAIN PLANS AS GROUP HEALTH PLAN FOR NOTICE PROVISION.—A program under which creditable coverage described in subparagraph (C), (D), (E), or (F) of section 2701(c)(1) is provided shall be treated as a group health plan for purposes of applying section 2701(e).

"(b) DEFINITIONS RELATING TO HEALTH INSURANCE.—

"(1) HEALTH INSURANCE COVERAGE.—The term 'health insurance coverage' means benefits consisting of medical care (provided directly, through insurance or reimbursement, or otherwise and including items and services paid for as medical

care) under any hospital or medical service policy or certificate, hospital or medical service plan contract, or health maintenance organization contract offered by a health insurance issuer.

"(2) HEALTH INSURANCE ISSUER.—The term 'health insurance issuer' means an insurance company, insurance service, or insurance organization (including a health maintenance organization, as defined in paragraph (3)) which is licensed to engage in the business of insurance in a State and which is subject to State law which regulates insurance (within the meaning of section 514(b)(2) of the Employee Retirement Income Security Act of 1974). Such term does not include a group health plan.

"(3) HEALTH MAINTENANCE ORGANIZATION.—The term 'health maintenance organization' means—

"(A) a Federally qualified health maintenance organization (as defined in section 1301(a)),

"(B) an organization recognized under State law as a health maintenance organization, or

"(C) a similar organization regulated under State law for solvency in the same manner and to the same extent as such a health maintenance organization.

"(4) GROUP HEALTH INSURANCE COVERAGE.—The term 'group health insurance coverage' means, in connection with a group health plan, health insurance coverage offered in connection with such plan.

"(5) INDIVIDUAL HEALTH INSURANCE COVERAGE.—The term 'individual health insurance coverage' means health insurance coverage offered to individuals in the individual market, but does not include short-term limited duration insurance.

"(c) EXCEPTED BENEFITS.—For purposes of this title, the term 'excepted benefits' means benefits under one or more (or any combination thereof) of the following:

"(1) BENEFITS NOT SUBJECT TO REQUIREMENTS.—

"(A) Coverage only for accident, or disability income insurance, or any combination thereof.

"(B) Coverage issued as a supplement to liability insurance.

"(C) Liability insurance, including general liability insurance and automobile liability insurance.

"(D) Workers' compensation or similar insurance.

"(E) Automobile medical payment insurance.

"(F) Credit-only insurance.

"(G) Coverage for on-site medical clinics.

"(H) Other similar insurance coverage, specified in regulations, under which benefits for medical care are secondary or incidental to other insurance benefits.

"(2) BENEFITS NOT SUBJECT TO REQUIREMENTS IF OFFERED SEPARATELY.—

"(A) Limited scope dental or vision benefits.

"(B) Benefits for long-term care, nursing home care, home health care, community-based care, or any combination thereof.

"(C) Such other similar, limited benefits as are specified in regulations.

"(3) BENEFITS NOT SUBJECT TO REQUIREMENTS IF OFFERED AS INDEPENDENT, NONCOORDINATED BENEFITS.—

"(A) Coverage only for a specified disease or illness.

"(B) Hospital indemnity or other fixed indemnity insurance.

"(4) BENEFITS NOT SUBJECT TO REQUIREMENTS IF OFFERED AS SEPARATE INSURANCE POLICY.—Medicare supplemental health insurance (as defined under section 1882(g)(1) of the Social Security Act), coverage supplemental to the coverage provided under chapter 55 of title 10, United States Code, and similar supplemental coverage provided to coverage under a group health plan.

"(d) OTHER DEFINITIONS.—

"(1) APPLICABLE STATE AUTHORITY.—The term 'applicable State authority' means, with respect to a health insurance issuer in a State, the State insurance commissioner or official or officials designated by the State to enforce the requirements of this title for the State involved with respect to such issuer.

"(2) BENEFICIARY.—The term 'beneficiary' has the meaning given such term under section 3(8) of the Employee Retirement Income Security Act of 1974.

"(3) BONA FIDE ASSOCIATION.—The term 'bona fide association' means, with respect to health insurance coverage offered in a State, an association which—

"(A) has been actively in existence for at least 5 years;

"(B) has been formed and maintained in good faith for purposes other than obtaining insurance;

"(C) does not condition membership in the association on any health status-related factor relating to an individual (including an employee of an employer or a dependent of an employee);

"(D) makes health insurance coverage offered through the association available to all members regardless of any health status-related factor relating to such members (or individuals eligible for coverage through a member);

"(E) does not make health insurance coverage offered through the association available other than in connection with a member of the association; and

"(F) meets such additional requirements as may be imposed under State law.

"(4) COBRA CONTINUATION PROVISION.—The term 'COBRA continuation provision' means any of the following:

"(A) Section 4980B of the Internal Revenue Code of 1986, other than subsection (f)(1) of such section insofar as it relates to pediatric vaccines.

"(B) Part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, other than section 609 of such Act.

"(C) Title XXII of this Act.

"(5) EMPLOYEE.—The term 'employee' has the meaning given such term under section 3(6) of the Employee Retirement Income Security Act of 1974.

"(6) EMPLOYER.—The term 'employer' has the meaning given such term under section 3(5) of the Employee Retirement Income Security Act of 1974, except that such term shall include only employers of two or more employees.

"(7) CHURCH PLAN.—The term 'church plan' has the meaning given such term under section 3(33) of the Employee Retirement Income Security Act of 1974.

"(8) GOVERNMENTAL PLAN.—(A) The term 'governmental plan' has the meaning given such term under section 3(32) of the Employee Retirement Income Security Act of 1974 and any Federal governmental plan.

"(B) FEDERAL GOVERNMENTAL PLAN.—The term 'Federal governmental plan' means a governmental plan established or maintained for its employees by the Government of the United States or by any agency or instrumentality of such Government.

"(C) NON-FEDERAL GOVERNMENTAL PLAN.—The term 'non-Federal governmental plan' means a governmental plan that is not a Federal governmental plan.

"(9) HEALTH STATUS-RELATED FACTOR.—The term 'health status-related factor' means any of the factors described in section 2702(a)(1).

"(10) NETWORK PLAN.—The term 'network plan' means health insurance coverage of a health insurance issuer under which the financing and delivery of medical care (including items and services paid for as medical care) are provided, in whole or in part, through a defined set of providers under contract with the issuer.

"(11) PARTICIPANT.—The term 'participant' has the meaning given such term under section 3(7) of the Employee Retirement Income Security Act of 1974.

"(12) PLACED FOR ADOPTION DEFINED.—The term 'placement', or being 'placed', for adoption, in connection with any placement for adoption of a child with any person, means the assumption and retention by such person of a legal obligation for total or partial support of such child in anticipation of adoption of such child. The child's placement with such person terminates upon the termination of such legal obligation.

"(13) PLAN SPONSOR.—The term 'plan sponsor' has the meaning given such term under section 3(16)(B) of the Employee Retirement Income Security Act of 1974.

"(14) STATE.—The term 'State' means each of the several States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands.

"(e) DEFINITIONS RELATING TO MARKETS AND SMALL EMPLOYERS.—For purposes of this title:

"(1) INDIVIDUAL MARKET.—

"(A) IN GENERAL.—The term 'individual market' means the market for health insurance coverage offered to individuals other than in connection with a group health plan.

"(B) TREATMENT OF VERY SMALL GROUPS.—

"(i) IN GENERAL.—Subject to clause (ii), such terms includes coverage offered in connection with a group health plan that has fewer than two participants as current employees on the first day of the plan year.

"(ii) STATE EXCEPTION.—Clause (i) shall not apply in the case of a State that elects to regulate the coverage described in such clause as coverage in the small group market.

"(2) LARGE EMPLOYER.—The term 'large employer' means, in connection with a group health plan with respect to a calendar year and a plan year, an employer who employed an average of at least 51 employees on business days during the

preceding calendar year and who employs at least 2 employees on the first day of the plan year.

"(3) LARGE GROUP MARKET.—The term 'large group market' means the health insurance market under which individuals obtain health insurance coverage (directly or through any arrangement) on behalf of themselves (and their dependents) through a group health plan maintained by a large employer.

"(4) SMALL EMPLOYER.—The term 'small employer' means, in connection with a group health plan with respect to a calendar year and a plan year, an employer who employed an average of at least 2 but not more than 50 employees on business days during the preceding calendar year and who employs at least 2 employees on the first day of the plan year.

"(5) SMALL GROUP MARKET.—The term 'small group market' means the health insurance market under which individuals obtain health insurance coverage (directly or through any arrangement) on behalf of themselves (and their dependents) through a group health plan maintained by a small employer.

"(6) APPLICATION OF CERTAIN RULES IN DETERMINATION OF EMPLOYER SIZE.—For purposes of this subsection—

"(A) APPLICATION OF AGGREGATION RULE FOR EMPLOYERS.—all persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 of the Internal Revenue Code of 1986 shall be treated as 1 employer.

"(B) EMPLOYERS NOT IN EXISTENCE IN PRECEDING YEAR.—In the case of an employer which was not in existence throughout the preceding calendar year, the determination of whether such employer is a small or large employer shall be based on the average number of employees that it is reasonably expected such employer will employ on business days in the current calendar year.

"(C) PREDECESSORS.—Any reference in this subsection to an employer shall include a reference to any predecessor of such employer.

42 USC 300gg–92.

"SEC. 2792. REGULATIONS.

"The Secretary, consistent with section 104 of the Health Care Portability and Accountability Act of 1996, may promulgate such regulations as may be necessary or appropriate to carry out the provisions of this title. The Secretary may promulgate any interim final rules as the Secretary determines are appropriate to carry out this title.".

(b) APPLICATION OF RULES BY CERTAIN HEALTH MAINTENANCE ORGANIZATIONS.—Section 1301 of such Act (42 U.S.C. 300e) is amended by adding at the end the following new subsection:

"(d) An organization that offers health benefits coverage shall not be considered as failing to meet the requirements of this section notwithstanding that it provides, with respect to coverage offered in connection with a group health plan in the small or large group market (as defined in section 2791(e)), an affiliation period consistent with the provisions of section 2701(g).".

42 USC 300gg note.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in this subsection, part A of title XXVII of the Public Health Service Act (as added by subsection (a)) shall apply with respect to group health plans, and health insurance coverage offered in connec-

tion with group health plans, for plan years beginning after June 30, 1997.

(2) DETERMINATION OF CREDITABLE COVERAGE.—

(A) PERIOD OF COVERAGE.—

(i) IN GENERAL.—Subject to clause (ii), no period before July 1, 1996, shall be taken into account under part A of title XXVII of the Public Health Service Act (as added by this section) in determining creditable coverage.

(ii) SPECIAL RULE FOR CERTAIN PERIODS.—The Secretary of Health and Human Services, consistent with section 104, shall provide for a process whereby individuals who need to establish creditable coverage for periods before July 1, 1996, and who would have such coverage credited but for clause (i) may be given credit for creditable coverage for such periods through the presentation of documents or other means.

(B) CERTIFICATIONS, ETC.—

(i) IN GENERAL.—Subject to clauses (ii) and (iii), subsection (e) of section 2701 of the Public Health Service Act (as added by this section) shall apply to events occurring after June 30, 1996.

(ii) NO CERTIFICATION REQUIRED TO BE PROVIDED BEFORE JUNE 1, 1997.—In no case is a certification required to be provided under such subsection before June 1, 1997.

(iii) CERTIFICATION ONLY ON WRITTEN REQUEST FOR EVENTS OCCURRING BEFORE OCTOBER 1, 1996.—In the case of an event occurring after June 30, 1996, and before October 1, 1996, a certification is not required to be provided under such subsection unless an individual (with respect to whom the certification is otherwise required to be made) requests such certification in writing.

(C) TRANSITIONAL RULE.—In the case of an individual who seeks to establish creditable coverage for any period for which certification is not required because it relates to an event occurring before June 30, 1996—

(i) the individual may present other credible evidence of such coverage in order to establish the period of creditable coverage; and

(ii) a group health plan and a health insurance issuer shall not be subject to any penalty or enforcement action with respect to the plan's or issuer's crediting (or not crediting) such coverage if the plan or issuer has sought to comply in good faith with the applicable requirements under the amendments made by this section.

(3) SPECIAL RULE FOR COLLECTIVE BARGAINING AGREEMENTS.—Except as provided in paragraph (2)(B), in the case of a group health plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and one or more employers ratified before the date of the enactment of this Act, part A of title XXVII of the Public Health Service Act (other than section 2701(e) thereof) shall not apply to plan years beginning before the later of—

(A) the date on which the last of the collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of the enactment of this Act), or

(B) July 1, 1997.

For purposes of subparagraph (A), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement of such part shall not be treated as a termination of such collective bargaining agreement.

(4) TIMELY REGULATIONS.—The Secretary of Health and Human Services, consistent with section 104, shall first issue by not later than April 1, 1997, such regulations as may be necessary to carry out the amendments made by this section and section 111.

(5) LIMITATION ON ACTIONS.—No enforcement action shall be taken, pursuant to the amendments made by this section, against a group health plan or health insurance issuer with respect to a violation of a requirement imposed by such amendments before January 1, 1998, or, if later, the date of issuance of regulations referred to in paragraph (4), if the plan or issuer has sought to comply in good faith with such requirements.

(d) MISCELLANEOUS CORRECTION.—Section 2208(1) of the Public Health Service Act (42 U.S.C. 300bb–8(1)) is amended by striking "section 162(i)(2)" and inserting "5000(b)".

SEC. 103. REFERENCE TO IMPLEMENTATION THROUGH THE INTERNAL REVENUE CODE OF 1986.

For provisions amending the Internal Revenue Code of 1986 to provide for application and enforcement of rules for group health plans similar to those provided under the amendments made by section 101(a), see section 401.

42 USC 300gg–92 note.

SEC. 104. ASSURING COORDINATION.

The Secretary of the Treasury, the Secretary of Health and Human Services, and the Secretary of Labor shall ensure, through the execution of an interagency memorandum of understanding among such Secretaries, that—

(1) regulations, rulings, and interpretations issued by such Secretaries relating to the same matter over which two or more such Secretaries have responsibility under this subtitle (and the amendments made by this subtitle and section 401) are administered so as to have the same effect at all times; and

(2) coordination of policies relating to enforcing the same requirements through such Secretaries in order to have a coordinated enforcement strategy that avoids duplication of enforcement efforts and assigns priorities in enforcement.

Subtitle B—Individual Market Rules

SEC. 111. AMENDMENT TO PUBLIC HEALTH SERVICE ACT.

(a) IN GENERAL.—Title XXVII of the Public Health Service Act, as added by section 102(a) of this Act, is amended by inserting after part A the following new part:

"PART B—INDIVIDUAL MARKET RULES

"SEC. 2741. GUARANTEED AVAILABILITY OF INDIVIDUAL HEALTH INSURANCE COVERAGE TO CERTAIN INDIVIDUALS WITH PRIOR GROUP COVERAGE.

42 USC 300gg–41.

"(a) GUARANTEED AVAILABILITY.—

"(1) IN GENERAL.—Subject to the succeeding subsections of this section and section 2744, each health insurance issuer that offers health insurance coverage (as defined in section 2791(b)(1)) in the individual market in a State may not, with respect to an eligible individual (as defined in subsection (b)) desiring to enroll in individual health insurance coverage—

"(A) decline to offer such coverage to, or deny enrollment of, such individual; or

"(B) impose any preexisting condition exclusion (as defined in section 2701(b)(1)(A)) with respect to such coverage.

"(2) SUBSTITUTION BY STATE OF ACCEPTABLE ALTERNATIVE MECHANISM.—The requirement of paragraph (1) shall not apply to health insurance coverage offered in the individual market in a State in which the State is implementing an acceptable alternative mechanism under section 2744.

"(b) ELIGIBLE INDIVIDUAL DEFINED.—In this part, the term 'eligible individual' means an individual—

"(1)(A) for whom, as of the date on which the individual seeks coverage under this section, the aggregate of the periods of creditable coverage (as defined in section 2701(c)) is 18 or more months and (B) whose most recent prior creditable coverage was under a group health plan, governmental plan, or church plan (or health insurance coverage offered in connection with any such plan);

"(2) who is not eligible for coverage under (A) a group health plan, (B) part A or part B of title XVIII of the Social Security Act, or (C) a State plan under title XIX of such Act (or any successor program), and does not have other health insurance coverage;

"(3) with respect to whom the most recent coverage within the coverage period described in paragraph (1)(A) was not terminated based on a factor described in paragraph (1) or (2) of section 2712(b) (relating to nonpayment of premiums or fraud);

"(4) if the individual had been offered the option of continuation coverage under a COBRA continuation provision or under a similar State program, who elected such coverage; and

"(5) who, if the individual elected such continuation coverage, has exhausted such continuation coverage under such provision or program.

"(c) ALTERNATIVE COVERAGE PERMITTED WHERE NO STATE MECHANISM.—

"(1) IN GENERAL.—In the case of health insurance coverage offered in the individual market in a State in which the State is not implementing an acceptable alternative mechanism under section 2744, the health insurance issuer may elect to limit the coverage offered under subsection (a) so long as it offers at least two different policy forms of health insurance coverage both of which—

"(A) are designed for, made generally available to, and actively marketed to, and enroll both eligible and other individuals by the issuer; and

"(B) meet the requirement of paragraph (2) or (3), as elected by the issuer.

For purposes of this subsection, policy forms which have different cost-sharing arrangements or different riders shall be considered to be different policy forms.

"(2) CHOICE OF MOST POPULAR POLICY FORMS.—The requirement of this paragraph is met, for health insurance coverage policy forms offered by an issuer in the individual market, if the issuer offers the policy forms for individual health insurance coverage with the largest, and next to largest, premium volume of all such policy forms offered by the issuer in the State or applicable marketing or service area (as may be prescribed in regulation) by the issuer in the individual market in the period involved.

"(3) CHOICE OF 2 POLICY FORMS WITH REPRESENTATIVE COVERAGE.—

"(A) IN GENERAL.—The requirement of this paragraph is met, for health insurance coverage policy forms offered by an issuer in the individual market, if the issuer offers a lower-level coverage policy form (as defined in subparagraph (B)) and a higher-level coverage policy form (as defined in subparagraph (C)) each of which includes benefits substantially similar to other individual health insurance coverage offered by the issuer in that State and each of which is covered under a method described in section 2744(c)(3)(A) (relating to risk adjustment, risk spreading, or financial subsidization).

"(B) LOWER-LEVEL OF COVERAGE DESCRIBED.—A policy form is described in this subparagraph if the actuarial value of the benefits under the coverage is at least 85 percent but not greater than 100 percent of a weighted average (described in subparagraph (D)).

"(C) HIGHER-LEVEL OF COVERAGE DESCRIBED.—A policy form is described in this subparagraph if—

"(i) the actuarial value of the benefits under the coverage is at least 15 percent greater than the actuarial value of the coverage described in subparagraph (B) offered by the issuer in the area involved; and

"(ii) the actuarial value of the benefits under the coverage is at least 100 percent but not greater than 120 percent of a weighted average (described in subparagraph (D)).

"(D) WEIGHTED AVERAGE.—For purposes of this paragraph, the weighted average described in this subparagraph is the average actuarial value of the benefits provided by all the health insurance coverage issued (as elected by the issuer) either by that issuer or by all issuers in the State in the individual market during the previous year (not including coverage issued under this section), weighted by enrollment for the different coverage.

"(4) ELECTION.—The issuer elections under this subsection shall apply uniformly to all eligible individuals in the State for that issuer. Such an election shall be effective for policies offered during a period of not shorter than 2 years.

"(5) ASSUMPTIONS.—For purposes of paragraph (3), the actuarial value of benefits provided under individual health insurance coverage shall be calculated based on a standardized population and a set of standardized utilization and cost factors.

"(d) SPECIAL RULES FOR NETWORK PLANS.—

"(1) IN GENERAL.—In the case of a health insurance issuer that offers health insurance coverage in the individual market through a network plan, the issuer may—

"(A) limit the individuals who may be enrolled under such coverage to those who live, reside, or work within the service area for such network plan; and

"(B) within the service area of such plan, deny such coverage to such individuals if the issuer has demonstrated, if required, to the applicable State authority that—

"(i) it will not have the capacity to deliver services adequately to additional individual enrollees because of its obligations to existing group contract holders and enrollees and individual enrollees, and

"(ii) it is applying this paragraph uniformly to individuals without regard to any health status-related factor of such individuals and without regard to whether the individuals are eligible individuals.

"(2) 180-DAY SUSPENSION UPON DENIAL OF COVERAGE.—An issuer, upon denying health insurance coverage in any service area in accordance with paragraph (1)(B), may not offer coverage in the individual market within such service area for a period of 180 days after such coverage is denied.

"(e) APPLICATION OF FINANCIAL CAPACITY LIMITS.—

"(1) IN GENERAL.—A health insurance issuer may deny health insurance coverage in the individual market to an eligible individual if the issuer has demonstrated, if required, to the applicable State authority that—

"(A) it does not have the financial reserves necessary to underwrite additional coverage; and

"(B) it is applying this paragraph uniformly to all individuals in the individual market in the State consistent with applicable State law and without regard to any health status-related factor of such individuals and without regard to whether the individuals are eligible individuals.

"(2) 180-DAY SUSPENSION UPON DENIAL OF COVERAGE.—An issuer upon denying individual health insurance coverage in any service area in accordance with paragraph (1) may not offer such coverage in the individual market within such service area for a period of 180 days after the date such coverage is denied or until the issuer has demonstrated, if required under applicable State law, to the applicable State authority that the issuer has sufficient financial reserves to underwrite additional coverage, whichever is later. A State may provide for the application of this paragraph on a service-area-specific basis.

"(e) MARKET REQUIREMENTS.—

"(1) IN GENERAL.—The provisions of subsection (a) shall not be construed to require that a health insurance issuer offering health insurance coverage only in connection with group health plans or through one or more bona fide associations, or both, offer such health insurance coverage in the individual market.

"(2) CONVERSION POLICIES.—A health insurance issuer offering health insurance coverage in connection with group health plans under this title shall not be deemed to be a health insurance issuer offering individual health insurance coverage solely because such issuer offers a conversion policy.

"(f) CONSTRUCTION.—Nothing in this section shall be construed—

"(1) to restrict the amount of the premium rates that an issuer may charge an individual for health insurance coverage provided in the individual market under applicable State law; or

"(2) to prevent a health insurance issuer offering health insurance coverage in the individual market from establishing premium discounts or rebates or modifying otherwise applicable copayments or deductibles in return for adherence to programs of health promotion and disease prevention.

42 USC 300gg–42.

"SEC. 2742. GUARANTEED RENEWABILITY OF INDIVIDUAL HEALTH INSURANCE COVERAGE.

"(a) IN GENERAL.—Except as provided in this section, a health insurance issuer that provides individual health insurance coverage to an individual shall renew or continue in force such coverage at the option of the individual.

"(b) GENERAL EXCEPTIONS.—A health insurance issuer may nonrenew or discontinue health insurance coverage of an individual in the individual market based only on one or more of the following:

"(1) NONPAYMENT OF PREMIUMS.—The individual has failed to pay premiums or contributions in accordance with the terms of the health insurance coverage or the issuer has not received timely premium payments.

"(2) FRAUD.—The individual has performed an act or practice that constitutes fraud or made an intentional misrepresentation of material fact under the terms of the coverage.

"(3) TERMINATION OF PLAN.—The issuer is ceasing to offer coverage in the individual market in accordance with subsection (c) and applicable State law.

"(4) MOVEMENT OUTSIDE SERVICE AREA.—In the case of a health insurance issuer that offers health insurance coverage in the market through a network plan, the individual no longer resides, lives, or works in the service area (or in an area for which the issuer is authorized to do business) but only if such coverage is terminated under this paragraph uniformly without regard to any health status-related factor of covered individuals.

"(5) ASSOCIATION MEMBERSHIP CEASES.—In the case of health insurance coverage that is made available in the individual market only through one or more bona fide associations, the membership of the individual in the association (on the basis of which the coverage is provided) ceases but only if such coverage is terminated under this paragraph uniformly without regard to any health status-related factor of covered individuals.

"(c) REQUIREMENTS FOR UNIFORM TERMINATION OF COVERAGE.—

"(1) PARTICULAR TYPE OF COVERAGE NOT OFFERED.—In any case in which an issuer decides to discontinue offering a particular type of health insurance coverage offered in the individual

market, coverage of such type may be discontinued by the issuer only if—

"(A) the issuer provides notice to each covered individual provided coverage of this type in such market of such discontinuation at least 90 days prior to the date of the discontinuation of such coverage;

"(B) the issuer offers to each individual in the individual market provided coverage of this type, the option to purchase any other individual health insurance coverage currently being offered by the issuer for individuals in such market; and

"(C) in exercising the option to discontinue coverage of this type and in offering the option of coverage under subparagraph (B), the issuer acts uniformly without regard to any health status-related factor of enrolled individuals or individuals who may become eligible for such coverage.

"(2) DISCONTINUANCE OF ALL COVERAGE.—

"(A) IN GENERAL.—Subject to subparagraph (C), in any case in which a health insurance issuer elects to discontinue offering all health insurance coverage in the individual market in a State, health insurance coverage may be discontinued by the issuer only if—

"(i) the issuer provides notice to the applicable State authority and to each individual of such discontinuation at least 180 days prior to the date of the expiration of such coverage, and

"(ii) all health insurance issued or delivered for issuance in the State in such market are discontinued and coverage under such health insurance coverage in such market is not renewed.

"(B) PROHIBITION ON MARKET REENTRY.—In the case of a discontinuation under subparagraph (A) in the individual market, the issuer may not provide for the issuance of any health insurance coverage in the market and State involved during the 5-year period beginning on the date of the discontinuation of the last health insurance coverage not so renewed.

"(d) EXCEPTION FOR UNIFORM MODIFICATION OF COVERAGE.—At the time of coverage renewal, a health insurance issuer may modify the health insurance coverage for a policy form offered to individuals in the individual market so long as such modification is consistent with State law and effective on a uniform basis among all individuals with that policy form.

"(e) APPLICATION TO COVERAGE OFFERED ONLY THROUGH ASSOCIATIONS.—In applying this section in the case of health insurance coverage that is made available by a health insurance issuer in the individual market to individuals only through one or more associations, a reference to an 'individual' is deemed to include a reference to such an association (of which the individual is a member).

"SEC. 2743. CERTIFICATION OF COVERAGE.

42 USC 300gg–43.

"The provisions of section 2701(e) shall apply to health insurance coverage offered by a health insurance issuer in the individual market in the same manner as it applies to health insurance coverage offered by a health insurance issuer in connection with a group health plan in the small or large group market.

42 USC 300gg–44.

"SEC. 2744. STATE FLEXIBILITY IN INDIVIDUAL MARKET REFORMS.

"(a) WAIVER OF REQUIREMENTS WHERE IMPLEMENTATION OF ACCEPTABLE ALTERNATIVE MECHANISM.—

"(1) IN GENERAL.—The requirements of section 2741 shall not apply with respect to health insurance coverage offered in the individual market in the State so long as a State is found to be implementing, in accordance with this section and consistent with section 2746(b), an alternative mechanism (in this section referred to as an 'acceptable alternative mechanism')—

"(A) under which all eligible individuals are provided a choice of health insurance coverage;

"(B) under which such coverage does not impose any preexisting condition exclusion with respect to such coverage;

"(C) under which such choice of coverage includes at least one policy form of coverage that is comparable to comprehensive health insurance coverage offered in the individual market in such State or that is comparable to a standard option of coverage available under the group or individual health insurance laws of such State; and

"(D) in a State which is implementing—

"(i) a model act described in subsection (c)(1),

"(ii) a qualified high risk pool described in subsection (c)(2), or

"(iii) a mechanism described in subsection (c)(3).

"(2) PERMISSIBLE FORMS OF MECHANISMS.—A private or public individual health insurance mechanism (such as a health insurance coverage pool or programs, mandatory group conversion policies, guaranteed issue of one or more plans of individual health insurance coverage, or open enrollment by one or more health insurance issuers), or combination of such mechanisms, that is designed to provide access to health benefits for individuals in the individual market in the State in accordance with this section may constitute an acceptable alternative mechanism.

"(b) APPLICATION OF ACCEPTABLE ALTERNATIVE MECHANISMS.—

"(1) PRESUMPTION.—

"(A) IN GENERAL.—Subject to the succeeding provisions of this subsection, a State is presumed to be implementing an acceptable alternative mechanism in accordance with this section as of July 1, 1997, if, by not later than April 1, 1997, the chief executive officer of a State—

"(i) notifies the Secretary that the State has enacted or intends to enact (by not later than January 1, 1998, or July 1, 1998, in the case of a State described in subparagraph (B)(ii)) any necessary legislation to provide for the implementation of a mechanism reasonably designed to be an acceptable alternative mechanism as of January 1, 1998, (or, in the case of a State described in subparagraph (B)(ii), July 1, 1998); and

"(ii) provides the Secretary with such information as the Secretary may require to review the mechanism and its implementation (or proposed implementation) under this subsection.

"(B) DELAY PERMITTED FOR CERTAIN STATES.—

"(i) EFFECT OF DELAY.—In the case of a State described in clause (ii) that provides notice under subparagraph (A)(i), for the presumption to continue on and after July 1, 1998, the chief executive officer of the State by April 1, 1998—

"(I) must notify the Secretary that the State has enacted any necessary legislation to provide for the implementation of a mechanism reasonably designed to be an acceptable alternative mechanism as of July 1, 1998; and

"(II) must provide the Secretary with such information as the Secretary may require to review the mechanism and its implementation (or proposed implementation) under this subsection.

"(ii) STATES DESCRIBED.—A State described in this clause is a State that has a legislature that does not meet within the 12-month period beginning on the date of enactment of this Act.

"(C) CONTINUED APPLICATION.—In order for a mechanism to continue to be presumed to be an acceptable alternative mechanism, the State shall provide the Secretary every 3 years with information described in subparagraph (A)(ii) or (B)(i)(II) (as the case may be).

"(2) NOTICE.—If the Secretary finds, after review of information provided under paragraph (1) and in consultation with the chief executive officer of the State and the insurance commissioner or chief insurance regulatory official of the State, that such a mechanism is not an acceptable alternative mechanism or is not (or no longer) being implemented, the Secretary—

"(A) shall notify the State of—

"(i) such preliminary determination, and

"(ii) the consequences under paragraph (3) of a failure to implement such a mechanism; and

"(B) shall permit the State a reasonable opportunity in which to modify the mechanism (or to adopt another mechanism) in a manner so that may be an acceptable alternative mechanism or to provide for implementation of such a mechanism.

"(3) FINAL DETERMINATION.—If, after providing notice and opportunity under paragraph (2), the Secretary finds that the mechanism is not an acceptable alternative mechanism or the State is not implementing such a mechanism, the Secretary shall notify the State that the State is no longer considered to be implementing an acceptable alternative mechanism and that the requirements of section 2741 shall apply to health insurance coverage offered in the individual market in the State, effective as of a date specified in the notice.

"(4) LIMITATION ON SECRETARIAL AUTHORITY.—The Secretary shall not make a determination under paragraph (2) or (3) on any basis other than the basis that a mechanism is not an acceptable alternative mechanism or is not being implemented.

"(5) FUTURE ADOPTION OF MECHANISMS.—If a State, after January 1, 1997, submits the notice and information described in paragraph (1), unless the Secretary makes a finding described in paragraph (3) within the 90-day period beginning on the date of submission of the notice and information, the

mechanism shall be considered to be an acceptable alternative mechanism for purposes of this section, effective 90 days after the end of such period, subject to the second sentence of paragraph (1).

"(c) PROVISION RELATED TO RISK.—

"(1) ADOPTION OF NAIC MODELS.—The model act referred to in subsection (a)(1)(D)(i) is the Small Employer and Individual Health Insurance Availability Model Act (adopted by the National Association of Insurance Commissioners on June 3, 1996) insofar as it applies to individual health insurance coverage or the Individual Health Insurance Portability Model Act (also adopted by such Association on such date).

"(2) QUALIFIED HIGH RISK POOL.—For purposes of subsection (a)(1)(D)(ii), a 'qualified high risk pool' described in this paragraph is a high risk pool that—

"(A) provides to all eligible individuals health insurance coverage (or comparable coverage) that does not impose any preexisting condition exclusion with respect to such coverage for all eligible individuals, and

"(B) provides for premium rates and covered benefits for such coverage consistent with standards included in the NAIC Model Health Plan for Uninsurable Individuals Act (as in effect as of the date of the enactment of this title).

"(3) OTHER MECHANISMS.—For purposes of subsection (a)(1)(D)(iii), a mechanism described in this paragraph—

"(A) provides for risk adjustment, risk spreading, or a risk spreading mechanism (among issuers or policies of an issuer) or otherwise provides for some financial subsidization for eligible individuals, including through assistance to participating issuers; or

"(B) is a mechanism under which each eligible individual is provided a choice of all individual health insurance coverage otherwise available.

42 USC 300gg–61.

"SEC. 2761. ENFORCEMENT.

"(a) STATE ENFORCEMENT.—

"(1) STATE AUTHORITY.—Subject to section 2746, each State may require that health insurance issuers that issue, sell, renew, or offer health insurance coverage in the State in the individual market meet the requirements established under this part with respect to such issuers.

"(2) FAILURE TO IMPLEMENT REQUIREMENTS.—In the case of a State that fails to substantially enforce the requirements set forth in this part with respect to health insurance issuers in the State, the Secretary shall enforce the requirements of this part under subsection (b) insofar as they relate to the issuance, sale, renewal, and offering of health insurance coverage in the individual market in such State.

"(b) SECRETARIAL ENFORCEMENT AUTHORITY.—The Secretary shall have the same authority in relation to enforcement of the provisions of this part with respect to issuers of health insurance coverage in the individual market in a State as the Secretary has under section 2722(b)(2) in relation to the enforcement of the provisions of part A with respect to issuers of health insurance coverage in the small group market in the State.

"SEC. 2762. PREEMPTION. 42 USC 300gg–62.

"(a) IN GENERAL.—Subject to subsection (b), nothing in this part (or part C insofar as it applies to this part) shall be construed to prevent a State from establishing, implementing, or continuing in effect standards and requirements unless such standards and requirements prevent the application of a requirement of this part.

"(b) RULES OF CONSTRUCTION.—Nothing in this part (or part C insofar as it applies to this part) shall be construed to affect or modify the provisions of section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144).

"SEC. 2763. GENERAL EXCEPTIONS. 42 USC 300gg–63.

"(a) EXCEPTION FOR CERTAIN BENEFITS.—The requirements of this part shall not apply to any health insurance coverage in relation to its provision of excepted benefits described in section 2791(c)(1).

"(b) EXCEPTION FOR CERTAIN BENEFITS IF CERTAIN CONDITIONS MET.—The requirements of this part shall not apply to any health insurance coverage in relation to its provision of excepted benefits described in paragraph (2), (3), or (4) of section 2791(c) if the benefits are provided under a separate policy, certificate, or contract of insurance.".

(b) EFFECTIVE DATE.— 42 USC 300gg–41 note.

(1) IN GENERAL.—Except as provided in this subsection, part B of title XXVII of the Public Health Service Act (as inserted by subsection (a)) shall apply with respect to health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market after June 30, 1997, regardless of when a period of creditable coverage occurs.

(2) APPLICATION OF CERTIFICATION RULES.—The provisions of section 102(d)(2) of this Act shall apply to section 2743 of the Public Health Service Act in the same manner as it applies to section 2701(e) of such Act.

Subtitle C—General and Miscellaneous Provisions

SEC. 191. HEALTH COVERAGE AVAILABILITY STUDIES. 42 USC 300gg note.

(a) STUDIES.—

(1) STUDY ON EFFECTIVENESS OF REFORMS.—The Secretary of Health and Human Services shall provide for a study on the effectiveness of the provisions of this title and the various State laws, in ensuring the availability of reasonably priced health coverage to employers purchasing group coverage and individuals purchasing coverage on a non-group basis.

(2) STUDY ON ACCESS AND CHOICE.—The Secretary also shall provide for a study on—

(A) the extent to which patients have direct access to, and choice of, health care providers, including specialty providers, within a network plan, as well as the opportunity to utilize providers outside of the network plan, under the various types of coverage offered under the provisions of this title; and

(B) the cost and cost-effectiveness to health insurance issuers of providing access to out-of-network providers, and the potential impact of providing such access on the cost

and quality of health insurance coverage offered under provisions of this title.

(3) CONSULTATION.—The studies under this subsection shall be conducted in consultation with the Secretary of Labor, representatives of State officials, consumers, and other representatives of individuals and entities that have expertise in health insurance and employee benefits.

(b) REPORTS.—Not later than January 1, 2000, the Secretary shall submit to the appropriate committees of Congress a report on each of the studies under subsection (a).

SEC. 192. REPORT ON MEDICARE REIMBURSEMENT OF TELEMEDICINE.

The Health Care Financing Administration shall complete its ongoing study of Medicare reimbursement of all telemedicine services and submit a report to Congress on Medicare reimbursement of telemedicine services by not later than March 1, 1997. The report shall—

(1) utilize data compiled from the current demonstration projects already under review and gather data from other ongoing telemedicine networks;

(2) include an analysis of the cost of services provided via telemedicine; and

(3) include a proposal for Medicare reimbursement of such services.

SEC. 193. ALLOWING FEDERALLY-QUALIFIED HMOS TO OFFER HIGH DEDUCTIBLE PLANS.

Section 1301(b) of the Public Health Service Act (42 U.S.C. 300e(b)) is amended by adding at the end the following new paragraph:

"(6) A health maintenance organization that otherwise meets the requirements of this title may offer a high-deductible health plan (as defined in section 220(c)(2) of the Internal Revenue Code of 1986).".

SEC. 194. VOLUNTEER SERVICES PROVIDED BY HEALTH PROFESSIONALS AT FREE CLINICS.

Section 224 of the Public Health Service Act (42 U.S.C. 233) is amended by adding at the end the following subsection:

"(o)(1) For purposes of this section, a free clinic health professional shall in providing a qualifying health service to an individual be deemed to be an employee of the Public Health Service for a calendar year that begins during a fiscal year for which a transfer was made under paragraph (6)(D). The preceding sentence is subject to the provisions of this subsection.

"(2) In providing a health service to an individual, a health care practitioner shall for purposes of this subsection be considered to be a free clinic health professional if the following conditions are met:

"(A) The service is provided to the individual at a free clinic, or through offsite programs or events carried out by the free clinic.

"(B) The free clinic is sponsoring the health care practitioner pursuant to paragraph (5)(C).

"(C) The service is a qualifying health service (as defined in paragraph (4)).

"(D) Neither the health care practitioner nor the free clinic receives any compensation for the service from the individual

or from any third-party payor (including reimbursement under any insurance policy or health plan, or under any Federal or State health benefits program). With respect to compliance with such condition:

"(i) The health care practitioner may receive repayment from the free clinic for reasonable expenses incurred by the health care practitioner in the provision of the service to the individual.

"(ii) The free clinic may accept voluntary donations for the provision of the service by the health care practitioner to the individual.

"(E) Before the service is provided, the health care practitioner or the free clinic provides written notice to the individual of the extent to which the legal liability of the health care practitioner is limited pursuant to this subsection (or in the case of an emergency, the written notice is provided to the individual as soon after the emergency as is practicable). If the individual is a minor or is otherwise legally incompetent, the condition under this subparagraph is that the written notice be provided to a legal guardian or other person with legal responsibility for the care of the individual.

"(F) At the time the service is provided, the health care practitioner is licensed or certified in accordance with applicable law regarding the provision of the service.

"(3)(A) For purposes of this subsection, the term 'free clinic' means a health care facility operated by a nonprofit private entity meeting the following requirements:

"(i) The entity does not, in providing health services through the facility, accept reimbursement from any third-party payor (including reimbursement under any insurance policy or health plan, or under any Federal or State health benefits program).

"(ii) The entity, in providing health services through the facility, either does not impose charges on the individuals to whom the services are provided, or imposes a charge according to the ability of the individual involved to pay the charge.

"(iii) The entity is licensed or certified in accordance with applicable law regarding the provision of health services.

"(B) With respect to compliance with the conditions under subparagraph (A), the entity involved may accept voluntary donations for the provision of services.

"(4) For purposes of this subsection, the term 'qualifying health service' means any medical assistance required or authorized to be provided in the program under title XIX of the Social Security Act, without regard to whether the medical assistance is included in the plan submitted under such program by the State in which the health care practitioner involved provides the medical assistance. References in the preceding sentence to such program shall as applicable be considered to be references to any successor to such program.

"(5) Subsection (g) (other than paragraphs (3) through (5)) and subsections (h), (i), and (l) apply to a health care practitioner for purposes of this subsection to the same extent and in the same manner as such subsections apply to an officer, governing board member, employee, or contractor of an entity described in subsection (g)(4), subject to paragraph (6) and subject to the following:

"(A) The first sentence of paragraph (1) applies in lieu of the first sentence of subsection (g)(1)(A).

"(B) This subsection may not be construed as deeming any free clinic to be an employee of the Public Health Service for purposes of this section.

"(C) With respect to a free clinic, a health care practitioner is not a free clinic health professional unless the free clinic sponsors the health care practitioner. For purposes of this subsection, the free clinic shall be considered to be sponsoring the health care practitioner if—

"(i) with respect to the health care practitioner, the free clinic submits to the Secretary an application meeting the requirements of subsection (g)(1)(D); and

"(ii) the Secretary, pursuant to subsection (g)(1)(E), determines that the health care practitioner is deemed to be an employee of the Public Health Service.

"(D) In the case of a health care practitioner who is determined by the Secretary pursuant to subsection (g)(1)(E) to be a free clinic health professional, this subsection applies to the health care practitioner (with respect to the free clinic sponsoring the health care practitioner pursuant to subparagraph (C)) for any cause of action arising from an act or omission of the health care practitioner occurring on or after the date on which the Secretary makes such determination.

"(E) Subsection (g)(1)(F) applies to a health care practitioner for purposes of this subsection only to the extent that, in providing health services to an individual, each of the conditions specified in paragraph (2) is met.

"(6)(A) For purposes of making payments for judgments against the United States (together with related fees and expenses of witnesses) pursuant to this section arising from the acts or omissions of free clinic health professionals, there is authorized to be appropriated $10,000,000 for each fiscal year.

"(B) The Secretary shall establish a fund for purposes of this subsection. Each fiscal year amounts appropriated under subparagraph (A) shall be deposited in such fund.

Reports. "(C) Not later than May 1 of each fiscal year, the Attorney General, in consultation with the Secretary, shall submit to the Congress a report providing an estimate of the amount of claims (together with related fees and expenses of witnesses) that, by reason of the acts or omissions of free clinic health professionals, will be paid pursuant to this section during the calendar year that begins in the following fiscal year. Subsection (k)(1)(B) applies to the estimate under the preceding sentence regarding free clinic health professionals to the same extent and in the same manner as such subsection applies to the estimate under such subsection regarding officers, governing board members, employees, and contractors of entities described in subsection (g)(4).

"(D) Not later than December 31 of each fiscal year, the Secretary shall transfer from the fund under subparagraph (B) to the appropriate accounts in the Treasury an amount equal to the estimate made under subparagraph (C) for the calendar year beginning in such fiscal year, subject to the extent of amounts in the fund.

Effective date. "(7)(A) This subsection takes effect on the date of the enactment of the first appropriations Act that makes an appropriation under paragraph (6)(A), except as provided in subparagraph (B)(i).

"(B)(i) Effective on the date of the enactment of the Health Insurance Portability and Accountability Act of 1996—

"(I) the Secretary may issue regulations for carrying out this subsection, and the Secretary may accept and consider applications submitted pursuant to paragraph (5)(C); and

"(II) reports under paragraph (6)(C) may be submitted to the Congress.

"(ii) For the first fiscal year for which an appropriation is made under subparagraph (A) of paragraph (6), if an estimate under subparagraph (C) of such paragraph has not been made for the calendar year beginning in such fiscal year, the transfer under subparagraph (D) of such paragraph shall be made notwithstanding the lack of the estimate, and the transfer shall be made in an amount equal to the amount of such appropriation.".

SEC. 195. FINDINGS; SEVERABILITY.

42 USC 300gg note.

(a) FINDINGS RELATING TO EXERCISE OF COMMERCE CLAUSE AUTHORITY.—Congress finds the following in relation to the provisions of this title:

(1) Provisions in group health plans and health insurance coverage that impose certain preexisting condition exclusions impact the ability of employees to seek employment in interstate commerce, thereby impeding such commerce.

(2) Health insurance coverage is commercial in nature and is in and affects interstate commerce.

(3) It is a necessary and proper exercise of Congressional authority to impose requirements under this title on group health plans and health insurance coverage (including coverage offered to individuals previously covered under group health plans) in order to promote commerce among the States.

(4) Congress, however, intends to defer to States, to the maximum extent practicable, in carrying out such requirements with respect to insurers and health maintenance organizations that are subject to State regulation, consistent with the provisions of the Employee Retirement Income Security Act of 1974.

(b) SEVERABILITY.—If any provision of this title or the application of such provision to any person or circumstance is held to be unconstitutional, the remainder of this title and the application of the provisions of such to any person or circumstance shall not be affected thereby.

TITLE II—PREVENTING HEALTH CARE FRAUD AND ABUSE; ADMINISTRATIVE SIMPLIFICATION

SEC. 200. REFERENCES IN TITLE.

Except as otherwise specifically provided, whenever in this title an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

Subtitle A—Fraud and Abuse Control Program

SEC. 201. FRAUD AND ABUSE CONTROL PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—Title XI (42 U.S.C. 1301 et seq.) is amended by inserting after section 1128B the following new section:

"FRAUD AND ABUSE CONTROL PROGRAM

42 USC 1320a–7c.

"SEC. 1128C. (a) ESTABLISHMENT OF PROGRAM.—

"(1) IN GENERAL.—Not later than January 1, 1997, the Secretary, acting through the Office of the Inspector General of the Department of Health and Human Services, and the Attorney General shall establish a program—

"(A) to coordinate Federal, State, and local law enforcement programs to control fraud and abuse with respect to health plans,

"(B) to conduct investigations, audits, evaluations, and inspections relating to the delivery of and payment for health care in the United States,

"(C) to facilitate the enforcement of the provisions of sections 1128, 1128A, and 1128B and other statutes applicable to health care fraud and abuse,

"(D) to provide for the modification and establishment of safe harbors and to issue advisory opinions and special fraud alerts pursuant to section 1128D, and

"(E) to provide for the reporting and disclosure of certain final adverse actions against health care providers, suppliers, or practitioners pursuant to the data collection system established under section 1128E.

"(2) COORDINATION WITH HEALTH PLANS.—In carrying out the program established under paragraph (1), the Secretary and the Attorney General shall consult with, and arrange for the sharing of data with representatives of health plans.

"(3) GUIDELINES.—

"(A) IN GENERAL.—The Secretary and the Attorney General shall issue guidelines to carry out the program under paragraph (1). The provisions of sections 553, 556, and 557 of title 5, United States Code, shall not apply in the issuance of such guidelines.

"(B) INFORMATION GUIDELINES.—

"(i) IN GENERAL.—Such guidelines shall include guidelines relating to the furnishing of information by health plans, providers, and others to enable the Secretary and the Attorney General to carry out the program (including coordination with health plans under paragraph (2)).

"(ii) CONFIDENTIALITY.—Such guidelines shall include procedures to assure that such information is provided and utilized in a manner that appropriately protects the confidentiality of the information and the privacy of individuals receiving health care services and items.

"(iii) QUALIFIED IMMUNITY FOR PROVIDING INFORMATION.—The provisions of section 1157(a) (relat-

ing to limitation on liability) shall apply to a person providing information to the Secretary or the Attorney General in conjunction with their performance of duties under this section.

"(4) ENSURING ACCESS TO DOCUMENTATION.—The Inspector General of the Department of Health and Human Services is authorized to exercise such authority described in paragraphs (3) through (9) of section 6 of the Inspector General Act of 1978 (5 U.S.C. App.) as necessary with respect to the activities under the fraud and abuse control program established under this subsection.

"(5) AUTHORITY OF INSPECTOR GENERAL.—Nothing in this Act shall be construed to diminish the authority of any Inspector General, including such authority as provided in the Inspector General Act of 1978 (5 U.S.C. App.).

"(b) ADDITIONAL USE OF FUNDS BY INSPECTOR GENERAL.—

"(1) REIMBURSEMENTS FOR INVESTIGATIONS.—The Inspector General of the Department of Health and Human Services is authorized to receive and retain for current use reimbursement for the costs of conducting investigations and audits and for monitoring compliance plans when such costs are ordered by a court, voluntarily agreed to by the payor, or otherwise.

"(2) CREDITING.—Funds received by the Inspector General under paragraph (1) as reimbursement for costs of conducting investigations shall be deposited to the credit of the appropriation from which initially paid, or to appropriations for similar purposes currently available at the time of deposit, and shall remain available for obligation for 1 year from the date of the deposit of such funds.

"(c) HEALTH PLAN DEFINED.—For purposes of this section, the term 'health plan' means a plan or program that provides health benefits, whether directly, through insurance, or otherwise, and includes—

"(1) a policy of health insurance;

"(2) a contract of a service benefit organization; and

"(3) a membership agreement with a health maintenance organization or other prepaid health plan.".

(b) ESTABLISHMENT OF HEALTH CARE FRAUD AND ABUSE CONTROL ACCOUNT IN FEDERAL HOSPITAL INSURANCE TRUST FUND.—Section 1817 (42 U.S.C. 1395i) is amended by adding at the end the following new subsection:

"(k) HEALTH CARE FRAUD AND ABUSE CONTROL ACCOUNT.—

"(1) ESTABLISHMENT.—There is hereby established in the Trust Fund an expenditure account to be known as the 'Health Care Fraud and Abuse Control Account' (in this subsection referred to as the 'Account').

"(2) APPROPRIATED AMOUNTS TO TRUST FUND.—

"(A) IN GENERAL.—There are hereby appropriated to the Trust Fund—

"(i) such gifts and bequests as may be made as provided in subparagraph (B);

"(ii) such amounts as may be deposited in the Trust Fund as provided in sections 242(b) and 249(c) of the Health Insurance Portability and Accountability Act of 1996, and title XI; and

"(iii) such amounts as are transferred to the Trust Fund under subparagraph (C).

"(B) AUTHORIZATION TO ACCEPT GIFTS.—The Trust Fund is authorized to accept on behalf of the United States money gifts and bequests made unconditionally to the Trust Fund, for the benefit of the Account or any activity financed through the Account.

"(C) TRANSFER OF AMOUNTS.—The Managing Trustee shall transfer to the Trust Fund, under rules similar to the rules in section 9601 of the Internal Revenue Code of 1986, an amount equal to the sum of the following:

"(i) Criminal fines recovered in cases involving a Federal health care offense (as defined in section 982(a)(6)(B) of title 18, United States Code).

"(ii) Civil monetary penalties and assessments imposed in health care cases, including amounts recovered under titles XI, XVIII, and XIX, and chapter 38 of title 31, United States Code (except as otherwise provided by law).

"(iii) Amounts resulting from the forfeiture of property by reason of a Federal health care offense.

"(iv) Penalties and damages obtained and otherwise creditable to miscellaneous receipts of the general fund of the Treasury obtained under sections 3729 through 3733 of title 31, United States Code (known as the False Claims Act), in cases involving claims related to the provision of health care items and services (other than funds awarded to a relator, for restitution or otherwise authorized by law).

"(D) APPLICATION.—Nothing in subparagraph (C)(iii) shall be construed to limit the availability of recoveries and forfeitures obtained under title I of the Employee Retirement Income Security Act of 1974 for the purpose of providing equitable or remedial relief for employee welfare benefit plans, and for participants and beneficiaries under such plans, as authorized under such title.

"(3) APPROPRIATED AMOUNTS TO ACCOUNT FOR FRAUD AND ABUSE CONTROL PROGRAM, ETC.—

"(A) DEPARTMENTS OF HEALTH AND HUMAN SERVICES AND JUSTICE.—

"(i) IN GENERAL.—There are hereby appropriated to the Account from the Trust Fund such sums as the Secretary and the Attorney General certify are necessary to carry out the purposes described in subparagraph (C), to be available without further appropriation, in an amount not to exceed—

"(I) for fiscal year 1997, $104,000,000,

"(II) for each of the fiscal years 1998 through 2003, the limit for the preceding fiscal year, increased by 15 percent; and

"(III) for each fiscal year after fiscal year 2003, the limit for fiscal year 2003.

"(ii) MEDICARE AND MEDICAID ACTIVITIES.—For each fiscal year, of the amount appropriated in clause (i), the following amounts shall be available only for the purposes of the activities of the Office of the Inspector General of the Department of Health and Human Services with respect to the Medicare and medicaid programs—

"(I) for fiscal year 1997, not less than $60,000,000 and not more than $70,000,000;

"(II) for fiscal year 1998, not less than $80,000,000 and not more than $90,000,000;

"(III) for fiscal year 1999, not less than $90,000,000 and not more than $100,000,000;

"(IV) for fiscal year 2000, not less than $110,000,000 and not more than $120,000,000;

"(V) for fiscal year 2001, not less than $120,000,000 and not more than $130,000,000;

"(VI) for fiscal year 2002, not less than $140,000,000 and not more than $150,000,000; and

"(VII) for each fiscal year after fiscal year 2002, not less than $150,000,000 and not more than $160,000,000.

"(B) FEDERAL BUREAU OF INVESTIGATION.—There are hereby appropriated from the general fund of the United States Treasury and hereby appropriated to the Account for transfer to the Federal Bureau of Investigation to carry out the purposes described in subparagraph (C), to be available without further appropriation—

"(i) for fiscal year 1997, $47,000,000;

"(ii) for fiscal year 1998, $56,000,000;

"(iii) for fiscal year 1999, $66,000,000;

"(iv) for fiscal year 2000, $76,000,000;

"(v) for fiscal year 2001, $88,000,000;

"(vi) for fiscal year 2002, $101,000,000; and

"(vii) for each fiscal year after fiscal year 2002, $114,000,000.

"(C) USE OF FUNDS.—The purposes described in this subparagraph are to cover the costs (including equipment, salaries and benefits, and travel and training) of the administration and operation of the health care fraud and abuse control program established under section 1128C(a), including the costs of—

"(i) prosecuting health care matters (through criminal, civil, and administrative proceedings);

"(ii) investigations;

"(iii) financial and performance audits of health care programs and operations;

"(iv) inspections and other evaluations; and

"(v) provider and consumer education regarding compliance with the provisions of title XI.

"(4) APPROPRIATED AMOUNTS TO ACCOUNT FOR MEDICARE INTEGRITY PROGRAM.—

"(A) IN GENERAL.—There are hereby appropriated to the Account from the Trust Fund for each fiscal year such amounts as are necessary to carry out the Medicare Integrity Program under section 1893, subject to subparagraph (B) and to be available without further appropriation.

"(B) AMOUNTS SPECIFIED.—The amount appropriated under subparagraph (A) for a fiscal year is as follows:

"(i) For fiscal year 1997, such amount shall be not less than $430,000,000 and not more than $440,000,000.

"(ii) For fiscal year 1998, such amount shall be not less than $490,000,000 and not more than $500,000,000.

"(iii) For fiscal year 1999, such amount shall be not less than $550,000,000 and not more than $560,000,000.

"(iv) For fiscal year 2000, such amount shall be not less than $620,000,000 and not more than $630,000,000.

"(v) For fiscal year 2001, such amount shall be not less than $670,000,000 and not more than $680,000,000.

"(vi) For fiscal year 2002, such amount shall be not less than $690,000,000 and not more than $700,000,000.

"(vii) For each fiscal year after fiscal year 2002, such amount shall be not less than $710,000,000 and not more than $720,000,000.

"(5) ANNUAL REPORT.—Not later than January 1, the Secretary and the Attorney General shall submit jointly a report to Congress which identifies—

"(A) the amounts appropriated to the Trust Fund for the previous fiscal year under paragraph (2)(A) and the source of such amounts; and

"(B) the amounts appropriated from the Trust Fund for such year under paragraph (3) and the justification for the expenditure of such amounts.

"(6) GAO REPORT.—Not later than January 1 of 2000, 2002, and 2004, the Comptroller General of the United States shall submit a report to Congress which—

"(A) identifies—

"(i) the amounts appropriated to the Trust Fund for the previous two fiscal years under paragraph (2)(A) and the source of such amounts; and

"(ii) the amounts appropriated from the Trust Fund for such fiscal years under paragraph (3) and the justification for the expenditure of such amounts;

"(B) identifies any expenditures from the Trust Fund with respect to activities not involving the Medicare program under title XVIII;

"(C) identifies any savings to the Trust Fund, and any other savings, resulting from expenditures from the Trust Fund; and

"(D) analyzes such other aspects of the operation of the Trust Fund as the Comptroller General of the United States considers appropriate.".

SEC. 202. MEDICARE INTEGRITY PROGRAM.

(a) ESTABLISHMENT OF MEDICARE INTEGRITY PROGRAM.—Title XVIII is amended by adding at the end the following new section:

"MEDICARE INTEGRITY PROGRAM

42 USC 1395ddd.

"SEC. 1893. (a) ESTABLISHMENT OF PROGRAM.—There is hereby established the Medicare Integrity Program (in this section referred to as the 'Program') under which the Secretary shall promote the integrity of the Medicare program by entering into contracts in

accordance with this section with eligible entities to carry out the activities described in subsection (b).

"(b) ACTIVITIES DESCRIBED.—The activities described in this subsection are as follows:

"(1) Review of activities of providers of services or other individuals and entities furnishing items and services for which payment may be made under this title (including skilled nursing facilities and home health agencies), including medical and utilization review and fraud review (employing similar standards, processes, and technologies used by private health plans, including equipment and software technologies which surpass the capability of the equipment and technologies used in the review of claims under this title as of the date of the enactment of this section).

"(2) Audit of cost reports.

"(3) Determinations as to whether payment should not be, or should not have been, made under this title by reason of section 1862(b), and recovery of payments that should not have been made.

"(4) Education of providers of services, beneficiaries, and other persons with respect to payment integrity and benefit quality assurance issues.

"(5) Developing (and periodically updating) a list of items of durable medical equipment in accordance with section 1834(a)(15) which are subject to prior authorization under such section.

"(c) ELIGIBILITY OF ENTITIES.—An entity is eligible to enter into a contract under the Program to carry out any of the activities described in subsection (b) if—

"(1) the entity has demonstrated capability to carry out such activities;

"(2) in carrying out such activities, the entity agrees to cooperate with the Inspector General of the Department of Health and Human Services, the Attorney General, and other law enforcement agencies, as appropriate, in the investigation and deterrence of fraud and abuse in relation to this title and in other cases arising out of such activities;

"(3) the entity complies with such conflict of interest standards as are generally applicable to Federal acquisition and procurement; and

"(4) the entity meets such other requirements as the Secretary may impose.

In the case of the activity described in subsection (b)(5), an entity shall be deemed to be eligible to enter into a contract under the Program to carry out the activity if the entity is a carrier with a contract in effect under section 1842.

"(d) PROCESS FOR ENTERING INTO CONTRACTS.—The Secretary shall enter into contracts under the Program in accordance with such procedures as the Secretary shall by regulation establish, except that such procedures shall include the following: Regulations.

"(1) Procedures for identifying, evaluating, and resolving organizational conflicts of interest that are generally applicable to Federal acquisition and procurement.

"(2) Competitive procedures to be used—

"(A) when entering into new contracts under this section;

"(B) when entering into contracts that may result in the elimination of responsibilities of an individual fiscal intermediary or carrier under section 202(b) of the Health Insurance Portability and Accountability Act of 1996; and

"(C) at any other time considered appropriate by the Secretary,

except that the Secretary may continue to contract with entities that are carrying out the activities described in this section pursuant to agreements under section 1816 or contracts under section 1842 in effect on the date of the enactment of this section.

"(3) Procedures under which a contract under this section may be renewed without regard to any provision of law requiring competition if the contractor has met or exceeded the performance requirements established in the current contract.

The Secretary may enter into such contracts without regard to final rules having been promulgated.

Regulations.

"(e) LIMITATION ON CONTRACTOR LIABILITY.—The Secretary shall by regulation provide for the limitation of a contractor's liability for actions taken to carry out a contract under the Program, and such regulation shall, to the extent the Secretary finds appropriate, employ the same or comparable standards and other substantive and procedural provisions as are contained in section 1157.".

(b) ELIMINATION OF FI AND CARRIER RESPONSIBILITY FOR CARRYING OUT ACTIVITIES SUBJECT TO PROGRAM.—

(1) RESPONSIBILITIES OF FISCAL INTERMEDIARIES UNDER PART A.—Section 1816 (42 U.S.C. 1395h) is amended by adding at the end the following new subsection:

"(l) No agency or organization may carry out (or receive payment for carrying out) any activity pursuant to an agreement under this section to the extent that the activity is carried out pursuant to a contract under the Medicare Integrity Program under section 1893.".

(2) RESPONSIBILITIES OF CARRIERS UNDER PART B.—Section 1842(c) (42 U.S.C. 1395u(c)) is amended by adding at the end the following new paragraph:

"(6) No carrier may carry out (or receive payment for carrying out) any activity pursuant to a contract under this subsection to the extent that the activity is carried out pursuant to a contract under the Medicare Integrity Program under section 1893. The previous sentence shall not apply with respect to the activity described in section 1893(b)(5) (relating to prior authorization of certain items of durable medical equipment under section 1834(a)(15)).".

42 USC 1395b–5.

SEC. 203. BENEFICIARY INCENTIVE PROGRAMS.

(a) CLARIFICATION OF REQUIREMENT TO PROVIDE EXPLANATION OF MEDICARE BENEFITS.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall provide an explanation of benefits under the Medicare program under title XVIII of the Social Security Act with respect to each item or service for which payment may be made under the program which is furnished to an individual, without regard to whether or not a deductible or coinsurance may be imposed against the individual with respect to the item or service.

(b) PROGRAM TO COLLECT INFORMATION ON FRAUD AND ABUSE.—

(1) ESTABLISHMENT OF PROGRAM.—Not later than 3 months after the date of the enactment of this Act, the Secretary shall establish a program under which the Secretary shall encourage individuals to report to the Secretary information on individuals and entities who are engaging in or who have engaged in acts or omissions which constitute grounds for the imposition of a sanction under section 1128, 1128A, or 1128B of the Social Security Act, or who have otherwise engaged in fraud and abuse against the Medicare program under title XVIII of such act for which there is a sanction provided under law. The program shall discourage provision of, and not consider, information which is frivolous or otherwise not relevant or material to the imposition of such a sanction.

(2) PAYMENT OF PORTION OF AMOUNTS COLLECTED.—If an individual reports information to the Secretary under the program established under paragraph (1) which serves as the basis for the collection by the Secretary or the Attorney General of any amount of at least $100 (other than any amount paid as a penalty under section 1128B of the Social Security Act), the Secretary may pay a portion of the amount collected to the individual (under procedures similar to those applicable under section 7623 of the Internal Revenue Code of 1986 to payments to individuals providing information on violations of such Code).

(c) PROGRAM TO COLLECT INFORMATION ON PROGRAM EFFICIENCY.—

(1) ESTABLISHMENT OF PROGRAM.—Not later than 3 months after the date of the enactment of this Act, the Secretary shall establish a program under which the Secretary shall encourage individuals to submit to the Secretary suggestions on methods to improve the efficiency of the Medicare program.

(2) PAYMENT OF PORTION OF PROGRAM SAVINGS.—If an individual submits a suggestion to the Secretary under the program established under paragraph (1) which is adopted by the Secretary and which results in savings to the program, the Secretary may make a payment to the individual of such amount as the Secretary considers appropriate.

SEC. 204. APPLICATION OF CERTAIN HEALTH ANTIFRAUD AND ABUSE SANCTIONS TO FRAUD AND ABUSE AGAINST FEDERAL HEALTH CARE PROGRAMS.

(a) IN GENERAL.—Section 1128B (42 U.S.C. 1320a–7b) is amended as follows:

(1) In the heading, by striking "MEDICARE OR STATE HEALTH CARE PROGRAMS" and inserting "FEDERAL HEALTH CARE PROGRAMS".

(2) In subsection (a)(1), by striking "a program under title XVIII or a State health care program (as defined in section 1128(h))" and inserting "a Federal health care program (as defined in subsection (f))".

(3) In subsection (a)(5), by striking "a program under title XVIII or a State health care program" and inserting "a Federal health care program".

(4) In the second sentence of subsection (a)—

(A) by striking "a State plan approved under title XIX" and inserting "a Federal health care program", and

(B) by striking "the State may at its option (notwithstanding any other provision of that title or of such plan)" and inserting "the administrator of such program may at its option (notwithstanding any other provision of such program)".

(5) In subsection (b), by striking "title XVIII or a State health care program" each place it appears and inserting "a Federal health care program".

(6) In subsection (c), by inserting "(as defined in section 1128(h))" after "a State health care program".

(7) By adding at the end the following new subsection:

"(f) For purposes of this section, the term 'Federal health care program' means—

"(1) any plan or program that provides health benefits, whether directly, through insurance, or otherwise, which is funded directly, in whole or in part, by the United States Government (other than the health insurance program under chapter 89 of title 5, United States Code); or

"(2) any State health care program, as defined in section 1128(h).".

42 USC 1320a–7b note.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1997.

SEC. 205. GUIDANCE REGARDING APPLICATION OF HEALTH CARE FRAUD AND ABUSE SANCTIONS.

Title XI (42 U.S.C. 1301 et seq.), as amended by section 201, is amended by inserting after section 1128C the following new section:

"GUIDANCE REGARDING APPLICATION OF HEALTH CARE FRAUD AND ABUSE SANCTIONS

42 USC 1320a–7d.

"SEC. 1128D. (a) SOLICITATION AND PUBLICATION OF MODIFICATIONS TO EXISTING SAFE HARBORS AND NEW SAFE HARBORS.—

"(1) IN GENERAL.—

Federal Register, publication.

"(A) SOLICITATION OF PROPOSALS FOR SAFE HARBORS.—Not later than January 1, 1997, and not less than annually thereafter, the Secretary shall publish a notice in the Federal Register soliciting proposals, which will be accepted during a 60-day period, for—

"(i) modifications to existing safe harbors issued pursuant to section 14(a) of the Medicare and Medicaid Patient and Program Protection Act of 1987 (42 U.S.C. 1320a–7b note);

"(ii) additional safe harbors specifying payment practices that shall not be treated as a criminal offense under section 1128B(b) and shall not serve as the basis for an exclusion under section 1128(b)(7);

"(iii) advisory opinions to be issued pursuant to subsection (b); and

"(iv) special fraud alerts to be issued pursuant to subsection (c).

Federal Register, publication.

"(B) PUBLICATION OF PROPOSED MODIFICATIONS AND PROPOSED ADDITIONAL SAFE HARBORS.—After considering the proposals described in clauses (i) and (ii) of subparagraph (A), the Secretary, in consultation with the Attorney

General, shall publish in the Federal Register proposed modifications to existing safe harbors and proposed additional safe harbors, if appropriate, with a 60-day comment period. After considering any public comments received during this period, the Secretary shall issue final rules modifying the existing safe harbors and establishing new safe harbors, as appropriate.

"(C) REPORT.—The Inspector General of the Department of Health and Human Services (in this section referred to as the 'Inspector General') shall, in an annual report to Congress or as part of the year-end semiannual report required by section 5 of the Inspector General Act of 1978 (5 U.S.C. App.), describe the proposals received under clauses (i) and (ii) of subparagraph (A) and explain which proposals were included in the publication described in subparagraph (B), which proposals were not included in that publication, and the reasons for the rejection of the proposals that were not included.

"(2) CRITERIA FOR MODIFYING AND ESTABLISHING SAFE HARBORS.—In modifying and establishing safe harbors under paragraph (1)(B), the Secretary may consider the extent to which providing a safe harbor for the specified payment practice may result in any of the following:

"(A) An increase or decrease in access to health care services.

"(B) An increase or decrease in the quality of health care services.

"(C) An increase or decrease in patient freedom of choice among health care providers.

"(D) An increase or decrease in competition among health care providers.

"(E) An increase or decrease in the ability of health care facilities to provide services in medically underserved areas or to medically underserved populations.

"(F) An increase or decrease in the cost to Federal health care programs (as defined in section 1128B(f)).

"(G) An increase or decrease in the potential overutilization of health care services.

"(H) The existence or nonexistence of any potential financial benefit to a health care professional or provider which may vary based on their decisions of—

"(i) whether to order a health care item or service; or

"(ii) whether to arrange for a referral of health care items or services to a particular practitioner or provider.

"(I) Any other factors the Secretary deems appropriate in the interest of preventing fraud and abuse in Federal health care programs (as so defined).

"(b) ADVISORY OPINIONS.—

"(1) ISSUANCE OF ADVISORY OPINIONS.—The Secretary, in consultation with the Attorney General, shall issue written advisory opinions as provided in this subsection.

"(2) MATTERS SUBJECT TO ADVISORY OPINIONS.—The Secretary shall issue advisory opinions as to the following matters:

"(A) What constitutes prohibited remuneration within the meaning of section 1128B(b).

"(B) Whether an arrangement or proposed arrangement satisfies the criteria set forth in section 1128B(b)(3) for activities which do not result in prohibited remuneration.

"(C) Whether an arrangement or proposed arrangement satisfies the criteria which the Secretary has established, or shall establish by regulation for activities which do not result in prohibited remuneration.

"(D) What constitutes an inducement to reduce or limit services to individuals entitled to benefits under title XVIII or title XIX within the meaning of section 1128B(b).

"(E) Whether any activity or proposed activity constitutes grounds for the imposition of a sanction under section 1128, 1128A, or 1128B.

"(3) MATTERS NOT SUBJECT TO ADVISORY OPINIONS.—Such advisory opinions shall not address the following matters:

"(A) Whether the fair market value shall be, or was paid or received for any goods, services or property.

"(B) Whether an individual is a bona fide employee within the requirements of section 3121(d)(2) of the Internal Revenue Code of 1986.

"(4) EFFECT OF ADVISORY OPINIONS.—

"(A) BINDING AS TO SECRETARY AND PARTIES INVOLVED.—Each advisory opinion issued by the Secretary shall be binding as to the Secretary and the party or parties requesting the opinion.

"(B) FAILURE TO SEEK OPINION.—The failure of a party to seek an advisory opinion may not be introduced into evidence to prove that the party intended to violate the provisions of sections 1128, 1128A, or 1128B.

"(5) REGULATIONS.—

"(A) IN GENERAL.—Not later than 180 days after the date of the enactment of this section, the Secretary shall issue regulations to carry out this section. Such regulations shall provide for—

"(i) the procedure to be followed by a party applying for an advisory opinion;

"(ii) the procedure to be followed by the Secretary in responding to a request for an advisory opinion;

"(iii) the interval in which the Secretary shall respond;

"(iv) the reasonable fee to be charged to the party requesting an advisory opinion; and

"(v) the manner in which advisory opinions will be made available to the public.

"(B) SPECIFIC CONTENTS.—Under the regulations promulgated pursuant to subparagraph (A)—

"(i) the Secretary shall be required to issue to a party requesting an advisory opinion by not later than 60 days after the request is received; and

"(ii) the fee charged to the party requesting an advisory opinion shall be equal to the costs incurred by the Secretary in responding to the request.

"(6) APPLICATION OF SUBSECTION.—This subsection shall apply to requests for advisory opinions made on or after the date which is 6 months after the date of enactment of this section and before the date which is 4 years after such date of enactment.

"(c) SPECIAL FRAUD ALERTS.—

"(1) IN GENERAL.—

"(A) REQUEST FOR SPECIAL FRAUD ALERTS.—Any person may present, at any time, a request to the Inspector General for a notice which informs the public of practices which the Inspector General considers to be suspect or of particular concern under the Medicare program under title XVIII or a State health care program, as defined in section 1128(h) (in this subsection referred to as a 'special fraud alert').

"(B) ISSUANCE AND PUBLICATION OF SPECIAL FRAUD ALERTS.—Upon receipt of a request described in subparagraph (A), the Inspector General shall investigate the subject matter of the request to determine whether a special fraud alert should be issued. If appropriate, the Inspector General shall issue a special fraud alert in response to the request. All special fraud alerts issued pursuant to this subparagraph shall be published in the Federal Register.

"(2) CRITERIA FOR SPECIAL FRAUD ALERTS.—In determining whether to issue a special fraud alert upon a request described in paragraph (1), the Inspector General may consider—

"(A) whether and to what extent the practices that would be identified in the special fraud alert may result in any of the consequences described in subsection (a)(2); and

"(B) the volume and frequency of the conduct that would be identified in the special fraud alert.".

Subtitle B—Revisions to Current Sanctions for Fraud and Abuse

SEC. 211. MANDATORY EXCLUSION FROM PARTICIPATION IN MEDICARE AND STATE HEALTH CARE PROGRAMS.

(a) INDIVIDUAL CONVICTED OF FELONY RELATING TO HEALTH CARE FRAUD.—

(1) IN GENERAL.—Section 1128(a) (42 U.S.C. 1320a–7(a)) is amended by adding at the end the following new paragraph:

"(3) FELONY CONVICTION RELATING TO HEALTH CARE FRAUD.—Any individual or entity that has been convicted for an offense which occurred after the date of the enactment of the Health Insurance Portability and Accountability Act of 1996, under Federal or State law, in connection with the delivery of a health care item or service or with respect to any act or omission in a health care program (other than those specifically described in paragraph (1)) operated by or financed in whole or in part by any Federal, State, or local government agency, of a criminal offense consisting of a felony relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct.".

(2) CONFORMING AMENDMENT.—Paragraph (1) of section 1128(b) (42 U.S.C. 1320a–7(b)) is amended to read as follows:

"(1) CONVICTION RELATING TO FRAUD.—Any individual or entity that has been convicted for an offense which occurred after the date of the enactment of the Health Insurance Port-

ability and Accountability Act of 1996, under Federal or State law—

"(A) of a criminal offense consisting of a misdemeanor relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct—

"(i) in connection with the delivery of a health care item or service, or

"(ii) with respect to any act or omission in a health care program (other than those specifically described in subsection (a)(1)) operated by or financed in whole or in part by any Federal, State, or local government agency; or

"(B) of a criminal offense relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct with respect to any act or omission in a program (other than a health care program) operated by or financed in whole or in part by any Federal, State, or local government agency.".

(b) INDIVIDUAL CONVICTED OF FELONY RELATING TO CONTROLLED SUBSTANCE.—

(1) IN GENERAL.—Section 1128(a) (42 U.S.C. 1320a–7(a)), as amended by subsection (a), is amended by adding at the end the following new paragraph:

"(4) FELONY CONVICTION RELATING TO CONTROLLED SUBSTANCE.—Any individual or entity that has been convicted for an offense which occurred after the date of the enactment of the Health Insurance Portability and Accountability Act of 1996, under Federal or State law, of a criminal offense consisting of a felony relating to the unlawful manufacture, distribution, prescription, or dispensing of a controlled substance.".

(2) CONFORMING AMENDMENT.—Section 1128(b)(3) (42 U.S.C. 1320a–7(b)(3)) is amended—

(A) in the heading, by striking "CONVICTION" and inserting "MISDEMEANOR CONVICTION"; and

(B) by striking "criminal offense" and inserting "criminal offense consisting of a misdemeanor".

SEC. 212. ESTABLISHMENT OF MINIMUM PERIOD OF EXCLUSION FOR CERTAIN INDIVIDUALS AND ENTITIES SUBJECT TO PERMISSIVE EXCLUSION FROM MEDICARE AND STATE HEALTH CARE PROGRAMS.

Section 1128(c)(3) (42 U.S.C. 1320a–7(c)(3)) is amended by adding at the end the following new subparagraphs:

"(D) In the case of an exclusion of an individual or entity under paragraph (1), (2), or (3) of subsection (b), the period of the exclusion shall be 3 years, unless the Secretary determines in accordance with published regulations that a shorter period is appropriate because of mitigating circumstances or that a longer period is appropriate because of aggravating circumstances.

"(E) In the case of an exclusion of an individual or entity under subsection (b)(4) or (b)(5), the period of the exclusion shall not be less than the period during which the individual's or entity's license to provide health care is revoked, suspended, or surrendered, or the individual or the entity is excluded or suspended from a Federal or State health care program.

"(F) In the case of an exclusion of an individual or entity under subsection (b)(6)(B), the period of the exclusion shall be not less than 1 year.".

SEC. 213. PERMISSIVE EXCLUSION OF INDIVIDUALS WITH OWNERSHIP OR CONTROL INTEREST IN SANCTIONED ENTITIES.

Section 1128(b) (42 U.S.C. 1320a–7(b)) is amended by adding at the end the following new paragraph:

"(15) INDIVIDUALS CONTROLLING A SANCTIONED ENTITY.—

(A) Any individual—

"(i) who has a direct or indirect ownership or control interest in a sanctioned entity and who knows or should know (as defined in section 1128A(i)(6)) of the action constituting the basis for the conviction or exclusion described in subparagraph (B); or

"(ii) who is an officer or managing employee (as defined in section 1126(b)) of such an entity.

"(B) For purposes of subparagraph (A), the term 'sanctioned entity' means an entity—

"(i) that has been convicted of any offense described in subsection (a) or in paragraph (1), (2), or (3) of this subsection; or

"(ii) that has been excluded from participation under a program under title XVIII or under a State health care program.".

SEC. 214. SANCTIONS AGAINST PRACTITIONERS AND PERSONS FOR FAILURE TO COMPLY WITH STATUTORY OBLIGATIONS.

(a) MINIMUM PERIOD OF EXCLUSION FOR PRACTITIONERS AND PERSONS FAILING TO MEET STATUTORY OBLIGATIONS.—

(1) IN GENERAL.—The second sentence of section 1156(b)(1) (42 U.S.C. 1320c–5(b)(1)) is amended by striking "may prescribe)" and inserting "may prescribe, except that such period may not be less than 1 year)".

(2) CONFORMING AMENDMENT.—Section 1156(b)(2) (42 U.S.C. 1320c–5(b)(2)) is amended by striking "shall remain" and inserting "shall (subject to the minimum period specified in the second sentence of paragraph (1)) remain".

(b) REPEAL OF "UNWILLING OR UNABLE" CONDITION FOR IMPOSITION OF SANCTION.—Section 1156(b)(1) (42 U.S.C. 1320c–5(b)(1)) is amended—

(1) in the second sentence, by striking "and determines" and all that follows through "such obligations,"; and

(2) by striking the third sentence.

SEC. 215. INTERMEDIATE SANCTIONS FOR MEDICARE HEALTH MAINTENANCE ORGANIZATIONS.

(a) APPLICATION OF INTERMEDIATE SANCTIONS FOR ANY PROGRAM VIOLATIONS.—

(1) IN GENERAL.—Section 1876(i)(1) (42 U.S.C. 1395mm(i)(1)) is amended by striking "the Secretary may terminate" and all that follows and inserting "in accordance with procedures established under paragraph (9), the Secretary may at any time terminate any such contract or may impose the intermediate sanctions described in paragraph (6)(B) or (6)(C) (whichever is applicable) on the eligible organization if the Secretary determines that the organization—

"(A) has failed substantially to carry out the contract;

"(B) is carrying out the contract in a manner substantially inconsistent with the efficient and effective administration of this section; or

"(C) no longer substantially meets the applicable conditions of subsections (b), (c), (e), and (f).".

(2) OTHER INTERMEDIATE SANCTIONS FOR MISCELLANEOUS PROGRAM VIOLATIONS.—Section 1876(i)(6) (42 U.S.C. 1395mm(i)(6)) is amended by adding at the end the following new subparagraph:

"(C) In the case of an eligible organization for which the Secretary makes a determination under paragraph (1), the basis of which is not described in subparagraph (A), the Secretary may apply the following intermediate sanctions:

"(i) Civil money penalties of not more than $25,000 for each determination under paragraph (1) if the deficiency that is the basis of the determination has directly adversely affected (or has the substantial likelihood of adversely affecting) an individual covered under the organization's contract.

"(ii) Civil money penalties of not more than $10,000 for each week beginning after the initiation of procedures by the Secretary under paragraph (9) during which the deficiency that is the basis of a determination under paragraph (1) exists.

"(iii) Suspension of enrollment of individuals under this section after the date the Secretary notifies the organization of a determination under paragraph (1) and until the Secretary is satisfied that the deficiency that is the basis for the determination has been corrected and is not likely to recur.".

(3) PROCEDURES FOR IMPOSING SANCTIONS.—Section 1876(i) (42 U.S.C. 1395mm(i)) is amended by adding at the end the following new paragraph:

"(9) The Secretary may terminate a contract with an eligible organization under this section or may impose the intermediate sanctions described in paragraph (6) on the organization in accordance with formal investigation and compliance procedures established by the Secretary under which—

"(A) the Secretary first provides the organization with the reasonable opportunity to develop and implement a corrective action plan to correct the deficiencies that were the basis of the Secretary's determination under paragraph (1) and the organization fails to develop or implement such a plan;

"(B) in deciding whether to impose sanctions, the Secretary considers aggravating factors such as whether an organization has a history of deficiencies or has not taken action to correct deficiencies the Secretary has brought to the organization's attention;

"(C) there are no unreasonable or unnecessary delays between the finding of a deficiency and the imposition of sanctions; and

"(D) the Secretary provides the organization with reasonable notice and opportunity for hearing (including the right to appeal an initial decision) before imposing any sanction or terminating the contract.".

(4) CONFORMING AMENDMENTS.—Section 1876(i)(6)(B) (42 U.S.C. 1395mm(i)(6)(B)) is amended by striking the second sentence.

(b) AGREEMENTS WITH PEER REVIEW ORGANIZATIONS.—Section 1876(i)(7)(A) (42 U.S.C. 1395mm(i)(7)(A)) is amended by striking "an agreement" and inserting "a written agreement".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to contract years beginning on or after January 1, 1997. 42 USC 1395mm note.

SEC. 216. ADDITIONAL EXCEPTION TO ANTI-KICKBACK PENALTIES FOR RISK-SHARING ARRANGEMENTS.

(a) IN GENERAL.—Section 1128B(b)(3) (42 U.S.C. 1320a–7b(b)(3)) is amended—

(1) by striking "and" at the end of subparagraph (D);

(2) by striking the period at the end of subparagraph (E) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(F) any remuneration between an organization and an individual or entity providing items or services, or a combination thereof, pursuant to a written agreement between the organization and the individual or entity if the organization is an eligible organization under section 1876 or if the written agreement, through a risk-sharing arrangement, places the individual or entity at substantial financial risk for the cost or utilization of the items or services, or a combination thereof, which the individual or entity is obligated to provide.".

(b) NEGOTIATED RULEMAKING FOR RISK-SHARING EXCEPTION.— 42 USC 1320a–7b note.

(1) ESTABLISHMENT.—

(A) IN GENERAL.—The Secretary of Health and Human Services (in this subsection referred to as the "Secretary") shall establish, on an expedited basis and using a negotiated rulemaking process under subchapter 3 of chapter 5 of title 5, United States Code, standards relating to the exception for risk-sharing arrangements to the anti-kickback penalties described in section 1128B(b)(3)(F) of the Social Security Act, as added by subsection (a).

(B) FACTORS TO CONSIDER.—In establishing standards relating to the exception for risk-sharing arrangements to the anti-kickback penalties under subparagraph (A), the Secretary—

(i) shall consult with the Attorney General and representatives of the hospital, physician, other health practitioner, and health plan communities, and other interested parties; and

(ii) shall take into account—

(I) the level of risk appropriate to the size and type of arrangement;

(II) the frequency of assessment and distribution of incentives;

(III) the level of capital contribution; and

(IV) the extent to which the risk-sharing arrangement provides incentives to control the cost and quality of health care services.

(2) PUBLICATION OF NOTICE.—In carrying out the rulemaking process under this subsection, the Secretary shall publish the notice provided for under section 564(a) of title 5, United States Code, by not later than 45 days after the date of the enactment of this Act.

(3) TARGET DATE FOR PUBLICATION OF RULE.—As part of the notice under paragraph (2), and for purposes of this subsection, the "target date for publication" (referred to in section 564(a)(5) of such title) shall be January 1, 1997.

(4) ABBREVIATED PERIOD FOR SUBMISSION OF COMMENTS.—In applying section 564(c) of such title under this subsection, "15 days" shall be substituted for "30 days".

(5) APPOINTMENT OF NEGOTIATED RULEMAKING COMMITTEE AND FACILITATOR.—The Secretary shall provide for—

(A) the appointment of a negotiated rulemaking committee under section 565(a) of such title by not later than 30 days after the end of the comment period provided for under section 564(c) of such title (as shortened under paragraph (4)), and

(B) the nomination of a facilitator under section 566(c) of such title by not later than 10 days after the date of appointment of the committee.

(6) PRELIMINARY COMMITTEE REPORT.—The negotiated rulemaking committee appointed under paragraph (5) shall report to the Secretary, by not later than October 1, 1996, regarding the committee's progress on achieving a consensus with regard to the rulemaking proceeding and whether such consensus is likely to occur before one month before the target date for publication of the rule. If the committee reports that the committee has failed to make significant progress toward such consensus or is unlikely to reach such consensus by the target date, the Secretary may terminate such process and provide for the publication of a rule under this subsection through such other methods as the Secretary may provide.

(7) FINAL COMMITTEE REPORT.—If the committee is not terminated under paragraph (6), the rulemaking committee shall submit a report containing a proposed rule by not later than one month before the target publication date.

Federal Register, publication.

(8) INTERIM, FINAL EFFECT.—The Secretary shall publish a rule under this subsection in the Federal Register by not later than the target publication date. Such rule shall be effective and final immediately on an interim basis, but is subject to change and revision after public notice and opportunity for a period (of not less than 60 days) for public comment. In connection with such rule, the Secretary shall specify the process for the timely review and approval of applications of entities to be certified as provider-sponsored organizations pursuant to such rules and consistent with this subsection.

(9) PUBLICATION OF RULE AFTER PUBLIC COMMENT.—The Secretary shall provide for consideration of such comments and republication of such rule by not later than 1 year after the target publication date.

42 USC 1320a–7b note.

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to written agreements entered into on or after January 1, 1997, without regard to whether regulations have been issued to implement such amendments.

SEC. 217. CRIMINAL PENALTY FOR FRAUDULENT DISPOSITION OF ASSETS IN ORDER TO OBTAIN MEDICAID BENEFITS.

Section 1128B(a) (42 U.S.C. 1320a–7b(a)) is amended—

(1) by striking "or" at the end of paragraph (4);

(2) by adding "or" at the end of paragraph (5); and

(3) by inserting after paragraph (5) the following new paragraph:

"(6) knowingly and willfully disposes of assets (including by any transfer in trust) in order for an individual to become eligible for medical assistance under a State plan under title XIX, if disposing of the assets results in the imposition of a period of ineligibility for such assistance under section 1917(c),".

SEC. 218. EFFECTIVE DATE.

42 USC 1320a–7 note.

Except as otherwise provided, the amendments made by this subtitle shall take effect January 1, 1997.

Subtitle C—Data Collection

SEC. 221. ESTABLISHMENT OF THE HEALTH CARE FRAUD AND ABUSE DATA COLLECTION PROGRAM.

(a) IN GENERAL.—Title XI (42 U.S.C. 1301 et seq.), as amended by sections 201 and 205, is amended by inserting after section 1128D the following new section:

"HEALTH CARE FRAUD AND ABUSE DATA COLLECTION PROGRAM

"SEC. 1128E. (a) GENERAL PURPOSE.—Not later than January 1, 1997, the Secretary shall establish a national health care fraud and abuse data collection program for the reporting of final adverse actions (not including settlements in which no findings of liability have been made) against health care providers, suppliers, or practitioners as required by subsection (b), with access as set forth in subsection (c), and shall maintain a database of the information collected under this section.

42 USC 1320a–7e.

"(b) REPORTING OF INFORMATION.—

"(1) IN GENERAL.—Each Government agency and health plan shall report any final adverse action (not including settlements in which no findings of liability have been made) taken against a health care provider, supplier, or practitioner.

"(2) INFORMATION TO BE REPORTED.—The information to be reported under paragraph (1) includes:

"(A) The name and TIN (as defined in section 7701(a)(41) of the Internal Revenue Code of 1986) of any health care provider, supplier, or practitioner who is the subject of a final adverse action.

"(B) The name (if known) of any health care entity with which a health care provider, supplier, or practitioner, who is the subject of a final adverse action, is affiliated or associated.

"(C) The nature of the final adverse action and whether such action is on appeal.

"(D) A description of the acts or omissions and injuries upon which the final adverse action was based, and such other information as the Secretary determines by regulation is required for appropriate interpretation of information reported under this section.

"(3) CONFIDENTIALITY.—In determining what information is required, the Secretary shall include procedures to assure that the privacy of individuals receiving health care services is appropriately protected.

"(4) TIMING AND FORM OF REPORTING.—The information required to be reported under this subsection shall be reported regularly (but not less often than monthly) and in such form and manner as the Secretary prescribes. Such information shall first be required to be reported on a date specified by the Secretary.

"(5) TO WHOM REPORTED.—The information required to be reported under this subsection shall be reported to the Secretary.

"(c) DISCLOSURE AND CORRECTION OF INFORMATION.—

"(1) DISCLOSURE.—With respect to the information about final adverse actions (not including settlements in which no findings of liability have been made) reported to the Secretary under this section with respect to a health care provider, supplier, or practitioner, the Secretary shall, by regulation, provide for—

"(A) disclosure of the information, upon request, to the health care provider, supplier, or licensed practitioner, and

"(B) procedures in the case of disputed accuracy of the information.

"(2) CORRECTIONS.—Each Government agency and health plan shall report corrections of information already reported about any final adverse action taken against a health care provider, supplier, or practitioner, in such form and manner that the Secretary prescribes by regulation.

"(d) ACCESS TO REPORTED INFORMATION.—

"(1) AVAILABILITY.—The information in the database maintained under this section shall be available to Federal and State government agencies and health plans pursuant to procedures that the Secretary shall provide by regulation.

"(2) FEES FOR DISCLOSURE.—The Secretary may establish or approve reasonable fees for the disclosure of information in such database (other than with respect to requests by Federal agencies). The amount of such a fee shall be sufficient to recover the full costs of operating the database. Such fees shall be available to the Secretary or, in the Secretary's discretion to the agency designated under this section to cover such costs.

"(e) PROTECTION FROM LIABILITY FOR REPORTING.—No person or entity, including the agency designated by the Secretary in subsection (b)(5) shall be held liable in any civil action with respect to any report made as required by this section, without knowledge of the falsity of the information contained in the report.

"(f) COORDINATION WITH NATIONAL PRACTITIONER DATA BANK.—The Secretary shall implement this section in such a manner as to avoid duplication with the reporting requirements established for the National Practitioner Data Bank under the Health Care Quality Improvement Act of 1986 (42 U.S.C. 11101 et seq.).

"(g) DEFINITIONS AND SPECIAL RULES.—For purposes of this section:

"(1) FINAL ADVERSE ACTION.—

"(A) IN GENERAL.—The term 'final adverse action' includes:

"(i) Civil judgments against a health care provider, supplier, or practitioner in Federal or State court related to the delivery of a health care item or service.

"(ii) Federal or State criminal convictions related to the delivery of a health care item or service.

"(iii) Actions by Federal or State agencies responsible for the licensing and certification of health care providers, suppliers, and licensed health care practitioners, including—

"(I) formal or official actions, such as revocation or suspension of a license (and the length of any such suspension), reprimand, censure or probation,

"(II) any other loss of license or the right to apply for, or renew, a license of the provider, supplier, or practitioner, whether by operation of law, voluntary surrender, non-renewability, or otherwise, or

"(III) any other negative action or finding by such Federal or State agency that is publicly available information.

"(iv) Exclusion from participation in Federal or State health care programs (as defined in sections 1128B(f) and 1128(h), respectively).

"(v) Any other adjudicated actions or decisions that the Secretary shall establish by regulation.

"(B) EXCEPTION.—The term does not include any action with respect to a malpractice claim.

"(2) PRACTITIONER.—The terms 'licensed health care practitioner', 'licensed practitioner', and 'practitioner' mean, with respect to a State, an individual who is licensed or otherwise authorized by the State to provide health care services (or any individual who, without authority holds himself or herself out to be so licensed or authorized).

"(3) GOVERNMENT AGENCY.—The term 'Government agency' shall include:

"(A) The Department of Justice.

"(B) The Department of Health and Human Services.

"(C) Any other Federal agency that either administers or provides payment for the delivery of health care services, including, but not limited to the Department of Defense and the Veterans' Administration.

"(D) State law enforcement agencies.

"(E) State medicaid fraud control units.

"(F) Federal or State agencies responsible for the licensing and certification of health care providers and licensed health care practitioners.

"(4) HEALTH PLAN.—The term 'health plan' has the meaning given such term by section 1128C(c).

"(5) DETERMINATION OF CONVICTION.—For purposes of paragraph (1), the existence of a conviction shall be determined under paragraph (4) of section 1128(i).".

(b) IMPROVED PREVENTION IN ISSUANCE OF MEDICARE PROVIDER NUMBERS.—Section 1842(r) (42 U.S.C. 1395u(r)) is amended by adding at the end the following new sentence: "Under such system, the Secretary may impose appropriate fees on such physicians to cover the costs of investigation and recertification activities with respect to the issuance of the identifiers.".

Subtitle D—Civil Monetary Penalties

SEC. 231. SOCIAL SECURITY ACT CIVIL MONETARY PENALTIES.

(a) GENERAL CIVIL MONETARY PENALTIES.—Section 1128A (42 U.S.C. 1320a–7a) is amended as follows:

(1) In the third sentence of subsection (a), by striking "programs under title XVIII" and inserting "Federal health care programs (as defined in section 1128B(f)(1))".

(2) In subsection (f)—

(A) by redesignating paragraph (3) as paragraph (4); and

(B) by inserting after paragraph (2) the following new paragraph:

"(3) With respect to amounts recovered arising out of a claim under a Federal health care program (as defined in section 1128B(f)), the portion of such amounts as is determined to have been paid by the program shall be repaid to the program, and the portion of such amounts attributable to the amounts recovered under this section by reason of the amendments made by the Health Insurance Portability and Accountability Act of 1996 (as estimated by the Secretary) shall be deposited into the Federal Hospital Insurance Trust Fund pursuant to section 1817(k)(2)(C).".

(3) In subsection (i)—

(A) in paragraph (2), by striking "title V, XVIII, XIX, or XX of this Act" and inserting "a Federal health care program (as defined in section 1128B(f))",

(B) in paragraph (4), by striking "a health insurance or medical services program under title XVIII or XIX of this Act" and inserting "a Federal health care program (as so defined)", and

(C) in paragraph (5), by striking "title V, XVIII, XIX, or XX" and inserting "a Federal health care program (as so defined)".

(4) By adding at the end the following new subsection:

"(m)(1) For purposes of this section, with respect to a Federal health care program not contained in this Act, references to the Secretary in this section shall be deemed to be references to the Secretary or Administrator of the department or agency with jurisdiction over such program and references to the Inspector General of the Department of Health and Human Services in this section shall be deemed to be references to the Inspector General of the applicable department or agency.

"(2)(A) The Secretary and Administrator of the departments and agencies referred to in paragraph (1) may include in any action pursuant to this section, claims within the jurisdiction of other Federal departments or agencies as long as the following conditions are satisfied:

"(i) The case involves primarily claims submitted to the Federal health care programs of the department or agency initiating the action.

"(ii) The Secretary or Administrator of the department or agency initiating the action gives notice and an opportunity to participate in the investigation to the Inspector General of the department or agency with primary jurisdiction over

the Federal health care programs to which the claims were submitted.

"(B) If the conditions specified in subparagraph (A) are fulfilled, the Inspector General of the department or agency initiating the action is authorized to exercise all powers granted under the Inspector General Act of 1978 (5 U.S.C. App.) with respect to the claims submitted to the other departments or agencies to the same manner and extent as provided in that Act with respect to claims submitted to such departments or agencies.".

(b) EXCLUDED INDIVIDUAL RETAINING OWNERSHIP OR CONTROL INTEREST IN PARTICIPATING ENTITY.—Section 1128A(a) (42 U.S.C. 1320a–7a(a)) is amended—

(1) by striking "or" at the end of paragraph (1)(D);

(2) by striking ", or" at the end of paragraph (2) and inserting a semicolon;

(3) by striking the semicolon at the end of paragraph (3) and inserting "; or"; and

(4) by inserting after paragraph (3) the following new paragraph:

"(4) in the case of a person who is not an organization, agency, or other entity, is excluded from participating in a program under title XVIII or a State health care program in accordance with this subsection or under section 1128 and who, at the time of a violation of this subsection—

"(A) retains a direct or indirect ownership or control interest in an entity that is participating in a program under title XVIII or a State health care program, and who knows or should know of the action constituting the basis for the exclusion; or

"(B) is an officer or managing employee (as defined in section 1126(b)) of such an entity;".

(c) MODIFICATIONS OF AMOUNTS OF PENALTIES AND ASSESSMENTS.—Section 1128A(a) (42 U.S.C. 1320a–7a(a)), as amended by subsection (b), is amended in the matter following paragraph (4)—

(1) by striking "$2,000" and inserting "$10,000";

(2) by inserting "; in cases under paragraph (4), $10,000 for each day the prohibited relationship occurs" after "false or misleading information was given"; and

(3) by striking "twice the amount" and inserting "3 times the amount".

(d) CLARIFICATION OF LEVEL OF KNOWLEDGE REQUIRED FOR IMPOSITION OF CIVIL MONETARY PENALTIES.—

(1) IN GENERAL.—Section 1128A(a) (42 U.S.C. 1320a–7a(a)) is amended—

(A) in paragraphs (1) and (2), by inserting "knowingly" before "presents" each place it appears; and

(B) in paragraph (3), by striking "gives" and inserting "knowingly gives or causes to be given".

(2) DEFINITION OF STANDARD.—Section 1128A(i) (42 U.S.C. 1320a–7a(i)), as amended by subsection (h)(2), is amended by adding at the end the following new paragraph:

"(7) The term 'should know' means that a person, with respect to information—

"(A) acts in deliberate ignorance of the truth or falsity of the information; or

"(B) acts in reckless disregard of the truth or falsity of the information,

and no proof of specific intent to defraud is required.".

(e) CLAIM FOR ITEM OR SERVICE BASED ON INCORRECT CODING OR MEDICALLY UNNECESSARY SERVICES.—Section 1128A(a)(1) (42 U.S.C. 1320a–7a(a)(1)), as amended by subsection (b), is amended—

(1) in subparagraph (A) by striking "claimed," and inserting "claimed, including any person who engages in a pattern or practice of presenting or causing to be presented a claim for an item or service that is based on a code that the person knows or should know will result in a greater payment to the person than the code the person knows or should know is applicable to the item or service actually provided,";

(2) in subparagraph (C), by striking "or" at the end;

(3) in subparagraph (D), by striking the semicolon and inserting ", or"; and

(4) by inserting after subparagraph (D) the following new subparagraph:

"(E) is for a pattern of medical or other items or services that a person knows or should know are not medically necessary;".

(f) SANCTIONS AGAINST PRACTITIONERS AND PERSONS FOR FAILURE TO COMPLY WITH STATUTORY OBLIGATIONS.—Section 1156(b)(3) (42 U.S.C. 1320c–5(b)(3)) is amended by striking "the actual or estimated cost" and inserting "up to $10,000 for each instance".

(g) PROCEDURAL PROVISIONS.—Section 1876(i)(6) (42 U.S.C. 1395mm(i)(6)), as amended by section 215(a)(2), is amended by adding at the end the following new subparagraph:

"(D) The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under subparagraph (B)(i) or (C)(i) in the same manner as such provisions apply to a civil money penalty or proceeding under section 1128A(a).".

(h) PROHIBITION AGAINST OFFERING INDUCEMENTS TO INDIVIDUALS ENROLLED UNDER PROGRAMS OR PLANS.—

(1) OFFER OF REMUNERATION.—Section 1128A(a) (42 U.S.C. 1320a–7a(a)), as amended by subsection (b), is amended—

(A) by striking "or" at the end of paragraph (3);

(B) by striking the semicolon at the end of paragraph (4) and inserting "; or"; and

(C) by inserting after paragraph (4) the following new paragraph:

"(5) offers to or transfers remuneration to any individual eligible for benefits under title XVIII of this Act, or under a State health care program (as defined in section 1128(h)) that such person knows or should know is likely to influence such individual to order or receive from a particular provider, practitioner, or supplier any item or service for which payment may be made, in whole or in part, under title XVIII, or a State health care program (as so defined);".

(2) REMUNERATION DEFINED.—Section 1128A(i) (42 U.S.C. 1320a–7a(i)) is amended by adding at the end the following new paragraph:

"(6) The term 'remuneration' includes the waiver of coinsurance and deductible amounts (or any part thereof), and transfers of items or services for free or for other than fair market value. The term 'remuneration' does not include—

"(A) the waiver of coinsurance and deductible amounts by a person, if—

"(i) the waiver is not offered as part of any advertisement or solicitation;

"(ii) the person does not routinely waive coinsurance or deductible amounts; and

"(iii) the person—

"(I) waives the coinsurance and deductible amounts after determining in good faith that the individual is in financial need;

"(II) fails to collect coinsurance or deductible amounts after making reasonable collection efforts; or

"(III) provides for any permissible waiver as specified in section 1128B(b)(3) or in regulations issued by the Secretary;

"(B) differentials in coinsurance and deductible amounts as part of a benefit plan design as long as the differentials have been disclosed in writing to all beneficiaries, third party payers, and providers, to whom claims are presented and as long as the differentials meet the standards as defined in regulations promulgated by the Secretary not later than 180 days after the date of the enactment of the Health Insurance Portability and Accountability Act of 1996; or

"(C) incentives given to individuals to promote the delivery of preventive care as determined by the Secretary in regulations so promulgated.".

(i) EFFECTIVE DATE.—The amendments made by this section shall apply to acts or omissions occurring on or after January 1, 1997. 42 USC 1320a–7a note.

SEC. 232. PENALTY FOR FALSE CERTIFICATION FOR HOME HEALTH SERVICES.

(a) IN GENERAL.—Section 1128A(b) (42 U.S.C. 1320a–7a(b)) is amended by adding at the end the following new paragraph:

"(3)(A) Any physician who executes a document described in subparagraph (B) with respect to an individual knowing that all of the requirements referred to in such subparagraph are not met with respect to the individual shall be subject to a civil monetary penalty of not more than the greater of—

"(i) $5,000, or

"(ii) three times the amount of the payments under title XVIII for home health services which are made pursuant to such certification.

"(B) A document described in this subparagraph is any document that certifies, for purposes of title XVIII, that an individual meets the requirements of section 1814(a)(2)(C) or 1835(a)(2)(A) in the case of home health services furnished to the individual.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to certifications made on or after the date of the enactment of this Act. 42 USC 1320a–7a note.

Subtitle E—Revisions to Criminal Law

SEC. 241. DEFINITIONS RELATING TO FEDERAL HEALTH CARE OFFENSE.

(a) IN GENERAL.—Chapter 1 of title 18, United States Code, is amended by adding at the end the following:

"§ 24. Definitions relating to Federal health care offense

"(a) As used in this title, the term 'Federal health care offense' means a violation of, or a criminal conspiracy to violate—

"(1) section 669, 1035, 1347, or 1518 of this title;

"(2) section 287, 371, 664, 666, 1001, 1027, 1341, 1343, or 1954 of this title, if the violation or conspiracy relates to a health care benefit program.

"(b) As used in this title, the term 'health care benefit program' means any public or private plan or contract, affecting commerce, under which any medical benefit, item, or service is provided to any individual, and includes any individual or entity who is providing a medical benefit, item, or service for which payment may be made under the plan or contract.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 2 of title 18, United States Code, is amended by inserting after the item relating to section 23 the following new item:

"24. Definitions relating to Federal health care offense.".

SEC. 242. HEALTH CARE FRAUD.

(a) OFFENSE.—

(1) IN GENERAL.—Chapter 63 of title 18, United States Code, is amended by adding at the end the following:

"§ 1347. Health care fraud

"Whoever knowingly and willfully executes, or attempts to execute, a scheme or artifice—

"(1) to defraud any health care benefit program; or

"(2) to obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under the custody or control of, any health care benefit program,

in connection with the delivery of or payment for health care benefits, items, or services, shall be fined under this title or imprisoned not more than 10 years, or both. If the violation results in serious bodily injury (as defined in section 1365 of this title), such person shall be fined under this title or imprisoned not more than 20 years, or both; and if the violation results in death, such person shall be fined under this title, or imprisoned for any term of years or for life, or both.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 63 of title 18, United States Code, is amended by adding at the end the following:

"1347. Health care fraud.".

42 USC 1395i note.

(b) CRIMINAL FINES DEPOSITED IN FEDERAL HOSPITAL INSURANCE TRUST FUND.—The Secretary of the Treasury shall deposit into the Federal Hospital Insurance Trust Fund pursuant to section 1817(k)(2)(C) of the Social Security Act (42 U.S.C. 1395i) an amount

equal to the criminal fines imposed under section 1347 of title 18, United States Code (relating to health care fraud).

SEC. 243. THEFT OR EMBEZZLEMENT.

(a) IN GENERAL.—Chapter 31 of title 18, United States Code, is amended by adding at the end the following:

"§ 669. Theft or embezzlement in connection with health care

"(a) Whoever knowingly and willfully embezzles, steals, or otherwise without authority converts to the use of any person other than the rightful owner, or intentionally misapplies any of the moneys, funds, securities, premiums, credits, property, or other assets of a health care benefit program, shall be fined under this title or imprisoned not more than 10 years, or both; but if the value of such property does not exceed the sum of $100 the defendant shall be fined under this title or imprisoned not more than one year, or both.

"(b) As used in this section, the term 'health care benefit program' has the meaning given such term in section 24(b) of this title.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 31 of title 18, United States Code, is amended by adding at the end the following:

"669. Theft or embezzlement in connection with health care.".

SEC. 244. FALSE STATEMENTS.

(a) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by adding at the end the following:

"§ 1035. False statements relating to health care matters

"(a) Whoever, in any matter involving a health care benefit program, knowingly and willfully—

"(1) falsifies, conceals, or covers up by any trick, scheme, or device a material fact; or

"(2) makes any materially false, fictitious, or fraudulent statements or representations, or makes or uses any materially false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry,

in connection with the delivery of or payment for health care benefits, items, or services, shall be fined under this title or imprisoned not more than 5 years, or both.

"(b) As used in this section, the term 'health care benefit program' has the meaning given such term in section 24(b) of this title.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 47 of title 18, United States Code, is amended by adding at the end the following new item:

"1035. False statements relating to health care matters."

SEC. 245. OBSTRUCTION OF CRIMINAL INVESTIGATIONS OF HEALTH CARE OFFENSES.

(a) IN GENERAL.—Chapter 73 of title 18, United States Code, is amended by adding at the end the following:

"§ 1518. Obstruction of criminal investigations of health care offenses

"(a) Whoever willfully prevents, obstructs, misleads, delays or attempts to prevent, obstruct, mislead, or delay the communication of information or records relating to a violation of a Federal health care offense to a criminal investigator shall be fined under this title or imprisoned not more than 5 years, or both.

"(b) As used in this section the term 'criminal investigator' means any individual duly authorized by a department, agency, or armed force of the United States to conduct or engage in investigations for prosecutions for violations of health care offenses.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 73 of title 18, United States Code, is amended by adding at the end the following new item:

"1518. Obstruction of criminal investigations of health care offenses.".

SEC. 246. LAUNDERING OF MONETARY INSTRUMENTS.

Section 1956(c)(7) of title 18, United States Code, is amended by adding at the end the following:

"(F) Any act or activity constituting an offense involving a Federal health care offense.".

SEC. 247. INJUNCTIVE RELIEF RELATING TO HEALTH CARE OFFENSES.

(a) IN GENERAL.—Section 1345(a)(1) of title 18, United States Code, is amended—

(1) by striking "or" at the end of subparagraph (A);

(2) by inserting "or" at the end of subparagraph (B); and

(3) by adding at the end the following:

"(C) committing or about to commit a Federal health care offense.".

(b) FREEZING OF ASSETS.—Section 1345(a)(2) of title 18, United States Code, is amended by inserting "or a Federal health care offense" after "title)".

SEC. 248. AUTHORIZED INVESTIGATIVE DEMAND PROCEDURES.

(a) IN GENERAL.—Chapter 223 of title 18, United States Code, is amended by adding after section 3485 the following:

"§ 3486. Authorized investigative demand procedures

"(a) AUTHORIZATION.—(1) In any investigation relating to any act or activity involving a Federal health care offense, the Attorney General or the Attorney General's designee may issue in writing and cause to be served a subpoena—

"(A) requiring the production of any records (including any books, papers, documents, electronic media, or other objects or tangible things), which may be relevant to an authorized law enforcement inquiry, that a person or legal entity may possess or have care, custody, or control; or

"(B) requiring a custodian of records to give testimony concerning the production and authentication of such records.

"(2) A subpoena under this subsection shall describe the objects required to be produced and prescribe a return date within a reasonable period of time within which the objects can be assembled and made available.

"(3) The production of records shall not be required under this section at any place more than 500 miles distant from the

place where the subpoena for the production of such records is served.

"(4) Witnesses summoned under this section shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

"(b) SERVICE.—A subpoena issued under this section may be served by any person who is at least 18 years of age and is designated in the subpoena to serve it. Service upon a natural person may be made by personal delivery of the subpoena to him. Service may be made upon a domestic or foreign corporation or upon a partnership or other unincorporated association which is subject to suit under a common name, by delivering the subpoena to an officer, to a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process. The affidavit of the person serving the subpoena entered on a true copy thereof by the person serving it shall be proof of service.

"(c) ENFORCEMENT.—In the case of contumacy by or refusal to obey a subpoena issued to any person, the Attorney General may invoke the aid of any court of the United States within the jurisdiction of which the investigation is carried on or of which the subpoenaed person is an inhabitant, or in which he carries on business or may be found, to compel compliance with the subpoena. The court may issue an order requiring the subpoenaed person to appear before the Attorney General to produce records, if so ordered, or to give testimony concerning the production and authentication of such records. Any failure to obey the order of the court may be punished by the court as a contempt thereof. All process in any such case may be served in any judicial district in which such person may be found.

"(d) IMMUNITY FROM CIVIL LIABILITY.—Notwithstanding any Federal, State, or local law, any person, including officers, agents, and employees, receiving a summons under this section, who complies in good faith with the summons and thus produces the materials sought, shall not be liable in any court of any State or the United States to any customer or other person for such production or for nondisclosure of that production to the customer.

"(e) LIMITATION ON USE.—(1) Health information about an individual that is disclosed under this section may not be used in, or disclosed to any person for use in, any administrative, civil, or criminal action or investigation directed against the individual who is the subject of the information unless the action or investigation arises out of and is directly related to receipt of health care or payment for health care or action involving a fraudulent claim related to health; or if authorized by an appropriate order of a court of competent jurisdiction, granted after application showing good cause therefor.

"(2) In assessing good cause, the court shall weigh the public interest and the need for disclosure against the injury to the patient, to the physician-patient relationship, and to the treatment services.

"(3) Upon the granting of such order, the court, in determining the extent to which any disclosure of all or any part of any record is necessary, shall impose appropriate safeguards against unauthorized disclosure.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 223 of title 18, United States Code, is amended

by inserting after the item relating to section 3485 the following new item:

"3486. Authorized investigative demand procedures.".

(c) CONFORMING AMENDMENT.—Section 1510(b)(3)(B) of title 18, United States Code, is amended by inserting "or a Department of Justice subpoena (issued under section 3486 of title 18)," after "subpoena".

SEC. 249. FORFEITURES FOR FEDERAL HEALTH CARE OFFENSES.

(a) IN GENERAL.—Section 982(a) of title 18, United States Code, is amended by adding after paragraph (5) the following new paragraph:

"(6) The court, in imposing sentence on a person convicted of a Federal health care offense, shall order the person to forfeit property, real or personal, that constitutes or is derived, directly or indirectly, from gross proceeds traceable to the commission of the offense.".

(b) CONFORMING AMENDMENT.—Section 982(b)(1)(A) of title 18, United States Code, is amended by inserting "or (a)(6)" after "(a)(1)".

42 USC 1395i note.

(c) PROPERTY FORFEITED DEPOSITED IN FEDERAL HOSPITAL INSURANCE TRUST FUND.—

(1) IN GENERAL.—After the payment of the costs of asset forfeiture has been made and after all restoration payments (if any) have been made, and notwithstanding any other provision of law, the Secretary of the Treasury shall deposit into the Federal Hospital Insurance Trust Fund pursuant to section 1817(k)(2)(C) of the Social Security Act, as added by section 301(b), an amount equal to the net amount realized from the forfeiture of property by reason of a Federal health care offense pursuant to section 982(a)(6) of title 18, United States Code.

(2) COSTS OF ASSET FORFEITURE.—For purposes of paragraph (1), the term "payment of the costs of asset forfeiture" means—

(A) the payment, at the discretion of the Attorney General, of any expenses necessary to seize, detain, inventory, safeguard, maintain, advertise, sell, or dispose of property under seizure, detention, or forfeited, or of any other necessary expenses incident to the seizure, detention, forfeiture, or disposal of such property, including payment for—

(i) contract services;

(ii) the employment of outside contractors to operate and manage properties or provide other specialized services necessary to dispose of such properties in an effort to maximize the return from such properties; and

(iii) reimbursement of any Federal, State, or local agency for any expenditures made to perform the functions described in this subparagraph;

(B) at the discretion of the Attorney General, the payment of awards for information or assistance leading to a civil or criminal forfeiture involving any Federal agency participating in the Health Care Fraud and Abuse Control Account;

(C) the compromise and payment of valid liens and mortgages against property that has been forfeited, subject to the discretion of the Attorney General to determine

the validity of any such lien or mortgage and the amount of payment to be made, and the employment of attorneys and other personnel skilled in State real estate law as necessary;

(D) payment authorized in connection with remission or mitigation procedures relating to property forfeited; and

(E) the payment of State and local property taxes on forfeited real property that accrued between the date of the violation giving rise to the forfeiture and the date of the forfeiture order.

(3) RESTORATION PAYMENT.—Notwithstanding any other provision of law, if the Federal health care offense referred to in paragraph (1) resulted in a loss to an employee welfare benefit plan within the meaning of section 3(1) of the Employee Retirement Income Security Act of 1974, the Secretary of the Treasury shall transfer to such employee welfare benefit plan, from the amount realized from the forfeiture of property referred to in paragraph (1), an amount equal to such loss. For purposes of paragraph (1), the term "restoration payment" means the amount transferred to an employee welfare benefit plan pursuant to this paragraph.

SEC. 250. RELATION TO ERISA AUTHORITY.

29 USC 1136 note.

Nothing in this subtitle shall be construed as affecting the authority of the Secretary of Labor under section 506(b) of the Employee Retirement Income Security Act of 1974, including the Secretary's authority with respect to violations of title 18, United States Code (as amended by this subtitle).

Subtitle F—Administrative Simplification

SEC. 261. PURPOSE.

42 USC 1320d note.

It is the purpose of this subtitle to improve the Medicare program under title XVIII of the Social Security Act, the medicaid program under title XIX of such Act, and the efficiency and effectiveness of the health care system, by encouraging the development of a health information system through the establishment of standards and requirements for the electronic transmission of certain health information.

SEC. 262. ADMINISTRATIVE SIMPLIFICATION.

(a) IN GENERAL.—Title XI (42 U.S.C. 1301 et seq.) is amended by adding at the end the following:

"PART C—ADMINISTRATIVE SIMPLIFICATION

"DEFINITIONS

"SEC. 1171. For purposes of this part:

42 USC 1320d.

"(1) CODE SET.—The term 'code set' means any set of codes used for encoding data elements, such as tables of terms, medical concepts, medical diagnostic codes, or medical procedure codes.

"(2) HEALTH CARE CLEARINGHOUSE.—The term 'health care clearinghouse' means a public or private entity that processes or facilitates the processing of nonstandard data elements of health information into standard data elements.

"(3) HEALTH CARE PROVIDER.—The term 'health care provider' includes a provider of services (as defined in section 1861(u)), a provider of medical or other health services (as defined in section 1861(s)), and any other person furnishing health care services or supplies.

"(4) HEALTH INFORMATION.—The term 'health information' means any information, whether oral or recorded in any form or medium, that—

"(A) is created or received by a health care provider, health plan, public health authority, employer, life insurer, school or university, or health care clearinghouse; and

"(B) relates to the past, present, or future physical or mental health or condition of an individual, the provision of health care to an individual, or the past, present, or future payment for the provision of health care to an individual.

"(5) HEALTH PLAN.—The term 'health plan' means an individual or group plan that provides, or pays the cost of, medical care (as such term is defined in section 2791 of the Public Health Service Act). Such term includes the following, and any combination thereof:

"(A) A group health plan (as defined in section 2791(a) of the Public Health Service Act), but only if the plan—

"(i) has 50 or more participants (as defined in section 3(7) of the Employee Retirement Income Security Act of 1974); or

"(ii) is administered by an entity other than the employer who established and maintains the plan.

"(B) A health insurance issuer (as defined in section 2791(b) of the Public Health Service Act).

"(C) A health maintenance organization (as defined in section 2791(b) of the Public Health Service Act).

"(D) Part A or part B of the Medicare program under title XVIII.

"(E) The medicaid program under title XIX.

"(F) A Medicare supplemental policy (as defined in section 1882(g)(1)).

"(G) A long-term care policy, including a nursing home fixed indemnity policy (unless the Secretary determines that such a policy does not provide sufficiently comprehensive coverage of a benefit so that the policy should be treated as a health plan).

"(H) An employee welfare benefit plan or any other arrangement which is established or maintained for the purpose of offering or providing health benefits to the employees of 2 or more employers.

"(I) The health care program for active military personnel under title 10, United States Code.

"(J) The veterans health care program under chapter 17 of title 38, United States Code.

"(K) The Civilian Health and Medical Program of the Uniformed Services (CHAMPUS), as defined in section 1072(4) of title 10, United States Code.

"(L) The Indian health service program under the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.).

"(M) The Federal Employees Health Benefit Plan under chapter 89 of title 5, United States Code.

"(6) INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION.—The term 'individually identifiable health information' means any information, including demographic information collected from an individual, that—

"(A) is created or received by a health care provider, health plan, employer, or health care clearinghouse; and

"(B) relates to the past, present, or future physical or mental health or condition of an individual, the provision of health care to an individual, or the past, present, or future payment for the provision of health care to an individual, and—

"(i) identifies the individual; or

"(ii) with respect to which there is a reasonable basis to believe that the information can be used to identify the individual.

"(7) STANDARD.—The term 'standard', when used with reference to a data element of health information or a transaction referred to in section 1173(a)(1), means any such data element or transaction that meets each of the standards and implementation specifications adopted or established by the Secretary with respect to the data element or transaction under sections 1172 through 1174.

"(8) STANDARD SETTING ORGANIZATION.—The term 'standard setting organization' means a standard setting organization accredited by the American National Standards Institute, including the National Council for Prescription Drug Programs, that develops standards for information transactions, data elements, or any other standard that is necessary to, or will facilitate, the implementation of this part.

"GENERAL REQUIREMENTS FOR ADOPTION OF STANDARDS

"SEC. 1172. (a) APPLICABILITY.—Any standard adopted under this part shall apply, in whole or in part, to the following persons: 42 USC 1320d–1.

"(1) A health plan.

"(2) A health care clearinghouse.

"(3) A health care provider who transmits any health information in electronic form in connection with a transaction referred to in section 1173(a)(1).

"(b) REDUCTION OF COSTS.—Any standard adopted under this part shall be consistent with the objective of reducing the administrative costs of providing and paying for health care.

"(c) ROLE OF STANDARD SETTING ORGANIZATIONS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), any standard adopted under this part shall be a standard that has been developed, adopted, or modified by a standard setting organization.

"(2) SPECIAL RULES.—

"(A) DIFFERENT STANDARDS.—The Secretary may adopt a standard that is different from any standard developed, adopted, or modified by a standard setting organization, if—

"(i) the different standard will substantially reduce administrative costs to health care providers and health plans compared to the alternatives; and

"(ii) the standard is promulgated in accordance with the rulemaking procedures of subchapter III of chapter 5 of title 5, United States Code.

"(B) NO STANDARD BY STANDARD SETTING ORGANIZATION.—If no standard setting organization has developed, adopted, or modified any standard relating to a standard tnat the Secretary is authorized or required to adopt under this part—

"(i) paragraph (1) shall not apply; and

"(ii) subsection (f) shall apply.

"(3) CONSULTATION REQUIREMENT.—

"(A) IN GENERAL.—A standard may not be adopted under this part unless—

"(i) in the case of a standard that has been developed, adopted, or modified by a standard setting organization, the organization consulted with each of the organizations described in subparagraph (B) in the course of such development, adoption, or modification; and

"(ii) in the case of any other standard, the Secretary, in complying with the requirements of subsection (f), consulted with each of the organizations described in subparagraph (B) before adopting the standard.

"(B) ORGANIZATIONS DESCRIBED.—The organizations referred to in subparagraph (A) are the following:

"(i) The National Uniform Billing Committee.

"(ii) The National Uniform Claim Committee.

"(iii) The Workgroup for Electronic Data Interchange.

"(iv) The American Dental Association.

"(d) IMPLEMENTATION SPECIFICATIONS.—The Secretary shall establish specifications for implementing each of the standards adopted under this part.

"(e) PROTECTION OF TRADE SECRETS.—Except as otherwise required by law, a standard adopted under this part shall not require disclosure of trade secrets or confidential commercial information by a person required to comply with this part.

"(f) ASSISTANCE TO THE SECRETARY.—In complying with the requirements of this part, the Secretary shall rely on the recommendations of the National Committee on Vital and Health Statistics established under section 306(k) of the Public Health Service Act (42 U.S.C. 242k(k)), and shall consult with appropriate Federal and State agencies and private organizations. The Secretary shall publish in the Federal Register any recommendation of the National Committee on Vital and Health Statistics regarding the adoption of a standard under this part.

Federal Register, publication.

"(g) APPLICATION TO MODIFICATIONS OF STANDARDS.—This section shall apply to a modification to a standard (including an addition to a standard) adopted under section 1174(b) in the same manner as it applies to an initial standard adopted under section 1174(a).

"STANDARDS FOR INFORMATION TRANSACTIONS AND DATA ELEMENTS

42 USC 1320d–2.

"SEC. 1173. (a) STANDARDS TO ENABLE ELECTRONIC EXCHANGE.—

"(1) IN GENERAL.—The Secretary shall adopt standards for transactions, and data elements for such transactions, to enable health information to be exchanged electronically, that are appropriate for—

"(A) the financial and administrative transactions described in paragraph (2); and

"(B) other financial and administrative transactions determined appropriate by the Secretary, consistent with the goals of improving the operation of the health care system and reducing administrative costs.

"(2) TRANSACTIONS.—The transactions referred to in paragraph (1)(A) are transactions with respect to the following:

"(A) Health claims or equivalent encounter information.

"(B) Health claims attachments.

"(C) Enrollment and disenrollment in a health plan.

"(D) Eligibility for a health plan.

"(E) Health care payment and remittance advice.

"(F) Health plan premium payments.

"(G) First report of injury.

"(H) Health claim status.

"(I) Referral certification and authorization.

"(3) ACCOMMODATION OF SPECIFIC PROVIDERS.—The standards adopted by the Secretary under paragraph (1) shall accommodate the needs of different types of health care providers.

"(b) UNIQUE HEALTH IDENTIFIERS.—

"(1) IN GENERAL.—The Secretary shall adopt standards providing for a standard unique health identifier for each individual, employer, health plan, and health care provider for use in the health care system. In carrying out the preceding sentence for each health plan and health care provider, the Secretary shall take into account multiple uses for identifiers and multiple locations and specialty classifications for health care providers.

"(2) USE OF IDENTIFIERS.—The standards adopted under paragraph (1) shall specify the purposes for which a unique health identifier may be used.

"(c) CODE SETS.—

"(1) IN GENERAL.—The Secretary shall adopt standards that—

"(A) select code sets for appropriate data elements for the transactions referred to in subsection (a)(1) from among the code sets that have been developed by private and public entities; or

"(B) establish code sets for such data elements if no code sets for the data elements have been developed.

"(2) DISTRIBUTION.—The Secretary shall establish efficient and low-cost procedures for distribution (including electronic distribution) of code sets and modifications made to such code sets under section 1174(b).

"(d) SECURITY STANDARDS FOR HEALTH INFORMATION.—

"(1) SECURITY STANDARDS.—The Secretary shall adopt security standards that—

"(A) take into account—

"(i) the technical capabilities of record systems used to maintain health information;

"(ii) the costs of security measures;

"(iii) the need for training persons who have access to health information;

"(iv) the value of audit trails in computerized record systems; and

"(v) the needs and capabilities of small health care providers and rural health care providers (as such providers are defined by the Secretary); and

"(B) ensure that a health care clearinghouse, if it is part of a larger organization, has policies and security procedures which isolate the activities of the health care clearinghouse with respect to processing information in a manner that prevents unauthorized access to such information by such larger organization.

"(2) SAFEGUARDS.—Each person described in section 1172(a) who maintains or transmits health information shall maintain reasonable and appropriate administrative, technical, and physical safeguards—

"(A) to ensure the integrity and confidentiality of the information;

"(B) to protect against any reasonably anticipated—

"(i) threats or hazards to the security or integrity of the information; and

"(ii) unauthorized uses or disclosures of the information; and

"(C) otherwise to ensure compliance with this part by the officers and employees of such person.

"(e) ELECTRONIC SIGNATURE.—

"(1) STANDARDS.—The Secretary, in coordination with the Secretary of Commerce, shall adopt standards specifying procedures for the electronic transmission and authentication of signatures with respect to the transactions referred to in subsection (a)(1).

"(2) EFFECT OF COMPLIANCE.—Compliance with the standards adopted under paragraph (1) shall be deemed to satisfy Federal and State statutory requirements for written signatures with respect to the transactions referred to in subsection (a)(1).

"(f) TRANSFER OF INFORMATION AMONG HEALTH PLANS.—The Secretary shall adopt standards for transferring among health plans appropriate standard data elements needed for the coordination of benefits, the sequential processing of claims, and other data elements for individuals who have more than one health plan.

"TIMETABLES FOR ADOPTION OF STANDARDS

42 USC 1320d–3.

"SEC. 1174. (a) INITIAL STANDARDS.—The Secretary shall carry out section 1173 not later than 18 months after the date of the enactment of the Health Insurance Portability and Accountability Act of 1996, except that standards relating to claims attachments shall be adopted not later than 30 months after such date.

"(b) ADDITIONS AND MODIFICATIONS TO STANDARDS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall review the standards adopted under section 1173, and shall adopt modifications to the standards (including additions to the standards), as determined appropriate, but not more frequently than once every 12 months. Any addition or modification to a standard shall be completed in a manner which minimizes the disruption and cost of compliance.

"(2) SPECIAL RULES.—

"(A) FIRST 12-MONTH PERIOD.—Except with respect to additions and modifications to code sets under subparagraph (B), the Secretary may not adopt any modification to a standard adopted under this part during the 12-month period beginning on the date the standard is initially adopted, unless the Secretary determines that the modification is necessary in order to permit compliance with the standard.

"(B) ADDITIONS AND MODIFICATIONS TO CODE SETS.—

"(i) IN GENERAL.—The Secretary shall ensure that procedures exist for the routine maintenance, testing, enhancement, and expansion of code sets.

"(ii) ADDITIONAL RULES.—If a code set is modified under this subsection, the modified code set shall include instructions on how data elements of health information that were encoded prior to the modification may be converted or translated so as to preserve the informational value of the data elements that existed before the modification. Any modification to a code set under this subsection shall be implemented in a manner that minimizes the disruption and cost of complying with such modification.

"REQUIREMENTS

"SEC. 1175. (a) CONDUCT OF TRANSACTIONS BY PLANS.— 42 USC 1320d–4.

"(1) IN GENERAL.—If a person desires to conduct a transaction referred to in section 1173(a)(1) with a health plan as a standard transaction—

"(A) the health plan may not refuse to conduct such transaction as a standard transaction;

"(B) the insurance plan may not delay such transaction, or otherwise adversely affect, or attempt to adversely affect, the person or the transaction on the ground that the transaction is a standard transaction; and

"(C) the information transmitted and received in connection with the transaction shall be in the form of standard data elements of health information.

"(2) SATISFACTION OF REQUIREMENTS.—A health plan may satisfy the requirements under paragraph (1) by—

"(A) directly transmitting and receiving standard data elements of health information; or

"(B) submitting nonstandard data elements to a health care clearinghouse for processing into standard data elements and transmission by the health care clearinghouse, and receiving standard data elements through the health care clearinghouse.

"(3) TIMETABLE FOR COMPLIANCE.—Paragraph (1) shall not be construed to require a health plan to comply with any standard, implementation specification, or modification to a standard or specification adopted or established by the Secretary under sections 1172 through 1174 at any time prior to the date on which the plan is required to comply with the standard or specification under subsection (b).

"(b) COMPLIANCE WITH STANDARDS.—

"(1) INITIAL COMPLIANCE.—

"(A) IN GENERAL.—Not later than 24 months after the date on which an initial standard or implementation specification is adopted or established under sections 1172 and 1173, each person to whom the standard or implementation specification applies shall comply with the standard or specification.

"(B) SPECIAL RULE FOR SMALL HEALTH PLANS.—In the case of a small health plan, paragraph (1) shall be applied by substituting '36 months' for '24 months'. For purposes of this subsection, the Secretary shall determine the plans that qualify as small health plans.

"(2) COMPLIANCE WITH MODIFIED STANDARDS.—If the Secretary adopts a modification to a standard or implementation specification under this part, each person to whom the standard or implementation specification applies shall comply with the modified standard or implementation specification at such time as the Secretary determines appropriate, taking into account the time needed to comply due to the nature and extent of the modification. The time determined appropriate under the preceding sentence may not be earlier than the last day of the 180-day period beginning on the date such modification is adopted. The Secretary may extend the time for compliance for small health plans, if the Secretary determines that such extension is appropriate.

"(3) CONSTRUCTION.—Nothing in this subsection shall be construed to prohibit any person from complying with a standard or specification by—

"(A) submitting nonstandard data elements to a health care clearinghouse for processing into standard data elements and transmission by the health care clearinghouse; or

"(B) receiving standard data elements through a health care clearinghouse.

"GENERAL PENALTY FOR FAILURE TO COMPLY WITH REQUIREMENTS AND STANDARDS

42 USC 1320d–5.

"SEC. 1176. (a) GENERAL PENALTY.—

"(1) IN GENERAL.—Except as provided in subsection (b), the Secretary shall impose on any person who violates a provision of this part a penalty of not more than $100 for each such violation, except that the total amount imposed on the person for all violations of an identical requirement or prohibition during a calendar year may not exceed $25,000.

"(2) PROCEDURES.—The provisions of section 1128A (other than subsections (a) and (b) and the second sentence of subsection (f)) shall apply to the imposition of a civil money penalty under this subsection in the same manner as such provisions apply to the imposition of a penalty under such section 1128A.

"(b) LIMITATIONS.—

"(1) OFFENSES OTHERWISE PUNISHABLE.—A penalty may not be imposed under subsection (a) with respect to an act if the act constitutes an offense punishable under section 1177.

"(2) NONCOMPLIANCE NOT DISCOVERED.—A penalty may not be imposed under subsection (a) with respect to a provision of this part if it is established to the satisfaction of the Secretary that the person liable for the penalty did not know, and by

exercising reasonable diligence would not have known, that such person violated the provision.

"(3) FAILURES DUE TO REASONABLE CAUSE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), a penalty may not be imposed under subsection (a) if—

"(i) the failure to comply was due to reasonable cause and not to willful neglect; and

"(ii) the failure to comply is corrected during the 30-day period beginning on the first date the person liable for the penalty knew, or by exercising reasonable diligence would have known, that the failure to comply occurred.

"(B) EXTENSION OF PERIOD.—

"(i) NO PENALTY.—The period referred to in subparagraph (A)(ii) may be extended as determined appropriate by the Secretary based on the nature and extent of the failure to comply.

"(ii) ASSISTANCE.—If the Secretary determines that a person failed to comply because the person was unable to comply, the Secretary may provide technical assistance to the person during the period described in subparagraph (A)(ii). Such assistance shall be provided in any manner determined appropriate by the Secretary.

"(4) REDUCTION.—In the case of a failure to comply which is due to reasonable cause and not to willful neglect, any penalty under subsection (a) that is not entirely waived under paragraph (3) may be waived to the extent that the payment of such penalty would be excessive relative to the compliance failure involved.

"WRONGFUL DISCLOSURE OF INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION

"SEC. 1177. (a) OFFENSE.—A person who knowingly and in violation of this part— 42 USC 1320d–6.

"(1) uses or causes to be used a unique health identifier;

"(2) obtains individually identifiable health information relating to an individual; or

"(3) discloses individually identifiable health information to another person,

shall be punished as provided in subsection (b).

"(b) PENALTIES.—A person described in subsection (a) shall—

"(1) be fined not more than $50,000, imprisoned not more than 1 year, or both;

"(2) if the offense is committed under false pretenses, be fined not more than $100,000, imprisoned not more than 5 years, or both; and

"(3) if the offense is committed with intent to sell, transfer, or use individually identifiable health information for commercial advantage, personal gain, or malicious harm, be fined not more than $250,000, imprisoned not more than 10 years, or both.

"EFFECT ON STATE LAW

"SEC. 1178. (a) GENERAL EFFECT.— 42 USC 1320d–7.

"(1) GENERAL RULE.—Except as provided in paragraph (2), a provision or requirement under this part, or a standard or implementation specification adopted or established under sections 1172 through 1174, shall supersede any contrary provision of State law, including a provision of State law that requires medical or health plan records (including billing information) to be maintained or transmitted in written rather than electronic form.

"(2) EXCEPTIONS.—A provision or requirement under this part, or a standard or implementation specification adopted or established under sections 1172 through 1174, shall not supersede a contrary provision of State law, if the provision of State law—

"(A) is a provision the Secretary determines—

"(i) is necessary—

"(I) to prevent fraud and abuse;

"(II) to ensure appropriate State regulation of insurance and health plans;

"(III) for State reporting on health care delivery or costs; or

"(IV) for other purposes; or

"(ii) addresses controlled substances; or

"(B) subject to section 264(c)(2) of the Health Insurance Portability and Accountability Act of 1996, relates to the privacy of individually identifiable health information.

"(b) PUBLIC HEALTH.—Nothing in this part shall be construed to invalidate or limit the authority, power, or procedures established under any law providing for the reporting of disease or injury, child abuse, birth, or death, public health surveillance, or public health investigation or intervention.

"(c) STATE REGULATORY REPORTING.—Nothing in this part shall limit the ability of a State to require a health plan to report, or to provide access to, information for management audits, financial audits, program monitoring and evaluation, facility licensure or certification, or individual licensure or certification.

"PROCESSING PAYMENT TRANSACTIONS BY FINANCIAL INSTITUTIONS

42 USC 1320d–8.

"SEC. 1179. To the extent that an entity is engaged in activities of a financial institution (as defined in section 1101 of the Right to Financial Privacy Act of 1978), or is engaged in authorizing, processing, clearing, settling, billing, transferring, reconciling, or collecting payments, for a financial institution, this part, and any standard adopted under this part, shall not apply to the entity with respect to such activities, including the following:

"(1) The use or disclosure of information by the entity for authorizing, processing, clearing, settling, billing, transferring, reconciling or collecting, a payment for, or related to, health plan premiums or health care, where such payment is made by any means, including a credit, debit, or other payment card, an account, check, or electronic funds transfer.

"(2) The request for, or the use or disclosure of, information by the entity with respect to a payment described in paragraph (1)—

"(A) for transferring receivables;

"(B) for auditing;

"(C) in connection with—

"(i) a customer dispute; or

"(ii) an inquiry from, or to, a customer;

"(D) in a communication to a customer of the entity regarding the customer's transactions, payment card, account, check, or electronic funds transfer;

"(E) for reporting to consumer reporting agencies; or

"(F) for complying with—

"(i) a civil or criminal subpoena; or

"(ii) a Federal or State law regulating the entity.".

(b) CONFORMING AMENDMENTS.—

(1) REQUIREMENT FOR MEDICARE PROVIDERS.—Section 1866(a)(1) (42 U.S.C. 1395cc(a)(1)) is amended—

(A) by striking "and" at the end of subparagraph (P);

(B) by striking the period at the end of subparagraph (Q) and inserting "; and"; and

(C) by inserting immediately after subparagraph (Q) the following new subparagraph:

"(R) to contract only with a health care clearinghouse (as defined in section 1171) that meets each standard and implementation specification adopted or established under part C of title XI on or after the date on which the health care clearinghouse is required to comply with the standard or specification.".

(2) TITLE HEADING.—Title XI (42 U.S.C. 1301 et seq.) is amended by striking the title heading and inserting the following:

"TITLE XI—GENERAL PROVISIONS, PEER REVIEW, AND ADMINISTRATIVE SIMPLIFICATION".

SEC. 263. CHANGES IN MEMBERSHIP AND DUTIES OF NATIONAL COMMITTEE ON VITAL AND HEALTH STATISTICS.

Section 306(k) of the Public Health Service Act (42 U.S.C. 242k(k)) is amended—

(1) in paragraph (1), by striking "16" and inserting "18";

(2) by amending paragraph (2) to read as follows:

"(2) The members of the Committee shall be appointed from among persons who have distinguished themselves in the fields of health statistics, electronic interchange of health care information, privacy and security of electronic information, population-based public health, purchasing or financing health care services, integrated computerized health information systems, health services research, consumer interests in health information, health data standards, epidemiology, and the provision of health services. Members of the Committee shall be appointed for terms of 4 years.";

(3) by redesignating paragraphs (3) through (5) as paragraphs (4) through (6), respectively, and inserting after paragraph (2) the following:

"(3) Of the members of the Committee—

"(A) 1 shall be appointed, not later than 60 days after the date of the enactment of the Health Insurance Portability and Accountability Act of 1996, by the Speaker of the House of Representatives after consultation with the Minority Leader of the House of Representatives;

"(B) 1 shall be appointed, not later than 60 days after the date of the enactment of the Health Insurance Portability and Accountability Act of 1996, by the President pro tempore

of the Senate after consultation with the Minority Leader of the Senate; and

"(C) 16 shall be appointed by the Secretary.";

(4) by amending paragraph (5) (as so redesignated) to read as follows:

"(5) The Committee—

"(A) shall assist and advise the Secretary—

"(i) to delineate statistical problems bearing on health and health services which are of national or international interest;

"(ii) to stimulate studies of such problems by other organizations and agencies whenever possible or to make investigations of such problems through subcommittees;

"(iii) to determine, approve, and revise the terms, definitions, classifications, and guidelines for assessing health status and health services, their distribution and costs, for use (I) within the Department of Health and Human Services, (II) by all programs administered or funded by the Secretary, including the Federal-State-local cooperative health statistics system referred to in subsection (e), and (III) to the extent possible as determined by the head of the agency involved, by the Department of Veterans Affairs, the Department of Defense, and other Federal agencies concerned with health and health services;

"(iv) with respect to the design of and approval of health statistical and health information systems concerned with the collection, processing, and tabulation of health statistics within the Department of Health and Human Services, with respect to the Cooperative Health Statistics System established under subsection (e), and with respect to the standardized means for the collection of health information and statistics to be established by the Secretary under subsection (j)(1);

"(v) to review and comment on findings and proposals developed by other organizations and agencies and to make recommendations for their adoption or implementation by local, State, national, or international agencies;

"(vi) to cooperate with national committees of other countries and with the World Health Organization and other national agencies in the studies of problems of mutual interest;

Reports.

"(vii) to issue an annual report on the state of the Nation's health, its health services, their costs and distributions, and to make proposals for improvement of the Nation's health statistics and health information systems; and

"(viii) in complying with the requirements imposed on the Secretary under part C of title XI of the Social Security Act;

"(B) shall study the issues related to the adoption of uniform data standards for patient medical record information and the electronic exchange of such information;

Reports.

"(C) shall report to the Secretary not later than 4 years after the date of the enactment of the Health Insurance Portability and Accountability Act of 1996 recommendations and legislative proposals for such standards and electronic exchange; and

"(D) shall be responsible generally for advising the Secretary and the Congress on the status of the implementation of part C of title XI of the Social Security Act."; and

(5) by adding at the end the following:

"(7) Not later than 1 year after the date of the enactment of the Health Insurance Portability and Accountability Act of 1996, and annually thereafter, the Committee shall submit to the Congress, and make public, a report regarding the implementation of part C of title XI of the Social Security Act. Such report shall address the following subjects, to the extent that the Committee determines appropriate: Reports.

"(A) The extent to which persons required to comply with part C of title XI of the Social Security Act are cooperating in implementing the standards adopted under such part.

"(B) The extent to which such entities are meeting the security standards adopted under such part and the types of penalties assessed for noncompliance with such standards.

"(C) Whether the Federal and State Governments are receiving information of sufficient quality to meet their responsibilities under such part.

"(D) Any problems that exist with respect to implementation of such part.

"(E) The extent to which timetables under such part are being met.".

SEC. 264. RECOMMENDATIONS WITH RESPECT TO PRIVACY OF CERTAIN HEALTH INFORMATION. 42 USC 1320d–2 note.

(a) IN GENERAL.—Not later than the date that is 12 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit to the Committee on Labor and Human Resources and the Committee on Finance of the Senate and the Committee on Commerce and the Committee on Ways and Means of the House of Representatives detailed recommendations on standards with respect to the privacy of individually identifiable health information.

(b) SUBJECTS FOR RECOMMENDATIONS.—The recommendations under subsection (a) shall address at least the following:

(1) The rights that an individual who is a subject of individually identifiable health information should have.

(2) The procedures that should be established for the exercise of such rights.

(3) The uses and disclosures of such information that should be authorized or required.

(c) REGULATIONS.—

(1) IN GENERAL.—If legislation governing standards with respect to the privacy of individually identifiable health information transmitted in connection with the transactions described in section 1173(a) of the Social Security Act (as added by section 262) is not enacted by the date that is 36 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall promulgate final regulations containing such standards not later than the date that is 42 months after the date of the enactment of this Act. Such regulations shall address at least the subjects described in subsection (b). Regulations.

(2) PREEMPTION.—A regulation promulgated under paragraph (1) shall not supercede a contrary provision of State

law, if the provision of State law imposes requirements, standards, or implementation specifications that are more stringent than the requirements, standards, or implementation specifications imposed under the regulation.

(d) CONSULTATION.—In carrying out this section, the Secretary of Health and Human Services shall consult with—

(1) the National Committee on Vital and Health Statistics established under section 306(k) of the Public Health Service Act (42 U.S.C. 242k(k)); and

(2) the Attorney General.

Subtitle G—Duplication and Coordination of Medicare-Related Plans

SEC. 271. DUPLICATION AND COORDINATION OF MEDICARE-RELATED PLANS.

(a) TREATMENT OF CERTAIN HEALTH INSURANCE POLICIES AS NONDUPLICATIVE.—Section 1882(d)(3)(A) (42 U.S.C. 1395ss(d)(3)(A)) is amended—

(1) in clause (iii), by striking "clause (i)" and inserting "clause (i)(II)"; and

(2) by adding at the end the following:

"(iv) For purposes of this subparagraph, a health insurance policy (other than a Medicare supplemental policy) providing for benefits which are payable to or on behalf of an individual without regard to other health benefit coverage of such individual is not considered to 'duplicate' any health benefits under this title, under title XIX, or under a health insurance policy, and subclauses (I) and (III) of clause (i) do not apply to such a policy.

"(v) For purposes of this subparagraph, a health insurance policy (or a rider to an insurance contract which is not a health insurance policy) is not considered to 'duplicate' health benefits under this title or under another health insurance policy if it—

"(I) provides health care benefits only for long-term care, nursing home care, home health care, or community-based care, or any combination thereof,

"(II) coordinates against or excludes items and services available or paid for under this title or under another health insurance policy, and

"(III) for policies sold or issued on or after the end of the 90-day period beginning on the date of enactment of the Health Insurance Portability and Accountability Act of 1996 discloses such coordination or exclusion in the policy's outline of coverage.

For purposes of this clause, the terms 'coordinates' and 'coordination' mean, with respect to a policy in relation to health benefits under this title or under another health insurance policy, that the policy under its terms is secondary to, or excludes from payment, items and services to the extent available or paid for under this title or under another health insurance policy.

"(vi)(I) An individual entitled to benefits under part A or enrolled under part B of this title who is applying for a health insurance policy (other than a policy described in subclause (III)) shall be furnished a disclosure statement described in clause (vii) for the type of policy being applied for. Such statement shall be

furnished as a part of (or together with) the application for such policy.

"(II) Whoever issues or sells a health insurance policy (other than a policy described in subclause (III)) to an individual described in subclause (I) and fails to furnish the appropriate disclosure statement as required under such subclause shall be fined under title 18, United States Code, or imprisoned not more than 5 years, or both, and, in addition to or in lieu of such a criminal penalty, is subject to a civil money penalty of not to exceed $25,000 (or $15,000 in the case of a person other than the issuer of the policy) for each such violation.

"(III) A policy described in this subclause (to which subclauses (I) and (II) do not apply) is a Medicare supplemental policy or a health insurance policy identified under 60 Federal Register 30880 (June 12, 1995) as a policy not required to have a disclosure statement.

"(IV) Any reference in this section to the revised NAIC model regulation (referred to in subsection (m)(1)(A)) is deemed a reference to such regulation as revised by section 171(m)(2) of the Social Security Act Amendments of 1994 (Public Law 103–432) and as modified by substituting, for the disclosure required under section 16D(2), disclosure under subclause (I) of an appropriate disclosure statement under clause (vii).

"(vii) The disclosure statement described in this clause for a type of policy is the statement specified under subparagraph (D) of this paragraph (as in effect before the date of the enactment of the Health Insurance Portability and Accountability Act of 1996) for that type of policy, as revised as follows:

"(I) In each statement, amend the second line to read as follows:

'THIS IS NOT MEDICARE SUPPLEMENT INSURANCE'.

"(II) In each statement, strike the third line and insert the following: '**Some health care services paid for by Medicare may also trigger the payment of benefits under this policy.**'.

"(III) In each statement not described in subclause (V), strike the boldface matter that begins '**This insurance**' and all that follows up to the next paragraph that begins '**Medicare**'.

"(IV) In each statement not described in subclause (V), insert before the boxed matter (that states '**Before You Buy This Insurance**') the following: '**This policy must pay benefits without regard to other health benefit coverage to which you may be entitled under Medicare or other insurance.**'.

"(V) In a statement relating to policies providing both nursing home and non-institutional coverage, to policies providing nursing home benefits only, or policies providing home care benefits only, amend the sentence that begins 'Federal law' to read as follows: 'Federal law requires us to inform you that in certain situations this insurance may pay for some care also covered by Medicare.'.

"(viii)(I) Subject to subclause (II), nothing in this subparagraph shall restrict or preclude a State's ability to regulate health insur-

ance policies, including any health insurance policy that is described in clause (iv), (v), or (vi)(III).

"(II) A State may not declare or specify, in statute, regulation, or otherwise, that a health insurance policy (other than a Medicare supplemental policy) or rider to an insurance contract which is not a health insurance policy, that is described in clause (iv), (v), or (vi)(III) and that is sold, issued, or renewed to an individual entitled to benefits under part A or enrolled under part B 'duplicates' health benefits under this title or under a Medicare supplemental policy.".

(b) CONFORMING AMENDMENTS.—Section 1882(d)(3) (42 U.S.C. 1395ss(d)(3)) is amended—

(1) in subparagraph (C)—

(A) by striking "with respect to (i)" and inserting "with respect to", and

(B) by striking ", (ii) the sale" and all that follows up to the period at the end; and

(2) by striking subparagraph (D).

42 USC 1395ss note.

(c) TRANSITIONAL PROVISION.—

(1) NO PENALTIES.—Subject to paragraph (3), no criminal or civil money penalty may be imposed under section 1882(d)(3)(A) of the Social Security Act for any act or omission that occurred during the transition period (as defined in paragraph (4)) and that relates to any health insurance policy that is described in clause (iv) or (v) of such section (as amended by subsection (a)).

(2) LIMITATION ON LEGAL ACTION.—Subject to paragraph (3), no legal action shall be brought or continued in any Federal or State court insofar as such action—

(A) includes a cause of action which arose, or which is based on or evidenced by any act or omission which occurred, during the transition period; and

(B) relates to the application of section 1882(d)(3)(A) of the Social Security Act to any act or omission with respect to the sale, issuance, or renewal of any health insurance policy that is described in clause (iv) or (v) of such section (as amended by subsection (a)).

(3) DISCLOSURE CONDITION.—In the case of a policy described in clause (iv) of section 1882(d)(3)(A) of the Social Security Act that is sold or issued on or after the effective date of statements under section 171(d)(3)(C) of the Social Security Act Amendments of 1994 and before the end of the 30-day period beginning on the date of the enactment of this Act, paragraphs (1) and (2) shall only apply if disclosure was made in accordance with section 1882(d)(3)(C)(ii) of the Social Security Act (as in effect before the date of the enactment of this Act).

(4) TRANSITION PERIOD.—In this subsection, the term "transition period" means the period beginning on November 5, 1991, and ending on the date of the enactment of this Act.

42 USC 1395ss note.

(d) EFFECTIVE DATE.—(1) Except as provided in this subsection, the amendment made by subsection (a) shall be effective as if included in the enactment of section 4354 of the Omnibus Budget Reconciliation Act of 1990.

(2)(A) Clause (vi) of section 1882(d)(3)(A) of the Social Security Act, as added by subsection (a), shall only apply to individuals applying for—

(i) a health insurance policy described in section 1882(d)(3)(A)(iv) of such Act (as added by subsection (a)), after the date of the enactment of this Act, or

(ii) another health insurance policy after the end of the 30-day period beginning on the date of the enactment of this Act.

(B) A seller or issuer of a health insurance policy may substitute, for the disclosure statement described in clause (vii) of such section, the statement specified under section 1882(d)(3)(D) of the Social Security Act (as in effect before the date of the enactment of this Act), without the revision specified in such clause.

TITLE III—TAX-RELATED HEALTH PROVISIONS

SEC. 300. AMENDMENT OF 1986 CODE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

Subtitle A—Medical Savings Accounts

SEC. 301. MEDICAL SAVINGS ACCOUNTS.

(a) IN GENERAL.—Part VII of subchapter B of chapter 1 (relating to additional itemized deductions for individuals) is amended by redesignating section 220 as section 221 and by inserting after section 219 the following new section:

"SEC. 220. MEDICAL SAVINGS ACCOUNTS.

"(a) DEDUCTION ALLOWED.—In the case of an individual who is an eligible individual for any month during the taxable year, there shall be allowed as a deduction for the taxable year an amount equal to the aggregate amount paid in cash during such taxable year by such individual to a medical savings account of such individual.

"(b) LIMITATIONS.—

"(1) IN GENERAL.—The amount allowable as a deduction under subsection (a) to an individual for the taxable year shall not exceed the sum of the monthly limitations for months during such taxable year that the individual is an eligible individual.

"(2) MONTHLY LIMITATION.—The monthly limitation for any month is the amount equal to 1/12 of—

"(A) in the case of an individual who has self-only coverage under the high deductible health plan as of the first day of such month, 65 percent of the annual deductible under such coverage, and

"(B) in the case of an individual who has family coverage under the high deductible health plan as of the

first day of such month, 75 percent of the annual deductible under such coverage.

"(3) SPECIAL RULE FOR MARRIED INDIVIDUALS.—In the case of individuals who are married to each other, if either spouse has family coverage—

"(A) both spouses shall be treated as having only such family coverage (and if such spouses each have family coverage under different plans, as having the family coverage with the lowest annual deductible), and

"(B) the limitation under paragraph (1) (after the application of subparagraph (A) of this paragraph) shall be divided equally between them unless they agree on a different division.

"(4) DEDUCTION NOT TO EXCEED COMPENSATION.—

"(A) EMPLOYEES.—The deduction allowed under subsection (a) for contributions as an eligible individual described in subclause (I) of subsection (c)(1)(A)(iii) shall not exceed such individual's wages, salaries, tips, and other employee compensation which are attributable to such individual's employment by the employer referred to in such subclause.

"(B) SELF-EMPLOYED INDIVIDUALS.—The deduction allowed under subsection (a) for contributions as an eligible individual described in subclause (II) of subsection (c)(1)(A)(iii) shall not exceed such individual's earned income (as defined in section 401(c)(1)) derived by the taxpayer from the trade or business with respect to which the high deductible health plan is established.

"(C) COMMUNITY PROPERTY LAWS NOT TO APPLY.—The limitations under this paragraph shall be determined without regard to community property laws.

"(5) COORDINATION WITH EXCLUSION FOR EMPLOYER CONTRIBUTIONS.—No deduction shall be allowed under this section for any amount paid for any taxable year to a medical savings account of an individual if—

"(A) any amount is contributed to any medical savings account of such individual for such year which is excludable from gross income under section 106(b), or

"(B) if such individual's spouse is covered under the high deductible health plan covering such individual, any amount is contributed for such year to any medical savings account of such spouse which is so excludable.

"(6) DENIAL OF DEDUCTION TO DEPENDENTS.—No deduction shall be allowed under this section to any individual with respect to whom a deduction under section 151 is allowable to another taxpayer for a taxable year beginning in the calendar year in which such individual's taxable year begins.

"(c) DEFINITIONS.—For purposes of this section—

"(1) ELIGIBLE INDIVIDUAL.—

"(A) IN GENERAL.—The term 'eligible individual' means, with respect to any month, any individual if—

"(i) such individual is covered under a high deductible health plan as of the 1st day of such month,

"(ii) such individual is not, while covered under a high deductible health plan, covered under any health plan—

"(I) which is not a high deductible health plan, and

"(II) which provides coverage for any benefit which is covered under the high deductible health plan, and

"(iii)(I) the high deductible health plan covering such individual is established and maintained by the employer of such individual or of the spouse of such individual and such employer is a small employer, or

"(II) such individual is an employee (within the meaning of section 401(c)(1)) or the spouse of such an employee and the high deductible health plan covering such individual is not established or maintained by any employer of such individual or spouse.

"(B) CERTAIN COVERAGE DISREGARDED.—Subparagraph (A)(ii) shall be applied without regard to—

"(i) coverage for any benefit provided by permitted insurance, and

"(ii) coverage (whether through insurance or otherwise) for accidents, disability, dental care, vision care, or long-term care.

"(C) CONTINUED ELIGIBILITY OF EMPLOYEE AND SPOUSE ESTABLISHING MEDICAL SAVINGS ACCOUNTS.—If, while an employer is a small employer—

"(i) any amount is contributed to a medical savings account of an individual who is an employee of such employer or the spouse of such an employee, and

"(ii) such amount is excludable from gross income under section 106(b) or allowable as a deduction under this section,

such individual shall not cease to meet the requirement of subparagraph (A)(iii)(I) by reason of such employer ceasing to be a small employer so long as such employee continues to be an employee of such employer.

"(D) LIMITATIONS ON ELIGIBILITY.—

"For limitations on number of taxpayers who are eligible to have medical savings accounts, see subsection (i).

"(2) HIGH DEDUCTIBLE HEALTH PLAN.—

"(A) IN GENERAL.—The term 'high deductible health plan' means a health plan—

"(i) in the case of self-only coverage, which has an annual deductible which is not less than $1,500 and not more than $2,250,

"(ii) in the case of family coverage, which has an annual deductible which is not less than $3,000 and not more than $4,500, and

"(iii) the annual out-of-pocket expenses required to be paid under the plan (other than for premiums) for covered benefits does not exceed—

"(I) $3,000 for self-only coverage, and

"(II) $5,500 for family coverage.

"(B) SPECIAL RULES.—

"(i) EXCLUSION OF CERTAIN PLANS.—Such term does not include a health plan if substantially all of its coverage is coverage described in paragraph (1)(B).

"(ii) SAFE HARBOR FOR ABSENCE OF PREVENTIVE CARE DEDUCTIBLE.—A plan shall not fail to be treated as a high deductible health plan by reason of failing to have a deductible for preventive care if the absence of a deductible for such care is required by State law.

"(3) PERMITTED INSURANCE.—The term 'permitted insurance' means—

"(A) Medicare supplemental insurance,

"(B) insurance if substantially all of the coverage provided under such insurance relates to—

"(i) liabilities incurred under workers' compensation laws,

"(ii) tort liabilities,

"(iii) liabilities relating to ownership or use of property, or

"(iv) such other similar liabilities as the Secretary may specify by regulations,

"(C) insurance for a specified disease or illness, and

"(D) insurance paying a fixed amount per day (or other period) of hospitalization.

"(4) SMALL EMPLOYER.—

"(A) IN GENERAL.—The term 'small employer' means, with respect to any calendar year, any employer if such employer employed an average of 50 or fewer employees on business days during either of the 2 preceding calendar years. For purposes of the preceding sentence, a preceding calendar year may be taken into account only if the employer was in existence throughout such year.

"(B) EMPLOYERS NOT IN EXISTENCE IN PRECEDING YEAR.—In the case of an employer which was not in existence throughout the 1st preceding calendar year, the determination under subparagraph (A) shall be based on the average number of employees that it is reasonably expected such employer will employ on business days in the current calendar year.

"(C) CERTAIN GROWING EMPLOYERS RETAIN TREATMENT AS SMALL EMPLOYER.—The term 'small employer' includes, with respect to any calendar year, any employer if—

"(i) such employer met the requirement of subparagraph (A) (determined without regard to subparagraph (B)) for any preceding calendar year after 1996,

"(ii) any amount was contributed to the medical savings account of any employee of such employer with respect to coverage of such employee under a high deductible health plan of such employer during such preceding calendar year and such amount was excludable from gross income under section 106(b) or allowable as a deduction under this section, and

"(iii) such employer employed an average of 200 or fewer employees on business days during each preceding calendar year after 1996.

"(D) SPECIAL RULES.—

"(i) CONTROLLED GROUPS.—For purposes of this paragraph, all persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 shall be treated as 1 employer.

"(ii) PREDECESSORS.—Any reference in this paragraph to an employer shall include a reference to any predecessor of such employer.

"(5) FAMILY COVERAGE.—The term 'family coverage' means any coverage other than self-only coverage.

"(d) MEDICAL SAVINGS ACCOUNT.—For purposes of this section—

"(1) MEDICAL SAVINGS ACCOUNT.—The term 'medical savings account' means a trust created or organized in the United States exclusively for the purpose of paying the qualified medical expenses of the account holder, but only if the written governing instrument creating the trust meets the following requirements:

"(A) Except in the case of a rollover contribution described in subsection (f)(5), no contribution will be accepted—

"(i) unless it is in cash, or

"(ii) to the extent such contribution, when added to previous contributions to the trust for the calendar year, exceeds 75 percent of the highest annual limit deductible permitted under subsection (c)(2)(A)(ii) for such calendar year.

"(B) The trustee is a bank (as defined in section 408(n)), an insurance company (as defined in section 816), or another person who demonstrates to the satisfaction of the Secretary that the manner in which such person will administer the trust will be consistent with the requirements of this section.

"(C) No part of the trust assets will be invested in life insurance contracts.

"(D) The assets of the trust will not be commingled with other property except in a common trust fund or common investment fund.

"(E) The interest of an individual in the balance in his account is nonforfeitable.

"(2) QUALIFIED MEDICAL EXPENSES.—

"(A) IN GENERAL.—The term 'qualified medical expenses' means, with respect to an account holder, amounts paid by such holder for medical care (as defined in section 213(d)) for such individual, the spouse of such individual, and any dependent (as defined in section 152) of such individual, but only to the extent such amounts are not compensated for by insurance or otherwise.

"(B) HEALTH INSURANCE MAY NOT BE PURCHASED FROM ACCOUNT.—

"(i) IN GENERAL.—Subparagraph (A) shall not apply to any payment for insurance.

"(ii) EXCEPTIONS.—Clause (i) shall not apply to any expense for coverage under—

"(I) a health plan during any period of continuation coverage required under any Federal law,

"(II) a qualified long-term care insurance contract (as defined in section 7702B(b)), or

"(III) a health plan during a period in which the individual is receiving unemployment compensation under any Federal or State law.

"(C) MEDICAL EXPENSES OF INDIVIDUALS WHO ARE NOT ELIGIBLE INDIVIDUALS.—Subparagraph (A) shall apply to an amount paid by an account holder for medical care of an individual who is not an eligible individual for the month in which the expense for such care is incurred only if no amount is contributed (other than a rollover contribution) to any medical savings account of such account holder for the taxable year which includes such month. This subparagraph shall not apply to any expense for coverage described in subclause (I) or (III) of subparagraph (B)(ii).

"(3) ACCOUNT HOLDER.—The term 'account holder' means the individual on whose behalf the medical savings account was established.

"(4) CERTAIN RULES TO APPLY.—Rules similar to the following rules shall apply for purposes of this section:

"(A) Section 219(d)(2) (relating to no deduction for rollovers).

"(B) Section 219(f)(3) (relating to time when contributions deemed made).

"(C) Except as provided in section 106(b), section 219(f)(5) (relating to employer payments).

"(D) Section 408(g) (relating to community property laws).

"(E) Section 408(h) (relating to custodial accounts).

"(e) TAX TREATMENT OF ACCOUNTS.—

"(1) IN GENERAL.—A medical savings account is exempt from taxation under this subtitle unless such account has ceased to be a medical savings account. Notwithstanding the preceding sentence, any such account is subject to the taxes imposed by section 511 (relating to imposition of tax on unrelated business income of charitable, etc. organizations).

"(2) ACCOUNT TERMINATIONS.—Rules similar to the rules of paragraphs (2) and (4) of section 408(e) shall apply to medical savings accounts, and any amount treated as distributed under such rules shall be treated as not used to pay qualified medical expenses.

"(f) TAX TREATMENT OF DISTRIBUTIONS.—

"(1) AMOUNTS USED FOR QUALIFIED MEDICAL EXPENSES.—Any amount paid or distributed out of a medical savings account which is used exclusively to pay qualified medical expenses of any account holder shall not be includible in gross income.

"(2) INCLUSION OF AMOUNTS NOT USED FOR QUALIFIED MEDICAL EXPENSES.—Any amount paid or distributed out of a medical savings account which is not used exclusively to pay the qualified medical expenses of the account holder shall be included in the gross income of such holder.

"(3) EXCESS CONTRIBUTIONS RETURNED BEFORE DUE DATE OF RETURN.—

"(A) IN GENERAL.—If any excess contribution is contributed for a taxable year to any medical savings account of an individual, paragraph (2) shall not apply to distributions from the medical savings accounts of such individual (to the extent such distributions do not exceed the aggregate excess contributions to all such accounts of such individual for such year) if—

"(i) such distribution is received by the individual on or before the last day prescribed by law (including extensions of time) for filing such individual's return for such taxable year, and

"(ii) such distribution is accompanied by the amount of net income attributable to such excess contribution.

Any net income described in clause (ii) shall be included in the gross income of the individual for the taxable year in which it is received.

"(B) EXCESS CONTRIBUTION.—For purposes of subparagraph (A), the term 'excess contribution' means any contribution (other than a rollover contribution) which is neither excludable from gross income under section 106(b) nor deductible under this section.

"(4) ADDITIONAL TAX ON DISTRIBUTIONS NOT USED FOR QUALIFIED MEDICAL EXPENSES.—

"(A) IN GENERAL.—The tax imposed by this chapter on the account holder for any taxable year in which there is a payment or distribution from a medical savings account of such holder which is includible in gross income under paragraph (2) shall be increased by 15 percent of the amount which is so includible.

"(B) EXCEPTION FOR DISABILITY OR DEATH.—Subparagraph (A) shall not apply if the payment or distribution is made after the account holder becomes disabled within the meaning of section 72(m)(7) or dies.

"(C) EXCEPTION FOR DISTRIBUTIONS AFTER MEDICARE ELIGIBILITY.—Subparagraph (A) shall not apply to any payment or distribution after the date on which the account holder attains the age specified in section 1811 of the Social Security Act.

"(5) ROLLOVER CONTRIBUTION.—An amount is described in this paragraph as a rollover contribution if it meets the requirements of subparagraphs (A) and (B).

"(A) IN GENERAL.—Paragraph (2) shall not apply to any amount paid or distributed from a medical savings account to the account holder to the extent the amount received is paid into a medical savings account for the benefit of such holder not later than the 60th day after the day on which the holder receives the payment or distribution.

"(B) LIMITATION.—This paragraph shall not apply to any amount described in subparagraph (A) received by an individual from a medical savings account if, at any time during the 1-year period ending on the day of such receipt, such individual received any other amount described in subparagraph (A) from a medical savings account which was not includible in the individual's gross income because of the application of this paragraph.

"(6) COORDINATION WITH MEDICAL EXPENSE DEDUCTION.—For purposes of determining the amount of the deduction under section 213, any payment or distribution out of a medical savings account for qualified medical expenses shall not be treated as an expense paid for medical care.

"(7) TRANSFER OF ACCOUNT INCIDENT TO DIVORCE.—The transfer of an individual's interest in a medical savings account

to an individual's spouse or former spouse under a divorce or separation instrument described in subparagraph (A) of section 71(b)(2) shall not be considered a taxable transfer made by such individual notwithstanding any other provision of this subtitle, and such interest shall, after such transfer, be treated as a medical savings account with respect to which such spouse is the account holder.

"(8) TREATMENT AFTER DEATH OF ACCOUNT HOLDER.—

"(A) TREATMENT IF DESIGNATED BENEFICIARY IS SPOUSE.—If the account holder's surviving spouse acquires such holder's interest in a medical savings account by reason of being the designated beneficiary of such account at the death of the account holder, such medical savings account shall be treated as if the spouse were the account holder.

"(B) OTHER CASES.—

"(i) IN GENERAL.—If, by reason of the death of the account holder, any person acquires the account holder's interest in a medical savings account in a case to which subparagraph (A) does not apply—

"(I) such account shall cease to be a medical savings account as of the date of death, and

"(II) an amount equal to the fair market value of the assets in such account on such date shall be includible if such person is not the estate of such holder, in such person's gross income for the taxable year which includes such date, or if such person is the estate of such holder, in such holder's gross income for the last taxable year of such holder.

"(ii) SPECIAL RULES.—

"(I) REDUCTION OF INCLUSION FOR PRE-DEATH EXPENSES.—The amount includible in gross income under clause (i) by any person (other than the estate) shall be reduced by the amount of qualified medical expenses which were incurred by the decedent before the date of the decedent's death and paid by such person within 1 year after such date.

"(II) DEDUCTION FOR ESTATE TAXES.—An appropriate deduction shall be allowed under section 691(c) to any person (other than the decedent or the decedent's spouse) with respect to amounts included in gross income under clause (i) by such person.

"(g) COST-OF-LIVING ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 1998, each dollar amount in subsection (c)(2) shall be increased by an amount equal to—

"(1) such dollar amount, multiplied by

"(2) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which such taxable year begins by substituting 'calendar year 1997' for 'calendar year 1992' in subparagraph (B) thereof.

If any increase under the preceding sentence is not a multiple of $50, such increase shall be rounded to the nearest multiple of $50.

"(h) REPORTS.—The Secretary may require the trustee of a medical savings account to make such reports regarding such account to the Secretary and to the account holder with respect to contributions, distributions, and such other matters as the Secretary determines appropriate. The reports required by this subsection shall be filed at such time and in such manner and furnished to such individuals at such time and in such manner as may be required by the Secretary.

"(i) LIMITATION ON NUMBER OF TAXPAYERS HAVING MEDICAL SAVINGS ACCOUNTS.—

"(1) IN GENERAL.—Except as provided in paragraph (5), no individual shall be treated as an eligible individual for any taxable year beginning after the cut-off year unless—

"(A) such individual was an active MSA participant for any taxable year ending on or before the close of the cut-off year, or

"(B) such individual first became an active MSA participant for a taxable year ending after the cut-off year by reason of coverage under a high deductible health plan of an MSA–participating employer.

"(2) CUT-OFF YEAR.—For purposes of paragraph (1), the term 'cut-off year' means the earlier of—

"(A) calendar year 2000, or

"(B) the first calendar year before 2000 for which the Secretary determines under subsection (j) that the numerical limitation for such year has been exceeded.

"(3) ACTIVE MSA PARTICIPANT.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'active MSA participant' means, with respect to any taxable year, any individual who is the account holder of any medical savings account into which any contribution was made which was excludable from gross income under section 106(b), or allowable as a deduction under this section, for such taxable year.

"(B) SPECIAL RULE FOR CUT-OFF YEARS BEFORE 2000.—In the case of a cut-off year before 2000—

"(i) an individual shall not be treated as an eligible individual for any month of such year or an active MSA participant under paragraph (1)(A) unless such individual is, on or before the cut-off date, covered under a high deductible health plan, and

"(ii) an employer shall not be treated as an MSA-participating employer unless the employer, on or before the cut-off date, offered coverage under a high deductible health plan to any employee.

"(C) CUT-OFF DATE.—For purposes of subparagraph (B)—

"(i) IN GENERAL.—Except as otherwise provided in this subparagraph, the cut-off date is October 1 of the cut-off year.

"(ii) EMPLOYEES WITH ENROLLMENT PERIODS AFTER OCTOBER 1.—In the case of an individual described in subclause (I) of subsection (c)(1)(A)(iii), if the regularly scheduled enrollment period for health plans of the individual's employer occurs during the last 3 months of the cut-off year, the cut-off date is December 31 of the cut-off year.

"(iii) SELF-EMPLOYED INDIVIDUALS.—In the case of an individual described in subclause (II) of subsection (c)(1)(A)(iii), the cut-off date is November 1 of the cut-off year.

"(iv) SPECIAL RULES FOR 1997.—If 1997 is a cut-off year by reason of subsection (j)(1)(A)—

"(I) each of the cut-off dates under clauses (i) and (iii) shall be 1 month earlier than the date determined without regard to this clause, and

"(II) clause (ii) shall be applied by substituting '4 months' for '3 months'.

"(4) MSA-PARTICIPATING EMPLOYER.—For purposes of this subsection, the term 'MSA-participating employer' means any small employer if—

"(A) such employer made any contribution to the medical savings account of any employee during the cut-off year or any preceding calendar year which was excludable from gross income under section 106(b), or

"(B) at least 20 percent of the employees of such employer who are eligible individuals for any month of the cut-off year by reason of coverage under a high deductible health plan of such employer each made a contribution of at least $100 to their medical savings accounts for any taxable year ending with or within the cut-off year which was allowable as a deduction under this section.

"(5) ADDITIONAL ELIGIBILITY AFTER CUT-OFF YEAR.—If the Secretary determines under subsection (j)(2)(A) that the numerical limit for the calendar year following a cut-off year described in paragraph (2)(B) has not been exceeded—

"(A) this subsection shall not apply to any otherwise eligible individual who is covered under a high deductible health plan during the first 6 months of the second calendar year following the cut-off year (and such individual shall be treated as an active MSA participant for purposes of this subsection if a contribution is made to any medical savings account with respect to such coverage), and

"(B) any employer who offers coverage under a high deductible health plan to any employee during such 6-month period shall be treated as an MSA-participating employer for purposes of this subsection if the requirements of paragraph (4) are met with respect to such coverage.

For purposes of this paragraph, subsection (j)(2)(A) shall be applied for 1998 by substituting '750,000' for '600,000'.

"(j) DETERMINATION OF WHETHER NUMERICAL LIMITS ARE EXCEEDED.—

"(1) DETERMINATION OF WHETHER LIMIT EXCEEDED FOR 1997.—The numerical limitation for 1997 is exceeded if, based on the reports required under paragraph (4), the number of medical savings accounts established as of—

"(A) April 30, 1997, exceeds 375,000, or

"(B) June 30, 1997, exceeds 525,000.

"(2) DETERMINATION OF WHETHER LIMIT EXCEEDED FOR 1998 OR 1999.—

"(A) IN GENERAL.—The numerical limitation for 1998 or 1999 is exceeded if the sum of—

"(i) the number of MSA returns filed on or before April 15 of such calendar year for taxable years ending with or within the preceding calendar year, plus

"(ii) the Secretary's estimate (determined on the basis of the returns described in clause (i)) of the number of MSA returns for such taxable years which will be filed after such date,

exceeds 600,000 (750,000 in the case of 1999). For purposes of the preceding sentence, the term 'MSA return' means any return on which any exclusion is claimed under section 106(b) or any deduction is claimed under this section.

"(B) ALTERNATIVE COMPUTATION OF LIMITATION.—The numerical limitation for 1998 or 1999 is also exceeded if the sum of—

"(i) 90 percent of the sum determined under subparagraph (A) for such calendar year, plus

"(ii) the product of 2.5 and the number of medical savings accounts established during the portion of such year preceding July 1 (based on the reports required under paragraph (4)) for taxable years beginning in such year,

exceeds 750,000.

"(3) PREVIOUSLY UNINSURED INDIVIDUALS NOT INCLUDED IN DETERMINATION.—

"(A) IN GENERAL.—The determination of whether any calendar year is a cut-off year shall be made by not counting the medical savings account of any previously uninsured individual.

"(B) PREVIOUSLY UNINSURED INDIVIDUAL.—For purposes of this subsection, the term 'previously uninsured individual' means, with respect to any medical savings account, any individual who had no health plan coverage (other than coverage referred to in subsection (c)(1)(B)) at any time during the 6-month period before the date such individual's coverage under the high deductible health plan commences.

"(4) REPORTING BY MSA TRUSTEES.—

"(A) IN GENERAL.—Not later than August 1 of 1997, 1998, and 1999, each person who is the trustee of a medical savings account established before July 1 of such calendar year shall make a report to the Secretary (in such form and manner as the Secretary shall specify) which specifies—

"(i) the number of medical savings accounts established before such July 1 (for taxable years beginning in such calendar year) of which such person is the trustee,

"(ii) the name and TIN of the account holder of each such account, and

"(iii) the number of such accounts which are accounts of previously uninsured individuals.

"(B) ADDITIONAL REPORT FOR 1997.—Not later than June 1, 1997, each person who is the trustee of a medical savings account established before May 1, 1997, shall make an additional report described in subparagraph (A) but only with respect to accounts established before May 1, 1997.

"(C) PENALTY FOR FAILURE TO FILE REPORT.—The penalty provided in section 6693(a) shall apply to any report required by this paragraph, except that—

"(i) such section shall be applied by substituting '$25' for '$50', and

"(ii) the maximum penalty imposed on any trustee shall not exceed $5,000.

"(D) AGGREGATION OF ACCOUNTS.—To the extent practicable, in determining the number of medical savings accounts on the basis of the reports under this paragraph, all medical savings accounts of an individual shall be treated as 1 account and all accounts of individuals who are married to each other shall be treated as 1 account.

"(5) DATE OF MAKING DETERMINATIONS.—Any determination under this subsection that a calendar year is a cut-off year shall be made by the Secretary and shall be published not later than October 1 of such year.".

(b) DEDUCTION ALLOWED WHETHER OR NOT INDIVIDUAL ITEMIZES OTHER DEDUCTIONS.—Subsection (a) of section 62 is amended by inserting after paragraph (15) the following new paragraph:

"(16) MEDICAL SAVINGS ACCOUNTS.—The deduction allowed by section 220.".

(c) EXCLUSIONS FOR EMPLOYER CONTRIBUTIONS TO MEDICAL SAVINGS ACCOUNTS.—

(1) EXCLUSION FROM INCOME TAX.—The text of section 106 (relating to contributions by employer to accident and health plans) is amended to read as follows:

"(a) GENERAL RULE.—Except as otherwise provided in this section, gross income of an employee does not include employer-provided coverage under an accident or health plan.

"(b) CONTRIBUTIONS TO MEDICAL SAVINGS ACCOUNTS.—

"(1) IN GENERAL.—In the case of an employee who is an eligible individual, amounts contributed by such employee's employer to any medical savings account of such employee shall be treated as employer-provided coverage for medical expenses under an accident or health plan to the extent such amounts do not exceed the limitation under section 220(b)(1) (determined without regard to this subsection) which is applicable to such employee for such taxable year.

"(2) NO CONSTRUCTIVE RECEIPT.—No amount shall be included in the gross income of any employee solely because the employee may choose between the contributions referred to in paragraph (1) and employer contributions to another health plan of the employer.

"(3) SPECIAL RULE FOR DEDUCTION OF EMPLOYER CONTRIBUTIONS.—Any employer contribution to a medical savings account, if otherwise allowable as a deduction under this chapter, shall be allowed only for the taxable year in which paid.

"(4) EMPLOYER MSA CONTRIBUTIONS REQUIRED TO BE SHOWN ON RETURN.—Every individual required to file a return under section 6012 for the taxable year shall include on such return the aggregate amount contributed by employers to the medical savings accounts of such individual or such individual's spouse for such taxable year.

"(5) MSA CONTRIBUTIONS NOT PART OF COBRA COVERAGE.—Paragraph (1) shall not apply for purposes of section 4980B.

"(6) DEFINITIONS.—For purposes of this subsection, the terms 'eligible individual' and 'medical savings account' have the respective meanings given to such terms by section 220.

"(7) CROSS REFERENCE.—

"For penalty on failure by employer to make comparable contributions to the medical savings accounts of comparable employees, see section 4980E.".

(2) EXCLUSION FROM EMPLOYMENT TAXES.—

(A) RAILROAD RETIREMENT TAX.—Subsection (e) of section 3231 is amended by adding at the end the following new paragraph:

"(10) MEDICAL SAVINGS ACCOUNT CONTRIBUTIONS.—The term 'compensation' shall not include any payment made to or for the benefit of an employee if at the time of such payment it is reasonable to believe that the employee will be able to exclude such payment from income under section 106(b).".

(B) UNEMPLOYMENT TAX.—Subsection (b) of section 3306 is amended by striking "or" at the end of paragraph (15), by striking the period at the end of paragraph (16) and inserting "; or", and by inserting after paragraph (16) the following new paragraph:

"(17) any payment made to or for the benefit of an employee if at the time of such payment it is reasonable to believe that the employee will be able to exclude such payment from income under section 106(b).".

(C) WITHHOLDING TAX.—Subsection (a) of section 3401 is amended by striking "or" at the end of paragraph (19), by striking the period at the end of paragraph (20) and inserting "; or", and by inserting after paragraph (20) the following new paragraph:

"(21) any payment made to or for the benefit of an employee if at the time of such payment it is reasonable to believe that the employee will be able to exclude such payment from income under section 106(b)."

(3) EMPLOYER CONTRIBUTIONS REQUIRED TO BE SHOWN ON W–2.—Subsection (a) of section 6051 is amended by striking "and" at the end of paragraph (9), by striking the period at the end of paragraph (10) and inserting ", and", and by inserting after paragraph (10) the following new paragraph:

"(11) the amount contributed to any medical savings account (as defined in section 220(d)) of such employee or such employee's spouse.".

(4) PENALTY FOR FAILURE OF EMPLOYER TO MAKE COMPARABLE MSA CONTRIBUTIONS.—

(A) IN GENERAL.—Chapter 43 is amended by adding after section 4980D the following new section:

"SEC. 4980E. FAILURE OF EMPLOYER TO MAKE COMPARABLE MEDICAL SAVINGS ACCOUNT CONTRIBUTIONS.

"(a) GENERAL RULE.—In the case of an employer who makes a contribution to the medical savings account of any employee with respect to coverage under a high deductible health plan of the employer during a calendar year, there is hereby imposed a tax on the failure of such employer to meet the requirements of subsection (d) for such calendar year.

"(b) AMOUNT OF TAX.—The amount of the tax imposed by subsection (a) on any failure for any calendar year is the amount

equal to 35 percent of the aggregate amount contributed by the employer to medical savings accounts of employees for taxable years of such employees ending with or within such calendar year.

"(c) WAIVER BY SECRETARY.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed by subsection (a) to the extent that the payment of such tax would be excessive relative to the failure involved.

"(d) EMPLOYER REQUIRED TO MAKE COMPARABLE MSA CONTRIBUTIONS FOR ALL PARTICIPATING EMPLOYEES.—

"(1) IN GENERAL.—An employer meets the requirements of this subsection for any calendar year if the employer makes available comparable contributions to the medical savings accounts of all comparable participating employees for each coverage period during such calendar year.

"(2) COMPARABLE CONTRIBUTIONS.—

"(A) IN GENERAL.—For purposes of paragraph (1), the term 'comparable contributions' means contributions—

"(i) which are the same amount, or

"(ii) which are the same percentage of the annual deductible limit under the high deductible health plan covering the employees.

"(B) PART-YEAR EMPLOYEES.—In the case of an employee who is employed by the employer for only a portion of the calendar year, a contribution to the medical savings account of such employee shall be treated as comparable if it is an amount which bears the same ratio to the comparable amount (determined without regard to this subparagraph) as such portion bears to the entire calendar year.

"(3) COMPARABLE PARTICIPATING EMPLOYEES.—For purposes of paragraph (1), the term 'comparable participating employees' means all employees—

"(A) who are eligible individuals covered under any high deductible health plan of the employer, and

"(B) who have the same category of coverage.

For purposes of subparagraph (B), the categories of coverage are self-only and family coverage.

"(4) PART-TIME EMPLOYEES.—

"(A) IN GENERAL.—Paragraph (3) shall be applied separately with respect to part-time employees and other employees.

"(B) PART-TIME EMPLOYEE.—For purposes of subparagraph (A), the term 'part-time employee' means any employee who is customarily employed for fewer than 30 hours per week.

"(e) CONTROLLED GROUPS.—For purposes of this section, all persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 shall be treated as 1 employer.

"(f) DEFINITIONS.—Terms used in this section which are also used in section 220 have the respective meanings given such terms in section 220.".

(B) CLERICAL AMENDMENT.—The table of sections for chapter 43 is amended by adding after the item relating to section 4980D the following new item:

"Sec. 4980E. Failure of employer to make comparable medical savings account contributions.".

(d) MEDICAL SAVINGS ACCOUNT CONTRIBUTIONS NOT AVAILABLE UNDER CAFETERIA PLANS.—Subsection (f) of section 125 of such Code is amended by inserting "106(b)," before "117".

(e) TAX ON EXCESS CONTRIBUTIONS.—Section 4973 (relating to tax on excess contributions to individual retirement accounts, certain section 403(b) contracts, and certain individual retirement annuities) is amended—

(1) by inserting "**MEDICAL SAVINGS ACCOUNTS,**" after "**ACCOUNTS,**" in the heading of such section,

(2) by striking "or" at the end of paragraph (1) of subsection (a),

(3) by redesignating paragraph (2) of subsection (a) as paragraph (3) and by inserting after paragraph (1) the following:

"(2) a medical savings account (within the meaning of section 220(d)), or", and

(4) by adding at the end the following new subsection:

"(d) EXCESS CONTRIBUTIONS TO MEDICAL SAVINGS ACCOUNTS.—For purposes of this section, in the case of medical savings accounts (within the meaning of section 220(d)), the term 'excess contributions' means the sum of—

"(1) the aggregate amount contributed for the taxable year to the accounts (other than rollover contributions described in section 220(f)(5)) which is neither excludable from gross income under section 106(b) nor allowable as a deduction under section 220 for such year, and

"(2) the amount determined under this subsection for the preceding taxable year, reduced by the sum of—

"(A) the distributions out of the accounts which were included in gross income under section 220(f)(2), and

"(B) the excess (if any) of—

"(i) the maximum amount allowable as a deduction under section 220(b)(1) (determined without regard to section 106(b)) for the taxable year, over

"(ii) the amount contributed to the accounts for the taxable year.

For purposes of this subsection, any contribution which is distributed out of the medical savings account in a distribution to which section 220(f)(3) applies shall be treated as an amount not contributed.".

(f) TAX ON PROHIBITED TRANSACTIONS.—

(1) Section 4975 (relating to tax on prohibited transactions) is amended by adding at the end of subsection (c) the following new paragraph:

"(4) SPECIAL RULE FOR MEDICAL SAVINGS ACCOUNTS.—An individual for whose benefit a medical savings account (within the meaning of section 220(d)) is established shall be exempt from the tax imposed by this section with respect to any transaction concerning such account (which would otherwise be taxable under this section) if, with respect to such transaction, the account ceases to be a medical savings account by reason of the application of section 220(e)(2) to such account.".

(2) Paragraph (1) of section 4975(e) is amended to read as follows:

"(1) PLAN.—For purposes of this section, the term 'plan' means—

"(A) a trust described in section 401(a) which forms a part of a plan, or a plan described in section 403(a), which trust or plan is exempt from tax under section 501(a),

"(B) an individual retirement account described in section 408(a),

"(C) an individual retirement annuity described in section 408(b),

"(D) a medical savings account described in section 220(d), or

"(E) a trust, plan, account, or annuity which, at any time, has been determined by the Secretary to be described in any preceding subparagraph of this paragraph.".

(g) FAILURE TO PROVIDE REPORTS ON MEDICAL SAVINGS ACCOUNTS.—

(1) Subsection (a) of section 6693 (relating to failure to provide reports on individual retirement accounts or annuities) is amended to read as follows:

"(a) REPORTS.—

"(1) IN GENERAL.—If a person required to file a report under a provision referred to in paragraph (2) fails to file such report at the time and in the manner required by such provision, such person shall pay a penalty of $50 for each failure unless it is shown that such failure is due to reasonable cause.

"(2) PROVISIONS.—The provisions referred to in this paragraph are—

"(A) subsections (i) and (l) of section 408 (relating to individual retirement plans), and

"(B) section 220(h) (relating to medical savings accounts).".

(h) EXCEPTION FROM CAPITALIZATION OF POLICY ACQUISITION EXPENSES.—Subparagraph (B) of section 848(e)(1) (defining specified insurance contract) is amended by striking "and" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ", and", and by adding at the end the following new clause:

"(iv) any contract which is a medical savings account (as defined in section 220(d)).".

(i) CLERICAL AMENDMENT.—The table of sections for part VII of subchapter B of chapter 1 is amended by striking the last item and inserting the following:

"Sec. 220. Medical savings accounts.
"Sec. 221. Cross reference.".

26 USC 62 note. (j) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

26 USC 220 note. (k) MONITORING OF PARTICIPATION IN MEDICAL SAVINGS ACCOUNTS.—The Secretary of the Treasury or his delegate shall—

(1) during 1997, 1998, 1999, and 2000, regularly evaluate the number of individuals who are maintaining medical savings accounts and the reduction in revenues to the United States by reason of such accounts, and

(2) provide such reports of such evaluations to Congress as such Secretary determines appropriate.

26 USC 220 note. (l) STUDY OF EFFECTS OF MEDICAL SAVINGS ACCOUNTS ON SMALL GROUP MARKET.—The Comptroller General of the United States shall enter into a contract with an organization with expertise in health economics, health insurance markets, and actuarial

science to conduct a comprehensive study regarding the effects of medical savings accounts in the small group market on—

(1) selection, including adverse selection,

(2) health costs, including any impact on premiums of individuals with comprehensive coverage,

(3) use of preventive care,

(4) consumer choice,

(5) the scope of coverage of high deductible plans purchased in conjunction with such accounts, and

(6) other relevant items.

A report on the results of the study conducted under this subsection shall be submitted to the Congress no later than January 1, 1999. Reports.

Subtitle B—Increase in Deduction for Health Insurance Costs of Self-Employed Individuals

SEC. 311. INCREASE IN DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) IN GENERAL.—Paragraph (1) of section 162(l) is amended to read as follows:

"(1) ALLOWANCE OF DEDUCTION.—

"(A) IN GENERAL.—In the case of an individual who is an employee within the meaning of section 401(c)(1), there shall be allowed as a deduction under this section an amount equal to the applicable percentage of the amount paid during the taxable year for insurance which constitutes medical care for the taxpayer, his spouse, and dependents.

"(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the applicable percentage shall be determined under the following table:

"For taxable years beginning in calendar year—	The applicable percentage is—
1997	40 percent
1998 through 2002	45 percent
2003	50 percent
2004	60 percent
2005	70 percent
2006 or thereafter	80 percent.".

(b) EXCLUSION FOR AMOUNTS RECEIVED UNDER CERTAIN SELF-INSURED PLANS.—Paragraph (3) of section 104(a) is amended by inserting "(or through an arrangement having the effect of accident or health insurance)" after "health insurance".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996. 26 USC 104 note.

Subtitle C—Long-Term Care Services and Contracts

PART I—GENERAL PROVISIONS

SEC. 321. TREATMENT OF LONG-TERM CARE INSURANCE.

(a) GENERAL RULE.—Chapter 79 (relating to definitions) is amended by inserting after section 7702A the following new section:

"SEC. 7702B. TREATMENT OF QUALIFIED LONG-TERM CARE INSURANCE.

"(a) IN GENERAL.—For purposes of this title—

"(1) a qualified long-term care insurance contract shall be treated as an accident and health insurance contract,

"(2) amounts (other than policyholder dividends, as defined in section 808, or premium refunds) received under a qualified long-term care insurance contract shall be treated as amounts received for personal injuries and sickness and shall be treated as reimbursement for expenses actually incurred for medical care (as defined in section 213(d)),

"(3) any plan of an employer providing coverage under a qualified long-term care insurance contract shall be treated as an accident and health plan with respect to such coverage,

"(4) except as provided in subsection (e)(3), amounts paid for a qualified long-term care insurance contract providing the benefits described in subsection (b)(2)(A) shall be treated as payments made for insurance for purposes of section 213(d)(1)(D), and

"(5) a qualified long-term care insurance contract shall be treated as a guaranteed renewable contract subject to the rules of section 816(e).

"(b) QUALIFIED LONG-TERM CARE INSURANCE CONTRACT.—For purposes of this title—

"(1) IN GENERAL.—The term 'qualified long-term care insurance contract' means any insurance contract if—

"(A) the only insurance protection provided under such contract is coverage of qualified long-term care services,

"(B) such contract does not pay or reimburse expenses incurred for services or items to the extent that such expenses are reimbursable under title XVIII of the Social Security Act or would be so reimbursable but for the application of a deductible or coinsurance amount,

"(C) such contract is guaranteed renewable,

"(D) such contract does not provide for a cash surrender value or other money that can be—

"(i) paid, assigned, or pledged as collateral for a loan, or

"(ii) borrowed,

other than as provided in subparagraph (E) or paragraph (2)(C),

"(E) all refunds of premiums, and all policyholder dividends or similar amounts, under such contract are to be applied as a reduction in future premiums or to increase future benefits, and

"(F) such contract meets the requirements of subsection (g).

"(2) SPECIAL RULES.—

"(A) PER DIEM, ETC. PAYMENTS PERMITTED.—A contract shall not fail to be described in subparagraph (A) or (B) of paragraph (1) by reason of payments being made on a per diem or other periodic basis without regard to the expenses incurred during the period to which the payments relate.

"(B) SPECIAL RULES RELATING TO MEDICARE.—

"(i) Paragraph (1)(B) shall not apply to expenses which are reimbursable under title XVIII of the Social Security Act only as a secondary payor.

"(ii) No provision of law shall be construed or applied so as to prohibit the offering of a qualified long-term care insurance contract on the basis that the contract coordinates its benefits with those provided under such title.

"(C) REFUNDS OF PREMIUMS.—Paragraph (1)(E) shall not apply to any refund on the death of the insured, or on a complete surrender or cancellation of the contract, which cannot exceed the aggregate premiums paid under the contract. Any refund on a complete surrender or cancellation of the contract shall be includible in gross income to the extent that any deduction or exclusion was allowable with respect to the premiums.

"(c) QUALIFIED LONG-TERM CARE SERVICES.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified long-term care services' means necessary diagnostic, preventive, therapeutic, curing, treating, mitigating, and rehabilitative services, and maintenance or personal care services, which—

"(A) are required by a chronically ill individual, and

"(B) are provided pursuant to a plan of care prescribed by a licensed health care practitioner.

"(2) CHRONICALLY ILL INDIVIDUAL.—

"(A) IN GENERAL.—The term 'chronically ill individual' means any individual who has been certified by a licensed health care practitioner as—

"(i) being unable to perform (without substantial assistance from another individual) at least 2 activities of daily living for a period of at least 90 days due to a loss of functional capacity,

"(ii) having a level of disability similar (as determined under regulations prescribed by the Secretary in consultation with the Secretary of Health and Human Services) to the level of disability described in clause (i), or

"(iii) requiring substantial supervision to protect such individual from threats to health and safety due to severe cognitive impairment.

Such term shall not include any individual otherwise meeting the requirements of the preceding sentence unless within the preceding 12-month period a licensed health care practitioner has certified that such individual meets such requirements.

"(B) ACTIVITIES OF DAILY LIVING.—For purposes of subparagraph (A), each of the following is an activity of daily living:

"(i) Eating.
"(ii) Toileting.
"(iii) Transferring.
"(iv) Bathing.
"(v) Dressing.
"(vi) Continence.

A contract shall not be treated as a qualified long-term care insurance contract unless the determination of whether an individual is a chronically ill individual takes into account at least 5 of such activities.

"(3) MAINTENANCE OR PERSONAL CARE SERVICES.—The term 'maintenance or personal care services' means any care the primary purpose of which is the provision of needed assistance with any of the disabilities as a result of which the individual is a chronically ill individual (including the protection from threats to health and safety due to severe cognitive impairment).

"(4) LICENSED HEALTH CARE PRACTITIONER.—The term 'licensed health care practitioner' means any physician (as defined in section 1861(r)(1) of the Social Security Act) and any registered professional nurse, licensed social worker, or other individual who meets such requirements as may be prescribed by the Secretary.

"(d) AGGREGATE PAYMENTS IN EXCESS OF LIMITS.—

"(1) IN GENERAL.—If the aggregate of—

"(A) the periodic payments received for any period under all qualified long-term care insurance contracts which are treated as made for qualified long-term care services for an insured, and

"(B) the periodic payments received for such period which are treated under section 101(g) as paid by reason of the death of such insured,

exceeds the per diem limitation for such period, such excess shall be includible in gross income without regard to section 72. A payment shall not be taken into account under subparagraph (B) if the insured is a terminally ill individual (as defined in section 101(g)) at the time the payment is received.

"(2) PER DIEM LIMITATION.—For purposes of paragraph (1), the per diem limitation for any period is an amount equal to the excess (if any) of—

"(A) the greater of—

"(i) the dollar amount in effect for such period under paragraph (4), or

"(ii) the costs incurred for qualified long-term care services provided for the insured for such period, over

"(B) the aggregate payments received as reimbursements (through insurance or otherwise) for qualified long-term care services provided for the insured during such period.

"(3) AGGREGATION RULES.—For purposes of this subsection—

"(A) all persons receiving periodic payments described in paragraph (1) with respect to the same insured shall be treated as 1 person, and

"(B) the per diem limitation determined under paragraph (2) shall be allocated first to the insured and any remaining limitation shall be allocated among the other

such persons in such manner as the Secretary shall prescribe.

"(4) DOLLAR AMOUNT.—The dollar amount in effect under this subsection shall be $175 per day (or the equivalent amount in the case of payments on another periodic basis).

"(5) INFLATION ADJUSTMENT.—In the case of a calendar year after 1997, the dollar amount contained in paragraph (4) shall be increased at the same time and in the same manner as amounts are increased pursuant to section 213(d)(10).

"(6) PERIODIC PAYMENTS.—For purposes of this subsection, the term 'periodic payment' means any payment (whether on a periodic basis or otherwise) made without regard to the extent of the costs incurred by the payee for qualified long-term care services.

"(e) TREATMENT OF COVERAGE PROVIDED AS PART OF A LIFE INSURANCE CONTRACT.—Except as otherwise provided in regulations prescribed by the Secretary, in the case of any long-term care insurance coverage (whether or not qualified) provided by a rider on or as part of a life insurance contract—

"(1) IN GENERAL.—This section shall apply as if the portion of the contract providing such coverage is a separate contract.

"(2) APPLICATION OF 7702.—Section 7702(c)(2) (relating to the guideline premium limitation) shall be applied by increasing the guideline premium limitation with respect to a life insurance contract, as of any date—

"(A) by the sum of any charges (but not premium payments) against the life insurance contract's cash surrender value (within the meaning of section 7702(f)(2)(A)) for such coverage made to that date under the contract, less

"(B) any such charges the imposition of which reduces the premiums paid for the contract (within the meaning of section 7702(f)(1)).

"(3) APPLICATION OF SECTION 213.—No deduction shall be allowed under section 213(a) for charges against the life insurance contract's cash surrender value described in paragraph (2), unless such charges are includible in income as a result of the application of section 72(e)(10) and the rider is a qualified long-term care insurance contract under subsection (b).

"(4) PORTION DEFINED.—For purposes of this subsection, the term 'portion' means only the terms and benefits under a life insurance contract that are in addition to the terms and benefits under the contract without regard to long-term care insurance coverage.

"(f) TREATMENT OF CERTAIN STATE-MAINTAINED PLANS.—

"(1) IN GENERAL.—If—

"(A) an individual receives coverage for qualified long-term care services under a State long-term care plan, and

"(B) the terms of such plan would satisfy the requirements of subsection (b) were such plan an insurance contract,

such plan shall be treated as a qualified long-term care insurance contract for purposes of this title.

"(2) STATE LONG-TERM CARE PLAN.—For purposes of paragraph (1), the term 'State long-term care plan' means any plan—

"(A) which is established and maintained by a State or an instrumentality of a State,

"(B) which provides coverage only for qualified long-term care services, and

"(C) under which such coverage is provided only to—

"(i) employees and former employees of a State (or any political subdivision or instrumentality of a State),

"(ii) the spouses of such employees, and

"(iii) individuals bearing a relationship to such employees or spouses which is described in any of paragraphs (1) through (8) of section 152(a).".

(b) RESERVE METHOD.—Clause (iii) of section 807(d)(3)(A) is amended by inserting "(other than a qualified long-term care insurance contract, as defined in section 7702B(b))" after "insurance contract".

(c) LONG-TERM CARE INSURANCE NOT PERMITTED UNDER CAFETERIA PLANS OR FLEXIBLE SPENDING ARRANGEMENTS.—

(1) CAFETERIA PLANS.—Section 125(f) is amended by adding at the end the following new sentence: "Such term shall not include any product which is advertised, marketed, or offered as long-term care insurance.".

(2) FLEXIBLE SPENDING ARRANGEMENTS.—Section 106 (relating to contributions by employer to accident and health plans), as amended by section 301(c), is amended by adding at the end the following new subsection:

"(c) INCLUSION OF LONG-TERM CARE BENEFITS PROVIDED THROUGH FLEXIBLE SPENDING ARRANGEMENTS.—

"(1) IN GENERAL.—Effective on and after January 1, 1997, gross income of an employee shall include employer-provided coverage for qualified long-term care services (as defined in section 7702B(c)) to the extent that such coverage is provided through a flexible spending or similar arrangement.

"(2) FLEXIBLE SPENDING ARRANGEMENT.—For purposes of this subsection, a flexible spending arrangement is a benefit program which provides employees with coverage under which—

"(A) specified incurred expenses may be reimbursed (subject to reimbursement maximums and other reasonable conditions), and

"(B) the maximum amount of reimbursement which is reasonably available to a participant for such coverage is less than 500 percent of the value of such coverage.

In the case of an insured plan, the maximum amount reasonably available shall be determined on the basis of the underlying coverage."

(d) CONTINUATION COVERAGE RULES NOT TO APPLY.—

(1) Paragraph (2) of section 4980B(g) is amended by adding at the end the following new sentence: "Such term shall not include any plan substantially all of the coverage under which is for qualified long-term care services (as defined in section 7702B(c))."

(2) Paragraph (1) of section 607 of the Employee Retirement Income Security Act of 1974 is amended by adding at the end the following new sentence: "Such term shall not include any plan substantially all of the coverage under which is for qualified long-term care services (as defined in section 7702B(c) of such Code)."

29 USC 1167.

(3) Paragraph (1) of section 2208 of the Public Health Service Act is amended by adding at the end the following new sentence: "Such term shall not include any plan substantially all of the coverage under which is for qualified long-term care services (as defined in section 7702B(c) of such Code)." 42 USC 300bb–8.

(e) CLERICAL AMENDMENT.—The table of sections for chapter 79 is amended by inserting after the item relating to section 7702A the following new item:

"Sec. 7702B. Treatment of qualified long-term care insurance.".

(f) EFFECTIVE DATES.— 26 USC 1702B note.

(1) GENERAL EFFECTIVE DATE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by this section shall apply to contracts issued after December 31, 1996.

(B) RESERVE METHOD.—The amendment made by subsection (b) shall apply to contracts issued after December 31, 1997.

(2) CONTINUATION OF EXISTING POLICIES.—In the case of any contract issued before January 1, 1997, which met the long-term care insurance requirements of the State in which the contract was situsted at the time the contract was issued—

(A) such contract shall be treated for purposes of the Internal Revenue Code of 1986 as a qualified long-term care insurance contract (as defined in section 7702B(b) of such Code), and

(B) services provided under, or reimbursed by, such contract shall be treated for such purposes as qualified long-term care services (as defined in section 7702B(c) of such Code).

In the case of an individual who is covered on December 31, 1996, under a State long-term care plan (as defined in section 7702B(f)(2) of such Code), the terms of such plan on such date shall be treated for purposes of the preceding sentence as a contract issued on such date which met the long-term care insurance requirements of such State.

(3) EXCHANGES OF EXISTING POLICIES.—If, after the date of enactment of this Act and before January 1, 1998, a contract providing for long-term care insurance coverage is exchanged solely for a qualified long-term care insurance contract (as defined in section 7702B(b) of such Code), no gain or loss shall be recognized on the exchange. If, in addition to a qualified long-term care insurance contract, money or other property is received in the exchange, then any gain shall be recognized to the extent of the sum of the money and the fair market value of the other property received. For purposes of this paragraph, the cancellation of a contract providing for long-term care insurance coverage and reinvestment of the cancellation proceeds in a qualified long-term care insurance contract within 60 days thereafter shall be treated as an exchange.

(4) ISSUANCE OF CERTAIN RIDERS PERMITTED.—For purposes of applying sections 101(f), 7702, and 7702A of the Internal Revenue Code of 1986 to any contract—

(A) the issuance of a rider which is treated as a qualified long-term care insurance contract under section 7702B, and

(B) the addition of any provision required to conform any other long-term care rider to be so treated,

shall not be treated as a modification or material change of such contract.

(5) APPLICATION OF PER DIEM LIMITATION TO EXISTING CONTRACTS.—The amount of per diem payments made under a contract issued on or before July 31, 1996, with respect to an insured which are excludable from gross income by reason of section 7702B of the Internal Revenue Code of 1986 (as added by this section) shall not be reduced under subsection (d)(2)(B) thereof by reason of reimbursements received under a contract issued on or before such date. The preceding sentence shall cease to apply as of the date (after July 31, 1996) such contract is exchanged or there is any contract modification which results in an increase in the amount of such per diem payments or the amount of such reimbursements.

26 USC 7702B note.

(g) LONG-TERM CARE STUDY REQUEST.—The Chairman of the Committee on Ways and Means of the House of Representatives and the Chairman of the Committee on Finance of the Senate shall jointly request the National Association of Insurance Commissioners, in consultation with representatives of the insurance industry and consumer organizations, to formulate, develop, and conduct a study to determine the marketing and other effects of per diem limits on certain types of long-term care policies. If the National Association of Insurance Commissioners agrees to the study request, the National Association of Insurance Commissioners shall report the results of its study to such committees not later than 2 years after accepting the request.

Reports.

SEC. 322. QUALIFIED LONG-TERM CARE SERVICES TREATED AS MEDICAL CARE.

(a) GENERAL RULE.—Paragraph (1) of section 213(d) (defining medical care) is amended by striking "or" at the end of subparagraph (B), by redesignating subparagraph (C) as subparagraph (D), and by inserting after subparagraph (B) the following new subparagraph:

"(C) for qualified long-term care services (as defined in section 7702B(c)), or".

(b) TECHNICAL AMENDMENTS.—

(1) Subparagraph (D) of section 213(d)(1) (as redesignated by subsection (a)) is amended by inserting before the period "or for any qualified long-term care insurance contract (as defined in section 7702B(b))".

(2)(A) Paragraph (1) of section 213(d) is amended by adding at the end the following new flush sentence:

"In the case of a qualified long-term care insurance contract (as defined in section 7702B(b)), only eligible long-term care premiums (as defined in paragraph (10)) shall be taken into account under subparagraph (D)."

(B) Paragraph (2) of section 162(l) is amended by adding at the end the following new subparagraph:

"(C) LONG-TERM CARE PREMIUMS.—In the case of a qualified long-term care insurance contract (as defined in section 7702B(b)), only eligible long-term care premiums (as defined in section 213(d)(10)) shall be taken into account under paragraph (1)."

(C) Subsection (d) of section 213 is amended by adding at the end the following new paragraphs:

"(10) ELIGIBLE LONG-TERM CARE PREMIUMS.—

"(A) IN GENERAL.—For purposes of this section, the term 'eligible long-term care premiums' means the amount paid during a taxable year for any qualified long-term care insurance contract (as defined in section 7702B(b)) covering an individual, to the extent such amount does not exceed the limitation determined under the following table:

"In the case of an individual with an attained age before the close of the taxable year of:	The limitation is:
40 or less	$ 200
More than 40 but not more than 50	375
More than 50 but not more than 60	750
More than 60 but not more than 70	2,000
More than 70	2,500 .

"(B) INDEXING.—

"(i) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 1997, each dollar amount contained in subparagraph (A) shall be increased by the medical care cost adjustment of such amount for such calendar year. If any increase determined under the preceding sentence is not a multiple of $10, such increase shall be rounded to the nearest multiple of $10.

"(ii) MEDICAL CARE COST ADJUSTMENT.—For purposes of clause (i), the medical care cost adjustment for any calendar year is the percentage (if any) by which—

"(I) the medical care component of the Consumer Price Index (as defined in section 1(f)(5)) for August of the preceding calendar year, exceeds

"(II) such component for August of 1996.

The Secretary shall, in consultation with the Secretary of Health and Human Services, prescribe an adjustment which the Secretary determines is more appropriate for purposes of this paragraph than the adjustment described in the preceding sentence, and the adjustment so prescribed shall apply in lieu of the adjustment described in the preceding sentence.

"(11) CERTAIN PAYMENTS TO RELATIVES TREATED AS NOT PAID FOR MEDICAL CARE.—An amount paid for a qualified long-term care service (as defined in section 7702B(c)) provided to an individual shall be treated as not paid for medical care if such service is provided—

"(A) by the spouse of the individual or by a relative (directly or through a partnership, corporation, or other entity) unless the service is provided by a licensed professional with respect to such service, or

"(B) by a corporation or partnership which is related (within the meaning of section 267(b) or 707(b)) to the individual.

For purposes of this paragraph, the term 'relative' means an individual bearing a relationship to the individual which is described in any of paragraphs (1) through (8) of section 152(a).

This paragraph shall not apply for purposes of section 105(b) with respect to reimbursements through insurance.".

(3) Paragraph (6) of section 213(d) is amended—

(A) by striking "subparagraphs (A) and (B)" and inserting "subparagraphs (A), (B), and (C)", and

(B) by striking "paragraph (1)(C)" in subparagraph (A) and inserting "paragraph (1)(D)".

(4) Paragraph (7) of section 213(d) is amended by striking "subparagraphs (A) and (B)" and inserting "subparagraphs (A), (B), and (C)".

26 USC 162 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

SEC. 323. REPORTING REQUIREMENTS.

(a) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 is amended by adding at the end the following new section:

"SEC. 6050Q. CERTAIN LONG-TERM CARE BENEFITS.

"(a) REQUIREMENT OF REPORTING.—Any person who pays long-term care benefits shall make a return, according to the forms or regulations prescribed by the Secretary, setting forth—

"(1) the aggregate amount of such benefits paid by such person to any individual during any calendar year,

"(2) whether or not such benefits are paid in whole or in part on a per diem or other periodic basis without regard to the expenses incurred during the period to which the payments relate,

"(3) the name, address, and TIN of such individual, and

"(4) the name, address, and TIN of the chronically ill or terminally ill individual on account of whose condition such benefits are paid.

"(b) STATEMENTS TO BE FURNISHED TO PERSONS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under subsection (a) shall furnish to each individual whose name is required to be set forth in such return a written statement showing—

"(1) the name of the person making the payments, and

"(2) the aggregate amount of long-term care benefits paid to the individual which are required to be shown on such return.

The written statement required under the preceding sentence shall be furnished to the individual on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made.

"(c) LONG-TERM CARE BENEFITS.—For purposes of this section, the term 'long-term care benefit' means—

"(1) any payment under a product which is advertised, marketed, or offered as long-term care insurance, and

"(2) any payment which is excludable from gross income by reason of section 101(g).".

(b) PENALTIES.—

(1) Subparagraph (B) of section 6724(d)(1) is amended by redesignating clauses (ix) through (xiv) as clauses (x) through (xv), respectively, and by inserting after clause (viii) the following new clause:

"(ix) section 6050Q (relating to certain long-term care benefits),".

(2) Paragraph (2) of section 6724(d) is amended by redesignating subparagraphs (Q) through (T) as subparagraphs (R) through (U), respectively, and by inserting after subparagraph (P) the following new subparagraph:

"(Q) section 6050Q(b) (relating to certain long-term care benefits),".

(c) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by adding at the end the following new item:

"Sec. 6050Q. Certain long-term care benefits.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to benefits paid after December 31, 1996. 26 USC 6050Q note.

PART II—CONSUMER PROTECTION PROVISIONS

SEC. 325. POLICY REQUIREMENTS.

Section 7702B (as added by section 321) is amended by adding at the end the following new subsection:

"(g) CONSUMER PROTECTION PROVISIONS.—

"(1) IN GENERAL.—The requirements of this subsection are met with respect to any contract if the contract meets—

"(A) the requirements of the model regulation and model Act described in paragraph (2),

"(B) the disclosure requirement of paragraph (3), and

"(C) the requirements relating to nonforfeitability under paragraph (4).

"(2) REQUIREMENTS OF MODEL REGULATION AND ACT.—

"(A) IN GENERAL.—The requirements of this paragraph are met with respect to any contract if such contract meets—

"(i) MODEL REGULATION.—The following requirements of the model regulation:

"(I) Section 7A (relating to guaranteed renewal or noncancellability), and the requirements of section 6B of the model Act relating to such section 7A.

"(II) Section 7B (relating to prohibitions on limitations and exclusions).

"(III) Section 7C (relating to extension of benefits).

"(IV) Section 7D (relating to continuation or conversion of coverage).

"(V) Section 7E (relating to discontinuance and replacement of policies).

"(VI) Section 8 (relating to unintentional lapse).

"(VII) Section 9 (relating to disclosure), other than section 9F thereof.

"(VIII) Section 10 (relating to prohibitions against post-claims underwriting).

"(IX) Section 11 (relating to minimum standards).

"(X) Section 12 (relating to requirement to offer inflation protection), except that any requirement for a signature on a rejection of inflation

protection shall permit the signature to be on an application or on a separate form.

"(XI) Section 23 (relating to prohibition against preexisting conditions and probationary periods in replacement policies or certificates).

"(ii) MODEL ACT.—The following requirements of the model Act:

"(I) Section 6C (relating to preexisting conditions).

"(II) Section 6D (relating to prior hospitalization).

"(B) DEFINITIONS.—For purposes of this paragraph—

"(i) MODEL PROVISIONS.—The terms 'model regulation' and 'model Act' mean the long-term care insurance model regulation, and the long-term care insurance model Act, respectively, promulgated by the National Association of Insurance Commissioners (as adopted as of January 1993).

"(ii) COORDINATION.—Any provision of the model regulation or model Act listed under clause (i) or (ii) of subparagraph (A) shall be treated as including any other provision of such regulation or Act necessary to implement the provision.

"(iii) DETERMINATION.—For purposes of this section and section 4980C, the determination of whether any requirement of a model regulation or the model Act has been met shall be made by the Secretary.

"(3) DISCLOSURE REQUIREMENT.—The requirement of this paragraph is met with respect to any contract if such contract meets the requirements of section 4980C(d).

"(4) NONFORFEITURE REQUIREMENTS.—

"(A) IN GENERAL.—The requirements of this paragraph are met with respect to any level premium contract, if the issuer of such contract offers to the policyholder, including any group policyholder, a nonforfeiture provision meeting the requirements of subparagraph (B).

"(B) REQUIREMENTS OF PROVISION.—The nonforfeiture provision required under subparagraph (A) shall meet the following requirements:

"(i) The nonforfeiture provision shall be appropriately captioned.

"(ii) The nonforfeiture provision shall provide for a benefit available in the event of a default in the payment of any premiums and the amount of the benefit may be adjusted subsequent to being initially granted only as necessary to reflect changes in claims, persistency, and interest as reflected in changes in rates for premium paying contracts approved by the Secretary for the same contract form.

"(iii) The nonforfeiture provision shall provide at least one of the following:

"(I) Reduced paid-up insurance.

"(II) Extended term insurance.

"(III) Shortened benefit period.

"(IV) Other similar offerings approved by the Secretary.

"(5) CROSS REFERENCE.—

"For coordination of the requirements of this subsection with State requirements, see section 4980C(f).".

SEC. 326. REQUIREMENTS FOR ISSUERS OF QUALIFIED LONG-TERM CARE INSURANCE CONTRACTS.

(a) IN GENERAL.—Chapter 43 is amended by adding at the end the following new section:

"SEC. 4980C. REQUIREMENTS FOR ISSUERS OF QUALIFIED LONG-TERM CARE INSURANCE CONTRACTS.

"(a) GENERAL RULE.—There is hereby imposed on any person failing to meet the requirements of subsection (c) or (d) a tax in the amount determined under subsection (b).

"(b) AMOUNT.—

"(1) IN GENERAL.—The amount of the tax imposed by subsection (a) shall be $100 per insured for each day any requirement of subsection (c) or (d) is not met with respect to each qualified long-term care insurance contract.

"(2) WAIVER.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed by subsection (a) to the extent that payment of the tax would be excessive relative to the failure involved.

"(c) RESPONSIBILITIES.—The requirements of this subsection are as follows:

"(1) REQUIREMENTS OF MODEL PROVISIONS.—

"(A) MODEL REGULATION.—The following requirements of the model regulation must be met:

"(i) Section 13 (relating to application forms and replacement coverage).

"(ii) Section 14 (relating to reporting requirements), except that the issuer shall also report at least annually the number of claims denied during the reporting period for each class of business (expressed as a percentage of claims denied), other than claims denied for failure to meet the waiting period or because of any applicable preexisting condition.

"(iii) Section 20 (relating to filing requirements for marketing).

"(iv) Section 21 (relating to standards for marketing), including inaccurate completion of medical histories, other than sections 21C(1) and 21C(6) thereof, except that—

"(I) in addition to such requirements, no person shall, in selling or offering to sell a qualified long-term care insurance contract, misrepresent a material fact; and

"(II) no such requirements shall include a requirement to inquire or identify whether a prospective applicant or enrollee for long-term care insurance has accident and sickness insurance.

"(v) Section 22 (relating to appropriateness of recommended purchase).

"(vi) Section 24 (relating to standard format outline of coverage).

"(vii) Section 25 (relating to requirement to deliver shopper's guide).

"(B) MODEL ACT.—The following requirements of the model Act must be met:

"(i) Section 6F (relating to right to return), except that such section shall also apply to denials of applications and any refund shall be made within 30 days of the return or denial.

"(ii) Section 6G (relating to outline of coverage).

"(iii) Section 6H (relating to requirements for certificates under group plans).

"(iv) Section 6I (relating to policy summary).

"(v) Section 6J (relating to monthly reports on accelerated death benefits).

"(vi) Section 7 (relating to incontestability period).

"(C) DEFINITIONS.—For purposes of this paragraph, the terms 'model regulation' and 'model Act' have the meanings given such terms by section 7702B(g)(2)(B).

"(2) DELIVERY OF POLICY.—If an application for a qualified long-term care insurance contract (or for a certificate under such a contract for a group) is approved, the issuer shall deliver to the applicant (or policyholder or certificateholder) the contract (or certificate) of insurance not later than 30 days after the date of the approval.

"(3) INFORMATION ON DENIALS OF CLAIMS.—If a claim under a qualified long-term care insurance contract is denied, the issuer shall, within 60 days of the date of a written request by the policyholder or certificateholder (or representative)—

"(A) provide a written explanation of the reasons for the denial, and

"(B) make available all information directly relating to such denial.

"(d) DISCLOSURE.—The requirements of this subsection are met if the issuer of a long-term care insurance policy discloses in such policy and in the outline of coverage required under subsection (c)(1)(B)(ii) that the policy is intended to be a qualified long-term care insurance contract under section 7702B(b).

"(e) QUALIFIED LONG-TERM CARE INSURANCE CONTRACT DEFINED.—For purposes of this section, the term 'qualified long-term care insurance contract' has the meaning given such term by section 7702B.

"(f) COORDINATION WITH STATE REQUIREMENTS.—If a State imposes any requirement which is more stringent than the analogous requirement imposed by this section or section 7702B(g), the requirement imposed by this section or section 7702B(g) shall be treated as met if the more stringent State requirement is met.".

(b) CONFORMING AMENDMENT.—The table of sections for chapter 43 is amended by adding at the end the following new item:

"Sec. 4980C. Requirements for issuers of qualified long-term care insurance contracts.".

26 USC 4980C note.

SEC. 327. EFFECTIVE DATES.

(a) IN GENERAL.—The provisions of, and amendments made by, this part shall apply to contracts issued after December 31, 1996. The provisions of section 321(f) (relating to transition rule) shall apply to such contracts.

(b) ISSUERS.—The amendments made by section 326 shall apply to actions taken after December 31, 1996.

Subtitle D—Treatment of Accelerated Death Benefits

SEC. 331. TREATMENT OF ACCELERATED DEATH BENEFITS BY RECIPIENT.

(a) IN GENERAL.—Section 101 (relating to certain death benefits) is amended by adding at the end the following new subsection:

"(g) TREATMENT OF CERTAIN ACCELERATED DEATH BENEFITS.—

"(1) IN GENERAL.—For purposes of this section, the following amounts shall be treated as an amount paid by reason of the death of an insured:

"(A) Any amount received under a life insurance contract on the life of an insured who is a terminally ill individual.

"(B) Any amount received under a life insurance contract on the life of an insured who is a chronically ill individual.

"(2) TREATMENT OF VIATICAL SETTLEMENTS.—

"(A) IN GENERAL.—If any portion of the death benefit under a life insurance contract on the life of an insured described in paragraph (1) is sold or assigned to a viatical settlement provider, the amount paid for the sale or assignment of such portion shall be treated as an amount paid under the life insurance contract by reason of the death of such insured.

"(B) VIATICAL SETTLEMENT PROVIDER.—

"(i) IN GENERAL.—The term 'viatical settlement provider' means any person regularly engaged in the trade or business of purchasing, or taking assignments of, life insurance contracts on the lives of insureds described in paragraph (1) if—

"(I) such person is licensed for such purposes (with respect to insureds described in the same subparagraph of paragraph (1) as the insured) in the State in which the insured resides, or

"(II) in the case of an insured who resides in a State not requiring the licensing of such persons for such purposes with respect to such insured, such person meets the requirements of clause (ii) or (iii), whichever applies to such insured.

"(ii) TERMINALLY ILL INSUREDS.—A person meets the requirements of this clause with respect to an insured who is a terminally ill individual if such person—

"(I) meets the requirements of sections 8 and 9 of the Viatical Settlements Model Act of the National Association of Insurance Commissioners, and

"(II) meets the requirements of the Model Regulations of the National Association of Insurance Commissioners (relating to standards for evaluation of reasonable payments) in determining

amounts paid by such person in connection with such purchases or assignments.

"(iii) CHRONICALLY ILL INSUREDS.—A person meets the requirements of this clause with respect to an insured who is a chronically ill individual if such person—

"(I) meets requirements similar to the requirements referred to in clause (ii)(I), and

"(II) meets the standards (if any) of the National Association of Insurance Commissioners for evaluating the reasonableness of amounts paid by such person in connection with such purchases or assignments with respect to chronically ill individuals.

"(3) SPECIAL RULES FOR CHRONICALLY ILL INSUREDS.—In the case of an insured who is a chronically ill individual—

"(A) IN GENERAL.—Paragraphs (1) and (2) shall not apply to any payment received for any period unless—

"(i) such payment is for costs incurred by the payee (not compensated for by insurance or otherwise) for qualified long-term care services provided for the insured for such period, and

"(ii) the terms of the contract giving rise to such payment satisfy—

"(I) the requirements of section 7702B(b)(1)(B), and

"(II) the requirements (if any) applicable under subparagraph (B).

For purposes of the preceding sentence, the rule of section 7702B(b)(2)(B) shall apply.

"(B) OTHER REQUIREMENTS.—The requirements applicable under this subparagraph are—

"(i) those requirements of section 7702B(g) and section 4980C which the Secretary specifies as applying to such a purchase, assignment, or other arrangement,

"(ii) standards adopted by the National Association of Insurance Commissioners which specifically apply to chronically ill individuals (and, if such standards are adopted, the analogous requirements specified under clause (i) shall cease to apply), and

"(iii) standards adopted by the State in which the policyholder resides (and if such standards are adopted, the analogous requirements specified under clause (i) and (subject to section 4980C(f)) standards under clause (ii), shall cease to apply).

"(C) PER DIEM PAYMENTS.—A payment shall not fail to be described in subparagraph (A) by reason of being made on a per diem or other periodic basis without regard to the expenses incurred during the period to which the payment relates.

"(D) LIMITATION ON EXCLUSION FOR PERIODIC PAYMENTS.—

"For limitation on amount of periodic payments which are treated as described in paragraph (1), see section 7702B(d).".

"(4) DEFINITIONS.—For purposes of this subsection—

"(A) TERMINALLY ILL INDIVIDUAL.—The term 'terminally ill individual' means an individual who has been

certified by a physician as having an illness or physical condition which can reasonably be expected to result in death in 24 months or less after the date of the certification.

"(B) CHRONICALLY ILL INDIVIDUAL.—The term 'chronically ill individual' has the meaning given such term by section 7702B(c)(2); except that such term shall not include a terminally ill individual.

"(C) QUALIFIED LONG-TERM CARE SERVICES.—The term 'qualified long-term care services' has the meaning given such term by section 7702B(c).

"(D) PHYSICIAN.—The term 'physician' has the meaning given to such term by section 1861(r)(1) of the Social Security Act (42 U.S.C. 1395x(r)(1)).

"(5) EXCEPTION FOR BUSINESS-RELATED POLICIES.—This subsection shall not apply in the case of any amount paid to any taxpayer other than the insured if such taxpayer has an insurable interest with respect to the life of the insured by reason of the insured being a director, officer, or employee of the taxpayer or by reason of the insured being financially interested in any trade or business carried on by the taxpayer.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to amounts received after December 31, 1996. 26 USC 101 note.

SEC. 332. TAX TREATMENT OF COMPANIES ISSUING QUALIFIED ACCELERATED DEATH BENEFIT RIDERS.

(a) QUALIFIED ACCELERATED DEATH BENEFIT RIDERS TREATED AS LIFE INSURANCE.—Section 818 (relating to other definitions and special rules) is amended by adding at the end the following new subsection:

"(g) QUALIFIED ACCELERATED DEATH BENEFIT RIDERS TREATED AS LIFE INSURANCE.—For purposes of this part—

"(1) IN GENERAL.—Any reference to a life insurance contract shall be treated as including a reference to a qualified accelerated death benefit rider on such contract.

"(2) QUALIFIED ACCELERATED DEATH BENEFIT RIDERS.—For purposes of this subsection, the term 'qualified accelerated death benefit rider' means any rider on a life insurance contract if the only payments under the rider are payments meeting the requirements of section 101(g).

"(3) EXCEPTION FOR LONG-TERM CARE RIDERS.—Paragraph (1) shall not apply to any rider which is treated as a long-term care insurance contract under section 7702B.".

(b) EFFECTIVE DATE.— 26 USC 818 note.

(1) IN GENERAL.—The amendment made by this section shall take effect on January 1, 1997.

(2) ISSUANCE OF RIDER NOT TREATED AS MATERIAL CHANGE.—For purposes of applying sections 101(f), 7702, and 7702A of the Internal Revenue Code of 1986 to any contract—

(A) the issuance of a qualified accelerated death benefit rider (as defined in section 818(g) of such Code (as added by this Act)), and

(B) the addition of any provision required to conform an accelerated death benefit rider to the requirements of such section 818(g),

shall not be treated as a modification or material change of such contract.

Subtitle E—State Insurance Pools

SEC. 341. EXEMPTION FROM INCOME TAX FOR STATE-SPONSORED ORGANIZATIONS PROVIDING HEALTH COVERAGE FOR HIGH-RISK INDIVIDUALS.

(a) IN GENERAL.—Subsection (c) of section 501 (relating to list of exempt organizations) is amended by adding at the end the following new paragraph:

"(26) Any membership organization if—

"(A) such organization is established by a State exclusively to provide coverage for medical care (as defined in section 213(d)) on a not-for-profit basis to individuals described in subparagraph (B) through—

"(i) insurance issued by the organization, or

"(ii) a health maintenance organization under an arrangement with the organization,

"(B) the only individuals receiving such coverage through the organization are individuals—

"(i) who are residents of such State, and

"(ii) who, by reason of the existence or history of a medical condition—

"(I) are unable to acquire medical care coverage for such condition through insurance or from a health maintenance organization, or

"(II) are able to acquire such coverage only at a rate which is substantially in excess of the rate for such coverage through the membership organization,

"(C) the composition of the membership in such organization is specified by such State, and

"(D) no part of the net earnings of the organization inures to the benefit of any private shareholder or individual.".

26 USC 501 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1996.

SEC. 342. EXEMPTION FROM INCOME TAX FOR STATE-SPONSORED WORKMEN'S COMPENSATION REINSURANCE ORGANIZATIONS.

(a) IN GENERAL.—Subsection (c) of section 501 (relating to list of exempt organizations), as amended by section 341, is amended by adding at the end the following new paragraph:

"(27) Any membership organization if—

"(A) such organization is established before June 1, 1996, by a State exclusively to reimburse its members for losses arising under workmen's compensation acts,

"(B) such State requires that the membership of such organization consist of—

"(i) all persons who issue insurance covering workmen's compensation losses in such State, and

"(ii) all persons and governmental entities who self-insure against such losses, and

"(C) such organization operates as a non-profit organization by—

"(i) returning surplus income to its members or workmen's compensation policyholders on a periodic basis, and

"(ii) reducing initial premiums in anticipation of investment income.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years ending after the date of the enactment of this Act. 26 USC 501 note.

Subtitle F—Organizations Subject to Section 833

SEC. 351. ORGANIZATIONS SUBJECT TO SECTION 833.

(a) IN GENERAL.—Section 833(c) (relating to organization to which section applies) is amended by adding at the end the following new paragraph:

"(4) TREATMENT AS EXISTING BLUE CROSS OR BLUE SHIELD ORGANIZATION.—

"(A) IN GENERAL.—Paragraph (2) shall be applied to an organization described in subparagraph (B) as if it were a Blue Cross or Blue Shield organization.

"(B) APPLICABLE ORGANIZATION.—An organization is described in this subparagraph if it—

"(i) is organized under, and governed by, State laws which are specifically and exclusively applicable to not-for-profit health insurance or health service type organizations, and

"(ii) is not a Blue Cross or Blue Shield organization or health maintenance organization.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years ending after December 31, 1996. 26 USC 833 note.

Subtitle G—IRA Distributions to the Unemployed

SEC. 361. DISTRIBUTIONS FROM CERTAIN PLANS MAY BE USED WITHOUT ADDITIONAL TAX TO PAY FINANCIALLY DEVASTATING MEDICAL EXPENSES.

(a) IN GENERAL.—Section 72(t)(3)(A) is amended by striking "(B),".

(b) DISTRIBUTIONS FOR PAYMENT OF HEALTH INSURANCE PREMIUMS OF CERTAIN UNEMPLOYED INDIVIDUALS.—Paragraph (2) of section 72(t) is amended by adding at the end the following new subparagraph:

"(D) DISTRIBUTIONS TO UNEMPLOYED INDIVIDUALS FOR HEALTH INSURANCE PREMIUMS.—

"(i) IN GENERAL.—Distributions from an individual retirement plan to an individual after separation from employment—

"(I) if such individual has received unemployment compensation for 12 consecutive weeks under any Federal or State unemployment compensation law by reason of such separation,

"(II) if such distributions are made during any taxable year during which such unemployment compensation is paid or the succeeding taxable year, and

"(III) to the extent such distributions do not exceed the amount paid during the taxable year for insurance described in section 213(d)(1)(D) with respect to the individual and the individual's spouse and dependents (as defined in section 152).

"(ii) DISTRIBUTIONS AFTER REEMPLOYMENT.—Clause (i) shall not apply to any distribution made after the individual has been employed for at least 60 days after the separation from employment to which clause (i) applies.

"(iii) SELF-EMPLOYED INDIVIDUALS.—To the extent provided in regulations, a self-employed individual shall be treated as meeting the requirements of clause (i)(I) if, under Federal or State law, the individual would have received unemployment compensation but for the fact the individual was self-employed.".

(c) CONFORMING AMENDMENT.—Subparagraph (B) of section 72(t)(2) is amended by striking "or (C)" and inserting ", (C), or (D)".

26 USC 72 note.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions after December 31, 1996.

Subtitle H—Organ and Tissue Donation Information Included With Income Tax Refund Payments

26 USC 6042 note.

SEC. 371. ORGAN AND TISSUE DONATION INFORMATION INCLUDED WITH INCOME TAXREFUND PAYMENTS.

(a) IN GENERAL.—The Secretary of the Treasury shall, to the extent practicable, include with the mailing of any payment of a refund of individual income tax made during the period beginning on February 1, 1997, and ending on June 30, 1997, a copy of the document described in subsection (b).

(b) TEXT OF DOCUMENT.—The Secretary of the Treasury shall, after consultation with the Secretary of Health and Human Services and organizations promoting organ and tissue (including eye) donation, prepare a document suitable for inclusion with individual income tax refund payments which—

(1) encourages organ and tissue donation;

(2) includes a detachable organ and tissue donor card; and

(3) urges recipients to—

(A) sign the organ and tissue donor card;

(B) discuss organ and tissue donation with family members and tell family members about the recipient's desire to be an organ and tissue donor if the occasion arises; and

(C) encourage family members to request or authorize organ and tissue donation if the occasion arises.

TITLE IV—APPLICATION AND ENFORCEMENT OF GROUP HEALTH PLAN REQUIREMENTS

Subtitle A—Application and Enforcement of Group Health Plan Requirements

SEC. 401. GROUP HEALTH PLAN PORTABILITY, ACCESS, AND RENEWABILITY REQUIREMENTS.

(a) IN GENERAL.—The Internal Revenue Code of 1986 is amended by adding at the end the following new subtitle:

"Subtitle K—Group Health Plan Portability, Access, and Renewability Requirements

"Chapter 100. Group health plan portability, access, and renewability requirements.

"CHAPTER 100—GROUP HEALTH PLAN PORTABILITY, ACCESS, AND RENEWABILITY REQUIREMENTS

"Sec. 9801. Increased portability through limitation on preexisting condition exclusions.
"Sec. 9802. Prohibiting discrimination against individual participants and beneficiaries based on health status.
"Sec. 9803. Guaranteed renewability in multiemployer plans and certain multiple employer welfare arrangements.
"Sec. 9804. General exceptions.
"Sec. 9805. Definitions.
"Sec. 9806. Regulations.

"SEC. 9801. INCREASED PORTABILITY THROUGH LIMITATION ON PREEXISTING CONDITION EXCLUSIONS.

"(a) LIMITATION ON PREEXISTING CONDITION EXCLUSION PERIOD; CREDITING FOR PERIODS OF PREVIOUS COVERAGE.—Subject to subsection (d), a group health plan may, with respect to a participant or beneficiary, impose a preexisting condition exclusion only if—

"(1) such exclusion relates to a condition (whether physical or mental), regardless of the cause of the condition, for which medical advice, diagnosis, care, or treatment was recommended or received within the 6-month period ending on the enrollment date;

"(2) such exclusion extends for a period of not more than 12 months (or 18 months in the case of a late enrollee) after the enrollment date; and

"(3) the period of any such preexisting condition exclusion is reduced by the length of the aggregate of the periods of creditable coverage (if any) applicable to the participant or beneficiary as of the enrollment date.

"(b) DEFINITIONS.—For purposes of this section—

"(1) PREEXISTING CONDITION EXCLUSION.—

"(A) IN GENERAL.—The term 'preexisting condition exclusion' means, with respect to coverage, a limitation or exclusion of benefits relating to a condition based on

the fact that the condition was present before the date of enrollment for such coverage, whether or not any medical advice, diagnosis, care, or treatment was recommended or received before such date.

"(B) TREATMENT OF GENETIC INFORMATION.—For purposes of this section, genetic information shall not be treated as a condition described in subsection (a)(1) in the absence of a diagnosis of the condition related to such information.

"(2) ENROLLMENT DATE.—The term 'enrollment date' means, with respect to an individual covered under a group health plan, the date of enrollment of the individual in the plan or, if earlier, the first day of the waiting period for such enrollment.

"(3) LATE ENROLLEE.—The term 'late enrollee' means, with respect to coverage under a group health plan, a participant or beneficiary who enrolls under the plan other than during—

"(A) the first period in which the individual is eligible to enroll under the plan, or

"(B) a special enrollment period under subsection (f).

"(4) WAITING PERIOD.—The term 'waiting period' means, with respect to a group health plan and an individual who is a potential participant or beneficiary in the plan, the period that must pass with respect to the individual before the individual is eligible to be covered for benefits under the terms of the plan.

"(c) RULES RELATING TO CREDITING PREVIOUS COVERAGE.—

"(1) CREDITABLE COVERAGE DEFINED.—For purposes of this part, the term 'creditable coverage' means, with respect to an individual, coverage of the individual under any of the following:

"(A) A group health plan.

"(B) Health insurance coverage.

"(C) Part A or part B of title XVIII of the Social Security Act.

"(D) Title XIX of the Social Security Act, other than coverage consisting solely of benefits under section 1928.

"(E) Chapter 55 of title 10, United States Code.

"(F) A medical care program of the Indian Health Service or of a tribal organization.

"(G) A State health benefits risk pool.

"(H) A health plan offered under chapter 89 of title 5, United States Code.

"(I) A public health plan (as defined in regulations).

"(J) A health benefit plan under section 5(e) of the Peace Corps Act (22 U.S.C. 2504(e)).

Such term does not include coverage consisting solely of coverage of excepted benefits (as defined in section 9805(c)).

"(2) NOT COUNTING PERIODS BEFORE SIGNIFICANT BREAKS IN COVERAGE.—

"(A) IN GENERAL.—A period of creditable coverage shall not be counted, with respect to enrollment of an individual under a group health plan, if, after such period and before the enrollment date, there was a 63-day period during all of which the individual was not covered under any creditable coverage.

"(B) WAITING PERIOD NOT TREATED AS A BREAK IN COVERAGE.—For purposes of subparagraph (A) and subsection (d)(4), any period that an individual is in a waiting period for any coverage under a group health plan or is in an affiliation period shall not be taken into account in determining the continuous period under subparagraph (A).

"(C) AFFILIATION PERIOD.—

"(i) IN GENERAL.—For purposes of this section, the term 'affiliation period' means a period which, under the terms of the health insurance coverage offered by the health maintenance organization, must expire before the health insurance coverage becomes effective. During such an affiliation period, the organization is not required to provide health care services or benefits and no premium shall be charged to the participant or beneficiary.

"(ii) BEGINNING.—Such period shall begin on the enrollment date.

"(iii) RUNS CONCURRENTLY WITH WAITING PERIODS.—Any such affiliation period shall run concurrently with any waiting period under the plan.

"(3) METHOD OF CREDITING COVERAGE.—

"(A) STANDARD METHOD.—Except as otherwise provided under subparagraph (B), for purposes of applying subsection (a)(3), a group health plan shall count a period of creditable coverage without regard to the specific benefits for which coverage is offered during the period.

"(B) ELECTION OF ALTERNATIVE METHOD.—A group health plan may elect to apply subsection (a)(3) based on coverage of any benefits within each of several classes or categories of benefits specified in regulations rather than as provided under subparagraph (A). Such election shall be made on a uniform basis for all participants and beneficiaries. Under such election a group health plan shall count a period of creditable coverage with respect to any class or category of benefits if any level of benefits is covered within such class or category.

"(C) PLAN NOTICE.—In the case of an election with respect to a group health plan under subparagraph (B), the plan shall—

"(i) prominently state in any disclosure statements concerning the plan, and state to each enrollee at the time of enrollment under the plan, that the plan has made such election, and

"(ii) include in such statements a description of the effect of this election.

"(4) ESTABLISHMENT OF PERIOD.—Periods of creditable coverage with respect to an individual shall be established through presentation of certifications described in subsection (e) or in such other manner as may be specified in regulations.

"(d) EXCEPTIONS.—

"(1) EXCLUSION NOT APPLICABLE TO CERTAIN NEWBORNS.—Subject to paragraph (4), a group health plan may not impose any preexisting condition exclusion in the case of an individual who, as of the last day of the 30-day period beginning with the date of birth, is covered under creditable coverage.

"(2) EXCLUSION NOT APPLICABLE TO CERTAIN ADOPTED CHILDREN.—Subject to paragraph (4), a group health plan may not impose any preexisting condition exclusion in the case of a child who is adopted or placed for adoption before attaining 18 years of age and who, as of the last day of the 30-day period beginning on the date of the adoption or placement for adoption, is covered under creditable coverage. The previous sentence shall not apply to coverage before the date of such adoption or placement for adoption.

"(3) EXCLUSION NOT APPLICABLE TO PREGNANCY.—For purposes of this section, a group health plan may not impose any preexisting condition exclusion relating to pregnancy as a preexisting condition.

"(4) LOSS IF BREAK IN COVERAGE.—Paragraphs (1) and (2) shall no longer apply to an individual after the end of the first 63-day period during all of which the individual was not covered under any creditable coverage.

"(e) CERTIFICATIONS AND DISCLOSURE OF COVERAGE.—

"(1) REQUIREMENT FOR CERTIFICATION OF PERIOD OF CREDITABLE COVERAGE.—

"(A) IN GENERAL.—A group health plan shall provide the certification described in subparagraph (B)—

"(i) at the time an individual ceases to be covered under the plan or otherwise becomes covered under a COBRA continuation provision,

"(ii) in the case of an individual becoming covered under such a provision, at the time the individual ceases to be covered under such provision, and

"(iii) on the request on behalf of an individual made not later than 24 months after the date of cessation of the coverage described in clause (i) or (ii), whichever is later.

The certification under clause (i) may be provided, to the extent practicable, at a time consistent with notices required under any applicable COBRA continuation provision.

"(B) CERTIFICATION.—The certification described in this subparagraph is a written certification of—

"(i) the period of creditable coverage of the individual under such plan and the coverage under such COBRA continuation provision, and

"(ii) the waiting period (if any) (and affiliation period, if applicable) imposed with respect to the individual for any coverage under such plan.

"(C) ISSUER COMPLIANCE.—To the extent that medical care under a group health plan consists of health insurance coverage offered in connection with the plan, the plan is deemed to have satisfied the certification requirement under this paragraph if the issuer provides for such certification in accordance with this paragraph.

"(2) DISCLOSURE OF INFORMATION ON PREVIOUS BENEFITS.—

"(A) IN GENERAL.—In the case of an election described in subsection (c)(3)(B) by a group health plan, if the plan enrolls an individual for coverage under the plan and the individual provides a certification of coverage of the individual under paragraph (1)—

"(i) upon request of such plan, the entity which issued the certification provided by the individual shall promptly disclose to such requesting plan information on coverage of classes and categories of health benefits available under such entity's plan, and

"(ii) such entity may charge the requesting plan or issuer for the reasonable cost of disclosing such information.

"(3) REGULATIONS.—The Secretary shall establish rules to prevent an entity's failure to provide information under paragraph (1) or (2) with respect to previous coverage of an individual from adversely affecting any subsequent coverage of the individual under another group health plan or health insurance coverage.

"(f) SPECIAL ENROLLMENT PERIODS.—

"(1) INDIVIDUALS LOSING OTHER COVERAGE.—A group health plan shall permit an employee who is eligible, but not enrolled, for coverage under the terms of the plan (or a dependent of such an employee if the dependent is eligible, but not enrolled, for coverage under such terms) to enroll for coverage under the terms of the plan if each of the following conditions is met:

"(A) The employee or dependent was covered under a group health plan or had health insurance coverage at the time coverage was previously offered to the employee or individual.

"(B) The employee stated in writing at such time that coverage under a group health plan or health insurance coverage was the reason for declining enrollment, but only if the plan sponsor (or the health insurance issuer offering health insurance coverage in connection with the plan) required such a statement at such time and provided the employee with notice of such requirement (and the consequences of such requirement) at such time.

"(C) The employee's or dependent's coverage described in subparagraph (A)—

"(i) was under a COBRA continuation provision and the coverage under such provision was exhausted; or

"(ii) was not under such a provision and either the coverage was terminated as a result of loss of eligibility for the coverage (including as a result of legal separation, divorce, death, termination of employment, or reduction in the number of hours of employment) or employer contributions toward such coverage were terminated.

"(D) Under the terms of the plan, the employee requests such enrollment not later than 30 days after the date of exhaustion of coverage described in subparagraph (C)(i) or termination of coverage or employer contribution described in subparagraph (C)(ii).

"(2) FOR DEPENDENT BENEFICIARIES.—

"(A) IN GENERAL.—If—

"(i) a group health plan makes coverage available with respect to a dependent of an individual,

"(ii) the individual is a participant under the plan (or has met any waiting period applicable to becoming

a participant under the plan and is eligible to be enrolled under the plan but for a failure to enroll during a previous enrollment period), and

"(iii) a person becomes such a dependent of the individual through marriage, birth, or adoption or placement for adoption,

the group health plan shall provide for a dependent special enrollment period described in subparagraph (B) during which the person (or, if not otherwise enrolled, the individual) may be enrolled under the plan as a dependent of the individual, and in the case of the birth or adoption of a child, the spouse of the individual may be enrolled as a dependent of the individual if such spouse is otherwise eligible for coverage.

"(B) DEPENDENT SPECIAL ENROLLMENT PERIOD.—The dependent special enrollment period under this subparagraph shall be a period of not less than 30 days and shall begin on the later of—

"(i) the date dependent coverage is made available, or

"(ii) the date of the marriage, birth, or adoption or placement for adoption (as the case may be) described in subparagraph (A)(iii).

"(C) NO WAITING PERIOD.—If an individual seeks coverage of a dependent during the first 30 days of such a dependent special enrollment period, the coverage of the dependent shall become effective—

"(i) in the case of marriage, not later than the first day of the first month beginning after the date the completed request for enrollment is received;

"(ii) in the case of a dependent's birth, as of the date of such birth; or

"(iii) in the case of a dependent's adoption or placement for adoption, the date of such adoption or placement for adoption.

"SEC. 9802. PROHIBITING DISCRIMINATION AGAINST INDIVIDUAL PARTICIPANTS AND BENEFICIARIES BASED ON HEALTH STATUS.

"(a) IN ELIGIBILITY TO ENROLL.—

"(1) IN GENERAL.—Subject to paragraph (2), a group health plan may not establish rules for eligibility (including continued eligibility) of any individual to enroll under the terms of the plan based on any of the following factors in relation to the individual or a dependent of the individual:

"(A) Health status.

"(B) Medical condition (including both physical and mental illnesses).

"(C) Claims experience.

"(D) Receipt of health care.

"(E) Medical history.

"(F) Genetic information.

"(G) Evidence of insurability (including conditions arising out of acts of domestic violence).

"(H) Disability.

"(2) NO APPLICATION TO BENEFITS OR EXCLUSIONS.—To the extent consistent with section 9801, paragraph (1) shall not be construed—

"(A) to require a group health plan to provide particular benefits (or benefits with respect to a specific procedure, treatment, or service) other than those provided under the terms of such plan; or

"(B) to prevent such a plan from establishing limitations or restrictions on the amount, level, extent, or nature of the benefits or coverage for similarly situated individuals enrolled in the plan or coverage.

"(3) CONSTRUCTION.—For purposes of paragraph (1), rules for eligibility to enroll under a plan include rules defining any applicable waiting periods for such enrollment.

"(b) IN PREMIUM CONTRIBUTIONS.—

"(1) IN GENERAL.—A group health plan may not require any individual (as a condition of enrollment or continued enrollment under the plan) to pay a premium or contribution which is greater than such premium or contribution for a similarly situated individual enrolled in the plan on the basis of any factor described in subsection (a)(1) in relation to the individual or to an individual enrolled under the plan as a dependent of the individual.

"(2) CONSTRUCTION.—Nothing in paragraph (1) shall be construed—

"(A) to restrict the amount that an employer may be charged for coverage under a group health plan; or

"(B) to prevent a group health plan from establishing premium discounts or rebates or modifying otherwise applicable copayments or deductibles in return for adherence to programs of health promotion and disease prevention.

"SEC. 9803. GUARANTEED RENEWABILITY IN MULTIEMPLOYER PLANS AND CERTAIN MULTIPLE EMPLOYER WELFARE ARRANGEMENTS.

"(a) IN GENERAL.—A group health plan which is a multiemployer plan (as defined in section 414(f)) or which is a multiple employer welfare arrangement may not deny an employer continued access to the same or different coverage under such plan, other than—

"(1) for nonpayment of contributions;

"(2) for fraud or other intentional misrepresentation of material fact by the employer;

"(3) for noncompliance with material plan provisions;

"(4) because the plan is ceasing to offer any coverage in a geographic area;

"(5) in the case of a plan that offers benefits through a network plan, because there is no longer any individual enrolled through the employer who lives, resides, or works in the service area of the network plan and the plan applies this paragraph uniformly without regard to the claims experience of employers or a factor described in section 9802(a)(1) in relation to such individuals or their dependents; or

"(6) for failure to meet the terms of an applicable collective bargaining agreement, to renew a collective bargaining or other

agreement requiring or authorizing contributions to the plan, or to employ employees covered by such an agreement.

"(b) MULTIPLE EMPLOYER WELFARE ARRANGEMENT.—For purposes of subsection (a), the term 'multiple employer welfare arrangement' has the meaning given such term by section 3(40) of the Employee Retirement Income Security Act of 1974, as in effect on the date of the enactment of this section.

"SEC. 9804. GENERAL EXCEPTIONS.

"(a) EXCEPTION FOR CERTAIN PLANS.—The requirements of this chapter shall not apply to—

"(1) any governmental plan, and

"(2) any group health plan for any plan year if, on the first day of such plan year, such plan has less than 2 participants who are current employees.

"(b) EXCEPTION FOR CERTAIN BENEFITS.—The requirements of this chapter shall not apply to any group health plan in relation to its provision of excepted benefits described in section 9805(c)(1).

"(c) EXCEPTION FOR CERTAIN BENEFITS IF CERTAIN CONDITIONS MET.—

"(1) LIMITED, EXCEPTED BENEFITS.—The requirements of this chapter shall not apply to any group health plan in relation to its provision of excepted benefits described in section 9805(c)(2) if the benefits—

"(A) are provided under a separate policy, certificate, or contract of insurance; or

"(B) are otherwise not an integral part of the plan.

"(2) NONCOORDINATED, EXCEPTED BENEFITS.—The requirements of this chapter shall not apply to any group health plan in relation to its provision of excepted benefits described in section 9805(c)(3) if all of the following conditions are met:

"(A) The benefits are provided under a separate policy, certificate, or contract of insurance.

"(B) There is no coordination between the provision of such benefits and any exclusion of benefits under any group health plan maintained by the same plan sponsor.

"(C) Such benefits are paid with respect to an event without regard to whether benefits are provided with respect to such an event under any group health plan maintained by the same plan sponsor.

"(3) SUPPLEMENTAL EXCEPTED BENEFITS.—The requirements of this chapter shall not apply to any group health plan in relation to its provision of excepted benefits described in section 9805(c)(4) if the benefits are provided under a separate policy, certificate, or contract of insurance.

"SEC. 9805. DEFINITIONS.

"(a) GROUP HEALTH PLAN.—For purposes of this chapter, the term 'group health plan' has the meaning given to such term by section 5000(b)(1).

"(b) DEFINITIONS RELATING TO HEALTH INSURANCE.—For purposes of this chapter—

"(1) HEALTH INSURANCE COVERAGE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'health insurance coverage' means benefits consisting of medical care (provided directly, through insurance or reimbursement, or otherwise) under any hospital or medical service policy or certificate, hospital or medical

service plan contract, or health maintenance organization contract offered by a health insurance issuer.

"(B) NO APPLICATION TO CERTAIN EXCEPTED BENEFITS.—In applying subparagraph (A), excepted benefits described in subsection (c)(1) shall not be treated as benefits consisting of medical care.

"(2) HEALTH INSURANCE ISSUER.—The term 'health insurance issuer' means an insurance company, insurance service, or insurance organization (including a health maintenance organization, as defined in paragraph (3)) which is licensed to engage in the business of insurance in a State and which is subject to State law which regulates insurance (within the meaning of section 514(b)(2) of the Employee Retirement Income Security Act of 1974, as in effect on the date of the enactment of this section). Such term does not include a group health plan.

"(3) HEALTH MAINTENANCE ORGANIZATION.—The term 'health maintenance organization' means—

"(A) a federally qualified health maintenance organization (as defined in section 1301(a) of the Public Health Service Act (42 U.S.C. 300e(a))),

"(B) an organization recognized under State law as a health maintenance organization, or

"(C) a similar organization regulated under State law for solvency in the same manner and to the same extent as such a health maintenance organization.

"(c) EXCEPTED BENEFITS.—For purposes of this chapter, the term 'excepted benefits' means benefits under one or more (or any combination thereof) of the following:

"(1) BENEFITS NOT SUBJECT TO REQUIREMENTS.—

"(A) Coverage only for accident, or disability income insurance, or any combination thereof.

"(B) Coverage issued as a supplement to liability insurance.

"(C) Liability insurance, including general liability insurance and automobile liability insurance.

"(D) Workers' compensation or similar insurance.

"(E) Automobile medical payment insurance.

"(F) Credit-only insurance.

"(G) Coverage for on-site medical clinics.

"(H) Other similar insurance coverage, specified in regulations, under which benefits for medical care are secondary or incidental to other insurance benefits.

"(2) BENEFITS NOT SUBJECT TO REQUIREMENTS IF OFFERED SEPARATELY.—

"(A) Limited scope dental or vision benefits.

"(B) Benefits for long-term care, nursing home care, home health care, community-based care, or any combination thereof.

"(C) Such other similar, limited benefits as are specified in regulations.

"(3) BENEFITS NOT SUBJECT TO REQUIREMENTS IF OFFERED AS INDEPENDENT, NONCOORDINATED BENEFITS.—

"(A) Coverage only for a specified disease or illness.

"(B) Hospital indemnity or other fixed indemnity insurance.

"(4) BENEFITS NOT SUBJECT TO REQUIREMENTS IF OFFERED AS SEPARATE INSURANCE POLICY.—Medicare supplemental health insurance (as defined under section 1882(g)(1) of the Social Security Act), coverage supplemental to the coverage provided under chapter 55 of title 10, United States Code, and similar supplemental coverage provided to coverage under a group health plan.

"(d) OTHER DEFINITIONS.—For purposes of this chapter—

"(1) COBRA CONTINUATION PROVISION.—The term 'COBRA continuation provision' means any of the following:

"(A) Section 4980B, other than subsection (f)(1) thereof insofar as it relates to pediatric vaccines.

"(B) Part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1161 et seq.), other than section 609 of such Act.

"(C) Title XXII of the Public Health Service Act.

"(2) GOVERNMENTAL PLAN.—The term 'governmental plan' has the meaning given such term by section 414(d).

"(3) MEDICAL CARE.—The term 'medical care' has the meaning given such term by section 213(d) determined without regard to—

"(A) paragraph (1)(C) thereof, and

"(B) so much of paragraph (1)(D) thereof as relates to qualified long-term care insurance.

"(4) NETWORK PLAN.—The term 'network plan' means health insurance coverage of a health insurance issuer under which the financing and delivery of medical care are provided, in whole or in part, through a defined set of providers under contract with the issuer.

"(5) PLACED FOR ADOPTION DEFINED.—The term 'placement', or being 'placed', for adoption, in connection with any placement for adoption of a child with any person, means the assumption and retention by such person of a legal obligation for total or partial support of such child in anticipation of adoption of such child. The child's placement with such person terminates upon the termination of such legal obligation.

"SEC. 9806. REGULATIONS.

"The Secretary, consistent with section 104 of the Health Care Portability and Accountability Act of 1996, may promulgate such regulations as may be necessary or appropriate to carry out the provisions of this chapter. The Secretary may promulgate any interim final rules as the Secretary determines are appropriate to carry out this chapter.".

(b) CLERICAL AMENDMENT.—The table of subtitles of such Code is amended by adding at the end the following new item:

"Subtitle K. Group health plan portability, access, and renewability requirements.".

26 USC 9801 note.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to plan years beginning after June 30, 1997.

(2) DETERMINATION OF CREDITABLE COVERAGE.—

(A) PERIOD OF COVERAGE.—

(i) IN GENERAL.—Subject to clause (ii), no period before July 1, 1996, shall be taken into account under chapter 100 of the Internal Revenue Code of 1986 (as added by this section) in determining creditable coverage.

(ii) SPECIAL RULE FOR CERTAIN PERIODS.—The Secretary of the Treasury, consistent with section 104, shall provide for a process whereby individuals who need to establish creditable coverage for periods before July 1, 1996, and who would have such coverage credited but for clause (i) may be given credit for creditable coverage for such periods through the presentation of documents or other means.

(B) CERTIFICATIONS, ETC.—

(i) IN GENERAL.—Subject to clauses (ii) and (iii), subsection (e) of section 9801 of the Internal Revenue Code of 1986 (as added by this section) shall apply to events occurring after June 30, 1996.

(ii) NO CERTIFICATION REQUIRED TO BE PROVIDED BEFORE JUNE 1, 1997.—In no case is a certification required to be provided under such subsection before June 1, 1997.

(iii) CERTIFICATION ONLY ON WRITTEN REQUEST FOR EVENTS OCCURRING BEFORE OCTOBER 1, 1996.—In the case of an event occurring after June 30, 1996, and before October 1, 1996, a certification is not required to be provided under such subsection unless an individual (with respect to whom the certification is otherwise required to be made) requests such certification in writing.

(C) TRANSITIONAL RULE.—In the case of an individual who seeks to establish creditable coverage for any period for which certification is not required because it relates to an event occurring before June 30, 1996—

(i) the individual may present other credible evidence of such coverage in order to establish the period of creditable coverage; and

(ii) a group health plan and a health insurance issuer shall not be subject to any penalty or enforcement action with respect to the plan's or issuer's crediting (or not crediting) such coverage if the plan or issuer has sought to comply in good faith with the applicable requirements under the amendments made by this section.

(3) SPECIAL RULE FOR COLLECTIVE BARGAINING AGREEMENTS.—Except as provided in paragraph (2), in the case of a group health plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and one or more employers ratified before the date of the enactment of this Act, the amendments made by this section shall not apply to plan years beginning before the later of—

(A) the date on which the last of the collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of the enactment of this Act), or

(B) July 1, 1997.

For purposes of subparagraph (A), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this section shall not be treated as a termination of such collective bargaining agreement.

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(4) TIMELY REGULATIONS.—The Secretary of the Treasury, consistent with section 104, shall first issue by not later than April 1, 1997, such regulations as may be necessary to carry out the amendments made by this section.

(5) LIMITATION ON ACTIONS.—No enforcement action shall be taken, pursuant to the amendments made by this section, against a group health plan or health insurance issuer with respect to a violation of a requirement imposed by such amendments before January 1, 1998, or, if later, the date of issuance of regulations referred to in paragraph (4), if the plan or issuer has sought to comply in good faith with such requirements.

SEC. 402. PENALTY ON FAILURE TO MEET CERTAIN GROUP HEALTH PLAN REQUIREMENTS.

(a) IN GENERAL.—Chapter 43 of the Internal Revenue Code of 1986 (relating to qualified pension, etc., plans) is amended by adding after section 4980C the following new section:

"SEC. 4980D. FAILURE TO MEET CERTAIN GROUP HEALTH PLAN REQUIREMENTS.

"(a) GENERAL RULE.—There is hereby imposed a tax on any failure of a group health plan to meet the requirements of chapter 100 (relating to group health plan portability, access, and renewability requirements).

"(b) AMOUNT OF TAX.—

"(1) IN GENERAL.—The amount of the tax imposed by subsection (a) on any failure shall be $100 for each day in the noncompliance period with respect to each individual to whom such failure relates.

"(2) NONCOMPLIANCE PERIOD.—For purposes of this section, the term 'noncompliance period' means, with respect to any failure, the period—

"(A) beginning on the date such failure first occurs, and

"(B) ending on the date such failure is corrected.

"(3) MINIMUM TAX FOR NONCOMPLIANCE PERIOD WHERE FAILURE DISCOVERED AFTER NOTICE OF EXAMINATION.—Notwithstanding paragraphs (1) and (2) of subsection (c)—

"(A) IN GENERAL.—In the case of 1 or more failures with respect to an individual—

"(i) which are not corrected before the date a notice of examination of income tax liability is sent to the employer, and

"(ii) which occurred or continued during the period under examination,

the amount of tax imposed by subsection (a) by reason of such failures with respect to such individual shall not be less than the lesser of $2,500 or the amount of tax which would be imposed by subsection (a) without regard to such paragraphs.

"(B) HIGHER MINIMUM TAX WHERE VIOLATIONS ARE MORE THAN DE MINIMIS.—To the extent violations for which any person is liable under subsection (e) for any year are more than de minimis, subparagraph (A) shall be applied by substituting '$15,000' for '$2,500' with respect to such person.

"(C) EXCEPTION FOR CHURCH PLANS.—This paragraph shall not apply to any failure under a church plan (as defined in section 414(e)).

"(c) LIMITATIONS ON AMOUNT OF TAX.—

"(1) TAX NOT TO APPLY WHERE FAILURE NOT DISCOVERED EXERCISING REASONABLE DILIGENCE.—No tax shall be imposed by subsection (a) on any failure during any period for which it is established to the satisfaction of the Secretary that the person otherwise liable for such tax did not know, and exercising reasonable diligence would not have known, that such failure existed.

"(2) TAX NOT TO APPLY TO FAILURES CORRECTED WITHIN CERTAIN PERIODS.—No tax shall be imposed by subsection (a) on any failure if—

"(A) such failure was due to reasonable cause and not to willful neglect, and

"(B)(i) in the case of a plan other than a church plan (as defined in section 414(e)), such failure is corrected during the 30-day period beginning on the first date the person otherwise liable for such tax knew, or exercising reasonable diligence would have known, that such failure existed, and

"(ii) in the case of a church plan (as so defined), such failure is corrected before the close of the correction period (determined under the rules of section 414(e)(4)(C)).

"(3) OVERALL LIMITATION FOR UNINTENTIONAL FAILURES.—In the case of failures which are due to reasonable cause and not to willful neglect—

"(A) SINGLE EMPLOYER PLANS.—

"(i) IN GENERAL.—In the case of failures with respect to plans other than specified multiple employer health plans, the tax imposed by subsection (a) for failures during the taxable year of the employer shall not exceed the amount equal to the lesser of—

"(I) 10 percent of the aggregate amount paid or incurred by the employer (or predecessor employer) during the preceding taxable year for group health plans, or

"(II) $500,000.

"(ii) TAXABLE YEARS IN THE CASE OF CERTAIN CONTROLLED GROUPS.—For purposes of this subparagraph, if not all persons who are treated as a single employer for purposes of this section have the same taxable year, the taxable years taken into account shall be determined under principles similar to the principles of section 1561.

"(B) SPECIFIED MULTIPLE EMPLOYER HEALTH PLANS.—

"(i) IN GENERAL.—In the case of failures with respect to a specified multiple employer health plan, the tax imposed by subsection (a) for failures during the taxable year of the trust forming part of such plan shall not exceed the amount equal to the lesser of—

"(I) 10 percent of the amount paid or incurred by such trust during such taxable year to provide medical care (as defined in section 9805(d)(3))

directly or through insurance, reimbursement, or otherwise, or

"(II) $500,000.

For purposes of the preceding sentence, all plans of which the same trust forms a part shall be treated as one plan.

"(ii) SPECIAL RULE FOR EMPLOYERS REQUIRED TO PAY TAX.—If an employer is assessed a tax imposed by subsection (a) by reason of a failure with respect to a specified multiple employer health plan, the limit shall be determined under subparagraph (A) (and not under this subparagraph) and as if such plan were not a specified multiple employer health plan.

"(4) WAIVER BY SECRETARY.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed by subsection (a) to the extent that the payment of such tax would be excessive relative to the failure involved.

"(d) TAX NOT TO APPLY TO CERTAIN INSURED SMALL EMPLOYER PLANS.—

"(1) IN GENERAL.—In the case of a group health plan of a small employer which provides health insurance coverage solely through a contract with a health insurance issuer, no tax shall be imposed by this section on the employer on any failure which is solely because of the health insurance coverage offered by such issuer.

"(2) SMALL EMPLOYER.—

"(A) IN GENERAL.—For purposes of paragraph (1), the term 'small employer' means, with respect to a calendar year and a plan year, an employer who employed an average of at least 2 but not more than 50 employees on business days during the preceding calendar year and who employs at least 2 employees on the first day of the plan year. For purposes of the preceding sentence, all persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 shall be treated as one employer.

"(B) EMPLOYERS NOT IN EXISTENCE IN PRECEDING YEAR.—In the case of an employer which was not in existence throughout the preceding calendar year, the determination of whether such employer is a small employer shall be based on the average number of employees that it is reasonably expected such employer will employ on business days in the current calendar year.

"(C) PREDECESSORS.—Any reference in this paragraph to an employer shall include a reference to any predecessor of such employer.

"(3) HEALTH INSURANCE COVERAGE; HEALTH INSURANCE ISSUER.—For purposes of paragraph (1), the terms 'health insurance coverage' and 'health insurance issuer' have the respective meanings given such terms by section 9805.

"(e) LIABILITY FOR TAX.—The following shall be liable for the tax imposed by subsection (a) on a failure:

"(1) Except as otherwise provided in this subsection, the employer.

"(2) In the case of a multiemployer plan, the plan.

"(3) In the case of a failure under section 9803 (relating to guaranteed renewability) with respect to a plan described in subsection (f)(2)(B), the plan.

"(f) DEFINITIONS.—For purposes of this section—

"(1) GROUP HEALTH PLAN.—The term 'group health plan' has the meaning given such term by section 9805(a).

"(2) SPECIFIED MULTIPLE EMPLOYER HEALTH PLAN.—The term 'specified multiple employer health plan' means a group health plan which is—

"(A) any multiemployer plan, or

"(B) any multiple employer welfare arrangement (as defined in section 3(40) of the Employee Retirement Income Security Act of 1974, as in effect on the date of the enactment of this section).

"(3) CORRECTION.—A failure of a group health plan shall be treated as corrected if—

"(A) such failure is retroactively undone to the extent possible, and

"(B) the person to whom the failure relates is placed in a financial position which is as good as such person would have been in had such failure not occurred.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 43 of such Code is amended by adding after the item relating to section 4980C the following new item:

"Sec. 4980D. Failure to meet certain group health plan requirements.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to failures under chapter 100 of the Internal Revenue Code of 1986 (as added by section 401 of this Act). 26 USC 4980D note.

Subtitle B—Clarification of Certain Continuation Coverage Requirements

SEC. 421. COBRA CLARIFICATIONS.

(a) PUBLIC HEALTH SERVICE ACT.—

(1) PERIOD OF COVERAGE.—Section 2202(2) of the Public Health Service Act (42 U.S.C. 300bb–2(2)) is amended—

(A) in subparagraph (A)—

(i) by transferring the sentence immediately preceding clause (iv) so as to appear immediately following such clause (iv); and

(ii) in the last sentence (as so transferred)—

(I) by striking "an individual" and inserting "a qualified beneficiary";

(II) by striking "at the time of a qualifying event described in section 2203(2)" and inserting "at any time during the first 60 days of continuation coverage under this title";

(III) by striking "with respect to such event,"; and

(IV) by inserting "(with respect to all qualified beneficiaries)" after "29 months";

(B) in subparagraph (D)(i), by inserting before ", or" the following: "(other than such an exclusion or limitation which does not apply to (or is satisfied by) such beneficiary by reason of chapter 100 of the Internal Revenue Code

of 1986, part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, or title XXVII of this Act)"; and

(C) in subparagraph (E), by striking "at the time of a qualifying event described in section 2203(2)" and inserting "at any time during the first 60 days of continuation coverage under this title".

(2) NOTICES.—Section 2206(3) of the Public Health Service Act (42 U.S.C. 300bb–6(3)) is amended by striking "at the time of a qualifying event described in section 2203(2)" and inserting "at any time during the first 60 days of continuation coverage under this title".

(3) BIRTH OR ADOPTION OF A CHILD.—Section 2208(3)(A) of the Public Health Service Act (42 U.S.C. 300bb–8(3)(A)) is amended by adding at the end thereof the following new flush sentence:

"Such term shall also include a child who is born to or placed for adoption with the covered employee during the period of continuation coverage under this title.".

(b) EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

(1) PERIOD OF COVERAGE.—Section 602(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1162(2)) is amended—

(A) in the last sentence of subparagraph (A)—

(i) by striking "an individual" and inserting "a qualified beneficiary";

(ii) by striking "at the time of a qualifying event described in section 603(2)" and inserting "at any time during the first 60 days of continuation coverage under this part";

(iii) by striking "with respect to such event"; and

(iv) by inserting "(with respect to all qualified beneficiaries)" after "29 months";

(B) in subparagraph (D)(i), by inserting before ", or" the following: "(other than such an exclusion or limitation which does not apply to (or is satisfied by) such beneficiary by reason of chapter 100 of the Internal Revenue Code of 1986, part 7 of this subtitle, or title XXVII of the Public Health Service Act)"; and

(C) in subparagraph (E), by striking "at the time of a qualifying event described in section 603(2)" and inserting "at any time during the first 60 days of continuation coverage under this part".

(2) NOTICES.—Section 606(a)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1166(a)(3)) is amended by striking "at the time of a qualifying event described in section 603(2)" and inserting "at any time during the first 60 days of continuation coverage under this part".

(3) BIRTH OR ADOPTION OF A CHILD.—Section 607(3)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1167(3)) is amended by adding at the end thereof the following new flush sentence:

"Such term shall also include a child who is born to or placed for adoption with the covered employee during the period of continuation coverage under this part.".

(c) INTERNAL REVENUE CODE OF 1986.—

(1) PERIOD OF COVERAGE.—Section 4980B(f)(2)(B) of the Internal Revenue Code of 1986 is amended—

(A) in the last sentence of clause (i)—

(i) by striking "at the time of a qualifying event described in paragraph (3)(B)" and inserting "at any time during the first 60 days of continuation coverage under this section";

(ii) by striking "with respect to such event"; and

(iii) by inserting "(with respect to all qualified beneficiaries)" after "29 months";

(B) in clause (iv)(I), by inserting before ", or" the following: "(other than such an exclusion or limitation which does not apply to (or is satisfied by) such beneficiary by reason of chapter 100 of this title, part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, or title XXVII of the Public Health Service Act)"; and

(C) in clause (v), by striking "at the time of a qualifying event described in paragraph (3)(B)" and inserting "at any time during the first 60 days of continuation coverage under this section".

(2) NOTICES.—Section 4980B(f)(6)(C) of the Internal Revenue Code of 1986 is amended by striking "at the time of a qualifying event described in paragraph (3)(B)" and inserting "at any time during the first 60 days of continuation coverage under this section".

(3) BIRTH OR ADOPTION OF A CHILD.—Section 4980B(g)(1)(A) of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new flush sentence:

"Such term shall also include a child who is born to or placed for adoption with the covered employee during the period of continuation coverage under this section.".

(d) EFFECTIVE DATE.—The amendments made by this section shall become effective on January 1, 1997, regardless of whether the qualifying event occurred before, on, or after such date. 26 USC 4980B note.

(e) NOTIFICATION OF CHANGES.—Not later than November 1, 1996, each group health plan (covered under title XXII of the Public Health Service Act, part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, and section 4980B(f) of the Internal Revenue Code of 1986) shall notify each qualified beneficiary who has elected continuation coverage under such title, part or section of the amendments made by this section. 26 USC 4980B note.

TITLE V—REVENUE OFFSETS

SEC. 500. AMENDMENT OF 1986 CODE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

Subtitle A—Company-Owned Life Insurance

SEC. 501. DENIAL OF DEDUCTION FOR INTEREST ON LOANS WITH RESPECT TO COMPANY-OWNED LIFE INSURANCE.

(a) IN GENERAL.—Paragraph (4) of section 264(a) is amended—

(1) by inserting ", or any endowment or annuity contracts owned by the taxpayer covering any individual," after "the life of any individual", and

(2) by striking all that follows "carried on by the taxpayer" and inserting a period.

(b) EXCEPTION FOR CONTRACTS RELATING TO KEY PERSONS; PERMISSIBLE INTEREST RATES.—Section 264 is amended—

(1) by striking "Any" in subsection (a)(4) and inserting "Except as provided in subsection (d), any", and

(2) by adding at the end the following new subsection:

"(d) SPECIAL RULES FOR APPLICATION OF SUBSECTION (a)(4).—

"(1) EXCEPTION FOR KEY PERSONS.—Subsection (a)(4) shall not apply to any interest paid or accrued on any indebtedness with respect to policies or contracts covering an individual who is a key person to the extent that the aggregate amount of such indebtedness with respect to policies and contracts covering such individual does not exceed $50,000.

"(2) INTEREST RATE CAP ON KEY PERSONS AND PRE 1986 CONTRACTS.—

"(A) IN GENERAL.—No deduction shall be allowed by reason of paragraph (1) or the last sentence of subsection (a) with respect to interest paid or accrued for any month beginning after December 31, 1995, to the extent the amount of such interest exceeds the amount which would have been determined if the applicable rate of interest were used for such month.

"(B) APPLICABLE RATE OF INTEREST.—For purposes of subparagraph (A)—

"(i) IN GENERAL.—The applicable rate of interest for any month is the rate of interest described as Moody's Corporate Bond Yield Average-Monthly Average Corporates as published by Moody's Investors Service, Inc., or any successor thereto, for such month.

"(ii) PRE-1986 CONTRACTS.—In the case of indebtedness on a contract purchased on or before June 20, 1986—

"(I) which is a contract providing a fixed rate of interest, the applicable rate of interest for any month shall be the Moody's rate described in clause (i) for the month in which the contract was purchased, or

"(II) which is a contract providing a variable rate of interest, the applicable rate of interest for any month in an applicable period shall be such Moody's rate for the third month preceding the first month in such period.

For purposes of subclause (II), the taxpayer shall elect an applicable period for such contract on its return of tax imposed by this chapter for its first taxable year ending on or after October 13, 1995. Such

applicable period shall be for any number of months (not greater than 12) specified in the election and may not be changed by the taxpayer without the consent of the Secretary.

"(3) KEY PERSON.—For purposes of paragraph (1), the term 'key person' means an officer or 20-percent owner, except that the number of individuals who may be treated as key persons with respect to any taxpayer shall not exceed the greater of—

"(A) 5 individuals, or

"(B) the lesser of 5 percent of the total officers and employees of the taxpayer or 20 individuals.

"(4) 20-PERCENT OWNER.—For purposes of this subsection, the term '20-percent owner' means—

"(A) if the taxpayer is a corporation, any person who owns directly 20 percent or more of the outstanding stock of the corporation or stock possessing 20 percent or more of the total combined voting power of all stock of the corporation, or

"(B) if the taxpayer is not a corporation, any person who owns 20 percent or more of the capital or profits interest in the employer.

"(5) AGGREGATION RULES.—

"(A) IN GENERAL.—For purposes of paragraph (4)(A) and applying the $50,000 limitation in paragraph (1)—

"(i) all members of a controlled group shall be treated as one taxpayer, and

"(ii) such limitation shall be allocated among the members of such group in such manner as the Secretary may prescribe.

"(B) CONTROLLED GROUP.—For purposes of this paragraph, all persons treated as a single employer under subsection (a) or (b) of section 52 or subsection (m) or (o) of section 414 shall be treated as members of a controlled group.".

(c) EFFECTIVE DATES.— 26 USC 264 note.

(1) IN GENERAL.—The amendments made by this section shall apply to interest paid or accrued after October 13, 1995.

(2) TRANSITION RULE FOR EXISTING INDEBTEDNESS.—

(A) IN GENERAL.—In the case of—

(i) indebtedness incurred before January 1, 1996, or

(ii) indebtedness incurred before January 1, 1997 with respect to any contract or policy entered into in 1994 or 1995,

the amendments made by this section shall not apply to qualified interest paid or accrued on such indebtedness after October 13, 1995, and before January 1, 1999.

(B) QUALIFIED INTEREST.—For purposes of subparagraph (A), the qualified interest with respect to any indebtedness for any month is the amount of interest (otherwise deductible) which would be paid or accrued for such month on such indebtedness if—

(i) in the case of any interest paid or accrued after December 31, 1995, indebtedness with respect to no more than 20,000 insured individuals were taken into account, and

(ii) the lesser of the following rates of interest were used for such month:

(I) The rate of interest specified under the terms of the indebtedness as in effect on October 13, 1995 (and without regard to modification of such terms after such date).

(II) The applicable percentage of the rate of interest described as Moody's Corporate Bond Yield Average-Monthly Average Corporates as published by Moody's Investors Service, Inc., or any successor thereto, for such month.

For purposes of clause (i), all persons treated as a single employer under subsection (a) or (b) of section 52 of the Internal Revenue Code of 1986 or subsection (m) or (o) of section 414 of such Code shall be treated as 1 person. Subclause (II) of clause (ii) shall not apply to any month before January 1, 1996.

(C) APPLICABLE PERCENTAGE.—For purposes of subparagraph (B), the applicable percentage is as follows:

For calendar year:	The percentage is:
1996	100 percent
1997	90 percent
1998	80 percent.

(3) SPECIAL RULE FOR GRANDFATHERED CONTRACTS.—This section shall not apply to any contract purchased on or before June 20, 1986, except that section 264(d)(2) of the Internal Revenue Code of 1986 shall apply to interest paid or accrued after October 13, 1995.

26 USC 264 note.

(d) SPREAD OF INCOME INCLUSION ON SURRENDER, ETC. OF CONTRACTS.—

(1) IN GENERAL.—If any amount is received under any life insurance policy or endowment or annuity contract described in paragraph (4) of section 264(a) of the Internal Revenue Code of 1986—

(A) on the complete surrender, redemption, or maturity of such policy or contract during calendar year 1996, 1997, or 1998, or

(B) in full discharge during any such calendar year of the obligation under the policy or contract which is in the nature of a refund of the consideration paid for the policy or contract,

then (in lieu of any other inclusion in gross income) such amount shall be includible in gross income ratably over the 4-taxable year period beginning with the taxable year such amount would (but for this paragraph) be includible. The preceding sentence shall only apply to the extent the amount is includible in gross income for the taxable year in which the event described in subparagraph (A) or (B) occurs.

(2) SPECIAL RULES FOR APPLYING SECTION 264.—A contract shall not be treated as—

(A) failing to meet the requirement of section 264(c)(1) of the Internal Revenue Code of 1986, or

(B) a single premium contract under section 264(b)(1) of such Code,

solely by reason of an occurrence described in subparagraph (A) or (B) of paragraph (1) of this subsection or solely by

reason of no additional premiums being received under the contract by reason of a lapse occurring after October 13, 1995.

(3) SPECIAL RULE FOR DEFERRED ACQUISITION COSTS.—In the case of the occurrence of any event described in subparagraph (A) or (B) of paragraph (1) of this subsection with respect to any policy or contract—

(A) section 848 of the Internal Revenue Code of 1986 shall not apply to the unamortized balance (if any) of the specified policy acquisition expenses attributable to such policy or contract immediately before the insurance company's taxable year in which such event occurs, and

(B) there shall be allowed as a deduction to such company for such taxable year under chapter 1 of such Code an amount equal to such unamortized balance.

Subtitle B—Treatment of Individuals Who Lose United States Citizenship

SEC. 511. REVISION OF INCOME, ESTATE, AND GIFT TAXES ON INDIVIDUALS WHO LOSE UNITED STATES CITIZENSHIP.

(a) IN GENERAL.—Subsection (a) of section 877 is amended to read as follows:

"(a) TREATMENT OF EXPATRIATES.—

"(1) IN GENERAL.—Every nonresident alien individual who, within the 10-year period immediately preceding the close of the taxable year, lost United States citizenship, unless such loss did not have for one of its principal purposes the avoidance of taxes under this subtitle or subtitle B, shall be taxable for such taxable year in the manner provided in subsection (b) if the tax imposed pursuant to such subsection exceeds the tax which, without regard to this section, is imposed pursuant to section 871.

"(2) CERTAIN INDIVIDUALS TREATED AS HAVING TAX AVOIDANCE PURPOSE.—For purposes of paragraph (1), an individual shall be treated as having a principal purpose to avoid such taxes if—

"(A) the average annual net income tax (as defined in section 38(c)(1)) of such individual for the period of 5 taxable years ending before the date of the loss of United States citizenship is greater than $100,000, or

"(B) the net worth of the individual as of such date is $500,000 or more.

In the case of the loss of United States citizenship in any calendar year after 1996, such $100,000 and $500,000 amounts shall be increased by an amount equal to such dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting '1994' for '1992' in subparagraph (B) thereof. Any increase under the preceding sentence shall be rounded to the nearest multiple of $1,000.".

(b) EXCEPTIONS.—

(1) IN GENERAL.—Section 877 is amended by striking subsection (d), by redesignating subsection (c) as subsection (d), and by inserting after subsection (b) the following new subsection:

"(c) TAX AVOIDANCE NOT PRESUMED IN CERTAIN CASES.—

"(1) IN GENERAL.—Subsection (a)(2) shall not apply to an individual if—

"(A) such individual is described in a subparagraph of paragraph (2) of this subsection, and

"(B) within the 1-year period beginning on the date of the loss of United States citizenship, such individual submits a ruling request for the Secretary's determination as to whether such loss has for one of its principal purposes the avoidance of taxes under this subtitle or subtitle B.

"(2) INDIVIDUALS DESCRIBED.—

"(A) DUAL CITIZENSHIP, ETC.—An individual is described in this subparagraph if—

"(i) the individual became at birth a citizen of the United States and a citizen of another country and continues to be a citizen of such other country, or

"(ii) the individual becomes (not later than the close of a reasonable period after loss of United States citizenship) a citizen of the country in which—

"(I) such individual was born,

"(II) if such individual is married, such individual's spouse was born, or

"(III) either of such individual's parents were born.

"(B) LONG-TERM FOREIGN RESIDENTS.—An individual is described in this subparagraph if, for each year in the 10-year period ending on the date of loss of United States citizenship, the individual was present in the United States for 30 days or less. The rule of section 7701(b)(3)(D)(ii) shall apply for purposes of this subparagraph.

"(C) RENUNCIATION UPON REACHING AGE OF MAJORITY.—An individual is described in this subparagraph if the individual's loss of United States citizenship occurs before such individual attains age 18½.

"(D) INDIVIDUALS SPECIFIED IN REGULATIONS.—An individual is described in this subparagraph if the individual is described in a category of individuals prescribed by regulation by the Secretary.".

(2) TECHNICAL AMENDMENT.—Paragraph (1) of section 877(b) of such Code is amended by striking "subsection (c)" and inserting "subsection (d)".

(c) TREATMENT OF PROPERTY DISPOSED OF IN NONRECOGNITION TRANSACTIONS; TREATMENT OF DISTRIBUTIONS FROM CERTAIN CONTROLLED FOREIGN CORPORATIONS.—Subsection (d) of section 877, as redesignated by subsection (b), is amended to read as follows:

"(d) SPECIAL RULES FOR SOURCE, ETC.—For purposes of subsection (b)—

"(1) SOURCE RULES.—The following items of gross income shall be treated as income from sources within the United States:

"(A) SALE OF PROPERTY.—Gains on the sale or exchange of property (other than stock or debt obligations) located in the United States.

"(B) STOCK OR DEBT OBLIGATIONS.—Gains on the sale or exchange of stock issued by a domestic corporation or debt obligations of United States persons or of the United

States, a State or political subdivision thereof, or the District of Columbia.

"(C) INCOME OR GAIN DERIVED FROM CONTROLLED FOREIGN CORPORATION.—Any income or gain derived from stock in a foreign corporation but only—

"(i) if the individual losing United States citizenship owned (within the meaning of section 958(a)), or is considered as owning (by applying the ownership rules of section 958(b)), at any time during the 2-year period ending on the date of the loss of United States citizenship, more than 50 percent of—

"(I) the total combined voting power of all classes of stock entitled to vote of such corporation, or

"(II) the total value of the stock of such corporation, and

"(ii) to the extent such income or gain does not exceed the earnings and profits attributable to such stock which were earned or accumulated before the loss of citizenship and during periods that the ownership requirements of clause (i) are met.

"(2) GAIN RECOGNITION ON CERTAIN EXCHANGES.—

"(A) IN GENERAL.—In the case of any exchange of property to which this paragraph applies, notwithstanding any other provision of this title, such property shall be treated as sold for its fair market value on the date of such exchange, and any gain shall be recognized for the taxable year which includes such date.

"(B) EXCHANGES TO WHICH PARAGRAPH APPLIES.—This paragraph shall apply to any exchange during the 10-year period described in subsection (a) if—

"(i) gain would not (but for this paragraph) be recognized on such exchange in whole or in part for purposes of this subtitle,

"(ii) income derived from such property was from sources within the United States (or, if no income was so derived, would have been from such sources), and

"(iii) income derived from the property acquired in the exchange would be from sources outside the United States.

"(C) EXCEPTION.—Subparagraph (A) shall not apply if the individual enters into an agreement with the Secretary which specifies that any income or gain derived from the property acquired in the exchange (or any other property which has a basis determined in whole or part by reference to such property) during such 10-year period shall be treated as from sources within the United States. If the property transferred in the exchange is disposed of by the person acquiring such property, such agreement shall terminate and any gain which was not recognized by reason of such agreement shall be recognized as of the date of such disposition.

"(D) SECRETARY MAY EXTEND PERIOD.—To the extent provided in regulations prescribed by the Secretary, subparagraph (B) shall be applied by substituting the 15-

year period beginning 5 years before the loss of United States citizenship for the 10-year period referred to therein.

"(E) SECRETARY MAY REQUIRE RECOGNITION OF GAIN IN CERTAIN CASES.—To the extent provided in regulations prescribed by the Secretary—

"(i) the removal of appreciated tangible personal property from the United States, and

"(ii) any other occurrence which (without recognition of gain) results in a change in the source of the income or gain from property from sources within the United States to sources outside the United States,

shall be treated as an exchange to which this paragraph applies.

"(3) SUBSTANTIAL DIMINISHING OF RISKS OF OWNERSHIP.—For purposes of determining whether this section applies to any gain on the sale or exchange of any property, the running of the 10-year period described in subsection (a) shall be suspended for any period during which the individual's risk of loss with respect to the property is substantially diminished by—

"(A) the holding of a put with respect to such property (or similar property),

"(B) the holding by another person of a right to acquire the property, or

"(C) a short sale or any other transaction.

"(4) TREATMENT OF PROPERTY CONTRIBUTED TO CONTROLLED FOREIGN CORPORATIONS.—

"(A) IN GENERAL.—If—

"(i) an individual losing United States citizenship contributes property to any corporation which, at the time of the contribution, is described in subparagraph (B), and

"(ii) income derived from such property was from sources within the United States (or, if no income was so derived, would have been from such sources),

during the 10-year period referred to in subsection (a), any income or gain on such property (or any other property which has a basis determined in whole or part by reference to such property) received or accrued by the corporation shall be treated as received or accrued directly by such individual and not by such corporation. The preceding sentence shall not apply to the extent the property has been treated under subparagraph (C) as having been sold by such corporation.

"(B) CORPORATION DESCRIBED.—A corporation is described in this subparagraph with respect to an individual if, were such individual a United States citizen—

"(i) such corporation would be a controlled foreign corporation (as defined in 957), and

"(ii) such individual would be a United States shareholder (as defined in section 951(b)) with respect to such corporation.

"(C) DISPOSITION OF STOCK IN CORPORATION.—If stock in the corporation referred to in subparagraph (A) (or any other stock which has a basis determined in whole or part by reference to such stock) is disposed of during the 10-year period referred to in subsection (a) and while the

property referred to in subparagraph (A) is held by such corporation, a pro rata share of such property (determined on the basis of the value of such stock) shall be treated as sold by the corporation immediately before such disposition.

"(D) ANTI-ABUSE RULES.—The Secretary shall prescribe such regulations as may be necessary to prevent the avoidance of the purposes of this paragraph, including where—

"(i) the property is sold to the corporation, and

"(ii) the property taken into account under subparagraph (A) is sold by the corporation.

"(E) INFORMATION REPORTING.—The Secretary shall require such information reporting as is necessary to carry out the purposes of this paragraph.".

(d) CREDIT FOR FOREIGN TAXES IMPOSED ON UNITED STATES SOURCE INCOME.—

(1) Subsection (b) of section 877 is amended by adding at the end the following new sentence: "The tax imposed solely by reason of this section shall be reduced (but not below zero) by the amount of any income, war profits, and excess profits taxes (within the meaning of section 903) paid to any foreign country or possession of the United States on any income of the taxpayer on which tax is imposed solely by reason of this section."

(2) Subsection (a) of section 877, as amended by subsection (a), is amended by inserting "(after any reduction in such tax under the last sentence of such subsection)" after "such subsection".

(e) COMPARABLE ESTATE AND GIFT TAX TREATMENT.—

(1) ESTATE TAX.—

(A) IN GENERAL.—Subsection (a) of section 2107 is amended to read as follows:

"(a) TREATMENT OF EXPATRIATES.—

"(1) RATE OF TAX.—A tax computed in accordance with the table contained in section 2001 is hereby imposed on the transfer of the taxable estate, determined as provided in section 2106, of every decedent nonresident not a citizen of the United States if, within the 10-year period ending with the date of death, such decedent lost United States citizenship, unless such loss did not have for one of its principal purposes the avoidance of taxes under this subtitle or subtitle A.

"(2) CERTAIN INDIVIDUALS TREATED AS HAVING TAX AVOIDANCE PURPOSE.—

"(A) IN GENERAL.—For purposes of paragraph (1), an individual shall be treated as having a principal purpose to avoid such taxes if such individual is so treated under section 877(a)(2).

"(B) EXCEPTION.—Subparagraph (A) shall not apply to a decedent meeting the requirements of section 877(c)(1).".

(B) CREDIT FOR FOREIGN DEATH TAXES.—Subsection (c) of section 2107 is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

"(2) CREDIT FOR FOREIGN DEATH TAXES.—

"(A) IN GENERAL.—The tax imposed by subsection (a) shall be credited with the amount of any estate, inherit-

ance, legacy, or succession taxes actually paid to any foreign country in respect of any property which is included in the gross estate solely by reason of subsection (b).

"(B) LIMITATION ON CREDIT.—The credit allowed by subparagraph (A) for such taxes paid to a foreign country shall not exceed the lesser of—

"(i) the amount which bears the same ratio to the amount of such taxes actually paid to such foreign country in respect of property included in the gross estate as the value of the property included in the gross estate solely by reason of subsection (b) bears to the value of all property subjected to such taxes by such foreign country, or

"(ii) such property's proportionate share of the excess of—

"(I) the tax imposed by subsection (a), over

"(II) the tax which would be imposed by section 2101 but for this section.

"(C) PROPORTIONATE SHARE.—For purposes of subparagraph (B), a property's proportionate share is the percentage of the value of the property which is included in the gross estate solely by reason of subsection (b) bears to the total value of the gross estate.".

(C) EXPANSION OF INCLUSION IN GROSS ESTATE OF STOCK OF FOREIGN CORPORATIONS.—Paragraph (2) of section 2107(b) is amended by striking "more than 50 percent of" and all that follows and inserting "more than 50 percent of—

"(A) the total combined voting power of all classes of stock entitled to vote of such corporation, or

"(B) the total value of the stock of such corporation,".

(2) GIFT TAX.—

(A) IN GENERAL.—Paragraph (3) of section 2501(a) is amended to read as follows:

"(3) EXCEPTION.—

"(A) CERTAIN INDIVIDUALS.—Paragraph (2) shall not apply in the case of a donor who, within the 10-year period ending with the date of transfer, lost United States citizenship, unless such loss did not have for one of its principal purposes the avoidance of taxes under this subtitle or subtitle A.

"(B) CERTAIN INDIVIDUALS TREATED AS HAVING TAX AVOIDANCE PURPOSE.—For purposes of subparagraph (A), an individual shall be treated as having a principal purpose to avoid such taxes if such individual is so treated under section 877(a)(2).

"(C) EXCEPTION FOR CERTAIN INDIVIDUALS.—Subparagraph (B) shall not apply to a decedent meeting the requirements of section 877(c)(1).

"(D) CREDIT FOR FOREIGN GIFT TAXES.—The tax imposed by this section solely by reason of this paragraph shall be credited with the amount of any gift tax actually paid to any foreign country in respect of any gift which is taxable under this section solely by reason of this paragraph.".

(f) COMPARABLE TREATMENT OF LAWFUL PERMANENT RESIDENTS WHO CEASE TO BE TAXED AS RESIDENTS.—

(1) IN GENERAL.—Section 877 is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) COMPARABLE TREATMENT OF LAWFUL PERMANENT RESIDENTS WHO CEASE TO BE TAXED AS RESIDENTS.—

"(1) IN GENERAL.—Any long-term resident of the United States who—

"(A) ceases to be a lawful permanent resident of the United States (within the meaning of section 7701(b)(6)), or

"(B) commences to be treated as a resident of a foreign country under the provisions of a tax treaty between the United States and the foreign country and who does not waive the benefits of such treaty applicable to residents of the foreign country,

shall be treated for purposes of this section and sections 2107, 2501, and 6039F in the same manner as if such resident were a citizen of the United States who lost United States citizenship on the date of such cessation or commencement.

"(2) LONG-TERM RESIDENT.—For purposes of this subsection, the term 'long-term resident' means any individual (other than a citizen of the United States) who is a lawful permanent resident of the United States in at least 8 taxable years during the period of 15 taxable years ending with the taxable year during which the event described in subparagraph (A) or (B) of paragraph (1) occurs. For purposes of the preceding sentence, an individual shall not be treated as a lawful permanent resident for any taxable year if such individual is treated as a resident of a foreign country for the taxable year under the provisions of a tax treaty between the United States and the foreign country and does not waive the benefits of such treaty applicable to residents of the foreign country.

"(3) SPECIAL RULES.—

"(A) EXCEPTIONS NOT TO APPLY.—Subsection (c) shall not apply to an individual who is treated as provided in paragraph (1).

"(B) STEP-UP IN BASIS.—Solely for purposes of determining any tax imposed by reason of this subsection, property which was held by the long-term resident on the date the individual first became a resident of the United States shall be treated as having a basis on such date of not less than the fair market value of such property on such date. The preceding sentence shall not apply if the individual elects not to have such sentence apply. Such an election, once made, shall be irrevocable.

"(4) AUTHORITY TO EXEMPT INDIVIDUALS.—This subsection shall not apply to an individual who is described in a category of individuals prescribed by regulation by the Secretary.

"(5) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out this subsection, including regulations providing for the application of this subsection in cases where an alien individual becomes a resident of the United States during the 10-year period after being treated as provided in paragraph (1).".

(2) CONFORMING AMENDMENTS.—

(A) Section 2107 is amended by striking subsection (d), by redesignating subsection (e) as subsection (d), and

by inserting after subsection (d) (as so redesignated) the following new subsection:

"(e) CROSS REFERENCE.—

"For comparable treatment of long-term lawful permanent residents who ceased to be taxed as residents, see section 877(e).".

(B) Paragraph (3) of section 2501(a) (as amended by subsection (e)) is amended by adding at the end the following new subparagraph:

"(E) CROSS REFERENCE.—

"For comparable treatment of long-term lawful permanent residents who ceased to be taxed as residents, see section 877(e).".

26 USC 877 note.

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to—

(A) individuals losing United States citizenship (within the meaning of section 877 of the Internal Revenue Code of 1986) on or after February 6, 1995, and

(B) long-term residents of the United States with respect to whom an event described in subparagraph (A) or (B) of section 877(e)(1) of such Code occurs on or after February 6, 1995.

(2) RULING REQUESTS.—In no event shall the 1-year period referred to in section 877(c)(1)(B) of such Code, as amended by this section, expire before the date which is 90 days after the date of the enactment of this Act.

(3) SPECIAL RULE.—

(A) IN GENERAL.—In the case of an individual who performed an act of expatriation specified in paragraph (1), (2), (3), or (4) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(1)–(4)) before February 6, 1995, but who did not, on or before such date, furnish to the United States Department of State a signed statement of voluntary relinquishment of United States nationality confirming the performance of such act, the amendments made by this section and section 512 shall apply to such individual except that the 10-year period described in section 877(a) of such Code shall not expire before the end of the 10-year period beginning on the date such statement is so furnished.

(B) EXCEPTION.—Subparagraph (A) shall not apply if the individual establishes to the satisfaction of the Secretary of the Treasury that such loss of United States citizenship occurred before February 6, 1994.

SEC. 512. INFORMATION ON INDIVIDUALS LOSING UNITED STATES CITIZENSHIP.

(a) IN GENERAL.—Subpart A of part III of subchapter A of chapter 61 is amended by inserting after section 6039E the following new section:

"SEC. 6039F. INFORMATION ON INDIVIDUALS LOSING UNITED STATES CITIZENSHIP.

"(a) IN GENERAL.—Notwithstanding any other provision of law, any individual who loses United States citizenship (within the meaning of section 877(a)) shall provide a statement which

includes the information described in subsection (b). Such statement shall be—

"(1) provided not later than the earliest date of any act referred to in subsection (c), and

"(2) provided to the person or court referred to in subsection (c) with respect to such act.

"(b) INFORMATION TO BE PROVIDED.—Information required under subsection (a) shall include—

"(1) the taxpayer's TIN,

"(2) the mailing address of such individual's principal foreign residence,

"(3) the foreign country in which such individual is residing,

"(4) the foreign country of which such individual is a citizen,

"(5) in the case of an individual having a net worth of at least the dollar amount applicable under section 877(a)(2)(B), information detailing the assets and liabilities of such individual, and

"(6) such other information as the Secretary may prescribe.

"(c) ACTS DESCRIBED.—For purposes of this section, the acts referred to in this subsection are—

"(1) the individual's renunciation of his United States nationality before a diplomatic or consular officer of the United States pursuant to paragraph (5) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(5)),

"(2) the individual's furnishing to the United States Department of State a signed statement of voluntary relinquishment of United States nationality confirming the performance of an act of expatriation specified in paragraph (1), (2), (3), or (4) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(1)–(4)),

"(3) the issuance by the United States Department of State of a certificate of loss of nationality to the individual, or

"(4) the cancellation by a court of the United States of a naturalized citizen's certificate of naturalization.

"(d) PENALTY.—Any individual failing to provide a statement required under subsection (a) shall be subject to a penalty for each year (of the 10-year period beginning on the date of loss of United States citizenship) during any portion of which such failure continues in an amount equal to the greater of—

"(1) 5 percent of the tax required to be paid under section 877 for the taxable year ending during such year, or

"(2) $1,000,

unless it is shown that such failure is due to reasonable cause and not to willful neglect.

"(e) INFORMATION TO BE PROVIDED TO SECRETARY.—Notwithstanding any other provision of law—

"(1) any Federal agency or court which collects (or is required to collect) the statement under subsection (a) shall provide to the Secretary—

"(A) a copy of any such statement, and

"(B) the name (and any other identifying information) of any individual refusing to comply with the provisions of subsection (a),

"(2) the Secretary of State shall provide to the Secretary a copy of each certificate as to the loss of American nationality under section 358 of the Immigration and Nationality Act which is approved by the Secretary of State, and

"(3) the Federal agency primarily responsible for administering the immigration laws shall provide to the Secretary the name of each lawful permanent resident of the United States (within the meaning of section 7701(b)(6)) whose status as such has been revoked or has been administratively or judicially determined to have been abandoned.

Notwithstanding any other provision of law, not later than 30 days after the close of each calendar quarter, the Secretary shall publish in the Federal Register the name of each individual losing United States citizenship (within the meaning of section 877(a)) with respect to whom the Secretary receives information under the preceding sentence during such quarter.

"(f) REPORTING BY LONG-TERM LAWFUL PERMANENT RESIDENTS WHO CEASE TO BE TAXED AS RESIDENTS.—In lieu of applying the last sentence of subsection (a), any individual who is required to provide a statement under this section by reason of section 877(e)(1) shall provide such statement with the return of tax imposed by chapter 1 for the taxable year during which the event described in such section occurs.

"(g) EXEMPTION.—The Secretary may by regulations exempt any class of individuals from the requirements of this section if he determines that applying this section to such individuals is not necessary to carry out the purposes of this section.".

(b) CLERICAL AMENDMENT.—The table of sections for such subpart A is amended by inserting after the item relating to section 6039E the following new item:

"Sec. 6039F. Information on individuals losing United States citizenship.".

26 USC 6039F note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to—

(1) individuals losing United States citizenship (within the meaning of section 877 of the Internal Revenue Code of 1986) on or after February 6, 1995, and

(2) long-term residents of the United States with respect to whom an event described in subparagraph (A) or (B) of section 877(e)(1) of such Code occurs on or after such date.

In no event shall any statement required by such amendments be due before the 90th day after the date of the enactment of this Act.

SEC. 513. REPORT ON TAX COMPLIANCE BY UNITED STATES CITIZENS AND RESIDENTS LIVING ABROAD.

Not later than 90 days after the date of the enactment of this Act, the Secretary of the Treasury shall prepare and submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report—

(1) describing the compliance with subtitle A of the Internal Revenue Code of 1986 by citizens and lawful permanent residents of the United States (within the meaning of section 7701(b)(6) of such Code) residing outside the United States, and

(2) recommending measures to improve such compliance (including improved coordination between executive branch agencies).

Subtitle C—Repeal of Financial Institution Transition Rule to Interest Allocation Rules

SEC. 521. REPEAL OF FINANCIAL INSTITUTION TRANSITION RULE TO INTEREST ALLOCATION RULES.

(a) IN GENERAL.—Paragraph (5) of section 1215(c) of the Tax Reform Act of 1986 (Public Law 99–514, 100 Stat. 2548) is hereby repealed. 26 USC 864 note.

(b) EFFECTIVE DATE.— 26 USC 864 note.

(1) IN GENERAL.—The amendment made by this section shall apply to taxable years beginning after December 31, 1995.

(2) SPECIAL RULE.—In the case of the first taxable year beginning after December 31, 1995, the pre-effective date portion of the interest expense of the corporation referred to in such paragraph (5) of such section 1215(c) for such taxable year shall be allocated and apportioned without regard to such amendment. For purposes of the preceding sentence, the pre-effective date portion is the amount which bears the same ratio to the interest expense for such taxable year as the number of days during such taxable year before the date of the enactment of this Act bears to 366.

Approved August 21, 1996.

LEGISLATIVE HISTORY—H.R. 3103 (S. 1028) (S. 1698):

HOUSE REPORTS: Nos. 104–496, Pt. 1 (Comm. on Ways and Means) and 104–736 (Comm. of Conference).

SENATE REPORTS: No. 104–156 accompanying S. 1028 (Comm. on Labor and Human Resources).

CONGRESSIONAL RECORD, Vol. 142 (1996):

Mar. 28, considered and passed House.

Apr. 18, 23, considered and passed Senate, amended, in lieu of S. 1028.

Aug. 1, House agreed to conference report.

Aug. 2, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 32 (1996):

Aug. 21, Presidential remarks and statement.

Public Law 104–192
104th Congress

An Act

Aug. 21, 1996
[H.R. 3680]

To amend title 18, United States Code, to carry out the international obligations of the United States under the Geneva Conventions to provide criminal penalties for certain war crimes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

War Crimes Act of 1996.
18 USC 2401 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "War Crimes Act of 1996".

SEC. 2. CRIMINAL PENALTIES FOR CERTAIN WAR CRIMES.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 117 the following:

"CHAPTER 118—WAR CRIMES

"Sec.
"2401. War crimes.

"§ 2401. War crimes

"(a) OFFENSE.—Whoever, whether inside or outside the United States, commits a grave breach of the Geneva Conventions, in any of the circumstances described in subsection (b), shall be fined under this title or imprisoned for life or any term of years, or both, and if death results to the victim, shall also be subject to the penalty of death.

"(b) CIRCUMSTANCES.—The circumstances referred to in subsection (a) are that the person committing such breach or the victim of such breach is a member of the Armed Forces of the United States or a national of the United States (as defined in section 101 of the Immigration and Nationality Act).

"(c) DEFINITIONS.—As used in this section, the term 'grave breach of the Geneva Conventions' means conduct defined as a grave breach in any of the international conventions relating to the laws of warfare signed at Geneva 12 August 1949 or any protocol to any such convention, to which the United States is a party.".

(b) CLERICAL AMENDMENT.—The table of chapters for part I of title 18, United States Code, is amended by inserting after the item relating to chapter 117 the following new item:

"118. War crimes ..... 2401".

Approved August 21, 1996.

LEGISLATIVE HISTORY—H.R. 3680:

HOUSE REPORTS: No. 104–698 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 142 (1996):
July 29, considered and passed House.
Aug. 2, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 32 (1996):
Aug. 21, Presidential statement.

Public Law 104–193
104th Congress

An Act

To provide for reconciliation pursuant to section 201(a)(1) of the concurrent resolution on the budget for fiscal year 1997.

Aug. 22, 1996
[H.R. 3734]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

Personal Responsibility and Work Opportunity Reconciliation Act of 1996.
42 USC 1305 note.

This Act may be cited as the "Personal Responsibility and Work Opportunity Reconciliation Act of 1996".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

TITLE I—BLOCK GRANTS FOR TEMPORARY ASSISTANCE FOR NEEDY FAMILIES

Sec. 101. Findings.
Sec. 102. Reference to Social Security Act.
Sec. 103. Block grants to States.
Sec. 104. Services provided by charitable, religious, or private organizations.
Sec. 105. Census data on grandparents as primary caregivers for their grandchildren.
Sec. 106. Report on data processing.
Sec. 107. Study on alternative outcomes measures.
Sec. 108. Conforming amendments to the Social Security Act.
Sec. 109. Conforming amendments to the Food Stamp Act of 1977 and related provisions.
Sec. 110. Conforming amendments to other laws.
Sec. 111. Development of prototype of counterfeit-resistant Social Security card required.
Sec. 112. Modifications to the job opportunities for certain low-income individuals program.
Sec. 113. Secretarial submission of legislative proposal for technical and conforming amendments.
Sec. 114. Assuring medicaid coverage for low-income families.
Sec. 115. Denial of assistance and benefits for certain drug-related convictions.
Sec. 116. Effective date; transition rule.

TITLE II—SUPPLEMENTAL SECURITY INCOME

Sec. 200. Reference to Social Security Act.

Subtitle A—Eligibility Restrictions

Sec. 201. Denial of SSI benefits for 10 years to individuals found to have fraudulently misrepresented residence in order to obtain benefits simultaneously in 2 or more States.
Sec. 202. Denial of SSI benefits for fugitive felons and probation and parole violators.
Sec. 203. Treatment of prisoners.
Sec. 204. Effective date of application for benefits.

Subtitle B—Benefits for Disabled Children

Sec. 211. Definition and eligibility rules.
Sec. 212. Eligibility redeterminations and continuing disability reviews.

Sec. 213. Additional accountability requirements.
Sec. 214. Reduction in cash benefits payable to institutionalized individuals whose medical costs are covered by private insurance.
Sec. 215. Regulations.

Subtitle C—Additional Enforcement Provision

Sec. 221. Installment payment of large past-due supplemental security income benefits.
Sec. 222. Regulations.

Subtitle D—Studies Regarding Supplemental Security Income Program

Sec. 231. Annual report on the supplemental security income program.
Sec. 232. Study by General Accounting Office.

TITLE III—CHILD SUPPORT

Sec. 300. Reference to Social Security Act.

Subtitle A—Eligibility for Services; Distribution of Payments

Sec. 301. State obligation to provide child support enforcement services.
Sec. 302. Distribution of child support collections.
Sec. 303. Privacy safeguards.
Sec. 304. Rights to notification of hearings.

Subtitle B—Locate and Case Tracking

Sec. 311. State case registry.
Sec. 312. Collection and disbursement of support payments.
Sec. 313. State directory of new hires.
Sec. 314. Amendments concerning income withholding.
Sec. 315. Locator information from interstate networks.
Sec. 316. Expansion of the Federal Parent Locator Service.
Sec. 317. Collection and use of Social Security numbers for use in child support enforcement.

Subtitle C—Streamlining and Uniformity of Procedures

Sec. 321. Adoption of uniform State laws.
Sec. 322. Improvements to full faith and credit for child support orders.
Sec. 323. Administrative enforcement in interstate cases.
Sec. 324. Use of forms in interstate enforcement.
Sec. 325. State laws providing expedited procedures.

Subtitle D—Paternity Establishment

Sec. 331. State laws concerning paternity establishment.
Sec. 332. Outreach for voluntary paternity establishment.
Sec. 333. Cooperation by applicants for and recipients of part A assistance.

Subtitle E—Program Administration and Funding

Sec. 341. Performance-based incentives and penalties.
Sec. 342. Federal and State reviews and audits.
Sec. 343. Required reporting procedures.
Sec. 344. Automated data processing requirements.
Sec. 345. Technical assistance.
Sec. 346. Reports and data collection by the Secretary.

Subtitle F—Establishment and Modification of Support Orders

Sec. 351. Simplified process for review and adjustment of child support orders.
Sec. 352. Furnishing consumer reports for certain purposes relating to child support.
Sec. 353. Nonliability for financial institutions providing financial records to State child support enforcement agencies in child support cases.

Subtitle G—Enforcement of Support Orders

Sec. 361. Internal Revenue Service collection of arrearages.
Sec. 362. Authority to collect support from Federal employees.
Sec. 363. Enforcement of child support obligations of members of the Armed Forces.
Sec. 364. Voiding of fraudulent transfers.
Sec. 365. Work requirement for persons owing past-due child support.
Sec. 366. Definition of support order.
Sec. 367. Reporting arrearages to credit bureaus.
Sec. 368. Liens.

Sec. 369. State law authorizing suspension of licenses.
Sec. 370. Denial of passports for nonpayment of child support.
Sec. 371. International support enforcement.
Sec. 372. Financial institution data matches.
Sec. 373. Enforcement of orders against paternal or maternal grandparents in cases of minor parents.
Sec. 374. Nondischargeability in bankruptcy of certain debts for the support of a child.
Sec. 375. Child support enforcement for Indian tribes.

Subtitle H—Medical Support

Sec. 381. Correction to ERISA definition of medical child support order.
Sec. 382. Enforcement of orders for health care coverage.

Subtitle I—Enhancing Responsibility and Opportunity for Non-Residential Parents

Sec. 391. Grants to States for access and visitation programs.

Subtitle J—Effective Dates and Conforming Amendments

Sec. 395. Effective dates and conforming amendments.

TITLE IV—RESTRICTING WELFARE AND PUBLIC BENEFITS FOR ALIENS

Sec. 400. Statements of national policy concerning welfare and immigration.

Subtitle A—Eligibility for Federal Benefits

Sec. 401. Aliens who are not qualified aliens ineligible for Federal public benefits.
Sec. 402. Limited eligibility of qualified aliens for certain Federal programs.
Sec. 403. Five-year limited eligibility of qualified aliens for Federal means-tested public benefit.
Sec. 404. Notification and information reporting.

Subtitle B—Eligibility for State and Local Public Benefits Programs

Sec. 411. Aliens who are not qualified aliens or nonimmigrants ineligible for State and local public benefits.
Sec. 412. State authority to limit eligibility of qualified aliens for State public benefits.

Subtitle C—Attribution of Income and Affidavits of Support

Sec. 421. Federal attribution of sponsor's income and resources to alien.
Sec. 422. Authority for States to provide for attribution of sponsors income and resources to the alien with respect to State programs.
Sec. 423. Requirements for sponsor's affidavit of support.

Subtitle D—General Provisions

Sec. 431. Definitions.
Sec. 432. Verification of eligibility for Federal public benefits.
Sec. 433. Statutory construction.
Sec. 434. Communication between State and local government agencies and the Immigration and Naturalization Service.
Sec. 435. Qualifying quarters.

Subtitle E—Conforming Amendments Relating to Assisted Housing

Sec. 441. Conforming amendments relating to assisted housing.

Subtitle F—Earning Income Credit Denied to Unauthorized Employees

Sec. 451. Earned income credit denied to individuals not authorized to be employed in the United States.

TITLE V—CHILD PROTECTION

Sec. 501. Authority of States to make foster care maintenance payments on behalf of children in any private child care institution.
Sec. 502. Extension of enhanced match for implementation of statewide automated child welfare information systems.
Sec. 503. National random sample study of child welfare.
Sec. 504. Redesignation of section 1123.
Sec. 505. Kinship care.

TITLE VI—CHILD CARE

Sec. 601. Short title and references.
Sec. 602. Goals.

Sec. 603. Authorization of appropriations and entitlement authority.
Sec. 604. Lead agency.
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Sec. 608. Repeal of early childhood development and before- and after-school care requirement.
Sec. 609. Administration and enforcement.
Sec. 610. Payments.
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Sec. 612. Report by the Secretary.
Sec. 613. Allotments.
Sec. 614. Definitions.
Sec. 615. Effective date.

TITLE VII—CHILD NUTRITION PROGRAMS

Subtitle A—National School Lunch Act

Sec. 701. State disbursement to schools.
Sec. 702. Nutritional and other program requirements.
Sec. 703. Free and reduced price policy statement.
Sec. 704. Special assistance.
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Sec. 706. Summer food service program for children.
Sec. 707. Commodity distribution.
Sec. 708. Child and adult care food program.
Sec. 709. Pilot projects.
Sec. 710. Reduction of paperwork.
Sec. 711. Information on income eligibility.
Sec. 712. Nutrition guidance for child nutrition programs.

Subtitle B—Child Nutrition Act of 1966

Sec. 721. Special milk program.
Sec. 722. Free and reduced price policy statement.
Sec. 723. School breakfast program authorization.
Sec. 724. State administrative expenses.
Sec. 725. Regulations.
Sec. 726. Prohibitions.
Sec. 727. Miscellaneous provisions and definitions.
Sec. 728. Accounts and records.
Sec. 729. Special supplemental nutrition program for women, infants, and children.
Sec. 730. Cash grants for nutrition education.
Sec. 731. Nutrition education and training.

Subtitle C—Miscellaneous Provisions

Sec. 741. Coordination of school lunch, school breakfast, and summer food service programs.
Sec. 742. Requirements relating to provision of benefits based on citizenship, alienage, or immigration status under the National School Lunch Act, the Child Nutrition Act of 1966, and certain other acts.

TITLE VIII—FOOD STAMPS AND COMMODITY DISTRIBUTION

Subtitle A—Food Stamp Program

Sec. 801. Definition of certification period.
Sec. 802. Definition of coupon.
Sec. 803. Treatment of children living at home.
Sec. 804. Adjustment of thrifty food plan.
Sec. 805. Definition of homeless individual.
Sec. 806. State option for eligibility standards.
Sec. 807. Earnings of students.
Sec. 808. Energy assistance.
Sec. 809. Deductions from income.
Sec. 810. Vehicle allowance.
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Sec. 812. Simplified calculation of income for the self-employed.
Sec. 813. Doubled penalties for violating food stamp program requirements.
Sec. 814. Disqualification of convicted individuals.
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Sec. 817. Employment and training.

Sec. 818. Food stamp eligibility.
Sec. 819. Comparable treatment for disqualification.
Sec. 820. Disqualification for receipt of multiple food stamp benefits.
Sec. 821. Disqualification of fleeing felons.
Sec. 822. Cooperation with child support agencies.
Sec. 823. Disqualification relating to child support arrears.
Sec. 824. Work requirement.
Sec. 825. Encouragement of electronic benefit transfer systems.
Sec. 826. Value of minimum allotment.
Sec. 827. Benefits on recertification.
Sec. 828. Optional combined allotment for expedited households.
Sec. 829. Failure to comply with other means-tested public assistance programs.
Sec. 830. Allotments for households residing in centers.
Sec. 831. Condition precedent for approval of retail food stores and wholesale food concerns.
Sec. 832. Authority to establish authorization periods.
Sec. 833. Information for verifying eligibility for authorization.
Sec. 834. Waiting period for stores that fail to meet authorization criteria.
Sec. 835. Operation of food stamp offices.
Sec. 836. State employee and training standards.
Sec. 837. Exchange of law enforcement information.
Sec. 838. Expedited coupon service.
Sec. 839. Withdrawing fair hearing requests.
Sec. 840. Income, eligibility, and immigration status verification systems.
Sec. 841. Investigations.
Sec. 842. Disqualification of retailers who intentionally submit falsified applications.
Sec. 843. Disqualification of retailers who are disqualified under the WIC program.
Sec. 844. Collection of overissuances.
Sec. 845. Authority to suspend stores violating program requirements pending administrative and judicial review.
Sec. 846. Expanded criminal forfeiture for violations.
Sec. 847. Limitation on Federal match.
Sec. 848. Standards for administration.
Sec. 849. Work supplementation or support program.
Sec. 850. Waiver authority.
Sec. 851. Response to waivers.
Sec. 852. Employment initiatives program.
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Sec. 854. Simplified food stamp program.
Sec. 855. Study of the use of food stamps to purchase vitamins and minerals.
Sec. 856. Deficit reduction.

Subtitle B—Commodity Distribution Programs

Sec. 871. Emergency food assistance program.
Sec. 872. Food bank demonstration project.
Sec. 873. Hunger prevention programs.
Sec. 874. Report on entitlement commodity processing.

Subtitle C—Electronic Benefit Transfer Systems

Sec. 891. Provisions to encourage electronic benefit transfer systems.

TITLE IX—MISCELLANEOUS

Sec. 901. Appropriation by State legislatures.
Sec. 902. Sanctioning for testing positive for controlled substances.
Sec. 903. Elimination of housing assistance with respect to fugitive felons and probation and parole violators.
Sec. 904. Sense of the Senate regarding the inability of the noncustodial parent to pay child support.
Sec. 905. Establishing national goals to prevent teenage pregnancies.
Sec. 906. Sense of the Senate regarding enforcement of statutory rape laws.
Sec. 907. Provisions to encourage electronic benefit transfer systems.
Sec. 908. Reduction of block grants to States for social services; use of vouchers.
Sec. 909. Rules relating to denial of earned income credit on basis of disqualified income.
Sec. 910. Modification of adjusted gross income definition for earned income credit.
Sec. 911. Fraud under means-tested welfare and public assistance programs.
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Sec. 913. Change in reference.

TITLE I—BLOCK GRANTS FOR TEMPORARY ASSISTANCE FOR NEEDY FAMILIES

42 USC 601 note.

SEC. 101. FINDINGS.

The Congress makes the following findings:

(1) Marriage is the foundation of a successful society.

(2) Marriage is an essential institution of a successful society which promotes the interests of children.

(3) Promotion of responsible fatherhood and motherhood is integral to successful child rearing and the well-being of children.

(4) In 1992, only 54 percent of single-parent families with children had a child support order established and, of that 54 percent, only about one-half received the full amount due. Of the cases enforced through the public child support enforcement system, only 18 percent of the caseload has a collection.

(5) The number of individuals receiving aid to families with dependent children (in this section referred to as "AFDC") has more than tripled since 1965. More than two-thirds of these recipients are children. Eighty-nine percent of children receiving AFDC benefits now live in homes in which no father is present.

(A)(i) The average monthly number of children receiving AFDC benefits—

(I) was 3,300,000 in 1965;

(II) was 6,200,000 in 1970;

(III) was 7,400,000 in 1980; and

(IV) was 9,300,000 in 1992.

(ii) While the number of children receiving AFDC benefits increased nearly threefold between 1965 and 1992, the total number of children in the United States aged 0 to 18 has declined by 5.5 percent.

(B) The Department of Health and Human Services has estimated that 12,000,000 children will receive AFDC benefits within 10 years.

(C) The increase in the number of children receiving public assistance is closely related to the increase in births to unmarried women. Between 1970 and 1991, the percentage of live births to unmarried women increased nearly threefold, from 10.7 percent to 29.5 percent.

(6) The increase of out-of-wedlock pregnancies and births is well documented as follows:

(A) It is estimated that the rate of nonmarital teen pregnancy rose 23 percent from 54 pregnancies per 1,000 unmarried teenagers in 1976 to 66.7 pregnancies in 1991. The overall rate of nonmarital pregnancy rose 14 percent from 90.8 pregnancies per 1,000 unmarried women in 1980 to 103 in both 1991 and 1992. In contrast, the overall pregnancy rate for married couples decreased 7.3 percent between 1980 and 1991, from 126.9 pregnancies per 1,000 married women in 1980 to 117.6 pregnancies in 1991.

(B) The total of all out-of-wedlock births between 1970 and 1991 has risen from 10.7 percent to 29.5 percent and

if the current trend continues, 50 percent of all births by the year 2015 will be out-of-wedlock.

(7) An effective strategy to combat teenage pregnancy must address the issue of male responsibility, including statutory rape culpability and prevention. The increase of teenage pregnancies among the youngest girls is particularly severe and is linked to predatory sexual practices by men who are significantly older.

(A) It is estimated that in the late 1980's, the rate for girls age 14 and under giving birth increased 26 percent.

(B) Data indicates that at least half of the children born to teenage mothers are fathered by adult men. Available data suggests that almost 70 percent of births to teenage girls are fathered by men over age 20.

(C) Surveys of teen mothers have revealed that a majority of such mothers have histories of sexual and physical abuse, primarily with older adult men.

(8) The negative consequences of an out-of-wedlock birth on the mother, the child, the family, and society are well documented as follows:

(A) Young women 17 and under who give birth outside of marriage are more likely to go on public assistance and to spend more years on welfare once enrolled. These combined effects of "younger and longer" increase total AFDC costs per household by 25 percent to 30 percent for 17-year-olds.

(B) Children born out-of-wedlock have a substantially higher risk of being born at a very low or moderately low birth weight.

(C) Children born out-of-wedlock are more likely to experience low verbal cognitive attainment, as well as more child abuse, and neglect.

(D) Children born out-of-wedlock were more likely to have lower cognitive scores, lower educational aspirations, and a greater likelihood of becoming teenage parents themselves.

(E) Being born out-of-wedlock significantly reduces the chances of the child growing up to have an intact marriage.

(F) Children born out-of-wedlock are 3 times more likely to be on welfare when they grow up.

(9) Currently 35 percent of children in single-parent homes were born out-of-wedlock, nearly the same percentage as that of children in single-parent homes whose parents are divorced (37 percent). While many parents find themselves, through divorce or tragic circumstances beyond their control, facing the difficult task of raising children alone, nevertheless, the negative consequences of raising children in single-parent homes are well documented as follows:

(A) Only 9 percent of married-couple families with children under 18 years of age have income below the national poverty level. In contrast, 46 percent of female-headed households with children under 18 years of age are below the national poverty level.

(B) Among single-parent families, nearly ½ of the mothers who never married received AFDC while only ⅙ of divorced mothers received AFDC.

(C) Children born into families receiving welfare assistance are 3 times more likely to be on welfare when they reach adulthood than children not born into families receiving welfare.

(D) Mothers under 20 years of age are at the greatest risk of bearing low birth weight babies.

(E) The younger the single-parent mother, the less likely she is to finish high school.

(F) Young women who have children before finishing high school are more likely to receive welfare assistance for a longer period of time.

(G) Between 1985 and 1990, the public cost of births to teenage mothers under the aid to families with dependent children program, the food stamp program, and the medicaid program has been estimated at $120,000,000,000.

(H) The absence of a father in the life of a child has a negative effect on school performance and peer adjustment.

(I) Children of teenage single parents have lower cognitive scores, lower educational aspirations, and a greater likelihood of becoming teenage parents themselves.

(J) Children of single-parent homes are 3 times more likely to fail and repeat a year in grade school than are children from intact 2-parent families.

(K) Children from single-parent homes are almost 4 times more likely to be expelled or suspended from school.

(L) Neighborhoods with larger percentages of youth aged 12 through 20 and areas with higher percentages of single-parent households have higher rates of violent crime.

(M) Of those youth held for criminal offenses within the State juvenile justice system, only 29.8 percent lived primarily in a home with both parents. In contrast to these incarcerated youth, 73.9 percent of the 62,800,000 children in the Nation's resident population were living with both parents.

(10) Therefore, in light of this demonstration of the crisis in our Nation, it is the sense of the Congress that prevention of out-of-wedlock pregnancy and reduction in out-of-wedlock birth are very important Government interests and the policy contained in part A of title IV of the Social Security Act (as amended by section 103(a) of this Act) is intended to address the crisis.

SEC. 102. REFERENCE TO SOCIAL SECURITY ACT.

Except as otherwise specifically provided, wherever in this title an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

SEC. 103. BLOCK GRANTS TO STATES.

(a) IN GENERAL.—Part A of title IV (42 U.S.C. 601 et seq.) is amended—

42 USC prec. 601, 601–610, 612, 613, 615–617.

(1) by striking all that precedes section 418 (as added by section 603(b)(2) of this Act) and inserting the following:

"PART A—BLOCK GRANTS TO STATES FOR TEMPORARY ASSISTANCE FOR NEEDY FAMILIES

"SEC. 401. PURPOSE. 42 USC 601.

"(a) IN GENERAL.—The purpose of this part is to increase the flexibility of States in operating a program designed to—

"(1) provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives;

"(2) end the dependence of needy parents on government benefits by promoting job preparation, work, and marriage;

"(3) prevent and reduce the incidence of out-of-wedlock pregnancies and establish annual numerical goals for preventing and reducing the incidence of these pregnancies; and

"(4) encourage the formation and maintenance of two-parent families.

"(b) NO INDIVIDUAL ENTITLEMENT.—This part shall not be interpreted to entitle any individual or family to assistance under any State program funded under this part.

"SEC. 402. ELIGIBLE STATES; STATE PLAN. 42 USC 602.

"(a) IN GENERAL.—As used in this part, the term 'eligible State' means, with respect to a fiscal year, a State that, during the 2-year period immediately preceding the fiscal year, has submitted to the Secretary a plan that the Secretary has found includes the following:

"(1) OUTLINE OF FAMILY ASSISTANCE PROGRAM.—

"(A) GENERAL PROVISIONS.—A written document that outlines how the State intends to do the following:

"(i) Conduct a program, designed to serve all political subdivisions in the State (not necessarily in a uniform manner), that provides assistance to needy families with (or expecting) children and provides parents with job preparation, work, and support services to enable them to leave the program and become self-sufficient.

"(ii) Require a parent or caretaker receiving assistance under the program to engage in work (as defined by the State) once the State determines the parent or caretaker is ready to engage in work, or once the parent or caretaker has received assistance under the program for 24 months (whether or not consecutive), whichever is earlier.

"(iii) Ensure that parents and caretakers receiving assistance under the program engage in work activities in accordance with section 407.

"(iv) Take such reasonable steps as the State deems necessary to restrict the use and disclosure of information about individuals and families receiving assistance under the program attributable to funds provided by the Federal Government.

"(v) Establish goals and take action to prevent and reduce the incidence of out-of-wedlock pregnancies, with special emphasis on teenage pregnancies, and establish numerical goals for reducing the illegitimacy

ratio of the State (as defined in section 403(a)(2)(B)) for calendar years 1996 through 2005.

"(vi) Conduct a program, designed to reach State and local law enforcement officials, the education system, and relevant counseling services, that provides education and training on the problem of statutory rape so that teenage pregnancy prevention programs may be expanded in scope to include men.

"(B) SPECIAL PROVISIONS.—

"(i) The document shall indicate whether the State intends to treat families moving into the State from another State differently than other families under the program, and if so, how the State intends to treat such families under the program.

"(ii) The document shall indicate whether the State intends to provide assistance under the program to individuals who are not citizens of the United States, and if so, shall include an overview of such assistance.

"(iii) The document shall set forth objective criteria for the delivery of benefits and the determination of eligibility and for fair and equitable treatment, including an explanation of how the State will provide opportunities for recipients who have been adversely affected to be heard in a State administrative or appeal process.

"(iv) Not later than 1 year after the date of enactment of this Act, unless the chief executive officer of the State opts out of this provision by notifying the Secretary, a State shall, consistent with the exception provided in section 407(e)(2), require a parent or caretaker receiving assistance under the program who, after receiving such assistance for 2 months is not exempt from work requirements and is not engaged in work, as determined under section 407(c), to participate in community service employment, with minimum hours per week and tasks to be determined by the State.

"(2) CERTIFICATION THAT THE STATE WILL OPERATE A CHILD SUPPORT ENFORCEMENT PROGRAM.—A certification by the chief executive officer of the State that, during the fiscal year, the State will operate a child support enforcement program under the State plan approved under part D.

"(3) CERTIFICATION THAT THE STATE WILL OPERATE A FOSTER CARE AND ADOPTION ASSISTANCE PROGRAM.—A certification by the chief executive officer of the State that, during the fiscal year, the State will operate a foster care and adoption assistance program under the State plan approved under part E, and that the State will take such actions as are necessary to ensure that children receiving assistance under such part are eligible for medical assistance under the State plan under title XIX.

"(4) CERTIFICATION OF THE ADMINISTRATION OF THE PROGRAM.—A certification by the chief executive officer of the State specifying which State agency or agencies will administer and supervise the program referred to in paragraph (1) for the fiscal year, which shall include assurances that local governments and private sector organizations—

"(A) have been consulted regarding the plan and design of welfare services in the State so that services are provided in a manner appropriate to local populations; and

"(B) have had at least 45 days to submit comments on the plan and the design of such services.

"(5) CERTIFICATION THAT THE STATE WILL PROVIDE INDIANS WITH EQUITABLE ACCESS TO ASSISTANCE.—A certification by the chief executive officer of the State that, during the fiscal year, the State will provide each member of an Indian tribe, who is domiciled in the State and is not eligible for assistance under a tribal family assistance plan approved under section 412, with equitable access to assistance under the State program funded under this part attributable to funds provided by the Federal Government.

"(6) CERTIFICATION OF STANDARDS AND PROCEDURES TO ENSURE AGAINST PROGRAM FRAUD AND ABUSE.—A certification by the chief executive officer of the State that the State has established and is enforcing standards and procedures to ensure against program fraud and abuse, including standards and procedures concerning nepotism, conflicts of interest among individuals responsible for the administration and supervision of the State program, kickbacks, and the use of political patronage.

"(7) OPTIONAL CERTIFICATION OF STANDARDS AND PROCEDURES TO ENSURE THAT THE STATE WILL SCREEN FOR AND IDENTIFY DOMESTIC VIOLENCE.—

"(A) IN GENERAL.—At the option of the State, a certification by the chief executive officer of the State that the State has established and is enforcing standards and procedures to—

"(i) screen and identify individuals receiving assistance under this part with a history of domestic violence while maintaining the confidentiality of such individuals;

"(ii) refer such individuals to counseling and supportive services; and

"(iii) waive, pursuant to a determination of good cause, other program requirements such as time limits (for so long as necessary) for individuals receiving assistance, residency requirements, child support cooperation requirements, and family cap provisions, in cases where compliance with such requirements would make it more difficult for individuals receiving assistance under this part to escape domestic violence or unfairly penalize such individuals who are or have been victimized by such violence, or individuals who are at risk of further domestic violence.

"(B) DOMESTIC VIOLENCE DEFINED.—For purposes of this paragraph, the term 'domestic violence' has the same meaning as the term 'battered or subjected to extreme cruelty', as defined in section 408(a)(7)(C)(iii).

"(b) PUBLIC AVAILABILITY OF STATE PLAN SUMMARY.—The State shall make available to the public a summary of any plan submitted by the State under this section.

"SEC. 403. GRANTS TO STATES. 42 USC 603.

"(a) GRANTS.—

"(1) FAMILY ASSISTANCE GRANT.—

"(A) IN GENERAL.—Each eligible State shall be entitled to receive from the Secretary, for each of fiscal years 1996, 1997, 1998, 1999, 2000, 2001, and 2002, a grant in an amount equal to the State family assistance grant.

"(B) STATE FAMILY ASSISTANCE GRANT DEFINED.—As used in this part, the term 'State family assistance grant' means the greatest of—

"(i) ⅓ of the total amount required to be paid to the State under former section 403 (as in effect on September 30, 1995) for fiscal years 1992, 1993, and 1994 (other than with respect to amounts expended by the State for child care under subsection (g) or (i) of former section 402 (as so in effect));

"(ii)(I) the total amount required to be paid to the State under former section 403 for fiscal year 1994 (other than with respect to amounts expended by the State for child care under subsection (g) or (i) of former section 402 (as so in effect)); plus

"(II) an amount equal to 85 percent of the amount (if any) by which the total amount required to be paid to the State under former section 403(a)(5) for emergency assistance for fiscal year 1995 exceeds the total amount required to be paid to the State under former section 403(a)(5) for fiscal year 1994, if, during fiscal year 1994 or 1995, the Secretary approved under former section 402 an amendment to the former State plan with respect to the provision of emergency assistance; or

"(iii) ⅔ of the total amount required to be paid to the State under former section 403 (as in effect on September 30, 1995) for the 1st 3 quarters of fiscal year 1995 (other than with respect to amounts expended by the State under the State plan approved under part F (as so in effect) or for child care under subsection (g) or (i) of former section 402 (as so in effect)), plus the total amount required to be paid to the State for fiscal year 1995 under former section 403(l) (as so in effect).

"(C) TOTAL AMOUNT REQUIRED TO BE PAID TO THE STATE UNDER FORMER SECTION 403 DEFINED.—As used in this part, the term 'total amount required to be paid to the State under former section 403' means, with respect to a fiscal year—

"(i) in the case of a State to which section 1108 does not apply, the sum of—

"(I) the Federal share of maintenance assistance expenditures for the fiscal year, before reduction pursuant to subparagraph (B) or (C) of section 403(b)(2) (as in effect on September 30, 1995), as reported by the State on ACF Form 231;

"(II) the Federal share of administrative expenditures (including administrative expenditures for the development of management information systems) for the fiscal year, as reported by the State on ACF Form 231;

"(III) the Federal share of emergency assistance expenditures for the fiscal year, as reported by the State on ACF Form 231;

"(IV) the Federal share of expenditures for the fiscal year with respect to child care pursuant to subsections (g) and (i) of former section 402 (as in effect on September 30, 1995), as reported by the State on ACF Form 231; and

"(V) the Federal obligations made to the State under section 403 for the fiscal year with respect to the State program operated under part F (as in effect on September 30, 1995), as determined by the Secretary, including additional obligations or reductions in obligations made after the close of the fiscal year; and

"(ii) in the case of a State to which section 1108 applies, the lesser of—

"(I) the sum described in clause (i); or

"(II) the total amount certified by the Secretary under former section 403 (as in effect during the fiscal year) with respect to the territory.

"(D) INFORMATION TO BE USED IN DETERMINING AMOUNTS.—

"(i) FOR FISCAL YEARS 1992 AND 1993.—

"(I) In determining the amounts described in subclauses (I) through (IV) of subparagraph (C)(i) for any State for each of fiscal years 1992 and 1993, the Secretary shall use information available as of April 28, 1995.

"(II) In determining the amount described in subparagraph (C)(i)(V) for any State for each of fiscal years 1992 and 1993, the Secretary shall use information available as of January 6, 1995.

"(ii) FOR FISCAL YEAR 1994.—In determining the amounts described in subparagraph (C)(i) for any State for fiscal year 1994, the Secretary shall use information available as of April 28, 1995.

"(iii) FOR FISCAL YEAR 1995.—

"(I) In determining the amount described in subparagraph (B)(ii)(II) for any State for fiscal year 1995, the Secretary shall use the information which was reported by the States and estimates made by the States with respect to emergency assistance expenditures and was available as of August 11, 1995.

"(II) In determining the amounts described in subclauses (I) through (III) of subparagraph (C)(i) for any State for fiscal year 1995, the Secretary shall use information available as of October 2, 1995.

"(III) In determining the amount described in subparagraph (C)(i)(IV) for any State for fiscal year 1995, the Secretary shall use information available as of February 28, 1996.

"(IV) In determining the amount described in subparagraph (C)(i)(V) for any State for fiscal year

1995, the Secretary shall use information available as of October 5, 1995.

"(E) APPROPRIATION.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated for fiscal years 1996, 1997, 1998, 1999, 2000, 2001, and 2002 such sums as are necessary for grants under this paragraph.

"(2) BONUS TO REWARD DECREASE IN ILLEGITIMACY.—

"(A) IN GENERAL.—Each eligible State shall be entitled to receive from the Secretary a grant for each bonus year for which the State demonstrates a net decrease in out-of-wedlock births.

"(B) AMOUNT OF GRANT.—

"(i) IF 5 ELIGIBLE STATES.—If there are 5 eligible States for a bonus year, the amount of the grant shall be $20,000,000.

"(ii) IF FEWER THAN 5 ELIGIBLE STATES.—If there are fewer than 5 eligible States for a bonus year, the amount of the grant shall be $25,000,000.

"(C) DEFINITIONS.—As used in this paragraph:

"(i) ELIGIBLE STATE.—

"(I) IN GENERAL.—The term 'eligible State' means a State that the Secretary determines meets the following requirements:

"(aa) The State demonstrates that the number of out-of-wedlock births that occurred in the State during the most recent 2-year period for which such information is available decreased as compared to the number of such births that occurred during the previous 2-year period, and the magnitude of the decrease for the State for the period is not exceeded by the magnitude of the corresponding decrease for 5 or more other States for the period.

"(bb) The rate of induced pregnancy terminations in the State for the fiscal year is less than the rate of induced pregnancy terminations in the State for fiscal year 1995.

"(II) DISREGARD OF CHANGES IN DATA DUE TO CHANGED REPORTING METHODS.—In making the determination required by subclause (I), the Secretary shall disregard—

"(aa) any difference between the number of out-of-wedlock births that occurred in a State for a fiscal year and the number of out-of-wedlock births that occurred in a State for fiscal year 1995 which is attributable to a change in State methods of reporting data used to calculate the number of out-of-wedlock births; and

"(bb) any difference between the rate of induced pregnancy terminations in a State for a fiscal year and such rate for fiscal year 1995 which is attributable to a change in State methods of reporting data used to calculate such rate.

"(ii) BONUS YEAR.—The term 'bonus year' means fiscal years 1999, 2000, 2001, and 2002.

"(D) APPROPRIATION.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated for fiscal years 1999 through 2002, such sums as are necessary for grants under this paragraph.

"(3) SUPPLEMENTAL GRANT FOR POPULATION INCREASES IN CERTAIN STATES.—

"(A) IN GENERAL.—Each qualifying State shall, subject to subparagraph (F), be entitled to receive from the Secretary—

"(i) for fiscal year 1998 a grant in an amount equal to 2.5 percent of the total amount required to be paid to the State under former section 403 (as in effect during fiscal year 1994) for fiscal year 1994; and

"(ii) for each of fiscal years 1999, 2000, and 2001, a grant in an amount equal to the sum of—

"(I) the amount (if any) required to be paid to the State under this paragraph for the immediately preceding fiscal year; and

"(II) 2.5 percent of the sum of—

"(aa) the total amount required to be paid to the State under former section 403 (as in effect during fiscal year 1994) for fiscal year 1994; and

"(bb) the amount (if any) required to be paid to the State under this paragraph for the fiscal year preceding the fiscal year for which the grant is to be made.

"(B) PRESERVATION OF GRANT WITHOUT INCREASES FOR STATES FAILING TO REMAIN QUALIFYING STATES.—Each State that is not a qualifying State for a fiscal year specified in subparagraph (A)(ii) but was a qualifying State for a prior fiscal year shall, subject to subparagraph (F), be entitled to receive from the Secretary for the specified fiscal year, a grant in an amount equal to the amount required to be paid to the State under this paragraph for the most recent fiscal year for which the State was a qualifying State.

"(C) QUALIFYING STATE.—

"(i) IN GENERAL.—For purposes of this paragraph, a State is a qualifying State for a fiscal year if—

"(I) the level of welfare spending per poor person by the State for the immediately preceding fiscal year is less than the national average level of State welfare spending per poor person for such preceding fiscal year; and

"(II) the population growth rate of the State (as determined by the Bureau of the Census) for the most recent fiscal year for which information is available exceeds the average population growth rate for all States (as so determined) for such most recent fiscal year.

"(ii) STATE MUST QUALIFY IN FISCAL YEAR 1997.—Notwithstanding clause (i), a State shall not be a qualifying State for any fiscal year after 1998 by reason

of clause (i) if the State is not a qualifying State for fiscal year 1998 by reason of clause (i).

"(iii) CERTAIN STATES DEEMED QUALIFYING STATES.—For purposes of this paragraph, a State is deemed to be a qualifying State for fiscal years 1998, 1999, 2000, and 2001 if—

"(I) the level of welfare spending per poor person by the State for fiscal year 1994 is less than 35 percent of the national average level of State welfare spending per poor person for fiscal year 1994; or

"(II) the population of the State increased by more than 10 percent from April 1, 1990 to July 1, 1994, according to the population estimates in publication CB94–204 of the Bureau of the Census.

"(D) DEFINITIONS.—As used in this paragraph:

"(i) LEVEL OF WELFARE SPENDING PER POOR PERSON.—The term 'level of State welfare spending per poor person' means, with respect to a State and a fiscal year—

"(I) the sum of—

"(aa) the total amount required to be paid to the State under former section 403 (as in effect during fiscal year 1994) for fiscal year 1994; and

"(bb) the amount (if any) paid to the State under this paragraph for the immediately preceding fiscal year; divided by

"(II) the number of individuals, according to the 1990 decennial census, who were residents of the State and whose income was below the poverty line.

"(ii) NATIONAL AVERAGE LEVEL OF STATE WELFARE SPENDING PER POOR PERSON.—The term 'national average level of State welfare spending per poor person' means, with respect to a fiscal year, an amount equal to—

"(I) the total amount required to be paid to the States under former section 403 (as in effect during fiscal year 1994) for fiscal year 1994; divided by

"(II) the number of individuals, according to the 1990 decennial census, who were residents of any State and whose income was below the poverty line.

"(iii) STATE.—The term 'State' means each of the 50 States of the United States and the District of Columbia.

"(E) APPROPRIATION.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated for fiscal years 1998, 1999, 2000, and 2001 such sums as are necessary for grants under this paragraph, in a total amount not to exceed $800,000,000.

"(F) GRANTS REDUCED PRO RATA IF INSUFFICIENT APPROPRIATIONS.—If the amount appropriated pursuant to this paragraph for a fiscal year is less than the total amount

of payments otherwise required to be made under this paragraph for the fiscal year, then the amount otherwise payable to any State for the fiscal year under this paragraph shall be reduced by a percentage equal to the amount so appropriated divided by such total amount.

"(G) BUDGET SCORING.—Notwithstanding section 257(b)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985, the baseline shall assume that no grant shall be made under this paragraph after fiscal year 2001.

"(4) BONUS TO REWARD HIGH PERFORMANCE STATES.—

"(A) IN GENERAL.—The Secretary shall make a grant pursuant to this paragraph to each State for each bonus year for which the State is a high performing State.

"(B) AMOUNT OF GRANT.—

"(i) IN GENERAL.—Subject to clause (ii) of this subparagraph, the Secretary shall determine the amount of the grant payable under this paragraph to a high performing State for a bonus year, which shall be based on the score assigned to the State under subparagraph (D)(i) for the fiscal year that immediately precedes the bonus year.

"(ii) LIMITATION.—The amount payable to a State under this paragraph for a bonus year shall not exceed 5 percent of the State family assistance grant.

"(C) FORMULA FOR MEASURING STATE PERFORMANCE.—Not later than 1 year after the date of the enactment of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, the Secretary, in consultation with the National Governors' Association and the American Public Welfare Association, shall develop a formula for measuring State performance in operating the State program funded under this part so as to achieve the goals set forth in section 401(a).

"(D) SCORING OF STATE PERFORMANCE; SETTING OF PERFORMANCE THRESHOLDS.—For each bonus year, the Secretary shall—

"(i) use the formula developed under subparagraph (C) to assign a score to each eligible State for the fiscal year that immediately precedes the bonus year; and

"(ii) prescribe a performance threshold in such a manner so as to ensure that—

"(I) the average annual total amount of grants to be made under this paragraph for each bonus year equals $200,000,000; and

"(II) the total amount of grants to be made under this paragraph for all bonus years equals $1,000,000,000.

"(E) DEFINITIONS.—As used in this paragraph:

"(i) BONUS YEAR.—The term 'bonus year' means fiscal years 1999, 2000, 2001, 2002, and 2003.

"(ii) HIGH PERFORMING STATE.—The term 'high performing State' means, with respect to a bonus year, an eligible State whose score assigned pursuant to subparagraph (D)(i) for the fiscal year immediately preceding the bonus year equals or exceeds the

performance threshold prescribed under subparagraph (D)(ii) for such preceding fiscal year.

"(F) APPROPRIATION.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated for fiscal years 1999 through 2003 $1,000,000,000 for grants under this paragraph.

"(b) CONTINGENCY FUND.—

"(1) ESTABLISHMENT.—There is hereby established in the Treasury of the United States a fund which shall be known as the 'Contingency Fund for State Welfare Programs' (in this section referred to as the 'Fund').

"(2) DEPOSITS INTO FUND.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated for fiscal years 1997, 1998, 1999, 2000, and 2001 such sums as are necessary for payment to the Fund in a total amount not to exceed $2,000,000,000.

"(3) GRANTS.—

"(A) PROVISIONAL PAYMENTS.—If an eligible State submits to the Secretary a request for funds under this paragraph during an eligible month, the Secretary shall, subject to this paragraph, pay to the State, from amounts appropriated pursuant to paragraph (2), an amount equal to the amount of funds so requested.

"(B) PAYMENT PRIORITY.—The Secretary shall make payments under subparagraph (A) in the order in which the Secretary receives requests for such payments.

"(C) LIMITATIONS.—

"(i) MONTHLY PAYMENT TO A STATE.—The total amount paid to a single State under subparagraph (A) during a month shall not exceed 1/12 of 20 percent of the State family assistance grant.

"(ii) PAYMENTS TO ALL STATES.—The total amount paid to all States under subparagraph (A) during fiscal years 1997 through 2001 shall not exceed the total amount appropriated pursuant to paragraph (2).

"(4) ANNUAL RECONCILIATION.—Notwithstanding paragraph (3), at the end of each fiscal year, each State shall remit to the Secretary an amount equal to the amount (if any) by which the total amount paid to the State under paragraph (3) during the fiscal year exceeds—

"(A) the Federal medical assistance percentage for the State for the fiscal year (as defined in section 1905(b), as in effect on September 30, 1995) of the amount (if any) by which—

"(i) if the Secretary makes a payment to the State under section 418(a)(2) in the fiscal year—

"(I) the expenditures under the State program funded under this part for the fiscal year, excluding any amounts made available by the Federal Government (except amounts paid to the State under paragraph (3) during the fiscal year that have been expended by the State) and any amounts expended by the State during the fiscal year for child care; exceeds

"(II) historic State expenditures (as defined in section 409(a)(7)(B)(iii)), excluding the expenditures by the State for child care under subsection

(g) or (i) of section 402 (as in effect during fiscal year 1994) for fiscal year 1994 minus any Federal payment with respect to such child care expenditures; or

"(ii) if the Secretary does not make a payment to the State under section 418(a)(2) in the fiscal year—

"(I) the expenditures under the State program funded under this part for the fiscal year (excluding any amounts made available by the Federal Government, except amounts paid to the State under paragraph (3) during the fiscal year that have been expended by the State); exceeds

"(II) historic State expenditures (as defined in section 409(a)(7)(B)(iii)); multiplied by

"(B) 1/12 times the number of months during the fiscal year for which the Secretary makes a payment to the State under this subsection.

"(5) ELIGIBLE MONTH.—As used in paragraph (3)(A), the term 'eligible month' means, with respect to a State, a month in the 2-month period that begins with any month for which the State is a needy State.

"(6) NEEDY STATE.—For purposes of paragraph (5), a State is a needy State for a month if—

"(A) the average rate of—

"(i) total unemployment in such State (seasonally adjusted) for the period consisting of the most recent 3 months for which data for all States are published equals or exceeds 6.5 percent; and

"(ii) total unemployment in such State (seasonally adjusted) for the 3-month period equals or exceeds 110 percent of such average rate for either (or both) of the corresponding 3-month periods ending in the 2 preceding calendar years; or

"(B) as determined by the Secretary of Agriculture (in the discretion of the Secretary of Agriculture), the monthly average number of individuals (as of the last day of each month) participating in the food stamp program in the State in the then most recently concluded 3-month period for which data are available exceeds by not less than 10 percent the lesser of—

"(i) the monthly average number of individuals (as of the last day of each month) in the State that would have participated in the food stamp program in the corresponding 3-month period in fiscal year 1994 if the amendments made by titles IV and VIII of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 had been in effect throughout fiscal year 1994; or

"(ii) the monthly average number of individuals (as of the last day of each month) in the State that would have participated in the food stamp program in the corresponding 3-month period in fiscal year 1995 if the amendments made by titles IV and VIII of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 had been in effect throughout fiscal year 1995.

"(7) OTHER TERMS DEFINED.—As used in this subsection:

"(A) STATE.—The term 'State' means each of the 50 States of the United States and the District of Columbia.

"(B) SECRETARY.—The term 'Secretary' means the Secretary of the Treasury.

"(8) ANNUAL REPORTS.—The Secretary shall annually report to the Congress on the status of the Fund.

42 USC 604.

"SEC. 404. USE OF GRANTS.

"(a) GENERAL RULES.—Subject to this part, a State to which a grant is made under section 403 may use the grant—

"(1) in any manner that is reasonably calculated to accomplish the purpose of this part, including to provide low income households with assistance in meeting home heating and cooling costs; or

"(2) in any manner that the State was authorized to use amounts received under part A or F, as such parts were in effect on September 30, 1995.

"(b) LIMITATION ON USE OF GRANT FOR ADMINISTRATIVE PURPOSES.—

"(1) LIMITATION.—A State to which a grant is made under section 403 shall not expend more than 15 percent of the grant for administrative purposes.

"(2) EXCEPTION.—Paragraph (1) shall not apply to the use of a grant for information technology and computerization needed for tracking or monitoring required by or under this part.

"(c) AUTHORITY TO TREAT INTERSTATE IMMIGRANTS UNDER RULES OF FORMER STATE.—A State operating a program funded under this part may apply to a family the rules (including benefit amounts) of the program funded under this part of another State if the family has moved to the State from the other State and has resided in the State for less than 12 months.

"(d) AUTHORITY TO USE PORTION OF GRANT FOR OTHER PURPOSES.—

"(1) IN GENERAL.—A State may use not more than 30 percent of the amount of any grant made to the State under section 403(a) for a fiscal year to carry out a State program pursuant to any or all of the following provisions of law:

"(A) Title XX of this Act.

"(B) The Child Care and Development Block Grant Act of 1990.

"(2) LIMITATION ON AMOUNT TRANSFERABLE TO TITLE XX PROGRAMS.—Notwithstanding paragraph (1), not more than ⅓ of the total amount paid to a State under this part for a fiscal year that is used to carry out State programs pursuant to provisions of law specified in paragraph (1) may be used to carry out State programs pursuant to title XX.

"(3) APPLICABLE RULES.—

"(A) IN GENERAL.—Except as provided in subparagraph (B) of this paragraph, any amount paid to a State under this part that is used to carry out a State program pursuant to a provision of law specified in paragraph (1) shall not be subject to the requirements of this part, but shall be subject to the requirements that apply to Federal funds provided directly under the provision of law to carry out the program, and the expenditure of any amount so used

shall not be considered to be an expenditure under this part.

"(B) EXCEPTION RELATING TO TITLE XX PROGRAMS.—All amounts paid to a State under this part that are used to carry out State programs pursuant to title XX shall be used only for programs and services to children or their families whose income is less than 200 percent of the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved.

"(e) AUTHORITY TO RESERVE CERTAIN AMOUNTS FOR ASSISTANCE.—A State may reserve amounts paid to the State under this part for any fiscal year for the purpose of providing, without fiscal year limitation, assistance under the State program funded under this part.

"(f) AUTHORITY TO OPERATE EMPLOYMENT PLACEMENT PROGRAM.—A State to which a grant is made under section 403 may use the grant to make payments (or provide job placement vouchers) to State-approved public and private job placement agencies that provide employment placement services to individuals who receive assistance under the State program funded under this part.

"(g) IMPLEMENTATION OF ELECTRONIC BENEFIT TRANSFER SYSTEM.—A State to which a grant is made under section 403 is encouraged to implement an electronic benefit transfer system for providing assistance under the State program funded under this part, and may use the grant for such purpose.

"(h) USE OF FUNDS FOR INDIVIDUAL DEVELOPMENT ACCOUNTS.—

"(1) IN GENERAL.—A State to which a grant is made under section 403 may use the grant to carry out a program to fund individual development accounts (as defined in paragraph (2)) established by individuals eligible for assistance under the State program funded under this part.

"(2) INDIVIDUAL DEVELOPMENT ACCOUNTS.—

"(A) ESTABLISHMENT.—Under a State program carried out under paragraph (1), an individual development account may be established by or on behalf of an individual eligible for assistance under the State program operated under this part for the purpose of enabling the individual to accumulate funds for a qualified purpose described in subparagraph (B).

"(B) QUALIFIED PURPOSE.—A qualified purpose described in this subparagraph is 1 or more of the following, as provided by the qualified entity providing assistance to the individual under this subsection:

"(i) POSTSECONDARY EDUCATIONAL EXPENSES.—Postsecondary educational expenses paid from an individual development account directly to an eligible educational institution.

"(ii) FIRST HOME PURCHASE.—Qualified acquisition costs with respect to a qualified principal residence for a qualified first-time homebuyer, if paid from an individual development account directly to the persons to whom the amounts are due.

"(iii) BUSINESS CAPITALIZATION.—Amounts paid from an individual development account directly to a business capitalization account which is established in a federally insured financial institution and is restricted to use solely for qualified business capitalization expenses.

"(C) CONTRIBUTIONS TO BE FROM EARNED INCOME.—An individual may only contribute to an individual development account such amounts as are derived from earned income, as defined in section 911(d)(2) of the Internal Revenue Code of 1986.

Regulations.

"(D) WITHDRAWAL OF FUNDS.—The Secretary shall establish such regulations as may be necessary to ensure that funds held in an individual development account are not withdrawn except for 1 or more of the qualified purposes described in subparagraph (B).

"(3) REQUIREMENTS.—

"(A) IN GENERAL.—An individual development account established under this subsection shall be a trust created or organized in the United States and funded through periodic contributions by the establishing individual and matched by or through a qualified entity for a qualified purpose (as described in paragraph (2)(B)).

"(B) QUALIFIED ENTITY.—As used in this subsection, the term 'qualified entity' means—

"(i) a not-for-profit organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code; or

"(ii) a State or local government agency acting in cooperation with an organization described in clause (i).

"(4) NO REDUCTION IN BENEFITS.—Notwithstanding any other provision of Federal law (other than the Internal Revenue Code of 1986) that requires consideration of 1 or more financial circumstances of an individual, for the purpose of determining eligibility to receive, or the amount of, any assistance or benefit authorized by such law to be provided to or for the benefit of such individual, funds (including interest accruing) in an individual development account under this subsection shall be disregarded for such purpose with respect to any period during which such individual maintains or makes contributions into such an account.

"(5) DEFINITIONS.—As used in this subsection—

"(A) ELIGIBLE EDUCATIONAL INSTITUTION.—The term 'eligible educational institution' means the following:

"(i) An institution described in section 481(a)(1) or 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1088(a)(1) or 1141(a)), as such sections are in effect on the date of the enactment of this subsection.

"(ii) An area vocational education school (as defined in subparagraph (C) or (D) of section 521(4) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2471(4))) which is in any State (as defined in section 521(33) of such Act), as such sections are in effect on the date of the enactment of this subsection.

"(B) POST-SECONDARY EDUCATIONAL EXPENSES.—The term 'post-secondary educational expenses' means—

"(i) tuition and fees required for the enrollment or attendance of a student at an eligible educational institution, and

"(ii) fees, books, supplies, and equipment required for courses of instruction at an eligible educational institution.

"(C) QUALIFIED ACQUISITION COSTS.—The term 'qualified acquisition costs' means the costs of acquiring, constructing, or reconstructing a residence. The term includes any usual or reasonable settlement, financing, or other closing costs.

"(D) QUALIFIED BUSINESS.—The term 'qualified business' means any business that does not contravene any law or public policy (as determined by the Secretary).

"(E) QUALIFIED BUSINESS CAPITALIZATION EXPENSES.—The term 'qualified business capitalization expenses' means qualified expenditures for the capitalization of a qualified business pursuant to a qualified plan.

"(F) QUALIFIED EXPENDITURES.—The term 'qualified expenditures' means expenditures included in a qualified plan, including capital, plant, equipment, working capital, and inventory expenses.

"(G) QUALIFIED FIRST-TIME HOMEBUYER.—

"(i) IN GENERAL.—The term 'qualified first-time homebuyer' means a taxpayer (and, if married, the taxpayer's spouse) who has no present ownership interest in a principal residence during the 3-year period ending on the date of acquisition of the principal residence to which this subsection applies.

"(ii) DATE OF ACQUISITION.—The term 'date of acquisition' means the date on which a binding contract to acquire, construct, or reconstruct the principal residence to which this subparagraph applies is entered into.

"(H) QUALIFIED PLAN.—The term 'qualified plan' means a business plan which—

"(i) is approved by a financial institution, or by a nonprofit loan fund having demonstrated fiduciary integrity,

"(ii) includes a description of services or goods to be sold, a marketing plan, and projected financial statements, and

"(iii) may require the eligible individual to obtain the assistance of an experienced entrepreneurial advisor.

"(I) QUALIFIED PRINCIPAL RESIDENCE.—The term 'qualified principal residence' means a principal residence (within the meaning of section 1034 of the Internal Revenue Code of 1986), the qualified acquisition costs of which do not exceed 100 percent of the average area purchase price applicable to such residence (determined in accordance with paragraphs (2) and (3) of section 143(e) of such Code).

"(i) SANCTION WELFARE RECIPIENTS FOR FAILING TO ENSURE THAT MINOR DEPENDENT CHILDREN ATTEND SCHOOL.—A State to which a grant is made under section 403 shall not be prohibited

from sanctioning a family that includes an adult who has received assistance under any State program funded under this part attributable to funds provided by the Federal Government or under the food stamp program, as defined in section 3(h) of the Food Stamp Act of 1977, if such adult fails to ensure that the minor dependent children of such adult attend school as required by the law of the State in which the minor children reside.

"(j) REQUIREMENT FOR HIGH SCHOOL DIPLOMA OR EQUIVALENT.—A State to which a grant is made under section 403 shall not be prohibited from sanctioning a family that includes an adult who is older than age 20 and younger than age 51 and who has received assistance under any State program funded under this part attributable to funds provided by the Federal Government or under the food stamp program, as defined in section 3(h) of the Food Stamp Act of 1977, if such adult does not have, or is not working toward attaining, a secondary school diploma or its recognized equivalent unless such adult has been determined in the judgment of medical, psychiatric, or other appropriate professionals to lack the requisite capacity to complete successfully a course of study that would lead to a secondary school diploma or its recognized equivalent.

42 USC 605.

"SEC. 405. ADMINISTRATIVE PROVISIONS.

"(a) QUARTERLY.—The Secretary shall pay each grant payable to a State under section 403 in quarterly installments, subject to this section.

"(b) NOTIFICATION.—Not later than 3 months before the payment of any such quarterly installment to a State, the Secretary shall notify the State of the amount of any reduction determined under section 412(a)(1)(B) with respect to the State.

"(c) COMPUTATION AND CERTIFICATION OF PAYMENTS TO STATES.—

"(1) COMPUTATION.—The Secretary shall estimate the amount to be paid to each eligible State for each quarter under this part, such estimate to be based on a report filed by the State containing an estimate by the State of the total sum to be expended by the State in the quarter under the State program funded under this part and such other information as the Secretary may find necessary.

"(2) CERTIFICATION.—The Secretary of Health and Human Services shall certify to the Secretary of the Treasury the amount estimated under paragraph (1) with respect to a State, reduced or increased to the extent of any overpayment or underpayment which the Secretary of Health and Human Services determines was made under this part to the State for any prior quarter and with respect to which adjustment has not been made under this paragraph.

"(d) PAYMENT METHOD.—Upon receipt of a certification under subsection (c)(2) with respect to a State, the Secretary of the Treasury shall, through the Fiscal Service of the Department of the Treasury and before audit or settlement by the General Accounting Office, pay to the State, at the time or times fixed by the Secretary of Health and Human Services, the amount so certified.

42 USC 606.

"SEC. 406. FEDERAL LOANS FOR STATE WELFARE PROGRAMS.

"(a) LOAN AUTHORITY.—

"(1) IN GENERAL.—The Secretary shall make loans to any loan-eligible State, for a period to maturity of not more than 3 years.

"(2) LOAN-ELIGIBLE STATE.—As used in paragraph (1), the term 'loan-eligible State' means a State against which a penalty has not been imposed under section 409(a)(1).

"(b) RATE OF INTEREST.—The Secretary shall charge and collect interest on any loan made under this section at a rate equal to the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the period to maturity of the loan.

"(c) USE OF LOAN.—A State shall use a loan made to the State under this section only for any purpose for which grant amounts received by the State under section 403(a) may be used, including—

"(1) welfare anti-fraud activities; and

"(2) the provision of assistance under the State program to Indian families that have moved from the service area of an Indian tribe with a tribal family assistance plan approved under section 412.

"(d) LIMITATION ON TOTAL AMOUNT OF LOANS TO A STATE.—The cumulative dollar amount of all loans made to a State under this section during fiscal years 1997 through 2002 shall not exceed 10 percent of the State family assistance grant.

"(e) LIMITATION ON TOTAL AMOUNT OF OUTSTANDING LOANS.—The total dollar amount of loans outstanding under this section may not exceed $1,700,000,000.

"(f) APPROPRIATION.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated such sums as may be necessary for the cost of loans under this section.

"SEC. 407. MANDATORY WORK REQUIREMENTS. 42 USC 607.

"(a) PARTICIPATION RATE REQUIREMENTS.—

"(1) ALL FAMILIES.—A State to which a grant is made under section 403 for a fiscal year shall achieve the minimum participation rate specified in the following table for the fiscal year with respect to all families receiving assistance under the State program funded under this part:

"If the fiscal year is:	The minimum participation rate is:
1997	25
1998	30
1999	35
2000	40
2001	45
2002 or thereafter	50.

"(2) 2-PARENT FAMILIES.—A State to which a grant is made under section 403 for a fiscal year shall achieve the minimum participation rate specified in the following table for the fiscal year with respect to 2-parent families receiving assistance under the State program funded under this part:

"If the fiscal year is:	The minimum participation rate is:
1997	75
1998	75
1999 or thereafter	90.

"(b) CALCULATION OF PARTICIPATION RATES.—

"(1) ALL FAMILIES.—

"(A) AVERAGE MONTHLY RATE.—For purposes of subsection (a)(1), the participation rate for all families of a State for a fiscal year is the average of the participation rates for all families of the State for each month in the fiscal year.

"(B) MONTHLY PARTICIPATION RATES.—The participation rate of a State for all families of the State for a month, expressed as a percentage, is—

"(i) the number of families receiving assistance under the State program funded under this part that include an adult or a minor child head of household who is engaged in work for the month; divided by

"(ii) the amount by which—

"(I) the number of families receiving such assistance during the month that include an adult or a minor child head of household receiving such assistance; exceeds

"(II) the number of families receiving such assistance that are subject in such month to a penalty described in subsection (e)(1) but have not been subject to such penalty for more than 3 months within the preceding 12-month period (whether or not consecutive).

"(2) 2-PARENT FAMILIES.—

"(A) AVERAGE MONTHLY RATE.—For purposes of subsection (a)(2), the participation rate for 2-parent families of a State for a fiscal year is the average of the participation rates for 2-parent families of the State for each month in the fiscal year.

"(B) MONTHLY PARTICIPATION RATES.—The participation rate of a State for 2-parent families of the State for a month shall be calculated by use of the formula set forth in paragraph (1)(B), except that in the formula the term 'number of 2-parent families' shall be substituted for the term 'number of families' each place such latter term appears.

"(3) PRO RATA REDUCTION OF PARTICIPATION RATE DUE TO CASELOAD REDUCTIONS NOT REQUIRED BY FEDERAL LAW.—

Regulations.

"(A) IN GENERAL.—The Secretary shall prescribe regulations for reducing the minimum participation rate otherwise required by this section for a fiscal year by the number of percentage points equal to the number of percentage points (if any) by which—

"(i) the average monthly number of families receiving assistance during the immediately preceding fiscal year under the State program funded under this part is less than

"(ii) the average monthly number of families that received aid under the State plan approved under part A (as in effect on September 30, 1995) during fiscal year 1995.

The minimum participation rate shall not be reduced to the extent that the Secretary determines that the reduction in the number of families receiving such assistance is required by Federal law.

"(B) ELIGIBILITY CHANGES NOT COUNTED.—The regulations required by subparagraph (A) shall not take into account families that are diverted from a State program funded under this part as a result of differences in eligibility criteria under a State program funded under this part and eligibility criteria under the State program operated under the State plan approved under part A (as such plan and such part were in effect on September 30, 1995). Such regulations shall place the burden on the Secretary to prove that such families were diverted as a direct result of differences in such eligibility criteria.

"(4) STATE OPTION TO INCLUDE INDIVIDUALS RECEIVING ASSISTANCE UNDER A TRIBAL FAMILY ASSISTANCE PLAN.—For purposes of paragraphs (1)(B) and (2)(B), a State may, at its option, include families in the State that are receiving assistance under a tribal family assistance plan approved under section 412.

"(5) STATE OPTION FOR PARTICIPATION REQUIREMENT EXEMPTIONS.—For any fiscal year, a State may, at its option, not require an individual who is a single custodial parent caring for a child who has not attained 12 months of age to engage in work, and may disregard such an individual in determining the participation rates under subsection (a) for not more than 12 months.

"(c) ENGAGED IN WORK.—

"(1) GENERAL RULES.—

"(A) ALL FAMILIES.—For purposes of subsection (b)(1)(B)(i), a recipient is engaged in work for a month in a fiscal year if the recipient is participating in work activities for at least the minimum average number of hours per week specified in the following table during the month, not fewer than 20 hours per week of which are attributable to an activity described in paragraph (1), (2), (3), (4), (5), (6), (7), (8), or (12) of subsection (d), subject to this subsection:

"If the month is in fiscal year:	The minimum average number of hours per week is:
1997	20
1998	20
1999	25
2000 or thereafter	30.

"(B) 2-PARENT FAMILIES.—For purposes of subsection (b)(2)(B), an individual is engaged in work for a month in a fiscal year if—

"(i) the individual is making progress in work activities for at least 35 hours per week during the month, not fewer than 30 hours per week of which are attributable to an activity described in paragraph (1), (2), (3), (4), (5), (6), (7), (8), or (12) of subsection (d), subject to this subsection; and

"(ii) if the family of the individual receives federally-funded child care assistance and an adult in the family is not disabled or caring for a severely disabled child, the individual's spouse is making progress in work activities during the month, not fewer than 20 hours per week of which are attributable to an activity

described in paragraph (1), (2), (3), (4), (5), or (7) of subsection (d).

"(2) LIMITATIONS AND SPECIAL RULES.—

"(A) NUMBER OF WEEKS FOR WHICH JOB SEARCH COUNTS AS WORK.—

"(i) LIMITATION.—Notwithstanding paragraph (1) of this subsection, an individual shall not be considered to be engaged in work by virtue of participation in an activity described in subsection (d)(6) of a State program funded under this part, after the individual has participated in such an activity for 6 weeks (or, if the unemployment rate of the State is at least 50 percent greater than the unemployment rate of the United States, 12 weeks), or if the participation is for a week that immediately follows 4 consecutive weeks of such participation.

"(ii) LIMITED AUTHORITY TO COUNT LESS THAN FULL WEEK OF PARTICIPATION.—For purposes of clause (i) of this subparagraph, on not more than 1 occasion per individual, the State shall consider participation of the individual in an activity described in subsection (d)(6) for 3 or 4 days during a week as a week of participation in the activity by the individual.

"(B) SINGLE PARENT WITH CHILD UNDER AGE 6 DEEMED TO BE MEETING WORK PARTICIPATION REQUIREMENTS IF PARENT IS ENGAGED IN WORK FOR 20 HOURS PER WEEK.—For purposes of determining monthly participation rates under subsection (b)(1)(B)(i), a recipient in a 1-parent family who is the parent of a child who has not attained 6 years of age is deemed to be engaged in work for a month if the recipient is engaged in work for an average of at least 20 hours per week during the month.

"(C) TEEN HEAD OF HOUSEHOLD WHO MAINTAINS SATISFACTORY SCHOOL ATTENDANCE DEEMED TO BE MEETING WORK PARTICIPATION REQUIREMENTS.—For purposes of determining monthly participation rates under subsection (b)(1)(B)(i), a recipient who is a single head of household and has not attained 20 years of age is deemed, subject to subparagraph (D) of this paragraph, to be engaged in work for a month in a fiscal year if the recipient—

"(i) maintains satisfactory attendance at secondary school or the equivalent during the month; or

"(ii) participates in education directly related to employment for at least the minimum average number of hours per week specified in the table set forth in paragraph (1)(A) of this subsection.

"(D) NUMBER OF PERSONS THAT MAY BE TREATED AS ENGAGED IN WORK BY VIRTUE OF PARTICIPATION IN VOCATIONAL EDUCATION ACTIVITIES OR BEING A TEEN HEAD OF HOUSEHOLD WHO MAINTAINS SATISFACTORY SCHOOL ATTENDANCE.—For purposes of determining monthly participation rates under paragraphs (1)(B)(i) and (2)(B) of subsection (b), not more than 20 percent of individuals in all families and in 2-parent families may be determined to be engaged in work in the State for a month by reason of participation

in vocational educational training or deemed to be engaged in work by reason of subparagraph (C) of this paragraph.

"(d) WORK ACTIVITIES DEFINED.—As used in this section, the term 'work activities' means—

"(1) unsubsidized employment;

"(2) subsidized private sector employment;

"(3) subsidized public sector employment;

"(4) work experience (including work associated with the refurbishing of publicly assisted housing) if sufficient private sector employment is not available;

"(5) on-the-job training;

"(6) job search and job readiness assistance;

"(7) community service programs;

"(8) vocational educational training (not to exceed 12 months with respect to any individual);

"(9) job skills training directly related to employment;

"(10) education directly related to employment, in the case of a recipient who has not received a high school diploma or a certificate of high school equivalency;

"(11) satisfactory attendance at secondary school or in a course of study leading to a certificate of general equivalence, in the case of a recipient who has not completed secondary school or received such a certificate; and

"(12) the provision of child care services to an individual who is participating in a community service program.

"(e) PENALTIES AGAINST INDIVIDUALS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), if an individual in a family receiving assistance under the State program funded under this part refuses to engage in work required in accordance with this section, the State shall—

"(A) reduce the amount of assistance otherwise payable to the family pro rata (or more, at the option of the State) with respect to any period during a month in which the individual so refuses; or

"(B) terminate such assistance,

subject to such good cause and other exceptions as the State may establish.

"(2) EXCEPTION.—Notwithstanding paragraph (1), a State may not reduce or terminate assistance under the State program funded under this part based on a refusal of an individual to work if the individual is a single custodial parent caring for a child who has not attained 6 years of age, and the individual proves that the individual has a demonstrated inability (as determined by the State) to obtain needed child care, for 1 or more of the following reasons:

"(A) Unavailability of appropriate child care within a reasonable distance from the individual's home or work site.

"(B) Unavailability or unsuitability of informal child care by a relative or under other arrangements.

"(C) Unavailability of appropriate and affordable formal child care arrangements.

"(f) NONDISPLACEMENT IN WORK ACTIVITIES.—

"(1) IN GENERAL.—Subject to paragraph (2), an adult in a family receiving assistance under a State program funded under this part attributable to funds provided by the Federal

Government may fill a vacant employment position in order to engage in a work activity described in subsection (d).

"(2) NO FILLING OF CERTAIN VACANCIES.—No adult in a work activity described in subsection (d) which is funded, in whole or in part, by funds provided by the Federal Government shall be employed or assigned—

"(A) when any other individual is on layoff from the same or any substantially equivalent job; or

"(B) if the employer has terminated the employment of any regular employee or otherwise caused an involuntary reduction of its workforce in order to fill the vacancy so created with an adult described in paragraph (1).

"(3) GRIEVANCE PROCEDURE.—A State with a program funded under this part shall establish and maintain a grievance procedure for resolving complaints of alleged violations of paragraph (2).

"(4) NO PREEMPTION.—Nothing in this subsection shall preempt or supersede any provision of State or local law that provides greater protection for employees from displacement.

"(g) SENSE OF THE CONGRESS.—It is the sense of the Congress that in complying with this section, each State that operates a program funded under this part is encouraged to assign the highest priority to requiring adults in 2-parent families and adults in single-parent families that include older preschool or school-age children to be engaged in work activities.

"(h) SENSE OF THE CONGRESS THAT STATES SHOULD IMPOSE CERTAIN REQUIREMENTS ON NONCUSTODIAL, NONSUPPORTING MINOR PARENTS.—It is the sense of the Congress that the States should require noncustodial, nonsupporting parents who have not attained 18 years of age to fulfill community work obligations and attend appropriate parenting or money management classes after school.

"(i) REVIEW OF IMPLEMENTATION OF STATE WORK PROGRAMS.—During fiscal year 1999, the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate shall hold hearings and engage in other appropriate activities to review the implementation of this section by the States, and shall invite the Governors of the States to testify before them regarding such implementation. Based on such hearings, such Committees may introduce such legislation as may be appropriate to remedy any problems with the State programs operated pursuant to this section.

42 USC 608.

"SEC. 408. PROHIBITIONS; REQUIREMENTS.

"(a) IN GENERAL.—

"(1) NO ASSISTANCE FOR FAMILIES WITHOUT A MINOR CHILD.—A State to which a grant is made under section 403 shall not use any part of the grant to provide assistance to a family—

"(A) unless the family includes—

"(i) a minor child who resides with a custodial parent or other adult caretaker relative of the child; or

"(ii) a pregnant individual; and

"(B) if the family includes an adult who has received assistance under any State program funded under this part attributable to funds provided by the Federal Government, for 60 months (whether or not consecutive) after

the date the State program funded under this part commences (unless an exception described in subparagraph (B), (C), or (D) of paragraph (7) applies).

"(2) REDUCTION OR ELIMINATION OF ASSISTANCE FOR NONCOOPERATION IN ESTABLISHING PATERNITY OR OBTAINING CHILD SUPPORT.—If the agency responsible for administering the State plan approved under part D determines that an individual is not cooperating with the State in establishing paternity or in establishing, modifying, or enforcing a support order with respect to a child of the individual, and the individual does not qualify for any good cause or other exception established by the State pursuant to section 454(29), then the State—

"(A) shall deduct from the assistance that would otherwise be provided to the family of the individual under the State program funded under this part an amount equal to not less than 25 percent of the amount of such assistance; and

"(B) may deny the family any assistance under the State program.

"(3) NO ASSISTANCE FOR FAMILIES NOT ASSIGNING CERTAIN SUPPORT RIGHTS TO THE STATE.—

"(A) IN GENERAL.—A State to which a grant is made under section 403 shall require, as a condition of providing assistance to a family under the State program funded under this part, that a member of the family assign to the State any rights the family member may have (on behalf of the family member or of any other person for whom the family member has applied for or is receiving such assistance) to support from any other person, not exceeding the total amount of assistance so provided to the family, which accrue (or have accrued) before the date the family leaves the program, which assignment, on and after the date the family leaves the program, shall not apply with respect to any support (other than support collected pursuant to section 464) which accrued before the family received such assistance and which the State has not collected by—

"(i) September 30, 2000, if the assignment is executed on or after October 1, 1997, and before October 1, 2000; or

"(ii) the date the family leaves the program, if the assignment is executed on or after October 1, 2000.

"(B) LIMITATION.—A State to which a grant is made under section 403 shall not require, as a condition of providing assistance to any family under the State program funded under this part, that a member of the family assign to the State any rights to support described in subparagraph (A) which accrue after the date the family leaves the program.

"(4) NO ASSISTANCE FOR TEENAGE PARENTS WHO DO NOT ATTEND HIGH SCHOOL OR OTHER EQUIVALENT TRAINING PROGRAM.—A State to which a grant is made under section 403 shall not use any part of the grant to provide assistance to an individual who has not attained 18 years of age, is not married, has a minor child at least 12 weeks of age in his or her care, and has not successfully completed a high-school

education (or its equivalent), if the individual does not participate in—

"(A) educational activities directed toward the attainment of a high school diploma or its equivalent; or

"(B) an alternative educational or training program that has been approved by the State.

"(5) NO ASSISTANCE FOR TEENAGE PARENTS NOT LIVING IN ADULT-SUPERVISED SETTINGS.—

"(A) IN GENERAL.—

"(i) REQUIREMENT.—Except as provided in subparagraph (B), a State to which a grant is made under section 403 shall not use any part of the grant to provide assistance to an individual described in clause (ii) of this subparagraph if the individual and the minor child referred to in clause (ii)(II) do not reside in a place of residence maintained by a parent, legal guardian, or other adult relative of the individual as such parent's, guardian's, or adult relative's own home.

"(ii) INDIVIDUAL DESCRIBED.— For purposes of clause (i), an individual described in this clause is an individual who—

"(I) has not attained 18 years of age; and

"(II) is not married, and has a minor child in his or her care.

"(B) EXCEPTION.—

"(i) PROVISION OF, OR ASSISTANCE IN LOCATING, ADULT-SUPERVISED LIVING ARRANGEMENT.—In the case of an individual who is described in clause (ii), the State agency referred to in section 402(a)(4) shall provide, or assist the individual in locating, a second chance home, maternity home, or other appropriate adult-supervised supportive living arrangement, taking into consideration the needs and concerns of the individual, unless the State agency determines that the individual's current living arrangement is appropriate, and thereafter shall require that the individual and the minor child referred to in subparagraph (A)(ii)(II) reside in such living arrangement as a condition of the continued receipt of assistance under the State program funded under this part attributable to funds provided by the Federal Government (or in an alternative appropriate arrangement, should circumstances change and the current arrangement cease to be appropriate).

"(ii) INDIVIDUAL DESCRIBED.—For purposes of clause (i), an individual is described in this clause if the individual is described in subparagraph (A)(ii), and—

"(I) the individual has no parent, legal guardian, or other appropriate adult relative described in subclause (II) of his or her own who is living or whose whereabouts are known;

"(II) no living parent, legal guardian, or other appropriate adult relative, who would otherwise meet applicable State criteria to act as the individual's legal guardian, of such individual allows the

individual to live in the home of such parent, guardian, or relative;

"(III) the State agency determines that—

"(aa) the individual or the minor child referred to in subparagraph (A)(ii)(II) is being or has been subjected to serious physical or emotional harm, sexual abuse, or exploitation in the residence of the individual's own parent or legal guardian; or

"(bb) substantial evidence exists of an act or failure to act that presents an imminent or serious harm if the individual and the minor child lived in the same residence with the individual's own parent or legal guardian; or

"(IV) the State agency otherwise determines that it is in the best interest of the minor child to waive the requirement of subparagraph (A) with respect to the individual or the minor child.

"(iii) SECOND-CHANCE HOME.—For purposes of this subparagraph, the term 'second-chance home' means an entity that provides individuals described in clause (ii) with a supportive and supervised living arrangement in which such individuals are required to learn parenting skills, including child development, family budgeting, health and nutrition, and other skills to promote their long-term economic independence and the well-being of their children.

"(6) NO MEDICAL SERVICES.—

"(A) IN GENERAL.—A State to which a grant is made under section 403 shall not use any part of the grant to provide medical services.

"(B) EXCEPTION FOR PREPREGNANCY FAMILY PLANNING SERVICES.—As used in subparagraph (A), the term 'medical services' does not include prepregnancy family planning services.

"(7) NO ASSISTANCE FOR MORE THAN 5 YEARS.—

"(A) IN GENERAL.—A State to which a grant is made under section 403 shall not use any part of the grant to provide assistance to a family that includes an adult who has received assistance under any State program funded under this part attributable to funds provided by the Federal Government, for 60 months (whether or not consecutive) after the date the State program funded under this part commences, subject to this paragraph.

"(B) MINOR CHILD EXCEPTION.—In determining the number of months for which an individual who is a parent or pregnant has received assistance under the State program funded under this part, the State shall disregard any month for which such assistance was provided with respect to the individual and during which the individual was—

"(i) a minor child; and

"(ii) not the head of a household or married to the head of a household.

"(C) HARDSHIP EXCEPTION.—

"(i) IN GENERAL.—The State may exempt a family from the application of subparagraph (A) by reason

of hardship or if the family includes an individual who has been battered or subjected to extreme cruelty.

"(ii) LIMITATION.—The number of families with respect to which an exemption made by a State under clause (i) is in effect for a fiscal year shall not exceed 20 percent of the average monthly number of families to which assistance is provided under the State program funded under this part.

"(iii) BATTERED OR SUBJECT TO EXTREME CRUELTY DEFINED.—For purposes of clause (i), an individual has been battered or subjected to extreme cruelty if the individual has been subjected to—

"(I) physical acts that resulted in, or threatened to result in, physical injury to the individual;

"(II) sexual abuse;

"(III) sexual activity involving a dependent child;

"(IV) being forced as the caretaker relative of a dependent child to engage in nonconsensual sexual acts or activities;

"(V) threats of, or attempts at, physical or sexual abuse;

"(VI) mental abuse; or

"(VII) neglect or deprivation of medical care.

"(D) DISREGARD OF MONTHS OF ASSISTANCE RECEIVED BY ADULT WHILE LIVING ON AN INDIAN RESERVATION OR IN AN ALASKAN NATIVE VILLAGE WITH 50 PERCENT UNEMPLOYMENT.—In determining the number of months for which an adult has received assistance under the State program funded under this part, the State shall disregard any month during which the adult lived on an Indian reservation or in an Alaskan Native village if, during the month—

"(i) at least 1,000 individuals were living on the reservation or in the village ; and

"(ii) at least 50 percent of the adults living on the reservation or in the village were unemployed.

"(E) RULE OF INTERPRETATION.—Subparagraph (A) shall not be interpreted to require any State to provide assistance to any individual for any period of time under the State program funded under this part.

"(F) RULE OF INTERPRETATION.—This part shall not be interpreted to prohibit any State from expending State funds not originating with the Federal Government on benefits for children or families that have become ineligible for assistance under the State program funded under this part by reason of subparagraph (A).

"(8) DENIAL OF ASSISTANCE FOR 10 YEARS TO A PERSON FOUND TO HAVE FRAUDULENTLY MISREPRESENTED RESIDENCE IN ORDER TO OBTAIN ASSISTANCE IN 2 OR MORE STATES.—A State to which a grant is made under section 403 shall not use any part of the grant to provide cash assistance to an individual during the 10-year period that begins on the date the individual is convicted in Federal or State court of having made a fraudulent statement or representation with respect to the place of residence of the individual in order to receive assistance simultaneously from 2 or more States under pro-

grams that are funded under this title, title XIX, or the Food Stamp Act of 1977, or benefits in 2 or more States under the supplemental security income program under title XVI. The preceding sentence shall not apply with respect to a conviction of an individual, for any month beginning after the President of the United States grants a pardon with respect to the conduct which was the subject of the conviction.

"(9) DENIAL OF ASSISTANCE FOR FUGITIVE FELONS AND PROBATION AND PAROLE VIOLATORS.—

"(A) IN GENERAL.—A State to which a grant is made under section 403 shall not use any part of the grant to provide assistance to any individual who is—

"(i) fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the individual flees, for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which the individual flees, or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State; or

"(ii) violating a condition of probation or parole imposed under Federal or State law.

The preceding sentence shall not apply with respect to conduct of an individual, for any month beginning after the President of the United States grants a pardon with respect to the conduct.

"(B) EXCHANGE OF INFORMATION WITH LAW ENFORCEMENT AGENCIES.—If a State to which a grant is made under section 403 establishes safeguards against the use or disclosure of information about applicants or recipients of assistance under the State program funded under this part, the safeguards shall not prevent the State agency administering the program from furnishing a Federal, State, or local law enforcement officer, upon the request of the officer, with the current address of any recipient if the officer furnishes the agency with the name of the recipient and notifies the agency that—

"(i) the recipient—

"(I) is described in subparagraph (A); or

"(II) has information that is necessary for the officer to conduct the official duties of the officer; and

"(ii) the location or apprehension of the recipient is within such official duties.

"(10) DENIAL OF ASSISTANCE FOR MINOR CHILDREN WHO ARE ABSENT FROM THE HOME FOR A SIGNIFICANT PERIOD.—

"(A) IN GENERAL.—A State to which a grant is made under section 403 shall not use any part of the grant to provide assistance for a minor child who has been, or is expected by a parent (or other caretaker relative) of the child to be, absent from the home for a period of 45 consecutive days or, at the option of the State, such period of not less than 30 and not more than 180 consecutive days as the State may provide for in the State plan submitted pursuant to section 402.

"(B) STATE AUTHORITY TO ESTABLISH GOOD CAUSE EXCEPTIONS.—The State may establish such good cause

exceptions to subparagraph (A) as the State considers appropriate if such exceptions are provided for in the State plan submitted pursuant to section 402.

"(C) DENIAL OF ASSISTANCE FOR RELATIVE WHO FAILS TO NOTIFY STATE AGENCY OF ABSENCE OF CHILD.—A State to which a grant is made under section 403 shall not use any part of the grant to provide assistance for an individual who is a parent (or other caretaker relative) of a minor child and who fails to notify the agency administering the State program funded under this part of the absence of the minor child from the home for the period specified in or provided for pursuant to subparagraph (A), by the end of the 5-day period that begins with the date that it becomes clear to the parent (or relative) that the minor child will be absent for such period so specified or provided for.

"(11) MEDICAL ASSISTANCE REQUIRED TO BE PROVIDED FOR CERTAIN FAMILIES HAVING EARNINGS FROM EMPLOYMENT OR CHILD SUPPORT.—

"(A) EARNINGS FROM EMPLOYMENT.—A State to which a grant is made under section 403 and which has a State plan approved under title XIX shall provide that in the case of a family that is treated (under section 1931(b)(1)(A) for purposes of title XIX) as receiving aid under a State plan approved under this part (as in effect on July 16, 1996), that would become ineligible for such aid because of hours of or income from employment of the caretaker relative (as defined under this part as in effect on such date) or because of section 402(a)(8)(B)(ii)(II) (as so in effect), and that was so treated as receiving such aid in at least 3 of the 6 months immediately preceding the month in which such ineligibility begins, the family shall remain eligible for medical assistance under the State's plan approved under title XIX for an extended period or periods as provided in section 1925 or 1902(e)(1) (as applicable), and that the family will be appropriately notified of such extension as required by section 1925(a)(2).

"(B) CHILD SUPPORT.—A State to which a grant is made under section 403 and which has a State plan approved under title XIX shall provide that in the case of a family that is treated (under section 1931(b)(1)(A) for purposes of title XIX) as receiving aid under a State plan approved under this part (as in effect on July 16, 1996), that would become ineligible for such aid as a result (wholly or partly) of the collection of child or spousal support under part D and that was so treated as receiving such aid in at least 3 of the 6 months immediately preceding the month in which such ineligibility begins, the family shall remain eligible for medical assistance under the State's plan approved under title XIX for an extended period or periods as provided in section 1931(c)(1).

"(b) INDIVIDUAL RESPONSIBILITY PLANS.—

"(1) ASSESSMENT.—The State agency responsible for administering the State program funded under this part shall make an initial assessment of the skills, prior work experience, and employability of each recipient of assistance under the program who—

"(A) has attained 18 years of age; or

"(B) has not completed high school or obtained a certificate of high school equivalency, and is not attending secondary school.

"(2) CONTENTS OF PLANS.—

"(A) IN GENERAL.—On the basis of the assessment made under subsection (a) with respect to an individual, the State agency, in consultation with the individual, may develop an individual responsibility plan for the individual, which—

"(i) sets forth an employment goal for the individual and a plan for moving the individual immediately into private sector employment;

"(ii) sets forth the obligations of the individual, which may include a requirement that the individual attend school, maintain certain grades and attendance, keep school age children of the individual in school, immunize children, attend parenting and money management classes, or do other things that will help the individual become and remain employed in the private sector;

"(iii) to the greatest extent possible is designed to move the individual into whatever private sector employment the individual is capable of handling as quickly as possible, and to increase the responsibility and amount of work the individual is to handle over time;

"(iv) describes the services the State will provide the individual so that the individual will be able to obtain and keep employment in the private sector, and describe the job counseling and other services that will be provided by the State; and

"(v) may require the individual to undergo appropriate substance abuse treatment.

"(B) TIMING.—The State agency may comply with paragraph (1) with respect to an individual—

"(i) within 90 days (or, at the option of the State, 180 days) after the effective date of this part, in the case of an individual who, as of such effective date, is a recipient of aid under the State plan approved under part A (as in effect immediately before such effective date); or

"(ii) within 30 days (or, at the option of the State, 90 days) after the individual is determined to be eligible for such assistance, in the case of any other individual.

"(3) PENALTY FOR NONCOMPLIANCE BY INDIVIDUAL.—In addition to any other penalties required under the State program funded under this part, the State may reduce, by such amount as the State considers appropriate, the amount of assistance otherwise payable under the State program to a family that includes an individual who fails without good cause to comply with an individual responsibility plan signed by the individual.

"(4) STATE DISCRETION.—The exercise of the authority of this subsection shall be within the sole discretion of the State.

"(c) NONDISCRIMINATION PROVISIONS.—The following provisions of law shall apply to any program or activity which receives funds provided under this part:

"(1) The Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.).

"(2) Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

"(3) The Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).

"(4) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.).

"(d) ALIENS.—For special rules relating to the treatment of aliens, see section 402 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

42 USC 609.

"SEC. 409. PENALTIES.

"(a) IN GENERAL.—Subject to this section:

"(1) USE OF GRANT IN VIOLATION OF THIS PART.—

"(A) GENERAL PENALTY.—If an audit conducted under chapter 75 of title 31, United States Code, finds that an amount paid to a State under section 403 for a fiscal year has been used in violation of this part, the Secretary shall reduce the grant payable to the State under section 403(a)(1) for the immediately succeeding fiscal year quarter by the amount so used.

"(B) ENHANCED PENALTY FOR INTENTIONAL VIOLATIONS.—If the State does not prove to the satisfaction of the Secretary that the State did not intend to use the amount in violation of this part, the Secretary shall further reduce the grant payable to the State under section 403(a)(1) for the immediately succeeding fiscal year quarter by an amount equal to 5 percent of the State family assistance grant.

"(2) FAILURE TO SUBMIT REQUIRED REPORT.—

"(A) IN GENERAL.—If the Secretary determines that a State has not, within 1 month after the end of a fiscal quarter, submitted the report required by section 411(a) for the quarter, the Secretary shall reduce the grant payable to the State under section 403(a)(1) for the immediately succeeding fiscal year by an amount equal to 4 percent of the State family assistance grant.

"(B) RESCISSION OF PENALTY.—The Secretary shall rescind a penalty imposed on a State under subparagraph (A) with respect to a report if the State submits the report before the end of the fiscal quarter that immediately succeeds the fiscal quarter for which the report was required.

"(3) FAILURE TO SATISFY MINIMUM PARTICIPATION RATES.—

"(A) IN GENERAL.—If the Secretary determines that a State to which a grant is made under section 403 for a fiscal year has failed to comply with section 407(a) for the fiscal year, the Secretary shall reduce the grant payable to the State under section 403(a)(1) for the immediately succeeding fiscal year by an amount equal to not more than the applicable percentage of the State family assistance grant.

"(B) APPLICABLE PERCENTAGE DEFINED.—As used in subparagraph (A), the term 'applicable percentage' means, with respect to a State—

"(i) if a penalty was not imposed on the State under subparagraph (A) for the immediately preceding fiscal year, 5 percent; or

"(ii) if a penalty was imposed on the State under subparagraph (A) for the immediately preceding fiscal year, the lesser of—

"(I) the percentage by which the grant payable to the State under section 403(a)(1) was reduced for such preceding fiscal year, increased by 2 percentage points; or

"(II) 21 percent.

"(C) PENALTY BASED ON SEVERITY OF FAILURE.—The Secretary shall impose reductions under subparagraph (A) with respect to a fiscal year based on the degree of noncompliance, and may reduce the penalty if the noncompliance is due to circumstances that caused the State to become a needy State (as defined in section 403(b)(6)) during the fiscal year.

"(4) FAILURE TO PARTICIPATE IN THE INCOME AND ELIGIBILITY VERIFICATION SYSTEM.—If the Secretary determines that a State program funded under this part is not participating during a fiscal year in the income and eligibility verification system required by section 1137, the Secretary shall reduce the grant payable to the State under section 403(a)(1) for the immediately succeeding fiscal year by an amount equal to not more than 2 percent of the State family assistance grant.

"(5) FAILURE TO COMPLY WITH PATERNITY ESTABLISHMENT AND CHILD SUPPORT ENFORCEMENT REQUIREMENTS UNDER PART D.—Notwithstanding any other provision of this Act, if the Secretary determines that the State agency that administers a program funded under this part does not enforce the penalties requested by the agency administering part D against recipients of assistance under the State program who fail to cooperate in establishing paternity or in establishing, modifying, or enforcing a child support order in accordance with such part and who do not qualify for any good cause or other exception established by the State under section 454(29), the Secretary shall reduce the grant payable to the State under section 403(a)(1) for the immediately succeeding fiscal year (without regard to this section) by not more than 5 percent.

"(6) FAILURE TO TIMELY REPAY A FEDERAL LOAN FUND FOR STATE WELFARE PROGRAMS.—If the Secretary determines that a State has failed to repay any amount borrowed from the Federal Loan Fund for State Welfare Programs established under section 406 within the period of maturity applicable to the loan, plus any interest owed on the loan, the Secretary shall reduce the grant payable to the State under section 403(a)(1) for the immediately succeeding fiscal year quarter (without regard to this section) by the outstanding loan amount, plus the interest owed on the outstanding amount. The Secretary shall not forgive any outstanding loan amount or interest owed on the outstanding amount.

"(7) FAILURE OF ANY STATE TO MAINTAIN CERTAIN LEVEL OF HISTORIC EFFORT.—

"(A) IN GENERAL.—The Secretary shall reduce the grant payable to the State under section 403(a)(1) for fiscal year 1998, 1999, 2000, 2001, 2002, or 2003 by the amount (if any) by which qualified State expenditures for the then immediately preceding fiscal year are less than the applicable percentage of historic State expenditures with respect to such preceding fiscal year.

"(B) DEFINITIONS.—As used in this paragraph:

"(i) QUALIFIED STATE EXPENDITURES.—

"(I) IN GENERAL.—The term 'qualified State expenditures' means, with respect to a State and a fiscal year, the total expenditures by the State during the fiscal year, under all State programs, for any of the following with respect to eligible families:

"(aa) Cash assistance.

"(bb) Child care assistance.

"(cc) Educational activities designed to increase self-sufficiency, job training, and work, excluding any expenditure for public education in the State except expenditures which involve the provision of services or assistance to a member of an eligible family which is not generally available to persons who are not members of an eligible family.

"(dd) Administrative costs in connection with the matters described in items (aa), (bb), (cc), and (ee), but only to the extent that such costs do not exceed 15 percent of the total amount of qualified State expenditures for the fiscal year.

"(ee) Any other use of funds allowable under section 404(a)(1).

"(II) EXCLUSION OF TRANSFERS FROM OTHER STATE AND LOCAL PROGRAMS.—Such term does not include expenditures under any State or local program during a fiscal year, except to the extent that—

"(aa) the expenditures exceed the amount expended under the State or local program in the fiscal year most recently ending before the date of the enactment of this part; or

"(bb) the State is entitled to a payment under former section 403 (as in effect immediately before such date of enactment) with respect to the expenditures.

"(III) ELIGIBLE FAMILIES.—As used in subclause (I), the term 'eligible families' means families eligible for assistance under the State program funded under this part, and families that would be eligible for such assistance but for the application of section 408(a)(7) of this Act or section 402 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

"(ii) APPLICABLE PERCENTAGE.—The term 'applicable percentage' means for fiscal years 1997 through 2002, 80 percent (or, if the State meets the

requirements of section 407(a) for the fiscal year, 75 percent) reduced (if appropriate) in accordance with subparagraph (C)(ii).

"(iii) HISTORIC STATE EXPENDITURES.—The term 'historic State expenditures' means, with respect to a State, the lesser of—

"(I) the expenditures by the State under parts A and F (as in effect during fiscal year 1994) for fiscal year 1994; or

"(II) the amount which bears the same ratio to the amount described in subclause (I) as—

"(aa) the State family assistance grant, plus the total amount required to be paid to the State under former section 403 for fiscal year 1994 with respect to amounts expended by the State for child care under subsection (g) or (i) of section 402 (as in effect during fiscal year 1994); bears to

"(bb) the total amount required to be paid to the State under former section 403 (as in effect during fiscal year 1994) for fiscal year 1994.

Such term does not include any expenditures under the State plan approved under part A (as so in effect) on behalf of individuals covered by a tribal family assistance plan approved under section 412, as determined by the Secretary.

"(iv) EXPENDITURES BY THE STATE.—The term 'expenditures by the State' does not include—

"(I) any expenditures from amounts made available by the Federal Government;

"(II) any State funds expended for the medicaid program under title XIX;

"(III) any State funds which are used to match Federal funds; or

"(IV) any State funds which are expended as a condition of receiving Federal funds under Federal programs other than under this part.

Notwithstanding subclause (IV) of the preceding sentence, such term includes expenditures by a State for child care in a fiscal year to the extent that the total amount of such expenditures does not exceed an amount equal to the amount of State expenditures in fiscal year 1994 or 1995 (whichever is greater) that equal the non-Federal share for the programs described in section 418(a)(1)(A).

"(8) SUBSTANTIAL NONCOMPLIANCE OF STATE CHILD SUPPORT ENFORCEMENT PROGRAM WITH REQUIREMENTS OF PART D.—

"(A) IN GENERAL.—If a State program operated under part D is found as a result of a review conducted under section 452(a)(4) not to have complied substantially with the requirements of such part for any quarter, and the Secretary determines that the program is not complying substantially with such requirements at the time the finding is made, the Secretary shall reduce the grant payable to the State under section 403(a)(1) for the quarter and each subsequent quarter that ends before the 1st quarter

throughout which the program is found to be in substantial compliance with such requirements by—

"(i) not less than 1 nor more than 2 percent;

"(ii) not less than 2 nor more than 3 percent, if the finding is the 2nd consecutive such finding made as a result of such a review; or

"(iii) not less than 3 nor more than 5 percent, if the finding is the 3rd or a subsequent consecutive such finding made as a result of such a review.

"(B) DISREGARD OF NONCOMPLIANCE WHICH IS OF A TECHNICAL NATURE.—For purposes of subparagraph (A) and section 452(a)(4), a State which is not in full compliance with the requirements of this part shall be determined to be in substantial compliance with such requirements only if the Secretary determines that any noncompliance with such requirements is of a technical nature which does not adversely affect the performance of the State's program operated under part D.

"(9) FAILURE TO COMPLY WITH 5-YEAR LIMIT ON ASSISTANCE.—If the Secretary determines that a State has not complied with section 408(a)(1)(B) during a fiscal year, the Secretary shall reduce the grant payable to the State under section 403(a)(1) for the immediately succeeding fiscal year by an amount equal to 5 percent of the State family assistance grant.

"(10) FAILURE OF STATE RECEIVING AMOUNTS FROM CONTINGENCY FUND TO MAINTAIN 100 PERCENT OF HISTORIC EFFORT.—If, at the end of any fiscal year during which amounts from the Contingency Fund for State Welfare Programs have been paid to a State, the Secretary finds that the expenditures under the State program funded under this part for the fiscal year (excluding any amounts made available by the Federal Government) are less than 100 percent of historic State expenditures (as defined in paragraph (7)(B)(iii) of this subsection), the Secretary shall reduce the grant payable to the State under section 403(a)(1) for the immediately succeeding fiscal year by the total of the amounts so paid to the State.

"(11) FAILURE TO MAINTAIN ASSISTANCE TO ADULT SINGLE CUSTODIAL PARENT WHO CANNOT OBTAIN CHILD CARE FOR CHILD UNDER AGE 6.—

"(A) IN GENERAL.—If the Secretary determines that a State to which a grant is made under section 403 for a fiscal year has violated section 407(e)(2) during the fiscal year, the Secretary shall reduce the grant payable to the State under section 403(a)(1) for the immediately succeeding fiscal year by an amount equal to not more than 5 percent of the State family assistance grant.

"(B) PENALTY BASED ON SEVERITY OF FAILURE.—The Secretary shall impose reductions under subparagraph (A) with respect to a fiscal year based on the degree of noncompliance.

"(12) FAILURE TO EXPEND ADDITIONAL STATE FUNDS TO REPLACE GRANT REDUCTIONS.—If the grant payable to a State under section 403(a)(1) for a fiscal year is reduced by reason of this subsection, the State shall, during the immediately succeeding fiscal year, expend under the State program funded under this part an amount equal to the total amount of such reductions.

"(b) REASONABLE CAUSE EXCEPTION.—

"(1) IN GENERAL.—The Secretary may not impose a penalty on a State under subsection (a) with respect to a requirement if the Secretary determines that the State has reasonable cause for failing to comply with the requirement.

"(2) EXCEPTION.—Paragraph (1) of this subsection shall not apply to any penalty under paragraph (7) or (8) of subsection (a).

"(c) CORRECTIVE COMPLIANCE PLAN.—

"(1) IN GENERAL.—

"(A) NOTIFICATION OF VIOLATION.—Before imposing a penalty against a State under subsection (a) with respect to a violation of this part, the Secretary shall notify the State of the violation and allow the State the opportunity to enter into a corrective compliance plan in accordance with this subsection which outlines how the State will correct the violation and how the State will insure continuing compliance with this part.

"(B) 60-DAY PERIOD TO PROPOSE A CORRECTIVE COMPLIANCE PLAN.—During the 60-day period that begins on the date the State receives a notice provided under subparagraph (A) with respect to a violation, the State may submit to the Federal Government a corrective compliance plan to correct the violation.

"(C) CONSULTATION ABOUT MODIFICATIONS.—During the 60-day period that begins with the date the Secretary receives a corrective compliance plan submitted by a State in accordance with subparagraph (B), the Secretary may consult with the State on modifications to the plan.

"(D) ACCEPTANCE OF PLAN.— A corrective compliance plan submitted by a State in accordance with subparagraph (B) is deemed to be accepted by the Secretary if the Secretary does not accept or reject the plan during 60-day period that begins on the date the plan is submitted.

"(2) EFFECT OF CORRECTING VIOLATION.—The Secretary may not impose any penalty under subsection (a) with respect to any violation covered by a State corrective compliance plan accepted by the Secretary if the State corrects the violation pursuant to the plan.

"(3) EFFECT OF FAILING TO CORRECT VIOLATION.—The Secretary shall assess some or all of a penalty imposed on a State under subsection (a) with respect to a violation if the State does not, in a timely manner, correct the violation pursuant to a State corrective compliance plan accepted by the Secretary.

"(4) INAPPLICABILITY TO FAILURE TO TIMELY REPAY A FEDERAL LOAN FUND FOR A STATE WELFARE PROGRAM.—This subsection shall not apply to the imposition of a penalty against a State under subsection (a)(6).

"(d) LIMITATION ON AMOUNT OF PENALTIES.—

"(1) IN GENERAL.—In imposing the penalties described in subsection (a), the Secretary shall not reduce any quarterly payment to a State by more than 25 percent.

"(2) CARRYFORWARD OF UNRECOVERED PENALTIES.—To the extent that paragraph (1) of this subsection prevents the Secretary from recovering during a fiscal year the full amount of penalties imposed on a State under subsection (a) of this

section for a prior fiscal year, the Secretary shall apply any remaining amount of such penalties to the grant payable to the State under section 403(a)(1) for the immediately succeeding fiscal year.

42 USC 610.

"SEC. 410. APPEAL OF ADVERSE DECISION.

"(a) IN GENERAL.—Within 5 days after the date the Secretary takes any adverse action under this part with respect to a State, the Secretary shall notify the chief executive officer of the State of the adverse action, including any action with respect to the State plan submitted under section 402 or the imposition of a penalty under section 409.

"(b) ADMINISTRATIVE REVIEW.—

"(1) IN GENERAL.—Within 60 days after the date a State receives notice under subsection (a) of an adverse action, the State may appeal the action, in whole or in part, to the Departmental Appeals Board established in the Department of Health and Human Services (in this section referred to as the 'Board') by filing an appeal with the Board.

"(2) PROCEDURAL RULES.—The Board shall consider an appeal filed by a State under paragraph (1) on the basis of such documentation as the State may submit and as the Board may require to support the final decision of the Board. In deciding whether to uphold an adverse action or any portion of such an action, the Board shall conduct a thorough review of the issues and take into account all relevant evidence. The Board shall make a final determination with respect to an appeal filed under paragraph (1) not less than 60 days after the date the appeal is filed.

"(c) JUDICIAL REVIEW OF ADVERSE DECISION.—

"(1) IN GENERAL.—Within 90 days after the date of a final decision by the Board under this section with respect to an adverse action taken against a State, the State may obtain judicial review of the final decision (and the findings incorporated into the final decision) by filing an action in—

"(A) the district court of the United States for the judicial district in which the principal or headquarters office of the State agency is located; or

"(B) the United States District Court for the District of Columbia.

"(2) PROCEDURAL RULES.—The district court in which an action is filed under paragraph (1) shall review the final decision of the Board on the record established in the administrative proceeding, in accordance with the standards of review prescribed by subparagraphs (A) through (E) of section 706(2) of title 5, United States Code. The review shall be on the basis of the documents and supporting data submitted to the Board.

42 USC 611.

"SEC. 411. DATA COLLECTION AND REPORTING.

"(a) QUARTERLY REPORTS BY STATES.—

"(1) GENERAL REPORTING REQUIREMENT.—

"(A) CONTENTS OF REPORT.—Each eligible State shall collect on a monthly basis, and report to the Secretary on a quarterly basis, the following disaggregated case record information on the families receiving assistance under the State program funded under this part:

"(i) The county of residence of the family.

"(ii) Whether a child receiving such assistance or an adult in the family is disabled.

"(iii) The ages of the members of such families.

"(iv) The number of individuals in the family, and the relation of each family member to the youngest child in the family.

"(v) The employment status and earnings of the employed adult in the family.

"(vi) The marital status of the adults in the family, including whether such adults have never married, are widowed, or are divorced.

"(vii) The race and educational status of each adult in the family.

"(viii) The race and educational status of each child in the family.

"(ix) Whether the family received subsidized housing, medical assistance under the State plan approved under title XIX, food stamps, or subsidized child care, and if the latter 2, the amount received.

"(x) The number of months that the family has received each type of assistance under the program.

"(xi) If the adults participated in, and the number of hours per week of participation in, the following activities:

"(I) Education.

"(II) Subsidized private sector employment.

"(III) Unsubsidized employment.

"(IV) Public sector employment, work experience, or community service.

"(V) Job search.

"(VI) Job skills training or on-the-job training.

"(VII) Vocational education.

"(xii) Information necessary to calculate participation rates under section 407.

"(xiii) The type and amount of assistance received under the program, including the amount of and reason for any reduction of assistance (including sanctions).

"(xiv) Any amount of unearned income received by any member of the family.

"(xv) The citizenship of the members of the family.

"(xvi) From a sample of closed cases, whether the family left the program, and if so, whether the family left due to—

"(I) employment;

"(II) marriage;

"(III) the prohibition set forth in section 408(a)(7);

"(IV) sanction; or

"(V) State policy.

"(B) USE OF ESTIMATES.—

"(i) AUTHORITY.—A State may comply with subparagraph (A) by submitting an estimate which is obtained through the use of scientifically acceptable sampling methods approved by the Secretary.

"(ii) SAMPLING AND OTHER METHODS.—The Secretary shall provide the States with such case sampling plans and data collection procedures as the Secretary

deems necessary to produce statistically valid estimates of the performance of State programs funded under this part. The Secretary may develop and implement procedures for verifying the quality of data submitted by the States.

"(2) REPORT ON USE OF FEDERAL FUNDS TO COVER ADMINISTRATIVE COSTS AND OVERHEAD.—The report required by paragraph (1) for a fiscal quarter shall include a statement of the percentage of the funds paid to the State under this part for the quarter that are used to cover administrative costs or overhead.

"(3) REPORT ON STATE EXPENDITURES ON PROGRAMS FOR NEEDY FAMILIES.—The report required by paragraph (1) for a fiscal quarter shall include a statement of the total amount expended by the State during the quarter on programs for needy families.

"(4) REPORT ON NONCUSTODIAL PARENTS PARTICIPATING IN WORK ACTIVITIES.—The report required by paragraph (1) for a fiscal quarter shall include the number of noncustodial parents in the State who participated in work activities (as defined in section 407(d)) during the quarter.

"(5) REPORT ON TRANSITIONAL SERVICES.—The report required by paragraph (1) for a fiscal quarter shall include the total amount expended by the State during the quarter to provide transitional services to a family that has ceased to receive assistance under this part because of employment, along with a description of such services.

"(6) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to define the data elements with respect to which reports are required by this subsection.

"(b) ANNUAL REPORTS TO THE CONGRESS BY THE SECRETARY.—Not later than 6 months after the end of fiscal year 1997, and each fiscal year thereafter, the Secretary shall transmit to the Congress a report describing—

"(1) whether the States are meeting—

"(A) the participation rates described in section 407(a); and

"(B) the objectives of—

"(i) increasing employment and earnings of needy families, and child support collections; and

"(ii) decreasing out-of-wedlock pregnancies and child poverty;

"(2) the demographic and financial characteristics of families applying for assistance, families receiving assistance, and families that become ineligible to receive assistance;

"(3) the characteristics of each State program funded under this part; and

"(4) the trends in employment and earnings of needy families with minor children living at home.

42 USC 612.

"SEC. 412. DIRECT FUNDING AND ADMINISTRATION BY INDIAN TRIBES.

"(a) GRANTS FOR INDIAN TRIBES.—

"(1) TRIBAL FAMILY ASSISTANCE GRANT.—

"(A) IN GENERAL.—For each of fiscal years 1997, 1998, 1999, 2000, 2001, and 2002, the Secretary shall pay to each Indian tribe that has an approved tribal family assistance plan a tribal family assistance grant for the fiscal

year in an amount equal to the amount determined under subparagraph (B), and shall reduce the grant payable under section 403(a)(1) to any State in which lies the service area or areas of the Indian tribe by that portion of the amount so determined that is attributable to expenditures by the State.

"(B) AMOUNT DETERMINED.—

"(i) IN GENERAL.—The amount determined under this subparagraph is an amount equal to the total amount of the Federal payments to a State or States under section 403 (as in effect during such fiscal year) for fiscal year 1994 attributable to expenditures (other than child care expenditures) by the State or States under parts A and F (as so in effect) for fiscal year 1994 for Indian families residing in the service area or areas identified by the Indian tribe pursuant to subsection (b)(1)(C) of this section.

"(ii) USE OF STATE SUBMITTED DATA.—

"(I) IN GENERAL.—The Secretary shall use State submitted data to make each determination under clause (i).

"(II) DISAGREEMENT WITH DETERMINATION.—If an Indian tribe or tribal organization disagrees with State submitted data described under subclause (I), the Indian tribe or tribal organization may submit to the Secretary such additional information as may be relevant to making the determination under clause (i) and the Secretary may consider such information before making such determination.

"(2) GRANTS FOR INDIAN TRIBES THAT RECEIVED JOBS FUNDS.—

"(A) IN GENERAL.—The Secretary shall pay to each eligible Indian tribe for each of fiscal years 1997, 1998, 1999, 2000, 2001, and 2002 a grant in an amount equal to the amount received by the Indian tribe in fiscal year 1994 under section 482(i) (as in effect during fiscal year 1994).

"(B) ELIGIBLE INDIAN TRIBE.—For purposes of subparagraph (A), the term 'eligible Indian tribe' means an Indian tribe or Alaska Native organization that conducted a job opportunities and basic skills training program in fiscal year 1995 under section 482(i) (as in effect during fiscal year 1995).

"(C) USE OF GRANT.—Each Indian tribe to which a grant is made under this paragraph shall use the grant for the purpose of operating a program to make work activities available to members of the Indian tribe.

"(D) APPROPRIATION.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated $7,638,474 for each fiscal year specified in subparagraph (A) for grants under subparagraph (A).

"(b) 3-YEAR TRIBAL FAMILY ASSISTANCE PLAN.—

"(1) IN GENERAL.—Any Indian tribe that desires to receive a tribal family assistance grant shall submit to the Secretary a 3-year tribal family assistance plan that—

"(A) outlines the Indian tribe's approach to providing welfare-related services for the 3-year period, consistent with this section;

"(B) specifies whether the welfare-related services provided under the plan will be provided by the Indian tribe or through agreements, contracts, or compacts with intertribal consortia, States, or other entities;

"(C) identifies the population and service area or areas to be served by such plan;

"(D) provides that a family receiving assistance under the plan may not receive duplicative assistance from other State or tribal programs funded under this part;

"(E) identifies the employment opportunities in or near the service area or areas of the Indian tribe and the manner in which the Indian tribe will cooperate and participate in enhancing such opportunities for recipients of assistance under the plan consistent with any applicable State standards; and

"(F) applies the fiscal accountability provisions of section 5(f)(1) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450c(f)(1)), relating to the submission of a single-agency audit report required by chapter 75 of title 31, United States Code.

"(2) APPROVAL.—The Secretary shall approve each tribal family assistance plan submitted in accordance with paragraph (1).

"(3) CONSORTIUM OF TRIBES.—Nothing in this section shall preclude the development and submission of a single tribal family assistance plan by the participating Indian tribes of an intertribal consortium.

"(c) MINIMUM WORK PARTICIPATION REQUIREMENTS AND TIME LIMITS.—The Secretary, with the participation of Indian tribes, shall establish for each Indian tribe receiving a grant under this section minimum work participation requirements, appropriate time limits for receipt of welfare-related services under the grant, and penalties against individuals—

"(1) consistent with the purposes of this section;

"(2) consistent with the economic conditions and resources available to each tribe; and

"(3) similar to comparable provisions in section 407(e).

"(d) EMERGENCY ASSISTANCE.—Nothing in this section shall preclude an Indian tribe from seeking emergency assistance from any Federal loan program or emergency fund.

"(e) ACCOUNTABILITY.—Nothing in this section shall be construed to limit the ability of the Secretary to maintain program funding accountability consistent with—

"(1) generally accepted accounting principles; and

"(2) the requirements of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

"(f) PENALTIES.—

"(1) Subsections (a)(1), (a)(6), and (b) of section 409, shall apply to an Indian tribe with an approved tribal assistance plan in the same manner as such subsections apply to a State.

"(2) Section 409(a)(3) shall apply to an Indian tribe with an approved tribal assistance plan by substituting 'meet minimum work participation requirements established under section 412(c)' for 'comply with section 407(a)'.

"(g) DATA COLLECTION AND REPORTING.—Section 411 shall apply to an Indian tribe with an approved tribal family assistance plan.

"(h) SPECIAL RULE FOR INDIAN TRIBES IN ALASKA.—

"(1) IN GENERAL.—Notwithstanding any other provision of this section, and except as provided in paragraph (2), an Indian tribe in the State of Alaska that receives a tribal family assistance grant under this section shall use the grant to operate a program in accordance with requirements comparable to the requirements applicable to the program of the State of Alaska funded under this part. Comparability of programs shall be established on the basis of program criteria developed by the Secretary in consultation with the State of Alaska and such Indian tribes.

"(2) WAIVER.—An Indian tribe described in paragraph (1) may apply to the appropriate State authority to receive a waiver of the requirement of paragraph (1).

"SEC. 413. RESEARCH, EVALUATIONS, AND NATIONAL STUDIES. 42 USC 613.

"(a) RESEARCH.—The Secretary shall conduct research on the benefits, effects, and costs of operating different State programs funded under this part, including time limits relating to eligibility for assistance. The research shall include studies on the effects of different programs and the operation of such programs on welfare dependency, illegitimacy, teen pregnancy, employment rates, child well-being, and any other area the Secretary deems appropriate. The Secretary shall also conduct research on the costs and benefits of State activities under section 409.

"(b) DEVELOPMENT AND EVALUATION OF INNOVATIVE APPROACHES TO REDUCING WELFARE DEPENDENCY AND INCREASING CHILD WELL-BEING.—

"(1) IN GENERAL.—The Secretary may assist States in developing, and shall evaluate, innovative approaches for reducing welfare dependency and increasing the well-being of minor children living at home with respect to recipients of assistance under programs funded under this part. The Secretary may provide funds for training and technical assistance to carry out the approaches developed pursuant to this paragraph.

"(2) EVALUATIONS.—In performing the evaluations under paragraph (1), the Secretary shall, to the maximum extent feasible, use random assignment as an evaluation methodology.

"(c) DISSEMINATION OF INFORMATION.—The Secretary shall develop innovative methods of disseminating information on any research, evaluations, and studies conducted under this section, including the facilitation of the sharing of information and best practices among States and localities through the use of computers and other technologies.

"(d) ANNUAL RANKING OF STATES AND REVIEW OF MOST AND LEAST SUCCESSFUL WORK PROGRAMS.—

"(1) ANNUAL RANKING OF STATES.—The Secretary shall rank annually the States to which grants are paid under section 403 in the order of their success in placing recipients of assistance under the State program funded under this part into long-term private sector jobs, reducing the overall welfare caseload, and, when a practicable method for calculating this information becomes available, diverting individuals from formally applying to the State program and receiving assistance.

In ranking States under this subsection, the Secretary shall take into account the average number of minor children living at home in families in the State that have incomes below the poverty line and the amount of funding provided each State for such families.

"(2) ANNUAL REVIEW OF MOST AND LEAST SUCCESSFUL WORK PROGRAMS.—The Secretary shall review the programs of the 3 States most recently ranked highest under paragraph (1) and the 3 States most recently ranked lowest under paragraph (1) that provide parents with work experience, assistance in finding employment, and other work preparation activities and support services to enable the families of such parents to leave the program and become self-sufficient.

"(e) ANNUAL RANKING OF STATES AND REVIEW OF ISSUES RELATING TO OUT-OF-WEDLOCK BIRTHS.—

"(1) ANNUAL RANKING OF STATES.—

"(A) IN GENERAL.—The Secretary shall annually rank States to which grants are made under section 403 based on the following ranking factors:

"(i) ABSOLUTE OUT-OF-WEDLOCK RATIOS.—The ratio represented by—

"(I) the total number of out-of-wedlock births in families receiving assistance under the State program under this part in the State for the most recent fiscal year for which information is available; over

"(II) the total number of births in families receiving assistance under the State program under this part in the State for such year.

"(ii) NET CHANGES IN THE OUT-OF-WEDLOCK RATIO.—The difference between the ratio described in subparagraph (A)(i) with respect to a State for the most recent fiscal year for which such information is available and the ratio with respect to the State for the immediately preceding year.

"(2) ANNUAL REVIEW.—The Secretary shall review the programs of the 5 States most recently ranked highest under paragraph (1) and the 5 States most recently ranked the lowest under paragraph (1).

"(f) STATE-INITIATED EVALUATIONS.—A State shall be eligible to receive funding to evaluate the State program funded under this part if—

"(1) the State submits a proposal to the Secretary for the evaluation;

"(2) the Secretary determines that the design and approach of the evaluation is rigorous and is likely to yield information that is credible and will be useful to other States; and

"(3) unless otherwise waived by the Secretary, the State contributes to the cost of the evaluation, from non-Federal sources, an amount equal to at least 10 percent of the cost of the evaluation.

"(g) REPORT ON CIRCUMSTANCES OF CERTAIN CHILDREN AND FAMILIES.—

"(1) IN GENERAL.—Beginning 3 years after the date of the enactment of this Act, the Secretary of Health and Human Services shall prepare and submit to the Committees on Ways and Means and on Economic and Educational Opportunities

of the House of Representatives and to the Committees on Finance and on Labor and Resources of the Senate annual reports that examine in detail the matters described in paragraph (2) with respect to each of the following groups for the period after such enactment:

"(A) Individuals who were children in families that have become ineligible for assistance under a State program funded under this part by reason of having reached a time limit on the provision of such assistance.

"(B) Children born after such date of enactment to parents who, at the time of such birth, had not attained 20 years of age.

"(C) Individuals who, after such date of enactment, became parents before attaining 20 years of age.

"(2) MATTERS DESCRIBED.—The matters described in this paragraph are the following:

"(A) The percentage of each group that has dropped out of secondary school (or the equivalent), and the percentage of each group at each level of educational attainment.

"(B) The percentage of each group that is employed.

"(C) The percentage of each group that has been convicted of a crime or has been adjudicated as a delinquent.

"(D) The rate at which the members of each group are born, or have children, out-of-wedlock, and the percentage of each group that is married.

"(E) The percentage of each group that continues to participate in State programs funded under this part.

"(F) The percentage of each group that has health insurance provided by a private entity (broken down by whether the insurance is provided through an employer or otherwise), the percentage that has health insurance provided by an agency of government, and the percentage that does not have health insurance.

"(G) The average income of the families of the members of each group.

"(H) Such other matters as the Secretary deems appropriate.

"(h) FUNDING OF STUDIES AND DEMONSTRATIONS.—

"(1) IN GENERAL.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated $15,000,000 for each of fiscal years 1997 through 2002 for the purpose of paying—

"(A) the cost of conducting the research described in subsection (a);

"(B) the cost of developing and evaluating innovative approaches for reducing welfare dependency and increasing the well-being of minor children under subsection (b);

"(C) the Federal share of any State-initiated study approved under subsection (f); and

"(D) an amount determined by the Secretary to be necessary to operate and evaluate demonstration projects, relating to this part, that are in effect or approved under section 1115 as of September 30, 1995, and are continued after such date.

"(2) ALLOCATION.—Of the amount appropriated under paragraph (1) for a fiscal year—

"(A) 50 percent shall be allocated for the purposes described in subparagraphs (A) and (B) of paragraph (1), and

"(B) 50 percent shall be allocated for the purposes described in subparagraphs (C) and (D) of paragraph (1).

"(3) DEMONSTRATIONS OF INNOVATIVE STRATEGIES.—The Secretary may implement and evaluate demonstrations of innovative and promising strategies which—

"(A) provide one-time capital funds to establish, expand, or replicate programs;

"(B) test performance-based grant-to-loan financing in which programs meeting performance targets receive grants while programs not meeting such targets repay funding on a prorated basis; and

"(C) test strategies in multiple States and types of communities.

"(i) CHILD POVERTY RATES.—

"(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this part, and annually thereafter, the chief executive officer of each State shall submit to the Secretary a statement of the child poverty rate in the State as of such date of enactment or the date of the most recent prior statement under this paragraph.

"(2) SUBMISSION OF CORRECTIVE ACTION PLAN.—Not later than 90 days after the date a State submits a statement under paragraph (1) which indicates that, as a result of the amendments made by section 103 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, the child poverty rate of the State has increased by 5 percent or more since the most recent prior statement under paragraph (1), the State shall prepare and submit to the Secretary a corrective action plan in accordance with paragraph (3).

"(3) CONTENTS OF PLAN.—A corrective action plan submitted under paragraph (2) shall outline the manner in which the State will reduce the child poverty rate in the State. The plan shall include a description of the actions to be taken by the State under such plan.

"(4) COMPLIANCE WITH PLAN.—A State that submits a corrective action plan that the Secretary has found contains the information required by this subsection shall implement the corrective action plan until the State determines that the child poverty rate in the State is less than the lowest child poverty rate on the basis of which the State was required to submit the corrective action plan.

Regulations.

"(5) METHODOLOGY.—The Secretary shall prescribe regulations establishing the methodology by which a State shall determine the child poverty rate in the State. The methodology shall take into account factors including the number of children who receive free or reduced-price lunches, the number of food stamp households, and the county-by-county estimates of children in poverty as determined by the Census Bureau.

42 USC 614.

"SEC. 414. STUDY BY THE CENSUS BUREAU.

"(a) IN GENERAL.—The Bureau of the Census shall continue to collect data on the 1992 and 1993 panels of the Survey of Income and Program Participation as necessary to obtain such information as will enable interested persons to evaluate the impact

of the amendments made by title I of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 on a random national sample of recipients of assistance under State programs funded under this part and (as appropriate) other low-income families, and in doing so, shall pay particular attention to the issues of out-of-wedlock birth, welfare dependency, the beginning and end of welfare spells, and the causes of repeat welfare spells, and shall obtain information about the status of children participating in such panels.

"(b) APPROPRIATION.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated $10,000,000 for each of fiscal years 1996, 1997, 1998, 1999, 2000, 2001, and 2002 for payment to the Bureau of the Census to carry out subsection (a).

"SEC. 415. WAIVERS. 42 USC 615.

"(a) CONTINUATION OF WAIVERS.—

"(1) WAIVERS IN EFFECT ON DATE OF ENACTMENT OF WELFARE REFORM.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), if any waiver granted to a State under section 1115 of this Act or otherwise which relates to the provision of assistance under a State plan under this part (as in effect on September 30, 1996) is in effect as of the date of the enactment of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, the amendments made by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (other than by section 103(c) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996) shall not apply with respect to the State before the expiration (determined without regard to any extensions) of the waiver to the extent such amendments are inconsistent with the waiver.

"(B) FINANCING LIMITATION.—Notwithstanding any other provision of law, beginning with fiscal year 1996, a State operating under a waiver described in subparagraph (A) shall be entitled to payment under section 403 for the fiscal year, in lieu of any other payment provided for in the waiver.

"(2) WAIVERS GRANTED SUBSEQUENTLY.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), if any waiver granted to a State under section 1115 of this Act or otherwise which relates to the provision of assistance under a State plan under this part (as in effect on September 30, 1996) is submitted to the Secretary before the date of the enactment of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 and approved by the Secretary on or before July 1, 1997, and the State demonstrates to the satisfaction of the Secretary that the waiver will not result in Federal expenditures under title IV of this Act (as in effect without regard to the amendments made by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996) that are greater than would occur in the absence of the waiver, the amendments made by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (other than by section 103(c) of the Personal Responsibility and Work

Opportunity Reconciliation Act of 1996) shall not apply with respect to the State before the expiration (determined without regard to any extensions) of the waiver to the extent the amendments made by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 are inconsistent with the waiver.

"(B) NO EFFECT ON NEW WORK REQUIREMENTS.—Notwithstanding subparagraph (A), a waiver granted under section 1115 or otherwise which relates to the provision of assistance under a State program funded under this part (as in effect on September 30, 1996) shall not affect the applicability of section 407 to the State.

"(b) STATE OPTION TO TERMINATE WAIVER.—

"(1) IN GENERAL.—A State may terminate a waiver described in subsection (a) before the expiration of the waiver.

"(2) REPORT.—A State which terminates a waiver under paragraph (1) shall submit a report to the Secretary summarizing the waiver and any available information concerning the result or effect of the waiver.

"(3) HOLD HARMLESS PROVISION.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, a State that, not later than the date described in subparagraph (B) of this paragraph, submits a written request to terminate a waiver described in subsection (a) shall be held harmless for accrued cost neutrality liabilities incurred under the waiver.

"(B) DATE DESCRIBED.—The date described in this subparagraph is 90 days following the adjournment of the first regular session of the State legislature that begins after the date of the enactment of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

"(c) SECRETARIAL ENCOURAGEMENT OF CURRENT WAIVERS.—The Secretary shall encourage any State operating a waiver described in subsection (a) to continue the waiver and to evaluate, using random sampling and other characteristics of accepted scientific evaluations, the result or effect of the waiver.

"(d) CONTINUATION OF INDIVIDUAL WAIVERS.—A State may elect to continue 1 or more individual waivers described in subsection (a).

42 USC 616.

"SEC. 416. ADMINISTRATION.

"The programs under this part and part D shall be administered by an Assistant Secretary for Family Support within the Department of Health and Human Services, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be in addition to any other Assistant Secretary of Health and Human Services provided for by law, and the Secretary shall reduce the Federal workforce within the Department of Health and Human Services by an amount equal to the sum of 75 percent of the full-time equivalent positions at such Department that relate to any direct spending program, or any program funded through discretionary spending, that has been converted into a block grant program under the Personal Responsibility and Work Opportunity Act of 1996 and the amendments made by such Act, and by an amount equal to 75 percent of that portion of the total full-time equivalent departmental management positions at such Department that bears the same relationship to the amount

appropriated for any direct spending program, or any program funded through discretionary spending, that has been converted into a block grant program under the Personal Responsibility and Work Opportunity Act of 1996 and the amendments made by such Act, as such amount relates to the total amount appropriated for use by such Department, and, notwithstanding any other provision of law, the Secretary shall take such actions as may be necessary, including reductions in force actions, consistent with sections 3502 and 3595 of title 5, United States Code, to reduce the full-time equivalent positions within the Department of Health and Human Services by 245 full-time equivalent positions related to the program converted into a block grant under the amendment made by section 2103 of the Personal Responsibility and Work Opportunity Act of 1996, and by 60 full-time equivalent managerial positions in the Department.

"SEC. 417. LIMITATION ON FEDERAL AUTHORITY. 42 USC 617.

"No officer or employee of the Federal Government may regulate the conduct of States under this part or enforce any provision of this part, except to the extent expressly provided in this part."; and

(2) by inserting after such section 418 the following:

"SEC. 419. DEFINITIONS. 42 USC 619.

"As used in this part:

"(1) ADULT.—The term 'adult' means an individual who is not a minor child.

"(2) MINOR CHILD.—The term 'minor child' means an individual who—

"(A) has not attained 18 years of age; or

"(B) has not attained 19 years of age and is a full-time student in a secondary school (or in the equivalent level of vocational or technical training).

"(3) FISCAL YEAR.—The term 'fiscal year' means any 12-month period ending on September 30 of a calendar year.

"(4) INDIAN, INDIAN TRIBE, AND TRIBAL ORGANIZATION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the terms 'Indian', 'Indian tribe', and 'tribal organization' have the meaning given such terms by section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

"(B) SPECIAL RULE FOR INDIAN TRIBES IN ALASKA.—The term 'Indian tribe' means, with respect to the State of Alaska, only the Metlakatla Indian Community of the Annette Islands Reserve and the following Alaska Native regional nonprofit corporations:

"(i) Arctic Slope Native Association.
"(ii) Kawerak, Inc.
"(iii) Maniilaq Association.
"(iv) Association of Village Council Presidents.
"(v) Tanana Chiefs Conference.
"(vi) Cook Inlet Tribal Council.
"(vii) Bristol Bay Native Association.
"(viii) Aleutian and Pribilof Island Association.
"(ix) Chugachmuit.
"(x) Tlingit Haida Central Council.
"(xi) Kodiak Area Native Association.
"(xii) Copper River Native Association.

"(5) STATE.—Except as otherwise specifically provided, the term 'State' means the 50 States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, and American Samoa.".

(b) GRANTS TO OUTLYING AREAS.—Section 1108 (42 U.S.C. 1308) is amended—

(1) by striking subsections (d) and (e);

(2) by redesignating subsection (c) as subsection (f); and

(3) by striking all that precedes subsection (c) and inserting the following:

"SEC. 1108. ADDITIONAL GRANTS TO PUERTO RICO, THE VIRGIN ISLANDS, GUAM, AND AMERICAN SAMOA; LIMITATION ON TOTAL PAYMENTS.

"(a) LIMITATION ON TOTAL PAYMENTS TO EACH TERRITORY.—Notwithstanding any other provision of this Act, the total amount certified by the Secretary of Health and Human Services under titles I, X, XIV, and XVI, under parts A and E of title IV, and under subsection (b) of this section, for payment to any territory for a fiscal year shall not exceed the ceiling amount for the territory for the fiscal year.

"(b) ENTITLEMENT TO MATCHING GRANT.—

"(1) IN GENERAL.—Each territory shall be entitled to receive from the Secretary for each fiscal year a grant in an amount equal to 75 percent of the amount (if any) by which—

"(A) the total expenditures of the territory during the fiscal year under the territory programs funded under parts A and E of title IV; exceeds

"(B) the sum of—

"(i) the amount of the family assistance grant payable to the territory without regard to section 409; and

"(ii) the total amount expended by the territory during fiscal year 1995 pursuant to parts A and F of title IV (as so in effect), other than for child care.

"(2) APPROPRIATION.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated for fiscal years 1997 through 2002, such sums as are necessary for grants under this paragraph.

"(c) DEFINITIONS.—As used in this section:

"(1) TERRITORY.—The term 'territory' means Puerto Rico, the Virgin Islands, Guam, and American Samoa.

"(2) CEILING AMOUNT.—The term 'ceiling amount' means, with respect to a territory and a fiscal year, the mandatory ceiling amount with respect to the territory, reduced for the fiscal year in accordance with subsection (e), and reduced by the amount of any penalty imposed on the territory under any provision of law specified in subsection (a) during the fiscal year.

"(3) FAMILY ASSISTANCE GRANT.—The term 'family assistance grant' has the meaning given such term by section 403(a)(1)(B).

"(4) MANDATORY CEILING AMOUNT.—The term 'mandatory ceiling amount' means—

"(A) $107,255,000 with respect to Puerto Rico;

"(B) $4,686,000 with respect to Guam;

"(C) $3,554,000 with respect to the Virgin Islands; and

"(D) $1,000,000 with respect to American Samoa.

"(5) TOTAL AMOUNT EXPENDED BY THE TERRITORY.—The term 'total amount expended by the territory'—

"(A) does not include expenditures during the fiscal year from amounts made available by the Federal Government; and

"(B) when used with respect to fiscal year 1995, also does not include—

"(i) expenditures during fiscal year 1995 under subsection (g) or (i) of section 402 (as in effect on September 30, 1995); or

"(ii) any expenditures during fiscal year 1995 for which the territory (but for section 1108, as in effect on September 30, 1995) would have received reimbursement from the Federal Government.

"(d) AUTHORITY TO TRANSFER FUNDS TO CERTAIN PROGRAMS.—A territory to which an amount is paid under subsection (b) of this section may use the amount in accordance with section 404(d).

"(e) MAINTENANCE OF EFFORT.—The ceiling amount with respect to a territory shall be reduced for a fiscal year by an amount equal to the amount (if any) by which—

"(1) the total amount expended by the territory under all programs of the territory operated pursuant to the provisions of law specified in subsection (a) (as such provisions were in effect for fiscal year 1995) for fiscal year 1995; exceeds

"(2) the total amount expended by the territory under all programs of the territory that are funded under the provisions of law specified in subsection (a) for the fiscal year that immediately precedes the fiscal year referred to in the matter preceding paragraph (1).".

(c) ELIMINATION OF CHILD CARE PROGRAMS UNDER THE SOCIAL SECURITY ACT.—

(1) AFDC AND TRANSITIONAL CHILD CARE PROGRAMS.—Section 402 (42 U.S.C. 602) is amended by striking subsection (g).

(2) AT-RISK CHILD CARE PROGRAM.—

(A) AUTHORIZATION.—Section 402 (42 U.S.C. 602) is amended by striking subsection (i).

(B) FUNDING PROVISIONS.—Section 403 (42 U.S.C. 603) is amended by striking subsection (n).

SEC. 104. SERVICES PROVIDED BY CHARITABLE, RELIGIOUS, OR PRIVATE ORGANIZATIONS. 42 USC 604a.

(a) IN GENERAL.—

(1) STATE OPTIONS.—A State may—

(A) administer and provide services under the programs described in subparagraphs (A) and (B)(i) of paragraph (2) through contracts with charitable, religious, or private organizations; and

(B) provide beneficiaries of assistance under the programs described in subparagraphs (A) and (B)(ii) of paragraph (2) with certificates, vouchers, or other forms of disbursement which are redeemable with such organizations.

(2) PROGRAMS DESCRIBED.—The programs described in this paragraph are the following programs:

(A) A State program funded under part A of title IV of the Social Security Act (as amended by section 103(a) of this Act).

(B) Any other program established or modified under title I or II of this Act, that—

(i) permits contracts with organizations; or

(ii) permits certificates, vouchers, or other forms of disbursement to be provided to beneficiaries, as a means of providing assistance.

Contracts.

(b) RELIGIOUS ORGANIZATIONS.—The purpose of this section is to allow States to contract with religious organizations, or to allow religious organizations to accept certificates, vouchers, or other forms of disbursement under any program described in subsection (a)(2), on the same basis as any other nongovernmental provider without impairing the religious character of such organizations, and without diminishing the religious freedom of beneficiaries of assistance funded under such program.

(c) NONDISCRIMINATION AGAINST RELIGIOUS ORGANIZATIONS.—In the event a State exercises its authority under subsection (a), religious organizations are eligible, on the same basis as any other private organization, as contractors to provide assistance, or to accept certificates, vouchers, or other forms of disbursement, under any program described in subsection (a)(2) so long as the programs are implemented consistent with the Establishment Clause of the United States Constitution. Except as provided in subsection (k), neither the Federal Government nor a State receiving funds under such programs shall discriminate against an organization which is or applies to be a contractor to provide assistance, or which accepts certificates, vouchers, or other forms of disbursement, on the basis that the organization has a religious character.

(d) RELIGIOUS CHARACTER AND FREEDOM.—

(1) RELIGIOUS ORGANIZATIONS.—A religious organization with a contract described in subsection (a)(1)(A), or which accepts certificates, vouchers, or other forms of disbursement under subsection (a)(1)(B), shall retain its independence from Federal, State, and local governments, including such organization's control over the definition, development, practice, and expression of its religious beliefs.

(2) ADDITIONAL SAFEGUARDS.—Neither the Federal Government nor a State shall require a religious organization to—

(A) alter its form of internal governance; or

(B) remove religious art, icons, scripture, or other symbols;

in order to be eligible to contract to provide assistance, or to accept certificates, vouchers, or other forms of disbursement, funded under a program described in subsection (a)(2).

(e) RIGHTS OF BENEFICIARIES OF ASSISTANCE.—

(1) IN GENERAL.—If an individual described in paragraph (2) has an objection to the religious character of the organization or institution from which the individual receives, or would receive, assistance funded under any program described in subsection (a)(2), the State in which the individual resides shall provide such individual (if otherwise eligible for such assistance) within a reasonable period of time after the date of such objection with assistance from an alternative provider

that is accessible to the individual and the value of which is not less than the value of the assistance which the individual would have received from such organization.

(2) INDIVIDUAL DESCRIBED.—An individual described in this paragraph is an individual who receives, applies for, or requests to apply for, assistance under a program described in subsection (a)(2).

(f) EMPLOYMENT PRACTICES.—A religious organization's exemption provided under section 702 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–1a) regarding employment practices shall not be affected by its participation in, or receipt of funds from, programs described in subsection (a)(2).

(g) NONDISCRIMINATION AGAINST BENEFICIARIES.—Except as otherwise provided in law, a religious organization shall not discriminate against an individual in regard to rendering assistance funded under any program described in subsection (a)(2) on the basis of religion, a religious belief, or refusal to actively participate in a religious practice.

(h) FISCAL ACCOUNTABILITY.—

(1) IN GENERAL.—Except as provided in paragraph (2), any religious organization contracting to provide assistance funded under any program described in subsection (a)(2) shall be subject to the same regulations as other contractors to account in accord with generally accepted auditing principles for the use of such funds provided under such programs.

(2) LIMITED AUDIT.—If such organization segregates Federal funds provided under such programs into separate accounts, then only the financial assistance provided with such funds shall be subject to audit.

(i) COMPLIANCE.—Any party which seeks to enforce its rights under this section may assert a civil action for injunctive relief exclusively in an appropriate State court against the entity or agency that allegedly commits such violation.

(j) LIMITATIONS ON USE OF FUNDS FOR CERTAIN PURPOSES.—No funds provided directly to institutions or organizations to provide services and administer programs under subsection (a)(1)(A) shall be expended for sectarian worship, instruction, or proselytization.

(k) PREEMPTION.—Nothing in this section shall be construed to preempt any provision of a State constitution or State statute that prohibits or restricts the expenditure of State funds in or by religious organizations.

SEC. 105. CENSUS DATA ON GRANDPARENTS AS PRIMARY CAREGIVERS FOR THEIR GRANDCHILDREN. 13 USC 141 note.

(a) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Commerce, in carrying out section 141 of title 13, United States Code, shall expand the data collection efforts of the Bureau of the Census (in this section referred to as the "Bureau") to enable the Bureau to collect statistically significant data, in connection with its decennial census and its mid-decade census, concerning the growing trend of grandparents who are the primary caregivers for their grandchildren.

(b) EXPANDED CENSUS QUESTION.—In carrying out subsection (a), the Secretary of Commerce shall expand the Bureau's census question that details households which include both grandparents and their grandchildren. The expanded question shall be formulated to distinguish between the following households:

(1) A household in which a grandparent temporarily provides a home for a grandchild for a period of weeks or months during periods of parental distress.

(2) A household in which a grandparent provides a home for a grandchild and serves as the primary caregiver for the grandchild.

SEC. 106. REPORT ON DATA PROCESSING.

(a) IN GENERAL.—Within 6 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall prepare and submit to the Congress a report on—

(1) the status of the automated data processing systems operated by the States to assist management in the administration of State programs under part A of title IV of the Social Security Act (whether in effect before or after October 1, 1995); and

(2) what would be required to establish a system capable of—

(A) tracking participants in public programs over time; and

(B) checking case records of the States to determine whether individuals are participating in public programs of 2 or more States.

(b) PREFERRED CONTENTS.—The report required by subsection (a) should include—

(1) a plan for building on the automated data processing systems of the States to establish a system with the capabilities described in subsection (a)(2); and

(2) an estimate of the amount of time required to establish such a system and of the cost of establishing such a system.

42 USC 613 note.

SEC. 107. STUDY ON ALTERNATIVE OUTCOMES MEASURES.

(a) STUDY.—The Secretary shall, in cooperation with the States, study and analyze outcomes measures for evaluating the success of the States in moving individuals out of the welfare system through employment as an alternative to the minimum participation rates described in section 407 of the Social Security Act. The study shall include a determination as to whether such alternative outcomes measures should be applied on a national or a State-by-State basis and a preliminary assessment of the effects of section 409(a)(7)(C) of such Act.

(b) REPORT.—Not later than September 30, 1998, the Secretary shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report containing the findings of the study required by subsection (a).

SEC. 108. CONFORMING AMENDMENTS TO THE SOCIAL SECURITY ACT.

(a) AMENDMENTS TO TITLE II.—

(1) Section 205(c)(2)(C)(vi) (42 U.S.C. 405(c)(2)(C)(vi)), as so redesignated by section 321(a)(9)(B) of the Social Security Independence and Program Improvements Act of 1994, is amended—

(A) by inserting "an agency administering a program funded under part A of title IV or" before "an agency operating"; and

(B) by striking "A or D of title IV of this Act" and inserting "D of such title".

(2) Section 228(d)(1) (42 U.S.C. 428(d)(1)) is amended by inserting "under a State program funded under" before "part A of title IV".

(b) AMENDMENTS TO PART B OF TITLE IV.—Section 422(b)(2) (42 U.S.C. 622(b)(2)) is amended—

(1) by striking "plan approved under part A of this title" and inserting "program funded under part A"; and

(2) by striking "part E of this title" and inserting "under the State plan approved under part E".

(c) AMENDMENTS TO PART D OF TITLE IV.—

(1) Section 451 (42 U.S.C. 651) is amended by striking "aid" and inserting "assistance under a State program funded".

(2) Section 452(a)(10)(C) (42 U.S.C. 652(a)(10)(C)) is amended—

(A) by striking "aid to families with dependent children" and inserting "assistance under a State program funded under part A";

(B) by striking "such aid" and inserting "such assistance"; and

(C) by striking "under section 402(a)(26) or" and inserting "pursuant to section 408(a)(3) or under section".

(3) Section 452(a)(10)(F) (42 U.S.C. 652(a)(10)(F)) is amended—

(A) by striking "aid under a State plan approved" and inserting "assistance under a State program funded"; and

(B) by striking "in accordance with the standards referred to in section 402(a)(26)(B)(ii)" and inserting "by the State".

(4) Section 452(b) (42 U.S.C. 652(b)) is amended in the first sentence by striking "aid under the State plan approved under part A" and inserting "assistance under the State program funded under part A".

(5) Section 452(d)(3)(B)(i) (42 U.S.C. 652(d)(3)(B)(i)) is amended by striking "1115(c)" and inserting "1115(b)".

(6) Section 452(g)(2)(A)(ii)(I) (42 U.S.C. 652(g)(2)(A)(ii)(I)) is amended by striking "aid is being paid under the State's plan approved under part A or E" and inserting "assistance is being provided under the State program funded under part A".

(7) Section 452(g)(2)(A) (42 U.S.C. 652(g)(2)(A)) is amended in the matter following clause (iii) by striking "aid was being paid under the State's plan approved under part A or E" and inserting "assistance was being provided under the State program funded under part A".

(8) Section 452(g)(2) (42 U.S.C. 652(g)(2)) is amended in the matter following subparagraph (B)—

(A) by striking "who is a dependent child" and inserting "with respect to whom assistance is being provided under the State program funded under part A";

(B) by inserting "by the State" after "found"; and

(C) by striking "to have good cause for refusing to cooperate under section 402(a)(26)" and inserting "to qualify for a good cause or other exception to cooperation pursuant to section 454(29)".

(9) Section 452(h) (42 U.S.C. 652(h)) is amended by striking "under section 402(a)(26)" and inserting "pursuant to section 408(a)(3)".

(10) Section 453(c)(3) (42 U.S.C. 653(c)(3)) is amended by striking "aid under part A of this title" and inserting "assistance under a State program funded under part A".

(11) Section 454(5)(A) (42 U.S.C. 654(5)(A)) is amended—

(A) by striking "under section 402(a)(26)" and inserting "pursuant to section 408(a)(3)"; and

(B) by striking "; except that this paragraph shall not apply to such payments for any month following the first month in which the amount collected is sufficient to make such family ineligible for assistance under the State plan approved under part A;" and inserting a comma.

(12) Section 454(6)(D) (42 U.S.C. 654(6)(D)) is amended by striking "aid under a State plan approved" and inserting "assistance under a State program funded".

(13) Section 456(a)(1) (42 U.S.C. 656(a)(1)) is amended by striking "under section 402(a)(26)".

(14) Section 466(a)(3)(B) (42 U.S.C. 666(a)(3)(B)) is amended by striking "402(a)(26)" and inserting "408(a)(3)".

(15) Section 466(b)(2) (42 U.S.C. 666(b)(2)) is amended by striking "aid" and inserting "assistance under a State program funded".

(16) Section 469(a) (42 U.S.C. 669(a)) is amended—

(A) by striking "aid under plans approved" and inserting "assistance under State programs funded"; and

(B) by striking "such aid" and inserting "such assistance".

(d) AMENDMENTS TO PART E OF TITLE IV.—

(1) Section 470 (42 U.S.C. 670) is amended—

(A) by striking "would be" and inserting "would have been"; and

(B) by inserting "(as such plan was in effect on June 1, 1995)" after "part A".

(2) Section 471(a)(17) (42 U.S.C. 671(a)(17)) is amended by striking "plans approved under parts A and D" and inserting "program funded under part A and plan approved under part D".

(3) Section 472(a) (42 U.S.C. 672(a)) is amended—

(A) in the matter preceding paragraph (1)—

(i) by striking "would meet" and inserting "would have met";

(ii) by inserting "(as such sections were in effect on June 1, 1995)" after "407"; and

(iii) by inserting "(as so in effect)" after "406(a)"; and

(B) in paragraph (4)—

(i) in subparagraph (A)—

(I) by inserting "would have" after "(A)"; and

(II) by inserting "(as in effect on June 1, 1995)" after "section 402"; and

(ii) in subparagraph (B)(ii), by inserting "(as in effect on June 1, 1995)" after "406(a)".

(4) Section 472(h) (42 U.S.C. 672(h)) is amended to read as follows:

"(h)(1) For purposes of title XIX, any child with respect to whom foster care maintenance payments are made under this section is deemed to be a dependent child as defined in section 406 (as in effect as of June 1, 1995) and deemed to be a recipient

of aid to families with dependent children under part A of this title (as so in effect). For purposes of title XX, any child with respect to whom foster care maintenance payments are made under this section is deemed to be a minor child in a needy family under a State program funded under part A of this title and is deemed to be a recipient of assistance under such part.

"(2) For purposes of paragraph (1), a child whose costs in a foster family home or child care institution are covered by the foster care maintenance payments being made with respect to the child's minor parent, as provided in section 475(4)(B), shall be considered a child with respect to whom foster care maintenance payments are made under this section.".

(5) Section 473(a)(2) (42 U.S.C. 673(a)(2)) is amended—

(A) in subparagraph (A)(i)—

(i) by inserting "(as such sections were in effect on June 1, 1995)" after "407";

(ii) by inserting "(as so in effect)" after "specified in section 406(a)"; and

(iii) by inserting "(as such section was in effect on June 1, 1995)" after "403";

(B) in subparagraph (B)(i)—

(i) by inserting "would have" after "(B)(i)"; and

(ii) by inserting "(as in effect on June 1, 1995)" after "section 402"; and

(C) in subparagraph (B)(ii)(II), by inserting "(as in effect on June 1, 1995)" after "406(a)".

(6) Section 473(b) (42 U.S.C. 673(b)) is amended to read as follows:

"(b)(1) For purposes of title XIX, any child who is described in paragraph (3) is deemed to be a dependent child as defined in section 406 (as in effect as of June 1, 1995) and deemed to be a recipient of aid to families with dependent children under part A of this title (as so in effect) in the State where such child resides.

"(2) For purposes of title XX, any child who is described in paragraph (3) is deemed to be a minor child in a needy family under a State program funded under part A of this title and deemed to be a recipient of assistance under such part.

"(3) A child described in this paragraph is any child—

"(A)(i) who is a child described in subsection (a)(2), and

"(ii) with respect to whom an adoption assistance agreement is in effect under this section (whether or not adoption assistance payments are provided under the agreement or are being made under this section), including any such child who has been placed for adoption in accordance with applicable State and local law (whether or not an interlocutory or other judicial decree of adoption has been issued), or

"(B) with respect to whom foster care maintenance payments are being made under section 472.

"(4) For purposes of paragraphs (1) and (2), a child whose costs in a foster family home or child-care institution are covered by the foster care maintenance payments being made with respect to the child's minor parent, as provided in section 475(4)(B), shall be considered a child with respect to whom foster care maintenance payments are being made under section 472.".

(e) REPEAL OF PART F OF TITLE IV.—Part F of title IV (42 U.S.C. 681–687) is repealed.

(f) AMENDMENT TO TITLE X.—Section 1002(a)(7) (42 U.S.C. 1202(a)(7)) is amended by striking "aid to families with dependent children under the State plan approved under section 402 of this Act" and inserting "assistance under a State program funded under part A of title IV".

(g) AMENDMENTS TO TITLE XI.—

(1) Section 1109 (42 U.S.C. 1309) is amended by striking "or part A of title IV,".

(2) Section 1115 (42 U.S.C. 1315) is amended—

(A) in subsection (a)(2)—

(i) by inserting "(A)" after "(2)";

(ii) by striking "403,";

(iii) by striking the period at the end and inserting ", and"; and

(iv) by adding at the end the following new subparagraph:

"(B) costs of such project which would not otherwise be a permissible use of funds under part A of title IV and which are not included as part of the costs of projects under section 1110, shall to the extent and for the period prescribed by the Secretary, be regarded as a permissible use of funds under such part.";

(B) in subsection (c)(3), by striking "the program of aid to families with dependent children" and inserting "part A of such title"; and

(C) by striking subsection (b) and redesignating subsections (c) and (d) as subsections (b) and (c), respectively.

(3) Section 1116 (42 U.S.C. 1316) is amended—

(A) in each of subsections (a)(1), (b), and (d), by striking "or part A of title IV,"; and

(B) in subsection (a)(3), by striking "404,".

(4) Section 1118 (42 U.S.C. 1318) is amended—

(A) by striking "403(a),";

(B) by striking "and part A of title IV,"; and

(C) by striking ", and shall, in the case of American Samoa, mean 75 per centum with respect to part A of title IV".

(5) Section 1119 (42 U.S.C. 1319) is amended—

(A) by striking "or part A of title IV"; and

(B) by striking "403(a),".

(6) Section 1133(a) (42 U.S.C. 1320b–3(a)) is amended by striking "or part A of title IV,".

(7) Section 1136 (42 U.S.C. 1320b–6) is repealed.

(8) Section 1137 (42 U.S.C. 1320b–7) is amended—

(A) in subsection (b), by striking paragraph (1) and inserting the following:

"(1) any State program funded under part A of title IV of this Act;"; and

(B) in subsection (d)(1)(B)—

(i) by striking "In this subsection—" and all that follows through "(ii) in" and inserting "In this subsection, in";

(ii) by redesignating subclauses (I), (II), and (III) as clauses (i), (ii), and (iii); and

(iii) by moving such redesignated material 2 ems to the left.

(h) AMENDMENT TO TITLE XIV.—Section 1402(a)(7) (42 U.S.C. 1352(a)(7)) is amended by striking "aid to families with dependent children under the State plan approved under section 402 of this Act" and inserting "assistance under a State program funded under part A of title IV".

(i) AMENDMENT TO TITLE XVI AS IN EFFECT WITH RESPECT TO THE TERRITORIES.—Section 1602(a)(11), as in effect without regard to the amendment made by section 301 of the Social Security Amendments of 1972 (42 U.S.C. 1382 note), is amended by striking "aid under the State plan approved" and inserting "assistance under a State program funded".

(j) AMENDMENT TO TITLE XVI AS IN EFFECT WITH RESPECT TO THE STATES.—Section 1611(c)(5)(A) (42 U.S.C. 1382(c)(5)(A)) is amended to read as follows: "(A) a State program funded under part A of title IV,".

(k) AMENDMENT TO TITLE XIX.—Section 1902(j) (42 U.S.C. 1396a(j)) is amended by striking "1108(c)" and inserting "1108(f)".

SEC. 109. CONFORMING AMENDMENTS TO THE FOOD STAMP ACT OF 1977 AND RELATED PROVISIONS.

(a) Section 5 of the Food Stamp Act of 1977 (7 U.S.C. 2014) is amended—

(1) in the second sentence of subsection (a), by striking "plan approved" and all that follows through "title IV of the Social Security Act" and inserting "program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)";

(2) in subsection (d)—

(A) in paragraph (5), by striking "assistance to families with dependent children" and inserting "assistance under a State program funded"; and

(B) by striking paragraph (13) and redesignating paragraphs (14), (15), and (16) as paragraphs (13), (14), and (15), respectively;

(3) in subsection (j), by striking "plan approved under part A of title IV of such Act (42 U.S.C. 601 et seq.)" and inserting "program funded under part A of title IV of the Act (42 U.S.C. 601 et seq.)"; and

(4) by striking subsection (m).

(b) Section 6 of such Act (7 U.S.C. 2015) is amended—

(1) in subsection (c)(5), by striking "the State plan approved" and inserting "the State program funded"; and

(2) in subsection (e)(6), by striking "aid to families with dependent children" and inserting "benefits under a State program funded".

(c) Section 16(g)(4) of such Act (7 U.S.C. 2025(g)(4)) is amended by striking "State plans under the Aid to Families with Dependent Children Program under" and inserting "State programs funded under part A of".

(d) Section 17 of such Act (7 U.S.C. 2026) is amended—

(1) in the first sentence of subsection (b)(1)(A), by striking "to aid to families with dependent children under part A of title IV of the Social Security Act" and inserting "or are receiving assistance under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)"; and

(2) in subsection (b)(3), by adding at the end the following new subparagraph:

"(I) The Secretary may not grant a waiver under this paragraph on or after the date of enactment of this subparagraph. Any reference in this paragraph to a provision of title IV of the Social Security Act shall be deemed to be a reference to such provision as in effect on the day before such date.";

(e) Section 20 of such Act (7 U.S.C. 2029) is amended—

(1) in subsection (a)(2)(B) by striking "operating—" and all that follows through "(ii) any other" and inserting "operating any"; and

(2) in subsection (b)—

(A) in paragraph (1)—

(i) by striking "(b)(1) A household" and inserting "(b) A household"; and

(ii) in subparagraph (B), by striking "training program" and inserting "activity";

(B) by striking paragraph (2); and

(C) by redesignating subparagraphs (A) through (F) as paragraphs (1) through (6), respectively.

(f) Section 5(h)(1) of the Agriculture and Consumer Protection Act of 1973 (Public Law 93–186; 7 U.S.C. 612c note) is amended by striking "the program for aid to families with dependent children" and inserting "the State program funded".

(g) Section 9 of the National School Lunch Act (42 U.S.C. 1758) is amended—

(1) in subsection (b)—

(A) in paragraph (2)(C)(ii)(II)—

(i) by striking "program for aid to families with dependent children" and inserting "State program funded"; and

(ii) by inserting before the period at the end the following: "that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995"; and

(B) in paragraph (6)—

(i) in subparagraph (A)(ii)—

(I) by striking "an AFDC assistance unit (under the aid to families with dependent children program authorized" and inserting "a family (under the State program funded"; and

(II) by striking ", in a State" and all that follows through "9902(2)))" and inserting "that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995"; and

(ii) in subparagraph (B), by striking "aid to families with dependent children" and inserting "assistance under the State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable

to or more restrictive than those in effect on June 1, 1995"; and

(2) in subsection (d)(2)(C)—

(A) by striking "program for aid to families with dependent children" and inserting "State program funded"; and

(B) by inserting before the period at the end the following: "that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995".

(h) Section 17(d)(2)(A)(ii)(II) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(d)(2)(A)(ii)(II)) is amended—

(1) by striking "program for aid to families with dependent children established" and inserting "State program funded"; and

(2) by inserting before the semicolon the following: "that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995".

SEC. 110. CONFORMING AMENDMENTS TO OTHER LAWS.

(a) Subsection (b) of section 508 of the Unemployment Compensation Amendments of 1976 (42 U.S.C. 603a; Public Law 94–566; 90 Stat. 2689) is amended to read as follows:

"(b) PROVISION FOR REIMBURSEMENT OF EXPENSES.—For purposes of section 455 of the Social Security Act, expenses incurred to reimburse State employment offices for furnishing information requested of such offices—

"(1) pursuant to the third sentence of section 3(a) of the Act entitled 'An Act to provide for the establishment of a national employment system and for cooperation with the States in the promotion of such system, and for other purposes', approved June 6, 1933 (29 U.S.C. 49b(a)), or

"(2) by a State or local agency charged with the duty of carrying a State plan for child support approved under part D of title IV of the Social Security Act,

shall be considered to constitute expenses incurred in the administration of such State plan.".

(b) Section 9121 of the Omnibus Budget Reconciliation Act of 1987 (42 U.S.C. 602 note) is repealed.

(c) Section 9122 of the Omnibus Budget Reconciliation Act of 1987 (42 U.S.C. 602 note) is repealed.

(d) Section 221 of the Housing and Urban-Rural Recovery Act of 1983 (42 U.S.C. 602 note), relating to treatment under AFDC of certain rental payments for federally assisted housing, is repealed.

(e) Section 159 of the Tax Equity and Fiscal Responsibility Act of 1982 (42 U.S.C. 602 note) is repealed.

(f) Section 202(d) of the Social Security Amendments of 1967 (81 Stat. 882; 42 U.S.C. 602 note) is repealed.

(g) Section 903 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (42 U.S.C. 11381 note), relating to demonstration projects to reduce number of AFDC families in welfare hotels, is amended—

(1) in subsection (a), by striking "aid to families with dependent children under a State plan approved" and inserting "assistance under a State program funded"; and

(2) in subsection (c), by striking "aid to families with dependent children in the State under a State plan approved" and inserting "assistance in the State under a State program funded".

(h) The Higher Education Act of 1965 (20 U.S.C. 1001 et seq.) is amended—

(1) in section 404C(c)(3) (20 U.S.C. 1070a–23(c)(3)), by striking "(Aid to Families with Dependent Children)"; and

(2) in section 480(b)(2) (20 U.S.C. 1087vv(b)(2)), by striking "aid to families with dependent children under a State plan approved" and inserting "assistance under a State program funded".

(i) The Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.) is amended—

(1) in section 231(d)(3)(A)(ii) (20 U.S.C. 2341(d)(3)(A)(ii)), by striking "The program for aid to dependent children" and inserting "The State program funded";

(2) in section 232(b)(2)(B) (20 U.S.C. 2341a(b)(2)(B)), by striking "the program for aid to families with dependent children" and inserting "the State program funded"; and

(3) in section 521(14)(B)(iii) (20 U.S.C. 2471(14)(B)(iii)), by striking "the program for aid to families with dependent children" and inserting "the State program funded".

(j) The Elementary and Secondary Education Act of 1965 (20 U.S.C. 2701 et seq.) is amended—

(1) in section 1113(a)(5) (20 U.S.C. 6313(a)(5)), by striking "Aid to Families with Dependent Children program" and inserting "State program funded under part A of title IV of the Social Security Act";

(2) in section 1124(c)(5) (20 U.S.C. 6333(c)(5)), by striking "the program of aid to families with dependent children under a State plan approved under" and inserting "a State program funded under part A of"; and

(3) in section 5203(b)(2) (20 U.S.C. 7233(b)(2))—

(A) in subparagraph (A)(xi), by striking "Aid to Families with Dependent Children benefits" and inserting "assistance under a State program funded under part A of title IV of the Social Security Act"; and

(B) in subparagraph (B)(viii), by striking "Aid to Families with Dependent Children" and inserting "assistance under the State program funded under part A of title IV of the Social Security Act".

(k) The 4th proviso of chapter VII of title I of Public Law 99–88 (25 U.S.C. 13d–1) is amended to read as follows: "*Provided further,* That general assistance payments made by the Bureau of Indian Affairs shall be made—

"(1) after April 29, 1985, and before October 1, 1995, on the basis of Aid to Families with Dependent Children (AFDC) standards of need; and

"(2) on and after October 1, 1995, on the basis of standards of need established under the State program funded under part A of title IV of the Social Security Act,

except that where a State ratably reduces its AFDC or State program payments, the Bureau shall reduce general assistance pay-

ments in such State by the same percentage as the State has reduced the AFDC or State program payment.".

(l) The Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.) is amended—

(1) in section 51(d)(9) (26 U.S.C. 51(d)(9)), by striking all that follows "agency as" and inserting "being eligible for financial assistance under part A of title IV of the Social Security Act and as having continually received such financial assistance during the 90-day period which immediately precedes the date on which such individual is hired by the employer.";

(2) in section 3304(a)(16) (26 U.S.C. 3304(a)(16)), by striking "eligibility for aid or services," and all that follows through "children approved" and inserting "eligibility for assistance, or the amount of such assistance, under a State program funded";

(3) in section 6103(l)(7)(D)(i) (26 U.S.C. 6103(l)(7)(D)(i)), by striking "aid to families with dependent children provided under a State plan approved" and inserting "a State program funded";

(4) in section 6103(l)(10) (26 U.S.C. 6103(l)(10))—

(A) by striking "(c) or (d)" each place it appears and inserting "(c), (d), or (e)"; and

(B) by adding at the end of subparagraph (B) the following new sentence: "Any return information disclosed with respect to section 6402(e) shall only be disclosed to officers and employees of the State agency requesting such information.";

(5) in section 6103(p)(4) (26 U.S.C. 6103(p)(4)), in the matter preceding subparagraph (A)—

(A) by striking "(5), (10)" and inserting "(5)"; and

(B) by striking "(9), or (12)" and inserting "(9), (10), or (12)";

(6) in section 6334(a)(11)(A) (26 U.S.C. 6334(a)(11)(A)), by striking "(relating to aid to families with dependent children)";

(7) in section 6402 (26 U.S.C. 6402)—

(A) in subsection (a), by striking "(c) and (d)" and inserting "(c), (d), and (e)";

(B) by redesignating subsections (e) through (i) as subsections (f) through (j), respectively; and

(C) by inserting after subsection (d) the following:

"(e) COLLECTION OF OVERPAYMENTS UNDER TITLE IV–A OF THE SOCIAL SECURITY ACT.—The amount of any overpayment to be refunded to the person making the overpayment shall be reduced (after reductions pursuant to subsections (c) and (d), but before a credit against future liability for an internal revenue tax) in accordance with section 405(e) of the Social Security Act (concerning recovery of overpayments to individuals under State plans approved under part A of title IV of such Act).";

(8) in section 7523(b)(3)(C) (26 U.S.C. 7523(b)(3)(C)), by striking "aid to families with dependent children" and inserting "assistance under a State program funded under part A of title IV of the Social Security Act".

(m) Section 3(b) of the Wagner-Peyser Act (29 U.S.C. 49b(b)) is amended by striking "State plan approved under part A of title IV" and inserting "State program funded under part A of title IV".

(n) The Job Training Partnership Act (29 U.S.C. 1501 et seq.) is amended—

(1) in section 4(29)(A)(i) (29 U.S.C. 1503(29)(A)(i)), by striking "(42 U.S.C. 601 et seq.)";

(2) in section 106(b)(6)(C) (29 U.S.C. 1516(b)(6)(C)), by striking "State aid to families with dependent children records," and inserting "records collected under the State program funded under part A of title IV of the Social Security Act,";

(3) in section 121(b)(2) (29 U.S.C. 1531(b)(2))—

(A) by striking "the JOBS program" and inserting "the work activities required under title IV of the Social Security Act"; and

(B) by striking the second sentence;

(4) in section 123(c) (29 U.S.C. 1533(c))—

(A) in paragraph (1)(E), by repealing clause (vi); and

(B) in paragraph (2)(D), by repealing clause (v);

(5) in section 203(b)(3) (29 U.S.C. 1603(b)(3)), by striking ", including recipients under the JOBS program";

(6) in subparagraphs (A) and (B) of section 204(a)(1) (29 U.S.C. 1604(a)(1) (A) and (B)), by striking "(such as the JOBS program)" each place it appears;

(7) in section 205(a) (29 U.S.C. 1605(a)), by striking paragraph (4) and inserting the following:

"(4) the portions of title IV of the Social Security Act relating to work activities;";

(8) in section 253 (29 U.S.C. 1632)—

(A) in subsection (b)(2), by repealing subparagraph (C); and

(B) in paragraphs (1)(B) and (2)(B) of subsection (c), by striking "the JOBS program or" each place it appears;

(9) in section 264 (29 U.S.C. 1644)—

(A) in subparagraphs (A) and (B) of subsection (b)(1), by striking "(such as the JOBS program)" each place it appears; and

(B) in subparagraphs (A) and (B) of subsection (d)(3), by striking "and the JOBS program" each place it appears;

(10) in section 265(b) (29 U.S.C. 1645(b)), by striking paragraph (6) and inserting the following:

"(6) the portion of title IV of the Social Security Act relating to work activities;";

(11) in the second sentence of section 429(e) (29 U.S.C. 1699(e)), by striking "and shall be in an amount that does not exceed the maximum amount that may be provided by the State pursuant to section 402(g)(1)(C) of the Social Security Act (42 U.S.C. 602(g)(1)(C))";

(12) in section 454(c) (29 U.S.C. 1734(c)), by striking "JOBS and";

(13) in section 455(b) (29 U.S.C. 1735(b)), by striking "the JOBS program,";

(14) in section 501(1) (29 U.S.C. 1791(1)), by striking "aid to families with dependent children under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)" and inserting "assistance under the State program funded under part A of title IV of the Social Security Act";

(15) in section 506(1)(A) (29 U.S.C. 1791e(1)(A)), by striking "aid to families with dependent children" and inserting "assistance under the State program funded";

(16) in section 508(a)(2)(A) (29 U.S.C. 1791g(a)(2)(A)), by striking "aid to families with dependent children" and inserting "assistance under the State program funded"; and

(17) in section 701(b)(2)(A) (29 U.S.C. 1792(b)(2)(A))—

(A) in clause (v), by striking the semicolon and inserting "; and"; and

(B) by striking clause (vi).

(o) Section 3803(c)(2)(C)(iv) of title 31, United States Code, is amended to read as follows:

"(iv) assistance under a State program funded under part A of title IV of the Social Security Act;".

(p) Section 2605(b)(2)(A)(i) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8624(b)(2)(A)(i)) is amended to read as follows:

"(i) assistance under the State program funded under part A of title IV of the Social Security Act;".

(q) Section 303(f)(2) of the Family Support Act of 1988 (42 U.S.C. 602 note) is amended—

(1) by striking "(A)"; and

(2) by striking subparagraphs (B) and (C).

(r) The Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 900 et seq.) is amended—

(1) in the first section 255(h) (2 U.S.C. 905(h)), by striking "Aid to families with dependent children (75–0412–0–1–609);" and inserting "Block grants to States for temporary assistance for needy families;"; and

(2) in section 256 (2 U.S.C. 906)—

(A) by striking subsection (k); and

(B) by redesignating subsection (l) as subsection (k).

(s) The Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended—

(1) in section 210(f) (8 U.S.C. 1160(f)), by striking "aid under a State plan approved under" each place it appears and inserting "assistance under a State program funded under";

(2) in section 245A(h) (8 U.S.C. 1255a(h))—

(A) in paragraph (1)(A)(i), by striking "program of aid to families with dependent children" and inserting "State program of assistance"; and

(B) in paragraph (2)(B), by striking "aid to families with dependent children" and inserting "assistance under a State program funded under part A of title IV of the Social Security Act"; and

(3) in section 412(e)(4) (8 U.S.C. 1522(e)(4)), by striking "State plan approved" and inserting "State program funded".

(t) Section 640(a)(4)(B)(i) of the Head Start Act (42 U.S.C. 9835(a)(4)(B)(i)) is amended by striking "program of aid to families with dependent children under a State plan approved" and inserting "State program of assistance funded".

(u) Section 9 of the Act of April 19, 1950 (64 Stat. 47, chapter 92; 25 U.S.C. 639) is repealed.

(v) Subparagraph (E) of section 213(d)(6) of the School-To-Work Opportunities Act of 1994 (20 U.S.C. 6143(d)(6)) is amended to read as follows:

"(E) part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) relating to work activities;".

(w) Section 552a(a)(8)(B)(iv)(III) of title 5, United States Code, is amended by striking "section 464 or 1137 of the Social Security

Act" and inserting "section 404(e), 464, or 1137 of the Social Security Act".

42 USC 405 note.

SEC. 111. DEVELOPMENT OF PROTOTYPE OF COUNTERFEIT-RESISTANT SOCIAL SECURITY CARD REQUIRED.

(a) DEVELOPMENT.—

(1) IN GENERAL.—The Commissioner of Social Security (in this section referred to as the "Commissioner") shall, in accordance with this section, develop a prototype of a counterfeit-resistant social security card. Such prototype card shall—

(A) be made of a durable, tamper-resistant material such as plastic or polyester,

(B) employ technologies that provide security features, such as magnetic stripes, holograms, and integrated circuits, and

(C) be developed so as to provide individuals with reliable proof of citizenship or legal resident alien status.

(2) ASSISTANCE BY ATTORNEY GENERAL.—The Attorney General of the United States shall provide such information and assistance as the Commissioner deems necessary to enable the Commissioner to comply with this section.

(b) STUDY AND REPORT.—

(1) IN GENERAL.—The Commissioner shall conduct a study and issue a report to Congress which examines different methods of improving the social security card application process.

(2) ELEMENTS OF STUDY.—The study shall include an evaluation of the cost and work load implications of issuing a counterfeit-resistant social security card for all individuals over a 3-, 5-, and 10-year period. The study shall also evaluate the feasibility and cost implications of imposing a user fee for replacement cards and cards issued to individuals who apply for such a card prior to the scheduled 3-, 5-, and 10-year phase-in options.

(3) DISTRIBUTION OF REPORT.—The Commissioner shall submit copies of the report described in this subsection along with a facsimile of the prototype card as described in subsection (a) to the Committees on Ways and Means and Judiciary of the House of Representatives and the Committees on Finance and Judiciary of the Senate within 1 year after the date of the enactment of this Act.

SEC. 112. MODIFICATIONS TO THE JOB OPPORTUNITIES FOR CERTAIN LOW-INCOME INDIVIDUALS PROGRAM.

Section 505 of the Family Support Act of 1988 (42 U.S.C. 1315 note) is amended—

(1) in the heading, by striking "DEMONSTRATION";

(2) by striking "demonstration" each place such term appears;

(3) in subsection (a), by striking "in each of fiscal years" and all that follows through "10" and inserting "shall enter into agreements with";

(4) in subsection (b)(3), by striking "aid to families with dependent children under part A of title IV of the Social Security Act" and inserting "assistance under the program funded part A of title IV of the Social Security Act of the State in which the individual resides";

(5) in subsection (c)—

(A) in paragraph (1)(C), by striking "aid to families with dependent children under title IV of the Social Security Act" and inserting "assistance under a State program funded part A of title IV of the Social Security Act";

(B) in paragraph (2), by striking "aid to families with dependent children under title IV of such Act" and inserting "assistance under a State program funded part A of title IV of the Social Security Act";

(6) in subsection (d), by striking "job opportunities and basic skills training program (as provided for under title IV of the Social Security Act)" and inserting "the State program funded under part A of title IV of the Social Security Act"; and

(7) by striking subsections (e) through (g) and inserting the following:

"(e) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of conducting projects under this section, there is authorized to be appropriated an amount not to exceed $25,000,000 for any fiscal year.".

SEC. 113. SECRETARIAL SUBMISSION OF LEGISLATIVE PROPOSAL FOR TECHNICAL AND CONFORMING AMENDMENTS.

Not later than 90 days after the date of the enactment of this Act, the Secretary of Health and Human Services and the Commissioner of Social Security, in consultation, as appropriate, with the heads of other Federal agencies, shall submit to the appropriate committees of Congress a legislative proposal proposing such technical and conforming amendments as are necessary to bring the law into conformity with the policy embodied in this title.

SEC. 114. ASSURING MEDICAID COVERAGE FOR LOW-INCOME FAMILIES.

(a) IN GENERAL.—Title XIX is amended—

(1) by redesignating section 1931 as section 1932; and 42 USC 1396v.

(2) by inserting after section 1930 the following new section:

"ASSURING COVERAGE FOR CERTAIN LOW-INCOME FAMILIES

"SEC. 1931. (a) REFERENCES TO TITLE IV–A ARE REFERENCES TO PRE-WELFARE-REFORM PROVISIONS.—Subject to the succeeding provisions of this section, with respect to a State any reference in this title (or any other provision of law in relation to the operation of this title) to a provision of part A of title IV, or a State plan under such part (or a provision of such a plan), including income and resource standards and income and resource methodologies under such part or plan, shall be considered a reference to such a provision or plan as in effect as of July 16, 1996, with respect to the State. 42 USC 1396u–1.

"(b) APPLICATION OF PRE-WELFARE-REFORM ELIGIBILITY CRITERIA.—

"(1) IN GENERAL.—For purposes of this title, subject to paragraphs (2) and (3), in determining eligibility for medical assistance—

"(A) an individual shall be treated as receiving aid or assistance under a State plan approved under part A of title IV only if the individual meets—

"(i) the income and resource standards for determining eligibility under such plan, and

"(ii) the eligibility requirements of such plan under subsections (a) through (c) of section 406 and section 407(a),

as in effect as of July 16, 1996; and

"(B) the income and resource methodologies under such plan as of such date shall be used in the determination of whether any individual meets income and resource standards under such plan.

"(2) STATE OPTION.—For purposes of applying this section, a State—

"(A) may lower its income standards applicable with respect to part A of title IV, but not below the income standards applicable under its State plan under such part on May 1, 1988;

"(B) may increase income or resource standards under the State plan referred to in paragraph (1) over a period (beginning after July 16, 1996) by a percentage that does not exceed the percentage increase in the Consumer Price Index for all urban consumers (all items; United States city average) over such period; and

"(C) may use income and resource methodologies that are less restrictive than the methodologies used under the State plan under such part as of July 16, 1996.

"(3) OPTION TO TERMINATE MEDICAL ASSISTANCE FOR FAILURE TO MEET WORK REQUIREMENT.—

"(A) INDIVIDUALS RECEIVING CASH ASSISTANCE UNDER TANF.—In the case of an individual who—

"(i) is receiving cash assistance under a State program funded under part A of title IV,

"(ii) is eligible for medical assistance under this title on a basis not related to section 1902(l), and

"(iii) has the cash assistance under such program terminated pursuant to section 407(e)(1)(B) (as in effect on or after the welfare reform effective date) because of refusing to work,

the State may terminate such individual's eligibility for medical assistance under this title until such time as there no longer is a basis for the termination of such cash assistance because of such refusal.

"(B) EXCEPTION FOR CHILDREN.—Subparagraph (A) shall not be construed as permitting a State to terminate medical assistance for a minor child who is not the head of a household receiving assistance under a State program funded under part A of title IV.

"(c) TREATMENT FOR PURPOSES OF TRANSITIONAL COVERAGE PROVISIONS.—

"(1) TRANSITION IN THE CASE OF CHILD SUPPORT COLLECTIONS.—The provisions of section 406(h) (as in effect on July 16, 1996) shall apply, in relation to this title, with respect to individuals (and families composed of individuals) who are described in subsection (b)(1)(A), in the same manner as they applied before such date with respect to individuals who became ineligible for aid to families with dependent children as a result (wholly or partly) of the collection of child or spousal support under part D of title IV.

"(2) TRANSITION IN THE CASE OF EARNINGS FROM EMPLOYMENT.—For continued medical assistance in the case of individuals (and families composed of individuals) described in subsection (b)(1)(A) who would otherwise become ineligible because of hours or income from employment, see sections 1925 and 1902(e)(1).

"(d) WAIVERS.—In the case of a waiver of a provision of part A of title IV in effect with respect to a State as of July 16, 1996, or which is submitted to the Secretary before the date of the enactment of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 and approved by the Secretary on or before July 1, 1997, if the waiver affects eligibility of individuals for medical assistance under this title, such waiver may (but need not) continue to be applied, at the option of the State, in relation to this title after the date the waiver would otherwise expire.

"(e) STATE OPTION TO USE 1 APPLICATION FORM.—Nothing in this section, or part A of title IV, shall be construed as preventing a State from providing for the same application form for assistance under a State program funded under part A of title IV (on or after the welfare reform effective date) and for medical assistance under this title.

"(f) ADDITIONAL RULES OF CONSTRUCTION.—

"(1) With respect to the reference in section 1902(a)(5) to a State plan approved under part A of title IV, a State may treat such reference as a reference either to a State program funded under such part (as in effect on and after the welfare reform effective date) or to the State plan under this title.

"(2) Any reference in section 1902(a)(55) to a State plan approved under part A of title IV shall be deemed a reference to a State program funded under such part.

"(3) In applying section 1903(f), the applicable income limitation otherwise determined shall be subject to increase in the same manner as income or resource standards of a State may be increased under subsection (b)(2)(B).

"(g) RELATION TO OTHER PROVISIONS.—The provisions of this section shall apply notwithstanding any other provision of this Act.

"(h) TRANSITIONAL INCREASED FEDERAL MATCHING RATE FOR INCREASED ADMINISTRATIVE COSTS.—

"(1) IN GENERAL.—Subject to the succeeding provisions of this subsection, the Secretary shall provide that with respect to administrative expenditures described in paragraph (2) the per centum specified in section 1903(a)(7) shall be increased to such percentage as the Secretary specifies.

"(2) ADMINISTRATIVE EXPENDITURES DESCRIBED.—The administrative expenditures described in this paragraph are expenditures described in section 1903(a)(7) that a State demonstrates to the satisfaction of the Secretary are attributable to administrative costs of eligibility determinations that (but for the enactment of this section) would not be incurred.

"(3) LIMITATION.—The total amount of additional Federal funds that are expended as a result of the application of this subsection for the period beginning with fiscal year 1997 and ending with fiscal year 2000 shall not exceed $500,000,000. In applying this paragraph, the Secretary shall ensure the equitable distribution of additional funds among the States.

"(4) TIME LIMITATION.—This subsection shall only apply with respect to a State for expenditures incurred during the first 12 calendar quarters in which the State program funded under part A of title IV (as in effect on and after the welfare reform effective date) is in effect.

"(i) WELFARE REFORM EFFECTIVE DATE.—In this section, the term 'welfare reform effective date' means the effective date, with respect to a State, of title I of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (as specified in section 116 of such Act).".

(b) PLAN AMENDMENT.—Section 1902(a) (42 U.S.C. 1396a(a)) is amended—

(1) by striking "and" at the end of paragraph (61),

(2) by striking the period at the end of paragraph (62) and inserting "; and", and

(3) by inserting after paragraph (62) the following new paragraph:

"(63) provide for administration and determinations of eligibility with respect to individuals who are (or seek to be) eligible for medical assistance based on the application of section 1931.".

(c) EXTENSION OF WORK TRANSITION PROVISIONS.—Sections 1902(e)(1)(B) and 1925(f) (42 U.S.C. 1396a(e)(1)(B), 1396r–6(f)) are each amended by striking "1998" and inserting "2001".

(d) ELIMINATION OF REQUIREMENT OF MINIMUM AFDC PAYMENT LEVELS.—(1) Section 1902(c) (42 U.S.C. 1396a(c)) is amended by striking "if—" and all that follows and inserting the following: "if the State requires individuals described in subsection (l)(1) to apply for assistance under the State program funded under part A of title IV as a condition of applying for or receiving medical assistance under this title.".

(2) Section 1903(i) (42 U.S.C. 1396b(i)) is amended by striking paragraph (9).

42 USC 862a.

SEC. 115. DENIAL OF ASSISTANCE AND BENEFITS FOR CERTAIN DRUG-RELATED CONVICTIONS.

(a) IN GENERAL.—An individual convicted (under Federal or State law) of any offense which is classified as a felony by the law of the jurisdiction involved and which has as an element the possession, use, or distribution of a controlled substance (as defined in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6))) shall not be eligible for—

(1) assistance under any State program funded under part A of title IV of the Social Security Act, or

(2) benefits under the food stamp program (as defined in section 3(h) of the Food Stamp Act of 1977) or any State program carried out under the Food Stamp Act of 1977.

(b) EFFECTS ON ASSISTANCE AND BENEFITS FOR OTHERS.—

(1) PROGRAM OF TEMPORARY ASSISTANCE FOR NEEDY FAMILIES.—The amount of assistance otherwise required to be provided under a State program funded under part A of title IV of the Social Security Act to the family members of an individual to whom subsection (a) applies shall be reduced by the amount which would have otherwise been made available to the individual under such part.

(2) BENEFITS UNDER THE FOOD STAMP ACT OF 1977.—The amount of benefits otherwise required to be provided to a household under the food stamp program (as defined in section

3(h) of the Food Stamp Act of 1977), or any State program carried out under the Food Stamp Act of 1977, shall be determined by considering the individual to whom subsection (a) applies not to be a member of such household, except that the income and resources of the individual shall be considered to be income and resources of the household.

(c) ENFORCEMENT.—A State that has not exercised its authority under subsection (d)(1)(A) shall require each individual applying for assistance or benefits referred to in subsection (a), during the application process, to state, in writing, whether the individual, or any member of the household of the individual, has been convicted of a crime described in subsection (a).

(d) LIMITATIONS.—

(1) STATE ELECTIONS.—

(A) OPT OUT.—A State may, by specific reference in a law enacted after the date of the enactment of this Act, exempt any or all individuals domiciled in the State from the application of subsection (a).

(B) LIMIT PERIOD OF PROHIBITION.—A State may, by law enacted after the date of the enactment of this Act, limit the period for which subsection (a) shall apply to any or all individuals domiciled in the State.

(2) INAPPLICABILITY TO CONVICTIONS OCCURRING ON OR BEFORE ENACTMENT.—Subsection (a) shall not apply to convictions occurring on or before the date of the enactment of this Act.

(e) DEFINITIONS OF STATE.—For purposes of this section, the term "State" has the meaning given it—

(1) in section 419(5) of the Social Security Act, when referring to assistance provided under a State program funded under part A of title IV of the Social Security Act, and

(2) in section 3(m) of the Food Stamp Act of 1977, when referring to the food stamp program (as defined in section 3(h) of the Food Stamp Act of 1977) or any State program carried out under the Food Stamp Act of 1977.

(f) RULE OF INTERPRETATION.—Nothing in this section shall be construed to deny the following Federal benefits:

(1) Emergency medical services under title XIX of the Social Security Act.

(2) Short-term, noncash, in-kind emergency disaster relief.

(3)(A) Public health assistance for immunizations.

(B) Public health assistance for testing and treatment of communicable diseases if the Secretary of Health and Human Services determines that it is necessary to prevent the spread of such disease.

(4) Prenatal care.

(5) Job training programs.

(6) Drug treatment programs.

SEC. 116. EFFECTIVE DATE; TRANSITION RULE. 42 USC 601 note.

(a) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this title, this title and the amendments made by this title shall take effect on July 1, 1997.

(2) DELAYED EFFECTIVE DATE FOR CERTAIN PROVISIONS.—Notwithstanding any other provision of this section, paragraphs (2), (3), (4), (5), (8), and (10) of section 409(a) and section

411(a) of the Social Security Act (as added by the amendments made by section 103(a) of this Act) shall not take effect with respect to a State until, and shall apply only with respect to conduct that occurs on or after, the later of—

(A) July 1, 1997; or

(B) the date that is 6 months after the date the Secretary of Health and Human Services receives from the State a plan described in section 402(a) of the Social Security Act (as added by such amendment).

(3) GRANTS TO OUTLYING AREAS.—The amendments made by section 103(b) shall take effect on October 1, 1996.

(4) ELIMINATION OF CHILD CARE PROGRAMS.—The amendments made by section 103(c) shall take effect on October 1, 1996.

(5) DEFINITIONS APPLICABLE TO NEW CHILD CARE ENTITLEMENT.—Sections 403(a)(1)(C), 403(a)(1)(D), and 419(4) of the Social Security Act, as added by the amendments made by section 103(a) of this Act, shall take effect on October 1, 1996.

(b) TRANSITION RULES.—Effective on the date of the enactment of this Act:

(1) STATE OPTION TO ACCELERATE EFFECTIVE DATE.—

(A) IN GENERAL.—If the Secretary of Health and Human Services receives from a State a plan described in section 402(a) of the Social Security Act (as added by the amendment made by section 103(a)(1) of this Act), then—

(i) on and after the date of such receipt—

(I) except as provided in clause (ii), this title and the amendments made by this title (other than by section 103(c) of this Act) shall apply with respect to the State; and

(II) the State shall be considered an eligible State for purposes of part A of title IV of the Social Security Act (as in effect pursuant to the amendments made by such section 103(a)); and

(ii) during the period that begins on the date of such receipt and ends on June 30, 1997, there shall remain in effect with respect to the State—

(I) section 403(h) of the Social Security Act (as in effect on September 30, 1995); and

(II) all State reporting requirements under parts A and F of title IV of the Social Security Act (as in effect on September 30, 1995), modified by the Secretary as appropriate, taking into account the State program under part A of title IV of the Social Security Act (as in effect pursuant to the amendments made by such section 103(a)).

(B) LIMITATIONS ON FEDERAL OBLIGATIONS.—

(i) UNDER AFDC PROGRAM.—The total obligations of the Federal Government to a State under part A of title IV of the Social Security Act (as in effect on September 30, 1995) with respect to expenditures in fiscal year 1997 shall not exceed an amount equal to the State family assistance grant.

(ii) UNDER TEMPORARY FAMILY ASSISTANCE PROGRAM.—Notwithstanding section 403(a)(1) of the Social Security Act (as in effect pursuant to the amendments

made by section 103(a) of this Act), the total obligations of the Federal Government to a State under such section 403(a)(1)—

(I) for fiscal year 1996, shall be an amount equal to—

(aa) the State family assistance grant; multiplied by

(bb) 1/366 of the number of days during the period that begins on the date the Secretary of Health and Human Services first receives from the State a plan described in section 402(a) of the Social Security Act (as added by the amendment made by section 103(a)(1) of this Act) and ends on September 30, 1996; and

(II) for fiscal year 1997, shall be an amount equal to the lesser of—

(aa) the amount (if any) by which the State family assistance grant exceeds the total obligations of the Federal Government to the State under part A of title IV of the Social Security Act (as in effect on September 30, 1995) with respect to expenditures in fiscal year 1997; or

(bb) the State family assistance grant, multiplied by 1/365 of the number of days during the period that begins on October 1, 1996, or the date the Secretary of Health and Human Services first receives from the State a plan described in section 402(a) of the Social Security Act (as added by the amendment made by section 103(a)(1) of this Act), whichever is later, and ends on September 30, 1997.

(iii) CHILD CARE OBLIGATIONS EXCLUDED IN DETERMINING FEDERAL AFDC OBLIGATIONS.—As used in this subparagraph, the term "obligations of the Federal Government to the State under part A of title IV of the Social Security Act" does not include any obligation of the Federal Government with respect to child care expenditures by the State.

(C) SUBMISSION OF STATE PLAN FOR FISCAL YEAR 1996 OR 1997 DEEMED ACCEPTANCE OF GRANT LIMITATIONS AND FORMULA AND TERMINATION OF AFDC ENTITLEMENT.—The submission of a plan by a State pursuant to subparagraph (A) is deemed to constitute—

(i) the State's acceptance of the grant reductions under subparagraph (B) (including the formula for computing the amount of the reduction); and

(ii) the termination of any entitlement of any individual or family to benefits or services under the State AFDC program.

(D) DEFINITIONS.—As used in this paragraph:

(i) STATE AFDC PROGRAM.—The term "State AFDC program" means the State program under parts A and F of title IV of the Social Security Act (as in effect on September 30, 1995).

(ii) STATE.—The term "State" means the 50 States and the District of Columbia.

(iii) STATE FAMILY ASSISTANCE GRANT.—The term "State family assistance grant" means the State family assistance grant (as defined in section 403(a)(1)(B) of the Social Security Act, as added by the amendment made by section 103(a)(1) of this Act).

(2) CLAIMS, ACTIONS, AND PROCEEDINGS.—The amendments made by this title shall not apply with respect to—

(A) powers, duties, functions, rights, claims, penalties, or obligations applicable to aid, assistance, or services provided before the effective date of this title under the provisions amended; and

(B) administrative actions and proceedings commenced before such date, or authorized before such date to be commenced, under such provisions.

(3) CLOSING OUT ACCOUNT FOR THOSE PROGRAMS TERMINATED OR SUBSTANTIALLY MODIFIED BY THIS TITLE.—In closing out accounts, Federal and State officials may use scientifically acceptable statistical sampling techniques. Claims made with respect to State expenditures under a State plan approved under part A of title IV of the Social Security Act (as in effect on September 30, 1995) with respect to assistance or services provided on or before September 30, 1995, shall be treated as claims with respect to expenditures during fiscal year 1995 for purposes of reimbursement even if payment was made by a State on or after October 1, 1995. Each State shall complete the filing of all claims under the State plan (as so in effect) within 2 years after the date of the enactment of this Act. The head of each Federal department shall—

(A) use the single audit procedure to review and resolve any claims in connection with the close out of programs under such State plans; and

(B) reimburse States for any payments made for assistance or services provided during a prior fiscal year from funds for fiscal year 1995, rather than from funds authorized by this title.

(4) CONTINUANCE IN OFFICE OF ASSISTANT SECRETARY FOR FAMILY SUPPORT.—The individual who, on the day before the effective date of this title, is serving as Assistant Secretary for Family Support within the Department of Health and Human Services shall, until a successor is appointed to such position—

(A) continue to serve in such position; and

(B) except as otherwise provided by law—

(i) continue to perform the functions of the Assistant Secretary for Family Support under section 417 of the Social Security Act (as in effect before such effective date); and

(ii) have the powers and duties of the Assistant Secretary for Family Support under section 416 of the Social Security Act (as in effect pursuant to the amendment made by section 103(a)(1) of this Act).

(c) TERMINATION OF ENTITLEMENT UNDER AFDC PROGRAM.—Effective October 1, 1996, no individual or family shall be entitled to any benefits or services under any State plan approved under

part A or F of title IV of the Social Security Act (as in effect on September 30, 1995).

TITLE II—SUPPLEMENTAL SECURITY INCOME

SEC. 200. REFERENCE TO SOCIAL SECURITY ACT.

Except as otherwise specifically provided, wherever in this title an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

Subtitle A—Eligibility Restrictions

SEC. 201. DENIAL OF SSI BENEFITS FOR 10 YEARS TO INDIVIDUALS FOUND TO HAVE FRAUDULENTLY MISREPRESENTED RESIDENCE IN ORDER TO OBTAIN BENEFITS SIMULTANEOUSLY IN 2 OR MORE STATES.

(a) IN GENERAL.—Section 1611(e) (42 U.S.C. 1382(e)), as amended by section 105(b)(4)(A) of the Contract with America Advancement Act of 1996, is amended by redesignating paragraph (5) as paragraph (3) and by adding at the end the following new paragraph:

"(4)(A) No person shall be considered an eligible individual or eligible spouse for purposes of this title during the 10-year period that begins on the date the person is convicted in Federal or State court of having made a fraudulent statement or representation with respect to the place of residence of the person in order to receive assistance simultaneously from 2 or more States under programs that are funded under title IV, title XIX, or the Food Stamp Act of 1977, or benefits in 2 or more States under the supplemental security income program under this title.

"(B) As soon as practicable after the conviction of a person in a Federal or State court as described in subparagraph (A), an official of such court shall notify the Commissioner of such conviction.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act. 42 USC 1382 note.

SEC. 202. DENIAL OF SSI BENEFITS FOR FUGITIVE FELONS AND PROBATION AND PAROLE VIOLATORS.

(a) IN GENERAL.—Section 1611(e) (42 U.S.C. 1382(e)), as amended by section 201(a) of this Act, is amended by adding at the end the following new paragraph:

"(5) No person shall be considered an eligible individual or eligible spouse for purposes of this title with respect to any month if during such month the person is—

"(A) fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the person flees, for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which the person flees, or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State; or

"(B) violating a condition of probation or parole imposed under Federal or State law.".

(b) EXCHANGE OF INFORMATION.—Section 1611(e) (42 U.S.C. 1382(e)), as amended by section 201(a) of this Act and subsection (a) of this section, is amended by adding at the end the following new paragraph:

"(6) Notwithstanding any other provision of law (other than section 6103 of the Internal Revenue Code of 1986), the Commissioner shall furnish any Federal, State, or local law enforcement officer, upon the written request of the officer, with the current address, Social Security number, and photograph (if applicable) of any recipient of benefits under this title, if the officer furnishes the Commissioner with the name of the recipient, and other identifying information as reasonably required by the Commissioner to establish the unique identity of the recipient, and notifies the Commissioner that—

"(A) the recipient—

"(i) is described in subparagraph (A) or (B) of paragraph (5); and

"(ii) has information that is necessary for the officer to conduct the officer's official duties; and

"(B) the location or apprehension of the recipient is within the officer's official duties.".

42 USC 1382 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 203. TREATMENT OF PRISONERS.

(a) IMPLEMENTATION OF PROHIBITION AGAINST PAYMENT OF BENEFITS TO PRISONERS.—

(1) IN GENERAL.—Section 1611(e)(1) (42 U.S.C. 1382(e)(1)) is amended by adding at the end the following new subparagraph:

Contracts.

"(I)(i) The Commissioner shall enter into an agreement, with any interested State or local institution described in clause (i) or (ii) of section 202(x)(1)(A) the primary purpose of which is to confine individuals as described in section 202(x)(1)(A), under which—

"(I) the institution shall provide to the Commissioner, on a monthly basis and in a manner specified by the Commissioner, the names, social security account numbers, dates of birth, confinement commencement dates, and, to the extent available to the institution, such other identifying information concerning the inmates of the institution as the Commissioner may require for the purpose of carrying out paragraph (1); and

"(II) the Commissioner shall pay to any such institution, with respect to each inmate of the institution who is eligible for a benefit under this title for the month preceding the first month throughout which such inmate is in such institution and becomes ineligible for such benefit as a result of the application of this subparagraph, $400 if the institution furnishes the information described in subclause (I) to the Commissioner within 30 days after the date such individual becomes an inmate of such institution, or $200 if the institution furnishes such information after 30 days after such date but within 90 days after such date.

"(ii)(I) The provisions of section 552a of title 5, United States Code, shall not apply to any agreement entered into under clause (i) or to information exchanged pursuant to such agreement.

"(II) The Commissioner is authorized to provide, on a reimbursable basis, information obtained pursuant to agreements entered into under clause (i) to any Federal or federally-assisted cash, food, or medical assistance program for eligibility purposes.

"(iii) Payments to institutions required by clause (i)(II) shall be made from funds otherwise available for the payment of benefits under this title and shall be treated as direct spending for purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to individuals whose period of confinement in an institution commences on or after the first day of the seventh month beginning after the month in which this Act is enacted. 42 USC 1382 note.

(b) STUDY OF OTHER POTENTIAL IMPROVEMENTS IN THE COLLECTION OF INFORMATION RESPECTING PUBLIC INMATES.— 42 USC 1382 note.

(1) STUDY.—The Commissioner of Social Security shall conduct a study of the desirability, feasibility, and cost of—

(A) establishing a system under which Federal, State, and local courts would furnish to the Commissioner such information respecting court orders by which individuals are confined in jails, prisons, or other public penal, correctional, or medical facilities as the Commissioner may require for the purpose of carrying out section 1611(e)(1) of the Social Security Act; and

(B) requiring that State and local jails, prisons, and other institutions that enter into agreements with the Commissioner under section 1611(e)(1)(I) of the Social Security Act furnish the information required by such agreements to the Commissioner by means of an electronic or other sophisticated data exchange system.

(2) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Commissioner of Social Security shall submit a report on the results of the study conducted pursuant to this subsection to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

(c) ADDITIONAL REPORT TO CONGRESS.—Not later than October 1, 1998, the Commissioner of Social Security shall provide to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a list of the institutions that are and are not providing information to the Commissioner under section 1611(e)(1)(I) of the Social Security Act (as added by this section). 42 USC 1382 note.

SEC. 204. EFFECTIVE DATE OF APPLICATION FOR BENEFITS.

(a) IN GENERAL.—Subparagraphs (A) and (B) of section 1611(c)(7) (42 U.S.C. 1382(c)(7)) are amended to read as follows:

"(A) the first day of the month following the date such application is filed, or

"(B) the first day of the month following the date such individual becomes eligible for such benefits with respect to such application.".

(b) SPECIAL RULE RELATING TO EMERGENCY ADVANCE PAYMENTS.—Section 1631(a)(4)(A) (42 U.S.C. 1383(a)(4)(A)) is amended—

(1) by inserting "for the month following the date the application is filed" after "is presumptively eligible for such benefits"; and

(2) by inserting ", which shall be repaid through proportionate reductions in such benefits over a period of not more than 6 months" before the semicolon.

(c) CONFORMING AMENDMENTS.—

(1) Section 1614(b) (42 U.S.C. 1382c(b)) is amended—

(A) by striking "or requests" and inserting ", on the first day of the month following the date the application is filed, or, in any case in which either spouse requests"; and

(B) by striking "application or".

42 USC 1383. (2) Section 1631(g)(3) (42 U.S.C. 1382j(g)(3)) is amended by inserting "following the month" after "beginning with the month".

42 USC 1382 note. (d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to applications for benefits under title XVI of the Social Security Act filed on or after the date of the enactment of this Act, without regard to whether regulations have been issued to implement such amendments.

(2) BENEFITS UNDER TITLE XVI.—For purposes of this subsection, the term "benefits under title XVI of the Social Security Act" includes supplementary payments pursuant to an agreement for Federal administration under section 1616(a) of the Social Security Act, and payments pursuant to an agreement entered into under section 212(b) of Public Law 93–66.

Subtitle B—Benefits for Disabled Children

SEC. 211. DEFINITION AND ELIGIBILITY RULES.

(a) DEFINITION OF CHILDHOOD DISABILITY.—Section 1614(a)(3) (42 U.S.C. 1382c(a)(3)), as amended by section 105(b)(1) of the Contract with America Advancement Act of 1996, is amended—

(1) in subparagraph (A), by striking "An individual" and inserting "Except as provided in subparagraph (C), an individual";

(2) in subparagraph (A), by striking "(or, in the case of an individual under the age of 18, if he suffers from any medically determinable physical or mental impairment of comparable severity)";

(3) by redesignating subparagraphs (C) through (I) as subparagraphs (D) through (J), respectively;

(4) by inserting after subparagraph (B) the following new subparagraph:

"(C)(i) An individual under the age of 18 shall be considered disabled for the purposes of this title if that individual has a medically determinable physical or mental impairment, which results in marked and severe functional limitations, and which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months.

"(ii) Notwithstanding clause (i), no individual under the age of 18 who engages in substantial gainful activity (determined in accordance with regulations prescribed pursuant to subparagraph (E)) may be considered to be disabled."; and

(5) in subparagraph (F), as redesignated by paragraph (3), by striking "(D)" and inserting "(E)".

(b) CHANGES TO CHILDHOOD SSI REGULATIONS.—

(1) MODIFICATION TO MEDICAL CRITERIA FOR EVALUATION OF MENTAL AND EMOTIONAL DISORDERS.—The Commissioner of Social Security shall modify sections 112.00C.2. and 112.02B.2.c.(2) of appendix 1 to subpart P of part 404 of title 20, Code of Federal Regulations, to eliminate references to maladaptive behavior in the domain of personal/behavorial function.

(2) DISCONTINUANCE OF INDIVIDUALIZED FUNCTIONAL ASSESSMENT.—The Commissioner of Social Security shall discontinue the individualized functional assessment for children set forth in sections 416.924d and 416.924e of title 20, Code of Federal Regulations.

(c) MEDICAL IMPROVEMENT REVIEW STANDARD AS IT APPLIES TO INDIVIDUALS UNDER THE AGE OF 18.—Section 1614(a)(4) (42 U.S.C. 1382(a)(4)) is amended— 42 USC 1382c.

(1) by redesignating subclauses (I) and (II) of clauses (i) and (ii) of subparagraph (B) as items (aa) and (bb), respectively;

(2) by redesignating clauses (i) and (ii) of subparagraphs (A) and (B) as subclauses (I) and (II), respectively;

(3) by redesignating subparagraphs (A) through (C) as clauses (i) through (iii), respectively;

(4) by inserting before clause (i) (as redesignated by paragraph (3)) the following new subparagraph:

"(A) in the case of an individual who is age 18 or older—";

(5) by inserting after and below subparagraph (A)(iii) (as so redesignated) the following new subparagraph:

"(B) in the case of an individual who is under the age of 18—

"(i) substantial evidence which demonstrates that there has been medical improvement in the individual's impairment or combination of impairments, and that such impairment or combination of impairments no longer results in marked and severe functional limitations; or

"(ii) substantial evidence which demonstrates that, as determined on the basis of new or improved diagnostic techniques or evaluations, the individual's impairment or combination of impairments, is not as disabling as it was considered to be at the time of the most recent prior decision that the individual was under a disability or continued to be under a disability, and such impairment or combination of impairments does not result in marked and severe functional limitations; or";

(6) by redesignating subparagraph (D) as subparagraph (C) and by inserting in such subparagraph "in the case of any individual," before "substantial evidence"; and

(7) in the first sentence following subparagraph (C) (as redesignated by paragraph (6)), by—

(A) inserting "(i)" before "to restore"; and

(B) inserting ", or (ii) in the case of an individual under the age of 18, to eliminate or improve the individual's impairment or combination of impairments so that it no longer results in marked and severe functional limitations" immediately before the period.

42 USC 1382c note.

(d) EFFECTIVE DATES, ETC.—

(1) EFFECTIVE DATES.—

(A) SUBSECTIONS (a) AND (b).—

(i) IN GENERAL.—The provisions of, and amendments made by, subsections (a) and (b) of this section shall apply to any individual who applies for, or whose claim is finally adjudicated with respect to, benefits under title XVI of the Social Security Act on or after the date of the enactment of this Act, without regard to whether regulations have been issued to implement such provisions and amendments.

(ii) DETERMINATION OF FINAL ADJUDICATION.—For purposes of clause (i), no individual's claim with respect to such benefits may be considered to be finally adjudicated before such date of enactment if, on or after such date, there is pending a request for either administrative or judicial review with respect to such claim that has been denied in whole, or there is pending, with respect to such claim, readjudication by the Commissioner of Social Security pursuant to relief in a class action or implementation by the Commissioner of a court remand order.

(B) SUBSECTION (c).—The amendments made by subsection (c) of this section shall apply with respect to benefits under title XVI of the Social Security Act for months beginning on or after the date of the enactment of this Act, without regard to whether regulations have been issued to implement such amendments.

(2) APPLICATION TO CURRENT RECIPIENTS.—

(A) ELIGIBILITY REDETERMINATIONS.—During the period beginning on the date of the enactment of this Act and ending on the date which is 1 year after such date of enactment, the Commissioner of Social Security shall redetermine the eligibility of any individual under age 18 who is eligible for supplemental security income benefits by reason of disability under title XVI of the Social Security Act as of the date of the enactment of this Act and whose eligibility for such benefits may terminate by reason of the provisions of, or amendments made by, subsections (a) and (b) of this section. With respect to any redetermination under this subparagraph—

(i) section 1614(a)(4) of the Social Security Act (42 U.S.C. 1382c(a)(4)) shall not apply;

(ii) the Commissioner of Social Security shall apply the eligibility criteria for new applicants for benefits under title XVI of such Act;

(iii) the Commissioner shall give such redetermination priority over all continuing eligibility reviews and other reviews under such title; and

(iv) such redetermination shall be counted as a review or redetermination otherwise required to be made under section 208 of the Social Security

Independence and Program Improvements Act of 1994 or any other provision of title XVI of the Social Security Act.

(B) GRANDFATHER PROVISION.—The provisions of, and amendments made by, subsections (a) and (b) of this section, and the redetermination under subparagraph (A), shall only apply with respect to the benefits of an individual described in subparagraph (A) for months beginning on or after the later of July 1, 1997, or the date of the redetermination with respect to such individual.

(C) NOTICE.—Not later than January 1, 1997, the Commissioner of Social Security shall notify an individual described in subparagraph (A) of the provisions of this paragraph.

(3) REPORT.—The Commissioner of Social Security shall report to the Congress regarding the progress made in implementing the provisions of, and amendments made by, this section on child disability evaluations not later than 180 days after the date of the enactment of this Act.

(4) REGULATIONS.—Notwithstanding any other provision of law, the Commissioner of Social Security shall submit for review to the committees of jurisdiction in the Congress any final regulation pertaining to the eligibility of individuals under age 18 for benefits under title XVI of the Social Security Act at least 45 days before the effective date of such regulation. The submission under this paragraph shall include supporting documentation providing a cost analysis, workload impact, and projections as to how the regulation will effect the future number of recipients under such title.

(5) CAP ADJUSTMENT FOR SSI ADMINISTRATIVE WORK REQUIRED BY WELFARE REFORM.—

(A) AUTHORIZATION.—For the additional costs of continuing disability reviews and redeterminations under title XVI of the Social Security Act, there is hereby authorized to be appropriated to the Social Security Administration, in addition to amounts authorized under section 201(g)(1)(A) of the Social Security Act, $150,000,000 in fiscal year 1997 and $100,000,000 in fiscal year 1998.

(B) CAP ADJUSTMENT.—Section 251(b)(2)(H) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended by section 103(b) of the Contract with America Advancement Act of 1996, is amended— 2 USC 901.

(i) in clause (i)—

(I) in subclause (II) by—

(aa) striking "$25,000,000" and inserting "$175,000,000"; and

(bb) striking "$160,000,000" and inserting "$310,000,000"; and

(II) in subclause (III) by—

(aa) striking "$145,000,000" and inserting "$245,000,000"; and

(bb) striking "$370,000,000" and inserting "$470,000,000"; and

(ii) by amending clause (ii)(I) to read as follows:

"(I) the term 'continuing disability reviews' means reviews or redeterminations as defined under section 201(g)(1)(A) of the Social Security Act and reviews

and redeterminations authorized under section 211 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996;".

2 USC 665e.

(C) ADJUSTMENTS.—Section 606(e)(1)(B) of the Congressional Budget Act of 1974 is amended by adding at the end the following new sentences: "If the adjustments referred to in the preceding sentence are made for an appropriations measure that is not enacted into law, then the Chairman of the Committee on the Budget of the House of Representatives shall, as soon as practicable, reverse those adjustments. The Chairman of the Committee on the Budget of the House of Representatives shall submit any adjustments made under this subparagraph to the House of Representatives and have such adjustments published in the Congressional Record.".

(D) CONFORMING AMENDMENT.—Section 103(d)(1) of the Contract with America Advancement Act of 1996 (42 U.S.C. 401 note) is amended by striking "medicaid programs." and inserting "medicaid programs, except that the amounts appropriated pursuant to the authorization and discretionary spending allowance provisions in section 211(d)(2)(5) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 shall be used only for continuing disability reviews and redeterminations under title XVI of the Social Security Act.".

Ante, p. 850.

(6) BENEFITS UNDER TITLE XVI.—For purposes of this subsection, the term "benefits under title XVI of the Social Security Act" includes supplementary payments pursuant to an agreement for Federal administration under section 1616(a) of the Social Security Act, and payments pursuant to an agreement entered into under section 212(b) of Public Law 93–66.

SEC. 212. ELIGIBILITY REDETERMINATIONS AND CONTINUING DISABILITY REVIEWS.

(a) CONTINUING DISABILITY REVIEWS RELATING TO CERTAIN CHILDREN.—Section 1614(a)(3)(H) (42 U.S.C. 1382c(a)(3)(H)), as redesignated by section 211(a)(3) of this Act, is amended—

(1) by inserting "(i)" after "(H)"; and

(2) by adding at the end the following new clause:

"(ii)(I) Not less frequently than once every 3 years, the Commissioner shall review in accordance with paragraph (4) the continued eligibility for benefits under this title of each individual who has not attained 18 years of age and is eligible for such benefits by reason of an impairment (or combination of impairments) which is likely to improve (or, at the option of the Commissioner, which is unlikely to improve).

"(II) A representative payee of a recipient whose case is reviewed under this clause shall present, at the time of review, evidence demonstrating that the recipient is, and has been, receiving treatment, to the extent considered medically necessary and available, of the condition which was the basis for providing benefits under this title.

"(III) If the representative payee refuses to comply without good cause with the requirements of subclause (II), the Commissioner of Social Security shall, if the Commissioner determines it is in the best interest of the individual, promptly suspend payment of benefits to the representative payee, and provide for pay-

ment of benefits to an alternative representative payee of the individual or, if the interest of the individual under this title would be served thereby, to the individual.

"(IV) Subclause (II) shall not apply to the representative payee of any individual with respect to whom the Commissioner determines such application would be inappropriate or unnecessary. In making such determination, the Commissioner shall take into consideration the nature of the individual's impairment (or combination of impairments). Section 1631(c) shall not apply to a finding by the Commissioner that the requirements of subclause (II) should not apply to an individual's representative payee.".

(b) DISABILITY ELIGIBILITY REDETERMINATIONS REQUIRED FOR SSI RECIPIENTS WHO ATTAIN 18 YEARS OF AGE.—

(1) IN GENERAL.—Section 1614(a)(3)(H) (42 U.S.C. 1382c(a)(3)(H)), as amended by subsection (a) of this section, is amended by adding at the end the following new clause:

"(iii) If an individual is eligible for benefits under this title by reason of disability for the month preceding the month in which the individual attains the age of 18 years, the Commissioner shall redetermine such eligibility—

"(I) during the 1-year period beginning on the individual's 18th birthday; and

"(II) by applying the criteria used in determining the initial eligibility for applicants who are age 18 or older.

With respect to a redetermination under this clause, paragraph (4) shall not apply and such redetermination shall be considered a substitute for a review or redetermination otherwise required under any other provision of this subparagraph during that 1-year period.".

(2) CONFORMING REPEAL.—Section 207 of the Social Security Independence and Program Improvements Act of 1994 (42 U.S.C. 1382 note; 108 Stat. 1516) is hereby repealed.

(c) CONTINUING DISABILITY REVIEW REQUIRED FOR LOW BIRTH WEIGHT BABIES.—Section 1614(a)(3)(H) (42 U.S.C. 1382c(a)(3)(H)), as amended by subsections (a) and (b) of this section, is amended by adding at the end the following new clause:

"(iv)(I) Not later than 12 months after the birth of an individual, the Commissioner shall review in accordance with paragraph (4) the continuing eligibility for benefits under this title by reason of disability of such individual whose low birth weight is a contributing factor material to the Commissioner's determination that the individual is disabled.

"(II) A review under subclause (I) shall be considered a substitute for a review otherwise required under any other provision of this subparagraph during that 12-month period.

"(III) A representative payee of a recipient whose case is reviewed under this clause shall present, at the time of review, evidence demonstrating that the recipient is, and has been, receiving treatment, to the extent considered medically necessary and available, of the condition which was the basis for providing benefits under this title.

"(IV) If the representative payee refuses to comply without good cause with the requirements of subclause (III), the Commissioner of Social Security shall, if the Commissioner determines it is in the best interest of the individual, promptly suspend payment of benefits to the representative payee, and provide for payment of benefits to an alternative representative payee of the

individual or, if the interest of the individual under this title would be served thereby, to the individual.

"(V) Subclause (III) shall not apply to the representative payee of any individual with respect to whom the Commissioner determines such application would be inappropriate or unnecessary. In making such determination, the Commissioner shall take into consideration the nature of the individual's impairment (or combination of impairments). Section 1631(c) shall not apply to a finding by the Commissioner that the requirements of subclause (III) should not apply to an individual's representative payee.".

42 USC 1382c note.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to benefits for months beginning on or after the date of the enactment of this Act, without regard to whether regulations have been issued to implement such amendments.

SEC. 213. ADDITIONAL ACCOUNTABILITY REQUIREMENTS.

(a) REQUIREMENT TO ESTABLISH ACCOUNT.—Section 1631(a)(2) (42 U.S.C. 1383(a)(2)) is amended—

(1) by redesignating subparagraphs (F) and (G) as subparagraphs (G) and (H), respectively; and

(2) by inserting after subparagraph (E) the following new subparagraph:

"(F)(i)(I) Each representative payee of an eligible individual under the age of 18 who is eligible for the payment of benefits described in subclause (II) shall establish on behalf of such individual an account in a financial institution into which such benefits shall be paid, and shall thereafter maintain such account for use in accordance with clause (ii).

"(II) Benefits described in this subclause are past-due monthly benefits under this title (which, for purposes of this subclause, include State supplementary payments made by the Commissioner pursuant to an agreement under section 1616 or section 212(b) of Public Law 93–66) in an amount (after any withholding by the Commissioner for reimbursement to a State for interim assistance under subsection (g)) that exceeds the product of—

"(aa) 6, and

"(bb) the maximum monthly benefit payable under this title to an eligible individual.

"(ii)(I) A representative payee shall use funds in the account established under clause (i) to pay for allowable expenses described in subclause (II).

"(II) An allowable expense described in this subclause is an expense for—

"(aa) education or job skills training;

"(bb) personal needs assistance;

"(cc) special equipment;

"(dd) housing modification;

"(ee) medical treatment;

"(ff) therapy or rehabilitation; or

"(gg) any other item or service that the Commissioner determines to be appropriate;

provided that such expense benefits such individual and, in the case of an expense described in item (bb), (cc), (dd), (ff), or (gg), is related to the impairment (or combination of impairments) of such individual.

"(III) The use of funds from an account established under clause (i) in any manner not authorized by this clause—

"(aa) by a representative payee shall be considered a misapplication of benefits for all purposes of this paragraph, and any representative payee who knowingly misapplies benefits from such an account shall be liable to the Commissioner in an amount equal to the total amount of such benefits; and

"(bb) by an eligible individual who is his or her own payee shall be considered a misapplication of benefits for all purposes of this paragraph and the total amount of such benefits so used shall be considered to be the uncompensated value of a disposed resource and shall be subject to the provisions of section 1613(c).

"(IV) This clause shall continue to apply to funds in the account after the child has reached age 18, regardless of whether benefits are paid directly to the beneficiary or through a representative payee.

"(iii) The representative payee may deposit into the account established pursuant to clause (i)—

"(I) past-due benefits payable to the eligible individual in an amount less than that specified in clause (i)(II), and

"(II) any other funds representing an underpayment under this title to such individual, provided that the amount of such underpayment is equal to or exceeds the maximum monthly benefit payable under this title to an eligible individual.

"(iv) The Commissioner of Social Security shall establish a system for accountability monitoring whereby such representative payee shall report, at such time and in such manner as the Commissioner shall require, on activity respecting funds in the account established pursuant to clause (i).".

(b) EXCLUSION FROM RESOURCES.—Section 1613(a) (42 U.S.C. 1382b(a)) is amended—

(1) by striking "and" at the end of paragraph (10);

(2) by striking the period at the end of paragraph (11) and inserting "; and"; and

(3) by inserting after paragraph (11) the following new paragraph:

"(12) any account, including accrued interest or other earnings thereon, established and maintained in accordance with section 1631(a)(2)(F).".

(c) EXCLUSION FROM INCOME.—Section 1612(b) (42 U.S.C. 1382a(b)) is amended—

(1) by striking "and" at the end of paragraph (19);

(2) by striking the period at the end of paragraph (20) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(21) the interest or other earnings on any account established and maintained in accordance with section 1631(a)(2)(F).".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made after the date of the enactment of this Act. 42 USC 1382a note.

SEC. 214. REDUCTION IN CASH BENEFITS PAYABLE TO INSTITUTIONALIZED INDIVIDUALS WHOSE MEDICAL COSTS ARE COVERED BY PRIVATE INSURANCE.

(a) IN GENERAL.—Section 1611(e)(1)(B) (42 U.S.C. 1382(e)(1)(B)) is amended by inserting "or, in the case of an eligible individual who is a child under the age of 18, receiving payments (with

respect to such individual) under any health insurance policy issued by a private provider of such insurance" after "section 1614(f)(2)(B),".

42 USC 1382 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to benefits for months beginning 90 or more days after the date of the enactment of this Act, without regard to whether regulations have been issued to implement such amendments.

42 USC 1382 note.

SEC. 215. REGULATIONS.

Within 3 months after the date of the enactment of this Act, the Commissioner of Social Security shall prescribe such regulations as may be necessary to implement the amendments made by this subtitle.

Subtitle C—Additional Enforcement Provision

SEC. 221. INSTALLMENT PAYMENT OF LARGE PAST-DUE SUPPLEMENTAL SECURITY INCOME BENEFITS.

(a) IN GENERAL.—Section 1631(a) (42 U.S.C. 1383) is amended by adding at the end the following new paragraph:

"(10)(A) If an individual is eligible for past-due monthly benefits under this title in an amount that (after any withholding for reimbursement to a State for interim assistance under subsection (g)) equals or exceeds the product of—

"(i) 12, and

"(ii) the maximum monthly benefit payable under this title to an eligible individual (or, if appropriate, to an eligible individual and eligible spouse),

then the payment of such past-due benefits (after any such reimbursement to a State) shall be made in installments as provided in subparagraph (B).

"(B)(i) The payment of past-due benefits subject to this subparagraph shall be made in not to exceed 3 installments that are made at 6-month intervals.

"(ii) Except as provided in clause (iii), the amount of each of the first and second installments may not exceed an amount equal to the product of clauses (i) and (ii) of subparagraph (A).

"(iii) In the case of an individual who has—

"(I) outstanding debt attributable to—

"(aa) food,

"(bb) clothing,

"(cc) shelter, or

"(dd) medically necessary services, supplies or equipment, or medicine; or

"(II) current expenses or expenses anticipated in the near term attributable to—

"(aa) medically necessary services, supplies or equipment, or medicine, or

"(bb) the purchase of a home, and

such debt or expenses are not subject to reimbursement by a public assistance program, the Secretary under title XVIII, a State plan approved under title XIX, or any private entity legally liable to provide payment pursuant to an insurance policy, pre-paid plan, or other arrangement, the limitation specified in clause (ii) may

be exceeded by an amount equal to the total of such debt and expenses.

"(C) This paragraph shall not apply to any individual who, at the time of the Commissioner's determination that such individual is eligible for the payment of past-due monthly benefits under this title—

"(i) is afflicted with a medically determinable impairment that is expected to result in death within 12 months; or

"(ii) is ineligible for benefits under this title and the Commissioner determines that such individual is likely to remain ineligible for the next 12 months.

"(D) For purposes of this paragraph, the term 'benefits under this title' includes supplementary payments pursuant to an agreement for Federal administration under section 1616(a), and payments pursuant to an agreement entered into under section 212(b) of Public Law 93–66.".

(b) CONFORMING AMENDMENT.—Section 1631(a)(1) (42 U.S.C. 1383(a)(1)) is amended by inserting "(subject to paragraph (10))" immediately before "in such installments".

(c) EFFECTIVE DATE.— 42 USC 1383 note.

(1) IN GENERAL.—The amendments made by this section are effective with respect to past-due benefits payable under title XVI of the Social Security Act after the third month following the month in which this Act is enacted.

(2) BENEFITS PAYABLE UNDER TITLE XVI.—For purposes of this subsection, the term "benefits payable under title XVI of the Social Security Act" includes supplementary payments pursuant to an agreement for Federal administration under section 1616(a) of the Social Security Act, and payments pursuant to an agreement entered into under section 212(b) of Public Law 93–66.

SEC. 222. REGULATIONS. 42 USC 1383 note.

Within 3 months after the date of the enactment of this Act, the Commissioner of Social Security shall prescribe such regulations as may be necessary to implement the amendments made by this subtitle.

Subtitle D—Studies Regarding Supplemental Security Income Program

SEC. 231. ANNUAL REPORT ON THE SUPPLEMENTAL SECURITY INCOME PROGRAM.

Title XVI (42 U.S.C. 1381 et seq.), as amended by section 105(b)(3) of the Contract with America Advancement Act of 1996, is amended by adding at the end the following new section:

"ANNUAL REPORT ON PROGRAM

"SEC. 1637. (a) Not later than May 30 of each year, the Commissioner of Social Security shall prepare and deliver a report annually to the President and the Congress regarding the program under this title, including— 42 USC 1383f.

"(1) a comprehensive description of the program;

"(2) historical and current data on allowances and denials, including number of applications and allowance rates for initial

determinations, reconsideration determinations, administrative law judge hearings, appeals council reviews, and Federal court decisions;

"(3) historical and current data on characteristics of recipients and program costs, by recipient group (aged, blind, disabled adults, and disabled children);

"(4) historical and current data on prior enrollment by recipients in public benefit programs, including State programs funded under part A of title IV of the Social Security Act and State general assistance programs;

"(5) projections of future number of recipients and program costs, through at least 25 years;

"(6) number of redeterminations and continuing disability reviews, and the outcomes of such redeterminations and reviews;

"(7) data on the utilization of work incentives;

"(8) detailed information on administrative and other program operation costs;

"(9) summaries of relevant research undertaken by the Social Security Administration, or by other researchers;

"(10) State supplementation program operations;

"(11) a historical summary of statutory changes to this title; and

"(12) such other information as the Commissioner deems useful.

"(b) Each member of the Social Security Advisory Board shall be permitted to provide an individual report, or a joint report if agreed, of views of the program under this title, to be included in the annual report required under this section.".

42 USC 1382 note.

SEC. 232. STUDY BY GENERAL ACCOUNTING OFFICE.

Not later than January 1, 1999, the Comptroller General of the United States shall study and report on—

(1) the impact of the amendments made by, and the provisions of, this title on the supplemental security income program under title XVI of the Social Security Act; and

(2) extra expenses incurred by families of children receiving benefits under such title that are not covered by other Federal, State, or local programs.

TITLE III—CHILD SUPPORT

SEC. 300. REFERENCE TO SOCIAL SECURITY ACT.

Except as otherwise specifically provided, wherever in this title an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

Subtitle A—Eligibility for Services; Distribution of Payments

SEC. 301. STATE OBLIGATION TO PROVIDE CHILD SUPPORT ENFORCEMENT SERVICES.

(a) STATE PLAN REQUIREMENTS.—Section 454 (42 U.S.C. 654) is amended—

(1) by striking paragraph (4) and inserting the following new paragraph:

"(4) provide that the State will—

"(A) provide services relating to the establishment of paternity or the establishment, modification, or enforcement of child support obligations, as appropriate, under the plan with respect to—

"(i) each child for whom (I) assistance is provided under the State program funded under part A of this title, (II) benefits or services for foster care maintenance are provided under the State program funded under part E of this title, or (III) medical assistance is provided under the State plan approved under title XIX, unless, in accordance with paragraph (29), good cause or other exceptions exist;

"(ii) any other child, if an individual applies for such services with respect to the child; and

"(B) enforce any support obligation established with respect to—

"(i) a child with respect to whom the State provides services under the plan; or

"(ii) the custodial parent of such a child;"; and

(2) in paragraph (6)—

(A) by striking "provide that" and inserting "provide that—";

(B) by striking subparagraph (A) and inserting the following new subparagraph:

"(A) services under the plan shall be made available to residents of other States on the same terms as to residents of the State submitting the plan;";

(C) in subparagraph (B), by inserting "on individuals not receiving assistance under any State program funded under part A" after "such services shall be imposed";

(D) in each of subparagraphs (B), (C), (D), and (E)—

(i) by indenting the subparagraph in the same manner as, and aligning the left margin of the subparagraph with the left margin of, the matter inserted by subparagraph (B) of this paragraph; and

(ii) by striking the final comma and inserting a semicolon; and

(E) in subparagraph (E), by indenting each of clauses (i) and (ii) 2 additional ems.

(b) CONTINUATION OF SERVICES FOR FAMILIES CEASING TO RECEIVE ASSISTANCE UNDER THE STATE PROGRAM FUNDED UNDER PART A.—Section 454 (42 U.S.C. 654) is amended—

(1) by striking "and" at the end of paragraph (23);

(2) by striking the period at the end of paragraph (24) and inserting "; and"; and

(3) by adding after paragraph (24) the following new paragraph:

"(25) provide that if a family with respect to which services are provided under the plan ceases to receive assistance under the State program funded under part A, the State shall provide appropriate notice to the family and continue to provide such services, subject to the same conditions and on the same basis as in the case of other individuals to whom services are furnished under the plan, except that an application or other request to continue services shall not be required of such a family and paragraph (6)(B) shall not apply to the family.".

(c) CONFORMING AMENDMENTS.—

(1) Section 452(b) (42 U.S.C. 652(b)) is amended by striking "454(6)" and inserting "454(4)".

(2) Section 452(g)(2)(A) (42 U.S.C. 652(g)(2)(A)) is amended by striking "454(6)" each place it appears and inserting "454(4)(A)(ii)".

(3) Section 466(a)(3)(B) (42 U.S.C. 666(a)(3)(B)) is amended by striking "in the case of overdue support which a State has agreed to collect under section 454(6)" and inserting "in any other case".

(4) Section 466(e) (42 U.S.C. 666(e)) is amended by striking "paragraph (4) or (6) of section 454" and inserting "section 454(4)".

SEC. 302. DISTRIBUTION OF CHILD SUPPORT COLLECTIONS.

(a) IN GENERAL.—Section 457 (42 U.S.C. 657) is amended to read as follows:

"SEC. 457. DISTRIBUTION OF COLLECTED SUPPORT.

"(a) IN GENERAL.—Subject to subsection (e), an amount collected on behalf of a family as support by a State pursuant to a plan approved under this part shall be distributed as follows:

"(1) FAMILIES RECEIVING ASSISTANCE.—In the case of a family receiving assistance from the State, the State shall—

"(A) pay to the Federal Government the Federal share of the amount so collected; and

"(B) retain, or distribute to the family, the State share of the amount so collected.

"(2) FAMILIES THAT FORMERLY RECEIVED ASSISTANCE.—In the case of a family that formerly received assistance from the State:

"(A) CURRENT SUPPORT PAYMENTS.—To the extent that the amount so collected does not exceed the amount required to be paid to the family for the month in which collected, the State shall distribute the amount so collected to the family.

"(B) PAYMENTS OF ARREARAGES.—To the extent that the amount so collected exceeds the amount required to be paid to the family for the month in which collected, the State shall distribute the amount so collected as follows:

"(i) DISTRIBUTION OF ARREARAGES THAT ACCRUED AFTER THE FAMILY CEASED TO RECEIVE ASSISTANCE.—

"(I) PRE-OCTOBER 1997.—Except as provided in subclause (II), the provisions of this section (other than subsection (b)(1)) as in effect and applied on the day before the date of the enactment of section 302 of the Personal Responsibility and

Work Opportunity Act Reconciliation of 1996 shall apply with respect to the distribution of support arrearages that—

"(aa) accrued after the family ceased to receive assistance, and

"(bb) are collected before October 1, 1997.

"(II) POST-SEPTEMBER 1997.—With respect to the amount so collected on or after October 1, 1997 (or before such date, at the option of the State)—

"(aa) IN GENERAL.—The State shall first distribute the amount so collected (other than any amount described in clause (iv)) to the family to the extent necessary to satisfy any support arrearages with respect to the family that accrued after the family ceased to receive assistance from the State.

"(bb) REIMBURSEMENT OF GOVERNMENTS FOR ASSISTANCE PROVIDED TO THE FAMILY.—After the application of division (aa) and clause (ii)(II)(aa) with respect to the amount so collected, the State shall retain the State share of the amount so collected, and pay to the Federal Government the Federal share (as defined in subsection (c)(2)) of the amount so collected, but only to the extent necessary to reimburse amounts paid to the family as assistance by the State.

"(cc) DISTRIBUTION OF THE REMAINDER TO THE FAMILY.—To the extent that neither division (aa) nor division (bb) applies to the amount so collected, the State shall distribute the amount to the family.

"(ii) DISTRIBUTION OF ARREARAGES THAT ACCRUED BEFORE THE FAMILY RECEIVED ASSISTANCE.—

"(I) PRE-OCTOBER 2000.—Except as provided in subclause (II), the provisions of this section (other than subsection (b)(1)) as in effect and applied on the day before the date of the enactment of section 302 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 shall apply with respect to the distribution of support arrearages that—

"(aa) accrued before the family received assistance, and

"(bb) are collected before October 1, 2000.

"(II) POST-SEPTEMBER 2000.—Unless, based on the report required by paragraph (4), the Congress determines otherwise, with respect to the amount so collected on or after October 1, 2000 (or before such date, at the option of the State)—

"(aa) IN GENERAL.—The State shall first distribute the amount so collected (other than any amount described in clause (iv)) to the family to the extent necessary to satisfy any support arrearages with respect to the family

that accrued before the family received assistance from the State.

"(bb) REIMBURSEMENT OF GOVERNMENTS FOR ASSISTANCE PROVIDED TO THE FAMILY.—After the application of clause (i)(II)(aa) and division (aa) with respect to the amount so collected, the State shall retain the State share of the amount so collected, and pay to the Federal Government the Federal share (as defined in subsection (c)(2)) of the amount so collected, but only to the extent necessary to reimburse amounts paid to the family as assistance by the State.

"(cc) DISTRIBUTION OF THE REMAINDER TO THE FAMILY.—To the extent that neither division (aa) nor division (bb) applies to the amount so collected, the State shall distribute the amount to the family.

"(iii) DISTRIBUTION OF ARREARAGES THAT ACCRUED WHILE THE FAMILY RECEIVED ASSISTANCE.—In the case of a family described in this subparagraph, the provisions of paragraph (1) shall apply with respect to the distribution of support arrearages that accrued while the family received assistance.

"(iv) AMOUNTS COLLECTED PURSUANT TO SECTION 464.—Notwithstanding any other provision of this section, any amount of support collected pursuant to section 464 shall be retained by the State to the extent past-due support has been assigned to the State as a condition of receiving assistance from the State, up to the amount necessary to reimburse the State for amounts paid to the family as assistance by the State. The State shall pay to the Federal Government the Federal share of the amounts so retained. To the extent the amount collected pursuant to section 464 exceeds the amount so retained, the State shall distribute the excess to the family.

"(v) ORDERING RULES FOR DISTRIBUTIONS.—For purposes of this subparagraph, unless an earlier effective date is required by this section, effective October 1, 2000, the State shall treat any support arrearages collected, except for amounts collected pursuant to section 464, as accruing in the following order:

"(I) To the period after the family ceased to receive assistance.

"(II) To the period before the family received assistance.

"(III) To the period while the family was receiving assistance.

"(3) FAMILIES THAT NEVER RECEIVED ASSISTANCE.—In the case of any other family, the State shall distribute the amount so collected to the family.

"(4) FAMILIES UNDER CERTAIN AGREEMENTS.—In the case of a family receiving assistance from an Indian tribe, distribute the amount so collected pursuant to an agreement entered into pursuant to a State plan under section 454(33).

"(5) STUDY AND REPORT.—Not later than October 1, 1998, the Secretary shall report to the Congress the Secretary's findings with respect to—

"(A) whether the distribution of post-assistance arrearages to families has been effective in moving people off of welfare and keeping them off of welfare;

"(B) whether early implementation of a pre-assistance arrearage program by some States has been effective in moving people off of welfare and keeping them off of welfare;

"(C) what the overall impact has been of the amendments made by the Personal Responsibility and Work Opportunity Act of 1996 with respect to child support enforcement in moving people off of welfare and keeping them off of welfare; and

"(D) based on the information and data the Secretary has obtained, what changes, if any, should be made in the policies related to the distribution of child support arrearages.

"(b) CONTINUATION OF ASSIGNMENTS.—Any rights to support obligations, which were assigned to a State as a condition of receiving assistance from the State under part A and which were in effect on the day before the date of the enactment of the Personal Responsibility and Work Opportunity Act of 1996, shall remain assigned after such date.

"(c) DEFINITIONS.—As used in subsection (a):

"(1) ASSISTANCE.—The term 'assistance from the State' means—

"(A) assistance under the State program funded under part A or under the State plan approved under part A of this title (as in effect on the day before the date of the enactment of the Personal Responsibility and Work Opportunity Act of 1996); and

"(B) foster care maintenance payments under the State plan approved under part E of this title.

"(2) FEDERAL SHARE.—The term 'Federal share' means that portion of the amount collected resulting from the application of the Federal medical assistance percentage in effect for the fiscal year in which the amount is collected.

"(3) FEDERAL MEDICAL ASSISTANCE PERCENTAGE.—The term 'Federal medical assistance percentage' means—

"(A) the Federal medical assistance percentage (as defined in section 1118), in the case of Puerto Rico, the Virgin Islands, Guam, and American Samoa; or

"(B) the Federal medical assistance percentage (as defined in section 1905(b), as in effect on September 30, 1996) in the case of any other State.

"(4) STATE SHARE.—The term 'State share' means 100 percent minus the Federal share.

"(d) HOLD HARMLESS PROVISION.—If the amounts collected which could be retained by the State in the fiscal year (to the extent necessary to reimburse the State for amounts paid to families as assistance by the State) are less than the State share of the amounts collected in fiscal year 1995 (determined in accordance with section 457 as in effect on the day before the date of the enactment of the Personal Responsibility and Work Opportunity

Act of 1996), the State share for the fiscal year shall be an amount equal to the State share in fiscal year 1995.

"(e) GAP PAYMENTS NOT SUBJECT TO DISTRIBUTION UNDER THIS SECTION.—At State option, this section shall not apply to any amount collected on behalf of a family as support by the State (and paid to the family in addition to the amount of assistance otherwise payable to the family) pursuant to a plan approved under this part if such amount would have been paid to the family by the State under section 402(a)(28), as in effect and applied on the day before the date of the enactment of section 302 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. For purposes of subsection (d), the State share of such amount paid to the family shall be considered amounts which could be retained by the State if such payments were reported by the State as part of the State share of amounts collected in fiscal year 1995.".

(b) CONFORMING AMENDMENTS.—

(1) Section 464(a)(1) (42 U.S.C. 664(a)(1)) is amended by striking "section 457(b)(4) or (d)(3)" and inserting "section 457".

(2) Section 454 (42 U.S.C. 654) is amended—

(A) in paragraph (11)—

(i) by striking "(11)" and inserting "(11)(A)"; and

(ii) by inserting after the semicolon "and"; and

(B) by redesignating paragraph (12) as subparagraph (B) of paragraph (11).

42 USC 657 note.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall be effective on October 1, 1996, or earlier at the State's option.

(2) CONFORMING AMENDMENTS.—The amendments made by subsection (b)(2) shall become effective on the date of the enactment of this Act.

SEC. 303. PRIVACY SAFEGUARDS.

(a) STATE PLAN REQUIREMENT.—Section 454 (42 U.S.C. 654), as amended by section 301(b) of this Act, is amended—

(1) by striking "and" at the end of paragraph (24);

(2) by striking the period at the end of paragraph (25) and inserting "; and"; and

(3) by adding after paragraph (25) the following new paragraph:

"(26) will have in effect safeguards, applicable to all confidential information handled by the State agency, that are designed to protect the privacy rights of the parties, including—

"(A) safeguards against unauthorized use or disclosure of information relating to proceedings or actions to establish paternity, or to establish or enforce support;

"(B) prohibitions against the release of information on the whereabouts of 1 party to another party against whom a protective order with respect to the former party has been entered; and

"(C) prohibitions against the release of information on the whereabouts of 1 party to another party if the State has reason to believe that the release of the information may result in physical or emotional harm to the former party.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on October 1, 1997. 42 USC 654 note.

SEC. 304. RIGHTS TO NOTIFICATION OF HEARINGS.

(a) IN GENERAL.—Section 454 (42 U.S.C. 654), as amended by section 302(b)(2) of this Act, is amended by inserting after paragraph (11) the following new paragraph:

"(12) provide for the establishment of procedures to require the State to provide individuals who are applying for or receiving services under the State plan, or who are parties to cases in which services are being provided under the State plan—

"(A) with notice of all proceedings in which support obligations might be established or modified; and

"(B) with a copy of any order establishing or modifying a child support obligation, or (in the case of a petition for modification) a notice of determination that there should be no change in the amount of the child support award, within 14 days after issuance of such order or determination;".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on October 1, 1997. 42 USC 654 note.

Subtitle B—Locate and Case Tracking

SEC. 311. STATE CASE REGISTRY.

Section 454A, as added by section 344(a)(2) of this Act, is amended by adding at the end the following new subsections:

"(e) STATE CASE REGISTRY.—

"(1) CONTENTS.—The automated system required by this section shall include a registry (which shall be known as the 'State case registry') that contains records with respect to—

"(A) each case in which services are being provided by the State agency under the State plan approved under this part; and

"(B) each support order established or modified in the State on or after October 1, 1998.

"(2) LINKING OF LOCAL REGISTRIES.—The State case registry may be established by linking local case registries of support orders through an automated information network, subject to this section.

"(3) USE OF STANDARDIZED DATA ELEMENTS.—Such records shall use standardized data elements for both parents (such as names, social security numbers and other uniform identification numbers, dates of birth, and case identification numbers), and contain such other information (such as on case status) as the Secretary may require.

"(4) PAYMENT RECORDS.—Each case record in the State case registry with respect to which services are being provided under the State plan approved under this part and with respect to which a support order has been established shall include a record of—

"(A) the amount of monthly (or other periodic) support owed under the order, and other amounts (including arrearages, interest or late payment penalties, and fees) due or overdue under the order;

"(B) any amount described in subparagraph (A) that has been collected;

"(C) the distribution of such collected amounts;

"(D) the birth date of any child for whom the order requires the provision of support; and

"(E) the amount of any lien imposed with respect to the order pursuant to section 466(a)(4).

"(5) UPDATING AND MONITORING.—The State agency operating the automated system required by this section shall promptly establish and update, maintain, and regularly monitor, case records in the State case registry with respect to which services are being provided under the State plan approved under this part, on the basis of—

"(A) information on administrative actions and administrative and judicial proceedings and orders relating to paternity and support;

"(B) information obtained from comparison with Federal, State, or local sources of information;

"(C) information on support collections and distributions; and

"(D) any other relevant information.

"(f) INFORMATION COMPARISONS AND OTHER DISCLOSURES OF INFORMATION.—The State shall use the automated system required by this section to extract information from (at such times, and in such standardized format or formats, as may be required by the Secretary), to share and compare information with, and to receive information from, other data bases and information comparison services, in order to obtain (or provide) information necessary to enable the State agency (or the Secretary or other State or Federal agencies) to carry out this part, subject to section 6103 of the Internal Revenue Code of 1986. Such information comparison activities shall include the following:

"(1) FEDERAL CASE REGISTRY OF CHILD SUPPORT ORDERS.—Furnishing to the Federal Case Registry of Child Support Orders established under section 453(h) (and update as necessary, with information including notice of expiration of orders) the minimum amount of information on child support cases recorded in the State case registry that is necessary to operate the registry (as specified by the Secretary in regulations).

"(2) FEDERAL PARENT LOCATOR SERVICE.—Exchanging information with the Federal Parent Locator Service for the purposes specified in section 453.

"(3) TEMPORARY FAMILY ASSISTANCE AND MEDICAID AGENCIES.—Exchanging information with State agencies (of the State and of other States) administering programs funded under part A, programs operated under a State plan approved under title XIX, and other programs designated by the Secretary, as necessary to perform State agency responsibilities under this part and under such programs.

"(4) INTRASTATE AND INTERSTATE INFORMATION COMPARISONS.—Exchanging information with other agencies of the State, agencies of other States, and interstate information networks, as necessary and appropriate to carry out (or assist other States to carry out) the purposes of this part.".

SEC. 312. COLLECTION AND DISBURSEMENT OF SUPPORT PAYMENTS.

(a) STATE PLAN REQUIREMENT.—Section 454 (42 U.S.C. 654), as amended by sections 301(b) and 303(a) of this Act, is amended—

(1) by striking "and" at the end of paragraph (25);

(2) by striking the period at the end of paragraph (26) and inserting "; and"; and

(3) by adding after paragraph (26) the following new paragraph:

"(27) provide that, on and after October 1, 1998, the State agency will—

"(A) operate a State disbursement unit in accordance with section 454B; and

"(B) have sufficient State staff (consisting of State employees) and (at State option) contractors reporting directly to the State agency to—

"(i) monitor and enforce support collections through the unit in cases being enforced by the State pursuant to section 454(4) (including carrying out the automated data processing responsibilities described in section 454A(g)); and

"(ii) take the actions described in section 466(c)(1) in appropriate cases.".

(b) ESTABLISHMENT OF STATE DISBURSEMENT UNIT.—Part D of title IV (42 U.S.C. 651–669), as amended by section 344(a)(2) of this Act, is amended by inserting after section 454A the following new section:

"SEC. 454B. COLLECTION AND DISBURSEMENT OF SUPPORT PAYMENTS. 42 USC 654b.

"(a) STATE DISBURSEMENT UNIT.—

"(1) IN GENERAL.—In order for a State to meet the requirements of this section, the State agency must establish and operate a unit (which shall be known as the 'State disbursement unit') for the collection and disbursement of payments under support orders—

"(A) in all cases being enforced by the State pursuant to section 454(4); and

"(B) in all cases not being enforced by the State under this part in which the support order is initially issued in the State on or after January 1, 1994, and in which the income of the noncustodial parent is subject to withholding pursuant to section 466(a)(8)(B).

"(2) OPERATION.—The State disbursement unit shall be operated—

"(A) directly by the State agency (or 2 or more State agencies under a regional cooperative agreement), or (to the extent appropriate) by a contractor responsible directly to the State agency; and

"(B) except in cases described in paragraph (1)(B), in coordination with the automated system established by the State pursuant to section 454A.

"(3) LINKING OF LOCAL DISBURSEMENT UNITS.—The State disbursement unit may be established by linking local disbursement units through an automated information network, subject to this section, if the Secretary agrees that the system will not cost more nor take more time to establish or operate than

a centralized system. In addition, employers shall be given 1 location to which income withholding is sent.

"(b) REQUIRED PROCEDURES.—The State disbursement unit shall use automated procedures, electronic processes, and computer-driven technology to the maximum extent feasible, efficient, and economical, for the collection and disbursement of support payments, including procedures—

"(1) for receipt of payments from parents, employers, and other States, and for disbursements to custodial parents and other obligees, the State agency, and the agencies of other States;

"(2) for accurate identification of payments;

"(3) to ensure prompt disbursement of the custodial parent's share of any payment; and

"(4) to furnish to any parent, upon request, timely information on the current status of support payments under an order requiring payments to be made by or to the parent, except that in cases described in subsection (a)(1)(B), the State disbursement unit shall not be required to convert and maintain in automated form records of payments kept pursuant to section 466(a)(8)(B)(iii) before the effective date of this section.

"(c) TIMING OF DISBURSEMENTS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the State disbursement unit shall distribute all amounts payable under section 457(a) within 2 business days after receipt from the employer or other source of periodic income, if sufficient information identifying the payee is provided.

"(2) PERMISSIVE RETENTION OF ARREARAGES.—The State disbursement unit may delay the distribution of collections toward arrearages until the resolution of any timely appeal with respect to such arrearages.

"(d) BUSINESS DAY DEFINED.—As used in this section, the term 'business day' means a day on which State offices are open for regular business.".

(c) USE OF AUTOMATED SYSTEM.—Section 454A, as added by section 344(a)(2) and as amended by section 311 of this Act, is amended by adding at the end the following new subsection:

"(g) COLLECTION AND DISTRIBUTION OF SUPPORT PAYMENTS.—

"(1) IN GENERAL.—The State shall use the automated system required by this section, to the maximum extent feasible, to assist and facilitate the collection and disbursement of support payments through the State disbursement unit operated under section 454B, through the performance of functions, including, at a minimum—

"(A) transmission of orders and notices to employers (and other debtors) for the withholding of income—

"(i) within 2 business days after receipt of notice of, and the income source subject to, such withholding from a court, another State, an employer, the Federal Parent Locator Service, or another source recognized by the State; and

"(ii) using uniform formats prescribed by the Secretary;

"(B) ongoing monitoring to promptly identify failures to make timely payment of support; and

"(C) automatic use of enforcement procedures (including procedures authorized pursuant to section 466(c)) if payments are not timely made.

"(2) BUSINESS DAY DEFINED.—As used in paragraph (1), the term 'business day' means a day on which State offices are open for regular business.".

(d) EFFECTIVE DATES.— 42 USC 654b note.

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall become effective on October 1, 1998.

(2) LIMITED EXCEPTION TO UNIT HANDLING PAYMENTS.—Notwithstanding section 454B(b)(1) of the Social Security Act, as added by this section, any State which, as of the date of the enactment of this Act, processes the receipt of child support payments through local courts may, at the option of the State, continue to process through September 30, 1999, such payments through such courts as processed such payments on or before such date of enactment.

SEC. 313. STATE DIRECTORY OF NEW HIRES.

(a) STATE PLAN REQUIREMENT.—Section 454 (42 U.S.C. 654), as amended by sections 301(b), 303(a), and 312(a) of this Act, is amended—

(1) by striking "and" at the end of paragraph (26);

(2) by striking the period at the end of paragraph (27) and inserting "; and"; and

(3) by adding after paragraph (27) the following new paragraph:

"(28) provide that, on and after October 1, 1997, the State will operate a State Directory of New Hires in accordance with section 453A.".

(b) STATE DIRECTORY OF NEW HIRES.—Part D of title IV (42 U.S.C. 651–669) is amended by inserting after section 453 the following new section:

"SEC. 453A. STATE DIRECTORY OF NEW HIRES. 42 USC 653a.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—

"(A) REQUIREMENT FOR STATES THAT HAVE NO DIRECTORY.—Except as provided in subparagraph (B), not later than October 1, 1997, each State shall establish an automated directory (to be known as the 'State Directory of New Hires') which shall contain information supplied in accordance with subsection (b) by employers on each newly hired employee.

"(B) STATES WITH NEW HIRE REPORTING LAW IN EXISTENCE.—A State which has a new hire reporting law in existence on the date of the enactment of this section may continue to operate under the State law, but the State must meet the requirements of subsection (g)(2) not later than October 1, 1997, and the requirements of this section (other than subsection (g)(2)) not later than October 1, 1998.

"(2) DEFINITIONS.—As used in this section:

"(A) EMPLOYEE.—The term 'employee'—

"(i) means an individual who is an employee within the meaning of chapter 24 of the Internal Revenue Code of 1986; and

"(ii) does not include an employee of a Federal or State agency performing intelligence or counterintelligence functions, if the head of such agency has determined that reporting pursuant to paragraph (1) with respect to the employee could endanger the safety of the employee or compromise an ongoing investigation or intelligence mission.

"(B) EMPLOYER.—

"(i) IN GENERAL.—The term 'employer' has the meaning given such term in section 3401(d) of the Internal Revenue Code of 1986 and includes any governmental entity and any labor organization.

"(ii) LABOR ORGANIZATION.—The term 'labor organization' shall have the meaning given such term in section 2(5) of the National Labor Relations Act, and includes any entity (also known as a 'hiring hall') which is used by the organization and an employer to carry out requirements described in section 8(f)(3) of such Act of an agreement between the organization and the employer.

"(b) EMPLOYER INFORMATION.—

"(1) REPORTING REQUIREMENT.—

"(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), each employer shall furnish to the Directory of New Hires of the State in which a newly hired employee works, a report that contains the name, address, and social security number of the employee, and the name and address of, and identifying number assigned under section 6109 of the Internal Revenue Code of 1986 to, the employer.

"(B) MULTISTATE EMPLOYERS.—An employer that has employees who are employed in 2 or more States and that transmits reports magnetically or electronically may comply with subparagraph (A) by designating 1 State in which such employer has employees to which the employer will transmit the report described in subparagraph (A), and transmitting such report to such State. Any employer that transmits reports pursuant to this subparagraph shall notify the Secretary in writing as to which State such employer designates for the purpose of sending reports.

Notification.

"(C) FEDERAL GOVERNMENT EMPLOYERS.—Any department, agency, or instrumentality of the United States shall comply with subparagraph (A) by transmitting the report described in subparagraph (A) to the National Directory of New Hires established pursuant to section 453.

"(2) TIMING OF REPORT.—Each State may provide the time within which the report required by paragraph (1) shall be made with respect to an employee, but such report shall be made—

"(A) not later than 20 days after the date the employer hires the employee; or

"(B) in the case of an employer transmitting reports magnetically or electronically, by 2 monthly transmissions (if necessary) not less than 12 days nor more than 16 days apart.

"(c) REPORTING FORMAT AND METHOD.—Each report required by subsection (b) shall be made on a W–4 form or, at the option

of the employer, an equivalent form, and may be transmitted by 1st class mail, magnetically, or electronically.

"(d) CIVIL MONEY PENALTIES ON NONCOMPLYING EMPLOYERS.—The State shall have the option to set a State civil money penalty which shall be less than—

"(1) $25; or

"(2) $500 if, under State law, the failure is the result of a conspiracy between the employer and the employee to not supply the required report or to supply a false or incomplete report.

"(e) ENTRY OF EMPLOYER INFORMATION.—Information shall be entered into the data base maintained by the State Directory of New Hires within 5 business days of receipt from an employer pursuant to subsection (b).

"(f) INFORMATION COMPARISONS.—

"(1) IN GENERAL.—Not later than May 1, 1998, an agency designated by the State shall, directly or by contract, conduct automated comparisons of the social security numbers reported by employers pursuant to subsection (b) and the social security numbers appearing in the records of the State case registry for cases being enforced under the State plan.

"(2) NOTICE OF MATCH.—When an information comparison conducted under paragraph (1) reveals a match with respect to the social security number of an individual required to provide support under a support order, the State Directory of New Hires shall provide the agency administering the State plan approved under this part of the appropriate State with the name, address, and social security number of the employee to whom the social security number is assigned, and the name and address of, and identifying number assigned under section 6109 of the Internal Revenue Code of 1986 to, the employer.

"(g) TRANSMISSION OF INFORMATION.—

"(1) TRANSMISSION OF WAGE WITHHOLDING NOTICES TO EMPLOYERS.—Within 2 business days after the date information regarding a newly hired employee is entered into the State Directory of New Hires, the State agency enforcing the employee's child support obligation shall transmit a notice to the employer of the employee directing the employer to withhold from the income of the employee an amount equal to the monthly (or other periodic) child support obligation (including any past due support obligation) of the employee, unless the employee's income is not subject to withholding pursuant to section 466(b)(3).

"(2) TRANSMISSIONS TO THE NATIONAL DIRECTORY OF NEW HIRES.—

"(A) NEW HIRE INFORMATION.—Within 3 business days after the date information regarding a newly hired employee is entered into the State Directory of New Hires, the State Directory of New Hires shall furnish the information to the National Directory of New Hires.

"(B) WAGE AND UNEMPLOYMENT COMPENSATION INFORMATION.—The State Directory of New Hires shall, on a quarterly basis, furnish to the National Directory of New Hires extracts of the reports required under section 303(a)(6) to be made to the Secretary of Labor concerning the wages and unemployment compensation paid to individuals, by such dates, in such format, and containing such

Regulations.

information as the Secretary of Health and Human Services shall specify in regulations.

"(3) BUSINESS DAY DEFINED.—As used in this subsection, the term 'business day' means a day on which State offices are open for regular business.

"(h) OTHER USES OF NEW HIRE INFORMATION.—

"(1) LOCATION OF CHILD SUPPORT OBLIGORS.—The agency administering the State plan approved under this part shall use information received pursuant to subsection (f)(2) to locate individuals for purposes of establishing paternity and establishing, modifying, and enforcing child support obligations, and may disclose such information to any agent of the agency that is under contract with the agency to carry out such purposes.

"(2) VERIFICATION OF ELIGIBILITY FOR CERTAIN PROGRAMS.—A State agency responsible for administering a program specified in section 1137(b) shall have access to information reported by employers pursuant to subsection (b) of this section for purposes of verifying eligibility for the program.

"(3) ADMINISTRATION OF EMPLOYMENT SECURITY AND WORKERS' COMPENSATION.—State agencies operating employment security and workers' compensation programs shall have access to information reported by employers pursuant to subsection (b) for the purposes of administering such programs.".

(c) QUARTERLY WAGE REPORTING.—Section 1137(a)(3) (42 U.S.C. 1320b–7(a)(3)) is amended—

(1) by inserting "(including State and local governmental entities and labor organizations (as defined in section 453A(a)(2)(B)(iii))" after "employers"; and

(2) by inserting ", and except that no report shall be filed with respect to an employee of a State or local agency performing intelligence or counterintelligence functions, if the head of such agency has determined that filing such a report could endanger the safety of the employee or compromise an ongoing investigation or intelligence mission" after "paragraph (2)".

(d) DISCLOSURE TO CERTAIN AGENTS.—Section 303(e) (42 U.S.C. 503(e)) is amended by adding at the end the following:

"(5) A State or local child support enforcement agency may disclose to any agent of the agency that is under contract with the agency to carry out the purposes described in paragraph (1)(B) wage information that is disclosed to an officer or employee of the agency under paragraph (1)(A). Any agent of a State or local child support agency that receives wage information under this paragraph shall comply with the safeguards established pursuant to paragraph (1)(B).".

SEC. 314. AMENDMENTS CONCERNING INCOME WITHHOLDING.

(a) MANDATORY INCOME WITHHOLDING.—

(1) IN GENERAL.—Section 466(a)(1) (42 U.S.C. 666(a)(1)) is amended to read as follows:

"(1)(A) Procedures described in subsection (b) for the withholding from income of amounts payable as support in cases subject to enforcement under the State plan.

"(B) Procedures under which the income of a person with a support obligation imposed by a support order issued (or modified) in the State before October 1, 1996, if not otherwise subject to withholding under subsection (b), shall become subject to withholding as provided in subsection (b) if arrearages

occur, without the need for a judicial or administrative hearing.".

(2) CONFORMING AMENDMENTS.—

(A) Section 466(b) (42 U.S.C. 666(b)) is amended in the matter preceding paragraph (1), by striking "subsection (a)(1)" and inserting "subsection (a)(1)(A)".

(B) Section 466(b)(4) (42 U.S.C. 666(b)(4)) is amended to read as follows:

"(4)(A) Such withholding must be carried out in full compliance with all procedural due process requirements of the State, and the State must send notice to each noncustodial parent to whom paragraph (1) applies— Notice.

"(i) that the withholding has commenced; and

"(ii) of the procedures to follow if the noncustodial parent desires to contest such withholding on the grounds that the withholding or the amount withheld is improper due to a mistake of fact.

"(B) The notice under subparagraph (A) of this paragraph shall include the information provided to the employer under paragraph (6)(A).".

(C) Section 466(b)(5) (42 U.S.C. 666(b)(5)) is amended by striking all that follows "administered by" and inserting "the State through the State disbursement unit established pursuant to section 454B, in accordance with the requirements of section 454B.".

(D) Section 466(b)(6)(A) (42 U.S.C. 666(b)(6)(A)) is amended—

(i) in clause (i), by striking "to the appropriate agency" and all that follows and inserting "to the State disbursement unit within 7 business days after the date the amount would (but for this subsection) have been paid or credited to the employee, for distribution in accordance with this part. The employer shall withhold funds as directed in the notice, except that when an employer receives an income withholding order issued by another State, the employer shall apply the income withholding law of the state of the obligor's principal place of employment in determining—

"(I) the employer's fee for processing an income withholding order;

"(II) the maximum amount permitted to be withheld from the obligor's income;

"(III) the time periods within which the employer must implement the income withholding order and forward the child support payment;

"(IV) the priorities for withholding and allocating income withheld for multiple child support obligees; and

"(V) any withholding terms or conditions not specified in the order.

An employer who complies with an income withholding notice that is regular on its face shall not be subject to civil liability to any individual or agency for conduct in compliance with the notice.";

(ii) in clause (ii), by inserting "be in a standard format prescribed by the Secretary, and" after "shall"; and

(iii) by adding at the end the following new clause:

"(iii) As used in this subparagraph, the term 'business day' means a day on which State offices are open for regular business.".

(E) Section 466(b)(6)(D) (42 U.S.C. 666(b)(6)(D)) is amended by striking "any employer" and all that follows and inserting "any employer who—

"(i) discharges from employment, refuses to employ, or takes disciplinary action against any noncustodial parent subject to income withholding required by this subsection because of the existence of such withholding and the obligations or additional obligations which it imposes upon the employer; or

"(ii) fails to withhold support from income or to pay such amounts to the State disbursement unit in accordance with this subsection.".

(F) Section 466(b) (42 U.S.C. 666(b)) is amended by adding at the end the following new paragraph:

"(11) Procedures under which the agency administering the State plan approved under this part may execute a withholding order without advance notice to the obligor, including issuing the withholding order through electronic means.".

(b) DEFINITION OF INCOME.—

(1) IN GENERAL.—Section 466(b)(8) (42 U.S.C. 666(b)(8)) is amended to read as follows:

"(8) For purposes of subsection (a) and this subsection, the term 'income' means any periodic form of payment due to an individual, regardless of source, including wages, salaries, commissions, bonuses, worker's compensation, disability, payments pursuant to a pension or retirement program, and interest.".

(2) CONFORMING AMENDMENTS.—

(A) Subsections (a)(8)(A), (a)(8)(B)(i), (b)(3)(A), (b)(3)(B), (b)(6)(A)(i), and (b)(6)(C), and (b)(7) of section 466 (42 U.S.C. 666(a)(8)(A), (a)(8)(B)(i), (b)(3)(A), (b)(3)(B), (b)(6)(A)(i), and (b)(6)(C), and (b)(7)) are each amended by striking "wages" each place such term appears and inserting "income".

(B) Section 466(b)(1) (42 U.S.C. 666(b)(1)) is amended by striking "wages (as defined by the State for purposes of this section)" and inserting "income".

(c) CONFORMING AMENDMENT.—Section 466(c) (42 U.S.C. 666(c)) is repealed.

SEC. 315. LOCATOR INFORMATION FROM INTERSTATE NETWORKS.

Section 466(a) (42 U.S.C. 666(a)) is amended by inserting after paragraph (11) the following new paragraph:

"(12) LOCATOR INFORMATION FROM INTERSTATE NETWORKS.—Procedures to ensure that all Federal and State agencies conducting activities under this part have access to any system used by the State to locate an individual for purposes relating to motor vehicles or law enforcement.".

SEC. 316. EXPANSION OF THE FEDERAL PARENT LOCATOR SERVICE.

(a) EXPANDED AUTHORITY TO LOCATE INDIVIDUALS AND ASSETS.—Section 453 (42 U.S.C. 653) is amended—

(1) in subsection (a), by striking all that follows "subsection (c))" and inserting ", for the purpose of establishing parentage, establishing, setting the amount of, modifying, or enforcing

child support obligations, or enforcing child custody or visitation orders—

"(1) information on, or facilitating the discovery of, the location of any individual—

"(A) who is under an obligation to pay child support or provide child custody or visitation rights;

"(B) against whom such an obligation is sought;

"(C) to whom such an obligation is owed,

including the individual's social security number (or numbers), most recent address, and the name, address, and employer identification number of the individual's employer;

"(2) information on the individual's wages (or other income) from, and benefits of, employment (including rights to or enrollment in group health care coverage); and

"(3) information on the type, status, location, and amount of any assets of, or debts owed by or to, any such individual."; and

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking "social security" and all that follows through "absent parent" and inserting "information described in subsection (a)"; and

(B) in the flush paragraph at the end, by adding the following: "No information shall be disclosed to any person if the State has notified the Secretary that the State has reasonable evidence of domestic violence or child abuse and the disclosure of such information could be harmful to the custodial parent or the child of such parent. Information received or transmitted pursuant to this section shall be subject to the safeguard provisions contained in section 454(26).".

(b) AUTHORIZED PERSON FOR INFORMATION REGARDING VISITATION RIGHTS.—Section 453(c) (42 U.S.C. 653(c)) is amended—

(1) in paragraph (1), by striking "support" and inserting "support or to seek to enforce orders providing child custody or visitation rights"; and

(2) in paragraph (2), by striking ", or any agent of such court; and" and inserting "or to issue an order against a resident parent for child custody or visitation rights, or any agent of such court;".

(c) REIMBURSEMENT FOR INFORMATION FROM FEDERAL AGENCIES.—Section 453(e)(2) (42 U.S.C. 653(e)(2)) is amended in the 4th sentence by inserting "in an amount which the Secretary determines to be reasonable payment for the information exchange (which amount shall not include payment for the costs of obtaining, compiling, or maintaining the information)" before the period.

(d) REIMBURSEMENT FOR REPORTS BY STATE AGENCIES.—Section 453 (42 U.S.C. 653) is amended by adding at the end the following new subsection:

"(g) REIMBURSEMENT FOR REPORTS BY STATE AGENCIES.—The Secretary may reimburse Federal and State agencies for the costs incurred by such entities in furnishing information requested by the Secretary under this section in an amount which the Secretary determines to be reasonable payment for the information exchange (which amount shall not include payment for the costs of obtaining, compiling, or maintaining the information).".

(e) CONFORMING AMENDMENTS.—

(1) Sections 452(a)(9), 453(a), 453(b), 463(a), 463(e), and 463(f) (42 U.S.C. 652(a)(9), 653(a), 653(b), 663(a), 663(e), and 663(f)) are each amended by inserting "Federal" before "Parent" each place such term appears.

(2) Section 453 (42 U.S.C. 653) is amended in the heading by adding "FEDERAL" before "PARENT".

(f) NEW COMPONENTS.—Section 453 (42 U.S.C. 653), as amended by subsection (d) of this section, is amended by adding at the end the following new subsections:

Establishment.

"(h) FEDERAL CASE REGISTRY OF CHILD SUPPORT ORDERS.—

"(1) IN GENERAL.—Not later than October 1, 1998, in order to assist States in administering programs under State plans approved under this part and programs funded under part A, and for the other purposes specified in this section, the Secretary shall establish and maintain in the Federal Parent Locator Service an automated registry (which shall be known as the 'Federal Case Registry of Child Support Orders'), which shall contain abstracts of support orders and other information described in paragraph (2) with respect to each case in each State case registry maintained pursuant to section 454A(e), as furnished (and regularly updated), pursuant to section 454A(f), by State agencies administering programs under this part.

"(2) CASE INFORMATION.—The information referred to in paragraph (1) with respect to a case shall be such information as the Secretary may specify in regulations (including the names, social security numbers or other uniform identification numbers, and State case identification numbers) to identify the individuals who owe or are owed support (or with respect to or on behalf of whom support obligations are sought to be established), and the State or States which have the case.

Establishment.

"(i) NATIONAL DIRECTORY OF NEW HIRES.—

"(1) IN GENERAL.—In order to assist States in administering programs under State plans approved under this part and programs funded under part A, and for the other purposes specified in this section, the Secretary shall, not later than October 1, 1997, establish and maintain in the Federal Parent Locator Service an automated directory to be known as the National Directory of New Hires, which shall contain the information supplied pursuant to section 453A(g)(2).

"(2) ENTRY OF DATA.—Information shall be entered into the data base maintained by the National Directory of New Hires within 2 business days of receipt pursuant to section 453A(g)(2).

"(3) ADMINISTRATION OF FEDERAL TAX LAWS.—The Secretary of the Treasury shall have access to the information in the National Directory of New Hires for purposes of administering section 32 of the Internal Revenue Code of 1986, or the advance payment of the earned income tax credit under section 3507 of such Code, and verifying a claim with respect to employment in a tax return.

"(4) LIST OF MULTISTATE EMPLOYERS.—The Secretary shall maintain within the National Directory of New Hires a list of multistate employers that report information regarding newly hired employees pursuant to section 453A(b)(1)(B), and the State which each such employer has designated to receive such information.

"(j) INFORMATION COMPARISONS AND OTHER DISCLOSURES.—

"(1) VERIFICATION BY SOCIAL SECURITY ADMINISTRATION.—

"(A) IN GENERAL.—The Secretary shall transmit information on individuals and employers maintained under this section to the Social Security Administration to the extent necessary for verification in accordance with subparagraph (B).

"(B) VERIFICATION BY SSA.—The Social Security Administration shall verify the accuracy of, correct, or supply to the extent possible, and report to the Secretary, the following information supplied by the Secretary pursuant to subparagraph (A):

"(i) The name, social security number, and birth date of each such individual.

"(ii) The employer identification number of each such employer.

"(2) INFORMATION COMPARISONS.—For the purpose of locating individuals in a paternity establishment case or a case involving the establishment, modification, or enforcement of a support order, the Secretary shall—

"(A) compare information in the National Directory of New Hires against information in the support case abstracts in the Federal Case Registry of Child Support Orders not less often than every 2 business days; and

"(B) within 2 business days after such a comparison reveals a match with respect to an individual, report the information to the State agency responsible for the case. Reports.

"(3) INFORMATION COMPARISONS AND DISCLOSURES OF INFORMATION IN ALL REGISTRIES FOR TITLE IV PROGRAM PURPOSES.—To the extent and with the frequency that the Secretary determines to be effective in assisting States to carry out their responsibilities under programs operated under this part and programs funded under part A, the Secretary shall—

"(A) compare the information in each component of the Federal Parent Locator Service maintained under this section against the information in each other such component (other than the comparison required by paragraph (2)), and report instances in which such a comparison reveals a match with respect to an individual to State agencies operating such programs; and Reports.

"(B) disclose information in such registries to such State agencies.

"(4) PROVISION OF NEW HIRE INFORMATION TO THE SOCIAL SECURITY ADMINISTRATION.—The National Directory of New Hires shall provide the Commissioner of Social Security with all information in the National Directory.

"(5) RESEARCH.—The Secretary may provide access to information reported by employers pursuant to section 453A(b) for research purposes found by the Secretary to be likely to contribute to achieving the purposes of part A or this part, but without personal identifiers.

"(k) FEES.—

"(1) FOR SSA VERIFICATION.—The Secretary shall reimburse the Commissioner of Social Security, at a rate negotiated between the Secretary and the Commissioner, for the costs incurred by the Commissioner in performing the verification services described in subsection (j).

"(2) FOR INFORMATION FROM STATE DIRECTORIES OF NEW HIRES.—The Secretary shall reimburse costs incurred by State directories of new hires in furnishing information as required by subsection (j)(3), at rates which the Secretary determines to be reasonable (which rates shall not include payment for the costs of obtaining, compiling, or maintaining such information).

"(3) FOR INFORMATION FURNISHED TO STATE AND FEDERAL AGENCIES.—A State or Federal agency that receives information from the Secretary pursuant to this section shall reimburse the Secretary for costs incurred by the Secretary in furnishing the information, at rates which the Secretary determines to be reasonable (which rates shall include payment for the costs of obtaining, verifying, maintaining, and comparing the information).

"(l) RESTRICTION ON DISCLOSURE AND USE.—Information in the Federal Parent Locator Service, and information resulting from comparisons using such information, shall not be used or disclosed except as expressly provided in this section, subject to section 6103 of the Internal Revenue Code of 1986.

"(m) INFORMATION INTEGRITY AND SECURITY.—The Secretary shall establish and implement safeguards with respect to the entities established under this section designed to—

"(1) ensure the accuracy and completeness of information in the Federal Parent Locator Service; and

"(2) restrict access to confidential information in the Federal Parent Locator Service to authorized persons, and restrict use of such information to authorized purposes.

"(n) FEDERAL GOVERNMENT REPORTING.—Each department, agency, and instrumentality of the United States shall on a quarterly basis report to the Federal Parent Locator Service the name and social security number of each employee and the wages paid to the employee during the previous quarter, except that such a report shall not be filed with respect to an employee of a department, agency, or instrumentality performing intelligence or counterintelligence functions, if the head of such department, agency, or instrumentality has determined that filing such a report could endanger the safety of the employee or compromise an ongoing investigation or intelligence mission.".

(g) CONFORMING AMENDMENTS.—

(1) TO PART D OF TITLE IV OF THE SOCIAL SECURITY ACT.—

(A) Section 454(8)(B) (42 U.S.C. 654(8)(B)) is amended to read as follows:

"(B) the Federal Parent Locator Service established under section 453;".

(B) Section 454(13) (42 U.S.C.654(13)) is amended by inserting "and provide that information requests by parents who are residents of other States be treated with the same priority as requests by parents who are residents of the State submitting the plan" before the semicolon.

(2) TO FEDERAL UNEMPLOYMENT TAX ACT.—Section 3304(a)(16) of the Internal Revenue Code of 1986 is amended—

(A) by striking "Secretary of Health, Education, and Welfare" each place such term appears and inserting "Secretary of Health and Human Services";

(B) in subparagraph (B), by striking "such information" and all that follows and inserting "information furnished

under subparagraph (A) or (B) is used only for the purposes authorized under such subparagraph;";

(C) by striking "and" at the end of subparagraph (A);

(D) by redesignating subparagraph (B) as subparagraph (C); and

(E) by inserting after subparagraph (A) the following new subparagraph:

"(B) wage and unemployment compensation information contained in the records of such agency shall be furnished to the Secretary of Health and Human Services (in accordance with regulations promulgated by such Secretary) as necessary for the purposes of the National Directory of New Hires established under section 453(i) of the Social Security Act, and". Regulations.

(3) TO STATE GRANT PROGRAM UNDER TITLE III OF THE SOCIAL SECURITY ACT.—Subsection (h) of section 303 (42 U.S.C. 503) is amended to read as follows:

"(h)(1) The State agency charged with the administration of the State law shall, on a reimbursable basis—

"(A) disclose quarterly, to the Secretary of Health and Human Services, wage and claim information, as required pursuant to section 453(i)(1), contained in the records of such agency;

"(B) ensure that information provided pursuant to subparagraph (A) meets such standards relating to correctness and verification as the Secretary of Health and Human Services, with the concurrence of the Secretary of Labor, may find necessary; and

"(C) establish such safeguards as the Secretary of Labor determines are necessary to insure that information disclosed under subparagraph (A) is used only for purposes of section 453(i)(1) in carrying out the child support enforcement program under title IV.

"(2) Whenever the Secretary of Labor, after reasonable notice and opportunity for hearing to the State agency charged with the administration of the State law, finds that there is a failure to comply substantially with the requirements of paragraph (1), the Secretary of Labor shall notify such State agency that further payments will not be made to the State until the Secretary of Labor is satisfied that there is no longer any such failure. Until the Secretary of Labor is so satisfied, the Secretary shall make no future certification to the Secretary of the Treasury with respect to the State. Notification.

"(3) For purposes of this subsection—

"(A) the term 'wage information' means information regarding wages paid to an individual, the social security account number of such individual, and the name, address, State, and the Federal employer identification number of the employer paying such wages to such individual; and

"(B) the term 'claim information' means information regarding whether an individual is receiving, has received, or has made application for, unemployment compensation, the amount of any such compensation being received (or to be received by such individual), and the individual's current (or most recent) home address.".

(4) DISCLOSURE OF CERTAIN INFORMATION TO AGENTS OF CHILD SUPPORT ENFORCEMENT AGENCIES.—

(A) IN GENERAL.—Paragraph (6) of section 6103(l) of the Internal Revenue Code of 1986 (relating to disclosure of return information to Federal, State, and local child support enforcement agencies) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

"(B) DISCLOSURE TO CERTAIN AGENTS.—The following information disclosed to any child support enforcement agency under subparagraph (A) with respect to any individual with respect to whom child support obligations are sought to be established or enforced may be disclosed by such agency to any agent of such agency which is under contract with such agency to carry out the purposes described in subparagraph (C):

"(i) The address and social security account number (or numbers) of such individual.

"(ii) The amount of any reduction under section 6402(c) (relating to offset of past-due support against overpayments) in any overpayment otherwise payable to such individual.".

(B) CONFORMING AMENDMENTS.—

(i) Paragraph (3) of section 6103(a) of such Code is amended by striking "(l)(12)" and inserting "paragraph (6) or (12) of subsection (l)".

(ii) Subparagraph (C) of section 6103(l)(6) of such Code, as redesignated by subsection (a), is amended to read as follows:

"(C) RESTRICTION ON DISCLOSURE.—Information may be disclosed under this paragraph only for purposes of, and to the extent necessary in, establishing and collecting child support obligations from, and locating, individuals owing such obligations.".

(iii) The material following subparagraph (F) of section 6103(p)(4) of such Code is amended by striking "subsection (l)(12)(B)" and inserting "paragraph (6)(A) or (12)(B) of subsection (l)".

42 USC 653 note.

(h) REQUIREMENT FOR COOPERATION.—The Secretary of Labor and the Secretary of Health and Human Services shall work jointly to develop cost-effective and efficient methods of accessing the information in the various State directories of new hires and the National Directory of New Hires as established pursuant to the amendments made by this subtitle. In developing these methods the Secretaries shall take into account the impact, including costs, on the States, and shall also consider the need to insure the proper and authorized use of wage record information.

SEC. 317. COLLECTION AND USE OF SOCIAL SECURITY NUMBERS FOR USE IN CHILD SUPPORT ENFORCEMENT.

Section 466(a) (42 U.S.C. 666(a)), as amended by section 315 of this Act, is amended by inserting after paragraph (12) the following new paragraph:

"(13) RECORDING OF SOCIAL SECURITY NUMBERS IN CERTAIN FAMILY MATTERS.—Procedures requiring that the social security number of—

"(A) any applicant for a professional license, commercial driver's license, occupational license, or marriage license be recorded on the application;

"(B) any individual who is subject to a divorce decree, support order, or paternity determination or acknowledgment be placed in the records relating to the matter; and

"(C) any individual who has died be placed in the records relating to the death and be recorded on the death certificate.

For purposes of subparagraph (A), if a State allows the use of a number other than the social security number, the State shall so advise any applicants.".

Subtitle C—Streamlining and Uniformity of Procedures

SEC. 321. ADOPTION OF UNIFORM STATE LAWS.

Section 466 (42 U.S.C. 666) is amended by adding at the end the following new subsection:

"(f) UNIFORM INTERSTATE FAMILY SUPPORT ACT.—In order to satisfy section 454(20)(A), on and after January 1, 1998, each State must have in effect the Uniform Interstate Family Support Act, as approved by the American Bar Association on February 9, 1993, together with any amendments officially adopted before January 1, 1998 by the National Conference of Commissioners on Uniform State Laws.".

SEC. 322. IMPROVEMENTS TO FULL FAITH AND CREDIT FOR CHILD SUPPORT ORDERS.

Section 1738B of title 28, United States Code, is amended—

(1) in subsection (a)(2), by striking "subsection (e)" and inserting "subsections (e), (f), and (i)";

(2) in subsection (b), by inserting after the 2nd undesignated paragraph the following:

"'child's home State' means the State in which a child lived with a parent or a person acting as parent for at least 6 consecutive months immediately preceding the time of filing of a petition or comparable pleading for support and, if a child is less than 6 months old, the State in which the child lived from birth with any of them. A period of temporary absence of any of them is counted as part of the 6-month period.";

(3) in subsection (c), by inserting "by a court of a State" before "is made";

(4) in subsection (c)(1), by inserting "and subsections (e), (f), and (g)" after "located";

(5) in subsection (d)—

(A) by inserting "individual" before "contestant"; and

(B) by striking "subsection (e)" and inserting "subsections (e) and (f)";

(6) in subsection (e), by striking "make a modification of a child support order with respect to a child that is made" and inserting "modify a child support order issued";

(7) in subsection (e)(1), by inserting "pursuant to subsection (i)" before the semicolon;

(8) in subsection (e)(2)—

(A) by inserting "individual" before "contestant" each place such term appears; and

(B) by striking "to that court's making the modification and assuming" and inserting "with the State of continuing,

exclusive jurisdiction for a court of another State to modify the order and assume";

(9) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively;

(10) by inserting after subsection (e) the following new subsection:

Courts.

"(f) RECOGNITION OF CHILD SUPPORT ORDERS.—If 1 or more child support orders have been issued with regard to an obligor and a child, a court shall apply the following rules in determining which order to recognize for purposes of continuing, exclusive jurisdiction and enforcement:

"(1) If only 1 court has issued a child support order, the order of that court must be recognized.

"(2) If 2 or more courts have issued child support orders for the same obligor and child, and only 1 of the courts would have continuing, exclusive jurisdiction under this section, the order of that court must be recognized.

"(3) If 2 or more courts have issued child support orders for the same obligor and child, and more than 1 of the courts would have continuing, exclusive jurisdiction under this section, an order issued by a court in the current home State of the child must be recognized, but if an order has not been issued in the current home State of the child, the order most recently issued must be recognized.

"(4) If 2 or more courts have issued child support orders for the same obligor and child, and none of the courts would have continuing, exclusive jurisdiction under this section, a court may issue a child support order, which must be recognized.

"(5) The court that has issued an order recognized under this subsection is the court having continuing, exclusive jurisdiction.";

(11) in subsection (g) (as so redesignated)—

(A) by striking "PRIOR" and inserting "MODIFIED"; and

(B) by striking "subsection (e)" and inserting "subsections (e) and (f)";

(12) in subsection (h) (as so redesignated)—

(A) in paragraph (2), by inserting "including the duration of current payments and other obligations of support" before the comma; and

(B) in paragraph (3), by inserting "arrears under" after "enforce"; and

(13) by adding at the end the following new subsection:

"(i) REGISTRATION FOR MODIFICATION.—If there is no individual contestant or child residing in the issuing State, the party or support enforcement agency seeking to modify, or to modify and enforce, a child support order issued in another State shall register that order in a State with jurisdiction over the nonmovant for the purpose of modification.".

SEC. 323. ADMINISTRATIVE ENFORCEMENT IN INTERSTATE CASES.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 315 and 317 of this Act, is amended by inserting after paragraph (13) the following new paragraph:

"(14) ADMINISTRATIVE ENFORCEMENT IN INTERSTATE CASES.—Procedures under which—

"(A)(i) the State shall respond within 5 business days to a request made by another State to enforce a support order; and

"(ii) the term 'business day' means a day on which State offices are open for regular business;

"(B) the State may, by electronic or other means, transmit to another State a request for assistance in a case involving the enforcement of a support order, which request—

"(i) shall include such information as will enable the State to which the request is transmitted to compare the information about the case to the information in the data bases of the State; and

"(ii) shall constitute a certification by the requesting State—

"(I) of the amount of support under the order the payment of which is in arrears; and

"(II) that the requesting State has complied with all procedural due process requirements applicable to the case;

"(C) if the State provides assistance to another State pursuant to this paragraph with respect to a case, neither State shall consider the case to be transferred to the caseload of such other State; and

"(D) the State shall maintain records of— Records.

"(i) the number of such requests for assistance received by the State;

"(ii) the number of cases for which the State collected support in response to such a request; and

"(iii) the amount of such collected support.".

SEC. 324. USE OF FORMS IN INTERSTATE ENFORCEMENT.

(a) PROMULGATION.—Section 452(a) (42 U.S.C. 652(a)) is amended—

(1) by striking "and" at the end of paragraph (9);

(2) by striking the period at the end of paragraph (10) (as amended by section 346(a) of this Act) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(11) not later than October 1, 1996, after consulting with the State directors of programs under this part, promulgate forms to be used by States in interstate cases for—

"(A) collection of child support through income withholding;

"(B) imposition of liens; and

"(C) administrative subpoenas.".

(b) USE BY STATES.—Section 454(9) (42 U.S.C. 654(9)) is amended—

(1) by striking "and" at the end of subparagraph (C);

(2) by inserting "and" at the end of subparagraph (D); and

(3) by adding at the end the following new subparagraph:

"(E) not later than March 1, 1997, in using the forms promulgated pursuant to section 452(a)(11) for income withholding, imposition of liens, and issuance of administrative subpoenas in interstate child support cases;".

SEC. 325. STATE LAWS PROVIDING EXPEDITED PROCEDURES.

(a) STATE LAW REQUIREMENTS.—Section 466 (42 U.S.C. 666), as amended by section 314 of this Act, is amended—

(1) in subsection (a)(2), by striking the first sentence and inserting the following: "Expedited administrative and judicial procedures (including the procedures specified in subsection (c)) for establishing paternity and for establishing, modifying, and enforcing support obligations."; and

(2) by inserting after subsection (b) the following new subsection:

"(c) EXPEDITED PROCEDURES.—The procedures specified in this subsection are the following:

"(1) ADMINISTRATIVE ACTION BY STATE AGENCY.—Procedures which give the State agency the authority to take the following actions relating to establishment of paternity or to establishment, modification, or enforcement of support orders, without the necessity of obtaining an order from any other judicial or administrative tribunal, and to recognize and enforce the authority of State agencies of other States to take the following actions:

"(A) GENETIC TESTING.—To order genetic testing for the purpose of paternity establishment as provided in section 466(a)(5).

"(B) FINANCIAL OR OTHER INFORMATION.—To subpoena any financial or other information needed to establish, modify, or enforce a support order, and to impose penalties for failure to respond to such a subpoena.

"(C) RESPONSE TO STATE AGENCY REQUEST.—To require all entities in the State (including for-profit, nonprofit, and governmental employers) to provide promptly, in response to a request by the State agency of that or any other State administering a program under this part, information on the employment, compensation, and benefits of any individual employed by such entity as an employee or contractor, and to sanction failure to respond to any such request.

"(D) ACCESS TO INFORMATION CONTAINED IN CERTAIN RECORDS.—To obtain access, subject to safeguards on privacy and information security, and subject to the nonliability of entities that afford such access under this subparagraph, to information contained in the following records (including automated access, in the case of records maintained in automated data bases):

"(i) Records of other State and local government agencies, including—

"(I) vital statistics (including records of marriage, birth, and divorce);

"(II) State and local tax and revenue records (including information on residence address, employer, income and assets);

"(III) records concerning real and titled personal property;

"(IV) records of occupational and professional licenses, and records concerning the ownership and control of corporations, partnerships, and other business entities;

"(V) employment security records;

"(VI) records of agencies administering public assistance programs;

"(VII) records of the motor vehicle department; and

"(VIII) corrections records.

"(ii) Certain records held by private entities with respect to individuals who owe or are owed support (or against or with respect to whom a support obligation is sought), consisting of—

"(I) the names and addresses of such individuals and the names and addresses of the employers of such individuals, as appearing in customer records of public utilities and cable television companies, pursuant to an administrative subpoena authorized by subparagraph (B); and

"(II) information (including information on assets and liabilities) on such individuals held by financial institutions.

"(E) CHANGE IN PAYEE.—In cases in which support is subject to an assignment in order to comply with a requirement imposed pursuant to part A or section 1912, or to a requirement to pay through the State disbursement unit established pursuant to section 454B, upon providing notice to obligor and obligee, to direct the obligor or other payor to change the payee to the appropriate government entity.

"(F) INCOME WITHHOLDING.—To order income withholding in accordance with subsections (a)(1)(A) and (b) of section 466.

"(G) SECURING ASSETS.—In cases in which there is a support arrearage, to secure assets to satisfy the arrearage by—

"(i) intercepting or seizing periodic or lump-sum payments from—

"(I) a State or local agency, including unemployment compensation, workers' compensation, and other benefits; and

"(II) judgments, settlements, and lotteries;

"(ii) attaching and seizing assets of the obligor held in financial institutions;

"(iii) attaching public and private retirement funds; and

"(iv) imposing liens in accordance with subsection (a)(4) and, in appropriate cases, to force sale of property and distribution of proceeds.

"(H) INCREASE MONTHLY PAYMENTS.—For the purpose of securing overdue support, to increase the amount of monthly support payments to include amounts for arrearages, subject to such conditions or limitations as the State may provide.

Such procedures shall be subject to due process safeguards, including (as appropriate) requirements for notice, opportunity to contest the action, and opportunity for an appeal on the record to an independent administrative or judicial tribunal.

"(2) SUBSTANTIVE AND PROCEDURAL RULES.—The expedited procedures required under subsection (a)(2) shall include the following rules and authority, applicable with respect to all

proceedings to establish paternity or to establish, modify, or enforce support orders:

"(A) LOCATOR INFORMATION; PRESUMPTIONS CONCERNING NOTICE.—Procedures under which—

"(i) each party to any paternity or child support proceeding is required (subject to privacy safeguards) to file with the tribunal and the State case registry upon entry of an order, and to update as appropriate, information on location and identity of the party, including Social Security number, residential and mailing addresses, telephone number, driver's license number, and name, address, and telephone number of employer; and

"(ii) in any subsequent child support enforcement action between the parties, upon sufficient showing that diligent effort has been made to ascertain the location of such a party, the tribunal may deem State due process requirements for notice and service of process to be met with respect to the party, upon delivery of written notice to the most recent residential or employer address filed with the tribunal pursuant to clause (i).

"(B) STATEWIDE JURISDICTION.—Procedures under which—

"(i) the State agency and any administrative or judicial tribunal with authority to hear child support and paternity cases exerts statewide jurisdiction over the parties; and

"(ii) in a State in which orders are issued by courts or administrative tribunals, a case may be transferred between local jurisdictions in the State without need for any additional filing by the petitioner, or service of process upon the respondent, to retain jurisdiction over the parties.

"(3) COORDINATION WITH ERISA.—Notwithstanding subsection (d) of section 514 of the Employee Retirement Income Security Act of 1974 (relating to effect on other laws), nothing in this subsection shall be construed to alter, amend, modify, invalidate, impair, or supersede subsections (a), (b), and (c) of such section 514 as it applies with respect to any procedure referred to in paragraph (1) and any expedited procedure referred to in paragraph (2), except to the extent that such procedure would be consistent with the requirements of section 206(d)(3) of such Act (relating to qualified domestic relations orders) or the requirements of section 609(a) of such Act (relating to qualified medical child support orders) if the reference in such section 206(d)(3) to a domestic relations order and the reference in such section 609(a) to a medical child support order were a reference to a support order referred to in paragraphs (1) and (2) relating to the same matters, respectively.".

(b) AUTOMATION OF STATE AGENCY FUNCTIONS.—Section 454A, as added by section 344(a)(2) and as amended by sections 311 and 312(c) of this Act, is amended by adding at the end the following new subsection:

"(h) EXPEDITED ADMINISTRATIVE PROCEDURES.—The automated system required by this section shall be used, to the maximum

extent feasible, to implement the expedited administrative procedures required by section 466(c).".

Subtitle D—Paternity Establishment

SEC. 331. STATE LAWS CONCERNING PATERNITY ESTABLISHMENT.

(a) STATE LAWS REQUIRED.—Section 466(a)(5) (42 U.S.C. 666(a)(5)) is amended to read as follows:

"(5) PROCEDURES CONCERNING PATERNITY ESTABLISHMENT.—

"(A) ESTABLISHMENT PROCESS AVAILABLE FROM BIRTH UNTIL AGE 18.—

"(i) Procedures which permit the establishment of the paternity of a child at any time before the child attains 18 years of age.

"(ii) As of August 16, 1984, clause (i) shall also apply to a child for whom paternity has not been established or for whom a paternity action was brought but dismissed because a statute of limitations of less than 18 years was then in effect in the State.

"(B) PROCEDURES CONCERNING GENETIC TESTING.—

"(i) GENETIC TESTING REQUIRED IN CERTAIN CONTESTED CASES.—Procedures under which the State is required, in a contested paternity case (unless otherwise barred by State law) to require the child and all other parties (other than individuals found under section 454(29) to have good cause and other exceptions for refusing to cooperate) to submit to genetic tests upon the request of any such party, if the request is supported by a sworn statement by the party—

"(I) alleging paternity, and setting forth facts establishing a reasonable possibility of the requisite sexual contact between the parties; or

"(II) denying paternity, and setting forth facts establishing a reasonable possibility of the nonexistence of sexual contact between the parties.

"(ii) OTHER REQUIREMENTS.—Procedures which require the State agency, in any case in which the agency orders genetic testing—

"(I) to pay costs of such tests, subject to recoupment (if the State so elects) from the alleged father if paternity is established; and

"(II) to obtain additional testing in any case if an original test result is contested, upon request and advance payment by the contestant.

"(C) VOLUNTARY PATERNITY ACKNOWLEDGMENT.—

"(i) SIMPLE CIVIL PROCESS.—Procedures for a simple civil process for voluntarily acknowledging paternity under which the State must provide that, before a mother and a putative father can sign an acknowledgment of paternity, the mother and the putative father must be given notice, orally and in writing, of the alternatives to, the legal consequences of, and the rights (including, if 1 parent is a minor, any rights afforded due to minority status) and responsibilities that arise from, signing the acknowledgment.

"(ii) HOSPITAL-BASED PROGRAM.—Such procedures must include a hospital-based program for the voluntary acknowledgment of paternity focusing on the period immediately before or after the birth of a child.

"(iii) PATERNITY ESTABLISHMENT SERVICES.—

"(I) STATE-OFFERED SERVICES.—Such procedures must require the State agency responsible for maintaining birth records to offer voluntary paternity establishment services.

"(II) REGULATIONS.—

"(aa) SERVICES OFFERED BY HOSPITALS AND BIRTH RECORD AGENCIES.—The Secretary shall prescribe regulations governing voluntary paternity establishment services offered by hospitals and birth record agencies.

"(bb) SERVICES OFFERED BY OTHER ENTITIES.—The Secretary shall prescribe regulations specifying the types of other entities that may offer voluntary paternity establishment services, and governing the provision of such services, which shall include a requirement that such an entity must use the same notice provisions used by, use the same materials used by, provide the personnel providing such services with the same training provided by, and evaluate the provision of such services in the same manner as the provision of such services is evaluated by, voluntary paternity establishment programs of hospitals and birth record agencies.

"(iv) USE OF PATERNITY ACKNOWLEDGMENT AFFIDAVIT.—Such procedures must require the State to develop and use an affidavit for the voluntary acknowledgment of paternity which includes the minimum requirements of the affidavit specified by the Secretary under section 452(a)(7) for the voluntary acknowledgment of paternity, and to give full faith and credit to such an affidavit signed in any other State according to its procedures.

"(D) STATUS OF SIGNED PATERNITY ACKNOWLEDGMENT.—

"(i) INCLUSION IN BIRTH RECORDS.—Procedures under which the name of the father shall be included on the record of birth of the child of unmarried parents only if—

"(I) the father and mother have signed a voluntary acknowledgment of paternity; or

"(II) a court or an administrative agency of competent jurisdiction has issued an adjudication of paternity.

Nothing in this clause shall preclude a State agency from obtaining an admission of paternity from the father for submission in a judicial or administrative proceeding, or prohibit the issuance of an order in a judicial or administrative proceeding which bases a legal finding of paternity on an admission of paternity

by the father and any other additional showing required by State law.

"(ii) LEGAL FINDING OF PATERNITY.—Procedures under which a signed voluntary acknowledgment of paternity is considered a legal finding of paternity, subject to the right of any signatory to rescind the acknowledgment within the earlier of—

"(I) 60 days; or

"(II) the date of an administrative or judicial proceeding relating to the child (including a proceeding to establish a support order) in which the signatory is a party.

"(iii) CONTEST.—Procedures under which, after the 60-day period referred to in clause (ii), a signed voluntary acknowledgment of paternity may be challenged in court only on the basis of fraud, duress, or material mistake of fact, with the burden of proof upon the challenger, and under which the legal responsibilities (including child support obligations) of any signatory arising from the acknowledgment may not be suspended during the challenge, except for good cause shown.

"(E) BAR ON ACKNOWLEDGMENT RATIFICATION PROCEEDINGS.—Procedures under which judicial or administrative proceedings are not required or permitted to ratify an unchallenged acknowledgment of paternity.

"(F) ADMISSIBILITY OF GENETIC TESTING RESULTS.—Procedures—

"(i) requiring the admission into evidence, for purposes of establishing paternity, of the results of any genetic test that is—

"(I) of a type generally acknowledged as reliable by accreditation bodies designated by the Secretary; and

"(II) performed by a laboratory approved by such an accreditation body;

"(ii) requiring an objection to genetic testing results to be made in writing not later than a specified number of days before any hearing at which the results may be introduced into evidence (or, at State option, not later than a specified number of days after receipt of the results); and

"(iii) making the test results admissible as evidence of paternity without the need for foundation testimony or other proof of authenticity or accuracy, unless objection is made.

"(G) PRESUMPTION OF PATERNITY IN CERTAIN CASES.—Procedures which create a rebuttable or, at the option of the State, conclusive presumption of paternity upon genetic testing results indicating a threshold probability that the alleged father is the father of the child.

"(H) DEFAULT ORDERS.—Procedures requiring a default order to be entered in a paternity case upon a showing of service of process on the defendant and any additional showing required by State law.

"(I) NO RIGHT TO JURY TRIAL.—Procedures providing that the parties to an action to establish paternity are not entitled to a trial by jury.

"(J) TEMPORARY SUPPORT ORDER BASED ON PROBABLE PATERNITY IN CONTESTED CASES.—Procedures which require that a temporary order be issued, upon motion by a party, requiring the provision of child support pending an administrative or judicial determination of parentage, if there is clear and convincing evidence of paternity (on the basis of genetic tests or other evidence).

"(K) PROOF OF CERTAIN SUPPORT AND PATERNITY ESTABLISHMENT COSTS.—Procedures under which bills for pregnancy, childbirth, and genetic testing are admissible as evidence without requiring third-party foundation testimony, and shall constitute prima facie evidence of amounts incurred for such services or for testing on behalf of the child.

"(L) STANDING OF PUTATIVE FATHERS.—Procedures ensuring that the putative father has a reasonable opportunity to initiate a paternity action.

"(M) FILING OF ACKNOWLEDGMENTS AND ADJUDICATIONS IN STATE REGISTRY OF BIRTH RECORDS.—Procedures under which voluntary acknowledgments and adjudications of paternity by judicial or administrative processes are filed with the State registry of birth records for comparison with information in the State case registry.".

(b) NATIONAL PATERNITY ACKNOWLEDGMENT AFFIDAVIT.—Section 452(a)(7) (42 U.S.C. 652(a)(7)) is amended by inserting ", and specify the minimum requirements of an affidavit to be used for the voluntary acknowledgment of paternity which shall include the Social Security number of each parent and, after consultation with the States, other common elements as determined by such designee" before the semicolon.

(c) CONFORMING AMENDMENT.—Section 468 (42 U.S.C. 668) is amended by striking "a simple civil process for voluntarily acknowledging paternity and".

SEC. 332. OUTREACH FOR VOLUNTARY PATERNITY ESTABLISHMENT.

Section 454(23) (42 U.S.C. 654(23)) is amended by inserting "and will publicize the availability and encourage the use of procedures for voluntary establishment of paternity and child support by means the State deems appropriate" before the semicolon.

SEC. 333. COOPERATION BY APPLICANTS FOR AND RECIPIENTS OF PART A ASSISTANCE.

Section 454 (42 U.S.C. 654), as amended by sections 301(b), 303(a), 312(a), and 313(a) of this Act, is amended—

(1) by striking "and" at the end of paragraph (27);

(2) by striking the period at the end of paragraph (28) and inserting "; and"; and

(3) by inserting after paragraph (28) the following new paragraph:

"(29) provide that the State agency responsible for administering the State plan—

"(A) shall make the determination (and redetermination at appropriate intervals) as to whether an individual who has applied for or is receiving assistance under the State program funded under part A of this title or the

State program under title XIX is cooperating in good faith with the State in establishing the paternity of, or in establishing, modifying, or enforcing a support order for, any child of the individual by providing the State agency with the name of, and such other information as the State agency may require with respect to, the noncustodial parent of the child, subject to good cause and other exceptions which—

"(i) shall be defined, taking into account the best interests of the child, and

"(ii) shall be applied in each case,

by, at the option of the State, the State agency administering the State program under part A, this part, or title XIX;

"(B) shall require the individual to supply additional necessary information and appear at interviews, hearings, and legal proceedings;

"(C) shall require the individual and the child to submit to genetic tests pursuant to judicial or administrative order;

"(D) may request that the individual sign a voluntary acknowledgment of paternity, after notice of the rights and consequences of such an acknowledgment, but may not require the individual to sign an acknowledgment or otherwise relinquish the right to genetic tests as a condition of cooperation and eligibility for assistance under the State program funded under part A, or the State program under title XIX; and

"(E) shall promptly notify the individual, the State agency administering the State program funded under part A, and the State agency administering the State program under title XIX, of each such determination, and if noncooperation is determined, the basis therefor.". Notification.

Subtitle E—Program Administration and Funding

SEC. 341. PERFORMANCE-BASED INCENTIVES AND PENALTIES.

(a) DEVELOPMENT OF NEW SYSTEM.—The Secretary of Health and Human Services, in consultation with State directors of programs under part D of title IV of the Social Security Act, shall develop a new incentive system to replace, in a revenue neutral manner, the system under section 458 of such Act. The new system shall provide additional payments to any State based on such State's performance under such a program. Not later than March 1, 1997, the Secretary shall report on the new system to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate. 42 USC 658 note. Reports.

(b) CONFORMING AMENDMENTS TO PRESENT SYSTEM.—Section 458 (42 U.S.C. 658) is amended—

(1) in subsection (a), by striking "aid to families with dependent children under a State plan approved under part A of this title" and inserting "assistance under a program funded under part A";

(2) in subsection (b)(1)(A), by striking "section 402(a)(26)" and inserting "section 408(a)(4)";

(3) in subsections (b) and (c)—

(A) by striking "AFDC collections" each place it appears and inserting "title IV–A collections", and

(B) by striking "non-AFDC collections" each place it appears and inserting "non-title IV–A collections"; and

(4) in subsection (c), by striking "combined AFDC/non-AFDC administrative costs" both places it appears and inserting "combined title IV–A/non-title IV–A administrative costs".

(c) CALCULATION OF PATERNITY ESTABLISHMENT PERCENTAGE.—

(1) Section 452(g)(1)(A) (42 U.S.C. 652(g)(1)(A)) is amended by striking "75" and inserting "90".

(2) Section 452(g)(1) (42 U.S.C. 652(g)(1)) is amended—

(A) by redesignating subparagraphs (B) through (E) as subparagraphs (C) through (F), respectively, and by inserting after subparagraph (A) the following new subparagraph:

"(B) for a State with a paternity establishment percentage of not less than 75 percent but less than 90 percent for such fiscal year, the paternity establishment percentage of the State for the immediately preceding fiscal year plus 2 percentage points;"; and

(B) by adding at the end the following new flush sentence:

"In determining compliance under this section, a State may use as its paternity establishment percentage either the State's IV–D paternity establishment percentage (as defined in paragraph (2)(A)) or the State's statewide paternity establishment percentage (as defined in paragraph (2)(B)).".

(3) Section 452(g)(2) (42 U.S.C. 652(g)(2)) is amended—

(A) in subparagraph (A)—

(i) in the matter preceding clause (i)—

(I) by striking "paternity establishment percentage" and inserting "IV–D paternity establishment percentage"; and

(II) by striking "(or all States, as the case may be)"; and

(ii) by striking "and" at the end; and

(B) by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

"(B) the term 'statewide paternity establishment percentage' means, with respect to a State for a fiscal year, the ratio (expressed as a percentage) that the total number of minor children—

"(i) who have been born out of wedlock, and

"(ii) the paternity of whom has been established or acknowledged during the fiscal year,

bears to the total number of children born out of wedlock during the preceding fiscal year; and".

(4) Section 452(g)(3) (42 U.S.C. 652(g)(3)) is amended—

(A) by striking subparagraph (A) and redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively; and

(B) in subparagraph (A) (as so redesignated), by striking "the percentage of children born out-of-wedlock in a State" and inserting "the percentage of children in a State who are born out of wedlock or for whom support has not been established".

(d) EFFECTIVE DATES.—

(1) INCENTIVE ADJUSTMENTS.— 42 USC 658 note.

(A) IN GENERAL.—The system developed under subsection (a) and the amendments made by subsection (b) shall become effective on October 1, 1999, except to the extent provided in subparagraph (B).

(B) APPLICATION OF SECTION 458.—Section 458 of the Social Security Act, as in effect on the day before the date of the enactment of this section, shall be effective for purposes of incentive payments to States for fiscal years before fiscal year 2000.

(2) PENALTY REDUCTIONS.—The amendments made by subsection (c) shall become effective with respect to calendar quarters beginning on or after the date of the enactment of this Act. 42 USC 652 note.

SEC. 342. FEDERAL AND STATE REVIEWS AND AUDITS.

(a) STATE AGENCY ACTIVITIES.—Section 454 (42 U.S.C. 654) is amended—

(1) in paragraph (14), by striking "(14)" and inserting "(14)(A)";

(2) by redesignating paragraph (15) as subparagraph (B) of paragraph (14); and

(3) by inserting after paragraph (14) the following new paragraph:

"(15) provide for—

"(A) a process for annual reviews of and reports to the Secretary on the State program operated under the State plan approved under this part, including such information as may be necessary to measure State compliance with Federal requirements for expedited procedures, using such standards and procedures as are required by the Secretary, under which the State agency will determine the extent to which the program is operated in compliance with this part; and

"(B) a process of extracting from the automated data processing system required by paragraph (16) and transmitting to the Secretary data and calculations concerning the levels of accomplishment (and rates of improvement) with respect to applicable performance indicators (including paternity establishment percentages) to the extent necessary for purposes of sections 452(g) and 458;".

(b) FEDERAL ACTIVITIES.—Section 452(a)(4) (42 U.S.C. 652(a)(4)) is amended to read as follows:

"(4)(A) review data and calculations transmitted by State agencies pursuant to section 454(15)(B) on State program accomplishments with respect to performance indicators for purposes of subsection (g) of this section and section 458;

"(B) review annual reports submitted pursuant to section 454(15)(A) and, as appropriate, provide to the State comments, recommendations for additional or alternative corrective actions, and technical assistance; and

"(C) conduct audits, in accordance with the Government auditing standards of the Comptroller General of the United States—

"(i) at least once every 3 years (or more frequently, in the case of a State which fails to meet the requirements of this part concerning performance standards and reliability of program data) to assess the completeness, reliability, and security of the data and the accuracy of the reporting systems used in calculating performance indicators under subsection (g) of this section and section 458;

"(ii) of the adequacy of financial management of the State program operated under the State plan approved under this part, including assessments of—

"(I) whether Federal and other funds made available to carry out the State program are being appropriately expended, and are properly and fully accounted for; and

"(II) whether collections and disbursements of support payments are carried out correctly and are fully accounted for; and

"(iii) for such other purposes as the Secretary may find necessary;".

42 USC 652 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to calendar quarters beginning 12 months or more after the date of the enactment of this Act.

SEC. 343. REQUIRED REPORTING PROCEDURES.

(a) ESTABLISHMENT.—Section 452(a)(5) (42 U.S.C. 652(a)(5)) is amended by inserting ", and establish procedures to be followed by States for collecting and reporting information required to be provided under this part, and establish uniform definitions (including those necessary to enable the measurement of State compliance with the requirements of this part relating to expedited processes) to be applied in following such procedures" before the semicolon.

(b) STATE PLAN REQUIREMENT.—Section 454 (42 U.S.C. 654), as amended by sections 301(b), 303(a), 312(a), 313(a), and 333 of this Act, is amended—

(1) by striking "and" at the end of paragraph (28);

(2) by striking the period at the end of paragraph (29) and inserting "; and"; and

(3) by adding after paragraph (29) the following new paragraph:

"(30) provide that the State shall use the definitions established under section 452(a)(5) in collecting and reporting information as required under this part.".

SEC. 344. AUTOMATED DATA PROCESSING REQUIREMENTS.

(a) REVISED REQUIREMENTS.—

(1) IN GENERAL.—Section 454(16) (42 U.S.C. 654(16)) is amended—

(A) by striking ", at the option of the State,";

(B) by inserting "and operation by the State agency" after "for the establishment";

(C) by inserting "meeting the requirements of section 454A" after "information retrieval system";

(D) by striking "in the State and localities thereof, so as (A)" and inserting "so as";

(E) by striking "(i)"; and

(F) by striking "(including" and all that follows and inserting a semicolon.

(2) AUTOMATED DATA PROCESSING.—Part D of title IV (42 U.S.C. 651–669) is amended by inserting after section 454 the following new section:

"SEC. 454A. AUTOMATED DATA PROCESSING. 42 USC 654a.

"(a) IN GENERAL.—In order for a State to meet the requirements of this section, the State agency administering the State program under this part shall have in operation a single statewide automated data processing and information retrieval system which has the capability to perform the tasks specified in this section with the frequency and in the manner required by or under this part.

"(b) PROGRAM MANAGEMENT.—The automated system required by this section shall perform such functions as the Secretary may specify relating to management of the State program under this part, including—

"(1) controlling and accounting for use of Federal, State, and local funds in carrying out the program; and

"(2) maintaining the data necessary to meet Federal reporting requirements under this part on a timely basis.

"(c) CALCULATION OF PERFORMANCE INDICATORS.—In order to enable the Secretary to determine the incentive payments and penalty adjustments required by sections 452(g) and 458, the State agency shall—

"(1) use the automated system—

"(A) to maintain the requisite data on State performance with respect to paternity establishment and child support enforcement in the State; and

"(B) to calculate the paternity establishment percentage for the State for each fiscal year; and

"(2) have in place systems controls to ensure the completeness and reliability of, and ready access to, the data described in paragraph (1)(A), and the accuracy of the calculations described in paragraph (1)(B).

"(d) INFORMATION INTEGRITY AND SECURITY.—The State agency shall have in effect safeguards on the integrity, accuracy, and completeness of, access to, and use of data in the automated system required by this section, which shall include the following (in addition to such other safeguards as the Secretary may specify in regulations):

"(1) POLICIES RESTRICTING ACCESS.—Written policies concerning access to data by State agency personnel, and sharing of data with other persons, which—

"(A) permit access to and use of data only to the extent necessary to carry out the State program under this part; and

"(B) specify the data which may be used for particular program purposes, and the personnel permitted access to such data.

"(2) SYSTEMS CONTROLS.—Systems controls (such as passwords or blocking of fields) to ensure strict adherence to the policies described in paragraph (1).

"(3) MONITORING OF ACCESS.—Routine monitoring of access to and use of the automated system, through methods such as audit trails and feedback mechanisms, to guard against and promptly identify unauthorized access or use.

"(4) TRAINING AND INFORMATION.—Procedures to ensure that all personnel (including State and local agency staff and

contractors) who may have access to or be required to use confidential program data are informed of applicable requirements and penalties (including those in section 6103 of the Internal Revenue Code of 1986), and are adequately trained in security procedures.

"(5) PENALTIES.—Administrative penalties (up to and including dismissal from employment) for unauthorized access to, or disclosure or use of, confidential data.".

42 USC 654a note.

(3) REGULATIONS.—The Secretary of Health and Human Services shall prescribe final regulations for implementation of section 454A of the Social Security Act not later than 2 years after the date of the enactment of this Act.

(4) IMPLEMENTATION TIMETABLE.—Section 454(24) (42 U.S.C. 654(24)), as amended by section 303(a)(1) of this Act, is amended to read as follows:

"(24) provide that the State will have in effect an automated data processing and information retrieval system—

"(A) by October 1, 1997, which meets all requirements of this part which were enacted on or before the date of enactment of the Family Support Act of 1988, and

"(B) by October 1, 2000, which meets all requirements of this part enacted on or before the date of the enactment of the Personal Responsibility and Work Opportunity Act of 1996, except that such deadline shall be extended by 1 day for each day (if any) by which the Secretary fails to meet the deadline imposed by section 344(a)(3) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996;".

(b) SPECIAL FEDERAL MATCHING RATE FOR DEVELOPMENT COSTS OF AUTOMATED SYSTEMS.—

(1) IN GENERAL.—Section 455(a) (42 U.S.C. 655(a)) is amended—

(A) in paragraph (1)(B)—

(i) by striking "90 percent" and inserting "the percent specified in paragraph (3)";

(ii) by striking "so much of"; and

(iii) by striking "which the Secretary" and all that follows and inserting ", and"; and

(B) by adding at the end the following new paragraph:

"(3)(A) The Secretary shall pay to each State, for each quarter in fiscal years 1996 and 1997, 90 percent of so much of the State expenditures described in paragraph (1)(B) as the Secretary finds are for a system meeting the requirements specified in section 454(16) (as in effect on September 30, 1995) but limited to the amount approved for States in the advance planning documents of such States submitted on or before September 30, 1995.

"(B)(i) The Secretary shall pay to each State, for each quarter in fiscal years 1996 through 2001, the percentage specified in clause (ii) of so much of the State expenditures described in paragraph (1)(B) as the Secretary finds are for a system meeting the requirements of sections 454(16) and 454A.

"(ii) The percentage specified in this clause is 80 percent.".

42 USC 655 note.

(2) TEMPORARY LIMITATION ON PAYMENTS UNDER SPECIAL FEDERAL MATCHING RATE.—

(A) IN GENERAL.—The Secretary of Health and Human Services may not pay more than $400,000,000 in the aggre-

gate under section 455(a)(3)(B) of the Social Security Act for fiscal years 1996 through 2001.

(B) ALLOCATION OF LIMITATION AMONG STATES.—The total amount payable to a State under section 455(a)(3)(B) of such Act for fiscal years 1996 through 2001 shall not exceed the limitation determined for the State by the Secretary of Health and Human Services in regulations.

(C) ALLOCATION FORMULA.—The regulations referred to in subparagraph (B) shall prescribe a formula for allocating the amount specified in subparagraph (A) among States with plans approved under part D of title IV of the Social Security Act, which shall take into account—

(i) the relative size of State caseloads under such part; and

(ii) the level of automation needed to meet the automated data processing requirements of such part.

(c) CONFORMING AMENDMENT.—Section 123(c) of the Family Support Act of 1988 (102 Stat. 2352; Public Law 100–485) is repealed. 42 USC 655, 655 note.

SEC. 345. TECHNICAL ASSISTANCE.

(a) FOR TRAINING OF FEDERAL AND STATE STAFF, RESEARCH AND DEMONSTRATION PROGRAMS, AND SPECIAL PROJECTS OF REGIONAL OR NATIONAL SIGNIFICANCE.—Section 452 (42 U.S.C. 652) is amended by adding at the end the following new subsection:

"(j) Out of any money in the Treasury of the United States not otherwise appropriated, there is hereby appropriated to the Secretary for each fiscal year an amount equal to 1 percent of the total amount paid to the Federal Government pursuant to section 457(a) during the immediately preceding fiscal year (as determined on the basis of the most recent reliable data available to the Secretary as of the end of the third calendar quarter following the end of such preceding fiscal year), to cover costs incurred by the Secretary for—

"(1) information dissemination and technical assistance to States, training of State and Federal staff, staffing studies, and related activities needed to improve programs under this part (including technical assistance concerning State automated systems required by this part); and

"(2) research, demonstration, and special projects of regional or national significance relating to the operation of State programs under this part.

The amount appropriated under this subsection shall remain available until expended.".

(b) OPERATION OF FEDERAL PARENT LOCATOR SERVICE.—Section 453 (42 U.S.C. 653), as amended by section 316 of this Act, is amended by adding at the end the following new subsection:

"(o) RECOVERY OF COSTS.—Out of any money in the Treasury of the United States not otherwise appropriated, there is hereby appropriated to the Secretary for each fiscal year an amount equal to 2 percent of the total amount paid to the Federal Government pursuant to section 457(a) during the immediately preceding fiscal year (as determined on the basis of the most recent reliable data available to the Secretary as of the end of the third calendar quarter following the end of such preceding fiscal year), to cover costs incurred by the Secretary for operation of the Federal Parent

Locator Service under this section, to the extent such costs are not recovered through user fees.".

SEC. 346. REPORTS AND DATA COLLECTION BY THE SECRETARY.

(a) ANNUAL REPORT TO CONGRESS.—

(1) Section 452(a)(10)(A) (42 U.S.C. 652(a)(10)(A)) is amended—

(A) by striking "this part;" and inserting "this part, including—"; and

(B) by adding at the end the following new clauses:

"(i) the total amount of child support payments collected as a result of services furnished during the fiscal year to individuals receiving services under this part;

"(ii) the cost to the States and to the Federal Government of so furnishing the services; and

"(iii) the number of cases involving families—

"(I) who became ineligible for assistance under State programs funded under part A during a month in the fiscal year; and

"(II) with respect to whom a child support payment was received in the month;".

(2) Section 452(a)(10)(C) (42 U.S.C. 652(a)(10)(C)) is amended—

(A) in the matter preceding clause (i)—

(i) by striking "with the data required under each clause being separately stated for cases" and inserting "separately stated for cases";

(ii) by striking "cases where the child was formerly receiving" and inserting "or formerly received";

(iii) by inserting "or 1912" after "471(a)(17)"; and

(iv) by inserting "for" before "all other";

(B) in each of clauses (i) and (ii), by striking ", and the total amount of such obligations";

(C) in clause (iii), by striking "described in" and all that follows and inserting "in which support was collected during the fiscal year;";

(D) by striking clause (iv); and

(E) by redesignating clause (v) as clause (vii), and inserting after clause (iii) the following new clauses:

"(iv) the total amount of support collected during such fiscal year and distributed as current support;

"(v) the total amount of support collected during such fiscal year and distributed as arrearages;

"(vi) the total amount of support due and unpaid for all fiscal years; and".

(3) Section 452(a)(10)(G) (42 U.S.C. 652(a)(10)(G)) is amended by striking "on the use of Federal courts and".

(4) Section 452(a)(10) (42 U.S.C. 652(a)(10)) is amended—

(A) in subparagraph (H), by striking "and";

(B) in subparagraph (I), by striking the period and inserting "; and"; and

(C) by inserting after subparagraph (I) the following new subparagraph:

"(J) compliance, by State, with the standards established pursuant to subsections (h) and (i).".

(5) Section 452(a)(10) (42 U.S.C. 652(a)(10)) is amended by striking all that follows subparagraph (J), as added by paragraph (4).

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall be effective with respect to fiscal year 1997 and succeeding fiscal years.

Subtitle F—Establishment and Modification of Support Orders

SEC. 351. SIMPLIFIED PROCESS FOR REVIEW AND ADJUSTMENT OF CHILD SUPPORT ORDERS.

Section 466(a)(10) (42 U.S.C. 666(a)(10)) is amended to read as follows:

"(10) REVIEW AND ADJUSTMENT OF SUPPORT ORDERS UPON REQUEST.—

"(A) 3-YEAR CYCLE.—

"(i) IN GENERAL.—Procedures under which every 3 years (or such shorter cycle as the State may determine), upon the request of either parent, or, if there is an assignment under part A, upon the request of the State agency under the State plan or of either parent, the State shall with respect to a support order being enforced under this part, taking into account the best interests of the child involved—

"(I) review and, if appropriate, adjust the order in accordance with the guidelines established pursuant to section 467(a) if the amount of the child support award under the order differs from the amount that would be awarded in accordance with the guidelines;

"(II) apply a cost-of-living adjustment to the order in accordance with a formula developed by the State; or

"(III) use automated methods (including automated comparisons with wage or State income tax data) to identify orders eligible for review, conduct the review, identify orders eligible for adjustment, and apply the appropriate adjustment to the orders eligible for adjustment under any threshold that may be established by the State.

"(ii) OPPORTUNITY TO REQUEST REVIEW OF ADJUSTMENT.—If the State elects to conduct the review under subclause (II) or (III) of clause (i), procedures which permit either party to contest the adjustment, within 30 days after the date of the notice of the adjustment, by making a request for review and, if appropriate, adjustment of the order in accordance with the child support guidelines established pursuant to section 467(a).

"(iii) NO PROOF OF CHANGE IN CIRCUMSTANCES NECESSARY IN 3-YEAR CYCLE REVIEW.—Procedures which provide that any adjustment under clause (i) shall be made without a requirement for proof or showing of a change in circumstances.

"(B) PROOF OF SUBSTANTIAL CHANGE IN CIRCUMSTANCES NECESSARY IN REQUEST FOR REVIEW OUTSIDE 3-YEAR CYCLE.—Procedures under which, in the case of a request for a review, and if appropriate, an adjustment outside the 3-year cycle (or such shorter cycle as the State may determine) under clause (i), the State shall review and, if the requesting party demonstrates a substantial change in circumstances, adjust the order in accordance with the guidelines established pursuant to section 467(a).

"(C) NOTICE OF RIGHT TO REVIEW.—Procedures which require the State to provide notice not less than once every 3 years to the parents subject to the order informing the parents of their right to request the State to review and, if appropriate, adjust the order pursuant to this paragraph. The notice may be included in the order.".

SEC. 352. FURNISHING CONSUMER REPORTS FOR CERTAIN PURPOSES RELATING TO CHILD SUPPORT.

Section 604 of the Fair Credit Reporting Act (15 U.S.C. 1681b) is amended by adding at the end the following new paragraphs:

"(4) In response to a request by the head of a State or local child support enforcement agency (or a State or local government official authorized by the head of such an agency), if the person making the request certifies to the consumer reporting agency that—

"(A) the consumer report is needed for the purpose of establishing an individual's capacity to make child support payments or determining the appropriate level of such payments;

"(B) the paternity of the consumer for the child to which the obligation relates has been established or acknowledged by the consumer in accordance with State laws under which the obligation arises (if required by those laws);

"(C) the person has provided at least 10 days' prior notice to the consumer whose report is requested, by certified or registered mail to the last known address of the consumer, that the report will be requested; and

"(D) the consumer report will be kept confidential, will be used solely for a purpose described in subparagraph (A), and will not be used in connection with any other civil, administrative, or criminal proceeding, or for any other purpose.

"(5) To an agency administering a State plan under section 454 of the Social Security Act (42 U.S.C. 654) for use to set an initial or modified child support award.".

SEC. 353. NONLIABILITY FOR FINANCIAL INSTITUTIONS PROVIDING FINANCIAL RECORDS TO STATE CHILD SUPPORT ENFORCEMENT AGENCIES IN CHILD SUPPORT CASES.

Part D of title IV (42 U.S.C. 651–669) is amended by adding at the end the following:

44 USC 649s.

"SEC. 469A. NONLIABILITY FOR FINANCIAL INSTITUTIONS PROVIDING FINANCIAL RECORDS TO STATE CHILD SUPPORT ENFORCEMENT AGENCIES IN CHILD SUPPORT CASES.

"(a) IN GENERAL.—Notwithstanding any other provision of Federal or State law, a financial institution shall not be liable under any Federal or State law to any person for disclosing any financial record of an individual to a State child support enforce-

ment agency attempting to establish, modify, or enforce a child support obligation of such individual.

"(b) PROHIBITION OF DISCLOSURE OF FINANCIAL RECORD OBTAINED BY STATE CHILD SUPPORT ENFORCEMENT AGENCY.—A State child support enforcement agency which obtains a financial record of an individual from a financial institution pursuant to subsection (a) may disclose such financial record only for the purpose of, and to the extent necessary in, establishing, modifying, or enforcing a child support obligation of such individual.

"(c) CIVIL DAMAGES FOR UNAUTHORIZED DISCLOSURE.—

"(1) DISCLOSURE BY STATE OFFICER OR EMPLOYEE.—If any person knowingly, or by reason of negligence, discloses a financial record of an individual in violation of subsection (b), such individual may bring a civil action for damages against such person in a district court of the United States.

"(2) NO LIABILITY FOR GOOD FAITH BUT ERRONEOUS INTERPRETATION.—No liability shall arise under this subsection with respect to any disclosure which results from a good faith, but erroneous, interpretation of subsection (b).

"(3) DAMAGES.—In any action brought under paragraph (1), upon a finding of liability on the part of the defendant, the defendant shall be liable to the plaintiff in an amount equal to the sum of—

"(A) the greater of—

"(i) $1,000 for each act of unauthorized disclosure of a financial record with respect to which such defendant is found liable; or

"(ii) the sum of—

"(I) the actual damages sustained by the plaintiff as a result of such unauthorized disclosure; plus

"(II) in the case of a willful disclosure or a disclosure which is the result of gross negligence, punitive damages; plus

"(B) the costs (including attorney's fees) of the action.

"(d) DEFINITIONS.—For purposes of this section—

"(1) FINANCIAL INSTITUTION.—The term 'financial institution' means—

"(A) a depository institution, as defined in section 3(c) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c));

"(B) an institution-affiliated party, as defined in section 3(u) of such Act (12 U.S.C. 1813(u));

"(C) any Federal credit union or State credit union, as defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752), including an institution-affiliated party of such a credit union, as defined in section 206(r) of such Act (12 U.S.C. 1786(r)); and

"(D) any benefit association, insurance company, safe deposit company, money-market mutual fund, or similar entity authorized to do business in the State.

"(2) FINANCIAL RECORD.—The term 'financial record' has the meaning given such term in section 1101 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401).".

Subtitle G—Enforcement of Support Orders

SEC. 361. INTERNAL REVENUE SERVICE COLLECTION OF ARREARAGES.

(a) COLLECTION OF FEES.—Section 6305(a) of the Internal Revenue Code of 1986 (relating to collection of certain liability) is amended—

(1) by striking "and" at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting ", and";

(3) by adding at the end the following new paragraph:

"(5) no additional fee may be assessed for adjustments to an amount previously certified pursuant to such section 452(b) with respect to the same obligor."; and

(4) by striking "Secretary of Health, Education, and Welfare" each place it appears and inserting "Secretary of Health and Human Services".

26 USC 6305 note.

(b) EFFECTIVE DATE.—The amendments made by this section shall become effective October 1, 1997.

SEC. 362. AUTHORITY TO COLLECT SUPPORT FROM FEDERAL EMPLOYEES.

(a) CONSOLIDATION AND STREAMLINING OF AUTHORITIES.—Section 459 (42 U.S.C. 659) is amended to read as follows:

"SEC. 459. CONSENT BY THE UNITED STATES TO INCOME WITHHOLDING, GARNISHMENT, AND SIMILAR PROCEEDINGS FOR ENFORCEMENT OF CHILD SUPPORT AND ALIMONY OBLIGATIONS.

"(a) CONSENT TO SUPPORT ENFORCEMENT.—Notwithstanding any other provision of law (including section 207 of this Act and section 5301 of title 38, United States Code), effective January 1, 1975, moneys (the entitlement to which is based upon remuneration for employment) due from, or payable by, the United States or the District of Columbia (including any agency, subdivision, or instrumentality thereof) to any individual, including members of the Armed Forces of the United States, shall be subject, in like manner and to the same extent as if the United States or the District of Columbia were a private person, to withholding in accordance with State law enacted pursuant to subsections (a)(1) and (b) of section 466 and regulations of the Secretary under such subsections, and to any other legal process brought, by a State agency administering a program under a State plan approved under this part or by an individual obligee, to enforce the legal obligation of the individual to provide child support or alimony.

"(b) CONSENT TO REQUIREMENTS APPLICABLE TO PRIVATE PERSON.—With respect to notice to withhold income pursuant to subsection (a)(1) or (b) of section 466, or any other order or process to enforce support obligations against an individual (if the order or process contains or is accompanied by sufficient data to permit prompt identification of the individual and the moneys involved), each governmental entity specified in subsection (a) shall be subject to the same requirements as would apply if the entity were a private person, except as otherwise provided in this section.

"(c) DESIGNATION OF AGENT; RESPONSE TO NOTICE OR PROCESS—

"(1) DESIGNATION OF AGENT.—The head of each agency subject to this section shall—

"(A) designate an agent or agents to receive orders and accept service of process in matters relating to child support or alimony; and

"(B) annually publish in the Federal Register the designation of the agent or agents, identified by title or position, mailing address, and telephone number. Federal Register, publication.

"(2) RESPONSE TO NOTICE OR PROCESS.—If an agent designated pursuant to paragraph (1) of this subsection receives notice pursuant to State procedures in effect pursuant to subsection (a)(1) or (b) of section 466, or is effectively served with any order, process, or interrogatory, with respect to an individual's child support or alimony payment obligations, the agent shall—

"(A) as soon as possible (but not later than 15 days) thereafter, send written notice of the notice or service (together with a copy of the notice or service) to the individual at the duty station or last-known home address of the individual;

"(B) within 30 days (or such longer period as may be prescribed by applicable State law) after receipt of a notice pursuant to such State procedures, comply with all applicable provisions of section 466; and

"(C) within 30 days (or such longer period as may be prescribed by applicable State law) after effective service of any other such order, process, or interrogatory, respond to the order, process, or interrogatory.

"(d) PRIORITY OF CLAIMS.—If a governmental entity specified in subsection (a) receives notice or is served with process, as provided in this section, concerning amounts owed by an individual to more than 1 person—

"(1) support collection under section 466(b) must be given priority over any other process, as provided in section 466(b)(7);

"(2) allocation of moneys due or payable to an individual among claimants under section 466(b) shall be governed by section 466(b) and the regulations prescribed under such section; and

"(3) such moneys as remain after compliance with paragraphs (1) and (2) shall be available to satisfy any other such processes on a first-come, first-served basis, with any such process being satisfied out of such moneys as remain after the satisfaction of all such processes which have been previously served.

"(e) NO REQUIREMENT TO VARY PAY CYCLES.—A governmental entity that is affected by legal process served for the enforcement of an individual's child support or alimony payment obligations shall not be required to vary its normal pay and disbursement cycle in order to comply with the legal process.

"(f) RELIEF FROM LIABILITY.—

"(1) Neither the United States, nor the government of the District of Columbia, nor any disbursing officer shall be liable with respect to any payment made from moneys due or payable from the United States to any individual pursuant to legal process regular on its face, if the payment is made in accordance

with this section and the regulations issued to carry out this section.

"(2) No Federal employee whose duties include taking actions necessary to comply with the requirements of subsection (a) with regard to any individual shall be subject under any law to any disciplinary action or civil or criminal liability or penalty for, or on account of, any disclosure of information made by the employee in connection with the carrying out of such actions.

"(g) REGULATIONS.—Authority to promulgate regulations for the implementation of this section shall, insofar as this section applies to moneys due from (or payable by)—

"(1) the United States (other than the legislative or judicial branches of the Federal Government) or the government of the District of Columbia, be vested in the President (or the designee of the President);

"(2) the legislative branch of the Federal Government, be vested jointly in the President pro tempore of the Senate and the Speaker of the House of Representatives (or their designees), and

"(3) the judicial branch of the Federal Government, be vested in the Chief Justice of the United States (or the designee of the Chief Justice).

"(h) MONEYS SUBJECT TO PROCESS.—

"(1) IN GENERAL.—Subject to paragraph (2), moneys paid or payable to an individual which are considered to be based upon remuneration for employment, for purposes of this section—

"(A) consist of—

"(i) compensation paid or payable for personal services of the individual, whether the compensation is denominated as wages, salary, commission, bonus, pay, allowances, or otherwise (including severance pay, sick pay, and incentive pay);

"(ii) periodic benefits (including a periodic benefit as defined in section 228(h)(3)) or other payments—

"(I) under the insurance system established by title II;

"(II) under any other system or fund established by the United States which provides for the payment of pensions, retirement or retired pay, annuities, dependents' or survivors' benefits, or similar amounts payable on account of personal services performed by the individual or any other individual;

"(III) as compensation for death under any Federal program;

"(IV) under any Federal program established to provide 'black lung' benefits; or

"(V) by the Secretary of Veterans Affairs as compensation for a service-connected disability paid by the Secretary to a former member of the Armed Forces who is in receipt of retired or retainer pay if the former member has waived a portion of the retired or retainer pay in order to receive such compensation; and

"(iii) worker's compensation benefits paid under Federal or State law but

"(B) do not include any payment—

"(i) by way of reimbursement or otherwise, to defray expenses incurred by the individual in carrying out duties associated with the employment of the individual; or

"(ii) as allowances for members of the uniformed services payable pursuant to chapter 7 of title 37, United States Code, as prescribed by the Secretaries concerned (defined by section 101(5) of such title) as necessary for the efficient performance of duty.

"(2) CERTAIN AMOUNTS EXCLUDED.—In determining the amount of any moneys due from, or payable by, the United States to any individual, there shall be excluded amounts which—

"(A) are owed by the individual to the United States;

"(B) are required by law to be, and are, deducted from the remuneration or other payment involved, including Federal employment taxes, and fines and forfeitures ordered by court-martial;

"(C) are properly withheld for Federal, State, or local income tax purposes, if the withholding of the amounts is authorized or required by law and if amounts withheld are not greater than would be the case if the individual claimed all dependents to which he was entitled (the withholding of additional amounts pursuant to section 3402(i) of the Internal Revenue Code of 1986 may be permitted only when the individual presents evidence of a tax obligation which supports the additional withholding);

"(D) are deducted as health insurance premiums;

"(E) are deducted as normal retirement contributions (not including amounts deducted for supplementary coverage); or

"(F) are deducted as normal life insurance premiums from salary or other remuneration for employment (not including amounts deducted for supplementary coverage).

"(i) DEFINITIONS.—For purposes of this section—

"(1) UNITED STATES.—The term 'United States' includes any department, agency, or instrumentality of the legislative, judicial, or executive branch of the Federal Government, the United States Postal Service, the Postal Rate Commission, any Federal corporation created by an Act of Congress that is wholly owned by the Federal Government, and the governments of the territories and possessions of the United States.

"(2) CHILD SUPPORT.—The term 'child support', when used in reference to the legal obligations of an individual to provide such support, means amounts required to be paid under a judgment, decree, or order, whether temporary, final, or subject to modification, issued by a court or an administrative agency of competent jurisdiction, for the support and maintenance of a child, including a child who has attained the age of majority under the law of the issuing State, or a child and the parent with whom the child is living, which provides for monetary support, health care, arrearages or reimbursement, and which may include other related costs and fees, interest and penalties, income withholding, attorney's fees, and other relief.

"(3) ALIMONY.—

"(A) IN GENERAL.—The term 'alimony', when used in reference to the legal obligations of an individual to provide the same, means periodic payments of funds for the support and maintenance of the spouse (or former spouse) of the individual, and (subject to and in accordance with State law) includes separate maintenance, alimony pendente lite, maintenance, and spousal support, and includes attorney's fees, interest, and court costs when and to the extent that the same are expressly made recoverable as such pursuant to a decree, order, or judgment issued in accordance with applicable State law by a court of competent jurisdiction.

"(B) EXCEPTIONS.—Such term does not include—

"(i) any child support; or

"(ii) any payment or transfer of property or its value by an individual to the spouse or a former spouse of the individual in compliance with any community property settlement, equitable distribution of property, or other division of property between spouses or former spouses.

"(4) PRIVATE PERSON.—The term 'private person' means a person who does not have sovereign or other special immunity or privilege which causes the person not to be subject to legal process.

"(5) LEGAL PROCESS.—The term 'legal process' means any writ, order, summons, or other similar process in the nature of garnishment—

"(A) which is issued by—

"(i) a court or an administrative agency of competent jurisdiction in any State, territory, or possession of the United States;

"(ii) a court or an administrative agency of competent jurisdiction in any foreign country with which the United States has entered into an agreement which requires the United States to honor the process; or

"(iii) an authorized official pursuant to an order of such a court or an administrative agency of competent jurisdiction or pursuant to State or local law; and

"(B) which is directed to, and the purpose of which is to compel, a governmental entity which holds moneys which are otherwise payable to an individual to make a payment from the moneys to another party in order to satisfy a legal obligation of the individual to provide child support or make alimony payments.".

(b) CONFORMING AMENDMENTS.—

(1) TO PART D OF TITLE IV.—Sections 461 and 462 (42 U.S.C. 661 and 662) are repealed.

(2) TO TITLE 5, UNITED STATES CODE.—Section 5520a of title 5, United States Code, is amended, in subsections (h)(2) and (i), by striking "sections 459, 461, and 462 of the Social Security Act (42 U.S.C. 659, 661, and 662)" and inserting "section 459 of the Social Security Act (42 U.S.C. 659)".

(c) MILITARY RETIRED AND RETAINER PAY.—

(1) DEFINITION OF COURT.—Section 1408(a)(1) of title 10, United States Code, is amended—

(A) by striking "and" at the end of subparagraph (B);

(B) by striking the period at the end of subparagraph (C) and inserting "; and"; and

(C) by adding after subparagraph (C) the following new subparagraph:

"(D) any administrative or judicial tribunal of a State competent to enter orders for support or maintenance (including a State agency administering a program under a State plan approved under part D of title IV of the Social Security Act), and, for purposes of this subparagraph, the term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.".

(2) DEFINITION OF COURT ORDER.—Section 1408(a)(2) of such title is amended—

(A) by inserting "or a support order, as defined in section 453(p) of the Social Security Act (42 U.S.C. 653(p))," before "which—";

(B) in subparagraph (B)(i), by striking "(as defined in section 462(b) of the Social Security Act (42 U.S.C. 662(b)))" and inserting "(as defined in section 459(i)(2) of the Social Security Act (42 U.S.C. 659(i)(2)))"; and

(C) in subparagraph (B)(ii), by striking "(as defined in section 462(c) of the Social Security Act (42 U.S.C. 662(c)))" and inserting "(as defined in section 459(i)(3) of the Social Security Act (42 U.S.C. 659(i)(3)))".

(3) PUBLIC PAYEE.—Section 1408(d) of such title is amended—

(A) in the heading, by inserting "(OR FOR BENEFIT OF)" before "SPOUSE OR"; and

(B) in paragraph (1), in the first sentence, by inserting "(or for the benefit of such spouse or former spouse to a State disbursement unit established pursuant to section 454B of the Social Security Act or other public payee designated by a State, in accordance with part D of title IV of the Social Security Act, as directed by court order, or as otherwise directed in accordance with such part D)" before "in an amount sufficient".

(4) RELATIONSHIP TO PART D OF TITLE IV.—Section 1408 of such title is amended by adding at the end the following new subsection:

"(j) RELATIONSHIP TO OTHER LAWS.—In any case involving an order providing for payment of child support (as defined in section 459(i)(2) of the Social Security Act) by a member who has never been married to the other parent of the child, the provisions of this section shall not apply, and the case shall be subject to the provisions of section 459 of such Act.".

(d) EFFECTIVE DATE.—The amendments made by this section shall become effective 6 months after the date of the enactment of this Act. 42 USC 659 note.

SEC. 363. ENFORCEMENT OF CHILD SUPPORT OBLIGATIONS OF MEMBERS OF THE ARMED FORCES.

(a) AVAILABILITY OF LOCATOR INFORMATION.— 10 USC 113 note.

(1) MAINTENANCE OF ADDRESS INFORMATION.—The Secretary of Defense shall establish a centralized personnel locator service that includes the address of each member of the Armed

Forces under the jurisdiction of the Secretary. Upon request of the Secretary of Transportation, addresses for members of the Coast Guard shall be included in the centralized personnel locator service.

(2) TYPE OF ADDRESS.—

(A) RESIDENTIAL ADDRESS.—Except as provided in subparagraph (B), the address for a member of the Armed Forces shown in the locator service shall be the residential address of that member.

(B) DUTY ADDRESS.—The address for a member of the Armed Forces shown in the locator service shall be the duty address of that member in the case of a member—

(i) who is permanently assigned overseas, to a vessel, or to a routinely deployable unit; or

(ii) with respect to whom the Secretary concerned makes a determination that the member's residential address should not be disclosed due to national security or safety concerns.

(3) UPDATING OF LOCATOR INFORMATION.—Within 30 days after a member listed in the locator service establishes a new residential address (or a new duty address, in the case of a member covered by paragraph (2)(B)), the Secretary concerned shall update the locator service to indicate the new address of the member.

(4) AVAILABILITY OF INFORMATION.—The Secretary of Defense shall make information regarding the address of a member of the Armed Forces listed in the locator service available, on request, to the Federal Parent Locator Service established under section 453 of the Social Security Act.

10 USC 704 note.

(b) FACILITATING GRANTING OF LEAVE FOR ATTENDANCE AT HEARINGS.—

(1) REGULATIONS.—The Secretary of each military department, and the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, shall prescribe regulations to facilitate the granting of leave to a member of the Armed Forces under the jurisdiction of that Secretary in a case in which—

(A) the leave is needed for the member to attend a hearing described in paragraph (2);

(B) the member is not serving in or with a unit deployed in a contingency operation (as defined in section 101 of title 10, United States Code); and

(C) the exigencies of military service (as determined by the Secretary concerned) do not otherwise require that such leave not be granted.

(2) COVERED HEARINGS.—Paragraph (1) applies to a hearing that is conducted by a court or pursuant to an administrative process established under State law, in connection with a civil action—

(A) to determine whether a member of the Armed Forces is a natural parent of a child; or

(B) to determine an obligation of a member of the Armed Forces to provide child support.

(3) DEFINITIONS.—For purposes of this subsection—

(A) The term "court" has the meaning given that term in section 1408(a) of title 10, United States Code.

(B) The term "child support" has the meaning given such term in section 459(i) of the Social Security Act (42 U.S.C. 659(i)).

(c) PAYMENT OF MILITARY RETIRED PAY IN COMPLIANCE WITH CHILD SUPPORT ORDERS.—

(1) DATE OF CERTIFICATION OF COURT ORDER.—Section 1408 of title 10, United States Code, as amended by section 362(c)(4) of this Act, is amended—

(A) by redesignating subsections (i) and (j) as subsections (j) and (k), respectively; and

(B) by inserting after subsection (h) the following new subsection:

"(i) CERTIFICATION DATE.—It is not necessary that the date of a certification of the authenticity or completeness of a copy of a court order for child support received by the Secretary concerned for the purposes of this section be recent in relation to the date of receipt by the Secretary.".

(2) PAYMENTS CONSISTENT WITH ASSIGNMENTS OF RIGHTS TO STATES.—Section 1408(d)(1) of such title is amended by inserting after the first sentence the following new sentence: "In the case of a spouse or former spouse who, pursuant to section 408(a)(3) of the Social Security Act (42 U.S.C. 608(a)(4)), assigns to a State the rights of the spouse or former spouse to receive support, the Secretary concerned may make the child support payments referred to in the preceding sentence to that State in amounts consistent with that assignment of rights.".

(3) ARREARAGES OWED BY MEMBERS OF THE UNIFORMED SERVICES.—Section 1408(d) of such title is amended by adding at the end the following new paragraph:

"(6) In the case of a court order for which effective service is made on the Secretary concerned on or after the date of the enactment of this paragraph and which provides for payments from the disposable retired pay of a member to satisfy the amount of child support set forth in the order, the authority provided in paragraph (1) to make payments from the disposable retired pay of a member to satisfy the amount of child support set forth in a court order shall apply to payment of any amount of child support arrearages set forth in that order as well as to amounts of child support that currently become due.".

(4) PAYROLL DEDUCTIONS.—The Secretary of Defense shall begin payroll deductions within 30 days after receiving notice of withholding, or for the first pay period that begins after such 30-day period. 10 USC 1408 note.

SEC. 364. VOIDING OF FRAUDULENT TRANSFERS.

Section 466 (42 U.S.C. 666), as amended by section 321 of this Act, is amended by adding at the end the following new subsection:

"(g) LAWS VOIDING FRAUDULENT TRANSFERS.—In order to satisfy section 454(20)(A), each State must have in effect—

"(1)(A) the Uniform Fraudulent Conveyance Act of 1981;

"(B) the Uniform Fraudulent Transfer Act of 1984; or

"(C) another law, specifying indicia of fraud which create a prima facie case that a debtor transferred income or property to avoid payment to a child support creditor, which the

Secretary finds affords comparable rights to child support creditors; and

"(2) procedures under which, in any case in which the State knows of a transfer by a child support debtor with respect to which such a prima facie case is established, the State must—

"(A) seek to void such transfer; or

"(B) obtain a settlement in the best interests of the child support creditor.".

SEC. 365. WORK REQUIREMENT FOR PERSONS OWING PAST-DUE CHILD SUPPORT.

(a) IN GENERAL.—Section 466(a) (42 U.S.C. 666(a)), as amended by sections 315, 317, and 323 of this Act, is amended by inserting after paragraph (14) the following new paragraph:

"(15) PROCEDURES TO ENSURE THAT PERSONS OWING PAST-DUE SUPPORT WORK OR HAVE A PLAN FOR PAYMENT OF SUCH SUPPORT.—

"(A) IN GENERAL.—Procedures under which the State has the authority, in any case in which an individual owes past-due support with respect to a child receiving assistance under a State program funded under part A, to issue an order or to request that a court or an administrative process established pursuant to State law issue an order that requires the individual to—

"(i) pay such support in accordance with a plan approved by the court, or, at the option of the State, a plan approved by the State agency administering the State program under this part; or

"(ii) if the individual is subject to such a plan and is not incapacitated, participate in such work activities (as defined in section 407(d)) as the court, or, at the option of the State, the State agency administering the State program under this part, deems appropriate.

"(B) PAST-DUE SUPPORT DEFINED.—For purposes of subparagraph (A), the term 'past-due support' means the amount of a delinquency, determined under a court order, or an order of an administrative process established under State law, for support and maintenance of a child, or of a child and the parent with whom the child is living.".

(b) CONFORMING AMENDMENT.—The flush paragraph at the end of section 466(a) (42 U.S.C. 666(a)) is amended by striking "and (7)" and inserting "(7), and (15)".

SEC. 366. DEFINITION OF SUPPORT ORDER.

Section 453 (42 U.S.C. 653) as amended by sections 316 and 345(b) of this Act, is amended by adding at the end the following new subsection:

"(p) SUPPORT ORDER DEFINED.—As used in this part, the term 'support order' means a judgment, decree, or order, whether temporary, final, or subject to modification, issued by a court or an administrative agency of competent jurisdiction, for the support and maintenance of a child, including a child who has attained the age of majority under the law of the issuing State, or a child and the parent with whom the child is living, which provides for monetary support, health care, arrearages, or reimbursement,

and which may include related costs and fees, interest and penalties, income withholding, attorneys' fees, and other relief.".

SEC. 367. REPORTING ARREARAGES TO CREDIT BUREAUS.

Section 466(a)(7) (42 U.S.C. 666(a)(7)) is amended to read as follows:

"(7) REPORTING ARREARAGES TO CREDIT BUREAUS.—

"(A) IN GENERAL.—Procedures (subject to safeguards pursuant to subparagraph (B)) requiring the State to report periodically to consumer reporting agencies (as defined in section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) the name of any noncustodial parent who is delinquent in the payment of support, and the amount of overdue support owed by such parent.

"(B) SAFEGUARDS.—Procedures ensuring that, in carrying out subparagraph (A), information with respect to a noncustodial parent is reported—

"(i) only after such parent has been afforded all due process required under State law, including notice and a reasonable opportunity to contest the accuracy of such information; and

"(ii) only to an entity that has furnished evidence satisfactory to the State that the entity is a consumer reporting agency (as so defined).".

SEC. 368. LIENS.

Section 466(a)(4) (42 U.S.C. 666(a)(4)) is amended to read as follows:

"(4) LIENS.—Procedures under which—

"(A) liens arise by operation of law against real and personal property for amounts of overdue support owed by a noncustodial parent who resides or owns property in the State; and

"(B) the State accords full faith and credit to liens described in subparagraph (A) arising in another State, when the State agency, party, or other entity seeking to enforce such a lien complies with the procedural rules relating to recording or serving liens that arise within the State, except that such rules may not require judicial notice or hearing prior to the enforcement of such a lien.".

SEC. 369. STATE LAW AUTHORIZING SUSPENSION OF LICENSES.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 315, 317, 323, and 365 of this Act, is amended by inserting after paragraph (15) the following:

"(16) AUTHORITY TO WITHHOLD OR SUSPEND LICENSES.—Procedures under which the State has (and uses in appropriate cases) authority to withhold or suspend, or to restrict the use of driver's licenses, professional and occupational licenses, and recreational licenses of individuals owing overdue support or failing, after receiving appropriate notice, to comply with subpoenas or warrants relating to paternity or child support proceedings.".

SEC. 370. DENIAL OF PASSPORTS FOR NONPAYMENT OF CHILD SUPPORT.

(a) HHS CERTIFICATION PROCEDURE.—

(1) SECRETARIAL RESPONSIBILITY.—Section 452 (42 U.S.C. 652), as amended by section 345 of this Act, is amended by adding at the end the following new subsection:

"(k)(1) If the Secretary receives a certification by a State agency in accordance with the requirements of section 454(31) that an individual owes arrearages of child support in an amount exceeding $5,000, the Secretary shall transmit such certification to the Secretary of State for action (with respect to denial, revocation, or limitation of passports) pursuant to paragraph (2).

"(2) The Secretary of State shall, upon certification by the Secretary transmitted under paragraph (1), refuse to issue a passport to such individual, and may revoke, restrict, or limit a passport issued previously to such individual.

"(3) The Secretary and the Secretary of State shall not be liable to an individual for any action with respect to a certification by a State agency under this section.".

(2) STATE AGENCY RESPONSIBILITY.—Section 454 (42 U.S.C. 654), as amended by sections 301(b), 303(a), 312(b), 313(a), 333, and 343(b) of this Act, is amended—

(A) by striking "and" at the end of paragraph (29);

(B) by striking the period at the end of paragraph (30) and inserting "; and"; and

(C) by adding after paragraph (30) the following new paragraph:

"(31) provide that the State agency will have in effect a procedure for certifying to the Secretary, for purposes of the procedure under section 452(k), determinations that individuals owe arrearages of child support in an amount exceeding $5,000, under which procedure—

"(A) each individual concerned is afforded notice of such determination and the consequences thereof, and an opportunity to contest the determination; and

"(B) the certification by the State agency is furnished to the Secretary in such format, and accompanied by such supporting documentation, as the Secretary may require.".

42 USC 652 note.

(b) EFFECTIVE DATE.—This section and the amendments made by this section shall become effective October 1, 1997.

SEC. 371. INTERNATIONAL SUPPORT ENFORCEMENT.

(a) AUTHORITY FOR INTERNATIONAL AGREEMENTS.—Part D of title IV, as amended by section 362(a) of this Act, is amended by adding after section 459 the following new section:

42 USC 659a.

"SEC. 459A. INTERNATIONAL SUPPORT ENFORCEMENT.

"(a) AUTHORITY FOR DECLARATIONS.—

"(1) DECLARATION.—The Secretary of State, with the concurrence of the Secretary of Health and Human Services, is authorized to declare any foreign country (or a political subdivision thereof) to be a foreign reciprocating country if the foreign country has established, or undertakes to establish, procedures for the establishment and enforcement of duties of support owed to obligees who are residents of the United States, and such procedures are substantially in conformity with the standards prescribed under subsection (b).

"(2) REVOCATION.—A declaration with respect to a foreign country made pursuant to paragraph (1) may be revoked if the Secretaries of State and Health and Human Services determine that—

"(A) the procedures established by the foreign country regarding the establishment and enforcement of duties of support have been so changed, or the foreign country's implementation of such procedures is so unsatisfactory, that such procedures do not meet the criteria for such a declaration; or

"(B) continued operation of the declaration is not consistent with the purposes of this part.

"(3) FORM OF DECLARATION.—A declaration under paragraph (1) may be made in the form of an international agreement, in connection with an international agreement or corresponding foreign declaration, or on a unilateral basis.

"(b) STANDARDS FOR FOREIGN SUPPORT ENFORCEMENT PROCEDURES.—

"(1) MANDATORY ELEMENTS.—Support enforcement procedures of a foreign country which may be the subject of a declaration pursuant to subsection (a)(1) shall include the following elements:

"(A) The foreign country (or political subdivision thereof) has in effect procedures, available to residents of the United States—

"(i) for establishment of paternity, and for establishment of orders of support for children and custodial parents; and

"(ii) for enforcement of orders to provide support to children and custodial parents, including procedures for collection and appropriate distribution of support payments under such orders.

"(B) The procedures described in subparagraph (A), including legal and administrative assistance, are provided to residents of the United States at no cost.

"(C) An agency of the foreign country is designated as a Central Authority responsible for—

"(i) facilitating support enforcement in cases involving residents of the foreign country and residents of the United States; and

"(ii) ensuring compliance with the standards established pursuant to this subsection.

"(2) ADDITIONAL ELEMENTS.—The Secretary of Health and Human Services and the Secretary of State, in consultation with the States, may establish such additional standards as may be considered necessary to further the purposes of this section.

"(c) DESIGNATION OF UNITED STATES CENTRAL AUTHORITY.—It shall be the responsibility of the Secretary of Health and Human Services to facilitate support enforcement in cases involving residents of the United States and residents of foreign countries that are the subject of a declaration under this section, by activities including—

"(1) development of uniform forms and procedures for use in such cases;

"(2) notification of foreign reciprocating countries of the State of residence of individuals sought for support enforcement purposes, on the basis of information provided by the Federal Parent Locator Service; and

"(3) such other oversight, assistance, and coordination activities as the Secretary may find necessary and appropriate.

"(d) EFFECT ON OTHER LAWS.—States may enter into reciprocal arrangements for the establishment and enforcement of support obligations with foreign countries that are not the subject of a declaration pursuant to subsection (a), to the extent consistent with Federal law.".

(b) STATE PLAN REQUIREMENT.—Section 454 (42 U.S.C. 654), as amended by sections 301(b), 303(a), 312(b), 313(a), 333, 343(b), and 370(a)(2) of this Act, is amended—

(1) by striking "and" at the end of paragraph (30);

(2) by striking the period at the end of paragraph (31) and inserting "; and"; and

(3) by adding after paragraph (31) the following new paragraph:

"(32)(A) provide that any request for services under this part by a foreign reciprocating country or a foreign country with which the State has an arrangement described in section 459A(d)(2) shall be treated as a request by a State;

"(B) provide, at State option, notwithstanding paragraph (4) or any other provision of this part, for services under the plan for enforcement of a spousal support order not described in paragraph (4)(B) entered by such a country (or subdivision); and

"(C) provide that no applications will be required from, and no costs will be assessed for such services against, the foreign reciprocating country or foreign obligee (but costs may at State option be assessed against the obligor).".

SEC. 372. FINANCIAL INSTITUTION DATA MATCHES.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 315, 317, 323, 365, and 369 of this Act, is amended by inserting after paragraph (16) the following new paragraph:

"(17) FINANCIAL INSTITUTION DATA MATCHES.—

"(A) IN GENERAL.—Procedures under which the State agency shall enter into agreements with financial institutions doing business in the State—

"(i) to develop and operate, in coordination with such financial institutions, a data match system, using automated data exchanges to the maximum extent feasible, in which each such financial institution is required to provide for each calendar quarter the name, record address, social security number or other taxpayer identification number, and other identifying information for each noncustodial parent who maintains an account at such institution and who owes past-due support, as identified by the State by name and social security number or other taxpayer identification number; and

"(ii) in response to a notice of lien or levy, encumber or surrender, as the case may be, assets held by such institution on behalf of any noncustodial parent who is subject to a child support lien pursuant to paragraph (4).

"(B) REASONABLE FEES.—The State agency may pay a reasonable fee to a financial institution for conducting the data match provided for in subparagraph (A)(i), not to exceed the actual costs incurred by such financial institution.

"(C) LIABILITY.—A financial institution shall not be liable under any Federal or State law to any person—

"(i) for any disclosure of information to the State agency under subparagraph (A)(i);

"(ii) for encumbering or surrendering any assets held by such financial institution in response to a notice of lien or levy issued by the State agency as provided for in subparagraph (A)(ii); or

"(iii) for any other action taken in good faith to comply with the requirements of subparagraph (A).

"(D) DEFINITIONS.—For purposes of this paragraph—

"(i) FINANCIAL INSTITUTION.—The term 'financial institution' has the meaning given to such term by section 469A(d)(1).

"(ii) ACCOUNT.—The term 'account' means a demand deposit account, checking or negotiable withdrawal order account, savings account, time deposit account, or money-market mutual fund account.".

SEC. 373. ENFORCEMENT OF ORDERS AGAINST PATERNAL OR MATERNAL GRANDPARENTS IN CASES OF MINOR PARENTS.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 315, 317, 323, 365, 369, and 372 of this Act, is amended by inserting after paragraph (17) the following new paragraph:

"(18) ENFORCEMENT OF ORDERS AGAINST PATERNAL OR MATERNAL GRANDPARENTS.—Procedures under which, at the State's option, any child support order enforced under this part with respect to a child of minor parents, if the custodial parent of such child is receiving assistance under the State program under part A, shall be enforceable, jointly and severally, against the parents of the noncustodial parent of such child.".

SEC. 374. NONDISCHARGEABILITY IN BANKRUPTCY OF CERTAIN DEBTS FOR THE SUPPORT OF A CHILD.

(a) AMENDMENT TO TITLE 11 OF THE UNITED STATES CODE.—Section 523(a) of title 11, United States Code, is amended—

(1) by striking "or" at the end of paragraph (16);

(2) by striking the period at the end of paragraph (17) and inserting "; or";

(3) by adding at the end the following:

"(18) owed under State law to a State or municipality that is—

"(A) in the nature of support, and

"(B) enforceable under part D of title IV of the Social Security Act (42 U.S.C. 601 et seq.).''; and

(4) in paragraph (5), by striking "section 402(a)(26)" and inserting "section 408(a)(3)".

(b) AMENDMENT TO THE SOCIAL SECURITY ACT.—Section 456(b) (42 U.S.C. 656(b)) is amended to read as follows:

"(b) NONDISCHARGEABILITY.—A debt (as defined in section 101 of title 11 of the United States Code) owed under State law to a State (as defined in such section) or municipality (as defined in such section) that is in the nature of support and that is enforceable under this part is not released by a discharge in bankruptcy under title 11 of the United States Code.".

11 USC 523 note.

(c) APPLICATION OF AMENDMENTS.—The amendments made by this section shall apply only with respect to cases commenced under title 11 of the United States Code after the date of the enactment of this Act.

SEC. 375. CHILD SUPPORT ENFORCEMENT FOR INDIAN TRIBES.

(a) CHILD SUPPORT ENFORCEMENT AGREEMENTS.—Section 454 (42 U.S.C. 654), as amended by sections 301(b), 303(a), 312(b), 313(a), 333, 343(b), 370(a)(2), and 371(b) of this Act, is amended—

(1) by striking "and" at the end of paragraph (31);

(2) by striking the period at the end of paragraph (32) and inserting "; and";

(3) by adding after paragraph (32) the following new paragraph:

"(33) provide that a State that receives funding pursuant to section 428 and that has within its borders Indian country (as defined in section 1151 of title 18, United States Code) may enter into cooperative agreements with an Indian tribe or tribal organization (as defined in subsections (e) and (l) of section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b)), if the Indian tribe or tribal organization demonstrates that such tribe or organization has an established tribal court system or a Court of Indian Offenses with the authority to establish paternity, establish, modify, and enforce support orders, and to enter support orders in accordance with child support guidelines established by such tribe or organization, under which the State and tribe or organization shall provide for the cooperative delivery of child support enforcement services in Indian country and for the forwarding of all funding collected pursuant to the functions performed by the tribe or organization to the State agency, or conversely, by the State agency to the tribe or organization, which shall distribute such funding in accordance with such agreement."; and

(4) by adding at the end the following new sentence: "Nothing in paragraph (33) shall void any provision of any cooperative agreement entered into before the date of the enactment of such paragraph, nor shall such paragraph deprive any State of jurisdiction over Indian country (as so defined) that is lawfully exercised under section 402 of the Act entitled 'An Act to prescribe penalties for certain acts of violence or intimidation, and for other purposes', approved April 11, 1968 (25 U.S.C. 1322).".

(b) DIRECT FEDERAL FUNDING TO INDIAN TRIBES AND TRIBAL ORGANIZATIONS.—Section 455 (42 U.S.C. 655) is amended by adding at the end the following new subsection:

"(b) The Secretary may, in appropriate cases, make direct payments under this part to an Indian tribe or tribal organization which has an approved child support enforcement plan under this title. In determining whether such payments are appropriate, the Secretary shall, at a minimum, consider whether services are being provided to eligible Indian recipients by the State agency through an agreement entered into pursuant to section 454(34).".

(c) COOPERATIVE ENFORCEMENT AGREEMENTS.—Paragraph (7) of section 454 (42 U.S.C. 654) is amended by inserting "and Indian tribes or tribal organizations (as defined in subsections (e) and

(l) of section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b))" after "law enforcement officials". Native Americans.

(d) CONFORMING AMENDMENT.—Subsection (c) of section 428 (42 U.S.C. 628) is amended to read as follows:

"(c) For purposes of this section, the terms 'Indian tribe' and 'tribal organization' shall have the meanings given such terms by subsections (e) and (l) of section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b), respectively.".

Subtitle H—Medical Support

SEC. 381. CORRECTION TO ERISA DEFINITION OF MEDICAL CHILD SUPPORT ORDER.

(a) IN GENERAL.—Section 609(a)(2)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1169(a)(2)(B)) is amended—

(1) by striking "issued by a court of competent jurisdiction";

(2) by striking the period at the end of clause (ii) and inserting a comma; and

(3) by adding, after and below clause (ii), the following: "if such judgment, decree, or order (I) is issued by a court of competent jurisdiction or (II) is issued through an administrative process established under State law and has the force and effect of law under applicable State law.".

(b) EFFECTIVE DATE.— 29 USC 1169 note.

(1) IN GENERAL.—The amendments made by this section shall take effect on the date of the enactment of this Act.

(2) PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1997.—Any amendment to a plan required to be made by an amendment made by this section shall not be required to be made before the 1st plan year beginning on or after January 1, 1997, if—

(A) during the period after the date before the date of the enactment of this Act and before such 1st plan year, the plan is operated in accordance with the requirements of the amendments made by this section; and

(B) such plan amendment applies retroactively to the period after the date before the date of the enactment of this Act and before such 1st plan year.

A plan shall not be treated as failing to be operated in accordance with the provisions of the plan merely because it operates in accordance with this paragraph.

SEC. 382. ENFORCEMENT OF ORDERS FOR HEALTH CARE COVERAGE.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 315, 317, 323, 365, 369, 372, and 373 of this Act, is amended by inserting after paragraph (18) the following new paragraph:

"(19) HEALTH CARE COVERAGE.—Procedures under which all child support orders enforced pursuant to this part shall include a provision for the health care coverage of the child, and in the case in which a noncustodial parent provides such coverage and changes employment, and the new employer provides health care coverage, the State agency shall transfer notice of the provision to the employer, which notice shall

operate to enroll the child in the noncustodial parent's health plan, unless the noncustodial parent contests the notice.".

Subtitle I—Enhancing Responsibility and Opportunity for Non-Residential Parents

SEC. 391. GRANTS TO STATES FOR ACCESS AND VISITATION PROGRAMS.

Part D of title IV (42 U.S.C. 651–669), as amended by section 353 of this Act, is amended by adding at the end the following new section:

42 USC 669B.

"SEC. 469B. GRANTS TO STATES FOR ACCESS AND VISITATION PROGRAMS.

"(a) IN GENERAL.—The Administration for Children and Families shall make grants under this section to enable States to establish and administer programs to support and facilitate noncustodial parents' access to and visitation of their children, by means of activities including mediation (both voluntary and mandatory), counseling, education, development of parenting plans, visitation enforcement (including monitoring, supervision and neutral drop-off and pickup), and development of guidelines for visitation and alternative custody arrangements.

"(b) AMOUNT OF GRANT.—The amount of the grant to be made to a State under this section for a fiscal year shall be an amount equal to the lesser of—

"(1) 90 percent of State expenditures during the fiscal year for activities described in subsection (a); or

"(2) the allotment of the State under subsection (c) for the fiscal year.

"(c) ALLOTMENTS TO STATES.—

"(1) IN GENERAL.—The allotment of a State for a fiscal year is the amount that bears the same ratio to $10,000,000 for grants under this section for the fiscal year as the number of children in the State living with only 1 biological parent bears to the total number of such children in all States.

"(2) MINIMUM ALLOTMENT.—The Administration for Children and Families shall adjust allotments to States under paragraph (1) as necessary to ensure that no State is allotted less than—

"(A) $50,000 for fiscal year 1997 or 1998; or

"(B) $100,000 for any succeeding fiscal year.

"(d) NO SUPPLANTATION OF STATE EXPENDITURES FOR SIMILAR ACTIVITIES.—A State to which a grant is made under this section may not use the grant to supplant expenditures by the State for activities specified in subsection (a), but shall use the grant to supplement such expenditures at a level at least equal to the level of such expenditures for fiscal year 1995.

"(e) STATE ADMINISTRATION.—Each State to which a grant is made under this section—

"(1) may administer State programs funded with the grant, directly or through grants to or contracts with courts, local public agencies, or nonprofit private entities;

"(2) shall not be required to operate such programs on a statewide basis; and

"(3) shall monitor, evaluate, and report on such programs in accordance with regulations prescribed by the Secretary.".

Subtitle J—Effective Dates and Conforming Amendments

SEC. 395. EFFECTIVE DATES AND CONFORMING AMENDMENTS.

(a) IN GENERAL.—Except as otherwise specifically provided (but subject to subsections (b) and (c))— 42 USC 654 note.

(1) the provisions of this title requiring the enactment or amendment of State laws under section 466 of the Social Security Act, or revision of State plans under section 454 of such Act, shall be effective with respect to periods beginning on and after October 1, 1996; and

(2) all other provisions of this title shall become effective upon the date of the enactment of this Act. 42 USC 654 note.

(b) GRACE PERIOD FOR STATE LAW CHANGES.—The provisions of this title shall become effective with respect to a State on the later of—

(1) the date specified in this title, or

(2) the effective date of laws enacted by the legislature of such State implementing such provisions,

but in no event later than the 1st day of the 1st calendar quarter beginning after the close of the 1st regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

(c) GRACE PERIOD FOR STATE CONSTITUTIONAL AMENDMENT.— 42 USC 654 note.
A State shall not be found out of compliance with any requirement enacted by this title if the State is unable to so comply without amending the State constitution until the earlier of—

(1) 1 year after the effective date of the necessary State constitutional amendment; or

(2) 5 years after the date of the enactment of this Act.

(d) CONFORMING AMENDMENTS.—

(1) The following provisions are amended by striking "absent" each place it appears and inserting "noncustodial":

(A) Section 451 (42 U.S.C. 651).

(B) Subsections (a)(1), (a)(8), (a)(10)(E), (a)(10)(F), (f), and (h) of section 452 (42 U.S.C. 652).

(C) Section 453(f) (42 U.S.C. 653(f)).

(D) Paragraphs (8), (13), and (21)(A) of section 454 (42 U.S.C. 654).

(E) Section 455(e)(1) (42 U.S.C. 655(e)(1)).

(F) Section 458(a) (42 U.S.C. 658(a)).

(G) Subsections (a), (b), and (c) of section 463 (42 U.S.C. 663).

(H) Subsections (a)(3)(A), (a)(3)(C), (a)(6), and (a)(8)(B)(ii), the last sentence of subsection (a), and subsections (b)(1), (b)(3)(B), (b)(3)(B)(i), (b)(6)(A)(i), (b)(9), and (e) of section 466 (42 U.S.C. 666).

(2) The following provisions are amended by striking "an absent" each place it appears and inserting "a noncustodial":

(A) Paragraphs (2) and (3) of section 453(c) (42 U.S.C. 653(c)).

(B) Subparagraphs (B) and (C) of section 454(9) (42 U.S.C. 654(9)).

(C) Section 456(a)(3) (42 U.S.C. 656(a)(3)).

(D) Subsections (a)(3)(A), (a)(6), (a)(8)(B)(i), (b)(3)(A), and (b)(3)(B) of section 466 (42 U.S.C. 666).

(E) Paragraphs (2) and (4) of section 469(b) (42 U.S.C. 669(b)).

TITLE IV—RESTRICTING WELFARE AND PUBLIC BENEFITS FOR ALIENS

8 USC 1601.

SEC. 400. STATEMENTS OF NATIONAL POLICY CONCERNING WELFARE AND IMMIGRATION.

The Congress makes the following statements concerning national policy with respect to welfare and immigration:

(1) Self-sufficiency has been a basic principle of United States immigration law since this country's earliest immigration statutes.

(2) It continues to be the immigration policy of the United States that—

(A) aliens within the Nation's borders not depend on public resources to meet their needs, but rather rely on their own capabilities and the resources of their families, their sponsors, and private organizations, and

(B) the availability of public benefits not constitute an incentive for immigration to the United States.

(3) Despite the principle of self-sufficiency, aliens have been applying for and receiving public benefits from Federal, State, and local governments at increasing rates.

(4) Current eligibility rules for public assistance and unenforceable financial support agreements have proved wholly incapable of assuring that individual aliens not burden the public benefits system.

(5) It is a compelling government interest to enact new rules for eligibility and sponsorship agreements in order to assure that aliens be self-reliant in accordance with national immigration policy.

(6) It is a compelling government interest to remove the incentive for illegal immigration provided by the availability of public benefits.

(7) With respect to the State authority to make determinations concerning the eligibility of qualified aliens for public benefits in this title, a State that chooses to follow the Federal classification in determining the eligibility of such aliens for public assistance shall be considered to have chosen the least restrictive means available for achieving the compelling governmental interest of assuring that aliens be self-reliant in accordance with national immigration policy.

Subtitle A—Eligibility for Federal Benefits

SEC. 401. ALIENS WHO ARE NOT QUALIFIED ALIENS INELIGIBLE FOR FEDERAL PUBLIC BENEFITS. 8 USC 1611.

(a) IN GENERAL.—Notwithstanding any other provision of law and except as provided in subsection (b), an alien who is not a qualified alien (as defined in section 431) is not eligible for any Federal public benefit (as defined in subsection (c)).

(b) EXCEPTIONS.—

(1) Subsection (a) shall not apply with respect to the following Federal public benefits:

(A) Medical assistance under title XIX of the Social Security Act (or any successor program to such title) for care and services that are necessary for the treatment of an emergency medical condition (as defined in section 1903(v)(3) of such Act) of the alien involved and are not related to an organ transplant procedure, if the alien involved otherwise meets the eligibility requirements for medical assistance under the State plan approved under such title (other than the requirement of the receipt of aid or assistance under title IV of such Act, supplemental security income benefits under title XVI of such Act, or a State supplementary payment).

(B) Short-term, non-cash, in-kind emergency disaster relief.

(C) Public health assistance (not including any assistance under title XIX of the Social Security Act) for immunizations with respect to immunizable diseases and for testing and treatment of symptoms of communicable diseases whether or not such symptoms are caused by a communicable disease.

(D) Programs, services, or assistance (such as soup kitchens, crisis counseling and intervention, and short-term shelter) specified by the Attorney General, in the Attorney General's sole and unreviewable discretion after consultation with appropriate Federal agencies and departments, which (i) deliver in-kind services at the community level, including through public or private nonprofit agencies; (ii) do not condition the provision of assistance, the amount of assistance provided, or the cost of assistance provided on the individual recipient's income or resources; and (iii) are necessary for the protection of life or safety.

(E) Programs for housing or community development assistance or financial assistance administered by the Secretary of Housing and Urban Development, any program under title V of the Housing Act of 1949, or any assistance under section 306C of the Consolidated Farm and Rural Development Act, to the extent that the alien is receiving such a benefit on the date of the enactment of this Act.

(2) Subsection (a) shall not apply to any benefit payable under title II of the Social Security Act to an alien who is lawfully present in the United States as determined by the Attorney General, to any benefit if nonpayment of such benefit would contravene an international agreement described in section 233 of the Social Security Act, to any benefit if nonpayment would be contrary to section 202(t) of the Social Security Act,

or to any benefit payable under title II of the Social Security Act to which entitlement is based on an application filed in or before the month in which this Act becomes law.

(c) FEDERAL PUBLIC BENEFIT DEFINED.—

(1) Except as provided in paragraph (2), for purposes of this title the term "Federal public benefit" means—

(A) any grant, contract, loan, professional license, or commercial license provided by an agency of the United States or by appropriated funds of the United States; and

(B) any retirement, welfare, health, disability, public or assisted housing, postsecondary education, food assistance, unemployment benefit, or any other similar benefit for which payments or assistance are provided to an individual, household, or family eligibility unit by an agency of the United States or by appropriated funds of the United States.

(2) Such term shall not apply—

(A) to any contract, professional license, or commercial license for a nonimmigrant whose visa for entry is related to such employment in the United States; or

(B) with respect to benefits for an alien who as a work authorized nonimmigrant or as an alien lawfully admitted for permanent residence under the Immigration and Nationality Act qualified for such benefits and for whom the United States under reciprocal treaty agreements is required to pay benefits, as determined by the Attorney General, after consultation with the Secretary of State.

8 USC 1612.

SEC. 402. LIMITED ELIGIBILITY OF QUALIFIED ALIENS FOR CERTAIN FEDERAL PROGRAMS.

(a) LIMITED ELIGIBILITY FOR SPECIFIED FEDERAL PROGRAMS.—

(1) IN GENERAL.—Notwithstanding any other provision of law and except as provided in paragraph (2), an alien who is a qualified alien (as defined in section 431) is not eligible for any specified Federal program (as defined in paragraph (3)).

(2) EXCEPTIONS.—

(A) TIME-LIMITED EXCEPTION FOR REFUGEES AND ASYLEES.—Paragraph (1) shall not apply to an alien until 5 years after the date—

(i) an alien is admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act;

(ii) an alien is granted asylum under section 208 of such Act; or

(iii) an alien's deportation is withheld under section 243(h) of such Act.

(B) CERTAIN PERMANENT RESIDENT ALIENS.—Paragraph (1) shall not apply to an alien who—

(i) is lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act; and

(ii)(I) has worked 40 qualifying quarters of coverage as defined under title II of the Social Security Act or can be credited with such qualifying quarters as provided under section 435, and (II) in the case

of any such qualifying quarter creditable for any period beginning after December 31, 1996, did not receive any Federal means-tested public benefit (as provided under section 403) during any such period.

(C) VETERAN AND ACTIVE DUTY EXCEPTION.—Paragraph (1) shall not apply to an alien who is lawfully residing in any State and is—

(i) a veteran (as defined in section 101 of title 38, United States Code) with a discharge characterized as an honorable discharge and not on account of alienage,

(ii) on active duty (other than active duty for training) in the Armed Forces of the United States, or

(iii) the spouse or unmarried dependent child of an individual described in clause (i) or (ii).

(D) TRANSITION FOR ALIENS CURRENTLY RECEIVING BENEFITS.—

(i) SSI.—

(I) IN GENERAL.—With respect to the specified Federal program described in paragraph (3)(A), during the period beginning on the date of the enactment of this Act and ending on the date which is 1 year after such date of enactment, the Commissioner of Social Security shall redetermine the eligibility of any individual who is receiving benefits under such program as of the date of the enactment of this Act and whose eligibility for such benefits may terminate by reason of the provisions of this subsection.

(II) REDETERMINATION CRITERIA.— With respect to any redetermination under subclause (I), the Commissioner of Social Security shall apply the eligibility criteria for new applicants for benefits under such program.

(III) GRANDFATHER PROVISION.—The provisions of this subsection and the redetermination under subclause (I), shall only apply with respect to the benefits of an individual described in subclause (I) for months beginning on or after the date of the redetermination with respect to such individual.

(IV) NOTICE.—Not later than March 31, 1997, the Commissioner of Social Security shall notify an individual described in subclause (I) of the provisions of this clause.

(ii) FOOD STAMPS.—

(I) IN GENERAL.—With respect to the specified Federal program described in paragraph (3)(B), during the period beginning on the date of enactment of this Act and ending on the date which is 1 year after the date of enactment, the State agency shall, at the time of the recertification, recertify the eligibility of any individual who is receiving benefits under such program as of the date of enactment of this Act and whose eligibility

for such benefits may terminate by reason of the provisions of this subsection.

(II) RECERTIFICATION CRITERIA.—With respect to any recertification under subclause (I), the State agency shall apply the eligibility criteria for applicants for benefits under such program.

(III) GRANDFATHER PROVISION.—The provisions of this subsection and the recertification under subclause (I) shall only apply with respect to the eligibility of an alien for a program for months beginning on or after the date of recertification, if on the date of enactment of this Act the alien is lawfully residing in any State and is receiving benefits under such program on such date of enactment.

(3) SPECIFIED FEDERAL PROGRAM DEFINED.—For purposes of this title, the term "specified Federal program" means any of the following:

(A) SSI.—The supplemental security income program under title XVI of the Social Security Act, including supplementary payments pursuant to an agreement for Federal administration under section 1616(a) of the Social Security Act and payments pursuant to an agreement entered into under section 212(b) of Public Law 93–66.

(B) FOOD STAMPS.—The food stamp program as defined in section 3(h) of the Food Stamp Act of 1977.

(b) LIMITED ELIGIBILITY FOR DESIGNATED FEDERAL PROGRAMS.—

(1) IN GENERAL.—Notwithstanding any other provision of law and except as provided in section 403 and paragraph (2), a State is authorized to determine the eligibility of an alien who is a qualified alien (as defined in section 431) for any designated Federal program (as defined in paragraph (3)).

(2) EXCEPTIONS.—Qualified aliens under this paragraph shall be eligible for any designated Federal program.

(A) TIME-LIMITED EXCEPTION FOR REFUGEES AND ASYLEES.—

(i) An alien who is admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act until 5 years after the date of an alien's entry into the United States.

(ii) An alien who is granted asylum under section 208 of such Act until 5 years after the date of such grant of asylum.

(iii) An alien whose deportation is being withheld under section 243(h) of such Act until 5 years after such withholding.

(B) CERTAIN PERMANENT RESIDENT ALIENS.—An alien who—

(i) is lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act; and

(ii)(I) has worked 40 qualifying quarters of coverage as defined under title II of the Social Security Act or can be credited with such qualifying quarters as provided under section 435, and (II) in the case of any such qualifying quarter creditable for any period

beginning after December 31, 1996, did not receive any Federal means-tested public benefit (as provided under section 403) during any such period.

(C) VETERAN AND ACTIVE DUTY EXCEPTION.—An alien who is lawfully residing in any State and is—

(i) a veteran (as defined in section 101 of title 38, United States Code) with a discharge characterized as an honorable discharge and not on account of alienage,

(ii) on active duty (other than active duty for training) in the Armed Forces of the United States, or

(iii) the spouse or unmarried dependent child of an individual described in clause (i) or (ii).

(D) TRANSITION FOR THOSE CURRENTLY RECEIVING BENEFITS.—An alien who on the date of the enactment of this Act is lawfully residing in any State and is receiving benefits under such program on the date of the enactment of this Act shall continue to be eligible to receive such benefits until January 1, 1997.

(3) DESIGNATED FEDERAL PROGRAM DEFINED.—For purposes of this title, the term "designated Federal program" means any of the following:

(A) TEMPORARY ASSISTANCE FOR NEEDY FAMILIES.—The program of block grants to States for temporary assistance for needy families under part A of title IV of the Social Security Act.

(B) SOCIAL SERVICES BLOCK GRANT.—The program of block grants to States for social services under title XX of the Social Security Act.

(C) MEDICAID.—A State plan approved under title XIX of the Social Security Act, other than medical assistance described in section 401(b)(1)(A).

SEC. 403. FIVE-YEAR LIMITED ELIGIBILITY OF QUALIFIED ALIENS FOR FEDERAL MEANS-TESTED PUBLIC BENEFIT. 8 USC 1613.

(a) IN GENERAL.—Notwithstanding any other provision of law and except as provided in subsections (b), (c), and (d), an alien who is a qualified alien (as defined in section 431) and who enters the United States on or after the date of the enactment of this Act is not eligible for any Federal means-tested public benefit for a period of 5 years beginning on the date of the alien's entry into the United States with a status within the meaning of the term "qualified alien".

(b) EXCEPTIONS.—The limitation under subsection (a) shall not apply to the following aliens:

(1) EXCEPTION FOR REFUGEES AND ASYLEES.—

(A) An alien who is admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act.

(B) An alien who is granted asylum under section 208 of such Act.

(C) An alien whose deportation is being withheld under section 243(h) of such Act.

(2) VETERAN AND ACTIVE DUTY EXCEPTION.—An alien who is lawfully residing in any State and is—

(A) a veteran (as defined in section 101 of title 38, United States Code) with a discharge characterized as an honorable discharge and not on account of alienage,

(B) on active duty (other than active duty for training) in the Armed Forces of the United States, or

(C) the spouse or unmarried dependent child of an individual described in subparagraph (A) or (B).

(c) APPLICATION OF TERM FEDERAL MEANS-TESTED PUBLIC BENEFIT.—

(1) The limitation under subsection (a) shall not apply to assistance or benefits under paragraph (2).

(2) Assistance and benefits under this paragraph are as follows:

(A) Medical assistance described in section 401(b)(1)(A).

(B) Short-term, non-cash, in-kind emergency disaster relief.

(C) Assistance or benefits under the National School Lunch Act.

(D) Assistance or benefits under the Child Nutrition Act of 1966.

(E) Public health assistance (not including any assistance under title XIX of the Social Security Act) for immunizations with respect to immunizable diseases and for testing and treatment of symptoms of communicable diseases whether or not such symptoms are caused by a communicable disease.

(F) Payments for foster care and adoption assistance under parts B and E of title IV of the Social Security Act for a parent or a child who would, in the absence of subsection (a), be eligible to have such payments made on the child's behalf under such part, but only if the foster or adoptive parent (or parents) of such child is a qualified alien (as defined in section 431).

(G) Programs, services, or assistance (such as soup kitchens, crisis counseling and intervention, and short-term shelter) specified by the Attorney General, in the Attorney General's sole and unreviewable discretion after consultation with appropriate Federal agencies and departments, which (i) deliver in-kind services at the community level, including through public or private nonprofit agencies; (ii) do not condition the provision of assistance, the amount of assistance provided, or the cost of assistance provided on the individual recipient's income or resources; and (iii) are necessary for the protection of life or safety.

(H) Programs of student assistance under titles IV, V, IX, and X of the Higher Education Act of 1965, and titles III, VII, and VIII of the Public Health Service Act.

(I) Means-tested programs under the Elementary and Secondary Education Act of 1965.

(J) Benefits under the Head Start Act.

(K) Benefits under the Job Training Partnership Act.

(d) SPECIAL RULE FOR REFUGEE AND ENTRANT ASSISTANCE FOR CUBAN AND HAITIAN ENTRANTS.—The limitation under subsection (a) shall not apply to refugee and entrant assistance activities, authorized by title IV of the Immigration and Nationality Act and section 501 of the Refugee Education Assistance Act of 1980,

for Cuban and Haitian entrants as defined in section 501(e)(2) of the Refugee Education Assistance Act of 1980.

SEC. 404. NOTIFICATION AND INFORMATION REPORTING. 8 USC 1614.

(a) NOTIFICATION.—Each Federal agency that administers a program to which section 401, 402, or 403 applies shall, directly or through the States, post information and provide general notification to the public and to program recipients of the changes regarding eligibility for any such program pursuant to this subtitle.

(b) INFORMATION REPORTING UNDER TITLE IV OF THE SOCIAL SECURITY ACT.—Part A of title IV of the Social Security Act is amended by inserting the following new section after section 411:

"SEC. 411A. STATE REQUIRED TO PROVIDE CERTAIN INFORMATION. 42 USC 611a.

"Each State to which a grant is made under section 403 shall, at least 4 times annually and upon request of the Immigration and Naturalization Service, furnish the Immigration and Naturalization Service with the name and address of, and other identifying information on, any individual who the State knows is unlawfully in the United States.".

(c) SSI.—Section 1631(e) of such Act (42 U.S.C. 1383(e)) is amended—

(1) by redesignating the paragraphs (6) and (7) inserted by sections 206(d)(2) and 206(f)(1) of the Social Security Independence and Programs Improvement Act of 1994 (Public Law 103–296; 108 Stat. 1514, 1515) as paragraphs (7) and (8), respectively; and

(2) by adding at the end the following new paragraph:

"(9) Notwithstanding any other provision of law, the Commissioner shall, at least 4 times annually and upon request of the Immigration and Naturalization Service (hereafter in this paragraph referred to as the 'Service'), furnish the Service with the name and address of, and other identifying information on, any individual who the Commissioner knows is unlawfully in the United States, and shall ensure that each agreement entered into under section 1616(a) with a State provides that the State shall furnish such information at such times with respect to any individual who the State knows is unlawfully in the United States.".

(d) INFORMATION REPORTING FOR HOUSING PROGRAMS.—Title I of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended by adding at the end the following new section:

"SEC. 27. PROVISION OF INFORMATION TO LAW ENFORCEMENT AND OTHER AGENCIES. 42 USC 1437y.

"Notwithstanding any other provision of law, the Secretary shall, at least 4 times annually and upon request of the Immigration and Naturalization Service (hereafter in this section referred to as the 'Service'), furnish the Service with the name and address of, and other identifying information on, any individual who the Secretary knows is unlawfully in the United States, and shall ensure that each contract for assistance entered into under section 6 or 8 of this Act with a public housing agency provides that the public housing agency shall furnish such information at such times with respect to any individual who the public housing agency knows is unlawfully in the United States.".

Subtitle B—Eligibility for State and Local Public Benefits Programs

8 USC 1621.

SEC. 411. ALIENS WHO ARE NOT QUALIFIED ALIENS OR NONIMMIGRANTS INELIGIBLE FOR STATE AND LOCAL PUBLIC BENEFITS.

(a) IN GENERAL.—Notwithstanding any other provision of law and except as provided in subsections (b) and (d), an alien who is not—

(1) a qualified alien (as defined in section 431),

(2) a nonimmigrant under the Immigration and Nationality Act, or

(3) an alien who is paroled into the United States under section 212(d)(5) of such Act for less than one year,

is not eligible for any State or local public benefit (as defined in subsection (c)).

(b) EXCEPTIONS.—Subsection (a) shall not apply with respect to the following State or local public benefits:

(1) Assistance for health care items and services that are necessary for the treatment of an emergency medical condition (as defined in section 1903(v)(3) of the Social Security Act) of the alien involved and are not related to an organ transplant procedure.

(2) Short-term, non-cash, in-kind emergency disaster relief.

(3) Public health assistance for immunizations with respect to immunizable diseases and for testing and treatment of symptoms of communicable diseases whether or not such symptoms are caused by a communicable disease.

(4) Programs, services, or assistance (such as soup kitchens, crisis counseling and intervention, and short-term shelter) specified by the Attorney General, in the Attorney General's sole and unreviewable discretion after consultation with appropriate Federal agencies and departments, which (A) deliver in-kind services at the community level, including through public or private nonprofit agencies; (B) do not condition the provision of assistance, the amount of assistance provided, or the cost of assistance provided on the individual recipient's income or resources; and (C) are necessary for the protection of life or safety.

(c) STATE OR LOCAL PUBLIC BENEFIT DEFINED.—

(1) Except as provided in paragraphs (2) and (3), for purposes of this subtitle the term "State or local public benefit" means—

(A) any grant, contract, loan, professional license, or commercial license provided by an agency of a State or local government or by appropriated funds of a State or local government; and

(B) any retirement, welfare, health, disability, public or assisted housing, postsecondary education, food assistance, unemployment benefit, or any other similar benefit for which payments or assistance are provided to an individual, household, or family eligibility unit by an agency of a State or local government or by appropriated funds of a State or local government.

(2) Such term shall not apply—

(A) to any contract, professional license, or commercial license for a nonimmigrant whose visa for entry is related to such employment in the United States; or

(B) with respect to benefits for an alien who as a work authorized nonimmigrant or as an alien lawfully admitted for permanent residence under the Immigration and Nationality Act qualified for such benefits and for whom the United States under reciprocal treaty agreements is required to pay benefits, as determined by the Secretary of State, after consultation with the Attorney General.

(3) Such term does not include any Federal public benefit under section 4001(c).

(d) STATE AUTHORITY TO PROVIDE FOR ELIGIBILITY OF ILLEGAL ALIENS FOR STATE AND LOCAL PUBLIC BENEFITS.—A State may provide that an alien who is not lawfully present in the United States is eligible for any State or local public benefit for which such alien would otherwise be ineligible under subsection (a) only through the enactment of a State law after the date of the enactment of this Act which affirmatively provides for such eligibility.

SEC. 412. STATE AUTHORITY TO LIMIT ELIGIBILITY OF QUALIFIED ALIENS FOR STATE PUBLIC BENEFITS. 8 USC 1622.

(a) IN GENERAL.—Notwithstanding any other provision of law and except as provided in subsection (b), a State is authorized to determine the eligibility for any State public benefits of an alien who is a qualified alien (as defined in section 431), a nonimmigrant under the Immigration and Nationality Act, or an alien who is paroled into the United States under section 212(d)(5) of such Act for less than one year.

(b) EXCEPTIONS.—Qualified aliens under this subsection shall be eligible for any State public benefits.

(1) TIME-LIMITED EXCEPTION FOR REFUGEES AND ASYLEES.—

(A) An alien who is admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act until 5 years after the date of an alien's entry into the United States.

(B) An alien who is granted asylum under section 208 of such Act until 5 years after the date of such grant of asylum.

(C) An alien whose deportation is being withheld under section 243(h) of such Act until 5 years after such withholding.

(2) CERTAIN PERMANENT RESIDENT ALIENS.—An alien who—

(A) is lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act; and

(B)(i) has worked 40 qualifying quarters of coverage as defined under title II of the Social Security Act or can be credited with such qualifying quarters as provided under section 435, and (ii) in the case of any such qualifying quarter creditable for any period beginning after December 31, 1996, did not receive any Federal means-tested public benefit (as provided under section 403) during any such period.

(3) VETERAN AND ACTIVE DUTY EXCEPTION.—An alien who is lawfully residing in any State and is—

(A) a veteran (as defined in section 101 of title 38, United States Code) with a discharge characterized as an honorable discharge and not on account of alienage,

(B) on active duty (other than active duty for training) in the Armed Forces of the United States, or

(C) the spouse or unmarried dependent child of an individual described in subparagraph (A) or (B).

(4) TRANSITION FOR THOSE CURRENTLY RECEIVING BENEFITS.—An alien who on the date of the enactment of this Act is lawfully residing in any State and is receiving benefits on the date of the enactment of this Act shall continue to be eligible to receive such benefits until January 1, 1997.

Subtitle C—Attribution of Income and Affidavits of Support

8 USC 1631.

SEC. 421. FEDERAL ATTRIBUTION OF SPONSOR'S INCOME AND RESOURCES TO ALIEN.

(a) IN GENERAL.—Notwithstanding any other provision of law, in determining the eligibility and the amount of benefits of an alien for any Federal means-tested public benefits program (as provided under section 403), the income and resources of the alien shall be deemed to include the following:

(1) The income and resources of any person who executed an affidavit of support pursuant to section 213A of the Immigration and Nationality Act (as added by section 423) on behalf of such alien.

(2) The income and resources of the spouse (if any) of the person.

(b) DURATION OF ATTRIBUTION PERIOD.—Subsection (a) shall apply with respect to an alien until such time as the alien—

(1) achieves United States citizenship through naturalization pursuant to chapter 2 of title III of the Immigration and Nationality Act; or

(2)(A) has worked 40 qualifying quarters of coverage as defined under title II of the Social Security Act or can be credited with such qualifying quarters as provided under section 435, and (B) in the case of any such qualifying quarter creditable for any period beginning after December 31, 1996, did not receive any Federal means-tested public benefit (as provided under section 403) during any such period.

(c) REVIEW OF INCOME AND RESOURCES OF ALIEN UPON REAPPLICATION.—Whenever an alien is required to reapply for benefits under any Federal means-tested public benefits program, the applicable agency shall review the income and resources attributed to the alien under subsection (a).

(d) APPLICATION.—

(1) If on the date of the enactment of this Act, a Federal means-tested public benefits program attributes a sponsor's income and resources to an alien in determining the alien's eligibility and the amount of benefits for an alien, this section shall apply to any such determination beginning on the day after the date of the enactment of this Act.

(2) If on the date of the enactment of this Act, a Federal means-tested public benefits program does not attribute a sponsor's income and resources to an alien in determining the

alien's eligibility and the amount of benefits for an alien, this section shall apply to any such determination beginning 180 days after the date of the enactment of this Act.

SEC. 422. AUTHORITY FOR STATES TO PROVIDE FOR ATTRIBUTION OF SPONSORS INCOME AND RESOURCES TO THE ALIEN WITH RESPECT TO STATE PROGRAMS. 8 USC 1632.

(a) OPTIONAL APPLICATION TO STATE PROGRAMS.—Except as provided in subsection (b), in determining the eligibility and the amount of benefits of an alien for any State public benefits (as defined in section 412(c)), the State or political subdivision that offers the benefits is authorized to provide that the income and resources of the alien shall be deemed to include—

(1) the income and resources of any individual who executed an affidavit of support pursuant to section 213A of the Immigration and Nationality Act (as added by section 423) on behalf of such alien, and

(2) the income and resources of the spouse (if any) of the individual.

(b) EXCEPTIONS.—Subsection (a) shall not apply with respect to the following State public benefits:

(1) Assistance described in section 411(b)(1).

(2) Short-term, non-cash, in-kind emergency disaster relief.

(3) Programs comparable to assistance or benefits under the National School Lunch Act.

(4) Programs comparable to assistance or benefits under the Child Nutrition Act of 1966.

(5) Public health assistance for immunizations with respect to immunizable diseases and for testing and treatment of symptoms of communicable diseases whether or not such symptoms are caused by a communicable disease.

(6) Payments for foster care and adoption assistance.

(7) Programs, services, or assistance (such as soup kitchens, crisis counseling and intervention, and short-term shelter) specified by the Attorney General of a State, after consultation with appropriate agencies and departments, which (A) deliver in-kind services at the community level, including through public or private nonprofit agencies; (B) do not condition the provision of assistance, the amount of assistance provided, or the cost of assistance provided on the individual recipient's income or resources; and (C) are necessary for the protection of life or safety.

SEC. 423. REQUIREMENTS FOR SPONSOR'S AFFIDAVIT OF SUPPORT.

(a) IN GENERAL.—Title II of the Immigration and Nationality Act is amended by inserting after section 213 the following new section:

"REQUIREMENTS FOR SPONSOR'S AFFIDAVIT OF SUPPORT

"SEC. 213A. (a) ENFORCEABILITY.—(1) No affidavit of support may be accepted by the Attorney General or by any consular officer to establish that an alien is not excludable as a public charge under section 212(a)(4) unless such affidavit is executed as a contract— 8 USC 1183a.

"(A) which is legally enforceable against the sponsor by the sponsored alien, the Federal Government, and by any State (or any political subdivision of such State) which provides any

means-tested public benefits program, but not later than 10 years after the alien last receives any such benefit;

"(B) in which the sponsor agrees to financially support the alien, so that the alien will not become a public charge; and

"(C) in which the sponsor agrees to submit to the jurisdiction of any Federal or State court for the purpose of actions brought under subsection (e)(2).

"(2) A contract under paragraph (1) shall be enforceable with respect to benefits provided to the alien until such time as the alien achieves United States citizenship through naturalization pursuant to chapter 2 of title III.

"(b) FORMS.—Not later than 90 days after the date of enactment of this section, the Attorney General, in consultation with the Secretary of State and the Secretary of Health and Human Services, shall formulate an affidavit of support consistent with the provisions of this section.

"(c) REMEDIES.—Remedies available to enforce an affidavit of support under this section include any or all of the remedies described in section 3201, 3203, 3204, or 3205 of title 28, United States Code, as well as an order for specific performance and payment of legal fees and other costs of collection, and include corresponding remedies available under State law. A Federal agency may seek to collect amounts owed under this section in accordance with the provisions of subchapter II of chapter 37 of title 31, United States Code.

"(d) NOTIFICATION OF CHANGE OF ADDRESS.—

"(1) IN GENERAL.—The sponsor shall notify the Attorney General and the State in which the sponsored alien is currently resident within 30 days of any change of address of the sponsor during the period specified in subsection (a)(2).

"(2) PENALTY.—Any person subject to the requirement of paragraph (1) who fails to satisfy such requirement shall be subject to a civil penalty of—

"(A) not less than $250 or more than $2,000, or

"(B) if such failure occurs with knowledge that the alien has received any means-tested public benefit, not less than $2,000 or more than $5,000.

"(e) REIMBURSEMENT OF GOVERNMENT EXPENSES.—(1)(A) Upon notification that a sponsored alien has received any benefit under any means-tested public benefits program, the appropriate Federal, State, or local official shall request reimbursement by the sponsor in the amount of such assistance.

"(B) The Attorney General, in consultation with the Secretary of Health and Human Services, shall prescribe such regulations as may be necessary to carry out subparagraph (A).

"(2) If within 45 days after requesting reimbursement, the appropriate Federal, State, or local agency has not received a response from the sponsor indicating a willingness to commence payments, an action may be brought against the sponsor pursuant to the affidavit of support.

"(3) If the sponsor fails to abide by the repayment terms established by such agency, the agency may, within 60 days of such failure, bring an action against the sponsor pursuant to the affidavit of support.

"(4) No cause of action may be brought under this subsection later than 10 years after the alien last received any benefit under any means-tested public benefits program.

"(5) If, pursuant to the terms of this subsection, a Federal, State, or local agency requests reimbursement from the sponsor in the amount of assistance provided, or brings an action against the sponsor pursuant to the affidavit of support, the appropriate agency may appoint or hire an individual or other person to act on behalf of such agency acting under the authority of law for purposes of collecting any moneys owed. Nothing in this subsection shall preclude any appropriate Federal, State, or local agency from directly requesting reimbursement from a sponsor for the amount of assistance provided, or from bringing an action against a sponsor pursuant to an affidavit of support.

"(f) DEFINITIONS.—For the purposes of this section—

"(1) SPONSOR.—The term 'sponsor' means an individual who—

"(A) is a citizen or national of the United States or an alien who is lawfully admitted to the United States for permanent residence;

"(B) is 18 years of age or over;

"(C) is domiciled in any of the 50 States or the District of Columbia; and

"(D) is the person petitioning for the admission of the alien under section 204.".

(b) CLERICAL AMENDMENT.—The table of contents of such Act is amended by inserting after the item relating to section 213 the following:

"Sec. 213A. Requirements for sponsor's affidavit of support.".

(c) EFFECTIVE DATE.—Subsection (a) of section 213A of the Immigration and Nationality Act, as inserted by subsection (a) of this section, shall apply to affidavits of support executed on or after a date specified by the Attorney General, which date shall be not earlier than 60 days (and not later than 90 days) after the date the Attorney General formulates the form for such affidavits under subsection (b) of such section. 8 USC 1138a note.

(d) BENEFITS NOT SUBJECT TO REIMBURSEMENT.—Requirements for reimbursement by a sponsor for benefits provided to a sponsored alien pursuant to an affidavit of support under section 213A of the Immigration and Nationality Act shall not apply with respect to the following: 8 USC 1138a note.

(1) Medical assistance described in section 401(b)(1)(A) or assistance described in section 411(b)(1).

(2) Short-term, non-cash, in-kind emergency disaster relief.

(3) Assistance or benefits under the National School Lunch Act.

(4) Assistance or benefits under the Child Nutrition Act of 1966.

(5) Public health assistance for immunizations (not including any assistance under title XIX of the Social Security Act) with respect to immunizable diseases and for testing and treatment of symptoms of communicable diseases whether or not such symptoms are caused by a communicable disease.

(6) Payments for foster care and adoption assistance under parts B and E of title IV of the Social Security Act for a parent or a child, but only if the foster or adoptive parent

(or parents) of such child is a qualified alien (as defined in section 431).

(7) Programs, services, or assistance (such as soup kitchens, crisis counseling and intervention, and short-term shelter) specified by the Attorney General, in the Attorney General's sole and unreviewable discretion after consultation with appropriate Federal agencies and departments, which (A) deliver in-kind services at the community level, including through public or private nonprofit agencies; (B) do not condition the provision of assistance, the amount of assistance provided, or the cost of assistance provided on the individual recipient's income or resources; and (C) are necessary for the protection of life or safety.

(8) Programs of student assistance under titles IV, V, IX, and X of the Higher Education Act of 1965, and titles III, VII, and VIII of the Public Health Service Act.

(9) Benefits under the Head Start Act.

(10) Means-tested programs under the Elementary and Secondary Education Act of 1965.

(11) Benefits under the Job Training Partnership Act.

Subtitle D—General Provisions

8 USC 1641.

SEC. 431. DEFINITIONS.

(a) IN GENERAL.—Except as otherwise provided in this title, the terms used in this title have the same meaning given such terms in section 101(a) of the Immigration and Nationality Act.

(b) QUALIFIED ALIEN.—For purposes of this title, the term "qualified alien" means an alien who, at the time the alien applies for, receives, or attempts to receive a Federal public benefit, is—

(1) an alien who is lawfully admitted for permanent residence under the Immigration and Nationality Act,

(2) an alien who is granted asylum under section 208 of such Act,

(3) a refugee who is admitted to the United States under section 207 of such Act,

(4) an alien who is paroled into the United States under section 212(d)(5) of such Act for a period of at least 1 year,

(5) an alien whose deportation is being withheld under section 243(h) of such Act, or

(6) an alien who is granted conditional entry pursuant to section 203(a)(7) of such Act as in effect prior to April 1, 1980.

8 USC 1642.

SEC. 432. VERIFICATION OF ELIGIBILITY FOR FEDERAL PUBLIC BENEFITS.

(a) IN GENERAL.—Not later than 18 months after the date of the enactment of this Act, the Attorney General of the United States, after consultation with the Secretary of Health and Human Services, shall promulgate regulations requiring verification that a person applying for a Federal public benefit (as defined in section 401(c)), to which the limitation under section 401 applies, is a qualified alien and is eligible to receive such benefit. Such regulations shall, to the extent feasible, require that information requested and exchanged be similar in form and manner to information requested and exchanged under section 1137 of the Social Security Act.

(b) STATE COMPLIANCE.—Not later than 24 months after the date the regulations described in subsection (a) are adopted, a State that administers a program that provides a Federal public benefit shall have in effect a verification system that complies with the regulations.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the purpose of this section.

SEC. 433. STATUTORY CONSTRUCTION. 8 USC 1643.

(a) LIMITATION.—

(1) Nothing in this title may be construed as an entitlement or a determination of an individual's eligibility or fulfillment of the requisite requirements for any Federal, State, or local governmental program, assistance, or benefits. For purposes of this title, eligibility relates only to the general issue of eligibility or ineligibility on the basis of alienage.

(2) Nothing in this title may be construed as addressing alien eligibility for a basic public education as determined by the Supreme Court of the United States under Plyler v. Doe (457 U.S. 202)(1982).

(b) NOT APPLICABLE TO FOREIGN ASSISTANCE.—This title does not apply to any Federal, State, or local governmental program, assistance, or benefits provided to an alien under any program of foreign assistance as determined by the Secretary of State in consultation with the Attorney General.

(c) SEVERABILITY.—If any provision of this title or the application of such provision to any person or circumstance is held to be unconstitutional, the remainder of this title and the application of the provisions of such to any person or circumstance shall not be affected thereby.

SEC. 434. COMMUNICATION BETWEEN STATE AND LOCAL GOVERNMENT AGENCIES AND THE IMMIGRATION AND NATURALIZATION SERVICE. 8 USC 1644.

Notwithstanding any other provision of Federal, State, or local law, no State or local government entity may be prohibited, or in any way restricted, from sending to or receiving from the Immigration and Naturalization Service information regarding the immigration status, lawful or unlawful, of an alien in the United States.

SEC. 435. QUALIFYING QUARTERS. 8 USC 1645.

For purposes of this title, in determining the number of qualifying quarters of coverage under title II of the Social Security Act an alien shall be credited with—

(1) all of the qualifying quarters of coverage as defined under title II of the Social Security Act worked by a parent of such alien while the alien was under age 18, and

(2) all of the qualifying quarters worked by a spouse of such alien during their marriage and the alien remains married to such spouse or such spouse is deceased.

No such qualifying quarter of coverage that is creditable under title II of the Social Security Act for any period beginning after December 31, 1996, may be credited to an alien under paragraph (1) or (2) if the parent or spouse (as the case may be) of such alien received any Federal means-tested public benefit (as provided

under section 403) during the period for which such qualifying quarter of coverage is so credited.

Subtitle E—Conforming Amendments Relating to Assisted Housing

SEC. 441. CONFORMING AMENDMENTS RELATING TO ASSISTED HOUSING.

(a) LIMITATIONS ON ASSISTANCE.—Section 214 of the Housing and Community Development Act of 1980 (42 U.S.C. 1436a) is amended—

(1) by striking "Secretary of Housing and Urban Development" each place it appears and inserting "applicable Secretary";

(2) in subsection (b), by inserting after "National Housing Act," the following: "the direct loan program under section 502 of the Housing Act of 1949 or section 502(c)(5)(D), 504, 521(a)(2)(A), or 542 of such Act, subtitle A of title III of the Cranston-Gonzalez National Affordable Housing Act,";

(3) in paragraphs (2) through (6) of subsection (d), by striking "Secretary" each place it appears and inserting "applicable Secretary";

(4) in subsection (d), in the matter following paragraph (6), by striking "the term 'Secretary'" and inserting "the term 'applicable Secretary'"; and

(5) by adding at the end the following new subsection:

"(h) For purposes of this section, the term 'applicable Secretary' means—

"(1) the Secretary of Housing and Urban Development, with respect to financial assistance administered by such Secretary and financial assistance under subtitle A of title III of the Cranston-Gonzalez National Affordable Housing Act; and

"(2) the Secretary of Agriculture, with respect to financial assistance administered by such Secretary.".

(b) CONFORMING AMENDMENTS.—Section 501(h) of the Housing Act of 1949 (42 U.S.C. 1471(h)) is amended—

(1) by striking "(1)";

(2) by striking "by the Secretary of Housing and Urban Development"; and

(3) by striking paragraph (2).

Subtitle F—Earned Income Credit Denied to Unauthorized Employees

SEC. 451. EARNED INCOME CREDIT DENIED TO INDIVIDUALS NOT AUTHORIZED TO BE EMPLOYED IN THE UNITED STATES.

(a) IN GENERAL.—Section 32(c)(1) of the Internal Revenue Code of 1986 (relating to individuals eligible to claim the earned income credit) is amended by adding at the end the following new subparagraph:

"(F) IDENTIFICATION NUMBER REQUIREMENT.—The term 'eligible individual' does not include any individual who does not include on the return of tax for the taxable year—

"(i) such individual's taxpayer identification number, and

"(ii) if the individual is married (within the meaning of section 7703), the taxpayer identification number of such individual's spouse.".

(b) SPECIAL IDENTIFICATION NUMBER.—Section 32 of such Code is amended by adding at the end the following new subsection:

"(l) IDENTIFICATION NUMBERS.—Solely for purposes of subsections (c)(1)(F) and (c)(3)(D), a taxpayer identification number means a social security number issued to an individual by the Social Security Administration (other than a social security number issued pursuant to clause (II) (or that portion of clause (III) that relates to clause (II)) of section 205(c)(2)(B)(i) of the Social Security Act).".

(c) EXTENSION OF PROCEDURES APPLICABLE TO MATHEMATICAL OR CLERICAL ERRORS.—Section 6213(g)(2) of such Code (relating to the definition of mathematical or clerical errors) is amended by striking "and" at the end of subparagraph (D), by striking the period at the end of subparagraph (E) and inserting a comma, and by inserting after subparagraph (E) the following new subparagraphs:

"(F) an omission of a correct taxpayer identification number required under section 32 (relating to the earned income credit) to be included on a return, and

"(G) an entry on a return claiming the credit under section 32 with respect to net earnings from self-employment described in section 32(c)(2)(A) to the extent the tax imposed by section 1401 (relating to self-employment tax) on such net earnings has not been paid.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to returns the due date for which (without regard to extensions) is more than 30 days after the date of the enactment of this Act. 26 USC 32 note.

TITLE V—CHILD PROTECTION

SEC. 501. AUTHORITY OF STATES TO MAKE FOSTER CARE MAINTENANCE PAYMENTS ON BEHALF OF CHILDREN IN ANY PRIVATE CHILD CARE INSTITUTION.

Section 472(c)(2) of the Social Security Act (42 U.S.C. 672(c)(2)) is amended by striking "nonprofit".

SEC. 502. EXTENSION OF ENHANCED MATCH FOR IMPLEMENTATION OF STATEWIDE AUTOMATED CHILD WELFARE INFORMATION SYSTEMS.

Section 13713(b)(2) of the Omnibus Budget Reconciliation Act of 1993 (42 U.S.C. 674 note; 107 Stat. 657) is amended by striking "1996" and inserting "1997".

SEC. 503. NATIONAL RANDOM SAMPLE STUDY OF CHILD WELFARE.

Part B of title IV of the Social Security Act (42 U.S.C. 620–628a) is amended by adding at the end the following:

"SEC. 429A. NATIONAL RANDOM SAMPLE STUDY OF CHILD WELFARE. 42 USC 628b.

"(a) IN GENERAL.—The Secretary shall conduct a national study based on random samples of children who are at risk of child abuse or neglect, or are determined by States to have been abused or neglected.

"(b) REQUIREMENTS.—The study required by subsection (a) shall—

"(1) have a longitudinal component; and

"(2) yield data reliable at the State level for as many States as the Secretary determines is feasible.

"(c) PREFERRED CONTENTS.—In conducting the study required by subsection (a), the Secretary should—

"(1) carefully consider selecting the sample from cases of confirmed abuse or neglect; and

"(2) follow each case for several years while obtaining information on, among other things—

"(A) the type of abuse or neglect involved;

"(B) the frequency of contact with State or local agencies;

"(C) whether the child involved has been separated from the family, and, if so, under what circumstances;

"(D) the number, type, and characteristics of out-of-home placements of the child; and

"(E) the average duration of each placement.

"(d) REPORTS.—

"(1) IN GENERAL.—From time to time, the Secretary shall prepare reports summarizing the results of the study required by subsection (a).

"(2) AVAILABILITY.—The Secretary shall make available to the public any report prepared under paragraph (1), in writing or in the form of an electronic data tape.

"(3) AUTHORITY TO CHARGE FEE.—The Secretary may charge and collect a fee for the furnishing of reports under paragraph (2).

"(e) APPROPRIATION.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated to the Secretary for each of fiscal years 1996 through 2002 $6,000,000 to carry out this section.".

SEC. 504. REDESIGNATION OF SECTION 1123.

42 USC 1320a–2a.

The Social Security Act is amended by redesignating section 1123, the second place it appears (42 U.S.C. 1320a–1a), as section 1123A.

SEC. 505. KINSHIP CARE.

Section 471(a) of the Social Security Act (42 U.S.C. 671(a)) is amended—

(1) by striking "and" at the end of paragraph (16);

(2) by striking the period at the end of paragraph (17) and inserting "; and"; and

(3) by adding at the end the following:

"(18) provides that the State shall consider giving preference to an adult relative over a non-related caregiver when determining a placement for a child, provided that the relative caregiver meets all relevant State child protection standards.".

TITLE VI—CHILD CARE

Child Care and Development Block Grant Amendments of 1996.
42 USC 9801 note.

SEC. 601. SHORT TITLE AND REFERENCES.

(a) SHORT TITLE.—This title may be cited as the "Child Care and Development Block Grant Amendments of 1996".

(b) REFERENCES.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.).

SEC. 602. GOALS.

Section 658A (42 U.S.C. 9801 note) is amended—

(1) in the section heading by inserting "AND GOALS" after "TITLE";

(2) by inserting "(a) SHORT TITLE.—" before "This"; and

(3) by adding at the end the following:

42 USC 9801 note.

42 USC 9858 note.

"(b) GOALS.—The goals of this subchapter are—

"(1) to allow each State maximum flexibility in developing child care programs and policies that best suit the needs of children and parents within such State;

"(2) to promote parental choice to empower working parents to make their own decisions on the child care that best suits their family's needs;

"(3) to encourage States to provide consumer education information to help parents make informed choices about child care;

"(4) to assist States to provide child care to parents trying to achieve independence from public assistance; and

"(5) to assist States in implementing the health, safety, licensing, and registration standards established in State regulations.".

SEC. 603. AUTHORIZATION OF APPROPRIATIONS AND ENTITLEMENT AUTHORITY.

(a) IN GENERAL.—Section 658B (42 U.S.C. 9858) is amended to read as follows:

"SEC. 658B. AUTHORIZATION OF APPROPRIATIONS.

"There is authorized to be appropriated to carry out this subchapter $1,000,000,000 for each of the fiscal years 1996 through 2002.".

(b) SOCIAL SECURITY ACT.—Part A of title IV of the Social Security Act (42 U.S.C. 601–617) is amended by adding at the end the following new section:

"SEC. 418. FUNDING FOR CHILD CARE.

42 USC 618.

"(a) GENERAL CHILD CARE ENTITLEMENT.—

"(1) GENERAL ENTITLEMENT.—Subject to the amount appropriated under paragraph (3), each State shall, for the purpose of providing child care assistance, be entitled to payments under a grant under this subsection for a fiscal year in an amount equal to—

"(A) the sum of the total amount required to be paid to the State under section 403 for fiscal year 1994 or 1995 (whichever is greater) with respect to amounts expended for child care under section—

"(i) 402(g) of this Act (as such section was in effect before October 1, 1995); and

"(ii) 402(i) of this Act (as so in effect); or

"(B) the average of the total amounts required to be paid to the State for fiscal years 1992 through 1994 under the sections referred to in subparagraph (A);

whichever is greater.

"(2) REMAINDER.—

"(A) GRANTS.—The Secretary shall use any amounts appropriated for a fiscal year under paragraph (3), and remaining after the reservation described in paragraph (4) and after grants are awarded under paragraph (1), to make grants to States under this paragraph.

"(B) AMOUNT.—Subject to subparagraph (C), the amount of a grant awarded to a State for a fiscal year under this paragraph shall be based on the formula used for determining the amount of Federal payments to the State under section 403(n) (as such section was in effect before October 1, 1995).

"(C) MATCHING REQUIREMENT.—The Secretary shall pay to each eligible State in a fiscal year an amount, under a grant under subparagraph (A), equal to the Federal medical assistance percentage for such State for fiscal year 1995 (as defined in section 1905(b)) of so much of the expenditures by the State for child care in such year as exceed the State set-aside for such State under paragraph (1)(A) for such year and the amount of State expenditures in fiscal year 1994 or 1995 (whichever is greater) that equal the non-Federal share for the programs described in subparagraph (A) of paragraph (1).

"(D) REDISTRIBUTION.—

"(i) IN GENERAL.—With respect to any fiscal year, if the Secretary determines (in accordance with clause (ii)) that amounts under any grant awarded to a State under this paragraph for such fiscal year will not be used by such State during such fiscal year for carrying out the purpose for which the grant is made, the Secretary shall make such amounts available in the subsequent fiscal year for carrying out such purpose to one or more States which apply for such funds to the extent the Secretary determines that such States will be able to use such additional amounts for carrying out such purpose. Such available amounts shall be redistributed to a State pursuant to section 403(n) (as such section was in effect before October 1, 1995) by substituting 'the number of children residing in all States applying for such funds' for 'the number of children residing in the United States in the second preceding fiscal year'.

"(ii) TIME OF DETERMINATION AND DISTRIBUTION.—The determination of the Secretary under clause (i) for a fiscal year shall be made not later than the end of the first quarter of the subsequent fiscal year. The redistribution of amounts under clause (i) shall be made as close as practicable to the date on which such determination is made. Any amount made available to a State from an appropriation for a fiscal year in accordance with this subparagraph shall, for purposes of this part, be regarded as part of such State's

payment (as determined under this subsection) for the fiscal year in which the redistribution is made.

"(3) APPROPRIATION.—For grants under this section, there are appropriated—

"(A) $1,967,000,000 for fiscal year 1997;
"(B) $2,067,000,000 for fiscal year 1998;
"(C) $2,167,000,000 for fiscal year 1999;
"(D) $2,367,000,000 for fiscal year 2000;
"(E) $2,567,000,000 for fiscal year 2001; and
"(F) $2,717,000,000 for fiscal year 2002.

"(4) INDIAN TRIBES.—The Secretary shall reserve not less than 1 percent, and not more than 2 percent, of the aggregate amount appropriated to carry out this section in each fiscal year for payments to Indian tribes and tribal organizations.

"(b) USE OF FUNDS.—

"(1) IN GENERAL.—Amounts received by a State under this section shall only be used to provide child care assistance. Amounts received by a State under a grant under subsection (a)(1) shall be available for use by the State without fiscal year limitation.

"(2) USE FOR CERTAIN POPULATIONS.—A State shall ensure that not less than 70 percent of the total amount of funds received by the State in a fiscal year under this section are used to provide child care assistance to families who are receiving assistance under a State program under this part, families who are attempting through work activities to transition off of such assistance program, and families who are at risk of becoming dependent on such assistance program.

"(c) APPLICATION OF CHILD CARE AND DEVELOPMENT BLOCK GRANT ACT of 1990.—Notwithstanding any other provision of law, amounts provided to a State under this section shall be transferred to the lead agency under the Child Care and Development Block Grant Act of 1990, integrated by the State into the programs established by the State under such Act, and be subject to requirements and limitations of such Act.

"(d) DEFINITION.—As used in this section, the term 'State' means each of the 50 States or the District of Columbia.".

SEC. 604. LEAD AGENCY.

Section 658D(b) (42 U.S.C. 9858b(b)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by striking "State" the first place that such appears and inserting "governmental or nongovernmental"; and

(B) in subparagraph (C), by inserting "with sufficient time and Statewide distribution of the notice of such hearing," after "hearing in the State"; and

(2) in paragraph (2), by striking the second sentence.

SEC. 605. APPLICATION AND PLAN.

Section 658E (42 U.S.C. 9858c) is amended—

(1) in subsection (b)—

(A) by striking "implemented—" and all that follows through "(2)" and inserting "implemented"; and

(B) by striking "for subsequent State plans";

(2) in subsection (c)—

(A) in paragraph (2)—

(i) in subparagraph (A)—

(I) in clause (i) by striking ", other than through assistance provided under paragraph (3)(C),"; and

(II) by striking "except" and all that follows through "1992", and inserting "and provide a detailed description of the procedures the State will implement to carry out the requirements of this subparagraph";

(ii) in subparagraph (B)—

(I) by striking "Provide assurances" and inserting "Certify"; and

(II) by inserting before the period at the end "and provide a detailed description of such procedures";

(iii) in subparagraph (C)—

(I) by striking "Provide assurances" and inserting "Certify"; and

(II) by inserting before the period at the end "and provide a detailed description of how such record is maintained and is made available";

(iv) by amending subparagraph (D) to read as follows:

"(D) CONSUMER EDUCATION INFORMATION.—Certify that the State will collect and disseminate to parents of eligible children and the general public, consumer education information that will promote informed child care choices.";

(v) in subparagraph (E), to read as follows:

"(E) COMPLIANCE WITH STATE LICENSING REQUIREMENTS.—

"(i) IN GENERAL.—Certify that the State has in effect licensing requirements applicable to child care services provided within the State, and provide a detailed description of such requirements and of how such requirements are effectively enforced. Nothing in the preceding sentence shall be construed to require that licensing requirements be applied to specific types of providers of child care services.

"(ii) INDIAN TRIBES AND TRIBAL ORGANIZATIONS.—In lieu of any licensing and regulatory requirements applicable under State and local law, the Secretary, in consultation with Indian tribes and tribal organizations, shall develop minimum child care standards (that appropriately reflect tribal needs and available resources) that shall be applicable to Indian tribes and tribal organization receiving assistance under this subchapter.";

(vi) in subparagraph (F) by striking "Provide assurances" and inserting "Certify";

(vii) in subparagraph (G) by striking "Provide assurances" and inserting "Certify"; and

(viii) by striking subparagraphs (H), (I), and (J) and inserting the following:

"(H) MEETING THE NEEDS OF CERTAIN POPULATIONS.—Demonstrate the manner in which the State will meet the specific child care needs of families who are receiving assistance under a State program under part A of title IV of the Social Security Act, families who are attempting

through work activities to transition off of such assistance program, and families that are at risk of becoming dependent on such assistance program.";

(B) in paragraph (3)—

(i) in subparagraph (A), by striking "(B) and (C)" and inserting "(B) through (D)";

(ii) in subparagraph (B)—

(I) by striking ".—Subject to the reservation contained in subparagraph (C), the" and inserting "AND RELATED ACTIVITIES.—The";

(II) in clause (i) by striking "; and" at the end and inserting a period;

(III) by striking "for—" and all that follows through "section 658E(c)(2)(A)" and inserting "for child care services on a sliding fee scale basis, activities that improve the quality or availability of such services, and any other activity that the State deems appropriate to realize any of the goals specified in paragraphs (2) through (5) of section 658A(b)"; and

(IV) by striking clause (ii);

(iii) by amending subparagraph (C) to read as follows:

"(C) LIMITATION ON ADMINISTRATIVE COSTS.—Not more than 5 percent of the aggregate amount of funds available to the State to carry out this subchapter by a State in each fiscal year may be expended for administrative costs incurred by such State to carry out all of its functions and duties under this subchapter. As used in the preceding sentence, the term 'administrative costs' shall not include the costs of providing direct services."; and

(iv) by adding at the end thereof the following:

"(D) ASSISTANCE FOR CERTAIN FAMILIES.—A State shall ensure that a substantial portion of the amounts available (after the State has complied with the requirement of section 418(b)(2) of the Social Security Act with respect to each of the fiscal years 1997 through 2002) to the State to carry out activities under this subchapter in each fiscal year is used to provide assistance to low-income working families other than families described in paragraph (2)(H).";

and

(C) in paragraph (4)(A)—

(i) by striking "provide assurances" and inserting "certify";

(ii) in the first sentence by inserting "and shall provide a summary of the facts relied on by the State to determine that such rates are sufficient to ensure such access" before the period; and

(iii) by striking the last sentence.

SEC. 606. LIMITATION ON STATE ALLOTMENTS.

Section 658F(b)(1) (42 U.S.C. 9858d(b)(1)) is amended by striking "No" and inserting "Except as provided for in section 658O(c)(6), no".

SEC. 607. ACTIVITIES TO IMPROVE THE QUALITY OF CHILD CARE.

Section 658G (42 U.S.C. 9858e) is amended to read as follows:

42 USC 9858e.

"SEC. 658G. ACTIVITIES TO IMPROVE THE QUALITY OF CHILD CARE.

"A State that receives funds to carry out this subchapter for a fiscal year, shall use not less than 4 percent of the amount of such funds for activities that are designed to provide comprehensive consumer education to parents and the public, activities that increase parental choice, and activities designed to improve the quality and availability of child care (such as resource and referral services).".

SEC. 608. REPEAL OF EARLY CHILDHOOD DEVELOPMENT AND BEFORE- AND AFTER-SCHOOL CARE REQUIREMENT.

Section 658H (42 U.S.C. 9858f) is repealed.

SEC. 609. ADMINISTRATION AND ENFORCEMENT.

Section 658I(b) (42 U.S.C. 9858g(b)) is amended—

(1) in paragraph (1), by striking ", and shall have" and all that follows through "(2)"; and

(2) in the matter following clause (ii) of paragraph (2)(A), by striking "finding and that" and all that follows through the period and inserting "finding and shall require that the State reimburse the Secretary for any funds that were improperly expended for purposes prohibited or not authorized by this subchapter, that the Secretary deduct from the administrative portion of the State allotment for the following fiscal year an amount that is less than or equal to any improperly expended funds, or a combination of such options.".

SEC. 610. PAYMENTS.

Section 658J(c) (42 U.S.C. 9858h(c)) is amended—

(1) by striking "expended" and inserting "obligated"; and

(2) by striking "3 fiscal years" and inserting "fiscal year".

SEC. 611. ANNUAL REPORT AND AUDITS.

Section 658K (42 U.S.C. 9858i) is amended—

(1) in the section heading by striking "ANNUAL REPORT" and inserting "REPORTS";

(2) in subsection (a), to read as follows:

"(a) REPORTS.—

"(1) COLLECTION OF INFORMATION BY STATES.—

"(A) IN GENERAL.—A State that receives funds to carry out this subchapter shall collect the information described in subparagraph (B) on a monthly basis.

"(B) REQUIRED INFORMATION.—The information required under this subparagraph shall include, with respect to a family unit receiving assistance under this subchapter information concerning—

"(i) family income;

"(ii) county of residence;

"(iii) the gender, race, and age of children receiving such assistance;

"(iv) whether the family includes only one parent;

"(v) the sources of family income, including the amount obtained from (and separately identified)—

"(I) employment, including self-employment;

"(II) cash or other assistance under part A of title IV of the Social Security Act;

"(III) housing assistance;

"(IV) assistance under the Food Stamp Act of 1977; and

"(V) other assistance programs;

"(vi) the number of months the family has received benefits;

"(vii) the type of child care in which the child was enrolled (such as family child care, home care, or center-based child care);

"(viii) whether the child care provider involved was a relative;

"(ix) the cost of child care for such families; and

"(x) the average hours per week of such care;

during the period for which such information is required to be submitted.

"(C) SUBMISSION TO SECRETARY.—A State described in subparagraph (A) shall, on a quarterly basis, submit the information required to be collected under subparagraph (B) to the Secretary.

"(D) SAMPLING.—The Secretary may disapprove the information collected by a State under this paragraph if the State uses sampling methods to collect such information.

"(2) BIANNUAL REPORTS.—Not later than December 31, 1997, and every 6 months thereafter, a State described in paragraph (1)(A) shall prepare and submit to the Secretary a report that includes aggregate data concerning—

"(A) the number of child care providers that received funding under this subchapter as separately identified based on the types of providers listed in section 658P(5);

"(B) the monthly cost of child care services, and the portion of such cost that is paid for with assistance provided under this subchapter, listed by the type of child care services provided;

"(C) the number of payments made by the State through vouchers, contracts, cash, and disregards under public benefit programs, listed by the type of child care services provided;

"(D) the manner in which consumer education information was provided to parents and the number of parents to whom such information was provided; and

"(E) the total number (without duplication) of children and families served under this subchapter;

during the period for which such report is required to be submitted."; and

(2) in subsection (b)—

(A) in paragraph (1) by striking "a application" and inserting "an application";

(B) in paragraph (2) by striking "any agency administering activities that receive" and inserting "the State that receives"; and

(C) in paragraph (4) by striking "entitles" and inserting "entitled".

SEC. 612. REPORT BY THE SECRETARY.

Section 658L (42 U.S.C. 9858j) is amended—

(1) by striking "1993" and inserting "1997";

(2) by striking "annually" and inserting "biennially"; and

(3) by striking "Education and Labor" and inserting "Economic and Educational Opportunities".

SEC. 613. ALLOTMENTS.

Section 6580 (42 U.S.C. 9858m) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking "POSSESSIONS" and inserting "POSSESSIONS";

(ii) by inserting "and" after "States,"; and

(iii) by striking ", and the Trust Territory of the Pacific Islands"; and

(B) in paragraph (2), by striking "more than 3 percent" and inserting "less than 1 percent, and not more than 2 percent,";

(2) in subsection (c)—

(A) in paragraph (5) by striking "our" and inserting "out"; and

(B) by adding at the end thereof the following new paragraph:

"(6) CONSTRUCTION OR RENOVATION OF FACILITIES.—

"(A) REQUEST FOR USE OF FUNDS.—An Indian tribe or tribal organization may submit to the Secretary a request to use amounts provided under this subsection for construction or renovation purposes.

"(B) DETERMINATION.—With respect to a request submitted under subparagraph (A), and except as provided in subparagraph (C), upon a determination by the Secretary that adequate facilities are not otherwise available to an Indian tribe or tribal organization to enable such tribe or organization to carry out child care programs in accordance with this subchapter, and that the lack of such facilities will inhibit the operation of such programs in the future, the Secretary may permit the tribe or organization to use assistance provided under this subsection to make payments for the construction or renovation of facilities that will be used to carry out such programs.

"(C) LIMITATION.—The Secretary may not permit an Indian tribe or tribal organization to use amounts provided under this subsection for construction or renovation if such use will result in a decrease in the level of child care services provided by the tribe or organization as compared to the level of such services provided by the tribe or organization in the fiscal year preceding the year for which the determination under subparagraph (A) is being made.

"(D) UNIFORM PROCEDURES.—The Secretary shall develop and implement uniform procedures for the solicitation and consideration of requests under this paragraph."; and

(3) in subsection (e), by adding at the end thereof the following new paragraph:

"(4) INDIAN TRIBES OR TRIBAL ORGANIZATIONS.—Any portion of a grant or contract made to an Indian tribe or tribal organization under subsection (c) that the Secretary determines is not being used in a manner consistent with the provision of this subchapter in the period for which the grant or contract is made available, shall be allotted by the Secretary to other

tribes or organizations that have submitted applications under subsection (c) in accordance with their respective needs.".

SEC. 614. DEFINITIONS.

Section 658P (42 U.S.C. 9858n) is amended—

(1) in paragraph (2), in the first sentence by inserting "or as a deposit for child care services if such a deposit is required of other children being cared for by the provider" after "child care services"; and

(2) by striking paragraph (3);

(3) in paragraph (4)(B), by striking "75 percent" and inserting "85 percent";

(4) in paragraph (5)(B)—

(A) by inserting "great grandchild, sibling (if such provider lives in a separate residence)," after "grandchild,";

(B) by striking "is registered and"; and

(C) by striking "State" and inserting "applicable".

(5) by striking paragraph (10);

(6) in paragraph (13)—

(A) by inserting "or" after "Samoa,"; and

(B) by striking ", and the Trust Territory of the Pacific Islands";

(7) in paragraph (14)—

(A) by striking "The term" and inserting the following: "(A) IN GENERAL.—The term"; and

(B) by adding at the end thereof the following new subparagraph:

"(B) OTHER ORGANIZATIONS.—Such term includes a Native Hawaiian Organization, as defined in section 4009(4) of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 (20 U.S.C. 4909(4)) and a private nonprofit organization established for the purpose of serving youth who are Indians or Native Hawaiians.".

SEC. 615. EFFECTIVE DATE.

42 USC 9858 note.

(a) IN GENERAL.—Except as provided in subsection (b), this title and the amendments made by this title shall take effect on October 1, 1996.

(b) EXCEPTION.—The amendment made by section 603(a) shall take effect on the date of enactment of this Act.

TITLE VII—CHILD NUTRITION PROGRAMS

Subtitle A—National School Lunch Act

SEC. 701. STATE DISBURSEMENT TO SCHOOLS.

(a) IN GENERAL.—Section 8 of the National School Lunch Act (42 U.S.C. 1757) is amended—

(1) in the third sentence, by striking "Nothing" and all that follows through "educational agency to" and inserting "The State educational agency may";

(2) by striking the fourth and fifth sentences;

(3) by redesignating the first through seventh sentences, as amended by paragraph (2), as subsections (a) through (g), respectively;

(4) in subsection (b), as redesignated by paragraph (3), by striking "the preceding sentence" and inserting "subsection (a)"; and

(5) in subsection (d), as redesignated by paragraph (3), by striking "Such food costs" and inserting "Use of funds paid to States".

(b) DEFINITION OF CHILD.—Section 12(d) of the National School Lunch Act (42 U.S.C. 1760(d)) is amended by adding at the end the following:

"(9) CHILD.—

"(A) IN GENERAL.—The term 'child' includes an individual, regardless of age, who—

"(i) is determined by a State educational agency, in accordance with regulations prescribed by the Secretary, to have one or more mental or physical disabilities; and

"(ii) is attending any institution, as defined in section 17(a), or any nonresidential public or nonprofit private school of high school grade or under, for the purpose of participating in a school program established for individuals with mental or physical disabilities.

"(B) RELATIONSHIP TO CHILD AND ADULT CARE FOOD PROGRAM.—No institution that is not otherwise eligible to participate in the program under section 17 shall be considered eligible because of this paragraph.".

SEC. 702. NUTRITIONAL AND OTHER PROGRAM REQUIREMENTS.

(a) NUTRITIONAL STANDARDS.—Section 9(a) of the National School Lunch Act (42 U.S.C. 1758(a)) is amended—

(1) in paragraph (2)—

(A) by striking "(2)(A) Lunches" and inserting "(2) Lunches";

(B) by striking subparagraph (B); and

(C) by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively;

(2) by striking paragraph (3); and

(3) by redesignating paragraph (4) as paragraph (3).

(b) UTILIZATION OF AGRICULTURAL COMMODITIES.—Section 9(c) of the National School Lunch Act (42 U.S.C. 1758(c)) is amended—

(1) in the fifth sentence, by striking "of the provisions of law referred to in the preceding sentence" and inserting "provision of law"; and

(2) by striking the second, fourth, and sixth sentences.

(c) NUTRITIONAL INFORMATION.—Section 9(f) of the National School Lunch Act (42 U.S.C. 1758(f)) is amended—

(1) by striking paragraph (1);

(2) by striking "(2)";

(3) by redesignating subparagraphs (A) through (D) as paragraphs (1) through (4), respectively;

(4) by striking paragraph (1), as redesignated by paragraph (3), and inserting the following:

"(1) NUTRITIONAL REQUIREMENTS.—Except as provided in paragraph (2), not later than the first day of the 1996–1997

school year, schools that are participating in the school lunch or school breakfast program shall serve lunches and breakfasts under the program that—

"(A) are consistent with the goals of the most recent Dietary Guidelines for Americans published under section 301 of the National Nutrition Monitoring and Related Research Act of 1990 (7 U.S.C. 5341); and

"(B) provide, on the average over each week, at least—

"(i) with respect to school lunches, ⅓ of the daily recommended dietary allowance established by the Food and Nutrition Board of the National Research Council of the National Academy of Sciences; and

"(ii) with respect to school breakfasts, ¼ of the daily recommended dietary allowance established by the Food and Nutrition Board of the National Research Council of the National Academy of Sciences.";

(5) in paragraph (3), as redesignated by paragraph (3)—

(A) by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively; and

(B) in subparagraph (A), as so redesignated, by redesignating subclauses (I) and (II) as clauses (i) and (ii), respectively; and

(6) in paragraph (4), as redesignated by paragraph (3)—

(A) by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively;

(B) in subparagraph (A), as redesignated by subparagraph (A), by redesignating subclauses (I) and (II) as clauses (i) and (ii), respectively; and

(C) in subparagraph (A)(ii), as redesignated by subparagraph (B), by striking "subparagraph (C)" and inserting "paragraph (3)".

(d) USE OF RESOURCES.—Section 9 of the National School Lunch Act (42 U.S.C. 1758) is amended by striking subsection (h).

SEC. 703. FREE AND REDUCED PRICE POLICY STATEMENT.

Section 9(b)(2) of the National School Lunch Act (42 U.S.C. 1758(b)(2)) is amended by adding at the end the following:

"(D) FREE AND REDUCED PRICE POLICY STATEMENT.—After the initial submission, a school food authority shall not be required to submit a free and reduced price policy statement to a State educational agency under this Act unless there is a substantive change in the free and reduced price policy of the school food authority. A routine change in the policy of a school food authority, such as an annual adjustment of the income eligibility guidelines for free and reduced price meals, shall not be sufficient cause for requiring the school food authority to submit a policy statement.".

SEC. 704. SPECIAL ASSISTANCE.

(a) EXTENSION OF PAYMENT PERIOD.—Section 11(a)(1)(D)(i) of the National School Lunch Act (42 U.S.C. 1759a(a)(1)(D)(i)) is amended by striking ", on the date of enactment of this subparagraph,".

(b) ROUNDING RULE FOR LUNCH, BREAKFAST, AND SUPPLEMENT RATES.—

(1) IN GENERAL.—The third sentence of section 11(a)(3)(B) of the National School Lunch Act (42 U.S.C. 1759a(a)(3)(B)) is amended by adding before the period at the end the following:

", except that adjustments to payment rates for meals and supplements served to individuals not determined to be eligible for free or reduced price meals and supplements shall be computed to the nearest lower cent increment and based on the unrounded amount for the preceding 12-month period".

42 USC 1759a note.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall become effective on July 1, 1997.

(c) APPLICABILITY OF OTHER PROVISIONS.—Section 11 of the National School Lunch Act (42 U.S.C. 1759a) is amended—

(1) by striking subsection (d);

(2) in subsection (e)(2)—

(A) by striking "The" and inserting "On request of the Secretary, the"; and

(B) by striking "each month"; and

(3) by redesignating subsections (e) and (f), as so amended, as subsections (d) and (e), respectively.

SEC. 705. MISCELLANEOUS PROVISIONS AND DEFINITIONS.

(a) ACCOUNTS AND RECORDS.—The second sentence of section 12(a) of the National School Lunch Act (42 U.S.C. 1760(a)) is amended by striking "at all times be available" and inserting "be available at any reasonable time".

(b) RESTRICTION ON REQUIREMENTS.—Section 12(c) of the National School Lunch Act (42 U.S.C. 1760(c)) is amended by striking "neither the Secretary nor the State shall" and inserting "the Secretary shall not".

(c) DEFINITIONS.—Section 12(d) of the National School Lunch Act (42 U.S.C. 1760(d)), as amended by section 701(b), is amended—

(1) in paragraph (1), by striking "the Trust Territory of the Pacific Islands" and inserting "the Commonwealth of the Northern Mariana Islands";

(2) by striking paragraphs (3) and (4); and

(3) by redesignating paragraphs (1), (2), and (5) through (9) as paragraphs (6), (7), (3), (4), (2), (5), and (1), respectively, and rearranging the paragraphs so as to appear in numerical order.

(d) ADJUSTMENTS TO NATIONAL AVERAGE PAYMENT RATES.—Section 12(f) of the National School Lunch Act (42 U.S.C. 1760(f)) is amended by striking "the Trust Territory of the Pacific Islands,".

(e) EXPEDITED RULEMAKING.—Section 12(k) of the National School Lunch Act (42 U.S.C. 1760(k)) is amended—

(1) by striking paragraphs (1), (2), and (5);

(2) by redesignating paragraphs (3) and (4) as paragraphs (1) and (2), respectively; and

(3) in paragraph (1), as redesignated by paragraph (2), by striking "Guidelines" and inserting "guidelines contained in the most recent 'Dietary Guidelines for Americans' that is published under section 301 of the National Nutrition Monitoring and Related Research Act of 1990 (7 U.S.C. 5341)".

(f) WAIVER.—Section 12(l) of the National School Lunch Act (42 U.S.C. 1760(l)) is amended—

(1) in paragraph (2)(A)—

(A) in clause (iii), by adding "and" at the end;

(B) in clause (iv), by striking the semicolon at the end and inserting a period; and

(C) by striking clauses (v) through (vii);

(2) in paragraph (3)—

(A) in subparagraph (A), by striking "(A)"; and

(B) by striking subparagraphs (B) through (D);

(3) in paragraph (4)—

(A) in the matter preceding subparagraph (A), by striking "of any requirement relating" and inserting "that increases Federal costs or that relates";

(B) by striking subparagraph (D);

(C) by redesignating subparagraphs (E) through (N) as subparagraphs (D) through (M), respectively; and

(D) in subparagraph (L), as redesignated by subparagraph (C), by striking "and" at the end and inserting "or"; and

(4) in paragraph (6)—

(A) by striking "(A)(i)" and all that follows through "(B)"; and

(B) by redesignating clauses (i) through (iv) as subparagraphs (A) through (D), respectively.

SEC. 706. SUMMER FOOD SERVICE PROGRAM FOR CHILDREN.

(a) ESTABLISHMENT OF PROGRAM.—Section 13(a) of the National School Lunch Act (42 U.S.C. 1761(a)) is amended—

(1) in paragraph (1)—

(A) in the first sentence, by striking "initiate, maintain, and expand" and inserting "initiate and maintain"; and

(B) in subparagraph (E) of the second sentence, by striking "the Trust Territory of the Pacific Islands,"; and

(2) in paragraph (7)(A), by striking "Except as provided in subparagraph (C), private" and inserting "Private".

(b) SERVICE INSTITUTIONS.—Section 13(b) of the National School Lunch Act (42 U.S.C. 1761(b)) is amended by striking "(b)(1)" and all that follows through the end of paragraph (1) and inserting the following:

"(b) SERVICE INSTITUTIONS.—

"(1) PAYMENTS.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, payments to service institutions shall equal the full cost of food service operations (which cost shall include the costs of obtaining, preparing, and serving food, but shall not include administrative costs).

"(B) MAXIMUM AMOUNTS.—Subject to subparagraph (C), payments to any institution under subparagraph (A) shall not exceed—

"(i) $1.97 for each lunch and supper served;

"(ii) $1.13 for each breakfast served; and

"(iii) 46 cents for each meal supplement served.

"(C) ADJUSTMENTS.—Amounts specified in subparagraph (B) shall be adjusted on January 1, 1997, and each January 1 thereafter, to the nearest lower cent increment to reflect changes for the 12-month period ending the preceding November 30 in the series for food away from home of the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor. Each adjustment shall be based on the unrounded adjustment for the prior 12-month period.".

(c) ADMINISTRATION OF SERVICE INSTITUTIONS.—Section 13(b)(2) of the National School Lunch Act (42 U.S.C. 1761(b)(2)) is amended—

(1) in the first sentence, by striking "four meals" and inserting "3 meals, or 2 meals and 1 supplement,"; and

(2) by striking the second sentence.

(d) REIMBURSEMENTS.—Section 13(c)(2) of the National School Lunch Act (42 U.S.C. 1761(c)(2)) is amended—

(1) by striking subparagraphs (A), (C), (D), and (E);

(2) by striking "(B)";

(3) by striking ", and such higher education institutions,"; and

(4) by striking "without application" and inserting "on showing residence in areas in which poor economic conditions exist or on the basis of income eligibility statements for children enrolled in the program".

(e) ADVANCE PROGRAM PAYMENTS.—Section 13(e)(1) of the National School Lunch Act (42 U.S.C. 1761(e)(1)) is amended—

(1) by striking "institution: *Provided,* That (A) the" and inserting "institution. The";

(2) by inserting "(excluding a school)" after "any service institution"; and

(3) by striking "responsibilities, and (B) no" and inserting "responsibilities. No".

(f) FOOD REQUIREMENTS.—Section 13(f) of the National School Lunch Act (42 U.S.C. 1761(f)) is amended—

(1) by redesignating the first through seventh sentences as paragraphs (1) through (7), respectively;

(2) by striking paragraph (3), as redesignated by paragraph (1);

(3) in paragraph (4), as redesignated by paragraph (1), by striking "the first sentence" and inserting "paragraph (1)";

(4) in subparagraph (B) of paragraph (6), as redesignated by paragraph (1), by striking "that bacteria levels" and all that follows through the period at the end and inserting "conformance with standards set by local health authorities."; and

(5) by redesignating paragraphs (4) through (7), as redesignated by paragraph (1), as paragraphs (3) through (6), respectively.

(g) PERMITTING OFFER VERSUS SERVE.—Section 13(f) of the National School Lunch Act (42 U.S.C. 1761(f)), as amended by subsection (f), is amended by adding at the end the following:

"(7) OFFER VERSUS SERVE.—A school food authority participating as a service institution may permit a child attending a site on school premises operated directly by the authority to refuse one or more items of a meal that the child does not intend to consume, under rules that the school uses for school meals programs. A refusal of an offered food item shall not affect the amount of payments made under this section to a school for the meal.".

(h) RECORDS.—The second sentence of section 13(m) of the National School Lunch Act (42 U.S.C. 1761(m)) is amended by striking "at all times be available" and inserting "be available at any reasonable time".

(i) REMOVING MANDATORY NOTICE TO INSTITUTIONS.—Section 13(n)(2) of the National School Lunch Act (42 U.S.C. 1761(n)(2))

is amended by striking ", and its plans and schedule for informing service institutions of the availability of the program".

(j) PLAN.—Section 13(n) of the National School Lunch Act (42 U.S.C. 1761(n)), as amended by subsection (i), is amended—

(1) in paragraph (2), by striking ", including the State's methods of assessing need";

(2) by striking paragraph (3);

(3) in paragraph (4), by striking "and schedule"; and

(4) by redesignating paragraphs (4) through (7) as paragraphs (3) through (6), respectively.

(k) MONITORING AND TRAINING.—Section 13(q) of the National School Lunch Act (42 U.S.C. 1761(q)) is amended—

(1) by striking paragraphs (2) and (4);

(2) in paragraph (3), by striking "paragraphs (1) and (2) of this subsection" and inserting "paragraph (1)"; and

(3) by redesignating paragraph (3) as paragraph (2).

(l) EXPIRED PROGRAM.—Section 13 of the National School Lunch Act (42 U.S.C. 1761) is amended—

(1) by striking subsection (p); and

(2) by redesignating subsections (q) and (r) as subsections (p) and (q), respectively.

(m) EFFECTIVE DATE.—The amendments made by subsection (b) shall become effective on January 1, 1997. 42 USC 1761 note.

SEC. 707. COMMODITY DISTRIBUTION.

(a) CEREAL AND SHORTENING IN COMMODITY DONATIONS.—Section 14(b) of the National School Lunch Act (42 U.S.C. 1762a(b)) is amended—

(1) by striking paragraph (1); and

(2) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(b) STATE ADVISORY COUNCIL.—Section 14(e) of the National School Lunch Act (42 U.S.C. 1762a(e)) is amended to read as follows:

"(e) Each State agency that receives food assistance payments under this section for any school year shall consult with representatives of schools in the State that participate in the school lunch program with respect to the needs of such schools relating to the manner of selection and distribution of commodity assistance for such program.".

(c) CASH COMPENSATION FOR PILOT PROJECT SCHOOLS.—Section 14(g) of the National School Lunch Act (42 U.S.C. 1762a(g)) is amended by striking paragraph (3).

SEC. 708. CHILD AND ADULT CARE FOOD PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—Section 17 of the National School Lunch Act (42 U.S.C. 1766) is amended in the first sentence of subsection (a), by striking "initiate, maintain, and expand" and inserting "initiate and maintain".

(b) PAYMENTS TO SPONSOR EMPLOYEES.—Paragraph (2) of the last sentence of section 17(a) of the National School Lunch Act (42 U.S.C. 1766(a)) is amended—

(1) in subparagraph (B), by striking "and" at the end;

(2) in subparagraph (C), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(D) in the case of a family or group day care home sponsoring organization that employs more than one employee, the organization does not base payments to an

employee of the organization on the number of family or group day care homes recruited.".

(c) TECHNICAL ASSISTANCE.—The last sentence of section 17(d)(1) of the National School Lunch Act (42 U.S.C. 1766(d)(1)) is amended by striking ", and shall provide technical assistance" and all that follows through "its application".

(d) REIMBURSEMENT OF CHILD CARE INSTITUTIONS.—Section 17(f)(2)(B) of the National School Lunch Act (42 U.S.C. 1766(f)(2)(B)) is amended by striking "two meals and two supplements or three meals and one supplement" and inserting "2 meals and 1 supplement".

(e) IMPROVED TARGETING OF DAY CARE HOME REIMBURSEMENTS.—

(1) RESTRUCTURED DAY CARE HOME REIMBURSEMENTS.—Section 17(f)(3) of the National School Lunch Act (42 U.S.C. 1766(f)(3)) is amended by striking "(3)(A) Institutions" and all that follows through the end of subparagraph (A) and inserting the following:

"(3) REIMBURSEMENT OF FAMILY OR GROUP DAY CARE HOME SPONSORING ORGANIZATIONS.—

"(A) REIMBURSEMENT FACTOR.—

"(i) IN GENERAL.—An institution that participates in the program under this section as a family or group day care home sponsoring organization shall be provided, for payment to a home sponsored by the organization, reimbursement factors in accordance with this subparagraph for the cost of obtaining and preparing food and prescribed labor costs involved in providing meals under this section.

"(ii) TIER I FAMILY OR GROUP DAY CARE HOMES.—

"(I) DEFINITION OF TIER I FAMILY OR GROUP DAY CARE HOME.—In this paragraph, the term 'tier I family or group day care home' means—

"(aa) a family or group day care home that is located in a geographic area, as defined by the Secretary based on census data, in which at least 50 percent of the children residing in the area are members of households whose incomes meet the income eligibility guidelines for free or reduced price meals under section 9;

"(bb) a family or group day care home that is located in an area served by a school enrolling elementary students in which at least 50 percent of the total number of children enrolled are certified eligible to receive free or reduced price school meals under this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.); or

"(cc) a family or group day care home that is operated by a provider whose household meets the income eligibility guidelines for free or reduced price meals under section 9 and whose income is verified by the sponsoring organization of the home under regulations established by the Secretary.

"(II) REIMBURSEMENT.—Except as provided in subclause (III), a tier I family or group day care home shall be provided reimbursement factors under this clause without a requirement for documentation of the costs described in clause (i), except that reimbursement shall not be provided under this subclause for meals or supplements served to the children of a person acting as a family or group day care home provider unless the children meet the income eligibility guidelines for free or reduced price meals under section 9.

"(III) FACTORS.—Except as provided in subclause (IV), the reimbursement factors applied to a home referred to in subclause (II) shall be the factors in effect on July 1, 1996.

"(IV) ADJUSTMENTS.—The reimbursement factors under this subparagraph shall be adjusted on July 1, 1997, and each July 1 thereafter, to reflect changes in the Consumer Price Index for food at home for the most recent 12-month period for which the data are available. The reimbursement factors under this subparagraph shall be rounded to the nearest lower cent increment and based on the unrounded adjustment in effect on June 30 of the preceding school year.

"(iii) TIER II FAMILY OR GROUP DAY CARE HOMES.—

"(I) IN GENERAL.—

"(aa) FACTORS.—Except as provided in subclause (II), with respect to meals or supplements served under this clause by a family or group day care home that does not meet the criteria set forth in clause (ii)(I), the reimbursement factors shall be 95 cents for lunches and suppers, 27 cents for breakfasts, and 13 cents for supplements.

"(bb) ADJUSTMENTS.—The factors shall be adjusted on July 1, 1997, and each July 1 thereafter, to reflect changes in the Consumer Price Index for food at home for the most recent 12-month period for which the data are available. The reimbursement factors under this item shall be rounded down to the nearest lower cent increment and based on the unrounded adjustment for the preceding 12-month period.

"(cc) REIMBURSEMENT.—A family or group day care home shall be provided reimbursement factors under this subclause without a requirement for documentation of the costs described in clause (i), except that reimbursement shall not be provided under this subclause for meals or supplements served to the children of a person acting as a family or group day care home provider unless the children meet the income eligibility guidelines for free or reduced price meals under section 9.

"(II) OTHER FACTORS.—A family or group day care home that does not meet the criteria set forth in clause (ii)(I) may elect to be provided reimbursement factors determined in accordance with the following requirements:

"(aa) CHILDREN ELIGIBLE FOR FREE OR REDUCED PRICE MEALS.—In the case of meals or supplements served under this subsection to children who are members of households whose incomes meet the income eligibility guidelines for free or reduced price meals under section 9, the family or group day care home shall be provided reimbursement factors set by the Secretary in accordance with clause (ii)(III).

"(bb) INELIGIBLE CHILDREN.—In the case of meals or supplements served under this subsection to children who are members of households whose incomes do not meet the income eligibility guidelines, the family or group day care home shall be provided reimbursement factors in accordance with subclause (I).

"(III) INFORMATION AND DETERMINATIONS.—

"(aa) IN GENERAL.—If a family or group day care home elects to claim the factors described in subclause (II), the family or group day care home sponsoring organization serving the home shall collect the necessary income information, as determined by the Secretary, from any parent or other caretaker to make the determinations specified in subclause (II) and shall make the determinations in accordance with rules prescribed by the Secretary.

"(bb) CATEGORICAL ELIGIBILITY.—In making a determination under item (aa), a family or group day care home sponsoring organization may consider a child participating in or subsidized under, or a child with a parent participating in or subsidized under, a federally or State supported child care or other benefit program with an income eligibility limit that does not exceed the eligibility standard for free or reduced price meals under section 9 to be a child who is a member of a household whose income meets the income eligibility guidelines under section 9.

"(cc) FACTORS FOR CHILDREN ONLY.—A family or group day care home may elect to receive the reimbursement factors prescribed under clause (ii)(III) solely for the children participating in a program referred to in item (bb) if the home elects not to have income statements collected from parents or other caretakers.

"(IV) SIMPLIFIED MEAL COUNTING AND REPORTING PROCEDURES.—The Secretary shall prescribe

simplified meal counting and reporting procedures for use by a family or group day care home that elects to claim the factors under subclause (II) and by a family or group day care home sponsoring organization that sponsors the home. The procedures the Secretary prescribes may include 1 or more of the following:

"(aa) Setting an annual percentage for each home of the number of meals served that are to be reimbursed in accordance with the reimbursement factors prescribed under clause (ii)(III) and an annual percentage of the number of meals served that are to be reimbursed in accordance with the reimbursement factors prescribed under subclause (I), based on the family income of children enrolled in the home in a specified month or other period.

"(bb) Placing a home into 1 of 2 or more reimbursement categories annually based on the percentage of children in the home whose households have incomes that meet the income eligibility guidelines under section 9, with each such reimbursement category carrying a set of reimbursement factors such as the factors prescribed under clause (ii)(III) or subclause (I) or factors established within the range of factors prescribed under clause (ii)(III) and subclause (I).

"(cc) Such other simplified procedures as the Secretary may prescribe.

"(V) MINIMUM VERIFICATION REQUIREMENTS.—The Secretary may establish any minimum verification requirements that are necessary to carry out this clause.".

(2) GRANTS TO STATES TO PROVIDE ASSISTANCE TO FAMILY OR GROUP DAY CARE HOMES.—Section 17(f)(3) of the National School Lunch Act (42 U.S.C. 1766(f)(3)) is amended by adding at the end the following:

"(D) GRANTS TO STATES TO PROVIDE ASSISTANCE TO FAMILY OR GROUP DAY CARE HOMES.—

"(i) IN GENERAL.—

"(I) RESERVATION.—From amounts made available to carry out this section, the Secretary shall reserve $5,000,000 of the amount made available for fiscal year 1997.

"(II) PURPOSE.—The Secretary shall use the funds made available under subclause (I) to provide grants to States for the purpose of providing—

"(aa) assistance, including grants, to family and day care home sponsoring organizations and other appropriate organizations, in securing and providing training, materials, automated data processing assistance, and other assistance for the staff of the sponsoring organizations; and

"(bb) training and other assistance to family and group day care homes in the

implementation of the amendment to subparagraph (A) made by section 708(e)(1) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

"(ii) ALLOCATION.—The Secretary shall allocate from the funds reserved under clause (i)(I)—

"(I) $30,000 in base funding to each State; and

"(II) any remaining amount among the States, based on the number of family day care homes participating in the program in a State during fiscal year 1995 as a percentage of the number of all family day care homes participating in the program during fiscal year 1995.

"(iii) RETENTION OF FUNDS.—Of the amount of funds made available to a State for fiscal year 1997 under clause (i), the State may retain not to exceed 30 percent of the amount to carry out this subparagraph.

"(iv) ADDITIONAL PAYMENTS.—Any payments received under this subparagraph shall be in addition to payments that a State receives under subparagraph (A).".

(3) PROVISION OF DATA.—Section 17(f)(3) of the National School Lunch Act (42 U.S.C. 1766(f)(3)), as amended by paragraph (2), is amended by adding at the end the following:

"(E) PROVISION OF DATA TO FAMILY OR GROUP DAY CARE HOME SPONSORING ORGANIZATIONS.—

"(i) CENSUS DATA.—The Secretary shall provide to each State agency administering a child and adult care food program under this section data from the most recent decennial census survey or other appropriate census survey for which the data are available showing which areas in the State meet the requirements of subparagraph (A)(ii)(I)(aa). The State agency shall provide the data to family or group day care home sponsoring organizations located in the State.

"(ii) SCHOOL DATA.—

"(I) IN GENERAL.—A State agency administering the school lunch program under this Act or the school breakfast program under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) shall provide to approved family or group day care home sponsoring organizations a list of schools serving elementary school children in the State in which not less than ½ of the children enrolled are certified to receive free or reduced price meals. The State agency shall collect the data necessary to create the list annually and provide the list on a timely basis to any approved family or group day care home sponsoring organization that requests the list.

"(II) USE OF DATA FROM PRECEDING SCHOOL YEAR.—In determining for a fiscal year or other annual period whether a home qualifies as a tier I family or group day care home under subparagraph (A)(ii)(I), the State agency administering the

program under this section, and a family or group day care home sponsoring organization, shall use the most current available data at the time of the determination.

"(iii) DURATION OF DETERMINATION.—For purposes of this section, a determination that a family or group day care home is located in an area that qualifies the home as a tier I family or group day care home (as the term is defined in subparagraph (A)(ii)(I)), shall be in effect for 3 years (unless the determination is made on the basis of census data, in which case the determination shall remain in effect until more recent census data are available) unless the State agency determines that the area in which the home is located no longer qualifies the home as a tier I family or group day care home.".

(4) CONFORMING AMENDMENTS.—Section 17(c) of the National School Lunch Act (42 U.S.C. 1766(c)) is amended by inserting "except as provided in subsection (f)(3)," after "For purposes of this section," each place it appears in paragraphs (1), (2), and (3).

(f) REIMBURSEMENT.—Section 17(f) of the National School Lunch Act (42 U.S.C. 1766(f)) is amended—

(1) in paragraph (3)—

(A) in subparagraph (B), by striking the third and fourth sentences; and

(B) in subparagraph (C)(ii), by striking "conduct outreach" and all that follows through "may become" and inserting "assist unlicensed family or group day care homes in becoming"; and

(2) in the first sentence of paragraph (4), by striking "shall" and inserting "may".

(g) NUTRITIONAL REQUIREMENTS.—Section 17(g)(1) of the National School Lunch Act (42 U.S.C. 1766(g)(1)) is amended—

(1) in subparagraph (A), by striking the second sentence; and

(2) in subparagraph (B), by striking the second sentence.

(h) ELIMINATION OF STATE PAPERWORK AND OUTREACH BURDEN.—Section 17 of the National School Lunch Act (42 U.S.C. 1766) is amended by striking subsection (k) and inserting the following:

"(k) TRAINING AND TECHNICAL ASSISTANCE.—A State participating in the program established under this section shall provide sufficient training, technical assistance, and monitoring to facilitate effective operation of the program. The Secretary shall assist the State in developing plans to fulfill the requirements of this subsection.".

(i) RECORDS.—The second sentence of section 17(m) of the National School Lunch Act (42 U.S.C. 1766(m)) is amended by striking "at all times" and inserting "at any reasonable time".

(j) UNNEEDED PROVISION.—Section 17 of the National School Lunch Act is amended by striking subsection (q). 42 USC 1766.

(k) EFFECTIVE DATE.— 42 USC 1766 note.

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall become effective on the date of enactment of this Act.

(2) IMPROVED TARGETING OF DAY CARE HOME REIMBURSEMENTS.—The amendments made by paragraphs (1) and (4) of subsection (e) shall become effective on July 1, 1997.

42 USC 1766 note.

(3) REGULATIONS.—

(A) INTERIM REGULATIONS.—Not later than January 1, 1997, the Secretary of Agriculture shall issue interim regulations to implement—

(i) the amendments made by paragraphs (1), (3), and (4) of subsection (e); and

(ii) section 17(f)(3)(C) of the National School Lunch Act (42 U.S.C. 1766(f)(3)(C)).

(B) FINAL REGULATIONS.—Not later than July 1, 1997, the Secretary of Agriculture shall issue final regulations to implement the provisions of law referred to in subparagraph (A).

42 USC 1766 note.

(l) STUDY OF IMPACT OF AMENDMENTS ON PROGRAM PARTICIPATION AND FAMILY DAY CARE LICENSING.—

(1) IN GENERAL.—The Secretary of Agriculture, in conjunction with the Secretary of Health and Human Services, shall study the impact of the amendments made by this section on—

(A) the number of family day care homes participating in the child and adult care food program established under section 17 of the National School Lunch Act (42 U.S.C. 1766);

(B) the number of day care home sponsoring organizations participating in the program;

(C) the number of day care homes that are licensed, certified, registered, or approved by each State in accordance with regulations issued by the Secretary;

(D) the rate of growth of the numbers referred to in subparagraphs (A) through (C);

(E) the nutritional adequacy and quality of meals served in family day care homes that—

(i) received reimbursement under the program prior to the amendments made by this section but do not receive reimbursement after the amendments made by this section; or

(ii) received full reimbursement under the program prior to the amendments made by this section but do not receive full reimbursement after the amendments made by this section; and

(F) the proportion of low-income children participating in the program prior to the amendments made by this section and the proportion of low-income children participating in the program after the amendments made by this section.

(2) REQUIRED DATA.—Each State agency participating in the child and adult care food program under section 17 of the National School Lunch Act (42 U.S.C. 1766) shall submit to the Secretary of Agriculture data on—

(A) the number of family day care homes participating in the program on June 30, 1997, and June 30, 1998;

(B) the number of family day care homes licensed, certified, registered, or approved for service on June 30, 1997, and June 30, 1998; and

(C) such other data as the Secretary may require to carry out this subsection.

(3) SUBMISSION OF REPORT.—Not later than 2 years after the date of enactment of this section, the Secretary of Agriculture shall submit the study required under this subsection to the Committee on Economic and Educational Opportunities of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

SEC. 709. PILOT PROJECTS.

(a) UNIVERSAL FREE PILOT.—Section 18(d) of the National School Lunch Act (42 U.S.C. 1769(d)) is amended—

(1) by striking paragraph (3); and

(2) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(b) DEMONSTRATION PROJECT OUTSIDE SCHOOL HOURS.—Section 18(e) of the National School Lunch Act (42 U.S.C. 1769(e)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A)—

(i) by striking "(A)"; and

(ii) by striking "shall" and inserting "may"; and

(B) by striking subparagraph (B); and

(2) by striking paragraph (5) and inserting the following:

"(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection such sums as are necessary for each of fiscal years 1997 and 1998.".

SEC. 710. REDUCTION OF PAPERWORK.

Section 19 of the National School Lunch Act (42 U.S.C. 1769a) is repealed.

SEC. 711. INFORMATION ON INCOME ELIGIBILITY.

Section 23 of the National School Lunch Act (42 U.S.C. 1769d) is repealed.

SEC. 712. NUTRITION GUIDANCE FOR CHILD NUTRITION PROGRAMS.

Section 24 of the National School Lunch Act (42 U.S.C. 1769e) is repealed.

Subtitle B—Child Nutrition Act of 1966

SEC. 721. SPECIAL MILK PROGRAM.

Section 3(a)(3) of the Child Nutrition Act of 1966 (42 U.S.C. 1772(a)(3)) is amended by striking "the Trust Territory of the Pacific Islands" and inserting "the Commonwealth of the Northern Mariana Islands".

SEC. 722. FREE AND REDUCED PRICE POLICY STATEMENT.

Section 4(b)(1) of the Child Nutrition Act of 1966 (42 U.S.C. 1773(b)(1)) is amended by adding at the end the following:

"(E) FREE AND REDUCED PRICE POLICY STATEMENT.—After the initial submission, a school food authority shall not be required to submit a free and reduced price policy statement to a State educational agency under this Act unless there is a substantive change in the free and reduced price policy of the school food authority. A routine change

in the policy of a school food authority, such as an annual adjustment of the income eligibility guidelines for free and reduced price meals, shall not be sufficient cause for requiring the school food authority to submit a policy statement.".

SEC. 723. SCHOOL BREAKFAST PROGRAM AUTHORIZATION.

(a) TRAINING AND TECHNICAL ASSISTANCE IN FOOD PREPARATION.—Section 4(e)(1)(B) of the Child Nutrition Act of 1966 (42 U.S.C. 1773(e)(1)(B)) is amended by striking the second sentence.

(b) EXPANSION OF PROGRAM; STARTUP AND EXPANSION COSTS.—

(1) IN GENERAL.—Section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) is amended by striking subsections (f) and (g).

42 USC 1773 note.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall become effective on October 1, 1996.

SEC. 724. STATE ADMINISTRATIVE EXPENSES.

(a) USE OF FUNDS FOR COMMODITY DISTRIBUTION ADMINISTRATION; STUDIES.—Section 7 of the Child Nutrition Act of 1966 (42 U.S.C. 1776) is amended—

(1) by striking subsections (e) and (h); and

(2) by redesignating subsections (f), (g), and (i) as subsections (e), (f), and (g), respectively.

(b) APPROVAL OF CHANGES.—Section 7(e) of the Child Nutrition Act of 1966 (42 U.S.C. 1776(e)), as so redesignated, is amended—

(1) by striking "each year an annual plan" and inserting "the initial fiscal year a plan"; and

(2) by adding at the end the following: "After submitting the initial plan, a State shall be required to submit to the Secretary for approval only a substantive change in the plan.".

SEC. 725. REGULATIONS.

Section 10(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1779(b)) is amended—

(1) in paragraph (1), by striking "(1)"; and

(2) by striking paragraphs (2) through (4).

SEC. 726. PROHIBITIONS.

Section 11(a) of the Child Nutrition Act of 1966 (42 U.S.C. 1780(a)) is amended by striking "neither the Secretary nor the State shall" and inserting "the Secretary shall not".

SEC. 727. MISCELLANEOUS PROVISIONS AND DEFINITIONS.

Section 15 of the Child Nutrition Act of 1966 (42 U.S.C. 1784) is amended—

(1) in paragraph (1), by striking "the Trust Territory of the Pacific Islands" and inserting "the Commonwealth of the Northern Mariana Islands"; and

(2) in the first sentence of paragraph (3)—

(A) in subparagraph (A), by inserting "and" at the end; and

(B) by striking ", and (C)" and all that follows through "Governor of Puerto Rico".

SEC. 728. ACCOUNTS AND RECORDS.

The second sentence of section 16(a) of the Child Nutrition Act of 1966 (42 U.S.C. 1785(a)) is amended by striking "at all times be available" and inserting "be available at any reasonable time".

SEC. 729. SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN.

(a) DEFINITIONS.—Section 17(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)) is amended—

(1) in paragraph (15)(B)(iii), by inserting "of not more than 365 days" after "accommodation"; and

(2) in paragraph (16)—

(A) in subparagraph (A), by adding "and" at the end; and

(B) in subparagraph (B), by striking "; and" and inserting a period; and

(C) by striking subparagraph (C).

(b) SECRETARY'S PROMOTION OF WIC.—Section 17(c) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(c)) is amended by striking paragraph (5).

(c) ELIGIBLE PARTICIPANTS.—Section 17(d) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(d)) is amended by striking paragraph (4).

(d) NUTRITION EDUCATION.—Section 17(e) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(e)) is amended—

(1) in paragraph (2), by striking the third sentence;

(2) in paragraph (4)—

(A) in the matter preceding subparagraph (A), by striking "shall";

(B) by striking subparagraph (A);

(C) by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively;

(D) in subparagraph (A), as so redesignated—

(i) by inserting "shall" before "provide"; and

(ii) by striking "and" at the end;

(E) in subparagraph (B), as so redesignated—

(i) by inserting "shall" before "provide"; and

(ii) by striking the period at the end and inserting "; and"; and

(F) by adding at the end the following:

"(C) may provide a local agency with materials describing other programs for which a participant in the program may be eligible.";

(3) in paragraph (5), by striking "The State agency shall ensure that each" and inserting "Each"; and

(4) by striking paragraph (6).

(e) STATE PLAN.—Section 17(f) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A)—

(i) by striking "annually to the Secretary, by a date specified by the Secretary, a" and inserting "to the Secretary, by a date specified by the Secretary, an initial"; and

(ii) by adding at the end the following: "After submitting the initial plan, a State shall be required to submit to the Secretary for approval only a substantive change in the plan.";

(B) in subparagraph (C)—

(i) by striking clause (iii) and inserting the following:

"(iii) a plan to coordinate operations under the program with other services or programs that may benefit participants in, and applicants for, the program;";

(ii) in clause (vi), by inserting after "in the State" the following: "(including a plan to improve access to the program for participants and prospective applicants who are employed, or who reside in rural areas)";

(iii) in clause (vii), by striking "to provide program benefits" and all that follows through "emphasis on" and inserting "for";

(iv) by striking clauses (ix), (x), and (xii);

(v) in clause (xiii), by striking "may require" and inserting "may reasonably require";

(vi) by redesignating clauses (xi) and (xiii), as so amended, as clauses (ix) and (x), respectively; and

(vii) in clause (ix), as so redesignated, by adding "and" at the end;

(C) by striking subparagraph (D); and

(D) by redesignating subparagraph (E) as subparagraph (D);

(2) by striking paragraphs (6) and (22);

(3) in the second sentence of paragraph (5), by striking "at all times be available" and inserting "be available at any reasonable time";

(4) in paragraph (9)(B), by striking the second sentence;

(5) in the first sentence of paragraph (11), by striking ", including standards that will ensure sufficient State agency staff";

(6) in paragraph (12), by striking the third sentence;

(7) in paragraph (14), by striking "shall" and inserting "may";

(8) in paragraph (17), by striking "and to accommodate" and all that follows through "facilities";

(9) in paragraph (19), by striking "shall" and inserting "may"; and

(10) by redesignating paragraphs (7) through (21) as paragraphs (6) through (20), and paragraphs (23) and (24) as paragraphs (21) and (22), respectively.

(f) INFORMATION.—Section 17(g) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(g)) is amended—

(1) in paragraph (5), by striking "the report required under subsection (d)(4)" and inserting "reports on program participant characteristics"; and

(2) by striking paragraph (6).

(g) PROCUREMENT OF INFANT FORMULA.—

(1) IN GENERAL.—Section 17(h) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)) is amended—

(A) in paragraph (4)(E), by striking "and, on" and all that follows through "(d)(4)"; and

(B) in paragraph (8)—

(i) by striking subparagraphs (A), (C), and (M);

(ii) in subparagraph (G)—

(I) in clause (i), by striking "(i)"; and

(II) by striking clauses (ii) through (ix);

(iii) in subparagraph (I), by striking "Secretary—" and all that follows through "(v) may" and inserting "Secretary may";

(iv) by redesignating subparagraphs (B) and (D) through (L) as subparagraphs (A) and (B) through (J), respectively;

(v) in subparagraph (A)(i), as so redesignated, by striking "subparagraphs (C), (D), and (E)(iii), in carrying out subparagraph (A)," and inserting "subparagraphs (B) and (C)(iii),";

(vi) in subparagraph (B)(i), as so redesignated, by striking "subparagraph (B)" each place it appears and inserting "subparagraph (A)"; and

(vii) in subparagraph (C)(iii), as so redesignated, by striking "subparagraph (B)" and inserting "subparagraph (A)".

(2) APPLICATION.—The amendments made by paragraph (1) shall not apply to a contract for the procurement of infant formula under section 17(h)(8) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(8)) that is in effect on the date of enactment of this subsection. 42 USC 1786 note.

(h) NATIONAL ADVISORY COUNCIL ON MATERNAL, INFANT, AND FETAL NUTRITION.—Section 17(k)(3) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(k)(3)) is amended by striking "Secretary shall designate" and inserting "Council shall elect".

(i) COMPLETED STUDY; COMMUNITY COLLEGE DEMONSTRATION; GRANTS FOR INFORMATION AND DATA SYSTEM.—Section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786) is amended by striking subsections (n), (o), and (p).

(j) DISQUALIFICATION OF VENDORS WHO ARE DISQUALIFIED UNDER THE FOOD STAMP PROGRAM.—Section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), as amended by subsection (i), is amended by adding at the end the following:

"(n) DISQUALIFICATION OF VENDORS WHO ARE DISQUALIFIED UNDER THE FOOD STAMP PROGRAM.—

"(1) IN GENERAL.—The Secretary shall issue regulations providing criteria for the disqualification under this section of an approved vendor that is disqualified from accepting benefits under the food stamp program established under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.). Regulations.

"(2) TERMS.—A disqualification under paragraph (1)—

"(A) shall be for the same period as the disqualification from the program referred to in paragraph (1);

"(B) may begin at a later date than the disqualification from the program referred to in paragraph (1); and

"(C) shall not be subject to judicial or administrative review.".

SEC. 730. CASH GRANTS FOR NUTRITION EDUCATION.

Section 18 of the Child Nutrition Act of 1966 (42 U.S.C. 1787) is repealed.

SEC. 731. NUTRITION EDUCATION AND TRAINING.

(a) FINDINGS.—Section 19 of the Child Nutrition Act of 1966 (42 U.S.C. 1788) is amended—

(1) in subsection (a), by striking "that—" and all that follows through the period at the end and inserting "that effective dissemination of scientifically valid information to children

participating or eligible to participate in the school lunch and related child nutrition programs should be encouraged."; and

(2) in subsection (b), by striking "encourage" and all that follows through "establishing" and inserting "establish".

(b) USE OF FUNDS.—Section 19(f) of the Child Nutrition Act of 1966 (42 U.S.C. 1788(f)) is amended—

(1) in paragraph (1)—

(A) by striking subparagraph (B); and

(B) in subparagraph (A)—

(i) by striking "(A)";

(ii) by striking clauses (ix) through (xix);

(iii) by redesignating clauses (i) through (viii) and (xx) as subparagraphs (A) through (H) and (I), respectively;

(iv) in subparagraph (I), as so redesignated, by striking the period at the end and inserting "; and"; and

(v) by adding at the end the following:

"(J) other appropriate related activities, as determined by the State.";

(2) by striking paragraphs (2) and (4); and

(3) by redesignating paragraph (3) as paragraph (2).

(c) ACCOUNTS, RECORDS, AND REPORTS.—The second sentence of section 19(g)(1) of the Child Nutrition Act of 1966 (42 U.S.C. 1788(g)(1)) is amended by striking "at all times be available" and inserting "be available at any reasonable time".

(d) STATE COORDINATORS FOR NUTRITION; STATE PLAN.—Section 19(h) of the Child Nutrition Act of 1966 (42 U.S.C. 1788(h)) is amended—

(1) in the second sentence of paragraph (1)—

(A) by striking "as provided in paragraph (2) of this subsection"; and

(B) by striking "as provided in paragraph (3) of this subsection";

(2) in paragraph (2), by striking the second and third sentences; and

(3) by striking paragraph (3).

(e) AUTHORIZATION OF APPROPRIATIONS.—Section 19(i) of the Child Nutrition Act of 1966 (42 U.S.C. 1788(i)) is amended—

(1) in the first sentence of paragraph (2)(A), by striking "and each succeeding fiscal year";

(2) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(3) by inserting after paragraph (2) the following:

"(3) FISCAL YEARS 1997 THROUGH 2002.—

"(A) IN GENERAL.—There are authorized to be appropriated to carry out this section $10,000,000 for each of fiscal years 1997 through 2002.

"(B) GRANTS.—

"(i) IN GENERAL.—Grants to each State from the amounts made available under subparagraph (A) shall be based on a rate of 50 cents for each child enrolled in schools or institutions within the State, except that no State shall receive an amount less than $75,000 per fiscal year.

"(ii) INSUFFICIENT FUNDS.—If the amount made available for any fiscal year is insufficient to pay the

amount to which each State is entitled under clause (i), the amount of each grant shall be ratably reduced.".

(f) ASSESSMENT.—Section 19 of the Child Nutrition Act of 1966 (42 U.S.C. 1788) is amended by striking subsection (j).

(g) EFFECTIVE DATE.—The amendments made by subsection (e) shall become effective on October 1, 1996. 42 USC 1788 note.

Subtitle C—Miscellaneous Provisions

SEC. 741. COORDINATION OF SCHOOL LUNCH, SCHOOL BREAKFAST, AND SUMMER FOOD SERVICE PROGRAMS. 42 USC 1751 note.

(a) COORDINATION.—

(1) IN GENERAL.—The Secretary of Agriculture shall develop proposed changes to the regulations under the school lunch program under the National School Lunch Act (42 U.S.C. 1751 et seq.), the summer food service program under section 13 of that Act (42 U.S.C. 1761), and the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773), for the purpose of simplifying and coordinating those programs into a comprehensive meal program.

(2) CONSULTATION.—In developing proposed changes to the regulations under paragraph (1), the Secretary of Agriculture shall consult with local, State, and regional administrators of the programs described in such paragraph.

(b) REPORT.—Not later than November 1, 1997, the Secretary of Agriculture shall submit to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Economic and Educational Opportunities of the House of Representatives a report containing the proposed changes developed under subsection (a).

SEC. 742. REQUIREMENTS RELATING TO PROVISION OF BENEFITS BASED ON CITIZENSHIP, ALIENAGE, OR IMMIGRATION STATUS UNDER THE NATIONAL SCHOOL LUNCH ACT, THE CHILD NUTRITION ACT OF 1966, AND CERTAIN OTHER ACTS. 8 USC 1615.

(a) SCHOOL LUNCH AND BREAKFAST PROGRAMS.—Notwithstanding any other provision of this Act, an individual who is eligible to receive free public education benefits under State or local law shall not be ineligible to receive benefits provided under the school lunch program under the National School Lunch Act (42 U.S.C. 1751 et seq.) or the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) on the basis of citizenship, alienage, or immigration status.

(b) OTHER PROGRAMS.—

(1) IN GENERAL.—Nothing in this Act shall prohibit or require a State to provide to an individual who is not a citizen or a qualified alien, as defined in section 431(b), benefits under programs established under the provisions of law described in paragraph (2).

(2) PROVISIONS OF LAW DESCRIBED.—The provisions of law described in this paragraph are the following:

(A) Programs (other than the school lunch program and the school breakfast program) under the National School Lunch Act (42 U.S.C. 1751 et seq.) and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).

(B) Section 4 of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note).

(C) The Emergency Food Assistance Act of 1983 (7 U.S.C 612c note).

(D) The food distribution program on Indian reservations established under section 4(b) of the Food Stamp Act of 1977 (7 U.S.C 2013(b)).

TITLE VIII—FOOD STAMPS AND COMMODITY DISTRIBUTION

Subtitle A—Food Stamp Program

SEC. 801. DEFINITION OF CERTIFICATION PERIOD.

Section 3(c) of the Food Stamp Act of 1977 (7 U.S.C. 2012(c)) is amended by striking "Except as provided" and all that follows and inserting the following: "The certification period shall not exceed 12 months, except that the certification period may be up to 24 months if all adult household members are elderly or disabled. A State agency shall have at least 1 contact with each certified household every 12 months.".

SEC. 802. DEFINITION OF COUPON.

Section 3(d) of the Food Stamp Act of 1977 (7 U.S.C. 2012(d)) is amended by striking "or type of certificate" and inserting "type of certificate, authorization card, cash or check issued in lieu of a coupon, or access device, including an electronic benefit transfer card or personal identification number,".

SEC. 803. TREATMENT OF CHILDREN LIVING AT HOME.

The second sentence of section 3(i) of the Food Stamp Act of 1977 (7 U.S.C. 2012(i)) is amended by striking "(who are not themselves parents living with their children or married and living with their spouses)".

SEC. 804. ADJUSTMENT OF THRIFTY FOOD PLAN.

The second sentence of section 3(o) of the Food Stamp Act of 1977 (7 U.S.C. 2012(o)) is amended—

(1) by striking "shall (1) make" and inserting the following: "shall—

"(1) make";

(2) by striking "scale, (2) make" and inserting the following: "scale;

"(2) make";

(3) by striking "Alaska, (3) make" and inserting the following: "Alaska;

"(3) make"; and

(4) by striking "Columbia, (4) through" and all that follows through the end of the subsection and inserting the following: "Columbia; and

"(4) on October 1, 1996, and each October 1 thereafter, adjust the cost of the diet to reflect the cost of the diet in the preceding June, and round the result to the nearest lower dollar increment for each household size, except that on October 1, 1996, the Secretary may not reduce the cost of the diet in effect on September 30, 1996.".

SEC. 805. DEFINITION OF HOMELESS INDIVIDUAL.

Section 3(s)(2)(C) of the Food Stamp Act of 1977 (7 U.S.C. 2012(s)(2)(C)) is amended by inserting "for not more than 90 days" after "temporary accommodation".

SEC. 806. STATE OPTION FOR ELIGIBILITY STANDARDS.

Section 5(b) of the Food Stamp Act of 1977 (7 U.S.C. 2014(d)) is amended by striking "(b) The Secretary" and inserting the following:

"(b) ELIGIBILITY STANDARDS.—Except as otherwise provided in this Act, the Secretary".

SEC. 807. EARNINGS OF STUDENTS.

Section 5(d)(7) of the Food Stamp Act of 1977 (7 U.S.C. 2014(d)(7)) is amended by striking "21" and inserting "17".

SEC. 808. ENERGY ASSISTANCE.

(a) IN GENERAL.—Section 5(d) of the Food Stamp Act of 1977 (7 U.S.C. 2014(d)) is amended by striking paragraph (11) and inserting the following: "(11)(A) any payments or allowances made for the purpose of providing energy assistance under any Federal law (other than part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)), or (B) a 1-time payment or allowance made under a Federal or State law for the costs of weatherization or emergency repair or replacement of an unsafe or inoperative furnace or other heating or cooling device,".

(b) CONFORMING AMENDMENTS.—Section 5(k) of the Food Stamp Act of 1977 (7 U.S.C. 2014(k)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by striking "plan for aid to families with dependent children approved" and inserting "program funded"; and

(B) in subparagraph (B), by striking ", not including energy or utility-cost assistance,";

(2) in paragraph (2), by striking subparagraph (C) and inserting the following:

"(C) a payment or allowance described in subsection (d)(11);"; and

(3) by adding at the end the following:

"(4) THIRD PARTY ENERGY ASSISTANCE PAYMENTS.—

"(A) ENERGY ASSISTANCE PAYMENTS.—For purposes of subsection (d)(1), a payment made under a State law (other than a law referred to in paragraph (2)(H)) to provide energy assistance to a household shall be considered money payable directly to the household.

"(B) ENERGY ASSISTANCE EXPENSES.—For purposes of subsection (e)(7), an expense paid on behalf of a household under a State law to provide energy assistance shall be considered an out-of-pocket expense incurred and paid by the household.".

SEC. 809. DEDUCTIONS FROM INCOME.

(a) IN GENERAL.—Section 5 of the Food Stamp Act of 1977 (7 U.S.C. 2014) is amended by striking subsection (e) and inserting the following:

"(e) DEDUCTIONS FROM INCOME.—

"(1) STANDARD DEDUCTION.—The Secretary shall allow a standard deduction for each household in the 48 contiguous

States and the District of Columbia, Alaska, Hawaii, Guam, and the Virgin Islands of the United States of $134, $229, $189, $269, and $118, respectively.

"(2) EARNED INCOME DEDUCTION.—

"(A) DEFINITION OF EARNED INCOME.—In this paragraph, the term 'earned income' does not include—

"(i) income excluded by subsection (d); or

"(ii) any portion of income earned under a work supplementation or support program, as defined under section 16(b), that is attributable to public assistance.

"(B) DEDUCTION.—Except as provided in subparagraph (C), a household with earned income shall be allowed a deduction of 20 percent of all earned income to compensate for taxes, other mandatory deductions from salary, and work expenses.

"(C) EXCEPTION.—The deduction described in subparagraph (B) shall not be allowed with respect to determining an overissuance due to the failure of a household to report earned income in a timely manner.

"(3) DEPENDENT CARE DEDUCTION.—

"(A) IN GENERAL.—A household shall be entitled, with respect to expenses (other than excluded expenses described in subparagraph (B)) for dependent care, to a dependent care deduction, the maximum allowable level of which shall be $200 per month for each dependent child under 2 years of age and $175 per month for each other dependent, for the actual cost of payments necessary for the care of a dependent if the care enables a household member to accept or continue employment, or training or education that is preparatory for employment.

"(B) EXCLUDED EXPENSES.—The excluded expenses referred to in subparagraph (A) are—

"(i) expenses paid on behalf of the household by a third party;

"(ii) amounts made available and excluded, for the expenses referred to in subparagraph (A), under subsection (d)(3); and

"(iii) expenses that are paid under section 6(d)(4).

"(4) DEDUCTION FOR CHILD SUPPORT PAYMENTS.—

"(A) IN GENERAL.—A household shall be entitled to a deduction for child support payments made by a household member to or for an individual who is not a member of the household if the household member is legally obligated to make the payments.

"(B) METHODS FOR DETERMINING AMOUNT.—The Secretary may prescribe by regulation the methods, including calculation on a retrospective basis, that a State agency shall use to determine the amount of the deduction for child support payments.

"(5) HOMELESS SHELTER ALLOWANCE.—Under rules prescribed by the Secretary, a State agency may develop a standard homeless shelter allowance, which shall not exceed $143 per month, for such expenses as may reasonably be expected to be incurred by households in which all members are homeless individuals but are not receiving free shelter throughout the month. A State agency that develops the allowance may use the allowance in determining eligibility and allotments for the

households. The State agency may make a household with extremely low shelter costs ineligible for the allowance.

"(6) EXCESS MEDICAL EXPENSE DEDUCTION.—

"(A) IN GENERAL.—A household containing an elderly or disabled member shall be entitled, with respect to expenses other than expenses paid on behalf of the household by a third party, to an excess medical expense deduction for the portion of the actual costs of allowable medical expenses, incurred by the elderly or disabled member, exclusive of special diets, that exceeds $35 per month.

"(B) METHOD OF CLAIMING DEDUCTION.—

"(i) IN GENERAL.—A State agency shall offer an eligible household under subparagraph (A) a method of claiming a deduction for recurring medical expenses that are initially verified under the excess medical expense deduction in lieu of submitting information on, or verification of, actual expenses on a monthly basis.

"(ii) METHOD.—The method described in clause (i) shall—

"(I) be designed to minimize the burden for the eligible elderly or disabled household member choosing to deduct the recurrent medical expenses of the member pursuant to the method;

"(II) rely on reasonable estimates of the expected medical expenses of the member for the certification period (including changes that can be reasonably anticipated based on available information about the medical condition of the member, public or private medical insurance coverage, and the current verified medical expenses incurred by the member); and

"(III) not require further reporting or verification of a change in medical expenses if such a change has been anticipated for the certification period.

"(7) EXCESS SHELTER EXPENSE DEDUCTION.—

"(A) IN GENERAL.—A household shall be entitled, with respect to expenses other than expenses paid on behalf of the household by a third party, to an excess shelter expense deduction to the extent that the monthly amount expended by a household for shelter exceeds an amount equal to 50 percent of monthly household income after all other applicable deductions have been allowed.

"(B) MAXIMUM AMOUNT OF DEDUCTION.—In the case of a household that does not contain an elderly or disabled individual, in the 48 contiguous States and the District of Columbia, Alaska, Hawaii, Guam, and the Virgin Islands of the United States, the excess shelter expense deduction shall not exceed—

"(i) for the period beginning on the date of enactment of this subparagraph and ending on December 31, 1996, $247, $429, $353, $300, and $182 per month, respectively;

"(ii) for the period beginning on January 1, 1997, and ending on September 30, 1998, $250, $434, $357, $304, and $184 per month, respectively;

"(iii) for fiscal years 1999 and 2000, $275, $478, $393, $334, and $203 per month, respectively; and

"(iv) for fiscal year 2001 and each subsequent fiscal year, $300, $521, $429, $364, and $221 per month, respectively.

"(C) STANDARD UTILITY ALLOWANCE.—

"(i) IN GENERAL.—In computing the excess shelter expense deduction, a State agency may use a standard utility allowance in accordance with regulations promulgated by the Secretary, except that a State agency may use an allowance that does not fluctuate within a year to reflect seasonal variations.

"(ii) RESTRICTIONS ON HEATING AND COOLING EXPENSES.—An allowance for a heating or cooling expense may not be used in the case of a household that—

"(I) does not incur a heating or cooling expense, as the case may be;

"(II) does incur a heating or cooling expense but is located in a public housing unit that has central utility meters and charges households, with regard to the expense, only for excess utility costs; or

"(III) shares the expense with, and lives with, another individual not participating in the food stamp program, another household participating in the food stamp program, or both, unless the allowance is prorated between the household and the other individual, household, or both.

"(iii) MANDATORY ALLOWANCE.—

"(I) IN GENERAL.—A State agency may make the use of a standard utility allowance mandatory for all households with qualifying utility costs if—

"(aa) the State agency has developed 1 or more standards that include the cost of heating and cooling and 1 or more standards that do not include the cost of heating and cooling; and

"(bb) the Secretary finds that the standards will not result in an increased cost to the Secretary.

"(II) HOUSEHOLD ELECTION.—A State agency that has not made the use of a standard utility allowance mandatory under subclause (I) shall allow a household to switch, at the end of a certification period, between the standard utility allowance and a deduction based on the actual utility costs of the household.

"(iv) AVAILABILITY OF ALLOWANCE TO RECIPIENTS OF ENERGY ASSISTANCE.—

"(I) IN GENERAL.—Subject to subclause (II), if a State agency elects to use a standard utility allowance that reflects heating or cooling costs, the standard utility allowance shall be made available to households receiving a payment, or on behalf of which a payment is made, under the Low-Income Home Energy Assistance Act of 1981

(42 U.S.C. 8621 et seq.) or other similar energy assistance program, if the household still incurs out-of-pocket heating or cooling expenses in excess of any assistance paid on behalf of the household to an energy provider.

"(II) SEPARATE ALLOWANCE.—A State agency may use a separate standard utility allowance for households on behalf of which a payment described in subclause (I) is made, but may not be required to do so.

"(III) STATES NOT ELECTING TO USE SEPARATE ALLOWANCE.—A State agency that does not elect to use a separate allowance but makes a single standard utility allowance available to households incurring heating or cooling expenses (other than a household described in subclause (I) or (II) of clause (ii)) may not be required to reduce the allowance due to the provision (directly or indirectly) of assistance under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.).

"(IV) PRORATION OF ASSISTANCE.—For the purpose of the food stamp program, assistance provided under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.) shall be considered to be prorated over the entire heating or cooling season for which the assistance was provided.".

(b) CONFORMING AMENDMENT.—Section 11(e)(3) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)(3)) is amended by striking ". Under rules prescribed" and all that follows through "verifies higher expenses".

SEC. 810. VEHICLE ALLOWANCE.

Section 5(g) of the Food Stamp Act of 1977 (7 U.S.C. 2014(g)) is amended by striking paragraph (2) and inserting the following:

"(2) INCLUDED ASSETS.—

"(A) IN GENERAL.—Subject to the other provisions of this paragraph, the Secretary shall, in prescribing inclusions in, and exclusions from, financial resources, follow the regulations in force as of June 1, 1982 (other than those relating to licensed vehicles and inaccessible resources).

"(B) ADDITIONAL INCLUDED ASSETS.—The Secretary shall include in financial resources—

"(i) any boat, snowmobile, or airplane used for recreational purposes;

"(ii) any vacation home;

"(iii) any mobile home used primarily for vacation purposes;

"(iv) subject to subparagraph (C), any licensed vehicle that is used for household transportation or to obtain or continue employment to the extent that the fair market value of the vehicle exceeds $4,600 through September 30, 1996, and $4,650 beginning October 1, 1996; and

"(v) any savings or retirement account (including an individual account), regardless of whether there is a penalty for early withdrawal.

"(C) EXCLUDED VEHICLES.—A vehicle (and any other property, real or personal, to the extent the property is directly related to the maintenance or use of the vehicle) shall not be included in financial resources under this paragraph if the vehicle is—

"(i) used to produce earned income;

"(ii) necessary for the transportation of a physically disabled household member; or

"(iii) depended on by a household to carry fuel for heating or water for home use and provides the primary source of fuel or water, respectively, for the household.".

SEC. 811. VENDOR PAYMENTS FOR TRANSITIONAL HOUSING COUNTED AS INCOME.

Section 5(k)(2) of the Food Stamp Act of 1977 (7 U.S.C. 2014(k)(2)) is amended—

(1) by striking subparagraph (F); and

(2) by redesignating subparagraphs (G) and (H) as subparagraphs (F) and (G), respectively.

SEC. 812. SIMPLIFIED CALCULATION OF INCOME FOR THE SELF-EMPLOYED.

Section 5 of the Food Stamp Act of 1977 (7 U.S.C. 2014), as amended by title I, is amended by adding at the end the following:

"(m) SIMPLIFIED CALCULATION OF INCOME FOR THE SELF-EMPLOYED.—

Regulations.

"(1) IN GENERAL.—Not later than 1 year after the date of enactment of this subsection, the Secretary shall establish a procedure by which a State may submit a method, designed to not increase Federal costs, for the approval of the Secretary, that the Secretary determines will produce a reasonable estimate of income excluded under subsection (d)(9) in lieu of calculating the actual cost of producing self-employment income.

"(2) INCLUSIVE OF ALL TYPES OF INCOME OR LIMITED TYPES OF INCOME.—The method submitted by a State under paragraph (1) may allow a State to estimate income for all types of self-employment income or may be limited to 1 or more types of self-employment income.

"(3) DIFFERENCES FOR DIFFERENT TYPES OF INCOME.—The method submitted by a State under paragraph (1) may differ for different types of self-employment income.".

SEC. 813. DOUBLED PENALTIES FOR VIOLATING FOOD STAMP PROGRAM REQUIREMENTS.

Section 6(b)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2015(b)(1)) is amended—

(1) in clause (i), by striking "six months" and inserting "1 year"; and

(2) in clause (ii), by striking "1 year" and inserting "2 years".

SEC. 814. DISQUALIFICATION OF CONVICTED INDIVIDUALS.

Section 6(b)(1)(iii) of the Food Stamp Act of 1977 (7 U.S.C. 2015(b)(1)(iii)) is amended—

(1) in subclause (II), by striking "or" at the end;

(2) in subclause (III), by striking the period at the end and inserting "; or"; and

(3) by inserting after subclause (III) the following:

"(IV) a conviction of an offense under subsection (b) or (c) of section 15 involving an item covered by subsection (b) or (c) of section 15 having a value of $500 or more.".

SEC. 815. DISQUALIFICATION.

(a) IN GENERAL.—Section 6(d) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)) is amended by striking "(d)(1) Unless otherwise exempted by the provisions" and all that follows through the end of paragraph (1) and inserting the following:

"(d) CONDITIONS OF PARTICIPATION.—

"(1) WORK REQUIREMENTS.—

"(A) IN GENERAL.—No physically and mentally fit individual over the age of 15 and under the age of 60 shall be eligible to participate in the food stamp program if the individual—

"(i) refuses, at the time of application and every 12 months thereafter, to register for employment in a manner prescribed by the Secretary;

"(ii) refuses without good cause to participate in an employment and training program established under paragraph (4), to the extent required by the State agency;

"(iii) refuses without good cause to accept an offer of employment, at a site or plant not subject to a strike or lockout at the time of the refusal, at a wage not less than the higher of—

"(I) the applicable Federal or State minimum wage; or

"(II) 80 percent of the wage that would have governed had the minimum hourly rate under section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) been applicable to the offer of employment;

"(iv) refuses without good cause to provide a State agency with sufficient information to allow the State agency to determine the employment status or the job availability of the individual;

"(v) voluntarily and without good cause—

"(I) quits a job; or

"(II) reduces work effort and, after the reduction, the individual is working less than 30 hours per week; or

"(vi) fails to comply with section 20.

"(B) HOUSEHOLD INELIGIBILITY.—If an individual who is the head of a household becomes ineligible to participate in the food stamp program under subparagraph (A), the household shall, at the option of the State agency, become ineligible to participate in the food stamp program for a period, determined by the State agency, that does not exceed the lesser of—

"(i) the duration of the ineligibility of the individual determined under subparagraph (C); or

"(ii) 180 days.

"(C) DURATION OF INELIGIBILITY.—

"(i) FIRST VIOLATION.—The first time that an individual becomes ineligible to participate in the food stamp program under subparagraph (A), the individual shall remain ineligible until the later of—

"(I) the date the individual becomes eligible under subparagraph (A);

"(II) the date that is 1 month after the date the individual became ineligible; or

"(III) a date determined by the State agency that is not later than 3 months after the date the individual became ineligible.

"(ii) SECOND VIOLATION.—The second time that an individual becomes ineligible to participate in the food stamp program under subparagraph (A), the individual shall remain ineligible until the later of—

"(I) the date the individual becomes eligible under subparagraph (A);

"(II) the date that is 3 months after the date the individual became ineligible; or

"(III) a date determined by the State agency that is not later than 6 months after the date the individual became ineligible.

"(iii) THIRD OR SUBSEQUENT VIOLATION.—The third or subsequent time that an individual becomes ineligible to participate in the food stamp program under subparagraph (A), the individual shall remain ineligible until the later of—

"(I) the date the individual becomes eligible under subparagraph (A);

"(II) the date that is 6 months after the date the individual became ineligible;

"(III) a date determined by the State agency; or

"(IV) at the option of the State agency, permanently.

"(D) ADMINISTRATION.—

"(i) GOOD CAUSE.—The Secretary shall determine the meaning of good cause for the purpose of this paragraph.

"(ii) VOLUNTARY QUIT.—The Secretary shall determine the meaning of voluntarily quitting and reducing work effort for the purpose of this paragraph.

"(iii) DETERMINATION BY STATE AGENCY.—

"(I) IN GENERAL.—Subject to subclause (II) and clauses (i) and (ii), a State agency shall determine—

"(aa) the meaning of any term used in subparagraph (A);

"(bb) the procedures for determining whether an individual is in compliance with a requirement under subparagraph (A); and

"(cc) whether an individual is in compliance with a requirement under subparagraph (A).

"(II) NOT LESS RESTRICTIVE.—A State agency may not use a meaning, procedure, or determination under subclause (I) that is less restrictive on individuals receiving benefits under this Act than a comparable meaning, procedure, or determination under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.).

"(iv) STRIKE AGAINST THE GOVERNMENT.—For the purpose of subparagraph (A)(v), an employee of the Federal Government, a State, or a political subdivision of a State, who is dismissed for participating in a strike against the Federal Government, the State, or the political subdivision of the State shall be considered to have voluntarily quit without good cause.

"(v) SELECTING A HEAD OF HOUSEHOLD.—

"(I) IN GENERAL.—For purposes of this paragraph, the State agency shall allow the household to select any adult parent of a child in the household as the head of the household if all adult household members making application under the food stamp program agree to the selection.

"(II) TIME FOR MAKING DESIGNATION.—A household may designate the head of the household under subclause (I) each time the household is certified for participation in the food stamp program, but may not change the designation during a certification period unless there is a change in the composition of the household.

"(vi) CHANGE IN HEAD OF HOUSEHOLD.—If the head of a household leaves the household during a period in which the household is ineligible to participate in the food stamp program under subparagraph (B)—

"(I) the household shall, if otherwise eligible, become eligible to participate in the food stamp program; and

"(II) if the head of the household becomes the head of another household, the household that becomes headed by the individual shall become ineligible to participate in the food stamp program for the remaining period of ineligibility.".

(b) CONFORMING AMENDMENT.—

(1) The second sentence of section 17(b)(2) of the Food Stamp Act of 1977 (7 U.S.C. 2026(b)(2)) is amended by striking "6(d)(1)(i)" and inserting "6(d)(1)(A)(i)".

(2) Section 20 of the Food Stamp Act of 1977 (7 U.S.C. 2029) is amended by striking subsection (f) and inserting the following:

"(f) DISQUALIFICATION.—An individual or a household may become ineligible under section 6(d)(1) to participate in the food stamp program for failing to comply with this section.".

SEC. 816. CARETAKER EXEMPTION.

Section 6(d)(2) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)(2)) is amended by adding at the end the following: "A State that requested a waiver to lower the age specified in subparagraph (B) and had the waiver denied by the Secretary as of August 1, 1996, may, for a period of not more than 3 years, lower the age of a dependent child that qualifies a parent or other member of a household for an exemption under subparagraph (B) to between 1 and 6 years of age.".

SEC. 817. EMPLOYMENT AND TRAINING.

(a) IN GENERAL.—Section 6(d)(4) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)(4)) is amended—

(1) by striking "(4)(A) Not later than April 1, 1987, each" and inserting the following:

"(4) EMPLOYMENT AND TRAINING.—

"(A) IN GENERAL.—

"(i) IMPLEMENTATION.—Each";

(2) in subparagraph (A)—

(A) by inserting "work," after "skills, training,"; and

(B) by adding at the end the following:

"(ii) STATEWIDE WORKFORCE DEVELOPMENT SYSTEM.—Each component of an employment and training program carried out under this paragraph shall be delivered through a statewide workforce development system, unless the component is not available locally through such a system.";

(3) in subparagraph (B)—

(A) in the matter preceding clause (i), by striking the colon at the end and inserting the following: ", except that the State agency shall retain the option to apply employment requirements prescribed under this subparagraph to a program applicant at the time of application:";

(B) in clause (i), by striking "with terms and conditions" and all that follows through "time of application"; and

(C) in clause (iv)—

(i) by striking subclauses (I) and (II); and

(ii) by redesignating subclauses (III) and (IV) as subclauses (I) and (II), respectively;

(4) in subparagraph (D)—

(A) in clause (i), by striking "to which the application" and all that follows through "30 days or less";

(B) in clause (ii), by striking "but with respect" and all that follows through "child care"; and

(C) in clause (iii), by striking ", on the basis of" and all that follows through "clause (ii)" and inserting "the exemption continues to be valid";

(5) in subparagraph (E), by striking the third sentence;

(6) in subparagraph (G)—

(A) by striking "(G)(i) The State" and inserting "(G) The State"; and

(B) by striking clause (ii);

(7) in subparagraph (H), by striking "(H)(i) The Secretary" and all that follows through "(ii) Federal funds" and inserting "(H) Federal funds";

(8) in subparagraph (I)(i)(II), by striking ", or was in operation," and all that follows through "Social Security Act" and

inserting the following: "), except that no such payment or reimbursement shall exceed the applicable local market rate";

(9)(A) by striking subparagraphs (K) and (L) and inserting the following:

"(K) LIMITATION ON FUNDING.—Notwithstanding any other provision of this paragraph, the amount of funds a State agency uses to carry out this paragraph (including funds used to carry out subparagraph (I)) for participants who are receiving benefits under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) shall not exceed the amount of funds the State agency used in fiscal year 1995 to carry out this paragraph for participants who were receiving benefits in fiscal year 1995 under a State program funded under part A of title IV of the Act (42 U.S.C. 601 et seq.).";

(B) by redesignating subparagraphs (M) and (N) as subparagraphs (L) and (M), respectively; and

(10) in subparagraph (L), as so redesignated—

(A) by striking "(L)(i) The Secretary" and inserting "(L) The Secretary"; and

(B) by striking clause (ii).

(b) FUNDING.—Section 16(h) of the Food Stamp Act of 1977 (7 U.S.C. 2025(h)) is amended by striking "(h)(1)(A) The Secretary" and all that follows through the end of paragraph (1) and inserting the following:

"(h) FUNDING OF EMPLOYMENT AND TRAINING PROGRAMS.—

"(1) IN GENERAL.—

"(A) AMOUNTS.—To carry out employment and training programs, the Secretary shall reserve for allocation to State agencies from funds made available for each fiscal year under section 18(a)(1) the amount of—

"(i) for fiscal year 1996, $75,000,000;

"(ii) for fiscal year 1997, $79,000,000;

"(iii) for fiscal year 1998, $81,000,000;

"(iv) for fiscal year 1999, $84,000,000;

"(v) for fiscal year 2000, $86,000,000;

"(vi) for fiscal year 2001, $88,000,000; and

"(vii) for fiscal year 2002, $90,000,000.

"(B) ALLOCATION.—The Secretary shall allocate the amounts reserved under subparagraph (A) among the State agencies using a reasonable formula (as determined by the Secretary) that gives consideration to the population in each State affected by section 6(o).

"(C) REALLOCATION.—

"(i) NOTIFICATION.—A State agency shall promptly notify the Secretary if the State agency determines that the State agency will not expend all of the funds allocated to the State agency under subparagraph (B).

"(ii) REALLOCATION.—On notification under clause (i), the Secretary shall reallocate the funds that the State agency will not expend as the Secretary considers appropriate and equitable.

"(D) MINIMUM ALLOCATION.—Notwithstanding subparagraphs (A) through (C), the Secretary shall ensure that each State agency operating an employment and train-

ing program shall receive not less than $50,000 for each fiscal year.".

(c) ADDITIONAL MATCHING FUNDS.—Section 16(h)(2) of the Food Stamp Act of 1977 (7 U.S.C. 2025(h)(2)) is amended by inserting before the period at the end the following: ", including the costs for case management and casework to facilitate the transition from economic dependency to self-sufficiency through work".

(d) REPORTS.—Section 16(h) of the Food Stamp Act of 1977 (7 U.S.C. 2025(h)) is amended—

(1) in paragraph (5)—

(A) by striking "(5)(A) The Secretary" and inserting "(5) The Secretary"; and

(B) by striking subparagraph (B); and

(2) by striking paragraph (6).

SEC. 818. FOOD STAMP ELIGIBILITY.

The third sentence of section 6(f) of the Food Stamp Act of 1977 (7 U.S.C. 2015(f)) is amended by inserting ", at State option," after "less".

SEC. 819. COMPARABLE TREATMENT FOR DISQUALIFICATION.

(a) IN GENERAL.—Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015) is amended by adding at the end the following:

"(i) COMPARABLE TREATMENT FOR DISQUALIFICATION.—

"(1) IN GENERAL.—If a disqualification is imposed on a member of a household for a failure of the member to perform an action required under a Federal, State, or local law relating to a means-tested public assistance program, the State agency may impose the same disqualification on the member of the household under the food stamp program.

"(2) RULES AND PROCEDURES.—If a disqualification is imposed under paragraph (1) for a failure of an individual to perform an action required under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), the State agency may use the rules and procedures that apply under part A of title IV of the Act to impose the same disqualification under the food stamp program.

"(3) APPLICATION AFTER DISQUALIFICATION PERIOD.—A member of a household disqualified under paragraph (1) may, after the disqualification period has expired, apply for benefits under this Act and shall be treated as a new applicant, except that a prior disqualification under subsection (d) shall be considered in determining eligibility.".

(b) STATE PLAN PROVISIONS.—Section 11(e) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)) is amended—

(1) in paragraph (24), by striking "and" at the end;

(2) in paragraph (25), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(26) the guidelines the State agency uses in carrying out section 6(i); and".

(c) CONFORMING AMENDMENT.—Section 6(d)(2)(A) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)(2)(A)) is amended by striking "that is comparable to a requirement of paragraph (1)".

SEC. 820. DISQUALIFICATION FOR RECEIPT OF MULTIPLE FOOD STAMP BENEFITS.

Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015), as amended by section 819, is amended by adding at the end the following:

"(j) DISQUALIFICATION FOR RECEIPT OF MULTIPLE FOOD STAMP BENEFITS.—An individual shall be ineligible to participate in the food stamp program as a member of any household for a 10-year period if the individual is found by a State agency to have made, or is convicted in a Federal or State court of having made, a fraudulent statement or representation with respect to the identity or place of residence of the individual in order to receive multiple benefits simultaneously under the food stamp program.".

SEC. 821. DISQUALIFICATION OF FLEEING FELONS.

Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015), as amended by section 820, is amended by adding at the end the following:

"(k) DISQUALIFICATION OF FLEEING FELONS.—No member of a household who is otherwise eligible to participate in the food stamp program shall be eligible to participate in the program as a member of that or any other household during any period during which the individual is—

"(1) fleeing to avoid prosecution, or custody or confinement after conviction, under the law of the place from which the individual is fleeing, for a crime, or attempt to commit a crime, that is a felony under the law of the place from which the individual is fleeing or that, in the case of New Jersey, is a high misdemeanor under the law of New Jersey; or

"(2) violating a condition of probation or parole imposed under a Federal or State law.".

SEC. 822. COOPERATION WITH CHILD SUPPORT AGENCIES.

Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015), as amended by section 821, is amended by adding at the end the following:

"(l) CUSTODIAL PARENT'S COOPERATION WITH CHILD SUPPORT AGENCIES.—

"(1) IN GENERAL.—At the option of a State agency, subject to paragraphs (2) and (3), no natural or adoptive parent or other individual (collectively referred to in this subsection as 'the individual') who is living with and exercising parental control over a child under the age of 18 who has an absent parent shall be eligible to participate in the food stamp program unless the individual cooperates with the State agency administering the program established under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.)—

"(A) in establishing the paternity of the child (if the child is born out of wedlock); and

"(B) in obtaining support for—

"(i) the child; or

"(ii) the individual and the child.

"(2) GOOD CAUSE FOR NONCOOPERATION.—Paragraph (1) shall not apply to the individual if good cause is found for refusing to cooperate, as determined by the State agency in accordance with standards prescribed by the Secretary in consultation with the Secretary of Health and Human Services. Regulations.

The standards shall take into consideration circumstances under which cooperation may be against the best interests of the child.

"(3) FEES.—Paragraph (1) shall not require the payment of a fee or other cost for services provided under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.).

"(m) NONCUSTODIAL PARENT'S COOPERATION WITH CHILD SUPPORT AGENCIES.—

"(1) IN GENERAL.—At the option of a State agency, subject to paragraphs (2) and (3), a putative or identified noncustodial parent of a child under the age of 18 (referred to in this subsection as 'the individual') shall not be eligible to participate in the food stamp program if the individual refuses to cooperate with the State agency administering the program established under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.)—

"(A) in establishing the paternity of the child (if the child is born out of wedlock); and

"(B) in providing support for the child.

"(2) REFUSAL TO COOPERATE.—

"(A) GUIDELINES.—The Secretary, in consultation with the Secretary of Health and Human Services, shall develop guidelines on what constitutes a refusal to cooperate under paragraph (1).

"(B) PROCEDURES.—The State agency shall develop procedures, using guidelines developed under subparagraph (A), for determining whether an individual is refusing to cooperate under paragraph (1).

"(3) FEES.—Paragraph (1) shall not require the payment of a fee or other cost for services provided under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.).

"(4) PRIVACY.—The State agency shall provide safeguards to restrict the use of information collected by a State agency administering the program established under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.) to purposes for which the information is collected.".

SEC. 823. DISQUALIFICATION RELATING TO CHILD SUPPORT ARREARS.

Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015), as amended by section 822, is amended by adding at the end the following:

"(n) DISQUALIFICATION FOR CHILD SUPPORT ARREARS.—

"(1) IN GENERAL.—At the option of a State agency, no individual shall be eligible to participate in the food stamp program as a member of any household during any month that the individual is delinquent in any payment due under a court order for the support of a child of the individual.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply if—

"(A) a court is allowing the individual to delay payment; or

"(B) the individual is complying with a payment plan approved by a court or the State agency designated under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.) to provide support for the child of the individual.".

SEC. 824. WORK REQUIREMENT.

(a) IN GENERAL.—Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015), as amended by section 823, is amended by adding at the end the following:

"(o) WORK REQUIREMENT.—

"(1) DEFINITION OF WORK PROGRAM.—In this subsection, the term 'work program' means—

"(A) a program under the Job Training Partnership Act (29 U.S.C. 1501 et seq.);

"(B) a program under section 236 of the Trade Act of 1974 (19 U.S.C. 2296); and

"(C) a program of employment and training operated or supervised by a State or political subdivision of a State that meets standards approved by the Governor of the State, including a program under subsection (d)(4), other than a job search program or a job search training program.

"(2) WORK REQUIREMENT.—Subject to the other provisions of this subsection, no individual shall be eligible to participate in the food stamp program as a member of any household if, during the preceding 36-month period, the individual received food stamp benefits for not less than 3 months (consecutive or otherwise) during which the individual did not—

"(A) work 20 hours or more per week, averaged monthly;

"(B) participate in and comply with the requirements of a work program for 20 hours or more per week, as determined by the State agency;

"(C) participate in and comply with the requirements of a program under section 20 or a comparable program established by a State or political subdivision of a State; or

"(D) receive benefits pursuant to paragraph (3), (4), or (5).

"(3) EXCEPTION.—Paragraph (2) shall not apply to an individual if the individual is—

"(A) under 18 or over 50 years of age;

"(B) medically certified as physically or mentally unfit for employment;

"(C) a parent or other member of a household with responsibility for a dependent child;

"(D) otherwise exempt under subsection (d)(2); or

"(E) a pregnant woman.

"(4) WAIVER.—

"(A) IN GENERAL.—On the request of a State agency, the Secretary may waive the applicability of paragraph (2) to any group of individuals in the State if the Secretary makes a determination that the area in which the individuals reside—

"(i) has an unemployment rate of over 10 percent; or

"(ii) does not have a sufficient number of jobs to provide employment for the individuals.

"(B) REPORT.—The Secretary shall report the basis for a waiver under subparagraph (A) to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

"(5) SUBSEQUENT ELIGIBILITY.—

"(A) REGAINING ELIGIBILITY.—An individual denied eligibility under paragraph (2) shall regain eligibility to participate in the food stamp program if, during a 30-day period, the individual—

"(i) works 80 or more hours;

"(ii) participates in and complies with the requirements of a work program for 80 or more hours, as determined by a State agency; or

"(iii) participates in and complies with the requirements of a program under section 20 or a comparable program established by a State or political subdivision of a State.

"(B) MAINTAINING ELIGIBILITY.—An individual who regains eligibility under subparagraph (A) shall remain eligible as long as the individual meets the requirements of subparagraph (A), (B), or (C) of paragraph (2).

"(C) LOSS OF EMPLOYMENT.—

"(i) IN GENERAL.—An individual who regained eligibility under subparagraph (A) and who no longer meets the requirements of subparagraph (A), (B), or (C) of paragraph (2) shall remain eligible for a consecutive 3-month period, beginning on the date the individual first notifies the State agency that the individual no longer meets the requirements of subparagraph (A), (B), or (C) of paragraph (2).

"(ii) LIMITATION.—An individual shall not receive any benefits pursuant to clause (i) for more than a single 3-month period in any 36-month period.

"(6) OTHER PROGRAM RULES.—Nothing in this subsection shall make an individual eligible for benefits under this Act if the individual is not otherwise eligible for benefits under the other provisions of this Act.".

7 USC 2015 note.

(b) TRANSITION PROVISION.—The term "preceding 36-month period" in section 6(o) of the Food Stamp Act of 1977, as added by subsection (a), does not include, with respect to a State, any period before the earlier of—

(1) the date the State notifies recipients of food stamp benefits of the application of section 6(o); or

(2) the date that is 3 months after the date of enactment of this Act.

SEC. 825. ENCOURAGEMENT OF ELECTRONIC BENEFIT TRANSFER SYSTEMS.

(a) IN GENERAL.—Section 7(i) of the Food Stamp Act of 1977 (7 U.S.C. 2016(i)) is amended—

(1) by striking "(i)(1)(A) Any State" and all that follows through the end of paragraph (1) and inserting the following:

"(i) ELECTRONIC BENEFIT TRANSFERS.—

"(1) IN GENERAL.—

"(A) IMPLEMENTATION.—Not later than October 1, 2002, each State agency shall implement an electronic benefit transfer system under which household benefits determined under section 8(a) or 26 are issued from and stored in a central databank, unless the Secretary provides a waiver for a State agency that faces unusual barriers to implementing an electronic benefit transfer system.

"(B) TIMELY IMPLEMENTATION.—Each State agency is encouraged to implement an electronic benefit transfer system under subparagraph (A) as soon as practicable.

"(C) STATE FLEXIBILITY.—Subject to paragraph (2), a State agency may procure and implement an electronic benefit transfer system under the terms, conditions, and design that the State agency considers appropriate.

"(D) OPERATION.—An electronic benefit transfer system should take into account generally accepted standard operating rules based on—

"(i) commercial electronic funds transfer technology;

"(ii) the need to permit interstate operation and law enforcement monitoring; and

"(iii) the need to permit monitoring and investigations by authorized law enforcement agencies.";

(2) in paragraph (2)—

(A) by striking "effective no later than April 1, 1992,";

(B) in subparagraph (A)—

(i) by striking ", in any 1 year,"; and

(ii) by striking "on-line";

(C) by striking subparagraph (D) and inserting the following:

"(D)(i) measures to maximize the security of a system using the most recent technology available that the State agency considers appropriate and cost effective and which may include personal identification numbers, photographic identification on electronic benefit transfer cards, and other measures to protect against fraud and abuse; and

"(ii) effective not later than 2 years after the date of enactment of this clause, to the extent practicable, measures that permit a system to differentiate items of food that may be acquired with an allotment from items of food that may not be acquired with an allotment;"; Effective date.

(D) in subparagraph (G), by striking "and" at the end;

(E) in subparagraph (H), by striking the period at the end and inserting "; and"; and

(F) by adding at the end the following:

"(I) procurement standards."; and

(3) by adding at the end the following:

"(7) REPLACEMENT OF BENEFITS.—Regulations issued by the Secretary regarding the replacement of benefits and liability for replacement of benefits under an electronic benefit transfer system shall be similar to the regulations in effect for a paper-based food stamp issuance system. Regulations.

"(8) REPLACEMENT CARD FEE.—A State agency may collect a charge for replacement of an electronic benefit transfer card by reducing the monthly allotment of the household receiving the replacement card.

"(9) OPTIONAL PHOTOGRAPHIC IDENTIFICATION.—

"(A) IN GENERAL.—A State agency may require that an electronic benefit card contain a photograph of 1 or more members of a household.

"(B) OTHER AUTHORIZED USERS.—If a State agency requires a photograph on an electronic benefit card under subparagraph (A), the State agency shall establish procedures to ensure that any other appropriate member of

the household or any authorized representative of the household may utilize the card.

"(10) APPLICABLE LAW.—Disclosures, protections, responsibilities, and remedies established by the Federal Reserve Board under section 904 of the Electronic Fund Transfer Act (15 U.S.C. 1693b) shall not apply to benefits under this Act delivered through any electronic benefit transfer system.

"(11) APPLICATION OF ANTI-TYING RESTRICTIONS TO ELECTRONIC BENEFIT TRANSFER SYSTEMS.—

"(A) DEFINITIONS.—In this paragraph:

"(i) AFFILIATE.—The term 'affiliate' has the meaning provided the term in section 2(k) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(k)).

"(ii) COMPANY.—The term 'company' has the meaning provided the term in section 106(a) of the Bank Holding Company Act Amendments of 1970 (12 U.S.C. 1971), but shall not include a bank, a bank holding company, or any subsidiary of a bank holding company.

"(iii) ELECTRONIC BENEFIT TRANSFER SERVICE.—The term 'electronic benefit transfer service' means the processing of electronic transfers of household benefits, determined under section 8(a) or 26, if the benefits are—

"(I) issued from and stored in a central databank;

"(II) electronically accessed by household members at the point of sale; and

"(III) provided by a Federal or State government.

"(iv) POINT-OF-SALE SERVICE.—The term 'point-of-sale service' means any product or service related to the electronic authorization and processing of payments for merchandise at a retail food store, including credit or debit card services, automated teller machines, point-of-sale terminals, or access to on-line systems.

"(B) RESTRICTIONS.—A company may not sell or provide electronic benefit transfer services, or fix or vary the consideration for electronic benefit transfer services, on the condition or requirement that the customer—

"(i) obtain some additional point-of-sale service from the company or an affiliate of the company; or

"(ii) not obtain some additional point-of-sale service from a competitor of the company or competitor of any affiliate of the company.

"(C) CONSULTATION WITH THE FEDERAL RESERVE BOARD.—Before promulgating regulations or interpretations of regulations to carry out this paragraph, the Secretary shall consult with the Board of Governors of the Federal Reserve System.".

(b) SENSE OF CONGRESS.—It is the sense of Congress that a State that operates an electronic benefit transfer system under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) should operate the system in a manner that is compatible with electronic benefit transfer systems operated by other States.

SEC. 826. VALUE OF MINIMUM ALLOTMENT.

The proviso in section 8(a) of the Food Stamp Act of 1977 (7 U.S.C. 2017(a)) is amended by striking ", and shall be adjusted" and all that follows through "$5".

SEC. 827. BENEFITS ON RECERTIFICATION.

Section 8(c)(2)(B) of the Food Stamp Act of 1977 (7 U.S.C. 2017(c)(2)(B)) is amended by striking "of more than one month".

SEC. 828. OPTIONAL COMBINED ALLOTMENT FOR EXPEDITED HOUSEHOLDS.

Section 8(c) of the Food Stamp Act of 1977 (7 U.S.C. 2017(c)) is amended by striking paragraph (3) and inserting the following:

"(3) OPTIONAL COMBINED ALLOTMENT FOR EXPEDITED HOUSEHOLDS.—A State agency may provide to an eligible household applying after the 15th day of a month, in lieu of the initial allotment of the household and the regular allotment of the household for the following month, an allotment that is equal to the total amount of the initial allotment and the first regular allotment. The allotment shall be provided in accordance with section 11(e)(3) in the case of a household that is not entitled to expedited service and in accordance with paragraphs (3) and (9) of section 11(e) in the case of a household that is entitled to expedited service.".

SEC. 829. FAILURE TO COMPLY WITH OTHER MEANS-TESTED PUBLIC ASSISTANCE PROGRAMS.

Section 8 of the Food Stamp Act of 1977 (7 U.S.C. 2017) is amended by striking subsection (d) and inserting the following:

"(d) REDUCTION OF PUBLIC ASSISTANCE BENEFITS.—

"(1) IN GENERAL.—If the benefits of a household are reduced under a Federal, State, or local law relating to a means-tested public assistance program for the failure of a member of the household to perform an action required under the law or program, for the duration of the reduction—

"(A) the household may not receive an increased allotment as the result of a decrease in the income of the household to the extent that the decrease is the result of the reduction; and

"(B) the State agency may reduce the allotment of the household by not more than 25 percent.

"(2) RULES AND PROCEDURES.—If the allotment of a household is reduced under this subsection for a failure to perform an action required under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), the State agency may use the rules and procedures that apply under part A of title IV of the Act to reduce the allotment under the food stamp program.".

SEC. 830. ALLOTMENTS FOR HOUSEHOLDS RESIDING IN CENTERS.

Section 8 of the Food Stamp Act of 1977 (7 U.S.C. 2017) is amended by adding at the end the following:

"(f) ALLOTMENTS FOR HOUSEHOLDS RESIDING IN CENTERS.—

"(1) IN GENERAL.—In the case of an individual who resides in a center for the purpose of a drug or alcoholic treatment program described in the last sentence of section 3(i), a State agency may provide an allotment for the individual to—

"(A) the center as an authorized representative of the individual for a period that is less than 1 month; and

"(B) the individual, if the individual leaves the center.

"(2) DIRECT PAYMENT.—A State agency may require an individual referred to in paragraph (1) to designate the center in which the individual resides as the authorized representative of the individual for the purpose of receiving an allotment.".

SEC. 831. CONDITION PRECEDENT FOR APPROVAL OF RETAIL FOOD STORES AND WHOLESALE FOOD CONCERNS.

Section 9(a)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2018(a)(1)) is amended by adding at the end the following: "No retail food store or wholesale food concern of a type determined by the Secretary, based on factors that include size, location, and type of items sold, shall be approved to be authorized or reauthorized for participation in the food stamp program unless an authorized employee of the Department of Agriculture, a designee of the Secretary, or, if practicable, an official of the State or local government designated by the Secretary has visited the store or concern for the purpose of determining whether the store or concern should be approved or reauthorized, as appropriate.".

SEC. 832. AUTHORITY TO ESTABLISH AUTHORIZATION PERIODS.

Section 9(a) of the Food Stamp Act of 1977 (7 U.S.C. 2018(a)) is amended by adding at the end the following:

"(3) AUTHORIZATION PERIODS.—The Secretary shall establish specific time periods during which authorization to accept and redeem coupons, or to redeem benefits through an electronic benefit transfer system, shall be valid under the food stamp program.".

SEC. 833. INFORMATION FOR VERIFYING ELIGIBILITY FOR AUTHORIZATION.

Section 9(c) of the Food Stamp Act of 1977 (7 U.S.C. 2018(c)) is amended—

(1) in the first sentence, by inserting ", which may include relevant income and sales tax filing documents," after "submit information"; and

(2) by inserting after the first sentence the following: "The regulations may require retail food stores and wholesale food concerns to provide written authorization for the Secretary to verify all relevant tax filings with appropriate agencies and to obtain corroborating documentation from other sources so that the accuracy of information provided by the stores and concerns may be verified.".

SEC. 834. WAITING PERIOD FOR STORES THAT FAIL TO MEET AUTHORIZATION CRITERIA.

Section 9(d) of the Food Stamp Act of 1977 (7 U.S.C. 2018(d)) is amended by adding at the end the following: "A retail food store or wholesale food concern that is denied approval to accept and redeem coupons because the store or concern does not meet criteria for approval established by the Secretary may not, for at least 6 months, submit a new application to participate in the program. The Secretary may establish a longer time period under the preceding sentence, including permanent disqualification, that reflects the severity of the basis of the denial.".

SEC. 835. OPERATION OF FOOD STAMP OFFICES.

Section 11 of the Food Stamp Act of 1977 (7 U.S.C. 2020), as amended by sections 809(b) and 819(b), is amended—

(1) in subsection (e)—

(A) by striking paragraph (2) and inserting the following:

"(2)(A) that the State agency shall establish procedures governing the operation of food stamp offices that the State agency determines best serve households in the State, including households with special needs, such as households with elderly or disabled members, households in rural areas with low-income members, homeless individuals, households residing on reservations, and households in areas in which a substantial number of members of low-income households speak a language other than English. Regulations.

"(B) In carrying out subparagraph (A), a State agency—

"(i) shall provide timely, accurate, and fair service to applicants for, and participants in, the food stamp program;

"(ii) shall develop an application containing the information necessary to comply with this Act;

"(iii) shall permit an applicant household to apply to participate in the program on the same day that the household first contacts a food stamp office in person during office hours;

"(iv) shall consider an application that contains the name, address, and signature of the applicant to be filed on the date the applicant submits the application;

"(v) shall require that an adult representative of each applicant household certify in writing, under penalty of perjury, that—

"(I) the information contained in the application is true; and

"(II) all members of the household are citizens or are aliens eligible to receive food stamps under section 6(f);

"(vi) shall provide a method of certifying and issuing coupons to eligible homeless individuals, to ensure that participation in the food stamp program is limited to eligible households; and

"(vii) may establish operating procedures that vary for local food stamp offices to reflect regional and local differences within the State.

"(C) Nothing in this Act shall prohibit the use of signatures provided and maintained electronically, storage of records using automated retrieval systems only, or any other feature of a State agency's application system that does not rely exclusively on the collection and retention of paper applications or other records.

"(D) The signature of any adult under this paragraph shall be considered sufficient to comply with any provision of Federal law requiring a household member to sign an application or statement;";

(B) in paragraph (3)—

(i) by striking "shall—" and all that follows through "provide each" and inserting "shall provide each"; and

(ii) by striking "(B) assist" and all that follows through "representative of the State agency;";

(C) by striking paragraphs (14) and (25);

(D)(i) by redesignating paragraphs (15) through (24) as paragraphs (14) through (23), respectively; and

(ii) by redesignating paragraph (26), as paragraph (24); and

(2) in subsection (i)—

(A) by striking "(i) Notwithstanding" and all that follows through "(2)" and inserting the following:

"(i) APPLICATION AND DENIAL PROCEDURES.—

"(1) APPLICATION PROCEDURES.—Notwithstanding any other provision of law,"; and

(B) by striking "; (3) households" and all that follows through "title IV of the Social Security Act. No" and inserting a period and the following:

"(2) DENIAL AND TERMINATION.—Except in a case of disqualification as a penalty for failure to comply with a public assistance program rule or regulation, no".

SEC. 836. STATE EMPLOYEE AND TRAINING STANDARDS.

Section 11(e)(6) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)(6)) is amended—

(1) by striking "that (A) the" and inserting "that—

"(A) the";

(2) by striking "Act; (B) the" and inserting "Act; and

"(B) the";

(3) in subparagraph (B), by striking "United States Civil Service Commission" and inserting "Office of Personnel Management"; and

(4) by striking subparagraphs (C) through (E).

SEC. 837. EXCHANGE OF LAW ENFORCEMENT INFORMATION.

Section 11(e)(8) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)(8)) is amended—

(1) by striking "that (A) such" and inserting the following: "that—

"(A) the";

(2) by striking "law, (B) notwithstanding" and inserting the following: "law;

"(B) notwithstanding";

(3) by striking "Act, and (C) such" and inserting the following: "Act;

"(C) the"; and

(4) by adding at the end the following:

"(D) notwithstanding any other provision of law, the address, social security number, and, if available, photograph of any member of a household shall be made available, on request, to any Federal, State, or local law enforcement officer if the officer furnishes the State agency with the name of the member and notifies the agency that—

"(i) the member—

"(I) is fleeing to avoid prosecution, or custody or confinement after conviction, for a crime (or attempt to commit a crime) that, under the law of the place the member is fleeing, is a felony (or, in the case of New Jersey, a high misdemeanor), or is violating a condition of probation or parole imposed under Federal or State law; or

"(II) has information that is necessary for the officer to conduct an official duty related to subclause (I);

"(ii) locating or apprehending the member is an official duty; and

"(iii) the request is being made in the proper exercise of an official duty; and

"(E) the safeguards shall not prevent compliance with paragraph (16);".

SEC. 838. EXPEDITED COUPON SERVICE.

Section 11(e)(9) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)(9)) is amended—

(1) in subparagraph (A), by striking "five days" and inserting "7 days";

(2) by striking subparagraph (B);

(3) by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C);

(4) in subparagraph (B), as redesignated by paragraph (3), by striking "five days" and inserting "7 days"; and

(5) in subparagraph (C), as redesignated by paragraph (3), by striking ", (B), or (C)" and inserting "or (B)".

SEC. 839. WITHDRAWING FAIR HEARING REQUESTS.

Section 11(e)(10) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)(10)) is amended by inserting before the semicolon at the end a period and the following: "At the option of a State, at any time prior to a fair hearing determination under this paragraph, a household may withdraw, orally or in writing, a request by the household for the fair hearing. If the withdrawal request is an oral request, the State agency shall provide a written notice to the household confirming the withdrawal request and providing the household with an opportunity to request a hearing". Notice.

SEC. 840. INCOME, ELIGIBILITY, AND IMMIGRATION STATUS VERIFICATION SYSTEMS.

Section 11 of the Food Stamp Act of 1977 (7 U.S.C. 2020) is amended—

(1) in subsection (e)(18), as redesignated by section 835(1)(D)—

(A) by striking "that information is" and inserting "at the option of the State agency, that information may be"; and

(B) by striking "shall be requested" and inserting "may be requested"; and

(2) by adding at the end the following:

"(p) STATE VERIFICATION OPTION.—Notwithstanding any other provision of law, in carrying out the food stamp program, a State agency shall not be required to use an income and eligibility or an immigration status verification system established under section 1137 of the Social Security Act (42 U.S.C. 1320b–7).".

SEC. 841. INVESTIGATIONS.

Section 12(a) of the Food Stamp Act of 1977 (7 U.S.C. 2021(a)) is amended by adding at the end the following: "Regulations issued pursuant to this Act shall provide criteria for the finding of a violation and the suspension or disqualification of a retail food store or wholesale food concern on the basis of evidence that may Regulations.

include facts established through on-site investigations, inconsistent redemption data, or evidence obtained through a transaction report under an electronic benefit transfer system.".

SEC. 842. DISQUALIFICATION OF RETAILERS WHO INTENTIONALLY SUBMIT FALSIFIED APPLICATIONS.

Section 12(b) of the Food Stamp Act of 1977 (7 U.S.C. 2021(b)) is amended—

(1) in paragraph (2), by striking "and" at the end;

(2) in paragraph (3), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(4) for a reasonable period of time to be determined by the Secretary, including permanent disqualification, on the knowing submission of an application for the approval or reauthorization to accept and redeem coupons that contains false information about a substantive matter that was a part of the application.".

SEC. 843. DISQUALIFICATION OF RETAILERS WHO ARE DISQUALIFIED UNDER THE WIC PROGRAM.

Section 12 of the Food Stamp Act of 1977 (7 U.S.C. 2021) is amended by adding at the end the following:

"(g) DISQUALIFICATION OF RETAILERS WHO ARE DISQUALIFIED UNDER THE WIC PROGRAM.—

Regulations.

"(1) IN GENERAL.—The Secretary shall issue regulations providing criteria for the disqualification under this Act of an approved retail food store or a wholesale food concern that is disqualified from accepting benefits under the special supplemental nutrition program for women, infants, and children established under section 17 of the Child Nutrition Act of 1966 (7 U.S.C. 1786).

"(2) TERMS.—A disqualification under paragraph (1)—

"(A) shall be for the same length of time as the disqualification from the program referred to in paragraph (1);

"(B) may begin at a later date than the disqualification from the program referred to in paragraph (1); and

"(C) notwithstanding section 14, shall not be subject to judicial or administrative review.".

SEC. 844. COLLECTION OF OVERISSUANCES.

(a) COLLECTION OF OVERISSUANCES.—Section 13 of the Food Stamp Act of 1977 (7 U.S.C. 2022) is amended—

(1) by striking subsection (b) and inserting the following:

"(b) COLLECTION OF OVERISSUANCES.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, a State agency shall collect any overissuance of coupons issued to a household by—

"(A) reducing the allotment of the household;

"(B) withholding amounts from unemployment compensation from a member of the household under subsection (c);

"(C) recovering from Federal pay or a Federal income tax refund under subsection (d); or

"(D) any other means.

"(2) COST EFFECTIVENESS.—Paragraph (1) shall not apply if the State agency demonstrates to the satisfaction of the

Secretary that all of the means referred to in paragraph (1) are not cost effective.

"(3) MAXIMUM REDUCTION ABSENT FRAUD.—If a household received an overissuance of coupons without any member of the household being found ineligible to participate in the program under section 6(b)(1) and a State agency elects to reduce the allotment of the household under paragraph (1)(A), the State agency shall not reduce the monthly allotment of the household under paragraph (1)(A) by an amount in excess of the greater of—

"(A) 10 percent of the monthly allotment of the household; or

"(B) $10.

"(4) PROCEDURES.—A State agency shall collect an overissuance of coupons issued to a household under paragraph (1) in accordance with the requirements established by the State agency for providing notice, electing a means of payment, and establishing a time schedule for payment."; and

(2) in subsection (d)—

(A) by striking "as determined under subsection (b) and except for claims arising from an error of the State agency," and inserting ", as determined under subsection (b)(1),"; and

(B) by inserting before the period at the end the following: "or a Federal income tax refund as authorized by section 3720A of title 31, United States Code".

(b) CONFORMING AMENDMENTS.—Section 11(e)(8)(C) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)(8)(C)) is amended—

(1) by striking "and excluding claims" and all that follows through "such section"; and

(2) by inserting before the semicolon at the end the following: "or a Federal income tax refund as authorized by section 3720A of title 31, United States Code".

(c) RETENTION RATE.—The proviso of the first sentence of section 16(a) of the Food Stamp Act of 1977 (7 U.S.C. 2025(a)) is amended by striking "25 percent during the period beginning October 1, 1990" and all that follows through "section 13(b)(2) which arise" and inserting "35 percent of the value of all funds or allotments recovered or collected pursuant to sections 6(b) and 13(c) and 20 percent of the value of any other funds or allotments recovered or collected, except the value of funds or allotments recovered or collected that arise".

SEC. 845. AUTHORITY TO SUSPEND STORES VIOLATING PROGRAM REQUIREMENTS PENDING ADMINISTRATIVE AND JUDICIAL REVIEW.

Section 14(a) of the Food Stamp Act of 1977 (7 U.S.C. 2023(a)) is amended—

(1) by redesignating the first through seventeenth sentences as paragraphs (1) through (17), respectively; and

(2) by adding at the end the following:

"(18) SUSPENSION OF STORES PENDING REVIEW.—Notwithstanding any other provision of this subsection, any permanent disqualification of a retail food store or wholesale food concern under paragraph (3) or (4) of section 12(b) shall be effective from the date of receipt of the notice of disqualification. If the disqualification is reversed through administrative or

Effective date.

judicial review, the Secretary shall not be liable for the value of any sales lost during the disqualification period.".

SEC. 846. EXPANDED CRIMINAL FORFEITURE FOR VIOLATIONS.

(a) FORFEITURE OF ITEMS EXCHANGED IN FOOD STAMP TRAFFICKING.—The first sentence of section 15(g) of the Food Stamp Act of 1977 (7 U.S.C. 2024(g)) is amended by striking "or intended to be furnished".

(b) CRIMINAL FORFEITURE.—Section 15 of the Food Stamp Act of 1977 (7 U.S.C. 2024) is amended by adding at the end the following:

"(h) CRIMINAL FORFEITURE.—

"(1) IN GENERAL.—In imposing a sentence on a person convicted of an offense in violation of subsection (b) or (c), a court shall order, in addition to any other sentence imposed under this section, that the person forfeit to the United States all property described in paragraph (2).

"(2) PROPERTY SUBJECT TO FORFEITURE.—All property, real and personal, used in a transaction or attempted transaction, to commit, or to facilitate the commission of, a violation (other than a misdemeanor) of subsection (b) or (c), or proceeds traceable to a violation of subsection (b) or (c), shall be subject to forfeiture to the United States under paragraph (1).

"(3) INTEREST OF OWNER.—No interest in property shall be forfeited under this subsection as the result of any act or omission established by the owner of the interest to have been committed or omitted without the knowledge or consent of the owner.

"(4) PROCEEDS.—The proceeds from any sale of forfeited property and any monies forfeited under this subsection shall be used—

"(A) first, to reimburse the Department of Justice for the costs incurred by the Department to initiate and complete the forfeiture proceeding;

"(B) second, to reimburse the Department of Agriculture Office of Inspector General for any costs the Office incurred in the law enforcement effort resulting in the forfeiture;

"(C) third, to reimburse any Federal or State law enforcement agency for any costs incurred in the law enforcement effort resulting in the forfeiture; and

"(D) fourth, by the Secretary to carry out the approval, reauthorization, and compliance investigations of retail stores and wholesale food concerns under section 9.".

SEC. 847. LIMITATION ON FEDERAL MATCH.

Section 16(a)(4) of the Food Stamp Act of 1977 (7 U.S.C. 2025(a)(4)) is amended by inserting after the comma at the end the following: "but not including recruitment activities,".

SEC. 848. STANDARDS FOR ADMINISTRATION.

(a) IN GENERAL.—Section 16 of the Food Stamp Act of 1977 (7 U.S.C. 2025) is amended by striking subsection (b).

(b) CONFORMING AMENDMENTS.—

(1) The first sentence of section 11(g) of the Food Stamp Act of 1977 (7 U.S.C. 2020(g)) is amended by striking "the Secretary's standards for the efficient and effective administration of the program established under section 16(b)(1) or".

(2) Section 16(c)(1)(B) of the Food Stamp Act of 1977 (7 U.S.C. 2025(c)(1)(B)) is amended by striking "pursuant to subsection (b)".

SEC. 849. WORK SUPPLEMENTATION OR SUPPORT PROGRAM.

Section 16 of the Food Stamp Act of 1977 (7 U.S.C. 2025), as amended by section 848(a), is amended by inserting after subsection (a) the following:

"(b) WORK SUPPLEMENTATION OR SUPPORT PROGRAM.—

"(1) DEFINITION OF WORK SUPPLEMENTATION OR SUPPORT PROGRAM.—In this subsection, the term 'work supplementation or support program' means a program under which, as determined by the Secretary, public assistance (including any benefits provided under a program established by the State and the food stamp program) is provided to an employer to be used for hiring and employing a public assistance recipient who was not employed by the employer at the time the public assistance recipient entered the program.

"(2) PROGRAM.—A State agency may elect to use an amount equal to the allotment that would otherwise be issued to a household under the food stamp program, but for the operation of this subsection, for the purpose of subsidizing or supporting a job under a work supplementation or support program established by the State.

"(3) PROCEDURE.—If a State agency makes an election under paragraph (2) and identifies each household that participates in the food stamp program that contains an individual who is participating in the work supplementation or support program—

"(A) the Secretary shall pay to the State agency an amount equal to the value of the allotment that the household would be eligible to receive but for the operation of this subsection;

"(B) the State agency shall expend the amount received under subparagraph (A) in accordance with the work supplementation or support program in lieu of providing the allotment that the household would receive but for the operation of this subsection;

"(C) for purposes of—

"(i) sections 5 and 8(a), the amount received under this subsection shall be excluded from household income and resources; and

"(ii) section 8(b), the amount received under this subsection shall be considered to be the value of an allotment provided to the household; and

"(D) the household shall not receive an allotment from the State agency for the period during which the member continues to participate in the work supplementation or support program.

"(4) OTHER WORK REQUIREMENTS.—No individual shall be excused, by reason of the fact that a State has a work supplementation or support program, from any work requirement under section 6(d), except during the periods in which the individual is employed under the work supplementation or support program.

"(5) LENGTH OF PARTICIPATION.—A State agency shall provide a description of how the public assistance recipients

in the program shall, within a specific period of time, be moved from supplemented or supported employment to employment that is not supplemented or supported.

"(6) DISPLACEMENT.—A work supplementation or support program shall not displace the employment of individuals who are not supplemented or supported.".

SEC. 850. WAIVER AUTHORITY.

Section 17(b)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2026(b)(1)) is amended—

(1) by redesignating subparagraph (B) as subparagraph (C); and

(2) in subparagraph (A)—

(A) in the first sentence, by striking "benefits to eligible households, including" and inserting the following: "benefits to eligible households, and may waive any requirement of this Act to the extent necessary for the project to be conducted.

"(B) PROJECT REQUIREMENTS.—

"(i) PROGRAM GOAL.—The Secretary may not conduct a project under subparagraph (A) unless—

"(I) the project is consistent with the goal of the food stamp program of providing food assistance to raise levels of nutrition among low-income individuals; and

"(II) the project includes an evaluation to determine the effects of the project.

"(ii) PERMISSIBLE PROJECTS.—The Secretary may conduct a project under subparagraph (A) to—

"(I) improve program administration;

"(II) increase the self-sufficiency of food stamp recipients;

"(III) test innovative welfare reform strategies; or

"(IV) allow greater conformity with the rules of other programs than would be allowed but for this paragraph.

"(iii) RESTRICTIONS ON PERMISSIBLE PROJECTS.—If the Secretary finds that a project under subparagraph (A) would reduce benefits by more than 20 percent for more than 5 percent of households in the area subject to the project (not including any household whose benefits are reduced due to a failure to comply with work or other conduct requirements), the project—

"(I) may not include more than 15 percent of the State's food stamp households; and

"(II) shall continue for not more than 5 years after the date of implementation, unless the Secretary approves an extension requested by the State agency at any time.

"(iv) IMPERMISSIBLE PROJECTS.—The Secretary may not conduct a project under subparagraph (A) that—

"(I) involves the payment of the value of an allotment in the form of cash, unless the project was approved prior to the date of enactment of this subparagraph;

"(II) has the effect of substantially transferring funds made available under this Act to services or benefits provided primarily through another public assistance program, or using the funds for any purpose other than the purchase of food, program administration, or an employment or training program;

"(III) is inconsistent with—

"(aa) the last 2 sentences of section 3(i);

"(bb) the last sentence of section 5(a), insofar as a waiver denies assistance to an otherwise eligible household or individual if the household or individual has not failed to comply with any work, behavioral, or other conduct requirement under this or another program;

"(cc) section 5(c)(2);

"(dd) paragraph (2)(B), (4)(F)(i), or (4)(K) of section 6(d);

"(ee) section 8(b);

"(ff) section 11(e)(2)(B);

"(gg) the time standard under section 11(e)(3);

"(hh) subsection (a), (c), (g), (h)(2), or (h)(3) of section 16;

"(ii) this paragraph; or

"(jj) subsection (a)(1) or (g)(1) of section 20;

"(IV) modifies the operation of section 5 so as to have the effect of—

"(aa) increasing the shelter deduction to households with no out-of-pocket housing costs or housing costs that consume a low percentage of the household's income; or

"(bb) absolving a State from acting with reasonable promptness on substantial reported changes in income or household size (except that this subclause shall not apply with regard to changes related to food stamp deductions);

"(V) is not limited to a specific time period; or

"(VI) waives a provision of section 26.

"(v) ADDITIONAL INCLUDED PROJECTS.—A pilot or experimental project may include";

(B) by striking "to aid to families with dependent children under part A of title IV of the Social Security Act" and inserting "are receiving assistance under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)"; and

(C) by striking "coupons. The Secretary" and all that follows through "Any pilot" and inserting the following: "coupons.

"(vi) CASH PAYMENT PILOT PROJECTS.—Any pilot".

SEC. 851. RESPONSE TO WAIVERS.

Section 17(b)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2026(b)(1)), as amended by section 850, is amended by adding at the end the following:

"(D) RESPONSE TO WAIVERS.—

"(i) RESPONSE.—Not later than 60 days after the date of receiving a request for a waiver under subparagraph (A), the Secretary shall provide a response that—

"(I) approves the waiver request;

"(II) denies the waiver request and describes any modification needed for approval of the waiver request;

"(III) denies the waiver request and describes the grounds for the denial; or

"(IV) requests clarification of the waiver request.

"(ii) FAILURE TO RESPOND.—If the Secretary does not provide a response in accordance with clause (i), the waiver shall be considered approved, unless the approval is specifically prohibited by this Act.

"(iii) NOTICE OF DENIAL.—On denial of a waiver request under clause (i)(III), the Secretary shall provide a copy of the waiver request and a description of the reasons for the denial to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.".

SEC. 852. EMPLOYMENT INITIATIVES PROGRAM.

Section 17 of the Food Stamp Act of 1977 (7 U.S.C. 2026) is amended by striking subsection (d) and inserting the following:

"(d) EMPLOYMENT INITIATIVES PROGRAM.—

"(1) ELECTION TO PARTICIPATE.—

"(A) IN GENERAL.—Subject to the other provisions of this subsection, a State may elect to carry out an employment initiatives program under this subsection.

"(B) REQUIREMENT.—A State shall be eligible to carry out an employment initiatives program under this subsection only if not less than 50 percent of the households in the State that received food stamp benefits during the summer of 1993 also received benefits under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) during the summer of 1993.

"(2) PROCEDURE.—

"(A) IN GENERAL.—A State that has elected to carry out an employment initiatives program under paragraph (1) may use amounts equal to the food stamp allotments that would otherwise be issued to a household under the food stamp program, but for the operation of this subsection, to provide cash benefits in lieu of the food stamp allotments to the household if the household is eligible under paragraph (3).

"(B) PAYMENT.—The Secretary shall pay to each State that has elected to carry out an employment initiatives program under paragraph (1) an amount equal to the value of the allotment that each household participating in the

program in the State would be eligible to receive under this Act but for the operation of this subsection.

"(C) OTHER PROVISIONS.—For purposes of the food stamp program (other than this subsection)—

"(i) cash assistance under this subsection shall be considered to be an allotment; and

"(ii) each household receiving cash benefits under this subsection shall not receive any other food stamp benefit during the period for which the cash assistance is provided.

"(D) ADDITIONAL PAYMENTS.—Each State that has elected to carry out an employment initiatives program under paragraph (1) shall—

"(i) increase the cash benefits provided to each household participating in the program in the State under this subsection to compensate for any State or local sales tax that may be collected on purchases of food by the household, unless the Secretary determines on the basis of information provided by the State that the increase is unnecessary on the basis of the limited nature of the items subject to the State or local sales tax; and

"(ii) pay the cost of any increase in cash benefits required by clause (i).

"(3) ELIGIBILITY.—A household shall be eligible to receive cash benefits under paragraph (2) if an adult member of the household—

"(A) has worked in unsubsidized employment for not less than the preceding 90 days;

"(B) has earned not less than $350 per month from the employment referred to in subparagraph (A) for not less than the preceding 90 days;

"(C)(i) is receiving benefits under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.); or

"(ii) was receiving benefits under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) at the time the member first received cash benefits under this subsection and is no longer eligible for the State program because of earned income;

"(D) is continuing to earn not less than $350 per month from the employment referred to in subparagraph (A); and

"(E) elects to receive cash benefits in lieu of food stamp benefits under this subsection.

"(4) EVALUATION.—A State that operates a program under this subsection for 2 years shall provide to the Secretary a written evaluation of the impact of cash assistance under this subsection. The State agency, with the concurrence of the Secretary, shall determine the content of the evaluation.".

SEC. 853. REAUTHORIZATION.

The first sentence of section 18(a)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2027(a)(1)) is amended by striking "1991 through 1997" and inserting "1996 through 2002".

SEC. 854. SIMPLIFIED FOOD STAMP PROGRAM.

(a) IN GENERAL.—The Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) is amended by adding at the end the following:

7 USC 2035.

"SEC. 26. SIMPLIFIED FOOD STAMP PROGRAM.

"(a) DEFINITION OF FEDERAL COSTS.—In this section, the term 'Federal costs' does not include any Federal costs incurred under section 17.

"(b) ELECTION.—Subject to subsection (d), a State may elect to carry out a Simplified Food Stamp Program (referred to in this section as a 'Program'), statewide or in a political subdivision of the State, in accordance with this section.

"(c) OPERATION OF PROGRAM.—If a State elects to carry out a Program, within the State or a political subdivision of the State—

"(1) a household in which no members receive assistance under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) may not participate in the Program;

"(2) a household in which all members receive assistance under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) shall automatically be eligible to participate in the Program;

"(3) if approved by the Secretary, a household in which 1 or more members but not all members receive assistance under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) may be eligible to participate in the Program; and

"(4) subject to subsection (f), benefits under the Program shall be determined under rules and procedures established by the State under—

"(A) a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.);

"(B) the food stamp program; or

"(C) a combination of a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) and the food stamp program.

"(d) APPROVAL OF PROGRAM.—

"(1) STATE PLAN.—A State agency may not operate a Program unless the Secretary approves a State plan for the operation of the Program under paragraph (2).

"(2) APPROVAL OF PLAN.—The Secretary shall approve any State plan to carry out a Program if the Secretary determines that the plan—

"(A) complies with this section; and

"(B) contains sufficient documentation that the plan will not increase Federal costs for any fiscal year.

"(e) INCREASED FEDERAL COSTS.—

"(1) DETERMINATION.—

"(A) IN GENERAL.—The Secretary shall determine whether a Program being carried out by a State agency is increasing Federal costs under this Act.

"(B) NO EXCLUDED HOUSEHOLDS.—In making a determination under subparagraph (A), the Secretary shall not require the State agency to collect or report any information on households not included in the Program.

"(C) ALTERNATIVE ACCOUNTING PERIODS.—The Secretary may approve the request of a State agency to apply

alternative accounting periods to determine if Federal costs do not exceed the Federal costs had the State agency not elected to carry out the Program.

"(2) NOTIFICATION.—If the Secretary determines that the Program has increased Federal costs under this Act for any fiscal year or any portion of any fiscal year, the Secretary shall notify the State not later than 30 days after the Secretary makes the determination under paragraph (1).

"(3) ENFORCEMENT.—

"(A) CORRECTIVE ACTION.—Not later than 90 days after the date of a notification under paragraph (2), the State shall submit a plan for approval by the Secretary for prompt corrective action that is designed to prevent the Program from increasing Federal costs under this Act.

"(B) TERMINATION.—If the State does not submit a plan under subparagraph (A) or carry out a plan approved by the Secretary, the Secretary shall terminate the approval of the State agency operating the Program and the State agency shall be ineligible to operate a future Program.

"(f) RULES AND PROCEDURES.—

"(1) IN GENERAL.—In operating a Program, a State or political subdivision of a State may follow the rules and procedures established by the State or political subdivision under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) or under the food stamp program.

"(2) STANDARDIZED DEDUCTIONS.—In operating a Program, a State or political subdivision of a State may standardize the deductions provided under section 5(e). In developing the standardized deduction, the State shall consider the work expenses, dependent care costs, and shelter costs of participating households.

"(3) REQUIREMENTS.—In operating a Program, a State or political subdivision shall comply with the requirements of—

"(A) subsections (a) through (g) of section 7;

"(B) section 8(a) (except that the income of a household may be determined under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.));

"(C) subsection (b) and (d) of section 8;

"(D) subsections (a), (c), (d), and (n) of section 11;

"(E) paragraphs (8), (12), (16), (18), (20), (24), and (25) of section 11(e);

"(F) section 11(e)(10) (or a comparable requirement established by the State under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)); and

"(G) section 16.

"(4) LIMITATION ON ELIGIBILITY.—Notwithstanding any other provision of this section, a household may not receive benefits under this section as a result of the eligibility of the household under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), unless the Secretary determines that any household with income above 130 percent of the poverty guidelines is not eligible for the program.".

(b) STATE PLAN PROVISIONS.—Section 11(e) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)), as amended by sections 819(b) and 835, is amended by adding at the end the following:

"(25) if a State elects to carry out a Simplified Food Stamp Program under section 26, the plans of the State agency for operating the program, including—

"(A) the rules and procedures to be followed by the State agency to determine food stamp benefits;

"(B) how the State agency will address the needs of households that experience high shelter costs in relation to the incomes of the households; and

"(C) a description of the method by which the State agency will carry out a quality control system under section 16(c).".

(c) CONFORMING AMENDMENTS.—

(1) Section 8 of the Food Stamp Act of 1977 (7 U.S.C. 2017), as amended by section 830, is amended—

(A) by striking subsection (e); and

(B) by redesignating subsection (f) as subsection (e).

(2) Section 17 of the Food Stamp Act of 1977 (7 U.S.C. 2026) is amended—

(A) by striking subsection (i); and

(B) by redesignating subsections (j) through (l) as subsections (i) through (k), respectively.

7 USC 2026 note.

SEC. 855. STUDY OF THE USE OF FOOD STAMPS TO PURCHASE VITAMINS AND MINERALS.

(a) IN GENERAL.—The Secretary of Agriculture, in consultation with the National Academy of Sciences and the Center for Disease Control and Prevention, shall conduct a study on the use of food stamps provided under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) to purchase vitamins and minerals.

(b) ANALYSIS.—The study shall include—

(1) an analysis of scientific findings on the efficacy of and need for vitamins and minerals, including—

(A) the adequacy of vitamin and mineral intakes in low-income populations, as shown by research and surveys conducted prior to the study; and

(B) the potential value of nutritional supplements in filling nutrient gaps that may exist in the United States population as a whole or in vulnerable subgroups in the population;

(2) the impact of nutritional improvements (including vitamin or mineral supplementation) on the health status and health care costs of women of childbearing age, pregnant or lactating women, and the elderly;

(3) the cost of commercially available vitamin and mineral supplements;

(4) the purchasing habits of low-income populations with regard to vitamins and minerals;

(5) the impact of using food stamps to purchase vitamins and minerals on the food purchases of low-income households; and

(6) the economic impact on the production of agricultural commodities of using food stamps to purchase vitamins and minerals.

(c) REPORT.—Not later than December 15, 1998, the Secretary shall report the results of the study to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

SEC. 856. DEFICIT REDUCTION.

It is the sense of the Committee on Agriculture of the House of Representatives that reductions in outlays resulting from this title shall not be taken into account for purposes of section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 902).

Subtitle B—Commodity Distribution Programs

SEC. 871. EMERGENCY FOOD ASSISTANCE PROGRAM.

(a) DEFINITIONS.—Section 201A of the Emergency Food Assistance Act of 1983 (Public Law 98–8; 7 U.S.C. 612c note) is amended to read as follows:

"SEC. 201A. DEFINITIONS.

"In this Act:

"(1) ADDITIONAL COMMODITIES.—The term 'additional commodities' means commodities made available under section 214 in addition to the commodities made available under sections 202 and 203D.

"(2) AVERAGE MONTHLY NUMBER OF UNEMPLOYED PERSONS.—The term 'average monthly number of unemployed persons' means the average monthly number of unemployed persons in each State during the most recent fiscal year for which information concerning the number of unemployed persons is available, as determined by the Bureau of Labor Statistics of the Department of Labor.

"(3) ELIGIBLE RECIPIENT AGENCY.—The term 'eligible recipient agency' means a public or nonprofit organization that—

"(A) administers—

"(i) an emergency feeding organization;

"(ii) a charitable institution (including a hospital and a retirement home, but excluding a penal institution) to the extent that the institution serves needy persons;

"(iii) a summer camp for children, or a child nutrition program providing food service;

"(iv) a nutrition project operating under the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.), including a project that operates a congregate nutrition site and a project that provides home-delivered meals; or

"(v) a disaster relief program;

"(B) has been designated by the appropriate State agency, or by the Secretary; and

"(C) has been approved by the Secretary for participation in the program established under this Act.

"(4) EMERGENCY FEEDING ORGANIZATION.—The term 'emergency feeding organization' means a public or nonprofit organization that administers activities and projects (including

the activities and projects of a charitable institution, a food bank, a food pantry, a hunger relief center, a soup kitchen, or a similar public or private nonprofit eligible recipient agency) providing nutrition assistance to relieve situations of emergency and distress through the provision of food to needy persons, including low-income and unemployed persons.

"(5) FOOD BANK.—The term 'food bank' means a public or charitable institution that maintains an established operation involving the provision of food or edible commodities, or the products of food or edible commodities, to food pantries, soup kitchens, hunger relief centers, or other food or feeding centers that, as an integral part of their normal activities, provide meals or food to feed needy persons on a regular basis.

"(6) FOOD PANTRY.—The term 'food pantry' means a public or private nonprofit organization that distributes food to low-income and unemployed households, including food from sources other than the Department of Agriculture, to relieve situations of emergency and distress.

"(7) POVERTY LINE.—The term 'poverty line' has the meaning provided in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)).

"(8) SOUP KITCHEN.—The term 'soup kitchen' means a public or charitable institution that, as an integral part of the normal activities of the institution, maintains an established feeding operation to provide food to needy homeless persons on a regular basis.

"(9) TOTAL VALUE OF ADDITIONAL COMMODITIES.—The term 'total value of additional commodities' means the actual cost of all additional commodities that are paid by the Secretary (including the distribution and processing costs incurred by the Secretary).

"(10) VALUE OF ADDITIONAL COMMODITIES ALLOCATED TO EACH STATE.—The term 'value of additional commodities allocated to each State' means the actual cost of additional commodities allocated to each State that are paid by the Secretary (including the distribution and processing costs incurred by the Secretary).".

(b) STATE PLAN.—Section 202A of the Emergency Food Assistance Act of 1983 (Public Law 98–8; 7 U.S.C. 612c note) is amended to read as follows:

"SEC. 202A. STATE PLAN.

"(a) IN GENERAL.—To receive commodities under this Act, a State shall submit a plan of operation and administration every 4 years to the Secretary for approval. The plan may be amended at any time, with the approval of the Secretary.

"(b) REQUIREMENTS.—Each plan shall—

"(1) designate the State agency responsible for distributing the commodities received under this Act;

"(2) set forth a plan of operation and administration to expeditiously distribute commodities under this Act;

"(3) set forth the standards of eligibility for recipient agencies; and

"(4) set forth the standards of eligibility for individual or household recipients of commodities, which shall require—

"(A) individuals or households to be comprised of needy persons; and

"(B) individual or household members to be residing in the geographic location served by the distributing agency at the time of applying for assistance.

"(c) STATE ADVISORY BOARD.—The Secretary shall encourage each State receiving commodities under this Act to establish a State advisory board consisting of representatives of all entities in the State, both public and private, interested in the distribution of commodities received under this Act.".

(c) AUTHORIZATION OF APPROPRIATIONS FOR ADMINISTRATIVE FUNDS.—Section 204(a)(1) of the Emergency Food Assistance Act of 1983 (Public Law 98–8; 7 U.S.C. 612c note) is amended—

(1) in the first sentence, by striking "for State and local" and all that follows through "under this title" and inserting "to pay for the direct and indirect administrative costs of the States related to the processing, transporting, and distributing to eligible recipient agencies of commodities provided by the Secretary under this Act and commodities secured from other sources"; and

(2) by striking the fourth sentence.

(d) DELIVERY OF COMMODITIES.—Section 214 of the Emergency Food Assistance Act of 1983 (Public Law 98–8; 7 U.S.C. 612c note) is amended—

(1) by striking subsections (a) through (e) and (j);

(2) by redesignating subsections (f) through (i) as subsections (a) through (d), respectively;

(3) in subsection (b), as redesignated by paragraph (2)—

(A) in the first sentence, by striking "subsection (f) or subsection (j) if applicable," and inserting "subsection (a),"; and

(B) in the second sentence, by striking "subsection (f)" and inserting "subsection (a)";

(4) by striking subsection (c), as redesignated by paragraph (2), and inserting the following:

"(c) ADMINISTRATION.—

"(1) IN GENERAL.—Commodities made available for each fiscal year under this section shall be delivered at reasonable intervals to States based on the grants calculated under subsection (a), or reallocated under subsection (b), before December 31 of the following fiscal year.

"(2) ENTITLEMENT.—Each State shall be entitled to receive the value of additional commodities determined under subsection (a)."; and

(5) in subsection (d), as redesignated by paragraph (2), by striking "or reduce" and all that follows through "each fiscal year".

(e) TECHNICAL AMENDMENTS.—The Emergency Food Assistance Act of 1983 (Public Law 98–8; 7 U.S.C. 612c note) is amended—

(1) in the first sentence of section 203B(a), by striking "203 and 203A of this Act" and inserting "203A";

(2) in section 204(a), by striking "title" each place it appears and inserting "Act";

(3) in the first sentence of section 210(e), by striking "(except as otherwise provided for in section 214(j))"; and

(4) by striking section 212.

(f) REPORT ON EFAP.—Section 1571 of the Food Security Act of 1985 (Public Law 99–198; 7 U.S.C. 612c note) is repealed.

(g) AVAILABILITY OF COMMODITIES UNDER THE FOOD STAMP PROGRAM.—The Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), as amended by section 854(a), is amended by adding at the end the following:

7 USC 2036.

"SEC. 27. AVAILABILITY OF COMMODITIES FOR THE EMERGENCY FOOD ASSISTANCE PROGRAM.

"(a) PURCHASE OF COMMODITIES.—From amounts made available to carry out this Act, for each of fiscal years 1997 through 2002, the Secretary shall purchase $100,000,000 of a variety of nutritious and useful commodities of the types that the Secretary has the authority to acquire through the Commodity Credit Corporation or under section 32 of the Act entitled 'An Act to amend the Agricultural Adjustment Act, and for other purposes', approved August 24, 1935 (7 U.S.C. 612c), and distribute the commodities to States for distribution in accordance with section 214 of the Emergency Food Assistance Act of 1983 (Public Law 98–8; 7 U.S.C. 612c note).

"(b) BASIS FOR COMMODITY PURCHASES.—In purchasing commodities under subsection (a), the Secretary shall, to the extent practicable and appropriate, make purchases based on—

"(1) agricultural market conditions;

"(2) preferences and needs of States and distributing agencies; and

"(3) preferences of recipients.".

7 USC 612c note.

(h) EFFECTIVE DATE.—The amendments made by subsection (d) shall become effective on October 1, 1996.

SEC. 872. FOOD BANK DEMONSTRATION PROJECT.

Section 3 of the Charitable Assistance and Food Bank Act of 1987 (Public Law 100–232; 7 U.S.C. 612c note) is repealed.

SEC. 873. HUNGER PREVENTION PROGRAMS.

The Hunger Prevention Act of 1988 (Public Law 100–435; 7 U.S.C. 612c note) is amended—

(1) by striking section 110;

(2) by striking subtitle C of title II; and

(3) by striking section 502.

SEC. 874. REPORT ON ENTITLEMENT COMMODITY PROCESSING.

Section 1773 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 7 U.S.C. 612c note) is amended by striking subsection (f).

Subtitle C—Electronic Benefit Transfer Systems

SEC. 891. PROVISIONS TO ENCOURAGE ELECTRONIC BENEFIT TRANSFER SYSTEMS.

Section 904 of the Electronic Fund Transfer Act (15 U.S.C. 1693b) is amended—

(1) by striking "(d) In the event that" and inserting "(d) APPLICABILITY TO SERVICE PROVIDERS OTHER THAN CERTAIN FINANCIAL INSTITUTIONS.—

"(1) IN GENERAL.—If"; and

(2) by adding at the end the following:

"(2) STATE AND LOCAL GOVERNMENT ELECTRONIC BENEFIT TRANSFER SYSTEMS.—

"(A) DEFINITION OF ELECTRONIC BENEFIT TRANSFER SYSTEM.—In this paragraph, the term 'electronic benefit transfer system'—

"(i) means a system under which a government agency distributes needs-tested benefits by establishing accounts that may be accessed by recipients electronically, such as through automated teller machines or point-of-sale terminals; and

"(ii) does not include employment-related payments, including salaries and pension, retirement, or unemployment benefits established by a Federal, State, or local government agency.

"(B) EXEMPTION GENERALLY.—The disclosures, protections, responsibilities, and remedies established under this title, and any regulation prescribed or order issued by the Board in accordance with this title, shall not apply to any electronic benefit transfer system established under State or local law or administered by a State or local government.

"(C) EXCEPTION FOR DIRECT DEPOSIT INTO RECIPIENT'S ACCOUNT.—Subparagraph (B) shall not apply with respect to any electronic funds transfer under an electronic benefit transfer system for a deposit directly into a consumer account held by the recipient of the benefit.

"(D) RULE OF CONSTRUCTION.—No provision of this paragraph—

"(i) affects or alters the protections otherwise applicable with respect to benefits established by any other provision Federal, State, or local law; or

"(ii) otherwise supersedes the application of any State or local law.".

TITLE IX—MISCELLANEOUS

SEC. 901. APPROPRIATION BY STATE LEGISLATURES. 42 USC 601 note.

(a) IN GENERAL.—Any funds received by a State under the provisions of law specified in subsection (b) shall be subject to appropriation by the State legislature, consistent with the terms and conditions required under such provisions of law.

(b) PROVISIONS OF LAW.—The provisions of law specified in this subsection are the following:

(1) Part A of title IV of the Social Security Act (relating to block grants for temporary assistance for needy families).

(2) The Child Care and Development Block Grant Act of 1990 (relating to block grants for child care).

SEC. 902. SANCTIONING FOR TESTING POSITIVE FOR CONTROLLED SUBSTANCES. 21 USC 862b.

Notwithstanding any other provision of law, States shall not be prohibited by the Federal Government from testing welfare recipients for use of controlled substances nor from sanctioning welfare recipients who test positive for use of controlled substances.

SEC. 903. ELIMINATION OF HOUSING ASSISTANCE WITH RESPECT TO FUGITIVE FELONS AND PROBATION AND PAROLE VIOLATORS.

(a) ELIGIBILITY FOR ASSISTANCE.—The United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended—

42 USC 1437d.

(1) in section 6(l)—

(A) in paragraph (5), by striking "and" at the end;

(B) in paragraph (6), by striking the period at the end and inserting "; and"; and

(C) by inserting immediately after paragraph (6) the following new paragraph:

"(7) provide that it shall be cause for immediate termination of the tenancy of a public housing tenant if such tenant—

"(A) is fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the individual flees, for a crime, or attempt to commit a crime, which is a felony under the laws of the place from which the individual flees, or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State; or

"(2) is violating a condition of probation or parole imposed under Federal or State law."; and

42 USC 1437f.

(2) in section 8(d)(1)(B)—

(A) in clause (iii), by striking "and" at the end;

(B) in clause (iv), by striking the period at the end and inserting "; and"; and

(C) by adding after clause (iv) the following new clause:

"(v) it shall be cause for termination of the tenancy of a tenant if such tenant—

"(I) is fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the individual flees, for a crime, or attempt to commit a crime, which is a felony under the laws of the place from which the individual flees, or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State; or

"(II) is violating a condition of probation or parole imposed under Federal or State law;".

(b) PROVISION OF INFORMATION TO LAW ENFORCEMENT AGENCIES.—Title I of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended by adding at the end the following:

42 USC 1437z.

"SEC. 27. EXCHANGE OF INFORMATION WITH LAW ENFORCEMENT AGENCIES.

"Notwithstanding any other provision of law, each public housing agency that enters into a contract for assistance under section 6 or 8 of this Act with the Secretary shall furnish any Federal, State, or local law enforcement officer, upon the request of the officer, with the current address, Social Security number, and photograph (if applicable) of any recipient of assistance under this Act, if the officer—

"(1) furnishes the public housing agency with the name of the recipient; and

"(2) notifies the agency that—

"(A) such recipient—

"(i) is fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the individual flees, for a crime, or attempt to commit a crime, which is a felony under the laws of the place from which the individual flees, or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State; or

"(ii) is violating a condition of probation or parole imposed under Federal or State law; or

"(iii) has information that is necessary for the officer to conduct the officer's official duties;

"(B) the location or apprehension of the recipient is within such officer's official duties; and

"(C) the request is made in the proper exercise of the officer's official duties.".

SEC. 904. SENSE OF THE SENATE REGARDING THE INABILITY OF THE NONCUSTODIAL PARENT TO PAY CHILD SUPPORT.

It is the sense of the Senate that—

(a) States should diligently continue their efforts to enforce child support payments by the non-custodial parent to the custodial parent, regardless of the employment status or location of the non-custodial parent; and

(b) States are encouraged to pursue pilot programs in which the parents of a non-adult, non-custodial parent who refuses to or is unable to pay child support must—

(1) pay or contribute to the child support owed by the non-custodial parent; or

(2) otherwise fulfill all financial obligations and meet all conditions imposed on the non-custodial parent, such as participation in a work program or other related activity.

SEC. 905. ESTABLISHING NATIONAL GOALS TO PREVENT TEENAGE PREGNANCIES. 42 USC 710 note.

(a) IN GENERAL.—Not later than January 1, 1997, the Secretary of Health and Human Services shall establish and implement a strategy for—

(1) preventing out-of-wedlock teenage pregnancies, and

(2) assuring that at least 25 percent of the communities in the United States have teenage pregnancy prevention programs in place.

(b) REPORT.—Not later than June 30, 1998, and annually thereafter, the Secretary shall report to the Congress with respect to the progress that has been made in meeting the goals described in paragraphs (1) and (2) of subsection (a).

SEC. 906. SENSE OF THE SENATE REGARDING ENFORCEMENT OF STATUTORY RAPE LAWS. 42 USC 14016.

(a) SENSE OF THE SENATE.—It is the sense of the Senate that States and local jurisdictions should aggressively enforce statutory rape laws.

(b) JUSTICE DEPARTMENT PROGRAM ON STATUTORY RAPE.—Not later than January 1, 1997, the Attorney General shall establish and implement a program that— Establishment.

(1) studies the linkage between statutory rape and teenage pregnancy, particularly by predatory older men committing repeat offenses; and

(2) educates State and local criminal law enforcement officials on the prevention and prosecution of statutory rape, focusing in particular on the commission of statutory rape by predatory older men committing repeat offenses, and any links to teenage pregnancy.

(c) VIOLENCE AGAINST WOMEN INITIATIVE.—The Attorney General shall ensure that the Department of Justice's Violence Against Women initiative addresses the issue of statutory rape, particularly the commission of statutory rape by predatory older men committing repeat offenses.

SEC. 907. PROVISIONS TO ENCOURAGE ELECTRONIC BENEFIT TRANSFER SYSTEMS.

Section 904 of the Electronic Fund Transfer Act (15 U.S.C. 1693b) is amended—

(1) by striking "(d) In the event" and inserting "(d) APPLICABILITY TO SERVICE PROVIDERS OTHER THAN CERTAIN FINANCIAL INSTITUTIONS.—

"(1) IN GENERAL.—In the event"; and

(2) by adding at the end the following new paragraph:

"(2) STATE AND LOCAL GOVERNMENT ELECTRONIC BENEFIT TRANSFER PROGRAMS.—

"(A) EXEMPTION GENERALLY.—The disclosures, protections, responsibilities, and remedies established under this title, and any regulation prescribed or order issued by the Board in accordance with this title, shall not apply to any electronic benefit transfer program established under State or local law or administered by a State or local government.

"(B) EXCEPTION FOR DIRECT DEPOSIT INTO RECIPIENT'S ACCOUNT.—Subparagraph (A) shall not apply with respect to any electronic funds transfer under an electronic benefit transfer program for deposits directly into a consumer account held by the recipient of the benefit.

"(C) RULE OF CONSTRUCTION.—No provision of this paragraph may be construed as—

"(i) affecting or altering the protections otherwise applicable with respect to benefits established by Federal, State, or local law; or

"(ii) otherwise superseding the application of any State or local law.

"(D) ELECTRONIC BENEFIT TRANSFER PROGRAM DEFINED.—For purposes of this paragraph, the term 'electronic benefit transfer program'—

"(i) means a program under which a government agency distributes needs-tested benefits by establishing accounts to be accessed by recipients electronically, such as through automated teller machines, or point-of-sale terminals; and

"(ii) does not include employment-related payments, including salaries and pension, retirement, or unemployment benefits established by Federal, State, or local governments.".

SEC. 908. REDUCTION OF BLOCK GRANTS TO STATES FOR SOCIAL SERVICES; USE OF VOUCHERS.

(a) REDUCTION OF GRANTS.—Section 2003(c) of the Social Security Act (42 U.S.C. 1397b(c)) is amended—

(1) by striking "and" at the end of paragraph (4); and

(2) by striking paragraph (5) and inserting the following:

"(5) $2,800,000,000 for each of the fiscal years 1990 through 1995;

"(6) $2,381,000,000 for the fiscal year 1996;

"(7) $2,380,000,000 for each of the fiscal years 1997 through 2002; and

"(8) $2,800,000,000 for the fiscal year 2003 and each succeeding fiscal year.".

(b) AUTHORITY TO USE VOUCHERS.—Section 2002 of such Act (42 U.S.C. 1937a) is amended by adding at the end the following: 42 USC 1397a.

"(f) A State may use funds provided under this title to provide vouchers, for services directed at the goals set forth in section 2001, to families, including—

"(1) families who have become ineligible for assistance under a State program funded under part A of title IV by reason of a durational limit on the provision of such assistance; and

"(2) families denied cash assistance under the State program funded under part A of title IV for a child who is born to a member of the family who is—

"(A) a recipient of assistance under the program; or

"(B) a person who received such assistance at any time during the 10-month period ending with the birth of the child.".

SEC. 909. RULES RELATING TO DENIAL OF EARNED INCOME CREDIT ON BASIS OF DISQUALIFIED INCOME.

(a) REDUCTION IN DISQUALIFIED INCOME THRESHOLD.—

(1) IN GENERAL.—Paragraph (1) of section 32(i) of the Internal Revenue Code of 1986 (relating to denial of credit for individuals having excessive investment income) is amended by striking "$2,350" and inserting "$2,200".

(2) ADJUSTMENT FOR INFLATION.—Subsection (j) of section 32 of such Code is amended to read as follows:

"(j) INFLATION ADJUSTMENTS.—

"(1) IN GENERAL.—In the case of any taxable year beginning after 1996, each of the dollar amounts in subsections (b)(2) and (i)(1) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 1995' for 'calendar year 1992' in subparagraph (B) thereof.

"(2) ROUNDING.—

"(A) IN GENERAL.—If any dollar amount in subsection (b)(2), after being increased under paragraph (1), is not a multiple of $10, such dollar amount shall be rounded to the nearest multiple of $10.

"(B) DISQUALIFIED INCOME THRESHOLD AMOUNT.—If the dollar amount in subsection (i)(1), after being increased under paragraph (1), is not a multiple of $50, such amount shall be rounded to the next lowest multiple of $50.".

(3) CONFORMING AMENDMENT.—Paragraph (2) of section 32(b) of such Code is amended to read as follows:

"(2) AMOUNTS.—The earned income amount and the phaseout amount shall be determined as follows:

In the case of an eligible individual with:	The earned income amount is:	The phaseout amount is:
1 qualifying child	$6,330	$11,610
2 or more qualifying children.	$8,890	$11,610
No qualifying children	$4,220	$ 5,280".

(b) DEFINITION OF DISQUALIFIED INCOME.—Paragraph (2) of section 32(i) of such Code (defining disqualified income) is amended by striking "and" at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting a comma, and by adding at the end the following new subparagraphs:

"(D) the capital gain net income (as defined in section 1222) of the taxpayer for such taxable year, and

"(E) the excess (if any) of—

"(i) the aggregate income from all passive activities for the taxable year (determined without regard to any amount included in earned income under subsection (c)(2) or described in a preceding subparagraph), over

"(ii) the aggregate losses from all passive activities for the taxable year (as so determined).

For purposes of subparagraph (E), the term 'passive activity' has the meaning given such term by section 469.".

26 USC 32 note.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1995.

(2) ADVANCE PAYMENT INDIVIDUALS.—In the case of any individual who on or before June 26, 1996, has in effect an earned income eligibility certificate for the individual's taxable year beginning in 1996, the amendments made by this section shall apply to taxable years beginning after December 31, 1996.

SEC. 910. MODIFICATION OF ADJUSTED GROSS INCOME DEFINITION FOR EARNED INCOME CREDIT.

(a) IN GENERAL.—Subsections (a)(2)(B), (c)(1)(C), and (f)(2)(B) of section 32 of the Internal Revenue Code of 1986 are each amended by striking "adjusted gross income" each place it appears and inserting "modified adjusted gross income".

(b) MODIFIED ADJUSTED GROSS INCOME DEFINED.—Section 32(c) of such Code (relating to definitions and special rules) is amended by adding at the end the following new paragraph:

"(5) MODIFIED ADJUSTED GROSS INCOME.—

"(A) IN GENERAL.—The term 'modified adjusted gross income' means adjusted gross income determined without regard to the amounts described in subparagraph (B).

"(B) CERTAIN AMOUNTS DISREGARDED.—An amount is described in this subparagraph if it is—

"(i) the amount of losses from sales or exchanges of capital assets in excess of gains from such sales

or exchanges to the extent such amount does not exceed the amount under section 1211(b)(1),

"(ii) the net loss from estates and trusts,

"(iii) the excess (if any) of amounts described in subsection (i)(2)(C)(ii) over the amounts described in subsection (i)(2)(C)(i) (relating to nonbusiness rents and royalties), and

"(iv) 50 percent of the net loss from the carrying on of trades or businesses, computed separately with respect to—

"(I) trades or businesses (other than farming) conducted as sole proprietorships,

"(II) trades or businesses of farming conducted as sole proprietorships, and

"(III) other trades or businesses.

For purposes of clause (iv), there shall not be taken into account items which are attributable to a trade or business which consists of the performance of services by the taxpayer as an employee.".

(c) EFFECTIVE DATES.— 26 USC 32 note.

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1995.

(2) ADVANCE PAYMENT INDIVIDUALS.—In the case of any individual who on or before June 26, 1996, has in effect an earned income eligibility certificate for the individual's taxable year beginning in 1996, the amendments made by this section shall apply to taxable years beginning after December 31, 1996.

SEC. 911. FRAUD UNDER MEANS-TESTED WELFARE AND PUBLIC ASSISTANCE PROGRAMS. 42 USC 608a.

(a) IN GENERAL.—If an individual's benefits under a Federal, State, or local law relating to a means-tested welfare or a public assistance program are reduced because of an act of fraud by the individual under the law or program, the individual may not, for the duration of the reduction, receive an increased benefit under any other means-tested welfare or public assistance program for which Federal funds are appropriated as a result of a decrease in the income of the individual (determined under the applicable program) attributable to such reduction.

(b) WELFARE OR PUBLIC ASSISTANCE PROGRAMS FOR WHICH FEDERAL FUNDS ARE APPROPRIATED.—For purposes of subsection (a), the term "means-tested welfare or public assistance program for which Federal funds are appropriated" includes the food stamp program under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), any program of public or assisted housing under title I of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.), and any State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.).

SEC. 912. ABSTINENCE EDUCATION.

Title V of the Social Security Act (42 U.S.C. 701 et seq.) is amended by adding at the end the following section:

"SEPARATE PROGRAM FOR ABSTINENCE EDUCATION

"SEC. 510. (a) For the purpose described in subsection (b), the Secretary shall, for fiscal year 1998 and each subsequent fiscal 42 USC 710.

year, allot to each State which has transmitted an application for the fiscal year under section 505(a) an amount equal to the product of—

"(1) the amount appropriated in subsection (d) for the fiscal year; and

"(2) the percentage determined for the State under section 502(c)(1)(B)(ii).

"(b)(1) The purpose of an allotment under subsection (a) to a State is to enable the State to provide abstinence education, and at the option of the State, where appropriate, mentoring, counseling, and adult supervision to promote abstinence from sexual activity, with a focus on those groups which are most likely to bear children out-of-wedlock.

"(2) For purposes of this section, the term 'abstinence education' means an educational or motivational program which—

"(A) has as its exclusive purpose, teaching the social, psychological, and health gains to be realized by abstaining from sexual activity;

"(B) teaches abstinence from sexual activity outside marriage as the expected standard for all school age children;

"(C) teaches that abstinence from sexual activity is the only certain way to avoid out-of-wedlock pregnancy, sexually transmitted diseases, and other associated health problems;

"(D) teaches that a mutually faithful monogamous relationship in context of marriage is the expected standard of human sexual activity;

"(E) teaches that sexual activity outside of the context of marriage is likely to have harmful psychological and physical effects;

"(F) teaches that bearing children out-of-wedlock is likely to have harmful consequences for the child, the child's parents, and society;

"(G) teaches young people how to reject sexual advances and how alcohol and drug use increases vulnerability to sexual advances; and

"(H) teaches the importance of attaining self-sufficiency before engaging in sexual activity.

"(c)(1) Sections 503, 507, and 508 apply to allotments under subsection (a) to the same extent and in the same manner as such sections apply to allotments under section 502(c).

"(2) Sections 505 and 506 apply to allotments under subsection (a) to the extent determined by the Secretary to be appropriate.

Appropriation authorization.

"(d) For the purpose of allotments under subsection (a), there is appropriated, out of any money in the Treasury not otherwise appropriated, an additional $50,000,000 for each of the fiscal years 1998 through 2002. The appropriation under the preceding sentence for a fiscal year is made on October 1 of the fiscal year.".

Effective date.

Effective date.

SEC. 913. CHANGE IN REFERENCE.

Effective January 1, 1997, the third sentence of section 1902(a) and section 1908(e)(1) of the Social Security Act (42 U.S.C. 1396a(a), 1396g–1(e)(1)) are each amended by striking "The First Church of Christ, Scientist, Boston, Massachusetts" and inserting "The

Commission for Accreditation of Christian Science Nursing Organizations/Facilities, Inc." each place it appears.

Approved August 22, 1996.

LEGISLATIVE HISTORY—H.R. 3734 (S. 1956):

HOUSE REPORTS: Nos. 104–651 (Comm. on the Budget) and 104–725 (Comm. of Conference).

CONGRESSIONAL RECORD, Vol. 142 (1996):

July 17, 18, considered and passed House.

July 18, 19, 22, 23, considered and passed Senate, amended, in lieu of S. 1956.

July 31, House agreed to conference report.

Aug. 1, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 32 (1996):

Aug. 22, Presidential remarks and statement.

Public Law 104–194
104th Congress

An Act

Sept. 9, 1996
[H.R. 3845]

Making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1997, and for other purposes.

District of Columbia Appropriations Act, 1997.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the District of Columbia for the fiscal year ending September 30, 1997, and for other purposes, namely:

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA

For payment to the District of Columbia for the fiscal year ending September 30, 1997, $660,000,000, as authorized by section 502(a) of the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93–198, as amended (D.C. Code, sec. 47–3406.1).

FEDERAL CONTRIBUTION TO RETIREMENT FUNDS

For the Federal contribution to the Police Officers and Fire Fighters', Teachers', and Judges' Retirement Funds, as authorized by the District of Columbia Retirement Reform Act, approved November 17, 1979 (93 Stat. 866; Public Law 96–122), $52,070,000.

PRESIDENTIAL INAUGURATION

For payment to the District of Columbia in lieu of reimbursement for expenses incurred in connection with Presidential inauguration activities, $5,702,000, as authorized by section 737(b) of the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93–198, as amended (D.C. Code, sec. 1–1803), which shall be apportioned by the Chief Financial Officer within the various appropriation headings in this Act.

FEDERAL CONTRIBUTION FOR REPAIR OF DRINKING WATER SYSTEM

For a Federal contribution to the District of Columbia Financial Responsibility and Management Assistance Authority for contracting with a private entity (or entities) to carry out a program to inspect, flush, and repair the drinking water distribution system of the District of Columbia, $1,000,000.

DIVISION OF EXPENSES

The following amounts are appropriated for the District of Columbia for the current fiscal year out of the general fund of the District of Columbia, except as otherwise specifically provided.

GOVERNMENTAL DIRECTION AND SUPPORT

Governmental direction and support, $115,663,000 and 1,440 full-time equivalent positions (including $98,691,000 and 1,371 full-time equivalent positions from local funds, $12,192,000 and 8 full-time equivalent positions from Federal funds, and $4,780,000 and 61 full-time equivalent positions from other funds): *Provided,* That funds expended for the Office of the Mayor are not to exceed $2,109,000, of which $632,000 is from intra-District funds: *Provided further,* That $327,000 of the funds for the Office of the Mayor shall be transferred to the Department of Administrative Services as reimbursement for occupancy costs, including costs for telephone, electricity and other services: *Provided further,* That not to exceed $2,500 for the Mayor, $2,500 for the Chairman of the Council of the District of Columbia, and $2,500 for the City Administrator shall be available from this appropriation for official purposes: *Provided further,* That any program fees collected from the issuance of debt shall be available for the payment of expenses of the debt management program of the District of Columbia: *Provided further,* That no revenues from Federal sources shall be used to support the operations or activities of the Statehood Commission and Statehood Compact Commission: *Provided further,* That the District of Columbia shall identify the sources of funding for Admission to Statehood from its own locally-generated revenues.

ECONOMIC DEVELOPMENT AND REGULATION

Economic development and regulation, $135,704,000 and 1,501 full-time equivalent positions (including $67,196,000 and 720 full-time equivalent positions from local funds, $45,708,000 and 524 full-time equivalent positions from Federal funds, and $22,800,000 and 257 full-time equivalent positions from other funds).

PUBLIC SAFETY AND JUSTICE

Public safety and justice, including purchase of 135 passenger-carrying vehicles for replacement only, including 130 for police-type use and five for fire-type use, without regard to the general purchase price limitation for the current fiscal year, $1,041,281,000 and 11,842 full-time equivalent positions (including $1,012,112,000 and 11,726 full-time equivalent positions from local funds, $19,310,000 and 112 full-time equivalent positions from Federal funds, and $9,859,000 and 4 full-time equivalent positions from other funds): *Provided,* That the Metropolitan Police Department is authorized to replace not to exceed 25 passenger-carrying vehicles and the Fire Department of the District of Columbia is authorized to replace not to exceed five passenger-carrying vehicles annually whenever the cost of repair to any damaged vehicle exceeds three-fourths of the cost of the replacement: *Provided further,* That not to exceed $500,000 shall be available from this appropriation for the Chief of Police for the prevention and detection of crime: *Provided further,* That the Metropolitan Police Department shall pro- Reports.

vide quarterly reports to the Committees on Appropriations of the House and Senate on efforts to increase efficiency and improve the professionalism in the department: *Provided further,* That notwithstanding any other provision of law, or Mayor's Order 86–45, issued March 18, 1986, the Metropolitan Police Department's delegated small purchase authority shall be $500,000: *Provided further,* That the District of Columbia government may not require the Metropolitan Police Department to submit to any other procurement review process, or to obtain the approval of or be restricted in any manner by any official or employee of the District of Columbia government, for purchases that do not exceed $500,000: *Provided further,* That funds appropriated for expenses under the District of Columbia Criminal Justice Act, approved September 3, 1974 (88 Stat. 1090; Public Law 93–412; D.C. Code, sec. 11–2601 et seq.), for the fiscal year ending September 30, 1997, shall be available for obligations incurred under the Act in each fiscal year since inception in fiscal year 1975: *Provided further,* That funds appropriated for expenses under the District of Columbia Neglect Representation Equity Act of 1984, effective March 13, 1985 (D.C. Law 5–129; D.C. Code, sec. 16–2304), for the fiscal year ending September 30, 1997, shall be available for obligations incurred under the Act in each fiscal year since inception in fiscal year 1985: *Provided further,* That funds appropriated for expenses under the District of Columbia Guardianship, Protective Proceedings, and Durable Power of Attorney Act of 1986, effective February 27, 1987 (D.C. Law 6–204; D.C. Code, sec. 21–2060), for the fiscal year ending September 30, 1997, shall be available for obligations incurred under the Act in each fiscal year since inception in fiscal year 1989: *Provided further,* That not to exceed $1,500 for the Chief Judge of the District of Columbia Court of Appeals, $1,500 for the Chief Judge of the Superior Court of the District of Columbia, and $1,500 for the Executive Officer of the District of Columbia Courts shall be available from this appropriation for official purposes: *Provided further,* That the District of Columbia shall operate and maintain a free, 24-hour telephone information service whereby residents of the area surrounding Lorton prison in Fairfax County, Virginia, can promptly obtain information from District of Columbia government officials on all disturbances at the prison, including escapes, riots, and similar incidents: *Provided further,* That the District of Columbia government shall also take steps to publicize the availability of the 24-hour telephone information service among the residents of the area surrounding the Lorton prison: *Provided further,* That not to exceed $100,000 of this appropriation shall be used to reimburse Fairfax County, Virginia, and Prince William County, Virginia, for expenses incurred by the counties during the fiscal year ending September 30, 1997, in relation to the Lorton prison complex: *Provided further,* That such reimbursements shall be paid in all instances in which the District requests the counties to provide police, fire, rescue, and related services to help deal with escapes, fires, riots, and similar disturbances involving the prison: *Provided further,* That the Mayor shall reimburse the District of Columbia National Guard for expenses incurred in connection with services that are performed in emergencies by the National Guard in a militia status and are requested by the Mayor, in amounts that shall be jointly determined and certified as due and payable for these services by the Mayor and the Commanding General of the District of Columbia National Guard: *Provided fur-*

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ther, That such sums as may be necessary for reimbursement to the District of Columbia National Guard under the preceding proviso shall be available from this appropriation, and the availability of the sums shall be deemed as constituting payment in advance for emergency services involved.

PUBLIC EDUCATION SYSTEM

Public education system, including the development of national defense education programs, $758,815,000 and 11,276 full-time equivalent positions (including $632,379,000 and 10,045 full-time equivalent positions from local funds, $98,479,000 and 1,009 full-time equivalent positions from Federal funds, and $27,957,000 and 222 full-time equivalent positions from other funds), to be allocated as follows: $573,430,000 and 9,935 full-time equivalent positions (including $479,679,000 and 9,063 full-time equivalent positions from local funds, $85,823,000 and 840 full-time equivalent positions from Federal funds, and $7,928,000 and 32 full-time equivalent positions from other funds), for the public schools of the District of Columbia; $2,835,000 from local funds for public charter schools: *Provided,* That if the entirety of this allocation has not been provided as payments to one or more public charter schools by May 1, 1997, and remains unallocated, the funds will revert to the general fund of the District of Columbia in accordance with section 2403(a)(2)(D) of the District of Columbia School Reform Act of 1995 (Public Law 104–134); $88,100,000 from local funds for the District of Columbia Teachers' Retirement Fund; $69,801,000 and 917 full-time equivalent positions (including $38,479,000 and 572 full-time equivalent positions from local funds, $11,747,000 and 156 full-time equivalent positions from Federal funds, and $19,575,000 and 189 full-time equivalent positions from other funds) for the University of the District of Columbia; $22,429,000 and 415 full-time equivalent positions (including $21,529,000 and 408 full-time equivalent positions from local funds, $446,000 and 6 full-time equivalent positions from Federal funds, and $454,000 and 1 full-time equivalent position from other funds) for the Public Library; $2,220,000 and 9 full-time equivalent positions (including $1,757,000 and 2 full-time equivalent positions from local funds and $463,000 and 7 full-time equivalent positions from Federal funds) for the Commission on the Arts and Humanities: *Provided,* That the public schools of the District of Columbia are authorized to accept not to exceed 31 motor vehicles for exclusive use in the driver education program: *Provided further,* That not to exceed $2,500 for the Superintendent of Schools, $2,500 for the President of the University of the District of Columbia, and $2,000 for the Public Librarian shall be available from this appropriation for official purposes: *Provided further,* That not less than $9,200,000 shall be available from this appropriation for school repairs in a restricted line item: *Provided further,* That not less than $1,200,000 shall be available for local school allotments in a restricted line item: *Provided further,* That not less than $4,500,000 shall be available to support kindergarten aides in a restricted line item: *Provided further,* That not less than $2,800,000 shall be available to support substitute teachers in a restricted line item: *Provided further,* That not less than $1,788,000 shall be available in a restricted line item for school counselors: *Provided further,* That this appropriation shall not be available to subsidize the education of nonresidents

of the District of Columbia at the University of the District of Columbia, unless the Board of Trustees of the University of the District of Columbia adopts, for the fiscal year ending September 30, 1997, a tuition rate schedule that will establish the tuition rate for nonresident students at a level no lower than the nonresident tuition rate charged at comparable public institutions of higher education in the metropolitan area.

HUMAN SUPPORT SERVICES

Human support services, $1,685,707,000 and 6,344 full-time equivalent positions (including $961,399,000 and 3,814 full-time equivalent positions from local funds, $676,665,000 and 2,444 full-time equivalent positions from Federal funds, and $47,643,000 and 86 full-time equivalent positions from other funds): *Provided,* That $24,793,000 of this appropriation, to remain available until expended, shall be available solely for District of Columbia employees' disability compensation: *Provided further,* That the District of Columbia shall not provide free government services such as water, sewer, solid waste disposal or collection, utilities, maintenance, repairs, or similar services to any legally constituted private nonprofit organization (as defined in section 411(5) of Public Law 100–77, approved July 22, 1987) providing emergency shelter services in the District, if the District would not be qualified to receive reimbursement pursuant to the Stewart B. McKinney Homeless Assistance Act, approved July 22, 1987 (101 Stat. 485; Public Law 100–77; 42 U.S.C. 11301 et seq.).

PUBLIC WORKS

Public works, including rental of one passenger-carrying vehicle for use by the Mayor and three passenger-carrying vehicles for use by the Council of the District of Columbia and purchase of passenger-carrying vehicles for replacement only, $247,967,000 and 1,252 full-time equivalent positions (including $234,391,000 and 1,149 full-time equivalent positions from local funds, $3,047,000 and 32 full-time equivalent positions from Federal funds, and $10,529,000 and 71 full-time equivalent positions from other funds): *Provided*, That this appropriation shall not be available for collecting ashes or miscellaneous refuse from hotels and places of business.

WASHINGTON CONVENTION CENTER FUND TRANSFER PAYMENT

For payment to the Washington Convention Center Enterprise Fund, $5,400,000 from local funds.

REPAYMENT OF LOANS AND INTEREST

For reimbursement to the United States of funds loaned in compliance with An Act to provide for the establishment of a modern, adequate, and efficient hospital center in the District of Columbia, approved August 7, 1946 (60 Stat. 896; Public Law 79–648); section 1 of An Act to authorize the Commissioners of the District of Columbia to borrow funds for capital improvement programs and to amend provisions of law relating to Federal Government participation in meeting costs of maintaining the Nation's Capital City, approved June 6, 1958 (72 Stat. 183; Public Law 85–451; D.C. Code, sec. 9–219); section 4 of An Act to authorize the Commis-

sioners of the District of Columbia to plan, construct, operate, and maintain a sanitary sewer to connect the Dulles International Airport with the District of Columbia system, approved June 12, 1960 (74 Stat. 211; Public Law 86–515); sections 723 and 743(f) of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973, as amended (87 Stat. 821; Public Law 93–198; D.C. Code, sec. 47–321, note; 91 Stat. 1156; Public Law 95–131; D.C. Code, sec. 9–219, note), including interest as required thereby, $333,710,000 from local funds.

REPAYMENT OF GENERAL FUND RECOVERY DEBT

For the purpose of eliminating the $331,589,000 general fund accumulated deficit as of September 30, 1990, $38,314,000 from local funds, as authorized by section 461(a) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973, as amended (105 Stat. 540; Public Law 102–106; D.C. Code, sec. 47–321(a)(1)).

PAYMENT OF INTEREST ON SHORT-TERM BORROWING

For payment of interest on short-term borrowing, $34,461,000 from local funds.

PRESIDENTIAL INAUGURATION

For reimbursement for necessary expenses incurred in connection with Presidential inauguration activities as authorized by section 737(b) of the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93–198, as amended, approved December 24, 1973 (87 Stat. 824; D.C. Code, sec. 1–1803), $5,702,000, which shall be apportioned by the Chief Financial Officer within the various appropriation headings in this Act.

CERTIFICATES OF PARTICIPATION

For lease payments in accordance with the Certificates of Participation involving the land site underlying the building located at One Judiciary Square, $7,926,000.

HUMAN RESOURCES DEVELOPMENT

For Human resources development, including costs of increased employee training, administrative reforms, and an executive compensation system, $12,257,000.

COST REDUCTION INITIATIVES

The Chief Financial Officer of the District of Columbia shall, on behalf of the Mayor and under the direction of the District of Columbia Financial Responsibility and Management Assistance Authority, make reductions of $47,411,000 and 2,411 full-time equivalent positions as follows: $4,488,000 in real estate initiatives, $6,317,000 in management information systems, $2,271,000 in energy cost initiatives, $12,960,000 in purchasing and procurement initiatives, and workforce reductions of 2,411 full-time positions and $21,375,000.

CAPITAL OUTLAY

(INCLUDING RESCISSIONS)

For construction projects, an increase of $46,923,000 (including an increase of $34,000,000 for the highway trust fund, reallocations and rescissions for a net rescission of $120,496,000 from local funds appropriated under this heading in prior fiscal years and an additional $133,419,000 in Federal funds), as authorized by An Act authorizing the laying of water mains and service sewers in the District of Columbia, the levying of assessments therefor, and for other purposes, approved April 22, 1904 (33 Stat. 244; Public Law 58–140; D.C. Code, secs. 43–1512 through 43–1519); the District of Columbia Public Works Act of 1954, approved May 18, 1954 (68 Stat. 101; Public Law 83–364); An Act to authorize the Commissioners of the District of Columbia to borrow funds for capital improvement programs and to amend provisions of law relating to Federal Government participation in meeting costs of maintaining the Nation's Capital City, approved June 6, 1958 (72 Stat. 183; Public Law 85–451); including acquisition of sites, preparation of plans and specifications, conducting preliminary surveys, erection of structures, including building improvement and alteration and treatment of grounds, to remain available until expended: *Provided*, That funds for use of each capital project implementing agency shall be managed and controlled in accordance with all procedures and limitations established under the Financial Management System: *Provided further*, That all funds provided by this appropriation title shall be available only for the specific projects and purposes intended: *Provided further*, That notwithstanding the foregoing, all authorizations for capital outlay projects, except those projects covered by the first sentence of section 23(a) of the Federal-Aid Highway Act of 1968, approved August 23, 1968 (82 Stat. 827; Public Law 90–495; D.C. Code, sec. 7–134, note), for which funds are provided by this appropriation title, shall expire on September 30, 1998, except authorizations for projects as to which funds have been obligated in whole or in part prior to September 30, 1998: *Provided further*, That upon expiration of any such project authorization the funds provided herein for the project shall lapse.

Expiration date.

WATER AND SEWER ENTERPRISE FUND

For the Water and Sewer Enterprise Fund, $221,362,000 from other funds of which $41,833,000 shall be apportioned and payable to the debt service fund for repayment of loans and interest incurred for capital improvement projects.

LOTTERY AND CHARITABLE GAMES ENTERPRISE FUND

For the Lottery and Charitable Games Enterprise Fund, established by the District of Columbia Appropriation Act for the fiscal year ending September 30, 1982, approved December 4, 1981 (95 Stat. 1174, 1175; Public Law 97–91), as amended, for the purpose of implementing the Law to Legalize Lotteries, Daily Numbers Games, and Bingo and Raffles for Charitable Purposes in the District of Columbia, effective March 10, 1981 (D.C. Law 3–172; D.C. Code, secs. 2–2501 et seq. and 22–1516 et seq.), $247,900,000 and 100 full-time equivalent positions (including $7,850,000 and 100 full-time equivalent positions for administrative expenses and

$240,050,000 for non-administrative expenses from revenue generated by the Lottery Board), to be derived from non-Federal District of Columbia revenues: *Provided*, That the District of Columbia shall identify the source of funding for this appropriation title from the District's own locally-generated revenues: *Provided further*, That no revenues from Federal sources shall be used to support the operations or activities of the Lottery and Charitable Games Control Board.

CABLE TELEVISION ENTERPRISE FUND

For the Cable Television Enterprise Fund, established by the Cable Television Communications Act of 1981, effective October 22, 1983 (D.C. Law 5–36; D.C. Code, sec. 43–1801 et seq.), $2,511,000 and 8 full-time equivalent positions (including $2,179,000 and 8 full-time equivalent positions from local funds and $332,000 from other funds).

STARPLEX FUND

For the Starplex Fund, $8,717,000 from other funds for expenses incurred by the Armory Board in the exercise of its powers granted by An Act To Establish A District of Columbia Armory Board, and for other purposes, approved June 4, 1948 (62 Stat. 339; D.C. Code, sec. 2–301 et seq.) and the District of Columbia Stadium Act of 1957, approved September 7, 1957 (71 Stat. 619; Public Law 85–300; D.C. Code, sec. 2–321 et seq.): *Provided*, That the Mayor shall submit a budget for the Armory Board for the forthcoming fiscal year as required by section 442(b) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 824; Public Law 93–198; D.C. Code, sec. 47–301(b)).

D.C. GENERAL HOSPITAL

For the District of Columbia General Hospital, established by Reorganization Order No. 57 of the Board of Commissioners, effective August 15, 1953, $112,419,000 of which $59,735,000 shall be derived by transfer from the general fund and $52,684,000 shall be derived from other funds.

D.C. RETIREMENT BOARD

For the D.C. Retirement Board, established by section 121 of the District of Columbia Retirement Reform Act of 1979, approved November 17, 1979 (93 Stat. 866; D.C. Code, sec. 1–711), $16,667,000 and 13 full-time equivalent positions from the earnings of the applicable retirement funds to pay legal, management, investment, and other fees and administrative expenses of the District of Columbia Retirement Board: *Provided*, That the District of Columbia Retirement Board shall provide to the Congress and to the Council of the District of Columbia a quarterly report of the allocations of charges by fund and of expenditures of all funds: *Provided further*, That the District of Columbia Retirement Board shall provide the Mayor, for transmittal to the Council of the District of Columbia, an item accounting of the planned use of appropriated funds in time for each annual budget submission

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and the actual use of such funds in time for each annual audited financial report.

CORRECTIONAL INDUSTRIES FUND

For the Correctional Industries Fund, established by the District of Columbia Correctional Industries Establishment Act, approved October 3, 1964 (78 Stat. 1000; Public Law 88–622), $3,052,000 and 50 full-time equivalent positions from other funds.

WASHINGTON CONVENTION CENTER ENTERPRISE FUND

For the Washington Convention Center Enterprise Fund, $47,996,000 of which $5,400,000 shall be derived by transfer from the general fund.

DISTRICT OF COLUMBIA FINANCIAL RESPONSIBILITY AND MANAGEMENT ASSISTANCE AUTHORITY

For the District of Columbia Financial Responsibility and Management Assistance Authority, established by section 101(a) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, approved April 17, 1995 (109 Stat. 97; Public Law 104–8), $3,400,000.

GENERAL PROVISIONS

Contracts.

SEC. 101. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 102. Except as otherwise provided in this Act, all vouchers covering expenditures of appropriations contained in this Act shall be audited before payment by the designated certifying official and the vouchers as approved shall be paid by checks issued by the designated disbursing official.

SEC. 103. Whenever in this Act, an amount is specified within an appropriation for particular purposes or objects of expenditure, such amount, unless otherwise specified, shall be considered as the maximum amount that may be expended for said purpose or object rather than an amount set apart exclusively therefor.

SEC. 104. Appropriations in this Act shall be available, when authorized by the Mayor, for allowances for privately-owned automobiles and motorcycles used for the performance of official duties at rates established by the Mayor: *Provided,* That such rates shall not exceed the maximum prevailing rates for such vehicles as prescribed in the Federal Property Management Regulations 101–7 (Federal Travel Regulations).

SEC. 105. Appropriations in this Act shall be available for expenses of travel and for the payment of dues of organizations concerned with the work of the District of Columbia government, when authorized by the Mayor: *Provided,* That the Council of the District of Columbia and the District of Columbia Courts may expend such funds without authorization by the Mayor.

SEC. 106. There are appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making refunds and for the payment of judgments that have been entered against the District of Columbia government: *Provided,* That nothing contained in this section shall be construed as modifying or affecting the provisions of section 11(c)(3) of title XII of the District of Columbia Income and Franchise Tax Act of 1947, approved March 31, 1956 (70 Stat. 78; Public Law 84–460; D.C. Code, sec. 47–1812.11(c)(3)).

SEC. 107. Appropriations in this Act shall be available for the payment of public assistance without reference to the requirement of section 544 of the District of Columbia Public Assistance Act of 1982, effective April 6, 1982 (D.C. Law 4–101; D.C. Code, sec. 3–205.44), and for the non-Federal share of funds necessary to qualify for Federal assistance under the Juvenile Delinquency Prevention and Control Act of 1968, approved July 31, 1968 (82 Stat. 462; Public Law 90–445; 42 U.S.C. 3801 et seq.).

SEC. 108. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 109. No funds appropriated in this Act for the District of Columbia government for the operation of educational institutions, the compensation of personnel, or for other educational purposes may be used to permit, encourage, facilitate, or further partisan political activities. Nothing herein is intended to prohibit the availability of school buildings for the use of any community or partisan political group during non-school hours.

SEC. 110. None of the funds appropriated in this Act shall be made available to pay the salary of any employee of the District of Columbia government whose name, title, grade, salary, past work experience, and salary history are not available for inspection by the House and Senate Committees on Appropriations, the Subcommittee on the District of Columbia of the House Committee on Government Reform and Oversight, the Subcommittee on Oversight of Government Management and the District of Columbia of the Senate Committee on Governmental Affairs, and the Council of the District of Columbia, or their duly authorized representative.

SEC. 111. There are appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making payments authorized by the District of Columbia Revenue Recovery Act of 1977, effective September 23, 1977 (D.C. Law 2–20; D.C. Code, sec. 47–421 et seq.).

SEC. 112. No part of this appropriation shall be used for publicity or propaganda purposes or implementation of any policy including boycott designed to support or defeat legislation pending before Congress or any State legislature.

SEC. 113. At the start of the fiscal year, the Mayor shall develop an annual plan, by quarter and by project, for capital outlay borrowings: *Provided,* That within a reasonable time after the close of each quarter, the Mayor shall report to the Council of the District of Columbia and the Congress the actual borrowings and spending progress compared with projections. Reports.

SEC. 114. The Mayor shall not borrow any funds for capital projects unless the Mayor has obtained prior approval from the Council of the District of Columbia, by resolution, identifying the projects and amounts to be financed with such borrowings.

SEC. 115. The Mayor shall not expend any moneys borrowed for capital projects for the operating expenses of the District of Columbia government.

SEC. 116. None of the funds appropriated by this Act may be obligated or expended by reprogramming except pursuant to advance approval of the reprogramming granted according to the procedure set forth in the Joint Explanatory Statement of the Committee of Conference (House Report No. 96–443), which accompanied the District of Columbia Appropriation Act, 1980, approved October 30, 1979 (93 Stat. 713; Public Law 96–93), as modified in House Report No. 98–265, and in accordance with the Reprogramming Policy Act of 1980, effective September 16, 1980 (D.C. Law 3–100; D.C. Code, sec. 47–361 et seq.): *Provided,* That for the fiscal year ending September 30, 1997 the above shall apply except as modified by Public Law 104–8.

Applicability.

SEC. 117. None of the Federal funds provided in this Act shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of the District of Columbia.

SEC. 118. None of the Federal funds provided in this Act shall be obligated or expended to procure passenger automobiles as defined in the Automobile Fuel Efficiency Act of 1980, approved October 10, 1980 (94 Stat. 1824; Public Law 96–425; 15 U.S.C. 2001(2)), with an Environmental Protection Agency estimated miles per gallon average of less than 22 miles per gallon: *Provided,* That this section shall not apply to security, emergency rescue, or armored vehicles.

SEC. 119. (a) Notwithstanding section 422(7) of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973 (87 Stat. 790; Public Law 93–198; D.C. Code, sec. 1–242(7)), the City Administrator shall be paid, during any fiscal year, a salary at a rate established by the Mayor, not to exceed the rate established for Level IV of the Executive Schedule under 5 U.S.C. 5315.

(b) For purposes of applying any provision of law limiting the availability of funds for payment of salary or pay in any fiscal year, the highest rate of pay established by the Mayor under subsection (a) of this section for any position for any period during the last quarter of calendar year 1996 shall be deemed to be the rate of pay payable for that position for September 30, 1996.

(c) Notwithstanding section 4(a) of the District of Columbia Redevelopment Act of 1945, approved August 2, 1946 (60 Stat. 793; Public Law 79–592; D.C. Code, sec. 5–803(a)), the Board of Directors of the District of Columbia Redevelopment Land Agency shall be paid, during any fiscal year, per diem compensation at a rate established by the Mayor.

SEC. 120. Notwithstanding any other provisions of law, the provisions of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2–139; D.C. Code, sec. 1–601.1 et seq.), enacted pursuant to section 422(3) of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973 (87 Stat. 790; Public Law 93–198; D.C. Code, sec. 1–242(3)), shall apply with respect to the compensation of District of Columbia employees: *Provided,* That for pay purposes, employees of the District of Columbia government shall not be subject to the provisions of title 5, United States Code.

SEC. 121. The Director of the Department of Administrative Services may pay rentals and repair, alter, and improve rented premises, without regard to the provisions of section 322 of the Economy Act of 1932 (Public Law 72–212; 40 U.S.C. 278a), based upon a determination by the Director, that by reason of circumstances set forth in such determination, the payment of these rents and the execution of this work, without reference to the limitations of section 322, is advantageous to the District in terms of economy, efficiency, and the District's best interest.

SEC. 122. No later than 30 days after the end of the first quarter of the fiscal year ending September 30, 1997, the Mayor of the District of Columbia shall submit to the Council of the District of Columbia the new fiscal year 1997 revenue estimates as of the end of the first quarter of fiscal year 1997. These estimates shall be used in the budget request for the fiscal year ending September 30, 1998. The officially revised estimates at midyear shall be used for the midyear report.

SEC. 123. No sole source contract with the District of Columbia government or any agency thereof may be renewed or extended without opening that contract to the competitive bidding process as set forth in section 303 of the District of Columbia Procurement Practices Act of 1985, effective February 21, 1986 (D.C. Law 6–85; D.C. Code, sec. 1–1183.3), except that the District of Columbia Public Schools may renew or extend sole source contracts for which competition is not feasible or practical, provided that the determination as to whether to invoke the competitive bidding process has been made in accordance with duly promulgated Board of Education rules and procedures.

SEC. 124. For purposes of the Balanced Budget and Emergency Deficit Control Act of 1985, approved December 12, 1985 (99 Stat. 1037; Public Law 99–177), as amended, the term "program, project, and activity" shall be synonymous with and refer specifically to each account appropriating Federal funds in this Act, and any sequestration order shall be applied to each of the accounts rather than to the aggregate total of those accounts: *Provided*, That sequestration orders shall not be applied to any account that is specifically exempted from sequestration by the Balanced Budget and Emergency Deficit Control Act of 1985, approved December 12, 1985 (99 Stat. 1037; Public Law 99–177), as amended.

SEC. 125. In the event a sequestration order is issued pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985, approved December 12, 1985 (99 Stat. 1037; Public Law 99–177), as amended, after the amounts appropriated to the District of Columbia for the fiscal year involved have been paid to the District of Columbia, the Mayor of the District of Columbia shall pay to the Secretary of the Treasury, within 15 days after receipt of a request therefor from the Secretary of the Treasury, such amounts as are sequestered by the order: *Provided*, That the sequestration percentage specified in the order shall be applied proportionately to each of the Federal appropriation accounts in this Act that are not specifically exempted from sequestration by the Balanced Budget and Emergency Deficit Control Act of 1985, approved December 12, 1985 (99 Stat. 1037; Public Law 99–177), as amended. Sequestration.

SEC. 126. Nothing in this Act shall be construed to authorize any office, agency or entity to expend funds for programs or functions for which a reorganization plan is required but has not been approved by the Council pursuant to section 422(12) of the District

of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973 (87 Stat. 790; Public Law 93–198; D.C. Code, sec. 1–242(12)) and the Governmental Reorganization Procedures Act of 1981, effective October 17, 1981 (D.C. Law 4–42; D.C. Code, secs. 1–299.1 to 1–299.7). Appropriations made by this Act for such programs or functions are conditioned on the approval by the Council of the required reorganization plans.

SEC. 127. (a) An entity of the District of Columbia government may accept and use a gift or donation during fiscal year 1997 if—

(1) the Mayor approves the acceptance and use of the gift or donation: *Provided*, That the Council of the District of Columbia may accept and use gifts without prior approval by the Mayor; and

(2) the entity uses the gift or donation to carry out its authorized functions or duties.

Records.
Public inspection.

(b) Each entity of the District of Columbia government shall keep accurate and detailed records of the acceptance and use of any gift or donation under subsection (a) of this section, and shall make such records available for audit and public inspection.

(c) For the purposes of this section, the term "entity of the District of Columbia government" includes an independent agency of the District of Columbia.

(d) This section shall not apply to the District of Columbia Board of Education, which may, pursuant to the laws and regulations of the District of Columbia, accept and use gifts to the public schools without prior approval by the Mayor.

SEC. 128. None of the Federal funds provided in this Act may be used by the District of Columbia to provide for salaries, expenses, or other costs associated with the offices of United States Senator or United States Representative under section 4(d) of the District of Columbia Statehood Constitutional Convention Initiatives of 1979, effective March 10, 1981 (D.C. Law 3–171; D.C. Code, sec. 1–113(d)).

PROHIBITION AGAINST USE OF FUNDS FOR ABORTIONS

SEC. 129. None of the funds appropriated under this Act shall be expended for any abortion except where the life of the mother would be endangered if the fetus were carried to term or where the pregnancy is the result of an act of rape or incest.

PROHIBITION ON DOMESTIC PARTNERS ACT

SEC. 130. No funds made available pursuant to any provision of this Act shall be used to implement or enforce any system of registration of unmarried, cohabiting couples whether they are homosexual, lesbian, or heterosexual, including but not limited to registration for the purpose of extending employment, health, or governmental benefits to such couples on the same basis that such benefits are extended to legally married couples; nor shall any funds made available pursuant to any provision of this Act otherwise be used to implement or enforce D.C. Act 9–188, signed by the Mayor of the District of Columbia on April 15, 1992.

COMPENSATION OF MEMBERS OF JUDICIAL NOMINATION COMMISSION

SEC. 131. (a) IN GENERAL.—Effective as if included in the enactment of the District of Columbia Appropriations Act, 1996, section 434(b)(5) of the District of Columbia Self-Government and Governmental Reorganization Act is amended to read as follows: Effective date.

"(5) Members of the Commission shall serve without compensation for services rendered in connection with their official duties on the Commission.".

(b) CONFORMING AMENDMENT.—Section 133(b) of the District of Columbia Appropriations Act, 1996 is hereby repealed, and the provision of law amended by such section is hereby restored as if such section had not been enacted into law. *Ante*, p. 1321–92.

MONTHLY REPORTING REQUIREMENTS—BOARD OF EDUCATION

SEC. 132. The Board of Education shall submit to the Congress, the Mayor, the District of Columbia Financial Responsibility and Management Assistance Authority, and the Council of the District of Columbia no later than fifteen (15) calendar days after the end of each month a report that sets forth—

(1) current month expenditures and obligations, year-to-date expenditures and obligations, and total fiscal year expenditure projections vs. budget broken out on the basis of control center, responsibility center, agency reporting code, and object class, and for all funds, including capital financing;

(2) a breakdown of FTE positions and staff for the most current pay period broken out on the basis of control center, responsibility center, and agency reporting code within each responsibility center, for all funds, including capital funds;

(3) a list of each account for which spending is frozen and the amount of funds frozen, broken out by control center, responsibility center, detailed object, and agency reporting code, and for all funding sources;

(4) a list of all active contracts in excess of $10,000 annually, which contains the name of each contractor; the budget to which the contract is charged broken out on the basis of control center, responsibility center, and agency reporting code; and contract identifying codes used by the D.C. Public Schools; payments made in the last month and year-to-date, the total amount of the contract and total payments made for the contract and any modifications, extensions, renewals; and specific modifications made to each contract in the last month;

(5) all reprogramming requests and reports that are required to be, and have been, submitted to the Board of Education; and

(6) changes made in the last month to the organizational structure of the D.C. Public Schools, displaying previous and current control centers and responsibility centers, the names of the organizational entities that have been changed, the name of the staff member supervising each entity affected, and the reasons for the structural change.

MONTHLY REPORTING REQUIREMENTS

UNIVERSITY OF THE DISTRICT OF COLUMBIA

SEC. 133. The University of the District of Columbia shall submit to the Congress, the Mayor, the District of Columbia Financial Responsibility and Management Assistance Authority, and the Council of the District of Columbia no later than fifteen (15) calendar days after the end of each month a report that sets forth—

(1) current month expenditures and obligations, year-to-date expenditures and obligations, and total fiscal year expenditure projections vs. budget broken out on the basis of control center, responsibility center, and object class, and for all funds, non-appropriated funds, and capital financing;

(2) a breakdown of FTE positions and all employees for the most current pay period broken out on the basis of control center and responsibility center, for all funds, including capital funds;

(3) a list of each account for which spending is frozen and the amount of funds frozen, broken out by control center, responsibility center, detailed object, and for all funding sources;

(4) a list of all active contracts in excess of $10,000 annually, which contains the name of each contractor; the budget to which the contract is charged broken out on the basis of control center and responsibility center, and contract identifying codes used by the University of the District of Columbia; payments made in the last month and year-to-date, the total amount of the contract and total payments made for the contract and any modifications, extensions, renewals; and specific modifications made to each contract in the last month;

(5) all reprogramming requests and reports that have been made by the University of the District of Columbia within the last month in compliance with applicable law; and

(6) changes made in the last month to the organizational structure of the University of the District of Columbia, displaying previous and current control centers and responsibility centers, the names of the organizational entities that have been changed, the name of the staff member supervising each entity affected, and the reasons for the structural change.

ANNUAL REPORTING REQUIREMENTS

SEC. 134. (a) IN GENERAL.—The Board of Education of the District of Columbia and the University of the District of Columbia shall annually compile an accurate and verifiable report on the positions and employees in the public school system and the university, respectively. The annual report shall set forth—

(1) the number of validated schedule A positions in the District of Columbia Public Schools and the University of the District of Columbia for fiscal year 1996, fiscal year 1997, and thereafter on a full-time equivalent basis, including a compilation of all positions by control center, responsibility center, funding source, position type, position title, pay plan, grade, and annual salary; and

(2) a compilation of all employees in the District of Columbia Public Schools and the University of the District of Colum-

bia as of the preceding December 31, verified as to its accuracy in accordance with the functions that each employee actually performs, by control center, responsibility center, agency reporting code, program (including funding source), activity, location for accounting purposes, job title, grade and classification, annual salary, and position control number.

(b) SUBMISSION.—The annual report required by subsection (a) of this section shall be submitted to the Congress, the Mayor, the District of Columbia Council, the Consensus Commission, and the Authority, not later than February 15 of each year.

ANNUAL BUDGETS AND BUDGET REVISIONS

SEC. 135. (a) No later than October 1, 1996, or within 15 calendar days after the date of the enactment of the District of Columbia Appropriations Act, 1997, whichever occurs later, and each succeeding year, the Board of Education and the University of the District of Columbia shall submit to the appropriate congressional committees, the Mayor, the District of Columbia Council, the Consensus Commission, and the District of Columbia Financial Responsibility and Management Assistance Authority, a revised appropriated funds operating budget for the public school system and the University of the District of Columbia for such fiscal year that is in the total amount of the approved appropriation and that realigns budgeted data for personal services and other-than-personal services, respectively, with anticipated actual expenditures.

(b) The revised budget required by subsection (a) of this section shall be submitted in the format of the budget that the Board of Education and the University of the District of Columbia submit to the Mayor of the District of Columbia for inclusion in the Mayor's budget submission to the Council of the District of Columbia pursuant to section 442 of the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93–198, as amended (D.C. Code, sec. 47–301).

EDUCATIONAL BUDGET APPROVAL

SEC. 136. The Board of Education, the Board of Trustees of the University of the District of Columbia, the Board of Library Trustees, and the Board of Governors of the D.C. School of Law shall vote on and approve their respective annual or revised budgets before submission to the Mayor of the District of Columbia for inclusion in the Mayor's budget submission to the Council of the District of Columbia in accordance with section 442 of the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93–198, as amended (D.C. Code, sec. 47–301), or before submitting their respective budgets directly to the Council.

PUBLIC SCHOOL EMPLOYEE EVALUATIONS

SEC. 137. Notwithstanding any other provision of law, rule, or regulation, the evaluation process and instruments for evaluating District of Columbia Public Schools employees shall be a non-negotiable item for collective bargaining purposes.

MODIFICATIONS OF BOARD OF EDUCATION REDUCTION-IN-FORCE PROCEDURES

SEC. 138. The District of Columbia Government Comprehensive Merit Personnel Act of 1978 (D.C. Code, sec. 1–601.1 et seq.), is amended—

(1) in section 301 (D.C. Code, sec. 1–603.1)—

(A) by inserting after paragraph (13), the following new paragraph:

"(13A) The term 'nonschool-based personnel' means any employee of the District of Columbia public schools who is not based at a local school or who does not provide direct services to individual students."; and

(B) by inserting after paragraph (15), the following new paragraph:

"(15A) The term 'school administrators' means principals, assistant principals, school program directors, coordinators, instructional supervisors, and support personnel of the District of Columbia public schools.";

(2) in section 801A(b)(2) (D.C. Code, sec. 1–609.1(b)(2)(L))—

(A) by striking "(L) reduction-in-force" and inserting "(L)(i) reduction-in-force"; and

(B) by inserting after subparagraph (L)(i), the following new clause:

"(ii) notwithstanding any other provision of law, the Board of Education shall not issue rules that require or permit nonschool-based personnel or school administrators to be assigned or reassigned to the same competitive level as classroom teachers;"; and

(3) in section 2402 (D.C. Code, sec. 1–625.2), by adding at the end the following new subsection:

"(f) Notwithstanding any other provision of law, the Board of Education shall not require or permit nonschool-based personnel or school administrators to be assigned or reassigned to the same competitive level as classroom teachers.".

SEC. 139. (a) Notwithstanding any other provision of law, rule, or regulation, an employee of the District of Columbia Public Schools shall be—

(1) classified as an Educational Service employee;

(2) placed under the personnel authority of the Board of Education; and

(3) subject to all Board of Education rules.

(b) School-based personnel shall constitute a separate competitive area from nonschool-based personnel who shall not compete with school-based personnel for retention purposes.

MODIFICATION OF REDUCTION-IN-FORCE PROCEDURES

SEC. 140. (a) Section 2401 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (D.C. Code, sec. 1–625.1 et seq.) is amended by amending the third sentence to read as follows: "A personnel authority may establish lesser competitive areas within an agency on the basis of all or a clearly identifiable segment of an agency's mission or a division or major subdivision of an agency.".

(b) The District of Columbia Government Comprehensive Merit Personnel Act of 1978 (D.C. Code, sec. 1–601.1 et seq.), as amended by section 149 of the District of Columbia Appropriations Act,

1996 (Public Law 104–134), is amended by adding at the end the following new section: *Ante*, p. 1321–97.

"SEC. 2407. ABOLISHMENT OF POSITIONS FOR FISCAL YEAR 1997.

"(a) Notwithstanding any other provision of law, regulation, or collective bargaining agreement either in effect or to be negotiated while this legislation is in effect for the fiscal year ending September 30, 1997, each agency head is authorized, within the agency head's discretion, to identify positions for abolishment.

"(b) Prior to February 1, 1997, each personnel authority shall make a final determination that a position within the personnel authority is to be abolished.

"(c) Notwithstanding any rights or procedures established by any other provision of this title, any District government employee, regardless of date of hire, who encumbers a position identified for abolishment shall be separated without competition or assignment rights, except as provided in this section.

"(d) An employee affected by the abolishment of a position pursuant to this section who, but for this section would be entitled to compete for retention, shall be entitled to one round of lateral competition pursuant to Chapter 24 of the District of Columbia Personnel Manual, which shall be limited to positions in the employee's competitive level.

"(e) Each employee who is a bona fide resident of the District of Columbia shall have added 5 years to his or her creditable service for reduction-in-force purposes. For purposes of this subsection only, a nonresident District employee who was hired by the District government prior to January 1, 1980, and has not had a break in service since that date, or a former employee of the United States Department of Health and Human Services at Saint Elizabeths Hospital who accepted employment with the District government on October 1, 1987, and has not had a break in service since that date, shall be considered a District resident.

"(f) Each employee selected for separation pursuant to this section shall be given written notice of at least 30 days before the effective date of his or her separation. Notice.

"(g) Neither the establishment of a competitive area smaller than an agency, nor the determination that a specific position is to be abolished, nor separation pursuant to this section shall be subject to review except as follows—

"(1) an employee may file a complaint contesting a determination or a separation pursuant to title XV of this Act or section 303 of the Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2–38; D.C. Code, sec. 1–2543); and

"(2) an employee may file with the Office of Employee Appeals an appeal contesting that the separation procedures of subsections (d) and (f) of this section were not properly applied.

"(h) An employee separated pursuant to this section shall be entitled to severance pay in accordance with title XI of this Act, except that the following shall be included in computing creditable service for severance pay for employees separated pursuant to this section— Severance pay.

"(1) four years for an employee who qualified for veterans preference under this Act, and

"(2) three years for an employee who qualified for residency preference under this Act.

"(i) Separation pursuant to this section shall not affect an employee's rights under either the Agency Reemployment Priority Program or the Displaced Employee Program established pursuant to Chapter 24 of the District Personnel Manual.

Listing.

"(j) The Mayor shall submit to the Council a listing of all positions to be abolished by agency and responsibility center by March 1, 1997, or upon the delivery of termination notices to individual employees.

"(k) Notwithstanding the provisions of section 1708 or section 2402(d), the provisions of this Act shall not be deemed negotiable.

Termination notice.

"(l) A personnel authority shall cause a 30-day termination notice to be served, no later than September 1, 1997, on any incumbent employee remaining in any position identified to be abolished pursuant to subsection (b) of this section.".

CEILING ON EXPENSES AND DEFICIT

SEC. 141. (a) CEILING ON TOTAL OPERATING EXPENSES AND DEFICIT.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the total amount appropriated in this Act for operating expenses for the District of Columbia for fiscal year 1997 under the caption "DIVISION OF EXPENSES" shall not exceed the lesser of—

(A) the sum of the total revenues of the District of Columbia for such fiscal year and $74,000,000; or

(B) $5,108,913,000 (of which $134,528,000 shall be from intra-District funds).

(2) ENFORCEMENT.—The Chief Financial Officer of the District of Columbia and the District of Columbia Financial Responsibility and Management Assistance Authority shall take such steps as are necessary to assure that the District of Columbia meets the requirements of this section, including the apportioning by the Chief Financial Officer of the appropriations and funds made available to the District during fiscal year 1997.

(b) ACCEPTANCE AND USE OF GRANTS NOT INCLUDED IN CEILING.—

(1) IN GENERAL.—Notwithstanding subsection (a), the Mayor of the District of Columbia may accept, obligate, and expend Federal, private, and other grants received by the District government that are not reflected in the amounts appropriated in this Act.

(2) REQUIREMENT OF CHIEF FINANCIAL OFFICER REPORT AND FINANCIAL RESPONSIBILITY AND MANAGEMENT ASSISTANCE AUTHORITY APPROVAL.—No such Federal, private, or other grant may be accepted, obligated, or expended pursuant to paragraph (1) until—

(A) the Chief Financial Officer of the District submits to the District of Columbia Financial Responsibility and Management Assistance Authority established by Public Law 104–8 (109 Stat. 97) a report setting forth detailed information regarding such grant; and

(B) the District of Columbia Financial Responsibility and Management Assistance Authority has reviewed and approved the acceptance, obligation, and expenditure of

such grant in accordance with review and approval procedures consistent with the provisions of Public Law 104–8, the District of Columbia Financial Responsibility and Management Assistance Act of 1995.

(3) PROHIBITION ON SPENDING IN ANTICIPATION OF APPROVAL OR RECEIPT.—No amount may be obligated or expended from the general fund or other funds of the District government in anticipation of the approval or receipt of a grant under paragraph (2)(B) or in anticipation of the approval or receipt of a Federal, private, or other grant not subject to such paragraph.

(4) MONTHLY REPORTS.—The Chief Financial Officer of the District shall prepare a monthly report setting forth detailed information regarding all Federal, private, and other grants subject to this subsection. Each such report shall be submitted to the Council of the District of Columbia, and to the Committees on Appropriations of the House of Representatives and the Senate, not later than 15 days after the end of the month covered by the report.

CHIEF FINANCIAL OFFICER POWERS DURING CONTROL PERIODS

SEC. 142. Notwithstanding any other provision of law, during any control period in effect under subtitle A of title II of the District of Columbia Financial Responsibility and Management Assistance Act of 1995 the following shall apply:

(a) The heads and all personnel of the following offices, together with all other District of Columbia accounting, budget, and financial management personnel (including personnel of independent agencies but not including personnel of the legislative and judicial branches of the District government), shall be appointed by, shall serve at the pleasure of, and shall act under the direction and control of the Chief Financial Officer:

The Office of the Treasurer.
The Controller of the District of Columbia.
The Office of the Budget.
The Office of Financial Information Services.
The Department of Finance and Revenue.

The District of Columbia Financial Responsibility and Management Assistance Authority established pursuant to Public Law 104–8, approved April 17, 1995, may remove such individuals from office for cause, after consultation with the Mayor and the Chief Financial Officer.

(b) The Chief Financial Officer shall prepare and submit to the Mayor, for inclusion in the annual budget of the District of Columbia under part D of title IV of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973 (87 Stat. 774; Public Law 93–198), as amended, for each fiscal year occurring during a control period in effect under subtitle A of title II of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, annual estimates of the expenditures and appropriations necessary for the operation of the Office of the Chief Financial Officer for the year. All such estimates shall be forwarded by the Mayor to the Council of the District of Columbia for its action pursuant to sections 446 and 603(c) of the District of Columbia Self-Government and Governmental

Reorganization Act, Public Law 93–198, approved December 24, 1973, without revision but subject to recommendations. Notwithstanding any other provisions of the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93–198, approved December 24, 1973, the Council may comment or make recommendations concerning such estimates, but shall have no authority to revise such estimates.

POLICE AND FIRE FIGHTER DISABILITY RETIREMENTS

SEC. 143. (a) Up to 50 police officers and up to 50 Fire and Emergency Medical Services members with less than 20 years of departmental service who were hired before February 14, 1980, and who retire on disability before the end of calendar year 1997 shall be excluded from the computation of the rate of disability retirements under subsection 145(a) of the District of Columbia Retirement Reform Act of 1979 (93 Stat. 882; D.C. Code, sec. 1–725(a)), for purposes of reducing the authorized Federal payment to the District of Columbia Police Officers and Fire Fighters' Retirement Fund pursuant to subsection 145(c) of the District of Columbia Retirement Reform Act of 1979.

(b) The Mayor, within 30 days after the enactment of this provision, shall engage an enrolled actuary, to be paid by the District of Columbia Retirement Board, and shall comply with the requirements of section 142(d) and section 144(d) of the District of Columbia Retirement Reform Act of 1979 (Public Law 96–122, approved November 17, 1979; D.C. Code, secs. 1–722(d) and 1–724(d)).

Effective date.
Reports.

(c) This section shall not go into effect until 15 days after the Mayor transmits the actuarial report required by section 142(d) of the District of Columbia Retirement Reform Act of 1979 (Public Law 96–122, approved November 17, 1979) to the District of Columbia Retirement Board, the Speaker of the House of Representatives, and the President pro tempore of the Senate.

SEC. 144. (a) Section 451(c)(3) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 803; D.C. Code, sec. 1–1130(c)(3)), is amended by striking the word "section" and inserting the word "subsection" in its place.

DISTRICT OF COLUMBIA SCHOOL REFORM

SEC. 145. Section 2204(c)(2) of the District of Columbia School Reform Act of 1995 (Public Law 104–134) is amended to read as follows:

Ante, p. 1321–119.

"(2) TUITION, FEES, AND PAYMENTS.—

"(A) PROHIBITION.—A public charter school may not, with respect to any student other than a nonresident student, charge tuition, impose fees, or otherwise require payment for participation in any program, educational offering, or activity that—

"(i) enrolls students in any grade from kindergarten through grade 12; or

"(ii) is funded in whole or part through an annual local appropriation.

"(B) EXCEPTION.—A public charter school may impose fees or otherwise require payment, at rates established by the Board of Trustees of the school, for any program,

educational offering, or activity not described in clause (i) or (ii) of subparagraph (A), including adult education programs, or for field trips or similar activities.".

SEC. 146. (a) COMPLIANCE WITH BUY AMERICAN ACT.—None of the funds made available in this Act may be expended by an entity unless the entity agrees that in expending the funds the entity will comply with the Buy American Act (41 U.S.C. 10a–10c).

(b) SENSE OF CONGRESS; REQUIREMENT REGARDING NOTICE.—

(1) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—In the case of any equipment or product that may be authorized to be purchased with financial assistance provided using funds made available in this Act, it is the sense of the Congress that entities receiving the assistance should, in expending the assistance, purchase only American-made equipment and products to the greatest extent practicable.

(2) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance using funds made available in this Act, the head of each agency of the Federal or District of Columbia government shall provide to each recipient of the assistance a notice describing the statement made in paragraph (1) by the Congress.

(c) PROHIBITION OF CONTRACTS WITH PERSONS FALSELY LABELING PRODUCTS AS MADE IN AMERICA.—If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a "Made in America" inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, the person shall be ineligible to receive any contract or subcontract made with funds made available in this Act, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

SEC. 147. Notwithstanding any other law, the District of Columbia Housing Finance Agency, established by section 210 of the District of Columbia Housing Finance Agency Act, effective March 3, 1979 (D.C. Law 2–135; D.C. Code, sec. 45–2111) shall not be required to repay moneys advanced by the District government (including accrued interest thereon) pursuant to Congressional appropriations for fiscal years 1980 through 1992.

SEC. 148. Section 2561(b) of the District of Columbia School Reform Act of 1995 (Public Law 104–134) is amended to read as follows:

Ante, p. 1321–143.

"(b) LIMITATION.—A waiver under subsection (a) shall not apply to requirements under 40 U.S.C. 267a–276a–7 and Executive Order 11246.".

ENERGY AND WATER SAVINGS AT DISTRICT OF COLUMBIA FACILITIES

SEC. 149. The Director of the District of Columbia Office of Energy shall, subject to the contract approval provisions of Public Law 104–8—

(A) develop a comprehensive plan to identify and accomplish energy conservation measures to achieve maximum cost-effective energy and water savings;

(B) enter into innovative financing and contractual mechanisms including, but not limited to, utility demand-side management programs and energy savings performance contracts and

Contracts.

water conservation performance contracts: *Provided,* That the terms of such contracts do not exceed twenty-five years; and

(C) permit and encourage each department or agency and other instrumentality of the District of Columbia to participate in programs conducted by any gas, electric or water utility of the management of electricity or gas demand or for energy or water conservation.

REDUCTION IN MINIMUM NUMBER OF MEMBERS OF THE BOARD OF TRUSTEES OF AMERICAN UNIVERSITY

SEC. 150. The first section of the Act entitled "An Act to incorporate the American University", approved February 24, 1893, (27 Stat. 476), is amended by striking "forty" and inserting "twenty-five".

WAIVER OF CONGRESSIONAL REVIEW FOR CERTAIN COUNCIL ACTS

Effective date.

SEC. 151. Notwithstanding section 602(c)(1) of the District of Columbia Self-Government and Governmental Reorganization Act, each of the following District of Columbia acts shall take effect on the date of the enactment of this Act:

(1) The District of Columbia Real Property Tax Lien Assignment or Sale and Transfer Amendment Act of 1996 (D.C. Act 11–353).

(2) The Telecommunications Competition Act of 1996 (D.C. Act 11–300).

(3) The Mortgage Lenders and Brokers Act of 1996 (D.C. Act 11–309).

This Act may be cited as the District of Columbia Appropriations Act, 1997.

Approved September 9, 1996.

LEGISLATIVE HISTORY—H.R. 3845:

HOUSE REPORTS: Nos. 104–689 (Comm. on Appropriations) and 104–740 (Comm. of Conference).

SENATE REPORTS: No. 104–328 (Comm. on Appropriations).

CONGRESSIONAL RECORD, Vol. 142 (1996):

July 22, considered and passed House.

July 25, considered and passed Senate, amended.

Aug. 1, House agreed to conference report.

Sept. 5, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 32 (1996):

Sept. 9, Presidential statement.

Public Law 104–195
104th Congress

An Act

To amend the Impact Aid program to provide for a hold-harmless with respect to amounts for payments relating to the Federal acquisition of real property, and for other purposes.

Sept. 16, 1996
[H.R. 3269]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. HOLD-HARMLESS AMOUNTS FOR PAYMENTS RELATING TO FEDERAL ACQUISITION OF REAL PROPERTY.

Section 8002 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7702) is amended by adding at the end the following new subsections:

"(g) FORMER DISTRICTS.—

"(1) IN GENERAL.—Where the school district of any local educational agency described in paragraph (2) is formed at any time after 1938 by the consolidation of two or more former school districts, such agency may elect (at any time such agency files an application under section 8005) for any fiscal year after fiscal year 1994 to have (A) the eligibility of such local educational agency, and (B) the amount which such agency shall be eligible to receive, determined under this section only with respect to such of the former school districts comprising such consolidated school districts as such agency shall designate in such election.

"(2) ELIGIBLE LOCAL EDUCATIONAL AGENCIES.—A local educational agency referred to in paragraph (1) is any local educational agency that, for fiscal year 1994 or any preceding fiscal year, applied for and was determined eligible under section 2(c) of the Act of September 30, 1950 (Public Law 874, 81st Congress) as such section was in effect for such fiscal year.

"(h) HOLD-HARMLESS AMOUNTS.—

"(1) IN GENERAL.—Except as provided in paragraph (2)(A), the total amount that the Secretary shall pay under subsection (b) to a local educational agency that is otherwise eligible for a payment under this section—

"(A) for fiscal year 1995 shall not be less than 85 percent of the amount such agency received for fiscal year 1994 under section 2 of the Act of September 30, 1950 (Public Law 874, 81st Congress) as such section was in effect on September 30, 1994; or

"(B) for fiscal year 1996 shall not be less than 85 percent of the amount such agency received for fiscal year 1995 under subsection (b).

"(2) RATABLE REDUCTIONS.—(A)(i) If necessary in order to make payments to local educational agencies in accordance with paragraph (1) for any fiscal year, the Secretary first shall ratably reduce payments under subsection (b) for such year to local educational agencies that do not receive a payment under this subsection for such year.

"(ii) If additional funds become available for making payments under subsection (b) for such year, then payments that were reduced under clause (i) shall be increased on the same basis as such payments were reduced.

"(B)(i) If the sums made available under this title for any fiscal year are insufficient to pay the full amounts that all local educational agencies in all States are eligible to receive under paragraph (1) after the application of subparagraph (A) for such year, then the Secretary shall ratably reduce payments under paragraph (1) to all such agencies for such year.

"(ii) If additional funds become available for making payments under paragraph (1) for such fiscal year, then payments that were reduced under clause (i) shall be increased on the same basis as such payments were reduced.".

SEC. 2. APPLICATIONS FOR INCREASED PAYMENTS.

(a) PAYMENTS.—Notwithstanding any other provision of law—

South Dakota.

(1) the Bonesteel-Fairfax School District Number 26–5, South Dakota, and the Wagner Community School District Number 11–4, South Dakota, shall be eligible to apply for payment for fiscal year 1994 under section 3(d)(2)(B) of the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such section was in effect on September 30, 1994); and

(2) the Secretary of Education shall use a subgroup of 10 or more generally comparable local educational agencies for the purpose of calculating a payment described in paragraph (1) for a local educational agency described in such paragraph.

(b) APPLICATION.—In order to be eligible to receive a payment described in subsection (a), a school district described in such subsection shall apply for such payment within 30 days after the date of enactment of this Act.

(c) CONSTRUCTION.—Nothing in this section shall be construed to require a local educational agency that received a payment under section 3(d)(2)(B) of the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such section was in effect on September 30, 1994) for fiscal year 1994 to return such payment or a portion of such payment to the Federal Government.

SEC. 3. PAYMENTS FOR ELIGIBLE FEDERALLY CONNECTED CHILDREN RESIDING ON MILITARY INSTALLATION HOUSING UNDERGOING RENOVATION.

(a) IN GENERAL.—Section 8003(a) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703(a)) is amended by adding at the end the following new paragraph:

"(4) MILITARY INSTALLATION HOUSING UNDERGOING RENOVATION.—For purposes of computing the amount of a payment for a local educational agency for children described in paragraph (1)(D)(i), the Secretary shall consider such children to be children described in paragraph (1)(B) if the Secretary determines, on the basis of a certification provided to the Secretary by a designated representative of the Secretary of Defense, that such children would have resided in housing on Federal

property in accordance with paragraph (1)(B) except that such housing was undergoing renovation on the date for which the Secretary determines the number of children under paragraph (1).".

(b) EFFECTIVE DATE.—Paragraph (4) of section 8003(a) of the Elementary and Secondary Education Act of 1965, as added by subsection (a), shall apply with respect to fiscal years after fiscal year 1995. 20 USC 7703 note.

SEC. 4. COMPUTATION OF PAYMENTS FOR ELIGIBLE FEDERALLY CONNECTED CHILDREN IN STATES WITH ONLY ONE LOCAL EDUCATIONAL AGENCY.

(a) IN GENERAL.—Section 8003(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703(b)) is amended by adding at the end the following new paragraph:

"(3) STATES WITH ONLY ONE LOCAL EDUCATIONAL AGENCY.—

"(A) IN GENERAL.—In any of the 50 States of the United States in which there is only one local educational agency, the Secretary shall, for purposes of paragraphs (1)(B), (1)(C), and (2) of this subsection, and subsection (e), consider each administrative school district in the State to be a separate local educational agency.

"(B) COMPUTATION OF MAXIMUM AMOUNT OF BASIC SUPPORT PAYMENT AND THRESHOLD PAYMENT.—In computing the maximum payment amount under paragraph (1)(C) and the learning opportunity threshold payment under paragraph (2)(B) for an administrative school district described in subparagraph (A)—

"(i) the Secretary shall first determine the maximum payment amount and the total current expenditures for the State as a whole; and

"(ii) the Secretary shall then—

"(I) proportionately allocate such maximum payment amount among the administrative school districts on the basis of the respective weighted student units of such districts; and

"(II) proportionately allocate such total current expenditures among the administrative school districts on the basis of the respective number of students in average daily attendance at such districts.".

(b) EFFECTIVE DATE.—Paragraph (3) of section 8003(b) of the Elementary and Secondary Education Act of 1965, as added by subsection (a), shall apply with respect to fiscal years after fiscal year 1994. 20 USC 7703 note.

SEC. 5. DATA AND DETERMINATION OF AVAILABLE FUNDS.

(a) DATA.—Paragraph (4) of section 8003(f) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703(f)) is amended—

(1) in the heading, by striking "CURRENT YEAR";

(2) by amending subparagraph (A) to read as follows:

"(A) shall use student, revenue, and tax data from the second fiscal year preceding the fiscal year for which the local educational agency is applying for assistance under this subsection;"; and

(3) in subparagraph (B), by striking "such year" and inserting "the fiscal year for which the local educational agency is applying for assistance under this subsection".

(b) DETERMINATION OF AVAILABLE FUNDS.—Paragraph (3) of section 8003(f) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703(f)) is amended—

(1) in the matter preceding subclause (I) of subparagraph (A)(iii), by inserting ", except as provided in subparagraph (C)," after "but"; and

(2) by adding at the end the following new subparagraph:

"(C) DETERMINATION OF AVAILABLE FUNDS.—When determining the amount of funds available to the local educational agency for current expenditures for purposes of subparagraph (A)(iii) for a fiscal year, the Secretary shall include, with respect to the local educational agency's opening cash balance for such fiscal year, the portion of such balance that is the greater of—

"(i) the amount that exceeds the maximum amount of funds for current expenditures that the local educational agency was allowed by State law to carry over from the prior fiscal year, if State restrictions on such amounts were applied uniformly to all local educational agencies in the State; or

"(ii) the amount that exceeds 30 percent of the local educational agency's operating costs for the prior fiscal year.".

20 USC 7703 note.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply with respect to fiscal years after fiscal year 1996.

SEC. 6. PAYMENTS RELATING TO FEDERAL PROPERTY.

Section 8002 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7702) (as amended by section 1) is further amended by adding at the end thereof the following new subsection:

"(i) PRIORITY PAYMENTS.—Notwithstanding subsection (b)(1)(B), and for any fiscal year beginning with fiscal year 1997 for which the amount appropriated to carry out this section exceeds the amount so appropriated for fiscal year 1996, the Secretary shall first use such excess amount to increase the payment that would otherwise be made under this section to not more than 50 percent of the maximum amount determined under subsection (b) for any local educational agency that—

"(1) received a payment under this section for fiscal year 1996;

"(2) serves a school district that contains all or a portion of a United States military academy;

"(3) serves a school district in which the local tax assessor has certified that at least 60 percent of the real property is federally owned; and

"(4) demonstrates to the satisfaction of the Secretary that such agency's per-pupil revenue derived from local sources for current expenditures is not less than that revenue for the preceding fiscal year.".

SEC. 7. TREATMENT OF IMPACT AID PAYMENTS.

(a) IN GENERAL.—The Secretary of Education shall treat any State as having met the requirements of section 5(d)(2)(A) of the Act of September 30, 1950 (Public Law 874, 81st Congress) for

fiscal year 1991 (as such section was in effect for such fiscal year), and as not having met those requirements for each of the fiscal years 1992, 1993, and 1994 (as such section was in effect for fiscal year 1992, 1993, and 1994, respectively), if—

(1) the State's program of State aid was not certified by the Secretary under section 5(d)(2)(C)(i) of the Act of September 30, 1950 (Public Law 874, 81st Congress) for any fiscal year prior to fiscal year 1991;

(2) the State submitted timely notice under that section of the State's intention to seek that certification for fiscal year 1991;

(3) the Secretary determined that the State did not meet the requirements of section 5(d)(2)(A) of such Act for fiscal year 1991; and

(4) the State made a payment to each local educational agency in the State (other than a local educational agency that received a payment under section 3(d)(2)(B) of such Act for fiscal year 1991) in an amount equal to the difference between the amount such agency received under such Act for fiscal year 1991 and the amount such agency would have received under such Act for fiscal year 1991 if payments under such Act had not been taken into consideration in awarding State aid to such agencies for fiscal year 1991.

(b) REPAYMENT NOT REQUIRED.—Notwithstanding any other provision of law, any local educational agency in a State that meets the requirements of paragraphs (1) through (4) of subsection (a) and that received funds under section 3(d)(2)(B) of the Act of September 30, 1950 (Public Law 874, 81st Congress) for fiscal year 1991 (as such section was in effect for such fiscal year) shall not, by virtue of subsection (a), be required to repay those funds to the Secretary of Education.

SEC. 8. SPECIAL RULE RELATING TO AVAILABILITY OF FUNDS FOR THE LOCAL EDUCATIONAL AGENCY SERVING THE NORTH HANOVER TOWNSHIP PUBLIC SCHOOLS, NEW JERSEY, UNDER PUBLIC LAW 874, 81ST CONGRESS.

The Secretary of Education shall not consider any funds that the Secretary of Education determines the local educational agency serving the North Hanover Township Public Schools, New Jersey, has designated for a future liability under an early retirement incentive program as funds available to such local educational agency for purposes of determining the eligibility of such local educational agency for a payment for fiscal year 1994, or the amount of any such payment, under section 3(d)(2)(B) of the Act of September 30, 1950 (Public Law 874, 81st Congress), as such section was in effect for such fiscal year.

SEC. 9. CORRECTED LOCAL CONTRIBUTION RATE.

(a) COMPUTATION.—The Secretary of Education shall compute a payment for a local educational agency under the Act of September 30, 1950 (Public Law 874, 81st Congress) for each of the fiscal years 1991 through 1994 (as such Act was in effect for each of those fiscal years, as the case may be) using a corrected local contribution rate based on generally comparable school districts, if—

(1) an incorrect local contribution rate was submitted to the Secretary of Education by the State in which such agency

is located, and the incorrect local contribution rate was verified as correct by the Secretary of Education; and

(2) the corrected local contribution rate is subject to review by the Secretary of Education.

(b) PAYMENT.—Using funds appropriated under the Act of September 30, 1950 (Public Law 874, 81st Congress) for fiscal years 1991 through 1994 that remain available for obligation (if any), the Secretary of Education shall make payments based on the computations described in subsection (a) to the local educational agency for such fiscal years.

SEC. 10. STATE EQUALIZATION PLANS.

Subparagraph (A) of section 8009(b)(2) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7709(b)(2)) is amended by striking "more than" and all that follows through the period and inserting "more than 25 percent.".

Approved September 16, 1996.

LEGISLATIVE HISTORY—H.R. 3269 (S. 1509):

HOUSE REPORTS: No. 104–560 (Comm. on Economic and Educational Opportunities).

CONGRESSIONAL RECORD:

Vol. 141 (1995): Dec. 22, S. 1509 considered and passed Senate.

Vol. 142 (1996): May 7, H.R. 3269 considered and passed House.
Aug. 2, considered and passed Senate, amended.
Sept. 4, House concurred in Senate amendment.

Public Law 104–196
104th Congress

An Act

Making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 1997, and for other purposes.

Sept. 16, 1996
[H.R. 3517]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1997, for military construction, family housing, and base realignment and closure functions administered by the Department of Defense, and for other purposes, namely:

Military Construction Appropriations Act, 1997.

MILITARY CONSTRUCTION, ARMY

(INCLUDING RESCISSIONS)

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and real property for the Army as currently authorized by law, including personnel in the Army Corps of Engineers and other personal services necessary for the purposes of this appropriation, and for construction and operation of facilities in support of the functions of the Commander in Chief, $565,688,000, to remain available until September 30, 2001: *Provided,* That of this amount, not to exceed $50,538,000 shall be available for study, planning, design, architect and engineer services, and host nation support, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor: *Provided further,* That of the funds appropriated for "Military Construction, Army" under Public Law 103–110, $2,028,000 is hereby rescinded.

MILITARY CONSTRUCTION, NAVY

(INCLUDING RESCISSIONS)

For acquisition, construction, installation, and equipment of temporary or permanent public works, naval installations, facilities, and real property for the Navy as currently authorized by law, including personnel in the Naval Facilities Engineering Command and other personal services necessary for the purposes of this appropriation, $707,094,000, to remain available until September 30, 2001: *Provided,* That of this amount, not to exceed $49,927,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense

determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor: *Provided further,* That of the funds appropriated for "Military Construction, Navy" under Public Law 102–380, $9,000,000 is hereby rescinded: *Provided further,* That of the funds appropriated for "Military Construction, Navy" under Public Law 103–110, $2,300,000 is hereby rescinded.

MILITARY CONSTRUCTION, AIR FORCE

(INCLUDING RESCISSIONS)

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and real property for the Air Force as currently authorized by law, $754,064,000, to remain available until September 30, 2001: *Provided,* That of this amount, not to exceed $50,687,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor: *Provided further,* That of the funds appropriated for "Military Construction, Air Force" under Public Law 103–307, $2,100,000 is hereby rescinded.

MILITARY CONSTRUCTION, DEFENSE-WIDE

(INCLUDING TRANSFER OF FUNDS AND RESCISSIONS)

For acquisition, construction, installation, and equipment of temporary or permanent public works, installations, facilities, and real property for activities and agencies of the Department of Defense (other than the military departments), as currently authorized by law, $763,922,000, to remain available until September 30, 2001: *Provided,* That such amounts of this appropriation as may be determined by the Secretary of Defense may be transferred to such appropriations of the Department of Defense available for military construction or family housing as he may designate, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: *Provided further,* That of the amount appropriated, not to exceed $12,239,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor: *Provided further,* That of the funds appropriated for "Military Construction, Defense-wide" under Public Law 104–32, $7,000,000 is hereby rescinded.

DEPARTMENT OF DEFENSE MILITARY UNACCOMPANIED HOUSING IMPROVEMENT FUND

(INCLUDING TRANSFER OF FUNDS)

For the Department of Defense Military Unaccompanied Housing Improvement Fund, $5,000,000, to remain available until

expended: *Provided,* That subject to thirty days prior notification to the Committees on Appropriations, such additional amounts as may be determined by the Secretary of Defense may be transferred to the Fund from amounts appropriated for the acquisition or construction of military unaccompanied housing in "Military Construction" accounts, to be merged with and to be made available for the same purposes and for the same period of time as amounts appropriated directly to the Fund: *Provided further,* That appropriations made available for the Fund in this Act shall be available to cover the costs, as defined in section 502(5) of the Congressional Budget Act of 1974, of direct loans and loan guarantees issued by the Department of Defense pursuant to the provisions of subchapter IV of chapter 169 of title 10, United States Code, pertaining to alternative means of acquiring and improving military unaccompanied housing and ancillary supporting facilities.

MILITARY CONSTRUCTION, ARMY NATIONAL GUARD

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army National Guard, and contributions therefor, as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, $78,086,000, to remain available until September 30, 2001.

MILITARY CONSTRUCTION, AIR NATIONAL GUARD

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air National Guard, and contributions therefor, as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, $189,855,000, to remain available until September 30, 2001.

MILITARY CONSTRUCTION, ARMY RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army Reserve as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, $55,543,000, to remain available until September 30, 2001.

MILITARY CONSTRUCTION, NAVAL RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the reserve components of the Navy and Marine Corps as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, $37,579,000, to remain available until September 30, 2001.

MILITARY CONSTRUCTION, AIR FORCE RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air Force Reserve as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, $52,805,000, to remain available until September 30, 2001.

NORTH ATLANTIC TREATY ORGANIZATION

SECURITY INVESTMENT PROGRAM

For the United States share of the cost of the North Atlantic Treaty Organization Security Investment Program for the acquisition and construction of military facilities and installations (including international military headquarters) and for related expenses for the collective defense of the North Atlantic Treaty Area as authorized in military construction authorization Acts and section 2806 of title 10, United States Code, $172,000,000, to remain available until expended.

FAMILY HOUSING, ARMY

For expenses of family housing for the Army for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, $158,503,000, to remain available until September 30, 2001; for Operation and Maintenance, and for debt payment, $1,212,466,000; in all $1,370,969,000.

FAMILY HOUSING, NAVY AND MARINE CORPS

For expenses of family housing for the Navy and Marine Corps for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, $499,886,000, to remain available until September 30, 2001; for Operation and Maintenance, and for debt payment, $1,014,241,000; in all $1,514,127,000.

FAMILY HOUSING, AIR FORCE

For expenses of family housing for the Air Force for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, $317,507,000, to remain available until September 30, 2001; for Operation and Maintenance, and for debt payment, $816,509,000; in all $1,134,016,000.

FAMILY HOUSING, DEFENSE-WIDE

For expenses of family housing for the activities and agencies of the Department of Defense (other than the military departments) for construction, including acquisition, replacement, addition, expansion, extension and alteration, and for operation and maintenance, leasing, and minor construction, as authorized by law, as follows: for Construction, $4,371,000, to remain available until September 30, 2001; for Operation and Maintenance, $30,963,000; in all $35,334,000.

DEPARTMENT OF DEFENSE FAMILY HOUSING IMPROVEMENT FUND

(INCLUDING TRANSFER OF FUNDS)

For the Department of Defense Family Housing Improvement Fund, $25,000,000, to remain available until expended: *Provided,* That, subject to thirty days prior notification to the Committees on Appropriations, such additional amounts as may be determined by the Secretary of Defense may be transferred to the Fund from amounts appropriated for construction in "Family Housing" accounts, to be merged with and to be available for the same purposes and for the same period of time as amounts appropriated directly to the Fund: *Provided further,* That appropriations made available to the Fund in this Act shall be available to cover the costs, as defined in section 502(5) of the Congressional Budget Act of 1974, of direct loans or loan guarantees issued by the Department of Defense pursuant to the provisions of subchapter IV of chapter 169, title 10, United States Code, pertaining to alternative means of acquiring and improving military family housing and supporting facilities.

HOMEOWNERS ASSISTANCE FUND, DEFENSE

For use in the Homeowners Assistance Fund established by section 1013(d) of the Demonstration Cities and Metropolitan Development Act of 1966, as amended (42 U.S.C. 3374), $36,181,000, to remain available until expended.

BASE REALIGNMENT AND CLOSURE ACCOUNT, PART II

For deposit into the Department of Defense Base Closure Account 1990 established by section 2906(a)(1) of the Department of Defense Authorization Act, 1991 (Public Law 101–510), $352,800,000, to remain available until expended: *Provided,* That not more than $223,789,000 of the funds appropriated herein shall be available solely for environmental restoration, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor.

BASE REALIGNMENT AND CLOSURE ACCOUNT, PART III

For deposit into the Department of Defense Base Closure Account 1990 established by section 2906(a)(1) of the Department of Defense Authorization Act, 1991 (Public Law 101–510), $971,925,000, to remain available until expended: *Provided,* That not more than $351,967,000 of the funds appropriated herein shall be available solely for environmental restoration, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor.

BASE REALIGNMENT AND CLOSURE ACCOUNT, PART IV

For deposit into the Department of Defense Base Closure Account 1990 established by section 2906(a)(1) of the Department of Defense Authorization Act, 1991 (Public Law 101–510),

$1,182,749,000, to remain available until expended: *Provided,* That not more than $200,841,000 of the funds appropriated herein shall be available solely for environmental restoration, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor.

GENERAL PROVISIONS

SEC. 101. None of the funds appropriated in Military Construction Appropriations Acts shall be expended for payments under a cost-plus-a-fixed-fee contract for work, where cost estimates exceed $25,000, to be performed within the United States, except Alaska, without the specific approval in writing of the Secretary of Defense setting forth the reasons therefor: *Provided,* That the foregoing shall not apply in the case of contracts for environmental restoration at an installation that is being closed or realigned where payments are made from a Base Realignment and Closure Account.

SEC. 102. Funds appropriated to the Department of Defense for construction shall be available for hire of passenger motor vehicles.

SEC. 103. Funds appropriated to the Department of Defense for construction may be used for advances to the Federal Highway Administration, Department of Transportation, for the construction of access roads as authorized by section 210 of title 23, United States Code, when projects authorized therein are certified as important to the national defense by the Secretary of Defense.

SEC. 104. None of the funds appropriated in this Act may be used to begin construction of new bases inside the continental United States for which specific appropriations have not been made.

SEC. 105. No part of the funds provided in Military Construction Appropriations Acts shall be used for purchase of land or land easements in excess of 100 per centum of the value as determined by the Army Corps of Engineers or the Naval Facilities Engineering Command, except (a) where there is a determination of value by a Federal court, or (b) purchases negotiated by the Attorney General or his designee, or (c) where the estimated value is less than $25,000, or (d) as otherwise determined by the Secretary of Defense to be in the public interest.

SEC. 106. None of the funds appropriated in Military Construction Appropriations Acts shall be used to (1) acquire land, (2) provide for site preparation, or (3) install utilities for any family housing, except housing for which funds have been made available in annual Military Construction Appropriations Acts.

SEC. 107. None of the funds appropriated in Military Construction Appropriations Acts for minor construction may be used to transfer or relocate any activity from one base or installation to another, without prior notification to the Committees on Appropriations.

SEC. 108. No part of the funds appropriated in Military Construction Appropriations Acts may be used for the procurement of steel for any construction project or activity for which American steel producers, fabricators, and manufacturers have been denied the opportunity to compete for such steel procurement.

SEC. 109. None of the funds available to the Department of Defense for military construction or family housing during the

current fiscal year may be used to pay real property taxes in any foreign nation.

SEC. 110. None of the funds appropriated in Military Construction Appropriations Acts may be used to initiate a new installation overseas without prior notification to the Committees on Appropriations.

SEC. 111. None of the funds appropriated in Military Construction Appropriations Acts may be obligated for architect and engineer contracts estimated by the Government to exceed $500,000 for projects to be accomplished in Japan, in any NATO member country, or in countries bordering the Arabian Gulf, unless such contracts are awarded to United States firms or United States firms in joint venture with host nation firms.

SEC. 112. None of the funds appropriated in Military Construction Appropriations Acts for military construction in the United States territories and possessions in the Pacific and on Kwajalein Atoll, or in countries bordering the Arabian Gulf, may be used to award any contract estimated by the Government to exceed $1,000,000 to a foreign contractor: *Provided,* That this section shall not be applicable to contract awards for which the lowest responsive and responsible bid of a United States contractor exceeds the lowest responsive and responsible bid of a foreign contractor by greater than 20 per centum.

SEC. 113. The Secretary of Defense is to inform the appropriate Committees of Congress, including the Committees on Appropriations, of the plans and scope of any proposed military exercise involving United States personnel thirty days prior to its occurring, if amounts expended for construction, either temporary or permanent, are anticipated to exceed $100,000.

SEC. 114. Not more than 20 per centum of the appropriations in Military Construction Appropriations Acts which are limited for obligation during the current fiscal year shall be obligated during the last two months of the fiscal year.

(TRANSFER OF FUNDS)

SEC. 115. Funds appropriated to the Department of Defense for construction in prior years shall be available for construction authorized for each such military department by the authorizations enacted into law during the current session of Congress.

SEC. 116. For military construction or family housing projects that are being completed with funds otherwise expired or lapsed for obligation, expired or lapsed funds may be used to pay the cost of associated supervision, inspection, overhead, engineering and design on those projects and on subsequent claims, if any.

SEC. 117. Notwithstanding any other provision of law, any funds appropriated to a military department or defense agency for the construction of military projects may be obligated for a military construction project or contract, or for any portion of such a project or contract, at any time before the end of the fourth fiscal year after the fiscal year for which funds for such project were appropriated if the funds obligated for such project (1) are obligated from funds available for military construction projects, and (2) do not exceed the amount appropriated for such project, plus any amount by which the cost of such project is increased pursuant to law. 10 USC 2860 note.

(TRANSFER OF FUNDS)

10 USC 2860 note.

SEC. 118. During the five-year period after appropriations available to the Department of Defense for military construction and family housing operation and maintenance and construction have expired for obligation, upon a determination that such appropriations will not be necessary for the liquidation of obligations or for making authorized adjustments to such appropriations for obligations incurred during the period of availability of such appropriations, unobligated balances of such appropriations may be transferred into the appropriation "Foreign Currency Fluctuations, Construction, Defense" to be merged with and to be available for the same time period and for the same purposes as the appropriation to which transferred.

Reports.

SEC. 119. The Secretary of Defense is to provide the Committees on Appropriations of the Senate and the House of Representatives with an annual report by February 15, containing details of the specific actions proposed to be taken by the Department of Defense during the current fiscal year to encourage other member nations of the North Atlantic Treaty Organization, Japan, Korea, and United States allies bordering the Arabian Gulf to assume a greater share of the common defense burden of such nations and the United States.

(TRANSFER OF FUNDS)

SEC. 120. During the current fiscal year, in addition to any other transfer authority available to the Department of Defense, proceeds deposited to the Department of Defense Base Closure Account established by section 207(a)(1) of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526) pursuant to section 207(a)(2)(C) of such Act, may be transferred to the account established by section 2906(a)(1) of the Department of Defense Authorization Act, 1991, to be merged with, and to be available for the same purposes and the same time period as that account.

SEC. 121. No funds appropriated pursuant to this Act may be expended by an entity unless the entity agrees that in expending the assistance the entity will comply with sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a–10c, popularly known as the "Buy American Act").

SEC. 122. (a) In the case of any equipment or products that may be authorized to be purchased with financial assistance provided under this Act, it is the sense of the Congress that entities receiving such assistance should, in expending the assistance, purchase only American-made equipment and products.

Notice.

(b) In providing financial assistance under this Act, the Secretary of the Treasury shall provide to each recipient of the assistance a notice describing the statement made in subsection (a) by the Congress.

10 USC 10503 note.

SEC. 123. The National Guard Bureau shall annually prepare a future years defense plan based on the requirement and priorities of the National Guard: *Provided,* That this plan shall be presented to the committees of Congress concurrent with the President's budget submission for each fiscal year.

SEC. 124. It is the sense of the Congress that the Secretary of the Army should name buildings numbered 5308 and 5309 at Redstone Arsenal, Alabama, as the Howell Heflin Complex.

(TRANSFER OF FUNDS)

SEC. 125. During the current fiscal year, in addition to any other transfer authority available to the Department of Defense, amounts may be transferred from the account established by section 2906(a)(1) of the Department of Defense Authorization Act, 1991, to the fund established by section 1013(d) of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3374) to pay for expenses associated with the Homeowners Assistance Program. Any amounts transferred shall be merged with and be available for the same purposes and for the same time period as the fund to which transferred.

This Act may be cited as the "Military Construction Appropriations Act, 1997".

Approved September 16, 1996.

LEGISLATIVE HISTORY—H.R. 3517:

HOUSE REPORTS: Nos. 104–591 (Comm. on Appropriations) and 104–721 (Comm. of Conference).
SENATE REPORTS: No. 104–287 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 142 (1996):
May 30, considered and passed House.
June 26, considered and passed Senate, amended.
Aug. 1, House agreed to conference report.
Sept. 5, Senate agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 32 (1996):
Sept. 16, Presidential statement.

Public Law 104–197
104th Congress

An Act

Sept. 16, 1996
[H.R. 3754]

Making appropriations for the Legislative Branch for the fiscal year ending September 30, 1997, and for other purposes.

Legislative Branch Appropriations Act, 1997.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Legislative Branch for the fiscal year ending September 30, 1997, and for other purposes, namely:

Congressional Operations Appropriations Act, 1997.
2 USC 60a note.

TITLE I—CONGRESSIONAL OPERATIONS

SENATE

EXPENSE ALLOWANCES

For expense allowances of the Vice President, $10,000; the President Pro Tempore of the Senate, $10,000; Majority Leader of the Senate, $10,000; Minority Leader of the Senate, $10,000; Majority Whip of the Senate, $5,000; Minority Whip of the Senate, $5,000; and Chairmen of the Majority and Minority Conference Committees, $3,000 for each Chairman; in all, $56,000.

REPRESENTATION ALLOWANCES FOR THE MAJORITY AND MINORITY LEADERS

For representation allowances of the Majority and Minority Leaders of the Senate, $15,000 for each such Leader; in all, $30,000.

SALARIES, OFFICERS AND EMPLOYEES

For compensation of officers, employees, and others as authorized by law, including agency contributions, $74,615,000, which shall be paid from this appropriation without regard to the below limitations, as follows:

OFFICE OF THE VICE PRESIDENT

For the Office of the Vice President, $1,513,000.

OFFICE OF THE PRESIDENT PRO TEMPORE

For the Office of the President Pro Tempore, $325,000.

OFFICES OF THE MAJORITY AND MINORITY LEADERS

For Offices of the Majority and Minority Leaders, $2,195,000.

OFFICES OF THE MAJORITY AND MINORITY WHIPS

For Offices of the Majority and Minority Whips, $1,156,000.

CONFERENCE COMMITTEES

For the Conference of the Majority and the Conference of the Minority, at rates of compensation to be fixed by the Chairman of each such committee, $996,000 for each such committee; in all, $1,992,000.

OFFICES OF THE SECRETARIES OF THE CONFERENCE OF THE MAJORITY AND THE CONFERENCE OF THE MINORITY

For Offices of the Secretaries of the Conference of the Majority and the Conference of the Minority, $384,000.

POLICY COMMITTEES

For salaries of the Majority Policy Committee and the Minority Policy Committee, $965,000 for each such committee, in all, $1,930,000.

OFFICE OF THE CHAPLAIN

For Office of the Chaplain, $234,000.

OFFICE OF THE SECRETARY

For Office of the Secretary, $12,714,000.

OFFICE OF THE SERGEANT AT ARMS AND DOORKEEPER

For Office of the Sergeant at Arms and Doorkeeper, $34,037,000.

OFFICES OF THE SECRETARIES FOR THE MAJORITY AND MINORITY

For Offices of the Secretary for the Majority and the Secretary for the Minority, $1,135,000.

AGENCY CONTRIBUTIONS AND RELATED EXPENSES

For agency contributions for employee benefits, as authorized by law, and related expenses, $17,000,000.

OFFICE OF THE LEGISLATIVE COUNSEL OF THE SENATE

For salaries and expenses of the Office of the Legislative Counsel of the Senate, $3,447,000.

OFFICE OF SENATE LEGAL COUNSEL

For salaries and expenses of the Office of Senate Legal Counsel, $936,000.

EXPENSE ALLOWANCES OF THE SECRETARY OF THE SENATE, SERGEANT AT ARMS AND DOORKEEPER OF THE SENATE, AND SECRETARIES FOR THE MAJORITY AND MINORITY OF THE SENATE

For expense allowances of the Secretary of the Senate, $3,000; Sergeant at Arms and Doorkeeper of the Senate, $3,000; Secretary for the Majority of the Senate, $3,000; Secretary for the Minority of the Senate, $3,000; in all, $12,000.

CONTINGENT EXPENSES OF THE SENATE

INQUIRIES AND INVESTIGATIONS

For expenses of inquiries and investigations ordered by the Senate, or conducted pursuant to section 134(a) of Public Law 601, Seventy-ninth Congress, as amended, section 112 of Public Law 96–304 and Senate Resolution 281, agreed to March 11, 1980, $69,561,000.

EXPENSES OF THE UNITED STATES SENATE CAUCUS ON INTERNATIONAL NARCOTICS CONTROL

For expenses of the United States Senate Caucus on International Narcotics Control, $305,000.

SECRETARY OF THE SENATE

For expenses of the Office of the Secretary of the Senate, $1,511,000.

SERGEANT AT ARMS AND DOORKEEPER OF THE SENATE

For expenses of the Office of the Sergeant at Arms and Doorkeeper of the Senate, $65,931,000.

MISCELLANEOUS ITEMS

For miscellaneous items, $6,791,000.

SENATORS' OFFICIAL PERSONNEL AND OFFICE EXPENSE ACCOUNT

For Senators' Official Personnel and Office Expense Account, $208,000,000.

STATIONERY (REVOLVING FUND)

For stationery for the President of the Senate, $4,500, for officers of the Senate and the Conference of the Majority and Conference of the Minority of the Senate, $8,500; in all, $13,000.

OFFICIAL MAIL COSTS

For expenses necessary for official mail costs of the Senate, $10,000,000, to remain available until September 30, 1998.

ADMINISTRATIVE PROVISIONS

SECTION 1. Section 195(a) of chapter IX of title I of the Supplemental Appropriations Act, 1985 (Public Law 99–88; 2 U.S.C. 61g–7(a)) is amended by striking the period at the end and inserting

"or with respect to the administration of the affairs of the committee.".

SEC. 2. Section 105(d)(1) of chapter VI of title I of the Second Supplemental Appropriations Act, 1978 (Public Law 95–355; 2 U.S.C. 43d(d)(1)) is amended by striking "and telephone services" and inserting ", telephone services, and stationery".

SEC. 3. Section 3(f)(1) under the heading "ADMINISTRATIVE PROVISIONS" in the appropriation for the Senate in the Legislative Branch Appropriation Act, 1975 (2 U.S.C. 59(e)(1)) is amended in the second sentence by striking "one year" and inserting "3 years".

SEC. 4. (a) Section 5 under the heading "ADMINISTRATIVE PROVISIONS" in the appropriation for the Senate in the Legislative Branch Appropriations Act, 1996 (2 U.S.C. 58a note) is amended—

(1) in subsection (a), by striking "by the Sergeant at Arms and Doorkeeper of the Senate"; and

(2) by striking subsection (b) and inserting the following:

"(b) As used in subsection (a), the term 'user' means a Senator, an Officer of the Senate, and any office, committee, or other entity the funds of which are disbursed by the Secretary of the Senate.".

(b) The amendments made by subsection (a) shall take effect on October 1, 1996, and shall apply to all payments made on or after such date for local and long distance telecommunications service.

Effective date. Applicability. 2 USC 58a note.

SEC. 5. (a) The Sergeant at Arms and Doorkeeper of the Senate may directly, or through the General Services Administration, transfer title to excess or surplus educationally useful equipment to a public school. Any such transfer shall be completed at the lowest possible cost to the public school and the Senate.

Public schools. Computers. 2 USC 117b note.

(b) The Committee on Rules and Administration of the Senate shall prescribe regulations to carry out the provisions of this section.

Regulations.

(c) Receipts from reimbursements for the costs of transfer of excess or surplus educationally useful equipment under this section, shall be deposited in the United States Treasury for credit to the account for the "Sergeant at Arms and Doorkeeper of the Senate" within the contingent fund of the Senate.

(d) For the purposes of this section:

(1) The term "public school" means a public elementary or secondary school as such terms are defined in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

(2) The term "educationally useful equipment" means computers and related peripheral tools, including printers, modems, routers, servers, computer keyboards, scanners, and other telecommunications and research equipment, that are appropriate for use in public school education.

(e) This section shall take effect beginning with fiscal year 1997 and shall be effective each fiscal year thereafter.

Effective date.

SEC. 6. (a) Notwithstanding section 1345 of title 31, United States Code, the Secretary of the Senate may reimburse any individual employed by the Senate day care center for the cost of training classes and conferences in connection with the provision of child care services and for travel, transportation, and subsistence expenses incurred in connection with the training classes and conferences.

40 USC 214e.

(b) The Senate day care center shall certify and provide appropriate documentation to the Secretary of the Senate with respect

Certification.

to any reimbursement under this section. Reimbursements under this section shall be made from the appropriations account "MISCELLANEOUS ITEMS" within the contingent fund of the Senate on vouchers approved by the Secretary of the Senate.

Regulations. (c) Reimbursements under this section shall be subject to the regulations and limitations prescribed by the Committee on Rules and Administration of the Senate for travel and related expenses for which payment is authorized to be made from the contingent fund of the Senate.

Effective date. (d) This section shall be effective on and after October 1, 1996.

SEC. 7. Notwithstanding any other provision of law, any funds received during fiscal year 1996 by the Sergeant at Arms and Doorkeeper of the Senate in settlement of a contract claim or dispute, but not to exceed $1,450,000, shall be deposited into the appropriation account for fiscal year 1997 for the Sergeant at Arms and Doorkeeper of the Senate within the contingent fund of the Senate and shall be available in a like manner and for the same purposes as are the other funds in that account.

2 USC 123e. SEC. 8. (a) The Secretary of the Senate, with the oversight and approval of the Committee on Rules and Administration of the Senate, shall oversee the development and implementation of a comprehensive Senate legislative information system.

(b) In carrying out this section, the Secretary of the Senate shall consult and work with officers and employees of the House of Representatives. Legislative branch agencies and departments and agencies of the executive branch shall provide cooperation, consultation, and assistance as requested by the Secretary of the Senate to carry out this section.

(c) Any funds that were appropriated under the heading "Secretary of the Senate" for expenses of the Office of the Secretary of the Senate by the Legislative Branch Appropriations Act, 1995, to remain available until September 30, 1998, and that the Secretary determines are not needed for development of a financial management system for the Senate may, with the approval of the Committee on Appropriations of the Senate, be used to carry out the provisions of this section, and such funds shall be available through September 30, 2000.

(d) The Committee on Rules and Administration of the Senate may prescribe such regulations as may be necessary to carry out the provisions of this section.

Effective date. (e) This section shall be effective for fiscal years beginning on or after October 1, 1996.

2 USC 60p. SEC. 9. PAYMENT FOR UNACCRUED LEAVE.—

(a) IN GENERAL.—The Financial Clerk of the Senate is authorized to accept from an individual whose pay is disbursed by the Secretary of Senate a payment representing pay for any period of unaccrued annual leave used by that individual, as certified by the head of the employing office of the individual making the payment.

(b) WITHHOLDING.—The Financial Clerk of the Senate is authorized to withhold the amount referred to in subsection (a) from any amount which is disbursed by the Secretary of the Senate and which is due to or on behalf of the individual described in subsection (a).

(c) DEPOSIT.—Any payment accepted under this section shall be deposited in the general fund of the Treasury as miscellaneous receipts.

(d) DEFINITION.—As used in this section, the term "head of the employing office" means any person with the final authority to appoint, hire, discharge, and set the terms, conditions, or privileges of the employment of an individual whose pay is disbursed by the Secretary of the Senate.

(e) APPLICABILITY.—This section shall apply to fiscal year 1996 and each fiscal year thereafter.

HOUSE OF REPRESENTATIVES

SALARIES AND EXPENSES

For salaries and expenses of the House of Representatives, $683,831,000, as follows:

HOUSE LEADERSHIP OFFICES

For salaries and expenses, as authorized by law, $11,592,000, including: Office of the Speaker, $1,535,000, including $25,000 for official expenses of the Speaker; Office of the Majority Floor Leader, $1,526,000, including $10,000 for official expenses of the Majority Leader; Office of the Minority Floor Leader, $1,534,000, including $10,000 for official expenses of the Minority Leader; Office of the Majority Whip, including the Chief Deputy Majority Whip, $957,000, including $5,000 for official expenses of the Majority Whip; Office of the Minority Whip, including the Chief Deputy Minority Whip, $949,000, including $5,000 for official expenses of the Minority Whip; Speaker's Office for Legislative Floor Activities, $376,000; Republican Steering Committee, $664,000; Republican Conference, $1,130,000; Democratic Steering and Policy Committee, $1,191,000; Democratic Caucus, $603,000; and nine minority employees, $1,127,000.

MEMBERS' REPRESENTATIONAL ALLOWANCES

INCLUDING MEMBERS' CLERK HIRE, OFFICIAL EXPENSES OF MEMBERS, AND OFFICIAL MAIL

For Members' representational allowances, including Members' clerk hire, official expenses, and official mail, $363,313,000.

COMMITTEE EMPLOYEES

STANDING COMMITTEES, SPECIAL AND SELECT

For salaries and expenses of standing committees, special and select, authorized by House resolutions, $80,222,000.

COMMITTEE ON APPROPRIATIONS

For salaries and expenses of the Committee on Appropriations, $17,580,000, including studies and examinations of executive agencies and temporary personal services for such committee, to be expended in accordance with section 202(b) of the Legislative Reorganization Act of 1946 and to be available for reimbursement to agencies for services performed.

SALARIES, OFFICERS AND EMPLOYEES

For compensation and expenses of officers and employees, as authorized by law, $86,259,000, including: for salaries and expenses of the Office of the Clerk, including not more than $3,500, of which not more than $2,500 is for the Family Room, for official representation and reception expenses, $15,074,000; for salaries and expenses of the Office of the Sergeant at Arms, including the position of Superintendent of Garages, and including not more than $750 for official representation and reception expenses, $3,638,000; for salaries and expenses of the Office of the Chief Administrative Officer, $55,209,000, including salaries, expenses and temporary personal services of House Information Resources, $22,577,000, of which $16,577,000 is provided herein: *Provided,* That House Information Resources is authorized to receive reimbursement from Members of the House of Representatives and other governmental entities for services provided and such reimbursement shall be deposited in the Treasury for credit to this account; for salaries and expenses of the Office of the Inspector General, $3,954,000; Office of the Chaplain, $126,000; for salaries and expenses of the Office of the Parliamentarian, including the Parliamentarian and $2,000 for preparing the Digest of Rules, $1,036,000; for salaries and expenses of the Office of the Law Revision Counsel of the House, $1,767,000; for salaries and expenses of the Office of the Legislative Counsel of the House, $4,687,000; and other authorized employees, $768,000.

ALLOWANCES AND EXPENSES

For allowances and expenses as authorized by House resolution or law, $124,865,000, including: supplies, materials, administrative costs and Federal tort claims, $2,374,000; official mail for committees, leadership offices, and administrative offices of the House, $1,000,000; reemployed annuitants reimbursement, $71,000; Government contributions for health, retirement, Social Security, and other applicable employee benefits, $120,779,000; and miscellaneous items including purchase, exchange, maintenance, repair and operation of House motor vehicles, interparliamentary receptions, and gratuities to heirs of deceased employees of the House, $641,000.

CHILD CARE CENTER

For salaries and expenses of the House of Representatives Child Care Center, such amounts as are deposited in the account established by section 312(d)(1) of the Legislative Branch Appropriations Act, 1992 (40 U.S.C. 184g(d)(1)), subject to the level specified in the budget of the Center, as submitted to the Committee on Appropriations of the House of Representatives.

ADMINISTRATIVE PROVISIONS

SEC. 101. (a) Section 107A of the Legislative Branch Appropriations Act, 1996 (109 Stat. 522) is amended— 40 USC 174k note.

(1) by striking out "For fiscal year 1996, subject" and inserting in lieu thereof "(a) Subject";

(2) by striking out "of the total amount" and all that follows through "cost of inventory" and inserting in lieu thereof

the following: "the amounts deposited in the account specified in subsection (b) from vending operations of the House of Representatives Restaurant System shall be available to pay the cost of goods sold"; and

(3) by adding at the end the following new subsection:

"(b) The account referred to in subsection (a) is the special deposit account established for the House of Representatives Restaurant by section 208 of the First Supplemental Civil Functions Appropriation Act, 1941 (40 U.S.C. 174k note).".

(b) The amendments made by subsection (a) shall apply with respect to fiscal years beginning after September 30, 1996. Applicability. 40 USC 174k note.

SEC .102. (a) Section 3210(a)(6)(A) of title 39, United States Code, is amended—

(1) in clause (i), by inserting "(or, in the case of a Member of the House, fewer than 90 days)" after "60 days"; and

(2) in clause (ii), by striking out "60 days" and inserting in lieu thereof "90 days".

(b) The amendments made by subsection (a) shall take effect on October 1, 1996, and shall apply with respect to any mailing postmarked on or after that date. Effective date. Applicability. 39 USC 3210 note.

JOINT ITEMS

For Joint Committees, as follows:

JOINT COMMITTEE ON INAUGURAL CEREMONIES OF 1997

For construction of platform and seating stands and for salaries and expenses of conducting the inaugural ceremonies of the President and Vice President of the United States, January 20, 1997, in accordance with such program as may be adopted by the joint committee authorized by Senate Concurrent Resolution 47, One Hundred Fourth Congress, agreed to March 20, 1996, and Senate Concurrent Resolution 48, One Hundred Fourth Congress, agreed to March 20, 1996, $950,000 to be disbursed by the Secretary of the Senate and to remain available until September 30, 1997. Such funds shall be available for payment, on a direct or reimbursable basis, whether incurred on, before, or after, October 1, 1996: *Provided,* That the compensation of any employee of the Committee on Rules and Administration of the Senate who has been designated to perform service for the Joint Congressional Committee on Inaugural Ceremonies shall continue to be paid by the Committee on Rules and Administration, but the account from which such staff member is paid may be reimbursed for the services of the staff member (including agency contributions when appropriate) out of funds made available under this heading.

JOINT ECONOMIC COMMITTEE

For salaries and expenses of the Joint Economic Committee, $2,750,000, to be disbursed by the Secretary of the Senate.

JOINT COMMITTEE ON PRINTING

For salaries and expenses of the Joint Committee on Printing, $777,000, to be disbursed by the Secretary of the Senate.

JOINT COMMITTEE ON TAXATION

For salaries and expenses of the Joint Committee on Taxation, $5,470,000, to be disbursed by the Chief Administrative Officer of the House.

For other joint items, as follows:

OFFICE OF THE ATTENDING PHYSICIAN

For medical supplies, equipment, and contingent expenses of the emergency rooms, and for the Attending Physician and his assistants, including (1) an allowance of $1,500 per month to the Attending Physician; (2) an allowance of $500 per month each to two medical officers while on duty in the Attending Physician's office; (3) an allowance of $500 per month to one assistant and $400 per month each to not to exceed nine assistants on the basis heretofore provided for such assistance; and (4) $867,000 for reimbursement to the Department of the Navy for expenses incurred for staff and equipment assigned to the Office of the Attending Physician, which shall be advanced and credited to the applicable appropriation or appropriations from which such salaries, allowances, and other expenses are payable and shall be available for all the purposes thereof, $1,225,000, to be disbursed by the Chief Administrative Officer of the House.

CAPITOL POLICE BOARD

CAPITOL POLICE

SALARIES

For the Capitol Police Board for salaries of officers, members, and employees of the Capitol Police, including overtime, hazardous duty pay differential, clothing allowance of not more than $600 each for members required to wear civilian attire, and Government contributions for health, retirement, Social Security, and other applicable employee benefits, $69,356,000, of which $33,437,000 is provided to the Sergeant at Arms of the House of Representatives, to be disbursed by the Chief Administrative Officer of the House, and $35,919,000 is provided to the Sergeant at Arms and Doorkeeper of the Senate, to be disbursed by the Secretary of the Senate: *Provided,* That, of the amounts appropriated under this heading, such amounts as may be necessary may be transferred between the Sergeant at Arms of the House of Representatives and the Sergeant at Arms and Doorkeeper of the Senate, upon approval of the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate.

GENERAL EXPENSES

For the Capitol Police Board for necessary expenses of the Capitol Police, including motor vehicles, communications and other equipment, security equipment and installation, uniforms, weapons, supplies, materials, training, medical services, forensic services, stenographic services, personal and professional services, the employee assistance program, not more than $2,000 for the awards program, postage, telephone service, travel advances, relocation of instructor and liaison personnel for the Federal Law Enforcement

Training Center, and $85 per month for extra services performed for the Capitol Police Board by an employee of the Sergeant at Arms of the Senate or the House of Representatives designated by the Chairman of the Board, $2,782,000, to be disbursed by the Chief Administrative Officer of the House of Representatives: *Provided,* That, notwithstanding any other provision of law, the cost of basic training for the Capitol Police at the Federal Law Enforcement Training Center for fiscal year 1997 shall be paid by the Secretary of the Treasury from funds available to the Department of the Treasury.

ADMINISTRATIVE PROVISION

SEC. 103. Amounts appropriated for fiscal year 1997 for the Capitol Police Board for the Capitol Police may be transferred between the headings "SALARIES" and "GENERAL EXPENSES" upon the approval of—

(1) the Committee on Appropriations of the House of Representatives, in the case of amounts transferred from the appropriation provided to the Sergeant at Arms of the House of Representatives under the heading "SALARIES";

(2) the Committee on Appropriations of the Senate, in the case of amounts transferred from the appropriation provided to the Sergeant at Arms and Doorkeeper of the Senate under the heading "SALARIES"; and

(3) the Committees on Appropriations of the Senate and the House of Representatives, in the case of other transfers.

CAPITOL GUIDE SERVICE AND SPECIAL SERVICES OFFICE

For salaries and expenses of the Capitol Guide Service and Special Services Office, $1,991,000, to be disbursed by the Secretary of the Senate: *Provided,* That no part of such amount may be used to employ more than forty individuals: *Provided further,* That the Capitol Guide Board is authorized, during emergencies, to employ not more than two additional individuals for not more than one hundred twenty days each, and not more than ten additional individuals for not more than six months each, for the Capitol Guide Service.

STATEMENTS OF APPROPRIATIONS

For the preparation, under the direction of the Committees on Appropriations of the Senate and the House of Representatives, of the statements for the second session of the One Hundred Fourth Congress, showing appropriations made, indefinite appropriations, and contracts authorized, together with a chronological history of the regular appropriations bills as required by law, $30,000, to be paid to the persons designated by the chairmen of such committees to supervise the work.

OFFICE OF COMPLIANCE

SALARIES AND EXPENSES

For salaries and expenses of the Office of Compliance, as authorized by section 305 of the Congressional Accountability Act of 1995 (2 U.S.C. 1385), $2,609,000.

CONGRESSIONAL BUDGET OFFICE

SALARIES AND EXPENSES

For salaries and expenses necessary to carry out the provisions of the Congressional Budget Act of 1974 (Public Law 93–344), including not more than $2,500 to be expended on the certification of the Director of the Congressional Budget Office in connection with official representation and reception expenses, $24,532,000: *Provided,* That no part of such amount may be used for the purchase or hire of a passenger motor vehicle.

ADMINISTRATIVE PROVISIONS

2 USC 605.

SEC. 104. (a) Any sale or lease of property, supplies, or services to the Congressional Budget Office shall be deemed to be a sale or lease to the Congress subject to section 903 of the Supplemental Appropriations Act, 1983 (2 U.S.C. 111b).

Applicability.

(b) Subsection (a) shall apply with respect to fiscal years beginning after September 30, 1996.

Personal property. 2 USC 606.

SEC. 105. (a) The Director of the Congressional Budget Office shall have the authority, within the limits of available appropriations, to dispose of surplus or obsolete personal property by interagency transfer, donation, or discarding.

Applicability.

(b) Subsection (a) shall apply with respect to fiscal years beginning after September 30, 1996.

Compensation. 2 USC 607.

SEC. 106. (a) The Director of the Congressional Budget Office shall have the authority to make lump-sum payments to separated employees of the Congressional Budget Office for unused annual leave.

Applicability.

(b) Subsection (a) shall apply with respect to fiscal years beginning after September 30, 1996.

ARCHITECT OF THE CAPITOL

OFFICE OF THE ARCHITECT OF THE CAPITOL

SALARIES

For the Architect of the Capitol, the Assistant Architect of the Capitol, and other personal services, at rates of pay provided by law, $8,454,000.

TRAVEL

40 USC 166a.

Appropriations under the control of the Architect of the Capitol shall be available for expenses of travel on official business not to exceed in the aggregate under all funds the sum of $20,000.

CONTINGENT EXPENSES

To enable the Architect of the Capitol to make surveys and studies, and to meet unforeseen expenses in connection with activities under his care, $100,000.

CAPITOL BUILDINGS AND GROUNDS

CAPITOL BUILDINGS

For all necessary expenses for the maintenance, care and operation of the Capitol and electrical substations of the Senate and House office buildings under the jurisdiction of the Architect of the Capitol, including furnishings and office equipment; including not more than $1,000 for official reception and representation expenses, to be expended as the Architect of the Capitol may approve; purchase or exchange, maintenance and operation of a passenger motor vehicle; and attendance, when specifically authorized by the Architect of the Capitol, at meetings or conventions in connection with subjects related to work under the Architect of the Capitol, $23,255,000, of which $2,950,000 shall remain available until expended.

CAPITOL GROUNDS

For all necessary expenses for care and improvement of grounds surrounding the Capitol, the Senate and House office buildings, and the Capitol Power Plant, $5,020,000, of which $25,000 shall remain available until expended.

SENATE OFFICE BUILDINGS

For all necessary expenses for maintenance, care and operation of Senate Office Buildings; and furniture and furnishings to be expended under the control and supervision of the Architect of the Capitol, $39,640,000, of which $3,200,000 shall remain available until expended.

HOUSE OFFICE BUILDINGS

For all necessary expenses for the maintenance, care and operation of the House office buildings, $32,556,000, of which $4,825,000 shall remain available until expended.

CAPITOL POWER PLANT

For all necessary expenses for the maintenance, care and operation of the Capitol Power Plant; lighting, heating, power (including the purchase of electrical energy) and water and sewer services for the Capitol, Senate and House office buildings, Library of Congress buildings, and the grounds about the same, Botanic Garden, Senate garage, and air conditioning refrigeration not supplied from plants in any of such buildings; heating the Government Printing Office and Washington City Post Office, and heating and chilled water for air conditioning for the Supreme Court Building, Union Station complex, Thurgood Marshall Federal Judiciary Building and the Folger Shakespeare Library, expenses for which shall be advanced or reimbursed upon request of the Architect of the Capitol and amounts so received shall be deposited into the Treasury to the credit of this appropriation, $30,749,000: *Provided,* That not more than $4,000,000 of the funds credited or to be reimbursed to this appropriation as herein provided shall be available for obligation during fiscal year 1997.

LIBRARY OF CONGRESS

CONGRESSIONAL RESEARCH SERVICE

SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of section 203 of the Legislative Reorganization Act of 1946 (2 U.S.C. 166) and to revise and extend the Annotated Constitution of the United States of America, $62,641,000: *Provided,* That no part of such amount may be used to pay any salary or expense in connection with any publication, or preparation of material therefor (except the Digest of Public General Bills), to be issued by the Library of Congress unless such publication has obtained prior approval of either the Committee on House Oversight of the House of Representatives or the Committee on Rules and Administration of the Senate: *Provided further,* That, notwithstanding any other provision of law, the compensation of the Director of the Congressional Research Service, Library of Congress, shall be at an annual rate which is equal to the annual rate of basic pay for positions at level IV of the Executive Schedule under section 5315 of title 5, United States Code.

2 USC 166 note.

GOVERNMENT PRINTING OFFICE

CONGRESSIONAL PRINTING AND BINDING

For authorized printing and binding for the Congress and the distribution of Congressional information in any format; printing and binding for the Architect of the Capitol; expenses necessary for preparing the semimonthly and session index to the Congressional Record, as authorized by law (44 U.S.C. 902); printing and binding of Government publications authorized by law to be distributed to Members of Congress; and printing, binding, and distribution of Government publications authorized by law to be distributed without charge to the recipient, $81,669,000: *Provided,* That this appropriation shall not be available for paper copies of the permanent edition of the Congressional Record for individual Representatives, Resident Commissioners or Delegates authorized under 44 U.S.C. 906: *Provided further,* That this appropriation shall be available for the payment of obligations incurred under the appropriations for similar purposes for preceding fiscal years.

This title may be cited as the "Congressional Operations Appropriations Act, 1997".

TITLE II—OTHER AGENCIES

BOTANIC GARDEN

SALARIES AND EXPENSES

For all necessary expenses for the maintenance, care and operation of the Botanic Garden and the nurseries, buildings, grounds, and collections; and purchase and exchange, maintenance, repair, and operation of a passenger motor vehicle; all under the direction of the Joint Committee on the Library, $2,902,000.

LIBRARY OF CONGRESS

SALARIES AND EXPENSES

For necessary expenses of the Library of Congress not otherwise provided for, including development and maintenance of the Union Catalogs; custody and custodial care of the Library buildings; special clothing; cleaning, laundering and repair of uniforms; preservation of motion pictures in the custody of the Library; preparation and distribution of catalog cards and other publications of the Library; hire or purchase of one passenger motor vehicle; and expenses of the Library of Congress Trust Fund Board not properly chargeable to the income of any trust fund held by the Board, $216,007,000, of which not more than $7,869,000 shall be derived from collections credited to this appropriation during fiscal year 1997, and shall remain available until expended, under the Act of June 28, 1902 (chapter 1301; 32 Stat. 480; 2 U.S.C. 150): *Provided,* That the Library of Congress may not obligate or expend any funds derived from collections under the Act of June 28, 1902, in excess of the amount authorized for obligation or expenditure in appropriations Acts: *Provided further,* That the total amount available for obligation shall be reduced by the amount by which collections are less than the $7,869,000: *Provided further,* That of the total amount appropriated, $8,458,000 is to remain available until expended for acquisition of books, periodicals, and newspapers, and all other materials including subscriptions for bibliographic services for the Library, including $40,000 to be available solely for the purchase, when specifically approved by the Librarian, of special and unique materials for additions to the collections: *Provided further,* That of the total amount appropriated, $928,800 shall be for the operation and maintenance of the American Folklife Center in the Library.

COPYRIGHT OFFICE

SALARIES AND EXPENSES

For necessary expenses of the Copyright Office, including publication of the decisions of the United States courts involving copyrights, $33,402,000, of which not more than $17,340,000 shall be derived from collections credited to this appropriation during fiscal year 1997 under 17 U.S.C. 708(d), and not more than $4,929,000 shall be derived from collections during fiscal year 1997 under 17 U.S.C. 111(d)(2), 119(b)(2), 802(h), and 1005: *Provided,* That the total amount available for obligation shall be reduced by the amount by which collections are less than $22,269,000: *Provided further,* That not more than $100,000 of the amount appropriated is available for the maintenance of an "International Copyright Institute" in the Copyright Office of the Library of Congress for the purpose of training nationals of developing countries in intellectual property laws and policies: *Provided further,* That not more than $2,250 may be expended, on the certification of the Librarian of Congress, in connection with official representation and reception expenses for activities of the International Copyright Institute.

BOOKS FOR THE BLIND AND PHYSICALLY HANDICAPPED

SALARIES AND EXPENSES

For salaries and expenses to carry out the Act of March 3, 1931 (chapter 400; 46 Stat. 1487; 2 U.S.C. 135a), $44,964,000, of which $11,694,000 shall remain available until expended.

FURNITURE AND FURNISHINGS

For necessary expenses for the purchase and repair of furniture, furnishings, office and library equipment, $4,882,000.

ADMINISTRATIVE PROVISIONS

SEC. 201. Appropriations in this Act available to the Library of Congress shall be available, in an amount of not more than $194,290, of which $58,100 is for the Congressional Research Service, when specifically authorized by the Librarian, for attendance at meetings concerned with the function or activity for which the appropriation is made.

SEC. 202. (a) No part of the funds appropriated in this Act shall be used by the Library of Congress to administer any flexible or compressed work schedule which—

(1) applies to any manager or supervisor in a position the grade or level of which is equal to or higher than GS–15; and

(2) grants such manager or supervisor the right to not be at work for all or a portion of a workday because of time worked by the manager or supervisor on another workday.

(b) For purposes of this section, the term "manager or supervisor" means any management official or supervisor, as such terms are defined in section 7103(a) (10) and (11) of title 5, United States Code.

SEC. 203. Appropriated funds received by the Library of Congress from other Federal agencies to cover general and administrative overhead costs generated by performing reimbursable work for other agencies under the authority of 31 U.S.C. 1535 and 1536 shall not be used to employ more than 65 employees and may be expended or obligated—

(1) in the case of a reimbursement, only to such extent or in such amounts as are provided in appropriations Acts; or

(2) in the case of an advance payment, only—

(A) to pay for such general or administrative overhead costs as are attributable to the work performed for such agency; or

(B) to such extent or in such amounts as are provided in appropriations Acts, with respect to any purpose not allowable under subparagraph (A).

SEC. 204. Of the amounts appropriated to the Library of Congress in this Act, not more than $5,000 may be expended, on the certification of the Librarian of Congress, in connection with official representation and reception expenses for the incentive awards program.

SEC. 205. Of the amount appropriated to the Library of Congress in this Act, not more than $12,000 may be expended, on the certification of the Librarian of Congress, in connection with

official representation and reception expenses for the Overseas Field Offices.

SEC. 206. (a) For fiscal year 1997, the obligational authority of the Library of Congress for the activities described in subsection (b) may not exceed $108,275,000.

(b) The activities referred to in subsection (a) are reimbursable and revolving fund activities that are funded from sources other than appropriations to the Library in appropriations Acts for the legislative branch.

SEC. 207. (a)(1) Subject to subsection (b), for fiscal year 1997, the obligational authority of the Library of Congress for the activities described in paragraph (2) may not exceed $2,000,000.

(2) The activities referred to in paragraph (1) are non-expenditure transfer activities in support of parliamentary development that are funded from sources other than appropriations to the Library in appropriations Acts for the legislative branch.

(b) The obligational authority under subsection (a)—

(1) shall be available only with respect to Russia, Ukraine, Albania, Slovakia, and Romania; and

Foreign countries.

(2) shall expire on December 31, 1996.

Expiration date.

SEC. 208. From and after October 1, 1996, the Disbursing Officer of the Library of Congress is authorized to disburse funds appropriated for the Office of Compliance, and the Library of Congress shall provide financial management support to the Office of Compliance as may be required and mutually agreed to by the Librarian of Congress and the Executive Director of the Office of Compliance. The Library of Congress is further authorized to compute and disburse the basic pay of all personnel of the Office of Compliance pursuant to the provisions of section 5504 of title 5.

Effective date. 2 USC 142*l*.

All vouchers certified for payment by duly authorized certifying officers of the Library of Congress shall be supported with a certification by an officer or employee of the Office of Compliance duly authorized in writing by the Executive Director of the Office of Compliance to certify payments from appropriations of the Office of Compliance. The Office of Compliance certifying officers shall (1) be held responsible for the existence and correctness of the facts recited in the certificate or otherwise stated on the voucher or its supporting paper and the legality of the proposed payment under the appropriation or fund involved, (2) be held responsible and accountable for the correctness of the computations of certifications made, and (3) be held accountable for and required to make good to the United States the amount of any illegal, improper, or incorrect payment resulting from any false, inaccurate, or misleading certificate made by them, as well as for any payment prohibited by law which did not represent a legal obligation under the appropriation or fund involved: *Provided,* That the Comptroller General of the United States may, at his discretion, relieve such certifying officer or employee of liability for any payment otherwise proper whenever he finds (1) that the certification was based on official records and that such certifying officer or employee did not know, and by reasonable diligence and inquiry could not have ascertained the actual facts, or (2) that the obligation was incurred in good faith, that the payment was not contrary to any statutory provision specifically prohibiting payments of the character involved, and the United States has received value for such payment: *Provided further,* That the Comptroller General shall relieve

Certification.

such certifying officer or employee of liability for an overpayment for transportation services made to any common carrier covered by section 3726 of title 31, whenever he finds that the overpayment occurred solely because the administrative examination made prior to payment of the transportation bill did not include a verification of transportation rates, freight classifications, or land grant deductions.

The Disbursing Officer of the Library of Congress shall not be held accountable or responsible for any illegal, improper, or incorrect payment resulting from any false, inaccurate, or misleading certificate, the responsibility for which is imposed upon a certifying officer or employee of the Office of Compliance.

SEC. 209. Section 8 of the American Folklife Preservation Act (20 U.S.C. 2107) is amended to read as follows:

"SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to the Center to carry out this Act such sums as may be necessary for each of the fiscal years 1997 and 1998.".

ARCHITECT OF THE CAPITOL

LIBRARY BUILDINGS AND GROUNDS

STRUCTURAL AND MECHANICAL CARE

For all necessary expenses for the mechanical and structural maintenance, care and operation of the Library buildings and grounds, $9,753,000, of which $1,310,000 shall remain available until expended.

GOVERNMENT PRINTING OFFICE

OFFICE OF SUPERINTENDENT OF DOCUMENTS

SALARIES AND EXPENSES

For expenses of the Office of Superintendent of Documents necessary to provide for the cataloging and indexing of Government publications and their distribution to the public, Members of Congress, other Government agencies, and designated depository and international exchange libraries as authorized by law, $29,077,000: *Provided,* That travel expenses, including travel expenses of the Depository Library Council to the Public Printer, shall not exceed $150,000: *Provided further,* That amounts of not more than $2,000,000, from current year appropriations are authorized for producing and disseminating Congressional serial sets and other related publications for 1995 and 1996 to depository and other designated libraries.

GOVERNMENT PRINTING OFFICE REVOLVING FUND

The Government Printing Office is hereby authorized to make such expenditures, within the limits of funds available and in accord with the law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 9104 of title 31, United States Code, as may be necessary in carrying out the programs and purposes set forth in the budget for the current fiscal year for the Government Printing Office revolv-

ing fund: *Provided,* That not more than $2,500 may be expended on the certification of the Public Printer in connection with official representation and reception expenses: *Provided further,* That the revolving fund shall be available for the hire or purchase of not more than twelve passenger motor vehicles: *Provided further,* That expenditures in connection with travel expenses of the advisory councils to the Public Printer shall be deemed necessary to carry out the provisions of title 44, United States Code: *Provided further,* That the revolving fund shall be available for temporary or intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not more than the daily equivalent of the annual rate of basic pay for level V of the Executive Schedule under section 5316 of such title: *Provided further,* That the revolving fund and the funds provided under the headings "OFFICE OF SUPERINTENDENT OF DOCUMENTS" and "SALARIES AND EXPENSES" together may not be available for the full-time equivalent employment of more than 3,600 workyears by the end of fiscal year 1997: *Provided further,* That activities financed through the revolving fund may provide information in any format: *Provided further,* That the revolving fund shall not be used to administer any flexible or compressed work schedule which applies to any manager or supervisor in a position the grade or level of which is equal to or higher than GS–15: *Provided further,* That expenses for attendance at meetings shall not exceed $75,000.

GENERAL ACCOUNTING OFFICE

SALARIES AND EXPENSES

For necessary expenses of the General Accounting Office, including not more than $7,000 to be expended on the certification of the Comptroller General of the United States in connection with official representation and reception expenses; temporary or intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not more than the daily equivalent of the annual rate of basic pay for level IV of the Executive Schedule under section 5315 of such title; hire of one passenger motor vehicle; advance payments in foreign countries in accordance with 31 U.S.C. 3324; benefits comparable to those payable under sections 901(5), 901(6) and 901(8) of the Foreign Service Act of 1980 (22 U.S.C. 4081(5), 4081(6) and 4081(8)); and under regulations prescribed by the Comptroller General of the United States, rental of living quarters in foreign countries; $332,520,000: *Provided,* That not more than $100,000 of reimbursements received incident to the operation of the General Accounting Office Building shall be available for use in fiscal year 1997: *Provided further,* That notwithstanding 31 U.S.C. 9105 hereafter amounts reimbursed to the Comptroller General pursuant to that section shall be deposited to the appropriation of the General Accounting Office then available and remain available until expended, and not more than $5,805,000 of such funds shall be available for use in fiscal year 1997: *Provided further,* That this appropriation and appropriations for administrative expenses of any other department or agency which is a member of the Joint Financial Management Improvement Program (JFMIP) shall be available to finance an appropriate share of JFMIP costs as determined by the JFMIP, including the salary of the Executive Director and secretarial support: *Provided further,* That this appro-

Regulations.

31 USC 9105 note.

priation and appropriations for administrative expenses of any other department or agency which is a member of the National Intergovernmental Audit Forum or a Regional Intergovernmental Audit Forum shall be available to finance an appropriate share of Forum costs as determined by the Forum, including necessary travel expenses of non-Federal participants. Payments hereunder to either the Forum or the JFMIP may be credited as reimbursements to any appropriation from which costs involved are initially financed: *Provided further,* That to the extent that funds are otherwise available for obligation, agreements or contracts for the removal of asbestos, and renovation of the building and building systems (including the heating, ventilation and air conditioning system, electrical system and other major building systems) of the General Accounting Office Building may be made for periods not exceeding five years: *Provided further,* That this appropriation and appropriations for administrative expenses of any other department or agency which is a member of the American Consortium on International Public Administration (ACIPA) shall be available to finance an appropriate share of ACIPA costs as determined by the ACIPA, including any expenses attributable to membership of ACIPA in the International Institute of Administrative Sciences.

TITLE III—GENERAL PROVISIONS

SEC. 301. No part of the funds appropriated in this Act shall be used for the maintenance or care of private vehicles, except for emergency assistance and cleaning as may be provided under regulations relating to parking facilities for the House of Representatives issued by the Committee on House Oversight and for the Senate issued by the Committee on Rules and Administration.

SEC. 302. No part of the funds appropriated in this Act shall remain available for obligation beyond fiscal year 1997 unless expressly so provided in this Act.

SEC. 303. Whenever in this Act any office or position not specifically established by the Legislative Pay Act of 1929 is appropriated for or the rate of compensation or designation of any office or position appropriated for is different from that specifically established by such Act, the rate of compensation and the designation in this Act shall be the permanent law with respect thereto: *Provided,* That the provisions in this Act for the various items of official expenses of Members, officers, and committees of the Senate and House of Representatives, and clerk hire for Senators and Members of the House of Representatives shall be the permanent law with respect thereto.

Contracts. Public information.

SEC. 304. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 305. (a) It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American-made.

Notice.

(b) In providing financial assistance to, or entering into any contract with, any entity using funds made available in this Act, the head of each Federal agency, to the greatest extent practicable,

shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.

(c) If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a "Made in America" inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, such person shall be ineligible to receive any contract or subcontract made with funds provided pursuant to this Act, pursuant to the debarment, suspension, and ineligibility procedures described in section 9.400 through 9.409 of title 48, Code of Federal Regulations.

40 USC 166h.

SEC. 306. During fiscal year 1997 and fiscal years thereafter, amounts appropriated to the Architect of the Capitol (including amounts relating to the Botanic Garden) may be transferred among accounts available to the Architect of the Capitol upon the approval of—

(1) the Committee on Appropriations of the House of Representatives, in the case of amounts transferred from the appropriation for Capitol buildings and grounds under the heading "HOUSE OFFICE BUILDINGS";

(2) the Committee on Appropriations of the Senate, in the case of amounts transferred from the appropriation for Capitol buildings and grounds under the heading "SENATE OFFICE BUILDINGS"; and

(3) the Committees on Appropriations of the Senate and the House of Representatives, in the case of amounts transferred from any other appropriation.

40 USC 175 note.

SEC. 307. (a) Upon approval of the Committee on Appropriations of the House of Representatives, and in accordance with conditions determined by the Committee on House Oversight, positions in connection with House public address sound system activities and related funding shall be transferred from the appropriation for the Architect of the Capitol for Capitol buildings and grounds under the heading "CAPITOL BUILDINGS" to the appropriation for salaries and expenses of the House of Representatives for the Office of the Clerk under the heading "SALARIES, OFFICERS AND EMPLOYEES".

Annuities.

(b) For purposes of section 8339(m) of title 5, United States Code, the days of unused sick leave to the credit of any such employee as of the date such employee is transferred under subsection (a) shall be included in the total service of such employee in connection with the computation of any annuity under subsections (a) through (e) and (o) of such section.

(c) In the case of days of annual leave to the credit of any such employee as of the date such employee is transferred under subsection (a), the Architect of the Capitol is authorized to make a lump sum payment to each such employee for that annual leave. No such payment shall be considered a payment or compensation within the meaning of any law relating to dual compensation.

Effective dates. Government organization. 40 USC 212a–4a.

SEC. 308. (a) Effective October 1, 1996, the responsibility for maintenance of security systems for the Capitol buildings and grounds is transferred from the Architect of the Capitol to the Capitol Police Board. Such maintenance shall be carried out under the direction of the Committee on House Oversight of the House of Representatives and the Committee on Rules and Administration of the Senate. On and after October 1, 1996, any alteration to a structural, mechanical, or architectural feature of the Capitol

buildings and grounds that is required for security system maintenance under the preceding sentence may be carried out only with the approval of the Architect of the Capitol.

Government organization.

(b)(1) Effective October 1, 1996, all positions specified in paragraph (2) and each individual holding any such position (on a permanent basis) immediately before that date, as identified by the Architect of the Capitol, shall be transferred to the Capitol Police.

(2) The positions referred to in paragraph (1) are those positions which, immediately before October 1, 1996, are—

(A) under the Architect of the Capitol;

(B) within the Electronics Engineering Division of the Office of the Architect of the Capitol; and

(C) related to the maintenance of security systems for the Capitol buildings and grounds.

(3) All annual leave and sick leave standing to the credit of an individual immediately before such individual is transferred under paragraph (1) shall be credited to such individual, without adjustment, in the new position of the individual.

SEC. 309. Such sums as may be necessary are appropriated to the account described in subsection (a) of section 415 of Public Law 104–1 to pay awards and settlements as authorized under such subsection.

SEC. 310. Any amount appropriated in this Act for "HOUSE OF REPRESENTATIVES—Salaries and Expenses—Members' Representational Allowances" shall be available only for fiscal year 1997. Any amount remaining after all payments are made under such allowances for such fiscal year shall be deposited in the Treasury, to be used for deficit reduction.

Mail.
Notice.
2 USC 59h.

SEC. 311. (a) Each mass mailing sent by a Member of the House of Representatives shall bear in a prominent place on its face, or on the envelope or outside cover or wrapper in which the mail matter is sent, the following notice: **"THIS MAILING WAS PREPARED, PUBLISHED, AND MAILED AT TAXPAYER EXPENSE."**, or a notice to the same effect in words which may be prescribed under subsection (c). The notice shall be printed in a type size not smaller than 7-point.

Reports.

(b)(1) There shall be published in the itemized report of disbursements of the House of Representatives as required by law, a summary tabulation setting forth, for the office of each Member of the House of Representatives, the total number of pieces of mass mail mailed during the period involved and the total cost of those mass mailings.

(2) Each such tabulation shall also include—

(A) the total cost (as referred to in paragraph (1)) divided by the number (as determined by the Postmaster General) of addresses (other than business possible delivery stops) in the Congressional district from which the Member was elected (as such addresses are described in section 3210(d)(7)(B) of title 39, United States Code); and

(B) the total number of pieces of mass mail (as referred to in paragraph (1)) divided by the number (as determined by the Postmaster General) of addresses (other than business possible delivery stops) in the Congressional district from which the Member was elected (as such addresses are described in section 3210(d)(7)(B) of title 39, United States Code).

(c) The Committee on House Oversight shall prescribe such rules and regulations and shall take such other action as the Committee considers necessary and proper for Members to conform to the provisions of this subsection and applicable rules and regulations. Rules and regulations.

(d) For purposes of this section—

(1) the term "Member of the House of Representatives" means a Representative in, or a Delegate or Resident Commissioner to, the Congress; and

(2) the term "mass mailing" has the meaning given such term by section 3210(a)(6)(E) of title 39, United States Code.

(e) This section shall apply with respect to sessions of Congress beginning after the date of the enactment of this Act. Applicability.

SEC. 312. (a) Section 203(a)(3) of Public Law 104–1 (2 U.S.C. 1313(a)(3)) is amended by inserting "and in subsection (c)(4)" after "(c)(3)"

(b) Section 203(c) of Public Law 104–1 (2 U.S.C. 1313(c)) is amended by adding at the end the following paragraph:

"(4) LAW ENFORCEMENT.—Law enforcement personnel of the Capitol Police who are subject to the exemption under section 7(k) of the Fair Labor Standards Act of 1938 (29 U.S.C. 207(k)) may elect to receive compensatory time off in lieu of overtime compensation for hours worked in excess of the maximum for their work period.".

SEC. 313. Section 316 of Public Law 101–302 is amended in the first sentence of subsection (a) by striking "1996" and inserting "1997". 40 USC 188b–6.

SEC. 314. (a) Upon enactment into law of this Act, there shall be established a program for providing the widest possible exchange of information among legislative branch agencies with the long-range goal of improving information technology planning and evaluation. The Committee on House Oversight of the House of Representatives and the Committee on Rules and Administration of the Senate are requested to determine the structure and operation of this program and to provide appropriate oversight. All of the appropriate offices and agencies of the legislative branch as defined below shall participate in this program for information exchange, and shall report annually on the extent and nature of their participation in their budget submissions to the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate. Establishment. Science and technology. Telecommunications. 2 USC 181. Reports.

(b) As used in this section—

(1) the term "offices and agencies of the legislative branch" means, the office of the Clerk of the House, the office of the Secretary of the Senate, the office of the Architect of the Capitol, the General Accounting Office, the Government Printing Office, the Library of Congress, the Congressional Research Service, the Congressional Budget Office, the Chief Administrative Officer of the House of Representatives, and the Sergeant at Arms of the Senate; and

(2) the term "technology" refers to any form of computer hardware and software; computer-based systems, services, and support for the creation, processing, exchange, and delivery of information; and telecommunications systems, and the associated hardware and software, that provide for voice, data, or image communication.

PROHIBITIONS AGAINST POLITICAL RECOMMENDATIONS RELATING TO FEDERAL EMPLOYMENT

SEC. 315. (a) IN GENERAL.—Section 3303 of title 5, United States Code, is amended to read as follows:

"§ 3303. Competitive service; recommendations of Senators or Representatives

"An individual concerned in examining an applicant for or appointing him in the competitive service may not receive or consider a recommendation of the applicant by a Senator or Representative, except as to the character or residence of the applicant.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—(1) The table of sections for chapter 33 of title 5, United States Code, is amended by amending the item relating to section 3303 to read as follows:

"3303. Competitive service; recommendations of Senators or Representatives.".

(2) Section 2302(b)(2) of title 5, United States Code, is amended to read as follows:

"(2) solicit or consider any recommendation or statement, oral or written, with respect to any individual who requests or is under consideration for any personnel action unless such recommendation or statement is based on the personal knowledge or records of the person furnishing it and consists of—

"(A) an evaluation of the work performance, ability, aptitude, or general qualifications of such individual; or

"(B) an evaluation of the character, loyalty, or suitability of such individual;".

5 USC 2302 note.

(c) EFFECTIVE DATE.—This section shall take effect 30 days after the date of the enactment of this Act.

SEC. 316. Limitation on Exclusive Copyrights for Literary Works in Specialized Format for the Blind and Disabled.—

(a) IN GENERAL.—Chapter 1 of title 17, United States Code, is amended by adding after section 120 the following new section:

"§ 121. Limitations on exclusive rights: reproduction for blind or other people with disabilities

"(a) Notwithstanding the provisions of sections 106 and 710, it is not an infringement of copyright for an authorized entity to reproduce or to distribute copies or phonorecords of a previously published, nondramatic literary work if such copies or phonorecords are reproduced or distributed in specialized formats exclusively for use by blind or other persons with disabilities.

"(b)(1) Copies or phonorecords to which this section applies shall—

"(A) not be reproduced or distributed in a format other than a specialized format exclusively for use by blind or other persons with disabilities;

Notice.

"(B) bear a notice that any further reproduction or distribution in a format other than a specialized format is an infringement; and

Notice.

"(C) include a copyright notice identifying the copyright owner and the date of the original publication.

"(2) The provisions of this subsection shall not apply to standardized, secure, or norm-referenced tests and related testing material, or to computer programs, except the portions thereof that are in conventional human language (including descriptions

of pictorial works) and displayed to users in the ordinary course of using the computer programs.

"(c) For purposes of this section, the term—

"(1) 'authorized entity' means a nonprofit organization or a governmental agency that has a primary mission to provide specialized services relating to training, education, or adaptive reading or information access needs of blind or other persons with disabilities;

"(2) 'blind or other persons with disabilities' means individuals who are eligible or who may qualify in accordance with the Act entitled "An Act to provide books for the adult blind", approved March 3, 1931 (2 U.S.C. 135a; 46 Stat. 1487) to receive books and other publications produced in specialized formats; and

"(3) 'specialized formats' means braille, audio, or digital text which is exclusively for use by blind or other persons with disabilities.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 1 of title 17, United States Code, is amended by adding after the item relating to section 120 the following:

"121. Limitations on exclusive rights: reproduction for blind or other people with disabilities.".

Jo Ann Emerson.

SEC. 317. For payment to Jo Ann Emerson, widow of Bill Emerson, late a Representative from the State of Missouri, $133,600.

This Act may be cited as the "Legislative Branch Appropriations Act, 1997".

Approved September 16, 1996.

LEGISLATIVE HISTORY—H.R. 3754:

HOUSE REPORTS: Nos. 104–657 (Comm. on Appropriations) and 104–733 (Comm. of Conference).
SENATE REPORTS: No. 104–323 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 142 (1996):
July 10, considered and passed House.
July 29, 30, considered and passed Senate, amended.
Aug. 1, House agreed to conference report.
Sept. 3, Senate agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 32 (1996):
Sept. 16, Presidential statement.

Public Law 104–198
104th Congress

An Act

Sept. 18, 1996
[H.R. 740]

To confer jurisdiction on the United States Court of Federal Claims with respect to land claims of Pueblo of Isleta Indian Tribe.

New Mexico.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. JURISDICTION.

Notwithstanding sections 2401 and 2501 of title 28, United States Code, and section 12 of the Act of August 13, 1946 (60 Stat. 1052), or any other law which would interpose or support a defense of untimeliness, jurisdiction is hereby conferred upon the United States Court of Federal Claims to hear, determine, and render judgment on any claim by Pueblo of Isleta Indian Tribe of New Mexico against the United States with respect to any lands or interests therein the State of New Mexico or any adjoining State held by aboriginal title or otherwise which were acquired from the tribe without payment of adequate compensation by the United States. As a matter of adequate compensation, the United States Claims Court may award interest at a rate of five percent per year to accrue from the date on which such lands or interests therein were acquired from the tribe by the United States. Such jurisdiction is conferred only with respect to claims accruing on or before August 13, 1946, and all such claims must be filed within three years after the date of enactment of this Act. Such jurisdiction is conferred notwithstanding any failure of the tribe to exhaust any available administrative remedy.

SEC. 2. CERTAIN DEFENSES NOT APPLICABLE.

Any award made to any Indian tribe other than the Pueblo of Isleta Indian Tribe of New Mexico before, on, or after the date of the enactment of this Act under any judgment of the Indian Claims Commission or any other authority with respect to any lands that are the subject of a claim submitted by the tribe under section 1 shall not be considered a defense, estoppel, or set-off to such claim, and shall not otherwise affect the entitlement to, or amount of, any relief with respect to such claim.

Approved September 18, 1996.

LEGISLATIVE HISTORY—H.R. 740:

HOUSE REPORTS: No. 104–694 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 142 (1996):
July 29, considered and passed House.
Sept. 4, considered and passed Senate.

Public Law 104–199
104th Congress

An Act

To define and protect the institution of marriage.

Sept. 21, 1996
[H.R. 3396]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Defense of Marriage Act.
1 USC 1 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Defense of Marriage Act".

SEC. 2. POWERS RESERVED TO THE STATES.

(a) IN GENERAL.—Chapter 115 of title 28, United States Code, is amended by adding after section 1738B the following:

"§ 1738C. Certain acts, records, and proceedings and the effect thereof

"No State, territory, or possession of the United States, or Indian tribe, shall be required to give effect to any public act, record, or judicial proceeding of any other State, territory, possession, or tribe respecting a relationship between persons of the same sex that is treated as a marriage under the laws of such other State, territory, possession, or tribe, or a right or claim arising from such relationship.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 115 of title 28, United States Code, is amended by inserting after the item relating to section 1738B the following new item:

"1738C. Certain acts, records, and proceedings and the effect thereof.".

SEC. 3. DEFINITION OF MARRIAGE.

(a) IN GENERAL.—Chapter 1 of title 1, United States Code, is amended by adding at the end the following:

"§ 7. Definition of 'marriage' and 'spouse'

"In determining the meaning of any Act of Congress, or of any ruling, regulation, or interpretation of the various administrative bureaus and agencies of the United States, the word 'marriage' means only a legal union between one man and one woman as husband and wife, and the word 'spouse' refers only to a person of the opposite sex who is a husband or a wife.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 1 of title 1, United States Code, is amended by inserting after the item relating to section 6 the following new item:

"7. Definition of 'marriage' and 'spouse'.".

Approved September 21, 1996.

LEGISLATIVE HISTORY—H.R. 3396:

HOUSE REPORTS: No. 104–664 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 142 (1996):
July 11, 12, considered and passed House.
Sept. 10, considered and passed Senate.

Public Law 104–200
104th Congress

An Act

To make technical corrections in the Federal Oil and Gas Royalty Management Act of 1982.

Sept. 22, 1996
[H.R. 4018]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TECHNICAL CORRECTIONS.

The Federal Oil and Gas Royalty Management Act of 1982 is amended as follows:

(1) In section 3(25)(B) strike the word "provision" and insert in lieu thereof the word "provisions". 30 USC 1702.

(2) In the second sentence of section 115(l) insert the word "so" before the word "demonstrate". *Ante*, p. 1705.

(3) In the first sentence of section 111(i) insert the word "not" after the word "shall". *Ante*, p. 1712.

(4) In the first sentence of section 111(j) strike the word "rate" and insert in lieu thereof the word "date". *Ante*, p. 1713.

(5) In the third and fourth sentences of section 111(j) strike the word "owned" and insert in lieu thereof the word "owed".

(6) In the third sentence of section 111(k)(4) strike the word "dues" and insert in lieu thereof the word "due". *Ante*, p. 1714.

(7) In section 117(b)(1)(C) strike the word "it" and insert in lieu thereof the word "its". *Ante*, p. 1715.

Approved September 22, 1996.

LEGISLATIVE HISTORY—H.R. 4018:

CONGRESSIONAL RECORD, Vol. 142 (1996):
Sept. 4, considered and passed House.
Sept. 9, considered and passed Senate.

Public Law 104–201
104th Congress

An Act

Sept. 23, 1996
[H.R. 3230]

To authorize appropriations for fiscal year 1997 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

National Defense Authorization Act for Fiscal Year 1997.

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Defense Authorization Act for Fiscal Year 1997".

SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS.

(a) DIVISIONS.—This Act is organized into three divisions as follows:

(1) Division A—Department of Defense Authorizations.

(2) Division B—Military Construction Authorizations.

(3) Division C—Department of Energy National Security Authorizations and Other Authorizations.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Organization of Act into divisions; table of contents.
Sec. 3. Congressional defense committees defined.

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

Subtitle A—Authorization of Appropriations

Sec. 101. Army.
Sec. 102. Navy and Marine Corps.
Sec. 103. Air Force.
Sec. 104. Defense-wide activities.
Sec. 105. Reserve components.
Sec. 106. Defense Inspector General.
Sec. 107. Chemical Demilitarization Program.
Sec. 108. Defense health programs.

Subtitle B—Army Programs

Sec. 111. Repeal of limitation on procurement of Armed Kiowa Warrior helicopters.
Sec. 112. Multiyear procurement authority for Army programs.
Sec. 113. Bradley TOW 2 Test Program sets.

Subtitle C—Navy Programs

Sec. 121. Nuclear attack submarine programs.
Sec. 122. Arleigh Burke class destroyer program.
Sec. 123. EA–6B aircraft reactive jammer program.
Sec. 124. T–39N trainer aircraft for the Navy.
Sec. 125. Penguin missile program.

Subtitle D—Air Force Programs

Sec. 131. Repeal of limitation on procurement of F–15E aircraft.
Sec. 132. Modification to multiyear procurement authority for C–17 aircraft program.

Subtitle E—Other Matters

Sec. 141. Assessments of modernization priorities of the Reserve components.
Sec. 142. Destruction of existing stockpile of lethal chemical agents and munitions.
Sec. 143. Extension of authority to carry out Armament Retooling and Manufacturing Support Initiative.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

Subtitle A—Authorization of Appropriations

Sec. 201. Authorization of appropriations.
Sec. 202. Amount for basic and applied research.
Sec. 203. Dual-use technology programs.
Sec. 204. Defense Special Weapons Agency.

Subtitle B—Program Requirements, Restrictions, and Limitations

Sec. 211. Space launch modernization.
Sec. 212. Space-Based Infrared System program.
Sec. 213. Clementine 2 micro-satellite development program.
Sec. 214. Live-fire survivability testing of V–22 Osprey aircraft.
Sec. 215. Live-fire survivability testing of F–22 aircraft.
Sec. 216. Limitation on funding for F–16 tactical manned reconnaissance aircraft.
Sec. 217. Cost analysis of F–22 aircraft program.
Sec. 218. F–22 aircraft program reports.
Sec. 219. Cost-benefit analysis of F/A–18E/F aircraft program.
Sec. 220. Joint Advanced Strike Technology (JAST) program.
Sec. 221. Unmanned aerial vehicles.
Sec. 222. High altitude endurance unmanned aerial reconnaissance system.
Sec. 223. Cyclone class patrol craft self-defense.
Sec. 224. One-year extension of deadline for delivery of Enhanced Fiber Optic Guided Missile (EFOG–M) system.
Sec. 225. Hydra–70 rocket product improvement program.
Sec. 226. Federally funded research and development centers.
Sec. 227. Demilitarization of conventional munitions, rockets, and explosives.
Sec. 228. Research activities of the Defense Advanced Research Projects Agency relating to chemical and biological warfare defense technology.
Sec. 229. Certification of capability of United States to prevent illegal importation of nuclear, biological, or chemical weapons.
Sec. 230. Nonlethal weapons and technologies programs.
Sec. 231. Counterproliferation support program.

Subtitle C—Ballistic Missile Defense Programs

Sec. 241. Funding for ballistic missile defense programs for fiscal year 1997.
Sec. 242. Certification of capability of United States to defend against single ballistic missile.
Sec. 243. Report on ballistic missile defense and proliferation.
Sec. 244. Revision to annual report on ballistic missile defense program.
Sec. 245. Report on Air Force National Missile Defense Plan.
Sec. 246. Capability of National Missile Defense system.
Sec. 247. Actions to limit adverse effects on private sector employment of establishment of National Missile Defense Joint Program Office.
Sec. 248. ABM Treaty defined.

Subtitle D—Other Matters

Sec. 261. Maintenance and repair at Air Force installations.
Sec. 262. Report relating to Small Business Innovation Research Program.
Sec. 263. Amendment to University Research Initiative Support program.
Sec. 264. Amendments to Defense Experimental Program To Stimulate Competitive Research.
Sec. 265. Elimination of report on the use of competitive procedures for the award of certain contracts to colleges and universities.
Sec. 266. Pilot program for transfer of defense technology information to private industry.
Sec. 267. Research under transactions other than contracts and grants.
Sec. 268. Desalting technologies.
Sec. 269. Evaluation of digital video network equipment used in Olympic games.

Sec. 270. Annual joint warfighting science and technology plan.

Subtitle E—National Oceanographic Partnership Program

Sec. 281. Findings.
Sec. 282. National Oceanographic Partnership Program.

TITLE III—OPERATION AND MAINTENANCE

Subtitle A—Authorization of Appropriations

Sec. 301. Operation and maintenance funding.
Sec. 302. Working capital funds.
Sec. 303. Armed Forces Retirement Home.
Sec. 304. Transfer from National Defense Stockpile Transaction Fund.
Sec. 305. Civil Air Patrol Corporation.
Sec. 306. Availability of additional funds for antiterrorism activities.
Sec. 307. Nonlethal weapons capabilities.
Sec. 308. SR–71 contingency reconnaissance force.

Subtitle B—Depot-Level Activities

Sec. 311. Extension of authority for aviation depots and naval shipyards to engage in defense-related production and services.
Sec. 312. Test programs for modernization-through-spares.

Subtitle C—Environmental Provisions

Sec. 321. Defense contractors covered by requirement for reports on contractor reimbursement costs for response actions.
Sec. 322. Establishment of separate environmental restoration accounts for each military department.
Sec. 323. Payment of stipulated penalties assessed under CERCLA.
Sec. 324. Shipboard solid waste control.
Sec. 325. Authority to develop and implement land use plans for defense environmental restoration program.
Sec. 326. Pilot program to test alternative technology for limiting air emissions during shipyard blasting and coating operations.
Sec. 327. Agreements for services of other agencies in support of environmental technology certification.
Sec. 328. Repeal of redundant notification and consultation requirements regarding remedial investigations and feasibility studies at certain installations to be closed under the base closure laws.
Sec. 329. Authority for agreements with Indian tribes for services under environmental restoration program.
Sec. 330. Authority to withhold listing of Federal facilities on National Priorities List.
Sec. 331. Clarification of meaning of uncontaminated property for purposes of transfer by the United States.
Sec. 332. Conservation and cultural activities.
Sec. 333. Navy program to monitor ecological effects of organotin.
Sec. 334. Authority to transfer contaminated Federal property before completion of required response actions.

Subtitle D—Commissaries and Nonappropriated Fund Instrumentalities

Sec. 341. Contracts with other agencies to provide or obtain goods and services to promote efficient operation and management of exchanges and morale, welfare, and recreation activities.
Sec. 342. Noncompetitive procurement of brand-name commercial items for resale in commissary stores.
Sec. 343. Prohibition of sale or rental of sexually explicit material.

Subtitle E—Performance of Functions by Private-Sector Sources

Sec. 351. Extension of requirement for competitive procurement of printing and duplication services.
Sec. 352. Reporting requirements under demonstration project for purchase of fire, security, police, public works, and utility services from local government agencies.

Subtitle F—Other Matters

Sec. 361. Authority for use of appropriated funds for recruiting functions.
Sec. 362. Training of members of the uniformed services at non-Government facilities.
Sec. 363. Requirement for preparation of plan for improved operation of working-capital funds and effect of failure to produce an approved plan.

Sec. 364. Increase in capital asset threshold under Defense Business Operations Fund.
Sec. 365. Expansion of authority to donate unusable food.
Sec. 366. Assistance to committees involved in inauguration of the President.
Sec. 367. Department of Defense support for sporting events.
Sec. 368. Storage of motor vehicle in lieu of transportation.
Sec. 369. Security protections at Department of Defense facilities in National Capital Region.
Sec. 370. Administration of midshipmen's store and other naval academy support activities as nonappropriated fund instrumentality.
Sec. 371. Reimbursement under agreement for instruction of civilian students at Foreign Language Institute of the Defense Language Institute.
Sec. 372. Assistance to local educational agencies that benefit dependents of members of the Armed Forces and Department of Defense civilian employees.
Sec. 373. Renovation of building for Defense Finance and Accounting Service Center, Fort Benjamin Harrison, Indiana.
Sec. 374. Food donation pilot program at service academies.
Sec. 375. Authority of Air National Guard to provide certain services at Lincoln Municipal Airport, Lincoln, Nebraska.
Sec. 376. Technical amendment regarding Impact Aid program.

TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

Subtitle A—Active Forces

Sec. 401. End strengths for active forces.
Sec. 402. Permanent end strength levels to support two major regional contingencies.
Sec. 403. Authorized strengths for commissioned officers on active duty in grades of major, lieutenant colonel, and colonel and Navy grades of lieutenant commander, commander, and captain.
Sec. 404. Extension of requirement for recommendations regarding appointments to joint 4-star officer positions.
Sec. 405. Increase in authorized number of general officers on active duty in the Marine Corps.

Subtitle B—Reserve Forces

Sec. 411. End strengths for Selected Reserve.
Sec. 412. End strengths for reserves on active duty in support of the Reserves.
Sec. 413. End strengths for military technicians.
Sec. 414. Assurance of continued assignment of military personnel to serve in Selective Service System.

Subtitle C—Authorization of Appropriations

Sec. 421. Authorization of appropriations for military personnel.

TITLE V—MILITARY PERSONNEL POLICY

Subtitle A—Officer Personnel Policy

Sec. 501. Grade of Chief of Naval Research.
Sec. 502. Chief and Assistant Chief of Army Nurse Corps and Air Force Nurse Corps.
Sec. 503. Navy spot promotion authority for certain lieutenants with critical skills.
Sec. 504. Time for award of degrees by unaccredited educational institutions for graduates to be considered educationally qualified for appointment as Reserve officers in grade O–3.
Sec. 505. Exception to baccalaureate degree requirement for appointment in the Naval Reserve in grades above O–2.
Sec. 506. Chief warrant officer promotions.
Sec. 507. Service credit for senior ROTC cadets and midshipmen in simultaneous membership program.
Sec. 508. Continuation on active status for certain Reserve officers of the Air Force.
Sec. 509. Reports on response to recommendations concerning improvements to Department of Defense joint manpower process.
Sec. 510. Frequency of reports to Congress on joint officer management policies.

Subtitle B—Enlisted Personnel Policy

Sec. 511. Career service reenlistments for members with at least 10 years of service.
Sec. 512. Authority to extend period for entry on active duty under the delayed entry program.

Subtitle C—Activation and Recall

Sec. 521. Limitations on recall of retired members to active duty.
Sec. 522. Clarification of definition of active status.
Sec. 523. Limitation of requirement for physical examinations of members of National Guard called into Federal service.

Subtitle D—Reserve Component Retirement

Sec. 531. Increase in annual limit on days of inactive duty training creditable toward Reserve retirement.
Sec. 532. Retirement of Reserve enlisted members who qualify for active duty retirement after administrative reduction in enlisted grade.
Sec. 533. Authority for a Reserve on active duty to waive retirement sanctuary.
Sec. 534. Eligibility of Reserves for disability retirement.

Subtitle E—Other Reserve Component Matters

Sec. 541. Training for Reserves on active duty in support of the Reserves.
Sec. 542. Eligibility for enrollment in Ready Reserve mobilization income insurance program.
Sec. 543. Reserve credit for participation in Health Professions Scholarship and Financial Assistance Program.
Sec. 544. Amendments to Reserve Officer Personnel Management Act provisions.
Sec. 545. Report on number of advisers in active component support of Reserves pilot program.
Sec. 546. Sense of Congress and report regarding reemployment rights for mobilized Reservists employed in foreign countries.
Sec. 547. Payment of premiums under Mobilization Income Insurance Program.

Subtitle F—Officer Education Programs

Sec. 551. Oversight and management of Senior Reserve Officers' Training Corps program.
Sec. 552. Prohibition on reorganization of Army ROTC cadet command or termination of senior ROTC units pending report on ROTC.
Sec. 553. Pilot program to test expansion of ROTC program to include graduate students.
Sec. 554. Demonstration project for instruction and support of Army ROTC units by members of the Army Reserve and National Guard.
Sec. 555. Extension of maximum age for appointment as a cadet or midshipman in the Senior Reserve Officers' Training Corps and the service academies.
Sec. 556. Expansion of eligibility for education benefits to include certain Reserve Officers' Training Corps (ROTC) participants.
Sec. 557. Comptroller General report on cost and policy implications of permitting up to five percent of service academy graduates to be assigned directly to Reserve duty upon graduation.

Subtitle G—Decorations and Awards

Sec. 561. Authority for award of Medal of Honor to certain African American soldiers who served during World War II.
Sec. 562. Waiver of time limitations for award of certain decorations to specified persons.
Sec. 563. Replacement of certain American Theater Campaign Ribbons.

Subtitle H—Other Matters

Sec. 571. Hate crimes in the military.
Sec. 572. Disability coverage for members granted excess leave for educational or emergency purposes.
Sec. 573. Clarification of authority of a Reserve judge advocate to act as a military notary public when not in a duty status.
Sec. 574. Panel on jurisdiction of courts-martial for the National Guard when not in Federal service.
Sec. 575. Authority to expand law enforcement placement program to include firefighters.
Sec. 576. Improvements to program to assist separated military and civilian personnel to obtain employment as teachers or teachers' aides.
Sec. 577. Retirement at grade to which selected for promotion when a physical disability is found at any physical examination.
Sec. 578. Revisions to missing persons authorities.

Subtitle I—Commissioned Corps of the Public Health Service

Sec. 581. Applicability to Public Health Service of prohibition on crediting cadet or midshipmen service at the service academies.

Sec. 582. Exception to strength limitations for Public Health Service officers assigned to the Department of Defense.
Sec. 583. Authority to provide legal assistance to Public Health Service officers.

TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

Subtitle A—Pay and Allowances

Sec. 601. Military pay raise for fiscal year 1997.
Sec. 602. Adjustment of rate of cadet and midshipman pay.
Sec. 603. Pay of senior noncommissioned officers while hospitalized.
Sec. 604. Availability of basic allowance for quarters for certain members without dependents who serve on sea duty.
Sec. 605. Uniform applicability of discretion to deny an election not to occupy Government quarters.
Sec. 606. Establishment of minimum monthly amount of variable housing allowance for high housing cost areas.
Sec. 607. Family separation allowance for members separated by military orders from spouses who are members.
Sec. 608. Waiver of time limitations for claim for pay and allowances.

Subtitle B—Bonuses and Special and Incentive Pays

Sec. 611. One-year extension of certain bonuses and special pay authorities for reserve forces.
Sec. 612. One-year extension of certain bonuses and special pay authorities for nurse officer candidates, registered nurses, and nurse anesthetists.
Sec. 613. One-year extension of authorities relating to payment of other bonuses and special pays.
Sec. 614. Special pay for certain Public Health Service officers.
Sec. 615. Special incentives to recruit and retain dental officers.
Sec. 616. Foreign language proficiency pay for Public Health Service and National Oceanic and Atmospheric Administration officers.

Subtitle C—Travel and Transportation Allowances

Sec. 621. Allowance in connection with shipping motor vehicle at Government expense.
Sec. 622. Dislocation allowance at a rate equal to two and one-half months basic allowance for quarters.
Sec. 623. Allowance for travel performed in connection with leave between consecutive overseas tours.
Sec. 624. Funding for transportation of household effects of Public Health Service officers.

Subtitle D—Retired Pay, Survivor Benefits, and Related Matters

Sec. 631. Effective date for military retiree cost-of-living adjustment for fiscal year 1998.
Sec. 632. Clarification of initial computation of retiree COLAs after retirement.
Sec. 633. Suspension of payment of retired pay of members who are absent from the United States to avoid prosecution.
Sec. 634. Nonsubstantive restatement of Survivor Benefit Plan statute.
Sec. 635. Increases in Survivor Benefit Plan contributions to be effective concurrently with payment of retired pay cost-of-living increases.
Sec. 636. Amendments to the Uniformed Services Former Spouses' Protection Act.
Sec. 637. Prevention of circumvention of court order by waiver of retired pay to enhance civil service retirement annuity.
Sec. 638. Administration of benefits for so-called minimum income widows.

Subtitle E—Other Matters

Sec. 651. Discretionary allotment of pay, including retired or retainer pay.
Sec. 652. Reimbursement for adoption expenses incurred in adoptions through private placements.
Sec. 653. Waiver of recoupment of amounts withheld for tax purposes from certain separation pay.
Sec. 654. Technical correction clarifying limitation on furnishing clothing or allowances for enlisted National Guard technicians.
Sec. 655. Technical correction to prior authority for payment of back pay to certain persons.
Sec. 656. Compensation for persons awarded prisoner of war medal who did not previously receive compensation as a prisoner of war.
Sec. 657. Payments to certain persons captured and interned by North Vietnam.

TITLE VII—HEALTH CARE PROVISIONS

Subtitle A—Health Care Services

Sec. 701. Preventive health care screening for colon and prostate cancer.

Sec. 702. Implementation of requirement for Selected Reserve dental insurance plan.
Sec. 703. Dental insurance plan for military retirees and unremarried surviving spouses and certain other dependents of military retirees.
Sec. 704. Plan for health care coverage for children with medical conditions caused by parental exposure to chemical munitions while serving as members of the Armed Forces.

Subtitle B—TRICARE Program

Sec. 711. CHAMPUS payment limits for TRICARE prime enrollees.
Sec. 712. Improved information exchange between military treatment facilities and TRICARE program contractors.
Sec. 713. Plans for medicare subvention demonstration programs.

Subtitle C—Uniformed Services Treatment Facilities

Sec. 721. Definitions.
Sec. 722. Inclusion of designated providers in uniformed services health care delivery system.
Sec. 723. Provision of uniform benefit by designated providers.
Sec. 724. Enrollment of covered beneficiaries.
Sec. 725. Application of CHAMPUS payment rules.
Sec. 726. Payments for services.
Sec. 727. Repeal of superseded authorities.

Subtitle D—Other Changes to Existing Laws Regarding Health Care Management

Sec. 731. Authority to waive CHAMPUS exclusion regarding nonmedically necessary treatment in connection with certain clinical trials.
Sec. 732. Exception to maximum allowable payments to individual health-care providers under CHAMPUS.
Sec. 733. Codification of annual authority to credit CHAMPUS refunds to current year appropriation.
Sec. 734. Exceptions to requirements regarding obtaining nonavailability-of-health-care statements.
Sec. 735. Enhancement of third-party collection and secondary payer authorities under CHAMPUS.

Subtitle E—Other Matters

Sec. 741. Alternatives to active duty service obligation under Armed Forces Health Professions Scholarship and Financial Assistance program and Uniformed Services University of the Health Sciences.
Sec. 742. External peer review for defense health program extramural medical research involving human subjects.
Sec. 743. Independent research regarding Gulf War syndrome.
Sec. 744. Comptroller General review of health care activities of Department of Defense relating to Gulf War illnesses.
Sec. 745. Report regarding specialized treatment facility program.
Sec. 746. Study of means of ensuring uniformity in provision of medical and dental care for members of Reserve components.
Sec. 747. Sense of Congress regarding tax treatment of Armed Forces Health Professions Scholarship and Financial Assistance program.

TITLE VIII—ACQUISITION POLICY, ACQUISITION MANAGEMENT, AND RELATED MATTERS

Subtitle A—Acquisition Management

Sec. 801. Procurement technical assistance programs.
Sec. 802. Extension of pilot mentor-protege program.
Sec. 803. Authority to waive certain requirements for defense acquisition pilot programs.
Sec. 804. Modification of authority to carry out certain prototype projects.
Sec. 805. Increase in threshold amounts for major systems.
Sec. 806. Revisions in information required to be included in selected acquisition reports.
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SEC. 3. CONGRESSIONAL DEFENSE COMMITTEES DEFINED.

For purposes of this Act, the term "congressional defense committees" means—

(1) the Committee on Armed Services and the Committee on Appropriations of the Senate; and

(2) the Committee on National Security and the Committee on Appropriations of the House of Representatives.

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

TITLE I—PROCUREMENT

Subtitle A—Authorization of Appropriations

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Subtitle A—Authorization of Appropriations

SEC. 101. ARMY.

Funds are hereby authorized to be appropriated for fiscal year 1997 for procurement for the Army as follows:

(1) For aircraft, $1,314,015,000.

(2) For missiles, $1,031,829,000.

(3) For weapons and tracked combat vehicles, $1,409,514,000.

(4) For ammunition, $1,003,028,000.

(5) For other procurement, $2,990,240,000.

SEC. 102. NAVY AND MARINE CORPS.

(a) NAVY.—Funds are hereby authorized to be appropriated for fiscal year 1997 for procurement for the Navy as follows:

(1) For aircraft, $7,034,926,000.

(2) For weapons, including missiles and torpedoes, $1,345,408,000.

(3) For shipbuilding and conversion, $6,193,330,000.

(4) For other procurement, $2,893,840,000.

(b) MARINE CORPS.—Funds are hereby authorized to be appropriated for fiscal year 1997 for procurement for the Marine Corps in the amount of $560,148,000.

(c) NAVY AND MARINE CORPS AMMUNITION.—Funds are hereby authorized to be appropriated for procurement of ammunition for the Navy and the Marine Corps in the amount of $293,239,000.

SEC. 103. AIR FORCE.

Funds are hereby authorized to be appropriated for fiscal year 1997 for procurement for the Air Force as follows:

(1) For aircraft, $6,764,420,000.

(2) For missiles, $2,525,875,000.

(3) For ammunition, $278,302,000.

(4) For other procurement, $5,814,419,000.

SEC. 104. DEFENSE-WIDE ACTIVITIES.

Funds are hereby authorized to be appropriated for fiscal year 1997 for Defense-wide procurement in the amount of $2,008,261,000.

SEC. 105. RESERVE COMPONENTS.

Funds are hereby authorized to be appropriated for fiscal year 1997 for procurement of aircraft, vehicles, communications equipment, and other equipment for the reserve components of the Armed Forces as follows:

(1) For the Army National Guard, $171,000,000.

(2) For the Air National Guard, $234,000,000.

(3) For the Army Reserve, $98,000,000.

(4) For the Naval Reserve, $116,000,000.

(5) For the Air Force Reserve, $94,000,000.

(6) For the Marine Corps Reserve, $67,000,000.

SEC. 106. DEFENSE INSPECTOR GENERAL.

Funds are hereby authorized to be appropriated for fiscal year 1997 for procurement for the Inspector General of the Department of Defense in the amount of $2,000,000.

SEC. 107. CHEMICAL DEMILITARIZATION PROGRAM.

There is hereby authorized to be appropriated for fiscal year 1997 the amount of $759,847,000 for—

(1) the destruction of lethal chemical agents and munitions in accordance with section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521); and

(2) the destruction of chemical warfare materiel of the United States that is not covered by section 1412 of such Act.

SEC. 108. DEFENSE HEALTH PROGRAMS.

Funds are hereby authorized to be appropriated for fiscal year 1997 for the Department of Defense for procurement for carrying

out health care programs, projects, and activities of the Department of Defense in the total amount of $269,470,000.

Subtitle B—Army Programs

SEC. 111. REPEAL OF LIMITATION ON PROCUREMENT OF ARMED KIOWA WARRIOR HELICOPTERS.

Section 133 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1383) is repealed.

SEC. 112. MULTIYEAR PROCUREMENT AUTHORITY FOR ARMY PROGRAMS.

(a) AVENGER AIR DEFENSE MISSILE SYSTEM.—Notwithstanding the limitation in subsection (k) of section 2306b of title 10, United States Code, relating to the maximum duration of a multiyear contract under the authority of that section, the Secretary of the Army may extend the multiyear contract in effect during fiscal year 1996 for the Avenger Air Defense Missile system through fiscal year 1997 and may award such an extension.

(b) ARMY TACTICAL MISSILE SYSTEM.—The Secretary of the Army may, in accordance with section 2306b of title 10, United States Code, enter into a multiyear procurement contract, beginning with the fiscal year 1997 program year, for procurement of the Army Tactical Missile System (Army TACMS).

(c) JAVELIN MISSILE SYSTEM.—The Secretary of the Army may, in accordance with section 2306b of title 10, United States Code, enter into multiyear procurement contracts for the procurement of the Javelin missile system.

SEC. 113. BRADLEY TOW 2 TEST PROGRAM SETS.

Of the funds authorized to be appropriated under section 101(3) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 204), $6,000,000 is available for the procurement of Bradley TOW–2 Test Program sets.

Subtitle C—Navy Programs

SEC. 121. NUCLEAR ATTACK SUBMARINE PROGRAMS.

(a) AMOUNTS AUTHORIZED FROM SCN ACCOUNT.—(1) Of the amount authorized to be appropriated by section 102(a)(3) for fiscal year 1997—

(A) $699,071,000 is available for continued construction of the third vessel (designated SSN–23) in the Seawolf attack submarine class, which shall be the final vessel in that class;

(B) $296,186,000 is available for long-lead and advance construction and procurement of components for construction of a submarine (previously designated by the Navy as the New Attack Submarine) beginning in fiscal year 1998 to be built by Electric Boat Division; and

(C) $701,000,000 is available for long-lead and advance construction and procurement of components for construction of a second submarine (previously designated by the Navy as the New Attack Submarine) beginning in fiscal year 1999 to be built by Newport News Shipbuilding.

(2) In addition to the purposes for which the amounts under subparagraphs (B) and (C) of paragraph (1) are available, such amounts are also available for contracts with Electric Boat Division and Newport News Shipbuilding to carry out the provisions of the "Memorandum of Agreement Among the Department of the Navy, Electric Boat Corporation (EB) and Newport News Shipbuilding and Drydock Company (NNS) Concerning the New Attack Submarine", dated April 5, 1996, relating to design data transfer, design improvements, integrated process teams, and updated design base.

(b) AMOUNTS AUTHORIZED FROM NAVY RDT&E ACCOUNT.—(1) Of the amount authorized to be appropriated by section 201(2), $487,611,000 is available for the design of the submarine previously designated by the Navy as the New Attack Submarine.

(2)(A) Of the amount authorized to be appropriated by section 201(2), $60,000,000 is available for obligation under contracts with Electric Boat Division and Newport News Shipbuilding and other entities to address the inclusion on future nuclear attack submarines of the core advanced technologies that are identified by the Secretary of Defense (in the report of the Secretary entitled "Report on Nuclear Attack Submarine Procurement and Submarine Technology", submitted to Congress on March 26, 1996) as those technologies the maturation of which the Submarine Technology Assessment Panel recommended be addressed in its March 15, 1996, final report to the Assistant Secretary of the Navy for Research, Development, and Acquisition, as follows: hydrodynamics, alternative sail designs, advanced arrays, electric drive, external weapons, and active controls and mounts.

(B) Of the amount available under subparagraph (A), $20,000,000 shall be equally divided between Electric Boat Division and Newport News Shipbuilding for the purpose of ensuring that those shipbuilders are principal participants in the process of addressing the inclusion of technologies referred to in subparagraph (A) on future nuclear attack submarines. Contracts with the shipbuilders under this subparagraph shall provide the shipbuilders with wide latitude to pursue submarine-wide, integrated systems approaches to the inclusion of such technologies. The Secretary of the Navy shall ensure that those shipbuilders have access for such purpose (under procedures prescribed by the Secretary) to the Navy laboratories and the Office of Naval Intelligence and (in accordance with arrangements to be made by the Secretary) to the Defense Advanced Research Projects Agency.

(3) Of the amount authorized to be appropriated by section 201(2), $38,000,000 is available to begin funding those Category I and Category II advanced technologies described in Appendix C of the report of the Secretary of Defense referred to in paragraph (2)(A). The Secretary of the Navy shall ensure that Electric Boat Division and Newport News Shipbuilding are also principal participants in the technology initiatives pursued with such funds to ensure submarine-wide, integrated systems approaches to the inclusion of such technologies on future nuclear attack submarines.

(4) In addition to the purposes for which the amounts under paragraphs (1), (2), and (3) are available, such amounts are also available for contracts with Electric Boat Division and Newport News Shipbuilding to carry out the provisions of the memorandum of agreement referred to in subsection (a)(2) for research and development activities under that memorandum of agreement.

(c) AMOUNT FROM FISCAL YEAR 1996 FUNDS FOR NATIONAL DEFENSE SEALIFT FUND.—(1) Section 132 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 210) is repealed.

(2) The amount referred to in section 132 of the National Defense Authorization Act for Fiscal Year 1996 (as in effect immediately before the repeal by paragraph (1)) shall be available to the Secretary of the Navy for activities relating only to advanced submarine technology that involve the construction of large scale vehicles for purposes of hydrodynamic and hydroacoustic research on developmental designs for hulls and propulsion systems.

(d) CONTRACTS AUTHORIZED.—(1) The Secretary of the Navy is authorized, using funds available pursuant to subparagraphs (B) and (C) of subsection (a)(1), to enter into contracts with Electric Boat Division and Newport News Shipbuilding, and suppliers of components, during fiscal year 1997 for—

(A) the procurement of long-lead components for the fiscal year 1998 submarine and the fiscal year 1999 submarine under this section; and

(B) advance construction of such components and other components for such submarines.

(2) The Secretary may enter into a contract or contracts under this section with the shipbuilder of the fiscal year 1998 submarine only if the Secretary enters into a contract or contracts under this section with the shipbuilder of the fiscal year 1999 submarine.

(e) LIMITATIONS.—(1)(A) Of the amounts specified in subsection (a)(1), not more than $100,000,000 may be obligated until the Secretary of Defense certifies in writing to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives that procurement of nuclear attack submarines described in subparagraph (B) will be under one or more contracts that are entered into after competition between Electric Boat Division and Newport News Shipbuilding in which the Secretary of the Navy solicits competitive proposals and awards the contract or contracts on the basis of price. Certification.

(B) The submarines referred to in subparagraph (A) are nuclear attack submarines that are to be constructed beginning—

(i) after fiscal year 1999; or

(ii) if four submarines are to be procured as provided for in the plan required under section 131(c) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 208), after fiscal year 2001.

(2) Of the amounts specified in subsection (a)(1), not more than $675,000,000 may be obligated until the Under Secretary of Defense for Acquisition and Technology submits to the congressional committees specified in paragraph (1) a report in writing detailing the following: Reports.

(A) The Under Secretary's oversight activities to date, and plans for the future, for the development and improvement of the nuclear attack submarine program of the Navy as required by section 131(b)(2)(C) of the National Defense Authorization Act for Fiscal Year 1996 (110 Stat. 207).

(B) The implementation of, and activities conducted under, the program required to be established by the Director of the Defense Advanced Research Projects Agency by section 131(i) of the National Defense Authorization Act for Fiscal Year 1996 (110 Stat. 210) for the development and demonstration of

advanced submarine technologies and a rapid prototype acquisition strategy for both land-based and at-sea subsystem and system demonstrations of such technologies.

(C) A description of all research, development, test, and evaluation programs, projects, or activities within the Department of Defense which, in the opinion of the Under Secretary, are designed to contribute to the development and demonstration of advanced submarine technologies leading to a more capable, more affordable nuclear attack submarine, specifically identifying ongoing involvement, and plans for future involvement, in any such program, project, or activity by either Electric Boat Division or Newport News Shipbuilding, or by both.

Certification.

(3) Of the amount specified in subsection (b)(1), not more than $100,000,000 may be obligated or expended until the Under Secretary of Defense (Comptroller) certifies in writing to the congressional committees specified in paragraph (1) that—

(A) funds specified in subsection (c)(2) have been made available for obligation; and

(B) to the extent that funds specified in paragraphs (2) and (3) of subsection (b) have been appropriated for the purposes specified in such paragraphs, such funds have been made available for obligation.

(f) ACQUISITION SIMPLIFICATION.—In furtherance of the direction provided by subsection (d) of section 131 of the National Defense Authorization Act for Fiscal Year 1996 (110 Stat. 209) to the Secretary of Defense regarding the application of acquisition reform policies and procedures to the submarine program under that section, the Secretary shall direct the Secretary of the Navy to implement for the submarine programs of the Navy acquisition reform initiatives similar in intent and approach to the initiatives begun by the Secretary of the Air Force in May 1995 and referred to as the "Lightning Bolt" initiatives. The Secretary of the Navy shall, not later than March 31, 1997, submit to the congressional committees specified in subsection (e)(1) a report on the results of the implementation of such initiatives.

Reports.

(g) DESIGN RESPONSIBILITY.—(1) The Secretary of the Navy shall carry out the submarine program described in section 131 of the National Defense Authorization Act for Fiscal Year 1996 in a manner that ensures that each of the two shipbuilders involved in the design and construction of the four submarines described in that section be allowed to propose to the Secretary any design improvement that the shipbuilder considers appropriate for the submarines to be built by that shipbuilder as part of those four submarines. The Secretary shall ensure that both shipbuilders have full and open access to all design data concerning the design of the submarine previously designated by the Navy as the New Attack Submarine.

(2) The designs proposed by the shipbuilders should proceed from, but not be limited to, the specific advanced technologies referred to in subsection (b)(2)(A), especially technologies involving hydrodynamics and hydroacoustics concepts.

Reports.

(3) The Secretary shall require both shipbuilders to submit to the Secretary an annual report on the progress of the design work on the submarines referred to in paragraph (1) and shall transmit each such report to the committees specified in subsection (e)(1).

(4) The Secretary shall also submit an annual report to the committees specified in subsection (e)(1) on the design improvements proposed by the two shipbuilders under paragraph (1) for incorporation on any of the four submarines and on the degree to which design information on the base design and design improvements has been shared between the shipbuilders. Each annual report shall set forth each design improvement proposed and whether that proposal was— Reports.

(A) reviewed, approved, and funded by the Navy;

(B) reviewed and approved, but not funded; or

(C) not approved, in which case the report shall include the reasons therefor and any views of the shipyard making the proposal.

(5) The reports referred to in paragraphs (3) and (4) shall be submitted concurrently with the annual revisions to the Secretary of Defense's nuclear attack submarine plan required by section 131(e) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 209).

(h) SERIAL PRODUCTION.—The Secretary of Defense shall modify the plan relating to development of a program leading to production of a more capable and less expensive submarine than the New Attack Submarine that was submitted to Congress pursuant to section 131(c) of the National Defense Authorization Act for Fiscal Year 1996 in order to provide in such plan the option for selection of a design for a next submarine for serial production not earlier than fiscal year 2002 (rather than fiscal year 2003, as provided in paragraph (3)(B) of such section 131(c)).

(i) REFERENCES TO SHIPBUILDERS.—For purposes of this section—

(1) the shipbuilder referred to as "Electric Boat Division" is the Electric Boat Division of the General Dynamics Corporation; and

(2) the shipbuilder referred to as "Newport News Shipbuilding" is the Newport News Shipbuilding and Drydock Company.

(j) SUBMARINES DEFINED BY REFERENCE TO FISCAL YEAR.—For purposes of this section—

(1) the term "fiscal year 1998 submarine" means the submarine referred to in subsection (a)(1)(B); and

(2) the term "fiscal year 1999 submarine" means the submarine referred to in subsection (a)(1)(C).

SEC. 122. ARLEIGH BURKE CLASS DESTROYER PROGRAM.

(a) FUNDING.—(1) Subject to paragraph (3), funds authorized to be appropriated by section 102(a)(3) may be made available for contracts entered into during fiscal year 1996 under subsection (b)(1) of section 135 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 211) for construction for the third of the three Arleigh Burke class destroyers covered by that subsection. Such funds are in addition to amounts made available for such contracts by the second sentence of subsection (a) of that section.

(2) Subject to paragraph (3), funds authorized to be appropriated by section 102(a)(3) may be made available for contracts entered into during fiscal year 1997 under subsection (b)(2) of such section 135 for construction (including advance procurement) for the Arleigh Burke class destroyers covered by such subsection (b)(2).

(3) The aggregate amount of funds available under paragraphs (1) and (2) for contracts referred to in such paragraphs may not exceed $3,483,030,000.

(4) Within the amount authorized to be appropriated by section 102(a)(3), $525,000,000 is authorized to be appropriated for advance procurement for construction for the Arleigh Burke class destroyers authorized by subsection (b).

(b) AUTHORITY FOR MULTIYEAR PROCUREMENT OF TWELVE VESSELS.—The Secretary of the Navy is authorized, pursuant to section 2306b of title 10, United States Code, to enter into multiyear contracts for the procurement of a total of 12 Arleigh Burke class destroyers at a procurement rate of three ships in each of fiscal years 1998, 1999, 2000, and 2001 in accordance with this subsection and subsection (a)(4), subject to the availability of appropriations for such destroyers. A contract for construction of one or more vessels that is entered into in accordance with this subsection shall include a clause that limits the liability of the Government to the contractor for any termination of the contract.

SEC. 123. EA–6B AIRCRAFT REACTIVE JAMMER PROGRAM.

(a) LIMITATION.—None of the funds appropriated pursuant to section 102(a)(1) for modifications or upgrades of EA–6B aircraft may be obligated, other than for a reactive jammer program for such aircraft, until 30 days after the date on which the Secretary of the Navy submits to the congressional defense committees in writing—

Certification.

(1) a certification that some or all of such funds have been obligated for a reactive jammer program for EA–6B aircraft; and

Reports.

(2) a report that sets forth a detailed, well-defined program for—

(A) developing a reactive jamming capability for EA–6B aircraft; and

(B) upgrading the EA–6B aircraft of the Navy to incorporate the reactive jamming capability.

(b) CONTINGENT TRANSFER OF FUNDS TO AIR FORCE.—(1) If the Secretary of the Navy has not submitted the certification and report described in subsection (a) to the congressional defense committees before June 1, 1997, then, on that date, the Secretary of Defense shall transfer to the Air Force, out of appropriations available to the Navy for fiscal year 1997 for procurement of aircraft, the amount equal to the amount appropriated to the Navy for fiscal year 1997 for modifications and upgrades of EA–6B aircraft.

(2) Funds transferred to the Air Force pursuant to paragraph (1) shall be available for maintaining and upgrading the jamming capability of EF–111 aircraft.

SEC. 124. T–39N TRAINER AIRCRAFT FOR THE NAVY.

The Secretary of the Navy may, using funds appropriated for fiscal year 1996 for procurement of T–39N trainer aircraft for the Navy that remain available for obligation for such purpose, enter into a contract for the acquisition of T–39N aircraft for naval flight officer training that are suitable for low-level training flights. Such a contract may be entered into only after the Secretary complies with section 137 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 212).

SEC. 125. PENGUIN MISSILE PROGRAM.

(a) MULTIYEAR PROCUREMENT AUTHORITY.—The Secretary of the Navy may, in accordance with section 2306b of title 10, United States Code, enter into multiyear procurement contracts for the procurement of not more than 106 Penguin missile systems.

(b) LIMITATION ON TOTAL COST.—The total amount obligated or expended for procurement of Penguin missile systems under contracts under subsection (a) may not exceed $84,800,000.

Subtitle D—Air Force Programs

SEC. 131. REPEAL OF LIMITATION ON PROCUREMENT OF F–15E AIRCRAFT.

Section 134 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1383) is repealed.

SEC. 132. MODIFICATION TO MULTIYEAR PROCUREMENT AUTHORITY FOR C–17 AIRCRAFT PROGRAM.

(a) MULTIYEAR CONTRACTS AUTHORIZED.—The Secretary of the Air Force may enter into one or more multiyear contracts for the procurement of C–17 aircraft (including the section 2703 contract entered into before the date of the enactment of this Act under the authority of section 2703 of the Supplemental Appropriations Act of 1996 (title II of Public Law 104–134)). The total number of aircraft contracted to be procured under such multiyear contracts may not exceed 80. Any such contract shall be entered into in accordance with section 2306b of title 10, United States Code (and subject to such modifications as may be authorized by law in the maximum period for such contracts specified in subsection (k) of such section).

(b) REQUIREMENT TO NEGOTIATE OPTION TO CONVERT EXISTING CONTRACT TO SIX PROGRAM YEARS.—The Secretary of the Air Force shall negotiate with the prime contractor for the C–17 aircraft program so as to achieve a contract option for the United States under the section 2703 contract to convert the multiyear procurement period under that contract to a period of six program years based upon the level of funding for that program for fiscal year 1997.

(c) CONTRACT PERIOD.—A contract entered into after the date of the enactment of this Act on a multiyear basis under the authority of subsection (a) may (notwithstanding section 2306b(k) of title 10, United States Code) be for a period of six program years.

(d) SECTION 2703 CONTRACT DEFINED.—For purposes of this section, the term "section 2703 contract" means the contract entered into by the Secretary of the Air Force on May 31, 1996, with the prime contractor for the C–17 aircraft program under the authority of section 2703 of the Supplemental Appropriations Act of 1996 (title II of Public Law 104–134) providing for a multiyear procurement of C–17 aircraft over seven program years with an option for the Secretary to convert that period to six program years.

Subtitle E—Other Matters

SEC. 141. ASSESSMENTS OF MODERNIZATION PRIORITIES OF THE RESERVE COMPONENTS.

(a) ASSESSMENTS REQUIRED.—Not later than December 1, 1996, each officer referred to in subsection (b) shall submit to the congressional defense committees an assessment of the modernization priorities established for the reserve component or reserve components for which that officer is responsible.

(b) RESPONSIBLE OFFICERS.—The officers required to submit a report under subsection (a) are as follows:

(1) The Chief of the National Guard Bureau.
(2) The Chief of Army Reserve.
(3) The Chief of Air Force Reserve.
(4) The Director of Naval Reserve.
(5) The Commanding General, Marine Forces Reserve.

SEC. 142. DESTRUCTION OF EXISTING STOCKPILE OF LETHAL CHEMICAL AGENTS AND MUNITIONS.

Section 152 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 214; 50 U.S.C. 1521 note) is amended by adding at the end the following new subsections:

"(e) ASSESSMENT OF ALTERNATIVE TECHNOLOGIES FOR DEMILITARIZATION OF ASSEMBLED CHEMICAL MUNITIONS.—(1) In addition to the assessment required by subsection (c), the Secretary of Defense shall conduct an assessment of the chemical demilitarization program for destruction of assembled chemical munitions and of the alternative demilitarization technologies and processes (other than incineration) that could be used for the destruction of the lethal chemical agents that are associated with these munitions, while ensuring maximum protection for the general public, the personnel involved in the demilitarization program, and the environment. The measures considered shall be limited to those that would minimize the risk to the public and reduce the total cost of the chemical agents and munitions destruction program. The assessment shall be conducted without regard to any limitation that would otherwise apply to the conduct of such assessment under any provision of law.

"(2) The assessment shall be conducted in coordination with the National Research Council.

"(3) Among the alternatives, the assessment shall include a determination of the cost of incineration of the current chemical munitions stockpile by building incinerators at each existing facility compared to the proposed cost of dismantling those same munitions, neutralizing them at each storage site (other than Tooele Army Depot or Johnston Atoll), and transporting the neutralized remains and all munitions parts to a treatment, storage, and disposal facility within the United States that has the necessary environmental permits to undertake incineration of the material.

"(4) Based on the results of the assessment, the Secretary shall develop appropriate recommendations for revision of the chemical demilitarization program.

Reports.

"(5) Not later than December 31, 1997, the Secretary of Defense shall submit to Congress a report on the assessment conducted in accordance with paragraph (1) and any recommendations for

revision of the chemical demilitarization program, including the continued development of alternative demilitarization technologies and processes other than incineration that could be used for the destruction of the lethal chemical agents that are associated with these assembled chemical munitions and the chemical munitions demilitarization sites for which the selected technologies should be developed.

"(f) PILOT PROGRAM FOR DEMILITARIZATION OF CHEMICAL AGENTS FOR ASSEMBLED MUNITIONS.—(1) If the Secretary of Defense makes a decision to continue the development of an alternative demilitarization technology or process (other than incineration) that could be used for the destruction of the lethal chemical agents that are associated with assembled chemical munitions, $25,000,000 shall be available from the funds authorized to be appropriated in section 107 of the National Defense Authorization Act for Fiscal Year 1997 for the chemical agents and munitions destruction program, in order to initiate a pilot program using the selected alternative technology or process for the destruction of chemical agents that are stored at these sites.

"(2) Not less than 30 days before using funds to initiate the pilot program under paragraph (1), the Secretary shall submit notice in writing to Congress of the Secretary's intent to do so. Notice.

"(3) The pilot program shall be conducted at the selected chemical agent and munitions stockpile storage site for which the alternative technology or process is recommended.".

SEC. 143. EXTENSION OF AUTHORITY TO CARRY OUT ARMAMENT RETOOLING AND MANUFACTURING SUPPORT INITIATIVE.

Section 193(a) of the Armament Retooling and Manufacturing Support Act of 1992 (subtitle H of title I of Public Law 102–484; 10 U.S.C. 2501 note) is amended by striking out "During fiscal years 1993 through 1996" and inserting in lieu thereof "During fiscal years 1993 through 1998".

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

Subtitle A—Authorization of Appropriations

Sec. 201. Authorization of appropriations.
Sec. 202. Amount for basic and applied research.
Sec. 203. Dual-use technology programs.
Sec. 204. Defense Special Weapons Agency.

Subtitle B—Program Requirements, Restrictions, and Limitations

Sec. 211. Space launch modernization.
Sec. 212. Space-Based Infrared System program.
Sec. 213. Clementine 2 micro-satellite development program.
Sec. 214. Live-fire survivability testing of V–22 Osprey aircraft.
Sec. 215. Live-fire survivability testing of F–22 aircraft.
Sec. 216. Limitation on funding for F–16 tactical manned reconnaissance aircraft.
Sec. 217. Cost analysis of F–22 aircraft program.
Sec. 218. F–22 aircraft program reports.
Sec. 219. Cost-benefit analysis of F/A–18E/F aircraft program.
Sec. 220. Joint Advanced Strike Technology (JAST) program.
Sec. 221. Unmanned aerial vehicles.
Sec. 222. High altitude endurance unmanned aerial reconnaissance system.
Sec. 223. Cyclone class patrol craft self-defense.
Sec. 224. One-year extension of deadline for delivery of Enhanced Fiber Optic Guided Missile (EFOG–M) system.
Sec. 225. Hydra–70 rocket product improvement program.

Sec. 226. Federally funded research and development centers.
Sec. 227. Demilitarization of conventional munitions, rockets, and explosives.
Sec. 228. Research activities of the Defense Advanced Research Projects Agency relating to chemical and biological warfare defense technology.
Sec. 229. Certification of capability of United States to prevent illegal importation of nuclear, biological, or chemical weapons.
Sec. 230. Nonlethal weapons and technologies programs.
Sec. 231. Counterproliferation support program.

Subtitle C—Ballistic Missile Defense Programs

Sec. 241. Funding for ballistic missile defense programs for fiscal year 1997.
Sec. 242. Certification of capability of United States to defend against single ballistic missile.
Sec. 243. Report on ballistic missile defense and proliferation.
Sec. 244. Revision to annual report on ballistic missile defense program.
Sec. 245. Report on Air Force National Missile Defense Plan.
Sec. 246. Capability of National Missile Defense system.
Sec. 247. Actions to limit adverse effects on private sector employment of establishment of National Missile Defense Joint Program Office.
Sec. 248. ABM Treaty defined.

Subtitle D—Other Matters

Sec. 261. Maintenance and repair at Air Force installations.
Sec. 262. Report relating to Small Business Innovation Research Program.
Sec. 263. Amendment to University Research Initiative Support program.
Sec. 264. Amendments to Defense Experimental Program To Stimulate Competitive Research.
Sec. 265. Elimination of report on the use of competitive procedures for the award of certain contracts to colleges and universities.
Sec. 266. Pilot program for transfer of defense technology information to private industry.
Sec. 267. Research under transactions other than contracts and grants.
Sec. 268. Desalting technologies.
Sec. 269. Evaluation of digital video network equipment used in Olympic games.
Sec. 270. Annual joint warfighting science and technology plan.

Subtitle E—National Oceanographic Partnership Program

Sec. 281. Findings.
Sec. 282. National Oceanographic Partnership Program.

Subtitle A—Authorization of Appropriations

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

Funds are hereby authorized to be appropriated for fiscal year 1997 for the use of the Department of Defense for research, development, test, and evaluation as follows:

(1) For the Army, $4,780,615,000.
(2) For the Navy, $8,068,299,000.
(3) For the Air Force, $14,756,366,000.
(4) For Defense-wide activities, $9,691,293,000, of which—
(A) $269,038,000 is authorized for the activities of the Director, Test and Evaluation; and
(B) $21,968,000 is authorized for the Director of Operational Test and Evaluation.

SEC. 202. AMOUNT FOR BASIC AND APPLIED RESEARCH.

(a) FISCAL YEAR 1997.—Of the amounts authorized to be appropriated by section 201, $4,031,343,000 shall be available for basic research and applied research projects.

(b) BASIC RESEARCH AND APPLIED RESEARCH DEFINED.—For purposes of this section, the term "basic research and applied research" means work funded in program elements for defense

research and development under Department of Defense category 6.1 or 6.2.

SEC. 203. DUAL-USE TECHNOLOGY PROGRAM.

(a) ALLOCATION OF FUNDS.—Of the amount appropriated pursuant to the authorization in section 201(4), $85,000,000 shall be available for the dual-use technology program under this section.

(b) DESIGNATION OF OFFICIAL FOR DUAL-USE PROGRAM.—(1) The Secretary of Defense shall designate a senior official in the Office of the Secretary of Defense to have as that official's sole responsibilities developing policy relating to, and ensuring effective implementation of, the dual-use technology program of the Department of Defense. In carrying out such responsibilities, the official shall ensure—

(A) that commercial technologies are integrated into current and future military systems to the maximum extent practicable;

(B) that dual-use projects are coordinated with the joint warfighting science and technology plan referred to in section 270; and

(C) that dual-use projects of the military departments and the defense agencies are coordinated and avoid unnecessary duplication.

(2) The senior official designated under paragraph (1) shall carry out such responsibilities during the period beginning on October 1, 1996, and ending on September 30, 2000. Such official shall report directly to the Under Secretary of Defense for Acquisition and Technology.

Effective date. Termination date.

(c) FUNDING REQUIREMENT.—Of the amounts appropriated pursuant to the authorizations in section 201 for the Department of Defense for science and technology programs for fiscal year 1997, at least 5 percent of such amounts shall be available only for dual-use projects of the Department of Defense. The funds made available under the preceding sentence are in addition to the funds made available under subsection (a).

(d) LIMITATION ON OBLIGATIONS.—Funds made available pursuant to subsections (a) and (c) may be used for a dual-use project only if the contract, cooperative agreement, or other transaction by which the project is carried out is entered into through the use of competitive procedures.

(e) TRANSFER AUTHORITY.—In addition to the transfer authority provided in section 1001, the Secretary of Defense may transfer funds made available pursuant to subsections (a) and (c) for a dual-use project from a military department or defense agency to another military department or defense agency to ensure efficient implementation of the dual-use technology program. The Secretary may delegate the authority provided in the preceding sentence to the senior official designated under subsection (b).

(f) FEDERAL COST SHARE.—The share contributed by the Secretary of a military department or the head of a defense agency for the cost of a dual-use project during fiscal year 1997 may not be greater than 50 percent of the cost of the project for that fiscal year.

(g) REPORT.—At the same time the President submits to Congress the budget for fiscal year 1998 pursuant to section 1105(a) of title 31, United States Code, the Secretary of Defense shall submit to Congress a report that specifies the investment strategy

for the dual-use technology program to be conducted during fiscal years 1998, 1999, and 2000.

(h) DEFINITIONS.—In this section:

(1) The term "dual-use technology program" means the program of the Department of Defense under which research or development of a dual-use technology (as defined in section 2491 of title 10, United States Code) is carried out and the costs of which are shared between the Department of Defense and non-Government entities. The term includes the dual-use critical technology program established pursuant to section 2511 of title 10, United States Code.

(2) The term "dual-use project" means a project under the dual-use technology program.

(3) The term "science and technology program" means a program of a military department under which basic research, applied research, or advanced technology development is carried out.

SEC. 204. DEFENSE SPECIAL WEAPONS AGENCY.

There is hereby authorized to be appropriated for fiscal year 1997 the amount of $314,313,000 for the Defense Special Weapons Agency, of which—

(1) $7,900,000 is for procurement;

(2) $218,330,000 is for research, development, test, and evaluation; and

(3) $88,083,000 is for operations and maintenance.

Subtitle B—Program Requirements, Restrictions, and Limitations

SEC. 211. SPACE LAUNCH MODERNIZATION.

(a) FUNDING.—Funds appropriated pursuant to the authorization of appropriations in section 201(3) are authorized to be made available for space launch modernization for purposes and in amounts as follows:

(1) For the Evolved Expendable Launch Vehicle program, $44,457,000.

(2) For a competitive reusable launch vehicle program (program element 63401F), $25,000,000.

(b) LIMITATIONS.—(1) Of the funds made available for the reusable launch vehicle program pursuant to subsection (a)(2), the total amount obligated for such purpose may not exceed the total amount allocated in the fiscal year 1997 current operating plan of the National Aeronautics and Space Administration for the Reusable Space Launch program of the National Aeronautics and Space Administration.

(2) Of the funds made available for the Evolved Expendable Launch Vehicle program pursuant to subsection (a)(1), the total amount obligated for such purpose may not exceed $20,000,000 until the Secretary of Defense certifies to Congress that the Secretary has made available for obligation the funds, if any, that are made available for the Reusable Launch Vehicle program pursuant to subsection (a)(2).

Plans.

(c) COORDINATION OF ENGINE TESTING.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense and the Administrator of the National Aeronautics and Space

Administration shall submit to Congress a joint plan for coordinating and eliminating unnecessary duplication in the operations and planned improvements of rocket engine and rocket engine component test facilities managed by the Department of the Air Force and the National Aeronautics and Space Administration. The plan shall provide, to the extent practical, for the development of commonly funded and commonly operated facilities.

SEC. 212. SPACE-BASED INFRARED SYSTEM PROGRAM.

(a) FUNDING.—Funds appropriated pursuant to the authorization of appropriations in section 201(3) are authorized to be made available for the Space-Based Infrared System program for purposes and in amounts as follows:

(1) For Space Segment High, $173,290,000.

(2) For Space Segment Low (the Space and Missile Tracking System), $247,221,000.

(3) For Cobra Brass, $6,930,000.

(b) LIMITATION.—Not more than $100,000,000 of the funds authorized to be made available under subsection (a)(1) may be obligated or expended until the Secretary of Defense certifies to Congress that the Secretary has made available the funds authorized to be made available under subsection (a)(2) for the purpose of accelerating the deployment of the Space Segment Low (the Space and Missile Tracking System). Certification.

(c) PROGRAM MANAGEMENT.—Before the submission of the President's budget for fiscal year 1998, the Secretary of Defense shall conduct a review of the appropriate management responsibilities for the Space and Missile Tracking System, including whether transferring such management responsibility from the Air Force to the Ballistic Missile Defense Organization would result in improved program efficiencies and support. Review.

SEC. 213. CLEMENTINE 2 MICRO-SATELLITE DEVELOPMENT PROGRAM.

(a) AMOUNT FOR PROGRAM.—Of the amount authorized to be appropriated under section 201(3), $50,000,000 shall be available for the Clementine 2 micro-satellite near-Earth asteroid interception mission.

(b) LIMITATION.—Of the funds authorized to be appropriated pursuant to this Act for the global positioning system (GPS) Block II F Satellite system, not more than $25,000,000 may be obligated until the Secretary of Defense certifies to Congress that— Certification.

(1) funds appropriated for fiscal year 1996 for the Clementine 2 Micro-Satellite development program have been obligated in accordance with Public Law 104–106 and the Joint Explanatory Statement of the Committee of Conference accompanying S. 1124 (House Report 104–450 (104th Congress, second session)); and

(2) the Secretary has made available for obligation the funds appropriated for fiscal year 1997 for the purpose specified in subsection (a).

SEC. 214. LIVE-FIRE SURVIVABILITY TESTING OF V-22 OSPREY AIRCRAFT.

(a) AUTHORITY FOR RETROACTIVE WAIVER.—The Secretary of Defense may, in accordance with section 2366(c) of title 10, United States Code, waive for the V–22 Osprey aircraft program the survivability tests required by that section, notwithstanding that such program has entered engineering and manufacturing development.

(b) REPORT TO CONGRESS.—In exercising the waiver authority in section 2366(c) of title 10, United States Code, the Secretary shall submit to Congress a report explaining how the Secretary plans to evaluate the survivability of the V–22 Osprey aircraft system and assessing possible alternatives to realistic survivability testing of the system.

(c) ALTERNATIVE SURVIVABILITY TEST REQUIREMENTS.—If the Secretary of Defense submits in accordance with section 2366(c)(1) of title 10, United States Code, a certification that live-fire testing of the V–22 Osprey aircraft would be unreasonably expensive and impractical, the Secretary shall require that components critical to the survivability of the V–22 Osprey aircraft be subjected to live-fire testing under an alternative live-fire testing program that, by reason of the number of such components tested and the realism of the threat environments under which the components are tested, will yield test results that provide a sufficient basis for drawing meaningful conclusions about the survivability of V–22 Osprey aircraft.

(d) FUNDING.—The funds required to carry out any alternative live-fire testing of the V–22 Osprey aircraft system shall be made available from amounts appropriated for the V–22 Osprey program.

SEC. 215. LIVE-FIRE SURVIVABILITY TESTING OF F–22 AIRCRAFT.

(a) AUTHORITY FOR RETROACTIVE WAIVER.—The Secretary of Defense may, in accordance with section 2366(c) of title 10, United States Code, waive for the F–22 aircraft program the survivability tests required by that section, notwithstanding that such program has entered engineering and manufacturing development.

(b) ALTERNATIVE SURVIVABILITY TEST REQUIREMENTS.—If the Secretary of Defense submits in accordance with section 2366(c)(1) of title 10, United States Code, a certification that live-fire testing of the F–22 aircraft would be unreasonably expensive and impractical, the Secretary shall require that components and subsystems critical to the survivability of the F–22 aircraft be subjected to live-fire testing under an alternative live-fire testing program that, by reason of the number of such components and subsystems tested and the realism of the threat environments under which the components and subsystems are tested, will yield test results that provide a sufficient basis for drawing meaningful conclusions about the survivability of F–22 aircraft.

(c) FUNDING.—The funds required to carry out any alternative live-fire testing of the F–22 aircraft system shall be made available from amounts appropriated for the F–22 program.

SEC. 216. LIMITATION ON FUNDING FOR F–16 TACTICAL MANNED RECONNAISSANCE AIRCRAFT.

Effective date.

(a) LIMITATION.—Effective on the date of the enactment of this Act, not more than $50,000,000 (in fiscal year 1997 constant dollars) may be obligated or expended for—

(1) research, development, test, and evaluation for, and acquisition and modification of, the F–16 tactical manned reconnaissance aircraft program; and

(2) costs associated with the termination of such program.

(b) EXCEPTION.—The limitation in subsection (a) shall not apply to obligations required for improvements planned before the date of the enactment of this Act to incorporate the common data link into the F–16 tactical manned reconnaissance aircraft.

SEC. 217. COST ANALYSIS OF F–22 AIRCRAFT PROGRAM.

(a) REVIEW AND REPORT.—The Secretary of Defense shall direct the Cost Analysis Improvement Group in the Office of the Secretary of Defense to review the F–22 aircraft program, analyze and estimate the production costs of the program, and submit to the Secretary a report on the results of the review.

(b) CONTENT OF REPORT.—The report shall include—

(1) a comparison of—

(A) the results of the review, with

(B) the results of the last independent estimate of production costs of the program that was prepared by the Cost Analysis Improvement Group in July 1991; and

(2) a description of any major changes in programmatic assumptions that have occurred since the estimate referred to in paragraph (1)(B) was made, including any major change in assumptions regarding the program schedule, the quantity of aircraft to be developed and acquired, and the annual rates of production, together with an assessment of the effects of such changes on the program.

(c) SUBMISSION OF REPORT.—Not later than March 30, 1997, the Secretary shall submit the report to the congressional defense committees, together with the Secretary's views on the matters covered by the report.

(d) LIMITATION ON USE OF FUNDS PENDING SUBMISSION OF REPORT.—Not more than 92 percent of the funds appropriated for the F–22 aircraft program pursuant to the authorization of appropriations in section 103(1) may be expended until the Secretary of Defense submits the report required under this section.

SEC. 218. F–22 AIRCRAFT PROGRAM REPORTS.

(a) ANNUAL REPORT.—(1) At the same time that the President submits the budget for a fiscal year to Congress pursuant to section 1105(a) of title 31, United States Code, the Secretary of Defense shall submit to Congress a report on event-based decisionmaking for the F–22 aircraft program for that fiscal year. The Secretary shall submit the report for fiscal year 1997 not later than October 1, 1996.

(2) The report for a fiscal year shall include the following:

(A) A discussion of each decision known within the Department of Defense as an "event-based decision" that is expected to be made during that fiscal year regarding whether the F–22 program is to proceed into a new phase or into a new administrative subdivision of a phase.

(B) The criteria known within the Department of Defense as "exit criteria" to be applied, for purposes of making the event-based decision, in determining whether the F–22 aircraft program has demonstrated the specific progress necessary for proceeding into the new phase or administrative subdivision of a phase.

(b) REPORT ON EVENT-BASED DECISIONS.—Not later than 30 days after an event-based decision has been made for the F–22 aircraft program, the Secretary of Defense shall submit to Congress a report on the decision. The report shall include the following:

(1) A discussion of the commitments made, and the commitments to be made, under the program as a result of the decision.

(2) The exit criteria applied for purposes of the decision.

(3) How, in terms of the exit criteria, the program demonstrated the specific progress justifying the decision.

SEC. 219. COST-BENEFIT ANALYSIS OF F/A–18E/F AIRCRAFT PROGRAM.

(a) REPORT ON PROGRAM.—Not later than March 30, 1997, the Secretary of Defense shall submit to the congressional defense committees a report on the F/A–18E/F aircraft program.

(b) CONTENT OF REPORT.—The report shall contain the following:

(1) A review of the F/A–18E/F aircraft program.

(2) An analysis and estimate of the production costs of the program for the total number of aircraft realistically expected to be procured at each of three annual production rates as follows:

(A) 18 aircraft.

(B) 24 aircraft.

(C) 36 aircraft.

(3) A comparison of the costs and benefits of the program with the costs and benefits of the F/A–18C/D aircraft program taking into account the operational combat effectiveness of the aircraft.

(c) LIMITATION ON USE OF FUNDS PENDING SUBMISSION OF REPORT.—Not more than 90 percent of the funds authorized to be appropriated by this Act for the procurement of F/A–18E/F aircraft may be obligated or expended for procurement of such aircraft before the date that is 30 days after the date on which the congressional defense committees receive the report required under subsection (a).

SEC. 220. JOINT ADVANCED STRIKE TECHNOLOGY (JAST) PROGRAM.

(a) ALLOCATION OF FUNDS.—Of the amounts authorized to be appropriated pursuant to the authorizations in section 201, $602,069,000 shall be available only for advanced technology development for the Joint Advanced Strike Technology (JAST) program. Of that amount—

(1) $259,833,000 shall be available only for program element 63800N in the budget of the Department of Defense for fiscal year 1997;

(2) $263,836,000 shall be available only for program element 63800F in the budget of the Department of Defense for fiscal year 1997; and

(3) $78,400,000 shall be available only for program element 63800E in the budget of the Department of Defense for fiscal year 1997.

(b) ANALYSIS OF FORCE STRUCTURE.—Of the amounts authorized to be appropriated by section 201 for the Joint Advanced Strike Technology program, up to $10,000,000 shall be available for the conduct of an analysis by the Institute for Defense Analyses of the following:

(1) The weapon systems force structure required to meet the anticipated range of threats projected by the intelligence community for the period 2000 through 2025.

(2) Alternative force mixes, including, at a minimum, the following force mixes:

(A) Joint Strike Fighter derivative aircraft; remanufactured AV–8 aircraft; F–18C/D, F–18E/F, AH–64, AH–1W, RAH–66, F–14, F–16, F–15, F–117, F–22, B–1, B–2, and

B–52 aircraft; and air-to-surface and surface-to-surface weapons systems.

(B) Joint Strike Fighter derivative aircraft; remanufactured AV–8 aircraft; F–18C/D, F–18E/F, F–14, F–16, F–15, F–117, and F–22 aircraft; and air-to-surface and surface-to-surface weapons systems.

(3) Cost and operational effectiveness of the alternative force mixes analyzed under paragraph (2), including sensitivity analyses related to system performance, costs, threats, and force employment scenarios.

(4) Required operational capability dates of systems not yet in production for the force mixes analyzed under paragraph (2).

(5) Affordability, commonality, and roles and missions considerations related to the alternative force mixes analyzed under paragraph (2).

(c) COST REVIEW OF FORCE STRUCTURE ANALYSIS.—The Secretary of Defense shall direct the Cost Analysis Improvement Group in the Office of the Secretary of Defense to review cost estimates made under the analysis conducted under subsection (b) and submit to the Secretary a report on the results of the review. The report may include comments and additional cost sensitivity analyses. Reports.

(d) BRIEFING AND REPORT.—(1) Not later than November 15, 1996, the Secretary of Defense shall make available to the congressional defense committees a briefing on the plan and assumptions for the analysis to be conducted under subsection (b).

(2) Not later than May 15, 1997, the Secretary of Defense shall submit to the congressional defense committees a report containing a copy of the analysis conducted under subsection (b) and of the cost review conducted under subsection (c), together with the views of the Secretary on such analysis and cost review.

SEC. 221. UNMANNED AERIAL VEHICLES.

(a) PROCUREMENT FUNDING REQUEST.—The funding request for procurement for unmanned aerial vehicles for any fiscal year shall be set forth under the funding requests for the military departments in the budget of the Department of Defense.

(b) TRANSFER OF PROGRAM MANAGEMENT.—Program management for the Predator Unmanned Aerial Vehicle, and programmed funding for such vehicle for fiscal years 1998, 1999, 2000, 2001, and 2002 (as set forth in the future-years defense program), shall be transferred to the Department of the Air Force, effective October 1, 1996, or the date of the enactment of this Act, whichever is later. Effective date.

(c) PROHIBITION ON PROVIDING OPERATING CAPABILITY FROM NAVAL VESSELS.—No funds authorized to be appropriated by this Act may be obligated for purposes of providing the capability of the Predator Unmanned Aerial Vehicle to operate from naval vessels.

SEC. 222. HIGH ALTITUDE ENDURANCE UNMANNED AERIAL RECONNAISSANCE SYSTEM.

Any concepts for an improved Tier III Minus (High Altitude Endurance Unmanned Aerial Reconnaissance) system, developed using funds authorized to be appropriated under this title, that would increase the unit flyaway cost for such system to an amount greater than the unit flyaway cost established in either of the original contracts for such system, may not be carried out under

the original contracts, but must instead be carried out under another contract that is awarded using competitive procedures.

SEC. 223. CYCLONE CLASS PATROL CRAFT SELF-DEFENSE.

(a) STUDY REQUIRED.—The Secretary of Defense shall perform a study of the operational requirements for vessel self-defense for the Cyclone class patrol craft and a comparative evaluation of the potential means for meeting the operational requirements for self-defense of the craft. The study shall consider the range of operational scenarios in which the craft is expected to be employed.

(b) SYSTEMS TO BE EVALUATED.—The study under subsection (a) shall consider those self-defense systems that could be employed aboard the Cyclone class patrol craft, including the Barak ship self-defense missile system.

(c) REPORT.—Not later than March 31, 1997, the Secretary shall submit to Congress a report containing the results of the study under subsection (a).

SEC. 224. ONE-YEAR EXTENSION OF DEADLINE FOR DELIVERY OF ENHANCED FIBER OPTIC GUIDED MISSILE (EFOG–M) SYSTEM.

Section 272(a)(2) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 239) is amended by striking out "September 30, 1998," and inserting in lieu thereof "September 30, 1999,".

SEC. 225. HYDRA–70 ROCKET PRODUCT IMPROVEMENT PROGRAM.

(a) FUNDING AUTHORIZATION.—Of the amount authorized to be appropriated under section 201(1) for the Army for Other Missile Product Improvement Programs, $9,000,000 is authorized as specified in subsection (b) for completion of the Hydra–70 product improvement program authorized for fiscal year 1996.

(b) AUTHORIZED ACTIONS.—Funding is authorized to be appropriated for the following:

(1) Procurement for test and flight qualification of at least one nondevelopmental item 2.75-inch composite rocket motor propellant type, along with other nondevelopmental item candidate motors that use composite propellant as the propulsion component.

(2) Platform integration, including additional quantities of the motor chosen for operational certification on the Apache attack helicopter.

(c) DEFINITION.—In this section, the term "nondevelopmental item" has the meaning provided in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).

SEC. 226. FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTERS.

(a) CENTERS COVERED.—Funds authorized to be appropriated for the Department of Defense for fiscal year 1997 under section 201 may be obligated to procure work from a federally funded research and development center (in this section referred to as an "FFRDC") only in the case of a center named in the report required by subsection (b) and, in the case of such a center, only in an amount not in excess of the amount of the proposed funding level set forth for that center in such report.

(b) REPORT ON ALLOCATIONS FOR CENTERS.—(1) Not later than 30 days after the date of the enactment of this Act, the Secretary

of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report containing—

(A) the name of each FFRDC from which work is proposed to be procured for the Department of Defense for fiscal year 1997;

(B) for each such center, the proposed funding level and the estimated personnel level for fiscal year 1997; and

(C) for each such center, an unambiguous definition of the unique core competencies required to be maintained for fiscal year 1997.

(2) The total of the proposed funding levels set forth in the report for all FFRDCs may not exceed the amount set forth in subsection (d).

(c) LIMITATION PENDING SUBMISSION OF REPORT.—Not more than 15 percent of the funds authorized to be appropriated for the Department of Defense for fiscal year 1997 for FFRDCs under section 201 may be obligated to procure work from an FFRDC until the Secretary of Defense submits the report required by subsection (b).

(d) FUNDING.—(1) Subject to paragraph (2), of the amounts authorized to be appropriated by section 201, not more than a total of $1,214,650,000 may be obligated to procure services from the FFRDCs named in the report required by subsection (b).

(2) The limitation in paragraph (1) does not apply to funds obligated for the procurement of equipment for FFRDCs.

(e) AUTHORITY TO WAIVE FUNDING LIMITATION.—The Secretary of Defense may waive the limitation regarding the maximum funding amount that applies under subsection (a) to an FFRDC. Whenever the Secretary proposes to make such a waiver, the Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives notice of the proposed waiver and the reasons for the waiver. The waiver may then be made only after the end of the 60-day period that begins on the date on which the notice is submitted to those committees, unless the Secretary determines that it is essential to the national security that funds be obligated for work at that center in excess of that limitation before the end of such period and notifies those committees of that determination and the reasons for the determination. Notice.

SEC. 227. DEMILITARIZATION OF CONVENTIONAL MUNITIONS, ROCKETS, AND EXPLOSIVES.

(a) ESTABLISHMENT OF CONVENTIONAL MUNITIONS, ROCKETS, AND EXPLOSIVES DEMILITARIZATION PROGRAM.—The Secretary of Defense shall establish an integrated program for the development and demonstration of technologies for the demilitarization and disposal of conventional munitions, rockets, and explosives in a manner that complies with applicable environmental laws.

(b) DURATION OF PROGRAM.—The program established pursuant to subsection (a) shall be in effect for a period of at least five years, beginning with fiscal year 1997. Effective date.

(c) FUNDING.—Of the amount authorized to be appropriated in section 201, $15,000,000 is authorized to be appropriated for the program established pursuant to subsection (a). The funding request for the program shall be set forth separately in the budget

justification documents for the budget of the Department of Defense for each fiscal year during which the program is in effect.

(d) REPORTS.—The Secretary of Defense shall submit to Congress a report on the plan for the program established pursuant to subsection (a) at the same time the President submits to Congress the budget for fiscal year 1998. The Secretary shall submit an updated version of such report, setting forth in detail the progress of the program, at the same time the President submits the budget for each fiscal year after fiscal year 1998 during which the program is in effect.

SEC. 228. RESEARCH ACTIVITIES OF THE DEFENSE ADVANCED RESEARCH PROJECTS AGENCY RELATING TO CHEMICAL AND BIOLOGICAL WARFARE DEFENSE TECHNOLOGY.

(a) AUTHORITY.—Section 1701(c) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1853; 50 U.S.C. 1522) is amended—

(1) by inserting "(1)" before "The Secretary"; and

(2) by adding at the end the following new paragraph:

"(2) The Director of the Defense Advanced Research Projects Agency may conduct a program of basic and applied research and advanced technology development on chemical and biological warfare defense technologies and systems. In conducting such program, the Director shall seek to avoid unnecessary duplication of the activities under the program with chemical and biological warfare defense activities of the military departments and defense agencies and shall coordinate the activities under the program with those of the military departments and defense agencies.".

(b) FUNDING.—Section 1701(d) of such Act is amended—

(1) in paragraph (1), by striking out "military departments" and inserting in lieu thereof "Department of Defense";

(2) in paragraph (2), by inserting after "requests for the program" in the first sentence the following: "(other than for activities under the program conducted by the Defense Advanced Research Projects Agency under subsection (c)(2))";

(3) by redesignating paragraph (3) as paragraph (4); and

(4) by inserting after paragraph (2) the following new paragraph (3):

"(3) The program conducted by the Defense Advanced Research Projects Agency under subsection (c)(2) shall be set forth as a separate program element in the budget of that agency.".

President.

SEC. 229. CERTIFICATION OF CAPABILITY OF UNITED STATES TO PREVENT ILLEGAL IMPORTATION OF NUCLEAR, BIOLOGICAL, AND CHEMICAL WEAPONS.

Not later than 15 days after the date of the enactment of this Act, the President shall submit to Congress a certification in writing stating specifically whether or not the United States has the capability (as of the date of the certification) to prevent the illegal importation of nuclear, biological, and chemical weapons into the United States and its possessions.

SEC. 230. NONLETHAL WEAPONS AND TECHNOLOGIES PROGRAMS.

(a) FUNDING.—Of the amount authorized to be appropriated under section 201(2), $15,000,000 shall be available for joint service research, development, test, and evaluation of nonlethal weapons and nonlethal technologies under the program element established pursuant to subsection (b).

(b) NEW PROGRAM ELEMENT REQUIRED.—The Secretary of Defense shall establish a new program element for the funds authorized to be appropriated under subsection (a). The funds within that program element shall be administered by the executive agent designated for joint service research, development, test, and evaluation of nonlethal weapons and nonlethal technologies.

SEC. 231. COUNTERPROLIFERATION SUPPORT PROGRAM.

(a) FUNDING.—Of the funds authorized to be appropriated to the Department of Defense under section 201(4), $186,200,000 shall be available for the Counterproliferation Support Program, of which $75,000,000 shall be available for a tactical antisatellite technologies program.

(b) ADDITIONAL AUTHORITY TO TRANSFER AUTHORIZATIONS.—(1) In addition to the transfer authority provided in section 1001, upon determination by the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in this division for fiscal year 1997 to counterproliferation programs, projects, and activities identified as areas for progress by the Counterproliferation Program Review Committee established by section 1605 of the National Defense Authorization Act for Fiscal Year 1994 (22 U.S.C. 2751 note). Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred.

(2) The total amount of authorizations transferred under the authority of this subsection may not exceed $50,000,000.

(3) The authority provided by this subsection to transfer authorizations—

(A) may only be used to provide authority for items that have a higher priority than the items from which authority is transferred; and

(B) may not be used to provide authority for an item that has been denied authorization by Congress.

(4) A transfer made from one account to another under the authority of this subsection shall be deemed to increase the amount authorized for the account to which the amount is transferred by an amount equal to the amount transferred.

(5) The Secretary of Defense shall promptly notify Congress of transfers made under the authority of this subsection. Notification.

(c) LIMITATION ON USE OF FUNDS FOR TECHNICAL STUDIES AND ANALYSES PENDING RELEASE OF FUNDS.—(1) None of the funds authorized to be appropriated to the Department of Defense for fiscal year 1997 for program element 605104D, relating to technical studies and analyses, may be obligated or expended until the funds referred to in paragraph (2) have been released to the program manager of the tactical anti-satellite technology program for implementation of that program.

(2) The funds for release referred to in paragraph (1) are as follows:

(A) Funds authorized to be appropriated by section 218(a) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 222) that are available for the program referred to in paragraph (1).

(B) Funds authorized to be appropriated to the Department for fiscal year 1997 by this Act for the Counterproliferation

Support Program that are to be made available for that program.

Subtitle C—Ballistic Missile Defense Programs

SEC. 241. FUNDING FOR BALLISTIC MISSILE DEFENSE PROGRAMS FOR FISCAL YEAR 1997.

(a) PROGRAM AMOUNTS.—Of the amount appropriated pursuant to section 201(4), the following amounts may be obligated for the following systems managed by the Ballistic Missile Defense Organization:

(1) For the Theater High Altitude Area Defense (THAAD) System, $621,798,000.

(2) For the Navy Upper Tier (Theater Wide) system, $304,171,000.

(3) For the National Missile Defense System, $858,437,000.

(4) For the Corps Surface-to-Air Missile (SAM)/Medium Extended Air Defense System (MEADS), $56,200,000.

Certification.

(b) LIMITATION.—None of the funds appropriated or otherwise made available for the Department of Defense pursuant to this or any other Act may be obligated or expended by the Office of the Under Secretary of Defense for Acquisition and Technology for official representation activities, or related activities, until the Secretary of Defense certifies to Congress that—

(1) the Secretary has made available for obligation the funds provided under subsection (a) for the purposes specified in that subsection and in the amounts appropriated pursuant to that subsection; and

(2) the Secretary has included the Navy Upper Tier theater missile defense system in the theater missile defense core program.

(c) LIMITATIONS.—Not more than $15,000,000 of the amount available for the Corps SAM/MEADS program under subsection (a) may be obligated until the Secretary of Defense submits to the congressional defense committees the following:

(1) An initial program estimate for the Corps SAM/MEADS program, including a tentative schedule of major milestones and an estimate of the total program cost through initial operational capability.

Reports.

(2) A report on the options associated with the use of existing systems, technologies, and program management mechanisms to satisfy the requirement for the Corps surface-to-air missile, including an assessment of cost and schedule implications in relation to the program estimate submitted under paragraph (1).

Certification.

(3) A certification that there will be no increase in overall United States funding commitment to the project definition and validation phase of the Corps SAM/MEADS program as a result of the withdrawal of France from participation in the program.

President.

SEC. 242. CERTIFICATION OF CAPABILITY OF UNITED STATES TO DEFEND AGAINST SINGLE BALLISTIC MISSILE.

Not later than 15 days after the date of the enactment of this Act, the President shall submit to Congress a certification

in writing stating specifically whether or not the United States has the military capability (as of the time of the certification) to intercept and destroy a single ballistic missile launched at the territory of the United States.

SEC. 243. REPORT ON BALLISTIC MISSILE DEFENSE AND PROLIFERATION.

The Secretary of Defense shall submit to Congress a report on ballistic missile defense and the proliferation of weapons of mass destruction, including nuclear, chemical, and biological weapons, and the missiles that can be used to deliver them. The report shall be submitted not later than December 31, 1996, and shall include the following:

(1) An assessment of how United States theater missile defenses contribute to United States efforts to prevent proliferation, including an evaluation of the specific effect United States theater missile defense systems can have on dissuading other states from acquiring ballistic missiles.

(2) An assessment of how United States national missile defenses contribute to United States efforts to prevent proliferation.

(3) An assessment of the effect of the lack of national missile defenses on the desire of other states to acquire ballistic missiles and an evaluation of the types of missiles other states might seek to acquire as a result.

(4) A detailed review of the linkages between missile defenses (both theater and national) and each of the categories of counterproliferation activities identified by the Secretary of Defense as part of the Defense Counterproliferation Initiative announced by the Secretary in December 1993.

(5) A description of how theater and national ballistic missile defenses can augment the effectiveness of other counterproliferation tools.

SEC. 244. REVISION TO ANNUAL REPORT ON BALLISTIC MISSILE DEFENSE PROGRAM.

Section 224(b) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (10 U.S.C. 2431 note) is amended—

(1) by striking out paragraphs (3), (4), and (10);

(2) by redesignating paragraphs (5) and (6) as paragraphs (3) and (4), respectively;

(3) by redesignating paragraph (7) as paragraph (5) and in that paragraph by striking out "of the Soviet Union" and "for the Soviet Union";

(4) by redesignating paragraph (8) as paragraph (6); and

(5) by redesignating paragraph (9) as paragraph (7) and in that paragraph—

(A) by striking out "of the Soviet Union" in subparagraph (A);

(B) by striking out subparagraphs (C) through (F); and

(C) by redesignating subparagraph (G) as subparagraph (C).

SEC. 245. REPORT ON AIR FORCE NATIONAL MISSILE DEFENSE PLAN.

Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National

Security of the House of Representatives a report on the following matters regarding the National Missile Defense Plan of the Air Force:

(1) The cost and operational effectiveness of a system that could be developed pursuant to that plan.

(2) The arms control implications of such a system.

(3) The growth potential of such a system to meet future threats.

(4) The recommendations of the Secretary for improvements to that plan.

SEC. 246. CAPABILITY OF NATIONAL MISSILE DEFENSE SYSTEM.

The Secretary of Defense shall ensure that any National Missile Defense system deployed by the United States is capable of defeating the threat posed by the Taepo Dong II missile of North Korea.

SEC. 247. ACTIONS TO LIMIT ADVERSE EFFECTS ON PRIVATE SECTOR EMPLOYMENT OF ESTABLISHMENT OF NATIONAL MISSILE DEFENSE JOINT PROGRAM OFFICE.

The Secretary of Defense shall take such actions as are necessary in connection with the establishment of the National Missile Defense Joint Program Office within the Ballistic Missile Defense Organization to ensure that the establishment of that office does not make it necessary for a Federal Government contractor to reduce significantly the number of persons employed by that contractor for supporting the national missile defense development program at any particular location outside the National Capital Region (as defined in section 2674(f)(2) of title 10, United States Code).

SEC. 248. ABM TREATY DEFINED.

For purposes of this subtitle, the term "ABM Treaty" means the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missile Systems, and signed at Moscow on May 26, 1972, and includes the Protocols to that Treaty, signed at Moscow on July 3, 1974.

Subtitle D—Other Matters

SEC. 261. MAINTENANCE AND REPAIR AT AIR FORCE INSTALLATIONS.

(a) ALLOCATION OF FUNDS.—The Secretary of the Air Force shall allocate funds authorized to be appropriated by this title and title III of this Act for maintenance and repair of real property at military installations of the Department of the Air Force without regard to whether the installation is supported with funds authorized by this title or title III of this Act.

(b) MIXING OF FUNDS PROHIBITED ON INDIVIDUAL PROJECTS.—The Secretary of the Air Force may not combine funds authorized to be appropriated by this title and funds authorized to be appropriated by title III for an individual project for maintenance and repair of real property at a military installation of the Department of the Air Force.

SEC. 262. REPORT RELATING TO SMALL BUSINESS INNOVATION RESEARCH PROGRAM.

Not later than March 30, 1997, the Comptroller General shall submit to Congress and to the Secretary of Defense a report setting forth the following with respect to the Small Business Innovation Research Program (as defined by section 2491(11) of title 10, United States Code):

(1) An assessment of whether there has been a demonstrable reduction in the quality of research performed under funding agreements awarded by the Department of Defense under the program since fiscal year 1995.

(2) An assessment of the degree to which competitive procedures are being followed throughout the military departments and defense agencies in awarding funding agreements under the program.

(3) An assessment of the degree to which technologies developed through the program are or are likely to be used in military projects and programs.

SEC. 263. AMENDMENT TO UNIVERSITY RESEARCH INITIATIVE SUPPORT PROGRAM.

Section 802(c) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1701; 10 U.S.C. 2358 note) is amended by striking out "fiscal years before the fiscal year in which the institution submits a proposal" and inserting in lieu thereof "most recent fiscal years for which complete statistics are available when proposals are requested".

SEC. 264. AMENDMENTS TO DEFENSE EXPERIMENTAL PROGRAM TO STIMULATE COMPETITIVE RESEARCH.

Section 257(d) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2705; 10 U.S.C. 2358 note) is amended—

(1) in paragraph (1)—

(A) by striking out "Director of the National Science Foundation" and inserting in lieu thereof "Under Secretary of Defense for Acquisition and Technology"; and

(B) by striking out "and shall notify the Director of Defense Research and Engineering of the States so designated"; and

(2) in paragraph (2)—

(A) in the matter preceding subparagraph (A)—

(i) by striking out "Director of the National Science Foundation" and inserting in lieu thereof "Under Secretary of Defense for Acquisition and Technology"; and

(ii) by striking out "as determined by the Director" and inserting in lieu thereof "as determined by the Under Secretary";

(B) in subparagraph (A), by striking out "(to be determined in consultation with the Secretary of Defense);" and inserting in lieu thereof "; and";

(C) by striking out "; and" at the end of subparagraph (B) and inserting in lieu thereof a period; and

(D) by striking out subparagraph (C).

SEC. 265. ELIMINATION OF REPORT ON THE USE OF COMPETITIVE PROCEDURES FOR THE AWARD OF CERTAIN CONTRACTS TO COLLEGES AND UNIVERSITIES.

Section 2361 of title 10, United States Code, is amended by striking out subsection (c).

SEC. 266. PILOT PROGRAM FOR TRANSFER OF DEFENSE TECHNOLOGY INFORMATION TO PRIVATE INDUSTRY.

(a) PROGRAM REQUIRED.—The Secretary of Defense shall carry out a pilot program to demonstrate online transfers of information on defense technologies to businesses in the private sector through an interactive data network involving Small Business Development Centers of institutions of higher education.

(b) COMPUTERIZED DATA BASE OF DEFENSE TECHNOLOGIES.—Contracts. (1) Under the pilot program, the Secretary shall enter into an agreement with the head of an eligible institution of higher education that provides for such institution—

(A) to develop and maintain a computerized data base of information on defense technologies;

(B) to make such information available online to—

(i) businesses; and

(ii) other institutions of higher education entering into partnerships with the Secretary under subsection (c).

(2) The online accessibility may be established by means of any of, or any combination of, the following:

(A) Digital teleconferencing.

(B) International Signal Digital Network lines.

(C) Direct modem hookup.

Contracts. (c) PARTNERSHIP NETWORK.—Under the pilot program, the Secretary shall seek to enter into agreements with the heads of several eligible institutions of higher education having strong business education programs to provide for the institutions of higher education entering into such agreements—

(1) to establish interactive computer links with the data base developed and maintained under subsection (b); and

(2) to assist the Secretary in making information on defense technologies available online to the broadest practicable number, types, and sizes of businesses.

(d) ELIGIBLE INSTITUTIONS.—For the purposes of this section, an institution of higher education is eligible to enter into an agreement under subsection (b) or (c) if the institution has a Small Business Development Center.

(e) DEFENSE TECHNOLOGIES COVERED.—(1) The Secretary shall designate the technologies to be covered by the pilot program from among the existing and experimental technologies that the Secretary determines—

(A) are useful in meeting Department of Defense needs; and

(B) should be made available under the pilot program to facilitate the satisfaction of such needs by private sector sources.

(2) Technologies covered by the program should include technologies useful for defense purposes that can also be used for nondefense purposes (with or without modification).

(f) DEFINITIONS.—In this section:

(1) The term "Small Business Development Center" means a small business development center established pursuant to section 21 of the Small Business Act (15 U.S.C. 648).

(2) The term "defense technology" means a technology designated by the Secretary of Defense under subsection (d).

(3) The term "partnership" means an agreement entered into under subsection (c).

(g) TERMINATION OF PILOT PROGRAM.—The pilot program shall terminate one year after the Secretary enters into an agreement under subsection (b).

(h) AUTHORIZATION OF APPROPRIATIONS.—Of the amount authorized to be appropriated under section 201(4) for university research initiatives, $3,000,000 is available for the pilot program.

SEC. 267. RESEARCH UNDER TRANSACTIONS OTHER THAN CONTRACTS AND GRANTS.

(a) CONDITIONS FOR USE OF AUTHORITY.—Subsection (e) of section 2371 of title 10, United States Code, is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B);

(2) by inserting "and" after the semicolon at the end of subparagraph (A), as so redesignated;

(3) by striking out "; and" at the end of subparagraph (B), as so redesignated, and inserting in lieu thereof a period;

(4) by inserting "(1)" after "(e) CONDITIONS.—"; and

(5) by striking out paragraph (3) and inserting in lieu thereof the following:

"(2) A cooperative agreement containing a clause under subsection (d) or a transaction authorized by subsection (a) may be used for a research project when the use of a standard contract, grant, or cooperative agreement for such project is not feasible or appropriate.".

(b) REVISED REQUIREMENT FOR ANNUAL REPORT.—Section 2371 of such title is amended by striking out subsection (h) and inserting in lieu thereof the following:

"(h) ANNUAL REPORT.—(1) Not later than 90 days after the end of each fiscal year, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on the use by the Department of Defense during such fiscal year of—

"(A) cooperative agreements authorized under section 2358 of this title that contain a clause under subsection (d); and

"(B) transactions authorized by subsection (a).

"(2) The report shall include, with respect to the cooperative agreements and other transactions covered by the report, the following:

"(A) The technology areas in which research projects were conducted under such agreements or other transactions.

"(B) The extent of the cost-sharing among Federal Government and non-Federal sources.

"(C) The extent to which the use of the cooperative agreements and other transactions—

"(i) has contributed to a broadening of the technology and industrial base available for meeting Department of Defense needs; and

"(ii) has fostered within the technology and industrial base new relationships and practices that support the national security of the United States.

"(D) The total amount of payments, if any, that were received by the Federal Government during the fiscal year covered by the report pursuant to a clause described in subsection (d) that was included in the cooperative agreements and other transactions, and the amount of such payments, if any, that were credited to each account established under subsection (f).".

(c) DIVISION OF SECTION INTO DISTINCT PROVISIONS BY SUBJECT MATTER.—(1) Chapter 139 of title 10, United States Code, is amended—

(A) by inserting before the last subsection of section 2371 (relating to cooperative research and development agreements under the Stevenson-Wydler Technology Innovation Act of 1980) the following:

"§ 2371a. Cooperative research and development agreements under Stevenson-Wydler Technology Innovation Act of 1980";

(B) in section 2371a (as designated by the amendment made by subparagraph (A)), by striking out "(i) COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENTS UNDER STEVENSON-WYDLER TECHNOLOGY INNOVATION ACT OF 1980.—"; and

(C) in the table of sections at the beginning of such chapter, by inserting after the item relating to section 2371 the following:

"2371a. Cooperative research and development agreements under Stevenson-Wydler Technology Innovation Act of 1980.".

(2) Section 2358(d) of such title is amended by striking out "section 2371" and inserting in lieu thereof "sections 2371 and 2371a".

SEC. 268. DESALTING TECHNOLOGIES.

(a) FINDINGS.—Congress makes the following findings:

(1) Access to scarce fresh water is likely to be a cause of future military conflicts in the Middle East and has a direct impact on stability and security in the region.

(2) The Middle East is an area of vital and strategic importance to the United States.

(3) The United States has played a military role in the Middle East, most recently in the Persian Gulf War, and may likely be called upon again to deter aggression in the region.

(4) United States troops have used desalting technologies to guarantee the availability of fresh water in past deployments in the Middle East.

(5) Adequate, efficient, and cheap access to high-quality fresh water will be vital to maintaining the readiness and sustainability of troops of both the United States and its allies.

(b) SENSE OF CONGRESS.—It is the sense of Congress that, as improved access to fresh water will be an important factor in helping prevent future conflicts in the Middle East, the United States should, in cooperation with its allies, promote and invest in technologies to reduce the costs of converting saline water into fresh water.

(c) FUNDING FOR RESEARCH AND DEVELOPMENT.—Of the amounts authorized to be appropriated by this title, the Secretary shall place greater emphasis on making funds available for research and development into efficient and economical processes and methods for converting saline water into fresh water.

SEC. 269. EVALUATION OF DIGITAL VIDEO NETWORK EQUIPMENT USED IN OLYMPIC GAMES.

(a) EVALUATION.—The Secretary of Defense shall evaluate the digital video network equipment used in the 1996 Olympic games to determine whether such equipment would be the most appropriate equipment for use as a test bed for the military application of commercial off-the-shelf advanced technology linking multiple continents, multiple satellites, and multiple theaters of operations by compressed digital audio and visual broadcasting technology.

(b) REPORT.—Not later than April 1, 1997, the Secretary of Defense shall submit to Congress a report on the results of the evaluation conducted under subsection (a).

SEC. 270. ANNUAL JOINT WARFIGHTING SCIENCE AND TECHNOLOGY PLAN. 10 USC 2501 note.

(a) ANNUAL PLAN REQUIRED.—On March 1 of each year, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a plan for ensuring that the science and technology program of the Department of Defense supports the development of the future joint warfighting capabilities identified as priority requirements for the Armed Forces.

(b) FIRST PLAN.—The first plan under subsection (a) shall be submitted not later than March 1, 1997.

Subtitle E—National Oceanographic Partnership Program

SEC. 281. FINDINGS. 10 USC 7901 note.

Congress finds the following:

(1) The oceans and coastal areas of the United States are among the Nation's most valuable natural resources, making substantial contributions to economic growth, quality of life, and national security.

(2) Oceans drive global and regional climate. Hence, they contain information affecting agriculture, fishing, and the prediction of severe weather.

(3) Understanding of the oceans through basic and applied research is essential for using the oceans wisely and protecting their limited resources. Therefore, the United States should maintain its world leadership in oceanography as one key to its competitive future.

(4) Ocean research and education activities take place within Federal agencies, academic institutions, and industry. These entities often have similar requirements for research facilities, data, and other resources (such as oceanographic research vessels).

(5) The need exists for a formal mechanism to coordinate existing partnerships and establish new partnerships for the sharing of resources, intellectual talent, and facilities in the

ocean sciences and education, so that optimal use can be made of this most important natural resource for the well-being of all Americans.

SEC. 282. NATIONAL OCEANOGRAPHIC PARTNERSHIP PROGRAM.

(a) PROGRAM REQUIRED.—(1) Subtitle C of title 10, United States Code, is amended by adding after chapter 663 the following new chapter:

"CHAPTER 665—NATIONAL OCEANOGRAPHIC PARTNERSHIP PROGRAM

"Sec.
"7901. National Oceanographic Partnership Program.
"7902. National Ocean Research Leadership Council.
"7903. Ocean Research Advisory Panel.

"§ 7901. National Oceanographic Partnership Program

"(a) ESTABLISHMENT.—The Secretary of the Navy shall establish a program to be known as the 'National Oceanographic Partnership Program'.

"(b) PURPOSES.—The purposes of the program are as follows:

"(1) To promote the national goals of assuring national security, advancing economic development, protecting quality of life, and strengthening science education and communication through improved knowledge of the ocean.

"(2) To coordinate and strengthen oceanographic efforts in support of those goals by—

"(A) identifying and carrying out partnerships among Federal agencies, academia, industry, and other members of the oceanographic scientific community in the areas of data, resources, education, and communication; and

"(B) reporting annually to Congress on the program.

"§ 7902. National Ocean Research Leadership Council

"(a) COUNCIL.—There is a National Ocean Research Leadership Council (hereinafter in this chapter referred to as the 'Council').

"(b) MEMBERSHIP.—The Council is composed of the following members:

"(1) The Secretary of the Navy.

"(2) The Administrator of the National Oceanic and Atmospheric Administration.

"(3) The Director of the National Science Foundation.

"(4) The Administrator of the National Aeronautics and Space Administration.

"(5) The Deputy Secretary of Energy.

"(6) The Administrator of the Environmental Protection Agency.

"(7) The Commandant of the Coast Guard.

"(8) The Director of the Geological Survey of the Department of the Interior.

"(9) The Director of the Defense Advanced Research Projects Agency.

"(10) The Director of the Minerals Management Service of the Department of the Interior.

"(11) The President of the National Academy of Sciences, the President of the National Academy of Engineering, and the President of the Institute of Medicine.

"(12) The Director of the Office of Science and Technology.

"(13) The Director of the Office of Management and Budget.

"(14) One member appointed by the chairman from among individuals who will represent the views of ocean industries.

"(15) One member appointed by the chairman from among individuals who will represent the views of State governments.

"(16) One member appointed by the chairman from among individuals who will represent the views of academia.

"(17) One member appointed by the chairman from among individuals who will represent such other views as the chairman considers appropriate.

"(c) CHAIRMAN AND VICE CHAIRMAN.—(1) Except as provided in paragraph (2), the chairman and vice chairman of the Council shall be appointed every two years by a selection committee of the Council composed of, at a minimum, the Secretary of the Navy, the Administrator of the National Oceanic and Atmospheric Administration, and the Director of the National Science Foundation. The term of office of the chairman and vice chairman shall be two years. A person who has previously served as chairman or vice chairman may be reappointed.

"(2) The first chairman of the Council shall be the Secretary of the Navy. The first vice chairman of the Council shall be the Administrator of the National Oceanic and Atmospheric Administration.

"(d) TERM OF OFFICE.—The term of office of a member of the Council appointed under paragraph (14), (15), (16), or (17) of subsection (b) shall be two years, except that any person appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term.

"(e) RESPONSIBILITIES.—The Council shall have the following responsibilities:

"(1) To prescribe policies and procedures to implement the National Oceanographic Partnership Program.

"(2) To review, select, and identify and allocate funds for partnership projects for implementation under the program, based on the following criteria:

"(A) Whether the project addresses critical research objectives or operational goals, such as data accessibility and quality assurance, sharing of resources, education, or communication.

"(B) Whether the project has, or is designed to have, broad participation within the oceanographic community.

"(C) Whether the partners have a long-term commitment to the objectives of the project.

"(D) Whether the resources supporting the project are shared among the partners.

"(E) Whether the project has been subjected to adequate peer review.

"(3) To assess whether there is a need for a facility (or facilities) to provide national centralization of oceanographic data, and to establish such a facility or facilities if determined necessary. In conducting the assessment, the Council shall review, at a minimum, the following:

"(A) The need for a national oceanographic data center.

"(B) The need for a national coastal data center.

"(C) Accessibility by potential users of such centers.

"(D) Preexisting facilities and expertise.

"(f) ANNUAL REPORT.—Not later than March 1 of each year, the Council shall submit to Congress a report on the National Oceanographic Partnership Program. The report shall contain the following:

"(1) A description of activities of the program carried out during the fiscal year before the fiscal year in which the report is prepared, together with a list of the members of the Ocean Research Advisory Panel and any working groups in existence during the fiscal year covered.

"(2) A general outline of the activities planned for the program during the fiscal year in which the report is prepared.

"(3) A summary of projects continued from the fiscal year before the fiscal year in which the report is prepared and projects expected to be started during the fiscal year in which the report is prepared and during the following fiscal year.

"(4) A description of the involvement of the program with Federal interagency coordinating entities.

"(5) The amounts requested, in the budget submitted to Congress pursuant to section 1105(a) of title 31, United States Code, for the fiscal year following the fiscal year in which the report is prepared, for the programs, projects, and activities of the program and the estimated expenditures under such programs, projects, and activities during such following fiscal year.

Establishment.

"(g) PARTNERSHIP PROGRAM OFFICE.—(1) The Council shall establish a partnership program office for the National Oceanographic Partnership Program. The Council shall use competitive procedures in selecting an operator for the partnership program office.

"(2) The Council shall assign the following duties to the partnership program office:

"(A) To establish and oversee working groups to propose partnership projects to the Council and advise the Council on such projects.

"(B) To manage the process for proposing partnership projects to the Council, including managing peer review of such projects.

Reports.

"(C) To submit to the Council an annual report on the status of all partnership projects and activities of the office.

"(D) Any additional duties for the administration of the National Oceanographic Partnership Program that the Council considers appropriate.

"(3) The Council shall supervise the performance of duties by the partnership program office.

"(h) CONTRACT AND GRANT AUTHORITY.—The Council may authorize one or more of the departments or agencies represented on the Council to enter into contracts and make grants, using funds appropriated pursuant to an authorization of appropriations for the National Oceanographic Partnership Program, for the purpose of implementing the program and carrying out the responsibilities of the Council.

"(i) ESTABLISHMENT AND FORMS OF PARTNERSHIP PROJECTS.—(1) A partnership project under the National Oceanographic Partnership Program may be established by any instrument that the Council considers appropriate, including a memorandum of under-

standing, a cooperative research and development agreement, and any similar instrument.

"(2) Projects under the program may include demonstration projects.

"§ 7903. Ocean Research Advisory Panel

"(a) ESTABLISHMENT.—The Council shall establish an Ocean Research Advisory Panel consisting of not less than 10 and not more than 18 members appointed by the Council from among persons eminent in the fields of marine science or marine policy, or related fields, and who are representative, at a minimum, of the interests of government, academia, and industry.

"(b) RESPONSIBILITIES.—The Council shall assign to the Advisory Panel responsibilities that the Council considers appropriate.".

(2) The table of chapters at the beginning of subtitle C of title 10, United States Code, and the table of chapters at the beginning of part IV of such subtitle, are each amended by inserting after the item relating to chapter 663 the following:

"665. National Oceanographic Partnership Program ..... 7901".

(b) INITIAL APPOINTMENTS OF COUNCIL MEMBERS.—The Secretary of the Navy shall make the appointments required by section 7902(b) of title 10, United States Code, as added by subsection (a)(1), not later than December 1, 1996. 10 USC 7902 note.

(c) INITIAL APPOINTMENTS OF ADVISORY PANEL MEMBERS.—The National Ocean Research Leadership Council established by section 7902 of title 10, United States Code, as added by subsection (a)(1), shall make the appointments required by section 7903 of such title not later than January 1, 1997. 10 USC 7903 note.

(d) FIRST ANNUAL REPORT OF NATIONAL OCEAN RESEARCH LEADERSHIP COUNCIL.—The first annual report required by section 7902(f) of title 10, United States Code, as added by subsection (a)(1), shall be submitted to Congress not later than March 1, 1997. The first report shall include, in addition to the information required by such section, information about the terms of office, procedures, and responsibilities of the Ocean Research Advisory Panel established by the Council. 10 USC 7902 note.

(e) AUTHORIZATION.—(1) Of the amount authorized to be appropriated to the Department of the Navy by section 201(2), $13,000,000 shall be available for the National Oceanographic Partnership Program established pursuant to section 7901 of title 10, United States Code, as added by subsection (a)(1).

(2) Of the amount authorized to be appropriated to the Department of the Navy by section 301(2), $7,500,000 shall be available for such program.

(f) FUNDING FOR PROGRAM OFFICE.—Of the amount appropriated for the National Oceanographic Partnership Program for fiscal year 1997, at least $500,000, or 3 percent of the amount appropriated, whichever is greater, shall be available for operations of the partnership program office established pursuant to section 7902(g) of title 10, United States Code, as added by subsection (a)(1), for such fiscal year.

TITLE III—OPERATION AND MAINTENANCE

Subtitle A—Authorization of Appropriations

Sec. 301. Operation and maintenance funding.
Sec. 302. Working capital funds.
Sec. 303. Armed Forces Retirement Home.
Sec. 304. Transfer from National Defense Stockpile Transaction Fund.
Sec. 305. Civil Air Patrol Corporation.
Sec. 306. Availability of additional funds for antiterrorism activities.
Sec. 307. Nonlethal weapons capabilities.
Sec. 308. SR–71 contingency reconnaissance force.

Subtitle B—Depot-Level Activities

Sec. 311. Extension of authority for aviation depots and naval shipyards to engage in defense-related production and services.
Sec. 312. Test programs for modernization-through-spares.

Subtitle C—Environmental Provisions

Sec. 321. Defense contractors covered by requirement for reports on contractor reimbursement costs for response actions.
Sec. 322. Establishment of separate environmental restoration accounts for each military department.
Sec. 323. Payment of stipulated penalties assessed under CERCLA.
Sec. 324. Shipboard solid waste control.
Sec. 325. Authority to develop and implement land use plans for Defense Environmental Restoration program.
Sec. 326. Pilot program to test alternative technology for limiting air emissions during shipyard blasting and coating operations.
Sec. 327. Agreements for services of other agencies in support of environmental technology certification.
Sec. 328. Repeal of redundant notification and consultation requirements regarding remedial investigations and feasibility studies at certain installations to be closed under the base closure laws.
Sec. 329. Authority for agreements with Indian tribes for services under environmental restoration program.
Sec. 330. Authority to withhold listing of Federal facilities on National Priorities List.
Sec. 331. Clarification of meaning of uncontaminated property for purposes of transfer by the United States.
Sec. 332. Conservation and cultural activities.
Sec. 333. Navy program to monitor ecological effects of organotin.
Sec. 334. Authority to transfer contaminated Federal property before completion of required response actions.

Subtitle D—Commissaries and Nonappropriated Fund Instrumentalities

Sec. 341. Contracts with other agencies to provide or obtain goods and services to promote efficient operation and management of exchanges and morale, welfare, and recreation activities.
Sec. 342. Noncompetitive procurement of brand-name commercial items for resale in commissary stores.
Sec. 343. Prohibition of sale or rental of sexually explicit material.

Subtitle E—Performance of Functions by Private-Sector Sources

Sec. 351. Extension of requirement for competitive procurement of printing and duplication services.
Sec. 352. Reporting requirements under demonstration project for purchase of fire, security, police, public works, and utility services from local government agencies.

Subtitle F—Other Matters

Sec. 361. Authority for use of appropriated funds for recruiting functions.
Sec. 362. Training of members of the uniformed services at non-Government facilities.
Sec. 363. Requirement for preparation of plan for improved operation of working-capital funds and effect of failure to produce an approved plan.
Sec. 364. Increase in capital asset threshold under Defense Business Operations Fund.

Sec. 365. Expansion of authority to donate unusable food.
Sec. 366. Assistance to committees involved in inauguration of the President.
Sec. 367. Department of Defense support for sporting events.
Sec. 368. Storage of motor vehicle in lieu of transportation.
Sec. 369. Security protections at Department of Defense facilities in National Capital Region.
Sec. 370. Administration of midshipmen's store and other Naval Academy support activities as nonappropriated fund instrumentality.
Sec. 371. Reimbursement under agreement for instruction of civilian students at Foreign Language Institute of the Defense Language Institute.
Sec. 372. Assistance to local educational agencies that benefit dependents of members of the Armed Forces and Department of Defense civilian employees.
Sec. 373. Renovation of building for Defense Finance and Accounting Service Center, Fort Benjamin Harrison, Indiana.
Sec. 374. Food donation pilot program at service academies.
Sec. 375. Authority of Air National Guard to provide certain services at Lincoln Municipal Airport, Lincoln, Nebraska.
Sec. 376. Technical amendment regarding Impact Aid program.

Subtitle A—Authorization of Appropriations

SEC. 301. OPERATION AND MAINTENANCE FUNDING.

Funds are hereby authorized to be appropriated for fiscal year 1997 for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance, in amounts as follows:

(1) For the Army, $18,264,406,000.
(2) For the Navy, $20,387,737,000.
(3) For the Marine Corps, $2,421,007,000.
(4) For the Air Force, $17,635,335,000.
(5) For Defense-wide activities, $9,912,962,000.
(6) For the Army Reserve, $1,136,436,000.
(7) For the Naval Reserve, $858,927,000.
(8) For the Marine Corps Reserve, $113,367,000.
(9) For the Air Force Reserve, $1,499,553,000.
(10) For the Army National Guard, $2,277,477,000.
(11) For the Air National Guard, $2,711,173,000.
(12) For the Defense Inspector General, $136,501,000.
(13) For the United States Court of Appeals for the Armed Forces, $6,797,000.
(14) For Environmental Restoration, Army, $356,916,000.
(15) For Environmental Restoration, Navy, $302,900,000.
(16) For Environmental Restoration, Air Force, $414,700,000.
(17) For Environmental Restoration, Defense-wide, $258,500,000.
(18) For Overseas Humanitarian, Disaster, and Civic Aid programs, $54,544,000.
(19) For Drug Interdiction and Counter-drug Activities, Defense-wide, $796,524,000.
(20) For the Kaho'olawe Island Conveyance, Remediation, and Environmental Restoration Trust Fund, $10,000,000.
(21) For Medical Programs, Defense, $9,833,288,000.
(22) For Cooperative Threat Reduction programs, $364,900,000.
(23) For Domestic Emergency Assistance programs, $97,000,000.
(24) For OPLAN 34A–35 P.O.W. payments, $20,000,000.

SEC. 302. WORKING CAPITAL FUNDS.

Funds are hereby authorized to be appropriated for fiscal year 1997 for the use of the Armed Forces and other activities and agencies of the Department of Defense for providing capital for working capital and revolving funds in amounts as follows:

(1) For the Defense Business Operations Fund, $947,900,000.

(2) For the National Defense Sealift Fund, $1,118,002,000.

SEC. 303. ARMED FORCES RETIREMENT HOME.

There is hereby authorized to be appropriated for fiscal year 1997 from the Armed Forces Retirement Home Trust Fund the sum of $57,300,000 for the operation of the Armed Forces Retirement Home, including the United States Soldiers' and Airmen's Home and the Naval Home.

SEC. 304. TRANSFER FROM NATIONAL DEFENSE STOCKPILE TRANSACTION FUND.

(a) TRANSFER AUTHORITY.—To the extent provided in appropriations Acts, not more than $150,000,000 is authorized to be transferred from the National Defense Stockpile Transaction Fund to operation and maintenance accounts for fiscal year 1997 in amounts as follows:

(1) For the Army, $50,000,000.

(2) For the Navy, $50,000,000.

(3) For the Air Force, $50,000,000.

(b) TREATMENT OF TRANSFERS.—Amounts transferred under this section—

(1) shall be merged with, and be available for the same purposes and the same period as, the amounts in the accounts to which transferred; and

(2) may not be expended for an item that has been denied authorization of appropriations by Congress.

(c) RELATIONSHIP TO OTHER TRANSFER AUTHORITY.—The transfer authority provided in this section is in addition to the transfer authority provided in section 1001.

SEC. 305. CIVIL AIR PATROL CORPORATION.

(a) FUNDING.—Of the amount authorized to be appropriated pursuant to section 301 for operation and maintenance, $14,526,000 shall be available for the Civil Air Patrol Corporation.

(b) AMOUNT FOR CERTAIN OPERATIONS.—Of the amount made available to the Civil Air Patrol Corporation pursuant to subsection (a), not less than 25 percent of such amount shall be reserved to cover the costs of search and rescue missions and disaster relief missions.

SEC. 306. AVAILABILITY OF ADDITIONAL FUNDS FOR ANTITERRORISM ACTIVITIES.

Of the amount authorized to be appropriated pursuant to section 301 for operation and maintenance, $14,000,000 shall be available to the Secretary of Defense for activities designed to meet the antiterrorism responsibilities of the Department of Defense, including activities related to intelligence support, physical security measures, and education and training regarding antiterrorism. The amount made available by this section is in addition to amounts otherwise made available by this Act for antiterrorism activities.

SEC. 307. NONLETHAL WEAPONS CAPABILITIES.

Of the amount authorized to be appropriated pursuant to section 301, $5,000,000 shall be available for the immediate procurement of nonlethal weapons capabilities to meet existing deficiencies in inventories of such capabilities, of which—

(1) $2,000,000 shall be available for the Army; and

(2) $3,000,000 shall be available for the Marine Corps.

SEC. 308. SR–71 CONTINGENCY RECONNAISSANCE FORCE.

Of the funds authorized to be appropriated by section 301(4), $30,000,000 is authorized to be made available for the SR–71 contingency reconnaissance force.

Subtitle B—Depot-Level Activities

SEC. 311. EXTENSION OF AUTHORITY FOR AVIATION DEPOTS AND NAVAL SHIPYARDS TO ENGAGE IN DEFENSE-RELATED PRODUCTION AND SERVICES.

Section 1425(e) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1684) is amended by striking out "September 30, 1996" and inserting in lieu thereof "September 30, 1997".

SEC. 312. TEST PROGRAMS FOR MODERNIZATION-THROUGH-SPARES. Reports.

Not later than 60 days after the date of the enactment of this Act, the Secretary of the Army shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on the steps that the Secretary has taken to ensure that each program included in the modernization-through-spares program of the Army is conducted in accordance with—

(1) the competition requirements in section 2304 of title 10, United States Code;

(2) the core logistics requirements in section 2464 of such title;

(3) the public-private competition requirements in section 2469 of such title; and

(4) requirements relating to contract bundling and spare parts breakout in subsections (a) and (l) of section 15 of the Small Business Act (15 U.S.C. 644) and regulations implementing such subsections in the Defense Federal Acquisition Regulation Supplement.

Subtitle C—Environmental Provisions

SEC. 321. DEFENSE CONTRACTORS COVERED BY REQUIREMENT FOR REPORTS ON CONTRACTOR REIMBURSEMENT COSTS FOR RESPONSE ACTIONS.

Section 2706(d)(1)(A) of title 10, United States Code, is amended by striking out "100" and inserting in lieu thereof "20".

SEC. 322. ESTABLISHMENT OF SEPARATE ENVIRONMENTAL RESTORATION ACCOUNTS FOR EACH MILITARY DEPARTMENT.

(a) ESTABLISHMENT.—(1) Section 2703 of title 10, United States Code, is amended to read as follows:

"§ 2703. Environmental restoration accounts

"(a) ESTABLISHMENT OF ACCOUNTS.—There are hereby established in the Department of Defense the following accounts:

"(1) An account to be known as the 'Environmental Restoration Account, Defense'.

"(2) An account to be known as the 'Environmental Restoration Account, Army'.

"(3) An account to be known as the 'Environmental Restoration Account, Navy'.

"(4) An account to be known as the 'Environmental Restoration Account, Air Force'.

"(b) OBLIGATION OF AUTHORIZED AMOUNTS.—Funds authorized for deposit in an account under subsection (a) may be obligated or expended from the account only in order to carry out the environmental restoration functions of the Secretary of Defense and the Secretaries of the military departments under this chapter and under any other provision of law. Funds so authorized shall remain available until expended.

President. "(c) BUDGET REPORTS.—In proposing the budget for any fiscal year pursuant to section 1105 of title 31, United States Code, the President shall set forth separately the amounts requested for environmental restoration programs of the Department of Defense and of each of the military departments under this chapter and under any other Act.

"(d) CREDIT OF AMOUNTS RECOVERED.—The following amounts shall be credited to the appropriate environmental restoration account:

"(1) Amounts recovered under CERCLA for response actions.

"(2) Any other amounts recovered from a contractor, insurer, surety, or other person to reimburse the Department of Defense or a military department for any expenditure for environmental response activities.

"(e) PAYMENTS OF FINES AND PENALTIES.—None of the funds appropriated to the Environmental Restoration Account, Defense, for fiscal years 1995 through 1999, or to any environmental restoration account of a military department for fiscal years 1997 through 1999, may be used for the payment of a fine or penalty (including any supplemental environmental project carried out as part of such penalty) imposed against the Department of Defense or a military department unless the act or omission for which the fine or penalty is imposed arises out of an activity funded by the environmental restoration account concerned and the payment of the fine or penalty has been specifically authorized by law.".

(2) The table of sections at the beginning of chapter 160 of title 10, United States Code, is amended by striking out the item relating to section 2703 and inserting in lieu thereof the following new item:

"2703. Environmental restoration accounts.".

10 USC 2703 note. (b) REFERENCES.—Any reference to the Defense Environmental Restoration Account in any Federal law, Executive Order, regulation, delegation of authority, or document shall be deemed to refer to the appropriate environmental restoration account established under section 2703(a)(1) of title 10, United States Code (as amended by subsection (a)(1)).

(c) CONFORMING AMENDMENT.—Section 2705(g)(1) of title 10, United States Code, is amended by striking out "the Defense Environmental Restoration Account established" and inserting in lieu thereof "the environmental restoration account concerned".

(d) TREATMENT OF UNOBLIGATED BALANCES.—Any unobligated balances that remain in the Defense Environmental Restoration Account under section 2703(a) of title 10, United States Code, as of the effective date specified in subsection (e) shall be transferred on such date to the Environmental Restoration Account, Defense, established under section 2703(a)(1) of title 10, United States Code (as amended by subsection (a)(1)). 10 USC 2703 note.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on the later of— 10 USC 2703 note.

(1) October 1, 1996; or

(2) the date of the enactment of this Act.

SEC. 323. PAYMENTS OF STIPULATED PENALTIES ASSESSED UNDER CERCLA.

(a) AUTHORITY.—The Secretary of Defense may pay the following:

(1) Stipulated civil penalties, to the Hazardous Substance Superfund established under section 9507 of the Internal Revenue Code of 1986, in amounts, and using funds, as follows:

(A) Using funds authorized to be appropriated to the Environmental Restoration Account, Army, established under section 2703(a)(2) of title 10, United States Code (as amended by section 322 of this Act)—

(i) not more than $34,000 assessed against Fort Riley, Kansas, under CERCLA; and

(ii) not more than $37,500 assessed against Lake City Army Ammunition Plant, Missouri, under CERCLA.

(B) Using funds authorized to be appropriated to the Environmental Restoration Account, Navy, established under section 2703(a)(3) of that title, as so amended, not more than $30,000 assessed against the Naval Education and Training Center, Newport, Rhode Island, under CERCLA.

(C) Using funds authorized to be appropriated to the Environmental Restoration Account, Air Force, established under section 2703(a)(4) of that title, as so amended—

(i) not more than $55,000 assessed against the Massachusetts Military Reservation, Massachusetts, under CERCLA; and

(ii) not more than $10,000 assessed against F.E. Warren Air Force Base, Wyoming, under CERCLA.

(2) Using funds authorized to be appropriated to the Environmental Restoration Account, Air Force, established under section 2703(a)(4) of that title, as so amended, not more than $500,000 to carry out one environmental restoration project, as part of a negotiated agreement in lieu of stipulated penalties assessed under CERCLA against the Massachusetts Military Reservation, Massachusetts.

(b) CERCLA DEFINED.—In this section, the term "CERCLA" means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.).

SEC. 324. SHIPBOARD SOLID WASTE CONTROL.

(a) IN GENERAL.—Section 3(c) of the Act to Prevent Pollution from Ships (33 U.S.C. 1902(c)) is amended—

(1) in paragraph (1), by striking out "Not later than" and inserting in lieu thereof "Except as provided in paragraphs (2) and (3), not later than"; and

(2) by striking out paragraphs (2), (3), and (4) and inserting in lieu thereof the following:

"(2)(A) Subject to subparagraph (B), any ship described in subparagraph (C) may discharge, without regard to the special area requirements of Regulation 5 of Annex V to the Convention, the following non-plastic, non-floating garbage:

"(i) A slurry of seawater, paper, cardboard, or food waste that is capable of passing through a screen with openings no larger than 12 millimeters in diameter.

"(ii) Metal and glass that have been shredded and bagged so as to ensure negative buoyancy.

"(B)(i) Garbage described in subparagraph (A)(i) may not be discharged within 3 nautical miles of land.

"(ii) Garbage described in subparagraph (A)(ii) may not be discharged within 12 nautical miles of land.

Applicability.

"(C) This paragraph applies to any ship that is owned or operated by the Department of the Navy that, as determined by the Secretary of the Navy—

"(i) has unique military design, construction, manning, or operating requirements; and

"(ii) cannot fully comply with the special area requirements of Regulation 5 of Annex V to the Convention because compliance is not technologically feasible or would impair the operations or operational capability of the ship.

Regulations.
Federal Register, publication.

"(3)(A) Not later than December 31, 2000, the Secretary of the Navy shall prescribe and publish in the Federal Register standards to ensure that each ship described in subparagraph (B) is, to the maximum extent practicable without impairing the operations or operational capabilities of the ship, operated in a manner that is consistent with the special area requirements of Regulation 5 of Annex V to the Convention.

Applicability.
Effective date.
Termination date.

"(B) Subparagraph (A) applies to surface ships that are owned or operated by the Department of the Navy that the Secretary plans to decommission during the period beginning on January 1, 2001, and ending on December 31, 2005.

Federal Register, publication.

"(C) At the same time that the Secretary publishes standards under subparagraph (A), the Secretary shall publish in the Federal Register a list of the ships covered by subparagraph (B).".

(b) SENSE OF CONGRESS.—(1) It is the sense of Congress that it should be an objective of the Navy to achieve full compliance with Annex V to the Convention as part of the Navy's development of ships that are environmentally sound.

(2) In this subsection, the terms "Convention" and "ship" have the meanings given such terms in section 2(a) of the Act to Prevent Pollution from Ships (33 U.S.C. 1901(a)).

10 USC 2706 note.

(c) REPORT ON COMPLIANCE WITH ANNEX V TO THE CONVENTION.—The Secretary of Defense shall include in each report on environmental compliance activities submitted to Congress under section 2706(b) of title 10, United States Code, the following information:

(1) A list of the ship types, if any, for which the Secretary of the Navy has made the determination referred to in paragraph (2)(C) of section 3(c) of the Act to Prevent Pollution from Ships, as amended by subsection (a)(2) of this section.

(2) A list of ship types which the Secretary of the Navy has determined can comply with Regulation 5 of Annex V to the Convention.

(3) A summary of the progress made by the Navy in implementing the requirements of paragraphs (2) and (3) of such section 3(c), as so amended.

(4) A description of any emerging technologies offering the potential to achieve full compliance with Regulation 5 of Annex V to the Convention.

(5) The amount and nature of the discharges in special areas, not otherwise authorized under the Act to Prevent Pollution from Ships (33 U.S.C. 1901 et seq.), during the preceding year from ships referred to in section 3(b)(1)(A) of such Act owned or operated by the Department of the Navy.

(d) PUBLICATION REGARDING SPECIAL AREA DISCHARGES.—Subparagraph (A) of section 3(e)(4) of the Act to Prevent Pollution from Ships (33 U.S.C. 1902(e)(4)) is amended to read as follows:

"(A) Each year, the amount and nature of the discharges in special areas, not otherwise authorized under this Act, during the preceding year from ships referred to in subsection (b)(1)(A) of this section owned or operated by the Department of the Navy.".

SEC. 325. AUTHORITY TO DEVELOP AND IMPLEMENT LAND USE PLANS FOR DEFENSE ENVIRONMENTAL RESTORATION PROGRAM.

10 USC 2701 note.

(a) AUTHORITY.—The Secretary of Defense may, to the extent possible and practical, develop and implement, as part of the Defense Environmental Restoration Program provided for in chapter 160 of title 10, United States Code, a land use plan for any defense site selected by the Secretary under subsection (b).

(b) SELECTION OF SITES.—The Secretary may select up to 10 defense sites, from among sites where the Secretary is planning or implementing environmental restoration activities, for which land use plans may be developed under this section.

(c) REQUIREMENT TO CONSULT WITH REVIEW COMMITTEE OR ADVISORY BOARD.—In developing a land use plan under this section, the Secretary shall consult with a technical review committee established pursuant to section 2705(c) of title 10, United States Code, a restoration advisory board established pursuant to section 2705(d) of such title, a local land use redevelopment authority, or another appropriate State agency.

(d) 50-YEAR PLANNING PERIOD.—A land use plan developed under this section shall cover a period of at least 50 years.

(e) IMPLEMENTATION.—For each defense site for which the Secretary develops a land use plan under this section, the Secretary shall take into account the land use plan in selecting and implementing, in accordance with applicable law, environmental restoration activities at the site.

(f) DEADLINES.—For each defense site for which the Secretary intends to develop a land use plan under this section, the Secretary shall develop a draft land use plan by October 1, 1997, and a final land use plan by March 15, 1998.

(g) DEFINITION OF DEFENSE SITE.—For purposes of this section, the term "defense site" means (A) any building, structure, installation, equipment, pipe or pipeline (including any pipe into a sewer or publicly owned treatment works), well, pit, pond, lagoon, impoundment, ditch, landfill, storage container, motor vehicle, rolling stock, or aircraft under the jurisdiction of the Department of Defense, or (B) any site or area under the jurisdiction of the Department of Defense where a hazardous substance has been deposited, stored, disposed of, or placed, or otherwise come to be located; but does not include any consumer product in consumer use or any vessel.

(h) REPORT.—In the annual report required under section 2706(a) of title 10, United States Code, the Secretary shall include information on the land use plans developed under this section and the effect such plans have had on environmental restoration activities at the defense sites where they have been implemented. The annual report submitted in 1999 shall include recommendations on whether such land use plans should be developed and implemented throughout the Department of Defense.

(i) SAVINGS PROVISIONS.—(1) Nothing in this section, or in a land use plan developed under this section with respect to a defense site, shall be construed as requiring any modification to a land use plan that was developed before the date of the enactment of this Act.

(2) Nothing in this section may be construed to affect statutory requirements for an environmental restoration or waste management activity or project or to modify or otherwise affect applicable statutory or regulatory environmental restoration and waste management requirements, including substantive standards intended to protect public health and the environment, nor shall anything in this section be construed to preempt or impair any local land use planning or zoning authority or State authority.

SEC. 326. PILOT PROGRAM TO TEST ALTERNATIVE TECHNOLOGY FOR LIMITING AIR EMISSIONS DURING SHIPYARD BLASTING AND COATING OPERATIONS.

(a) DETERMINATION BY SECRETARY OF THE NAVY.—(1) The Secretary of the Navy shall make a determination whether the alternative technology described in paragraph (2) has the clear potential for significant benefit to the Navy. The Secretary shall submit to Congress a notification in writing of the determination not later than 60 days after the date of the enactment of this Act.

Notification.

(2) The technology referred to in paragraph (1) is an alternative technology designed to capture and destroy or remove particulate emissions and volatile air pollutants that occur during abrasive blasting and coating operations at naval shipyards.

(b) PILOT PROGRAM.—If the determination made under subsection (a)(1) is in the affirmative, the Secretary shall establish a pilot program to test the alternative technology. In conducting the test, the Secretary shall seek to demonstrate whether the technology is valid, cost effective, and in compliance with environmental laws and regulations.

(c) REPORT.—Upon completion of the test conducted under the pilot program, the Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report setting forth in detail the results of the test. The report shall include

recommendations on whether the alternative technology merits implementation at naval shipyards and such other recommendations as the Secretary considers appropriate.

SEC. 327. AGREEMENTS FOR SERVICES OF OTHER AGENCIES IN SUPPORT OF ENVIRONMENTAL TECHNOLOGY CERTIFICATION.

10 USC 2702 note.

(a) AUTHORITY.—Subject to subsection (b), the Secretary of Defense may enter into a cooperative agreement with an agency of a State or local government to obtain assistance in certifying environmental technologies.

(b) LIMITATIONS.—The Secretary of Defense may enter into a cooperative agreement with respect to an environmental technology under subsection (a) only if the Secretary determines—

(1) that the technology has clear potential to be of significant value to the Department of Defense in carrying out its environmental restoration activities; and

(2) that there is no reasonably available market in the private sector for the technology without a certification by the Department of Defense, the Environmental Protection Agency, or a State environmental agency.

(c) TYPES OF ASSISTANCE.— The types of assistance that may be obtained under subsection (a) include the following:

(1) Data collection and analysis.

(2) Technical assistance in conducting a demonstration of an environmental technology, including the implementation of quality assurance and quality control programs.

(d) REPORT.—In the annual report required under section 2706(a) of title 10, United States Code, the Secretary of Defense shall include the following information with respect to cooperative agreements entered into under this section:

(1) The number of such agreements.

(2) The number of States in which such agreements have been entered into.

(3) A description of the nature of the technology involved in each such agreement.

(4) The amount of funds obligated or expended by the Department of Defense for each such agreement during the year covered by the report.

(e) TERMINATION OF AUTHORITY.—The authority provided under subsection (a) shall terminate five years after the date of the enactment of this Act.

SEC. 328. REPEAL OF REDUNDANT NOTIFICATION AND CONSULTATION REQUIREMENTS REGARDING REMEDIAL INVESTIGATIONS AND FEASIBILITY STUDIES AT CERTAIN INSTALLATIONS TO BE CLOSED UNDER THE BASE CLOSURE LAWS.

Section 334 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1340; 10 U.S.C. 2687 note) is repealed.

SEC. 329. AUTHORITY FOR AGREEMENTS WITH INDIAN TRIBES FOR SERVICES UNDER ENVIRONMENTAL RESTORATION PROGRAM.

Section 2701(d) of title 10, United States Code, is amended—

(1) in the first sentence of paragraph (1), by striking out ", or with any State or local government agency," and inserting

in lieu thereof ", with any State or local government agency, or with any Indian tribe,"; and

(2) by adding at the end the following:

"(3) DEFINITION.—In this subsection, the term 'Indian tribe' has the meaning given such term in section 101(36) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(36)).".

SEC. 330. AUTHORITY TO WITHHOLD LISTING OF FEDERAL FACILITIES ON NATIONAL PRIORITIES LIST.

Section 120(d) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(d)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) by striking out "Not later than 18 months after the enactment of the Superfund Amendments and Reauthorization Act of 1986, the Administrator" and inserting in lieu thereof the following:

"(1) IN GENERAL.—The Administrator";

(3) by moving the remainder of the text of paragraph (1), as designated by paragraph (2) of this section (including subparagraphs (A) and (B), as redesignated by paragraph (1) of this section) 2 ems to the right; and

(4) by striking out "Such criteria" and all that follows through the end of the subsection and inserting in lieu thereof the following:

"(2) APPLICATION OF CRITERIA.—

"(A) IN GENERAL.—Subject to subparagraph (B), the criteria referred to in paragraph (1) shall be applied in the same manner as the criteria are applied to facilities that are owned or operated by persons other than the United States.

"(B) RESPONSE UNDER OTHER LAW.—It shall be an appropriate factor to be taken into consideration for the purposes of section 105(a)(8)(A) that the head of the department, agency, or instrumentality that owns or operates a facility has arranged with the Administrator or appropriate State authorities to respond appropriately, under authority of a law other than this Act, to a release or threatened release of a hazardous substance.

"(3) COMPLETION.—Evaluation and listing under this subsection shall be completed in accordance with a reasonable schedule established by the Administrator.".

SEC. 331. CLARIFICATION OF MEANING OF UNCONTAMINATED PROPERTY FOR PURPOSES OF TRANSFER BY THE UNITED STATES.

Section 120(h)(4)(A) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)(4)(A)) is amended in the first sentence by striking out "stored for one year or more, known to have been released," and inserting in lieu thereof "known to have been released".

SEC. 332. CONSERVATION AND CULTURAL ACTIVITIES.

(a) IN GENERAL.—(1) Chapter 159 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2694. Conservation and cultural activities

"(a) ESTABLISHMENT.—The Secretary of Defense may establish and carry out a program to conduct and manage in a coordinated manner the conservation and cultural activities described in subsection (b).

"(b) ACTIVITIES.—(1) A conservation or cultural activity eligible for the program that the Secretary establishes under subsection (a) is any activity—

"(A) that has regional or Department of Defense-wide significance and that involves more than one military department;

"(B) that is necessary to meet legal requirements or to support military operations;

"(C) that can be more effectively managed at the Department of Defense level; and

"(D) for which no executive ageny has been designated responsible by the Secretary.

"(2) Such activities include the following:

"(A) The development of ecosystem-wide land management plans.

"(B) The conduct of wildlife studies to ensure the safety of military operations.

"(C) The identification and return of Native American human remains and cultural items in the possession or control of the Department of Defense, or discovered on land under the jurisdiction of the Department, to the appropriate Native American tribes.

"(D) The control of invasive species that may hinder military activities or degrade military training ranges.

"(E) The establishment of a regional curation system for artifacts found on military installations.

"(c) COOPERATIVE AGREEMENTS.—The Secretary may negotiate and enter into cooperative agreements with public and private agencies, organizations, institutions, individuals, or other entities to carry out the program established under subsection (a).

"(d) EFFECT ON OTHER LAWS.—Nothing in this section shall be construed or interpreted as preempting any otherwise applicable Federal, State, or local law or regulation relating to the management of natural and cultural resources on military installations.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2694. Conservation and cultural activities.".

(b) EFFECTIVE DATE.—Section 2694 of title 10, United States Code, as added by subsection (a), shall take effect on October 1, 1996. 10 USC 2694 note.

SEC. 333. NAVY PROGRAM TO MONITOR ECOLOGICAL EFFECTS OF ORGANOTIN. Water. 33 USC 2406 note.

(a) MONITORING REQUIREMENT.—The Secretary of the Navy shall, in consultation with the Administrator of the Environmental Protection Agency, develop and implement a program to monitor the concentrations of organotin in the water column, sediments, and aquatic organisms of representative estuaries and near-coastal waters in the United States, as described in section 7(a) of the Organotin Antifouling Paint Control Act of 1988 (33 U.S.C. 2406(a)). The program shall be designed to produce high-quality data to

enable the Environmental Protection Agency to develop water quality criteria concerning organotin compounds.

(b) FUNDING.—The Administrator of the Environmental Protection Agency shall provide, in advance, such sums as are necessary to the Secretary of the Navy for the costs of developing and implementing the program under subsection (a).

(c) WRITTEN AGREEMENT.—The Secretary of the Navy and the Administrator of the Environmental Protection Agency shall enter into a written agreement setting forth the actions that the Secretary plans to take under subsection (a) and the funding that the Administrator agrees to provide under subsection (b). If the Secretary determines that the Administrator will not enter into such an agreement, the Secretary shall notify the Committee on National Security of the House of Representatives and the Committee on Armed Services of the Senate not later than 30 days after such determination.

Notification.

(d) NONIMPAIRMENT OF MISSION.—Compliance with subsection (a) shall be conducted in such a manner so as not to impair the ability of the Department of the Navy to meet its operational requirements.

(e) REPORT.—Not later than June 1, 1997, the Secretary of the Navy shall submit to Congress a report containing the following:

(1) A description of the monitoring program developed pursuant to subsection (a).

(2) An analysis of the results of the monitoring program as of the date of the submission of the report.

(3) Information about the progress of Navy programs, referred to in section 7(c) of the Organotin Antifouling Paint Control Act of 1988 (33 U.S.C. 2406(c)), for evaluating the laboratory toxicity and environmental risks associated with the use of antifouling paints containing organotin.

(4) An assessment, developed in consultation with the Administrator of the Environmental Protection Agency, of the effectiveness of existing laws and rules concerning organotin compounds in ensuring protection of human health and the environment.

(f) SENSE OF CONGRESS.—(1) It is the sense of Congress that the Administrator of the Environmental Protection Agency, in consultation with the Secretary of the Navy, should develop, for purposes of the national pollutant discharge elimination system, a model permit for the discharge of organotin compounds at shipbuilding and ship repair facilities.

(2) For purposes of this subsection, the term "organotin" has the meaning provided in section 3 of the Organotin Antifouling Paint Control Act of 1988 (33 U.S.C. 2402).

(g) TERMINATION.—The program required by subsection (a) shall terminate five years after the date of the enactment of this Act.

SEC. 334. AUTHORITY TO TRANSFER CONTAMINATED FEDERAL PROPERTY BEFORE COMPLETION OF REQUIRED RESPONSE ACTIONS.

(a) IN GENERAL.—Section 120(h)(3) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)(3)) is amended—

(1) by redesignating subparagraph (A) as clause (i) and clauses (i), (ii), and (iii) of that subparagraph as subclauses (I), (II), and (III), respectively;

(2) by striking out "After the last day" and inserting in lieu thereof the following:

"(A) IN GENERAL.—After the last day";

(3) by redesignating subparagraph (B) as clause (ii) and clauses (i) and (ii) of that subparagraph as subclauses (I) and (II), respectively;

(4) by redesignating subparagraph (C) as clause (iii);

(5) by moving the remainder of the text of subparagraph (A), as designated by paragraph (2) of this subsection (including the clauses and subclauses redesignated by paragraphs (1), (3), and (4) of this subsection) 2 ems to the right;

(6) by striking "For purposes of subparagraph (B)(i)" and inserting the following:

"(B) COVENANT REQUIREMENTS.—For purposes of subparagraphs (A)(ii)(I) and (C)(iii)";

(7) in subparagraph (B), as designated by paragraph (5), by striking "subparagraph (B)" each place it appears and inserting "subparagraph (A)(ii)"; and

(8) by adding at the end the following:

"(C) DEFERRAL.—

"(i) IN GENERAL.—The Administrator, with the concurrence of the Governor of the State in which the facility is located (in the case of real property at a Federal facility that is listed on the National Priorities List), or the Governor of the State in which the facility is located (in the case of real property at a Federal facility not listed on the National Priorities List) may defer the requirement of subparagraph (A)(ii)(I) with respect to the property if the Administrator or the Governor, as the case may be, determines that the property is suitable for transfer, based on a finding that—

"(I) the property is suitable for transfer for the use intended by the transferee, and the intended use is consistent with protection of human health and the environment;

"(II) the deed or other agreement proposed to govern the transfer between the United States and the transferee of the property contains the assurances set forth in clause (ii);

"(III) the Federal agency requesting deferral has provided notice, by publication in a newspaper of general circulation in the vicinity of the property, of the proposed transfer and of the opportunity for the public to submit, within a period of not less than 30 days after the date of the notice, written comments on the suitability of the property for transfer; and

"(IV) the deferral and the transfer of the property will not substantially delay any necessary response action at the property.

"(ii) RESPONSE ACTION ASSURANCES.—With regard to a release or threatened release of a hazardous substance for which a Federal agency is potentially responsible under this section, the deed or other agreement proposed to govern the transfer shall contain assurances that—

"(I) provide for any necessary restrictions on the use of the property to ensure the protection of human health and the environment;

"(II) provide that there will be restrictions on use necessary to ensure that required remedial investigations, response action, and oversight activities will not be disrupted;

"(III) provide that all necessary response action will be taken and identify the schedules for investigation and completion of all necessary response action as approved by the appropriate regulatory agency; and

"(IV) provide that the Federal agency responsible for the property subject to transfer will submit a budget request to the Director of the Office of Management and Budget that adequately addresses schedules for investigation and completion of all necessary response action, subject to congressional authorizations and appropriations.

"(iii) WARRANTY.—When all response action necessary to protect human health and the environment with respect to any substance remaining on the property on the date of transfer has been taken, the United States shall execute and deliver to the transferee an appropriate document containing a warranty that all such response action has been taken, and the making of the warranty shall be considered to satisfy the requirement of subparagraph (A)(ii)(I).

"(iv) FEDERAL RESPONSIBILITY.—A deferral under this subparagraph shall not increase, diminish, or affect in any manner any rights or obligations of a Federal agency (including any rights or obligations under sections 106, 107, and 120 existing prior to transfer) with respect to a property transferred under this subparagraph.".

(b) CONTINUED APPLICATION OF STATE LAW.—The first sentence of section 120(a)(4) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(a)(4)) is amended by inserting "or facilities that are the subject of a deferral under subsection (h)(3)(C)" after "United States".

Subtitle D—Commissaries and Nonappropriated Fund Instrumentalities

SEC. 341. CONTRACTS WITH OTHER AGENCIES TO PROVIDE OR OBTAIN GOODS AND SERVICES TO PROMOTE EFFICIENT OPERATION AND MANAGEMENT OF EXCHANGES AND MORALE, WELFARE, AND RECREATION ACTIVITIES.

(a) CONTRACTS TO PROMOTE EFFICIENT OPERATION AND MANAGEMENT.—(1) Chapter 147 of title 10, United States Code, is amended by inserting after section 2482 the following new section:

"§ 2482a. Nonappropriated fund instrumentalities: contracts with other agencies and instrumentalities to provide and obtain goods and services

"An agency or instrumentality of the Department of Defense that supports the operation of the exchange system, or the operation of a morale, welfare, and recreation system, of the Department of Defense may enter into a contract or other agreement with another element of the Department of Defense or with another Federal department, agency, or instrumentality to provide or obtain goods and services beneficial to the efficient management and operation of the exchange system or that morale, welfare, and recreation system.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2482 the following new item:

"2482a. Nonappropriated fund instrumentalities: contracts with other agencies and instrumentalities to provide and obtain goods and services.".

(b) CONFORMING AMENDMENT REGARDING COMMISSARY SYSTEM.—Section 2482(b)(1) of such title is amended by striking out "another department" and all that follows through "provide services" and inserting in lieu thereof "another element of the Department of Defense or with another Federal department, agency, or instrumentality to provide or obtain services".

SEC. 342. NONCOMPETITIVE PROCUREMENT OF BRAND-NAME COMMERCIAL ITEMS FOR RESALE IN COMMISSARY STORES.

(a) CLARIFICATION OF EXCEPTION TO COMPETITIVE PROCUREMENT.—Section 2486 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(e) The Secretary of Defense may not use the exception provided in section 2304(c)(5) of this title regarding the procurement of a brand-name commercial item for resale in commissary stores unless the commercial item is regularly sold outside of commissary stores under the same brand name as the name by which the commercial item will be sold in commissary stores.".

(b) EFFECT ON EXISTING CONTRACTS OR OTHER AGREEMENTS.—Section 2486(e) of title 10, United States Code, as added by subsection (a), shall not affect the terms, conditions, or duration of any contract or other agreement entered into by the Secretary of Defense before the date of the enactment of this Act for the procurement of commercial items for resale in commissary stores. 10 USC 2486 note.

SEC. 343. PROHIBITION OF SALE OR RENTAL OF SEXUALLY EXPLICIT MATERIAL.

(a) IN GENERAL.—(1) Chapter 147 of title 10, United States Code, is amended by inserting after section 2489 the following new section:

"§ 2489a. Sale or rental of sexually explicit material prohibited

"(a) PROHIBITION OF SALE OR RENTAL.—The Secretary of Defense may not permit the sale or rental of sexually explicit material on property under the jurisdiction of the Department of Defense.

"(b) PROHIBITION OF OFFICIALLY PROVIDED SEXUALLY EXPLICIT MATERIAL.—A member of the armed forces or a civilian officer or employee of the Department of Defense acting in an official capacity may not provide for sale, remuneration, or rental sexually explicit material to another person.

"(c) REGULATIONS.—The Secretary of Defense shall prescribe regulations to implement this section.

"(d) DEFINITIONS.—In this section:

"(1) The term 'sexually explicit material' means an audio recording, a film or video recording, or a periodical with visual depictions, produced in any medium, the dominant theme of which depicts or describes nudity, including sexual or excretory activities or organs, in a lascivious way.

"(2) The term 'property under the jurisdiction of the Department of Defense' includes commissaries, all facilities operated by the Army and Air Force Exchange Service, the Navy Exchange Service Command, the Navy Resale and Services Support Office, Marine Corps exchanges, and ships' stores.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2489 the following new item:

"2489a. Sale or rental of sexually explicit material prohibited.".

10 USC 2489a note.

(b) EFFECTIVE DATE.—Subsection (a) of section 2489a of title 10, United States Code, as added by subsection (a) of this section, shall take effect 90 days after the date of the enactment of this Act.

Subtitle E—Performance of Functions by Private-Sector Sources

SEC. 351. EXTENSION OF REQUIREMENT FOR COMPETITIVE PROCUREMENT OF PRINTING AND DUPLICATION SERVICES.

(a) EXTENSION.—Section 351(a) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 266) is amended by striking out "fiscal year 1996" and inserting in lieu thereof "fiscal years 1996 and 1997".

(b) REPORTING REQUIREMENTS.—Such section is further amended by adding at the end the following new subsection:

"(c) REPORTING REQUIREMENTS.—(1) Not later than 90 days after the end of each fiscal year in which the requirement of subsection (a) applies, the Secretary of Defense shall submit to Congress a report—

"(A) describing the extent of the compliance of the Secretary with the requirement during that fiscal year;

"(B) specifying the total volume of printing and duplication services procured by the Department of Defense during that fiscal year—

"(i) from sources within the Department of Defense;

"(ii) from private-sector sources; and

"(iii) from other sources in the Federal Government; and

"(C) specifying the total volume of printed and duplicated material during that fiscal year covered by the exception in subsection (b).

"(2) The report required for fiscal year 1996 shall also include the plans of the Secretary for further implementation of the requirement of subsection (a) during fiscal year 1997.".

SEC. 352. REPORTING REQUIREMENTS UNDER DEMONSTRATION PROJECT FOR PURCHASE OF FIRE, SECURITY, POLICE, PUBLIC WORKS, AND UTILITY SERVICES FROM LOCAL GOVERNMENT AGENCIES.

Section 816(b) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2820) is amended by striking out ", 1996" and inserting in lieu thereof "of each of the years 1997 and 1998".

Subtitle F—Other Matters

SEC. 361. AUTHORITY FOR USE OF APPROPRIATED FUNDS FOR RECRUITING FUNCTIONS.

(a) AUTHORITY.—Chapter 31 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 520c. Recruiting functions: use of funds

"(a) PROVISION OF MEALS AND REFRESHMENTS.—Under regulations prescribed by the Secretary concerned, funds appropriated to the Department of Defense for recruitment of military personnel may be expended for small meals and refreshments during recruiting functions for the following persons: Regulations.

"(1) Persons who have enlisted under the Delayed Entry Program authorized by section 513 of this title.

"(2) Persons who are objects of armed forces recruiting efforts.

"(3) Persons whose assistance in recruiting efforts of the military departments is determined to be influential by the Secretary concerned.

"(4) Members of the armed forces and Federal employees when attending recruiting events in accordance with a requirement to do so.

"(5) Other persons whose presence at recruiting efforts will contribute to recruiting efforts.

"(b) ANNUAL REPORT.—Not later than February 1 of each of the years 1998 through 2002, the Secretary of Defense shall submit to Congress a report on the extent to which the authority under subsection (a) was exercised during the fiscal year ending in the preceding year.

"(c) TERMINATION OF AUTHORITY.—The authority in subsection (a) may not be exercised after September 30, 2001.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"520c. Recruiting functions: use of funds.".

SEC. 362. TRAINING OF MEMBERS OF THE UNIFORMED SERVICES AT NON-GOVERNMENT FACILITIES.

(a) AUTHORITY TO ENTER INTO AGREEMENTS FOR TRAINING AT NON-GOVERNMENT FACILITIES.—(1) Chapter 101 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2013. Training at non-Government facilities

"(a) AUTHORITY TO ENTER INTO AGREEMENTS.—(1) The Secretary concerned, without regard to section 3709 of the Revised Statutes (41 U.S.C. 5), may make agreements or other arrangements for the training of members of the uniformed services under the jurisdiction of that Secretary by, in, or through non-Government facilities.

"(2) In this section, the term 'non-Government facility' means any of the following:

"(A) The government of a State or of a territory or possession of the United States, including the Commonwealth of Puerto Rico, an interstate governmental organization, and a unit, subdivision, or instrumentality of any of the foregoing.

"(B) A foreign government or international organization, or instrumentality of either, which is designated by the President as eligible to provide training under this section.

"(C) A medical, scientific, technical, educational, research, or professional institution, foundation, or organization.

"(D) A business, commercial, or industrial firm, corporation, partnership, proprietorship, or other organization.

"(E) Individuals other than civilian or military personnel of the Government.

"(F) The services and property of any of the foregoing providing the training.

"(b) EXPENSES.—The Secretary concerned, from appropriations or other funds available to the Secretary, may—

"(1) pay all or a part of the pay of a member of a uniformed service who is selected and assigned for training under this section, for the period of training; and

"(2) pay, or reimburse the member of a uniformed service for, all or a part of the necessary expenses of the training (without regard to subsections (a) and (b) of section 3324 of title 31), including among those expenses the necessary costs of the following:

"(A) Travel and per diem instead of subsistence under sections 404 and 405 of title 37 and the Joint Travel Regulations for the Uniformed Services.

"(B) Transportation of immediate family, household goods and personal effects, packing, crating, temporarily storing, draying, and unpacking under sections 406 and 409 of title 37 and the Joint Travel Regulations for the Uniformed Services when the estimated costs of transportation and related services are less than the estimated aggregate per diem payments for the period of training.

"(C) Tuition and matriculation fees.

"(D) Library and laboratory services.

"(E) Purchase or rental of books, materials, and supplies.

"(F) Other services or facilities directly related to the training of the member.

"(c) CERTAIN EXPENSES EXCLUDED.—The expenses of training do not include membership fees except to the extent that the fee is a necessary cost directly related to the training itself or that payment of the fee is a condition precedent to undergoing the training.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2013. Training at non-Government facilities.".

(b) EFFECTIVE DATE.—Section 2013 of title 10, United States Code, as added by subsection (a), shall take effect on October 1, 1996. 10 USC 2013 note.

SEC. 363. REQUIREMENT FOR PREPARATION OF PLAN FOR IMPROVED OPERATION OF WORKING-CAPITAL FUNDS AND EFFECT OF FAILURE TO PRODUCE AN APPROVED PLAN. 10 USC 2216a note.

(a) PLAN FOR IMPROVED OPERATION OF WORKING-CAPITAL FUNDS.—Not later than September 30, 1997, the Secretary of Defense shall submit to Congress a plan to improve the management and performance of the industrial, commercial, and support type activities of the military departments or the Defense Agencies that are currently managed through the Defense Business Operations Fund.

(b) ELEMENTS OF PLAN.—The plan required by subsection (a) shall address the following issues:

(1) The ability of each military department or Defense Agency to set working capital requirements and set charges at its own industrial and supply activities.

(2) The desirability of separate business accounts for the management of both industrial and supply activities for each military department or Defense Agency.

(3) Liability for operation losses at industrial and supply activities.

(4) Reimbursement to the Department of Defense by each military department or Defense Agency of its fair share of the costs of legitimate common business support services (such as accounting and financial services and central logistics services) provided by the Department of Defense.

(5) The role of the Department of Defense in setting charges or imposing surcharges for activities managed by the business accounts of a military department or Defense Agency (except for the common business support cost described in paragraph (4)), and what such charges should properly reflect.

(6) The appropriate use of operating profits arising from the operations of the industrial and supply activities of a military department or Defense Agency.

(7) The ability of a military department or Defense Agency to purchase industrial and supply services from, and provide such services to, other military departments or Defense Agencies.

(8) Standardization of financial management and accounting practices employed by the business accounts of a military department or Defense Agency.

(9) Reporting requirements related to actual and projected performance of business management account activities of a military department or Defense Agency.

(c) EFFECT OF FAILURE TO SUBMIT OR APPROVE OF PLAN.— 10 USC 2216a.
(1) Unless, before October 1, 1999, the Secretary of Defense submits the plan required by subsection (a) and Congress enacts a provision of law described in paragraph (2) that approves of the plan as submitted or in an amended form, then section 2216a of title 10, United States Code, regarding the Defense Business Operations

Fund (as redesignated by section 1074(a)(10) of this Act), shall be repealed effective as of that date.

(2) The provision of law referred to in paragraph (1) is a provision of law that—

(A) is enacted after the submission of the plan required by subsection (a);

(B) specifically refers to the plan and this section; and

(C) specifically states that the plan required by subsection (a) is approved as submitted or with such amendments as may be contained in such law.

(d) BASIS FOR CHARGES FOR GOODS AND SERVICES; COMPTROLLER GENERAL REVIEW.—(1) In the development of the proposed budget for the Defense Business Operations Fund for a fiscal year, the Secretary of Defense shall ensure that accurate and realistic pricing and quantity estimates are used regarding the goods and services to be provided by working-capital funds and industrial, commercial, and support type activities managed through the Fund.

(2) The Secretary of Defense shall make available to the Comptroller General information used to establish the charges for goods and services to be provided by working-capital funds and industrial, commercial, and support type activities managed through the Fund. The Comptroller General shall conduct an annual review of the adequacy of the basis for the charges. Not later than 30 days after the date on which the Secretary submits the annual report and proposed budget for the Fund under subsection (h) of section 2216a of title 10, United States Code, as redesignated by section 1074(a)(10) of this Act, the Comptroller General shall submit to Congress a report containing the results of the review.

Reports.

SEC. 364. INCREASE IN CAPITAL ASSET THRESHOLD UNDER DEFENSE BUSINESS OPERATIONS FUND.

Section 2216a of title 10, United States Code, as redesignated by section 1074(a)(10) of this Act, is amended in subsection (i)(1) by striking out "$50,000" and inserting in lieu thereof "$100,000".

SEC. 365. EXPANSION OF AUTHORITY TO DONATE UNUSABLE FOOD.

(a) AUTHORITY FOR DONATIONS FROM DEFENSE AGENCIES.—Section 2485 of title 10, United States Code, is amended by striking out "Secretary of a military department" in subsections (a) and (b) and inserting in lieu thereof "Secretary of Defense".

(b) EXPANSION OF ELIGIBLE RECIPIENTS.—Such section is further amended—

(1) in subsection (a), by striking out "authorized charitable nonprofit food banks" and inserting in lieu thereof "entities specified under subsection (d)"; and

(2) in subsection (d), by striking out "may only be made" and all that follows and inserting in lieu thereof the following: "may only be made to an entity that is one of the following:

"(1) A charitable nonprofit food bank that is designated by the Secretary of Defense or the Secretary of Health and Human Services as authorized to receive such donations.

"(2) A State or local agency that is designated by the Secretary of Defense or the Secretary of Health and Human Services as authorized to receive such donations.

"(3) A chapter or other local unit of a recognized national veterans organization that provides services to persons without adequate shelter and is designated by the Secretary of Veterans Affairs as authorized to receive such donations.

"(4) A not-for-profit organization that provides care for homeless veterans and is designated by the Secretary of Veterans Affairs as authorized to receive such donations.".

(c) CLARIFICATION OF FOOD THAT MAY BE DONATED.—Subsection (b) of such section is further amended by inserting "rations known as humanitarian daily rations (HDRs)," after "(MREs),".

SEC. 366. ASSISTANCE TO COMMITTEES INVOLVED IN INAUGURATION OF THE PRESIDENT.

(a) IN GENERAL.—Section 2543 of title 10, United States Code, is amended to read as follows:

"§ 2543. Equipment and services: Presidential inaugural ceremonies

"(a) ASSISTANCE AUTHORIZED.—The Secretary of Defense may, with respect to the ceremonies relating to the inauguration of a President, provide the assistance referred to in subsection (b) to—

"(1) the Presidential Inaugural Committee; and

"(2) the congressional Joint Inaugural Committee.

"(b) ASSISTANCE.—Assistance that may be provided under subsection (a) is the following:

"(1) Planning and carrying out activities relating to security and safety.

"(2) Planning and carrying out ceremonial activities.

"(3) Loan of property.

"(4) Any other assistance that the Secretary considers appropriate.

"(c) REIMBURSEMENT.—(1) The Presidential Inaugural Committee shall reimburse the Secretary for any costs incurred in connection with the provision to the committee of assistance referred to in subsection (b)(4).

"(2) Costs reimbursed under paragraph (1) shall be credited to the appropriations from which the costs were paid. The amount credited to an appropriation shall be proportionate to the amount of the costs charged to that appropriation.

"(d) LOANED PROPERTY.—With respect to property loaned for a presidential inauguration under subsection (b)(3), the Presidential Inaugural Committee shall—

"(1) return that property within nine days after the date of the ceremony inaugurating the President;

"(2) give good and sufficient bond for the return in good order and condition of that property;

"(3) indemnify the United States for any loss of, or damage to, that property; and

"(4) defray any expense incurred for the delivery, return, rehabilitation, replacement, or operation of that property.

"(e) DEFINITIONS.—In this section:

"(1) The term 'Presidential Inaugural Committee' means the committee referred to in subsection (b)(2) of the first section of the Presidential Inaugural Ceremonies Act (36 U.S.C. 721) that is appointed with respect to the inauguration of a President-elect and Vice President-elect.

"(2) The term 'congressional Joint Inaugural Committee' means the joint committee of the Senate and House of Representatives referred to in the proviso in section 9 of the Presidential Inaugural Ceremonies Act (36 U.S.C. 729) that is

appointed with respect to the inauguration of a President-elect and Vice President-elect.".

(b) CLERICAL AMENDMENT.—The item relating to section 2543 in the table of sections at the beginning of chapter 152 of such title is amended to read as follows:

"2543. Equipment and services: Presidential inaugural ceremonies.".

SEC. 367. DEPARTMENT OF DEFENSE SUPPORT FOR SPORTING EVENTS.

(a) AUTHORITY TO PROVIDE SUPPORT.—Subchapter II of chapter 152 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2554. Provision of support for certain sporting events

"(a) SECURITY AND SAFETY ASSISTANCE.—At the request of a Federal, State, or local government agency responsible for providing law enforcement services, security services, or safety services, the Secretary of Defense may authorize the commander of a military installation or other facility of the Department of Defense or the commander of a specified or unified combatant command to provide assistance for the World Cup Soccer Games, the Goodwill Games, the Olympics, and any other civilian sporting event in support of essential security and safety at such event, but only if the Attorney General certifies that such assistance is necessary to meet essential security and safety needs.

"(b) OTHER ASSISTANCE.—The Secretary of Defense may authorize a commander referred to in subsection (a) to provide assistance for a sporting event referred to in that subsection in support of other needs relating to such event, but only—

"(1) to the extent that such needs cannot reasonably be met by a source other than the Department;

"(2) to the extent that the provision of such assistance does not adversely affect the military preparedness of the armed forces; and

"(3) if the organization requesting such assistance agrees to reimburse the Department for amounts expended by the Department in providing the assistance in accordance with the provisions of section 377 of this title and other applicable provisions of law.

"(c) INAPPLICABILITY TO CERTAIN EVENTS.—Subsections (a) and (b) do not apply to the following sporting events:

"(1) Sporting events for which funds have been appropriated before the date of the enactment of this Act.

"(2) The Special Olympics.

"(3) The Paralympics.

"(d) TERMS AND CONDITIONS.—The Secretary of Defense may require such terms and conditions in connection with the provision of assistance under this section as the Secretary considers necessary and appropriate to protect the interests of the United States.

"(e) REPORT ON ASSISTANCE.—Not later than January 30 of each year following a year in which the Secretary of Defense provides assistance under this section, the Secretary shall submit to Congress a report on the assistance provided. The report shall set forth—

"(1) a description of the assistance provided;

"(2) the amount expended by the Department in providing the assistance;

"(3) if the assistance was provided under subsection (a), the certification of the Attorney General with respect to the assistance under that subsection; and

"(4) if the assistance was provided under subsection (b)—

"(A) an explanation why the assistance could not reasonably be met by a source other than the Department; and

"(B) the amount the Department was reimbursed under that subsection.

"(f) RELATIONSHIP TO OTHER LAWS.—Assistance provided under this section shall be subject to the provisions of sections 375 and 376 of this title.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such subchapter is amended by adding at the end the following new item:

"2554. Provision of support for certain sporting events.".

SEC. 368. STORAGE OF MOTOR VEHICLE IN LIEU OF TRANSPORTATION.

(a) STORAGE AUTHORIZED.—(1) Section 2634 of title 10, United States Code, is amended—

(A) by redesignating subsection (b) as subsection (g);

(B) by transferring subsection (g), as so redesignated, to the end of such section; and

(C) by inserting after subsection (a) the following new subsection:

"(b)(1) In lieu of transportation authorized by this section, if a member is ordered to make a change of permanent station to a foreign country and the laws, regulations, or other restrictions imposed by the foreign country or the United States preclude entry of a motor vehicle described in subsection (a) into that country, or would require extensive modification of the vehicle as a condition to entry, the member may elect to have the vehicle stored at the expense of the United States at a location approved by the Secretary concerned.

"(2) If a member is transferred or assigned in connection with a contingency operation to duty at a location other than the permanent station of the member for a period of more than 30 consecutive days, but the transfer or assignment is not considered a change of permanent station, the member may elect to have a motor vehicle described in subsection (a) stored at the expense of the United States at a location approved by the Secretary concerned.

"(3) Authorized expenses under this subsection include costs associated with the delivery of the motor vehicle for storage and removal of the vehicle for delivery to a destination approved by the Secretary concerned.".

(2)(A) The heading of such section is amended to read as follows:

"§ 2634. Motor vehicles: transportation or storage for members on change of permanent station or extended deployment".

(B) The item relating to such section in the table of sections at the beginning of chapter 157 of title 10, United States Code, is amended to read as follows:

"2634. Motor vehicles: transportation or storage for members on change of permanent station or extended deployment.".

(b) CONFORMING AMENDMENT.—Subparagraph (B) of section 406(h)(1) of title 37, United States Code, is amended to read as follows:

"(B) in the case of a member described in paragraph (2)(A), authorize the transportation of one motor vehicle, which is owned or leased by the member (or a dependent of the member) and is for the personal use of a dependent of the member, to that location by means of transportation authorized under section 2634 of title 10 or authorize the storage of the motor vehicle pursuant to subsection (b) of such section.".

10 USC 2634 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on April 1, 1997.

SEC. 369. SECURITY PROTECTIONS AT DEPARTMENT OF DEFENSE FACILITIES IN NATIONAL CAPITAL REGION.

(a) EXPANSION OF AUTHORITY.—Subsection (b) of section 2674 of title 10, United States Code, is amended by striking out "at the Pentagon Reservation" and inserting in lieu thereof "in the National Capital Region".

(b) CLERICAL AMENDMENTS.—(1) The heading of such section is amended to read as follows:

"§ 2674. Operation and control of Pentagon Reservation and defense facilities in National Capital Region".

(2) The item relating to such section in the table of sections at the beginning of chapter 159 of such title is amended to read as follows:

"2674. Operation and control of Pentagon Reservation and defense facilities in National Capital Region.".

SEC. 370. ADMINISTRATION OF MIDSHIPMEN'S STORE AND OTHER NAVAL ACADEMY SUPPORT ACTIVITIES AS NONAPPROPRIATED FUND INSTRUMENTALITY.

(a) IN GENERAL.—Section 6971 of title 10, United States Code, is amended to read as follows:

"§ 6971. Midshipmen's store, trade shops, dairy, and laundry: nonappropriated fund instrumentality and accounts

"(a) OPERATION AS NONAPPROPRIATED FUND INSTRUMENTALITY.—The Superintendent of the Naval Academy shall operate the Naval Academy activities referred to in subsection (b) as a nonappropriated fund instrumentality under the jurisdiction of the Navy.

"(b) COVERED ACTIVITIES.—The nonappropriated fund instrumentality required under subsection (a) shall consist of the following Naval Academy activities:

"(1) The midshipmen's store.

"(2) The barber shop.

"(3) The cobbler shop.
"(4) The tailor shop.
"(5) The dairy.
"(6) The laundry.

"(c) NONAPPROPRIATED FUND ACCOUNTS.—The Superintendent of the Naval Academy shall administer a separate nonappropriated fund account for each of the Naval Academy activities included in the nonappropriated fund instrumentality required under subsection (a).

"(d) CREDITING OF REVENUE.—The Superintendent shall credit all revenue received from a Naval Academy activity referred to in subsection (b) to the account administered with respect to that activity under subsection (c), and amounts so credited shall be available for operating expenses of that activity.

"(e) REGULATIONS.—This section shall be carried out under regulations prescribed by the Secretary of the Navy.".

(b) CIVIL SERVICE EMPLOYMENT STATUS OF EMPLOYEES OF COVERED ACTIVITIES.—Section 2105(b) of title 5, United States Code, is amended—

(1) by inserting "who is" after "An individual"; and

(2) by inserting "and whose employment in such a position began before October 1, 1996, and has been uninterrupted in such a position since that date" after "Academy dairy,".

(c) CONFORMING REPEAL.—Section 6970 of title 10, United States Code, is repealed.

(d) CLERICAL AMENDMENTS.—The table of sections at the beginning of chapter 603 of title 10, United States Code, is amended by striking out the items relating to sections 6970 and 6971 and inserting in lieu thereof the following new item:

"6971. Midshipmen's store, trade shops, dairy, and laundry: nonappropriated fund instrumentality and accounts.".

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1996. 5 USC 2105 note.

SEC. 371. REIMBURSEMENT UNDER AGREEMENT FOR INSTRUCTION OF CIVILIAN STUDENTS AT FOREIGN LANGUAGE INSTITUTE OF THE DEFENSE LANGUAGE INSTITUTE.

(a) AUTHORITY TO ACCEPT REIMBURSEMENT IN KIND.—Section 559(a)(1) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2776; 10 U.S.C. 4411 note) is amended—

(1) by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively; and

(2) by inserting after subsection (b) the following new subsection:

"(c) REIMBURSEMENT OPTIONS FOR CERTAIN INSTRUCTION.—In the case of instruction provided to students described in subsection (a)(1), the Secretary may provide the instruction on a cost-reimbursable basis, a reimbursement-in-kind basis, or a combination of both options. Regardless of the reimbursement option, the value of the reimbursement received under this subsection may not be less than the amount charged for providing language instruction to Federal employees who are not Department of Defense employees. The Secretary may not delegate the authority to accept an offer for in-kind reimbursement below the level of the Assistant Secretary of the Army.".

(b) CONFORMING AMENDMENTS.—Such section is further amended—

(1) in subsection (a)(1), by striking out "cost-reimbursable,"; and

(2) in subsection (d), as redesignated by subsection (a)(1) of this section, by striking out "subsection (a)" the first place it appears and inserting in lieu thereof "subsection (a) or (c)".

SEC. 372. ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES THAT BENEFIT DEPENDENTS OF MEMBERS OF THE ARMED FORCES AND DEPARTMENT OF DEFENSE CIVILIAN EMPLOYEES.

(a) CONTINUATION OF DEPARTMENT OF DEFENSE PROGRAM FOR FISCAL YEAR 1997.—Of the amounts authorized to be appropriated in section 301(5)—

(1) $30,000,000 shall be available for providing educational agencies assistance (as defined in subsection (d)(1)) to local educational agencies; and

(2) $5,000,000 shall be available for making educational agencies payments (as defined in subsection (d)(2)) to local educational agencies.

(b) NOTIFICATION.—Not later than June 30, 1997, the Secretary of Defense shall—

(1) notify each local educational agency that is eligible for educational agencies assistance for fiscal year 1997 of that agency's eligibility for such assistance and the amount of such assistance for which that agency is eligible; and

(2) notify each local educational agency that is eligible for an educational agencies payment for fiscal year 1997 of that agency's eligibility for such payment and the amount of the payment for which that agency is eligible.

(c) DISBURSEMENT OF FUNDS.—The Secretary of Defense shall disburse funds made available under paragraphs (1) and (2) of subsection (a) not later than 30 days after the date on which notification to the eligible local educational agencies is provided pursuant to subsection (b).

(d) DEFINITIONS.—In this section:

(1) The term "educational agencies assistance" means assistance authorized under section 386(b) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 20 U.S.C. 7703 note).

(2) The term "educational agencies payments" means payments authorized under section 386(d) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 20 U.S.C. 7703 note).

(3) The term "local educational agency" has the meaning given that term in section 8013(9) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7713(9)).

SEC. 373. RENOVATION OF BUILDING FOR DEFENSE FINANCE AND ACCOUNTING SERVICE CENTER, FORT BENJAMIN HARRISON, INDIANA.

(a) TRANSFER AUTHORITY.—To pay the costs of planning, design, and renovation of Building One, Fort Benjamin Harrison, Indiana, for use as a Defense Finance and Accounting Service Center, the Secretary of Defense may transfer to the Administrator of General Services in the manner provided in subsection (b) funds available

to the Department of Defense for the Defense Finance and Accounting Service for a fiscal year for operation and maintenance.

(b) AUTHORITY SUBJECT TO AUTHORIZATIONS AND APPROPRIATIONS.—To the extent provided in appropriations Acts—

(1) of funds described in subsection (a) and appropriated for fiscal year 1997, $9,000,000 may be transferred under such subsection; and

(2) of funds described in subsection (a) and appropriated for fiscal years 1998, 1999, 2000, and 2001, funds may be transferred under such subsection in such amounts as are authorized to be transferred in an Act enacted after the date of the enactment of this Act.

(c) AUTHORITY SUBJECT TO AGREEMENT BETWEEN DEPARTMENT OF DEFENSE AND GENERAL SERVICES ADMINISTRATION.—The transfer authority provided in subsection (a) shall not take effect until the date on which the Secretary of Defense and the Administrator of General Services enter into an agreement that provides for the Department of Defense to receive a full reimbursement for the funds transferred under such subsection. Such reimbursement may include reimbursement in the form of reduced or static rental rates for Building One. Effective date.

SEC. 374. FOOD DONATION PILOT PROGRAM AT SERVICE ACADEMIES.

(a) PROGRAM AUTHORIZED.—The Secretaries of the military departments and the Secretary of Transportation may each carry out a food donation pilot program at the service academy under the jurisdiction of such Secretary.

(b) DONATIONS AND COLLECTIONS OF FOOD AND GROCERY PRODUCTS.—Under the pilot program, the Secretary concerned may donate to, and permit others to collect for, a nonprofit organization any food or grocery product that—

(1) is—

(A) an apparently wholesome food;

(B) an apparently fit grocery product; or

(C) a food or grocery product that is donated in accordance with section 402(e) of the National and Community Service Act of 1990 (42 U.S.C. 12672(e));

(2) is owned by the United States;

(3) is located at a service academy under the jurisdiction of such Secretary; and

(4) is excess to the requirements of the academy.

(c) PROGRAM COMMENCEMENT.—The Secretary concerned shall commence carrying out the pilot program, if at all, during fiscal year 1997.

(d) APPLICABILITY OF GOOD SAMARITAN FOOD DONATION ACT.—Section 402 of the National and Community Service Act of 1990 (42 U.S.C. 12672) shall apply to donations and collections of food and grocery products under the pilot program without regard to section 403 of such Act (42 U.S.C. 12673).

(e) REPORTS.—(1) Each Secretary that carries out a pilot program at a service academy under this section shall submit to Congress an interim report and a final report on the pilot program.

(2) The Secretary concerned shall submit the interim report not later than one year after the date on which the Secretary commences the pilot program at a service academy.

(3) The Secretary concerned shall submit the final report not later than 90 days after the Secretary completes the pilot program at a service academy.

(4) Each report shall include the following:

(A) A description of the conduct of the pilot program.

(B) A discussion of the experience under the pilot program.

(C) An evaluation of the extent to which section 402 of the National and Community Service Act of 1990 (42 U.S.C. 12672) has been effective in protecting the United States and others from liabilities associated with actions taken under the pilot program.

(D) Any recommendations for legislation to facilitate donations or collections of excess food and grocery products of the United States or others for nonprofit organizations.

(f) DEFINITIONS.—For purposes of this section:

(1) The term "service academy" means each of the following:

(A) The United States Military Academy.

(B) The United States Naval Academy.

(C) The United States Air Force Academy.

(D) The United States Coast Guard Academy.

(2) The term "Secretary concerned" means the following:

(A) The Secretary of the Army, with respect to the United States Military Academy.

(B) The Secretary of the Navy, with respect to the United States Naval Academy.

(C) The Secretary of the Air Force, with respect to the United States Air Force Academy.

(D) The Secretary of Transportation, with respect to the United States Coast Guard Academy.

(3) The terms "apparently fit grocery product", "apparently wholesome food", "donate", "food", and "grocery product" have the meanings given those terms in section 402(b) of the National and Community Service Act of 1990 (42 U.S.C. 12672(b)).

SEC. 375. AUTHORITY OF AIR NATIONAL GUARD TO PROVIDE CERTAIN SERVICES AT LINCOLN MUNICIPAL AIRPORT, LINCOLN, NEBRASKA.

(a) AUTHORITY.—The Nebraska Air National Guard may provide fire protection services and rescue services relating to aircraft at Lincoln Municipal Airport, Lincoln, Nebraska, on behalf of the Lincoln Municipal Airport Authority, Lincoln, Nebraska.

(b) AGREEMENT.—The Nebraska Air National Guard may not provide services under subsection (a) until the Nebraska Air National Guard and the authority enter into an agreement under which the authority agrees—

(1) to reimburse the Nebraska Air National Guard for the cost of the services provided; and

(2) to hold harmless and indemnify the United States, except in cases of willful misconduct or gross negligence, from any claim for damages or injury to any person or property arising out of the provision of, or the failure to provide, such services.

(c) EFFECT ON MILITARY PREPAREDNESS.—Services may only be provided under subsection (a) to the extent that the provision of such services does not adversely affect the military preparedness of the Armed Forces.

SEC. 376. TECHNICAL AMENDMENT REGARDING IMPACT AID PROGRAM.

Paragraph (3) of section 8003(a) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703(a)) is amended by striking out "2,000 and such number equals or exceeds 15" and inserting in lieu thereof "1,000 or such number equals or exceeds 10".

TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

Subtitle A—Active Forces

Sec. 401. End strengths for active forces.
Sec. 402. Permanent end strength levels to support two major regional contingencies.
Sec. 403. Authorized strengths for commissioned officers on active duty in grades of major, lieutenant colonel, and colonel and navy grades of lieutenant commander, commander, and captain.
Sec. 404. Extension of requirement for recommendations regarding appointments to joint 4-star officer positions.
Sec. 405. Increase in authorized number of general officers on active duty in the Marine Corps.

Subtitle B—Reserve Forces

Sec. 411. End strengths for Selected Reserve.
Sec. 412. End strengths for reserves on active duty in support of the Reserves.
Sec. 413. End strengths for military technicians.
Sec. 414. Assurance of continued assignment of military personnel to serve in Selective Service System.

Subtitle C—Authorization of Appropriations

Sec. 421. Authorization of appropriations for military personnel.

Subtitle A—Active Forces

SEC. 401. END STRENGTHS FOR ACTIVE FORCES. 10 USC 115 note.

The Armed Forces are authorized strengths for active duty personnel as of September 30, 1997, as follows:

(1) The Army, 495,000.
(2) The Navy, 407,318.
(3) The Marine Corps, 174,000.
(4) The Air Force, 381,100.

SEC. 402. PERMANENT END STRENGTH LEVELS TO SUPPORT TWO MAJOR REGIONAL CONTINGENCIES.

(a) REQUIREMENT TO BUDGET FOR AND MAINTAIN STATUTORY END STRENGTH LEVELS.—Section 691 of title 10, United States Code, is amended—

(1) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively; and

(2) by striking out subsection (c) and inserting in lieu thereof the following:

"(c) The budget for the Department of Defense for any fiscal year as submitted to Congress shall include amounts for funding for each of the armed forces (other than the Coast Guard) at least in the amounts necessary to maintain the active duty end strengths prescribed in subsection (b), as in effect at the time that such budget is submitted.

"(d) No funds appropriated to the Department of Defense may be used to implement a reduction of the active duty end strength for any of the armed forces (other than the Coast Guard) for any fiscal year below the level specified in subsection (b) unless the reduction in end strength for that armed force for that fiscal year is specifically authorized by law.".

(b) TEMPORARY FLEXIBILITY RELATING TO PERMANENT END STRENGTH LEVELS.—Subsection (e) of such section, as redesignated by subsection (a)(1), is amended by striking out "not more than 0.5 percent" and inserting in lieu thereof "not more than 1 percent".

SEC. 403. AUTHORIZED STRENGTHS FOR COMMISSIONED OFFICERS ON ACTIVE DUTY IN GRADES OF MAJOR, LIEUTENANT COLONEL, AND COLONEL AND NAVY GRADES OF LIEUTENANT COMMANDER, COMMANDER, AND CAPTAIN.

(a) REVISION IN ARMY, AIR FORCE, AND MARINE CORPS LIMITATIONS.—The table in paragraph (1) of section 523(a) of title 10, United States Code, is amended to read as follows:

"Total number of commissioned officers (excluding officers in categories specified in subsection (b)) on active duty:	Number of officers who may be serving on active duty in the grade of:		
	Major	Lieutenant Colonel	Colonel
Army:			
20,000	6,848	5,253	1,613
25,000	7,539	5,642	1,796
30,000	8,231	6,030	1,980
35,000	8,922	6,419	2,163
40,000	9,614	6,807	2,347
45,000	10,305	7,196	2,530
50,000	10,997	7,584	2,713
55,000	11,688	7,973	2,897
60,000	12,380	8,361	3,080
65,000	13,071	8,750	3,264
70,000	13,763	9,138	3,447
75,000	14,454	9,527	3,631
80,000	15,146	9,915	3,814
85,000	15,837	10,304	3,997
90,000	16,529	10,692	4,181
95,000	17,220	11,081	4,364
100,000	17,912	11,469	4,548
110,000	19,295	12,246	4,915
120,000	20,678	13,023	5,281
130,000	22,061	13,800	5,648
170,000	27,593	16,908	7,116
Air Force:			
35,000	9,216	7,090	2,125
40,000	10,025	7,478	2,306
45,000	10,835	7,866	2,487
50,000	11,645	8,253	2,668
55,000	12,454	8,641	2,849
60,000	13,264	9,029	3,030
65,000	14,073	9,417	3,211

"Total number of commissioned officers (excluding officers in categories specified in subsection (b)) on active duty:	Number of officers who may be serving on active duty in the grade of:		
	Major	Lieutenant Colonel	Colonel
70,000	14,883	9,805	3,392
75,000	15,693	10,193	3,573
80,000	16,502	10,582	3,754
85,000	17,312	10,971	3,935
90,000	18,121	11,360	4,115
95,000	18,931	11,749	4,296
100,000	19,741	12,138	4,477
105,000	20,550	12,527	4,658
110,000	21,360	12,915	4,838
115,000	22,169	13,304	5,019
120,000	22,979	13,692	5,200
125,000	23,789	14,081	5,381
Marine Corps:			
10,000	2,525	1,480	571
12,500	2,900	1,600	592
15,000	3,275	1,720	613
17,500	3,650	1,840	633
20,000	4,025	1,960	654
22,500	4,400	2,080	675
25,000	4,775	2,200	695."

(b) REVISION IN NAVY LIMITATIONS.—The table in paragraph (2) of such section is amended to read as follows:

"Total number of commissioned officers (excluding officers in categories specified in subsection (b)) on active duty:	Number of officers who may be serving on active duty in grade of:		
	Lieutenant commander	Commander	Captain
Navy:			
30,000	7,331	5,018	2,116
33,000	7,799	5,239	2,223
36,000	8,267	5,460	2,330
39,000	8,735	5,681	2,437
42,000	9,203	5,902	2,544
45,000	9,671	6,123	2,651
48,000	10,139	6,343	2,758
51,000	10,606	6,561	2,864
54,000	11,074	6,782	2,971
57,000	11,541	7,002	3,078
60,000	12,009	7,222	3,185
63,000	12,476	7,441	3,292
66,000	12,944	7,661	3,398
70,000	13,567	7,954	3,541
90,000	16,683	9,419	4,254."

(c) REPEAL OF TEMPORARY AUTHORITY FOR VARIATIONS IN END STRENGTHS.—The following provisions of law are repealed:

(1) Section 402 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1639; 10 U.S.C. 523 note).

(2) Section 402 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2743; 10 U.S.C. 523 note).

(3) Section 402 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 286; 10 U.S.C. 523 note).

10 USC 523 note.

(d) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (c) shall take effect on September 1, 1997.

SEC. 404. EXTENSION OF REQUIREMENT FOR RECOMMENDATIONS REGARDING APPOINTMENTS TO JOINT 4-STAR OFFICER POSITIONS.

(a) SERVICE SECRETARY RECOMMENDATION REQUIRED.—Section 604(c) of title 10, United States Code, is amended by striking out "September 30, 1997" and inserting in lieu thereof "September 30, 2000".

(b) GRADE RELIEF WHEN RECOMMENDATION MADE.—Section 525(b)(5)(C) of such title is amended by striking out "September 30, 1997" and inserting in lieu thereof "September 30, 2000".

SEC. 405. INCREASE IN AUTHORIZED NUMBER OF GENERAL OFFICERS ON ACTIVE DUTY IN THE MARINE CORPS.

Section 526(a)(4) of title 10, United States Code, is amended by striking out "68" and inserting in lieu thereof "80".

Subtitle B—Reserve Forces

10 USC 12001 note.

SEC. 411. END STRENGTHS FOR SELECTED RESERVE.

(a) IN GENERAL.—The Armed Forces are authorized strengths for Selected Reserve personnel of the reserve components as of September 30, 1997, as follows:

(1) The Army National Guard of the United States, 366,758.

(2) The Army Reserve, 215,179.

(3) The Naval Reserve, 96,304.

(4) The Marine Corps Reserve, 42,000.

(5) The Air National Guard of the United States, 109,178.

(6) The Air Force Reserve, 73,311.

(7) The Coast Guard Reserve, 8,000.

(b) WAIVER AUTHORITY.—The Secretary of Defense may vary the end strength authorized by subsection (a) by not more than 2 percent.

(c) ADJUSTMENTS.—The end strengths prescribed by subsection (a) for the Selected Reserve of any reserve component for a fiscal year shall be proportionately reduced by—

(1) the total authorized strength of units organized to serve as units of the Selected Reserve of such component which are on active duty (other than for training) at the end of the fiscal year, and

(2) the total number of individual members not in units organized to serve as units of the Selected Reserve of such component who are on active duty (other than for training or for unsatisfactory participation in training) without their consent at the end of the fiscal year.

Whenever such units or such individual members are released from active duty during any fiscal year, the end strength prescribed for such fiscal year for the Selected Reserve of such reserve component shall be proportionately increased by the total authorized strengths of such units and by the total number of such individual members.

SEC. 412. END STRENGTHS FOR RESERVES ON ACTIVE DUTY IN SUPPORT OF THE RESERVES. 10 USC 12001 note.

Within the end strengths prescribed in section 411(a), the reserve components of the Armed Forces are authorized, as of September 30, 1997, the following number of Reserves to be serving on full-time active duty or full-time duty, in the case of members of the National Guard, for the purpose of organizing, administering, recruiting, instructing, or training the reserve components:

(1) The Army National Guard of the United States, 22,798.
(2) The Army Reserve, 11,729.
(3) The Naval Reserve, 16,603.
(4) The Marine Corps Reserve, 2,559.
(5) The Air National Guard of the United States, 10,403.
(6) The Air Force Reserve, 655.

SEC. 413. END STRENGTHS FOR MILITARY TECHNICIANS. 10 USC 115 note.

(a) AUTHORIZATION FOR FISCAL YEAR 1997.—The minimum number of military technicians as of the last day of fiscal year 1997 for the reserve components of the Army and the Air Force (notwithstanding section 129 of title 10, United States Code) shall be the following:

(1) For the Army Reserve, 6,799.
(2) For the Army National Guard of the United States, 25,500.
(3) For the Air Force Reserve, 9,802.
(4) For the Air National Guard of the United States, 23,299.

(b) INFORMATION TO BE PROVIDED WITH FUTURE AUTHORIZATION REQUESTS.—Section 10216 of title 10, United States Code, is amended—

(1) by redesignating subsection (b) as subsection (c); and
(2) by inserting after subsection (a) the following new subsection (b):

"(b) INFORMATION REQUIRED TO BE SUBMITTED WITH ANNUAL END STRENGTH AUTHORIZATION REQUEST.—(1) The Secretary of Defense shall include as part of the budget justification documents submitted to Congress with the budget of the Department of Defense for any fiscal year the following information with respect to the end strengths for military technicians requested in that budget pursuant to section 115(g) of this title, shown separately for each of the Army and Air Force reserve components:

"(A) The number of dual-status technicians in the high priority units and organizations specified in subsection (a)(1).

"(B) The number of technicians other than dual-status technicians in the high priority units and organizations specified in subsection (a)(1).

"(C) The number of dual-status technicians in other than high priority units and organizations specified in subsection (a)(1).

"(D) The number of technicians other than dual-status technicians in other than high priority units and organizations specified in subsection (a)(1).

"(2)(A) If the budget submitted to Congress for any fiscal year requests authorization for that fiscal year under section 115(g) of this title of a military technician end strength for a reserve component of the Army or Air Force in a number that constitutes a reduction from the end strength minimum established by law for that reserve component for the fiscal year during which the budget is submitted, the Secretary of Defense shall submit to the congressional defense committees with that budget a justification providing the basis for that requested reduction in technician end strength.

"(B) Any justification submitted under subparagraph (A) shall clearly delineate—

"(i) in the case of a reduction that includes a reduction in technicians described in subparagraph (A) or (C) of paragraph (1), the specific force structure reductions forming the basis for such requested technician reduction (and the numbers related to those force structure reductions); and

"(ii) in the case of a reduction that includes reductions in technicians described in subparagraphs (B) or (D) of paragraph (1), the specific force structure reductions, Department of Defense civilian personnel reductions, or other reasons forming the basis for such requested technician reduction (and the numbers related to those reductions).".

(c) TECHNICAL AMENDMENTS.—Such section is further amended—

(1) in subsection (a), by striking out "section 115" and inserting in lieu thereof "section 115(g)"; and

(2) in subsection (c), as redesignated by subsection (b)(1), by striking out "after the date of the enactment of this section" both places it appears and inserting in lieu thereof "after February 10, 1996,".

SEC. 414. ASSURANCE OF CONTINUED ASSIGNMENT OF MILITARY PERSONNEL TO SERVE IN SELECTIVE SERVICE SYSTEM.

(a) NUMBER OF MILITARY PERSONNEL TO BE ASSIGNED.—Section 10 of the Military Selective Service Act (50 U.S.C. App. 460) is amended—

(1) in subsection (b)(2), by inserting ", subject to subsection (e)," after "to employ such number of civilians, and"; and

(2) by inserting after subsection (d) the following new subsection:

"(e) The total number of armed forces personnel assigned to the Selective Service System under subsection (b)(2) at any time may not be less than the number of such personnel determined by the Director of Selective Service to be necessary, but not to exceed 745 persons, except that the President may assign additional armed forces personnel to the Selective Service System during a time of war or a national emergency declared by Congress or the President.".

(b) STYLISTIC AMENDMENTS.—Subsection (b) of such section is amended—

(1) by striking out "authorized—" in the matter preceding paragraph (1) and inserting in lieu thereof "authorized to undertake the following:";

(2) by striking out "to" at the beginning of paragraphs (1) through (7) and inserting in lieu thereof "To";

(3) by striking out "subject" at the beginning of paragraphs (8), (9), and (10) and inserting in lieu thereof "Subject"; and

(4) by striking out the semicolon at the end of paragraphs (1) through (9) and inserting in lieu thereof a period.

Subtitle C—Authorization of Appropriations

SEC. 421. AUTHORIZATION OF APPROPRIATIONS FOR MILITARY PERSONNEL.

There is hereby authorized to be appropriated to the Department of Defense for military personnel for fiscal year 1997 a total of $70,056,130,000. The authorization in the preceding sentence supersedes any other authorization of appropriations (definite or indefinite) for such purpose for fiscal year 1997.

TITLE V—MILITARY PERSONNEL POLICY

Subtitle A—Officer Personnel Policy

Sec. 501. Grade of Chief of Naval Research.
Sec. 502. Chief and assistant chief of Army Nurse Corps and Air Force Nurse Corps.
Sec. 503. Navy spot promotion authority for certain lieutenants with critical skills.
Sec. 504. Time for award of degrees by unaccredited educational institutions for graduates to be considered educationally qualified for appointment as Reserve officers in grade O–3.
Sec. 505. Exception to baccalaureate degree requirement for appointment in the Naval Reserve in grades above O–2.
Sec. 506. Chief warrant officer promotions.
Sec. 507. Service credit for senior ROTC cadets and midshipmen in simultaneous membership program.
Sec. 508. Continuation on active status for certain Reserve officers of the Air Force.
Sec. 509. Reports on response to recommendations concerning improvements to Department of Defense joint manpower process.
Sec. 510. Frequency of reports to Congress on joint officer management policies.

Subtitle B—Enlisted Personnel Policy

Sec. 511. Career service reenlistments for members with at least 10 years of service.
Sec. 512. Authority to extend period for entry on active duty under the delayed entry program.

Subtitle C—Activation and Recall

Sec. 521. Limitations on recall of retired members to active duty.
Sec. 522. Clarification of definition of active status.
Sec. 523. Limitation of requirement for physical examinations of members of National Guard called into Federal service.

Subtitle D—Reserve Component Retirement

Sec. 531. Increase in annual limit on days of inactive duty training creditable toward reserve retirement.
Sec. 532. Retirement of reserve enlisted members who qualify for active duty retirement after administrative reduction in enlisted grade.
Sec. 533. Authority for a Reserve on active duty to waive retirement sanctuary.
Sec. 534. Eligibility of Reserves for disability retirement.

Subtitle E—Other Reserve Component Matters

Sec. 541. Training for Reserves on active duty in support of the Reserves.
Sec. 542. Eligibility for enrollment in Ready Reserve mobilization income insurance program.
Sec. 543. Reserve credit for participation in Health Professions Scholarship and Financial Assistance Program.

Sec. 544. Amendments to Reserve Officer Personnel Management Act provisions.
Sec. 545. Report on number of advisers in active component support of Reserves pilot program.
Sec. 546. Sense of Congress and report regarding reemployment rights for mobilized Reservists employed in foreign countries.
Sec. 547. Payment of premiums under Mobilization Income Insurance Program.

Subtitle F—Officer Education Programs

Sec. 551. Oversight and management of Senior Reserve Officers' Training Corps program.
Sec. 552. Prohibition on reorganization of Army ROTC cadet command or termination of senior ROTC units pending report on ROTC.
Sec. 553. Pilot program to test expansion of ROTC program to include graduate students.
Sec. 554. Demonstration project for instruction and support of Army ROTC units by members of the Army Reserve and National Guard.
Sec. 555. Extension of maximum age for appointment as a cadet or midshipman in the Senior Reserve Officers' Training Corps and the service academies.
Sec. 556. Expansion of eligibility for education benefits to include certain Reserve Officers' Training Corps (ROTC) participants.
Sec. 557. Comptroller General report on cost and policy implications of permitting up to five percent of service academy graduates to be assigned directly to Reserve duty upon graduation.

Subtitle G—Decorations and Awards

Sec. 561. Authority for award of Medal of Honor to certain African American soldiers who served during World War II.
Sec. 562. Waiver of time limitations for award of certain decorations to specified persons.
Sec. 563. Replacement of certain American Theater Campaign Ribbons.

Subtitle H—Other Matters

Sec. 571. Hate crimes in the military.
Sec. 572. Disability coverage for members granted excess leave for educational or emergency purposes.
Sec. 573. Clarification of authority of a reserve judge advocate to act as a military notary public when not in a duty status.
Sec. 574. Panel on jurisdiction of courts-martial for the National Guard when not in Federal service.
Sec. 575. Authority to expand law enforcement placement program to include firefighters.
Sec. 576. Improvements to program to assist separated military and civilian personnel to obtain employment as teachers or teachers' aides.
Sec. 577. Retirement at grade to which selected for promotion when a physical disability is found at any physical examination.
Sec. 578. Revisions to missing persons authorities.

Subtitle I—Commissioned Corps of the Public Health Service

Sec. 581. Applicability to Public Health Service of prohibition on crediting cadet or midshipmen service at the service academies.
Sec. 582. Exception to strength limitations for Public Health Service officers assigned to the Department of Defense.
Sec. 583. Authority to provide legal assistance to Public Health Service officers.

Subtitle A—Officer Personnel Policy

SEC. 501. GRADE OF CHIEF OF NAVAL RESEARCH.

(a) REAR ADMIRAL (UPPER HALF).—Section 5022(a) of title 10, United States Code, is amended—

(1) by inserting "(1)" after "(a)"; and

(2) by adding at the end the following:

"(2) Unless appointed to higher grade under another provision of law, an officer, while serving in the Office of Naval Research as Chief of Naval Research, has the rank of rear admiral (upper half).".

10 USC 5022 note.

(b) EFFECTIVE DATE.—Paragraph (2) of section 5022(a) of title 10, United States Code, as added by subsection (a), shall take

effect upon the occurrence of the first vacancy in the position of Chief of Naval Research after the date of the enactment of this Act.

Sec. 502. CHIEF AND ASSISTANT CHIEF OF ARMY NURSE CORPS AND AIR FORCE NURSE CORPS.

(a) ARMY NURSE CORPS.—(1) Subsection (b) of section 3069 of title 10, United States Code, is amended—

(A) in the first sentence, by striking out "major" and inserting in lieu thereof "lieutenant colonel";

(B) by inserting after the first sentence the following: "An appointee who holds a lower regular grade shall be appointed in the regular grade of brigadier general."; and

(C) in the last sentence, by inserting "to the same position" before the period at the end.

(2) Subsection (c) of such section is amended by striking out "major" in the first sentence and inserting in lieu thereof "lieutenant colonel".

(3) The heading of such section is amended to read as follows:

"§ 3069. Army Nurse Corps: composition; Chief and assistant chief; appointment; grade

(b) AIR FORCE NURSE CORPS.—Chapter 807 of such title is amended by inserting after section 8067 the following new section:

"§ 8069. Air Force nurses: Chief and assistant chief; appointment; grade

"(a) POSITIONS OF CHIEF AND ASSISTANT CHIEF.—There are a Chief and assistant chief of the Air Force Nurse Corps.

"(b) CHIEF.—The Secretary of the Air Force shall appoint the Chief from the officers of the Regular Air Force designated as Air Force nurses whose regular grade is above lieutenant colonel and who are recommended by the Surgeon General. An appointee who holds a lower regular grade shall be appointed in the regular grade of brigadier general. The Chief serves during the pleasure of the Secretary, but not for more than three years, and may not be reappointed to the same position.

"(c) ASSISTANT CHIEF.—The Surgeon General shall appoint the assistant chief from the officers of the Regular Air Force designated as Air Force nurses whose regular grade is above lieutenant colonel.".

(c) CLERICAL AMENDMENTS.—(1) The item relating to section 3069 in the table of sections at the beginning of chapter 307 of such title is amended to read as follows:

"3069. Army Nurse Corps: composition; Chief and assistant chief; appointment; grade.".

(2) The table of sections at the beginning of chapter 807 of such title is amended by inserting after the item relating to section 8067 the following new item:

"8069. Air Force Nurse Corps: Chief and assistant chief; appointment; grade.".

Sec. 503. NAVY SPOT PROMOTION AUTHORITY FOR CERTAIN LIEUTENANTS WITH CRITICAL SKILLS.

(a) ADVICE-AND-CONSENT APPOINTMENTS.—Subsection (a) of section 5721 of title 10, United States Code, is amended by striking out "the President alone" and inserting in lieu thereof "the President, by and with the advice and consent of the Senate".

(b) REPEAL OF TERMINATION OF AUTHORITY.—Such section is further amended by striking out subsection (g).

(c) CLERICAL AMENDMENT.—The caption for subsection (a) is amended to read as follows: "PROMOTION AUTHORITY FOR CERTAIN OFFICERS WITH CRITICAL SKILLS.—".

SEC. 504. TIME FOR AWARD OF DEGREES BY UNACCREDITED EDUCATIONAL INSTITUTIONS FOR GRADUATES TO BE CONSIDERED EDUCATIONALLY QUALIFIED FOR APPOINTMENT AS RESERVE OFFICERS IN GRADE O–3.

Section 12205(c)(2)(C) of title 10, United States Code, is amended by striking out "three years" and inserting in lieu thereof "eight years".

SEC. 505. EXCEPTION TO BACCALAUREATE DEGREE REQUIREMENT FOR APPOINTMENT IN THE NAVAL RESERVE IN GRADES ABOVE O–2.

Section 12205(b)(3) of title 10, United States Code, is amended by inserting "or the Seaman to Admiral program" after "(NAVCAD) program".

SEC. 506. CHIEF WARRANT OFFICER PROMOTIONS.

(a) REDUCTION OF MINIMUM TIME IN GRADE REQUIRED FOR CONSIDERATION FOR PROMOTION.—Section 574(e) of title 10, United States Code, is amended by striking out "three years of service" and inserting in lieu thereof "two years of service".

(b) BELOW-ZONE SELECTION.—Section 575(b)(1) of such title is amended by inserting "chief warrant officer, W–3," in the first sentence after "to consider warrant officers for selection for promotion to the grade of".

SEC. 507. SERVICE CREDIT FOR SENIOR ROTC CADETS AND MIDSHIPMEN IN SIMULTANEOUS MEMBERSHIP PROGRAM.

(a) AMENDMENTS TO TITLE 10.—(1) Section 2106(c) of title 10, United States Code, is amended by striking out "while serving on active duty other than for training after July 31, 1990, while a member of the Selected Reserve" and inserting in lieu thereof "performed on or after August 1, 1979, as a member of the Selected Reserve".

(2) Section 2107(g) of such title is amended by striking out "while serving on active duty other than for training after July 31, 1990, while a member of the Selected Reserve" and inserting in lieu thereof "performed on or after August 1, 1979, as a member of the Selected Reserve".

(3) Section 2107a(g) of such title is amended by inserting ", other than enlisted service performed after August 1, 1979, as a member of Selected Reserve" after "service as a cadet or with concurrent enlisted service".

(b) AMENDMENT TO TITLE 37.—Section 205(d) of title 37, United States Code, is amended by striking out "that service after July 31, 1990, that the officer performed while serving on active duty" and inserting in lieu thereof "for service that the officer performed on or after August 1, 1979.".

10 USC 2106 note.

(c) BENEFITS NOT TO ACCRUE FOR PRIOR PERIODS.—No increase in pay or retired or retainer pay shall accrue for periods before the date of the enactment of this Act by reason of the amendments made by this section.

SEC. 508. CONTINUATION ON ACTIVE STATUS FOR CERTAIN RESERVE OFFICERS OF THE AIR FORCE.

(a) AUTHORITY.—Section 14507 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(c) TEMPORARY AUTHORITY TO RETAIN CERTAIN OFFICERS DESIGNATED AS JUDGE ADVOCATES.—(1) Notwithstanding the provisions of subsections (a) and (b), the Secretary of the Air Force may retain on the reserve active-status list any reserve officer of the Air Force who is designated as a judge advocate and who obtained the first professional degree in law while on an educational delay program subsequent to being commissioned through the Reserve Officers' Training Corps.

"(2) No more than 50 officers may be retained on the reserve active-status list under the authority of paragraph (1) at any time.

"(3) No officer may be retained on the reserve active-status list under the authority of paragraph (1) for a period exceeding three years from the date on which, but for that authority, that officer would have been removed from the reserve active-status list under subsection (a) or (b).

"(4) The authority of the Secretary of the Air Force under paragraph (1) expires on September 30, 2003.". Expiration date.

(b) EFFECTIVE DATE.—Subsection (c) of section 14507 of title 10, United States Code, as added by subsection (a), shall take effect on October 1, 1996. 10 USC 14507 note.

SEC. 509. REPORTS ON RESPONSE TO RECOMMENDATIONS CONCERNING IMPROVEMENTS TO DEPARTMENT OF DEFENSE JOINT MANPOWER PROCESS.

(a) SEMIANNUAL REPORT.—The Secretary of Defense shall submit to Congress a semiannual report on the status of actions taken by the Secretary to implement the recommendations made by the Department of Defense Inspector General in the report of November 29, 1995, entitled "Inspection of the Department of Defense Joint Manpower Process" (Report No. 96–029). The first such report shall be submitted not later than February 1, 1997. The requirement to submit such reports terminates after the fourth such report is submitted. Termination date.

(b) ADDITIONAL MATTER FOR FIRST REPORT.—As part of the first report under subsection (a), the Secretary shall include the following:

(1) The Secretary's assessment as to the need to establish a joint, centralized permanent organization in the Department of Defense to determine, validate, approve, and manage military and civilian manpower requirements resources at joint organizations.

(2) The Secretary's assessment of the Department of Defense timeline and plan to increase the capability of the joint professional military education system (including the Armed Forces Staff College) to overcome the capacity limitations cited in the report referred to in subsection (a).

(3) The Secretary's plan and timeline to provide the necessary training and education of reserve component officers.

(c) GAO ASSESSMENT.—The Comptroller General of the United States shall assess the completeness and adequacy of the corrective actions taken by the Secretary with respect to the matters covered in the Inspector General report referred to in subsection (a). Not later than one year after the date of the enactment of this Act,

the Comptroller General shall submit to Congress a report, based on the assessment under this subsection, providing the Comptroller General's findings and recommendations.

SEC. 510. FREQUENCY OF REPORTS TO CONGRESS ON JOINT OFFICER MANAGEMENT POLICIES.

(a) CHANGE FROM SEMIANNUAL TO ANNUAL REPORT.—Section 662(b) of title 10, United States Code, is amended by striking out "REPORT.—The Secretary of Defense shall periodically (and not less often than every six months) report to Congress on the promotion rates" and inserting in lieu thereof "ANNUAL REPORT.—Not later than January 1 of each year, the Secretary of Defense shall submit to Congress a report on the promotion rates during the preceding fiscal year".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Such section is further amended—

(1) in the first sentence, by striking out "clauses" and inserting in lieu thereof "paragraphs"; and

(2) in the second sentence—

(A) by inserting "for any fiscal year" after "such objectives"; and

(B) by striking out "periodic report required by this subsection" and inserting in lieu thereof "report for that fiscal year".

Subtitle B—Enlisted Personnel Policy

SEC. 511. CAREER SERVICE REENLISTMENTS FOR MEMBERS WITH AT LEAST 10 YEARS OF SERVICE.

Subsection (d) of section 505 of title 10, United States Code, is amended to read as follows:

"(d)(1) The Secretary concerned may accept a reenlistment in the Regular Army, Regular Navy, Regular Air Force, Regular Marine Corps, or Regular Coast Guard, as the case may be, for a period determined under this subsection.

"(2) In the case of a member who has less than 10 years of service in the armed forces as of the day before the first day of the period for which reenlisted, the period for which the member reenlists shall be at least two years but not more than six years.

"(3) In the case of a member who has at least 10 years of service in the armed forces as of the day before the first day of the period for which reenlisted, the Secretary concerned may accept a reenlistment for either—

"(A) a specified period of at least two years but not more than six years; or

"(B) an unspecified period.

"(4) No enlisted member is entitled to be reenlisted for a period that would expire before the end of the member's current enlistment.".

SEC. 512. AUTHORITY TO EXTEND PERIOD FOR ENTRY ON ACTIVE DUTY UNDER THE DELAYED ENTRY PROGRAM.

(a) AUTHORITY.—Section 513(b) of title 10, United States Code, is amended by inserting after the first sentence the following: "The Secretary concerned may extend the 365-day period for any person for up to an additional 180 days if the Secretary determines

that it is in the best interests of the armed force of which that person is a member to do so.".

(b) TECHNICAL AMENDMENTS.—Section 513(b) of such title, as amended by subsection (a), is further amended—

(1) by inserting "(1)" after "(b)";

(2) by designating the third sentence as paragraph (2); and

(3) in paragraph (2), as so designated, by striking out "the preceding sentence" and inserting in lieu thereof "paragraph (1)".

Subtitle C—Activation and Recall

SEC. 521. LIMITATIONS ON RECALL OF RETIRED MEMBERS TO ACTIVE DUTY.

(a) REVISION AND RECODIFICATION OF AUTHORITIES RELATING TO RETIRED MEMBERS ORDERED TO ACTIVE DUTY.—Chapter 39 of title 10, United States Code, is amended by striking out section 688 and inserting in lieu thereof the following:

"§ 688. Retired members: authority to order to active duty; duties

"(a) AUTHORITY.—Under regulations prescribed by the Secretary of Defense, a member described in subsection (b) may be ordered to active duty by the Secretary of the military department concerned at any time. Regulations.

"(b) COVERED MEMBERS.—Except as provided in subsection (d), subsection (a) applies to the following members of the armed forces:

"(1) A retired member of the Regular Army, Regular Navy, Regular Air Force, or Regular Marine Corps.

"(2) A member of the Retired Reserve who was retired under section 1293, 3911, 3914, 6323, 8911, or 8914 of this title.

"(3) A member of the Fleet Reserve or Fleet Marine Corps Reserve.

"(c) DUTIES OF MEMBER ORDERED TO ACTIVE DUTY.—The Secretary concerned may, to the extent consistent with other provisions of law, assign a member ordered to active duty under this section to such duties as the Secretary considers necessary in the interests of national defense.

"(d) EXCLUSION OF OFFICERS RETIRED ON SELECTIVE EARLY RETIREMENT BASIS.—The following officers may not be ordered to active duty under this section:

"(1) An officer who retired under section 638 of this title.

"(2) An officer who—

"(A) after having been notified that the officer was to be considered for early retirement under section 638 of this title by a board convened under section 611(b) of this title and before being considered by that board, requested retirement under section 3911, 6323, or 8911 of this title; and

"(B) was retired pursuant to that request.

"(e) LIMITATION OF PERIOD OF RECALL SERVICE.—A member ordered to active duty under subsection (a) may not serve on active duty pursuant to orders under that subsection for more than 12

months within the 24 months following the first day of the active duty to which ordered under that subsection.

"(f) WAIVER FOR PERIODS OF WAR OR NATIONAL EMERGENCY.—Subsections (d) and (e) do not apply in time of war or of national emergency declared by Congress or the President.

"§ 689. Retired members: grade in which ordered to active duty and upon release from active duty

"(a) GENERAL RULE FOR GRADE IN WHICH ORDERED TO ACTIVE DUTY.—Except as provided in subsections (b) and (c), a retired member ordered to active duty under section 688 of this title shall be ordered to active duty in the member's retired grade.

"(b) MEMBERS RETIRED IN O–9 AND O–10 GRADES.—A retired member ordered to active duty under section 688 of this title whose retired grade is above the grade of major general or rear admiral shall be ordered to active duty in the highest permanent grade held by such member while serving on active duty.

"(c) MEMBERS WHO PREVIOUSLY SERVED IN GRADE HIGHER THAN RETIRED GRADE.—(1) A retired member ordered to active duty under section 688 of this title who has previously served on active duty satisfactorily, as determined by the Secretary of the military department concerned, in a grade higher than that member's retired grade may be ordered to active duty in the highest grade in which the member had so served satisfactorily, except that such a member may not be so ordered to active duty in a grade above major general or rear admiral.

"(2) A retired member ordered to active duty in a grade that is higher than the member's retired grade pursuant to subsection (a) shall be treated for purposes of section 690 of this title as if the member was promoted to that higher grade while on that tour of active duty.

"(3) If, upon being released from that tour of active duty, such a retired member has served on active duty satisfactorily, as determined by the Secretary concerned, for not less than a total of 36 months in a grade that is a higher grade than the member's retired grade, the member is entitled to placement on the retired list in that grade.

"(d) GRADE UPON RELEASE FROM ACTIVE DUTY.—A member ordered to active duty under section 688 of this title who, while on active duty, is promoted to a grade that is higher than that member's retired grade is entitled, upon that member's release from that tour of active duty, to placement on the retired list in the highest grade in which the member served on active duty satisfactorily, as determined by the Secretary of the military department concerned, for not less than six months.

"§ 690. Retired members ordered to active duty: limitation on number

"(a) GENERAL AND FLAG OFFICERS.—Not more than 15 retired general officers of the Army, Air Force, or Marine Corps, and not more than 15 retired flag officers of the Navy, may be on active duty at any one time. For the purposes of this subsection a retired officer ordered to active duty for a period of 60 days or less is not counted.

"(b) LIMITATION BY SERVICE.—(1) Not more than 25 officers of any one armed force may be serving on active duty concurrently

pursuant to orders to active duty issued under section 688 of this title.

"(2) In the administration of paragraph (1), the following officers shall not be counted:

"(A) A chaplain who is assigned to duty as a chaplain for the period of active duty to which ordered.

"(B) A health care professional (as characterized by the Secretary concerned) who is assigned to duty as a health care professional for the period of the active duty to which ordered.

"(C) Any officer assigned to duty with the American Battle Monuments Commission for the period of active duty to which ordered.

"(c) WAIVER FOR PERIODS OF WAR OR NATIONAL EMERGENCY.—Subsection (a) does not apply in time of war or of national emergency declared by Congress or the President after November 30, 1980. Subsection (b) does not apply in time of war or of national emergency declared by Congress or the President.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on September 30, 1997. 10 USC 688 note.

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by striking out the item relating to section 688 and inserting in lieu thereof the following:

"688. Retired members: authority to order to active duty; duties.
"689. Retired members: grade in which ordered to active duty and upon release from active duty.
"690. Retired members ordered to active duty: limitation on number.".

(d) CROSS REFERENCE AMENDMENT.—Section 6151(a) of title 10, United States Code, is amended by striking out "688" and inserting in lieu thereof "689".

SEC. 522. CLARIFICATION OF DEFINITION OF ACTIVE STATUS.

Section 101(d)(4) of title 10, United States Code, is amended by striking out "a reserve commissioned officer, other than a commissioned warrant officer," and inserting in lieu thereof the following: "a member of a reserve component".

SEC. 523. LIMITATION OF REQUIREMENT FOR PHYSICAL EXAMINATIONS OF MEMBERS OF NATIONAL GUARD CALLED INTO FEDERAL SERVICE.

Section 12408(a) of title 10, United States Code, is amended by inserting "under section 12301(a), 12302, or 12304 of this title" after "called into Federal service".

Subtitle D—Reserve Component Retirement

SEC. 531. INCREASE IN ANNUAL LIMIT ON DAYS OF INACTIVE DUTY TRAINING CREDITABLE TOWARD RESERVE RETIREMENT.

(a) INCREASE IN LIMIT.—Section 12733(3) is amended by inserting before the period at the end the following: "of service before the year of service in which the date of the enactment of the National Defense Authorization Act for Fiscal Year 1997 occurs and not more than 75 days in any subsequent year of service".

(b) TRACKING SYSTEM FOR AWARD OF RETIREMENT POINTS.—To better enable the Secretary of Defense and Congress to assess 10 USC 12732 note.

the cost and the effect on readiness of the amendment made by subsection (a) and of other potential changes to the Reserve retirement system under chapter 1223 of title 10, United States Code, the Secretary of Defense shall require the Secretary of each military department to implement a system to monitor the award of retirement points for purposes of that chapter by categories in accordance with the recommendation set forth in the August 1988 report of the Sixth Quadrennial Review of Military Compensation.

10 USC 12732 note.

(c) RECOMMENDATIONS TO CONGRESS.—The Secretary shall submit to Congress, not later than one year after the date of the enactment of this Act, the recommendations of the Secretary with regard to the adoption of the following Reserve retirement initiatives recommended in the August 1988 report of the Sixth Quadrennial Review of Military Compensation:

(1) Elimination of membership points under subparagraph (C) of section 12732(a)(2) of title 10, United States Code, in conjunction with a decrease from 50 to 35 in the number of points required for a satisfactory year under that section.

(2) Limitation to 60 in any year on the number of points that may be credited under subparagraph (B) of section 12732(a)(2) of such title at two points per day.

(3) Limitation to 360 in any year on the total number of retirement points countable for purposes of section 12733 of such title.

SEC. 532. RETIREMENT OF RESERVE ENLISTED MEMBERS WHO QUALIFY FOR ACTIVE DUTY RETIREMENT AFTER ADMINISTRATIVE REDUCTION IN ENLISTED GRADE.

(a) ARMY.—(1) Chapter 369 of title 10, United States Code, is amended by inserting after section 3962 the following new section:

"§ 3963. Highest grade held satisfactorily: Reserve enlisted members reduced in grade not as a result of the member's misconduct

"(a) A Reserve enlisted member of the Army described in subsection (b) who is retired under section 3914 of this title shall be retired in the highest enlisted grade in which the member served on active duty satisfactorily (or, in the case of a member of the National Guard, in which the member served on full-time National Guard duty satisfactorily), as determined by the Secretary of the Army.

Applicability.

"(b) This section applies to a Reserve enlisted member who—

"(1) at the time of retirement is serving on active duty (or, in the case of a member of the National Guard, on full-time National Guard duty) in a grade lower than the highest enlisted grade held by the member while on active duty (or full-time National Guard duty); and

"(2) was previously administratively reduced in grade not as a result of the member's own misconduct, as determined by the Secretary of the Army.

Applicability.

"(c) This section applies with respect to Reserve enlisted members who are retired under section 3914 of this title after September 30, 1996.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 3962 the following new item:

"3963. Highest grade held satisfactorily: Reserve enlisted members reduced in grade not as a result of the member's misconduct.".

(b) NAVY AND MARINE CORPS.—(1) Chapter 571 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 6336. Highest grade held satisfactorily: Reserve enlisted members reduced in grade not as a result of the member's misconduct

"(a) A member of the Naval Reserve or Marine Corps Reserve described in subsection (b) who is transferred to the Fleet Reserve or the Fleet Marine Corps Reserve under section 6330 of this title shall be transferred in the highest enlisted grade in which the member served on active duty satisfactorily, as determined by the Secretary of the Navy.

"(b) This section applies to a Reserve enlisted member who— Applicability.

"(1) at the time of transfer to the Fleet Reserve or Fleet Marine Corps Reserve is serving on active duty in a grade lower than the highest enlisted grade held by the member while on active duty; and

"(2) was previously administratively reduced in grade not as a result of the member's own misconduct, as determined by the Secretary of the Navy.

"(c) This section applies with respect to enlisted members of the Naval Reserve and Marine Corps Reserve who are transferred to the Fleet Reserve or the Fleet Marine Corps Reserve after September 30, 1996.". Applicability.

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"6336. Highest grade held satisfactorily: Reserve enlisted members reduced in grade not as a result of the member's misconduct.".

(c) AIR FORCE.—(1) Chapter 869 of title 10, United States Code, is amended by inserting after section 8962 the following new section:

"§ 8963. Highest grade held satisfactorily: Reserve enlisted members reduced in grade not as a result of the member's misconduct

"(a) A Reserve enlisted member of the Air Force described in subsection (b) who is retired under section 8914 of this title shall be retired in the highest enlisted grade in which the member served on active duty satisfactorily (or, in the case of a member of the National Guard, in which the member served on full-time National Guard duty satisfactorily), as determined by the Secretary of the Air Force.

"(b) This section applies to a Reserve enlisted member who— Applicability.

"(1) at the time of retirement is serving on active duty (or, in the case of a member of the National Guard, on full-time National Guard duty) in a grade lower than the highest enlisted grade held by the member while on active duty (or full-time National Guard duty); and

"(2) was previously administratively reduced in grade not as a result of the member's own misconduct, as determined by the Secretary of the Air Force.

"(c) This section applies with respect to Reserve enlisted members who are retired under section 8914 of this title after September 30, 1996.". Applicability.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 8962 the following new item:

"8963. Highest grade held satisfactorily: Reserve enlisted members reduced in grade not as a result of the member's misconduct.".

(d) COMPUTATION OF RETIRED AND RETAINER PAY BASED UPON RETIRED GRADE.—(1) Section 3991 of such title is amended by adding at the end the following new subsection:

"(c) SPECIAL RULE FOR RETIRED RESERVE ENLISTED MEMBERS COVERED BY SECTION 3963.—In the case of a Reserve enlisted member retired under section 3914 of this title whose retired grade is determined under section 3963 of this title and who first became a member of a uniformed service before September 8, 1980, the retired pay base of the member (notwithstanding section 1406(a)(1) of this title) is the amount of the monthly basic pay of the member's retired grade (determined based upon the rates of basic pay applicable on the date of the member's retirement), and that amount shall be used for the purposes of subsection (a)(1)(A) rather than the amount computed under section 1406(c) of this title.".

(2) Section 6333 of such title is amended by adding at the end the following new subsection:

"(c) In the case of a Reserve enlisted member whose grade upon transfer to the Fleet Reserve or Fleet Marine Corps Reserve is determined under section 6336 of this title and who first became a member of a uniformed service before September 8, 1980, the retainer pay base of the member (notwithstanding section 1406(a)(1) of this title) is the amount of the monthly basic pay of the grade in which the member is so transferred (determined based upon the rates of basic pay applicable on the date of the member's transfer), and that amount shall be used for the purposes of the table in subsection (a) rather than the amount computed under section 1406(d) of this title.".

(3) Section 8991 of such title is amended by adding at the end the following new subsection:

"(c) SPECIAL RULE FOR RETIRED RESERVE ENLISTED MEMBERS COVERED BY SECTION 8963.—In the case of a Reserve enlisted member retired under section 8914 of this title whose retired grade is determined under section 8963 of this title and who first became a member of a uniformed service before September 8, 1980, the retired pay base of the member (notwithstanding section 1406(a)(1) of this title) is the amount of the monthly basic pay of the member's retired grade (determined based upon the rates of basic pay applicable on the date of the member's retirement), and that amount shall be used for the purposes of subsection (a)(1)(A) rather than the amount computed under section 1406(e) of this title.".

SEC. 533. AUTHORITY FOR A RESERVE ON ACTIVE DUTY TO WAIVE RETIREMENT SANCTUARY.

Section 12686 of title 10, United States Code, is amended—

(1) by inserting "(a) LIMITATION.—" before "Under regulations"; and

(2) by adding at the end the following:

"(b) WAIVER.—With respect to a member of a reserve component who is to be ordered to active duty (other than for training) under section 12301 of this title pursuant to an order to active duty that specifies a period of less than 180 days and who (but for this subsection) would be covered by subsection (a), the Secretary

concerned may require, as a condition of such order to active duty, that the member waive the applicability of subsection (a) to the member for the period of active duty covered by that order. In carrying out this subsection, the Secretary concerned may require that a waiver under the preceding sentence be executed before the period of active duty begins.".

SEC. 534. ELIGIBILITY OF RESERVES FOR DISABILITY RETIREMENT.

Paragraph (2) of section 1204 of title 10, United States Code, is amended to read as follows:

"(2) the disability is the proximate result of, or was incurred in line of duty after the date of the enactment of this Act as a result of—

"(A) performing active duty or inactive-duty training;

"(B) traveling directly to or from the place at which such duty is performed; or

"(C) an injury, illness, or disease incurred or aggravated while remaining overnight, between successive periods of inactive-duty training, at or in the vicinity of the site of the inactive duty training, if the site is outside reasonable commuting distance of the member's residence;".

Subtitle E—Other Reserve Component Matters

SEC. 541. TRAINING FOR RESERVES ON ACTIVE DUTY IN SUPPORT OF THE RESERVES.

Subsection (b) of section 12310 of title 10, United States Code, is amended to read as follows:

"(b) A Reserve on active duty as described in subsection (a) may be provided training consistent with training provided to other members on active duty, as the Secretary concerned sees fit.".

SEC. 542. ELIGIBILITY FOR ENROLLMENT IN READY RESERVE MOBILIZATION INCOME INSURANCE PROGRAM.

Section 12524 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(g) MEMBERS OF INDIVIDUAL READY RESERVE.—Notwithstanding any other provision of this section, and pursuant to regulations issued by the Secretary, a member of the Individual Ready Reserve who becomes a member of the Selected Reserve shall not be denied eligibility to purchase insurance under this chapter upon becoming a member of the Selected Reserve unless the member previously declined to enroll in the program of insurance under this chapter while a member of the Selected Reserve.". Regulations.

SEC. 543. RESERVE CREDIT FOR PARTICIPATION IN HEALTH PROFESSIONS SCHOLARSHIP AND FINANCIAL ASSISTANCE PROGRAM.

(a) CREDIT AUTHORIZED.—Section 2126 of title 10, United States Code, is amended—

(1) by striking out "Service performed" and inserting in lieu thereof "(a) SERVICE NOT CREDITABLE.—Except as provided in subsection (b), service performed"; and

(2) by adding at the end the following:

"(b) SERVICE CREDITABLE FOR CERTAIN PURPOSES.—(1) The Secretary concerned may authorize service performed by a member of the program in pursuit of a course of study under this subchapter to be counted in accordance with this subsection if the member—

"(A) completes the course of study;

"(B) completes the active duty obligation imposed under section 2123(a) of this title; and

"(C) possesses a specialty designated by the Secretary concerned as critically needed in wartime.

"(2) Service credited under paragraph (1) counts only for the following purposes:

"(A) Award of retirement points for computation of years of service under section 12732 of this title and for computation of retired pay under section 12733 of this title.

"(B) Computation of years of service creditable under section 205 of title 37.

"(3) For purposes of paragraph (2)(A), a member may be credited in accordance with paragraph (1) with not more than 50 points for each year of participation in a course of study that the member satisfactorily completes as a member of the program.

"(4) Service may not be counted under paragraph (1) for more than four years of participation in a course of study as a member of the program.

"(5) A member is not entitled to any retroactive award of, or increase in, pay or allowances under title 37 by reason of an award of service credit under paragraph (1).".

(b) AWARD OF RETIREMENT POINTS.—(1) Section 12732(a)(2) of such title is amended—

(A) by inserting after clause (C) the following:

"(D) Points credited for the year under section 2126(b) of this title."; and

(B) in the matter following clause (D), as inserted by paragraph (1), by striking out "and (C)" and inserting in lieu thereof "(C), and (D)".

(2) Section 12733(3) of such title is amended by striking out "or (C)" and inserting in lieu thereof "(C), or (D)".

SEC. 544. AMENDMENTS TO RESERVE OFFICER PERSONNEL MANAGEMENT ACT PROVISIONS.

(a) SERVICE REQUIREMENT FOR RETIREMENT IN HIGHEST GRADE HELD.—Section 1370(d) of title 10, United States Code, is amended—

(1) by redesignating paragraph (3) as paragraph (4);

(2) in paragraph (2)(A), by striking out "(A)";

(3) by redesignating paragraph (2)(B) as paragraph (3); and

(4) in paragraph (3), as so redesignated—

(A) by designating the first sentence as subparagraph (A);

(B) by designating the second sentence as subparagraph (B);

(C) in subparagraph (B), as so redesignated, by striking out "the preceding sentence" and inserting in lieu thereof "subparagraph (A)"; and

(D) by adding at the end the following:

"(C) If a person covered by subparagraph (A) has completed at least six months of satisfactory service in grade, the person

was serving in that grade while serving in a position of adjutant general required under section 314 of title 32 or while serving in a position of assistant adjutant general subordinate to such a position of adjutant general, and the person has failed to complete three years of service in that grade solely because the person's appointment to such position has been terminated or vacated as described in section 324(b) of such title, then such person may be credited with satisfactory service in that grade, notwithstanding the failure to complete three years of service in that grade.

"(D) To the extent authorized by the Secretary of the military department concerned, a person who, after having been recommended for promotion in a report of a promotion board but before being promoted to the recommended grade, served in a position for which that grade is the minimum authorized grade may be credited for purposes of subparagraph (A) as having served in that grade for the period for which the person served in that position while in the next lower grade. The period credited may not include any period before the date on which the Senate provides advice and consent for the appointment of that person in the recommended grade.

"(E) To the extent authorized by the Secretary of the military department concerned, a person who, after having been extended temporary Federal recognition as a reserve officer of the Army National Guard in a particular grade under section 308 of title 32 or temporary Federal recognition as a reserve officer of the Air National Guard in a particular grade under such section, served in a position for which that grade is the minimum authorized grade may be credited for purposes of subparagraph (A) as having served in that grade for the period for which the person served in that position while extended the temporary Federal recognition, but only if the person was subsequently extended permanent Federal recognition as a reserve officer in that grade and also served in that position after being extended the permanent Federal recognition.".

(b) EXCEPTION TO REQUIREMENT FOR RETENTION OF RESERVE OFFICERS UNTIL COMPLETION OF REQUIRED SERVICE.—Section 12645(b)(2) of such title is amended by inserting "or a reserve active-status list" after "active-duty list".

(c) TECHNICAL CORRECTION.—Section 14314(b)(2)(B) of such title is amended by striking out "of the Air Force".

SEC. 545. REPORT ON NUMBER OF ADVISERS IN ACTIVE COMPONENT SUPPORT OF RESERVES PILOT PROGRAM.

(a) REPORT ON NUMBER OF ACTIVE COMPONENT ADVISERS.—Not later than six months after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report setting forth the Secretary's determination as to the appropriate number of active component personnel to be assigned to serve as advisers to reserve components under section 414 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (10 U.S.C. 12001 note). If the Secretary's determination is that such number should be a number other than the required minimum number in effect under subsection (c) of such section, the Secretary shall include in the report an explanation providing the Secretary's justification for the number recommended.

(b) TECHNICAL AMENDMENT.—Section 414(a) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (10 U.S.C. 12001 note) is amended by striking out "During fiscal years 1992 and 1993, the Secretary of the Army shall institute" and inserting in lieu thereof "The Secretary of the Army shall carry out".

SEC. 546. SENSE OF CONGRESS AND REPORT REGARDING REEMPLOYMENT RIGHTS FOR MOBILIZED RESERVISTS EMPLOYED IN FOREIGN COUNTRIES.

(a) SENSE OF CONGRESS.—Congress is concerned about the lack of reemployment rights afforded Reserve component members who reside in foreign countries and either work for United States companies that maintain offices or operations in foreign countries or work for foreign employers. Being outside the jurisdiction of the United States, these employers are not subject to the provisions of chapter 43 of title 38, United States Code, known as the Uniformed Services Employment and Reemployment Rights Act (USERRA). The purpose of that Act is to provide statutory employment protections that include reinstatement, seniority, status, and rate of pay coverage for Reservists who are ordered to active duty for a specified period of time, including involuntary active duty in support of an operational contingency. While most Reserve members are afforded the protections of that Act (which covers reemployment rights in their civilian jobs upon completion of military service), approximately 2,000 members of the Selected Reserve reside outside the United States and its territories and, not being guaranteed the job protection envisioned by the USERRA, are potentially subject to reemployment problems after release from active duty. This situation poses a continuing personnel management challenge for the reserve components.

(b) RECOGNITION OF PROBLEM.—Congress, while recognizing that foreign governments and companies located abroad, not being within the jurisdiction of the United States, cannot be required to comply with the provisions of the Uniformed Services Employment and Reemployment Rights Act, also recognizes that there is a need to provide assistance to Reservists in the situation described in subsection (a), both in the near term and the long term.

(c) REPORT REQUIREMENT.—Not later than April 1, 1997, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report that sets forth recommended actions to help alleviate reemployment problems for Reservists who are employed outside the United States and its territories by United States companies that maintain offices or operations in foreign countries or by foreign employers. The report shall include recommendations on the assistance and support that may be required by other organizations of the Government, including the Defense Attaché Offices, the Department of Labor, and the Department of State. The report shall be prepared in consultation with the Secretary of State and the Secretary of Labor.

SEC. 547. PAYMENT OF PREMIUMS UNDER MOBILIZATION INCOME INSURANCE PROGRAM.

Section 12527(a) of title 10, United States Code, is amended—

(1) in paragraph (1), by inserting "of the Selected Reserve" after "a member"; and

(2) by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) The Secretary of Defense, in consultation with the Secretary of Transportation, shall prescribe regulations which specify the procedures for payment of premiums by members of the Individual Ready Reserve and other members who do not receive pay on a monthly basis.". Regulations.

Subtitle F—Officer Education Programs

SEC. 551. OVERSIGHT AND MANAGEMENT OF SENIOR RESERVE OFFICERS' TRAINING CORPS PROGRAM.

(a) ENROLLMENT PRIORITY TO BE CONSISTENT WITH PURPOSE OF PROGRAM.—(1) Section 2103 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(e) An educational institution at which a unit of the program has been established shall give priority for enrollment in the program to students who are eligible for advanced training under section 2104 of this title.".

(2) Section 2109 of such title is amended by adding at the end the following new subsection:

"(c)(1) A person who is not qualified for, and (as determined by the Secretary concerned) will not be able to become qualified for, advanced training by reason of one or more of the requirements prescribed in paragraphs (1) through (3) of section 2104(b) of this title shall not be permitted to participate in—

"(A) field training or a practice cruise under section 2106(b)(6) of this title; or

"(B) practical military training under subsection (a).

"(2) The Secretary of the military department concerned may waive the limitation in paragraph (1) under procedures prescribed by the Secretary. Such procedures shall ensure uniform application of limitations and restrictions without regard to the reason for disqualification for advanced training.".

(b) WEAR OF THE MILITARY UNIFORM.—Section 772(h) of such title is amended by inserting before the period at the end the following: "if the wear of such uniform is specifically authorized under regulations prescribed by the Secretary of the military department concerned".

SEC. 552. PROHIBITION ON REORGANIZATION OF ARMY ROTC CADET COMMAND OR TERMINATION OF SENIOR ROTC UNITS PENDING REPORT ON ROTC.

(a) PROHIBITION.—(1) The Secretary of the Army may not reorganize or restructure the Reserve Officers Training Corps Cadet Command, and may not terminate any Senior Reserve Officer Training Corps unit identified in the document referred to in paragraph (2), until 180 days after the date on which the Secretary submits to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives the report described in subsection (b). Reports.

(2) The document referred to in paragraph (1) is the Department of Defense document dated May 20, 1996, entitled "Information for Members of Congress concerning Senior Reserve Officer Training Corps (ROTC) Unit Closures".

(b) REPORT CONTENTS.—The report referred to in subsection (a) is a report by the Secretary of the Army in which the Secretary—

(1) describes the selection process used to identify the Reserve Officer Training Corps units of the Army to be terminated;

(2) lists the criteria used by the Army to select Reserve Officer Training Corps units for termination;

(3) sets forth the specific ranking of each unit of the Reserve Officer Training Corps of the Army to be terminated as against all other such units;

(4) sets forth the authorized and actual cadre staffing of each such unit for each fiscal year of the 10-fiscal year period ending with fiscal year 1996;

(5) sets forth the production goals and performance evaluations of each such unit for each fiscal year of the 10-fiscal year period ending with fiscal year 1996;

(6) describes how cadets currently enrolled in the units referred to in paragraph (5) will be accommodated after the closure of such units;

(7) describes the incentives to enhance the Reserve Officer Training Corps program that are provided by each of the colleges on the closure list;

(8) includes the projected officer accession plan by source of commission for the active-duty Army, the Army Reserve, and the Army National Guard; and

(9) describes whether the closure of any ROTC unit will adversely affect the recruitment of minority officer candidates.

SEC. 553. PILOT PROGRAM TO TEST EXPANSION OF ROTC PROGRAM TO INCLUDE GRADUATE STUDENTS.

(a) TEST PROGRAM.—Section 2107(c) of title 10, United States Code, is amended—

(1) by inserting "(1)" after "(c)"; and

(2) by adding at the end the following:

"(2) The Secretary of Defense shall authorize the Secretaries of the military departments to carry out a test program to determine the desirability of enabling graduate students to participate in the financial assistance program under this section. As part of such test program, the Secretary of a military department may provide financial assistance, as described in paragraph (1), to a student enrolled in an advanced education program beyond the baccalaureate degree level if the student also is a cadet or midshipman in an advanced training program. Not more than 15 percent of the total number of scholarships awarded under this section in any year may be awarded under the test program. No scholarship may be awarded under the test program after September 30, 1999.".

(b) AUTHORITY TO ENROLL IN ADVANCED TRAINING PROGRAM.—Paragraph (3) of section 2101 of title 10, United States Code, is amended by inserting "students enrolled in an advanced education program beyond the baccalaureate degree level or to" after 'instruction offered in the Senior Reserve Officers' Training Corps to".

10 USC 2107 note.

(c) REPORT TO CONGRESS.—Not later than December 31, 1998, the Secretary of Defense shall submit to Congress a report on the experience to that date under the test program authorized under the amendment made by subsection (a)(2). The report shall include the Secretary's assessment of the effect of the test program

on the Senior ROTC program and the Secretary's recommendation as to whether the authority under the test program should be made permanent.

SEC. 554. DEMONSTRATION PROJECT FOR INSTRUCTION AND SUPPORT OF ARMY ROTC UNITS BY MEMBERS OF THE ARMY RESERVE AND NATIONAL GUARD.

10 USC 2111 note.

(a) DEMONSTRATION PROJECT REQUIRED.—The Secretary of the Army shall carry out a demonstration project in order to assess the feasibility and advisability of providing instruction and similar support to units of the Senior Reserve Officers' Training Corps of the Army through members of the Army Reserve (including members of the Individual Ready Reserve) and members of the Army National Guard.

(b) PROJECT REQUIREMENTS.—(1) The Secretary shall carry out the demonstration project at at least one institution of higher education.

(2) In order to enhance the value of the project, the Secretary may take actions to ensure that members of the Army Reserve and the Army National Guard provide instruction and support under the project in a variety of innovative ways.

(c) INAPPLICABILITY OF LIMITATION ON RESERVES IN SUPPORT OF ROTC.—The assignment of a member of the Army Reserve or the Army National Guard to provide instruction or support under the demonstration project shall not be treated as an assignment of the member to duty with a unit of a Reserve Officer Training Corps program for purposes of section 12321 of title 10, United States Code.

(d) REPORTS TO CONGRESS.—Not later than February 1 in each of 1998 and 1999, the Secretary shall submit to Congress a report assessing the activities under the demonstration project during the preceding year. The report submitted in 1999 shall include the Secretary's recommendation as to the advisability of continuing or expanding the authority for the project.

(e) TERMINATION.—The authority of the Secretary to carry out the demonstration project shall expire three years after the date of the enactment of this Act.

SEC. 555. EXTENSION OF MAXIMUM AGE FOR APPOINTMENT AS A CADET OR MIDSHIPMAN IN THE SENIOR RESERVE OFFICERS' TRAINING CORPS AND THE SERVICE ACADEMIES.

(a) SENIOR RESERVE OFFICERS' TRAINING CORPS.—Sections 2107(a) and 2107a(a) of title 10, United States Code, are amended—

(1) by striking out "25 years of age" and inserting in lieu thereof "27 years of age"; and

(2) by striking out "29 years of age" and inserting in lieu thereof "30 years of age".

(b) UNITED STATES MILITARY ACADEMY.—Section 4346(a) of such title is amended by striking out "twenty-second birthday" and inserting in lieu thereof "twenty-third birthday".

(c) UNITED STATES NAVAL ACADEMY.—Section 6958(a)(1) of such title is amended by striking out "twenty-second birthday" and inserting in lieu thereof "twenty-third birthday".

(d) UNITED STATES AIR FORCE ACADEMY.—Section 9346(a) of such title is amended by striking out "twenty-second birthday" and inserting in lieu thereof "twenty-third birthday".

SEC. 556. EXPANSION OF ELIGIBILITY FOR EDUCATION BENEFITS TO INCLUDE CERTAIN RESERVE OFFICERS' TRAINING CORPS (ROTC) PARTICIPANTS.

(a) ACTIVE DUTY SERVICE.—Section 3011(c) of title 38, United States Code, is amended—

(1) by striking out "or upon completion of a program of educational assistance under section 2107 of title 10" in paragraph (2); and

(2) by adding at the end the following:

"(3) An individual who after December 31, 1976, receives a commission as an officer in the Armed Forces upon completion of a program of educational assistance under section 2107 of title 10 is not eligible for educational assistance under this section if the individual enters on active duty—

"(A) before October 1, 1996; or

"(B) after September 30, 1996, and while participating in such program received more than $2,000 for each year of such participation.".

(b) SELECTED RESERVE.—Section 3012(d) of title 38, United States Code, is amended—

(1) by striking out "or upon completion of a program of educational assistance under section 2107 of title 10" in paragraph (2); and

(2) by adding at the end the following:

"(3) An individual who after December 31, 1976, receives a commission as an officer in the Armed Forces upon completion of a program of educational assistance under section 2107 of title 10 is not eligible for educational assistance under this section if the individual enters on active duty—

"(A) before October 1, 1996; or

"(B) after September 30, 1996, and while participating in such program received more than $2,000 for each year of such participation.".

SEC. 557. COMPTROLLER GENERAL REPORT ON COST AND POLICY IMPLICATIONS OF PERMITTING UP TO FIVE PERCENT OF SERVICE ACADEMY GRADUATES TO BE ASSIGNED DIRECTLY TO RESERVE DUTY UPON GRADUATION.

(a) REPORT REQUIRED.—The Comptroller General of the United States shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report providing an analysis of the cost implications, and the policy implications, of permitting up to five percent of each graduating class of each of the service academies to be placed, upon graduation and commissioning, in an active status in the appropriate reserve component (without a minimum period of obligated active duty service), with a corresponding increase in the number of ROTC graduates each year who are permitted to serve on active duty upon commissioning.

(b) INFORMATION ON CURRENT ACADEMY GRADUATES IN RESERVE COMPONENTS.—The Comptroller General shall include in the report information (shown in the aggregate and separately for each of the Armed Forces and for graduates of each service academy) on—

(1) the number of academy graduates who at the time of the report are serving in an active status in a reserve component; and

(2) within the number under paragraph (1), the number for each reserve component and, of those, the number within each reserve component who are on active duty under section 12301(d) of title 10, United States Code, for the purpose of organizing, administering, recruiting, instructing, or training the reserve components.

(c) SUBMISSION OF REPORT.—The report shall be submitted not later than six months after the date of the enactment of this Act.

(d) SERVICE ACADEMIES.—For purposes of this section, the term "service academies" means—

(1) the United States Military Academy;

(2) the United States Naval Academy; and

(3) the United States Air Force Academy.

Subtitle G—Decorations and Awards

SEC. 561. AUTHORITY FOR AWARD OF MEDAL OF HONOR TO CERTAIN AFRICAN AMERICAN SOLDIERS WHO SERVED DURING WORLD WAR II.

(a) INAPPLICABILITY OF TIME LIMITATIONS.—Notwithstanding the time limitations in section 3744(b) of title 10, United States Code, or any other time limitation, the President may award the Medal of Honor to the persons specified in subsection (b), each of whom has been found by the Secretary of the Army to have distinguished himself conspicuously by gallantry and intrepidity at the risk of his life above and beyond the call of duty while serving in the United States Army during World War II.

(b) PERSONS ELIGIBLE TO RECEIVE THE MEDAL OF HONOR.—The persons referred to in subsection (a) are the following:

(1) Vernon J. Baker, who served as a first lieutenant in the 370th Infantry Regiment, 92nd Infantry Division. Vernon J. Baker.

(2) Edward A. Carter, who served as a staff sergeant in the 56th Armored Infantry Battalion, Twelfth Armored Division. Edward A. Carter.

(3) John R. Fox, who served as a first lieutenant in the 366th Infantry Regiment, 92nd Infantry Division. John R. Fox.

(4) Willy F. James, Jr., who served as a private first class in the 413th Infantry Regiment, 104th Infantry Division. Willy F. James, Jr.

(5) Ruben Rivers, who served as a staff sergeant in the 761st Tank Battalion. Ruben Rivers.

(6) Charles L. Thomas, who served as a first lieutenant in the 614th Tank Destroyer Battalion. Charles L. Thomas.

(7) George Watson, who served as a private in the 29th Quartermaster Regiment. George Watson.

(c) POSTHUMOUS AWARD.—The Medal of Honor may be awarded under this section posthumously, as provided in section 3752 of title 10, United States Code.

(d) PRIOR AWARD.—The Medal of Honor may be awarded under this section for service for which a Distinguished-Service Cross, or other award, has been awarded.

SEC. 562. WAIVER OF TIME LIMITATIONS FOR AWARD OF CERTAIN DECORATIONS TO SPECIFIED PERSONS.

(a) WAIVER OF TIME LIMITATION.—Any limitation established by law or policy for the time within which a recommendation

for the award of a military decoration or award must be submitted shall not apply in the case of awards of decorations as described in subsection (b), the award of each such decoration having been determined by the Secretary of the Navy to be warranted in accordance with section 1130 of title 10, United States Code.

(b) DISTINGUISHED FLYING CROSS.—Subsection (a) applies to awards of the Distinguished Flying Cross for service during World War II as follows:

(1) FIRST AWARD.—First award, for completion of at least 20 qualifying combat missions, to the following members and former members of the Armed Forces:

Vernard V. Aiken of Wilmington, Vermont.
Ira V. Babcock of Dothan, Georgia.
George S. Barlow of Grafton, Virginia.
Earl A. Bratton of Bodega Bay, California.
Travis C. Cork of Leesburg, Florida.
Herman C. Edwards of Johns Island, South Carolina.
Norman J. Ehr of Kiel, Wisconsin.
James M. Fitzgerald of Anchorage, Alaska.
Raymond C. Gordon of Sherborn, Massachusetts.
Paul L. Hitchcock of Raleigh, North Carolina.
Harold H. Hottle of Hillsboro, Ohio.
Samuel M. Keith of Anderson, South Carolina.
Stanley J. Ksiadz of Cheektowaga, New York.
Otis Lancaster of Wyoming, Michigan.
Robert W. Lorette of Wilton, New Hampshire.
John B. McCabe of Biglerville, Pennsylvania.
James P. Merriman of Midland, Texas.
The late Michael L. Michalak, formerly of Akron, New York.
The late Edward J. Naparkowsky, formerly of Hartford, Connecticut.
Pete G. Nicora of Warren, Ohio.
Stanley J. Orlowski of Jackson, Michigan.
Raymond A. Peischl of Allentown, Pennsylvania.
A. Jerome Pfeiffer of Racine, Wisconsin.
Duane L. Rhodes of Earp, California.
Frank V. Roach of Bloomfield, New Jersey.
Arnold V. Rosekrans of Horseheads, New York.
Joseph E. Seaman, Jr. of Bordentown, New Jersey.
Richard F. Shumaker of Hilliard, Ohio.
Luther E. Thomas of Panama City, Florida.
Merton S. Ward of South Hamilton, Massachusetts.
Simon L. Webb of Magnolia, Mississippi.
Jerry W. Webster of Leander, Texas.

(2) SECOND AWARD.—Second award, for completion of at least 40 qualifying combat missions, to the following members and former members of the Armed Forces:

Arthur C. Adair of Grants Pass, Oregon.
Robert B. Carnes of West Yarmouth, Massachusetts.
Daniel K. Connors of Hampton, New Hampshire.
Glen E. Danielson of Whittier, California.
Ralph J. Deceuster of Dover, Ohio.
Albert P. Emsley of Bothell, Washington.
Urbain J. Fournier of Houma, Louisiana.
Prescott C. Jernegan of Hemet, California.
Stephen K. Johnson of Englewood, Florida.

Warren E. Johnson of Vista, California.
Elbert J. Kimble of San Francisco, California.
George W. Knauff of Monument, Colorado.
John W. Lincoln of Rockland, Massachusetts.
Alan D. Marker of Sonoma, California.
Joseph J. Oliver of White Haven, Pennsylvania.
Shefield Phelps of Seattle, Washington.
John B. Tagliapiri of St. Helena, California.
Dewilles A.H.W. Schwartz of Watertown, South Dakota.
Ray B. Stiltner of Centralia, Washington.

(3) THIRD AWARD.—Third award, for completion of at least 60 qualifying combat missions, to the following members and former members of the Armed Forces:

Glenn Bowers of Dillsburg, Pennsylvania.
Arthur C. Casey of Irving, California.
Robert J. Larsen of Gulf Breeze, Florida.
David Mendoza of McAllen, Texas.
William A. Nickerson of Portland, Oregon.
Maurice F. Smith of Sequim, Washington.

(4) FOURTH AWARD.—Fourth award, for completion of at least 80 qualifying combat missions, to the following members and former members of the Armed Forces:

Robert Bair of Ontario, California.
Arvid L. Kretz of Santa Rosa, California.
George E. McClane of Cocoa Beach, Florida.
Orville R. Swick of Issaquah, Washington.

(5) FIFTH AWARD.—Fifth award, for completion of at least 100 qualifying combat missions, to the following members and former members of the Armed Forces:

William A. Baldwin of San Clemente, California.
George Bobb of Blackwood, New Jersey.
John R. Conrad of Hot Springs, Arkansas.
Herbert R. Hetrick of Roaring Springs, Pennsylvania.
William L. Wells of Cordele, Georgia.

(6) SIXTH AWARD.—Sixth award, for completion of at least 120 qualifying combat missions, to Richard L. Murray of Dallas, Texas.

SEC. 563. REPLACEMENT OF CERTAIN AMERICAN THEATER CAMPAIGN RIBBONS.

(a) REPLACEMENT RIBBONS.—The Secretary of the Army, pursuant to section 3751 of title 10, United States Code, may replace any World War II decoration known as the American Theater Campaign Ribbon that was awarded to a person listed in the order described in subsection (b).

(b) RIBBONS PROPERLY AWARDED.—Any person listed in the document titled "General Order Number 1", issued by the Third Auxiliary Surgical Group, APO 647, United States Army, dated February 1, 1943, shall be considered to have been properly awarded the American Theater Campaign Ribbon for service during World War II.

Subtitle H—Other Matters

10 USC 113 note.

SEC. 571. HATE CRIMES IN THE MILITARY.

(a) HUMAN RELATIONS TRAINING.—(1) The Secretary of Defense shall ensure that the Secretary of each military department conducts ongoing programs for human relations training for all members of the Armed Forces under the jurisdiction of the Secretary. Matters to be covered by such training include race relations, equal opportunity, opposition to gender discrimination, and sensitivity to "hate group" activity. Such training shall be provided during basic training (or other initial military training) and on a regular basis thereafter.

(2) The Secretary of Defense shall also ensure that unit commanders are aware of their responsibilities in ensuring that impermissible activity based upon discriminatory motives does not occur in units under their command.

(b) INFORMATION TO BE PROVIDED TO PROSPECTIVE RECRUITS.—The Secretary of Defense shall ensure that each individual preparing to enter an officer accession program or to execute an original enlistment agreement is provided information concerning the meaning of the oath of office or oath of enlistment for service in the Armed Forces in terms of the equal protection and civil liberties guarantees of the Constitution, and each such individual shall be informed that if supporting those guarantees is not possible personally for that individual, then that individual should decline to enter the Armed Forces.

(c) ANNUAL SURVEY.—(1) Section 451 of title 10, United States Code, is amended to read as follows:

"§ 451. Race relations, gender discrimination, and hate group activity: annual survey and report

"(a) ANNUAL SURVEY.—The Secretary of Defense shall carry out an annual survey to measure the state of racial, ethnic, and gender issues and discrimination among members of the Armed Forces serving on active duty and the extent (if any) of activity among such members that may be seen as so-called 'hate group' activity. The survey shall solicit information on the race relations and gender relations climate in the Armed Forces, including—

"(1) indicators of positive and negative trends of relations among all racial and ethnic groups and between the sexes;

"(2) the effectiveness of Department of Defense policies designed to improve race, ethnic, and gender relations; and

"(3) the effectiveness of current processes for complaints on and investigations into racial, ethnic, and gender discrimination.

"(b) IMPLEMENTING ENTITY.—The Secretary shall carry out each annual survey through the entity in the Department of Defense known as the Armed Forces Survey on Race/Ethnic Issues.

"(c) REPORTS TO CONGRESS.—Upon completion of each annual survey under subsection (a), the Secretary shall submit to Congress a report containing the results of the survey.".

(2) The item relating to such section in the table of sections at the beginning of chapter 22 of such title is amended to read as follows:

"451. Race relations, gender discrimination, and hate group activity: annual survey and report.".

SEC. 572. DISABILITY COVERAGE FOR MEMBERS GRANTED EXCESS LEAVE FOR EDUCATIONAL OR EMERGENCY PURPOSES.

(a) ELIGIBILITY FOR RETIREMENT.—Section 1201 of title 10, United States Code, is amended—

(1) by striking out the matter preceding paragraph (1) and inserting in lieu thereof the following:

"(a) RETIREMENT.—Upon a determination by the Secretary concerned that a member described in subsection (c) is unfit to perform the duties of the member's office, grade, rank, or rating because of physical disability incurred while entitled to basic pay or while absent as described in subsection (c)(3), the Secretary may retire the member, with retired pay computed under section 1401 of this title, if the Secretary also makes the determinations with respect to the member and that disability specified in subsection (b).

"(b) REQUIRED DETERMINATIONS OF DISABILITY.—Determinations referred to in subsection (a) are determinations by the Secretary that—"; and

(2) by adding at the end the following:

"(c) ELIGIBLE MEMBERS.—This section and sections 1202 and 1203 of this title apply to the following members:

"(1) A member of a regular component of the armed forces entitled to basic pay.

"(2) Any other member of the armed forces entitled to basic pay who has been called or ordered to active duty (other than for training under section 10148(a) of this title) for a period of more than 30 days.

"(3) Any other member of the armed forces who is on active duty but is not entitled to basic pay by reason of section 502(b) of title 37 due to authorized absence (A) to participate in an educational program, or (B) for an emergency purpose, as determined by the Secretary concerned.".

(b) ELIGIBILITY FOR PLACEMENT ON TEMPORARY DISABILITY RETIREMENT LIST.—Section 1202 of title 10, United States Code, is amended by striking out "a member of a regular component" and all that follows through "more than 30 days," and inserting in lieu thereof "a member described in section 1201(c) of this title".

(c) ELIGIBILITY FOR SEPARATION.—Section 1203 of title 10, United States Code, is amended by striking out the matter preceding paragraph (1) and inserting in lieu thereof the following:

"(a) SEPARATION.—Upon a determination by the Secretary concerned that a member described in section 1201(c) of this title is unfit to perform the duties of the member's office, grade, rank, or rating because of physical disability incurred while entitled to basic pay or while absent as described in section 1201(c)(3) of this title, the member may be separated from the member's armed force, with severance pay computed under section 1212 of this title, if the Secretary also makes the determinations with respect to the member and that disability specified in subsection (b).

"(b) REQUIRED DETERMINATIONS OF DISABILITY.—Determinations referred to in subsection (a) are determinations by the Secretary that—".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply with respect to physical disabilities incurred on or after such date. Applicability. 10 USC 1201 note.

SEC. 573. CLARIFICATION OF AUTHORITY OF A RESERVE JUDGE ADVOCATE TO ACT AS A MILITARY NOTARY PUBLIC WHEN NOT IN A DUTY STATUS.

Section 1044a(b) of title 10, United States Code, is amended—

(1) in paragraph (1), by striking out "on active duty or performing inactive-duty training" and inserting in lieu thereof ", including reserve judge advocates when not in a duty status";

(2) in paragraph (3), by striking out "adjutants on active duty or performing inactive-duty training" and inserting in lieu thereof "adjutants, including reserve members when not in a duty status"; and

(3) in paragraph (4), by striking out "persons on active duty or performing inactive-duty training" and inserting in lieu thereof "members of the armed forces, including reserve members when not in a duty status,".

SEC. 574. PANEL ON JURISDICTION OF COURTS-MARTIAL FOR THE NATIONAL GUARD WHEN NOT IN FEDERAL SERVICE.

(a) ESTABLISHMENT.—The Secretary of Defense shall establish a panel to review the various authorities for court-martial and nonjudicial punishment jurisdiction for the National Guard not in Federal service and the use of those authorities.

(b) MEMBERSHIP.—The Secretary shall appoint the members of the panel so as to ensure representation of the following:

(1) The State Adjutants General of the National Guard.

(2) The State Attorneys General.

(3) The Joint Service Committee on Military Justice of the Department of Defense.

(c) DUTIES.—Matters reviewed by the panel shall include the following:

(1) The extent of the use of court-martial and nonjudicial punishment authority for the National Guard not in Federal service.

(2) The extent to which the authority used is—

(A) authority under title 32, United States Code; or

(B) authority under State law.

(d) REPORT.—(1) Not later than February 1, 1997, the panel shall submit a report on the panel's findings and conclusions to the Secretary of Defense.

(2) The report shall include recommended legislation for amending title 32, United States Code—

(A) to increase the uniformity in State use of courts-martial and nonjudicial punishment for the National Guard when not in Federal service; and

(B) to achieve increased comparability between the court-martial and nonjudicial punishment procedures that are applicable to the National Guard not in Federal service and the court-martial and nonjudicial punishment procedures that are applicable under the Uniform Code of Military Justice to the National Guard in Federal service.

(e) SUBMISSION OF REPORT TO CONGRESS.—Not later than March 1, 1997, the Secretary of Defense shall submit to Congress the report of the panel under subsection (d) together with the views of the Secretary regarding the report and the matters covered in the report.

SEC. 575. AUTHORITY TO EXPAND LAW ENFORCEMENT PLACEMENT PROGRAM TO INCLUDE FIREFIGHTERS.

Section 1152(g) of title 10, United States Code, is amended—

(1) by striking out "(g) CONDITIONAL EXPANSION OF PLACEMENT TO INCLUDE FIREFIGHTERS.—(1) Subject to paragraph (2), the" and inserting in lieu thereof "(g) AUTHORITY TO EXPAND PLACEMENT TO INCLUDE FIREFIGHTERS.—The"; and

(2) in paragraph (2)—

(A) by striking out the first sentence; and

(B) in the second sentence, by inserting "authorized by this subsection" after "expansion".

SEC. 576. IMPROVEMENTS TO PROGRAM TO ASSIST SEPARATED MILITARY AND CIVILIAN PERSONNEL TO OBTAIN EMPLOYMENT AS TEACHERS OR TEACHERS' AIDES.

(a) PROGRAM FOR SEPARATED MEMBERS.—(1) Section 1151 of title 10, United States Code, is amended—

(A) in subsection (f)(2), by striking out "five school years" in subparagraphs (A) and (B) and inserting in lieu thereof "two school years"; and

(B) in subsection (h)(3)(A), by striking out "five consecutive school years" and inserting in lieu thereof "two consecutive school years".

(2) Subsection (g)(2) of such section is amended—

(A) by striking out the comma after "section 1174a of this title" and inserting in lieu thereof "or"; and

(B) by striking out ", or retires pursuant to the authority provided in section 4403 of the National Defense Authorization Act for fiscal year 1993 (Public Law 102–484; 10 U.S.C. 1293 note)".

(3) Subsection (h)(3)(B) of such section is amended—

(A) in clause (i), by striking out "$25,000" and inserting in lieu thereof "$17,000";

(B) in clause (ii)—

(i) by striking out "40 percent" and inserting in lieu thereof "25 percent"; and

(ii) by striking out "$10,000" and inserting in lieu thereof "$8,000"; and

(C) by striking out clauses (iii), (iv), and (v).

(b) SEPARATED CIVILIAN EMPLOYEES OF THE DEPARTMENT OF DEFENSE.—Section 1598(d)(2) of such title is amended by striking out "five school years" in subparagraphs (A) and (B) and inserting in lieu thereof "two school years".

(c) DISPLACED DEPARTMENT OF DEFENSE CONTRACTOR EMPLOYEES.—Section 2410j(f)(2) of such title is amended by striking out "five school years" in subparagraphs (A) and (B) and inserting in lieu thereof "two school years".

(d) SAVINGS PROVISION.—The amendments made by this section do not affect obligations under agreements entered into in accordance with section 1151, 1598, or 2410j of title 10, United States Code, before the date of the enactment of this Act. 10 USC 1151 note.

SEC. 577. RETIREMENT AT GRADE TO WHICH SELECTED FOR PROMOTION WHEN A PHYSICAL DISABILITY IS FOUND AT ANY PHYSICAL EXAMINATION.

Section 1372 of title 10, United States Code, is amended by striking out "his physical examination for promotion" in paragraphs (3) and (4) and inserting in lieu thereof "a physical examination".

SEC. 578. REVISIONS TO MISSING PERSONS AUTHORITIES.

(a) REPEAL OF APPLICABILITY OF AUTHORITIES TO DEPARTMENT OF DEFENSE CIVILIAN EMPLOYEES AND CONTRACTOR EMPLOYEES.—(1) Section 1501 of title 10, United States Code, is amended—

(A) in subsection (c)—

(i) by striking out "applies in the case of" and all that follows through "(1) Any member" and inserting in lieu thereof "applies in the case of any member"; and

(ii) by striking out paragraph (2); and

(B) by striking out subsection (f).

(2) Section 1503(c) of such title is amended—

(A) in paragraph (1), by striking out "one individual described in paragraph (2)" and inserting in lieu thereof "one military officer";

(B) by striking out paragraph (2); and

(C) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(3) Section 1504(d) of such title is amended—

(A) by striking out the text of paragraph (1) and inserting in lieu thereof the following new text: "A board appointed under this section shall be composed of at least three members who are officers having the grade of major or lieutenant commander or above."; and

(B) in paragraph (4), by striking out "section 1503(c)(4)" and inserting in lieu thereof "section 1503(c)(3)".

(4) Paragraph (1) of section 1513 of such title is amended to read as follows:

"(1) The term 'missing person' means a member of the armed forces on active duty who is in a missing status.".

(b) REPORT ON PRELIMINARY ASSESSMENT OF STATUS.—(1) Section 1502 of such title is amended—

(A) in subsection (a)(2)—

(i) by striking out "48 hours" and inserting in lieu thereof "10 days"; and

(ii) by striking out "theater component commander with jurisdiction over the missing person" and inserting in lieu thereof "Secretary concerned";

(B) by striking out subsection (b);

(C) by redesignating subsection (c) as subsection (b); and

(D) in subsection (b), as so redesignated, by striking out the second sentence.

(2) Section 1503(a) of such title is amended by striking out "section 1502(b)" and inserting in lieu thereof "section 1502(a)".

(3) Section 1513 of such title is amended by striking out paragraph (8).

(c) FREQUENCY OF SUBSEQUENT REVIEWS.—Subsection (b) of section 1505 of such title is amended to read as follows:

"(b) FREQUENCY OF SUBSEQUENT REVIEWS.—The Secretary concerned shall conduct inquiries into the whereabouts and status of a person under subsection (a) upon receipt of information that

may result in a change of status of the person. The Secretary concerned shall appoint a board to conduct such inquiries.".

(d) REPEAL OF STATUTORY PENALTIES FOR WRONGFUL WITHHOLDING OF INFORMATION.—Section 1506 of such title is amended—

(1) by striking out subsection (e); and

(2) by redesignating subsection (f) as subsection (e).

(e) INFORMATION TO ACCOMPANY RECOMMENDATION OF STATUS OF DEATH.—Section 1507(b) of such title is amended by striking out paragraphs (3) and (4).

(f) SCOPE OF PREENACTMENT REVIEW.—(1) Section 1509 of such title is amended—

(A) by striking out subsection (c); and

(B) by redesignating subsection (d) as subsection (c).

(2)(A) The heading of such section is amended by striking out ", **special interest**".

(B) The item relating to such section in the table of sections at the beginning of chapter 76 of such title is amended by striking out ", special interest".

Subtitle I—Commissioned Corps of the Public Health Service

SEC. 581. APPLICABILITY TO PUBLIC HEALTH SERVICE OF PROHIBITION ON CREDITING CADET OR MIDSHIPMEN SERVICE AT THE SERVICE ACADEMIES.

(a) PROHIBITION ON COUNTING ENLISTED SERVICE PERFORMED WHILE AT SERVICE ACADEMY.—Subsection (a) of section 971 of title 10, United States Code, is amended by inserting before the period at the end the following: "or an officer in the Commissioned Corps of the Public Health Service".

(b) PROHIBITION ON COUNTING SERVICE AS A CADET OR MIDSHIPMAN.—Subsection (b) of such section is amended to read as follows:

"(b) PROHIBITION ON COUNTING SERVICE AS A CADET OR MIDSHIPMAN.—In computing length of service for any purpose, service as a cadet or midshipman may not be credited to any of the following officers:

"(1) An officer of the Navy or Marine Corps.

"(2) A commissioned officer of the Army or Air Force.

"(3) An officer of the Coast Guard.

"(4) An officer in the commissioned corps of the Public Health Service.".

(c) TECHNICAL AMENDMENTS.—(1) Such section is further amended by adding at the end the following new subsection:

"(c) SERVICE AS A CADET OR MIDSHIPMAN DEFINED.—In this section, the term 'service as a cadet or midshipman' means—

"(1) service as a cadet at the United States Military Academy, United States Air Force Academy, or United States Coast Guard Academy; or

"(2) service as a midshipman at the United States Naval Academy.".

(2) Subsection (a) of such section is further amended—

(A) by inserting "PROHIBITION ON COUNTING ENLISTED SERVICE PERFORMED WHILE AT SERVICE ACADEMY OR IN NAVAL RESERVE.—" after "(a)"; and

(B) by striking out "while also serving" and all that follows through "Naval Academy or" and inserting in lieu thereof "while also performing service as a cadet or midshipman or serving as a midshipman".

(3) The heading of such section, and the item relating to such section in the table of sections at the beginning of chapter 49 of such title, are amended by striking out the seventh word.

SEC. 582. EXCEPTION TO STRENGTH LIMITATIONS FOR PUBLIC HEALTH SERVICE OFFICERS ASSIGNED TO THE DEPARTMENT OF DEFENSE.

Section 206 of the Public Health Service Act (42 U.S.C. 207) is amended by adding at the end the following new subsection:

"(f) In computing the maximum number of commissioned officers of the Public Health Service authorized by law or administrative determination to serve on active duty, there may be excluded from such computation officers who are assigned to duty in the Department of Defense.".

SEC. 583. AUTHORITY TO PROVIDE LEGAL ASSISTANCE TO PUBLIC HEALTH SERVICE OFFICERS.

(a) LEGAL ASSISTANCE AVAILABLE.—Subsection (a) of section 1044 of title 10, United States Code, is amended by striking out paragraph (3) and inserting in lieu thereof the following:

"(3) Officers of the commissioned corps of the Public Health Service who are on active duty or entitled to retired or equivalent pay.

"(4) Dependents of members and former members described in paragraphs (1), (2), and (3).".

(b) LIMITATION ON ASSISTANCE.—Subsection (c) of such section is amended—

(1) by striking out "armed forces" and inserting in lieu thereof "uniformed services described in subsection (a)"; and

(2) by inserting "such" after "dependent of".

(c) CLARIFYING AMENDMENTS.—Subsection (a) of such section is further amended by striking out "under his jurisdiction" in paragraphs (1) and (2).

(d) STYLISTIC AMENDMENTS.—Subsection (a) of such section is further amended—

(1) in the matter preceding paragraph (1), by striking out "to—" and inserting in lieu thereof "to the following persons:";

(2) by capitalizing the first letter of the first word of paragraphs (1) and (2);

(3) by striking out the semicolon at the end of paragraph (1) and inserting in lieu thereof a period; and

(4) by striking out "; and" at the end of paragraph (2) and inserting in lieu thereof a period.

TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

Subtitle A—Pay and Allowances

Sec. 601. Military pay raise for fiscal year 1997.
Sec. 602. Adjustment of rate of cadet and midshipman pay.
Sec. 603. Pay of senior noncommissioned officers while hospitalized.
Sec. 604. Availability of basic allowance for quarters for certain members without dependents who serve on sea duty.

Sec. 605. Uniform applicability of discretion to deny an election not to occupy Government quarters.
Sec. 606. Establishment of minimum monthly amount of variable housing allowance for high housing cost areas.
Sec. 607. Family separation allowance for members separated by military orders from spouses who are members.
Sec. 608. Waiver of time limitations for claim for pay and allowances.

Subtitle B—Bonuses and Special and Incentive Pays

Sec. 611. One-year extension of certain bonuses and special pay authorities for Reserve forces.
Sec. 612. One-year extension of certain bonuses and special pay authorities for nurse officer candidates, registered nurses, and nurse anesthetists.
Sec. 613. One-year extension of authorities relating to payment of other bonuses and special pays.
Sec. 614. Special pay for certain Public Health Service officers.
Sec. 615. Special incentives to recruit and retain dental officers.
Sec. 616. Foreign language proficiency pay for Public Health Service and National Oceanic and Atmospheric Administration officers.

Subtitle C—Travel and Transportation Allowances

Sec. 621. Allowance in connection with shipping motor vehicle at Government expense.
Sec. 622. Dislocation allowance at a rate equal to two and one-half months basic allowance for quarters.
Sec. 623. Allowance for travel performed in connection with leave between consecutive overseas tours.
Sec. 624. Funding for transportation of household effects of Public Health Service officers.

Subtitle D—Retired Pay, Survivor Benefits, and Related Matters

Sec. 631. Effective date for military retiree cost-of-living adjustment for fiscal year 1998.
Sec. 632. Clarification of initial computation of retiree COLAs after retirement.
Sec. 633. Suspension of payment of retired pay of members who are absent from the United States to avoid prosecution.
Sec. 634. Nonsubstantive restatement of Survivor Benefit Plan statute.
Sec. 635. Increases in Survivor Benefit Plan contributions to be effective concurrently with payment of retired pay cost-of-living increases.
Sec. 636. Amendments to the Uniformed Services Former Spouses' Protection Act.
Sec. 637. Prevention of circumvention of court order by waiver of retired pay to enhance civil service retirement annuity.
Sec. 638. Administration of benefits for so-called minimum income widows.

Subtitle E—Other Matters

Sec. 651. Discretionary allotment of pay, including retired or retainer pay.
Sec. 652. Reimbursement for adoption expenses incurred in adoptions through private placements.
Sec. 653. Waiver of recoupment of amounts withheld for tax purposes from certain separation pay.
Sec. 654. Technical correction clarifying limitation on furnishing clothing or allowances for enlisted National Guard technicians.
Sec. 655. Technical correction to prior authority for payment of back pay to certain persons.
Sec. 656. Compensation for persons awarded prisoner of war medal who did not previously receive compensation as a prisoner of war.
Sec. 657. Payments to certain persons captured and interned by North Vietnam.

Subtitle A—Pay and Allowances

SEC. 601. MILITARY PAY RAISE FOR FISCAL YEAR 1997. 37 USC 1009 note.

(a) WAIVER OF SECTION 1009 ADJUSTMENT.—Any adjustment required by section 1009 of title 37, United States Code, in elements of compensation of members of the uniformed services to become effective during fiscal year 1997 shall not be made.

(b) INCREASE IN BASIC PAY AND BAS.—Effective on January 1, 1997, the rates of basic pay and basic allowance for subsistence of members of the uniformed services are increased by 3.0 percent. Effective date.

Effective date.

(c) INCREASE IN BAQ.—Effective on January 1, 1997, the rates of basic allowance for quarters of members of the uniformed services are increased by 4.6 percent.

SEC. 602. ADJUSTMENT OF RATE OF CADET AND MIDSHIPMAN PAY.

Section 203(c) of title 37, United States Code, is amended—

(1) by striking out paragraph (2); and

(2) in paragraph (1), by striking out "(1)".

SEC. 603. PAY OF SENIOR NONCOMMISSIONED OFFICERS WHILE HOSPITALIZED.

(a) PAY DURING HOSPITALIZATION.—Section 210 of title 37, United States Code, is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following new subsection (b):

"(b) A noncommissioned officer of an armed force who is hospitalized and who, during or immediately before such hospitalization, completed service as the senior enlisted member of that armed force, shall continue to be entitled, for not more than 180 days while so hospitalized, to the rate of basic pay authorized for the senior enlisted member of that armed force.".

(b) CLERICAL AMENDMENTS.—(1) The heading of such section is amended to read as follows:

"§ 210. Pay of senior enlisted members during terminal leave and while hospitalized".

(2) The item relating to such section in the table of sections at the beginning of chapter 3 of title 37, United States Code, is amended to read as follows:

"210. Pay of senior enlisted members during terminal leave and while hospitalized.".

SEC. 604. AVAILABILITY OF BASIC ALLOWANCE FOR QUARTERS FOR CERTAIN MEMBERS WITHOUT DEPENDENTS WHO SERVE ON SEA DUTY.

(a) ENTITLEMENT OF SINGLE MEMBERS ABOVE GRADE E–5.—Section 403(c)(2) of title 37, United States Code, is amended—

(1) by striking out "A member" in the first sentence and inserting in lieu thereof "(A) Except as provided in subparagraphs (B) and (C), a member"; and

(2) by striking out the second sentence.

(b) ENTITLEMENT OF CERTAIN SINGLE MEMBERS IN GRADE E–5.—Such section is further amended by adding at the end the following new subparagraph:

Regulations.

"(B) Under regulations prescribed by the Secretary concerned, the Secretary may authorize the payment of a basic allowance for quarters to a member of a uniformed service without dependents who is serving in pay grade E–5 and is assigned to sea duty. In prescribing regulations under this subparagraph, the Secretary concerned shall consider the availability of quarters for members serving in pay grade E–5.".

(c) ENTITLEMENT WHEN BOTH SPOUSES IN GRADES BELOW GRADE E–6 ARE ASSIGNED TO SEA DUTY.—Such section is further amended by inserting after subparagraph (B), as added by subsection (b), the following new subparagraph:

"(C) Notwithstanding section 421 of this title, two members of the uniformed services in a pay grade below pay grade

E–6 who are married to each other, have no other dependents, and are simultaneously assigned to sea duty are jointly entitled to one basic allowance for quarters during the period of such simultaneous sea duty. The amount of the allowance shall be based on the without dependents rate for the pay grade of the senior member of the couple. However, this subparagraph shall not apply to a couple if one or both of the members are entitled to a basic allowance for quarters under subparagraph (B).".

(d) CONFORMING AMENDMENT REGARDING VARIABLE HOUSING ALLOWANCE.—Section 403a(b)(2)(C) of title 37, United States Code, is amended by striking out "E–6" and inserting in lieu thereof "E–4".

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 1, 1997. 37 USC 403 note.

SEC. 605. UNIFORM APPLICABILITY OF DISCRETION TO DENY AN ELECTION NOT TO OCCUPY GOVERNMENT QUARTERS.

Section 403(b)(3) of title 37, United States Code, is amended by striking out "A member" and inserting in lieu thereof "Subject to the provisions of subsection (j), a member".

SEC. 606. ESTABLISHMENT OF MINIMUM MONTHLY AMOUNT OF VARIABLE HOUSING ALLOWANCE FOR HIGH HOUSING COST AREAS.

(a) MINIMUM MONTHLY AMOUNT OF ALLOWANCE.—Subsection (c) of section 403a of title 37, United States Code, is amended by striking out paragraph (1) and inserting in lieu thereof the following new paragraph:

"(1) The monthly amount of a variable housing allowance under this section for a member of a uniformed service with respect to an area is equal to the greater of the following amounts:

"(A) An amount equal to the difference between—

"(i) the median monthly cost of housing in that area for members of the uniformed services serving in the same pay grade and with the same dependency status as that member; and

"(ii) 80 percent of the median monthly cost of housing in the United States for members of the uniformed services serving in the same pay grade and with the same dependency status as that member.

"(B) An amount equal to the difference between—

"(i) the adequate housing allowance floor determined by the Secretary of Defense for all members of the uniformed services in that area entitled to a variable housing allowance under this section; and

"(ii) the monthly basic allowance for quarters for members of the uniformed services serving in the same pay grade and with the same dependency status as that member.".

(b) ADEQUATE HOUSING ALLOWANCE FLOOR.—Such subsection is further amended by adding at the end the following new paragraph:

"(7)(A) For purposes of paragraph (1)(B)(i), the Secretary of Defense shall establish an adequate housing allowance floor for members of the uniformed services in an area as a selected percentage, not to exceed 85 percent, of the cost of adequate housing in that area based on an index of housing costs selected by the Secretary of Defense from among the following:

"(i) The fair market rentals established annually by the Secretary of Housing and Urban Development under section 8(c)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)(1)).

"(ii) An index developed in the private sector that the Secretary of Defense determines is comparable to the fair market rentals referred to in clause (i) and is appropriate for use to determine the adequate housing allowance floor.

"(B) The Secretary of Defense shall carry out this paragraph in consultation with the Secretary of Transportation, the Secretary of Commerce, and the Secretary of Health and Human Services.".

(c) EFFECT ON TOTAL AMOUNT AVAILABLE FOR ALLOWANCE.—Subsection (d)(3) of such section is amended in the second sentence by striking out "the second sentence of subsection (c)(3)" and inserting in lieu thereof "paragraph (1)(B) of subsection (c) and the second sentence of paragraph (3) of that subsection".

(d) CONFORMING AMENDMENTS.—Subsection (c) of such section is further amended—

(1) in paragraph (3), by striking out "this subsection" in the first sentence and inserting in lieu thereof "paragraph (1)(A) or the minimum amount of a variable housing allowance under paragraph (1)(B)"; and

(2) in paragraph (5), by inserting "or minimum amount of a variable housing allowance" after "costs of housing".

Federal Register, publication. 37 USC 403a note.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1997, except that the Secretary of Defense may delay implementation of the requirements imposed by the amendments to such later date as the Secretary considers appropriate upon publication of notice to that effect in the Federal Register.

SEC. 607. FAMILY SEPARATION ALLOWANCE FOR MEMBERS SEPARATED BY MILITARY ORDERS FROM SPOUSES WHO ARE MEMBERS.

(a) ADDITIONAL BASIS FOR ALLOWANCE.—Paragraph (1) of section 427(b) of title 37, United States Code, is amended—

(1) by striking out "or" at the end of subparagraph (B);

(2) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof "; or"; and

(3) by adding at the end the following new subparagraph:

"(D) the member is married to a member of a uniformed service, the member has no dependent other than the spouse, the two members are separated by reason of the execution of military orders, and the two members were residing together immediately before being separated by reason of execution of military orders.".

(b) CONFORMING AMENDMENT.—Such section is further amended by adding at the end the following new paragraph:

"(5) Section 421 of this title does not apply to bar an entitlement to an allowance under paragraph (1)(D). However, not more than one monthly allowance may be paid with respect to a married couple under paragraph (1)(D) for any month.".

SEC. 608. WAIVER OF TIME LIMITATIONS FOR CLAIM FOR PAY AND ALLOWANCES.

Section 3702 of title 31, United States Code, is amended by adding at the end the following new subsection:

"(e)(1) Upon the request of the Secretary concerned (as defined in section 101 of title 37, United States Code), the Comptroller General may waive the time limitations set forth in subsection (b) or (c) in the case of a claim for pay or allowances provided under title 37 and, subject to paragraph (2), settle the claim.

"(2) Payment of a claim settled under paragraph (1) shall be subject to the availability of appropriations for payment of that particular claim.

"(3) This subsection does not apply to a claim in excess of $25,000.".

Subtitle B—Bonuses and Special and Incentive Pays

SEC. 611. ONE-YEAR EXTENSION OF CERTAIN BONUSES AND SPECIAL PAY AUTHORITIES FOR RESERVE FORCES.

(a) SPECIAL PAY FOR CRITICALLY SHORT WARTIME HEALTH SPECIALISTS.—Section 302g(f) of title 37, United States Code, is amended by striking out "September 30, 1997" and inserting in lieu thereof "September 30, 1998".

(b) SELECTED RESERVE REENLISTMENT BONUS.—Section 308b(f) of title 37, United States Code, is amended by striking out "September 30, 1997" and inserting in lieu thereof "September 30, 1998".

(c) SELECTED RESERVE ENLISTMENT BONUS.—Section 308c(e) of title 37, United States Code, is amended by striking out "September 30, 1997" and inserting in lieu thereof "September 30, 1998".

(d) SPECIAL PAY FOR ENLISTED MEMBERS ASSIGNED TO CERTAIN HIGH PRIORITY UNITS.—Section 308d(c) of title 37, United States Code, is amended by striking out "September 30, 1997" and inserting in lieu thereof "September 30, 1998".

(e) SELECTED RESERVE AFFILIATION BONUS.—Section 308e(e) of title 37, United States Code, is amended by striking out "September 30, 1997" and inserting in lieu thereof "September 30, 1998".

(f) READY RESERVE ENLISTMENT AND REENLISTMENT BONUS.—Section 308h(g) of title 37, United States Code, is amended by striking out "September 30, 1997" and inserting in lieu thereof "September 30, 1998".

(g) PRIOR SERVICE ENLISTMENT BONUS.—Section 308i(i) of title 37, United States Code, is amended by striking out "September 30, 1997" and inserting in lieu thereof "September 30, 1998".

SEC. 612. ONE-YEAR EXTENSION OF CERTAIN BONUSES AND SPECIAL PAY AUTHORITIES FOR NURSE OFFICER CANDIDATES, REGISTERED NURSES, AND NURSE ANESTHETISTS.

(a) NURSE OFFICER CANDIDATE ACCESSION PROGRAM.—Section 2130a(a)(1) of title 10, United States Code, is amended by striking out "September 30, 1997" and inserting in lieu thereof "September 30, 1998".

(b) ACCESSION BONUS FOR REGISTERED NURSES.—Section 302d(a)(1) of title 37, United States Code, is amended by striking out "September 30, 1997" and inserting in lieu thereof "September 30, 1998".

(c) INCENTIVE SPECIAL PAY FOR NURSE ANESTHETISTS.—Section 302e(a)(1) of title 37, United States Code, is amended by striking out "September 30, 1997" and inserting in lieu thereof "September 30, 1998".

SEC. 613. ONE-YEAR EXTENSION OF AUTHORITIES RELATING TO PAYMENT OF OTHER BONUSES AND SPECIAL PAYS.

(a) AVIATION OFFICER RETENTION BONUS.—Section 301b(a) of title 37, United States Code, is amended by striking out "September 30, 1997" and inserting in lieu thereof "September 30, 1998,".

(b) REENLISTMENT BONUS FOR ACTIVE MEMBERS.—Section 308(g) of title 37, United States Code, is amended by striking out "September 30, 1997" and inserting in lieu thereof "September 30, 1998".

(c) ENLISTMENT BONUSES FOR CRITICAL SKILLS.—Sections 308a(c) and 308f(c) of title 37, United States Code, are each amended by striking out "September 30, 1997" and inserting in lieu thereof "September 30, 1998".

(d) SPECIAL PAY FOR NUCLEAR QUALIFIED OFFICERS EXTENDING PERIOD OF ACTIVE SERVICE.—Section 312(e) of title 37, United States Code, is amended by striking out "September 30, 1997" and inserting in lieu thereof "September 30, 1998".

(e) NUCLEAR CAREER ACCESSION BONUS.—Section 312b(c) of title 37, United States Code, is amended by striking out "September 30, 1997" and inserting in lieu thereof "September 30, 1998".

(f) NUCLEAR CAREER ANNUAL INCENTIVE BONUS.—Section 312c(d) of title 37, United States Code, is amended by striking out "October 1, 1997" and inserting in lieu thereof "October 1, 1998".

(g) REPAYMENT OF EDUCATION LOANS FOR CERTAIN HEALTH PROFESSIONALS WHO SERVE IN THE SELECTED RESERVE.—Section 16302(d) of title 10, United States Code, is amended by striking out "October 1, 1997" and inserting in lieu thereof "October 1, 1998".

SEC. 614. SPECIAL PAY FOR CERTAIN PUBLIC HEALTH SERVICE OFFICERS.

(a) OPTOMETRISTS.—Section 302a(b) of title 37, United States Code, is amended—

(1) in paragraph (2)—

(A) by striking out "an armed force" in the matter preceding subparagraph (A) and inserting in lieu thereof "a uniformed service"; and

(B) by striking out "of the military department" in subparagraph (C); and

(2) in paragraph (4), by striking out "of the military department".

(b) NONPHYSICIAN HEALTH CARE PROVIDERS.—Section 302c(d) of title 37, United States Code, is amended—

(1) in the matter preceding paragraph (1), by striking out "Secretary of Defense" and inserting in lieu thereof "Secretary concerned"; and

(2) in paragraph (1)—

(A) by striking out "or" the third place it appears; and

(B) by inserting before the period at the end the following: ", or an officer in the Regular or Reserve Corps of the Public Health Service".

SEC. 615. SPECIAL INCENTIVES TO RECRUIT AND RETAIN DENTAL OFFICERS.

(a) VARIABLE, ADDITIONAL, AND BOARD CERTIFIED SPECIAL PAYS FOR ACTIVE DUTY DENTAL OFFICERS.—Section 302b(a) of title 37, United States Code, is amended—

(1) in paragraph (2)—

(A) in subparagraph (A), by striking out "$1,200" and inserting in lieu thereof "$3,000";

(B) in subparagraph (B), by striking out "$2,000" and inserting in lieu thereof "$7,000"; and

(C) in subparagraph (C), by striking out "$4,000" and inserting in lieu thereof "$7,000";

(2) in paragraph (4), by striking out subparagraphs (A), (B), and (C) and inserting in lieu thereof the following:

"(A) $4,000 per year, if the officer has less than three years of creditable service.

"(B) $6,000 per year, if the officer has at least three but less than 14 years of creditable service.

"(C) $8,000 per year, if the officer has at least 14 but less than 18 years of creditable service.

"(D) $10,000 per year, if the officer has at least 18 or more years of creditable service."; and

(3) in paragraph (5), by striking out subparagraphs (A), (B), and (C) and inserting in lieu thereof the following:

"(A) $2,500 per year, if the officer has less than 10 years of creditable service.

"(B) $3,500 per year, if the officer has at least 10 but less than 12 years of creditable service.

"(C) $4,000 per year, if the officer has at least 12 but less than 14 years of creditable service.

"(D) $5,000 per year, if the officer has at least 14 but less than 18 years of creditable service.

"(E) $6,000 per year, if the officer has 18 or more years of creditable service.".

(b) RESERVE DENTAL OFFICERS SPECIAL PAY.—Section 302b of title 37, United States Code, is amended by adding at the end the following new subsection:

"(h) RESERVE DENTAL OFFICERS SPECIAL PAY.—(1) A reserve dental officer described in paragraph (2) is entitled to special pay at the rate of $350 a month for each month of active duty, including active duty in the form of annual training, active duty for training, and active duty for special work.

"(2) A reserve dental officer referred to in paragraph (1) is a reserve officer who—

"(A) is an officer of the Dental Corps of the Army or the Navy or an officer of the Air Force designated as a dental officer; and

"(B) is on active duty under a call or order to active duty for a period of less than one year.".

(c) ACCESSION BONUS FOR DENTAL SCHOOL GRADUATES WHO ENTER THE ARMED FORCES.—(1) Chapter 5 of title 37, United States Code, is amended by inserting after section 302g the following new section:

"§ 302h. Special pay: accession bonus for dental officers

"(a) ACCESSION BONUS AUTHORIZED.—(1) A person who is a graduate of an accredited dental school and who, during the period

beginning on the date of the enactment of this section, and ending on September 30, 2002, executes a written agreement described in subsection (c) to accept a commission as an officer of the armed forces and remain on active duty for a period of not less than four years may, upon the acceptance of the agreement by the Secretary concerned, be paid an accession bonus in an amount determined by the Secretary concerned.

"(2) The amount of an accession bonus under paragraph (1) may not exceed $30,000.

"(b) LIMITATION ON ELIGIBILITY FOR BONUS.—A person may not be paid a bonus under subsection (a) if—

"(1) the person, in exchange for an agreement to accept an appointment as an officer, received financial assistance from the Department of Defense to pursue a course of study in dentistry; or

"(2) the Secretary concerned determines that the person is not qualified to become and remain certified and licensed as a dentist.

"(c) AGREEMENT.—The agreement referred to in subsection (a) shall provide that, consistent with the needs of the armed service concerned, the person executing the agreement will be assigned to duty, for the period of obligated service covered by the agreement, as an officer of the Dental Corps of the Army or the Navy or an officer of the Air Force designated as a dental officer.

"(d) REPAYMENT.—(1) An officer who receives a payment under subsection (a) and who fails to become and remain certified or licensed as a dentist during the period for which the payment is made shall refund to the United States an amount equal to the full amount of such payment.

"(2) An officer who voluntarily terminates service on active duty before the end of the period agreed to be served under subsection (a) shall refund to the United States an amount that bears the same ratio to the amount paid to the officer as the unserved part of such period bears to the total period agreed to be served.

"(3) An obligation to reimburse the United States imposed under paragraph (1) or (2) is for all purposes a debt owed to the United States.

"(4) A discharge in bankruptcy under title 11 that is entered less than five years after the termination of an agreement under this section does not discharge the person signing such agreement from a debt arising under such agreement or this subsection. This paragraph applies to any case commenced under title 11 after the date of the enactment of this section.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 302g the following new item:

"302h. Special pay: accession bonus for dental officers.".

(3) Section 303a of title 37, United States Code, is amended by striking out "302g" each place it appears and inserting in lieu thereof "302h".

(d) REPORT ON ADDITIONAL ACTIVITIES TO INCREASE RECRUITMENT OF DENTISTS.—Not later than April 1, 1997, the Secretary of Defense shall submit to Congress a report describing the feasibility of increasing the number of persons enrolled in the Armed Forces Health Professions Scholarship and Financial Assistance program who are pursuing a course of study in dentistry in anticipation of service as an officer of the Dental Corps of the Army

or the Navy or an officer of the Air Force designated as a dental officer.

(e) STYLISTIC AMENDMENTS.—Section 302b of title 37, United States Code, is amended—

(1) in subsection (a), by inserting "VARIABLE, ADDITIONAL, AND BOARD CERTIFICATION SPECIAL PAY.—" after "(a)";

(2) in subsection (b), by inserting "ACTIVE-DUTY AGREEMENT.—" after "(b)";

(3) in subsection (c), by inserting "REGULATIONS.—" after "(c)";

(4) in subsection (d), by inserting "FREQUENCY OF PAYMENTS.—" after "(d)";

(5) in subsection (e), by inserting "REFUND FOR PERIOD OF UNSERVED OBLIGATED SERVICE.—" after "(e)";

(6) in subsection (f), by inserting "EFFECT OF DISCHARGE IN BANKRUPTCY.—" after "(f)"; and

(7) in subsection (g), by inserting "DETERMINATION OF CREDITABLE SERVICE.—" after "(g)".

SEC. 616. FOREIGN LANGUAGE PROFICIENCY PAY FOR PUBLIC HEALTH SERVICE AND NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION OFFICERS.

(a) ELIGIBILITY.—Subsection (a) of section 316 of title 37, United States Code, is amended—

(1) in the matter preceding paragraph (1), by striking out "armed forces" and inserting in lieu thereof "uniformed services";

(2) in paragraph (2)—

(A) by striking out "Secretary of Defense" and inserting in lieu thereof "Secretary concerned"; and

(B) by inserting "or public health" after "national defense"; and

(3) in paragraph (3)—

(A) in subparagraph (A), by striking out "military" and inserting in lieu thereof "uniformed services";

(B) in subparagraph (C), by striking out "military"; and

(C) in subparagraph (D)—

(i) by striking out "Department of Defense" and inserting in lieu thereof "uniformed service"; and

(ii) by striking out "Secretary of Defense" and inserting in lieu thereof "Secretary concerned".

(b) ADMINISTRATION.—Subsection (d) of such section is amended—

(1) by striking out "his jurisdiction and" and inserting in lieu thereof "the jurisdiction of the Secretary,"; and

(2) by inserting before the period at the end the following: ", by the Secretary of Health and Human Services for the Commissioned Corps of the Public Health Service, and by the Secretary of Commerce for the National Oceanic and Atmospheric Administration".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1996, and apply with respect to months beginning on or after such date.

Applicability.
37 USC 316 note.

Subtitle C—Travel and Transportation Allowances

SEC. 621. ALLOWANCE IN CONNECTION WITH SHIPPING MOTOR VEHICLE AT GOVERNMENT EXPENSE.

(a) ALLOWANCE AUTHORIZED.—Section 406(b)(1)(B) of title 37, United States Code, is amended by adding at the end the following: "If clause (i)(I) applies to the transportation by the member of a motor vehicle from the old duty station, the monetary allowance under this subparagraph shall also cover return travel to the old duty station by the member or other person transporting the vehicle. In the case of transportation described in clause (ii), the monetary allowance shall also cover travel from the new duty station to the port of debarkation to pick up the vehicle.".

37 USC 406 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 1997.

SEC. 622. DISLOCATION ALLOWANCE AT A RATE EQUAL TO TWO AND ONE-HALF MONTHS BASIC ALLOWANCE FOR QUARTERS.

(a) ALLOWANCE AUTHORIZED.—Section 407(a) of title 37, United States Code, is amended in the matter preceding paragraph (1) by striking out "two months" and inserting in lieu thereof "two and one-half months".

37 USC 407 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 1997.

SEC. 623. ALLOWANCE FOR TRAVEL PERFORMED IN CONNECTION WITH LEAVE BETWEEN CONSECUTIVE OVERSEAS TOURS.

(a) AUTHORITY FOR ADDITIONAL DEFERRAL OF TRAVEL.—Section 411b(a)(2) of title 37, United States Code, is amended by adding at the end the following: "If the member is unable to undertake the travel before the end of such one-year period as a result of duty in connection with a contingency operation, the member may defer the travel for one additional year beginning on the date the duty of the member in connection with the contingency operation ends.".

37 USC 411b note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as of November 1, 1995.

SEC. 624. FUNDING FOR TRANSPORTATION OF HOUSEHOLD EFFECTS OF PUBLIC HEALTH SERVICE OFFICERS.

Section 406(j) of title 37, United States Code, is amended—

(1) in the first sentence of paragraph (1)—

(A) by striking out "Appropriations available" and all that follows through "to a member" and inserting in lieu thereof "The Secretary concerned may pay a monetary allowance to a member of the armed forces or a member of the Commissioned Corps of the Public Health Service"; and

(B) by striking out "of the military department"; and

(2) by adding at the end the following new paragraph:

"(3) Appropriations available to the Department of Defense for providing transportation of household effects of members of the armed forces under subsection (b) shall be available to pay the monetary allowance authorized under paragraph (1) to such members. Appropriations available to the Department of Health

and Human Services for providing transportation of household effects of members of the Commissioned Corps of the Public Health Service under subsection (b) shall be available to pay the monetary allowance authorized under paragraph (1) to such members.".

Subtitle D—Retired Pay, Survivor Benefits, and Related Matters

SEC. 631. EFFECTIVE DATE FOR MILITARY RETIREE COST-OF-LIVING ADJUSTMENT FOR FISCAL YEAR 1998.

(a) REPEAL OF ADJUSTMENT OF EFFECTIVE DATE FOR FISCAL YEAR 1998.—Section 1401a(b)(2)(B) of title 10, United States Code, is amended—

(1) by striking out "(B) SPECIAL RULES" and all that follows through "In the case of" in clause (i) and inserting in lieu thereof "(B) SPECIAL RULE FOR FISCAL YEAR 1996.—In the case of"; and

(2) by striking out clause (ii).

(b) REPEAL OF CONTINGENT ALTERNATIVE DATE FOR FISCAL YEAR 1998.—Section 631 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 364) is amended by striking out subsection (b). 10 USC 1401a note.

SEC. 632. CLARIFICATION OF INITIAL COMPUTATION OF RETIREE COLAS AFTER RETIREMENT.

(a) IN GENERAL.—Section 1401a of title 10, United States Code, is amended by striking out subsections (c) and (d) and inserting in lieu thereof the following new subsections:

"(c) FIRST COLA ADJUSTMENT FOR MEMBERS WITH RETIRED PAY COMPUTED USING FINAL BASIC PAY.—

"(1) FIRST ADJUSTMENT WITH INTERVENING INCREASE IN BASIC PAY.—Notwithstanding subsection (b), if a person described in paragraph (3) becomes entitled to retired pay based on rates of monthly basic pay that became effective after the last day of the calendar quarter of the base index, the retired pay of the member or former member shall be increased on the effective date of the next adjustment of retired pay under subsection (b) only by the percent (adjusted to the nearest one-tenth of 1 percent) by which—

"(A) the price index for the base quarter of that year, exceeds

"(B) the price index for the calendar quarter immediately before the calendar quarter in which the rates of monthly basic pay on which the retired pay is based became effective.

"(2) FIRST ADJUSTMENT WITH NO INTERVENING INCREASE IN BASIC PAY.—If a person described in paragraph (3) becomes entitled to retired pay on or after the effective date of an adjustment in retired pay under subsection (b) but before the effective date of the next increase in the rates of monthly basic pay, the retired pay of the member or former member shall be increased, effective on the date the member becomes entitled to that pay, by the percent (adjusted to the nearest one-tenth of 1 percent) by which—

"(A) the base index, exceeds

"(B) the price index for the calendar quarter immediately before the calendar quarter in which the rates of monthly basic pay on which the retired pay is based became effective.

"(3) MEMBERS COVERED.—Paragraphs (1) and (2) apply to a member or former member of an armed force who first became a member of a uniformed service before August 1, 1986, and whose retired pay base is determined under section 1406 of this title.

"(d) FIRST COLA ADJUSTMENT FOR MEMBERS WITH RETIRED PAY COMPUTED USING HIGH-THREE.—Notwithstanding subsection (b), the retired pay of a member or former member of an armed force who first became a member of a uniformed service before August 1, 1986, and whose retired pay base is determined under section 1407 of this title shall be increased on the effective date of the first adjustment of retired pay under subsection (b) after the member or former member becomes entitled to retired pay by the percent (adjusted to the nearest one-tenth of 1 percent) equal to the difference between the percent by which—

"(1) the price index for the base quarter of that year, exceeds

"(2) the price index for the calendar quarter immediately before the calendar quarter during which the member became entitled to retired pay.".

Applicability. 10 USC 1401a note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply only to adjustments of retired and retainer pay effective after the date of the enactment of this Act.

5 USC 8313 note.

SEC. 633. SUSPENSION OF PAYMENT OF RETIRED PAY OF MEMBERS WHO ARE ABSENT FROM THE UNITED STATES TO AVOID PROSECUTION.

(a) DEVELOPMENT OF PROCEDURES FOR SUSPENSION.—The Secretary of Defense shall develop uniform procedures under which the Secretary of a military department may suspend the payment of the retired pay of a member or former member of the Armed Forces during periods in which the member willfully remains outside the United States to avoid criminal prosecution or civil liability. The procedures shall address the types of criminal offenses and civil proceedings for which the procedures may be used, including the offenses specified in section 8312 of title 5, United States Code, and the manner by which a member, upon the return of the member to the United States, may obtain retired pay withheld during the member's absence.

(b) REPORT TO CONGRESS.—The Secretary of Defense shall submit to Congress a report describing the procedures developed under subsection (a). The report shall include recommendations regarding changes to existing provisions of law (including section 8313 of title 5, United States Code) that the Secretary determines are necessary to fully implement the procedures.

(c) RETIRED PAY DEFINED.—For purposes of this section, the term "retired pay" means retired pay, retirement pay, retainer pay, or equivalent pay, payable under a statute to a member or former member of a uniformed service.

(d) EFFECTIVE DATE.—The uniform procedures required by subsection (a) shall be developed not later than 30 days after the date of the enactment of this Act.

SEC. 634. NONSUBSTANTIVE RESTATEMENT OF SURVIVOR BENEFIT PLAN STATUTE.

Subchapter II of chapter 73 of title 10, United States Code, is amended to read as follows:

"SUBCHAPTER II—SURVIVOR BENEFIT PLAN

"Sec.
"1447. Definitions.
"1448. Application of Plan.
"1449. Mental incompetency of member.
"1450. Payment of annuity: beneficiaries.
"1451. Amount of annuity.
"1452. Reduction in retired pay.
"1453. Recovery of amounts erroneously paid.
"1454. Correction of administrative errors.
"1455. Regulations.

"§ 1447. Definitions

"In this subchapter:

"(1) PLAN.—The term 'Plan' means the Survivor Benefit Plan established by this subchapter.

"(2) STANDARD ANNUITY.—The term 'standard annuity' means an annuity provided by virtue of eligibility under section 1448(a)(1)(A) of this title.

"(3) RESERVE-COMPONENT ANNUITY.—The term 'reserve-component annuity' means an annuity provided by virtue of eligibility under section 1448(a)(1)(B) of this title.

"(4) RETIRED PAY.—The term 'retired pay' includes retainer pay paid under section 6330 of this title.

"(5) RESERVE-COMPONENT RETIRED PAY.—The term 'reserve-component retired pay' means retired pay under chapter 1223 of this title (or under chapter 67 of this title as in effect before the effective date of the Reserve Officer Personnel Management Act).

"(6) BASE AMOUNT.—The term 'base amount' means the following:

"(A) FULL AMOUNT UNDER STANDARD ANNUITY.—In the case of a person who dies after becoming entitled to retired pay, such term means the amount of monthly retired pay (determined without regard to any reduction under section 1409(b)(2) of this title) to which the person—

"(i) was entitled when he became eligible for that pay; or

"(ii) later became entitled by being advanced on the retired list, performing active duty, or being transferred from the temporary disability retired list to the permanent disability retired list.

"(B) FULL AMOUNT UNDER RESERVE-COMPONENT ANNUITY.—In the case of a person who would have become eligible for reserve-component retired pay but for the fact that he died before becoming 60 years of age, such term means the amount of monthly retired pay for which the person would have been eligible—

"(i) if he had been 60 years of age on the date of his death, for purposes of an annuity to become effective on the day after his death in accordance with a designation made under section 1448(e) of this title; or

"(ii) upon becoming 60 years of age (if he had lived to that age), for purposes of an annuity to become effective on the 60th anniversary of his birth in accordance with a designation made under section 1448(e) of this title.

"(C) REDUCED AMOUNT.—Such term means any amount less than the amount otherwise applicable under subparagraph (A) or (B) with respect to an annuity provided under the Plan but which is not less than $300 and which is designated by the person (with the concurrence of the person's spouse, if required under section 1448(a)(3) of this title) providing the annuity on or before—

"(i) the first day for which he becomes eligible for retired pay, in the case of a person providing a standard annuity, or

"(ii) the end of the 90-day period beginning on the date on which he receives the notification required by section 12731(d) of this title that he has completed the years of service required for eligibility for reserve-component retired pay, in the case of a person providing a reserve-component annuity.

"(7) WIDOW.—The term 'widow' means the surviving wife of a person who, if not married to the person at the time he became eligible for retired pay—

"(A) was married to him for at least one year immediately before his death; or

"(B) is the mother of issue by that marriage.

"(8) WIDOWER.—The term 'widower' means the surviving husband of a person who, if not married to the person at the time she became eligible for retired pay—

"(A) was married to her for at least one year immediately before her death; or

"(B) is the father of issue by that marriage.

"(9) SURVIVING SPOUSE.—The term 'surviving spouse' means a widow or widower.

"(10) FORMER SPOUSE.—The term 'former spouse' means the surviving former husband or wife of a person who is eligible to participate in the Plan.

"(11) DEPENDENT CHILD.—

"(A) IN GENERAL.—The term 'dependent child' means a person who—

"(i) is unmarried;

"(ii) is (I) under 18 years of age, (II) at least 18, but under 22, years of age and pursuing a full-time course of study or training in a high school, trade school, technical or vocational institute, junior college, college, university, or comparable recognized educational institution, or (III) incapable of self support because of a mental or physical incapacity existing before the person's eighteenth birthday or incurred on or after that birthday, but before the person's twenty-second birthday, while pursuing such a full-time course of study or training; and

"(iii) is the child of a person to whom the Plan applies, including (I) an adopted child, and (II) a step-child, foster child, or recognized natural child who lived with that person in a regular parent-child relationship.

"(B) SPECIAL RULES FOR COLLEGE STUDENTS.—For the purpose of subparagraph (A), a child whose twenty-second birthday occurs before July 1 or after August 31 of a calendar year, and while regularly pursuing such a course of study or training, is considered to have become 22 years of age on the first day of July after that birthday. A child who is a student is considered not to have ceased to be a student during an interim between school years if the interim is not more than 150 days and if the child shows to the satisfaction of the Secretary of Defense that the child has a bona fide intention of continuing to pursue a course of study or training in the same or a different school during the school semester (or other period into which the school year is divided) immediately after the interim.

"(C) FOSTER CHILDREN.—A foster child, to qualify under this paragraph as the dependent child of a person to whom the Plan applies, must, at the time of the death of that person, also reside with, and receive over one-half of his support from, that person, and not be cared for under a social agency contract. The temporary absence of a foster child from the residence of that person, while a student as described in this paragraph, shall not be considered to affect the residence of such a foster child.

"(12) COURT.—The term 'court' has the meaning given that term by section 1408(a)(1) of this title.

"(13) COURT ORDER.—

"(A) IN GENERAL.—The term 'court order' means a court's final decree of divorce, dissolution, or annulment or a court ordered, ratified, or approved property settlement incident to such a decree (including a final decree modifying the terms of a previously issued decree of divorce, dissolution, annulment, or legal separation, or of a court ordered, ratified, or approved property settlement agreement incident to such previously issued decree).

"(B) FINAL DECREE.—The term 'final decree' means a decree from which no appeal may be taken or from which no appeal has been taken within the time allowed for the taking of such appeals under the laws applicable to such appeals, or a decree from which timely appeal has been taken and such appeal has been finally decided under the laws applicable to such appeals.

"(C) REGULAR ON ITS FACE.—The term 'regular on its face', when used in connection with a court order, means a court order that meets the conditions prescribed in section 1408(b)(2) of this title.

"§ 1448. Application of plan

"(a) GENERAL RULES FOR PARTICIPATION IN THE PLAN.—

"(1) NAME OF PLAN; ELIGIBLE PARTICIPANTS.—The program established by this subchapter shall be known as the Survivor Benefit Plan. The following persons are eligible to participate in the Plan:

"(A) Persons entitled to retired pay.

"(B) Persons who would be eligible for reserve-component retired pay but for the fact that they are under 60 years of age.

"(2) PARTICIPANTS IN THE PLAN.—The Plan applies to the following persons, who shall be participants in the Plan:

"(A) STANDARD ANNUITY PARTICIPANTS.—A person who is eligible to participate in the Plan under paragraph (1)(A) and who is married or has a dependent child when he becomes entitled to retired pay, unless he elects (with his spouse's concurrence, if required under paragraph (3)) not to participate in the Plan before the first day for which he is eligible for that pay.

"(B) RESERVE-COMPONENT ANNUITY PARTICIPANTS.—A person who (i) is eligible to participate in the Plan under paragraph (1)(B), (ii) is married or has a dependent child when he is notified under section 12731(d) of this title that he has completed the years of service required for eligibility for reserve-component retired pay, and (iii) elects to participate in the Plan (and makes a designation under subsection (e)) before the end of the 90-day period beginning on the date he receives such notification.

A person described in clauses (i) and (ii) of subparagraph (B) who does not elect to participate in the Plan before the end of the 90-day period referred to in that clause remains eligible, upon reaching 60 years of age and otherwise becoming entitled to retired pay, to participate in the Plan in accordance with eligibility under paragraph (1)(A).

"(3) ELECTIONS.—

"(A) SPOUSAL CONSENT FOR CERTAIN ELECTIONS RESPECTING STANDARD ANNUITY.—A married person who is eligible to provide a standard annuity may not without the concurrence of the person's spouse elect—

"(i) not to participate in the Plan;

"(ii) to provide an annuity for the person's spouse at less than the maximum level; or

"(iii) to provide an annuity for a dependent child but not for the person's spouse.

"(B) SPOUSAL CONSENT FOR CERTAIN ELECTIONS RESPECTING RESERVE-COMPONENT ANNUITY.—A married person who elects to provide a reserve-component annuity may not without the concurrence of the person's spouse elect—

"(i) to provide an annuity for the person's spouse at less than the maximum level; or

"(ii) to provide an annuity for a dependent child but not for the person's spouse.

"(C) EXCEPTION WHEN SPOUSE UNAVAILABLE.—A person may make an election described in subparagraph (A) or (B) without the concurrence of the person's spouse if the person establishes to the satisfaction of the Secretary concerned—

"(i) that the spouse's whereabouts cannot be determined; or

"(ii) that, due to exceptional circumstances, requiring the person to seek the spouse's consent would otherwise be inappropriate.

"(D) CONSTRUCTION WITH FORMER SPOUSE ELECTION PROVISIONS.—This paragraph does not affect any right or obligation to elect to provide an annuity for a former spouse

(or for a former spouse and dependent child) under subsection (b)(2).

"(E) NOTICE TO SPOUSE OF ELECTION TO PROVIDE FORMER SPOUSE ANNUITY.—If a married person who is eligible to provide a standard annuity elects to provide an annuity for a former spouse (or for a former spouse and dependent child) under subsection (b)(2), that person's spouse shall be notified of that election.

"(4) IRREVOCABILITY OF ELECTIONS.—

"(A) STANDARD ANNUITY.—An election under paragraph (2)(A) not to participate in the Plan is irrevocable if not revoked before the date on which the person first becomes entitled to retired pay.

"(B) RESERVE-COMPONENT ANNUITY.—An election under paragraph (2)(B) to participate in the Plan is irrevocable if not revoked before the end of the 90-day period referred to in that paragraph.

"(5) PARTICIPATION BY PERSON MARRYING AFTER RETIREMENT, ETC.—

"(A) ELECTION TO PARTICIPATE IN PLAN.—A person who is not married and has no dependent child upon becoming eligible to participate in the Plan but who later marries or acquires a dependent child may elect to participate in the Plan.

"(B) MANNER AND TIME OF ELECTION.—Such an election must be written, signed by the person making the election, and received by the Secretary concerned within one year after the date on which that person marries or acquires that dependent child.

"(C) LIMITATION ON REVOCATION OF ELECTION.—Such an election may not be revoked except in accordance with subsection (b)(3).

"(D) EFFECTIVE DATE OF ELECTION.—The election is effective as of the first day of the first calendar month following the month in which the election is received by the Secretary concerned.

"(E) DESIGNATION IF RCSBP ELECTION.—In the case of a person providing a reserve-component annuity, such an election shall include a designation under subsection (e).

"(6) ELECTION OUT OF PLAN BY PERSON WITH SPOUSE COVERAGE WHO REMARRIES.—

"(A) GENERAL RULE.—A person—

"(i) who is a participant in the Plan and is providing coverage under the Plan for a spouse (or a spouse and child);

"(ii) who does not have an eligible spouse beneficiary under the Plan; and

"(iii) who remarries,

may elect not to provide coverage under the Plan for the person's spouse.

"(B) EFFECT OF ELECTION ON RETIRED PAY.—If such an election is made, reductions in the retired pay of that person under section 1452 of this title shall not be made.

"(C) TERMS AND CONDITIONS OF ELECTION.—An election under this paragraph—

"(i) is irrevocable;

"(ii) shall be made within one year after the person's remarriage; and

"(iii) shall be made in such form and manner as may be prescribed in regulations under section 1455 of this title.

"(D) NOTICE TO SPOUSE.—If a person makes an election under this paragraph—

"(i) not to participate in the Plan;

"(ii) to provide an annuity for the person's spouse at less than the maximum level; or

"(iii) to provide an annuity for a dependent child but not for the person's spouse,

the person's spouse shall be notified of that election.

"(E) CONSTRUCTION WITH FORMER SPOUSE ELECTION PROVISIONS.—This paragraph does not affect any right or obligation to elect to provide an annuity to a former spouse under subsection (b).

"(b) INSURABLE INTEREST AND FORMER SPOUSE COVERAGE.—

"(1) COVERAGE FOR PERSON WITH INSURABLE INTEREST.—

"(A) GENERAL RULE.—A person who is not married and does not have a dependent child upon becoming eligible to participate in the Plan may elect to provide an annuity under the Plan to a natural person with an insurable interest in that person. In the case of a person providing a reserve-component annuity, such an election shall include a designation under subsection (e).

"(B) TERMINATION OF COVERAGE.—An election under subparagraph (A) for a beneficiary who is not the former spouse of the person providing the annuity may be terminated. Any such termination shall be made by a participant by the submission to the Secretary concerned of a request to discontinue participation in the Plan, and such participation in the Plan shall be discontinued effective on the first day of the first month following the month in which the request is received by the Secretary concerned. Effective on such date, the Secretary concerned shall discontinue the reduction being made in such person's retired pay on account of participation in the Plan or, in the case of a person who has been required to make deposits in the Treasury on account of participation in the Plan, such person may discontinue making such deposits effective on such date.

"(C) FORM FOR DISCONTINUATION.—A request under subparagraph (B) to discontinue participation in the Plan shall be in such form and shall contain such information as may be required under regulations prescribed by the Secretary of Defense.

"(D) WITHDRAWAL OF REQUEST FOR DISCONTINUATION.—The Secretary concerned shall furnish promptly to each person who submits a request under subparagraph (B) to discontinue participation in the Plan a written statement of the advantages and disadvantages of participating in the Plan and the possible disadvantages of discontinuing participation. A person may withdraw the request to discontinue participation if withdrawn within 30 days after having been submitted to the Secretary concerned.

"(E) CONSEQUENCES OF DISCONTINUATION.—Once participation is discontinued, benefits may not be paid in conjunction with the earlier participation in the Plan and premiums paid may not be refunded. Participation in the Plan may not later be resumed except through a qualified election under paragraph (5) of subsection (a).

"(2) FORMER SPOUSE COVERAGE UPON BECOMING A PARTICIPANT IN THE PLAN.—

"(A) GENERAL RULE.—A person who has a former spouse upon becoming eligible to participate in the Plan may elect to provide an annuity to that former spouse.

"(B) EFFECT OF FORMER SPOUSE ELECTION ON SPOUSE OR DEPENDENT CHILD.—In the case of a person with a spouse or a dependent child, such an election prevents payment of an annuity to that spouse or child (other than a child who is a beneficiary under an election under paragraph (4)), including payment under subsection (d).

"(C) DESIGNATION IF MORE THAN ONE FORMER SPOUSE.—If there is more than one former spouse, the person shall designate which former spouse is to be provided the annuity.

"(D) DESIGNATION IF RCSBP ELECTION.—In the case of a person providing a reserve-component annuity, such an election shall include a designation under subsection (e).

"(3) FORMER SPOUSE COVERAGE BY PERSONS ALREADY PARTICIPATING IN PLAN.—

"(A) ELECTION OF COVERAGE.—

"(i) AUTHORITY FOR ELECTION.—A person—

"(I) who is a participant in the Plan and is providing coverage for a spouse or a spouse and child (even though there is no beneficiary currently eligible for such coverage), and

"(II) who has a former spouse who was not that person's former spouse when that person became eligible to participate in the Plan,

may (subject to subparagraph (B)) elect to provide an annuity to that former spouse.

"(ii) TERMINATION OF PREVIOUS COVERAGE.—Any such election terminates any previous coverage under the Plan.

"(iii) MANNER AND TIME OF ELECTION.—Any such election must be written, signed by the person making the election, and received by the Secretary concerned within one year after the date of the decree of divorce, dissolution, or annulment.

"(B) LIMITATION ON ELECTION.—A person may not make an election under subparagraph (A) to provide an annuity to a former spouse who that person married after becoming eligible for retired pay unless—

"(i) the person was married to that former spouse for at least one year, or

"(ii) that former spouse is the parent of issue by that marriage.

"(C) IRREVOCABILITY, EFFECTIVE DATE, ETC.—An election under this paragraph may not be revoked except in accordance with section 1450(f) of this title. Such an election is effective as of the first day of the first calendar

month following the month in which it is received by the Secretary concerned. This paragraph does not provide the authority to change a designation previously made under subsection (e).

"(D) NOTICE TO SPOUSE.—If a person who is married makes an election to provide an annuity to a former spouse under this paragraph, that person's spouse shall be notified of the election.

"(4) FORMER SPOUSE AND CHILD COVERAGE.—A person who elects to provide an annuity for a former spouse under paragraph (2) or (3) may, at the time of the election, elect to provide coverage under that annuity for both the former spouse and a dependent child, if the child resulted from the person's marriage to that former spouse.

"(5) DISCLOSURE OF WHETHER ELECTION OF FORMER SPOUSE COVERAGE IS REQUIRED.—A person who elects to provide an annuity to a former spouse under paragraph (2) or (3) shall, at the time of making the election, provide the Secretary concerned with a written statement (in a form to be prescribed by that Secretary and signed by such person and the former spouse) setting forth—

"(A) whether the election is being made pursuant to the requirements of a court order; or

"(B) whether the election is being made pursuant to a written agreement previously entered into voluntarily by such person as a part of, or incident to, a proceeding of divorce, dissolution, or annulment and (if so) whether such voluntary written agreement has been incorporated in, or ratified or approved by, a court order.

"(c) PERSONS ON TEMPORARY DISABILITY RETIRED LIST.—The application of the Plan to a person whose name is on the temporary disability retired list terminates when his name is removed from that list and he is no longer entitled to disability retired pay.

"(d) COVERAGE FOR SURVIVORS OF RETIREMENT-ELIGIBLE MEMBERS WHO DIE ON ACTIVE DUTY.—

"(1) SURVIVING SPOUSE ANNUITY.—The Secretary concerned shall pay an annuity under this subchapter to the surviving spouse of a member who dies on active duty after—

"(A) becoming eligible to receive retired pay;

"(B) qualifying for retired pay except that he has not applied for or been granted that pay; or

"(C) completing 20 years of active service but before he is eligible to retire as a commissioned officer because he has not completed 10 years of active commissioned service.

"(2) DEPENDENT CHILD ANNUITY.—The Secretary concerned shall pay an annuity under this subchapter to the dependent child of a member described in paragraph (1) if there is no surviving spouse or if the member's surviving spouse subsequently dies.

"(3) MANDATORY FORMER SPOUSE ANNUITY.—If a member described in paragraph (1) is required under a court order or spousal agreement to provide an annuity to a former spouse upon becoming eligible to be a participant in the Plan or has made an election under subsection (b) to provide an annuity to a former spouse, the Secretary—

"(A) may not pay an annuity under paragraph (1) or (2); but

"(B) shall pay an annuity to that former spouse as if the member had been a participant in the Plan and had made an election under subsection (b) to provide an annuity to the former spouse, or in accordance with that election, as the case may be, if the Secretary receives a written request from the former spouse concerned that the election be deemed to have been made in the same manner as provided in section 1450(f)(3) of this title.

"(4) PRIORITY.—An annuity that may be provided under this subsection shall be provided in preference to an annuity that may be provided under any other provision of this subchapter on account of service of the same member.

"(5) COMPUTATION.—The amount of an annuity under this subsection is computed under section 1451(c) of this title.

"(e) DESIGNATION FOR COMMENCEMENT OF RESERVE-COMPONENT ANNUITY.—In any case in which a person electing to participate in the Plan is required to make a designation under this subsection, the person making such election shall designate whether, in the event he dies before becoming 60 years of age, the annuity provided shall become effective on—

"(1) the day after the date of his death; or

"(2) the 60th anniversary of his birth.

"(f) COVERAGE OF SURVIVORS OF PERSONS DYING WHEN ELIGIBLE TO ELECT RESERVE-COMPONENT ANNUITY.—

"(1) SURVIVING SPOUSE ANNUITY.—The Secretary concerned shall pay an annuity under this subchapter to the surviving spouse of a person who is eligible to provide a reserve-component annuity and who dies—

"(A) before being notified under section 12731(d) of this title that he has completed the years of service required for eligibility for reserve-component retired pay; or

"(B) during the 90-day period beginning on the date he receives notification under section 12731(d) of this title that he has completed the years of service required for eligibility for reserve-component retired pay if he had not made an election under subsection (a)(2)(B) to participate in the Plan.

"(2) DEPENDENT CHILD ANNUITY.—The Secretary concerned shall pay an annuity under this subchapter to the dependent child of a person described in paragraph (1) if there is no surviving spouse or if the person's surviving spouse subsequently dies.

"(3) MANDATORY FORMER SPOUSE ANNUITY.—If a person described in paragraph (1) is required under a court order or spousal agreement to provide an annuity to a former spouse upon becoming eligible to be a participant in the Plan or has made an election under subsection (b) to provide an annuity to a former spouse, the Secretary—

"(A) may not pay an annuity under paragraph (1) or (2); but

"(B) shall pay an annuity to that former spouse as if the person had been a participant in the Plan and had made an election under subsection (b) to provide an annuity to the former spouse, or in accordance with that election, as the case may be, if the Secretary receives a written

request from the former spouse concerned that the election be deemed to have been made in the same manner as provided in section 1450(f)(3) of this title.

"(4) COMPUTATION.—The amount of an annuity under this subsection is computed under section 1451(c) of this title.

"(g) ELECTION TO INCREASE COVERAGE UPON REMARRIAGE.—

"(1) ELECTION.—A person—

"(A) who is a participant in the Plan and is providing coverage under subsection (a) for a spouse or a spouse and child, but at less than the maximum level; and

"(B) who remarries,

may elect, within one year of such remarriage, to increase the level of coverage provided under the Plan to a level not in excess of the current retired pay of that person.

"(2) PAYMENT REQUIRED.—Such an election shall be contingent on the person paying to the United States the amount determined under paragraph (3) plus interest on such amount at a rate determined under regulations prescribed by the Secretary of Defense.

"(3) AMOUNT TO BE PAID.—The amount referred to in paragraph (2) is the amount equal to the difference between—

"(A) the amount that would have been withheld from such person's retired pay under section 1452 of this title if the higher level of coverage had been in effect from the time the person became a participant in the Plan; and

"(B) the amount of such person's retired pay actually withheld.

"(4) MANNER OF MAKING ELECTION.—An election under paragraph (1) shall be made in such manner as the Secretary shall prescribe and shall become effective upon receipt of the payment required by paragraph (2).

"(5) DISPOSITION OF PAYMENTS.—A payment received under this subsection by the Secretary of Defense shall be deposited into the Department of Defense Military Retirement Fund. Any other payment received under this subsection shall be deposited in the Treasury as miscellaneous receipts.

"§ 1449. Mental incompetency of member

"(a) ELECTION BY SECRETARY CONCERNED ON BEHALF OF MENTALLY INCOMPETENT MEMBER.—If a person to whom section 1448 of this title applies is determined to be mentally incompetent by medical officers of the armed force concerned or of the Department of Veterans Affairs, or by a court of competent jurisdiction, an election described in subsection (a)(2) or (b) of section 1448 of this title may be made on behalf of that person by the Secretary concerned.

"(b) REVOCATION OF ELECTION BY MEMBER.—

"(1) AUTHORITY UPON SUBSEQUENT DETERMINATION OF MENTAL COMPETENCE.—If a person for whom the Secretary has made an election under subsection (a) is later determined to be mentally competent by an authority named in that subsection, that person may, within 180 days after that determination, revoke that election.

"(2) DEDUCTIONS FROM RETIRED PAY NOT TO BE REFUNDED.—Any deduction made from retired pay by reason of such an election may not be refunded.

"§ 1450. Payment of annuity: beneficiaries

"(a) IN GENERAL.—Effective as of the first day after the death of a person to whom section 1448 of this title applies (or on such other day as that person may provide under subsection (j)), a monthly annuity under section 1451 of this title shall be paid to the person's beneficiaries under the Plan, as follows: Effective date.

"(1) SURVIVING SPOUSE OR FORMER SPOUSE.—The eligible surviving spouse or the eligible former spouse.

"(2) SURVIVING CHILDREN.—The surviving dependent children in equal shares, if the eligible surviving spouse or the eligible former spouse is dead, dies, or otherwise becomes ineligible under this section.

"(3) DEPENDENT CHILDREN.—The dependent children in equal shares if the person to whom section 1448 of this title applies (with the concurrence of the person's spouse, if required under section 1448(a)(3) of this title) elected to provide an annuity for dependent children but not for the spouse or former spouse.

"(4) NATURAL PERSON DESIGNATED UNDER 'INSURABLE INTEREST' COVERAGE.—The natural person designated under section 1448(b)(1) of this title, unless the election to provide an annuity to the natural person has been changed as provided in subsection (f).

"(b) TERMINATION OF ANNUITY FOR DEATH, REMARRIAGE BEFORE AGE 55, ETC.—

"(1) GENERAL RULE.—An annuity payable to the beneficiary terminates effective as of the first day of the month in which eligibility is lost.

"(2) TERMINATION OF SPOUSE ANNUITY UPON DEATH OR REMARRIAGE BEFORE AGE 55.—An annuity for a surviving spouse or former spouse shall be paid to the surviving spouse or former spouse while the surviving spouse or former spouse is living or, if the surviving spouse or former spouse remarries before reaching age 55, until the surviving spouse or former spouse remarries.

"(3) EFFECT OF TERMINATION OF SUBSEQUENT MARRIAGE BEFORE AGE 55.—If the surviving spouse or former spouse remarries before reaching age 55 and that marriage is terminated by death, annulment, or divorce, payment of the annuity shall be resumed effective as of the first day of the month in which the marriage is so terminated. However, if the surviving spouse or former spouse is also entitled to an annuity under the Plan based upon the marriage so terminated, the surviving spouse or former spouse may not receive both annuities but must elect which to receive.

"(c) OFFSET FOR AMOUNT OF DEPENDENCY AND INDEMNITY COMPENSATION.—

"(1) REQUIRED OFFSET.—If, upon the death of a person to whom section 1448 of this title applies, the surviving spouse or former spouse of that person is also entitled to dependency and indemnity compensation under section 1311(a) of title 38, the surviving spouse or former spouse may be paid an annuity under this section, but only in the amount that the annuity otherwise payable under this section would exceed that compensation.

"(2) EFFECTIVE DATE OF OFFSET.—A reduction in an annuity under this section required by paragraph (1) shall be effective

on the date of the commencement of the period of payment of such dependency and indemnity compensation under title 38.

"(d) LIMITATION ON PAYMENT OF ANNUITIES WHEN COVERAGE UNDER CIVIL SERVICE RETIREMENT ELECTED.—If, upon the death of a person to whom section 1448 of this title applies, that person had in effect a waiver of that person's retired pay for the purposes of subchapter III of chapter 83 of title 5, an annuity under this section shall not be payable unless, in accordance with section 8339(j) of title 5, that person notified the Office of Personnel Management that he did not desire any spouse surviving him to receive an annuity under section 8341(b) of that title.

"(e) REFUND OF AMOUNTS DEDUCTED FROM RETIRED PAY WHEN DIC OFFSET IS APPLICABLE.—

"(1) FULL REFUND WHEN DIC GREATER THAN SBP ANNUITY.—If an annuity under this section is not payable because of subsection (c), any amount deducted from the retired pay of the deceased under section 1452 of this title shall be refunded to the surviving spouse or former spouse.

"(2) PARTIAL REFUND WHEN SBP ANNUITY REDUCED BY DIC.—If, because of subsection (c), the annuity payable is less than the amount established under section 1451 of this title, the annuity payable shall be recalculated under that section. The amount of the reduction in the retired pay required to provide that recalculated annuity shall be computed under section 1452 of this title, and the difference between the amount deducted before the computation of that recalculated annuity and the amount that would have been deducted on the basis of that recalculated annuity shall be refunded to the surviving spouse or former spouse.

"(f) CHANGE IN ELECTION OF INSURABLE INTEREST OR FORMER SPOUSE BENEFICIARY.—

"(1) AUTHORIZED CHANGES.—

"(A) ELECTION IN FAVOR OF SPOUSE OR CHILD.—A person who elects to provide an annuity to a person designated by him under section 1448(b) of this title may, subject to paragraph (2), change that election and provide an annuity to his spouse or dependent child.

"(B) NOTICE.—The Secretary concerned shall notify the former spouse or other natural person previously designated under section 1448(b) of this title of any change of election under subparagraph (A).

"(C) PROCEDURES, EFFECTIVE DATE, ETC.—Any such change of election is subject to the same rules with respect to execution, revocation, and effectiveness as are set forth in section 1448(a)(5) of this title (without regard to the eligibility of the person making the change of election to make such an election under that section).

"(2) LIMITATION ON CHANGE IN BENEFICIARY WHEN FORMER SPOUSE COVERAGE IN EFFECT.—A person who, incident to a proceeding of divorce, dissolution, or annulment, is required by a court order to elect under section 1448(b) of this title to provide an annuity to a former spouse (or to both a former spouse and child), or who enters into a written agreement (whether voluntary or required by a court order) to make such an election, and who makes an election pursuant to such order or agreement, may not change that election under paragraph

(1) unless, of the following requirements, whichever are applicable in a particular case are satisfied:

"(A) In a case in which the election is required by a court order, or in which an agreement to make the election has been incorporated in or ratified or approved by a court order, the person—

"(i) furnishes to the Secretary concerned a certified copy of a court order which is regular on its face and which modifies the provisions of all previous court orders relating to such election, or the agreement to make such election, so as to permit the person to change the election; and

"(ii) certifies to the Secretary concerned that the court order is valid and in effect.

"(B) In a case of a written agreement that has not been incorporated in or ratified or approved by a court order, the person—

"(i) furnishes to the Secretary concerned a statement, in such form as the Secretary concerned may prescribe, signed by the former spouse and evidencing the former spouse's agreement to a change in the election under paragraph (1); and

"(ii) certifies to the Secretary concerned that the statement is current and in effect.

"(3) REQUIRED FORMER SPOUSE ELECTION TO BE DEEMED TO HAVE BEEN MADE.—

"(A) DEEMED ELECTION UPON REQUEST BY FORMER SPOUSE.—If a person described in paragraph (2) or (3) of section 1448(b) of this title is required (as described in subparagraph (B)) to elect under section 1448(b) of this title to provide an annuity to a former spouse and such person then fails or refuses to make such an election, such person shall be deemed to have made such an election if the Secretary concerned receives the following:

"(i) REQUEST FROM FORMER SPOUSE.—A written request, in such manner as the Secretary shall prescribe, from the former spouse concerned requesting that such an election be deemed to have been made.

"(ii) COPY OF COURT ORDER OR OTHER OFFICIAL STATEMENT.—Either—

"(I) a copy of the court order, regular on its face, which requires such election or incorporates, ratifies, or approves the written agreement of such person; or

"(II) a statement from the clerk of the court (or other appropriate official) that such agreement has been filed with the court in accordance with applicable State law.

"(B) PERSONS REQUIRED TO MAKE ELECTION.—A person shall be considered for purposes of subparagraph (A) to be required to elect under section 1448(b) of this title to provide an annuity to a former spouse if—

"(i) the person enters, incident to a proceeding of divorce, dissolution, or annulment, into a written agreement to make such an election and the agreement (I) has been incorporated in or ratified or approved by a court order, or (II) has been filed with the court

of appropriate jurisdiction in accordance with applicable State law; or

"(ii) the person is required by a court order to make such an election.

"(C) TIME LIMIT FOR REQUEST BY FORMER SPOUSE.—An election may not be deemed to have been made under subparagraph (A) in the case of any person unless the Secretary concerned receives a request from the former spouse of the person within one year of the date of the court order or filing involved.

"(D) EFFECTIVE DATE OF DEEMED ELECTION.—An election deemed to have been made under subparagraph (A) shall become effective on the first day of the first month which begins after the date of the court order or filing involved.

"(4) FORMER SPOUSE COVERAGE MAY BE REQUIRED BY COURT ORDER.—A court order may require a person to elect (or to enter into an agreement to elect) under section 1448(b) of this title to provide an annuity to a former spouse (or to both a former spouse and child).

"(g) LIMITATION ON CHANGING OR REVOKING ELECTIONS.—

"(1) IN GENERAL.—An election under this section may not be changed or revoked.

"(2) EXCEPTIONS.—Paragraph (1) does not apply to—

"(A) a revocation of an election under section 1449(b) of this title; or

"(B) a change in an election under subsection (f).

"(h) TREATMENT OF ANNUITIES UNDER OTHER LAWS.—Except as provided in section 1451 of this title, an annuity under this section is in addition to any other payment to which a person is entitled under any other provision of law. Such annuity shall be considered as income under laws administered by the Secretary of Veterans Affairs.

"(i) ANNUITIES EXEMPT FROM CERTAIN LEGAL PROCESS.—Except as provided in subsection (l)(3)(B), an annuity under this section is not assignable or subject to execution, levy, attachment, garnishment, or other legal process.

"(j) EFFECTIVE DATE OF RESERVE-COMPONENT ANNUITIES.—

"(1) PERSONS MAKING SECTION 1448(e) DESIGNATION.—An annuity elected by a person providing a reserve-component annuity shall be effective in accordance with the designation made by such person under section 1448(e) of this title.

"(2) PERSONS DYING BEFORE MAKING SECTION 1448(e) DESIGNATION.—An annuity payable under section 1448(f) of this title shall be effective on the day after the date of the death of the person upon whose service the right to the annuity is based.

"(k) ADJUSTMENT OF SPOUSE OR FORMER SPOUSE ANNUITY UPON LOSS OF DEPENDENCY AND INDEMNITY COMPENSATION.—

"(1) READJUSTMENT IF BENEFICIARY 55 YEARS OF AGE OR MORE.—If a surviving spouse or former spouse whose annuity has been adjusted under subsection (c) subsequently loses entitlement to dependency and indemnity compensation under section 1311(a) of title 38 because of the remarriage of the surviving spouse, or former spouse, and if at the time of such remarriage the surviving spouse or former spouse is 55 years of age or more, the amount of the annuity of the surviving

spouse or former spouse shall be readjusted, effective on the effective date of such loss of dependency and indemnity compensation, to the amount of the annuity which would be in effect with respect to the surviving spouse or former spouse if the adjustment under subsection (c) had never been made.

"(2) REPAYMENT OF AMOUNTS PREVIOUSLY REFUNDED.—

"(A) GENERAL RULE.—A surviving spouse or former spouse whose annuity is readjusted under paragraph (1) shall repay any amount refunded under subsection (e) by reason of the adjustment under subsection (c).

"(B) INTEREST REQUIRED IF REPAYMENT NOT A LUMP SUM.—If the repayment is not made in a lump sum, the surviving spouse or former spouse shall pay interest on the amount to be repaid. Such interest shall commence on the date on which the first such payment is due and shall be applied over the period during which any part of the repayment remains to be paid.

"(C) MANNER OF REPAYMENT; RATE OF INTEREST.—The manner in which such repayment shall be made, and the rate of any such interest, shall be prescribed in regulations under section 1455 of this title.

"(D) DEPOSIT OF AMOUNTS REPAID.—An amount repaid under this paragraph (including any such interest) received by the Secretary of Defense shall be deposited into the Department of Defense Military Retirement Fund. Any other amount repaid under this paragraph shall be deposited into the Treasury as miscellaneous receipts.

"(l) PARTICIPANTS IN THE PLAN WHO ARE MISSING.—

"(1) AUTHORITY TO PRESUME DEATH OF MISSING PARTICIPANT.—

"(A) IN GENERAL.—Upon application of the beneficiary of a participant in the Plan who is missing, the Secretary concerned may determine for purposes of this subchapter that the participant is presumed dead.

"(B) PARTICIPANT WHO IS MISSING.—A participant in the Plan is considered to be missing for purposes of this subsection if—

"(i) the retired pay of the participant has been suspended on the basis that the participant is missing; or

"(ii) in the case of a participant in the Plan who would be eligible for reserve-component retired pay but for the fact that he is under 60 years of age, his retired pay, if he were entitled to retired pay, would be suspended on the basis that he is missing.

"(C) REQUIREMENTS APPLICABLE TO PRESUMPTION OF DEATH.—Any such determination shall be made in accordance with regulations prescribed under section 1455 of this title. The Secretary concerned may not make a determination for purposes of this subchapter that a participant who is missing is presumed dead unless the Secretary finds that—

"(i) the participant has been missing for at least 30 days; and

"(ii) the circumstances under which the participant is missing would lead a reasonably prudent person to conclude that the participant is dead.

"(2) COMMENCEMENT OF ANNUITY.—Upon a determination under paragraph (1) with respect to a participant in the Plan, an annuity otherwise payable under this subchapter shall be paid as if the participant died on the date as of which the retired pay of the participant was suspended.

"(3) EFFECT OF PERSON NOT BEING DEAD.—

"(A) TERMINATION OF ANNUITY.—If, after a determination under paragraph (1), the Secretary concerned determines that the participant is alive—

"(i) any annuity being paid under this subchapter by reason of this subsection shall be terminated; and

"(ii) the total amount of any annuity payments made by reason of this subsection shall constitute a debt to the United States.

"(B) COLLECTION FROM PARTICIPANT OF ANNUITY AMOUNTS ERRONEOUSLY PAID.—A debt under subparagraph (A)(ii) may be collected or offset—

"(i) from any retired pay otherwise payable to the participant;

"(ii) if the participant is entitled to compensation under chapter 11 of title 38, from that compensation; or

"(iii) if the participant is entitled to any other payment from the United States, from that payment.

"(C) COLLECTION FROM BENEFICIARY.—If the participant dies before the full recovery of the amount of annuity payments described in subparagraph (A)(ii) has been made by the United States, the remaining amount of such annuity payments may be collected from the participant's beneficiary under the Plan if that beneficiary was the recipient of the annuity payments made by reason of this subsection.

"§ 1451. Amount of annuity

"(a) COMPUTATION OF ANNUITY FOR A SPOUSE, FORMER SPOUSE, OR CHILD.—

"(1) STANDARD ANNUITY.—In the case of a standard annuity provided to a beneficiary under section 1450(a) of this title (other than under section 1450(a)(4)), the monthly annuity payable to the beneficiary shall be determined as follows:

"(A) BENEFICIARY UNDER 62 YEARS OF AGE.—If the beneficiary is under 62 years of age or is a dependent child when becoming entitled to the annuity, the monthly annuity shall be the amount equal to 55 percent of the base amount.

"(B) BENEFICIARY 62 YEARS OF AGE OR OLDER.—

"(i) GENERAL RULE.—If the beneficiary (other than a dependent child) is 62 years of age or older when becoming entitled to the annuity, the monthly annuity shall be the amount equal to 35 percent of the base amount.

"(ii) RULE IF BENEFICIARY ELIGIBLE FOR SOCIAL SECURITY OFFSET COMPUTATION.—If the beneficiary is eligible to have the annuity computed under subsection (e) and if, at the time the beneficiary becomes entitled to the annuity, computation of the annuity under that subsection is more favorable to the beneficiary than computation under clause (i), the annuity shall be

computed under that subsection rather than under clause (i).

"(2) RESERVE-COMPONENT ANNUITY.—In the case of a reserve-component annuity provided to a beneficiary under section 1450(a) of this title (other than under section 1450(a)(4)), the monthly annuity payable to the beneficiary shall be determined as follows:

"(A) BENEFICIARY UNDER 62 YEARS OF AGE.—If the beneficiary is under 62 years of age or is a dependent child when becoming entitled to the annuity, the monthly annuity shall be the amount equal to a percentage of the base amount that—

"(i) is less than 55 percent; and

"(ii) is determined under subsection (f).

"(B) BENEFICIARY 62 YEARS OF AGE OR OLDER.—

"(i) GENERAL RULE.—If the beneficiary (other than a dependent child) is 62 years of age or older when becoming entitled to the annuity, the monthly annuity shall be the amount equal to a percentage of the base amount that—

"(I) is less than 35 percent; and

"(II) is determined under subsection (f).

"(ii) RULE IF BENEFICIARY ELIGIBLE FOR SOCIAL SECURITY OFFSET COMPUTATION.—If the beneficiary is eligible to have the annuity computed under subsection (e) and if, at the time the beneficiary becomes entitled to the annuity, computation of the annuity under that subsection is more favorable to the beneficiary than computation under clause (i), the annuity shall be computed under that subsection rather than under clause (i).

"(b) INSURABLE INTEREST BENEFICIARY.—

"(1) STANDARD ANNUITY.—In the case of a standard annuity provided to a beneficiary under section 1450(a)(4) of this title, the monthly annuity payable to the beneficiary shall be the amount equal to 55 percent of the retired pay of the person who elected to provide the annuity after the reduction in that pay in accordance with section 1452(c) of this title.

"(2) RESERVE-COMPONENT ANNUITY.—In the case of a reserve-component annuity provided to a beneficiary under section 1450(a)(4) of this title, the monthly annuity payable to the beneficiary shall be the amount equal to a percentage of the retired pay of the person who elected to provide the annuity after the reduction in such pay in accordance with section 1452(c) of this title that—

"(A) is less than 55 percent; and

"(B) is determined under subsection (f).

"(3) COMPUTATION OF RESERVE-COMPONENT ANNUITY WHEN PARTICIPANT DIES BEFORE AGE 60.—For the purposes of paragraph (2), a person—

"(A) who provides an annuity that is determined in accordance with that paragraph;

"(B) who dies before becoming 60 years of age; and

"(C) who at the time of death is otherwise entitled to retired pay,

shall be considered to have been entitled to retired pay at the time of death. The retired pay of such person for the

purposes of such paragraph shall be computed on the basis of the rates of basic pay in effect on the date on which the annuity provided by such person is to become effective in accordance with the designation of such person under section 1448(e) of this title.

"(c) ANNUITIES FOR SURVIVORS OF CERTAIN PERSONS DYING DURING A PERIOD OF SPECIAL ELIGIBILITY FOR SBP.—

"(1) IN GENERAL.—In the case of an annuity provided under section 1448(d) or 1448(f) of this title, the amount of the annuity shall be determined as follows:

"(A) BENEFICIARY UNDER 62 YEARS OF AGE.—If the person receiving the annuity is under 62 years of age or is a dependent child when the member or former member dies, the monthly annuity shall be the amount equal to 55 percent of the retired pay to which the member or former member would have been entitled if the member or former member had been entitled to that pay based upon his years of active service when he died.

"(B) BENEFICIARY 62 YEARS OF AGE OR OLDER.—

"(i) GENERAL RULE.—If the person receiving the annuity (other than a dependent child) is 62 years of age or older when the member or former member dies, the monthly annuity shall be the amount equal to 35 percent of the retired pay to which the member or former member would have been entitled if the member or former member had been entitled to that pay based upon his years of active service when he died.

"(ii) RULE IF BENEFICIARY ELIGIBLE FOR SOCIAL SECURITY OFFSET COMPUTATION.—If the beneficiary is eligible to have the annuity computed under subsection (e) and if, at the time the beneficiary becomes entitled to the annuity, computation of the annuity under that subsection is more favorable to the beneficiary than computation under clause (i), the annuity shall be computed under that subsection rather than under clause (i).

"(2) DIC OFFSET.—An annuity computed under paragraph (1) that is paid to a surviving spouse shall be reduced by the amount of dependency and indemnity compensation to which the surviving spouse is entitled under section 1311(a) of title 38. Any such reduction shall be effective on the date of the commencement of the period of payment of such compensation under title 38.

"(3) SERVICEMEMBERS NOT YET GRANTED RETIRED PAY.—In the case of an annuity provided by reason of the service of a member described in section 1448(d)(1)(B) or 1448(d)(1)(C) of this title who first became a member of a uniformed service before September 8, 1980, the retired pay to which the member would have been entitled when he died shall be determined for purposes of paragraph (1) based upon the rate of basic pay in effect at the time of death for the grade in which the member was serving at the time of death, unless (as determined by the Secretary concerned) the member would have been entitled to be retired in a higher grade.

"(4) RATE OF PAY TO BE USED IN COMPUTING ANNUITY.—In the case of an annuity paid under section 1448(f) of this

title by reason of the service of a person who first became a member of a uniformed service before September 8, 1980, the retired pay of the person providing the annuity shall for the purposes of paragraph (1) be computed on the basis of the rates of basic pay in effect on the effective date of the annuity.

"(d) REDUCTION OF ANNUITIES AT AGE 62.—

"(1) REDUCTION REQUIRED.—The annuity of a person whose annuity is computed under subparagraph (A) of subsection (a)(1), (a)(2), or (c)(1) shall be reduced on the first day of the month after the month in which the person becomes 62 years of age.

"(2) AMOUNT OF ANNUITY AS REDUCED.—

"(A) 35 PERCENT ANNUITY.—Except as provided in subparagraph (B), the reduced amount of the annuity shall be the amount of the annuity that the person would be receiving on that date if the annuity had initially been computed under subparagraph (B) of that subsection.

"(B) SAVINGS PROVISION FOR BENEFICIARIES ELIGIBLE FOR SOCIAL SECURITY OFFSET COMPUTATION.—In the case of a person eligible to have an annuity computed under subsection (e) and for whom, at the time the person becomes 62 years of age, the annuity computed with a reduction under subsection (e)(3) is more favorable than the annuity with a reduction described in subparagraph (A), the reduction in the annuity shall be computed in the same manner as a reduction under subsection (e)(3).

"(e) SAVINGS PROVISION FOR CERTAIN BENEFICIARIES.—

"(1) PERSONS COVERED.—The following beneficiaries under the Plan are eligible to have an annuity under the Plan computed under this subsection:

"(A) A beneficiary receiving an annuity under the Plan on October 1, 1985, as the surviving spouse or former spouse of the person providing the annuity.

"(B) A spouse or former spouse beneficiary of a person who on October 1, 1985—

"(i) was a participant in the Plan;

"(ii) was entitled to retired pay or was qualified for that pay except that he had not applied for and been granted that pay; or

"(iii) would have been eligible for reserve-component retired pay but for the fact that he was under 60 years of age.

"(2) AMOUNT OF ANNUITY.—Subject to paragraph (3), an annuity computed under this subsection is determined as follows:

"(A) STANDARD ANNUITY.—In the case of the beneficiary of a standard annuity, the annuity shall be the amount equal to 55 percent of the base amount.

"(B) RESERVE-COMPONENT ANNUITY.—In the case of the beneficiary of a reserve-component annuity, the annuity shall be the percentage of the base amount that—

"(i) is less than 55 percent; and

"(ii) is determined under subsection (f).

"(C) BENEFICIARIES OF PERSONS DYING DURING A PERIOD OF SPECIAL ELIGIBILITY FOR SBP.—In the case of the beneficiary of an annuity under section 1448(d) or 1448(f) of

this title, the annuity shall be the amount equal to 55 percent of the retired pay of the person providing the annuity (as that pay is determined under subsection (c)).

"(3) SOCIAL SECURITY OFFSET.—An annuity computed under this subsection shall be reduced by the lesser of the following:

"(A) SOCIAL SECURITY COMPUTATION.—The amount of the survivor benefit, if any, to which the surviving spouse (or the former spouse, in the case of a former spouse beneficiary who became a former spouse under a divorce that became final after November 29, 1989) would be entitled under title II of the Social Security Act (42 U.S.C. 401 et seq.) based solely upon service by the person concerned as described in section 210(l)(1) of such Act (42 U.S.C. 410(l)(1)) and calculated assuming that the person concerned lives to age 65.

"(B) MAXIMUM AMOUNT OF REDUCTION.—40 percent of the amount of the monthly annuity as determined under paragraph (2).

"(4) SPECIAL RULES FOR SOCIAL SECURITY OFFSET COMPUTATION.—

"(A) TREATMENT OF DEDUCTIONS MADE ON ACCOUNT OF WORK.—For the purpose of paragraph (3), a surviving spouse (or a former spouse, in the case of a person who becomes a former spouse under a divorce that becomes final after November 29, 1989) shall not be considered as entitled to a benefit under title II of the Social Security Act (42 U.S.C. 401 et seq.) to the extent that such benefit has been offset by deductions under section 203 of such Act (42 U.S.C. 403) on account of work.

"(B) TREATMENT OF CERTAIN PERIODS FOR WHICH SOCIAL SECURITY REFUNDS ARE MADE.—In the computation of any reduction made under paragraph (3), there shall be excluded any period of service described in section 210(l)(1) of the Social Security Act (42 U.S.C. 410(l)(1))—

"(i) which was performed after December 1, 1980; and

"(ii) which involved periods of service of less than 30 continuous days for which the person concerned is entitled to receive a refund under section 6413(c) of the Internal Revenue Code of 1986 of the social security tax which the person had paid.

"(f) DETERMINATION OF PERCENTAGES APPLICABLE TO COMPUTATION OF RESERVE-COMPONENT ANNUITIES.—The percentage to be applied in determining the amount of an annuity computed under subsection (a)(2), (b)(2), or (e)(2)(B) shall be determined under regulations prescribed by the Secretary of Defense. Such regulations shall be prescribed taking into consideration the following: Regulations.

"(1) The age of the person electing to provide the annuity at the time of such election.

"(2) The difference in age between such person and the beneficiary of the annuity.

"(3) Whether such person provided for the annuity to become effective (in the event he died before becoming 60 years of age) on the day after his death or on the 60th anniversary of his birth.

"(4) Appropriate group annuity tables.

"(5) Such other factors as the Secretary considers relevant.

"(g) ADJUSTMENTS TO ANNUITIES.—

"(1) PERIODIC ADJUSTMENTS FOR COST-OF-LIVING.—

"(A) INCREASES IN ANNUITIES WHEN RETIRED PAY INCREASED.—Whenever retired pay is increased under section 1401a of this title (or any other provision of law), each annuity that is payable under the Plan shall be increased at the same time.

"(B) PERCENTAGE OF INCREASE.—The increase shall, in the case of any annuity, be by the same percent as the percent by which the retired pay of the person providing the annuity would have been increased at such time if the person were alive (and otherwise entitled to such pay).

"(C) CERTAIN REDUCTIONS TO BE DISREGARDED.—The amount of the increase shall be based on the monthly annuity payable before any reduction under section 1450(c) of this title or under subsection (c)(2).

"(2) ROUNDING DOWN.—The monthly amount of an annuity payable under this subchapter, if not a multiple of $1, shall be rounded to the next lower multiple of $1.

"(h) ADJUSTMENTS TO BASE AMOUNT.—

"(1) PERIODIC ADJUSTMENTS FOR COST-OF-LIVING.—

"(A) INCREASES IN BASE AMOUNT WHEN RETIRED PAY INCREASED.—Whenever retired pay is increased under section 1401a of this title (or any other provision of law), the base amount applicable to each participant in the Plan shall be increased at the same time.

"(B) PERCENTAGE OF INCREASE.—The increase shall be by the same percent as the percent by which the retired pay of the participant is so increased.

"(2) RECOMPUTATION AT AGE 62.—When the retired pay of a person who first became a member of a uniformed service on or after August 1, 1986, and who is a participant in the Plan is recomputed under section 1410 of this title upon the person's becoming 62 years of age, the base amount applicable to that person shall be recomputed (effective on the effective date of the recomputation of such retired pay under section 1410 of this title) so as to be the amount equal to the amount of the base amount that would be in effect on that date if increases in such base amount under paragraph (1) had been computed as provided in paragraph (2) of section 1401a(b) of this title (rather than under paragraph (3) of that section).

"(3) DISREGARDING OF RETIRED PAY REDUCTIONS FOR RETIREMENT BEFORE 30 YEARS OF SERVICE.—Computation of a member's retired pay for purposes of this section shall be made without regard to any reduction under section 1409(b)(2) of this title.

"(i) RECOMPUTATION OF ANNUITY FOR CERTAIN BENEFICIARIES.—In the case of an annuity under the Plan which is computed on the basis of the retired pay of a person who would have been entitled to have that retired pay recomputed under section 1410 of this title upon attaining 62 years of age, but who dies before attaining that age, the annuity shall be recomputed, effective on the first day of the first month beginning after the date on which the member or former member would have attained 62 years of age, so as to be the amount equal to the amount of the annuity that would be in effect on that date if increases

under subsection (h)(1) in the base amount applicable to that annuity to the time of the death of the member or former member, and increases in such annuity under subsection (g)(1), had been computed as provided in paragraph (2) of section 1401a(b) of this title (rather than under paragraph (3) of that section).

"§ 1452. Reduction in retired pay

"(a) SPOUSE AND FORMER SPOUSE ANNUITIES.—

"(1) REQUIRED REDUCTION IN RETIRED PAY.—Except as provided in subsection (b), the retired pay of a participant in the Plan who is providing spouse coverage (as described in paragraph (5)) shall be reduced as follows:

"(A) STANDARD ANNUITY.—If the annuity coverage being providing is a standard annuity, the reduction shall be as follows:

"(i) DISABILITY AND NONREGULAR SERVICE RETIREES.—In the case of a person who is entitled to retired pay under chapter 61 or chapter 1223 of this title, the reduction shall be in whichever of the alternative reduction amounts is more favorable to that person.

"(ii) MEMBERS AS OF ENACTMENT OF FLAT-RATE REDUCTION.—In the case of a person who first became a member of a uniformed service before March 1, 1990, the reduction shall be in whichever of the alternative reduction amounts is more favorable to that person.

"(iii) NEW ENTRANTS AFTER ENACTMENT OF FLAT-RATE REDUCTION.—In the case of a person who first becomes a member of a uniformed service on or after March 1, 1990, and who is entitled to retired pay under a provision of law other than chapter 61 or chapter 1223 of this title, the reduction shall be in an amount equal to 6½ percent of the base amount.

"(iv) ALTERNATIVE REDUCTION AMOUNTS.—For purposes of clauses (i) and (ii), the alternative reduction amounts are the following:

"(I) FLAT-RATE REDUCTION.—An amount equal to 6½ percent of the base amount.

"(II) AMOUNT UNDER PRE-FLAT-RATE REDUCTION.—An amount equal to 2½ percent of the first $337 (as adjusted after November 1, 1989, under paragraph (4)) of the base amount plus 10 percent of the remainder of the base amount.

"(B) RESERVE-COMPONENT ANNUITY.—If the annuity coverage being provided is a reserve-component annuity, the reduction shall be in whichever of the following amounts is more favorable to that person:

"(i) FLAT-RATE REDUCTION.—An amount equal to 6½ percent of the base amount plus an amount determined in accordance with regulations prescribed by the Secretary of Defense as a premium for the additional coverage provided through reserve-component annuity coverage under the Plan.

"(ii) AMOUNT UNDER PRE-FLAT-RATE REDUCTION.—An amount equal to 2½ percent of the first $337 (as adjusted after November 1, 1989, under paragraph (4)) of the base amount plus 10 percent of the remain-

der of the base amount plus an amount determined in accordance with regulations prescribed by the Secretary of Defense as a premium for the additional coverage provided through reserve-component annuity coverage under the Plan.

"(2) ADDITIONAL REDUCTION FOR CHILD COVERAGE.—If there is a dependent child as well as a spouse or former spouse, the amount prescribed under paragraph (1) shall be increased by an amount prescribed under regulations of the Secretary of Defense. Regulations.

"(3) NO REDUCTION WHEN NO BENEFICIARY.—The reduction in retired pay prescribed by paragraph (1) shall not be applicable during any month in which there is no eligible spouse or former spouse beneficiary.

"(4) PERIODIC ADJUSTMENTS.—

"(A) ADJUSTMENTS FOR INCREASES IN RATES OF BASIC PAY.—Whenever there is an increase in the rates of basic pay of members of the uniformed services effective on or after October 1, 1985, the amounts under paragraph (1) with respect to which the percentage factor of 2½ is applied shall be increased by the overall percentage of such increase in the rates of basic pay. The increase under the preceding sentence shall apply only with respect to persons whose retired pay is computed based on the rates of basic pay in effect on or after the date of such increase in rates of basic pay.

"(B) ADJUSTMENTS FOR RETIRED PAY COLAS.—In addition to the increase under subparagraph (A), the amounts under paragraph (1) with respect to which the percentage factor of 2½ is applied shall be further increased at the same time and by the same percentage as an increase in retired pay under section 1401a of this title effective on or after October 1, 1985. Such increase under the preceding sentence shall apply only with respect to a person who initially participates in the Plan on a date which is after both the effective date of such increase under section 1401a and the effective date of the rates of basic pay upon which that person's retired pay is computed.

"(5) SPOUSE COVERAGE DESCRIBED.—For the purposes of paragraph (1), a participant in the Plan who is providing spouse coverage is a participant who—

"(A) has (i) a spouse or former spouse, or (ii) a spouse or former spouse and a dependent child; and

"(B) has not elected to provide an annuity to a person designated by him under section 1448(b)(1) of this title or, having made such an election, has changed his election in favor of his spouse under section 1450(f) of this title.

"(b) CHILD-ONLY ANNUITIES.—

"(1) REQUIRED REDUCTION IN RETIRED PAY.—The retired pay of a participant in the Plan who is providing child-only coverage (as described in paragraph (4)) shall be reduced by an amount prescribed under regulations by the Secretary of Defense.

"(2) NO REDUCTION WHEN NO CHILD.—There shall be no reduction in retired pay under paragraph (1) for any month during which the participant has no eligible dependent child.

"(3) SPECIAL RULE FOR CERTAIN RCSBP PARTICIPANTS.—In the case of a participant in the Plan who is participating in the Plan under an election under section 1448(a)(2)(B) of this title and who provided child-only coverage during a period before the participant becomes entitled to receive retired pay, the retired pay of the participant shall be reduced by an amount prescribed under regulations by the Secretary of Defense to reflect the coverage provided under the Plan during the period before the participant became entitled to receive retired pay. A reduction under this paragraph is in addition to any reduction under paragraph (1) and is made without regard to whether there is an eligible dependent child during a month for which the reduction is made.

"(4) CHILD-ONLY COVERAGE DEFINED.—For the purposes of this subsection, a participant in the Plan who is providing child-only coverage is a participant who has a dependent child and who—

"(A) does not have an eligible spouse or former spouse; or

"(B) has a spouse or former spouse but has elected to provide an annuity for dependent children only.

"(c) REDUCTION FOR INSURABLE INTEREST COVERAGE.—

"(1) REQUIRED REDUCTION IN RETIRED PAY.—The retired pay of a person who has elected to provide an annuity to a person designated by him under section 1450(a)(4) of this title shall be reduced as follows:

"(A) STANDARD ANNUITY.—In the case of a person providing a standard annuity, the reduction shall be by 10 percent plus 5 percent for each full five years the individual designated is younger than that person.

"(B) RESERVE COMPONENT ANNUITY.—In the case of a person providing a reserve-component annuity, the reduction shall be by an amount prescribed under regulations of the Secretary of Defense.

"(2) LIMITATION ON TOTAL REDUCTION.—The total reduction under paragraph (1) may not exceed 40 percent.

"(3) DURATION OF REDUCTION.—The reduction in retired pay prescribed by this subsection shall continue during the lifetime of the person designated under section 1450(a)(4) of this title or until the person receiving retired pay changes his election under section 1450(f) of this title.

"(4) RULE FOR COMPUTATION.—Computation of a member's retired pay for purposes of this subsection shall be made without regard to any reduction under section 1409(b)(2) of this title.

"(d) DEPOSITS TO COVER PERIODS WHEN RETIRED PAY NOT PAID.—

"(1) REQUIRED DEPOSITS.—If a person who has elected to participate in the Plan has been awarded retired pay and is not entitled to that pay for any period, that person must deposit in the Treasury the amount that would otherwise have been deducted from his pay for that period.

"(2) DEPOSITS NOT REQUIRED WHEN PARTICIPANT ON ACTIVE DUTY.—Paragraph (1) does not apply to a person with respect to any period when that person is on active duty under a call or order to active duty for a period of more than 30 days.

"(e) DEPOSITS NOT REQUIRED FOR CERTAIN PARTICIPANTS IN CSRS.—When a person who has elected to participate in the Plan waives that person's retired pay for the purposes of subchapter III of chapter 83 of title 5, that person shall not be required to make the deposit otherwise required by subsection (d) as long as that waiver is in effect unless, in accordance with section 8339(i) of title 5, that person has notified the Office of Personnel Management that he does not desire a spouse surviving him to receive an annuity under section 8331(b) of title 5.

"(f) REFUNDS OF DEDUCTIONS NOT ALLOWED.—

"(1) GENERAL RULE.—A person is not entitled to refund of any amount deducted from retired pay under this section.

"(2) EXCEPTIONS.—Paragraph (1) does not apply—

"(A) in the case of a refund authorized by section 1450(e) of this title; or

"(B) in case of a deduction made through administrative error.

"(g) DISCONTINUATION OF PARTICIPATION BY PARTICIPANTS WHOSE SURVIVING SPOUSES WILL BE ENTITLED TO DIC.—

"(1) DISCONTINUATION.—

"(A) CONDITIONS.—Notwithstanding any other provision of this subchapter but subject to paragraphs (2) and (3), a person who has elected to participate in the Plan and who is suffering from a service-connected disability rated by the Secretary of Veterans Affairs as totally disabling and has suffered from such disability while so rated for a continuous period of 10 or more years (or, if so rated for a lesser period, has suffered from such disability while so rated for a continuous period of not less than 5 years from the date of such person's last discharge or release from active duty) may discontinue participation in the Plan by submitting to the Secretary concerned a request to discontinue participation in the Plan.

"(B) EFFECTIVE DATE.—Participation in the Plan of a person who submits a request under subparagraph (A) shall be discontinued effective on the first day of the first month following the month in which the request under subparagraph (A) is received by the Secretary concerned. Effective on such date, the Secretary concerned shall discontinue the reduction being made in such person's retired pay on account of participation in the Plan or, in the case of a person who has been required to make deposits in the Treasury on account of participation in the Plan, such person may discontinue making such deposits effective on such date.

"(C) FORM FOR REQUEST FOR DISCONTINUATION.—Any request under this paragraph to discontinue participation in the Plan shall be in such form and shall contain such information as the Secretary concerned may require by regulation.

"(2) CONSENT OF BENEFICIARIES REQUIRED.—A person described in paragraph (1) may not discontinue participation in the Plan under such paragraph without the written consent of the beneficiary or beneficiaries of such person under the Plan.

"(3) INFORMATION ON PLAN TO BE PROVIDED BY SECRETARY CONCERNED.—

"(A) INFORMATION TO BE PROVIDED PROMPTLY TO PARTICIPANT.—The Secretary concerned shall furnish promptly to each person who files a request under paragraph (1) to discontinue participation in the Plan a written statement of the advantages of participating in the Plan and the possible disadvantages of discontinuing participation.

"(B) RIGHT TO WITHDRAW DISCONTINUATION REQUEST.—A person may withdraw a request made under paragraph (1) if it is withdrawn within 30 days after having been submitted to the Secretary concerned.

"(4) REFUND OF DEDUCTIONS FROM RETIRED PAY.—Upon the death of a person described in paragraph (1) who discontinued participation in the Plan in accordance with this subsection, any amount deducted from the retired pay of that person under this section shall be refunded to the person's surviving spouse.

"(5) RESUMPTION OF PARTICIPATION IN PLAN.—

"(A) CONDITIONS FOR RESUMPTION.—A person described in paragraph (1) who discontinued participation in the Plan may elect to participate again in the Plan if—

"(i) after having discontinued participation in the Plan the Secretary of Veterans Affairs reduces that person's service-connected disability rating to a rating of less than total; and

"(ii) that person applies to the Secretary concerned, within such period of time after the reduction in such person's service-connected disability rating has been made as the Secretary concerned may prescribe, to again participate in the Plan and includes in such application such information as the Secretary concerned may require.

"(B) EFFECTIVE DATE OF RESUMED COVERAGE.—Such person's participation in the Plan under this paragraph is effective beginning on the first day of the month after the month in which the Secretary concerned receives the application for resumption of participation in the Plan.

"(C) RESUMPTION OF CONTRIBUTIONS.—When a person elects to participate in the Plan under this paragraph, the Secretary concerned shall begin making reductions in that person's retired pay, or require such person to make deposits in the Treasury under subsection (d), as appropriate, effective on the effective date of such participation under subparagraph (B).

"(h) INCREASES IN REDUCTION WITH INCREASES IN RETIRED PAY.—

"(1) GENERAL RULE.—Whenever retired pay is increased under section 1401a of this title (or any other provision of law), the amount of the reduction to be made under subsection (a) or (b) in the retired pay of any person shall be increased at the same time and by the same percentage as such retired pay is so increased.

"(i) RECOMPUTATION OF REDUCTION UPON RECOMPUTATION OF RETIRED PAY.—When the retired pay of a person who first became a member of a uniformed service on or after August 1, 1986, and who is a participant in the Plan is recomputed under section 1410 of this title upon the person's becoming 62 years of age,

the amount of the reduction in such retired pay under this section shall be recomputed (effective on the effective date of the recomputation of such retired pay under section 1410 of this title) so as to be the amount equal to the amount of such reduction that would be in effect on that date if increases in such retired pay under section 1401a(b) of this title, and increases in reductions in such retired pay under subsection (h), had been computed as provided in paragraph (2) of section 1401a(b) of this title (rather than under paragraph (3) of that section).

"§ 1453. Recovery of amounts erroneously paid

"(a) RECOVERY.—In addition to any other method of recovery provided by law, the Secretary concerned may authorize the recovery of any amount erroneously paid to a person under this subchapter by deduction from later payments to that person.

"(b) AUTHORITY TO WAIVE RECOVERY.—Recovery of an amount erroneously paid to a person under this subchapter is not required if, in the judgment of the Secretary concerned and the Comptroller General—

"(1) there has been no fault by the person to whom the amount was erroneously paid; and

"(2) recovery of such amount would be contrary to the purposes of this subchapter or against equity and good conscience.

"§ 1454. Correction of administrative errors

"(a) AUTHORITY.—The Secretary concerned may, under regulations prescribed under section 1455 of this title, correct or revoke any election under this subchapter when the Secretary considers it necessary to correct an administrative error.

"(b) FINALITY.—Except when procured by fraud, a correction or revocation under this section is final and conclusive on all officers of the United States.

"§ 1455. Regulations

President.

"(a) IN GENERAL.—The President shall prescribe regulations to carry out this subchapter. Those regulations shall, so far as practicable, be uniform for the uniformed services.

"(b) NOTICE OF ELECTIONS.—Regulations prescribed under this section shall provide that before the date on which a member becomes entitled to retired pay—

"(1) if the member is married, the member and the member's spouse shall be informed of the elections available under section 1448(a) of this title and the effects of such elections; and

"(2) if the notification referred to in section 1448(a)(3)(E) of this title is required, any former spouse of the member shall be informed of the elections available and the effects of such elections.

"(c) PROCEDURE FOR DEPOSITING CERTAIN RECEIPTS.—Regulations prescribed under this section shall establish procedures for depositing the amounts referred to in sections 1448(g), 1450(k)(2), and 1452(d) of this title.

"(d) PAYMENTS TO GUARDIANS AND FIDUCIARIES.—

"(1) IN GENERAL.—Regulations prescribed under this section shall provide procedures for the payment of an annuity under this subchapter in the case of—

"(A) a person for whom a guardian or other fiduciary has been appointed; and

"(B) a minor, mentally incompetent, or otherwise legally disabled person for whom a guardian or other fiduciary has not been appointed.

"(2) AUTHORIZED PROCEDURES.—The regulations under paragraph (1) may include provisions for the following:

"(A) In the case of an annuitant referred to in paragraph (1)(A), payment of the annuity to the appointed guardian or other fiduciary.

"(B) In the case of an annuitant referred to in paragraph (1)(B), payment of the annuity to any person who, in the judgment of the Secretary concerned, is responsible for the care of the annuitant.

"(C) Subject to subparagraphs (D) and (E), a requirement for the payee of an annuity to spend or invest the amounts paid on behalf of the annuitant solely for benefit of the annuitant.

"(D) Authority for the Secretary concerned to permit the payee to withhold from the annuity payment such amount, not in excess of 4 percent of the annuity, as the Secretary concerned considers a reasonable fee for the fiduciary services of the payee when a court appointment order provides for payment of such a fee to the payee for such services or the Secretary concerned determines that payment of a fee to such payee is necessary in order to obtain the fiduciary services of the payee.

"(E) Authority for the Secretary concerned to require the payee to provide a surety bond in an amount sufficient to protect the interests of the annuitant and to pay for such bond out of the annuity.

"(F) A requirement for the payee of an annuity to maintain and, upon request, to provide to the Secretary concerned an accounting of expenditures and investments of amounts paid to the payee.

"(G) In the case of an annuitant referred to in paragraph (1)(B)—

"(i) procedures for determining incompetency and for selecting a payee to represent the annuitant for the purposes of this section, including provisions for notifying the annuitant of the actions being taken to make such a determination and to select a representative payee, an opportunity for the annuitant to review the evidence being considered, and an opportunity for the annuitant to submit additional evidence before the determination is made; and

"(ii) standards for determining incompetency, including standards for determining the sufficiency of medical evidence and other evidence.

"(H) Provisions for any other matter that the President considers appropriate in connection with the payment of an annuity in the case of a person referred to in paragraph (1).

"(3) LEGAL EFFECT OF PAYMENT TO GUARDIAN OR FIDUCIARY.—An annuity paid to a person on behalf of an annuitant in accordance with the regulations prescribed pursuant to paragraph (1) discharges the obligation of the United States for

payment to the annuitant of the amount of the annuity so paid.".

SEC. 635. INCREASES IN SURVIVOR BENEFIT PLAN CONTRIBUTIONS TO BE EFFECTIVE CONCURRENTLY WITH PAYMENT OF RETIRED PAY COST-OF-LIVING INCREASES.

(a) SURVIVOR BENEFIT PLAN.—Section 1452(h) of title 10, United States Code, as amended by section 634, is amended by adding at the end the following new paragraph:

"(2) COORDINATION WHEN PAYMENT OF INCREASE IN RETIRED PAY IS DELAYED BY LAW.—

"(A) IN GENERAL.—Notwithstanding paragraph (1), when the initial payment of an increase in retired pay under section 1401a of this title (or any other provision of law) to a person is for a month that begins later than the effective date of that increase by reason of the application of subsection (b)(2)(B) of such section (or section 631(b) of Public Law 104–106 (110 Stat. 364)), then the amount of the reduction in the person's retired pay shall be effective on the date of that initial payment of the increase in retired pay rather than the effective date of the increase in retired pay.

"(B) DELAY NOT TO AFFECT COMPUTATION OF ANNUITY.—Subparagraph (A) may not be construed as delaying, for purposes of determining the amount of a monthly annuity under section 1451 of this title, the effective date of an increase in a base amount under subsection (h) of such section from the effective date of an increase in retired pay under section 1401a of this title to the date on which the initial payment of that increase in retired pay is made in accordance with subsection (b)(2)(B) of such section.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to retired pay payable for months beginning on or after the date of the enactment of this Act.

Applicability. 10 USC 1452 note.

SEC. 636. AMENDMENTS TO THE UNIFORMED SERVICES FORMER SPOUSES' PROTECTION ACT.

(a) MANNER OF SERVICE OF PROCESS.—Subsection (b)(1)(A) of section 1408 of title 10, United States Code, is amended by striking out "certified or registered mail, return receipt requested" and inserting in lieu thereof "facsimile or electronic transmission or by mail".

(b) SUBSEQUENT COURT ORDER FROM ANOTHER STATE.—Subsection (d) of such section is amended by adding at the end the following new paragraph:

"(6)(A) The Secretary concerned may not accept service of a court order that is an out-of State modification, or comply with the provisions of such a court order, unless the court issuing that order has jurisdiction in the manner specified in subsection (c)(4) over both the member and the spouse or former spouse involved.

"(B) A court order shall be considered to be an out-of-State modification for purposes of this paragraph if the order—

"(i) modifies a previous court order under this section upon which payments under this subsection are based; and

"(ii) is issued by a court of a State other than the State of the court that issued the previous court order.".

SEC. 637. PREVENTION OF CIRCUMVENTION OF COURT ORDER BY WAIVER OF RETIRED PAY TO ENHANCE CIVIL SERVICE RETIREMENT ANNUITY.

(a) CIVIL SERVICE RETIREMENT AND DISABILITY SYSTEM.—(1) Subsection (c) of section 8332 of title 5, United States Code, is amended by adding at the end the following new paragraph:

"(4) If, after January 1, 1997, an employee or Member waives retired pay that is subject to a court order for which there has been effective service on the Secretary concerned for purposes of section 1408 of title 10, the military service on which the retired pay is based may be credited as service for purposes of this subchapter only if the employee or Member authorizes the Director to deduct and withhold from the annuity payable to the employee or Member under this subchapter an amount equal to the amount that, if the annuity payment was instead a payment of the employee's or Member's retired pay, would have been deducted and withheld and paid to the former spouse covered by the court order under such section 1408. The amount deducted and withheld under this paragraph shall be paid to that former spouse. The period of civil service employment by the employee or Member shall not be taken into consideration in determining the amount of the deductions and withholding or the amount of the payment to the former spouse. The Director of the Office of Personnel Management shall prescribe regulations to carry out this paragraph.".

Regulations.

(2) Paragraph (1) of such subsection is amended by striking out "Except as provided in paragraph (2)" and inserting in lieu thereof "Except as provided in paragraphs (2) and (4)".

(b) FEDERAL EMPLOYEES' RETIREMENT SYSTEM.—(1) Subsection (c) of section 8411 of title 5, United States Code, is amended by adding at the end the following new paragraph:

"(5) If, after January 1, 1997, an employee or Member waives retired pay that is subject to a court order for which there has been effective service on the Secretary concerned for purposes of section 1408 of title 10, the military service on which the retired pay is based may be credited as service for purposes of this chapter only if the employee or Member authorizes the Director to deduct and withhold from the annuity payable to the employee or Member under this subchapter an amount equal to the amount that, if the annuity payment was instead a payment of the employee's or Member's retired pay, would have been deducted and withheld and paid to the former spouse covered by the court order under such section 1408. The amount deducted and withheld under this paragraph shall be paid to that former spouse. The period of civil service employment by the employee or Member shall not be taken into consideration in determining the amount of the deductions and withholding or the amount of the payment to the former spouse. The Director of the Office of Personnel Management shall prescribe regulations to carry out this paragraph.".

Regulations.

(2) Paragraph (1) of such subsection is amended by striking "Except as provided in paragraph (2) or (3)" and inserting "Except as provided in paragraphs (2), (3), and (5)".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on January 1, 1997.

5 USC 8332 note.

SEC. 638. ADMINISTRATION OF BENEFITS FOR SO-CALLED MINIMUM INCOME WIDOWS.

(a) ADJUSTED ANNUAL INCOME LIMITATION APPLIABLE TO ELIGIBILITY FOR INCOME SUPPLEMENT.—(1) Section 4 of Public Law 92–425 (10 U.S.C. 1448 note) is amended—

(A) in subsection (a)(3), by striking out "$2,340" and inserting in lieu thereof "the maximum annual rate of pension in effect under section 1541(b) of title 38, United States Code"; and

(B) in the first sentence of subsection (b), by striking out "$2,340 a year" and inserting in lieu thereof "the maximum annual rate of pension in effect under section 1541(b) of title 38, United States Code".

(2) Subsection (c) of such section is repealed.

(b) PAYMENTS TO BE MADE BY SECRETARY OF VETERANS AFFAIRS.—Such section is further amended by adding at the end the following new subsection:

"(e)(1) Payment of annuities under this section shall be made by the Secretary of Veterans Affairs. If appropriate for administrative convenience (or otherwise determined appropriate by the Secretary of Veterans Affairs), that Secretary may combine a payment to any person for any month under this section with any other payment for that month under laws administered by the Secretary so as to provide that person with a single payment for that month.

"(2) The Secretary concerned shall annually transfer to the Secretary of Veterans Affairs such amounts as may be necessary for payments by the Secretary of Veterans Affairs under this section and for costs of the Secretary of Veterans Affairs in administering this section. Such transfers shall be made from amounts that would otherwise be used for payment of annuities by the Secretary concerned under this section. The authority to make such a transfer is in addition to any other authority of the Secretary concerned to transfer funds for a purpose other than the purpose for which the funds were originally made available. In the case of a transfer by the Secretary of a military department, the provisions of section 2215 of title 10, United States Code, do not apply.

"(3) The Secretary concerned shall promptly notify the Secretary of Veterans Affairs of any change in beneficiaries under this section.". Notification.

(c) CLARIFICATION OF CONTINUING ELIGIBLITY FOR DEPARTMENT OF VETERANS AFFAIRS PENSION.—Such section, as amended by subsection (a)(2), is further amended by inserting after subsection (b) the following new subsection (c):

"(c) The amount of an annuity payable under this section, although counted as income in determining the amount of any pension described in subsection (a)(2) of this section, shall not be considered to affect the eligiblity of the recipient of such annuity for such pension, even though, as a result of including the amount of the annuity as income, no amount of such pension is due.".

(d) EFFECTIVE DATE.—The amendments made by this section take effect on July 1, 1997, and apply with respect to payments of benefits for any month after June 1997. Applicability. 10 USC 1448 note.

Subtitle E—Other Matters

SEC. 651. DISCRETIONARY ALLOTMENT OF PAY, INCLUDING RETIRED OR RETAINER PAY.

(a) ALLOTMENTS AUTHORIZED.—Section 701 of title 37, United States Code, is amended by striking out subsection (d) and inserting in lieu thereof the following new subsections:

Regulations.

"(d) Under regulations prescribed by the Secretary of Defense, a member of the Army, Navy, Air Force, or Marine Corps and a contract surgeon of the Army, Navy, or Air Force may make allotments from the pay of the member or surgeon for the purpose of supporting relatives or for any other purpose that the Secretary considers proper. Such allotments may include a maximum of six allotments considered to be discretionary under such regulations. For a member or former member entitled to retired or retainer pay, a maximum of six discretionary allotments authorized during active military service may be continued into retired status, and new discretionary allotments may be authorized so long as the total number of discretionary allotments does not exceed six.

"(e) If an allotment made under subsection (d) is paid to the allottee before the disbursing officer receives a notice of discontinuance from the officer required by regulation to furnish the notice, the amount of the allotment shall be credited to the disbursing officer. If an allotment is erroneously paid because the officer required by regulation to so report failed to report the death of the allotter or any other fact that makes the allotment not payable, the amount of the payment not recovered from the allottee shall, if practicable, be collected by the Secretary concerned from the officer who failed to make the report.".

37 USC 701 note.

(b) ISSUANCE OF REGULATIONS.—The Secretaries of the military departments shall prescribe regulations under subsection (d) of section 701 of title 37, United States Code, as added by subsection (a), not later than October 1, 1997.

SEC. 652. REIMBURSEMENT FOR ADOPTION EXPENSES INCURRED IN ADOPTIONS THROUGH PRIVATE PLACEMENTS.

(a) DEPARTMENT OF DEFENSE.—Section 1052(g) of title 10, United States Code, is amended—

(1) in paragraph (1), by striking out "State or local government" and all that follows through the period at the end of the first sentence and inserting in lieu thereof "qualified adoption agency."; and

(2) by adding at the end the following new paragraph:

"(3) The term 'qualified adoption agency' means any of the following:

"(A) A State or local government agency which has responsibility under State or local law for child placement through adoption.

"(B) A nonprofit, voluntary adoption agency which is authorized by State or local law to place children for adoption.

"(C) Any other source authorized by a State to provide adoption placement if the adoption is supervised by a court under State or local law.".

(b) COAST GUARD.—Section 514(g) of title 14, United States Code, is amended—

(1) in paragraph (1), by striking out "State or local government" and all that follows through the period at the end of the first sentence and inserting in lieu thereof "qualified adoption agency."; and

(2) by adding at the end the following new paragraph:

"(3) The term 'qualified adoption agency' means any of the following:

"(A) A State or local government agency which has responsibility under State or local law for child placement through adoption.

"(B) A nonprofit, voluntary adoption agency which is authorized by State or local law to place children for adoption.

"(C) Any other source authorized by a State to provide adoption placement if the adoption is supervised by a court under State or local law.".

SEC. 653. WAIVER OF RECOUPMENT OF AMOUNTS WITHHELD FOR TAX PURPOSES FROM CERTAIN SEPARATION PAY.

(a) IN GENERAL.—Section 1174(h)(2) of title 10, United States Code, is amended by inserting before the period at the end of the first sentence the following: ", less the amount of Federal income tax withheld from such pay (such withholding being at the flat withholding rate for Federal income tax withholding, as in effect pursuant to regulations prescribed under chapter 24 of the Internal Revenue Code of 1986)".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1996, and shall apply to payments of separation pay, severance pay, or readjustment pay that are made after September 30, 1996.

Applicability. 10 USC 1174 note.

SEC. 654. TECHNICAL CORRECTION CLARIFYING LIMITATION ON FURNISHING CLOTHING OR ALLOWANCES FOR ENLISTED NATIONAL GUARD TECHNICIANS.

Section 418(c) of title 37, United States Code, is amended by striking out "for which a uniform allowance is paid under section 415 or 416 of this title" and inserting in lieu thereof "for which clothing is furnished or a uniform allowance is paid under this section".

SEC. 655. TECHNICAL CORRECTION TO PRIOR AUTHORITY FOR PAYMENT OF BACKPAY TO CERTAIN PERSONS.

Section 634 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 366) is amended—

(1) in subsection (b)(1), by striking out "Island of Bataan" and inserting in lieu thereof "peninsula of Bataan or island of Corregidor"; and

(2) in subsection (c), by inserting after the first sentence the following: "For the purposes of this subsection, the Secretary of War shall be deemed to have determined that conditions in the Philippines during the specified period justified payment under applicable regulations of quarters and subsistence allowances at the maximum special rate for duty where emergency conditions existed.".

50 USC app. 2005 note.

SEC. 656. COMPENSATION FOR PERSONS AWARDED PRISONER OF WAR MEDAL WHO DID NOT PREVIOUSLY RECEIVE COMPENSATION AS A PRISONER OF WAR.

(a) AUTHORITY TO MAKE PAYMENTS.—The Secretary of the military department concerned shall make payments in the manner provided in section 6 of the War Claims Act of 1948 (50 U.S.C. App. 2005) to (or on behalf of) any person described in subsection (b) who submits an application for such payment in accordance with subsection (d).

(b) ELIGIBLE PERSONS.—This section applies with respect to a member or former member of the Armed Forces who—

(1) has received the prisoner of war medal under section 1128 of title 10, United States Code; and

(2) has not previously received a payment under section 6 of the War Claims Act of 1948 (50 U.S.C. App. 2005) with respect to the period of internment for which the person received the prisoner of war medal.

(c) AMOUNT OF PAYMENT.—The amount of the payment to any person under this section shall be determined based upon the provisions of section 6 of the War Claims Act of 1948 that are applicable with respect to the period of time during which the internment occurred for which the person received the prisoner of war medal.

(d) ONE-YEAR PERIOD FOR SUBMISSION OF APPLICATIONS.—A payment may be made by reason of this section only in the case of a person who submits an application to the Secretary concerned for such payment during the one-year period beginning on the date of the enactment of this Act. Any such application shall be submitted in such form and manner as the Secretary may require.

SEC. 657. PAYMENTS TO CERTAIN PERSONS CAPTURED AND INTERNED BY NORTH VIETNAM.

(a) PAYMENT AUTHORIZED TO ELIGIBLE PERSONS.—(1) Using amounts made available under subsection (g), the Secretary of Defense shall make a payment under this section to a person who demonstrates to the satisfaction of the Secretary of Defense that the person was captured and incarcerated by the Democratic Republic of Vietnam as a result of the participation by the person in operations conducted under OPLAN 34A or its predecessor.

(2) Using amounts made available under subsection (g), the Secretary of Defense shall also make a payment under this section to a person who demonstrates to the satisfaction of the Secretary of Defense that the person—

(A) served as a Vietnamese operative pursuant to OPLAN 35;

(B) was captured and incarcerated by North Vietnamese forces as a result of the participation by the person in operations in Laos or along the Lao-Vietnamese border pursuant to OPLAN 35;

(C) remained in captivity after 1973 (or died in captivity); and

(D) has not previously received payment from the United States for the period spent in captivity.

(3) A payment may not be made under this section to, or with respect to, a person who the Secretary of Defense determines, based on the available evidence, served in the Peoples Army of Vietnam or provided active assistance to the Government of the

Democratic Republic of Vietnam during the period from 1958 through 1975.

(b) EFFECT OF DEATH OF ELIGIBLE PERSON.—In the case of a decedent who would have been eligible for a payment under this section if alive, the documentation required under subsection (a) may be provided by survivors of the decedent, and the payment under this section shall be made to survivors of the decedent in the following order:

(1) To the surviving spouse.

(2) If there is no surviving spouse, to the surviving children (including natural children and adopted children) of the decedent, in equal shares.

(c) AMOUNT PAYABLE.—The amount payable to, or with respect to, a person under this section is $40,000. If a person can demonstrate to the Secretary of Defense that confinement or incarceration exceeded 20 years, the Secretary may pay an additional $2,000 for each full year in excess of 20 (and a proportionate amount for a partial year), but the total amount paid to, or with respect to, a person under this section may not exceed $50,000.

(d) TIME LIMITATIONS.—(1) To be eligible for a payment under this section, a claimant must file a claim for such payment with the Secretary of Defense within 18 months of the effective date of the regulations implementing this section.

(2) Not later than 18 months after receiving a claim for payment under this section, the Secretary shall determine the eligibility of the claimant for payment of the claim. Subject to subsection (f), if the Secretary determines that the claimant is eligible for the payment, the Secretary shall promptly pay the claim.

(e) REGULATIONS.—(1) The Secretary of Defense shall prescribe regulations to carry out this section. Such regulations shall include procedures by which persons may submit claims for payment under this section. Such regulations shall be prescribed not later than six months after the date of the enactment of this Act.

(2) The Secretary of Defense may establish guidelines regarding what constitutes adequate documentation for determining whether a person satisfies the requirements specified in subsection (a) regarding eligibility for a payment under this section. Such guidelines shall be established in consultation with the heads of other agencies of the Government involved with OPLAN 34A or its predecessor or OPLAN 35.

(f) LIMITATION ON DISBURSEMENT.—(1) The actual disbursement of a payment under this section may be made only to the person who is eligible for the payment under subsection (a) or (b) and only—

(A) upon the appearance of that person, in person, at any designated disbursement office in the United States or its territories; or

(B) at such other location or in such other manner as that person may request in writing.

(2) In the case of a claim approved for payment but not disbursed as a result of operation of paragraph (1), the Secretary of Defense shall hold the funds in trust for the person in an interest bearing account until such time as the person makes an election under such paragraph.

(g) FUNDING.—To the extent provided in advance for this section in appropriations Acts, of amounts authorized to be appropriated

under section 301(24) for this purpose, $20,000,000 shall be available until expended for payments under this section.

(h) PAYMENT IN FULL SATISFACTION OF CLAIMS AGAINST THE UNITED STATES.—The acceptance of payment by, or with respect to, a person under this section shall be in full satisfaction of all claims by or on behalf of that individual against the United States arising from operations under OPLAN 34A or its predecessor or OPLAN 35.

(i) ATTORNEY FEES.—Notwithstanding any contract, the representative of a person may not receive, for services rendered in connection with the claim of, or with respect to, a person under this section, more than 10 percent of a payment made under this section on that claim.

(j) NO RIGHT TO JUDICIAL REVIEW.—All determinations by the Secretary of Defense pursuant to this section are final and conclusive, notwithstanding any other provision of law. Claimants under this section have no right to judicial review, and such review is specifically precluded.

(k) REPORTS TO CONGRESS.—(1) Not later than 24 months after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report on the payment of claims under this section.

(2) After the submission of the report under paragraph (1), the Secretary shall periodically submit to Congress a report on the status of payment of claims under this section.

TITLE VII—HEALTH CARE PROVISIONS

Subtitle A—Health Care Services

Sec. 701. Preventive health care screening for colon and prostate cancer.
Sec. 702. Implementation of requirement for Selected Reserve dental insurance plan.
Sec. 703. Dental insurance plan for military retirees and unremarried surviving spouses and certain other dependents of military retirees.
Sec. 704. Plan for health care coverage for children with medical conditions caused by parental exposure to chemical munitions while serving as members of the Armed Forces.

Subtitle B—TRICARE Program

Sec. 711. CHAMPUS payment limits for TRICARE prime enrollees.
Sec. 712. Improved information exchange between military treatment facilities and TRICARE program contractors.
Sec. 713. Plans for medicare subvention demonstration programs.

Subtitle C—Uniformed Services Treatment Facilities

Sec. 721. Definitions.
Sec. 722. Inclusion of designated providers in uniformed services health care delivery system.
Sec. 723. Provision of uniform benefit by designated providers.
Sec. 724. Enrollment of covered beneficiaries.
Sec. 725. Application of CHAMPUS payment rules.
Sec. 726. Payments for services.
Sec. 727. Repeal of superseded authorities.

Subtitle D—Other Changes to Existing Laws Regarding Health Care Management

Sec. 731. Authority to waive CHAMPUS exclusion regarding nonmedically necessary treatment in connection with certain clinical trials.
Sec. 732. Exception to maximum allowable payments to individual health-care providers under CHAMPUS.
Sec. 733. Codification of annual authority to credit CHAMPUS refunds to current year appropriation.

Sec. 734. Exceptions to requirements regarding obtaining nonavailability-of-health-care statements.
Sec. 735. Enhancement of third-party collection and secondary payer authorities under CHAMPUS.

Subtitle E—Other Matters

Sec. 741. Alternatives to active duty service obligation under Armed Forces Health Professions Scholarship and Financial Assistance program and Uniformed Services University of the Health Sciences.
Sec. 742. External peer review for defense health program extramural medical research involving human subjects.
Sec. 743. Independent research regarding Gulf War syndrome.
Sec. 744. Comptroller General review of health care activities of Department of Defense relating to Gulf War illnesses.
Sec. 745. Report regarding specialized treatment facility program.
Sec. 746. Study of means of ensuring uniformity in provision of medical and dental care for members of reserve components.
Sec. 747. Sense of Congress regarding tax treatment of Armed Forces Health Professions Scholarship and Financial Assistance program.

Subtitle A—Health Care Services

SEC. 701. PREVENTIVE HEALTH CARE SCREENING FOR COLON AND PROSTATE CANCER.

(a) MEMBERS AND FORMER MEMBERS.—(1) Section 1074d of title 10, United States Code, is amended—

(A) in subsection (a)—

(i) by inserting "(1)" before "Female"; and

(ii) by adding at the end the following new paragraph:

"(2) Male members and former members of the uniformed services entitled to medical care under section 1074 or 1074a of this title shall also be entitled to preventive health care screening for colon or prostate cancer at such intervals and using such screening methods as the administering Secretaries consider appropriate."; and

(B) in subsection (b), by adding at the end the following new paragraph:

"(8) Colon cancer screening, at the intervals and using the screening methods prescribed under subsection (a)(2).".

(2)(A) The heading of such section is amended to read as follows:

"§ 1074d. Certain primary and preventive health care services

(B) The item relating to such section in the table of sections at the beginning of chapter 55 of such title is amended to read as follows:

"1074d. Certain primary and preventive health care services.".

(b) DEPENDENTS.—(1) Section 1077(a) of such title is amended by adding at the end the following new paragraph:

"(14) Preventive health care screening for colon or prostate cancer, at the intervals and using the screening methods prescribed under section 1074d(a)(2) of this title.".

(2) Section 1079(a)(2) of such title is amended—

(A) in the matter preceding subparagraph (A), by inserting "the schedule and method of colon and prostate cancer screenings," after "pap smears and mammograms,"; and

(B) in subparagraph (B), by inserting "or colon and prostate cancer screenings" after "pap smears and mammograms".

SEC. 702. IMPLEMENTATION OF REQUIREMENT FOR SELECTED RESERVE DENTAL INSURANCE PLAN.

(a) IMPLEMENTATION BY CONTRACT.—Subsection (a) of section 1076b of title 10, United States Code, is amended—

(1) by inserting "(1)" after "(a) AUTHORITY TO ESTABLISH PLAN.—";

(2) by designating the third sentence as paragraph (3); and

(3) by inserting after paragraph (1), as designated by paragraph (1) of this subsection, the following new paragraph:

"(2) The Secretary shall provide benefits under the plan through one or more contracts awarded after full and open competition.".

Procedures.

(b) COLLECTION OF PREMIUMS OF MEMBERS NOT RECEIVING BASIC PAY.—Subsection (b)(3) of such section is amended by adding at the end the following: "In the case of a member who does not receive basic pay, the Secretary of Defense shall establish procedures for the collection of the member's share of the premium for coverage.".

(c) SCHEDULE FOR IMPLEMENTATION.—Section 705(b) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 373; 10 U.S.C. 1076b note) is amended—

(1) in the first sentence, by striking out "October 1, 1996" and inserting in lieu thereof "October 1, 1997"; and

(2) by striking out "fiscal year 1996" both places it appears and inserting in lieu thereof "fiscal years 1996 and 1997".

SEC. 703. DENTAL INSURANCE PLAN FOR MILITARY RETIREES AND UNREMARRIED SURVIVING SPOUSES AND CERTAIN OTHER DEPENDENTS OF MILITARY RETIREES.

(a) ESTABLISHMENT OF DENTAL PLAN.—(1) Chapter 55 of title 10, United States Code, is amended by inserting after section 1076b the following new section:

"§ 1076c. Dental insurance plan: certain retirees and their surviving spouses and other dependents

"(a) REQUIREMENT FOR PLAN.—The Secretary of Defense shall establish a dental insurance plan for military retirees, certain unremarried surviving spouses, and dependents in accordance with this section.

"(b) PERSONS ELIGIBLE FOR PLAN.—The following persons are eligible to enroll in the dental insurance plan established under subsection (a):

"(1) Members of the Armed Forces who are entitled to retired pay.

"(2) Members of the Retired Reserve who would be entitled to retired pay under chapter 1223 of this title but for being under 60 years of age.

"(3) Eligible dependents of a member described in paragraph (1) or (2) who are covered by the enrollment of the member in the plan.

"(4) The unremarried surviving spouse and eligible child dependents of a deceased member—

"(A) who dies while in a status described in paragraph (1) or (2); or

"(B) who is described in section 1448(d)(1) of this title.

"(c) PREMIUMS.—(1) A member enrolled in the dental insurance plan established under subsection (a) shall pay the premiums charged for the insurance coverage.

"(2) The amount of the premiums payable by a member entitled to retired pay shall be deducted and withheld from the retired pay and shall be disbursed to pay the premiums. The regulations prescribed under subsection (h) shall specify the procedures for payment of the premiums by other enrolled members and by enrolled surviving spouses.

"(d) BENEFITS AVAILABLE UNDER THE PLAN.—The dental insurance plan established under subsection (a) shall provide benefits for basic dental care and treatment, including diagnostic services, preventative services, basic restorative services (including endodontics), surgical services, and emergency services.

"(e) COVERAGE.—(1) The Secretary shall prescribe a minimum required period for enrollment by a member or surviving spouse in the dental insurance plan established under subsection (a).

"(2) The dental insurance plan shall provide for voluntary enrollment of participants and shall authorize a member or eligible unremarried surviving spouse to enroll for self only or for self and eligible dependents.

"(f) TERMINATION OF ENROLLMENT.—The Secretary shall terminate the enrollment of any enrollee, and any eligible dependents of the enrollee covered by the enrollment, in the dental insurance plan established under subsection (a) upon the occurrence of the following:

"(1) In the case of an enrollment under subsection (b)(1), termination of the member's entitlement to retired pay.

"(2) In the case of an enrollment under subsection (b)(2), termination of the member's status as a member of the Retired Reserve.

"(3) In the case of an enrollment under subsection (b)(4), remarriage of the surviving spouse.

"(g) CONTINUATION OF DEPENDENTS' ENROLLMENT UPON DEATH OF ENROLLEE.—Coverage of a dependent in the dental insurance plan established under subsection (a) under an enrollment of a member or a surviving spouse who dies during the period of enrollment shall continue until the end of that period and may be renewed by (or for) the dependent, so long as the premium paid is sufficient to cover continuation of the dependent's enrollment. The Secretary may terminate coverage of the dependent when the premiums paid are no longer sufficient to cover continuation of the enrollment. The Secretary shall prescribe in regulations under subsection (h) the parties responsible for paying the remaining premiums due on the enrollment and the manner for collection of the premiums.

"(h) REGULATIONS.—The dental insurance plan established under subsection (a) shall be administered under regulations prescribed by the Secretary of Defense, in consultation with the Secretary of Transportation.

"(i) DEFINITIONS.—In this section:

"(1) The term 'eligible dependent' means a dependent described in subparagraph (A), (D), or (I) of section 1072(2) of this title.

"(2) The term 'eligible child dependent' means a dependent described in subparagraph (D) or (I) of section 1072(2) of this title.

"(3) The term 'retired pay' includes retainer pay.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1076b the following new item:

"1076c. Dental insurance plan: certain retirees and their surviving spouses and other dependents.".

10 USC 1076c note.

(b) IMPLEMENTATION.—Beginning not later than October 1, 1997, the Secretary of Defense shall—

(1) offer members of the Armed Forces and other persons described in subsection (b) of section 1076c of title 10, United States Code (as added by subsection (a)(1) of this section), the opportunity to enroll in the dental insurance plan required under that section; and

(2) begin to provide benefits under the plan.

SEC. 704. PLAN FOR HEALTH CARE COVERAGE FOR CHILDREN WITH MEDICAL CONDITIONS CAUSED BY PARENTAL EXPOSURE TO CHEMICAL MUNITIONS WHILE SERVING AS MEMBERS OF THE ARMED FORCES.

(a) PLAN REQUIRED.—The Secretary of Defense, in coordination with the Secretary of Veterans Affairs, shall develop a plan for ensuring the provision of medical care to any natural child of a member of the Armed Forces (including former members and members discharged or otherwise separated from active duty) who has a congenital defect or catastrophic illness, proven to a reasonable degree of scientific certainty on the basis of scientific research to have resulted from exposure of the member to a chemical warfare agent or other hazardous material to which the member was exposed during active military service.

(b) SUBMISSION TO CONGRESS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit the plan developed under subsection (a) to Congress.

Regulations.

(c) DEFINITIONS OF CONGENITAL DEFECT AND CATASTROPHIC ILLNESS.—The Secretary of Defense shall prescribe in regulations a definition of the terms "congenital defect" and "catastrophic illness" for the purposes of this section.

Subtitle B—TRICARE Program

SEC. 711. CHAMPUS PAYMENT LIMITS FOR TRICARE PRIME ENROLLEES.

Section 1079(h)(4) of title 10, United States Code, is amended in the second sentence by striking out "emergency".

SEC. 712. IMPROVED INFORMATION EXCHANGE BETWEEN MILITARY TREATMENT FACILITIES AND TRICARE PROGRAM CONTRACTORS.

(a) UNIFORM INTERFACES.—The Secretary of Defense shall ensure that the automated medical information system being developed by the Department of Defense (known as the Composite Health Care System) provides for uniform interfaces between information systems of military treatment facilities and private contractors under managed care programs of the TRICARE program. The uniform interface shall provide for a full electronic two-way exchange of health care information between the military treatment facilities and contractor information systems, including enrollment information, information regarding eligibility determinations, provider net-

work information, appointment information, and information regarding the existence of third-party payers.

(b) AMENDMENT OF EXISTING CONTRACTS.—To assure a single consistent source of information throughout the health care delivery system of the uniformed services, the Secretary of Defense shall amend each TRICARE program contract, with the consent of the TRICARE program contractor and notwithstanding any requirement for competition, to require the contractor—

(1) to use software furnished under the Composite Health Care System to record military treatment facility provider appointments; and

(2) to record TRICARE program enrollment through direct use of the Composite Health Care System software or through the uniform two-way interface between the contractor and military treatment facilities systems, where applicable.

(c) DEFINITION OF TRICARE PROGRAM.—For purposes of this section, the term "TRICARE program" means the managed health care program that is established by the Secretary of Defense under the authority of chapter 55 of title 10, United States Code, principally section 1097 of such title, and includes the competitive selection of contractors to financially underwrite the delivery of health care services under the Civilian Health and Medical Program of the Uniformed Services.

SEC. 713. PLANS FOR MEDICARE SUBVENTION DEMONSTRATION PROGRAMS.

Reports.

(a) PROGRAM FOR ENROLLMENT IN TRICARE MANAGED CARE OPTION.—Not later than September 6, 1996, the Secretary of Defense and the Secretary of Health and Human Services shall jointly submit to Congress and the President a report containing a specific plan (including the recommendations of the Secretaries required under subsection (b)) regarding the establishment of a demonstration program under which—

(1) covered beneficiaries under chapter 55 of title 10, United States Code, who are also entitled to benefits under part A of the medicare program are permitted to enroll in the managed care option of the TRICARE program; and

(2) the Secretary of Health and Human Services reimburses the Secretary of Defense from the Medicare program on a capitated basis for the costs of providing health care services to military retirees who enroll.

(b) SPECIFIC ELEMENTS OF REPORT.—The report shall include the following:

(1) The number of covered beneficiaries described in subsection (a) who are projected to participate in the demonstration program and the minimum number of such participants necessary to conduct the demonstration program effectively.

(2) A plan for notifying such covered beneficiaries of their eligibility for enrollment in the demonstration program and for any other matters connected with enrollment.

(3) A recommendation for the duration of the demonstration program.

(4) A recommendation for the geographic regions in which the demonstration program should be conducted.

(5) The appropriate level of capitated reimbursement, and a schedule for such reimbursement, from the Medicare program

to the Department of Defense for health care services provided enrollees in the demonstration program.

(6) An estimate of the amounts that, in the absence of the demonstration program, would be required to be allocated by the Department of Defense for the provision of health care services to covered beneficiaries described in subsection (a) who reside in the regions in which the demonstration program is proposed to be conducted.

(7) An assessment of revisions to the allocation estimated under paragraph (6) that would result from the conduct of the demonstration program in such regions.

(8) An estimate of the cost to the Department of Defense and to the Medicare program of providing health care services to covered beneficiaries described in subsection (a) who enroll in the demonstration program.

(9) An assessment of the likelihood of cost shifting among the Department of Defense and the Medicare program under the demonstration program.

(10) A proposal for mechanisms for reconciling and reimbursing any improper payments among the Department of Defense and the Medicare program under the demonstration program.

(11) A methodology for evaluating the demonstration program, including cost analyses.

(12) As assessment of the extent to which the TRICARE program is prepared to meet requirements of the Medicare program for purposes of the demonstration program and the provisions of law or regulation that would have to be waived in order to facilitate the carrying out of the demonstration program.

(13) An assessment of the impact of the demonstration program on military readiness.

(14) Contingency plans for the provision of health care services under the demonstration program in the event of the mobilization of health care personnel.

(15) A recommendation of the reports that the Department of Defense and the Department of Health and Human Services should submit to Congress describing the conduct of the demonstration program.

(c) PROGRAM FOR ENROLLMENT IN TRICARE FEE-FOR-SERVICE OPTION.—Not later than January 3, 1997, the Secretary of Defense and the Secretary of Health and Human Services shall jointly submit to Congress and the President a report on the feasibility and advisability of expanding the demonstration program referred to in subsection (a) so as to provide the Department of Defense with reimbursement from the Medicare program on a fee-for-service basis for health care services provided covered beneficiaries described in subsection (a) who enroll in the demonstration program. The report shall include a proposal for the expansion of the program if the expansion is determined to be advisable.

10 USC 1073 note.

Subtitle C—Uniformed Services Treatment Facilities

SEC. 721. DEFINITIONS.

In this subtitle:

(1) The term "administering Secretaries" means the Secretary of Defense, the Secretary of Transportation, and the Secretary of Health and Human Services.

(2) The term "agreement" means the agreement required under section 722(b) between the Secretary of Defense and a designated provider.

(3) The term "capitation payment" means an actuarially sound payment for a defined set of health care services that is established on a per enrollee per month basis.

(4) The term "covered beneficiary" means a beneficiary under chapter 55 of title 10, United States Code, other than a beneficiary under section 1074(a) of such title.

(5) The term "designated provider" means a public or nonprofit private entity that was a transferee of a Public Health Service hospital or other station under section 987 of the Omnibus Budget Reconciliation Act of 1981 (Public Law 97–35; 42 U.S.C. 248b) and that, before the date of the enactment of this Act, was deemed to be a facility of the uniformed services for the purposes of chapter 55 of title 10, United States Code. The term includes any legal successor in interest of the transferee.

(6) The term "enrollee" means a covered beneficiary who enrolls with a designated provider.

(7) The term "health care services" means the health care services provided under the health plan known as the "TRICARE PRIME" option under the TRICARE program.

(8) The term "Secretary" means the Secretary of Defense.

(9) The term "TRICARE program" means the managed health care program that is established by the Secretary of Defense under the authority of chapter 55 of title 10, United States Code, principally section 1097 of such title, and includes the competitive selection of contractors to financially underwrite the delivery of health care services under the Civilian Health and Medical Program of the Uniformed Services.

SEC. 722. INCLUSION OF DESIGNATED PROVIDERS IN UNIFORMED SERVICES HEALTH CARE DELIVERY SYSTEM.

(a) INCLUSION IN SYSTEM.—The health care delivery system of the uniformed services shall include the designated providers.

(b) AGREEMENTS TO PROVIDE MANAGED HEALTH CARE SERVICES.—(1) After consultation with the other administering Secretaries, the Secretary of Defense shall negotiate and enter into an agreement with each designated provider under which the designated provider will provide health care services in or through managed care plans to covered beneficiaries who enroll with the designated provider.

(2) The agreement shall be entered into on a sole source basis. The Federal Acquisition Regulation, except for those requirements regarding competition, issued pursuant to section 25(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)) shall apply to the agreements as acquisitions of commercial items.

(3) The implementation of an agreement is subject to availability of funds for such purpose.

(c) EFFECTIVE DATE OF AGREEMENTS.—(1) Unless an earlier effective date is agreed upon by the Secretary and the designated provider, the agreement shall take effect upon the later of the following:

(A) The date on which a managed care support contract under the TRICARE program is implemented in the service area of the designated provider.

(B) October 1, 1997.

(2) Notwithstanding paragraph (1), the designated provider whose service area includes Seattle, Washington, shall implement its agreement as soon as the agreement permits.

(d) TEMPORARY CONTINUATION OF EXISTING PARTICIPATION AGREEMENTS.—The Secretary shall extend the participation agreement of a designated provider in effect immediately before the date of the enactment of this Act under section 718(c) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 42 U.S.C. 248c) until the agreement required by this section takes effect under subsection (c).

(e) SERVICE AREA.—The Secretary may not reduce the size of the service area of a designated provider below the size of the service area in effect as of September 30, 1996.

(f) COMPLIANCE WITH ADMINISTRATIVE REQUIREMENTS.—(1) Unless otherwise agreed upon by the Secretary and a designated provider, the designated provider shall comply with necessary and appropriate administrative requirements established by the Secretary for other providers of health care services and requirements established by the Secretary of Health and Human Services for risk-sharing contractors under section 1876 of the Social Security Act (42 U.S.C. 1395mm). The Secretary and the designated provider shall determine and apply only such administrative requirements as are minimally necessary and appropriate. A designated provider shall not be required to comply with a law or regulation of a State government requiring licensure as a health insurer or health maintenance organization.

(2) A designated provider may not contract out more than five percent of its primary care enrollment without the approval of the Secretary, except in the case of primary care contracts between a designated provider and a primary care contractor in force on the date of the enactment of this Act.

SEC. 723. PROVISION OF UNIFORM BENEFIT BY DESIGNATED PROVIDERS.

(a) UNIFORM BENEFIT REQUIRED.—A designated provider shall offer to enrollees the health benefit option prescribed and implemented by the Secretary under section 731 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 10 U.S.C. 1073 note), including accompanying cost-sharing requirements.

(b) TIME FOR IMPLEMENTATION OF BENEFIT.—A designated provider shall offer the health benefit option described in subsection (a) to enrollees upon the later of the following:

(1) The date on which health care services within the health care delivery system of the uniformed services are rendered through the TRICARE program in the region in which the designated provider operates.

(2) October 1, 1997.

(c) ADJUSTMENTS.—The Secretary may establish a later date under subsection (b)(2) or prescribe reduced cost-sharing requirements for enrollees.

SEC. 724. ENROLLMENT OF COVERED BENEFICIARIES.

(a) FISCAL YEAR 1997 LIMITATION.—(1) During fiscal year 1997, the number of covered beneficiaries who are enrolled in managed care plans offered by designated providers may not exceed the number of such enrollees as of October 1, 1995.

(2) The Secretary may waive the limitation under paragraph (1) if the Secretary determines that additional enrollment authority for a designated provider is required to accommodate covered beneficiaries who are dependents of members of the uniformed services entitled to health care under section 1074(a) of title 10, United States Code.

(b) PERMANENT LIMITATION.—For each fiscal year beginning after September 30, 1997, the number of enrollees in managed care plans offered by designated providers may not exceed 110 percent of the number of such enrollees as of the first day of the immediately preceding fiscal year. The Secretary may waive this limitation as provided in subsection (a)(2).

(c) RETENTION OF CURRENT ENROLLEES.—An enrollee in the managed care plan of a designated provider as of September 30, 1997, or such earlier date as the designated provider and the Secretary may agree upon, shall continue receiving services from the designated provider pursuant to the agreement entered into under section 722 unless the enrollee disenrolls from the designated provider. Except as provided in subsection (e), the administering Secretaries may not disenroll such an enrollee unless the disenrollment is agreed to by the Secretary and the designated provider.

(d) ADDITIONAL ENROLLMENT AUTHORITY.—Other covered beneficiaries may also receive health care services from a designated provider, except that the designated provider may market such services to, and enroll, only those covered beneficiaries who—

(1) do not have other primary health insurance coverage (other than Medicare coverage) covering basic primary care and inpatient and outpatient services; or

(2) are enrolled in the direct care system under the TRICARE program, regardless of whether the covered beneficiaries were users of the health care delivery system of the uniformed services in prior years.

(e) SPECIAL RULE FOR MEDICARE-ELIGIBLE BENEFICIARIES.—If a covered beneficiary who desires to enroll in the managed care program of a designated provider is also entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.), the covered beneficiary shall elect whether to receive health care services as an enrollee or under part A of title XVIII of the Social Security Act. The Secretary may disenroll an enrollee who subsequently violates the election made under this subsection and receives benefits under part A of title XVIII of the Social Security Act.

(f) INFORMATION REGARDING ELIGIBLE COVERED BENEFICIARIES.—The Secretary shall provide, in a timely manner, a designated provider with an accurate list of covered beneficiaries within the marketing area of the designated provider to whom the designated provider may offer enrollment.

SEC. 725. APPLICATION OF CHAMPUS PAYMENT RULES.

(a) APPLICATION OF PAYMENT RULES.—Subject to subsection (b), the Secretary shall require a private facility or health care

provider that is a health care provider under the Civilian Health and Medical Program of the Uniformed Services to apply the payment rules described in section 1074(c) of title 10, United States Code, in imposing charges for health care that the private facility or provider provides to enrollees of a designated provider.

(b) AUTHORIZED ADJUSTMENTS.—The payment rules imposed under subsection (a) shall be subject to such modifications as the Secretary considers appropriate. The Secretary may authorize a lower rate than the maximum rate that would otherwise apply under subsection (a) if the lower rate is agreed to by the designated provider and the private facility or health care provider.

(c) REGULATIONS.—The Secretary shall prescribe regulations to implement this section after consultation with the other administering Secretaries.

(d) CONFORMING AMENDMENT.—Section 1074 of title 10, United States Code, is amended by striking out subsection (d).

SEC. 726. PAYMENTS FOR SERVICES.

(a) FORM OF PAYMENT.—Unless otherwise agreed to by the Secretary and a designated provider, the form of payment for health care services provided by a designated provider shall be on a full risk capitation payment basis. The capitation payments shall be negotiated and agreed upon by the Secretary and the designated provider. In addition to such other factors as the parties may agree to apply, the capitation payments shall be based on the utilization experience of enrollees and competitive market rates for equivalent health care services for a comparable population to such enrollees in the area in which the designated provider is located.

(b) LIMITATION ON TOTAL PAYMENTS.—Total capitation payments for health care services to a designated provider shall not exceed an amount equal to the cost that would have been incurred by the Government if the enrollees had received such health care services through a military treatment facility, the TRICARE program, or the Medicare program, as the case may be.

(c) ESTABLISHMENT OF PAYMENT RATES ON ANNUAL BASIS.—The Secretary and a designated provider shall establish capitation payments on an annual basis, subject to periodic review for actuarial soundness and to adjustment for any adverse or favorable selection reasonably anticipated to result from the design of the program under this subtitle.

(d) ALTERNATIVE BASIS FOR CALCULATING PAYMENTS.—After September 30, 1999, the Secretary and a designated provider may mutually agree upon a new basis for calculating capitation payments.

SEC. 727. REPEAL OF SUPERSEDED AUTHORITIES.

(a) REPEALS.—The following provisions of law are repealed:

(1) Section 911 of the Military Construction Authorization Act, 1982 (42 U.S.C. 248c).

(2) Section 1252 of the Department of Defense Authorization Act, 1984 (42 U.S.C. 248d).

(3) Section 718(c) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 42 U.S.C. 248c note).

(4) Section 726 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 42 U.S.C. 248c note).

(b) EFFECTIVE DATE.—The amendments made by paragraphs (1), (2), and (3) of subsection (a) shall take effect on October 1, 1997.

Subtitle D—Other Changes to Existing Laws Regarding Health Care Management

SEC. 731. AUTHORITY TO WAIVE CHAMPUS EXCLUSION REGARDING NONMEDICALLY NECESSARY TREATMENT IN CONNECTION WITH CERTAIN CLINICAL TRIALS.

(a) WAIVER AUTHORITY.—Paragraph (13) of section 1079(a) of title 10, United States Code, is amended—

(1) by striking out "any service" and inserting in lieu thereof "Any service";

(2) by striking out the semicolon at the end and inserting in lieu thereof a period; and

(3) by adding at the end the following: "Pursuant to an agreement with the Secretary of Health and Human Services and under such regulations as the Secretary of Defense may prescribe, the Secretary of Defense may waive the operation of this paragraph in connection with clinical trials sponsored or approved by the National Institutes of Health if the Secretary of Defense determines that such a waiver will promote access by covered beneficiaries to promising new treatments and contribute to the development of such treatments.".

(b) CLERICAL AMENDMENTS.—Such section is further amended—

(1) in the matter preceding paragraph (1), by striking out "except that—" and inserting in lieu thereof "except as follows:";

(2) by capitalizing the first letter of the first word of each of paragraphs (1) through (17);

(3) by striking out the semicolon at the end of each of paragraphs (1) through (12) and paragraphs (14) and (15) and inserting in lieu thereof a period; and

(4) in paragraph (16), by striking out "; and" and inserting in lieu thereof a period.

SEC. 732. EXCEPTION TO MAXIMUM ALLOWABLE PAYMENTS TO INDIVIDUAL HEALTH-CARE PROVIDERS UNDER CHAMPUS.

Section 1079(h) of title 10, United States Code, is amended—

(1) by redesignating paragraph (5) as paragraph (6); and

(2) by inserting after paragraph (4) the following new paragraph:

"(5) In addition to the authority provided under paragraph (4), the Secretary may authorize the commander of a facility of the uniformed services, the lead agent (if other than the commander), and the health care contractor to modify the payment limitations under paragraph (1) for certain health care providers when necessary to ensure both the availability of certain services for covered beneficiaries and lower costs than would otherwise be incurred to provide the services.".

SEC. 733. CODIFICATION OF ANNUAL AUTHORITY TO CREDIT CHAMPUS REFUNDS TO CURRENT YEAR APPROPRIATION.

(a) CREDITS TO CHAMPUS ACCOUNTS.—(1) Chapter 55 of title 10, United States Code, is amended by inserting after section 1079 the following new section:

"§ 1079a. CHAMPUS: treatment of refunds and other amounts collected

"All refunds and other amounts collected in the administration of the Civilian Health and Medical Program of the Uniformed Services shall be credited to the appropriation available for that program for the fiscal year in which the refund or amount is collected.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1079 the following new item:

"1079a. CHAMPUS: treatment of refunds and other amounts collected.".

(b) CONFORMING REPEAL.—Section 8094 of the Department of Defense Appropriations Act, 1996 (Public Law 104–61; 109 Stat. 671), is repealed.

SEC. 734. EXCEPTIONS TO REQUIREMENTS REGARDING OBTAINING NONAVAILABILITY-OF-HEALTH-CARE STATEMENTS.

(a) REFERENCE TO INPATIENT MEDICAL CARE.—(1) Section 1080(a) of title 10, United States Code, is amended by inserting "inpatient" before "medical care" in the first sentence.

(2) Section 1086(e) of such title is amended in the first sentence by striking out "benefits" and inserting in lieu thereof "inpatient medical care".

(b) WAIVERS AND EXCEPTIONS TO REQUIREMENTS.—(1) Section 1080 of such title is amended by adding at the end the following new subsection:

"(c) WAIVERS AND EXCEPTIONS TO REQUIREMENTS.—(1) A covered beneficiary enrolled in a managed care plan offered pursuant to any contract or agreement under this chapter for the provision of health care services shall not be required to obtain a nonavailability-of-health-care statement as a condition for the receipt of health care.

"(2) The Secretary of Defense may waive the requirement to obtain nonavailability-of-health-care statements following an evaluation of the effectiveness of such statements in optimizing the use of facilities of the uniformed services.".

(2) Section 1086(e) of such title is amended in the last sentence by striking out "section 1080(b)" and inserting in lieu thereof "subsections (b) and (c) of section 1080".

(c) CONFORMING AMENDMENTS.—Section 1080(b) of such title is amended—

(1) by striking out "NONAVAILABILITY OF HEALTH CARE STATEMENTS" and inserting in lieu thereof "NONAVAILABILITY-OF-HEALTH-CARE STATEMENTS"; and

(2) by striking out "nonavailability of health care statement" and inserting in lieu thereof "nonavailability-of-health-care statement".

SEC. 735. ENHANCEMENT OF THIRD-PARTY COLLECTION AND SECONDARY PAYER AUTHORITIES UNDER CHAMPUS.

(a) RETENTION AND USE BY TREATMENT FACILITIES OF AMOUNTS COLLECTED.—Subsection (g)(1) of section 1095 of title 10, United States Code, is amended by inserting "or through" after "provided at".

(b) EXPANSION OF DEFINITION OF THIRD-PARTY PAYER.—Subsection (h) of such section is amended—

(1) in the first sentence of paragraph (1), by inserting "and a workers' compensation program or plan" before the period; and

(2) in paragraph (2)—

(A) by striking out "organization and" and inserting in lieu thereof a "organization,"; and

(B) by inserting before the period at the end the following: ", and a personal injury protection plan or medical payments benefit plan for personal injuries resulting from the operation of a motor vehicle".

(c) APPLICABILITY OF SECONDARY PAYER REQUIREMENT.—Section 1079(j)(1) of such title is amended by inserting after "or health plan" the following: ", including any plan offered by a third-party payer (as defined in section 1095(h)(1) of this title),".

Subtitle E—Other Matters

SEC. 741. ALTERNATIVES TO ACTIVE DUTY SERVICE OBLIGATION UNDER ARMED FORCES HEALTH PROFESSIONS SCHOLARSHIP AND FINANCIAL ASSISTANCE PROGRAM AND UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES.

(a) ARMED FORCES HEALTH PROFESSIONS SCHOLARSHIP AND FINANCIAL ASSISTANCE PROGRAM.—Subsection (e) of section 2123 of title 10, United States Code, is amended to read as follows:

"(e)(1) A member of the program who is relieved of the member's active duty obligation under this subchapter before the completion of that active duty obligation may be given, with or without the consent of the member, any of the following alternative obligations, as determined by the Secretary of the military department concerned:

"(A) A service obligation in another armed force for a period of time not less than the member's remaining active duty service obligation.

"(B) A service obligation in a component of the Selected Reserve for a period not less than twice as long as the member's remaining active duty service obligation.

"(C) Repayment to the Secretary of Defense of a percentage of the total cost incurred by the Secretary under this subchapter on behalf of the member equal to the percentage of the member's total active duty service obligation being relieved, plus interest.

"(2) In addition to the alternative obligations specified in paragraph (1), if the member is relieved of an active duty obligation by reason of the separation of the member because of a physical disability, the Secretary of the military department concerned may give the member a service obligation as a civilian employee employed as a health care professional in a facility of the uniformed services for a period of time equal to the member's remaining active duty service obligation.

"(3) The Secretary of Defense shall prescribe regulations describing the manner in which an alternative obligation may be given under this subsection.". Regulations.

(b) UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES.—Section 2114 of title 10, United States Code is amended by adding at the end the following new subsection:

"(h) A graduate of the University who is relieved of the graduate's active-duty service obligation under subsection (b) before the completion of that active-duty service obligation may be given, with or without the consent of the graduate, an alternative obligation in the same manner as provided in subparagraphs (A) and (B) of paragraph (1) of section 2123(e)(1) of this title or paragraph (2) of such section for members of the Armed Forces Health Professions Scholarship and Financial Assistance program.".

10 USC 2114 note.

(c) APPLICATION OF AMENDMENTS.—The amendments made by this section shall apply with respect to individuals who first become members of the Armed Forces Health Professions Scholarship and Financial Assistance program or students of the Uniformed Services University of the Health Sciences on or after October 1, 1996.

10 USC 2123 note.

(d) TRANSITION PROVISION.—(1) In the case of any member of the Armed Forces Health Professions Scholarship and Financial Assistance program who, as of October 1, 1996, is serving an active duty obligation under the program or is incurring an active duty obligation as a participant in the program, and who is subsequently relieved of the active duty obligation before the completion of the obligation, the alternative obligations authorized by the amendment made by subsection (a) may be used by the Secretary of the military department concerned with the agreement of the member.

10 USC 2114 note.

(2) In the case of any person who, as of October 1, 1996, is serving an active-duty service obligation as a graduate of the Uniformed Services University of the Health Sciences or is incurring an active-duty service obligation as a student of the University, and who is subsequently relieved of the active-duty service obligation before the completion of the obligation, the alternative obligations authorized by the amendment made by subsection (b) may be implemented by the Secretary of Defense with the agreement of the person.

(e) REPORT ON UTILIZATION OF GRADUATES OF UNIVERSITY.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report on the utilization by the Department of Defense of graduates of the Uniformed Services University of the Health Sciences. The report shall include a discussion of means of ensuring that graduates of the University have received training in medical specialties for which the Department has particular need.

10 USC 1071 note.

SEC. 742. EXTERNAL PEER REVIEW FOR DEFENSE HEALTH PROGRAM EXTRAMURAL MEDICAL RESEARCH INVOLVING HUMAN SUBJECTS.

(a) ESTABLISHMENT OF EXTERNAL PEER REVIEW PROCESS.—The Secretary of Defense shall establish a peer review process that will use persons who are not officers or employees of the Government to review the research protocols of medical research projects.

(b) PEER REVIEW REQUIREMENTS.—Funds of the Department of Defense may not be obligated or expended for any medical research project unless the research protocol for the project has been approved by the external peer review process established under subsection (a).

(c) MEDICAL RESEARCH PROJECT DEFINED.—For purposes of this section, the term "medical research project" means a research project that—

(1) involves the participation of human subjects;

(2) is conducted solely by a non-Federal entity; and

(3) is funded through the Defense Health Program account.

(d) EFFECTIVE DATE.—The peer review requirements of subsection (b) shall take effect on October 1, 1996, and, except as provided in subsection (e), shall apply to all medical research projects proposed funded on or after that date, including medical research projects funded pursuant to any requirement of law enacted before, on, or after that date. Applicability.

(e) EXCEPTIONS.—Only the following medical research projects shall be exempt from the peer review requirements of subsection (b):

(1) A medical research project that the Secretary determines has been substantially completed by October 1, 1996.

(2) A medical research project funded pursuant to any provision of law enacted on or after that date if the provision of law specifically refers to this section and specifically states that the peer review requirements do not apply.

SEC. 743. INDEPENDENT RESEARCH REGARDING GULF WAR SYNDROME. 10 USC 1074 note.

(a) DEFINITIONS.—For purposes of this section:

(1) The term "Gulf War service" means service on active duty as a member of the Armed Forces in the Southwest Asia theater of operations during the Persian Gulf War.

(2) The term "Gulf War syndrome" means the complex of illnesses and symptoms commonly known as Gulf War syndrome.

(3) The term "Persian Gulf War" has the meaning given that term in section 101(33) of title 38, United States Code.

(b) RESEARCH.—The Secretary of Defense shall provide, by contract, grant, or other transaction, for scientific research to be carried out by entities independent of the Federal Government on possible causal relationships between Gulf War syndrome and—

(1) the possible exposures of members of the Armed Forces to chemical warfare agents or other hazardous materials during Gulf War service; and

(2) the use by the Department of Defense during the Persian Gulf War of combinations of various inoculations and investigational new drugs.

(c) PROCEDURES FOR AWARDING GRANTS.—The Secretary shall prescribe the procedures to be used to make research awards under subsection (b). The procedures shall—

(1) include a comprehensive, independent peer-review process for the evaluation of proposals for scientific research that are submitted to the Department of Defense; and

(2) provide for the final selection of proposals for award to be based on the scientific merit and program relevance of the proposed research.

(d) AVAILABILITY OF FUNDS.—Of the amount authorized to be appropriated under section 301(21) for defense medical programs, $10,000,000 is available for research under subsection (b).

SEC. 744. COMPTROLLER GENERAL REVIEW OF HEALTH CARE ACTIVITIES OF DEPARTMENT OF DEFENSE RELATING TO GULF WAR ILLNESSES.

(a) MEDICAL RESEARCH AND CLINICAL CARE PROGRAMS.—The Comptroller General shall analyze the effectiveness of the medical research programs and clinical care programs of the Department

of Defense that relate to illnesses that might have been contracted by members of the Armed Forces as a result of service in the Southwest Asia theater of operations during the Persian Gulf War.

(b) POLICIES REGARDING INVESTIGATIONAL NEW DRUGS.—The Comptroller General shall analyze the scope and effectiveness of the policies of the Department of Defense with respect to—

(1) the use of investigational new drugs during the Persian Gulf War to treat members of the Armed Forces who served in the Southwest Asia theater of operations; and

(2) the current use of investigational new drugs to treat illnesses referred to in subsection (a).

(c) ADMINISTRATION OF MEDICAL RECORDS.—The Comptroller General shall analyze the administration of medical records by the military departments in order to assess the extent to which such records accurately reflect the pre-deployment medical assessments, immunization records, informed consent releases, complaints during routine sick call, emergency room visits, visits with unit medics during deployment, and other relevant medical information relating to the members and former members referred to in subsection (a) with respect to the illnesses referred to in that subsection.

(d) REPORTS.—Not later than March 1, 1997, the Comptroller General shall submit to Congress a separate report on each of the analyses required under subsections (a), (b), and (c).

SEC. 745. REPORT REGARDING SPECIALIZED TREATMENT FACILITY PROGRAM.

Not later than April 1, 1997, the Secretary of Defense shall submit to Congress a report evaluating the impact on the military health care system of limiting the service area of a facility designated as part of the specialized treatment facility program under section 1105 of title 10, United States Code, to not more than 100 miles from the facility.

SEC. 746. TUDY OF MEANS OF ENSURING UNIFORMITY IN PROVISION OF MEDICAL AND DENTAL CARE FOR MEMBERS OF RESERVE COMPONENTS.

(a) STUDY.—(1) In consultation with the Secretary of Transportation, the Secretary of Defense shall conduct a study of means of improving the provision of medical and dental care to members of the reserve components referred to in paragraph (2) in order to ensure uniformity and consistency in the provision of such care to such members.

(2) The members of the reserve components referred to in paragraph (1) are the following:

(A) Members on active duty, including active duty for training and annual training duty.

(B) Members on full-time National Guard duty.

(C) Members on inactive-duty training, regardless of whether such members are in a pay or nonpay status.

(b) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report on the study conducted under subsection (a). The report shall include such recommendations (including recommendations for legislation) as the Secretary considers appropriate.

SEC. 747. SENSE OF CONGRESS REGARDING TAX TREATMENT OF ARMED FORCES HEALTH PROFESSIONS SCHOLARSHIP AND FINANCIAL ASSISTANCE PROGRAM.

It is the sense of Congress that the Secretary of Defense should work with the Secretary of the Treasury to interpret section 117 of the Internal Revenue Code of 1986 so that the limitation on the amount of a qualified scholarship or qualified tuition reduction excluded from gross income does not apply to any portion of a scholarship or financial assistance provided by the Secretary of Defense to a person enrolled in the Armed Forces Health Professions Scholarship and Financial Assistance program under subchapter I of chapter 105 of title 10, United States Code.

TITLE VIII—ACQUISITION POLICY, ACQUISITION MANAGEMENT, AND RELATED MATTERS

Subtitle A—Acquisition Management

Sec. 801. Procurement technical assistance programs.
Sec. 802. Extension of pilot mentor-protege program.
Sec. 803. Authority to waive certain requirements for defense acquisition pilot programs.
Sec. 804. Modification of authority to carry out certain prototype projects.
Sec. 805. Increase in threshold amounts for major systems.
Sec. 806. Revisions in information required to be included in selected acquisition reports.
Sec. 807. Increase in simplified acquisition threshold for humanitarian or peacekeeping operations.
Sec. 808. Expansion of audit reciprocity among Federal agencies to include post-award audits.
Sec. 809. Excessive compensation of certain contractor personnel.
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Subtitle B—Other Matters

Sec. 821. Prohibition on release of contractor proposals under Freedom of Information Act.
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Sec. 823. Amendment of multiyear limitation on contracts for inspection, maintenance, and repair.
Sec. 824. Streamlined notice requirements to contractors and employees regarding termination or substantial reduction in contracts under major defense programs.
Sec. 825. Repeal of notice requirements for substantially or seriously affected parties in downsizing efforts.
Sec. 826. Study of effectiveness of defense mergers.
Sec. 827. Annual report relating to Buy American Act.
Sec. 828. Foreign environmental technology.
Sec. 829. Assessment of national defense technology and industrial base and dependency of base on supplies available only from foreign countries.
Sec. 830. Expansion of report on implementation of automated information systems to include additional matters regarding information resources management.
Sec. 831. Year 2000 software conversion.
Sec. 832. Procurement from firms in industrial base for production of small arms.
Sec. 833. Cable television franchise agreements.

Subtitle A—Acquisition Management

SEC. 801. PROCUREMENT TECHNICAL ASSISTANCE PROGRAMS.

(a) FUNDING.—Of the amount authorized to be appropriated under section 301(5), $12,000,000 shall be available for carrying out the provisions of chapter 142 of title 10, United States Code.

(b) SPECIFIC PROGRAMS.—Of the amounts made available pursuant to subsection (a), $600,000 shall be available for fiscal year 1997 for the purpose of carrying out programs sponsored by eligible entities referred to in subparagraph (D) of section 2411(1) of title 10, United States Code, that provide procurement technical assistance in distressed areas referred to in subparagraph (B) of section 2411(2) of such title. If there is an insufficient number of satisfactory proposals for cooperative agreements in such distressed areas to allow effective use of the funds made available in accordance with this subsection in such areas, the funds shall be allocated among the Defense Contract Administration Services regions in accordance with section 2415 of such title.

SEC. 802. EXTENSION OF PILOT MENTOR-PROTEGE PROGRAM.

Section 831(j) of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 2302 note) is amended—

(1) in paragraph (1), by striking out "1995" and inserting in lieu thereof "1998"; and

(2) in paragraph (2), by striking out "1996" and inserting in lieu thereof "1999".

10 USC 2430 note.

SEC. 803. AUTHORITY TO WAIVE CERTAIN REQUIREMENTS FOR DEFENSE ACQUISITION PILOT PROGRAMS.

(a) AUTHORITY.—The Secretary of Defense may waive sections 2399, 2403, 2432, and 2433 of title 10, United States Code, in accordance with this section for any defense acquisition program designated by the Secretary of Defense for participation in the defense acquisition pilot program authorized by section 809 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 10 U.S.C. 2430 note).

(b) OPERATIONAL TEST AND EVALUATION.—The Secretary of Defense may waive the requirements for operational test and evaluation for such a defense acquisition program as set forth in section 2399 of title 10, United States Code, if the Secretary—

(1) determines (without delegation) that such test would be unreasonably expensive or impractical;

(2) develops a suitable alternate operational test program for the system concerned;

(3) describes in the test and evaluation master plan, as approved by the Director of Operational Test and Evaluation, the method of evaluation that will be used to evaluate whether the system will be effective and suitable for combat; and

Reports.

(4) submits to the congressional defense committees a report containing the determination that was made under paragraph (1), a justification for that determination, and a copy of the plan required by paragraph (3).

(c) CONTRACTOR GUARANTEES FOR MAJOR WEAPONS SYSTEMS.—The Secretary of Defense may waive the requirements of section 2403 of title 10, United States Code, for such a defense acquisition program if an alternative guarantee is used that ensures high quality weapons systems.

(d) SELECTED ACQUISITION REPORTS.—The Secretary of Defense may waive the requirements of sections 2432 and 2433 of title 10, United States Code, for such a defense acquisition program if the Secretary provides a single annual report to Congress at the end of each fiscal year that describes the status of the program in relation to the baseline description for the program established under section 2435 of such title.

SEC. 804. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN PROTOTYPE PROJECTS.

(a) AUTHORIZED OFFICIALS.—(1) Subsection (a) of section 845 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1721; 10 U.S.C. 2371 note) is amended by inserting ", the Secretary of a military department, or any other official designated by the Secretary of Defense" after "Agency".

(2) Subsection (b)(2) of such section is amended to read as follows:

"(2) To the maximum extent practicable, competitive procedures shall be used when entering into agreements to carry out projects under subsection (a).".

(b) EXTENSION OF AUTHORITY.—Subsection (c) of such section is amended by striking out "terminate" and all that follows and inserting in lieu thereof "terminate at the end of September 30, 1999.".

(c) CONFORMING AND TECHNICAL AMENDMENTS.—Section 845 of such Act is further amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking out "(c)(2) and (c)(3) of such section 2371, as redesignated by section 827(b)(1)(B)," and inserting in lieu thereof "(e)(2) and (e)(3) of such section 2371"; and

(B) in paragraph (2), by inserting after "Director" the following: ", Secretary, or other official"; and

(2) in subsection (c), by striking out "of the Director".

SEC. 805. INCREASE IN THRESHOLD AMOUNTS FOR MAJOR SYSTEMS.

(a) INCREASE AND ADJUSTMENT.—Chapter 137 of title 10, United States Code, is amended—

(1) in section 2302(5), by striking out the third sentence and inserting in lieu thereof the following: "A system shall be considered a major system if (A) the conditions of section 2302d of this title are satisfied, or (B) the system is designated a 'major system' by the head of the agency responsible for the system."; and

(2) by inserting after section 2302c the following:

"§ 2302d. Major system: definitional threshold amounts

"(a) DEPARTMENT OF DEFENSE SYSTEMS.—For purposes of section 2302(5) of this title, a system for which the Department of Defense is responsible shall be considered a major system if—

"(1) the total expenditures for research, development, test, and evaluation for the system are estimated to be more than $115,000,000 (based on fiscal year 1990 constant dollars); or

"(2) the eventual total expenditure for procurement of more than $540,000,000 (based on fiscal year 1990 constant dollars).

"(b) CIVILIAN AGENCY SYSTEMS.—For purposes of section 2302(5) of this title, a system for which a civilian agency is responsible shall be considered a major system if total expenditures for the system are estimated to exceed the greater of—

"(1) $750,000 (based on fiscal year 1980 constant dollars); or

"(2) the dollar threshold for a 'major system' established by the agency pursuant to Office of Management and Budget (OMB) Circular A–109, entitled 'Major Systems Acquisitions'.

"(c) ADJUSTMENT AUTHORITY.—(1) The Secretary of Defense may adjust the amounts and the base fiscal year provided in subsection (a) on the basis of Department of Defense escalation rates.

"(2) An amount, as adjusted under paragraph (1), that is not evenly divisible by $5,000,000 shall be rounded to the nearest multiple of $5,000,000. In the case of an amount that is evenly divisible by $2,500,000 but not evenly divisible by $5,000,000, the amount shall be rounded to the next higher multiple of $5,000,000.

Effective date. Notification.

"(3) An adjustment under this subsection shall be effective after the Secretary transmits to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a written notification of the adjustment.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2302c the following:

"2302d. Major system: definitional threshold amounts.".

SEC. 806. REVISIONS IN INFORMATION REQUIRED TO BE INCLUDED IN SELECTED ACQUISITION REPORTS.

Section 2432 of title 10, United States Code, is amended—

(1) in subsection (c)(1)—

(A) by striking out "and" at the end of subparagraph (B);

(B) by redesignating subparagraph (C) as subparagraph (D); and

(C) by inserting after subparagraph (B) the following new subparagraph (C):

"(C) the current procurement unit cost for each major defense acquisition program included in the report and the history of that cost from the date the program was first included in a Selected Acquisition Report to the end of the quarter for which the current report is submitted; and"; and

(2) in subsection (e), by striking out paragraph (8) and redesignating paragraph (9) as paragraph (8).

SEC. 807. INCREASE IN SIMPLIFIED ACQUISITION THRESHOLD FOR HUMANITARIAN OR PEACEKEEPING OPERATIONS.

(a) ARMED SERVICES ACQUISITIONS.—Section 2302(7) of title 10, United States Code, is amended—

(1) by inserting "(A)" after "(7)";

(2) by inserting after "contingency operation" the following: "or a humanitarian or peacekeeping operation"; and

(3) by adding at the end the following:

"(B) In subparagraph (A), the term 'humanitarian or peacekeeping operation' means a military operation in support of the provision of humanitarian or foreign disaster assistance or in support of a peacekeeping operation under chapter VI or VII of the Charter of the United Nations. The term does not include routine training, force rotation, or stationing.".

(b) CIVILIAN AGENCY ACQUISITIONS.—Section 309(d) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 259(d)) is amended—

(1) by inserting "(1)" after "(d)";

(2) by inserting after "contingency operation" the following: "or a humanitarian or peacekeeping operation"; and

(3) by adding at the end the following:

"(2) In paragraph (1):

"(A) The term 'contingency operation' has the meaning given such term in section 101(a) of title 10, United States Code.

"(B) The term 'humanitarian or peacekeeping operation' means a military operation in support of the provision of humanitarian or foreign disaster assistance or in support of a peacekeeping operation under chapter VI or VII of the Charter of the United Nations. The term does not include routine training, force rotation, or stationing.".

SEC. 808. EXPANSION OF AUDIT RECIPROCITY AMONG FEDERAL AGENCIES TO INCLUDE POST-AWARD AUDITS.

(a) ARMED SERVICES ACQUISITIONS.—Subsection (d) of section 2313 of title 10, United States Code, is amended to read as follows:

"(d) LIMITATION ON AUDITS RELATING TO INDIRECT COSTS.—The head of an agency may not perform an audit of indirect costs under a contract, subcontract, or modification before or after entering into the contract, subcontract, or modification in any case in which the contracting officer determines that the objectives of the audit can reasonably be met by accepting the results of an audit that was conducted by any other department or agency of the Federal Government within one year preceding the date of the contracting officer's determination.".

(b) CIVILIAN AGENCY ACQUISITIONS.—Subsection (d) of section 304C of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254d) is amended to read as follows:

"(d) LIMITATION ON AUDITS RELATING TO INDIRECT COSTS.—An executive agency may not perform an audit of indirect costs under a contract, subcontract, or modification before or after entering into the contract, subcontract, or modification in any case in which the contracting officer determines that the objectives of the audit can reasonably be met by accepting the results of an audit that was conducted by any other department or agency of the Federal Government within one year preceding the date of the contracting officer's determination.".

(c) GUIDELINES FOR ACCEPTANCE OF AUDITS BY STATE AND LOCAL GOVERNMENTS RECEIVING FEDERAL ASSISTANCE.—The Director of the Office of Management and Budget shall issue guidelines to ensure that an audit of indirect costs performed by the Federal Government is accepted by State and local governments that receive Federal funds under contracts, grants, or other Federal assistance programs. 31 USC 7505 note.

SEC. 809. COMPENSATION OF CERTAIN CONTRACTOR PERSONNEL.

(a) ARMED SERVICES PROCUREMENTS.—(1) During fiscal year 1997, the head of an agency shall treat the costs described in paragraph (2) as not allowable under a covered contract, in the same manner as costs listed in section 2324(e)(1) of title 10, United States Code.

(2) The costs covered by paragraph (1) are costs of compensation paid with respect to services of any one officer to the extent that the total amount of the compensation paid in a fiscal year exceeds $250,000.

(b) CIVILIAN AGENCY PROCUREMENTS.—(1) During fiscal year 1997, an executive agency shall treat the costs described in paragraph (2) as not allowable under a covered contract, in the same manner as costs listed in section 306(e)(1) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 256(e)(1)).

(2) The costs covered by paragraph (1) are costs of compensation paid with respect to services of any one officer to the extent that the total amount of the compensation paid in a fiscal year exceeds $250,000.

(c) DEFINITIONS.—In this section:

(1) The term "head of an agency" has the meaning provided in section 2302 of title 10, United States Code.

(2) The term "executive agency" has the meaning provided in section 3 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472).

(3) The term "covered contract"—

(A) with respect to procurements subject to chapter 137 of title 10, United States Code, has the meaning provided by section 2324(l) of such title; and

(B) with respect to procurements subject to title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), has the meaning provided by section 306(l) of such Act (41 U.S.C. 256(l)).

(4) The term "compensation" means—

(A) the total amount of wages as defined in section 3401(a) of the Internal Revenue Code of 1986 for the year concerned; and

(B) the total amount of elective deferrals (within the meaning of section 402(g)(3) of such Code) for the year concerned.

(5) The term "officer" means a person who is determined to be in a senior management position as established by regulation.

(d) REVIEW.—The Administrator for Federal Procurement Policy, in consultation with the Secretary of Defense, shall conduct a comprehensive review of the levels of compensation received by senior executives of corporations performing a significant amount of business with the Federal Government in order to determine the appropriate cost allowability policy in this area. Such a review should include the following:

(1) In consultation with the Secretary of the Treasury, an examination of the appropriate definition and treatment of compensation, including deferred compensation.

(2) An examination of the appropriate definition of senior executive positions and any other positions that should be covered under the cost allowability policy.

(3) An examination of how to apply the cost allowability policy to individual contracts and aggregations of contracts within a corporation.

(4) Any other matter related to the cost allowability of executive compensation that the Administrator considers appropriate.

President.

(e) LEGISLATIVE PROPOSAL.—Not later than March 1, 1997, the President shall submit to Congress a legislative proposal incorporating the conclusions reached by the review conducted under subsection (d) and establishing a statutory Government standard on the cost allowability of executive compensation.

SEC. 810. EXCEPTION TO PROHIBITION ON PROCUREMENT OF FOREIGN GOODS.

Section 2534(d)(3) of title 10, United States Code, is amended by inserting "or would impede the reciprocal procurement of defense

items under a memorandum of understanding providing for reciprocal procurement of defense items that is entered into under section 2531 of this title," after "a foreign country,".

Subtitle B—Other Matters

SEC. 821. PROHIBITION ON RELEASE OF CONTRACTOR PROPOSALS UNDER FREEDOM OF INFORMATION ACT.

(a) ARMED SERVICES ACQUISITIONS.—Section 2305 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(g) PROHIBITION ON RELEASE OF CONTRACTOR PROPOSALS.—(1) Except as provided in paragraph (2), a proposal in the possession or control of the Department of Defense may not be made available to any person under section 552 of title 5.

"(2) Paragraph (1) does not apply to any proposal that is set forth or incorporated by reference in a contract entered into between the Department and the contractor that submitted the proposal.

"(3) In this subsection, the term 'proposal' means any proposal, including a technical, management, or cost proposal, submitted by a contractor in response to the requirements of a solicitation for a competitive proposal.".

(b) CIVILIAN AGENCY ACQUISITIONS.—Section 303B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b) is amended by adding at the end the following new subsection:

"(m) PROHIBITION ON RELEASE OF CONTRACTOR PROPOSALS.—(1) Except as provided in paragraph (2), a proposal in the possession or control of an executive agency may not be made available to any person under section 552 of title 5, United States Code.

"(2) Paragraph (1) does not apply to any proposal that is set forth or incorporated by reference in a contract entered into between the agency and the contractor that submitted the proposal.

"(3) In this subsection, the term 'proposal' means any proposal, including a technical, management, or cost proposal, submitted by a contractor in response to the requirements of a solicitation for a competitive proposal.".

SEC. 822. AMENDMENTS RELATING TO REPORTS ON PROCUREMENT REGULATORY ACTIVITY.

Subsection (g) of section 25 of the Office of Federal Procurement Policy Act (41 U.S.C. 421) is amended—

(1) in paragraph (1)—

(A) by striking out "within 6 months after the date of enactment of this section and every 6 months thereafter" and inserting in lieu thereof "every 12 months"; and

(B) by inserting "and" after the semicolon at the end;

(2) in paragraph (2)(H), by striking out "; and" and inserting in lieu thereof a period; and

(3) by striking out paragraph (3).

SEC. 823. AMENDMENT OF MULTIYEAR LIMITATION ON CONTRACTS FOR INSPECTION, MAINTENANCE, AND REPAIR.

Paragraph (14) of section 210(a) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(a)) is amended by striking out "for periods not exceeding three years" and inserting in lieu thereof "for periods not exceeding five years".

SEC. 824. STREAMLINED NOTICE REQUIREMENTS TO CONTRACTORS AND EMPLOYEES REGARDING TERMINATION OR SUBSTANTIAL REDUCTION IN CONTRACTS UNDER MAJOR DEFENSE PROGRAMS.

(a) ELIMINATION OF UNNECESSARY REQUIREMENTS.—Section 4471 of the Defense Conversion, Reinvestment, and Transition Assistance Act of 1992 (division D of Public Law 102–484; 10 U.S.C. 2501 note) is amended—

(1) by striking out subsection (a);

(2) by striking out subsection (f), except paragraph (4);

(3) by redesignating subsections (b), (c), (d), (e), and (g) as subsections (a), (b), (c), (d), and (f), respectively; and

(4) by redesignating such paragraph (4) as subsection (e).

(b) NOTICE TO CONTRACTORS.—Subsection (a) of such section, as redesignated by subsection (a)(3), is amended by striking out paragraphs (1) and (2) and inserting in lieu thereof the following:

"(1) shall identify each contract (if any) under major defense programs of the Department of Defense that will be terminated or substantially reduced as a result of the funding levels provided in that Act; and

"(2) shall ensure that notice of the termination of, or substantial reduction in, the funding of the contract is provided—

"(A) directly to the prime contractor under the contract; and

"(B) directly to the Secretary of Labor.".

(c) NOTICE TO SUBCONTRACTORS.—Subsection (b) of such section, as redesignated by subsection (a)(3), is amended—

(1) by striking out "As soon as" and all that follows through "prime contractor shall—" in the matter preceding paragraph (1) and inserting in lieu thereof "Not later than 60 days after the date on which the prime contractor for a contract under a major defense program receives notice under subsection (a), the prime contractor shall—";

(2) in paragraph (1)—

(A) by striking out "for that program under a contract" and inserting in lieu thereof "under that prime contract for subcontracts"; and

(B) by striking out "for the program"; and

(3) in paragraph (2)(A), by striking out "for the program under a contract" and inserting in lieu thereof "for subcontracts".

(d) NOTICE TO EMPLOYEES AND STATE DISLOCATED WORKER UNIT.—Subsection (c) of such section, as redesignated by subsection (a)(3), is amended by striking out "under subsection (a)(1)" and all that follows through "a defense program," in the matter preceding paragraph (1) and inserting in lieu thereof "under subsection (a),".

(e) CROSS REFERENCES AND CONFORMING AMENDMENTS.—(1) Subsection (d) of such section, as redesignated by subsection (a)(3), is amended—

(A) by striking out "a major defense program provided under subsection (d)(1)" and inserting in lieu thereof "a defense contract provided under subsection (c)(1)"; and

(B) by striking out "the program" and inserting in lieu thereof "the contract".

(2) Subsection (e) of such section, as redesignated by subsection (a)(4), is amended—

(A) by striking out "ELIGIBILITY" and inserting in lieu thereof "ELIGIBILITY"; and

(B) by striking out "under paragraph (3)" and inserting in lieu thereof "or cancellation of the termination of, or substantial reduction in, contract funding".

(3) Subsection (f) of such section, as redesignated by subsection (a)(3), is amended in paragraph (2)—

(A) by inserting "a defense contract under" before "a major defense program"; and

(B) by striking out "contracts under the program" and inserting in lieu thereof "the funds obligated by the contract".

SEC. 825. REPEAL OF NOTICE REQUIREMENTS FOR SUBSTANTIALLY OR SERIOUSLY AFFECTED PARTIES IN DOWNSIZING EFFORTS.

Sections 4101 and 4201 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1850, 1851; 10 U.S.C. 2391 note) are repealed.

SEC. 826. STUDY OF EFFECTIVENESS OF DEFENSE MERGERS.

(a) STUDY.—The Secretary of Defense shall conduct a study on mergers and acquisitions in the defense sector. The study shall address the following:

(1) The effectiveness of defense mergers and acquisitions in eliminating excess capacity within the defense industry.

(2) The degree of change in the dependence by defense contractors on defense-related Federal contracts within their overall business after mergers.

(3) The effect on defense industry employment resulting from defense mergers and acquisitions occurring during the three years preceding the date of the enactment of this Act.

(4) The effect on competition for defense contracts.

(b) REPORT.—Not later than six months after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report on the results of the study conducted under subsection (a).

SEC. 827. ANNUAL REPORT RELATING TO BUY AMERICAN ACT. 41 USC 10b–3.

The Secretary of Defense shall submit to Congress, not later than 120 days after the end of each fiscal year, a report on the amount of purchases by the Department of Defense from foreign entities in that fiscal year. Such report shall separately indicate the dollar value of items for which the Buy American Act (41 U.S.C. 10a et seq.) was waived pursuant to any of the following:

(1) Any reciprocal defense procurement memorandum of understanding described in section 849(c)(2) of Public Law 103–160 (41 U.S.C. 10b–2 note).

(2) The Trade Agreements Act of 1979 (19 U.S.C. 2501 et seq.)

(3) Any international agreement to which the United States is a party.

SEC. 828. FOREIGN ENVIRONMENTAL TECHNOLOGY.

Subsection (b) of section 2536 of title 10, United States Code, is amended to read as follows:

"(b) WAIVER AUTHORITY.—(1) The Secretary concerned may waive the application of subsection (a) to a contract award if—

"(A) the Secretary concerned determines that the waiver is essential to the national security interests of the United States; or

"(B) in the case of a contract awarded for environmental restoration, remediation, or waste management at a Department of Defense or Department of Energy facility—

"(i) the Secretary concerned determines that the waiver will advance the environmental restoration, remediation, or waste management objectives of the department concerned and will not harm the national security interests of the United States; and

"(ii) the entity to which the contract is awarded is controlled by a foreign government with which the Secretary concerned is authorized to exchange Restricted Data under section 144 c. of the Atomic Energy Act of 1954 (42 U.S.C. 2164(c)).

Notification.

"(2) The Secretary concerned shall notify Congress of any decision to grant a waiver under paragraph (1)(B) with respect to a contract. The contract may be awarded only after the end of the 45-day period beginning on the date the notification is received by the committees.".

SEC. 829. ASSESSMENT OF NATIONAL DEFENSE TECHNOLOGY AND INDUSTRIAL BASE AND DEPENDENCY OF BASE ON SUPPLIES AVAILABLE ONLY FROM FOREIGN COUNTRIES.

(a) NATIONAL SECURITY OBJECTIVES FOR NATIONAL TECHNOLOGY AND INDUSTRIAL BASE.—Section 2501(a) of title 10, United States Code, is amended by adding at the end the following:

"(5) Providing for the development, manufacture, and supply of items and technologies critical to the production and sustainment of advanced military weapon systems within the national technology and industrial base.".

(b) NATIONAL DEFENSE PROGRAM FOR ANALYSIS OF THE TECHNOLOGY AND INDUSTRIAL BASE.—Section 2503 of title 10, United States Code, is amended—

(1) in subsection (a)—

(A) by striking out "(1) The Secretary of Defense, in consultation with the National Defense Technology and Industrial Base Council," in paragraph (1) and inserting in lieu thereof "The Secretary of Defense"; and

(B) by striking out paragraphs (2), (3), and (4); and

(2) in subsection (c)(3)(A)—

(A) by striking out "the National Defense Technology and Industrial Base Council in" and inserting in lieu thereof "the Secretary of Defense for"; and

(B) by striking out "and the periodic plans required by section 2506 of this title".

(c) PERIODIC DEFENSE CAPABILITY ASSESSMENTS, INCLUDING FOREIGN DEPENDENCY.—(1) Section 2505 of title 10, United States Code, is amended to read as follows:

"§ 2505. National technology and industrial base: periodic defense capability assessments

"(a) PERIODIC ASSESSMENT.—Each fiscal year, the Secretary of Defense shall prepare selected assessments of the capability

of the national technology and industrial base to attain the national security objectives set forth in section 2501(a) of this title. The Secretary of Defense shall prepare such assessments in consultation with the Secretary of Commerce and the Secretary of Energy.

"(b) ASSESSMENT PROCESS.—The Secretary of Defense shall ensure that technology and industrial capability assessments—

"(1) describe sectors or capabilities, their underlying infrastructure and processes;

"(2) analyze present and projected financial performance of industries supporting the sectors or capabilities in the assessment; and

"(3) identify technological and industrial capabilities and processes for which there is potential for the national industrial and technology base not to be able to support the achievement of national security objectives.

"(c) ASSESSMENT OF EXTENT OF DEPENDENCY ON FOREIGN SOURCE ITEMS.—Each assessment under subsection (a) shall include a separate discussion and presentation regarding the extent to which the national technology and industrial base is dependent on items for which the source of supply, manufacture, or technology is outside of the United States and Canada and for which there is no immediately available source in the United States or Canada. The discussion and presentation regarding foreign dependency shall—

"(1) identify cases that pose an unacceptable risk of foreign dependency, as determined by the Secretary; and

"(2) present actions being taken or proposed to be taken to remedy the risk posed by the cases identified under paragraph (1), including efforts to develop a domestic source for the item in question.

"(d) INTEGRATED PROCESS.—The Secretary of Defense shall ensure that consideration of the technology and industrial base assessments is integrated into the overall budget, acquisition, and logistics support decision processes of the Department of Defense.".

(2) Section 2502(b) of title 10, United States Code, is amended—

(A) by striking out "the following responsibilities:" and all that follows through "effective cooperation" and inserting in lieu thereof "the responsibility to ensure effective cooperation"; and

(B) by striking out paragraph (2); and

(3) by redesignating subparagraphs (A), (B), and (C) as paragraphs (1), (2), and (3), respectively, and adjusting the margin of such paragraphs two ems to the left.

(d) REPEAL OF REQUIREMENT FOR PERIODIC DEFENSE CAPABILITY PLAN; DEVELOPMENT OF POLICY GUIDANCE.—Section 2506 of title 10, United States Code, is amended to read as follows:

"§ 2506. Department of Defense technology and industrial base policy guidance

"(a) DEPARTMENTAL GUIDANCE.—The Secretary of Defense shall prescribe departmental guidance for the attainment of each of the national security objectives set forth in section 2501(a) of this title. Such guidance shall provide for technological and industrial capability considerations to be integrated into the budget allocation, weapons acquisition, and logistics support decision processes.

"(b) REPORT TO CONGRESS.—The Secretary of Defense shall report on the implementation of the departmental guidance in the

annual report to Congress submitted pursuant to section 2504 of this title.".

(e) ANNUAL REPORT TO CONGRESS.—Subchapter II of chapter 148 of title 10, United States Code, is amended by inserting after section 2503 the following new section:

"§ 2504. Annual report to Congress

"The Secretary of Defense shall transmit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives by March 1 of each year a report which shall include the following information:

"(1) A description of the departmental guidance prepared pursuant to section 2506 of this title.

"(2) A description of the methods and analyses being undertaken by the Department of Defense alone or in cooperation with other Federal agencies, to identify and address concerns regarding technological and industrial capabilities of the national technology and industrial base.

"(3) A description of the assessments prepared pursuant to section 2505 of this title and other analyses used in developing the budget submission of the Department of Defense for the next fiscal year.

"(4) Identification of each program designed to sustain specific essential technological and industrial capabilities and processes of the national technology and industrial base.".

(f) REPEAL OF REQUIREMENT TO COORDINATE THE ENCOURAGEMENT OF TECHNOLOGY TRANSFER WITH THE COUNCIL.—Subsection 2514(c) of title 10, United States Code, is amended by striking out paragraph (5).

(g) CLERICAL AMENDMENTS.—(1) The table of sections at the beginning of subchapter II of chapter 148 of title 10, United States Code, is amended by inserting after the item relating to section 2503 the following new item:

"2504. Annual report to Congress.".

(2) Such table of sections is further amended by striking out the item relating to section 2506 and inserting in lieu thereof the following new item:

"2506. Department of Defense technology and industrial base policy guidance.".

10 USC 2501 note.

(h) REPEAL OF SUPERSEDED AND EXECUTED LAW.—Sections 4218, 4219, and 4220 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 10 U.S.C. 2505 note and 2506 note) are repealed.

10 USC 113 note.

SEC. 830. EXPANSION OF REPORT ON IMPLEMENTATION OF AUTOMATED INFORMATION SYSTEMS TO INCLUDE ADDITIONAL MATTERS REGARDING INFORMATION RESOURCES MANAGEMENT.

(a) EXPANDED REPORT.—The Secretary of Defense shall include in the report submitted in 1997 under section 381(f) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 10 U.S.C. 113 note) a discussion of the following matters relating to information resources management:

(1) The progress made in implementing the Information Technology Management Reform Act of 1996 (division E of Public Law 104–106; 110 Stat. 679; 40 U.S.C. 1401 et seq.) and the amendments made by that Act.

(2) The progress made in implementing the strategy for the development or modernization of automated information systems for the Department of Defense, as required by section 366 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 275; 10 U.S.C. 113 note).

(3) Plans of the Department of Defense for establishing an integrated framework for management of information resources within the department.

(b) SPECIFIC ELEMENTS OF REPORT.—The presentation of matters under subsection (a) shall specifically include a discussion of the following:

(1) The status of the implementation of performance measures.

(2) The specific actions being taken to link the proposed performance measures to the planning, programming, and budgeting system of the Department of Defense and to the life-cycle management processes of the department.

(3) The results of pilot program testing of proposed performance measures.

(4) The additional training necessary for the implementation of performance-based information management.

(5) The department-wide actions that are necessary to comply with the requirements of the following provisions of law:

(A) The amendments made by the Government Performance and Results Act of 1993 (Public Law 103–62; 107 Stat. 285).

(B) The Information Technology Management Reform Act of 1996 (division E of Public Law 104–106; 110 Stat. 679; 40 U.S.C. 1401 et seq.) and the amendments made by that Act.

(C) Title V of the Federal Acquisition Streamlining Act of 1994 (Public Law 103–355; 108 Stat. 3349) and the amendments made by that title.

(D) The Chief Financial Officers Act of 1990 (Public Law 101–576; 104 Stat. 2838) and the amendments made by that Act.

SEC. 831. YEAR 2000 SOFTWARE CONVERSION.

10 USC 2302 note.

(a) YEAR 2000 SOFTWARE CONVERSION.—The Secretary of Defense shall ensure that, as soon as practicable, all information technology acquired by the Department of Defense pursuant to contracts entered into after September 30, 1996, has the capabilities to process date and date-related data in 2000.

(b) ASSESSMENT.—The Secretary, acting through the chief information officers within the department (as designated pursuant to section 3506 of title 44, United States Code), shall assess all information technology within the Department of Defense to determine the extent to which such technology has the capabilities to operate effectively.

(c) PLAN.—Not later than January 1, 1997, the Secretary shall submit to Congress a detailed plan for eliminating any deficiencies identified pursuant to subsection (b). The plan shall include—

(1) a list of affected major systems;

(2) a description of how the deficiencies could affect the national security of the United States; and

(3) an estimate and prioritization of the resources that are necessary to eliminate the deficiencies.

SEC. 832. PROCUREMENT FROM FIRMS IN INDUSTRIAL BASE FOR PRODUCTION OF SMALL ARMS.

(a) REQUIREMENT.—Chapter 146 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2473. Procurements from the small arms production industrial base

"(a) AUTHORITY TO LIMIT PROCUREMENTS TO CERTAIN SOURCES.—To the extent that the Secretary of Defense determines necessary to preserve the small arms production industrial base, the Secretary may require that any procurement of property or services described in subsection (b) for the Department of Defense be made only from a firm in the small arms production industrial base.

"(b) COVERED PROPERTY AND SERVICES.—Subsection (a) applies to the following:

"(1) Repair parts for small arms.

"(2) Modifications of parts to improve small arms used by the armed forces.

"(c) SMALL ARMS PRODUCTION INDUSTRIAL BASE.—In this section, the term 'small arms production industrial base' means the firms comprising the small arms production industrial base, as described in the plan entitled 'Preservation of Critical Elements of the Small Arms Industrial Base', dated January 8, 1994, that was prepared by an independent assessment panel of the Army Science Board.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2473. Procurements from the small arms production industrial base.".

SEC. 833. CABLE TELEVISION FRANCHISE AGREEMENTS.

Based on the advisory opinion from the United States Court of Federal Claims, In the Matter of the Department of Defense Cable Television Franchise Agreements, National Defense Authorization Act for Fiscal Year 1996, Section 823, No. 96–133X (July 11, 1996)—

(1) cable television franchise agreements for the construction, installation, or capital improvement of cable systems at military installations shall be considered contracts for purposes of the Federal Acquisition Regulation;

(2) cable television operators are entitled to recovery of their investments at such installations to the extent authorized in part 49 of the Federal Acquisition Regulation; and

(3) the appropriate official of the Department of Defense shall promptly issue a written notice of the termination for the convenience of the Government of the contracts described in such advisory opinion and commence settlement negotiations pursuant to the requirements of part 49 of the Federal Acquisition Regulation.

TITLE IX—DEPARTMENT OF DEFENSE ORGANIZATION AND MANAGEMENT

Subtitle A—General Matters

Sec. 901. Repeal of previously enacted reduction in number of statutory positions in Office of the Secretary of Defense.
Sec. 902. Additional required reduction in defense acquisition workforce.
Sec. 903. Reduction of personnel assigned to Office of the Secretary of Defense.
Sec. 904. Report on military department headquarters staffs.
Sec. 905. Matters to be considered in next assessment of current missions, responsibilities, and force structure of the unified combatant commands.
Sec. 906. Transfer of authority to control transportation systems in time of war.
Sec. 907. Codification of requirements relating to continued operation of the Uniformed Services University of the Health Sciences.
Sec. 908. Joint Requirements Oversight Council.
Sec. 909. Membership of the Ammunition Storage Board.
Sec. 910. Removal of Secretary of the Army from membership on the Foreign Trade Zone Board.
Sec. 911. Composition of aircraft accident investigation boards.
Sec. 912. Mission of the White House Communications Agency.

Subtitle B—Force Structure Review

Sec. 921. Short title.
Sec. 922. Findings.
Sec. 923. Quadrennial Defense Review.
Sec. 924. National Defense Panel.
Sec. 925. Postponement of deadlines.
Sec. 926. Definitions.

Subtitle A—General Matters

SEC. 901. REPEAL OF PREVIOUSLY ENACTED REDUCTION IN NUMBER OF STATUTORY POSITIONS IN OFFICE OF THE SECRETARY OF DEFENSE.

Section 903 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 401) is repealed. 10 USC 131, 131 note, 133a, 134a, 137, 138, 142, 167 note, 176, 1056, 1216, 1587, 10201.

SEC. 902. ADDITIONAL REQUIRED REDUCTION IN DEFENSE ACQUISITION WORKFORCE.

(a) ADDITIONAL REDUCTIONS FOR FISCAL YEAR 1997.—Section 906(d) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 405) is amended in paragraph (1) by striking out "positions during fiscal year 1996" and all that follows and inserting in lieu thereof "so that—

"(A) the total number of defense acquisition personnel as of October 1, 1996, is less than the baseline number by at least 15,000; and

"(B) the total number of defense acquisition personnel as of October 1, 1997, is less than the baseline number by at least 30,000.".

(b) BASELINE NUMBER.—Such section is further amended by adding at the end the following new paragraph:

"(3) For purposes of this subsection, the term 'baseline number' means the total number of defense acquisition personnel as of October 1, 1995.".

SEC. 903. REDUCTION OF PERSONNEL ASSIGNED TO OFFICE OF THE SECRETARY OF DEFENSE. 10 USC 131 note.

(a) PERMANENT LIMITATION ON OSD PERSONNEL.—Effective October 1, 1999, the number of OSD personnel may not exceed 75 percent of the baseline number. Effective dates.

(b) PHASED REDUCTION.—The number of OSD personnel—

(1) as of October 1, 1997, may not exceed 85 percent of the baseline number; and

(2) as of October 1, 1998, may not exceed 80 percent of the baseline number.

(c) BASELINE NUMBER.—For purposes of this section, the term "baseline number" means the number of OSD personnel as of October 1, 1994.

(d) OSD PERSONNEL DEFINED.—For purposes of this section, the term "OSD personnel" means military and civilian personnel of the Department of Defense who are assigned to, or employed in, functions in the Office of the Secretary of Defense (including Direct Support Activities of that Office and the Washington Headquarters Services of the Department of Defense).

(e) LIMITATION ON REASSIGNMENT OF FUNCTIONS.—In carrying out reductions in the number of personnel assigned to, or employed in, the Office of the Secretary of Defense in order to comply with this section, the Secretary of Defense may not reassign functions solely in order to evade the requirements contained in this section.

(f) FLEXIBILITY.—If the Secretary of Defense determines, and certifies to Congress, that the limitation in subsection (b) with respect to any fiscal year would adversely affect United States national security, the Secretary may waive the limitation under that subsection with respect to that fiscal year. If the Secretary of Defense determines, and certifies to Congress, that the limitation in subsection (a) during fiscal year 1999 would adversely affect United States national security, the Secretary may waive the limitation under that subsection with respect to that fiscal year. The authority under this subsection may be used only once, with respect to a single fiscal year.

(g) REPEAL OF PRIOR REQUIREMENT.—Section 901(d) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 401) is repealed.

SEC. 904. REPORT ON MILITARY DEPARTMENT HEADQUARTERS STAFFS.

(a) REVIEW BY SECRETARY OF DEFENSE.—The Secretary of Defense shall conduct a review of the size, mission, organization, and functions of the military department headquarters staffs. This review shall include the following:

(1) An assessment on the adequacy of the present organization structure to efficiently and effectively support the mission of the military departments.

(2) An assessment of options to reduce the number of personnel assigned to the military department headquarters staffs.

(3) An assessment of the extent of unnecessary duplication of functions between the Office of the Secretary of Defense and the military department headquarters staffs.

(4) An assessment of the possible benefits that could be derived from further functional consolidation between the civilian secretariat of the military departments and the staffs of the military service chiefs.

(5) An assessment of the possible benefits that could be derived from reducing the number of civilian officers in the military departments who are appointed by and with the advice and consent of the Senate.

(b) REPORT.—Not later than March 1, 1997, the Secretary of Defense shall submit to the congressional defense committees a report containing—

(1) the findings and conclusions of the Secretary resulting from the review under subsection (a); and

(2) a plan for implementing resulting recommendations, including proposals for legislation (with supporting rationale) that would be required as a result of the review.

(c) REDUCTION IN TOTAL NUMBER OF PERSONNEL ASSIGNED.—In developing the plan under subsection (b)(2), the Secretary shall make every effort to provide for significant reductions in the overall number of military and civilian personnel assigned to or serving in the military department headquarters staffs.

(d) MILITARY DEPARTMENT HEADQUARTERS STAFFS DEFINED.—For the purposes of this section, the term "military department headquarters staffs" means the offices, organizations, and other elements of the Department of Defense comprising the following:

(1) The Office of the Secretary of the Army.
(2) The Army Staff.
(3) The Office of the Secretary of the Air Force.
(4) The Air Staff.
(5) The Office of the Secretary of the Navy.
(6) The Office of the Chief of Naval Operations.
(7) Headquarters, Marine Corps.

SEC. 905. MATTERS TO BE CONSIDERED IN NEXT ASSESSMENT OF CURRENT MISSIONS, RESPONSIBILITIES, AND FORCE STRUCTURE OF THE UNIFIED COMBATANT COMMANDS.

10 USC 161 note.

The Chairman of the Joint Chiefs of Staff shall consider, as part of the next periodic review by the Chairman of the missions, responsibilities, and force structure of the unified combatant commands pursuant to section 161(b) of title 10, United States Code, the following matters:

(1) Whether there exists an adequate distribution of threats, mission requirements, and responsibilities for geographic areas among the regional unified combatant commands.

(2) Whether reductions in the overall force structure of the Armed Forces permit the United States to better execute its warfighting plans through fewer or differently configured unified combatant commands, including—

(A) a total of five or fewer commands, all of which are regional;

(B) a total of three commands consisting of an eastward-oriented command, a westward-oriented command, and a central command;

(C) a purely functional command structure, involving (for example) a first theater command, a second theater command, a logistics command, a special contingencies command, and a strategic command; or

(D) any other command structure or configuration the Chairman finds appropriate.

(3) Whether any missions, staff, facilities, equipment, training programs, or other assets or activities of the unified combatant commands are redundant.

(4) Whether warfighting requirements are adequate to justify the current functional commands.

(5) Whether the exclusion of certain nations from the Areas of Responsibility of the unified combatant commands presents difficulties with respect to the achievement of United States national security objectives in those areas.

(6) Whether the current geographic boundary between the United States Central Command and the United States European Command through the Middle East could create command conflicts in the context of a major regional conflict in the Middle East region.

SEC. 906. TRANSFER OF AUTHORITY TO CONTROL TRANSPORTATION SYSTEMS IN TIME OF WAR.

(a) AUTHORITY OF SECRETARY OF DEFENSE.—Section 4742 of title 10, United States Code, is amended by striking out "Secretary of the Army" and inserting in lieu thereof "Secretary of Defense".

(b) TRANSFER OF SECTION.—Such section, as amended by subsection (a), is transferred to the end of chapter 157 of such title and is redesignated as section 2644.

(c) CONFORMING REPEAL.—Section 9742 of such title is repealed.

(d) CLERICAL AMENDMENTS.—(1) The table of sections at the beginning of chapter 157 of such title is amended by adding at the end the following new item:

"2644. Control of transportation systems in time of war.".

(2) The table of sections at the beginning of chapter 447 of such title is amended by striking out the item relating to section 4742.

(3) The table of sections at the beginning of chapter 947 of such title is amended by striking out the item relating to section 9742.

SEC. 907. CODIFICATION OF REQUIREMENTS RELATING TO CONTINUED OPERATION OF THE UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES.

(a) CODIFICATION OF EXISTING LAW.—(1) Chapter 104 of title 10, United States Code, is amended by inserting after section 2112 the following new section:

"§ 2112a. Continued operation of University

"(a) CLOSURE PROHIBITED.—The University may not be closed.

Effective date.

"(b) PERSONNEL STRENGTH.—During the five-year period beginning on October 1, 1996, the personnel staffing levels for the University may not be reduced below the personnel staffing levels for the University as of October 1, 1993.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2112 the following new item:

"2112a. Continued operation of University.".

(b) REPEAL OF SUPERSEDED LAW.—(1) Section 922 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2829; 10 U.S.C. 2112 note) is amended by striking out subsection (a).

(2) Section 1071 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 445; 10 U.S.C. 2112 note) is amended by striking out subsection (b).

SEC. 908. JOINT REQUIREMENTS OVERSIGHT COUNCIL.

Effective date.

Section 181 of title 10, United States Code, as added effective January 31, 1997, is amended by adding at the end the following new subsection:

"(d) AVAILABILITY OF OVERSIGHT INFORMATION TO CONGRESSIONAL DEFENSE COMMITTEES.—(1) The Secretary of Defense shall ensure that, in the case of a recommendation by the Chairman to the Secretary that is approved by the Secretary, oversight information with respect to such recommendation that is produced as a result of the activities of the Joint Requirements Oversight Council is made available in a timely fashion to the congressional defense committees.

"(2) In this subsection:

"(A) The term 'oversight information' means information and materials comprising analysis and justification that are prepared to support a recommendation that is made to, and approved by, the Secretary of Defense.

"(B) The term 'congressional defense committees' means—

"(i) the Committee on Armed Services and the Committee on Appropriations of the Senate; and

"(ii) the Committee on National Security and the Committee on Appropriations of the House of Representatives.".

SEC. 909. MEMBERSHIP OF THE AMMUNITION STORAGE BOARD.

Section 172(a) of title 10, United States Code, is amended by striking out "a joint board of officers selected by them" and inserting in lieu thereof "a joint board selected by them composed of officers, civilian officers and employees of the Department of Defense, or both".

SEC. 910. REMOVAL OF SECRETARY OF THE ARMY FROM MEMBERSHIP ON THE FOREIGN TRADE ZONE BOARD.

The first section of the Act of June 18, 1934 (Public Law Numbered 397, Seventy-third Congress; 48 Stat. 998) (19 U.S.C. 81a), popularly known as the "Foreign Trade Zones Act", is amended—

(1) in subsection (b), by striking out "the Secretary of the Treasury, and the Secretary of War" and inserting in lieu thereof "and the Secretary of the Treasury"; and

(2) in subsection (c), by striking out "Alaska, Hawaii,".

SEC. 911. COMPOSITION OF AIRCRAFT ACCIDENT INVESTIGATION BOARDS.

(a) SELECTION OF BOARD MEMBERS.—(1) Chapter 134 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2255. Aircraft accident investigation boards: composition requirements

"(a) REQUIRED MEMBERSHIP OF BOARDS.—Whenever the Secretary of a military department convenes an aircraft accident investigation board to conduct an accident investigation (as described in section 2254(a)(2) of this title) with respect to a Class A accident involving an aircraft under the jurisdiction of the Secretary, the Secretary shall select the membership of the board so that—

"(1) a majority of the members (or in the case of a board consisting of a single member, the member) is selected from

units other than the mishap unit or a unit subordinate to the mishap unit; and

"(2) in the case of a board consisting of more than one member, at least one member of the board is a member of the armed forces or an officer or an employee of the Department of Defense who possesses knowledge and expertise relevant to aircraft accident investigations.

"(b) EXCEPTION.—(1) The Secretary of the military department concerned may waive the requirement of subsection (a)(1) in the case of an aircraft accident if the Secretary determines that—

"(A) it is not practicable to meet the requirement because of—

"(i) the remote location of the aircraft accident;

"(ii) an urgent need to promptly begin the investigation; or

"(iii) a lack of available persons outside of the mishap unit who have adequate knowledge and expertise regarding the type of aircraft involved in the accident; and

"(B) the objectivity and independence of the aircraft accident investigation board will not be compromised.

Notification.

"(2) The Secretary shall notify Congress of a waiver exercised under this subsection and the reasons therefor.

"(c) CONSULTATION REQUIREMENT.—In the case of an aircraft accident investigation board consisting of a single member, the member shall consult with a member of the armed forces or an officer or an employee of the Department of Defense who possesses knowledge and expertise relevant to aircraft accident investigations.

"(d) DESIGNATION OF CLASS A ACCIDENTS.—Not later than 60 days after an aircraft accident involving an aircraft under the jurisdiction of the Secretary of a military department, the Secretary shall determine whether the aircraft accident should be designated as a Class A accident for purposes of this section.

"(e) DEFINITIONS.—In this section:

"(1) The term 'Class A accident' means an accident involving an aircraft that results in—

"(A) the loss of life or permanent disability;

"(B) damages to the aircraft, other property, or a combination of both, in an amount in excess of the amount specified by the Secretary of Defense for purposes of determining Class A accidents; or

"(C) the destruction of the aircraft.

"(2) The term 'mishap unit', with respect to an aircraft accident investigation, means the unit of the armed forces (at the squadron or battalion level or equivalent) to which was assigned the flight crew of the aircraft that sustained the accident that is the subject of the investigation.".

(2) The table of sections at the beginning of subchapter II of such chapter is amended by adding at the end the following new item:

"2255. Aircraft accident investigation boards: composition requirements.".

Applicability.
10 USC 2255 note.

(b) EFFECTIVE DATE.—Section 2255 of title 10, United States Code, as added by subsection (a), shall apply with respect to any aircraft accident investigation board convened by the Secretary of a military department after the end of the six-month period beginning on the date of the enactment of this Act.

SEC. 912. MISSION OF THE WHITE HOUSE COMMUNICATIONS AGENCY. 10 USC 111 note.

(a) TELECOMMUNICATIONS SUPPORT.—The Secretary of Defense shall ensure that the activities of the White House Communications Agency in providing support services on a nonreimbursable basis for the President from funds appropriated for the Department of Defense for any fiscal year are limited to the provision of telecommunications support to the President and Vice President and to related elements (as defined in regulations of that agency and specified by the President with respect to particular individuals within those related elements).

(b) OTHER SUPPORT.—Support services other than telecommunications support services described in subsection (a) may be provided by the Department of Defense for the President through the White House Communications Agency on a reimbursable basis.

(c) WHITE HOUSE COMMUNICATIONS AGENCY.—For purposes of this section, the term "White House Communications Agency" means the element of the Department of Defense within the Defense Communications Agency that is known on the date of the enactment of this Act as the White House Communications Agency and includes any successor agency.

(d) REPORT ON ISSUES RAISED BY DOD INSPECTOR GENERAL REVIEW OF WHITE HOUSE COMMUNICATIONS AGENCY.—Not later than October 1, 1996, or 30 days after the date of the enactment of this Act, whichever is later, the Secretary of Defense shall submit to Congress a report setting forth the actions taken by the Secretary to address the issues raised by the report of the Department of Defense Inspector General reviewing the mission of the White House Communications Agency.

(e) QUARTERLY REPORTS DURING FISCAL YEAR 1997.—Not later than 30 days after the end of each quarter of fiscal year 1997, the Secretary of Defense shall submit to Congress a report describing the support services other than telecommunications support services described in subsection (a) that were provided during the preceding quarter by the Department of Defense for the President through the White House Communications Agency.

(f) EFFECTIVE DATE.—This section takes effect on October 1, 1997, and applies to funds appropriated for the Department of Defense for any fiscal year after fiscal year 1997. Applicability.

Subtitle B—Force Structure Review

Military Force Structure Review Act of 1996. 10 USC 111 note.

SEC. 921. SHORT TITLE.

This subtitle may be cited as the "Military Force Structure Review Act of 1996".

SEC. 922. FINDINGS.

Congress makes the following findings:

(1) Since the collapse of the Soviet Union in 1991, the United States has conducted two substantial assessments of the force structure of the Armed Forces necessary to meet United States defense requirements.

(2) The assessment by the Bush Administration (known as the "Base Force" assessment) and the assessment by the Clinton Administration (known as the "Bottom-Up Review") were intended to reassess the force structure of the Armed

Forces in light of the changing realities of the post-Cold War world.

(3) Both assessments served an important purpose in focusing attention on the need to reevaluate the military posture of the United States, but the pace of global change necessitates a new, comprehensive assessment of the defense strategy of the United States and the force structure of the Armed Forces required to meet the threats to the United States in the twenty-first century.

(4) The Bottom-Up Review has been criticized on several points, including—

(A) the assumptions underlying the strategy of planning to fight and win two nearly simultaneous major regional conflicts;

(B) the force levels recommended to carry out that strategy; and

(C) the funding proposed for such recommended force levels.

(5) In response to the recommendations of the Commission on Roles and Missions of the Armed Forces, the Secretary of Defense endorsed the concept of conducting a quadrennial review of the defense program at the beginning of each newly elected Presidential administration, and the Department intends to complete the first such review in 1997.

(6) The review is to involve a comprehensive examination of defense strategy, the force structure of the active, guard, and reserve components, force modernization plans, infrastructure, and other elements of the defense program and policies in order to determine and express the defense strategy of the United States and to establish a revised defense program through the year 2005.

(7) In order to ensure that the force structure of the Armed Forces is adequate to meet the challenges to the national security interests of the United States in the twenty-first century, to assist the Secretary of Defense in conducting the review referred to in paragraph (5), and to assess the appropriate force structure of the Armed Forces through the year 2010 and beyond (if practicable), it is important to provide for the conduct of an independent, nonpartisan review of the force structure that is more comprehensive than prior assessments of the force structure, extends beyond the quadrennial defense review, and explores innovative and forward-thinking ways of meeting such challenges.

SEC. 923. QUADRENNIAL DEFENSE REVIEW.

(a) REQUIREMENT IN 1997.—The Secretary of Defense, in consultation with the Chairman of the Joint Chiefs of Staff, shall complete in 1997 a review of the defense program of the United States intended to satisfy the requirements for a Quadrennial Defense Review as identified in the recommendations of the Commission on Roles and Missions of the Armed Forces. The review shall include a comprehensive examination of the defense strategy, force structure, force modernization plans, infrastructure, budget plan, and other elements of the defense program and policies with a view toward determining and expressing the defense strategy of the United States and establishing a revised defense program through the year 2005.

(b) INVOLVEMENT OF NATIONAL DEFENSE PANEL.—(1) The Secretary shall apprise the National Defense Panel established under section 924, on an ongoing basis, of the work undertaken in the conduct of the review.

(2) Not later than March 14, 1997, the Chairman of the National Defense Panel shall submit to the Secretary the Panel's assessment of work undertaken in the conduct of the review as of that date and shall include in the assessment the recommendations of the Panel for improvements to the review, including recommendations for additional matters to be covered in the review.

(c) ASSESSMENTS OF REVIEW.—Upon completion of the review, the Chairman of the Joint Chiefs of Staff and the Chairman of the National Defense Panel, on behalf of the Panel, shall each prepare and submit to the Secretary such Chairman's assessment of the review in time for the inclusion of the assessment in its entirety in the report under subsection (d).

(d) REPORT.—Not later than May 15, 1997, the Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a comprehensive report on the review. The report shall include the following:

(1) The results of the review, including a comprehensive discussion of the defense strategy of the United States and the force structure best suited to implement that strategy.

(2) The threats examined for purposes of the review and the scenarios developed in the examination of such threats.

(3) The assumptions used in the review, including assumptions relating to the cooperation of allies and mission-sharing, levels of acceptable risk, warning times, and intensity and duration of conflict.

(4) The effect on the force structure of preparations for and participation in peace operations and military operations other than war.

(5) The effect on the force structure of the utilization by the Armed Forces of technologies anticipated to be available by the year 2005, including precision guided munitions, stealth, night vision, digitization, and communications, and the changes in doctrine and operational concepts that would result from the utilization of such technologies.

(6) The manpower and sustainment policies required under the defense strategy to support engagement in conflicts lasting more than 120 days.

(7) The anticipated roles and missions of the reserve components in the defense strategy and the strength, capabilities, and equipment necessary to assure that the reserve components can capably discharge those roles and missions.

(8) The appropriate ratio of combat forces to support forces (commonly referred to as the "tooth-to-tail" ratio) under the defense strategy, including, in particular, the appropriate number and size of headquarter units and Defense Agencies for that purpose.

(9) The air-lift and sea-lift capabilities required to support the defense strategy.

(10) The forward presence, pre-positioning, and other anticipatory deployments necessary under the defense strategy for conflict deterrence and adequate military response to anticipated conflicts.

(11) The extent to which resources must be shifted among two or more theaters under the defense strategy in the event of conflict in such theaters.

(12) The advisability of revisions to the Unified Command Plan as a result of the defense strategy.

(13) Any other matter the Secretary considers appropriate.

SEC. 924. NATIONAL DEFENSE PANEL.

(a) ESTABLISHMENT.—Not later than December 1, 1996, the Secretary of Defense shall establish a nonpartisan, independent panel to be known as the National Defense Panel (in this section referred to as the "Panel"). The Panel shall have the duties set forth in this section.

(b) MEMBERSHIP.—The Panel shall be composed of a chairman and eight other individuals appointed by the Secretary, in consultation with the chairman and ranking member of the Committee on Armed Services of the Senate and the chairman and ranking member of the Committee on National Security of the House of Representatives, from among individuals in the private sector who are recognized experts in matters relating to the national security of the United States.

(c) DUTIES.—The Panel shall—

(1) conduct and submit to the Secretary the assessment of the review under section 923 that is required by subsection (b)(2) of that section;

(2) conduct and submit to the Secretary the comprehensive assessment of the review that is required by subsection (c) of that section upon completion of the review; and

(3) conduct the assessment of alternative force structures for the Armed Forces required under subsection (d).

(d) ALTERNATIVE FORCE STRUCTURE ASSESSMENT.—(1) The Panel shall submit to the Secretary an independent assessment of a variety of possible force structures of the Armed Forces through the year 2010 and beyond, including the force structure identified in the report on the review under section 923(d). The purpose of the assessment is to develop proposals for an "above the line" force structure of the Armed Forces and to provide the Secretary and Congress recommendations regarding the optimal force structure to meet anticipated threats to the national security of the United States through the time covered by the assessment.

(2) In conducting the assessment, the Panel shall examine a variety of potential threats (including near-term threats and long-term threats) to the national security interests of the United States, including the following:

(A) Conventional threats across a spectrum of conflicts.

(B) The proliferation of weapons of mass destruction and the means of delivering such weapons, and the illicit transfer of technology relating to such weapons.

(C) The vulnerability of United States technology to nontraditional threats, including information warfare.

(D) Domestic and international terrorism.

(E) The emergence of a major potential adversary having military capabilities similar to those of the United States.

(F) Any other significant threat, or combination of threats, identified by the Panel.

(3) For purposes of the assessment, the Panel shall develop a variety of scenarios requiring a military response by the United States, including the following:

(A) Scenarios developed in light of the threats examined under paragraph (2).

(B) Scenarios developed in light of a continuum of conflicts ranging from a conflict of lesser magnitude than the conflict described in the Bottom-Up Review to a conflict of greater magnitude than the conflict so described.

(4) As part of the assessment, the Panel shall also—

(A) develop recommendations regarding a variety of force structures for the Armed Forces that permit the forward deployment of sufficient air, land, and sea-based forces to provide an effective deterrent to conflict and to permit a military response by the United States to the scenarios developed under paragraph (3);

(B) to the extent practicable, estimate the funding required by fiscal year, in constant fiscal year 1997 dollars, to organize, equip, and support the forces contemplated under the force structures assessed in the assessment; and

(C) comment on each of the matters also to be included by the Secretary in the report required by section 923(d).

(e) REPORT.—(1) Not later than December 1, 1997, the Panel shall submit to the Secretary a report setting forth the activities and the findings and recommendations of the Panel under subsection (d), including any recommendations for legislation that the Panel considers appropriate.

(2) Not later than December 15, 1997, the Secretary shall, after consultation with the Chairman of the Joint Chiefs of Staff, submit to the committees referred to in subsection (b) a copy of the report under paragraph (1), together with the Secretary's comments on the report.

(f) INFORMATION FROM FEDERAL AGENCIES.—The Panel may secure directly from the Department of Defense and any of its components and from any other Federal department and agency such information as the Panel considers necessary to carry out its duties under this section. The head of the department or agency concerned shall ensure that information requested by the Panel under this subsection is promptly provided.

(g) PERSONNEL MATTERS.—(1) Each member of the Panel shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Panel.

(2) The members of the Panel shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Panel.

(3)(A) The chairman of the Panel may, without regard to the civil service laws and regulations, appoint and terminate an executive director, and a staff of not more than four additional individuals, if the Panel determines that an executive director and staff are necessary in order for the Panel to perform its duties effectively. The employment of an executive director shall be subject to confirmation by the Panel.

(B) The chairman may fix the compensation of the executive director without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(4) Any Federal Government employee may be detailed to the Panel without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege. The Secretary shall ensure that sufficient personnel are detailed to the Panel to enable the Panel to carry out its duties effectively.

(5) To the maximum extent practicable, the members and employees of the Panel shall travel on military aircraft, military ships, military vehicles, or other military conveyances when travel is necessary in the performance of a duty of the Panel, except that no such aircraft, ship, vehicle, or other conveyance may be scheduled primarily for the transportation of any such member or employee when the cost of commercial transportation is less expensive.

(h) ADMINISTRATIVE PROVISIONS.—(1) The Panel may use the United States mails and obtain printing and binding services in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(2) The Secretary shall furnish the Panel any administrative and support services requested by the Panel.

(3) The Panel may accept, use, and dispose of gifts or donations of services or property.

(i) PAYMENT OF PANEL EXPENSES.—The compensation, travel expenses, and per diem allowances of members and employees of the Panel shall be paid out of funds available to the Department of Defense for the payment of compensation, travel allowances, and per diem allowances, respectively, of civilian employees of the Department. The other expenses of the Panel shall be paid out of funds available to the Department for the payment of similar expenses incurred by the Department.

(j) TERMINATION.—The Panel shall terminate 30 days after the date on which the Panel submits its report to the Secretary under subsection (e).

SEC. 925. POSTPONEMENT OF DEADLINES.

If the Presidential election in 1996 results in the election of a new President, each deadline set forth in this subtitle shall be postponed by three months.

SEC. 926. DEFINITIONS.

In this subtitle:

(1) The term "'above the line' force structure of the Armed Forces" means the force structure (including numbers, strengths, and composition and major items of equipment) for the Armed Forces at the following unit levels:

(A) In the case of the Army, the division.

(B) In the case of the Navy, the battle group.

(C) In the case of the Air Force, the wing.

(D) In the case of the Marine Corps, the expeditionary force.

(E) In the case of special operations forces of the Army, Navy, or Air Force, the major operating unit.

(F) In the case of the strategic forces, the ballistic missile submarine fleet, the heavy bomber force, and the intercontinental ballistic missile force.

(2) The term "Commission on Roles and Missions of the Armed Forces" means the Commission on Roles and Missions of the Armed Forces established by subtitle E of title IX of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1738; 10 U.S.C. 111 note).

(3) The term "military operation other than war" means any operation other than war that requires the utilization of the military capabilities of the Armed Forces, including peace operations, humanitarian assistance operations and activities, counter-terrorism operations and activities, disaster relief activities, and counter-drug operations and activities.

(4) The term "peace operations" means military operations in support of diplomatic efforts to reach long-term political settlements of conflicts and includes peacekeeping operations and peace enforcement operations.

TITLE X—GENERAL PROVISIONS

Subtitle A—Financial Matters

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Sec. 1002. Incorporation of classified annex.
Sec. 1003. Authority for obligation of certain unauthorized fiscal year 1996 defense appropriations.
Sec. 1004. Authorization of prior emergency supplemental appropriations for fiscal year 1996.
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Sec. 1006. Format for annual budget requests for Defense Airborne Reconnaissance Program.
Sec. 1007. Limitation on use of Department of Defense funds transferred to the Coast Guard.
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Subtitle B—Naval Vessels and Shipyards

Sec. 1021. Repeal of requirement for continuous applicability of contracts for phased maintenance of AE class ships.
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Subtitle E—Management of Armed Forces Retirement Home

Sec. 1051. Retirement Home Boards of Directors.
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Sec. 1076. Chemical Stockpile Emergency Preparedness Program.
Sec. 1077. Exemption from requirements applicable to savings associations for certain savings institutions serving military personnel.
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Sec. 1081. Sense of Congress regarding semiconductor trade agreement between United States and Japan.
Sec. 1082. Agreements for exchange of defense personnel between the United States and foreign countries.
Sec. 1083. Sense of Senate regarding Bosnia and Herzegovina.
Sec. 1084. Defense burdensharing.

Subtitle A—Financial Matters

SEC. 1001. TRANSFER AUTHORITY.

(a) AUTHORITY TO TRANSFER AUTHORIZATIONS.—(1) Upon determination by the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in this division for fiscal year 1997 between any such authorizations for that fiscal year (or any subdivisions thereof). Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred.

(2) The total amount of authorizations that the Secretary of Defense may transfer under the authority of this section may not exceed $2,000,000,000.

(b) LIMITATIONS.—The authority provided by this section to transfer authorizations—

(1) may only be used to provide authority for items that have a higher priority than the items from which authority is transferred; and

(2) may not be used to provide authority for an item that has been denied authorization by Congress.

(c) EFFECT ON AUTHORIZATION AMOUNTS.—A transfer made from one account to another under the authority of this section shall be deemed to increase the amount authorized for the account to which the amount is transferred by an amount equal to the amount transferred.

(d) NOTICE TO CONGRESS.—The Secretary shall promptly notify Congress of each transfer made under subsection (a).

SEC. 1002. INCORPORATION OF CLASSIFIED ANNEX. 10 USC 114 note.

(a) STATUS OF CLASSIFIED ANNEX.—The Classified Annex prepared by the committee of conference to accompany the conference report on the bill H.R. 3230 of the One Hundred Fourth Congress and transmitted to the President is hereby incorporated into this Act.

(b) CONSTRUCTION WITH OTHER PROVISIONS OF ACT.—The amounts specified in the Classified Annex are not in addition to amounts authorized to be appropriated by other provisions of this Act.

(c) LIMITATION ON USE OF FUNDS.—Funds appropriated pursuant to an authorization contained in this Act that are made available for a program, project, or activity referred to in the Classified Annex may only be expended for such program, project, or activity in accordance with such terms, conditions, limitations, restrictions, and requirements as are set out for that program, project, or activity in the Classified Annex.

(d) DISTRIBUTION OF CLASSIFIED ANNEX.—The President shall provide for appropriate distribution of the Classified Annex, or of appropriate portions of the annex, within the executive branch of the Government. President.

SEC. 1003. AUTHORITY FOR OBLIGATION OF CERTAIN UNAUTHORIZED FISCAL YEAR 1996 DEFENSE APPROPRIATIONS.

(a) AUTHORITY.—The amounts described in subsection (b) may be obligated and expended for programs, projects, and activities of the Department of Defense in accordance with fiscal year 1996 defense appropriations.

(b) COVERED AMOUNTS.—The amounts referred to in subsection (a) are the amounts provided for programs, projects, and activities of the Department of Defense in fiscal year 1996 defense appropriations that are in excess of the amounts provided for such programs, projects, and activities in fiscal year 1996 defense authorizations.

(c) DEFINITIONS.—For the purposes of this section:

(1) FISCAL YEAR 1996 DEFENSE APPROPRIATIONS.—The term "fiscal year 1996 defense appropriations" means amounts appropriated or otherwise made available to the Department of Defense for fiscal year 1996 in the Department of Defense Appropriations Act, 1996 (Public Law 104–61).

(2) FISCAL YEAR 1996 DEFENSE AUTHORIZATIONS.—The term "fiscal year 1996 defense authorizations" means amounts authorized to be appropriated for the Department of Defense

for fiscal year 1996 in the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106).

SEC. 1004. AUTHORIZATION OF PRIOR EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 1996.

Amounts authorized to be appropriated to the Department of Defense for fiscal year 1996 in the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106) are hereby adjusted, with respect to any such authorized amount, by the amount by which appropriations pursuant to such authorization were increased (by a supplemental appropriation) or decreased (by a rescission), or both, in the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (Public Law 104–134).

SEC. 1005. FORMAT FOR BUDGET REQUESTS FOR NAVY/MARINE CORPS AND AIR FORCE AMMUNITION ACCOUNTS.

Section 114 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(f) In each budget submitted by the President to Congress under section 1105 of title 31, amounts requested for procurement of ammunition for the Navy and Marine Corps, and for procurement of ammunition for the Air Force, shall be set forth separately from other amounts requested for procurement.".

SEC. 1006. FORMAT FOR ANNUAL BUDGET REQUESTS FOR DEFENSE AIRBORNE RECONNAISSANCE PROGRAM.

(a) SEPARATE DISPLAY REQUIRED.—The Secretary of Defense shall ensure that in the budget justification documents for any fiscal year there are set forth separately the amount requested for research, development, test, and evaluation, and the amount requested for procurement, for each program area within the Defense Airborne Reconnaissance Program.

(b) PROGRAM AREAS WITHIN DEFENSE AIRBORNE RECONNAISSANCE PROGRAM.—For purposes of subsection (a), the programs of the Defense Airborne Reconnaissance Program shall be categorized as being within one of the following areas:

(1) Tactical unmanned aerial vehicles.
(2) Endurance unmanned aerial vehicles.
(3) Airborne reconnaissance systems.
(4) Manned reconnaissance systems.
(5) Distributed common ground systems.
(6) Any additional program area established by the Secretary of Defense.

(c) BUDGET JUSTIFICATION DOCUMENTS.—For purposes of subsection (a), the term "budget justification documents" means the supporting budget documentation submitted to the congressional defense committees in support of the budget of the Department of Defense for a fiscal year as included in the budget of the President submitted under section 1105 of title 31, United States Code, for that fiscal year.

SEC. 1007. LIMITATION ON USE OF DEPARTMENT OF DEFENSE FUNDS TRANSFERRED TO THE COAST GUARD.

(a) LIMITATION TO NATIONAL SECURITY FUNCTIONS.—Funds appropriated to the Department of Defense for fiscal year 1997 that are transferred pursuant to law to the Coast Guard may be used only for the performance of national security functions of the Coast Guard in support of the Department of Defense.

(b) CERTIFICATION REQUIRED.—Funds appropriated to the Department of Defense for fiscal year 1997 may not be transferred to the Coast Guard until the Secretary of Defense and the Secretary of Transportation jointly certify to Congress that the funds so transferred will be used only in accordance with the limitation in subsection (a).

(c) PERIODIC GAO AUDITS.—The Comptroller General of the United States shall—

(1) audit, from time to time, the use of funds transferred to the Coast Guard from appropriations for the Department of Defense for fiscal year 1997 in order to verify that those funds are being used in accordance with the limitation in subsection (a); and

(2) notify the congressional defense committees of any use of those funds that, in the judgment of the Comptroller General, is a violation of that limitation. Notification.

SEC. 1008. FISHER HOUSE TRUST FUND FOR THE DEPARTMENT OF THE NAVY.

(a) AUTHORITY.—Section 2221 of title 10, United States Code, is amended—

(1) by adding at the end of subsection (a) the following:

"(3) The Fisher House Trust Fund, Department of the Navy.";

(2) in subsection (c)—

(A) by redesignating paragraph (3) as paragraph (4); and

(B) by inserting after paragraph (2) the following new paragraph (3):

"(3) Amounts in the Fisher House Trust Fund, Department of the Navy, that are attributable to earnings or gains realized from investments shall be available for the operation and maintenance of Fisher houses that are located in proximity to medical treatment facilities of the Navy."; and

(3) in subsection (d)(1), by striking out "or the Air Force" and inserting in lieu thereof ", the Air Force, or the Navy".

(b) CORPUS OF TRUST FUNDS.—The Secretary of the Navy shall transfer to the Fisher House Trust Fund, Department of the Navy, established by section 2221(a)(3) of title 10, United States Code (as added by subsection (a)(1)), all amounts in the accounts for Navy installations and other facilities that, as of the date of the enactment of this Act, are available for operation and maintenance of Fisher houses, as defined in section 2221(d) of such title. 10 USC 2221 note.

(c) CONFORMING AMENDMENTS.—Section 1321 of title 31, United States Code, is amended—

(1) by adding at the end of subsection (a) the following:

"(94) Fisher House Trust Fund, Department of the Navy."; and

(2) by adding at the end of subsection (b)(2) the following:

"(D) Fisher House Trust Fund, Department of the Navy.".

SEC. 1009. DESIGNATION AND LIABILITY OF DISBURSING AND CERTIFYING OFFICIALS FOR THE COAST GUARD.

(a) DISBURSING OFFICIALS.—(1) Section 3321(c) of title 31, United States Code, is amended by adding at the end the following:

"(3) The Department of Transportation (with respect to public money available for expenditure by the Coast Guard when it is not operating as a service in the Navy).".

(2)(A) Chapter 17 of title 14, United States Code, is amended by adding at the end the following new section:

"§ 673. Designation, powers, and accountability of deputy disbursing officials

"(a)(1) Subject to paragraph (3), a disbursing official of the Coast Guard may designate a deputy disbursing official—

"(A) to make payments as the agent of the disbursing official;

"(B) to sign checks drawn on disbursing accounts of the Secretary of the Treasury; and

"(C) to carry out other duties required under law.

"(2) The penalties for misconduct that apply to a disbursing official apply to a deputy disbursing official designated under this subsection.

"(3) A disbursing official may make a designation under paragraph (1) only with the approval of the Secretary of Transportation (when the Coast Guard is not operating as a service in the Navy).

"(b)(1) If a disbursing official of the Coast Guard dies, becomes disabled, or is separated from office, a deputy disbursing official may continue the accounts and payments in the name of the former disbursing official until the last day of the second month after the month in which the death, disability, or separation occurs. The accounts and payments shall be allowed, audited, and settled as provided by law. The Secretary of the Treasury shall honor checks signed in the name of the former disbursing official in the same way as if the former disbursing official had continued in office.

"(2) The deputy disbursing official, and not the former disbursing official or the estate of the former disbursing official, is liable for the actions of the deputy disbursing official under this subsection.

"(c)(1) Except as provided in paragraph (2), this section does not apply to the Coast Guard when section 2773 of title 10 applies to the Coast Guard by reason of the operation of the Coast Guard as a service in the Navy.

"(2) A designation of a deputy disbursing official under subsection (a) that is made while the Coast Guard is not operating as a service in the Navy continues in effect for purposes of section 2773 of title 10 while the Coast Guard operates as a service in the Navy unless and until the designation is terminated by the disbursing official who made the designation or an official authorized to approve such a designation under subsection (a)(3) of such section.".

(B) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"673. Designation, powers, and accountability of deputy disbursing officials.".

(b) DESIGNATION OF MEMBERS OF THE ARMED FORCES TO HAVE AUTHORITY TO CERTIFY VOUCHERS.—Section 3325(b) of title 31, United States Code, is amended by striking out "members of the armed forces under the jurisdiction of the Secretary of Defense may certify vouchers when authorized, in writing, by the Secretary to do so" and inserting in lieu thereof "members of the armed forces may certify vouchers when authorized, in writing, by the Secretary of Defense or, in the case of the Coast Guard when it is not operating as a service in the Navy, by the Secretary of Transportation".

(c) CONFORMING AMENDMENTS.—(1) Section 1007(a) of title 37, United States Code, is amended by inserting after "Secretary of Defense" the following: "(or the Secretary of Transportation, in the case of an officer of the Coast Guard when the Coast Guard is not operating as a service in the Navy)".

(2) Section 3527(b)(1) of title 31, United States Code, is amended—

(A) in subparagraph (A)(i), by inserting after "Department of Defense" the following: "(or the Secretary of Transportation, in the case of a disbursing official of the Coast Guard when the Coast Guard is not operating as a service in the Navy)"; and

(B) in subparagraph (B), by inserting after "or the Secretary of the appropriate military department" the following: "(or the Secretary of Transportation, in the case of a disbursing official of the Coast Guard when the Coast Guard is not operating as a service in the Navy)".

SEC. 1010. AUTHORITY TO SUSPEND OR TERMINATE COLLECTION ACTIONS AGAINST DECEASED MEMBERS OF THE COAST GUARD.

Section 3711(g) of title 31, United States Code, is amended—

(1) in paragraph (1), by striking out "or Marine Corps" and inserting in lieu thereof "Marine Corps, or Coast Guard during a period when the Coast Guard is operating as a service in the Navy";

(2) by redesignating paragraph (2) as paragraph (3); and

(3) by inserting after paragraph (1) the following new paragraph (2):

"(2) The Secretary of Transportation may suspend or terminate an action by the Secretary under subsection (a) to collect a claim against the estate of a person who died while serving on active duty as a member of the Coast Guard if the Secretary determines that, under the circumstances applicable with respect to the deceased person, it is appropriate to do so.".

SEC. 1011. DEPARTMENT OF DEFENSE DISBURSING OFFICIAL CHECK CASHING AND EXCHANGE TRANSACTIONS.

Section 3342(b) of title 31, United States Code, is amended—

(1) by striking out the period at the end of paragraph (3) and inserting in lieu thereof a semicolon;

(2) by striking out "and" at the end of paragraph (5);

(3) by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; or"; and

(4) by adding at the end the following new paragraph:

"(7) a Federal credit union (as defined in section 101(1) of the Federal Credit Union Act (12 U.S.C. 1752(1)) that at the request of the Secretary of Defense is operating on a United States military installation in a foreign country, but only if that country does not permit contractor-operated military banking facilities to operate on such installations.".

Subtitle B—Naval Vessels and Shipyards

SEC. 1021. REPEAL OF REQUIREMENT FOR CONTINUOUS APPLICABILITY OF CONTRACTS FOR PHASED MAINTENANCE OF AE CLASS SHIPS.

Section 1016 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 425) is repealed.

SEC. 1022. FUNDING FOR SECOND AND THIRD MARITIME PREPOSITIONING SHIPS OUT OF NATIONAL DEFENSE SEALIFT FUND.

(a) NATIONAL DEFENSE SEALIFT FUND.—To the extent provided in appropriations Acts, funds in the National Defense Sealift Fund may be obligated and expended for the purchase and conversion, or construction, of a total of three ships for the purpose of enhancing Marine Corps prepositioning ship squadrons.

(b) AUTHORIZATION OF APPROPRIATIONS.—Of the amount authorized to be appropriated under section 302(2), $240,000,000 is authorized to be appropriated for the purpose stated in subsection (a).

Wisconsin.

SEC. 1023. TRANSFER OF CERTAIN OBSOLETE TUGBOATS OF THE NAVY.

(a) REQUIREMENT TO TRANSFER VESSELS.—The Secretary of the Navy shall transfer the six obsolete tugboats of the Navy specified in subsection (b) to the Northeast Wisconsin Railroad Transportation Commission, an instrumentality of the State of Wisconsin, if the Secretary determines that the tugboats are not needed for transfer, donation, or other disposal under title II of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481 et seq.).

(b) VESSELS COVERED.—The requirement in subsection (a) applies to the six decommissioned Cherokee class tugboats, listed as of the date of the enactment of this Act as being surplus to the Navy, that are designated as ATF–105, ATF–110, ATF–149, ATF–158, ATF–159, and ATF–160.

(c) CONDITION RELATING TO ENVIRONMENTAL COMPLIANCE.—The Secretary shall require as a condition of the transfer of a vessel under subsection (a) that use of the vessel by the Commission not commence until the terms of any necessary environmental compliance letter or agreement with respect to that vessel have been complied with.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions (including a requirement that the transfer be at no cost to the Government) in connection with the transfers required by subsection (a) as the Secretary considers appropriate.

SEC. 1024. TRANSFER OF U.S.S. DRUM TO CITY OF VALLEJO, CALIFORNIA.

(a) TRANSFER.—The Secretary of the Navy shall transfer the U.S.S. Drum (SSN–677) to the city of Vallejo, California, in accordance with this section and upon satisfactory completion of a ship donation application. Before making such transfer, the Secretary of the Navy shall remove from the vessel the reactor compartment and other classified and sensitive military equipment.

(b) FUNDING.—As provided in section 7306(c) of title 10, United States Code, the transfer of the vessel authorized by this section shall be made at no cost to the United States (beyond the cost which the United States would otherwise incur for dismantling and recycling of the vessel).

(c) APPLICABLE LAW.—The transfer under this section shall be subject to subsection (b) of section 7306 of title 10, United States Code, but the provisions of subsection (d) of such section shall not be applicable to such transfer.

SEC. 1025. SENSE OF CONGRESS CONCERNING USS LCS 102 (LSSL 102).

It is the sense of Congress that the Secretary of Defense should use existing authorities in law to seek the expeditious return, upon completion of service, of the former USS LCS 102 (LSSL 102) from the Government of Thailand in order for the ship to be transferred to the United States Shipbuilding Museum in Quincy, Massachusetts.

Subtitle C—Counter-Drug Activities

SEC. 1031. AUTHORITY TO PROVIDE ADDITIONAL SUPPORT FOR COUNTER-DRUG ACTIVITIES OF MEXICO.

(a) AUTHORITY TO PROVIDE ADDITIONAL SUPPORT.—Subject to subsection (e), during fiscal year 1997, the Secretary of Defense may provide the Government of Mexico with the support described in subsection (b) for the counter-drug activities of the Government of Mexico. The support provided under the authority of this subsection shall be in addition to support provided to the Government of Mexico under any other provision of law.

(b) TYPES OF SUPPORT.—The authority under subsection (a) is limited to the provision of the following types of support:

(1) The transfer of nonlethal protective and utility personnel equipment.

(2) The transfer of the following nonlethal specialized equipment:

(A) Navigation equipment.

(B) Secure and nonsecure communications equipment.

(C) Photo equipment.

(D) Radar equipment.

(E) Night vision systems.

(F) Repair equipment and parts for equipment referred to in subparagraphs (A), (B), (C), (D), and (E).

(3) The transfer of nonlethal components, accessories, attachments, parts (including ground support equipment), firmware, and software for aircraft or patrol boats, and related repair equipment.

(4) The maintenance and repair of equipment of the Government of Mexico that is used for counter-drug activities.

(c) APPLICABILITY OF OTHER SUPPORT AUTHORITIES.—Except as otherwise provided in this section, the provisions of section 1004 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 10 U.S.C. 374 note) shall apply to the provision of support under this section.

(d) FUNDING.—Of the amount authorized to be appropriated under section 301(19) for drug interdiction and counter-drug activi-

ties, not more than $8,000,000 shall be available for the provision of support under this section.

Certification.

(e) LIMITATIONS.—(1) The Secretary may not obligate or expend funds to provide support under this section until 15 days after the date on which the Secretary submits to the committees referred to in paragraph (3) the certification described in paragraph (2).

(2) The certification referred to in paragraph (1) is a written certification of the following:

(A) That the provision of support under this section will not adversely affect the military preparedness of the United States Armed Forces.

(B) That the equipment and materiel provided as support will be used only by officials and employees of the Government of Mexico who have undergone a background check by that government.

(C) That the Government of Mexico has certified to the Secretary that—

(i) the equipment and material provided as support will be used only by the officials and employees referred to in subparagraph (B);

(ii) none of the equipment or materiel will be transferred (by sale, gift, or otherwise) to any person or entity not authorized by the United States to receive the equipment or materiel; and

(iii) the equipment and materiel will be used only for the purposes intended by the United States Government.

(D) That the Government of Mexico has implemented, to the satisfaction of the Secretary, a system that will provide an accounting and inventory of the equipment and materiel provided as support.

(E) That the departments, agencies, and instrumentalities of the Government of Mexico will grant United States Government personnel access to any of the equipment or materiel provided as support, or to any of the records relating to such equipment or materiel, under terms and conditions similar to the terms and conditions imposed with respect to such access under section 505(a)(3) of the Foreign Assistance Act of 1961 (22 U.S.C. 2314(a)(3)).

(F) That the Government of Mexico will provide security with respect to the equipment and materiel provided as support that is substantially the same degree of security that the United States Government would provide with respect to such equipment and materiel.

(G) That the Government of Mexico will permit continuous observation and review by United States Government personnel of the use of the equipment and materiel provided as support under terms and conditions similar to the terms and conditions imposed with respect to such observation and review under section 505(a)(3) of the Foreign Assistance Act of 1961 (22 U.S.C. 2314(a)(3)).

(3) The committees referred to in this paragraph are the following:

(A) The Committee on Armed Services and the Committee on Foreign Relations of the Senate.

(B) The Committee on National Security and the Committee on International Relations of the House of Representatives.

SEC. 1032. AVAILABILITY OF FUNDS FOR CERTAIN DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES.

(a) P–3B AIRCRAFT.—Of the funds authorized to be appropriated under section 301(19) for drug interdiction and counter-drug activities, not more than $98,000,000 may be used for the purpose of procuring or modifying two P–3B aircraft for use by departments and agencies of the United States outside the Department of Defense for drug interdiction and counter-drug activities. However, funds may not be obligated for such purpose until the Secretary of Defense submits to the congressional defense committees a certification that the procurement or modification of such aircraft and the use of such aircraft by other departments or agencies of the United States will significantly reduce the level of support that would otherwise be required of E–3 AWACS aircraft as part of the drug interdiction and counter-drug mission of the Department of Defense. Certification.

(b) NONINTRUSIVE INSPECTION DEVICES.—Of the funds authorized to be appropriated under section 301(19) for drug interdiction and counter-drug activities, not more than $10,000,000 may be used to procure three nonintrusive inspection devices for use by departments and agencies of the United States outside the Department of Defense for drug interdiction and counter-drug activities.

(c) AUTHORITY TO TRANSFER EQUIPMENT.—The Secretary of Defense may transfer to the head of any department or agency of the United States outside the Department of Defense any equipment procured or modified under this section with funds referred to in this section.

SEC. 1033. TRANSFER OF EXCESS PERSONAL PROPERTY TO SUPPORT LAW ENFORCEMENT ACTIVITIES.

(a) TRANSFER AUTHORITY.—(1) Chapter 153 of title 10, United States Code, is amended by inserting after section 2576 the following new section:

"§ 2576a. Excess personal property: sale or donation for law enforcement activities

"(a) TRANSFER AUTHORIZED.—(1) Notwithstanding any other provision of law and subject to subsection (b), the Secretary of Defense may transfer to Federal and State agencies personal property of the Department of Defense, including small arms and ammunition, that the Secretary determines is—

"(A) suitable for use by the agencies in law enforcement activities, including counter-drug and counter-terrorism activities; and

"(B) excess to the needs of the Department of Defense.

"(2) The Secretary shall carry out this section in consultation with the Attorney General and the Director of National Drug Control Policy.

"(b) CONDITIONS FOR TRANSFER.—The Secretary of Defense may transfer personal property under this section only if—

"(1) the property is drawn from existing stocks of the Department of Defense;

"(2) the recipient accepts the property on an as-is, where-is basis;

"(3) the transfer is made without the expenditure of any funds available to the Department of Defense for the procurement of defense equipment; and

"(4) all costs incurred subsequent to the transfer of the property are borne or reimbursed by the recipient.

"(c) CONSIDERATION.—Subject to subsection (b)(4), the Secretary may transfer personal property under this section without charge to the recipient agency.

"(d) PREFERENCE FOR CERTAIN TRANSFERS.—In considering applications for the transfer of personal property under this section, the Secretary shall give a preference to those applications indicating that the transferred property will be used in the counter-drug or counter-terrorism activities of the recipient agency.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2576 the following new item:

"2576a. Excess personal property: sale or donation for law enforcement activities.".

(b) CONFORMING AMENDMENTS.—(1) Section 1208 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 10 U.S.C. 372 note) is repealed.

(2) Section 1005 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1630) is amended by striking out "section 1208 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (10 U.S.C. 372 note) and section 372" and inserting in lieu thereof "sections 372 and 2576a".

SEC. 1034. SALE BY FEDERAL DEPARTMENTS OR AGENCIES OF CHEMICALS USED TO MANUFACTURE CONTROLLED SUBSTANCES.

(a) DEA CERTIFICATION.—The Controlled Substances Act is amended by inserting after section 519 (21 U.S.C. 889) the following new section:

21 USC 890.

"SEC. 520. REVIEW OF FEDERAL SALES OF CHEMICALS USABLE TO MANUFACTURE CONTROLLED SUBSTANCES.

"A Federal department or agency may not sell from the stocks of the department or agency any chemical which, as determined by the Administrator of the Drug Enforcement Administration, could be used in the manufacture of a controlled substance unless the Administrator certifies in writing to the head of the department or agency that there is no reasonable cause to believe that the sale of the chemical would result in the illegal manufacture of a controlled substance.".

(b) CLERICAL AMENDMENT.—The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (84 Stat. 1236) is amended by inserting after the item relating to section 519 the following new item:

"Sec. 520. Review of Federal sales of chemicals usable to manufacture controlled substances.".

Subtitle D—Reports and Studies

10 USC 113 note.

SEC. 1041. ANNUAL REPORT ON OPERATION PROVIDE COMFORT AND OPERATION ENHANCED SOUTHERN WATCH.

(a) ANNUAL REPORT.—Not later than March 1 of each year, the Secretary of Defense shall submit to Congress a report on Operation Provide Comfort and Operation Enhanced Southern Watch.

(b) MATTERS RELATING TO OPERATION PROVIDE COMFORT.—Each report under subsection (a) shall include, with respect to Operation Provide Comfort, the following:

(1) A detailed presentation of the projected costs to be incurred by the Department of Defense for that operation during the fiscal year in which the report is submitted and projected for the following fiscal year, together with a discussion of missions and functions expected to be performed by the Department as part of that operation during each of those fiscal years.

(2) A detailed presentation of the projected costs to be incurred by other departments and agencies of the Federal Government participating in or providing support to that operation during each of those fiscal years.

(3) A discussion of options being pursued to reduce the involvement of the Department of Defense in those aspects of that operation that are not directly related to the military mission of the Department of Defense.

(4) A discussion of the exit strategy for United States involvement in, and support for, that operation.

(5) A description of alternative approaches to accomplishing the mission of that operation that are designed to limit the scope and cost to the Department of Defense of accomplishing that mission while maintaining mission success.

(6) The contributions (both in-kind and actual) by other nations to the costs of conducting that operation.

(7) A detailed presentation of significant Iraqi military activity (including specific violations of the no-fly zone) determined to jeopardize the security of the Kurdish population in northern Iraq.

(c) MATTERS RELATING TO OPERATION ENHANCED SOUTHERN WATCH.—Each report under subsection (a) shall include, with respect to Operation Enhanced Southern Watch, the following:

(1) The expected duration and annual costs of the various elements of that operation.

(2) The political and military objectives associated with that operation.

(3) The contributions (both in-kind and actual) by other nations to the costs of conducting that operation.

(4) A description of alternative approaches to accomplishing the mission of that operation that are designed to limit the scope and cost of accomplishing that mission while maintaining mission success.

(5) A comprehensive discussion of the political and military objectives and initiatives that the Department of Defense has pursued, and intends to pursue, in order to reduce United States involvement in that operation.

(6) A detailed presentation of significant Iraqi military activity (including specific violations of the no-fly zone) determined to jeopardize the security of the Shiite population by air attack in southern Iraq or to jeopardize the security of Kuwait.

(d) TERMINATION OF REPORT REQUIREMENT.—The requirement under subsection (a) shall cease to apply with respect to an operation named in that subsection upon the termination of United States involvement in that operation.

(e) DEFINITIONS.—For purposes of this section:

(1) OPERATION ENHANCED SOUTHERN WATCH.—The term "Operation Enhanced Southern Watch" means the operation of the Department of Defense that as of October 30, 1995, is designated as Operation Enhanced Southern Watch.

(2) OPERATION PROVIDE COMFORT.—The term "Operation Provide Comfort" means the operation of the Department of Defense that as of October 30, 1995, is designated as Operation Provide Comfort.

10 USC 113 note.

SEC. 1042. ANNUAL REPORT ON EMERGING OPERATIONAL CONCEPTS.

(a) REPORT REQUIRED.—Not later than March 1 of each year through 2000, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on emerging operational concepts. Each such report shall be prepared by the Secretary in consultation with the Chairman of the Joint Chiefs of Staff.

(b) MATTERS TO BE INCLUDED.—Each such report shall contain a description, for the year preceding the year in which the report is submitted, of the following:

(1) The process undertaken in the Department of Defense, and in each of the Army, Navy, Air Force, and Marine Corps, to define and develop doctrine, operational concepts, organizational concepts, and acquisition strategies to address—

(A) the potential of emerging technologies for significantly improving the operational effectiveness of the Armed Forces;

(B) changes in the international order that may necessitate changes in the operational capabilities of the Armed Forces;

(C) emerging capabilities of potential adversary states; and

(D) changes in defense budget projections.

(2) The manner in which the processes described in paragraph (1) are harmonized to ensure that there is a sufficient consideration of the development of joint doctrine, operational concepts, and acquisition strategies.

(3) The manner in which the processes described in paragraph (1) are coordinated through the Joint Requirements Oversight Council and reflected in the planning, programming, and budgeting process of the Department of Defense.

SEC. 1043. REPORT ON DEPARTMENT OF DEFENSE MILITARY CHILD CARE PROGRAMS.

(a) FINDINGS.—Congress makes the following findings:

(1) The Department of Defense should be congratulated on the successful implementation of the Military Child Care Act of 1989 (originally enacted as title XV of Public Law 101–189 and subsequently codified as subchapter II of chapter 88 of title 10, United States Code).

(2) The actions taken by the Department as a result of that Act have dramatically improved the availability, affordability, quality, and consistency of the child-care services provided to members of the Armed Forces.

(3) Child care is important to the readiness of members of the Armed Forces since single parents and couples in military service must have access to affordable child care of good quality

if they are to perform their jobs and respond effectively to long work hours or deployments.

(4) Child care is important to the retention of members of the Armed Forces in military service because the dissatisfaction of the families of such members with military life is a primary reason for the departure of such members from military service.

(b) SENSE OF CONGRESS RELATED TO MILITARY-CIVILIAN CHILD-CARE PARTNERSHIP PROGRAMS.—It is the sense of Congress that—

(1) the civilian and military child-care communities, Federal, State, and local agencies, and businesses and communities involved in the provision of child-care services could benefit from the development of partnerships to foster an exchange of ideas, information, and materials relating to their experiences with the provision of such services and to encourage closer relationships between military installations and the communities that support them;

(2) such partnerships would be beneficial to all families by helping providers of child-care services exchange ideas about innovative ways to address barriers to the effective provision of such services; and

(3) there are many ways that such partnerships could be developed, including—

(A) cooperation between the directors and curriculum specialists of military child development centers and civilian child development centers in assisting such centers in the accreditation process;

(B) use of family support staff to conduct parent and family workshops for new parents and parents with young children in family housing on military installations and in communities in the vicinity of such installations;

(C) internships in Department of Defense child-care programs for civilian child-care providers to broaden the base of good-quality child-care services in communities in the vicinity of military installations; and

(D) attendance by civilian child-care providers at Department child-care training classes on a space-available basis.

(c) REPORT.—Not later than June 30, 1997, the Secretary of Defense shall submit to Congress a report on the status of any partnerships and other initiatives undertaken by the Department of Defense as described in subsection (b), including recommendations for additional ways to improve the child-care programs of the Department of Defense and to improve such programs so as to benefit civilian child-care providers in communities in the vicinity of military installations.

SEC. 1044. REPORT ON DEPARTMENT OF DEFENSE MILITARY YOUTH PROGRAMS.

(a) FINDINGS.—Congress makes the following findings:

(1) Programs of the Department of Defense for youth who are dependents of members of the Armed Forces have not received the same level of attention and resources as have child-care programs of the Department since the passage of the Military Child Care Act of 1989 (originally enacted as title XV of Public Law 101–189 and subsequently codified as subchapter II of chapter 88 of title 10, United States Code).

(2) Older children deserve as much attention to their developmental needs as do younger children.

(3) The Department has started to direct more attention to programs for youths who are dependents of members of the Armed Forces by providing funds for the implementation of 20 model community programs to address the needs of such youths.

(4) The lessons learned from such programs could apply to civilian youth programs as well.

(b) SENSE OF CONGRESS RELATED TO MILITARY-CIVILIAN YOUTH PARTNERSHIP PROGRAMS.—It is the sense of Congress that—

(1) the Department of Defense, Federal, State, and local agencies, and businesses and communities involved in conducting youth programs could benefit from the development of partnerships to foster an exchange of ideas, information, and materials relating to such programs and to encourage closer relationships between military installations and the communities that support them;

(2) such partnerships could be beneficial to all families by helping the providers of services for youths exchange ideas about innovative ways to address barriers to the effective provision of such services; and

(3) there are many ways that such partnerships could be developed, including—

(A) cooperation between the Department and Federal and State educational agencies in exploring the use of public school facilities for child-care programs and youth programs that are mutually beneficial to the Department and civilian communities and complement programs of the Department carried out at its facilities; and

(B) improving youth programs that enable adolescents to relate to new peer groups when families of members of the Armed Forces are relocated.

(c) REPORT.—Not later than June 30, 1997, the Secretary of Defense shall submit to Congress a report on the status of any partnerships and other initiatives undertaken by the Department as described in subsection (b), including recommendations for additional ways to improve the youth programs of the Department of Defense and to improve such programs so as to benefit communities in the vicinity of military installations.

SEC. 1045. QUARTERLY REPORTS REGARDING COPRODUCTION AGREEMENTS.

(a) QUARTERLY REPORTS ON COPRODUCTION AGREEMENTS.—Section 36(a) of the Arms Export Control Act (22 U.S.C. 2776(a)) is amended—

(1) by striking out "and" at the end of paragraph (10);

(2) by striking out the period at the end of paragraph (11) and inserting in lieu thereof "; and"; and

(3) by inserting after paragraph (11) the following new paragraph:

"(12) a report on all concluded government-to-government agreements regarding foreign coproduction of defense articles of United States origin and all other concluded agreements involving coproduction or licensed production outside of the United States of defense articles of United States origin (including coproduction memoranda of understanding or agreement)

that have not been previously reported under this subsection, which shall include—

"(A) the identity of the foreign countries, international organizations, or foreign firms involved;

"(B) a description and the estimated value of the articles authorized to be produced, and an estimate of the quantity of the articles authorized to be produced;

"(C) a description of any restrictions on third-party transfers of the foreign-manufactured articles; and

"(D) if any such agreement does not provide for United States access to and verification of quantities of articles produced overseas and their disposition in the foreign country, a description of alternative measures and controls incorporated in the coproduction or licensing program to ensure compliance with restrictions in the agreement on production quantities and third-party transfers.".

(b) EFFECTIVE DATE.—Paragraph (12) of section 36(a) of the Arms Export Control Act, as added by subsection (a)(3), does not apply with respect to an agreement described in such paragraph entered into before the date of the enactment of this Act. 22 USC 2776 note.

SEC. 1046. REPORT ON WITNESS INTERVIEW PROCEDURES FOR DEPARTMENT OF DEFENSE CRIMINAL INVESTIGATIONS.

(a) SURVEY OF MILITARY DEPARTMENT POLICIES AND PRACTICES.—The Comptroller General of the United States shall conduct a survey of the policies and practices of the Naval Criminal Investigative Service with respect to the manner in which interviews of suspects and witnesses are conducted in connection with criminal investigations of allegations of contractor fraud. The purpose of the survey shall be to ascertain whether or not investigators and agents of the Naval Criminal Investigative Service conduct investigations of contractor fraud in accordance with generally accepted Federal law enforcement standards and applicable law.

(b) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Comptroller General shall submit to the Committee on National Security of the House of Representatives and the Committee on Armed Services of the Senate a report concerning the survey under subsection (a). The report shall specifically address the following:

(1) The extent to which investigators of the Naval Criminal Investigative Service investigators and agents of the Naval Criminal Investigative Service conduct investigations of contractor fraud in accordance with generally accepted Federal law enforcement standards and applicable law.

(2) The extent to which the interview policies established by Department of Defense directives or Navy regulations are adequate to instruct and guide investigators in the proper conduct of subject and witness interviews.

(3) The desirability and feasibility of providing for video and audio recording of interviews and, if recording is desirable, the circumstances under which recordings should be made.

(4) The desirability and feasibility of making such recordings or written transcriptions of interviews, or both, available on demand to the subject or witness interviewed.

(5) The extent to which existing Department of Defense directives and Navy regulations address the carrying and display of weapons by agents, together with an assessment of

whether any change in any such directive or regulation is necessary.

(6) The extent to which existing Department of Defense directives and Navy regulations provide guidance to agents to ensure that the agents' conduct and demeanor is in accordance with generally accepted Federal law enforcement standards and applicable law.

(7) Any recommendation for legislation to ensure that investigators and agents of the Naval Criminal Investigative Service use legal and proper tactics during interviews in connection with criminal investigations of allegations of contractor fraud.

SEC. 1047. REPORT ON MILITARY READINESS REQUIREMENTS OF THE ARMED FORCES.

(a) REPORT REQUIRED.—Not later than January 31, 1997, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on the military readiness requirements of the active and reserve components of the Armed Forces, including specific combat units, combat support units, and combat service support units. Based on the assessment scenario described in subsection (c), the report shall assess such readiness requirements under a tiered readiness and response system that categorizes a given unit of the Armed Forces according to the likelihood that the unit will be required to respond to a military conflict and the time in which the unit will be required to respond.

(b) PREPARATION OF REPORT.—The Chairman of the Joint Chiefs of Staff, together with the other members of the Joint Chiefs of Staff specified in section 151(a) of title 10, United States Code, shall prepare the report required by subsection (a). The Chairman of the Joint Chiefs of Staff shall consult with the Commander of the Special Operations Command in the preparation of the report.

(c) ASSESSMENT SCENARIO.—The report shall assess readiness requirements in a scenario based on the following assumptions:

(1) The conflict is in a generic theater of operations located anywhere in the world and does not exceed the notional limits for a major regional conflict.

(2) The forces available for deployment include the forces described in the Bottom-Up Review force structure, including all planned force enhancements.

(3) Assistance is not available from allies.

(d) ASSESSMENT ELEMENTS.—The report shall identify by unit type and component, and assess the readiness requirements of, all active and reserve component units. Each such unit shall be categorized within one of the following classifications:

(1) Forward-deployed and crisis response forces, or "Tier I" forces, that possess limited internal sustainment capability and do not require immediate access to regional air bases or ports or overflight rights, including the following:

(A) Force units that are routinely deployed forward at sea or on land outside the United States.

(B) Combat-ready crises response forces that are capable of mobilizing and deploying within 10 days after receipt of orders.

(C) Forces that are supported by prepositioning equipment afloat or are capable of being inserted into a theater

upon the capture of a port or airfield by forcible entry forces.

(2) Combat-ready follow-on forces, or "Tier II" forces, that can be mobilized and deployed to a theater within approximately 60 days after receipt of orders.

(3) Combat-ready conflict resolution forces, or "Tier III" forces, that can be mobilized and deployed to a theater within approximately 180 days after receipt of orders.

(4) All other active and reserve component force units which are not categorized within a classification described in paragraph (1), (2), or (3).

(e) ADDITIONAL INFORMATION REGARDING CERTAIN UNITS.—With regard to each unit that is not categorized within a classification described in paragraph (1), (2), or (3) of subsection (d), the report shall include—

(1) a description of the mission and mobilization or deployment schedule (or both) of the unit in connection with the requirements of the assessment scenario and the combat readiness requirements of the Armed Forces; or

(2) an identification of the unit as excess to the needs of the national military strategy and the reasons therefor.

(f) FORM OF REPORT.—The report under this section shall be submitted in unclassified form but may contain a classified annex.

SEC. 1048. REPORT ON NATO ENLARGEMENT.

President.

(a) REPORT.—Not later than February 1, 1997, the President shall transmit to the Committee on Armed Services and the Committee on Foreign Relations of the Senate and the Committee on National Security and the Committee on International Relations of the House of Representatives a report on the enlargement of the North Atlantic Treaty Organization. The report shall contain a comprehensive discussion of the following:

(1) Geopolitical and financial costs and benefits, including financial savings, associated with—

(A) enlargement of the North Atlantic Treaty Organization;

(B) further delays in the process of enlargement of the North Atlantic Treaty Organization; and

(C) a failure to enlarge the North Atlantic Treaty Organization.

(2) Additional North Atlantic Treaty Organization and United States military expenditures requested by prospective members of the North Atlantic Treaty Organization to facilitate their admission into the North Atlantic Treaty Organization.

(3) Modifications necessary in the military strategy of the North Atlantic Treaty Organization and force structure required by the inclusion of new members and steps necessary to integrate new members, including the role of nuclear and conventional capabilities, reinforcement, force deployments, prepositioning of equipment, mobility, and headquarter locations.

(4) The relationship between enlargement of the North Atlantic Treaty Organization and transatlantic stability and security.

(5) The state of military preparedness and interoperability of Central and Eastern European nations as it relates to the responsibilities of membership of the North Atlantic Treaty

Organization and additional security costs or benefits that may accrue to the United States from enlargement of the North Atlantic Treaty Organization.

(6) The state of democracy and free market development as it affects the preparedness of Central and Eastern European nations for the responsibilities of membership of the North Atlantic Treaty Organization, including civilian control of the military, the rule of law, human rights, and parliamentary oversight.

(7) The state of relations between prospective members of the North Atlantic Treaty Organization and their neighbors, steps taken by prospective members to reduce tensions, and mechanisms for the peaceful resolution of border disputes.

(8) The commitment of prospective members of the North Atlantic Treaty Organization to the principles of the North Atlantic Treaty and the security of the North Atlantic area.

(9) The effect of enlargement of the North Atlantic Treaty Organization on the political, economic, and security conditions of European Partnership for Peace nations not among the first new members of the North Atlantic Treaty Organization.

(10) The relationship between enlargement of the North Atlantic Treaty Organization and EU enlargement and the costs and benefits of both.

(11) The relationship between enlargement of the North Atlantic Treaty Organization and treaties relevant to United States and European security, such as the Conventional Armed Forces in Europe Treaty.

(12) The anticipated impact both of enlargement of the North Atlantic Treaty Organization and further delays of enlargement on Russian foreign and defense policies and the costs and benefits of a security relationship between the North Atlantic Treaty Organization and Russia.

(b) INTERPRETATION.—Nothing in this section shall be interpreted or construed to affect the implementation of the NATO Participation Act of 1994 (title II of Public Law 103–447; 22 U.S.C. 1928 note), or any other program or activity which facilitates or assists prospective members of the North Atlantic Treaty Organization.

Subtitle E—Management of Armed Forces Retirement Home

SEC. 1051. RETIREMENT HOME BOARDS OF DIRECTORS.

(a) ADDITIONAL TERM OF OFFICE.—Subsection (e) of section 1515 of the Armed Forces Retirement Home Act of 1991 (24 U.S.C. 415) is amended by adding at the end the following new paragraph:

"(3) The Chairman of the Retirement Home Board may appoint a member of the Retirement Home Board for a second consecutive term. The Chairman of a Local Board may appoint a member of that Local Board for a second consecutive term.".

(b) EARLY EXPIRATION OF TERM.—(1) Subsection (f) of such section is amended to read as follows:

"(f) EARLY EXPIRATION OF TERM.—A member of the Armed Forces or Federal civilian employee who is appointed as a member of the Retirement Home Board or a Local Board may serve as a board member only so long as the member of the Armed Forces

or Federal civilian employee is assigned to or serving in the duty position that gave rise to the appointment as a board member.".

(2) The amendment made by this subsection shall not affect the staggered terms of members of the Armed Forces Retirement Home Board or a Local Board of the Retirement Home under section 1515(f) of such Act, as such section is in effect before the date of the enactment of this Act. 24 USC 415 note.

(c) ANNUAL EVALUATION OF DIRECTORS.—Section 1517 of such Act (24 U.S.C. 417) is amended by striking out subsection (f) and inserting in lieu thereof the following:

"(f) ANNUAL EVALUATION OF DIRECTORS.—The Chairman of the Retirement Home Board shall annually evaluate the performance of the Directors and shall make such recommendations to the Secretary of Defense as the Chairman considers appropriate in light of the evaluation.".

SEC. 1052. ACCEPTANCE OF UNCOMPENSATED SERVICES.

(a) AUTHORITY.—Part A of the Armed Forces Retirement Home Act of 1991 (title XV of Public Law 101–510; 24 U.S.C. 401 et seq.) is amended by adding at the end the following new section:

"SEC. 1522. AUTHORITY TO ACCEPT CERTAIN UNCOMPENSATED SERVICES. 24 USC 422.

"(a) AUTHORITY TO ACCEPT SERVICES.—Subject to subsection (b) and notwithstanding section 1342 of title 31, United States Code, the Chairman of the Retirement Home Board or the Director of each establishment of the Retirement Home may accept from any person voluntary personal services or gratuitous services unless the acceptance of the voluntary services is disapproved by the Retirement Home Board.

"(b) REQUIREMENTS AND LIMITATIONS.—(1) The Chairman of the Retirement Home Board or the Director of the establishment accepting the services shall notify the person of the scope of the services accepted.

"(2) The Chairman or Director shall—

"(A) supervise the person providing the services to the same extent as that official would supervise a compensated employee providing similar services; and

"(B) ensure that the person is licensed, privileged, has appropriate credentials, or is otherwise qualified under applicable laws or regulations to provide such services.

"(3) A person providing services accepted under subsection (a) may not—

"(A) serve in a policymaking position of the Retirement Home; or

"(B) be compensated for the services by the Retirement Home.

"(c) AUTHORITY TO RECRUIT AND TRAIN PERSONS PROVIDING SERVICES.—The Chairman of the Retirement Home Board or the Director of an establishment of the Retirement Home may recruit and train persons to provide services authorized to be accepted under subsection (a).

"(d) STATUS OF PERSONS PROVIDING SERVICES.—(1) Subject to paragraph (3), while providing services accepted under subsection (a) or receiving training under subsection (c), a person shall be considered to be an employee of the Federal Government only for purposes of the following provisions of law:

"(A) Subchapter I of chapter 81 of title 5, United States Code (relating to compensation for work-related injuries).

"(B) Chapter 171 of title 28, United States Code (relating to claims for damages or loss).

"(2) A person providing services accepted under subsection (a) shall be considered to be an employee of the Federal Government under paragraph (1) only with respect to services that are within the scope of the services accepted.

"(3) For purposes of determining the compensation for work-related injuries payable under chapter 81 of title 5, United States Code (pursuant to this subsection) to a person providing services accepted under subsection (a), the monthly pay of the person for such services shall be deemed to be the amount determined by multiplying—

"(A) the average monthly number of hours that the person provided the services, by

"(B) the minimum wage determined in accordance with section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)).

"(e) REIMBURSEMENT OF INCIDENTAL EXPENSES.—The Chairman of the Retirement Board or the Director of the establishment accepting services under subsection (a) may provide for reimbursement of a person for incidental expenses incurred by the person in providing the services accepted under subsection (a). The Chairman or Director shall determine which expenses qualify for reimbursement under this subsection.".

(b) FEDERAL STATUS OF RESIDENTS PAID FOR PART-TIME OR INTERMITTENT SERVICES.—Paragraph (2) of section 1521(b) of the Armed Forces Retirement Home Act of 1991 (24 U.S.C. 421(b)) is amended to read as follows:

"(2) being an employee of the United States for any purpose other than—

"(A) subchapter I of chapter 81 of title 5, United States Code (relating to compensation for work-related injuries); and

"(B) chapter 171 of title 28, United States Code (relating to claims for damages or loss).".

SEC. 1053. DISPOSAL OF TRACT OF REAL PROPERTY IN THE DISTRICT OF COLUMBIA.

(a) DISPOSAL AUTHORIZED.—Notwithstanding title II the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481 et seq.), title VIII of such Act (40 U.S.C. 531 et seq.), section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), or any other provision of law relating to the management and disposal of real property by the United States, the Armed Forces Retirement Home Board may convey, by sale or otherwise, all right, title, and interest of the United States in a parcel of real property, including improvements thereon, consisting of approximately 49 acres located in Washington, District of Columbia, east of North Capitol Street, and recorded as District Parcel 121/19.

(b) MANNER, TERMS, AND CONDITIONS OF DISPOSAL.—The Armed Forces Retirement Home Board may determine—

(1) the manner for the disposal of the real property under subsection (a); and

(2) the terms and conditions for the conveyance of that property, including any terms and conditions that the Board considers necessary to protect the interests of the United States.

(c) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Armed Forces Retirement Home Board. The cost of the survey shall be borne by the party or parties to which the property is to be conveyed.

(d) CONGRESSIONAL NOTIFICATION.—(1) Before disposing of real property under subsection (a), the Armed Forces Retirement Home Board shall notify the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives of the proposed disposal. The Board may not dispose of the real property until the later of—

(A) the date that is 60 days after the date on which the notification is received by the committees; or

(B) the date of the next day following the expiration of the first period of 30 days of continuous session of Congress that follows the date on which the notification is received by the committees.

(2) For the purposes of paragraph (1)—

(A) continuity of session is broken only by an adjournment of Congress sine die; and

(B) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of any period of time in which Congress is in continuous session.

Subtitle F—Other Matters

SEC. 1061. POLICY ON PROTECTION OF NATIONAL INFORMATION INFRASTRUCTURE AGAINST STRATEGIC ATTACK.

President.

(a) REPORT REQUIREMENT.—Not later than 180 days after the date of the enactment of this Act, the President shall submit to Congress a report setting forth a national policy on protecting the national information infrastructure against strategic attack.

(b) MATTERS TO BE INCLUDED.—The policy described in the report shall include the following:

(1) Plans to meet essential Government and civilian needs during a national security emergency associated with a strategic attack on elements of the national information infrastructure the functioning of which depend on networked computer systems.

(2) The identification of information infrastructure functions that must be performed during such an emergency.

(3) The assignment of responsibilities to Federal departments and agencies, and a description of the roles of Government and industry, relating to indications and warning of, assessment of, response to, and reconstitution after, potential strategic attacks on the elements of the national information infrastructure described under paragraph (1).

(c) UNRESOLVED ISSUES.—The report shall also identify—

(1) matters relating to the national policy described in the report that, as of the submission of the report, are in need of further study and resolution, such as technology and funding shortfalls; and

(2) legal and regulatory considerations relating to the national policy.

(d) UPDATE OF EARLIER REPORT.—The report shall include an update of the report required to be submitted to Congress pursuant to section 1053 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 440).

SEC. 1062. INFORMATION SYSTEMS SECURITY PROGRAM.

(a) ALLOCATION.—Of the amounts appropriated for the Department of Defense for the Defense Information Infrastructure for each of fiscal years 1999 through 2002, the Secretary of Defense shall allocate to the information systems security program (program element 0303140K) amounts as follows:

(1) For fiscal year 1999, 2.5 percent.

(2) For fiscal year 2000, 3.0 percent.

(3) For fiscal year 2001, 3.5 percent.

(4) For fiscal year 2002, 4.0 percent.

(b) RELATIONSHIP TO OTHER AMOUNTS.—Amounts allocated under subsection (a) are in addition to amounts appropriated to the National Security Agency and the Defense Advanced Research Projects Agency for development of information security systems, acquisition of information security systems, and operation of information security systems.

(c) REPORT.—Not later than November 15, 1997, the Secretary of Defense shall submit to the congressional defense committees and the congressional intelligence committees a report on information security activities of the Department of Defense. The report shall describe—

(1) the objectives of the Secretary with respect to information security and the strategy of the Secretary (including the strategy with respect to funding) during fiscal years 1999 through 2002 to achieve those objectives;

(2) how the Secretary intends to manage and allocate the funds required by subsection (a) to be allocated to the information systems security program; and

(3) if the Secretary determines that a funding plan for the information systems security program for fiscal years 1999 through 2002 other than that specified in subsection (a) is appropriate, the alternative funding plan proposed by the Secretary.

(d) DEFENSE INFORMATION INFRASTRUCTURE.—For purposes of this section, the Defense Information Infrastructure is the web of communications networks, computers, software, databases, applications, data security services, and other capabilities that meets the information processing and transport needs of Department of Defense users.

SEC. 1063. AUTHORITY TO ACCEPT SERVICES FROM FOREIGN GOVERNMENTS AND INTERNATIONAL ORGANIZATIONS FOR DEFENSE PURPOSES.

Section 2608(a) of title 10, United States Code, is amended by inserting before the period at the end the following: "and may accept from any foreign government or international organization any contribution of services made by such foreign government or international organization for use by the Department of Defense".

SEC. 1064. PROHIBITION ON COLLECTION AND RELEASE OF DETAILED SATELLITE IMAGERY RELATING TO ISRAEL. 15 USC 5621 note.

(a) COLLECTION AND DISSEMINATION.—A department or agency of the United States may issue a license for the collection or dissemination by a non-Federal entity of satellite imagery with respect to Israel only if such imagery is no more detailed or precise than satellite imagery of Israel that is available from commercial sources.

(b) DECLASSIFICATION AND RELEASE.—A department or agency of the United States may declassify or otherwise release satellite imagery with respect to Israel only if such imagery is no more detailed or precise than satellite imagery of Israel that is available from commercial sources.

SEC. 1065. GEORGE C. MARSHALL EUROPEAN CENTER FOR STRATEGIC SECURITY STUDIES. 10 USC 113 note.

(a) AUTHORITY TO ACCEPT FOREIGN GIFTS AND DONATIONS.—(1) The Secretary of Defense may, on behalf of the George C. Marshall European Center for Strategic Security Studies (in this section referred to as the "Marshall Center"), accept foreign gifts or donations in order to defray the costs of, or enhance the operation of, the Marshall Center.

(2) Funds received by the Secretary under paragraph (1) shall be credited to appropriations available for the Department of Defense for the Marshall Center. Funds so credited shall be merged with the appropriations to which credited and shall be available for the Marshall Center for the same purposes and same period as the appropriations with which merged.

(3) The Secretary of Defense shall notify Congress if the total amount of money accepted under paragraph (1) exceeds $2,000,000 in any fiscal year. Any such notice shall list each of the contributors of such amounts and the amount of each contribution in such fiscal year. Notification.

(4) For purposes of this subsection, a foreign gift or donation is a gift or donation of funds, materials (including research materials), property, or services (including lecture services and faculty services) from a foreign government, a foundation or other charitable organization in a foreign country, or an individual in a foreign country.

(b) MARSHALL CENTER PARTICIPATION BY FOREIGN NATIONS.—(1) Notwithstanding any other provision of law, the Secretary of Defense may authorize participation by a European or Eurasian nation in Marshall Center programs if the Secretary determines, after consultation with the Secretary of State, that such participation is in the national interest of the United States.

(2) Not later than January 31 of each year, the Secretary of Defense shall submit to Congress a report setting forth the names of the foreign nations permitted to participate in programs of the Marshall Center during the preceding year under paragraph (1). Each such report shall be prepared by the Secretary with the assistance of the Director of the Marshall Center. Reports.

(c) EXEMPTIONS FOR MEMBERS OF MARSHALL CENTER BOARD OF VISITORS FROM CERTAIN REQUIREMENTS.—(1) In the case of any person invited to serve without compensation on the Marshall Center Board of Visitors, the Secretary of Defense may waive any requirement for financial disclosure that would otherwise apply to that person solely by reason of service on such Board.

(2) Notwithstanding any other provision of law, a member of the Marshall Center Board of Visitors may not be required to register as an agent of a foreign government solely by reason of service as a member of the Board.

(3) Notwithstanding section 219 of title 18, United States Code, a non-United States citizen may serve on the Marshall Center Board of Visitors even though registered as a foreign agent.

31 USC 5111 note.

SEC. 1066. AUTHORITY TO AWARD TO CIVILIAN PARTICIPANTS IN THE DEFENSE OF PEARL HARBOR THE CONGRESSIONAL MEDAL PREVIOUSLY AUTHORIZED ONLY FOR MILITARY PARTICIPANTS IN THE DEFENSE OF PEARL HARBOR.

(a) AUTHORITY.—The Speaker of the House of Representatives and the President pro tempore of the Senate are authorized jointly to present, on behalf of Congress, a bronze medal provided for under section 1492 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1721) to any person who meets the eligibility requirements set forth in subsection (d) of that section other than the requirement for membership in the Armed Forces, as certified under subsection (e) of that section or under subsection (b) of this section.

(b) CERTIFICATION.—The Secretary of Defense shall, not later than 12 months after the date of the enactment of this Act, certify to the Speaker of the House of Representatives and the President pro tempore of the Senate the names of persons who are eligible for award of the medal under this Act and have not previously been certified under section 1492(e) of the National Defense Authorization Act for Fiscal Year 1991.

(c) APPLICATIONS.—Subsections (d)(2) and (f) of section 1492 of the National Defense Authorization Act for Fiscal Year 1991 shall apply in the administration of this section.

(d) ADDITIONAL STRIKING AUTHORITY.—The Secretary of the Treasury shall strike such additional medals as may be necessary for presentation under the authority of subsection (a).

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sum as may be necessary to carry out this section.

(f) RETROACTIVE EFFECTIVE DATE.—The authority under subsection (a) shall be effective as of November 5, 1990.

SEC. 1067. ASSIMILATIVE CRIMES AUTHORITY FOR TRAFFIC OFFENSES ON MILITARY INSTALLATIONS.

Section 4 of the Act of June 1, 1948 (40 U.S.C. 318c), is amended—

(1) by striking out "Whoever shall violate" and inserting in lieu thereof "(a) Except as provided in subsection (b), whoever violates";

(2) by inserting "than" after "not more"; and

(3) by adding at the end the following:

"(b)(1) Whoever violates any military traffic regulation shall be fined an amount not to exceed the amount of the maximum fine for a like or similar offense under the criminal or civil law of the State, territory, possession, or district where the military installation in which the violation occurred is located, or imprisoned for not more than 30 days, or both.

"(2) For purposes of this subsection, the term 'military traffic regulation' means a rule or regulation for the control of vehicular or pedestrian traffic on military installations that is promulgated

by the Secretary of Defense, or the designee of the Secretary, under the authority delegated pursuant to section 2.".

SEC. 1068. UNIFORM CODE OF MILITARY JUSTICE AMENDMENTS.

(a) TECHNICAL AMENDMENT REGARDING FORFEITURES DURING CONFINEMENT ADJUDGED BY A COURT-MARTIAL.—(1) Section 858b(a)(1) of title 10, United States Code (article 58b(a)(1) of the Uniform Code of Military Justice), is amended—

(A) in the first sentence, by inserting "(if adjudged by a general court-martial)" after "all pay and"; and

(B) in the third sentence, by striking out "two-thirds of all pay and allowances" and inserting in lieu thereof "two-thirds of all pay".

(2) The amendments made by paragraph (1) shall take effect as of April 1, 1996, and shall apply to any case in which a sentence is adjudged by a court-martial on or after that date.

Effective date. Applicability. 10 USC 858b note.

(b) EXCEPTED SERVICE APPOINTMENTS TO CERTAIN NONATTORNEY POSITIONS OF THE UNITED STATES COURT OF APPEALS FOR THE ARMED FORCES.—(1) Subsection (c) of section 943 of title 10, United States Code (article 143(c) of the Uniform Code of Military Justice) is amended in paragraph (1) by inserting after the first sentence the following: "A position of employment under the Court that is provided primarily for the service of one judge of the court, reports directly to the judge, and is a position of a confidential character is excepted from the competitive service.".

(2) The caption for such subsection is amended by striking out "ATTORNEY" and inserting in lieu thereof "CERTAIN".

(c) REPEAL OF 13-YEAR SPECIAL LIMIT ON TERM OF TRANSITIONAL JUDGE OF UNITED STATES COURT OF APPEALS FOR THE ARMED FORCES.—(1) Subsection (d)(2) of section 1301 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1575; 10 U.S.C. 942 note) is amended by striking out "to the judges who are first appointed to the two new positions of the court created as of October 1, 1990—" and all that follows and inserting in lieu thereof "to the judge who is first appointed to one of the two new positions of the court created as of October 1, 1990, as designated by the President at the time of appointment, the anniversary referred to in subparagraph (A) of that paragraph shall be treated as being the seventh anniversary and the number of years referred to in subparagraph (B) of that paragraph shall be treated as being seven.".

(2) Subsection (e)(1) of such section is amended by striking out "each judge" and inserting in lieu thereof "a judge".

SEC. 1069. PUNISHMENT OF INTERSTATE STALKING.

(a) IN GENERAL.—Chapter 110A of title 18, United States Code, is amended by inserting after section 2261 the following new section:

"§ 2261A. Interstate stalking

"Whoever travels across a State line or within the special maritime and territorial jurisdiction of the United States with the intent to injure or harass another person, and in the course of, or as a result of, such travel places that person in reasonable fear of the death of, or serious bodily injury (as defined in section 1365(g)(3) of this title) to, that person or a member of that person's immediate family (as defined in section 115 of this title) shall be punished as provided in section 2261 of this title.".

(b) CONFORMING AMENDMENTS.—Title 18, United States Code, is amended as follows:

(1) Section 2261(b) is amended by inserting "or section 2261A" after "this section".

(2) Sections 2261(b) and 2262(b) are each amended by striking "offender's spouse or intimate partner" each place it appears and inserting "victim".

(3) The chapter heading for chapter 110A is amended by inserting "**AND STALKING**" after "**VIOLENCE**".

(4) The item relating to chapter 110A in the table of chapters at the beginning of part I is amended to read as follows:

"**110A. Domestic violence and stalking ..... 2261**".

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 110A of such title is amended by inserting after the item relating to section 2261 the following new item:

"2261A. Interstate stalking.".

10 USC 113 note.

SEC. 1070. PARTICIPATION OF MEMBERS, DEPENDENTS, AND OTHER PERSONS IN CRIME PREVENTION EFFORTS AT INSTALLATIONS.

(a) CRIME PREVENTION PLAN.—The Secretary of Defense shall prepare and implement an incentive-based plan to encourage members of the Armed Forces, dependents of members, civilian employees of the Department of Defense, and employees of defense contractors performing work at military installations to report to an appropriate military law enforcement agency any crime or criminal activity that the person reasonably believes occurred on a military installation or involves a member of the Armed Forces.

(b) INCENTIVES TO REPORT CRIMINAL ACTIVITY.—The Secretary of Defense shall include in the plan developed under subsection (a) incentives for members and other persons described in such subsection to provide information to appropriate military law enforcement agencies regarding any crime or criminal activity occurring on a military installation or involving a member of the Armed Forces.

(c) REPORT REGARDING IMPLEMENTATION.—Not later than February 1, 1997, the Secretary shall submit to Congress a report describing the plan being developed under subsection (a).

SEC. 1071. DISPLAY OF STATE FLAGS AT INSTALLATIONS AND FACILITIES OF THE DEPARTMENT OF DEFENSE.

(a) IN GENERAL.—Subchapter I of chapter 134 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2249b. Display of State flags: prohibition on use of funds to arbitrarily exclude flag; position and manner of display

"(a) PROHIBITION ON USE OF FUNDS.—Funds available to the Department of Defense may not be used to prescribe or enforce any rule that arbitrarily excludes the official flag of any State, territory, or possession of the United States from any display of the flags of the States, territories, and possessions of the United States at an official ceremony of the Department of Defense.

"(b) POSITION AND MANNER OF DISPLAY.—The display of an official flag of a State, territory, or possession of the United States at an installation or other facility of the Department shall be

governed by the provisions of section 3 of the Joint Resolution of June 22, 1942 (56 Stat. 378, chapter 435; 36 U.S.C. 175), and any modification of such provisions under section 8 of that Joint Resolution (36 U.S.C. 178).".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter I of such chapter is amended by adding at the end the following new item:

"2249b. Display of State flags: prohibition on use of funds to arbitrarily exclude flag; position and manner of display.".

SEC. 1072. TREATMENT OF EXCESS OPERATIONAL SUPPORT AIRLIFT AIRCRAFT.

(a) REUTILIZATION OR SALE BEFORE TRANSFER.—An operational support airlift aircraft that is excess to the requirements of the United States shall be placed in an inactive status and stored at Davis-Monthan Air Force Base, Arizona, only upon the determination of the Secretary of Defense that all reasonable efforts for the reutilization of the aircraft by, or sale of the aircraft to, Federal agencies or other persons have been completed. The Secretary shall ensure that attempts to reutilize or sell the entire aircraft are given precedence over any reutilization or sale of individual parts or components of the aircraft. Arizona.

(b) OPERATIONAL SUPPORT AIRLIFT AIRCRAFT DEFINED.—In this section, the term "operational support airlift aircraft" has the meaning given such term in section 1086(f) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 458).

SEC. 1073. CORRECTION TO STATUTORY REFERENCES TO CERTAIN DEPARTMENT OF DEFENSE ORGANIZATIONS.

(a) NORTH AMERICAN AEROSPACE DEFENSE COMMAND.—Section 162(a) of title 10, United States Code, is amended by striking out "North American Air Defense Command" in paragraphs (1), (2), and (3) and inserting in lieu thereof "North American Aerospace Defense Command".

(b) FORMER NAVAL RECORDS AND HISTORY OFFICE AND FUND.—(1) Section 7222 of title 10, United States Code, is amended by striking out "Office of Naval Records and History" each place it appears in subsections (a) and (c) and inserting in lieu thereof "Naval Historical Center".

(2)(A) The heading of such section is amended to read as follows:

"§ 7222. Naval Historical Center Fund".

(B) The item relating to such section in the table of sections at the beginning of chapter 631 of title 10, United States Code, is amended to read as follows:

"7222. Naval Historical Center Fund.".

(3) Section 2055(g) of the Internal Revenue Code of 1986 is amended by striking out paragraph (4) and inserting in lieu thereof the following: 26 USC 2055.

"(4) For treatment of gifts and bequests for the benefit of the Naval Historical Center as gifts or bequests to or for the use of the United States, see section 7222 of title 10, United States Code.".

(c) DEFENSE DISTRIBUTION CENTER, ANNISTON.—The Corporation for the Promotion of Rifle Practice and Firearms Safety Act

(title XVI of Public Law 104–106; 110 Stat. 515; 36 U.S.C. 5501 et seq.) is amended by striking out "Anniston Army Depot" each place it appears in the following provisions and inserting in lieu thereof "Defense Distribution Depot, Anniston":

(1) Section 1615(a)(3) (36 U.S.C. 5505(a)(3)).

(2) Section 1616(b) (36 U.S.C. 5506(b)).

(3) Section 1619(a)(1) (36 U.S.C. 5509(a)(1)).

(d) CHEMICAL DEMILITARIZATION CITIZENS ADVISORY COMMISSIONS.—Section 172 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2341; 50 U.S.C. 1521 note) is amended by striking out "Assistant Secretary of the Army (Installations, Logistics, and Environment)" in subsections (b) and (f) and inserting in lieu thereof "Assistant Secretary of the Army (Research, Development and Acquisition)".

(e) DEFENSE ADVANCED RESEARCH PROJECTS AGENCY.—(1) Each of the following provisions of law is amended by inserting "Defense" before "Advanced Research Projects Agency" each place it appears:

(A) Section 5316 of title 5, United States Code.

(B) Subsections (b), (f), and (i) of section 2371 of title 10, United States Code.

(C) Section 822(c)(1)(D) of Public Law 101–510 (42 U.S.C. 6686).

(D) Section 845(a) of Public Law 103–160 (10 U.S.C. 2371 note).

(E) Section 243(a) of Public Law 103–160 (10 U.S.C. 2431 note).

(F) Sections 1352(c)(2), 1353, and 1354(a) of Public Law 103–160 (10 U.S.C. 2501 note).

(2) The section headings of each of the following sections are amended by inserting "**DEFENSE**" before "**ADVANCED**":

(A) Section 845 of Public Law 103–160 (10 U.S.C. 2371 note).

(B) Sections 1353 and 1354 of Public Law 103–160 (10 U.S.C. 2501 note).

(3) The heading for subsection (a) of section 1354 of Public Law 103–160 (10 U.S.C. 2501 note) is amended by striking out "ARPA" and inserting in lieu thereof "DARPA".

SEC. 1074. TECHNICAL AND CLERICAL AMENDMENTS.

(a) MISCELLANEOUS AMENDMENTS TO TITLE 10, UNITED STATES CODE.—Title 10, United States Code, is amended as follows:

(1) Section 129(a) is amended by striking out "the date of the enactment of the National Defense Authorization Act for Fiscal Year 1996" and inserting in lieu thereof "February 10, 1996,".

(2) Section 401 is amended—

(A) in subsection (a)(4), by striking out "Armed Forces" both places it appears and inserting in lieu thereof "armed forces"; and

(B) in subsection (e), by inserting "any of the following" after "means".

(3) Section 528(b) is amended by striking out "(1)" after "(b)" and inserting "(1)" before "The limitation".

(4) Section 1078a(a) is amended by striking out "Beginning on October 1, 1994, the" and inserting in lieu thereof "The".

(5) Section 1161(b)(2) is amended by striking out "section 1178" and inserting in lieu thereof "section 1167".

(6) Section 1167 is amended by striking out "person" and inserting in lieu thereof "member".

(7) The table of sections at the beginning of chapter 81 is amended by striking out "Sec." in the item relating to section 1599a.

(8) Section 1588(d)(1)(C) is amended by striking out "Section 522a" and inserting in lieu thereof "Section 552a".

(9) Chapter 87 is amended—

(A) in section 1723(a), by striking out the second sentence;

(B) in section 1724—

(i) in subsection (a), by striking out "small purchase threshold" and inserting in lieu thereof "simplified acquisition threshold"; and

(ii) in subsections (a) and (b), by striking out ", beginning on October 1, 1993,";

(C) in section 1733(a), by striking out "On and after October 1, 1993, a" and inserting in lieu thereof "A"; and

(D) in section 1734—

(i) in subsection (a)(1), by striking out ", on and after October 1, 1993,"; and

(ii) in subsection (b)(1)(A), by striking out ", on and after October 1, 1991,".

(10) Section 2216, as added by section 371 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 107 Stat. 277), is redesignated as section 2216a, and the item relating to that section in the table of sections at the beginning of chapter 131 is revised so as to reflect such redesignation.

Ante, p. 277.

(11) Section 2305(b)(6) is amended—

(A) in subparagraph (B), by striking out "of this section" and "of this paragraph";

(B) in subparagraph (C), by striking out "this subsection" and inserting in lieu thereof "subparagraph (A)"; and

(C) in subparagraph (D), by striking out "pursuant to this subsection" and inserting in lieu thereof "under subparagraph (A)".

(12) Section 2306a(h)(3) is amended by inserting "(41 U.S.C. 403(12))" before the period at the end.

(13) Section 2323a(a) is amended by striking out "section 1207 of the National Defense Authorization Act for Fiscal Year 1987 (10 U.S.C. 2301 note)" and inserting in lieu thereof "section 2323 of this title".

(14) Section 2534(c)(4) is amended by striking out "the date occurring two years after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1996" and inserting in lieu thereof "February 10, 1998".

(15) The table of sections at the beginning of chapter 155 is amended by striking out the item relating to section 2609.

(16) Section 2610(e) is amended by striking out "two years after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1996" and inserting in lieu thereof "on February 10, 1998".

(17) Sections 2824(c) and 2826(i)(1) are amended by striking out "the date of the enactment of the National Defense

Authorization Act for Fiscal Year 1996" and inserting in lieu thereof "February 10, 1996".

(18) Section 3036(d)(3) is amended by striking out "For purposes of this subsection," and inserting in lieu thereof "In this subsection,".

(19) The table of sections at the beginning of chapter 641 is amended by striking out the item relating to section 7434.

(20) Section 7863 is amended by inserting "were" in the first sentence after "the stores".

(21) Section 10542(b)(21) is amended by striking out "261" and inserting in lieu thereof "12001".

(22) Section 12205(a) is amended by striking out "After September 30, 1995, no person" and inserting in lieu thereof "No person".

(b) AMENDMENTS TO PUBLIC LAW 104–106.—The National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 186 et seq.) is amended as follows:

10 USC 1405. (1) Section 561(d)(1) (110 Stat. 322) is amended by inserting "of such title" after "Section 1405(c)".

(2) Section 1092(b)(2) (110 Stat. 460) is amended by striking out the period at the end and inserting in lieu thereof "; and".

10 USC 2410b. (3) Section 4301(a)(1) (110 Stat. 656) is amended by inserting "of subsection (a)" after "in paragraph (2)".

(4) Section 5601 (110 Stat. 699) is amended—

10 USC 2305. (A) in subsection (a), by inserting "of title 10, United States Code," before "is amended"; and

10 USC 2315. (B) in subsection (c), by striking out "use of equipment or services if," in the second quoted matter therein and inserting in lieu thereof "use of the equipment or services".

(5) Section 3403 (110 Stat. 631) is amended by striking out "Act of Fiscal" and inserting in lieu thereof "Act for Fiscal".

Effective date. 41 USC 427. (6) Section 4202(c)(1) (110 Stat. 653) is amended, effective as of February 10, 1996, by striking out "purchases of'" in the first quoted matter therein and inserting in lieu thereof "contracts for'".

Effective date. 41 USC 253b. (7) Section 5607(c) (110 Stat. 701) is amended, effective as of February 10, 1996—

(A) by striking out "303B(h)" and by inserting in lieu thereof "303B(k)"; and

(B) by striking out "253b(h)" and by inserting in lieu thereof "253b(k)".

(c) PROVISIONS EXECUTED BEFORE ENACTMENT OF PUBLIC LAW 104–106.—

Applicability. 10 USC 6975 note. (1) Section 533(b) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 315) shall apply as if enacted as of December 31, 1995.

Effective date. 10 USC 942 note. (2) The authority provided under section 942(f) of title 10, United States Code, shall be effective as if section 1142 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 467) had been enacted on September 29, 1995.

(d) AMENDMENTS TO OTHER ACTS.—

(1) The last section of the Office of Federal Procurement Policy Act (41 U.S.C. 434), as added by section 5202 of Public Law 104–106 (110 Stat. 690), is redesignated as section 38, and the item appearing after section 34 in the table of contents

in the first section of that Act is transferred to the end of such table of contents and revised so as to reflect such redesignation.

(2) Section 1412(g)(2) of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521(g)(2)), is amended—

(A) in the matter preceding subparagraph (A), by striking out "shall contain—" and inserting in lieu thereof "shall include the following:";

(B) in subparagraph (A)—

(i) by striking out "a" before "site-by-site" and inserting in lieu thereof "A"; and

(ii) by striking out the semicolon at the end and inserting in lieu thereof a period; and

(C) in subparagraphs (B) and (C), by striking out "an" at the beginning of the subparagraph and inserting in lieu thereof "An".

(3) Section 3131 of Public Law 99–570 (19 U.S.C. 2081; 100 Stat. 3207–91) is amended in clause (v) of subsection (a)(1)(A) by striking out "and (c)" both places it appears.

(e) COORDINATION WITH OTHER AMENDMENTS.—For purposes of applying amendments made by provisions of this Act other than provisions of this section, this section shall be treated as having been enacted immediately before the other provisions of this Act. Applicability. 10 USC 101 note.

(f) AMENDMENTS TO THE OFFICE OF FEDERAL PROCUREMENT POLICY ACT.—The Office of Federal Procurement Policy Act (41 U.S.C. 403 et seq.) is amended as follows:

(1) Section 6(f) (41 U.S.C. 405(f)) is amended by striking out "the policies set forth in section 2 or".

(2) Section 15(a) (41 U.S.C. 413(a)) is amended by striking out the second sentence.

(3) Section 25 (41 U.S.C. 421) is amended—

(A) in subsection (c)—

(i) in paragraph (3), by striking out "the policies set forth in section 2 of this Act or"; and

(ii) in paragraph (5), by striking out "or the policies set forth in section 2 of this Act"; and

(B) in subsection (e), by striking out "the policies of section 2 and".

SEC. 1075. MODIFICATION TO THIRD-PARTY LIABILITY TO UNITED STATES FOR TORTIOUS INFLICTION OF INJURY OR DISEASE ON MEMBERS OF THE UNIFORMED SERVICES.

(a) RECOVERY OF PAY AND ALLOWANCES.—The first section of Public Law 87–693 (42 U.S.C. 2651) is amended—

(1) in the first sentence of subsection (a)—

(A) by inserting "or pay for" after "required by law to furnish"; and

(B) by striking out "or to be furnished" both places it appears and inserting in lieu thereof ", to be furnished, paid for, or to be paid for";

(2) by redesignating subsections (b) and (c) as subsections (d) and (e), respectively;

(3) by inserting after subsection (a), the following new subsections:

"(b) If a member of the uniformed services is injured, or contracts a disease, under circumstances creating a tort liability upon a third person (other than or in addition to the United States

and except employers of seamen referred to in subsection (a)) for damages for such injury or disease and the member is unable to perform the member's regular military duties as a result of the injury or disease, the United States shall have a right (independent of the rights of the member) to recover from the third person or an insurer of the third person, or both, the amount equal to the total amount of the pay that accrues and is to accrue to the member for the period for which the member is unable to perform such duties as a result of the injury or disease and is not assigned to perform other military duties.

"(c)(1) If, pursuant to the laws of a State that are applicable in a case of a member of the uniformed services who is injured or contracts a disease as a result of tortious conduct of a third person, there is in effect for such a case (as a substitute or alternative for compensation for damages through tort liability) a system of compensation or reimbursement for expenses of hospital, medical, surgical, or dental care and treatment or for lost pay pursuant to a policy of insurance, contract, medical or hospital service agreement, or similar arrangement, the United States shall be deemed to be a third-party beneficiary of such a policy, contract, agreement, or arrangement.

"(2) For the purposes of paragraph (1)—

"(A) the expenses incurred or to be incurred by the United States for care and treatment for an injured or diseased member as described in subsection (a) shall be deemed to have been incurred by the member;

"(B) the cost to the United States of the pay of the member as described in subsection (b) shall be deemed to have been pay lost by the member as a result of the injury or disease; and

"(C) the United States shall be subrogated to any right or claim that the injured or diseased member or the member's guardian, personal representative, estate, dependents, or survivors have under a policy, contract, agreement, or arrangement referred to in paragraph (1) to the extent of the reasonable value of the care and treatment and the total amount of the pay deemed lost under subparagraph (B).";

(4) in subsection (d), as redesignated by paragraph (2), by inserting "or paid for" after "treatment is furnished"; and

(5) by adding at the end the following:

"(f)(1) Any amount recovered under this section for medical care and related services furnished by a military medical treatment facility or similar military activity shall be credited to the appropriation or appropriations supporting the operation of that facility or activity, as determined under regulations prescribed by the Secretary of Defense.

"(2) Any amount recovered under this section for the cost to the United States of pay of an injured or diseased member of the uniformed services shall be credited to the appropriation that supports the operation of the command, activity, or other unit to which the member was assigned at the time of the injury or illness, as determined under regulations prescribed by the Secretary concerned.

"(g) For the purposes of this section:

"(1) The term 'uniformed services' has the meaning given such term in section 101 of title 10, United States Code.

"(2) The term 'tortious conduct' includes any tortious omission.

"(3) The term 'pay', with respect to a member of the uniformed services, means basic pay, special pay, and incentive pay that the member is authorized to receive under title 37, United States Code, or any other law providing pay for service in the uniformed services.

"(4) The term 'Secretary concerned' means—

"(A) the Secretary of Defense, with respect to the Army, the Navy, the Air Force, the Marine Corps, and the Coast Guard (when it is operating as a service in the Navy);

"(B) the Secretary of Transportation, with respect to the Coast Guard when it is not operating as a service in the Navy;

"(C) the Secretary of Health and Human Services, with respect to the commissioned corps of the Public Health Service; and

"(D) the Secretary of Commerce, with respect to the commissioned corps of the National Oceanic and Atmospheric Administration.".

(b) CONFORMING AMENDMENTS.—The first section of Public Law 87–693 (42 U.S.C. 2651) is amended—

(1) in the first sentence of subsection (a)—

(A) by inserting "(independent of the rights of the injured or diseased person)" after "a right to recover"; and

(B) by inserting ", or that person's insurer," after "from said third person";

(2) in subsection (d), as redesignated by subsection (a)(2)—

(A) by striking out "such right," and inserting in lieu thereof "a right under subsections (a), (b), and (c)"; and

(B) by inserting "or the insurance carrier or other entity responsible for the payment or reimbursement of medical expenses or lost pay" after "the third person who is liable for the injury or disease" each place it appears.

(c) EFFECTIVE DATE.—The authority to collect pursuant to the amendments made by this section shall apply to expenses described in the first section of Public Law 87–693 (as amended by this section) that are incurred, or are to be incurred, by the United States on or after the date of the enactment of this Act, whether the event from which the claim arises occurs before, on, or after that date.

Applicability. 42 USC 2651 note.

SEC. 1076. CHEMICAL STOCKPILE EMERGENCY PREPAREDNESS PROGRAM.

(a) REPORT.—Not later than 120 days after the date of the enactment of this Act, the Secretary of the Army shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report assessing the implementation and success of the establishment of site-specific Integrated Product and Process Teams as a management tool for the Chemical Stockpile Emergency Preparedness Program.

(b) CONTINGENT MANDATED REFORMS.—If at the end of the 120-day period beginning on the date of the enactment of this Act the Secretary of the Army and the Director of the Federal Emergency Management Agency have been unsuccessful in

Effective date.

implementing a site-specific Integrated Product and Process Team with each of the affected States, the Secretary of the Army shall—

(1) assume full control and responsibility for the Chemical Stockpile Emergency Preparedness Program (eliminating the role of the Director of the Federal Emergency Management Agency as joint manager of the program);

(2) establish programmatic agreement with each of the affected States regarding program requirements, implementation schedules, training and exercise requirements, and funding (to include direct grants for program support);

(3) clearly define the goals of the program; and

(4) establish fiscal constraints for the program.

SEC. 1077. EXEMPTION FROM REQUIREMENTS APPLICABLE TO SAVINGS ASSOCIATIONS FOR CERTAIN SAVINGS INSTITUTIONS SERVING MILITARY PERSONNEL.

Section 10(m)(3)(F) of the Home Owners' Loan Act (12 U.S.C. 1467a(m)(3)(F)) is amended—

(1) in the subparagraph caption, by striking out "ASSOCIATION SERVING TRANSIENT" and inserting in lieu thereof "ASSOCIATIONS SERVING CERTAIN";

(2) by striking out "company if—" and all that follows through "90 percent" and inserting in lieu thereof "company if at least 90 percent"; and

(3) by striking out "officers" both places it appears and inserting in lieu thereof "members".

Fellowships and scholarships.

SEC. 1078. IMPROVEMENTS TO NATIONAL SECURITY EDUCATION PROGRAM.

(a) TEMPORARY REQUIREMENT RELATING TO EMPLOYMENT.—Title VII of the Department of Defense Appropriations Act, 1996 (Public Law 104–61; 109 Stat. 650), is amended in the paragraph under the heading "NATIONAL SECURITY EDUCATION TRUST FUND" by striking out the proviso.

(b) GENERAL PROGRAM REQUIREMENTS.—(1) Subparagraph (A) of subsection (a)(1) of section 802 of the David L. Boren National Security Education Act of 1991 (50 U.S.C. 1902) is amended to read as follows:

"(A) awarding scholarships to undergraduate students who—

"(i) are United States citizens in order to enable such students to study, for at least one academic semester or equivalent term, in foreign countries that are critical countries (as determined under section 803(d)(4)(A)) in those languages and study areas where deficiencies exist (as identified in the assessments undertaken pursuant to section 806(d)); and

"(ii) pursuant to subsection (b)(2)(A), enter into an agreement to work in a national security position or work in the field of higher education in the area of study for which the scholarship was awarded;"; and

(2) Subparagraph (B) of that subsection is amended—

(A) in clause (i), by inserting "relating to the national security interests of the United States" after "international fields"; and

(B) in clause (ii)—

(i) by striking out "subsection (b)(2)" and inserting in lieu thereof "subsection (b)(2)(B)"; and

(ii) by striking out "work for an agency or office of the Federal Government or in" and inserting in lieu thereof "work in a national security position or work in".

(c) SERVICE AGREEMENT.—(1) Subsection (b) of that section is amended in the matter preceding paragraph (1) by striking out ", or of scholarships" and all that follows through "12 months or more," and inserting in lieu thereof "or any scholarship".

(2) Paragraph (2) of that subsection is amended to read as follows:

"(2) will—

"(A) not later than eight years after such recipient's completion of the study for which scholarship assistance was provided under the program, and in accordance with regulations issued by the Secretary—

"(i) work in a national security position for a period specified by the Secretary, which period shall be no longer than the period for which scholarship assistance was provided; or

"(ii) if the recipient demonstrates to the Secretary (in accordance with such regulations) that no national security position is available, work in the field of higher education in a discipline relating to the foreign country, foreign language, area study, or international field of study for which the scholarship was awarded, for a period specified by the Secretary, which period shall be determined in accordance with clause (i); or

"(B) upon completion of such recipient's education under the program, and in accordance with such regulations—

"(i) work in a national security position for a period specified by the Secretary, which period shall be not less than one and not more than three times the period for which the fellowship assistance was provided; or

"(ii) if the recipient demonstrates to the Secretary (in accordance with such regulations) that no national security position is available upon the completion of the degree, work in the field of higher education in a discipline relating to the foreign country, foreign language, area study, or international field of study for which the fellowship was awarded, for a period specified by the Secretary, which period shall be established in accordance with clause (i); and".

(d) EVALUATION OF PROGRESS IN LANGUAGE SKILLS.—Such section is further amended—

(1) by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively; and

(2) by inserting after subsection (b) the following new subsection (c):

"(c) EVALUATION OF PROGRESS IN LANGUAGE SKILLS.—The Secretary shall, through the National Security Education Program office, administer a test of the foreign language skills of each recipient of a scholarship or fellowship under this title before the commencement of the study or education for which the scholarship or fellowship is awarded and after the completion of such study or education. The purpose of these tests is to evaluate the progress made by recipients of scholarships and fellowships in developing foreign language skills as a result of assistance under this title.".

(e) FUNCTIONS OF THE NATIONAL SECURITY EDUCATION BOARD.—Section 803(d) of that Act (50 U.S.C. 1903(d)) is amended—

(1) in paragraph (1), by inserting ", including an order of priority in such awards that favors individuals expressing an interest in national security issues or pursuing a career in a national security position" before the period;

(2) in paragraph (4)—

(A) in the matter preceding subparagraph (A), by striking out "Make recommendations" and inserting in lieu thereof "After taking into account the annual analyses of trends in language, international, and area studies under section 806(b)(1), make recommendations";

(B) in subparagraph (A), by inserting "and countries which are of importance to the national security interests of the United States" after "are studying"; and

(C) in subparagraph (B), by inserting "relating to the national security interests of the United States" after "section 802(a)(1)(B)";

(3) by redesignating paragraph (5) as paragraph (8); and

(4) by inserting after paragraph (4) the following new paragraphs:

"(5) Encourage applications for fellowships under this title from graduate students having an educational background in any academic discipline, particularly in the areas of science or technology.

Records. "(6) Provide the Secretary biennially with a list of scholarship recipients and fellowship recipients, including an assessment of their foreign area and language skills, who are available to work in a national security position.

Reports. "(7) Not later than 30 days after a scholarship or fellowship recipient completes the study or education for which assistance was provided under the program, provide the Secretary with a report fully describing the foreign area and language skills obtained by the recipient as a result of the assistance.".

(f) NATIONAL SECURITY POSITION DEFINED.—(1) Section 808 of that Act (50 U.S.C. 1908) is amended by adding at the end the following new paragraph:

"(4) The term 'national security position' means a position—

"(A) having national security responsibilities in a agency or office of the Federal Government that has national security responsibilities, as determined under section 802(g); and

"(B) in which the individual in such position makes their foreign language skills available to such agency or office.".

(2) Section 802 of that Act (50 U.S.C. 1902), as amended by subsection (d)(1) of this section, is further amended by adding at the end the following new subsection:

Records. "(g) DETERMINATION OF AGENCIES AND OFFICES OF THE FEDERAL GOVERNMENT HAVING NATIONAL SECURITY RESPONSIBILITIES.—(1) The Secretary, in consultation with the Board, shall annually determine and develop a list identifying each agency or office of the Federal Government having national security responsibilities at which a recipient of a fellowship or scholarship under this title will be able to make the recipient's foreign area and language skills available to such agency or office. The Secretary shall submit the first such list to the Congress and include each subsequent

list in the annual report to the Congress, as required by section 806(b)(6).

"(2) Notwithstanding section 804, funds may not be made available from the Fund to carry out this title for fiscal year 1997 until 30 days after the date on which the Secretary of Defense submits to the Congress the first such list required by paragraph (1).".

(3) Section 806(b) of that Act (50 U.S.C. 1906(b)) is amended by striking out "and" at the end of paragraph (5), redesignating paragraph (6) as paragraph (7), and inserting after paragraph (5) the following new paragraph (6):

"(6) the current list of agencies and offices of the Federal Government required to be developed by section 802(g); and".

(g) REPORT ON PROGRAM.—(1) Not later than six months after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report assessing the improvements to the program established under the David L. Boren National Security Education Act of 1991 (50 U.S.C. 1901 et seq.) that result from the amendments made by this section.

(2) The report shall include an assessment of the contribution of the program, as so improved, in meeting the national security objectives of the United States.

SEC. 1079. AVIATION AND VESSEL WAR RISK INSURANCE.

(a) AVIATION RISK INSURANCE.—(1) Chapter 931 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 9514. Indemnification of Department of Transportation for losses covered by defense-related aviation insurance

"(a) PROMPT INDEMNIFICATION REQUIRED.—(1) In the event of a loss that is covered by defense-related aviation insurance, the Secretary of Defense shall promptly indemnify the Secretary of Transportation for the amount of the loss consistent with the indemnification agreement between the two Secretaries that underlies such insurance. The Secretary of Defense shall make such indemnification—

"(A) in the case of a claim for the loss of an aircraft hull, not later than 30 days after the date on which the Secretary of Transportation determines the claim to be payable or that amounts are due under the policy that provided the defense-related aviation insurance; and

"(B) in the case of any other claim, not later than 180 days after the date on which the Secretary of Transportation determines the claim to be payable.

"(2) When there is a loss of an aircraft hull that is (or may be) covered by defense-related aviation insurance, the Secretary of Transportation may make, during the period when a claim for such loss is pending with the Secretary of Transportation, any required periodic payments owed by the insured party to a lessor or mortgagee of such aircraft. Such payments shall commence not later than 30 days following the date of the presentment of the claim for the loss of the aircraft hull to the Secretary of Transportation. If the Secretary of Transportation determines that the claim is payable, any amount paid under this paragraph arising from such claim shall be credited against the amount payable under

the aviation insurance. If the Secretary of Transportation determines that the claim is not payable, any amount paid under this paragraph arising from such claim shall constitute a debt to the United States, payable to the insurance fund. Any such amounts so returned to the United States shall be promptly credited to the fund or account from which the payments were made under this paragraph.

"(b) SOURCE OF FUNDS FOR PAYMENT OF INDEMNITY.—The Secretary of Defense may pay an indemnity described in subsection (a) from any funds available to the Department of Defense for operation and maintenance, and such sums as may be necessary for payment of such indemnity are hereby authorized to be transferred to the Secretary of Transportation for such purpose.

"(c) NOTICE TO CONGRESS.—In the event of a loss that is covered by defense-related aviation insurance in the case of an incident in which the covered loss is (or is expected to be) in an amount in excess of $1,000,000, the Secretary of Defense shall submit to Congress—

"(1) notification of the loss as soon after the occurrence of the loss as possible and in no event more than 30 days after the date of the loss; and

Reports.

"(2) semiannual reports thereafter updating the information submitted under paragraph (1) and showing with respect to losses arising from such incident the total amount expended to cover such losses, the source of those funds, pending litigation, and estimated total cost to the Government.

"(d) IMPLEMENTING MATTERS.—(1) Payment of indemnification under this section is not subject to section 2214 or 2215 of this title or any other provision of law requiring notification to Congress before funds may be transferred.

"(2) Consolidation of claims arising from the same incident is not required before indemnification of the Secretary of Transportation for payment of a claim may be made under this section.

"(e) CONSTRUCTION WITH OTHER TRANSFER AUTHORITY.—Authority to transfer funds under this section is in addition to any other authority provided by law to transfer funds (whether enacted before, on, or after the date of the enactment of this section) and is not subject to any dollar limitation or notification requirement contained in any other such authority to transfer funds.

"(f) ANNUAL REPORT ON CONTINGENT LIABILITIES.—Not later than March 1 of each year, the Secretary of Defense shall submit to Congress a report setting forth the current amount of the contingent outstanding liability of the United States under the insurance program under chapter 443 of title 49.

"(g) DEFINITIONS.—In this section:

"(1) DEFENSE-RELATED AVIATION INSURANCE.—The term 'defense-related aviation insurance' means aviation insurance and reinsurance provided through policies issued by the Secretary of Transportation under chapter 443 of title 49 that pursuant to section 44305(b) of that title is provided by that Secretary without premium at the request of the Secretary of Defense and is covered by an indemnity agreement between the Secretary of Transportation and the Secretary of Defense.

"(2) LOSS.—The term 'loss' includes damage to or destruction of property, personal injury or death, and other liabilities and expenses covered by the defense-related aviation insurance.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"9514. Indemnification of Department of Transportation for losses covered by defense-related aviation insurance.".

(b) VESSEL WAR RISK INSURANCE.—(1) Chapter 157 of title 10, United States Code, is amended by adding after section 2644, as redesignated by section 906, the following new section:

"§ 2645. Indemnification of Department of Transportation for losses covered by vessel war risk insurance

"(a) PROMPT INDEMNIFICATION REQUIRED.—(1) In the event of a loss that is covered by vessel war risk insurance, the Secretary of Defense shall promptly indemnify the Secretary of Transportation for the amount of the loss consistent with the indemnification agreement between the two Secretaries that underlies such insurance. The Secretary of Defense shall make such indemnification—

"(A) in the case of a claim for the loss of a vessel, not later than 90 days after the date on which the Secretary of Transportation determines the claim to be payable or that amounts are due under the policy that provided the vessel war risk insurance; and

"(B) in the case of any other claim, not later than 180 days after the date on which on which the Secretary of Transportation determines the claim to be payable.

"(2) When there is a loss of a vessel that is (or may be) covered by vessel war risk insurance, the Secretary of Transportation may make, during the period when a claim for such loss is pending with the Secretary of Transportation, any required periodic payments owed by the insured party to a lessor or mortgagee of such vessel. Such payments shall commence not later than 30 days following the date of the presentment of the claim for the loss of the vessel to the Secretary of Transportation. If the Secretary of Transportation determines that the claim is payable, any amount paid under this paragraph arising from such claim shall be credited against the amount payable under the vessel war risk insurance. If the Secretary of Transportation determines that the claim is not payable, any amount paid under this paragraph arising from such claim shall constitute a debt to the United States, payable to the insurance fund. Any such amounts so returned to the United States shall be promptly credited to the fund or account from which the payments were made under this paragraph.

"(b) SOURCE OF FUNDS FOR PAYMENT OF INDEMNITY.—The Secretary of Defense may pay an indemnity described in subsection (a) from any funds available to the Department of Defense for operation and maintenance, and such sums as may be necessary for payment of such indemnity are hereby authorized to be transferred to the Secretary of Transportation for such purpose.

"(c) DEPOSIT OF FUNDS.—Any amount transferred to the Secretary of Transportation under this section shall be deposited in, and merged with amounts in, the Vessel War Risk Insurance Fund as provided in the second sentence of section 1208(a) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1288(a)).

"(d) NOTICE TO CONGRESS.—In the event of a loss that is covered by vessel war risk insurance in the case of an incident in which the covered loss is (or is expected to be) in an amount in excess of $1,000,000, the Secretary of Defense shall submit to Congress—

"(1) notification of the loss as soon after the occurrence of the loss as possible and in no event more than 30 days after the date of the loss; and

Reports.

"(2) semiannual reports thereafter updating the information submitted under paragraph (1) and showing with respect to losses arising from such incident the total amount expended to cover such losses, the source of such funds, pending litigation, and estimated total cost to the Government.

"(e) IMPLEMENTING MATTERS.—(1) Payment of indemnification under this section is not subject to section 2214 or 2215 of this title or any other provision of law requiring notification to Congress before funds may be transferred.

"(2) Consolidation of claims arising from the same incident is not required before indemnification of the Secretary of Transportation for payment of a claim may be made under this section.

"(f) CONSTRUCTION WITH OTHER TRANSFER AUTHORITY.—Authority to transfer funds under this section is in addition to any other authority provided by law to transfer funds (whether enacted before, on, or after the date of the enactment of this section) and is not subject to any dollar limitation or notification requirement contained in any other such authority to transfer funds.

"(g) ANNUAL REPORT ON CONTINGENT LIABILITIES.—Not later than March 1 of each year, the Secretary of Defense shall submit to Congress a report setting forth the current amount of the contingent outstanding liability of the United States under the vessel war risk insurance program under title XII of the Merchant Marine Act, 1936 (46 U.S.C. App. 1281 et seq.).

"(h) DEFINITIONS.—In this section:

"(1) VESSEL WAR RISK INSURANCE.—The term 'vessel war risk insurance' means insurance and reinsurance provided through policies issued by the Secretary of Transportation under title XII of the Merchant Marine Act, 1936 (46 U.S.C. App. 1281 et seq.), that is provided by that Secretary without premium at the request of the Secretary of Defense and is covered by an indemnity agreement between the Secretary of Transportation and the Secretary of Defense.

"(2) VESSEL WAR RISK INSURANCE FUND.—The term 'Vessel War Risk Insurance Fund' means the insurance fund referred to in the first sentence of section 1208(a) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1288(a)).

"(3) LOSS.—The term 'loss' includes damage to or destruction of property, personal injury or death, and other liabilities and expenses covered by the vessel war risk insurance.".

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 2644, as added by section 906, the following new item:

"2645. Indemnification of Department of Transportation for losses covered by vessel war risk insurance.".

Virginia.
16 USC 431 note.

SEC. 1080. DESIGNATION OF MEMORIAL AS NATIONAL D–DAY MEMORIAL.

(a) DESIGNATION.—The memorial to be constructed by the National D–Day Memorial Foundation in Bedford, Virginia, is hereby designated as a national memorial to be known as the "National D–Day Memorial". The memorial shall serve to honor the members of the Armed Forces of the United States who served in the liberation of Normandy, France, in June 1944.

(b) PUBLIC PROCLAMATION.—The President is requested and urged to issue a public proclamation acknowledging the designation of the memorial to be constructed by the National D–Day Memorial Foundation in Bedford, Virginia, as the National D–Day Memorial.

(c) MAINTENANCE OF MEMORIAL.—All expenses for maintenance and care of the memorial shall be paid for with non-Federal funds, including funds provided by the National D–Day Memorial Foundation. The United States shall not be liable for any expense incurred for the maintenance and care of the memorial.

SEC. 1081. SENSE OF CONGRESS REGARDING SEMICONDUCTOR TRADE AGREEMENT BETWEEN UNITED STATES AND JAPAN.

(a) FINDINGS.—Congress makes the following findings:

(1) The United States and Japan share a long and important bilateral relationship which serves as an anchor of peace and stability in the Asia Pacific region, an alliance which was reaffirmed at the recent summit meeting between President Clinton and Prime Minister Hashimoto in Tokyo. William J. Clinton. Ryutaro Hashimoto.

(2) The Japanese economy has experienced difficulty over the past few years, demonstrating that it is no longer possible for Japan, the world's second largest economy, to use exports as the sole engine of economic growth, but that the Government of Japan must promote deregulation of its domestic economy in order to increase economic growth.

(3) Deregulation of the Japanese economy requires government attention to the removal of barriers to imports of manufactured goods.

(4) The United States-Japan Semiconductor Trade Agreement has begun the process of deregulation in the semiconductor sector and is opening the Japanese market to competitive foreign products.

(5) The United States-Japan Semiconductor Trade Agreement has put in place both government-to-government and industry-to-industry mechanisms which have played a vital role in allowing cooperation to replace conflict in this important high technology sector.

(6) The mechanisms include joint calculation of foreign market share, deterrence of dumping, and promotion of industrial cooperation in the design of foreign semiconductor devices.

(7) Because of these actions under the United States-Japan Semiconductor Trade Agreement, the United States and Japan today enjoy trade in semiconductors which is mutually beneficial, harmonious, and free from the friction that once characterized the semiconductor industry.

(8) Because of structural barriers in Japan, a gap still remains between the share of the world market for semiconductor products outside Japan that the United States and other foreign semiconductor sources are able to capture through competitiveness and the share of the Japanese semiconductor market that the United States and those other sources are able to capture through competitiveness, and that gap is consistent across the full range of semiconductor products as well as a full range of end-use applications.

(9) The competitiveness and health of the United States semiconductor industry is of critical importance to the overall

economic well-being and high-technology defense capabilities of the United States.

(10) The economic interests of both the United States and Japan are best served by well functioning, open markets, deterrence of dumping, and continuing good cooperative relationships in all sectors, including semiconductors.

(11) A strong and healthy military and political alliance between the United States and Japan requires continuation of the industrial and economic cooperation promoted by the United States-Japan Semiconductor Trade Agreement.

(12) President Clinton has called on the Government of Japan to agree to a continuation of the United States-Japan Semiconductor Trade Agreement beyond the current agreement's expiration on July 31, 1996.

(13) The Government of Japan has opposed any continuation of the United States-Japan Semiconductor Trade Agreement to promote cooperation in United States-Japan semiconductor trade.

(b) SENSE OF CONGRESS.—On the basis of the findings contained in subsection (a), it is the sense of Congress that—

(1) it is regrettable that the Government of Japan has refused to consider continuation of the United States-Japan Semiconductor Trade Agreement to ensure that cooperation continues in the semiconductor sector beyond the expiration of the agreement on July 31, 1996; and

(2) the President should take all necessary and appropriate actions to ensure the resumption and extension of the United States-Japan Semiconductor Trade Agreement beyond July 31, 1996.

(c) DEFINITION.—For purposes of this section, the term "United States-Japan Semiconductor Trade Agreement" refers to the agreement between the United States and Japan concerning trade in semiconductor products, with arrangement, done by exchange of letters at Washington on June 11, 1991.

10 USC 168 note.

SEC. 1082. AGREEMENTS FOR EXCHANGE OF DEFENSE PERSONNEL BETWEEN THE UNITED STATES AND FOREIGN COUNTRIES.

(a) AUTHORITY TO ENTER INTO INTERNATIONAL EXCHANGE AGREEMENTS.—(1) The Secretary of Defense may enter into international defense personnel exchange agreements.

(2) For purposes of this section, an international defense personnel exchange agreement is an agreement with the government of an ally of the United States or another friendly foreign country for the exchange of—

(A) military and civilian personnel of the Department of Defense; and

(B) military and civilian personnel of the defense ministry of that foreign government.

(b) ASSIGNMENT OF PERSONNEL.—(1) Pursuant to an international defense personnel exchange agreement, personnel of the defense ministry of a foreign government may be assigned to positions in the Department of Defense and personnel of the Department of Defense may be assigned to positions in the defense ministry of such foreign government. Positions to which exchanged personnel are assigned may include positions of instructors.

(2) An agreement for the exchange of personnel engaged in research and development activities may provide for assignment of Department of Defense personnel to positions in private industry that support the defense ministry of the host foreign government.

(3) An individual may not be assigned to a position pursuant to an international defense personnel exchange agreement unless the assignment is acceptable to both governments.

(c) RECIPROCITY OF PERSONNEL QUALIFICATIONS REQUIRED.—Each government shall be required under an international defense personnel exchange agreement to provide personnel with qualifications, training, and skills that are essentially equal to those of the personnel provided by the other government.

(d) PAYMENT OF PERSONNEL COSTS.—(1) Each government shall pay the salary, per diem, cost of living, travel costs, cost of language or other training, and other costs for its own personnel in accordance with the applicable laws and regulations of such government.

(2) Paragraph (1) does not apply to the following costs:

(A) The cost of temporary duty directed by the host government.

(B) The cost of training programs conducted to familiarize, orient, or certify exchanged personnel regarding unique aspects of the assignments of the exchanged personnel.

(C) Costs incident to the use of the facilities of the host government in the performance of assigned duties.

(e) PROHIBITED CONDITIONS.—No personnel exchanged pursuant to an agreement under this section may take or be required to take an oath of allegiance to the host country or to hold an official capacity in the government of such country.

(f) RELATIONSHIP TO OTHER AUTHORITY.—The requirements in subsections (c) and (d) shall apply in the exercise of any authority of the Secretaries of the military departments to enter into an agreement with the government of a foreign country to provide for the exchange of members of the armed forces and military personnel of the foreign country. The Secretary of Defense may prescribe regulations for the application of such subsections in the exercise of such authority.

SEC. 1083. SENSE OF SENATE REGARDING BOSNIA AND HERZEGOVINA.

It is the sense of the Senate that, notwithstanding any other provision of law, in order to maximize the amount of equipment provided to the Government of Bosnia and Herzegovina under the authority contained in section 540 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996 (Public Law 104–107; 110 Stat. 737), the price of the transferred equipment shall not exceed the lowest level at which the same or similar equipment has been transferred to any other country under any other United States Government program.

SEC. 1084. DEFENSE BURDENSHARING.

President. 22 USC 1928 note.

(a) EFFORTS TO INCREASE ALLIED BURDENSHARING.—The President shall seek to have each nation that has cooperative military relations with the United States (including security agreements, basing arrangements, or mutual participation in multinational military organizations or operations) take one or more of the following actions:

(1) Increase its financial contributions to the payment of the nonpersonnel costs incurred by the United States Government for stationing United States military personnel in that

nation, with a goal of achieving by September 30, 2000, 75 percent of such costs. An increase in financial contributions by any nation under this paragraph may include the elimination of taxes, fees, or other charges levied on United States military personnel, equipment, or facilities stationed in that nation.

(2) Increase its annual budgetary outlays for national defense as a percentage of its gross domestic product by 10 percent or at least to a level commensurate to that of the United States by September 30, 1997.

(3) Increase its annual budgetary outlays for foreign assistance (to promote democratization, economic stabilization, transparency arrangements, defense economic conversion, respect for the rule of law, and internationally recognized human rights) by 10 percent or at least to a level commensurate to that of the United States by September 30, 1997.

(4) Increase the amount of military assets (including personnel, equipment, logistics, support and other resources) that it contributes, or would be prepared to contribute, to multinational military activities worldwide.

(b) AUTHORITIES TO ENCOURAGE ACTIONS BY UNITED STATES ALLIES.—In seeking the actions described in subsection (a) with respect to any nation, or in response to a failure by any nation to undertake one or more of such actions, the President may take any of the following measures to the extent otherwise authorized by law:

(1) Reduce the end strength level of members of the Armed Forces assigned to permanent duty ashore in that nation.

(2) Impose on that nation fees or other charges similar to those that such nation imposes on United States forces stationed in that nation.

(3) Reduce (through rescission, impoundment, or other appropriate procedures as authorized by law) the amount the United States contributes to the NATO Civil Budget, Military Budget, or Security Investment Program.

(4) Suspend, modify, or terminate any bilateral security agreement the United States has with that nation, consistent with the terms of such agreement.

(5) Reduce (through rescission, impoundment, or other appropriate procedures as authorized by law) any United States bilateral assistance appropriated for that nation.

(6) Take any other action the President determines to be appropriate as authorized by law.

(c) REPORT ON PROGRESS IN INCREASING ALLIED BURDENSHARING.—Not later than March 1, 1997, the Secretary of Defense shall submit to Congress a report on—

(1) steps taken by other nations to complete the actions described in subsection (a);

(2) all measures taken by the President, including those authorized in subsection (b), to achieve the actions described in subsection (a); and

(3) the budgetary savings to the United States that are expected to accrue as a result of the steps described under paragraph (1).

(d) REPORT ON NATIONAL SECURITY BASES FOR FORWARD DEPLOYMENT AND BURDENSHARING RELATIONSHIPS.—(1) In order to ensure the best allocation of budgetary resources, the President shall undertake a review of the status of elements of the United

States Armed Forces that are permanently stationed outside the United States. The review shall include an assessment of the following:

(A) The alliance requirements that are to be found in agreements between the United States and other countries.

(B) The national security interests that support permanently stationing elements of the United States Armed Forces outside the United States.

(C) The stationing costs associated with the forward deployment of elements of the United States Armed Forces.

(D) The alternatives available to forward deployment (such as material prepositioning, enhanced airlift and sealift, or joint training operations) to meet such alliance requirements or national security interests, with such alternatives identified and described in detail.

(E) The costs and force structure configurations associated with such alternatives to forward deployment.

(F) The financial contributions that allies of the United States make to common defense efforts (to promote democratization, economic stabilization, transparency arrangements, defense economic conversion, respect for the rule of law, and internationally recognized human rights).

(G) The contributions that allies of the United States make to meeting the stationing costs associated with the forward deployment of elements of the United States Armed Forces.

(H) The annual expenditures of the United States and its allies on national defense, and the relative percentages of each nation's gross domestic product constituted by those expenditures.

(2) The President shall submit to Congress a report on the review under paragraph (1). The report shall be submitted not later than March 1, 1997, in classified and unclassified form.

(e) REPORT DATE.—Section 1003(c) of Public Law 98–515 is amended by striking out "each year" and inserting "by March 1, 1998, and every other year thereafter".

TITLE XI—NATIONAL IMAGERY AND MAPPING AGENCY

National Imagery and Mapping Agency Act of 1996.

Sec. 1101. Short title.
Sec. 1102. Findings.
Sec. 1103. Role of Director of Central Intelligence in appointment and evaluation of certain intelligence officials.

Subtitle A—Establishment of Agency

Sec. 1111. Establishment.
Sec. 1112. Missions and authority.
Sec. 1113. Transfers of personnel and assets.
Sec. 1114. Compatibility with authority under the National Security Act of 1947.
Sec. 1115. Creditable civilian service for career conditional employees of the Defense Mapping Agency.
Sec. 1116. Saving provisions.
Sec. 1117. Definitions.
Sec. 1118. Authorization of appropriations.

Subtitle B—Conforming Amendments and Effective Dates

Sec. 1121. Redesignation and repeals.
Sec. 1122. Reference amendments.
Sec. 1123. Headings and clerical amendments.
Sec. 1124. Effective date.

10 USC 441 note. **SEC. 1101. SHORT TITLE.**

This title may be cited as the "National Imagery and Mapping Agency Act of 1996".

10 USC 441 note. **SEC. 1102. FINDINGS.**

Congress makes the following findings:

(1) There is a need within the Department of Defense and the Intelligence Community of the United States to provide a single agency focus for the growing number and diverse types of customers for imagery and geospatial information resources within the Government, to ensure visibility and accountability for those resources, and to harness, leverage, and focus rapid technological developments to serve the imagery, imagery intelligence, and geospatial information customers.

(2) There is a need for a single Government agency to solicit and advocate the needs of that growing and diverse pool of customers.

(3) A single combat support agency dedicated to imagery, imagery intelligence, and geospatial information could act as a focal point for support of all imagery intelligence and geospatial information customers, including customers in the Department of Defense, the Intelligence Community, and related agencies outside of the Department of Defense.

(4) Such an agency would best serve the needs of the imagery, imagery intelligence, and geospatial information customers if it were organized—

(A) to carry out its mission responsibilities under the authority, direction, and control of the Secretary of Defense, with the advice of the Chairman of the Joint Chiefs of Staff; and

(B) to carry out its responsibilities to national intelligence customers in accordance with policies and priorities established by the Director of Central Intelligence.

SEC. 1103. ROLE OF DIRECTOR OF CENTRAL INTELLIGENCE IN APPOINTMENT AND EVALUATION OF CERTAIN INTELLIGENCE OFFICIALS.

(a) IN GENERAL.—Section 201 of title 10, United States Code, is amended to read as follows:

"§ 201. Certain intelligence officials: consultation and concurrence regarding appointments; evaluation of performance

"(a) CONSULTATION REGARDING APPOINTMENT.—Before submitting a recommendation to the President regarding the appointment of an individual to the position of Director of the Defense Intelligence Agency, the Secretary of Defense shall consult with the Director of Central Intelligence regarding the recommendation.

"(b) CONCURRENCE IN APPOINTMENT.—(1) Before submitting a recommendation to the President regarding the appointment of an individual to a position referred to in paragraph (2), the Secretary of Defense shall seek the concurrence of the Director of Central Intelligence in the recommendation. If the Director does not concur in the recommendation, the Secretary may make the recommendation to the President without the Director's concur-

rence, but shall include in the recommendation a statement that the Director does not concur in the recommendation.

"(2) Paragraph (1) applies to the following positions:

"(A) The Director of the National Security Agency.

"(B) The Director of the National Reconnaissance Office.

"(C) The Director of the National Imagery and Mapping Agency.

"(c) PERFORMANCE EVALUATIONS.—(1) The Director of Central Intelligence shall provide annually to the Secretary of Defense, for the Secretary's consideration, an evaluation of the performance of the individuals holding the positions referred to in paragraph (2) in fulfilling their respective responsibilities with regard to the National Foreign Intelligence Program.

"(2) The positions referred to in paragraph (1) are the following:

"(A) The Director of the National Security Agency.

"(B) The Director of the National Reconnaissance Office.

"(C) The Director of the National Imagery and Mapping Agency.".

(b) CLERICAL AMENDMENT.—The item relating to section 201 in the table of sections at the beginning of subchapter II of chapter 8 of such title is amended to read as follows:

"201. Certain intelligence officials: consultation and concurrence regarding appointments; evaluation of performance.".

Subtitle A—Establishment of Agency

SEC. 1111. ESTABLISHMENT. 10 USC 441 note.

(a) ESTABLISHMENT.—There is hereby established in the Department of Defense a Defense Agency to be known as the National Imagery and Mapping Agency.

(b) TRANSFER OF FUNCTIONS FROM DEPARTMENT OF DEFENSE ENTITIES.—The missions and functions of the following elements of the Department of Defense are transferred to the National Imagery and Mapping Agency:

(1) The Defense Mapping Agency.

(2) The Central Imagery Office.

(3) Other elements of the Department of Defense as specified in the classified annex to this Act.

(c) TRANSFER OF FUNCTIONS FROM CENTRAL INTELLIGENCE AGENCY.—The missions and functions of the following elements of the Central Intelligence Agency are transferred to the National Imagery and Mapping Agency:

(1) The National Photographic Interpretation Center.

(2) Other elements of the Central Intelligence Agency as specified in the classified annex to this Act.

(d) PRESERVATION OF LEVEL AND QUALITY OF IMAGERY INTELLIGENCE SUPPORT TO ALL-SOURCE ANALYSIS AND PRODUCTION.—In managing the establishment of the National Imagery and Mapping Agency, the Secretary of Defense, in consultation with the Director of Central Intelligence, shall ensure that imagery intelligence support provided to all-source analysis and production is in no way degraded or compromised.

SEC. 1112. MISSIONS AND AUTHORITY.

(a) AGENCY CHARTER.—Part I of subtitle A of title 10, United States Code, is amended—

(1) by redesignating chapter 22 as chapter 23; and

(2) by inserting after chapter 21 the following new chapter 22:

"CHAPTER 22—NATIONAL IMAGERY AND MAPPING AGENCY

"Subchapter Sec.
"I. Missions and Authority 441
"II. Maps, Charts, and Geodetic Products 451
"III. Personnel Management 461
"IV. Definitions 467

"SUBCHAPTER I—MISSIONS AND AUTHORITY

"Sec.
"441. Establishment.
"442. Missions.
"443. Imagery intelligence and geospatial information: support for foreign countries.
"444. Support from Central Intelligence Agency.
"445. Protection of agency identifications and organizational information.

"§ 441. Establishment

"(a) ESTABLISHMENT.—The National Imagery and Mapping Agency is a combat support agency of the Department of Defense and has significant national missions.

"(b) DIRECTOR.—(1) The Director of the National Imagery and Mapping Agency is the head of the agency.

"(2) Upon a vacancy in the position of Director, the Secretary of Defense shall recommend to the President an individual for appointment to the position.

"(3) If an officer of the armed forces on active duty is appointed to the position of Director, the position shall be treated as having been designated by the President as a position of importance and responsibility for purposes of section 601 of this title and shall carry the grade of lieutenant general, or, in the case of an officer of the Navy, vice admiral.

"(c) DIRECTOR OF CENTRAL INTELLIGENCE COLLECTION TASKING AUTHORITY.—Unless otherwise directed by the President, the Director of Central Intelligence shall have authority (except as otherwise agreed by the Director and the Secretary of Defense) to—

"(1) approve collection requirements levied on national imagery collection assets;

"(2) determine priorities for such requirements; and

"(3) resolve conflicts in such priorities.

"(d) AVAILABILITY AND CONTINUED IMPROVEMENT OF IMAGERY INTELLIGENCE SUPPORT TO ALL-SOURCE ANALYSIS AND PRODUCTION FUNCTION.—The Secretary of Defense, in consultation with the Director of Central Intelligence, shall take all necessary steps to ensure the full availability and continued improvement of imagery intelligence support for all-source analysis and production.

"§ 442. Missions

"(a) NATIONAL SECURITY MISSIONS.—(1) The National Imagery and Mapping Agency shall, in support of the national security objectives of the United States, provide the following:

"(A) Imagery.

"(B) Imagery intelligence.

"(C) Geospatial information.

"(2) Imagery, intelligence, and information provided in carrying out paragraph (1) shall be timely, relevant, and accurate.

"(b) NAVIGATION INFORMATION.—The National Imagery and Mapping Agency shall improve means of navigating vessels of the Navy and the merchant marine by providing, under the authority of the Secretary of Defense, accurate and inexpensive nautical charts, sailing directions, books on navigation, and manuals of instructions for the use of all vessels of the United States and of navigators generally.

"(c) MAPS, CHARTS, ETC.—The National Imagery and Mapping Agency shall prepare and distribute maps, charts, books, and geodetic products as authorized under subchapter II of this chapter.

"(d) NATIONAL MISSIONS.—The National Imagery and Mapping Agency also has national missions as specified in section 120(a) of the National Security Act of 1947.

"(e) SYSTEMS.—The National Imagery and Mapping Agency may, in furtherance of a mission of the Agency, design, develop, deploy, operate, and maintain systems related to the processing and dissemination of imagery intelligence and geospatial information that may be transferred to, accepted or used by, or used on behalf of—

"(1) the armed forces, including any combatant command, component of a combatant command, joint task force, or tactical unit; or

"(2) any other department or agency of the United States.

"§ 443. Imagery intelligence and geospatial information: support for foreign countries

"(a) USE OF APPROPRIATED FUNDS.—The Director of the National Imagery and Mapping Agency may use appropriated funds available to the National Imagery and Mapping Agency to provide foreign countries with imagery intelligence and geospatial information support.

"(b) USE OF FUNDS OTHER THAN APPROPRIATED FUNDS.—The Director may use funds other than appropriated funds to provide foreign countries with imagery intelligence and geospatial information support, notwithstanding provisions of law relating to the expenditure of funds of the United States, except that—

"(1) no such funds may be expended, in whole or in part, by or for the benefit of the National Imagery and Mapping Agency for a purpose for which Congress had previously denied funds.

"(2) proceeds from the sale of imagery intelligence or geospatial information items may be used only to purchase replacement items similar to the items that are sold; and

"(3) the authority provided by this subsection may not be used to acquire items or services for the principal benefit of the United States.

"(c) ACCOMMODATION PROCUREMENTS.—The authority under this section may be exercised to conduct accommodation procurements on behalf of foreign countries.

"(d) COORDINATION WITH DIRECTOR OF CENTRAL INTELLIGENCE.—The Director of the Agency shall coordinate with the Director of Central Intelligence any action under this section that involves imagery intelligence or intelligence products or involves providing support to an intelligence or security service of a foreign country.

"§ 444. Support from Central Intelligence Agency

"(a) SUPPORT AUTHORIZED.—The Director of Central Intelligence may provide support in accordance with this section to the Director of the National Imagery and Mapping Agency. The Director of the National Imagery and Mapping Agency may accept support provided under this section.

"(b) ADMINISTRATIVE AND CONTRACT SERVICES.—(1) In furtherance of the national intelligence effort, the Director of Central Intelligence may provide administrative and contract services to the National Imagery and Mapping Agency as if that agency were an organizational element of the Central Intelligence Agency.

"(2) Services provided under paragraph (1) may include the services of security police. For purposes of section 15 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403o), an installation of the National Imagery and Mapping Agency that is provided security police services under this section shall be considered an installation of the Central Intelligence Agency.

"(3) Support provided under this subsection shall be provided under terms and conditions agreed upon by the Secretary of Defense and the Director of Central Intelligence.

"(c) DETAIL OF PERSONNEL.—The Director of Central Intelligence may detail personnel of the Central Intelligence Agency indefinitely to the National Imagery and Mapping Agency without regard to any limitation on the duration of interagency details of Federal Government personnel.

"(d) REIMBURSABLE OR NONREIMBURSABLE SUPPORT.—Support under this section may be provided and accepted on either a reimbursable basis or a nonreimbursable basis.

"(e) AUTHORITY TO TRANSFER FUNDS.—(1) The Director of the National Imagery and Mapping Agency may transfer funds available for that agency to the Director of Central Intelligence for the Central Intelligence Agency.

"(2) The Director of Central Intelligence—

"(A) may accept funds transferred under paragraph (1); and

"(B) shall expend such funds, in accordance with the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.), to provide administrative and contract services or detail personnel to the National Imagery and Mapping Agency under this section.

"§ 445. Protection of agency identifications and organizational information

"(a) UNAUTHORIZED USE OF AGENCY NAME, INITIALS, OR SEAL.—(1) Except with the written permission of the Secretary of Defense, no person may knowingly use, in connection with any merchandise, retail product, impersonation, solicitation, or commercial activity in a manner reasonably calculated to convey the impression that such use is approved, endorsed, or authorized by the Secretary of Defense, any of the following:

"(A) The words 'National Imagery and Mapping Agency', the initials 'NIMA', or the seal of the National Imagery and Mapping Agency.

"(B) The words 'Defense Mapping Agency', the initials 'DMA', or the seal of the Defense Mapping Agency.

"(C) Any colorable imitation of such words, initials, or seals.

"(2) Whenever it appears to the Attorney General that any person is engaged or about to engage in an act or practice which constitutes or will constitute conduct prohibited by paragraph (1), the Attorney General may initiate a civil proceeding in a district court of the United States to enjoin such act or practice. Such court shall proceed as soon as practicable to a hearing and determination of such action and may, at any time before such final determination, enter such restraining orders or prohibitions, or take such other action as is warranted, to prevent injury to the United States or to any person or class of persons for whose protection the action is brought.

"SUBCHAPTER II—MAPS, CHARTS, AND GEODETIC PRODUCTS

"Sec.
"451. Maps, charts, and books.
"452. Pilot charts.
"453. Prices of maps, charts, and navigational publications.
"454. Exchange of mapping, charting, and geodetic data with foreign countries and international organizations.
"455. Maps, charts, and geodetic data: public availability; exceptions.
"456. Civil actions barred.

"SUBCHAPTER III—PERSONNEL MANAGEMENT

"Sec.
"461. Management rights.

"§ 461. Management rights

"(a) SCOPE.—If there is no obligation under the provisions of chapter 71 of title 5 for the head of an agency of the United States to consult or negotiate with a labor organization on a particular matter by reason of that matter being covered by a provision of law or a Governmentwide regulation, the Director of the National Imagery and Mapping Agency is not obligated to consult or negotiate with a labor organization on that matter even if that provision of law or regulation is inapplicable to the National Imagery and Mapping Agency.

"(b) BARGAINING UNITS.—The National Imagery and Mapping Agency shall accord exclusive recognition to a labor organization under section 7111 of title 5 only for a bargaining unit that was recognized as appropriate for the Defense Mapping Agency on the day before the date on which employees and positions of the Defense Mapping Agency in that bargaining unit became employees and positions of the National Imagery and Mapping Agency under the National Imagery and Mapping Agency Act of 1996 (title XI of the National Defense Authorization Act for Fiscal Year 1997).

"(c) TERMINATION OF BARGAINING UNIT COVERAGE OF POSITION MODIFIED TO AFFECT NATIONAL SECURITY DIRECTLY.—(1) If the Director of the National Imagery and Mapping Agency determines that the responsibilities of a position within a collective bargaining unit should be modified to include intelligence, counterintelligence, investigative, or security duties not previously assigned to that position and that the performance of the newly assigned duties directly affects the national security of the United States, then, upon such a modification of the responsibilities of that position, the position shall cease to be covered by the collective bargaining unit and the employee in that position shall cease to be entitled

to representation by a labor organization accorded exclusive recognition for that collective bargaining unit.

"(2) A determination described in paragraph (1) that is made by the Director of the National Imagery and Mapping Agency may not be reviewed by the Federal Labor Relations Authority or any court of the United States.

"SUBCHAPTER IV—DEFINITIONS

"Sec.
"467. Definitions.

"§ 467. Definitions

"In this chapter:

"(1) The term 'function' means any duty, obligation, responsibility, privilege, activity, or program.

"(2)(A) The term 'imagery' means, except as provided in subparagraph (B), a likeness or presentation of any natural or manmade feature or related object or activity and the positional data acquired at the same time the likeness or representation was acquired, including—

"(i) products produced by space-based national intelligence reconnaissance systems; and

"(ii) likenesses or presentations produced by satellites, airborne platforms, unmanned aerial vehicles, or other similar means.

"(B) Such term does not include handheld or clandestine photography taken by or on behalf of human intelligence collection organizations.

"(3) The term 'imagery intelligence' means the technical, geographic, and intelligence information derived through the interpretation or analysis of imagery and collateral materials.

"(4) The term 'geospatial information' means information that identifies the geographic location and characteristics of natural or constructed features and boundaries on the earth and includes—

"(A) statistical data and information derived from, among other things, remote sensing, mapping, and surveying technologies;

"(B) mapping, charting, and geodetic data; and

"(C) geodetic products, as defined in section 455(c) of this title.".

(b) TRANSFER OF DEFENSE MAPPING AGENCY PROVISIONS.—(1) Sections 2792, 2793, 2794, 2795, 2796, and 2798 of title 10, United States Code, are transferred to subchapter II of chapter 22 of such title, as added by subsection (a), inserted in that sequence in such subchapter following the table of sections, and redesignated in accordance with the following table:

Section transferred	Section as redesignated
2792	451
2793	452
2794	453
2795	454
2796	455
2798	456.

(2) Sections 451(1), 452, 453, 454, and 455 (in subsections (a) and (b)(1)(C)), and 456 of title 10, United States Code, as

transferred and redesignated by paragraph (1), are amended by striking out "Defense Mapping Agency" each place it appears and inserting in lieu thereof "National Imagery and Mapping Agency".

(c) OVERSIGHT OF AGENCY AS A COMBAT SUPPORT AGENCY.—Section 193 of title 10, United States Code, is amended—

(1) in subsection (d)—

(A) by striking out the caption and inserting in lieu thereof "REVIEW OF NATIONAL SECURITY AGENCY AND NATIONAL IMAGERY AND MAPPING AGENCY.—";

(B) in paragraph (1)—

(i) by inserting "and the National Imagery and Mapping Agency" after "the National Security Agency"; and

(ii) by striking out "the Agency" and inserting in lieu thereof "that the agencies"; and

(C) in paragraph (2), by inserting "and the National Imagery and Mapping Agency" after "the National Security Agency";

(2) in subsection (e)—

(A) by striking out "DIA AND NSA" in the caption and inserting in lieu thereof the following: "DIA, NSA, AND NIMA"; and

(B) by striking out "and the National Security Agency" and inserting in lieu thereof ", the National Security Agency, and the National Imagery and Mapping Agency"; and

(3) in subsection (f), by striking out paragraph (4) and inserting in lieu thereof the following:

"(4) The National Imagery and Mapping Agency.".

(d) CONSOLIDATION AND STANDARDIZATION OF EXEMPTIONS FROM DISCLOSURE OF ORGANIZATIONAL AND PERSONNEL INFORMATION.—Chapter 21 of title 10, United States Code, is amended by striking out sections 424 and 425 and inserting in lieu thereof the following:

"§ 424. Disclosure of organizational and personnel information: exemption for Defense Intelligence Agency, National Reconnaissance Office, and National Imagery and Mapping Agency

"(a) EXEMPTION FROM DISCLOSURE.—Except as required by the President or as provided in subsection (c), no provision of law shall be construed to require the disclosure of—

"(1) the organization or any function of an organization of the Department of Defense named in subsection (b); or

"(2) the number of persons employed by or assigned or detailed to any such organization or the name, official title, occupational series, grade, or salary of any such person.

"(b) COVERED ORGANIZATIONS.—This section applies to the following organizations of the Department of Defense:

"(1) The Defense Intelligence Agency.

"(2) The National Reconnaissance Office.

"(3) The National Imagery and Mapping Agency.

"(c) PROVISION OF INFORMATION TO CONGRESS.—Subsection (a) does not apply with respect to the provision of information to Congress.".

(e) SPECIAL PRINTING AUTHORITY FOR AGENCY.—(1) Section 207(a)(2)(B) of the Legislative Branch Appropriations Act, 1993

(Public Law 102–392; 44 U.S.C. 501 note), is amended by inserting "National Imagery and Mapping Agency," after "Defense Intelligence Agency,".

(2) Section 1336 of title 44, United States Code, is amended—

(A) by striking out "Secretary of the Navy" and inserting in lieu thereof "Director of the National Imagery and Mapping Agency"; and

(B) by striking out "United States Naval Oceanographic Office" and inserting in lieu thereof "National Imagery and Mapping Agency".

10 USC 441 note.

SEC. 1113. TRANSFERS OF PERSONNEL AND ASSETS.

(a) PERSONNEL AND ASSETS.—Subject to subsections (b) and (c), the personnel, assets, unobligated balances of appropriations and authorizations of appropriations, and, to the extent jointly determined appropriate by the Secretary of Defense and Director of Central Intelligence, obligated balances of appropriations and authorizations of appropriations employed, used, held, arising from, or available in connection with the missions and functions transferred under section 1111(b) or section 1111(c) are transferred to the National Imagery and Mapping Agency. Transfers of appropriations from the Central Intelligence Agency under this subsection shall be made in accordance with section 1531 of title 31, United States Code.

(b) DETERMINATION OF CIA POSITIONS TO BE TRANSFERRED.—Not earlier than two years after the effective date of this subtitle, the Secretary of Defense and the Director of Central Intelligence shall determine which, if any, positions and personnel of the Central Intelligence Agency are to be transferred to the National Imagery and Mapping Agency. The positions to be transferred, and the employees serving in such positions, shall be transferred to the National Imagery and Mapping Agency under terms and conditions prescribed by the Secretary of Defense and the Director of Central Intelligence.

(c) RULE FOR CIA IMAGERY ACTIVITIES ONLY PARTIALLY TRANSFERRED.—If the National Photographic Interpretation Center of the Central Intelligence Agency or any imagery-related activity of the Central Intelligence Agency authorized to be performed by the National Imagery and Mapping Agency is not completely transferred to the National Imagery and Mapping Agency, the Secretary of Defense and the Director of Central Intelligence shall—

(1) jointly determine which, if any, contracts, leases, property, and records employed, used, held, arising from, available to, or otherwise relating to such Center or activity is to be transferred to the National Imagery and Intelligence Agency; and

(2) provide by written agreement for the transfer of such items.

SEC. 1114. COMPATIBILITY WITH AUTHORITY UNDER THE NATIONAL SECURITY ACT OF 1947.

(a) AGENCY FUNCTIONS.—Paragraph (2) of section 105(b) of the National Security Act of 1947 (50 U.S.C. 403–5(b)) is amended to read as follows:

"(2) through the National Imagery and Mapping Agency (except as otherwise directed by the President or the National Security Council), with appropriate representation from the

intelligence community, the continued operation of an effective unified organization within the Department of Defense—

"(A) for carrying out tasking of imagery collection;

"(B) for the coordination of imagery processing and exploitation activities;

"(C) for ensuring the dissemination of imagery in a timely manner to authorized recipients; and

"(D) notwithstanding any other provision of law, for—

"(i) prescribing technical architecture and standards related to imagery intelligence and geospatial information and ensuring compliance with such architecture and standards; and

"(ii) developing and fielding systems of common concern related to imagery intelligence and geospatial information;".

(b) NATIONAL MISSION.—Title I of such Act (50 U.S.C. 402 et seq.) is amended by adding at the end the following new section:

"NATIONAL MISSION OF NATIONAL IMAGERY AND MAPPING AGENCY

"SEC. 120. (a) IN GENERAL.—In addition to the Department of Defense missions set forth in section 442 of title 10, United States Code, the National Imagery and Mapping Agency shall support the imagery requirements of the Department of State and other departments and agencies of the United States outside the Department of Defense. 50 USC 404e.

"(b) REQUIREMENTS AND PRIORITIES.—The Director of Central Intelligence shall establish requirements and priorities governing the collection of national intelligence by the National Imagery and Mapping Agency under subsection (a).

"(c) CORRECTION OF DEFICIENCIES.—The Director of Central Intelligence shall develop and implement such programs and policies as the Director and the Secretary of Defense jointly determine necessary to review and correct deficiencies identified in the capabilities of the National Imagery and Mapping Agency to accomplish assigned national missions, including support to the all-source analysis and production process. The Director shall consult with the Secretary of Defense on the development and implementation of such programs and policies. The Secretary shall obtain the advice of the Chairman of the Joint Chiefs of Staff regarding the matters on which the Director and the Secretary are to consult under the preceding sentence.".

(c) TASKING OF IMAGERY ASSETS.—Title I of such Act is further amended by adding at the end the following new section:

"COLLECTION TASKING AUTHORITY

"SEC. 121. Unless otherwise directed by the President, the Director of Central Intelligence shall have authority (except as otherwise agreed by the Director and the Secretary of Defense) to— 50 USC 404f.

"(1) approve collection requirements levied on national imagery collection assets;

"(2) determine priorities for such requirements; and

"(3) resolve conflicts in such priorities.".

(d) CLERICAL AMENDMENT.—The table of contents in the first section of such Act is amended by inserting after the item relating to section 109 the following new items:

"Sec. 120. National mission of National Imagery and Mapping Agency.
"Sec. 121. Collection tasking authority.".

10 USC 441 note.

SEC. 1115. CREDITABLE CIVILIAN SERVICE FOR CAREER CONDITIONAL EMPLOYEES OF THE DEFENSE MAPPING AGENCY.

In the case of an employee of the National Imagery and Mapping Agency who, on the day before the effective date of this title, was an employee of the Defense Mapping Agency in a career-conditional status, the continuous service of that employee as an employee of the National Imagery and Mapping Agency on and after such date shall be considered creditable service for the purpose of any determination of the career status of the employee.

10 USC 441 note.

SEC. 1116. SAVING PROVISIONS.

(a) CONTINUING EFFECT ON LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, agreements, international agreements, grants, contracts, leases, certificates, licenses, registrations, privileges, and other administrative actions—

(1) which have been issued, made, granted, or allowed to become effective by the President, any Federal agency or official thereof, or by a court of competent jurisdiction, in connection with any of the functions which are transferred under this title or any function that the National Imagery and Mapping Agency is authorized to perform by law, and

(2) which are in effect at the time this title takes effect, or were final before the effective date of this title and are to become effective on or after the effective date of this title,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Secretary of Defense, the Director of the National Imagery and Mapping Agency or other authorized official, a court of competent jurisdiction, or by operation of law.

(b) PROCEEDINGS NOT AFFECTED.—This title and the amendments made by this title shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending before an element of the Department of Defense or Central Intelligence Agency at the time this title takes effect, with respect to function of that element transferred by section 1122, but such proceedings and applications shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this title had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this section shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this title had not been enacted.

10 USC 441 note.

SEC. 1117. DEFINITIONS.

In this subtitle, the terms "function", "imagery", "imagery intelligence", and "geospatial information" have the meanings given

those terms in section 467 of title 10, United States Code, as added by section 1112.

SEC. 1118. AUTHORIZATION OF APPROPRIATIONS.

Funds are authorized to be appropriated for the National Imagery and Mapping Agency for fiscal year 1997 in amounts and for purposes, and subject to the terms, conditions, limitations, restrictions, and requirements, that are set forth in the Classified Annex to this Act.

Subtitle B—Conforming Amendments and Effective Dates

SEC. 1121. REDESIGNATION AND REPEALS.

(a) REDESIGNATION.—Chapter 23 of title 10, United States Code (as redesignated by section 1112(a)(1)) is amended by redesignating the sections in that chapter as sections 481 and 482, respectively.

(b) REPEAL OF SUPERSEDED LAW.—Chapter 167 of such title, as amended by section 1112(b), is repealed.

SEC. 1122. REFERENCE AMENDMENTS.

(a) TITLE 5, UNITED STATES CODE.—Title 5, United States Code, is amended as follows:

(1) CENTRAL IMAGERY OFFICE.—Sections 2302(a)(2)(C)(ii), 3132(a)(1)(B), 4301(1) (in clause (ii)), 4701(a)(1)(B), 5102(a)(1) (in clause (xi)), 5342(a)(1)(L), 6339(a)(1)(E), and 7323(b)(2)(B)(i)(XIII) are amended by striking out "Central Imagery Office" and inserting in lieu thereof "National Imagery and Mapping Agency".

(2) DIRECTOR, CENTRAL IMAGERY OFFICE.—Section 6339(a)(2)(E) is amended by striking out "Central Imagery Office, the Director of the Central Imagery Office" and inserting in lieu thereof "National Imagery and Mapping Agency, the Director of the National Imagery and Mapping Agency".

(b) OTHER LAWS.—The following provisions of law are amended by striking out "Central Imagery Office" and inserting in lieu thereof "National Imagery and Mapping Agency":

(1) NATIONAL SECURITY ACT OF 1947.—Section 3(4)(E) of the National Security Act of 1947 (50 U.S.C. 401a(4)(E)).

(2) ETHICS IN GOVERNMENT ACT OF 1978.—Section 105(a) of the Ethics in Government Act of 1978 (Public Law 95–521; 5 U.S.C. App. 4). 5 USC app. 105.

(3) EMPLOYEE POLYGRAPH PROTECTION ACT.—Section 7(b)(2)(A)(i) of the Employee Polygraph Protection Act of 1988 (Public Law 100–347; 29 U.S.C. 2006(b)(2)(A)(i)).

(c) CROSS REFERENCE.—Section 82 of title 14, United States Code, is amended by striking out "chapter 167" and inserting in lieu thereof "subchapter II of chapter 22".

SEC. 1123. HEADINGS AND CLERICAL AMENDMENTS.

(a) TITLE 10, UNITED STATES CODE.—

(1) The table of chapters at the beginning of subtitle A of title 10, United States Code, is amended—

(A) by striking out the item relating to chapter 22 and inserting in lieu thereof the following:

"22. National Imagery and Mapping Agency 441
"23. Miscellaneous Studies and Reports ..... 471";

and

(B) by striking out the item relating to chapter 167.

(2) The table of chapters at the beginning of part I of such subtitle is amended by striking out the item relating to chapter 22 and inserting in lieu thereof the following:

"22. National Imagery and Mapping Agency 441
"23. Miscellaneous Studies and Reports ..... 471";

(3) The table of chapters at the beginning of part IV of such subtitle is amended by striking out the item relating to chapter 167.

(4) The items in the table of sections at the beginning of chapter 23 of title 10, United States Code (as redesignated by section 1112(a)(1)), are revised so as to reflect the redesignations made by section 1121(a).

(b) TITLE 44, UNITED STATES CODE.—

(1) The heading of section 1336 of title 44, United States Code, is amended to read as follows:

"§ 1336. National Imagery and Mapping Agency: special publications".

(2) The item relating to that section in the tables of sections at the beginning of chapter 13 of such title is amended to read as follows:

"1336. National Imagery and Mapping Agency: special publications.".

10 USC 193 note.

SEC. 1124. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect on October 1, 1996, or the date of the enactment of this Act, whichever is later.

Reserve Forces Revitalization Act of 1996.

TITLE XII—RESERVE FORCES REVITALIZATION

TITLE XII—RESERVE FORCES REVITALIZATION

Sec. 1201. Short title.
Sec. 1202. Purpose.

Subtitle A—Reserve Component Structure

Sec. 1211. Reserve component commands.
Sec. 1212. Reserve component chiefs.
Sec. 1213. Review of active duty and Reserve general and flag officer authorizations.
Sec. 1214. Guard and Reserve technicians.

Subtitle B—Reserve Component Accessibility

Sec. 1231. Report to Congress on measures to improve National Guard and Reserve ability to respond to emergencies.
Sec. 1232. Report to Congress concerning tax incentives for employers of members of Reserve components.
Sec. 1233. Report to Congress concerning income insurance program for activated Reservists.
Sec. 1234. Report to Congress concerning small business loans for members released from Reserve service during contingency operations.

Subtitle C—Reserve Forces Sustainment

Sec. 1251. Report concerning tax deductibility of nonreimbursable expenses.
Sec. 1252. Authority to pay transient housing charges for members performing active duty for training.

Sec. 1253. Sense of Congress concerning quarters allowance during service on active duty for training.
Sec. 1254. Sense of Congress concerning military leave policy.
Sec. 1255. Reserve Forces Policy Board.
Sec. 1256. Report on parity of benefits for active duty service and Reserve service.
Sec. 1257. Information on proposed funding for the Guard and Reserve components in future-years defense programs.

SEC. 1201. SHORT TITLE. 10 USC 10001 note.

This title may be cited as the "Reserve Forces Revitalization Act of 1996".

SEC. 1202. PURPOSE. 10 USC 10001 note.

The purpose of this title is to revise the basic statutory authorities governing the organization and administration of the reserve components of the Armed Forces in order to recognize the realities of reserve component partnership in the Total Force and to better prepare the American citizen-soldier, sailor, airman, and Marine in time of peace for duties in war.

Subtitle A—Reserve Component Structure

SEC. 1211. RESERVE COMPONENT COMMANDS.

(a) ESTABLISHMENT.—(1) Part I of subtitle E of title 10, United States Code, is amended by inserting after chapter 1005 the following new chapter:

"CHAPTER 1006—RESERVE COMPONENT COMMANDS

"Sec.
"10171. United States Army Reserve Command.
"10172. Naval Reserve Force.
"10173. Marine Forces Reserve.
"10174. Air Force Reserve Command.

"§ 10171. United States Army Reserve Command

"(a) COMMAND.—The United States Army Reserve Command is a separate command of the Army, commanded by the Chief of Army Reserve.

"(b) CHAIN OF COMMAND.—Except as otherwise prescribed by the Secretary of Defense, the Secretary of the Army shall prescribe the chain of command for the United States Army Reserve Command.

"(c) ASSIGNMENT OF FORCES.—The Secretary of the Army—

"(1) shall assign to the United States Army Reserve Command all forces of the Army Reserve in the continental United States other than forces assigned to the unified combatant command for special operations forces established pursuant to section 167 of this title; and

"(2) except as otherwise directed by the Secretary of Defense in the case of forces assigned to carry out functions of the Secretary of the Army specified in section 3013 of this title, shall assign all such forces of the Army Reserve to the commander of the United States Atlantic Command.

"§ 10172. Naval Reserve Force

"(a) ESTABLISHMENT OF COMMAND.—The Secretary of the Navy, with the advice and assistance of the Chief of Naval Operations, shall establish a Naval Reserve Force. The Naval Reserve Force shall be operated as a separate command of the Navy.

"(b) COMMANDER.—The Chief of Naval Reserve shall be the commander of the Naval Reserve Force. The commander of the Naval Reserve Force reports directly to the Chief of Naval Operations.

"(c) ASSIGNMENT OF FORCES.—The Secretary of the Navy—

"(1) shall assign to the Naval Reserve Force specified portions of the Naval Reserve other than forces assigned to the unified combatant command for special operations forces established pursuant to section 167 of this title; and

"(2) except as otherwise directed by the Secretary of Defense in the case of forces assigned to carry out functions of the Secretary of the Navy specified in section 5013 of this title, shall assign to the combatant commands all such forces assigned to the Naval Reserve Force under paragraph (1) in the manner specified by the Secretary of Defense.

"§ 10173. Marine Forces Reserve

"(a) ESTABLISHMENT.—The Secretary of the Navy, with the advice and assistance of the Commandant of the Marine Corps, shall establish in the Marine Corps a command known as the Marine Forces Reserve.

"(b) COMMANDER.—The Marine Forces Reserve is commanded by the Commander, Marine Forces Reserve. The Commander, Marine Forces Reserve, reports directly to the Commandant of the Marine Corps.

"(c) ASSIGNMENT OF FORCES.—The Commandant of the Marine Corps—

"(1) shall assign to the Marine Forces Reserve the forces of the Marine Corps Reserve stationed in the continental United States other than forces assigned to the unified combatant command for special operations forces established pursuant to section 167 of this title; and

"(2) except as otherwise directed by the Secretary of Defense in the case of forces assigned to carry out functions of the Secretary of the Navy specified in section 5013 of this title, shall assign to the combatant commands (through the Marine Corps component commander for each such command) all such forces assigned to the Marine Forces Reserve under paragraph (1) in the manner specified by the Secretary of Defense.

"§ 10174. Air Force Reserve Command

"(a) ESTABLISHMENT OF COMMAND.—The Secretary of the Air Force, with the advice and assistance of the Chief of Staff of the Air Force, shall establish an Air Force Reserve Command. The Air Force Reserve Command shall be operated as a separate command of the Air Force.

"(b) COMMANDER.—The Chief of Air Force Reserve is the Commander of the Air Force Reserve Command. The commander of the Air Force Reserve Command reports directly to the Chief of Staff of the Air Force.

"(c) ASSIGNMENT OF FORCES.—The Secretary of the Air Force—

"(1) shall assign to the Air Force Reserve Command all forces of the Air Force Reserve stationed in the continental United States other than forces assigned to the unified combatant command for special operations forces established pursuant to section 167 of this title; and

"(2) except as otherwise directed by the Secretary of Defense in the case of forces assigned to carry out functions of the Secretary of the Air Force specified in section 8013 of this title, shall assign to the combatant commands all such forces assigned to the Air Force Reserve Command under paragraph (1) in the manner specified by the Secretary of Defense.".

(2) The tables of chapters at the beginning of part I of such subtitle and at the beginning of such subtitle are each amended by inserting after the item relating to chapter 1005 the following new item:

"1006. Reserve Component Commands ..... 10171".

(b) CONFORMING REPEAL.—Section 903 of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 3074 note) is repealed.

(c) IMPLEMENTATION SCHEDULE.—Implementation of chapter 1006 of title 10, United States Code, as added by subsection (a), shall begin not later than 90 days after the date of the enactment of this Act and shall be completed not later than one year after such date. 10 USC 10171 note.

SEC. 1212. RESERVE COMPONENT CHIEFS.

(a) CHIEF OF ARMY RESERVE.—Section 3038 of title 10, United States Code, is amended by adding at the end the following new subsections:

"(d) BUDGET.—The Chief of Army Reserve is the official within the executive part of the Department of the Army who, subject to the authority, direction, and control of the Secretary of the Army and the Chief of Staff, is responsible for justification and execution of the personnel, operation and maintenance, and construction budgets for the Army Reserve. As such, the Chief of Army Reserve is the director and functional manager of appropriations made for the Army Reserve in those areas.

"(e) FULL TIME SUPPORT PROGRAM.—The Chief of Army Reserve manages, with respect to the Army Reserve, the personnel program of the Department of Defense known as the Full Time Support Program.

"(f) ANNUAL REPORT.—(1) The Chief of Army Reserve shall submit to the Secretary of Defense, through the Secretary of the Army, an annual report on the state of the Army Reserve and the ability of the Army Reserve to meet its missions. The report shall be prepared in conjunction with the Chief of Staff of the Army and may be submitted in classified and unclassified versions.

"(2) The Secretary of Defense shall transmit the annual report of the Chief of Army Reserve under paragraph (1) to Congress, together with such comments on the report as the Secretary considers appropriate. The report shall be transmitted at the same time each year that the annual report of the Secretary under section 113 of this title is submitted to Congress.".

(b) CHIEF OF NAVAL RESERVE.—(1) Chapter 513 of such title is amended by inserting after section 5142a the following new section:

"§ 5143. Office of Naval Reserve: appointment of Chief

"(a) ESTABLISHMENT OF OFFICE: CHIEF OF NAVAL RESERVE.—There is in the executive part of the Department of the Navy, on the staff of the Chief of Naval Operations, an Office of the

Naval Reserve, which is headed by a Chief of Naval Reserve. The Chief of Naval Reserve—

"(1) is the principal adviser on Naval Reserve matters to the Chief of Naval Operations; and

"(2) is the commander of the Naval Reserve Force.

President. "(b) APPOINTMENT.—The President, by and with the advice and consent of the Senate, shall appoint the Chief of Naval Reserve from officers who—

"(1) have had at least 10 years of commissioned service;

"(2) are in a grade above captain; and

"(3) have been recommended by the Secretary of the Navy.

"(c) GRADE.—(1) The Chief of Naval Reserve holds office for a term determined by the Chief of Naval Operations, normally four years, but may be removed for cause at any time. He is eligible to succeed himself.

"(2) The Chief of Naval Reserve, while so serving, has a grade above rear admiral (lower half), without vacating the officer's permanent grade.

"(d) BUDGET.—The Chief of Naval Reserve is the official within the executive part of the Department of the Navy who, subject to the authority, direction, and control of the Secretary of the Navy and the Chief of Naval Operations, is responsible for preparation, justification, and execution of the personnel, operation and maintenance, and construction budgets for the Naval Reserve. As such, the Chief of Naval Reserve is the director and functional manager of appropriations made for the Naval Reserve in those areas.

"(e) ANNUAL REPORT.—(1) The Chief of Naval Reserve shall submit to the Secretary of Defense, through the Secretary of the Navy, an annual report on the state of the Naval Reserve and the ability of the Naval Reserve to meet its missions. The report shall be prepared in conjunction with the Chief of Naval Operations and may be submitted in classified and unclassified versions.

"(2) The Secretary of Defense shall transmit the annual report of the Chief of Naval Reserve under paragraph (1) to Congress, together with such comments on the report as the Secretary considers appropriate. The report shall be transmitted at the same time each year that the annual report of the Secretary under section 113 of this title is submitted to Congress.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 5142a the following new item:

"5143. Office of Naval Reserve: appointment of Chief.".

(c) CHIEF OF MARINE FORCES RESERVE.—(1) Chapter 513 of such title is amended by inserting after section 5143 (as added by subsection (b)) the following new section:

"§ 5144. Office of Marine Forces Reserve: appointment of Commander

"(a) ESTABLISHMENT OF OFFICE; COMMANDER, MARINE FORCES RESERVE.—There is in the executive part of the Department of the Navy an Office of the Marine Forces Reserve, which is headed by the Commander, Marine Forces Reserve. The Commander, Marine Forces Reserve, is the principal adviser to the Commandant on Marine Forces Reserve matters.

"(b) APPOINTMENT.—The President, by and with the advice and consent of the Senate, shall appoint the Commander, Marine Forces Reserve, from officers of the Marine Corps who— President.

"(1) have had at least 10 years of commissioned service;

"(2) are in a grade above colonel; and

"(3) have been recommended by the Secretary of the Navy.

"(c) TERM OF OFFICE; GRADE.—(1) The Commander, Marine Forces Reserve, holds office for a term determined by the Commandant of the Marine Corps, normally four years, but may be removed for cause at any time. He is eligible to succeed himself.

"(2) The Commander, Marine Forces Reserve, while so serving, has a grade above brigadier general, without vacating the officer's permanent grade.

"(d) ANNUAL REPORT.—(1) The Commander, Marine Forces Reserve, shall submit to the Secretary of Defense, through the Secretary of the Navy, an annual report on the state of the Marine Corps Reserve and the ability of the Marine Corps Reserve to meet its missions. The report shall be prepared in conjunction with the Commandant of the Marine Corps and may be submitted in classified and unclassified versions.

"(2) The Secretary of Defense shall transmit the annual report of the Commander, Marine Forces Reserve, under paragraph (1) to Congress, together with such comments on the report as the Secretary considers appropriate. The report shall be transmitted at the same time each year that the annual report of the Secretary under section 113 of this title is submitted to Congress.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 5143 (as added by subsection (b)) the following new item:

"5144. Office of Marine Forces Reserve: appointment of Commander.".

(d) CHIEF OF AIR FORCE RESERVE.—Section 8038 of such title is amended by adding at the end the following new subsections:

"(d) BUDGET.—The Chief of Air Force Reserve is the official within the executive part of the Department of the Air Force who, subject to the authority, direction, and control of the Secretary of the Air Force and the Chief of Staff, is responsible for preparation, justification, and execution of the personnel, operation and maintenance, and construction budgets for the Air Force Reserve. As such, the Chief of Air Force Reserve is the director and functional manager of appropriations made for the Air Force Reserve in those areas.

"(e) FULL TIME SUPPORT PROGRAM.—(1) The Chief of Air Force Reserve manages, with respect to the Air Force Reserve, the personnel program of the Department of Defense known as the Full Time Support Program.

"(f) ANNUAL REPORT.—(1) The Chief of Air Force Reserve shall submit to the Secretary of Defense, through the Secretary of the Air Force, an annual report on the state of the Air Force Reserve and the ability of the Air Force Reserve to meet its missions. The report shall be prepared in conjunction with the Chief of Staff of the Air Force and may be submitted in classified and unclassified versions.

"(2) The Secretary of Defense shall transmit the annual report of the Chief of Air Force Reserve under paragraph (1) to Congress, together with such comments on the report as the Secretary considers appropriate. The report shall be transmitted at the same time

each year that the annual report of the Secretary under section 113 of this title is submitted to Congress.".

(e) CONFORMING AMENDMENT.—Section 641(1)(B) of such title is amended by inserting "5143, 5144," after "3038,".

SEC. 1213. REVIEW OF ACTIVE DUTY AND RESERVE GENERAL AND FLAG OFFICER AUTHORIZATIONS.

(a) REPORT TO CONGRESS.—Not later than six months after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report containing any recommendations of the Secretary (together with the rationale of the Secretary for the recommendations) concerning the following:

(1) Revision of the limitations on general and flag officer grade authorizations and distribution in grade prescribed by sections 525, 526, and 12004 of title 10, United States Code.

(2) Statutory designation of the positions and grades of any additional general and flag officers in the commands and offices created by sections 1211 and 1212.

(b) MATTERS TO BE INCLUDED.—The Secretary shall include in the report under subsection (a) the Secretary's views on whether current limitations referred to in subsection (a)—

(1) permit the Secretaries of the military departments, in view of increased requirements for assignment of general and flag officers in positions external to their organic services, to meet adequately both internal and external requirements for general and flag officers;

(2) adequately recognize the significantly increased role of the reserve components in both service-specific and joint operations; and

(3) permit the Secretaries of the military departments and the reserve components to assign general and flag officers to active and reserve component positions with grades commensurate with the scope of duties and responsibilities of the position.

(c) EXEMPTIONS FROM ACTIVE-DUTY CEILINGS.—(1) The Secretary shall include in the report under subsection (a) the Secretary's recommendations regarding the merits of exempting from any active-duty ceiling (established by law or administrative action) the following officers:

(A) Reserve general and flag officers assigned to positions specified in the organizations created by this title.

(B) Reserve general and flag officers serving on active duty, but who are excluded from the active-duty list.

(2) If the Secretary determines under paragraph (1) that any Reserve general or flag officers should be exempt from active duty limits, the Secretary shall include in the report under subsection (a) the Secretary's recommendations for—

(A) the effective management of those Reserve general and flag officers; and

(B) revision of active duty ceilings so as to prevent an increase in the numbers of active general and flag officers authorizations due solely to the removal of Reserve general and flag officers from under the active duty authorizations.

(3) If the Secretary determines under paragraph (1) that active and reserve general officers on active duty should continue to be managed under a common ceiling, the Secretary shall make recommendations for the appropriate apportionment of numbers for general and flag officers among active and reserve officers.

(d) RESERVE FORCES POLICY BOARD PARTICIPATION.—The Secretary of Defense shall ensure that the Reserve Forces Policy Board participates in the internal Department of Defense process for development of the recommendations of the Secretary contained in the report under subsection (a). If the Board submits to the Secretary any comments or recommendations for inclusion in the report, the Secretary shall transmit them to Congress, with the report, in the same form as that in which they were submitted to the Secretary.

(e) GAO REVIEW.—The Comptroller General of the United States shall assess the criteria used by the Secretary of Defense to develop recommendations for purposes of the report under this section and shall submit to Congress, not later than 30 days after the date on which the report of the Secretary under this section is submitted, a report setting forth the Comptroller General's conclusions concerning the adequacy and completeness of the recommendations made by the Secretary in the report. Reports.

SEC. 1214. GUARD AND RESERVE TECHNICIANS.

Section 10216 of title 10, United States Code, as amended by section 413, is amended—

(1) by redesignating subsections (a), (b), and (c) as subsections (b), (c), and (d), respectively;

(2) by inserting after the section heading the following new subsection (a):

"(a) IN GENERAL.—Military technicians are Federal civilian employees hired under title 5 and title 32 who are required to maintain dual-status as drilling reserve component members as a condition of their Federal civilian employment. Such employees shall be authorized and accounted for as a separate category of dual-status civilian employees, exempt as specified in subsection (b)(3) from any general or regulatory requirement for adjustments in Department of Defense civilian personnel."; and

(3) in paragraph (3) of subsection (b), as redesignated by paragraph (1), by striking out "in high-priority units and organizations specified in paragraph (1)".

Subtitle B—Reserve Component Accessibility

SEC. 1231. REPORT TO CONGRESS ON MEASURES TO IMPROVE NATIONAL GUARD AND RESERVE ABILITY TO RESPOND TO EMERGENCIES.

(a) REPORT.—Not later than six months after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report regarding reserve component responsiveness to both domestic emergencies and national contingency operations. The report shall set forth the measures taken, underway, and projected to be taken to improve the timeliness, adequacy, and effectiveness of reserve component responses to such emergencies and operations.

(b) MATTERS RELATED TO RESPONSIVENESS TO DOMESTIC EMERGENCIES.—The report shall address the following:

(1) The need to expand the time period set by section 12301(b) of title 10, United States Code, which permits the

involuntary recall at any time to active duty of units and individuals for up to 15 days per year.

(2) The recommendations of the 1995 report of the RAND Corporation entitled "Assessing the State and Federal Missions of the National Guard", as follows:

(A) That Federal law be clarified and amended to authorize Presidential use of the Federal reserves of all military services for domestic emergencies and disasters without any time constraint.

(B) That the Secretary of Defense develop and support establishment of an appropriate national level compact for interstate sharing of resources, including the domestic capabilities of the national guards of the States, during emergencies and disasters.

(C) That Federal level contingency stocks be created to support the National Guard in domestic disasters.

(D) That Federal funding and regulatory support be provided for Federal-State disaster emergency response planning exercises.

(c) MATTERS RELATED TO PRESIDENTIAL RESERVE CALL-UP AUTHORITY.—The report under this section shall specifically address matters related to the authority of the President to activate for service on active duty units and members of reserve components under sections 12301, 12302, and 12304 of title 10, United States Code, including—

(1) whether such authority is adequate to meet the full range of reserve component missions for the 21st century, particularly with regard to the time periods for which such units and members may be on active duty under those authorities and the ability to activate both units and individual members; and

(2) whether the three-tiered set of statutory authorities (under such sections 12301, 12302, and 12304) should be consolidated, modified, or in part eliminated in order to facilitate current and future use of Reserve units and individual reserve component members for a broader range of missions, and, if so, in what manner.

(d) MATTERS RELATED TO RELEASE FROM ACTIVE DUTY.—The report under this section shall include findings and recommendations (based upon a review of current policies and procedures) concerning procedures for release from active duty of units and members of reserve components who have been involuntarily called or ordered to active duty under section 12301, 12302, or 12304 of title 10, United States Code, with specific recommendations concerning the desirability of statutory provisions to—

(1) establish specific guidelines for when it is appropriate (or inappropriate) to retain on active duty such reserve component units when active component units are available to perform the mission being performed by the reserve component unit;

(2) minimize the effects of frequent mobilization of the civilian employers, as well as the effects of frequent mobilization on recruiting and retention in the reserve components; and

(3) address other matters relating to the needs of such members of reserve components, their employers, and (in the case of such members who own businesses) their employees, while such members are on active duty.

(e) RESERVE FORCES POLICY BOARD PARTICIPATION.—The Secretary of Defense shall ensure that the Reserve Forces Policy Board participates in the internal Department of Defense process for development of the recommendations of the Secretary contained in the report under subsection (a). If the Board submits to the Secretary any comments or recommendations for inclusion in the report, the Secretary shall transmit them to Congress, with the report, in the same form as that in which they were submitted to the Secretary.

(f) GAO REVIEW.—The Comptroller General of the United States shall assess the criteria used by the Secretary of Defense to develop recommendations for purposes of the report under this section and shall submit to Congress, not later than 30 days after the date on which the report of the Secretary under this section is submitted, a report setting forth the Comptroller General's conclusions concerning the adequacy and completeness of the recommendations made by the Secretary in the report. Reports.

SEC. 1232. REPORT TO CONGRESS CONCERNING TAX INCENTIVES FOR EMPLOYERS OF MEMBERS OF RESERVE COMPONENTS.

Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report setting forth a draft of legislation to provide tax incentives to employers of members of reserve components in order to compensate employers for absences of those employees due to required training and for absences due to performance of active duty.

SEC. 1233. REPORT TO CONGRESS CONCERNING INCOME INSURANCE PROGRAM FOR ACTIVATED RESERVISTS.

Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report setting forth legislative recommendations for changes to chapter 1214 of title 10, United States Code. Such recommendations shall in particular provide, in the case of a mobilized member who owns a business, income replacement for that business and for employees of that member or business who have a loss of income during the period of such activation attributable to the activation of the member.

SEC. 1234. REPORT TO CONGRESS CONCERNING SMALL BUSINESS LOANS FOR MEMBERS RELEASED FROM RESERVE SERVICE DURING CONTINGENCY OPERATIONS.

Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report setting forth a draft of legislation to establish a small business loan program to provide members of reserve components who are ordered to active duty or active Federal service (other than for training) during a contingency operation (as defined in section 101 of title 10, United States Code) low-cost loans to assist those members in retaining or rebuilding businesses that were affected by their service on active duty or in active Federal service.

Subtitle C—Reserve Forces Sustainment

SEC. 1251. REPORT CONCERNING TAX DEDUCTIBILITY OF NON-REIMBURSABLE EXPENSES.

Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report setting forth a draft of legislation to restore the tax deductibility of nonreimbursable expenses incurred by members of reserve components in connection with military service.

SEC. 1252. AUTHORITY TO PAY TRANSIENT HOUSING CHARGES FOR MEMBERS PERFORMING ACTIVE DUTY FOR TRAINING.

Section 404(j)(1) of title 37, United States Code, is amended by striking out "annual training duty" and inserting in lieu thereof "active duty for training".

SEC. 1253. SENSE OF CONGRESS CONCERNING QUARTERS ALLOWANCE DURING SERVICE ON ACTIVE DUTY FOR TRAINING.

It is the sense of Congress that the United States should continue to pay members of reserve components appropriate quarters allowances during periods of service on active duty for training.

SEC. 1254. SENSE OF CONGRESS CONCERNING MILITARY LEAVE POLICY.

It is the sense of Congress that military leave policies in effect as of the date of the enactment of this Act with respect to members of the reserve components should not be changed.

SEC. 1255. RESERVE FORCES POLICY BOARD.

(a) COMMENDATION.—The Congress commends the Reserve Forces Policy Board, created by the Armed Forces Reserve Act of 1952 (Public Law 82–476), for its fine work in the past as an independent source of advice to the Secretary of Defense on all matters pertaining to the reserve components.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Reserve Forces Policy Board and the reserve forces policy committees for the individual branches of the Armed Forces should continue to perform the vital role of providing the civilian leadership of the Department of Defense with independent advice on matters pertaining to the reserve components.

(c) ANNUAL REPORT OF RESERVE FORCES POLICY BOARD.—Section 113(c) of title 10, United States Code, is amended—

(1) by striking out paragraph (3);

(2) by redesignating paragraphs (1), (2), and (4) as subparagraphs (A), (B), and (C), respectively;

(3) by inserting "(1)" after "(c)";

(4) by inserting "and" at the end of subparagraph (B), as redesignated by paragraph (2); and

(5) by adding at the end the following:

"(2) At the same time that the Secretary submits the annual report under paragraph (1), the Secretary shall transmit to the President and Congress a separate report from the Reserve Forces Policy Board on the reserve programs of the Department of Defense and on any other matters that the Reserve Forces Policy Board considers appropriate to include in the report.".

SEC. 1256. REPORT ON PARITY OF BENEFITS FOR ACTIVE DUTY SERVICE AND RESERVE SERVICE.

No later than six months after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report providing recommendations for changes in law that the Secretary considers necessary, feasible, and affordable to reduce the disparities in pay and benefits that occur between active component members of the Armed Forces and reserve component members as a result of eligibility based on length of time on active duty.

SEC. 1257. INFORMATION ON PROPOSED FUNDING FOR THE GUARD AND RESERVE COMPONENTS IN FUTURE-YEARS DEFENSE PROGRAMS.

(a) IN GENERAL.—(1) Chapter 1013 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 10543. National Guard and reserve component equipment procurement and military construction funding: inclusion in future-years defense program

"The Secretary of Defense shall specify in each future-years defense program submitted to Congress under section 221 of this title the estimated expenditures and the proposed appropriations, for each fiscal year of the period covered by that program, for the procurement of equipment and for military construction for each of the reserve components of the armed forces.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"10543. National Guard and reserve component equipment procurement and military construction funding: inclusion in future-years defense program.".

(b) EFFECTIVE DATE.—Section 10543 of title 10, United States Code, as added by subsection (a), shall apply with respect to each future-years defense program submitted to Congress after the date of the enactment of this Act.

Applicability. 10 USC 10543 note.

TITLE XIII—ARMS CONTROL AND RELATED MATTERS

Subtitle A—Arms Control, Counterpro- liferation Activities, and Related Matters

Sec. 1301. Extension of counterproliferation authorities.
Sec. 1302. Limitation on retirement or dismantlement of strategic nuclear delivery systems.
Sec. 1303. Strengthening certain sanctions against nuclear proliferation activities.
Sec. 1304. Authority to pay certain expenses relating to humanitarian and civic assistance for clearance of landmines.
Sec. 1305. Report on military capabilities of People's Republic of China.
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Subtitle B—Commission to Assess the Ballistic Missile Threat to the United States

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Subtitle A—Arms Control, Counterproliferation Activities, and Related Matters

SEC. 1301. EXTENSION OF COUNTERPROLIFERATION AUTHORITIES.

(a) ONE-YEAR EXTENSION OF AUTHORITY.—Section 1505 of the Weapons of Mass Destruction Control Act of 1992 (title XV of Public Law 102–484; 22 U.S.C. 5859a) is amended—

(1) in subsection (d)(3), by striking out "or" after "fiscal year 1995," and by inserting ", or $15,000,000 for fiscal year 1997" before the period at the end; and

(2) in subsection (f), by striking out "1996" and inserting in lieu thereof "1997".

(b) FUNDING FLEXIBILITY.—Subsection (d) of such section is further amended by adding at the end the following new paragraph:

"(4)(A) In the event of a significant unforeseen development related to the activities of the United Nations Special Commission on Iraq for which the Secretary of Defense determines that financial assistance under this section is required at a level which would result in the total amount of assistance provided under this section during the then-current fiscal year exceeding the amount specified with respect to that year under paragraph (3), the Secretary of Defense may provide such assistance notwithstanding the limitation with respect to that fiscal year under paragraph (3). Funds for such purpose may be derived from any funds available to the Department of Defense for that fiscal year.

"(B) Financial assistance may be provided under subparagraph (A) only after the Secretary of Defense provides notice in writing to the committees of Congress named in subsection (e)(2) of the significant unforeseen development and of the Secretary's intent to provide assistance in excess of the limitation for that fiscal year under paragraph (3). However, if the Secretary determines in any case that under the specific circumstances of that case advance notice is not possible, such notice shall be provided as soon as possible and not later than 15 days after the date on which the assistance is provided. Any notice under this subparagraph shall include a description of the development, the amount of assistance provided or to be provided, and the source of the funds for that assistance.".

SEC. 1302. LIMITATION ON RETIREMENT OR DISMANTLEMENT OF STRATEGIC NUCLEAR DELIVERY SYSTEMS.

(a) FUNDING LIMITATION.—Funds available to the Department of Defense may not be obligated or expended during fiscal year 1997 for retiring or dismantling, or for preparing to retire or dismantle, any of the following strategic nuclear delivery systems:

(1) B–52H bomber aircraft.

(2) Trident ballistic missile submarines.

(3) Minuteman III intercontinental ballistic missiles.

(4) Peacekeeper intercontinental ballistic missiles.

(b) WAIVER AUTHORITY.—If the START II Treaty enters into force during fiscal year 1996 or fiscal year 1997, the Secretary of Defense may waive the application of the limitation under paragraphs (2), (3), and (4) of subsection (a) to Trident ballistic missile submarines, Minuteman III intercontinental ballistic missiles, and Peacekeeper intercontinental ballistic missiles, respectively, to the extent that the Secretary determines necessary in order to implement the treaty.

(c) FUNDING LIMITATION ON EARLY DEACTIVATION.—(1) If the limitation under paragraphs (2), (3), and (4) of subsection (a) ceases to apply by reason of a waiver under subsection (b), funds available to the Department of Defense may nevertheless not be obligated or expended during fiscal year 1997 to implement any agreement or understanding to undertake substantial early deactivation of a strategic nuclear delivery system specified in subsection (b) until 30 days after the date on which the President submits to Congress a report concerning such actions. President. Reports.

(2) For purposes of this subsection, a substantial early deactivation is an action during fiscal year 1997 to deactivate a substantial number of strategic nuclear delivery systems specified in subsection (b) by—

(A) removing nuclear warheads from those systems; or

(B) taking other steps to remove those systems from combat status.

(3) A report under this subsection shall include the following:

(A) The text of any understanding or agreement between the United States and the Russian Federation concerning substantial early deactivation of strategic nuclear delivery systems under the START II Treaty.

(B) The plan of the Department of Defense for implementing the agreement.

(C) An assessment of the Secretary of Defense of the adequacy of the provisions contained in the agreement for monitoring and verifying compliance of Russia with the terms of the agreement.

(D) A determination by the President as to whether the deactivations to occur under the agreement will be carried out in a symmetrical, reciprocal, or equivalent manner.

(E) An assessment by the President of the effect of the proposed early deactivation on the stability of the strategic balance and relative strategic nuclear capabilities of the United States and the Russian Federation at various stages during deactivation and upon completion.

(d) START II TREATY DEFINED.—For purposes of this section, the term "START II Treaty" means the Treaty Between the United States of America and the Russian Federation on Further Reduction and Limitation of Strategic Offensive Arms, signed at Moscow on January 3, 1993, including the following protocols and memorandum of understanding, all such documents being integral parts of and collectively referred to as the "START II Treaty" (contained in Treaty Document 103–1):

(1) The Protocol on Procedures Governing Elimination of Heavy ICBMs and on Procedures Governing Conversion of Silo Launchers of Heavy ICBMs Relating to the Treaty Between the United States of America and the Russian Federation on

Further Reduction and Limitation of Strategic Offensive Arms (also known as the "Elimination and Conversion Protocol").

(2) The Protocol on Exhibitions and Inspections of Heavy Bombers Relating to the Treaty Between the United States and the Russian Federation on Further Reduction and Limitation of Strategic Offensive Arms (also known as the "Exhibitions and Inspections Protocol").

(3) The Memorandum of Understanding on Warhead Attribution and Heavy Bomber Data Relating to the Treaty Between the United States of America and the Russian Federation on Further Reduction and Limitation of Strategic Offensive Arms (also known as the "Memorandum on Attribution").

(e) RETENTION OF B–52H AIRCRAFT ON ACTIVE STATUS.—(1) The Secretary of the Air Force shall maintain in active status (including the performance of standard maintenance and upgrades) the current fleet of B–52H bomber aircraft.

Effective Date.

(2) For purposes of carrying out upgrades of B–52H bomber aircraft during fiscal year 1997, the Secretary shall treat the entire current fleet of such aircraft as aircraft expected to be maintained in active status during the six-year period beginning on October 1, 1996.

SEC. 1303. STRENGTHENING CERTAIN SANCTIONS AGAINST NUCLEAR PROLIFERATION ACTIVITIES.

(a) SANCTIONS.—Section 2(b)(4) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(4)) is amended to read as follows:

Reports.

"(4)(A) If the Secretary of State determines that—

"(i) any country that has agreed to International Atomic Energy Agency nuclear safeguards materially violates, abrogates, or terminates, after October 26, 1977, such safeguards;

"(ii) any country that has entered into an agreement for cooperation concerning the civil use of nuclear energy with the United States materially violates, abrogates, or terminates, after October 26, 1977, any guarantee or other undertaking to the United States made in such agreement;

"(iii) any country that is not a nuclear-weapon state detonates, after October 26, 1977, a nuclear explosive device;

"(iv) any country willfully aids or abets, after June 29, 1994, any non-nuclear-weapon state to acquire any such nuclear explosive device or to acquire unsafeguarded special nuclear material; or

"(v) any person knowingly aids or abets, after the date of enactment of the National Defense Authorization Act for Fiscal Year 1997, any non-nuclear-weapon state to acquire any such nuclear explosive device or to acquire unsafeguarded special nuclear material,

then the Secretary of State shall submit a report to the appropriate committees of the Congress and to the Board of Directors of the Bank stating such determination and identifying each country or person the Secretary determines has so acted.

"(B)(i) If the Secretary of State makes a determination under subparagraph (A)(v) with respect to a foreign person, the Congress urges the Secretary to initiate consultations immediately with the government with primary jurisdiction over

that person with respect to the imposition of the prohibition contained in subparagraph (C).

"(ii) In order that consultations with that government may be pursued, the Board of Directors of the Bank shall delay imposition of the prohibition contained in subparagraph (C) for up to 90 days if the Secretary of State requests the Board to make such delay. Following these consultations, the prohibition contained in subparagraph (C) shall apply immediately unless the Secretary determines and certifies to the Congress that that government has taken specific and effective actions, including appropriate penalties, to terminate the involvement of the foreign person in the activities described in subparagraph (A)(v). The Board of Directors of the Bank shall delay the imposition of the prohibition contained in subparagraph (C) for up to an additional 90 days if the Secretary requests the Board to make such additional delay and if the Secretary determines and certifies to the Congress that that government is in the process of taking the actions described in the preceding sentence.

"(iii) Not later than 90 days after making a determination under subparagraph (A)(v), the Secretary of State shall submit to the appropriate committees of the Congress a report on the status of consultations with the appropriate government under this subparagraph, and the basis for any determination under clause (ii) that such government has taken specific corrective actions. Reports.

"(C) The Board of Directors of the Bank shall not give approval to guarantee, insure, or extend credit, or participate in the extension of credit in support of United States exports to any country, or to or by any person, identified in the report described in subparagraph (A).

"(D) The prohibition in subparagraph (C) shall not apply to approvals to guarantee, insure, or extend credit, or participate in the extension of credit in support of United States exports to a country with respect to which a determination is made under clause (i), (ii), (iii), or (iv) of subparagraph (A) regarding any specific event described in such clause if the President determines and certifies in writing to the Congress not less than 45 days prior to the date of the first approval following the determination that it is in the national interest for the Bank to give such approvals.

"(E) The prohibition in subparagraph (C) shall not apply to approvals to guarantee, insure, or extend credit, or participate in the extension of credit in support of United States exports to or by a person with respect to whom a determination is made under clause (v) of subparagraph (A) regarding any specific event described in such clause if—

"(i) the Secretary of State determines and certifies to the Congress that the appropriate government has taken the corrective actions described in subparagraph (B)(ii); or

"(ii) the President determines and certifies in writing to the Congress not less than 45 days prior to the date of the first approval following the determination that—

"(I) reliable information indicates that—

"(aa) such person has ceased to aid or abet any non-nuclear-weapon state to acquire any

nuclear explosive device or to acquire unsafeguarded special nuclear material; and

"(bb) steps have been taken to ensure that the activities described in item (aa) will not resume; or

"(II) the prohibition would have a serious adverse effect on vital United States interests.

"(F) For purposes of this paragraph:

"(i) The term 'country' has the meaning given to 'foreign state' in section 1603(a) of title 28, United States Code.

"(ii) The term 'knowingly' is used within the meaning of the term 'knowing' in section 104(h)(3) of the Foreign Corrupt Practices Act (15 U.S.C. 78dd–2(h)(3)).

"(iii) The term 'person' means a natural person as well as a corporation, business association, partnership, society, trust, any other nongovernmental entity, organization, or group, and any governmental entity operating as a business enterprise, and any successor of any such entity.

"(iv) The term 'nuclear-weapon state' has the meaning given the term in Article IX(3) of the Treaty on the Non-Proliferation of Nuclear Weapons, signed at Washington, London, and Moscow on July 1, 1968.

"(v) The term 'non-nuclear-weapon state' has the meaning given the term in section 830(5) of the Nuclear Proliferation Prevention Act of 1994 (Public Law 103–236; 108 Stat. 521).

"(vi) The term 'nuclear explosive device' has the meaning given the term in section 830(4) of the Nuclear Proliferation Prevention Act of 1994 (Public Law 103–236; 108 Stat. 521).

"(vii) The term 'unsafeguarded special nuclear material' has the meaning given the term in section 830(8) of the Nuclear Proliferation Prevention Act of 1994.".

President.

(b) RECOMMENDATIONS TO MAKE NONPROLIFERATION LAWS MORE EFFECTIVE.—Not later than 180 days after the date of the enactment of this Act, the President shall submit to the Congress his recommendations on ways to make the laws of the United States more effective in controlling and preventing the proliferation of weapons of mass destruction and missiles. The report shall identify all sources of Government funds used for such nonproliferation activities.

SEC. 1304. AUTHORITY TO PAY CERTAIN EXPENSES RELATING TO HUMANITARIAN AND CIVIC ASSISTANCE FOR CLEARANCE OF LANDMINES.

(a) AUTHORITY TO PAY EXPENSES.—Section 401(c) of title 10, United States Code, is amended—

(1) by redesignating paragraph (2) as paragraph (4); and

(2) by inserting after paragraph (1) the following new paragraphs:

"(2) Expenses covered by paragraph (1) include the following expenses incurred in providing assistance described in subsection (e)(5):

"(A) Travel, transportation, and subsistence expenses of Department of Defense personnel providing such assistance.

"(B) The cost of any equipment, services, or supplies acquired for the purpose of carrying out or supporting the

activities described in subsection (e)(5), including any nonlethal, individual, or small-team landmine clearing equipment or supplies that are to be transferred or otherwise furnished to a foreign country in furtherance of the provision of assistance under this section.

"(3) The cost of equipment, services, and supplies provided in any fiscal year under paragraph (2)(B) may not exceed $5,000,000.".

(b) COORDINATION WITH OTHER LAWS.—Section 401(b) of such title is amended—

(1) by inserting "(1)" after "(b)"; and

(2) by adding at the end the following:

"(2) Any authority provided under any other provision of law to provide assistance that is described in subsection (e)(5) to a foreign country shall be carried out in accordance with, and subject to, the limitations prescribed in this section. Any such provision may be construed as superseding a provision of this section only if, and to the extent that, such provision specifically refers to this section and specifically identifies the provision of this section that is to be considered superseded or otherwise inapplicable under such provision.".

SEC. 1305. REPORT ON MILITARY CAPABILITIES OF PEOPLE'S REPUBLIC OF CHINA.

(a) REPORT.—The Secretary of Defense shall prepare a report, in both classified and unclassified form, on the future pattern of military modernization of the People's Republic of China. The report shall address both the probable course of military-technological development in the People's Liberation Army and the development of Chinese military strategy and operational concepts.

(b) MATTERS TO BE INCLUDED.—The report shall include analyses and forecasts of the following:

(1) Trends that would lead the People's Republic of China toward advanced intelligence, surveillance, and reconnaissance capabilities, either through a development program or by gaining access to commercial or third-party systems with militarily significant capabilities.

(2) Efforts by the People's Republic of China to develop highly accurate and low-observable ballistic and cruise missiles, and the investments in infrastructure that would allow for production of such weapons in militarily significant quantities, particularly in numbers sufficient to conduct attacks capable of overwhelming projected defense capabilities in the region.

(3) Development by the People's Republic of China of enhanced command and control networks, particularly those capable of battle management that would include long-range precision strikes.

(4) Programs of the People's Republic of China involving unmanned aerial vehicles, particularly those with extended ranges or loitering times.

(5) Exploitation by the People's Republic of China of the Global Positioning System or other similar systems, including commercial land surveillance satellites, for significant military purposes, including particularly for increasing the accuracy of weapons or the situational awareness of operating forces.

(6) Development by the People's Republic of China of capabilities for denial of sea control, such as advanced sea mines or improved submarine capabilities.

(7) Continued development by the People's Republic of China of follow-on forces, particularly those capable of rapid air or amphibious assault.

(c) SUBMISSION OF REPORT.—The report shall be submitted to Congress not later than February 1, 1997.

SEC. 1306. PRESIDENTIAL REPORT REGARDING WEAPONS PROLIFERATION AND POLICIES OF THE PEOPLE'S REPUBLIC OF CHINA.

(a) FINDINGS.—The Congress finds that—

(1) the People's Republic of China acceded to the Treaty on the Non-Proliferation of Nuclear Weapons (hereafter in this section referred to as the "NPT") on March 9, 1992;

(2) the People's Republic of China is not a member of the Nuclear Suppliers Group and remains the only major nuclear supplier that continues to transfer nuclear technology, equipment, and materials to countries that have not agreed to the application of safeguards of the International Atomic Energy Agency (hereafter in this section referred to as the "IAEA") over all of their nuclear materials;

(3) on June 30, 1995, the United States and 29 other members of the Nuclear Suppliers Group notified the Director General of the IAEA that the Government of each respective country has decided that the controls of that Group should not be defeated by the transfer of component parts;

(4) a state-owned entity in the People's Republic of China, the China Nuclear Energy Industry Corporation, has knowingly transferred specially designed ring magnets to an unsafeguarded uranium enrichment facility in the Islamic Republic of Pakistan;

(5) ring magnets are identified on the Trigger List of the Nuclear Suppliers Group as a component of magnetic suspension bearings which are to be exported only to countries that have safeguards of the IAEA over all of their nuclear materials;

(6) these ring magnets could contribute significantly to the ability of the Islamic Republic of Pakistan to produce additional unsafeguarded enriched uranium, a nuclear explosive material;

(7) the Government of the People's Republic of China has transferred nuclear equipment and technology to the Islamic Republic of Iran, despite repeated claims by the Government of the United States that the Islamic Republic of Iran is engaged in clandestine efforts to acquire a nuclear explosive device;

(8) representatives of the Government of the People's Republic of China have repeatedly assured the Government of the United States that the People's Republic of China would abide by the guidelines of the Missile Technology Control Regime (hereafter in this section referred to as the "MTCR");

(9) the Government of China has transferred M–11 missiles to the Islamic Republic of Pakistan; and

(10) the M–11 missile conforms to the definition of a nuclear-capable missile under the MTCR.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that—

(1) the assistance that the People's Republic of China has provided to the Islamic Republic of Iran and to the Islamic Republic of Pakistan could contribute to the ability of such countries to manufacture nuclear weapons;

(2) the recent transfer by the People's Republic of China of ring magnets to an unsafeguarded uranium enrichment facility in the Islamic Republic of Pakistan conflicts with China's obligations under Articles I and III of the NPT, as well as the official nonproliferation policies and assurances by the People's Republic of China and the Islamic Republic of Pakistan with respect to the nonproliferation of nuclear weapons and nuclear-capable missiles;

(3) the transfer of M–11 missiles from the People's Republic of China to the Islamic Republic of Pakistan is inconsistent with longstanding United States Government interpretations of assurances from the Government of the People's Republic of China with respect to that country's intent to abide by the guidelines of the MTCR;

(4) violations by the People's Republic of China of the standards and objectives of the MTCR and global nuclear nonproliferation regimes have jeopardized the credibility of the MTCR and such regimes;

(5) the MTCR and global nuclear nonproliferation regimes require collective international action to impose costs against and to withhold benefits from any country, including the People's Republic of China, that engages in activities that are contrary to the objectives of those regimes;

(6) the President should explore with the governments of other countries new opportunities for collective action in response to activities of any country, including the People's Republic of China, that aid or abet the global proliferation of weapons of mass destruction or their means of delivery; and

(7) the President should communicate to the Government of the People's Republic of China the sense of the Congress that the stability and growth of future relations between the people, the economies, and the Governments of the United States and the People's Republic of China will significantly depend upon substantive evidence of cooperation by the Government of the People's Republic of China in efforts to halt the global proliferation of weapons of mass destruction and their means of delivery.

(c) REPORT.—Not later than 60 days after the date of the enactment of this Act, the President shall submit to the Congress a report, in both classified and unclassified form, concerning the transfer from the People's Republic of China to the Islamic Republic of Pakistan of technology, equipment, or materials important to the production of nuclear weapons and their means of delivery. The President shall include in the report the following:

(1) The specific justification of the Secretary of State for determining that there was not a sufficient basis for imposing sanctions under section 2(b)(4) of the Export-Import Bank Act of 1945, as amended by section 825 of the Nuclear Proliferation Prevention Act of 1994, by reason of the transfer of ring magnets and other technology, equipment, or materials from the People's Republic of China to the Islamic Republic of Pakistan.

(2) What commitment the United States Government is seeking from the People's Republic of China to ensure that the People's Republic of China establishes a fully effective export control system that will prevent transfers (such as the Pakistan sale) from taking place in the future.

(3) A description of the pledges, assurances, and other commitments made by representatives of the Governments of the People's Republic of China and the Islamic Republic of Pakistan to the Government of the United States since January 1, 1991, with respect to the nonproliferation of nuclear weapons or nuclear-capable missiles, and an assessment of the record of compliance with such undertakings.

(4) Whether, in light of the recent assurances provided by the People's Republic of China, the President intends to make the certification and submit the report required by section 902(a)(6)(B) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (22 U.S.C. 2151 note), and make the certification and submit the report required by Public Law 99–183, relating to the approval and implementation of the agreement for nuclear cooperation between the United States and the People's Republic of China, and, if not, why not.

(5) Whether the Secretary of State considers the recent assurances and clarifications provided by the People's Republic of China to have provided sufficient information to allow the United States to determine that the People's Republic of China is not in violation of paragraph (2) of section 129 of the Atomic Energy Act of 1954, as required by Public Law 99–183.

(6) If the President is unable or unwilling to make the certifications and reports referred to in paragraph (4), a description of what the President considers to be the significance of the clarifications and assurances provided by the People's Republic of China in the course of the recent discussions regarding the transfer by the People's Republic of China of nuclear-weapon-related equipment to the Islamic Republic of Pakistan.

(7) A description of the laws, regulations, and procedures currently used by the People's Republic of China to regulate exports of nuclear technology, equipment, or materials, including dual-use goods, and an assessment of the effectiveness of such arrangements.

(8) A description of the current policies and practices of other countries in response to the transfer of nuclear and missile technology by the People's Republic of China to the Islamic Republic of Pakistan and the Islamic Republic of Iran.

SEC. 1307. UNITED STATES-PEOPLE'S REPUBLIC OF CHINA JOINT DEFENSE CONVERSION COMMISSION.

None of the funds appropriated or otherwise available for the Department of Defense for fiscal year 1997 or any prior fiscal year may be obligated or expended for any activity associated with the United States-People's Republic of China Joint Defense Conversion Commission until 15 days after the date on which the first semiannual report required by section 1343 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 487) is received by Congress.

SEC. 1308. SENSE OF CONGRESS CONCERNING EXPORT CONTROLS.

(a) FINDINGS.—The Congress makes the following findings:

(1) Export controls are a part of a comprehensive response to national security threats. The export of a United States commodity or technology should be restricted in cases in which the export of the commodity or technology would increase the threat to the national security of the United States or would be contrary to the nonproliferation goals or foreign policy interests of the United States.

(2) The export of certain commodities and technology may adversely affect the national security and foreign policy of the United States by making a significant contribution to the military potential of countries or by enhancing the capability of countries to design, develop, test, produce, stockpile, or use weapons of mass destruction and missile delivery systems, and other significant military capabilities. Therefore, the administration of export controls should emphasize the control of these exports.

(3) The acquisition of sensitive commodities and technologies by those countries and end users whose actions or policies run counter to United States national security or foreign policy interests may enhance the military capabilities of those countries, particularly their ability to design, develop, test, produce, stockpile, use, and deliver nuclear, chemical, and biological weapons and missile delivery systems, and other significant military capabilities. This enhancement threatens the security of the United States and its allies. The availability to countries and end users of items that contribute to military capabilities or the proliferation of weapons of mass destruction is a fundamental concern of the United States and should be eliminated through deterrence, negotiations, and other appropriate means whenever possible.

(4) The national security of the United States depends not only on wise foreign policies and a strong defense, but also a vibrant national economy. To be truly effective, export controls should be applied uniformly by all suppliers.

(5) On November 8, 1995, the President continued the national emergency declared in Executive Order No. 12938 of November 14, 1994, "with respect to the unusual and extraordinary threat to the national security, foreign policy, and economy of the United States posed by the proliferation of nuclear, biological, and chemical weapons and the means of delivering such weapons".

(6) A successor regime to COCOM (the Coordinating Committee for Multilateral Export Controls) has not been established. Currently, each nation is determining independently which dual-use military items, if any, will be controlled for export.

(7) The United States should play a leading role in promoting transparency and responsibility with regard to the transfers of sensitive dual-use goods and technologies.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that—

(1) establishing an international export control regime, empowered to control exports of dual-use technology, is critically important and should be a top priority for the United States; and

(2) the United States should strongly encourage its allies and other friendly countries to—

(A) adopt export controls that are the same or similar to the export controls imposed by the United States on items on the Commerce Control List;

(B) strengthen enforcement of their export controls; and

(C) explore the use of unilateral export controls where the possibility exists that an export could contribute to the enhancement of military capabilities or proliferation described in paragraphs (3) and (5) of subsection (a).

SEC. 1309. COUNTERPROLIFERATION PROGRAM REVIEW COMMITTEE.

(a) COMPOSITION OF THE COMMITTEE.—Subsection (a) of section 1605 of the National Defense Authorization Act for Fiscal Year 1994 (22 U.S.C. 2751 note) is amended by adding at the end the following new paragraph:

"(5) The Assistant to the Secretary of Defense for Nuclear and Chemical and Biological Defense Programs shall serve as executive secretary to the committee.".

(b) ADDITIONAL PURPOSE OF THE COMMITTEE.—Subsection (b)(1)(A) of such section is amended by inserting "and efforts, including efforts to stem the proliferation of weapons of mass destruction and to negate paramilitary and terrorist threats involving weapons of mass destruction" after "counterproliferation policy".

(c) FOUR-YEAR EXTENSION OF THE COMMITTEE.—Subsection (f) of such section is amended by striking out "September 30, 1996" and inserting in lieu thereof "September 30, 2000".

(d) REPORTS ON COUNTERPROLIFERATION ACTIVITIES AND PROGRAMS.—Section 1503 of the National Defense Authorization Act for Fiscal Year 1995 (22 U.S.C. 2751 note) is amended—

(1) in subsection (a)—

(A) by striking out "REPORT REQUIRED.—(1) Not later than May 1, 1995 and May 1, 1996, the Secretary" and inserting in lieu thereof "ANNUAL REPORT REQUIRED.—Not later than May 1 of each year, the Secretary"; and

(B) by striking out paragraph (2); and

(2) by adding at the end the following new subsections:

"(d) REVIEW COMMITTEE CHARTER DEFINED.—For purposes of this section, the term 'Review Committee charter' means section 1605 of the National Defense Authorization Act for Fiscal Year 1994 (22 U.S.C. 2751 note).

"(e) TERMINATION OF REQUIREMENT.—The final report required under subsection (a) is the report for the year following the year in which the Counterproliferation Program Review Committee established under the Review Committee Charter ceases to exist.".

SEC. 1310. SENSE OF CONGRESS CONCERNING ASSISTING OTHER COUNTRIES TO IMPROVE SECURITY OF FISSILE MATERIAL.

(a) FINDINGS.—Congress finds the following:

(1) With the end of the Cold War, the world is faced with the need to manage the dismantling of vast numbers of nuclear weapons and the disposition of the fissile materials that they contain.

(2) If recently agreed reductions in nuclear weapons are fully implemented, tens of thousands of nuclear weapons, containing a hundred tons or more of plutonium and many hundreds of tons of highly enriched uranium, will no longer be needed for military purposes.

(3) Plutonium and highly enriched uranium are the essential ingredients of nuclear weapons.

(4) Limits on access to plutonium and highly enriched uranium are the primary technical barrier to acquiring nuclear weapons capability in the world today.

(5) Several kilograms of plutonium, or several times that amount of highly enriched uranium, are sufficient to make a nuclear weapon.

(6) Plutonium and highly enriched uranium will continue to pose a potential threat for as long as they exist.

(7) Action is required to secure and account for plutonium and highly enriched uranium.

(8) It is in the national interest of the United States to—

(A) minimize the risk that fissile materials could be obtained by unauthorized parties;

(B) minimize the risk that fissile materials could be reintroduced into the arsenals from which they came, halting or reversing the arms reduction process; and

(C) strengthen the national and international control mechanisms and incentives designed to ensure continued arms reductions and prevent the spread of nuclear weapons.

(b) SENSE OF CONGRESS.—In light of the findings contained in subsection (a), it is the sense of Congress that the United States has a national security interest in assisting other countries to improve the security of their stocks of fissile material.

SEC. 1311. REVIEW BY DIRECTOR OF CENTRAL INTELLIGENCE OF NATIONAL INTELLIGENCE ESTIMATE 95–19.

(a) REVIEW.—The Director of Central Intelligence shall conduct a review of the underlying assumptions and conclusions of the National Intelligence Estimate designated as NIE 95–19 and entitled "Emerging Missile Threats to North America During the Next 15 Years", released by the Director in November 1995.

(b) METHODOLOGY FOR REVIEW.—The Director shall carry out the review under subsection (a) through a panel of independent, nongovernmental individuals with appropriate expertise and experience. Such a panel shall be convened by the Director not later than 45 days after the date of the enactment of this Act.

(c) REPORT.—The Director shall submit the findings resulting from the review under subsection (a), together with any comments of the Director on the review and the findings, to Congress not later than three months after the appointment of the Commission under section 1321.

Subtitle B—Commission To Assess the Ballistic Missile Threat to the United States

SEC. 1321. ESTABLISHMENT OF COMMISSION.

(a) ESTABLISHMENT.—There is hereby established a commission to be known as the "Commission To Assess the Ballistic Missile Threat to the United States" (hereafter in this subtitle referred to as the "Commission").

(b) COMPOSITION.—The Commission shall be composed of nine members appointed by the Director of Central Intelligence. In select-

ing individuals for appointment to the Commission, the Director should consult with—

(1) the Speaker of the House of Representatives concerning the appointment of three of the members of the Commission;

(2) the majority leader of the Senate concerning the appointment of three of the members of the Commission; and

(3) the minority leader of the House of Representatives and the minority leader of the Senate concerning the appointment of three of the members of the Commission.

(c) QUALIFICATIONS.—Members of the Commission shall be appointed from among private United States citizens with knowledge and expertise in the political and military aspects of proliferation of ballistic missiles and the ballistic missile threat to the United States.

(d) CHAIRMAN.—The Speaker of the House of Representatives, after consultation with the majority leader of the Senate and the minority leaders of the House of Representatives and the Senate, shall designate one of the members of the Commission to serve as chairman of the Commission.

(e) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall be filled in the same manner as the original appointment.

(f) SECURITY CLEARANCES.—All members of the Commission shall hold appropriate security clearances.

(g) INITIAL ORGANIZATION REQUIREMENTS.—(1) All appointments to the Commission shall be made not later than 45 days after the date of the enactment of this Act.

(2) The Commission shall convene its first meeting not later than 30 days after the date as of which all members of the Commission have been appointed, but not earlier than October 15, 1996.

SEC. 1322. DUTIES OF COMMISSION.

(a) REVIEW OF BALLISTIC MISSILE THREAT.—The Commission shall assess the nature and magnitude of the existing and emerging ballistic missile threat to the United States.

(b) COOPERATION FROM GOVERNMENT OFFICIALS.—In carrying out its duties, the Commission should receive the full and timely cooperation of the Secretary of Defense, the Director of Central Intelligence, and any other United States Government official responsible for providing the Commission with analyses, briefings, and other information necessary for the fulfillment of its responsibilities.

SEC. 1323. REPORT.

The Commission shall, not later than six months after the date of its first meeting, submit to the Congress a report on its findings and conclusions.

SEC. 1324. POWERS.

(a) HEARINGS.—The Commission or, at its direction, any panel or member of the Commission, may, for the purpose of carrying out the provisions of this subtitle, hold hearings, sit and act at times and places, take testimony, receive evidence, and administer oaths to the extent that the Commission or any panel or member considers advisable.

(b) INFORMATION.—The Commission may secure directly from the Department of Defense, the Central Intelligence Agency, and

any other Federal department or agency information that the Commission considers necessary to enable the Commission to carry out its responsibilities under this subtitle.

SEC. 1325. COMMISSION PROCEDURES.

(a) MEETINGS.—The Commission shall meet at the call of the Chairman.

(b) QUORUM.—(1) Five members of the Commission shall constitute a quorum other than for the purpose of holding hearings.

(2) The Commission shall act by resolution agreed to by a majority of the members of the Commission.

(c) COMMISSION.—The Commission may establish panels composed of less than full membership of the Commission for the purpose of carrying out the Commission's duties. The actions of each such panel shall be subject to the review and control of the Commission. Any findings and determinations made by such a panel shall not be considered the findings and determinations of the Commission unless approved by the Commission.

(d) AUTHORITY OF INDIVIDUALS TO ACT FOR COMMISSION.—Any member or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take under this subtitle.

SEC. 1326. PERSONNEL MATTERS.

(a) PAY OF MEMBERS.—Members of the Commission shall serve without pay by reason of their work on the Commission.

(b) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) STAFF.—(1) The chairman of the Commission may, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, appoint a staff director and such additional personnel as may be necessary to enable the Commission to perform its duties. The appointment of a staff director shall be subject to the approval of the Commission.

(2) The chairman of the Commission may fix the pay of the staff director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay fixed under this paragraph for the staff director may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title and the rate of pay for other personnel may not exceed the maximum rate payable for grade GS–15 of the General Schedule.

(d) DETAIL OF GOVERNMENT EMPLOYEES.—Upon request of the chairman of the Commission, the head of any Federal department or agency may detail, on a nonreimbursable basis, any personnel of that department or agency to the Commission to assist it in carrying out its duties.

(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The chairman of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay payable for level V of the Executive Schedule under section 5316 of such title.

SEC. 1327. MISCELLANEOUS ADMINISTRATIVE PROVISIONS.

(a) POSTAL AND PRINTING SERVICES.—The Commission may use the United States mails and obtain printing and binding services in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(b) MISCELLANEOUS ADMINISTRATIVE AND SUPPORT SERVICES.—The Director of Central Intelligence shall furnish the Commission, on a reimbursable basis, any administrative and support services requested by the Commission.

SEC. 1328. FUNDING.

Funds for activities of the Commission shall be provided from amounts appropriated for the Department of Defense for operation and maintenance for Defense-wide activities for fiscal year 1997. Upon receipt of a written certification from the Chairman of the Commission specifying the funds required for the activities of the Commission, the Secretary of Defense shall promptly disburse to the Commission, from such amounts, the funds required by the Commission as stated in such certification.

SEC. 1329. TERMINATION OF THE COMMISSION.

The Commission shall terminate 60 days after the date of the submission of its report under section 1323.

Defense Against Weapons of Mass Destruction Act of 1996.

TITLE XIV—DEFENSE AGAINST WEAPONS OF MASS DESTRUCTION

Sec. 1401. Short title.
Sec. 1402. Findings.
Sec. 1403. Definitions.

Subtitle A—Domestic Preparedness

Sec. 1411. Response to threats of terrorist use of weapons of mass destruction.
Sec. 1412. Emergency response assistance program.
Sec. 1413. Nuclear, chemical, and biological emergency response.
Sec. 1414. Chemical-biological emergency response team.
Sec. 1415. Testing of preparedness for emergencies involving nuclear, radiological, chemical, and biological weapons.
Sec. 1416. Military assistance to civilian law enforcement officials in emergency situations involving biological or chemical weapons.
Sec. 1417. Rapid response information system.

Subtitle B—Interdiction of Weapons of Mass Destruction and Related Materials

Sec. 1421. Procurement of detection equipment United States border security.
Sec. 1422. Extension of coverage of International Emergency Economic Powers Act.
Sec. 1423. Sense of Congress concerning criminal penalties.
Sec. 1424. International border security.

Subtitle C—Control and Disposition of Weapons of Mass Destruction and Related Materials Threatening the United States

Sec. 1431. Coverage of weapons-usable fissile materials in Cooperative Threat Reduction programs on elimination or transportation of nuclear weapons.
Sec. 1432. Elimination of plutonium production.

Subtitle D—Coordination of Policy and Countermeasures Against Proliferation of Weapons of Mass Destruction

Sec. 1441. National Coordinator on Nonproliferation.
Sec. 1442. National Security Council Committee on Nonproliferation.
Sec. 1443. Comprehensive preparedness program.
Sec. 1444. Termination.

Subtitle E—Miscellaneous

Sec. 1451. Sense of Congress concerning contracting policy.
Sec. 1452. Transfers of allocations among Cooperative Threat Reduction programs.
Sec. 1453. Sense of Congress concerning assistance to states of former Soviet Union.
Sec. 1454. Purchase of low-enriched uranium derived from Russian highly enriched uranium.
Sec. 1455. Sense of Congress concerning purchase, packaging, and transportation of fissile materials at risk of theft.

SEC. 1401. SHORT TITLE.

50 USC 2301 note.

This title may be cited as the "Defense Against Weapons of Mass Destruction Act of 1996".

SEC. 1402. FINDINGS.

50 USC 2301 note.

Congress makes the following findings:

(1) Weapons of mass destruction and related materials and technologies are increasingly available from worldwide sources. Technical information relating to such weapons is readily available on the Internet, and raw materials for chemical, biological, and radiological weapons are widely available for legitimate commercial purposes.

(2) The former Soviet Union produced and maintained a vast array of nuclear, biological, and chemical weapons of mass destruction.

(3) Many of the states of the former Soviet Union retain the facilities, materials, and technologies capable of producing additional quantities of weapons of mass destruction.

(4) The disintegration of the former Soviet Union was accompanied by disruptions of command and control systems, deficiencies in accountability for weapons, weapons-related materials and technologies, economic hardships, and significant gaps in border control among the states of the former Soviet Union. The problems of organized crime and corruption in the states of the former Soviet Union increase the potential for proliferation of nuclear, radiological, biological, and chemical weapons and related materials.

(5) The conditions described in paragraph (4) have substantially increased the ability of potentially hostile nations, terrorist groups, and individuals to acquire weapons of mass destruction and related materials and technologies from within the states of the former Soviet Union and from unemployed scientists who worked on those programs.

(6) As a result of such conditions, the capability of potentially hostile nations and terrorist groups to acquire nuclear, radiological, biological, and chemical weapons is greater than at any time in history.

(7) The President has identified North Korea, Iraq, Iran, and Libya as hostile states which already possess some weapons of mass destruction and are developing others.

(8) The acquisition or the development and use of weapons of mass destruction is well within the capability of many extremist and terrorist movements, acting independently or as proxies for foreign states.

(9) Foreign states can transfer weapons to or otherwise aid extremist and terrorist movements indirectly and with plausible deniability.

(10) Terrorist groups have already conducted chemical attacks against civilian targets in the United States and Japan, and a radiological attack in Russia.

(11) The potential for the national security of the United States to be threatened by nuclear, radiological, chemical, or biological terrorism must be taken seriously.

(12) There is a significant and growing threat of attack by weapons of mass destruction on targets that are not military targets in the usual sense of the term.

(13) Concomitantly, the threat posed to the citizens of the United States by nuclear, radiological, biological, and chemical weapons delivered by unconventional means is significant and growing.

(14) Mass terror may result from terrorist incidents involving nuclear, radiological, biological, or chemical materials.

(15) Facilities required for production of radiological, biological, and chemical weapons are much smaller and harder to detect than nuclear weapons facilities, and biological and chemical weapons can be deployed by alternative delivery means other than long-range ballistic missiles.

(16) Covert or unconventional means of delivery of nuclear, radiological, biological, and chemical weapons include cargo ships, passenger aircraft, commercial and private vehicles and vessels, and commercial cargo shipments routed through multiple destinations.

(17) Traditional arms control efforts assume large state efforts with detectable manufacturing programs and weapons production programs, but are ineffective in monitoring and controlling smaller, though potentially more dangerous, unconventional proliferation efforts.

(18) Conventional counterproliferation efforts would do little to detect or prevent the rapid development of a capability to suddenly manufacture several hundred chemical or biological weapons with nothing but commercial supplies and equipment.

(19) The United States lacks adequate planning and countermeasures to address the threat of nuclear, radiological, biological, and chemical terrorism.

(20) The Department of Energy has established a Nuclear Emergency Response Team which is available in case of nuclear or radiological emergencies, but no comparable units exist to deal with emergencies involving biological or chemical weapons or related materials.

(21) State and local emergency response personnel are not adequately prepared or trained for incidents involving nuclear, radiological, biological, or chemical materials.

(22) Exercises of the Federal, State, and local response to nuclear, radiological, biological, or chemical terrorism have revealed serious deficiencies in preparedness and severe problems of coordination.

(23) The development of, and allocation of responsibilities for, effective countermeasures to nuclear, radiological, biological, or chemical terrorism in the United States requires well-coordinated participation of many Federal agencies, and careful planning by the Federal Government and State and local governments.

(24) Training and exercises can significantly improve the preparedness of State and local emergency response personnel

for emergencies involving nuclear, radiological, biological, or chemical weapons or related materials.

(25) Sharing of the expertise and capabilities of the Department of Defense, which traditionally has provided assistance to Federal, State, and local officials in neutralizing, dismantling, and disposing of explosive ordnance, as well as radiological, biological, and chemical materials, can be a vital contribution to the development and deployment of countermeasures against nuclear, biological, and chemical weapons of mass destruction.

(26) The United States lacks effective policy coordination regarding the threat posed by the proliferation of weapons of mass destruction.

SEC. 1403. DEFINITIONS. 50 USC 2302.

In this title:

(1) The term "weapon of mass destruction" means any weapon or device that is intended, or has the capability, to cause death or serious bodily injury to a significant number of people through the release, dissemination, or impact of—

(A) toxic or poisonous chemicals or their precursors;

(B) a disease organism; or

(C) radiation or radioactivity.

(2) The term "independent states of the former Soviet Union" has the meaning given that term in section 3 of the FREEDOM Support Act (22 U.S.C. 5801).

(3) The term "highly enriched uranium" means uranium enriched to 20 percent or more in the isotope U–235.

Subtitle A—Domestic Preparedness

SEC. 1411. RESPONSE TO THREATS OF TERRORIST USE OF WEAPONS OF MASS DESTRUCTION. President. 50 USC 2311.

(a) ENHANCED RESPONSE CAPABILITY.—In light of the potential for terrorist use of weapons of mass destruction against the United States, the President shall take immediate action—

(1) to enhance the capability of the Federal Government to prevent and respond to terrorist incidents involving weapons of mass destruction; and

(2) to provide enhanced support to improve the capabilities of State and local emergency response agencies to prevent and respond to such incidents at both the national and the local level.

(b) REPORT REQUIRED.—Not later than January 31, 1997, the President shall transmit to Congress a report containing—

(1) an assessment of the capabilities of the Federal Government to prevent and respond to terrorist incidents involving weapons of mass destruction and to support State and local prevention and response efforts;

(2) requirements for improvements in those capabilities; and

(3) the measures that should be taken to achieve such improvements, including additional resources and legislative authorities that would be required.

50 USC 2312.

SEC. 1412. EMERGENCY RESPONSE ASSISTANCE PROGRAM.

(a) PROGRAM REQUIRED.—(1) The Secretary of Defense shall carry out a program to provide civilian personnel of Federal, State, and local agencies with training and expert advice regarding emergency responses to a use or threatened use of a weapon of mass destruction or related materials.

(2) The President may designate the head of an agency other than the Department of Defense to assume the responsibility for carrying out the program on or after October 1, 1999, and relieve the Secretary of Defense of that responsibility upon the assumption of the responsibility by the designated official.

(3) In this section, the official responsible for carrying out the program is referred to as the "lead official".

(b) COORDINATION.—In carrying out the program, the lead official shall coordinate with each of the following officials who is not serving as the lead official:

(1) The Director of the Federal Emergency Management Agency.

(2) The Secretary of Energy.

(3) The Secretary of Defense.

(4) The heads of any other Federal, State, and local government agencies that have an expertise or responsibilities relevant to emergency responses described in subsection (a)(1).

(c) ELIGIBLE PARTICIPANTS.—The civilian personnel eligible to receive assistance under the program are civilian personnel of Federal, State, and local agencies who have emergency preparedness responsibilities.

(d) INVOLVEMENT OF OTHER FEDERAL AGENCIES.—(1) The lead official may use personnel and capabilities of Federal agencies outside the agency of the lead official to provide training and expert advice under the program.

(2)(A) Personnel used under paragraph (1) shall be personnel who have special skills relevant to the particular assistance that the personnel are to provide.

(B) Capabilities used under paragraph (1) shall be capabilities that are especially relevant to the particular assistance for which the capabilities are used.

(3) If the lead official is not the Secretary of Defense, and requests assistance from the Department of Defense that, in the judgment of the Secretary of Defense would affect military readiness or adversely affect national security, the Secretary of Defense may appeal the request for Department of Defense assistance by the lead official to the President.

(e) AVAILABLE ASSISTANCE.—Assistance available under this program shall include the following:

(1) Training in the use, operation, and maintenance of equipment for—

(A) detecting a chemical or biological agent or nuclear radiation;

(B) monitoring the presence of such an agent or radiation;

(C) protecting emergency personnel and the public; and

(D) decontamination.

(2) Establishment of a designated telephonic link (commonly referred to as a "hot line") to a designated source of relevant data and expert advice for the use of State or local

officials responding to emergencies involving a weapon of mass destruction or related materials.

(3) Use of the National Guard and other reserve components for purposes authorized under this section that are specified by the lead official (with the concurrence of the Secretary of Defense if the Secretary is not the lead official).

(4) Loan of appropriate equipment.

(f) LIMITATIONS ON DEPARTMENT OF DEFENSE ASSISTANCE TO LAW ENFORCEMENT AGENCIES.—Assistance provided by the Department of Defense to law enforcement agencies under this section shall be provided under the authority of, and subject to the restrictions provided in, chapter 18 of title 10, United States Code.

(g) ADMINISTRATION OF DEPARTMENT OF DEFENSE ASSISTANCE.—The Secretary of Defense shall designate an official within the Department of Defense to serve as the executive agent of the Secretary for the coordination of the provision of Department of Defense assistance under this section.

(h) FUNDING.—(1) Of the total amount authorized to be appropriated under section 301, $35,000,000 is available for the program required under this section.

(2) Of the amount available for the program pursuant to paragraph (1), $10,500,000 is available for use by the Secretary of Defense to assist the Secretary of Health and Human Services in the establishment of metropolitan emergency medical response teams (commonly referred to as "Metropolitan Medical Strike Force Teams") to provide medical services that are necessary or potentially necessary by reason of a use or threatened use of a weapon of mass destruction.

(3) The amount available for the program under paragraph (1) is in addition to any other amounts authorized to be appropriated for the program under section 301.

SEC. 1413. NUCLEAR, CHEMICAL, AND BIOLOGICAL EMERGENCY RESPONSE. 50 USC 2313.

(a) DEPARTMENT OF DEFENSE.—The Secretary of Defense shall designate an official within the Department of Defense as the executive agent for—

(1) the coordination of Department of Defense assistance to Federal, State, and local officials in responding to threats involving biological or chemical weapons or related materials or technologies, including assistance in identifying, neutralizing, dismantling, and disposing of biological and chemical weapons and related materials and technologies; and

(2) the coordination of Department of Defense assistance to the Department of Energy in carrying out that department's responsibilities under subsection (b).

(b) DEPARTMENT OF ENERGY.—The Secretary of Energy shall designate an official within the Department of Energy as the executive agent for—

(1) the coordination of Department of Energy assistance to Federal, State, and local officials in responding to threats involving nuclear, chemical, and biological weapons or related materials or technologies, including assistance in identifying, neutralizing, dismantling, and disposing of nuclear weapons and related materials and technologies; and

(2) the coordination of Department of Energy assistance to the Department of Defense in carrying out that department's responsibilities under subsection (a).

(c) FUNDING.—Of the total amount authorized to be appropriated under section 301, $15,000,000 is available for providing assistance described in subsection (a).

50 USC 2314.

SEC. 1414. CHEMICAL-BIOLOGICAL EMERGENCY RESPONSE TEAM.

(a) DEPARTMENT OF DEFENSE RAPID RESPONSE TEAM.—The Secretary of Defense shall develop and maintain at least one domestic terrorism rapid response team composed of members of the Armed Forces and employees of the Department of Defense who are capable of aiding Federal, State, and local officials in the detection, neutralization, containment, dismantlement, and disposal of weapons of mass destruction containing chemical, biological, or related materials.

(b) ADDITION TO FEDERAL RESPONSE PLAN.—Not later than December 31, 1997, the Director of the Federal Emergency Management Agency shall develop and incorporate into existing Federal emergency response plans and programs prepared under section 611(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5196(b)) guidance on the use and deployment of the rapid response teams established under this section to respond to emergencies involving weapons of mass destruction. The Director shall carry out this subsection in consultation with the Secretary of Defense and the heads of other Federal agencies involved with the emergency response plans.

50 USC 2315.

SEC. 1415. TESTING OF PREPAREDNESS FOR EMERGENCIES INVOLVING NUCLEAR, RADIOLOGICAL, CHEMICAL, AND BIOLOGICAL WEAPONS.

(a) EMERGENCIES INVOLVING CHEMICAL OR BIOLOGICAL WEAPONS.—(1) The Secretary of Defense shall develop and carry out a program for testing and improving the responses of Federal, State, and local agencies to emergencies involving biological weapons and related materials and emergencies involving chemical weapons and related materials.

(2) The program shall include exercises to be carried out during each of five successive fiscal years beginning with fiscal year 1997.

(3) In developing and carrying out the program, the Secretary shall coordinate with the Director of the Federal Bureau of Investigation, the Director of the Federal Emergency Management Agency, the Secretary of Energy, and the heads of any other Federal, State, and local government agencies that have an expertise or responsibilities relevant to emergencies described in paragraph (1).

(b) EMERGENCIES INVOLVING NUCLEAR AND RADIOLOGICAL WEAPONS.—(1) The Secretary of Energy shall develop and carry out a program for testing and improving the responses of Federal, State, and local agencies to emergencies involving nuclear and radiological weapons and related materials.

(2) The program shall include exercises to be carried out during each of five successive fiscal years beginning with fiscal year 1997.

(3) In developing and carrying out the program, the Secretary shall coordinate with the Director of the Federal Bureau of Investigation, the Director of the Federal Emergency Management Agency, the Secretary of Defense, and the heads of any other Federal, State, and local government agencies that have an exper-

tise or responsibilities relevant to emergencies described in paragraph (1).

(c) ANNUAL REVISIONS OF PROGRAMS.—The official responsible for carrying out a program developed under subsection (a) or (b) shall revise the program not later than June 1 in each fiscal year covered by the program. The revisions shall include adjustments that the official determines necessary or appropriate on the basis of the lessons learned from the exercise or exercises carried out under the program in the fiscal year, including lessons learned regarding coordination problems and equipment deficiencies.

(d) OPTION TO TRANSFER RESPONSIBILITY.—(1) The President may designate the head of an agency outside the Department of Defense to assume the responsibility for carrying out the program developed under subsection (a) beginning on or after October 1, 1999, and relieve the Secretary of Defense of that responsibility upon the assumption of the responsibility by the designated official.

(2) The President may designate the head of an agency outside the Department of Energy to assume the responsibility for carrying out the program developed under subsection (b) beginning on or after October 1, 1999, and relieve the Secretary of Energy of that responsibility upon the assumption of the responsibility by the designated official.

(e) FUNDING.—Of the total amount authorized to be appropriated under section 301, $15,000,000 is available for the development and execution of the programs required by this section, including the participation of State and local agencies in exercises carried out under the programs.

SEC. 1416. MILITARY ASSISTANCE TO CIVILIAN LAW ENFORCEMENT OFFICIALS IN EMERGENCY SITUATIONS INVOLVING BIOLOGICAL OR CHEMICAL WEAPONS.

(a) ASSISTANCE AUTHORIZED.—(1) Chapter 18 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 382. Emergency situations involving chemical or biological weapons of mass destruction

"(a) IN GENERAL.— The Secretary of Defense, upon the request of the Attorney General, may provide assistance in support of Department of Justice activities relating to the enforcement of section 175 or 2332c of title 18 during an emergency situation involving a biological or chemical weapon of mass destruction. Department of Defense resources, including personnel of the Department of Defense, may be used to provide such assistance if—

"(1) the Secretary of Defense and the Attorney General jointly determine that an emergency situation exists; and

"(2) the Secretary of Defense determines that the provision of such assistance will not adversely affect the military preparedness of the United States.

"(b) EMERGENCY SITUATIONS COVERED.—In this section, the term 'emergency situation involving a biological or chemical weapon of mass destruction' means a circumstance involving a biological or chemical weapon of mass destruction—

"(1) that poses a serious threat to the interests of the United States; and

"(2) in which—

"(A) civilian expertise and capabilities are not readily available to provide the required assistance to counter the threat immediately posed by the weapon involved;

"(B) special capabilities and expertise of the Department of Defense are necessary and critical to counter the threat posed by the weapon involved; and

"(C) enforcement of section 175 or 2332c of title 18 would be seriously impaired if the Department of Defense assistance were not provided.

"(c) FORMS OF ASSISTANCE.—The assistance referred to in subsection (a) includes the operation of equipment (including equipment made available under section 372 of this title) to monitor, contain, disable, or dispose of the weapon involved or elements of the weapon.

"(d) REGULATIONS.—(1) The Secretary of Defense and the Attorney General shall jointly prescribe regulations concerning the types of assistance that may be provided under this section. Such regulations shall also describe the actions that Department of Defense personnel may take in circumstances incident to the provision of assistance under this section.

"(2)(A) Except as provided in subparagraph (B), the regulations may not authorize the following actions:

"(i) Arrest.

"(ii) Any direct participation in conducting a search for or seizure of evidence related to a violation of section 175 or 2332c of title 18.

"(iii) Any direct participation in the collection of intelligence for law enforcement purposes.

"(B) The regulations may authorize an action described in subparagraph (A) to be taken under the following conditions:

"(i) The action is considered necessary for the immediate protection of human life, and civilian law enforcement officials are not capable of taking the action.

"(ii) The action is otherwise authorized under subsection (c) or under otherwise applicable law.

"(e) REIMBURSEMENTS.—The Secretary of Defense shall require reimbursement as a condition for providing assistance under this section to the extent required under section 377 of this title.

"(f) DELEGATIONS OF AUTHORITY.—(1) Except to the extent otherwise provided by the Secretary of Defense, the Deputy Secretary of Defense may exercise the authority of the Secretary of Defense under this section. The Secretary of Defense may delegate the Secretary's authority under this section only to an Under Secretary of Defense or an Assistant Secretary of Defense and only if the Under Secretary or Assistant Secretary to whom delegated has been designated by the Secretary to act for, and to exercise the general powers of, the Secretary.

"(2) Except to the extent otherwise provided by the Attorney General, the Deputy Attorney General may exercise the authority of the Attorney General under this section. The Attorney General may delegate that authority only to the Associate Attorney General or an Assistant Attorney General and only if the Associate Attorney General or Assistant Attorney General to whom delegated has been designated by the Attorney General to act for, and to exercise the general powers of, the Attorney General.

"(g) RELATIONSHIP TO OTHER AUTHORITY.—Nothing in this section shall be construed to restrict any executive branch authority

regarding use of members of the armed forces or equipment of the Department of Defense that was in effect before the date of the enactment of the National Defense Authorization Act for Fiscal Year 1997.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"382. Emergency situations involving chemical or biological weapons of mass destruction.".

(b) CONFORMING AMENDMENT TO CONDITION FOR PROVIDING EQUIPMENT AND FACILITIES.—Section 372(b)(1) of title 10, United States Code, is amended by adding at the end the following new sentence: "The requirement for a determination that an item is not reasonably available from another source does not apply to assistance provided under section 382 of this title pursuant to a request of the Attorney General for the assistance.".

(c) CONFORMING AMENDMENTS RELATING TO AUTHORITY TO REQUEST ASSISTANCE.—(1)(A) Chapter 10 of title 18, United States Code, is amended by inserting after section 175 the following new section:

"§ 175a. Requests for military assistance to enforce prohibition in certain emergencies

"The Attorney General may request the Secretary of Defense to provide assistance under section 382 of title 10 in support of Department of Justice activities relating to the enforcement of section 175 of this title in an emergency situation involving a biological weapon of mass destruction. The authority to make such a request may be exercised by another official of the Department of Justice in accordance with section 382(f)(2) of title 10.".

(B) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 175 the following new item:

"175a. Requests for military assistance to enforce prohibition in certain emergencies.".

(2)(A) The chapter 133B of title 18, United States Code, that relates to terrorism is amended by inserting after section 2332c the following new section:

"§ 2332d. Requests for military assistance to enforce prohibition in certain emergencies

"The Attorney General may request the Secretary of Defense to provide assistance under section 382 of title 10 in support of Department of Justice activities relating to the enforcement of section 2332c of this title during an emergency situation involving a chemical weapon of mass destruction. The authority to make such a request may be exercised by another official of the Department of Justice in accordance with section 382(f)(2) of title 10.".

(B) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2332c the following new item:

"2332d. Requests for military assistance to enforce prohibition in certain emergencies.".

(d) CIVILIAN EXPERTISE.—The President shall take reasonable measures to reduce the reliance of civilian law enforcement officials on Department of Defense resources to counter the threat posed by the use or potential use of biological and chemical weapons

President.
50 USC 2316.

of mass destruction within the United States. The measures shall include—

(1) actions to increase civilian law enforcement expertise to counter such a threat; and

(2) actions to improve coordination between civilian law enforcement officials and other civilian sources of expertise, within and outside the Federal Government, to counter such a threat.

50 USC 2316.

(e) REPORTS.—The President shall submit to Congress the following reports:

(1) Not later than 90 days after the date of the enactment of this Act, a report describing the respective policy functions and operational roles of Federal agencies in countering the threat posed by the use or potential use of biological and chemical weapons of mass destruction within the United States.

(2) Not later than one year after such date, a report describing—

(A) the actions planned to be taken to carry out subsection (d); and

(B) the costs of such actions.

(3) Not later than three years after such date, a report updating the information provided in the reports submitted pursuant to paragraphs (1) and (2), including the measures taken pursuant to subsection (d).

50 USC 2317.

SEC. 1417. RAPID RESPONSE INFORMATION SYSTEM.

(a) INVENTORY OF RAPID RESPONSE ASSETS.—(1) The head of each Federal Response Plan agency shall develop and maintain an inventory of physical equipment and assets under the jurisdiction of that agency that could be made available to aid State and local officials in search and rescue and other disaster management and mitigation efforts associated with an emergency involving weapons of mass destruction. The agency head shall submit a copy of the inventory, and any updates of the inventory, to the Director of the Federal Emergency Management Agency for inclusion in the master inventory required under subsection (b).

(2) Each inventory shall include a separate listing of any equipment that is excess to the needs of that agency and could be considered for disposal as excess or surplus property for use for response and training with regard to emergencies involving weapons of mass destruction.

(b) MASTER INVENTORY.—The Director of the Federal Emergency Management Agency shall compile and maintain a comprehensive listing of all inventories prepared under subsection (a). The first such master list shall be completed not later than December 31, 1997, and shall be updated annually thereafter.

(c) ADDITION TO FEDERAL RESPONSE PLAN.—Not later than December 31, 1997, the Director of the Federal Emergency Management Agency shall develop and incorporate into existing Federal emergency response plans and programs prepared under section 611(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5196(b)) guidance on accessing and using the physical equipment and assets included in the master list developed under subsection to respond to emergencies involving weapons of mass destruction.

(d) DATABASE ON CHEMICAL AND BIOLOGICAL MATERIALS.—The Director of the Federal Emergency Management Agency, in con-

sultation with the Secretary of Defense, shall prepare a database on chemical and biological agents and munitions characteristics and safety precautions for civilian use. The initial design and compilation of the database shall be completed not later than December 31, 1997.

(e) ACCESS TO INVENTORY AND DATABASE.—The Director of the Federal Emergency Management Agency shall design and maintain a system to give Federal, State, and local officials access to the inventory listing and database maintained under this section in the event of an emergency involving weapons of mass destruction or to prepare and train to respond to such an emergency. The system shall include a secure but accessible emergency response hotline to access information and request assistance.

Subtitle B—Interdiction of Weapons of Mass Destruction and Related Materials

SEC. 1421. PROCUREMENT OF DETECTION EQUIPMENT UNITED STATES BORDER SECURITY. 50 USC 2331.

Of the amount authorized to be appropriated by section 301, $15,000,000 is available for the procurement of—

(1) equipment capable of detecting the movement of weapons of mass destruction and related materials into the United States;

(2) equipment capable of interdicting the movement of weapons of mass destruction and related materials into the United States; and

(3) materials and technologies related to use of equipment described in paragraph (1) or (2).

SEC. 1422. EXTENSION OF COVERAGE OF INTERNATIONAL EMERGENCY ECONOMIC POWERS ACT.

Section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705) is amended—

(1) in subsection (a), by inserting ", or attempts to violate," after "violates"; and

(2) in subsection (b), by inserting ", or willfully attempts to violate," after "violates".

SEC. 1423. SENSE OF CONGRESS CONCERNING CRIMINAL PENALTIES. 50 USC 2332.

(a) SENSE OF CONGRESS CONCERNING INADEQUACY OF SENTENCING GUIDELINES.—It is the sense of Congress that the sentencing guidelines prescribed by the United States Sentencing Commission for the offenses of importation, attempted importation, exportation, and attempted exportation of nuclear, biological, and chemical weapons materials constitute inadequate punishment for such offenses.

(b) URGING OF REVISON TO GUIDELINES.—Congress urges the United States Sentencing Commission to revise the relevant sentencing guidelines to provide for increased penalties for offenses relating to importation, attempted importation, exportation, and attempted exportation of nuclear, biological, or chemical weapons or related materials or technologies under the following provisions of law:

(1) Section 11 of the Export Administration Act of 1979 (50 U.S.C. App. 2410).

(2) Sections 38 and 40 of the Arms Export Control Act (22 U.S.C. 2778 and 2780).

(3) The International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.).

(4) Section 309(c) of the Nuclear Non-Proliferation Act of 1978 (22 U.S.C. 2156a(c)).

50 USC 2333.

SEC. 1424. INTERNATIONAL BORDER SECURITY.

(a) SECRETARY OF DEFENSE RESPONSIBILITY.—The Secretary of Defense, in consultation and cooperation with the Commissioner of Customs, shall carry out programs for assisting customs officials and border guard officials in the independent states of the former Soviet Union, the Baltic states, and other countries of Eastern Europe in preventing unauthorized transfer and transportation of nuclear, biological, and chemical weapons and related materials. Training, expert advice, maintenance of equipment, loan of equipment, and audits may be provided under or in connection with the programs.

(b) FUNDING.—Of the total amount authorized to be appropriated by section 301, $15,000,000 is available for carrying out the programs referred to in subsection (a).

(c) ASSISTANCE TO STATES OF THE FORMER SOVIET UNION.—Assistance under programs referred to in subsection (a) may (notwithstanding any provision of law prohibiting the extension of foreign assistance to any of the newly independent states of the former Soviet Union) be extended to include an independent state of the former Soviet Union if the President certifies to Congress that it is in the national interest of the United States to extend assistance under this section to that state.

Subtitle C—Control and Disposition of Weapons of Mass Destruction and Related Materials Threatening the United States

SEC. 1431. COVERAGE OF WEAPONS-USABLE FISSILE MATERIALS IN COOPERATIVE THREAT REDUCTION PROGRAMS ON ELIMINATION OR TRANSPORTATION OF NUCLEAR WEAPONS.

Section 1201(b)(1) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 469; 22 U.S.C. 5955 note) is amended by inserting ", fissile material suitable for use in nuclear weapons," after "other weapons".

50 USC 2341.

SEC. 1432. ELIMINATION OF PLUTONIUM PRODUCTION.

(a) REPLACEMENT PROGRAM.—The Secretary of Energy, in consultation with the Secretary of Defense, shall develop a cooperative program with the Government of Russia to eliminate the production of weapons grade plutonium by modifying or replacing the reactor cores at Tomsk–7 and Krasnoyarsk–26 with reactor cores that are less suitable for the production of weapons-grade plutonium.

(b) PROGRAM REQUIREMENTS.—(1) The program shall be designed to achieve completion of the modifications or replacements of the reactor cores within three years after the modification or replacement activities under the program are begun.

(2) The plan for the program shall—

(A) specify—

(i) successive steps for the modification or replacement of the reactor cores; and

(ii) clearly defined milestones to be achieved; and

(B) include estimates of the costs of the program.

(c) SUBMISSION OF PROGRAM PLAN TO CONGRESS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress—

(1) a plan for the program under subsection (a);

(2) an estimate of the United States funding that is necessary for carrying out the activities under the program for each fiscal year covered by the program; and

(3) a comparison of the benefits of the program with the benefits of other nonproliferation programs.

Subtitle D—Coordination of Policy and Countermeasures Against Proliferation of Weapons of Mass Destruction

SEC. 1441. NATIONAL COORDINATOR ON NONPROLIFERATION. 50 USC 2351.

(a) DESIGNATION OF POSITION.—The President shall designate an individual to serve in the Executive Office of the President as the National Coordinator for Nonproliferation Matters. President.

(b) DUTIES.—The Coordinator, under the direction of the National Security Council, shall advise and assist the President by—

(1) advising the President on nonproliferation of weapons of mass destruction, including issues related to terrorism, arms control, and international organized crime;

(2) chairing the Committee on Nonproliferation established under section 1342; and

(3) taking such actions as are necessary to ensure that there is appropriate emphasis in, cooperation on, and coordination of, nonproliferation research efforts of the United States, including activities of Federal agencies as well as activities of contractors funded by the Federal Government.

(c) ALLOCATION OF FUNDS.—Of the total amount authorized to be appropriated under section 301, $2,000,000 is available to the Department of Defense for carrying out research referred to in subsection (b)(3).

SEC. 1442. NATIONAL SECURITY COUNCIL COMMITTEE ON NONPROLIFERATION. 50 USC 2352.

(a) ESTABLISHMENT.—The Committee on Nonproliferation (in this section referred to as the "Committee") is established as a committee of the National Security Council.

(b) MEMBERSHIP.—(1) The Committee shall be composed of representatives of the following:

(A) The Secretary of State.

(B) The Secretary of Defense.

(C) The Director of Central Intelligence.

(D) The Attorney General.

(E) The Secretary of Energy.

(F) The Administrator of the Federal Emergency Management Agency.

(G) The Secretary of the Treasury.

(H) The Secretary of Commerce.

(I) Such other members as the President may designate.

(2) The National Coordinator for Nonproliferation Matters shall chair the Committee on Nonproliferation.

(c) RESPONSIBILITIES.—The Committee has the following responsibilities:

(1) To review and coordinate Federal programs, policies, and directives relating to the proliferation of weapons of mass destruction and related materials and technologies, including matters relating to terrorism and international organized crime.

(2) To make recommendations through the National Security Council to the President regarding the following:

(A) Integrated national policies for countering the threats posed by weapons of mass destruction.

(B) Options for integrating Federal agency budgets for countering such threats.

(C) Means to ensure that Federal, State, and local governments have adequate capabilities to manage crises involving nuclear, radiological, biological, or chemical weapons or related materials or technologies, and to manage the consequences of a use of such weapon or related materials or technologies, and that use of those capabilities is coordinated.

(D) Means to ensure appropriate cooperation on, and coordination of, the following:

(i) Preventing the smuggling of weapons of mass destruction and related materials and technologies.

(ii) Promoting domestic and international law enforcement efforts against proliferation-related efforts.

(iii) Countering the involvement of organized crime groups in proliferation-related activities.

(iv) Safeguarding weapons of mass destruction materials and related technologies.

(v) Improving coordination and cooperation among intelligence activities, law enforcement, and the Departments of Defense, State, Commerce, and Energy in support of nonproliferation and counterproliferation efforts.

(vi) Improving export controls over materials and technologies that can contribute to the acquisition of weapons of mass destruction.

(vii) Reducing proliferation of weapons of mass destruction and related materials and technologies.

President.
50 USC 2353.

SEC. 1443. COMPREHENSIVE PREPAREDNESS PROGRAM.

(a) PROGRAM REQUIRED.—The President, acting through the Committee on Nonproliferation established under section 1442, shall develop a comprehensive program for carrying out this title.

(b) CONTENT OF PROGRAM.—The program set forth in the report shall include specific plans as follows:

(1) Plans for countering proliferation of weapons of mass destruction and related materials and technologies.

(2) Plans for training and equipping Federal, State, and local officials for managing a crisis involving a use or threatened use of a weapon of mass destruction, including the consequences of the use of such a weapon.

(3) Plans for providing for regular sharing of information among intelligence, law enforcement, and customs agencies.

(4) Plans for training and equipping law enforcement units, customs services, and border security personnel to counter the smuggling of weapons of mass destruction and related materials and technologies.

(5) Plans for establishing appropriate centers for analyzing seized nuclear, radiological, biological, and chemical weapons, and related materials and technologies.

(6) Plans for establishing in the United States appropriate legal controls and authorities relating to the exporting of nuclear, radiological, biological, and chemical weapons, and related materials and technologies.

(7) Plans for encouraging and assisting governments of foreign countries to implement and enforce laws that set forth appropriate penalties for offenses regarding the smuggling of weapons of mass destruction and related materials and technologies.

(8) Plans for building the confidence of the United States and Russia in each other's controls over United States and Russian nuclear weapons and fissile materials, including plans for verifying the dismantlement of nuclear weapons.

(9) Plans for reducing United States and Russian stockpiles of excess plutonium, reflecting—

(A) consideration of the desirability and feasibility of a United States-Russian agreement governing fissile material disposition and the specific technologies and approaches to be used for disposition of excess plutonium; and

(B) an assessment of the options for United States cooperation with Russia in the disposition of Russian plutonium.

(10) Plans for studying the merits and costs of establishing a global network of means for detecting and responding to terroristic or other criminal use of biological agents against people or other forms of life in the United States or any foreign country.

(c) REPORT.—(1) At the same time that the President submits the budget for fiscal year 1998 to Congress pursuant to section 1105(a) of title 31, United States Code, the President shall submit to Congress a report that sets forth the comprehensive program developed under subsection (a).

(2) The report shall include the following:

(A) The specific plans for the program that are required under subsection (b).

(B) Estimates of the funds necessary, by agency or department, for carrying out such plans in fiscal year 1998 and the following five fiscal years.

(3) The report shall be in an unclassified form. If there is a classified version of the report, the President shall submit the classified version at the same time.

50 USC 2354.

SEC. 1444. TERMINATION.

After September 30, 1999, the President—

(1) is not required to maintain a National Coordinator for Nonproliferation Matters under section 1341; and

(2) may terminate the Committee on Nonproliferation established under section 1342.

Subtitle E—Miscellaneous

50 USC 2361.

SEC. 1451. SENSE OF CONGRESS CONCERNING CONTRACTING POLICY.

It is the sense of Congress that the Secretary of Defense, the Secretary of Energy, the Secretary of the Treasury, and the Secretary of State, to the extent authorized by law, should—

(1) contract directly with suppliers in independent states of the former Soviet Union when such action would—

(A) result in significant savings of the programs referred to in subtitle C; and

(B) substantially expedite completion of the programs referred to in subtitle C; and

(2) seek means to use innovative contracting approaches to avoid delay and increase the effectiveness of such programs and of the exercise of such authorities.

50 USC 2362.

SEC. 1452. TRANSFERS OF ALLOCATIONS AMONG COOPERATIVE THREAT REDUCTION PROGRAMS.

Congress finds that—

(1) the various Cooperative Threat Reduction programs are being carried out at different rates in the various countries covered by such programs; and

(2) it is necessary to authorize transfers of funding allocations among the various programs in order to maximize the effectiveness of United States efforts under such programs.

50 USC 2363.

SEC. 1453. SENSE OF CONGRESS CONCERNING ASSISTANCE TO STATES OF FORMER SOVIET UNION.

It is the sense of Congress that—

(1) the Cooperative Threat Reduction programs and other United States programs authorized in the National Defense Authorization Act for Fiscal Years 1993 and 1994 should be expanded by offering assistance under those programs to other independent states of the former Soviet Union in addition to Russia, Ukraine, Kazakstan, and Belarus; and

(2) the President should offer assistance to additional independent states of the former Soviet Union in each case in which the participation of such states would benefit national security interests of the United States by improving border controls and safeguards over materials and technology associated with weapons of mass destruction.

50 USC 2364.

SEC. 1454. PURCHASE OF LOW-ENRICHED URANIUM DERIVED FROM RUSSIAN HIGHLY ENRICHED URANIUM.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the allies of the United States and other nations should participate in efforts to ensure that stockpiles of weapons-grade nuclear material are reduced.

(b) ACTIONS BY THE SECRETARY OF STATE.—Congress urges the Secretary of State to encourage, in consultation with the Sec-

retary of Energy, other countries to purchase low-enriched uranium that is derived from highly enriched uranium extracted from Russian nuclear weapons.

SEC. 1455. SENSE OF CONGRESS CONCERNING PURCHASE, PACKAGING, AND TRANSPORTATION OF FISSILE MATERIALS AT RISK OF THEFT. 50 USC 2365.

It is the sense of Congress that—

(1) the Secretary of Defense, the Secretary of Energy, the Secretary of the Treasury, and the Secretary of State should purchase, package, and transport to secure locations weapons-grade nuclear materials from a stockpile of such materials if such officials determine that—

(A) there is a significant risk of theft of such materials; and

(B) there is no reasonable and economically feasible alternative for securing such materials; and

(2) if it is necessary to do so in order to secure the materials, the materials should be imported into the United States, subject to the laws and regulations that are applicable to the importation of such materials into the United States.

TITLE XV—COOPERATIVE THREAT REDUCTION WITH STATES OF FORMER SOVIET UNION

Sec. 1501. Specification of Cooperative Threat Reduction programs.
Sec. 1502. Fiscal year 1997 funding allocations.
Sec. 1503. Prohibition on use of funds for specified purposes.
Sec. 1504. Limitation on use of funds until specified reports are submitted.
Sec. 1505. Availability of funds.

SEC. 1501. SPECIFICATION OF COOPERATIVE THREAT REDUCTION PROGRAMS. 50 USC 2362 note.

(a) IN GENERAL.—For purposes of section 301 and other provisions of this Act, Cooperative Threat Reduction programs are the programs specified in subsection (b).

(b) SPECIFIED PROGRAMS.—The programs referred to in subsection (a) are the following programs with respect to states of the former Soviet Union:

(1) Programs to facilitate the elimination, and the safe and secure transportation and storage, of nuclear, chemical, and other weapons and their delivery vehicles.

(2) Programs to facilitate the safe and secure storage of fissile materials derived from the elimination of nuclear weapons.

(3) Programs to prevent the proliferation of weapons, weapons components, and weapons-related technology and expertise.

(4) Programs to expand military-to-military and defense contacts.

SEC. 1502. FISCAL YEAR 1997 FUNDING ALLOCATIONS.

(a) IN GENERAL.—Of the amount appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs, not more than the following amounts may be obligated for the purposes specified:

(1) For planning and design of a chemical weapons destruction facility in Russia, $78,500,000.

(2) For elimination of strategic offensive arms in Russia, $52,000,000.

(3) For strategic nuclear arms elimination in Ukraine, $47,000,000.

(4) For planning and design of a storage facility for Russian fissile material, $66,000,000.

(5) For fissile material containers in Russia, $38,500,000.

(6) For weapons storage security in Russia, $15,000,000.

(7) For activities designated as Defense and Military-to-Military Contacts in Russia, Ukraine, Belarus, and Kazakhstan, $10,000,000.

(8) For activities designated as Other Assessments/Administrative Support, $20,900,000.

(9) For materials protection, control, and accounting assistance or for destruction of nuclear, radiological, biological, or chemical weapons or related materials at any site within the former Soviet Union, $10,000,000.

(10) For transfer to the Secretary of Energy to develop a cooperative program with the Government of Russia to eliminate the production of weapons grade plutonium at Russian reactors, $10,000,000.

(11) For dismantlement of biological and chemical weapons facilities in the former Soviet Union, $15,000,000.

(12) For expanding military-to-military programs of the United States that focus on countering the threat of proliferation of weapons of mass destruction to include the security forces of the independent states of the former Soviet Union, particularly states in the Caucasus region and Central Asia, $2,000,000.

(b) LIMITED AUTHORITY TO VARY INDIVIDUAL AMOUNTS.—(1) If the Secretary of Defense determines that it is necessary to do so in the national interest, the Secretary may, subject to paragraph (2), obligate amounts for the purposes stated in any of the paragraphs of subsection (a) in excess of the amount specified for those purposes in that paragraph, but not in excess of 115 percent of that amount. However, the total amount obligated for the purposes stated in the paragraphs in subsection (a) may not by reason of the use of the authority provided in the preceding sentence exceed the sum of the amounts specified in those paragraphs.

(2) An obligation for the purposes stated in any of the paragraphs in subsection (a) in excess of the amount specified in that paragraph may be made using the authority provided in paragraph (1) only after—

(A) the Secretary submits to Congress a notification of the intent to do so together with a complete discussion of the justification for doing so; and

(B) 15 days have elapsed following the date of the notification.

SEC. 1503. PROHIBITION ON USE OF FUNDS FOR SPECIFIED PURPOSES.

(a) IN GENERAL.—None of the funds appropriated pursuant to the authorization in section 301 for Cooperative Threat Reduction programs, or appropriated for such programs for any prior fiscal

year and remaining available for obligation, may be obligated or expended for any of the following purposes:

(1) Conducting with Russia any peacekeeping exercise or other peacekeeping-related activity.

(2) Provision of housing.

(3) Provision of assistance to promote environmental restoration.

(4) Provision of assistance to promote job retraining.

(b) LIMITATION WITH RESPECT TO DEFENSE CONVERSION ASSISTANCE.—None of the funds appropriated to the Department of Defense for fiscal year 1997 may be obligated or expended for defense conversion.

SEC. 1504. LIMITATION ON USE OF FUNDS UNTIL SPECIFIED REPORTS ARE SUBMITTED.

None of the funds appropriated pursuant to the authorization in section 301 for Cooperative Threat Reduction programs may be obligated or expended until 15 days after the date which is the latest of the following:

(1) The date on which the President submits to Congress the determinations required under subsection (c) of section 211 of Public Law 102–228 (22 U.S.C. 2551 note) with respect to any certification transmitted to Congress under subsection (b) of that section before the date of the enactment of this Act.

(2) The date on which the Secretary of Defense submits to Congress the first report under section 1206(a) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 471).

(3) The date on which the Secretary of Defense submits to Congress the report for fiscal year 1996 required under section 1205(c) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2883).

SEC. 1505. AVAILABILITY OF FUNDS.

Funds appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs shall be available for obligation for three fiscal years.

TITLE XVI—DEPARTMENT OF DEFENSE CIVILIAN PERSONNEL

Subtitle A—Miscellaneous Matters Relating to Personnel Management, Pay, and Allowances

Sec. 1601. Modification of requirement for conversion of military positions to civilian positions.
Sec. 1602. Retention of civilian employee positions at military training bases transferred to National Guard.
Sec. 1603. Clarification of applicability of certain management constraints on major range and test facility base structure.
Sec. 1604. Travel expenses and health care for civilian employees of the Department of Defense abroad.
Sec. 1605. Travel, transportation, and relocation allowances for certain former nonappropriated fund employees.
Sec. 1606. Employment and salary practices applicable to Department of Defense overseas teachers.
Sec. 1607. Employment and compensation of civilian faculty members at certain Department of Defense schools.
Sec. 1608. Reimbursement of Department of Defense domestic dependent school board members for certain expenses.

Sec. 1609. Modification of authority for civilian employees of Department of Defense to participate voluntarily in reductions in force.
Sec. 1610. Wage-board compensatory time off.
Sec. 1611. Liquidation of restored annual leave that remains unused upon transfer of employee from installation being closed or realigned.
Sec. 1612. Waiver of requirement for repayment of Voluntary Separation Incentive pay by former Department of Defense employees reemployed by the Government without pay.
Sec. 1613. Simplification of rules relating to the observance of certain holidays.
Sec. 1614. Revision of certain travel management authorities.
Sec. 1615. Failure to comply with veterans' preference requirements to be treated as a prohibited personnel practice.
Sec. 1616. Pilot programs for defense employees converted to contractor employees due to privatization at closed military installations.

Subtitle B—Department of Defense Intelligence Personnel Policy

Sec. 1631. Short title.
Sec. 1632. Management of civilian intelligence personnel.
Sec. 1633. Repeal of superseded sections and clerical and conforming amendments.
Sec. 1634. Other personnel management authorities.
Sec. 1635. Effective date.

Subtitle A—Miscellaneous Matters Relating to Personnel Management, Pay, and Allowances

SEC. 1601. MODIFICATION OF REQUIREMENT FOR CONVERSION OF MILITARY POSITIONS TO CIVILIAN POSITIONS.

(a) ELIMINATION OF REQUIREMENT FOR FISCAL YEAR 1997 CONVERSIONS.—Paragraph (1) of section 1032(a) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 429; 10 U.S.C. 129a note) is amended—

(1) by striking out "September 30, 1997" and inserting in lieu thereof "September 30, 1996"; and

(2) by striking out "10,000" and inserting in lieu thereof "3,000".

(b) CONFORMING AMENDMENTS.—Such section is further amended—

(1) by striking out paragraph (2); and

(2) by redesignating paragraph (3) as paragraph (2).

Certification. 10 USC 129a note.

(c) EFFECTIVE DATE.—(1) The amendments made by this section shall take effect 30 days after the date on which the Secretary of Defense submits to Congress a certification that at least 3,000 military positions have been converted to civilian positions during fiscal year 1996 as required by section 1032(a) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 429).

Federal Register, publication.

(2) The Secretary shall publish in the Federal Register a notice of the submission of any certification to Congress under paragraph (1), including the date on which the certification was submitted to Congress.

10 USC 2687 note.

SEC. 1602. RETENTION OF CIVILIAN EMPLOYEE POSITIONS AT MILITARY TRAINING BASES TRANSFERRED TO NATIONAL GUARD.

(a) RETENTION OF EMPLOYEE POSITIONS.—In the case of a military training installation described in subsection (b), the Secretary of Defense shall retain civilian employee positions of the Department of Defense at the installation after transfer to the National

Guard to facilitate active and reserve component training at the installation. The Secretary shall determine the extent to which positions at the installation are to be retained as positions of the Department of Defense in consultation with the Adjutant General of the National Guard of the State in which the installation is located.

(b) MILITARY TRAINING INSTALLATIONS AFFECTED.—This section applies with respect to each military training installation that—

(1) was approved for closure in 1995 under the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note);

(2) is scheduled for transfer to National Guard operation and control; and

(3) will continue to be used, after such transfer, to provide training support to active and reserve components of the Armed Forces.

(c) MAXIMUM POSITIONS RETAINED.—The number of civilian employee positions retained at an installation under this section may not exceed 20 percent of the Federal civilian workforce employed at the installation as of September 8, 1995.

(d) REMOVAL OF POSITION.—The requirement to maintain a civilian employee position at an installation under this section terminates upon the later of the following:

(1) The date of the departure or retirement from that position by the civilian employee initially employed or retained in the position as a result of this section.

(2) The date on which the Secretary certifies to Congress that the position is no longer required to ensure that effective support is provided at the installation for active and reserve component training.

SEC. 1603. CLARIFICATION OF APPLICABILITY OF CERTAIN MANAGEMENT CONSTRAINTS ON MAJOR RANGE AND TEST FACILITY BASE STRUCTURE.

Section 129 of title 10, United States Code, is amended—

(1) in subsection (c)(1), by inserting ", the Major Range and Test Facility Base," after "industrial-type activities"; and

(2) by adding at the end the following:

"(e) Subsections (a), (b), and (c) apply to the Major Range and Test Facility Base (MRTFB) at the installation level. With respect to the MRTFB structure, the term 'funds made available' includes both direct appropriated funds and funds provided by MRTFB customers.".

SEC. 1604. TRAVEL EXPENSES AND HEALTH CARE FOR CIVILIAN EMPLOYEES OF THE DEPARTMENT OF DEFENSE ABROAD.

(a) IN GENERAL.—Chapter 81 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 1599b. Employees abroad: travel expenses; health care

"(a) IN GENERAL.—The Secretary of Defense may provide civilian employees, and members of their families, abroad with benefits that are comparable to certain benefits that are provided by the Secretary of State to members of the Foreign Service and their families abroad as described in subsections (b) and (c). The Secretary may designate the employees and members of families who are eligible to receive the benefits.

"(b) TRAVEL AND RELATED EXPENSES.—The Secretary of Defense may pay travel expenses and related expenses for purposes and in amounts that are comparable to the purposes for which, and the amounts in which, travel and related expenses are paid by the Secretary of State under section 901 of the Foreign Service Act of 1980 (22 U.S.C. 4081).

"(c) HEALTH CARE PROGRAM.—The Secretary of Defense may establish a health care program that is comparable to the health care program established by the Secretary of State under section 904 of the Foreign Service Act of 1980 (22 U.S.C. 4084).

"(d) ASSISTANCE.—The Secretary of Defense may enter into agreements with the heads of other departments and agencies of the Government in order to facilitate the payment of expenses authorized by subsection (b) and to carry out a health care program authorized by subsection (c).

"(e) ABROAD DEFINED.—In this section, the term 'abroad' means outside—

"(1) the United States; and

"(2) the territories and possessions of the United States.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"1599b. Employees abroad: travel expenses; health care.".

SEC. 1605. TRAVEL, TRANSPORTATION, AND RELOCATION ALLOWANCES FOR CERTAIN FORMER NONAPPROPRIATED FUND EMPLOYEES.

(a) IN GENERAL.—(1) Subchapter II of chapter 57 of title 5, United States Code, is amended by adding at the end the following new section:

"§ 5736. Travel, transportation, and relocation expenses of certain nonappropriated fund employees

"An employee of a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard described in section 2105(c) of this title who moves, without a break in service of more than 3 days, to a position in the Department of Defense or the Coast Guard, respectively, may be authorized travel, transportation, and relocation expenses and allowances under the same conditions and to the same extent authorized by this subchapter for transferred employees.".

(2) The table of sections at the beginning of chapter 57 of such title is amended by inserting after the item relating to section 5735 the following new item:

"5736. Travel, transportation, and relocation expenses of certain nonappropriated fund employees.".

5 USC 5736 note.

(b) APPLICABILITY.—Section 5736 of title 5, United States Code (as added by subsection (a)(1)), shall apply to moves between positions as described in such section that are effective on or after October 1, 1996.

SEC. 1606. EMPLOYMENT AND SALARY PRACTICES APPLICABLE TO DEPARTMENT OF DEFENSE OVERSEAS TEACHERS.

(a) EXPANSION OF SCOPE OF EDUCATORS COVERED.—Section 2 of the Defense Department Overseas Teachers Pay and Personnel Practices Act (20 U.S.C. 901) is amended—

(1) in subparagraph (A) of paragraph (1), by inserting ", or are performed by an individual who carried out certain teaching activities identified in regulations prescribed by the Secretary of Defense" after "Defense,"; and

(2) by striking out subparagraph (C) of paragraph (2) and inserting in lieu thereof the following:

"(C) who is employed in a teaching position described in paragraph (1).".

(b) TRANSFER OF RESPONSIBILITY FOR EMPLOYMENT AND SALARY PRACTICES.—Section 5 of such Act (20 U.S.C. 903) is amended—

(1) in subsection (a)—

(A) by striking out "Secretary of each military department in the Department of Defense" and inserting in lieu thereof "Secretary of Defense"; and

(B) by striking out "his military department" and inserting in lieu thereof "the Department of Defense";

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking out "secretary of each military department—" and inserting in lieu thereof "Secretary of Defense—"; and

(B) in paragraph (1), by striking out "his military department," and inserting in lieu thereof "the Department of Defense";

(3) in subsection (c)—

(A) by striking out "Secretary of each military department" and inserting in lieu thereof "Secretary of Defense"; and

(B) by striking out "his military department" and inserting in lieu thereof "the Department of Defense"; and

(4) in subsection (d), by striking out "Secretary of each military department" and inserting in lieu thereof "Secretary of Defense".

SEC. 1607. EMPLOYMENT AND COMPENSATION OF CIVILIAN FACULTY MEMBERS AT CERTAIN DEPARTMENT OF DEFENSE SCHOOLS.

(a) FACULTIES.—Subsection (c) of section 1595 of title 10, United States Code, is amended by adding at the end the following new paragraphs:

"(4) The English Language Center of the Defense Language Institute.

"(5) The Asia-Pacific Center for Security Studies.".

(b) CERTAIN ADMINISTRATORS.—Such section is further amended by adding at the end the following new subsection:

"(f) APPLICATION TO DIRECTOR AND DEPUTY DIRECTOR AT ASIA-PACIFIC CENTER FOR SECURITY STUDIES.—In the case of the Asia-Pacific Center for Security Studies, this section also applies with respect to the Director and the Deputy Director.".

SEC. 1608. REIMBURSEMENT OF DEPARTMENT OF DEFENSE DOMESTIC DEPENDENT SCHOOL BOARD MEMBERS FOR CERTAIN EXPENSES.

Section 2164(d) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(7) The Secretary may provide for reimbursement of a school board member for expenses incurred by the member for travel, transportation, lodging, meals, program fees, activity fees, and other appropriate expenses that the Secretary determines are reasonable

and necessary for the performance of school board duties by the member.".

SEC. 1609. MODIFICATION OF AUTHORITY FOR CIVILIAN EMPLOYEES OF DEPARTMENT OF DEFENSE TO PARTICIPATE VOLUNTARILY IN REDUCTIONS IN FORCE.

Subsection (f) of section 3502 of title 5, United States Code, is amended to read as follows:

"(f)(1) The Secretary of Defense or the Secretary of a military department may—

"(A) separate from service any employee who volunteers to be separated under this subparagraph even though the employee is not otherwise subject to separation due to a reduction in force; and

"(B) for each employee voluntarily separated under subparagraph (A), retain an employee in a similar position who would otherwise be separated due to a reduction in force.

"(2) The separation of an employee under paragraph (1)(A) shall be treated as an involuntary separation due to a reduction in force.

"(3) An employee with critical knowledge and skills (as defined by the Secretary concerned) may not participate in a voluntary separation under paragraph (1)(A) if the Secretary concerned determines that such participation would impair the performance of the mission of the Department of Defense or the military department concerned.

Regulations.

"(4) The regulations prescribed under this section shall incorporate the authority provided in this subsection.

Termination date.

"(5) No authority under paragraph (1) may be exercised after September 30, 2001.".

SEC. 1610. WAGE-BOARD COMPENSATORY TIME OFF.

(a) IN GENERAL.—Section 5543 of title 5, United States Code, is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following new subsection (b):

"(b) The head of an agency may, on request of an employee, grant the employee compensatory time off from the employee's scheduled tour of duty instead of payment under section 5544 or section 7 of the Fair Labor Standards Act of 1938 for an equal amount of time spent in irregular or occasional overtime work. An agency head may not require an employee to be compensated for overtime work with an equivalent amount of compensatory time-off from the employee's tour of duty.".

(b) CONFORMING AMENDMENT.—Section 5544(c) of title 5, United States Code, is amended by inserting "and the provisions of section 5543(b)" after "the last two sentences of subsection (a)".

SEC. 1611. LIQUIDATION OF RESTORED ANNUAL LEAVE THAT REMAINS UNUSED UPON TRANSFER OF EMPLOYEE FROM INSTALLATION BEING CLOSED OR REALIGNED.

(a) LUMP-SUM PAYMENT REQUIRED.—Section 5551 of title 5, United States Code, is amended by adding at the end the following:

"(c)(1) Annual leave that is restored to an employee of the Department of Defense under section 6304(d) of this title by reason of the operation of paragraph (3) of such section and remains unused upon the transfer of the employee to a position described

in paragraph (2) shall be liquidated by payment of a lump-sum for such leave to the employee upon the transfer.

"(2) A position referred to in paragraph (1) is a position in a department or agency of the Federal Government outside the Department of Defense or a Department of Defense position that is not located at a Department of Defense installation being closed or realigned as described in section 6304(d)(3) of this title.".

(b) APPLICABILITY.—Subsection (c) of section 5551 of title 5, United States Code (as added by subsection (a)), shall apply with respect to transfers described in such subsection (c) that take effect on or after the date of the enactment of this Act. 5 USC 5551 note.

SEC. 1612. WAIVER OF REQUIREMENT FOR REPAYMENT OF VOLUNTARY SEPARATION INCENTIVE PAY BY FORMER DEPARTMENT OF DEFENSE EMPLOYEES REEMPLOYED BY THE GOVERNMENT WITHOUT PAY.

(a) IN GENERAL.—Section 5597(g) of title 5, United States Code, is amended by adding at the end the following new paragraph:

"(5) If the employment is without compensation, the appointing official may waive the repayment.".

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply with respect to employment accepted on or after the date of the enactment of this Act. 5 USC 5597 note.

SEC. 1613. SIMPLIFICATION OF RULES RELATING TO THE OBSERVANCE OF CERTAIN HOLIDAYS.

Section 6103 of title 5, United States Code, is amended by adding at the end the following new subsection:

"(d)(1) For purposes of this subsection—

"(A) the term 'compressed schedule' has the meaning given such term by section 6121(5); and

"(B) the term 'adverse agency impact' has the meaning given such term by section 6131(b).

"(2) An agency may prescribe rules under which employees on a compressed schedule may, in the case of a holiday that occurs on a regularly scheduled non-workday for such employees, and notwithstanding any other provision of law or the terms of any collective bargaining agreement, be required to observe such holiday on a workday other than as provided by subsection (b), if the agency head determines that it is necessary to do so in order to prevent an adverse agency impact.".

SEC. 1614. REVISION OF CERTAIN TRAVEL MANAGEMENT AUTHORITIES.

(a) REPEAL OF REQUIREMENTS RELATING TO FIRE-SAFE ACCOMMODATIONS.—(1) Section 5707 of title 5, United States Code, is amended by striking out subsection (d).

(2) Subsection (b) of section 5 of the Hotel and Motel Fire Safety Act of 1990 (Public Law 101–391; 104 Stat. 751; 5 U.S.C. 5707 note) is repealed.

(b) REPEAL OF PROHIBITION ON PAYMENT OF LODGING EXPENSES OF DEPARTMENT OF DEFENSE EMPLOYEES AND OTHER CIVILIANS WHEN ADEQUATE GOVERNMENT QUARTERS ARE AVAILABLE.—(1) Section 1589 of title 10, United States Code, is repealed.

(2) The table of sections at the beginning of chapter 81 of such title is amended by striking out the item relating to such section.

SEC. 1615. FAILURE TO COMPLY WITH VETERANS' PREFERENCE REQUIREMENTS TO BE TREATED AS A PROHIBITED PERSONNEL PRACTICE.

(a) IN GENERAL.—(1) Chapter 81 of title 10, United States Code, as amended by section 1604, is further amended by adding at the end the following new section:

"§ 1599c. Veterans' preference requirements: Department of Defense failure to comply treated as a prohibited personnel practice

"(a) PROHIBITED PERSONNEL PRACTICE.—It is a prohibited personnel practice for a person referred to in subsection (b) who has authority described in that subsection—

"(1) knowingly to take, recommend, or approve any personnel action with respect to such authority if the taking of such action violates a veterans' preference; or

"(2) knowingly to fail to take, recommend, or approve any personnel action with respect to such authority, if the failure to take such action violates a veterans' preference.

"(b) PERSONS COVERED.—Subsection (a) applies witn respect to—

"(1) an officer or employee of the Department of Defense who has authority to take, direct others to take, recommend, or approve a personnel action with respect to an employee of the Department of Defense; and

"(2) a member of the armed forces who has such authority.

"(c) VETERANS' PREFERENCE DEFINED.—(1) In this section, the term 'veterans' preference' means any of the following provisions of law:

"(A) Sections 2108, 3305(b), 3309, 3310, 3311, 3312, 3313, 3314, 3315, 3316, 3317(b), 3318, 3320, 3351, 3352, 3363, 3501, 3502(b), 3504, and 4303(e) of title 5 and (with respect to a preference eligible referred to in section 7511(a)(1)(B) of such title) subchapter II of chapter 75 and section 7701 of such title.

"(B) Sections 943(c)(2) and 1784(c) of this title.

"(C) Section 1308(b) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3198(b)).

"(D) Section 301(c) of the Foreign Service Act of 1980 (22 U.S.C. 3941(c)).

"(E) Section 3(a)(11) of the Administrative Office of the United States Courts Personnel Act of 1990 (28 U.S.C. 602 note).

"(F) Sections 106(f), 7281(e), and 7802(5) of title 38.

"(G) Section 1005(a) of title 39.

"(H) Any other provision of law that the Director of the Office of Personnel Management designates in regulations as being a veterans' preference for the purposes of this section.

"(2) For the purposes of this section, such term includes any regulation prescribed under subsection (b) or (c) of section 1302 of title 5 and any other regulation that implements a provision of law referred to in paragraph (1).

"(d) PERSONNEL ACTION DEFINED.—In this section, the term 'personnel action' has the meaning given that term in section 2302 of title 5.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"1599c. Veterans' preference requirements: Department of Defense failure to comply treated as a prohibited personnel practice.".

(b) APPLICABILITY OF TITLE 5 PROCEDURES AND SANCTIONS.—Paragraph (1) of section 2302(a) of title 5, United States Code, is amended to read as follows:

"(1) For purposes of this title, 'prohibited personnel practice' means the following:

"(A) Any action described in subsection (b) of this section.

"(B) Any action or failure to act that is designated as a prohibited personnel action under section 1599c(a) of title 10.".

(c) REPORTING REQUIREMENT.—Not later than six months after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a written report on—

(1) the implementation of—

(A) section 1599c of title 10, United States Code, as added by subsection (a); and

(B) subparagraph (B) of section 2302(a)(1) of title 5, United States Code, as added by subsection (b); and

(2) the administration of veterans' preference requirements by the Department of Defense generally.

SEC. 1616. PILOT PROGRAMS FOR DEFENSE EMPLOYEES CONVERTED TO CONTRACTOR EMPLOYEES DUE TO PRIVATIZATION AT CLOSED MILITARY INSTALLATIONS.

5 USC 8331 note.

(a) PILOT PROGRAMS AUTHORIZED.—(1) The Secretary of Defense, after consultation with the Director of the Office of Personnel Management, may establish one or more pilot programs under which Federal retirement benefits are provided in accordance with this section to persons who convert from Federal employment to employment by a Department of Defense contractor in connection with the privatization of the performance of functions at selected military installations being closed under the base closure and realignment process.

(2) The Secretary of Defense shall select the military installations to be covered by a pilot program under this section.

(b) ELIGIBLE CONVERTED EMPLOYEES.—(1) A person is a converted employee eligible for Federal retirement benefits under this section if the person is a former employee of the Department of Defense (other than a temporary employee) who—

(A) while employed by the Department of Defense at a military installation selected to participate in a pilot program, performed a function that was recommended, in a report of the Defense Base Closure and Realignment Commission submitted to the President under the Defense Base Closure and Realignment Act of 1990 (title XXIX of Public Law 101–510; 10 U.S.C. 2687 note), to be privatized for performance by a defense contractor at the same installation or in the vicinity of the installation;

(B) while so employed, separated from Federal service after being notified that the employee would be separated in a reduction in force resulting from such privatization;

(C) at the time separated from Federal service, was covered under the Civil Service Retirement System, but was not eligible

for an immediate annuity under the Civil Service Retirement System;

(D) does not withdraw retirement contributions under section 8342 of title 5, United States Code;

(E) within 60 days following such separation, is employed by the defense contractor selected to privatize the function to perform substantially the same function performed by the person before the separation; and

(F) remains employed by the defense contractor (or a successor defense contractor) or subcontractor of the defense contractor (or successor defense contractor) until attaining early deferred retirement age (unless the employment is sooner involuntarily terminated for reasons other than performance or conduct of the employee).

(2) A person who, under paragraph (1), would otherwise be eligible for an early deferred annuity under this section shall not be eligible for such benefits if the person received separation pay or severance pay due to a separation described in subparagraph (B) of that paragraph unless the person repays the full amount of such pay with interest (computed at a rate determined appropriate by the Director of the Office of Personnel Management) to the Department of Defense before attaining early deferred retirement age.

(c) RETIREMENT BENEFITS OF CONVERTED EMPLOYEES.—In the case of a converted employee covered by a pilot program, payment of a deferred annuity for which the converted employee is eligible under section 8338(a) of title 5, United States Code, shall commence on the first day of the first month that begins after the date on which the converted employee attains early deferred retirement age, notwithstanding the age requirement under that section. If the employment of a converted employee is involuntarily terminated by the defense contractor or subcontractor as described in subsection (b)(1)(F) and the converted employee resumes Federal service before the converted employee attains early deferred retirement age, the converted employee shall once again be covered under the Civil Service Retirement System instead of the pilot program.

(d) COMPUTATION OF AVERAGE PAY.—(1)(A) This paragraph applies to a converted employee who was employed in a position classified under the General Schedule immediately before the employee's covered separation from Federal service.

(B) Subject to subparagraph (C), for purposes of computing the deferred annuity for a converted employee referred to in subparagraph (A), the average pay of the converted employee, computed under section 8331(4) of title 5, United States Code, as of the date of the employee's covered separation from Federal service, shall be adjusted at the same time and by the same percentage that rates of basic pay are increased under section 5303 of such title during the period beginning on that date and ending on the date on which the converted employee attains early deferred retirement age.

(C) The average pay of a converted employee, as adjusted under subparagraph (B), may not exceed the amount to which an annuity of the converted employee could be increased under section 8340 of title 5, United States Code, in accordance with the limitation in subsection (g)(1) of such section (relating to maximum pay, final pay, or average pay).

(2)(A) This paragraph applies to a converted employee who was a prevailing rate employee (as defined under section 5342(2) of title 5, United States Code) immediately before the employee's covered separation from Federal service. Applicability.

(B) For purposes of computing the deferred annuity for a converted employee referred to in subparagraph (A), the average pay of the converted employee, computed under section 8331(4) of title 5, United States Code, as of the date of the employee's covered separation from Federal service, shall be adjusted at the same time and by the same percentage that pay rates for positions that are in the same area as, and are comparable to, the last position the converted employee held as a prevailing rate employee, are increased under section 5343(a) of such title during the period beginning on that date and ending on the date on which the converted employee attains early deferred retirement age.

(e) PAYMENT OF UNFUNDED LIABILITY.—(1) The military department concerned shall be liable for that portion of any estimated increase in the unfunded liability of the Civil Service Retirement and Disability Fund established under section 8348 of title 5, United States Code, which is attributable to any benefits payable from such Fund to a converted employee, and any survivor of a converted employee, when the increase results from—

(A) an increase in the average pay of the converted employee under subsection (d) upon which such benefits are computed; and

(B) the commencement of an early deferred annuity in accordance with this section before the attainment of 62 years of age by the converted employee.

(2) The estimated increase in the unfunded liability for each department referred to in paragraph (1) shall be determined by the Director of the Office of Personnel Management. In making the determination, the Director shall consider any savings to the Fund as a result of a pilot program established under this section. The Secretary of the military department concerned shall pay the amount so determined to the Director in 10 equal annual installments with interest computed at the rate used in the most recent valuation of the Civil Service Retirement System, with the first payment thereof due at the end of the fiscal year in which an increase in average pay under subsection (d) becomes effective.

(f) CONTRACTOR SERVICE NOT CREDITABLE.—Service performed by a converted employee for a defense contractor after the employee's covered separation from Federal service is not creditable service for purposes of subchapter III of chapter 83 of title 5, United States Code.

(g) RECEIPT OF BENEFITS WHILE EMPLOYED BY A DEFENSE CONTRACTOR.—A converted employee may commence receipt of an early deferred annuity in accordance with this section while continuing to work for a defense contractor.

(h) LUMP-SUM CREDIT PAYMENT.—If a converted employee dies before attaining early deferred retirement age, such employee shall be treated as a former employee who dies not retired for purposes of payment of the lump-sum credit under section 8342(d) of title 5, United States Code.

(i) CONTINUED FEDERAL HEALTH BENEFITS COVERAGE.—Notwithstanding section 8905a(e)(1)(A) of title 5, United States Code, the continued coverage of a converted employee for health benefits under chapter 89 of such title by reason of the application of

section 8905a of such title to such employee shall terminate 90 days after the date of the employee's covered separation from Federal employment. For the purposes of the preceding sentence, a person who, except for subsection (b)(2), would be a converted employee shall be considered a converted employee.

(j) REPORT BY GENERAL ACCOUNTING OFFICE.—The Comptroller General shall conduct a study of each pilot program, if any, established under this section and submit a report on the pilot program to Congress not later than two years after the date on which the program is established. The report shall contain the following:

(1) A review and evaluation of the program, including—

(A) an evaluation of the success of the privatization outcomes of the program;

(B) a comparison and evaluation of such privatization outcomes with the privatization outcomes with respect to facilities at other military installations closed or realigned under the base closure laws;

(C) an evaluation of the impact of the program on the Federal workforce and whether the program results in the maintenance of a skilled workforce for defense contractors at an acceptable cost to the military department concerned; and

(D) an assessment of the extent to which the program is a cost-effective means of facilitating privatization of the performance of Federal activities.

(2) Recommendations relating to the expansion of the program to other installations and employees.

(3) Any other recommendation relating to the program.

(k) IMPLEMENTING REGULATIONS.—Not later than 30 days after the Secretary of Defense notifies the Director of the Office of Personnel Management of a decision to establish a pilot program under this section, the Director shall prescribe regulations to carry out the provisions of this section with respect to that pilot program. Before prescribing the regulations, the Director shall consult with the Secretary.

(l) DEFINITIONS.—In this section:

(1) The term "converted employee" means a person who, pursuant to subsection (b), is eligible for benefits under this section.

(2) The term "covered separation from Federal service" means a separation from Federal service as described under subsection (b)(1)(B).

(3) The term "Civil Service Retirement System" means the retirement system under subchapter III of chapter 83 of title 5, United States Code.

(4) The term "defense contractor" means any entity that—

(A) contracts with the Department of Defense to perform a function previously performed by Department of Defense employees;

(B) performs that function at the same installation at which such function was previously performed by Department of Defense employees or in the vicinity of that installation; and

(C) is the employer of one or more converted employees.

(5) The term "early deferred retirement age" means the first age at which a converted employee would have been eligible for immediate retirement under subsection (a) or (b)

of section 8336 of title 5, United States Code, if such converted employee had remained an employee within the meaning of section 8331(1) of such title continuously until attaining such age.

(6) The term "severance pay" means severance pay payable under section 5595 of title 5, United States Code.

(7) The term "separation pay" means separation pay payable under section 5597 of title 5, United States Code.

(m) APPLICATION OF PILOT PROGRAM.—In the event that a pilot program is established for a military installation, the pilot program shall apply to a covered separation from Federal service by an employee of the Department of Defense at the installation occurring on or after August 1, 1996.

Subtitle B—Department of Defense Intelligence Personnel Policy

Department of Defense Civilian Intelligence Personnel Policy Act of 1996. 10 USC 1601 note.

SEC. 1631. SHORT TITLE.

This subtitle may be cited as the "Department of Defense Civilian Intelligence Personnel Policy Act of 1996".

SEC. 1632. MANAGEMENT OF CIVILIAN INTELLIGENCE PERSONNEL.

(a) CONSOLIDATION AND STANDARDIZATION OF CIVILIAN PERSONNEL POLICY.—Chapter 83 of title 10, United States Code, is amended—

(1) by redesignating section 1602 as section 1621 and transferring that section so as to appear after section 1605;

(2) by redesignating sections 1606 and 1608 as section 1622 and 1623, respectively; and

(3) by striking out the chapter heading, the table of sections, and sections 1601, 1603, and 1604 and inserting in lieu thereof the following:

"CHAPTER 83—CIVILIAN DEFENSE INTELLIGENCE EMPLOYEES

"Subchapter Sec.
"I. Defense-Wide Intelligence Personnel Policy 1601
"II. Defense Intelligence Agency Personnel 1621

"SUBCHAPTER I—DEFENSE-WIDE INTELLIGENCE PERSONNEL POLICY

"Sec.
"1601. Civilian intelligence personnel: general authority to establish excepted positions, appoint personnel, and fix rates of pay.
"1602. Basic pay.
"1603. Additional compensation, incentives, and allowances.
"1605. Benefits for certain employees assigned outside the United States.
"1606. Defense Intelligence Senior Executive Service.
"1607. Intelligence Senior Level positions.
"1608. Time-limited appointments.
"1609. Termination of defense intelligence employees.
"1610. Reductions and other adjustments in force.
"1611. Postemployment assistance: certain terminated intelligence employees.
"1612. Merit system principles and civil service protections: applicability.
"1613. Miscellaneous provisions.
"1614. Definitions.

"§ 1601. Civilian intelligence personnel: general authority to establish excepted positions, appoint personnel, and fix rates of pay

"(a) GENERAL AUTHORITY.—The Secretary of Defense may—

"(1) establish, as positions in the excepted service, such defense intelligence positions in the intelligence components of the Department of Defense and the military departments as the Secretary determines necessary to carry out the intelligence functions of those components and departments, including—

"(A) Intelligence Senior Level positions designated under section 1607 of this title; and

"(B) positions in the Defense Intelligence Senior Executive Service;

"(2) appoint individuals to those positions (after taking into consideration the availability of preference eligibles for appointment to those positions); and

"(3) fix the compensation of such individuals for service in those positions.

"(b) CONSTRUCTION WITH OTHER LAWS.—The authority of the Secretary of Defense under subsection (a) applies without regard to the provisions of any other law relating to the appointment, number, classification, or compensation of employees.

"§ 1602. Basic pay

"(a) AUTHORITY TO FIX RATES OF BASIC PAY.—The Secretary of Defense (subject to the provisions of this section) shall fix the rates of basic pay for positions established under section 1601 of this title in relation to the rates of basic pay provided in subpart D of part III of title 5 for positions subject to that subpart which have corresponding levels of duties and responsibilities.

"(b) MAXIMUM RATES.—A rate of basic pay fixed under subsection (a) for a position established under section 1601 of this title may not (except as otherwise provided by law) exceed—

"(1) in the case of a Defense Intelligence Senior Executive Service position, the maximum rate provided in section 5382 of title 5;

"(2) in the case of an Intelligence Senior Level position, the maximum rate provided in section 5382 of title 5; and

"(3) in the case of any other position, the maximum rate provided in section 5306(e) of title 5.

"(c) PREVAILING RATE SYSTEMS.—The Secretary of Defense may, consistent with section 5341 of title 5, adopt such provisions of that title as provide for prevailing rate systems of basic pay and may apply those provisions to positions for civilian employees in or under which the Department of Defense may employ individuals described by section 5342(a)(2)(A) of that title.

"§ 1603. Additional compensation, incentives, and allowances

"(a) ADDITIONAL COMPENSATION BASED ON TITLE 5 AUTHORITIES.—The Secretary of Defense may provide employees in defense intelligence positions compensation (in addition to basic pay), including benefits, incentives, and allowances, consistent with, and not in excess of the level authorized for, comparable positions authorized by title 5.

"(b) ALLOWANCES BASED ON LIVING COSTS AND ENVIRONMENT.—(1) In addition to basic pay, employees in defense intelligence posi-

tions who are citizens or nationals of the United States and are stationed outside the continental United States or in Alaska may be paid an allowance, in accordance with regulations prescribed by the Secretary of Defense, while they are so stationed.

"(2) An allowance under this subsection shall be based on—

"(A) living costs substantially higher than in the District of Columbia;

"(B) conditions of environment which (i) differ substantially from conditions of environment in the continental United States, and (ii) warrant an allowance as a recruitment incentive; or

"(C) both of the factors specified in subparagraphs (A) and (B).

"(3) An allowance under this subsection may not exceed the allowance authorized to be paid by section 5941(a) of title 5 for employees whose rates of basic pay are fixed by statute.".

(b) MATTERS OTHER THAN PAY AND BENEFITS.—Such chapter is further amended by inserting after section 1605 the following new sections:

"§ 1606. Defense Intelligence Senior Executive Service

"(a) ESTABLISHMENT.—The Secretary of Defense may establish a Defense Intelligence Senior Executive Service for defense intelligence positions established pursuant to section 1601(a) of this title that are equivalent to Senior Executive Service positions. The number of positions in the Defense Intelligence Senior Executive Service may not exceed 492.

"(b) REGULATIONS CONSISTENT WITH TITLE 5 PROVISIONS.—The Secretary of Defense shall prescribe regulations for the Defense Intelligence Senior Executive Service which are consistent with the requirements set forth in sections 3131, 3132(a)(2), 3396(c), 3592, 3595(a), 5384, and 6304 of title 5, subsections (a), (b), and (c) of section 7543 of such title (except that any hearing or appeal to which a member of the Defense Intelligence Senior Executive Service is entitled shall be held or decided pursuant to those regulations), and subchapter II of chapter 43 of such title. To the extent that the Secretary determines it practicable to apply to members of, or applicants for, the Defense Intelligence Senior Executive Service other provisions of title 5 that apply to members of, or applicants for, the Senior Executive Service, the Secretary shall also prescribe regulations to implement those provisions with respect to the Defense Intelligence Senior Executive Service.

"(c) AWARD OF RANK TO MEMBERS OF THE DEFENSE INTELLIGENCE SENIOR EXECUTIVE SERVICE.—The President, based on the recommendations of the Secretary of Defense, may award a rank referred to in section 4507 of title 5 to members of the Defense Intelligence Senior Executive Service. The award of such rank shall be made in a manner consistent with the provisions of that section.

"§ 1607. Intelligence Senior Level positions

"(a) DESIGNATION OF POSITIONS.—The Secretary of Defense may designate as an Intelligence Senior Level position any defense intelligence position that, as determined by the Secretary—

"(1) is classifiable above grade GS–15 of the General Schedule;

"(2) does not satisfy functional or program management criteria for being designated a Defense Intelligence Senior Executive Service position; and

"(3) has no more than minimal supervisory responsibilities.

"(b) REGULATIONS.—Subsection (a) shall be carried out in accordance with regulations prescribed by the Secretary of Defense.

"§ 1608. Time-limited appointments

"(a) AUTHORITY FOR TIME-LIMITED APPOINTMENTS.—The Secretary of Defense may by regulation authorize appointing officials to make time-limited appointments to defense intelligence positions specified in the regulations.

"(b) REVIEW OF USE OF AUTHORITY.—The Secretary of Defense shall review each time-limited appointment in a defense intelligence position at the end of the first year of the period of the appointment and determine whether the appointment should be continued for the remainder of the period. The continuation of a time-limited appointment after the first year shall be subject to the approval of the Secretary.

"(c) CONDITION ON PERMANENT APPOINTMENT TO DEFENSE INTELLIGENCE SENIOR EXECUTIVE SERVICE.—An employee serving in a defense intelligence position pursuant to a time-limited appointment is not eligible for a permanent appointment to a Defense Intelligence Senior Executive Service position (including a position in which the employee is serving) unless the employee is selected for the permanent appointment on a competitive basis.

"(d) TIME-LIMITED APPOINTMENT DEFINED.—In this section, the term 'time-limited appointment' means an appointment (subject to the condition in subsection (b)) for a period not to exceed two years.

"§ 1609. Termination of defense intelligence employees

"(a) TERMINATION AUTHORITY.—Notwithstanding any other provision of law, the Secretary of Defense may terminate the employment of any employee in a defense intelligence position if the Secretary—

"(1) considers that action to be in the interests of the United States; and

"(2) determines that the procedures prescribed in other provisions of law that authorize the termination of the employment of such employee cannot be invoked in a manner consistent with the national security.

"(b) FINALITY.—A decision by the Secretary of Defense to terminate the employment of an employee under this section is final and may not be appealed or reviewed outside the Department of Defense.

"(c) NOTIFICATION TO CONGRESSIONAL COMMITTEES.—Whenever the Secretary of Defense terminates the employment of an employee under the authority of this section, the Secretary shall promptly notify the congressional oversight committees of such termination.

"(d) PRESERVATION OF RIGHT TO SEEK OTHER EMPLOYMENT.—Any termination of employment under this section does not affect the right of the employee involved to seek or accept employment with any other department or agency of the United States if that employee is declared eligible for such employment by the Director of the Office of Personnel Management.

"(e) LIMITATION ON DELEGATION.—The authority of the Secretary of Defense under this section may be delegated only to the Deputy Secretary of Defense, the head of an intelligence component of the Department of Defense (with respect to employees of that component), or the Secretary of a military department (with respect to employees of that department). An action to terminate employment of such an employee by any such official may be appealed to the Secretary of Defense.

"§ 1610. Reductions and other adjustments in force

Regulations.

"(a) IN GENERAL.—The Secretary of Defense shall prescribe regulations for the separation of employees in defense intelligence positions, including members of the Defense Intelligence Senior Executive Service and employees in Intelligence Senior Level positions, during a reduction in force or other adjustment in force. The regulations shall apply to such a reduction in force or other adjustment in force notwithstanding sections 3501(b) and 3502 of title 5.

"(b) MATTERS TO BE GIVEN EFFECT.—The regulations shall give effect to the following:

"(1) Tenure of employment.

"(2) Military preference, subject to sections 3501(a)(3) and 3502(b) of title 5.

"(3) The veteran's preference under section 3502(b) of title 5.

"(4) Performance.

"(5) Length of service computed in accordance with the second sentence of section 3502(a) of title 5.

"(c) REGULATIONS RELATING TO DEFENSE INTELLIGENCE SES.—The regulations relating to removal from the Defense Intelligence Senior Executive Service in a reduction in force or other adjustment in force shall be consistent with section 3595(a) of title 5.

"(d) RIGHT OF APPEAL.—(1) The regulations shall provide a right of appeal regarding a personnel action under the regulations. The appeal shall be determined within the Department of Defense. An appeal determined at the highest level provided in the regulations shall be final and not subject to review outside the Department of Defense. A personnel action covered by the regulations is not subject to any other provision of law that provides appellate rights or procedures.

"(2) Notwithstanding paragraph (1), a preference eligible referred to in section 7511(a)(1)(B) of title 5 may elect to have an appeal of a personnel action taken against the preference eligible under the regulation determined by the Merit Systems Protection Board instead of having the appeal determined within the Department of Defense. Section 7701 of title 5 shall apply to any such appeal to the Merit Systems Protection Board.

"(e) CONSULTATION WITH OPM.—Regulations under this section shall be prescribed in consultation with the Director of the Office of Personnel Management.".

(c) TRANSFER OF SECTION 1599.—Subtitle A of title 10, United States Code, is amended by transferring section 1599 to chapter 83 of such title, inserting such section after section 1610 (as added by subsection (b)), redesignating such section as section 1611, and in subsection (f) striking out "means" and all that follows and inserting in lieu thereof "includes the National Reconnaissance Office and any intelligence component of a military department.".

(d) ADDITIONAL PROVISIONS.—Such chapter is further amended by inserting after section 1611 (as so transferred and redesignated) the following new sections:

"§ 1612. Merit system principles and civil service protections: applicability

"(a) APPLICABILITY OF MERIT SYSTEM PRINCIPLES.—Section 2301 of title 5 shall apply to the exercise of authority under this subchapter (other than sections 1605 and 1611).

"(b) CIVIL SERVICE PROTECTIONS.—(1) If, in the case of a position established under authority other than section 1601(a)(1) of this title that is reestablished as an excepted service position under that section, the provisions of law referred to in paragraph (2) applied to the person serving in that position immediately before the position is so reestablished and such provisions of law would not otherwise apply to the person while serving in the position as so reestablished, then such provisions of law shall, subject to paragraph (3), continue to apply to the person with respect to service in that position for as long as the person continues to serve in the position without a break in service.

"(2) The provisions of law referred to in paragraph (1) are the following provisions of title 5:

"(A) Section 2302, relating to prohibited personnel practices.

"(B) Chapter 75, relating to adverse actions.

"(3)(A) Notwithstanding any provision of chapter 75 of title 5, an appeal of an adverse action by an individual employee covered by paragraph (1) shall be determined within the Department of Defense if the employee so elects.

Procedures.

"(B) The Secretary of Defense shall prescribe the procedures for initiating and determining appeals of adverse actions pursuant to elections made under subparagraph (A).

"§ 1613. Miscellaneous provisions

"(a) COLLECTIVE BARGAINING AGREEMENTS.—Nothing in sections 1601 through 1604 and 1606 through 1610 may be construed to impair the continued effectiveness of a collective bargaining agreement with respect to an agency or office that is a successor to an agency or office covered by the agreement before the succession.

"(b) NOTICE TO CONGRESS OF REGULATIONS.—The Secretary of Defense shall notify Congress of any regulations prescribed to carry out this subchapter (other than sections 1605 and 1611). Such notice shall be provided by submitting a copy of the regulations to the congressional oversight committees not less than 60 days before such regulations take effect.

"§ 1614. Definitions

"In this subchapter:

"(1) The term 'defense intelligence position' means a civilian position as an intelligence officer or intelligence employee of an intelligence component of the Department of Defense or of a military department.

"(2) The term 'intelligence component of the Department of Defense' means any of the following:

"(A) The National Security Agency.

"(B) The Defense Intelligence Agency.

"(C) The National Imagery and Mapping Agency.

"(D) Any other component of the Department of Defense that performs intelligence functions and is designated by the Secretary of Defense as an intelligence component of the Department of Defense.

"(E) Any successor to a component specified in, or designated pursuant to, this paragraph.

"(3) The term 'congressional oversight committees' means—

"(A) the Committee on Armed Services and the Select Committee on Intelligence of the Senate; and

"(B) the Committee on National Security and the Permanent Select Committee on Intelligence of the House of Representatives.

"(4) The term 'excepted service' has the meaning given such term in section 2103 of title 5.

"(5) The term 'preference eligible' has the meaning given such term in section 2108(3) of title 5.

"(6) The term 'Senior Executive Service position' has the meaning given such term in section 3132(a)(2) of title 5.

"(7) The term 'collective bargaining agreement' has the meaning given such term in section 7103(8) of title 5.".

(e) DESIGNATION OF NEW SUBCHAPTER II.—Chapter 83 of such title is further amended by inserting after section 1614 (as added by subsection (d)) the following:

"SUBCHAPTER II—DEFENSE INTELLIGENCE AGENCY PERSONNEL

"Sec.
"1621. Defense Intelligence Agency merit pay system.
"1622. Uniform allowance: civilian employees.
"1623. Financial assistance to certain employees in acquisition of critical skills.".

SEC. 1633. REPEAL OF SUPERSEDED SECTIONS AND CLERICAL AND CONFORMING AMENDMENTS.

(a) REPEAL OF SEPARATE MILITARY DEPARTMENT AUTHORITIES.—Section 1590 of title 10, United States Code, is repealed.

(b) REPEAL OF SEPARATE NATIONAL SECURITY AGENCY AUTHORITIES.—The following provisions of law are repealed:

(1) Sections 2 and 4 of the National Security Agency Act of 1959 (50 U.S.C. 402 note).

(2) Section 303 of the Internal Security Act of 1950 (50 U.S.C. 833).

(c) CLERICAL AMENDMENTS.—Title 10, United States Code, is amended as follows:

(1) The heading for section 1605 is amended to read as follows:

"§ 1605. Benefits for certain employees assigned outside the United States".

(2) The table of sections at the beginning of chapter 81 is amended by striking out the items relating to sections 1590 and 1599.

(3) The tables of chapters at the beginning of subtitle A, and at the beginning of part II of subtitle A, are amended by striking out the item relating to chapter 83 and inserting in lieu thereof the following:

"83. Civilian Defense Intelligence Employees ..... 1601".

(d) CONFORMING AMENDMENT.—Section 1621 of such title, as transferred and redesignated by section 1632(a)(1), is amended by striking out "and Central Imagery Office".

(e) CROSS REFERENCE AMENDMENTS.—Chapter 81 of title 10, United States Code, is amended as follows:

(1) Section 1593(a)(3) is amended by striking out "section 1606" and inserting in lieu thereof "section 1622".

(2) Section 1596(c) is amended by striking out "section 1604(b)" and inserting in lieu thereof "section 1602".

SEC. 1634. OTHER PERSONNEL MANAGEMENT AUTHORITIES.

(a) APPLICABILITY OF FEDERAL LABOR-MANAGEMENT RELATIONS SYSTEM.—Section 7103(a)(3) of title 5, United States Code, is amended—

(1) by inserting "or" at the end of subparagraph (F);

(2) by striking out "; or" at the end of subparagraph (G) and inserting in lieu thereof a period; and

(3) by striking out subparagraph (H).

(b) APPLICABILITY OF AUTHORITY AND PROCEDURES FOR IMPOSING CERTAIN ADVERSE ACTIONS.—Section 7511(b)(8) of such title is amended by striking out "the National Security Agency" and all that follows through "title 10" and inserting in lieu thereof "an intelligence component of the Department of Defense (as defined in section 1614 of title 10), or an intelligence activity of a military department covered under subchapter I of chapter 83 of title 10".

10 USC 1593 note.

SEC. 1635. EFFECTIVE DATE.

This subtitle and the amendments made by this subtitle shall take effect on October 1, 1996.

Federal Employee Travel Reform Act of 1996.

TITLE XVII—FEDERAL EMPLOYEE TRAVEL REFORM

Sec. 1701. Short title.

Subtitle A—Relocation Benefits

Sec. 1711. Allowance for seeking permanent residence quarters.
Sec. 1712. Temporary quarters subsistence expenses allowance.
Sec. 1713. Modification of residence transaction expenses allowance.
Sec. 1714. Authority to pay for property management services.
Sec. 1715. Authority to transport a privately owned motor vehicle within the continental United States.
Sec. 1716. Authority to pay limited relocation allowances to an employee who is performing an extended assignment.
Sec. 1717. Authority to pay a home marketing incentive.
Sec. 1718. Revision and reenactment of additional provisions relating to relocation expenses.

Subtitle B—Miscellaneous Provisions

Sec. 1721. Repeal of the long-distance telephone call certification requirement.
Sec. 1722. Transfer of authority to prescribe regulations.
Sec. 1723. Conforming and clerical amendments.
Sec. 1724. Assessment of cost savings.
Sec. 1725. Effective date and issuance of regulations.

5 USC 5701 note.

SEC. 1701. SHORT TITLE.

This title may be cited as the "Federal Employee Travel Reform Act of 1996".

Subtitle A—Relocation Benefits

SEC. 1711. ALLOWANCE FOR SEEKING PERMANENT RESIDENCE QUARTERS.

Section 5724a of title 5, United States Code, is amended to read as follows:

"§ 5724a. Relocation expenses of employees transferred or reemployed

"(a) An agency shall pay to or on behalf of an employee who transfers in the interest of the Government, a per diem allowance or the actual subsistence expenses, or a combination thereof, of the immediate family of the employee for en route travel of the immediate family between the employee's old and new official stations.

"(b)(1) An agency may pay to or on behalf of an employee who transfers in the interest of the Government between official stations located within the United States—

"(A) the expenses of transportation of the employee and the employee's spouse for travel to seek permanent residence quarters at a new official station; and

"(B) either—

"(i) a per diem allowance or the actual subsistence expenses (or a combination of both); or

"(ii) an amount for subsistence expenses.

"(2) Expenses may be allowed under paragraph (1) only for one round trip in connection with each change of station of the employee.".

SEC. 1712. TEMPORARY QUARTERS SUBSISTENCE EXPENSES ALLOWANCE.

Section 5724a of title 5, United States Code, as amended by section 1712, is further amended by adding at the end the following new subsection:

"(c)(1) An agency may pay to or on behalf of an employee who transfers in the interest of the Government—

"(A) actual subsistence expenses of the employee and the employee's immediate family for a period of up to 60 days while the employee or family is occupying temporary quarters when the new official station is located within the United States; or

"(B) an amount for subsistence expenses instead of the actual subsistence expenses authorized in subparagraph (A) of this paragraph.

"(2) The period authorized in paragraph (1) of this subsection for payment of expenses for residence in temporary quarters may be extended up to an additional 60 days if the head of the agency concerned or the designee of such head of the agency determines that there are compelling reasons for the continued occupancy of temporary quarters.

"(3) The regulations implementing paragraph (1)(A) shall prescribe daily rates and amounts for subsistence expenses per individual.". Regulations.

SEC. 1713. MODIFICATION OF RESIDENCE TRANSACTION EXPENSES ALLOWANCE.

(a) EXPENSES OF SALE.—Section 5724a of title 5, United States Code, as amended by section 1712, is further amended by adding at the end the following new subsection:

"(d)(1) An agency shall pay to or on behalf of an employee who transfers in the interest of the Government, expenses of the sale of the residence (or the settlement of an unexpired lease) of the employee at the old official station and purchase of a residence at the new official station that are required to be paid by the employee, when the old and new official stations are located within the United States.

"(2) An agency shall pay to or on behalf of an employee who transfers in the interest of the Government from a post of duty located outside the United States to an official station within the United States (other than the official station within the United States from which the employee was transferred when assigned to the foreign tour of duty)—

"(A) expenses required to be paid by the employee for the sale of the residence (or the settlement of an unexpired lease) of the employee at the old official station from which the employee was transferred when the employee was assigned to the post of duty located outside the United States; and

"(B) expenses required to be paid by the employee for the purchase of a residence at the new official station within the United States.

"(3) Reimbursement of expenses under paragraph (2) of this subsection shall not be allowed for any sale (or settlement of an unexpired lease) or purchase transaction that occurs prior to official notification that the employee's return to the United States would be to an official station other than the official station from which the employee was transferred when assigned to the post of duty outside the United States.

"(4) Reimbursement for brokerage fees on the sale of the residence and other expenses under this subsection may not exceed those customarily charged in the locality where the residence is located.

"(5) Reimbursement may not be made under this subsection for losses incurred by the employee on the sale of the residence.

Applicability.

"(6) This subsection applies regardless of whether title to the residence or the unexpired lease is—

"(A) in the name of the employee alone;

"(B) in the joint names of the employee and a member of the employee's immediate family; or

"(C) in the name of a member of the employee's immediate family alone.

"(7)(A) In connection with the sale of the residence at the old official station, reimbursement under this subsection shall not exceed 10 percent of the sale price.

"(B) In connection with the purchase of a residence at the new official station, reimbursement under this subsection shall not exceed 5 percent of the purchase price.".

(b) RELOCATION SERVICES.—Section 5724c of title 5, United State Code, is amended to read as follows:

"§ 5724c. Relocation services

"Under regulations prescribed under section 5738 of this title, each agency may enter into contracts to provide relocation services to agencies and employees for the purpose of carrying out this subchapter. An agency may pay a fee for such services. Such services include arranging for the purchase of a transferred employee's residence.".

SEC. 1714. AUTHORITY TO PAY FOR PROPERTY MANAGEMENT SERVICES.

Section 5724a of title 5, United States Code, as amended by section 1713, is further amended—

(1) in subsection (d), by adding at the end the following:

"(8) An agency may pay to or on behalf of an employee who transfers in the interest of the Government expenses of property management services, instead of expenses under paragraph (2) or (3) of this subsection for sale of the employee's residence, when the agency determines that such transfer is advantageous and cost-effective for the Government."; and

(2) by adding at the end the following new subsection:

"(e) An agency may pay to or on behalf of an employee who transfers in the interest of the Government, the expenses of property management services when the employee transfers to a post of duty outside the United States. Such payment shall terminate upon return of the employee to an official station within the United States.".

SEC. 1715. AUTHORITY TO TRANSPORT A PRIVATELY OWNED MOTOR VEHICLE WITHIN THE CONTINENTAL UNITED STATES.

(a) IN GENERAL.—Section 5727 of title 5, United States Code, is amended—

(1) by redesignating subsections (c) through (e) as subsections (d) through (f), respectively;

(2) by inserting after subsection (b) the following new subsection:

"(c) Under regulations prescribed under section 5738 of this title, the privately owned motor vehicle or vehicles of an employee, including a new appointee or a student trainee for whom travel and transportation expenses are authorized under section 5723 of this title, may be transported at Government expense to a new official station of the employee when the agency determines that such transport is advantageous and cost-effective to the Government."; and

(3) in subsection (e) (as so redesignated), by inserting "or (c)" after "subsection (b)".

(b) AVAILABILITY OF APPROPRIATIONS.—(1) Section 5722(a) of title 5, United States Code, is amended—

(A) by striking out "and" at the end of paragraph (1);

(B) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and"; and

(C) by adding at the end the following:

"(3) the expenses of transporting a privately owned motor vehicle as authorized under section 5727(c) of this title.".

(2) Section 5723(a) of title 5, United States Code, is amended—

(A) by striking out "and" at the end of paragraph (1);

(B) by inserting "and" after the semicolon at the end of paragraph (2); and

(C) by adding at the end the following:

"(3) the expenses of transporting a privately owned motor vehicle as authorized under section 5727(c) of this title;".

SEC. 1716. AUTHORITY TO PAY LIMITED RELOCATION ALLOWANCES TO AN EMPLOYEE WHO IS PERFORMING AN EXTENDED ASSIGNMENT.

Subchapter II of chapter 57 of title 5, United States Code, as amended by section 1605, is further amended by adding at the end the following new section:

"§ 5737. Relocation expenses of an employee who is performing an extended assignment

"(a) Under regulations prescribed under section 5738 of this title, an agency may pay to or on behalf of an employee assigned from the employee's official station to a duty station for a period of not less than six months and not greater than 30 months, the following expenses in lieu of payment of expenses authorized under subchapter I of this chapter:

"(1) Travel expenses to and from the assignment location in accordance with section 5724 of this title.

"(2) Transportation expenses of the immediate family and household goods and personal effects to and from the assignment location in accordance with section 5724 of this title.

"(3) A per diem allowance for en route travel of the employee's immediate family to and from the assignment location in accordance with section 5724a(a) of this title.

"(4) Travel and transportation expenses of the employee and spouse to seek new residence quarters at the assignment location in accordance with section 5724a(b) of this title.

"(5) Subsistence expenses of the employee and the employee's immediate family while occupying temporary quarters upon commencement and termination of the assignment in accordance with section 5724a(c) of this title.

"(6) An amount, in accordance with section 5724a(f), to be used by the employee for miscellaneous expenses of this title.

"(7) The expenses of transporting a privately owned motor vehicle or vehicles to the assignment location in accordance with section 5727 of this title.

"(8) An allowance as authorized under section 5724b of this title for Federal, State, and local income taxes incurred on reimbursement of expenses paid under this section or on services provided in kind under this section.

"(9) Expenses of nontemporary storage of household goods and personal effects as defined in section 5726(a) of this title, subject to the limitation that the weight of the household goods and personal effects stored, together with the weight of property transported under section 5724(a) of this title, may not exceed the total maximum weight which could be transported in accordance with section 5724(a) of this title.

"(10) Expenses of property management services.

"(b) An agency shall not make payment under this section to or on behalf of the employee for expenses incurred after termination of the temporary assignment.".

SEC. 1717. AUTHORITY TO PAY A HOME MARKETING INCENTIVE.

Subchapter IV of chapter 57 of title 5, United States Code, is amended by adding at the end the following new section:

"§ 5756. Home marketing incentive payment

Regulations.

"(a) Under regulations prescribed under subsection (b), an agency may pay to an employee who transfers in the interest of the Government an amount to encourage the employee to aggressively market the employee's residence at the official station from which transferred when—

"(1) the residence is entered into a relocation services program established under a contract in accordance with section 5724c of this title to arrange for the purchase of the residence;

"(2) the employee finds a buyer who completes the purchase of the residence through the program; and

"(3) the sale of the residence results in a reduced cost to the Government.

"(b)(1) The Administrator of General Services shall prescribe regulations to carry out this section.

"(2) The regulations shall include a limitation on the maximum amount payable with respect to an employee's residence. The Administrator shall establish the limitation in consultation with the Director of the Office of Management and Budget. For fiscal years 1997 and 1998, the maximum amount shall be the amount equal to five percent of the sale price of the residence.".

SEC. 1718. REVISION AND REENACTMENT OF ADDITIONAL PROVISIONS RELATING TO RELOCATION EXPENSES.

Section 5724a of title 5, United States Code, as amended by section 1714, is further amended by adding at the end the following new subsections:

"(f)(1) Subject to paragraph (2), an employee who is reimbursed under subsections (a) through (e) of this section or section 5724(a) of this title is entitled to an amount for miscellaneous expenses—

"(A) not to exceed two weeks' basic pay, if such employee has an immediate family; or

"(B) not to exceed one week's basic pay, if such employee does not have an immediate family.

"(2) Amounts paid under paragraph (1) may not exceed amounts determined at the maximum rate payable for a position at GS–13 of the General Schedule.

"(g) A former employee separated by reason of reduction in force or transfer of function who within one year after the separation is reemployed by a nontemporary appointment at a different geographical location from that where the separation occurred, may be allowed and paid the expenses authorized by sections 5724, 5725, 5726(b), and 5727 of this title, and may receive the benefits authorized by subsections (a) through (f) of this section, in the same manner as though the employee had been transferred in the interest of the Government without a break in service to the location of reemployment from the location where separated.

"(h) Payments for subsistence expenses, including amounts in lieu of per diem or actual subsistence expenses or a combination thereof, authorized under this section may not exceed the maximum payment allowed under regulations which implement section 5702 of this title.

"(i) Subsections (a), (b), and (c) shall be implemented under regulations issued under section 5738 of this title.

"(j) For purposes of subsections (c), (d), and (e), the term 'United States' includes the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the territories and possessions of the United States, and the areas and installations in the Republic of Panama that are made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements (as described in section 3(a) of the Panama Canal Act of 1979 (22 U.S.C. 3602(a))).".

Subtitle B—Miscellaneous Provisions

SEC. 1721. REPEAL OF THE LONG-DISTANCE TELEPHONE CALL CERTIFICATION REQUIREMENT.

Section 1348 of title 31, United States Code, is amended—

(1) by striking the last sentence of subsection (a)(2);

(2) by striking subsection (b); and

(3) by redesignating subsections (c) and (d) as subsections (b) and (c), respectively.

SEC. 1722. TRANSFER OF AUTHORITY TO PRESCRIBE REGULATIONS.

Subchapter II of chapter 57 of title 5, United States Code, as amended by section 1716, is further amended by adding at the end the following new section:

"§ 5738. Regulations

"(a)(1) Except as specifically provided in this subchapter, the Administrator of General Services shall prescribe regulations necessary for the administration of this subchapter.

"(2) The Administrator of General Services shall include in the regulations authority for the head of an agency or his designee to waive any limitation of this subchapter or in any implementing regulation for any employee relocating to or from a remote or isolated location who would suffer hardship if the limitation were not waived. A waiver of a limitation under authority provided in the regulations pursuant to this paragraph shall be effective notwithstanding any other provision of this subchapter.

"(b) In prescribing regulations for the implementation of section 5724b of this title, the Administrator of General Services shall consult with the Secretary of the Treasury.

"(c) The Secretary of Defense shall prescribe regulations necessary for the implementation of section 5735 of this title.".

SEC. 1723. CONFORMING AND CLERICAL AMENDMENTS.

(a) CROSS REFERENCES.—(1) Title 5, United States Code, is amended as follows:

(A) Section 3375 is amended—

(i) in subsection (a)(3), by striking out "section 5724a(a)(1)" and inserting in lieu thereof "section 5724a(a)";

(ii) in subsection (a)(4), by striking out "section 5724a(a)(3)" and inserting in lieu thereof "section 5724a(c)"; and

(iii) in subsection (a)(5), by striking out "section 5724a(b)" and inserting in lieu thereof "section 5724a(g)"; and

(B) Section 5724(e) is amended by striking out "section 5724a(a), (b)" and inserting in lieu thereof "section 5724a (a) through (f)".

(2) Section 707 of title 38, United States Code, is amended—

(A) in subsection (a)(6), by striking out "Section 5724a(a)(3)" and inserting in lieu thereof "Section 5724a(c)"; and

(B) in subsection (a)(7), by striking out "Section 5724a(a)(4)" and inserting in lieu thereof "Section 5724a(d)".

(3) The Public Health Service Act is amended as follows:

(A) Section 501(g)(2)(A) (42 U.S.C. 290aa(g)(2)(A)) is amended by striking out "5724a(a)(1), 5724a(a)(3)" and inserting in lieu thereof "5724a(a), 5724a(c)".

(B) Section 925(f)(2)(A) (42 U.S.C. 299c–4(f)(2)(A)) is amended by striking out "5724a(a)(1), 5724a(a)(3)" and inserting in lieu thereof "5724a(a), 5724a(c)".

(b) REGULATIONS.—Title 5, United States Code, is amended as follows:

(1) Sections 5722, 5723, 5724, (in subsections (a), (b), and (c)), 5724b, 5726 (in subsections (b) and (c)), 5727(b), 5728 (in subsections (a), (b), and (c)(1)), and 5729 (in subsections (a) and (b)) of title 5, United States Code, are amended by striking out "Under such regulations as the President may prescribe", and inserting in lieu thereof "Under regulations prescribed under section 5738 of this title".

(2) Section 5724 of title 5, United States Code, is amended—

(A) by striking out "under regulations prescribed by the President" each place it appears in subsections (c) and (e) and inserting in lieu thereof "under regulations prescribed under section 5738 of this title"; and

(B) in subsection (f), by striking out "under the regulations of the President" and inserting in lieu thereof "under regulations prescribed under section 5738 of this title".

(3) Section 5726(a) of title 5, United States Code, is amended by striking out "as the President may by regulation authorize" and inserting in lieu thereof "as authorized under regulations prescribed under section 5738 of this title".

(4) Section 5731(a) of title 5, United States Code, is amended by striking out "in accordance with regulations prescribed by the President" and inserting in lieu thereof "in accordance with regulations prescribed under section 5738 of this title".

(c) CLERICAL AMENDMENTS.—The table of sections at the beginning of chapter 57 of title 5, United States Code, as amended by section 1605, is further amended—

(1) by inserting after the item relating to section 5736 the following:

"5737. Relocation expenses of an employee who is performing an extended assignment.
"5738. Regulations.";

and

(2) by inserting at the end the following:

"5756. Home marketing incentive payment.".

SEC. 1724. ASSESSMENT OF COST SAVINGS. 5 USC 5722 note.

No later than one year after the effective date set forth in section 1725(a), the Comptroller General shall submit to the

Committee on Governmental Affairs of the Senate and the Committee on Government Reform and Oversight of the House of Representatives an assessment of the costs of Federal travel administration that are saved as a result of the amendments made by this title and the regulations prescribed to carry out the amendments.

5 USC 5722 note.

SEC. 1725. EFFECTIVE DATE AND ISSUANCE OF REGULATIONS.

(a) EFFECTIVE DATE.—The amendments made by this title shall take effect 180 days after the date of the enactment of this Act.

(b) REGULATIONS.—The Administrator of General Services shall, not later than the effective date set forth under subsection (a), issue final regulations implementing the amendments made by this title.

Delaware.

TITLE XVIII—FEDERAL CHARTER FOR THE FLEET RESERVE ASSOCIATION

Sec. 1801. Recognition and grant of Federal charter.
Sec. 1802. Powers.
Sec. 1803. Purposes.
Sec. 1804. Service of process.
Sec. 1805. Membership.
Sec. 1806. Board of directors.
Sec. 1807. Officers.
Sec. 1808. Restrictions.
Sec. 1809. Liability.
Sec. 1810. Maintenance and inspection of books and records.
Sec. 1811. Audit of financial transactions.
Sec. 1812. Annual report.
Sec. 1813. Reservation of right to alter, amend, or repeal charter.
Sec. 1814. Tax-exempt status required as condition of charter.
Sec. 1815. Termination.
Sec. 1816. Definition of State.

36 USC 5601.

SEC. 1801. RECOGNITION AND GRANT OF FEDERAL CHARTER.

The Fleet Reserve Association, a nonprofit corporation organized under the laws of the State of Delaware, is recognized as such and granted a Federal charter.

36 USC 5602.

SEC. 1802. POWERS.

The Fleet Reserve Association (in this title referred to as the "association") shall have only those powers granted to it through its bylaws and articles of incorporation filed in the State of Delaware and subject to the laws of that State.

36 USC 5603.

SEC. 1803. PURPOSES.

The purposes of the association are those provided in its bylaws and articles of incorporation and shall include the following:

(1) Upholding and defending the Constitution of the United States.

(2) Aiding and maintaining an adequate naval defense for the United States.

(3) Assisting the recruitment of the best personnel available for the United States Navy, United States Marine Corps, and United States Coast Guard.

(4) Providing for the welfare of the personnel who serve in the United States Navy, United States Marine Corps, and United States Coast Guard.

(5) Continuing to serve loyally the United States Navy, United States Marine Corps, and United States Coast Guard.

(6) Preserving the spirit of shipmanship by providing assistance to shipmates and their families.

(7) Instilling love of the United States and the flag and promoting soundness of mind and body in the youth of the United States.

SEC. 1804. SERVICE OF PROCESS. 36 USC 5604.

With respect to service of process, the association shall comply with the laws of the State of Delaware and those States in which it carries on its activities in furtherance of its corporate purposes.

SEC. 1805. MEMBERSHIP. 36 USC 5605.

Except as provided in section 1808(g), eligibility for membership in the association and the rights and privileges of members shall be as provided in the bylaws and articles of incorporation of the association.

SEC. 1806. BOARD OF DIRECTORS. 36 USC 5606.

Except as provided in section 1808(g), the composition of the board of directors of the association and the responsibilities of the board shall be as provided in the bylaws and articles of incorporation of the association and in conformity with the laws of the State of Delaware.

SEC. 1807. OFFICERS. 36 USC 5607.

Except as provided in section 1808(g), the positions of officers of the association and the election of members to such positions shall be as provided in the bylaws and articles of incorporation of the association and in conformity with the laws of the State of Delaware.

SEC. 1808. RESTRICTIONS. 36 USC 5608.

(a) INCOME AND COMPENSATION.—No part of the income or assets of the association may inure to the benefit of any member, officer, or director of the association or be distributed to any such individual during the life of this charter. Nothing in this subsection may be construed to prevent the payment of reasonable compensation to the officers and employees of the association or reimbursement for actual and necessary expenses in amounts approved by the board of directors.

(b) LOANS.—The association may not make any loan to any member, officer, director, or employee of the association.

(c) ISSUANCE OF STOCK AND PAYMENT OF DIVIDENDS.—The association may not issue any shares of stock or declare or pay any dividends.

(d) DISCLAIMER OF CONGRESSIONAL OR FEDERAL APPROVAL.—The association may not claim the approval of the Congress or the authorization of the Federal Government for any of its activities by virtue of this title.

(e) CORPORATE STATUS.—The association shall maintain its status as a corporation organized and incorporated under the laws of the State of Delaware.

(f) CORPORATE FUNCTION.—The association shall function as an educational, patriotic, civic, historical, and research organization under the laws of the State of Delaware.

(g) NONDISCRIMINATION.—In establishing the conditions of membership in the association and in determining the requirements for serving on the board of directors or as an officer of the associa-

tion, the association may not discriminate on the basis of race, color, religion, sex, handicap, age, or national origin.

36 USC 5609. **SEC. 1809. LIABILITY.**

The association shall be liable for the acts of its officers, directors, employees, and agents whenever such individuals act within the scope of their authority.

36 USC 5610. **SEC. 1810. MAINTENANCE AND INSPECTION OF BOOKS AND RECORDS.**

(a) BOOKS AND RECORDS OF ACCOUNT.—The association shall keep correct and complete books and records of account and minutes of any proceeding of the association involving any of its members, the board of directors, or any committee having authority under the board of directors.

(b) NAMES AND ADDRESSES OF MEMBERS.—The association shall keep at its principal office a record of the names and addresses of all members having the right to vote in any proceeding of the association.

(c) RIGHT TO INSPECT BOOKS AND RECORDS.—All books and records of the association may be inspected by any member having the right to vote in any proceeding of the association, or by any agent or attorney of such member, for any proper purpose at any reasonable time.

(d) APPLICATION OF STATE LAW.—This section may not be construed to contravene any applicable State law.

SEC. 1811. AUDIT OF FINANCIAL TRANSACTIONS.

The first section of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law", approved August 30, 1964 (36 U.S.C. 1101), is amended by adding at the end the following:

"(77) Fleet Reserve Association.".

36 USC 5611. **SEC. 1812. ANNUAL REPORT.**

The association shall annually submit to Congress a report concerning the activities of the association during the preceding fiscal year. The annual report shall be submitted on the same date as the report of the audit required by reason of the amendment made in section 1811. The annual report shall not be printed as a public document.

36 USC 5612. **SEC. 1813. RESERVATION OF RIGHT TO ALTER, AMEND, OR REPEAL CHARTER.**

The right to alter, amend, or repeal this title is expressly reserved to Congress.

36 USC 5613. **SEC. 1814. TAX-EXEMPT STATUS REQUIRED AS CONDITION OF CHARTER.**

If the association fails to maintain its status as an organization exempt from taxation as provided in the Internal Revenue Code of 1986 the charter granted in this title shall terminate.

36 USC 5614. **SEC. 1815. TERMINATION.**

The charter granted in this title shall expire if the association fails to comply with any of the provisions of this title.

36 USC 5615. **SEC. 1816. DEFINITION OF STATE.**

For purposes of this title, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the

improve existing military family housing units in an amount not to exceed $105,350,000.

SEC. 2104. AUTHORIZATION OF APPROPRIATIONS, ARMY.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1996, for military construction, land acquisition, and military family housing functions of the Department of the Army in the total amount of $1,942,557,000 as follows:

(1) For military construction projects inside the United States authorized by section 2101(a), $394,250,000.

(2) For military construction projects outside the United States authorized by section 2101(b), $121,800,000.

(3) For unspecified minor military construction projects authorized by section 2805 of title 10, United States Code, $5,000,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $50,538,000.

(5) For military family housing functions:

(A) For construction and acquisition, planning and design, and improvement of military family housing and facilities, $158,503,000.

(B) For support of military family housing (including the functions described in section 2833 of title 10, United States Code), $1,212,466,000.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2101 of this Act may not exceed—

(1) the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a);

(2) $31,000,000 (the balance of the amount authorized under section 2101(a) for the construction of the National Range Control Center at White Sands Missile Range, New Mexico); and

(3) $22,000,000 (the balance of the amount authorized under section 2101(a) for the whole barracks complex renewal at Fort Knox, Kentucky).

SEC. 2105. LAND ACQUISITION, NATIONAL GROUND INTELLIGENCE CENTER, CHARLOTTESVILLE, VIRGINIA.

(a) ACQUISITION AUTHORIZED.—Subject to subsection (b), the Secretary of the Army may acquire real property for the National Ground Intelligence Center, Charlottesville, Virginia.

(b) REQUIREMENT RELATING TO ACQUISITION.—The Secretary may not acquire real property pursuant to the authorization in subsection (a) until the Secretary certifies to the congressional defense committees, based on the results of an assessment of property currently owned or operated by the Federal Government in the vicinity of Charlottesville, Virginia, that the acquisition of the property would provide the most cost-effective means of securing a location for the National Ground Intelligence Center that satisfies the mission requirements of the center.

(c) FUNDING.—Of the amounts authorized to be appropriated by section 2104(a)(1), $1,000,000 shall be available for the acquisi-

(A) For construction and acquisition, planning and design, and improvement of military family housing and facilities, $499,886,000.

(B) For support of military housing (including functions described in section 2833 of title 10, United States Code), $1,014,241,000.

(6) For the construction of a bachelor enlisted quarters at the Naval Construction Battalion Center, Port Hueneme, California, authorized by section 2201(a) of the Military Construction Authorization Act for Fiscal Year 1996 (division B of Public Law 104–106; 110 Stat. 525), $7,700,000.

(7) For the construction of a Strategic Maritime Research Center at the Naval War College, Newport, Rhode Island, authorized by section 2201(a) of the Military Construction Authorization Act for Fiscal Year 1995 (division B of Public Law 103–337; 108 Stat. 3031), $8,000,000.

(8) For the construction of the large anachoic chamber facility at the Patuxent River Naval Warfare Center, Aircraft Division, Maryland, authorized by section 2201(a) of the Military Construction Authorization Act for Fiscal Year 1993 (division B of Public Law 102–484; 106 Stat. 2590), $10,000,000.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2201 of this Act may not exceed—

(1) the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a);

(2) $5,200,000 (the balance of the amount authorized under section 2201(a) for the construction of a bachelors enlisted quarters at Naval Hospital, Great Lakes, Illinois);

(3) $5,480,000 (the balance of the amount authorized under section 2201(a) for the construction of a chiller system upgrade at the United States Naval Academy, Maryland); and

(4) $14,100,000 (the balance of the amount authorized under section 2201(b) for the construction of a bachelor enlisted quarters at Naval Station, Roosevelt Roads, Puerto Rico).

(c) ADJUSTMENT.—The total amount authorized to be appropriated pursuant to paragraphs (1) through (8) of subsection (a) is the sum of the amounts authorized to be appropriated in such paragraphs, reduced by $12,000,000, which represents the combination of project savings resulting from favorable bids, reduced overhead costs, and cancellations due to force structure changes.

SEC. 2205. BEACH REPLENISHMENT, NAVAL AIR STATION, NORTH ISLAND, CALIFORNIA.

(a) COST-SHARING AGREEMENT.—With regard to the portion of the military construction project for Naval Air Station, North Island, California, authorized by section 2201(a) and involving onshore and near-shore beach replenishment, the Secretary of the Navy shall enter into an agreement with the State of California and local governments in the vicinity of the project, under which the State and local governments agree to cover not less than 50 percent of the cost incurred by the Secretary to carry out the beach replenishment portion of the project. Within amounts appropriated for the project, Federal expenditures may not exceed $9,630,000 for beach replenishment.

Air Force: Family Housing—Continued

State	Installation	Purpose	Amount
Washington	McChord Air Force Base	50 Units	$5,659,000
		Total:	$184,516,000

(b) PLANNING AND DESIGN.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(5)(A), the Secretary of the Air Force may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of military family housing units in an amount not to exceed $9,590,000.

SEC. 2303. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(5)(A), the Secretary of the Air Force may improve existing military family housing units in an amount not to exceed $123,650,000.

SEC. 2304. AUTHORIZATION OF APPROPRIATIONS, AIR FORCE.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1996, for military construction, land acquisition, and military family housing functions of the Department of the Air Force in the total amount of $1,894,594,000 as follows:

(1) For military construction projects inside the United States authorized by section 2301(a), $603,834,000.

(2) For military construction projects outside the United States authorized by section 2301(b), $78,115,000.

(3) For unspecified minor construction projects authorized by section 2805 of title 10, United States Code, $9,328,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $50,687,000.

(5) For military housing functions:

(A) For construction and acquisition, planning and design, and improvement of military family housing and facilities, $317,756,000.

(B) For support of military family housing (including the functions described in section 2833 of title 10, United States Code), $829,474,000.

(6) For the construction of a corrosion control facility at Tinker Air Force Base, Oklahoma, authorized by section 2301(a) of the Military Construction Authorization Act for Fiscal Year 1996 (division B of Public Law 104–106; 110 Stat. 530), $5,400,000.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2301 of this Act may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

to the Department of Defense Military Unaccompanied Housing Improvement Fund established by section 2883(a)(2) of such title.

(b) USE OF FUNDS.—(1) The Secretary of Defense may use funds credited to the Department of Defense Family Housing Improvement Fund under subsection (a)(1) to carry out any activities authorized by subchapter IV of chapter 169 of such title with respect to military family housing.

(2) The Secretary of Defense may use funds credited to the Department of Defense Military Unaccompanied Housing Improvement Fund under subsection (a)(2) to carry out any activities authorized by subchapter IV of chapter 169 of such title with respect to military unaccompanied housing.

SEC. 2405. ENERGY CONSERVATION PROJECTS.

Using amounts appropriated pursuant to the authorization of appropriations in section 2406(a)(12), the Secretary of Defense may carry out energy conservation projects under section 2865 of title 10, United States Code.

SEC. 2406. AUTHORIZATION OF APPROPRIATIONS, DEFENSE AGENCIES.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1996, for military construction, land acquisition, and military family housing functions of the Department of Defense (other than the military departments), in the total amount of $3,379,703,000 as follows:

(1) For military construction projects inside the United States authorized by section 2401(a), $344,854,000.

(2) For military construction projects outside the United States authorized by section 2401(b), $23,658,000.

(3) For military construction projects at Naval Hospital, Portsmouth, Virginia, hospital replacement, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Years 1990 and 1991 (division B of Public Law 101–189; 103 Stat. 1640), $24,000,000.

(4) For military construction projects at Walter Reed Army Institute of Research, Maryland, hospital replacement, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Year 1993 (division B of Public Law 102–484; 106 Stat. 2599), $72,000,000.

(5) For military construction projects at Fort Bragg, North Carolina, hospital replacement, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Year 1993 (106 Stat. 2599), $89,000,000.

(6) For military construction projects at Pine Bluff Arsenal, Arkansas, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Year 1995 (division B of the Public Law 103–337; 108 Stat. 3040), $46,000,000.

(7) For military construction projects at Umatilla Army Depot, Oregon, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Year 1995 (108 Stat. 3040), $64,000,000.

(8) For military construction projects at the Defense Finance and Accounting Service, Columbus, Ohio, authorized by section 2401(a) of the Military Construction Authorization Act of Fiscal Year 1996 (division B of Public Law 104–106; 110 Stat. 535), $20,822,000.

(9) For contingency construction projects of the Secretary of Defense under section 2804 of title 10, United States Code, $4,500,000.

(10) For unspecified minor construction projects under section 2805 of title 10, United States Code, $21,874,000.

(11) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $12,239,000.

(12) For energy conservation projects under section 2865 of title 10, United States Code, $47,765,000.

(13) For base closure and realignment activities as authorized by the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note), $2,507,476,000.

(14) For military family housing functions:

(A) For improvement and planning of military family housing and facilities, $4,371,000.

(B) For support of military housing (including functions described in section 2833 of title 10, United States Code), $30,963,000, of which not more than $25,637,000 may be obligated or expended for the leasing of military family housing units worldwide.

(C) For credit to the Department of Defense Family Housing Improvement Fund as authorized by section 2404(a)(1) of this Act, $25,000,000.

(D) For credit to the Department of Defense Military Unaccompanied Housing Improvement Fund as authorized by section 2404(a)(2) of this Act, $5,000,000.

(E) For the Homeowners Assistance Program as authorized by section 2832 of title 10, United States Code, $36,181,000, to remain available until expended.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variation authorized by section 2853 of title 10, United States Code, and any other cost variations authorized by law, the total cost of all projects carried out under section 2401 of this Act may not exceed—

(1) the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a);

(2) $179,000,000 (the balance of the amount authorized under section 2401(a) of this Act for the construction of a chemical demilitarization facility at Pueblo Army Depot, Colorado); and

(3) $1,600,000 (the balance of the amount authorized under section 2401(a) of this Act for the construction of a replacement facility for the medical and dental clinic, Key West Naval Air Station, Florida).

SEC. 2407. REDUCTION IN AMOUNTS AUTHORIZED TO BE APPROPRIATED FOR FISCAL YEAR 1996 DEFENSE AGENCIES MILITARY CONSTRUCTION, LAND ACQUISITION, AND MILITARY FAMILY HOUSING FUNCTIONS.

Section 2405 of the Military Construction Authorization Act for Fiscal Year 1996 (division B of Public Law 104–106; 110 Stat. 537) is amended by adding at the end the following new subsection:

"(c) ADJUSTMENT.—The total amount authorized to be appropriated pursuant to paragraphs (1) through (11) of subsection (a) is the sum of the amounts authorized to be appropriated in such

TITLE XXVIII—GENERAL PROVISIONS

Subtitle A—Military Construction Program and Military Family Housing Changes

Sec. 2801. Increase in certain thresholds for unspecified minor construction projects.
Sec. 2802. Redesignation of North Atlantic Treaty Organization Infrastructure program.
Sec. 2803. Improvements to family housing units.
Sec. 2804. Availability of funds for planning, execution, and administration of contracts for family housing and unaccompanied housing.

Subtitle B—Defense Base Closure and Realignment

Sec. 2811. Restoration of authority for certain intragovernment transfers under 1988 base closure law.
Sec. 2812. Contracting for certain services at facilities remaining on closed installations.
Sec. 2813. Authority to compensate owners of manufactured housing.
Sec. 2814. Additional purpose for which adjustment and diversification assistance is authorized.
Sec. 2815. Payment of stipulated penalties assessed under CERCLA in connection with Loring Air Force Base, Maine.
Sec. 2816. Plan for utilization, reutilization, or disposal of Mississippi Army Ammunition Plant.

Subtitle C—Land Conveyances

PART I—ARMY CONVEYANCES

Sec. 2821. Transfer of lands, Arlington National Cemetery, Arlington, Virginia.
Sec. 2822. Land transfer, Fort Sill, Oklahoma.
Sec. 2823. Land conveyance, Army Reserve Center, Rushville, Indiana.
Sec. 2824. Land conveyance, Army Reserve Center, Anderson, South Carolina.
Sec. 2825. Land conveyance, Army Reserve Center, Montpelier, Vermont.
Sec. 2826. Land conveyance, Crafts Brothers Reserve Training Center, Manchester, New Hampshire.
Sec. 2827. Land conveyance, Pine Bluff Arsenal, Arkansas.
Sec. 2828. Reaffirmation of land conveyances, Fort Sheridan, Illinois.

PART II—NAVY CONVEYANCES

Sec. 2831. Land transfer, Potomac Annex, District of Columbia.
Sec. 2832. Land exchange, St. Helena Annex, Norfolk Naval Shipyard, Virginia.
Sec. 2833. Land conveyance, Calverton Pine Barrens, Naval Weapons Industrial Reserve Plant, Calverton, New York.
Sec. 2834. Land conveyance, former naval reserve facility, Lewes, Delaware.
Sec. 2835. Modification of land conveyance authority, Naval Reserve Center, Seattle, Washington.
Sec. 2836. Release of condition on reconveyance of transferred land, Guam.
Sec. 2837. Lease to facilitate construction of reserve center, Naval Air Station, Meridian, Mississippi.

PART III—AIR FORCE CONVEYANCES

Sec. 2841. Land conveyance, Radar Bomb Scoring Site, Belle Fourche, South Dakota.
Sec. 2842. Conveyance of primate research complex and Air Force-owned chimpanzees, Holloman Air Force Base, New Mexico.

PART IV—OTHER CONVEYANCES

Sec. 2851. Land conveyance, Tatum Salt Dome Test Site, Mississippi.
Sec. 2852. Land conveyance, William Langer Jewel Bearing Plant, Rolla, North Dakota.
Sec. 2853. Land conveyance, Air Force Plant No. 85, Columbus, Ohio.
Sec. 2854. Modification of boundaries of White Sands National Monument and White Sands Missile Range.

Subtitle D—Other Matters

Sec. 2861. Authority to grant easements for rights-of-way.
Sec. 2862. Authority to enter into cooperative agreements for the management of cultural resources on military installations.

Sec. 2863. Demonstration project for installation and operation of electric power distribution system at Youngstown Air Reserve Station, Ohio.
Sec. 2864. Renovation of the Pentagon reservation.
Sec. 2865. Plan for repairs and stabilization of the historic district at the Forest Glen Annex of Walter Reed Medical Center, Maryland.
Sec. 2866. Naming of range at Camp Shelby, Mississippi.
Sec. 2867. Designation of Michael O'Callaghan military hospital.
Sec. 2868. Naming of building at the Uniformed Services University of the Health Sciences.

Subtitle A—Military Construction Program and Military Family Housing Changes

SEC. 2801. INCREASE IN CERTAIN THRESHOLDS FOR UNSPECIFIED MINOR CONSTRUCTION PROJECTS.

(a) O&M FUNDING FOR PROJECTS.—Section 2805(c)(1)(B) of title 10, United States Code, is amended by striking out "$300,000" and inserting in lieu thereof "$500,000".

(b) O&M FUNDING FOR RESERVE COMPONENT FACILITIES.—Subsection (b) of section 18233a of such title is amended by striking out "$300,000" and inserting in lieu thereof "$500,000".

(c) NOTIFICATION FOR EXPENDITURES AND CONTRIBUTIONS FOR RESERVE COMPONENT FACILITIES.—Subsection (a)(1) of such section 18233a is amended by striking out "$400,000" and inserting in lieu thereof "$1,500,000".

SEC. 2802. REDESIGNATION OF NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE PROGRAM.

(a) REDESIGNATION.—Subsection (b) of section 2806 of title 10, United States Code, is amended by striking out "North Atlantic Treaty Organization Infrastructure program" and inserting in lieu thereof "North Atlantic Treaty Organization Security Investment program".

(b) REFERENCES.—Any reference to the North Atlantic Treaty Organization Infrastructure program in any Federal law, Executive order, regulation, delegation of authority, or document of or pertaining to the Department of Defense shall be deemed to refer to the North Atlantic Treaty Organization Security Investment program. 10 USC 2806 note.

(c) CLERICAL AMENDMENTS.—(1) The section heading of such section is amended to read as follows:

"§ 2806. Contributions for North Atlantic Treaty Organizations Security Investment".

(2) The table of sections at the beginning of subchapter I of chapter 169 of title 10, United States Code, is amended by striking out the item relating to section 2806 and inserting in lieu thereof the following new item:

"2806. Contributions for North Atlantic Treaty Organizations Security Investment.".

(d) CONFORMING AMENDMENTS.—(1) Section 2861(b)(3) of title 10, United States Code, is amended by striking out "North Atlantic Treaty Organization Infrastructure program" and inserting in lieu thereof "North Atlantic Treaty Organization Security Investment program".

(2) Section 21(h)(1)(B) of the Arms Export Control Act (22 U.S.C. 2761(h)(1)(B)) is amended by striking out "North Atlantic Treaty Organization Infrastructure Program" and inserting in lieu

thereof "North Atlantic Treaty Organization Security Investment program".

SEC. 2803. IMPROVEMENTS TO FAMILY HOUSING UNITS.

(a) AUTHORIZED IMPROVEMENTS.—Subsection (a)(2) of section 2825 of title 10, United States Code, is amended—

(1) by inserting "major" before "maintenance"; and

(2) by adding at the end the following: "Such term does not include day-to-day maintenance and repair work.".

(b) LIMITATION.—Subsection (b) of such section is amended by striking out paragraph (2) and inserting in lieu thereof the following new paragraph:

"(2) In determining the applicability of the limitation contained in paragraph (1), the Secretary concerned shall include as part of the cost of the improvement of the unit or units concerned the following:

"(A) The cost of major maintenance or repair work undertaken in connection with the improvement.

"(B) Any cost, other than the cost of activities undertaken beyond a distance of five feet from the unit or units concerned, in connection with—

"(i) the furnishing of electricity, gas, water, and sewage disposal;

"(ii) the construction or repair of roads, drives, and walks; and

"(iii) grading and drainage work.".

SEC. 2804. AVAILABILITY OF FUNDS FOR PLANNING, EXECUTION, AND ADMINISTRATION OF CONTRACTS FOR FAMILY HOUSING AND UNACCOMPANIED HOUSING.

(a) CONTRACTS FOR FAMILY HOUSING.—Paragraph (1) of section 2883(d) of title 10, United States Code, is amended by adding at the end the following: "The Secretary may also use for expenses of activities required in connection with the planning, execution, and administration of such contracts funds that are otherwise available to the Department of Defense for such types of expenses.".

(b) CONTRACTS FOR UNACCOMPANIED HOUSING.—Paragraph (2) of such section is amended by adding at the end the following: "The Secretary may also use for expenses of activities required in connection with the planning, execution, and administration of such contracts funds that are otherwise available to the Department of Defense for such types of expenses.".

Subtitle B—Defense Base Closure and Realignment

SEC. 2811. RESTORATION OF AUTHORITY FOR CERTAIN INTRA-GOVERNMENT TRANSFERS UNDER 1988 BASE CLOSURE LAW.

Section 204(b)(2) of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note), is amended—

(1) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively; and

(2) by inserting after subparagraph (C) the following new subparagraph (D):

"(D) The Secretary of Defense may transfer real property or facilities located at a military installation to be closed or realigned under this title, with or without reimbursement, to a military department or other entity (including a nonappropriated fund instrumentality) within the Department of Defense or the Coast Guard.".

SEC. 2812. CONTRACTING FOR CERTAIN SERVICES AT FACILITIES REMAINING ON CLOSED INSTALLATIONS.

(a) 1988 LAW.—Section 204(b)(8)(A) of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note) is amended by inserting ", or at facilities not yet transferred or otherwise disposed of in the case of installations closed under this title," after "under this title".

(b) 1990 LAW.—Section 2905(b)(8)(A) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended by inserting ", or at facilities not yet transferred or otherwise disposed of in the case of installations closed under this part," after "under this part".

SEC. 2813. AUTHORITY TO COMPENSATE OWNERS OF MANUFACTURED HOUSING.

(a) 1988 LAW.—Section 204 of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note), is amended by adding at the end the following new subsection:

"(f) ACQUISITION OF MANUFACTURED HOUSING.—(1) In closing or realigning any military installation under this title, the Secretary may purchase any or all right, title, and interest of a member of the Armed Forces and any spouse of the member in manufactured housing located at a manufactured housing park established at an installation closed or realigned under this title, or make a payment to the member to relocate the manufactured housing to a suitable new site, if the Secretary determines that—

"(A) it is in the best interests of the Federal Government to eliminate or relocate the manufactured housing park; and

"(B) the elimination or relocation of the manufactured housing park would result in an unreasonable financial hardship to the owners of the manufactured housing.

"(2) Any payment made under this subsection shall not exceed 90 percent of the purchase price of the manufactured housing, as paid by the member or any spouse of the member, plus the cost of any permanent improvements subsequently made to the manufactured housing by the member or spouse of the member.

"(3) The Secretary shall dispose of manufactured housing acquired under this subsection through resale, donation, trade or otherwise within one year of acquisition.".

(b) 1990 LAW.—Section 2905 of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note), is amended by adding at the end the following new subsection:

"(g) ACQUISITION OF MANUFACTURED HOUSING.—(1) In closing or realigning any military installation under this part, the Secretary may purchase any or all right, title, and interest of a member of the Armed Forces and any spouse of the member in manufactured housing located at a manufactured housing park established at an installation closed or realigned under this part, or make a

payment to the member to relocate the manufactured housing to a suitable new site, if the Secretary determines that—

"(A) it is in the best interests of the Federal Government to eliminate or relocate the manufactured housing park; and

"(B) the elimination or relocation of the manufactured housing park would result in an unreasonable financial hardship to the owners of the manufactured housing.

"(2) Any payment made under this subsection shall not exceed 90 percent of the purchase price of the manufactured housing, as paid by the member or any spouse of the member, plus the cost of any permanent improvements subsequently made to the manufactured housing by the member or spouse of the member.

"(3) The Secretary shall dispose of manufactured housing acquired under this subsection through resale, donation, trade or otherwise within one year of acquisition.".

SEC. 2814. ADDITIONAL PURPOSE FOR WHICH ADJUSTMENT AND DIVERSIFICATION ASSISTANCE IS AUTHORIZED.

Section 2391(b)(5) of title 10, United States Code, is amended—

(1) by inserting "(A)" after "(5)"; and

(2) by adding at the end the following new subparagraph:

"(B) The Secretary of Defense may also make grants, conclude cooperative agreements, and supplement other Federal funds in order to assist a State in enhancing its capacities—

"(i) to assist communities, businesses, and workers adversely affected by an action described in paragraph (1);

"(ii) to support local adjustment and diversification initiatives; and

"(iii) to stimulate cooperation between statewide and local adjustment and diversification efforts.".

SEC. 2815. PAYMENT OF STIPULATED PENALTIES ASSESSED UNDER CERCLA IN CONNECTION WITH LORING AIR FORCE BASE, MAINE.

From amounts in the Department of Defense Base Closure Account 1990 established by section 2906(a)(1) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note), the Secretary of Defense may expend not more than $50,000 to pay stipulated civil penalties assessed under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) against Loring Air Force Base, Maine.

SEC. 2816. PLAN FOR UTILIZATION, REUTILIZATION, OR DISPOSAL OF MISSISSIPPI ARMY AMMUNITION PLANT.

Not later than 180 days after the date of the enactment of this Act, the Secretary of the Army shall submit to the congressional defense committees a plan for the utilization, reutilization, or disposal of the Mississippi Army Ammunition Plant, Hancock County, Mississippi.

Subtitle C—Land Conveyances

PART I—ARMY CONVEYANCES

SEC. 2821. TRANSFER OF LANDS, ARLINGTON NATIONAL CEMETERY, ARLINGTON, VIRGINIA.

(a) REQUIREMENT FOR SECRETARY OF INTERIOR TO TRANSFER CERTAIN SECTION 29 LANDS.—(1) Subject to paragraph (2), the Secretary of the Interior shall transfer to the Secretary of the Army administrative jurisdiction over the following lands located in section 29 of the National Park System at Arlington National Cemetery, Virginia:

(A) The lands known as the Arlington National Cemetery Interment Zone.

(B) All lands in the Robert E. Lee Memorial Preservation Zone, other than those lands in the Preservation Zone that the Secretary of the Interior determines must be retained because of the historical significance of such lands or for the maintenance of nearby lands or facilities.

(2)(A) The Secretary of the Interior may not make the transfer referred to in paragraph (1)(B) until 60 days after the date on which the Secretary submits to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives—

(i) a summary of the document entitled "Cultural Landscape and Archaeological Study, Section 29, Arlington House, The Robert E. Lee Memorial";

(ii) a summary of any environmental analysis required with respect to the transfer under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(iii) an accounting of the effect of the transfer that satisfies the requirements of section 106 of the National Historic Preservation Act (16 U.S.C. 470f); and

(iv) the proposal of the Secretary and the Secretary of the Army setting forth the lands to be transferred and the general manner in which the Secretary of the Army will develop such lands after transfer.

(B) The Secretary of the Interior shall submit the information required under subparagraph (A) not later than October 31, 1997.

(3) The transfer of lands under paragraph (1) shall be carried out in accordance with the Interagency Agreement Between the Department of the Interior, the National Park Service, and the Department of the Army, dated February 22, 1995.

(4) The exact acreage and legal descriptions of the lands to be transferred under paragraph (1) shall be determined by surveys satisfactory to the Secretary of the Interior and the Secretary of the Army.

(b) REQUIREMENT FOR ADDITIONAL TRANSFERS.—(1) The Secretary of the Interior shall transfer to the Secretary of the Army administrative jurisdiction over a parcel of land, including any improvements thereon, consisting of approximately 2.43 acres, located in the Memorial Drive entrance area to Arlington National Cemetery.

(2)(A) The Secretary of the Army shall transfer to the Secretary of the Interior administrative jurisdiction over a parcel of land, including any improvements thereon, consisting of approximately

0.17 acres, located at Arlington National Cemetery, and known as the Old Administrative Building site. The site is part of the original reservation of Arlington National Cemetery.

(B) In connection with the transfer under subparagraph (A), the Secretary of the Army shall grant to the Secretary of the Interior a perpetual right of ingress and egress to the parcel transferred under that subparagraph.

(3) The exact acreage and legal descriptions of the lands to be transferred pursuant to this subsection shall be determined by surveys satisfactory to the Secretary of the Interior and the Secretary of the Army. The costs of such surveys shall be borne by the Secretary of the Army.

SEC. 2822. LAND TRANSFER, FORT SILL, OKLAHOMA.

(a) TRANSFER OF LAND FOR NATIONAL CEMETERY.—The Secretary of the Army may transfer, without reimbursement, to the administrative jurisdiction of the Secretary of Veterans Affairs a parcel of real property, including any improvements thereon, consisting of approximately 400 acres and comprising a portion of Fort Sill, Oklahoma.

(b) USE OF PROPERTY.—The Secretary of Veterans Affairs shall use the real property transferred under subsection (a) as a national cemetery under chapter 24 of title 38, United States Code.

(c) RETURN OF UNUSED PORTION.—If the Secretary of Veterans Affairs determines that any portion of the real property transferred under subsection (a) is not needed for use as a national cemetery, the Secretary shall return such portion to the administrative jurisdiction of the Secretary of the Army.

(d) LEGAL DESCRIPTION.—The exact acreage and legal description of the real property to be transferred under this section shall be determined by a survey satisfactory to the Secretary of the Army. The cost of the survey shall be borne by the Secretary of Veterans Affairs.

SEC. 2823. LAND CONVEYANCE, ARMY RESERVE CENTER, RUSHVILLE, INDIANA.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey, without consideration, to the City of Rushville, Indiana (in this section referred to as the "City"), all right, title, and interest of the United States in and to a parcel of excess real property, including improvements thereon, that is located in Rushville, Indiana, and contains the Rushville Army Reserve Center.

(b) CONDITION OF CONVEYANCE.—The conveyance authorized under subsection (a) shall be subject to the condition that the City retain the conveyed property for the use and benefit of the Rushville Police Department.

(c) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the City.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2824. LAND CONVEYANCE, ARMY RESERVE CENTER, ANDERSON, SOUTH CAROLINA.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey, without consideration, to the County of Anderson, South Carolina (in this section referred to as the "County"), all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, that is located at 805 East Whitner Street in Anderson, South Carolina, and contains an Army Reserve Center.

(b) CONDITION OF CONVEYANCE.—The conveyance authorized under subsection (a) shall be subject to the condition that the County retain the conveyed property for the use and benefit of the Anderson County Department of Education.

(c) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the County.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2825. LAND CONVEYANCE, ARMY RESERVE CENTER, MONTPELIER, VERMONT.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey, without consideration, to the City of Montpelier, Vermont (in this section referred to as the "City"), all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, consisting of approximately 4.3 acres and located on Route 2 in Montpelier, Vermont, the site of the Army Reserve Center, Montpelier, Vermont.

(b) CONDITION.—The conveyance authorized under subsection (a) shall be subject to the condition that the City agree to lease to the Civil Air Patrol, at no rental charge to the Civil Air Patrol, the portion of the real property and improvements located on the parcel to be conveyed that the Civil Air Patrol leases from the Secretary as of the date of the enactment of this Act.

(c) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the City.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2826. LAND CONVEYANCE, CRAFTS BROTHERS RESERVE TRAINING CENTER, MANCHESTER, NEW HAMPSHIRE.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey, without consideration, to Saint Anselm College, Manchester, New Hampshire, all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, consisting of approximately 3.5 acres and located on Rockland Avenue in Manchester, New Hampshire, the site of the Crafts Brothers Reserve Training Center.

(b) REQUIREMENT RELATING TO CONVEYANCE.—The Secretary may not make the conveyance authorized by subsection (a) until

the Army Reserve units currently housed at the Crafts Brothers Reserve Training Center are relocated to the Joint Service Reserve Center to be constructed at the Manchester Airport, New Hampshire.

(c) REQUIREMENT FOR FEDERAL SCREENING OF PROPERTY.—The Secretary may not carry out the conveyance of property authorized by subsection (a) unless the Secretary determines that no department or agency of the Federal Government will accept the transfer of the property.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2827. LAND CONVEYANCE, PINE BLUFF ARSENAL, ARKANSAS.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey, without consideration, to the Economic Development Alliance of Jefferson County, Arkansas (in this section referred to as the "Alliance"), all right, title, and interest of the United States in and to a parcel of real property, together with any improvements thereon, consisting of approximately 1,500 acres and comprising a portion of the Pine Bluff Arsenal, Arkansas.

(b) REQUIREMENTS RELATING TO CONVEYANCE.—The Secretary may not carry out the conveyance of property authorized under subsection (a) until—

(1) the completion by the Secretary of any environmental restoration and remediation that is required with respect to the property under applicable law;

(2) the Secretary secures all permits required under law applicable regarding the conduct of the proposed chemical demilitarization mission at the arsenal; and

(3) the Secretary of Defense submits to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a certification that the conveyance will not adversely affect the ability of the Department of Defense to conduct that chemical demilitarization mission.

(c) CONDITIONS OF CONVEYANCE.—The conveyance authorized under subsection (a) shall be subject to the following conditions:

(1) That the Alliance agree not to carry out any activities on the property to be conveyed that interfere with the construction, operation, and decommissioning of the chemical demilitarization facility to be constructed at Pine Bluff Arsenal. If the Alliance fails to comply with its agreement in paragraph (1) the property conveyed under this section, all rights, title, and interest in and to the property shall revert to the United States, and the United States shall have immediate rights of entry thereon.

(2) That the property be used during the 25-year period beginning on the date of the conveyance only as the site of the facility known as the "Bioplex", and for activities related thereto.

(d) COSTS OF CONVEYANCE.—The Alliance shall be responsible for any costs of the Army associated with the conveyance of property

under this section, including administrative costs, the costs of an environmental baseline survey with respect to the property, and the cost of any protection services required by the Secretary in order to secure operations of the chemical demilitarization facility from activities on the property after the conveyance.

(e) REVERSIONARY INTERESTS.—If the Secretary determines at any time during the 25-year period referred to in subsection (c)(2) that the property conveyed under this section is not being used in accordance with that subsection, all right, title, and interest in and to the property shall revert to the United States, and the United States shall have immediate right of entry thereon.

(f) SALE OF PROPERTY BY ALLIANCE.—If at any time during the 25-year period referred to in subsection (c)(2) the Alliance sells all or a portion of the property conveyed under this section, the Alliance shall pay the United States an amount equal to the lesser of—

(1) the amount of the sale of the property sold; or

(2) the fair market value of the property sold at the time of the sale, excluding the value of any improvements to the property sold that have been made by the Alliance.

(g) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property conveyed under this section shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the Alliance.

(h) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with conveyance under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2828. REAFFIRMATION OF LAND CONVEYANCES, FORT SHERIDAN, ILLINOIS.

As soon as practicable after the date of the enactment of this Act, the Secretary of the Army shall complete the land conveyances involving Fort Sheridan, Illinois, required or authorized under section 125 of the Military Construction Appropriations Act, 1996 (Public Law 104–32; 109 Stat. 290).

PART II—NAVY CONVEYANCES

SEC. 2831. LAND TRANSFER, POTOMAC ANNEX, DISTRICT OF COLUMBIA.

(a) TRANSFER AUTHORIZED.—The Secretary of the Navy may transfer, without consideration other than the reimbursement provided for in subsection (d), to the United States Institute of Peace (in this section referred to as the "Institute") administrative jurisdiction over a parcel of real property, including any improvements thereon, consisting of approximately 3 acres, at the northwest corner of Twenty-third Street and Constitution Avenue, Northwest, District of Columbia, the site of the Potomac Annex.

(b) CONDITION.—The Secretary may not make the transfer specified in subsection (a) unless the Institute agrees to provide the Navy a number of parking spaces at or in the vicinity of the headquarters to be constructed on the parcel transferred equal to the number of parking spaces available to the Navy on the parcel as of the date of the transfer.

(c) REQUIREMENT RELATING TO TRANSFER.—The transfer specified in subsection (a) may not occur until the Institute obtains

all permits, approvals, and site plan reviews required by law with respect to the construction on the parcel of a headquarters for operations of the Institute.

(d) COSTS.—The Institute shall reimburse the Secretary for the costs incurred by the Secretary in carrying out the transfer specified in subsection (a).

(e) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property to be transferred under subsection (a) shall be determined by a survey that is satisfactory to the Secretary. The cost of the survey shall be borne by the Institute.

SEC. 2832. LAND EXCHANGE, ST. HELENA ANNEX, NORFOLK NAVAL SHIPYARD, VIRGINIA.

(a) CONVEYANCE AUTHORIZED.—(1) The Secretary of the Navy may convey to such private person as the Secretary considers appropriate (in this section referred to as the "transferee") all right, title, and interest of the United States in and to a parcel of real property that is located at the Norfolk Naval Shipyard, Virginia, and, as of the date of the enactment of this Act, is a portion of the property leased to the Norfolk Shipbuilding and Drydock Company pursuant to the Department of the Navy lease N00024–84–L–0004, effective October 1, 1984, as extended.

(2) Pending completion of the conveyance authorized by paragraph (1), the Secretary may lease the real property to the transferee upon such terms as the Secretary considers appropriate.

(b) CONSIDERATION.—As consideration for the conveyance under subsection (a), including any interim lease authorized by such subsection, the transferee shall—

(1) convey to the United States all right, title, and interest to a parcel or parcels of real property, together with any improvements thereon, located in the area of Portsmouth, Virginia, which are determined to be acceptable to the Secretary; and

(2) pay to the Secretary an amount equal to the amount, if any, by which the fair market value of the parcel conveyed by the Secretary under subsection (a) exceeds the fair market value of the parcel conveyed to the United States under paragraph (1).

(c) USE OF RENTAL AMOUNTS.—The Secretary may use the amounts received as rent from any lease entered into under the authority of subsection (a)(2) to fund environmental studies of the parcels of real property to be conveyed under this section.

(d) IN-KIND CONSIDERATION.—The Secretary and the transferee may agree that, in lieu of all or any part of the consideration required by subsection (b)(2), the transferee may provide and the Secretary may accept the improvement, maintenance, protection, repair, or restoration of real property under the control of the Secretary in the area of Hampton Roads, Virginia.

(e) DETERMINATION OF FAIR MARKET VALUE AND PROPERTY DESCRIPTION.—The Secretary shall determine the fair market value of the parcels of real property to be conveyed under subsections (a) and (b)(1). The exact acreage and legal description of the parcels shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the transferee.

(f) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with

the conveyances under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2833. LAND CONVEYANCE, CALVERTON PINE BARRENS, NAVAL WEAPONS INDUSTRIAL RESERVE PLANT, CALVERTON, NEW YORK.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Navy may convey, without consideration, to the Department of Environmental Conservation of the State of New York (in this section referred to as the "Department"), all right, title, and interest of the United States in and to the Calverton Pine Barrens located at the Naval Weapons Industrial Reserve Plant, Calverton, New York.

(b) EFFECT ON OTHER CONVEYANCE AUTHORITY.—The conveyance authorized by this subsection shall not affect the transfer of jurisdiction of a portion of the Calverton Pine Barrens authorized by section 2865 of the Military Construction Authorization Act for Fiscal Year 1996 (division B of Public Law 104–106; 110 Stat. 576).

(c) CONDITION OF CONVEYANCE.—The conveyance under subsection (a) shall be subject to the condition that the Department agrees—

(1) to maintain the conveyed property as a nature preserve, as required by section 2854 of the Military Construction Authorization Act for Fiscal Year 1993 (division B of Public Law 102–484; 106 Stat. 2626), as amended by section 2823 of the Military Construction Authorization Act for Fiscal Year 1995 (division B of Public Law 103–337; 108 Stat. 3058);

(2) to designate the conveyed property as the "Otis G. Pike Preserve"; and

(3) to continue to allow the level of sporting activities on the conveyed property as permitted at the time of the conveyance.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the Department.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

(f) CALVERTON PINE BARRENS DEFINED.—In this section, the term "Calverton Pine Barrens" has the meaning given that term in section 2854(d)(1) of the Military Construction Authorization Act for Fiscal Year 1993 (division B of Public Law 102–484; 106 Stat. 2626).

SEC. 2834. LAND CONVEYANCE, FORMER NAVAL RESERVE FACILITY, LEWES, DELAWARE.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Navy may convey, without consideration, to the State of Delaware (in this section referred to as the "State"), all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, consisting of approximately 16.8 acres at the site of the former Naval Reserve Facility, Lewes, Delaware.

(b) CONDITION OF CONVEYANCE.—The conveyance under subsection (a) shall be subject to the condition that the State use the real property conveyed under that subsection in perpetuity solely for public park or recreational purposes.

(c) REVERSION.—If the Secretary of the Navy determines at any time that the real property conveyed pursuant to this section is not being used for a purpose specified in subsection (b), all right, title, and interest in and to such real property, including any improvements thereon, shall revert to the United States, and the United States shall have the right of immediate entry thereon.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed pursuant to this section shall be determined by a survey satisfactory to the Secretary of the Navy. The cost of such survey shall be borne by the State.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary of the Navy may require such additional terms and conditions in connection with the conveyance under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2835. MODIFICATION OF LAND CONVEYANCE AUTHORITY, NAVAL RESERVE CENTER, SEATTLE, WASHINGTON.

Paragraph (2) of section 127(d) of the Military Construction Appropriations Act, 1995 (Public Law 103–307; 108 Stat. 1666), is amended to read as follows:

"(2) Before commencing construction of a facility to be the replacement facility for the Naval Reserve Center under paragraph (1), the Secretary shall comply with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to such facility.".

SEC. 2836. RELEASE OF CONDITION ON RECONVEYANCE OF TRANSFERRED LAND, GUAM.

(a) IN GENERAL.—Section 818(b)(2) of the Military Construction Authorization Act, 1981 (Public Law 96–418; 94 Stat. 1782), relating to a condition on disposal by Guam of lands conveyed to Guam by the United States, shall have no force or effect and is repealed.

(b) EXECUTION OF INSTRUMENTS.—The Secretary of the Navy and the Administrator of General Services shall execute all instruments necessary to implement this section.

SEC. 2837. LEASE TO FACILITATE CONSTRUCTION OF RESERVE CENTER, NAVAL AIR STATION, MERIDIAN, MISSISSIPPI.

(a) LEASE OF PROPERTY FOR CONSTRUCTION OF RESERVE CENTER.—(1) The Secretary of the Navy may lease, without reimbursement, to the State of Mississippi (in this section referred to as the "State"), approximately five acres of real property located at Naval Air Station, Meridian, Mississippi. The State shall use the property to construct a reserve center of approximately 22,000 square feet and ancillary supporting facilities.

(2) The term of the lease under this subsection shall expire on the same date that the lease authorized by subsection (b) expires.

(b) LEASEBACK OF RESERVE CENTER.—(1) The Secretary may lease from the State the property and improvements constructed pursuant to subsection (a) for a five-year period. The term of the lease shall begin on the date on which the improvements are available for occupancy, as determined by the Secretary.

(2) Rental payments under the lease under paragraph (1) may not exceed $200,000 per year, and the total amount of the rental payments for the entire period may not exceed 20 percent of the total cost of constructing the reserve center and ancillary supporting facilities.

(3) Subject to the availability of appropriations for this purpose, the Secretary may use funds appropriated pursuant to an authorization of appropriations for the operation and maintenance of the Naval Reserve to make rental payments required under this subsection.

(c) EFFECT OF TERMINATION OF LEASES.—At the end of the lease term under subsection (b), the State shall convey, without reimbursement, to the United States all right, title, and interest of the State in the reserve center and ancillary supporting facilities subject to the lease.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the leases under this section as the Secretary considers appropriate to protect the interests of the United States.

PART III—AIR FORCE CONVEYANCES

SEC. 2841. LAND CONVEYANCE, RADAR BOMB SCORING SITE, BELLE FOURCHE, SOUTH DAKOTA.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Air Force may convey, without consideration, to the Belle Fourche School District, Belle Fourche, South Dakota (in this section referred to as the "District"), all right, title, and interest of the United States in and to a parcel of real property, together with any improvements thereon, consisting of approximately 37 acres located in Belle Fourche, South Dakota, which has served as the location of a support complex and housing facilities for Detachment 21 of the 554th Range Squadron, an Air Force Radar Bomb Scoring Site located in Belle Fourche, South Dakota. The conveyance may not include any portion of the radar bomb scoring site located in the State of Wyoming.

(b) CONDITION OF CONVEYANCE.—The conveyance authorized under subsection (a) shall be subject to the condition that the District—

(1) use the property and facilities conveyed under such subsection for education, economic development, and housing purposes; or

(2) enter into an agreement with an appropriate public or private entity to sell or lease the property and facilities to such entity for such purposes.

(c) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property conveyed under this section shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the District.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2842. CONVEYANCE OF PRIMATE RESEARCH COMPLEX AND AIR FORCE-OWNED CHIMPANZEES, HOLLOMAN AIR FORCE BASE, NEW MEXICO.

(a) DISPOSAL AUTHORIZED.—Notwithstanding any provision of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.), or any regulations prescribed thereunder, the Secretary of the Air Force may dispose of all right, title, and interest of the United States in and to the primate research complex

at Holloman Air Force Base, New Mexico. The disposal may include the chimpanzees owned by the Air Force that are housed at or managed from the primate research complex. The disposal shall not include the underlying real property on which the primate research complex is located. The disposal of the primate research complex shall be at no cost to the Air Force.

(b) COMPETITIVE, NEGOTIATED DISPOSAL PROCESS REQUIRED.—The Secretary shall select the persons or entities to which the primate research complex and chimpanzees are to be disposed of under subsection (a) using a competitive, negotiated process.

(c) STANDARDS TO BE USED IN SOLICITATION OF BIDS.—The Secretary shall develop standards for the care and use of the primate research complex, and of the chimpanzees, to be used in soliciting bids for the disposal authorized by subsection (a). The Secretary shall develop such standards in consultation with the Secretary of Agriculture and the Director of the National Institutes of Health.

(d) CONDITIONS OF DISPOSAL.—The disposal authorized by subsection (a) shall be subject to the followings conditions:

(1) That a recipient of any chimpanzees—

(A) utilize such chimpanzees only for scientific research or medical research purposes; or

(B) retire and provide adequate care for such chimpanzees.

(2) That any recipient of chimpanzees, or the primate research complex, take such chimpanzees, or the primate research complex, subject to any existing leases or other encumbrances at the time of the disposal.

(e) DESCRIPTION OF COMPLEX AND CHIMPANZEES.—The exact legal description of the primate research complex and chimpanzees to be disposed of under subsection (a) shall be determined by a survey or other means satisfactory to the Secretary. The cost of any survey or other services performed at the direction of the Secretary under the authority in the preceding sentence shall be borne by the recipient of the property concerned.

(f) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the disposal under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

PART IV—OTHER CONVEYANCES

SEC. 2851. LAND CONVEYANCE, TATUM SALT DOME TEST SITE, MISSISSIPPI.

(a) CONVEYANCE AUTHORIZED.—The Secretary of Energy may convey, without compensation, to the State of Mississippi (in this section referred to as the "State") the property known as the Tatum Salt Dome Test Site, as generally depicted on the map of the Department of Energy numbered 301913.104.02 and dated June 25, 1993.

(b) CONDITION ON CONVEYANCE.—The conveyance under this section shall be subject to the condition that the State use the conveyed property as a wildlife refuge and working demonstration forest.

(c) DESIGNATION.—The property to be conveyed is hereby designated as the "Jamie Whitten Forest Management Area".

(d) RETAINED RIGHTS.—The conveyance under this section shall be subject to each of the following rights to be retained by the United States:

(1) Retention by the United States of subsurface estates below the property conveyed.

(2) Retention by the United States of rights of access, by easement or otherwise, for such purposes as the Secretary considers appropriate, including access to monitoring wells for sampling.

(3) Retention by the United States of the right to install wells additional to those identified in the remediation plan for the property to the extent such additional wells are considered necessary by the Secretary to monitor potential pathways of contaminant migration. Such wells shall be in such locations as specified by the Secretary.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2852. LAND CONVEYANCE, WILLIAM LANGER JEWEL BEARING PLANT, ROLLA, NORTH DAKOTA.

(a) CONVEYANCE AUTHORIZED.—The Administrator of General Services may convey, without consideration, to the Job Development Authority of the City of Rolla, North Dakota (in this section referred to as the "Authority"), all right, title, and interest of the United States in and to a parcel of real property, with improvements thereon and all associated personal property, consisting of approximately 9.77 acres and comprising the William Langer Jewel Bearing Plant in Rolla, North Dakota.

(b) CONDITION OF CONVEYANCE.—The conveyance authorized under subsection (a) shall be subject to the condition that the Authority—

(1) use the real and personal property and improvements conveyed under that subsection for economic development relating to the jewel bearing plant;

(2) enter into an agreement with an appropriate public or private entity or person to lease such property and improvements to that entity or person for such economic development; or

(3) enter into an agreement with an appropriate public or private entity or person to sell such property and improvements to that entity or person for such economic development.

(c) PREFERENCE FOR DOMESTIC DISPOSAL OF JEWEL BEARINGS.—(1) In offering to enter into agreements pursuant to any provision of law for the disposal of jewel bearings from the National Defense Stockpile, the President shall give a right of first refusal on all such offers to the Authority or to the appropriate public or private entity or person with which the Authority enters into an agreement under subsection (b). President.

(2) For the purposes of this section, the term "National Defense Stockpile" means the stockpile provided for in section 4 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98(c)).

(d) AVAILABILITY OF FUNDS FOR MAINTENANCE AND CONVEYANCE OF PLANT.—Notwithstanding any other provision of law, funds available under the Department of Defense Appropriations Act, 1995 (Public Law 103-335), in fiscal year 1995 for the maintenance

of the William Langer Jewel Bearing Plant shall be available for the maintenance of the plant pending the conveyance of the plant and for the conveyance of the plant under this section.

(e) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property conveyed under this section shall be determined by a survey satisfactory to the Administrator. The cost of the survey shall be borne by the Administrator.

(f) ADDITIONAL TERMS AND CONDITIONS.—The Administrator may require such additional terms and conditions in connection with the conveyance under this section as the Administrator determines appropriate to protect the interests of the United States.

SEC. 2853. LAND CONVEYANCE, AIR FORCE PLANT NO. 85, COLUMBUS, OHIO.

(a) CONVEYANCE AUTHORIZED.—Notwithstanding any other provision of law, the Secretary of the Air Force may instruct the Administrator of General Services to convey, without consideration, to the Columbus Municipal Airport Authority (in this section referred to as the "Authority") all right, title, and interest of the United States in and to a parcel of real property, together with improvements thereon, at Air Force Plant No. 85, Columbus, Ohio, consisting of approximately 240 acres that—

(1) contains the land and buildings referred to as the "airport parcel" in the correspondence from the General Services Administration to the Authority dated April 30, 1996; and

(2) is located adjacent to the Port Columbus International Airport.

(b) EFFECT OF CHANGE IN ADMINISTRATIVE JURISDICTION.—If, on the date of the enactment of this Act, the Secretary of the Air Force does not have administrative jurisdiction over the property to be conveyed, the conveyance shall be made by the Federal official who has administrative jurisdiction over the parcel as of that date.

(c) REQUIREMENT FOR FEDERAL SCREENING.—The Federal official responsible for making the conveyance authorized in subsection (a) may not convey the property unless the Federal official determines, in consultation with the Administrator of General Services, that no department or agency of the Federal Government will accept the transfer of the property.

(d) CONDITION OF CONVEYANCE.—The conveyance authorized under subsection (a) shall be subject to the condition that the Authority use the conveyed property for public airport purposes.

(e) REVERSION.—If the Federal official making the conveyance under subsection (a) determines that any portion of the conveyed property is not being utilized in accordance with the condition in subsection (d), all right, title, and interest in and to such portion shall revert to the United States, and the United States shall have immediate right of entry thereon.

(f) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Federal official responsible for making the conveyance. The cost of the survey shall be borne by the Authority.

(g) ADDITIONAL TERMS AND CONDITIONS.—The Federal official responsible for making the conveyance of property under subsection (a) may require such additional terms and conditions in connection

with the conveyance as such official considers appropriate to protect the interests of the United States.

SEC. 2854. MODIFICATION OF BOUNDARIES OF WHITE SANDS NATIONAL MONUMENT AND WHITE SANDS MISSILE RANGE. 16 USC 431 note.

(a) TRANSFER OF LANDS BY SECRETARY OF ARMY.—The Secretary of the Army may transfer to the administrative jurisdiction of the Secretary of the Interior the following lands as generally depicted on the map entitled "White Sands National Monument, Boundary Proposal", numbered 142/80,061, and dated January 1994:

(1) Lands consisting of approximately 2,524 acres located within White Sands National Monument, New Mexico.

(2) Lands consisting of approximately 5,758 acres located within White Sands Missile Range, New Mexico, and abutting White Sands National Monument.

(b) TRANSFER OF LANDS BY SECRETARY OF INTERIOR.—The Secretary of the Interior may transfer to the administrative jurisdiction of the Secretary of the Army lands consisting of approximately 4,277 acres located in White Sands National Monument, which lands are generally depicted on the map referred to in subsection (a).

(c) BOUNDARY MODIFICATIONS.—(1) The Secretary of the Army and the Secretary of the Interior shall jointly modify the boundary of White Sands National Monument so as to include within the national monument the lands transferred under subsection (a) and to exclude from the national monument the lands transferred under subsection (b).

(2) The Secretary of the Army and the Secretary of the Interior shall jointly modify the boundary of White Sands Missile Range as to include within the missile range the lands transferred under subsection (b) and exclude from the missile range the lands transferred under subsection (a).

(d) ADMINISTRATION OF TRANSFERRED LANDS.—(1) The Secretary of the Interior shall administer the lands transferred to that Secretary under subsection (a) in accordance with the laws applicable to the White Sands National Monument.

(2) The Secretary of the Army shall administer the lands transferred to that Secretary under subsection (b) as part of White Sands Missile Range.

(3) The Secretary of the Army shall maintain control of the airspace above the lands transferred to that Secretary under subsection (b) and administer that airspace in a manner consistent with the use of such lands as part of White Sands Missile Range.

(e) PUBLIC AVAILABILITY OF MAP OF MONUMENT.—The Secretary of the Interior and the Secretary of the Army shall jointly prepare, and the Secretary of the Interior shall keep on file for public inspection in the headquarters of White Sands National Monument, a map showing the boundary of White Sands National Monument as modified by this section.

(f) WAIVER OF LIMITATION UNDER PRIOR LAW.—Notwithstanding section 303(b)(1) of the National Parks and Recreation Act of 1978 (Public Law 95–625; 92 Stat. 3476), land or an interest in land that was deleted from White Sands National Monument by section 301(19) of the Act (92 Stat. 3475) may, at the election of the Secretary of the Interior, be—

(1) exchanged for land owned by the State of New Mexico within the boundaries of any unit of the National Park System in the State of New Mexico;

(2) transferred to the jurisdiction of any other Federal agency without monetary consideration; or

(3) administered as public land.

Subtitle D—Other Matters

SEC. 2861. AUTHORITY TO GRANT EASEMENTS FOR RIGHTS-OF-WAY.

(a) EASEMENTS FOR ELECTRIC POLES AND LINES AND FOR COMMUNICATIONS LINES AND FACILITIES.—Section 2668(a) of title 10, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (9);

(2) by redesignating paragraph (10) as paragraph (13); and

(3) by inserting after paragraph (9) the following new paragraphs:

"(10) poles and lines for the transmission or distribution of electric power;

"(11) poles and lines for the transmission or distribution of communications signals (including telephone and telegraph signals);

"(12) structures and facilities for the transmission, reception, and relay of such signals; and".

(b) CONFORMING AMENDMENTS.—Such section is further amended—

(1) in paragraph (3), by striking out ", telephone lines, and telegraph lines,"; and

(2) in paragraph (13), as redesignated by subsection (a)(2), by striking out "or by the Act of March 4, 1911 (43 U.S.C. 961)".

SEC. 2862. AUTHORITY TO ENTER INTO COOPERATIVE AGREEMENTS FOR THE MANAGEMENT OF CULTURAL RESOURCES ON MILITARY INSTALLATIONS.

(a) AGREEMENTS AUTHORIZED.—Chapter 159 of title 10, United States Code, is amended by inserting after section 2683 the following new section:

"§ 2684. Cooperative agreements for management of cultural resources

"(a) AUTHORITY.—The Secretary of Defense or the Secretary of a military department may enter into a cooperative agreement with a State or local government or other entity for the preservation, management, maintenance, and improvement of cultural resources on military installations and for the conduct of research regarding the cultural resources. Activities under the cooperative agreement shall be subject to the availability of funds to carry out the cooperative agreement.

"(b) APPLICATION OF OTHER LAWS.—Section 1535 and chapter 63 of title 31, United States Code, shall not apply to a cooperative agreement entered into under this section.

"(c) CULTURAL RESOURCE DEFINED.—In this section, the term 'cultural resource' means any of the following:

"(1) A building, structure, site, district, or object eligible for or included in the National Register of Historic Places

maintained under section 101(a) of the National Historic Preservation Act (16 U.S.C. 470a(a)).

"(2) Cultural items, as that term is defined in section 2(3) of the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001(3)).

"(3) An archaeological resource, as that term is defined in section 3(1) of the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470bb(1)).

"(4) An archaeological artifact collection and associated records covered by section 79 of title 36, Code of Federal Regulations.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2683 the following new item:

"2684. Cooperative agreements for management of cultural resources.".

SEC. 2863. DEMONSTRATION PROJECT FOR INSTALLATION AND OPERATION OF ELECTRIC POWER DISTRIBUTION SYSTEM AT YOUNGSTOWN AIR RESERVE STATION, OHIO.

(a) AUTHORITY.—The Secretary of the Air Force may carry out a demonstration project to assess the feasibility and advisability of permitting private entities to install, operate, and maintain electric power distribution systems at military installations. The Secretary shall carry out the demonstration project through an agreement under subsection (b).

(b) AGREEMENT.—(1) In order to carry out the demonstration project, the Secretary shall enter into an agreement with an electric utility or other company in the Youngstown, Ohio, area, consistent with State law, under which the utility or company installs, operates, and maintains (in a manner satisfactory to the Secretary and the utility or company) an electric power distribution system at Youngstown Air Reserve Station, Ohio.

(2) The Secretary may not enter into an agreement under this subsection until—

(A) the Secretary submits to Congress a report on the agreement to be entered into, including the costs to be incurred by the United States under the agreement; and Reports.

(B) a period of 30 days has elapsed from the date of the receipt of the report by the committees.

(c) LICENSES AND EASEMENTS.—In order to facilitate the installation, operation, and maintenance of the electric power distribution system under the agreement under subsection (b), the Secretary may grant the utility or company with which the Secretary enters into the agreement such licenses, easements, and rights-of-way, consistent with State law, as the Secretary and the utility or company jointly determine necessary for such purposes.

(d) OWNERSHIP OF SYSTEM.—The agreement between the Secretary and the utility or company under subsection (b) may provide that the utility or company shall own the electric power distribution system installed under the agreement.

(e) RATE.—The rate charged by the utility or company for providing or distributing electric power at Youngstown Air Reserve Station through the electric power distribution system installed under the agreement under subsection (b) shall be the rate established by the appropriate Federal or State regulatory authority.

(f) REPORTS.—Not later than February 1, 1997, and February 1 of each year following a year in which the Secretary carries

out the demonstration project under this section, the Secretary shall submit to Congress a report on the project. The report shall include the Secretary's current assessment of the project and the recommendations, if any, of the Secretary of extending the authority with respect to the project to other facilities and installations of the Department of Defense.

(g) FUNDING.—In order to pay the costs of the United States under the agreement under subsection (b), the Secretary may use funds authorized to be appropriated by section 2601(3)(B) of the Military Construction Authorization Act for Fiscal Year 1996 (division B of Public Law 104–106; 110 Stat. 540) for the purpose of rebuilding the electric power distribution system at the Youngstown Air Reserve Station that were appropriated for that purpose by the Military Construction Appropriations Act, 1996 (Public Law 104–32; 109 Stat. 283), and that remain available for obligation for that purpose as of the date of the enactment of this Act.

(h) APPLICATION OF OTHER LAW.—Nothing in this section shall authorize actions which are inconsistent with Federal or State law.

(i) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in the agreement under subsection (b) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2864. RENOVATION OF THE PENTAGON RESERVATION.

The Secretary of Defense shall take such actions as are necessary to ensure that the total cost of the renovation of the Pentagon Reservation does not exceed $1,118,000,000.

SEC. 2865. PLAN FOR REPAIRS AND STABILIZATION OF THE HISTORIC DISTRICT AT THE FOREST GLEN ANNEX OF WALTER REED MEDICAL CENTER, MARYLAND.

Not later than 120 days after the date of the enactment of this Act, the Secretary of the Army shall submit to the congressional defense committees a comprehensive plan for basic repairs and stabilization measures throughout the historic district at the Forest Glen Annex of Walter Reed Army Medical Center, Maryland, together with funding options for the implementation of the plan.

SEC. 2866. NAMING OF RANGE AT CAMP SHELBY, MISSISSIPPI.

(a) NAME.—The Multi Purpose Range Complex (Heavy) at Camp Shelby, Mississippi, shall after the date of the enactment of this Act be known and designated as the "G.V. (Sonny) Montgomery Range". Any reference to such range in any law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to the G. V. (Sonny) Montgomery Range.

(b) EFFECTIVE DATE.—Subsection (a) shall take effect at noon on January 3, 1997, or the first day on which G. V. (Sonny) Montgomery otherwise ceases to be a Member of the House of Representatives.

Nevada.

SEC. 2867. DESIGNATION OF MICHAEL O'CALLAGHAN MILITARY HOSPITAL.

(a) DESIGNATION.—The Nellis Federal Hospital, a Federal building located at 4700 North Las Vegas Boulevard, Las Vegas, Nevada, shall be known and designated as the "Michael O'Callaghan Military Hospital".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in subsection (a) shall be deemed to be a reference to the "Michael O'Callaghan Military Hospital".

SEC. 2868. NAMING OF BUILDING AT THE UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES.

It is the sense of Congress that the Secretary of Defense should name Building A at the Uniformed Services University of the Health Sciences as the "David Packard Building".

TITLE XXIX—MILITARY LAND WITHDRAWALS

Subtitle A—Fort Carson-Pinon Canyon Military Lands Withdrawal

Sec. 2901. Short title.
Sec. 2902. Withdrawal and reservation of lands at Fort Carson Military Reservation.
Sec. 2903. Withdrawal and reservation of lands at Pinon Canyon Maneuver Site.
Sec. 2904. Maps and legal descriptions.
Sec. 2905. Management of withdrawn lands.
Sec. 2906. Management of withdrawn and acquired mineral resources.
Sec. 2907. Hunting, fishing, and trapping.
Sec. 2908. Termination of withdrawal and reservation.
Sec. 2909. Determination of presence of contamination and effect of contamination.
Sec. 2910. Delegation.
Sec. 2911. Hold harmless.
Sec. 2912. Amendment to Military Lands Withdrawal Act of 1986.
Sec. 2913. Authorization of appropriations.

Subtitle B—El Centro Naval Air Facility Ranges Withdrawal

Sec. 2921. Short title and definitions.
Sec. 2922. Withdrawal and reservation of lands for El Centro.
Sec. 2923. Maps and legal descriptions.
Sec. 2924. Management of withdrawn lands.
Sec. 2925. Duration of withdrawal and reservation.
Sec. 2926. Continuation of ongoing decontamination activities.
Sec. 2927. Requirements for extension.
Sec. 2928. Early relinquishment of withdrawal.
Sec. 2929. Delegation of authority.
Sec. 2930. Hunting, fishing, and trapping.
Sec. 2931. Hold harmless.

Subtitle A—Fort Carson-Pinon Canyon Military Lands Withdrawal

Fort Carson-Pinon Canyon Military Lands Withdrawal Act.

SEC. 2901. SHORT TITLE.

This subtitle may be cited as the "Fort Carson-Pinon Canyon Military Lands Withdrawal Act".

SEC. 2902. WITHDRAWAL AND RESERVATION OF LANDS AT FORT CARSON MILITARY RESERVATION.

(a) WITHDRAWAL.—Subject to valid existing rights and except as otherwise provided in this subtitle, the lands at the Fort Carson Military Reservation, Colorado, that are described in subsection (c) are hereby withdrawn from all forms of appropriation under the public land laws, including the mining laws, the mineral and geothermal leasing laws, and the mineral materials disposal laws.

(b) RESERVATION.—The lands withdrawn under subsection (a) are reserved for use by the Secretary of the Army—

(1) for military maneuvering, training and weapons firing; and

(2) for other defense related purposes consistent with the uses specified in paragraph (1).

(c) LAND DESCRIPTION.—The lands referred to in subsection (a) comprise 3,133.02 acres of public land and 11,415.16 acres of federally-owned minerals in El Paso, Pueblo, and Fremont Counties, Colorado, as generally depicted on the map entitled "Fort Carson Proposed Withdrawal—Fort Carson Base", dated February 6, 1992, and published in accordance with section 2904.

SEC. 2903. WITHDRAWAL AND RESERVATION OF LANDS AT PINON CANYON MANEUVER SITE.

(a) WITHDRAWAL.—Subject to valid existing rights and except as otherwise provided in this subtitle, the lands at the Pinon Canyon Maneuver Site, Colorado, that are described in subsection (c) are hereby withdrawn from all forms of appropriation under the public land laws, including the mining laws, the mineral and geothermal leasing laws, and the mineral materials disposal laws.

(b) RESERVATION.—The lands withdrawn under subsection (a) are reserved for use by the Secretary of the Army—

(1) for military maneuvering and training; and

(2) for other defense related purposes consistent with the uses specified in paragraph (1).

(c) LAND DESCRIPTION.—The lands referred to in subsection (a) comprise 2,517.12 acres of public lands and 130,139 acres of federally-owned minerals in Las Animas County, Colorado, as generally depicted on the map entitled "Fort Carson Proposed Withdrawal—Fort Carson Maneuver Area—Pinon Canyon site", dated February 6, 1992, and published in accordance with section 2904.

SEC. 2904. MAPS AND LEGAL DESCRIPTIONS.

Federal Register, publication.

(a) PREPARATION OF MAPS AND LEGAL DESCRIPTION.—As soon as practicable after the date of the enactment of this subtitle, the Secretary of the Interior shall prepare maps depicting the lands withdrawn and reserved by this subtitle and publish in the Federal Register a notice containing the legal description of such lands.

(b) LEGAL EFFECT.—Such maps and legal descriptions shall have the same force and effect as if they were included in this subtitle, except that the Secretary of the Interior may correct clerical and typographical errors in such maps and legal descriptions.

(c) AVAILABILITY OF MAPS AND LEGAL DESCRIPTION.—Copies of such maps and legal descriptions shall be available for public inspection in the offices of the Colorado State Director and the Canon City District Manager of the Bureau of Land Management and in the offices of the Commander of Fort Carson, Colorado.

(d) COSTS.—The Secretary of the Army shall reimburse the Secretary of the Interior for the costs of implementing this section.

SEC. 2905. MANAGEMENT OF WITHDRAWN LANDS.

(a) MANAGEMENT GUIDELINES.—

(1) MANAGEMENT BY SECRETARY OF THE ARMY.—Except as provided in section 2906, during the period of withdrawal, the Secretary of the Army shall manage for military purposes the lands covered by this subtitle and may authorize use of the lands by the other military departments and agencies

of the Department of Defense, and the National Guard, as appropriate.

(2) ACCESS RESTRICTIONS.—When military operations, public safety, or national security, as determined by the Secretary of the Army, require the closure of roads and trails on the lands withdrawn by this subtitle commonly in public use, the Secretary of the Army is authorized to take such action, except that such closures shall be limited to the minimum areas and periods required for the purposes specified in this subsection. Appropriate warning notices shall be kept posted during closures.

(3) SUPPRESSION OF FIRES.—The Secretary of the Army shall take necessary precautions to prevent and suppress brush and range fires occurring within and outside the lands as a result of military activities and may seek assistance from the Bureau of Land Management in suppressing such fires. The memorandum of understanding required by this section shall provide for Bureau of Land Management assistance in the suppression of such fires, and for a transfer of funds from the Department of the Army to the Bureau of Land Management as compensation for such assistance.

(b) MANAGEMENT PLAN.—

(1) DEVELOPMENT REQUIRED.—The Secretary of the Army, with the concurrence of the Secretary of the Interior, shall develop a plan for the management of acquired lands and lands withdrawn under sections 2902 and 2903 for the period of withdrawal. The plan shall—

(A) be consistent with applicable law;

(B) include such provisions as may be necessary for proper resource management and protection of the natural, cultural, and other resources and values of such lands; and

(C) identify those withdrawn and acquired lands, if any, which are to be open to mining or mineral and geothermal leasing, including mineral materials disposal.

(2) TIME FOR DEVELOPMENT.—The management plan required by this subsection shall be developed not later than 5 years after the date of the enactment of this subtitle.

(c) IMPLEMENTATION OF MANAGEMENT PLAN.—

(1) MEMORANDUM OF UNDERSTANDING REQUIRED.—The Secretary of the Army and the Secretary of the Interior shall enter into a memorandum of understanding to implement the management plan developed under subsection (b).

(2) DURATION.—The duration of any such memorandum of understanding shall be the same as the period of withdrawal specified in section 2908(a).

(3) AMENDMENT.—The memorandum of understanding may be amended by agreement of both Secretaries.

(d) USE OF CERTAIN RESOURCES.—The Secretary of the Army is authorized to utilize sand, gravel, or similar mineral or mineral material resources from the lands withdrawn by this subtitle when the use of such resources is required for construction needs of the Fort Carson Reservation or Pinon Canyon Maneuver Site.

SEC. 2906. MANAGEMENT OF WITHDRAWN AND ACQUIRED MINERAL RESOURCES.

Except as provided in section 2905(d), the Secretary of the Interior shall manage all withdrawn and acquired mineral resources within the boundaries of the Fort Carson Military Reservation and Pinon Canyon Maneuver Site in the same manner as provided in section 12 of the Military Lands Withdrawal Act of 1986 (Public Law 99–606; 100 Stat. 3466) for mining and mineral leasing on certain lands withdrawn by that Act from all forms of appropriation under the public land laws.

SEC. 2907. HUNTING, FISHING, AND TRAPPING.

All hunting, fishing, and trapping on the lands withdrawn and reserved by this subtitle shall be conducted in accordance with section 2671 of title 10, United States Code.

SEC. 2908. TERMINATION OF WITHDRAWAL AND RESERVATION.

(a) TERMINATION DATE.—The withdrawal and reservation made by this subtitle shall terminate 15 years after the date of the enactment of this subtitle.

(b) DETERMINATION OF CONTINUING MILITARY NEED.—

(1) DETERMINATION REQUIRED.—At least three years before the termination under subsection (a) of the withdrawal and reservation established by this subtitle, the Secretary of the Army shall advise the Secretary of the Interior as to whether or not the Department of the Army will have a continuing military need for any of the lands after the termination date.

(2) METHOD OF MAKING DETERMINATION.—If the Secretary of the Army concludes under paragraph (1) that there will be a continuing military need for any of the lands after the termination date established by subsection (a), the Secretary of the Army, in accordance with applicable law, shall—

(A) evaluate the environmental effects of renewal of such withdrawal and reservation;

(B) hold at least one public hearing in Colorado concerning such evaluation; and

(C) file, after completing the requirements of subparagraphs (A) and (B), an application for extension of the withdrawal and reservation of such lands in accordance with the regulations and procedures of the Department of the Interior applicable to the extension of withdrawals for military uses.

(3) NOTIFICATION.—The Secretary of the Interior shall notify the Congress concerning a filing under paragraph (3)(C).

(c) EARLY RELINQUISHMENT OF WITHDRAWAL.—If the Secretary of the Army concludes under subsection (b) that before the termination date established by subsection (a) there will be no military need for all or any part of the lands withdrawn and reserved by this subtitle, or if, during the period of withdrawal, the Secretary of the Army otherwise decides to relinquish any or all of the lands withdrawn and reserved under this subtitle, the Secretary of the Army shall file with the Secretary of the Interior a notice of intention to relinquish such lands.

(d) ACCEPTANCE OF LANDS PROPOSED FOR RELINQUISHMENT.—Notwithstanding any other provision of law, the Secretary of the Interior, upon deciding that it is in the public interest to accept jurisdiction over the lands proposed for relinquishment, may revoke

the withdrawal and reservation established by this subtitle as it applies to the lands proposed for relinquishment. Should the decision be made to revoke the withdrawal and reservation, the Secretary of the Interior shall publish in the Federal Register an appropriate order which shall—

(1) terminate the withdrawal and reservation;

(2) constitute official acceptance of full jurisdiction over the lands by the Secretary of the Interior; and

(3) state the date upon which the lands will be opened to the operation of the public land laws, including the mining laws if appropriate.

SEC. 2909. DETERMINATION OF PRESENCE OF CONTAMINATION AND EFFECT OF CONTAMINATION.

(a) DETERMINATION OF PRESENCE OF CONTAMINATION.—

(1) BEFORE RELINQUISHMENT NOTICE.—Before filing a relinquishment notice under section 2908(c), the Secretary of the Army shall prepare a written determination as to whether and to what extent the lands to be relinquished are contaminated with explosive, toxic, or other hazardous materials. A copy of the determination made by the Secretary of the Army shall be supplied with the relinquishment notice. Copies of both the relinquishment notice and the determination under this subsection shall be published in the Federal Register by the Secretary of the Interior. Federal Register, publication.

(2) UPON TERMINATION OF WITHDRAWAL.—At the expiration of the withdrawal period made by this Act, the Secretary of the Interior shall determine whether and to what extent the lands withdrawn by this subtitle are contaminated to an extent which prevents opening such contaminated lands to operation of the public land laws.

(b) PROGRAM OF DECONTAMINATION.—

(1) IN GENERAL.—Throughout the duration of the withdrawal and reservation made by this subtitle, the Secretary of the Army, to the extent funds are made available, shall maintain a program of decontamination of the lands withdrawn by this subtitle at least at the level of effort carried out during fiscal year 1992.

(2) DECONTAMINATION OF LANDS TO BE RELINQUISHED.—In the case of lands subject to a relinquishment notice under section 2908(c) that are contaminated, the Secretary of the Army shall decontaminate the land to the extent that funds are appropriated for such purpose if the Secretary of the Interior, in consultation with the Secretary of the Army, determines that—

(A) decontamination of the lands is practicable and economically feasible, taking into consideration the potential future use and value of the land; and

(B) upon decontamination, the land could be opened to the operation of some or all of the public land laws, including the mining laws.

(c) AUTHORITY OF SECRETARY OF THE INTERIOR TO REFUSE CONTAMINATED LANDS.—The Secretary of the Interior shall not be required to accept lands proposed for relinquishment if the Secretary of the Army and the Secretary of the Interior conclude that—

(1) decontamination of any or all of the lands proposed for relinquishment is not practicable or economically feasible;

(2) the lands cannot be decontaminated sufficiently to allow them to be opened to the operation of the public land laws; or

(3) insufficient funds are appropriated for the purpose of decontaminating the lands.

(d) EFFECT OF CONTINUED CONTAMINATION.—If the Secretary of the Interior declines under subsection (c) to accept jurisdiction of lands proposed for relinquishment or if the Secretary of the Interior determines under subsection (a)(2) that some of the lands withdrawn by this subtitle are contaminated to an extent that prevents opening the contaminated lands to operation of the public land laws—

(1) the Secretary of the Army shall take appropriate steps to warn the public of the contaminated state of such lands and any risks associated with entry onto such lands;

(2) after the expiration of the withdrawal, the Secretary of the Army shall undertake no activities on such lands except in connection with decontamination of such lands; and

(3) the Secretary of the Army shall report to the Secretary of the Interior and to the Congress concerning the status of such lands and all actions taken under paragraphs (1) and (2).

(e) EFFECT OF SUBSEQUENT DECONTAMINATION.—If the lands described in subsection (d) are subsequently decontaminated, upon certification by the Secretary of the Army that the lands are safe for all nonmilitary uses, the Secretary of the Interior shall reconsider accepting jurisdiction over the lands.

(f) EFFECT ON OTHER LAWS.—Nothing in this subtitle shall affect, or be construed to affect, the obligations of the Secretary of the Army, if any, to decontaminate lands withdrawn by this subtitle pursuant to applicable law, including the Comprehensive Environmental Response Compensation and Liability Act of 1980 (42 U.S.C. 9601 et seq.) and the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).

SEC. 2910. DELEGATION.

The functions of the Secretary of the Army under this subtitle may be delegated. The functions of the Secretary of the Interior under this subtitle may be delegated, except that the order referred to in section 2908(d) may be approved and signed only by the Secretary of the Interior, the Deputy Secretary of the Interior, or an Assistant Secretary of the Department of the Interior.

SEC. 2911. HOLD HARMLESS.

Any party conducting any mining, mineral, or geothermal leasing activity on lands comprising the Fort Carson Reservation or Pinon Canyon Maneuver Site shall indemnify the United States against any costs, fees, damages, or other liabilities (including costs of litigation) incurred by the United States and arising from or relating to such mining activities, including costs of mineral materials disposal, whether arising under the Comprehensive Environmental Response Compensation and Liability Act of 1980, the Solid Waste Disposal Act, or otherwise.

SEC. 2912. AMENDMENT TO MILITARY LANDS WITHDRAWAL ACT OF 1986.

(a) USE OF CERTAIN RESOURCES.—Section 3(f) of the Military Lands Withdrawal Act of 1986 (Public Law 99–606; 100 Stat. 3461) is amended by adding at the end the following new paragraph:

"(2) Subject to valid existing rights, the Secretary of the military department concerned may utilize sand, gravel, or similar mineral or material resources when the use of such resources is required for construction needs on the respective lands withdrawn by this Act.".

(b) TECHNICAL CORRECTION.—Section 9(b) of the Military Lands Withdrawal Act of 1986 (Public Law 99–606; 100 Stat. 3466) is amended by striking "section 7(f)" and inserting in lieu thereof "section 8(f)".

SEC. 2913. AUTHORIZATION OF APPROPRIATIONS.

There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this subtitle.

Subtitle B—El Centro Naval Air Facility Ranges Withdrawal

El Centro Naval Air Facility Ranges Withdrawal Act. California.

SEC. 2921. SHORT TITLE AND DEFINITIONS.

(a) SHORT TITLE.—This subtitle may be cited as the "El Centro Naval Air Facility Ranges Withdrawal Act".

(b) DEFINITIONS.—In this subtitle:

(1) The term "El Centro" means the Naval Air Facility, El Centro, California.

(2) The term "cooperative agreement" means the cooperative agreement entered into between the Bureau of Land Management, the Bureau of Reclamation, and the Department of the Navy, dated June 29, 1987, with regard to the defense-related uses of Federal lands to further the mission of El Centro.

(3) The term "relinquishment notice" means a notice of intention by the Secretary of the Navy under section 2928(a) to relinquish, before the termination date specified in section 2925, the withdrawal and reservation of certain lands withdrawn under this subtitle.

SEC. 2922. WITHDRAWAL AND RESERVATION OF LANDS FOR EL CENTRO.

(a) WITHDRAWALS.—Subject to valid existing rights, and except as otherwise provided in this subtitle, the Federal lands utilized in the mission of the Naval Air Facility, El Centro, California, that are described in subsection (c) are hereby withdrawn from all forms of appropriation under the public land laws, including the mining laws, but not the mineral leasing or geothermal leasing laws or the mineral materials sales laws.

(b) RESERVATION.—The lands withdrawn under subsection (a) are reserved for the use by the Secretary of the Navy—

(1) for defense-related purposes in accordance with the cooperative agreement; and

(2) subject to notice to the Secretary of the Interior under section 2924(e), for other defense-related purposes determined by the Secretary of the Navy.

(c) DESCRIPTION OF WITHDRAWN LANDS.—The lands withdrawn and reserved under subsection (a) are—

(1) the Federal lands comprising approximately 46,600 acres in Imperial County, California, as generally depicted in part on a map entitled "Exhibit A, Naval Air Facility, El Centro, California, Land Acquisition Map, Range 2510 (West Mesa)" and dated March 1993 and in part on a map entitled "Exhibit B, Naval Air Facility, El Centro, California, Land Acquisition Map Range 2512 (East Mesa)" and dated March 1993; and

(2) and all other areas within the boundaries of such lands as depicted on such maps that may become subject to the operation of the public land laws.

SEC. 2923. MAPS AND LEGAL DESCRIPTIONS.

(a) PUBLICATION AND FILING REQUIREMENTS.—As soon as practicable after the date of the enactment of this subtitle, the Secretary of the Interior shall—

Federal Register, publication.

(1) publish in the Federal Register a notice containing the legal description of the lands withdrawn and reserved under this subtitle; and

(2) file maps and the legal description of the lands withdrawn and reserved under this subtitle with the Committee on Energy and Natural Resources of the Senate and with the Committee on Resources of the House of Representatives.

(b) LEGAL EFFECT.—The maps and legal description prepared under subsection (a) shall have the same force and effect as if they were included in this subtitle, except that the Secretary of the Interior may correct clerical and typographical errors in the maps and legal description.

(c) AVAILABILITY FOR PUBLIC INSPECTION.—Copies of the maps and legal description prepared under subsection (a) shall be available for public inspection in—

(1) the Office of the State Director, California State Office of the Bureau of Land Management, Sacramento, California;

(2) the Office of the District Manager, California Desert District of the Bureau of Land Management, Riverside, California; and

(3) the Office of the Commanding Officer, Marine Corps Air Station, Yuma, Arizona.

(d) REIMBURSEMENT.—The Secretary of Navy shall reimburse the Secretary of the Interior for the cost of implementing this section.

SEC. 2924. MANAGEMENT OF WITHDRAWN LANDS.

(a) MANAGEMENT CONSISTENT WITH COOPERATIVE AGREEMENT.—The lands and resources shall be managed in accordance with the cooperative agreement, revised as necessary to conform to the provisions of this subtitle. The parties to the cooperative agreement shall review the cooperative agreement for conformance with this subtitle and amend the cooperative agreement, if appropriate, within 120 days after the date of the enactment of this subtitle. The term of the cooperative agreement shall be amended so that its duration is at least equal to the duration of the withdrawal made by section 2925. The cooperative agreement may be reviewed and amended by the managing agencies as necessary.

(b) MANAGEMENT BY SECRETARY OF THE INTERIOR.—

(1) GENERAL MANAGEMENT AUTHORITY.—During the period of withdrawal, the Secretary of the Interior shall manage the lands withdrawn and reserved under this subtitle pursuant to the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) and other applicable laws, including this subtitle.

(2) SPECIFIC AUTHORITIES.—To the extent consistent with applicable laws, Executive orders, and the cooperative agreement, the lands withdrawn and reserved under this subtitle may be managed in a manner permitting—

(A) protection of wildlife and wildlife habitat;

(B) control of predatory and other animals;

(C) the prevention and appropriate suppression of brush and range fires resulting from nonmilitary activities; and

(D) geothermal leasing and development and related power production, mineral leasing and development, and mineral material sales.

(3) EFFECT OF WITHDRAWAL.—The Secretary of the Interior shall manage the lands withdrawn and reserved under this subtitle, in coordination with the Secretary of the Navy, such that all nonmilitary use of such lands, including the uses described in paragraph (2), shall be subject to such conditions and restrictions as may be necessary to permit the military use of such lands for the purposes specified in the cooperative agreement or authorized pursuant to this subtitle.

(c) CERTAIN ACTIVITIES SUBJECT TO CONCURRENCE OF NAVY.—The Secretary of the Interior may issue a lease, easement, right-of-way, or other authorization with respect to the nonmilitary use of the withdrawn lands only with the concurrence of the Secretary of the Navy and under the terms of the cooperative agreement.

(d) ACCESS RESTRICTIONS.—If the Secretary of the Navy determines that military operations, public safety, or national security require the closure to public use of any road, trail, or other portion of the lands withdrawn under this subtitle, the Secretary may take such action as the Secretary determines necessary or desirable to effect and maintain such closure. Any such closure shall be limited to the minimum areas and periods which the Secretary of the Navy determines are required to carry out this subsection. Before and during any closure under this subsection, the Secretary of the Navy shall keep appropriate warning notices posted and take appropriate steps to notify the public concerning such closures. Notification.

(e) ADDITIONAL MILITARY USES.—Lands withdrawn under this subtitle may be used for defense-related uses other than those specified in the cooperative agreement. The Secretary of the Navy shall promptly notify the Secretary of the Interior in the event that the lands withdrawn under this subtitle will be used for additional defense-related purposes. Such notification shall indicate the additional use or uses involved, the proposed duration of such uses, and the extent to which such additional military uses of the withdrawn lands will require that additional or more stringent conditions or restrictions be imposed on otherwise-permitted nonmilitary uses of all or any portion of the withdrawn lands. Notification.

SEC. 2925. DURATION OF WITHDRAWAL AND RESERVATION.

The withdrawal and reservation made under this subtitle shall terminate 25 years after the date of the enactment of this subtitle.

SEC. 2926. CONTINUATION OF ONGOING DECONTAMINATION ACTIVITIES.

Throughout the duration of the withdrawal and reservation made under this subtitle, and subject to the availability of funds, the Secretary of the Navy shall maintain a program of decontamination of the lands withdrawn under this subtitle at least at the level of decontamination activities performed on such lands in fiscal year 1995. Such activities shall be subject to applicable laws, such as the amendments made by the Federal Facility Compliance Act of 1992 (Public Law 102–386; 106 Stat. 1505) and the Defense Environmental Restoration Program established under section 2701 of title 10, United States Code.

SEC. 2927. REQUIREMENTS FOR EXTENSION.

(a) NOTICE OF CONTINUED MILITARY NEED.—Not later than five years before the termination date specified in section 2925, the Secretary of the Navy shall advise the Secretary of the Interior as to whether or not the Navy will have a continuing military need for any or all of the lands withdrawn and reserved under this subtitle after the termination date.

(b) APPLICATION FOR EXTENSION.—If the Secretary of the Navy determines that there will be a continuing military need for any or all of the withdrawn lands after the termination date specified in section 2925, the Secretary of the Navy shall file an application for extension of the withdrawal and reservation of the lands in accordance with the then existing regulations and procedures of the Department of the Interior applicable to extension of withdrawal of lands for military purposes and that are consistent with this subtitle. Such application shall be filed with the Department of the Interior not later than four years before the termination date.

(c) EXTENSION PROCESS.—The withdrawal and reservation established by this subtitle may not be extended except by an Act or Joint Resolution of Congress.

SEC. 2928. EARLY RELINQUISHMENT OF WITHDRAWAL.

(a) FILING OF RELINQUISHMENT NOTICE.—If, during the period of withdrawal and reservation specified in section 2925, the Secretary of the Navy decides to relinquish all or any portion of the lands withdrawn and reserved under this subtitle, the Secretary of the Navy shall file a notice of intention to relinquish with the Secretary of the Interior.

(b) DETERMINATION OF PRESENCE OF CONTAMINATION.—Before transmitting a relinquishment notice under subsection (a), the Secretary of the Navy, in consultation with the Secretary of the Interior, shall prepare a written determination concerning whether and to what extent the lands to be relinquished are contaminated with explosive, toxic, or other hazardous wastes and substances. A copy of such determination shall be transmitted with the relinquishment notice.

(c) DECONTAMINATION AND REMEDIATION.—In the case of contaminated lands which are the subject of a relinquishment notice, the Secretary of the Navy shall decontaminate or remediate the land to the extent that funds are appropriated for such purpose

if the Secretary of the Interior, in consultation with the Secretary of the Navy, determines that—

(1) decontamination or remediation of the lands is practicable and economically feasible, taking into consideration the potential future use and value of the land; and

(2) upon decontamination or remediation, the land could be opened to the operation of some or all of the public land laws, including the mining laws.

(d) DECONTAMINATION AND REMEDIATION ACTIVITIES SUBJECT TO OTHER LAWS.—The activities of the Secretary of the Navy under subsection (c) are subject to applicable laws and regulations, including the Defense Environmental Restoration Program established under section 2701 of title 10, United States Code, the Comprehensive Environmental Response Compensation and Liability Act of 1980 (42 U.S.C. 9601 et seq.), and the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).

(e) AUTHORITY OF SECRETARY OF THE INTERIOR TO REFUSE CONTAMINATED LANDS.—The Secretary of the Interior shall not be required to accept lands specified in a relinquishment notice if the Secretary of the Interior, after consultation with the Secretary of the Navy, concludes that—

(1) decontamination or remediation of any land subject to the relinquishment notice is not practicable or economically feasible;

(2) the land cannot be decontaminated or remediated sufficiently to be opened to operation of some or all of the public land laws; or

(3) a sufficient amount of funds are not appropriated for the decontamination of the land.

(f) STATUS OF CONTAMINATED LANDS.—If, because of the condition of the lands, the Secretary of the Interior declines to accept jurisdiction of lands proposed for relinquishment or, if at the expiration of the withdrawal made under this subtitle, the Secretary of the Interior determines that some of the lands withdrawn under this subtitle are contaminated to an extent which prevents opening such contaminated lands to operation of the public land laws—

(1) the Secretary of the Navy shall take appropriate steps to warn the public of the contaminated state of such lands and any risks associated with entry onto such lands; Safety.

(2) after the expiration of the withdrawal, the Secretary of the Navy shall retain jurisdiction over the withdrawn lands, but shall undertake no activities on such lands except in connection with the decontamination or remediation of such lands; and

(3) the Secretary of the Navy shall report to the Secretary of the Interior and to the Congress concerning the status of such lands and all actions taken under paragraphs (1) and (2). Reports.

(g) SUBSEQUENT DECONTAMINATION OR REMEDIATION.—If lands covered by subsection (f) are subsequently decontaminated or remediated and the Secretary of the Navy certifies that the lands are safe for nonmilitary uses, the Secretary of the Interior shall reconsider accepting jurisdiction over the lands.

(h) REVOCATION AUTHORITY.—Notwithstanding any other provision of law, upon deciding that it is in the public interest to accept jurisdiction over lands specified in a relinquishment notice, the Secretary of the Interior may revoke the withdrawal and

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reservation made under this subtitle as it applies to such lands. If the decision be made to accept the relinquishment and to revoke the withdrawal and reservation, the Secretary of the Interior shall publish in the Federal Register an appropriate order which shall—

(1) terminate the withdrawal and reservation;

(2) constitute official acceptance of full jurisdiction over the lands by the Secretary of the Interior; and

(3) state the date upon which the lands will be opened to the operation of the public land laws, including the mining laws, if appropriate.

SEC. 2929. DELEGATION OF AUTHORITY.

(a) DEPARTMENT OF THE NAVY.—The functions of the Secretary of the Navy under this subtitle may be delegated.

(b) DEPARTMENT OF THE INTERIOR.—The functions of the Secretary of the Interior under this subtitle may be delegated, except that an order described in section 2928(h) may be approved and signed only by the Secretary of the Interior, the Deputy Secretary of the Interior, or an Assistant Secretary of the Department of the Interior.

SEC. 2930. HUNTING, FISHING, AND TRAPPING.

All hunting, fishing, and trapping on the lands withdrawn under this subtitle shall be conducted in accordance with section 2671 of title 10, United States Code.

SEC. 2931. HOLD HARMLESS.

Any party conducting any mining, mineral, or geothermal leasing activity on lands withdrawn and reserved under this subtitle shall indemnify the United States against any costs, fees, damages, or other liabilities (including costs of litigation) incurred by the United States and arising from or relating to such mining activities, including costs of mineral materials disposal, whether arising under the Comprehensive Environmental Response Compensation and Liability Act of 1980, the Solid Waste Disposal Act, or otherwise.

DIVISION C—DEPARTMENT OF ENERGY NATIONAL

SECURITY AUTHORIZATIONS AND OTHER AUTHORIZATIONS

TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

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Subtitle A—National Security Programs Authorizations

SEC. 3101. WEAPONS ACTIVITIES.

(a) STOCKPILE STEWARDSHIP.—Subject to subsection (d), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1997 for stockpile stewardship in carrying out weapons activities necessary for national security programs in the amount of $1,661,767,000, to be allocated as follows:

(1) For core stockpile stewardship, $1,235,907,000, to be allocated as follows:

(A) For operation and maintenance, $1,147,570,000.

(B) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), $88,337,000, to be allocated as follows:

Project 96–D–102, stockpile stewardship facilities revitalization, Phase VI, various locations, $19,250,000.

Project 96–D–103, ATLAS, Los Alamos National Laboratory, Los Alamos, New Mexico, $15,100,000.

Project 96–D–104, processing and environmental technology laboratory (PETL), Sandia National Laboratories, Albuquerque, New Mexico, $14,100,000.

Project 96–D–105, contained firing facility addition, Lawrence Livermore National Laboratory, Livermore, California, $17,100,000.

Project 95–D–102, Chemical and Metallurgy Research Building upgrades project, Los Alamos National Laboratory, Los Alamos, New Mexico, $15,000,000.

Project 94–D–102, nuclear weapons research, development, and testing facilities revitalization, Phase V, various locations, $7,787,000.

(2) For inertial fusion, $366,460,000, to be allocated as follows:

(A) For operation and maintenance, $234,560,000.

(B) For the following plant project (including maintenance, restoration, planning, construction, acquisition, and modification of facilities, and land acquisition related thereto), $131,900,000 to be allocated as follows:

Project 96–D–111, national ignition facility, location to be determined, $131,900,000.

(3) For technology transfer and education, $59,400,000.

(b) STOCKPILE MANAGEMENT.—Subject to subsection (d), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1997 for stockpile management in carrying out weapons activities necessary for national security programs in the amount of $1,962,831,000, to be allocated as follows:

(1) For operation and maintenance, $1,868,470,000.

(2) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), $94,361,000, to be allocated as follows:

Project 97–D–121, consolidated pit packaging system, Pantex Plant, Amarillo, Texas, $870,000.

Project 97–D–122, nuclear materials storage facility renovation, Los Alamos National Laboratory, Los Alamos, New Mexico, $4,000,000.

Project 97–D–123, structural upgrades, Kansas City Plant, Kansas City, Missouri, $1,400,000.

Project 97–D–124, steam plant wastewater treatment facility upgrade, Y–12 Plant, Oak Ridge, Tennessee, $600,000.

Project 96–D–122, sewage treatment quality upgrade (STQU), Pantex Plant, Amarillo, Texas, $100,000.

Project 96–D–123, retrofit heating, ventilation, and air conditioning and chillers for ozone protection, Y–12 Plant, Oak Ridge, Tennessee, $7,000,000.

Project 96–D–125, Washington measurements operations facility, Andrews Air Force Base, Camp Springs, Maryland, $3,825,000.

Project 95–D–122, sanitary sewer upgrade, Y–12 Plant, Oak Ridge, Tennessee, $10,900,000.

Project 94–D–124, hydrogen fluoride supply system, Y–12 Plant, Oak Ridge, Tennessee, $4,900,000.

Project 94–D–125, upgrade life safety, Kansas City Plant, Kansas City, Missouri, $5,200,000.

Project 94–D–127, emergency notification system, Pantex Plant, Amarillo, Texas, $2,200,000.

Project 93–D–122, life safety upgrades, Y–12 Plant, Oak Ridge, Tennessee, $7,200,000.

Project 93–D–123, complex-21, various locations, $14,487,000.

Project 88–D–122, facilities capability assurance program, various locations, $21,940,000.

Project 88–D–123, security enhancement, Pantex Plant, Amarillo, Texas, $9,739,000.

(c) PROGRAM DIRECTION.—Subject to subsection (d), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1997 for program direction in carrying out weapons activities necessary for national security programs in the amount of $313,404,000.

(d) ADJUSTMENT.—The total amount authorized to be appropriated pursuant to this section is the sum of the amounts authorized to be appropriated in subsections (a) through (c) reduced by $20,000,000 for use of prior year balances.

SEC. 3102. ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT.

(a) ENVIRONMENTAL RESTORATION.—Subject to subsection (j), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1997 for environmental restoration in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of $1,762,194,000, of which $376,648,000 shall be allocated to the uranium enrichment decontamination and decommissioning fund.

(b) WASTE MANAGEMENT.—Subject to subsection (j), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1997 for waste management in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of $1,578,653,000, to be allocated as follows:

(1) For operation and maintenance, $1,490,326,000.

(2) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), $88,327,000, to be allocated as follows:

Project 97–D–402, tank farm restoration and safe operations, Richland, Washington, $7,584,000.

Project 96–D–408, waste management upgrades, various locations, $11,246,000.

Project 95–D–402, install permanent electrical service, Waste Isolation Pilot Plant, Carlsbad, New Mexico, $752,000.

Project 95–D–405, industrial landfill V and construction/demolition landfill VII, Y–12 Plant, Oak Ridge, Tennessee, $200,000.

Project 94–D–404, Melton Valley storage tank capacity increase, Oak Ridge National Laboratory, Oak Ridge, Tennessee, $6,345,000.

Project 94–D–407, initial tank retrieval systems, Richland, Washington, $12,600,000.

Project 93–D–182, replacement of cross-site transfer system, Richland, Washington, $8,100,000.

Project 93–D–187, high-level waste removal from filled waste tanks, Savannah River Site, Aiken, South Carolina, $20,000,000.

Project 89–D–174, replacement high-level waste evaporator, Savannah River Site, Aiken, South Carolina, $11,500,000.

Project 86–D–103, decontamination and waste treatment facility, Lawrence Livermore National Laboratory, Livermore, California, $10,000,000.

(c) NUCLEAR MATERIALS AND FACILITIES STABILIZATION.—Subject to subsection (j), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1997 for nuclear materials and facilities stabilization in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of $1,291,290,000 to be allocated as follows:

(1) For operation and maintenance, $1,173,718,000.

(2) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities,

and the continuation of projects authorized in prior years, and land acquisition related thereto), $117,572,000, to be allocated as follows:

Project 97–D–450, Actinide packaging and storage facility, Savannah River Site, Aiken, South Carolina, $7,900,000.

Project 97–D–451, B-Plant safety class ventilation upgrades, Richland, Washington, $1,500,000.

Project 97–D–470, environmental monitoring laboratory, Savannah River Site, Aiken, South Carolina, $2,500,000.

Project 97–D–473, health physics site support facility, Savannah River Site, Aiken, South Carolina, $2,000,000.

Project 96–D–406, spent nuclear fuels canister storage and stabilization facility, Richland, Washington, $60,672,000.

Project 96–D–461, electrical distribution upgrade, Idaho National Engineering Laboratory, Idaho, $6,790,000.

Project 96–D–464, electrical and utility systems upgrade, Idaho Chemical Processing Plant, Idaho National Engineering Laboratory, Idaho, $10,440,000.

Project 96–D–471, chlorofluorocarbon heating, ventilation, and air conditioning and chiller retrofit, Savannah River Site, Aiken, South Carolina, $8,541,000.

Project 95–E–600, hazardous materials management and emergency response training center, Richland, Washington, $7,900,000.

Project 95–D–155, upgrade site road infrastructure, Savannah River Site, South Carolina, $4,137,000.

Project 95–D–456, security facilities consolidation, Idaho Chemical Processing Plant, Idaho National Engineering Laboratory, Idaho, $4,645,000.

Project 94–D–401, emergency response facility, Idaho National Engineering Laboratory, Idaho, $547,000.

(d) PROGRAM DIRECTION.—Subject to subsection (j), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1997 for program direction in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of $411,511,000.

(e) TECHNOLOGY DEVELOPMENT.—Subject to subsection (j), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1997 for technology development in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of $303,771,000.

(f) POLICY AND MANAGEMENT.—Subject to subsection (j), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1997 for policy and management in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of $23,155,000.

(g) ENVIRONMENTAL SCIENCE PROGRAM.—Subject to subsection (j), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1997 for the environmental science program in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of $62,136,000.

(h) ENVIRONMENTAL MANAGEMENT PRIVATIZATION.—Subject to subsection (j), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1997 for environmental management privatization in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of $185,000,000.

(i) CLOSURE PROJECTS.—Subject to subsection (j), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1997 for closure projects selected under section 3143 in the amount of $50,000,000.

(j) ADJUSTMENTS.—The total amount authorized to be appropriated pursuant to this section is the sum of the amounts authorized to be appropriated in subsections (a) through (i) reduced by the sum of—

(1) $150,400,000, for use of prior year balances; and

(2) $8,000,000, for Savannah River Pension Refund.

SEC. 3103. DEFENSE FIXED ASSET ACQUISITION/PRIVATIZATION.

Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1997 for the defense fixed asset acquisition/privatization program in the amount of $182,000,000.

SEC. 3104. OTHER DEFENSE ACTIVITIES.

(a) IN GENERAL.—Subject to subsection (b), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1997 for other defense activities in carrying out programs necessary for national security in the amount of $1,590,231,000, to be allocated as follows:

(1) For verification and control technology, $456,348,000, to be allocated as follows:

(A) For nonproliferation and verification research and development, $204,919,000.

(B) For arms control, $216,244,000.

(C) For intelligence, $35,185,000.

(2) For nuclear safeguards and security, $47,208,000.

(3) For security investigations, $22,000,000.

(4) For emergency management, $16,794,000.

(5) For program direction, $88,122,000.

(6) For international nuclear safety, $15,200,000.

(7) For environment, safety, and health, defense, $63,800,000.

(8) For worker and community transition assistance, $67,000,000.

(9) For fissile materials disposition, $93,796,000, to be allocated as follows:

(A) For operation and maintenance, $76,796,000.

(B) For the following plant project (including maintenance, restoration, planning, construction, acquisition, and modification of facilities, and land acquisition related thereto):

Project 97–D–140, consolidated special nuclear materials storage facility, site to be determined, $17,000,000.

(10) For nuclear security/Russian production reactor shutdown, $6,000,000.

(11) For naval reactors development, $681,932,000, to be allocated as follows:

(A) For operation and infrastructure, $649,330,000.

(B) For program direction, $18,902,000.

(C) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), $13,700,000, to be allocated as follows:

Project 97–D–201, advanced test reactor secondary coolant refurbishment, Idaho National Engineering Laboratory, Idaho, $400,000.

Project 95–D–200, laboratory systems and hot cell upgrades, various locations, $4,800,000.

Project 95–D–201, advanced test reactor radioactive waste system upgrades, Idaho National Engineering Laboratory, Idaho, $500,000.

Project 90–N–102, expended core facility dry cell project, Naval Reactors Facility, Idaho, $8,000,000.

(b) ADJUSTMENT.—The total amount authorized to be appropriated pursuant to this section is the sum of the amounts authorized to be appropriated in paragraphs (1) through (10) of subsection (a) reduced by $25,500,000 for use of prior year balances.

SEC. 3105. DEFENSE NUCLEAR WASTE DISPOSAL.

Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1997 for payment to the Nuclear Waste Fund established in section 302(c) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(c)) in the amount of $200,000,000.

Subtitle B—Recurring General Provisions

SEC. 3121. REPROGRAMMING.

(a) IN GENERAL.—Until the Secretary of Energy submits to the congressional defense committees the report referred to in subsection (b) and a period of 30 days has elapsed after the date on which such committees receive the report, the Secretary may not use amounts appropriated pursuant to this title for any program—

(1) in amounts that exceed, in a fiscal year—

(A) 110 percent of the amount authorized for that program by this title; or

(B) $1,000,000 more than the amount authorized for that program by this title; or

(2) which has not been presented to, or requested of, Congress.

(b) REPORT.—(1) The report referred to in subsection (a) is a report containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action.

(2) In the computation of the 30-day period under subsection (a), there shall be excluded any day on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain.

(c) LIMITATIONS.—(1) In no event may the total amount of funds obligated pursuant to this title exceed the total amount authorized to be appropriated by this title.

(2) Funds appropriated pursuant to this title may not be used for an item for which Congress has specifically denied funds.

SEC. 3122. LIMITS ON GENERAL PLANT PROJECTS.

(a) IN GENERAL.—The Secretary of Energy may carry out any construction project under the general plant projects authorized by this title if the total estimated cost of the construction project does not exceed $2,000,000.

(b) REPORT TO CONGRESS.—If, at any time during the construction of any general plant project authorized by this title, the estimated cost of the project is revised because of unforeseen cost variations and the revised cost of the project exceeds $2,000,000, the Secretary shall immediately furnish a complete report to the congressional defense committees explaining the reasons for the cost variation.

(c) REPORT ON PERMANENT AUTHORIZATION OF APPROPRIATIONS FOR GENERAL PLANT PROJECTS.—(1) Not later than February 1, 1997, the Secretary of Energy shall submit to the congressional defense committees a report on the desirability of a permanent authorization of appropriations for the defense general plant projects and civilian general plant projects of the Department of Energy.

(2) If the Secretary determines for purposes of the report under paragraph (1) that a permanent authorization of appropriations is desirable, the report shall include—

(A) recommendations for legislation to provide for a permanent authorization of appropriations, including a formula for adjusting for inflation the amount authorized to be appropriated for the projects to be covered by such authorization of appropriations; and

(B) a description of the actions to be undertaken by the Secretary to control costs with respect to such projects, including any actions that may depend on the size, nature, or scope of the project concerned.

SEC. 3123. LIMITS ON CONSTRUCTION PROJECTS.

(a) IN GENERAL.—(1) Except as provided in paragraph (2), construction on a construction project may not be started or additional obligations incurred in connection with the project above the total estimated cost, whenever the current estimated cost of the construction project, which is authorized by section 3101, 3102, or 3103, or which is in support of national security programs of the Department of Energy and was authorized by any previous Act, exceeds by more than 25 percent the higher of—

(A) the amount authorized for the project; or

(B) the amount of the total estimated cost for the project as shown in the most recent budget justification data submitted to Congress.

(2) An action described in paragraph (1) may be taken if—

(A) the Secretary of Energy has submitted to the congressional defense committees a report on the actions and the circumstances making such action necessary; and

(B) a period of 30 days has elapsed after the date on which the report is received by the committees.

(3) In the computation of the 30-day period under paragraph (2), there shall be excluded any day on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain.

(b) EXCEPTION.—Subsection (a) shall not apply to any construction project which has a current estimated cost of less than $5,000,000.

SEC. 3124. FUND TRANSFER AUTHORITY.

(a) TRANSFER TO OTHER FEDERAL AGENCIES.—The Secretary of Energy may transfer funds authorized to be appropriated to the Department of Energy pursuant to this title to other Federal agencies for the performance of work for which the funds were authorized. Funds so transferred may be merged with and be available for the same purposes and for the same period as the authorizations of the Federal agency to which the amounts are transferred.

(b) TRANSFER WITHIN DEPARTMENT OF ENERGY; LIMITATIONS.—(1) Subject to paragraph (2), the Secretary of Energy may transfer funds authorized to be appropriated to the Department of Energy pursuant to this title between any such authorizations. Amounts of authorizations so transferred may be merged with and be available for the same purposes and for the same period as the authorization to which the amounts are transferred.

(2) Not more than five percent of any such authorization may be transferred between authorizations under paragraph (1). No such authorization may be increased or decreased by more than five percent by a transfer under such paragraph.

(3) The authority provided by this section to transfer authorizations—

(A) may only be used to provide funds for items relating to weapons activities necessary for national security programs that have a higher priority than the items from which the funds are transferred; and

(B) may not be used to provide authority for an item that has been denied funds by Congress.

(c) NOTICE TO CONGRESS.—The Secretary of Energy shall promptly notify the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives of any transfer of funds to or from authorizations under this title.

SEC. 3125. AUTHORITY FOR CONCEPTUAL AND CONSTRUCTION DESIGN.

(a) REQUIREMENT FOR CONCEPTUAL DESIGN.—(1) Subject to paragraph (2) and except as provided in paragraph (3), before submitting to Congress a request for funds for a construction project that is in support of a national security program of the Department of Energy, the Secretary of Energy shall complete a conceptual design for that project. The Secretary shall submit to Congress a report on each conceptual design completed under this paragraph. Reports.

(2) If the estimated cost of completing a conceptual design for a construction project exceeds $3,000,000, the Secretary shall submit to Congress a request for funds for the conceptual design before submitting a request for funds for the construction project.

(3) The requirement in paragraph (1) does not apply to a request for funds—

(A) for a construction project the total estimated cost of which is less than $2,000,000; or

(B) for emergency planning, design, and construction activities under section 3126.

(b) AUTHORITY FOR CONSTRUCTION DESIGN.—(1) Within the amounts authorized by this title, the Secretary of Energy may

carry out construction design (including architectural and engineering services) in connection with any proposed construction project if the total estimated cost for such design does not exceed $600,000.

(2) If the total estimated cost for construction design in connection with any construction project exceeds $600,000, funds for such design must be specifically authorized by law.

SEC. 3126. AUTHORITY FOR EMERGENCY PLANNING, DESIGN, AND CONSTRUCTION ACTIVITIES.

(a) AUTHORITY.—The Secretary of Energy may use any funds available to the Department of Energy pursuant to an authorization in this title, including those funds authorized to be appropriated for advance planning and construction design under sections 3101, 3102, and 3103, to perform planning, design, and construction activities for any Department of Energy national security program construction project that, as determined by the Secretary, must proceed expeditiously in order to protect public health and safety, to meet the needs of national defense, or to protect property.

(b) LIMITATION.—The Secretary may not exercise the authority under subsection (a) in the case of any construction project until the Secretary has submitted to the congressional defense committees a report on the activities that the Secretary intends to carry out under this section and the circumstances making such activities necessary.

(c) SPECIFIC AUTHORITY.—The requirement of section 3125(b)(2) does not apply to emergency planning, design, and construction activities conducted under this section.

SEC. 3127. FUNDS AVAILABLE FOR ALL NATIONAL SECURITY PROGRAMS OF THE DEPARTMENT OF ENERGY.

Subject to the provisions of appropriations Acts and section 3121, amounts appropriated pursuant to this title for management and support activities and for general plant projects are available for use, when necessary, in connection with all national security programs of the Department of Energy.

SEC. 3128. AVAILABILITY OF FUNDS.

When so specified in an appropriations Act, amounts appropriated for operation and maintenance or for plant projects may remain available until expended.

Subtitle C—Program Authorizations, Restrictions, and Limitations

SEC. 3131. STOCKPILE STEWARDSHIP PROGRAM.

(a) PURPOSE.—The purpose of this section is to provide for the enhanced implementation of the Department of Energy stockpile stewardship and management program, in order to provide greater confidence in the safety and continuing reliability of the nuclear weapons stockpile.

(b) FUNDING.—Of the funds authorized to be appropriated to the Department of Energy pursuant to section 3101, $85,000,000 shall be available to enhance the Department's stockpile stewardship and management program for activities determined appropriate by the Secretary of Energy, including the following:

(1) Enhanced surveillance of the nuclear weapons stockpile.

(2) Dual revalidation of the warheads in the nuclear weapons stockpile.

(3) Stockpile life extension programs.

(4) Production capability assurance programs for critical non-nuclear components.

(5) Accelerating capability to produce prototype war reserve-quality plutonium pits.

(6) Conducting subcritical tests.

(c) REPORT.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Energy shall submit to the congressional defense committees a report on the obligations the Secretary has incurred, and plans to incur, during fiscal year 1997 for the funds made available by subsection (b).

SEC. 3132. MANUFACTURING INFRASTRUCTURE FOR NUCLEAR WEAPONS STOCKPILE.

(a) GENERAL PROGRAM REQUIREMENTS.—Subsection (a) of section 3137 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 620; 42 U.S.C. 2121 note) is amended—

(1) by inserting "(1)" before "The Secretary of Energy";

(2) by redesignating paragraphs (1) through (5) as subparagraphs (A) through (E), respectively; and

(3) by adding at the end the following:

"(2) The purpose of the program carried out under paragraph (1) shall also be to develop manufacturing capabilities and capacities necessary to meet the requirements specified in the annual Nuclear Weapons Stockpile Review.".

(b) REQUIRED CAPABILITIES.—Subsection (b)(3) of such section is amended to read as follows:

"(3) The capabilities of the Savannah River Site relating to tritium recycling and fissile materials components processing and fabrication.".

(c) PLAN AND REPORT.—Not later than March 1, 1997, the Secretary of Energy shall submit to Congress a report containing a plan for carrying out the program established under section 3137(a) of the National Defense Authorization Act for Fiscal Year 1996, as amended by this section. The report shall set forth the obligations that the Secretary has incurred, and proposes to incur, during fiscal year 1997 in carrying out the program.

(d) FUNDING.—Of the funds authorized to be appropriated pursuant to section 3101, $90,000,000 shall be available for carrying out the program established under section 3137(a) of the National Defense Authorization Act for Fiscal Year 1996, as so amended.

SEC. 3133. TRITIUM PRODUCTION.

(a) ACCELERATION OF TRITIUM PRODUCTION.—(1) The Secretary of Energy shall, during fiscal year 1997, make a final decision on the technologies to be utilized, and the accelerated schedule to be adopted, for tritium production in order to meet the requirements of the Nuclear Weapons Stockpile Memorandum relating to tritium production, including the new tritium production date of 2005 specified in the Nuclear Weapons Stockpile Memorandum.

(2) In making the final decision, the Secretary shall take into account the following:

(A) The requirements for tritium production specified in the Nuclear Weapons Stockpile Memorandum, including, in

particular, the requirements for the "upload hedge" component of the nuclear weapons stockpile.

(B) The ongoing activities of the Department of Energy relating to the evaluation and demonstration of technologies under the accelerator reactor program and the commercial light water reactor program.

(b) REPORT.—(1) Not later than April 15, 1997, the Secretary shall submit to Congress a report that sets forth the final decision of the Secretary under subsection (a)(1). The report shall set forth in detail—

(A) the technologies decided on under that subsection; and

(B) the accelerated schedule for the production of tritium decided on under that subsection.

(2) If the Secretary determines that it is not possible to make the final decision by the date specified in paragraph (1), the Secretary shall submit to Congress on that date a report that explains in detail why the final decision cannot be made by that date.

(c) NEW TRITIUM PRODUCTION FACILITY.—The Secretary shall commence planning and design activities and infrastructure development for a new tritium production facility.

(d) IN-REACTOR TESTS.—The Secretary may perform in-reactor tests of tritium target rods as part of the activities carried out under the commercial light water reactor program.

(e) FUNDING.—Of the funds authorized to be appropriated to the Department of Energy pursuant to section 3101(b)(1), $160,000,000 shall be available for activities related to tritium production.

South Carolina.

SEC. 3134. MODERNIZATION AND CONSOLIDATION OF TRITIUM RECYCLING FACILITIES.

(a) IN GENERAL.—The Secretary of Energy shall carry out activities at the Savannah River Site, South Carolina, to—

(1) modernize and consolidate the facilities for recycling tritium from weapons; and

(2) provide a modern tritium extraction facility so as to ensure that such facilities have a capacity to recycle tritium from weapons that is adequate to meet the requirements for tritium for weapons specified in the Nuclear Weapons Stockpile Memorandum.

(b) FUNDING.—Of the funds authorized to be appropriated to the Department of Energy pursuant to section 3101, not more than $9,000,000 shall be available for activities under subsection (a).

SEC. 3135. PRODUCTION OF HIGH EXPLOSIVES.

No funds appropriated or otherwise made available to the Department of Energy for fiscal year 1997 or any prior fiscal year may be used to move, or prepare to move, the manufacture and fabrication of high explosives and energetic materials for use as components in nuclear weapons systems from the Pantex Plant, Amarillo, Texas, to any other site or facility.

SEC. 3136. LIMITATION ON USE OF FUNDS FOR CERTAIN RESEARCH AND DEVELOPMENT PURPOSES.

(a) LIMITATION.—No funds authorized to be appropriated or otherwise made available to the Department of Energy for fiscal year 1997 under section 3101 may be obligated or expended for activities under the Department of Energy Laboratory Directed

Research and Development Program, or under any Department of Energy technology transfer program or cooperative research and development agreement, unless such activities support the national security mission of the Department of Energy.

(b) ANNUAL REPORT.—(1) The Secretary of Energy shall annually submit to the congressional defense committees a report on the funds expended during the preceding fiscal year on activities under the Department of Energy Laboratory Directed Research and Development Program. The purpose of the report is to permit an assessment of the extent to which such activities support the national security mission of the Department of Energy. 42 USC 7257b.

(2) Each report shall be prepared by the officials responsible for Federal oversight of the funds expended on activities under the program.

(3) Each report shall set forth the criteria utilized by the officials preparing the report in determining whether or not the activities reviewed by such officials support the national security mission of the Department.

SEC. 3137. PROHIBITION ON FUNDING NUCLEAR WEAPONS ACTIVITIES WITH PEOPLE'S REPUBLIC OF CHINA.

(a) FUNDING PROHIBITION.—No funds authorized to be appropriated or otherwise available to the Department of Energy for fiscal year 1997 may be obligated or expended for any activity associated with the conduct of cooperative programs relating to nuclear weapons or nuclear weapons technology, including stockpile stewardship, safety, and use control, with the People's Republic of China.

(b) REPORT.—(1) The Secretary of Energy shall prepare, in consultation with the Secretary of Defense, a report containing a description of all discussions and activities between the United States and the People's Republic of China regarding nuclear weapons matters that have occurred before the date of the enactment of this Act and that are planned to occur after such date. For each such discussion or activity, the report shall include—

(A) the authority under which the discussion or activity took or will take place;

(B) the subject of the discussion or activity;

(C) participants or likely participants;

(D) the source and amount of funds used or to be used to pay for the discussion or activity; and

(E) a description of the actions taken or to be taken to ensure that no classified information or unclassified controlled information was or will be revealed, and a determination of whether classified information or unclassified controlled information was revealed in previous discussions.

(2) The report shall be submitted to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives not later than January 15, 1997.

SEC. 3138. INTERNATIONAL COOPERATIVE STOCKPILE STEWARDSHIP PROGRAMS.

(a) FUNDING PROHIBITION.—No funds authorized to be appropriated or otherwise available to the Department of Energy for fiscal year 1997 may be obligated or expended to conduct any activities associated with international cooperative stockpile stewardship.

(b) EXCEPTION.—Subsection (a) does not apply—

(1) with respect to such activities conducted between the United States and the United Kingdom and between the United States and France; and

(2) to activities carried out under title XV of this Act (relating to cooperative threat reduction with states of the former Soviet Union).

SEC. 3139. TEMPORARY AUTHORITY RELATING TO TRANSFERS OF DEFENSE ENVIRONMENTAL MANAGEMENT FUNDS.

(a) TRANSFER AUTHORITY FOR DEFENSE ENVIRONMENTAL MANAGEMENT FUNDS.—The Secretary of Energy shall provide the manager of each field office of the Department of Energy with the authority to transfer defense environmental management funds from a program or project under the jurisdiction of the office to another such program or project. Any such transfer may be made only once in a fiscal year to or from a program or project, and the amount transferred to or from a program or project may not exceed $5,000,000 in a fiscal year.

(b) DETERMINATION.—A transfer may not be carried out by a manager of a field office pursuant to the authority provided under subsection (a) unless the manager determines that such transfer is necessary to address a risk to health, safety, or the environment or to assure the most efficient use of defense environmental management funds at that field office.

(c) EXEMPTION FROM REPROGRAMMING REQUIREMENTS.—The requirements of section 3121 shall not apply to transfers of funds pursuant to subsection (a).

(d) NOTIFICATION.—The Secretary of Energy, acting through the Assistant Secretary of Energy for Environmental Management, shall notify Congress of any transfer of funds pursuant to subsection (a) not later than 30 days after such a transfer occurs.

(e) LIMITATION.—Funds transferred pursuant to subsection (a) may not be used for an item for which Congress has specifically denied funds or for a new program or project that has not been authorized by Congress.

(f) DEFINITIONS.—In this section:

(1) The term "program or project" means, with respect to a field office of the Department of Energy, any of the following:

(A) A project listed in subsection (b) or (c) of section 3102 being carried out by the office.

(B) A program referred to in subsection (a), (b), (c), (e), (g), or (h) of section 3102 being carried out by the office.

(C) A project or program not described in subparagraph (A) or (B) that is for environmental restoration or waste management activities necessary for national security programs of the Department of Energy, that is being carried out by the office, and for which defense environmental management funds have been authorized and appropriated before the date of the enactment of this Act.

(2) The term "defense environmental management funds" means funds appropriated to the Department of Energy pursuant to an authorization for carrying out environmental restoration and waste management activities necessary for national security programs.

(g) DURATION OF AUTHORITY.—The authority provided under subsection (a) to a manager of a field office shall be in effect from the date of the enactment of this Act to September 30, 1997.

(h) REPORT.—Not later than September 1, 1997, the Secretary of Energy shall submit to the congressional defense committees a report on the effectiveness of the authority provided under subsection (a) in meeting an objective specified in subsection (b). The report shall include recommendations on whether the duration of the authority, as provided in subsection (g), should be extended.

SEC. 3140. MANAGEMENT STRUCTURE FOR NUCLEAR WEAPONS PRODUCTION FACILITIES AND NUCLEAR WEAPONS LABORATORIES.

42 USC 7252 note.

(a) LIMITATION ON DELEGATION OF AUTHORITY.—(1) The Secretary of Energy, in carrying out national security programs, may delegate specific management and planning authority over matters relating to site operation of the facilities and laboratories covered by this section only to the Assistant Secretary of Energy for Defense Programs. Such Assistant Secretary may redelegate such authority only to managers of area offices of the Department of Energy located at such facilities and laboratories.

(2) Nothing in this section may be construed as affecting the delegation by the Secretary of Energy of authority relating to reporting, management, and oversight of matters relating to the Department of Energy generally, or safety, environment, and health at such facilities and laboratories.

(b) REQUIREMENT TO CONSULT WITH AREA OFFICES.—The Assistant Secretary of Energy for Defense Programs, in exercising any delegated authority to oversee management of matters relating to site operation of a facility or laboratory, shall exercise such authority only after direct consultation with the manager of the area office of the Department of Energy located at the facility or laboratory.

(c) REQUIREMENT FOR DIRECT COMMUNICATION FROM AREA OFFICES.—The Secretary of Energy, acting through the Assistant Secretary of Energy for Defense Programs, shall require the head of each area office of the Department of Energy located at each facility and laboratory covered by this section to report on matters relating to site operation other than those matters set forth in subsection (a)(2) directly to the Assistant Secretary of Energy for Defense Programs, without obtaining the approval or concurrence of any other official within the Department of Energy.

Reports.

(d) DEFENSE PROGRAMS REORGANIZATION PLAN AND REPORT.—(1) The Secretary of Energy shall develop a plan to reorganize the field activities and management of the national security functions of the Department of Energy.

(2) Not later than 120 days after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the plan developed under paragraph (1). The report shall specifically identify all significant functions performed by the operations offices relating to any of the facilities and laboratories covered by this section and which of those functions could be performed—

(A) by the area offices of the Department of Energy located at the facilities and laboratories covered by this section; or

(B) by the Assistant Secretary of Energy for Defense Programs.

(3) The report also shall address and make recommendations with respect to other internal streamlining and reorganization initiatives that the Department could pursue with respect to military or national security programs.

Establishment.

(e) DEFENSE PROGRAMS MANAGEMENT COUNCIL.—The Secretary of Energy shall establish a council to be known as the "Defense Programs Management Council". The Council shall advise the Secretary on policy matters, operational concerns, strategic planning, and development of priorities relating to the national security functions of the Department of Energy. The Council shall be composed of the directors of the facilities and laboratories covered by this section and shall report directly to the Assistant Secretary of Energy for Defense Programs.

(f) COVERED SITE OPERATIONS.—For purposes of this section, matters relating to site operation of a facility or laboratory include matters relating to personnel, budget, and procurement in national security programs.

Applicability.

(g) COVERED FACILITIES AND LABORATORIES.—This section applies to the following facilities and laboratories of the Department of Energy:

(1) The Kansas City Plant, Kansas City, Missouri.

(2) The Pantex Plant, Amarillo, Texas.

(3) The Y–12 Plant, Oak Ridge, Tennessee.

(4) The Savannah River Site, Aiken, South Carolina.

(5) Los Alamos National Laboratory, Los Alamos, New Mexico.

(6) Sandia National Laboratories, Albuquerque, New Mexico.

(7) Lawrence Livermore National Laboratory, Livermore, California.

(8) The Nevada Test Site, Nevada.

South Carolina.

SEC. 3141. ACCELERATED SCHEDULE FOR ISOLATING HIGH-LEVEL NUCLEAR WASTE AT THE DEFENSE WASTE PROCESSING FACILITY, SAVANNAH RIVER SITE.

The Secretary of Energy shall accelerate the schedule for the isolation of high-level nuclear waste in glass canisters at the Defense Waste Processing Facility at the Savannah River Site, South Carolina, if the Secretary determines that the acceleration of such schedule—

(1) will achieve long-term cost savings to the Federal Government; and

(2) could accelerate the removal and isolation of high-level nuclear waste from long-term storage tanks at the site.

SEC. 3142. PROCESSING AND TREATMENT OF HIGH-LEVEL NUCLEAR WASTE AND SPENT NUCLEAR FUEL RODS.

(a) IN GENERAL.—(1) In order to provide for an effective response to requirements for managing the spent nuclear fuel described in paragraph (2), there shall be available to the Secretary of Energy, from amounts authorized to be appropriated pursuant to section 3102(c), the following amounts for the purposes stated:

(A) Not more than $43,000,000 for the development and implementation of a program to accelerate the receipt, processing (including the H-canyon restart operations), reprocessing, separation, reduction, deactivation, stabilization, isolation, and interim storage of high-level nuclear waste associated with

Department of Energy aluminum clad spent fuel rods, foreign spent fuel rods, and other nuclear materials.

(B) Not more than $15,000,000 for the development and implementation of a program for the receipt, treatment, preparation, conditioning, interim storage, and final disposition of high-level nuclear waste and spent nuclear fuel (including naval spent nuclear fuel), non-aluminum clad fuel rods, and foreign fuel rods.

(2) The spent nuclear fuel referred to in paragraph (1) is the following:

(A) Spent nuclear fuel that is sent to Department of Energy consolidation sites pursuant to the Department of Energy Programmatic Spent Nuclear Fuel Management and Idaho National Engineering Laboratory Environmental Restoration and Waste Management Programs Final Environmental Impact Statement, dated April 1995.

(B) Spent nuclear fuel described in the Interim Management of Nuclear Materials Environmental Impact Statement, dated October 1995.

(C) Other spent nuclear fuel located at the Savannah River Site as of the date of the enactment of this Act.

(3) The amounts made available under paragraph (1) are in addition to other amounts authorized to be appropriated by section 3102(c) for the purposes stated in subparagraphs (A) and (B) of that paragraph.

(b) USE OF FUNDS FOR SETTLEMENT AGREEMENT.—Funds made available pursuant to subsection (a)(1)(B) for the Idaho National Engineering Laboratory shall be considered to be funds made available in partial fulfillment of the terms and obligations set forth in the settlement agreement entered into by the United States with the State of Idaho in the actions captioned Public Service Co. of Colorado v. Batt, Civil No. 91–0035–S–EJL, and United States v. Batt, Civil No. 91–0054–S–EJL, in the United States District Court for the District of Idaho and the consent order of the United States District Court for the District of Idaho, dated October 17, 1995, that effectuates the settlement agreement. Idaho.

(c) AMENDMENTS TO IMPLEMENTATION PLAN FOR MANAGING SPENT NUCLEAR FUEL AT CERTAIN SITES.—Section 3142(b) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 622) is amended—

(1) by striking out "April 30, 1996" and inserting in lieu thereof "September 30, 1996";

(2) by striking out "and" at the end of paragraph (3);

(3) by striking out the period at the end of paragraph (4) and inserting in lieu thereof "; and"; and

(4) by adding at the end the following new paragraph:

"(5) an assessment of the progress made in implementing the programs.".

(d) NEAR-TERM PLAN FOR PROCESSING SPENT FUEL RODS AT SAVANNAH RIVER SITE.—(1) Not later than March 15, 1997, the Secretary of Energy shall submit to Congress a plan for a near-term program to process, treat, package, and dispose of spent nuclear fuel rods described in paragraph (2) at the Savannah River Site. The plan shall include cost projections and resource requirements for the program and identify program milestones for the program. South Carolina.

(2) The spent nuclear fuel rods to be included in the program referred to in paragraph (1) are the following:

(A) Spent nuclear fuel rods produced at the Savannah River Site.

(B) Spent nuclear fuel rods being sent to the site from other Department of Energy facilities for processing, interim storage, and other treatment.

(C) Foreign spent nuclear fuel rods being sent to the site for processing, interim storage, and other treatment.

(e) MULTI-YEAR PLAN FOR CLEAN-UP AT SAVANNAH RIVER SITE.—The Secretary shall develop and implement a multi-year plan for the clean-up of nuclear waste at the Savannah River Site that results, or has resulted, from the following:

(1) Nuclear weapons activities carried out at the site.

(2) The processing, treating, packaging, and disposal of Department of Energy domestic and foreign spent nuclear fuel rods at the site.

(f) REQUIREMENT FOR CONTINUING OPERATIONS AT SAVANNAH RIVER SITE.—The Secretary shall continue operations and maintain a high state of readiness at the H-canyon facility and the F-canyon facility at the Savannah River Site, and shall provide technical staff necessary to operate and so maintain such facilities, pending the development and implementation of the plan referred to in subsection (e).

42 USC 7274n.

SEC. 3143. PROJECTS TO ACCELERATE CLOSURE ACTIVITIES AT DEFENSE NUCLEAR FACILITIES.

(a) IN GENERAL.—The Secretary of Energy shall select and carry out closure-acceleration projects in accordance with this section.

(b) PURPOSE.—The purpose of a closure-acceleration project shall be, within a fixed period of time, to clean up or decommission a Department of Energy defense nuclear facility or portion thereof and to make the facility safe by stabilizing, consolidating, treating, or removing nuclear materials from the facility in order to reduce significantly or eliminate future costs at the facility.

(c) ELIGIBLE PROJECTS.—(1) The Secretary of Energy may establish a closure-acceleration project as eligible for selection under subsection (e) by—

(A) developing a plan for the project that meets the criteria under paragraph (2); and

(B) determining that the project will achieve significant long-term cost savings to the Federal Government from the baseline cost estimate made by the Department of Energy for the project.

(2) A plan for a closure-acceleration project under this section shall—

(A) define a clear, delineated scope of work for completion of the project;

(B) demonstrate that, with respect to the site of the proposed project, there is a regulatory agreement between the Department of Energy and other appropriate authorities for the implementation of environmental remediation requirements that would allow for successful completion of the project;

(C) demonstrate, to the maximum extent possible, the support of State and local elected officials and the public for the project;

(D) contain performance-based provisions to be included in the contract for the project, including—

(i) clearly stated and results-oriented performance criteria and measures;

(ii) appropriate incentives for the contractor to meet and exceed the performance criteria effectively and efficiently;

(iii) appropriate criteria and incentives for the contractor to seek and engage subcontractors who may more effectively and efficiently perform either unique and technologically challenging tasks or routine and interchangeable services;

(iv) specific incentives for cost savings;

(v) financial accountability; and

(vi) when appropriate, reduction of fee for failure to meet minimum performance criteria and standards;

(E) demonstrate that the project will use new and innovative cleanup and waste management technology with potential for application to other locations and facilities without requiring the development of new technologies; and

(F) demonstrate that the project can be completed within 10 years from the date of its selection.

(d) PROGRAM ADMINISTRATION.—The Secretary of Energy, acting through the Assistant Secretary for Environmental Management, shall implement a program to carry out the provisions of this section.

(e) SELECTION OF PROJECTS.—(1) The Secretary of Energy shall select closure-acceleration projects to be carried out under this section from among those projects established as eligible under subsection (c) that will result in the most significant long-term cost savings to the Government and the most significant reduction of imminent risk.

(2) For each project selected, the Secretary shall submit to Congress a report setting forth the reasons why the project was selected, based on the criteria under subsection (c)(2) and paragraph (1) of this subsection. Reports.

(f) MULTIYEAR CONTRACTS.—Notwithstanding section 304B(d) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254c(d)), the Secretary of Energy may enter into multiyear contracts to carry out projects selected under this section for up to 10 program years.

(g) FUNDING.—(1) In the budget submitted to Congress under section 1105(a) of title 31, United States Code, each year, the President shall set forth funds for carrying out closure-acceleration projects under this section as a separate item in the environmental restoration and waste management account of the Department of Energy budget. President.

(2) Funds appropriated for purposes of carrying out projects under this section shall remain available until expended.

(3) If a closure-acceleration project is being carried out at a defense nuclear facility with funds appropriated for such projects, the Secretary of Energy may not reduce the funds otherwise allocated to that defense nuclear facility for environmental restoration and waste management by reason of the funds being used for the project at that facility.

(4) Funds appropriated for purposes of carrying out projects under this section may not be used for an item for which Congress

has specifically denied funds or for a new program or project that has not been authorized by Congress.

(h) ANNUAL REPORT.—The Secretary of Energy shall submit each year to Congress a report on the status of each closure-acceleration project being carried out under this section. The report shall include, for each such project, the following:

(1) A description of the funding already provided for the project.

(2) A description of the extent of the cleanup, decommissioning, stabilization, consolidation, treatment, or removal activities completed.

(3) A comparison of the actual results of the project to the original proposal and the actual cost of the project to the originally proposed cost.

(4) A description of the funding needed in future fiscal years for completion of the project.

(i) DURATION OF PROGRAM.—No closure-acceleration project selected under this section may be carried out after the expiration of the 15-year period beginning on the date of the enactment of this Act.

(j) SAVINGS PROVISION.—Nothing in this section may be construed to affect statutory requirements for an environmental restoration or waste management activity or project or to modify or otherwise affect applicable statutory or regulatory environmental restoration and waste management requirements, including substantive standards intended to protect public health and the environment, nor shall anything in this section be construed to preempt or impair any local land use planning or zoning authority or State authority.

SEC. 3144. PAYMENT OF COSTS OF OPERATION AND MAINTENANCE OF INFRASTRUCTURE AT NEVADA TEST SITE.

Effective date.

Notwithstanding any other provision of law and effective as of September 30, 1996, the costs associated with operating and maintaining the infrastructure at the Nevada Test Site, Nevada, with respect to any activities initiated at the site after that date by the Department of Defense pursuant to a work-for-others agreement may be paid for from funds authorized to be appropriated to the Department of Energy for activities at the Nevada Test Site.

Subtitle D—Other Matters

SEC. 3151. REPORT ON PLUTONIUM PIT PRODUCTION AND REMANUFACTURING PLANS.

(a) REPORT REQUIREMENT.—The Secretary of Energy shall submit to the congressional defense committees a report on plans for achieving the capability to produce and remanufacture plutonium pits. The report shall include a description of the baseline plan of the Department of Energy for achieving such capability, including the following:

(1) The funding necessary, by fiscal year, to achieve the capability.

(2) The schedule necessary to achieve the capability, including important technical and programmatic milestones.

(3) Siting, capacity for expansion, and other issues included in the baseline plan.

(b) DEADLINE.—The report required by subsection (a) shall be submitted not later than 60 days after the date of the enactment of this Act.

SEC. 3152. AMENDMENTS RELATING TO BASELINE ENVIRONMENTAL MANAGEMENT REPORTS.

Section 3153 of the National Defense Authorization Act for Fiscal Year 1994 (42 U.S.C. 7274k) is amended—

(1) in subsection (b)—

(A) by striking out the first word in the heading and inserting in lieu thereof "BIENNIAL"; and

(B) in paragraph (2)(B), by inserting before "year after 1995" the following: "odd-numbered"; and

(2) in subsection (d)—

(A) by striking out the first word in the heading and inserting in lieu thereof "BIENNIAL";

(B) in paragraph (1)(B), by striking out "in each year thereafter" and inserting in lieu thereof "in each odd-numbered year thereafter"; and

(C) in paragraph (2)(A)—

(i) in the matter preceding clause (i), by striking out "fiscal year immediately" and inserting in lieu thereof "two fiscal years immediately"; and

(ii) in clause (ii), by striking out "prior fiscal year" and inserting in lieu thereof "prior fiscal years".

SEC. 3153. REQUIREMENT TO DEVELOP FUTURE USE PLANS FOR ENVIRONMENTAL MANAGEMENT PROGRAM. 42 USC 7274k note.

(a) AUTHORITY TO DEVELOP FUTURE USE PLANS.—The Secretary of Energy may develop future use plans for any defense nuclear facility at which environmental restoration and waste management activities are occurring.

(b) REQUIREMENT TO DEVELOP FUTURE USE PLANS.—The Secretary shall develop a future use plan for each of the following defense nuclear facilities:

(1) Hanford Site, Richland, Washington.

(2) Rocky Flats Plant, Golden, Colorado.

(3) Savannah River Site, Aiken, South Carolina.

(4) Idaho National Engineering Laboratory, Idaho.

(c) CITIZEN ADVISORY BOARD.—(1) At each defense nuclear facility for which the Secretary of Energy intends or is required to develop a future use plan under this section and for which no citizen advisory board has been established, the Secretary shall establish a citizen advisory board. Establishment.

(2) The Secretary may authorize the manager of a defense nuclear facility for which a future use plan is developed under this section (or, if there is no such manager, an appropriate official of the Department of Energy designated by the Secretary) to pay routine administrative expenses of a citizen advisory board established for that facility. Such payments shall be made from funds available to the Secretary for program direction in carrying out environmental restoration and waste management activities necessary for national security programs.

(d) REQUIREMENT TO CONSULT WITH CITIZEN ADVISORY BOARD.—In developing a future use plan under this section with respect to a defense nuclear facility, the Secretary of Energy shall

consult with a citizen advisory board established pursuant to subsection (c) or a similar advisory board already in existence as of the date of the enactment of this Act for such facility, affected local governments (including any local future use redevelopment authorities), and other appropriate State agencies.

(e) 50-YEAR PLANNING PERIOD.—A future use plan developed under this section shall cover a period of at least 50 years.

(f) DEADLINES.—For each facility listed in subsection (b), the Secretary of Energy shall develop a draft future use plan by October 1, 1997, and a final future use plan by March 15, 1998.

(g) REPORT.—Not later than 60 days after completing development of a final plan for a site listed in subsection (b), the Secretary of Energy shall submit to Congress a report on the plan. The report shall describe the plan and contain such findings and recommendations with respect to the site as the Secretary considers appropriate.

(h) SAVINGS PROVISIONS.—(1) Nothing in this section, or in a future use plan developed under this section with respect to a defense nuclear facility, shall be construed as requiring any modification to a future use plan with respect to a defense nuclear facility that was developed before the date of the enactment of this Act.

(2) Nothing in this section may be construed to affect statutory requirements for an environmental restoration or waste management activity or project or to modify or otherwise affect applicable statutory or regulatory environmental restoration and waste management requirements, including substantive standards intended to protect public health and the environment, nor shall anything in this section be construed to preempt or impair any local land use planning or zoning authority or State authority.

SEC. 3154. REPORT ON DEPARTMENT OF ENERGY LIABILITY AT DEPARTMENT SUPERFUND SITES.

(a) STUDY.—The Secretary of Energy shall, using funds authorized to be appropriated to the Department of Energy by section 3102, carry out a study to determine the extent and valuation of the injury to, destruction of, or loss of natural resources under section 107(a)(4)(C) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607(a)(4)(C)) at each site controlled or operated by the Department that is or is anticipated to become subject to the provisions of that Act.

(b) CONDUCT OF STUDY.—(1) The Secretary shall carry out the study using personnel of the Department or by contract with an appropriate private entity.

(2) In determining the extent and valuation of the injury to, destruction of, or loss of natural resources for purposes of the study, the Secretary shall—

(A) treat the Department as a private person liable for response, removal, and remediation costs and damages under section 107(a)(4) of that Act (42 U.S.C. 9607(a)(4)) and subject to an action for damages by public trustees of natural resources under section 107(f) of that Act (42 U.S.C. 9607(f)) or by any other person pursuant to section 107(e) or 113(f) of that Act (42 U.S.C. 9607(e) and 9613(f)); and

(B) determine the value of natural resource damages associated with each site in accordance with all regulations promulgated under section 301(c) of that Act (42 U.S.C. 9651(c)).

(c) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall submit a report on the study carried out under subsection (a) to the following committees:

(1) The Committees on Environment and Public Works, Armed Services, and Energy and Natural Resources of the Senate.

(2) The Committees on Commerce, National Security, Transportation and Infrastructure, and Resources of the House of Representatives.

SEC. 3155. REQUIREMENT FOR ANNUAL FIVE-YEAR BUDGET FOR THE NATIONAL SECURITY PROGRAMS OF THE DEPARTMENT OF ENERGY. 42 USC 7271b.

(a) REQUIREMENT.—The Secretary of Energy shall prepare each year a budget for the national security programs of the Department of Energy for the five-year period beginning in the year the budget is prepared. Each budget shall contain the estimated expenditures and proposed appropriations necessary to support the programs, projects, and activities of the national security programs during the five-year period covered by the budget and shall be at a level of detail comparable to that contained in the budget submitted by the President to Congress under section 1105 of title 31, United States Code.

(b) SUBMITTAL.—The Secretary shall submit each year to the congressional defense committees the budget required under subsection (a) in that year at the same time as the President submits to Congress the budget for the coming fiscal year pursuant to such section 1105.

SEC. 3156. REQUIREMENTS FOR DEPARTMENT OF ENERGY WEAPONS ACTIVITIES BUDGETS FOR FISCAL YEARS AFTER FISCAL YEAR 1997. 42 USC 7271c.

(a) IN GENERAL.—The weapons activities budget of the Department of Energy for any fiscal year after fiscal year 1997 shall—

(1) set forth with respect to each of the activities under the budget (including stockpile stewardship, stockpile management, and program direction) the funding requested to carry out each project or activity that is necessary to meet the requirements of the Nuclear Weapons Stockpile Memorandum; and

(2) identify specific infrastructure requirements arising from the Nuclear Posture Review, the Nuclear Weapons Stockpile Memorandum, and the programmatic and technical requirements associated with the review and memorandum.

(b) REQUIRED DETAIL.—The Secretary of Energy shall include in the materials that the Secretary submits to Congress in support of the budget for any fiscal year after fiscal year 1997 that is submitted by the President pursuant to section 1105 of title 31, United States Code, the following:

(1) A long-term program plan, and a near-term program plan, for the certification and stewardship of the nuclear weapons stockpile.

(2) An assessment of the effects of the plans referred to in paragraph (1) on each nuclear weapons laboratory and each nuclear weapons production plant.

(c) DEFINITIONS.—In this section:

(1) The term "Nuclear Posture Review" means the Department of Defense Nuclear Posture Review as contained in the report of the Secretary of Defense to the President and Congress dated February 19, 1995, or in subsequent such reports.

(2) The term "nuclear weapons laboratory" means the following:

(A) Lawrence Livermore National Laboratory, California.

(B) Los Alamos National Laboratory, New Mexico.

(C) Sandia National Laboratories.

(3) The term "nuclear weapons production plant" means the following:

(A) The Pantex Plant, Texas.

(B) The Savannah River Site, South Carolina.

(C) The Kansas City Plant, Missouri.

(D) The Y–12 Plant, Oak Ridge, Tennessee.

SEC. 3157. REPEAL OF REQUIREMENT RELATING TO ACCOUNTING PROCEDURES FOR DEPARTMENT OF ENERGY FUNDS.

Section 3151 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 3089) is repealed.

SEC. 3158. UPDATE OF REPORT ON NUCLEAR TEST READINESS POSTURES.

Not later than June 1, 1997, the Secretary of Energy shall submit to Congress a report which updates the report submitted by the Secretary under section 3152 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 623). The updated report shall include the matters specified under such section, current as of the date of the updated report.

42 USC 7274o.

SEC. 3159. REPORTS ON CRITICAL DIFFICULTIES AT NUCLEAR WEAPONS LABORATORIES AND NUCLEAR WEAPONS PRODUCTION PLANTS.

(a) REPORTS BY HEADS OF LABORATORIES AND PLANTS.—In the event of a difficulty at a nuclear weapons laboratory or a nuclear weapons production plant that has a significant bearing on confidence in the safety or reliability of a nuclear weapon or nuclear weapon type, the head of the laboratory or plant, as the case may be, shall submit to the Assistant Secretary of Energy for Defense Programs a report on the difficulty. The head of the laboratory or plant shall submit the report as soon as practicable after discovery of the difficulty.

(b) TRANSMITTAL BY ASSISTANT SECRETARY.—As soon as practicable after receipt of a report under subsection (a), the Assistant Secretary shall transmit the report (together with the comments of the Assistant Secretary) to the congressional defense committees and to the Secretary of Energy and the Secretary of Defense.

(c) REPORTS BY NUCLEAR WEAPONS COUNCIL.—Section 179 of title 10, United States Code, is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following new subsection (e):

"(e) In addition to the responsibilities set forth in subsection (d), the Council shall also submit to Congress a report on any analysis conducted by the Council with respect to difficulties at nuclear weapons laboratories or nuclear weapons production plants

that have significant bearing on confidence in the safety or reliability of nuclear weapons or nuclear weapon types.".

(d) DEFINITIONS.—In this section:

(1) The term "nuclear weapons laboratory" means the following:

(A) Lawrence Livermore National Laboratory, California.

(B) Los Alamos National Laboratory, New Mexico.

(C) Sandia National Laboratories.

(2) The term "nuclear weapons production plant" means the following:

(A) The Pantex Plant, Texas.

(B) The Savannah River Site, South Carolina.

(C) The Kansas City Plant, Missouri.

(D) The Y–12 Plant, Oak Ridge, Tennessee.

SEC. 3160. EXTENSION OF APPLICABILITY OF NOTICE-AND-WAIT REQUIREMENT REGARDING PROPOSED COOPERATION AGREEMENTS.

Section 3155(b) of the National Defense Authorization Act for Fiscal Year 1995 (42 U.S.C. 2153 note) is amended by striking out "October 1, 1996" and inserting in lieu thereof "October 1, 1997".

SEC. 3161. SENSE OF SENATE RELATING TO REDESIGNATION OF DEFENSE ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT PROGRAM.

(a) SENSE OF SENATE.—It is the sense of the Senate that the program of the Department of Energy known as the Defense Environmental Restoration and Waste Management Program, and also known as the Environmental Management Program, be redesignated as the Defense Nuclear Waste Management Program of the Department of Energy.

(b) REPORT ON REDESIGNATION.—Not later than January 31, 1997, the Secretary of Energy shall submit to the congressional defense committees a report on the costs and other difficulties, if any, associated with the following:

(1) The redesignation of the program known as the Defense Environmental Restoration and Waste Management Program, and also known as the Environmental Management Program, as the Defense Nuclear Waste Management Program of the Department of Energy.

(2) The redesignation of the Defense Environmental Restoration and Waste Management Account as the Defense Nuclear Waste Management Account.

SEC. 3162. COMMISSION ON MAINTAINING UNITED STATES NUCLEAR WEAPONS EXPERTISE.

42 USC 2121 note.

(a) ESTABLISHMENT.—There is hereby established a commission to be known as the "Commission on Maintaining United States Nuclear Weapons Expertise" (in this section referred to as the "Commission").

(b) ORGANIZATIONAL MATTERS.—(1)(A) The Commission shall be composed of eight members appointed from among individuals in the public and private sectors who have significant experience in matters relating to nuclear weapons, as follows:

(i) Two shall be appointed by the majority leader of the Senate (in consultation with the minority leader of the Senate).

(ii) One shall be appointed by the minority leader of the Senate (in consultation with the majority leader of the Senate).

(iii) Two shall be appointed by the Speaker of the House of Representatives (in consultation with the minority leader of the House of Representatives).

(iv) One shall be appointed by the minority leader of the House of Representatives (in consultation with the Speaker of the House of Representatives).

(v) Two shall be appointed by the Secretary of Energy.

(B) Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(C) The chairman of the Commission shall be designated from among the members of the Commission appointed under subparagraph (A) by the majority leader of the Senate, in consultation with the Speaker of the House of Representatives, the minority leader of the Senate, and the minority leader of the House of Representatives.

Deadline. (D) Members shall be appointed not later than 60 days after the date of the enactment of this Act.

Procedures. (2) The members of the Commission shall establish procedures for the activities of the Commission, including procedures for calling meetings, requirements for quorums, and the manner of taking votes.

(c) DUTIES.—(1) The Commission shall develop a plan for recruiting and retaining within the Department of Energy nuclear weapons complex such scientific, engineering, and technical personnel as the Commission determines appropriate in order to permit the Department to maintain over the long term a safe and reliable nuclear weapons stockpile without engaging in underground testing.

(2) In developing the plan, the Commission shall—

(A) identify actions that the Secretary may undertake to attract qualified scientific, engineering, and technical personnel to the nuclear weapons complex of the Department; and

(B) review and recommend improvements to the on-going efforts of the Department to attract such personnel to the nuclear weapons complex.

(d) REPORT.—Not later than March 15, 1998, the Commission shall submit to the Secretary and to Congress a report containing the plan developed under subsection (c). The report may include recommendations for legislation and administrative action.

(e) COMMISSION PERSONNEL MATTERS.—(1) Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(2) The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or

regular places of business in the performance of services for the Commission.

(3) The Commission may, without regard to the civil service laws and regulations, appoint and terminate such personnel as may be necessary to enable the Commission to perform its duties. The Commission may fix the compensation of the personnel of the Commission without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates.

(4) Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(f) TERMINATION.—The Commission shall terminate 30 days after the date on which the Commission submits its report under subsection (d).

(g) APPLICABILITY OF FACA.—The provisions of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the activities of the Commission.

(h) FUNDING.—Of the amounts authorized to be appropriated pursuant to section 3101, not more than $1,000,000 shall be available for the activities of the Commission under this section. Funds made available to the Commission under this section shall remain available until expended.

SEC. 3163. SENSE OF CONGRESS REGARDING RELIABILITY AND SAFETY OF REMAINING NUCLEAR FORCES.

(a) FINDINGS.—Congress makes the following findings:

(1) The United States is committed to proceeding with a robust, science-based stockpile stewardship program with respect to production of nuclear weapons, and to maintaining nuclear weapons production capabilities and capacities, that are adequate—

(A) to ensure the safety, reliability, and performance of the United States nuclear arsenal; and

(B) to meet such changing national security requirements as may result from international developments or technical problems with nuclear warheads.

(2) The United States is committed to reestablishing and maintaining production facilities for nuclear weapons components at levels that are sufficient—

(A) to satisfy requirements for the safety, reliability, and performance of United States nuclear weapons; and

(B) to demonstrate and sustain production capabilities and capacities.

(3) The United States is committed to maintaining the nuclear weapons laboratories and protecting core nuclear weapons competencies.

(4) The United States is committed to ensuring rapid access to a new production source of tritium within the next decade, as it currently has no meaningful capability to produce tritium, a component that is essential to the performance of modern nuclear weapons.

(5) The United States reserves the right, consistent with United States law, to resume underground nuclear testing to maintain confidence in the United States stockpile of nuclear weapons if warhead design flaws or aging of nuclear weapons

result in problems that a robust stockpile stewardship program cannot solve.

(6) The United States is committed to funding the Nevada Test Site at a level that maintains the ability of the United States to resume underground nuclear testing within one year after a national decision to do so is made.

(7) The United States reserves the right to invoke the supreme national interest of the United States and withdraw from any future arms control agreement to limit underground nuclear testing.

(b) SENSE OF CONGRESS REGARDING PRESIDENTIAL CONSULTATION WITH CONGRESS.—It is the sense of Congress that the President should consult closely with Congress regarding United States policy and practices to ensure confidence in the safety, reliability, and performance of the nuclear stockpile of the United States.

President.

(c) SENSE OF CONGRESS REGARDING NOTIFICATION AND CONSULTATION.—It is the sense of Congress that, upon a determination by the President that a problem with the safety, reliability, or performance of the nuclear stockpile has occurred and that the problem cannot be corrected within the stockpile stewardship program, the President shall—

(1) immediately notify Congress of the problem; and

(2) submit to Congress in a timely manner a plan for corrective action with respect to the problem, including—

(A) a technical description of the activities required under the plan; and

(B) if underground testing of nuclear weapons would assist in such corrective action, an assessment of the advisability of withdrawing from any treaty that prohibits underground testing of nuclear weapons.

Ohio.

SEC. 3164. STUDY ON WORKER PROTECTION AT THE MOUND FACILITY.

(a) REPORT.—Not later than March 15, 1997, the Secretary of Energy shall submit to the congressional defense committees a report regarding the status of projects and programs to improve worker safety and health at the Mound Facility in Miamisburg, Ohio.

(b) MATTERS COVERED.—The report shall include the following:

(1) The status of actions completed in fiscal year 1996.

(2) The status of actions completed or proposed to be completed in fiscal years 1997 and 1998.

(3) A description of the fiscal year 1998 budget request for worker safety and health at the Mound Facility.

(4) An accounting of expenditures for worker safety and health at the Mound Facility by fiscal year from fiscal year 1994 through and including fiscal year 1996.

SEC. 3165. FISCAL YEAR 1998 FUNDING FOR GREENVILLE ROAD IMPROVEMENT PROJECT, LIVERMORE, CALIFORNIA.

(a) FUNDING.—The Secretary of Energy shall include in the budget for fiscal year 1998 submitted by the Secretary of Energy to the Office of Management and Budget a request for sufficient funds to pay the United States portion of the cost of transportation improvements under the Greenville Road Improvement Project, Livermore, California.

(b) COOPERATION WITH LIVERMORE, CALIFORNIA.—The Secretary shall work with the city of Livermore, California, to deter-

mine the cost of the transportation improvements referred to in subsection (a).

SEC. 3166. FELLOWSHIP PROGRAM FOR DEVELOPMENT OF SKILLS CRITICAL TO DEPARTMENT OF ENERGY NUCLEAR WEAPONS COMPLEX.

(a) FUNDING.—Subject to subsection (b), of the funds authorized to be appropriated pursuant to section 3101(b), $5,000,000 may be used for conducting the fellowship program for the development of skills critical to the ongoing mission of the Department of Energy nuclear weapons complex required by section 3140 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 621; 42 U.S.C. 2121 note).

(b) NOTICE AND WAIT.—The Secretary of Energy may not obligate or expend funds under subsection (a) for the fellowship program referred to in that subsection until—

(1) the Secretary submits to Congress a report setting forth— Reports.

(A) the actions the Department has taken to implement the fellowship program;

(B) the amount the Secretary proposes to obligate;

(C) the purposes for which such amount will be obligated; and

(2) a period of 21 days elapses from the date of the receipt of the report by Congress.

Subtitle E—Defense Nuclear Environmental Cleanup and Management

SEC. 3171. PURPOSE. 42 USC 7274k note.

The purpose of this subtitle is to provide for the expedited environmental restoration and waste management of defense nuclear facilities through the use of cost-effective management mechanisms and innovative technologies.

SEC. 3172. APPLICABILITY. 42 USC 7274k note.

(a) IN GENERAL.—The provisions of this subtitle shall apply to the following defense nuclear facilities:

(1) Any defense nuclear facility for which the fiscal year 1996 environmental management budget was $350,000,000 or more.

(2) Any other defense nuclear facility if—

(A) the chief executive officer of the State in which the facility is located submits to the Secretary a request that the facility be covered by the provisions of this subtitle; and

(B) the Secretary approves the request.

(b) LIMITATION.—The Secretary may not approve a request under subsection (a)(2) until 60 days after the date on which the Secretary notifies Congress of the Secretary's receipt of the request. Notification.

SEC. 3173. SITE MANAGER. 42 USC 7274k note.

(a) APPOINTMENT.—(1) Subject to paragraph (2), the Secretary shall expeditiously appoint a Site Manager for each defense nuclear facility (in this subtitle referred to as the "Site Manager").

(2) In the case of a defense nuclear facility at which another program, in addition to environmental management operations, is carried out, and such other program is subject to management by a site manager, field office manager, or operations office manager, the Secretary shall appoint such manager to be the Site Manager for such facility for purposes of this subtitle.

(b) AUTHORITY.—(1) In addition to other authorities provided for in this Act, the Secretary may delegate to the Site Manager of a defense nuclear facility authority to oversee and direct environmental management operations at the facility, including the authority to—

(A) enter into and modify contractual agreements to enhance environmental restoration and waste management at the facility;

(B) request that the Department headquarters submit to Congress a reprogramming package shifting funds among accounts in order to facilitate the most efficient and timely environmental restoration and waste management of the facility, and, in the event that the Department headquarters does not act upon the request within 60 days, submit such request to the appropriate congressional committees for review;

(C) subject to paragraph (2), negotiate amendments to environmental agreements for the Department;

(D) manage Department personnel at the facility;

(E) consider the costs, risk reduction benefits, and other benefits for the purposes of ensuring protection of human health and the environment or safety, with respect to any environmental remediation activity the cost of which exceeds $25,000,000; and

(F) have assessments prepared for environmental restoration activities (in several documents or a single document, as determined by the Site Manager).

(2) In using the authority described in paragraph (1)(C), a Site Manager may not negotiate an amendment that is expected to result in additional life cycle costs to the Department without the approval of the Secretary.

(3) In using any authority described in paragraph (1), a Site Manager of a facility shall consult with the State where the facility is located and the advisory board for the facility.

(4) The delegation of any authority pursuant to this subsection shall not be construed as restricting the Secretary's authority to delegate other authorities as necessary.

(c) INFORMATION TO SECRETARY.—The Site Manager of a defense nuclear facility shall regularly inform the Secretary, Congress, and the advisory board for the facility of the progress made by the Site Manager to achieve the expedited environmental restoration and waste management of the facility.

42 USC 7274k note.

SEC. 3174. DEPARTMENT OF ENERGY ORDERS.

An order imposed after the date of the enactment of this Act relating to the execution of environmental restoration, waste management, or technology development activities at a defense nuclear facility under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) may be imposed by the Secretary at the defense nuclear facility only if the Secretary finds that the order is necessary for the protection of human health and the environment or safety,

the fulfillment of current legal requirements, or the conduct of critical administrative functions.

SEC. 3175. DEPLOYMENT OF TECHNOLOGY FOR REMEDIATION OF DEFENSE NUCLEAR WASTE. 42 USC 7274k note.

(a) IN GENERAL.—The Site Manager of each defense nuclear facility shall promote the deployment of innovative environmental technologies for remediation of defense nuclear waste at the facility.

(b) CRITERIA.—To carry out subsection (a), the Site Manager of a defense nuclear facility shall establish a program at the facility for the testing and deployment of innovative environmental technologies for the remediation of defense nuclear waste at the facility. In establishing such a program, the Site Manager may—

(1) establish a simplified, standardized, and timely process for the testing, verification, certification, and deployment of environmental technologies;

(2) solicit applications to test and deploy environmental technologies suitable for environmental restoration and waste management activities at the facility, including prevention, control, characterization, treatment, and remediation of contamination;

(3) consult and cooperate with the heads of existing programs at the facility for the verification and certification of environmental technologies at the facility;

(4) pay the costs of the demonstration of such technologies;

(5) enter into contracts and other agreements with other public and private entities to deploy environmental technologies at the facility; and

(6) include incentives, such as product performance specifications, in contracts to encourage the implementation of innovative environmental technologies.

(c) FOLLOW-ON CONTRACTS.—(1) If the Secretary and a person demonstrating a technology under the program enter into a contract for remediation of nuclear waste at a defense nuclear facility covered by this subtitle, or at any other Department facility, as a follow-on to the demonstration of the technology, the Secretary shall ensure that the contract provides for the Secretary to recoup from the contractor the costs incurred by the Secretary pursuant to subsection (b)(6) for the demonstration.

(2) No contract between the Department and a contractor for the demonstration of technology under subsection (b) may provide for reimbursement of the costs of the contractor on a cost plus fee basis.

(d) SAFE HARBORS.—In the case of an environmental technology tested, verified, certified, and deployed at a defense nuclear facility under a program established under subsection (b), the Site Manager of another defense nuclear facility may request the Secretary to waive or limit contractual or Department regulatory requirements that would otherwise apply in implementing the same environmental technology at such other facility.

SEC. 3176. PERFORMANCE-BASED CONTRACTING. 42 USC 7274k note.

(a) PROGRAM.—The Secretary shall develop and implement a program for performance-based contracting for contracts entered into for environmental remediation at defense nuclear facilities. The program shall ensure that, to the maximum extent practicable and appropriate, such contracts include the following:

(1) Clearly stated and results oriented performance criteria and measures.

(2) Appropriate incentives for contractors to meet or exceed the performance criteria effectively and efficiently.

(3) Appropriate criteria and incentives for contractors to seek and engage subcontractors who may more effectively and efficiently perform either unique and technologically challenging tasks or routine and interchangeable services.

(4) Specific incentives for cost savings.

(5) Financial accountability.

(6) When appropriate, reduction of fee for failure to meet minimum performance criteria and standards.

(b) CRITERIA AND MEASURES.—Performance criteria and measures should take into consideration, at a minimum, the following: managerial control; elimination or reduction of risk to public health and the environment; workplace safety; financial control; goal-oriented work scope; use of innovative and alternative technologies and techniques that result in cleanups being performed less expensively, more quickly, and within quality parameters; and performing within benchmark cost estimates.

(c) CONSULTATION.—In implementing this section, the Secretary shall consult with interested parties.

Reports.

(d) DEADLINE.—The Secretary shall implement this section not later than October 1, 1997, unless the Secretary submits to Congress before that date a report with a schedule for completion of action under this section.

42 USC 7274k note.

SEC. 3177. DESIGNATION OF COVERED FACILITIES AS ENVIRONMENTAL CLEANUP DEMONSTRATION AREAS.

(a) DESIGNATION.—Each defense nuclear facility is hereby designated as an environmental cleanup demonstration area to carry out the purposes of this subtitle, including the utilization and evaluation of new technologies to be used in environmental restoration and remediation at other defense nuclear facilities.

(b) SENSE OF CONGRESS.—It is the sense of Congress that Federal and State regulatory agencies, members of the communities surrounding any defense nuclear facility, and other affected parties with respect to the facility should continue to—

(1) develop expedited and streamlined processes and systems for cleaning up such facility;

(2) eliminate unnecessary administrative complexity and unnecessary duplication of regulation with respect to the cleanup of such facility;

(3) proceed expeditiously and cost-effectively with environmental restoration and remediation activities at such facility;

(4) consider future land use in selecting environmental cleanup remedies at such facility; and

(5) identify and recommend to Congress changes in law needed to expedite the cleanup of such facility.

42 USC 7274k note.

SEC. 3178. DEFINITIONS.

In this subtitle:

(1) The term "Secretary" means the Secretary of Energy.

(2) The term "Department" means the Department of Energy.

(3) The term "defense nuclear facility" has the meaning given the term "Department of Energy defense nuclear facility"

in section 318 of the Atomic Energy Act of 1954 (42 U.S.C. 2286g).

SEC. 3179. TERMINATION.

42 USC 7274k note.

This subtitle is repealed effective September 30, 2001.

SEC. 3180. REPORT.

42 USC 7274k note.

Not later than September 30, 2000, the Secretary shall submit to Congress a report on the effectiveness of this subtitle in expediting environmental restoration and waste management of defense nuclear facilities. The report shall include recommendations on whether this subtitle should remain in effect beyond September 30, 2001.

Subtitle F—Waste Isolation Pilot Plant Land Withdrawal Act Amendments

Waste Isolation Pilot Plant Land Withdrawal Amendment Act.

SEC. 3181. SHORT TITLE.

This subtitle may be cited as the "Waste Isolation Pilot Plant Land Withdrawal Amendment Act".

SEC. 3182. DEFINITIONS.

Section 2 of the Waste Isolation Pilot Plant Land Withdrawal Act (Public Law 102–579; 106 Stat. 4777) is amended—

(1) by striking paragraphs (18) and (19); and

(2) by redesignating paragraphs (20), (21), and (22), as paragraphs (18), (19), and (20), respectively.

SEC. 3183. MANAGEMENT PLAN.

Section 4(b)(5)(B) of the Waste Isolation Pilot Plant Land Withdrawal Act (106 Stat. 4781) is amended by striking "or with the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.)".

SEC. 3184. REPEAL OF TEST PHASE AND RETRIEVAL PLANS.

(a) REPEAL.—Section 5 of the Waste Isolation Pilot Plant Land Withdrawal Act (106 Stat. 4782) is repealed.

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of such Act (106 Stat. 4777) is amended by striking out the item relating to section 5.

SEC. 3185. TEST PHASE ACTIVITIES.

Section 6 of the Waste Isolation Pilot Plant Land Withdrawal Act (106 Stat. 4783) is amended—

(1) by repealing subsections (a) and (b);

(2) by repealing paragraph (1) of subsection (c);

(3) by redesignating subsection (c) as subsection (a) and in that subsection—

(A) by repealing subparagraph (A) of paragraph (2);

(B) by striking the subsection heading and the matter immediately following the subsection heading and inserting "STUDY.—The following study shall be conducted:";

(C) by striking "(2) REMOTE-HANDLED WASTE.—";

(D) by striking "(B) STUDY.—";

(E) by redesignating clauses (i), (ii), and (iii) as paragraphs (1), (2), and (3), respectively; and

(F) by realigning the margins of such clauses to be margins of paragraphs;

(4) in subsection (d), by striking ", during the test phase, a biennial" and inserting "a" and by striking ", consisting of a documented analysis of" and inserting "as necessary to demonstrate"; and

(5) by redesignating subsection (d) as subsection (b).

SEC. 3186. DISPOSAL OPERATIONS.

Subsection (b) of section 7 of the Waste Isolation Pilot Plant Land Withdrawal Act (106 Stat. 4785) is amended to read as follows:

"(b) REQUIREMENTS FOR COMMENCEMENT OF DISPOSAL OPERATIONS.—The Secretary may commence emplacement of transuranic waste underground for disposal at WIPP only upon completion of—

"(1) the Administrator's certification under section 8(d)(1) that the WIPP facility will comply with the final disposal regulations;

"(2) the acquisition by the Secretary (whether by purchase, condemnation, or otherwise) of Federal Oil and Gas Leases No. NMNM 02953 and No. NMNM 02953C, unless the Administrator determines under section 4(b)(5) that such acquisition is not required; and

Notification.

"(3) the 30-day period beginning on the date on which the Secretary notifies Congress that the requirements of section 9(a)(1) have been met.".

SEC. 3187. ENVIRONMENTAL PROTECTION AGENCY DISPOSAL REGULATIONS.

(a) SECTION 8(d)(1).—Section 8(d)(1) of the Waste Isolation Pilot Plant Land Withdrawal Act (106 Stat. 4786) is amended—

(1) by amending subparagraph (A) to read as follows:

"(A) APPLICATION FOR COMPLIANCE.—Within 30 days after the date of the enactment of the Waste Isolation Pilot Plant Land Withdrawal Amendment Act, the Secretary shall provide to Congress a schedule for the incremental submission of chapters of the application to the Administrator beginning no later than 30 days after the date of the submittal of the schedule. The Administrator shall review the submitted chapters and provide requests for additional information from the Secretary as needed for completeness within 45 days of the receipt of each chapter. The Administrator shall notify Congress of such requests. The schedule shall call for the Secretary to submit all chapters to the Administrator no later than October 31, 1996. The Administrator may at any time request additional information from the Secretary as needed to certify, pursuant to subparagraph (B), whether the WIPP facility will comply with the final disposal regulations."; and

Notification.

(2) in subparagraph (D), by striking "after the application is" and inserting "after the full application has been".

(b) SECTION 8(d) (2) and (3).—Section 8(d) of such Act is amended by striking paragraphs (2) and (3), by striking "(1) COMPLIANCE WITH DISPOSAL REGULATIONS.—" and by redesignating subparagraphs (A), (B), (C), and (D) of paragraph (1) as paragraphs (1), (2), (3), and (4), respectively.

(c) SECTION 8(g).—Section 8(g) of such Act is amended to read as follows:

"(g) ENGINEERED AND NATURAL BARRIERS, ETC.—The Secretary shall use both engineered and natural barriers and any other measures (including waste form modifications) to the extent necessary at WIPP to comply with the final disposal regulations.".

SEC. 3188. COMPLIANCE WITH ENVIRONMENTAL LAWS AND REGULATIONS.

(a) SECTION 9(a)(1).—Section 9(a)(1) of the Waste Isolation Pilot Plant Land Withdrawal Act (106 Stat. 4788) is amended by adding after and below subparagraph (H) the following: "With respect to transuranic mixed waste designated by the Secretary for disposal at WIPP, such waste is exempt from treatment standards promulgated pursuant to section 3004(m) of the Solid Waste Disposal Act (42 U.S.C. 6924(m)) and shall not be subject to the land disposal prohibitions in section 3004(d), (e), (f), and (g) of the Solid Waste Disposal Act.".

(b) SECTION 9(b).—Subsection (b) of section 9 of such Act is repealed.

(c) SECTION 9(c)(2).—Subsection (c)(2) of section 9 of such Act is repealed.

(d) SECTION 14.—Section 14 of such Act (106 Stat. 4791) is amended—

(1) in subsection (a), by striking "No provision" and inserting "Except for the exemption from the land disposal restrictions described in section 9(a)(1), no provision"; and

(2) in subsection (b)(2), by striking "including all terms and conditions of the No-Migration Determination" and inserting "except that the transuranic mixed waste designated by the Secretary for disposal at WIPP is exempt from the land disposal restrictions described in section 9(a)(1)".

SEC. 3189. SENSE OF CONGRESS ON COMMENCEMENT OF EMPLACEMENT OF TRANSURANIC WASTE.

(a) IN GENERAL.—Section 10 of the Waste Isolation Pilot Plant Land Withdrawal Act (106 Stat. 4789) is amended to read as follows:

"SEC. 10. SENSE OF CONGRESS ON COMMENCEMENT OF EMPLACEMENT OF TRANSURANIC WASTE.

"It is the sense of Congress that the Secretary should complete all actions required under section 7(b) to commence emplacement of transuranic waste underground for disposal at WIPP not later than November 30, 1997, provided that before that date all applicable health and safety standards have been met and all applicable laws have been complied with.".

(b) CLERICAL AMENDMENT.—The item relating to section 10 in the table of contents in section 1 is amended to read as follows:

"Sec. 10. Sense of Congress on commencement of emplacement of transuranic waste.".

SEC. 3190. DECOMMISSIONING OF WIPP.

Section 13 of the Waste Isolation Pilot Plant Land Withdrawal Act (106 Stat. 4791) is amended—

(1) by striking subsection (a); and

(2) by striking "(b) MANAGEMENT PLAN FOR THE WITHDRAWAL AFTER DECOMMISSIONING.—Within 5 years after the date of the enactment of this Act, the" and inserting "The".

SEC. 3191. AUTHORIZATIONS FOR ECONOMIC ASSISTANCE AND MISCELLANEOUS PAYMENTS.

(a) AUTHORIZATION AMENDMENT.—Section 15(a) of the Waste Isolation Pilot Plant Land Withdrawal Act (106 Stat. 4791) is amended—

(1) in the subsection caption, by striking "15-YEAR" and inserting "14-YEAR"; and

(2) by striking "15 fiscal years beginning with the fiscal year in which the transport of transuranic waste to WIPP is initiated" and inserting "14 fiscal years beginning with fiscal year 1998".

(b) REQUIREMENT FOR SEPARATE AUTHORIZATIONS.—Such section 15(a) is further amended by adding at the end the following: "The authorization of appropriations for funds for payments to the State under the preceding sentence shall be separate from any authorization of appropriations of funds for WIPP.".

(c) FISCAL YEAR 1997 FUNDING.—Of the amount authorized to be appropriated for the Department of Energy by section 3102(b), $20,000,000 shall be available for the purpose of a payment by the Secretary of Energy to the State of New Mexico for road improvements in connection with the Waste Isolation Pilot Plant.

TITLE XXXII—DEFENSE NUCLEAR FACILITIES SAFETY BOARD

Sec. 3201. Authorization.

SEC. 3201. AUTHORIZATION.

There are authorized to be appropriated for fiscal year 1997, $17,000,000 for the operation of the Defense Nuclear Facilities Safety Board under chapter 21 of the Atomic Energy Act of 1954 (42 U.S.C. 2286 et seq.).

TITLE XXXIII—NATIONAL DEFENSE STOCKPILE

Subtitle A—Authorization of Disposals and Use of Funds

Sec. 3301. Definitions.
Sec. 3302. Authorized uses of stockpile funds.
Sec. 3303. Disposal of certain materials in National Defense Stockpile.

Subtitle B—Programmatic Change

Sec. 3311. Biennial report on stockpile requirements.
Sec. 3312. Notification requirements.
Sec. 3313. Importation of strategic and critical materials.

Subtitle A—Authorization of Disposals and Use of Funds

50 USC 98d note.

SEC. 3301. DEFINITIONS.

In this title:

(1) The term "National Defense Stockpile" means the stockpile provided for in section 4 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98c).

"(4) The military, industrial, and essential civilian requirements to support the national emergency.

"(5) The availability of supplies of strategic and critical materials from foreign sources during the mobilization period, the military conflict, and the subsequent period of replenishment, taking into consideration possible shipping losses.

"(6) The domestic production of strategic and critical materials during the mobilization period, the military conflict, and the subsequent period of replenishment, taking into consideration possible shipping losses.

"(7) Civilian austerity measures required during the mobilization period and military conflict.

"(c) The stockpile requirements shall be based on those strategic and critical materials necessary for the United States to replenish or replace, within three years of the end of the military conflict scenario required under subsection (b), all munitions, combat support items, and weapons systems that would be required after such a military conflict.

"(d) The Secretary shall also include in each report under this section an examination of the effect that alternative mobilization periods under the military conflict scenario required under subsection (b), as well as a range of other military conflict scenarios addressing potentially more serious threats to national security, would have on the Secretary's recommendations under subsection (a)(1) with respect to stockpile requirements.".

(b) CONFORMING AMENDMENT.—Section 2 of such Act (50 U.S.C. 98a) is amended by striking out subsection (c) and inserting in lieu thereof the following new subsection:

"(c) The purpose of the National Defense Stockpile is to serve the interest of national defense only. The National Defense Stockpile is not to be used for economic or budgetary purposes.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1996. 50 USC 98a note.

SEC. 3312. NOTIFICATION REQUIREMENTS.

(a) PROPOSED CHANGES IN STOCKPILE QUANTITIES.—Section 3(c)(2) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98b(c)(2)) is amended—

(1) by striking out "effective on or after the 30th legislative day following" and inserting in lieu thereof "after the end of the 45-day period beginning on"; and

(2) by striking out the last sentence.

(b) WAIVER OF ACQUISITION AND DISPOSAL REQUIREMENTS.—Section 6(d)(1) of such Act (50 U.S.C. 98e(d)(1)) is amended by striking out "thirty days" and inserting in lieu thereof "45 days".

(c) TIME TO BEGIN DISPOSAL.—Section 6(d)(2) of such Act (50 U.S.C. 98e(d)(2)) is amended by striking out "thirty days" and inserting in lieu thereof "45 days".

SEC. 3313. IMPORTATION OF STRATEGIC AND CRITICAL MATERIALS.

Section 13 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h–4) is amended—

(1) by striking out "as a Communist-dominated country or area"; and

(2) by striking out "such Communist-dominated countries or areas" and inserting in lieu thereof "a country or area listed in such general note".

TITLE XXXIV—NAVAL PETROLEUM RESERVES

Sec. 3401. Authorization of appropriations.
Sec. 3402. Price requirement on sale of certain petroleum during fiscal year 1997.

SEC. 3401. AUTHORIZATION OF APPROPRIATIONS.

There is hereby authorized to be appropriated to the Secretary of Energy $149,500,000 for fiscal year 1997 for the purpose of carrying out activities under chapter 641 of title 10, United States Code, relating to the naval petroleum reserves (as defined in section 7420(2) of such title). Funds appropriated pursuant to such authorization shall remain available until expended.

10 USC 7430 note.

SEC. 3402. PRICE REQUIREMENT ON SALE OF CERTAIN PETROLEUM DURING FISCAL YEAR 1997.

Notwithstanding section 7430(b)(2) of title 10, United States Code, during fiscal year 1997, any sale of any part of the United States share of petroleum produced from Naval Petroleum Reserves Numbered 1, 2, and 3 shall be made at a price not less than 90 percent of the current sales price, as estimated by the Secretary of Energy, of comparable petroleum in the same area.

TITLE XXXV—PANAMA CANAL COMMISSION

Subtitle A—Authorization of Appropriations

Sec. 3501. Short title.
Sec. 3502. Authorization of expenditures.
Sec. 3503. Purchase of vehicles.
Sec. 3504. Expenditures only in accordance with treaties.

Subtitle B—Amendments to Panama Canal Act of 1979

Sec. 3521. Short title; references.
Sec. 3522. Definitions and recommendation for legislation.
Sec. 3523. Administrator.
Sec. 3524. Deputy Administrator and Chief Engineer.
Sec. 3525. Office of Ombudsman.
Sec. 3526. Appointment and compensation; duties.
Sec. 3527. Applicability of certain benefits.
Sec. 3528. Travel and transportation.
Sec. 3529. Clarification of definition of agency.
Sec. 3530. Panama Canal Employment System; merit and other employment requirements.
Sec. 3531. Employment standards.
Sec. 3532. Repeal of obsolete provision regarding interim application of Canal Zone Merit System.
Sec. 3533. Repeal of provision relating to recruitment and retention remuneration.
Sec. 3534. Benefits based on basic pay.
Sec. 3535. Vesting of general administrative authority of commission.
Sec. 3536. Applicability of certain laws.
Sec. 3537. Repeal of provision relating to transferred or reemployed employees.
Sec. 3538. Administration of special disability benefits.
Sec. 3539. Panama Canal Revolving Fund.
Sec. 3540. Printing.
Sec. 3541. Accounting policies.
Sec. 3542. Interagency services; reimbursements.
Sec. 3543. Postal service.
Sec. 3544. Investigation of accidents or injury giving rise to claim.
Sec. 3545. Operations regulations.
Sec. 3546. Miscellaneous repeals.
Sec. 3547. Exemption from Metric Conversion Act of 1975.

Sec. 3548. Conforming and clerical amendments.
Sec. 3549. Repeal of Panama Canal Code.

Subtitle A—Authorization of Appropriations

Panama Canal Commission Authorization Act for Fiscal Year 1997.

SEC. 3501. SHORT TITLE.

This subtitle may be cited as the "Panama Canal Commission Authorization Act for Fiscal Year 1997".

SEC. 3502. AUTHORIZATION OF EXPENDITURES.

(a) IN GENERAL.—Subject to subsection (b), the Panama Canal Commission is authorized to use amounts in the Panama Canal Revolving Fund to make such expenditures within the limits of funds and borrowing authority available to it in accordance with law, and to make such contracts and commitments, as may be necessary under the Panama Canal Act of 1979 (22 U.S.C. 3601 et seq.) for the operation, maintenance, improvement, and administration of the Panama Canal for fiscal year 1997.

(b) LIMITATIONS.—For fiscal year 1997, the Panama Canal Commission may expend from funds in the Panama Canal Revolving Fund not more than $73,000 for reception and representation expenses, of which—

(1) not more than $18,000 may be used for official reception and representation expenses of the Supervisory Board of the Commission;

(2) not more than $10,000 may be used for official reception and representation expenses of the Secretary of the Commission; and

(3) not more than $45,000 may be used for official reception and representation expenses of the Administrator of the Commission.

SEC. 3503. PURCHASE OF VEHICLES.

Notwithstanding any other provisions of law, the funds available to the Commission shall be available for the purchase and transportation to the Republic of Panama of passenger motor vehicles, including large, heavy-duty vehicles.

SEC. 3504. EXPENDITURES ONLY IN ACCORDANCE WITH TREATIES.

Expenditures authorized under this subtitle may be made only in accordance with the Panama Canal Treaties of 1977 and any law of the United States implementing those treaties.

Panama Canal Act Amendments of 1996.

Subtitle B—Amendments to Panama Canal Act of 1979

SEC. 3521. SHORT TITLE; REFERENCES.

22 USC 3601 note.

(a) SHORT TITLE.—This subtitle may be cited as the "Panama Canal Act Amendments of 1996".

(b) REFERENCES.—Except as otherwise expressly provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Panama Canal Act of 1979 (22 U.S.C. 3601 et seq.).

SEC. 3522. DEFINITIONS AND RECOMMENDATION FOR LEGISLATION.

Section 3 (22 U.S.C. 3602) is amended—

(1) in subsection (b), by inserting "and" after the semicolon at the end of paragraph (4), by striking the semicolon at the end of paragraph (5) and inserting a period, and striking paragraphs (6) and (7); and

(2) by striking subsection (d).

SEC. 3523. ADMINISTRATOR.

(a) IN GENERAL.—Section 1103 (22 U.S.C. 3613) is amended to read as follows:

"ADMINISTRATOR

President.

"SEC. 1103. (a) There shall be an Administrator of the Commission who shall be appointed by the President, by and with the advice and consent of the Senate, and shall hold office at the pleasure of the President.

"(b) The Administrator shall be paid compensation in an amount, established by the Board, not to exceed level III of the Executive Schedule.".

22 USC 3613 note.

(b) SAVINGS PROVISIONS.—Nothing in this section (or section 3549(3)) shall be considered to affect—

(1) the tenure of the individual serving as Administrator of the Commission on the day before subsection (a) takes effect; or

(2) until modified under section 1103(b) of the Panama Canal Act of 1979, as amended by subsection (a), the compensation of the individual so serving.

SEC. 3524. DEPUTY ADMINISTRATOR AND CHIEF ENGINEER.

(a) IN GENERAL.—Section 1104 (22 U.S.C. 3614) is amended to read as follows:

"DEPUTY ADMINISTRATOR

President.

"SEC. 1104. (a) There shall be a Deputy Administrator of the Commission who shall be appointed by the President. The Deputy Administrator shall perform such duties as may be prescribed by the Board.

"(b) The Deputy Administrator shall be paid compensation at a rate of pay, established by the Board, which does not exceed the rate of basic pay in effect for level IV of the Executive Schedule,

and, if eligible, shall be paid the overseas recruitment and retention differential provided for in section 1217 of this Act.".

(b) SAVINGS PROVISIONS.—Nothing in this section shall be considered to affect— 22 USC 3614 note.

(1) the tenure of the individual serving as Deputy Administrator of the Commission on the day before subsection (a) takes effect; or

(2) until modified under section 1104(b) of the Panama Canal Act of 1979, as amended by subsection (a), the compensation of the individual so serving.

SEC. 3525. OFFICE OF OMBUDSMAN.

Section 1113 (22 U.S.C. 3623) is amended by striking subsection (d) and redesignating subsection (e) as subsection (d).

SEC. 3526. APPOINTMENT AND COMPENSATION; DUTIES.

Section 1202 (22 U.S.C. 3642) is amended to read as follows:

"APPOINTMENT AND COMPENSATION; DUTIES

"SEC. 1202. (a) In accordance with this chapter, the Commission may appoint, fix the compensation of, and define the authority and duties of officers and employees (other than the Administrator and Deputy Administrator) necessary for the management, operation, and maintenance of the Panama Canal and its complementary works, installations, and equipment.

"(b) Individuals serving in any Executive agency (other than the Commission) or the Smithsonian Institution, including individuals in the uniformed services, may, if appointed under this section or section 1104 of this Act, serve as officers or employees of the Commission.".

SEC. 3527. APPLICABILITY OF CERTAIN BENEFITS.

Section 1209 (22 U.S.C. 3649) is amended to read as follows:

"APPLICABILITY OF CERTAIN BENEFITS

"SEC. 1209. Chapter 81 of title 5, United States Code, relating to compensation for work injuries, chapters 83 and 84 of such title 5, relating to retirement, chapter 87 of such title 5, relating to life insurance, and chapter 89 of such title 5, relating to health insurance, are applicable to Commission employees, except any individual—

"(1) who is not a citizen of the United States;

"(2) whose initial appointment by the Commission occurs after October 1, 1979; and

"(3) who is covered by the Social Security System of the Republic of Panama pursuant to any provision of the Panama Canal Treaty of 1977 and related agreements.".

SEC. 3528. TRAVEL AND TRANSPORTATION.

Section 1210 (22 U.S.C. 3650) is amended to read as follows:

"TRAVEL AND TRANSPORTATION

"SEC. 1210. (a) Subject to subsections (b) and (c), the Commission may pay travel and transportation expenses for employees in accordance with subchapter II of chapter 57 of title 5, United States Code.

"(b) For an employee to whom section 1206 applies, the Commission may pay travel and transportation expenses associated with vacation leave for the employee and the immediate family of the employee notwithstanding requirements regarding periods of service established by subchapter II of chapter 57 of title 5, United States Code, or the regulations promulgated thereunder.

"(c) For an employee to whom section 1206 does not apply, the Commission may pay travel and transportation expenses associated with vacation leave for the employee and the immediate family of the employee notwithstanding requirements regarding a written agreement concerning the duration of a continuing service obligation established by subchapter II of chapter 57 of title 5, United States Code, or the regulations promulgated thereunder.

"(d)(1) Notwithstanding any other provision of law (except paragraph (2)), the Commission may contract with Panamanian carriers registered under the laws of the Republic of Panama to provide air transportation to officials and employees of the Commission who are citizens of the Republic of Panama.

"(2) Notwithstanding paragraph (1), an official or employee of the Commission referred to in paragraph (1) may elect, for security or other reasons, to travel by an air carrier holding a certificate under section 41102 of title 49, United States Code.".

SEC. 3529. CLARIFICATION OF DEFINITION OF AGENCY.

Subparagraph (B) of section 1211(1) (22 U.S.C. 3651(1)(B)) is amended to read as follows:

"(B) any other Executive agency or the Smithsonian Institution, to the extent of any election in effect under section 1212(b) of this Act;".

SEC. 3530. PANAMA CANAL EMPLOYMENT SYSTEM; MERIT AND OTHER EMPLOYMENT REQUIREMENTS.

(a) IN GENERAL.—Section 1212 (22 U.S.C. 3652) is amended to read as follows:

"PANAMA CANAL EMPLOYMENT SYSTEM; MERIT AND OTHER EMPLOYMENT REQUIREMENTS

Establishment. Regulations.

"SEC. 1212. (a) The Commission shall establish a Panama Canal Employment System and prescribe the regulations necessary for its administration. The Panama Canal Employment System shall—

"(1) be established in accordance with and be subject to the provisions of the Panama Canal Treaty of 1977 and related agreements, the provisions of this chapter, and any other applicable provision of law;

"(2) be based on the consideration of the merit of each employee or candidate for employment and the qualifications and fitness of the employee to hold the position concerned;

"(3) conform, to the extent practicable and consistent with the provisions of this Act, to the policies, principles, and standards applicable to the competitive service;

"(4) in the case of employees who are citizens of the United States, provide for the appropriate interchange of those employees between positions under the Panama Canal Employment System and positions in the competitive service; and

"(5) not be subject to the provisions of title 5, United States Code, unless specifically made applicable by this Act.

"(b)(1) The head of any Executive agency (other than the Commission) and the Smithsonian Institution may elect to have the Panama Canal Employment System made applicable in whole or in part to personnel of that agency in the Republic of Panama.

"(2) Any Executive agency (other than the Commission) and the Smithsonian Institution, to the extent of any election under paragraph (1), shall conduct its employment and pay practices relating to employees in accordance with the Panama Canal Employment System.

"(3) Notwithstanding any other provision of this Act or the Panama Canal Act Amendments of 1996, this subchapter, as last in effect before the effective date of section 3530 of the Panama Canal Act Amendments of 1996, shall continue to apply to an Executive agency or the Smithsonian Institution to the extent of an election under paragraph (1) by the head of agency or the Institution, respectively. Applicability.

"(c) The Commission may exclude any employee or position from coverage under any provision of this subchapter, other than the interchange rights extended under subsection (a)(4).".

(b) SAVINGS PROVISIONS.—The Panama Canal Employment System and all elections, rules, regulations, and orders relating thereto, as last in effect before the amendment made by subsection (a) takes effect, shall continue in effect, according to their terms, until modified, terminated, or superseded under section 1212 of the Panama Canal Act of 1979, as amended by subsection (a). Applicability. 22 USC 3652 note.

SEC. 3531. EMPLOYMENT STANDARDS.

Section 1213 (22 U.S.C. 3653) is amended in the first sentence by striking "The head of each agency" and inserting "The Commission".

SEC. 3532. REPEAL OF OBSOLETE PROVISION REGARDING INTERIM APPLICATION OF CANAL ZONE MERIT SYSTEM.

Section 1214 (22 U.S.C. 3654) is repealed.

SEC. 3533. REPEAL OF PROVISION RELATING TO RECRUITMENT AND RETENTION REMUNERATION.

Section 1217(d) (22 U.S.C. 3657(d)) is repealed.

SEC. 3534. BENEFITS BASED ON BASIC PAY.

Section 1218(2) (22 U.S.C. 3658(2)) is amended to read as follows:

"(2) benefits under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, relating to retirement;".

SEC. 3535. VESTING OF GENERAL ADMINISTRATIVE AUTHORITY OF COMMISSION.

Section 1223 (22 U.S.C. 3663) is amended to read as follows:

"CENTRAL EXAMINING OFFICE

"SEC. 1223. The Commission shall establish a Central Examining Office. The purpose of the office shall be to implement the provisions of the Panama Canal Treaty of 1977 and related agreements with respect to recruitment, examination, determination of qualification standards, and similar matters relating to employment of the Commission.". Establishment.

SEC. 3536. APPLICABILITY OF CERTAIN LAWS.

Section 1224 (22 U.S.C. 3664) is amended to read as follows:

"APPLICABILITY OF TITLE 5, UNITED STATES CODE

"SEC. 1224. The following provisions of title 5, United States Code, apply to the Panama Canal Commission:

"(1) Part I of title 5 (relating to agencies generally).

"(2) Chapter 21 (relating to employee definitions).

"(3) Section 2302(b)(8) (relating to whistleblower protection) and all provisions of title 5 relating to the administration or enforcement or any other aspect thereof, as identified in regulations prescribed by the Commission in consultation with the Office of Personnel Management.

"(4) All provisions relating to preference eligibles.

"(5) Section 5514 (relating to offset from salary).

"(6) Section 5520a (relating to garnishments).

"(7) Sections 5531–5535 (relating to dual pay and employment).

"(8) Subchapter VI of chapter 55 (relating to accumulated and accrued leave).

"(9) Subchapter IX of chapter 55 (relating to severance and back pay).

"(10) Chapter 57 (relating to travel, transportation, and subsistence).

"(11) Chapter 59 (relating to allowances).

"(12) Chapter 63 (relating to leave for CONUS employees).

"(13) Section 6323 (relating to military leave; Reserves and National Guardsmen).

"(14) Chapter 71 (relating to labor relations).

"(15) Subchapters II and III of chapter 73 (relating to employment limitations and political activities, respectively) and all provisions of title 5 relating to the administration or enforcement or any other aspect thereof, as identified in regulations prescribed by the Commission in consultation with the Office of Personnel Management.

"(16) Chapter 81 (relating to compensation for work injuries).

"(17) Chapters 83 and 84 (relating to retirement).

"(18) Chapter 85 (relating to unemployment compensation).

"(19) Chapter 87 (relating to life insurance).

"(20) Chapter 89 (relating to health insurance).".

SEC. 3537. REPEAL OF PROVISION RELATING TO TRANSFERRED OR REEMPLOYED EMPLOYEES.

Section 1231(a)(3) (22 U.S.C. 3671(a)(3)) is repealed.

SEC. 3538. ADMINISTRATION OF SPECIAL DISABILITY BENEFITS.

Section 1245 (22 U.S.C. 3682) is amended by striking so much as precedes subsection (b) and inserting the following:

"ADMINISTRATION OF CERTAIN DISABILITY BENEFITS

"SEC. 1245. (a)(1) The Commission, or any other United States Government agency or private entity acting pursuant to an agreement with the Commission, under the Act entitled 'An Act authorizing cash relief for certain employees of the Panama Canal not coming within the provisions of the Canal Zone Retirement Act',

approved July 8, 1937 (50 Stat. 478; 68 Stat. 17), may continue the payments of cash relief to those individual former employees of the Canal Zone Government or Panama Canal Company or their predecessor agencies not coming within the scope of the former Canal Zone Retirement Act whose services were terminated prior to October 5, 1958, because of unfitness for further useful service by reason of mental or physical disability resulting from age or disease.

"(2) Subject to subsection (b), cash relief under this subsection may not exceed $1.50 per month for each year of service of the employees so furnished relief, with a maximum of $45 per month, plus the amount of any cost-of-living increases in such cash relief granted before October 1, 1979, pursuant to section 181 of title 2 of the Canal Zone Code (as in effect on September 30, 1979), nor be paid to any employee who, at the time of termination for disability prior to October 5, 1958, had less than 10 years' service with the Canal Zone Government, the Panama Canal Company, or their predecessor agencies on the Isthmus of Panama.".

SEC. 3539. PANAMA CANAL REVOLVING FUND.

Section 1302 of the Panama Canal Act of 1979 (22 U.S.C. 3712) is amended to read as follows:

"PANAMA CANAL REVOLVING FUND

"SEC. 1302. (a) There is established in the Treasury of the United States a revolving fund to be known as 'Panama Canal Revolving Fund'. The Panama Canal Revolving Fund shall, subject to subsection (b), be available to the Commission to carry out the purposes, functions, and powers authorized by this Act, including for— Nomenclature.

"(1) the hire of passenger motor vehicles and aircraft;

"(2) uniforms or allowances therefor;

"(3) official receptions and representation expenses of the Board, the Secretary of the Commission, and the Administrator;

"(4) the operation of guide services;

"(5) a residence for the Administrator;

"(6) disbursements by the Administrator for employee and community projects;

"(7) the procurement of expert and consultant services;

"(8) promotional activities, including the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, film, or other media presentation designed to promote the Panama Canal as a resource of the world shipping industry; and

"(9) the purchase and transportation to the Republic of Panama of passenger motor vehicles, including large, heavy-duty vehicles.

"(b)(1) There shall be deposited in the Panama Canal Revolving Fund, on a continuing basis, toll receipts (other than amounts of toll receipts deposited into the Panama Canal Commission Dissolution Fund under section 1305) and all other receipts of the Commission. Except as provided in section 1303, no funds may be obligated or expended by the Commission in any fiscal year unless such obligation or expenditure has been specifically authorized by law.

"(2) No funds may be authorized for the use of the Commission, or obligated or expended by the Commission in any fiscal year; in excess of—

"(A) the amount of revenues deposited in the Panama Canal Revolving Fund and the Panama Canal Commission Dissolution Fund during such fiscal year; plus

"(B) the amount of revenues deposited in the Panama Canal Revolving Fund before such fiscal year and remaining unobligated at the beginning of such fiscal year; plus

"(C) the $100,000,000 borrowing authority provided for in section 1304 of this Act.

Reports. Not later than 30 days after the end of each fiscal year, the Secretary of the Treasury shall report to the Congress the amount of revenues deposited in the Panama Canal Revolving Fund during such fiscal year.

"(c) With the approval of the Secretary of the Treasury, the Commission may deposit amounts in the Panama Canal Revolving Fund in any Federal Reserve bank, any depositary for public funds, or such other place and in such manner as the Commission and the Secretary may agree.

"(d)(1) It is the sense of the Congress that the additional costs resulting from the implementation of the Panama Canal Treaty of 1977 and related agreements should be kept to the absolute minimum level. To this end, the Congress declares appropriated costs of implementation to be borne by the taxpayers over the life of such Treaty should be kept to a level no greater than the March 1979 estimate of those costs ($870,700,000) presented to the Congress by the executive branch during consideration of this Act by the Congress, less personnel retirement costs of $205,000,000, which were subtracted and charged to tolls, therefore resulting in net taxpayer cost of approximately $665,700,000, plus appropriate adjustments for inflation.

"(2) It is further the sense of the Congress that the actual costs of implementation be consistent with the obligations of the United States to operate the Panama Canal safely and efficiently and keep it secure.".

SEC. 3540. PRINTING.

Title I is amended in chapter 3 (22 U.S.C. 3711 et seq.) by adding at the end of subchapter I the following new section:

"PRINTING

22 USC 3714b. "SEC. 1306. (a) Section 501 of title 44, United States Code, shall not apply to direct purchase by the Commission for its use of printing, binding, and blank-book work in the Republic of Panama when the Commission determines that such direct purchase is in the best interest of the Government.

"(b) This section shall not affect the Commission's authority, under chapter 5 of title 44, United States Code, to operate a field printing plant.".

SEC. 3541. ACCOUNTING POLICIES.

(a) SECTION 1311.—Section 1311(a) (22 U.S.C. 3721(a)) is amended by striking out "the Accounting and Auditing Act of 1950 (31 U.S.C. 65 et seq.)" in the first sentence and inserting in lieu thereof "chapter 91 of title 31, United States Code,".

(b) SECTION 1313.—Section 1313 (22 U.S.C. 3723) is amended by striking out "the Accounting and Auditing Act of 1950 (31 U.S.C. 65 et seq.)" in subsections (a) and (c) and inserting in lieu thereof "chapter 91 of title 31, United States Code,".

SEC. 3542. INTERAGENCY SERVICES; REIMBURSEMENTS.

Section 1321(e) (22 U.S.C. 3731(e)) is amended by adding at the end the following sentence:

"Notwithstanding the provisions relating to the availability of adequate schools contained in section 5924(4)(A) of title 5, United States Code, the Commission shall by regulation determine the extent to which costs of educational services may be defrayed under this subsection.". Regulations.

SEC. 3543. POSTAL SERVICE.

Section 1331 (22 U.S.C. 3741) is amended to read as follows:

"POSTAL SERVICE

"SEC. 1331. (a) The Commission shall take possession of and administer the funds of the Canal Zone postal service and shall assume its obligations.

"(b) Effective December 1, 1999, neither the Commission nor the United States Government shall be responsible for the distribution of any accumulated unpaid balances relating to Canal Zone postal-savings deposits, postal-savings certificates, and postal money orders. Effective date.

"(c) Mail addressed to the Canal Zone from or through the continental United States may be routed by the United States Postal Service to the military post offices of the United States Armed Forces in the Republic of Panama. Such military post offices shall provide the required directory services and shall accept such mail to the extent permitted under the Panama Canal Treaty of 1977 and related agreements. The Commission shall furnish personnel, records, and other services to such military post offices to assure wherever appropriate the distribution, rerouting, or return of such mail.". Records.

SEC. 3544. INVESTIGATION OF ACCIDENTS OR INJURY GIVING RISE TO CLAIM.

Section 1417(1) (22 U.S.C. 3777(1)) is amended to read as follows:

"(1) an investigation of the accident or injury giving rise to the claim has been completed, which shall include a hearing by the Board of Local Inspectors of the Commission; and".

SEC. 3545. OPERATIONS REGULATIONS.

Section 1801 (22 U.S.C. 3811) is amended by striking "President" and inserting "Commission".

SEC. 3546. MISCELLANEOUS REPEALS.

(a) REPEALS.—The following provisions are repealed:

(1) Section 1605 (22 U.S.C. 3795), relating to interim toll adjustment.

(2) Section 1701 (22 U.S.C. 3801), relating to the authority of the President to prescribe certain regulations.

(3) Section 1702 (22 U.S.C. 3802), relating to the authority of the Panama Canal Commission to prescribe certain regulations.

(4) Title II (22 U.S.C. 3841–3852), relating to the Treaty transition period.

(5) Chapter 1 of title III (22 U.S.C. 3861), relating to cemeteries.

22 USC 3683. (6) Section 1246, relating to appliances for certain injured employees.

(7) Section 1251, relating to leave for jury or witness service.

22 USC 3711. (8) Section 1301, relating to Canal Zone Government funds.

22 USC 3723. (9) Section 1313(c), relating to audits.

(b) CONFORMING AMENDMENTS.—Section 1313 is further amended by redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

SEC. 3547. EXEMPTION FROM METRIC CONVERSION ACT OF 1975.

22 USC 3873. Section 3302 is amended to read as follows:

"EXEMPTION FROM METRIC CONVERSION ACT OF 1975

"SEC. 3302. The Commission is exempt from the provisions of the Metric Conversion Act of 1975 (15 U.S.C. 205a et seq.).".

SEC. 3548. CONFORMING AND CLERICAL AMENDMENTS.

(a) TITLE 5 EMPLOYMENT LAW.—Title 5, United States Code, is amended as follows:

(1) Section 3401(1) is amended—

(A) by striking out clause (v); and

(B) by redesignating clauses (vi), (vii), and (viii) as clauses (v), (vi), and (vii), respectively.

(2) Section 5102 is amended—

(A) in subsection (a)(1)—

(i) by striking out clause (vi); and

(ii) by redesignating clauses (vii), (viii), (ix), (x), and (xi) as clauses (vi), (vii), (viii), (ix), and (x), respectively; and

(B) in subsection (c), by striking out paragraph (12).

(3) Subchapter IV of chapter 53 is amended—

(A) in section 5342(a)(1)—

(i) by striking out subparagraph (G); and

(ii) by redesignating subparagraphs (H), (I), (J), (K), and (L) as subparagraphs (G), (H), (I), (J), and (K) respectively;

(B) in section 5343(a)(5), by striking out "the areas and installations in the Republic of Panama" and all that follows through "Panama Canal Act of 1979),"; and

(C) in section 5348—

(i) by striking out subsection (b);

(ii) by redesignating subsection (c) as subsection (b); and

(iii) in subsection (a), by striking out "subsections (b) and (c)" and inserting in lieu thereof "subsection (b)".

(4) Section 5373 is amended—

(A) by striking out paragraph (1); and

(B) by redesignating paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3) respectively.

(5) Section 5537(c) is amended by striking out "the United States District Court for the District of the Canal Zone, the

(6) The item relating to section 1245 is amended to read as follows:

"Sec. 1245. Administration of certain disability benefits.".

(7) The item relating to section 3302 is amended to read as follows:

"Sec. 3302. Exemption from Metric Conversion Act of 1975.".

(8) Such table of contents is further amended by inserting after the item relating to section 1305 the following new item:

"Sec. 1306. Printing.".

(9) Such table of contents is further amended—

(A) by striking out the items relating to sections 1214, 1246, 1251, 1301, 1605, 1701, 1702, 2101, 2201, 2202, 2203, 2204, 2205, 2206, 2301, 2401, 2402, and 3101; and

(B) by striking out the items relating to the heading of title II, the headings of chapters 1, 2, 3, and 4 of such title, and the heading of chapter 1 of title III.

SEC. 3549. REPEAL OF PANAMA CANAL CODE.

The Panama Canal Code is repealed.

Approved September 23, 1996.

LEGISLATIVE HISTORY—H.R. 3230 (S. 1745):

HOUSE REPORTS: Nos. 104–563 (Comm. on National Security) and 104–724 (Comm. of Conference).

SENATE REPORTS: Nos. 104–267 (Comm. on Armed Services) and 104–278 (Select Comm. on Intelligence) both accompanying S. 1745.

CONGRESSIONAL RECORD, Vol. 142 (1996):

May 14, 15, considered and passed House.

June 18–20, 24–28, July 10, S. 1745 considered and passed Senate; H.R. 3230, amended, passed in lieu.

Aug. 1, House agreed to conference report.

Sept. 10, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 32 (1996):

Sept. 23, Presidential remarks and statement.

Public Law 104–202
104th Congress

An Act

To name the Department of Veterans Affairs medical center in Jackson, Mississippi, as the "G.V. (Sonny) Montgomery Department of Veterans Affairs Medical Center".

Sept. 24, 1996
[S. 1669]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. NAME OF DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER, JACKSON, MISSISSIPPI.

(a) NAME.—The Department of Veterans Affairs medical center in Jackson, Mississippi, shall be known and designated as the "G.V. (Sonny) Montgomery Department of Veterans Affairs Medical Center". Any reference to such medical center in any law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to the G.V. (Sonny) Montgomery Department of Veterans Affairs Medical Center.

(b) EFFECTIVE DATE.—Subsection (a) shall take effect at noon on January 3, 1997.

Approved September 24, 1996.

LEGISLATIVE HISTORY—S. 1669:

CONGRESSIONAL RECORD, Vol. 142 (1996):
Sept. 10, considered and passed Senate.
Sept. 11, considered and passed House.

Public Law 104–203
104th Congress

An Act

Sept. 25, 1996
[H.R. 1642]

To extend nondiscriminatory treatment (most-favored-nation treatment) to the products of Cambodia, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONGRESSIONAL FINDINGS.

The Congress finds that—

(1) despite recent increases in acts of repression by the Cambodian Government and growing government corruption that has contributed to substantial environmental degradation, Cambodia has made some progress towards democratic rule after 20 years of undemocratic regimes and civil war, and is striving to rebuild its market economy;

(2) extension of unconditional most-favored-nation treatment would assist Cambodia in developing its economy based on free market principles and becoming competitive in the global marketplace;

(3) establishing normal commercial relations on a reciprocal basis with Cambodia will promote United States exports to the rapidly growing Southeast Asian region and expand opportunities for United States business and investment in the Cambodian economy; and

(4) expanding bilateral trade relations that includes a commercial agreement may promote further progress by Cambodia on human rights and democratic rule and assist Cambodia in adopting regional and world trading rules and principles.

SEC. 2. EXTENSION OF NONDISCRIMINATORY TREATMENT TO THE PRODUCTS OF CAMBODIA.

(a) HARMONIZED TARIFF SCHEDULE AMENDMENT.—General note 3(b) of the Harmonized Tariff Schedule of the United States is amended by striking "Kampuchea".

Federal Register, publication.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies with respect to goods entered, or withdrawn from warehouse for consumption, on or after the effective date of a notice published in the Federal Register by the United States Trade Representative that a trade agreement obligating reciprocal most-favored-nation treatment between Cambodia and the United States has entered into force.

SEC. 3. REPORT TO CONGRESS.

The President shall submit to the Congress, not later than 18 months after the date of the enactment of this Act, a report on the trade relations between the United States and Cambodia pursuant to the trade agreement described in section 2(b).

Approved September 25, 1996.

LEGISLATIVE HISTORY—H.R. 1642:

HOUSE REPORTS: No. 104–160 (Comm. on Ways and Means).
SENATE REPORTS: No. 104–264 (Comm. on Finance).
CONGRESSIONAL RECORD:
Vol. 141 (1995): July 10, 11, considered and passed House.
Vol. 142 (1996): July 25, considered and passed Senate, amended.
Sept. 12, House concurred in Senate amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 32 (1996):
Sept. 25, Presidential statement.

Public Law 104–204
104th Congress

An Act

Sept. 26, 1996
[H.R. 3666]

Making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1997, and for other purposes.

Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1997, and for other purposes, namely:

TITLE I

DEPARTMENT OF VETERANS AFFAIRS

VETERANS BENEFITS ADMINISTRATION

COMPENSATION AND PENSIONS

(INCLUDING TRANSFERS OF FUNDS)

For the payment of compensation benefits to or on behalf of veterans as authorized by law (38 U.S.C. 107, chapters 11, 13, 51, 53, 55, and 61); pension benefits to or on behalf of veterans as authorized by law (38 U.S.C. chapters 15, 51, 53, 55, and 61; 92 Stat. 2508); and burial benefits, emergency and other officers' retirement pay, adjusted-service credits and certificates, payment of premiums due on commercial life insurance policies guaranteed under the provisions of Article IV of the Soldiers' and Sailors' Civil Relief Act of 1940, as amended, and for other benefits as authorized by law (38 U.S.C. 107, 1312, 1977, and 2106, chapters 23, 51, 53, 55, and 61; 50 U.S.C. App. 540–548; 43 Stat. 122, 123; 45 Stat. 735; 76 Stat. 1198); $18,671,259,000, to remain available until expended: *Provided,* That not to exceed $26,417,000 of the amount appropriated shall be reimbursed to "General operating expenses" and "Medical care" for necessary expenses in implementing those provisions authorized in the Omnibus Budget Reconciliation Act of 1990, and in the Veterans' Benefits Act of 1992 (38 U.S.C. chapters 51, 53, and 55), the funding source for which is specifically provided as the "Compensation and pensions" appropriation: *Provided further,* That such sums as may be earned on an actual qualifying patient basis, shall be reimbursed to "Medical facilities revolving fund" to augment the funding of individual

medical facilities for nursing home care provided to pensioners as authorized by the Veterans' Benefits Act of 1992 (38 U.S.C. chapter 55).

READJUSTMENT BENEFITS

For the payment of readjustment and rehabilitation benefits to or on behalf of veterans as authorized by 38 U.S.C. chapters 21, 30, 31, 34, 35, 36, 39, 51, 53, 55, and 61, $1,377,000,000, to remain available until expended: *Provided,* That funds shall be available to pay any court order, court award or any compromise settlement arising from litigation involving the vocational training program authorized by section 18 of Public Law 98–77, as amended.

VETERANS INSURANCE AND INDEMNITIES

For military and naval insurance, national service life insurance, servicemen's indemnities, service-disabled veterans insurance, and veterans mortgage life insurance as authorized by 38 U.S.C. chapter 19; 70 Stat. 887; 72 Stat. 487, $38,970,000, to remain available until expended.

GUARANTY AND INDEMNITY PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct and guaranteed loans, such sums as may be necessary to carry out the program, as authorized by 38 U.S.C. chapter 37, as amended: *Provided,* That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended.

In addition, for administrative expenses to carry out the direct and guaranteed loan programs, $105,226,000, which may be transferred to and merged with the appropriation for "General operating expenses".

LOAN GUARANTY PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct and guaranteed loans, such sums as may be necessary to carry out the program, as authorized by 38 U.S.C. chapter 37, as amended: *Provided,* That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended.

In addition, for administrative expenses to carry out the direct and guaranteed loan programs, $33,810,000, which may be transferred to and merged with the appropriation for "General operating expenses".

DIRECT LOAN PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct loans, such sums as may be necessary to carry out the program, as authorized by 38 U.S.C. chapter 37, as amended: *Provided,* That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: *Provided further,*

That during 1997, within the resources available, not to exceed $300,000 in gross obligations for direct loans are authorized for specially adapted housing loans.

In addition, for administrative expenses to carry out the direct loan program, $80,000, which may be transferred to and merged with the appropriation for "General operating expenses".

EDUCATION LOAN FUND PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct loans, $1,000, as authorized by 38 U.S.C. 3698, as amended: *Provided,* That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: *Provided further,* That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $3,000.

In addition, for administrative expenses necessary to carry out the direct loan program, $195,000, which may be transferred to and merged with the appropriation for "General operating expenses".

VOCATIONAL REHABILITATION LOANS PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct loans, $49,000, as authorized by 38 U.S.C. chapter 31, as amended: *Provided,* That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: *Provided further,* That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $2,822,000.

In addition, for administrative expenses necessary to carry out the direct loan program, $377,000, which may be transferred to and merged with the appropriation for "General operating expenses".

NATIVE AMERICAN VETERAN HOUSING LOAN PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For administrative expenses to carry out the direct loan program authorized by 38 U.S.C. chapter 37, subchapter V, as amended, $205,000, which may be transferred to and merged with the appropriation for "General operating expenses".

VETERANS HEALTH ADMINISTRATION

MEDICAL CARE

For necessary expenses for the maintenance and operation of hospitals, nursing homes, and domiciliary facilities; for furnishing, as authorized by law, inpatient and outpatient care and treatment to beneficiaries of the Department of Veterans Affairs, including care and treatment in facilities not under the jurisdiction of the Department; and furnishing recreational facilities, supplies, and equipment; funeral, burial, and other expenses incidental thereto for beneficiaries receiving care in the Department; administrative expenses in support of planning, design, project management, real

property acquisition and disposition, construction and renovation of any facility under the jurisdiction or for the use of the Department; oversight, engineering and architectural activities not charged to project cost; repairing, altering, improving or providing facilities in the several hospitals and homes under the jurisdiction of the Department, not otherwise provided for, either by contract or by the hire of temporary employees and purchase of materials; uniforms or allowances therefor, as authorized by 5 U.S.C. 5901–5902; aid to State homes as authorized by 38 U.S.C. 1741; and not to exceed $8,000,000 to fund cost comparison studies as referred to in 38 U.S.C. 8110(a)(5); $17,008,447,000, plus reimbursements: *Provided,* That of the funds made available under this heading, $700,000,000 is for the equipment and land and structures object classifications only, which amount shall not become available for obligation until August 1, 1997, and shall remain available until September 30, 1998.

MEDICAL AND PROSTHETIC RESEARCH

For necessary expenses in carrying out programs of medical and prosthetic research and development as authorized by 38 U.S.C. chapter 73, to remain available until September 30, 1998, $262,000,000, plus reimbursements.

MEDICAL ADMINISTRATION AND MISCELLANEOUS OPERATING EXPENSES

For necessary expenses in the administration of medical, hospital, nursing home, domiciliary, construction, supply, and research activities, as authorized by law; administrative expenses in support of planning, design, project management, architectural, engineering, real property acquisition and disposition, construction and renovation of any facility under the jurisdiction or for the use of the Department of Veterans Affairs, including site acquisition; engineering and architectural activities not charged to project cost; and research and development in building construction technology; $61,207,000, plus reimbursements.

TRANSITIONAL HOUSING LOAN PROGRAM

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct loans, $7,000, as authorized by Public Law 102–54, section 8, which shall be transferred from the "General post fund": *Provided,* That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: *Provided further,* That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $70,000.

In addition, for administrative expenses to carry out the direct loan program, $54,000, which shall be transferred from the "General post fund", as authorized by Public Law 102–54, section 8.

DEPARTMENTAL ADMINISTRATION

GENERAL OPERATING EXPENSES

For necessary operating expenses of the Department of Veterans Affairs, not otherwise provided for, including uniforms or allowances therefor; not to exceed $25,000 for official reception and representation expenses; hire of passenger motor vehicles; and reimbursement of the General Services Administration for security guard services, and the Department of Defense for the cost of overseas employee mail; $827,584,000: *Provided,* That during fiscal year 1997, notwithstanding any other provision of law, the number of individuals employed by the Department of Veterans Affairs (1) in other than "career appointee" positions in the Senior Executive Service shall not exceed 6, and (2) in schedule C positions shall not exceed 11: *Provided further,* That funds under this heading shall be available to administer the Service Members Occupational Conversion and Training Act.

NATIONAL CEMETERY SYSTEM

For necessary expenses for the maintenance and operation of the National Cemetery System, not otherwise provided for, including uniforms or allowances therefor; cemeterial expenses as authorized by law; purchase of two passenger motor vehicles for use in cemeterial operations; and hire of passenger motor vehicles, $76,864,000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the Inspector General Act of 1978, as amended, $30,900,000.

CONSTRUCTION, MAJOR PROJECTS

For constructing, altering, extending and improving any of the facilities under the jurisdiction or for the use of the Department of Veterans Affairs, or for any of the purposes set forth in sections 316, 2404, 2406, 8102, 8103, 8106, 8108, 8109, 8110, and 8122 of title 38, United States Code, including planning, architectural and engineering services, maintenance or guarantee period services costs associated with equipment guarantees provided under the project, services of claims analysts, offsite utility and storm drainage system construction costs, and site acquisition, where the estimated cost of a project is $3,000,000 or more or where funds for a project were made available in a previous major project appropriation, $250,858,000, of which $32,100,000 shall be for the replacement hospital at Travis Air Force Base, Fairfield, California, and shall not be released for obligation prior to January 1, 1998, unless action is taken by the Congress specifically making such funds available, and all funds appropriated under the above heading are to remain available until expended: *Provided,* That except for advance planning of projects funded through the advance planning fund and the design of projects funded through the design fund, none of these funds shall be used for any project which has not been considered and approved by the Congress in the budgetary process: *Provided further,* That funds provided in this appropriation

for fiscal year 1997, for each approved project shall be obligated (1) by the awarding of a construction documents contract by September 30, 1997, and (2) by the awarding of a construction contract by September 30, 1998: *Provided further,* That the Secretary shall promptly report in writing to the Comptroller General and to the Committees on Appropriations any approved major construction project in which obligations are not incurred within the time limitations established above; and the Comptroller General shall review the report in accordance with the procedures established by section 1015 of the Impoundment Control Act of 1974 (title X of Public Law 93–344): *Provided further,* That no funds from any other account except the "Parking revolving fund", may be obligated for constructing, altering, extending, or improving a project which was approved in the budget process and funded in this account until one year after substantial completion and beneficial occupancy by the Department of Veterans Affairs of the project or any part thereof with respect to that part only. Reports.

CONSTRUCTION, MINOR PROJECTS

For constructing, altering, extending, and improving any of the facilities under the jurisdiction or for the use of the Department of Veterans Affairs, including planning, architectural and engineering services, maintenance or guarantee period services costs associated with equipment guarantees provided under the project, services of claims analysts, offsite utility and storm drainage system construction costs, and site acquisition, or for any of the purposes set forth in sections 316, 2404, 2406, 8102, 8103, 8106, 8108, 8109, 8110, and 8122 of title 38, United States Code, where the estimated cost of a project is less than $3,000,000; $175,000,000, to remain available until expended, along with unobligated balances of previous "Construction, minor projects" appropriations which are hereby made available for any project where the estimated cost is less than $3,000,000: *Provided,* That funds in this account shall be available for (1) repairs to any of the nonmedical facilities under the jurisdiction or for the use of the Department which are necessary because of loss or damage caused by any natural disaster or catastrophe, and (2) temporary measures necessary to prevent or to minimize further loss by such causes.

PARKING REVOLVING FUND

For the parking revolving fund as authorized by 38 U.S.C. 8109, $12,300,000, together with income from fees collected, to remain available until expended, which shall be available for all authorized expenses except operations and maintenance costs, which will be funded from "Medical care".

GRANTS FOR CONSTRUCTION OF STATE EXTENDED CARE FACILITIES

For grants to assist States to acquire or construct State nursing home and domiciliary facilities and to remodel, modify or alter existing hospital, nursing home and domiciliary facilities in State homes, for furnishing care to veterans as authorized by 38 U.S.C. 8131–8137, $47,397,000, to remain available until expended.

GRANTS FOR THE CONSTRUCTION OF STATE VETERANS CEMETERIES

For grants to aid States in establishing, expanding, or improving State veteran cemeteries as authorized by 38 U.S.C. 2408, $1,000,000, to remain available until expended.

FRANCHISE FUND

(INCLUDING TRANSFER OF FUNDS)

31 USC 501 note.

There is hereby established in the Treasury a franchise fund pilot, as authorized by section 403 of Public Law 103–356, to be available as provided in such section for expenses and equipment necessary for the maintenance and operation of such administrative services as the Secretary determines may be performed more advantageously as central services: *Provided,* That any inventories, equipment and other assets pertaining to the services to be provided by the franchise fund, either on hand or on order, less the related liabilities or unpaid obligations, and any appropriations made hereafter for the purpose of providing capital, shall be used to capitalize the franchise fund: *Provided further,* That the franchise fund may be paid in advance from funds available to the Department and other Federal agencies for which such centralized services are performed, at rates which will return in full all expenses of operation, including accrued leave, depreciation of fund plant and equipment, amortization of automated data processing (ADP) software and systems (either acquired or donated), and an amount necessary to maintain a reasonable operating reserve, as determined by the Secretary: *Provided further,* That the franchise fund shall provide services on a competitive basis: *Provided further,* That an amount not to exceed four percent of the total annual income to such fund may be retained in the fund for fiscal year 1997 and each fiscal year thereafter, to remain available until expended, to be used for the acquisition of capital equipment and for the improvement and implementation of Departmental financial management, ADP, and other support systems: *Provided further,* That no later than thirty days after the end of each fiscal year amounts in excess of this reserve limitation shall be transferred to the Treasury: *Provided further,* That such franchise fund pilot shall terminate pursuant to section 403(f) of Public Law 103–356.

ADMINISTRATIVE PROVISIONS

(INCLUDING TRANSFER OF FUNDS)

SEC. 101. Any appropriation for 1997 for "Compensation and pensions", "Readjustment benefits", and "Veterans insurance and indemnities" may be transferred to any other of the mentioned appropriations.

SEC. 102. Appropriations available to the Department of Veterans Affairs for 1997 for salaries and expenses shall be available for services authorized by 5 U.S.C. 3109.

SEC. 103. No appropriations in this Act for the Department of Veterans Affairs (except the appropriations for "Construction, major projects", "Construction, minor projects", and the "Parking revolving fund") shall be available for the purchase of any site for or toward the construction of any new hospital or home.

SEC. 104. No appropriations in this Act for the Department of Veterans Affairs shall be available for hospitalization or examination of any persons (except beneficiaries entitled under the laws bestowing such benefits to veterans, and persons receiving such treatment under 5 U.S.C. 7901–7904 or 42 U.S.C. 5141–5204), unless reimbursement of cost is made to the "Medical care" account at such rates as may be fixed by the Secretary of Veterans Affairs.

SEC. 105. Appropriations available to the Department of Veterans Affairs for fiscal year 1997 for "Compensation and pensions", "Readjustment benefits", and "Veterans insurance and indemnities" shall be available for payment of prior year accrued obligations required to be recorded by law against the corresponding prior year accounts within the last quarter of fiscal year 1996.

SEC. 106. Appropriations accounts available to the Department of Veterans Affairs for fiscal year 1997 shall be available to pay prior year obligations of corresponding prior year appropriations accounts resulting from title X of the Competitive Equality Banking Act, Public Law 100–86, except that if such obligations are from trust fund accounts they shall be payable from "Compensation and pensions".

SEC. 107. Notwithstanding any other provision of law, during fiscal year 1997, the Secretary of Veterans Affairs shall, from the National Service Life Insurance Fund (38 U.S.C. 1920), the Veterans' Special Life Insurance Fund (38 U.S.C. 1923), and the United States Government Life Insurance Fund (38 U.S.C. 1955), reimburse the "General operating expenses" account for the cost of administration of the insurance programs financed through those accounts: *Provided,* That reimbursement shall be made only from the surplus earnings accumulated in an insurance program in fiscal year 1997, that are available for dividends in that program after claims have been paid and actuarially determined reserves have been set aside: *Provided further,* That if the cost of administration of an insurance program exceeds the amount of surplus earnings accumulated in that program, reimbursement shall be made only to the extent of such surplus earnings: *Provided further,* That the Secretary shall determine the cost of administration for fiscal year 1997, which is properly allocable to the provision of each insurance program and to the provision of any total disability income insurance included in such insurance program.

SEC. 108. (a) The Secretary of Veterans Affairs may convey, without consideration, to the City of Tuscaloosa, Alabama (in this section referred to as the "City"), all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, in the northwest quarter of section 28, township 21 south, range 9 west, of Tuscaloosa County, Alabama, comprising a portion of the grounds of the Department of Veterans Affairs medical center, Tuscaloosa, Alabama, and consisting of approximately 9.42 acres, more or less.

(b) The conveyance under subsection (a) shall be subject to the condition that the City use the real property conveyed under that subsection in perpetuity solely for public park or recreational purposes.

(c) The exact acreage and legal description of the real property to be conveyed pursuant to this section shall be determined by a survey satisfactory to the Secretary of Veterans Affairs. The cost of such survey shall be borne by the City.

(d) The Secretary of Veterans Affairs may require such additional terms and conditions in connection with the conveyance under this section as the Secretary considers appropriate to protect the interests of the United States.

TITLE II

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING PROGRAMS

DEVELOPMENT OF ADDITIONAL NEW SUBSIDIZED HOUSING

For assistance for the purchase, construction, acquisition, or development of additional public and subsidized housing units for low income families under the United States Housing Act of 1937, as amended, ("the Act" herein) (42 U.S.C. 1437), not otherwise provided for, $1,039,000,000, to remain available until expended: *Provided,* That of the total amount provided under this head, $645,000,000 shall be for capital advances, including amendments to capital advance contracts, for housing for the elderly, as authorized by section 202 of the Housing Act of 1959, as amended, and for project rental assistance, and amendments to contracts for project rental assistance, for supportive housing for the elderly under section 202(c)(2) of the Housing Act of 1959; and $194,000,000 shall be for capital advances, including amendments to capital advance contracts, for supportive housing for persons with disabilities, as authorized by section 811 of the Cranston-Gonzalez National Affordable Housing Act, and for project rental assistance, and amendments to contracts for project rental assistance, for supportive housing for persons with disabilities as authorized by section 811 of the Cranston-Gonzalez National Affordable Housing Act: *Provided further,* That the Secretary may designate up to 25 percent of the amounts earmarked under this paragraph for section 811 of the Cranston-Gonzalez National Affordable Housing Act for tenant-based assistance, as authorized under that section, including such authority as may be waived under the next proviso, which assistance is five years in duration: *Provided further,* That the Secretary may waive any provision of section 202 of the Housing Act of 1959 and section 811 of the National Affordable Housing Act (including the provisions governing the terms and conditions of project rental assistance and tenant-based assistance) that the Secretary determines is not necessary to achieve the objectives of these programs, or that otherwise impedes the ability to develop, operate or administer projects assisted under these programs, and may make provision for alternative conditions or terms where appropriate: *Provided further,* That of the total amount provided under this head $200,000,000, shall be for the development or acquisition cost of public housing for Indian families, including amounts for housing under the mutual help homeownership opportunity program under section 202 of the Act (42 U.S.C. 1437bb).

PREVENTION OF RESIDENT DISPLACEMENT

For activities and assistance to prevent the involuntary displacement of low-income families, the elderly and the disabled because of the loss of affordable housing stock, expiration of subsidy contracts (other than contracts for which amounts are provided

under the head "Preserving Existing Housing Investment") or expiration of use restrictions, or other changes in housing assistance arrangements, and for other purposes, $4,640,000,000, to remain available until expended: *Provided,* That of the total amount provided under this head, $3,600,000,000 shall be for assistance under the United States Housing Act of 1937 (42 U.S.C. 1437) for use in connection with expiring or terminating section 8 subsidy contracts: *Provided further,* That the Secretary may determine not to apply section 8(o)(6)(B) of the Act to housing vouchers during fiscal year 1997: *Provided further,* That of the total amount provided under this head, $850,000,000 shall be for amendments to section 8 contracts other than contracts for projects developed under section 202 of the Housing Act of 1959, as amended: *Provided further,* That of the total amount provided under this head, $190,000,000 shall be for assistance under the United States Housing Act of 1937 (42 U.S.C. 1437) to relocate residents of properties (i) that are owned by the Secretary and being disposed of; (ii) that are discontinuing section 8 project-based assistance; or (iii) subject to special workout assistance team intervention compliance actions; for the conversion of section 23 projects to assistance under section 8; for funds to carry out the family unification program; and for the relocation of witnesses in connection with efforts to combat crime in public and assisted housing pursuant to a request from a law enforcement or prosecution agency: *Provided further,* That of the total amount made available under this head, $50,000,000 shall be made available to nonelderly disabled families affected by the designation of a public housing development under section 7 of such Act or the establishment of preferences in accordance with section 651 of the Housing and Community Development Act of 1992 (42 U.S.C. 13611).

PRESERVING EXISTING HOUSING INVESTMENT

For operating, maintaining, revitalizing, rehabilitating, preserving, and protecting existing housing developments for low-income families, and the elderly, and the disabled, $5,750,000,000, to remain available until expended: *Provided,* That of the total amount made available under this head, $2,900,000,000 shall be available for payments to public housing agencies and Indian housing authorities for operating subsidies for low-income housing projects as authorized by section 9 of the United States Housing Act of 1937, as amended (42 U.S.C. 1437g): *Provided further,* That of the total amount made available under this head, $2,500,000,000 shall be available for modernization of existing public housing projects as authorized under section 14 of the United States Housing Act of 1937, as amended (42 U.S.C. 1437l), of which $10,000,000 shall be for carrying out activities under section 6(j) of the United States Housing Act of 1937 and technical assistance for the inspection of public housing units, contract expertise, and training and technical assistance directly or indirectly, under grants, contracts, or cooperative agreements, to assist in the oversight and management of public and Indian housing (whether or not the housing is being modernized with assistance under this proviso) or tenant-based assistance, including, but not limited to, an annual resident survey, data collection and analysis, training and technical assistance by or to officials and employees of the department and of public housing agencies and to residents in connection with the public and Indian housing program: *Provided further,* That of the total amount pro-

12 USC 4101 note.

vided under this head, $350,000,000 shall be available for use in conjunction with properties that are eligible for assistance under the Low-Income Housing Preservation and Resident Homeownership Act of 1990 (LIHPRHA) or the Emergency Low Income Housing Preservation Act of 1987 (ELIHPA), of which $75,000,000 shall be available for obligation until March 1, 1997 for projects (1) that are subject to a repayment or settlement agreement that was executed between the owner and the Secretary prior to September 1, 1995; (2) whose submissions were delayed as a result of their location in areas that were designated as a Federal disaster area in a Presidential Disaster Declaration; or (3) whose processing was, in fact or in practical effect, suspended, deferred, or interrupted for a period of twelve months or more because of differing interpretations, by the Secretary and an owner or by the Secretary and a State or local rent regulatory agency, concerning the timing of filing eligibility or the effect of a presumptively applicable State or local rent control law or regulation on the determination of preservation value under section 213 of LIHPRHA, as amended, if the owner of such project filed notice of intent to extend the low-income affordability restrictions of the housing, or transfer to a qualified purchaser who would extend such restrictions, on or before November 1, 1993; and of which, up to $100,000,000 may be used for rental assistance to prevent displacement of families residing in projects whose owners prepay their mortgages; and the balance of which shall be available from the effective date of this Act for sales to preferred priority purchasers: *Provided further,* That with the exception of projects described in clauses (1), (2), or (3) of the preceding proviso, the Secretary shall, notwithstanding any other provision of law, suspend further processing of preservation applications which have not heretofore received approval of a plan of action: *Provided further,* That $150,000,000 of amounts recaptured from interest reduction payment contracts for section 236 projects whose owners prepay their mortgages during fiscal year 1997 shall be rescinded: *Provided further,* That an owner of eligible low-income housing may prepay the mortgage or request voluntary termination of a mortgage insurance contract, so long as said owner agrees not to raise rents for sixty days after such prepayment: *Provided further,* That such developments have been determined to have preservation equity at least equal to the lesser of $5,000 per unit or $500,000 per project or the equivalent of eight times the most recently published monthly fair market rent for the area in which the project is located as the appropriate unit size for all of the units in the eligible project: *Provided further,* That the Secretary may modify the regulatory agreement to permit owners and priority purchasers to retain rental income in excess of the basic rental charge in projects assisted under section 236 of the National Housing Act, for the purpose of preserving the low- and moderate-income character of the housing: *Provided further,* That eligible low-income housing shall include properties meeting the requirements of this paragraph with mortgages that are held by a State agency as a result of a sale by the Secretary without insurance, which immediately before the sale would have been eligible low-income housing under LIHPRHA: *Provided further,* That notwithstanding any other provision of law, subject to the availability of appropriated funds, each low-income family, and moderate-income family who is elderly or disabled or is residing in a low-vacancy area, residing in the housing on the date of

prepayment or voluntary termination, and whose rent, as a result of a rent increase occurring no later than one year after the date of the prepayment, exceeds 30 percent of adjusted income, shall be offered tenant-based assistance in accordance with section 8 or any successor program, under which the family shall pay no less for rent than it paid on such date: *Provided further,* That any family receiving tenant-based assistance under the preceding proviso may elect (1) to remain in the unit of the housing and if the rent exceeds the fair market rent or payment standard, as applicable, the rent shall be deemed to be the applicable standard, so long as the administering public housing agency finds that the rent is reasonable in comparison with rents charged for comparable unassisted housing units in the market or (2) to move from the housing and the rent will be subject to the fair market rent of the payment standard, as applicable, under existing program rules and procedures: *Provided further,* That the tenant-based assistance made available under the preceding two provisos are in lieu of benefits provided in subsections 223(b), (c), and (d) of the Low-Income Housing Preservation and Resident Homeownership Act of 1990: *Provided further,* That any sales shall be funded using the capital grant available under section 220(d)(3)(A) of LIHPRHA: *Provided further,* That any extensions shall be funded using a non-interest-bearing capital (direct) loan by the Secretary not in excess of the amount of the cost of rehabilitation approved in the plan of action plus 65 percent of the property's preservation equity and under such other terms and conditions as the Secretary may prescribe: *Provided further,* That any capital grant shall be limited to seven times, and any capital loan limited to six times, the annual fair market rent for the project, as determined using the fair market rent for fiscal year 1997 for the area in which the project is located, using the appropriate apartment sizes and mix in the eligible project, except where, upon the request of a priority purchaser, the Secretary determines that a greater amount is necessary and appropriate to preserve low-income housing: *Provided further,* That section 241(f) of the National Housing Act is repealed and insurance under such section shall not be offered as an incentive under LIHPRHA and ELIHPA: *Provided further,* That up to $10,000,000 of the amount of $350,000,000 made available by a preceding proviso in this paragraph may be used at the discretion of the Secretary to reimburse owners of eligible properties for which plans of action were submitted prior to the effective date of this Act, but were not executed for lack of available funds, with such reimbursement available only for documented costs directly applicable to the preparation of the plan of action as determined by the Secretary, and shall be made available on terms and conditions to be established by the Secretary: *Provided further,* That, notwithstanding any other provision of law, a priority purchaser may utilize assistance under the HOME Investment Partnerships Act or the Low Income Housing Tax Credit: *Provided further,* That projects with approved plans of action which exceed the limitations on eligibility for funding imposed by this Act may submit revised plans of action which conform to these limitations by March 1, 1997, and retain the priority for funding otherwise applicable from the original date of approval of their plan of action, subject to securing any additional necessary funding commitments by August 1, 1997.

12 USC 1715z–6.

REVITALIZATION OF SEVERELY DISTRESSED PUBLIC HOUSING

For grants to public housing agencies for assisting in the demolition of obsolete public housing projects or portions thereof, the revitalization (where appropriate) of sites (including remaining public housing units) on which such projects are located, replacement housing which will avoid or lessen concentrations of very low-income families, and tenant-based assistance in accordance with section 8 of the United States Housing Act of 1937; and for providing replacement housing and assisting tenants to be displaced by the demolition, $550,000,000, to remain available until expended, of which the Secretary may use up to $2,500,000 for technical assistance, to be provided directly or indirectly by grants, contracts or cooperative agreements, including training and cost of necessary travel for participants in such training, by or to officials and employees of the Department and of public housing agencies and to residents: *Provided,* That no funds appropriated in this title shall be used for any purpose that is not provided for herein, in the Housing Act of 1937, in the Appropriations Acts for Veterans Affairs, Housing and Urban Development, and Independent Agencies, for the fiscal years 1993, 1994, and 1995, and the Omnibus Consolidated Rescissions and Appropriations Act of 1996: *Provided further,* That none of such funds shall be used directly or indirectly by granting competitive advantage in awards to settle litigation or pay judgments, unless expressly permitted herein: *Provided further,* That, notwithstanding any other provision of law, the funds made available to the Housing Authority of New Orleans under HOPE VI for purposes of Desire Homes, shall not be obligated or expended for on-site construction until an independent third party has determined whether the site is appropriate.

DRUG ELIMINATION GRANTS FOR LOW-INCOME HOUSING

(INCLUDING TRANSFER OF FUNDS)

For grants to public and Indian housing agencies for use in eliminating crime in public housing projects authorized by 42 U.S.C. 11901–11908, for grants for federally assisted low-income housing authorized by 42 U.S.C. 11909, and for drug information clearinghouse services authorized by 42 U.S.C. 11921–11925, $290,000,000, to remain available until expended, $10,000,000 of which shall be for grants, technical assistance, contracts and other assistance training, program assessment, and execution for or on behalf of public housing agencies and resident organizations (including the cost of necessary travel for participants in such training), $5,000,000 of which shall be used in connection with efforts to combat violent crime in public and assisted housing under the Operation Safe Home Program administered by the Inspector General of the Department of Housing and Urban Development, and $5,000,000 of which shall be provided to the Office of Inspector General for Operation Safe Home: *Provided,* That the term "drug-related crime", as defined in 42 U.S.C. 11905(2), shall also include other types of crime as determined by the Secretary: *Provided further,* That notwithstanding section 5130(c) of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11909(c)), the Secretary may determine not to use any such funds to provide public housing youth sports grants.

INDIAN HOUSING LOAN GUARANTEE FUND PROGRAM ACCOUNT

For the cost of guaranteed loans, as authorized by section 184 of the Housing and Community Development Act of 1992 (106 Stat. 3739), $3,000,000: *Provided,* That such costs, including the costs of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: *Provided further,* That these funds are available to subsidize total loan principal, any part of which is to be guaranteed, not to exceed $36,900,000.

COMMUNITY PLANNING AND DEVELOPMENT

COMMUNITY DEVELOPMENT BLOCK GRANTS FUND

(INCLUDING TRANSFER OF FUNDS)

For grants to States and units of general local government and for related expenses, not otherwise provided for, to carry out a community development grants program as authorized by title I of the Housing and Community Development Act of 1974, as amended (the "Act" herein) (42 U.S.C. 5301), $4,600,000,000, to remain available until September 30, 1999, of which $67,000,000 shall be for grants to Indian tribes notwithstanding section 106(a)(1) of the Act: *Provided,* That $2,100,000 shall be available as a grant to the Housing Assistance Council, $1,500,000 shall be available as a grant to the National American Indian Housing Council, and $49,000,000 shall be available for grants pursuant to section 107 of such Act, including up to $14,000,000 for the development and operation of a management information system: *Provided further,* That not to exceed 20 percent of any grant made with funds appropriated herein (other than a grant made available under the preceding proviso to the Housing Assistance Council or the National American Indian Housing Council, or a grant using funds under section 107(b)(3) of the Housing and Community Development Act of 1974, as amended) shall be expended for "Planning and Management Development" and "Administration" as defined in regulations promulgated by the Department: *Provided further,* That for fiscal year 1997 and thereafter, section 105(a)(25) of such Act, shall continue to be effective and the termination and conforming provisions of section 907(b)(2) of the Cranston-Gonzalez National Affordable Housing Act shall not be effective: *Provided further,* That section 916(f) of the Cranston-Gonzalez National Affordable Housing Act is repealed. 42 USC 5305 note.

Of the amount provided under this heading, the Secretary of Housing and Urban Development may use up to $60,000,000 for grants to public housing agencies (including Indian housing authorities), nonprofit corporations, and other appropriate entities for a supportive services program to assist residents of public and assisted housing, former residents of such housing receiving tenant-based assistance under section 8 of such Act (42 U.S.C. 1437f), and other low-income families and individuals to become self-sufficient: *Provided,* That the program shall provide supportive services, principally for the benefit of public housing residents, to the elderly and the disabled, and to families with children where the head of household would benefit from the receipt of supportive services and is working, seeking work, or is preparing for work by participating in job training or educational programs: *Provided further,* That 42 USC 5306 note.

the supportive services may include congregate services for the elderly and disabled, service coordinators, and coordinated educational, training, and other supportive services, including academic skills training, job search assistance, assistance related to retaining employment, vocational and entrepreneurship development and support programs, transportation, and child care: *Provided further,* That the Secretary shall require applications to demonstrate firm commitments of funding or services from other sources: *Provided further,* That the Secretary shall select public and Indian housing agencies to receive assistance under this head on a competitive basis, taking into account the quality of the proposed program (including any innovative approaches, the extent of the proposed coordination of supportive services, the extent of commitments of funding or services from other sources, the extent to which the proposed program includes reasonably achievable, quantifiable goals for measuring performance under the program over a three-year period, the extent of success an agency has had in carrying out other comparable initiatives, and other appropriate criteria established by the Secretary): *Provided further,* That from the foregoing $60,000,000, up to $5,000,000 shall be available for the Tenant Opportunity Program, and up to $5,000,000 shall be available for the Moving to Work Demonstration for public housing families.

Of the amount made available under this heading, notwithstanding any other provision of law, $20,000,000 shall be available for grants to entities managing or operating public housing developments, federally-assisted multifamily-housing developments, or other multifamily-housing developments for low-income families supported by non-Federal governmental entities or similar housing developments supported by nonprofit private sources, to reimburse local law enforcement entities for additional police presence in and around such housing developments; to provide or augment such security services by other entities or employees of the recipient agency; to assist in the investigation and/or prosecution of drug related criminal activity in and around such developments; and to provide assistance for the development of capital improvements at such developments directly relating to the security of such developments: *Provided,* That such grants shall be made on a competitive basis as specified in section 102 of the HUD Reform Act.

Of the amount made available under this heading, notwithstanding any other provision of law, $30,000,000 shall be available for youthbuild program activities authorized by subtitle D of title IV of the Cranston-Gonzalez National Affordable Housing Act, as amended, and such activities shall be an eligible activity with respect to any funds made available under this heading.

Of the amount made available under this heading, notwithstanding any other provision of law, $60,000,000 shall be available for the lead-based paint hazard reduction program as authorized under sections 1011 and 1053 of the Residential Lead-Based Hazard Reduction Act of 1992.

For the cost of guaranteed loans, $31,750,000, as authorized by section 108 of the Housing and Community Development Act of 1974: *Provided,* That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: *Provided further,* That these funds are available to subsidize total loan principal, any part of which is to be guaranteed, not to exceed $1,500,000,000, notwithstanding any aggregate limitation on outstanding obligations

garanteed in section 108(k) of the Housing and Community Development Act of 1974. In addition, for administrative expenses to carry out the guaranteed loan program, $675,000 which shall be transferred to and merged with the appropriation for departmental salaries and expenses.

HOME INVESTMENT PARTNERSHIPS PROGRAM

For the HOME investment partnerships program, as authorized under title II of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101–625), as amended, $1,400,000,000, to remain available until expended: *Provided,* That $21,000,000 shall be available for grants to Indian Tribes: *Provided further,* That up to 0.5 percent, but not less than $7,000,000, shall be available for the development and operation of a management information system: *Provided further,* That $15,000,000 shall be available for Housing Counseling under section 106 of the Housing and Urban Development Act of 1968.

HOMELESS ASSISTANCE FUNDS

For the emergency shelter grants program (as authorized under subtitle B of title IV of the Stewart B. McKinney Homeless Assistance Act (Public Law 100–77), as amended); the supportive housing program (as authorized under subtitle C of title IV of such Act); the section 8 moderate rehabilitation single room occupancy program (as authorized under the United States Housing Act of 1937, as amended) to assist homeless individuals pursuant to section 441 of the Stewart B. McKinney Homeless Assistance Act; and the shelter plus care program (as authorized under subtitle F of title IV of such Act), $823,000,000, to remain available until expended.

HOUSING OPPORTUNITIES FOR PERSONS WITH AIDS

(INCLUDING TRANSFER OF FUNDS)

For carrying out the Housing Opportunities for Persons with AIDS program, as authorized by the AIDS Housing Opportunity Act (42 U.S.C. 12901), $171,000,000, to remain available until expended: *Provided,* That any amounts previously appropriated for such program, and any related assets and liabilities, in the "Annual contributions for assisted housing" account, shall be transferred to and merged with amounts in this account.

FEDERAL HOUSING ADMINISTRATION

FHA—MUTUAL MORTGAGE INSURANCE PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

During fiscal year 1997, commitments to guarantee loans to carry out the purposes of section 203(b) of the National Housing Act, as amended, shall not exceed a loan principal of $110,000,000,000: *Provided,* That during fiscal year 1997, the Secretary shall sell assigned mortgage notes having an unpaid principal balance of up to $2,000,000,000, which notes were originally insured under section 203(b) of the National Housing Act: *Provided further,* That the Secretary may use the amount of any negative subsidy

resulting from the sale of such assigned mortgage notes during fiscal year 1997 for the purposes included under this heading.

During fiscal year 1997, obligations to make direct loans to carry out the purposes of section 204(g) of the National Housing Act, as amended, shall not exceed $200,000,000: *Provided,* That the foregoing amount shall be for loans to nonprofit and governmental entities in connection with sales of single family real properties owned by the Secretary and formerly insured under section 203 of such Act.

For administrative expenses necessary to carry out the guaranteed and direct loan program, $350,595,000, to be derived from the FHA-mutual mortgage insurance guaranteed loans receipt account, of which not to exceed $343,483,000 shall be transferred to the appropriation for departmental salaries and expenses; and of which not to exceed $7,112,000 shall be transferred to the appropriation for the Office of Inspector General.

FHA—GENERAL AND SPECIAL RISK PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For the cost of guaranteed loans, as authorized by sections 238 and 519 of the National Housing Act (12 U.S.C. 1715z–3 and 1735c), including the cost of loan guarantee modifications (as that term is defined in section 502 of the Congressional Budget Act of 1974, as amended) $85,000,000, to remain available until expended: *Provided,* That these funds are available to subsidize total loan principal, any part of which is to be guaranteed, of up to $17,400,000,000: *Provided further,* That during fiscal year 1997, the Secretary shall sell assigned notes having an unpaid principal balance of up to $2,500,000,000, which notes are held by the Secretary under the General Insurance and Special Risk Insurance funds: *Provided further,* That any amounts made available in any prior appropriations Act for the cost (as such term is defined in section 502 of the Congressional Budget Act of 1974) of guaranteed loans that are obligations of the funds established under section 238 or 519 of the National Housing Act that have not been obligated or that are deobligated shall be available to the Secretary of Housing and Urban Development in connection with the making of such guarantees and shall remain available until expended, notwithstanding the expiration of any period of availability otherwise applicable to such amounts.

Gross obligations for the principal amount of direct loans, as authorized by sections 204(g), 207(l), 238(a), and 519(a) of the National Housing Act, shall not exceed $120,000,000; of which not to exceed $100,000,000 shall be for bridge financing in connection with the sale of multifamily real properties owned by the Secretary and formerly insured under such Act; and of which not to exceed $20,000,000 shall be for loans to nonprofit and governmental entities in connection with the sale of single-family real properties owned by the Secretary and formerly insured under such Act.

In addition, for administrative expenses necessary to carry out the guaranteed and direct loan programs, $207,470,000, of which $203,299,000 shall be transferred to the appropriation for departmental salaries and expenses; and of which $4,171,000 shall

be transferred to the appropriation for the Office of Inspector General.

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION

GUARANTEES OF MORTGAGE-BACKED SECURITIES LOAN GUARANTEE PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

During fiscal year 1997, new commitments to issue guarantees to carry out the purposes of section 306 of the National Housing Act, as amended (12 U.S.C. 1721(g)), shall not exceed $110,000,000,000.

For administrative expenses necessary to carry out the guaranteed mortgage-backed securities program, $9,383,000, to be derived from the GNMA-guarantees of mortgage-backed securities guaranteed loan receipt account, of which not to exceed $9,383,000 shall be transferred to the appropriation for departmental salaries and expenses.

POLICY DEVELOPMENT AND RESEARCH

RESEARCH AND TECHNOLOGY

For contracts, grants, and necessary expenses of programs of research and studies relating to housing and urban problems, not otherwise provided for, as authorized by title V of the Housing and Urban Development Act of 1970, as amended (12 U.S.C. 1701z–1 et seq.), including carrying out the functions of the Secretary under section 1(a)(1)(i) of Reorganization Plan No. 2 of 1968, $34,000,000, to remain available until September 30, 1998.

FAIR HOUSING AND EQUAL OPPORTUNITY

FAIR HOUSING ACTIVITIES

For contracts, grants, and other assistance, not otherwise provided for, as authorized by title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988, and section 561 of the Housing and Community Development Act of 1987, as amended, $30,000,000, to remain available until September 30, 1998, of which $15,000,000 shall be to carry out activities pursuant to section 561. No funds made available under this heading shall be used to lobby the executive or legislative branches of the Federal Government in connection with a specific contract, grant or loan.

MANAGEMENT AND ADMINISTRATION

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary administrative and non-administrative expenses of the Department of Housing and Urban Development, not otherwise provided for, including not to exceed $7,000 for official reception and representation expenses, $976,840,000, of which

$15,000,000 may be used for additional retraining, relocation, permanent change of station, and other activities related to downsizing only upon submission of a detailed and specific, multi-year downsizing plan to the Committees on Appropriations of the House of Representatives and the Senate, and of which $546,782,000 shall be provided from the various funds of the Federal Housing Administration, $9,383,000 shall be provided from funds of the Government National Mortgage Association, and $675,000 shall be provided from the Community Development Grants Program account.

OFFICE OF INSPECTOR GENERAL

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $52,850,000, of which $11,283,000 shall be provided from the various funds of the Federal Housing Administration and $5,000,000 shall be transfered from the amount earmarked for Operation Safe Home in the Drug elimination grants for low income housing account.

OFFICE OF FEDERAL HOUSING ENTERPRISE OVERSIGHT

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For carrying out the Federal Housing Enterprise Financial Safety and Soundness Act of 1992, $15,500,000, to remain available until expended, from the Federal Housing Enterprise Oversight Fund: *Provided,* That such amounts shall be collected by the Director as authorized by section 1316 (a) and (b) of such Act, and deposited in the Fund under section 1316(f) of such Act.

ADMINISTRATIVE PROVISIONS

SEC. 201. EXTENDERS.—(a) PUBLIC HOUSING FUNDING FLEXIBILITY.—Section 201(a)(2) of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996 is amended by striking "1996" and inserting "1997".

Ante, p. 1321–277.

(b) ONE-FOR-ONE REPLACEMENT OF PUBLIC AND INDIAN HOUSING.—Section 1002(d) of Public Law 104–19 is amended by striking "before September 30, 1996" and inserting "on or before September 30, 1997".

42 USC 1437c note.

(c) PUBLIC AND ASSISTED HOUSING RENTS, INCOME ADJUSTMENTS, AND PREFERENCES.—(1)(A) Section 402(a) of The Balanced Budget Downpayment Act, I is amended—

Ante, p. 40.

(i) by striking "effective for fiscal year 1996 and no later than October 30, 1995" and inserting "and subsection (f) of this section, effective for fiscal year 1997";

(ii) in paragraphs (1), (2), and (4), by striking "not less than $25, and may require a minimum monthly rent of"; and

(iii) in paragraph (3), by striking "not less than $25 for the unit, and may require a minimum monthly rent of".

(B) Section 230 of Public Law 104–134 is hereby repealed.

Ante, p. 1321–292.

(2) Section 402(f) of The Balanced Budget Downpayment Act, I is amended by striking "fiscal year 1996" and inserting "fiscal years 1996 and 1997". *Ante*, p. 43.

(d) APPLICABILITY TO IHAS.—In accordance with section 201(b)(2) of the United States Housing Act of 1937, the amendments made by subsections (a), (b), and (c) shall apply to public housing developed or operated pursuant to a contract between the Secretary of Housing and Urban Development and an Indian housing authority.

(e) STREAMLINING SECTION 8 TENANT-BASED ASSISTANCE.—Section 203(d) of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996 is amended by striking "fiscal year 1996" and inserting "fiscal years 1996 and 1997". *Ante*, p. 1321–281.

(f) SECTION 8 FAIR MARKET RENTALS AND DELAY IN REISSUANCE.—(1) The first sentence of section 403(a) of the Balanced Budget Downpayment Act, I, is amended by striking "1996" and inserting "1997". *Ante*, p. 43.

(2) Section 403(c) of such Act is amended—

(A) by striking "fiscal year 1996" and inserting "fiscal years 1996 and 1997"; and

(B) by inserting before the semicolon the following: "for assistance made available during fiscal year 1996 and October 1, 1997 for assistance made available during fiscal year 1997".

(g) SECTION 8 RENT ADJUSTMENTS.—Section 8(c)(2)(A) of the United States Housing Act of 1937 is amended— 42 USC 1437f.

(1) in the third sentence by inserting ", fiscal year 1996 prior to April 26, 1996, and fiscal year 1997" after "1995";

(2) in the fourth sentence, by striking "For" and inserting "Except for assistance under the certificate program, for";

(3) after the fourth sentence, by inserting the following new sentence: "In the case of assistance under the certificate program, 0.01 shall be subtracted from the amount of the annual adjustment factor (except that the factor shall not be reduced to less than 1.0), and the adjusted rent shall not exceed the rent for a comparable unassisted unit of similar quality, type, and age in the market area."; and

(4) in the last sentence, by—

(A) striking "sentence" and inserting "two sentences"; and

(B) inserting ", fiscal year 1996 prior to April 26, 1996, and fiscal year 1997" after "1995".

SEC. 202. ADMINISTRATIVE FEES.—Notwithstanding section 8(q) of the United States Housing Act of 1937, as amended— 42 USC 1437f note.

(a) The Secretary shall establish fees for the cost of administering the certificate, voucher and moderate rehabilitation programs.

(1)(A) For fiscal year 1997, the fee for each month for which a dwelling unit is covered by an assistance contract shall be 7.5 percent of the base amount, adjusted as provided herein, in the case of an agency that, on an annual basis, is administering a program of no more than 600 units, and 7 percent of the base amount, adjusted as provided herein, for each additional unit above 600.

(B) The base amount shall be the higher of—

(i) the fair market rental for fiscal year 1993 for a 2-bedroom existing rental dwelling unit in the market area of the agency; and

(ii) such fair market rental for fiscal year 1994, but not more than 103.5 percent of the amount determined under clause (i).

(C) The base amount shall be adjusted to reflect changes in the wage data or other objectively measurable data that reflect the costs of administering the program during fiscal year 1996; except that the Secretary may require that the base amount be not less than a minimum amount and not more than a maximum amount.

Federal Register, publication.

(2) For subsequent fiscal years, the Secretary shall publish a notice in the Federal Register, for each geographic area, establishing the amount of the fee that would apply for the agencies administering the program, based on changes in wage data or other objectively measurable data that reflect the cost of administering the program, as determined by the Secretary.

(3) The Secretary may increase the fee if necessary to reflect higher costs of administering small programs and programs operating over large geographic areas.

(4) The Secretary may decrease the fee for PHA-owned units.

(b) Beginning in fiscal year 1997 and thereafter, the Secretary shall also establish reasonable fees (as determined by the Secretary) for—

(1) the costs of preliminary expenses, in the amount of $500, for a public housing agency, but only in the first year it administers a tenant-based assistance program under the United States Housing Act of 1937 and only if, immediately before the effective date of this Act, it was not administering a tenant-based assistance program under the 1937 Act (as in effect immediately before the effective date of this Act), in connection with its initial increment of assistance received;

(2) the costs incurred in assisting families who experience difficulty (as determined by the Secretary) in obtaining appropriate housing under the program; and

(3) extraordinary costs approved by the Secretary.

SEC. 203. SINGLE FAMILY ASSIGNMENT PROGRAM.—Section 407(c) of the Balanced Budget Downpayment Act, I (12 U.S.C. 1710 note), is amended by striking "October 1, 1996" and inserting "October 1, 1997".

Ante, p. 46.

12 USC 1715z–11a.

SEC. 204. FLEXIBLE AUTHORITY.—During fiscal year 1997 and fiscal years thereafter, the Secretary may manage and dispose of multifamily properties owned by the Secretary and multifamily mortgages held by the Secretary on such terms and conditions as the Secretary may determine, notwithstanding any other provision of law.

SEC. 205. USE OF AVAILABLE FUNDING FOR HOMEOWNERSHIP.—Up to $20,000,000 of amounts of unobligated balances that are or become available from the Nehemiah Housing Opportunity Grant program, repealed under section 289(b) of the Cranston-Gonzalez National Affordable Housing Act, Public Law 101–625, shall be available for use for activities relating to promotion and implementation of homeownership in targeted geographic areas, as determined by the Secretary. Any grant or assistance made under this section shall be made in accordance with section 102 of the Department of Housing and Urban Development Reform Act of 1989 on a competitive basis.

SEC. 206. DEBT FORGIVENESS.—The Secretary of Housing and Urban Development shall cancel the indebtedness of the Greene County Rural Health Center relating to a loan received under the Public Facility Loan program to establish the health center (Loan #Mis–22–PFL0096). The Greene County Rural Health Center is hereby relieved of all liability to the Federal Government for such loan and any fees and charges payable in connection with such loan.

SEC. 207. FLEXIBLE SUBSIDY FUND.—From the fund established by section 236(g) of the National Housing Act, as amended, all uncommitted balances of excess rental charges as of September 30, 1996, and any collection during fiscal year 1997, shall be transferred, as authorized under such section, to the fund authorized under section 201(j) of the Housing and Community Development Amendments of 1978, as amended.

SEC. 208. RENTAL HOUSING ASSISTANCE.—The limitation otherwise applicable to the maximum payments that may be required in any fiscal year by all contracts entered into under section 236 of the National Housing Act (12 U.S.C. 1715z–1) is reduced in fiscal year 1997 by not more than $2,000,000 in uncommitted balances of authorizations provided for this purpose in appropriations Acts.

SEC. 209. D.C. MODERNIZATION FUNDING.—Notwithstanding the provisions of section 14(k)(5)(D) of the United States Housing Act of 1937, the withheld modernization funds that became credited in fiscal years 1993, 1994, and 1995, due to the troubled status of the former Department of Public and Assisted Housing of the District of Columbia, shall be made available without diminution to its successor, the District of Columbia Housing Authority, at such time between the effective date of this Act and the end of fiscal year 1998 as the District of Columbia Housing Authority is no longer deemed "mod-troubled" under section 6(j)(2)(A)(i) of such Act; after fiscal year 1998, the District of Columbia Housing Authority shall become subject to the provisions of section 14(k)(5)(D) of such Act should it remain mod-troubled.

SEC. 210. (a) FINANCING ADJUSTMENT FACTORS.—Fifty per centum of the amounts of budget authority, or in lieu thereof 50 per centum of the cash amounts associated with such budget authority, that are recaptured from projects described in section 1012(a) of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (Public Law 100–628, 102 Stat. 3224, 3268) shall be rescinded, or in the case of cash, shall be remitted to the Treasury, and such amounts of budget authority or cash recaptured and not rescinded or remitted to the Treasury shall be used by State housing finance agencies or local governments or local housing agencies with projects approved by the Secretary of Housing and Urban Development for which settlement occurred after January 1, 1992, in accordance with such section.

(b) In addition to amounts otherwise provided by this Act, $464,442 is appropriated to the Department of Housing and Urban Development for payment to the Utah Housing Finance Agency, in lieu of amounts lost to such agency in bond refinancings during 1994, for its use in accordance with subsection (a).

SEC. 211. SECTION 8 CONTRACT RENEWAL AUTHORITY.—(a) DEFINITIONS.—For purposes of this section— 42 USC 1437f note.

(1) the term "expiring contract" means a contract for project-based assistance under section 8 of the United States Housing Act of 1937 that expires during fiscal year 1997;

(2) the term "family" has the same meaning as in section 3(b) of the United States Housing Act of 1937;

(3) the term "multifamily housing project" means a property consisting of more than 4 dwelling units that is covered in whole or in part by a contract for project-based assistance under section 8 of the United States Housing Act of 1937;

(4) the term "owner" has the same meaning as in section 8(f) of the United States Housing Act of 1937;

(5) the term "project-based assistance" means rental assistance under section 8 of the United States Housing Act of 1937 that is attached to a multifamily housing project;

(6) the term "public agency" means a State housing finance agency, a local housing agency, or other agency with a public purpose and status;

(7) the term "Secretary" means the Secretary of Housing and Urban Development; and

(8) the term "tenant-based assistance" has the same meaning as in section 8(f) of the United States Housing Act of 1937.

(b) SECTION 8 CONTRACT RENEWAL AUTHORITY.—

(1) IN GENERAL.—Notwithstanding section 405(a) of the Balanced Budget Downpayment Act, I, upon the request of the owner of a multifamily housing project that is covered by an expiring contract, the Secretary shall use amounts made available for the renewal of assistance under section 8 of the United States Housing Act of 1937 to renew the expiring contract as project-based assistance for a period of not more than one year, at rent levels that are equal to those under the expiring contract as of the date on which the contract expires: *Provided,* That those rent levels do not exceed 120 percent of the fair market rent for the market area in which the project is located. For an FHA-insured multifamily housing project with an expiring contract at rent levels that exceed 120 percent of the fair market rent for the market area, the Secretary shall provide, at the request of the owner, section 8 project-based assistance, for a period of not more than one year, at rent levels that do not exceed 120 percent of the fair market rent.

(2) EXEMPTION FOR STATE AND LOCAL HOUSING AGENCY PROJECTS.—Notwithstanding paragraph (1), upon the expiration of a contract with rent levels that exceed the percentage described in that paragraph, if the Secretary determines that the primary financing or mortgage insurance for the multifamily housing project that is covered by that expiring contract was provided by a public agency, the Secretary shall, at the request of the owner and the public agency, renew the expiring contract—

(A) for a period of not more than one year; and

(B) at rent levels that are equal to those under the expiring contract as of the date on which the contract expires.

(3) SECTION 202, SECTION 811, AND SECTION 515 PROJECTS.—Notwithstanding paragraph (1), for section 202 projects, section 811 projects and section 515 projects, upon the expiration of

a section 8 contract, the Secretary shall, at the request of the owner, renew the expiring contract—

(A) for a period of not more than one year; and

(B) at rent levels that are equal to those under the expiring contract as of the date on which the contract expires.

(4) OTHER CONTRACTS.—

(A) PARTICIPATION IN DEMONSTRATION.—For a contract covering an FHA-insured multifamily housing project that expires during fiscal year 1997 with rent levels that exceed the percentage described in paragraph (1) and after notice to the tenants, the Secretary shall, at the request of the owner of the project and after notice to the tenants, include that multifamily housing project in the demonstration program under section 212 of this Act. The Secretary shall ensure that a multifamily housing project with an expiring contract in fiscal year 1997 shall be allowed to be included in the demonstration.

(B) EFFECT OF MATERIAL ADVERSE ACTIONS AND OMISSIONS.—Notwithstanding paragraph (1) or any other provision of law, the Secretary shall not renew an expiring contract if the Secretary determines that the owner of the multifamily housing project has engaged in material adverse financial or managerial actions or omissions with regard to the project (or with regard to other similar projects if the Secretary determines that such actions or omissions constitute a pattern of mismanagement that would warrant suspension or debarment by the Secretary).

(C) TRANSFER OF PROPERTY.—For properties disqualified from the demonstration program because of actions by an owner or purchaser in accordance with subparagraph (B), the Secretary shall establish procedures to facilitate the voluntary sale or transfer of the property, with a preference for tenant organizations and tenant-endorsed community-based nonprofit and public agency purchasers meeting such reasonable qualifications as may be established by the Secretary. The Secretary may include the transfer of section 8 project-based assistance.

(5) TENANT PROTECTIONS.—Any family residing in an assisted unit in a multifamily housing project that is covered by an expiring contract that is not renewed, shall be offered tenant-based assistance before the date on which the contract expires or is not renewed.

SEC. 212. FHA MULTIFAMILY DEMONSTRATION AUTHORITY.— 42 USC 1437f note.

(a) IN GENERAL.—

(1) REPEAL.—

(A) IN GENERAL.—Section 210 of the Departments of Veterans Affairs and Housing and Urban Development and Independent Agencies Appropriations Act, 1996 (110 Stat. 1321) is repealed. *Ante*, p. 1321–285.

(B) EXCEPTION.—Notwithstanding the repeal under subparagraph (A), amounts made available under section 210(f) the Departments of Veterans Affairs and Housing and Urban Development and Independent Agencies Appropriations Act, 1996 shall remain available for the demonstration program under this section through the end of fiscal year 1997.

(2) SAVINGS PROVISIONS.—Nothing in this section shall be construed to affect any commitment entered into before the date of enactment of this Act under the demonstration program under section 210 of the Departments of Veterans Affairs and Housing and Urban Development and Independent Agencies Appropriations Act, 1996.

(3) DEFINITIONS.—For purposes of this section—

(A) the term "demonstration program" means the program established under subsection (b);

(B) the term "expiring contract" means a contract for project-based assistance under section 8 of the United States Housing Act of 1937 that expires during fiscal year 1997;

(C) the term "family" has the same meaning as in section 3(b) of the United States Housing Act of 1937;

(D) the term "multifamily housing project" means a property consisting of more than 4 dwelling units that is covered in whole or in part by a contract for project-based assistance;

(E) the term "owner" has the same meaning as in section 8(f) of the United States Housing Act of 1937;

(F) the term "project-based assistance" means rental assistance under section 8 of the United States Housing Act of 1937 that is attached to a multifamily housing project;

(G) the term "Secretary" means the Secretary of Housing and Urban Development; and

(H) the term "tenant-based assistance" has the same meaning as in section 8(f) of the United States Housing Act of 1937.

(b) DEMONSTRATION AUTHORITY.—

(1) IN GENERAL.—Subject to the funding limitation in subsection (l), the Secretary shall administer a demonstration program with respect to multifamily projects—

(A) whose owners agree to participate;

(B) with rents on units assisted under section 8 of the United States Housing Act of 1937 that are, in the aggregate, in excess of 120 percent of the fair market rent of the market area in which the project is located; and

(C) the mortgages of which are insured under the National Housing Act.

(2) PURPOSE.—The demonstration program shall be designed to obtain as much information as is feasible on the economic viability and rehabilitation needs of the multifamily housing projects in the demonstration, to test various approaches for restructuring mortgages to reduce the financial risk to the FHA Insurance Fund while reducing the cost of section 8 subsidies, and to test the feasibility and desirability of—

(A) ensuring, to the maximum extent practicable, that the debt service and operating expenses, including adequate reserves, attributable to such multifamily projects can be supported at the comparable market rent with or without mortgage insurance under the National Housing Act and with or without additional section 8 rental subsidies;

(B) utilizing section 8 rental assistance, while taking into account the capital needs of the projects and the need for adequate rental assistance to support the low- and very low-income families residing in such projects; and

(C) preserving low-income rental housing affordability and availability while reducing the long-term cost of section 8 rental assistance.

(c) GOALS.—

(1) IN GENERAL.—The Secretary shall carry out the demonstration program in a manner that will protect the financial interests of the Federal Government through debt restructuring and subsidy reduction and, in the least costly fashion, address the goals of—

(A) maintaining existing affordable housing stock in a decent, safe, and sanitary condition;

(B) minimizing the involuntary displacement of tenants;

(C) taking into account housing market conditions;

(D) encouraging responsible ownership and management of property;

(E) minimizing any adverse income tax impact on property owners; and

(F) minimizing any adverse impacts on residential neighborhoods and local communities.

(2) BALANCE OF COMPETING GOALS.—In determining the manner in which a mortgage is to be restructured or a subsidy reduced under this subsection, the Secretary may balance competing goals relating to individual projects in a manner that will further the purposes of this section.

(d) PARTICIPATION ARRANGEMENTS.—

(1) IN GENERAL.—In carrying out the demonstration program, the Secretary may enter into participation arrangements with designees, under which the Secretary may provide for the assumption by designees (by delegation, by contract, or otherwise) of some or all of the functions, obligations, responsibilities and benefits of the Secretary.

(2) DESIGNEES.—In entering into any arrangement under this subsection, the Secretary shall select state housing finance agencies, housing agencies or nonprofits (separately or in conjunction with each other) to act as designees to the extent such agencies are determined to be qualified by the Secretary. In locations where there is no qualified State housing finance agency, housing agency or nonprofit to act as a designee, the Secretary may act as a designee. Each participation arrangement entered into under this subsection shall include a designee as the primary partner. Any organization selected by the Secretary under this section shall have a long-term record of service in providing low-income housing and meet standards of fiscal responsibility, as determined by the Secretary.

(3) DESIGNEE PARTNERSHIPS.—For purposes of any participation arrangement under this subsection, designees are encouraged to develop partnerships with each other, and to contract or subcontract with other entities, including—

(A) public housing agencies;

(B) financial institutions;

(C) mortgage servicers;

(D) nonprofit and for-profit housing organizations;

(E) the Federal National Mortgage Association;
(F) the Federal Home Loan Mortgage Corporation;
(G) Federal Home Loan Banks; and
(H) other State or local mortgage insurance companies or bank lending consortia.

(e) LONG-TERM AFFORDABILITY.—

(1) IN GENERAL.—After the renewal of a section 8 contract pursuant to a restructuring under this section, the owner shall accept each offer to renew the section 8 contract, for a period of 20 years from the date of the renewal under the demonstration, if the offer to renew is on terms and conditions, as agreed to by the Secretary or designee and the owner under a restructuring.

(2) AFFORDABILITY REQUIREMENTS.—Except as otherwise provided by the Secretary, in exchange for any mortgage restructuring under this section, a project shall remain affordable for a period of not less than 20 years. Affordability requirements shall be determined in accordance with guidelines established by the Secretary or designee. The Secretary or designee may waive these requirements for good cause.

(f) PROCEDURES.—

(1) NOTICE OF PARTICIPATION IN DEMONSTRATION.—Not later than 45 days before the date of expiration of an expiring contract (or such later date, as determined by the Secretary, for good cause), the owner of the multifamily housing project covered by that expiring contract shall notify the Secretary or designee and the residents of the owner's intent to participate in the demonstration program.

(2) DEMONSTRATION CONTRACT.—Upon receipt of a notice under paragraph (1), the owner and the Secretary or designee shall enter into a demonstration contract, which shall provide for initial section 8 project-based rents at the same rent levels as those under the expiring contract or, if practical, the budget-based rent to cover debt service, reasonable operating expenses (including reasonable and appropriate services), and a reasonable return to the owner, as determined solely by the Secretary. The demonstration contract shall be for the minimum term necessary for the rents and mortgages of the multifamily housing project to be restructured under the demonstration program, but shall not be for a period of time to exceed 180 days, unless extended for good cause by the Secretary.

(g) PROJECT-BASED SECTION 8.—The Secretary shall renew all expiring contracts under the demonstration as section 8 project-based contracts, for a period of time not to exceed one year, unless otherwise provided under subsection (h).

(h) DEMONSTRATION ACTIONS.—

(1) DEMONSTRATION ACTIONS.—For purposes of carrying out the demonstration program, and in order to ensure that contract rights are not abrogated, subject to such third party consents as are necessary (if any), including consent by the Government National Mortgage Association if it owns a mortgage insured by the Secretary, consent by an issuer under the mortgage-backed securities program of the Association, subject to the responsibilities of the issuer to its security holders and the Association under such program, and consent by parties to any contractual agreement which the Secretary proposes to modify or discontinue, the Secretary or, except with respect

to subparagraph (B), designee, subject to the funding limitation in subsection (l), shall take not less than one of the actions specified in subparagraphs (G), (H), and (I) and may take any of the following actions:

(A) REMOVAL OF RESTRICTIONS.—

(i) IN GENERAL.—Consistent with the purposes of this section, subject to the agreement of the owner of the project and after consultation with the tenants of the project, the Secretary or designee may remove, relinquish, extinguish, modify, or agree to the removal of any mortgage, regulatory agreement, project-based assistance contract, use agreement, or restriction that had been imposed or required by the Secretary, including restrictions on distributions of income which the Secretary or designee determines would interfere with the ability of the project to operate without above-market rents.

(ii) ACCUMULATED RESIDUAL RECEIPTS.—The Secretary or designee may require an owner of a property assisted under the section 8 new construction/substantial rehabilitation program under the United States Housing Act of 1937 to apply any accumulated residual receipts toward effecting the purposes of this section.

(B) REINSURANCE.—With respect to not more than 5,000 units within the demonstration during fiscal year 1997, the Secretary may enter into contracts to purchase reinsurance, or enter into participations or otherwise transfer economic interest in contracts of insurance or in the premiums paid, or due to be paid, on such insurance, on such terms and conditions as the Secretary may determine. Any contract entered into under this paragraph shall require that any associated units be maintained as low-income units for the life of the mortgage, unless waived by the Secretary for good cause.

(C) PARTICIPATION BY THIRD PARTIES.—The Secretary or designee may enter into such agreements, provide such concessions, incur such costs, make such grants (including grants to cover all or a portion of the rehabilitation costs for a project) and other payments, and provide other valuable consideration as may reasonably be necessary for owners, lenders, servicers, third parties, and other entities to participate in the demonstration program. The Secretary may establish performance incentives for designees.

(D) SECTION 8 ADMINISTRATIVE FEES.—Notwithstanding any other provision of law, the Secretary may make fees available from the section 8 contract renewal appropriation to a designee for contract administration under section 8 of the United States Housing Act of 1937 for purposes of any contract restructured or renewed under the demonstration program.

(E) FULL OR PARTIAL PAYMENT OF CLAIM.—Notwithstanding any other provision of law, the Secretary may make a full payment of claim or partial payment of claim prior to default.

(F) CREDIT ENHANCEMENT.—

(i) IN GENERAL.—The Secretary or designee may provide FHA multifamily mortgage insurance, reinsur-

ance, or other credit enhancement alternatives, including retaining the existing FHA mortgage insurance on a restructured first mortgage at market value or using the multifamily risk-sharing mortgage programs, as provided under section 542 of the Housing and Community Development Act of 1992. Any limitations on the number of units available for mortgage insurance under section 542 shall not apply to insurance issued for purposes of the demonstration program.

(ii) MAXIMUM PERCENTAGE.—During fiscal year 1997, not more than 25 percent of the units in multifamily housing projects with expiring contracts in the demonstration, in the aggregate, may be restructured without FHA insurance, unless otherwise agreed to by the owner of a project.

(iii) CREDIT SUBSIDY.—Any credit subsidy costs of providing mortgage insurance shall be paid from amounts made available under subsection (l).

(G) MORTGAGE RESTRUCTURING.—

(i) IN GENERAL.—The Secretary or designee may restructure mortgages to provide a restructured first mortgage to cover debt service and operating expenses (including a reasonable rate of return to the owner) at the market rent, and a second mortgage equal to the difference between the restructured first mortgage and the mortgage balance of the eligible multifamily housing project at the time of restructuring.

(ii) CREDIT SUBSIDY.—Any credit subsidy costs of providing a second mortgage shall be paid from amounts made available under subsection (l).

(H) DEBT FORGIVENESS.—The Secretary or designee, for good cause and at the request of the owner of a multifamily housing project, may forgive at the time of the restructuring of a mortgage any portion of a debt on the project that exceeds the market value of the project.

(I) BUDGET-BASED RENTS.—The Secretary or designee may renew an expiring contract, including a contract for a project in which operating costs exceed comparable market rents, for a period of not more than one year, at a budget-based rent that covers debt service, reasonable operating expenses (including all reasonable and appropriate services), and a reasonable rate of return to the owner, as determined solely by the Secretary, provided that the contract does not exceed the rent levels under the expiring contract. The Secretary may establish a preference under the demonstration program for budget-based rents for unique housing projects, such as projects designated for occupancy by elderly families and projects in rural areas.

(J) SECTION 8 TENANT-BASED ASSISTANCE.—For not more than 10 percent of units in multifamily housing projects that have had their mortgages restructured in any fiscal year under the demonstration, the Secretary or designee may provide, with the agreement of an owner and in consultation with the tenants of the housing, section 8 tenant-based assistance for some or all of the assisted units in a multifamily housing project in lieu of section

8 project-based assistance. Section 8 tenant-based assistance may only be provided where the Secretary determines and certifies that there is adequate available and affordable housing within the local area and that tenants will be able to use the section 8 tenant-based assistance successfully.

(2) OFFER AND ACCEPTANCE.—Notwithstanding any other provision of law, an owner of a project in the demonstration must accept any reasonable offer made by the Secretary or a designee under this subsection. An owner may appeal the reasonableness of any offer to the Secretary and the Secretary shall respond within 30 days of the date of appeal with a final offer. If the final offer is not acceptable, the owner may opt out of the program.

(i) COMMUNITY AND TENANT INPUT.—In carrying out this section, the Secretary shall develop procedures to provide appropriate and timely notice, including an opportunity for comment and timely access to all relevant information, to officials of the unit of general local government affected, the community in which the project is situated, and the tenants of the project.

(j) TRANSFER OF PROPERTY.—The Secretary shall establish procedures to facilitate the voluntary sale or transfer of multifamily housing projects under the demonstration to tenant organizations and tenant-endorsed community-based nonprofit and public agency purchasers meeting such reasonable qualifications as may be established by the Secretary.

(k) LIMITATION ON DEMONSTRATION AUTHORITY.—The Secretary shall carry out the demonstration program with respect to mortgages not to exceed 50,000 units.

(l) FUNDING.—In addition to the $30,000,000 made available under section 210 of the Departments of Veterans Affairs and Housing and Urban Development and Independent Agencies Appropriations Act, 1996 (110 Stat. 1321), for the costs (including any credit subsidy costs associated with providing direct loans or mortgage insurance) of modifying and restructuring loans held or guaranteed by the Federal Housing Administration, as authorized under this section, $10,000,000 is hereby appropriated, to remain available until September 30, 1998.

(m) REPORT TO CONGRESS.—

(1) IN GENERAL.—

(A) QUARTERLY REPORTS.—Not less than every 3 months, the Secretary shall submit to the Congress a report describing and assessing the status of the projects in the demonstration program.

(B) FINAL REPORT.—Not later than 6 months after the end of the demonstration program, the Secretary shall submit to the Congress a final report on the demonstration program.

(2) CONTENTS.—Each report submitted under paragraph (1)(A) shall include a description of—

(A) each restructuring proposal submitted by an owner of a multifamily housing project, including a description of the physical, financial, tenancy, and market characteristics of the project;

(B) the Secretary's evaluation and reasons for each multifamily housing project selected or rejected for participation in the demonstration program;

(C) the costs to the FHA General Insurance and Special Risk Insurance funds;

(D) the subsidy costs provided before and after restructuring;

(E) the actions undertaken in the demonstration program, including the third-party arrangements made; and

(F) the demonstration program's impact on the owners of the projects, including any tax consequences.

(3) CONTENTS OF FINAL REPORT.—The report submitted under paragraph (1)(B) shall include—

(A) the required contents under paragraph (2); and

(B) any findings and recommendations for legislative action.

SEC. 213. HAWAIIAN HOME LANDS.—Section 282 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12832) is amended by adding at the end the following new sentence: "The Secretary may waive this section in connection with the use of funds made available under this title on lands set aside under the Hawaiian Homes Commission Act, 1920 (42 Stat. 108).".

SEC. 214. USES OF CERTAIN ASSISTED HOUSING AMOUNTS.—(a) TRANSFER AUTHORITY.—The Secretary may transfer recaptured section 8 amounts from the Annual Contributions for Assisted Housing account under Public Law 104–134 (approved April 26, 1996; 110 Stat. 1321, 1321–265) and prior laws to the accounts and for the purposes set forth in subsection (b). The amounts transferred under this section shall be made available for use as prescribed under this section notwithstanding section 8(bb) of the United States Housing Act of 1937.

(b) RECEIVING ACCOUNTS.—

(1) PREVENTION OF RESIDENT DISPLACEMENT.—The Secretary may transfer to the Prevention of Resident Displacement account an amount up to $50,000,000, in addition to amounts in such account, that may be used to extend, under existing terms and conditions, existing project-based section 8 contracts in effect before a Plan of Action was approved, so that these contracts expire 5 years from the date on which funds were obligated for the Plan of Action approved under the Low-Income Housing Preservation and Resident Homeownership Act of 1990 or the Emergency Low Income Housing Preservation Act of 1987. The Secretary shall transfer all amounts that the Secretary determines to be necessary for fiscal year 1997 for the purposes of this paragraph before transferring any amounts under any other paragraph in this subsection.

(2) HOPWA.—The Secretary may transfer to the Housing Opportunities for Persons with AIDS account up to $25,000,000, for use in addition to amounts appropriated in such account.

SEC. 215. REQUIREMENT FOR HUD TO MAINTAIN PUBLIC NOTICE AND COMMENT RULEMAKING.—The Secretary of Housing and Urban Development shall maintain all current requirements under part 10 of the Department of Housing and Urban Development's regulations (24 CFR part 10) with respect to the Department's policies and procedures for the promulgation and issuance of rules, including the use of public participation in the rulemaking process.

SEC. 216. COMMUNITY DEVELOPMENT BLOCK GRANTS.—Section 102(a)(6)(D) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(6)(D)) is amended—

(1) in clause (iv), by striking "or" at the end;

(2) in clause (v), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following new clause:

"(vi) has entered into a local cooperation agreement with a metropolitan city that received assistance under section 106 because of such classification, and has elected under paragraph (4) to have its population included with the population of the county for the purposes of qualifying as an urban county, except that to qualify as an urban county under this clause, the county must—

"(I) have a combined population of not less than 210,000, excluding any metropolitan city located in the county that is not relinquishing its metropolitan city classification, according to the 1990 decennial census of the Bureau of the Census of the Department of Commerce;

"(II) including any metropolitan cities located in the county, have had a decrease in population of 10,061 from 1992 to 1994, according to the estimates of the Bureau of the Census of the Department of Commerce; and

"(III) have had a Federal naval installation that was more than 100 years old closed by action of the Base Closure and Realignment Commission appointed for 1993 under the Base Closure and Realignment Act of 1990, directly resulting in a loss of employment by more than 7,000 Federal Government civilian employees and more than 15,000 active duty military personnel, which naval installation was located within one mile of an enterprise community designated by the Secretary pursuant to section 1391 of the Internal Revenue Code of 1986, which enterprise community has a population of not less than 20,000, according to the 1990 decennial census of the Bureau of the Census of the Department of Commerce.".

SEC. 217. FAIR HOUSING AND FREE SPEECH.—None of the amounts made available under this Act may be used during fiscal year 1997 to investigate or prosecute under the Fair Housing Act any otherwise lawful activity engaged in by one or more persons, including the filing or maintaining of a nonfrivolous legal action, that is engaged in solely for the purpose of achieving or preventing action by a government official or entity, or a court of competent jurisdiction.

SEC. 218. ACCOUNT TRANSITION.—The amounts of obligated balances in appropriations accounts, as set forth in title II of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996 and prior Acts that are recaptured hereafter, to the extent not governed by the specific language in an account or provision in this Act, shall be held in reserve subject to reprogramming, notwithstanding any other provision of law.

SEC. 219. TREATMENT OF CERTAIN PROPERTIES.—Notwithstanding any other provision of law, rehabilitation activities undertaken in projects using the Low-Income Housing Tax Credit allocated to developments in the city of New Brunswick, New Jersey, in 1991, are deemed to have met the requirements for rehabilitation in accordance with clause (ii) of the third sentence of section

8(d)(2)(A) of the United States Housing Act of 1937, as in effect before the date of the enactment of this Act.

SEC. 220. AMENDMENT RELATING TO COMMUNITY DEVELOPMENT ASSISTANCE.—Section 105(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)(8)) is amended by striking "through 1997" and inserting "through 1998".

SEC. 221. SECTION 236 PROGRAM AMENDMENTS.—(a) Section 236(f)(1) of the National Housing Act (12 U.S.C. 1715z–1), as amended by section 405(d)(1) of The Balanced Budget Downpayment Act, I, and by section 228(a) of The Balanced Budget Downpayment Act, II, is amended—

Ante, p. 44.

(1) in the second sentence, by striking "the lower of (i)";

(2) in the second sentence, by striking "or (ii) the fair market rental established under section 8(c) of the United States Housing Act of 1937 for the market area in which the housing is located, or (iii) the actual rent (as determined by the Secretary) paid for a comparable unit in comparable unassisted housing in the market area in which the housing assisted under this section is located,"; and

(3) by inserting after the second sentence the following: "However, in the case of a project which contains more than 5,000 units, is subject to an interest reduction payments contract, and is financed under a State or local program, the Secretary may reduce the rental charge ceiling, but in no case shall the rent be below basic rent. For plans of action approved for Capital Grants under the Low-Income Housing Preservation and Resident Homeownership Act of 1990 (LIHPRHA) or the Emergency Low Income Housing Preservation Act of 1987 (ELIHPA), the rental charge for each dwelling unit shall be at the basic rental charge or such greater amount, not exceeding the lower of (i) the fair market rental charge determined pursuant to this paragraph, or (ii) the actual rent paid for a comparable unit in comparable unassisted housing in the market area in which the housing assisted under this section is located, as represents 30 percent of the tenant's adjusted income, but in no case shall the rent be below basic rent.".

(b) Section 236(f) of the National Housing Act is amended by adding the following new paragraph at the end:

"(7) The Secretary shall determine whether and under what conditions the provisions of this subsection shall apply to mortgages sold by the Secretary on a negotiated basis.".

(c) Section 236(g) of the National Housing Act is amended to read as follows:

"The project owner shall, as required by the Secretary, accumulate, safeguard, and periodically pay the Secretary or such other entity as determined by the Secretary and upon such terms and conditions as the Secretary deems appropriate, all rental charges collected on a unit-by-unit basis in excess of the basic rental charges. Unless otherwise directed by the Secretary, such excess charges shall be credited to a reserve fund to be used by the Secretary to make additional assistance payments as provided in paragraph (3) of subsection (f). However, a project owner with a mortgage insured under this section may retain some or all of such excess charges for project use if authorized by the Secretary and upon such terms and conditions as established by the Secretary.".

TITLE III

INDEPENDENT AGENCIES

AMERICAN BATTLE MONUMENTS COMMISSION

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, of the American Battle Monuments Commission, including the acquisition of land or interest in land in foreign countries; purchases and repair of uniforms for caretakers of national cemeteries and monuments outside of the United States and its territories and possessions; rent of office and garage space in foreign countries; purchase (one for replacement only) and hire of passenger motor vehicles; and insurance of official motor vehicles in foreign countries, when required by law of such countries; $22,265,000, to remain available until expended: *Provided,* That where station allowance has been authorized by the Department of the Army for officers of the Army serving the Army at certain foreign stations, the same allowance shall be authorized for officers of the Armed Forces assigned to the Commission while serving at the same foreign stations, and this appropriation is hereby made available for the payment of such allowance: *Provided further,* That when traveling on business of the Commission, officers of the Armed Forces serving as members or as Secretary of the Commission may be reimbursed for expenses as provided for civilian members of the Commission: *Provided further,* That the Commission shall reimburse other Government agencies, including the Armed Forces, for salary, pay, and allowances of personnel assigned to it.

36 USC 121b.

36 USC 122.

36 USC 122a.

DEPARTMENT OF THE TREASURY

COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS

COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS FUND PROGRAM ACCOUNT

For grants, loans, and technical assistance to qualifying community development lenders, and administrative expenses of the Fund, $45,000,000, to remain available until September 30, 1998, of which $8,000,000 may be used for the cost of direct loans, and up to $800,000 may be used for administrative expenses to carry out the direct loan program: *Provided,* That the cost of direct loans, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further,* That not more than $19,400,000 of the funds made available under this heading may be used for programs and activities authorized in section 114 of the Community Development Banking and Financial Institutions Act of 1994.

CONSUMER PRODUCT SAFETY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Consumer Product Safety Commission, including hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109, but at rates for individuals not

to exceed the per diem rate equivalent to the rate for GS–18, purchase of nominal awards to recognize non-Federal officials' contributions to Commission activities, and not to exceed $500 for official reception and representation expenses, $42,500,000.

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

NATIONAL AND COMMUNITY SERVICE PROGRAMS OPERATING EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for the Corporation for National and Community Service (referred to in the matter under this heading as the "Corporation") in carrying out programs, activities, and initiatives under the National and Community Service Act of 1990 (referred to in the matter under this heading as the "Act") (42 U.S.C. 12501 et seq.), $400,500,000, of which $265,000,000 shall be available for obligation from September 1, 1997, through September 30, 1998: *Provided,* That not more than $25,000,000 shall be available for administrative expenses authorized under section 501(a)(4) of the Act (42 U.S.C. 12671(a)(4)): *Provided further,* That not more than $2,500 shall be for official reception and representation expenses: *Provided further,* That not more than $59,000,000, to remain available without fiscal year limitation, shall be transferred to the National Service Trust account for educational awards authorized under subtitle D of title I of the Act (42 U.S.C. 12601 et seq.): *Provided further,* That not more than $215,000,000 of the amount provided under this heading shall be available for grants under the National Service Trust program authorized under subtitle C of title I of the Act (42 U.S.C. 12571 et seq.) (relating to activities including the Americorps program), of which not more than $40,000,000 may be used to administer, reimburse or support any national service program authorized under section 121(d)(2) of such Act (42 U.S.C. 12581(d)(2)): *Provided further,* That not more than $5,500,000 of the funds made available under this heading shall be made available for the Points of Light Foundation for activities authorized under title III of the Act (42 U.S.C. 12661 et seq.): *Provided further,* That no funds shall be available for national service programs run by Federal agencies authorized under section 121(b) of such Act (42 U.S.C. 12571(b)): *Provided further,* That to the maximum extent feasible, funds appropriated in the preceding proviso shall be provided in a manner that is consistent with the recommendations of peer review panels in order to ensure that priority is given to programs that demonstrate quality, innovation, replicability, and sustainability: *Provided further,* That not more than $18,000,000 of the funds made available under this heading shall be available for the Civilian Community Corps authorized under subtitle E of title I of the Act (42 U.S.C. 12611 et seq.): *Provided further,* That not more than $43,000,000 shall be available for school-based and community-based service-learning programs authorized under subtitle B of title I of the Act (42 U.S.C. 12521 et seq.): *Provided further,* That not more than $30,000,000 shall be available for quality and innovation activities authorized under subtitle H of title I of the Act (42 U.S.C. 12853 et seq.): *Provided further,* That not more than $5,000,000 shall be available for audits and other evaluations authorized under section 179 of the Act (42 U.S.C. 12639): *Provided further,* That

no funds from any other appropriation, or from funds otherwise made available to the Corporation, shall be used to pay for personnel compensation and benefits, travel, or any other administrative expense for the Board of Directors, the Office of the Chief Executive Officer, the Office of the Managing Director, the Office of the Chief Financial Officer, the Office of National and Community Service Programs, the Civilian Community Corps, or any field office or staff of the Corporation working on the National and Community Service or Civilian Community Corps programs: *Provided further,* That to the maximum extent practicable, the Corporation shall increase significantly the level of matching funds and in-kind contributions provided by the private sector, shall expand significantly the number of educational awards provided under subtitle D of title I, and shall reduce the total Federal costs per participant in all programs.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $2,000,000.

COURT OF VETERANS APPEALS

SALARIES AND EXPENSES

For necessary expenses for the operation of the United States Court of Veterans Appeals as authorized by 38 U.S.C. sections 7251–7292, $9,229,000, of which $700,000, to remain available until September 30, 1998, shall be available for the purpose of providing financial assistance as described, and in accordance with the process and reporting procedures set forth, under this heading in Public Law 102–229.

DEPARTMENT OF DEFENSE—CIVIL CEMETERIAL EXPENSES, ARMY

SALARIES AND EXPENSES

For necessary expenses, as authorized by law, for maintenance, operation, and improvement of Arlington National Cemetery and Soldiers' and Airmen's Home National Cemetery, including the purchase of one passenger motor vehicle for replacement only, and not to exceed $1,000 for official reception and representation expenses, $11,600,000, to remain available until expended.

ENVIRONMENTAL PROTECTION AGENCY

SCIENCE AND TECHNOLOGY

For science and technology, including research and development activities, which shall include research and development activities under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended; necessary expenses for personnel and related costs and travel expenses, including uniforms, or allowances therefore, as authorized by 5 U.S.C. 5901–5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS–18; procurement of laboratory equipment and supplies;

other operating expenses in support of research and development; construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $75,000 per project, $542,000,000, which shall remain available until September 30, 1998.

ENVIRONMENTAL PROGRAMS AND MANAGEMENT

For environmental programs and management, including necessary expenses, not otherwise provided for, for personnel and related costs and travel expenses, including uniforms, or allowances therefore, as authorized by 5 U.S.C. 5901–5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS–18; hire of passenger motor vehicles; hire, maintenance, and operation of aircraft; purchase of reprints; library memberships in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members; construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $75,000 per project; and not to exceed $6,000 for official reception and representation expenses, $1,710,000,000, which shall remain available until September 30, 1998.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, and for construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $75,000 per project, $28,500,000.

BUILDINGS AND FACILITIES

For construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities of, or for use by, the Environmental Protection Agency, $87,220,000, to remain available until expended: *Provided,* That EPA is authorized to establish and construct a consolidated research facility at Research Triangle Park, North Carolina, at a maximum total construction cost of $232,000,000, and to obligate such monies as are made available by this Act for this purpose: *Provided further,* That EPA is authorized to construct such facility through multi-year contracts incrementally funded through appropriations hereafter made available for this project: *Provided further,* That, notwithstanding the previous provisos, for monies obligated pursuant to this authority, EPA may not obligate monies in excess of those provided in advance in annual appropriations, and such contracts shall clearly provide for this limitation.

HAZARDOUS SUBSTANCE SUPERFUND

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended, including sections 111 (c)(3), (c)(5), (c)(6), and (e)(4) (42 U.S.C. 9611), and for construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $75,000 per project; not to exceed $1,394,245,000 (of which $100,000,000

shall not become available until September 1, 1997), to remain available until expended, consisting of $1,144,245,000 as authorized by section 517(a) of the Superfund Amendments and Reauthorization Act of 1986 (SARA), as amended by Public Law 101–508, and $250,000,000 as a payment from general revenues to the Hazardous Substance Superfund as authorized by section 517(b) of SARA, as amended by Public Law 101–508: *Provided,* That funds appropriated under this heading may be allocated to other Federal agencies in accordance with section 111(a) of CERCLA: *Provided further,* That $11,000,000 of the funds appropriated under this heading shall be transferred to the "Office of Inspector General" appropriation to remain available until September 30, 1997: *Provided further,* That notwithstanding section 111(m) of CERCLA or any other provision of law, not to exceed $64,000,000 of the funds appropriated under this heading shall be available to the Agency for Toxic Substances and Disease Registry to carry out activities described in sections 104(i), 111(c)(4), and 111(c)(14) of CERCLA and section 118(f) of the Superfund Amendments and Reauthorization Act of 1986: *Provided further,* That $35,000,000 of the funds appropriated under this heading shall be transferred to the "Science and technology" appropriation to remain available until September 30, 1998: *Provided further,* That none of the funds appropriated under this heading shall be available for the Agency for Toxic Substances and Disease Registry to issue in excess of 40 toxicological profiles pursuant to section 104(i) of CERCLA during fiscal year 1997.

LEAKING UNDERGROUND STORAGE TANK TRUST FUND

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out leaking underground storage tank cleanup activities authorized by section 205 of the Superfund Amendments and Reauthorization Act of 1986, and for construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $75,000 per project, $60,000,000, to remain available until expended: *Provided,* That no more than $7,000,000 shall be available for administrative expenses: *Provided further,* That $577,000 shall be transferred to the "Office of Inspector General" appropriation to remain available until September 30, 1997.

OIL SPILL RESPONSE

(INCLUDING TRANSFER OF FUNDS)

For expenses necessary to carry out the Environmental Protection Agency's responsibilities under the Oil Pollution Act of 1990, $15,000,000, to be derived from the Oil Spill Liability trust fund, and to remain available until expended: *Provided,* That not more than $8,000,000 of these funds shall be available for administrative expenses.

STATE AND TRIBAL ASSISTANCE GRANTS

For environmental programs and infrastructure assistance, including capitalization grants for State revolving funds and performance partnership grants, $2,875,207,000, to remain available until expended, of which $1,900,000,000 shall be for making

capitalization grants for State revolving funds to support water infrastructure financing; $100,000,000 for architectural, engineering, planning, design, construction and related activities in connection with the construction of high priority water and wastewater facilities in the area of the United States-Mexico Border, after consultation with the appropriate border commission; $50,000,000 for grants to the State of Texas, which shall be matched by an equal amount of State funds from State resources, for the purpose of improving wastewater treatment for colonias; $15,000,000 for grants to the State of Alaska subject to an appropriate cost share as determined by the Administrator, to address water supply and wastewater infrastructure needs of rural and Alaska Native Villages; $136,000,000 for making grants for the construction of wastewater and water treatment facilities and the development of groundwater in accordance with the terms and conditions specified for such grants in the conference report and joint explanatory statement of the committee of conference accompanying this Act (H.R. 3666); and $674,207,000 for grants to States and federally recognized tribes for multi-media or single media pollution prevention, control and abatement and related activities pursuant to the provisions set forth under this heading in Public Law 104–134: *Provided,* That, from funds appropriated under this heading, the Administrator may make grants to federally recognized Indian governments for the development of multi-media environmental programs: *Provided further,* That notwithstanding any other provision of law, beginning in fiscal year 1997 the Administrator may make grants to States, from funds available for obligation in the State under title II of the Federal Water Pollution Control Act, as amended, for administering the completion and closeout of the State's construction grants program, based on a budget annually negotiated with the State: *Provided further,* That of the $1,900,000,000 for capitalization grants for State revolving funds to support water infrastructure financing, $1,275,000,000 shall be for drinking water State revolving funds: *Provided further,* That the funds made available in Public Law 103–327 for a grant to the City of Bangor, Maine, in accordance with House Report 103–715, shall be available for a grant to that city for meeting combined sewer overflow requirements: *Provided further,* That, notwithstanding any other provision of law, a State that did not receive, in fiscal year 1996, grants under title VI of the Federal Water Pollution Control Act, as amended, that obligated all the funds allotted to it from the $725,000,000 that became available for that purpose on August 1, 1996, may receive reallotted funds from the fiscal year 1996 appropriation, provided the State receives such grants in fiscal year 1997.

33 USC 128 note.

WORKING CAPITAL FUND

(INCLUDING TRANSFER OF FUNDS)

31 USC 501 note.

There is hereby established in the Treasury a franchise fund pilot to be known as the "Working capital fund", as authorized by section 403 of Public Law 103–356, to be available as provided in such section for expenses and equipment necessary for the maintenance and operation of such administrative services as the Administrator determines may be performed more advantageously as central services: *Provided,* That any inventories, equipment, and other assets pertaining to the services to be provided by such

fund, either on hand or on order, less the related liabilities or unpaid obligations, and any appropriations made hereafter for the purpose of providing capital, shall be used to capitalize such fund: *Provided further,* That such fund shall be paid in advance from funds available to the Agency and other Federal agencies for which such centralized services are performed, at rates which will return in full all expenses of operation, including accrued leave, depreciation of fund plant and equipment, amortization of automated data processing (ADP) software and systems (either acquired or donated), and an amount necessary to maintain a reasonable operating reserve, as determined by the Administrator: *Provided further,* That such fund shall provide services on a competitive basis: *Provided further,* That an amount not to exceed four percent of the total annual income to such fund may be retained in the fund for fiscal year 1997 and each fiscal year thereafter, to remain available until expended, to be used for the acquisition of capital equipment and for the improvement and implementation of Agency financial management, ADP, and other support systems: *Provided further,* That no later than thirty days after the end of each fiscal year amounts in excess of this reserve limitation shall be transferred to the Treasury: *Provided further,* That such franchise fund pilot shall terminate pursuant to section 403(f) of Public Law 103–356.

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

For necessary expenses of the Office of Science and Technology Policy, in carrying out the purposes of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6601 and 6671), hire of passenger motor vehicles, and services as authorized by 5 U.S.C. 3109, not to exceed $2,500 for official reception and representation expenses, and rental of conference rooms in the District of Columbia, $4,932,000.

COUNCIL ON ENVIRONMENTAL QUALITY AND OFFICE OF ENVIRONMENTAL QUALITY

For necessary expenses to continue functions assigned to the Council on Environmental Quality and Office of Environmental Quality pursuant to the National Environmental Policy Act of 1969, the Environmental Quality Improvement Act of 1970, and Reorganization Plan No. 1 of 1977, $2,436,000.

FEDERAL EMERGENCY MANAGEMENT AGENCY

DISASTER RELIEF

For necessary expenses in carrying out the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), $1,320,000,000, and, notwithstanding 42 U.S.C. 5203, to become available for obligation on September 30, 1997, and remain available until expended: *Provided,* That notwithstanding any other provision of this paragraph, amounts appropriated herein shall be available for obligation on October 1, 1996: *Provided further,* That the Director of the Federal Emergency Management Agency (FEMA) shall submit to the appropriate committees of Congress within 120 days of enactment of this Act a comprehensive report

Reports.

on FEMA's plans to reduce disaster relief expenditures and improve managment controls on the Disaster Relief Fund.

DISASTER ASSISTANCE DIRECT LOAN PROGRAM ACCOUNT

For the cost of direct loans, $1,385,000, as authorized by section 319 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.): *Provided,* That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: *Provided further,* That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $25,000,000.

In addition, for administrative expenses to carry out the direct loan program, $548,000.

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, including hire and purchase of motor vehicles (31 U.S.C. 1343); uniforms, or allowances therefor, as authorized by 5 U.S.C. 5901–5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS–18; expenses of attendance of cooperating officials and individuals at meetings concerned with the work of emergency preparedness; transportation in connection with the continuity of Government programs to the same extent and in the same manner as permitted the Secretary of a Military Department under 10 U.S.C. 2632; and not to exceed $2,500 for official reception and representation expenses, $167,500,000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $4,673,000.

EMERGENCY MANAGEMENT PLANNING AND ASSISTANCE

For necessary expenses, not otherwise provided for, to carry out activities under the National Flood Insurance Act of 1968, as amended, and the Flood Disaster Protection Act of 1973, as amended (42 U.S.C. 4001 et seq.), the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Earthquake Hazards Reduction Act of 1977, as amended (42 U.S.C. 7701 et seq.), the Federal Fire Prevention and Control Act of 1974, as amended (15 U.S.C. 2201 et seq.), the Defense Production Act of 1950, as amended (50 U.S.C. App. 2061 et seq.), sections 107 and 303 of the National Security Act of 1947, as amended (50 U.S.C. 404–405), and Reorganization Plan No. 3 of 1978, $206,701,000.

EMERGENCY FOOD AND SHELTER PROGRAM

To carry out an emergency food and shelter program pursuant to title III of Public Law 100–77, as amended, $100,000,000: *Provided,* That total administrative costs shall not exceed three and one-half percent of the total appropriation.

NATIONAL FLOOD INSURANCE FUND

For activities under the National Flood Insurance Act of 1968, the Flood Disaster Protection Act of 1973, and the National Flood Insurance Reform Act of 1994, not to exceed $20,981,000 for salaries and expenses associated with flood mitigation and flood insurance operations, and not to exceed $78,464,000 for flood mitigation, including up to $20,000,000 for expenses under section 1366 of the National Flood Insurance Act, which amount shall be available until September 30, 1998. The first sentence of section 1376(c) of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4127(c)), is amended by striking all after "this subsection" and inserting "such sums as may be necessary through September 30, 1997 for studies under this title.". In fiscal year 1997, no funds in excess of (1) $47,000,000 for operating expenses, (2) $335,680,000 for agents' commissions and taxes, and (3) $35,000,000 for interest on Treasury borrowings shall be available from the National Flood Insurance Fund without prior notice to the Committees on Appropriations. For fiscal year 1997, flood insurance rates shall not exceed the level authorized by the National Flood Insurance Reform Act of 1994. Section 1319 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4026), is amended by striking out September 30, 1996." and inserting "September 30, 1997.".

WORKING CAPITAL FUND

For the establishment of a working capital fund for the Federal Emergency Management Agency, to be available without fiscal year limitation, for expenses and equipment necessary for maintenance and operations of such administrative services as the Director determines may be performed more advantageously as central services: *Provided,* That any inventories, equipment, and other assets pertaining to the services to be provided by such fund, either on hand or on order, less the related liabilities or unpaid obligations, and any appropriations made hereafter for the purpose of providing capital, shall be used to capitalize such fund: *Provided further,* That such fund shall be reimbursed or credited with advance payments from applicable appropriations and funds of the Federal Emergency Management Agency, other Federal agencies, and other sources authorized by law for which such centralized services are performed, including supplies, materials, and services, at rates that will return in full all expenses of operation, including accrued leave, depreciation of fund plant and equipment, amortization of automated data processing (ADP) software and systems (either acquired or donated), and an amount necessary to maintain a reasonable operating reserve as determined by the Director: *Provided further,* That income of such fund may be retained, to remain available until expended, for purposes of the fund: *Provided further,* That fees for services shall be established by the Director at a level to cover the total estimated costs of providing such services, such fees to be deposited in the fund shall remain available until expended for purposes of the fund: *Provided further,* That such fund shall terminate in a manner consistent with section 403(f) of Public Law 103–356. 31 USC 501 note.

ADMINISTRATIVE PROVISION

Regulations.

The Director of the Federal Emergency Management Agency shall promulgate through rulemaking a methodology for assessment and collection of fees to be assessed and collected beginning in fiscal year 1997 applicable to persons subject to the Federal Emergency Management Agency's radiological emergency preparedness regulations. The aggregate charges assessed pursuant to this section during fiscal year 1997 shall approximate, but not be less than, 100 per centum of the amounts anticipated by the Federal Emergency Management Agency to be obligated for its radiological emergency preparedness program for such fiscal year. The methodology for assessment and collection of fees shall be fair and equitable, and shall reflect the full amount of costs of providing radiological emergency planning, preparedness, response and associated services. Such fees shall be assessed in a manner that reflects the use of agency resources for classes of regulated persons and the administrative costs of collecting such fees. Fees received pursuant to this section shall be deposited in the general fund of the Treasury as offsetting receipts. Assessment and collection of such fees are only authorized during fiscal year 1997.

GENERAL SERVICES ADMINISTRATION

CONSUMER INFORMATION CENTER FUND

For necessary expenses of the Consumer Information Center, including services authorized by 5 U.S.C. 3109, $2,260,000, to be deposited into the Consumer Information Center Fund: *Provided,* That the appropriations, revenues and collections deposited into the fund shall be available for necessary expenses of Consumer Information Center activities in the aggregate amount of $7,500,000. Appropriations, revenues, and collections accruing to this fund during fiscal year 1997 in excess of $7,500,000 shall remain in the fund and shall not be available for expenditure except as authorized in appropriations Acts: *Provided further,* That notwithstanding any other provision of law, the Consumer Information Center may accept and deposit to this account, during fiscal year 1997 and hereafter, gifts for the purpose of defraying its costs of printing, publishing, and distributing consumer information and educational materials and undertaking other consumer information activities; may expend those gifts for those purposes, in addition to amounts appropriated or otherwise made available; and the balance shall remain available for expenditure for such purpose.

40 USC 761a.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

HUMAN SPACE FLIGHT

For necessary expenses, not otherwise provided for, in the conduct and support of human space flight research and development activities, including research, development, operations, and services; maintenance; construction of facilities including repair, rehabilitation, and modification of real and personal property, and acquisition or condemnation of real property, as authorized by law; space flight, spacecraft control and communications activities including operations, production, and services; and purchase, lease, charter, maintenance and operation of mission and administrative

aircraft, $5,362,900,000, to remain available until September 30, 1998.

SCIENCE, AERONAUTICS AND TECHNOLOGY

For necessary expenses, not otherwise provided for, in the conduct and support of science, aeronautics and technology research and development activities, including research, development, operations, and services; maintenance; construction of facilities including repair, rehabilitation, and modification of real and personal property, and acquisition or condemnation of real property, as authorized by law; space flight, spacecraft control and communications activities including operations, production, and services; and purchase, lease, charter, maintenance and operation of mission and administrative aircraft, $5,762,100,000, to remain available until September 30, 1998. Chapter VII of Public Law 104–6 is amended under the heading, "National Aeronautics and Space Administration" by replacing "September 30, 1997" with "September 30, 1998" and "1996" with "1997". 109 Stat. 88.

MISSION SUPPORT

For necessary expenses, not otherwise provided for, in carrying out mission support for human space flight programs and science, aeronautical, and technology programs, including research operations and support; space communications activities including operations, production and services; maintenance; construction of facilities including repair, rehabilitation, and modification of facilities, minor construction of new facilities and additions to existing facilities, facility planning and design, environmental compliance and restoration, and acquisition or condemnation of real property, as authorized by law; program management; personnel and related costs, including uniforms or allowances therefor, as authorized by 5 U.S.C. 5901–5902; travel expenses; purchase, lease, charter, maintenance, and operation of mission and administrative aircraft; not to exceed $35,000 for official reception and representation expenses; and purchase (not to exceed 33 for replacement only) and hire of passenger motor vehicles; $2,562,200,000, to remain available until September 30, 1998.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the Inspector General Act of 1978, as amended, $17,000,000.

ADMINISTRATIVE PROVISIONS

(INCLUDING TRANSFER OF FUNDS)

Notwithstanding the limitation on the availability of funds appropriated for "Human space flight", "Science, aeronautics and technology", or "Mission support" by this appropriations Act, when (1) any activity has been initiated by the incurrence of obligations for construction of facilities as authorized by law, or (2) amounts are provided for full-funding for the Tracking and Data Relay Satellite (TDRS) replenishment program, such amount available for such activity shall remain available until expended. This provision does not apply to the amounts appropriated in "Mission

support" pursuant to the authorization for repair, rehabilitation and modification of facilities, minor construction of new facilities and additions to existing facilities, and facility planning and design.

Notwithstanding the limitation on the availability of funds appropriated for "Human space flight", "Science, aeronautics and technology", or "Mission support" by this appropriations Act, the amounts appropriated for construction of facilities shall remain available until September 30, 1999.

Notwithstanding the limitation on the availability of funds appropriated for "Mission support" and "Office of Inspector General", amounts made available by this Act for personnel and related costs and travel expenses of the National Aeronautics and Space Administration shall remain available until September 30, 1997 and may be used to enter into contracts for training, investigations, cost associated with personnel relocation, and for other services, to be provided during the next fiscal year.

Upon the determination by the Administrator that such action is necesssary, the Administrator may, with the approval of the Office of Management and Budget, transfer not to exceed $177,000,000 of funds made available in this Act to the National Aeronautics and Space Administration for the International Space Station between "Science, aeronautics and technology" and "Human space flight", to be merged with and to be available for the same purposes, and for the same time period, as the appropriation to which transferred: *Provided,* That such authority may not be used unless for higher priority items than those for which originally appropriated: *Provided further,* That the Administrator of the National Aeronautics and Space Administration shall notify the Congress promptly of all transfers made pursuant to this authority.

Notification.

NATIONAL CREDIT UNION ADMINISTRATION

CENTRAL LIQUIDITY FACILITY

During fiscal year 1997, gross obligations of the Central Liquidity Facility for the principal amount of new direct loans to member credit unions, as authorized by the National Credit Union Central Liquidity Facility Act (12 U.S.C. 1795), shall not exceed $600,000,000: *Provided,* That administrative expenses of the Central Liquidity Facility in fiscal year 1997 shall not exceed $560,000: *Provided further,* That $1,000,000, together with amounts of principal and interest on loans repaid, to be available until expended, is available for loans to community development credit unions.

NATIONAL SCIENCE FOUNDATION

RESEARCH AND RELATED ACTIVITIES

For necessary expenses in carrying out the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875), and the Act to establish a National Medal of Science (42 U.S.C. 1880–1881); services as authorized by 5 U.S.C. 3109; maintenance and operation of aircraft and purchase of flight services for research support; acquisition of aircraft; $2,432,000,000, of which not to exceed $226,000,000 shall remain available until expended for Polar research and operations support, and for reimbursement to other Federal agencies for operational and science support and logistical

and other related activities for the United States Antarctic program; the balance to remain available until September 30, 1998: *Provided,* That receipts for scientific support services and materials furnished by the National Research Centers and other National Science Foundation supported research facilities may be credited to this appropriation: *Provided further,* That to the extent that the amount appropriated is less than the total amount authorized to be appropriated for included program activities, all amounts, including floors and ceilings, specified in the authorizing Act for those program activities or their subactivities shall be reduced proportionally.

MAJOR RESEARCH EQUIPMENT

For necessary expenses of major construction projects pursuant to the National Science Foundation Act of 1950, as amended, $80,000,000, to remain available until expended.

EDUCATION AND HUMAN RESOURCES

For necessary expenses in carrying out science and engineering education and human resources programs and activities pursuant to the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875), including services as authorized by 5 U.S.C. 3109 and rental of conference rooms in the District of Columbia, $619,000,000, to remain available until September 30, 1998: *Provided,* That to the extent that the amount of this appropriation is less than the total amount authorized to be appropriated for included program activities, all amounts, including floors and ceilings, specified in the authorizing Act for those program activities or their subactivities shall be reduced proportionally.

SALARIES AND EXPENSES

For necessary salaries and expenses of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875); services authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; not to exceed $9,000 for official reception and representation expenses; uniforms or allowances therefor, as authorized by 5 U.S.C. 5901–5902; rental of conference rooms in the District of Columbia; reimbursement of the General Services Administration for security guard services and headquarters relocation; $134,310,000: *Provided,* That contracts may be entered into under salaries and expenses in fiscal year 1997 for maintenance and operation of facilities, and for other services, to be provided during the next fiscal year.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General as authorized by the Inspector General Act of 1978, as amended, $4,690,000, to remain available until September 30, 1998.

NEIGHBORHOOD REINVESTMENT CORPORATION

PAYMENT TO THE NEIGHBORHOOD REINVESTMENT CORPORATION

For payment to the Neighborhood Reinvestment Corporation for use in neighborhood reinvestment activities, as authorized by

the Neighborhood Reinvestment Corporation Act (42 U.S.C. 8101–8107), $49,900,000.

SELECTIVE SERVICE SYSTEM

SALARIES AND EXPENSES

For necessary expenses of the Selective Service System, including expenses of attendance at meetings and of training for uniformed personnel assigned to the Selective Service System, as authorized by 5 U.S.C. 4101–4118 for civilian employees; and not to exceed $1,000 for official reception and representation expenses; $22,930,000: *Provided,* That during the current fiscal year, the President may exempt this appropriation from the provisions of 31 U.S.C. 1341, whenever he deems such action to be necessary in the interest of national defense: *Provided further,* That none of the funds appropriated by this Act may be expended for or in connection with the induction of any person into the Armed Forces of the United States.

TITLE IV—GENERAL PROVISIONS

SEC. 401. Where appropriations in titles I, II, and III of this Act are expendable for travel expenses and no specific limitation has been placed thereon, the expenditures for such travel expenses may not exceed the amounts set forth therefore in the budget estimates submitted for the appropriations: *Provided,* That this provision does not apply to accounts that do not contain an object classification for travel: *Provided further,* That this section shall not apply to travel performed by uncompensated officials of local boards and appeal boards of the Selective Service System; to travel performed directly in connection with care and treatment of medical beneficiaries of the Department of Veterans Affairs; to travel performed in connection with major disasters or emergencies declared or determined by the President under the provisions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act; to travel performed by the Offices of Inspector General in connection with audits and investigations; or to payments to interagency motor pools where separately set forth in the budget schedules: *Provided further,* That if appropriations in titles I, II, and III exceed the amounts set forth in budget estimates initially submitted for such appropriations, the expenditures for travel may correspondingly exceed the amounts therefore set forth in the estimates in the same proportion.

SEC. 402. Appropriations and funds available for the administrative expenses of the Department of Housing and Urban Development and the Selective Service System shall be available in the current fiscal year for purchase of uniforms, or allowances therefor, as authorized by 5 U.S.C. 5901–5902; hire of passenger motor vehicles; and services as authorized by 5 U.S.C. 3109.

SEC. 403. Funds of the Department of Housing and Urban Development subject to the Government Corporation Control Act or section 402 of the Housing Act of 1950 shall be available, without regard to the limitations on administrative expenses, for legal services on a contract or fee basis, and for utilizing and making payment for services and facilities of Federal National Mortgage Association, Government National Mortgage Association, Federal Home Loan Mortgage Corporation, Federal Financing Bank, Federal Reserve

banks or any member thereof, Federal Home Loan banks, and any insured bank within the meaning of the Federal Deposit Insurance Corporation Act, as amended (12 U.S.C. 1811–1831).

SEC. 404. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 405. No funds appropriated by this Act may be expended—

(1) pursuant to a certification of an officer or employee of the United States unless—

(A) such certification is accompanied by, or is part of, a voucher or abstract which describes the payee or payees and the items or services for which such expenditure is being made, or

(B) the expenditure of funds pursuant to such certification, and without such a voucher or abstract, is specifically authorized by law; and

(2) unless such expenditure is subject to audit by the General Accounting Office or is specifically exempt by law from such audit.

SEC. 406. None of the funds provided in this Act to any department or agency may be expended for the transportation of any officer or employee of such department or agency between his domicile and his place of employment, with the exception of any officer or employee authorized such transportation under 31 U.S.C. 1344 or 5 U.S.C. 7905.

SEC. 407. None of the funds provided in this Act may be used for payment, through grants or contracts, to recipients that do not share in the cost of conducting research resulting from proposals not specifically solicited by the Government: *Provided,* That the extent of cost sharing by the recipient shall reflect the mutuality of interest of the grantee or contractor and the Government in the research.

SEC. 408. None of the funds in this Act may be used, directly or through grants, to pay or to provide reimbursement for payment of the salary of a consultant (whether retained by the Federal Government or a grantee) at more than the daily equivalent of the rate paid for level IV of the Executive Schedule, unless specifically authorized by law.

SEC. 409. None of the funds provided in this Act shall be used to pay the expenses of, or otherwise compensate, non-Federal parties intervening in regulatory or adjudicatory proceedings. Nothing herein affects the authority of the Consumer Product Safety Commission pursuant to section 7 of the Consumer Product Safety Act (15 U.S.C. 2056 et seq.).

Contracts.
Public information.
Records.

SEC. 410. Except as otherwise provided under existing law or under an existing Executive Order issued pursuant to an existing law, the obligation or expenditure of any appropriation under this Act for contracts for any consulting service shall be limited to contracts which are (1) a matter of public record and available for public inspection, and (2) thereafter included in a publicly available list of all contracts entered into within twenty-four months prior to the date on which the list is made available to the public and of all contracts on which performance has not been completed by such date. The list required by the preceding sentence shall be updated quarterly and shall include a narrative description of the work to be performed under each such contract.

SEC. 411. Except as otherwise provided by law, no part of any appropriation contained in this Act shall be obligated or expended by any executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), for a contract for services unless such executive agency (1) has awarded and entered into such contract in full compliance with such Act and the regulations promulgated thereunder, and (2) requires any report prepared pursuant to such contract, including plans, evaluations, studies, analyses and manuals, and any report prepared by the agency which is substantially derived from or substantially includes any report prepared pursuant to such contract, to contain information concerning (A) the contract pursuant to which the report was prepared, and (B) the contractor who prepared the report pursuant to such contract.

SEC. 412. Except as otherwise provided in section 406, none of the funds provided in this Act to any department or agency shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of such department or agency.

SEC. 413. None of the funds provided in this Act to any department or agency shall be obligated or expended to procure passenger automobiles as defined in 15 U.S.C. 2001 with an EPA estimated miles per gallon average of less than 22 miles per gallon.

Reports.

SEC. 414. None of the funds appropriated in title I of this Act shall be used to enter into any new lease of real property if the estimated annual rental is more than $300,000 unless the Secretary submits, in writing, a report to the Committees on Appropriations of the Congress and a period of 30 days has expired following the date on which the report is received by the Committees on Appropriations.

SEC. 415. (a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American-made.

(b) NOTICE REQUIREMENT.—In providing financial assistance to, or entering into any contract with, any entity using funds made available in this Act, the head of each Federal agency, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.

SEC. 416. None of the funds appropriated in this Act may be used to implement any cap on reimbursements to grantees for indirect costs, except as published in Office of Management and Budget Circular A–21.

SEC. 417. Such sums as may be necessary for fiscal year 1997 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

SEC. 418. None of the funds made available in this Act may be used for any program, project, or activity, when it is made known to the Federal entity or official to which the funds are made available that the program, project, or activity is not in compliance with any Federal law relating to risk assessment, the protection of private property rights, or unfunded mandates.

Government organization.

SEC. 419. Such funds as may be necessary to carry out the orderly termination of the Office of Consumer Affairs shall be made available from funds appropriated to the Department of Health and Human Services for fiscal year 1997.

SEC. 420. Corporations and agencies of the Department of Housing and Urban Development which are subject to the Government Corporation Control Act, as amended, are hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to each such corporation or agency and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Act as may be necessary in carrying out the programs set forth in the budget for 1997 for such corporation or agency except as hereinafter provided: *Provided,* That collections of these corporations and agencies may be used for new loan or mortgage purchase commitments only to the extent expressly provided for in this Act (unless such loans are in support of other forms of assistance provided for in this or prior appropriations Acts), except that this proviso shall not apply to the mortgage insurance or guaranty operations of these corporations, or where loans or mortgage purchases are necessary to protect the financial interest of the United States Government.

SEC. 421. (a) The purpose of this section is to provide for the special needs of certain children of Vietnam veterans who were born with the birth defect spina bifida, possibly as the result of the exposure of one or both parents to herbicides during active service in the Republic of Vietnam during the Vietnam era, through the provision of health care and monetary benefits. 38 USC 1801 note.

(b)(1) Part II of title 38, United States Code, is amended by inserting after chapter 17 the following new chapter:

"CHAPTER 18—BENEFITS FOR CHILDREN OF VIETNAM VETERANS WHO ARE BORN WITH SPINA BIFIDA

"Sec.
"1801. Definitions.
"1802. Spina bifida conditions covered.
"1803. Health care.
"1804. Vocational training and rehabilitation.
"1805. Monetary allowance.
"1806. Effective date of awards.

"§ 1801. Definitions

"For the purposes of this chapter—

"(1) The term 'child', with respect to a Vietnam veteran, means a natural child of the Vietnam veteran, regardless of age or marital status, who was conceived after the date on which the veteran first entered the Republic of Vietnam during the Vietnam era.

"(2) The term 'Vietnam veteran' means a veteran who performed active military, naval, or air service in the Republic of Vietnam during the Vietnam era.

"§ 1802. Spina bifida conditions covered

"This chapter applies with respect to all forms and manifestations of spina bifida except spina bifida occulta.

"§ 1803. Health care

"(a) In accordance with regulations which the Secretary shall prescribe, the Secretary shall provide a child of a Vietnam veteran who is suffering from spina bifida with such health care as the Secretary determines is needed by the child for the spina bifida or any disability that is associated with such condition. Regulations.

"(b) The Secretary may provide health care under this section directly or by contract or other arrangement with any health care provider.

"(c) For the purposes of this section—

"(1) The term 'health care'—

"(A) means home care, hospital care, nursing home care, outpatient care, preventive care, habilitative and rehabilitative care, case management, and respite care; and

"(B) includes—

"(i) the training of appropriate members of a child's family or household in the care of the child; and

"(ii) the provision of such pharmaceuticals, supplies, equipment, devices, appliances, assistive technology, direct transportation costs to and from approved sources of health care, and other materials as the Secretary determines necessary.

"(2) The term 'health care provider' includes specialized spina bifida clinics, health care plans, insurers, organizations, institutions, and any other entity or individual who furnishes health care that the Secretary determines authorized under this section.

"(3) The term 'home care' means outpatient care, habilitative and rehabilitative care, preventive health services, and health-related services furnished to an individual in the individual's home or other place of residence.

"(4) The term 'hospital care' means care and treatment for a disability furnished to an individual who has been admitted to a hospital as a patient.

"(5) The term 'nursing home care' means care and treatment for a disability furnished to an individual who has been admitted to a nursing home as a resident.

"(6) The term 'outpatient care' means care and treatment of a disability, and preventive health services, furnished to an individual other than hospital care or nursing home care.

"(7) The term 'preventive care' means care and treatment furnished to prevent disability or illness, including periodic examinations, immunizations, patient health education, and such other services as the Secretary determines necessary to provide effective and economical preventive health care.

"(8) The term 'habilitative and rehabilitative care' means such professional, counseling, and guidance services and treatment programs (other than vocational training under section 1804 of this title) as are necessary to develop, maintain, or restore, to the maximum extent practicable, the functioning of a disabled person.

"(9) The term 'respite care' means care furnished on an intermittent basis for a limited period to an individual who resides primarily in a private residence when such care will help the individual to continue residing in such private residence.

"§ 1804. Vocational training and rehabilitation

"(a) Pursuant to such regulations as the Secretary may prescribe, the Secretary may provide vocational training under this section to a child of a Vietnam veteran who is suffering from

spina bifida if the Secretary determines that the achievement of a vocational goal by such child is reasonably feasible.

"(b) Any program of vocational training for a child under this section shall be designed in consultation with the child in order to meet the child's individual needs and shall be set forth in an individualized written plan of vocational rehabilitation.

"(c)(1) A vocational training program for a child under this section—

"(A) shall consist of such vocationally oriented services and assistance, including such placement and post-placement services and personal and work adjustment training, as the Secretary determines are necessary to enable the child to prepare for and participate in vocational training or employment; and

"(B) may include a program of education at an institution of higher education if the Secretary determines that the program of education is predominantly vocational in content.

"(2) A vocational training program under this subsection may not include the provision of any loan or subsistence allowance or any automobile adaptive equipment.

"(d)(1) Except as provided in paragraph (2) and subject to subsection (e)(2), a vocational training program under this section may not exceed 24 months.

"(2) The Secretary may grant an extension of a vocational training program for a child under this section for up to 24 additional months if the Secretary determines that the extension is necessary in order for the child to achieve a vocational goal identified (before the end of the first 24 months of such program) in the written plan of vocational rehabilitation formulated for the child pursuant to subsection (b).

"(e)(1) A child who is pursuing a program of vocational training under this section and is also eligible for assistance under a program under chapter 35 of this title may not receive assistance under both such programs concurrently. The child shall elect (in such form and manner as the Secretary may prescribe) the program under which the child is to receive assistance.

"(2) The aggregate period for which a child may receive assistance under this section and chapter 35 of this title may not exceed 48 months (or the part-time equivalent thereof).

"§ 1805. Monetary allowance

"(a) The Secretary shall pay a monthly allowance under this chapter to any child of a Vietnam veteran for any disability resulting from spina bifida suffered by such child.

"(b)(1) The amount of the allowance paid to a child under this section shall be based on the degree of disability suffered by the child, as determined in accordance with such schedule for rating disabilities resulting from spina bifida as the Secretary may prescribe.

"(2) The Secretary shall, in prescribing the rating schedule for the purposes of this section, establish three levels of disability upon which the amount of the allowance provided by this section shall be based.

"(3) The amounts of the allowance shall be $200 per month for the lowest level of disability prescribed, $700 per month for the intermediate level of disability prescribed, and $1,200 per month

for the highest level of disability prescribed. Such amounts are subject to adjustment under section 5312 of this title.

"(c) Notwithstanding any other provision of law, receipt by a child of an allowance under this section shall not impair, infringe, or otherwise affect the right of the child to receive any other benefit to which the child may otherwise be entitled under any law administered by the Secretary, nor shall receipt of such an allowance impair, infringe, or otherwise affect the right of any individual to receive any benefit to which the individual is entitled under any law administered by the Secretary that is based on the child's relationship to the individual.

"(d) Notwithstanding any other provision of law, the allowance paid to a child under this section shall not be considered income or resources in determining eligibility for or the amount of benefits under any Federal or federally assisted program.

"§ 1806. Effective date of awards

"The effective date for an award of benefits under this chapter shall be fixed in accordance with the facts found, but shall not be earlier than the date of receipt of application for the benefits.".

(2) The tables of chapters before part I and at the beginning of part II of such title are each amended by inserting after the item referring to chapter 17 the following new item:

"18. Benefits for Children of Vietnam Veterans Who Are Born With Spina Bifida ..... 1801".

(c) Section 5312 of title 38, United States Code, is amended—

(1) in subsection (a)—

(A) by striking out "and the rate of increased pension" and inserting in lieu thereof ", the rate of increased pension"; and

(B) by inserting after "on account of children," the following: "and each rate of monthly allowance paid under section 1805 of this title,"; and

(2) in subsection (c)(1), by striking out "and 1542" and inserting in lieu thereof "1542, and 1805".

Effective date. 38 USC 1801 note.

(d) This section and the amendments made by this section shall take effect on January 1, 1997.

SEC. 422. (a) Section 1151 of title 38, United States Code, is amended—

(1) by striking out the first sentence and inserting in lieu thereof the following:

"(a) Compensation under this chapter and dependency and indemnity compensation under chapter 13 of this title shall be awarded for a qualifying additional disability or a qualifying death of a veteran in the same manner as if such additional disability or death were service-connected. For purposes of this section, a disability or death is a qualifying additional disability or qualifying death if the disability or death was not the result of the veteran's willful misconduct and—

"(1) the disability or death was caused by hospital care, medical or surgical treatment, or examination furnished the veteran under any law administered by the Secretary, either by a Department employee or in a Department facility as defined in section 1701(3)(A) of this title, and the proximate cause of the disability or death was—

"(A) carelessness, negligence, lack of proper skill, error in judgment, or similar instance of fault on the part of

the Department in furnishing the hospital care, medical or surgical treatment, or examination; or

"(B) an event not reasonably foreseeable; or

"(2) the disability or death was proximately caused by the provision of training and rehabilitation services by the Secretary (including by a service-provider used by the Secretary for such purpose under section 3115 of this title) as part of an approved rehabilitation program under chapter 31 of this title."; and

(2) in the second sentence—

(A) by redesignating that sentence as subsection (b);

(B) by striking out ", aggravation," both places it appears; and

(C) by striking out "sentence" and substituting in lieu thereof "subsection".

(b)(1) The amendments made by subsection (a) shall take effect on October 1, 1996. Effective date. 38 USC 1151 note.

(2) Section 1151 of title 38, United States Code (as amended by subsection (a)), shall govern all administrative and judicial determinations of eligibility for benefits under such section that are made with respect to claims filed on or after the effective date set forth in paragraph (1), including those based on original applications and applications seeking to reopen, revise, reconsider, or otherwise readjudicate on any basis claims for benefits under such section 1151 or any provision of law that is a predecessor of such section.

(c) Nothwithstanding subsection (b)(1), section 421(d), or any other provision of this Act, section 421 and this section shall not take effect until October 1, 1997, unless legislation other than this Act is enacted to provide for an earlier effective date. 38 USC 1151 note.

SEC. 423. The amount provided in title I for "Veterans Health Administration—Medical Care" is hereby increased by $5,000,000.

SEC. 424. FHA MORTGAGE INSURANCE PREMIUMS.—Section 203(c)(2)(A) of the National Housing Act (12 U.S.C. 1709(c)(2)(A)) is amended by inserting after the first sentence the following new sentence: "In the case of a mortgage for which the mortgagor is a first-time homebuyer who completes a program of counseling with respect to the responsibilities and financial management involved in homeownership that is approved by the Secretary, the premium payment under this subparagraph shall not exceed 2.0 percent of the amount of the original insured principal obligation of the mortgage.".

SEC. 425. (a) AUTHORITY TO USE AMOUNTS BORROWED FROM FAMILY MEMBERS FOR DOWNPAYMENTS ON FHA-INSURED LOANS.—Section 203(b)(9) of the National Housing Act (12 U.S.C. 1709(b)(9)) is amended by inserting before the period at the end the following: ": *Provided further*, That for purposes of this paragraph, the Secretary shall consider as cash or its equivalent any amounts borrowed from a family member (as such term is defined in section 201), subject only to the requirements that, in any case in which the repayment of such borrowed amounts is secured by a lien against the property, such lien shall be subordinate to the mortgage and the sum of the principal obligation of the mortgage and the obligation secured by such lien may not exceed 100 percent of the appraised value of the property plus any initial service charges, appraisal, inspection, and other fees in connection with the mortgage".

(b) DEFINITION OF FAMILY MEMBER.—Section 201 of the National Housing Act (12 U.S.C. 1707) is amended by adding at the end the following new subsections:

"(e) The term 'family member' means, with respect to a mortgagor under such section, a child, parent, or grandparent of the mortgagor (or the mortgagor's spouse). In determining whether any of the relationships referred to in the preceding sentence exist, a legally adopted son or daughter of an individual (and a child who is a member of an individual's household, if placed with such individual by an authorized placement agency for legal adoption by such individual), and a foster child of an individual, shall be treated as a child of such individual by blood.

"(f) The term 'child' means, with respect to a mortgagor under such section, a son, stepson, daughter, or stepdaughter of such mortgagor.".

SEC. 426. CALCULATION OF DOWNPAYMENT.—Section 203(b) of the National Housing Act (12 U.S.C. 1709(b)) is amended by adding at the end the following new paragraph:

"(10) ALASKA AND HAWAII.—

"(A) IN GENERAL.—Notwithstanding any other provision of this subsection, with respect to a mortgage originated in the State of Alaska or the State of Hawaii and endorsed for insurance in fiscal year 1997, involving a principal obligation not in excess of the sum of—

"(i) the amount of the mortgage insurance premium paid at the time the mortgage is insured; and

"(ii)(I) in the case of a mortgage for a property with an appraised value equal to or less than $50,000, 98.75 percent of the appraised value of the property;

"(II) in the case of a mortgage for a property with an appraised value in excess of $50,000 but not in excess of $125,000, 97.65 percent of the appraised value of the property;

"(III) in the case of a mortgage for a property with an appraised value in excess of $125,000, 97.15 percent of the appraised value of the property; or

"(IV) notwithstanding subclauses (II) and (III), in the case of a mortgage for a property with an appraised value in excess of $50,000 that is located in an area of the State for which the average closing cost exceeds 2.10 percent of the average, for the State, of the sale price of properties located in the State for which mortgages have been executed, 97.75 percent of the appraised value of the property.

"(B) AVERAGE CLOSING COST.—For purposes of this paragraph, the term 'average closing cost' means, with respect to a State, the average, for mortgages executed for properties that are located within the State, of the total amounts (as determined by the Secretary) of initial service charges, appraisal, inspection, and other fees (as the Secretary shall approve) that are paid in connection with such mortgages.".

SEC. 427. DELEGATION OF SINGLE FAMILY MORTGAGE INSURING AUTHORITY TO DIRECT ENDORSEMENT MORTGAGEES.—Title II of the National Housing Act (12 U.S.C. 1707 et seq.) is amended by adding at the end the following new section:

"DELEGATION OF INSURING AUTHORITY TO DIRECT ENDORSEMENT MORTGAGEES

"SEC. 256.(a) AUTHORITY.—The Secretary may delegate, to one or more mortgagees approved by the Secretary under the direct endorsement program, the authority of the Secretary under this Act to insure mortgages involving property upon which there is located a dwelling designed principally for occupancy by 1 to 4 families. 12 USC 1715z–21.

"(b) CONSIDERATIONS.—In determining whether to delegate authority to a mortgagee under this section, the Secretary shall consider the experience and performance of the mortgagee compared to the default rate of all insured mortgages in comparable markets, and such other factors as the Secretary determines appropriate to minimize risk of loss to the insurance funds under this Act.

"(c) ENFORCEMENT OF INSURANCE REQUIREMENTS.—

"(1) IN GENERAL.—If the Secretary determines that a mortgage insured by a mortgagee pursuant to delegation of authority under this section was not originated in accordance with the requirements established by the Secretary, and the Secretary pays an insurance claim with respect to the mortgage within a reasonable period specified by the Secretary, the Secretary may require the mortgagee approved under this section to indemnify the Secretary for the loss.

"(2) FRAUD OR MISREPRESENTATION.—If fraud or misrepresentation was involved in connection with the origination, the Secretary may require the mortgagee approved under this section to indemnify the Secretary for the loss regardless of when an insurance claim is paid.

"(d) TERMINATION OF MORTGAGEE'S AUTHORITY.—If a mortgagee to which the Secretary has made a delegation under this section violates the requirements and procedures established by the Secretary or the Secretary determines that other good cause exists, the Secretary may cancel a delegation of authority under this section to the mortgagee by giving notice to the mortgagee. Such a cancellation shall be effective upon receipt of the notice by the mortgagee or at a later date specified by the Secretary. A decision by the Secretary to cancel a delegation shall be final and conclusive and shall not be subject to judicial review.

"(e) REQUIREMENTS AND PROCEDURES.—Before approving a delegation under this section, the Secretary shall issue regulations establishing appropriate requirements and procedures, including requirements and procedures governing the indemnification of the Secretary by the mortgagee.". Regulations.

SEC. 428. IMPLEMENTATION OF COMPREHENSIVE CONSERVATION AND MANAGEMENT PLANS.—Notwithstanding section 320(g) of the Federal Water Pollution Control Act (33 U.S.C. 1330(g)), funds made available pursuant to authorization under such section for fiscal year 1997 and prior fiscal years may be used for implementing comprehensive conservation and management plans.

SEC. 429. (a) PLAN.—(1) The Secretary of Veterans Affairs shall develop a plan for the allocation of health care resources (including personnel and funds) of the Department of Veterans Affairs among the health care Networks of the Department so as to ensure that veterans who have similar economic status and eligibility priority and who are eligible for medical care have similar

access to such care regardless of the region of the United States in which such veterans reside.

(2) The plan shall—

(A) reflect, to the maximum extent possible, the Veterans Integrated Service Network developed by the Department to account for forecasts in expected workload and to ensure fairness to facilities that provide cost-efficient health care; and

(B) include—

(i) procedures to identify reasons for variations in operating costs among similar facilities where Network allocations are based on similar unit costs for similar services and workload;

(ii) ways to improve the allocation of resources so as to promote efficient use of resources and provision of quality health care;

(iii) adjustments to unit costs in subsection (a) to reflect factors which directly influence the cost of health care delivery within each Network and where such factors are not under the control of Network or Department management; and

(iv) include forecasts in expected workload and consideration of the demand for Veterans Administration health care that may not be reflected in current workload projections.

(3) The Secretary shall prepare the plan in consultation with the Under Secretary of Health of the Department of Veterans Affairs.

(b) PLAN ELEMENTS.—The plan under subsection (a) shall set forth—

(1) milestones for achieving the goal referred to in paragraph (1) of that subsection; and

(2) a means of evaluating the success of the Secretary in meeting the goal.

(c) SUBMITTAL TO CONGRESS.—The Secretary shall submit to Congress the plan developed under subsection (a) not later than 180 days after the date of the enactment of this Act.

Notification.

(d) IMPLEMENTATION.—The Secretary shall implement the plan developed under subsection (a) not later than 60 days after submitting the plan to Congress under subsection (c), unless within that time the Secretary notifies Congress that the plan will not be implemented in that time and includes with the notification an explanation why the plan will not be implemented in that time.

SEC. 430. GAO AUDIT ON STAFFING AND CONTRACTING.—The Comptroller General shall audit the operations of the Office of Federal Housing Enterprise Oversight concerning staff organization, expertise, capacity, and contracting authority to ensure that the office resources and contract authority are adequate and that they are being used appropriately to ensure that the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation are adequately capitalized and operating safely.

SEC. 431. None of the funds appropriated or otherwise made available to the National Aeronautics and Space Administration by this Act, or any other Act enacted before the date of enactment of this Act, may be used by the Administrator of the National Aeronautics and Space Administration to relocate aircraft of the National Aeronautics and Space Administration based east of the

Mississippi River to the Dryden Flight Research Center in California for the purpose of the consolidation of such aircraft.

National Aeronautics and Space Administration Federal Employment Reduction Assistance Act of 1996.
5 USC 5597 note.

SEC. 432. TO PROMOTE AND SUPPORT MANAGEMENT REORGANIZATION OF THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION.—(a) SHORT TITLE.—This section may be cited as the "National Aeronautics and Space Administration Federal Employment Reduction Assistance Act of 1996.".

(b) DEFINITIONS.—For the purpose of this section—

(1) the term "Administrator" means the Administrator of the National Aeronautics and Space Administration; and

(2) the term "employee" means an employee of the National Aeronautics and Space Administration serving under an appointment without time limitation, who has been currently employed with NASA for a continuous period of at least twelve months, except that such term does not include—

(A) a reemployed annuitant under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, or another retirement system for employees of the Government;

(B) an employee who is in receipt of a specific notice of involuntary separation for misconduct or unacceptable performance;

(C) an employee who, upon completing an additional period of service as referred to in section 3(b)(2)(B)(ii) of the Federal Workforce Restructuring Act of 1994 (Public Law 103–226; 108 Stat. 111), would qualify for a voluntary separation incentive payment under section 3 of such Act; or

(D) an employee who has previously received any voluntary separation incentive payment by the Federal Government under this Act or any other authority and has not repaid such payment.

(c) INCENTIVE PAYMENT PROGRAM.—In order to avoid or minimize the need for involuntary separations due to a reduction in force, installation closure, reorganization, transfer of function, or other similar action affecting the National Aeronautics and Space Administration, the Administrator shall establish a program under which separation pay, subject to the availability of appropriated funds, may be offered to encourage eligible employees to separate from service voluntarily (whether by retirement or resignation).

(d) INCENTIVE PAYMENTS.—In order to receive a voluntary separation incentive payment, an employee must separate voluntarily (whether by retirement or resignation) during the period of time for which the payment of incentives has been authorized for the employee under the agency plan. Such separation payments—

(1) shall be paid in a lump sum after the employee's separation, and

(2) shall be equal to the lesser of—

(A) an amount equal to the amount the employee would be entitled to receive under section 5595(c) of title 5, United States Code, if the employee were entitled to payment under such section; or

(B) an amount that shall not exceed $25,000;

(3) shall not be a basis for payment, and shall not be included in the computation, of any other type of Government benefit;

(4) shall not be taken into account for purposes of determining the amount of any severance pay to which an individual may be entitled under section 5595 of title 5, United States Code, based on any other separation;

(5) shall be considered payment for a voluntary separation; and

(6) shall be paid from the appropriations or funds available for payment of the basic pay of the employee.

(e) EFFECT OF SUBSEQUENT EMPLOYMENT WITH THE GOVERNMENT.—

(1) An individual who has received a voluntary separation incentive payment under this section and accepts any employment with the Government of the United States within five years after the date of the separation on which the payment is based shall be required to repay, prior to the individual's first day of employment, the entire amount of the incentive payment to NASA.

(2) If the employment under paragraph (1) above is with an executive agency (as defined by section 105 of title 5, United States Code), the United States Postal Service, or the Postal Rate Commission, the Director of the Office of Personnel Management may, at the request of the head of the agency, waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position.

(3) If the employment under paragraph (1) above is with an entity in the legislative branch, the head of the entity or the appointing official may waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position.

(4) If the employment under paragraph (1) above is with the judicial branch, the Director of the Administrative Office of the United States Courts may waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position.

(5) For the purpose of this section, the term "employment"—

(A) includes employment of any length or under any type of appointment, but does not include employment that is without compensation; and

(B) includes employment under a personal services contract.

(f) EFFECT OF SUBSEQUENT DISABILITY RETIREMENT.—An employee who has received an incentive payment is ineligible to receive an annuity for reasons of disability under applicable regulations, unless the incentive payment is repaid.

(g) ADDITIONAL AGENCY CONTRIBUTIONS TO THE RETIREMENT FUND.—

(1) In addition to any other payments which it is required to make under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, NASA shall remit to the Office of Personnel Management for deposit in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund an amount equal to 15 percent of the final basic pay of each employee who is covered under subchapter III of chapter 83 or chapter 84 of title 5 to whom a voluntary separation incentive has been paid under this Act.

(2) For the purpose of this section, the term "final basic pay", with respect to an employee, means the total amount of basic pay which would be payable for a year of service by such employee, computed using the employee's final rate of basic pay, and, if last serving on other than a full-time basis, with appropriate adjustment therefor.

(h) REDUCTION OF AGENCY EMPLOYMENT LEVELS.—

(1) Total full-time-equivalent employment in NASA shall be reduced by one for each separation of an employee who receives a voluntary separation incentive payment under this Act. The reduction will be calculated by comparing the agency's full-time-equivalent employment for the fiscal year in which the voluntary separation payments are made with the authorized full-time-equivalent employment for the prior fiscal year.

(2) The Office of Management and Budget shall monitor and take appropriate action necessary to ensure that the requirements of this section are met.

(3) The President shall take appropriate action to ensure that functions involving more than 10 full time equivalent employees are not converted to contracts by reason of the enactment of this section, except in cases in which a cost comparison demonstrates such contracts would be to the advantage of the Government. President.

(4) The provisions of subsections (1) and (3) of this section may be waived upon a determination by the President that—

(A) the existence of a state of war or other national emergency so requires; or

(B) the existence of an extraordinary emergency which threatens life, health, safety, property, or the environment so requires.

(i) REPORTS.—No later than March 31 of each fiscal year, NASA shall submit to the Office of Personnel Management, who will subsequently report to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform and Oversight of the House of Representatives a report which, with respect to the preceding fiscal year, shall include—

(1) the number of employees who received voluntary separation incentives;

(2) the average amount of such incentives; and

(3) the average grade or pay level of the employees who received incentives.

(j) EFFECTIVE DATE.—

(1) The provisions of this section shall take effect on the date of enactment of this Act.

(2) No voluntary separation incentive under this section may be paid based on the separation of an employee after September 30, 2000.

SEC. 433. (a) Subject to the concurrence of the Administrator of the General Services Administration (GSA) and notwithstanding section 707 of Public Law 103–433, the Administrator of the National Aeronautics and Space Administration may convey to the city of Downey, California, all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, consisting of approximately 60 acres and known as Parcels III, IV, V, and VI of the NASA Industrial Plant, Downey, California.

(b)(1) DELAY IN PAYMENT OF CONSIDERATION.—After the end of the 20-year period beginning on the date on which the conveyance

under subsection (a) is completed, the City of Downey shall pay to the United States an amount equal to fair market value of the conveyed property as of the date of the Federal conveyance.

(2) EFFECT OF RECONVEYANCE BY THE CITY.—If the City of Downey reconveys all or any part of the conveyed property during such 20-year period, the City shall pay to the United States an amount equal to the fair market value of the reconveyed property as of the time of the reconveyance, excluding the value of any improvements made to the property by the City.

(3) DETERMINATION OF FAIR MARKET VALUE.—The Administrator of GSA shall determine fair market value in accordance with Federal appraisal standards and procedures.

(4) TREATMENT OF LEASES.—The Administrator of GSA may treat a lease of the property within such 20-year period as a reconveyance if the Administrator determines that the lease is being used to avoid application of paragraph (b)(2).

(5) DEPOSIT OF PROCEEDS.—The Administrator of GSA shall deposit any proceeds received under this subsection in the special account established pursuant to section 204(h)(2) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 485(h)(2)).

(c) The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Administrator of GSA. The cost of the survey shall be borne by the City of Downey, California.

(d) The Administrator of GSA may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Administrator of GSA considers appropriate to protect the interests of the United States.

(e) If the City at any time after the conveyance of the property under subsection (a) notifies the Administrator of GSA that the City no longer wishes to retain the property, it may convey the property under the terms of subsection (b), or, it may revert all right, title, and interest in and to the property (including any facilities, equipment, or fixtures conveyed, but excluding the value of any improvements made to the property by the City) to the United States, and the United States shall have the right of immediate entry onto the property.

TITLE V—SUPPLEMENTAL

DEPARTMENT OF VETERANS AFFAIRS

VETERANS BENEFITS ADMINISTRATION

COMPENSATION AND PENSIONS

For an additional amount for "Compensation and Pensions", $100,000,000, to be made available upon enactment of this Act, to remain available until expended.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION

GUARANTEES OF MORTGAGE BACKED SECURITIES LOAN GUARANTEE PROGRAM ACCOUNT

During fiscal year 1996 and in addition to commitments previously provided, additional commitments to issue guarantees to carry out section 306 of the National Housing Act, as amended (12 U.S.C. 1721(g)), shall not exceed $20,000,000,000.

TITLE VI—NEWBORNS' AND MOTHERS' HEALTH PROTECTION ACT OF 1996

Newborns' and Mothers' Health Protection Act of 1996.
42 USC 201 note.

SEC. 601. SHORT TITLE.—This title may be cited as the "Newborns' and Mothers' Health Protection Act of 1996".

42 USC 300gg–4 note.

SEC. 602. FINDINGS.—Congress finds that—

(1) the length of post-delivery hospital stay should be based on the unique characteristics of each mother and her newborn child, taking into consideration the health of the mother, the health and stability of the newborn, the ability and confidence of the mother and the father to care for their newborn, the adequacy of support systems at home, and the access of the mother and her newborn to appropriate follow-up health care; and

(2) the timing of the discharge of a mother and her newborn child from the hospital should be made by the attending provider in consultation with the mother.

SEC. 603. AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—(a) IN GENERAL.—Part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (added by section 101(a) of the Health Insurance Portability and Accountability Act of 1996) is amended—

Ante, p. 1939.

(1) by amending the heading of the part to read as follows:

"PART 7—GROUP HEALTH PLAN REQUIREMENTS";

(2) by inserting after the part heading the following:

"SUBPART A—REQUIREMENTS RELATING TO PORTABILITY, ACCESS, AND RENEWABILITY";

(3) by redesignating sections 704 through 707 as sections 731 through 734, respectively;

29 USC 1191–1191c.

(4) by inserting before section 731 (as so redesignated) the following new heading:

"SUBPART C—GENERAL PROVISIONS";

and

(5) by inserting after section 703 the following new subpart:

"SUBPART B—OTHER REQUIREMENTS

"SEC. 711. STANDARDS RELATING TO BENEFITS FOR MOTHERS AND NEWBORNS.

29 USC 1185.

"(a) REQUIREMENTS FOR MINIMUM HOSPITAL STAY FOLLOWING BIRTH.—

"(1) IN GENERAL.—A group health plan, and a health insurance issuer offering group health insurance coverage, may not—

"(A) except as provided in paragraph (2)—

"(i) restrict benefits for any hospital length of stay in connection with childbirth for the mother or newborn child, following a normal vaginal delivery, to less than 48 hours, or

"(ii) restrict benefits for any hospital length of stay in connection with childbirth for the mother or newborn child, following a cesarean section, to less than 96 hours; or

"(B) require that a provider obtain authorization from the plan or the issuer for prescribing any length of stay required under subparagraph (A) (without regard to paragraph (2)).

"(2) EXCEPTION.—Paragraph (1)(A) shall not apply in connection with any group health plan or health insurance issuer in any case in which the decision to discharge the mother or her newborn child prior to the expiration of the minimum length of stay otherwise required under paragraph (1)(A) is made by an attending provider in consultation with the mother.

"(b) PROHIBITIONS.—A group health plan, and a health insurance issuer offering group health insurance coverage in connection with a group health plan, may not—

"(1) deny to the mother or her newborn child eligibility, or continued eligibility, to enroll or to renew coverage under the terms of the plan, solely for the purpose of avoiding the requirements of this section;

"(2) provide monetary payments or rebates to mothers to encourage such mothers to accept less than the minimum protections available under this section;

"(3) penalize or otherwise reduce or limit the reimbursement of an attending provider because such provider provided care to an individual participant or beneficiary in accordance with this section;

"(4) provide incentives (monetary or otherwise) to an attending provider to induce such provider to provide care to an individual participant or beneficiary in a manner inconsistent with this section; or

"(5) subject to subsection (c)(3), restrict benefits for any portion of a period within a hospital length of stay required under subsection (a) in a manner which is less favorable than the benefits provided for any preceding portion of such stay.

"(c) RULES OF CONSTRUCTION.—

"(1) Nothing in this section shall be construed to require a mother who is a participant or beneficiary—

"(A) to give birth in a hospital; or

"(B) to stay in the hospital for a fixed period of time following the birth of her child.

"(2) This section shall not apply with respect to any group health plan, or any group health insurance coverage offered by a health insurance issuer, which does not provide benefits for hospital lengths of stay in connection with childbirth for a mother or her newborn child.

"(3) Nothing in this section shall be construed as preventing a group health plan or issuer from imposing deductibles, coinsurance, or other cost-sharing in relation to benefits for

hospital lengths of stay in connection with childbirth for a mother or newborn child under the plan (or under health insurance coverage offered in connection with a group health plan), except that such coinsurance or other cost-sharing for any portion of a period within a hospital length of stay required under subsection (a) may not be greater than such coinsurance or cost-sharing for any preceding portion of such stay.

"(d) NOTICE UNDER GROUP HEALTH PLAN.—The imposition of the requirements of this section shall be treated as a material modification in the terms of the plan described in section 102(a)(1), for purposes of assuring notice of such requirements under the plan; except that the summary description required to be provided under the last sentence of section 104(b)(1) with respect to such modification shall be provided by not later than 60 days after the first day of the first plan year in which such requirements apply.

"(e) LEVEL AND TYPE OF REIMBURSEMENTS.—Nothing in this section shall be construed to prevent a group health plan or a health insurance issuer offering group health insurance coverage from negotiating the level and type of reimbursement with a provider for care provided in accordance with this section.

"(f) PREEMPTION; EXCEPTION FOR HEALTH INSURANCE COVERAGE IN CERTAIN STATES.—

"(1) IN GENERAL.—The requirements of this section shall not apply with respect to health insurance coverage if there is a State law (as defined in section 731(d)(1)) for a State that regulates such coverage that is described in any of the following subparagraphs:

"(A) Such State law requires such coverage to provide for at least a 48-hour hospital length of stay following a normal vaginal delivery and at least a 96-hour hospital length of stay following a cesarean section.

"(B) Such State law requires such coverage to provide for maternity and pediatric care in accordance with guidelines established by the American College of Obstetricians and Gynecologists, the American Academy of Pediatrics, or other established professional medical associations.

"(C) Such State law requires, in connection with such coverage for maternity care, that the hospital length of stay for such care is left to the decision of (or required to be made by) the attending provider in consultation with the mother.

"(2) CONSTRUCTION.—Section 731(a)(1) shall not be construed as superseding a State law described in paragraph (1).".

(b) CONFORMING AMENDMENTS.—

(1) Section 731(c) of such Act (as added by section 101 of the Health Insurance Portability and Accountability Act of 1996 and redesignated by the preceding provisions of this section) is amended by striking "Nothing" and inserting "Except as provided in section 711, nothing". 29 USC 1191.

(2) Section 732(a) of such Act (as added by section 101 of the Health Insurance Portability and Accountability Act of 1996 and redesignated by the preceding provisions of this section) is amended by inserting "(other than section 711)" after "part". 29 USC 1191a.

(3) Title I of such Act (as amended by section 101 of the Health Insurance Portability and Accountability Act of 1996

and the preceding provisions of this section) is further amended—

29 USC 1003. (A) in the last sentence of section 4(b), by striking "section 706(b)(2)", "section 706(b)(1)", and "section 706(a)(1)" and inserting "section 733(b)(2)", "section 733(b)(1)", and "section 733(a)(1)", respectively;

29 USC 1021. (B) in section 101(g), by striking "section 706(a)(2)" and inserting "section 733(a)(2)";

29 USC 1022. (C) in section 102(b), by striking "section 706(a)(1)" each place it appears and inserting "section 733(a)(1), and by striking "section 706(b)(2)" and inserting "section 733(b)(2)";

29 USC 1024. (D) in section 104(b)(1), by striking "section 706(a)(1)" each place it appears and inserting "section 733(a)(1)";

29 USC 1132. (E) in section 502(b)(3), by striking "section 706(a)(1)" and inserting "section 733(a)(1)";

29 USC 1136. (F) in section 506(c), by striking "section 706(a)(2)" and inserting "section 733(a)(2)";

29 USC 1144. (G) in section 514(b)(9), by striking "section 704" and inserting "section 731";

29 USC 1181. (H) in the last sentence of section 701(c)(1), by striking "section 706(c)" and inserting "section 733(c)";

29 USC 1191a. (I) in section 732(b), by striking "section 706(c)(1)" and inserting "section 733(c)(1)";

(J) in section 732(c)(1), by striking "section 706(c)(2)" and inserting "section 733(c)(2)";

(K) in section 732(c)(2), by striking "section 706(c)(3)" and inserting "section 733(c)(3)"; and

(L) in section 732(c)(3), by striking "section 706(c)(4)" and inserting "section 733(c)(4)".

(4) The table of contents in section 1 of such Act is amended by striking the items relating to part 7 and inserting the following:

"PART 7—GROUP HEALTH PLAN REQUIREMENTS

"SUBPART A—REQUIREMENTS RELATING TO PORTABILITY, ACCESS, AND RENEWABILITY

"Sec. 701. Increased portability through limitation on preexisting condition exclusions.
"Sec. 702. Prohibiting discrimination against individual participants and beneficiaries based on health status.
"Sec. 703. Guaranteed renewability in multiemployer plans and multiple employer welfare arrangements.

"SUBPART B—OTHER REQUIREMENTS

"Sec. 711. Standards relating to benefits for mothers and newborns.

"SUBPART C—GENERAL PROVISIONS

"Sec. 731. Preemption; State flexibility; construction.
"Sec. 732. Special rules relating to group health plans.
"Sec. 733. Definitions.
"Sec. 734. Regulations.".

Applicability. (c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to group health plans for plan years beginning on or after January 1, 1998.

SEC. 604. AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT RELATING TO THE GROUP MARKET.—(a) IN GENERAL.—Title XXVII of the Public Health Service Act (as added by section 102 of the Health Insurance Portability and Accountability Act of 1996) is amended—

Ante, p. 1955.

(1) by amending the title heading to read as follows:

"TITLE XXVII—REQUIREMENTS RELATING TO HEALTH INSURANCE COVERAGE";

(2) by redesignating subparts 2 and 3 of part A as subparts 3 and 4 of such part;

(3) by inserting after subpart 1 of part A the following new subpart:

"Subpart 2—Other Requirements

"SEC. 2704. STANDARDS RELATING TO BENEFITS FOR MOTHERS AND NEWBORNS. 42 USC 300gg–4.

"(a) REQUIREMENTS FOR MINIMUM HOSPITAL STAY FOLLOWING BIRTH.—

"(1) IN GENERAL.—A group health plan, and a health insurance issuer offering group health insurance coverage, may not—

"(A) except as provided in paragraph (2)—

"(i) restrict benefits for any hospital length of stay in connection with childbirth for the mother or newborn child, following a normal vaginal delivery, to less than 48 hours, or

"(ii) restrict benefits for any hospital length of stay in connection with childbirth for the mother or newborn child, following a cesarean section, to less than 96 hours, or

"(B) require that a provider obtain authorization from the plan or the issuer for prescribing any length of stay required under subparagraph (A) (without regard to paragraph (2)).

"(2) EXCEPTION.—Paragraph (1)(A) shall not apply in connection with any group health plan or health insurance issuer in any case in which the decision to discharge the mother or her newborn child prior to the expiration of the minimum length of stay otherwise required under paragraph (1)(A) is made by an attending provider in consultation with the mother.

"(b) PROHIBITIONS.—A group health plan, and a health insurance issuer offering group health insurance coverage in connection with a group health plan, may not—

"(1) deny to the mother or her newborn child eligibility, or continued eligibility, to enroll or to renew coverage under the terms of the plan, solely for the purpose of avoiding the requirements of this section;

"(2) provide monetary payments or rebates to mothers to encourage such mothers to accept less than the minimum protections available under this section;

"(3) penalize or otherwise reduce or limit the reimbursement of an attending provider because such provider provided care to an individual participant or beneficiary in accordance with this section;

"(4) provide incentives (monetary or otherwise) to an attending provider to induce such provider to provide care to an individual participant or beneficiary in a manner inconsistent with this section; or

"(5) subject to subsection (c)(3), restrict benefits for any portion of a period within a hospital length of stay required

under subsection (a) in a manner which is less favorable than the benefits provided for any preceding portion of such stay.

"(c) RULES OF CONSTRUCTION.—

"(1) Nothing in this section shall be construed to require a mother who is a participant or beneficiary—

"(A) to give birth in a hospital; or

"(B) to stay in the hospital for a fixed period of time following the birth of her child.

"(2) This section shall not apply with respect to any group health plan, or any group health insurance coverage offered by a health insurance issuer, which does not provide benefits for hospital lengths of stay in connection with childbirth for a mother or her newborn child.

"(3) Nothing in this section shall be construed as preventing a group health plan or issuer from imposing deductibles, coinsurance, or other cost-sharing in relation to benefits for hospital lengths of stay in connection with childbirth for a mother or newborn child under the plan (or under health insurance coverage offered in connection with a group health plan), except that such coinsurance or other cost-sharing for any portion of a period within a hospital length of stay required under subsection (a) may not be greater than such coinsurance or cost-sharing for any preceding portion of such stay.

"(d) NOTICE.—A group health plan under this part shall comply with the notice requirement under section 711(d) of the Employee Retirement Income Security Act of 1974 with respect to the requirements of this section as if such section applied to such plan.

"(e) LEVEL AND TYPE OF REIMBURSEMENTS.—Nothing in this section shall be construed to prevent a group health plan or a health insurance issuer offering group health insurance coverage from negotiating the level and type of reimbursement with a provider for care provided in accordance with this section.

"(f) PREEMPTION; EXCEPTION FOR HEALTH INSURANCE COVERAGE IN CERTAIN STATES.—

"(1) IN GENERAL.—The requirements of this section shall not apply with respect to health insurance coverage if there is a State law (as defined in section 2723(d)(1)) for a State that regulates such coverage that is described in any of the following subparagraphs:

"(A) Such State law requires such coverage to provide for at least a 48-hour hospital length of stay following a normal vaginal delivery and at least a 96-hour hospital length of stay following a cesarean section.

"(B) Such State law requires such coverage to provide for maternity and pediatric care in accordance with guidelines established by the American College of Obstetricians and Gynecologists, the American Academy of Pediatrics, or other established professional medical associations.

"(C) Such State law requires, in connection with such coverage for maternity care, that the hospital length of stay for such care is left to the decision of (or required to be made by) the attending provider in consultation with the mother.

"(2) CONSTRUCTION.—Section 2723(a)(1) shall not be construed as superseding a State law described in paragraph (1).".

(b) CONFORMING AMENDMENTS.—

(1) Section 2721 of such Act (as added by section 102 of the Health Insurance Portability and Accountability Act of 1996) is amended— *Ante*, p. 1967.

(A) in subsection (a), by striking "subparts 1 and 2" and inserting "subparts 1 and 3", and

(B) in subsections (b) through (d), by striking "subparts 1 and 2" each place it appears and inserting "subparts 1 through 3".

(2) Section 2723(c) of such Act (as added by section 102 of the Health Insurance Portability and Accountability Act of 1996) is amended by inserting "(other than section 2704)" after "part". *Ante*, p. 1971.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to group health plans for plan years beginning on or after January 1, 1998. 42 USC 300gg–4 note.

SEC. 605. AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT RELATING TO THE INDIVIDUAL MARKET.—(a) IN GENERAL.—Part B of title XXVII of the Public Health Service Act (as added by section 111 of the Health Insurance Portability and Accountability Act of 1996) is amended— *Ante*, p. 1978.

(1) by inserting after the part heading the following:

"Subpart 1—Portability, Access, and Renewability Requirements";

(2) by redesignating sections 2745, 2746, and 2747 as sections 2761, 2762, and 2763, respectively; 42 USC 300gg–61—300gg–63.

(3) by inserting before section 2761 (as so redesignated) the following:

"Subpart 3—General Provisions"; and

(4) by inserting after section 2744 the following:

"Subpart 3—Other Requirements

"SEC. 2751. STANDARDS RELATING TO BENEFITS FOR MOTHERS AND NEWBORNS. 42 USC 300gg–51.

"(a) IN GENERAL.—The provisions of section 2704 (other than subsections (d) and (f)) shall apply to health insurance coverage offered by a health insurance issuer in the individual market in the same manner as it applies to health insurance coverage offered by a health insurance issuer in connection with a group health plan in the small or large group market.

"(b) NOTICE REQUIREMENT.—A health insurance issuer under this part shall comply with the notice requirement under section 711(d) of the Employee Retirement Income Security Act of 1974 with respect to the requirements referred to in subsection (a) as if such section applied to such issuer and such issuer were a group health plan.

"(c) PREEMPTION; EXCEPTION FOR HEALTH INSURANCE COVERAGE IN CERTAIN STATES.—

"(1) IN GENERAL.—The requirements of this section shall not apply with respect to health insurance coverage if there is a State law (as defined in section 2723(d)(1)) for a State that regulates such coverage that is described in any of the following subparagraphs:

"(A) Such State law requires such coverage to provide for at least a 48-hour hospital length of stay following a normal vaginal delivery and at least a 96-hour hospital length of stay following a cesarean section.

"(B) Such State law requires such coverage to provide for maternity and pediatric care in accordance with guidelines established by the American College of Obstetricians and Gynecologists, the American Academy of Pediatrics, or other established professional medical associations.

"(C) Such State law requires, in connection with such coverage for maternity care, that the hospital length of stay for such care is left to the decision of (or required to be made by) the attending provider in consultation with the mother.

"(2) CONSTRUCTION.—Section 2762(a) shall not be construed as superseding a State law described in paragraph (1).".

(b) CONFORMING AMENDMENTS.—Such part (as so added) is further amended as follows:

42 USC 300gg–44.

(1) In section 2744(a)(1), strike "2746(b)" and insert "2762(b)".

42 USC 300gg–61.

(2) In section 2745(a)(1) (before redesignation under subsection (a)(1)), strike "2746" and insert "2762".

42 USC 300gg–62.

(3) In section 2746(b) (before redesignation under subsection (a)(1))—

(A) by inserting "(1)" after the dash, and

(B) by adding at the end the following:

"(2) Nothing in this part (other than section 2751) shall be construed as requiring health insurance coverage offered in the individual market to provide specific benefits under the terms of such coverage.".

Applicability. 42 USC 300gg–44 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market on or after January 1, 1998.

42 USC 300gg–4 note.

SEC. 606. REPORTS TO CONGRESS CONCERNING CHILDBIRTH.—(a) FINDINGS.—Congress finds that—

(1) childbirth is one part of a continuum of experience that includes prepregnancy, pregnancy and prenatal care, labor and delivery, the immediate postpartum period, and a longer period of adjustment for the newborn, the mother, and the family;

(2) health care practices across this continuum are changing in response to health care financing and delivery system changes, science and clinical research, and patient preferences; and

(3) there is a need—

(A) to examine the issues and consequences associated with the length of hospital stays following childbirth;

(B) to examine the follow-up practices for mothers and newborns used in conjunction with shorter hospital stays;

(C) to identify appropriate health care practices and procedures with regard to the hospital discharge of newborns and mothers;

(D) to examine the extent to which such care is affected by family and environmental factors; and

(E) to examine the content of care during hospital stays following childbirth.

(b) ADVISORY PANEL.— Establishment.

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary of Health and Human Services (in this section referred to as the "Secretary") shall establish an advisory panel (referred to in this section as the "advisory panel")—

(A) to guide and review methods, procedures, and data collection necessary to conduct the study described in subsection (c) in a manner that is intended to enhance the quality, safety, and effectiveness of health care services provided to mothers and newborns;

(B) to develop a consensus among the members of the advisory panel regarding the appropriateness of the specific requirements of this title; and

(C) to prepare and submit to the Secretary, as part of the report of the Secretary submitted under subsection (d), a report summarizing the consensus (if any) developed under subparagraph (B) or the reasons for not reaching such a consensus.

(2) PARTICIPATION.—

(A) DEPARTMENT REPRESENTATIVES.—The Secretary shall ensure that representatives from within the Department of Health and Human Services that have expertise in the area of maternal and child health or in outcomes research are appointed to the advisory panel.

(B) REPRESENTATIVES OF PUBLIC AND PRIVATE SECTOR ENTITIES.—

(i) IN GENERAL.—The Secretary shall ensure that members of the advisory panel include representatives of public and private sector entities having knowledge or experience in one or more of the following areas:

(I) Patient care.
(II) Patient education.
(III) Quality assurance.
(IV) Outcomes research.
(V) Consumer issues.

(ii) REQUIREMENT.—The panel shall include representatives of each of the following categories:

(I) Health care practitioners.
(II) Health plans.
(III) Hospitals.
(IV) Employers.
(V) States.
(VI) Consumers.

(c) STUDIES.—

(1) IN GENERAL.—The Secretary shall conduct a study of—

(A) the factors affecting the continuum of care with respect to maternal and child health care, including outcomes following childbirth;

(B) the factors determining the length of hospital stay following childbirth;

(C) the diversity of negative or positive outcomes affecting mothers, infants, and families;

(D) the manner in which post natal care has changed over time and the manner in which that care has adapted or related to changes in the length of hospital stay, taking into account—

(i) the types of post natal care available and the extent to which such care is accessed; and

(ii) the challenges associated with providing post natal care to all populations, including vulnerable populations, and solutions for overcoming these challenges; and

(E) the financial incentives that may—

(i) impact the health of newborns and mothers; and

(ii) influence the clinical decisionmaking of health care providers.

(2) RESOURCES.—The Secretary shall provide to the advisory panel the resources necessary to carry out the duties of the advisory panel.

(d) REPORTS.—

(1) IN GENERAL.—The Secretary shall prepare and submit to the Committee on Labor and Human Resources of the Senate and the Committee on Commerce of the House of Representatives a report that contains—

(A) a summary of the study conducted under subsection (c);

(B) a summary of the best practices used in the public and private sectors for the care of newborns and mothers;

(C) recommendations for improvements in prenatal care, post natal care, delivery and follow-up care, and whether the implementation of such improvements should be accomplished by the private health care sector, Federal or State governments, or any combination thereof; and

(D) limitations on the databases in existence on the date of the enactment of this Act.

(2) DEADLINES.—The Secretary shall prepare and submit to the Committees referred to in paragraph (1)—

(A) an initial report concerning the study conducted under subsection (c) and elements described in paragraph (1), not later than 18 months after the date of the enactment of this Act;

(B) an interim report concerning such study and elements not later than 3 years after the date of the enactment of this Act; and

(C) a final report concerning such study and elements not later than 5 years after the date of the enactment of this Act.

(e) TERMINATION OF PANEL.—The advisory panel shall terminate on the date that occurs 60 days after the date on which the last report is submitted under subsection (d).

Mental Health Parity Act of 1996.

TITLE VII—PARITY IN THE APPLICATION OF CERTAIN LIMITS TO MENTAL HEALTH BENEFITS

42 USC 201 note.

SEC. 701. SHORT TITLE.—This title may be cited as the "Mental Health Parity Act of 1996".

SEC. 702. AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—(a) IN GENERAL.—Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (as added by section 603(a)) is amended by adding at the end the following new section:

"SEC. 712. PARITY IN THE APPLICATION OF CERTAIN LIMITS TO MENTAL HEALTH BENEFITS. 29 USC 1185a.

"(a) IN GENERAL.—

"(1) AGGREGATE LIFETIME LIMITS.—In the case of a group health plan (or health insurance coverage offered in connection with such a plan) that provides both medical and surgical benefits and mental health benefits—

"(A) NO LIFETIME LIMIT.—If the plan or coverage does not include an aggregate lifetime limit on substantially all medical and surgical benefits, the plan or coverage may not impose any aggregate lifetime limit on mental health benefits.

"(B) LIFETIME LIMIT.—If the plan or coverage includes an aggregate lifetime limit on substantially all medical and surgical benefits (in this paragraph referred to as the 'applicable lifetime limit'), the plan or coverage shall either—

"(i) apply the applicable lifetime limit both to the medical and surgical benefits to which it otherwise would apply and to mental health benefits and not distinguish in the application of such limit between such medical and surgical benefits and mental health benefits; or

"(ii) not include any aggregate lifetime limit on mental health benefits that is less than the applicable lifetime limit.

"(C) RULE IN CASE OF DIFFERENT LIMITS.—In the case of a plan or coverage that is not described in subparagraph (A) or (B) and that includes no or different aggregate lifetime limits on different categories of medical and surgical benefits, the Secretary shall establish rules under which subparagraph (B) is applied to such plan or coverage with respect to mental health benefits by substituting for the applicable lifetime limit an average aggregate lifetime limit that is computed taking into account the weighted average of the aggregate lifetime limits applicable to such categories.

"(2) ANNUAL LIMITS.—In the case of a group health plan (or health insurance coverage offered in connection with such a plan) that provides both medical and surgical benefits and mental health benefits—

"(A) NO ANNUAL LIMIT.—If the plan or coverage does not include an annual limit on substantially all medical and surgical benefits, the plan or coverage may not impose any annual limit on mental health benefits.

"(B) ANNUAL LIMIT.—If the plan or coverage includes an annual limit on substantially all medical and surgical benefits (in this paragraph referred to as the 'applicable annual limit'), the plan or coverage shall either—

"(i) apply the applicable annual limit both to medical and surgical benefits to which it otherwise would apply and to mental health benefits and not distinguish in the application of such limit between such medical and surgical benefits and mental health benefits; or

"(ii) not include any annual limit on mental health benefits that is less than the applicable annual limit.

"(C) RULE IN CASE OF DIFFERENT LIMITS.—In the case of a plan or coverage that is not described in subparagraph (A) or (B) and that includes no or different annual limits on different categories of medical and surgical benefits, the Secretary shall establish rules under which subparagraph (B) is applied to such plan or coverage with respect to mental health benefits by substituting for the applicable annual limit an average annual limit that is computed taking into account the weighted average of the annual limits applicable to such categories.

"(b) CONSTRUCTION.—Nothing in this section shall be construed—

"(1) as requiring a group health plan (or health insurance coverage offered in connection with such a plan) to provide any mental health benefits; or

"(2) in the case of a group health plan (or health insurance coverage offered in connection with such a plan) that provides mental health benefits, as affecting the terms and conditions (including cost sharing, limits on numbers of visits or days of coverage, and requirements relating to medical necessity) relating to the amount, duration, or scope of mental health benefits under the plan or coverage, except as specifically provided in subsection (a) (in regard to parity in the imposition of aggregate lifetime limits and annual limits for mental health benefits).

"(c) EXEMPTIONS.—

"(1) SMALL EMPLOYER EXEMPTION.—

"(A) IN GENERAL.—This section shall not apply to any group health plan (and group health insurance coverage offered in connection with a group health plan) for any plan year of a small employer.

"(B) SMALL EMPLOYER.—For purposes of subparagraph (A), the term 'small employer' means, in connection with a group health plan with respect to a calendar year and a plan year, an employer who employed an average of at least 2 but not more than 50 employees on business days during the preceding calendar year and who employs at least 2 employees on the first day of the plan year.

"(C) APPLICATION OF CERTAIN RULES IN DETERMINATION OF EMPLOYER SIZE.—For purposes of this paragraph—

"(i) APPLICATION OF AGGREGATION RULE FOR EMPLOYERS.—Rules similar to the rules under subsections (b), (c), (m), and (o) of section 414 of the Internal Revenue Code of 1986 shall apply for purposes of treating persons as a single employer.

"(ii) EMPLOYERS NOT IN EXISTENCE IN PRECEDING YEAR.—In the case of an employer which was not in existence throughout the preceding calendar year, the determination of whether such employer is a small employer shall be based on the average number of employees that it is reasonably expected such employer will employ on business days in the current calendar year.

"(iii) PREDECESSORS.—Any reference in this paragraph to an employer shall include a reference to any predecessor of such employer.

"(2) INCREASED COST EXEMPTION.—This section shall not apply with respect to a group health plan (or health insurance coverage offered in connection with a group health plan) if the application of this section to such plan (or to such coverage) results in an increase in the cost under the plan (or for such coverage) of at least 1 percent.

"(d) SEPARATE APPLICATION TO EACH OPTION OFFERED.—In the case of a group health plan that offers a participant or beneficiary two or more benefit package options under the plan, the requirements of this section shall be applied separately with respect to each such option.

"(e) DEFINITIONS.—For purposes of this section—

"(1) AGGREGATE LIFETIME LIMIT.—The term 'aggregate lifetime limit' means, with respect to benefits under a group health plan or health insurance coverage, a dollar limitation on the total amount that may be paid with respect to such benefits under the plan or health insurance coverage with respect to an individual or other coverage unit.

"(2) ANNUAL LIMIT.—The term 'annual limit' means, with respect to benefits under a group health plan or health insurance coverage, a dollar limitation on the total amount of benefits that may be paid with respect to such benefits in a 12-month period under the plan or health insurance coverage with respect to an individual or other coverage unit.

"(3) MEDICAL OR SURGICAL BENEFITS.—The term 'medical or surgical benefits' means benefits with respect to medical or surgical services, as defined under the terms of the plan or coverage (as the case may be), but does not include mental health benefits.

"(4) MENTAL HEALTH BENEFITS.—The term 'mental health benefits' means benefits with respect to mental health services, as defined under the terms of the plan or coverage (as the case may be), but does not include benefits with respect to treatment of substance abuse or chemical dependency.

"(f) SUNSET.—This section shall not apply to benefits for services furnished on or after September 30, 2001.".

(b) CLERICAL AMENDMENT.—The table of contents in section 1 of such Act, as amended by section 603 of this Act, is amended by inserting after the item relating to section 711 the following new item:

"Sec. 712. Parity in the application of certain limits to mental health benefits.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to group health plans for plan years beginning on or after January 1, 1998. Applicability. 29 USC 1183b note.

SEC. 703. AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT RELATING TO THE GROUP MARKET.—(a) IN GENERAL.—Subpart 2 of part A of title XXVII of the Public Health Service Act (as added by section 604(a)) is amended by adding at the end the following new section:

"SEC. 2705. PARITY IN THE APPLICATION OF CERTAIN LIMITS TO MENTAL HEALTH BENEFITS. 42 USC 300gg–5.

"(a) IN GENERAL.—

"(1) AGGREGATE LIFETIME LIMITS.—In the case of a group health plan (or health insurance coverage offered in connection with such a plan) that provides both medical and surgical benefits and mental health benefits—

"(A) NO LIFETIME LIMIT.—If the plan or coverage does not include an aggregate lifetime limit on substantially all medical and surgical benefits, the plan or coverage may not impose any aggregate lifetime limit on mental health benefits.

"(B) LIFETIME LIMIT.—If the plan or coverage includes an aggregate lifetime limit on substantially all medical and surgical benefits (in this paragraph referred to as the 'applicable lifetime limit'), the plan or coverage shall either—

"(i) apply the applicable lifetime limit both to the medical and surgical benefits to which it otherwise would apply and to mental health benefits and not distinguish in the application of such limit between such medical and surgical benefits and mental health benefits; or

"(ii) not include any aggregate lifetime limit on mental health benefits that is less than the applicable lifetime limit.

"(C) RULE IN CASE OF DIFFERENT LIMITS.—In the case of a plan or coverage that is not described in subparagraph (A) or (B) and that includes no or different aggregate lifetime limits on different categories of medical and surgical benefits, the Secretary shall establish rules under which subparagraph (B) is applied to such plan or coverage with respect to mental health benefits by substituting for the applicable lifetime limit an average aggregate lifetime limit that is computed taking into account the weighted average of the aggregate lifetime limits applicable to such categories.

"(2) ANNUAL LIMITS.—In the case of a group health plan (or health insurance coverage offered in connection with such a plan) that provides both medical and surgical benefits and mental health benefits—

"(A) NO ANNUAL LIMIT.—If the plan or coverage does not include an annual limit on substantially all medical and surgical benefits, the plan or coverage may not impose any annual limit on mental health benefits.

"(B) ANNUAL LIMIT.—If the plan or coverage includes an annual limit on substantially all medical and surgical benefits (in this paragraph referred to as the 'applicable annual limit'), the plan or coverage shall either—

"(i) apply the applicable annual limit both to medical and surgical benefits to which it otherwise would apply and to mental health benefits and not distinguish in the application of such limit between such medical and surgical benefits and mental health benefits; or

"(ii) not include any annual limit on mental health benefits that is less than the applicable annual limit.

"(C) RULE IN CASE OF DIFFERENT LIMITS.—In the case of a plan or coverage that is not described in subparagraph (A) or (B) and that includes no or different annual limits on different categories of medical and surgical benefits, the Secretary shall establish rules under which subparagraph (B) is applied to such plan or coverage with respect to mental health benefits by substituting for the applicable annual limit an average annual limit that is computed

taking into account the weighted average of the annual limits applicable to such categories.

"(b) CONSTRUCTION.—Nothing in this section shall be construed—

"(1) as requiring a group health plan (or health insurance coverage offered in connection with such a plan) to provide any mental health benefits; or

"(2) in the case of a group health plan (or health insurance coverage offered in connection with such a plan) that provides mental health benefits, as affecting the terms and conditions (including cost sharing, limits on numbers of visits or days of coverage, and requirements relating to medical necessity) relating to the amount, duration, or scope of mental health benefits under the plan or coverage, except as specifically provided in subsection (a) (in regard to parity in the imposition of aggregate lifetime limits and annual limits for mental health benefits).

"(c) EXEMPTIONS.—

"(1) SMALL EMPLOYER EXEMPTION.—This section shall not apply to any group health plan (and group health insurance coverage offered in connection with a group health plan) for any plan year of a small employer.

"(2) INCREASED COST EXEMPTION.—This section shall not apply with respect to a group health plan (or health insurance coverage offered in connection with a group health plan) if the application of this section to such plan (or to such coverage) results in an increase in the cost under the plan (or for such coverage) of at least 1 percent.

"(d) SEPARATE APPLICATION TO EACH OPTION OFFERED.—In the case of a group health plan that offers a participant or beneficiary two or more benefit package options under the plan, the requirements of this section shall be applied separately with respect to each such option.

"(e) DEFINITIONS.—For purposes of this section—

"(1) AGGREGATE LIFETIME LIMIT.—The term 'aggregate lifetime limit' means, with respect to benefits under a group health plan or health insurance coverage, a dollar limitation on the total amount that may be paid with respect to such benefits under the plan or health insurance coverage with respect to an individual or other coverage unit.

"(2) ANNUAL LIMIT.—The term 'annual limit' means, with respect to benefits under a group health plan or health insurance coverage, a dollar limitation on the total amount of benefits that may be paid with respect to such benefits in a 12-month period under the plan or health insurance coverage with respect to an individual or other coverage unit.

"(3) MEDICAL OR SURGICAL BENEFITS.—The term 'medical or surgical benefits' means benefits with respect to medical or surgical services, as defined under the terms of the plan or coverage (as the case may be), but does not include mental health benefits.

"(4) MENTAL HEALTH BENEFITS.—The term 'mental health benefits' means benefits with respect to mental health services, as defined under the terms of the plan or coverage (as the case may be), but does not include benefits with respect to treatment of substance abuse or chemical dependency.

"(f) SUNSET.—This section shall not apply to benefits for services furnished on or after September 30, 2001.".

Applicability.
42 USC 300gg–5 note.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to group health plans for plan years beginning on or after January 1, 1998.

This Act may be cited as the "Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997".

Approved September 26, 1996.

LEGISLATIVE HISTORY—H.R. 3666:

HOUSE REPORTS: Nos. 104–628 (Comm. on Appropriations) and 104–812 (Comm. of Conference).
SENATE REPORTS: No. 104–318 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 142 (1996):
June 25, 26, considered and passed House.
Sept. 3–5, considered and passed Senate, amended.
Sept. 24, House agreed to conference report.
Sept. 25, Senate agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 32 (1996):
Sept. 26, Presidential remarks and statement.

Public Law 104–205
104th Congress

An Act

Making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1997, and for other purposes.

Sept. 30, 1996
[H.R. 3675]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of Transportation and related agencies for the fiscal year ending September 30, 1997, and for other purposes, namely:

Department of Transportation and Related Agencies Appropriations Act, 1997.

TITLE I

DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

SALARIES AND EXPENSES

For necessary expenses of the Office of the Secretary, $52,966,000, of which such sums as necessary shall be used to investigate anticompetitive practices in air transportation, enforce section 41712 of title 49, and report to Congress by the end of the fiscal year on its progress to address anticompetitive practices, and of which not to exceed $40,000 shall be available as the Secretary may determine for allocation within the Department for official reception and representation expenses: *Provided*, That notwithstanding any other provision of law, there may be credited to this appropriation up to $1,000,000 in funds received in user fees established to support the electronic tariff filing system: *Provided further*, That none of the funds appropriated in this Act or otherwise made available may be used to maintain custody of airline tariffs that are already available for public and departmental access at no cost; to secure them against detection, alteration, or tampering; and open to inspection by the Department.

OFFICE OF CIVIL RIGHTS

For necessary expenses of the Office of Civil Rights, $5,574,000.

TRANSPORTATION PLANNING, RESEARCH, AND DEVELOPMENT

For necessary expenses for conducting transportation planning, research, systems development, and development activities, to remain available until expended, $3,000,000.

TRANSPORTATION ADMINISTRATIVE SERVICE CENTER

Necessary expenses for operating costs and capital outlays of the Transportation Administrative Service Center, not to exceed $124,812,000, shall be paid from appropriations made available to the Department of Transportation: *Provided,* That such services shall be provided on a competitive basis to entities within the Department of Transportation: *Provided further,* That the above limitation on operating expenses shall not apply to non-DOT entities: *Provided further,* That no funds appropriated in this Act to an agency of the Department shall be transferred to the Transportation Administrative Service Center without the approval of the agency modal administrator: *Provided further,* That no assessments may be levied against any program, budget activity, subactivity or project funded by this Act unless notice of such assessments and the basis therefor are presented to the House and Senate Committees on Appropriations and are approved by such Committees.

PAYMENTS TO AIR CARRIERS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(AIRPORT AND AIRWAY TRUST FUND)

(INCLUDING RESCISSION OF CONTRACT AUTHORIZATION)

For liquidation of obligations incurred for payments to air carriers of so much of the compensation fixed and determined under subchapter II of chapter 417 of title 49, United States Code, as is payable by the Department of Transportation, $25,900,000, to remain available until expended and to be derived from the Airport and Airway Trust Fund: *Provided,* That none of the funds in this Act shall be available for the implementation or execution of programs in excess of $25,900,000 for the Payments to Air Carriers program in fiscal year 1997: *Provided further,* That none of the funds in this Act shall be used by the Secretary of Transportation to make payment of compensation under subchapter II of chapter 417 of title 49, United States Code, in excess of the appropriation in this Act for liquidation of obligations incurred under the "Payments to air carriers" program: *Provided further,* That none of the funds in this Act shall be used for the payment of claims for such compensation except in accordance with this provision: *Provided further,* That none of the funds in this Act shall be available for service to communities in the forty-eight contiguous States that are located fewer than seventy highway miles from the nearest large or medium hub airport, or that require a rate of subsidy per passenger in excess of $200 unless such point is greater than two hundred and ten miles from the nearest large or medium hub airport: *Provided further,* That of funds provided for "Small Community Air Service" by Public Law 101–508, $12,700,000 in fiscal year 1997 is hereby rescinded.

PAYMENTS TO AIR CARRIERS

(RESCISSION)

Of the budgetary resources remaining available under this heading, $1,133,000 are rescinded.

RENTAL PAYMENTS

For necessary expenses for rental of headquarters and field space not to exceed 8,580,000 square feet and for related services assessed by the General Services Administration, $127,447,000: *Provided,* That of this amount, $2,022,000 shall be derived from the Highway Trust Fund, $39,113,000 shall be derived from the Airport and Airway Trust Fund, $840,000 shall be derived from the Pipeline Safety Fund, and $193,000 shall be derived from the Harbor Maintenance Trust Fund: *Provided further,* That in addition, for assessments by the General Services Administration related to the space needs of the Federal Highway Administration, $17,294,000, to be derived from "Federal-aid Highways", subject to the "Limitation on General Operating Expenses".

MINORITY BUSINESS RESOURCE CENTER PROGRAM

For the cost of direct loans, $1,500,000, as authorized by 49 U.S.C. 332: *Provided,* That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further,* That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $15,000,000. In addition, for administrative expenses to carry out the direct loan program, $400,000.

MINORITY BUSINESS OUTREACH

For necessary expenses of the Minority Business Resource Center outreach activities, $2,900,000, of which $2,635,000 shall remain available until September 30, 1998: *Provided,* That notwithstanding 49 U.S.C. 332, these funds may be used for business opportunities related to any mode of transportation.

COAST GUARD

OPERATING EXPENSES

For necessary expenses for the operation and maintenance of the Coast Guard, not otherwise provided for; purchase of not to exceed five passenger motor vehicles for replacement only; payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), and section 229(b) of the Social Security Act (42 U.S.C. 429(b)); and recreation and welfare; $2,319,725,000, of which $25,000,000 shall be derived from the Oil Spill Liability Trust Fund: *Provided,* That the number of aircraft on hand at any one time shall not exceed two hundred and eighteen, exclusive of aircraft and parts stored to meet future attrition: *Provided further,* That none of the funds appropriated in this or any other Act shall be available for pay or administrative expenses in connection with shipping commissioners in the United States: *Provided further,* That none of the funds provided in this Act shall be avail- 14 USC 92 note.

able for expenses incurred for yacht documentation under 46 U.S.C. 12109, except to the extent fees are collected from yacht owners and credited to this appropriation: *Provided further,* That the Commandant shall reduce both military and civilian employment levels for the purpose of complying with Executive Order No. 12839.

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

For necessary expenses of acquisition, construction, renovation, and improvement of aids to navigation, shore facilities, vessels, and aircraft, including equipment related thereto, $374,840,000, of which $20,000,000 shall be derived from the Oil Spill Liability Trust Fund; of which $216,500,000 shall be available to acquire, repair, renovate or improve vessels, small boats and related equipment, to remain available until September 30, 2001; $18,040,000 shall be available to acquire new aircraft and increase aviation capability, to remain available until September 30, 1999; $41,700,000 shall be available for other equipment, to remain available until September 30, 1999; $52,350,000 shall be available for shore facilities and aids to navigation facilities, to remain available until September 30, 1999; and $46,250,000 shall remain available for personnel compensation and benefits and related costs, to remain available until September 30, 1998: *Provided,* That funds received from the sale of the VC–11A and HU–25 aircraft shall be credited to this appropriation for the purpose of acquiring new aircraft and increasing aviation capacity: *Provided further,* That the Commandant may dispose of surplus real property by sale or lease and the proceeds of such sale or lease shall be credited to this appropriation: *Provided further,* That none of the funds in this Act may be obligated or expended to continue the "Vessel Traffic Service (VTS) 2000" Program: *Provided further,* That of the funds provided under this heading, $1,000,000 is available only for a Coast Guard analysis of future VTS system requirements which minimizes complexity and is based upon an open system architecture maximizing use of off-the-shelf technology, to be conducted in cooperation with the maritime community and local organizations affected by the implementation of such systems.

ENVIRONMENTAL COMPLIANCE AND RESTORATION

For necessary expenses to carry out the Coast Guard's environmental compliance and restoration functions under chapter 19 of title 14, United States Code, $22,000,000, to remain available until expended.

PORT SAFETY DEVELOPMENT

For necessary expenses for debt retirement of the Port of Portland, Oregon, without further findings and determinations, $5,000,000, to remain available until expended.

ALTERATION OF BRIDGES

For necessary expenses for alteration or removal of obstructive bridges, $16,000,000, to remain available until expended.

RETIRED PAY

For retired pay, including the payment of obligations therefor otherwise chargeable to lapsed appropriations for this purpose, and payments under the Retired Serviceman's Family Protection and Survivor Benefits Plans, and for payments for medical care of retired personnel and their dependents under the Dependents Medical Care Act (10 U.S.C. ch. 55); $608,084,000.

RESERVE TRAINING

For all necessary expenses for the Coast Guard Reserve, as authorized by law; maintenance and operation of facilities; and supplies, equipment, and services; $65,890,000.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

For necessary expenses, not otherwise provided for, for applied scientific research, development, test, and evaluation; maintenance, rehabilitation, lease and operation of facilities and equipment, as authorized by law, $19,200,000, to remain available until expended, of which $5,020,000 shall be derived from the Oil Spill Liability Trust Fund: *Provided,* That there may be credited to this appropriation funds received from State and local governments, other public authorities, private sources, and foreign countries, for expenses incurred for research, development, testing, and evaluation.

BOAT SAFETY

(AQUATIC RESOURCES TRUST FUND)

For payment of necessary expenses incurred for recreational boating safety assistance under Public Law 92–75, as amended, $35,000,000, to be derived from the Boat Safety Account and to remain available until expended.

FEDERAL AVIATION ADMINISTRATION

OPERATIONS

For necessary expenses of the Federal Aviation Administration, not otherwise provided for, including operations and research activities related to commercial space transportation, administrative expenses for research and development, establishment of air navigation facilities and the operation (including leasing) and maintenance of aircraft, and carrying out the provisions of subchapter I of chapter 471 of title 49, United States Code, or other provisions of law authorizing the obligation of funds for similar programs of airport and airway development or improvement, lease or purchase of four passenger motor vehicles for replacement only, $4,900,000,000, of which $1,642,500,000 shall be derived from the Airport and Airway Trust Fund: *Provided,* That notwithstanding any other provision of law, not to exceed $75,000,000 from additional user fees to be established by the Administrator of the Federal Aviation Administration shall be credited to this appropriation as offsetting collections and used for necessary and authorized expenses under this heading: *Provided further,* That the sum herein appropriated from the general fund shall be reduced on a dollar for dollar basis as such offsetting collections are received during fiscal year

1997, to result in a final fiscal year 1997 appropriation from the general fund estimated at not more than $3,182,500,000: *Provided further,* That the only additional user fees authorized as offsetting collections are fees for services provided to aircraft that neither take off from, nor land in, the United States: *Provided further,* That there may be credited to this appropriation, funds received from States, counties, municipalities, foreign authorities, other public authorities, and private sources, for expenses incurred in the provision of agency services, including receipts for the maintenance and operation of air navigation facilities and, for issuance, renewal or modification of certificates, including airman, aircraft, and repair station certificates, or for tests related thereto, or for processing major repair or alteration forms: *Provided further,* That funds may be used to enter into a grant agreement with a nonprofit standard setting organization to assist in the development of aviation safety standards: *Provided further,* That none of the funds in this Act shall be available for new applicants for the second career training program: *Provided further,* That none of the funds in this Act shall be available for paying premium pay under 5 U.S.C. 5546(a) to any Federal Aviation Administration employee unless such employee actually performed work during the time corresponding to such premium pay: *Provided further,* That none of the funds in this Act may be obligated or expended to operate a manned auxiliary flight service station in the contiguous United States: *Provided further,* That none of the funds derived from the Airport and Airway Trust Fund may be used to support the operations and activities of the Associate Administrator for Commercial Space Transportation.

FACILITIES AND EQUIPMENT

(AIRPORT AND AIRWAY TRUST FUND)

For necessary expenses, not otherwise provided for, for acquisition, establishment, and improvement by contract or purchase, and hire of air navigation and experimental facilities and equipment as authorized under part A of subtitle VII of title 49, United States Code, including initial acquisition of necessary sites by lease or grant; engineering and service testing, including construction of test facilities and acquisition of necessary sites by lease or grant; and construction and furnishing of quarters and related accommodations for officers and employees of the Federal Aviation Administration stationed at remote localities where such accommodations are not available; and the purchase, lease, or transfer of aircraft from funds available under this head; to be derived from the Airport and Airway Trust Fund, $1,790,000,000, of which $1,573,000,000 shall remain available until September 30, 1999, and of which $217,000,000 shall remain available until September 30, 1997: *Provided,* That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred in the establishment and modernization of air navigation facilities.

RESEARCH, ENGINEERING, AND DEVELOPMENT

(AIRPORT AND AIRWAY TRUST FUND)

For necessary expenses, not otherwise provided for, for research, engineering, and development, as authorized under part A of subtitle VII of title 49, United States Code, including construction of experimental facilities and acquisition of necessary sites by lease or grant, $187,412,000, to be derived from the Airport and Airway Trust Fund and to remain available until September 30, 1999: *Provided,* That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred for research, engineering, and development.

GRANTS-IN-AID FOR AIRPORTS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(AIRPORT AND AIRWAY TRUST FUND)

For liquidation of obligations incurred for grants-in-aid for airport planning and development, and for noise compatibility planning and programs as authorized under subchapter I of chapter 471 and subchapter I of chapter 475 of title 49, United States Code, and under other law authorizing such obligations, $1,500,000,000, to be derived from the Airport and Airway Trust Fund and to remain available until expended: *Provided,* That none of the funds in this Act shall be available for the planning or execution of programs the obligations for which are in excess of $1,460,000,000 in fiscal year 1997 for grants-in-aid for airport planning and development, and noise compatibility planning and programs, notwithstanding section 47117(h) of title 49, United States Code.

AVIATION INSURANCE REVOLVING FUND

The Secretary of Transportation is hereby authorized to make such expenditures and investments, within the limits of funds available pursuant to 49 U.S.C. 44307, and in accordance with section 104 of the Government Corporation Control Act, as amended (31 U.S.C. 9104), as may be necessary in carrying out the program for aviation insurance activities under chapter 443 of title 49, United States Code.

AIRCRAFT PURCHASE LOAN GUARANTEE PROGRAM

None of the funds in this Act shall be available for activities under this heading during fiscal year 1997. 49 USC 40113 note.

ADMINISTRATIVE SERVICES FRANCHISE FUND

There is hereby established in the Treasury a fund, to be available without fiscal year limitation, for the costs of capitalizing and operating such administrative services as the FAA Administrator determines may be performed more advantageously as centralized services, including accounting, international training, payroll, travel, duplicating, multimedia and information technology services: *Provided,* That any inventories, equipment, and other 49 USC 40113 note.

assets pertaining to the services to be provided by such fund, either on hand or on order, less the related liabilities or unpaid obligations, and any appropriations made prior to the current year for the purpose of providing capital shall be used to capitalize such fund: *Provided further,* That such fund shall be paid in advance from funds available to the FAA and other Federal agencies for which such centralized services are performed, at rates which will return in full all expenses of operation, including accrued leave, depreciation of fund plant and equipment, amortization of Automated Data Processing (ADP) software and systems (either required or donated), and an amount necessary to maintain a reasonable operating reserve, as determined by the FAA Administrator: *Provided further,* That such fund shall provide services on a competitive basis: *Provided further,* That an amount not to exceed four percent of the total annual income to such fund may be retained in the fund for fiscal year 1997 and each year thereafter, to remain available until expended, to be used for the acquisition of capital equipment and for the improvement and implementation of FAA financial management, ADP, and support systems: *Provided further,* That no later than thirty days after the end of each fiscal year, amounts in excess of this reserve limitation shall be transferred to miscellaneous receipts in the Treasury.

FEDERAL HIGHWAY ADMINISTRATION

LIMITATION ON GENERAL OPERATING EXPENSES

Necessary expenses for administration, operation, including motor carrier safety program operations, and research of the Federal Highway Administration not to exceed $521,114,000 shall be paid in accordance with law from appropriations made available by this Act to the Federal Highway Administration together with advances and reimbursements received by the Federal Highway Administration: *Provided,* That $221,958,000 of the amount provided herein shall remain available until September 30, 1999.

HIGHWAY-RELATED SAFETY GRANTS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

For payment of obligations incurred in carrying out the provisions of title 23, United States Code, section 402 administered by the Federal Highway Administration, to remain available until expended, $2,049,000 to be derived from the Highway Trust Fund.

FEDERAL-AID HIGHWAYS

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

23 USC 104 note.

None of the funds in this Act shall be available for the implementation or execution of programs the obligations for which are in excess of $18,000,000,000 for Federal-aid highways and highway safety construction programs for fiscal year 1997.

FEDERAL-AID HIGHWAYS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

For carrying out the provisions of title 23, United States Code, that are attributable to Federal-aid highways, including the National Scenic and Recreational Highway as authorized by 23 U.S.C. 148, not otherwise provided, including reimbursements for sums expended pursuant to the provisions of 23 U.S.C. 308, $19,800,000,000 or so much thereof as may be available in and derived from the Highway Trust Fund, to remain available until expended.

RIGHT-OF-WAY REVOLVING FUND

(LIMITATION ON DIRECT LOANS)

(HIGHWAY TRUST FUND)

None of the funds under this head are available for obligations for right-of-way acquisition during fiscal year 1997.

MOTOR CARRIER SAFETY GRANTS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

For payment of obligations incurred in carrying out 49 U.S.C. 31102, $74,000,000, to be derived from the Highway Trust Fund and to remain available until expended: *Provided,* That none of the funds in this Act shall be available for the implementation or execution of programs the obligations for which are in excess of $78,225,000 for "Motor Carrier Safety Grants".

STATE INFRASTRUCTURE BANKS

To carry out the State Infrastructure Bank Pilot Program (Public Law 104–59, section 350), $150,000,000, to remain available until expended: *Provided,* That the Secretary may distribute these funds in a manner determined by the Secretary to any State for which a State Infrastructure Bank has been approved and the State has requested such funds: *Provided further,* That no distribution of funds made available under this heading shall be made prior to 180 days after the date of enactment of this Act: *Provided further,* That the Secretary may approve State Infrastructure Banks for more than 10 States: *Provided further,* That these funds shall be used to advance projects or programs under the terms and conditions of section 350: *Provided further,* That any State that receives such funds may deposit any portion of those funds into either the highway or transit account of the State Infrastructure Bank: *Provided further,* That the Secretary shall ensure that the Federal disbursements shall be at a rate consistent with historic rates for the Federal-aid highways program.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

OPERATIONS AND RESEARCH

For expenses necessary to discharge the functions of the Secretary with respect to traffic and highway safety under part C of subtitle VI of title 49, United States Code, and chapter 301 of title 49, United States Code, $80,900,000, of which $45,646,000 shall remain available until September 30, 1999: *Provided,* That none of the funds appropriated by this Act may be obligated or expended to plan, finalize, or implement any rulemaking to add to section 575.104 of title 49 of the Code of Federal Regulations any requirement pertaining to a grading standard that is different from the three grading standards (treadwear, traction, and temperature resistance) already in effect.

OPERATIONS AND RESEARCH

(HIGHWAY TRUST FUND)

For expenses necessary to discharge the functions of the Secretary with respect to traffic and highway safety under 23 U.S.C. 403 and section 2006 of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240), to be derived from the Highway Trust Fund, $51,712,000, of which $27,066,000 shall remain available until September 30, 1999.

HIGHWAY TRAFFIC SAFETY GRANTS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

For payment of obligations incurred carrying out the provisions of 23 U.S.C. 153, 402, 408, and 410, chapter 303 of title 49, United States Code, and section 209 of Public Law 95–599, as amended, to remain available until expended, $168,100,000, to be derived from the Highway Trust Fund: *Provided,* That, notwithstanding subsection 2009(b) of the Intermodal Surface Transportation Efficiency Act of 1991, none of the funds in this Act shall be available for the planning or execution of programs the total obligations for which, in fiscal year 1997, are in excess of $168,100,000 for programs authorized under 23 U.S.C. 402 and 410, as amended, of which $128,700,000 shall be for "State and community highway safety grants", $2,400,000 shall be for the "National Driver Register", $11,500,000 shall be for highway safety grants as authorized by section 1003(a)(7) of Public Law 102–240, and $25,500,000 shall be for section 410 "Alcohol-impaired driving counter-measures programs": *Provided further,* That none of these funds shall be used for construction, rehabilitation or remodeling costs, or for office furnishings and fixtures for State, local, or private buildings or structures: *Provided further,* That not to exceed $5,468,000 of the funds made available for section 402 may be available for administering "State and community highway safety grants": *Provided further,* That not to exceed $150,000 of the funds made available for section 402 may be available for administering the highway safety grants authorized by section 1003(a)(7) of Public Law 102–240: *Provided further,* That the unobligated balances of the appro-

priation "Highway-Related Safety Grants" shall be transferred to and merged with this "Highway Traffic Safety Grants" appropriation: *Provided further*, That not to exceed $500,000 of the funds made available for section 410 "Alcohol-impaired driving countermeasures programs" shall be available for technical assistance to the States.

FEDERAL RAILROAD ADMINISTRATION

OFFICE OF THE ADMINISTRATOR

For necessary expenses of the Federal Railroad Administration, not otherwise provided for, $16,739,000, of which $1,523,000 shall remain available until expended: *Provided,* That none of the funds in this Act shall be available for the planning or execution of a program making commitments to guarantee new loans under the Emergency Rail Services Act of 1970, as amended, and no new commitments to guarantee loans under section 211(a) or 211(h) of the Regional Rail Reorganization Act of 1973, as amended, shall be made: *Provided further,* That, as part of the Washington Union Station transaction in which the Secretary assumed the first deed of trust on the property and, where the Union Station Redevelopment Corporation or any successor is obligated to make payments on such deed of trust on the Secretary's behalf, including payments on and after September 30, 1988, the Secretary is authorized to receive such payments directly from the Union Station Redevelopment Corporation, credit them to the appropriation charged for the first deed of trust, and make payments on the first deed of trust with those funds: *Provided further,* That such additional sums as may be necessary for payment on the first deed of trust may be advanced by the Administrator from unobligated balances available to the Federal Railroad Administration, to be reimbursed from payments received from the Union Station Redevelopment Corporation. 40 USC 817 note.

RAILROAD SAFETY

For necessary expenses in connection with railroad safety, not otherwise provided for, $51,407,000, of which $2,476,000 shall remain available until expended: *Provided,* That notwithstanding any other law, funds appropriated under this heading are available for the reimbursement of out-of-state travel and per diem costs incurred by employees of State governments directly supporting the Federal railroad safety program, including regulatory development and compliance-related activities.

RAILROAD RESEARCH AND DEVELOPMENT

For necessary expenses for railroad research and development, $20,100,000, to remain available until expended.

NORTHEAST CORRIDOR IMPROVEMENT PROGRAM

For necessary expenses related to Northeast Corridor improvements authorized by title VII of the Railroad Revitalization and Regulatory Reform Act of 1976, as amended (45 U.S.C. 851 et seq.) and 49 U.S.C. 24909, $115,000,000, to remain available until September 30, 1999.

HIGH-SPEED RAIL TRAINSETS AND FACILITIES

For the National Railroad Passenger Corporation, $80,000,000, to remain available until September 30, 1999, to pursue public/private partnerships for high-speed rail trainset and maintenance facility financing arrangements.

RAILROAD REHABILITATION AND IMPROVEMENT PROGRAM

The Secretary of Transportation is authorized to issue to the Secretary of the Treasury notes or other obligations pursuant to section 512 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94–210), as amended, in such amounts and at such times as may be necessary to pay any amounts required pursuant to the guarantee of the principal amount of obligations under sections 511 through 513 of such Act, such authority to exist as long as any such guaranteed obligation is outstanding: *Provided,* That no new loan guarantee commitments shall be made during fiscal year 1997.

NEXT GENERATION HIGH-SPEED RAIL

For necessary expenses for Next Generation High-Speed Rail studies, corridor planning, development, demonstration, and implementation, $24,757,000, to remain available until expended: *Provided,* That funds under this head may be made available for grants to States for high-speed rail corridor design, feasibility studies, environmental analyses, and track and signal improvements.

TRUST FUND SHARE OF NEXT GENERATION HIGH-SPEED RAIL

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

For grants and payment of obligations incurred in carrying out the provisions of the High-Speed Ground Transportation program as defined in subsections 1036(c) and 1036(d)(1)(B) of the Intermodal Surface Transportation Efficiency Act of 1991, including planning and environmental analyses, $2,855,000, to be derived from the Highway Trust Fund and to remain available until expended.

ALASKA RAILROAD REHABILITATION

To enable the Secretary of Transportation to make grants to the Alaska Railroad, $10,000,000 shall be for capital rehabilitation and improvements benefiting its passenger operations.

RHODE ISLAND RAIL DEVELOPMENT

For the costs associated with construction of a third track on the Northeast Corridor between Davisville and Central Falls, Rhode Island, with sufficient clearance to accommodate double stack freight cars, $7,000,000 to be matched by the State of Rhode Island or its designee on a dollar for dollar basis and to remain available until expended: *Provided,* That as a condition of accepting such funds, the Providence and Worcester (P&W) Railroad shall enter

Contracts.

into an agreement with the Secretary to reimburse Amtrak and/or the Federal Railroad Administration, on a dollar for dollar basis, up to the first $13,000,000 in damages resulting from the legal action initiated by the P&W Railroad under its existing contracts with Amtrak relating to the provision of vertical clearances between Davisville and Central Falls in excess of those required for present freight operations.

GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION

To enable the Secretary of Transportation to make grants to the National Railroad Passenger Corporation authorized by 49 U.S.C. 24104, $565,450,000, to remain available until expended, of which $342,000,000 shall be available for operating losses and for mandatory passenger rail service payments, and $223,450,000 shall be for capital improvements: *Provided,* That funding under this head for capital improvements shall not be made available before July 1, 1997: *Provided further,* That none of the funds herein appropriated shall be used for lease or purchase of passenger motor vehicles or for the hire of vehicle operators for any officer or employee, other than the president of the Corporation, excluding the lease of passenger motor vehicles for those officers or employees while in official travel status.

FEDERAL TRANSIT ADMINISTRATION

ADMINISTRATIVE EXPENSES

For necessary administrative expenses of the Federal Transit Administration's programs authorized by chapter 53 of title 49, United States Code, $41,497,000.

FORMULA GRANTS

For necessary expenses to carry out 49 U.S.C. 5307, 5310(a)(2), 5311, and 5336, to remain available until expended, $490,000,000: *Provided,* That no more than $2,149,185,000 of budget authority shall be available for these purposes: *Provided further,* That of the funds provided under this head for formula grants, no more than $400,000,000 may be used for operating assistance under 49 U.S.C. 5336(d): *Provided further,* That the limitation on operating assistance provided under this heading shall, for urbanized areas of less than 200,000 in population, be no less than seventy-five percent of the amount of operating assistance such areas are eligible to receive under Public Law 103–331: *Provided further,* That in the distribution of the limitation provided under this heading to urbanized areas that had a population under the 1990 census of 1,000,000 or more, the Secretary shall direct each such area to give priority consideration to the impact of reductions in operating assistance on smaller transit authorities operating within the area and to consider the needs and resources of such transit authorities when the limitation is distributed among all transit authorities operating in the area.

Urban and rural areas.

UNIVERSITY TRANSPORTATION CENTERS

For necessary expenses for university transportation centers as authorized by 49 U.S.C. 5317(b), to remain available until expended, $6,000,000.

TRANSIT PLANNING AND RESEARCH

For necessary expenses for transit planning and research as authorized by 49 U.S.C. 5303, 5311, 5313, 5314, and 5315, to remain available until expended, $85,500,000, of which $39,500,000 shall be for activities under Metropolitan Planning (49 U.S.C. 5303); $4,500,000 for activities under Rural Transit Assistance (49 U.S.C. 5311(b)(2)); $8,250,000 for activities under State Planning and Research (49 U.S.C. 5313(b)); $22,000,000 for activities under National Planning and Research (49 U.S.C. 5314); $8,250,000 for activities under Transit Cooperative Research (49 U.S.C. 5313(a)); and $3,000,000 for National Transit Institute (49 U.S.C. 5315).

TRUST FUND SHARE OF EXPENSES

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

For payment of obligations incurred in carrying out 49 U.S.C. 5338(a), $1,920,000,000, to remain available until expended and to be derived from the Highway Trust Fund: *Provided,* That $1,920,000,000 shall be paid from the Mass Transit Account of the Highway Trust Fund to the Federal Transit Administration's formula grants account.

DISCRETIONARY GRANTS

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

None of the funds in this Act shall be available for the implementation or execution of programs the obligations for which are in excess of $1,900,000,000 in fiscal year 1997 for grants under the contract authority in 49 U.S.C. 5338(b): *Provided,* That there shall be available for fixed guideway modernization, $760,000,000; there shall be available for the replacement, rehabilitation, and purchase of buses and related equipment and the construction of bus-related facilities, $380,000,000; and, notwithstanding any other provision of law, except for fixed guideway modernization projects, $8,890,000 made available under Public Law 102–240 and Public Law 102–143 under "Federal Transit Administration, Discretionary Grants" for projects specified in those Acts or identified in reports accompanying those Acts, not obligated by September 30, 1996; together with, notwithstanding any other provision of law, $744,000 funds made available for the "New Bedford and Fall River Massachusetts commuter rail extension" under Public Law 103–331; together with, notwithstanding any other provision of law, $47,322,000 funds made available for the "Chicago Central Area Circulator Project" in Public Law 103–122 and Public Law 103–331, shall be made available for new fixed guideway systems

together with the $760,000,000 made available for new fixed guideway systems in this Act, to be available as follows:

$6,390,000 for the Alaska-Hollis to Ketchikan ferry project;

$64,410,000 for the Atlanta-North Springs project;

$10,260,000 for the Baltimore-LRT Extension project;

$30,000,000 for the Boston Piers-MOS–2 project;

$1,000,000 for the Burlington-Charlotte, Vermont commuter rail project;

$3,500,000 for the Canton-Akron-Cleveland commuter rail project;

$22,500,000, notwithstanding any other provision of law, for transit improvements in the Chicago downtown area;

$3,000,000 for the Cincinnati Northeast-Northern Kentucky rail line project;

$11,000,000 for the DART North Central light rail extension project;

$15,250,000 for the Dallas-Fort Worth RAILTRAN project;

$661,000,000 for the DeKalb County, Georgia light rail project;

$1,500,000 for the Denver Southwest Corridor project;

$9,000,000 for the Florida Tri-County commuter rail project;

$1,000,000 for the Griffin light rail project;

$40,590,000 for the Houston Regional Bus project;

$5,500,000 for the Jackson, Mississippi Intermodal Corridor;

$15,000,000 for the Jacksonville ASE extension project;

$3,000,000 for the Kansas City Southtown corridor project;

$2,000,000 for the Little Rock, Arkansas Junction Bridge project;

$70,000,000 for the Los Angeles-MOS–3 project;

$1,500,000 for the Los Angeles-San Diego commuter rail project;

$33,191,000 for the MARC Commuter Rail Improvements project;

$1,500,000 for the Metro-Dade Transit east-west corridor, Florida project;

$1,000,000 for the Miami-North 27th Avenue project;

$3,039,000 for the Memphis, Tennessee Regional Rail Plan;

$4,240,000 for the Morgantown, West Virginia Personal Rapid Transit System;

$10,000,000 for the New Jersey Urban Core/Hudson-Bergen LRT project;

$105,530,000 for the New Jersey Urban Core/Secaucus project;

$500,000 for the New Jersey West Trenton commuter rail project;

$8,000,000 for the New Orleans Canal Street Corridor project;

$2,000,000 for the New Orleans Desire Streetcar project;

$35,020,000 for the New York-Queens Connection project;

$500,000 for the Northern Indiana commuter rail project;

$2,000,000 for the Oklahoma City, MAPS corridor transit system;

$3,000,000 for the Orange County transitway project;

$2,000,000 for the Orlando Lynx light rail project;

$10,000,000 for the Pittsburgh Airport busway project;

$6,000,000 for the Portland South/North light rail transit project;

$138,000,000 for the Portland-Westside/Hillsboro Extension project;

$2,000,000 for the Research Triangle Park, North Carolina regional transit plan;

$6,000,000 for the Sacramento LRT Extension project;

$35,000,000 for the Salt Lake City-South LRT project, of which $10,000,000 may be available for high-occupancy vehicle lane and corridor design costs;

$13,500,000 for St. Louis Metrolink;

$32,000,000 for the St. Louis-St. Clair Extension project;

$27,500,000 for the San Francisco Area-BART airport extension/San Jose Tasman West LRT projects;

$1,500,000 for the San Diego-Mid-Coast Corridor project;

$4,750,000 for the San Juan Tren Urbano project;

$3,000,000 for the Seattle-Renton-Tacoma light rail project;

$375,000 for the Staten Island-Midtown Ferry service project;

$2,000,000 for the Tampa Bay Regional Rail project;

$3,000,000 for the Virginia Rail Express Richmond to Washington communter rail project; and

$3,750,000 for the Whitehall ferry terminal, New York, New York.

MASS TRANSIT CAPITAL FUND

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

For payment of obligations incurred in carrying out 49 U.S.C. 5338(b) administered by the Federal Transit Administration, $2,300,000,000, to be derived from the Highway Trust Fund and to remain available until expended.

WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

For necessary expenses to carry out the provisions of section 14 of Public Law 96–184 and Public Law 101–551, $200,000,000, to remain available until expended.

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

The Saint Lawrence Seaway Development Corporation is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to the Corporation, and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs set forth in the Corporation's budget for the current fiscal year.

OPERATIONS AND MAINTENANCE

(HARBOR MAINTENANCE TRUST FUND)

For necessary expenses for operation and maintenance of those portions of the Saint Lawrence Seaway operated and maintained

by the Saint Lawrence Seaway Development Corporation, including the Great Lakes Pilotage functions delegated by the Secretary of Transportation, $10,337,000, to be derived from the Harbor Maintenance Trust Fund, pursuant to Public Law 99–662.

RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

RESEARCH AND SPECIAL PROGRAMS

For expenses necessary to discharge the functions of the Research and Special Programs Administration, $26,886,000, of which $574,000 shall be derived from the Pipeline Safety Fund, and of which $7,101,000 shall remain available until September 30, 1999: *Provided,* That up to $1,200,000 in fees collected under 49 U.S.C. 5108(g) shall be deposited in the general fund of the Treasury as offsetting receipts: *Provided further,* That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources for expenses incurred for training, for reports publication and dissemination.

PIPELINE SAFETY

(PIPELINE SAFETY FUND)

For expenses necessary to conduct the functions of the pipeline safety program, for grants-in-aid to carry out a pipeline safety program, as authorized by 49 U.S.C. 60107, and to discharge the pipeline program responsibilities of the Oil Pollution Act of 1990, $30,988,000, of which $2,528,000 shall be derived from the Oil Spill Liability Trust Fund and shall remain available until September 30, 1999; and of which $28,460,000 shall be derived from the Pipeline Safety Fund, of which $15,500,000 shall remain available until September 30, 1999: *Provided,* That in addition to amounts made available for the Pipeline Safety Fund, $1,000,000 shall be available for grants to States for the development and establishment of one-call notification systems and shall be derived from amounts previously collected under section 7005 of the Consolidated Omnibus Budget Reconciliation Act of 1985.

EMERGENCY PREPAREDNESS GRANTS

(EMERGENCY PREPAREDNESS FUND)

For necessary expenses to carry out 49 U.S.C. 5127(c), $200,000, to be derived from the Emergency Preparedness Fund, to remain available until September 30, 1999: *Provided,* That none of the funds made available by 49 U.S.C. 5116(i) and 5127(d) shall be made available for obligation by individuals other than the Secretary of Transportation, or his designee.

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

For necessary expenses of the Office of Inspector General to carry out the provisions of the Inspector General Act of 1978, as amended, $37,900,000: *Provided,* That none of the funds under this heading shall be for the conduct of contract audits.

SURFACE TRANSPORTATION BOARD

SALARIES AND EXPENSES

For necessary expenses of the Surface Transportation Board, including services authorized by 5 U.S.C. 3109, $12,344,000: *Provided,* That $3,000,000 in fees collected in fiscal year 1997 by the Surface Transportation Board pursuant to 31 U.S.C. 9701 shall be made available to this appropriation in fiscal year 1997: *Provided further,* That any fees received in excess of $3,000,000 in fiscal year 1997 shall remain available until expended, but shall not be available for obligation until October 1, 1997.

TITLE II

RELATED AGENCIES

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

SALARIES AND EXPENSES

For expenses necessary for the Architectural and Transportation Barriers Compliance Board, as authorized by section 502 of the Rehabilitation Act of 1973, as amended, $3,540,000: *Provided,* That, notwithstanding any other provision of law, there may be credited to this appropriation funds received for publications and training expenses.

NATIONAL TRANSPORTATION SAFETY BOARD

SALARIES AND EXPENSES

For necessary expenses of the National Transportation Safety Board, including hire of passenger motor vehicles and aircraft; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for a GS–18; uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901–5902), $42,407,000, of which not to exceed $2,000 may be used for official reception and representation expenses.

TITLE III—GENERAL PROVISIONS

(INCLUDING TRANSFERS OF FUNDS)

SEC. 301. During the current fiscal year applicable appropriations to the Department of Transportation shall be available for maintenance and operation of aircraft; hire of passenger motor vehicles and aircraft; purchase of liability insurance for motor vehicles operating in foreign countries on official department business; and uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901–5902).

SEC. 302. Such sums as may be necessary for fiscal year 1997 pay raises for programs funded in this Act shall be absorbed within the levels appropriated in this Act or previous appropriations Acts.

49 USC 106 note.

SEC. 303. Funds appropriated under this Act for expenditures by the Federal Aviation Administration shall be available (1) except as otherwise authorized by title VIII of the Elementary and

Secondary Education Act of 1965, 20 U.S.C. 7701, et seq., for expenses of primary and secondary schooling for dependents of Federal Aviation Administration personnel stationed outside the continental United States at costs for any given area not in excess of those of the Department of Defense for the same area, when it is determined by the Secretary that the schools, if any, available in the locality are unable to provide adequately for the education of such dependents, and (2) for transportation of said dependents between schools serving the area that they attend and their places of residence when the Secretary, under such regulations as may be prescribed, determines that such schools are not accessible by public means of transportation on a regular basis.

SEC. 304. Appropriations contained in this Act for the Department of Transportation shall be available for services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for an Executive Level IV.

SEC. 305. None of the funds in this Act shall be available for salaries and expenses of more than one hundred seven political and Presidential appointees in the Department of Transportation: *Provided,* That none of the personnel covered by this provision may be assigned on temporary detail outside the Department of Transportation.

SEC. 306. None of the funds in this Act shall be used for the planning or execution of any program to pay the expenses of, or otherwise compensate, non-Federal parties intervening in regulatory or adjudicatory proceedings funded in this Act.

SEC. 307. None of the funds appropriated in this Act shall remain available for obligation beyond the current fiscal year, nor may any be transferred to other appropriations, unless expressly so provided herein.

SEC. 308. The Secretary of Transportation may enter into grants, cooperative agreements, and other transactions with any person, agency, or instrumentality of the United States, any unit of State or local government, any educational institution, and any other entity in execution of the Technology Reinvestment Project authorized under the Defense Conversion, Reinvestment and Transition Assistance Act of 1992 and related legislation: *Provided,* That the authority provided in this section may be exercised without regard to section 3324 of title 31, United States Code.

Contracts.
Public information.

SEC. 309. The expenditure of any appropriation under this Act for any consulting service through procurement contract pursuant to section 3109 of title 5, United States Code, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

23 USC 104 note.

SEC. 310. (a) For fiscal year 1997 the Secretary of Transportation shall distribute the obligation limitation for Federal-aid highways by allocation in the ratio which sums authorized to be appropriated for Federal-aid highways that are apportioned or allocated to each State for such fiscal year bear to the total of the sums authorized to be appropriated for Federal-aid highways that are apportioned or allocated to all the States for such fiscal year.

(b) During the period October 1 through December 31, 1996, no State shall obligate more than 25 per centum of the amount distributed to such State under subsection (a), and the total of all State obligations during such period shall not exceed 12 per

centum of the total amount distributed to all States under such subsection.

(c) Notwithstanding subsections (a) and (b), the Secretary shall—

(1) provide all States with authority sufficient to prevent lapses of sums authorized to be appropriated for Federal-aid highways that have been apportioned to a State;

(2) after August 1, 1997, revise a distribution of the funds made available under subsection (a) if a State will not obligate the amount distributed during that fiscal year and redistribute sufficient amounts to those States able to obligate amounts in addition to those previously distributed during that fiscal year giving priority to those States having large unobligated balances of funds apportioned under sections 103(e)(4), 104, and 144 of title 23, United States Code, and under sections 1013(c) and 1015 of Public Law 102–240; and

(3) not distribute amounts authorized for administrative expenses and funded from the administrative takedown authorized by section 104(a) of title 23, United States Code, the Federal lands highway program, the intelligent transportation systems program, and amounts made available under sections 1040, 1047, 1064, 6001, 6005, 6006, 6023, and 6024 of Public Law 102–240, and 49 U.S.C. 5316, 5317, and 5338: *Provided,* That amounts made available under section 6005 of Public Law 102–240 shall be subject to the obligation limitation for Federal-aid highways and highway safety construction programs under the head "Federal-Aid Highways" in this Act.

(d) During the period October 1 through December 31, 1996, the aggregate amount of obligations under section 157 of title 23, United States Code, for projects covered under section 147 of the Surface Transportation Assistance Act of 1978, section 9 of the Federal-Aid Highway Act of 1981, sections 131(b), 131(j), and 404 of Public Law 97–424, sections 1061, 1103 through 1108, 4008, and 6023(b)(8) and 6023(b)(10) of Public Law 102–240, and for projects authorized by Public Law 99–500 and Public Law 100–17, shall not exceed $277,431,840.

(e) During the period August 2 through September 30, 1997, the aggregate amount which may be obligated by all States shall not exceed 2.5 percent of the aggregate amount of funds apportioned or allocated to all States—

(1) under sections 104 and 144 of title 23, United States Code, and 1013(c) and 1015 of Public Law 102–240, and

(2) for highway assistance projects under section 103(e)(4) of title 23, United States Code,

which would not be obligated in fiscal year 1997 if the total amount of the obligation limitation provided for such fiscal year in this Act were utilized.

(f) Paragraph (e) shall not apply to any State which on or after August 1, 1997, has the amount distributed to such State under paragraph (a) for fiscal year 1997 reduced under paragraph (c)(2).

(g) INCREASE IN ADMINISTRATIVE TAKEDOWN.—

(1) IN GENERAL.—Notwithstanding any other provision of law, for fiscal year 1997 only, whenever an allocation is made of the sums authorized to be appropriated for expenditure on the Federal lands highways program, and whenever an apportionment is made of the sums authorized to be appropriated

for expenditure on the surface transportation program, the congestion mitigation and air quality improvement program, the National Highway System, the Interstate maintenance program, the Interstate reimbursement program, the highway bridge replacement and rehabilitation program, and the donor State bonus program, the Secretary of Transportation shall deduct a sum in such amount not to exceed 4¼ per centum of all sums to be authorized as the Secretary may determine necessary for administering the provisions of law to be financed from appropriations for the Federal-Aid Highway Program and for carrying on the research authorized by subsections (a) and (b) of section 307 of title 23, United States Code. In making such determination, the Secretary shall take into account the unobligated balance of any sums deducted for such purposes in prior years. The sum so deducted shall remain available until expended.

(2) EFFECT.—Any deduction by the Secretary of Transportation in accordance with this Act shall be deemed to be a deduction under section 104(a) of title 23, United States Code.

SEC. 311. The limitation on obligations for the programs of the Federal Transit Administration shall not apply to any authority under 49 U.S.C. 5338, previously made available for obligation, or to any other authority previously made available for obligation under the discretionary grants program. 49 USC 5338 note.

SEC. 312. None of the funds in this Act shall be used to implement section 404 of title 23, United States Code.

SEC. 313. None of the funds in this Act shall be available to plan, finalize, or implement regulations that would establish a vessel traffic safety fairway less than five miles wide between the Santa Barbara Traffic Separation Scheme and the San Francisco Traffic Separation Scheme.

SEC. 314. Notwithstanding any other provision of law, airports may transfer, without consideration, to the Federal Aviation Administration (FAA) instrument landing systems (along with associated approach lighting equipment and runway visual range equipment) which conform to FAA design and performance specifications, the purchase of which was assisted by a Federal airport aid program, airport development aid program or airport improvement program grant. The FAA shall accept such equipment, which shall thereafter be operated and maintained by the FAA in accordance with agency criteria. 49 USC 44502 note.

SEC. 315. None of the funds in this Act shall be available to award a multiyear contract for production end items that (1) includes economic order quantity or long lead time material procurement in excess of $10,000,000 in any one year of the contract or (2) includes a cancellation charge greater than $10,000,000 which at the time of obligation has not been appropriated to the limits of the Government's liability or (3) includes a requirement that permits performance under the contract during the second and subsequent years of the contract without conditioning such performance upon the appropriation of funds: *Provided,* That this limitation does not apply to a contract in which the Federal Government incurs no financial liability from not buying additional systems, subsystems, or components beyond the basic contract requirements.

SEC. 316. None of the funds provided in this Act shall be made available for planning and executing a passenger manifest

program by the Department of Transportation that only applies to United States flag carriers.

SEC. 317. Notwithstanding any other provision of law, and except for fixed guideway modernization projects, funds made available by this Act under "Federal Transit Administration, Discretionary grants" for projects specified in this Act or identified in reports accompanying this Act not obligated by September 30, 1999, shall be made available for other projects under 49 U.S.C. 5309.

SEC. 318. Notwithstanding any other provision of law, any funds appropriated before October 1, 1993, under any section of chapter 53 of title 49, United States Code, that remain available for expenditure may be transferred to and administered under the most recent appropriation heading for any such section.

SEC. 319. None of the funds in this Act shall be available to implement or enforce regulations that would result in the withdrawal of a slot from an air carrier at O'Hare International Airport under section 93.223 of title 14 of the Code of Federal Regulations in excess of the total slots withdrawn from that air carrier as of October 31, 1993 if such additional slot is to be allocated to an air carrier or foreign air carrier under section 93.217 of title 14 of the Code of Federal Regulations.

SEC. 320. None of the funds in this Act may be used to compensate in excess of 335 technical staff years under the federally-funded research and development center contract between the Federal Aviation Administration and the Center for Advanced Aviation Systems Development during fiscal year 1997.

SEC. 321. Funds provided in this Act for the Transportation Administrative Service Center (TASC) shall be reduced by $10,000,000, which limits fiscal year 1997 TASC obligational authority for elements of the Department of Transportation funded in this Act to no more than $114,812,000: *Provided,* That such reductions from the budget request shall be allocated by the Department of Transportation to each appropriations account in proportion to the amount included in each account for the Transportation Administrative Service Center.

SEC. 322. Funds received by the Federal Highway Administration, Federal Transit Administration, and Federal Railroad Administration from States, counties, municipalities, other public authorities, and private sources for expenses incurred for training may be credited respectively to the Federal Highway Administration's "Limitation on General Operating Expenses" account, the Federal Transit Administration's "Transit Planning and Research" account, and to the Federal Railroad Administration's "Railroad Safety" account, except for State rail safety inspectors participating in training pursuant to 49 U.S.C. 20105.

SEC. 323. None of the funds in this Act shall be available to prepare, propose, or promulgate any regulations pursuant to title V of the Motor Vehicle Information and Cost Savings Act (49 U.S.C. 32901, et seq.) prescribing corporate average fuel economy standards for automobiles, as defined in such title, in any model year that differs from standards promulgated for such automobiles prior to enactment of this section.

SEC. 324. None of the funds in this Act may be used for planning, engineering, design, or construction of a sixth runway at the new Denver International Airport, Denver, Colorado: *Provided,* That this provision shall not apply in any case where the

Administrator of the Federal Aviation Administration determines, in writing, that safety conditions warrant obligation of such funds.

SEC. 325. Notwithstanding 31 U.S.C. 3302, funds received by the Bureau of Transportation Statistics from the sale of data products, for necessary expenses incurred pursuant to the provisions of section 6006 of the Intermodal Surface Transportation Efficiency Act of 1991, may be credited to the Federal-aid highways account for the purpose of reimbursing the Bureau for such expenses: *Provided,* That such funds shall not be subject to the obligation limitation for Federal-aid highways and highway safety construction. That in addition to amounts otherwise provided in this Act, not to exceed $3,100,000 in expenses of the Bureau of Transportation Statistics necessary to conduct activities related to airline statistics may be incurred, but only to the extent such expenses are offset by user fees charged for those activities and credited as offsetting collections.

SEC. 326. The Secretary of Transportation is authorized to transfer funds appropriated in this Act to "Rental payments" for any expense authorized by that appropriation in excess of the amounts provided in this Act: *Provided,* That prior to any such transfer, notification shall be provided to the House and Senate Committees on Appropriations. Notification.

SEC. 327. None of the funds in this Act may be obligated or expended for employee training which: (a) does not meet identified needs for knowledge, skills and abilities bearing directly upon the performance of official duties; (b) contains elements likely to induce high levels of emotional response or psychological stress in some participants; (c) does not require prior employee notification of the content and methods to be used in the training and written end of course evaluations; (d) contains any methods or content associated with religious or quasi-religious belief systems or "new age" belief systems as defined in Equal Employment Opportunity Commission Notice N–915.022, dated September 2, 1988; (e) is offensive to, or designed to change, participants' personal values or lifestyle outside the workplace; or (f) includes content related to human immunodeficiency virus/acquired immune deficiency syndrome (HIV/AIDS) other than that necessary to make employees more aware of the medical ramifications of HIV/AIDS and the workplace rights of HIV-positive employees.

SEC. 328. None of the funds in this Act shall, in the absence of express authorization by Congress, be used directly or indirectly to pay for any personal service, advertisement, telegram, telephone, letter, printed or written matter, or other device, intended or designed to influence in any manner a Member of Congress, to favor or oppose, by vote or otherwise, any legislation or appropriation by Congress, whether before or after the introduction of any bill or resolution proposing such legislation or appropriation: *Provided,* That this shall not prevent officers or employees of the Department of Transportation or related agencies funded in this Act from communicating to Members of Congress on the request of any Member or to Congress, through the proper official channels, requests for legislation or appropriations which they deem necessary for the efficient conduct of the public business.

SEC. 329. None of the funds in this Act may be used to support Federal Transit Administration's field operations and oversight of the Washington Metropolitan Area Transit Authority in any location other than from the Washington, D.C. metropolitan area.

SEC. 330. None of the funds made available in this Act may be used for improvements to the Miller Highway in New York City, New York.

SEC. 331. Not to exceed $1,250,000 of the funds provided in this Act for the Department of Transportation shall be available for the necessary expenses of advisory committees.

SEC. 332. Notwithstanding any other provision of law, the Secretary may use funds appropriated under this Act, or any subsequent Act, to administer and implement the exemption provisions of 49 CFR 580.6 and to adopt or amend exemptions from the disclosure requirements of 49 CFR part 580 for any class or category of vehicles that the Secretary deems appropriate.

SEC. 333. No funds other than those appropriated to the Surface Transportation Board shall be used for conducting the activities of the Board.

SEC. 334. Section 24902 of title 49, United States Code, is amended by adding at the end the following new subsection:

"(m) APPLICABLE PROCEDURES.—No State or local building, zoning, subdivision, or similar or related law, nor any other State or local law from which a project would be exempt if undertaken by the Federal Government or an agency thereof within a Federal enclave wherein Federal jurisdiction is exclusive, including without limitation with respect to all such laws referenced herein above requirements for permits, actions, approvals or filings, shall apply in connection with the construction, ownership, use, operation, financing, leasing, conveying, mortgaging or enforcing a mortgage of (i) any improvement undertaken by or for the benefit of Amtrak as part of, or in furtherance of, the Northeast Corridor Improvement Project (including without limitation maintenance, service, inspection or similar facilities acquired, constructed or used for high speed trainsets) or chapter 241, 243, or 247 of this title or (ii) any land (and right, title or interest created with respect thereto) on which such improvement is located and adjoining, surrounding or any related land. These exemptions shall remain in effect and be applicable with respect to such land and improvements for the benefit of any mortgagee before, upon and after coming into possession of such improvements or land, any third party purchasers thereof in foreclosure (or through a deed in lieu of foreclosure), and their respective successors and assigns, in each case to the extent the land or improvements are used, or held for use, for railroad purposes or purposes accessory thereto. This subsection (m) shall not apply to any improvement or related land unless Amtrak receives a Federal operating subsidy in the fiscal year in which Amtrak commits to or initiates such improvement.".

Applicability.

SEC. 335. None of the funds made available in this Act may be used to construct, or to pay the salaries or expenses of Department of Transportation personnel who approve or facilitate the construction of, a third track on the Metro-North Railroad Harlem Line in the vicinity of Bronxville, New York, when it is made known to the Federal official having authority to obligate or expend such funds that a final environmental impact statement has not been completed for such construction project.

SEC. 336. Section 5328(c)(1)(E) of title 49, United States Code, is amended—

(1) by striking "Westside" the first place it appears;

(2) by striking "and" after "101–584,"; and

(3) by inserting before the period at the end the following: ", and the locally preferred alternative for the South/North Corridor Project".

SEC. 336a. Section 3035(b) of Public Law 102–240 is hereby amended by striking "$515,000,000" and inserting in lieu thereof "$555,000,000". 105 Stat. 2129.

SEC. 337. Notwithstanding any other provision of law, of the funds made available to Cleveland for the "Cleveland Dual Hub Corridor Project" or "Cleveland Dual Hub Rail Project," $4,023,030 in funds made available in fiscal years 1991, 1992, and 1994, under Public Laws 101–516, 102–143, 102–240, 103–122, and accompanying reports, shall be made available for the Berea Red Line Extension and the Euclid Corridor Improvement projects.

SEC. 338. Notwithstanding any other provision of law, funds made available under section 3035(kk) of Public Law 102–240 for fiscal year 1997 to the State of Michigan shall be for the purchase of buses and bus-related equipment and facilities.

SEC. 339. In addition to amounts otherwise provided in this Act, there is hereby appropriated $2,400,000 for activities of the National Civil Aviation Review Commission, to remain available until expended.

SEC. 340. Of the amounts made available under the Federal Transit Administration's Discretionary Grants program for Kauai, Hawaii, in Public Law 103–122 and Public Law 103–331, $3,250,000 shall be transferred to and administered in accordance with 49 U.S.C. 5311 and made available to Kauai, Hawaii.

SEC. 341. Section 423 of H.R. 1361, as passed the House of Representatives on May 9, 1995, is hereby enacted into law.

SEC. 342. Improvements identified as highest priority by section 1069(t) of Public Law 102–240 and funded pursuant to section 118(c)(2) of title 23, United States Code, shall not be treated as an allocation for Interstate maintenance for such fiscal year under section 157(a)(4) of title 23, United States Code, and sections 1013(c), 1015(a)(1), and 1015(b)(1) of Public Law 102–240: *Provided,* That any discretionary grant made pursuant to Public Law 99–663 shall not be subject to section 1015 of Public Law 102–240.

SEC. 343. (a) COMPLIANCE WITH BUY AMERICAN ACT.—None of the funds made available in this Act may be expended by an entity unless the entity agrees that in expending the funds the entity will comply with the Buy American Act (41 U.S.C. 10a–10c).

(b) SENSE OF CONGRESS; REQUIREMENT REGARDING NOTICE.—

(1) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—In the case of any equipment or product that may be authorized to be purchased with financial assistance provided using funds made available in this Act, it is the sense of the Congress that entities receiving the assistance should, in expending the assistance, purchase only American-made equipment and products to the greatest extent practicable.

(2) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance using funds made available in this Act, the head of each Federal agency shall provide to each recipient of the assistance a notice describing the statement made in paragraph (1) by the Congress.

(c) PROHIBITION OF CONTRACTS WITH PERSONS FALSELY LABELING PRODUCTS AS MADE IN AMERICA.—If it has been finally determined by a court or Federal agency that any person intentionally

affixed a label bearing a "Made in America" inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, the person shall be ineligible to receive any contract or subcontract made with funds made available in this Act, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

SEC. 344. Notwithstanding any other provision of law, receipts, in amounts determined by the Secretary, collected from users of fitness centers operated by or for the Department of Transportation shall be available to support the operation and maintenance of those facilities.

SEC. 345. None of the funds made available in this Act may be used by the National Transportation Safety Board to plan, conduct, or enter into any contract for a study to determine the feasibility of allowing individuals who are more than 60 years of age to pilot commercial aircraft.

SEC. 346. Funds provided in this Act for bonuses and cash awards for employees of the Department of Transportation shall be reduced by $513,604 which limits fiscal year 1997 obligation authority to no more than $25,448,300: *Provided,* That this provision shall be applied to funds for Senior Executive Service bonuses, merit pay, and other bonuses and cash awards.

Amtrak.
49 USC 24301 note.

SEC. 347. Hereinafter, the National Railroad Passenger Corporation (Amtrak) shall be exempted from any State or local law relating to the payment or delivery of abandoned or unclaimed personal property to any government authority, including any provision for the enforcement thereof, with respect to passenger rail tickets for which no refund has been or may be claimed, and such law shall not apply to funds held by Amtrak as a result of the purchase of tickets after April 30, 1972 for which no refund has been claimed.

SEC. 348. Notwithstanding any other provision of law, of amounts made available under Federal Aviation Administration "Operations", the FAA shall provide personnel at Dutch Harbor, Alaska to provide real-time weather and runway observation and other such functions to help ensure the safety of aviation operations.

5 USC 5597.

SEC. 349. DEPARTMENT OF TRANSPORTATION VOLUNTARY SEPARATION INCENTIVE PAYMENTS.—

(a) DEFINITIONS.—For the purposes of this section—

(1) the term "agency" means the following agencies of the Department of Transportation:

(A) the United States Coast Guard;

(B) the Research and Special Programs Administration;

(C) the Saint Lawrence Seaway Development Corporation;

(D) the Office of the Secretary; and

(E) the Federal Railroad Administration;

(2) the term "employee" means an employee (as defined by section 2105 of title 5, United States Code) who is employed by the agency serving under an appointment without time limitation, and has been currently employed for a continuous period of at least 3 years, but does not include—

(A) a reemployed annuitant under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, or another retirement system for employees of the agency;

(B) an employee having a disability on the basis of which such employee is or would be eligible for disability retirement under the applicable retirement system referred to in subparagraph (A);

(C) an employee who is in receipt of a specific notice of involuntary separation for misconduct or unacceptable performance;

(D) an employee who, upon completing an additional period of service as referred to in section 3(b)(2)(B)(ii) of the Federal Workforce Restructuring Act of 1994 (5 U.S.C. 5597 note), would qualify for a voluntary separation incentive payment under section 3 of such Act;

(E) an employee who has previously received any voluntary separation incentive payment by the Federal Government under this section or any other authority and has not repaid such payment;

(F) an employee covered by statutory reemployment rights who is on transfer to another organization;

(G) any employee who, during the twenty-four month period preceding the date of separation, has received a recruitment or relocation bonus under section 5753 of title 5, United States Code, or who, within the twelve month period preceding the date of separation, received a retention allowance under section 5754 of title 5, United States Code; or

(H) any employee who, upon separation and application, would be eligible for an immediate annuity under subchapter III of chapter 83 or chapter 84 of title 5, United States Code (or another retirement system for employees of the agency), other than an annuity subject to a reduction under section 8339(h) or 8415(f) of such title (or corresponding provisions of another retirement system for employees of the agency).

(b) AGENCY STRATEGIC PLAN.—

(1) IN GENERAL.—The head of an agency, prior to obligating any resources for voluntary separation incentive payments, shall submit to the House and Senate Committees on Appropriations and the Committee on Governmental Affairs of the Senate and the Committee on Government Reform and Oversight of the House of Representatives a strategic plan outlining the intended use of such incentive payments and a proposed organizational chart for the agency once such incentive payments have been completed.

(2) CONTENTS.—The agency's plan shall include—

(A) the positions and functions to be reduced or eliminated, identified by organizational unit, geographic location, occupational category and grade level;

(B) the number and amounts of voluntary separation incentive payments to be offered; and

(C) a description of how the agency will operate without the eliminated positions and functions.

(c) AUTHORITY TO PROVIDE VOLUNTARY SEPARATION INCENTIVE PAYMENTS.—

(1) IN GENERAL.—A voluntary separation incentive payment under this section may be paid by an agency to any employee only to the extent necessary to eliminate the positions and functions identified by the strategic plan.

(2) AMOUNT AND TREATMENT OF PAYMENTS.—A voluntary separation incentive payment—

(A) shall be paid in a lump sum after the employee's separation;

(B) shall be paid from appropriations or funds available for the payment of the basic pay of the employees;

(C) shall be equal to the lesser of—

(i) an amount equal to the amount the employee would be entitled to receive under section 5595(c) of title 5, United States Code; or

(ii) an amount determined by an agency head not to exceed $25,000 in fiscal year 1997;

(D) shall not be a basis for payment, and shall not be included in the computation, of any other type of Government benefit; and

(E) shall not be taken into account in determining the amount of any severance pay to which the employee may be entitled under section 5595 of title 5, United States Code, based on any other separation.

(3) LIMITATION.—No amount shall be payable under this section based on any separation occurring before the date of the enactment of this Act, or after September 30, 1997.

(d) ADDITIONAL AGENCY CONTRIBUTIONS TO THE RETIREMENT FUND.—

(1) IN GENERAL.—In addition to any other payments which it is required to make under subchapter III of chapter 83 of title 5, United States Code, an agency shall remit to the Office of Personnel Management for deposit to the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund an amount equal to 15 percent of the final basic pay of each employee of the agency who is covered under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, to whom a voluntary separation incentive has been paid under this section.

(2) DEFINITION.—For the purpose of paragraph (1), the term "final basic pay", with respect to an employee, means the total amount of basic pay which would be payable for a year of service by such employee, computed using the employee's final rate of basic pay, and, if last serving on other than a full-time basis, with appropriate adjustment therefor.

(e) EFFECT OF SUBSEQUENT EMPLOYMENT WITH THE GOVERNMENT.—An individual who has received a voluntary separation incentive payment under this section and accepts any employment for compensation with the Government of the United States, or who works for any agency of the United States Government through a personal services contract, within 5 years after the date of the separation on which the payment is based shall be required to pay, prior to the individual's first day of employment, the entire amount of the incentive payment to the agency that paid the incentive payment.

(f) REDUCTIONS OF AGENCY EMPLOYMENT LEVELS.—

(1) IN GENERAL.—The total number of funded employee positions in an agency shall be reduced by one position for each vacancy credited by the separation of any employee who has received, or is due to receive, a voluntary separation incentive payment under this section. For the purposes of this sub-

section, positions shall be counted on a full-time-equivalent basis.

(2) ENFORCEMENT.—The President, through the Office of Management and Budget, shall monitor each agency and take any action necessary to ensure that the requirements of this subsection are met. President.

(g) EFFECTIVE DATE.—This section shall take effect October 1, 1996.

SEC. 350. Treatment of Certain Pending Child Custody Cases in Superior Court of District of Columbia.—

(a) IN GENERAL.—Subchapter II of chapter 9 of title 11, District of Columbia Code, is amended by adding at the end the following new section:

"§ 11–925. Rules regarding certain pending child custody cases.

"(a) In any pending case involving custody over a minor child or the visitation rights of a parent of a minor child in the Superior Court which is described in subsection (b)—

"(1) at anytime after the child attains 13 years of age, the party to the case who is described in subsection (b)(1) may not have custody over, or visitation rights with, the child without the child's consent; and

"(2) if any person had actual or legal custody over the child or offered safe refuge to the child while the case (or other actions relating to the case) was pending, the court may not deprive the person of custody or visitation rights over the child or otherwise impose sanctions on the person on the grounds that the person had such custody or offered such refuge.

"(b) A case described in this subsection is a case in which—

"(1) the child asserts that a party to the case has been sexually abusive with the child;

"(2) the child has resided outside of the United States for not less than 24 consecutive months;

"(3) any of the parties to the case has denied custody or visitation to another party in violation of an order of the court for not less than 24 consecutive months; and

"(4) any of the parties to the case has lived outside of the District of Columbia during such period of denial of custody or visitation.".

(b) CLERICAL AMENDMENT.—The table of sections for subchapter II of chapter 9 of title 11, D.C. Code, is amended by adding at the end the following new item:

"11–925. Rules regarding certain pending child custody cases.".

(c) EFFECTIVE DATE.— Applicability.

(1) IN GENERAL.—The amendments made by this section shall apply to cases brought in the Superior Court of the District of Columbia before, on, or after the date of the enactment of this Act.

(2) CONTINUATION OF PROVISIONS UNTIL TERMINATION.—The provisions of section 11–925, District of Columbia Code (as added by subsection (a)), shall apply to any case described in paragraph (1) until the termination of the case.

SEC. 351. Not later than December 31, 1997, the Administrator of the Federal Aviation Administration shall— 49 USC 40110 note.

Contracts.

(a) take such action as may be necessary to provide for an independent assessment of the acquisition management system of the Federal Aviation Administration that includes a review of any efforts of the Administrator in promoting and encouraging the use of full and open competition as the preferred method of procurement with respect to any contract that involves an amount greater than $50,000,000; and

Reports.

(b) submit to the Congress a report on the findings of that independent assessment: *Provided,* That for purposes of this section, the term "full and open competition" has the meaning provided that term in section 4(6) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(6)).

SEC. 352. 49 U.S.C. 31112 is amended by adding the following new subsection:

"(4) Nebraska may continue to allow to be operated under paragraphs (b)(1) and (b)(2) of this section, the State of Nebraska may allow longer combination vehicles that were not in actual operation on June 1, 1991 to be operated within its boundaries to transport sugar beets from the field where such sugar beets are harvested to storage, market, factory or stockpile or from stockpile to storage, market or factory. This provision shall expire on September 30, 1997.".

Expiration date.

SEC. 353. (a) Section 120(c) of title 23, United States Code, is amended by inserting "rail-highway crossing closure," after "carpooling and vanpooling,".

(b) Section 130 of such title is amended by adding at the end the following:

"(i) INCENTIVE PAYMENTS FOR AT-GRADE CROSSING CLOSURES.—

"(1) IN GENERAL.—Notwithstanding any other provision of this section and subject to paragraphs (2) and (3), a State may, from sums available to the State under this section, make incentive payments to local governments in the State upon the permanent closure by such governments of public at-grade railway-highway crossings under the jurisdiction of such governments.

"(2) INCENTIVE PAYMENTS BY RAILROADS.—A State may not make an incentive payment under paragraph (1) to a local government with respect to the closure of a crossing unless the railroad owning the tracks on which the crossing is located makes an incentive payment to the government with respect to the closure.

"(3) AMOUNT OF STATE PAYMENT.—The amount of the incentive payment payable to a local government by a State under paragraph (1) with respect to a crossing may not exceed the lesser of—

"(A) the amount of the incentive payment paid to the government with respect to the crossing by the railroad concerned under paragraph (2); or

"(B) $7,500.

"(4) USE OF STATE PAYMENTS.—A local government receiving an incentive payment from a State under paragraph (1) shall use the amount of the incentive payment for transportation safety improvements.".

SEC. 354. LIMITATION ON FUNDS USED TO ENFORCE REGULATIONS REGARDING ANIMAL FATS AND VEGETABLE OILS.—None of

the funds made available in this Act may be used by the Coast Guard to issue, implement, or enforce a regulation or to establish an interpretation or guideline under the Edible Oil Regulatory Reform Act (Public Law 104–55) or the amendments made by that Act that does not recognize and provide for, with respect to fats, oils, and greases (as described in that Act or the amendments made by that Act) differences in—

(1) physical, chemical, biological, and other relevant properties; and

(2) environmental effects.

SEC. 355. Of the funds made available to the Federal Railroad Administration, up to $200,000 may be made available from the Office of the Administrator to establish and operate the Institute for Railroad Safety as authorized by the Swift Rail Development Act of 1994.

SEC. 356. No funds appropriated under this Act shall be used to levy penalties prior to September 1, 1997, on the States of Maine or New Hampshire based on non-compliance with Federal vehicle weight limitations.

TITLE IV—MISCELLANEOUS HIGHWAY PROVISIONS

SEC. 401. Notwithstanding any other provision of law, semitrailer units operating in a truck tractor-semitrailer combination whose semitrailer unit is more than forty-eight feet in length and truck tractor-semitrailer-trailer combinations specified in section 31111(b)(1) of title 49, United States Code, may not operate on United States Route 15 in Virginia between the Maryland border and the intersection with United States Route 29.

SEC. 402. Item 30 of the table contained in section 1107(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2050), relating to Mobile, Alabama, is amended in the second column by inserting after "Alabama" the following: "and for feasibility studies, preliminary engineering, and construction of a new bridge and approaches over the Mobile River".

SEC. 403. Item 94 of the table contained in section 1107(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2052), relating to St. Thomas, Virgin Islands, is amended—

(1) by striking "St. Thomas,"; and

(2) by inserting after "the island" the following: "of St. Thomas and improvements to the VIPA Molasses Dock intermodal port facility on the island of St. Croix to make the facility capable of handling multiple cargo tasks".

SEC. 404. The funds authorized to be appropriated for highway-railroad grade crossing separations in Mineola, New York, under the head "Highway-Railroad Grade Crossing Safety Demonstration Project (Highway Trust Fund)" in House Report 99–976 and section 302(l) of Public Law 99–591 are hereby also authorized to be appropriated for other grade crossing improvements in Nassau and Suffolk Counties in New York and shall be available in accordance with the terms of the original authoriziaton in House Report 99–976.

SEC. 405. The Secretary of Transportation is hereby authorized to enter into an agreement modifying the agreement entered into pursuant to section 336 of the Department of Transportation and Related Agencies Appropriations Act, 1995 (Public Law 103–331)

and section 356 of the Department of Transportation and Related Agencies Appropriations Act, 1996 (Public Law 104–50) to provide an additional line of credit not to exceed $25,000,000, which may be used to replace otherwise required contingency reserves: *Provided however,* That the Secretary may only enter into such modification if it is supported by the amount of the original appropriation (provided by section 336 of Public Law 103–331). No additional appropriation is made by this section. In implementing this section, the Secretary may enter into an agreement requiring an interest rate, on both the original line of credit and the additional amount provided for herein, higher than that currently in force and higher than that specified in the original appropriation. An agreement entered into pursuant to this section may not obligate the Secretary to make any funds available until all remaining contingency reserves are exhausted, and in no event shall any funds be made available before October 1, 1998.

101 Stat. 1329–369.

SEC. 406. Public Law 100–202 is amended in the item relating to "Traffic Improvement Demonstration Project" by inserting after "project" the following: "or upgrade existing local roads".

SEC. 407. The amount appropriated for the Lake Shore Drive extension study, Whiting, Indiana, under the matter under the heading "SURFACE TRANSPORTATION PROJECTS" under the heading "FEDERAL HIGHWAY ADMINISTRATION" in title I of the Department of Transportation and Related Agencies Appropriations Act, 1995 (Public Law 103–331; 108 Stat. 2478), shall be made available to carry out the congestion relief project for the construction of a 4-lane road and overpass at Merrillville, Indiana, authorized by item 35 of section 1104(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 2030).

SEC. 408. HIGHWAY SAFETY IMPROVEMENT PROJECT, MICHIGAN.—Of the amount appropriated for the highway safety improvement project, Michigan, under the matter under the heading "SURFACE TRANSPORTATION PROJECTS" under the heading "FEDERAL HIGHWAY ADMINISTRATION" in title I of the Department of Transportation and Related Agencies Appropriations Act, 1995 (Public Law 103–331; 108 Stat. 2478), for the purposes of right-of-way acquisition for Baldwin Road, and engineering, right-of-way acquisition, and construction between Walton Boulevard and Dixie Highway, $2,000,000 shall be made available for construction of Baldwin Road.

SEC. 409. Transfer of Funds Among Minnesota Highway Projects.—

(a) IN GENERAL.—Such portions of the amounts appropriated for the Minnesota highway projects described in subsection (b) that have not been obligated as of December 31, 1996, shall be made available to carry out the 34th Street Corridor Project in Moorhead, Minnesota, authorized by section 149(a)(5)(A)(iii) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (Public Law 100–17; 101 Stat. 181) (as amended by section 340(a) of the National Highway System Designation Act of 1995 (Public Law 104–59; 109 Stat. 607)).

(b) PROJECTS.—The Minnesota highway projects described in this subsection are—

(1) the project for Saint Louis County authorized by section 149(a)(76) of the Surface Transportation and Uniform Reloca-

tion Assistance Act of 1987 (Public Law 100–17; 101 Stat. 192); and

(2) the project for Nicollet County authorized by item 159 of section 1107(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 2056).

SEC. 410. Item 52 in the table contained in section 1106(a)(2) and items 19 and 20 in the table contained in section 1107(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2037–2059) are each amended by inserting "Mifflin, Fulton and Clearfield," after "Franklin,".

This Act may be cited as the "Department of Transportation and Related Agencies Appropriations Act, 1997".

Approved September 30, 1996.

LEGISLATIVE HISTORY—H.R. 3675:

HOUSE REPORTS: Nos. 104–631 (Comm. on Appropriations) and 104–785 (Comm. of Conference).

SENATE REPORTS: No. 104–325 (Comm. on Appropriations).

CONGRESSIONAL RECORD, Vol. 142 (1996):

June 26–28, considered and passed House.

July 30, 31, considered and passed Senate, amended.

Sept. 18, House and Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 32 (1996):

Sept. 30, Presidential statement.

Public Law 104–206
104th Congress

An Act

Sept. 30, 1996
[H.R. 3816]

Making appropriations for energy and water development for the fiscal year ending September 30, 1997, and for other purposes.

Energy and Water Development Appropriations Act, 1997.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1997, for energy and water development, and for other purposes, namely:

TITLE I

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

The following appropriations shall be expended under the direction of the Secretary of the Army and the supervision of the Chief of Engineers for authorized civil functions of the Department of the Army pertaining to rivers and harbors, flood control, beach erosion, and related purposes.

GENERAL INVESTIGATIONS

For expenses necessary for the collection and study of basic information pertaining to river and harbor, flood control, shore protection, and related projects, restudy of authorized projects, miscellaneous investigations, and, when authorized by laws, surveys and detailed studies and plans and specifications of projects prior to construction, $153,872,000, to remain available until expended, of which funds are provided for the following projects in the amounts specified:

Norco Bluffs, California, $180,000;

San Joaquin River Basin, Caliente Creek, California, $150,000;

Tampa Harbor, Alafia Channel, Florida, $100,000;

Lake George, Hobart, Indiana, $100,000;

Little Calumet River Basin, Cady Marsh Ditch, Indiana, $200,000;

Tahoe Basin Study, Nevada and California, $100,000;

Barnegat Inlet to Little Egg Harbor Inlet, New Jersey, $300,000;

Brigantine Inlet to Great Egg Harbor Inlet, New Jersey, $360,000;

Great Egg Harbor Inlet to Townsends Inlet, New Jersey, $200,000;

Manasquan Inlet to Barnegat Inlet, New Jersey, $250,000;

Townsends Inlet to Cape May Inlet, New Jersey, $245,000;

South Shore of Staten Island, New York, $200,000;

Mussers Dam, Middle Creek, Snyder County, Pennsylvania, $450,000;

Rhode Island South Coast, Habitat Restoration and Storm Damage Reduction, Rhode Island, $100,000;

Monongahela River, West Virginia, $500,000;

Monongahela River, Fairmont, West Virginia, $100,000; and

Tygart River Basin, Philippi, West Virginia, $100,000.

CONSTRUCTION, GENERAL

For the prosecution of river and harbor, flood control, shore protection, and related projects authorized by laws; and detailed studies, and plans and specifications, of projects (including those for development with participation or under consideration for participation by States, local governments, or private groups) authorized or made eligible for selection by law (but such studies shall not constitute a commitment of the Government to construction), $1,081,942,000, to remain available until expended, of which such sums as are necessary pursuant to Public Law 99–662 shall be derived from the Inland Waterways Trust Fund, for one-half of the costs of construction and rehabilitation of inland waterways projects, including rehabilitation costs for the Lock and Dam 25, Mississippi River, Illinois and Missouri, Lock and Dam 14, Mississippi River, Iowa, and Lock and Dam 24, Mississippi River, Illinois and Missouri, projects, and of which funds are provided for the following projects in the amounts specified:

Red River Emergency Bank Protection, Arkansas, $3,000,000;

San Timoteo Creek (Santa Ana River Mainstem), California, $7,000,000;

Indianapolis Central Waterfront, Indiana, $7,000,000;

Indiana Shoreline Erosion, Indiana, $2,200,000;

Harlan (Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River), Kentucky, $18,000,000;

Martin County (Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River), Kentucky, $350,000;

Middlesboro (Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River), Kentucky, $2,500,000;

Pike County (Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River), Kentucky, $2,000,000;

Town of Martin (Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River), Kentucky, $300,000;

Williamsburg (Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River), Kentucky, $4,050,000;

Salyersville, Kentucky, $3,000,000;

Lake Pontchartrain and Vicinity, Louisiana, $17,025,000;

Lake Pontchartrain (Jefferson Parish) Stormwater Discharge, Louisiana, $4,750,000;

Red River below Denison Dam Levee and Bank Stabilization, Louisiana, Arkansas, and Texas, $100,000;

Red River Emergency Bank Protection, Louisiana, $3,400,000;

Glen Foerd, Pennsylvania, $800,000;

South Central Pennsylvania Environmental Restoration Infrastructure and Resource Protection Development Pilot Program, Pennsylvania, $7,000,000;

Seekonk River, Rhode Island Bridge removal, $650,000;

Wallisville Lake, Texas, $7,500,000;

Richmond Filtration Plant, Virginia, $3,500,000;

Virginia Beach, Virginia, $8,000,000;

Hatfield Bottom (Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River), West Virginia, $1,300,000;

Lower Mingo (Kermit) (Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River), West Virginia, $4,000,000;

Lower Mingo, West Virginia, Tributaries Supplement, $105,000; and

Upper Mingo County (Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River), West Virginia, $3,500,000: *Provided,* That of the funds provided for the Red River Waterway, Mississippi River to Shreveport, Louisiana, project, $3,000,000 is provided, to remain available until expended, for design and construction of a regional visitor center in the vicinity of Shreveport, Louisiana at full Federal expense: *Provided further,* That the Secretary of the Army, acting through the Chief of Engineers, is directed to use $1,000,000 of the funds appropriated in Public Law 104–46 for construction of the Ohio River Flood Protection, Indiana, project: *Provided further,* That the Secretary of the Army, acting through the Chief of Engineers, is directed, in cooperation with State, county, and city officials and in consultation with the Des Moines River Greenbelt Advisory Committee, to provide highway and other signs appropriate to direct the public to the bike trail which runs from downtown Des Moines, Iowa, to the Big Creek Recreation area at the Corps of Engineers Saylorville Lake project and the wildlife refuge in Jasper and Marion Counties in Iowa authorized in Public Law 101–302: *Provided further,* That any law, regulation, documents or record of the United States in which such projects are referred to shall be held to refer to the bike trail as the Neal Smith Bike Trail and to such centers as the Neal Smith Prairie Wildlife Learning Center: *Provided further,* That the Secretary is directed to initiate construction on the Joseph G. Minish Historic Waterfront Park, New Jersey, project; furthermore, the Secretary may transfer not to exceed $900,000 from General Investigations appropriations made in title I of the Energy and Water Development Appropriations Act, Public Law 103–126 (107 Stat. 1313) for the Passaic River, Mainstem, New Jersey, to Construction, General for the Joseph G. Minish Historic Waterfront Park, New Jersey, project and that the Committees on Appropriations of the House and Senate shall be promptly advised of such transfer: *Provided further,* That of the funds provided herein, $1,000,000 shall be for payment to the Kansas City Southern Industries, Inc., in partial reimbursement of costs associated with the relocation and modification of the Louisiana and Arkansas (L&A) Railway Bridge at Alexandria, Louisiana, for navigation requirements of the

Iowa.
Recreation and recreational areas.
Wildlife.

Red River navigation project: *Provided further,* That using $500,000 of the funds appropriated for the Passaic River Mainstem, New Jersey, project under the heading "General Investigations" in Public Law 103–126, the Secretary of the Army, acting through the Chief of Engineers, is directed to begin implementation of the Passaic River Preservation of Natural Storage Areas separable element of the Passaic River Flood Reduction Project, New Jersey: *Provided further,* That the Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to initiate construction on the following projects in the amounts specified:

Humboldt Harbor, California, $2,500,000;
San Lorenzo River, California, $200,000;
Faulkner's Island, Connecticut, $1,500,000;
Chicago Shoreline, Illinois, $8,000,000;
Pond Creek, Jefferson City, Kentucky, $1,500,000;
Natchez Bluff, Mississippi, $4,500,000;
Wood River, Grand Isle, Nebraska, $1,000,000;
New York City Watershed, New York, $1,000,000;
Duck Creek, Cincinnati, Ohio, $466,000;
Saw Mill Run, Pittsburgh, Pennsylvania, $500,000;
West Virginia and Pennsylvania Flooding, West Virginia and Pennsylvania, $1,000,000;
Upper Jordan River, Utah, $500,000;
San Juan Harbor, Puerto Rico, $800,000; and
Allendale Dam, Rhode Island, $195,000: *Provided further,* That no fully allocated funding policy shall apply to construction of the projects listed above, and the Secretary of the Army is directed to undertake these projects using continuing contracts where sufficient funds to complete the projects are not available from funds provided herein or in prior years.

FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES, ARKANSAS, ILLINOIS, KENTUCKY, LOUISIANA, MISSISSIPPI, MISSOURI, AND TENNESSEE

For expenses necessary for prosecuting work of flood control, and rescue work, repair, restoration, or maintenance of flood control projects threatened or destroyed by flood, as authorized by law (33 U.S.C. 702a, 702g–1), $310,374,000, to remain available until expended: *Provided,* That the President of the Mississippi River Commission is directed henceforth to use the variable cost recovery rate set forth in OMB Circular A–126 for use of the Commission aircraft authorized by the Flood Control Act of 1946, Public Law 526: *Provided further,* That notwithstanding the funding limitations set forth in Public Law 104–6 (109 Stat. 85), the Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to use additional funds appropriated herein or previously appropriated to complete remedial measures to prevent slope instability at Hickman Bluff, Kentucky.

OPERATION AND MAINTENANCE, GENERAL

For expenses necessary for the preservation, operation, maintenance, and care of existing river and harbor, flood control, and related works, including such sums as may be necessary for the maintenance of harbor channels provided by a State, municipality or other public agency, outside of harbor lines, and serving essential

needs of general commerce and navigation; surveys and charting of northern and northwestern lakes and connecting waters; clearing and straightening channels; and removal of obstructions to navigation, $1,697,015,000, to remain available until expended, of which such sums as become available in the Harbor Maintenance Trust Fund, pursuant to Public Law 99–662, may be derived from that fund, and of which such sums as become available from the special account established by the Land and Water Conservation Act of 1965, as amended (16 U.S.C. 460l), may be derived from that fund for construction, operation, and maintenance of outdoor recreation facilities, and of which funds are provided for the following projects in the amounts specified:

Raystown Lake, Pennsylvania, $4,190,000; and

Cooper Lake and Channels, Texas, $2,601,000:

Provided, That using $1,000,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to design and construct a landing at Guntersville, Alabama, as described in the Master Plan Report of the Nashville District titled "Guntersville Landing" dated June, 1996: *Provided further,* That the Secretary of the Army is directed to design and implement at full Federal expense an early flood warning system for the Greenbrier and Cheat River Basins, West Virginia within eighteen months from the date of enactment of this Act: *Provided further,* That the Secretary of the Army is directed during fiscal year 1997 to maintain a minimum conservation pool level of 475.5 at Wister Lake in Oklahoma: *Provided further,* That no funds, whether appropriated, contributed, or otherwise provided, shall be available to the United States Army Corps of Engineers for the purpose of acquiring land in Jasper County, South Carolina, in connection with the Savannah Harbor navigation project: *Provided further,* That the Secretary of the Army is directed to use $600,000 of funding provided herein to perform maintenance dredging of the Cocheco River navigation project, New Hampshire.

REGULATORY PROGRAM

For expenses necessary for administration of laws pertaining to regulation of navigable waters and wetlands, $101,000,000, to remain available until expended.

FLOOD CONTROL AND COASTAL EMERGENCIES

For expenses necessary for emergency flood control, hurricane, and shore protection activities, as authorized by section 5 of the Flood Control Act approved August 18, 1941, as amended, $10,000,000, to remain available until expended: *Provided,* That the Secretary of the Army, acting through the Chief of Engineers, is directed to use up to $8,000,000 of the funds appropriated herein and under this heading in Public Law 104–134 to rehabilitate non-Federal flood control levees along the Puyallup and Carbon Rivers in Pierce County, Washington.

GENERAL EXPENSES

For expenses necessary for general administration and related functions in the Office of the Chief of Engineers and offices of the Division Engineers; activities of the Coastal Engineering Research Board, the Humphreys Engineer Center Support Activity,

the Engineering Strategic Studies Center, and the Water Resources Support Center, and for costs of implementing the Secretary of the Army's plan to reduce the number of division offices as directed in title I, Public Law 104–46, $149,000,000, to remain available until expended: *Provided,* That no part of any other appropriation provided in title I of this Act shall be available to fund the activities of the Office of the Chief of Engineers or the executive direction and management activities of the Division Offices: *Provided further,* That with funds provided herein and notwithstanding any other provision of law, the Secretary of the Army shall develop and submit to the Congress (including the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives) within 60 days of enactment of this Act, a plan which reduces the number of division offices within the United States Army Corps of Engineers to no less than 6 and no more than 8, with each division responsible for at least 4 district offices, but does not close or change any civil function of any district office: *Provided further,* That notwithstanding any other provision of law, the Secretary of the Army is directed to begin implementing the division office plan on April 1, 1997: *Provided further,* That up to $1,500,000 may be transferred to this account from any other appropriation account in this title. Plan.

ADMINISTRATIVE PROVISION

Appropriations in this title shall be available for official reception and representation expenses (not to exceed $5,000); and during the current fiscal year the revolving fund, Corps of Engineers, shall be available for purchase (not to exceed 100 for replacement only) and hire of passenger motor vehicles.

GENERAL PROVISIONS

CORPS OF ENGINEERS—CIVIL

SEC. 101. (a) In fiscal year 1997, the Secretary of the Army shall advertise for competitive bid at least 8,500,000 cubic yards of the hopper dredge volume accomplished with government owned dredges in fiscal year 1992. Contracts.

(b) Notwithstanding the provisions of this section, the Secretary is authorized to use the dredge fleet of the Corps of Engineers to undertake projects when industry does not perform as required by the contract specifications or when the bids are more than 25 percent in excess of what the Secretary determines to be a fair and reasonable estimated cost of a well equipped contractor doing the work or to respond to emergency requirements.

SEC. 102. None of the funds appropriated herein or otherwise made available to the Army Corps of Engineers, including amounts contained in the Revolving Fund of the Army Corps of Engineers, may be used to study, design or undertake improvements or major repair of the Federal vessel, McFARLAND, except for normal maintenance and repair necessary to maintain the vessel McFARLAND's current operational condition.

SEC. 103. The flood control project for Moorefield, West Virginia, authorized by section 101(a)(25) of the Water Resources Development Act of 1990 (Public Law 101–640, 104 Stat. 4610) is modified to authorize the Secretary of the Army to construct the project at a total cost of $26,200,000, with an estimated first Federal

cost of $20,300,000 and an estimated first non-Federal cost of $5,900,000.

SEC. 104. The project for navigation, Grays Landing Lock and Dam, Monongahela River, Pennsylvania (Lock and Dam 7 Replacement), authorized by section 301(a) of the Water Resources Development Act of 1986 (Public Law 99–662, 100 Stat. 4110) is modified to authorize the Secretary of the Army to construct the project at a total cost of $181,000,000, with an estimated first Federal cost of $181,000,000.

Effective date.

SEC. 105. From the date of enactment of this Act, non-structural flood control measures implemented under section 202(a) of Public Law 96–367 shall prevent future losses that would occur from a flood equal in magnitude to the April 1977 level by providing protection from the April 1977 level or the 100-year frequency event, whichever is greater.

SEC. 106. Notwithstanding any other provision of law, the Secretary of the Army, acting through the Chief of Engineers, is authorized to reprogram, obligate and expend such additional sums as are necessary to continue construction and cover anticipated contract earnings of any water resources project that received an appropriation or allowance for construction in or through an appropriations Act or resolution of the then-current fiscal year or the two fiscal years immediately prior to that fiscal year, in order to prevent the termination of a contract or the delay of scheduled work.

SEC. 107. The Corps of Engineers is hereby directed to complete the Charleston Riverfront (Haddad) Park Project, West Virginia, as described in the design memorandum approved November, 1992, on a 50–50 cost-share basis with the City. The Corps of Engineers shall pay one-half of all costs for settling contractor claims on the completed project and for completing the wharf. The Federal portion of these costs shall be obtained by reprogramming available Operations & Maintenance funds. The project cost limitation in the Project Cooperation Agreement shall be increased to reflect the actual costs of the completed project.

SEC. 108. The flood control project for Arkansas City, Kansas authorized by section 401(a) of the Water Resources Development Act of 1986 (Public Law 99–662, 100 Stat. 4116) is modified to authorize the Secretary of the Army to construct the project at a total cost of $38,500,000, with an estimated first Federal cost of $28,100,000 and an estimated first non-Federal cost of $10,400,000.

SEC. 109. Funds previously provided under the Fiscal Year 1993 Energy and Water Development Appropriations Act, Public Law 102–377, for the Elk Creek Dam, Oregon project, are hereby made available to plan and implement long-term management measures at Elk Creek Dam to maintain the project in an uncompleted state and to take necessary steps to provide passive fish passage through the project.

SEC. 110. The Secretary of the Army is authorized and directed to modify the project for the Hudson River, New York, New York City to Waterford, authorized by the Act of June 25, 1910 (Public Law 264, 61st Congress, 36 Stat. 635), to include design and construction of a 300-foot wide channel to a depth of 24 feet (mean low water), extending from the existing Federal channel in the vicinity of the Hudson City Light to the north dock at Union Street, Athens, New York.

SEC. 111. Section 109(a) of Public Law 104–46 (109 Stat. 408) with regard to Prestonsburg, Kentucky, is amended by striking "Modification No. 2" and inserting "Modification No. 3".

SEC. 112. The emergency gate construction project for Abiquiu Dam, New Mexico, authorized by section 1112 of the Water Resources Development Act of 1986 (Public Law 99–662, 100 Stat. 4232) is modified to authorize the Secretary of the Army, acting through the Chief of Engineers, to construct the project at an estimated total cost of $7,000,000. The non-Federal share of the project shall be 25 percent of those costs of the project attributable to an increase in flood protection as a result of the installation of such gates.

TITLE II

DEPARTMENT OF THE INTERIOR

CENTRAL UTAH PROJECT

CENTRAL UTAH PROJECT COMPLETION ACCOUNT

For the purpose of carrying out provisions of the Central Utah Project Completion Act, Public Law 102–575 (106 Stat. 4605), and for feasibility studies of alternatives to the Uintah and Upalco Units, $42,527,000, to remain available until expended, of which $16,700,000 shall be deposited into the Utah Reclamation Mitigation and Conservation Account: *Provided,* That of the amounts deposited into the Account, $5,000,000 shall be considered the Federal contribution authorized by paragraph 402(b)(2) of the Act and $11,700,000 shall be available to the Utah Reclamation Mitigation and Conservation Commission to carry out activities authorized under the Act.

In addition, for necessary expenses incurred in carrying out responsibilities of the Secretary of the Interior under the Act, $1,100,000, to remain available until expended.

BUREAU OF RECLAMATION

For carrying out the functions of the Bureau of Reclamation as provided in the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto) and other Acts applicable to that Bureau as follows:

GENERAL INVESTIGATIONS

For engineering and economic investigations of proposed Federal reclamation projects and studies of water conservation and development plans and activities preliminary to the reconstruction, rehabilitation and betterment, financial adjustment, or extension of existing projects, $16,650,000, to remain available until expended: *Provided,* That of the total appropriated, the amount for program activities which can be financed by the reclamation fund shall be derived from that fund: *Provided further,* That funds contributed by non-Federal entities for purposes similar to this appropriation shall be available for expenditure for the purposes for which contributed as though specifically appropriated for said purposes, and such amounts shall remain available until expended: *Provided further,* That of the total appropriated, $250,000 shall be available

to complete the appraisal study and initiate preconstruction engineering and design for the Del Norte County and Crescent City, California, Wastewater Reclamation Project, and $250,000 shall be available to complete the appraisal study and initiate preconstruction engineering and design for the Fort Bragg, California, Water Supply Project.

CONSTRUCTION PROGRAM

(INCLUDING TRANSFER OF FUNDS)

For construction and rehabilitation of projects and parts thereof (including power transmission facilities for Bureau of Reclamation use) and for other related activities as authorized by law, $394,056,000, to remain available until expended, of which $22,410,000 shall be available for transfer to the Upper Colorado River Basin Fund authorized by section 5 of the Act of April 11, 1956 (43 U.S.C. 620d), and $58,740,000 shall be available for transfer to the Lower Colorado River Basin Development Fund authorized by section 403 of the Act of September 30, 1968 (43 U.S.C. 1543), and such amounts as may be necessary shall be considered as though advanced to the Colorado River Dam Fund for the Boulder Canyon Project as authorized by the Act of December 21, 1928, as amended: *Provided,* That of the total appropriated, the amount for program activities which can be financed by the reclamation fund shall be derived from that fund: *Provided further,* That transfers to the Upper Colorado River Basin Fund and Lower Colorado River Basin Development Fund may be increased or decreased by transfers within the overall appropriation under this heading: *Provided further,* That funds contributed by non-Federal entities for purposes similar to this appropriation shall be available for expenditure for the purposes for which contributed as though specifically appropriated for said purposes, and such funds shall remain available until expended: *Provided further,* That all costs of the safety of dams modification work at Coolidge Dam, San Carlos Irrigation Project, Arizona, performed under the authority of the Reclamation Safety of Dams Act of 1978 (43 U.S.C. 506), as amended, are in addition to the amount authorized in section 5 of said Act: *Provided further,* That section 301 of Public Law 102–250, Reclamation States Emergency Drought Relief Act of 1991, is amended by inserting "1996, and 1997" in lieu of "and 1996": *Provided further,* That the amount authorized by section 210 of Public Law 100–557 (102 Stat. 2791), is amended to $56,362,000 (October 1996 prices plus or minus cost indexing), and funds are authorized to be appropriated through the twelfth fiscal year after construction funds are first made available: *Provided further,* That utilizing funds appropriated for the Tucson Aqueduct System Reliability Investigation, the Bureau of Reclamation is directed to complete, by the end of fiscal year 1997, the environmental impact statement being conducted on the proposed surface reservoir. The Bureau of Reclamation is further directed to work with the City of Tucson on any outstanding issues related to the preferred alternative.

43 USC 2241.

OPERATION AND MAINTENANCE

For operation and maintenance of reclamation projects or parts thereof and other facilities, as authorized by law; and for a soil

and moisture conservation program on lands under the jurisdiction of the Bureau of Reclamation, pursuant to law, $267,876,000, to remain available until expended: *Provided,* That of the total appropriated, the amount for program activities which can be financed by the reclamation fund shall be derived from that fund, and the amount for program activities which can be derived from the special fee account established pursuant to the Act of December 22, 1987 (16 U.S.C. 460l–6a, as amended), may be derived from that fund: *Provided further,* That funds advanced by water users for operation and maintenance of reclamation projects or parts thereof shall be deposited to the credit of this appropriation and may be expended for the same purpose and in the same manner as sums appropriated herein may be expended, and such advances shall remain available until expended: *Provided further,* That revenues in the Upper Colorado River Basin Fund shall be available for performing examination of existing structures on participating projects of the Colorado River Storage Project.

BUREAU OF RECLAMATION LOAN PROGRAM ACCOUNT

For the cost of direct loans and/or grants, $12,290,000, to remain available until expended, as authorized by the Small Reclamation Projects Act of August 6, 1956, as amended (43 U.S.C. 422a–422l): *Provided,* That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further,* That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $37,000,000.

In addition, for administrative expenses necessary to carry out the program for direct loans and/or grants, $425,000: *Provided,* That of the total sums appropriated, the amount of program activities which can be financed by the reclamation fund shall be derived from the fund.

CENTRAL VALLEY PROJECT RESTORATION FUND

For carrying out the programs, projects, plans, and habitat restoration, improvement, and acquisition provisions of the Central Valley Project Improvement Act, such sums as may be collected in the Central Valley Project Restoration Fund pursuant to sections 3407(d), 3404(c)(3), 3405(f), and 3406(c)(1) of Public Law 102–575, to remain available until expended: *Provided,* That the Bureau of Reclamation is directed to levy additional mitigation and restoration payments totaling $30,000,000 (October 1992 price levels) on a three-year rolling average basis, as authorized by section 3407(d) of Public Law 102–575.

GENERAL ADMINISTRATIVE EXPENSES

For necessary expenses of general administration and related functions in the office of the Commissioner, the Denver office, and offices in the five regions of the Bureau of Reclamation, to remain available until expended, $46,000,000, to be derived from the reclamation fund and to be nonreimbursable pursuant to the Act of April 19, 1945 (43 U.S.C. 377): *Provided,* That no part of any other appropriation in this Act shall be available for activities or functions budgeted for the current fiscal year as general administrative expenses.

SPECIAL FUNDS

(TRANSFER OF FUNDS)

Sums herein referred to as being derived from the reclamation fund or special fee account are appropriated from the special funds in the Treasury created by the Act of June 17, 1902 (43 U.S.C. 391) or the Act of December 22, 1987 (16 U.S.C. 460l–6a, as amended), respectively. Such sums shall be transferred, upon request of the Secretary, to be merged with and expended under the heads herein specified.

ADMINISTRATIVE PROVISION

Appropriations for the Bureau of Reclamation shall be available for purchase of not to exceed 6 passenger motor vehicles for replacement only.

TITLE III

DEPARTMENT OF ENERGY

ENERGY PROGRAMS

ENERGY SUPPLY, RESEARCH AND DEVELOPMENT ACTIVITIES

For expenses of the Department of Energy activities including the purchase, construction and acquisition of plant and capital equipment and other expenses necessary for energy supply, research and development activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101, et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; purchase of passenger motor vehicles (not to exceed 24 for replacement only), $2,710,908,000, to remain available until expended.

URANIUM SUPPLY AND ENRICHMENT ACTIVITIES

For expenses of the Department of Energy in connection with operating expenses; the purchase, construction, and acquisition of plant and capital equipment and other expenses necessary for uranium supply and enrichment activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101, et seq.) and the Energy Policy Act (Public Law 102–486, section 901), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; purchase of electricity as necessary; and the purchase of passenger motor vehicles (not to exceed 3 for replacement only); $43,200,000, to remain available until expended: *Provided,* That revenues received by the Department for uranium programs and estimated to total $42,200,000 in fiscal year 1997 shall be retained and used for the specific purpose of offsetting costs incurred by the Department for such activities notwithstanding the provisions of 31 U.S.C. 3302(b) and 42 U.S.C. 2296(b)(2): *Provided further,* That the sum herein appropriated shall be reduced as revenues are received during fiscal year 1997 so as to result in a final fiscal year 1997 appropriation from the General Fund estimated at not more than $1,000,000.

Section 161k. of the Atomic Energy Act of 1954 (42 U.S.C. 2201k) with respect to the Paducah Gaseous Diffusion Plant, Kentucky, and the Portsmouth Gaseous Diffusion Plant, Ohio, the guidelines shall require, at a minimum, the presence of an adequate number of security guards carrying side arms at all times to ensure maintenance of security at the gaseous diffusion plants. Kentucky. Ohio. Guidelines.

Section 311(b) of the USEC Privatization Act (Public Law 104–134, title III, chapter 1, subchapter A) insert the following: *Ante*, p. 1321–340.

"(3) The Corporation shall pay to the Thrift Savings Fund such employee and agency contributions as are required or authorized by sections 8432 and 8351 of title 5, United States Code, for employees who elect to retain their coverage under CSRS or FERS pursuant to paragraph (1).".

URANIUM ENRICHMENT DECONTAMINATION AND DECOMMISSIONING FUND

For necessary expenses in carrying out uranium enrichment facility decontamination and decommissioning, remedial actions and other activities of title II of the Atomic Energy Act of 1954 and title X, subtitle A of the Energy Policy Act of 1992, $200,200,000, to be derived from the Fund, to remain available until expended: *Provided,* That $34,000,000 of amounts derived from the Fund for such expenses shall be available in accordance with title X, subtitle A, of the Energy Policy Act of 1992.

GENERAL SCIENCE AND RESEARCH ACTIVITIES

For expenses of the Department of Energy activities including the purchase, construction and acquisition of plant and capital equipment and other expenses necessary for general science and research activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101, et seq.), including the acquisition or condemnation of any real property or facility or for plant or facility acquisition, construction, or expansion, $996,000,000, to remain available until expended.

NUCLEAR WASTE DISPOSAL FUND

For nuclear waste disposal activities to carry out the purposes of Public Law 97–425, as amended, including the acquisition of real property or facility construction or expansion, $182,000,000, to remain available until expended, to be derived from the Nuclear Waste Fund: *Provided,* That none of the funds provided herein shall be distributed to the State of Nevada or affected units of local government (as defined by Public Law 97–425) by direct payment, grant, or other means, for financial assistance under section 116 of the Nuclear Waste Policy Act of 1982, as amended: *Provided further,* That the foregoing proviso shall not apply to payments in lieu of taxes under section 116(c)(3)(A) of the Nuclear Waste Policy Act of 1982, as amended: *Provided further,* That no later than September 30, 1998, the Secretary shall provide to the President and to the Congress a viability assessment of the Yucca Mountain site. The viability assessment shall include: Assessment. 42 USC 10134 note.

(1) the preliminary design concept for the critical elements for the repository and waste package;

(2) a total system performance assessment, based upon the design concept and the scientific data and analysis available

by September 30, 1998, describing the probable behavior of the repository in the Yucca Mountain geological setting relative to the overall system performance standards;

(3) a plan and cost estimate for the remaining work required to complete a license application; and

(4) an estimate of the costs to construct and operate the repository in accordance with the design concept.

DEPARTMENTAL ADMINISTRATION

For salaries and expenses of the Department of Energy necessary for Departmental Administration in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101, et seq.), including the hire of passenger motor vehicles and official reception and representation expenses (not to exceed $35,000), $215,021,000, to remain available until expended, plus such additional amounts as necessary to cover increases in the estimated amount of cost of work for others notwithstanding the provisions of the Anti-Deficiency Act (31 U.S.C. 1511, et seq.): *Provided,* That such increases in cost of work are offset by revenue increases of the same or greater amount, to remain available until expended: *Provided further,* That moneys received by the Department for miscellaneous revenues estimated to total $125,388,000 in fiscal year 1997 may be retained and used for operating expenses within this account, and may remain available until expended, as authorized by section 201 of Public Law 95–238, notwithstanding the provisions of 31 U.S.C. 3302: *Provided further,* That the sum herein appropriated shall be reduced by the amount of miscellaneous revenues received during fiscal year 1997 so as to result in a final fiscal year 1997 appropriation from the General Fund estimated at not more than $89,633,000.

OFFICE OF THE INSPECTOR GENERAL

For necessary expenses of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $23,853,000, to remain available until expended.

ATOMIC ENERGY DEFENSE ACTIVITIES

WEAPONS ACTIVITIES

For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other expenses necessary for atomic energy defense weapons activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101, et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; and the purchase of passenger motor vehicles (not to exceed 94 for replacement only), $3,911,198,000, to remain available until expended.

DEFENSE ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT

For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other expenses necessary for atomic energy defense environmental restoration and waste management activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C.

7101, et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; and the purchase of passenger motor vehicles (not to exceed 20, of which 19 are for replacement only), $5,459,304,000, to remain available until expended and, in addition, $160,000,000 for privatization initiatives, to remain available until expended.

OTHER DEFENSE ACTIVITIES

For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other expenses necessary for atomic energy defense, other defense activities, in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101, et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion, and the purchase of passenger motor vehicles (not to exceed 2 for replacement only), $1,605,733,000, to remain available until expended.

DEFENSE NUCLEAR WASTE DISPOSAL

For nuclear waste disposal activities to carry out the purposes of Public Law 97–425, as amended, including the acquisition of real property or facility construction or expansion, $200,000,000, to remain available until expended.

POWER MARKETING ADMINISTRATIONS

OPERATION AND MAINTENANCE, ALASKA POWER ADMINISTRATION

For necessary expenses of operation and maintenance of projects in Alaska and of marketing electric power and energy, $4,000,000, to remain available until expended.

BONNEVILLE POWER ADMINISTRATION FUND

Expenditures from the Bonneville Power Administration Fund, established pursuant to Public Law 93–454, are approved for official reception and representation expenses in an amount not to exceed $3,000.

During fiscal year 1997, no new direct loan obligations may be made.

OPERATION AND MAINTENANCE, SOUTHEASTERN POWER ADMINISTRATION

For necessary expenses of operation and maintenance of power transmission facilities and of marketing electric power and energy pursuant to the provisions of section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southeastern power area, $16,359,000, to remain available until expended.

OPERATION AND MAINTENANCE, SOUTHWESTERN POWER ADMINISTRATION

For necessary expenses of operation and maintenance of power transmission facilities and of marketing electric power and energy, and for construction and acquisition of transmission lines, substations and appurtenant facilities, and for administrative expenses,

including official reception and representation expenses in an amount not to exceed $1,500 in carrying out the provisions of section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southwestern power area, $25,210,000, to remain available until expended; in addition, notwithstanding the provisions of 31 U.S.C. 3302, not to exceed $3,787,000 in reimbursements, to remain available until expended.

CONSTRUCTION, REHABILITATION, OPERATION AND MAINTENANCE, WESTERN AREA POWER ADMINISTRATION

(INCLUDING TRANSFER OF FUNDS)

For carrying out the functions authorized by title III, section 302(a)(1)(E) of the Act of August 4, 1977 (42 U.S.C. 7101, et seq.), and other related activities including conservation and renewable resources programs as authorized, including official reception and representation expenses in an amount not to exceed $1,500, $193,582,000, to remain available until expended, of which $185,687,000 shall be derived from the Department of the Interior Reclamation Fund: *Provided,* That of the amount herein appropriated, $5,432,000 is for deposit into the Utah Reclamation Mitigation and Conservation Account pursuant to title IV of the Reclamation Projects Authorization and Adjustment Act of 1992: *Provided further,* That the Secretary of the Treasury is authorized to transfer from the Colorado River Dam Fund to the Western Area Power Administration $3,774,000 to carry out the power marketing and transmission activities of the Boulder Canyon project as provided in section 104(a)(4) of the Hoover Power Plant Act of 1984, to remain available until expended.

FALCON AND AMISTAD OPERATING AND MAINTENANCE FUND

For operation, maintenance, and emergency costs for the hydroelectric facilities at the Falcon and Amistad Dams, $970,000, to remain available until expended, and to be derived from the Falcon and Amistad Operating and Maintenance Fund of the Western Area Power Administration, as provided in section 423 of the Foreign Relations Authorization Act, fiscal years 1994 and 1995.

FEDERAL ENERGY REGULATORY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Energy Regulatory Commission to carry out the provisions of the Department of Energy Organization Act (42 U.S.C. 7101, et seq.), including services as authorized by 5 U.S.C. 3109, the hire of passenger motor vehicles, and official reception and representation expenses (not to exceed $3,000), $146,290,000, to remain available until expended: *Provided,* That notwithstanding any other provision of law, not to exceed $146,290,000 of revenues from fees and annual charges, and other services and collections in fiscal year 1997 shall be retained and used for necessary expenses in this account, and shall remain available until expended: *Provided further,* That the sum herein appropriated shall be reduced as revenues are received during fiscal year 1997 so as to result in a final fiscal year 1997 appropriation from the General Fund estimated at not more than $0.

42 USC 7171 note.

GENERAL PROVISIONS

PRIORITY PLACEMENT, JOB PLACEMENT, RETRAINING, AND COUNSELING PROGRAMS FOR UNITED STATES DEPARTMENT OF ENERGY EMPLOYEES AFFECTED BY A REDUCTION IN FORCE

SEC. 301. (a) DEFINITIONS.— 42 USC 7237.

(1) For the purposes of this section, the term "agency" means the United States Department of Energy.

(2) For the purposes of this section, the term "eligible employee" means any employee of the agency who—

(A) is scheduled to be separated from service due to a reduction in force under—

(i) regulations prescribed under section 3502 of title 5, United States Code; or

(ii) procedures established under section 3595 of title 5, United States Code; or

(B) is separated from service due to such a reduction in force, but does not include—

(i) an employee separated from service for cause on charges of misconduct or delinquency; or

(ii) an employee who, at the time of separation, meets the age and service requirements for an immediate annuity under subchapter III of chapter 83 or chapter 84 of title 5, United States Code.

(b) PRIORITY PLACEMENT AND RETRAINING PROGRAM.—Not later than 30 days after the date of the enactment of this Act, the United States Department of Energy shall establish an agency-wide priority placement and retraining program for eligible employees. Establishment.

(c) The priority placement program established under subsection (b) shall include provisions under which a vacant position shall not be filled by the appointment or transfer of any individual from outside of the agency if—

(1) there is then available any eligible employee who applies for the position within 30 days of the agency issuing a job announcement and is qualified (or can be trained or retrained to become qualified within 90 days of assuming the position) for the position; and

(2) the position is within the same commuting area as the eligible employee's last-held position or residence.

(d) JOB PLACEMENT AND COUNSELING SERVICES.—The head of the agency may establish a program to provide job placement and counseling services to eligible employees. A program established under subsection (d) may include, but is not limited to, such services as—

(1) career and personal counseling;

(2) training and job search skills; and

(3) job placement assistance, including assistance provided through cooperative arrangements with State and local employment services offices.

SEC. 302. None of the funds appropriated by this or any other Act may be used to implement section 3140 of H.R. 3230 as reported by the Committee of Conference on July 30, 1996. The Secretary of Energy shall develop a plan to reorganize the field activities and management of the national security functions of the Department of Energy and shall submit such plan to the Congress not later than 120 days after the date of enactment of this Act. The 42 USC 7252 note. Plan.

plan will specifically identify all significant functions performed by the Department's national security operations and area offices and make recommendations as to where those functions should be performed.

TITLE IV

INDEPENDENT AGENCIES

APPALACHIAN REGIONAL COMMISSION

42 USC app. 401 note.

For expenses necessary to carry out the programs authorized by the Appalachian Regional Development Act of 1965, as amended, notwithstanding section 405 of said Act, and for necessary expenses for the Federal Co-Chairman and the alternate on the Appalachian Regional Commission and for payment of the Federal share of the administrative expenses of the Commission, including services as authorized by 5 U.S.C. 3109, and hire of passenger motor vehicles, $160,000,000, to remain available until expended.

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

SALARIES AND EXPENSES

For necessary expenses of the Defense Nuclear Facilities Safety Board in carrying out activities authorized by the Atomic Energy Act of 1954, as amended by Public Law 100–456, section 1441, $16,000,000, to remain available until expended.

NUCLEAR REGULATORY COMMISSION

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Commission in carrying out the purposes of the Energy Reorganization Act of 1974, as amended, and the Atomic Energy Act of 1954, as amended, including the employment of aliens; services authorized by 5 U.S.C. 3109; publication and dissemination of atomic information; purchase, repair, and cleaning of uniforms; official representation expenses (not to exceed $20,000); reimbursements to the General Services Administration for security guard services; hire of passenger motor vehicles and aircraft, $471,800,000, to remain available until expended: *Provided,* That of the amount appropriated herein, $11,000,000 shall be derived from the Nuclear Waste Fund: *Provided further,* That from this appropriation, transfer of sums may be made to other agencies of the Government for the performance of the work for which this appropriation is made, and in such cases the sums so transferred may be merged with the appropriation to which transferred: *Provided further,* That moneys received by the Commission for the cooperative nuclear safety research program, services rendered to foreign governments and international organizations, and the material and information access authorization programs, including criminal history checks under section 149 of the Atomic Energy Act may be retained and used for salaries and expenses associated with those activities, notwithstanding 31 U.S.C. 3302, and shall remain available until expended: *Provided further,* That revenues from licensing fees, inspection services, and other services

and collections estimated at $457,300,000 in fiscal year 1997 shall be retained and used for necessary salaries and expenses in this account, notwithstanding 31 U.S.C. 3302, and shall remain available until expended: *Provided further,* That the funds herein appropriated for regulatory reviews and other activities pertaining to waste stored at the Hanford site, Washington, shall be excluded from license fee revenues, notwithstanding 42 U.S.C. 2214: *Provided further,* That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 1997 from licensing fees, inspection services and other services and collections, excluding those moneys received for the cooperative nuclear safety research program, services rendered to foreign governments and international organizations, and the material and information access authorization programs, so as to result in a final fiscal year 1997 appropriation estimated at not more than $14,500,000.

OFFICE OF INSPECTOR GENERAL

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, including services authorized by 5 U.S.C. 3109, $5,000,000, to remain available until expended; and in addition, an amount not to exceed 5 percent of this sum may be transferred from Salaries and Expenses, Nuclear Regulatory Commission: *Provided,* That notice of such transfers shall be given to the Committees on Appropriations of the House and Senate: *Provided further,* That from this appropriation, transfers of sums may be made to other agencies of the Government for the performance of the work for which this appropriation is made, and in such cases the sums so transferred may be merged with the appropriation to which transferred: *Provided further,* That revenues from licensing fees, inspection services, and other services and collections shall be retained and used for necessary salaries and expenses in this account, notwithstanding 31 U.S.C. 3302, and shall remain available until expended: *Provided further,* That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 1997 from licensing fees, inspection services, and other services and collections, so as to result in a final fiscal year 1997 appropriation estimated at not more than $0. Notice.

NUCLEAR WASTE TECHNICAL REVIEW BOARD

SALARIES AND EXPENSES

For necessary expenses of the Nuclear Waste Technical Review Board, as authorized by Public Law 100–203, section 5051, $2,531,000, to be derived from the Nuclear Waste Fund, and to remain available until expended.

TENNESSEE VALLEY AUTHORITY

For the purpose of carrying out the provisions of the Tennessee Valley Authority Act of 1933, as amended (16 U.S.C. ch. 12A), including hire, maintenance, and operation of aircraft, and purchase and hire of passenger motor vehicles, $106,000,000, to remain available until expended: *Provided,* That of the funds provided herein,

$15,000,000 shall be made available for the Environmental Research Center in Muscle Shoals, Alabama: *Provided further,* That of the funds provided herein, $6,000,000 shall be made available for operation, maintenance, improvement, and surveillance of Land Between the Lakes: *Provided further,* That of the amount provided herein, $15,000,000 shall be available for Economic Development activities: *Provided further,* That none of the funds provided herein, shall be available for detailed engineering and design or constructing a replacement for Chickamauga Lock and Dam on the Tennessee River System.

TITLE V

GENERAL PROVISIONS

SEC. 501. (a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American-made.

(b) NOTICE REQUIREMENT.—In providing financial assistance to, or entering into any contract with, any entity using funds made available in this Act, the head of each Federal agency, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.

(c) PROHIBITION OF CONTRACTS WITH PERSONS FALSELY LABELING PRODUCTS AS MADE IN AMERICA.—If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a "Made in America" inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, the person shall be ineligible to receive any contract or subcontract made with funds made available in this Act, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

SEC. 502. 42 U.S.C. 7262 is repealed.

SEC. 503. (a) None of the funds appropriated or otherwise made available by this Act may be used to determine the final point of discharge for the interceptor drain for the San Luis Unit until development by the Secretary of the Interior and the State of California of a plan, which shall conform to the water quality standards of the State of California as approved by the Administrator of the Environmental Protection Agency, to minimize any detrimental effect of the San Luis drainage waters.

California.

(b) The costs of the Kesterson Reservoir Cleanup Program and the costs of the San Joaquin Valley Drainage Program shall be classified by the Secretary of the Interior as reimbursable or nonreimbursable and collected until fully repaid pursuant to the "Cleanup Program—Alternative Repayment Plan" and the "SJVDP—Alternative Repayment Plan" described in the report entitled "Repayment Report, Kesterson Reservoir Cleanup Program and San Joaquin Valley Drainage Program, February 1995", prepared by the Department of the Interior, Bureau of Reclamation. Any future obligations of funds by the United States relating to, or providing for, drainage service or drainage studies for the San Luis Unit shall be fully reimbursable by San Luis Unit beneficiaries of such service or studies pursuant to Federal Reclamation law.

SEC. 504. None of the funds made available in this Act may be used to revise the Missouri River Master Water Control Manual when it is made known to the Federal entity or official to which the funds are made available that such revision provides for an increase in the springtime water release program during the spring heavy rainfall and snow melt period in States that have rivers draining into the Missouri River below the Gavins Point Dam.

SEC. 505. Public Law 101–514, the Energy and Water Development Appropriations Act, 1991, is amended effective September 30, 1997 or upon operation of the temperature control device, by striking the proviso under the heading "Construction, Rehabilitation, Operation and Maintenance, Western Area Power Administration". Effective date. *Ante*, p. 415.

SEC. 506. The Secretary of the Interior shall extend the water service contracts for the following projects, entered into by the Secretary of the Interior under subsection (e) of section 9 of the Reclamation Project Act of 1939 (43 U.S.C. 485h) and section 9(c) of the Act of December 22, 1944 (58 Stat. 891, chapter 665), for a period of 1 additional year after the dates on which each of the contracts, respectively, would expire but for this section: Contracts. Kansas. Nebraska.

(1) The Bostwick District (Kansas portion), Missouri River Basin Project, consisting of the project constructed and operated under the Act of December 22, 1944 (58 Stat. 887, chapter 665), as a component of the Pick-Sloan Missouri Basin Program, situated in Republic County, Jewell County, and Cloud County, Kansas.

(2) The Bostwick District (Nebraska portion), Missouri River Basin Project, consisting of the project constructed and operated under the Act of December 22, 1944 (58 Stat. 887, chapter 665), as a component of the Pick-Sloan Missouri Basin Program, situated in Harlan County, Franklin County, Webster County, and Nuckolls County, Nebraska.

(3) The Frenchman-Cambridge District, Missouri River Basin Project, consisting of the project constructed and operated under the Act of December 22, 1944 (58 Stat. 887, chapter 665), as a component of the Pick-Sloan Missouri Basin Program, situated in Chase County, Frontier County, Hitchcock County, Furnas County, and Harlan County, Nebraska.

SEC. 507. Funds made available by this Act to the Department of Energy shall be available only for the purposes for which they have been made available by this Act. The Department of Energy shall report by February 28, 1997 to the Committees on Appropriations of the House and Senate on the Department of Energy's adherence to the recommendations included in the accompanying report. Reports.

SEC. 508. (a) DENIAL OF FUNDS FOR PREVENTING ROTC ACCESS TO CAMPUS.—None of the funds made available in this Act may be provided by contract or by grant (including a grant of funds to be available for student aid) to a subelement of an institution of higher education when it is made known to the Federal official having authority to obligate or expend such funds that the subelement of such institution has a policy or practice (regardless of when implemented) that prohibits, or in effect prevents—

(1) the maintaining, establishing, or operation of a unit of the Senior Reserve Officer Training Corps (in accordance with section 654 of title 10, United States Code, and other

applicable Federal laws) at the subelement of such institution; or

(2) a student at the institution (or subelement) from enrolling in a unit of the Senior Reserve Officer Training Corps at another institution of higher education.

(b) EXCEPTION.—The limitation established in subsection (a) shall not apply to an institution of higher education when it is made known to the Federal official having authority to obligate or expend such funds that—

(1) the institution (or subelement) has ceased the policy or practice described in such subsection; or

(2) the institution has a longstanding policy of pacifism based on historical religious affiliation.

SEC. 509. (a) DENIAL OF FUNDS FOR PREVENTING FEDERAL MILITARY RECRUITING ON CAMPUS.—None of the funds made available in this Act may be provided by contract or grant (including a grant of funds to be available for student aid) to a subelement of an institution of higher education when it is made known to the Federal official having authority to obligate or expend such funds that the subelement of such institution has a policy or practice (regardless of when implemented) that prohibits, or in effect prevents—

(1) entry to campuses, or access to students (who are 17 years of age or older) on campuses, for purposes of Federal military recruiting; or

(2) access to the following information pertaining to students (who are 17 years of age or older) for purposes of Federal military recruiting: student names, addresses, telephone listings, dates and places of birth, levels of education, degrees received, prior military experience, and the most recent previous educational institutions enrolled in by the students.

(b) EXCEPTION.—The limitation established in subsection (a) shall not apply to an institution of higher education when it is made known to the Federal official having authority to obligate or expend such funds that—

(1) the institution (or subelement) has ceased the policy or practice described in such subsection; or

(2) the institution has a longstanding policy of pacifism based on historical religious affiliation.

SEC. 510. None of the funds made available in this Act may be obligated or expended to enter into or renew a contract with an entity when it is made known to the Federal official having authority to obligate or expend such funds that—

(1) such entity is otherwise a contractor with the United States and is subject to the requirement in section 4212(d) of title 38, United States Code, regarding submission of an annual report to the Secretary of Labor concerning employment of certain veterans; and

(2) such entity has not submitted a report as required by that section for the most recent year for which such requirement was applicable to such entity.

Voluntary separation payments.
16 USC 832m note.
Expiration date.

SEC. 511. The Administrator may offer employees voluntary separation incentives as deemed necessary which shall not exceed $25,000. Recipients who accept employment with the United States within five years after separation shall repay the entire amount to the Bonneville Power Administration. This authority shall expire September 30, 2000.

SEC. 512. Following section 4(h)(10)(C) of the Northwest Power Planning and Conservation Act, insert the following new section: 16 USC 839b.

(4)(h)(10)(D) INDEPENDENT SCIENTIFIC REVIEW PANEL.—(i) The Northwest Power Planning Council (Council) shall appoint an Independent Scientific Review Panel (Panel), which shall be comprised of eleven members, to review projects proposed to be funded through that portion of the Bonneville Power Administration's (BPA) annual fish and wildlife budget that implements the Council's fish and wildlife program. Members shall be appointed from a list of no fewer than 20 scientists submitted by the National Academy of Sciences (Academy), provided that Pacific Northwest scientists with expertise in Columbia River anadromous and non-anadromous fish and wildlife and ocean experts shall be among those represented on the Panel. The Academy shall provide such nominations within 90 days of the date of this enactment, and in any case not later than December 31, 1996. If appointments are required in subsequent years, the Council shall request nominations from the Academy and the Academy shall provide nominations not later than 90 days after the date of this request. If the Academy does not provide nominations within these time requirements, the Council may appoint such members as the Council deems appropriate. Fish and wildlife.

(ii) SCIENTIFIC PEER REVIEW GROUPS.—The Council shall establish Scientific Peer Review Groups (Peer Review Groups), which shall be comprised of the appropriate number of scientists, from a list submitted by the Academy to assist the Panel in making its recommendations to the Council for projects to be funded through BPA's annual fish and wildlife budget, provided that Pacific Northwest scientists with expertise in Columbia River anadromous and non-anadromous fish and wildlife and ocean experts shall be among those represented on the Peer Review Groups. The Academy shall provide such nominations within 90 days of the date of this enactment, and in any case not later than December 31, 1996. If appointments are required in subsequent years, the Council shall request nominations from the Academy and the Academy shall provide nominations not later than 90 days after the date of this request. If the Academy does not provide nominations within these time requirements, the Council may appoint such members as the Council deems appropriate.

(iii) CONFLICT OF INTEREST AND COMPENSATION.—Panel and Peer Review Group members may be compensated and shall be considered subject to the conflict of interest standards that apply to scientists performing comparable work for the National Academy of Sciences; provided that a Panel or Peer Review Group members with a direct or indirect financial interest in a project, or projects, shall recuse himself or herself from review of, or recommendations associated with, such project or projects. All expenses of the Panel and the Peer Review Groups shall be paid by BPA as provided for under paragraph (vii). Neither the Panel nor the Peer Review Groups shall be deemed advisory committees within the meaning of the Federal Advisory Committee Act.

(iv) PROJECT CRITERIA AND REVIEW.—The Peer Groups, in conjunction with the Panel, shall review projects proposed to be funded through BPA's annual fish and wildlife budget and make recommendations on matters related to such projects to the Council no later than June 15 of each year. If the recommendations are not received by the Council by this date, the Council may proceed

to make final recommendations on project funding to BPA, relying on the best information available. The Panel and Peer Review Groups shall review a sufficient number of projects to adequately ensure that the list of prioritized projects recommended is consistent with the Council's program. Project recommendations shall be based on a determination that projects: are based on sound science principles; benefit fish and wildlife; and have a clearly defined objective and outcome with provisions for monitoring and evaluation of results. The Panel, with assistance from the Peer Review Groups, shall review, on an annual basis, the results of prior year expenditures based upon these criteria and submit its findings to the Council for its review.

(v) PUBLIC REVIEW.—Upon completion of the review of projects to be funded through BPA's annual fish and wildlife budget, the Peer Review Groups shall submit its findings to the Panel. The Panel shall analyze the information submitted by the Peer Review Groups and submit recommendations on project priorities to the Council. The Council shall make the Panel's findings available to the public and subject to public comment.

(vi) RESPONSIBILITIES OF THE COUNCIL.—The Council shall fully consider the recommendations of the Panel when making its final recommendations of projects to be funded through BPA's annual fish and wildlife budget, and if the Council does not incorporate a recommendation of the Panel, the Council shall explain in writing its reasons for not accepting Panel recommendations. In making its recommendations to BPA, the Council shall consider the impact of ocean conditions on fish and wildlife populations and shall determine whether the projects employ cost-effective measures to achieve program objectives. The Council, after consideration of the recommendations of the Panel and other appropriate entities, shall be responsible for making the final recommendations of projects to be funded through BPA's annual fish and wildlife budget.

(vii) COST LIMITATION.—The cost of this provision shall not exceed $2,000,000 in 1997 dollars.

(viii) EXPIRATION.—This paragraph shall expire on September 30, 2000.

Texas.

DESIGNATION OF JIM CHAPMAN LAKE

SEC. 513. Cooper Lake, located on the Sulphur River near Cooper, Texas, is named and designated as the "Jim Chapman Lake". Any reference in a law, map, regulation, document, or record of the United States to such lake shall be held to be a reference to the "Jim Chapman Lake".

Oregon.

DESIGNATION OF WILLIAM L. JESS DAM AND INTAKE STRUCTURE

SEC. 514. The dam located at mile 158.6 on the Rogue River in Jackson County, Oregon, and commonly known as the Lost Creek Dam Lake Project, shall be known and designated as the "William L. Jess Dam and Intake Structure". Any reference in a law, map, regulation, document, paper, or other record of the United States to the dam referred to as Lost Creek Dam Lake Project, shall be deemed to be a reference to the "William L. Jess Dam and Intake Structure".

DESIGNATION OF J. BENNETT JOHNSTON WATERWAY

Louisiana.

SEC. 515. The portion of the Red River, Louisiana, from new river mile 0 to new river mile 235 shall be known and designated as the "J. Bennett Johnston Waterway". Any reference in a law, map, regulation, document, paper, or other record of the United States to such portion of the Red River shall be deemed to be a reference to the "J. Bennett Johnston Waterway".

This Act may be cited as the "Energy and Water Development Appropriations Act, 1997".

Approved September 30, 1996.

LEGISLATIVE HISTORY—H.R. 3816 (S. 1959):

HOUSE REPORTS: Nos. 104–679 (Comm. on Appropriations) and 104–782 (Comm. of Conference).

SENATE REPORTS: No. 104–320 accompanying S. 1959 (Comm. on Appropriations).

CONGRESSIONAL RECORD, Vol. 142 (1996):

July 24, 25, considered and passed House.

July 26, 29, 30, considered and passed Senate, amended, in lieu of S. 1959.

Sept. 12, House agreed to conference report.

Sept. 17, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 32 (1996):

Sept. 30, Presidential statement.

29–194 O – 96 – 6 : QL 3 Part 4

Public Law 104–207
104th Congress

Joint Resolution

Sept. 30, 1996
[H.J. Res. 197]

Waiving certain enrollment requirements with respect to any bill or joint resolution of the One Hundred Fourth Congress making general or continuing appropriations for fiscal year 1997.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

1 USC 106 note.

SECTION 1. WAIVER OF REQUIREMENT FOR PARCHMENT PRINTING.

(a) WAIVER.—The provisions of sections 106 and 107 of title 1, United States Code, are waived with respect to the printing (on parchment or otherwise) of the enrollment of any appropriation measure of the One Hundred Fourth Congress presented to the President after the enactment of this joint resolution.

(b) CERTIFICATION OF ENROLLMENT BY COMMITTEE ON HOUSE OVERSIGHT.—The enrollment of any such measure shall be in such form as the Committee on House Oversight of the House of Representatives certifies to be a true enrollment.

1 USC 106 note.

SEC. 2. APPROPRIATION MEASURE DEFINED.

For purposes of this joint resolution, the term "appropriation measure" means a bill or joint resolution that includes provisions making general or continuing appropriations for the fiscal year ending September 30, 1997.

Approved September 30, 1996.

LEGISLATIVE HISTORY—H.J. Res. 197:

CONGRESSIONAL RECORD, Vol. 142 (1996):
Sept. 28, considered and passed House.
Sept. 30, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 32 (1996):
Sept. 30, Presidential statement.

*Public Law 104–208
104th Congress

An Act

Making omnibus consolidated appropriations for the fiscal year ending September 30, 1997, and for other purposes.

Sept. 30, 1996
[H.R. 3610]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Omnibus Consolidated Appropriations Act, 1997.

DIVISION A

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the several departments, agencies, corporations and other organizational units of the Government for the fiscal year 1997, and for other purposes, namely:

TITLE I—OMNIBUS APPROPRIATIONS

Sec. 101. (a) For programs, projects or activities in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1997, provided as follows, to be effective as if it had been enacted into law as the regular appropriations Act:

AN ACT

Making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1997, and for other purposes.

Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1997.

TITLE I—DEPARTMENT OF JUSTICE

Department of Justice Appropriations Act, 1997.

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

For expenses necessary for the administration of the Department of Justice, $75,773,000 of which not to exceed $3,317,000 is for the Facilities Program 2000, to remain available until expended: *Provided*, That not to exceed 43 permanent positions and 44 full-time equivalent workyears and $7,477,000 shall be expended for the Department Leadership Program exclusive of augmentation that occurred in these offices in fiscal year 1996: *Provided further*, That not to exceed 41 permanent positions and 48 full-time equivalent workyears and $4,660,000 shall be expended for the Offices of Legislative Affairs and Public Affairs:

*Note: This is a typeset print of the original hand enrollment as signed by the President on September 30, 1996. The text is printed without corrections. Missing text in the original is indicated by a footnote.

Provided further, That the latter two aforementioned offices shall not be augmented by personnel details, temporary transfers of personnel on either a reimbursable or non-reimbursable basis or any other type of formal or informal transfer or reimbursement of personnel or funds on either a temporary or long-term basis.

For an additional amount, for enhancements for the Office of Intelligence Policy and Review and security measures, $3,600,000; of which $2,170,000 is for security enhancements: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

COUNTERTERRORISM FUND

For necessary expenses, as determined by the Attorney General, $9,450,000, to remain available until expended, to reimburse any Department of Justice organization for (1) the costs incurred in reestablishing the operational capability of an office or facility which has been damaged or destroyed as a result of the bombing of the Alfred P. Murrah Federal Building in Oklahoma City or any domestic or international terrorist incident, (2) the costs of providing support to counter, investigate or prosecute domestic or international terrorism, including payment of rewards in connection with these activities, and (3) the costs of conducting a terrorism threat assessment of Federal agencies and their facilities: *Provided*, That funds provided under this heading shall be available only after the Attorney General notifies the Committees on Appropriations of the House of Representatives and the Senate in accordance with section 605 of this Act.

For an additional amount for necessary expenses, as determined by the Attorney General, $20,000,000, to remain available until expended, to reimburse any Department of Justice organization for (1) the costs incurred in reestablishing the operational capability of an office or facility which has been damaged or destroyed as a result of any domestic or international terrorist incident, or (2) the costs of providing support to counter, investigate or prosecute domestic or international terrorism, including payment of rewards in connection with these activities: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

ADMINISTRATIVE REVIEW AND APPEALS

For expenses necessary for the administration of pardon and clemency petitions and immigration related activities, $62,000,000.

For an additional amount for security measures for the Executive Office of Immigration Review, $1,000,000: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

VIOLENT CRIME REDUCTION PROGRAMS, ADMINISTRATIVE REVIEW AND APPEALS

For activities authorized by section 130005 of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322),

as amended, $48,000,000, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $31,960,000; including not to exceed $10,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of, and to be accounted for solely under the certificate of, the Attorney General; and for the acquisition, lease, maintenance, and operation of motor vehicles, without regard to the general purchase price limitation for the current fiscal year.

UNITED STATES PAROLE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the United States Parole Commission as authorized by law, $4,845,000.

LEGAL ACTIVITIES

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

For expenses, necessary for the legal activities of the Department of Justice, not otherwise provided for, including not to exceed $20,000 for expenses of collecting evidence, to be expended under the direction of, and to be accounted for solely under the certificate of, the Attorney General; and rent of private or Government-owned space in the District of Columbia; 420,793,000; of which not to exceed $10,000,000 for litigation support contracts shall remain available until expended: *Provided,* That of the funds available in this appropriation, not to exceed $17,525,000 shall remain available until expended for office automation systems for the legal divisions covered by this appropriation, and for the United States Attorneys, the Antitrust Division, and offices funded through "Salaries and Expenses", General Administration: *Provided further,* That of the total amount appropriated, not to exceed $1,000 shall be available to the United States National Central Bureau, INTERPOL, for official reception and representation expenses: *Provided further,* That notwithstanding 31 U.S.C. 1342, the Attorney General may accept on behalf of the United States, and credit to this appropriation, gifts of money, personal property and services, for the purposes of hosting the International Criminal Police Organization's (INTERPOL) American Regional Conference in the United States during fiscal year 1997: *Provided further*, That not to exceed 8 permanent positions and 10 full-time equivalent workyears and $987,000 shall be expended for the Office of Legislative Affairs and Public Affairs: *Provided further*, That the latter two aforementioned offices shall not be augmented by personnel details, temporary transfers of personnel on either a reimbursable or nonreimbursable basis or any other type of formal or informal transfer or reimbursement of personnel or funds on either a temporary or long-term basis.

In addition, for reimbursement of expenses of the Department of Justice associated with processing cases under the National Childhood Vaccine Injury Act of 1986 as amended, not to exceed

$4,028,000, to be appropriated from the Vaccine Injury Compensation Trust Fund.

For an additional amount for expenses of the Criminal Division relating to terrorism, $1,719,000: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

VIOLENT CRIME REDUCTION PROGRAMS, GENERAL LEGAL ACTIVITIES

For the expeditious deportation of denied asylum applicants, as authorized by section 130005 of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322), as amended, $7,750,000, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund.

SALARIES AND EXPENSES, ANTITRUST DIVISION

For expenses necessary for the enforcement of antitrust and kindred laws, $76,447,000: *Provided*, That notwithstanding any other provision of law, not to exceed $58,905,000 of offsetting collections derived from fees collected for premerger notification filings under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (15 U.S.C. 18(a)) shall be retained and used for necessary expenses in this appropriation, and shall remain available until expended: *Provided further*, That the sum herein appropriated from the General Fund shall be reduced as such offsetting collections are received during fiscal year 1997, so as to result in a final fiscal year 1997 appropriation from the General Fund estimated at not more than $17,542,000: *Provided further*, That any fees received in excess of $58,905,000 in fiscal year 1997, shall remain available until expended, but shall not be available for obligation until October 1, 1997.

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

For necessary expenses of the Office of the United States Attorneys, including intergovernmental agreements, $923,340,000; of which not to exceed $2,500,000 shall be available until September 30, 1998, for the purposes of (1) providing training of personnel of the Department of Justice in debt collection, (2) providing services to the Department of Justice related to locating debtors and their property, such as title searches, debtor skiptracing, asset searches, credit reports and other investigations, (3) paying the costs of the Department of Justice for the sale of property not covered by the sale proceeds, such as auctioneers' fees and expenses, maintenance and protection of property and businesses, advertising and title search and surveying costs, and (4) paying the costs of processing and tracking debts owed to the United States Government: *Provided*, That of the total amount appropriated, not to exceed $8,000 shall be available for official reception and representation expenses: *Provided further*, That not to exceed $10,000,000 of those funds available for automated litigation support contracts shall remain available until expended: *Provided further*, That $1,900,000 for supervision of the International Brotherhood of Teamsters national election, shall remain available until expended: *Provided further*, That in addition to reimbursable full-time equivalent workyears available to the Office of the United States Attorneys,

not to exceed 8,652 positions and 8,936 full-time equivalent workyears shall be supported from the funds appropriated in this Act for the United States Attorneys.

For an additional amount for expenses relating to terrorism and security needs, $10,900,000: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

VIOLENT CRIME REDUCTION PROGRAMS, UNITED STATES ATTORNEYS

For activities authorized by sections 40114, 130005, 190001(b), 190001(d) and 250005 of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322), as amended, and section 815 of the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104–132), $43,876,000, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund, of which $28,602,000 shall be available to help meet the increased demands for litigation and related activities, $4,641,000 for Southwest Border Control, $1,000,000 for Federal victim counselors, and $9,633,000 for expeditious deportation of denied asylum applicants.

UNITED STATES TRUSTEE SYSTEM FUND

For necessary expenses of the United States Trustee Program, as authorized by 28 U.S.C. 589a(a), $107,950,000, to remain available until expended and to be derived from the United States Trustee System Fund: *Provided*, That notwithstanding any other provision of law, deposits to the Fund shall be available in such amounts as may be necessary to pay refunds due depositors: *Provided further*, That notwithstanding any other provision of law, $107,950,000 of offsetting collections derived from fees collected pursuant to 28 U.S.C. 589a(b) shall be retained and used for necessary expenses in this appropriation and remain available until expended: *Provided further*, That the sum herein appropriated from the Fund shall be reduced as such offsetting collections are received during fiscal year 1997, so as to result in a final fiscal year 1997 appropriation from the Fund estimated at $0: *Provided further*, That any such fees collected in excess of $107,950,000 in fiscal year 1997 shall remain available until expended but shall not be available for obligation until October 1, 1997.

SALARIES AND EXPENSES, FOREIGN CLAIMS SETTLEMENT COMMISSION

For expenses necessary to carry out the activities of the Foreign Claims Settlement Commission, including services as authorized by 5 U.S.C. 3109, $953,000.

SALARIES AND EXPENSES, UNITED STATES MARSHALS SERVICE

For necessary expenses of the United States Marshals Service; including the acquisition, lease, maintenance, and operation of vehicles and aircraft, and the purchase of passenger motor vehicles for police-type use, without regard to the general purchase price limitation for the current fiscal year, $457,495,000, as authorized by 28 U.S.C. 561(i); of which not to exceed $6,000 shall be available for official reception and representation expenses; and of which

not to exceed $4,000,000 for development, implementation, maintenance and support, and training for an automated prisoner information system, and $2,200,000 to support the Justice Prisoner and Alien Transportation System, shall remain available until expended: *Provided*, That, with respect to the amounts appropriated above, the service of maintaining and transporting State, local, or territorial prisoners shall be considered a specialized or technical service for purposes of 31 U.S.C. 6505, and any prisoners so transported shall be considered persons (transported for other than commercial purposes) whose presence is associated with the performance of a governmental function for purposes of 49 U.S.C. 40102: *Provided further*, That not to exceed 12 permanent positions and 12 full-time equivalent workyears and $700,000 shall be expended for the Offices of Legislative Affairs and Public Affairs: *Provided further*, That the latter two aforementioned offices shall not be augmented by personnel details, temporary transfers of personnel on either a reimbursable or nonreimbursable basis or any other type of formal or informal transfer or reimbursement of personnel or funds on either a temporary or long-term basis.

VIOLENT CRIME REDUCTION PROGRAMS, UNITED STATES MARSHALS SERVICE

For activities authorized by section 190001(b) of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322), as amended, $25,000,000, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund.

FEDERAL PRISONER DETENTION

For expenses, related to United States prisoners in the custody of the United States Marshals Service as authorized in 18 U.S.C. 4013, but not including expenses otherwise provided for in appropriations available to the Attorney General, $405,262,000, as authorized by 28 U.S.C. 561(i), to remain available until expended: *Provided*, That this appropriation hereafter shall not be available for expenses authorized under 18 U.S.C. 4013(a)(4).

FEES AND EXPENSES OF WITNESSES

For expenses, mileage, compensation, and per diems of witnesses, for expenses of contracts for the procurement and supervision of expert witnesses, for private counsel expenses, and for per diems in lieu of subsistence, as authorized by law, including advances, $100,702,000, to remain available until expended; of which not to exceed $4,750,000 may be made available for planning, construction, renovations, maintenance, remodeling, and repair of buildings, and the purchase of equipment incident thereto, for protected witness safesites; of which not to exceed $1,000,000 may be made available for the purchase and maintenance of armored vehicles for transportation of protected witnesses; and of which not to exceed $4,000,000 may be made available for the purchase, installation and maintenance of a secure, automated information network to store and retrieve the identities and locations of protected witnesses.

SALARIES AND EXPENSES, COMMUNITY RELATIONS SERVICE

For necessary expenses of the Community Relations Service, established by title X of the Civil Rights Act of 1964, $5,319,000: *Provided*, That notwithstanding any other provision of law, upon a determination by the Attorney General that emergent circumstances require additional funding for conflict prevention and resolution activities of the Community Relations Service, the Attorney General may transfer such amounts to the Community Relations Service, from available appropriations for the current fiscal year for the Department of Justice, as may be necessary to respond to such circumstances: *Provided further*, That any transfer pursuant to this paragraph shall be treated as a reprogramming under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

ASSETS FORFEITURE FUND

For expenses authorized by 28 U.S.C. 524(c)(1)(A)(ii), (B), (C), (F), and (G), as amended, $23,000,000, to be derived from the Department of Justice Assets Forfeiture Fund.

RADIATION EXPOSURE COMPENSATION

ADMINISTRATIVE EXPENSES

For necessary administrative expenses in accordance with the Radiation Exposure Compensation Act, $2,000,000.

PAYMENT TO RADIATION EXPOSURE COMPENSATION TRUST FUND

For payments to the Radiation Exposure Compensation Trust Fund, $13,736,000, not to be available for obligation until September 30, 1997.

INTERAGENCY LAW ENFORCEMENT

INTERAGENCY CRIME AND DRUG ENFORCEMENT

For necessary expenses for the detection, investigation, and prosecution of individuals involved in organized crime drug trafficking not otherwise provided for, to include intergovernmental agreements with State and local law enforcement agencies engaged in the investigation and prosecution of individuals involved in organized crime drug trafficking, $359,430,000, of which $50,000,000 shall remain available until expended: *Provided*, That any amounts obligated from appropriations under this heading may be used under authorities available to the organizations reimbursed from this appropriation: *Provided further*, That any unobligated balances remaining available at the end of the fiscal year shall revert to the Attorney General for reallocation among participating organizations in succeeding fiscal years, subject to the reprogramming procedures described in section 605 of this Act.

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For necessary expenses of the Federal Bureau of Investigation for detection, investigation, and prosecution of crimes against the United States; including purchase for police-type use of not to exceed 2,706 passenger motor vehicles, of which 1,945 will be for replacement only, without regard to the general purchase price limitation for the current fiscal year, and hire of passenger motor vehicles; acquisition, lease, maintenance, and operation of aircraft; and not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of, and to be accounted for solely under the certificate of, the Attorney General; $2,451,361,000, of which not to exceed $50,000,000 for automated data processing and telecommunications and technical investigative equipment and $1,000,000 for undercover operations shall remain available until September 30, 1998; of which not less than $147,081,000 shall be for counterterrorism investigations, foreign counterintelligence, and other activities related to our national security; of which not to exceed $98,400,000 shall remain available until expended; and of which not to exceed $10,000,000 is authorized to be made available for making payments or advances for expenses arising out of contractual or reimbursable agreements with State and local law enforcement agencies while engaged in cooperative activities related to violent crime, terrorism, organized crime, and drug investigations; and of which $1,500,000 shall be available to maintain an independent program office dedicated solely to the relocation of the Criminal Justice Information Services Division and the automation of fingerprint identification services: *Provided*, That not to exceed $45,000 shall be available for official reception and representation expenses: *Provided further*, That not to exceed 81 permanent positions and 85 full-time equivalent workyears and $5,959,000 shall be expended for the Office of Legislative Affairs and Public Affairs: *Provided further*, That the latter two aforementioned offices shall not be augmented by personnel details, temporary transfers of personnel on either a reimbursable or nonreimbursable basis or any other type of formal or informal transfer or reimbursement of personnel or funds on either a temporary or long-term basis.

For an additional amount for necessary expenses of the Federal Bureau of Investigation to prevent and investigate terrorism activities and incidents; provide for additional agents and support staff; protect key physical assets; establish a capability for chemical, biological and nuclear research; improve domestic intelligence; and improve security at Federal Bureau of Investigation offices, $115,610,000, as authorized by the Antiterrorism and Effective Death Penalty Act of 1996 (P.L. 104–132): *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

VIOLENT CRIME REDUCTION PROGRAMS

For activities authorized by the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322) as amended ("the 1994 Act"), and the Antiterrorism and Effective Death Penalty

Act of 1996 ("the Antiterrorism Act"), $169,000,000, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund; of which $76,356,000 shall be for activities authorized by section 190001(c) of the 1994 Act and section 811 of the Antiterrorism Act; $53,404,000 shall be for activities authorized by section 190001(b) of the 1994 Act, of which $20,240,000 shall be for activities authorized by section 103 of the Brady Handgun Violence Prevention Act (Public Law 103–159), as amended; $4,000,000 shall be for training and investigative assistance authorized by section 210501 of the 1994 Act; $9,500,000 shall be for grants to States, as authorized by section 811(b) of the Antiterrorism Act; and $5,500,000 shall be for establishing DNA quality-assurance and proficiency-testing standards, establishing an index to facilitate law enforcement exchange of DNA identification information, and related activities authorized by section 210501 of the 1994 Act.

TELECOMMUNICATIONS CARRIER COMPLIANCE FUND

For necessary expenses, as determined by the Attorney General, $60,000,000, to remain available until expended, to be deposited in the Telecommunications Carrier Compliance Fund for making payments to telecommunications carriers, equipment manufacturers, and providers of telecommunications support services pursuant to section 110 of this Act: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount not previously designated by the President as an emergency requirement shall be available only to the extent an official budget request, for a specific dollar amount that includes designation of the entire amount of the request as an emergency requirement, as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted to Congress.

CONSTRUCTION

For necessary expenses to construct or acquire buildings and sites by purchase, or as otherwise authorized by law (including equipment for such buildings); conversion and extension of federally-owned buildings; and preliminary planning and design of projects; $41,639,000, to remain available until expended.

DRUG ENFORCEMENT ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Drug Enforcement Administration, including not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of, and to be accounted for solely under the certificate of, the Attorney General; expenses for conducting drug education and training programs, including travel and related expenses for participants in such programs and the distribution of items of token value that promote the goals of such programs; purchase of not to exceed 1,158 passenger motor vehicles, of which 1,032 will be for replacement only, for police-type use without regard to the general purchase price limitation for the current fiscal year; and acquisition, lease, maintenance, and operation of aircraft;

$745,388,000, of which not to exceed $1,800,000 for research and $15,000,000 for transfer to the Drug Diversion Control Fee Account for operating expenses shall remain available until expended, and of which not to exceed $4,000,000 for purchase of evidence and payments for information, not to exceed $4,000,000 for contracting for automated data processing and telecommunications equipment, and not to exceed $2,000,000 for laboratory equipment, $4,000,000 for technical equipment, and $2,000,000 for aircraft replacement retrofit and parts, shall remain available until September 30, 1998; and of which not to exceed $50,000 shall be available for official reception and representation expenses: *Provided*, That not to exceed 25 permanent positions and 25 full-time equivalent workyears and $1,828,000 shall be expended for the Office of Legislative Affairs and Public Affairs: *Provided further*, That the latter two aforementioned offices shall not be augmented by personnel details, temporary transfers of personnel on either a reimbursable or nonreimbursable basis or any other type of formal or informal transfer or reimbursement of personnel or funds on either a temporary or long-term basis.

For an additional amount for security measures for domestic and foreign Drug Enforcement Administration offices, $5,000,000: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

VIOLENT CRIME REDUCTION PROGRAMS

For activities authorized by sections 180104 and 190001(b) of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322), as amended, and section 814 of the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104–132), and for the purchase of passenger motor vehicles for police-type use, as otherwise authorized in this title, $220,000,000, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund.

CONSTRUCTION

For necessary expenses to construct or acquire buildings and sites by purchase, or as otherwise authorized by law (including equipment for such buildings); conversion and extension of federally-owned buildings; and preliminary planning and design of projects; $30,806,000, to remain available until expended.

IMMIGRATION AND NATURALIZATION SERVICE

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For expenses, not otherwise provided for, necessary for the administration and enforcement of the laws relating to immigration, naturalization, and alien registration, including not to exceed $50,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of, and to be accounted for solely under the certificate of, the Attorney General; purchase for police type use (not to exceed 2,691, of which 1,711 are for replacement only), without regard to the general purchase price limitation

for the current fiscal year, and hire of passenger motor vehicles; acquisition, lease, maintenance and operation of aircraft; and research related to immigration enforcement; $1,590,159,000 of which not to exceed $400,000 for research shall remain available until expended; and of which not to exceed $10,000,000 shall be available for costs associated with the training program for basic officer training, and $5,000,000 is for payments or advances arising out of contractual or reimbursable agreements with State and local law enforcement agencies while engaged in cooperative activities related to immigration: *Provided,* That none of the funds available to the Immigration and Naturalization Service shall be available to pay any employee overtime pay in an amount in excess of $30,000 during the calendar year beginning January 1, 1997: *Provided further,* That uniforms may be purchased without regard to the general purchase price limitation for the current fiscal year: *Provided further,* That not to exceed $5,000 shall be available for official reception and representation expenses: *Provided further,* That none of the funds provided in this or any other Act shall be used for the continued operation of the San Clemente and Temecula checkpoints unless the checkpoints are open and traffic is being checked on a continuous 24-hour basis: *Provided further,* That the Land Border Fee Pilot Project scheduled to end September 30, 1996, is extended to September 30, 1999, for projects on both the northern and southern borders of the United States, except that no pilot program may implement a universal land border crossing toll: *Provided further*, That obligated and unobligated balances available to "Salaries and Expenses, Community Relations Service" under section 501(c) of the Refugee Education Assistance Act of 1980 are transferred to this account and shall remain available until expended: *Provided further*, That not to exceed 48 permanent positions and 48 full-time equivalent workyears and $4,628,000 shall be expended for the Office of Legislative Affairs and Public Affairs: *Provided further*, That the latter two aforementioned offices shall not be augmented by personnel details, temporary transfers of personnel on either a reimbursable or nonreimbursable basis or any other type of formal or informal transfer or reimbursement of personnel or funds on either a temporary or long-term basis.

8 USC 1356 note.

For an additional amount to support the detention and removal of aliens with ties to terrorist organizations and expand the detention and removal of illegal aliens and enhance the intelligence of the Immigration and Naturalization Service, $15,000,000, of which $10,000,000 shall be for detention and removal of aliens: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

VIOLENT CRIME REDUCTION PROGRAMS

For activities authorized by sections 130002, 130005, 130006, 130007, and 190001(b) of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322), as amended, and section 813 of the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104–132), $500,000,000, to remain available until expended, which will be derived from the Violent Crime Reduction Trust Fund, of which $66,217,000 shall be for expeditious deportation of denied asylum applicants, $317,256,000 shall be for improving border controls, and $116,527,000 shall be for detention

and deportation proceedings: *Provided*, That amounts not required for asylum processing provided under the expeditious deportation of denied asylum applicants shall also be available for other deportation program activities.

CONSTRUCTION

For planning, construction, renovation, equipping, and maintenance of buildings and facilities necessary for the administration and enforcement of the laws relating to immigration, naturalization, and alien registration, not otherwise provided for, $9,841,000, to remain available until expended.

FEDERAL PRISON SYSTEM

SALARIES AND EXPENSES

For expenses necessary for the administration, operation, and maintenance of Federal penal and correctional institutions, including purchase (not to exceed 836, of which 572 are for replacement only) and hire of law enforcement and passenger motor vehicles, and for the provision of technical assistance and advice on corrections related issues to foreign governments; $2,768,316,000: *Provided*, That the Attorney General may transfer to the Health Resources and Services Administration such amounts as may be necessary for direct expenditures by that Administration for medical relief for inmates of Federal penal and correctional institutions: *Provided further*, That the Director of the Federal Prison System (FPS), where necessary, may enter into contracts with a fiscal agent/fiscal intermediary claims processor to determine the amounts payable to persons who, on behalf of the FPS, furnish health services to individuals committed to the custody of the FPS: *Provided further*, That uniforms may be purchased without regard to the general purchase price limitation for the current fiscal year: *Provided further*, That not to exceed $6,000 shall be available for official reception and representation expenses: *Provided further*, That not to exceed $90,000,000 for the activation of new facilities shall remain available until September 30, 1998: *Provided further*, That of the amounts provided for Contract Confinement, not to exceed $20,000,000 shall remain available until expended to make payments in advance for grants, contracts and reimbursable agreements, and other expenses authorized by section 501(c) of the Refugee Education Assistance Act of 1980, as amended, for the care and security in the United States of Cuban and Haitian entrants: *Provided further*, That notwithstanding section 4(d) of the Service Contract Act of 1965 (41 U.S.C. 353(d)), FPS may enter into contracts and other agreements with private entities for periods of not to exceed 3 years and 7 additional option years for the confinement of Federal prisoners: *Provided further*, That the National Institute of Corrections hereafter shall be included in the FPS Salaries and Expenses budget, in the Contract Confinement program and shall continue to perform its current functions under 18 U.S.C. 4351, et seq., with the exception of its grant program and shall collect reimbursement for services whenever possible: *Provided further*, That any unexpended balances available to the "National Institute of Corrections" account shall be credited to and merged with this appropriation, to remain available until expended.

42 USC 250a.

18 USC 4352 note.

VIOLENT CRIME REDUCTION PROGRAMS

For substance abuse treatment in Federal prisons as authorized by section 32001(e) of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322), as amended, $25,224,000, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund.

BUILDINGS AND FACILITIES

For planning, acquisition of sites and construction of new facilities; leasing the Oklahoma City Airport Trust Facility; purchase and acquisition of facilities and remodeling, and equipping of such facilities for penal and correctional use, including all necessary expenses incident thereto, by contract or force account; and constructing, remodeling, and equipping necessary buildings and facilities at existing penal and correctional institutions, including all necessary expenses incident thereto, by contract or force account; $395,700,000, to remain available until expended, of which not to exceed $14,074,000 shall be available to construct areas for inmate work programs: *Provided*, That labor of United States prisoners may be used for work performed under this appropriation: *Provided further*, That not to exceed 10 percent of the funds appropriated to "Buildings and Facilities" in this Act or any other Act may be transferred to "Salaries and Expenses", Federal Prison System, upon notification by the Attorney General to the Committees on Appropriations of the House of Representatives and the Senate in compliance with provisions set forth in section 605 of this Act: *Provided further*, That of the total amount appropriated, not to exceed $36,570,000 shall be available for the renovation and construction of United States Marshals Service prisoner-holding facilities.

FEDERAL PRISON INDUSTRIES, INCORPORATED

The Federal Prison Industries, Incorporated, is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available, and in accord with the law, and to make such contracts and commitments, without regard to fiscal year limitations as provided by section 9104 of title 31, United States Code, as may be necessary in carrying out the program set forth in the budget for the current fiscal year for such corporation, including purchase of (not to exceed five for replacement only) and hire of passenger motor vehicles.

LIMITATION ON ADMINISTRATIVE EXPENSES, FEDERAL PRISON INDUSTRIES, INCORPORATED

Not to exceed $3,042,000 of the funds of the corporation shall be available for its administrative expenses, and for services as authorized by 5 U.S.C. 3109, to be computed on an accrual basis to be determined in accordance with the corporation's current prescribed accounting system, and such amounts shall be exclusive of depreciation, payment of claims, and expenditures which the said accounting system requires to be capitalized or charged to cost of commodities acquired or produced, including selling and shipping expenses, and expenses in connection with acquisition, construction, operation, maintenance, improvement, protection, or

disposition of facilities and other property belonging to the corporation or in which it has an interest.

OFFICE OF JUSTICE PROGRAMS

JUSTICE ASSISTANCE

For grants, contracts, cooperative agreements, and other assistance authorized by title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, and the Missing Children's Assistance Act, as amended, including salaries and expenses in connection therewith, and with the Victims of Crime Act of 1984, as amended, $101,429,000, to remain available until expended, as authorized by section 1001 of title I of the Omnibus Crime Control and Safe Streets Act, as amended by Public Law 102–534 (106 Stat. 3524).

For an additional amount, $17,000,000, to remain available until expended; of which $5,000,000 shall be for Local Firefighter and Emergency Services Training Grants as authorized by section 819 of the Antiterrorism and Effective Death Penalty Act of 1996 ("the Antiterrorism Act"); of which $10,000,000 shall be for development of counterterrorism technologies to help State and local law enforcement combat terrorism, as authorized by section 821 of the Antiterrorism Act; of which $2,000,000 shall be for specialized multi-agency response training: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount not previously designated by the President as an emergency requirement shall be available only to the extent an official budget request, for a specific dollar amount that includes designation of the entire amount of the request as an emergency requirement, as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted to Congress.

STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE

For grants, contracts, cooperative agreements, and other assistance authorized by part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, for State and Local Narcotics Control and Justice Assistance Improvements, notwithstanding the provisions of section 511 of said Act, $361,000,000, to remain available until expended, as authorized by section 1001 of title I of said Act, as amended by Public Law 102–534 (106 Stat. 3524), of which $60,000,000 shall be available to carry out the provisions of chapter A of subpart 2 of part E of title I of said Act, for discretionary grants under the Edward Byrne Memorial State and Local Law Enforcement Assistance Programs.

VIOLENT CRIME REDUCTION PROGRAMS, STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE

For assistance (including amounts for administrative costs for management and administration, which amounts shall be transferred to and merged with the "Justice Assistance" account) authorized by the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322), as amended ("the 1994 Act"); the Omnibus Crime Control and Safe Streets Act of 1968, as amended ("the 1968 Act"); and the Victims of Child Abuse Act of 1990, as amended

("the 1990 Act"); $2,036,150,000, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund; of which $523,000,000 shall be for Local Law Enforcement Block Grants, pursuant to H.R. 728 as passed by the House of Representatives on February 14, 1995, except that for purposes of this Act, the Commonwealth of Puerto Rico shall be considered a "unit of local government" as well as a "State", for the purposes set forth in paragraphs (A), (B), (D), (F), and (I) of section 101(a)(2) of H.R. 728 and for establishing crime prevention programs involving cooperation between community residents and law enforcement personnel in order to control, detect, or investigate crime or the prosecution of criminals: *Provided*, That no funds provided under this heading may be used as matching funds for any other Federal grant program: *Provided further*, That $20,000,000 of this amount shall be for Boys and Girls Clubs in public housing facilities and other areas in cooperation with State and local law enforcement: *Provided further*, That funds may also be used to defray the costs of indemnification insurance for law enforcement officers; of which $50,000,000 shall be for grants to upgrade criminal records, as authorized by section 106(b) of the Brady Handgun Violence Prevention Act of 1993, as amended, and section 4(b) of the National Child Protection Act of 1993; of which $199,000,000 shall be available as authorized by section 1001 of title I of the 1968 Act, to carry out the provisions of subpart 1, part E of title I of the 1968 Act, notwithstanding section 511 of said Act, for the Edward Byrne Memorial State and Local Law Enforcement Assistance Programs; of which $330,000,000 shall be for the State Criminal Alien Assistance Program, as authorized by section 242(j) of the Immigration and Nationality Act, as amended; of which $670,000,000 shall be for Violent Offender Incarceration and Truth in Sentencing Incentive Grants pursuant to subtitle A of title II of the 1994 Act, of which $170,000,000 shall be available for payments to States for incarceration of criminal aliens, and of which $12,500,000 shall be available for the Cooperative Agreement Program: *Provided further*, That funds made available for Violent Offender Incarceration and Truth in Sentencing Incentive Grants to the State of California may, at the discretion of the recipient, be used for payments for the incarceration of criminal aliens: *Provided further*, That beginning in fiscal year 1999, and thereafter, no funds shall be available to make grants to a State pursuant to section 20103 or section 20104 of the Violent Crime Control and Law Enforcement Act of 1994 unless no later than September 1, 1998, such State has implemented a program of controlled substance testing and intervention for appropriate categories of convicted offenders during periods of incarceration and criminal justice supervision, with sanctions including denial or revocation of release for positive controlled substance tests, consistent with guidelines issued by the Attorney General; of which $6,000,000 shall be for the Court Appointed Special Advocate Program, as authorized by section 218 of the 1990 Act; of which $1,000,000 shall be for Child Abuse Training Programs for Judicial Personnel and Practitioners, as authorized by section 224 of the 1990 Act; of which $145,000,000 shall be for Grants to Combat Violence Against Women, to States, units of local government, and Indian tribal governments, as authorized by section 1001(a)(18) of the 1968 Act; of which $33,000,000 shall be for Grants to Encourage Arrest Policies to States, units of local

42 USC 13703 note.

government, and Indian tribal governments, as authorized by section 1001(a)(19) of the 1968 Act; of which $8,000,000 shall be for Rural Domestic Violence and Child Abuse Enforcement Assistance Grants, as authorized by section 40295 of the 1994 Act; of which $1,000,000 shall be for training programs to assist probation and parole officers who work with released sex offenders, as authorized by section 40152(c) of the 1994 Act; of which $550,000 shall be for grants for televised testimony, as authorized by section 1001(a)(7) of the 1968 Act; of which $1,750,000 shall be for national stalker and domestic violence reduction, as authorized by section 40603 of the 1994 Act; of which $30,000,000 shall be for grants for residential substance abuse treatment for State prisoners as authorized by section 1001(a)(17) of the 1968 Act; of which $3,000,000 shall be for grants to States and units of local government for projects to improve DNA analysis, as authorized by section 1001(a)(22) of the 1968 Act; of which $900,000 shall be for the Missing Alzheimer's Disease Patient Alert Program, as authorized by section 240001(c) of the 1994 Act; of which $750,000 shall be for Motor Vehicle Theft Prevention Programs, as authorized by section 220002(h) of the 1994 Act; of which $200,000 shall be for a National Baseline Study on Campus Sexual Assault, as authorized by section 40506(e) of the 1994 Act; of which $30,000,000 shall be for Drug Courts, as authorized by title V of the 1994 Act; of which $1,000,000 shall be for Law Enforcement Family Support Programs, as authorized by section 1001(a)(21) of the 1968 Act; and of which $2,000,000 shall be for public awareness programs addressing marketing scams aimed at senior citizens, as authorized by section 250005(3) of the 1994 Act: *Provided further*, That funds made available in fiscal year 1997 under subpart 1 of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, may be obligated for programs to assist States in the litigation processing of death penalty Federal habeas corpus petitions and for drug testing initiatives: *Provided further*, That any 1996 balances for these programs shall be transferred to and merged with this appropriation: *Provided further*, That if a unit of local government uses any of the funds made available under this title to increase the number of law enforcement officers, the unit of local government will achieve a net gain in the number of law enforcement officers who perform nonadministrative public safety service.

WEED AND SEED PROGRAM FUND

For necessary expenses, including salaries and related expenses of the Executive Office for Weed and Seed, to implement "Weed and Seed" program activities, $28,500,000, which shall be derived from discretionary grants provided under the Edward Byrne Memorial State and Local Law Enforcement Assistance Programs, to remain available until expended for intergovernmental agreements, including grants, cooperative agreements, and contracts, with State and local law enforcement agencies engaged in the investigation and prosecution of violent crimes and drug offenses in "Weed and Seed" designated communities, and for either reimbursements or transfers to appropriation accounts of the Department of Justice and other Federal agencies which shall be specified by the Attorney General to execute the "Weed and Seed" program strategy: *Provided*, That funds designated by Congress through language for other Department of Justice appropriation accounts for "Weed and Seed"

program activities shall be managed and executed by the Attorney General through the Executive Office for Weed and Seed: *Provided further*, That the Attorney General may direct the use of other Department of Justice funds and personnel in support of "Weed and Seed" program activities only after the Attorney General notifies the Committees on Appropriations of the House of Representatives and the Senate in accordance with section 605 of this Act.

COMMUNITY ORIENTED POLICING SERVICES

VIOLENT CRIME REDUCTION PROGRAMS

For activities authorized by the Violent Crime Control and Law Enforcement Act of 1994, Public Law 103–322 ("the 1994 Act") (including administrative costs), $1,400,000,000, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund, for Public Safety and Community Policing Grants pursuant to title I of the 1994 Act: *Provided*, That not to exceed 186 permanent positions and 174 full-time equivalent workyears and $19,800,000 shall be expended for program management and administration.

In addition, for programs of Police Corps education, training and service as set forth in sections 200101–200113 of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322), $20,000,000, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund.

JUVENILE JUSTICE PROGRAMS

For grants, contracts, cooperative agreements, and other assistance authorized by the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, including salaries and expenses in connection therewith to be transferred to and merged with the appropriations for Justice Assistance, $170,000,000, to remain available until expended, as authorized by section 299 of part I of title II and section 506 of title V of the Act, as amended by Public Law 102–586, of which (1) notwithstanding any other provision of law, $5,000,000 shall be available for expenses authorized by part A of title II of the Act, $86,500,000 shall be available for expenses authorized by part B of title II of the Act, and $29,500,000 shall be available for expenses authorized by part C of title II of the Act: *Provided*, That $16,500,000 of the amounts provided for part B of title II of the Act, as amended, is for the purpose of providing additional formula grants under part B, for innovative local law enforcement and community policing programs, to States that provide assurances to the Administrator that the State has in effect (or will have in effect no later than 1 year after date of application) policies and programs, that ensure that juveniles are subject to accountability-based sanctions for every act for which they are adjudicated delinquent; (2) $12,000,000 shall be available for expenses authorized by sections 281 and 282 of part D of title II of the Act for prevention and treatment programs relating to juvenile gangs; (3) $10,000,000 shall be available for expenses authorized by section 285 of part E of title II of the Act; (4) $7,000,000 shall be available for expenses authorized by part G of title II of the Act for juvenile mentoring programs; and (5) $20,000,000 shall be available for expenses authorized by title V of the Act for incentive grants for local delinquency prevention

programs: *Provided*, That upon the enactment of reauthorization legislation for Juvenile Justice Programs under the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, funding provided in this Act shall from that date be subject to the provisions of that legislation and any provisions in this Act that are inconsistent with that legislation shall no longer have effect.

In addition, for grants, contracts, cooperative agreements, and other assistance authorized by the Victims of Child Abuse Act of 1990, as amended, $4,500,000, to remain available until expended, as authorized by sections 214B of the Act.

PUBLIC SAFETY OFFICERS BENEFITS

For payments authorized by part L of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796), as amended, such sums as are necessary, to remain available until expended, as authorized by section 6093 of Public Law 100–690 (102 Stat. 4339–4340), and, in addition, $2,200,000, to remain available until expended, for payments as authorized by section 1201(b) of said Act.

GENERAL PROVISIONS—DEPARTMENT OF JUSTICE

SEC. 101. In addition to amounts otherwise made available in this title for official reception and representation expenses, a total of not to exceed $45,000 from funds appropriated to the Department of Justice in this title shall be available to the Attorney General for official reception and representation expenses in accordance with distributions, procedures, and regulations established by the Attorney General.

SEC. 102. Authorities contained in the Department of Justice Appropriation Authorization Act, Fiscal Year 1980 (Pub. L. 96–132, 93 Stat. 1040 (1979)), as amended, shall remain in effect until the termination date of this Act or until the effective date of a Department of Justice Appropriation Authorization Act, whichever is earlier.

SEC. 103. None of the funds appropriated by this title shall be available to pay for an abortion, except where the life of the mother would be endangered if the fetus were carried to term, or in the case of rape: *Provided,* That should this prohibition be declared unconstitutional by a court of competent jurisdiction, this section shall be null and void.

SEC. 104. None of the funds appropriated under this title shall be used to require any person to perform, or facilitate in any way the performance of, any abortion.

SEC. 105. Nothwing in the preceding section shall remove the obligation of the Director of the Bureau of Prisons to provide escort services necessary for a female inmate to receive such service outside the Federal facility: *Provided*, That nothing in this section in any way diminishes the effect of section 104 intended to address the philosophical beliefs of individual employees of the Bureau of Prisons.

18 USC 3059 note.

SEC. 106. Notwithstanding any other provision of law, not to exceed $10,000,000 of the funds made available in this Act may be used to establish and publicize a program under which publicly-advertised, extraordinary rewards may be paid, which shall not be subject to spending limitations contained in sections 3059 and 3072 of title 18, United States Code: *Provided*, That any reward

of $100,000 or more, up to a maximum of $2,000,000, may not be made without the personal approval of the President or the Attorney General and such approval may not be delegated.

SEC. 107. Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Department of Justice in this Act, including those derived from the Violent Crime Reduction Trust Fund, may be transferred between such appropriations, but no such appropriation, except as otherwise specifically provided, shall be increased by more than 10 percent by any such transfers: *Provided*, That any transfer pursuant to this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation except in compliance with the procedures set forth in that section.

SEC. 108. Section 524(c)(8)(E) of title 28, United States Code, is amended by striking the year in the date therein contained and replacing the same with "1996".

SEC. 109. (a) Section 1930(a) of title 28, United States Code, is amended in paragraph (3), by inserting "$" before "800", and in paragraph (6), by striking everything after "total less than $15,000;" and inserting in lieu thereof: "$500 for each quarter in which disbursements total $15,000 or more but less than $75,000; $750 for each quarter in which disbursements total $75,000 or more but less than $150,000; $1,250 for each quarter in which disbursements total $150,000 or more but less than $225,000; $1,500 for each quarter in which disbursements total $225,000 or more but less than $300,000; $3,750 for each quarter in which disbursements total $300,000 or more but less than $1,000,000; $5,000 for each quarter in which disbursements total $1,000,000 or more but less than $2,000,000; $7,500 for each quarter in which disbursements total $2,000,000 or more but less than $3,000,000; $8,000 for each quarter in which disbursements total $3,000,000 or more but less than $5,000,000; $10,000 for each quarter in which disbursements total $5,000,000 or more. The fee shall be payable on the last day of the calendar month following the calendar quarter for which the fee is owed.".

(b) Section 589a of title 28, United States Code, is amended to read as follows:

"§ 589a. United States Trustee System Fund

"(a) There is hereby established in the Treasury of the United States a special fund to be known as the 'United States Trustee System Fund' (hereinafter in this section referred to as the 'Fund'). Monies in the Fund shall be available to the Attorney General without fiscal year limitation in such amounts as may be specified in appropriations Acts for the following purposes in connection with the operations of United States trustees—

"(1) salaries and related employee benefits;

"(2) travel and transportation;

"(3) rental of space;

"(4) communication, utilities, and miscellaneous computer charges;

"(5) security investigations and audits;

"(6) supplies, books, and other materials for legal research;

"(7) furniture and equipment;

"(8) miscellaneous services, including those obtained by contract; and

"(9) printing.

"(b) For the purpose of recovering the cost of services of the United States Trustee System, there shall be deposited as offsetting collections to the appropriation 'United States Trustee System Fund', to remain available until expended, the following—

"(1) 23.08 percent of the fees collected under section 1930(a)(1) of this title;

"(2) one-half of the fees collected under section 1930(a)(3) of this title;

"(3) one-half of the fees collected under section 1930(a)(4) of this title;

"(4) one-half of the fees collected under section 1930(a)(5) of this title;

"(5) 100 percent of the fees collected under section 1930(a)(6) of this title;

"(6) three-fourths of the fees collected under the last sentence of section 1930(a) of this title;

"(7) the compensation of trustees received under section 330(d) of title 11 by the clerks of the bankruptcy courts; and

"(8) excess fees collected under section 586(e)(2) of this title.

"(c) Amounts in the Fund which are not currently needed for the purposes specified in subsection (a) shall be kept on deposit or invested in obligations of, or guaranteed by, the United States.

"(d) The Attorney General shall transmit to the Congress, not later than 120 days after the end of each fiscal year, a detailed report on the amounts deposited in the Fund and a description of expenditures made under this section.

"(e) There are authorized to be appropriated to the Fund for any fiscal year such sums as may be necessary to supplement amounts deposited under subsection (b) for the purposes specified in subsection (a).".

28 USC 589a note.

(c) Notwithstanding any other provision of law or of this Act, the amendments to 28 U.S.C. 589a made by subsection (b) of this section shall take effect upon enactment of this Act.

28 USC 1930 note.

(d) Section 101(a) of Public Law 104–91, as amended by section 211 of Public Law 104–99, is further amended by inserting ": *Provided further*, That, notwithstanding any other provision of law, the fees under 28 U.S.C. 1930(a)(6) shall accrue and be payable from and after January 27, 1996, in all cases (including, without limitation, any cases pending as of that date), regardless of confirmation status of their plans" after "enacted into law".

SEC. 110. Public Law 103–414 (108 Stat. 4279) is amended by inserting at its conclusion a new title IV, as follows:

"TITLE IV—TELECOMMUNICATIONS CARRIER COMPLIANCE PAYMENTS

47 USC 1021.

"SEC. 401. DEPARTMENT OF JUSTICE TELECOMMUNICATIONS CARRIER COMPLIANCE FUND.

"(a) ESTABLISHMENT OF FUND.—There is hereby established in the United States Treasury a fund to be known as the Department of Justice Telecommunications Carrier Compliance Fund (hereafter referred to as 'the Fund'), which shall be available without fiscal year limitation to the Attorney General for making payments to telecommunications carriers, equipment manufacturers, and providers of telecommunications support services pursuant to section 109 of this Act.

"(b) DEPOSITS TO THE FUND.—Notwithstanding any other provision of law, any agency of the United States with law enforcement or intelligence responsibilities may deposit as offsetting collections to the Fund any unobligated balances that are available until expended, upon compliance with any Congressional notification requirements for reprogrammings of funds applicable to the appropriation from which the deposit is to be made.

"(c) TERMINATION.—

"(1) The Attorney General may terminate the Fund at such time as the Attorney General determines that the Fund is no longer necessary.

"(2) Any balance in the Fund at the time of its termination shall be deposited in the General Fund of the Treasury.

"(3) A decision of the Attorney General to terminate the Fund shall not be subject to judicial review.

"(d) AVAILABILITY OF FUNDS FOR EXPENDITURE.—Funds shall not be available for obligation unless an implementation plan as set forth in subsection (e) is submitted to each member of the Committees on the Judiciary and Appropriations of both the House of Representatives and the Senate and the Congress does not by law block or prevent the obligation of such funds. Such funds shall be treated as a reprogramming of funds under section 605 of the Department of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1997, and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section and this section.

"(e) IMPLEMENTATION PLAN.—The implementation plan shall include:

"(1) the law enforcement assistance capability requirements and an explanation of law enforcement's recommended interface;

"(2) the proposed actual and maximum capacity requirements for the number of simultaneous law enforcement communications intercepts, pen registers, and trap and trace devices that authorized law enforcement agencies may seek to conduct, set forth on a county-by-county basis for wireline services and on a market service area basis for wireless services, and the historical baseline of electronic surveillance activity upon which such capacity requirements are based;

"(3) a prioritized list of carrier equipment, facilities, and services deployed on or before January 1, 1995, to be modified by carriers at the request of law enforcement based on its investigative needs;

"(4) a projected reimbursement plan that estimates the cost for the coming fiscal year and for each fiscal year thereafter, based on the prioritization of law enforcement needs as outlined in (3), of modification by carriers of equipment, facilities and services, installed on or before January 1, 1995.

"(f) ANNUAL REPORT TO THE CONGRESS.—The Attorney General shall submit to the Congress each year a report specifically detailing all deposits and expenditures made pursuant to this Act in each fiscal year. This report shall be submitted to each member of the Committees on the Judiciary and Appropriations of both the House of Representatives and the Senate, and to the Speaker and minority leader of the House of Representatives and to the majority and minority leaders of the Senate, no later than 60 days after the end of each fiscal year.".

SEC. 111. It is the sense of the Congress that the Drug Enforcement Administration, together with other appropriate Federal agencies, should take such actions as may be necessary to end the illegal importation into the United States of Rohypnol (flunitrazepam), a drug frequently distributed with the intent to facilitate sexual assault and rape.

SEC. 112. Section 1402 of the Victims of Crime Act of 1984, as amended (42 U.S.C. 10601), is amended at subsection (e) by deleting "2" and inserting "3", and at subsection (d) by adding a new paragraph (5) as follows:

"(5) The Director may set aside up to $500,000 of the reserve fund described in paragraph (4) to make supplemental grants to United States Attorneys Offices to provide necessary assistance to victims of the bombing of the Alfred P. Murrah Federal Building in Oklahoma City, to facilitate observation of and/or participation by such victims in trial proceedings arising therefrom, including, without limitation, provision of lodging and travel assistance, and to pay such other, related expenses determined to be necessary by the Director.".

SEC. 113. Section 732 of Public Law 104–132 (110 Stat. 1303; 18 U.S.C. 841 note) is amended—

(1) in subsection (a), by adding at the end the following new paragraph:

"(3) NEW PREVENTION TECHNOLOGIES.—In addition to the study of taggants as provided herein, the Secretary, in consultation with the Attorney General, shall concurrently report to the Congress on the possible use, and exploitation of technologies such as vapor detection devices, computed tomography, nuclear quadropole resonance, thermal neutron analysis, pulsed fast-neutron analysis, and other technologies upon which recommendations to the Congress may be made for further study, funding, and use of the same in preventing and solving acts of terrorism involving explosive devices."; and

(2) by adding at the end the following new subsection: "(f) SPECIAL STUDY.—

"(1) IN GENERAL.—Notwithstanding subsection (a), the Secretary of the Treasury shall enter into a contract with the National Academy of Sciences (referred to in this section as the 'Academy') to conduct a study of the tagging of smokeless and black powder by any viable technology for purposes of detection and identification. The study shall be conducted by an independent panel of 5 experts appointed by the Academy.

"(2) STUDY ELEMENTS.—The study conducted under this subsection shall—

"(A) indicate whether the tracer elements, when added to smokeless and black powder—

"(i) will pose a risk to human life or safety;

"(ii) will substantially assist law enforcement officers in their investigative efforts;

"(iii) will impair the quality and performance of the powders (which shall include a broad and comprehensive sampling of all available powders) for their intended lawful use, including, but not limited to the sporting, defense, and handloading uses of the powders, as well as their use in display and lawful consumer pyrotechnics;

"(iv) will have a substantially adverse effect on the environment;

"(v) will incur costs which outweigh the benefits of their inclusion, including an evaluation of the probable production and regulatory cost of compliance to the industry, and the costs and effects on consumers, including the effect on the demand for ammunition; and

"(vi) can be evaded, and with what degree of difficulty, by terrorists or terrorist organizations, including evading tracer elements by the use of precursor chemicals to make black or other powders; and

"(B) provide for consultation on the study with Federal, State, and local officials, non-governmental organizations, including all national police organizations, national sporting organizations, and national industry associations with expertise in this area and such other individuals as shall be deemed necessary.

"(3) REPORT AND COSTS.—The study conducted under this subsection shall be presented to Congress 12 months after the enactment of this subsection and be made available to the public, including any data tapes or data used to form such recommendations. There are authorized to be appropriated such sums as may be necessary to carry out the study.".

SEC. 114. (a) Section 524(c)(1) of title 28, United States Code, is amended in the first sentence following the second subparagraph (I) by deleting "(C),".

(b) Section 524 (c)(8)(A) is amended by deleting "(C),".

SEC. 115. Effective with the enactment of this Act and in any fiscal year hereafter, under policies established by the Attorney General, the Department of Justice may reimburse employees who are paid by an appropriation account within the Department of Justice and are traveling on behalf of the United States in temporary duty status to investigate, prosecute, or litigate (including the provision of support therefor) a criminal or civil matter, or for other similar special circumstances, for Federal, State, and local taxes heretofore and hereafter resulting from any reimbursement of travel expenses from an appropriation account within the Department of Justice: *Provided*, That such reimbursement may include an amount equal to all income taxes for which the employee would be liable due to such reimbursement. 28 USC 509 note.

SEC. 116. Section 524 of title 28, United States Code, is amended by adding a new subsection (d) as follows:

"(d)(1) The Attorney General may accept, hold, administer, and use gifts, devises, and bequests of any property for the purpose of aiding or facilitating the work of the Department of Justice.

"(2) Gifts, devises, and bequests of money, the proceeds of sale or liquidation of any other property accepted hereunder, and any income accruing from any property accepted hereunder—

"(A) shall be deposited in the Treasury in a separate fund and held in trust by the Secretary of the Treasury for the benefit of the Department of Justice; and

"(B) are hereby appropriated, without fiscal year limitation, and shall be disbursed on order of the Attorney General.

"(3) Upon request of the Attorney General, the Secretary of the Treasury may invest and reinvest the fund described herein in public debt securities with maturities suitable for the needs

of the fund and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States or comparable maturities.

"(4) Evidences of any intangible personal property (other than money) accepted hereunder shall be deposited with the Secretary of the Treasury, who may hold or liquidate them, except that they shall be liquidated upon the request of the Attorney General.

"(5) For purposes of federal income, estate, and gift taxes, property accepted hereunder shall be considered a gift, devise, or bequest to, or for the use of, the United States.".

SEC. 117. Section 524(c)(9), of title 28, United States Code, is amended to read as follows:

"(9)(A) Following the completion of procedures for the forfeiture of property pursuant to any law enforced or administered by the Department, the Attorney General is authorized, in her discretion, to warrant clear title to any subsequent purchaser or transferee of such property.

"(B) For fiscal year 1997, the Attorney General is authorized to transfer, under such terms and conditions as the Attorney General shall specify, real or personal property of limited or marginal value, to a State or local government agency, or its designated contractor or transferee, for use to support drug abuse treatment, drug and crime prevention and education, housing, job skills, and other community-based public health and safety programs. Such transfer shall not create or confer any private right of action in any person against the United States.".

SEC. 118. Section 594(b)(3)(A) of title 28, United States Code, is amended in the second sentence by—

(a) striking "by 6 months" and inserting "for successive 6-month periods"; and

(b) striking the phrase "employee assigned duties under subsection (l)(1)(A)(iii) certifies" and inserting "independent counsel and the division of the court certify";

(c) striking "such employee" and inserting "the independent counsel" and "the division of the court".

Age Discrimination in Employment Amendments of 1996.

SEC. 119. This section may be cited as the "Age Discrimination in Employment Amendments of 1996".

Subsection 1. Age Discrimination Amendment.

29 USC 621 note.

(a) REPEAL OF REPEALER.—Section 3(b) of the Age Discrimination in Employment Amendments of 1986 (29 U.S.C. 623 note) is repealed.

(b) EXEMPTION.—Section 4(j) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 623(j)), as in effect immediately before December 31, 1993—

(1) is reenacted as such section; and

(2) as so reenacted, is amended in paragraph (1) by striking "and the individual has attained the age" and all that follows through "1983, and" and inserting the following: ", the employer has complied with section 3(d)(2) of the Age Discrimination in Employment Amendments of 1996 if the individual was discharged after the date described in such section, and the individual has attained—

"(A) the age of hiring or retirement, respectively, in effect under applicable State or local law on March 3, 1983; or

"(B)(i) if the individual was not hired, the age of hiring in effect on the date of such failure or refusal to hire under applicable State or local law enacted after the date of enactment of the Age Discrimination in Employment Amendments of 1996; or

"(ii) if applicable State or local law was enacted after the date of enactment of the Age Discrimination in Employment Amendments of 1996 and the individual was discharged, the higher of—

"(I) the age of retirement in effect on the date of such discharge under such law; and

"(II) age 55; and".

(c) CONSTRUCTION.—Nothing in the repeal, reenactment, and amendment made by subsections (a) and (b) shall be construed to make lawful the failure or refusal to hire, or the discharge of, an individual pursuant to a law that— 29 USC 623 note.

(1) was enacted after March 3, 1983 and before the date of enactment of the Age Discrimination in Employment Amendments of 1996; and

(2) lowered the age of hiring or retirement, respectively, for firefighters or law enforcement officers that was in effect under applicable State or local law on March 3, 1983.

Subsection 2. Study and Guidelines for Performance Tests. 29 USC 623 note.

(a) STUDY.—Not later than 3 years after the date of enactment of this Act, the Secretary of Health and Human Services, acting through the Director of the National Institute for Occupational Safety and Health (referred to in this section as the "Secretary"), shall conduct, directly or by contract, a study, and shall submit to the appropriate committees of Congress a report based on the results of the study that shall include—

(1) a list and description of all tests available for the assessment of abilities important for the completion of public safety tasks performed by law enforcement officers and firefighters;

(2) a list of the public safety tasks for which adequate tests described in paragraph (1) do not exist;

(3) a description of the technical characteristics that the tests shall meet to be in compliance with applicable Federal civil rights law and policies;

(4) a description of the alternative methods that are available for determining minimally acceptable performance standards on the tests;

(5) a description of the administrative standards that should be met in the administration, scoring, and score interpretation of the tests; and

(6) an examination of the extent to which the tests are cost-effective, are safe, and comply with the Federal civil rights law and policies.

(b) CONSULTATION REQUIREMENT; OPPORTUNITY FOR PUBLIC COMMENT.—

(1) CONSULTATION.—The Secretary shall, during the conduct of the study required by subsection (a), consult with—

(A) the Deputy Administrator of the United States Fire Administration;

(B) the Director of the Federal Emergency Management Agency;

(C) organizations that represent law enforcement officers, firefighters, and employers of the officers and firefighters; and

(D) organizations that represent older individuals.

(2) PUBLIC COMMENT.—Prior to issuing the advisory guidelines required in subsection (c), the Secretary shall provide an opportunity for public comment on the proposed advisory guidelines.

(c) ADVISORY GUIDELINES.—Not later than 4 years after the date of enactment of this Act, the Secretary shall develop and issue, based on the results of the study required by subsection (a), advisory guidelines for the administration and use of physical and mental fitness tests to measure the ability and competency of law enforcement officers and firefighters to perform the requirements of the jobs of the officers and firefighters.

(d) JOB PERFORMANCE TESTS.—

(1) IDENTIFICATION OF TESTS.—After issuance of the advisory guidelines described in subsection (c), the Secretary shall issue regulations identifying valid, nondiscriminatory job performance tests that shall be used by employers seeking the exemption described in section 4(j) of the Age Discrimination in Employment Act of 1967 with respect to firefighters or law enforcement officers who have attained an age of retirement described in such section 4(j).

(2) USE OF TESTS.—Effective on the date of issuance of the regulations described in paragraph (1), any employer seeking such exemption with respect to a firefighter or law enforcement officer who has attained such age shall provide to each firefighter or law enforcement officer who has attained such age an annual opportunity to demonstrate physical and mental fitness by passing a test described in paragraph (1), in order to continue employment.

(e) DEVELOPMENT OF STANDARDS FOR WELLNESS PROGRAMS.—Not later than 2 years after the date of enactment of this Act, the Secretary shall propose advisory standards for wellness programs for law enforcement officers and firefighters.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $5,000,000 to carry out this section.

29 USC 623 note.

Subsection 3. Effective Dates.

(a) GENERAL EFFECTIVE DATE.—Except as provided in subsection (b), this title and the amendments made by this title shall take effect on the date of enactment of this Act.

(b) SPECIAL EFFECTIVE DATE.—The repeal made by section 2(a) and the reenactment made by section 2(b)(1) shall take effect on December 31, 1993.

SEC. 120. Section 320935(e) of the Violent Crime Control and Law Enforcement Act of 1994 is amended by inserting ", including all trials commenced on or after the effective date of such amendments" after "such amendments".

SEC. 121. This section may be cited as the "Child Pornography Prevention Act of 1996". Child Pornography Prevention Act of 1996. 18 USC 2251 note.

Subsection 1. Findings. 18 USC 2251 note.

Congress finds that—

(1) the use of children in the production of sexually explicit material, including photographs, films, videos, computer images, and other visual depictions, is a form of sexual abuse which can result in physical or psychological harm, or both, to the children involved;

(2) where children are used in its production, child pornography permanently records the victim's abuse, and its continued existence causes the child victims of sexual abuse continuing harm by haunting those children in future years;

(3) child pornography is often used as part of a method of seducing other children into sexual activity; a child who is reluctant to engage in sexual activity with an adult, or to pose for sexually explicit photographs, can sometimes be convinced by viewing depictions of other children "having fun" participating in such activity;

(4) child pornography is often used by pedophiles and child sexual abusers to stimulate and whet their own sexual appetites, and as a model for sexual acting out with children; such use of child pornography can desensitize the viewer to the pathology of sexual abuse or exploitation of children, so that it can become acceptable to and even preferred by the viewer;

(5) new photographic and computer imagining technologies make it possible to produce by electronic, mechanical, or other means, visual depictions of what appear to be children engaging in sexually explicit conduct that are virtually indistinguishable to the unsuspecting viewer from unretouched photographic images of actual children engaging in sexually explicit conduct;

(6) computers and computer imaging technology can be used to—

(A) alter sexually explicit photographs, films, and videos in such a way as to make it virtually impossible for unsuspecting viewers to identify individuals, or to determine if the offending material was produced using children;

(B) produce visual depictions of child sexual activity designed to satisfy the preferences of individual child molesters, pedophiles, and pornography collectors; and

(C) alter innocent pictures of children to create visual depictions of those children engaging in sexual conduct;

(7) the creation or distribution of child pornography which includes an image of a recognizable minor invades the child's privacy and reputational interests, since images that are created showing a child's face or other identifiable feature on a body engaging in sexually explicit conduct can haunt the minor for years to come;

(8) the effect of visual depictions of child sexual activity on a child molester or pedophile using that material to stimulate or whet his own sexual appetites, or on a child where the material is being used as a means of seducing or breaking down the child's inhibitions to sexual abuse or exploitation,

is the same whether the child pornography consists of photographic depictions of actual children or visual depictions produced wholly or in part by electronic, mechanical, or other means, including by computer, which are virtually indistinguishable to the unsuspecting viewer from photographic images of actual children;

(9) the danger to children who are seduced and molested with the aid of child sex pictures is just as great when the child pornographer or child molester uses visual depictions of child sexual activity produced wholly or in part by electronic, mechanical, or other means, including by computer, as when the material consists of unretouched photographic images of actual children engaging in sexually explicit conduct;

(10)(A) the existence of and traffic in child pornographic images creates the potential for many types of harm in the community and presents a clear and present danger to all children; and

(B) it inflames the desires of child molesters, pedophiles, and child pornographers who prey on children, thereby increasing the creation and distribution of child pornography and the sexual abuse and exploitation of actual children who are victimized as a result of the existence and use of these materials;

(11)(A) the sexualization and eroticization of minors through any form of child pornographic images has a deleterious effect on all children by encouraging a societal perception of children as sexual objects and leading to further sexual abuse and exploitation of them; and

(B) this sexualization of minors creates an unwholesome environment which affects the psychological, mental and emotional development of children and undermines the efforts of parents and families to encourage the sound mental, moral and emotional development of children;

(12) prohibiting the possession and viewing of child pornography will encourage the possessors of such material to rid themselves of or destroy the material, thereby helping to protect the victims of child pornography and to eliminate the market for the sexual exploitative use of children; and

(13) the elimination of child pornography and the protection of children from sexual exploitation provide a compelling governmental interest for prohibiting the production, distribution, possession, sale, or viewing of visual depictions of children engaging in sexually explicit conduct, including both photographic images of actual children engaging in such conduct and depictions produced by computer or other means which are virtually indistinguishable to the unsuspecting viewer from photographic images of actual children engaging in such conduct.

Subsection 2. Definitions.

Section 2256 of title 18, United States Code, is amended—

(1) in paragraph (5), by inserting before the semicolon the following: ", and data stored on computer disk or by electronic means which is capable of conversion into a visual image";

(2) in paragraph (6), by striking "and";

(3) in paragraph (7), by striking the period and inserting a semicolon; and

(4) by adding at the end the following new paragraphs:

"(8) 'child pornography' means any visual depiction, including any photograph, film, video, picture, or computer or computer-generated image or picture, whether made or produced by electronic, mechanical, or other means, of sexually explicit conduct, where—

"(A) the production of such visual depiction involves the use of a minor engaging in sexually explicit conduct;

"(B) such visual depiction is, or appears to be, of a minor engaging in sexually explicit conduct;

"(C) such visual depiction has been created, adapted, or modified to appear that an identifiable minor is engaging in sexually explicit conduct; or

"(D) such visual depiction is advertised, promoted, presented, described, or distributed in such a manner that conveys the impression that the material is or contains a visual depiction of a minor engaging in sexually explicit conduct; and

"(9) 'identifiable minor'—

"(A) means a person—

"(i)(I) who was a minor at the time the visual depiction was created, adapted, or modified; or

"(II) whose image as a minor was used in creating, adapting, or modifying the visual depiction; and

"(ii) who is recognizable as an actual person by the person's face, likeness, or other distinguishing characteristic, such as a unique birthmark or other recognizable feature; and

"(B) shall not be construed to require proof of the actual identity of the identifiable minor.".

Subsection 3. Prohibited Activities Relating to Material Constituting or Containing Child Pornography.

(a) IN GENERAL.—Chapter 110 of title 18, United States Code, is amended by adding after section 2252 the following:

"§ 2252A. Certain activities relating to material constituting or containing child pornography

"(a) Any person who—

"(1) knowingly mails, or transports or ships in interstate or foreign commerce by any means, including by computer, any child pornography;

"(2) knowingly receives or distributes—

"(A) any child pornography that has been mailed, or shipped or transported in interstate or foreign commerce by any means, including by computer; or

"(B) any material that contains child pornography that has been mailed, or shipped or transported in interstate or foreign commerce by any means, including by computer;

"(3) knowingly reproduces any child pornography for distribution through the mails, or in interstate or foreign commerce by any means, including by computer;

"(4) either—

"(A) in the special maritime and territorial jurisdiction of the United States, or on any land or building owned

by, leased to, or otherwise used by or under the control of the United States Government, or in the Indian country (as defined in section 1151), knowingly sells or possesses with the intent to sell any child pornography; or

"(B) knowingly sells or possesses with the intent to sell any child pornography that has been mailed, or shipped or transported in interstate or foreign commerce by any means, including by computer, or that was produced using materials that have been mailed, or shipped or transported in interstate or foreign commerce by any means, including by computer; or

"(5) either—

"(A) in the special maritime and territorial jurisdiction of the United States, or on any land or building owned by, leased to, or otherwise used by or under the control of the United States Government, or in the Indian country (as defined in section 1151), knowingly possesses any book, magazine, periodical, film, videotape, computer disk, or any other material that contains 3 or more images of child pornography; or

"(B) knowingly possesses any book, magazine, periodical, film, videotape, computer disk, or any other material that contains 3 or more images of child pornography that has been mailed, or shipped or transported in interstate or foreign commerce by any means, including by computer, or that was produced using materials that have been mailed, or shipped or transported in interstate or foreign commerce by any means, including by computer,

shall be punished as provided in subsection (b).

"(b)(1) Whoever violates, or attempts or conspires to violate, paragraphs (1), (2), (3), or (4) of subsection (a) shall be fined under this title or imprisoned not more than 15 years, or both, but, if such person has a prior conviction under this chapter or chapter 109A, or under the laws of any State relating to aggravated sexual abuse, sexual abuse, or abusive sexual conduct involving a minor or ward, or the production, possession, receipt, mailing, sale, distribution, shipment, or transportation of child pornography, such person shall be fined under this title and imprisoned for not less than 5 years nor more than 30 years.

"(2) Whoever violates, or attempts or conspires to violate, subsection (a)(5) shall be fined under this title or imprisoned not more than 5 years, or both, but, if such person has a prior conviction under this chapter or chapter 109A, or under the laws of any State relating to the possession of child pornography, such person shall be fined under this title and imprisoned for not less than 2 years nor more than 10 years.

"(c) It shall be an affirmative defense to a charge of violating paragraphs (1), (2), (3), or (4) of subsection (a) that—

"(1) the alleged child pornography was produced using an actual person or persons engaging in sexually explicit conduct;

"(2) each such person was an adult at the time the material was produced; and

"(3) the defendant did not advertise, promote, present, describe, or distribute the material in such a manner as to convey the impression that it is or contains a visual depiction of a minor engaging in sexually explicit conduct.".

(b) TECHNICAL AMENDMENT.—The table of sections for chapter 110 of title 18, United States Code, is amended by adding after the item relating to section 2252 the following:

"2252A. Certain activities relating to material constituting or containing child pornography.".

Subsection 4. Penalties for Sexual Exploitation of Children.

Section 2251(d) of title 18, United States Code, is amended to read as follows:

"(d) Any individual who violates, or attempts or conspires to violate, this section shall be fined under this title or imprisoned not less than 10 years nor more than 20 years, and both, but if such person has one prior conviction under this chapter or chapter 109A, or under the laws of any State relating to the sexual exploitation of children, such person shall be fined under this title and imprisoned for not less than 15 years nor more than 30 years, but if such person has 2 or more prior convictions under this chapter or chapter 109A, or under the laws of any State relating to the sexual exploitation of children, such person shall be fined under this title and imprisoned not less than 30 years nor more than life. Any organization that violates, or attempts or conspires to violate, this section shall be fined under this title. Whoever, in the course of an offense under this section, engages in conduct that results in the death of a person, shall be punished by death or imprisoned for any term of years or for life.".

Subsection 5. Material Involving Sexual Exploitation of Minors.

Section 2252 of title 18, United States Code, is amended—by striking subsection (b) and inserting the following:

"(b)(1) Whoever violates, or attempts or conspires to violate, paragraphs (1), (2), or (3) of subsection (a) shall be fined under this title or imprisoned not more than 15 years, or both, but if such person has a prior conviction under this chapter or chapter 109A, or under the laws of any State relating to aggravated sexual abuse, sexual abuse, or abusive sexual conduct involving a minor or ward, or the production, possession, receipt, mailing, sale, distribution, shipment, or transportation of child pornography, such person shall be fined under this title and imprisoned for not less than 5 years nor more than 30 years.

"(2) Whoever violates, or attempts or conspires to violate, paragraph (4) of subsection (a) shall be fined under this title or imprisoned not more than 5 years, or both, but if such person has a prior conviction under this chapter or chapter 109A, or under the laws of any State relating to the possession of child pornography, such person shall be fined under this title and imprisoned for not less than 2 years nor more than 10 years.".

Subsection 6. Privacy Protection Act Amendments.

Section 101 of the Privacy Protection Act of 1980 (42 U.S.C. 2000aa) is amended—

(1) in subsection (a)(1), by inserting before the parenthesis at the end the following: ", or if the offense involves the production, possession, receipt, mailing, sale, distribution, shipment, or transportation of child pornography, the sexual exploitation of children, or the sale or purchase of children under section

2251, 2251A, 2252, or 2252A of title 18, United States Code"; and

(2) in subsection (b)(1), by inserting before the parenthesis at the end the following: ", or if the offense involves the production, possession, receipt, mailing, sale, distribution, shipment, or transportation of child pornography, the sexual exploitation of children, or the sale or purchase of children under section 2251, 2251A, 2252, or 2252A of title 18, United States Code".

Amber Hagerman Child Protection Act of 1996.
18 USC 2241 note.

Subsection 7. Amber Hagerman Child Protection Act of 1996.

(a) SHORT TITLE.—This section may be cited as the "Amber Hagerman Child Protection Act of 1996".

(b) AGGRAVATED SEXUAL ABUSE OF A MINOR.—Section 2241(c) of title 18, United States Code, is amended to read as follows:

"(c) WITH CHILDREN.—Whoever crosses a State line with intent to engage in a sexual act with a person who has not attained the age of 12 years, or in the special maritime and territorial jurisdiction of the United States or in a Federal prison, knowingly engages in a sexual act with another person who has not attained the age of 12 years, or knowingly engages in a sexual act under the circumstances described in subsections (a) and (b) with another person who has attained the age of 12 years but has not attained the age of 16 years (and is at least 4 years younger than that person), or attempts to do so, shall be fined under this title, imprisoned for any term of years or life, or both. If the defendant has previously been convicted of another Federal offense under this subsection, or of a State offense that would have been an offense under either such provision had the offense occurred in a Federal prison, unless the death penalty is imposed, the defendant shall be sentenced to life in prison.".

(c) SEXUAL ABUSE OF A MINOR.—Section 2243(a) of title 18, United States Code, is amended by inserting "crosses a State line with intent to engage in a sexual act with a person who has not attained the age of 12 years, or" after "Whoever".

18 USC 2251 note.

Subsection 8. Severability.

If any provision of this Act, including any provision or section of the definition of the term child pornography, an amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, including any other provision or section of the definition of the term child pornography, the amendments made by this Act, and the application of such to any other person or circumstance shall not be affected thereby.

This title may be cited as the "Department of Justice Appropriations Act, 1997".

Department of Commerce and Related Agencies Appropriations Act, 1997.

TITLE II—DEPARTMENT OF COMMERCE AND RELATED AGENCIES

TRADE AND INFRASTRUCTURE DEVELOPMENT

RELATED AGENCIES

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

SALARIES AND EXPENSES

For necessary expenses of the Office of the United States Trade Representative, including the hire of passenger motor vehicles and the employment of experts and consultants as authorized by 5 U.S.C. 3109, $21,449,000, of which $2,500,000 shall remain available until expended: *Provided*, That not to exceed $98,000 shall be available for official reception and representation expenses.

INTERNATIONAL TRADE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the International Trade Commission, including hire of passenger motor vehicles, and services as authorized by 5 U.S.C. 3109, and not to exceed $2,500 for official reception and representation expenses, $40,850,000, to remain available until expended.

DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

OPERATIONS AND ADMINISTRATION

For necessary expenses for international trade activities of the Department of Commerce provided for by law, and engaging in trade promotional activities abroad, including expenses of grants and cooperative agreements for the purpose of promoting exports of United States firms, without regard to 44 U.S.C. 3702 and 3703; full medical coverage for dependent members of immediate families of employees stationed overseas and employees temporarily posted overseas; travel and transportation of employees of the United States and Foreign Commercial Service between two points abroad, without regard to 49 U.S.C. 1517; employment of Americans and aliens by contract for services; rental of space abroad for periods not exceeding ten years, and expenses of alteration, repair, or improvement; purchase or construction of temporary demountable exhibition structures for use abroad; payment of tort claims, in the manner authorized in the first paragraph of 28 U.S.C. 2672 when such claims arise in foreign countries; not to exceed $327,000 for official representation expenses abroad; purchase of passenger motor vehicles for official use abroad, not to exceed $30,000 per vehicle; obtain insurance on official motor vehicles; and rent tie lines and teletype equipment; $270,000,000, to remain available until expended: *Provided*, That the provisions of the first sentence of section 105(f) and all of section 108(c) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2455(f) and 2458(c)) shall apply in carrying out these activities without regard to section 5412 of the Omnibus Trade and Competitiveness Act of 1988 (15

U.S.C. 4912); and that for the purpose of this Act, contributions under the provisions of the Mutual Educational and Cultural Exchange Act shall include payment for assessments for services provided as part of these activities.

EXPORT ADMINISTRATION

OPERATIONS AND ADMINISTRATION

For necessary expenses for export administration and national security activities of the Department of Commerce, including costs associated with the performance of export administration field activities both domestically and abroad; full medical coverage for dependent members of immediate families of employees stationed overseas; employment of Americans and aliens by contract for services abroad; rental of space abroad for periods not exceeding ten years, and expenses of alteration, repair, or improvement; payment of tort claims, in the manner authorized in the first paragraph of 28 U.S.C. 2672 when such claims arise in foreign countries; not to exceed $15,000 for official representation expenses abroad; awards of compensation to informers under the Export Administration Act of 1979, and as authorized by 22 U.S.C. 401(b); purchase of passenger motor vehicles for official use and motor vehicles for law enforcement use with special requirement vehicles eligible for purchase without regard to any price limitation otherwise established by law; $36,000,000, to remain available until expended: *Provided,* That the provisions of the first sentence of section 105(f) and all of section 108(c) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2455(f) and 2458(c)) shall apply in carrying out these activities: *Provided further,* That payments and contributions collected and accepted for materials or services provided as part of such activities may be retained for use in covering the cost of such activities, and for providing information to the public with respect to the export administration and national security activities of the Department of Commerce and other export control programs of the United States and other governments.

For an additional amount for nonproliferation efforts to prevent illegal exports of chemical weapon precursors, biological agents, nuclear weapons and missile development equipment, $3,900,000, to remain available until expended: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

For grants for economic development assistance as provided by the Public Works and Economic Development Act of 1965, as amended, Public Law 91–304, and such laws that were in effect immediately before September 30, 1982, and for trade adjustment assistance, $328,500,000: *Provided*, That none of the funds appropriated or otherwise made available under this heading may be used directly or indirectly for attorneys' or consultants' fees in connection with securing grants and contracts made by the Economic Development Administration: *Provided further*, That, notwithstanding any other provision of law, the Secretary of Commerce

may provide financial assistance for projects to be located on military installations closed or scheduled for closure or realignment to grantees eligible for assistance under the Public Works and Economic Development Act of 1965, as amended, without it being required that the grantee have title or ability to obtain a lease for the property, for the useful life of the project, when in the opinion of the Secretary of Commerce, such financial assistance is necessary for the economic development of the area: *Provided further*, That the Secretary of Commerce may, as the Secretary considers appropriate, consult with the Secretary of Defense regarding the title to land on military installations closed or scheduled for closure or realignment.

SALARIES AND EXPENSES

For necessary expenses of administering the economic development assistance programs as provided for by law, $20,036,000: *Provided*, That these funds may be used to monitor projects approved pursuant to title I of the Public Works Employment Act of 1976, as amended, title II of the Trade Act of 1974, as amended, and the Community Emergency Drought Relief Act of 1977.

MINORITY BUSINESS DEVELOPMENT AGENCY

MINORITY BUSINESS DEVELOPMENT

For necessary expenses of the Department of Commerce in fostering, promoting, and developing minority business enterprise, including expenses of grants, contracts, and other agreements with public or private organizations, $28,000,000: *Provided*, That of the total amount provided, $2,000,000 shall be available for obligation and expenditure only for projects jointly developed, implemented and administered with the Small Business Administration.

ECONOMIC AND INFORMATION INFRASTRUCTURE

ECONOMIC AND STATISTICAL ANALYSIS

SALARIES AND EXPENSES

For necessary expenses, as authorized by law, of economic and statistical analysis programs of the Department of Commerce, $45,900,000, to remain available until September 30, 1998.

ECONOMICS AND STATISTICS ADMINISTRATION REVOLVING FUND

The Secretary of Commerce is authorized to disseminate economic and statistical data products as authorized by sections 1, 2, and 4 of Public Law 91–412 (15 U.S.C. 1525–1527) and, notwithstanding section 5412 of the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 4912), charge fees necessary to recover the full costs incurred in their production. Notwithstanding 31 U.S.C. 3302, receipts received from these data dissemination activities shall be credited to this account, to be available for carrying out these purposes without further appropriation. 15 USC 1527a note.

BUREAU OF THE CENSUS

SALARIES AND EXPENSES

For expenses necessary for collecting, compiling, analyzing, preparing, and publishing statistics, provided for by law, $135,000,000.

PERIODIC CENSUSES AND PROGRAMS

For expenses necessary to collect and publish statistics for periodic censuses and programs provided for by law, $210,500,000, to remain available until expended.

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses, as provided for by law, of the National Telecommunications and Information Administration (NTIA), $15,000,000, to remain available until expended: *Provided,* That notwithstanding 31 U.S.C. 1535(d), the Secretary of Commerce shall charge Federal agencies for costs incurred in spectrum management, analysis, and operations, and related services and such fees shall be retained and used as offsetting collections for costs of such spectrum services, to remain available until expended: *Provided further,* That hereafter, notwithstanding any other provision of law, NTIA shall not authorize spectrum use or provide any spectrum functions pursuant to the NTIA Organization Act, 47 U.S.C. §§ 902–903, to any Federal entity without reimbursement as required by NTIA for such spectrum management costs, and Federal entities withholding payment of such cost shall not use spectrum: *Provided further,* That the Secretary of Commerce is authorized to retain and use as offsetting collections all funds transferred, or previously transferred, from other Government agencies for all costs incurred in telecommunications research, engineering, and related activities by the Institute for Telecommunication Sciences of the NTIA, in furtherance of its assigned functions under this paragraph, and such funds received from other Government agencies shall remain available until expended.

47 USC 903 note.

PUBLIC BROADCASTING FACILITIES, PLANNING AND CONSTRUCTION

For grants authorized by section 392 of the Communications Act of 1934, as amended, $15,250,000, to remain available until expended as authorized by section 391 of the Act, as amended: *Provided,* That not to exceed $1,500,000 shall be available for program administration as authorized by section 391 of the Act: *Provided further,* That notwithstanding the provisions of section 391 of the Act, the prior year unobligated balances may be made available for grants for projects for which applications have been submitted and approved during any fiscal year.

INFORMATION INFRASTRUCTURE GRANTS

For grants authorized by section 392 of the Communications Act of 1934, as amended, $21,490,000, to remain available until expended as authorized by section 391 of the Act, as amended:

Provided, That not to exceed $3,000,000 shall be available for program administration and other support activities as authorized by section 391: *Provided further*, That of the funds appropriated herein, not to exceed 5 percent may be available for telecommunications research activities for projects related directly to the development of a national information infrastructure: *Provided further*, That notwithstanding the requirements of section 392(a) and 392(c) of the Act, these funds may be used for the planning and construction of telecommunications networks for the provision of educational, cultural, health care, public information, public safety, or other social services.

PATENT AND TRADEMARK OFFICE

SALARIES AND EXPENSES

For necessary expenses of the Patent and Trademark Office provided for by law, including defense of suits instituted against the Commissioner of Patents and Trademarks, $61,252,000, to remain available until expended: *Provided*, That the funds made available under this heading are to be derived from deposits in the Patent and Trademark Office Fee Surcharge Fund as authorized by law: *Provided further*, That the amounts made available under the Fund shall not exceed amounts deposited; and such fees as shall be collected pursuant to 15 U.S.C. 1113 and 35 U.S.C. 41 and 376, shall remain available until expended.

TECHNOLOGY ADMINISTRATION

UNDER SECRETARY FOR TECHNOLOGY/OFFICE OF TECHNOLOGY POLICY

SALARIES AND EXPENSES

For necessary expenses for the Under Secretary for Technology/ Office of Technology Policy, $9,500,000: *Provided*, That $2,500,000 of the total amount provided under this heading shall be available to support the United States-Israel Science and Technology Commission.

SCIENCE AND TECHNOLOGY

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

For necessary expenses of the National Institute of Standards and Technology, $268,000,000, to remain available until expended, of which not to exceed $1,625,000 may be transferred to the "Working Capital Fund".

INDUSTRIAL TECHNOLOGY SERVICES

For necessary expenses of the Manufacturing Extension Partnership of the National Institute of Standards and Technology, $95,000,000, to remain available until expended, of which not to exceed $300,000 may be transferred to the "Working Capital Fund": *Provided*, That notwithstanding the time limitations imposed by 15 U.S.C. 278k(c) (1) and (5) on the duration of Federal financial assistance that may be awarded by the Secretary of Commerce

15 USC 278k note.

to Regional Centers for the transfer of Manufacturing Technology ("Centers"), such Federal financial assistance for a Center may continue beyond six years and may be renewed for additional periods, not to exceed one year, at a rate not to exceed one-third of the Center's total annual costs, subject before any such renewal to a positive evaluation of the Center and to a finding by the Secretary of Commerce that continuation of Federal funding to the Center is in the best interest of the Regional Centers for the transfer of Manufacturing Technology Program.

In addition, for necessary expenses of the Advanced Technology Program of the National Institute of Standards and Technology, $225,000,000, to remain available until expended, of which not to exceed $500,000 may be transferred to the "Working Capital Fund."

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of activities authorized by law for the National Oceanic and Atmospheric Administration, including
33 USC 851. acquisition, maintenance, operation, and hire of aircraft; not to exceed 299 commissioned officers on the active list as of September 30, 1997; grants, contracts, or other payments to nonprofit organizations for the purposes of conducting activities pursuant to cooperative agreements; and alteration, modernization, and relocation of facilities as authorized by 33 U.S.C. 883i; $1,854,067,000, to remain available until expended: *Provided*, That notwithstanding 31 U.S.C. 3302 but consistent with other existing law, fees shall be assessed, collected, and credited to this appropriation as offsetting collections to be available until expended, to recover the costs of administering aeronautical charting programs: *Provided further*, That the sum herein appropriated from the general fund shall be reduced as such additional fees are received during fiscal year 1997, so as to result in a final general fund appropriation estimated at not more than $1,851,067,000: *Provided further*, That any such additional fees received in excess of $3,000,000 in fiscal year 1997 shall not be available for obligation until October 1, 1997: *Provided further*, That fees and donations received by the National Ocean Service for the management of the national marine sanctuaries may be retained and used for the salaries and expenses associated with those activities, notwithstanding 31 U.S.C. 3302: *Provided further*, That in addition, $66,000,000 shall be derived by transfer from the fund entitled "Promote and Develop Fishery Products and Research Pertaining to American Fisheries": *Provided further*, That grants to States pursuant to sections 306 and 306A of the Coastal Zone Management Act of 1972, as amended, shall not exceed $2,000,000: *Provided further*, That not later than November 15, 1996, the Department of Commerce, in conjunction with the National Oceanic and Atmospheric Administration, shall submit to the appropriate committees of the Congress, a long-term plan and a legislative proposal necessary to implement such plan regarding the continuation of a National Oceanic and Atmospheric Administration commissioned corps.

COASTAL ZONE MANAGEMENT FUND

Of amounts collected pursuant to section 308 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456a), not to exceed $7,800,000, for purposes set forth in sections 308(b)(2)(A), 308(b)(2)(B)(v), and 315(e) of such Act.

CONSTRUCTION

For repair and modification of, and additions to, existing facilities and construction of new facilities, and for facility planning and design and land acquisition not otherwise provided for the National Oceanic and Atmospheric Administration, $58,250,000, to remain available until expended, of which $8,500,000 shall be available only for a grant to the University of New Hampshire for construction and related expenses for an environmental technology facility.

FLEET MODERNIZATION, SHIPBUILDING AND CONVERSION

For expenses necessary for the repair, acquisition, leasing, or conversion of vessels, including related equipment to maintain and modernize the existing fleet and to continue planning the modernization of the fleet, for the National Oceanic and Atmospheric Administration, $8,000,000, to remain available until expended.

FISHING VESSEL AND GEAR DAMAGE COMPENSATION FUND

For carrying out the provisions of section 3 of Public Law 95–376, not to exceed $200,000, to be derived from receipts collected pursuant to subsections (b) and (f) of section 10 of the Fishermen's Protective Act of 1967 (22 U.S.C. 1980), to remain available until expended.

FISHERMEN'S CONTINGENCY FUND

For carrying out the provisions of title IV of Public Law 95–372, not to exceed $1,000,000, to be derived from receipts collected pursuant to that Act, to remain available until expended.

FOREIGN FISHING OBSERVER FUND

For expenses necessary to carry out the provisions of the Atlantic Tunas Convention Act of 1975, as amended (Public Law 96–339), the Magnuson Fishery Conservation and Management Act of 1976, as amended (Public Law 100–627), and the American Fisheries Promotion Act (Public Law 96–561), to be derived from the fees imposed under the foreign fishery observer program authorized by these Acts, not to exceed $196,000, to remain available until expended.

FISHING VESSEL OBLIGATIONS GUARANTEES

For the cost of guaranteed loans, $250,000, as authorized by the Merchant Marine Act of 1936, as amended: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That none of the funds made available under this heading may be used to guarantee loans for any new fishing

vessel that will increase the harvesting capacity in any United States fishery.

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

For expenses necessary for the general administration of the Department of Commerce provided for by law, including not to exceed $3,000 for official entertainment, $28,490,000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended (5 U.S.C. App. 1–11 as amended by Public Law 100–504), $20,140,000.

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

CONSTRUCTION OF RESEARCH FACILITIES

(RESCISSION)

Of the obligated and unobligated balances available under this heading, $16,000,000 are rescinded.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

(RESCISSION)

Of the unobligated balances available under this heading, $20,000,000 are rescinded.

GENERAL PROVISIONS—DEPARTMENT OF COMMERCE

SEC. 201. During the current fiscal year, applicable appropriations and funds made available to the Department of Commerce by this Act shall be available for the activities specified in the Act of October 26, 1949 (15 U.S.C. 1514), to the extent and in the manner prescribed by the Act, and, notwithstanding 31 U.S.C. 3324, may be used for advanced payments not otherwise authorized only upon the certification of officials designated by the Secretary that such payments are in the public interest.

SEC. 202. During the current fiscal year, appropriations made available to the Department of Commerce by this Act for salaries and expenses shall be available for hire of passenger motor vehicles as authorized by 31 U.S.C. 1343 and 1344; services as authorized by 5 U.S.C. 3109; and uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901–5902).

SEC. 203. None of the funds made available by this Act may be used to support the hurricane reconnaissance aircraft and activities that are under the control of the United States Air Force or the United States Air Force Reserve.

13 USC 23 note.

SEC. 204. None of the funds provided in this or any previous Act, or hereinafter made available to the Department of Commerce, shall be available to reimburse the Unemployment Trust Fund or any other fund or account of the Treasury to pay for any expenses

paid before October 1, 1992, as authorized by section 8501 of title 5, United States Code, for services performed after April 20, 1990, by individuals appointed to temporary positions within the Bureau of the Census for purposes relating to the 1990 decennial census of population.

SEC. 205. Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Department of Commerce in this Act may be transferred between such appropriations, but no such appropriation shall be increased by more than 10 percent by any such transfers: *Provided*, That any transfer pursuant to this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SEC. 206. (a) Should legislation be enacted to dismantle or reorganize the Department of Commerce, the Secretary of Commerce, no later than 90 days thereafter, shall submit to the Committees on Appropriations of the House and the Senate a plan for transferring funds provided in this Act to the appropriate successor organizations: *Provided,* That the plan shall include a proposal for transferring or rescinding funds appropriated herein for agencies or programs terminated under such legislation: *Provided further,* That such plan shall be transmitted in accordance with section 605 of this Act.

(b) The Secretary of Commerce or the appropriate head of any successor organization(s) may use any available funds to carry out legislation dismantling or reorganizing the Department of Commerce to cover the costs of actions relating to the abolishment, reorganization, or transfer of functions and any related personnel action, including voluntary separation incentives if authorized by such legislation: *Provided,* That the authority to transfer funds between appropriations accounts that may be necessary to carry out this section is provided in addition to authorities included under section 205 of this Act: *Provided further,* That use of funds to carry out this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SEC. 207. Any costs incurred by a Department or agency funded under this title resulting from personnel actions taken in response to funding reductions included in this title shall be absorbed within the total budgetary resources available to such Department or agency: *Provided,* That the authority to transfer funds between appropriations accounts as may be necessary to carry out this section is provided in addition to authorities included elsewhere in this Act: *Provided further,* That use of funds to carry out this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SEC. 208. None of the funds appropriated under this Act or any other Act henceforth may be used to develop new fishery management plans, amendments, or regulations which create new individual fishing quota programs (whether such quotas are transferable or not) or to implement any such plans, amendments or regulations approved by a Regional Fishery Management Council or the Secretary after January 4, 1995, until offsetting fees to

16 USC 1851 note.

pay for the cost of administering such plans, amendments, or regulations are expressly authorized under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.). This restriction shall also apply to any program relating to the Gulf of Mexico commercial red snapper fishery that authorizes the consolidation of licenses, permits or endorsements that result in different trip limits for vessels in the same class. This restriction shall not apply in any way to the North Pacific halibut and sablefish, South Atlantic wreckfish, or the Mid-Atlantic surfclam and ocean (including mahogany) quohog individual fishing quota programs. The term "individual fishing quota" does not include a community development quota.

SEC. 209. The Secretary may award contracts for hydrographic, geodetic, and photogrammetric surveying and mapping services in accordance with title IX of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 541 et seq.).

13 USC 11 note.

SEC. 210. There is hereby established the Bureau of the Census Working Capital Fund, which shall be available without fiscal year limitation, for expenses and equipment necessary for the maintenance and operation of such services and projects as the Director of the Census Bureau determines may be performed more advantageously when centralized: *Provided,* That such central services shall, to the fullest extent practicable, be used to make unnecessary the maintenance of separate like services in the divisions and offices of the Bureau: *Provided further,* That a separate schedule of expenditures and reimbursements, and a statement of the current assets and liabilities of the Working Capital Fund as of the close of the last completed fiscal year, shall be prepared each year: *Provided further,* That notwithstanding 31 U.S.C. 3302, the Working Capital Fund may be credited with advances and reimbursements from applicable appropriations of the Bureau and from funds of other agencies or entities for services furnished pursuant to law: *Provided further,* That any inventories, equipment, and other assets pertaining to the services to be provided by such funds, either on hand or on order, less the related liabilities or unpaid obligations, and any appropriations made hereafter for the purpose of providing capital, shall be used to capitalize the Working Capital Fund: *Provided further,* That the Working Capital Fund shall provide for centralized services at rates which will return in full all expenses of operation, including depreciation of fund plant and equipment, amortization of automated data processing software and hardware systems, and an amount necessary to maintain a reasonable operating reserve as determined by the Director.

16 USC 1801 note.

SEC. 211. (a) Effective 15 days after the enactment of the Sustainable Fisheries Act, section 1 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801) shall be amended to read as follows: "That this Act may be cited as the 'Magnuson-Stevens Fishery Conservation and Management Act'."

16 USC 1801 note.

(b) Effective 15 days after the enactment of the Sustainable Fisheries Act, all references to the Magnuson Fishery Conservation and Management Act shall be redesignated as references to the Magnuson-Stevens Fishery Conservation and Management Act.

This title may be cited as the "Department of Commerce and Related Agencies Appropriations Act, 1997".

The Judiciary Appropriations Act, 1997.

TITLE III—THE JUDICIARY

SUPREME COURT OF THE UNITED STATES

SALARIES AND EXPENSES

For expenses necessary for the operation of the Supreme Court, as required by law, excluding care of the building and grounds, including purchase or hire, driving, maintenance, and operation of an automobile for the Chief Justice, not to exceed $10,000 for the purpose of transporting Associate Justices, and hire of passenger motor vehicles as authorized by 31 U.S.C. 1343 and 1344; not to exceed $10,000 for official reception and representation expenses; and for miscellaneous expenses, to be expended as the Chief Justice may approve; $27,157,000.

CARE OF THE BUILDING AND GROUNDS

For such expenditures as may be necessary to enable the Architect of the Capitol to carry out the duties imposed upon him by the Act approved May 7, 1934 (40 U.S.C. 13a–13b), $2,800,000, of which $260,000 shall remain available until expended.

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

SALARIES AND EXPENSES

For salaries of the chief judge, judges, and other officers and employees, and for necessary expenses of the court, as authorized by law, $15,013,000.

UNITED STATES COURT OF INTERNATIONAL TRADE

SALARIES AND EXPENSES

For salaries of the chief judge and eight judges, salaries of the officers and employees of the court, services as authorized by 5 U.S.C. 3109, and necessary expenses of the court, as authorized by law, $11,114,000.

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For the salaries of circuit and district judges (including judges of the territorial courts of the United States), justices and judges retired from office or from regular active service, judges of the United States Court of Federal Claims, bankruptcy judges, magistrate judges, and all other officers and employees of the Federal Judiciary not otherwise specifically provided for, and necessary expenses of the courts, as authorized by law, $2,556,000,000 (including the purchase of firearms and ammunition); of which not to exceed $13,454,000 shall remain available until expended for space alteration projects; of which $500,000 shall be transferred to the Commission on Structural Alternatives for the Federal Courts of

Appeals only after legislation is enacted to establish the Commis sion; of which not to exceed $10,000,000 shall remain available until expended for furniture and furnishings related to new space alteration and construction projects; and of which $500,000 is to remain available until expended for acquisition of books, periodicals, and newspapers, and all other legal reference materials, including subscriptions.

In addition, for expenses of the United States Court of Federal Claims associated with processing cases under the National Childhood Vaccine Injury Act of 1986, not to exceed $2,390,000, to be appropriated from the Vaccine Injury Compensation Trust Fund.

For an additional amount for expenses relating to additional workload from the Antiterrorism and Effective Death Penalty Act of 1996, and for Court Security needs, $10,000,000, to remain available until expended: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the amount not previously designated by the President as an emergency requirement shall be available only to the extent an official budget request, for a specific dollar amount that includes designation of the entire amount of the request as an emergency requirement, as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted to Congress.

VIOLENT CRIME REDUCTION PROGRAMS

For activities of the Federal Judiciary as authorized by law, $30,000,000, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund, as authorized by section 190001(a) of Public Law 103–322.

DEFENDER SERVICES

For the operation of Federal Public Defender and Community Defender organizations; the compensation and reimbursement of expenses of attorneys appointed to represent persons under the Criminal Justice Act of 1964, as amended; the compensation and reimbursement of expenses of persons furnishing investigative, expert and other services under the Criminal Justice Act (18 U.S.C. 3006A(e)); the compensation (in accordance with Criminal Justice Act maximums) and reimbursement of expenses of attorneys appointed to assist the court in criminal cases where the defendant has waived representation by counsel; the compensation and reimbursement of travel expenses of guardians ad litem acting on behalf of financially eligible minor or incompetent offenders in connection with transfers from the United States to foreign countries with which the United States has a treaty for the execution of penal sentences; and the compensation of attorneys ap-

FEES OF JURORS AND COMMISSIONERS

For fees and expenses of jurors as authorized by 28 U.S.C. 1871 and 1876; compensation of jury commissioners as authorized by 28 U.S.C. 1863; and compensation of commissioners appointed in condemnation cases pursuant to rule 71A(h) of the Federal Rules of Civil Procedure (28 U.S.C. Appendix Rule 71A(h)); $67,000,000, to remain available until expended: *Provided*, That

the compensation of land commissioners shall not exceed the daily equivalent of the highest rate payable under section 5332 of title 5, United States Code.

COURT SECURITY

For necessary expenses, not otherwise provided for, incident to the procurement, installation, and maintenance of security equipment and protective services for the United States Courts in courtrooms and adjacent areas, including building ingress-egress control, inspection of packages, directed security patrols, and other similar activities as authorized by section 1010 of the Judicial Improvement and Access to Justice Act (Public Law 100–702); $127,000,000, to be expended directly or transferred to the United States Marshals Service which shall be responsible for administering elements of the Judicial Security Program consistent with standards or guidelines agreed to by the Director of the Administrative Office of the United States Courts and the Attorney General.

ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

SALARIES AND EXPENSES

For necessary expenses of the Administrative Office of the United States Courts as authorized by law, including travel as authorized by 31 U.S.C. 1345, hire of a passenger motor vehicle as authorized by 31 U.S.C. 1343(b), advertising and rent in the District of Columbia and elsewhere, $49,450,000, of which not to exceed $7,500 is authorized for official reception and representation expenses.

FEDERAL JUDICIAL CENTER

SALARIES AND EXPENSES

For necessary expenses of the Federal Judicial Center, as authorized by Public Law 90–219, $17,495,000; of which $1,800,000 shall remain available through September 30, 1998, to provide education and training to Federal court personnel; and of which not to exceed $1,000 is authorized for official reception and representation expenses.

JUDICIAL RETIREMENT FUNDS

PAYMENT TO JUDICIARY TRUST FUNDS

For payment to the Judicial Officers' Retirement Fund, as authorized by 28 U.S.C. 377(o), $21,000,000, to the Judicial Survivors' Annuities Fund, as authorized by 28 U.S.C. 376(c), $7,300,000, and to the United States Court of Federal Claims Judges' Retirement Fund, as authorized by 28 U.S.C. 178(l), $1,900,000.

UNITED STATES SENTENCING COMMISSION

SALARIES AND EXPENSES

For the salaries and expenses necessary to carry out the provisions of chapter 58 of title 28, United States Code, $8,490,000, of which not to exceed $1,000 is authorized for official reception and representation expenses.

GENERAL PROVISIONS—THE JUDICIARY

SEC. 301. Appropriations and authorizations made in this title which are available for salaries and expenses shall be available for services as authorized by 5 U.S.C. 3109.

SEC. 302. Appropriations made in this title shall be available for salaries and expenses of the Special Court established under the Regional Rail Reorganization Act of 1973, Public Law 93–236.

SEC. 303. Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Judiciary in this Act may be transferred between such appropriations, but no such appropriation, except "Courts of Appeals, District Courts, and other Judicial Services, Defender Services" and "Courts of Appeals, District Courts, and other Judicial Services, Fees of Jurors and Commissioners", shall be increased by more than 10 percent by any such transfers: *Provided,* That any transfer pursuant to this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SEC. 304. Notwithstanding any other provision of law, the salaries and expenses appropriation for district courts, courts of appeals, and other judicial services shall be available for official reception and representation expenses of the Judicial Conference of the United States: *Provided,* That such available funds shall not exceed $10,000 and shall be administered by the Director of the Administrative Office of the United States Courts in his capacity as Secretary of the Judicial Conference.

SEC. 305. Section 612(l) of title 28, United States Code, shall be amended as follows: strike "1997", and insert in lieu thereof "1998".

18 USC 3626 note.

SEC. 306. None of the funds available to the Judiciary in fiscal years 1996 and 1997 and hereafter shall be available for expenses authorized pursuant to section 802(a) of title VIII of section 101(a) of title I of the Omnibus Consolidated Rescissions and Appropriations Act of 1996, Public Law 104–134, for costs related to the appointment of Special Masters prior to April 26, 1996.

SEC. 307. The United States courthouse at 310 West Sixth Street in Medford, Oregon, shall be known and designated as the "James A. Redden Federal Courthouse".

Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States courthouse at 310 West Sixth Street in Medford, Oregon, shall be deemed to be a reference to the "James A. Redden Federal Courthouse".

This title may be cited as "The Judiciary Appropriations Act, 1997".

TITLE IV—DEPARTMENT OF STATE AND RELATED AGENCIES

Department of State and Related Agencies Appropriations Act, 1997.

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

DIPLOMATIC AND CONSULAR PROGRAMS

For necessary expenses of the Department of State and the Foreign Service not otherwise provided for, including expenses authorized by the State Department Basic Authorities Act of 1956, as amended; representation to certain international organizations in which the United States participates pursuant to treaties, ratified pursuant to the advice and consent of the Senate, or specific Acts of Congress; acquisition by exchange or purchase of passenger motor vehicles as authorized by 31 U.S.C. 1343, 40 U.S.C. 481(c) and 22 U.S.C. 2674; and for expenses of general administration; $1,700,450,000: *Provided*, That notwithstanding section 140(a)(5), and the second sentence of section 140(a)(3), of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236), not to exceed $150,000,000 of fees may be collected during fiscal year 1997 under the authority of section 140(a)(1) of that Act: *Provided further*, That all fees collected under the preceding proviso shall be deposited in fiscal year 1997 as an offsetting collection to appropriations made under this heading to recover the costs of providing consular services and shall remain available until expended: *Provided further*, That in fiscal year 1998, a system shall be in place that allocates to each department and agency the full cost of its presence outside of the United States. 8 USC 1351 note. 22 USC 2695b.

Of the funds provided under this heading, $24,856,000 shall be available only for the Diplomatic Telecommunications Service for operation of existing base services and not to exceed $17,230,000 shall be available only for the enhancement of the Diplomatic Telecommunications Service and shall remain available until expended. Of the latter amount, $2,500,000 shall not be made available until expiration of the 15 day period beginning on the date when the Secretary of State and the Director of the Diplomatic Telecommunications Service submit the pilot program report required by section 507 of Public Law 103–317.

In addition, not to exceed $700,000 in registration fees collected pursuant to section 38 of the Arms Export Control Act, as amended, may be used in accordance with section 45 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2717); and in addition not to exceed $1,223,000 shall be derived from fees collected from other executive agencies for lease or use of facilities located at the International Center in accordance with section 4 of the International Center Act (Public Law 90–553), as amended; and in addition, as authorized by section 5 of such Act $450,000, to be derived from the reserve authorized by that section, to be used for the purposes set out in that section; and in addition not to exceed $15,000 which shall be derived from reimbursements, surcharges, and fees for use of Blair House facilities in accordance with section 46 of the State of Department Basic Authorities Act of 1956 (22 U.S.C. 2718(a)).

Notwithstanding section 402 of this Act, not to exceed 20 percent of the amounts made available in this Act in the appropriation accounts "Diplomatic and Consular Programs" and "Salaries and

Expenses" under the heading "Administration of Foreign Affairs" may be transferred between such appropriation accounts: *Provided,* That any transfer pursuant to this sentence shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

For an additional amount for counterterrorism requirements overseas, including security guards and equipment, $23,700,000, to remain available until expended: *Provided,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

SALARIES AND EXPENSES

For expenses necessary for the general administration of the Department of State and the Foreign Service, provided for by law, including expenses authorized by section 9 of the Act of August 31, 1964, as amended (31 U.S.C. 3721), and the State Department Basic Authorities Act of 1956, as amended, $352,300,000.

CAPITAL INVESTMENT FUND

For necessary expenses of the Capital Investment Fund, $24,600,000, to remain available until expended, as authorized in Public Law 103–236: *Provided,* That section 135(e) of Public Law 103–236 shall not apply to funds appropriated under this heading.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended (5 U.S.C. App.), $27,495,000, notwithstanding section 209(a)(1) of the Foreign Service Act of 1980, as amended (Public Law 96–465), as it relates to post inspections: *Provided,* That notwithstanding any other provision of law, the merger of the Office of Inspector General of the United States Information Agency with the Office of Inspector General of the Department of State provided for in the Departments of Commerce, Justice, and State, the Judiciary and Related Agencies Appropriations Act, 1996, contained in Public Law 104–134, is effective hereafter.

5 USC app.

REPRESENTATION ALLOWANCES

For representation allowances as authorized by section 905 of the Foreign Service Act of 1980, as amended (22 U.S.C. 4085), $4,490,000.

PROTECTION OF FOREIGN MISSIONS AND OFFICIALS

For expenses, not otherwise provided, to enable the Secretary of State to provide for extraordinary protective services in accordance with the provisions of section 214 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4314) and 3 U.S.C. 208, $8,332,000, to remain available until September 30, 1998.

SECURITY AND MAINTENANCE OF UNITED STATES MISSIONS

For necessary expenses for carrying out the Foreign Service Buildings Act of 1926, as amended (22 U.S.C. 292–300), and the

Diplomatic Security Construction Program as authorized by title IV of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 (22 U.S.C. 4851), $364,495,000, to remain available until expended as authorized by section 24(c) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2696(c)): *Provided,* That none of the funds appropriated in this paragraph shall be available for acquisition of furniture and furnishings and generators for other departments and agencies.

For an additional amount for security improvements, necessary relocation expenses, and security equipment for United States diplomatic facilities and missions overseas, $24,825,000, to remain available until expended: *Provided,* That of this amount $9,400,000 is for security projects on behalf of United States and Foreign Commercial Service missions and $1,125,000 is for security projects on behalf of United States Information Agency missions: *Provided further*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the amount not previously designated by the President as an emergency requirement shall be available only to the extent an official budget request, for a specific dollar amount that includes designation of the entire amount of the request as an emergency requirement, as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted to Congress.

EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE

For expenses necessary to enable the Secretary of State to meet unforeseen emergencies arising in the Diplomatic and Consular Service pursuant to the requirement of 31 U.S.C. 3526(e), $5,800,000, to remain available until expended as authorized by section 24(c) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2696(c)), of which not to exceed $1,000,000 may be transferred to and merged with the Repatriation Loans Program Account, subject to the same terms and conditions.

REPATRIATION LOANS PROGRAM ACCOUNT

For the cost of direct loans, $593,000, as authorized by section 4 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2671): *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974. In addition, for administrative expenses necessary to carry out the direct loan program, $663,000 which may be transferred to and merged with the Salaries and Expenses account under Administration of Foreign Affairs.

PAYMENT TO THE AMERICAN INSTITUTE IN TAIWAN

For necessary expenses to carry out the Taiwan Relations Act, Public Law 96–8 (93 Stat. 14), $14,490,000.

PAYMENT TO THE FOREIGN SERVICE RETIREMENT AND DISABILITY FUND

For payment to the Foreign Service Retirement and Disability Fund, as authorized by law, $126,491,000.

22 USC 269a note.

INTERNATIONAL ORGANIZATIONS AND CONFERENCES

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

For expenses, not otherwise provided for, necessary to meet annual obligations of membership in international multilateral organizations, pursuant to treaties ratified pursuant to the advice and consent of the Senate, conventions or specific Acts of Congress, $892,000,000: *Provided*, That any payment of arrearages shall be directed toward special activities that are mutually agreed upon by the United States and the respective international organization: *Provided further*, That 20 percent of the funds appropriated in this paragraph for the assessed contribution of the United States to the United Nations shall be withheld from obligation and expenditure until a certification is made under section 401(b) of Public Law 103–236 for fiscal year 1997: *Provided further*, That certification under section 401(b) of Public Law 103–236 for fiscal year 1997 may only be made if the Committees on Appropriations and Foreign Relations of the Senate and the Committees on Appropriations and International Relations of the House of Representatives are notified of the steps taken, and anticipated, to meet the requirements of section 401(b) of Public Law 103–236 at least 15 days in advance of the proposed certification: *Provided further*, That none of the funds appropriated in this paragraph shall be available for a United States contribution to an international organization for the United States share of interest costs made known to the United States Government by such organization for loans incurred on or after October 1, 1984, through external borrowings: *Provided further*, That of the funds appropriated in this paragraph, $100,000,000 may be made available only pursuant to a certification by the Secretary of State by no later than January 30, 1997, that the United Nations has taken no action during calendar year 1996 to increase funding for any United Nations program without identifying an offsetting decrease elsewhere in the United Nations budget and cause the United Nations to exceed its no growth budget for the biennium 1996–1997 adopted in December, 1995: *Provided further*, That if the Secretary of State is unable to make the aforementioned certification, the $100,000,000 is to be applied to paying the current year assessment for other international organizations for which the assessment has not been paid in full or to paying the assessment due in the next fiscal year for such organizations, subject to the reprogramming procedures contained in Section 605 of this Act: *Provided further*, That notwithstanding section 402 of this Act, not to exceed $10,000,000 may be transferred from the funds made available under this heading to the "International Conferences and Contingencies" account for assessed contributions to new or provisional international organizations or for travel expenses of official delegates to international conferences: *Provided further*, That any transfer pursuant to this paragraph shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

For necessary expenses to pay assessed and other expenses of international peacekeeping activities directed to the maintenance

or restoration of international peace and security $352,400,000, of which $50,000,000 is for payment of arrearages accumulated in 1995, and which shall be available only upon certification by the Secretary of State that at least two of the following have been achieved: (1) savings of at least $100,000,000 will be achieved in the biennial expenses of the following United Nations divisions and activities—the United Nations Conference on Trade and Development, the Regional Economic Commissions, the Department of Public Information, and the Department of Conference Services, travel and overtime; (2) the number of professional and general service staff employed by the United Nations Secretariat at the conclusion of the 1996–1997 biennium will be at least ten percent below the number of such positions on January 1, 1996; and (3) the United Nations has adopted a budget outline for the 1998–1999 biennium that is below $2,608,000,000; as part of a five-year program to achieve major cost-saving reforms in the United Nations and specialized agencies: *Provided*, That none of the funds made available under this Act shall be obligated or expended for any new or expanded United Nations peacekeeping mission unless, at least fifteen days in advance of voting for the new or expanded mission in the United Nations Security Council (or in an emergency, as far in advance as is practicable), (1) the Committees on Appropriations of the House of Representatives and the Senate and other appropriate Committees of the Congress are notified of the estimated cost and length of the mission, the vital national interest that will be served, and the planned exit strategy; and (2) a reprogramming of funds pursuant to section 605 of this Act is submitted, and the procedures therein followed, setting forth the source of funds that will be used to pay for the cost of the new or expanded mission: *Provided further*, That funds shall be available for peacekeeping expenses only upon a certification by the Secretary of State to the appropriate committees of the Congress that American manufacturers and suppliers are being given opportunities to provide equipment, services, and material for United Nations peacekeeping activities equal to those being given to foreign manufacturers and suppliers.

INTERNATIONAL COMMISSIONS

For necessary expenses, not otherwise provided for, to meet obligations of the United States arising under treaties, or specific Acts of Congress, as follows: 22 USC 269a note.

INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO

For necessary expenses for the United States Section of the International Boundary and Water Commission, United States and Mexico, and to comply with laws applicable to the United States Section, including not to exceed $6,000 for representation; as follows:

SALARIES AND EXPENSES

For salaries and expenses, not otherwise provided for, $15,490,000.

CONSTRUCTION

For detailed plan preparation and construction of authorized projects, $6,463,000, to remain available until expended, as authorized by section 24(c) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2696(c)).

AMERICAN SECTIONS, INTERNATIONAL COMMISSIONS

For necessary expenses, not otherwise provided for the International Joint Commission and the International Boundary Commission, United States and Canada, as authorized by treaties between the United States and Canada or Great Britain, and for the Border Environment Cooperation Commission as authorized by Public Law 103–182; $5,490,000, of which not to exceed $9,000 shall be available for representation expenses incurred by the International Joint Commission.

INTERNATIONAL FISHERIES COMMISSIONS

For necessary expenses for international fisheries commissions, not otherwise provided for, as authorized by law, $14,549,000: *Provided,* That the United States' share of such expenses may be advanced to the respective commissions, pursuant to 31 U.S.C. 3324.

OTHER

PAYMENT TO THE ASIA FOUNDATION

For a grant to the Asia Foundation, as authorized by section 501 of Public Law 101–246, $8,000,000, to remain available until expended, as authorized by section 24(c) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2696(c)).

RELATED AGENCIES

ARMS CONTROL AND DISARMAMENT AGENCY

ARMS CONTROL AND DISARMAMENT ACTIVITIES

For necessary expenses not otherwise provided, for arms control, nonproliferation, and disarmament activities, $41,500,000, of which not to exceed $50,000 shall be for official reception and representation expenses as authorized by the Act of September 26, 1961, as amended (22 U.S.C. 2551 et seq.).

UNITED STATES INFORMATION AGENCY

SALARIES AND EXPENSES

For expenses, not otherwise provided for, necessary to enable the United States Information Agency, as authorized by the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451 et seq.), the United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. 1431 et seq.), and Reorganization Plan No. 2 of 1977 (91 Stat. 1636), to carry out international communication, educational and cultural activities; and to carry out related activities authorized by law, including employment, without regard to civil service and classification laws,

of persons on a temporary basis (not to exceed $700,000 of this appropriation), as authorized by section 801 of such Act of 1948 (22 U.S.C. 1471), and entertainment, including official receptions, within the United States, not to exceed $25,000 as authorized by section 804(3) of such Act of 1948 (22 U.S.C. 1474(3)); $440,000,000: *Provided*, That not to exceed $1,400,000 may be used for representation abroad as authorized by section 302 of such Act of 1948 (22 U.S.C. 1452) and section 905 of the Foreign Service Act of 1980 (22 U.S.C. 4085): *Provided further*, That not to exceed $7,615,000, to remain available until expended, may be credited to this appropriation from fees or other payments received from or in connection with English teaching, library, motion pictures, and publication programs as authorized by section 810 of such Act of 1948 (22 U.S.C. 1475e) and, notwithstanding any other law, fees from student advising and counseling: Provided further; That not to exceed $1,100,000 to remain available until expended may be used to carry out projects involving security construction and related improvements for agency facilities not physically located together with Department of State facilities abroad.

For an additional amount for necessary expenses relating to security, $1,375,000: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, a amended.

TECHNOLOGY FUND

For expenses necessary to enable the United States Information Agency to provide for the procurement of information technology improvements, as authorized by the United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. 1431 et seq.), the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451 et seq.), and Reorganization Plan No. 2 of 1977 (91 Stat. 1636), $5,050,000, to remain available until expended.

EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS

For expenses of educational and cultural exchange programs, as authorized by the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451 et seq.), and Reorganization Plan No. 2 of 1977 (91 Stat. 1636), $185,000,000, to remain available until expended as authorized by section 105 of such Act of 1961 (22 U.S.C. 2455).

EISENHOWER EXCHANGE FELLOWSHIP PROGRAM TRUST FUND

For necessary expenses of Eisenhower Exchange Fellowships, Incorporated, as authorized by sections 4 and 5 of the Eisenhower Exchange Fellowship Act of 1990 (20 U.S.C. 5204–5205), all interest and earnings accruing to the Eisenhower Exchange Fellowship Program Trust Fund on or before September 30, 1997, to remain available until expended: *Provided*, That none of the funds appropriated herein shall be used to pay any salary or other compensation, or to enter into any contract providing for the payment thereof, in excess of the rate authorized by 5 U.S.C. 5376; or for purposes which are not in accordance with OMB Circulars A–110 (Uniform Administrative Requirements) and A–122 (Cost Principles for Non-

profit Organizations), including the restrictions on compensation for personal services.

ISRAELI ARAB SCHOLARSHIP PROGRAM

For necessary expenses of the Israeli Arab Scholarship Program as authorized by section 214 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (22 U.S.C. 2452), all interest and earnings accruing to the Israeli Arab Scholarship Fund on or before September 30, 1997, to remain available until expended.

INTERNATIONAL BROADCASTING OPERATIONS

For expenses necessary to enable the United States Information Agency, as authorized by the United States Information and Educational Exchange Act of 1948, as amended, the United States International Broadcasting Act of 1994, as amended, and Reorganization Plan No. 2 of 1977, to carry out international communication activities; $325,000,000, of which not to exceed $16,000 may be used for official receptions within the United States as authorized by section 804(3) of such Act of 1948 (22 U.S.C. 1474(3)), not to exceed $35,000 may be used for representation abroad as authorized by section 302 of such Act of 1948 (22 U.S.C. 1452) and section 905 of the Foreign Service Act of 1980 (22 U.S.C. 4085), and not to exceed $39,000 may be used for official reception and representation expenses of Radio Free Europe/Radio Liberty; and in addition, not to exceed $250,000 from fees as authorized by section 810 of such Act of 1948 (22 U.S.C. 1475e), to remain available until expended for carrying out authorized purposes; and in addition, notwithstanding any other provision of law, not to exceed $1,000,000 in monies received (including receipts from advertising, if any) by or for the use of the United States Information Agency from or in connection with broadcasting resources owned by or on behalf of the Agency, to be available until expended for carrying out authorized purposes.

BROADCASTING TO CUBA

For expenses necessary to enable the United States Information Agency to carry out the Radio Broadcasting to Cuba Act, as amended, the Television Broadcasting to Cuba Act, and the International Broadcasting Act of 1994, including the purchase, rent, construction, and improvement of facilities for radio and television transmission and reception, and purchase and installation of necessary equipment for radio and television transmission and reception, $25,000,000, to remain available until expended.

RADIO CONSTRUCTION

For the purchase, rent, construction, and improvement of facilities for radio transmission and reception, and purchase and installation of necessary equipment for radio and television transmission and reception as authorized by section 801 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1471), $35,490,000, to remain available until expended, as authorized by section 704(a) of such Act of 1948 (22 U.S.C. 1477b(a)).

EAST-WEST CENTER

To enable the Director of the United States Information Agency to provide for carrying out the provisions of the Center for Cultural and Technical Interchange Between East and West Act of 1960 (22 U.S.C. 2054–2057), by grant to the Center for Cultural and Technical Interchange Between East and West in the State of Hawaii, $10,000,000: *Provided*, That none of the funds appropriated herein shall be used to pay any salary, or enter into any contract providing for the payment thereof, in excess of the rate authorized by 5 U.S.C. 5376.

NORTH/SOUTH CENTER

To enable the Director of the United States Information Agency to provide for carrying out the provisions of the North/South Center Act of 1991 (22 U.S.C. 2075), by grant to an educational institution in Florida known as the North/South Center, $1,495,000, to remain available until expended.

NATIONAL ENDOWMENT FOR DEMOCRACY

For grants made by the United States Information Agency to the National Endowment for Democracy as authorized by the National Endowment for Democracy Act, $30,000,000, to remain available until expended.

GENERAL PROVISIONS—DEPARTMENT OF STATE AND RELATED AGENCIES

SEC. 401. Funds appropriated under this title shall be available, except as otherwise provided, for allowances and differentials as authorized by subchapter 59 of 5 U.S.C.; for services as authorized by 5 U.S.C. 3109; and hire of passenger transportation pursuant to 31 U.S.C. 1343(b).

SEC. 402. Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Department of State in this Act may be transferred between such appropriations, but no such appropriation, except as otherwise specifically provided, shall be increased by more than 10 percent by any such transfers: *Provided*, That not to exceed 5 percent of any appropriation made available for the current fiscal year for the United States Information Agency in this Act may be transferred between such appropriations, but no such appropriation, except as otherwise specifically provided, shall be increased by more than 10 percent by any such transfers: *Provided further*, That any transfer pursuant to this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SEC. 403. Funds hereafter appropriated or otherwise made available under this Act or any other Act may be expended for compensation of the United States Commissioner of the International Boundary Commission, United States and Canada, only for actual hours worked by such Commissioner. 22 USC 268c.

SEC. 404. Funds appropriated by this Act for the United States Information Agency, the Arms Control and Disarmament Agency,

and the Department of State may be obligated and expended notwithstanding section 701 of the United States Information and Educational Exchange Act of 1948 and section 313 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995, section 53 of the Arms Control and Disarmament Act, and section 15 of the State Department Basic Authorities Act of 1956.

SEC. 405. Any costs incurred by a Department or agency funded under this title resulting from personnel actions taken in response to funding reductions included in this title shall be absorbed within the total budgetary resources available to such Department or agency: *Provided*, That the authority to transfer funds between appropriations accounts as may be necessary to carry out this section is provided in addition to authorities included elsewhere in this Act: *Provided further*, That use of funds to carry out this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SEC. 406. Starting sixty days after enactment of this Act, none of the funds made available by this Act may be made available to support the activities of the Standing Consultative Commission (SCC) unless the President provides to the Congress a report containing a detailed analysis of whether the Memorandum of Understanding on Succession and the Agreed Statement regarding Demarcation agreed to by the Standing Consultative Commission on June 24, 1996, which was reaffirmed by Secretary of State Warren Christopher and Minister of Foreign Affairs Evgeny Primakov on September 23, 1996, represent substantive changes to the Anti-Ballistic Missile Treaty of 1972 and whether these agreements will require the advice and consent of the Senate of the United States.

SEC. 407. Section 1 of the Act of June 4, 1920 (41 Stat. 750; 22 U.S.C. 214) is amended by—

(1) inserting before the period at the end of the first sentence the following: "; except that the Secretary of State may by regulation authorize State officials or the United States Postal Service to collect and retain the execution fee for each application for a passport accepted by such officials or by that Service"; and

(2) striking the second sentence.

This title may be cited as the "Department of State and Related Agencies Appropriations Act, 1997".

TITLE V—RELATED AGENCIES

DEPARTMENT OF TRANSPORTATION

MARITIME ADMINISTRATION

OPERATING-DIFFERENTIAL SUBSIDIES

(LIQUIDATION OF CONTRACT AUTHORITY)

For the payment of obligations incurred for operating-differential subsidies, as authorized by the Merchant Marine Act, 1936, as amended, $148,430,000, to remain available until expended.

MARITIME SECURITY PROGRAM

For necessary expenses to maintain and preserve a U.S.-flag merchant fleet to serve the national security needs of the United States, $54,000,000, to remain available until expended: *Provided*, That these funds will be available only upon enactment of an authorization for this program.

OPERATIONS AND TRAINING

For necessary expenses of operations and training activities authorized by law, $65,000,000: *Provided*, That reimbursements may be made to this appropriation from receipts to the "Federal Ship Financing Fund" for administrative expenses in support of that program in addition to any amount heretofore appropriated.

MARITIME GUARANTEED LOAN (TITLE XI) PROGRAM ACCOUNT

For the cost of guaranteed loans, as authorized by the Merchant Marine Act, 1936, $37,450,000, to remain available until expended: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: *Provided further*, That these funds are available to subsidize total loan principal, any part of which is to be guaranteed, not to exceed $1,000,000,000.

In addition, for administrative expenses to carry out the guaranteed loan program, not to exceed $3,450,000, which shall be transferred to and merged with the appropriation for Operations and Training.

ADMINISTRATIVE PROVISIONS—MARITIME ADMINISTRATION

Notwithstanding any other provision of this Act, the Maritime Administration is authorized to furnish utilities and services and make necessary repairs in connection with any lease, contract, or occupancy involving Government property under control of the Maritime Administration, and payments received therefor shall be credited to the appropriation charged with the cost thereof: *Provided*, That rental payments under any such lease, contract, or occupancy for items other than such utilities, services, or repairs shall be covered into the Treasury as miscellaneous receipts.

No obligations shall be incurred during the current fiscal year from the construction fund established by the Merchant Marine Act, 1936, or otherwise, in excess of the appropriations and limitations contained in this Act or in any prior appropriation Act, and all receipts which otherwise would be deposited to the credit of said fund shall be covered into the Treasury as miscellaneous receipts.

COMMISSION FOR THE PRESERVATION OF AMERICA'S HERITAGE ABROAD

SALARIES AND EXPENSES

For expenses for the Commission for the Preservation of America's Heritage Abroad, $206,000, as authorized by Public Law 99–83, section 1303.

COMMISSION ON CIVIL RIGHTS

SALARIES AND EXPENSES

For necessary expenses of the Commission on Civil Rights, including hire of passenger motor vehicles, $8,740,000: *Provided*, That not to exceed $50,000 may be used to employ consultants: *Provided further*, That none of the funds appropriated in this paragraph shall be used to employ in excess of four full-time individuals under Schedule C of the Excepted Service exclusive of one special assistant for each Commissioner: *Provided further*, That none of the funds appropriated in this paragraph shall be used to reimburse Commissioners for more than 75 billable days, with the exception of the Chairperson who is permitted 125 billable days.

COMMISSION ON IMMIGRATION REFORM

SALARIES AND EXPENSES

For necessary expenses of the Commission on Immigration Reform pursuant to section 141(f) of the Immigration Act of 1990, $2,196,000, to remain available until expended.

COMMISSION ON SECURITY AND COOPERATION IN EUROPE

SALARIES AND EXPENSES

For necessary expenses of the Commission on Security and Cooperation in Europe, as authorized by Public Law 94–304, $1,090,000, to remain available until expended as authorized by section 3 of Public Law 99–7.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Equal Employment Opportunity Commission as authorized by title VII of the Civil Rights Act of 1964, as amended (29 U.S.C. 206(d) and 621–634), the Americans with Disabilities Act of 1990, and the Civil Rights Act of 1991, including services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles as authorized by 31 U.S.C. 1343(b); non-monetary awards to private citizens; not to exceed $27,500,000, for payments to State and local enforcement agencies for services to the Commission pursuant to title VII of the Civil Rights Act of 1964, as amended, sections 6 and 14 of the Age Discrimination in Employment Act, the Americans with Disabilities Act of 1990, and the Civil Rights Act of 1991; $239,740,000: *Provided*, That the Commission is authorized to make available for official reception and representation expenses not to exceed $2,500 from available funds.

FEDERAL COMMUNICATIONS COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Communications Commission, as authorized by law, including uniforms and allowances therefor, as authorized by 5 U.S.C. 5901–02; not to exceed $600,000 for land and structure; not to exceed $500,000 for improvement and care of grounds and repair to buildings; not to exceed

$4,000 for official reception and representation expenses; purchase (not to exceed sixteen) and hire of motor vehicles; special counsel fees; and services as authorized by 5 U.S.C. 3109; $189,079,000, of which not to exceed $300,000 shall remain available until September 30, 1998, for research and policy studies: *Provided*, That $152,523,000 of offsetting collections shall be assessed and collected pursuant to section 9 of title I of the Communications Act of 1934, as amended, and shall be retained and used for necessary expenses in this appropriation, and shall remain available until expended: *Provided further*, That the sum herein appropriated shall be reduced as such offsetting collections are received during fiscal year 1997 so as to result in a final fiscal year 1997 appropriation estimated at $36,556,000: *Provided further*, That any offsetting collections received in excess of $152,523,000 in fiscal year 1997 shall remain available until expended, but shall not be available for obligation until October 1, 1997.

FEDERAL MARITIME COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Maritime Commission as authorized by section 201(d) of the Merchant Marine Act of 1936, as amended (46 App. U.S.C. 1111), including services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles as authorized by 31 U.S.C. 1343(b); and uniforms or allowances therefor, as authorized by 5 U.S.C. 5901–02; $14,000,000: *Provided*, That not to exceed $2,000 shall be available for official reception and representation expenses.

FEDERAL TRADE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Trade Commission, including uniforms or allowances therefor, as authorized by 5 U.S.C. 5901–5902; services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; and not to exceed $2,000 for official reception and representation expenses; $85,930,000:*Provided*, That not to exceed $300,000 shall be available for use to contract with a person or persons for collection services in accordance with the terms of 31 U.S.C. 3718, as amended: *Provided further*, That notwithstanding any other provision of law, not to exceed $58,905,000 of offsetting collections derived from fees collected for premerger notification filings under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (15 U.S.C. 18(a)) shall be retained and used for necessary expenses in this appropriation, and shall remain available until expended: *Provided further*, That the sum herein appropriated from the General Fund shall be reduced as such offsetting collections are received during fiscal year 1997, so as to result in a final fiscal year 1997 appropriation from the General Fund estimated at not more than $27,025,000, to remain available until expended: *Provided further*, That any fees received in excess of $58,905,000 in fiscal year 1997 shall remain available until expended, but shall not be available for obligation until October 1, 1997: *Provided further*, That none of the funds made available to the Federal Trade Commission shall be available for obligation for expenses

authorized by section 151 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (Public Law 102–242, 105 Stat. 2282–2285).

GAMBLING IMPACT STUDY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the National Gambling Impact Study Commission, $4,000,000 to remain available until expended: *Provided*, That these funds will be available only upon enactment of an authorization for this Commission.

LEGAL SERVICES CORPORATION

PAYMENT TO THE LEGAL SERVICES CORPORATION

For payment to the Legal Services Corporation to carry out the purposes of the Legal Services Corporation Act of 1974, as amended, $283,000,000, of which $274,400,000 is for basic field programs and required independent audits; $1,500,000 is for the Office of Inspector General, of which such amounts as may be necessary may be used to conduct additional audits of recipients; and $7,100,000 is for management and administration.

ADMINISTRATIVE PROVISIONS—LEGAL SERVICES CORPORATION

SEC. 501. (a) CONTINUATION OF COMPETITIVE SELECTION PROCESS.—None of the funds appropriated in this Act to the Legal Services Corporation may be used to provide financial assistance to any person or entity except through a competitive selection process conducted in accordance with regulations promulgated by the Corporation in accordance with the criteria set forth in subsections (c), (d), and (e) of section 503 of Public Law 104–134 (110 Stat. 1321–52 et seq.).

(b) INAPPLICABILITY OF NONCOMPETITIVE PROCEDURES.—For purposes of the funding provided in this Act, rights under sections 1007(a)(9) and 1011 of the Legal Services Corporation Act (42 U.S.C. 2996f(a)(9) and 42 U.S.C. 2996j) shall not apply.

SEC. 502. (a) CONTINUATION OF REQUIREMENTS AND RESTRICTIONS.—None of the funds appropriated in this Act to the Legal Services Corporation shall be expended for any purpose prohibited or limited by, or contrary to any of the provisions of—

(1) sections 501, 502, 505, 506, and 507 of Public Law 104–134 (110 Stat. 1321–51 et seq.), and all funds appropriated in this Act to the Legal Services Corporation shall be subject to the same terms and conditions as set forth in such sections, except that all references in such sections to 1995 and 1996 shall be deemed to refer instead to 1996 and 1997, respectively; and

(2) section 504 of Public Law 104–134 (110 Stat. 1321–53 et seq.), and all funds appropriated in this Act to the Legal Services Corporation shall be subject to the same terms and conditions set forth in such section, except that—

(A) subsection (c) of such section 504 shall not apply;

(B) paragraph (3) of section 508(b) of Public Law 104–134 (110 Stat. 1321–58) shall apply with respect to the requirements of subsection (a)(13) of such section 504, except that all references in such section 508(b) to the

date of enactment shall be deemed to refer to April 26, 1996; and

(C) subsection (a)(11) of such section 504 shall not be construed to prohibit a recipient from using funds derived from a source other than the Corporation to provide related legal assistance to—

(i) an alien who has been battered or subjected to extreme cruelty in the United States by a spouse or a parent, or by a member of the spouse's or parent's family residing in the same household as the alien and the spouse or parent consented or acquiesced to such battery or cruelty; or

(ii) an alien whose child has been battered or subjected to extreme cruelty in the United States by a spouse or parent of the alien (without the active participation of the alien in the battery or extreme cruelty), or by a member of the spouse's or parent's family residing in the same household as the alien and the spouse or parent consented or acquiesced to such battery or cruelty, and the alien did not actively participate in such battery or cruelty.

(b) DEFINITIONS.—For purposes of subsection (a)(2)(C):

(1) The term "battered or subjected to extreme cruelty" has the meaning given such term under regulations issued pursuant to subtitle G of the Violence Against Women Act of 1994 (Pub. L. 103–322; 108 Stat. 1953).

(2) The term "related legal assistance" means legal assistance directly related to the prevention of, or obtaining of relief from, the battery or cruelty described in such subsection.

SEC. 503. (a) CONTINUATION OF AUDIT REQUIREMENTS.—The requirements of section 509 of Public Law 104–134 (110 Stat. 1321–58 et seq.), other than subsection (l) of such section, shall apply during fiscal year 1997.

(b) REQUIREMENT OF ANNUAL AUDIT.—An annual audit of each person or entity receiving financial assistance from the Legal Services Corporation under this Act shall be conducted during fiscal year 1997 in accordance with the requirements referred to in subsection (a).

MARINE MAMMAL COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Marine Mammal Commission as authorized by title II of Public Law 92–522, as amended, $1,189,000.

NATIONAL BANKRUPTCY REVIEW COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the National Bankruptcy Review Commission, as authorized by the Bankruptcy Reform Act of 1994, $494,000.

OUNCE OF PREVENTION COUNCIL

For activities authorized by sections 30101 and 30102 of Public Law 103–322 (including administrative costs), $1,500,000, to remain available until expended, for the Ounce of Prevention Grant Program: *Provided*, That the Council may accept and use gifts and donations, both real and personal, for the purpose of aiding or facilitating the authorized activities of the Council, of which not to exceed $5,000 may be used for official reception and representation expenses.

SECURITIES AND EXCHANGE COMMISSION

SALARIES AND EXPENSES

For necessary expenses for the Securities and Exchange Commission, including services as authorized by 5 U.S.C. 3109, the rental of space (to include multiple year leases) in the District of Columbia and elsewhere, and not to exceed $3,000 for official reception and representation expenses, $260,400,000, of which not to exceed $10,000 may be used toward funding a permanent secretariat for the International Organization of Securities Commissions, and of which not to exceed $100,000 shall be available for expenses for consultations and meetings hosted by the Commission with foreign governmental and other regulatory officials, members of their delegations, appropriate representatives and staff to exchange views concerning developments relating to securities matters, development and implementation of cooperation agreements concerning securities matters and provision of technical assistance for the development of foreign securities markets, such expenses to include necessary logistic and administrative expenses and the expenses of Commission staff and foreign invitees in attendance at such consultations and meetings including (1) such incidental expenses as meals taken in the course of such attendance, (2) any travel and transportation to or from such meetings, and (3) any other related lodging or subsistance: *Provided,* That immediately upon enactment of this Act, the rate of fees under section 6(b) of the Securities Act of 1933 (15 U.S.C. 77f(b)) shall increase from one-fiftieth of one percentum to one-thirty-third of one percentum, and such increase shall be deposited as an offsetting collection to this appropriation, to remain available until expended, to recover costs of services of the securities registration process: *Provided further,* That effective January 1, 1997, every national securities association shall pay to the Commission a fee at a rate of one-three-hundredth of one percentum of the aggregate dollar amount of sales transacted by or through any member of such association otherwise than on a national securities exchange (other than bonds, debentures, and other evidences of indebtedness) subject to prompt last sale reporting pursuant to the rules of the Commission or a registered national securities association, excluding any sales for which a fee is paid under section 31 of the Securities Exchange Act of 1934 (15 U.S.C. 78ee), and such increase shall be deposited as an offsetting collection to this appropriation, to remain available until expended, to recover the costs to the Government of the supervision and regulation of securities markets and securities professionals: *Provided further,* That the fee due from every national securities association shall be paid on or before September 30, 1997, with respect to transactions and sales occurring

15 USC 77f note.

15 USC 78ee note.

during the period beginning on January 1, 1997, and ending at the close of August 31, 1997: *Provided further,* That the total amount appropriated for fiscal year 1997 under this heading shall be reduced as all such offsetting fees are deposited to this appropriation so as to result in a final total fiscal year 1997 appropriation from the General Fund estimated at not more than $37,778,000: *Provided further,* That any such fees collected in excess of $222,622,000 shall remain available until expended but shall not be available for obligation until October 1, 1997.

SMALL BUSINESS ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, of the Small Business Administration as authorized by Public Law 103–403, including hire of passenger motor vehicles as authorized by 31 U.S.C. 1343 and 1344, and not to exceed $3,500 for official reception and representation expenses, $223,547,000, of which $1,000,000 shall only be available for obligation and expenditure for projects jointly developed, implemented and administered with the Minority Business Development Agency of the Department of Commerce: *Provided,* That the Administrator is authorized to charge fees to cover the cost of publications developed by the Small Business Administration, and certain loan servicing activities: *Provided further,* That notwithstanding 31 U.S.C. 3302, revenues received from all such activities shall be credited to this account, to be available for carrying out these purposes without further appropriations: *Provided further,* That $75,500,000 shall be available to fund grants for performance in fiscal year 1997 or fiscal year 1998 as authorized by section 21 of the Small Business Act, as amended. In addition, for expenses not otherwise provided for, of the Small Business Administration, $11,500,000, of which: $3,000,000 shall be available for a grant to continue the WVHTC Foundation outreach program to assist small business development; $7,000,000 shall be available for a grant to the Center for Rural Development in Somerset, Kentucky, for small business and rural technology development assistance; $1,000,000 shall be available for a grant to Indiana State University for the renovation and equipping of a training facility, to assist in creating small business and economic development opportunities; and $500,000 shall be available for a continuation grant to the Center for Entrepreneurial Opportunity in Greensburg, Pennsylvania, to provide for small business consulting and assistance.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended (5 U.S.C. App. 1–11, as amended by Public Law 100–504), $9,000,000.

BUSINESS LOANS PROGRAM ACCOUNT

For the cost of direct loans, $1,691,000, and for the cost of guaranteed loans, $182,017,000, as authorized by 15 U.S.C. 631 note, of which $2,317,000, to be available until expended, shall be for the Microloan Guarantee Program, and of which $40,510,000

shall remain available until September 30, 1998: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That during fiscal year 1997, commitments to guarantee loans under section 503 of the Small Business Investment Act of 1958, as amended, shall not exceed the amount of financings authorized under section 20(n)(2)(B) of the Small Business Act, as amended.

In addition, for administrative expenses to carry out the direct and guaranteed loan programs, $94,000,000, which may be transferred to and merged with the appropriations for Salaries and Expenses.

DISASTER LOANS PROGRAM ACCOUNT

For the cost of direct loans authorized by section 7(b) of the Small Business Act, as amended, $105,432,000, to remain available until expended: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974.

In addition, for administrative expenses to carry out the direct loan program, $86,500,000, including not to exceed $500,000 for the Office of Inspector General of the Small Business Administration for audits and reviews of disaster loans and the disaster loan program, and said sums may be transferred to and merged with appropriations for Salaries and Expenses and Office of Inspector General.

SURETY BOND GUARANTEES REVOLVING FUND

For additional capital for the "Surety Bond Guarantees Revolving Fund", authorized by the Small Business Investment Act, as amended, $3,730,000, to remain available without fiscal year limitation as authorized by 15 U.S.C. 631 note.

ADMINISTRATIVE PROVISION—SMALL BUSINESS ADMINISTRATION

SEC. 504. Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Small Business Administration in this Act may be transferred between such appropriations, but no such appropriation shall be increased by more than 10 percent by any such transfers: *Provided*, That any transfer pursuant to this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

STATE JUSTICE INSTITUTE

SALARIES AND EXPENSES

For necessary expenses of the State Justice Institute, as authorized by the State Justice Institute Authorization Act of 1992 (Public Law 102–572 (106 Stat. 4515–4516)), $6,000,000, to remain available until expended: *Provided*, That not to exceed $2,500 shall be available for official reception and representation expenses.

TITLE VI—GENERAL PROVISIONS

SEC. 601. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

SEC. 602. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 603. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 604. If any provision of this Act or the application of such provision to any person or circumstances shall be held invalid, the remainder of the Act and the application of each provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby.

SEC. 605. (a) None of the funds provided under this Act, or provided under previous appropriations Acts to the agencies funded by this Act that remain available for obligation or expenditure in fiscal year 1997, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure through a reprogramming of funds which (1) creates new programs; (2) eliminates a program, project, or activity; (3) increases funds or personnel by any means for any project or activity for which funds have been denied or restricted; (4) relocates an office or employees; (5) reorganizes offices, programs, or activities; or (6) contracts out or privatizes any functions, or activities presently performed by Federal employees; unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such reprogramming of funds.

(b) None of the funds provided under this Act, or provided under previous appropriations Acts to the agencies funded by this Act that remain available for obligation or expenditure in fiscal year 1997, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure for activities, programs, or projects through a reprogramming of funds in excess of $500,000 or 10 percent, whichever is less, that (1) augments existing programs, projects, or activities; (2) reduces by 10 percent funding for any existing program, project, or activity, or numbers of personnel by 10 percent as approved by Congress; or (3) results from any general savings from a reduction in personnel which would result in a change in existing programs, activities, or projects as approved by Congress; unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such reprogramming of funds.

SEC. 606. None of the funds made available in this Act may be used for the construction, repair (other than emergency repair), overhaul, conversion, or modernization of vessels for the National Oceanic and Atmospheric Administration in shipyards located outside of the United States.

SEC. 607. (a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American-made.

(b) NOTICE REQUIREMENT.—In providing financial assistance to, or entering into any contract with, any entity using funds made available in this Act, the head of each Federal agency, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.

(c) PROHIBITION OF CONTRACTS WITH PERSONS FALSELY LABELING PRODUCTS AS MADE IN AMERICA.—If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a "Made in America" inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, the person shall be ineligible to receive any contract or subcontract made with funds made available in this Act, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

SEC. 608. None of the funds made available in this Act may be used to implement, administer, or enforce any guidelines of the Equal Employment Opportunity Commission covering harassment based on religion, when it is made known to the Federal entity or official to which such funds are made available that such guidelines do not differ in any respect from the proposed guidelines published by the Commission on October 1, 1993 (58 Fed. Reg. 51266).

SEC. 609. None of the funds appropriated or otherwise made available by this Act may be obligated or expended to pay for any cost incurred for (1) opening or operating any United States diplomatic or consular post in the Socialist Republic of Vietnam that was not operating on July 11, 1995; (2) expanding any United States diplomatic or consular post in the Socialist Republic of Vietnam that was operating on July 11, 1995; or (3) increasing the total number of personnel assigned to United States diplomatic or consular posts in the Socialist Republic of Vietnam above the levels existing on July 11, 1995, unless the President certifies within 60 days, based upon all information available to the United States Government that the Government of the Socialist Republic of Vietnam is cooperating in full faith with the United States in the following four areas:

(1) Resolving discrepancy cases, live sightings and field activities,

(2) Recovering and repatriating American remains,

(3) Accelerating efforts to provide documents that will help lead to fullest possible accounting of POW/MIA's.

(4) Providing further assistance in implementing trilateral investigations with Laos.

SEC. 610. None of the funds made available by this Act may be used for any United Nations undertaking when it is made known to the Federal official having authority to obligate or expend such funds (1) that the United Nations undertaking is a peacekeeping mission, (2) that such undertaking will involve United States Armed Forces under the command or operational control of a foreign national, and (3) that the President's military advisors have not submitted to the President a recommendation that such involvement is in the national security interests of the United States and the

President has not submitted to the Congress such a recommendation.

SEC. 611. None of the funds made available in this Act shall be used to provide the following amenities or personal comforts in the Federal prison system—

(1) in-cell television viewing except for prisoners who are segregated from the general prison population for their own safety;

(2) the viewing of R, X, and NC–17 rated movies, through whatever medium presented;

(3) any instruction (live or through broadcasts) or training equipment for boxing, wrestling, judo, karate, or other martial art, or any bodybuilding or weightlifting equipment of any sort;

(4) possession of in-cell coffee pots, hot plates, or heating elements; or

(5) the use or possession of any electric or electronic musical instrument.

SEC. 612. None of the funds made available in title II for the National Oceanic and Atmospheric Administration (NOAA) under the heading "Fleet Modernization, Shipbuilding and Conversion" may be used to implement sections 603, 604, and 605 of Public Law 102–567: *Provided*, That NOAA may develop a modernization plan for its fisheries research vessels that takes fully into account opportunities for contracting for fisheries surveys.

SEC. 613. Any costs incurred by a Department or agency funded under this Act resulting from personnel actions taken in response to funding reductions included in this Act shall be absorbed within the total budgetary resources available to such Department or agency: *Provided*, That the authority to transfer funds between appropriations accounts as may be necessary to carry out this section is provided in addition to authorities included elsewhere in this Act: *Provided further*, That use of funds to carry out this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SEC. 614. None of the funds made available in this Act to the Federal Bureau of Prisons may be used to distribute or make available any commercially published information or material to a prisoner when it is made known to the Federal official having authority to obligate or expend such funds that such information or material is sexually explicit or features nudity.

SEC. 615. Of the funds appropriated in this Act under the heading "OFFICE OF JUSTICE PROGRAMS—STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE" and "Community Oriented Policing Services Program", not more than ninety percent of the amount to be awarded to an entity under the Local Law Enforcement Block Grant and part Q of title I of the Omnibus Crime Control and Safe Streets Act of 1968 shall be made available to such an entity when it is made known to the Federal official having authority to obligate or expend such funds that the entity that employs a public safety officer (as such term is defined in section 1204 of title I of the Omnibus Crime Control and Safe Streets Act of 1968) does not provide such a public safety officer who retires or is separated from service due to injury suffered as the direct and proximate result of a personal injury sustained in the

line of duty while responding to an emergency situation or a hot pursuit (as such terms are defined by State law) with the same or better level of health insurance benefits that are paid by the entity at the time of retirement or separation.

SEC. 616. LIMITATION ON PATENT INFRINGEMENTS RELATING TO A MEDICAL PRACTITIONER'S PERFORMANCE OF A MEDICAL ACTIVITY.

Section 287 of title 35, United States Code, is amended by adding at the end the following new subsection:

(c)(1) With respect to a medical practitioner's performance of a medical activity that constitutes an infringement under section 271 (a) or (b) of this title, the provisions of sections 281, 283, 284, and 285 of this title shall not apply against the medical practitioner or against a related health care entity with respect to such medical activity.

(2) For the purposes of this subsection:

(A) the term "medical activity" means the performance of a medical or surgical procedure on a body, but shall not include (i) the use of a patented machine, manufacture, or composition of matter in violation of such patent, (ii) the practice of a patented use of a composition of matter in violation of such patent, or (iii) the practice of a process in violation of a biotechnology patent.

(B) the term "medical practitioner" means any natural person who is licensed by a State to provide the medical activity described in subsection (c)(1) or who is acting under the direction of such person in the performance of the medical activity.

(C) the term "related health care entity" shall mean an entity with which a medical practitioner has a professional affiliation under which the medical practitioner performs the medical activity, including but not limited to a nursing home, hospital, university, medical school, health maintenance organization, group medical practice, or a medical clinic.

(D) the term "professional affiliation" shall mean staff privileges, medical staff membership, employment or contractual relationship, partnership or ownership interest, academic appointment, or other affiliation under which a medical practitioner provides the medical activity on behalf of, or in association with, the health care entity.

(E) the term "body" shall mean a human body, organ or cadaver, or a nonhuman animal used in medical research or instruction directly relating to the treatment of humans.

(F) the term "patented use of a composition of matter" does not include a claim for a method of performing a medical or surgical procedure on a body that recites the use of a composition of matter where the use of that composition of matter does not directly contribute to achievement of the objective of the claimed method.

(G) the term "State" shall mean any state or territory of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

(3) This subsection does not apply to the activities of any person, or employee or agent of such person (regardless of whether such person is a tax exempt organization under section 501(c) of the Internal Revenue Code), who is engaged in the commercial development, manufacture, sale, importation, or distribution of a

machine, manufacture, or composition of matter or the provision of pharmacy or clinical laboratory services (other than clinical laboratory services provided in a physician's office), where such activities are:

(A) directly related to the commercial development, manufacture, sale, importation, or distribution of a machine, manufacture, or composition of matter or the provision of pharmacy or clinical laboratory services (other than clinical laboratory services provided in a physician's office), and

(B) regulated under the Federal Food, Drug, and Cosmetic Act, the Public Health Service Act, or the Clinical Laboratories Improvement Act.

(4) This subsection shall not apply to any patent issued before the date of enactment of this subsection.

SEC. 617. Effective with the enactment of this Act and in any fiscal year hereafter, section 8 of Public Law 96–132 is hereby repealed.

SEC. 618. (a) IN GENERAL.—The Secretary may issue a guarantee or a commitment to guarantee obligations under title XI of the Merchant Marine Act, 1936 (46 App. U.S.C. 1271 et seq.), upon such terms as the Secretary may prescribe, to assist in the reactivation and modernization of any shipyard in the United States that is closed on the date of the enactment of this Act, if the Secretary finds that— 46 USC app. 1273 note.

(1) the closed shipyard historically built military vessels and responsible entities now seek to reopen it as an internationally competitive commercial shipyard;

(2)(A) the closed shipyard has been designated by the President as a public-private partnership project; or

(B) has a reuse plan approved by the Navy in which commercial shipbuilding and repair are primary activities and has a revolving economic conversion fund approved by the Department of Defense; and

(3) the State in which the shipyard is located, and each other involved State, or a State-chartered agency, is making a significant financial investment in the overall cost of reactivation and modernization as its contribution to the reactivation and modernization project, in addition to the funds required by subsection (d)(2) of this section.

(b) WAIVERS.—Notwithstanding any other provision of title XI of the Merchant Marine Act, 1936 (46 App. U.S.C. 1271 et seq.), the Secretary shall not apply the requirements of section 1104A(d) of that Act when issuing a guarantee or a commitment to guarantee an obligation under this section.

(c) CONDITIONS.—The Secretary shall impose such conditions on the issuance of a guarantee or a commitment to guarantee under this section as are necessary to protect the interests of the United States from the risk of a default. The Secretary shall consider the interdependency of such shipyard modernization and reactivation projects and related vessel loan guarantee requests pending under title XI of the Merchant Marine Act, 1936 (46 App. U.S.C. 1271 et seq.) before issuing a guarantee or a commitment to guarantee under this section.

(d) FUNDING PROVISIONS.—

(1) The Secretary may not guarantee or commit to guarantee obligations under this section that exceed $50,000,000 in the aggregate.

(2) The amount of appropriated funds required by the Federal Credit Reform Act of 1990 (2 U.S.C. 661a et seq.) in advance of the Secretary's issuance of a guarantee or a commitment to guarantee under this section shall be provided by the State in which the shipyard is located, and other involved States, or by a State-chartered agency, and deposited by the Secretary in the financing account established under the Federal Credit Reform Act of 1990 (2 U.S.C. 661a et seq.) for loan guarantees issued by the Secretary under title XI of the Merchant Marine Act of 1936 (46 App. U.S.C. 1271 et seq.). No federally appropriated funds shall be available for this purpose. The funds deposited into that financing account shall be held and applied by the Secretary in accordance with the provisions of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a et seq.), except that, unless the Secretary shall have earlier paid an obligee or been required to pay an obligee pursuant to the terms of a loan guarantee, the funds deposited in that financing account shall be returned, upon the expiration of the Secretary's loan guarantee, to the State, States, or State-chartered agency which originally provided the funds to the Secretary.

(3) Notwithstanding the provisions of any other law or regulation, the cost (as that term is defined by the Federal Credit Reform Act of 1990 (2 U.S.C. 661a et seq.)) of a guarantee or commitment to guarantee issued under this section—

(A) may only be determined with reference to the merits of the specific closed shipyard reactivation project which is the subject of that guarantee or commitment to guarantee, without reference to any other project, type of project, or averaged risk; and

(B) may not be used in determining the cost of any other project, type of project, or averaged risk applicable to guarantees or commitments to guarantee issued under title XI of the Merchant Marine Act, 1936 (46 App. U.S.C. 1271 et seq.).

(e) SUNSET.—No commitment to guarantee obligations under this section shall be issued by the Secretary after one year after the date of enactment of this section.

(f) DEFINITION.—As used in this section, the term "Secretary" means the Secretary of Transportation.

TITLE VII—RESCISSIONS

DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

WORKING CAPITAL FUND

(RESCISSION)

Of the unobligated balances available under this heading on October 31, 1996, $30,000,000 are rescinded.

IMMIGRATION AND NATURALIZATION SERVICE

IMMIGRATION EMERGENCY FUND

(RESCISSION)

Of the unobligated balances available under this heading $34,779,000 are rescinded.

TITLE VIII—FISCAL YEAR 1996 SUPPLEMENTAL AND RESCISSION

DEPARTMENT OF JUSTICE

FEDERAL PRISON SYSTEM

SALARIES AND EXPENSES

In addition to funds made available under this heading, $40,000,000, which shall remain available until September 30, 1997: *Provided*, That these funds shall be available upon enactment of this Act: *Provided further*, That these funds shall only be available if enacted by September 30, 1996.

(RESCISSION)

Of the unobligated balances made available under this heading until September 30, 1996, $40,000,000 are rescinded: *Provided*, That these funds shall only be available for rescission if enacted by September 30, 1996.

TITLE IX—SUPPLEMENTAL APPROPRIATIONS

DEPARTMENT OF COMMERCE

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

For an additional amount for "Economic Development Assistance Programs" for emergency infrastructure expenses resulting from Hurricane Fran and Hurricane Hortense and other natural disasters, $25,000,000, to remain available until expended: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

RELATED AGENCY

SMALL BUSINESS ADMINISTRATION

DISASTER LOANS PROGRAM ACCOUNT

For an additional amount for "Disaster Loans Program Account" for emergency expenses resulting from Hurricanes Fran and Hortense and other disasters, $113,000,000 for the cost of direct loans, to remain available until expended: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974; and for

administrative expenses to carry out the disaster loan program, $22,000,000, to remain available until expended, which may be transferred to and merged with "Salaries and Expenses": *Provided further*, That both amounts are hereby designated by Congress as emergency requirements pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

This Act may be cited as the "Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1997".

(b) For programs, projects or activities in the Department of Defense Appropriations Act, 1997, provided as follows, to be effective as if it had been enacted into law as the regular appropriations Act:

AN ACT

Making appropriations for the Department of Defense for the fiscal year ending September 30, 1997, and for other purposes

Department of Defense Appropriations Act, 1997.
Post, p. 3009–119.

TITLE I

MILITARY PERSONNEL

MILITARY PERSONNEL, ARMY

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Army on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; and for payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund; $20,633,998,000.

MILITARY PERSONNEL, NAVY

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Navy on active duty (except members of the Reserve provided for elsewhere), midshipmen, and aviation cadets; and for payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund; $16,986,976,000.

MILITARY PERSONNEL, MARINE CORPS

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Marine Corps on active duty (except members of the Reserve provided for elsewhere); and for payments pursuant to section 156 of Public Law 97–377, as amended (42

U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund; $6,111,728,000.

MILITARY PERSONNEL, AIR FORCE

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Air Force on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; and for payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund; $17,069,490,000.

RESERVE PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army Reserve on active duty under sections 10211, 10302, and 3038 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and for members of the Reserve Officers' Training Corps, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund; $2,073,479,000.

RESERVE PERSONNEL, NAVY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Navy Reserve on active duty under section 10211 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Reserve Officers' Training Corps, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund; $1,405,606,000.

RESERVE PERSONNEL, MARINE CORPS

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Marine Corps Reserve on active duty under section 10211 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Marine Corps platoon leaders class, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund; $388,643,000.

RESERVE PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air Force Reserve on active duty under sections 10211, 10305, and 8038 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and for members of the Air Reserve Officers' Training Corps, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund; $783,697,000.

NATIONAL GUARD PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army National Guard while on duty under section 10211, 10302, or 12402 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 12301(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund; $3,266,393,000.

NATIONAL GUARD PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air National Guard on duty under section 10211, 10305, or 12402 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 12301(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund; $1,296,490,000.

TITLE II

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

(INCLUDING TRANSFER OF FUNDS)

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Army, as authorized by law; and not to exceed $11,437,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Army, and payments may be made on his certificate of necessity for confidential military purposes; $17,519,340,000 and, in addition, $50,000,000 shall be derived by

transfer from the National Defense Stockpile Transaction Fund: *Provided*, That during the current fiscal year and hereafter, funds appropriated under this paragraph may be made available to the Department of the Interior to support the Memorial Day and Fourth of July ceremonies and activities in the National Capital Region: *Provided further*, That of the funds appropriated in this paragraph, not less than $300,000,000 shall be made available only for conventional ammunition care and maintenance. 43 USC 1471g.

OPERATION AND MAINTENANCE, NAVY

(INCLUDING TRANSFER OF FUNDS)

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Navy and the Marine Corps, as authorized by law; and not to exceed $3,995,000, can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Navy, and payments may be made on his certificate of necessity for confidential military purposes; $20,061,961,000 and, in addition, $50,000,000 shall be derived by transfer from the National Defense Stockpile Transaction Fund.

OPERATION AND MAINTENANCE, MARINE CORPS

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Marine Corps, as authorized by law; $2,254,119,000.

OPERATION AND MAINTENANCE, AIR FORCE

(INCLUDING TRANSFER OF FUNDS)

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Air Force, as authorized by law; and not to exceed $8,362,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Air Force, and payments may be made on his certificate of necessity for confidential military purposes; $17,263,193,000 and, in addition, $50,000,000 shall be derived by transfer from the National Defense Stockpile Transaction Fund.

OPERATION AND MAINTENANCE, DEFENSE-WIDE

(INCLUDING TRANSFER OF FUNDS)

For expenses, not otherwise provided for, necessary for the operation and maintenance of activities and agencies of the Department of Defense (other than the military departments), as authorized by law; $10,044,200,000, of which not to exceed $25,000,000 may be available for the CINC initiative fund account; and of which not to exceed $28,500,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of Defense, and payments may be made on his certificate of necessity for confidential military purposes: *Provided*, That of the funds appropriated under this heading, $20,000,000 shall be made available only for use in federally owned education facilities located on military installations for the purpose of transferring title of such facilities to the local education agency: *Provided*

further, That of the funds appropriated under this heading, $1,000,000 is available, by grant or other transfer, to the Harnett County School Board, Lillington, North Carolina, for use by the school board for the education of dependents of members of the Armed Forces and employees of the Department of Defense located at Fort Bragg and Pope Air Force Base, North Carolina.

OPERATION AND MAINTENANCE, ARMY RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Army Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $1,119,436,000.

OPERATION AND MAINTENANCE, NAVY RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Navy Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $886,027,000.

OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Marine Corps Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $109,667,000.

OPERATION AND MAINTENANCE, AIR FORCE RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Air Force Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $1,496,553,000.

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

For expenses of training, organizing, and administering the Army National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, and repairs to structures and facilities; hire of passenger motor vehicles; personnel services in the National Guard Bureau; travel expenses (other than mileage), as authorized by law for Army personnel on active duty, for Army National Guard division, regimental, and battalion commanders while inspecting units in compliance with National Guard Bureau regulations when specifically authorized by the Chief, National Guard Bureau; supplying and equipping the Army National Guard as authorized by law; and expenses of repair, modification, maintenance, and issue of supplies and equipment (including aircraft); $2,254,477,000.

OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

For operation and maintenance of the Air National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, repair, and other necessary expenses of facilities for the training and administration of the Air National Guard, including repair of facilities, maintenance, operation, and modification of aircraft; transportation of things, hire of passenger motor vehicles; supplies, materials, and equipment, as authorized by law for the Air National Guard; and expenses incident to the maintenance and use of supplies, materials, and equipment, including such as may be furnished from stocks under the control of agencies of the Department of Defense; travel expenses (other than mileage) on the same basis as authorized by law for Air National Guard personnel on active Federal duty, for Air National Guard commanders while inspecting units in compliance with National Guard Bureau regulations when specifically authorized by the Chief, National Guard Bureau; $2,716,379,000.

OVERSEAS CONTINGENCY OPERATIONS TRANSFER FUND

(INCLUDING TRANSFER OF FUNDS)

For expenses directly relating to Overseas Contingency Operations by United States military forces; $1,140,157,000: *Provided*, That the Secretary of Defense may transfer these funds only to operation and maintenance accounts within this title: *Provided further*, That the funds transferred shall be merged with and shall be available for the same purposes and for the same time period, as the appropriation to which transferred: *Provided further*, That the transfer authority provided in this paragraph is in addition to any other transfer authority contained elsewhere in this Act.

UNITED STATES COURT OF APPEALS FOR THE ARMED FORCES

For salaries and expenses necessary for the United States Court of Appeals for the Armed Forces; $6,797,000, of which not to exceed $2,500 can be used for official representation purposes.

ENVIRONMENTAL RESTORATION, ARMY

(INCLUDING TRANSFER OF FUNDS)

For the Department of the Army, $339,109,000, to remain available until transferred: *Provided*, That the Secretary of the Army shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of the Army, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Army, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: *Provided further*, That not more than twenty-five percent of funds provided under this heading may be obligated for environmental

remediation by the Corps of Engineers under total environmental remediation contracts.

ENVIRONMENTAL RESTORATION, NAVY

(INCLUDING TRANSFER OF FUNDS)

For the Department of the Navy, $287,788,000, to remain available until transferred: *Provided*, That the Secretary of the Navy shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of the Navy, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Navy, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

ENVIRONMENTAL RESTORATION, AIR FORCE

(INCLUDING TRANSFER OF FUNDS)

For the Department of the Air Force, $394,010,000, to remain available until transferred: *Provided*, That the Secretary of the Air Force shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of the Air Force, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Air Force, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

ENVIRONMENTAL RESTORATION, DEFENSE-WIDE

(INCLUDING TRANSFER OF FUNDS)

For the Department of the Defense, $36,722,000, to remain available until transferred: *Provided*, That the Secretary of Defense shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of Defense, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of Defense, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

ENVIRONMENTAL RESTORATION, FORMERLY USED DEFENSE SITES

(INCLUDING TRANSFER OF FUNDS)

For the Department of the Army, $256,387,000, to remain available until transferred: *Provided*, That the Secretary of the Army shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris at sites formerly used by the Department of Defense, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Army, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

OVERSEAS HUMANITARIAN, DISASTER, AND CIVIC AID

For expenses relating to the Overseas Humanitarian, Disaster, and Civic Aid programs of the Department of Defense (consisting of the programs provided under sections 401, 402, 404, 2547, and 2551 of title 10, United States Code); $49,000,000, to remain available until September 30, 1998.

FORMER SOVIET UNION THREAT REDUCTION

For assistance to the republics of the former Soviet Union, including assistance provided by contract or by grants, for facilitating the elimination and the safe and secure transportation and storage of nuclear, chemical and other weapons; for establishing programs to prevent the proliferation of weapons, weapons components, and weapon-related technology and expertise; for programs relating to the training and support of defense and military personnel for demilitarization and protection of weapons, weapons components and weapons technology and expertise; $327,900,000, to remain available until expended.

QUALITY OF LIFE ENHANCEMENTS, DEFENSE

For expenses, not otherwise provided for, resulting from unfunded shortfalls in the repair and maintenance of real property of the Department of Defense (including military housing and barracks); $600,000,000, for the maintenance of real property of the Department of Defense (including minor construction and major maintenance and repair), which shall remain available for obligation until September 30, 1998, as follows:

Army, $149,000,000;
Navy, $108,000,000;
Marine Corps, $45,000,000;
Air Force, $108,000,000;
Army Reserve, $18,000,000;
Navy Reserve, $18,000,000;
Marine Corps Reserve, $9,000,000;
Air Force Reserve, $15,000,000;
Army National Guard, $86,000,000; and
Air National Guard, $44,000,000.

TITLE III

PROCUREMENT

AIRCRAFT PROCUREMENT, ARMY

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $1,348,434,000, to remain available for obligation until September 30, 1999.

MISSILE PROCUREMENT, ARMY

For construction, procurement, production, modification, and modernization of missiles, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $1,041,867,000, to remain available for obligation until September 30, 1999.

PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

For construction, procurement, production, and modification of weapons and tracked combat vehicles, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $1,470,286,000, to remain available for obligation until September 30, 1999: *Provided*, That of the funds appropriated in this paragraph and notwithstanding the provisions of title 31, United States Code, Section 1502(a), not to exceed $33,100,000 may be obligated for future year V903 diesel engine requirements to maintain the industrial base.

PROCUREMENT OF AMMUNITION, ARMY

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and

training devices; expansion of public and private plants, including ammunition facilities authorized by section 2854, title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $1,127,149,000, to remain available for obligation until September 30, 1999.

OTHER PROCUREMENT, ARMY

For construction, procurement, production, and modification of vehicles, including tactical, support, and non-tracked combat vehicles; the purchase of not to exceed 14 passenger motor vehicles for replacement only; communications and electronic equipment; other support equipment; spare parts, ordnance, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $3,172,485,000, to remain available for obligation until September 30, 1999: *Provided*, That of the funds appropriated in this paragraph and notwithstanding the provisions of title 31, United States Code, Section 1502(a), not to exceed $2,400,000 may be obligated for future year V903 diesel engine requirements to maintain the industrial base.

AIRCRAFT PROCUREMENT, NAVY

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; $7,027,010,000, to remain available for obligation until September 30, 1999.

WEAPONS PROCUREMENT, NAVY

For construction, procurement, production, modification, and modernization of missiles, torpedoes, other weapons, and related support equipment including spare parts, and accessories therefor; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway;

$1,389,913,000, to remain available for obligation until September 30, 1999: *Provided*, That in addition to the foregoing purposes, the funds appropriated above under this heading shall be available to liquidate reported deficiencies in appropriations provided under this heading in prior Department of Defense appropriations acts, to the extent such deficiencies cannot otherwise be liquidated pursuant to 31 U.S.C. 1553(b).

PROCUREMENT OF AMMUNITION, NAVY AND MARINE CORPS

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities authorized by section 2854, title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $289,695,000, to remain available for obligation until September 30, 1999.

SHIPBUILDING AND CONVERSION, NAVY

For expenses necessary for the construction, acquisition, or conversion of vessels as authorized by law, including armor and armament thereof, plant equipment, appliances, and machine tools and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; procurement of critical, long leadtime components and designs for vessels to be constructed or converted in the future; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title, as follows:

For continuation of the SSN–21 attack submarine program, $649,071,000;

NSSN–1 (AP), $296,186,000;

NSSN–2 (AP), $501,000,000;

CVN Refuelings, $237,029,000;

DDG–51 destroyer program, $3,609,072,000;

Oceanographic ship program, $54,400,000;

Oceanographic ship SWATH, $45,000,000;

LCAC landing craft air cushion program (AP–CY), $3,000,000; and

For craft, outfitting, post delivery, conversions, and first destination transportation, $218,907,000;

In all: $5,613,665,000, to remain available for obligation until September 30, 2001: *Provided*, That additional obligations may be incurred after September 30, 2001, for engineering services, tests, evaluations, and other such budgeted work that must be performed in the final stage of ship construction: *Provided further*, That none of the funds herein provided for the construction or conversion of any naval vessel to be constructed in shipyards in the United States shall be expended in foreign facilities for the construction of major components of such vessel: *Provided further*, That none of the funds herein provided shall be used for the construction of any naval vessel in foreign shipyards.

OTHER PROCUREMENT, NAVY

For procurement, production, and modernization of support equipment and materials not otherwise provided for, Navy ordnance (except ordnance for new aircraft, new ships, and ships authorized for conversion); expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; $3,067,944,000, to remain available for obligation until September 30, 1999.

PROCUREMENT, MARINE CORPS

For expenses necessary for the procurement, manufacture, and modification of missiles, armament, military equipment, spare parts, and accessories therefor; plant equipment, appliances, and machine tools, and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; vehicles for the Marine Corps, including the purchase of not to exceed 88 passenger motor vehicles for replacement only; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired and construction prosecuted thereon prior to approval of title; $569,073,000, to remain available for obligation until September 30, 1999.

AIRCRAFT PROCUREMENT, AIR FORCE

For construction, procurement, and modification of aircraft and equipment, including armor and armament, specialized ground handling equipment, and training devices, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things; $6,404,980,000, to remain available for obligation until September 30, 1999.

MISSILE PROCUREMENT, AIR FORCE

For construction, procurement, and modification of missiles, spacecraft, rockets, and related equipment, including spare parts and accessories therefor, ground handling equipment, and training devices; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things; $2,297,145,000, to remain available for obligation until September 30, 1999.

PROCUREMENT OF AMMUNITION, AIR FORCE

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities authorized by section 2854, title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $293,153,000, to remain available for obligation until September 30, 1999.

OTHER PROCUREMENT, AIR FORCE

For procurement and modification of equipment (including ground guidance and electronic control equipment, and ground electronic and communication equipment), and supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of not to exceed 506 passenger motor vehicles for replacement only; the purchase of 1 vehicle required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed $287,000 per vehicle; and expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon, prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; $5,944,680,000, to remain available for obligation until September 30, 1999.

PROCUREMENT, DEFENSE-WIDE

For expenses of activities and agencies of the Department of Defense (other than the military departments) necessary for procurement, production, and modification of equipment, supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of not to exceed 389 passenger motor vehicles for replacement only; expansion of public and private plants, equipment, and installation thereof in such plants, erection of structures, and acquisition of land for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; $1,978,005,000, to remain available for obligation until September 30, 1999.

NATIONAL GUARD AND RESERVE EQUIPMENT

For procurement of aircraft, missiles, tracked combat vehicles, ammunition, other weapons, and other procurement for the reserve components of the Armed Forces; $780,000,000, to remain available for obligation until September 30, 1999: *Provided,* That the Chiefs of the Reserve and National Guard components shall, not later than 30 days after the enactment of this Act, individually submit to the congressional defense committees the modernization priority

assessment for their respective Reserve or National Guard component.

TITLE IV—RESEARCH, DEVELOPMENT, TEST AND EVALUATION

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment; $5,062,763,000, to remain available for obligation until September 30, 1998.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment; $8,208,946,000, to remain available for obligation until September 30, 1998: *Provided*, That funds appropriated in this paragraph which are available for the V–22 may be used to meet unique requirements of the Special Operations Forces.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment; $14,499,606,000, to remain available for obligation until September 30, 1998: *Provided*, That not less than $1,000,000 of the funds appropriated in this paragraph shall be made available only to assess the budgetary, cost, technical, operational, training, and safety issues associated with a decision to eliminate development of the F–22B two-seat training variant of the F–22 advanced tactical fighter: *Provided further*, That the assessment required by the preceding proviso shall be submitted, in classified and unclassified versions, by the Secretary of the Air Force to the congressional defense committees not later than February 15, 1997: *Provided further*, That of the funds made available in this paragraph, $10,000,000 shall be only for development of reusable launch vehicle technologies.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE

For expenses of activities and agencies of the Department of Defense (other than the military departments), necessary for basic and applied scientific research, development, test and evaluation; advanced research projects as may be designated and determined by the Secretary of Defense, pursuant to law; maintenance, rehabilitation, lease, and operation of facilities and equipment; $9,362,800,000, to remain available for obligation until September 30, 1998: *Provided*, That not less than $304,171,000 of the funds appropriated in this paragraph shall be made available only for the Sea-Based Wide Area Defense (Navy Upper-Tier) program.

DEVELOPMENTAL TEST AND EVALUATION, DEFENSE

For expenses, not otherwise provided for, of independent activities of the Director, Test and Evaluation in the direction and supervision of developmental test and evaluation, including performance and joint developmental testing and evaluation; and administrative expenses in connection therewith; $282,038,000, to remain available for obligation until September 30, 1998.

OPERATIONAL TEST AND EVALUATION, DEFENSE

For expenses, not otherwise provided for, necessary for the independent activities of the Director, Operational Test and Evaluation in the direction and supervision of operational test and evaluation, including initial operational test and evaluation which is conducted prior to, and in support of, production decisions; joint operational testing and evaluation; and administrative expenses in connection therewith; $24,968,000, to remain available for obligation until September 30, 1998.

TITLE V—REVOLVING AND MANAGEMENT FUNDS

DEFENSE BUSINESS OPERATIONS FUND

For the Defense Business Operations Fund; $947,900,000.

NATIONAL DEFENSE SEALIFT FUND

For National Defense Sealift Fund programs, projects, and activities, and for expenses of the National Defense Reserve Fleet, as established by section 11 of the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1744); $1,428,002,000, to remain available until expended: *Provided*, That none of the funds provided in this paragraph shall be used to award a new contract that provides for the acquisition of any of the following major components unless such components are manufactured in the United States: auxiliary equipment, including pumps, for all ship-board services; propulsion system components (that is; engines, reduction gears, and propellers); shipboard cranes; and spreaders for shipboard cranes: *Provided further*, That the exercise of an option in a contract awarded through the obligation of previously appropriated funds shall not be considered to be the award of a new contract: *Provided further*, That the Secretary of the military department responsible for such procurement may waive these restrictions on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate, that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes.

TITLE VI—OTHER DEPARTMENT OF DEFENSE PROGRAMS

DEFENSE HEALTH PROGRAM

For expenses, not otherwise provided for, for medical and health care programs of the Department of Defense, as authorized by law; $10,207,308,000, of which $9,937,838,000 shall be for Operation

and maintenance, of which not to exceed three percent shall remain available until September 30, 1998; and of which $269,470,000, to remain available for obligation until September 30, 1999, shall be for Procurement: *Provided*, That of the funds appropriated under this heading, $14,500,000 shall be made available for obtaining emergency communications services for members of the Armed Forces and their families from the American National Red Cross: *Provided further*, That notwithstanding any other provision of law, of the funds provided under this heading, the Secretary of Defense is directed to use and obligate, within thirty days of enactment of this Act, not less than $3,400,000 only to permit private sector or non-Federal physicians who have used and will use the anti-bacterial treatment method based upon the excretion of dead and decaying spherical bacteria to work in conjunction with the Walter Reed Army Medical Center on a treatment protocol and related studies for Desert Storm Syndrome affected veterans.

CHEMICAL AGENTS AND MUNITIONS DESTRUCTION, DEFENSE

For expenses, not otherwise provided for, necessary for the destruction of the United States stockpile of lethal chemical agents and munitions in accordance with the provisions of section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521), and for the destruction of other chemical warfare materials that are not in the chemical weapon stockpile, $758,447,000, of which $478,947,000 shall be for Operation and maintenance, $191,200,000 shall be for Procurement to remain available until September 30, 1999, and $88,300,000 shall be for Research, development, test and evaluation to remain available until September 30, 1998: *Provided*, That of the funds made available under this heading, $1,000,000 shall be available until expended only for a Johnston Atoll off-island leave program: *Provided further*, That notwithstanding any other provision of law, the Secretaries concerned may, pursuant to uniform regulations prescribe travel and transportation allowances for travel by participants in the off-island leave program.

DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES, DEFENSE

(INCLUDING TRANSFER OF FUNDS)

For drug interdiction and counter-drug activities of the Department of Defense, for transfer to appropriations available to the Department of Defense for military personnel of the reserve components serving under the provisions of title 10 and title 32, United States Code; for Operation and maintenance; for Procurement; and for Research, development, test and evaluation; $807,800,000: *Provided*, That the funds appropriated by this paragraph shall be available for obligation for the same time period and for the same purpose as the appropriation to which transferred: *Provided further*, That the transfer authority provided in this paragraph is in addition to any transfer authority contained elsewhere in this Act.

OFFICE OF THE INSPECTOR GENERAL

For expenses and activities of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended; $139,157,000, of which $137,157,000 shall

be for Operation and maintenance, of which not to exceed $500,000 is available for emergencies and extraordinary expenses to be expended on the approval or authority of the Inspector General, and payments may be made on his certificate of necessity for confidential military purposes; and of which $2,000,000, to remain available until September 30, 1999, shall be for Procurement.

TITLE VII—RELATED AGENCIES

CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM FUND

For payment to the Central Intelligence Agency Retirement and Disability System Fund, to maintain proper funding level for continuing the operation of the Central Intelligence Agency Retirement and Disability System; $196,400,000.

INTELLIGENCE COMMUNITY MANAGEMENT ACCOUNT

For necessary expenses of the Intelligence Community Management Account; $129,164,000: *Provided*, That of the funds appropriated under this heading, $27,000,000 shall be transferred to the Department of Justice for the National Drug Intelligence Center to support the Department of Defense's counterdrug monitoring and detection responsibilities.

PAYMENT TO KAHO'OLAWE ISLAND CONVEYANCE, REMEDIATION, AND ENVIRONMENTAL RESTORATION FUND

For payment to Kaho'olawe Island Conveyance, Remediation, and Environmental Restoration Fund, as authorized by law; $10,000,000, to remain available until expended.

NATIONAL SECURITY EDUCATION TRUST FUND

For the purposes of title VIII of Public Law 102–183, $5,100,000, to be derived from the National Security Education Trust Fund, to remain available until expended.

TITLE VIII—GENERAL PROVISIONS

SEC. 8001. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

10 USC 1584 note.

SEC. 8002. During the current fiscal year, provisions of law prohibiting the payment of compensation to, or employment of, any person not a citizen of the United States shall not apply to personnel of the Department of Defense: *Provided*, That salary increases granted to direct and indirect hire foreign national employees of the Department of Defense funded by this Act shall not be at a rate in excess of the percentage increase authorized by law for civilian employees of the Department of Defense whose pay is computed under the provisions of section 5332 of title 5, United States Code, or at a rate in excess of the percentage increase provided by the appropriate host nation to its own employees, whichever is higher: *Provided further*, That this section shall not apply to Department of Defense foreign service national employees serving at United States diplomatic missions whose pay is set

by the Department of State under the Foreign Service Act of 1980: *Provided further*, That the limitations of this provision shall not apply to foreign national employees of the Department of Defense in the Republic of Turkey.

SEC. 8003. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year, unless expressly so provided herein.

SEC. 8004. No more than 20 per centum of the appropriations in this Act which are limited for obligation during the current fiscal year shall be obligated during the last two months of the fiscal year: *Provided*, That this section shall not apply to obligations for support of active duty training of reserve components or summer camp training of the Reserve Officers' Training Corps.

(TRANSFER OF FUNDS)

SEC. 8005. Upon determination by the Secretary of Defense that such action is necessary in the national interest, he may, with the approval of the Office of Management and Budget, transfer not to exceed $2,000,000,000 of working capital funds of the Department of Defense or funds made available in this Act to the Department of Defense for military functions (except military construction) between such appropriations or funds or any subdivision thereof, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: *Provided*, That such authority to transfer may not be used unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which funds are requested has been denied by Congress: *Provided further*, That the Secretary of Defense shall notify the Congress promptly of all transfers made pursuant to this authority or any other authority in this Act: *Provided further*, That no part of the funds in this Act shall be available to prepare or present a request to the Committees on Appropriations for reprogramming of funds, unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which reprogramming is requested has been denied by the Congress.

(TRANSFER OF FUNDS)

SEC. 8006. During the current fiscal year, cash balances in working capital funds of the Department of Defense established pursuant to section 2208 of title 10, United States Code, may be maintained in only such amounts as are necessary at any time for cash disbursements to be made from such funds: *Provided*, That transfers may be made between such funds and the "Foreign Currency Fluctuations, Defense" and "Operation and Maintenance" appropriation accounts in such amounts as may be determined by the Secretary of Defense, with the approval of the Office of Management and Budget, except that such transfers may not be made unless the Secretary of Defense has notified the Congress of the proposed transfer. Except in amounts equal to the amounts appropriated to working capital funds in this Act, no obligations may be made against a working capital fund to procure or increase the value of war reserve material inventory, unless the Secretary of Defense has notified the Congress prior to any such obligation.

SEC. 8007. Funds appropriated by this Act may not be used to initiate a special access program without prior notification 30 calendar days in session in advance to the congressional defense committees.

SEC. 8008. None of the funds contained in this Act available for the Civilian Health and Medical Program of the Uniformed Services shall be available for payments to physicians and other non-institutional health care providers in excess of the amounts allowed in fiscal year 1996 for similar services, except that: (a) for services for which the Secretary of Defense determines an increase is justified by economic circumstances, the allowable amounts may be increased in accordance with appropriate economic index data similar to that used pursuant to title XVIII of the Social Security Act; and (b) for services the Secretary determines are overpriced based on allowable payments under title XVIII of the Social Security Act, the allowable amounts shall be reduced by not more than 15 percent (except that the reduction may be waived if the Secretary determines that it would impair adequate access to health care services for beneficiaries). The Secretary shall solicit public comment prior to promulgating regulations to implement this section. Such regulations shall include a limitation, similar to that used under title XVIII of the Social Security Act, on the extent to which a provider may bill a beneficiary an actual charge in excess of the allowable amount.

SEC. 8009. None of the funds provided in this Act shall be available to initiate (1) a multiyear contract that employs economic order quantity procurement in excess of $20,000,000 in any one year of the contract or that includes an unfunded contingent liability in excess of $20,000,000, or (2) a contract for advance procurement leading to a multiyear contract that employs economic order quantity procurement in excess of $20,000,000 in any one year, unless the congressional defense committees have been notified at least thirty days in advance of the proposed contract award: *Provided*, That no part of any appropriation contained in this Act shall be available to initiate a multiyear contract for which the economic order quantity advance procurement is not funded at least to the limits of the Government's liability: *Provided further*, That no part of any appropriation contained in this Act shall be available to initiate multiyear procurement contracts for any systems or component thereof if the value of the multiyear contract would exceed $500,000,000 unless specifically provided in this Act: *Provided further*, That no multiyear procurement contract can be terminated without 10-day prior notification to the congressional defense committees: *Provided further*, That the execution of multiyear authority shall require the use of a present value analysis to determine lowest cost compared to an annual procurement: *Provided further*, That notwithstanding Section 8010 of Public Law 104–61, funds appropriated for the DDG–51 destroyer program in Public Law 104–61 may be used to initiate a multiyear contract for the Arleigh Burke class destroyer program.

Funds appropriated in title III of this Act may be used for multiyear procurement contracts as follows:

Javelin missiles;
Army Tactical Missile System (ATACMS);
MK19–3 grenade machine guns;
M16A2 rifles;
M249 Squad Automatic Weapons;

M4 carbine rifles;
M240B machine guns; and
Arleigh Burke (DDG–51) class destroyers.

SEC. 8010. Within the funds appropriated for the operation and maintenance of the Armed Forces, funds are hereby appropriated pursuant to section 401 of title 10, United States Code, for humanitarian and civic assistance costs under chapter 20 of title 10, United States Code. Such funds may also be obligated for humanitarian and civic assistance costs incidental to authorized operations and pursuant to authority granted in section 401 of chapter 20 of title 10, United States Code, and these obligations shall be reported to Congress on September 30 of each year: *Provided*, That funds available for operation and maintenance shall be available for providing humanitarian and similar assistance by using Civic Action Teams in the Trust Territories of the Pacific Islands and freely associated states of Micronesia, pursuant to the Compact of Free Association as authorized by Public Law 99–239: *Provided further*, That upon a determination by the Secretary of the Army that such action is beneficial for graduate medical education programs conducted at Army medical facilities located in Hawaii, the Secretary of the Army may authorize the provision of medical services at such facilities and transportation to such facilities, on a nonreimbursable basis, for civilian patients from American Samoa, the Commonwealth of the Northern Mariana Islands, the Marshall Islands, the Federated States of Micronesia, Palau, and Guam. 10 USC 401 note.

SEC. 8011. (a) During fiscal year 1997, the civilian personnel of the Department of Defense may not be managed on the basis of any end-strength, and the management of such personnel during that fiscal year shall not be subject to any constraint or limitation (known as an end-strength) on the number of such personnel who may be employed on the last day of such fiscal year.

(b) The fiscal year 1998 budget request for the Department of Defense as well as all justification material and other documentation supporting the fiscal year 1998 Department of Defense budget request shall be prepared and submitted to the Congress as if subsections (a) and (b) of this provision were effective with regard to fiscal year 1998.

(c) Nothing in this section shall be construed to apply to military (civilian) technicians.

SEC. 8012. Notwithstanding any other provision of law, none of the funds made available by this Act shall be used by the Department of Defense to exceed, outside the fifty United States, its territories, and the District of Columbia, 125,000 civilian workyears: *Provided*, That workyears shall be applied as defined in the Federal Personnel Manual: *Provided further*, That workyears expended in dependent student hiring programs for disadvantaged youths shall not be included in this workyear limitation.

SEC. 8013. None of the funds made available by this Act shall be used in any way, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before the Congress.

SEC. 8014. (a) None of the funds appropriated by this Act shall be used to make contributions to the Department of Defense Education Benefits Fund pursuant to section 2006(g) of title 10, United States Code, representing the normal cost for future benefits

under section 3015(c) of title 38, United States Code, for any member of the armed services who, on or after the date of enactment of this Act—

(1) enlists in the armed services for a period of active duty of less than three years; or

(2) receives an enlistment bonus under section 308a or 308f of title 37, United States Code,

nor shall any amounts representing the normal cost of such future benefits be transferred from the Fund by the Secretary of the Treasury to the Secretary of Veterans Affairs pursuant to section 2006(d) of title 10, United States Code; nor shall the Secretary of Veterans Affairs pay such benefits to any such member: *Provided*, That in the case of a member covered by clause (1), these limitations shall not apply to members in combat arms skills or to members who enlist in the armed services on or after July 1, 1989, under a program continued or established by the Secretary of Defense in fiscal year 1991 to test the cost-effective use of special recruiting incentives involving not more than nineteen noncombat arms skills approved in advance by the Secretary of Defense: *Provided further*, That this subsection applies only to active components of the Army.

(b) None of the funds appropriated by this Act shall be available for the basic pay and allowances of any member of the Army participating as a full-time student and receiving benefits paid by the Secretary of Veterans Affairs from the Department of Defense Education Benefits Fund when time spent as a full-time student is credited toward completion of a service commitment: *Provided*, That this subsection shall not apply to those members who have reenlisted with this option prior to October 1, 1987: *Provided further*, That this subsection applies only to active components of the Army.

SEC. 8015. None of the funds appropriated by this Act shall be available to convert to contractor performance an activity or function of the Department of Defense that, on or after the date of enactment of this Act, is performed by more than ten Department of Defense civilian employees until a most efficient and cost-effective organization analysis is completed on such activity or function and certification of the analysis is made to the Committees on Appropriations of the House of Representatives and the Senate: *Provided*, That this section shall not apply to a commercial or industrial type function of the Department of Defense that: (1) is included on the procurement list established pursuant to section 2 of the Act of June 25, 1938 (41 U.S.C. 47), popularly referred to as the Javits-Wagner-O'Day Act; (2) is planned to be converted to performance by a qualified nonprofit agency for the blind or by a qualified nonprofit agency for other severely handicapped individuals in accordance with that Act; or (3) is planned to be converted to performance by a qualified firm under 51 percent Native American ownership.

(TRANSFER OF FUNDS)

SEC. 8016. Funds appropriated in title III of this Act for the Department of Defense Pilot Mentor-Protege Program may be transferred to any other appropriation contained in this Act solely for the purpose of implementing a Mentor-Protege Program developmental assistance agreement pursuant to section 831 of the National Defense Authorization Act for Fiscal Year 1991 (Public

Law 101–510; 10 U.S.C. 2301 note), as amended, under the authority of this provision or any other transfer authority contained in this Act.

SEC. 8017. None of the funds in this Act may be available for the purchase by the Department of Defense (and its departments and agencies) of welded shipboard anchor and mooring chain 4 inches in diameter and under unless the anchor and mooring chain are manufactured in the United States from components which are substantially manufactured in the United States: *Provided*, That for the purpose of this section manufactured will include cutting, heat treating, quality control, testing of chain and welding (including the forging and shot blasting process): *Provided further*, That for the purpose of this section substantially all of the components of anchor and mooring chain shall be considered to be produced or manufactured in the United States if the aggregate cost of the components produced or manufactured in the United States exceeds the aggregate cost of the components produced or manufactured outside the United States: *Provided further*, That when adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis, the Secretary of the service responsible for the procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations that such an acquisition must be made in order to acquire capability for national security purposes.

SEC. 8018. None of the funds appropriated by this Act available for the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) shall be available for the reimbursement of any health care provider for inpatient mental health service for care received when a patient is referred to a provider of inpatient mental health care or residential treatment care by a medical or health care professional having an economic interest in the facility to which the patient is referred: *Provided*, That this limitation does not apply in the case of inpatient mental health services provided under the program for the handicapped under subsection (d) of section 1079 of title 10, United States Code, provided as partial hospital care, or provided pursuant to a waiver authorized by the Secretary of Defense because of medical or psychological circumstances of the patient that are confirmed by a health professional who is not a Federal employee after a review, pursuant to rules prescribed by the Secretary, which takes into account the appropriate level of care for the patient, the intensity of services required by the patient, and the availability of that care.

SEC. 8019. Funds available in this Act may be used to provide transportation for the next-of-kin of individuals who have been prisoners of war or missing in action from the Vietnam era to an annual meeting in the United States, under such regulations as the Secretary of Defense may prescribe.

SEC. 8020. Notwithstanding any other provision of law, during the current fiscal year, the Secretary of Defense may, by Executive Agreement, establish with host nation governments in NATO member states a separate account into which such residual value amounts negotiated in the return of United States military installations in NATO member states may be deposited, in the currency of the host nation, in lieu of direct monetary transfers to the United States Treasury: *Provided*, That such credits may be utilized only for the construction of facilities to support United States military forces in that host nation, or such real property maintenance

10 USC 2687 note.

and base operating costs that are currently executed through monetary transfers to such host nations: *Provided further*, That the Department of Defense's budget submission for fiscal year 1998 shall identify such sums anticipated in residual value settlements, and identify such construction, real property maintenance or base operating costs that shall be funded by the host nation through such credits: *Provided further*, That all military construction projects to be executed from such accounts must be previously approved in a prior Act of Congress: *Provided further*, That each such Executive Agreement with a NATO member host nation shall be reported to the congressional defense committees, the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate thirty days prior to the conclusion and endorsement of any such agreement established under this provision.

SEC. 8021. None of the funds available to the Department of Defense may be used to demilitarize or dispose of M–1 Carbines, M–1 Garand rifles, M–14 rifles, .22 caliber rifles, .30 caliber rifles, or M–1911 pistols.

SEC. 8022. Notwithstanding any other provision of law, none of the funds appropriated by this Act shall be available to pay more than 50 percent of an amount paid to any person under section 308 of title 37, United States Code, in a lump sum.

SEC. 8023. None of the funds appropriated by this Act shall be available for payments under the Department of Defense contract with the Louisiana State University Medical Center involving the use of cats for Brain Missile Wound Research, and the Department of Defense shall not make payments under such contract from funds obligated prior to the date of the enactment of this Act, except as necessary for costs incurred by the contractor prior to the enactment of this Act: *Provided*, That funds necessary for the care of animals covered by this contract are allowed.

SEC. 8024. Of the funds made available by this Act in title III, Procurement, $8,000,000, drawn pro rata from each appropriations account in title III, shall be available for incentive payments authorized by section 504 of the Indian Financing Act of 1974, 25 U.S.C. 1544. These payments shall be available only to contractors which have submitted subcontracting plans pursuant to 15 U.S.C. 637(d), and according to regulations which shall be promulgated by the Secretary of Defense within 90 days of the passage of this Act.

SEC. 8025. None of the funds provided in this Act or any other Act shall be available to conduct bone trauma research at any Army Research Laboratory until the Secretary of the Army certifies that the synthetic compound to be used in the experiments is of such a type that its use will result in a significant medical finding, the research has military application, the research will be conducted in accordance with the standards set by an animal care and use committee, and the research does not duplicate research already conducted by a manufacturer or any other research organization.

SEC. 8026. During the current fiscal year, none of the funds available to the Department of Defense may be used to procure or acquire (1) defensive handguns unless such handguns are the M9 or M11 9mm Department of Defense standard handguns, or (2) offensive handguns except for the Special Operations Forces:

Provided, That the foregoing shall not apply to handguns and ammunition for marksmanship competitions.

SEC. 8027. No more than $500,000 of the funds appropriated or made available in this Act shall be used for any single relocation of an organization, unit, activity or function of the Department of Defense into or within the National Capital Region: *Provided*, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the Congressional defense committees that such a relocation is required in the best interest of the Government.

SEC. 8028. During the current fiscal year, funds appropriated or otherwise available for any Federal agency, the Congress, the judicial branch, or the District of Columbia may be used for the pay, allowances, and benefits of an employee as defined by section 2105 of title 5 or an individual employed by the government of the District of Columbia, permanent or temporary indefinite, who—

(1) is a member of a Reserve component of the Armed Forces, as described in section 261 of title 10, or the National Guard, as described in section 101 of title 32;

(2) performs, for the purpose of providing military aid to enforce the law or providing assistance to civil authorities in the protection or saving of life or property or prevention of injury—

(A) Federal service under sections 331, 332, 333, or 12406 of title 10, or other provision of law, as applicable, or

(B) full-time military service for his or her State, the District of Columbia, the Commonwealth of Puerto Rico, or a territory of the United States; and

(3) requests and is granted—

(A) leave under the authority of this section; or

(B) annual leave, which may be granted without regard to the provisions of sections 5519 and 6323(b) of title 5,

if such employee is otherwise entitled to such annual leave: *Provided*, That any employee who requests leave under subsection (3)(A) for service described in subsection (2) of this section is entitled to such leave, subject to the provisions of this section and of the last sentence of section 6323(b) of title 5, and such leave shall be considered leave under section 6323(b) of title 5.

SEC. 8029. None of the funds appropriated by this Act shall be available to perform any cost study pursuant to the provisions of OMB Circular A–76 if the study being performed exceeds a period of twenty-four months after initiation of such study with respect to a single function activity or forty-eight months after initiation of such study for a multi-function activity.

SEC. 8030. Funds appropriated by this Act for the American Forces Information Service shall not be used for any national or international political or psychological activities.

SEC. 8031. Notwithstanding any other provision of law or regulation, the Secretary of Defense may adjust wage rates for civilian employees hired for certain health care occupations as authorized for the Secretary of Veterans Affairs by section 7455 of title 38, United States Code.

SEC. 8032. None of the funds appropriated or made available in this Act shall be used to reduce or disestablish the operation of the 53rd Weather Reconnaissance Squadron of the Air Force

Reserve, if such action would reduce the WC–130 Weather Reconnaissance mission below the levels funded in this Act.

SEC. 8033. (a) Of the funds for the procurement of supplies or services appropriated by this Act, qualified nonprofit agencies for the blind or other severely handicapped shall be afforded the maximum practicable opportunity to participate as subcontractors and suppliers in the performance of contracts let by the Department of Defense.

(b) During the current fiscal year, a business concern which has negotiated with a military service or defense agency a subcontracting plan for the participation by small business concerns pursuant to section 8(d) of the Small Business Act (15 U.S.C. 637(d)) shall be given credit toward meeting that subcontracting goal for any purchases made from qualified nonprofit agencies for the blind or other severely handicapped.

(c) For the purpose of this section, the phrase "qualified nonprofit agency for the blind or other severely handicapped" means a nonprofit agency for the blind or other severely handicapped that has been approved by the Committee for the Purchase from the Blind and Other Severely Handicapped under the Javits-Wagner-O'Day Act (41 U.S.C. 46–48).

SEC. 8034. During the current fiscal year, net receipts pursuant to collections from third party payers pursuant to section 1095 of title 10, United States Code, shall be made available to the local facility of the uniformed services responsible for the collections and shall be over and above the facility's direct budget amount.

SEC. 8035. During the current fiscal year, the Department of Defense is authorized to incur obligations of not to exceed $350,000,000 for purposes specified in section 2350j(c) of title 10, United States Code, in anticipation of receipt of contributions, only from the Government of Kuwait, under that section: *Provided*, That, upon receipt, such contributions from the Government of Kuwait shall be credited to the appropriation or fund which incurred such obligations.

SEC. 8036. Of the funds made available in this Act, not less than $23,626,000 shall be available for the Civil Air Patrol, of which $19,926,000 shall be available for Operation and maintenance.

SEC. 8037. (a) None of the funds appropriated in this Act are available to establish a new Department of Defense (department) federally funded research and development center (FFRDC), either as a new entity, or as a separate entity administered by an organization managing another FFRDC, or as a nonprofit membership corporation consisting of a consortium of other FFRDCs and other non-profit entities.

(b) LIMITATION ON COMPENSATION.—No member of a Board of Directors, Trustees, Overseers, Advisory Group, Special Issues Panel, Visiting Committee, or any similar entity of a defense FFRDC, and no paid consultant to any defense FFRDC, may be compensated for his or her services as a member of such entity, or as a paid consultant, except under the same conditions, and to the same extent, as members of the Defense Science Board: *Provided*, That a member of any such entity referred to previously in this subsection shall be allowed travel expenses and per diem as authorized under the Federal Joint Travel Regulations, when engaged in the performance of membership duties.

(c) Notwithstanding any other provision of law, none of the funds available to the department from any source during fiscal year 1997 may be used by a defense FFRDC, through a fee or other payment mechanism, for charitable contributions, for construction of new buildings, for payment of cost sharing for projects funded by government grants, or for absorption of contract overruns.

(d) Notwithstanding any other provision of law, of the funds available to the department during fiscal year 1997, not more than 5,975 staff years of technical effort (staff years) may be funded for defense FFRDCs: *Provided*, That of the specific amount referred to previously in this subsection, not more than 1,088 staff years may be funded for the defense studies and analysis FFRDCs.

(e) Notwithstanding any other provision of law, the Secretary of Defense shall control the total number of staff years to be performed by defense FFRDCs during fiscal year 1997 so as to reduce the total amounts appropriated in titles II, III, and IV of this Act by $52,286,000: *Provided*, That the total amounts appropriated in titles II, III, and IV of this Act are hereby reduced by $52,286,000 to reflect savings from the use of defense FFRDCs by the department.

(f) Within 60 days after enactment of this Act, the Secretary of Defense shall submit to the Congressional defense committees a report presenting the specific amounts of staff years of technical effort to be allocated by the department for each defense FFRDC during fiscal year 1997: *Provided*, That, after the submission of the report required by this subsection, the department may not reallocate more than five percent of an FFRDC's staff years among other defense FFRDCs until 30 days after a detailed justification for any such reallocation is submitted to the Congressional defense committees.

(g) The Secretary of Defense shall, with the submission of the department's fiscal year 1998 budget request, submit a report presenting the specific amounts of staff years of technical effort to be allocated for each defense FFRDC during that fiscal year.

(h) The total amounts appropriated to or for the use of the department in titles II, III, and IV of this Act are hereby further reduced by $102,286,000 to reflect savings from the decreased use of non-FFRDC consulting services by the department.

(i) No part of the reductions contained in subsections (e) and (h) of this section may be applied against any budget activity, activity group, subactivity group, line item, program element, program, project, subproject or activity which does not fund defense FFRDC activities or non-FFRDC consulting services within each appropriation account.

(j) Not later than 90 days after enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report listing the specific funding reductions allocated to each category listed in subsection (i) above pursuant to this section.

SEC. 8038. None of the funds in this or any other Act shall be available for the preparation of studies on—

(a) the feasibility of removal and transportation of unitary chemical weapons or agents from the eight chemical storage sites within the continental United States to Johnston Atoll: *Provided*, That this prohibition shall not apply to General

Accounting Office studies requested by a Member of Congress or a Congressional Committee; and

(b) the potential future uses of the nine chemical disposal facilities other than for the destruction of stockpile chemical munitions and as limited by section 1412(c)(2), Public Law 99–145: *Provided*, That this prohibition does not apply to future use studies for the CAMDS facility at Tooele, Utah.

SEC. 8039. None of the funds appropriated or made available in this Act shall be used to procure carbon, alloy or armor steel plate for use in any Government-owned facility or property under the control of the Department of Defense which were not melted and rolled in the United States or Canada: *Provided*, That these procurement restrictions shall apply to any and all Federal Supply Class 9515, American Society of Testing and Materials (ASTM) or American Iron and Steel Institute (AISI) specifications of carbon, alloy or armor steel plate: *Provided further*, That the Secretary of the military department responsible for the procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes: *Provided further*, That these restrictions shall not apply to contracts which are in being as of the date of enactment of this Act.

SEC. 8040. For the purposes of this Act, the term "congressional defense committees" means the National Security Committee of the House of Representatives, the Armed Services Committee of the Senate, the subcommittee on Defense of the Committee on Appropriations of the Senate, and the subcommittee on National Security of the Committee on Appropriations of the House of Representatives.

SEC. 8041. During the current fiscal year, the Department of Defense may acquire the modification, depot maintenance and repair of aircraft, vehicles and vessels as well as the production of components and other Defense-related articles, through competition between Department of Defense depot maintenance activities and private firms: *Provided*, That the Senior Acquisition Executive of the military department or defense agency concerned, with power of delegation, shall certify that successful bids include comparable estimates of all direct and indirect costs for both public and private bids: *Provided further*, That Office of Management and Budget Circular A–76 shall not apply to competitions conducted under this section.

41 USC 10b–2.

SEC. 8042. (a)(1) If the Secretary of Defense, after consultation with the United States Trade Representative, determines that a foreign country which is party to an agreement described in paragraph (2) has violated the terms of the agreement by discriminating against certain types of products produced in the United States that are covered by the agreement, the Secretary of Defense shall rescind the Secretary's blanket waiver of the Buy American Act with respect to such types of products produced in that foreign country.

(2) An agreement referred to in paragraph (1) is any reciprocal defense procurement memorandum of understanding, between the United States and a foreign country pursuant to which the Secretary

of Defense has prospectively waived the Buy American Act for certain products in that country.

(b) The Secretary of Defense shall submit to Congress a report on the amount of Department of Defense purchases from foreign entities in fiscal year 1997. Such report shall separately indicate the dollar value of items for which the Buy American Act was waived pursuant to any agreement described in subsection (a)(2), the Trade Agreement Act of 1979 (19 U.S.C. 2501 et seq.), or any international agreement to which the United States is a party.

(c) For purposes of this section, the term "Buy American Act" means title III of the Act entitled "An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes", approved March 3, 1933 (41 U.S.C. 10a et seq.).

SEC. 8043. Appropriations contained in this Act that remain available at the end of the current fiscal year as a result of energy cost savings realized by the Department of Defense shall remain available for obligation for the next fiscal year to the extent, and for the purposes, provided in section 2865 of title 10, United States Code.

SEC. 8044. During the current fiscal year and hereafter, voluntary separation incentives payable under 10 U.S.C. 1175 may be paid in such amounts as are necessary from the assets of the Voluntary Separation Incentive Fund established by section 1175(h)(1). 10 USC 1175 note.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8045. Amounts deposited during the current fiscal year to the special account established under 40 U.S.C. 485(h)(2) and to the special account established under 10 U.S.C. 2667(d)(1) are appropriated and shall be available until transferred by the Secretary of Defense to current applicable appropriations or funds of the Department of Defense under the terms and conditions specified by 40 U.S.C. 485(h)(2) (A) and (B) and 10 U.S.C. 2667(d)(1)(B), to be merged with and to be available for the same time period and the same purposes as the appropriation to which transferred.

SEC. 8046. During the current fiscal year, appropriations available to the Department of Defense may be used to reimburse a member of a reserve component of the Armed Forces who is not otherwise entitled to travel and transportation allowances and who occupies transient government housing while performing active duty for training or inactive duty training: *Provided*, That such members may be provided lodging in kind if transient government quarters are unavailable as if the member was entitled to such allowances under subsection (a) of section 404 of title 37, United States Code: *Provided further*, That if lodging in kind is provided, any authorized service charge or cost of such lodging may be paid directly from funds appropriated for operation and maintenance of the reserve component of the member concerned.

SEC. 8047. The President shall include with each budget for a fiscal year submitted to the Congress under section 1105 of title 31, United States Code, materials that shall identify clearly and separately the amounts requested in the budget for appropriation for that fiscal year for salaries and expenses related to administrative activities of the Department of Defense, the military departments, and the Defense Agencies. 10 USC 221 note.

SEC. 8048. Notwithstanding any other provision of law, funds available for "Drug Interdiction and Counter-Drug Activities, Defense" may be obligated for the Young Marines program.

SEC. 8049. During the current fiscal year, amounts contained in the Department of Defense Overseas Military Facility Investment Recovery Account established by section 2921(c)(1) of the National Defense Authorization Act of 1991 (Public Law 101–510; 10 U.S.C. 2687 note) shall be available until expended for the payments specified by section 2921(c)(2) of that Act.

10 USC 1281 note.

SEC. 8050. During the current fiscal year and hereafter, annual payments granted under the provisions of section 4416 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2714) shall be made from appropriations in this Act which are available for the pay of reserve component personnel.

SEC. 8051. Of the funds appropriated or otherwise made available by this Act, not more than $119,200,000 shall be available for payment of the operating costs of NATO Headquarters: *Provided*, That the Secretary of Defense may waive this section for Department of Defense support provided to NATO forces in and around the former Yugoslavia.

SEC. 8052. During the current fiscal year, appropriations which are available to the Department of Defense for operation and maintenance may be used to purchase items having an investment item unit cost of not more than $100,000.

10 USC 1293 note.

SEC. 8053. During the current fiscal year and hereafter, appropriations available for the pay and allowances of active duty members of the Armed Forces shall be available to pay the retired pay which is payable pursuant to section 4403 of Public Law 102–484 (10 U.S.C. 1293 note) under the terms and conditions provided in section 4403.

SEC. 8054. (a) During the current fiscal year, none of the appropriations or funds available to the Defense Business Operations Fund shall be used for the purchase of an investment item for the purpose of acquiring a new inventory item for sale or anticipated sale during the current fiscal year or a subsequent fiscal year to customers of the Defense Business Operations Fund if such an item would not have been chargeable to the Defense Business Operations Fund during fiscal year 1994 and if the purchase of such an investment item would be chargeable during the current fiscal year to appropriations made to the Department of Defense for procurement.

(b) The fiscal year 1998 budget request for the Department of Defense as well as all justification material and other documentation supporting the fiscal year 1998 Department of Defense budget shall be prepared and submitted to the Congress on the basis that any equipment which was classified as an end item and funded in a procurement appropriation contained in this Act shall be budgeted for in a proposed fiscal year 1998 procurement appropriation and not in the supply management business area or any other area or category of the Defense Business Operations Fund.

SEC. 8055. None of the funds provided in this Act shall be available for use by a Military Department to modify an aircraft, weapon, ship or other item of equipment, that the Military Department concerned plans to retire or otherwise dispose of within five years after completion of the modification: *Provided*, That this prohibition shall not apply to safety modifications: *Provided further*,

That this prohibition may be waived by the Secretary of a Military Department if the Secretary determines it is in the best national security interest of the United States to provide such waiver and so notifies the congressional defense committees in writing.

SEC. 8056. None of the funds appropriated by this Act for programs of the Central Intelligence Agency shall remain available for obligation beyond the current fiscal year, except for funds appropriated for the Reserve for Contingencies, which shall remain available until September 30, 1998.

SEC. 8057. Notwithstanding any other provision of law, funds made available in this Act for the Defense Intelligence Agency may be used for the design, development, and deployment of General Defense Intelligence Program intelligence communications and intelligence information systems for the Services, the Unified and Specified Commands, and the component commands.

SEC. 8058. (a) Notwithstanding any other provision of law, funds appropriated in this Act for the High Performance Computing Modernization Program shall be made available only for the acquisition, modernization and sustainment of supercomputing capability and capacity at Department of Defense (DoD) science and technology sites under the cognizance of the Director of Defense Research and Engineering and DoD test and evaluation facilities under the Director of Test and Evaluation, OUSD (A&T): *Provided*, That these funds shall be awarded based on user-defined requirements.

(b) Of the funds appropriated in this Act under the heading "Procurement, Defense-Wide", $124,735,000 shall be made available for the High Performance Computing Modernization Program. Of the total funds made available for the program pursuant to this subsection, $20,000,000 shall be for the Army High Performance Computing Research Center.

SEC. 8059. Of the funds appropriated by the Department of Defense under the heading "Operation and Maintenance, Defense-Wide", not less than $8,000,000 shall be made available only for the mitigation of environmental impacts, including training and technical assistance to tribes, related administrative support, the gathering of information, documenting of environmental damage, and developing a system for prioritization of mitigation, on Indian lands resulting from Department of Defense activities.

SEC. 8060. Amounts collected for the use of the facilities of the National Science Center for Communications and Electronics during the current fiscal year pursuant to section 1459(g) of the Department of Defense Authorization Act, 1986 and deposited to the special account established under subsection 1459(g)(2) of that Act are appropriated and shall be available until expended for the operation and maintenance of the Center as provided for in subsection 1459(g)(2).

SEC. 8061. None of the funds appropriated in this Act may be used to fill the commander's position at any military medical facility with a health care professional unless the prospective candidate can demonstrate professional administrative skills.

SEC. 8062. (a) None of the funds appropriated in this Act may be expended by an entity of the Department of Defense unless the entity, in expending the funds, complies with Buy American Act. For purposes of this subsection, the term "Buy American Act" means title III of the Act entitled "An Act making appropriations for the Treasury and Post Office Departments for the fiscal year

ending June 30, 1934, and for other purposes", approved March 3, 1933 (41 U.S.C. 10a et seq.).

(b) If the Secretary of Defense determines that a person has been convicted of intentionally affixing a label bearing a "Made in America" inscription to any product sold in or shipped to the United States that is not made in America, the Secretary shall determine, in accordance with section 2410f of title 10, United States Code, whether the person should be debarred from contracting with the Department of Defense.

(c) In the case of any equipment or products purchased with appropriations provided under this Act, it is the sense of the Congress that any entity of the Department of Defense, in expending the appropriation, purchase only American-made equipment and products, provided that American-made equipment and products are cost-competitive, quality-competitive, and available in a timely fashion.

SEC. 8063. None of the funds appropriated by this Act shall be available for a contract for studies, analyses, or consulting services entered into without competition on the basis of an unsolicited proposal unless the head of the activity responsible for the procurement determines—

(1) as a result of thorough technical evaluation, only one source is found fully qualified to perform the proposed work, or

(2) the purpose of the contract is to explore an unsolicited proposal which offers significant scientific or technological promise, represents the product of original thinking, and was submitted in confidence by one source, or

(3) the purpose of the contract is to take advantage of unique and significant industrial accomplishment by a specific concern, or to insure that a new product or idea of a specific concern is given financial support:

Provided, That this limitation shall not apply to contracts in an amount of less than $25,000, contracts related to improvements of equipment that is in development or production, or contracts as to which a civilian official of the Department of Defense, who has been confirmed by the Senate, determines that the award of such contract is in the interest of the national defense.

SEC. 8064. Funds appropriated by this Act for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414).

50 USC 1521 note.

SEC. 8065. Notwithstanding section 142 of H.R. 3230, the National Defense Authorization Act for Fiscal Year 1997, as passed by the Senate on September 10, 1996, of the funds provided in title VI of this Act, under the heading "Chemical Agents and Munitions Destruction, Defense", $40,000,000 shall only be available for the conduct of a pilot program to identify and demonstrate not less than two alternatives to the baseline incineration process for the demilitarization of assembled chemical munitions: *Provided,* That the Under Secretary of Defense for Acquisition and Technology shall, not later than December 1, 1996, designate a program manager who is not, nor has been, in direct or immediate control of the baseline reverse assembly incineration demilitarization program to carry out the pilot program: *Provided further,* That the Under Secretary of Defense for Acquisition and Technology shall evaluate the effectiveness of each alternative chemical munitions

demilitarization technology identified and demonstrated under the pilot program to demilitarize munitions and assembled chemical munitions while meeting all applicable Federal and State environmental and safety requirements: *Provided further*, That the Under Secretary of Defense for Acquisition and Technology shall transmit, by December 15 of each year, a report to the congressional defense committees on the activities carried out under the pilot program during the preceding fiscal year in which the report is to be made: *Provided further*, That section 142(f)(3) of H.R. 3230, the National Defense Authorization Act for Fiscal Year 1997, as passed by the Senate on September 10, 1996, is repealed: *Provided further*, That no funds may be obligated for the construction of a baseline incineration facility at the Lexington Blue Grass Army Depot or the Pueblo Depot activity until 180 days after the Secretary of Defense has submitted to the congressional defense committees a report detailing the effectiveness of each alternative chemical munitions demilitarization technology identified and demonstrated under the pilot program and its ability to meet the applicable safety and environmental requirements: *Provided further*, That none of the funds in this or any other Act may be obligated for the preparation of studies, assessments, or planning of the removal and transportation of stockpile assembled unitary chemical weapons or neutralized chemical agent to any of the eight chemical weapons storage sites within the continental United States.

50 USC 1521 note.

SEC. 8066. (a) None of the funds made available by this Act may be obligated for design, development, acquisition, or operation of more than 47 Titan IV expendable launch vehicles, or for satellite mission-model planning for a Titan IV requirement beyond 47 vehicles.

(b) $59,600,000 made available in this Act for Research, Development, Test and Evaluation, Air Force, may only be obligated for development of a new family of medium-lift and heavy-lift expendable launch vehicles evolved from existing technologies.

SEC. 8067. None of the funds available to the Department of Defense in this Act may be used to establish additional field operating agencies of any element of the Department during fiscal year 1997, except for field operating agencies funded within the National Foreign Intelligence Program: *Provided*, That the Secretary of Defense may waive this section by certifying to the House and Senate Committees on Appropriations that the creation of such field operating agencies will reduce either the personnel and/or financial requirements of the Department of Defense.

SEC. 8068. Notwithstanding section 303 of Public Law 96–487 or any other provision of law, the Secretary of the Navy is authorized to lease real and personal property at Naval Air Facility, Adak, Alaska, pursuant to 10 U.S.C. 2667(f), for commercial, industrial or other purposes.

SEC. 8069. Notwithstanding any other provision of law, for resident classes entering the war colleges after September 30, 1997, the Department of Defense shall require that not less than 20 percent of the total of United States military students at each war college shall be from military departments other than the hosting military department: *Provided*, That each military department will recognize the attendance at a sister military department war college as the equivalent of attendance at its own war college for promotion and advancement of personnel.

10 USC note prec. 2161.

(RESCISSIONS)

SEC. 8070. Of the funds provided in Department of Defense Appropriations Acts, the following funds are hereby rescinded from the following accounts in the specified amounts:

"Procurement of Ammunition, Army, 1995/1997", $4,500,000;

"Aircraft Procurement, Navy, 1995/1997", $8,000,000;

"Procurement of Ammunition, Navy and Marine Corps, 1995/1997", $2,000,000;

"Other Procurement, Navy, 1995/1997", $10,000,000;

"Aircraft Procurement, Air Force, 1995/1997", $3,100,000;

"Missile Procurement, Air Force, 1995/1997", $31,900,000;

"Aircraft Procurement, Navy, 1996/1998", $5,400,000;

"Procurement of Ammunition, Navy and Marine Corps, 1996/1998", $12,708,000;

"Aircraft Procurement, Air Force, 1996/1998", $9,000,000;

"Missile Procurement, Air Force, 1996/1998", $20,000,000;

"Other Procurement, Air Force, 1996/1998", $26,000,000;

"Research, Development, Test and Evaluation, Navy 1996/1997", $4,500,000.

SEC. 8071. None of the funds provided in this Act may be obligated for payment on new contracts on which allowable costs charged to the government include payments for individual compensation at a rate in excess of $250,000 per year.

SEC. 8072. Of the funds appropriated in the Department of Defense Appropriations Act, 1996 (Public Law 104–61), under the heading "Other Procurement, Army", the Department of the Army shall grant $477,000 to the Kansas Unified School District 207 for the purpose of integrating schools at Fort Leavenworth into the existing fiber optic network on post.

SEC. 8073. None of the funds available in this Act may be used to reduce the authorized positions for military (civilian) technicians of the Army National Guard, the Air National Guard, Army Reserve and Air Force Reserve for the purpose of applying any administratively imposed civilian personnel ceiling, freeze, or reduction on military (civilian) technicians, unless such reductions are a direct result of a reduction in military force structure.

SEC. 8074. None of the funds appropriated or otherwise made available in this Act may be obligated or expended for assistance to the Democratic People's Republic of North Korea unless specifically appropriated for that purpose.

SEC. 8075. During the current fiscal year, funds appropriated in this Act are available to compensate members of the National Guard for duty performed pursuant to a plan submitted by a Governor of a State and approved by the Secretary of Defense under section 112 of title 32, United States Code: *Provided*, That during the performance of such duty, the members of the National Guard shall be under State command and control: *Provided further*, That such duty shall be treated as full-time National Guard duty for purposes of sections 12602 (a)(2) and (b)(2) of title 10, United States Code.

SEC. 8076. Funds appropriated in this Act for operation and maintenance of the Military Departments, Unified and Specified Commands and Defense Agencies shall be available for reimbursement of pay, allowances and other expenses which would otherwise be incurred against appropriations for the National Guard and

Reserve when members of the National Guard and Reserve provide intelligence support to Unified Commands, Defense Agencies and Joint Intelligence Activities, including the activities and programs included within the General Defense Intelligence Program and the Consolidated Cryptologic Program: *Provided*, That nothing in this section authorizes deviation from established Reserve and National Guard personnel and training procedures.

SEC. 8077. During the current fiscal year, none of the funds appropriated in this Act may be used to reduce the civilian medical and medical support personnel assigned to military treatment facilities below the September 30, 1996 level: *Provided*, That the Service Surgeons General may waive this section by certifying to the congressional defense committees that the beneficiary population is declining in some catchment areas and civilian strength reductions may be consistent with responsible resource stewardship and capitation-based budgeting.

SEC. 8078. All refunds or other amounts collected in the administration of the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) shall be credited to current year appropriations.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8079. None of the funds appropriated in this Act may be transferred to or obligated from the Pentagon Reservation Maintenance Revolving Fund, unless the Secretary of Defense certifies that the total cost for the planning, design, construction and installation of equipment for the renovation of the Pentagon Reservation will not exceed $1,118,000,000.

SEC. 8080. (a) None of the funds available to the Department of Defense for any fiscal year for drug interdiction or counter-drug activities may be transferred to any other department or agency of the United States except as specifically provided in an appropriations law. 10 USC 374 note.

(b) None of the funds available to the Central Intelligence Agency for any fiscal year for drug interdiction and counter-drug activities may be transferred to any other department or agency of the United States except as specifically provided in an appropriations law. 50 USC 403f note.

(TRANSFER OF FUNDS)

SEC. 8081. Appropriations available in this Act under the heading "Operation and Maintenance, Defense-Wide" for increasing energy and water efficiency in Federal buildings may, during their period of availability, be transferred to other appropriations or funds of the Department of Defense for projects related to increasing energy and water efficiency, to be merged with and to be available for the same general purposes, and for the same time period, as the appropriation or fund to which transferred.

SEC. 8082. None of the funds appropriated by this Act may be used for the procurement of ball and roller bearings other than those produced by a domestic source and of domestic origin: *Provided*, That the Secretary of the military department responsible for such procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate, that adequate domestic supplies are not available to meet Department of Defense

requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes.

SEC. 8083. Notwithstanding any other provision of law, funds available to the Department of Defense shall be made available to provide transportation of medical supplies and equipment, on a nonreimbursable basis, to American Samoa: *Provided*, That notwithstanding any other provision of law, funds available to the Department of Defense shall be made available to provide transportation of medical supplies and equipment, on a nonreimbursable basis, to the Indian Health Service when it is in conjunction with a civil-military project.

SEC. 8084. None of the funds in this Act may be used to purchase any supercomputer which is not manufactured in the United States, unless the Secretary of Defense certifies to the congressional defense committees that such an acquisition must be made in order to acquire capability for national security purposes that is not available from United States manufacturers.

SEC. 8085. Notwithstanding any other provision of law, the Naval shipyards of the United States shall be eligible to participate in any manufacturing extension program financed by funds appropriated in this or any other Act.

SEC. 8086. None of the funds appropriated by this Act shall be available to lease or charter a vessel in excess of seventeen months (inclusive of any option periods) to transport fuel or oil for the Department of Defense if the vessel was constructed after October 1, 1995 unless the Secretary of Defense requires that the vessel be constructed in the United States with a double hull under the long-term lease or charter authority provided in section 2401 note of title 10, United States Code: *Provided*, That this limitation shall not apply to contracts in force on the date of enactment of this Act: *Provided further*, That by 1997 at least 20 percent of annual leases and charters must be for ships of double hull design constructed after October 1, 1995 if available in numbers sufficient to satisfy this requirement: *Provided further*, That the Military Sealift Command shall plan to achieve the goal of eliminating single hull ship leases by the year 2015.

(TRANSFER OF FUNDS)

SEC. 8087. In addition to amounts appropriated or otherwise made available by this Act, $300,000,000 is hereby appropriated to the Department of Defense and shall be available only for transfer to the United States Coast Guard.

SEC. 8088. Notwithstanding any other provision in this Act, the total amount appropriated in this Act is hereby reduced by $150,000,000 to reflect savings from reduced carryover of activities funded through the Defense Business Operations Fund, to be distributed as follows: "Operation and Maintenance, Army", $60,000,000; and "Operation and Maintenance, Navy", $90,000,000.

SEC. 8089. Notwithstanding any other provision of law, each contract awarded by the Department of Defense during the current fiscal year for construction or service performed in whole or in part in a State which is not contiguous with another State and has an unemployment rate in excess of the national average rate of unemployment as determined by the Secretary of Labor, shall include a provision requiring the contractor to employ, for the purpose of performing that portion of the contract in such State

that is not contiguous with another State, individuals who are residents of such State and who, in the case of any craft or trade, possess or would be able to acquire promptly the necessary skills: *Provided*, That the Secretary of Defense may waive the requirements of this section, on a case-by-case basis, in the interest of national security.

SEC. 8090. During the current fiscal year, the Army shall use the former George Air Force Base as the airhead for the National Training Center at Fort Irwin: *Provided*, That none of the funds in this Act shall be obligated or expended to transport Army personnel into Edwards Air Force Base for training rotations at the National Training Center.

SEC. 8091. (a) The Secretary of Defense shall submit, on a quarterly basis, a report to the congressional defense committees, the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate setting forth all costs (including incremental costs) incurred by the Department of Defense during the preceding quarter in implementing or supporting resolutions of the United Nations Security Council, including any such resolution calling for international sanctions, international peacekeeping operations, and humanitarian missions undertaken by the Department of Defense. The quarterly report shall include an aggregate of all such Department of Defense costs by operation or mission.

(b) The Secretary of Defense shall detail in the quarterly reports all efforts made to seek credit against past United Nations expenditures and all efforts made to seek compensation from the United Nations for costs incurred by the Department of Defense in implementing and supporting United Nations activities.

SEC. 8092 (a) LIMITATION ON TRANSFER OF DEFENSE ARTICLES AND SERVICES.—Notwithstanding any other provision of law, none of the funds available to the Department of Defense for the current fiscal year may be obligated or expended to transfer to another nation or an international organization any defense articles or services (other than intelligence services) for use in the activities described in subsection (b) unless the congressional defense committees, the Committee on International Relations of the House of Representatives, and the Committee on Foreign Relations of the Senate are notified 15 days in advance of such transfer.

(b) COVERED ACTIVITIES.—(1) This section applies to—

(A) any international peacekeeping or peace-enforcement operation under the authority of chapter VI or chapter VII of the United Nations Charter under the authority of a United Nations Security Council resolution; and

(B) any other international peacekeeping, peace-enforcement, or humanitarian assistance operation.

(c) REQUIRED NOTICE.—A notice under subsection (a) shall include the following:

(1) A description of the equipment, supplies, or services to be transferred.

(2) A statement of the value of the equipment, supplies, or services to be transferred.

(3) In the case of a proposed transfer of equipment or supplies—

(A) a statement of whether the inventory requirements of all elements of the Armed Forces (including the reserve

components) for the type of equipment or supplies to be transferred have been met; and

(B) a statement of whether the items proposed to be transferred will have to be replaced and, if so, how the President proposes to provide funds for such replacement.

SEC. 8093. To the extent authorized by subchapter VI of Chapter 148 of title 10, United States Code, the Secretary of Defense shall issue loan guarantees in support of U.S. defense exports not otherwise provided for: *Provided*, That the total contingent liability of the United States for guarantees issued under the authority of this section may not exceed $15,000,000,000: *Provided further*, That the exposure fees charged and collected by the Secretary for each guarantee, shall be paid by the country involved and shall not be financed as part of a loan guaranteed by the United States: *Provided further*, That the Secretary shall provide quarterly reports to the Committees on Appropriations, Armed Services and Foreign Relations of the Senate and the Committees on Appropriations, National Security and International Relations in the House of Representatives on the implementation of this program: *Provided further*, That amounts charged for administrative fees and deposited to the special account provided for under section 2540c(d) of title 10, shall be available for paying the costs of administrative expenses of the Department of Defense that are attributable to the loan guarantee program under subchapter VI of Chapter 148 of title 10.

SEC. 8094. None of the funds available to the Department of Defense shall be obligated or expended to make a financial contribution to the United Nations for the cost of an United Nations peacekeeping activity (whether pursuant to assessment or a voluntary contribution) or for payment of any United States arrearage to the United Nations.

SEC. 8095. None of the funds available to the Department of Defense under this Act shall be obligated or expended to pay a contractor under a contract with the Department of Defense for costs of any amount paid by the contractor to an employee when—

(1) such costs are for a bonus or otherwise in excess of the normal salary paid by the contractor to the employee; and

(2) such bonus is part of restructuring costs associated with a business combination.

SEC. 8096. The amount otherwise provided by this Act for "Operation and Maintenance, Air Force" is hereby reduced by $194,500,000, to reflect a reduction in the pass-through to the Air Force business areas of the Defense Business Operations Fund.

SEC. 8097. (a) None of the funds appropriated or otherwise made available in this Act may be used to transport or provide for the transportation of chemical munitions or agents to the Johnston Atoll for the purpose of storing or demilitarizing such munitions or agents.

(b) The prohibition in subsection (a) shall not apply to any obsolete World War II chemical munition or agent of the United States found in the World War II Pacific Theater of Operations.

(c) The President may suspend the application of subsection (a) during a period of war in which the United States is a party.

SEC. 8098. None of the funds provided in title II of this Act for "Former Soviet Union Threat Reduction" may be obligated or

expended to finance housing for any individual who was a member of the military forces of the Soviet Union or for any individual who is or was a member of the military forces of the Russian Federation.

SEC. 8099. During the current fiscal year, no more than $15,000,000 of appropriations made in this Act under the heading "Operation and Maintenance, Defense-Wide" may be transferred to appropriations available for the pay of military personnel, to be merged with, and to be available for the same time period as the appropriations to which transferred, to be used in support of such personnel in connection with support and services for eligible organizations and activities outside the Department of Defense pursuant to section 2012 of title 10, United States Code.

SEC. 8100. Beginning in fiscal year 1997 and thereafter, and notwithstanding any other provision of law, fixed and mobile telecommunications support shall be provided by the White House Communications Agency (WHCA) to the United States Secret Service (USSS), without reimbursement, in connection with the Secret Service's duties directly related to the protection of the President or the Vice President or other officer immediately next in order of succession to the office of the President at the White House Security Complex in the Washington, D.C. Metropolitan Area and Camp David, Maryland. For these purposes, the White House Security Complex includes the White House, the White House grounds, the Old Executive Office Building, the New Executive Office Building, the Blair House, the Treasury Building, and the Vice President's Residence at the Naval Observatory. 18 USC 3056 note.

SEC. 8101. None of the funds provided in this Act may be obligated or expended for the sale of zinc in the National Defense Stockpile if zinc commodity prices decline more than five percent below the London Metals Exchange market price reported on the date of enactment of this Act.

SEC. 8102. For purposes of section 1553(b) of title 31, United States Code, any subdivision of appropriations made in this Act under the heading "Shipbuilding and Conversion, Navy" shall be considered to be for the same purpose as any subdivision under the heading "Shipbuilding and Conversion, Navy" appropriations in any prior year, and the one percent limitation shall apply to the total amount of the appropriation.

SEC. 8103. During the current fiscal year, and notwithstanding 31 U.S.C. 1552(a), not more than $107,000,000 appropriated under the heading "Aircraft Procurement, Air Force" in Public Law 101–511 and not more than $15,000,000 appropriated under the heading "Aircraft Procurement, Air Force" in Public Law 102–172 which were available and obligated for the B–2 Aircraft Program shall remain available for expenditure and for adjusting obligations for such Program until September 30, 2002.

SEC. 8104. During the current fiscal year, in the case of an appropriation account of the Department of Defense for which the period of availability for obligation has expired or which has closed under the provisions of section 1552 of title 31, United States Code, and which has a negative unliquidated or unexpended balance, an obligation or an adjustment of an obligation may be charged to any current appropriation account for the same purpose as the expired or closed account if—

(1) the obligation would have been properly chargeable (except as to amount) to the expired or closed account before the end of the period of availability or closing of that account;

(2) the obligation is not otherwise properly chargeable to any current appropriation account of the Department of Defense; and

(3) in the case of an expired account, the obligation is not chargeable to a current appropriation of the Department of Defense under the provisions of section 1405(b)(8) of the National Defense Authorization Act for Fiscal Year 1991, Public Law 101–510, as amended (31 U.S.C. 1551 note): *Provided*, That in the case of an expired account, if subsequent review or investigation discloses that there was not in fact a negative unliquidated or unexpended balance in the account, any charge to a current account under the authority of this section shall be reversed and recorded against the expired account: *Provided further*, That the total amount charged to a current appropriation under this section may not exceed an amount equal to one percent of the total appropriation for that account.

(TRANSFER OF FUNDS)

SEC. 8105. Upon enactment of this Act, the Secretary of Defense shall make the following transfers of funds: *Provided*, That the amounts transferred shall be available for the same purposes as the appropriations to which transferred, and for the same time period as the appropriation from which transferred: *Provided further*, That the amounts shall be transferred between the following appropriations in the amount specified:

From:

Under the heading, "Shipbuilding and Conversion, Navy, 1985/1995":

CG–47 cruiser program, $4,300,000;

For craft, outfitting, and post delivery, $2,000,000;

To:

Under the heading, "Shipbuilding and Conversion, Navy, 1985/1995":

DDG–51 destroyer program, $6,300,000;

From:

Under the heading, "Shipbuilding and Conversion, Navy, 1986/1996":

LHD–1 amphibious assault ship program, $2,154,000;

To:

Under the heading, "Shipbuilding and Conversion, Navy, 1986/1996":

For craft, outfitting and post delivery, $2,154,000;

From:

Under the heading, "Shipbuilding and Conversion, Navy, 1987/1996":

T–AO fleet oiler program, $1,095,000;

Oceanographic ship program, $735,000;

To:

Under the heading, "Shipbuilding and Conversion, Navy, 1987/1996":

For craft, outfitting, and post delivery, $1,830,000;

From:

Under the heading, "Shipbuilding and Conversion, Navy, 1989/2000":

T–AO fleet oiler program, $6,571,000;
To:
Under the heading, "Shipbuilding and Conversion, Navy, 1989/2000":
SSN–21 attack submarine program, $6,571,000;
From:
Under the heading, "Shipbuilding and Conversion, Navy, 1991/2001":
DDG–51 destroyer program, $12,687,000;
To:
Under the heading, "Shipbuilding and Conversion, Navy, 1991/2001":
LHD–1 amphibious assault ship program, $9,387,000;
MHC coastal mine hunter program, $3,300,000;
From:
Under the heading, "Shipbuilding and Conversion, Navy, 1992/1996":
For escalation, $1,600,000;
To:
Under the heading, "Shipbuilding and Conversion, Navy, 1992/1996":
MHC coastal mine hunter program, $1,600,000;
From:
Under the heading, "Shipbuilding and Conversion, Navy, 1993/1997":
DDG–51 destroyer program, $5,000,000;
LSD–41 cargo variant ship program, $2,700,000;
For craft, outfitting, post delivery, and first destination transportation, and inflation adjustments, $1,577,000;
To:
Under the heading, "Shipbuilding and Conversion, Navy, 1993/1997":
AOE combat support ship program, $9,277,000;
From:
Under the heading, "Shipbuilding and Conversion, Navy, 1995/1999":
Carrier replacement program, $18,023,000;
To:
Under the heading, "Shipbuilding and Conversion, Navy, 1993/1997":
MHC coastal mine hunter program, $6,700,000;
AOE combat support ship program, $11,323,000;
From:
Under the heading, "Shipbuilding and Conversion, Navy, 1994/1998":
LHD–1 amphibious assault ship program, $4,100,000;
Mine warfare command and control ship, $1,000,000;
For craft, outfitting, post delivery, and first destination transportation, $2,000,000;
From:
Under the heading, "Shipbuilding and Conversion, Navy, 1995/1999":
Carrier replacement program, $9,477,000;
From:
Under the heading, "Shipbuilding and Conversion, Navy, 1996/2000":
NSSN–1 (AP), $3,791,000;

DDG–51 destroyer program, $4,075,000;
CVN Refuelings, $5,212,000;
LHD–1 amphibious ship program, $16,800,000;
T–AGS–64 multi-purpose oceanographic survey ship, $375,000;
For craft, outfitting, post delivery, conversions and first destination transportation, $11,770,000;

To:

Under the heading, "Shipbuilding and Conversion, Navy, 1994/1998":
DDG–51 destroyer program, $41,800,000; and
Under the heading, "Shipbuilding and Conversion, Navy, 1995/1999":
For craft, outfitting, post delivery, conversions and first destination transportation, $16,800,000.

10 USC 113 note.

SEC. 8106. (a) The Secretary of Defense shall require not later than June 30, 1997, each disbursement by the Department of Defense in an amount in excess of $3,000,000 be matched to a particular obligation before the disbursement is made.

(b) The Secretary shall ensure that a disbursement in excess of the threshold amount applicable under section (a) is not divided into multiple disbursements of less than that amount for the purpose of avoiding the applicability of such section to that disbursement.

SEC. 8107. Notwithstanding any other provision of law, the Air Force shall not introduce any new supplier for the remaining production units for the AN/ALE–47 Countermeasures Dispenser System without conducting a full and open competition that will include, but not be limited to, small businesses.

SEC. 8108. The Under Secretary of Defense (Comptroller) shall submit to the congressional defense committees a detailed report identifying, by amount and by separate budget activity, activity group, subactivity group, line item, program element, program, project, subproject, and activity, any activity for which the fiscal year 1998 budget request was reduced because Congress appropriated funds above the President's budget request for that specific activity for fiscal year 1997.

10 USC 2241 note.

SEC. 8109. In applying section 9005 of the Department of Defense Appropriations Act, 1993, Public Law 102–396 (10 U.S.C. 2241 note), during the current fiscal year and thereafter—

(1) the term "synthetic fabric and coated synthetic fabric" shall be deemed to include all textile fibers and yarns that are for use in such fabrics; and

(2) such section shall be treated, notwithstanding section 34 of Public Law 93–400 (41 U.S.C. 430), as being applicable to contracts and subcontracts for the procurement of commercial items that are articles or items, specialty metals, or tools covered by that section 9005.

SEC. 8110. Notwithstanding any other provision of law, including Section 2304(j) of title 10, United States Code, of the funds appropriated under the heading "Aircraft Procurement, Navy" in Public Law 104–61, $45,000,000 shall be made available only for acquisition of T–39N aircraft, associated ground-based training system (GBTS), service life extension related components and parts, associated equipment, and data that meet the Undergraduate Flight Officer (UNFO) training requirements by procurement of the T–

39N aircraft currently being used by the Navy for UNFO training under a services contract.

SEC. 8111. TRADEOFF STUDY OF CURRENT AND FUTURE DEEP-STRIKE CAPABILITIES.—

(1) The Secretary of Defense shall carry out the deep-strike tradeoff study announced by the President to study tradeoffs between bombers, land and sea-based tactical aircraft, and missiles capable of striking targets in an enemy's rear area.

(2) The Secretary of Defense shall establish an ad hoc review committee under the auspices of the Defense Science Board to establish the methodological approach to the tradeoff study, to establish a broad range of stressing scenarios of interest, and to review assumptions regarding the analyses to be conducted.

(3) The ad hoc review committee to be established under paragraph (2) shall include among its members analysts who have performed or participated in bomber tradeoff analysis, retired military personnel with broad experience in recent conventional warfare operations, and experts on the logistics of both initial deployment and sustaining support. These members shall be selected without regard for current service on the Defense Science Board.

(4) After submitting its recommendations for the conduct of the deep-strike tradeoff study to the Secretary of Defense, the ad hoc review committee shall continue to meet regularly to review preliminary results of the analysis and to recommend additional variations in assumptions that may be required to illuminate particular force tradeoff issues.

SEC. 8112. Notwithstanding 31 U.S.C. 1552(a), of the funds provided in Department of Defense Appropriations Acts, not more than the specified amounts of funds from the following accounts shall remain available for the payment of satellite on-orbit incentive fees until the fees are paid:

"Missile Procurement, Air Force, 1990/1992", $17,800,000;
"Missile Procurement, Air Force, 1991/1993", $19,330,000;
"Missile Procurement, Air Force, 1992/1994", $23,570,000;
"Missile Procurement, Air Force, 1993/1995", $16,780,000;
"Missile Procurement, Air Force, 1994/1996", $16,780,000.

SEC. 8113. TACTICAL AIRCRAFT REQUIREMENT STUDY.—The Secretary of Defense and the Chairman of the Joint Chiefs of Staff shall carry out a joint study under the direct supervision of the Joint Requirements Oversight Council (JROC) assessing future tactical aircraft requirements across service jurisdictions. This study shall determine the best and most affordable mix of weapon systems to carry out different mission areas and shall include recommendations for changes to the planned numbers and types of tactical aircraft to be developed and procured over the next ten years if appropriate. Such report shall be submitted to the congressional defense committees no later than March 30, 1997.

SEC. 8114. None of the funds available to the Department of the Navy may be used to enter into any contract for the overhaul, repair, or maintenance of any naval vessel homeported on the West Coast of the United States which includes charges for interport differential as an evaluation factor for award.

SEC. 8115. (a) None of the funds available to the Department of Defense under this Act may be obligated or expended to reimburse a defense contractor for restructuring costs associated

with a business combination of the defense contractor that occurs after the date of enactment of this Act unless:

(1) the auditable savings for the Department of Defense resulting from the restructuring will exceed the costs allowed by a factor of at least two to one, or

(2) the savings for the Department of Defense resulting from the restructuring will exceed the costs allowed and the Secretary of Defense determines that the business combination will result in the preservation of a critical capability that might otherwise be lost to the Department, and

(3) the report required by Section 818(e) of Public Law 103–337 to be submitted to Congress in 1996 is submitted.

(b) Not later than April 1, 1997, the Comptroller General shall, in consultation with the Inspector General of the Department of Defense, the Secretary of Defense, and the Secretary of Labor, submit to Congress a report which shall include the following:

(1) an analysis and breakdown of the restructuring costs paid by or submitted to the Department of Defense to companies involved in business combinations since 1993;

(2) an analysis of the specific costs associated with workforce reductions;

(3) an analysis of the services provided to the workers affected by business combinations;

(4) an analysis of the effectiveness of the restructuring costs used to assist laid off workers in gaining employment;

(5) in accordance with section 818 of Public Law 103–337, an analysis of the savings reached from the business combination relative to the restructuring costs paid by the Department of Defense.

(c) The report should set forth recommendations to make this program more effective for workers affected by business combinations and more efficient in terms of the use of Federal dollars.

SEC. 8116. Notwithstanding any other provision of law, none of the funds appropriated in this Act may be used to purchase, install, replace, or otherwise repair any lock on a safe or security container which protects information critical to national security or any other classified materials and which has not been certified as passing the security lock specifications contained in regulation FF–L–2740 dated October 12, 1989, and has not passed all testing criteria and procedures established through February 28, 1992: *Provided*, That the Director of Central Intelligence may waive this provision, on a case-by-case basis only, upon certification that the above cited locks are not adequate for the protection of sensitive intelligence information.

SEC. 8117. Section 8110 of Public Law 104–61 (109 Stat. 674) is hereby repealed.

SEC. 8118. The Secretary of Defense, in conjunction with the Secretary of Labor, shall take such steps as required to ensure that those Department of Defense contractors and other entities subject to section 4212(d) of title 38, United States Code are aware of, and in compliance with, the requirements of that section regarding submission of an annual report to the Secretary of Labor concerning employment of certain veterans: *Provided*, That the Secretary of Defense shall ensure that those Department of Defense contractors and other entities subject to section 4212(d) of title 38, United States Code which have contracts with the Department of Defense are notified of the potential penalties associated with

failure to comply with these annual reporting requirements (including potential suspension or debarment from federal contracting): *Provided further*, That within 180 days of enactment of this Act the Secretary of Labor and the Secretary of Defense shall submit a report to Congress which—

(1) using the most recent reporting data, details the number of reports received from Department of Defense contractors and the estimated number of Department of Defense contractors which are not in compliance with these annual reporting requirements;

(2) describes the steps taken by the Departments of Labor and Defense in order to ensure compliance with section 4212(d) of title 38, United States Code;

(3) describes any additional measures taken or planned to be taken by the Departments of Labor and Defense to improve compliance with section 4212(d) of title 38, United States Code pursuant to this section; and

(4) any further recommendations regarding additional action (including changes in existing law) which may be necessary to improve compliance with section 4212(d) of title 38, United States Code.

SEC. 8119. Funds appropriated in title II of this Act for supervision and administration costs for facilities maintenance and repair, minor construction, or design projects may be obligated at the time the reimbursable order is accepted by the performing activity: *Provided*, That for the purpose of this section, supervision and administration costs includes all in-house Government cost.

SEC. 8120. (a) LIMITATION ON ADVANCE BILLING.—During fiscal year 1997, advance billing for services provided or work performed by the Defense Business Operations Fund activities of the Department of the Navy in excess of $1,000,000,000 is prohibited.

(b) REVISED RATES; ADDITIONAL SURCHARGES.—In conjunction with the Under Secretary of Defense (Comptroller), the Secretary of the Navy shall develop a plan to revise fiscal year 1997 customer rates or establish additional surcharges so as to increase revenues to the Defense Business Operations Fund by at least an additional $500,000,000 in executing orders accepted during fiscal year 1997.

(c) TRANSFER AUTHORITY.—To the extent necessary to comply with any rate increase or new surcharge on rates in fiscal year 1997 established under subsection (b), the Secretary of the Navy shall transfer at least $500,000,000, from funds made available under subsection (d), into customer accounts of the Navy used to reimburse the Defense Business Operations Fund so as to provide customers with sufficient resources to pay the increased customer rates and additional surcharges. The transfer authority provided by this subsection is in addition to other transfer authority provided in this Act. The funds transferred shall be merged with and available for the same purposes, and for the same time period, as the appropriation to which transferred.

(d) SOURCE OF FUNDS.—To provide funds for transfer under subsection (c), the amounts appropriated elsewhere in this Act for the following appropriation accounts are reduced by 2.0 percent: Aircraft Procurement, Navy; Weapons Procurement, Navy; Procurement of Ammunition, Navy and Marine Corps; Shipbuilding and Conversion, Navy; Other Procurement, Navy; and Research, Development, Test and Evaluation, Navy. These reductions shall be applied on a pro-rata basis to each line item, program element,

program, project, subproject, and activity within each appropriation account.

SEC. 8121. The Secretary of Defense may waive reimbursement of the cost of conferences, seminars, courses of instruction, or similar educational activities of the Asia-Pacific Center for Security Studies for military officers and civilian officials of foreign nations if the Secretary determines that attendance by such personnel, without reimbursement, is in the national security interest of the United States: *Provided*, That costs for which reimbursement is waived pursuant to this subsection shall be paid from appropriations available for the Asia-Pacific Center.

SEC. 8122. (a) Of the amounts appropriated or otherwise made available by this Act for the Department of the Air Force, $2,000,000 shall be available only for a facility at Lackland Air Force Base, Texas to provide comprehensive care and rehabilitation services to children with disabilities who are dependents of members of the Armed Forces.

(b) Subject to subsection (c), the Secretary of the Air Force shall grant the funds made available under subsection (a) to the Children's Association for Maximum Potential (CAMP) for use by the association to defray the costs of designing and constructing the facility referred to in subsection (a).

(c)(1) The Secretary may not make a grant of funds under subsection (b) until the Secretary and the association enter into an agreement under which the Secretary leases to the association the facility to be constructed using the funds.

(2) The term of the lease under subsection (c)(1) may not be less than 25 years.

(3) The Secretary may require such additional terms and conditions in connection with the lease as the Secretary considers appropriate to protect the interests of the United States.

SEC. 8123. None of the funds appropriated by this Act may be obligated or expended—

(1) to reduce the number of units of special operations forces of the Army National Guard during fiscal year 1997;

(2) to reduce the authorized strength of any such unit below the strength authorized for the unit as of September 30, 1996; or

(3) to apply any administratively imposed limitation on the assigned strength of any such unit at less than the strength authorized for that unit as of September 30, 1996.

SEC. 8124. (a) The Secretary of the Army shall ensure that solicitations for contracts for unrestricted procurement to be entered into using funds appropriated for the Army by this Act include, where appropriate, specific goals for subcontracts with small businesses, small disadvantaged businesses, and women owned small businesses.

(b) The Secretary shall ensure that any subcontract entered into pursuant to a solicitation referred to in subsection (a) that meets a specific goal referred to in that subsection is credited toward the overall goal of the Army for subcontracts with the businesses referred to in that subsection.

SEC. 8125. (a) The Secretary of the Air Force and the Director of the Office of Personnel Management shall submit a joint report describing in detail the benefits, allowances, services, and any other forms of assistance which may or shall be provided to any civilian employee of the Federal Government or to any private citizen,

or to the family of such an individual, who is injured or killed while traveling on an aircraft owned, leased, chartered, or operated by the Government of the United States.

(b) The report required by subsection (a) above shall be submitted to the congressional defense committees and to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform and Oversight of the House of Representatives not later than December 15, 1996.

SEC. 8126. (a) Not later than March 1, 1997, the Deputy Secretary of Defense shall submit to the congressional defense committees a report on Department of Defense procurements of propellant raw materials.

(b) The report shall include the following:

(1) The projected future requirements of the Department of Defense for propellant raw materials, such as nitrocellulose.

(2) The capacity, ability, and production cost rates of the national technology and industrial base, including Government-owned, contractor-operated facilities, contractor-owned and operated facilities, and Government-owned, Government-operated facilities, for meeting such requirements.

(3) The national security benefits of preserving in the national technology and industrial base contractor-owned and operated facilities for producing propellant raw materials, including nitrocellulose.

(4) The extent to which the cost rates for production of nitrocellulose in Government-owned, contractor-operated facilities is lower because of the relationship of those facilities with the Department of Defense than such rates would be without that relationship.

(5) The advantages and disadvantages of permitting commercial facilities to compete for award of Department of Defense contracts for procurement of propellant raw materials, such as nitrocellulose.

SEC. 8127. Not later than six months after the date of the enactment of this Act, the Secretary of the Air Force shall submit to Congress a cost-benefit analysis of consolidating the ground station infrastructure of the Air Force that supports polar orbiting satellites.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8128. In addition to the amounts appropriated elsewhere in this Act, $100,000,000 is appropriated for defense against weapons of mass destruction: *Provided*, That the funds appropriated under this section may be transferred to and merged with funds appropriated elsewhere in this Act and that this transfer authority shall be in addition to any other transfer authority provided under this Act: *Provided further*, That of the funds made available by this section, $10,000,000 shall be transferred to and merged with funds appropriated in this Act for "Procurement, Marine Corps" and shall be available only for the procurement of equipment that enhances the capability of the Chemical-Biological Incident Response Force to respond to incidents of terrorism.

SEC. 8129. The Secretary of Defense, in consultation with the Secretary of Health and Human Services and the Director of the Office of Personnel Management, shall submit a report to the congressional defense committees by February 1, 1997 containing recommendations regarding the establishment of a demonstration

program under which covered beneficiaries under chapter 55 of title 10, United States Code, who are entitled to benefits under part A of the medicare program and who do not have access to TRICARE, would be permitted to enroll in a health benefits program offered through the Federal Employee Health Benefits Program under chapter 89 of title 5, United States Code.

SEC. 8130. (a) Section 203 of H.R. 3230, the National Defense Authorization Act for Fiscal Year 1997, as passed by the Senate on September 10, 1996, is hereby amended by repealing section 203(a), section 203(c), and section 203(e).

(b) The amendments made by subsection (a) shall take effect as of the date of the enactment of the National Defense Authorization Act for Fiscal Year 1997 as if section 203 of such Act had been enacted as so amended.

SEC. 8131. (a) Section 722(c) of the National Defense Authorization Act for Fiscal Year 1997 is amended— 10 USC 1073 note.

(1) by striking out paragraph (2);

(2) by striking out "(1)"; and

(3) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively.

(b) The amendments made by subsection (a) shall take effect as of the date of the enactment of the National Defense Authorization Act for Fiscal Year 1997 as if section 722 of such Act had been enacted as so amended. 10 USC 1073 note.

SEC. 8132. The Secretary of Defense shall complete a cost/benefit analysis on the establishment of a National Missile Defense Joint Program Office: *Provided*, That the Secretary of Defense shall submit a report on this analysis to the congressional defense committees no later than March 31, 1997: *Provided further*, That the Department of Defense shall take no action to establish any National Missile Defense Joint Program Office, to reassign service National Missile Defense roles and missions under any National Missile Defense Joint Program Office strategy or to relocate people under such a strategy prior to March 31, 1997.

SEC. 8133. (a) Notwithstanding any other provision of law, the Chief of the National Guard Bureau may permit the use of equipment of the National Guard Distance Learning Project by any person or entity on a space-available, reimbursable basis. The Chief of the National Guard Bureau shall establish the amount of reimbursement for such use on a case-by-case basis.

(b) Amounts collected under subsection (a) shall be credited to funds available for the National Guard Distance Learning Project and be available to defray the costs associated with the use of equipment of the project under that subsection. Such funds shall be available for such purposes without fiscal year limitation.

SEC. 8134. Using funds available by this Act or any other Act, the Secretary of the Air Force, pursuant to a determination under section 2690 of title 10, United States Code, may implement cost-effective agreements for required heating facility modernization in the Kaiserslautern Military Community in the Federal Republic of Germany: *Provided*, That in the City of Kaiserslautern such agreements will include the use of United States anthracite as the base load energy for municipal district heat to the United States Defense installations: *Provided further*, That at Landstuhl Army Regional Medical Center and Ramstein Air Base, furnished heat may be obtained from private, regional or municipal services,

if provisions are included for the consideration of United States coal as an energy source.

SEC. 8135. (a) Section 2867 of the National Defense Authorization Act for Fiscal Year 1997 is amended—

(1) by striking out "Michael O'Callaghan Military Hospital" both places it appears in the text of such section and inserting in lieu thereof "Mike O'Callaghan Federal Hospital"; and

(2) in the section heading, by striking out "MICHAEL O'CALLAGHAN MILITARY HOSPITAL" and inserting in lieu thereof "MIKE O'CALLAGHAN FEDERAL HOSPITAL".

(b) The amendments made by subsection (a) shall take effect as of the date of the enactment of the National Defense Authorization Act for Fiscal Year 1997 and shall apply as if such amendments had been included in section 2867 of such Act when enacted.

SEC. 8136. (a) In addition to any other reductions required by this Act, the following funds are hereby reduced from the following accounts in title IV of this Act in the specified amounts:

"Research, Development, Test and Evaluation, Army", $101,257,000;

"Research, Development, Test and Evaluation, Navy", $164,179,000;

"Research, Development, Test and Evaluation, Air Force", $289,992,000;

"Research, Development, Test and Evaluation, Defense-Wide", $119,483,000; and

"Developmental Test and Evaluation, Defense", $5,641,000.

(b) The reductions taken pursuant to subsection (a) shall be applied on a pro-rata basis by subproject within each R-1 program element as modified by this Act, except that no reduction may be taken against the funds made available to the Department of Defense for Ballistic Missile Defense.

(c) Unless expressly exempted by subsection (b), each program element, program, project, subproject, and activity funded by title IV of this Act shall be allocated a pro-rata share of any of the reductions made by this section.

(d) Not later than 60 days after enactment of this Act, the Secretary of Defense shall submit to the Congressional defense committees a report listing the specific funding reductions allocated to each category listed in subsection (c) above pursuant to this section.

SEC. 8137. In addition to amounts appropriated or otherwise made available in this Act, $230,680,000 is hereby appropriated to the Department of Defense for anti-terrorism, counter-terrorism, and security enhancement programs and activities, as follows:

"Operation and Maintenance, Army", $15,249,000;

"Operation and Maintenance, Navy", $23,956,000;

"Operation and Maintenance, Marine Corps", $600,000;

"Operation and Maintenance, Air Force", $10,750,000;

"Operation and Maintenance, Defense-Wide", $29,534,000;

"Operation and Maintenance, Navy Reserve", $517,000;

"Other Procurement, Army", $5,252,000;

"Other Procurement, Air Force", $101,472,000;

"Procurement, Defense-Wide", $35,350,000;

"Research, Development, Test and Evaluation, Defense-Wide", $8,000,000:

Provided, That such amounts in their entirety are designated by Congress as an emergency requirement pursuant to section

251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended; *Provided further*, That funds appropriated in this section, or made available by transfer of such funds, for programs and activities of the Central Intelligence Agency shall remain available until September 30, 1997; *Provided further*, That funds appropriated in this section or made available by transfer of such funds, to any intelligence agency or activity of the United States Government shall be deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414).

SEC. 8138. Of the amounts provided in Titles I though VIII of this Act, $230,680,000 are permanently canceled: *Provided*, That the Secretary of Defense shall allocate the amount of budgetary resources canceled by this section on a pro-rata basis among each budget activity, activity group and subactivity group and each program, project or activity within each appropriations account.

Short title.

Titles I through VIII of this Act may be cited as the "Department of Defense Appropriations Act, 1997".

TITLE IX—FISCAL YEAR 1996 SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS FOR ANTI-TERRORISM, COUNTER-TERRORISM, AND SECURITY ENHANCEMENT ACTIVITIES

The following sums are appropriated, out of any money in the Treasury not otherwise appropriated, to provide emergency supplemental appropriations for the Department of Defense for the fiscal year ending September 30, 1996, namely:

DEPARTMENT OF DEFENSE—MILITARY

MILITARY PERSONNEL

MILITARY PERSONNEL, ARMY

For an additional amount for "Military Personnel, Army", $4,800,000: *Provided*, That such amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

MILITARY PERSONNEL, AIR FORCE

For an additional amount for "Military Personnel, Air Force", $4,000,000: *Provided*, That such amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

For an additional amount for "Operation and Maintenance, Army", $21,200,000, to remain available until September 30, 1997:

Provided, That such amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

OPERATION AND MAINTENANCE, AIR FORCE

For an additional amount for "Operation and Maintenance, Air Force", $67,400,000, to remain available until September 30, 1997: *Provided*, That such amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That these funds may be used to liquidate obligations incurred by the Air Force during fiscal year 1996 for costs incurred under the authority of the Feed and Forage Act (41 U.S.C. 11).

PROCUREMENT

OTHER PROCUREMENT, ARMY

For an additional amount for "Other Procurement, Army", $11,600,000, to remain available until September 30, 1998: *Provided*, That such amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

OTHER PROCUREMENT, AIR FORCE

For an additional amount for "Other Procurement, Air Force", $13,600,000, to remain available until September 30, 1998: *Provided*, That such amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

GENERAL PROVISIONS

(RESCISSIONS)

SEC. 9001. Of the funds provided in Department of Defense Appropriations Acts, the following funds are hereby rescinded, as of the date of enactment of this Act, from the following accounts in the specified amounts:

"Procurement of Ammunition, Army, 1994/1996", $1,000,000;

"Other Procurement, Army, 1994/1996", $6,000,000;

"Research, Development, Test and Evaluation, Army, 1995/1996", $2,055,000;

"Aircraft Procurement, Navy, 1994/1996", $10,157,000;

"Weapons Procurement, Navy, 1994/1996", $10,688,000;

"Other Procurement, Navy, 1994/1996", $4,000,000;

"Research, Development, Test and Evaluation, Navy, 1995/1996", $6,909,000;

"Aircraft Procurement, Air Force, 1994/1996", $18,771,000;

"Missile Procurement, Air Force, 1994/1996", $10,156,000;

"Other Procurement, Air Force, 1994/1996", $14,395,000;

"Research, Development, Test and Evaluation, Air Force, 1995/1996", $4,918,000;

"Procurement, Defense-Wide, 1994/1996", $9,954,000;

"Research, Development, Test and Evaluation, Defense-Wide, 1995/1996", $23,597,000.

SEC. 9002. Funds appropriated by this title, or made available by transfer of such funds, for programs and activities of the Central Intelligence Agency shall remain available until September 30, 1997: *Provided*, That funds appropriated by this title, or made available by transfer of such funds, to any intelligence agency or intelligence activity of the United States Government shall be deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414).

(c) For programs, projects or activities in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997, provided as follows, to be effective as if it had been enacted into law as the regular appropriations Act:

AN ACT

Making appropriations for the foreign operations, export financing, and related programs for the fiscal year ending September 30, 1997, and for other purposes.

Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997.
Post, p. 3009–172.

TITLE I—EXPORT AND INVESTMENT ASSISTANCE

EXPORT-IMPORT BANK OF THE UNITED STATES

The Export-Import Bank of the United States is authorized to make such expenditures within the limits of funds and borrowing authority available to such corporation, and in accordance with law, and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 104 of the Government Corporation Control Act, as may be necessary in carrying out the program for the current fiscal year for such corporation: *Provided,* That none of the funds available during the current fiscal year may be used to make expenditures, contracts, or commitments for the export of nuclear equipment, fuel, or technology to any country other than a nuclear-weapon State as defined in Article IX of the Treaty on the Non-Proliferation of Nuclear Weapons eligible to receive economic or military assistance under this Act that has detonated a nuclear explosive after the date of enactment of this Act.

SUBSIDY APPROPRIATION

For the cost of direct loans, loan guarantees, insurance, and tied-aid grants as authorized by section 10 of the Export-Import Bank Act of 1945, as amended, $726,000,000 to remain available until September 30, 1998: *Provided,* That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further,* That such sums shall remain available until 2012 for the disbursement of direct loans, loan guarantees, insurance and tied-aid grants obligated in fiscal years 1997 and 1998: *Provided further,* That up to $50,000,000 of funds appropriated by this paragraph shall remain available until expended and may be used for tied-aid grant purposes: *Provided further,* That none of the funds appropriated by this paragraph may be used for tied-aid credits or grants except through the regular notification procedures of the Committees on Appropriations: *Provided further,* That funds appropriated by this paragraph are made available notwithstanding section

2(b)(2) of the Export-Import Bank Act of 1945, in connection with the purchase or lease of any product by any East European country, any Baltic State, or any agency or national thereof.

ADMINISTRATIVE EXPENSES

For administrative expenses to carry out the direct and guaranteed loan and insurance programs (to be computed on an accrual basis), including hire of passenger motor vehicles and services as authorized by 5 U.S.C. 3109, and not to exceed $20,000 for official reception and representation expenses for members of the Board of Directors, $46,614,000: *Provided*, That necessary expenses (including special services performed on a contract or fee basis, but not including other personal services) in connection with the collection of moneys owed the Export-Import Bank, repossession or sale of pledged collateral or other assets acquired by the Export-Import Bank in satisfaction of moneys owed the Export-Import Bank, or the investigation or appraisal of any property, or the evaluation of the legal or technical aspects of any transaction for which an application for a loan, guarantee or insurance commitment has been made, shall be considered nonadministrative expenses for the purposes of this heading: *Provided further*, That, effective July 21, 1997, notwithstanding any other provision of law, none of the funds made available by this or any other Act may be made available to compensate the incumbent Chairman and President of the Export-Import Bank *Provided further*, That, notwithstanding subsection (b) of section 117 of the Export Enhancement Act of 1992, subsection (a) thereof shall remain in effect until October 1, 1997.

12 USC 635a note.

OVERSEAS PRIVATE INVESTMENT CORPORATION

NONCREDIT ACCOUNT

The Overseas Private Investment Corporation is authorized to make, without regard to fiscal year limitations, as provided by 31 U.S.C. 9104, such expenditures and commitments within the limits of funds available to it and in accordance with law as may be necessary: *Provided*, That the amount available for administrative expenses to carry out the credit and insurance programs (including an amount for official reception and representation expenses which shall not exceed $35,000) shall not exceed $32,000,000: *Provided further*, That project-specific transaction costs, including direct and indirect costs incurred in claims settlements, and other direct costs associated with services provided to specific investors or potential investors pursuant to section 234 of the Foreign Assistance Act of 1961, shall not be considered administrative expenses for the purposes of this heading.

PROGRAM ACCOUNT

For the cost of direct and guaranteed loans, $72,000,000, as authorized by section 234 of the Foreign Assistance Act of 1961: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That such sums shall be available for direct loan obligations and loan guaranty commitments incurred or made during fiscal years 1997 and 1998: *Provided further*, That such sums shall remain available through fiscal year 2005 for

the disbursement of direct and guaranteed loans obligated in fiscal year 1997, and through fiscal year 2006 for the disbursement of direct and guaranteed loans obligated in fiscal year 1998: *Provided further*, That section 235(a)(3) of the Foreign Assistance Act of 1961 (22 U.S.C. 2195(a)(3)) is amended by striking out "1996" and inserting in lieu thereof "1997" and, notwithstanding section 235(a)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2195(a)(1)), the maximum contingent liability of issuing authority for insurance and financing shall not in the aggregate exceed the amounts provided in section 235(a)(1) and (2) of that Act. In addition, such sums as may be necessary for administrative expenses to carry out the credit program may be derived from amounts available for administrative expenses to carry out the credit and insurance programs in the Overseas Private Investment Corporation Noncredit Account and merged with said account.

FUNDS APPROPRIATED TO THE PRESIDENT

TRADE AND DEVELOPMENT AGENCY

For necessary expenses to carry out the provisions of section 661 of the Foreign Assistance Act of 1961, $40,000,000: *Provided*, That the Trade and Development Agency may receive reimbursements from corporations and other entities for the costs of grants for feasibility studies and other project planning services, to be deposited as an offsetting collection to this account and to be available for obligation until September 30, 1998, for necessary expenses under this paragraph: *Provided further*, That such reimbursements shall not cover, or be allocated against, direct or indirect administrative costs of the agency.

TITLE II—BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

For expenses necessary to enable the President to carry out the provisions of the Foreign Assistance Act of 1961, and for other purposes, to remain available until September 30, 1997, unless otherwise specified herein, as follows:

AGENCY FOR INTERNATIONAL DEVELOPMENT

CHILD SURVIVAL AND DISEASE PROGRAMS FUND

For necessary expenses to carry out the provisions of part I and chapter 4 of part II of the Foreign Assistance Act of 1961, for child survival, basic education, assistance to combat tropical and other diseases, and related activities, in addition to funds otherwise available for such purposes, $600,000,000, to remain available until expended: *Provided*, That this amount shall be made available for such activities as (1) immunization programs, (2) oral rehydration programs, (3) health and nutrition programs, and related education programs, which address the needs of mothers and children, (4) water and sanitation programs, (5) assistance for displaced and orphaned children, (6) programs for the prevention, treatment, and control of, and research on, tuberculosis, HIV/AIDS, polio, malaria and other diseases, (7) not to exceed $98,000,000 for basic education programs for children, and (8) a contribution on a grant basis to the United Nations Children's

Fund (UNICEF) pursuant to section 301 of the Foreign Assistance Act of 1961.

DEVELOPMENT ASSISTANCE

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out the provisions of sections 103 through 106 and chapter 10 of part I of the Foreign Assistance Act of 1961, title V of the International Security and Development Cooperation Act of 1980 (Public Law 96–533) and the provisions of section 401 of the Foreign Assistance Act of 1969, $1,181,500,000, to remain available until September 30, 1998: *Provided,* That of the amount appropriated under this heading, up to $20,000,000 may be made available for the Inter-American Foundation and shall be apportioned directly to that agency: *Provided further,* That of the amount appropriated under this heading, up to $11,500,000 may be made available for the African Development Foundation and shall be apportioned directly to that agency: *Provided further,* That of the funds appropriated under title II of this Act that are administered by the Agency for International Development and made available for family planning assistance, not less than 65 percent shall be made available directly to the agency's central Office of Population and shall be programmed by that office for family planning activities: *Provided further,* That of the funds appropriated under this heading and under the heading "Child Survival and Disease Programs Fund" that are made available by the Agency for International Development for development assistance activities, the amount made available to carry out chapter 10 of part I of the Foreign Assistance Act of 1961 (relating to the Development Fund for Africa) and the amount made available for activities in the Latin America and Caribbean region should be in at least the same proportion as the amount identified in the fiscal year 1997 draft congressional presentation document for development assistance for each such region is to the total amount requested for development assistance for such fiscal year: *Provided further,* That funds appropriated under this heading may be made available, notwithstanding any other provision of law except section 515 of this Act, to assist Vietnam to reform its trade regime (such as through reform of its commercial and investment legal codes): *Provided further,* That none of the funds made available in this Act nor any unobligated balances from prior appropriations may be made available to any organization or program which, as determined by the President of the United States, supports or participates in the management of a program of coercive abortion or involuntary sterilization: *Provided further,* That none of the funds made available under this heading may be used to pay for the performance of abortion as a method of family planning or to motivate or coerce any person to practice abortions; and that in order to reduce reliance on abortion in developing nations, funds shall be available only to voluntary family planning projects which offer, either directly or through referral to, or information about access to, a broad range of family planning methods and services: *Provided further,* That in awarding grants for natural family planning under section 104 of the Foreign Assistance Act of 1961 no applicant shall be discriminated against because of such applicant's religious or conscientious commitment to offer only natural family planning; and, additionally, all such applicants shall comply with

the requirements of the previous proviso: *Provided further,* That for purposes of this or any other Act authorizing or appropriating funds for foreign operations, export financing, and related programs, the term "motivate", as it relates to family planning assistance, shall not be construed to prohibit the provision, consistent with local law, of information or counseling about all pregnancy options: *Provided further,* That nothing in this paragraph shall be construed to alter any existing statutory prohibitions against abortion under section 104 of the Foreign Assistance Act of 1961: *Provided further,* That, notwithstanding section 109 of the Foreign Assistance Act of 1961, of the funds appropriated under this heading in this Act, and of the unobligated balances of funds previously appropriated under this heading, up to $17,500,000 may be transferred to "International Organizations and Programs" for a contribution to the International Fund for Agricultural Development (IFAD), and that any such transfer of funds shall be subject to the regular notification procedures of the Committees on Appropriations: *Provided further,* That of the funds appropriated under this heading that are made available for assistance programs for displaced and orphaned children and victims of war, not to exceed $25,000, in addition to funds otherwise available for such purposes, may be used to monitor and provide oversight of such programs: *Provided further,* That not less than $500,000 of the funds made available under this heading shall be available only for support of the United States Telecommunications Training Institute.

CYPRUS

Of the funds appropriated under the headings "Development Assistance" and "Economic Support Fund", not less than $15,000,000 shall be made available for Cyprus to be used only for scholarships, administrative support of the scholarship program, bicommunal projects, and measures aimed at reunification of the island and designed to reduce tensions and promote peace and cooperation between the two communities on Cyprus.

BURMA

Of the funds appropriated by this Act to carry out the provisions of chapter 4 of part II of the Foreign Assistance Act of 1961, not less than $2,500,000 shall be made available to support activities in Burma, along the Burma-Thailand border, and for activities of Burmese student groups and other organizations located outside Burma, for the purposes of fostering democracy in Burma, supporting the provision of medical supplies and other humanitarian assistance to Burmese located in Burma or displaced Burmese along the borders, and for other purposes: *Provided*, That of this amount, not less than $200,000 shall be made available to support newspapers, publications, and other media activities promoting democracy inside Burma: *Provided further*, That funds made available under this heading may be made available notwithstanding any other provision of law: *Provided further*, That provision of such funds shall be made available subject to the regular notification procedures of the Committees on Appropriations.

PRIVATE AND VOLUNTARY ORGANIZATIONS

None of the funds appropriated or otherwise made available by this Act for development assistance may be made available to any United States private and voluntary organization, except any cooperative development organization, which obtains less than 20 per centum of its total annual funding for international activities from sources other than the United States Government: *Provided*, That the requirements of the provisions of section 123(g) of the Foreign Assistance Act of 1961 and the provisions on private and voluntary organizations in title II of the "Foreign Assistance and Related Programs Appropriations Act, 1985" (as enacted in Public Law 98–473) shall be superseded by the provisions of this section, except that the authority contained in the last sentence of section 123(g) may be exercised by the Administrator with regard to the requirements of this paragraph. 22 USC 2151u note.

Funds appropriated or otherwise made available under title II of this Act should be made available to private and voluntary organizations at a level which is equivalent to the level provided in fiscal year 1995. Such private and voluntary organizations shall include those which operate on a not-for-profit basis, receive contributions from private sources, receive voluntary support from the public and are deemed to be among the most cost-effective and successful providers of development assistance.

INTERNATIONAL DISASTER ASSISTANCE

For necessary expenses for international disaster relief, rehabilitation, and reconstruction assistance pursuant to section 491 of the Foreign Assistance Act of 1961, as amended, $190,000,000, to remain available until expended.

DEBT RESTRUCTURING

For the cost, as defined in section 502 of the Congressional Budget Act of 1974, of modifying direct loans and loan guarantees, as the President may determine, for which funds have been appropriated or otherwise made available for programs within the International Affairs Budget Function 150, including the cost of selling, reducing, or canceling amounts, through debt buybacks and swaps, owed to the United States as a result of concessional loans made to eligible Latin American and Caribbean countries, pursuant to part IV of the Foreign Assistance Act of 1961, and of modifying concessional loans authorized under title I of the Agricultural Trade Development and Assistance Act of 1954, as amended, as authorized under subsection (a) under the heading "Debt Reduction for Jordan" in title VI of Public Law 103–306; $27,000,000, to remain available until expended: *Provided*, That none of the funds appropriated under this heading shall be obligated except as provided through the regular notification procedures of the Committees on Appropriations.

MICRO AND SMALL ENTERPRISE DEVELOPMENT PROGRAM ACCOUNT

For the cost of direct loans and loan guarantees, $1,500,000, as authorized by section 108 of the Foreign Assistance Act of 1961, as amended: *Provided*, That such costs shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That guarantees of loans made under this heading in support

of microenterprise activities may guarantee up to 70 percent of the principal amount of any such loans notwithstanding section 108 of the Foreign Assistance Act of 1961. In addition, for administrative expenses to carry out programs under this heading, $500,000, all of which may be transferred to and merged with the appropriation for Operating Expenses of the Agency for International Development: *Provided further*, That funds made available under this heading shall remain available until September 30, 1998.

HOUSING GUARANTY PROGRAM ACCOUNT

For the cost, as defined in section 502 of the Congressional Budget Act of 1974, of guaranteed loans authorized by sections 221 and 222 of the Foreign Assistance Act of 1961, $3,500,000, to remain available until September 30, 1998: *Provided*, That these funds are available to subsidize loan principal, 100 percent of which shall be guaranteed, pursuant to the authority of such sections. In addition, for administrative expenses to carry out guaranteed loan programs, $6,000,000, all of which may be transferred to and merged with the appropriation for Operating Expenses of the Agency for International Development: *Provided further*, That commitments to guarantee loans under this heading may be entered into notwithstanding the second and third sentences of section 222(a) and, with regard to programs for Central and Eastern Europe and programs for the benefit of South Africans disadvantaged by apartheid, section 223(j) of the Foreign Assistance Act of 1961.

PAYMENT TO THE FOREIGN SERVICE RETIREMENT AND DISABILITY FUND

For payment to the "Foreign Service Retirement and Disability Fund", as authorized by the Foreign Service Act of 1980, $43,826,000.

OPERATING EXPENSES OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT

For necessary expenses to carry out the provisions of section 667, $470,750,000: *Provided*, That none of the funds appropriated by this Act for programs administered by the Agency for International Development may be used to finance printing costs of any report or study (except feasibility, design, or evaluation reports or studies) in excess of $25,000 without the approval of the Administrator of the Agency or the Administrator's designee.

OPERATING EXPENSES OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT OFFICE OF INSPECTOR GENERAL

For necessary expenses to carry out the provisions of section 667, $30,000,000, to remain available until September 30, 1998, which sum shall be available for the Office of the Inspector General of the Agency for International Development.

OTHER BILATERAL ECONOMIC ASSISTANCE

ECONOMIC SUPPORT FUND

For necessary expenses to carry out the provisions of chapter 4 of part II, $2,343,000,000, to remain available until September 30, 1998: *Provided*, That of the funds appropriated under this heading, not less than $1,200,000,000 shall be available only for Israel, which sum shall be available on a grant basis as a cash transfer and shall be disbursed within thirty days of enactment of this Act or by October 31, 1996, whichever is later: *Provided further*, That not less than $815,000,000 shall be available only for Egypt, which sum shall be provided on a grant basis, and of which sum cash transfer assistance may be provided, with the understanding that Egypt will undertake significant economic reforms which are additional to those which were undertaken in previous fiscal years, and of which not less than $200,000,000 shall be provided as Commodity Import Program assistance: *Provided further*, That in exercising the authority to provide cash transfer assistance for Israel and Egypt, the President shall ensure that the level of such assistance does not cause an adverse impact on the total level of nonmilitary exports from the United States to each such country: *Provided further*, That it is the sense of the Congress that the recommended levels of assistance for Egypt and Israel are based in great measure upon their continued participation in the Camp David Accords and upon the Egyptian-Israeli peace treaty: *Provided further*, That none of the funds appropriated under this heading shall be made available for Zaire.

INTERNATIONAL FUND FOR IRELAND

For necessary expenses to carry out the provisions of chapter 4 of part II of the Foreign Assistance Act of 1961, $19,600,000, which shall be available for the United States contribution to the International Fund for Ireland and shall be made available in accordance with the provisions of the Anglo-Irish Agreement Support Act of 1986 (Public Law 99–415): *Provided*, That such amount shall be expended at the minimum rate necessary to make timely payment for projects and activities: *Provided further*, That funds made available under this heading shall remain available until September 30, 1998.

ASSISTANCE FOR EASTERN EUROPE AND THE BALTIC STATES

(a) For necessary expenses to carry out the provisions of the Foreign Assistance Act of 1961 and the Support for East European Democracy (SEED) Act of 1989, $475,000,000, to remain available until September 30, 1998, which shall be available, notwithstanding any other provision of law, for economic assistance and for related programs for Eastern Europe and the Baltic States.

(b) Funds appropriated under this heading or in prior appropriations Acts that are or have been made available for an Enterprise Fund may be deposited by such Fund in interest-bearing accounts prior to the Fund's disbursement of such funds for program purposes. The Fund may retain for such program purposes any interest earned on such deposits without returning such interest to the Treasury of the United States and without further appropriation by the Congress. Funds made available for Enterprise Funds

shall be expended at the minimum rate necessary to make timely payment for projects and activities.

(c) Funds appropriated under this heading shall be considered to be economic assistance under the Foreign Assistance Act of 1961 for purposes of making available the administrative authorities contained in that Act for the use of economic assistance.

(d) None of the funds appropriated under this heading may be made available for new housing construction or repair or reconstruction of existing housing in Bosnia and Herzegovina unless directly related to the efforts of United States troops to promote peace in said country.

(e) With regard to funds appropriated or otherwise made available under this heading for the economic revitalization program in Bosnia and Herzegovina, and local currencies generated by such funds (including the conversion of funds appropriated under this heading into currency used by Bosnia and Herzegovina as local currency and local currency returned or repaid under such program)—

(1) the Administrator of the Agency for International Development shall provide written approval for grants and loans prior to the obligation and expenditure of funds for such purposes, and prior to the use of funds that have been returned or repaid to any lending facility or grantee; and

(2) the provisions of section 531 of this Act shall apply.

(f) With regard to funds appropriated under this heading that are made available for economic revitalization programs in Bosnia and Herzegovina, 50 percent of such funds shall not be available for obligation unless the President determines and certifies to the Committees on Appropriations that the Federation of Bosnia and Herzegovina has complied with article III of annex 1–A of the General Framework Agreement for Peace in Bosnia and Herzegovina concerning the withdrawal of foreign forces, and that intelligence cooperation on training, investigations, and related activities between Iranian officials and Bosnian officials has been terminated.

ASSISTANCE FOR THE NEW INDEPENDENT STATES OF THE FORMER SOVIET UNION

(a) For necessary expenses to carry out the provisions of chapter 11 of part I of the Foreign Assistance Act of 1961 and the FREEDOM Support Act, for assistance for the new independent states of the former Soviet Union and for related programs, $625,000,000, to remain available until September 30, 1998: *Provided*, That the provisions of such chapter shall apply to funds appropriated by this paragraph.

(b) None of the funds appropriated under this heading shall be transferred to the Government of Russia—

(1) unless that Government is making progress in implementing comprehensive economic reforms based on market principles, private ownership, negotiating repayment of commercial debt, respect for commercial contracts, and equitable treatment of foreign private investment; and

(2) if that Government applies or transfers United States assistance to any entity for the purpose of expropriating or seizing ownership or control of assets, investments, or ventures.

(c) Funds may be furnished without regard to subsection (b) if the President determines that to do so is in the national interest.

(d) None of the funds appropriated under this heading shall be made available to any government of the new independent states of the former Soviet Union if that government directs any action in violation of the territorial integrity or national sovereignty of any other new independent state, such as those violations included in the Helsinki Final Act: *Provided*, That such funds may be made available without regard to the restriction in this subsection if the President determines that to do so is in the national security interest of the United States: *Provided further*, That the restriction of this subsection shall not apply to the use of such funds for the provision of assistance for purposes of humanitarian, disaster and refugee relief. 22 USC 5814 note.

(e) None of the funds appropriated under this heading for the new independent states of the former Soviet Union shall be made available for any state to enhance its military capability: *Provided*, That restriction does not apply to demilitarization or nonproliferation programs.

(f) Funds appropriated under this heading shall be subject to the regular notification procedures of the Committees on Appropriations.

(g) Funds made available in this Act for assistance to the new independent states of the former Soviet Union shall be subject to the provisions of section 117 (relating to environment and natural resources) of the Foreign Assistance Act of 1961.

(h)(1) Of the funds appropriated under title II of this Act, including funds appropriated under this heading, not less than $10,000,000 shall be available only for assistance for Mongolia, of which amount not less than $6,000,000 shall be available only for the Mongolian energy sector.

(2) Funds made available for assistance for Mongolia may be made available in accordance with the purposes and utilizing the authorities provided in chapter 11 of part I of the Foreign Assistance Act of 1961.

(i) Funds made available in this Act for assistance to the New Independent States of the former Soviet Union shall be provided to the maximum extent feasible through the private sector, including small- and medium-size businesses, entrepreneurs, and others with indigenous private enterprises in the region, intermediary development organizations committed to private enterprise, and private voluntary organizations: *Provided*, That grantees and contractors should, to the maximum extent possible, place in key staff positions specialists with prior on the ground expertise in the region of activity and fluency in one of the local languages.

(j) In issuing new task orders, entering into contracts, or making grants, with funds appropriated under this heading or in prior appropriations Acts, for projects or activities that have as one of their primary purposes the fostering of private sector development, the Coordinator for United States Assistance to the New Independent States and the implementing agency shall encourage the participation of and give significant weight to contractors and grantees who propose investing a significant amount of their own resources (including volunteer services and in-kind contributions) in such projects and activities.

(k) Of the funds made available under this heading, not less than $225,000,000 shall be made available for Ukraine, of which funds not less than $25,000,000 shall be made available to carry out United States decommissioning obligations regarding the

Chornobyl plant made in the Memorandum of Understanding between the Government of Ukraine and the G–7 Group: *Provided*, That not less than $35,000,000 shall be made available for agricultural projects, including those undertaken through the Food Systems Restructuring Program, which leverage private sector resources with United States Government assistance: *Provided further*, That $5,000,000 shall be available for a small business incubator project: *Provided further*, That $5,000,000 shall be made available for screening and treatment of childhood mental and physical illnesses related to Chornobyl radiation: *Provided further*, That $5,000,000 shall be available only for a land and resource management institute to identify nuclear contamination at Chornobyl: *Provided further*, That $15,000,000 shall be available for the legal restructuring necessary to support a decentralized market-oriented economic system, including enactment of necessary substantive commercial law, implementation of reforms necessary to establish an independent judiciary and bar, legal education for judges, attorneys, and law students, and education of the public designed to promote understanding of a law-based economy.

(l) Of the funds made available for Ukraine, under this Act and Public Law 104–107, not less than $50,000,000 shall be made available to improve safety at nuclear reactors: *Provided*, That of this amount $20,000,000 shall be provided for the purchase and installation of, and training for, safety parameter display or control systems at all operational nuclear reactors: *Provided further*, That of this amount, $20,000,000 shall be made available for the purchase, construction, installation and training for Full Scope and Analytical/Engineering simulators: *Provided further*, That of this amount funds shall be made available to conduct Safety Analysis Reports at all operational nuclear reactors.

(m) Of the funds made available by this Act, not less than $95,000,000 shall be made available for Armenia.

(n) Funds appropriated under this heading or in prior appropriations Acts that are or have been made available for an Enterprise Fund may be deposited by such Fund in interest-bearing accounts prior to the disbursement of such funds by the Fund for program purposes. The Fund may retain for such program proposes any interest earned on such deposits without returning such interest to the Treasury of the United States and without further appropriation by the Congress. Funds made available for Enterprise Funds shall be expended at the minimum rate necessary to make timely payment for projects and activities.

(o)(1) None of the funds appropriated under this heading may be made available for Russia unless the President determines and certifies in writing to the Committees on Appropriations that the Government of Russia has terminated implementation of arrangements to provide Iran with technical expertise, training, technology, or equipment necessary to develop a nuclear reactor or related nuclear research facilities or programs.

(2) Paragraph (1) shall not apply if the President determines that making such funds available is important to the national security interest of the United States. Any such determination shall cease to be effective six months after being made unless the President determines that its continuation is important to the national security interest of the United States.

(p) Of the funds made available under this heading, not less than $10,000,000 shall be made available for a United States contribution to the Trans-Caucasus Enterprise Fund: *Provided*, That to further the development of the private sector in the Trans-Caucasus, such amount and amounts appropriated for purposes of subsection (t) under the heading "Assistance for the New Independent States of the Former Soviet Union" in Public Law 104–107 may be invested in a Trans-Caucasus Enterprise Fund or, notwithstanding the provisions of such subsection, invested in other funds established by public or private organizations, or transferred to the Overseas Private Investment Corporation to be available, subject to the requirements of the Federal Credit Reform Act, to subsidize the costs of direct and guaranteed loans.

(q)(1) Funds appropriated under this heading may not be made available for the Government of Ukraine if the President determines and reports to the Committees on Appropriations that the Government of Ukraine is engaged in military cooperation with the Government of Libya.

(2) Paragraph (1) shall not apply if the President determines that making such funds available is important to the national security interest of the United States. Any such determination shall cease to be effective six months after being made unless the President determines that its continuation is important to the national security interest of the United States.

(r) Of the funds appropriated under this heading, not less than $15,000,000 should be available only for a family planning program for the New Independent States of the former Soviet Union comparable to the family planning program currently administered by the Agency for International Development in the Central Asian Republics and focusing on population assistance which provides an alternative to abortion.

(s) Funds made available under this Act or any other Act (other than assistance under title V of the FREEDOM Support Act and section 1424 of the "National Defense Authorization Act for Fiscal Year 1997") may not be provided for assistance to the Government of Azerbaijan until the President determines, and so reports to the Congress, that the Government of Azerbaijan is taking demonstrable steps to cease all blockades and other offensive uses of force against Armenia and Nagorno-Karabakh.

(t) Of the funds appropriated under this heading, not less than $2,500,000 shall be made available for the American-Russian Center.

INDEPENDENT AGENCY

PEACE CORPS

For expenses necessary to carry out the provisions of the Peace Corps Act (75 Stat. 612), $208,000,000, including the purchase of not to exceed five passenger motor vehicles for administrative purposes for use outside of the United States: *Provided*, That none of the funds appropriated under this heading shall be used to pay for abortions: *Provided further*, That funds appropriated under this heading shall remain available until September 30, 1998.

DEPARTMENT OF STATE

INTERNATIONAL NARCOTICS CONTROL

For necessary expenses to carry out section 481 of the Foreign Assistance Act of 1961, $213,000,000: *Provided*, That during fiscal year 1997, the Department of State may also use the authority of section 608 of the Foreign Assistance Act of 1961, without regard to its restrictions, to receive non-lethal excess property from an agency of the United States Government for the purpose of providing it to a foreign country under chapter 8 of part I of that Act subject to the regular notification procedures of the Committees on Appropriations: *Provided further*, That none of the funds made available under this heading may be provided to any unit of the security forces of a foreign country if the Secretary of State has credible evidence to believe such unit has committed gross violations of human rights unless the Secretary determines and reports to the Committees on Appropriations that the government of such country is taking steps to bring the responsible members of the security forces unit to justice.

MIGRATION AND REFUGEE ASSISTANCE

For expenses, not otherwise provided for, necessary to enable the Secretary of State to provide, as authorized by law, a contribution to the International Committee of the Red Cross, assistance to refugees, including contributions to the International Organization for Migration and the United Nations High Commissioner for Refugees, and other activities to meet refugee and migration needs; salaries and expenses of personnel and dependents as authorized by the Foreign Service Act of 1980; allowances as authorized by sections 5921 through 5925 of title 5, United States Code; purchase and hire of passenger motor vehicles; and services as authorized by section 3109 of title 5, United States Code, $650,000,000: *Provided*, That not more than $12,000,000 shall be available for administrative expenses: *Provided further*, That not less than $80,000,000 shall be made available for refugees from the former Soviet Union and Eastern Europe and other refugees resettling in Israel.

REFUGEE RESETTLEMENT ASSISTANCE

For necessary expenses for the targeted assistance program authorized by title IV of the Immigration and Nationality Act and section 501 of the Refugee Education Assistance Act of 1980 and administered by the Office of Refugee Resettlement of the Department of Health and Human Services, in addition to amounts otherwise available for such purposes, $5,000,000.

UNITED STATES EMERGENCY REFUGEE AND MIGRATION ASSISTANCE FUND

For necessary expenses to carry out the provisions of section 2(c) of the Migration and Refugee Assistance Act of 1962, as amended (22 U.S.C. 260(c)), $50,000,000, to remain available until expended: *Provided*, That the funds made available under this heading are appropriated notwithstanding the provisions contained in section 2(c)(2) of the Migration and Refugee Assistance Act

of 1962 which would limit the amount of funds which could be appropriated for this purpose.

NONPROLIFERATION, ANTI-TERRORISM, DEMINING AND RELATED PROGRAMS

For necessary expenses for nonproliferation, anti-terrorism and related programs and activities, $133,000,000, to carry out the provisions of chapter 8 of part II of the Foreign Assistance Act of 1961 for anti-terrorism assistance, section 504 of the FREEDOM Support Act for the Nonproliferation and Disarmament Fund, section 23 of the Arms Export Control Act for demining activities, notwithstanding any other provision of law, including activities implemented through nongovernmental and international organizations, section 301 of the Foreign Assistance Act of 1961 for a voluntary contribution to the International Atomic Energy Agency (IAEA) and a voluntary contribution to the Korean Peninsula Energy Development Organization (KEDO), and for the acquisition and provision of goods and services, or for grants to Israel necessary to support the eradication of terrorism in and around Israel: *Provided*, That of this amount not to exceed $15,000,000, to remain available until expended, may be made available for the Nonproliferation and Disarmament Fund, notwithstanding any other provision of law, to promote bilateral and multilateral activities relating to nonproliferation and disarmament: *Provided further*, That such funds may also be used for such countries other than the new independent states of the former Soviet Union and international organizations when it is in the national security interest of the United States to do so: *Provided further*, That such funds shall be subject to the regular notification procedures of the Committees on Appropriations: *Provided further*, That funds appropriated under this heading may be made available for the International Atomic Energy Agency only if the Secretary of State determines (and so reports to the Congress) that Israel is not being denied its right to participate in the activities of that Agency: *Provided further*, That not to exceed $25,000,000 may be made available to the Korean Peninsula Energy Development Organization (KEDO) only for the administrative expenses and heavy fuel oil costs associated with the Agreed Framework: *Provided further*, That such funds may be obligated to KEDO only if, prior to such obligation of funds, the President certifies and so reports to Congress that (1)(A) the United States is taking steps to assure that progress is made on the implementation of the January 1, 1992, Joint Declaration on the Denuclearization of the Korean Peninsula and the implementation of the North-South dialogue, and (B) North Korea is complying with the other provisions of the Agreed Framework between North Korea and the United States and with the Confidential Minute; (2) North Korea is cooperating fully in the canning and safe storage of all spent fuel from its graphite-moderated nuclear reactors and that such canning and safe storage is scheduled to be completed by the end of fiscal year 1997; and (3) North Korea has not significantly diverted assistance provided by the United States for purposes for which it was not intended: *Provided further*, That the President may waive the certification requirements of the preceding proviso if the President determines that it is vital to the national security interests of the United States: *Provided further*, That no funds may be obligated for KEDO until 30 calendar days after submission to Congress of the waiver

permitted under the preceding proviso: *Provided further*, That before obligating any funds for KEDO, the President shall report to Congress on (1) the cooperation of North Korea in the process of returning to the United States the remains of United States military personnel who are listed as missing in action as a result of the Korean conflict (including conducting joint field activities with the United States); (2) violations of the military armistice agreement of 1953; (3) the actions which the United States is taking to assure that North Korea is consistently taking steps to implement the Joint Declaration on Denuclearization of the Korean Peninsula and engage in North-South dialogue; and (4) all instances of non-compliance with the Agreed Framework between North Korea and the United States and the Confidential Minute, including diversion of heavy fuel oil: *Provided further*, That the obligation of such funds shall be subject to the regular notification procedures of the Committees on Appropriations: *Provided further*, That the Secretary of State shall submit to the appropriate congressional committees an annual report (to be submitted with the annual presentation for appropriations) providing a full and detailed accounting of the fiscal year request for the United States contribution to KEDO, the expected operating budget of the Korean Peninsula Energy Development Organization, to include proposed annual costs associated with heavy fuel oil purchases and other related activities, and the amount of funds pledged by other donor nations and organizations to support KEDO activities on a per country basis.

TITLE III—MILITARY ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL MILITARY EDUCATION AND TRAINING

For necessary expenses to carry out the provisions of section 541 of the Foreign Assistance Act of 1961, $43,475,000: *Provided*, That none of the funds appropriated under this heading shall be available for Zaire and Guatemala: *Provided further*, That funds appropriated under this heading for grant financed military education and training for Indonesia may only be available for expanded international military education and training.

FOREIGN MILITARY FINANCING PROGRAM

For expenses necessary for grants to enable the President to carry out the provisions of section 23 of the Arms Export Control Act, $3,164,000,000: *Provided*, That of the funds appropriated by this paragraph not less than $1,800,000,000 shall be available for grants only for Israel, and not less than $1,300,000,000 shall be available for grants only for Egypt: Provided further, That the funds appropriated by this paragraph for Israel shall be disbursed within thirty days of enactment of this Act or by October 31, 1996, whichever is later: *Provided further*, That to the extent that the Government of Israel requests that funds be used for such purposes, grants made available for Israel by this paragraph shall, as agreed by Israel and the United States, be available for advanced weapons systems, of which not less than $475,000,000 shall be available for the procurement in Israel of defense articles and

defense services, including research and development: *Provided further*, That of the funds made available under this paragraph, $30,000,000 shall be available for assistance on a grant basis for Poland, Hungary, and the Czech Republic to carry out title II of Public Law 103–477 and section 585 of Public Law 104–107: *Provided further*, That funds made available under this paragraph shall be nonrepayable notwithstanding any requirement in section 23 of the Arms Export Control Act: *Provided further*, That, for the purpose only of providing support for NATO expansion and the Warsaw Initiative Program, of the funds appropriated by this Act under the headings "Assistance for Eastern Europe and the Baltic States" and "Assistance for the New Independent States of the Former Soviet Union", up to a total of $7,000,000 may be transferred, notwithstanding any other provision of law, to the funds appropriated under this paragraph: *Provided further*, That none of the funds made available under this heading shall be available for any non-NATO country participating in the Partnership for Peace Program except through the regular notification procedures of the Committees on Appropriations.

For the cost, as defined in section 502 of the Congressional Budget Act of 1974, of direct loans authorized by section 23 of the Arms Export Control Act as follows: cost of direct loans, $60,000,000: *Provided*, That these funds are available to subsidize gross obligations for the principal amount of direct loans of not to exceed $540,000,000: *Provided further*, That the rate of interest charged on such loans shall be not less than the current average market yield on outstanding marketable obligations of the United States of comparable maturities: *Provided further*, That of the funds appropriated under this paragraph $20,000,000 shall be made available to Poland, Hungary, and the Czech Republic: *Provided further*, That funds appropriated under this heading shall be made available for Greece and Turkey only on a loan basis, and the principal amount of direct loans for each country shall not exceed the following: $122,500,000 only for Greece and $175,000,000 only for Turkey.

None of the funds made available under this heading shall be available to finance the procurement of defense articles, defense services, or design and construction services that are not sold by the United States Government under the Arms Export Control Act unless the foreign country proposing to make such procurements has first signed an agreement with the United States Government specifying the conditions under which such procurements may be financed with such funds: *Provided*, That all country and funding level increases in allocations shall be submitted through the regular notification procedures of section 515 of this Act: *Provided further*, That funds made available under this heading shall be obligated upon apportionment in accordance with paragraph (5)(C) of title 31, United States Code, section 1501(a): *Provided further*, That none of the funds appropriated under this heading shall be available for Zaire, Sudan, Liberia, and Guatemala: *Provided further*, That funds made available under this heading may be used, notwithstanding any other provision of law, for activities related to the clearance of landmines and unexploded ordnance, and may include activities implemented through nongovernmental and international organizations: *Provided further*, That only those countries for which assistance was justified for the "Foreign Military Sales Financing Program" in the fiscal year 1989 congressional presentation for security assistance programs may utilize funds made available

under this heading for procurement of defense articles, defense services or design and construction services that are not sold by the United States Government under the Arms Export Control Act: *Provided further*, That, subject to the regular notification procedures of the Committees on Appropriations, funds made available under this heading for the cost of direct loans may also be used to supplement the funds available under this heading for grants, and funds made available under this heading for grants may also be used to supplement the funds available under this heading for the cost of direct loans: *Provided further*, That funds appropriated under this heading shall be expended at the minimum rate necessary to make timely payment for defense articles and services: *Provided further*, That not more than $23,250,000 of the funds appropriated under this heading may be obligated for necessary expenses, including the purchase of passenger motor vehicles for replacement only for use outside of the United States, for the general costs of administering military assistance and sales: *Provided further*, That not more than $355,000,000 of funds realized pursuant to section 21(e)(1)(A) of the Arms Export Control Act may be obligated for expenses incurred by the Department of Defense during fiscal year 1997 pursuant to section 43(b) of the Arms Export Control Act, except that this limitation may be exceeded only through the regular notification procedures of the Committees on Appropriations.

TITLE IV—MULTILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL FINANCIAL INSTITUTIONS

CONTRIBUTION TO THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

For payment to the International Bank for Reconstruction and Development by the Secretary of the Treasury, for the United States contribution to the Global Environment Facility (GEF), $35,000,000, to remain available until September 30, 1998.

CONTRIBUTION TO THE INTERNATIONAL DEVELOPMENT ASSOCIATION

For payment to the International Development Association by the Secretary of the Treasury, $700,000,000, for the United States contribution to the tenth replenishment, to remain available until expended: *Provided*, That none of the funds may be obligated before March 1, 1997: *Provided further*, That not less than twenty days before such funds are obligated, the Secretary of the Treasury shall submit a report to the Committees on Appropriations on his efforts to reach agreement with the other IDA–11 donors, including at the February 1997 IDA–11 donors review meeting, that the procurement restrictions in the Interim Trust Fund will be lifted.

CONTRIBUTION TO THE INTERNATIONAL FINANCE CORPORATION

For payment to the International Finance Corporation by the Secretary of the Treasury, $6,656,000, for the United States share of the increase in subscriptions to capital stock, to remain available until expended.

CONTRIBUTION TO THE INTER-AMERICAN DEVELOPMENT BANK

For payment to the Inter-American Development Bank by the Secretary of the Treasury, for the United States share of the paid-in share portion of the increase in capital stock, $25,610,667, and for the United States share of the increase in the resources of the Fund for Special Operations, $10,000,000, to remain available until expended.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the Inter-American Development Bank may subscribe without fiscal year limitation to the callable capital portion of the United States share of such capital stock in an amount not to exceed $1,503,718,910.

CONTRIBUTION TO THE ENTERPRISE FOR THE AMERICAS MULTILATERAL INVESTMENT FUND

For payment to the Enterprise for the Americas Multilateral Investment Fund by the Secretary of the Treasury, for the United States contribution to the Fund to be administered by the Inter-American Development Bank, $27,500,000 to remain available until expended.

CONTRIBUTION TO THE ASIAN DEVELOPMENT BANK

For payment to the Asian Development Bank by the Secretary of the Treasury for the United States share of the paid-in portion of the increase in capital stock, $13,221,596, to remain available until expended.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the Asian Development Bank may subscribe without fiscal year limitation to the callable capital portion of the United States share of such capital stock in an amount not to exceed $647,858,204.

CONTRIBUTION TO THE ASIAN DEVELOPMENT FUND

For the United States contribution by the Secretary of the Treasury to the increases in resources of the Asian Development Fund, as authorized by the Asian Development Bank Act, as amended (Public Law 89–369), $100,000,000, to remain available until expended.

CONTRIBUTION TO THE EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT

For payment to the European Bank for Reconstruction and Development by the Secretary of the Treasury, $11,916,447, for the United States share of the paid-in share portion of the initial capital subscription, to remain available until expended.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the European Bank for Reconstruction and Development may subscribe without fiscal year

limitation to the callable capital portion of the United States share of such capital stock in an amount not to exceed $27,805,043.

NORTH AMERICAN DEVELOPMENT BANK

For payment to the North American Development Bank by the Secretary of the Treasury, for the United States share of the paid-in portion of the capital stock, $56,000,000, to remain available until expended.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the North American Development Bank may subscribe without fiscal year limitation to the callable capital portion of the United States share of the capital stock of the North American Development Bank in an amount not to exceed $318,750,000.

INTERNATIONAL ORGANIZATIONS AND PROGRAMS

For necessary expenses to carry out the provisions of section 301 of the Foreign Assistance Act of 1961, and of section 2 of the United Nations Environment Program Participation Act of 1973, $169,950,000: *Provided*, That none of the funds appropriated under this heading shall be made available for the United Nations Fund for Science and Technology: *Provided further*, That none of the funds appropriated under this heading that are made available to the United Nations Population Fund (UNFPA) shall be made available for activities in the People's Republic of China: *Provided further*, That not more than $25,000,000 of the funds appropriated under this heading may be made available to the UNFPA: *Provided further*, That not more than one-half of this amount may be provided to UNFPA before March 1, 1997, and that no later than February 15, 1997, the Secretary of State shall submit a report to the Committees on Appropriations indicating the amount UNFPA is budgeting for the People's Republic of China in 1997: *Provided further*, That any amount UNFPA plans to spend in the People's Republic of China in 1997 shall be deducted from the amount of funds provided to UNFPA after March 1, 1997, pursuant to the previous provisos: *Provided further*, That with respect to any funds appropriated under this heading that are made available to UNFPA, UNFPA shall be required to maintain such funds in a separate account and not commingle them with any other funds: *Provided further*, That none of the funds appropriated under this heading may be made available to the Korean Peninsula Energy Development Organization (KEDO) or the International Atomic Energy Agency (IAEA).

TITLE V—GENERAL PROVISIONS

OBLIGATIONS DURING LAST MONTH OF AVAILABILITY

SEC. 501. Except for the appropriations entitled "International Disaster Assistance", and "United States Emergency Refugee and Migration Assistance Fund", not more than 15 per centum of any appropriation item made available by this Act shall be obligated during the last month of availability.

PROHIBITION OF BILATERAL FUNDING FOR INTERNATIONAL FINANCIAL INSTITUTIONS

SEC. 502. None of the funds contained in title II of this Act may be used to carry out the provisions of section 209(d) of the Foreign Assistance Act of 1961.

LIMITATION ON RESIDENCE EXPENSES

SEC. 503. Of the funds appropriated or made available pursuant to this Act, not to exceed $126,500 shall be for official residence expenses of the Agency for International Development during the current fiscal year: *Provided*, That appropriate steps shall be taken to assure that, to the maximum extent possible, United States-owned foreign currencies are utilized in lieu of dollars.

LIMITATION ON EXPENSES

SEC. 504. Of the funds appropriated or made available pursuant to this Act, not to exceed $5,000 shall be for entertainment expenses of the Agency for International Development during the current fiscal year.

LIMITATION ON REPRESENTATIONAL ALLOWANCES

SEC. 505. Of the funds appropriated or made available pursuant to this Act, not to exceed $95,000 shall be available for representation allowances for the Agency for International Development during the current fiscal year: *Provided*, That appropriate steps shall be taken to assure that, to the maximum extent possible, United States-owned foreign currencies are utilized in lieu of dollars: *Provided further*, That of the funds made available by this Act for general costs of administering military assistance and sales under the heading "Foreign Military Financing Program", not to exceed $2,000 shall be available for entertainment expenses and not to exceed $50,000 shall be available for representation allowances: *Provided further*, That of the funds made available by this Act under the heading "International Military Education and Training", not to exceed $50,000 shall be available for entertainment allowances: *Provided further*, That of the funds made available by this Act for the Inter-American Foundation, not to exceed $2,000 shall be available for entertainment and representation allowances: *Provided further*, That of the funds made available by this Act for the Peace Corps, not to exceed a total of $4,000 shall be available for entertainment expenses: *Provided further*, That of the funds made available by this Act under the heading "Trade and Development Agency", not to exceed $2,000 shall be available for representation and entertainment allowances.

PROHIBITION ON FINANCING NUCLEAR GOODS

SEC. 506. None of the funds appropriated or made available (other than funds for "Nonproliferation, Antiterrorism, Demining and Related Programs") pursuant to this Act, for carrying out the Foreign Assistance Act of 1961, may be used, except for purposes of nuclear safety, to finance the export of nuclear equipment, fuel, or technology.

PROHIBITION AGAINST DIRECT FUNDING FOR CERTAIN COUNTRIES

SEC. 507. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance directly any assistance or reparations to Cuba, Iraq, Libya, North Korea, Iran, Sudan, or Syria: *Provided*, That for purposes of this section, the prohibition on obligations or expenditures shall include direct loans, credits, insurance and guarantees of the Export-Import Bank or its agents.

MILITARY COUPS

SEC. 508. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance directly any assistance to any country whose duly elected Head of Government is deposed by military coup or decree: *Provided*, That assistance may be resumed to such country if the President determines and reports to the Committees on Appropriations that subsequent to the termination of assistance a democratically elected government has taken office.

TRANSFERS BETWEEN ACCOUNTS

SEC. 509. None of the funds made available by this Act may be obligated under an appropriation account to which they were not appropriated, except for transfers specifically provided for in this Act, unless the President, prior to the exercise of any authority contained in the Foreign Assistance Act of 1961 to transfer funds, consults with and provides a written policy justification to the Committees on Appropriations of the House of Representatives and the Senate.

DEOBLIGATION/REOBLIGATION AUTHORITY

SEC. 510. (a) Amounts certified pursuant to section 1311 of the Supplemental Appropriations Act, 1955, as having been obligated against appropriations heretofore made under the authority of the Foreign Assistance Act of 1961 for the same general purpose as any of the headings under title II of this Act are, if deobligated, hereby continued available for the same period as the respective appropriations under such headings or until September 30, 1997, whichever is later, and for the same general purpose, and for countries within the same region as originally obligated: *Provided*, That the Appropriations Committees of both Houses of the Congress are notified fifteen days in advance of the reobligation of such funds in accordance with regular notification procedures of the Committees on Appropriations.

(b) Obligated balances of funds appropriated to carry out section 23 of the Arms Export Control Act as of the end of the fiscal year immediately preceding the current fiscal year are, if deobligated, hereby continued available during the current fiscal year for the same purpose under any authority applicable to such appropriations under this Act: *Provided*, That the authority of this subsection may not be used in fiscal year 1997.

AVAILABILITY OF FUNDS

SEC. 511. No part of any appropriation contained in this Act shall remain available for obligation after the expiration of the

current fiscal year unless expressly so provided in this Act: *Provided*, That funds appropriated for the purposes of chapters 1, 8, and 11 of part I, section 667, and chapter 4 of part II of the Foreign Assistance Act of 1961, as amended, and funds provided under the heading "Assistance for Eastern Europe and the Baltic States", shall remain available until expended if such funds are initially obligated before the expiration of their respective periods of availability contained in this Act: *Provided further*, That, notwithstanding any other provision of this Act, any funds made available for the purposes of chapter 1 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961 which are allocated or obligated for cash disbursements in order to address balance of payments or economic policy reform objectives, shall remain available until expended: *Provided further*, That the report required by section 653(a) of the Foreign Assistance Act of 1961 shall designate for each country, to the extent known at the time of submission of such report, those funds allocated for cash disbursement for balance of payment and economic policy reform purposes.

LIMITATION ON ASSISTANCE TO COUNTRIES IN DEFAULT

SEC. 512. No part of any appropriation contained in this Act shall be used to furnish assistance to any country which is in default during a period in excess of one calendar year in payment to the United States of principal or interest on any loan made to such country by the United States pursuant to a program for which funds are appropriated under this Act: *Provided*, That this section and section 620(q) of the Foreign Assistance Act of 1961 shall not apply to funds made available in this Act or during the current fiscal year for Nicaragua, and for any narcotics-related assistance for Colombia, Bolivia, and Peru authorized by the Foreign Assistance Act of 1961 or the Arms Export Control Act.

COMMERCE AND TRADE

SEC. 513. (a) None of the funds appropriated or made available pursuant to this Act for direct assistance and none of the funds otherwise made available pursuant to this Act to the Export-Import Bank and the Overseas Private Investment Corporation shall be obligated or expended to finance any loan, any assistance or any other financial commitments for establishing or expanding production of any commodity for export by any country other than the United States, if the commodity is likely to be in surplus on world markets at the time the resulting productive capacity is expected to become operative and if the assistance will cause substantial injury to United States producers of the same, similar, or competing commodity: *Provided*, That such prohibition shall not apply to the Export-Import Bank if in the judgment of its Board of Directors the benefits to industry and employment in the United States are likely to outweigh the injury to United States producers of the same, similar, or competing commodity, and the Chairman of the Board so notifies the Committees on Appropriations.

(b) None of the funds appropriated by this or any other Act to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 shall be available for any testing or breeding feasibility study, variety improvement or introduction, consultancy, publication, conference, or training in connection with the growth or production in a foreign country of an agricultural commodity for

export which would compete with a similar commodity grown or produced in the United States: *Provided*, That this subsection shall not prohibit—

(1) activities designed to increase food security in developing countries where such activities will not have a significant impact in the export of agricultural commodities of the United States; or

(2) research activities intended primarily to benefit American producers.

SURPLUS COMMODITIES

22 USC 262h note.

SEC. 514. The Secretary of the Treasury shall instruct the United States Executive Directors of the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the International Monetary Fund, the Asian Development Bank, the Inter-American Investment Corporation, the North American Development Bank, the European Bank for Reconstruction and Development, the African Development Bank, and the African Development Fund to use the voice and vote of the United States to oppose any assistance by these institutions, using funds appropriated or made available pursuant to this Act, for the production or extraction of any commodity or mineral for export, if it is in surplus on world markets and if the assistance will cause substantial injury to United States producers of the same, similar, or competing commodity.

NOTIFICATION REQUIREMENTS

SEC. 515. For the purposes of providing the Executive Branch with the necessary administrative flexibility, none of the funds made available under this Act for "Child Survival and Disease Programs Fund", "Development Assistance", "Debt restructuring", "International organizations and programs", "Trade and Development Agency", "International narcotics control", "Assistance for Eastern Europe and the Baltic States", "Assistance for the New Independent States of the Former Soviet Union", "Economic Support Fund", "Peacekeeping operations", "Operating expenses of the Agency for International Development", "Operating expenses of the Agency for International Development Office of Inspector General", "Nonproliferation, anti-terrorism, demining and related programs", "Foreign Military Financing Program", "International military education and training", "Inter-American Foundation", "African Development Foundation", "Peace Corps", "Migration and refugee assistance", shall be available for obligation for activities, programs, projects, type of materiel assistance, countries, or other operations not justified or in excess of the amount justified to the Appropriations Committees for obligation under any of these specific headings unless the Appropriations Committees of both Houses of Congress are previously notified fifteen days in advance: *Provided,* That the President shall not enter into any commitment of funds appropriated for the purposes of section 23 of the Arms Export Control Act for the provision of major defense equipment, other than conventional ammunition, or other major defense items defined to be aircraft, ships, missiles, or combat vehicles, not previously justified to Congress or 20 per centum in excess of the quantities justified to Congress unless the Committees on Appropriations are notified

fifteen days in advance of such commitment: *Provided further,* That this section shall not apply to any reprogramming for an activity, program, or project under chapter 1 of part I of the Foreign Assistance Act of 1961 of less than 10 per centum of the amount previously justified to the Congress for obligation for such activity, program, or project for the current fiscal year: *Provided further,* That the requirements of this section or any similar provision of this Act or any other Act, including any prior Act requiring notification in accordance with the regular notification procedures of the Committees on Appropriations, may be waived if failure to do so would pose a substantial risk to human health or welfare: *Provided further,* That in case of any such waiver, notification to the Congress, or the appropriate congressional committees, shall be provided as early as practicable, but in no event later than three days after taking the action to which such notification requirement was applicable, in the context of the circumstances necessitating such waiver: *Provided further,* That any notification provided pursuant to such a waiver shall contain an explanation of the emergency circumstances.

Drawdowns made pursuant to section 506(a)(2) of the Foreign Assistance Act of 1961 shall be subject to the regular notification procedures of the Committees on Appropriations.

LIMITATION ON AVAILABILITY OF FUNDS FOR INTERNATIONAL ORGANIZATIONS AND PROGRAMS

SEC. 516. Notwithstanding any other provision of law or of this Act, none of the funds provided for "International Organizations and Programs" shall be available for the United States proportionate share, in accordance with section 307(c) of the Foreign Assistance Act of 1961, for any programs identified in section 307, or for Libya, Iran, or, at the discretion of the President, Communist countries listed in section 620(f) of the Foreign Assistance Act of 1961, as amended: *Provided*, That, subject to the regular notification procedures of the Committees on Appropriations, funds appropriated under this Act or any previously enacted Act making appropriations for foreign operations, export financing, and related programs, which are returned or not made available for organizations and programs because of the implementation of this section or any similar provision of law, shall remain available for obligation through September 30, 1998.

ECONOMIC SUPPORT FUND ASSISTANCE FOR ISRAEL

SEC. 517. The Congress finds that progress on the peace process in the Middle East is vitally important to United States security interests in the region. The Congress recognizes that, in fulfilling its obligations under the Treaty of Peace Between the Arab Republic of Egypt and the State of Israel, done at Washington on March 26, 1979, Israel incurred severe economic burdens. Furthermore, the Congress recognizes that an economically and militarily secure Israel serves the security interests of the United States, for a secure Israel is an Israel which has the incentive and confidence to continue pursuing the peace process. Therefore, the Congress declares that, subject to the availability of appropriations, it is the policy and the intention of the United States that the funds provided in annual appropriations for the Economic Support Fund which are allocated to Israel shall not be less than the annual

debt repayment (interest and principal) from Israel to the United States Government in recognition that such a principle serves United States interests in the region.

PROHIBITION ON FUNDING FOR ABORTIONS AND INVOLUNTARY STERILIZATION

SEC. 518. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for the performance of abortions as a method of family planning or to motivate or coerce any person to practice abortions. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for the performance of involuntary sterilization as a method of family planning or to coerce or provide any financial incentive to any person to undergo sterilizations. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for any biomedical research which relates in whole or in part, to methods of, or the performance of, abortions or involuntary sterilization as a means of family planning. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be obligated or expended for any country or organization if the President certifies that the use of these funds by any such country or organization would violate any of the above provisions related to abortions and involuntary sterilizations: *Provided*, That none of the funds made available under this Act may be used to lobby for or against abortion.

AUTHORIZATION FOR POPULATION PLANNING

SEC. 518A. (a) None of the funds made available in title II of this Act for population planning activities or other population assistance pursuant to section 104(b) of the Foreign Assistance Act or any other provision of law may be obligated or expended prior to July 1, 1997.

(b) Not to exceed $385,000,000 of the funds appropriated in title II of this Act may be made available for population planning activities or other population assistance.

(c) Such funds may be apportioned only on a monthly basis, and such monthly apportionments may not exceed 8 percent of the total available for such activities.

(d) Not later than February 1, 1997, the President shall submit a finding to the Congress regarding the impact of the limitation on obligations imposed by subsection (a) of this section on the proper functioning of the population planning program. If such Presidential finding indicates that the limitation is having a negative impact on the proper functioning of the population planning program, funds for population planning activities and other population assistance referred to in subsection (a) may be made available beginning March 1, 1997, notwithstanding the July 1, 1997, limitation set forth in subsection (a), if the Congress approves such finding by adoption of a joint resolution of approval not later than February 28, 1997, in accordance with subsection (e).

(e) CONGRESSIONAL REVIEW PROCEDURE.—

(1) This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such it is deemed a part of the rules of each House,

respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by paragraph (2) of this subsection; and it supersedes other rules only to the extent that it is inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as those rules relate to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of such House.

(2) For purposes of this section, the term "resolution" means a joint resolution, the text of which is as follows: "That the House of Representatives and Senate approve the Presidential finding, submitted to the Congress on XXXXX, that the limitation on obligations imposed by section 518A(a) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997, is having a negative impact on the proper functioning of the population planning program.". The blank space therein shall be filled with the date on which the President submits his finding to the House of Representatives and the Senate.

(3) On the day on which the President submits a finding under this section to the Congress, a joint resolution described in paragraph (2) shall be introduced (by request) in the House by the majority leader of the House, for himself and the minority leader of the House, or by Members of the House designated by the majority leader and minority leader of the House; and shall be introduced (by request) in the Senate by the majority leader of the Senate, for himself and the minority leader of the Senate, or by Members of the Senate designated by the majority leader and minority leader of the Senate. If either House is not in session on the day on which the President submits such finding, the resolution shall be introduced in that House, as provided in the preceding sentence, on the first day thereafter on which that House is in session. A resolution once introduced in the House with respect to a Presidential finding under this section shall be referred to 1 or more committees (and all resolutions with respect to the same Presidential finding shall be referred to the same committee or committees) by the Speaker of the House of Representatives. A resolution once introduced in the Senate with respect to a Presidential finding under this section shall be referred to the appropriate committee (and all resolutions with respect to the same Presidential finding shall be referred to the same committee) by the President of the Senate.

(4) No amendment to a resolution introduced under this section shall be in order in either the House of Representatives or the Senate; and no motion to suspend the application of this subsection shall be in order in either House, nor shall it be in order in either House for the presiding officer to entertain a request to suspend the application of this subsection by unanimous consent.

(5)(A) If any committee to which a resolution with respect to a Presidential finding under this section has been referred has not reported it at the end of 5 calendar days after its introduction, such committee shall be automatically discharged from further consideration of the resolution and it shall be

placed on the appropriate calendar. A vote on final passage of the resolution, shall be taken in each House on or before February 28, 1997. If prior to the passage by 1 House of a resolution of that House under this section, that House receives the same resolution from the other House, then—

(i) the procedure in that House shall be the same as if no resolution had been received from the other House, but

(ii) the vote on final passage shall be on the resolution of the other House.

(6)(A) A motion in the House of Representatives to proceed to the consideration of a resolution under this section shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(B) Debate in the House of Representatives on the resolution described in paragraph (2) of this subsection shall be limited to not more than 2 hours, which shall be divided equally between those favoring and those opposing such resolution. A motion to further limit debate shall not be debatable. It shall not be in order to move to recommit a resolution or to move to reconsider the vote by which such resolution was agreed to or disagreed to.

(C) Appeals from the decision of the Chair relating to the application of the rules of the House of Representatives to the procedures relating to a resolution under this section shall be decided without debate.

(D) Except to the extent specifically provided in preceding provisions of this subsection, consideration in the House of Representatives of a resolution under this subsection shall be governed by the rules of the House of Representatives applicable to other resolutions in similar circumstances.

(7)(A) A motion in the Senate to proceed to the consideration of a resolution under this section shall not debatable. It shall not be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(B) Debate in the Senate on the resolution described in paragraph (2) of this subsection, and all debatable motions and appeals in connection therewith, shall be limited to not more than 2 hours. The time shall be equally divided between, and controlled by, the mover and the manager of the resolution, except that in the event the manager of the resolution is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from time under their control on the passage of a resolution, allot additional time to any Senator during the consideration of any debatable motion or appeal.

(C) A motion in the Senate to further limit debate is not debatable. A motion to recommit a resolution is not in order.

REPORTING REQUIREMENT

SEC. 519. The President shall submit to the Committees on Appropriations the reports required by section 25(a)(1) of the Arms Export Control Act.

SPECIAL NOTIFICATION REQUIREMENTS

SEC. 520. None of the funds appropriated in this Act shall be obligated or expended for Colombia, Guatemala (except that this provision shall not apply to development assistance for Guatemala), Dominican Republic, Haiti, Liberia, Pakistan, Peru, Serbia, Sudan, or Zaire except as provided through the regular notification procedures of the Committees on Appropriations.

DEFINITION OF PROGRAM, PROJECT, AND ACTIVITY

SEC. 521. For the purpose of this Act, "program, project, and activity" shall be defined at the Appropriations Act account level and shall include all Appropriations and Authorizations Acts earmarks, ceilings, and limitations with the exception that for the following accounts: Economic Support Fund and Foreign Military Financing Program, "program, project, and activity" shall also be considered to include country, regional, and central program level funding within each such account; for the development assistance accounts of the Agency for International Development "program, project, and activity" shall also be considered to include central program level funding, either as (1) justified to the Congress, or (2) allocated by the executive branch in accordance with a report, to be provided to the Committees on Appropriations within thirty days of enactment of this Act, as required by section 653(a) of the Foreign Assistance Act of 1961.

CHILD SURVIVAL AND AIDS ACTIVITIES

SEC. 522. Up to $8,000,000 of the funds made available by this Act for assistance for family planning, health, child survival, and AIDS, may be used to reimburse United States Government agencies, agencies of State governments, institutions of higher learning, and private and voluntary organizations for the full cost of individuals (including for the personal services of such individuals) detailed or assigned to, or contracted by, as the case may be, the Agency for International Development for the purpose of carrying out family planning activities, child survival activities and activities relating to research on, and the treatment and control of acquired immune deficiency syndrome in developing countries: *Provided*, That funds appropriated by this Act that are made available for child survival activities or activities relating to research on, and the treatment and control of, acquired immune deficiency syndrome may be made available notwithstanding any provision of law that restricts assistance to foreign countries: *Provided further*, That funds appropriated by this Act that are made available for family planning activities may be made available notwithstanding section 512 of this Act and section 620(q) of the Foreign Assistance Act of 1961.

PROHIBITION AGAINST INDIRECT FUNDING TO CERTAIN COUNTRIES

SEC. 523. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated to finance indirectly any assistance or reparations to Cuba, Iraq, Libya, Iran, Syria, North Korea, or the People's Republic of China, unless the President of the United States certifies that the withholding of these funds is contrary to the national interest of the Untied States.

RECIPROCAL LEASING

22 USC 2796.

SEC. 524. Section 61(a) of the Arms Export Control Act is amended by striking out "1996" and inserting in lieu thereof "1997".

NOTIFICATION ON EXCESS DEFENSE EQUIPMENT

SEC. 525. Prior to providing excess Department of Defense articles in accordance with section 516(a) of the Foreign Assistance Act of 1961, the Department of Defense shall notify the Committees on Appropriations to the same extent and under the same conditions as are other committees pursuant to subsection (c) of that section: *Provided,* That before issuing a letter of offer to sell excess defense articles under the Arms Export Control Act, the Department of Defense shall notify the Committees on Appropriations in accordance with the regular notification procedures of such Committees: *Provided further,* That such Committees shall also be informed of the original acquisition cost of such defense articles.

AUTHORIZATION REQUIREMENT

SEC. 526. Funds appropriated by this Act may be obligated and expended notwithstanding section 10 of Public Law 91–672 and section 15 of the State Department Basic Authorities Act of 1956.

PROHIBITION ON BILATERAL ASSISTANCE TO TERRORIST COUNTRIES

SEC. 527. (a) Notwithstanding any other provision of law, funds appropriated for bilateral assistance under any heading of this Act and funds appropriated under any such heading in a provision of law enacted prior to enactment of this Act, shall not be made available to any country which the President determines—

(1) grants sanctuary from prosecution to any individual or group which has committed an act of international terrorism, or

(2) otherwise supports international terrorism.

(b) The President may waive the application of subsection (a) to a country if the President determines that national security or humanitarian reasons justify such waiver. The President shall publish each waiver in the Federal Register and, at least fifteen days before the waiver takes effect, shall notify the Committees on Appropriations of the waiver (including the justification for the waiver) in accordance with the regular notification procedures of the Committees on Appropriations.

COMMERCIAL LEASING OF DEFENSE ARTICLES

22 USC 2763 note.

SEC. 528. Notwithstanding any other provision of law, and subject to the regular notification procedures of the Committees on Appropriations, the authority of section 23(a) of the Arms Export Control Act may be used to provide financing to Israel, Egypt and NATO and major non-NATO allies for the procurement by leasing (including leasing with an option to purchase) of defense articles from United States commercial suppliers, not including Major Defense Equipment (other than helicopters and other types of aircraft having possible civilian application), if the President determines that there are compelling foreign policy or national security reasons for those defense articles being provided by

commercial lease rather than by government-to-government sale under such Act.

COMPETITIVE INSURANCE

SEC. 528A. All Agency for International Development contracts and solicitations, and subcontracts entered into under such contracts, shall include a clause requiring that United States insurance companies have a fair opportunity to bid for insurance when such insurance is necessary or appropriate.

STINGERS IN THE PERSIAN GULF REGION

SEC. 529. Except as provided in section 581 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990, the United States may not sell or otherwise make available any Stingers to any country bordering the Persian Gulf under the Arms Export Control Act or chapter 2 of part II of the Foreign Assistance Act of 1961.

DEBT-FOR-DEVELOPMENT

SEC. 530. In order to enhance the continued participation of nongovernmental organizations in economic assistance activities under the Foreign Assistance Act of 1961, including endowments, debt-for-development and debt-for-nature exchanges, a nongovernmental organization which is a grantee or contractor of the Agency for International Development may place in interest bearing accounts funds made available under this Act or prior Acts or local currencies which accrue to that organization as a result of economic assistance provided under title II of this Act and any interest earned on such investment shall be used for the purpose for which the assistance was provided to that organization.

SEPARATE ACCOUNTS

SEC. 531. (a) SEPARATE ACCOUNTS FOR LOCAL CURRENCIES.— (1) If assistance is furnished to the government of a foreign country under chapters 1 and 10 of part I or chapter 4 of part II of the Foreign Assistance Act of 1961 under agreements which result in the generation of local currencies of that country, the Administrator of the Agency for International Development shall— 22 USC 2359 note.

(A) require that local currencies be deposited in a separate account established by that government;

(B) enter into an agreement with that government which sets forth—

(i) the amount of the local currencies to be generated, and

(ii) the terms and conditions under which the currencies so deposited may be utilized, consistent with this section; and

(C) establish by agreement with that government the responsibilities of the Agency for International Development and that government to monitor and account for deposits into and disbursements from the separate account.

(2) USES OF LOCAL CURRENCIES.—As may be agreed upon with the foreign government, local currencies deposited in a separate account pursuant to subsection (a), or an equivalent amount of local currencies, shall be used only—

(A) to carry out chapters 1 or 10 of part I or chapter 4 of part II (as the case may be), for such purposes as—

(i) project and sector assistance activities, or

(ii) debt and deficit financing; or

(B) for the administrative requirements of the United States Government.

(3) PROGRAMMING ACCOUNTABILITY.—The Agency for International Development shall take all necessary steps to ensure that the equivalent of the local currencies disbursed pursuant to subsection (a)(2)(A) from the separate account established pursuant to subsection (a)(1) are used for the purposes agreed upon pursuant to subsection (a)(2).

(4) TERMINATION OF ASSISTANCE PROGRAMS.—Upon termination of assistance to a country under chapters 1 or 10 of part I or chapter 4 of part II (as the case may be), any unencumbered balances of funds which remain in a separate account established pursuant to subsection (a) shall be disposed of for such purposes as may be agreed to by the government of that country and the United States Government.

(5) CONFORMING AMENDMENTS.—The provisions of this subsection shall supersede the tenth and eleventh provisos contained under the heading "Sub-Saharan Africa, Development Assistance" as included in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 and sections 531(d) and 609 of the Foreign Assistance Act of 1961.

(6) REPORTING REQUIREMENT.—The Administrator of the Agency for International Development shall report on an annual basis as part of the justification documents submitted to the Committees on Appropriations on the use of local currencies for the administrative requirements of the United States Government as authorized in subsection (a)(2)(B), and such report shall include the amount of local currency (and United States dollar equivalent) used and/or to be used for such purpose in each applicable country.

(b) SEPARATE ACCOUNTS FOR CASH TRANSFERS.—(1) If assistance is made available to the government of a foreign country, under chapters 1 or 10 of part I or chapter 4 of part II of the Foreign Assistance Act of 1961, as cash transfer assistance or as nonproject sector assistance, that country shall be required to maintain such funds in a separate account and not commingle them with any other funds.

(2) APPLICABILITY OF OTHER PROVISIONS OF LAW.—Such funds may be obligated and expended notwithstanding provisions of law which are inconsistent with the nature of this assistance including provisions which are referenced in the Joint Explanatory Statement of the Committee of Conference accompanying House Joint Resolution 648 (H. Report No. 98–1159).

(3) NOTIFICATION.—At lest fifteen days prior to obligating any such cash transfer or nonproject sector assistance, the President shall submit a notification through the regular notification procedures of the Committees on Appropriations, which shall include a detailed description of how the funds proposed to be made available will be used, with a discussion of the United States interests that will be served by the assistance (including, as appropriate, a description of the economic policy reforms that will be promoted by such assistance).

(4) EXEMPTION.—Nonproject sector assistance funds may be exempt from the requirements of subsection (b)(1) only through the notification procedures of the Committees on Appropriations.

COMPENSATION FOR UNITED STATES EXECUTIVE DIRECTORS TO INTERNATIONAL FINANCING INSTITUTIONS

SEC. 532. (a) No funds appropriated by this Act may be made as payment to any international financial institution while the United States Executive Director to such institution is compensated by the institution at a rate which, together with whatever compensation such Director receives from the United States, is in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while any alternate United States Director to such institution is compensated by the institution at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

(b) For purposes of this section, "international financial institutions" are: the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, the Asian Development Fund, the African Development Bank, the African Development Fund, the International Monetary Fund, the North American Development Bank, and the European Bank for Reconstruction and Development.

COMPLIANCE WITH UNITED NATIONS SANCTIONS AGAINST IRAQ

SEC. 533. (a) DENIAL OF ASSISTANCE.—None of the funds appropriated or otherwise made available pursuant to this Act to carry out the Foreign Assistance Act of 1961 (including title IV of chapter 2 of part I, relating to the Overseas Private Investment Corporation) or the Arms Export Control Act may be used to provide assistance to any country that is not in compliance with the United Nations Security Council sanctions against Iraq, Serbia or Montenegro unless the President determines and so certifies to the Congress that— 50 USC 1701 note.

(1) such assistance is in the national interest of the United States;

(2) such assistance will directly benefit the needy people in that country; or

(3) the assistance to be provided will be humanitarian assistance for foreign nationals who have fled Iraq and Kuwait.

(b) IMPORT SANCTIONS.—If the President considers that the taking of such action would promote the effectiveness of the economic sanctions of the United Nations and the United States imposed with respect to Iraq, Serbia, or Montenegro, as the case may be, and is consistent with the national interest, the President may prohibit, for such a period of time as he considers appropriate, the importation into the United States of any or all products of any foreign country that has not prohibited—

(1) the importation of products of Iraq, Serbia, or Montenegro into its customs territory, and

(2) the export of its products to Iraq, Serbia, or Montenegro, as the case may be.

COMPETITIVE PRICING FOR SALES OF DEFENSE ARTICLES

22 USC 2762 note.

SEC. 533A. Direct costs associated with meeting a foreign customer's additional or unique requirements will continue to be allowable under contracts under section 22(d) of the Arms Export Control Act. Loadings applicable to such direct costs shall be permitted at the same rates applicable to procurement of like items purchased by the Department of Defense for its own use.

POW/MIA MILITARY DRAWDOWN

SEC. 534. (a) Notwithstanding any other provision of law, the President may direct the drawdown, without reimbursement by the recipient, of defense articles from the stocks of the Department of Defense, defense services of the Department of Defense, and military education and training, of an aggregate value not to exceed $15,000,000 in fiscal year 1997, as may be necessary to carry out subsection (b).

(b) Such defense articles, services and training may be provided to Vietnam, Cambodia and Laos, under subsection (a) as the President determines are necessary to support efforts to locate and repatriate members of the United States Armed Forces and civilians employed directly or indirectly by the United States Government who remain unaccounted for from the Vietnam War, and to ensure the safety of United States Government personnel engaged in such cooperative efforts and to support United States Department of Defense-sponsored humanitarian projects associated with the POW/MIA efforts. Any aircraft shall be provided under this section only to Laos and only on a lease or loan basis, but may be provided at no cost notwithstanding section 61 of the Arms Export Control Act and may be maintained with defense articles, services and training provided under this section.

(c) The President shall, within sixty days of the end of any fiscal year in which the authority of subsection (a) is exercised, submit a report to the Congress which identifies the articles, services, and training drawn down under this section.

MEDITERRANEAN EXCESS DEFENSE ARTICLES

22 USC 2321j note.

SEC. 535. For the four-year period beginning on October 1, 1996, the President shall ensure that excess defense articles will be made available under section 516 and 519 of the Foreign Assistance Act of 1961 consistent with the manner in which the President made available excess defense articles under those sections during the four-year period that began on October 1, 1992, pursuant to section 573(e) of the Foreign Operations, Export Financing, Related Programs Appropriations Act, 1990.

CASH FLOW FINANCING

SEC. 536. For each country that has been approved for cash flow financing (as defined in section 25(d) of the Arms Export Control Act, as added by section 112(b) of Public Law 99–83) under the Foreign Military Financing Program, any Letter of Offer and Acceptance or other purchase agreement, or any amendment thereto, for a procurement in excess of $100,000,000 that is to be financed in whole or in part with funds made available under this Act shall be submitted through the regular notification procedures to the Committees on Appropriations.

AUTHORITIES FOR THE PEACE CORPS, THE INTER-AMERICAN FOUNDATION AND THE AFRICAN DEVELOPMENT FOUNDATION

SEC. 537. Unless expressly provided to the contrary, provisions of this or any other Act, including provisions contained in prior Acts authorizing or making appropriations for foreign operations, export financing, and related programs, shall not be construed to prohibit activities authorized by or conducted under the Peace Corps Act, the Inter-American Foundation Act, or the African Development Foundation Act. The appropriate agency shall promptly report to the Committees on Appropriations whenever it is conducting activities or is proposing to conduct activities in a country for which assistance is prohibited.

IMPACT ON JOBS IN THE UNITED STATES

SEC. 538. None of the funds appropriated by this Act may be obligated or expended to provide—

(a) any financial incentive to a business enterprise currently located in the United States for the purpose of inducing such an enterprise to relocate outside the United States if such incentive or inducement is likely to reduce the number of employees of such business enterprise in the United States because United States production is being replaced by such enterprise outside the United States;

(b) assistance for the purpose of establishing or developing in a foreign country any export processing zone or designated area in which the tax, tariff, labor, environment, and safety laws of that country do not apply, in part or in whole, to activities carried out within that zone or area, unless the President determines and certifies that such assistance is not likely to cause a loss of jobs within the United States; or

(c) assistance for any project or activity that contributes to the violation of internationally recognized workers rights, as defined in section 502(a)(4) of the Trade Act of 1974, of workers in the recipient country, including any designated zone or area in that country: *Provided*, That in recognition that the application of this subsection should be commensurate with the level of development of the recipient country and sector, the provisions of this subsection shall not preclude assistance for the informal sector in such country, micro and small-scale enterprise, and smallholder agriculture.

AUTHORITY TO ASSIST BOSNIA AND HERZEGOVINA

SEC. 539. (a) The President is authorized to direct the transfer, subject to prior notification of the Committees on Appropriations, to the Government of Bosnia and Herzegovina, without reimbursement, of defense articles from the stocks of the Department of Defense and defense services of the Department of Defense of an aggregate value of not to exceed $100,000,000 in fiscal years 1996 and 1997: *Provided*, That the President certifies in a timely fashion to the Congress that the transfer of such articles would assist that nation in self-defense and thereby promote the security and stability of the region.

(b) Within 60 days of any transfer under the authority provided in subsection (a), and every 60 days thereafter, the President shall report in writing to the Speaker of the House of Representatives

and the President pro tempore of the Senate concerning the articles transferred and the disposition thereof.

(c) There are authorized to be appropriated to the President such sums as may be necessary to reimburse the applicable appropriation, fund, or account for defense articles provided under this section.

RESTRICTIONS ON THE TERMINATION OF SANCTIONS AGAINST SERBIA AND MONTENEGRO

50 USC 1701 note.

SEC. 540. (a) RESTRICTIONS.—Notwithstanding any other provision of law, no sanction, prohibition, or requirement described in section 1511 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160), with respect to Serbia or Montenegro, may cease to be effective, unless—

(1) the President first submits to the Congress a certification described in subsection (b); and

(2) the requirements of section 1511 of that Act are met.

(b) CERTIFICATION.—A certification described in this subsection is a certification that—

(1) there is substantial progress toward—

(A) the realization of a separate identity for Kosova and the right of the people of Kosova to govern themselves; or

(B) the creation of an international protectorate for Kosova;

(2) there is substantial improvement in the human rights situation in Kosova;

(3) international human rights observers are allowed to return to Kosova; and

(4) the elected government of Kosova is permitted to meet and carry out its legitimate mandate as elected representatives of the people of Kosova.

(c) WAIVER AUTHORITY.—The President may waive the application in whole or in part, of subsection (a) if the President certifies to the Congress that the President has determined that the waiver is necessary to meet emergency humanitarian needs or to achieve a negotiated settlement of the conflict in Bosnia and Herzegovina that is acceptable to the parties.

SPECIAL AUTHORITIES

SEC. 541. (a) Funds appropriated in title II of this Act that are made available for Afghanistan, Lebanon, and Cambodia, and for victims of war, displaced children, displaced Burmese, humanitarian assistance for Romania, and humanitarian assistance for the peoples of Bosnia and Herzegovina, Croatia, and Kosova, may be made available notwithstanding any other provision of law: *Provided*, That any such funds that are made available for Cambodia shall be subject to the provisions of section 531(e) of the Foreign Assistance Act of 1961 and section 906 of the International Security and Development Cooperation Act of 1985: *Provided further*, That none of the funds appropriated by this Act may be made available for assistance for any country or organization that the Secretary of State determines is cooperating, tactically or strategically, with the Khmer Rouge in their military operations, or to the military of any country that is not acting vigorously to prevent its members from facilitating the export of timber from

Cambodia by the Khmer Rouge: *Provided further*, That the Secretary of State shall submit a report to the Committees on Appropriations by February 1, 1997, on whether there are any countries, organizations, or militaries for which assistance is prohibited under the previous proviso, the basis for such conclusions and, if appropriate, the steps being taken to terminate assistance: *Provided further*, That the prohibition on assistance to the military of any country that is not acting vigorously to prevent its members from facilitating the export of timber from Cambodia by the Khmer Rouge may be waived by the President if he determines and reports to the Committees on Appropriations that it is important to the national security interest of the United States to do so.

(b) Funds appropriated by this Act to carry out the provisions of sections 103 through 106 of the Foreign Assistance Act of 1961 may be used, notwithstanding any other provision of law, for the purpose of supporting tropical forestry and energy programs aimed at reducing emissions of greenhouse gases, and for the purpose of supporting biodiversity conservation activities: *Provided*, That such assistance shall be subject to sections 116, 502B, and 620A of the Foreign Assistance Act of 1961.

(c) During fiscal year 1997, the President may use up to $40,000,000 under the authority of section 451 of the Foreign Assistance Act of 1961, notwithstanding the funding ceiling contained in subsection (a) of that section.

(d) The Agency for International Development may employ personal services contractors, notwithstanding any other provision of law, for the purpose of administering programs for the West Bank and Gaza.

POLICY ON TERMINATING THE ARAB LEAGUE BOYCOTT OF ISRAEL

SEC. 542. It is the sense of the Congress that—

(1) the Arab League countries should immediately and publicly renounce the primary boycott of Israel and the secondary and tertiary boycott of American firms that have commercial ties with Israel; and

(2) the President should—

(A) take more concrete steps to encourage vigorously Arab League countries to renounce publicly the primary boycotts of Israel and the secondary and tertiary boycotts of American firms that have commercial relations with Israel as a confidence-building measure;

(B) take into consideration the participation of any recipient country in the primary boycott of Israel and the secondary and tertiary boycotts of American firms that have commercial relations with Israel when determining whether to sell weapons to said county;

(C) report to Congress on the specific steps being taken by the President to bring about a public renunciation of the Arab primary boycott of Israel and the secondary and tertiary boycotts of American firms that have commercial relations with Israel; and

(D) encourage the allies and trading partners of the United States to enact laws prohibiting businesses from complying with the boycott and penalizing businesses that do comply.

ANTI-NARCOTICS ACTIVITIES

SEC. 543. (a) Of the funds appropriated or otherwise made available by this Act for "Economic Support Fund", assistance may be provided to strengthen the administration of justice in countries in Latin America and the Caribbean and in other regions consistent with the provisions of section 534(b) of the Foreign Assistance Act of 1961, except that programs to enhance protection of participants in judicial cases may be conducted notwithstanding section 660 of that Act.

(b) Funds made available pursuant to this section may be made available notwithstanding section 534(c) and the second and third sentences of section 534(e) of the Foreign Assistance Act of 1961. Funds made available pursuant to subsection (a) for Bolivia, Colombia and Peru may be made available notwithstanding section 534(c) and the second sentence of section 534(e) of the Foreign Assistance Act of 1961.

ELIGIBILITY FOR ASSISTANCE

SEC. 544. (a) ASSISTANCE THROUGH NONGOVERNMENTAL ORGANIZATIONS.—Restrictions contained in this or any other Act with respect to assistance for a country shall not be construed to restrict assistance in support of programs of nongovernmental organizations from funds appropriated by this Act to carry out the provisions of chapters 1 and 10 of part I of the Foreign Assistance Act of 1961: *Provided*, That the President shall take into consideration, in any case in which a restriction on assistance would be applicable but for this subsection, whether assistance in support of programs of nongovernmental organizations is in the national interest of the United States: *Provided further*, That before using the authority of this subsection to furnish assistance in support of programs of nongovernmental organizations, the President shall notify the Committees on Appropriations under the regular notification procedures of those committees, including a description of the program to be assisted, the assistance to be provided, and the reasons for furnishing such assistance: *Provided further*, That nothing in this subsection shall be construed to alter any existing statutory prohibitions against abortion or involuntary sterilizations contained in this or any other Act.

(b) PUBLIC LAW 480.—During fiscal year 1997, restrictions contained in this or any other Act with respect to assistance for a country shall not be construed to restrict assistance under the Agricultural Trade Development and Assistance Act of 1954: *Provided*, That none of the funds appropriated to carry out title I of such Act and made available pursuant to this subsection may be obligated or expended except as provided through the regular notification procedures of the Committees on Appropriations.

(c) EXCEPTION.—This section shall not apply—

(1) with respect to section 620A of the Foreign Assistance Act or any comparable provision of law prohibiting assistance to countries that support international terrorism; or

(2) with respect to section 116 of the Foreign Assistance Act of 1961 or any comparable provision of law prohibiting assistance to countries that violate internationally recognized human rights.

EARMARKS

SEC. 544A. (a) Funds appropriated by this Act which are earmarked may be reprogrammed for other programs within the same account notwithstanding the earmark if compliance with the earmark is made impossible by operation of any provision of this or any other Act or, with respect to a country with which the United States has an agreement providing the United States with base rights or base access in that country, if the President determines that the recipient for which funds are earmarked has significantly reduced its military or economic cooperation with the United States since enactment of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991; however, before exercising the authority of this subsection with regard to a base rights or base access country which has significantly reduced its military or economic cooperation with the United States, the President shall consult with, and shall provide a written policy justification to the Committees on Appropriations: *Provided*, That any such reprogramming shall be subject to the regular notification procedures of the Committees on Appropriations: *Provided further*, That assistance that is reprogrammed pursuant to this subsection shall be made available under the same terms and conditions as originally provided.

(b) In addition to the authority contained in subsection (a), the original period of availability of funds appropriated by this Act and administered by the Agency for International Development that are earmarked for particular programs or activities by this or any other Act shall be extended for an additional fiscal year if the Administrator of such agency determines and reports promptly to the Committees on Appropriations that the termination of assistance to a country or a significant change in circumstances makes it unlikely that such earmarked funds can be obligated during the original period of availability: *Provided*, That such earmarked funds that are continued available for an additional fiscal year shall be obligated only for the purpose of such earmark.

CEILINGS AND EARMARKS

SEC. 545. Ceilings and earmarks contained in this Act shall not be applicable to funds or authorities appropriated or otherwise made available by any subsequent Act unless such Act specifically so directs.

PROHIBITION ON PUBLICITY OR PROPAGANDA

SEC. 546. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes within the United States not authorized before the date of enactment of this Act by the Congress: *Provided*, That not to exceed $750,000 may be made available to carry out the provisions of section 316 of Public Law 96–533.

USE OF AMERICAN RESOURCES

SEC. 547. To the maximum extent possible, assistance provided under this Act should make full use of American resources, including commodities, products, and services.

PROHIBITION OF PAYMENTS TO UNITED NATIONS MEMBERS

SEC. 548. None of the funds appropriated or made available pursuant to this Act for carrying out the Foreign Assistance Act of 1961, may be used to pay in whole or in part any assessments, arrearages, or dues of any member of the United Nations.

CONSULTING SERVICES

SEC. 549. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to section 3109 of title 5, United States Code, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order pursuant to existing law.

PRIVATE VOLUNTARY ORGANIZATIONS—DOCUMENTATION

SEC. 550. None of the funds appropriated or made available pursuant to this Act shall be available to a private voluntary organization which fails to provide upon timely request any document, file, or record necessary to the auditing requirements of the Agency for International Development.

PROHIBITION ON ASSISTANCE TO FOREIGN GOVERNMENTS THAT EXPORT LETHAL MILITARY EQUIPMENT TO COUNTRIES SUPPORTING INTERNATIONAL TERRORISM

SEC. 551. (a) None of the funds appropriated or otherwise made available by this Act may be available to any foreign government which provides lethal military equipment to a country the government of which the Secretary of State has determined is a terrorist government for purposes of section 40(d) of the Arms Export Control Act. The prohibition under this section with respect to a foreign government shall terminate 12 months after that government ceases to provide such military equipment. This section applies with respect to lethal military equipment provided under a contract entered into after the date of enactment of this Act.

(b) Assistance restricted by subsection (a) or any other similar provision of law, may be furnished if the President determines that furnishing such assistance is important to the national interests of the United States.

(c) Whenever the waiver of subsection (b) is exercised, the President shall submit to the appropriate congressional committees a report with respect to the furnishing of such assistance. Any such report shall include a detailed explanation of the assistance to be provided, including the estimated dollar amount of such assistance, and an explanation of how the assistance furthers United States national interests.

WITHHOLDING OF ASSISTANCE FOR PARKING FINES OWED BY FOREIGN COUNTRIES

SEC. 552. (a) IN GENERAL.—Of the funds made available for a foreign country under part I of the Foreign Assistance Act of 1961, an amount equivalent to 110 percent of the total unpaid fully adjudicated parking fines and penalties owed to the District of Columbia by such country as of the date of enactment of this

Act shall be withheld from obligation for such country until the Secretary of State certifies and reports in writing to the appropriate congressional committees that such fines and penalties are fully paid to the government of the District of Columbia.

(b) DEFINITION.—For purposes of this section, the term "appropriate congressional committees" means the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on International Relations and the Committee on Appropriations of the House of Representatives.

LIMITATION ON ASSISTANCE FOR THE PLO FOR THE WEST BANK AND GAZA

SEC. 553. None of the funds appropriated by this Act may be obligated for assistance for the Palestine Liberation Organization for the West Bank and Gaza unless the President has exercised the authority under section 604(a) of the Middle East Peace Facilitation Act of 1995 (title VI of Public Law 104–107) or any other legislation to suspend or make inapplicable section 307 of the Foreign Assistance Act of 1961 and that suspension is still in effect: *Provided*, That if the President fails to make the certification under section 604(b)(2) of the Middle East Peace Facilitation Act of 1995 or to suspend the prohibition under other legislation, funds appropriated by this Act may not be obligated for assistance for the Palestine Liberation Organization for the West Bank and Gaza.

EXPORT FINANCING TRANSFER AUTHORITIES

SEC. 554. Not to exceed 5 percent of any appropriation other than for administrative expenses made available for fiscal year 1997 for programs under title I of this Act may be transferred between such appropriations for use for any of the purposes, programs and activities for which the funds in such receiving account may be used, but no such appropriation, except as otherwise specifically provided, shall be increased by more than 25 percent by any such transfer: *Provided*, That the exercise of such authority shall be subject to the regular notification procedures of the Committees on Appropriations.

WAR CRIMES TRIBUNALS

SEC. 555. If the President determines that doing so will contribute to a just resolution of charges regarding genocide or other violations of international humanitarian law, the President may direct a drawdown pursuant to section 552(c) of the Foreign Assistance Act of 1961, as amended, of up to $25,000,000 of commodities and services for the United Nations War Crimes Tribunal established with regard to the former Yugoslavia by the United Nations Security Council or such other tribunals or commissions as the Council may establish to deal with such violations, without regard to the ceiling limitation contained in paragraph (2) thereof: *Provided*, That the determination required under this section shall be in lieu of any determinations otherwise required under section 552(c): *Provided further*, That 60 days after the date of enactment of this Act, and every 180 days thereafter, the Secretary of State shall submit a report to the Committees on Appropriations describing the steps the United States Government is taking to collect information regarding allegations of genocide or other violations

22 USC 2656 note.

of international law in the former Yugoslavia and to furnish that information to the United Nations War Crimes Tribunal for the former Yugoslavia.

LANDMINES

SEC. 556. Notwithstanding any other provision of law, demining equipment available to the Agency for International Development and the Department of State and used in support of the clearing of landmines and unexploded ordnance for humanitarian purposes may be disposed of on a grant basis in foreign countries, subject to such terms and conditions as the President may prescribe: *Provided*, That section 1365(c) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 22 U.S.C., 2778 note) is amended by striking out "During the five-year period beginning on October 23, 1992" and inserting in lieu thereof "During the eight-year period beginning on October 23, 1992".

RESTRICTIONS CONCERNING THE PALESTINIAN AUTHORITY

SEC. 557. None of the funds appropriated by this Act may be obligated or expended to create in any part of Jerusalem a new office of any department or agency of the United States Government for the purpose of conducting official United States Government business with the Palestinian Authority over Gaza and Jericho or any successor Palestinian governing entity provided for in the Israel-PLO Declaration of Principles: *Provided*, That this restriction shall not apply to the acquisition of additional space for the existing Consulate General in Jerusalem: *Provided further*, That meetings between officers and employees of the United States and officials of the Palestinian Authority, or any successor Palestinian governing entity provided for in the Israel-PLO Declaration of Principles, for the purpose of conducting official United States Government business with such authority should continue to take place in locations other than Jerusalem. As has been true in the past, officers and employees of the United States Government may continue to meet in Jerusalem on other subjects with Palestinians (including those who now occupy positions in the Palestinian Authority), have social contacts, and have incidental discussions.

PROHIBITION OF PAYMENT OF CERTAIN EXPENSES

SEC. 558. None of the funds appropriated or otherwise made available by this Act under the heading "INTERNATIONAL MILITARY EDUCATION AND TRAINING" or "FOREIGN MILITARY FINANCING PROGRAM" for Informational Program activities may be obligated or expended to pay for—

(1) alcoholic beverages;

(2) food (other than food provided at a military installation) not provided in conjunction with Informational Program trips where students do not stay at a military installation; or

(3) entertainment expenses for activities that are substantially of a recreational character, including entrance fees at sporting events and amusement parks.

HUMANITARIAN CORRIDORS

SEC. 559. The Foreign Assistance Act of 1961 is amended by adding immediately after section 620H the following new section:

"SEC. 620I. PROHIBITION ON ASSISTANCE TO COUNTRIES THAT RESTRICT UNITED STATES HUMANITARIAN ASSISTANCE.— 22 USC 2378–1.

"(a) IN GENERAL.—No assistance shall be furnished under this Act or the Arms Export Control Act to any country when it is made known to the President that the government of such country prohibits or otherwise restricts, directly or indirectly, the transport or delivery of United States humanitarian assistance.

"(b) EXCEPTION.—Assistance may be furnished without regard to the restriction in subsection (a) if the President determines that to do so is in the national security interest of the United States.

"(c) NOTICE.—Prior to making any determination under subsection (b), the President shall notify the Committee on International Relations, the Committee on Foreign Relations, and the Committees on Appropriations of the Senate and House of Representatives of his intention to make such a determination, the effective date of the determination, and the reasons for making the determination.".

EQUITABLE ALLOCATION OF FUNDS

SEC. 560. Not more than 20 percent of the funds appropriated by this Act to carry out the provisions of sections 103 through 106 and chapter 4 of part II of the Foreign Assistance Act of 1961, that are made available for Latin America and the Caribbean region may be made available, through bilateral and Latin America and the Caribbean regional programs, to provide assistance for any country in such region.

PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS

SEC. 561. (a) SENSE OF CONGRESS.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American-made.

(b) NOTICE REQUIREMENT.—In providing financial assistance to, or entering into any contract with, any entity using funds made available in this Act, the head of each Federal agency, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.

LIMITATION OF FUNDS FOR NORTH AMERICAN DEVELOPMENT BANK

SEC. 562. None of the Funds appropriated in this Act under the heading "North American Development Bank" and made available for the Community Adjustment and Investment Program shall be used for purposes other than those set out in the binational agreement establishing the Bank.

INTERNATIONAL DEVELOPMENT ASSOCIATION

SEC. 563. In order to pay for the United States contribution to the tenth replenishment of the resources of the International Development Association authorized in section 526 of Public Law 103–87, there is authorized to be appropriated, without fiscal year limitation, $700,000,000 for payment by the Secretary of the Treasury.

SPECIAL DEBT RELIEF FOR THE POOREST

SEC. 564. (a) AUTHORITY TO REDUCE DEBT.—The President may reduce amounts owed to the United States (or any agency of the United States) by an eligible country as a result of—

(1) guarantees issued under sections 221 and 222 of the Foreign Assistance Act of 1961; or

(2) credits extended or guarantees issued under the Arms Export Control Act.

(b) LIMITATIONS.—

(1) The authority provided by subsection (a) may be exercised only to implement multilateral official debt relief and referendum agreements, commonly referred to as "Paris Club Agreed Minutes".

(2) The authority provided by subsection (a) may be exercised only in such amounts or to such extent as is provided in advance by appropriations Acts.

(3) The authority provided by subsection (a) may be exercised only with respect to countries with heavy debt burdens that are eligible to borrow from the International Development Association, but not from the International Bank for Reconstruction and Development, commonly referred to as "IDA-only" countries.

(c) CONDITIONS.—The authority provided by subsection (a) may be exercised only with respect to a country whose government—

(1) does not have an excessive level of military expenditures;

(2) has not repeatedly provided support for acts of international terrorism;

(3) is not failing to cooperate on international narcotics control matters;

(4) (including its military or other security forces) does not engage in a consistent pattern of gross violations of internationally recognized human rights; and

(5) is not ineligible for assistance because of the application of section 527 of the Foreign Relations Authorization Act, fiscal years 1994 and 1995.

(d) AVAILABILITY OF FUNDS.—The authority provided by subsection (a) may be used only with regard to funds appropriated by this Act under the heading "Debt restructuring".

(e) CERTAIN PROHIBITIONS INAPPLICABLE.—A reduction of debt pursuant to subsection (a) shall not be considered assistance for purposes of any provision of law limiting assistance to a country. The authority provided by subsection (a) may be exercised notwithstanding section 620(r) of the Foreign Assistance Act of 1961.

AUTHORITY TO ENGAGE IN DEBT BUYBACKS OR SALES

SEC. 565. (a) LOANS ELIGIBLE FOR SALE, REDUCTION, OR CANCELLATION.—

(1) AUTHORITY TO SELL, REDUCE, OR CANCEL CERTAIN LOANS.—Notwithstanding any other provision of law, the President may, in accordance with this section, sell to any eligible purchaser any concessional loan or portion thereof made before January 1, 1995, pursuant to the Foreign Assistance Act of 1961, to the government of any eligible country as define in section 702(6) of that Act or on receipt of payment from an

eligible purchaser, reduce or cancel such loan or portion thereof, only for the purpose of facilitating—

(A) debt-for-equity swaps, debt-for-development swaps, or debt-for-nature swaps; or

(B) a debt buyback by an eligible country of its own qualified debt, only if the eligible country uses an additional amount of the local currency of the eligible country, equal to not less than 40 percent of the price paid for such debt by such eligible country, or the difference between the price paid for such debt and the face value of such debt, to support activities that link conservation and sustainable use of natural resources with local community development, and child survival and other child development, in a manner consistent with sections 707 through 710 of the Foreign Assistance Act of 1961, if the sale, reduction, or cancellation would not contravene any term or condition of any prior agreement relating to such loan.

(2) TERMS AND CONDITIONS.—Notwithstanding any other provision of law, the President shall, in accordance with this section, establish the terms and conditions under which loans may be sold, reduced, or canceled pursuant to this section.

(3) ADMINISTRATION.—The Facility, as defined in section 702(8) of the Foreign Assistance Act of 1961, shall notify the administrator of the agency primarily responsible for administering part I of the Foreign Assistance Act of 1961 of purchasers that the President has determined to be eligible, and shall direct such agency to carry out the sale, reduction, or cancellation of a loan pursuant to this section. Such agency shall make an adjustment in its accounts to reflect the sale, reduction, or cancellation.

(4) LIMITATION.—The authorities of this subsection shall be available only to the extent that appropriations for the cost of the modification, as defined in section 502 of the Congressional Budget Act of 1974, are made in advance.

(b) DEPOSIT OF PROCEEDS.—The proceeds from the sale, reduction, or cancellation of any loan sold, reduced, or canceled pursuant to this section shall be deposited in the United States Government account or accounts established for the repayment of such loan.

(c) ELIGIBLE PURCHASERS.—A loan may be sold pursuant to subsection (a)(1)(A) only to a purchaser who presents plans satisfactory to the President for using the loan for the purpose of engaging in debt-for-equity swaps, debt-for-development swaps, or debt-for-nature swaps.

(d) DEBTOR CONSULTATIONS.—Before the sale to any eligible purchaser, or any reduction or cancellation pursuant to this section, of any loan made to an eligible country, the President should consult with the country concerning the amount of loans to be sold, reduced, or canceled and their uses for debt-for-equity swaps, debt-for-development swaps, or debt-for-nature swaps.

(e) AVAILABILITY OF FUNDS.—The authority provided by subsection (a) may be used only with regard to funds appropriated by this Act under the heading "Debt restructuring".

LIBERIA

SEC. 566. Funds appropriated by this Act may be made available for assistance for Liberia notwithstanding section 620(q) of the Foreign Assistance Act of 1961 and section 512 of this Act.

GUATEMALA

SEC. 567. (a) Funds provided in this Act may be made available for the Guatemalan military forces, and the restrictions on Guatemala under the headings "International Military Education and Training" and "Foreign Military Financing Program" shall not apply, only if the President determines and certifies to the Congress that the Guatemalan military is cooperating fully with efforts to resolve human rights abuses which elements of the Guatemalan military forces are alleged to have committed, ordered or attempted to thwart the investigation of, and with efforts to negotiate a peace settlement.

(b) The prohibition contained in subsection (a) shall not apply to funds made available to implement a ceasefire or peace agreement.

(c) Any funds made available pursuant to subsections (a) or (b) shall be subject to the regular notification procedures of the Committees on Appropriations.

(d) Any funds made available pursuant to subsections (a) and (b) for international military education and training may only be for expanded international military education and training.

SANCTIONS AGAINST COUNTRIES HARBORING WAR CRIMINALS

SEC. 568. (a) BILATERAL ASSISTANCE.—The President is authorized to withhold funds appropriated by this Act under the Foreign Assistance Act of 1961 or the Arms Export Control Act for any country described in subsection (c).

(b) MULTILATERAL ASSISTANCE.—The Secretary of the Treasury should instruct the United States executive directors of the international financial institutions to work in opposition to, and vote against, any extension by such institutions of financing or financial or technical assistance to any country described in subsection (c).

(c) SANCTIONED COUNTRIES.—A country described in this subsection is a country the government of which knowingly grants sanctuary to persons in its territory for the purpose of evading prosecution, where such persons—

(1) have been indicted by the International Criminal Tribunal for the former Yugoslavia, the International Criminal Tribunal for Rwanda, or any other international tribunal with similar standing under international law, or

(2) have been indicted for war crimes or crimes against humanity committed during the period beginning March 23, 1933 and ending on May 8, 1945 under the direction of, or in association with—

(A) the Nazi government of Germany;

(B) any government in any area occupied by the military forces of the Nazi government of Germany;

(C) any government which was established with the assistance or cooperation of the Nazi government; or

(D) any government which was an ally of the Nazi government of Germany.

LIMITATION ON ASSISTANCE FOR HAITI

SEC. 569. (a) LIMITATION.—None of the funds appropriated or otherwise made available by this Act, may be provided to the Government of Haiti until the President reports to Congress that—

(1) the Government is conducting thorough investigations of extrajudicial and political killings; and

(2) the Government is cooperating with United States authorities in the investigations of political and extrajudicial killings.

(b) Nothing in this section shall be construed to restrict the provision of humanitarian, development, or electoral assistance.

(c) The President may waive the requirements of this section on a semiannual basis if he determines and certifies to the appropriate committees of Congress that it is in the national interest of the United States.

POLICY TOWARD BURMA

SEC. 570. (a) Until such time as the President determines and certifies to Congress that Burma has made measurable and substantial progress in improving human rights practices and implementing democratic government, the following sanctions shall be imposed on Burma:

(1) BILATERAL ASSISTANCE.—There shall be no United States assistance to the Government of Burma, other than:

(A) humanitarian assistance,

(B) subject to the regular notification procedures of the Committees on Appropriations, counter-narcotics assistance under chapter 8 of part I of the Foreign Assistance Act of 1961, or crop substitution assistance, if the Secretary of State certifies to the appropriate congressional committees that—

(i) the Government of Burma is fully cooperating with United States counter-narcotics efforts, and

(ii) the programs are fully consistent with United States human rights concerns in Burma and serve the United States national interest, and

(C) assistance promoting human rights and democratic values.

(2) MULTILATERAL ASSISTANCE.—The Secretary of the Treasury shall instruct the United States executive director of each international financial institution to vote against any loan or other utilization of funds of the respective bank to or for Burma.

(3) VISAS.—Except as required by treaty obligations or to staff the Burmese mission to the United States, the United States should not grant entry visas to any Burmese government official.

(b) CONDITIONAL SANCTIONS.—The President is hereby authorized to prohibit, and shall prohibit United States persons from new investment in Burma, if the President determines and certifies to Congress that, after the date of enactment of this Act, the Government of Burma has physically harmed, rearrested for political acts, or exiled Daw Aung San Suu Kyi or has committed large-scale repression of or violence against the Democratic opposition.

(c) MULTILATERAL STRATEGY.—The President shall seek to develop, in coordination with members of ASEAN and other countries having major trading and investment interests in Burma, a comprehensive, multilateral strategy to bring democracy to and improve human rights practices and the quality of life in Burma, including the development of a dialogue between the State Law

and Order Restoration Council (SLORC) and democratic opposition groups within Burma.

(d) PRESIDENTIAL REPORTS.—Every six months following the enactment of this Act, the President shall report to the Chairmen of the Committee on Foreign Relations, the Committee on International Relations and the House and Senate Appropriations Committees on the following:

(1) progress toward democratization in Burma;

(2) progress on improving the quality of life of the Burmese people, including progress on market reforms, living standards, labor standards, use of forced labor in the tourism industry, and environmental quality; and

(3) progress made in developing the strategy referred to in subsection (c).

(e) WAIVER AUTHORITY.—The President shall have the authority to waive, temporarily or permanently, any sanction referred to in subsection (a) or subsection (b) if he determines and certifies to Congress that the application of such sanction would be contrary to the national security interests of the United States.

(f) DEFINITIONS.—

(1) The term "international financial institutions" shall include the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Multilateral Investment Guarantee Agency, the Asian Development Bank, and the International Monetary Fund.

(2) The term "new investment" shall mean any of the following activities if such an activity is undertaken pursuant to an agreement, or pursuant to the exercise of rights under such an agreement, that is entered into with the Government of Burma or a nongovernmental entity in Burma, on or after the date of the certification under subsection (b):

(A) the entry into a contract that includes the economical development of resources located in Burma, or the entry into a contract providing for the general supervision and guarantee of another person's performance of such a contract;

(B) the purchase of a share of ownership, including an equity interest, in that development;

(C) the entry into a contract providing for the participation in royalties, earnings, or profits in that development, without regard to the form of the participation:

Provided, That the term "new investment" does not include the entry into, performance of, or financing of a contract to sell or purchase goods, services, or technology.

REPORT REGARDING HONG KONG

22 USC 5731 note.

SEC. 571. In light of the deficiencies in reports submitted to the Congress pursuant to section 301 of the United States-Hong Kong Policy Act (22 U.S.C. 5731), the Congress directs that the additional report required to be submitted during 1997 under such section include detailed information on the status of, and other developments affecting, implementation of the Sino-British Joint Declaration on the Question of Hong King, including—

(1) the Basic Law and its consistency with the Joint Declaration;

(2) Beijing's plans to replace the elected legislature with an appointed body;

(3) the openness and fairness of the election of the chief executive and the executive's accountability to the legislature;

(4) the treatment of political parties;

(5) the independence of the Judiciary and its ability to exercise the power of final judgment over Hong Kong law; and

(6) the Bill of Rights.

USE OF FUNDS FOR PURCHASE OF PRODUCTS NOT MADE IN AMERICA

SEC. 572. The Administrator of the Agency for International Development shall provide a report to the appropriate committees of the Congress on the ability of the United States Government to implement a provision of law (and on the foreign policy implications of such a provision of law) which would require that United States funds could be made available to the government of a foreign country for the purchase of any equipment or products only if such purchases were to occur in such foreign country or the United States, and substantially similar equipment and products were made in the United States and available for purchase at a price that is not more than 10 percent higher than that in other countries.

CONFLICT IN CHECHNYA

SEC. 573. The Secretary of State shall provide to the Committees on Appropriations no later than 30 days from the date of enactment of this Act a detailed report on actions undertaken by the United States Government to resolve the conflict in Chechnya.

EXTENSION OF CERTAIN ADJUDICATION PROVISIONS

SEC. 575. The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101–167) is amended—

(1) in section 599D (8 U.S.C. 1157 note)—

(A) in subsection (b)(3), by striking "and 1996" and inserting "1996, and 1997"; and

(B) in subsection (e), by striking out "October 1, 1996" each place it appears and inserting "October 1, 1997"; and

(2) in section 599E (8 U.S.C. 1255 note) in subsection (b)(2), by striking out "September 30, 1996" and inserting "September 30, 1997".

TRANSPARENCY OF BUDGETS

SEC. 576. (a) LIMITATION.—Beginning three years after the date of the enactment of this Act, the Secretary of the Treasury shall instruct the United States Executive Director of each international financial institution to use the voice and vote of the United States to oppose any loan or other utilization of the funds of their respective institution, other than to address basic human needs, for the government of any country which the Secretary of the Treasury determines— 22 USC 262k–1.

(1) does not have in place a functioning system for a civilian audit of all receipts and expenditures that fund activities of the armed forces and security forces;

(2) has not provided a summary of a current audit to the institution.

(b) DEFINITION.—For purposes of this section, the term "international financial institution" shall include the institutions identified in section 532(b) of this Act.

GUARANTEES

SEC. 577. Section 251(b)(2)(G) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking "fiscal year 1994 and 1995" and inserting in lieu thereof "fiscal years 1994, 1995, and 1997" in both places that this appears.

2 USC 901.

INFORMATION ON COOPERATION WITH UNITED STATES ANTI-TERRORISM EFFORTS IN ANNUAL COUNTRY REPORTS ON TERRORISM

SEC. 578. Section 140 of the Foreign Relations Authorization Act, fiscal years 1988 and 1989 (22 U.S.C. 2656f) is amended—

(1) in subsection (a)—

(A) by striking "and" at the end of paragraph (1);

(B) by striking the period at the end of paragraph (2) and inserting a semicolon; and

(C) by adding at the end the following:

"(3) with respect to each foreign country from which the United States Government has sought cooperation during the previous five years in the investigation or prosecution of an act of international terrorism against United States citizens or interests, information on—

"(A) the extent to which the government of the foreign country is cooperating with the United States Government in apprehending, convicting, and punishing the individual or individuals responsible for the act; and

"(B) the extent to which the government of the foreign country is cooperating in preventing further acts of terrorism against United States citizens in the foreign country; and

"(4) with respect to each foreign country from which the United States Government has sought cooperation during the previous five years in the prevention of an act of international terrorism against such citizens or interests, the information described in paragraph (3)(B).''; and

(2) in subsection (c)—

(A) by striking "The report" and inserting "(1) Except as provided in paragraph (2), the report";

(B) by indenting the margin of paragraph (1) as so designated, 2 ems; and

(C) by adding at the end the following:

"(2) If the Secretary of State determines that the transmittal of the information with respect to a foreign country under paragraph (3) or (4) of subsection (a) in classified form would make more likely the cooperation of the government of the foreign country as specified in such paragraph, the Secretary may transmit the information under such paragraph in classified form.".

FEMALE GENITAL MUTILATION

SEC. 579. (a) LIMITATION.—Beginning 1 year after the date of the enactment of this Act, the Secretary of the Treasury shall instruct the United States Executive Director of each international financial institution to use the voice and vote of the United States to oppose any loan or other utilization of the funds of their respective institution, other than to address basic human needs, for the government of any country which the Secretary of the Treasury determines— 22 USC 262k–2.

(1) has, as a cultural custom, a known history of the practice of female genital mutilation; and

(2) has not taken steps to implement educational programs designed to prevent the practice of female genital mutilation.

(b) DEFINITION.—For purposes of this section, the term "international financial institution" shall include the institutions identified in section 532(b) of this Act.

REQUIREMENT FOR DISCLOSURE OF FOREIGN AID IN REPORT OF SECRETARY OF STATE

SEC. 580. (a) FOREIGN AID REPORTING REQUIREMENT.—In addition to the voting practices of a foreign country, the report required to be submitted to Congress under section 406(a) of the Foreign Relations Authorization Act, fiscal years 1990 and 1991 (22 U.S.C. 2414a), shall include a side-by-side comparison of individual countries' overall support for the United States at the United Nations and the amount of United States assistance provided to such country in fiscal year 1996. 22 USC 2414a note.

(b) UNITED STATES ASSISTANCE.—For purposes of this section, the term "United States assistance" has the meaning given the term in section 481(e)(4) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(e)(4)).

RESTRICTIONS ON VOLUNTARY CONTRIBUTIONS TO UNITED NATIONS AGENCIES

SEC. 581. (a) PROHIBITION ON VOLUNTARY CONTRIBUTIONS FOR THE UNITED NATIONS.—None of the funds appropriated or otherwise made available by this Act may be made available to pay any voluntary contribution of the United States to the United Nations (including the United Nations Development Program if the United Nations implements or imposes any taxation on any United States persons.

(b) CERTIFICATION REQUIRED FOR DISBURSEMENT OF FUNDS.—None of the funds appropriated or otherwise made available under this Act may be made available to pay any voluntary contribution of the United States to the United Nations (including the United Nations Development Program) unless the President certifies to the Congress 15 days in advance of such payment that the United Nations is not engaged in any effort to implement or impose any taxation on United States persons in order to raise revenue for the United Nations or any of its specialized agencies.

(c) DEFINITIONS.—As used in this section the term "United States person" refers to—

(1) a natural person who is a citizen or national of the United States; or

(2) a corporation, partnership, or other legal entity organized under the United States or any State, territory, possession, or district of the United States.

HAITI

SEC. 582. The Government of Haiti shall be eligible to purchase defense articles and services under the Arms Export Control Act (22 U.S.C. 2751 et seq.), for the civilian-led Haitian National Police and Coast Guard: *Provided,* That the authority provided by this section shall be subject to the regular notification procedures of the Committees on Appropriations.

REFUGEE STATUS FOR ADULT CHILDREN OF FORMER VIETNAMESE RE-EDUCATION CAMP INTERNEES RESETTLED UNDER THE ORDERLY DEPARTURE PROGRAM

SEC. 584. (a) ELIGIBILITY FOR ORDERLY DEPARTURE PROGRAM.—For purposes of eligibility for the Orderly Departure Program for nationals of Vietnam, during fiscal year 1997, an alien described in subsection (b) shall be considered to be a refugee of special humanitarian concern to the United States within the meaning of section 207 of the Immigration and Nationality Act (8 U.S.C. 1157) and shall be admitted to the United States for resettlement if the alien would be admissible as an immigrant under the Immigration and Nationality Act (except as provided in section 207(c)(3) of that Act).

(b) ALIENS COVERED.—An alien described in this subsection is an alien who—

(1) is the son or daughter of a national of Vietnam who—

(A) was formerly interned in a reeducation camp in Vietnam by the Government of the Socialist Republic of Vietnam; and

(B) has been accepted for resettlement as a refugee under the Orderly Departure Program on or after April 1, 1995;

(2) is 21 years of age or older; and

(3) was unmarried as of the date of acceptance of the alien's parent for resettlement under the Orderly Departure Program.

(c) SUPERSEDES EXISTING LAW.—This section supersedes any other provision of law.

NORTH KOREA

22 USC 2656 note.

SEC. 585. Ninety days after the date of enactment of this Act, and every 180 days thereafter, the Secretary of State, in consultation with the Secretary of Defense, shall provide a report in a classified or unclassified form to the Committee on Appropriations including the following information:

(a) a best estimate on fuel used by the military forces of the Democratic People's Republic of Korea (DPRK);

(b) the deployment position and military training and activities of the DPRK forces and best estimate of the associated costs of these activities;

(c) steps taken to reduce the DPRK level of forces; and

(d) cooperation, training, or exchanges of information, technology or personnel between the DPRK and any other nation

supporting the development or deployment of a ballistic missile capability.

LIMITATION ON ASSISTANCE TO MEXICO

SEC. 587. Not less than $2,500,000 of the funds appropriated or otherwise made available by this Act for the Government of Mexico shall be withheld from obligation until the President has determined and reported to Congress that—

(1) the Government of Mexico is taking actions to reduce the amount of illegal drugs entering the United States from Mexico; and

(2) the Government of Mexico—

(A) is taking effective actions to apply vigorously all law enforcement resources to investigate, track, capture, incarcerate, and prosecute individuals controlling, supervising, or managing international narcotics cartels or other similar entities and the accomplices of such individuals, individuals responsible for, or otherwise involved in, corruption, and individuals involved in money-laundering;

(B) is pursuing international anti-drug trafficking initiatives;

(C) is cooperating fully with international efforts at narcotics interdiction; and

(D) is cooperating fully with requests by the United States for assistance in investigations of money-laundering violations and is making progress toward implementation of effective laws to prohibit money-laundering.

LIMITATION OF ASSISTANCE TO TURKEY

SEC. 588. Not more than $22,000,000 of the funds appropriated in this Act under the heading "Economic Support Fund" may be made available to the Government of Turkey.

CIVIL LIABILITY FOR ACTS OF STATE SPONSORED TERRORISM

SEC. 589. (a) an official, employee, or agent of a foreign state designated as a state sponsor of terrorism designated under section 6(j) of the Export Administration Act of 1979 while acting within the scope of his or her office, employment, or agency shall be liable to a United States national or the national's legal representative for personal injury or death caused by acts of that official, employee, or agent for which the courts of the United States may maintain jurisdiction under section 1605(a)(7) of title 28, United States Code, for money damages which may include economic damages, solatium, pain, and suffering, and punitive damages if the acts were among those described in section 1605(a)(7). 28 USC 1605 note.

(b) Provisions related to statute of limitations and limitations on discovery that would apply to an action brought under 28 U.S.C. 1605(f) and (g) shall also apply to actions brought under this section. No action shall be maintained under this action if an official, employee, or agent of the United States, while acting within the scope of his or her office, employment, or agency would not be liable for such acts if carried out within the United States.

Titles I through V of this Act may be cited as the "Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997". Short title.

NATO Enlargement Facilitation Act of 1996.
22 USC 1928 note.

TITLE VI—NATO ENLARGEMENT FACILITATION ACT OF 1996

SEC. 601. SHORT TITLE.

This title may be cited as the "NATO Enlargement Facilitation Act of 1996".

SEC. 602. FINDINGS.

The Congress makes the following findings:

(1) Since 1949, the North Atlantic Treaty Organization (NATO) has played an essential role in guaranteeing the security, freedom, and prosperity of the United States and its partners in the Alliance.

(2) The NATO Alliance is, and has been since its inception, purely defensive in character, and it poses no threat to any nation. The enlargement of the NATO Alliance to include as full and equal members emerging democracies in Central and Eastern Europe will serve to reinforce stability and security in Europe by fostering their integration into the structures which have created and sustained peace in Europe since 1945. Their admission into NATO will not threaten any nation. America's security, freedom, and prosperity remain linked to the security of the countries of Europe.

(3) The sustained commitment of the member countries of NATO to a mutual defense has made possible the democratic transformation of Central and Eastern Europe. Members of the Alliance can and should play a critical role in addressing the security challenges of the post-Cold War era and in creating the stable environment needed for those emerging democracies in Central and Eastern Europe to successfully complete political and economic transformation.

(4) The United States continues to regard the political independence and territorial integrity of all emerging democracies in Central and Eastern Europe as vital to European peace and security.

(5) The active involvement by the countries of Central and Eastern Europe has made the Partnership for Peace program an important forum to foster cooperation between NATO and those countries seeking NATO membership.

(6) NATO has enlarged its membership on 3 different occasions since 1949.

(7) Congress supports the admission of qualified new members to NATO and the European Union at an early date and has sought to facilitate the admission of qualified new members into NATO.

(8) Lasting security and stability in Europe requires not only the military integration of emerging democracies in Central and Eastern Europe into existing European structures, but also the eventual economic and political integration of these countries into existing European structures.

(9) As new members of NATO assume the responsibilities of Alliance membership, the costs of maintaining stability in Europe should be shared more widely. Facilitation of the enlargement process will require current members of NATO, and the United States in particular, to demonstrate the political will needed to build on successful ongoing programs such as the Warsaw Initiative and the Partnership for Peace by making

available the resources necessary to supplement efforts prospective new members are themselves undertaking.

(10) New members will be full members of the Alliance, enjoying all rights and assuming all the obligations under the North Atlantic Treaty, signed at Washington on April 4, 1949 (hereafter in this Act referred to as the "Washington Treaty").

(11) In order to assist emerging democracies in Central and Eastern Europe that have expressed interest in joining NATO to be prepared to assume the responsibilities of NATO membership, the United States should encourage and support efforts by such countries to develop force structures and force modernization priorities that will enable such countries to contribute to the full range of NATO missions, including, most importantly, territorial defense of the Alliance.

(12) Cooperative regional peacekeeping initiatives involving emerging democracies in Central and Eastern Europe that have expressed interest in joining NATO, such as the Baltic Peacekeeping Battalion, the Polish-Lithuanian Joint Peacekeeping Force, and the Polish-Ukrainian Peacekeeping Force, can make an important contribution to European peace and security and international peacekeeping efforts, can assist those countries preparing to assume the responsibilities of possible NATO membership, and accordingly should receive appropriate support from the United States.

(13) NATO remains the only multilateral security organization capable of conducting effective military operations and preserving security and stability of the Euro-Atlantic region.

(14) NATO is an important diplomatic forum and has played a positive role in defusing tensions between members of the Alliance and, as a result, no military action has occurred between two Alliance member states since the inception of NATO in 1949.

(15) The admission to NATO of emerging democracies in Central and Eastern Europe which are found to be in a position to further the principles of the Washington Treaty would contribute to international peace and enhance the security of the region. Countries which have become democracies and established market economies, which practice good neighborly relations, and which have established effective democratic civilian control over their defense establishments and attained a degree of interoperability with NATO, should be evaluated for their potential to further the principles of the Washington Treaty.

(16) Democratic civilian control of defense forces is an essential element in the process of preparation for those states interested in possible NATO membership.

(17) Protection and promotion of fundamental freedoms and human rights is an integral aspect of genuine security, and in evaluating requests for membership in NATO, the human rights records of the emerging democracies in Central and Eastern Europe should be evaluated according to their commitments to fulfill in good faith the human rights obligations of the Charter of the United Nations, the principles of the Universal Declaration on Human Rights, and the Helsinki Final Act.

(18) A number of Central and Eastern European countries have expressed interest in NATO membership, and have taken

concrete steps to demonstrate this commitment, including their participation in Partnership for Peace activities.

(19) The Caucasus region remains important geographically and politically to the future security of Central Europe. As NATO proceeds with the process of enlargement, the United States and NATO should continue to examine means to strengthen the sovereignty and enhance the security of United Nations recognized countries in that region.

(20) In recognition that not all countries which have requested membership in NATO will necessarily qualify at the same pace, the accession date for each new member will vary.

(21) The provision of additional NATO transition assistance should include those emerging democracies most ready for closer ties with NATO and should be designed to assist other countries meeting specified criteria of eligibility to move forward toward eventual NATO membership.

(22) The Congress of the United States finds in particular that Poland, Hungary, and the Czech Republic have made significant progress toward achieving the criteria set forth in section 203(d)(3) of the NATO Participation Act of 1994 and should be eligible for the additional assistance described in this Act.

(23) The evaluation of future membership in NATO for emerging democracies in Central and Eastern Europe should be based on the progress of those nations in meeting criteria for NATO membership, which require enhancement of NATO's security and the approval of all NATO members.

(24) The process of NATO enlargement entails the consensus agreement of the governments of all 16 NATO members and ratification in accordance with their constitutional procedures.

(25) Some NATO members, such as Spain and Norway, do not allow the deployment of nuclear weapons on their territory although they are accorded the full collective security guarantees provided by Article 5 of the Washington Treaty. There is no a priori requirement for the stationing of nuclear weapons on the territory of new NATO members, particularly in the current security climate. However, NATO retains the right to alter its security posture at any time as circumstances warrant.

SEC. 603. UNITED STATES POLICY.

It is the policy of the United States—

(1) to join with the NATO allies of the United States to adapt the role of the NATO Alliance in the post-Cold War world;

(2) to actively assist the emerging democracies in Central and Eastern Europe in their transition so that such countries may eventually qualify for NATO membership;

(3) to support the enlargement of NATO in recognition that enlargement will benefit the interests of the United States and the Alliance and to consider these benefits in any analysis of the costs of NATO enlargement;

(4) to ensure that all countries in Central and Eastern Europe are fully aware of and capable of assuming the costs

and responsibilities of NATO membership, including the obligation set forth in Article 10 of the Washington Treaty that new members be able to contribute to the security of the North Atlantic area; and

(5) to work to define a constructive and cooperative political and security relationship between an enlarged NATO and the Russian Federation.

SEC. 604. SENSE OF THE CONGRESS REGARDING FURTHER ENLARGEMENT OF NATO.

It is the sense of the Congress that in order to promote economic stability and security in Slovakia, Estonia, Latvia, Lithuania, Romania, Bulgaria, Albania, Moldova, and Ukraine—

(1) the United States should continue and expand its support for the full and active participation of these countries in activities appropriate for qualifying for NATO membership;

(2) the United States Government should use all diplomatic means available to press the European Union to admit as soon as possible any country which qualifies for membership;

(3) the United States Government and the North Atlantic Treaty Organization should continue and expand their support for military exercises and peacekeeping initiatives between and among these nations, nations of the North Atlantic Treaty Organization, and Russia; and

(4) the process of enlarging NATO to include emerging democracies in Central and Eastern Europe should not be limited to consideration of admitting Poland, Hungary, the Czech Republic, and Slovenia as full members of the NATO Alliance.

SEC. 605. SENSE OF THE CONGRESS REGARDING ESTONIA, LATVIA AND LITHUANIA.

In view of the forcible incorporation of Estonia, Latvia, Lithuania into the Soviet Union in 1940 under the Molotov-Ribbentrop Pact and the refusal of the United States and other countries to recognize that incorporation for over 50 years, it is the sense of the Congress that—

(1) Estonia, Latvia, and Lithuania have valid historical security concerns that must be taken into account by the United States; and

(2) Estonia, Latvia, and Lithuania should not be disadvantaged in seeking to join NATO by virtue of their forcible incorporation into the Soviet Union.

SEC. 606. DESIGNATION OF COUNTRIES ELIGIBLE FOR NATO ENLARGEMENT ASSISTANCE.

(a) IN GENERAL.—The following countries are designated as eligible to receive assistance under the program established under section 203(a) of the NATO Participation Act of 1994 and shall be deemed to have been so designated pursuant to section 203(d)(1) of such Act: Poland, Hungary, and the Czech Republic.

(b) DESIGNATION OF SLOVENIA.—Effective 90 days after the date of enactment of this Act, Slovenia is designated as eligible to receive assistance under the program established under section 203(a) of the NATO Participation Act of 1994, and shall be deemed to have been so designated pursuant to section 203(d) of such Act, unless the President certifies to Congress prior to such effective date that Slovenia fails to meet the criteria under section 203(d)(3) of such Act.

(c) DESIGNATION OF OTHER COUNTRIES.—The President shall designate other emerging democracies in Central and Eastern Europe as eligible to receive assistance under the program established under section 203(a) of such Act if such countries—

(1) have expressed a clear desire to join NATO;

(2) have begun an individualized dialogue with NATO in preparation for accession;

(3) are strategically significant to an effective NATO defense; and

(4) meet the other criteria outlined in section 203(d)(3) of the NATO Participation Act of 1994 (title II of Public Law 103–447; 22 U.S.C. 1928 note).

(d) RULE OF CONSTRUCTION.—Nothing in this section precludes the designation by the President of Estonia, Latvia, Lithuania, Romania, Slovakia, Bulgaria, Albania, Moldova, Ukraine, or any other emerging democracy in Central and Eastern Europe pursuant to section 203(d) of the NATO Participation Act of 1994 as eligible to receive assistance under the program established under section 203(a) of such Act.

SEC. 607. AUTHORIZATION OF APPROPRIATIONS FOR NATO ENLARGEMENT ASSISTANCE.

(a) IN GENERAL.—There are authorized to be appropriated $60,000,000 for fiscal year 1997 for the program established under section 203(a) of the NATO Participation Act of 1994.

(b) AVAILABILITY.—Of the funds authorized to be appropriated by subsection (a)—

(1) not less than $20,000,000 shall be available for the cost, as defined in section 502(5) of the Credit Reform Act of 1990, of direct loans pursuant to the authority of section 203(c)(4) of the NATO Participation Act of 1994 (relating to the "Foreign Military Financing Program");

(2) not less than $30,000,000 shall be available for assistance on a grant basis pursuant to the authority of section 203(c)(4) of the NATO Participation Act of 1994 (relating to the "Foreign Military Financing Program"); and

(3) not more than $10,000,000 shall be available for assistance pursuant to the authority of section 203(c)(3) of the NATO Participation Act of 1994 (relating to international military education and training).

(c) RULE OF CONSTRUCTION.—Amounts authorized to be appropriated under this section are authorized to be appropriated in addition to such amounts as otherwise may be available for such purposes.

SEC. 608. REGIONAL AIRSPACE INITIATIVE AND PARTNERSHIP FOR PEACE INFORMATION MANAGEMENT SYSTEM.

(a) IN GENERAL.—To the extent provided in advance in appropriations acts for such purposes, funds described in subsection (b) are authorized to be made available to support the implementation of the Regional Airspace Initiative and the Partnership for Peace Information Management System, including—

(1) the procurement of items in support of these programs; and

(2) the transfer of such items to countries participating in these programs.

(b) FUNDS DESCRIBED.—Funds described in this subsection are funds that are available—

(1) during any fiscal year under the NATO Participation Act of 1994 with respect to countries eligible for assistance under that Act; or

(2) during fiscal year 1997 under any Act to carry out the Warsaw Initiative.

SEC. 609. EXCESS DEFENSE ARTICLES.

(a) PRIORITY DELIVERY.—Notwithstanding any other provision of law, the delivery of excess defense articles under the authority of section 203(c) (1) and (2) of the NATO Participation Act of 1994 and section 516 of the Foreign Assistance Act of 1961 shall be given priority to the maximum extent feasible over the delivery of such excess defense articles to all other countries except those countries referred to in section 541 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1995 (Public Law 103–306; 108 Stat. 1640).

(b) COOPERATIVE REGIONAL PEACEKEEPING INITIATIVES.—The Congress encourages the President to provide excess defense articles and other appropriate assistance to cooperative regional peacekeeping initiatives involving emerging democracies in Central and Eastern Europe that have expressed an interest in joining NATO in order to enhance their ability to contribute to European peace and security and international peacekeeping efforts.

SEC. 610. MODERNIZATION OF DEFENSE CAPABILITY.

The Congress endorses efforts by the United States to modernize the defense capability of Poland, Hungary, the Czech Republic, Slovenia, and any other countries designated by the President pursuant to section 203(d) of the NATO Participation Act of 1994, by exploring with such countries options for the sale or lease to such countries of weapons systems compatible with those used by NATO members, including air defense systems, advanced fighter aircraft, and telecommunications infrastructure.

SEC. 611. TERMINATION OF ELIGIBILITY.

(a) TERMINATION OF ELIGIBILITY.—The eligibility of a country designated pursuant to subsection (a) or (b) of section 606 or pursuant to section 203(d) of the NATO Participation Act of 1994 may be terminated upon a determination by the President that such country does not meet the criteria set forth in section 203(d)(3) of the NATO Participation Act of 1994.

(b) NOTIFICATION.—At least 15 days before terminating the eligibility of any country pursuant to subsection (a), the President shall notify the congressional committees specified in section 634A of the Foreign Assistance Act of 1961 in accordance with the procedures applicable to reprogramming notifications under that section.

SEC. 612. CONFORMING AMENDMENTS TO THE NATO PARTICIPATION ACT.

The NATO Participation Act of 1994 (title II of Public Law 103–447; 22 U.S.C. 1928 note) is amended in sections 203(a), 203(d)(1), and 203(d)(2) by striking "countries emerging from communist domination" each place it appears and inserting "emerging democracies in Central and Eastern Europe".

Bank for Economic Cooperation and Development in the Middle East and North Africa Act.

TITLE VII—MIDDLE EAST DEVELOPMENT BANK

22 USC 290o note.

SEC. 701. SHORT TITLE.

This title may be cited as the "Bank for Economic Cooperation and Development in the Middle East and North Africa Act".

22 USC 290o.

SEC. 702. ACCEPTANCE OF MEMBERSHIP.

The President is hereby authorized to accept membership for the United States in the Bank for Economic Cooperation and Development in the Middle East and North Africa (in this title referred to as the "Bank") provided for by the agreement establishing the Bank (in this title referred to as the "Agreement"), signed on May 31, 1996.

22 USC 290o–1.

SEC. 703. GOVERNOR AND ALTERNATE GOVERNOR.

(a) APPOINTMENT.—At the inaugural meeting of the Board of Governors of the Bank, the Governor and the alternate for the Governor of the International Bank for Reconstruction and Development, appointed pursuant to section 3 of the Bretton Woods Agreements Act, shall serve ex-officio as a Governor and the alternate for the Governor, respectively, of the Bank. The President, by and with the advice and consent of the Senate, shall appoint a Governor of the Bank and an alternate for the Governor.

(b) COMPENSATION.—Any person who serves as a governor of the Bank or as an alternate for the Governor may not receive any salary or other compensation from the United States by reason of such service.

22 USC 290o–2.

SEC. 704. APPLICABILITY OF CERTAIN PROVISIONS OF THE BRETTON WOODS AGREEMENTS ACT.

Section 4 of the Bretton Woods Agreements Act shall apply to the Bank in the same manner in which such section applies to the International Bank for Reconstruction and Development and the International Monetary Fund.

22 USC 290o–3.

SEC. 705. FEDERAL RESERVE BANKS AS DEPOSITORIES.

Any Federal Reserve Bank which is requested to do so by the Bank may act as its depository, or as its fiscal agent, and the Board of Governors of the Federal Reserve System shall exercise general supervision over the carrying out of these functions.

22 USC 290o–4.

SEC. 706. SUBSCRIPTION OF STOCK.

(a) SUBSCRIPTION AUTHORITY.—

(1) IN GENERAL.—The Secretary of the Treasury may subscribe on behalf of the United States to not more than 7,011,270 shares of the capital stock of the Bank.

(2) EFFECTIVENESS OF SUBSCRIPTION COMMITMENT.—Any commitment to make such subscription shall be effective only to such extent or in such amounts as are provided for in advance by appropriations Acts.

(b) LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.—For payment by the Secretary of the Treasury of the subscription of the United States for shares described in subsection (a), there are authorized to be appropriated $1,050,007,800 without fiscal year limitation.

(c) LIMITATIONS ON OBLIGATION OF APPROPRIATED AMOUNTS FOR SHARES OF CAPITAL STOCK.—

(1) PAID-IN CAPITAL STOCK.—

(A) IN GENERAL.—Not more than $105,000,000 of the amounts appropriated pursuant to subsection (b) may be obligated for subscription to shares of paid-in capital stock.

(B) FISCAL YEAR 1997.—Not more than $52,500,000 of the amounts appropriated pursuant to subsection (b) for fiscal year 1997 may be obligated for subscription to shares of paid-in capital stock.

(2) CALLABLE CAPITAL STOCK.—Not more than $787,505,852 of the amounts appropriated pursuant to subsection (b) may be obligated for subscription to shares of callable capital stock.

(d) DISPOSITION OF NET INCOME DISTRIBUTIONS BY THE BANK.—Any payment made to the United States by the Bank as a distribution of net income shall be covered into the Treasury as a miscellaneous receipt.

SEC. 707. JURISDICTION AND VENUE OF CIVIL ACTIONS BY OR AGAINST THE BANK. 22 USC 290o–5.

(a) JURISDICTION.—The United States district courts shall have original and exclusive jurisdiction of any civil action brought in the United States by or against the Bank.

(b) VENUE.—For purposes of section 1391(b) of title 28, United States Code, the Bank shall be deemed to be a resident of the judicial district in which the principal office of the Bank in the United States, or its agent appointed for the purpose of accepting service or notice of service, is located.

SEC. 708. EFFECTIVENESS OF AGREEMENT. 22 USC 290o–6.

The Agreement shall have full force and effect in the United States, its territories and possessions, and the Commonwealth of Puerto Rico, upon acceptance of membership by the United States in the Bank and the entry into force of the Agreement.

SEC. 709. EXEMPTION FROM SECURITIES LAWS FOR CERTAIN SECURITIES ISSUED BY THE BANK; REPORTS REQUIRED. 22 USC 290o–7.

(a) EXEMPTION FROM SECURITIES LAWS; REPORTS TO SECURITIES AND EXCHANGE COMMISSION.—Any securities issued by the Bank (including any guaranty by the Bank, whether or not limited in scope) in connection with borrowing of funds, or the guarantee of securities as to both principal and interest, shall be deemed to be exempted securities within the meaning of section 3(a)(2) of the Securities Act of 1933 and section 3(a)(12) of the Securities Exchange Act of 1934. The Bank shall file with the Securities and Exchange Commission such annual and other reports with regard to such securities as the Commission shall determine to be appropriate in view of the special character of the Bank and its operations and necessary in the public interest or for the protection of investors.

(b) AUTHORITY OF SECURITIES AND EXCHANGE COMMISSION TO SUSPEND EXEMPTION; REPORTS TO THE CONGRESS.—The Securities and Exchange Commission, acting in consultation with such agency or officer as the President shall designate, may suspend the provisions of subsection (a) at any time as to any or all securities issued or guaranteed by the Bank during the period of such suspension. The Commission shall include in its annual reports to the Congress such information as it shall deem advisable with regard to the operations and effect of this section.

SEC. 710. TECHNICAL AMENDMENTS.

(a) ANNUAL REPORT REQUIRED ON PARTICIPATION OF THE UNITED STATES IN THE BANK.—Section 1701(c)(2) of the International Financial Institutions Act (22 U.S.C. 262r(c)(2)) is amended by inserting "Bank for Economic Cooperation and Development in the Middle East and North Africa," after "Inter-American Development Bank".

(b) EXEMPTION FROM LIMITATIONS AND RESTRICTIONS ON POWER OF NATIONAL, BANKING ASSOCIATIONS TO DEAL IN AND UNDERWRITE INVESTMENT SECURITIES OF THE BANK.—The seventh sentence of paragraph 7 of section 5136 of the Revised Statutes of the United States (12 U.S.C. 24) is amended by inserting "Bank for Economic Cooperation and Development in the Middle East and North Africa," after "the Inter-American Development Bank".

(c) BENEFITS FOR UNITED STATES CITIZEN-REPRESENTATIVES TO THE BANK.—Section 51 of Public Law 91–599 (22 U.S.C. 276c–2) is amended by inserting "the Bank for Economic Cooperation and Development in the Middle East and North Africa," after "the Inter-American Development Bank,".

(d) For programs, projects or activities in the Department of the Interior and Related Agencies Appropriations Act, 1997, provided as follows, to be effective as if it had been enacted into law as the regular appropriations Act:

Department of the Interior and Related Agencies Appropriations Act, 1997.

AN ACT

Making appropriations for the Department of the Interior, and related agencies for the fiscal year ending September 30, 1997, and for other purposes.

TITLE I—DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

MANAGEMENT OF LANDS AND RESOURCES

For expenses necessary for protection, use, improvement, development, disposal, cadastral surveying, classification, acquisition of easements and other interests in lands, and performance of other functions, including maintenance of facilities, as authorized by law, in the management of lands and their resources under the jurisdiction of the Bureau of Land Management, including the general administration of the Bureau, and assessment of mineral potential of public lands pursuant to Public Law 96–487 (16 U.S.C. 3150(a)), $572,164,000, to remain available until expended, of which $2,010,000 shall be available for assessment of the mineral potential of public lands in Alaska pursuant to section 1010 of Public Law 96–487 (16 U.S.C. 3150); and of which $3,000,000 shall be derived from the special receipt account established by the Land and Water Conservation Act of 1965, as amended (16 U.S.C. 460l–6a(i)); and of which $1,000,000 shall be available in fiscal year 1997 subject to a match by at least an equal amount by the National Fish and Wildlife Foundation, to such Foundation for challenge cost share projects supporting fish and wildlife conservation affecting Bureau lands; in addition, $27,300,000 for Mining Law Administration program operations, to remain available until expended, to be reduced by amounts collected by the Bureau and credited to this appropriation from annual mining claim fees so as to result

in a final appropriation estimated at not more than $572,164,000; and in addition, not to exceed $5,000,000, to remain available until expended, from annual mining claim fees; which shall be credited to this account for the costs of administering the mining claim fee program, and $2,000,000 from communication site rental fees established by the Bureau for the cost of administering communication site activities: *Provided*, That appropriations herein made shall not be available for the destruction of healthy, unadopted, wild horses and burros in the care of the Bureau or its contractors: *Provided further,* That in fiscal year 1997 and thereafter, all fees, excluding mining claim fees, in excess of the fiscal year 1996 collections established by the Secretary of the Interior under the authority of 43 U.S.C. 1734 for processing, recording, or documenting authorizations to use public lands or public land natural resources (including cultural, historical, and mineral) and for providing specific services to public land users, and which are not presently being covered into any Bureau of Land Management appropriation accounts, and not otherwise dedicated by law for a specific distribution, shall be made immediately available for program operations in this account and remain available until expended. 43 USC 1734a.

WILDLAND FIRE MANAGEMENT

For necessary expenses for fire use and management, fire preparedness, suppression operations, and emergency rehabilitation by the Department of the Interior, $252,042,000, to remain available until expended, of which not to exceed $5,025,000 shall be for the renovation or construction of fire facilities: *Provided*, That such funds are also available for repayment of advances to other appropriation accounts from which funds were previously transferred for such purposes: *Provided further,* That persons hired pursuant to 43 U.S.C. 1469 may be furnished subsistence and lodging without costs from funds available from this appropriation: *Provided further*, That unobligated balances of amounts previously appropriated to the "Fire Protection" and "Emergency Department of the Interior Firefighting Fund" may be transferred to this appropriation.

CENTRAL HAZARDOUS MATERIALS FUND

For necessary expenses of the Department of the Interior and any of its component offices and bureaus for the remedial action, including associated activities, of hazardous waste substances, pollutants, or contaminants pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, as amended (42 U.S.C. 9601 et seq.), $12,000,000, to remain available until expended: *Provided,* That notwithstanding 31 U.S.C. 3302, sums recovered from or paid by a party in advance of or as reimbursement for remedial action or response activities conducted by the Department pursuant to sections 107 or 113(f) of such Act, shall be credited to this account to be available until expended without further appropriation: *Provided further,* That such sums recovered from or paid by any party are not limited to monetary payments and may include stocks, bonds or other personal or real property, which may be retained, liquidated, or otherwise disposed of by the Secretary and which shall be credited to this account.

CONSTRUCTION

For construction of buildings, recreation facilities, roads, trails, and appurtenant facilities, $4,333,000, to remain available until expended.

PAYMENTS IN LIEU OF TAXES

For expenses necessary to implement the Act of October 20, 1976, as amended (31 U.S.C. 6901–07), $113,500,000, of which not to exceed $400,000 shall be available for administrative expenses.

LAND ACQUISITION

For expenses necessary to carry out sections 205, 206, and 318(d) of Public Law 94–579 including administrative expenses and acquisition of lands or waters, or interests therein, $10,410,000, to be derived from the Land and Water Conservation Fund, to remain available until expended.

OREGON AND CALIFORNIA GRANT LANDS

For expenses necessary for management, protection, and development of resources and for construction, operation, and maintenance of access roads, reforestation, and other improvements on the revested Oregon and California Railroad grant lands, on other Federal lands in the Oregon and California land-grant counties of Oregon, and on adjacent rights-of-way; and acquisition of lands or interests therein including existing connecting roads on or adjacent to such grant lands; $100,515,000, to remain available until expended: *Provided,* That 25 per centum of the aggregate of all receipts during the current fiscal year from the revested Oregon and California Railroad grant lands is hereby made a charge against the Oregon and California land-grant fund and shall be transferred to the General Fund in the Treasury in accordance with the second paragraph of subsection (b) of title II of the Act of August 28, 1937 (50 Stat. 876).

RANGE IMPROVEMENTS

For rehabilitation, protection, and acquisition of lands and interests therein, and improvement of Federal rangelands pursuant to section 401 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701), notwithstanding any other Act, sums equal to 50 per centum of all moneys received during the prior fiscal year under sections 3 and 15 of the Taylor Grazing Act (43 U.S.C. 315 et seq.) and the amount designated for range improvements from grazing fees and mineral leasing receipts from Bankhead-Jones lands transferred to the Department of the Interior pursuant to law, but not less than $9,113,000, to remain available until expended: *Provided,* That not to exceed $600,000 shall be available for administrative expenses.

SERVICE CHARGES, DEPOSITS, AND FORFEITURES

For administrative expenses and other costs related to processing application documents and other authorizations for use and disposal of public lands and resources, for costs of providing copies

of official public land documents, for monitoring construction, operation, and termination of facilities in conjunction with use authorizations, and for rehabilitation of damaged property, such amounts as may be collected under Public Law 94–579, as amended, and Public Law 93–153, to remain available until expended: *Provided,* That notwithstanding any provision to the contrary of section 305(a) of Public Law 94–579 (43 U.S.C. 1735(a)), any moneys that have been or will be received pursuant to that section, whether as a result of forfeiture, compromise, or settlement, if not appropriate for refund pursuant to section 305(c) of that Act (43 U.S.C. 1735(c)), shall be available and may be expended under the authority of this Act by the Secretary to improve, protect, or rehabilitate any public lands administered through the Bureau of Land Management which have been damaged by the action of a resource developer, purchaser, permittee, or any unauthorized person, without regard to whether all moneys collected from each such action are used on the exact lands damaged which led to the action: *Provided further,* That any such moneys that are in excess of amounts needed to repair damage to the exact land for which funds were collected may be used to repair other damaged public lands.

43 USC 1735 note.

MISCELLANEOUS TRUST FUNDS

In addition to amounts authorized to be expended under existing laws, there is hereby appropriated such amounts as may be contributed under section 307 of the Act of October 21, 1976 (43 U.S.C. 1701), and such amounts as may be advanced for administrative costs, surveys, appraisals, and costs of making conveyances of omitted lands under section 211(b) of that Act, to remain available until expended.

ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Land Management shall be available for purchase, erection, and dismantlement of temporary structures, and alteration and maintenance of necessary buildings and appurtenant facilities to which the United States has title; up to $100,000 for payments, at the discretion of the Secretary, for information or evidence concerning violations of laws administered by the Bureau; miscellaneous and emergency expenses of enforcement activities authorized or approved by the Secretary and to be accounted for solely on his certificate, not to exceed $10,000: *Provided,* That notwithstanding 44 U.S.C. 501, the Bureau may, under cooperative cost-sharing and partnership arrangements authorized by law, procure printing services from cooperators in connection with jointly-produced publications for which the cooperators share the cost of printing either in cash or in services, and the Bureau determines the cooperator is capable of meeting accepted quality standards.

The Bureau of Land Management's Visitor Center in Rand, Oregon is hereby named the "William B. Smullin Visitor Center".

UNITED STATES FISH AND WILDLIFE SERVICE

RESOURCE MANAGEMENT

For expenses necessary for scientific and economic studies, conservation, management, investigations, protection, and utilization of fishery and wildlife resources, except whales, seals, and sea lions, and for the performance of other authorized functions related to such resources; for the general administration of the United States Fish and Wildlife Service; for maintenance of the herd of long-horned cattle on the Wichita Mountains Wildlife Refuge; and not less than $1,000,000 for high priority projects within the scope of the approved budget which shall be carried out by the Youth Conservation Corps as authorized by the Act of August 13, 1970, as amended, $523,947,000, to remain available until September 30, 1998, of which $11,557,000 shall remain available until expended for operation and maintenance of fishery mitigation facilities constructed by the Corps of Engineers under the Lower Snake River Compensation Plan, authorized by the Water Resources Development Act of 1976, to compensate for loss of fishery resources from water development projects on the Lower Snake River, and of which $2,000,000 shall be provided to local governments in southern California for planning associated with the Natural Communities Conservation Planning (NCCP) program and shall remain available until expended: *Provided*, That hereafter, pursuant to 31 U.S.C. 9701, the Secretary shall charge reasonable fees for the full costs of providing training by the National Education and Training Center, to be credited to this account, notwithstanding 31 U.S.C. 3302, for the direct costs of providing such training.

16 USC 742b note.

CONSTRUCTION

For construction and acquisition of buildings and other facilities required in the conservation, management, investigation, protection, and utilization of fishery and wildlife resources, and the acquisition of lands and interests therein; $43,365,000 to remain available until expended.

NATURAL RESOURCE DAMAGE ASSESSMENT FUND

To conduct natural resource damage assessment activities by the Department of the Interior necessary to carry out the provisions of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (42 U.S.C. 9601, et seq.), Federal Water Pollution Control Act, as amended (33 U.S.C. 1251, et seq.), the Oil Pollution Act of 1990 (Public Law 101–380), and Public Law 101–337; $4,000,000, to remain available until expended.

LAND ACQUISITION

For expenses necessary to carry out the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l–4–11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the United States Fish and Wildlife Service, $44,479,000, of which $3,000,000 is authorized to be appropriated and shall be used to establish the Clarks River National Wildlife

16 USC 668dd note.

Refuge in Kentucky, to be derived from the Land and Water Conservation Fund, to remain available until expended.

COOPERATIVE ENDANGERED SPECIES CONSERVATION FUND

For expenses necessary to carry out the provisions of the Endangered Species Act of 1973 (16 U.S.C. 1531–1543), as amended, $14,085,000, for grants to States, to be derived from the Cooperative Endangered Species Conservation Fund, and to remain available until expended.

NATIONAL WILDLIFE REFUGE FUND

For expenses necessary to implement the Act of October 17, 1978 (16 U.S.C. 715s), $10,779,000.

REWARDS AND OPERATIONS

For expenses necessary to carry out the provisions of the African Elephant Conservation Act (16 U.S.C. 4201–4203, 4211–4213, 4221–4225, 4241–4245, and 1538), $1,000,000, to remain available until expended.

NORTH AMERICAN WETLANDS CONSERVATION FUND

For expenses necessary to carry out the provisions of the North American Wetlands Conservation Act, Public Law 101–233, as amended, $9,750,000, to remain available until expended.

RHINOCEROS AND TIGER CONSERVATION FUND

For deposit to the Rhinoceros and Tiger Conservation Fund, $400,000, to remain available until expended, to carry out the Rhinoceros and Tiger Conservation Act of 1994 (Public Law 103–391).

WILDLIFE CONSERVATION AND APPRECIATION FUND

For deposit to the Wildlife Conservation and Appreciation Fund, $800,000, to remain available until expended.

ADMINISTRATIVE PROVISIONS

Appropriations and funds available to the United States Fish and Wildlife Service shall be available for purchase of not to exceed 83 passenger motor vehicles of which 73 are for replacement only (including 43 for police-type use); not to exceed $400,000 for payment, at the discretion of the Secretary, for information, rewards, or evidence concerning violations of laws administered by the Service, and miscellaneous and emergency expenses of enforcement activities, authorized or approved by the Secretary and to be accounted for solely on his certificate; repair of damage to public roads within and adjacent to reservation areas caused by operations of the Service; options for the purchase of land at not to exceed $1 for each option; facilities incident to such public recreational uses on conservation areas as are consistent with their primary purpose; and the maintenance and improvement of aquaria, buildings, and other facilities under the jurisdiction of the Service and

to which the United States has title, and which are utilized pursuant to law in connection with management and investigation of fish and wildlife resources: *Provided,* That notwithstanding 44 U.S.C. 501, the Service may, under cooperative cost sharing and partnership arrangements authorized by law, procure printing services from cooperators in connection with jointly-produced publications for which the cooperators share at least one-half the cost of printing either in cash or services and the Service determines the cooperator is capable of meeting accepted quality standards: *Provided further,* That the Service may accept donated aircraft as replacements for existing aircraft: *Provided further,* That notwithstanding any other provision of law, the Secretary of the Interior may not spend any of the funds appropriated in this Act for the purchase of lands or interests in lands to be used in the establishment of any new unit of the National Wildlife Refuge System unless the purchase is approved in advance by the House and Senate Committees on Appropriations in compliance with the reprogramming procedures contained in House Report 103–551: *Provided further,* That section 101(c) of the Omnibus Consolidated Rescissions and Appropriations Act of 1996 is amended in section 315(c)(1)(E) (110 Stat. 1321–201; 16 U.S.C. 460l–6a note) by striking "distributed in accordance with section 201(c) of the Emergency Wetlands Resources Act" and inserting "available to the Secretary of the Interior until expended to be used in accordance with clauses (i), (ii), and (iii) of section 201(c)(A) of the Emergency Wetlands Resources Act of 1986 (16 U.S.C. 3911(c)(A))".

NATIONAL PARK SERVICE

OPERATION OF THE NATIONAL PARK SYSTEM

For expenses necessary for the management, operation, and maintenance of areas and facilities administered by the National Park Service (including special road maintenance service to trucking permittees on a reimbursable basis), and for the general administration of the National Park Service, including not to exceed $1,593,000 for the Volunteers-in-Parks program, and not less than $1,000,000 for high priority projects within the scope of the approved budget which shall be carried out by the Youth Conservation Corps as authorized by 16 U.S.C. 1706, $1,152,311,000, without regard to 16 U.S.C. 451, of which $8,000,000 for research, planning and interagency coordination in support of land acquisition for Everglades restoration shall remain available until expended, and of which not to exceed $72,000,000, to remain available until expended, is to be derived from the special fee account established pursuant to title V, section 5201, of Public Law 100–203.

NATIONAL RECREATION AND PRESERVATION

For expenses necessary to carry out recreation programs, natural programs, cultural programs, environmental compliance and review, international park affairs, statutory or contractual aid for other activities, and grant administration, not otherwise provided for, $37,976,000.

HISTORIC PRESERVATION FUND

For expenses necessary in carrying out the Historic Preservation Act of 1966, as amended (16 U.S.C. 470), $36,612,000, to be derived from the Historic Preservation Fund, to remain available until September 30, 1998.

CONSTRUCTION

For construction, improvements, repair or replacement of physical facilities including the modifications authorized by section 104 of the Everglades National Park Protection and Expansion Act of 1989, $163,444,000, to remain available until expended, of which $270,000 shall be used for appropriate fish restoration projects not related to dam removal including reimbursement to the State of Washington for emergency actions taken to protect the 1996 run of fall chinook salmon on the Elwha River: *Provided*, That funds previously provided under this heading that had been made available to the City of Hot Springs, Arkansas, to be used for a flood protection feasibility study, are now made available to the City of Hot Springs for the rehabilitation of the Federally-constructed Hot Springs Creek Arch, including the portion within Hot Springs National Park.

LAND AND WATER CONSERVATION FUND

(RESCISSION)

The contract authority provided for fiscal year 1997 by 16 U.S.C. 460l–10a is rescinded. 16 USC 460*l*–10a note.

LAND ACQUISITION AND STATE ASSISTANCE

For expenses necessary to carry out the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l–4–11), including administrative expenses, and for acquisition of lands or waters, or interest therein, in accordance with statutory authority applicable to the National Park Service, $53,915,000, to be derived from the Land and Water Conservation Fund, to remain available until expended, of which $1,500,000 is to administer the State assistance program: *Provided,* That any funds made available for the purpose of acquisition of the Elwha and Glines dams shall be used solely for acquisition, and shall not be expended until the full purchase amount has been appropriated by the Congress: *Provided further,* That of the funds provided herein, $9,000,000 is available for acquisition of the Sterling Forest, subject to authorization.

ADMINISTRATIVE PROVISIONS

Appropriations for the National Park Service shall be available for the purchase of not to exceed 404 passenger motor vehicles, of which 287 shall be for replacement only, including not to exceed 320 for police-type use, 13 buses, and 6 ambulances: *Provided*, That none of the funds appropriated to the National Park Service may be used to process any grant or contract documents which do not include the text of 18 U.S.C. 1913: *Provided further,* That none of the funds appropriated to the National Park Service may be used to implement an agreement for the redevelopment of the

southern end of Ellis Island until such agreement has been submitted to the Congress and shall not be implemented prior to the expiration of 30 calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) from the receipt by the Speaker of the House of Representatives and the President of the Senate of a full and comprehensive report on the development of the southern end of Ellis Island, including the facts and circumstances relied upon in support of the proposed project.

None of the funds in this Act may be spent by the National Park Service for activities taken in direct response to the United Nations Biodiversity Convention.

16 USC 1g.

The National Park Service may in fiscal year 1997 and thereafter enter into cooperative agreements that involve the transfer of National Park Service appropriated funds to State, local and tribal governments, other public entities, educational institutions, and private nonprofit organizations for the public purpose of carrying out National Park Service programs pursuant to 31 U.S.C. 6305 to carry out public purposes of National Park Service programs.

Notwithstanding any other provision of law, remaining balances, including interest, from funds granted to the National Park Foundation pursuant to the National Park System Visitor Facilities Fund Act of 1983 (Public Law 97–433, 96 Stat. 2277) shall be available to the National Park Foundation for expenditure in units of the National Park System for the purpose of improving visitor facilities.

UNITED STATES GEOLOGICAL SURVEY

SURVEYS, INVESTIGATIONS, AND RESEARCH

For expenses necessary for the United States Geological Survey to perform surveys, investigations, and research covering topography, geology, hydrology, and the mineral and water resources of the United States, its Territories and possessions, and other areas as authorized by 43 U.S.C. 31, 1332 and 1340; classify lands as to their mineral and water resources; give engineering supervision to power permittees and Federal Energy Regulatory Commission licensees; administer the minerals exploration program (30 U.S.C. 641); and publish and disseminate data relative to the foregoing activities; and to conduct inquiries into the economic conditions affecting mining and materials processing industries (30 U.S.C. 3, 21a, and 1603; 50 U.S.C. 98g(1)) and related purposes as authorized by law and to publish and disseminate data; $738,913,000 of which $64,559,000 shall be available only for cooperation with States or municipalities for water resources investigations; and of which $16,000,000 shall remain available until expended for conducting inquiries into the economic conditions affecting mining and materials processing industries; and of which $137,500,000 shall be available until September 30, 1998 for the biological research activity and the operation of the Cooperative Research Units: *Provided*, That none of these funds provided for the biological research activity shall be used to conduct new surveys on private property, unless specifically authorized in writing by the property owner: *Provided further*, That beginning in fiscal year 1998 and once every five years thereafter, the National Academy

43 USC 31j.

of Sciences shall review and report on the biological research activity of the Survey: *Provided further,* That no part of this appropriation shall be used to pay more than one-half the cost of topographic mapping or water resources data collection and investigations carried on in cooperation with States and municipalities. 43 USC 50.

ADMINISTRATIVE PROVISIONS

The amount appropriated for the United States Geological Survey shall be available for the purchase of not to exceed 53 passenger motor vehicles, of which 48 are for replacement only; reimbursement to the General Services Administration for security guard services; contracting for the furnishing of topographic maps and for the making of geophysical or other specialized surveys when it is administratively determined that such procedures are in the public interest; construction and maintenance of necessary buildings and appurtenant facilities; acquisition of lands for gauging stations and observation wells; expenses of the United States National Committee on Geology; and payment of compensation and expenses of persons on the rolls of the Survey duly appointed to represent the United States in the negotiation and administration of interstate compacts: *Provided,* That activities funded by appropriations herein made may be accomplished through the use of contracts, grants, or cooperative agreements as defined in 31 U.S.C. 6302, et seq.

MINERALS MANAGEMENT SERVICE

ROYALTY AND OFFSHORE MINERALS MANAGEMENT

For expenses necessary for minerals leasing and environmental studies, regulation of industry operations, and collection of royalties, as authorized by law; for enforcing laws and regulations applicable to oil, gas, and other minerals leases, permits, licenses and operating contracts; and for matching grants or cooperative agreements; including the purchase of not to exceed eight passenger motor vehicles for replacement only; $156,955,000, of which not less than $70,063,000 shall be available for royalty management activities; and an amount not to exceed $41,000,000 for the Technical Information Management System and activities of the Outer Continental Shelf (OCS) Lands Activity, to be credited to this appropriation and to remain available until expended, from additions to receipts resulting from increases to rates in effect on August 5, 1993, from rate increases to fee collections for OCS administrative activities performed by the Minerals Management Service over and above the rates in effect on September 30, 1993, and from additional fees for OCS administrative activities established after September 30, 1993: *Provided,* That $1,500,000 for computer acquisitions shall remain available until September 30, 1998: *Provided further,* That funds appropriated under this Act shall be available for the payment of interest in accordance with 30 U.S.C. 1721 (b) and (d): *Provided further,* That not to exceed $3,000 shall be available for reasonable expenses related to promoting volunteer beach and marine cleanup activities: *Provided further,* That notwithstanding any other provision of law, $15,000 under this head shall be available for refunds of overpayments in connection with certain Indian leases in which the Director of the Minerals Management Service concurred with the claimed refund due, to pay amounts owed to Indian allottees or Tribes, or to correct prior unrecoverable erroneous payments.

OIL SPILL RESEARCH

For necessary expenses to carry out title I, section 1016, title IV, sections 4202 and 4303, title VII, and title VIII, section 8201 of the Oil Pollution Act of 1990, $6,440,000, which shall be derived from the Oil Spill Liability Trust Fund, to remain available until expended.

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

REGULATION AND TECHNOLOGY

For necessary expenses to carry out the provisions of the Surface Mining Control and Reclamation Act of 1977, Public Law 95–87, as amended, including the purchase of not to exceed 10 passenger motor vehicles, for replacement only; $94,172,000, and notwithstanding 31 U.S.C. 3302, an additional amount shall be credited to this account, to remain available until expended, from performance bond forfeitures in fiscal year 1997: *Provided,* That the Secretary of the Interior, pursuant to regulations, may utilize directly or through grants to States, moneys collected in fiscal year 1997 for civil penalties assessed under section 518 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1268), to reclaim lands adversely affected by coal mining practices after August 3, 1977, to remain available until expended: *Provided further,* That appropriations for the Office of Surface Mining Reclamation and Enforcement may provide for the travel and per diem expenses of State and tribal personnel attending Office of Surface Mining Reclamation and Enforcement sponsored training.

30 USC 1211 note.

ABANDONED MINE RECLAMATION FUND

For necessary expenses to carry out title IV of the Surface Mining Control and Reclamation Act of 1977, Public Law 95–87, as amended, including the purchase of not more than 10 passenger motor vehicles for replacement only, $177,085,000, to be derived from receipts of the Abandoned Mine Reclamation Fund and to remain available until expended; of which up to $4,000,000 shall be for supplemental grants to States for the reclamation of abandoned sites with acid mine rock drainage from coal mines through the Appalachian Clean Streams Initiative: *Provided,* That grants to minimum program States will be $1,500,000 per State in fiscal year 1997: *Provided further,* That of the funds herein provided up to $18,000,000 may be used for the emergency program authorized by section 410 of Public Law 95–87, as amended, of which no more than 25 per centum shall be used for emergency reclamation projects in any one State and funds for federally-administered emergency reclamation projects under this proviso shall not exceed $11,000,000: *Provided further,* That prior year unobligated funds appropriated for the emergency reclamation program shall not be subject to the 25 per centum limitation per State and may be used without fiscal year limitation for emergency projects: *Provided further,* That pursuant to Public Law 97–365, the Department of the Interior is authorized to use up to 20 per centum from the recovery of the delinquent debt owed to the United States Government to pay for contracts to collect these debts: *Provided further,* That funds made available to States under title IV of Public Law 95–87 may be used, at their discretion, for any required

non-Federal share of the cost of projects funded by the Federal Government for the purpose of environmental restoration related to treatment or abatement of acid mine drainage from abandoned mines: *Provided further,* That such projects must be consistent with the purposes and priorities of the Surface Mining Control and Reclamation Act: *Provided further*, That the State of Maryland may set aside the greater of $1,000,000 or 10 percent of the total of the grants made available to the State under title IV of the Surface Mining Control and Reclamation Act of 1977, as amended (30 U.S.C. 1231 et. seq.), if the amount set aside is deposited in an acid mine drainage abatement and treatment fund established under a State law, pursuant to which law the amount (together with all interest earned on the amount) is expended by the State to undertake acid mine drainage abatement and treatment projects, except that before any amounts greater than 10 percent of its title IV grants are deposited in an acid mine drainage abatement and treatment fund, the State of Maryland must first complete all Surface Mining Control and Reclamation Act priority one projects.

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

For operation of Indian programs by direct expenditure, contracts, cooperative agreements, compacts, and grants including expenses necessary to provide education and welfare services for Indians, either directly or in cooperation with States and other organizations, including payment of care, tuition, assistance, and other expenses of Indians in boarding homes, or institutions, or schools; grants and other assistance to needy Indians; maintenance of law and order; management, development, improvement, and protection of resources and appurtenant facilities under the jurisdiction of the Bureau, including payment of irrigation assessments and charges; acquisition of water rights; advances for Indian industrial and business enterprises; operation of Indian arts and crafts shops and museums; development of Indian arts and crafts, as authorized by law; for the general administration of the Bureau, including such expenses in field offices; maintaining of Indian reservation roads as defined in 23 U.S.C. 101; and construction, repair, and improvement of Indian housing, $1,436,902,000, of which not to exceed $86,520,000 shall be for welfare assistance payments and not to exceed $90,829,000 shall be for payments to tribes and tribal organizations for contract support costs associated with ongoing contracts or grants or compacts entered into with the Bureau prior to fiscal year 1997, as authorized by the Indian Self-Determination Act of 1975, as amended, and up to $5,000,000 shall be for the Indian Self-Determination Fund, which shall be available for the transitional cost of initial or expanded tribal contracts, grants, compacts, or cooperative agreements with the Bureau under such Act; and of which not to exceed $365,124,000 for school operations costs of Bureau-funded schools and other education programs shall become available on July 1, 1997, and shall remain available until September 30, 1998; and of which not to exceed $53,805,000 for higher education scholarships, adult vocational training, and assistance to public schools under 25 U.S.C. 452 et seq., shall remain available until September 30, 1998; and of

which not to exceed $54,973,000 shall remain available until expended for housing improvement, road maintenance, attorney fees, litigation support, self-governance grants, the Indian Self-Determination Fund, and the Navajo-Hopi Settlement Program: *Provided,* That tribes and tribal contractors may use their tribal priority allocations for unmet indirect costs of ongoing contracts, grants or compact agreements and for unmet welfare assistance costs: *Provided further,* That funds made available to tribes and tribal organizations through contracts or grants obligated during fiscal year 1997, as authorized by the Indian Self-Determination Act of 1975, or grants authorized by the Indian Education Amendments of 1988 (25 U.S.C. 2001 and 2008A) shall remain available until expended by the contractor or grantee: *Provided further,* That to provide funding uniformity within a Self-Governance Compact, any funds provided in this Act with availability for more than one year may be reprogrammed to one year availability but shall remain available within the Compact until expended: *Provided further,* That notwithstanding any other provision of law, Indian tribal governments may, by appropriate changes in eligibility criteria or by other means, change eligibility for general assistance or change the amount of general assistance payments for individuals within the service area of such tribe who are otherwise deemed eligible for general assistance payments so long as such changes are applied in a consistent manner to individuals similarly situated: *Provided further,* That any savings realized by such changes shall be available for use in meeting other priorities of the tribes: *Provided further,* That any net increase in costs to the Federal Government which result solely from tribally increased payment levels for general assistance shall be met exclusively from funds available to the tribe from within its tribal priority allocation: *Provided further,* That any forestry funds allocated to a tribe which remain unobligated as of September 30, 1997, may be transferred during fiscal year 1998 to an Indian forest land assistance account established for the benefit of such tribe within the tribe's trust fund account: *Provided further,* That any such unobligated balances not so transferred shall expire on September 30, 1998: *Provided further,* That notwithstanding any other provision of law, no funds available to the Bureau, other than the amounts provided herein for assistance to public schools under 25 U.S.C. 452 et seq., shall be available to support the operation of any elementary or secondary school in the State of Alaska in fiscal year 1997: *Provided further*, That funds made available in this or any other Act for expenditure through September 30, 1998 for schools funded by the Bureau shall be available only to the schools in the Bureau school system as of September 1, 1995: *Provided further,* That no funds available to the Bureau shall be used to support expanded grades for any school or dormitory beyond the grade structure in place or approved by the Secretary of the Interior at each school in the Bureau school system as of October 1, 1995: *Provided further*, That in fiscal year 1997 and thereafter, notwithstanding the provisions of 25 U.S.C. 2012(h)(1) (A) and (B), upon the recommendation of either (i) a local school board and school supervisor for an education position in a Bureau of Indian Affairs operated school, or (ii) an Agency school board and education line officer for an Agency education position, the Secretary shall establish adjustments to the rates of basic compensation or annual salary rates established under

25 USC 2012 note.

25 U.S.C. 2012(h)(1) (A) and (B) for education positions at the school or the Agency, at a level not less than that for comparable positions in the nearest public school district, and the adjustment shall be deemed to be a change to basic pay and shall not be subject to collective bargaining: *Provided further*, That any reduction to rates of basic compensation or annual salary rates below the rates established under 25 U.S.C. 2012(h)(1) (A) and (B) shall apply only to educators appointed after June 30, 1997, and shall not affect the right of an individual employed on June 30, 1997, in an education position, to receive the compensation attached to such position under 25 U.S.C. 2012(h)(1) (A) and (B) so long as the individual remains in the same position at the same school: *Provided further,* That notwithstanding 25 U.S.C. 2012(h)(1)(B), when the rates of basic compensation for teachers and counselors at Bureau-operated schools are established at the rates of basic compensation applicable to comparable positions in overseas schools under the Defense Department Overseas Teachers Pay and Personnel Practices Act, such rates shall become effective with the start of the next academic year following the issuance of the Department of Defense salary schedule and shall not be effected retroactively.

CONSTRUCTION

For construction, major repair, and improvement of irrigation and power systems, buildings, utilities, and other facilities, including architectural and engineering services by contract; acquisition of lands, and interests in lands; and preparation of lands for farming, and for construction of the Navajo Indian Irrigation Project pursuant to Public Law 87–483, $94,531,000, to remain available until expended: *Provided,* That such amounts as may be available for the construction of the Navajo Indian Irrigation Project may be transferred to the Bureau of Reclamation: *Provided further*, That not to exceed 6 per centum of contract authority available to the Bureau of Indian Affairs from the Federal Highway Trust Fund may be used to cover the road program management costs of the Bureau: *Provided further,* That any funds provided for the Safety of Dams program pursuant to 25 U.S.C. 13 shall be made available on a non-reimbursable basis: *Provided further*, That for fiscal year 1997, in implementing new construction or facilities improvement and repair project grants in excess of $100,000 that are provided to tribally controlled grant schools under Public Law 100–297, as amended, the Secretary of the Interior shall use the Administrative and Audit Requirements and Cost Principles for Assistance Programs contained in 43 CFR part 12 as the regulatory requirements: *Provided further*, That such grants shall not be subject to section 12.61 of 43 CFR; the Secretary and the grantee shall negotiate and determine a schedule of payments for the work to be performed: *Provided further*, That in considering applications, the Secretary shall consider whether the Indian tribe or tribal organization would be deficient in assuring that the construction projects conform to applicable building standards and codes and Federal, tribal, or State health and safety standards as required by 25 U.S.C. 2005(a), with respect to organizational and financial management capabilities: *Provided further*, That if the Secretary declines an application, the Secretary shall follow the requirements contained in 25 U.S.C. 2505(f): *Provided further*, That any disputes

between the Secretary and any grantee concerning a grant shall be subject to the disputes provision in 25 U.S.C. 2508(e).

INDIAN LAND AND WATER CLAIM SETTLEMENTS AND MISCELLANEOUS PAYMENTS TO INDIANS

For miscellaneous payments to Indian tribes and individuals and for necessary administrative expenses, $69,241,000, to remain available until expended; of which $68,400,000 shall be available for implementation of enacted Indian land and water claim settlements pursuant to Public Laws 101–618, 102–374, 102–575, and for implementation of other enacted water rights settlements, including not to exceed $8,000,000, which shall be for the Federal share of the Catawba Indian Tribe of South Carolina Claims Settlement, as authorized by section 5(a) of Public Law 103–116; and of which $841,000 shall be available pursuant to Public Laws 98–500, 99–264, and 100–580.

INDIAN GUARANTEED LOAN PROGRAM ACCOUNT

For the cost of guaranteed loans, $4,500,000, as authorized by the Indian Financing Act of 1974, as amended: *Provided,* That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further,* That these funds are available to subsidize total loan principal, any part of which is to be guaranteed, not to exceed $34,615,000.

In addition, for administrative expenses to carry out the guaranteed loan programs, $500,000.

ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Indian Affairs (except the revolving fund for loans, the Indian loan guarantee and insurance fund, the Technical Assistance of Indian Enterprises account, the Indian Direct Loan Program account, and the Indian Guaranteed Loan Program account) shall be available for expenses of exhibits, and purchase of not to exceed 229 passenger motor vehicles, of which not to exceed 187 shall be for replacement only.

Notwithstanding any other provision of law, no funds available to the Bureau of Indian Affairs for central office operations or pooled overhead general administration shall be available for tribal contracts, grants, compacts, or cooperative agreements with the Bureau of Indian Affairs under the provisions of the Indian Self-Determination Act or the Tribal Self-Governance Act of 1994 (Public Law 103–413).

DEPARTMENTAL OFFICES

INSULAR AFFAIRS

ASSISTANCE TO TERRITORIES

For expenses necessary for assistance to territories under the jurisdiction of the Department of the Interior, $65,188,000, of which (1) $61,339,000 shall be available until expended for technical assistance, including maintenance assistance, disaster assistance, insular management controls, and brown tree snake control and

research; grants to the judiciary in American Samoa for compensation and expenses, as authorized by law (48 U.S.C. 1661(c)); grants to the Government of American Samoa, in addition to current local revenues, for construction and support of governmental functions; grants to the Government of the Virgin Islands as authorized by law; grants to the Government of Guam, as authorized by law; and grants to the Government of the Northern Mariana Islands as authorized by law (Public Law 94–241; 90 Stat. 272); and (2) $3,849,000 shall be available for salaries and expenses of the Office of Insular Affairs: *Provided,* That all financial transactions of the territorial and local governments herein provided for, including such transactions of all agencies or instrumentalities established or utilized by such governments, may be audited by the General Accounting Office, at its discretion, in accordance with chapter 35 of title 31, United States Code: *Provided further,* That Northern Mariana Islands Covenant grant funding shall be provided according to those terms of the Agreement of the Special Representatives on Future United States Financial Assistance for the Northern Mariana Islands approved by Public Law 99–396, or any subsequent legislation related to Commonwealth of the Northern Mariana Islands grant funding: *Provided further,* That section 703(a) of Public Law 94–241, as amended, is hereby amended by striking "of the Government of the Northern Mariana Islands": *Provided further,* That of the amounts provided for technical assistance, sufficient funding shall be made available for a grant to the Close Up Foundation: *Provided further,* That the funds for the program of operations and maintenance improvement are appropriated to institutionalize routine operations and maintenance improvement of capital infrastructure in American Samoa, Guam, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Republic of Palau, the Republic of the Marshall Islands, and the Federated States of Micronesia through assessments of long-range operations maintenance needs, improved capability of local operations and maintenance institutions and agencies (including management and vocational education training), and project-specific maintenance (with territorial participation and cost sharing to be determined by the Secretary based on the individual territory's commitment to timely maintenance of its capital assets): *Provided further,* That any appropriation for disaster assistance under this head in this Act or previous appropriations Acts may be used as non-Federal matching funds for the purpose of hazard mitigation grants provided pursuant to section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170c).

48 USC 1469b.

48 USC 1801 note.

COMPACT OF FREE ASSOCIATION

For economic assistance and necessary expenses for the Federated States of Micronesia and the Republic of the Marshall Islands as provided for in sections 122, 221, 223, 232, and 233 of the Compacts of Free Association, and for economic assistance and necessary expenses for the Republic of Palau as provided for in sections 122, 221, 223, 232, and 233 of the Compact of Free Association, $23,538,000, to remain available until expended, as authorized by Public Law 99–239 and Public Law 99–658.

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For necessary expenses for management of the Department of the Interior, $58,286,00,[1] of which not to exceed $7,500 may be for official reception and representation expenses, and of which up to $2,000,000 shall be available for workers compensation payments and unemployment compensation payments associated with the orderly closure of the United States Bureau of Mines

OFFICE OF THE SOLICITOR

SALARIES AND EXPENSES

For necessary expenses of the Office of the Solicitor, $35,443,000.

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

For necessary expenses of the Office of Inspector General, $24,439,000, together with any funds or property transferred to the Office of Inspector General through forfeiture proceedings or from the Department of Justice Assets Forfeiture Fund or the Department of the Treasury Assets Forfeiture Fund, that represent an equitable share from the forfeiture of property in investigations in which the Office of Inspector General participated, with such transferred funds to remain available until expended.

NATIONAL INDIAN GAMING COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the National Indian Gaming Commission, pursuant to Public Law 100–497, $1,000,000.

OFFICE OF SPECIAL TRUSTEE FOR AMERICAN INDIANS

FEDERAL TRUST PROGRAMS

For operation of trust programs for Indians by direct expenditure, contracts, cooperative agreements, compacts, and grants, $32,126,000, to remain available until expended for trust funds management: *Provided,* That funds made available to tribes and tribal organizations through contracts or grants obligated during fiscal year 1997, as authorized by the Indian Self-Determination Act of 1975 (25 U.S.C. 450 et seq.), shall remain available until expended by the contractor or grantee: *Provided further,* That notwithstanding any other provision of law, the statute of limitations shall not commence to run on any claim, including any claim in litigation pending on the date of this Act, concerning losses to or mismanagement of trust funds, until the affected tribe or individual Indian has been furnished with an accounting of such funds from which the beneficiary can determine whether there

[1] Remainder of figure missing, complete figure probably should read "$58,286,000".

has been a loss: *Provided further,* That unobligated balances previously made available (1) to liquidate obligations owed tribal and individual Indian payees of any checks canceled pursuant to section 1003 of the Competitive Equality Banking Act of 1987 (Public Law 100–86; 31 U.S.C. 3334(b)), (2) to restore Individual Indian Monies trust funds, Indian Irrigation Systems, and Indian Power Systems accounts amounts invested in credit unions or defaulted savings and loan associations and which where not Federally insured, including any interest on these amounts that may have been earned, but was not because of the default, and (3) to reimburse Indian trust fund account holders for losses to their respective accounts where the claim for said loss has been reduced to a judgement or settlement agreement approved by the Department of Justice, under the heading "Indian Land and Water Claim Settlements and Miscellaneous Payments to Indians", Bureau of Indian Affairs in fiscal years 1995 and 1996, are hereby transferred to and merged with this appropriation and may only be used for the operation of trust programs, in accordance with this appropriation.

ADMINISTRATIVE PROVISIONS

There is hereby authorized for acquisition from available resources within the Working Capital Fund, 15 aircraft, 10 of which shall be for replacement and which may be obtained by donation, purchase or through available excess surplus property: *Provided,* That notwithstanding any other provision of law, existing aircraft being replaced may be sold, with proceeds derived or trade-in value used to offset the purchase price for the replacement aircraft: *Provided further,* That no programs funded with appropriated funds in "Departmental Management", "Office of the Solicitor", and "Office of Inspector General" may be augmented through the Working Capital Fund or the Consolidated Working Fund.

GENERAL PROVISIONS, DEPARTMENT OF THE INTERIOR

SEC. 101. Appropriations made in this title shall be available for expenditure or transfer (within each bureau or office), with the approval of the Secretary, for the emergency reconstruction, replacement, or repair of aircraft, buildings, utilities, or other facilities or equipment damaged or destroyed by fire, flood, storm, or other unavoidable causes: *Provided,* That no funds shall be made available under this authority until funds specifically made available to the Department of the Interior for emergencies shall have been exhausted: *Provided further,* That all funds used pursuant to this section are hereby designated by Congress to be "emergency requirements" pursuant to section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985, and must be replenished by a supplemental appropriation which must be requested as promptly as possible.

SEC. 102. The Secretary may authorize the expenditure or transfer of any no year appropriation in this title, in addition to the amounts included in the budget programs of the several agencies, for the suppression or emergency prevention of forest or range fires on or threatening lands under the jurisdiction of the Department of the Interior; for the emergency rehabilitation of burned-over lands under its jurisdiction; for emergency actions related to potential or actual earthquakes, floods, volcanoes, storms,

or other unavoidable causes; for contingency planning subsequent to actual oilspills; response and natural resource damage assessment activities related to actual oilspills; for the prevention, suppression, and control of actual or potential grasshopper and Mormon cricket outbreaks on lands under the jurisdiction of the Secretary, pursuant to the authority in section 1773(b) of Public Law 99–198 (99 Stat. 1658); for emergency reclamation projects under section 410 of Public Law 95–87; and shall transfer, from any no year funds available to the Office of Surface Mining Reclamation and Enforcement, such funds as may be necessary to permit assumption of regulatory authority in the event a primacy State is not carrying out the regulatory provisions of the Surface Mining Act: *Provided,* That appropriations made in this title for fire suppression purposes shall be available for the payment of obligations incurred during the preceding fiscal year, and for reimbursement to other Federal agencies for destruction of vehicles, aircraft, or other equipment in connection with their use for fire suppression purposes, such reimbursement to be credited to appropriations currently available at the time of receipt thereof: *Provided further,* That for emergency rehabilitation and wildfire suppression activities, no funds shall be made available under this authority until funds appropriated to "Wildland Fire Management" shall have been exhausted: *Provided further,* That all funds used pursuant to this section are hereby designated by Congress to be "emergency requirements" pursuant to section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985, and must be replenished by a supplemental appropriation which must be requested as promptly as possible: *Provided further,* That such replenishment funds shall be used to reimburse, on a pro rata basis, accounts from which emergency funds were transferred.

SEC. 103. Appropriations made in this title shall be available for operation of warehouses, garages, shops, and similar facilities, wherever consolidation of activities will contribute to efficiency or economy, and said appropriations shall be reimbursed for services rendered to any other activity in the same manner as authorized by sections 1535 and 1536 of title 31, United States Code: *Provided,* That reimbursements for costs and supplies, materials, equipment, and for services rendered may be credited to the appropriation current at the time such reimbursements are received.

SEC. 104. Appropriations made to the Department of the Interior in this title shall be available for services as authorized by 5 U.S.C. 3109, when authorized by the Secretary, in total amount not to exceed $500,000; hire, maintenance, and operation of aircraft; hire of passenger motor vehicles; purchase of reprints; payment for telephone service in private residences in the field, when authorized under regulations approved by the Secretary; and the payment of dues, when authorized by the Secretary, for library membership in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members.

SEC. 105. Appropriations available to the Department of the Interior for salaries and expenses shall be available for uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901–5902 and D.C. Code 4–204).

SEC. 106. Appropriations made in this title shall be available for obligation in connection with contracts issued for services or

rentals for periods not in excess of twelve months beginning at any time during the fiscal year.

SEC. 107. Prior to the transfer of Presidio properties to the Presidio Trust, when authorized, the Secretary may not obligate in any calendar month more than 1/12 of the fiscal year 1997 appropriation for operation of the Presidio: *Provided,* That prior to the transfer of any Presidio property to the Presidio Trust, the Secretary shall transfer such funds as the Trust deems necessary to initiate leasing and other authorized activities of the Trust: *Provided further,* That this section shall expire on December 31, 1996.

SEC. 108. No final rule or regulation of any agency of the Federal Government pertaining to the recognition, management, or validity of a right-of-way pursuant to Revised Statute 2477 (43 U.S.C. 932) shall take effect unless expressly authorized by an Act of Congress subsequent to the date of enactment of this Act.

SEC. 109. No funds provided in this title may be expended by the Department of the Interior for the conduct of offshore leasing and related activities placed under restriction in the President's moratorium statement of June 26, 1990, in the areas of Northern, Central, and Southern California; the North Atlantic; Washington and Oregon; and the Eastern Gulf of Mexico south of 26 degrees north latitude and east of 86 degrees west longitude.

SEC. 110. No funds provided in this title may be expended by the Department of the Interior for the conduct of leasing, or the approval or permitting of any drilling or other exploration activity, on lands within the North Aleutian Basin planning area.

SEC. 111. No funds provided in this title may be expended by the Department of the Interior for the conduct of preleasing and leasing activities in the Eastern Gulf of Mexico for Outer Continental Shelf Lease Sale 151 in the Outer Continental Shelf Natural Gas and Oil Resource Management Comprehensive Program, 1992–1997.

SEC. 112. No funds provided in this title may be expended by the Department of the Interior for the conduct of preleasing and leasing activities in the Atlantic for Outer Continental Shelf Lease Sale 164 in the Outer Continental Shelf Natural Gas and Oil Resource Management Comprehensive Program, 1992–1997.

SEC. 113. There is hereby established in the Treasury a franchise fund pilot, as authorized by section 403 of Public Law 103–356, to be available as provided in such section for costs of capitalizing and operating administrative services as the Secretary determines may be performed more advantageously as central services: *Provided,* That any inventories, equipment, and other assets pertaining to the services to be provided by such fund, either on hand or on order, less the related liabilities or unpaid obligations, and any appropriations made prior to the current year for the purpose of providing capital shall be used to capitalize such fund: *Provided further,* That such fund shall be paid in advance from funds available to the Department and other Federal agencies for which such centralized services are performed, at rates which will return in full all expenses of operation, including accrued leave, depreciation of fund plant and equipment, amortization of automatic data processing (ADP) software and systems (either acquired or donated) and an amount necessary to maintain a reasonable operating reserve, as determined by the Secretary: *Provided further,* That

31 USC 501 note.

such fund shall provide services on a competitive basis: *Provided further,* That an amount not to exceed four percent of the total annual income to such fund may be retained in the fund for fiscal year 1997 and each fiscal year thereafter, to remain available until expended, to be used for the acquisition of capital equipment, and for the improvement and implementation of Department financial management, ADP, and other support systems: *Provided further,* That no later than thirty days after the end of each fiscal year amounts in excess of this reserve limitation shall be transferred to the Treasury: *Provided further,* That such franchise fund pilot shall terminate pursuant to section 403(f) of Public Law 103–356.

SEC. 114. Public Law 102–495 is amended by adding the following new section:

"SEC. 10. WASHINGTON STATE REMOVAL OPTION.

"(a) Upon appropriation of $29,500,000 for the Federal government to acquire the projects in the State of Washington pursuant to this Act, the State of Washington may, upon the submission to Congress of a binding agreement to remove the projects within a reasonable period of time, purchase the projects from the Federal government for $2. Such a binding agreement shall provide for the full restoration of the Elwha River ecosystem and native anadromous fisheries, for protection of the existing quality and availability of water from the Elwha River for municipal and industrial uses from possible adverse impacts of dam removal, and for fulfillment by the State of each of the other obligations of the Secretary under this Act.

"(b) Upon receipt of the payment pursuant to subsection (a), the Federal government shall relinquish ownership and title of the projects to the State of Washington.

"(c) Upon the purchase of the projects by the State of Washington, section 3(a), (c), and (d), and Sections 4, 7, and 9 of this Act are hereby repealed, and the remaining sections renumbered accordingly.".

SEC. 115. Section 7 of Public Law 99–647 (16 U.S.C. 461 note) is amended to read as follows:

"SEC. 7. TERMINATION OF COMMISSION.

"The Commission shall terminate on November 10, 1997.".

SEC. 116. The Congress of the United States hereby designates and ratifies the assignment to the University of Utah as successor to, and beneficiary of, all the existing assets, revenues, funds and rights granted to the State of Utah under the Miners Hospital Grant (February 20, 1929, 45 Stat. 1252) and the School of Mines Grant (July 26, 1894, 28 Stat. 110). Further, the Secretary of the Interior is authorized and directed to accept such relinquishment of all remaining and unconveyed entitlement for quantity grants owed the State of Utah for the Miners Hospital Grant (February 20, 1929, 45 Stat. 1252) and any unconveyed entitlement that may remain for the University of Utah School of Mines Grant (July 26, 1894, 28 Stat. 110).

SEC. 117. Section 402(b)(1) of The Indian Self-Determination and Education Assistance Act (25 U.S.C. 458bb) is amended to read as follows: "(1) In addition to those Indian tribes participating in self-governance under subsection (a) of this section, the Secretary, acting through the Director of the Office of Self-Governance, may select up to 50 new tribes per year from the applicant pool described in subsection (c) of this section to participate in self-governance.".

SEC. 118. In fiscal year 1997 and thereafter, the Indian Arts and Crafts Board may charge admission fees at its museums; charge rent and/or franchise fees for shops located in its museums; publish and sell publications; sell or rent or license use of photographs or other images in hard copy or other forms; license the use of designs, in whole or in part, by others; charge for consulting services provided to others; and may accept the services of volunteers to carry out its mission: *Provided,* That all revenue derived from such activities is covered into the special fund established by section 4 of Public Law 74–355 (25 U.S.C. 305c). 25 USC 305a–1.

SEC. 119. TRANSFER OF CERTAIN BUREAU OF LAND MANAGEMENT FACILITIES.—

(a) BATTLE MOUNTAIN, NEVADA.—Not later than 30 days after the date of enactment of this Act, the Secretary of the Interior, acting through the Director of the Bureau of Land Management, shall transfer to Lander County, Nevada, without consideration, title to the former Bureau of Land Management administrative site and associated buildings in Battle Mountain, Nevada.

(b) WINNEMUCCA, NEVADA.—

(1) TRANSFER.—Not later than 30 days after the date of enactment of this Act, the Secretary of the Interior, acting through the Director of the Bureau of Land Management, shall transfer to the State of Nevada, without consideration, title to the surplus Bureau of Land Management District Office building in Winnemucca, Nevada.

(2) USE.—The transfer under paragraph (1) is made with the intent that the building shall be available to meet the needs of the Department of Conservation and Natural Resources of the State of Nevada.

SEC. 120. ALASKA AVIATION HERITAGE.—

(a) FINDINGS.—The Congress finds that—

(1) the Department of the Interior's Grumman Goose G21–A aircraft number N789 is to be retired from several decades of active service in the State of Alaska in 1996; and

(2) the aircraft is of significant historic value to the people of the State of Alaska.

(b) DONATION OF AIRCRAFT.—The Secretary of the Interior shall transfer the Grumman Goose G21–A aircraft number N789 to the Alaska Aviation Heritage Museum in Anchorage, Alaska, at no cost to the museum, for permanent display.

SEC. 121. The Mesquite Lands Act of 1988 is amended by adding the following at the end of section 3:

"(d) FOURTH AREA.—(1) No later than ten years after the date of enactment of this Act, the City of Mesquite shall notify the Secretary as to which if any of the public lands identified in paragraph (2) of this subsection the city wishes to purchase.

"(2) For a period of twelve years after the date of enactment of this Act, the city shall have exclusive right to purchase the following parcels of public lands:

"Parcel A—East ½ Sec. 6, T. 13 S., R. 71 E., Mount Diablo Meridian; Sec. 5, T. 13 S., R. 71 E., Mount Diablo Meridian; West ½ Sec. 4, T. 13 S., R. 71 E, Mount Diablo Meridian; East ½, West ½ Sec. 4, T. 13 S., R. 71 E., Mount Diablo Meridian.

"Parcel B—North ½ Sec. 7, T. 13 S., R. 71 E., Mount Diablo Meridian; South East ¼ Sec. 12, T. 13 S., R. 70 E., Mount Diablo Meridian; East ½, North East ¼ Sec. 12, T. 13 S., R. 70 E., Mount Diablo Meridian; East ½, West ½ North East ¼ Sec. 12, T. 13 S., R. 70 E., Mount Diablo Meridian.

"Parcel C—West ½ Sec. 6, T. 13 S., R. 71 E., Mount Diablo Meridian; Sec. 1, T. 13 S., R. 70 E., Mount Diablo Meridian; West ½, West ½, North East ¼ Sec. 12, T. 13 S., R. 70 E., Mount Diablo Meridian; North West ¼ Sec. 13, S., R. 70 E., Mount Diablo Meridian; West ½ Sec. 12, T. 13 S., R. 70 E., Mount Diablo Meridian; East ½, South East ¼, Sec. 11, T. 13 S., R. 70 E., Mount Diablo Meridian; East ½ North East ¼, Sec. 14, T. 13 S., R. 70 E., Mount Diablo Meridian.

"Parcel D—South ½ Sec. 14, T. 13 S., R. 70 E., Mount Diablo Meridian; South West ¼, Sec. 13, T. 13 S., R. 70 E., Mount Diablo Meridian; Portion of section 23, North of Interstate 15, T. 13 S., R. 70 E., Mount Diablo Meridian; Portion of section 24, North of Interstate 15, T. 13 S., R. 70 E., Mount Diablo Meridian; Portion of section 26, North of Interstate 15, T. 13 S., R. 70 E., Mount Diablo Meridian."

Father Aull Site Transfer Act of 1996.

SEC. 122. Father Aull Site Transfer.

(a) This section may be cited as the "Father Aull Site Transfer Act of 1996".

(b) FINDINGS.—Congress finds that—

(1) the buildings and grounds developed by Father Roger Aull located on public domain land near Silver City, New Mexico, are historically significant to the citizens of the community;

(2) vandalism at the site has become increasingly destructive and frequent in recent years;

(3) because of the isolated location and the distance from other significant resources and agency facilities, the Bureau of Land Management has been unable to devote sufficient resources to restore and protect the site from further damage; and

(4) St. Vincent DePaul Parish in Silver City, New Mexico, has indicated an interest in, and developed a sound proposal for the restoration of, the site, such that the site could be permanently occupied and used by the community.

(c) CONVEYANCE OF PROPERTY.—Subject to valid existing rights, all right, title and interest of the United States in and to the land (including improvements on the land), consisting of approximately 43.06 acres, located approximately 10 miles east of Silver City, New Mexico, and described as follows: T. 17 S., R. 12 W., Section 30: Lot 13, and Section 31: Lot 27 (as generally depicted on the map dated July 1995) is hereby conveyed by operation of law to St. Vincent DePaul Parish in Silver City, New Mexico, without consideration.

(d) RELEASE.—Upon the conveyance of any land or interest in land identified in this section of St. Vincent DePaul Parish, St. Vincent DePaul Parish shall assume any liability for any claim relating to the land or interest in the land arising after the date of the conveyance.

(e) MAP.—The map referred to in this section shall be on file and available for public inspection in—

(1) the State of New Mexico Office of the Bureau of Land Management, Santa Fe, New Mexico; and

(2) the Las Cruces District Office of the Bureau of Land Management, Las Cruces, New Mexico.

SEC. 123. The second proviso under the heading "Bureau of Mines, Administrative Provisions" of Public Law 104–134 is amended by inserting after the word "authorized" the word "hereafter".

SEC. 124. Watershed Restoration and Enhancement Agreements. 16 USC 1011.

(a) IN GENERAL.—For fiscal year 1997 and each fiscal year thereafter, appropriations made for the Bureau of Land Management may be used by the Secretary of the Interior for the purpose of entering into cooperative agreements with willing private landowners for restoration and enhancement of fish, wildlife, and other biotic resources on public or private land or both that benefit these resources on public lands within the watershed.

(b) DIRECT AND INDIRECT WATERSHED AGREEMENTS.—The Secretary of the Interior may enter into a watershed restoration and enhancement agreement—

(1) directly with a willing private landowner; or

(2) indirectly through an agreement with a state, local, or tribal government or other public entity, educational institution, or private nonprofit organization.

(c) TERMS AND CONDITIONS.—In order for the Secretary to enter into a watershed restoration and enhancement agreement—

(1) the agreement shall—

(A) include such terms and conditions mutually agreed to by the Secretary and the landowner;

(B) improve the viability of and otherwise benefit the fish, wildlife, and other biotic resources on public land in the watershed;

(C) authorize the provision of technical assistance by the Secretary in the planning of management activities that will further the purposes of the agreement;

(D) provide for the sharing of costs of implementing the agreement among the Federal government, the landowner, and other entities, as mutually agreed on by the affected interests; and

(E) ensure that any expenditure by the Secretary pursuant to the agreement is determined by the Secretary to be in the public interest; and

(2) the Secretary may require such other terms and conditions as are necessary to protect the public investment on private lands, provided such terms and conditions are mutually agreed to by the Secretary and the landowner.

SEC. 125. Visitor Center Designation at Channel Islands National Park. 16 USC 410ff note.

(a) The visitor center at Channel Islands National Park, California, is hereby designated as the "Robert J. Lagomarsino Visitor Center".

(b) Any reference in law, regulation, paper, record, map, or any other document in the United States to the visitor center referred to in subsection (a) shall be deemed to be a reference to the "Robert J. Lagomarsino Visitor Center".

TITLE II—RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

FOREST AND RANGELAND RESEARCH

For necessary expenses of forest and rangeland research as authorized by law, $179,786,000, to remain available until expended.

STATE AND PRIVATE FORESTRY

For necessary expenses of cooperating with, and providing technical and financial assistance to States, Territories, possessions, and others and for forest pest management activities, cooperative forestry and education and land conservation activities, $155,461,000 to remain available until expended, as authorized by law: *Provided*, That of funds available under this heading for Pacific Northwest Assistance in this or prior appropriations Acts. $750,000 shall be provided to the World Forestry Center for purposes of continuing scientific research and other authorized efforts regarding the land exchange efforts in the Umpqua River Basin region.

NATIONAL FOREST SYSTEM

For necessary expenses of the Forest Service, not otherwise provided for, for management, protection, improvement, and utilization of the National Forest System, for ecosystem planning, inventory, and monitoring, and for administrative expenses associated with the management of funds provided under the heads "Forest and Rangeland Research," "State and Private Forestry," "National Forest System," "Wildland Fire Management," "Reconstruction and Construction," and "Land Acquisition," $1,274,781,000 to remain available until *expended*, and including 50 per centum of all monies received during the prior fiscal year as fees collected under the Land and Water Conservation Fund Act of 1965, as amended, in accordance with section 4 of the Act (16 U.S.C. 460l–6a(i)): *Provided,* That up to $5,000,000 of the funds provided herein for road maintenance shall be available for the planned obliteration of roads which are no longer needed.

WILDLAND FIRE MANAGEMENT

For necessary expenses for forest fire presuppression activities on National Forest System lands, for emergency fire suppression on or adjacent to such lands or other lands under fire protection agreement, and for emergency rehabilitation of burned over National Forest System lands, $530,016,000, to remain available until expended: *Provided,* That unexpended balances of amounts previously appropriated under any other headings for Forest Service fire activities are transferred to and merged with this appropriation and subject to the same terms and conditions: *Provided further,* That such funds are available for repayment of advances from other appropriations accounts previously transferred for such purposes.

RECONSTRUCTION AND CONSTRUCTION

For necessary expenses of the Forest Service, not otherwise provided for, $174,974,000, to remain available until expended for construction, reconstruction and acquisition of buildings and other facilities, and for construction, reconstruction and repair of forest roads and trails by the Forest Service as authorized by 16 U.S.C. 532–538 and 23 U.S.C. 101 and 205: *Provided,* That not to exceed $50,000,000, to remain available until expended, may be obligated for the construction of forest roads by timber purchasers: *Provided further,* That funds appropriated under this head for the construction of the Wayne National Forest Supervisor's Office may be granted to the Ohio State Highway Patrol as the federal share of the cost of construction of a new facility to be occupied jointly by the Forest Service and the Ohio State Highway Patrol: *Provided further,* That an agreed upon lease of space in the new facility shall be provided to the Forest Service without charge for the life of the building.

LAND ACQUISITION

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l–4–11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the Forest Service, $40,575,000, to be derived from the Land and Water Conservation Fund, to remain available until expended.

ACQUISITION OF LANDS FOR NATIONAL FORESTS SPECIAL ACTS

For acquisition of lands within the exterior boundaries of the Cache, Uinta, and Wasatch National Forests, Utah; the Toiyabe National Forest, Nevada; and the Angeles, San Bernardino, Sequoia, and Cleveland National Forests, California, as authorized by law, $1,069,000, to be derived from forest receipts.

ACQUISITION OF LANDS TO COMPLETE LAND EXCHANGES

For acquisition of lands, *such sums,* to be derived from funds deposited by State, county, or municipal governments, public school districts, or other public school authorities pursuant to the Act of December 4, 1967, as amended (16 U.S.C. 484a), to remain available until expended.

RANGE BETTERMENT FUND

For necessary expenses of range rehabilitation, protection, and improvement, 50 per centum of all moneys received during the prior fiscal year, as fees for grazing domestic livestock on lands in National Forests in the sixteen Western States, pursuant to section 401(b)(1) of Public Law 94–579, as amended, to remain available until expended, of which not to exceed 6 per centum shall be available for administrative expenses associated with on-the-ground range rehabilitation, protection, and improvements.

GIFTS, DONATIONS AND BEQUESTS FOR FOREST AND RANGELAND RESEARCH

For expenses authorized by 16 U.S.C. 1643(b), $92,000, to remain available until expended, to be derived from the fund established pursuant to the above Act.

ADMINISTRATIVE PROVISIONS, FOREST SERVICE

Appropriations to the Forest Service for the current fiscal year shall be available for: (a) purchase of not to exceed 159 passenger motor vehicles of which 14 will be used primarily for law enforcement purposes and of which 149 shall be for replacement; acquisition of 10 passenger motor vehicles from excess sources, and hire of such vehicles; operation and maintenance of aircraft, the purchase of not to exceed two for replacement only, and acquisition of 20 aircraft from excess sources; notwithstanding other provisions of law, existing aircraft being replaced may be sold, with proceeds derived or trade-in value used to offset the purchase price for the replacement aircraft; (b) services pursuant to 7 U.S.C. 2225, and not to exceed $100,000 for employment under 5 U.S.C. 3109; (c) purchase, erection, and alteration of buildings and other public improvements (7 U.S.C. 2250); (d) acquisition of land, waters, and interests therein, pursuant to 7 U.S.C. 428a; (e) for expenses pursuant to the Volunteers in the National Forest Act of 1972 (16 U.S.C 558a, 558d, 558a note); and (f) for debt collection contracts in accordance with 31 U.S.C. 3718(c).

None of the funds made available under this Act shall be obligated or expended to change the boundaries of any region, to abolish any region, to move or close any regional office for research, State and private forestry, or National Forest System administration of the Forest Service, Department of Agriculture, or to implement any reorganization, "reinvention" or other type of organizational restructuring of the Forest Service, other than the relocation of the Regional Office for Region 5 of the Forest Service from San Francisco to excess military property at Mare Island, Vallejo, California, without the consent of the House and Senate Committees on Appropriations.

Any funds available to the Forest Service may be used for retrofitting Mare Island facilities to accommodate the relocation: *Provided*, That funds for the move must come from funds otherwise available to Region 5: *Provided further*, That any funds to be provided for such purposes shall only be available upon approval of the House and Senate Committees on Appropriations.

Any appropriations or funds available to the Forest Service may be advanced to the Wildland Fire Management appropriation and may be used for forest firefighting and the emergency rehabilitation of burned-over lands under its jurisdiction.

Funds appropriated to the Forest Service shall be available for assistance to or through the Agency for International Development and the Foreign Agricultural Service in connection with forest and rangeland research, technical information, and assistance in foreign countries, and shall be available to support forestry and related natural resource activities outside the United States and its territories and possessions, including technical assistance, education and training, and cooperation with United States and international organizations.

None of the funds made available to the Forest Service under this Act shall be subject to transfer under the provisions of section 702(b) of the Department of Agriculture Organic Act of 1944 (7 U.S.C. 2257) or 7 U.S.C. 147b unless the proposed transfer is approved in advance by the House and Senate Committees on Appropriations in compliance with the reprogramming procedures contained in House Report 103–551.

None of the funds available to the Forest Service may be reprogrammed without the advance approval of the House and Senate Committees on Appropriations in accordance with the procedures contained in House Report 103–551.

No funds appropriated to the Forest Service shall be transferred to the Working Capital Fund of the Department of Agriculture without the approval of the Chief of the Forest Service.

Notwithstanding any other provision of the law, any appropriations or funds available to the Forest Service may be used to disseminate program information to private and public individuals and organizations through the use of nonmonetary items of nominal value and to provide nonmonetary awards of nominal value and to incur necessary expenses for the nonmonetary recognition of private individuals and organizations that make contributions to Forest Service programs.

Notwithstanding any other provision of law, money collected, in advance or otherwise, by the Forest Service under authority of section 101 of Public Law 93–153 (30 U.S.C. 185(1)) as reimbursement of administrative and other costs incurred in processing pipeline right-of-way or permit applications and for costs incurred in monitoring the construction, operation, maintenance, and termination of any pipeline and related facilities, may be used to reimburse the applicable appropriation to which such costs were originally charged.

Funds available to the Forest Service shall be available to conduct a program of not less than $1,000,000 for high priority projects within the scope of the approved budget which shall be carried out by the Youth Conservation Corps as authorized by the Act of August 13, 1970, as amended by Public Law 93–408.

None of the funds available in this Act shall be used for timber sale preparation using clearcutting in hardwood stands in excess of 25 percent of the fiscal year 1989 harvested volume in the Wayne National Forest, Ohio: *Provided,* That this limitation shall not apply to hardwood stands damaged by natural disaster: *Provided further,* That landscape architects shall be used to maintain a visually pleasing forest.

Any money collected from the States for fire suppression assistance rendered by the Forest Service on non-Federal lands not in the vicinity of National Forest System lands shall be used to reimburse the applicable appropriation and shall remain available until expended as the Secretary may direct in conducting activities authorized by 16 U.S.C. 2101 (note), 2101–2110, 1606, and 2111.

Of the funds available to the Forest Service, $1,500 is available to the Chief of the Forest Service for official reception and representation expenses.

Notwithstanding any other provision of law, the Forest Service is authorized to employ or otherwise contract with persons at regular rates of pay, as determined by the Service, to perform work occasioned by emergencies such as fires, storms, floods, earthquakes

or any other unavoidable cause without regard to Sundays, Federal holidays, and the regular workweek.

To the greatest extent possible, and in accordance with the Final Amendment to the Shawnee National Forest Plan, none of the funds available in this Act shall be used for preparation of timber sales using clearcutting or other forms of even aged management in hardwood stands in the Shawnee National Forest, Illinois.

Pursuant to sections 405(b) and 410(b) of Public Law 101–593, funds up to $1,000,000 for matching funds shall be available for the National Forest Foundation on a one-for-one basis to match private contributions for projects on or benefitting National Forest System lands or related to Forest Service programs.

Pursuant to section 2(b)(2) of Public Law 98–244, up to $1,000,000 of the funds available to the Forest Service shall be available for matching funds, as authorized in 16 U.S.C. 3701–3709, on a one-for-one basis to match private contributions for projects on or benefitting National Forest System lands or related to Forest Service programs.

Funds appropriated to the Forest Service shall be available for interactions with and providing technical assistance to rural communities for sustainable rural development purposes.

Notwithstanding any other provision of law, 80 percent of the funds appropriated to the Forest Service in the National Forest System and Construction accounts and planned to be allocated to activities under the "Jobs in the Woods" program for projects on National Forest land in the State of Washington may be granted directly to the Washington State Department of Fish and Wildlife for accomplishment of planned projects. Twenty percent of said funds shall be retained by the Forest Service for planning and administering projects. Project selection and prioritization shall be accomplished by the Forest Service with such consultation with the State of Washington as the Forest Service deems appropriate.

Funds appropriated to the Forest Service shall be available for payments to counties within the Columbia River Gorge National Scenic Area, pursuant to sections 14(c)(1) and (2), and section 16(a)(2) of Public Law 99–663.

The Secretary of Agriculture shall by March 31, 1997 report to the Committees on Appropriations of the House of Representatives and the Senate on the status and disposition of all salvage timber sales started under the authority of Section 2001 of Public Law 104–19 and subsequently withdrawn or delayed and completed under different authorities as a consequence of the July 2, 1996 directive on the implementation of Section 2001 issued by the Secretary.

The Pacific Northwest Research Station Silviculture Laboratory in Bend, Oregon is hereby named the "Robert W. Chandler Building".

For purposes of the Southeast Alaska Economic Disaster Fund as set forth in section 101(c) of Public Law 104–134, the direct grants provided in subsection (c) shall be considered direct payments for purposes of all applicable law except that these direct grants may not be used for lobbying activities.

No employee of the Department of Agriculture may be detailed or assigned from an agency or office funded by this Act to any other agency or office of the Department for more than 30 days unless the individual's employing agency or office is fully

reimbursed by the receiving agency or office for the salary and expenses of the employee for the period of assignment.

DEPARTMENT OF ENERGY

CLEAN COAL TECHNOLOGY

(RESCISSION)

Of the funds made available under this heading for obligation in fiscal year 1997 or prior years, $123,000,000 are rescinded: *Provided*, That funds made available in previous appropriations Acts shall be available for any ongoing project regardless of the separate request for proposal under which the project was selected.

FOSSIL ENERGY RESEARCH AND DEVELOPMENT

For necessary expenses in carrying out fossil energy research and development activities, under the authority of the Department of Energy Organization Act (Public Law 95–91), including the acquisition of interest, including defeasible and equitable interests in any real property or any facility or for plant or facility acquisition or expansion, and for conducting inquiries, technological investigations and research concerning the extraction, processing, use, and disposal of mineral substances without objectionable social and environmental costs (30 U.S.C. 3, 1602, and 1603), performed under the minerals and materials science programs at the Albany Research Center in Oregon, $364,704,000, to remain available until expended: *Provided*, That no part of the sum herein made available shall be used for the field testing of nuclear explosives in the recovery of oil and gas.

ALTERNATIVE FUELS PRODUCTION

(INCLUDING TRANSFER AND RESCISSION OF FUNDS)

Monies received as investment income on the principal amount in the Great Plains Project Trust at the Norwest Bank of North Dakota, in such sums as are earned as of October 1, 1996, shall be deposited in this account and immediately transferred to the General Fund of the Treasury. Monies received as revenue sharing from the operation of the Great Plains Gasification Plant shall be immediately transferred to the General Fund of the Treasury. Funds are hereby rescinded in the amount of $2,500,000 from unobligated balances under this head.

NAVAL PETROLEUM AND OIL SHALE RESERVES

For necessary expenses in carrying out naval petroleum and oil shale reserve activities, $143,786,000, to remain available until expended: *Provided*, That the requirements of 10 U.S.C. 7430(b)(2)(B) shall not apply to fiscal year 1997. 10 USC 7430 note.

ENERGY CONSERVATION

For necessary expenses in carrying out energy conservation activities, $569,762,000, to remain available until expended, including, notwithstanding any other provision of law, the excess amount for fiscal year 1997 determined under the provisions of section

3003(d) of Public Law 99–509 (15 U.S.C. 4502): *Provided,* That $149,845,000 shall be for use in energy conservation programs as defined in section 3008(3) of Public Law 99–509 (15 U.S.C. 4507) and shall not be available until excess amounts are determined under the provisions of section 3003(d) of Public Law 99–509 (15 U.S.C. 4502): *Provided further,* That notwithstanding section 3003(d)(2) of Public Law 99–509 such sums shall be allocated to the eligible programs as follows:$120,845,000 for weatherization assistance grants and $29,000,000 for State energy conservation grants.

ECONOMIC REGULATION

For necessary expenses in carrying out the activities of the Office of Hearing and Appeals, $2,725,000, to remain available until expended.

STRATEGIC PETROLEUM RESERVE

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for Strategic Petroleum Reserve facility development and operations and program management activities pursuant to the Energy Policy and Conservation Act of 1975, as amended (42 U.S.C. 6201 et seq.), $220,000,000, to remain available until expended, of which $220,000,000 shall be repaid from the "SPR Operating Fund" from amounts made available from the sale of oil from the Reserve: *Provided*, That notwithstanding section 161 of the Energy Policy and Conservation Act, the Secretary shall draw down and sell in fiscal year 1997 $220,000,000 worth of oil from the Strategic Petroleum Reserve: *Provided further*, That the proceeds from the sale shall be deposited into a special account in the Treasury, to be established and known as the "SPR Operating Fund", and shall, upon receipt, be transferred to the Strategic Petroleum Reserve account for operations of the Strategic Petroleum Reserve.

SPR PETROLEUM ACCOUNT

Notwithstanding 42 U.S.C. 6240(d) the United States share of crude oil in Naval Petroleum Reserve Numbered 1 (Elk Hills) may be sold or otherwise disposed of to other than the Strategic Petroleum Reserve: *Provided,* That outlays in fiscal year 1997 resulting from the use of funds in this account shall not exceed $5,000,000.

ENERGY INFORMATION ADMINISTRATION

For necessary expenses in carrying out the activities of the Energy Information Administration, $66,120,000 to remain available until expended.

ADMINISTRATIVE PROVISIONS, DEPARTMENT OF ENERGY

Appropriations under this Act for the current fiscal year shall be available for hire of passenger motor vehicles; hire, maintenance, and operation of aircraft; purchase, repair, and cleaning of uniforms;

and reimbursement to the General Services Administration for security guard services.

From appropriations under this Act, transfers of sums may be made to other agencies of the Government for the performance of work for which the appropriation is made.

None of the funds made available to the Department of Energy under this Act shall be used to implement or finance authorized price support or loan guarantee programs unless specific provision is made for such programs in an appropriations Act.

The Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, private or foreign: *Provided,* That revenues and other moneys received by or for the account of the Department of Energy or otherwise generated by sale of products in connection with projects of the Department appropriated under this Act may be retained by the Secretary of Energy, to be available until expended, and used only for plant construction, operation, costs, and payments to cost-sharing entities as provided in appropriate cost-sharing contracts or agreements: *Provided further,* That the remainder of revenues after the making of such payments shall be covered into the Treasury as miscellaneous receipts: *Provided further,* That any contract, agreement, or provision thereof entered into by the Secretary pursuant to this authority shall not be executed prior to the expiration of 30 calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) from the receipt by the Speaker of the House of Representatives and the President of the Senate of a full comprehensive report on such project, including the facts and circumstances relied upon in support of the proposed project.

No funds provided in this Act may be expended by the Department of Energy to prepare, issue, or process procurement documents for programs or projects for which appropriations have not been made.

In addition to other authorities set forth in this Act, the Secretary may accept fees and contributions from public and private sources, to be deposited in a contributed funds account, and prosecute projects using such fees and contributions in cooperation with other Federal, State or private agencies or concerns.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

INDIAN HEALTH SERVICE

INDIAN HEALTH SERVICES

For expenses necessary to carry out the Act of August 5, 1954 (68 Stat. 674), the Indian Self-Determination Act, the Indian Health Care Improvement Act, and titles II and III of the Public Health Service Act with respect to the Indian Health Service, $1,806,269,000, together with payments received during the fiscal year pursuant to 42 U.S.C. 238(b) for services furnished by the Indian Health Service: *Provided,* That funds made available to tribes and tribal organizations through contracts, grant agreements, or any other agreements or compacts authorized by the Indian Self-Determination and Education Assistance Act of 1975 (25 U.S.C.

450), shall be deemed to be obligated at the time of the grant or contract award and thereafter shall remain available to the tribe or tribal organization without fiscal year limitation: *Provided further,* That $12,000,000 shall remain available until expended, for the Indian Catastrophic Health Emergency Fund: *Provided further,* That $356,325,000 for contract medical care shall remain available for obligation until September 30, 1998: *Provided further,* That of the funds provided, not less than $11,706,000 shall be used to carry out the loan repayment program under section 108 of the Indian Health Care Improvement Act: *Provided further,* That funds provided in this Act may be used for one-year contracts and grants which are to be performed in two fiscal years, so long as the total obligation is recorded in the year for which the funds are appropriated: *Provided further,* That the amounts collected by the Secretary of Health and Human Services under the authority of title IV of the Indian Health Care Improvement Act shall remain available until expended for the purpose of achieving compliance with the applicable conditions and requirements of titles XVIII and XIX of the Social Security Act (exclusive of planning, design, or construction of new facilities): *Provided further,* That of the funds provided, $7,500,000 shall remain available until expended, for the Indian Self-Determination Fund, which shall be available for the transitional costs of initial or expanded tribal contracts, compacts, grants or cooperative agreements with the Indian Health Service under the provisions of the Indian Self-Determination Act: *Provided further,* That funding contained herein, and in any earlier appropriations Acts for scholarship programs under the Indian Health Care Improvement Act (25 U.S.C. 1613) shall remain available for obligation until September 30, 1998: *Provided further,* That amounts received by tribes and tribal organizations under title IV of the Indian Health Care Improvement Act shall be reported and accounted for and available to the receiving tribes and tribal organizations until expended.

INDIAN HEALTH FACILITIES

For construction, repair, maintenance, improvement, and equipment of health and related auxiliary facilities, including quarters for personnel; preparation of plans, specifications, and drawings; acquisition of sites, purchase and erection of modular buildings, and purchases of trailers; and for provision of domestic and community sanitation facilities for Indians, as authorized by section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a), the Indian Self-Determination Act, and the Indian Health Care Improvement Act, and for expenses necessary to carry out such Acts and titles II and III of the Public Health Service Act with respect to environmental health and facilities support activities of the Indian Health Service, $247,731,000, to remain available until expended: *Provided,* That notwithstanding any other provision of law, funds appropriated for the planning, design, construction or renovation of health facilities for the benefit of an Indian tribe or tribes may be used to purchase land for sites to construct, improve, or enlarge health or related facilities.

ADMINISTRATIVE PROVISIONS, INDIAN HEALTH SERVICE

Appropriations in this Act to the Indian Health Service shall be available for services as authorized by 5 U.S.C. 3109 but at

rates not to exceed the per diem rate equivalent to the maximum rate payable for senior-level positions under 5 U.S.C. 5376; hire of passenger motor vehicles and aircraft; purchase of medical equipment; purchase of reprints; purchase, renovation and erection of modular buildings and renovation of existing facilities; payments for telephone service in private residences in the field, when authorized under regulations approved by the Secretary; and for uniforms or allowances therefore as authorized by 5 U.S.C. 5901–5902; and for expenses of attendance at meetings which are concerned with the functions or activities for which the appropriation is made or which will contribute to improved conduct, supervision, or management of those functions or activities: *Provided,* That in accordance with the provisions of the Indian Health Care Improvement Act, non-Indian patients may be extended health care at all tribally administered or Indian Health Service facilities, subject to charges, and the proceeds along with funds recovered under the Federal Medical Care Recovery Act (42 U.S.C. 2651–53) shall be credited to the account of the facility providing the service and shall be available without fiscal year limitation: *Provided further,* That notwithstanding any other law or regulation, funds transferred from the Department of Housing and Urban Development to the Indian Health Service shall be administered under Public Law 86–121 (the Indian Sanitation Facilities Act) and Public Law 93–638, as amended: *Provided further,* That funds appropriated to the Indian Health Service in this Act, except those used for administrative and program direction purposes, shall not be subject to limitations directed at curtailing Federal travel and transportation: *Provided further,* That notwithstanding any other provision of law, funds previously or herein made available to a tribe or tribal organization through a contract, grant, or agreement authorized by title I or title III of the Indian Self-Determination and Education Assistance Act of 1975 (25 U.S.C. 450), may be deobligated and reobligated to a self-determination contract under title I, or a self-governance agreement under title III of such Act and thereafter shall remain available to the tribe or tribal organization without fiscal year limitation: *Provided further,* That none of the funds made available to the Indian Health Service in this Act shall be used to implement the final rule published in the Federal Register on September 16, 1987, by the Department of Health and Human Services, relating to the eligibility for the health care services of the Indian Health Service until the Indian Health Service has submitted a budget request reflecting the increased costs associated with the proposed final rule, and such request has been included in an appropriations Act and enacted into law: *Provided further,* That funds made available in this Act are to be apportioned to the Indian Health Service as appropriated in this Act, and accounted for in the appropriation structure set forth in this Act: *Provided further,* That funds received from any source, including tribal contractors and compactors for previously transferred functions which tribal contractors and compactors no longer wish to retain, for services, goods, or training and technical assistance, shall be retained by the Indian Health Service and shall remain available until expended by the Indian Health Service: *Provided further,* That reimbursements for training, technical assistance, or services provided by the Indian Health Service will contain total costs, including direct, administrative, and overhead

associated with the provision of goods, services, or technical assistance: *Provided further,* That the appropriation structure for the Indian Health Service may not be altered without advance approval of the House and Senate Committees on Appropriations.

DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

INDIAN EDUCATION

For necessary expenses to carry out, to the extent not otherwise provided, title IX, part A of the Elementary and Secondary Education Act of 1965, as amended, and section 215 of the Department of Education Organization Act, $61,000,000.

OTHER RELATED AGENCIES

OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION

SALARIES AND EXPENSES

For necessary expenses of the Office of Navajo and Hopi Indian Relocation as authorized by Public Law 93–531, $19,345,000, to remain available until expended: *Provided*, That funds provided in this or any other appropriations Act are to be used to relocate eligible individuals and groups including evictees from District 6, Hopi-partitioned lands residents, those in significantly substandard housing, and all others certified as eligible and not included in the preceding categories: *Provided further*, That none of the funds contained in this or any other Act may be used by the Office of Navajo and Hopi Indian Relocation to evict any single Navajo or Navajo family who, as of November 30, 1985, was physically domiciled on the lands partitioned to the Hopi Tribe unless a new or replacement home is provided for such household: *Provided further*, That no relocatee will be provided with more than one new or replacement home: *Provided further*, That the Office shall relocate any certified eligible relocatees who have selected and received an approved homesite on the Navajo reservation or selected a replacement residence off the Navajo reservation or on the land acquired pursuant to 25 U.S.C. 640d–10.

INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT

PAYMENT TO THE INSTITUTE

For payment to the Institute of American Indian and Alaska Native Culture and Arts Development, as authorized by title XV of Public Law 99–498, as amended (20 U.S.C. 56, part A), $5,500,000.

SMITHSONIAN INSTITUTION

SALARIES AND EXPENSES

For necessary expenses of the Smithsonian Institution, as authorized by law, including research in the fields of art, science,

and history; development, preservation, and documentation of the National Collections; presentation of public exhibits and performances; collection, preparation, dissemination, and exchange of information and publications; conduct of education, training, and museum assistance programs; maintenance, alteration, operation, lease (for terms not to exceed thirty years), and protection of buildings, facilities, and approaches; not to exceed $100,000 for services as authorized by 5 U.S.C. 3109; up to 5 replacement passenger vehicles; purchase, rental, repair, and cleaning of uniforms for employees; $317,557,000, of which not to exceed $30,665,000 for the instrumentation program, collections acquisition, Museum Support Center equipment and move, exhibition reinstallation, the National Museum of the American Indian, the repatriation of skeletal remains program, research equipment, information management, and Latino programming shall remain available until expended, and including such funds as may be necessary to support American overseas research centers and a total of $125,000 for the Council of American Overseas Research Centers: *Provided*, That funds appropriated herein are available for advance payments to independent contractors performing research services or participating in official Smithsonian presentations.

CONSTRUCTION AND IMPROVEMENTS, NATIONAL ZOOLOGICAL PARK

For necessary expenses of planning, construction, remodeling, and equipping of buildings and facilities at the National Zoological Park, by contract or otherwise, $3,850,000, to remain available until expended.

REPAIR AND RESTORATION OF BUILDINGS

For necessary expenses of repair and restoration of buildings owned or occupied by the Smithsonian Institution, by contract or otherwise, as authorized by section 2 of the Act of August 22, 1949 (63 Stat. 623), including not to exceed $10,000 for services as authorized by 5 U.S.C. 3109, $39,000,000, to remain available until expended: *Provided*, That contracts awarded for environmental systems, protection systems, and exterior repair or restoration of buildings of the Smithsonian Institution may be negotiated with selected contractors and awarded on the basis of contractor qualifications as well as price.

CONSTRUCTION

For necessary expenses for construction, $10,000,000, to remain available until expended.

NATIONAL GALLERY OF ART

SALARIES AND EXPENSES

For the upkeep and operations of the National Gallery of Art, the protection and care of the works of art therein, and administrative expenses incident thereto, as authorized by the Act of March 24, 1937 (50 Stat. 51), as amended by the public resolution of April 13, 1939 (Public Resolution 9, Seventy-sixth Congress), including services as authorized by 5 U.S.C. 3109; payment in advance when authorized by the treasurer of the Gallery for membership

in library, museum, and art associations or societies whose publications or services are available to members only, or to members at a price lower than to the general public; purchase, repair, and cleaning of uniforms for guards, and uniforms, or allowances therefor, for other employees as authorized by law (5 U.S.C. 5901–5902); purchase or rental of devices and services for protecting buildings and contents thereof, and maintenance, alteration, improvement, and repair of buildings, approaches, and grounds; and purchase of services for restoration and repair of works of art for the National Gallery of Art by contracts made, without advertising, with individuals, firms, or organizations at such rates or prices and under such terms and conditions as the Gallery may deem proper, $53,899,000, of which not to exceed $3,026,000 for the special exhibition program shall remain available until expended.

REPAIR, RESTORATION AND RENOVATION OF BUILDINGS

For necessary expenses of repair, restoration and renovation of buildings, grounds and facilities owned or occupied by the National Gallery of Art, by contract or otherwise, as authorized, $5,942,000, to remain available until expended: *Provided*, That contracts awarded for environmental systems, protection systems, and exterior repair or renovation of buildings of the National Gallery of Art may be negotiated with selected contractors and awarded on the basis of contractor qualifications as well as price.

JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

OPERATIONS AND MAINTENANCE

For necessary expenses for the operation, maintenance and security of the John F. Kennedy Center for the Performing Arts, $10,875,000.

CONSTRUCTION

For necessary expenses of capital repair and rehabilitation of the existing features of the building and site of the John F. Kennedy Center for the Performing Arts, $9,000,000, to remain available until expended.

WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS

SALARIES AND EXPENSES

For expenses necessary in carrying out the provisions of the Woodrow Wilson Memorial Act of 1968 (82 Stat. 1356) including hire of passenger vehicles and services as authorized by 5 U.S.C. 3109, $5,840,000.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

NATIONAL ENDOWMENT FOR THE ARTS

GRANTS AND ADMINISTRATION

For necessary expenses to carry out the National Foundation on the Arts and the Humanities Act of 1965, as amended, $82,734,000, shall be available to the National Endowment for

the Arts for the support of projects and productions in the arts through assistance to organizations and individuals pursuant to section 5(c) of the Act, and for administering the functions of the Act, to remain available until expended.

MATCHING GRANTS

To carry out the provisions of section 10(a)(2) of the National Foundation on the Arts and the Humanities Act of 1965, as amended, $16,760,000, to remain available until expended, to the National Endowment for the Arts: *Provided*, That this appropriation shall be available for obligation only in such amounts as may be equal to the total amounts of gifts, bequests, and devises of money, and other property accepted by the Chairman or by grantees of the Endowment under the provisions of section 10(a)(2), subsections 11(a)(2)(A) and 11(a)(3)(A) during the current and preceding fiscal years for which equal amounts have not previously been appropriated.

NATIONAL ENDOWMENT FOR THE HUMANITIES

GRANTS AND ADMINISTRATION

For necessary expenses to carry out the National Foundation on the Arts and the Humanities Act of 1965, as amended, $96,100,000 shall be available to the National Endowment for the Humanities for support of activities in the humanities, pursuant to section 7(c) of the Act, and for administering the functions of the Act, to remain available until expended.

MATCHING GRANTS

To carry out the provisions of section 10(a)(2) of the National Foundation on the Arts and the Humanities Act of 1965, as amended, $13,900,000, to remain available until expended, of which $8,000,000 shall be available to the National Endowment for the Humanities for the purposes of section 7(h): *Provided*, That this appropriation shall be available for obligation only in such amounts as may be equal to the total amounts of gifts, bequests, and devises of money, and other property accepted by the Chairman or by grantees of the Endowment under the provisions of subsections 11(a)(2)(B) and 11(a)(3)(B) during the current and preceding fiscal years for which equal amounts have not previously been appropriated.

INSTITUTE OF MUSEUM SERVICES

GRANTS AND ADMINISTRATION

For carrying out title II of the Arts, Humanities, and Cultural Affairs Act of 1976, as amended, $22,000,000, to remain available until expended.

ADMINISTRATIVE PROVISIONS

None of the funds appropriated to the National Foundation on the Arts and the Humanities may be used to process any grant or contract documents which do not include the text of 18 U.S.C. 1913: *Provided,* That none of the funds appropriated to the National

Foundation on the Arts and the Humanities may be used for official reception and representation expenses.

COMMISSION OF FINE ARTS

SALARIES AND EXPENSES

For expenses made necessary by the Act establishing a Commission of Fine Arts (40 U.S.C. 104), $867,000.

NATIONAL CAPITAL ARTS AND CULTURAL AFFAIRS

For necessary expenses as authorized by Public Law 99–190 (20 U.S.C. 956(a)), as amended, $6,000,000.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

SALARIES AND EXPENSES

For necessary expenses of the Advisory Council on Historic Preservation (Public Law 89–665, as amended), $2,500,000: *Provided,* That none of these funds shall be available for the compensation of Executive Level V or higher position.

NATIONAL CAPITAL PLANNING COMMISSION

SALARIES AND EXPENSES

For necessary expenses, as authorized by the National Capital Planning Act of 1952 (40 U.S.C 71–71i), including services as authorized by 5 U.S.C. 3109, $5,390,000: *Provided,* That all appointed members will be compensated at a rate not to exceed the rate for Executive Schedule Level IV.

FRANKLIN DELANO ROOSEVELT MEMORIAL COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Franklin Delano Roosevelt Memorial Commission, established by the Act of August 11, 1955 (69 Stat. 694), as amended by Public Law 92–332 (86 Stat. 401), $500,000 to remain available until expended.

UNITED STATES HOLOCAUST MEMORIAL COUNCIL

HOLOCAUST MEMORIAL COUNCIL

For expenses of the Holocaust Memorial Council, as authorized by Public Law 96–388 (36 U.S.C. 1401), as amended, *$30,707,000,* of which $1,575,000 for the Museum's repair and rehabilitation program and $1,264,000 for the Museum's exhibitions program shall remain available until expended.

TITLE III—GENERAL PROVISIONS

SEC. 301. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available

for public inspection, except where otherwise provided under existing law, or under existing Executive Order issued pursuant to existing law.

SEC. 302. No part of any appropriation under this Act shall be available to the Secretary of the Interior or the Secretary of Agriculture for the leasing of oil and natural gas by noncompetitive bidding on publicly owned lands within the boundaries of the Shawnee National Forest, Illinois: *Provided,* That nothing herein is intended to inhibit or otherwise affect the sale, lease, or right to access to minerals owned by private individuals.

SEC. 303. No part of any appropriation contained in this Act shall be available for any activity or the publication or distribution of literature that in any way tends to promote public support or opposition to any legislative proposal on which congressional action is not complete.

SEC. 304. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 305. None of the funds provided in this Act to any department or agency shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of such department or agency except as otherwise provided by law.

SEC. 306. No assessments may be levied against any program, budget activity, subactivity, or project funded by this Act unless advance notice of such assessments and the basis therefor are presented to the Committees on Appropriations and are approved by such Committees.

SEC. 307. (a) COMPLIANCE WITH BUY AMERICAN ACT.—None of the funds made available in this Act may be expended by an entity unless the entity agrees that in expending the funds the entity will comply with sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a–10c; popularly known as the "Buy American Act").

(b) SENSE OF CONGRESS; REQUIREMENT REGARDING NOTICE.—

(1) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—In the case of any equipment or product that may be authorized to be purchased with financial assistance provided using funds made available in this Act, it is the sense of the Congress that entities receiving the assistance should, in expending the assistance, purchase only American-made equipment and products.

(2) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance using funds made available in this Act, the head of each Federal agency shall provide to each recipient of the assistance a notice describing the statement made in paragraph (1) by the Congress.

(c) PROHIBITION OF CONTRACTS WITH PERSONS FALSELY LABELING PRODUCTS AS MADE IN AMERICA.—If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a "Made in America" inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, the person shall be ineligible to receive any contract or subcontract made with funds made available in this Act, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

SEC. 308. None of the funds in this Act may be used to plan, prepare, or offer for sale timber from trees classified as giant sequoia (Sequoiadendron giganteum) which are located on National Forest System or Bureau of Land Management lands in a manner different than such sales were conducted in fiscal year 1995.

SEC. 309. None of the funds made available by this Act may be obligated or expended by the National Park Service to enter into or implement a concession contract which permits or requires the removal of the underground lunchroom at the Carlsbad Caverns National Park.

SEC. 310. Where the actual costs of construction projects under self-determination contracts, compacts, or grants, pursuant to Public Laws 93–638, 103–413, or 100–297, are less than the estimated costs thereof, use of the resulting excess funds shall be determined by the appropriate Secretary after consultation with the tribes.

SEC. 311. Notwithstanding Public Law 103–413, quarterly payments of funds to tribes and tribal organizations under annual funding agreements pursuant to section 108 of Public Law 93–638, as amended, may be made on the first business day following the first day of a fiscal quarter.

SEC. 312. None of the funds appropriated or otherwise made available by this Act may be used for the AmeriCorps program, unless the relevant agencies of the Department of the Interior and/or Agriculture follow appropriate reprogramming guidelines: *Provided,* That if no funds are provided for the AmeriCorps program by the VA–HUD and Independent Agencies fiscal year 1997 appropriations bill, then none of the funds appropriated or otherwise made available by this Act may be used for the AmeriCorps programs.

SEC. 313. None of the funds made available in this Act may be used (1) to demolish the bridge between Jersey City, New Jersey, and Ellis Island; or (2) to prevent pedestrian use of such bridge, when it is made known to the Federal official having authority to obligate or expend such funds that such pedestrian use is consistent with generally accepted safety standards.

SEC. 314. (a) None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to accept or process applications for a patent for any mining or mill site claim located under the general mining laws.

(b) The provisions of subsection (a) shall not apply if the Secretary of the Interior determines that, for the claim concerned: (1) a patent application was filed with the Secretary on or before September 30, 1994, and (2) all requirements established under sections 2325 and 2326 of the Revised Statutes (30 U.S.C. 29 and 30) for vein or lode claims and sections 2329, 2330, 2331, and 2333 of the Revised Statutes (30 U.S.C. 35, 36, and 37) for placer claims, and section 2337 of the Revised Statutes (30 U.S.C. 42) for mill site claims, as the case may be, were fully complied with by the applicant by that date.

(c) PROCESSING SCHEDULE.—For those applications for patents pursuant to subsection (b) which were filed with the Secretary of the Interior, prior to September 30, 1994, the Secretary of the Interior shall—

(1) Within three months of the enactment of this Act, file with the House and Senate Committees on Appropriations and the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources

of the United States Senate a plan which details how the Department of the Interior will make a final determination as to whether or not an applicant is entitled to a patent under the general mining laws on at least 90 percent of such applications within five years of the enactment of this Act and file reports annually thereafter with the same committees detailing actions taken by the Department of the Interior to carry out such plan; and

(2) Take such actions as may be necessary to carry out such plan.

(d) MINERAL EXAMINATIONS.—In order to process patent applications in a timely and responsible manner, upon the request of a patent applicant, the Secretary of the Interior shall allow the applicant to fund a qualified third-party contractor to be selected by the Bureau of Land Management to conduct a mineral examination of the mining claims or mill sites contained in a patent application as set forth in subsection (b). The Bureau of Land Management shall have the sole responsibility to choose and pay the third-party contractor in accordance with the standard procedures employed by the Bureau of Land Management in the retention of third-party contractors.

SEC. 315. None of the funds appropriated or otherwise made available by this Act may be used for the purposes of acquiring lands in the counties of Gallia, Lawrence, Monroe, or Washington, Ohio, for the Wayne National Forest.

SEC. 316. Of the funds provided to the National Endowment for the Arts:

(a) The Chairperson shall only award a grant to an individual if such grant is awarded to such individual for a literature fellowship, National Heritage Fellowship, or American Jazz Masters Fellowship.

(b) The Chairperson shall establish procedures to ensure that no funding provided through a grant, except a grant made to a State or local arts agency, or regional group, may be used to make a grant to any other organization or individual to conduct activity independent of the direct grant recipient. Nothing in this subsection shall prohibit payments made in exchange for goods and services.

(c) No grant shall be used for seasonal support to a group, unless the application is specific to the contents of the season, including identified programs and/or projects.

SEC. 317. None of the funds available to the Department of the Interior or the Department of Agriculture by this or any other Act may be used to prepare, promulgate, implement, or enforce any interim or final rule or regulation pursuant to Title VIII of the Alaska National Interest Lands Conservation Act to assert jurisdiction, management, or control over any waters (other than non-navigable waters on Federal lands), non-Federal lands, or lands selected by, but not conveyed to, the State of Alaska pursuant to the Submerged Lands Act of 1953 or the Alaska Statehood Act, or an Alaska Native Corporation pursuant to the Alaska Native Claims Settlement Act.

SEC. 318. No funds appropriated under this or any other Act shall be used to review or modify sourcing areas previously approved under section 490(c)(3) of the Forest Resources Conservation and Shortage Relief Act of 1990 (Public Law 101–382) or to enforce or implement Federal regulations 36 CFR part 223 promulgated

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on September 8, 1995. The regulations and interim rules in effect prior to September 8, 1995 (36 CFR 223.48, 36 CFR 223.87, 36 CFR 223 subpart D, 36 CFR 223 subpart F, and 36 CFR 261.6) shall remain in effect. The Secretary of Agriculture or the Secretary of the Interior shall not adopt any policies concerning Public Law 101–382 or existing regulations that would restrain domestic transportation or processing of timber from private lands or impose additional accountability requirements on any timber. The Secretary of Commerce shall extend until September 30, 1997, the order issued under section 491(b)(2)(A) of Public Law 101–382 and shall issue an order under section 491(b)(2)(B) of such law that will be effective October 1, 1997.

16 USC 620c note.

SEC. 319. Section 101(c) of Public Law 104–134 is amended as follows: Under the heading "Title III—General Provisions" amend section 315(b) by striking "50, areas," and inserting in lieu thereof "100, areas," and amend section 315(f) by striking "September 30, 1998" and inserting in lieu thereof "September 30, 1999" and by striking "September 30, 2001" and inserting in lieu thereof "September 30, 2002".

16 USC 460*l*–6a note.

SEC. 320. None of the amounts made available by this Act may be used for design, planning, implementation, engineering, construction, or any other activity in connection with a scenic shoreline drive in Pictured Rocks National Lakeshore.

SEC. 321. LAND TRANSFER, BEND SILVICULTURE LAB, DESCHUTES NATIONAL FOREST, OREGON.—

(a) TRANSFER OF REAL PROPERTY AND ALL IMPROVEMENTS LOCATED THEREON.—Notwithstanding any other provisions of law, there is hereby transferred, without consideration and subject to existing valid rights, all right, title and interest of the United States in and to approximately 5.73 acres of land as described by plat dated July 7, 1977, (which is on file and available for public inspection in the Office of the Chief, USDA Forest Service, Washington, D.C.), as well as all improvements, including the Bend Silviculture Lab located thereon, to the Central Oregon Community College, Bend, Oregon; this being a portion of the same tract acquired by donation from the City of Bend on August 10, 1960, through a Bargain and Sale deed to the USDA Forest Service for use as a research lab, and recorded in volume 125, page 508 of the Deschutes County, Oregon, Deed Records.

(b) CONDITIONS OF TRANSFER.—The transfer effected by subsection (a) is made subject to no special terms or conditions.

SEC. 322. No part of any appropriation contained in this Act or any other Act shall be expended or obligated to fund the activities of the Office of Forestry and Economic Assistance, or any successor office after December 31, 1996.

SEC. 323. (a) The Secretary of the Interior is authorized to accept title to approximately 84 acres of land located in Prince Georges County, Maryland, adjacent to Oxon Cove Park, and bordered generally by the Potomac River, Interstate 295 and the Woodrow Wilson Bridge, or any interest therein, and in exchange therefor may convey to the Corrections Corporation of America approximately 50 acres of land located in Oxon Cove Park in the District of Columbia and bordered generally by Oxon Cove, Interstate 295 and the District of Columbia Impound Lot, or any interest therein.

(b) Before proceeding with an exchange, the Secretary shall determine if the federal property is suitable for exchange under

the criteria normally used by the National Park Service. The exchange shall comply with applicable regulations and National Park Service policies for land exchanges.

(c)(1) The Secretary shall not acquire any lands under this section if the Secretary determines that the lands or any portion thereof have become contaminated with hazardous substances (as defined in the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 960*l*)).

(2) Notwithstanding any other provision of law, the United States shall have no responsibility or liability with respect to any hazardous wastes or other substances placed on any of the lands covered by this section after their transfer to the ownership of any party, but nothing in this section shall be construed as either diminishing or increasing any responsibility or liability of the United States based on the condition of such lands on the date of their transfer to the ownership of another party: *Provided,* That the Corrections Corporation of America shall indemnify the United States for liabilities arising under the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 960*l*) and the Resource Conservation Recovery Act (42 U.S.C. 690*l*, et seq.).

(d) The properties so exchanged either shall be approximately equal in fair market value or if they are not approximately equal, shall be equalized by the payment of cash to the Corporation or to the Secretary as required or in the event the value of the Corporation's lands is greater, the acreage may be reduced so that the fair market value is approximately equal: *Provided,* That the Secretary shall order appraisals made of the fair market value for improvements thereon: *Provided further,* That any such cash payment received by the Secretary shall be deposited to "Miscellaneous Trust Funds, National Park Service" and shall be available without further appropriation until expended for the acquisition of land within the National Park System.

(e) Costs of conducting necessary land surveys, preparing the legal descriptions of the lands to be conveyed, performing the appraisals, and administrative costs incurred in completing the exchange shall be borne by the Corporation.

(f) Following any exchange authorized by this provision, the boundaries of Oxon Cove Park shall be expanded to include the land acquired by the United States.

SEC. 324. SECTION 1. LAND EXCHANGE.—

(a) EXCHANGE.—Subject to subsection (c), the Secretary of Agriculture (referred to in this section as the "Secretary") shall convey all right, title, and interest of the United States in and to the National Forest System lands described in subsection (b)(1) to Public Utility District No. 1 of Chelan County, Washington (referred to in this section as the "Public Utility District"), in exchange for the conveyance to the Department of Agriculture by the Public Utility District of all right, title, and interest of the Public Utility District in and to the lands described in subsection (b)(2).

(b) DESCRIPTION OF LANDS.—

(1) NATIONAL FOREST SYSTEM LANDS.—The National Forest System lands referred to in subsection (a) are 122 acres, more or less, that are partially occupied by a wastewater treatment facility referred to in subsection (c)(4)(A) with the following legal description:

(A) The NE¼ of SW¼ of section 27 of township 27 north, range 17 east, Willamette Meridian, Chelan County, Washington.

(B) The N½ of SE¼ of SW¼ of such section 27.

(C) The W½ of NW¼ of SE¼ of such section 27.

(D) The NW¼ of SW¼ of SE¼ of such section 27.

(E) The E½ of NW¼ of the SE¼ of such section 27.

(F) That portion of the S½ of SE¼ of SW¼ lying north of the northerly edge of Highway 209 right-of-way of such section 27.

(2) PUBLIC UTILITY DISTRICT LANDS.—The lands owned by the Public Utility District are 109.15 acres, more or less, with the following legal description:

(A) S½ of SW¼ of section 35 of township 26 north, range 17 east, Willamette Meridian, Chelan County, Washington.

(B) The area specified by Public Utility District No. 1 as Government Lot 5 in such section 35.

(c) REQUIREMENTS FOR EXCHANGE.—

(1) TITLE ACCEPTANCE AND CONVEYANCE.—Upon offer by the Public Utility District of all right, title and interest in and to the lands described in subsection (b)(2), if the title is found acceptable by the Secretary, the Secretary shall accept title to such lands and interests therein and shall convey to the Public Utility District all right, title, and interest of the United States in and to the lands described in subsection (b)(1).

(2) APPRAISALS REQUIRED.—Before making an exchange pursuant to subsection (a), the Secretary shall conduct appraisals of the lands that are subject to the exchange to determine the fair market value of the lands. Such appraisals shall not include the value of the wastewater treatment facility referred to in paragraph (4)(A).

(3) ADDITIONAL CONSIDERATION.—If, on the basis of the appraisals made under paragraph (1), the Secretary determines that the fair market value of the lands to be conveyed by one party under subsection (a) is less than the fair market value of the lands to be conveyed by the other party under subsection (a), then, as a condition of making the exchange under subsection (a), the party conveying the lands with the lesser value shall pay the other party the amount by which the fair market value of the lands of greater value exceeds the fair market value of the lands of lesser value.

(4) CONVEYANCE OF WASTEWATER TREATMENT FACILITY.—(A) As part of an exchange made under subsection (a), the Secretary shall convey to the Public Utility District of Chelan County, Washington, all right, title and interest of the United States in and to the wastewater treatment facility (including the wastewater treatment plant and associated lagoons) located on the lands described in subsection (b)(1) that is in existence on the date of the exchange.

(B) As a condition for the exchange under subsection (a), the Public Utility District shall provide for a credit equal to the fair market value of the wastewater treatment facility conveyed pursuant to subparagraph (A) (determined as of November 4, 1991), that shall be applied to the United States' share of any new wastewater treatment facility constructed by the Public Utility District after such date.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the exchange under this section as the Secretary determines appropriate to protect the interests of the United States.

SEC. 325. "Snoqualmie National Forest Boundary Adjustment Act of 1996."

(a) IN GENERAL.—The Secretary of Agriculture is hereby directed to modify the boundary of the Snoqualmie National Forest to include and encompass 10,589.47 acres, more or less, as generally depicted on a map entitled "Snoqualmie National Forest Proposed 1996 Boundary Modification" dated July, 1996. Such map, together with a legal description of all lands included in the boundary adjustment, shall be on file and available for public inspection in the Office of the Chief of the Forest Service in Washington, District of Columbia.

(b) RULE FOR LAND AND WATER CONSERVATION FUND.—For the purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–9), the boundary of the Snoqualmie National Forest, as modified pursuant to subsection (a), shall be considered to be the boundary of that National Forest as of January 1, 1965.

SEC. 326. Sugarbush Land Exchange Act of 1996.

(a) EXCHANGE OR SALE OF LAND.—

(1) If Sugarbush Resort Holdings, Inc. conveys to the United States land acceptable to the Secretary of Agriculture that is at least equal in value to the value of the land described in subsection (a)(2), makes a payment of cash at least equal to that value, or conveys land and makes a payment of cash that in combination are at least equal to that value, the Secretary, subject to valid existing rights, shall, under such terms and conditions as the Secretary may prescribe, convey all right, title, and interest of the United States in and to the land described in subsection (a)(2).

(2) FEDERAL LAND TO BE EXCHANGED.—The Federal land to be exchanged is approximately 57 acres of federally owned land in the Green Mountain National Forest depicted on the map entitled "Green Mountain National Forest, Sugarbush Exchange," dated December 1995.

(3) Lands acquired from Sugarbush Resort Holdings, Inc.—Any land conveyed to the United States in an exchange under subsection (a)(1) shall be subject to such valid existing rights of record as may be acceptable to the Secretary, and the title to the parcel shall conform with the title approval standards applicable to federal land acquisitions.

(b) ADMINISTRATION OF LAND.—

(1) ADDITION TO GREEN MOUNTAIN NATIONAL FOREST.—On approval and acceptance of title by the Secretary, the

land acquired by the United States through an exchange or with proceeds from a sale under subsection (a) shall become part of the Green Mountain National Forest, and the boundaries of the National Forest shall be adjusted to include the land.

(2) ADMINISTRATION.—Land acquired under this Act shall be administered by the Secretary in accordance with the laws (including regulations) pertaining to the National Forest System.

(3) AUTHORITY OF THE SECRETARY.—This section does not limit the authority of the Secretary to adjust the boundaries of the Green Mountain National Forest pursuant to section 11 of the Act of March 1, 1911 (36 Stat. 963, chapter 186; 16 U.S.C. 521) (commonly known as the "Weeks Law").

(4) For the purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–9), the boundaries of the Green Mountain National Forest, as adjusted under this Act, shall be considered to be the boundaries of the Green Mountain National Forest as of January 1, 1965.

SEC. 327. Snowbird Wilderness Study Area.

(a) IN GENERAL.—Section 6(a)(4) of the North Carolina Wilderness Act of 1984 (Public Law 98–324) is amended—

(1) by striking "eight thousand four hundred and ninety acres" and inserting "8,390 acres"; and

(2) by striking "July 1983" and inserting "July 1996".

(b) MANAGEMENT.—The Secretary of Agriculture shall manage the area removed from wilderness study status by the amendments made by subsection (a) in accordance with the provisions of law applicable to adjacent areas outside the wilderness study area.

16 USC 1132 note.

SEC. 328. Renaming of Wilderness Area.

(a) The Columbia Wilderness, created by the Oregon Wilderness Act of 1984, Public Law 98–328, located in the Mt. Hood National Forest, Oregon, shall be known and designated as the "Mark O. Hatfield Wilderness".

(b) Any references in a law, map, regulation, document, paper, or other record of the United States to the Columbia Wilderness shall be deemed to be a reference to the "Mark O. Hatfield Wilderness".

SEC. 329. Notwithstanding any other provision of law, for fiscal year 1997 the Secretaries of Agriculture and Interior are authorized to limit competition for watershed restoration project contracts as part of the "Jobs in the Woods" component of the President's Forest Plan for the Pacific Northwest to individuals and entities in historically timber-dependent areas in the States of Washington, Oregon, and northern California that have been affected by reduced timber harvesting on Federal lands.

SEC. 330. Section 9 of the Rhode Island Indian Claims Settlement Act (25 U.S.C. 1708) is amended—

(1) by striking "Sec. 9. Except as"; and inserting the following:

"(a) IN GENERAL.—Except as";

(2) by striking the section heading and inserting the following:

"SEC. 9. APPLICABILITY OF STATE LAW; TREATMENT OF SETTLEMENT LANDS UNDER THE INDIAN GAMING REGULATORY ACT.";

and

(3) by adding at the end the following new subsection:

"(b) TREATMENT OF SETTLEMENT LANDS UNDER THE INDIAN GAMING REGULATORY ACT.—For purposes of the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.), settlement lands shall not be treated as Indian lands.".

TITLE IV—EMERGENCY APPROPRIATIONS

DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

MANAGEMENT OF LANDS AND RESOURCES

For an additional amount for management of lands and resources, $3,500,000, to remain available until expended, to restore public lands damaged by fire: *Provided*, That Congress hereby designates this amount as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That this amount shall be available only to the extent that an official budget request for a specific dollar amount, that includes designation of the entire amount as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

WILDLAND FIRE MANAGEMENT

For an additional amount for wildland fire management, $100,000,000, to remain available until expended, for emergency rehabilitation and wildfire suppression activities of the Department of the Interior: *Provided*, That Congress hereby designates this amount as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That this amount shall be available only to the extent that an official budget request for a specific dollar amount, that includes designation of the entire amount as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

OREGON AND CALIFORNIA GRANT LANDS

For an additional amount for Oregon and California grant lands, $2,500,000, to remain available until expended, to restore public lands damaged by fire: *Provided*, That Congress hereby designates this amount as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That this amount shall be available only to the extent that an official budget request for a specific dollar amount, that includes designation of the entire amount as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

UNITED STATES FISH AND WILDLIFE SERVICE

RESOURCE MANAGEMENT

For an additional amount for resource management, $2,100,000, to remain available until expended, of which $600,000 is to restore public lands damaged by fire and $1,500,000 is address anti-terrorism requirements: *Provided*, That Congress hereby designates this amount as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That this amount shall be available only to the extent that an official budget request for a specific dollar amount, that includes designation of the entire amount as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

CONSTRUCTION

For an additional amount for construction, $15,891,000, to remain available until expended, to repair damage caused by hurricanes, floods and other acts of nature: *Provided*, That Congress hereby designates this amount as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That this amount shall be available only to the extent that an official budget request for a specific dollar amount, that includes designation of the entire amount as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

NATIONAL PARK SERVICE

OPERATION OF THE NATIONAL PARK SYSTEM

For an additional amount for operation of the National park system, $2,300,000, to remain available until expended, to address anti-terrorism requirements: *Provided*, That Congress hereby designates this amount as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That this amount shall be available only to the extent that an official budget request for a specific dollar amount, that includes designation of the entire amount as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

CONSTRUCTION

For an additional amount for construction, $9,300,000, to remain available until expended, of which $3,000,000 is to repair damage caused by hurricanes and $6,300,000 is to address anti-terrorism requirements: *Provided*, That Congress hereby designates this amount as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That this amount shall be available only to the extent that an official budget request for a specific dollar amount, that includes designation of the entire amount as an emergency requirement as defined in the Balanced

Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

UNITED STATES GEOLOGICAL SURVEY

SURVEYS, INVESTIGATIONS, AND RESEARCH

For an additional amount for surveys, investigations, and research, $1,138,000, to remain available until expended, to address damage caused by hurricanes and floods: *Provided*, That Congress hereby designates this amount as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That this amount shall be available only to the extent that an official budget request for a specific dollar amount, that includes designation of the entire amount as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

For an additional amount for operation of Indian programs, $6,600,000, to remain available until expended, to repair damage caused by floods and to restore Indian lands damaged by fire: *Provided*, That Congress hereby designates this amount as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That this amount shall be available only to the extent that an official budget request for a specific dollar amount, that includes designation of the entire amount as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

CONSTRUCTION

For an additional amount for construction, $6,000,000, to remain available until expended, to repair damage caused by floods: *Provided*, That Congress hereby designates this amount as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That this amount shall be available only to the extent that an official budget request for a specific dollar amount, that includes designation of the entire amount as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

NATIONAL FOREST SYSTEM

For an additional amount for the National Forest System, $3,395,000, to remain available until expended, to repair damage caused by hurricanes: *Provided*, That Congress hereby designates

this amount as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That this amount shall be available only to the extent that an official budget request for a specific dollar amount, that includes designation of the entire amount as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

WILDLAND FIRE MANAGEMENT

For an additional amount for wildland fire management, $550,000,000, to remain available until expended, for presuppression due to emergencies, for emergency fire suppression on or adjacent to National Forest System lands or other lands under fire protection agreement and for emergency rehabilitation of burned over National Forest System lands: *Provided*, That such funds are available for repayment of advances from other appropriations accounts previously transferred for such purposes: *Provided further*, That Congress hereby designates this amount as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That this amount shall be available only to the extent that an official budget request for a specific dollar amount, that includes designation of the entire amount as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

RECONSTRUCTION AND CONSTRUCTION

For an additional amount for reconstruction and construction, $5,210,000, to remain available until expended, to repair damage caused by hurricanes: *Provided*, That Congress hereby designates this amount as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That this amount shall be available only to the extent that an official budget request for a specific dollar amount, that includes designation of the entire amount as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

OTHER RELATED AGENCIES

SMITHSONIAN INSTITUTION

SALARIES AND EXPENSES

For an additional amount for salaries and expenses, $935,000, to remain available until expended, to address anti-terrorism requirements: *Provided*, That Congress hereby designates this amount as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That this amount shall be available only to the extent that an official budget request for a specific dollar amount, that includes designation of the entire amount as an emergency requirement as defined in the Balanced

Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

OPERATIONS AND MAINTENANCE

For an additional amount for operations and maintenance, $1,600,000, to remain available until expended, to address anti-terrorism requirements: *Provided*, That Congress hereby designates this amount as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That this amount shall be available only to the extent that an official budget request for a specific dollar amount, that includes designation of the entire amount as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

CONSTRUCTION

For an additional amount for construction, $3,400,000, to remain available until expended, to address anti-terrorism requirements: *Provided*, That Congress hereby designates this amount as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That this amount shall be available only to the extent that an official budget request for a specific dollar amount, that includes designation of the entire amount as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

NATIONAL GALLERY OF ART

SALARIES AND EXPENSES

For an additional amount for salaries and expenses, $382,000, to remain available until expended, to address anti-terrorism requirements: *Provided*, That Congress hereby designates this amount as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That this amount shall be available only to the extent that an official budget request for a specific dollar amount, that includes designation of the entire amount as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

UNITED STATES HOLOCAUST MEMORIAL COUNCIL

HOLOCAUST MEMORIAL COUNCIL

For an additional amount for the Holocaust Memorial Council, $1,000,000, to remain available until expended, to address anti-terrorism requirements: *Provided*, That Congress hereby designates this amount as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That this amount

shall be available only to the extent that an official budget request for a specific dollar amount, that includes designation of the entire amount as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

This Act may be cited as the "Department of the Interior and Related Agencies Appropriations Act, 1997".

(e) For programs, projects or activities in the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1997, provided as follows, to be effective as if it had been enacted into law as the regular appropriations Act:

Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1997. Department of Labor Appropriations Act, 1997.

AN ACT

Making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1997, and for other purposes.

TITLE I—DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

TRAINING AND EMPLOYMENT SERVICES

For expenses necessary to carry into effect the Job Training Partnership Act, as amended, including the purchase and hire of passenger motor vehicles, the construction, alteration, and repair of buildings and other facilities, and the purchase of real property for training centers as authorized by the Job Training Partnership Act; the Women in Apprenticeship and Nontraditional Occupations Act; the National Skill Standards Act of 1994; and the School-to-Work Opportunities Act; $4,719,703,000 plus reimbursements, of which $3,559,408,000 is available for obligation for the period July 1, 1997 through June 30, 1998; of which $88,685,000 is available for the period July 1, 1997 through June 30, 2000 for necessary expenses of construction, rehabilitation, and acquisition of Job Corps centers; and of which $200,000,000 shall be available from July 1, 1997 through September 30, 1998, for carrying out activities of the School-to-Work Opportunities Act: *Provided*, That $52,502,000 shall be for carrying out section 401 of the Job Training Partnership Act, $69,285,000 shall be for carrying out section 402 of such Act, $7,300,000 shall be for carrying out section 441 of such Act, $8,000,000 shall be for all activities conducted by and through the National Occupational Information Coordinating Committee under such Act, $895,000,000 shall be for carrying out title II, part A of such Act, and $126,672,000 shall be for carrying out title II, part C of such Act: *Provided further*, That no funds from any other appropriation shall be used to provide meal services at or for Job Corps centers: *Provided further*, That funds provided to carry out title III of the Job Training Partnership Act shall not be subject to the limitation contained in subsection (b) of section 315 of such Act; that the waiver allowing a reduction in the cost limitation relating to retraining services described in subsection (a)(2) of such section 315 may be granted with respect to funds from this Act if a substate grantee demonstrates to the Governor that such waiver is appropriate due to the availability of low-cost retraining services, is necessary to facilitate the provision of

needs-related payments to accompany long-term training, or is necessary to facilitate the provision of appropriate basic readjustment services; and that funds provided to carry out the Secretary's discretionary grants under part B of such title III may be used to provide needs-related payments to participants who, in lieu of meeting the requirements relating to enrollment in training under section 314(e) of such Act, are enrolled in training by the end of the sixth week after grant funds have been awarded: *Provided further*, That service delivery areas may transfer funding provided herein under authority of titles II–B and II–C of the Job Training Partnership Act between the programs authorized by those titles of that Act, if such transfer is approved by the Governor: Provided further, That service delivery areas and substate areas may transfer up to 20 percent of the funding provided herein under authority of title II–A and title III of the Job Training Partnership Act between the programs authorized by those titles of the Act, if such transfer is approved by the Governor: *Provided further*, That, notwithstanding any other provision of law, any proceeds from the sale of Job Corps center facilities shall be retained by the Secretary of Labor to carry out the Job Corps program: *Provided further*, That notwithstanding any other provision of law, the Secretary of Labor may waive any of the statutory or regulatory requirements of titles I–III of the Job Training Partnership Act (except for requirements relating to wage and labor standards, worker rights, participation and protection, grievance procedures and judicial review, nondiscrimination, allocation of funds to local areas, eligibility, review and approval of plans, the establishment and functions of service delivery areas and private industry councils, and the basic purposes of the Act), and any of the statutory or regulatory requirements of sections 8–10 of the Wagner-Peyser Act (except for requirements relating to the provision of services to unemployment insurance claimants and veterans, and to universal access to basic labor exchange services without cost to job seekers), only for funds available for expenditure in program year 1997, pursuant to a request submitted by a State which identifies the statutory or regulatory requirements that are requested to be waived and the goals which the State or local service delivery areas intend to achieve, describes the actions that the State or local service delivery areas have undertaken to remove State or local statutory or regulatory barriers, describes the goals of the waiver and the expected programmatic outcomes if the request is granted, describes the individuals impacted by the waiver, and describes the process used to monitor the progress in implementing a waiver, and for which notice and an opportunity to comment on such request has been provided to the organizations identified in section 105(a)(1) of the Job Training Partnership Act, if and only to the extent that the Secretary determines that such requirements impede the ability of the State to implement a plan to improve the workforce development system and the State has executed a Memorandum of Understanding with the Secretary requiring such State to meet agreed upon outcomes and implement other appropriate measures to ensure accountability: *Provided further*, That the Secretary of Labor shall establish a workforce flexibility (work-flex) partnership demonstration program under which the Secretary shall authorize not more than six States, of which at least three States shall each have populations not in excess of 3,500,000, with a preference given to those States that have been

29 USC 1732 note.

designated Ed-Flex Partnership States under section 311(e) of Public Law 103-227, to waive any statutory or regulatory requirement applicable to service delivery areas or substate areas within the State under titles I-III of the Job Training Partnership Act (except for requirements relating to wage and labor standards, grievance procedures and judicial review, nondiscrimination, allotment of funds, and eligibility), and any of the statutory or regulatory requirements of sections 8-10 of the Wagner-Peyser Act (except for requirements relating to the provision of services to unemployment insurance claimants and veterans, and to universal access to basic labor exchange services without cost to job seekers), for a duration not to exceed the waiver period authorized under section 311(e) of Public Law 103-227, pursuant to a plan submitted by such States and approved by the Secretary for the provision of workforce employment and training activities in the States, which includes a description of the process by which service delivery areas and substate areas may apply for and have waivers approved by the State, the requirements of the Wagner-Peyser Act to be waived, the outcomes to be achieved and other measures to be taken to ensure appropriate accountability for federal funds.

COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

(TRANSFER OF FUNDS)

To carry out the activities for national grants or contracts with public agencies and public or private nonprofit organizations under paragraph (1)(A) of section 506(a) of title V of the Older Americans Act of 1965, as amended, or to carry out older worker activities as subsequently authorized, $361,140,000, including $21,840,000 which shall be available for the period ending June 30, 1997.

To carry out the activities for grants to States under paragraph (3) of section 506(a) of title V of the Older Americans Act of 1965, as amended, or to carry out older worker activities as subsequently authorized, $101,860,000, including $6,160,000 which shall be available for the period ending June 30, 1997.

The funds appropriated under this heading shall be transferred to the Department of Health and Human Services, "Aging Services Programs" following the enactment of legislation authorizing the administration of the program by that Department.

FEDERAL UNEMPLOYMENT BENEFITS AND ALLOWANCES

For payments during the current fiscal year of trade adjustment benefit payments and allowances under part I, and for training, for allowances for job search and relocation, and for related State administrative expenses under part II, subchapters B and D, chapter 2, title II of the Trade Act of 1974, as amended, $324,500,000, together with such amounts as may be necessary to be charged to the subsequent appropriation for payments for any period subsequent to September 15 of the current year.

STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS

For authorized administrative expenses, $173,452,000, together with not to exceed $3,146,826,000 (including not to exceed

$1,653,000 which may be used for amortization payments to States which had independent retirement plans in their State employment service agencies prior to 1980, and including not to exceed $2,000,000 which may be obligated in contracts with non-State entities for activities such as occupational and test research activities which benefit the Federal-State Employment Service System), which may be expended from the Employment Security Administration account in the Unemployment Trust Fund including the cost of administering section 1201 of the Small Business Job Protection Act of 1996, section 7(d) of the Wagner-Peyser Act, as amended, the Trade Act of 1974, as amended, the Immigration Act of 1990, and the Immigration and Nationality Act, as amended, and of which the sums available in the allocation for activities authorized by title III of the Social Security Act, as amended (42 U.S.C. 502–504), and the sums available in the allocation for necessary administrative expenses for carrying out 5 U.S.C. 8501–8523, shall be available for obligation by the States through December 31, 1997, except that funds used for automation acquisitions shall be available for obligation by States through September 30, 1999; and of which $23,452,000, together with not to exceed $738,283,000 of the amount which may be expended from said trust fund, shall be available for obligation for the period July 1, 1997 through June 30, 1998, to fund activities under the Act of June 6, 1933, as amended, including the cost of penalty mail authorized under 39 U.S.C. 3202(a)(1)(E) made available to States in lieu of allotments for such purpose, and of which $216,333,000 shall be available only to the extent necessary for additional State allocations to administer unemployment compensation laws to finance increases in the number of unemployment insurance claims filed and claims paid or changes in a State law: *Provided*, That to the extent that the Average Weekly Insured Unemployment (AWIU) for fiscal year 1997 is projected by the Department of Labor to exceed 2,828,000 an additional $28,600,000 shall be available for obligation for every 100,000 increase in the AWIU level (including a pro rata amount for any increment less than 100,000) from the Employment Security Administration Account of the Unemployment Trust Fund: *Provided further*, That funds appropriated in this Act which are used to establish a national one-stop career center network may be obligated in contracts, grants or agreements with non-State entities: *Provided further*, That funds appropriated under this Act for activities authorized under the Wagner-Peyser Act, as amended, and title III of the Social Security Act, may be used by the States to fund integrated Employment Service and Unemployment Insurance automation efforts, notwithstanding cost allocation principles prescribed under Office of Management and Budget Circular A–87.

ADVANCES TO THE UNEMPLOYMENT TRUST FUND AND OTHER FUNDS

For repayable advances to the Unemployment Trust Fund as authorized by sections 905(d) and 1203 of the Social Security Act, as amended, and to the Black Lung Disability Trust Fund as authorized by section 9501(c)(1) of the Internal Revenue Code of 1954, as amended; and for nonrepayable advances to the Unemployment Trust Fund as authorized by section 8509 of title 5, United States Code, section 104(d) of Public Law 102–164, and section 5 of Public Law 103–6, and to the "Federal unemployment benefits

and allowances" account, to remain available until September 30, 1998, $373,000,000.

In addition, for making repayable advances to the Black Lung Disability Trust Fund in the current fiscal year after September 15, 1997, for costs incurred by the Black Lung Disability Trust Fund in the current fiscal year, such sums as may be necessary.

PROGRAM ADMINISTRATION

For expenses of administering employment and training programs and for carrying out section 908 of the Social Security Act, $81,393,000, together with not to exceed $39,977,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

PENSION AND WELFARE BENEFITS ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for Pension and Welfare Benefits Administration, $77,083,000, of which $6,000,000 shall remain available through September 30, 1998 for expenses of revising the processing of employee benefit plan returns.

PENSION BENEFIT GUARANTY CORPORATION

PENSION BENEFIT GUARANTY CORPORATION FUND

The Pension Benefit Guaranty Corporation is authorized to make such expenditures, including financial assistance authorized by section 104 of Public Law 96–364, within limits of funds and borrowing authority available to such Corporation, and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended (31 U.S.C. 9104), as may be necessary in carrying out the program through September 30, 1997, for such Corporation: *Provided*, That not to exceed $10,345,000 shall be available for administrative expenses of the Corporation: *Provided further*, That expenses of such Corporation in connection with the termination of pension plans, for the acquisition, protection or management, and investment of trust assets, and for benefits administration services shall be considered as non-administrative expenses for the purposes hereof, and excluded from the above limitation.

EMPLOYMENT STANDARDS ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Employment Standards Administration, including reimbursement to State, Federal, and local agencies and their employees for inspection services rendered, $290,422,000, together with $983,000 which may be expended from the Special Fund in accordance with sections 39(c) and 44(j) of the Longshore and Harbor Workers' Compensation Act: *Provided*, That the Secretary of Labor is authorized to accept, retain, and spend, until expended, in the name of the Department of Labor, all sums of money ordered to be paid to the Secretary of Labor, in accordance with the terms of the Consent Judgment in Civil

Action No. 91–0027 of the United States District Court for the District of the Northern Mariana Islands (May 21, 1992): *Provided further*, That the Secretary of Labor is authorized to establish and, in accordance with 31 U.S.C. 3302, collect and deposit in the Treasury fees for processing applications and issuing certificates under sections 11(d) and 14 of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 211(d) and 214) and for processing applications and issuing registrations under Title I of the Migrant and Seasonal Agricultural Worker Protection Act, 29 U.S.C. 1801 et seq.

SPECIAL BENEFITS

(INCLUDING TRANSFER OF FUNDS)

For the payment of compensation, benefits, and expenses (except administrative expenses) accruing during the current or any prior fiscal year authorized by title 5, chapter 81 of the United States Code; continuation of benefits as provided for under the head "Civilian War Benefits" in the Federal Security Agency Appropriation Act, 1947; the Employees' Compensation Commission Appropriation Act, 1944; and sections 4(c) and 5(f) of the War Claims Act of 1948 (50 U.S.C. App. 2012); and 50 per centum of the additional compensation and benefits required by section 10(h) of the Longshore and Harbor Workers' Compensation Act, as amended, $213,000,000 together with such amounts as may be necessary to be charged to the subsequent year appropriation for the payment of compensation and other benefits for any period subsequent to August 15 of the current year: *Provided*, That such sums as are necessary may be used under section 8104 of title 5, United States Code, by the Secretary to reimburse an employer, who is not the employer at the time of injury, for portions of the salary of a reemployed, disabled beneficiary: *Provided further*, That balances of reimbursements unobligated on September 30, 1996, shall remain available until expended for the payment of compensation, benefits, and expenses: *Provided further*, That in addition there shall be transferred to this appropriation from the Postal Service and from any other corporation or instrumentality required under section 8147(c) of title 5, United States Code, to pay an amount for its fair share of the cost of administration, such sums as the Secretary of Labor determines to be the cost of administration for employees of such fair share entities through September 30, 1997: *Provided further*, That of those funds transferred to this account from the fair share entities to pay the cost of administration, $11,390,000 shall be made available to the Secretary of Labor for expenditures relating to capital improvements in support of Federal Employees' Compensation Act administration, and the balance of such funds shall be paid into the Treasury as miscellaneous receipts: *Provided further*, That the Secretary may require that any person filing a notice of injury or a claim for benefits under Subchapter 5, U.S.C., chapter 81, or under subchapter 33, U.S.C. 901, et seq. (the Longshore and Harbor Workers' Compensation Act, as amended), provide as part of such notice and claim, such identifying information (including Social Security account number) as such regulations may prescribe.

BLACK LUNG DISABILITY TRUST FUND

(INCLUDING TRANSFER OF FUNDS)

For payments from the Black Lung Disability Trust Fund, $1,007,644,000, of which $961,665,000 shall be available until September 30, 1998, for payment of all benefits as authorized by section 9501(d) (1), (2), (4), and (7) of the Internal Revenue Code of 1954, as amended, and interest on advances as authorized by section 9501(c)(2) of that Act, and of which $26,071,000 shall be available for transfer to Employment Standards Administration, Salaries and Expenses, $19,621,000 for transfer to Departmental Management, Salaries and Expenses, and $287,000 for transfer to Departmental Management, Office of Inspector General, for expenses of operation and administration of the Black Lung Benefits program as authorized by section 9501(d)(5)(A) of that Act: *Provided*, That, in addition, such amounts as may be necessary may be charged to the subsequent year appropriation for the payment of compensation, interest, or other benefits for any period subsequent to August 15 of the current year: *Provided further*, That in addition such amounts shall be paid from this fund into miscellaneous receipts as the Secretary of the Treasury determines to be the administrative expenses of the Department of the Treasury for administering the fund during the current fiscal year, as authorized by section 9501(d)(5)(B) of that Act.

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Occupational Safety and Health Administration, $325,734,000, including not to exceed $77,354,000 which shall be the maximum amount available for grants to States under section 23(g) of the Occupational Safety and Health Act, which grants shall be no less than fifty percent of the costs of State occupational safety and health programs required to be incurred under plans approved by the Secretary under section 18 of the Occupational Safety and Health Act of 1970; and, in addition, notwithstanding 31 U.S.C. 3302, the Occupational Safety and Health Administration may retain up to $750,000 per fiscal year of training institute course tuition fees, otherwise authorized by law to be collected, and may utilize such sums for occupational safety and health training and education grants: *Provided*, That, notwithstanding 31 U.S.C. 3302, the Secretary of Labor is authorized, during the fiscal year ending September 30, 1997, to collect and retain fees for services provided to Nationally Recognized Testing Laboratories, and may utilize such sums, in accordance with the provisions of 29 U.S.C. 9a, to administer national and international laboratory recognition programs that ensure the safety of equipment and products used by workers in the workplace: *Provided further*, That none of the funds appropriated under this paragraph shall be obligated or expended to prescribe, issue, administer, or enforce any standard, rule, regulation, or order under the Occupational Safety and Health Act of 1970 which is applicable to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs ten or fewer employees: *Provided further*, That no funds appropriated under

29 USC 670 note.

this paragraph shall be obligated or expended to administer or enforce any standard, rule, regulation, or order under the Occupational Safety and Health Act of 1970 with respect to any employer of ten or fewer employees who is included within a category having an occupational injury lost workday case rate, at the most precise Standard Industrial Classification Code for which such data are published, less than the national average rate as such rates are most recently published by the Secretary, acting through the Bureau of Labor Statistics, in accordance with section 24 of that Act (29 U.S.C. 673), except—

(1) to provide, as authorized by such Act, consultation, technical assistance, educational and training services, and to conduct surveys and studies;

(2) to conduct an inspection or investigation in response to an employee complaint, to issue a citation for violations found during such inspection, and to assess a penalty for violations which are not corrected within a reasonable abatement period and for any willful violations found;

(3) to take any action authorized by such Act with respect to imminent dangers;

(4) to take any action authorized by such Act with respect to health hazards;

(5) to take any action authorized by such Act with respect to a report of an employment accident which is fatal to one or more employees or which results in hospitalization of two or more employees, and to take any action pursuant to such investigation authorized by such Act; and

(6) to take any action authorized by such Act with respect to complaints of discrimination against employees for exercising rights under such Act: *Provided further*, That the foregoing proviso shall not apply to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs ten or fewer employees.

MINE SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Mine Safety and Health Administration, $197,810,000, including purchase and bestowal of certificates and trophies in connection with mine rescue and first-aid work, and the hire of passenger motor vehicles; the Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, or private; the Mine Safety and Health Administration is authorized to promote health and safety education and training in the mining community through cooperative programs with States, industry, and safety associations; and any funds available to the Department may be used, with the approval of the Secretary, to provide for the costs of mine rescue and survival operations in the event of a major disaster: *Provided*, That none of the funds appropriated under this paragraph shall be obligated or expended to carry out section 115 of the Federal Mine Safety and Health Act of 1977 or to carry out that portion of section 104(g)(1) of such Act relating to the enforcement of any training requirements, with respect to shell dredging, or with respect to any sand, gravel, surface stone, surface clay, colloidal phosphate, or surface limestone mine.

30 USC 962.

BUREAU OF LABOR STATISTICS

SALARIES AND EXPENSES

For necessary expenses for the Bureau of Labor Statistics, including advances or reimbursements to State, Federal, and local agencies and their employees for services rendered, $309,647,000, of which $16,145,000 shall be for expenses of revising the Consumer Price Index and shall remain available until September 30, 1998, together with not to exceed $52,053,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For necessary expenses for Departmental Management, including the hire of three sedans, and including up to $4,358,000 for the President's Committee on Employment of People With Disabilities, $144,211,000; together with not to exceed $297,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund: *Provided*, That no funds made available by this Act may be used by the Solicitor of Labor to participate in a review in any United States court of appeals of any decision made by the Benefits Review Board under section 21 of the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 921) where such participation is precluded by the decision of the United States Supreme Court in Director, Office of Workers' Compensation Programs v. Newport News Shipbuilding, 115 S. Ct. 1278 (1995): *Provided further*, That no funds made available by this Act may be used by the Secretary of Labor to review a decision under the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 901 et seq.) that has been appealed and that has been pending before the Benefits Review Board for more than 12 months: *Provided further*, That any such decision pending a review by the Benefits Review Board for more than one year shall be considered affirmed by the Benefits Review Board on that date, and shall be considered the final order of the Board for purposes of obtaining a review in the United States courts of appeals: *Provided further*, That these provisions shall not be applicable to the review of any decision issued under the Black Lung Benefits Act (30 U.S.C. 901 et seq.).

33 USC 921 note.

ASSISTANT SECRETARY FOR VETERANS EMPLOYMENT AND TRAINING

Not to exceed $181,949,000 may be derived from the Employment Security Administration account in the Unemployment Trust Fund to carry out the provisions of 38 U.S.C. 4100–4110A and 4321–4327, and Public Law 103–353, and which shall be available for obligation by the States through December 31, 1997.

OFFICE OF INSPECTOR GENERAL

For salaries and expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $42,938,000, together with not to exceed $3,543,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

GENERAL PROVISIONS

SEC. 101. None of the funds appropriated in this title for the Job Corps shall be used to pay the compensation of an individual, either as direct costs or any proration as an indirect cost, at a rate in excess of $125,000.

(TRANSFER OF FUNDS)

SEC. 102. Not to exceed 1 percent of any discretionary funds (pursuant to the Balanced Budget and Emergency Deficit Control Act, as amended) which are appropriated for the current fiscal year for the Department of Labor in this Act may be transferred between appropriations, but no such appropriation shall be increased by more than 3 percent by any such transfer: *Provided*, That the Appropriations Committees of both Houses of Congress are notified at least fifteen days in advance of any transfer.

SEC. 103. Funds shall be available for carrying out title IV–B of the Job Training Partnership Act, notwithstanding section 427(c) of that Act, if a Job Corps center fails to meet national performance standards established by the Secretary.

SEC. 104. Effective January 1, 1997, no funds appropriated or otherwise made available to the Department of Labor in this title shall be disbursed without the approval of the Department's Chief Financial Officer or his delegatee.

SEC. 105. Notwithstanding any other provision of law, the Secretary of Labor may waive any of the requirements contained in sections 4, 104, 105, 107, 108, 121, 164, 204, 253, 254, 264, 301, 311, 313, 314, and 315 of the Job Training Partnership Act in order to assist States in improving State workforce development systems, pursuant to a request submitted by a State that has prior to the date of enactment of this Act executed a Memorandum of Understanding with the United States requiring such State to meet agreed upon outcomes.

This title may be cited as the "Department of Labor Appropriations Act, 1997".

TITLE II—DEPARTMENT OF HEALTH AND HUMAN SERVICES

Department of Health and Human Services Appropriations Act, 1997.

HEALTH RESOURCES AND SERVICES ADMINISTRATION

HEALTH RESOURCES AND SERVICES

For carrying out titles II, III, VII, VIII, X, XII, XVI, XIX, and XXVI of the Public Health Service Act, section 427(a) of the Federal Coal Mine Health and Safety Act, title V of the Social Security Act, the Health Care Quality Improvement Act of 1986, as amended, and the Native Hawaiian Health Care Act of 1988, as amended, $3,405,019,000, of which $297,000 shall remain available until expended for interest subsidies on loan guarantees made prior to fiscal year 1981 under part B of title VII of the Public Health Service Act: *Provided*, That the Division of Federal Occupational Health may utilize personal services contracting to employ professional management/administrative and occupational health professionals: *Provided further*, That of the funds made available under this heading, $828,000 shall be available until expended for facilities renovations at the Gillis W. Long Hansen's Disease

Center: *Provided further*, That in addition to fees authorized by section 427(b) of the Health Care Quality Improvement Act of 1986, fees shall be collected for the full disclosure of information under the Act sufficient to recover the full costs of operating the National Practitioner Data Bank, and shall remain available until expended to carry out that Act: *Provided further*, That no more than $5,000,000 is available for carrying out the provisions of Public Law 104–73: *Provided further*, That of the funds made available under this heading, $198,452,000 shall be for the program under title X of the Public Health Service Act to provide for voluntary family planning projects: *Provided further*, That amounts provided to said projects under such title shall not be expended for abortions, that all pregnancy counseling shall be nondirective, and that such amounts shall not be expended for any activity (including the publication or distribution of literature) that in any way tends to promote public support or opposition to any legislative proposal or candidate for public office: *Provided further*, That $167,000,000 shall be for State AIDS Drug Assistance Programs authorized by section 2616 of the Public Health Service Act and shall be distributed to States as authorized by section 2618(b)(2) of such Act: *Provided further*, That notwithstanding any other provision of law, funds made available under this heading may be used to continue operating the Council on Graduate Medical Education established by section 301 of Public Law 102–408: *Provided further*, That, of the funds made available under this heading, not more than $8,000,000 shall be made available and shall remain available until expended for loan guarantees for loans made by non-Federal lenders for the construction, renovation, and modernization of medical facilities that are owned and operated by health centers funded under part A of title XVI of the Public Health Service Act as amended, and, subject to authorization, for loans made to health centers for the costs of developing and operating managed care networks or plans, and that such funds be available to subsidize guarantees of total loan principal in an amount not to exceed $80,000,000: *Provided further*, That notwithstanding section 502(a)(1) of the Social Security Act, not to exceed $103,609,000 is available for carrying out special projects of regional and national significance pursuant to section 501(a)(2) of such Act.

MEDICAL FACILITIES GUARANTEE AND LOAN FUND

FEDERAL INTEREST SUBSIDIES FOR MEDICAL FACILITIES

For carrying out subsections (d) and (e) of section 1602 of the Public Health Service Act, $7,000,000, together with any amounts received by the Secretary in connection with loans and loan guarantees under title VI of the Public Health Service Act, to be available without fiscal year limitation for the payment of interest subsidies. During the fiscal year, no commitments for direct loans or loan guarantees shall be made.

HEALTH EDUCATION ASSISTANCE LOANS PROGRAM

For the cost of guaranteed loans, such sums as may be necessary to carry out the purpose of the program, as authorized by title VII of the Public Health Service Act, as amended: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of

1974: *Provided further*, That these funds are available to subsidize gross obligations for the total loan principal any part of which is to be guaranteed at not to exceed $140,000,000. In addition, for administrative expenses to carry out the guaranteed loan program, $2,688,000.

VACCINE INJURY COMPENSATION PROGRAM TRUST FUND

For payments from the Vaccine Injury Compensation Program Trust Fund, such sums as may be necessary for claims associated with vaccine-related injury or death with respect to vaccines administered after September 30, 1988, pursuant to subtitle 2 of title XXI of the Public Health Service Act, to remain available until expended: *Provided*, That for necessary administrative expenses, not to exceed $3,000,000 shall be available from the Trust Fund to the Secretary of Health and Human Services.

VACCINE INJURY COMPENSATION

For payment of claims resolved by the United States Court of Federal Claims related to the administration of vaccines before October 1, 1988, $110,000,000, to remain available until expended.

CENTERS FOR DISEASE CONTROL AND PREVENTION

DISEASE CONTROL, RESEARCH, AND TRAINING

To carry out titles II, III, VII, XI, XV, XVII, and XIX of the Public Health Service Act, sections 101, 102, 103, 201, 202, 203, 301, and 501 of the Federal Mine Safety and Health Act of 1977, and sections 20, 21 and 22 of the Occupational Safety and Health Act of 1970, title IV of the Immigration and Nationality Act and section 501 of the Refugee Education Assistance Act of 1980; including insurance of official motor vehicles in foreign countries; and hire, maintenance, and operation of aircraft, $2,262,698,000, of which $30,553,000 shall remain available until expended for equipment and construction and renovation of facilities, and of which $32,000,000 shall remain available until September 30, 1998 for mine safety and health activities, and in addition, such sums as may be derived from authorized user fees, which shall be credited to this account: *Provided*, That in addition to amounts provided herein, up to $48,400,000 shall be available from amounts available under section 241 of the Public Health Service Act, to carry out the National Center for Health Statistics surveys: *Provided further*, That none of the funds made available for injury prevention and control at the Centers for Disease Control and Prevention may be used to advocate or promote gun control: *Provided further*, That the Director may redirect the total amount made available under authority of Public Law 101–502, section 3, dated November 3, 1990, to activities the Director may so designate: *Provided further*, That the Congress is to be notified promptly of any such transfer: *Provided further*, That the functions described in clause (1) of the first proviso under the subheading "mines and minerals" under the heading "Bureau of Mines" in the text of title I of the Department of the Interior and Related Agencies Appropriations Act, 1996, as enacted by section 101 (c) of the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (Public Law 104–134), are hereby transferred to, and vested in, the Secretary of Health

30 USC 1 note.

and Human Services, subject to section 1531 of title 31, United States Code: *Provided further*, That of the amount provided, $23,000,000 is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

In addition, $41,000,000, to be derived from the Violent Crime Reduction Trust Fund, for carrying out sections 40151 and 40261 of Public Law 103–322.

NATIONAL INSTITUTES OF HEALTH

NATIONAL CANCER INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to cancer, $2,382,532,000.

NATIONAL HEART, LUNG, AND BLOOD INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to cardiovascular, lung, and blood diseases, and blood and blood products, $1,433,001,000.

NATIONAL INSTITUTE OF DENTAL RESEARCH

For carrying out section 301 and title IV of the Public Health Service Act with respect to dental disease, $195,997,000.

NATIONAL INSTITUTE OF DIABETES AND DIGESTIVE AND KIDNEY DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to diabetes and digestive and kidney disease, $815,982,000.

NATIONAL INSTITUTE OF NEUROLOGICAL DISORDERS AND STROKE

For carrying out section 301 and title IV of the Public Health Service Act with respect to neurological disorders and stroke, $726,746,000.

NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to allergy and infectious diseases, $1,257,234,000.

NATIONAL INSTITUTE OF GENERAL MEDICAL SCIENCES

For carrying out section 301 and title IV of the Public Health Service Act with respect to general medical sciences, $998,470,000.

NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT

For carrying out section 301 and title IV of the Public Health Service Act with respect to child health and human development, $631,703,000.

NATIONAL EYE INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to eye diseases and visual disorders, $332,735,000.

NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES

For carrying out sections 301 and 311 and title IV of the Public Health Service Act with respect to environmental health sciences, $308,819,000.

NATIONAL INSTITUTE ON AGING

For carrying out section 301 and title IV of the Public Health Service Act with respect to aging, $486,047,000.

NATIONAL INSTITUTE OF ARTHRITIS AND MUSCULOSKELETAL AND SKIN DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to arthritis and musculoskeletal and skin diseases, $257,111,000.

NATIONAL INSTITUTE ON DEAFNESS AND OTHER COMMUNICATION DISORDERS

For carrying out section 301 and title IV of the Public Health Service Act with respect to deafness and other communication disorders, $188,422,000.

NATIONAL INSTITUTE OF NURSING RESEARCH

For carrying out section 301 and title IV of the Public Health Service Act with respect to nursing research, $59,743,000.

NATIONAL INSTITUTE ON ALCOHOL ABUSE AND ALCOHOLISM

For carrying out section 301 and title IV of the Public Health Service Act with respect to alcohol abuse and alcoholism, $212,004,000.

NATIONAL INSTITUTE ON DRUG ABUSE

For carrying out section 301 and title IV of the Public Health Service Act with respect to drug abuse, $489,375,000.

NATIONAL INSTITUTE OF MENTAL HEALTH

For carrying out section 301 and title IV of the Public Health Service Act with respect to mental health, $701,585,000.

NATIONAL CENTER FOR RESEARCH RESOURCES

For carrying out section 301 and title IV of the Public Health Service Act with respect to research resources and general research support grants, $415,145,000: *Provided*, That none of these funds shall be used to pay recipients of the general research support grants program any amount for indirect expenses in connection with such grants: *Provided further*, That $20,000,000 shall be for extramural facilities construction grants.

NATIONAL CENTER FOR HUMAN GENOME RESEARCH

For carrying out section 301 and title IV of the Public Health Service Act with respect to human genome research, $189,657,000.

JOHN E. FOGARTY INTERNATIONAL CENTER

For carrying out the activities at the John E. Fogarty International Center, $26,586,000.

NATIONAL LIBRARY OF MEDICINE

For carrying out section 301 and title IV of the Public Health Service Act with respect to health information communications, $151,103,000, of which $4,000,000 shall be available until expended for improvement of information systems: *Provided*, That in fiscal year 1997, the Library may enter into personal services contracts for the provision of services in facilities owned, operated, or constructed under the jurisdiction of the National Institutes of Health.

OFFICE OF THE DIRECTOR

(INCLUDING TRANSFER OF FUNDS)

For carrying out the responsibilities of the Office of the Director, National Institutes of Health, $287,206,000, of which $35,589,000 shall be for the Office of AIDS Research: *Provided*, That funding shall be available for the purchase of not to exceed five passenger motor vehicles for replacement only: *Provided further*, That the Director may direct up to 1 percent of the total amount made available in this Act to all National Institutes of Health appropriations to activities the Director may so designate: *Provided further*, That no such appropriation shall be increased or decreased by more than 1 percent by any such transfers and that the Congress is promptly notified of the transfer: *Provided further*, That NIH is authorized to collect third party payments for the cost of clinical services that are incurred in National Institutes of Health research facilities and that such payments shall be credited to the National Institutes of Health Management Fund: *Provided further*, That all funds credited to the NIH Management Fund shall remain available for one fiscal year after the fiscal year in which they are deposited: *Provided further*, That up to $200,000 shall be available to carry out section 499 of the Public Health Service Act.

BUILDINGS AND FACILITIES

For the study of, construction of, and acquisition of equipment for, facilities of or used by the National Institutes of Health, including the acquisition of real property, $200,000,000, to remain available until expended, of which $90,000,000 shall be for the clinical research center: *Provided*, That, notwithstanding any other provision of law, a single contract or related contracts for the development and construction of the clinical research center may be employed which collectively include the full scope of the project: *Provided further*, That the solicitation and contract shall contain the clause "availability of funds" found at 48 CFR 52.232–18.

SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION

SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES

For carrying out titles V and XIX of the Public Health Service Act with respect to substance abuse and mental health services, the Protection and Advocacy for Mentally Ill Individuals Act of 1986, section 30401 of Public Law 103–322 and section 301 of the Public Health Service Act with respect to program management, $2,134,743,000, of which $5,000,000 shall be for grants to rural and Native American projects and $12,800,000 shall be for activities authorized by section 30401 of Public Law 103–322.

RETIREMENT PAY AND MEDICAL BENEFITS FOR COMMISSIONED OFFICERS

For retirement pay and medical benefits of Public Health Service Commissioned Officers as authorized by law, and for payments under the Retired Serviceman's Family Protection Plan and Survivor Benefit Plan and for medical care of dependents and retired personnel under the Dependents' Medical Care Act (10 U.S.C. ch. 55), and for payments pursuant to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), such amounts as may be required during the current fiscal year.

AGENCY FOR HEALTH CARE POLICY AND RESEARCH

HEALTH CARE POLICY AND RESEARCH

For carrying out titles III and IX of the Public Health Service Act, and part A of title XI of the Social Security Act, $96,175,000; in addition, amounts received from Freedom of Information Act fees, reimbursable and interagency agreements, and the sale of data tapes shall be credited to this appropriation and shall remain available until expended: *Provided*, That the amount made available pursuant to section 926(b) of the Public Health Service Act shall not exceed $47,412,000.

HEALTH CARE FINANCING ADMINISTRATION

GRANTS TO STATES FOR MEDICAID

For carrying out, except as otherwise provided, titles XI and XIX of the Social Security Act, $75,056,618,000, to remain available until expended.

For making, after May 31, 1997, payments to States under title XIX of the Social Security Act for the last quarter of fiscal year 1997 for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary.

For making payments to States under title XIX of the Social Security Act for the first quarter of fiscal year 1998, $27,988,993,000, to remain available until expended.

Payment under title XIX may be made for any quarter with respect to a State plan or plan amendment in effect during such quarter, if submitted in or prior to such quarter and approved in that or any subsequent quarter.

PAYMENTS TO HEALTH CARE TRUST FUNDS

For payment to the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds, as provided under sections 217(g) and 1844 of the Social Security Act, sections 103(c) and 111(d) of the Social Security Amendments of 1965, section 278(d) of Public Law 97–248, and for administrative expenses incurred pursuant to section 201(g) of the Social Security Act, $60,079,000,000.

PROGRAM MANAGEMENT

For carrying out, except as otherwise provided, titles XI, XVIII, and XIX of the Social Security Act, title XIII of the Public Health Service Act, and the Clinical Laboratory Improvement Amendments of 1988, not to exceed $1,735,125,000 to be transferred from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds, as authorized by section 201(g) of the Social Security Act; together with all funds collected in accordance with section 353 of the Public Health Service Act, the latter funds to remain available until expended, together with such sums as may be collected from authorized user fees and the sale of data, which shall remain available until expended: *Provided*, That all funds derived in accordance with 31 U.S.C. 9701 from organizations established under title XIII of the Public Health Service Act are to be credited to and available for carrying out the purposes of this appropriation.

HEALTH MAINTENANCE ORGANIZATION LOAN AND LOAN GUARANTEE FUND

For carrying out subsections (d) and (e) of section 1308 of the Public Health Service Act, any amounts received by the Secretary in connection with loans and loan guarantees under title XIII of the Public Health Service Act, to be available without fiscal year limitation for the payment of outstanding obligations. During fiscal year 1997, no commitments for direct loans or loan guarantees shall be made.

ADMINISTRATION FOR CHILDREN AND FAMILIES

FAMILY SUPPORT PAYMENTS TO STATES

For making payments of such sums as necessary to each State for carrying out the program of Aid to Families with Dependent Children under title IV–A of the Social Security Act in fiscal year 1997 before the effective date of the program of Temporary Assistance to Needy Families (TANF) with respect to such State: *Provided*, That the sum of the amounts available to a State with respect to expenditures under such title IV–A in fiscal year 1997 under this appropriation and under such title IV–A as amended by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 shall not exceed the limitations under section 116(b) of such Act.

For making payments to States for carrying out title IV–A (other than section 402(g)(6)) of the Social Security Act in calendar quarters prior to October 1, 1996, such sums as may be necessary.

For making payments to States or other non-Federal entities under titles I, IV–D, X, XI, XIV, and XVI of the Social Security

Act and the Act of July 5, 1960 (24 U.S.C. ch. 9), $2,158,000,000 to remain available until expended.

For making, after May 31 of the current fiscal year, payments to States or other non-Federal entities under titles I, IV–D, X, XI, XIV, and XVI of the Social Security Act, for the last three months of the current year for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary.

For making payments to States or other non-Federal entities under titles I, IV–D, X, XI, XIV, and XVI of the Social Security Act and the Act of July 5, 1960 (24 U.S.C. ch. 9) for the first quarter of fiscal year 1998, $607,000,000, to remain available until expended.

JOB OPPORTUNITIES AND BASIC SKILLS

For carrying out aid to families with dependent children work programs, as authorized by part F of title IV of the Social Security Act, $1,000,000,000.

LOW INCOME HOME ENERGY ASSISTANCE

For making payments under title XXVI of the Omnibus Budget Reconciliation Act of 1981, $1,000,000,000.

For making payments under title XXVI of the Omnibus Budget Reconciliation Act of 1981, $1,000,000,000, to be available for obligation in the period October 1, 1997 through September 30, 1998.

REFUGEE AND ENTRANT ASSISTANCE

For making payments for refugee and entrant assistance activities authorized by title IV of the Immigration and Nationality Act and section 501 of the Refugee Education Assistance Act of 1980 (Public Law 96–422), $412,076,000: *Provided*, That funds appropriated pursuant to section 414(a) of the Immigration and Nationality Act under Public Law 103–333 for fiscal year 1995 shall be available for the costs of assistance provided and other activities conducted in such year and in fiscal years 1996 and 1997.

CHILD CARE AND DEVELOPMENT BLOCK GRANT

(INCLUDING TRANSFER OF FUNDS)

For carrying out sections 658A through 658R of the Omnibus Budget Reconciliation Act of 1981 (The Child Care and Development Block Grant Act of 1990), $956,120,000, of which $937,000,000 shall become available on October 1, 1997 and shall remain available through September 30, 1998: *Provided*, That $19,120,000 shall become available for obligation on October 1, 1996 for child care resource and referral and school-aged child care activities, of which $6,120,000 shall be derived from an amount that shall be transferred from the amount appropriated under section 452(j) of the Social Security Act (42 U.S.C. 652(j)) for fiscal year 1996 and remaining available for expenditure.

SOCIAL SERVICES BLOCK GRANT

For making grants to States pursuant to section 2002 of the Social Security Act, $2,500,000,000: *Provided*, That notwithstanding section 2003(c) of such Act, as amended, the amount specified

for allocation under such section for fiscal year 1997 shall be $2,500,000,000.

CHILDREN AND FAMILIES SERVICES PROGRAMS

(INCLUDING RESCISSIONS)

For carrying out, except as otherwise provided, the Runaway and Homeless Youth Act, the Developmental Disabilities Assistance and Bill of Rights Act, the Head Start Act, the Child Abuse Prevention and Treatment Act, the Temporary Child Care for Children with Disabilities and Crisis Nurseries Act of 1986, section 429A, part B of title IV of the Social Security Act, section 413 of the Social Security Act, the Family Violence Prevention and Services Act, the Native American Programs Act of 1974, title II of Public Law 95–266 (adoption opportunities), the Abandoned Infants Assistance Act of 1988, and part B(1) of title IV of the Social Security Act; for making payments under the Community Services Block Grant Act; and for necessary administrative expenses to carry out said Acts and titles I, IV, X, XI, XIV, XVI, and XX of the Social Security Act, the Act of July 5, 1960 (24 U.S.C. ch. 9), the Omnibus Budget Reconciliation Act of 1981, title IV of the Immigration and Nationality Act, section 501 of the Refugee Education Assistance Act of 1980, and section 126 and titles IV and V of Public Law 100–485, $5,363,569,000, of which $536,432,000 shall be for making payments under the Community Services Block Grant Act: *Provided*, That to the extent Community Services Block Grant funds are distributed as grant funds by a State to an eligible entity as provided under the Act, and have not been expended by such entity, they shall remain with such entity for carryover into the next fiscal year for expenditure by such entity consistent with program purposes: *Provided further*, That of the amount appropriated for fiscal year 1997 under section 672(a) of the Community Services Block Grant Act, the Secretary shall use up to one percent of the funds available to correct allocation errors that occurred in fiscal year 1995 and fiscal year 1996 to ensure that the minimum allotment to each State for each of fiscal years 1995 and 1996 would be $2,222,460: *Provided further*, That no more than one-half of one percent of the funds available under section 672(a) shall be used for the purposes of section 674(a) of the Community Services Block Grant Act.

In addition, $20,000,000, to be derived from the Violent Crime Reduction Trust Fund, for carrying out sections 40155, 40211 and 40241 of Public Law 103–322.

Funds appropriated for fiscal year 1996 and fiscal year 1997 under section 429A(e), part B of title IV of the Social Security Act shall be reduced by $6,000,000 in each such year.

Funds appropriated for fiscal year 1997 under section 413(h)(1) of the Social Security Act shall be reduced by $15,000,000.

FAMILY PRESERVATION AND SUPPORT

For carrying out section 430 of the Social Security Act, $240,000,000.

PAYMENTS TO STATES FOR FOSTER CARE AND ADOPTION ASSISTANCE

For making payments to States or other non-Federal entities, under title IV–E of the Social Security Act, $4,445,031,000.

For making payments to States or other non-Federal entities, under title IV–E of the Social Security Act, for the first quarter of fiscal year 1998, $1,111,000,000.

ADMINISTRATION ON AGING

AGING SERVICES PROGRAMS

For carrying out, to the extent not otherwise provided, the Older Americans Act of 1965, as amended, $830,168,000: *Provided*, That notwithstanding section 308(b)(1) of such Act, the amounts available to each State for administration of the State plan under title III of such Act shall be reduced not more than 5 percent below the amount that was available to such State for such purpose for fiscal year 1995: *Provided further*, That in considering grant applications for nutrition services for elder Indian recipients, the Assistant Secretary shall provide maximum flexibility to applicants who seek to take into account subsistence, local customs and other characteristics that are appropriate to the unique cultural, regional and geographic needs of the American Indian, Alaskan and Hawaiian native communities to be served.

OFFICE OF THE SECRETARY

GENERAL DEPARTMENTAL MANAGEMENT

For necessary expenses, not otherwise provided, for general departmental management, including hire of six sedans, and for carrying out titles III, XVII, and XX of the Public Health Service Act, $174,523,000, together with $5,851,000, to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from the Hospital Insurance Trust Fund and the Supplemental Medical Insurance Trust Fund: *Provided*, That of the funds made available under this heading for carrying out title XVII of the Public Health Service Act, $11,500,000 shall be available until expended for extramural construction: *Provided further*, That notwithstanding section 2010 (b) and (c) under title XX of the Public Health Service Act, as amended, of the funds made available under this heading, $10,879,000 shall be for activities specified under section 2003(b)(2) of title XX of the Public Health Service Act, as amended, and of which $9,011,000 shall be for prevention grants under section 510(b)(2) of title V of the Social Security Act, as amended: *Provided further*, That of the amount provided, $5,775,000 is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

OFFICE OF INSPECTOR GENERAL

For expenses necessary for the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $32,999,000, together with any funds, to remain available until expended, that represent the equitable share from the forfeiture of property in investigations in which the Office of Inspector General participated, and which are transferred to the Office of Inspector General by the Department of Justice, the Department of the Treasury, or the United States Postal Service.

OFFICE FOR CIVIL RIGHTS

For expenses necessary for the Office for Civil Rights, $16,216,000, together with not to exceed $3,314,000, to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from the Hospital Insurance Trust Fund and the Supplemental Medical Insurance Trust Fund.

POLICY RESEARCH

For carrying out, to the extent not otherwise provided, research studies under section 1110 of the Social Security Act and section 301(l) of Public Law 104–191, $18,500,000: Provided, That $9,500,000, to remain available until September 30, 1998, shall be for carrying out section 301(l) of Public Law 104–191.

GENERAL PROVISIONS

SEC. 201. Funds appropriated in this title shall be available for not to exceed $37,000 for official reception and representation expenses when specifically approved by the Secretary.

SEC. 202. The Secretary shall make available through assignment not more than 60 employees of the Public Health Service to assist in child survival activities and to work in AIDS programs through and with funds provided by the Agency for International Development, the United Nations International Children's Emergency Fund or the World Health Organization.

SEC. 203. None of the funds appropriated under this Act may be used to implement section 399L(b) of the Public Health Service Act or section 1503 of the National Institutes of Health Revitalization Act of 1993, Public Law 103–43.

SEC. 204. None of the funds made available by this Act may be used to withhold payment to any State under the Child Abuse Prevention and Treatment Act by reason of a determination that the State is not in compliance with section 1340.2(d)(2)(ii) of title 45 of the Code of Federal Regulations. This provision expires upon the date of enactment of the reauthorization of the Child Abuse Prevention and Treatment Act.

SEC. 205. None of the funds appropriated in this Act for the National Institutes of Health and the Substance Abuse and Mental Health Services Administration shall be used to pay the salary of an individual, through a grant or other extramural mechanism, at a rate in excess of $125,000 per year.

SEC. 206. None of the funds appropriated in this Act may be expended pursuant to section 241 of the Public Health Service Act, except for funds specifically provided for in this Act, or for other taps and assessments made by any office located in the Department of Health and Human Services, prior to the Secretary's preparation and submission of a report to the Committee on Appropriations of the Senate and of the House detailing the planned uses of such funds.

(TRANSFER OF FUNDS)

SEC. 207. Of the funds appropriated or otherwise made available for the Department of Health and Human Services, General Departmental Management, for fiscal year 1997, the Secretary of Health and Human Services shall transfer to the Office of the Inspector General such sums as may be necessary for any expenses

with respect to the provision of security protection for the Secretary of Health and Human Services.

SEC. 208. None of the funds appropriated in this Act may be obligated or expended for the Federal Council on Aging under the Older Americans Act or the Advisory Board on Child Abuse and Neglect under the Child Abuse Prevention and Treatment Act.

(TRANSFER OF FUNDS)

SEC. 209. Not to exceed 1 percent of any discretionary funds (pursuant to the Balanced Budget and Emergency Deficit Control Act, as amended) which are appropriated for the current fiscal year for the Department of Health and Human Services in this Act may be transferred between appropriations, but no such appropriation shall be increased by more than 3 percent by any such transfer: *Provided*, That the Appropriations Committees of both Houses of Congress are notified at least fifteen days in advance of any transfer.

(TRANSFER OF FUNDS)

SEC. 210. The Director of the National Institutes of Health, jointly with the Director of the Office of AIDS Research, may transfer up to 3 percent among institutes, centers, and divisions from the total amounts identified by these two Directors as funding for research pertaining to the human immunodeficiency virus: *Provided*, That the Congress is promptly notified of the transfer.

(TRANSFER OF FUNDS)

SEC. 211. Of the amounts made available in this Act for the National Institutes of Health, the amount for research related to the human immunodeficiency virus, as jointly determined by the Director of NIH and the Director of the Office of AIDS Research, shall be made available to the "Office of AIDS Research" account. The Director of the Office of AIDS Research shall transfer from such account amounts necessary to carry out section 2353(d)(3) of the Public Health Service Act.

SEC. 212. Not later than January 1, 1997, the Administrator of the Health Care Financing Administration, with the advice and technical assistance of the Agency for Health Care Policy and Research, shall transmit to the appropriate committees of the Congress a report including—

(1) a review of all available studies and research data on the treatment of end-stage emphysema and chronic obstructive pulmonary disease by both unilateral and bilateral lung volume reduction surgery, involving both invasive and noninvasive surgery and supplemental surgical methods, including laser applications; and

(2) a recommendation, based on such review, as to the appropriateness of Medicare coverage of such procedures and the conditions, if necessary, that facilities and physicians should be required to meet, to ensure the efficacy of such procedures, as more detailed clinical studies are conducted.

SEC. 213. Section 304(a)(1) of the Family Violence Prevention and Services Act (42 U.S.C. 10403(a)(1)) is amended by striking "$200,000" and inserting "$400,000".

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SEC. 214. The new clinical research center at the National Institutes of Health is hereby named the Mark O. Hatfield Clinical Research Center.

42 USC 652, 653.

SEC. 215. Section 345 of Public Law 104–193 is amended by replacing "section 457(a)" wherever it appears with "a plan approved under this part". Amounts available under such section shall be calculated as though such section were effective October 1, 1995.

42 USC 652 note.

This title may be cited as the "Department of Health and Human Services Appropriations Act, 1997".

Department of Education Appropriations Act, 1997.

TITLE III—DEPARTMENT OF EDUCATION

EDUCATION REFORM

For carrying out activities authorized by titles III and IV of the Goals 2000: Educate America Act and the School-to-Work Opportunities Act, $691,000,000, of which $476,000,000 for the Goals 2000: Educate America Act and $200,000,000 for the School-to-Work Opportunities Act shall become available on July 1, 1997, and remain available through September 30, 1998: *Provided*, That none of the funds appropriated under this heading shall be obligated or expended to carry out section 304(a)(2)(A) of the Goals 2000: Educate America Act.

EDUCATION FOR THE DISADVANTAGED

For carrying out title I of the Elementary and Secondary Education Act of 1965, and section 418A of the Higher Education Act, $7,698,469,000, of which $6,380,114,000 shall become available on July 1, 1997, and shall remain available through September 30, 1998, and of which $1,298,386,000 shall become available on October 1, 1997 and shall remain available through September 30, 1998, for academic year 1997–1998: *Provided*, That $6,194,850,000 shall be available for basic grants under section 1124: *Provided further*, That up to $3,500,000 of these funds shall be available to the Secretary on October 1, 1996, to obtain updated local-educational-agency-level census poverty data from the Bureau of the Census: *Provided further*, That $999,249,000 shall be available for concentration grants under section 1124(A) and $7,000,000 shall be available for evaluations under section 1501.

IMPACT AID

For carrying out programs of financial assistance to federally affected schools authorized by title VIII of the Elementary and Secondary Education Act of 1965, $730,000,000, of which $615,500,000 shall be for basic support payments under section 8003(b), $40,000,000 shall be for payments for children with disabilities under section 8003(d), $52,000,000, to remain available until expended, shall be for payments under section 8003(f), $5,000,000 shall be for construction under section 8007, and $17,500,000 shall be for Federal property payments under section 8002.

SCHOOL IMPROVEMENT PROGRAMS

For carrying out school improvement activities authorized by titles II, IV–A–1, V–A and B, VI, IX, X and XIII of the Elementary and Secondary Education Act of 1965; the Stewart B. McKinney Homeless Assistance Act; and the Civil Rights Act of 1964;

$1,425,631,000, of which $1,202,478,000 shall become available on July 1, 1997, and remain available through September 30, 1998: *Provided*, That of the amount appropriated, $310,000,000 shall be for Eisenhower professional development State grants under title II–B and $310,000,000 shall be for innovative education program strategies State grants under title VI–A.

BILINGUAL AND IMMIGRANT EDUCATION

For carrying out, to the extent not otherwise provided, bilingual, foreign language and immigrant education activities authorized by parts A and C and section 7203 of title VII of the Elementary and Secondary Education Act, without regard to section 7103(b), $261,700,000, of which $100,000,000 shall be for immigrant education programs authorized by part C: *Provided*, That State educational agencies may use all, or any part of, their part C allocation for competitive grants to local educational agencies: *Provided further*, That the Department of Education should only support instructional programs which ensure that students completely master English in a timely fashion (a period of three to five years) while meeting rigorous achievement standards in the academic content areas.

SPECIAL EDUCATION

For carrying out parts B, C, D, E, F, G, and H and section 610(j)(2)(C) of the Individuals with Disabilities Education Act, $4,036,000,000, of which $3,783,685,000 shall become available for obligation on July 1, 1997, and shall remain available through September 30, 1998: *Provided*, That the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau shall continue to be eligible to receive funds under the Individuals with Disabilities Education Act consistent with the provisions of Public Law 104–134: Provided further, That the entities that received competitive awards for direct services to children under section 611 of the Individuals with Disabilities Education Act in accordance with the competition required in Public Law 104–134 shall continue to be funded, without competition, in the same amounts as under Public Law 104–134.

REHABILITATION SERVICES AND DISABILITY RESEARCH

For carrying out, to the extent not otherwise provided, the Rehabilitation Act of 1973, the Technology-Related Assistance for Individuals with Disabilities Act, and the Helen Keller National Center Act, as amended, $2,509,447,000.

SPECIAL INSTITUTIONS FOR PERSONS WITH DISABILITIES

AMERICAN PRINTING HOUSE FOR THE BLIND

For carrying out the Act of March 3, 1879, as amended (20 U.S.C. 101 et seq.), $6,680,000.

NATIONAL TECHNICAL INSTITUTE FOR THE DEAF

For the National Technical Institute for the Deaf under titles I and II of the Education of the Deaf Act of 1986 (20 U.S.C.

4301 et seq.), $43,041,000: *Provided*, That from the amount available, the Institute may at its discretion use funds for the endowment program as authorized under section 207.

GALLAUDET UNIVERSITY

For the Kendall Demonstration Elementary School, the Model Secondary School for the Deaf, and the partial support of Gallaudet University under titles I and II of the Education of the Deaf Act of 1986 (20 U.S.C. 4301 et seq.), $79,182,000: *Provided*, That from the amount available, the University may at its discretion use funds for the endowment program as authorized under section 207.

VOCATIONAL AND ADULT EDUCATION

For carrying out, to the extent not otherwise provided, the Carl D. Perkins Vocational and Applied Technology Education Act, the Adult Education Act, and the National Literacy Act of 1991, $1,486,531,000, of which $4,500,000 shall be for the National Institute for Literacy; and of which $1,483,612,000 shall become available on July 1, 1997 and shall remain available through September 30, 1998: *Provided*, That, of the amounts made available for title II of the Carl D. Perkins Vocational and Applied Technology Education Act, $4,500,000 shall be used by the Secretary for national programs under title IV, without regard to section 451: *Provided further,* That, in addition, the Secretary may reserve up to $9,000,000 under section 101(a)(1)(A) of the Carl D. Perkins Vocational and Applied Technology Education Act, without regard to section 451: *Provided further,* That the Secretary may reserve up to $5,000,000 under section 313(d) of the Adult Education Act for activities carried out under section 383 of that Act: *Provided further,* That no funds shall be awarded to a State Council under section 112(f) of the Carl D. Perkins Vocational and Applied Technology Education Act, and no State shall be required to operate such a Council.

STUDENT FINANCIAL ASSISTANCE

For carrying out subparts 1, 3, and 4 of part A, part C and part E of title IV of the Higher Education Act of 1965, as amended, $7,560,407,000, which shall remain available through September 30, 1998.

20 USC 1070a note.

The maximum Pell Grant for which a student shall be eligible during award year 1997–1998 shall be $2,700: *Provided,* That notwithstanding section 401(g) of the Act, if the Secretary determines, prior to publication of the payment schedule for such award year, that the amount included within this appropriation for Pell Grant awards in such award year, and any funds available from the fiscal year 1996 appropriation for Pell Grant awards, are insufficient to satisfy fully all such awards for which students are eligible, as calculated under section 401(b) of the Act, the amount paid for each such award shall be reduced by either a fixed or variable percentage, or by a fixed dollar amount, as determined in accordance with a schedule of reductions established by the Secretary for this purpose.

FEDERAL FAMILY EDUCATION LOAN PROGRAM ACCOUNT

For Federal administrative expenses to carry out guaranteed student loans authorized by title IV, part B, of the Higher Education Act, as amended, $46,572,000.

HIGHER EDUCATION

For carrying out, to the extent not otherwise provided, parts A and B of title III, without regard to section 360(a)(1)(B)(ii), titles IV, V, VI, VII, and IX, part A and subpart 1 of part B of title X, and title XI of the Higher Education Act of 1965, as amended, Public Law 102–423 and the Mutual Educational and Cultural Exchange Act of 1961; $879,054,000, of which $15,673,000 for interest subsidies under title VII of the Higher Education Act, as amended, shall remain available until expended: *Provided,* That funds available for part D of title IX of the Higher Education Act shall be available to fund noncompeting continuation awards for academic year 1997–1998 for fellowships awarded originally under part B of title IX of said Act, under the terms and conditions of part B: *Provided further,* That $5,931,000 of the funds available for part D of title IX of the Higher Education Act shall be available to fund new and noncompeting continuation awards for academic year 1997–1998 for fellowships awarded under part C of title IX of said Act, under the terms and conditions of part C: *Provided further,* That notwithstanding sections 419D, 419E, and 419H of the Higher Education Act, as amended, scholarships made under title IV, part A, subpart 6 shall be prorated to maintain the same number of new scholarships in fiscal year 1997 as in fiscal year 1996: *Provided further,* That $3,000,000, to remain available until expended, shall be for the George H.W. Bush fellowship program, if authorized by April 1, 1997: *Provided further,* That $3,000,000, to remain available until expended, shall be for the Edmund S. Muskie Foundation to establish an endowment fund to provide income to support such foundation on a continuing basis, if authorized by April 1, 1997: *Provided further,* That $3,000,000, to remain available until expended, shall be for the Claiborne Pell Institute for International Relations and Public Policy at Salve Regina University in Newport, Rhode Island, if authorized by April 1, 1997: *Provided further,* That $1,000,000, to remain available until expended, shall be for the Calvin Coolidge Memorial Foundation, if authorized by April 1, 1997: *Provided further,* That, of the amounts made available under title X, part A of the Higher Education Act, $2,000,000 shall be awarded to the Pennsylvania Educational Telecommunications Exchange Network.

HOWARD UNIVERSITY

For partial support of Howard University (20 U.S.C. 121 et seq.), $196,000,000: *Provided,* That from the amount available, the University may at its discretion use funds for the endowment program as authorized under the Howard University Endowment Act (Public Law 98–480).

HIGHER EDUCATION FACILITIES LOANS

The Secretary is hereby authorized to make such expenditures, within the limits of funds available under this heading and in accord with law, and to make such contracts and commitments

without regard to fiscal year limitation, as provided by section 104 of the Government Corporation Control Act (31 U.S.C. 9104), as may be necessary in carrying out the program for the current fiscal year.

COLLEGE HOUSING AND ACADEMIC FACILITIES LOANS PROGRAM

For administrative expenses to carry out the existing direct loan program of college housing and academic facilities loans entered into pursuant to title VII, part C, of the Higher Education Act, as amended, $698,000.

COLLEGE HOUSING LOANS

Pursuant to title VII, part C of the Higher Education Act, as amended, for necessary expenses of the college housing loans program, the Secretary shall make expenditures and enter into contracts without regard to fiscal year limitation using loan repayments and other resources available to this account. Any unobligated balances becoming available from fixed fees paid into this account pursuant to 12 U.S.C. 1749d, relating to payment of costs for inspections and site visits, shall be available for the operating expenses of this account.

HISTORICALLY BLACK COLLEGE AND UNIVERSITY CAPITAL FINANCING, PROGRAM ACCOUNT

The total amount of bonds insured pursuant to section 724 of title VII, part B of the Higher Education Act shall not exceed $357,000,000, and the cost, as defined in section 502 of the Congressional Budget Act of 1974, of such bonds shall not exceed zero.

For administrative expenses to carry out the Historically Black College and University Capital Financing Program entered into pursuant to title VII, part B of the Higher Education Act, as amended, $104,000.

EDUCATION RESEARCH, STATISTICS, AND IMPROVEMENT

For carrying out activities authorized by the Educational Research, Development, Dissemination, and Improvement Act of 1994, including part E; the National Education Statistics Act of 1994; section 2102, sections 3132, 3136 and 3141, parts B, C, and D of title III and parts A, B, I, and K and section 10601 of title X, and part C of title XIII of the Elementary and Secondary Education Act of 1965, as amended, and title VI of Public Law 103–227, $598,350,000: *Provided*, That $200,000,000 shall be for section 3132, $56,965,000 shall be for section 3136 and $10,000,000 shall be for section 3141 of the Elementary and Secondary Education Act: *Provided further*, That notwithstanding any other provision of law, one-half of one percent of the amount available for section 3132 of the Elementary and Secondary Education Act of 1965, as amended, shall be set aside for the outlying areas to be distributed among the outlying areas on the basis of their relative need as determined by the Secretary in accordance with the purposes of the program: *Provided further*, That, notwithstanding section 3131(b) of said Act, if any State educational agency does not apply for a grant under section 3132, that State's allotment under section 3131 shall be reserved by the Secretary for grants to local educational agencies in the State that apply directly to

the Secretary according to the terms and conditions announced by the Secretary in the Federal Register: *Provided further*, That, of the amount available for title III, part B of the Elementary and Secondary Education Act of 1965, as amended, funds shall be awarded to continue the Iowa Communication Network statewide fiber optic demonstration and $2,000,000 shall be awarded to the Southeastern Pennsylvania Consortium for Higher Education for the establishment of local and wide area computer networks to provide instructional resources to students and faculty: *Provided further*, That none of the funds appropriated in this paragraph may be obligated or expended for the Goals 2000 Community Partnerships Program.

LIBRARIES

Notwithstanding title VII of this Act, for carrying out titles I, II, III, and IV of the Library Services and Construction Act, and title II–B of the Higher Education Act, $136,369,000, of which $16,369,000 shall be used to carry out the provisions of title II of the Library Services and Construction Act and shall remain available until expended; and $2,500,000 shall be for section 222 and $5,000,000 shall be for section 223 of the Higher Education Act: *Provided*, That $1,000,000 shall be competitively awarded to a nonprofit regional social tolerance resource center, operating tolerance tools and prejudice reduction programs and multimedia tolerance and genocide exhibits: *Provided further*, That $1,500,000 shall be for the continuation of a demonstration project making information available for public use by connecting Internet to a multistate consortium and a historical society: *Provided further*, That $1,000,000 shall be for continuation of catalog conversion of research and doctoral institutions and networking of local libraries under the fiber optics demonstration initiated in Public Law 102–394 under section 223 of the Higher Education Act: *Provided further*, That each State or local recipient of funds under titles I, II, III, and IV of the Library Services and Construction Act may use any such funds to plan for any library program or activity authorized under title VII of this Act and conduct any other activity reasonably necessary to provide for an orderly and effective transition to the operation of library programs or activities under title VII of this Act.

DEPARTMENTAL MANAGEMENT

PROGRAM ADMINISTRATION

For carrying out, to the extent not otherwise provided, the Department of Education Organization Act, including rental of conference rooms in the District of Columbia and hire of two passenger motor vehicles, $327,000,000.

OFFICE FOR CIVIL RIGHTS

For expenses necessary for the Office for Civil Rights, as authorized by section 203 of the Department of Education Organization Act, $55,000,000.

OFFICE OF THE INSPECTOR GENERAL

For expenses necessary for the Office of the Inspector General, as authorized by section 212 of the Department of Education Organization Act, $30,000,000.

GENERAL PROVISIONS

SEC. 301. No funds appropriated in this Act may be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any school or school system, or for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to carry out a plan of racial desegregation of any school or school system.

SEC. 302. None of the funds contained in this Act shall be used to require, directly or indirectly, the transportation of any student to a school other than the school which is nearest the student's home, except for a student requiring special education, to the school offering such special education, in order to comply with title VI of the Civil Rights Act of 1964. For the purpose of this section an indirect requirement of transportation of students includes the transportation of students to carry out a plan involving the reorganization of the grade structure of schools, the pairing of schools, or the clustering of schools, or any combination of grade restructuring, pairing or clustering. The prohibition described in this section does not include the establishment of magnet schools.

SEC. 303. No funds appropriated under this Act may be used to prevent the implementation of programs of voluntary prayer and meditation in the public schools.

SEC. 304. Notwithstanding any other provision of law, funds available under section 458 of the Higher Education Act shall not exceed $491,000,000 for fiscal year 1997. The Department of Education shall use $80,000,000 of the amounts provided for payment of administrative cost allowances to guaranty agencies for fiscal year 1996. For fiscal year 1997, the Department of Education shall pay administrative costs to guaranty agencies, calculated on the basis of 0.85 percent of the total principal amount of loans upon which insurance was issued on or after October 1, 1996: *Provided*, That such administrative costs shall be paid only on the first $8,200,000,000 of the principal amount of loans upon which insurance was issued on or after October 1, 1996 by such guaranty agencies, and shall not exceed a total of $70,000,000. Such payments are to be paid quarterly, and receipt of such funds and uses of such funds shall be in accordance with section 428(f) of the Higher Education Act.

20 USC 1087h note.

Notwithstanding section 458 of the Higher Education Act, the Secretary may not use funds available under that section or any other section for subsequent fiscal years for administrative expenses of the William D. Ford Direct Loan Program. The Secretary may not require the return of guaranty agency reserve funds during fiscal year 1997, except after consultation with both the Chairmen and ranking members of the House Economic and Educational Opportunities Committee and the Senate Labor and Human Resources Committee. Any reserve funds recovered by the Secretary shall be returned to the Treasury of the United States for purposes of reducing the Federal deficit.

No funds available to the Secretary may be used for (1) the hiring of advertising agencies or other third parties to provide advertising services for student loan programs prior to January 1, 1997, or (2) payment of administrative fees relating to the William D. Ford Direct Loan Program to institutions of higher education.

SEC. 305. None of the funds appropriated in this Act may be obligated or expended to carry out section 621(b) of Public Law 101–589.

(TRANSFER OF FUNDS)

SEC. 306. Not to exceed 1 percent of any discretionary funds (pursuant to the Balanced Budget and Emergency Deficit Control Act, as amended) which are appropriated for the current fiscal year for the Department of Education in this Act may be transferred between appropriations, but no such appropriation shall be increased by more than 3 percent by any such transfer: *Provided*, That the Appropriations Committees of both Houses of Congress are notified at least fifteen days in advance of any transfer.

SEC. 307. (a) Section 8003(f)(3)(A)(i) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703(f)(3)(A)(i)) is amended—

(1) in the matter preceding subclause (I), by striking "The Secretary" and all that follows through "greater of—" and inserting the following: "The Secretary, in conjunction with the local educational agency, shall first determine each of the following:";

(2) in each of subclauses (I) through (III), by striking "the average" each place it appears the first time in each such subclause and inserting "The average";

(3) in subclause (I), by striking the semicolon and inserting a period;

(4) in subclause (II), by striking ": or" and inserting a period; and

(5) by adding at the end the following:

"The local educational agency shall select one of the amounts determined under subclause (I), (II), or (III) for purposes of the remaining computations under this subparagraph.".

(b) The amendments made by subsection (a) shall apply with respect to fiscal years beginning with fiscal year 1995. 20 USC 7703 note.

SEC. 308. Section 485(e)(9) of the Higher Education Act of 1965 is amended by striking out "June 30" in the second sentence of such section and inserting "August 30". 20 USC 1092.

This title may be cited as the "Department of Education Appropriations Act, 1997".

TITLE IV—RELATED AGENCIES

ARMED FORCES RETIREMENT HOME

For expenses necessary for the Armed Forces Retirement Home to operate and maintain the United States Soldiers' and Airmen's Home and the United States Naval Home, to be paid from funds available in the Armed Forces Retirement Home Trust Fund, $56,204,000, of which $432,000 shall remain available until expended for construction and renovation of the physical plants at the United States Soldiers' and Airmen's Home and the United States Naval Home: *Provided*, That this appropriation shall not

be available for the payment of hospitalization of members of the Soldiers' and Airmen's Home in United States Army hospitals at rates in excess of those prescribed by the Secretary of the Army upon recommendation of the Board of Commissioners and the Surgeon General of the Army.

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

DOMESTIC VOLUNTEER SERVICE PROGRAMS, OPERATING EXPENSES

For expenses necessary for the Corporation for National and Community Service to carry out the provisions of the Domestic Volunteer Service Act of 1973, as amended, $213,969,000.

CORPORATION FOR PUBLIC BROADCASTING

For payment to the Corporation for Public Broadcasting, as authorized by the Communications Act of 1934, an amount which shall be available within limitations specified by that Act, for the fiscal year 1999, $250,000,000: *Provided*, That no funds made available to the Corporation for Public Broadcasting by this Act shall be used to pay for receptions, parties, or similar forms of entertainment for Government officials or employees: *Provided further*, That none of the funds contained in this paragraph shall be available or used to aid or support any program or activity from which any person is excluded, or is denied benefits, or is discriminated against, on the basis of race, color, national origin, religion, or sex.

FEDERAL MEDIATION AND CONCILIATION SERVICE

SALARIES AND EXPENSES

For expenses necessary for the Federal Mediation and Conciliation Service to carry out the functions vested in it by the Labor Management Relations Act, 1947 (29 U.S.C. 171–180, 182–183), including hire of passenger motor vehicles; and for expenses necessary for the Labor-Management Cooperation Act of 1978 (29 U.S.C. 175a); and for expenses necessary for the Service to carry out the functions vested in it by the Civil Service Reform Act, Public Law 95–454 (5 U.S.C. chapter 71), $32,579,000 including $1,500,000, to remain available through September 30, 1998, for activities authorized by the Labor-Management Cooperation Act of 1978 (29 U.S.C. 175a): *Provided*, That notwithstanding 31 U.S.C. 3302, fees charged, up to full-cost recovery, for special training activities and for arbitration services shall be credited to and merged with this account, and shall remain available until expended: *Provided further*, That fees for arbitration services shall be available only for education, training, and professional development of the agency workforce: *Provided further*, That the Director of the Service is authorized to accept on behalf of the United States gifts of services and real, personal, or other property in the aid of any projects or functions within the Director's jurisdiction.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

SALARIES AND EXPENSES

For expenses necessary for the Federal Mine Safety and Health Review Commission (30 U.S.C. 801 et seq.), $6,060,000.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

SALARIES AND EXPENSES

For necessary expenses for the National Commission on Libraries and Information Science, established by the Act of July 20, 1970 (Public Law 91–345, as amended by Public Law 102–95), $897,000.

NATIONAL COUNCIL ON DISABILITY

SALARIES AND EXPENSES

For expenses necessary for the National Council on Disability as authorized by title IV of the Rehabilitation Act of 1973, as amended, $1,793,000.

NATIONAL EDUCATION GOALS PANEL

For expenses necessary for the National Education Goals Panel, as authorized by title II, part A of the Goals 2000: Educate America Act, $1,500,000.

NATIONAL LABOR RELATIONS BOARD

SALARIES AND EXPENSES

For expenses necessary for the National Labor Relations Board to carry out the functions vested in it by the Labor-Management Relations Act, 1947, as amended (29 U.S.C. 141–167), and other laws, $175,000,000: *Provided*, That no part of this appropriation shall be available to organize or assist in organizing agricultural laborers or used in connection with investigations, hearings, directives, or orders concerning bargaining units composed of agricultural laborers as referred to in section 2(3) of the Act of July 5, 1935 (29 U.S.C. 152), and as amended by the Labor-Management Relations Act, 1947, as amended, and as defined in section 3(f) of the Act of June 25, 1938 (29 U.S.C. 203), and including in said definition employees engaged in the maintenance and operation of ditches, canals, reservoirs, and waterways when maintained or operated on a mutual, nonprofit basis and at least 95 per centum of the water stored or supplied thereby is used for farming purposes: *Provided further*, That none of the funds made available by this Act shall be used in any way to promulgate a final rule (altering 29 CFR part 103) regarding single location bargaining units in representation cases.

NATIONAL MEDIATION BOARD

SALARIES AND EXPENSES

For expenses necessary to carry out the provisions of the Railway Labor Act, as amended (45 U.S.C. 151–188), including emergency boards appointed by the President, $8,300,000: *Provided*, That unobligated balances at the end of fiscal year 1997 not needed for emergency boards shall remain available for other statutory purposes through September 30, 1998.

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

SALARIES AND EXPENSES

For expenses necessary for the Occupational Safety and Health Review Commission (29 U.S.C. 661), $7,753,000.

PHYSICIAN PAYMENT REVIEW COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out section 1845(a) of the Social Security Act, $3,263,000, to be transferred to this appropriation from the Federal Supplementary Medical Insurance Trust Fund.

PROSPECTIVE PAYMENT ASSESSMENT COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out section 1886(e) of the Social Security Act, $3,263,000, to be transferred to this appropriation from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds.

SOCIAL SECURITY ADMINISTRATION

PAYMENTS TO SOCIAL SECURITY TRUST FUNDS

For payment to the Federal Old-Age and Survivors Insurance and the Federal Disability Insurance trust funds, as provided under sections 201(m), 228(g), and 1131(b)(2) of the Social Security Act, $20,923,000.

In addition, to reimburse these trust funds for administrative expenses to carry out sections 9704 and 9706 of the Internal Revenue Code of 1986, $10,000,000, to remain available until expended.

SPECIAL BENEFITS FOR DISABLED COAL MINERS

For carrying out title IV of the Federal Mine Safety and Health Act of 1977, $460,070,000, to remain available until expended.

For making, after July 31 of the current fiscal year, benefit payments to individuals under title IV of the Federal Mine Safety and Health Act of 1977, for costs incurred in the current fiscal year, such amounts as may be necessary.

For making benefit payments under title IV of the Federal Mine Safety and Health Act 1977 for the first quarter of fiscal year 1998, $160,000,000, to remain available until expended.

SUPPLEMENTAL SECURITY INCOME PROGRAM

For carrying out titles XI and XVI of the Social Security Act, section 401 of Public Law 92–603, section 212 of Public Law 93–66, as amended, and section 405 of Public Law 95–216, including payment to the Social Security trust funds for administrative expenses incurred pursuant to section 201(g)(1) of the Social Security Act, $19,372,010,000, to remain available until expended: *Provided*, That any portion of the funds provided to a State in the current fiscal year and not obligated by the State during that year shall be returned to the Treasury.

From funds provided under the previous paragraph, not less than $100,000,000 shall be available for payment to the Social Security trust funds for administrative expenses for conducting continuing disability reviews.

In addition, $175,000,000, to remain available until September 30, 1998, for payment to the Social Security trust funds for administrative expenses for continuing disability reviews as authorized by section 103 of Public Law 104–121 and Supplemental Security Income administrative work as authorized by Public Law 104–193. The term "continuing disability reviews" means reviews and redetermination as defined under section 201(g)(1)(A) of the Social Security Act as amended, and reviews and redeterminations authorized under section 211 of Public Law 104–193.

For making, after June 15 of the current fiscal year, benefit payments to individuals under title XVI of the Social Security Act, for unanticipated costs incurred for the current fiscal year, such sums as may be necessary.

For carrying out title XVI of the Social Security Act for the first quarter of fiscal year 1998, $9,690,000,000, to remain available until expended.

LIMITATION ON ADMINISTRATIVE EXPENSES

For necessary expenses, including the hire of two passenger motor vehicles, and not to exceed $10,000 for official reception and representation expenses, not more than $5,873,382,000 may be expended, as authorized by section 201(g)(1) of the Social Security Act or as necessary to carry out sections 9704 and 9706 of the Internal Revenue Code of 1986 from any one or all of the trust funds referred to therein: *Provided*, That reimbursement to the trust funds under this heading for administrative expenses to carry out sections 9704 and 9706 of the Internal Revenue Code of 1986 shall be made, with interest, not later than September 30, 1998: *Provided further*, That not less than $1,268,000 shall be for the Social Security Advisory Board: *Provided further*, That unobligated balances at the end of fiscal year 1997 not needed for fiscal year 1997 shall remain available until expended for a state-of-the-art computing network, including related equipment and administrative expenses associated solely with this network.

From funds provided under the previous paragraph, not less than $200,000,000 shall be available for conducting continuing disability reviews.

In addition to funding already available under this heading, and subject to the same terms and conditions, $310,000,000, to remain available until September 30, 1998, for continuing disability reviews as authorized by section 103 of Public Law 104–121 and Supplemental Security Income administrative work as authorized

by Public Law 104–193. The term "continuing disability reviews" means reviews and redetermination as defined under section 201(g)(1)(A) of the Social Security Act as amended, and reviews and redeterminations authorized under section 211 of Public Law 104–193.

In addition to funding already available under this heading, and subject to the same terms and conditions, $234,895,000, which shall remain available until expended, to invest in a state-of-the-art computing network, including related equipment and administrative expenses associated solely with this network, for the Social Security Administration and the State Disability Determination Services, may be expended from any or all of the trust funds as authorized by section 201(g)(1) of the Social Security Act.

OFFICE OF INSPECTOR GENERAL

For expenses necessary for the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $6,335,000, together with not to exceed $31,089,000, to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund.

RAILROAD RETIREMENT BOARD

DUAL BENEFITS PAYMENTS ACCOUNT

For payment to the Dual Benefits Payments Account, authorized under section 15(d) of the Railroad Retirement Act of 1974, $223,000,000, which shall include amounts becoming available in fiscal year 1997 pursuant to section 224(c)(1)(B) of Public Law 98–76; and in addition, an amount, not to exceed 2 percent of the amount provided herein, shall be available proportional to the amount by which the product of recipients and the average benefit received exceeds $223,000,000: *Provided*, That the total amount provided herein shall be credited in 12 approximately equal amounts on the first day of each month in the fiscal year.

FEDERAL PAYMENTS TO THE RAILROAD RETIREMENT ACCOUNTS

For payment to the accounts established in the Treasury for the payment of benefits under the Railroad Retirement Act for interest earned on unnegotiated checks, $300,000, to remain available through September 30, 1998, which shall be the maximum amount available for payment pursuant to section 417 of Public Law 98–76.

LIMITATION ON ADMINISTRATION

For necessary expenses for the Railroad Retirement Board for administration of the Railroad Retirement Act and the Railroad Unemployment Insurance Act, $87,898,000, to be derived in such amounts as determined by the Board from the railroad retirement accounts and from moneys credited to the railroad unemployment insurance administration fund.

LIMITATION ON THE OFFICE OF INSPECTOR GENERAL

For expenses necessary for the Office of Inspector General for audit, investigatory and review activities, as authorized by the Inspector General Act of 1978, as amended, not more than $5,404,000, to be derived from the railroad retirement accounts and railroad unemployment insurance account: *Provided*, That none of the funds made available in this Act may be transferred to the Office from the Department of Health and Human Services, or used to carry out any such transfer: *Provided further*, That none of the funds made available in this paragraph may be used for any audit, investigation, or review of the Medicare program.

UNITED STATES INSTITUTE OF PEACE

OPERATING EXPENSES

For necessary expenses of the United States Institute of Peace as authorized in the United States Institute of Peace Act, $11,160,000.

TITLE V—GENERAL PROVISIONS

SEC. 501. The Secretaries of Labor, Health and Human Services, and Education are authorized to transfer unexpended balances of prior appropriations to accounts corresponding to current appropriations provided in this Act: *Provided*, That such transferred balances are used for the same purpose, and for the same periods of time, for which they were originally appropriated.

SEC. 502. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 503. (a) No part of any appropriation contained in this Act shall be used, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or video presentation designed to support or defeat legislation pending before the Congress, except in presentation to the Congress itself or any State legislature, except in presentation to the Congress or any State legislative body itself.

(b) No part of any appropriation contained in this Act shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence legislation or appropriations pending before the Congress or any State legislature.

SEC. 504. The Secretaries of Labor and Education are each authorized to make available not to exceed $15,000 from funds available for salaries and expenses under titles I and III, respectively, for official reception and representation expenses; the Director of the Federal Mediation and Conciliation Service is authorized to make available for official reception and representation expenses not to exceed $2,500 from the funds available for "Salaries and expenses, Federal Mediation and Conciliation Service"; and the Chairman of the National Mediation Board is authorized to make available for official reception and representation expenses not to exceed $2,500 from funds available for "Salaries and expenses, National Mediation Board".

SEC. 505. Notwithstanding any other provision of this Act, no funds appropriated under this Act shall be used to carry out any program of distributing sterile needles for the hypodermic injection of any illegal drug unless the Secretary of Health and Human Services determines that such programs are effective in preventing the spread of HIV and do not encourage the use of illegal drugs.

SEC. 506. (a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American-made.

(b) NOTICE REQUIREMENT.—In providing financial assistance to, or entering into any contract with, any entity using funds made available in this Act, the head of each Federal agency, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.

(c) PROHIBITION OF CONTRACTS WITH PERSONS FALSELY LABELING PRODUCTS AS MADE IN AMERICA.—If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a "Made in America" inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, the person shall be ineligible to receive any contract or subcontract made with funds made available in this Act, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

SEC. 507. When issuing statements, press releases, requests for proposals, bid solicitations and other documents describing projects or programs funded in whole or in part with Federal money, all grantees receiving Federal funds included in this Act, including but not limited to State and local governments and recipients of Federal research grants, shall clearly state (1) the percentage of the total costs of the program or project which will be financed with Federal money, (2) the dollar amount of Federal funds for the project or program, and (3) percentage and dollar amount of the total costs of the project or program that will be financed by nongovernmental sources.

SEC. 508. None of the funds appropriated under this Act shall be expended for any abortion except when it is made known to the Federal entity or official to which funds are appropriated under this Act that such procedure is necessary to save the life of the mother or that the pregnancy is the result of an act of rape or incest.

31 USC 1301 note.

SEC. 509. Notwithstanding any other provision of law—

(1) no amount may be transferred from an appropriation account for the Departments of Labor, Health and Human Services, and Education except as authorized in this or any subsequent appropriation Act, or in the Act establishing the program or activity for which funds are contained in this Act;

(2) no department, agency, or other entity, other than the one responsible for administering the program or activity for which an appropriation is made in this Act, may exercise authority for the timing of the obligation and expenditure of such appropriation, or for the purpose for which it is obligated and expended, except to the extent and in the manner otherwise provided in sections 1512 and 1513 of title 31, United States Code; and

(3) no funds provided under this Act shall be available for the salary (or any part thereof) of an employee who is reassigned on a temporary detail basis to another position in the employing agency or department or in any other agency or department, unless the detail is independently approved by the head of the employing department or agency.

SEC. 510. None of the funds made available in this Act may be used for the expenses of an electronic benefit transfer (EBT) task force.

SEC. 511. None of the funds made available in this Act may be used to enforce the requirements of section 428(b)(1)(U)(iii) of the Higher Education Act of 1965 with respect to any lender when it is made known to the Federal official having authority to obligate or expend such funds that the lender has a loan portfolio under part B of title IV of such Act that is equal to or less than $5,000,000.

SEC. 512. (a) None of the funds made available in this Act may be used for—

(1) the creation of a human embryo or embryos for research purposes; or

(2) research in which a human embryo or embryos are destroyed, discarded, or knowingly subjected to risk of injury or death greater than that allowed for research on fetuses in utero under 45 CFR 46.208(a)(2) and section 498(b) of the Public Health Service Act (42 U.S.C. 289g(b)).

(b) For purposes of this section, the term "human embryo or embryos" include any organism, not protected as a human subject under 45 CFR 46 as of the date of the enactment of this Act, that is derived by fertilization, parthenogenesis, cloning, or any other means from one or more human gametes.

SEC. 513. (a) LIMITATION ON USE OF FUNDS FOR PROMOTION OF LEGALIZATION OF CONTROLLED SUBSTANCES.—None of the funds made available in this Act may be used for any activity when it is made known to the Federal official having authority to obligate or expend such funds that the activity promotes the legalization of any drug or other substance included in schedule I of the schedules of controlled substances established by section 202 of the Controlled Substances Act (21 U.S.C. 812).

(b) EXCEPTIONS.—The limitation in subsection (a) shall not apply when it is made known to the Federal official having authority to obligate or expend such funds that there is significant medical evidence of a therapeutic advantage to the use of such drug or other substance or that Federally-sponsored clinical trials are being conducted to determine therapeutic advantage.

SEC. 514. (a) DENIAL OF FUNDS FOR PREVENTING ROTC ACCESS TO CAMPUS.—None of the funds made available in this or any other Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act for any fiscal year may be provided by contract or by grant (including a grant of funds to be available for student aid) to a covered educational entity if the Secretary of Defense determines that the covered educational entity has a policy or practice (regardless of when implemented) that either prohibits, or in effect prevents— 10 USC 503 note.

(1) the maintaining, establishing, or operation of a unit of the Senior Reserve Officer Training Corps (in accordance with section 654 of title 10, United States Code, and other applicable Federal laws) at the covered educational entity; or

(2) a student at the covered educational entity from enrolling in a unit of the Senior Reserve Officer Training Corps at another institution of higher education.

(b) DENIAL OF FUNDS FOR PREVENTING FEDERAL MILITARY RECRUITING ON CAMPUS.—None of the funds made available in this or any other Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act for any fiscal year may be provided by contract or by grant (including a grant of funds to be available for student aid) to a covered educational entity if the Secretary of Defense determines that the covered educational entity has a policy or practice (regardless of when implemented) that either prohibits, or in effect prevents—

(1) entry to campuses, or access to students (who are 17 years of age or older) on campuses, for purposes of Federal military recruiting; or

(2) access by military recruiters for purposes of Federal military recruiting to the following information pertaining to students (who are 17 years of age or older) enrolled at the covered educational entity:

(A) student names, addresses, and telephone listings; and

(B) if known, student ages, levels of education, and majors.

(c) EXCEPTIONS.—The limitation established in subsection (a) or (b) shall not apply to a covered educational entity if the Secretary of Defense determines that—

(1) the covered educational entity has ceased the policy or practice described in such subsection;

(2) the institution of higher education involved has a long-standing policy of pacifism based on historical religious affiliation; or

(3) the institution of higher education involved is prohibited by the law of any State, or by the order of any State court, from allowing Senior Reserve Officer Training Corps activities or Federal military recruiting on campus, except that this paragraph shall apply only during the one-year period beginning on the effective date of this section.

(d) NOTICE OF DETERMINATIONS.—Whenever the Secretary of Defense makes a determination under subsection (a), (b), or (c), the Secretary—

(1) shall transmit a notice of the determination to the Secretary of Education and to the Congress; and

(2) shall publish in the Federal Register a notice of the determination and the effect of the determination on the eligibility of the covered educational entity for contracts and grants.

(e) SEMIANNUAL NOTICE IN FEDERAL REGISTER.—The Secretary of Defense shall publish in the Federal Register once every 6 months a list of each covered educational entity that is currently ineligible for contracts and grants by reason of a determination of the Secretary under subsection (a) or (b).

(f) COVERED EDUCATIONAL ENTITY.—For purposes of this section, the term "covered educational entity" means an institution of higher education, or a subelement of an institution of higher education.

(g) EFFECTIVE DATE.—This section shall take effect upon the expiration of the 180-day period beginning on the date of the enactment of this Act, by which date the Secretary of Defense shall

have published final regulations in consultation with the Secretary of Education to carry out this section.

SEC. 515. (a) TECHNICAL AMENDMENT TO OTHER ROTC AND MILITARY RECRUITING PROVISIONS.—Sections 508 and 509 of the Energy and Water Development Appropriations Act, 1997, are amended by striking "when it is made known to the Federal official having authority to obligate or expend such funds" each place it appears and inserting "if the Secretary of Defense determines".

(b) EFFECTIVE DATE.—Sections 508 and 509 of the Energy and Water Development Appropriations Act, 1997, shall not take effect until the expiration of the 180-day period beginning on the date of the enactment of this Act, by which date the Secretary of Defense shall have published final regulations to carry out such sections (as amended by subsection (a)).

SEC. 516. None of the funds made available in this Act may be obligated or expended to enter into or renew a contract with an entity when it is made known to the Federal official having authority to obligate or expend such funds that—

(1) such entity is otherwise a contractor with the United States and is subject to the requirement in section 4212(d) of title 38, United States Code, regarding submission of an annual report to the Secretary of Labor concerning employment of certain veterans; and

(2) such entity has not submitted a report as required by that section for the most recent year for which such requirement was applicable to such entity.

SEC. 517. (a) Notwithstanding any provision of the Carl D. Perkins Vocational and Applied Technology Act (as such Act was in effect on September 24, 1990), a State shall be deemed to have met the requirements of section 503 of such Act with respect to decisions appealed by applications filed on April 30, 1993 and October 29, 1993 under section 452(b) of the General Education Provisions Act.

(b) Subsection (a) shall take effect on October 1, 1996.

SEC. 518. None of the funds appropriated in this Act may be made available to any entity under title X of the Public Health Service Act unless it is made known to the Federal official having authority to obligate or expend such funds that the applicant for the award certifies to the Secretary that it encourages family participation in the decision of the minor to seek family planning services.

SEC. 519. Of the budgetary resources available to agencies in this Act for salaries and expenses during fiscal year 1997, $30,500,000, to be allocated by the Office of Management and Budget, are permanently canceled: *Provided*, That the foregoing provision shall not apply to the Food and Drug Administration and the Indian Health Service: *Provided further*, That amounts available in this Act for congressional and legislative affairs, public affairs, and intergovernmental affairs activities are hereby reduced by $2,000,000.

SEC. 520. VOLUNTARY SEPARATION INCENTIVES FOR EMPLOYEES OF CERTAIN FEDERAL AGENCIES.—(a) DEFINITIONS.—For the purposes of this section— 5 USC 5597 note.

(1) the term "agency" means the Railroad Retirement Board and the Office of Inspector General of the Railroad Retirement Board;

(2) the term "employee" means an employee (as defined by section 2105 of title 5, United States Code) who is employed by an agency, is serving under an appointment without time limitation, and has been currently employed for a continuous period of at least 3 years, but does not include—

(A) a reemployed annuitant under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, or another retirement system for employees of the agency;

(B) an employee having a disability on the basis of which such employee is or would be eligible for disability retirement under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, or another retirement system for employees of the agency;

(C) an employee who is in receipt of a specific notice of involuntary separation for misconduct or unacceptable performance;

(D) an employee who, upon completing an additional period of service as referred to in section 3(b)(2)(B)(ii) of the Federal Workforce Restructuring Act of 1994 (5 U.S.C. 5597 note), would qualify for a voluntary separation incentive payment under section 3 of such Act;

(E) an employee who has previously received any voluntary separation incentive payment by the Federal Government under this section or any other authority and has not repaid such payment;

(F) an employee covered by statutory reemployment rights who is on transfer to another organization; or

(G) any employee who, during the twenty-four-month period preceding the date of separation, has received a recruitment or relocation bonus under section 5753 of title 5, United States Code, or who, within the twelve-month period preceding the date of separation, received a retention allowance under section 5754 of title 5, United States Code.

(b) AGENCY STRATEGIC PLAN.—

(1) IN GENERAL.—The three-member Railroad Retirement Board, prior to obligating any resources for voluntary separation incentive payments, shall submit to the House and Senate Committees on Appropriations and the Committee on Governmental Affairs of the Senate and the Committee on Government Reform and Oversight of the House of Representatives a strategic plan outlining the intended use of such incentive payments and a proposed organizational chart for the agency once such incentive payments have been completed.

(2) CONTENTS.—The agency's plan shall include—

(A) the positions and functions to be reduced or eliminated, identified by organizational unit, geographic location, occupational category and grade level;

(B) the number and amounts of voluntary separation incentive payments to be offered; and

(C) a description of how the agency will operate without the eliminated positions and functions.

(c) AUTHORITY TO PROVIDE VOLUNTARY SEPARATION INCENTIVE PAYMENTS.—

(1) IN GENERAL.—A voluntary separation incentive payment under this section may be paid by an agency to any employee only to the extent necessary to eliminate the positions and functions identified by the strategic plan.

(2) AMOUNT AND TREATMENT OF PAYMENTS.—A voluntary separation incentive payment—

(A) shall be paid in a lump sum after the employee's separation;

(B) shall be paid from appropriations or funds available for the payment of the basic pay of the employees;

(C) shall be equal to the lesser of—

(i) an amount equal to the amount the employee would be entitled to receive under section 5595(c) of title 5, United States Code; or

(ii) an amount determined by the agency head not to exceed $25,000;

(D) may not be made except in the case of any qualifying employee who voluntarily separates (whether by retirement or resignation) before September 30, 1997;

(E) shall not be a basis for payment, and shall not be included in the computation, of any other type of Government benefit; and

(F) shall not be taken into account in determining the amount of any severance pay to which the employee may be entitled under section 5595 of title 5, United States Code, based on any other separation.

(d) ADDITIONAL AGENCY CONTRIBUTIONS TO THE RETIREMENT FUND.—

(1) IN GENERAL.—In addition to any other payments which it is required to make under subchapter III of chapter 83 of title 5, United States Code, an agency shall remit to the Office of Personnel Management for deposit in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund an amount equal to 15 percent of the final basic pay of each employee of the agency who is covered under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, to whom a voluntary separation incentive has been paid under this section.

2) DEFINITION.—For the purpose of paragraph (1), the term "final basic pay", with respect to an employee, means the total amount of basic pay which would be payable for a year of service by such employee, computed using the employee's final rate of basic pay, and, if last serving on other than a full-time basis, with appropriate adjustment therefor.

e) EFFECT OF SUBSEQUENT EMPLOYMENT WITH THE GOVERNMENT.—An individual who has received a voluntary separation incentive payment under this section and accepts any employment for compensation with the Government of the United States, or who works for any agency of the United States Government through a personal services contract, within 5 years after the date of the separation on which the payment is based shall be required to pay, prior to the individual's first day of employment, the entire amount of the incentive payment to the agency that paid the incentive payment.

(f) REDUCTION OF AGENCY EMPLOYMENT LEVELS.—

(1) IN GENERAL.—The total number of funded employee positions in the agency shall be reduced by one position for each vacancy created by the separation of any employee who

has received, or is due to receive, a voluntary separation incentive payment under this section. For the purposes of this subsection, positions shall be counted on a full-time-equivalent basis.

(2) ENFORCEMENT.—The President, through the Office of Management and Budget, shall monitor the agency and take any action necessary to ensure that the requirements of this subsection are met.

(g) EFFECTIVE DATE.—This section shall take effect October 1, 1996.

SEC. 521. CORRECTION OF EFFECTIVE DATE.—Effective on the day after the date of enactment of the Health Centers Consolidation Act of 1996, section 5 of that Act is amended by striking "October 1, 1997" and inserting "October 1, 1996".

42 USC 233 note.

TITLE VI—REORGANIZATION AND PRIVATIZATION OF SALLIE MAE AND CONNIE LEE

Student Loan Marketing Association Reorganization Act of 1996.
20 USC 1001 note.

SEC. 601. SHORT TITLE.

This title may be cited as the "Student Loan Marketing Association Reorganization Act of 1996".

SEC. 602. REORGANIZATION OF THE STUDENT LOAN MARKETING ASSOCIATION THROUGH THE FORMATION OF A HOLDING COMPANY.

(a) AMENDMENT.—Part B of title IV of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq.) is amended by inserting after section 439 (20 U.S.C. 1087–2) the following new section:

20 USC 1087–3.

"SEC. 440. REORGANIZATION OF THE STUDENT LOAN MARKETING ASSOCIATION THROUGH THE FORMATION OF A HOLDING COMPANY.

"(a) ACTIONS BY THE ASSOCIATION'S BOARD OF DIRECTORS.—The Board of Directors of the Association shall take or cause to be taken all such action as the Board of Directors deems necessary or appropriate to effect, upon the shareholder approval described in subsection (b), a restructuring of the common stock ownership of the Association, as set forth in a plan of reorganization adopted by the Board of Directors (the terms of which shall be consistent with this section) so that all of the outstanding common shares of the Association shall be directly owned by a Holding Company. Such actions may include, in the Board of Director's discretion, a merger of a wholly owned subsidiary of the Holding Company with and into the Association, which would have the effect provided in the plan of reorganization and the law of the jurisdiction in which such subsidiary is incorporated. As part of the restructuring, the Board of Directors may cause—

"(1) the common shares of the Association to be converted, on the reorganization effective date, to common shares of the Holding Company on a one for one basis, consistent with applicable State or District of Columbia law; and

"(2) Holding Company common shares to be registered with the Securities and Exchange Commission.

"(b) SHAREHOLDER APPROVAL.—The plan of reorganization adopted by the Board of Directors pursuant to subsection (a) shall be submitted to common shareholders of the Association for their approval. The reorganization shall occur on the reorganization effective date, provided that the plan of reorganization has been

approved by the affirmative votes, cast in person or by proxy, of the holders of a majority of the issued and outstanding shares of the Association common stock.

"(c) TRANSITION.—In the event the shareholders of the Association approve the plan of reorganization under subsection (b), the following provisions shall apply beginning on the reorganization effective date:

"(1) IN GENERAL.—Except as specifically provided in this section, until the dissolution date the Association shall continue to have all of the rights, privileges and obligations set forth in, and shall be subject to all of the limitations and restrictions of, section 439, and the Association shall continue to carry out the purposes of such section. The Holding Company and any subsidiary of the Holding Company (other than the Association) shall not be entitled to any of the rights, privileges, and obligations, and shall not be subject to the limitations and restrictions, applicable to the Association under section 439, except as specifically provided in this section. The Holding Company and any subsidiary of the Holding Company (other than the Association or a subsidiary of the Association) shall not purchase loans insured under this Act until such time as the Association ceases acquiring such loans, except that the Holding Company may purchase such loans if the Association is merely continuing to acquire loans as a lender of last resort pursuant to section 439(q) or under an agreement with the Secretary described in paragraph (6).

"(2) TRANSFER OF CERTAIN PROPERTY.—

"(A) IN GENERAL.—Except as provided in this section, on the reorganization effective date or as soon as practicable thereafter, the Association shall use the Association's best efforts to transfer to the Holding Company or any subsidiary of the Holding Company (or both), as directed by the Holding Company, all real and personal property of the Association (both tangible and intangible) other than the remaining property. Subject to the preceding sentence, such transferred property shall include all right, title, and interest in—

"(i) direct or indirect subsidiaries of the Association (excluding special purpose funding companies in existence on the date of enactment of this section and any interest in any government-sponsored enterprise);

"(ii) contracts, leases, and other agreements of the Association;

"(iii) licenses and other intellectual property of the Association; and

"(iv) any other property of the Association.

"(B) CONSTRUCTION.—Nothing in this paragraph shall be construed to prohibit the Association from transferring remaining property from time to time to the Holding Company or any subsidiary of the Holding Company, subject to the provisions of paragraph (4).

"(3) TRANSFER OF PERSONNEL.—On the reorganization effective date, employees of the Association shall become employees of the Holding Company (or any subsidiary of the Holding Company), and the Holding Company (or any subsidiary of the Holding Company) shall provide all necessary and appropriate management and operational support (including loan

servicing) to the Association, as requested by the Association. The Association, however, may obtain such management and operational support from persons or entities not associated with the Holding Company.

"(4) DIVIDENDS.—The Association may pay dividends in the form of cash or noncash distributions so long as at the time of the declaration of such dividends, after giving effect to the payment of such dividends as of the date of such declaration by the Board of Directors of the Association, the Association's capital would be in compliance with the capital standards and requirements set forth in section 439(r). If, at any time after the reorganization effective date, the Association fails to comply with such capital standards, the Holding Company shall transfer with due diligence to the Association additional capital in such amounts as are necessary to ensure that the Association again complies with the capital standards.

"(5) CERTIFICATION PRIOR TO DIVIDEND.—Prior to the payment of any dividend under paragraph (4), the Association shall certify to the Secretary of the Treasury that the payment of the dividend will be made in compliance with paragraph (4) and shall provide copies of all calculations needed to make such certification.

"(6) RESTRICTIONS ON NEW BUSINESS ACTIVITY OR ACQUISITION OF ASSETS BY ASSOCIATION.—

"(A) IN GENERAL.—After the reorganization effective date, the Association shall not engage in any new business activities or acquire any additional program assets described in section 439(d) other than in connection with—

"(i) student loan purchases through September 30, 2007;

"(ii) contractual commitments for future warehousing advances, or pursuant to letters of credit or standby bond purchase agreements, which are outstanding as of the reorganization effective date;

"(iii) the Association serving as a lender-of-last-resort pursuant to section 439(q); and

"(iv) the Association's purchase of loans insured under this part, if the Secretary, with the approval of the Secretary of the Treasury, enters into an agreement with the Association for the continuation or resumption of the Association's secondary market purchase program because the Secretary determines there is inadequate liquidity for loans made under this part.

"(B) AGREEMENT.—The Secretary is authorized to enter into an agreement described in clause (iv) of subparagraph (A) with the Association covering such secondary market activities. Any agreement entered into under such clause shall cover a period of 12 months, but may be renewed if the Secretary determines that liquidity remains inadequate. The fee provided under section 439(h)(7) shall not apply to loans acquired under any such agreement with the Secretary.

"(7) ISSUANCE OF DEBT OBLIGATIONS DURING THE TRANSITION PERIOD; ATTRIBUTES OF DEBT OBLIGATIONS.—After the reorganization effective date, the Association shall not issue debt obligations which mature later than September 30, 2008, except in connection with serving as a lender-of-last-resort

pursuant to section 439(q) or with purchasing loans under an agreement with the Secretary as described in paragraph (6). Nothing in this section shall modify the attributes accorded the debt obligations of the Association by section 439, regardless of whether such debt obligations are incurred prior to, or at any time following, the reorganization effective date or are transferred to a trust in accordance with subsection (d).

"(8) MONITORING OF SAFETY AND SOUNDNESS.—

"(A) OBLIGATION TO OBTAIN, MAINTAIN, AND REPORT INFORMATION.—The Association shall obtain such information and make and keep such records as the Secretary of the Treasury may from time to time prescribe concerning—

"(i) the financial risk to the Association resulting from the activities of any associated person, to the extent such activities are reasonably likely to have a material impact on the financial condition of the Association, including the Association's capital ratio, the Association's liquidity, or the Association's ability to conduct and finance the Association's operations; and

"(ii) the Association's policies, procedures, and systems for monitoring and controlling any such financial risk.

"(B) SUMMARY REPORTS.—The Secretary of the Treasury may require summary reports of the information described in subparagraph (A) to be filed no more frequently than quarterly. If, as a result of adverse market conditions or based on reports provided pursuant to this subparagraph or other available information, the Secretary of the Treasury has concerns regarding the financial or operational condition of the Association, the Secretary of the Treasury may, notwithstanding the preceding sentence and subparagraph (A), require the Association to make reports concerning the activities of any associated person whose business activities are reasonably likely to have a material impact on the financial or operational condition of the Association.

"(C) SEPARATE OPERATION OF CORPORATIONS.—

"(i) IN GENERAL.—The funds and assets of the Association shall at all times be maintained separately from the funds and assets of the Holding Company or any subsidiary of the Holding Company and may be used by the Association solely to carry out the Association's purposes and to fulfill the Association's obligations.

"(ii) BOOKS AND RECORDS.—The Association shall maintain books and records that clearly reflect the assets and liabilities of the Association, separate from the assets and liabilities of the Holding Company or any subsidiary of the Holding Company.

"(iii) CORPORATE OFFICE.—The Association shall maintain a corporate office that is physically separate from any office of the Holding Company or any subsidiary of the Holding Company.

"(iv) DIRECTOR.—No director of the Association who is appointed by the President pursuant to section

439(c)(1)(A) may serve as a director of the Holding Company.

"(v) ONE OFFICER REQUIREMENT.—At least one officer of the Association shall be an officer solely of the Association.

"(vi) TRANSACTIONS.—Transactions between the Association and the Holding Company or any subsidiary of the Holding Company, including any loan servicing arrangements, shall be on terms no less favorable to the Association than the Association could obtain from an unrelated third party offering comparable services.

"(vii) CREDIT PROHIBITION.—The Association shall not extend credit to the Holding Company or any subsidiary of the Holding Company nor guarantee or provide any credit enhancement to any debt obligations of the Holding Company or any subsidiary of the Holding Company.

"(viii) AMOUNTS COLLECTED.—Any amounts collected on behalf of the Association by the Holding Company or any subsidiary of the Holding Company with respect to the assets of the Association, pursuant to a servicing contract or other arrangement between the Association and the Holding Company or any subsidiary of the Holding Company, shall be collected solely for the benefit of the Association and shall be immediately deposited by the Holding Company or such subsidiary to an account under the sole control of the Association.

"(D) ENCUMBRANCE OF ASSETS.—Notwithstanding any Federal or State law, rule, or regulation, or legal or equitable principle, doctrine, or theory to the contrary, under no circumstances shall the assets of the Association be available or used to pay claims or debts of or incurred by the Holding Company. Nothing in this subparagraph shall be construed to limit the right of the Association to pay dividends not otherwise prohibited under this subparagraph or to limit any liability of the Holding Company explicitly provided for in this section.

"(E) HOLDING COMPANY ACTIVITIES.—After the reorganization effective date and prior to the dissolution date, all business activities of the Holding Company shall be conducted through subsidiaries of the Holding Company.

"(F) CONFIDENTIALITY.—Any information provided by the Association pursuant to this section shall be subject to the same confidentiality obligations contained in section 439(r)(12).

"(G) DEFINITION.—For purposes of this paragraph, the term 'associated person' means any person, other than a natural person, who is directly or indirectly controlling, controlled by, or under common control with, the Association.

"(9) ISSUANCE OF STOCK WARRANTS.—

"(A) IN GENERAL.—On the reorganization effective date, the Holding Company shall issue to the District of Columbia Financial Responsibility and Management Assistance Authority a number of stock warrants that is equal to

one percent of the outstanding shares of the Association, determined as of the last day of the fiscal quarter preceding the date of enactment of this section, with each stock warrant entitling the holder of the stock warrant to purchase from the Holding Company one share of the registered common stock of the Holding Company or the Holding Company's successors or assigns, at any time on or before September 30, 2008. The exercise price for such warrants shall be an amount equal to the average closing price of the common stock of the Association for the 20 business days prior to the date of enactment of this section on the exchange or market which is then the primary exchange or market for the common stock of the Association. The number of shares of Holding Company common stock subject to each stock warrant and the exercise price of each stock warrant shall be adjusted as necessary to reflect—

"(i) the conversion of Association common stock into Holding Company common stock as part of the plan of reorganization approved by the Association's shareholders; and

"(ii) any issuance or sale of stock (including issuance or sale of treasury stock), stock split, recapitalization, reorganization, or other corporate event, if agreed to by the Secretary of the Treasury and the Association.

"(B) AUTHORITY TO SELL OR EXERCISE STOCK WARRANTS; DEPOSIT OF PROCEEDS.—The District of Columbia Financial Responsibility and Management Assistance Authority is authorized to sell or exercise the stock warrants described in subparagraph (A). The District of Columbia Financial Responsibility and Management Assistance Authority shall deposit into the account established under section 3(e) of the Student Loan Marketing Association Reorganization Act of 1996 amounts collected from the sale and proceeds resulting from the exercise of the stock warrants pursuant to this subparagraph.

"(10) RESTRICTIONS ON TRANSFER OF ASSOCIATION SHARES AND BANKRUPTCY OF ASSOCIATION.—After the reorganization effective date, the Holding Company shall not sell, pledge, or otherwise transfer the outstanding shares of the Association, or agree to or cause the liquidation of the Association or cause the Association to file a petition for bankruptcy under title 11, United States Code, without prior approval of the Secretary of the Treasury and the Secretary of Education.

"(d) TERMINATION OF THE ASSOCIATION.—In the event the shareholders of the Association approve a plan of reorganization under subsection (b), the Association shall dissolve, and the Association's separate existence shall terminate on September 30, 2008, after discharge of all outstanding debt obligations and liquidation pursuant to this subsection. The Association may dissolve pursuant to this subsection prior to such date by notifying the Secretary of Education and the Secretary of the Treasury of the Association's intention to dissolve, unless within 60 days after receipt of such notice the Secretary of Education notifies the Association that the Association continues to be needed to serve as a lender of last resort pursuant to section 439(q) or continues to be needed to purchase loans under an agreement with the Secretary described

in subsection (c)(6). On the dissolution date, the Association shall take the following actions:

"(1) ESTABLISHMENT OF A TRUST.—The Association shall, under the terms of an irrevocable trust agreement that is in form and substance satisfactory to the Secretary of the Treasury, the Association and the appointed trustee, irrevocably transfer all remaining obligations of the Association to the trust and irrevocably deposit or cause to be deposited into such trust, to be held as trust funds solely for the benefit of holders of the remaining obligations, money or direct noncallable obligations of the United States or any agency thereof for which payment the full faith and credit of the United States is pledged, maturing as to principal and interest in such amounts and at such times as are determined by the Secretary of the Treasury to be sufficient, without consideration of any significant reinvestment of such interest, to pay the principal of, and interest on, the remaining obligations in accordance with their terms. To the extent the Association cannot provide money or qualifying obligations in the amount required, the Holding Company shall be required to transfer money or qualifying obligations to the trust in the amount necessary to prevent any deficiency.

"(2) USE OF TRUST ASSETS.—All money, obligations, or financial assets deposited into the trust pursuant to this subsection shall be applied by the trustee to the payment of the remaining obligations assumed by the trust.

"(3) OBLIGATIONS NOT TRANSFERRED TO THE TRUST.—The Association shall make proper provision for all other obligations of the Association not transferred to the trust, including the repurchase or redemption, or the making of proper provision for the repurchase or redemption, of any preferred stock of the Association outstanding. Any obligations of the Association which cannot be fully satisfied shall become liabilities of the Holding Company as of the date of dissolution.

"(4) TRANSFER OF REMAINING ASSETS.—After compliance with paragraphs (1) and (3), any remaining assets of the trust shall be transferred to the Holding Company or any subsidiary of the Holding Company, as directed by the Holding Company.

"(e) OPERATION OF THE HOLDING COMPANY.—In the event the shareholders of the Association approve the plan of reorganization under subsection (b), the following provisions shall apply beginning on the reorganization effective date:

"(1) HOLDING COMPANY BOARD OF DIRECTORS.—The number of members and composition of the Board of Directors of the Holding Company shall be determined as set forth in the Holding Company's charter or like instrument (as amended from time to time) or bylaws (as amended from time to time) and as permitted under the laws of the jurisdiction of the Holding Company's incorporation.

"(2) HOLDING COMPANY NAME.—The names of the Holding Company and any subsidiary of the Holding Company (other than the Association)—

"(A) may not contain the name 'Student Loan Marketing Association'; and

"(B) may contain, to the extent permitted by applicable State or District of Columbia law, 'Sallie Mae' or variations thereof, or such other names as the Board of Directors

of the Association or the Holding Company deems appropriate.

"(3) USE OF SALLIE MAE NAME.—Subject to paragraph (2), the Association may assign to the Holding Company, or any subsidiary of the Holding Company, the 'Sallie Mae' name as a trademark or service mark, except that neither the Holding Company nor any subsidiary of the Holding Company (other than the Association or any subsidiary of the Association) may use the 'Sallie Mae' name on, or to identify the issuer of, any debt obligation or other security offered or sold by the Holding Company or any subsidiary of the Holding Company (other than a debt obligation or other security issued to and held by the Holding Company or any subsidiary of the Holding Company). The Association shall remit to the account established under section 3(e) of the Student Loan Marketing Association Reorganization Act of 1996, $5,000,000, within 60 days of the reorganization effective date as compensation for the right to assign the 'Sallie Mae' name as a trademark or service mark.

"(4) DISCLOSURE REQUIRED.—Until 3 years after the dissolution date, the Holding Company, and any subsidiary of the Holding Company (other than the Association), shall prominently display—

"(A) in any document offering the Holding Company's securities, a statement that the obligations of the Holding Company and any subsidiary of the Holding Company are not guaranteed by the full faith and credit of the United States; and

"(B) in any advertisement or promotional materials which use the 'Sallie Mae' name or mark, a statement that neither the Holding Company nor any subsidiary of the Holding Company is a government-sponsored enterprise or instrumentality of the United States.

"(f) STRICT CONSTRUCTION.—Except as specifically set forth in this section, nothing in this section shall be construed to limit the authority of the Association as a federally chartered corporation, or of the Holding Company as a State or District of Columbia chartered corporation.

"(g) RIGHT TO ENFORCE.—The Secretary of Education or the Secretary of the Treasury, as appropriate, may request that the Attorney General bring an action in the United States District Court for the District of Columbia for the enforcement of any provision of this section, or may, under the direction or control of the Attorney General, bring such an action. Such court shall have jurisdiction and power to order and require compliance with this section.

"(h) DEADLINE FOR REORGANIZATION EFFECTIVE DATE.—This section shall be of no further force and effect in the event that the reorganization effective date does not occur on or before 18 months after the date of enactment of this section.

"(i) DEFINITIONS.—For purposes of this section:

"(1) ASSOCIATION.—The term 'Association' means the Student Loan Marketing Association.

"(2) DISSOLUTION DATE.—The term 'dissolution date' means September 30, 2008, or such earlier date as the Secretary of Education permits the transfer of remaining obligations in accordance with subsection (d).

"(3) HOLDING COMPANY.—The term 'Holding Company' means the new business corporation established pursuant to this section by the Association under the laws of any State of the United States or the District of Columbia for the purposes of the reorganization and restructuring described in subsection (a).

"(4) REMAINING OBLIGATIONS.—The term 'remaining obligations' means the debt obligations of the Association outstanding as of the dissolution date.

"(5) REMAINING PROPERTY.—The term 'remaining property' means the following assets and liabilities of the Association which are outstanding as of the reorganization effective date:

"(A) Debt obligations issued by the Association.

"(B) Contracts relating to interest rate, currency, or commodity positions or protections.

"(C) Investment securities owned by the Association.

"(D) Any instruments, assets, or agreements described in section 439(d) (including, without limitation, all student loans and agreements relating to the purchase and sale of student loans, forward purchase and lending commitments, warehousing advances, academic facilities obligations, letters of credit, standby bond purchase agreements, liquidity agreements, and student loan revenue bonds or other loans).

"(E) Except as specifically prohibited by this section or section 439, any other nonmaterial assets or liabilities of the Association which the Association's Board of Directors determines to be necessary or appropriate to the Association's operations.

"(6) REORGANIZATION.—The term 'reorganization' means the restructuring event or events (including any merger event) giving effect to the Holding Company structure described in subsection (a).

"(7) REORGANIZATION EFFECTIVE DATE.—The term 'reorganization effective date' means the effective date of the reorganization as determined by the Board of Directors of the Association, which shall not be earlier than the date that shareholder approval is obtained pursuant to subsection (b) and shall not be later than the date that is 18 months after the date of enactment of this section.

"(8) SUBSIDIARY.—The term 'subsidiary' means one or more direct or indirect subsidiaries.".

(b) TECHNICAL AMENDMENTS.—

(1) ELIGIBLE LENDER.—

(A) AMENDMENTS TO THE HIGHER EDUCATION ACT.—

(i) DEFINITION OF ELIGIBLE LENDER.—Section 435(d)(1)(F) of the Higher Education Act of 1965 (20 U.S.C. 1085(d)(1)(F)) is amended by inserting after "Student Loan Marketing Association" the following: "or the Holding Company of the Student Loan Marketing Association, including any subsidiary of the Holding Company, created pursuant to section 440,".

(ii) DEFINITION OF ELIGIBLE LENDER AND FEDERAL CONSOLIDATION LOANS.—Sections 435(d)(1)(G) and 428C(a)(1)(A) of such Act (20 U.S.C. 1085(d)(1)(G) and 1078–3(a)(1)(A)) are each amended by inserting after "Student Loan Marketing Association" the following:

"or the Holding Company of the Student Loan Marketing Association, including any subsidiary of the Holding Company, created pursuant to section 440".

(B) EFFECTIVE DATE.—The amendments made by this paragraph shall take effect on the reorganization effective date as defined in section 440(h) of the Higher Education Act of 1965 (as added by subsection (a)). 20 USC 1078–3 note.

(2) ENFORCEMENT OF SAFETY AND SOUNDNESS REQUIREMENTS.—Section 439(r) of the Higher Education Act of 1965 (20 U.S.C. 1087–2(r)) is amended—

(A) in the first sentence of paragraph (12), by inserting "or the Association's associated persons" after "by the Association";

(B) by redesignating paragraph (13) as paragraph (15); and

(C) by inserting after paragraph (12) the following new paragraph:

"(13) ENFORCEMENT OF SAFETY AND SOUNDNESS REQUIREMENTS.—The Secretary of Education or the Secretary of the Treasury, as appropriate, may request that the Attorney General bring an action in the United States District Court for the District of Columbia for the enforcement of any provision of this section, or may, under the direction or control of the Attorney General, bring such an action. Such court shall have jurisdiction and power to order and require compliance with this section.".

(3) FINANCIAL SAFETY AND SOUNDNESS.—Section 439(r) of the Higher Education Act of 1965 (20 U.S.C. 1087–2(r)) is further amended—

(A) in paragraph (1)—

(i) by striking "and" at the end of subparagraph (A);

(ii) by striking the period at the end of subparagraph (B) and inserting "; and"; and

(iii) by adding at the end the following new subparagraph:

"(C)(i) financial statements of the Association within 45 days of the end of each fiscal quarter; and

"(ii) reports setting forth the calculation of the capital ratio of the Association within 45 days of the end of each fiscal quarter.";

(B) in paragraph (2)—

(i) by striking clauses (i) and (ii) of subparagraph (A) and inserting the following:

"(i) appoint auditors or examiners to conduct audits of the Association from time to time to determine the condition of the Association for the purpose of assessing the Association's financial safety and soundness and to determine whether the requirements of this section and section 440 are being met; and

"(ii) obtain the services of such experts as the Secretary of the Treasury determines necessary and appropriate, as authorized by section 3109 of title 5, United States Code, to assist in determining the condition of the Association for the purpose of assessing the Association's financial safety and soundness, and to determine whether the

requirements of this section and section 440 are being met."; and

(ii) by adding at the end the following new subparagraph:

"(D) ANNUAL ASSESSMENT.—

"(i) IN GENERAL.—For each fiscal year beginning on or after October 1, 1996, the Secretary of the Treasury may establish and collect from the Association an assessment (or assessments) in amounts sufficient to provide for reasonable costs and expenses of carrying out the duties of the Secretary of the Treasury under this section and section 440 during such fiscal year. In no event may the total amount so assessed exceed, for any fiscal year, $800,000, adjusted for each fiscal year ending after September 30, 1997, by the ratio of the Consumer Price Index for All Urban Consumers (issued by the Bureau of Labor Statistics) for the final month of the fiscal year preceding the fiscal year for which the assessment is made to the Consumer Price Index for All Urban Consumers for September 1997.

"(ii) DEPOSIT.—Amounts collected from assessments under this subparagraph shall be deposited in an account within the Treasury of the United States as designated by the Secretary of the Treasury for that purpose. The Secretary of the Treasury is authorized and directed to pay out of any funds available in such account the reasonable costs and expenses of carrying out the duties of the Secretary of the Treasury under this section and section 440. None of the funds deposited into such account shall be available for any purpose other than making payments for such costs and expenses."; and

(C) by inserting after paragraph (13) (as added by paragraph (2)(C)) the following new paragraph:

"(14) ACTIONS BY SECRETARY.—

"(A) IN GENERAL.—For any fiscal quarter ending after January 1, 2000, the Association shall have a capital ratio of at least 2.25 percent. The Secretary of the Treasury may, whenever such capital ratio is not met, take any one or more of the actions described in paragraph (7), except that—

"(i) the capital ratio to be restored pursuant to paragraph (7)(D) shall be 2.25 percent; and

"(ii) if the relevant capital ratio is in excess of or equal to 2 percent for such quarter, the Secretary of the Treasury shall defer taking any of the actions set forth in paragraph (7) until the next succeeding quarter and may then proceed with any such action only if the capital ratio of the Association remains below 2.25 percent.

"(B) APPLICABILITY.—The provisions of paragraphs (4), (5), (6), (8), (9), (10), and (11) shall be of no further application to the Association for any period after January 1, 2000.".

(4) INFORMATION REQUIRED; DIVIDENDS.—Section 439(r) of the Higher Education Act of 1965 (20 U.S.C. 1087–2(r)) is further amended—

(A) by adding at the end of paragraph (2) (as amended in paragraph (3)(B)(ii)) the following new subparagraph:

"(E) OBLIGATION TO OBTAIN, MAINTAIN, AND REPORT INFORMATION.—

"(i) IN GENERAL.—The Association shall obtain such information and make and keep such records as the Secretary of the Treasury may from time to time prescribe concerning—

"(I) the financial risk to the Association resulting from the activities of any associated person, to the extent such activities are reasonably likely to have a material impact on the financial condition of the Association, including the Association's capital ratio, the Association's liquidity, or the Association's ability to conduct and finance the Association's operations; and

"(II) the Association's policies, procedures, and systems for monitoring and controlling any such financial risk.

"(ii) SUMMARY REPORTS.—The Secretary of the Treasury may require summary reports of such information to be filed no more frequently than quarterly. If, as a result of adverse market conditions or based on reports provided pursuant to this subparagraph or other available information, the Secretary of the Treasury has concerns regarding the financial or operational condition of the Association, the Secretary of the Treasury may, notwithstanding the preceding sentence and clause (i), require the Association to make reports concerning the activities of any associated person, whose business activities are reasonably likely to have a material impact on the financial or operational condition of the Association.

"(iii) DEFINITION.—For purposes of this subparagraph, the term 'associated person' means any person, other than a natural person, directly or indirectly controlling, controlled by, or under common control with the Association."; and

(B) by adding at the end the following new paragraphs:

"(16) DIVIDENDS.—The Association may pay dividends in the form of cash or noncash distributions so long as at the time of the declaration of such dividends, after giving effect to the payment of such dividends as of the date of such declaration by the Board of Directors of the Association, the Association's capital would be in compliance with the capital standards set forth in this section.

"(17) CERTIFICATION PRIOR TO PAYMENT OF DIVIDEND.—Prior to the payment of any dividend under paragraph (16), the Association shall certify to the Secretary of the Treasury that the payment of the dividend will be made in compliance with paragraph (16) and shall provide copies of all calculations needed to make such certification.".

(c) SUNSET OF THE ASSOCIATION'S CHARTER IF NO REORGANIZATION PLAN OCCURS.—Section 439 of the Higher Education Act of 1965 (20 U.S.C. 1087–2) is amended by adding at the end the following new subsection:

"(s) CHARTER SUNSET.—

"(1) APPLICATION OF PROVISIONS.—This subsection applies beginning 18 months and one day after the date of enactment of this subsection if no reorganization of the Association occurs in accordance with the provisions of section 440.

"(2) SUNSET PLAN.—

"(A) PLAN SUBMISSION BY THE ASSOCIATION.—Not later than July 1, 2007, the Association shall submit to the Secretary of the Treasury and to the Chairman and Ranking Member of the Committee on Labor and Human Resources of the Senate and the Chairman and Ranking Member of the Committee on Economic and Educational Opportunities of the House of Representatives, a detailed plan for the orderly winding up, by July 1, 2013, of business activities conducted pursuant to the charter set forth in this section. Such plan shall—

"(i) ensure that the Association will have adequate assets to transfer to a trust, as provided in this subsection, to ensure full payment of remaining obligations of the Association in accordance with the terms of such obligations;

"(ii) provide that all assets not used to pay liabilities shall be distributed to shareholders as provided in this subsection; and

"(iii) provide that the operations of the Association shall remain separate and distinct from that of any entity to which the assets of the Association are transferred.

"(B) AMENDMENT OF THE PLAN BY THE ASSOCIATION.—The Association shall from time to time amend such plan to reflect changed circumstances, and submit such amendments to the Secretary of the Treasury and to the Chairman and Ranking Minority Member of the Committee on Labor and Human Resources of the Senate and Chairman and Ranking Minority Member of the Committee on Economic and Educational Opportunities of the House of Representatives. In no case may any amendment extend the date for full implementation of the plan beyond the dissolution date provided in paragraph (3).

"(C) PLAN MONITORING.—The Secretary of the Treasury shall monitor the Association's compliance with the plan and shall continue to review the plan (including any amendments thereto).

"(D) AMENDMENT OF THE PLAN BY THE SECRETARY OF THE TREASURY.—The Secretary of the Treasury may require the Association to amend the plan (including any amendments to the plan), if the Secretary of the Treasury deems such amendments necessary to ensure full payment of all obligations of the Association.

"(E) IMPLEMENTATION BY THE ASSOCIATION.—The Association shall promptly implement the plan (including any amendments to the plan, whether such amendments are made by the Association or are required to be made by the Secretary of the Treasury).

"(3) DISSOLUTION OF THE ASSOCIATION.—The Association shall dissolve and the Association's separate existence shall terminate on July 1, 2013, after discharge of all outstanding debt obligations and liquidation pursuant to this subsection.

The Association may dissolve pursuant to this subsection prior to such date by notifying the Secretary of Education and the Secretary of the Treasury of the Association's intention to dissolve, unless within 60 days of receipt of such notice the Secretary of Education notifies the Association that the Association continues to be needed to serve as a lender of last resort pursuant to subsection (q) or continues to be needed to purchase loans under an agreement with the Secretary described in paragraph (4)(A). On the dissolution date, the Association shall take the following actions:

"(A) ESTABLISHMENT OF A TRUST.—The Association shall, under the terms of an irrevocable trust agreement in form and substance satisfactory to the Secretary of the Treasury, the Association, and the appointed trustee, irrevocably transfer all remaining obligations of the Association to a trust and irrevocably deposit or cause to be deposited into such trust, to be held as trust funds solely for the benefit of holders of the remaining obligations, money or direct noncallable obligations of the United States or any agency thereof for which payment the full faith and credit of the United States is pledged, maturing as to principal and interest in such amounts and at such times as are determined by the Secretary of the Treasury to be sufficient, without consideration of any significant reinvestment of such interest, to pay the principal of, and interest on, the remaining obligations in accordance with their terms.

"(B) USE OF TRUST ASSETS.—All money, obligations, or financial assets deposited into the trust pursuant to this subsection shall be applied by the trustee to the payment of the remaining obligations assumed by the trust. Upon the fulfillment of the trustee's duties under the trust, any remaining assets of the trust shall be transferred to the persons who, at the time of the dissolution, were the shareholders of the Association, or to the legal successors or assigns of such persons.

"(C) OBLIGATIONS NOT TRANSFERRED TO THE TRUST.—The Association shall make proper provision for all other obligations of the Association, including the repurchase or redemption, or the making of proper provision for the repurchase or redemption, of any preferred stock of the Association outstanding.

"(D) TRANSFER OF REMAINING ASSETS.—After compliance with subparagraphs (A) and (C), the Association shall transfer to the shareholders of the Association any remaining assets of the Association.

"(4) RESTRICTIONS RELATING TO WINDING UP.—

"(A) RESTRICTIONS ON NEW BUSINESS ACTIVITY OR ACQUISITION OF ASSETS BY THE ASSOCIATION.—

"(i) IN GENERAL.—Beginning on July 1, 2009, the Association shall not engage in any new business activities or acquire any additional program assets (including acquiring assets pursuant to contractual commitments) described in subsection (d) other than in connection with the Association—

"(I) serving as a lender of last resort pursuant to subsection (q); and

"(II) purchasing loans insured under this part, if the Secretary, with the approval of the Secretary of the Treasury, enters into an agreement with the Association for the continuation or resumption of the Association's secondary market purchase program because the Secretary determines there is inadequate liquidity for loans made under this part.

"(ii) AGREEMENT.—The Secretary is authorized to enter into an agreement described in subclause (II) of clause (i) with the Association covering such secondary market activities. Any agreement entered into under such subclause shall cover a period of 12 months, but may be renewed if the Secretary determines that liquidity remains inadequate. The fee provided under subsection (h)(7) shall not apply to loans acquired under any such agreement with the Secretary.

"(B) ISSUANCE OF DEBT OBLIGATIONS DURING THE WIND UP PERIOD; ATTRIBUTES OF DEBT OBLIGATIONS.—The Association shall not issue debt obligations which mature later than July 1, 2013, except in connection with serving as a lender of last resort pursuant to subsection (q) or with purchasing loans under an agreement with the Secretary as described in subparagraph (A). Nothing in this subsection shall modify the attributes accorded the debt obligations of the Association by this section, regardless of whether such debt obligations are transferred to a trust in accordance with paragraph (3).

"(C) USE OF ASSOCIATION NAME.—The Association may not transfer or permit the use of the name 'Student Loan Marketing Association', 'Sallie Mae', or any variation thereof, to or by any entity other than a subsidiary of the Association.".

(d) REPEALS.—

(1) IN GENERAL.—Sections 439 of the Higher Education Act of 1965 (20 U.S.C. 1087–2) and 440 of such Act (as added by subsection (a) of this section) are repealed.

20 USC 1087–2 note.

(2) EFFECTIVE DATE.—The repeals made by paragraph (1) shall be effective one year after—

(A) the date on which all of the obligations of the trust established under section 440(d)(1) of the Higher Education Act of 1965 (as added by subsection (a)) have been extinguished, if a reorganization occurs in accordance with section 440 of such Act; or

(B) the date on which all of the obligations of the trust established under subsection 439(s)(3)(A) of such Act (as added by subsection (c)) have been extinguished, if a reorganization does not occur in accordance with section 440 of such Act.

20 USC 1087–2 note.

(e) ASSOCIATION NAMES.—Upon dissolution in accordance with section 439(s) of the Higher Education Act of 1965 (20 U.S.C. 1087–2), the names "Student Loan Marketing Association", "Sallie Mae", and any variations thereof may not be used by any entity engaged in any business similar to the business conducted pursuant to section 439 of such Act (as such section was in effect on the date of enactment of this Act) without the approval of the Secretary of the Treasury.

(f) RIGHT TO ENFORCE.—The Secretary of Education or the Secretary of the Treasury, as appropriate, may request that the Attorney General bring an action in the United States District Court for the District of Columbia for the enforcement of any provision of subsection (e), or may, under the direction or control of the Attorney General, bring such an action. Such court shall have jurisdiction and power to order and require compliance with subsection (e). 20 USC 1087–2 note.

SEC. 603. CONNIE LEE PRIVATIZATION. 20 USC 1132f–10.

(a) STATUS OF THE CORPORATION AND CORPORATE POWERS; OBLIGATIONS NOT FEDERALLY GUARANTEED.—

(1) STATUS OF THE CORPORATION.—The Corporation shall not be an agency, instrumentality, or establishment of the United States Government, nor a Government corporation, nor a Government controlled corporation, as such terms are defined in section 103 of title 5, United States Code. No action under section 1491 of title 28, United States Code (commonly known as the Tucker Act) shall be allowable against the United States based on the actions of the Corporation.

(2) CORPORATE POWERS.—The Corporation shall be subject to the provisions of this section, and, to the extent not inconsistent with this section, to the District of Columbia Business Corporation Act (or the comparable law of another State, if applicable). The Corporation shall have the powers conferred upon a corporation by the District of Columbia Business Corporation Act (or such other applicable State law) as from time to time in effect in order to conduct the Corporation's affairs as a private, for-profit corporation and to carry out the Corporation's purposes and activities incidental thereto. The Corporation shall have the power to enter into contracts, to execute instruments, to incur liabilities, to provide products and services, and to do all things as are necessary or incidental to the proper management of the Corporation's affairs and the efficient operation of a private, for-profit business.

(3) LIMITATION ON OWNERSHIP OF STOCK.—

(A) STUDENT LOAN MARKETING ASSOCIATION.—The Student Loan Marketing Association shall not increase its share of the ownership of the Corporation in excess of 42 percent of the shares of stock of the Corporation outstanding on the date of enactment of this Act. The Student Loan Marketing Association shall not control the operation of the Corporation, except that the Student Loan Marketing Association may participate in the election of directors as a shareholder, and may continue to exercise the Student Loan Marketing Association's right to appoint directors under section 754 of the Higher Education Act of 1965 (20 U.S.C. 1132f–3) as long as that section is in effect.

(B) PROHIBITION.—Until such time as the Secretary of the Treasury sells the stock of the Corporation owned by the Secretary of Education pursuant to subsection (c), the Student Loan Marketing Association shall not provide financial support or guarantees to the Corporation.

(C) FINANCIAL SUPPORT OR GUARANTEES.—After the Secretary of the Treasury sells the stock of the Corporation owned by the Secretary of Education pursuant to subsection

(c), the Student Loan Marketing Association may provide financial support or guarantees to the Corporation, if such support or guarantees are subject to terms and conditions that are no more advantageous to the Corporation than the terms and conditions the Student Loan Marketing Association provides to other entities, including, where applicable, other monoline financial guaranty corporations in which the Student Loan Marketing Association has no ownership interest.

(4) NO FEDERAL GUARANTEE.—

(A) OBLIGATIONS INSURED BY THE CORPORATION.—

(i) FULL FAITH AND CREDIT OF THE UNITED STATES.—No obligation that is insured, guaranteed, or otherwise backed by the Corporation shall be deemed to be an obligation that is guaranteed by the full faith and credit of the United States.

(ii) STUDENT LOAN MARKETING ASSOCIATION.—No obligation that is insured, guaranteed, or otherwise backed by the Corporation shall be deemed to be an obligation that is guaranteed by the Student Loan Marketing Association.

(iii) SPECIAL RULE.—This paragraph shall not affect the determination of whether such obligation is guaranteed for purposes of Federal income taxes.

(B) SECURITIES OFFERED BY THE CORPORATION.—No debt or equity securities of the Corporation shall be deemed to be guaranteed by the full faith and credit of the United States.

(5) DEFINITION.—The term "Corporation" as used in this section means the College Construction Loan Insurance Association as in existence on the day before the date of enactment of this Act, and any successor corporation.

(b) RELATED PRIVATIZATION REQUIREMENTS.—

(1) NOTICE REQUIREMENTS.—

(A) IN GENERAL.—During the six-year period following the date of enactment of this Act, the Corporation shall include, in each of the Corporation's contracts for the insurance, guarantee, or reinsurance of obligations, and in each document offering debt or equity securities of the Corporation, a prominent statement providing notice that—

(i) such obligations or such securities, as the case may be, are not obligations of the United States, nor are such obligations or such securities, as the case may be, guaranteed in any way by the full faith and credit of the United States; and

(ii) the Corporation is not an instrumentality of the United States.

(B) ADDITIONAL NOTICE.—During the five-year period following the sale of stock pursuant to subsection (c)(1), in addition to the notice requirements in subparagraph (A), the Corporation shall include, in each of the contracts and documents referred to in such subparagraph, a prominent statement providing notice that the United States is not an investor in the Corporation.

(2) CORPORATE CHARTER.—The Corporation's charter shall be amended as necessary and without delay to conform to the requirements of this section.

(3) CORPORATE NAME.—The name of the Corporation, or of any direct or indirect subsidiary thereof, may not contain the term "College Construction Loan Insurance Association", or any substantially similar variation thereof.

(4) ARTICLES OF INCORPORATION.—The Corporation shall amend the Corporation's articles of incorporation without delay to reflect that one of the purposes of the Corporation shall be to guarantee, insure, and reinsure bonds, leases, and other evidences of debt of educational institutions, including Historically Black Colleges and Universities and other academic institutions which are ranked in the lower investment grade category using a nationally recognized credit rating system.

(5) REQUIREMENTS UNTIL STOCK SALE.—Notwithstanding subsection (d), the requirements of sections 754 and 760 of the Higher Education Act of 1965 (20 U.S.C. 1132f–3 and 1132f–9), as such sections were in effect on the day before the date of enactment of this Act, shall continue to be effective until the day immediately following the date of closing of the purchase of the Secretary of Education's stock (or the date of closing of the final purchase, in the case of multiple transactions) pursuant to subsection (c)(1) of this Act.

(c) SALE OF FEDERALLY OWNED STOCK.—

(1) PURCHASE BY THE CORPORATION.—The Secretary of the Treasury shall sell and the Corporation shall purchase, within 90 days after the date of enactment of this Act, the stock of the Corporation held by the Secretary of Education at a price determined by the binding, independent appraisal of a nationally recognized financial firm, except that the 90-day period may be extended by mutual agreement of the Secretary of the Treasury and the Corporation to not more than 150 days after the date of enactment of this Act. The appraiser shall be jointly selected by the Secretary of the Treasury and the Corporation. In the event that the Secretary of the Treasury and the Corporation cannot agree on the appraiser, then the Secretary of the Treasury and the Corporation shall name an independent third party to select the appraiser.

(2) REIMBURSEMENT OF COSTS AND EXPENSES OF SALE.—The Secretary of the Treasury shall be reimbursed from the proceeds of the sale of the stock under this subsection for all reasonable costs and expenses related to such sale, except that one-half of all reasonable costs and expenses relating to the independent appraisal under paragraph (1) shall be borne by the Corporation.

(3) DEPOSIT INTO ACCOUNT.—Amounts collected from the sale of stock pursuant to this subsection that are not used to reimburse the Secretary of the Treasury pursuant to paragraph (2) shall be deposited into the account established under subsection (e).

(4) ASSISTANCE BY THE CORPORATION.—The Corporation shall provide such assistance as the Secretary of the Treasury and the Secretary of Education may require to facilitate the sale of the stock under this subsection.

(5) REPORT TO CONGRESS.—Not later than 6 months after the date of enactment of this Act, the Secretary of the Treasury shall report to the appropriate committees of Congress on the completion and terms of the sale of stock of the Corporation pursuant to this subsection.

(d) REPEAL OF STATUTORY RESTRICTIONS AND RELATED PROVISIONS.—Part D of title VII of the Higher Education Act of 1965 (20 U.S.C. 1132f et seq.) is repealed.

(e) ESTABLISHMENT OF ACCOUNT.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the District of Columbia Financial Responsibility and Management Assistance Authority shall establish an account to receive—

(A) amounts collected from the sale and proceeds resulting from the exercise of stock warrants pursuant to section 440(c)(9) of the Higher Education Act of 1965;

(B) amounts and proceeds remitted as compensation for the right to assign the "Sallie Mae" name as a trademark or service mark pursuant to section 440(e)(3) of the Higher Education Act of 1965; and

(C) amounts and proceeds collected from the sale of the stock of the Corporation and deposited pursuant to subsection (c)(3).

(2) AMOUNTS AND PROCEEDS.—

(A) AMOUNTS AND PROCEEDS RELATING TO SALLIE MAE.—The amounts and proceeds described in subparagraphs (A) and (B) of paragraph (1) shall be used to finance public elementary and secondary school facility construction and repair within the District of Columbia or to carry out the District of Columbia School Reform Act of 1995.

(B) AMOUNTS AND PROCEEDS RELATING TO CONNIE LEE.—The amounts and proceeds described in subparagraph (C) of paragraph (1) shall be used to finance public elementary and secondary school facility construction and repair within the District of Columbia.

SEC. 604. DISCRIMINATION IN SECONDARY MARKETS PROHIBITED.

Part B of title IV of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq.) is amended by adding after section 440 (as added by section 602) the following new section:

20 USC 1087–4.

"SEC. 440A. DISCRIMINATION IN SECONDARY MARKETS PROHIBITED.

"The Student Loan Marketing Association (and, if the Association is privatized under section 440, any successor entity functioning as a secondary market for loans under this part, including the Holding Company described in such section) shall not engage directly or indirectly in any pattern or practice that results in a denial of a borrower's access to loans under this part because of the borrower's race, sex, color, religion, national origin, age, disability status, income, attendance at a particular eligible institution, length of the borrower's educational program, or the borrower's academic year at an eligible institution.".

Museum and Library Services Act of 1996. 20 USC 9101 note.

TITLE VII—MUSEUM AND LIBRARY SERVICES ACT OF 1996

SECTION 701. SHORT TITLE.

This title may be cited as the "Museum and Library Services Act of 1996".

SEC. 702. MUSEUM AND LIBRARY SERVICES.

The Museum Services Act (20 U.S.C. 961 et seq.) is amended to read as follows:

"TITLE II—MUSEUM AND LIBRARY SERVICES

Museum and Library Services Act.

"Subtitle A—General Provisions

"SEC. 201. SHORT TITLE. 20 USC 9101 note.

"This title may be cited as the 'Museum and Library Services Act'.

"SEC. 202. GENERAL DEFINITIONS. 20 USC 9101.

"As used in this title:

"(1) COMMISSION.—The term 'Commission' means the National Commission on Libraries and Information Science established under section 3 of the National Commission on Libraries and Information Sciences Act (20 U.S.C. 1502).

"(2) DIRECTOR.—The term 'Director' means the Director of the Institute appointed under section 204.

"(3) INSTITUTE.—The term 'Institute' means the Institute of Museum and Library Services established under section 203.

"(4) MUSEUM BOARD.—The term 'Museum Board' means the National Museum Services Board established under section 275.

"SEC. 203. INSTITUTE OF MUSEUM AND LIBRARY SERVICES. 20 USC 9102.

"(a) ESTABLISHMENT.—There is established, within the National Foundation on the Arts and the Humanities, an Institute of Museum and Library Services.

"(b) OFFICES.—The Institute shall consist of an Office of Museum Services and an Office of Library Services. There shall be a National Museum Services Board in the Office of Museum Services.

"SEC. 204. DIRECTOR OF THE INSTITUTE. 20 USC 9103.

"(a) APPOINTMENT.—

"(1) IN GENERAL.—The Institute shall be headed by a Director, appointed by the President, by and with the advice and consent of the Senate.

"(2) TERM.—The Director shall serve for a term of 4 years.

"(3) QUALIFICATIONS.—Beginning with the first individual appointed to the position of Director after the date of enactment of the Museum and Library Services Act of 1996, every second individual so appointed shall be appointed from among individuals who have special competence with regard to library and information services. Beginning with the second individual appointed to the position of Director after the date of enactment of the Museum and Library Services Act of 1996, every second individual so appointed shall be appointed from among individuals who have special competence with regard to museum services.

"(b) COMPENSATION.—The Director may be compensated at the rate provided for level III of the Executive Schedule under section 5314 of title 5, United States Code.

"(c) DUTIES AND POWERS.—The Director shall perform such duties and exercise such powers as may be prescribed by law, including awarding financial assistance for activities described in this title.

"(d) NONDELEGATION.—The Director shall not delegate any of the functions of the Director to any person who is not an officer or employee of the Institute.

"(e) COORDINATION.—The Director shall ensure coordination of the policies and activities of the Institute with the policies and activities of other agencies and offices of the Federal Government having interest in and responsibilities for the improvement of museums and libraries and information services.

20 USC 9104.

"SEC. 205. DEPUTY DIRECTORS.

"The Office of Library Services shall be headed by a Deputy Director, who shall be appointed by the Director from among individuals who have a graduate degree in library science and expertise in library and information services. The Office of Museum Services shall be headed by a Deputy Director, who shall be appointed by the Director from among individuals who have expertise in museum services.

20 USC 9105.

"SEC. 206. PERSONNEL.

"(a) IN GENERAL.—The Director may, in accordance with applicable provisions of title 5, United States Code, appoint and determine the compensation of such employees as the Director determines to be necessary to carry out the duties of the Institute.

"(b) VOLUNTARY SERVICES.—The Director may accept and utilize the voluntary services of individuals and reimburse the individuals for travel expenses, including per diem in lieu of subsistence, in the same amounts and to the same extent as authorized under section 5703 of title 5, United States Code, for persons employed intermittently in Federal Government service.

20 USC 9106.

"SEC. 207. CONTRIBUTIONS.

"The Institute is authorized to solicit, accept, receive, and invest in the name of the United States, gifts, bequests, or devises of money and other property or services and to use such property or services in furtherance of the functions of the Institute. Any proceeds from such gifts, bequests, or devises, after acceptance by the Institute, shall be paid by the donor or the representative of the donor to the Director. The Director shall enter the proceeds in a special-interest bearing account to the credit of the Institute for the purposes specified in each case.

"Subtitle B—Library Services and Technology

Library Services and Technology Act.
20 USC 9101 note.

"SEC. 211. SHORT TITLE.

"This subtitle may be cited as the 'Library Services and Technology Act'.

20 USC 9121.

"SEC. 212. PURPOSE.

"It is the purpose of this subtitle—

"(1) to consolidate Federal library service programs;

"(2) to stimulate excellence and promote access to learning and information resources in all types of libraries for individuals of all ages;

"(3) to promote library services that provide all users access to information through State, regional, national and international electronic networks;

"(4) to provide linkages among and between libraries; and

"(5) to promote targeted library services to people of diverse geographic, cultural, and socioeconomic backgrounds, to individuals with disabilities, and to people with limited functional literacy or information skills.

"SEC. 213. DEFINITIONS. 20 USC 9122.

"As used in this subtitle:

"(1) INDIAN TRIBE.—The term 'Indian tribe' means any tribe, band, nation, or other organized group or community, including any Alaska native village, regional corporation, or village corporation, as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), which is recognized by the Secretary of the Interior as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

"(2) LIBRARY.—The term 'library' includes—

"(A) a public library;

"(B) a public elementary school or secondary school library;

"(C) an academic library;

"(D) a research library, which for the purposes of this subtitle means a library that—

"(i) makes publicly available library services and materials suitable for scholarly research and not otherwise available to the public; and

"(ii) is not an integral part of an institution of higher education; and

"(E) a private library, but only if the State in which such private library is located determines that the library should be considered a library for purposes of this subtitle.

"(3) LIBRARY CONSORTIUM.—The term 'library consortium' means any local, statewide, regional, interstate, or international cooperative association of library entities which provides for the systematic and effective coordination of the resources of school, public, academic, and special libraries and information centers, for improved services for the clientele of such library entities.

"(4) STATE.—The term 'State', unless otherwise specified, includes each of the 50 States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

"(5) STATE LIBRARY ADMINISTRATIVE AGENCY.—The term 'State library administrative agency' means the official agency of a State charged by the law of the State with the extension and development of public library services throughout the State.

"(6) STATE PLAN.—The term 'State plan' means the document which gives assurances that the officially designated State library administrative agency has the fiscal and legal authority and capability to administer all aspects of this subtitle, provides assurances for establishing the State's policies, priorities, criteria, and procedures necessary to the implementation of all programs under this subtitle, submits copies for approval as required by regulations promulgated by the Director, identifies a State's library needs, and sets forth the activities to be taken toward meeting the identified needs supported with the assistance of Federal funds made available under this subtitle.

"SEC. 214. AUTHORIZATION OF APPROPRIATIONS. 20 USC 9123.

"(a) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated $150,000,000 for fiscal year 1997 and such sums as may be necessary for each of the fiscal years 1998 through 2002 to carry out this subtitle.

"(2) TRANSFER.—The Secretary of Education shall—

"(A) transfer promptly to the Director any funds appropriated under the authority of paragraph (1), to enable the Director to carry out this subtitle; and

"(B) not exercise any authority concerning the administration of this title other than the transfer described in subparagraph (A).

"(b) FORWARD FUNDING.—

"(1) IN GENERAL.—To the end of affording the responsible Federal, State, and local officers adequate notice of available Federal financial assistance for carrying out ongoing library activities and projects, appropriations for grants, contracts, or other payments under any program under this subtitle are authorized to be included in the appropriations Act for the fiscal year preceding the fiscal year during which such activities and projects shall be carried out.

"(2) ADDITIONAL AUTHORIZATION OF APPROPRIATIONS.—In order to effect a transition to the timing of appropriation action authorized by subsection (a), the application of this section may result in the enactment, in a fiscal year, of separate appropriations for a program under this subtitle (whether in the same appropriations Act or otherwise) for two consecutive fiscal years.

"(c) ADMINISTRATION.—Not more than 3 percent of the funds appropriated under this section for a fiscal year may be used to pay for the Federal administrative costs of carrying out this subtitle.

"CHAPTER 1—BASIC PROGRAM REQUIREMENTS

20 USC 9131.

"SEC. 221. RESERVATIONS AND ALLOTMENTS.

"(a) RESERVATIONS.—

"(1) IN GENERAL.—From the amount appropriated under the authority of section 214 for any fiscal year, the Director—

"(A) shall reserve 1½ percent to award grants in accordance with section 261; and

"(B) shall reserve 4 percent to award national leadership grants or contracts in accordance with section 262.

"(2) SPECIAL RULE.—If the funds reserved pursuant to paragraph (1)(B) for a fiscal year have not been obligated by the end of such fiscal year, then such funds shall be allotted in accordance with subsection (b) for the fiscal year succeeding the fiscal year for which the funds were so reserved.

"(b) ALLOTMENTS.—

"(1) IN GENERAL.—From the sums appropriated under the authority of section 214 and not reserved under subsection (a) for any fiscal year, the Director shall award grants from minimum allotments, as determined under paragraph (3), to each State. Any sums remaining after minimum allotments are made for such year shall be allotted in the manner set forth in paragraph (2).

"(2) REMAINDER.—From the remainder of any sums appropriated under the authority of section 214 that are not reserved

under subsection (a) and not allotted under paragraph (1) for any fiscal year, the Director shall award grants to each State in an amount that bears the same relation to such remainder as the population of the State bears to the population of all States.

"(3) MINIMUM ALLOTMENT.—

"(A) IN GENERAL.—For the purposes of this subsection, the minimum allotment for each State shall be $340,000, except that the minimum allotment shall be $40,000 in the case of the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

"(B) RATABLE REDUCTIONS.—If the sum appropriated under the authority of section 214 and not reserved under subsection (a) for any fiscal year is insufficient to fully satisfy the aggregate of the minimum allotments for all States for that purpose for such year, each of such minimum allotments shall be reduced ratably.

"(C) SPECIAL RULE.—

"(i) IN GENERAL.—Notwithstanding any other provision of this subsection and using funds allotted for the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau under this subsection, the Director shall award grants to Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau to carry out activities described in this subtitle in accordance with the provisions of this subtitle that the Director determines are not inconsistent with this subparagraph.

"(ii) AWARD BASIS.—The Director shall award grants pursuant to clause (i) on a competitive basis and pursuant to recommendations from the Pacific Region Educational Laboratory in Honolulu, Hawaii.

"(iii) TERMINATION OF ELIGIBILITY.—Notwithstanding any other provision of law, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau shall not receive any funds under this subtitle for any fiscal year that begins after September 30, 2001.

"(iv) ADMINISTRATIVE COSTS.—The Director may provide not more than 5 percent of the funds made available for grants under this subparagraph to pay the administrative costs of the Pacific Region Educational Laboratory regarding activities assisted under this subparagraph.

"(4) DATA.—The population of each State and of all the States shall be determined by the Director on the basis of the most recent data available from the Bureau of the Census.

"SEC. 222. ADMINISTRATION. 20 USC 9132.

"(a) IN GENERAL.—Not more than 4 percent of the total amount of funds received under this subtitle for any fiscal year by a State may be used for administrative costs.

"(b) CONSTRUCTION.—Nothing in this section shall be construed to limit spending for evaluation costs under section 224(c) from sources other than this subtitle.

20 USC 9133.

"SEC. 223. PAYMENTS; FEDERAL SHARE; AND MAINTENANCE OF EFFORT REQUIREMENTS.

"(a) PAYMENTS.—Subject to appropriations provided pursuant to section 214, the Director shall pay to each State library administrative agency having a State plan approved under section 224 the Federal share of the cost of the activities described in the State plan.

"(b) FEDERAL SHARE.—

"(1) IN GENERAL.—The Federal share shall be 66 percent.

"(2) NON-FEDERAL SHARE.—The non-Federal share of payments shall be provided from non-Federal, State, or local sources.

"(c) MAINTENANCE OF EFFORT.—

"(1) STATE EXPENDITURES.—

"(A) REQUIREMENT.—

"(i) IN GENERAL.—The amount otherwise payable to a State for a fiscal year pursuant to an allotment under this chapter shall be reduced if the level of State expenditures, as described in paragraph (2), for the previous fiscal year is less than the average of the total of such expenditures for the 3 fiscal years preceding that previous fiscal year. The amount of the reduction in allotment for any fiscal year shall be equal to the amount by which the level of such State expenditures for the fiscal year for which the determination is made is less than the average of the total of such expenditures for the 3 fiscal years preceding the fiscal year for which the determination is made.

"(ii) CALCULATION.—Any decrease in State expenditures resulting from the application of subparagraph (B) shall be excluded from the calculation of the average level of State expenditures for any 3-year period described in clause (i).

"(B) DECREASE IN FEDERAL SUPPORT.—If the amount made available under this subtitle for a fiscal year is less than the amount made available under this subtitle for the preceding fiscal year, then the expenditures required by subparagraph (A) for such preceding fiscal year shall be decreased by the same percentage as the percentage decrease in the amount so made available.

"(2) LEVEL OF STATE EXPENDITURES.—The level of State expenditures for the purposes of paragraph (1) shall include all State dollars expended by the State library administrative agency for library programs that are consistent with the purposes of this subtitle. All funds included in the maintenance of effort calculation under this subsection shall be expended during the fiscal year for which the determination is made, and shall not include capital expenditures, special one-time project costs, or similar windfalls.

"(3) WAIVER.—The Director may waive the requirements of paragraph (1) if the Director determines that such a waiver

would be equitable due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State.

"SEC. 224. STATE PLANS. 20 USC 9134.

"(a) STATE PLAN REQUIRED.—

"(1) IN GENERAL.—In order to be eligible to receive a grant under this subtitle, a State library administrative agency shall submit a State plan to the Director not later than April 1, 1997.

"(2) DURATION.—The State plan shall cover a period of 5 fiscal years.

"(3) REVISIONS.—If a State library administrative agency makes a substantive revision to its State plan, then the State library administrative agency shall submit to the Director an amendment to the State plan containing such revision not later than April 1 of the fiscal year preceding the fiscal year for which the amendment will be effective.

"(b) CONTENTS.—The State plan shall—

"(1) establish goals, and specify priorities, for the State consistent with the purposes of this subtitle;

"(2) describe activities that are consistent with the goals and priorities established under paragraph (1), the purposes of this subtitle, and section 231, that the State library administrative agency will carry out during such year using such grant;

"(3) describe the procedures that such agency will use to carry out the activities described in paragraph (2);

"(4) describe the methodology that such agency will use to evaluate the success of the activities established under paragraph (2) in achieving the goals and meeting the priorities described in paragraph (1);

"(5) describe the procedures that such agency will use to involve libraries and library users throughout the State in policy decisions regarding implementation of this subtitle; and

"(6) provide assurances satisfactory to the Director that such agency will make such reports, in such form and containing such information, as the Director may reasonably require to carry out this subtitle and to determine the extent to which funds provided under this subtitle have been effective in carrying out the purposes of this subtitle.

"(c) EVALUATION AND REPORT.—Each State library administrative agency receiving a grant under this subtitle shall independently evaluate, and report to the Director regarding, the activities assisted under this subtitle, prior to the end of the 5-year plan.

"(d) INFORMATION.—Each library receiving assistance under this subtitle shall submit to the State library administrative agency such information as such agency may require to meet the requirements of subsection (c).

"(e) APPROVAL.—

"(1) IN GENERAL.—The Director shall approve any State plan under this subtitle that meets the requirements of this subtitle and provides satisfactory assurances that the provisions of such plan will be carried out.

"(2) PUBLIC AVAILABILITY.—Each State library administrative agency receiving a grant under this subtitle shall make the State plan available to the public.

"(3) ADMINISTRATION.—If the Director determines that the State plan does not meet the requirements of this section, the Director shall—

"(A) immediately notify the State library administrative agency of such determination and the reasons for such determination;

"(B) offer the State library administrative agency the opportunity to revise its State plan;

"(C) provide technical assistance in order to assist the State library administrative agency in meeting the requirements of this section; and

"(D) provide the State library administrative agency the opportunity for a hearing.

"CHAPTER 2—LIBRARY PROGRAMS

20 USC 9141.

"SEC. 231. GRANTS TO STATES.

"(a) IN GENERAL.—Of the funds provided to a State library administrative agency under section 214, such agency shall expend, either directly or through subgrants or cooperative agreements, at least 96 percent of such funds for—

"(1)(A) establishing or enhancing electronic linkages among or between libraries;

"(B) electronically linking libraries with educational, social, or information services;

"(C) assisting libraries in accessing information through electronic networks;

"(D) encouraging libraries in different areas, and encouraging different types of libraries, to establish consortia and share resources; or

"(E) paying costs for libraries to acquire or share computer systems and telecommunications technologies; and

"(2) targeting library and information services to persons having difficulty using a library and to underserved urban and rural communities, including children (from birth through age 17) from families with incomes below the poverty line (as defined by the Office of Management and Budget and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) applicable to a family of the size involved.

"(b) SPECIAL RULE.—Each State library administrative agency receiving funds under this chapter may apportion the funds available for the purposes described in subsection (a) between the two purposes described in paragraphs (1) and (2) of such subsection, as appropriate, to meet the needs of the individual State.

"CHAPTER 3—ADMINISTRATIVE PROVISIONS

"Subchapter A—State Requirements

20 USC 9151.

"SEC. 251. STATE ADVISORY COUNCILS.

"Each State desiring assistance under this subtitle may establish a State advisory council which is broadly representative of the library entities in the State, including public, school, academic,

special, and institutional libraries, and libraries serving individuals with disabilities.

"Subchapter B—Federal Requirements

"SEC. 261. SERVICES FOR INDIAN TRIBES. 20 USC 9161.

"From amounts reserved under section 221(a)(1)(A) for any fiscal year the Director shall award grants to organizations primarily serving and representing Indian tribes to enable such organizations to carry out the activities described in section 231.

"SEC. 262. NATIONAL LEADERSHIP GRANTS OR CONTRACTS. 20 USC 9162.

"(a) IN GENERAL.—From the amounts reserved under section 221(a)(1)(B) for any fiscal year the Director shall establish and carry out a program awarding national leadership grants or contracts to enhance the quality of library services nationwide and to provide coordination between libraries and museums. Such grants or contracts shall be used for activities that may include—

"(1) education and training of persons in library and information science, particularly in areas of new technology and other critical needs, including graduate fellowships, traineeships, institutes, or other programs;

"(2) research and demonstration projects related to the improvement of libraries, education in library and information science, enhancement of library services through effective and efficient use of new technologies, and dissemination of information derived from such projects;

"(3) preservation of digitization of library materials and resources, giving priority to projects emphasizing coordination, avoidance of duplication, and access by researchers beyond the institution or library entity undertaking the project; and

"(4) model programs demonstrating cooperative efforts between libraries and museums.

"(b) GRANTS OR CONTRACTS.—

"(1) IN GENERAL.—The Director may carry out the activities described in subsection (a) by awarding grants to, or entering into contracts with, libraries, agencies, institutions of higher education, or museums, where appropriate.

"(2) COMPETITIVE BASIS.—Grants and contracts under this section shall be awarded on a competitive basis.

"(c) SPECIAL RULE.—The Director shall make every effort to ensure that activities assisted under this section are administered by appropriate library and museum professionals or experts.

"SEC. 263. STATE AND LOCAL INITIATIVES. 20 USC 9163.

"Nothing in this subtitle shall be construed to interfere with State and local initiatives and responsibility in the conduct of library services. The administration of libraries, the selection of personnel and library books and materials, and insofar as consistent with the purposes of this subtitle, the determination of the best uses of the funds provided under this subtitle, shall be reserved for the States and their local subdivisions.

"Subtitle C—Museum Services

"SEC. 271. PURPOSE. 20 USC 9171.

"It is the purpose of this subtitle—

"(1) to encourage and assist museums in their educational role, in conjunction with formal systems of elementary, secondary, and postsecondary education and with programs of nonformal education for all age groups;

"(2) to assist museums in modernizing their methods and facilities so that the museums are better able to conserve the cultural, historic, and scientific heritage of the United States; and

"(3) to ease the financial burden borne by museums as a result of their increasing use by the public.

20 USC 9172.

"SEC. 272. DEFINITIONS.

"As used in this subtitle:

"(1) MUSEUM.—The term 'museum' means a public or private nonprofit agency or institution organized on a permanent basis for essentially educational or aesthetic purposes, that utilizes a professional staff, owns or utilizes tangible objects, cares for the tangible objects, and exhibits the tangible objects to the public on a regular basis.

"(2) STATE.—The term 'State' means each of the 50 States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

20 USC 9173.

"SEC. 273. MUSEUM SERVICES ACTIVITIES.

"(a) GRANTS.—The Director, subject to the policy direction of the Museum Board, may make grants to museums to pay for the Federal share of the cost of increasing and improving museum services, through such activities as—

"(1) programs that enable museums to construct or install displays, interpretations, and exhibitions in order to improve museum services provided to the public;

"(2) assisting museums in developing and maintaining professionally trained or otherwise experienced staff to meet the needs of the museums;

"(3) assisting museums in meeting the administrative costs of preserving and maintaining the collections of the museums, exhibiting the collections to the public, and providing educational programs to the public through the use of the collections;

"(4) assisting museums in cooperating with each other in developing traveling exhibitions, meeting transportation costs, and identifying and locating collections available for loan;

"(5) assisting museums in the conservation of their collections;

"(6) developing and carrying out specialized programs for specific segments of the public, such as programs for urban neighborhoods, rural areas, Indian reservations, and penal and other State institutions; and

"(7) model programs demonstrating cooperative efforts between libraries and museums.

"(b) CONTRACTS AND COOPERATIVE AGREEMENTS.—

"(1) PROJECTS TO STRENGTHEN MUSEUM SERVICES.—The Director, subject to the policy direction of the Museum Board, is authorized to enter into contracts and cooperative agreements with appropriate entities, as determined by the Director, to

pay for the Federal share of enabling the entities to undertake projects designed to strengthen museum services, except that any contracts or cooperative agreements entered into pursuant to this subsection shall be effective only to such extent or in such amounts as are provided in appropriations Acts.

"(2) LIMITATION ON AMOUNT.—The aggregate amount of financial assistance made available under this subsection for a fiscal year shall not exceed 15 percent of the amount appropriated under this subtitle for such fiscal year.

"(3) OPERATIONAL EXPENSES.—No financial assistance may be provided under this subsection to pay for operational expenses.

"(c) FEDERAL SHARE.—

"(1) 50 PERCENT.—Except as provided in paragraph (2), the Federal share described in subsection (a) and (b) shall be not more than 50 percent.

"(2) GREATER THAN 50 PERCENT.—The Director may use not more than 20 percent of the funds made available under this subtitle for a fiscal year to make grants under subsection (a), or enter into contracts or agreements under subsection (b), for which the Federal share may be greater than 50 percent.

"(d) REVIEW AND EVALUATION.—The Director shall establish procedures for reviewing and evaluating grants, contracts, and cooperative agreements made or entered into under this subtitle. Procedures for reviewing grant applications or contracts and cooperative agreements for financial assistance under this subtitle shall not be subject to any review outside of the Institute.

"SEC. 274. AWARD. 20 USC 9174.

"The Director, with the advice of the Museum Board, may annually award a National Award for Museum Service to outstanding museums that have made significant contributions in service to their communities.

"SEC. 275. NATIONAL MUSEUM SERVICES BOARD. 20 USC 9175.

"(a) ESTABLISHMENT.—There is established in the Institute a National Museum Services Board.

"(b) COMPOSITION AND QUALIFICATIONS.—

"(1) COMPOSITION.—The Museum Board shall consist of the Director and 14 members appointed by the President, by and with the advice and consent of the Senate.

"(2) QUALIFICATIONS.—The appointive members of the Museum Board shall be selected from among citizens of the United States—

"(A) who are members of the general public;

"(B) who are or have been affiliated with—

"(i) resources that, collectively, are broadly representative of the curatorial, conservation, educational, and cultural resources of the United States; or

"(ii) museums that, collectively, are broadly representative of various types of museums, including museums relating to science, history, technology, art, zoos, and botanical gardens; and

"(C) who are recognized for their broad knowledge, expertise, or experience in museums or commitment to museums.

"(3) GEOGRAPHIC AND OTHER REPRESENTATION.—Members of the Museum Board shall be appointed to reflect persons from various geographic regions of the United States. The Museum Board may not include, at any time, more than 3 members from a single State. In making such appointments, the President shall give due regard to equitable representation of women, minorities, and persons with disabilities who are involved with museums.

"(c) TERMS.—

"(1) IN GENERAL.—Each appointive member of the Museum Board shall serve for a term of 5 years, except that—

"(A) of the members first appointed, 3 shall serve for terms of 5 years, 3 shall serve for terms of 4 years, 3 shall serve for terms of 3 years, 3 shall serve for terms of 2 years, and 2 shall serve for terms of 1 year, as designated by the President at the time of nomination for appointment; and

"(B) any member appointed to fill a vacancy shall serve for the remainder of the term for which the predecessor of the member was appointed.

"(2) REAPPOINTMENT.—No member of the Museum Board who has been a member for more than 7 consecutive years shall be eligible for reappointment.

"(3) SERVICE UNTIL SUCCESSOR TAKES OFFICE.—Notwithstanding any other provision of this subsection, a member of the Museum Board shall serve after the expiration of the term of the member until the successor to the member takes office.

"(d) DUTIES AND POWERS.—The Museum Board shall have the responsibility to advise the Director on general policies with respect to the duties, powers, and authority of the Institute relating to museum services, including general policies with respect to—

"(1) financial assistance awarded under this subtitle for museum services; and

"(2) projects described in section 262(a)(4).

"(e) CHAIRPERSON.—The President shall designate 1 of the appointive members of the Museum Board as Chairperson of the Museum Board.

"(f) MEETINGS.—

"(1) IN GENERAL.—The Museum Board shall meet—

"(A) not less than 3 times each year, including—

"(i) not less than 2 times each year separately; and

"(ii) not less than 1 time each year in a joint meeting with the Commission, convened for purposes of making general policies with respect to financial assistance for projects described in section 262(a)(4); and

"(B) at the call of the Director.

"(2) VOTE.—All decisions by the Museum Board with respect to the exercise of the duties and powers of the Museum Board shall be made by a majority vote of the members of the Museum Board who are present. All decisions by the Commission and the Museum Board with respect to the policies described in paragraph (1)(A)(ii) shall be made by a ⅔ majority vote of the total number of the members of the Commission and the Museum Board who are present.

"(g) QUORUM.—A majority of the members of the Museum Board shall constitute a quorum for the conduct of business at official meetings of the Museum Board, but a lesser number of members may hold hearings. A majority of the members of the Commission and a majority of the members of the Museum Board shall constitute a quorum for the conduct of business at official joint meetings of the Commission and the Museum Board.

"(h) COMPENSATION AND TRAVEL EXPENSES.—

"(1) COMPENSATION.—Each member of the Museum Board who is not an officer or employee of the Federal Government may be compensated at a rate to be fixed by the President, but not to exceed the daily equivalent of the maximum rate authorized for a position above grade GS–15 of the General Schedule under section 5108 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Museum Board. All members of the Museum Board who are officers or employees of the Federal Government shall serve without compensation in addition to compensation received for their services as officers or employees of the Federal Government.

"(2) TRAVEL EXPENSES.—The members of the Museum Board may be allowed travel expenses, including per diem in lieu of subsistence, in the same amounts and to the same extent, as authorized under section 5703 of title 5, United States Code, for persons employed intermittently in Federal Government service.

"(i) COORDINATION.—The Museum Board, with the advice of the Director, shall take steps to ensure that the policies and activities of the Institute are coordinated with other activities of the Federal Government.

"SEC. 276. AUTHORIZATION OF APPROPRIATIONS. 20 USC 9176.

"(a) GRANTS.—For the purpose of carrying out this subtitle, there are authorized to be appropriated to the Director $28,700,000 for the fiscal year 1997, and such sums as may be necessary for each of the fiscal years 1998 through 2002.

"(b) ADMINISTRATION.—Not more than 10 percent of the funds appropriated under this section for a fiscal year may be used to pay for the administrative costs of carrying out this subtitle.

"(c) SUMS REMAINING AVAILABLE.—Sums appropriated pursuant to subsection (a) for any fiscal year shall remain available for obligation until expended.".

SEC. 703. NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE.

(a) FUNCTIONS.—Section 5 of the National Commission on Libraries and Information Science Act (20 U.S.C. 1504) is amended—

(1) by redesignating subsections (b) through (d) as subsections (d) through (f), respectively; and

(2) by inserting after subsection (a) the following:

"(b) The Commission shall have the responsibility to advise the Director of the Institute of Museum and Library Services on general policies with respect to the duties, powers, and authority of the Institute of Museum and Library Services relating to library services, including—

"(1) general policies with respect to—

"(A) financial assistance awarded under the Museum and Library Services Act for library services; and

"(B) projects described in section 262(a)(4) of such Act; and

"(2) measures to ensure that the policies and activities of the Institute of Museum and Library Services are coordinated with other activities of the Federal Government.

"(c)(1) The Commission shall meet not less than 1 time each year in a joint meeting with the National Museum Services Board, convened for purposes of providing advice on general policy with respect to financial assistance for projects described in section 262(a)(4) of such Act.

"(2) All decisions by the Commission and the National Museum Services Board with respect to the advice on general policy described in paragraph (1) shall be made by a ⅔ majority vote of the total number of the members of the Commission and the National Museum Services Board who are present.

"(3) A majority of the members of the Commission and a majority of the members of the National Museum Services Board shall constitute a quorum for the conduct of business at official joint meetings of the Commission and the National Museum Services Board.".

(b) MEMBERSHIP.—Section 6 of the National Commission on Libraries and Information Science Act (20 U.S.C. 1505) is amended—

(1) in subsection (a)—

(A) in the first sentence, by striking "Librarian of Congress" and inserting "Librarian of Congress, the Director of the Institute of Museum and Library Services (who shall serve as an ex officio, nonvoting member),";

(B) in the second sentence—

(i) by striking "special competence or interest in" and inserting "special competence in or knowledge of; and

(ii) by inserting before the period the following: "and at least one other of whom shall be knowledgeable with respect to the library and information service and science needs of the elderly";

(C) in the third sentence, by inserting "appointive" before "members"; and

(D) in the last sentence, by striking "term and at least" and all that follows and inserting "term."; and

(2) in subsection (b), by striking "the rate specified" and all that follows through "and while" and inserting "the daily equivalent of the maximum rate authorized for a position above grade GS–15 of the General Schedule under section 5108 of title 5, United States Code, for each day (including traveltime) during which the members are engaged in the business of the Commission. While".

20 USC 9102 note.

SEC. 704. TRANSFER OF FUNCTIONS FROM INSTITUTE OF MUSEUM SERVICES.

(a) DEFINITIONS.—For purposes of this section, unless otherwise provided or indicated by the context—

(1) the term "Federal agency" has the meaning given to the term "agency" by section 551(1) of title 5, United States Code;

(2) the term "function" means any duty, obligation, power, authority, responsibility, right, privilege, activity, or program; and

(3) the term "office" includes any office, administration, agency, institute, unit, organizational entity, or component thereof.

(b) TRANSFER OF FUNCTIONS FROM THE INSTITUTE OF MUSEUM SERVICES AND THE LIBRARY PROGRAM OFFICE.—There are transferred to the Director of the Institute of Museum and Library Services established under section 203 of the Museum and Library Services Act—

(1) all functions that the Director of the Institute of Museum Services exercised before the date of enactment of this section (including all related functions of any officer or employee of the Institute of Museum Services); and

(2) all functions that the Director of Library Programs in the Office of Educational Research and Improvement in the Department of Education exercised before the date of enactment of this section and any related function of any officer or employee of the Department of Education.

(c) DETERMINATIONS OF CERTAIN FUNCTIONS BY THE OFFICE OF MANAGEMENT AND BUDGET.—If necessary, the Office of Management and Budget shall make any determination of the functions that are transferred under subsection (b).

(d) DELEGATION AND ASSIGNMENT.—Except where otherwise expressly prohibited by law or otherwise provided by this section, the Director of the Institute of Museum and Library Services may delegate any of the functions transferred to the Director of the Institute of Museum and Library Services by this section and any function transferred or granted to such Director of the Institute of Museum and Library Services after the effective date of this section to such officers and employees of the Institute of Museum and Library Services as the Director of the Institute of Museum and Library Services may designate, and may authorize successive redelegations of such functions as may be necessary or appropriate, except that any delegation of any such functions with respect to libraries shall be made to the Deputy Director of the Office of Library Services and with respect to museums shall be made to the Deputy Director of the Office of Museum Services. No delegation of functions by the Director of the Institute of Museum and Library Services under this section or under any other provision of this section shall relieve such Director of the Institute of Museum and Library Services of responsibility for the administration of such functions.

(e) REORGANIZATION.—The Director of the Institute of Museum and Library Services may allocate or reallocate any function transferred under subsection (b) among the officers of the Institute of Museum and Library Services, and may establish, consolidate, alter, or discontinue such organizational entities in the Institute of Museum and Library Services as may be necessary or appropriate.

(f) RULES.—The Director of the Institute of Museum and Library Services may prescribe, in accordance with chapters 5 and 6 of title 5, United States Code, such rules and regulations as the Director of the Institute of Museum and Library Services determines to be necessary or appropriate to administer and manage the functions of the Institute of Museum and Library Services.

(g) TRANSFER AND ALLOCATIONS OF APPROPRIATIONS AND PERSONNEL.—Except as otherwise provided in this section, the personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, used, held, arising from, available to, or to be made available in connection with the functions transferred by this section, subject to section 1531 of title 31, United States Code, shall be transferred to the Institute of Museum and Library Services. Unexpended funds transferred pursuant to this subsection shall be used only for the purposes for which the funds were originally authorized and appropriated.

(h) INCIDENTAL TRANSFERS.—The Director of the Office of Management and Budget, at such time or times as the Director shall provide, may make such determinations as may be necessary with regard to the functions transferred by this section, and make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with such functions, as may be necessary to carry out this section. The Director of the Office of Management and Budget shall provide for the termination of the affairs of all entities terminated by this section and for such further measures and dispositions as may be necessary to effectuate the purposes of this section.

(i) EFFECT ON PERSONNEL.—

(1) IN GENERAL.—Except as otherwise provided by this section, the transfer pursuant to this section of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation for 1 year after the date of transfer of such employee under this section.

(2) EXECUTIVE SCHEDULE POSITIONS.—Except as otherwise provided in this section, any person who, on the day preceding the effective date of this section, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the Institute of Museum and Library Services to a position having duties comparable to the duties performed immediately preceding such appointment shall continue to be compensated in such new position at not less than the rate provided for such previous position, for the duration of the service of such person in such new position.

(j) SAVINGS PROVISIONS.—

(1) CONTINUING EFFECT OF LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, agreements, grants, contracts, certificates, licenses, registrations, privileges, and other administrative actions—

(A) that have been issued, made, granted, or allowed to become effective by the President, any Federal agency or official of a Federal agency, or by a court of competent jurisdiction, in the performance of functions that are transferred under this section; and

(B) that were in effect before the effective date of this section, or were final before the effective date of this

section and are to become effective on or after the effective date of this section;

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Director of the Institute of Museum and Library Services or other authorized official, a court of competent jurisdiction, or by operation of law.

(2) PROCEEDINGS NOT AFFECTED.—This section shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending before the Institute of Museum Services on the effective date of this section, with respect to functions transferred by this section. Such proceedings and applications shall be continued. Orders shall be issued in such proceedings, appeals shall be taken from the orders, and payments shall be made pursuant to the orders, as if this section had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this paragraph shall be construed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this section had not been enacted.

(3) SUITS NOT AFFECTED.—This section shall not affect suits commenced before the effective date of this section, and in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this section had not been enacted.

(4) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against the Institute of Museum Services, or by or against any individual in the official capacity of such individual as an officer of the Institute of Museum Services, shall abate by reason of the enactment of this section.

(5) ADMINISTRATIVE ACTIONS RELATING TO PROMULGATION OF REGULATIONS.—Any administrative action relating to the preparation or promulgation of a regulation by the Institute of Museum Services relating to a function transferred under this section may be continued by the Institute of Museum and Library Services with the same effect as if this section had not been enacted.

(k) TRANSITION.—The Director of the Institute of Museum and Library Services may utilize—

(1) the services of such officers, employees, and other personnel of the Institute of Museum Services with respect to functions transferred to the Institute of Museum and Library Services by this section; and

(2) funds appropriated to such functions for such period of time as may reasonably be needed to facilitate the orderly implementation of this section.

(l) REFERENCES.—A reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or relating to—

(1) the Director of the Institute of Museum Services with regard to functions transferred under subsection (b), shall be deemed to refer to the Director of the Institute of Museum and Library Services; and

(2) the Institute of Museum Services with regard to functions transferred under subsection (b), shall be deemed to refer to the Institute of Museum and Library Services.

(m) ADDITIONAL CONFORMING AMENDMENTS.—

(1) RECOMMENDED LEGISLATION.—After consultation with the appropriate committees of Congress and the Director of the Office of Management and Budget, the Director of the Institute of Museum and Library Services shall prepare and submit to the appropriate committees of Congress recommended legislation containing technical and conforming amendments to reflect the changes made by this section.

(2) SUBMISSION TO CONGRESS.—Not later than 6 months after the effective date of this section, the Director of the Institute of Museum and Library Services shall submit to the appropriate committees of Congress the recommended legislation referred to under paragraph (1).

20 USC 9103 note.

SEC. 705. SERVICE OF INDIVIDUALS SERVING ON DATE OF ENACTMENT.

Notwithstanding section 204 of the Museum and Library Services Act, the individual who was appointed to the position of Director of the Institute of Museum Services under section 205 of the Museum Services Act (as such section was in effect on the day before the date of enactment of this Act) and who is serving in such position on the day before the date of enactment of this Act shall serve as the first Director of the Institute of Museum and Library Services under section 204 of the Museum and Library Services Act (as added by section 2 of this Act), and shall serve at the pleasure of the President.

20 USC 9105 note.

SEC. 706. CONSIDERATION.

Consistent with title 5, United States Code, in appointing employees of the Office of Library Services, the Director of the Institute of Museum and Library Services shall give strong consideration to individuals with experience in administering State-based and national library and information services programs.

20 USC 9102 note.

SEC. 707. TRANSITION AND TRANSFER OF FUNDS.

(a) TRANSITION.—The Director of the Office of Management and Budget shall take appropriate measures to ensure an orderly transition from the activities previously administered by the Director of Library Programs in the Office of Educational Research and Improvement in the Department of Education to the activities administered by the Institute for Museum and Library Services under this Act. Such measures may include the transfer of appropriated funds.

(b) TRANSFER.—From any amounts available to the Secretary of Education for salaries and expenses at the Department of Education, the Secretary of Education shall transfer to the Director the amount of funds necessary to ensure the orderly transition from activities previously administered by the Director of the Office of Library Programs in the Office of Educational Research and Improvement in the Department of Education to the activities administered by the Institute for Museum and Library Services. In no event shall the amount of funds transferred pursuant to the preceding sentence be less than $200,000.

SEC. 708. REPEALS.

(a) LIBRARY SERVICES AND CONSTRUCTION ACT.—The Library Services and Construction Act (20 U.S.C. 351 et seq.) is repealed.

(b) TITLE II OF THE HIGHER EDUCATION ACT OF 1965.—Title II of the Higher Education Act of 1965 (20 U.S.C. 1021 et seq.), relating to academic libraries and information services, is repealed.

(c) PART D OF TITLE XIII OF THE HIGHER EDUCATION AMENDMENTS OF 1986.—Part D of title XIII of the Higher Education Amendments of 1986 (20 U.S.C. 1029 note), relating to library resources, is repealed.

(d) SECTION 519 OF THE EDUCATION AMENDMENTS OF 1974.—Section 519 of the Education Amendments of 1974 (20 U.S.C. 1221i) is repealed.

(e) PART F OF THE TECHNOLOGY FOR EDUCATION ACT OF 1994.—Part F of the Technology for Education Act of 1994 (20 U.S.C. 7001 et seq.), contained in title III of the Elementary and Secondary Education Act of 1965, is repealed.

SEC. 709. CONFORMING AMENDMENTS.

(a) REFERENCES TO LIBRARY SERVICES AND CONSTRUCTION ACT.—

(1) TECHNOLOGY FOR EDUCATION ACT OF 1994.—Section 3113(10) of the Technology for Education Act of 1994 (20 U.S.C. 6813(10)) is amended by striking "section 3 of the Library Services and Construction Act;" and inserting "section 213 of the Library Services and Technology Act;".

(2) OMNIBUS EDUCATION RECONCILIATION ACT OF 1981.—Section 528 of the Omnibus Education Reconciliation Act of 1981 (20 U.S.C. 3489) is amended—

(A) by striking paragraph (12); and

(B) by redesignating paragraphs (13) through (15) as paragraphs (12) through (14), respectively.

(3) ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.—Section 3113(10) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6813(10)) is amended by striking "section 3 of the Library Services and Construction Act" and inserting "section 213 of the Library Services and Technology Act".

(4) COMMUNITY IMPROVEMENT VOLUNTEER ACT OF 1994.—Section 7305 of the Community Improvement Volunteer Act of 1994 (40 U.S.C. 276d–3) is amended—

(A) by striking paragraph (1); and

(B) by redesignating paragraphs (2) through (6) as paragraphs (1) through (5), respectively.

(5) APPALACHIAN REGIONAL DEVELOPMENT ACT OF 1965.—Section 214(c) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App. 214(c)) is amended by striking "Library Services and Construction Act;".

(6) DEMONSTRATION CITIES AND METROPOLITAN DEVELOPMENT ACT OF 1966.—Section 208(2) of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3338(2)) is amended by striking "title II of the Library Services and Construction Act;".

(7) PUBLIC LAW 87–688.—Subsection (c) of the first section of the Act entitled "An Act to extend the application of certain laws to American Samoa", approved September 25, 1962 (48 U.S.C. 1666(c)) is amended by striking "the Library Services Act (70 Stat. 293; 20 U.S.C. 351 et seq.),".

(8) COMMUNICATIONS ACT OF 1934.—Paragraph (4) of section 254(h) of the Communications Act of 1934 (47 U.S.C. 254(h)(4)) is amended by striking "library not eligible for participation in State-based plans for funds under title III of the Library Services and Construction Act (20 U.S.C. 335c et seq.)" and inserting "library or library consortium not eligible for assistance from a State library administrative agency under the Library Services and Technology Act".

(b) REFERENCES TO INSTITUTE OF MUSEUM SERVICES.—

(1) TITLE 5, UNITED STATES CODE.—Section 5315 of title 5, United States Code, is amended by striking the following:

"Director of the Institute of Museum Services." and inserting the following:

"Director of the Institute of Museum and Library Services.".

(2) DEPARTMENT OF EDUCATION ORGANIZATION ACT.—Section 301 of the Department of Education Organization Act (20 U.S.C. 3441) is amended—

(A) in subsection (a)—

(i) by striking paragraph (5); and

(ii) by redesignating paragraphs (6) and (7) as paragraphs (5) and (6), respectively; and

(B) in subsection (b)—

(i) by striking paragraph (4); and

(ii) by redesignating paragraphs (5) through (7) as paragraphs (4) through (6), respectively.

(3) ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.—

(A) Sections 2101(b), 2205(c)(1)(D), 2208(d)(1)(H)(v), and 2209(b)(1)(C)(iv), and subsection (d)(6) and (e)(2) of section 10401 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6621(b), 6645(c)(1)(D), 6648(d)(1)(H)(v), 6649(b)(1)(C)(vi), and 8091 (d)(6) and (e)(2)) are amended by striking "the Institute of Museum Services" and inserting "the Institute of Museum and Library Services".

(B) Section 10412(b) of such Act (20 U.S.C. 8102(b)) is amended—

(i) in paragraph (2), by striking "the Director of the Institute of Museum Services," and inserting "the Director of the Institute of Museum and Library Services,"; and

(ii) in paragraph (7), by striking "the Director of the Institute of Museum Services," and inserting "the director of the Institute of Museum and Library Services,".

(C) Section 10414(a)(2)(B) of such Act (20 U.S.C. 8104(a)(2)(B)) is amended by striking clause (iii) and inserting the following new clause:

"(iii) the Institute of Museum and Library Services.".

(c) REFERENCES TO OFFICE OF LIBRARIES AND LEARNING RESOURCES.—Section 413(b)(1) of the Department of Education Organization Act (20 U.S.C. 3473(b)(1)) is amended—

(1) by striking subparagraph (H); and

(2) by redesignating subparagraphs (I) through (M) as subparagraphs (H) through (L), respectively.

(d) REFERENCE TO STATE POSTSECONDARY REVIEW ENTITY PROGRAMS.—Section 356(b)(2) of the Higher Education Act of 1965 (20 U.S.C. 10696(b)) is amended by striking "II,".

This Act may be cited as the "Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1997".

(f) For programs, projects or activities in the Treasury, Postal Service, and General Appropriations Act, 1997, provided as follows, to be effective as if it had been enacted into law as the regular appropriations Act:

Treasury, Postal Service, and General Government Appropriations Act, 1997.

AN ACT

Making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1997, and for other purposes.

Treasury Department Appropriations Act, 1997.

TITLE I—DEPARTMENT OF THE TREASURY

DEPARTMENTAL OFFICES

SALARIES AND EXPENSES

For necessary expenses of the Departmental Offices including operation and maintenance of the Treasury Building and Annex; hire of passenger motor vehicles; maintenance, repairs, and improvements of, and purchase of commercial insurance policies for, real properties leased or owned overseas, when necessary for the performance of official business; not to exceed $2,900,000 for official travel expenses; not to exceed $150,000 for official reception and representation expenses; not to exceed $258,000 for unforeseen emergencies of a confidential nature, to be allocated and expended under the direction of the Secretary of the Treasury and to be accounted for solely on his certificate; $111,760,000.

AUTOMATION ENHANCEMENT

INCLUDING TRANSFER OF FUNDS

For the development and acquisition of automatic data processing equipment, software, and services for the Department of the Treasury, $27,100,000, of which $15,000,000 shall be available to the United States Customs Service for the Automated Commercial Environment project, and of which $5,600,000 shall be available to the United States Customs Service for the International Trade Data System: *Provided,* That these funds shall remain available until September 30, 1999: *Provided further,* That these funds shall be transferred to accounts and in amounts as necessary to satisfy the requirements of the Department's offices, bureaus, and other organizations: *Provided further,* That this transfer authority shall be in addition to any other transfer authority provided in this Act: *Provided further,* That none of the funds shall be used to support or supplement Internal Revenue Service appropriations for Information Systems and Tax Systems Modernization: *Provided further,* That of the funds appropriated for the Automated Commercial Environment, $3,475,000 may not be obligated until the Commissioner of Customs consults with the Committees on Appropriations regarding deficiencies identified by the General Accounting Office.

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, not to exceed $2,000,000 for official travel expenses; including hire of passenger motor vehicles; and not to exceed $100,000 for unforeseen emergencies of a confidential nature, to be allocated and expended under the direction of the Inspector General of the Treasury; $29,736,000.

OFFICE OF PROFESSIONAL RESPONSIBILITY

SALARIES AND EXPENSES

For necessary expenses of the Office of Professional Responsibility, including purchase and hire of passenger motor vehicles, $1,500,000.

TREASURY BUILDINGS AND ANNEX REPAIR AND RESTORATION

INCLUDING TRANSFER OF FUNDS

For the repair, alteration, and improvement of the Treasury Building and Annex, $28,213,000, to remain available until expended: *Provided,* That funds previously made available under this title for the Secret Service Headquarter's building shall be transferred to the Secret Service Acquisition, Construction, Improvement and Related Expenses appropriation.

FINANCIAL CRIMES ENFORCEMENT NETWORK

SALARIES AND EXPENSES

For necessary expenses of the Financial Crimes Enforcement Network, including hire of passenger motor vehicles; travel expenses of non-Federal law enforcement personnel to attend meetings concerned with financial intelligence activities, law enforcement, and financial regulation; not to exceed $14,000 for official reception and representation expenses; and for assistance to Federal law enforcement agencies, with or without reimbursement; $22,387,000: *Provided,* That notwithstanding any other provision of law, the Director of the Financial Crimes Enforcement Network may procure up to $500,000 in specialized, unique, or novel automatic data processing equipment, ancillary equipment, software, services, and related resources from commercial vendors without regard to otherwise applicable procurement laws and regulations and without full and open competition, utilizing procedures best suited under the circumstances of the procurement to efficiently fulfill the agency's requirements: *Provided further,* That funds appropriated in this account may be used to procure personal services contracts.

DEPARTMENT OF THE TREASURY FORFEITURE FUND

For necessary expenses of the Treasury Forfeiture Fund, as authorized by Public Law 102–393, not to exceed $10,000,000, to be derived from deposits in the fund: *Provided,* That notwithstanding any other provision of law, not to exceed $7,500,000 shall

be made available for the development of a Federal wireless communication system: *Provided further,* That the Secretary of the Treasury is authorized to receive all unavailable collections transferred from the Special Forfeiture Fund established by section 6073 of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 1509) by the Director of the Office of Drug Control Policy as a deposit into the Treasury Forfeiture Fund (31 U.S.C. 9703(a)).

VIOLENT CRIME REDUCTION PROGRAMS

INCLUDING TRANSFER OF FUNDS

For activities authorized by Public Law 103–322, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund, as follows:

(a) As authorized by section 190001(e), $89,000,000, of which $36,595,000 shall be available to the Bureau of Alcohol, Tobacco and Firearms, of which $3,000,000 shall be available for administering the Gang Resistance Education and Training program, of which $3,662,000 shall be available for ballistics technologies, including the purchase, maintenance and upgrading of equipment and of which $29,133,000 shall be available to enhance training and purchase equipment and services, and of which $800,000 shall be available for project LEAD; of which $18,300,000 shall be available to the Secretary as authorized by section 732 of Public Law 104–132, as amended by Section 113 of the Fiscal Year 1997 Department of Commerce, Justice and State, and the Judiciary, and Related Agencies Appropriations Act; of which $1,000,000 shall be available to the Financial Crimes Enforcement Network; of which $20,000,000 shall be available to the United States Secret Service, of which no less than $1,400,000 shall be available for a grant for activities related to the investigations of missing and exploited children; and of which $13,105,000 shall be available to the Federal Drug Control Programs, High Intensity Drug Trafficking Areas program

(b) As authorized by section 32401, $8,000,000, for disbursement through grants, cooperative agreements or contracts, to local governments for Gang Resistance Education and Training: *Provided,* That notwithstanding sections 32401 and 310001, such funds shall be allocated only to the affected State and local law enforcement and prevention organizations participating in such projects.

TREASURY FRANCHISE FUND

There is hereby established in the Treasury a franchise fund pilot, as authorized by section 403 of Public Law 103–356, to be available as provided in such section for expenses and equipment necessary for the maintenance and operation of such financial and administrative support services as the Secretary determines may be performed more advantageously as central services: *Provided,* That any inventories, equipment, and other assets pertaining to the services to be provided by such fund, either on hand or on order, less the related liabilities or unpaid obligations, and any appropriations made for the purpose of providing capital, shall be used to capitalize such fund: *Provided further,* That such fund shall be reimbursed or credited with the payments, including advanced payments, from applicable appropriations and funds available to the Department and other Federal agencies for which such administrative and financial services are performed, at rates which

31 USC 501 note.

will recover all expenses of operation, including accrued leave, depreciation of fund plant and equipment, amortization of Automatic Data Processing (ADP) software and systems, and an amount necessary to maintain a reasonable operating reserve, as determined by the Secretary: *Provided further,* That such fund shall provide services on a competitive basis: *Provided further,* That an amount not to exceed 4 percent of the total annual income to such fund may be retained in the fund for fiscal year 1997 and each fiscal year thereafter, to remain available until expended, to be used for the acquisition of capital equipment and for the improvement and implementation of Treasury financial management, ADP, and other support systems: *Provided further,* That no later than 30 days after the end of each fiscal year, amounts in excess of this reserve limitation shall be deposited as miscellaneous receipts in the Treasury: *Provided further,* That such franchise fund pilot shall terminate pursuant to section 403(f) of Public Law 103–356.

FEDERAL LAW ENFORCEMENT TRAINING CENTER

SALARIES AND EXPENSES

For necessary expenses of the Federal Law Enforcement Training Center, as a bureau of the Department of the Treasury, including materials and support costs of Federal law enforcement basic training; purchase (not to exceed 52 for police-type use, without regard to the general purchase price limitation) and hire of passenger motor vehicles; for expenses for student athletic and related activities; uniforms without regard to the general purchase price limitation for the current fiscal year; the conducting of and participating in firearms matches and presentation of awards; for public awareness and enhancing community support of law enforcement training; not to exceed $9,500 for official reception and representation expenses; room and board for student interns; and services as authorized by 5 U.S.C. 3109; $54,831,000, of which up to $13,034,000 for materials and support costs of Federal law enforcement basic training shall remain available until September 30, 1999: *Provided,* That the Center is authorized to accept and use gifts of property, both real and personal, and to accept services, for authorized purposes, including funding of a gift of intrinsic value which shall be awarded annually by the Director of the Center to the outstanding student who graduated from a basic training program at the Center during the previous fiscal year, which shall be funded only by gifts received through the Center's gift authority: *Provided further,* That notwithstanding any other provision of law, students attending training at any Federal Law Enforcement Training Center site shall reside in on-Center or Center-provided housing, insofar as available and in accordance with Center policy: *Provided further,* That funds appropriated in this account shall be available, at the discretion of the Director, for: training United States Postal Service law enforcement personnel and Postal police officers; State and local government law enforcement training on a space-available basis; training of foreign law enforcement officials on a space-available basis with reimbursement of actual costs to this appropriation; training of private sector security officials on a space-available basis with reimbursement of actual costs to this appropriation; and travel expenses of non-

42 USC 3771 note.

Federal personnel to attend course development meetings and training at the Center: *Provided further,* That the Center is authorized to obligate funds in anticipation of reimbursements from agencies receiving training at the Federal Law Enforcement Training Center, except that total obligations at the end of the fiscal year shall not exceed total budgetary resources available at the end of the fiscal year: *Provided further,* That the Federal Law Enforcement Training Center is authorized to provide short term medical services for students undergoing training at the Center.

ACQUISITION, CONSTRUCTION, IMPROVEMENTS, AND RELATED EXPENSES

For expansion of the Federal Law Enforcement Training Center, for acquisition of necessary additional real property and facilities, and for ongoing maintenance, facility improvements, and related expenses, $18,884,000, to remain available until expended.

FINANCIAL MANAGEMENT SERVICE

SALARIES AND EXPENSES

For necessary expenses of the Financial Management Service, $196,069,000, of which not to exceed $14,277,000 shall remain available until expended for systems modernization initiatives. In addition, $90,000, to be derived from the Oil Spill Liability Trust Fund, to reimburse the Service for administrative and personnel expenses for financial management of the Fund, as authorized by section 1012 of Public Law 101–380: *Provided,* That none of the funds made available for systems modernization initiatives may not be obligated until the Commissioner of the Financial Management Service has submitted, and the Committees on Appropriations of the House and Senate have approved, a report that identifies, evaluates, and prioritizes all computer systems investments planned for fiscal year 1997, a milestone schedule for the development and implementation of all projects included in the systems investment plan, and a systems architecture plan.

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

SALARIES AND EXPENSES

For necessary expenses of the Bureau of Alcohol, Tobacco and Firearms, including purchase of not to exceed 650 vehicles for police-type use for replacement only and hire of passenger motor vehicles; hire of aircraft; and services of expert witnesses at such rates as may be determined by the Director; for payment of per diem and/or subsistence allowances to employees where an assignment to the National Response Team during the investigation of a bombing or arson incident requires an employee to work 16 hours or more per day or to remain overnight at his or her post of duty; not to exceed $12,500 for official reception and representation expenses; for training of State and local law enforcement agencies with or without reimbursement, including training in connection with the training and acquisition of canines for explosives and fire accelerants detection; provision of laboratory assistance to State and local agencies, with or without reimbursement; $393,971,000, of which $12,011,000, to remain available until

expended, shall be available for arson investigations, with priority assigned to any arson, explosion or violence against religious institutions; which not to exceed $1,000,000 shall be available for the payment of attorneys' fees as provided by 18 U.S.C. 924(d)(2); and of which $1,000,000 shall be available for the equipping of any vessel, vehicle, equipment, or aircraft available for official use by a State or local law enforcement agency if the conveyance will be used in drug-related joint law enforcement operations with the Bureau of Alcohol, Tobacco and Firearms and for the payment of overtime salaries, travel, fuel, training, equipment, and other similar costs of State and local law enforcement officers that are incurred in joint operations with the Bureau of Alcohol, Tobacco and Firearms: *Provided,* That no funds made available by this or any other Act may be used to transfer the functions, missions, or activities of the Bureau of Alcohol, Tobacco and Firearms to other agencies or Departments in the fiscal year ending on September 30, 1997: *Provided further,* That no funds appropriated herein shall be available for salaries or administrative expenses in connection with consolidating or centralizing, within the Department of the Treasury, the records, or any portion thereof, of acquisition and disposition of firearms maintained by Federal firearms licensees: *Provided further,* That no funds appropriated herein shall be used to pay administrative expenses or the compensation of any officer or employee of the United States to implement an amendment or amendments to 27 CFR 178.118 or to change the definition of "Curios or relics" in 27 CFR 178.11 or remove any item from ATF Publication 5300.11 as it existed on January 1, 1994: *Provided further,* That none of the funds appropriated herein shall be available to investigate or act upon applications for relief from Federal firearms disabilities under 18 U.S.C. 925(c):*Provided further,* That such funds shall be available to investigate and act upon applications filed by corporations for relief from Federal firearms disabilities under 18 U.S.C. 925(c): *Provided further,* That no funds in this Act may be used to provide ballistics imaging equipment to any State or local authority who has obtained similar equipment through a Federal grant or subsidy unless the State or local authority agrees to return that equipment or to repay that grant or subsidy to the Federal Government: *Provided further,* That no funds available for separation incentive payments as authorized by section 663 of this Act may be obligated without the advance approval of the House and Senate Committees on Appropriations: *Provided further,* That no funds under this Act may be used to electronically retrieve information gathered pursuant to 18 U.S.C. 923(g)(4) by name or any personal identification code.

LABORATORY FACILITIES

For necessary expenses for design of a new facility or facilities, to house the Bureau of Alcohol, Tobacco and Firearms National Laboratory Center and the Fire Investigation Research and Development Center, not to exceed 185,000 occupiable square feet, $6,978,000, to remain available until expended: *Provided,* That these funds shall not be available until a prospectus of authorization for the Laboratory Facilities is approved by the House Committee on Transportation and Infrastructure and the Senate Committee on Environment and Public Works.

UNITED STATES CUSTOMS SERVICE

SALARIES AND EXPENSES

For necessary expenses of the United States Customs Service, including purchase of up to 1,000 motor vehicles of which 960 are for replacement only, including 990 for police-type use and commercial operations; hire of motor vehicles; contracting with individuals for personal services abroad; not to exceed $30,000 for official reception and representation expenses; and awards of compensation to informers, as authorized by any Act enforced by the United States Customs Service; $1,487,250,000; of which $65,000,000 shall be available until expended for Operation Hardline; of which $28,000,000 shall remain available until expended for acquisition of aircraft and related operations and maintenance associated with Operation Gateway; and of which such sums as become available in the Customs User Fee Account, except sums subject to section 13031(f)(3) of the Consolidated Omnibus Reconciliation Act of 1985, as amended (19 U.S.C. 58c(f)(3)), shall be derived from that Account; of the total, not to exceed $150,000 shall be available for payment for rental space in connection with preclearance operations, and not to exceed $4,000,000 shall be available until expended for research and not to exceed $1,000,000 shall be available until expended for conducting special operations pursuant to 19 U.S.C. 2081 and up to $6,000,000 shall be available until expended for the procurement of automation infrastructure items, including hardware, software, and installation: *Provided,* That uniforms may be purchased without regard to the general purchase price limitation for the current fiscal year:*Provided further,* That the United States Custom Service shall implement the General Aviation Telephonic Entry program within 30 days of enactment of this Act: *Provided further,* That no funds available for separation incentive payments as authorized by section 663 of this Act may be obligated without the advance approval of the House and Senate Committees on Appropriations:*Provided further,* That the Spirit of St. Louis Airport in St. Louis County, Missouri, shall be designated a port of entry: *Provided further,* That no funds under this Act may be used to provide less than 30 days public notice for any change in apparel regulations: *Provided further,* That $750,000 shall be available for additional part-time and temporary positions in the Honolulu Customs District: *Provided further,* That of the funds appropriated $2,500,000 may be made available for the Western Hemisphere Trade Center authorized by Public Law 103–182.

OPERATION AND MAINTENANCE, AIR AND MARINE INTERDICTION PROGRAMS

For expenses, not otherwise provided for, necessary for the operation and maintenance of marine vessels, aircraft, and other related equipment of the Air and Marine Programs, including operational training and mission-related travel, and rental payments for facilities occupied by the air or marine interdiction and demand reduction programs, the operations of which include: the interdiction of narcotics and other goods; the provision of support to Customs and other Federal, State, and local agencies in the enforcement or administration of laws enforced by the Customs Service; and, at the discretion of the Commissioner of Customs, the provision

of assistance to Federal, State, and local agencies in other law enforcement and emergency humanitarian efforts; $83,363,000, which shall remain available until expended: *Provided,* That no aircraft or other related equipment, with the exception of aircraft which is one of a kind and has been identified as excess to Customs requirements and aircraft which has been damaged beyond repair, shall be transferred to any other Federal agency, Department, or office outside of the Department of the Treasury, during fiscal year 1997 without the prior approval of the House and Senate Committees on Appropriations.

CUSTOMS SERVICES AT SMALL AIRPORTS

(TO BE DERIVED FROM FEES COLLECTED)

Such sums as may be necessary for expenses for the provision of Customs services at certain small airports or other facilities when authorized by law and designated by the Secretary of the Treasury, including expenditures for the salary and expenses of individuals employed to provide such services, to be derived from fees collected by the Secretary pursuant to section 236 of Public Law 98–573 for each of these airports or other facilities when authorized by law and designated by the Secretary, and to remain available until expended.

HARBOR MAINTENANCE FEE COLLECTION

For administrative expenses related to the collection of the Harbor Maintenance Fee, pursuant to Public Law 103–182, $3,000,000, to be derived from the Harbor Maintenance Trust Fund and to be transferred to and merged with the Customs "Salaries and Expenses" account for such purposes.

BUREAU OF THE PUBLIC DEBT

ADMINISTERING THE PUBLIC DEBT

For necessary expenses connected with any public-debt issues of the United States; $169,735,000: *Provided,* That the sum appropriated herein from the General Fund for fiscal year 1997 shall be reduced by not more than $4,400,000 as definitive security issue fees and Treasury Direct Investor Account Maintenance fees are collected, so as to result in a final fiscal year 1997 appropriation from the General Fund estimated at $165,335,000.

INTERNAL REVENUE SERVICE

PROCESSING, ASSISTANCE, AND MANAGEMENT

For necessary expenses of the Internal Revenue Service, not otherwise provided for; including processing tax returns; revenue accounting; providing assistance to taxpayers, management services, and inspection; including purchase (not to exceed 150 for replacement only for police-type use) and hire of passenger motor vehicles (31 U.S.C. 1343(b)); and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner; $1,779,840,000, of which up to $3,700,000 shall be for the Tax

Counseling for the Elderly Program, and of which not to exceed $25,000 shall be for official reception and representation expenses.

TAX LAW ENFORCEMENT

For necessary expenses of the Internal Revenue Service for determining and establishing tax liabilities; tax and enforcement litigation; technical rulings; examining employee plans and exempt organizations; investigation and enforcement activities; securing unfiled tax returns; collecting unpaid accounts; statistics of income and compliance research; the purchase (for police-type use, not to exceed 850), and hire of passenger motor vehicles (31 U.S.C. 1343(b)); and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner $4,104,211,000, of which not to exceed $1,000,000 shall remain available until September 30, 1999, for research.

INFORMATION SYSTEMS

For necessary expenses for data processing and telecommunications support for Internal Revenue Service activities, including tax systems modernization and operational information systems; the hire of passenger motor vehicles (31 U.S.C. 1343(b)); and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner, $1,323,075,000, of which no less than $130,075,000 shall be available for Tax Systems Modernization (TSM) development and deployment which shall be available until September 30, 1999, and of which no less than $206,200,000 shall be available for TSM Operational Systems: *Provided*, That none of the funds made available for TSM Operational Systems shall be available after July 31, 1997, unless the Department of the Treasury has prepared a Request for Proposal which could be used as a base for a solicitation of a contract with an alternative or new Prime Contractor to manage, integrate, test and implement the TSM program: *Provided further,* That all activities associated with the development of a request for proposal, contract solicitation, and contract award for private sector assistance on TSM (both operational systems and development and deployment systems), beyond private sector assistance which is currently under contract, shall be conducted by the Department of the Treasury's Modernization Management Board: *Provided further,* That if the Internal Revenue Service determines that it is unable to meet deadlines established herein, the Secretary of the Treasury shall notify the Committees on Appropriations of the House and the Senate of the delay *Provided further,* That the Internal Revenue Service shall submit, by February 1, 1997, a timetable for implementing, by October 1, 1997, recommendations made by the General Accounting Office in its July 1995 report, entitled: "Tax Systems Modernization: Management and Technical Weaknesses Must Be Corrected If Modernization Is To Succeed": *Provided further,* That the Internal Revenue Service shall submit, by December 1, 1996, a schedule to transfer, not later than July 31, 1997, a majority of Tax Systems Modernization development, deployment, management, integration, and testing, from the Internal Revenue Service to the private sector.

INFORMATION SYSTEMS

(RESCISSION)

Of the funds made available under this heading for Information Systems in Public Law 104–52, $115,000,000 are rescinded, in Public Law 103–123, $17,447,000 are rescinded, in Public Law 102–393, $15,000,000 are rescinded, and in Public Law 102–141, $27,000,000 are rescinded.

ADMINISTRATIVE PROVISIONS—INTERNAL REVENUE SERVICE

SECTION 101. Not to exceed 5 percent of any appropriation made available in this Act to the Internal Revenue Service may be transferred to any other Internal Revenue Service appropriation upon the advance approval of the House and Senate Committees on Appropriations.

26 USC 7803 note.

SEC. 102. The Internal Revenue Service shall maintain a training program to insure that Internal Revenue Service employees are trained in taxpayers' rights, in dealing courteously with the taxpayers, and in cross-cultural relations.

SEC. 103. The funds provided in this Act for the Internal Revenue Service shall be used to provide as a minimum, the fiscal year 1995 level of service, staffing, and funding for Taxpayer Services.

SEC. 104. No funds available in this Act to the Internal Revenue Service for separation incentive payments as authorized by section 663 of this Act may be obligated without the advance approval of the House and Senate Committees on Appropriations.

SEC. 105. The Internal Revenue Service (IRS) may proceed with its field support reorganization in fiscal year 1997 after it submits its report, no earlier than March 1, 1997, to the Committees on Appropriations of the House and Senate only if the IRS maintains, in fiscal year 1997, the current level of taxpayer service employees that work on cases generated through walk in vists and telephone calls to IRS offices.

SEC. 106. Funds made available by this or any other Act to the Internal Revenue Service shall be available for improved facilities and increased manpower to provide sufficient and effective 1–800 help line for taxpayers. The Commissioner shall make the improvement of the IRS 1–800 help line service a priority and allocate resources necessary to increase phone lines and staff to improve the IRS 1–800 help line service.

SEC. 107. No funds made available by this Act, or any other Act, to the Internal Revenue Service may be used to pay for the design and printing of more than two ink colors on the covers of income tax packages, and such ink colors must be the same colors as used to print the balance of the material in each package.

SEC. 108. Notwithstanding any other provision of law, no field support reorganization of the Internal Revenue Service shall be undertaken in Aberdeen, South Dakota until the Internal Revenue Service toll-free help phone line assistance program reaches at least an 80 percent service level. The Commissioner shall submit to Congress a report and the GAO shall certify to Congress that the 80 percent service level has been met.

UNITED STATES SECRET SERVICE

SALARIES AND EXPENSES

For necessary expenses of the United States Secret Service, including purchase (not to exceed 702 vehicles for police-type use, of which 665 shall be for replacement only), and hire of passenger motor vehicles; hire of aircraft; training and assistance requested by State and local governments, which may be provided without reimbursement; services of expert witnesses at such rates as may be determined by the Director; rental of buildings in the District of Columbia, and fencing, lighting, guard booths, and other facilities on private or other property not in Government ownership or control, as may be necessary to perform protective functions; for payment of per diem and/or subsistence allowances to employees where a protective assignment during the actual day or days of the visit of a protectee require an employee to work 16 hours per day or to remain overnight at his or her post of duty; the conducting of and participating in firearms matches; presentation of awards; and for travel of Secret Service employees on protective missions without regard to the limitations on such expenditures in this or any other Act: *Provided,* That approval is obtained in advance from the House and Senate Committees on Appropriations; for repairs, alterations, and minor construction at the James J. Rowley Secret Service Training Center; for research and development; for making grants to conduct behavioral research in support of protective research and operations; not to exceed $20,000 for official reception and representation expenses; not to exceed $50,000 to provide technical assistance and equipment to foreign law enforcement organizations in counterfeit investigations; for payment in advance for commercial accommodations as may be necessary to perform protective functions; and for uniforms without regard to the general purchase price limitation for the current fiscal year: *Provided further,* That 3 U.S.C. 203(a) is amended by deleting "but not exceeding twelve hundred in number"; $528,262,000, of which $1,200,000 shall be available as a grant for activities related to the investigations of missing and exploited children and shall remain available until expended.

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 104–52, $7,600,000 are rescinded.

ACQUISITION, CONSTRUCTION, IMPROVEMENT, AND RELATED EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of construction, repair, alteration, and improvement of facilities, $37,365,000, of which $8,200,000 shall be available for the Rowley Secret Service Training Center, to remain available until expended: *Provided,* That funds previously provided under the title, "Treasury Buildings and Annex Repair and Restoration," for the Secret Service's Headquarters Building, shall be transferred to this account: *Provided further,* That funds for the Rowley Secret Service Training Center shall not be available

until a prospectus authorizing such facilities is approved in accordance with the Public Buildings Act of 1959, as amended, except that funds may be expended for required expenses in connection with the development of a proposed prospectus.

GENERAL PROVISIONS—DEPARTMENT OF THE TREASURY

SECTION 111. Any obligation or expenditure by the Secretary in connection with law enforcement activities of a Federal agency or a Department of the Treasury law enforcement organization in accordance with 31 U.S.C. 9703(g)(4)(B) from unobligated balances remaining in the Fund on September 30, 1997, shall be made in compliance with the reprogramming guidelines contained in the House and Senate reports accompanying this Act.

SEC. 112. Appropriations to the Treasury Department in this Act shall be available for uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901), including maintenance, repairs, and cleaning; purchase of insurance for official motor vehicles operated in foreign countries; purchase of motor vehicles without regard to the general purchase price limitations for vehicles purchased and used overseas for the current fiscal year; entering into contracts with the Department of State for the furnishing of health and medical services to employees and their dependents serving in foreign countries; and services authorized by 5 U.S.C. 3109.

SEC. 113. None of the funds appropriated by this title shall be used in connection with the collection of any underpayment of any tax imposed by the Internal Revenue Code of 1986 unless the conduct of officers and employees of the Internal Revenue Service in connection with such collection, including any private sector employees under contract to the Internal Revenue Service, complies with subsection (a) of section 805 (relating to communications in connection with debt collection), and section 806 (relating to harassment or abuse), of the Fair Debt Collection Practices Act (15 U.S.C. 1692).

26 USC 6103 note.

SEC. 114. The Internal Revenue Service shall institute policies and procedures which will safeguard the confidentiality of taxpayer information.

SEC. 115. The funds provided to the Bureau of Alcohol Tobacco and Firearms for fiscal year 1997 in this Act for the enforcement of the Federal Alcohol Administration Act shall be expended in a manner so as not to diminish enforcement efforts with respect to section 105 of the Federal Alcohol Administration Act.

SEC. 116. Paragraph (3)(C) of section 9703(g) of title 31, United States Code, is amended—

(1) by striking in the third sentence "and at the end of each fiscal year thereafter";

(2) by inserting in lieu thereof "1994, 1995, and 1996"; and

(3) by adding at the end the following new sentence: "At the end of fiscal year 1997, and at the end of each fiscal year thereafter, the Secretary shall reserve any amounts that are required to be retained in the Fund to ensure the availability of amounts in the subsequent fiscal year for purposes authorized under subsection (a)."

SEC. 117. Of the funds available to the Internal Revenue Service, $13,000,000 shall be made available to continue the private sector debt collection program which was initiated in fiscal year

1996 and $13,000,000 shall be transferred to the Departmental Offices appropriation to initiate a new private sector debt collection program: *Provided*, That the transfer provided herein shall be in addition to any other transfer authority contained in this Act.

SEC. 118. Section 923(j) of title 18, United States Code, is amended by striking the period after the last sentence, and inserting the following: ", including the right of a licensee to conduct 'curios or relics' firearms transfers and business away from their business premises with another licensee without regard as to whether the location of where the business is conducted is located in the State specified on the license of either licensee.".

This title may be cited as the "Treasury Department Appropriations Act, 1997".

TITLE II—POSTAL SERVICE

PAYMENTS TO THE POSTAL SERVICE

PAYMENT TO THE POSTAL SERVICE FUND

For payment to the Postal Service Fund for revenue forgone on free and reduced rate mail, pursuant to subsections (c) and (d) of section 2401 of title 39, United States Code, $85,080,000: *Provided*, That mail for overseas voting and mail for the blind shall continue to be free: *Provided further*, That 6-day delivery and rural delivery of mail shall continue at not less than the 1983 level: *Provided further*, That none of the funds made available to the Postal Service by this Act shall be used to implement any rule, regulation, or policy of charging any officer or employee of any State or local child support enforcement agency, or any individual participating in a State or local program of child support enforcement, a fee for information requested or provided concerning an address of a postal customer: *Provided further*, That none of the funds provided in this Act shall be used to consolidate or close small rural and other small post offices in the fiscal year ending on September 30, 1997. 39 USC 403 note.

PAYMENT TO THE POSTAL SERVICE FUND FOR NONFUNDED LIABILITIES

For payment to the Postal Service Fund for meeting the liabilities of the former Post Office Department to the Employees' Compensation Fund pursuant to 39 United States Code 2004, $35,536,000.

TITLE III—EXECUTIVE OFFICE OF THE PRESIDENT AND FUNDS APPROPRIATED TO THE PRESIDENT

Executive Office Appropriations Act, 1997.

COMPENSATION OF THE PRESIDENT AND THE WHITE HOUSE OFFICE

COMPENSATION OF THE PRESIDENT

For compensation of the President, including an expense allowance at the rate of $50,000 per annum as authorized by 3 U.S.C. 102, $250,000: *Provided*, That none of the funds made available for official expenses shall be expended for any other purpose and any unused amount shall revert to the Treasury pursuant to section 1552 of title 31, United States Code: *Provided further*, That none 3 USC 102 note.

of the funds made available for official expenses shall be considered as taxable to the President.

SALARIES AND EXPENSES

For necessary expenses for the White House as authorized by law, including not to exceed $3,850,000 for services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 105; including subsistence expenses as authorized by 3 U.S.C. 105, which shall be expended and accounted for as provided in that section; hire of passenger motor vehicles, newspapers, periodicals, teletype news service, and travel (not to exceed $100,000 to be expended and accounted for as provided by 3 U.S.C. 103); not to exceed $19,000 for official entertainment expenses, to be available for allocation within the Executive Office of the President; $40,193,000: *Provided*, That $420,000 of the funds appropriated may not be obligated until the Director of the Office of Administration has submitted, and the Committees on Appropriations of the House and Senate have approved, a report that identifies, evaluates, and prioritizes all computer systems investments planned for fiscal year 1997, a milestone schedule for the development and implementation of all projects included in the systems investment plan, and a systems architecture plan.

EXECUTIVE RESIDENCE AT THE WHITE HOUSE

OPERATING EXPENSES

For the care, maintenance, repair and alteration, refurnishing, improvement, heating and lighting, including electric power and fixtures, of the Executive Residence at the White House and official entertainment expenses of the President, $7,827,000, to be expended and accounted for as provided by 3 U.S.C. 105, 109–110, 112–114.

SPECIAL ASSISTANCE TO THE PRESIDENT AND THE OFFICIAL RESIDENCE OF THE VICE PRESIDENT

SALARIES AND EXPENSES

For necessary expenses to enable the Vice President to provide assistance to the President in connection with specially assigned functions, services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 106, including subsistence expenses as authorized by 3 U.S.C. 106, which shall be expended and accounted for as provided in that section; and hire of passenger motor vehicles; $3,280,000: *Provided*, That $150,000 of the funds appropriated may not be obligated until the Director of the Office of Administration has submitted, and the Committees on Appropriations of the House and Senate have approved, a report that identifies, evaluates, and prioritizes all computer systems investments planned for fiscal year 1997, a milestone schedule for the development and implementation of all projects included in the systems investment plan, and a systems architecture plan.

OPERATING EXPENSES

For the care, operation, refurnishing, improvement, heating and lighting, including electric power and fixtures, of the official

residence of the Vice President, the hire of passenger motor vehicles, and not to exceed $90,000 for official entertainment expenses of the Vice President, to be accounted for solely on his certificate; $324,000: *Provided*, That advances or repayments or transfers from this appropriation may be made to any department or agency for expenses of carrying out such activities: *Provided further*, That $8,000 of the funds appropriated may not be obligated until the Director of the Office of Administration has submitted for approval to the Committees on Appropriations of the House and Senate a report that identifies, evaluates, and prioritizes all computer systems investments planned for fiscal year 1997, a milestone schedule for the development and implementation of all projects included in the systems investment plan, and a systems architecture plan.

COUNCIL OF ECONOMIC ADVISERS

SALARIES AND EXPENSES

For necessary expenses of the Council in carrying out its functions under the Employment Act of 1946 (15 U.S.C. 1021), $3,439,000.

OFFICE OF POLICY DEVELOPMENT

SALARIES AND EXPENSES

For necessary expenses of the Office of Policy Development, including services as authorized by 5 U.S.C. 3109, and 3 U.S.C. 107; $3,867,000: *Provided,* That $45,000 of the funds appropriated may not be obligated until the Director of the Office of Administration has submitted, and the Committees on Appropriations of the House and Senate have approved, a report that identifies, evaluates, and prioritizes all computer systems investments planned for fiscal year 1997, a milestone schedule for the development and implementation of all projects included in the systems investment plan, and a systems architecture plan.

NATIONAL SECURITY COUNCIL

SALARIES AND EXPENSES

For necessary expenses of the National Security Council, including services as authorized by 5 U.S.C. 3109, $6,648,000: *Provided,* That $3,000 of the funds appropriated may not be obligated until the Director of the Office of Administration has submitted, and the Committees on Appropriations of the House and Senate have approved, a report that identifies, evaluates, and prioritizes all computer systems investments planned for fiscal year 1997, a milestone schedule for the development and implementation of all projects included in the systems investment plan, and a systems architecture plan.

OFFICE OF ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Office of Administration, $26,100,000, including services as authorized by 5 U.S.C. 3109

and 3 U.S.C. 107, and hire of passenger motor vehicles: *Provided,* That $340,700 of the funds appropriated may not be obligated until the Director of the Office of Administration has submitted, and the Committees on Appropriations of the House and Senate have approved, a report that identifies, evaluates, and prioritizes all computer systems investments planned for fiscal year 1997, a milestone schedule for the development and implementation of all projects included in the systems investment plan, and a systems architecture plan.

OFFICE OF MANAGEMENT AND BUDGET

SALARIES AND EXPENSES

For necessary expenses of the Office of Management and Budget, including hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109, $55,573,000, of which not to exceed $5,000,000 shall be available to carry out the provisions of 44 U.S.C. chapter 35: *Provided,* That, as provided in 31 U.S.C. 1301(a), appropriations shall be applied only to the objects for which appropriations were made except as otherwise provided by law: *Provided further,* That none of the funds appropriated in this Act for the Office of Management and Budget may be used for the purpose of reviewing any agricultural marketing orders or any activities or regulations under the provisions of the Agricultural Marketing Agreement Act of 1937 (7 U.S.C. 601 et seq.): *Provided further,* That none of the funds made available for the Office of Management and Budget by this Act may be expended for the altering of the transcript of actual testimony of witnesses, except for testimony of officials of the Office of Management and Budget, before the House and Senate Committees on Appropriations or the House and Senate Committees on Veterans' Affairs or their subcommittees: *Provided further,* That this proviso shall not apply to printed hearings released by the House and Senate Committees on Appropriations or the House and Senate Committees on Veterans' Affairs.

OFFICE OF NATIONAL DRUG CONTROL POLICY

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Office of National Drug Control Policy; for research activities pursuant to title I of Public Law 100–690; not to exceed $8,000 for official reception and representation expenses; and for participation in joint projects or in the provision of services on matters of mutual interest with nonprofit, research, or public organizations or agencies, with or without reimbursement; $35,838,000, of which $19,000,000 shall remain available until expended, consisting of $1,000,000 for policy research and evaluation and $18,000,000 for the Counter-Drug Technology Assessment Center for counternarcotics research and development projects of which $1,000,000 shall be obligated for state conferences on model state drug laws: *Provided,* That the $17,000,000 for the Counter-Drug Technology Assessment Center shall be available for transfer to other Federal departments or agencies: *Provided further,* That the Office is authorized to accept, hold, administer, and utilize gifts, both real and personal, for the purpose of aiding

or facilitating the work of the Office: *Provided further,* That not before January 31, 1997, the Director of the Office of National Drug Control Policy shall transfer all balances in the Special Forfeiture Fund established by section 6073 of the Anti-Drug Abuse Act of 1988 (21 U.S.C. § 1509) to the Treasury Forfeiture Fund (31 U.S.C. 9703(a)).

FEDERAL DRUG CONTROL PROGRAMS

HIGH INTENSITY DRUG TRAFFICKING AREAS PROGRAM

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Office of National Drug Control Policy's High Intensity Drug Trafficking Areas Program, $127,102,000 for drug control activities consistent with the approved strategy for each of the designated High Intensity Drug Trafficking Areas, of which $3,000,000 shall be used for a newly designated High Intensity Drug Trafficking Area in Lake County, Indiana; of which $6,000,000 shall be used for a newly designated High Intensity Drug Trafficking Area for the Gulf Coast States of Louisiana, Alabama, and Mississippi; of which $8,000,000 shall be used for a newly designated High Intensity Drug Trafficking Area dedicated to combating methamphetamine use, production and trafficking in a five State area including Iowa, Missouri, Nebraska, South Dakota, and Kansas; of which $3,000,000 shall be used for a newly designated High Intensity Drug Trafficking Area in the State of Colorado; of which $3,000,000 shall be used for a newly designated High Intensity Drug Trafficking Area in the Pacific Northwest; of the total amount appropriated, including transferred funds, no less than $71,000,000 shall be transferred to State and local entities for drug control activities, and up to $69,207,000 may be transferred to Federal agencies and departments at a rate to be determined by the Director: *Provided,* That the funds made available under this head shall be obligated within 90 days of the date of enactment of this Act.

This title may be cited as the "Executive Office Appropriations Act, 1997".

TITLE IV—INDEPENDENT AGENCIES

Independent Agencies Appropriations Act, 1997.

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

SALARIES AND EXPENSES

For necessary expenses of the Committee for Purchase From People Who Are Blind or Severely Disabled established by the Act of June 23, 1971, Public Law 92–28; $1,800,000.

FEDERAL ELECTION COMMISSION

SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of the Federal Election Campaign Act of 1971, as amended, $28,165,000, of which no less than $2,500,000 shall be available for internal automated data processing systems, and of which not to exceed $5,000 shall be available for reception and representation expenses.

FEDERAL LABOR RELATIONS AUTHORITY

SALARIES AND EXPENSES

For necessary expenses to carry out functions of the Federal Labor Relations Authority, pursuant to Reorganization Plan Numbered 2 of 1978, and the Civil Service Reform Act of 1978, including services as authorized by 5 U.S.C. 3109, including hire of experts and consultants, hire of passenger motor vehicles, rental of conference rooms in the District of Columbia and elsewhere; $21,588,000: *Provided,* That public members of the Federal Service Impasses Panel may be paid travel expenses and per diem in lieu of subsistence as authorized by law (5 U.S.C. 5703) for persons employed intermittently in the Government service, and compensation as authorized by 5 U.S.C. 3109: *Provided further,* That notwithstanding 31 U.S.C. 3302, funds received from fees charged to non-Federal participants at labor-management relations conferences shall be credited to and merged with this account, to be available without further appropriation for the costs of carrying out these conferences.

GENERAL SERVICES ADMINISTRATION

FEDERAL BUILDINGS FUND

LIMITATIONS ON AVAILABILITY OF REVENUE

(INCLUDING TRANSFER OF FUNDS)

For additional expenses necessary to carry out the purpose of the Fund established pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(f)), $400,544,000, to be deposited into said Fund. The revenues and collections deposited into the Fund shall be available for necessary expenses of real property management and related activities not otherwise provided for, including operation, maintenance, and protection of federally owned and leased buildings; rental of buildings in the District of Columbia; restoration of leased premises; moving governmental agencies (including space adjustments and telecommunications relocation expenses) in connection with the assignment, allocation and transfer of space; contractual services incident to cleaning or servicing buildings, and moving; repair and alteration of federally owned buildings including grounds, approaches and appurtenances; care and safeguarding of sites; maintenance, preservation, demolition, and equipment; acquisition of buildings and sites by purchase, condemnation, or as otherwise authorized by law; acquisition of options to purchase buildings and sites; conversion and extension of federally owned buildings; preliminary planning and design of projects by contract or otherwise; construction of new buildings (including equipment for such buildings); and payment of principal, interest, taxes, and any other obligations for public buildings acquired by installment purchase and purchase contract, in the aggregate amount of$5,555,544,000 of which (1) not to exceed $657,711,000 shall remain available until expended for construction of additional projects and at maximum construction improvement costs (including funds for sites and expenses and associated design and construction services) as follows:

New Construction:
California:
Fresno, Federal Building and U.S. Courthouse, $6,595,000
Colorado:
Denver, Rogers Federal Building-U.S. Courthouse, $9,545,000
District of Columbia:
U.S. Courthouse Annex, $5,703,000
Florida:
Miami, U.S. Courthouse, $24,990,000
Orlando, U.S. Courthouse, $9,514,000
Kentucky:
Covington, U.S. Courthouse, $17,134,000
London, U.S. Courthouse, $13,732,000
Montana:
Babb, Piegan Border Station, $333,000
Sweetgrass, Border Station, $1,059,000
Nevada:
Las Vegas, U.S. Courthouse, $83,719,000
New York:
Brooklyn, U.S. Courthouse, $169,000,000
Ohio:
Cleveland, U.S. Courthouse, $128,559,000
Youngstown, U.S. Courthouse, $15,813,000
Oregon:
Portland, Consolidated Law Federal Office Building, $4,750,000
Pennsylvania:
Erie, U.S. Courthouse Annex, $3,300,000
Philadelphia, DVA-Federal Complex, Phase II, $13,765,000
South Carolina:
Columbia, U.S. Courthouse Annex, $43,848,000
Texas:
Corpus Christi, U.S. Courthouse, $24,161,000
Utah:
Salt Lake City, Moss U.S. Courthouse Annex and Alteration, $11,474,000
Washington:
Blaine, U.S. Border Station, $13,978,000
Oroville, U.S. Border Station, $1,452,000
Seattle, U.S. Courthouse, $16,853,000
Sumas, U.S. Border Station (Claim), $1,177,000
Nationwide:
Non-prospectus construction projects, $10,000,000
Security Enhancements, $27,256,000:

Provided, That each of the immediately foregoing limits of costs on new construction projects may be exceeded to the extent that savings are affected in other such projects, but not to exceed 10 percent unless advance approval is obtained from the House and Senate Committees on Appropriations of a greater amount: *Provided further,* That the cost of future U.S. Courthouse annex projects shall reflect savings through improving design efficiencies, curtailing planned interior finishes, requiring more efficient use of courtroom and library space, and by otherwise limiting space requirements: *Providing further,* That from funds available in the Federal Buildings Fund, $20,000,000 shall be available until expended for environmental clean up activities at the Southeast Federal Center

in the District of Columbia and $81,000,000 shall be available until expended for design and construction activities at the Consolidated Law Federal Office Building in Portland, Oregon: *Provied further,* That from funds available for non-prospectus construction projects, $250,000 may be available until expended for the acquisition, lease, construction, and equipping of flexiplace work telecommuting centers in West Virginia: *Provided further,* That all funds for direct construction projects shall expire on September 30, 1999: (2) not to exceed $639,000,000 shall remain available until expended, for repairs and alterations which includes associated design and construction services: *Provided further,* That funds in the Federal Buildings Fund for Repairs and Alterations shall, for prospectus projects, be limited to the amount by project as follows, except each project may be increased by an amount not to exceed 10 per centum unless advance approval is obtained from the Committees on Appropriations of the House and Senate of a greater amount:

Repairs and alterations:
District of Columbia:
Ariel Rios Building, $62,740,000
Justice Department, Phase 1 of 3, $50,000,000
Lafayette Building, $5,166,000
Hawaii:
Honolulu, Prince Jonah Kuhio Kalanianaole Federal Building and U.S. Courthouse, $4,140,000
Illinois:
Chicago, Everett M. Dirksen Federal Building, $18,844,000
Chicago, John C. Kluczynski, Jr. Federal Building (IRS), $13,414,000
Louisiana:
New Orleans, Customhouse, $3,500,000
Maryland:
Montgomery County, White Oak environmental clean up activities, $10,000,000
Massachusetts:
Andover, IRS Regional Service Center, $812,000
New Hampshire:
Concord, J.C. Cleveland Federal Building, $8,251,000
New Jersey:
Camden, U.S. Post Office-Courthouse $11,096,000
New York:
Albany, James T. Foley Post Office-Courthouse, $3,880,000
Brookhaven, IRS Service Center, $2,272,000
New York, Jacob K. Javits Federal Building, $13,651,000
Pennsylvania:
Scranton, Federal Building-U.S. Courthouse, $10,610,000
Rhode Island:
Providence, Federal Building-U.S. Courthouse, $8,209,000
Texas:
Fort Worth, Federal Center, $11,259,000
Nationwide:
Chlorofluorocarbons Program, $23,456,000
Elevator Program, $10,000,000
Energy Program, $20,000,000
Security Enhancements, various buildings, $2,700,000
Basic Repairs and Alterations, $345,000,000:

Provided further, That additional projects for which prospectuses have been fully approved may be funded under this category only if advance approval is obtained from the Committees on Appropriations of the House and Senate: *Provided further,* That the amounts provided in this or any prior Act for Repairs and Alterations may be used to fund costs associated with implementing security improvements to buildings necessary to meet the minimum standards for security in accordance with current law and in compliance with the reprogramming guidelines of the appropriate Committees of the House and Senate: *Provided further,* That funds in the Federal Buildings Fund for Repairs and Alterations shall, for prospectus projects, be limited to the originally authorized amount, except each project may be increased by an amount not to exceed 10 percent when advance approval is obtained from the Committees on Appropriations of the House and Senate of a greater amount: *Provided further,* That the difference between the funds appropriated and expended on any projects in this or any prior Act, under the heading "Repairs and Alterations", may be transferred to Basic Repairs and Alterations or used to fund authorized increases in prospectus projects: *Provided further,* That from funds made available for Basic Repairs and Alterations, $8,000,000 shall be made available for renovation of the Agricultural Research Service Laboratory in Ames, Iowa, which is currently occupied by the Animal and Plant Health Inspection Service: *Provided further,* That from funds made available for Basic Repairs and Alterations, $1,450,000 may be available for the renovation of the Pioneer Courthouse located at 520 SW Morrison, in Portland, Oregon: *Provied further,* That from funds made available for Basic Repairs and Alterations, $6,000,000 shall be used for necessary expenses associated with ongoing construction of the U.S. Courthouse in Montgomery, Alabama: *Provided further,* That from funds made available for Basic Repairs and Alterations, $100,000 shall be transferred to the National Park Service "Construction" appropriation for restoration and maintenance of the multi-purpose field at Wallenberg Place in Washington, DC: *Provided further,* That all funds for repairs and alterations prospectus projects shall expire on September 30, 1999, and remain in the Federal Buildings Fund except funds for projects as to which funds for design or other funds have been obligated in whole or in part prior to such date: *Provided further,* That the amount provided in this or any prior Act for Basic Repairs and Alterations may be used to pay claims against the Government arising from any projects under the heading "Repairs and Alterations" or used to fund authorized increases in prospectus projects: *Provided further,* That $5,700,000 of the funds provided under this heading in Public Law 103–329, for the IRS Service Center, Holtsville, New York, shall be available until September 30, 1998; (3) not to exceed $173,075,000 for installment acquisition payments including payments on purchase contracts which shall remain available until expended: *Provided further,* That up to $1,500,000 shall be available for a design prospectus of the Federal Building and U.S. Courthouse located at 811 Grand Avenue in Kansas City, Missouri; (4) not to exceed $2,343,795,000 for rental of space which shall remain available until expended; and (5) not to exceed $1,552,651,000 for building operations which shall remain available until expended and of which $8,000,000 shall be transferred to the "Policy and Operations" appropriation: *Provided further,* That funds available to the General Services

Administration shall not be available for expenses in connection with any construction, repair, alteration, and acquisition project for which a prospectus, if required by the Public Buildings Act of 1959, as amended, has not been approved, except that necessary funds may be expended for each project for required expenses in connection with the development of a proposed prospectus: *Provided further,* That the Administrator of General Services shall, at the earliest practicable date, initiate discussions with the Smithsonian Institution on the feasibility of transferring Federal Building 10B located at 600 Independence Avenue SW., Washington, DC to the Smithsonian Institution at such price and under such terms and conditions as determined appropriate by the Administrator and subject to the prior approval of the appropriate authorizing and appropriations committees of the Congress: *Provided further,* That funds provided in this Act under the heading "Security Enhancements, various buildings" may be used, by project in accordance with an approved prospectus: *Provided further,* That the Administrator is authorized in fiscal year 1997 and thereafter, to enter into and perform such leases, contracts, or other transactions with any agency or instrumentality of the United States, the several States, or the District of Columbia, or with any person, firm, association, or corporation, as may be necessary to implement the trade center plan at the Federal Triangle Project and is hereby granted all the rights and authorities of the former Pennsylvania Avenue Development Corporation (PADC) with regard to property transferred from the PADC to the General Services Administration in fiscal year 1996: *Provided further,* That notwithstanding any other provision of law, the Administrator of General Services is hereby authorized to use all funds transferred from the PADC or income earned on PADC properties for activities associated with carrying out the responsibilities of the PADC transferred to the Administrator of General Services and that any such income earned on or after April 1, 1996, shall be deposited to the Pennsylvania Avenue Activities account and shall remain available until expended: *Provided further,* That any funds or income as may be deemed by the Administrator as excess to the amount needed to fulfill the PADC responsibilities transferred to the Administrator of General Services, shall be applied to any outstanding debt, with the exception of debt associated with the Ronald Reagan Building and International Trade Center, incurred by the PADC in the course of acquiring real estate: *Provided further,* That with respect to real property transferred from the PADC to the General Services Administration pursuant to section 313 of Public Law 104–134, Title III, General Provisions, the Administrator of General Services is hereafter authorized and directed to make payments required by section 10(b) of the PADC Act of 1972, Public Law 92–578 in the same manner as previously paid by the PADC: *Provided further,* That for the purposes of this authorization, buildings constructed pursuant to the purchase contract authority of the Public Buildings Amendments of 1972 (40 U.S.C. 602a), buildings occupied pursuant to installment purchase contracts, and buildings under the control of another department or agency where alterations of such buildings are required in connection with the moving of such other department or agency from buildings then, or thereafter to be, under the control of the General Services Administration shall be considered to be federally owned buildings: *Provided further,* That funds available in the Federal Buildings Fund may

40 USC 872 note.

be expended for emergency repairs when advance approval is obtained from the Committees on Appropriations of the House and Senate: *Provided further,* That amounts necessary to provide reimbursable special services to other agencies under section 210(f)(6) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(f)(6)) and amounts to provide such reimbursable fencing, lighting, guard booths, and other facilities on private or other property not in Government ownership or control as may be appropriate to enable the United States Secret Service to perform its protective functions pursuant to 18 U.S.C. 3056, as amended, shall be available from such revenues and collections: *Provided further,* That revenues and collections and any other sums accruing to this Fund during fiscal year 1997, excluding reimbursements under section 210(f)(6) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f)(6)) in excess of $5,555,544,000 shall remain in the Fund and shall not be available for expenditure except as authorized in appropriations Acts.

POLICY AND OPERATIONS

For expenses authorized by law, not otherwise provided for, for Government-wide policy and oversight activities associated with asset management activities; utilization and donation of surplus personal property; transportation management activities; procurement and supply management activities; Government-wide and internal responsibilities relating to automated data management, telecommunications, information resources management, and related technology activities; utilization survey, deed compliance inspection, appraisal, environmental and cultural analysis, and land use planning functions pertaining to excess and surplus real property; agency-wide policy direction; Board of Contract Appeals; accounting, records management, and other support services incident to adjudication of Indian Tribal Claims by the United States Court of Federal Claims; services as authorized by 5 U.S.C. 3109; and not to exceed $5,000 for official reception and representation expenses; $110,173,000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General and services authorized by 5 U.S.C. 3109, $33,863,000: *Provided,* That not to exceed $5,000 shall be available for payment for information and detection of fraud against the Government, including payment for recovery of stolen Government property: *Provided further,* That not to exceed $2,500 shall be available for awards to employees of other Federal agencies and private citizens in recognition of efforts and initiatives resulting in enhanced Office of Inspector General effectiveness.

ALLOWANCES AND OFFICE STAFF FOR FORMER PRESIDENTS

For carrying out the provisions of the Act of August 25, 1958, as amended (3 U.S.C. 102 note), and Public Law 95–138, $2,180,000: *Provided,* That the Administrator of General Services shall transfer to the Secretary of the Treasury such sums as may be necessary to carry out the provisions of such Acts.

EXPENSES, PRESIDENTIAL TRANSITION

For expenses necessary to carry out the Presidential Transition Act of 1963, as amended (3 U.S.C. 102 note), $5,600,000.

GENERAL PROVISIONS—GENERAL SERVICES ADMINISTRATION

SECTION 401. The appropriate appropriation or fund available to the General Services Administration shall be credited with the cost of operation, protection, maintenance, upkeep, repair, and improvement, included as part of rentals received from Government corporations pursuant to law (40 U.S.C. 129).

SEC. 402. Funds available to the General Services Administration shall be available for the hire of passenger motor vehicles.

SEC. 403. Funds in the Federal Buildings Fund made available for fiscal year 1997 for Federal Buildings Fund activities may be transferred between such activities only to the extent necessary to meet program requirements: *Provided,* That any proposed transfers shall be approved in advance by the Committees on Appropriations of the House and Senate.

SEC. 404. No funds made available by this Act shall be used to transmit a fiscal year 1998 request for United States Courthouse construction that does not meet the design guide standards for construction as established by the General Services Administration, the Judicial Conference of the United States, and the Office of Management and Budget and does not reflect the priorities of the Judicial Conference of the United States as set out in its approved 5-year construction plan: *Provided,* That the request must be accompanied by a standardized courtroom utilization study of each facility to be replaced or expanded.

SEC. 405. None of the funds provided in this Act may be used to increase the amount of occupiable square feet, provide cleaning services, security enhancements, or any other service usually provided through the Federal Buildings Fund, to any agency which does not pay the requested rate per square foot assessment for space and services as determined by the General Services Administration in compliance with the Public Buildings Amendments Act of 1972 (Public Law 92–313).

SEC. 406. The Administrator of the General Services is directed to ensure that the materials used for the fascade on the United States Courthouse Annex, Savannah, Georgia project are compatible with the existing Savannah Federal Building-U.S. Courthouse fascade, in order to ensure compatibility of this new facility with the Savannah historic district and to ensure that the Annex will not endanger the National Landmark status of the Savannah historic district.

SEC. 407. (a) Section 210 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490) is amended by adding at the end the following new subsection:

"(l)(1) The Administrator may establish, acquire space for, and equip flexiplace work telecommuting centers (in this subsection referred to as 'telecommuting centers') for use by employees of Federal agencies, State and local governments, and the private sector in accordance with this subsection.

"(2) The Administrator may make any telecommuting center available for use by individuals who are not Federal employees to the extent the center is not being fully utilized by Federal

employees. The Administrator shall give Federal employees priority in using the telecommuting centers.

"(3)(A) The Administrator shall charge user fees for the use of any telecommuting center. The amount of the user fee shall approximate commercial charges for comparable space and services except that in no instance shall such fee be less than that necessary to pay the cost of establishing and operating the center, including the reasonable cost of renovation and replacement of furniture, fixtures, and equipment.

"(B) Amounts received by the Administrator after September 30, 1993, as user fees for use of any telecommuting center may be deposited into the Fund established under subsection (f) of this section and may be used by the Administrator to pay costs incurred in the establishment and operation of the center.

"(4) The Administrator may provide guidance, assistance, and oversight to any person regarding establishment and operation of alternative workplace arrangements, such as telecommuting, hoteling, virtual offices, and other distributive work arrangements.

"(5) In considering whether to acquire any space, quarters, buildings, or other facilities for use by employees of any executive agency, the head of that agency shall consider whether the need for the facilities can be met using alternative workplace arrangements referred to in paragraph (4).".

(b) Section 13 of the Public Building Act of 1959, as amended, (107 Stat. 438; 40 U.S.C. 612) is amended—

(1) by striking "(xi)" and inserting in lieu thereof "(xii)"; and

(2) by striking "and (x)" and inserting in lieu thereof "(x) telecommuting centers and (xi)".

SEC. 408. Notwithstanding any other provision of law, the Administrator of General Services is authorized and directed to acquire the land bounded by S.W. First Avenue, S.W. Second Avenue, S.W. Main Street, and S.W. Madison Street, Portland, Oregon, for the purposes of constructing the proposed Law Enforcement Center on the site.

SEC. 409. Section 2815 of Public Law 103–160, relating to the conveyance of real property at the Iowa Army Ammunition Plant, is amended—

(1) in subsection (a), by striking "may convey to" and inserting "shall convey, without reimbursement and if requested by,"; and

(2) by striking subsection (b) and inserting the following new subsection:

"(b) USE OF WATER AND SEWER LINES.—As part of the conveyance under subsection (a), the Secretary shall permit the City to use existing water and sewer lines and sewage system at the Iowa Army Ammunition Plant for a three-year period beginning on the date of the conveyance.".

SEC. 410. (a) CONVEYANCE OF LAND.—

(1) ADMINISTRATOR OF GENERAL SERVICES.—Subject to subsections (b) and (c), the Administrator of General Services (hereinafter in this section referred to as the "Administrator") shall convey, without compensation, to a nonprofit organization known as the "Beaver County Corporation for Economic Development" all right, title, and interest of the United States in and to those pieces or parcels of land in Hopewell Township, Pennsylvania, described in subsection (b), together with all

improvements thereon and appurtenances thereto. The purpose of the conveyance is to provide a site for economic development in Hopewell Township.

(2) PROPERTY DESCRIPTION.—The land referred to in paragraph (1) is the parcel of land in the township of Hopewell, county of Beaver, Pennsylvania, bounded and described as follows:

(A) Beginning at the southwest corner at a point common to Lot No. 1, same plan, lands now or formerly of Frank and Catherine Wutter, and the easterly right-of-way line of Pennsylvania Legislative Route No. 60 (Beaver Valley Expressway); thence proceeding by the easterly right-of-way of Pennsylvania Legislative Route No. 60 by the following three courses and distances:

(i) North 17 degrees, 14 minutes, 20 seconds West, 213.10 feet to a point.

(ii) North 72 degrees, 45 minutes, 40 seconds East, 30.00 feet to a point.

(iii) North 17 degrees, 14 minutes, 20 seconds West, 252.91 feet to a point; on a line dividing Lot No. 1 from the other part of Lot No. 1, said part now called Lot No. 5, same plan; thence by last mentioned dividing line, North 78 degrees, 00 minutes, 00 seconds East; 135.58 feet to a point, a cul-de-sac on Industrial Drive; thence by said cul-de-sac and the southerly side of Industrial Drive by the following courses and distances:

(I) By a curve to the right having a radius of 100.00 feet for an arc distance of 243.401 feet to a point.

(II) Thence by a curve to the right having a radius of 100.00 feet for an arc distance of 86.321 feet to a point.

(III) Thence by 78 degrees, 00 minutes, 00 seconds East, 777.78 feet to a point.

(IV) Thence, North 12 degrees, 00 minutes, 00 seconds West, 74.71 feet to a point.

(V) Thence by a curve to the right, having a radius of 50.00 feet for an arc distance of 78.54 feet to a point.

(VI) Thence North 78 degrees, 00 minutes, 00 seconds East, 81.24 feet to a point.

(VII) Thence by a curve to the right, having a radius of 415.00 feet for an arc distance of 140.64 feet to a point.

(VIII) Thence, South 82 degrees, 35 minutes, 01 second East, 125.00 feet to a point.

(IX) Thence, South 7 degrees, 24 minutes, 59 seconds West, 5.00 feet to a point.

(X) Thence by a curve to the right, having a radius of 320.00 feet for an arc distance of 256.85 feet to a point.

(XI) Thence by a curve to the right having a radius of 50.00 feet for an arc distance of 44.18 feet to a point on the northerly side of Airport Road.

(B) Thence by the northerly side thereof by the following:

(i) South 14 degrees, 01 minutes, 54 seconds, West, 56.94 feet to a point.

(ii) Thence by a curve to the right having a radius of 225.00 feet for an arc distance of 207.989 feet to a point.

(iii) Thence South 66 degrees, 59 minutes, 45 seconds West, 192.08 feet to a point on the southern boundary of Lot No. 1, which line is also the line dividing Lot No. 1 from lands now or formerly, of Frank and Catherine Wutter.

(C) Thence by the same, South 75 degrees, 01 minutes, 00 seconds West, 1,351.23 feet to a point at the place of beginning.

(3) DATE OF CONVEYANCE.—The date of the conveyance of property required under paragraph (1) shall be not later than the 90th day following the date of the enactment of this Act.

(4) CONVEYANCE TERMS.—

(A) TERMS AND CONDITIONS.—The conveyance of property required under paragraph (1) shall be subject to such terms and conditions as may be determined by the Administrator to be necessary to safeguard the interests of the United States. Such terms and conditions shall be consistent with the terms and conditions set forth in this section.

(B) QUITCLAIM DEED.—The conveyance of property required under paragraph (1) shall be by quitclaim deed.

(b) LIMITATION ON CONVEYANCE.—No part of any land conveyed under subsection (a) may be used, during the 30-year period beginning on the date of conveyance for any purpose other than economic development.

(c) REVERSIONARY INTEREST.—

(1) IN GENERAL.—The property conveyed under subsection (a) shall revert to the United States on any date in the 30-year period beginning on the date of such conveyance on which the property is used for a purpose other than economic development.

(2) ENFORCING REVERSION.—The Administrator shall perform all acts necessary to enforce any reversion of property to the United States under this subsection.

(3) INVENTORY OF PUBLIC BUILDINGS SERVICE.—Property that reverts to the United States under this subsection shall be under the control of the General Services Administration.

SEC. 411. Notwithstanding any other provision of law, the land contained in block 111 in the Federal District, Denver, Colorado, obtained pursuant to paragraphs (6) and (7) of section 12 of Public Law 94–204 (43 U.S.C. 1611 note) shall not be subject to condemnation by any agency or instrumentality of the Federal Government, without the consent of the owner of that land.

JOHN F. KENNEDY ASSASSINATION RECORDS REVIEW BOARD

For necessary expenses to carry out the John F. Kennedy Assassination Records Collection Act of 1992, $2,150,000.

MERIT SYSTEMS PROTECTION BOARD

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out functions of the Merit Systems Protection Board pursuant to Reorganization Plan Numbered 2 of 1978 and the Civil Service Reform Act of 1978, including services as authorized by 5 U.S.C. 3109, rental of conference rooms in the District of Columbia and elsewhere, hire of passenger motor vehicles, and direct procurement of survey printing, $23,923,000, together with not to exceed $2,430,000 for administrative expenses to adjudicate retirement appeals to be transferred from the Civil Service Retirement and Disability Fund in amounts determined by the Merit Systems Protection Board.

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

OPERATING EXPENSES

For necessary expenses in connection with the administration of the National Archives (including the Information Security Oversight Office) and records and related activities, as provided by law, and for expenses necessary for the review and declassification of documents, and for the hire of passenger motor vehicles, $196,963,000: *Provided,* That the Archivist of the United States is authorized to use any excess funds available from the amount borrowed for construction of the National Archives facility, for expenses necessary to move into the facility.

ARCHIVES FACILITIES AND PRESIDENTIAL LIBRARIES

REPAIRS AND RESTORATION

For the repair, alteration, and improvement of archives facilities and presidential libraries, and to provide adequate storage for holdings, $16,229,000 to remain available until expended.

NATIONAL HISTORICAL PUBLICATIONS AND RECORDS COMMISSION

GRANTS PROGRAM

For necessary expenses for allocations and grants for historical publications and records as authorized by 44 U.S.C. 2504, as amended, $5,000,000 to remain available until expended.

OFFICE OF GOVERNMENT ETHICS

SALARIES AND EXPENSES

For necessary expenses to carry out functions of the Office of Government Ethics pursuant to the Ethics in Government Act of 1978, as amended by Public Law 100–598, and the Ethics Reform Act of 1989, Public Law 101–194, including services as authorized by 5 U.S.C. 3109, rental of conference rooms in the District of Columbia and elsewhere, hire of passenger motor vehicles, and not to exceed $1,500 for official reception and representation expenses; $8,078,000.

OFFICE OF PERSONNEL MANAGEMENT

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF TRUST FUNDS)

For necessary expenses to carry out functions of the Office of Personnel Management pursuant to Reorganization Plan Numbered 2 of 1978 and the Civil Service Reform Act of 1978, including services as authorized by 5 U.S.C. 3109; medical examinations performed for veterans by private physicians on a fee basis; rental of conference rooms in the District of Columbia and elsewhere; hire of passenger motor vehicles; not to exceed $2,500 for official reception and representation expenses; advances for reimbursements to applicable funds of the Office of Personnel Management and the Federal Bureau of Investigation for expenses incurred under Executive Order 10422 of January 9, 1953, as amended; and payment of per diem and/or subsistence allowances to employees where Voting Rights Act activities require an employee to remain overnight at his or her post of duty; $87,076,000, of which not to exceed $1,000,000 shall be available for the establishment of health promotion and disease prevention programs for Federal employees; and in addition $94,736,000 for administrative expenses, to be transferred from the appropriate trust funds of the Office of Personnel Management without regard to other statutes, including direct procurement of printing materials for annuitants, for the retirement and insurance programs, of which $3,500,000 shall be transferred at such times as the Office of Personnel Management deems appropriate, and shall remain available until expended for the costs of automating the retirement recordkeeping systems, together with remaining amounts authorized in previous Acts for the recordkeeping systems: *Provided*, That the provisions of this appropriation shall not affect the authority to use applicable trust funds as provided by section 8348(a)(1)(B) of title 5, United States Code: *Provided further,* That, except as may be consistent with 5 U.S.C. 8902a(f)(1) and (i), no payment may be made from the Employees Health Benefits Fund to any physician, hospital, or other provider of health care services or supplies who is, at the time such services or supplies are provided to an individual covered under chapter 89 of title 5, United States Code, excluded, pursuant to section 1128 or 1128A of the Social Security Act (42 U.S.C. 1320a–7–1320a–7a), from participation in any program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.): *Provided further*, That no part of this appropriation shall be available for salaries and expenses of the Legal Examining Unit of the Office of Personnel Management established pursuant to Executive Order 9358 of July 1, 1943, or any successor unit of like purpose: *Provided further*, That the President's Commission on White House Fellows, established by Executive Order 11183 of October 3, 1964, may, during the fiscal year ending September 30, 1997, accept donations of money, property, and personal services in connection with the development of a publicity brochure to provide information about the White House Fellows, except that no such donations shall be accepted for travel or reimbursement of travel expenses, or for the salaries of employees of such Commission.

GENERAL PROVISIONS—OFFICE OF PERSONNEL MANAGEMENT

SEC. 421. The first sentence of section 1304(e)(1) of title 5, United States Code, is amended by inserting after "basis" the following ", including personnel management services performed at the request of individual agencies (which would otherwise be the responsibility of such agencies), or at the request of nonappropriated fund instrumentalities".

SEC. 422. Paragraph (1) of section 8906(e) of title 5, United States Code, is amended—

(1) by striking the last sentence of that paragraph and redesignating the remainder of that paragraph as (1)(A);

(2) by adding at the end of paragraph (1)(A) (as so designated) the following:

"(B) During each pay period in which an enrollment continues under subparagraph (A)—

"(i) employee and Government contributions required by this section shall be paid on a current basis; and

"(ii) if necessary, the head of the employing agency shall approve advance payment, recoverable in the same manner as under section 5524a(c), of a portion of basic pay sufficient to pay current employee contributions.

"(C) Each agency shall establish procedures for accepting direct payments of employee contributions for the purposes of this paragraph.".

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF TRUST FUNDS)

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act, as amended, including services as authorized by 5 U.S.C. 3109, hire of passenger motor vehicles, $960,000; and in addition, not to exceed $8,645,000 for administrative expenses to audit the Office of Personnel Management's retirement and insurance programs, to be transferred from the appropriate trust funds of the Office of Personnel Management, as determined by the Inspector General: *Provided*, That the Inspector General is authorized to rent conference rooms in the District of Columbia and elsewhere.

GOVERNMENT PAYMENT FOR ANNUITANTS, EMPLOYEES HEALTH BENEFITS

For payment of Government contributions with respect to retired employees, as authorized by chapter 89 of title 5, United States Code, and the Retired Federal Employees Health Benefits Act (74 Stat. 849), as amended, such sums as may be necessary.

GOVERNMENT PAYMENT FOR ANNUITANTS, EMPLOYEE LIFE INSURANCE

For payment of Government contributions with respect to employees retiring after December 31, 1989, as required by chapter 87 of title 5, United States Code, such sums as may be necessary.

PAYMENT TO CIVIL SERVICE RETIREMENT AND DISABILITY FUND

For financing the unfunded liability of new and increased annuity benefits becoming effective on or after October 20, 1969, as authorized by 5 U.S.C. 8348, and annuities under special Acts to be credited to the Civil Service Retirement and Disability Fund, such sums as may be necessary: *Provided,* That annuities authorized by the Act of May 29, 1944, as amended, and the Act of August 19, 1950, as amended (33 U.S.C. 771–75), may hereafter be paid out of the Civil Service Retirement and Disability Fund. 33 USC 776.

OFFICE OF SPECIAL COUNSEL

SALARIES AND EXPENSES

For necessary expenses to carry out functions of the Office of Special Counsel pursuant to Reorganization Plan Numbered 2 of 1978, the Civil Service Reform Act of 1978 (Public Law 95–454), the Whistleblower Protection Act of 1989 (Public Law 101–12), Public Law 103–424, and the Uniformed Services Employment and Reemployment Act of 1994 (Public Law 103–353), including services as authorized by 5 U.S.C. 3109, payment of fees and expenses for witnesses, rental of conference rooms in the District of Columbia and elsewhere, and hire of passenger motor vehicles; $8,116,000.

UNITED STATES TAX COURT

SALARIES AND EXPENSES

For necessary expenses, including contract reporting and other services as authorized by 5 U.S.C. 3109, $33,781,000: *Provided,* That travel expenses of the judges shall be paid upon the written certificate of the judge. 26 USC 7443 note.

This title may be cited as the "Independent Agencies Appropriations Act, 1997".

TITLE V—GENERAL PROVISIONS

THIS ACT

SECTION 501. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 502. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 503. Section 5131 of title 31, United States Code, is amended—

(1) by striking subsection (c); and

(2) by redesignating subsection (d) as subsection (c).

SEC. 504. None of the funds made available by this Act shall be available for any activity or for paying the salary of any Government employee where funding an activity or paying a salary to

a Government employee would result in a decision, determination, rule, regulation, or policy that would prohibit the enforcement of section 307 of the Tariff Act of 1930.

SEC. 505. None of the funds made available by this Act shall be available for the purpose of transferring control over the Federal Law Enforcement Training Center located at Glynco, Georgia, and Artesia, New Mexico, out of the Treasury Department.

SEC. 506. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes within the United States not heretofore authorized by the Congress.

SEC. 507. No part of any appropriation contained in this Act shall be available for the payment of the salary of any officer or employee of the United States Postal Service, who—

(1) prohibits or prevents, or attempts or threatens to prohibit or prevent, any officer or employee of the United States Postal Service from having any direct oral or written communication or contact with any Member or committee of Congress in connection with any matter pertaining to the employment of such officer or employee or pertaining to the United States Postal Service in any way, irrespective of whether such communication or contact is at the initiative of such officer or employee or in response to the request or inquiry of such Member or committee; or

(2) removes, suspends from duty without pay, demotes, reduces in rank, seniority, status, pay, or performance of efficiency rating, denies promotion to, relocates, reassigns, transfers, disciplines, or discriminates in regard to any employment right, entitlement, or benefit, or any term or condition of employment of, any officer or employee of the United States Postal Service, or attempts or threatens to commit any of the foregoing actions with respect to such officer or employee, by reason of any communication or contact of such officer or employee with any Member or committee of Congress as described in paragraph (1).

SEC. 508. The Office of Personnel Management may, during the fiscal year ending September 30, 1997, accept donations of supplies, services, land, and equipment for the Federal Executive Institute and Management Development Centers to assist in enhancing the quality of Federal management.

18 USC 3056 note.

SEC. 509. The United States Secret Service may, during the fiscal year ending September 30, 1997, and hereafter, accept donations of money to off-set costs incurred while protecting former Presidents and spouses of former Presidents when the former President or spouse travels for the purpose of making an appearance or speech for a payment of money or any thing of value.

SEC. 510. No part of any appropriation contained in this Act shall be available to pay the salary for any person filling a position, other than a temporary position, formerly held by an employee who has left to enter the Armed Forces of the United States and has satisfactorily completed his period of active military or naval service and has within 90 days after his release from such service or from hospitalization continuing after discharge for a period of not more than 1 year made application for restoration to his former position and has been certified by the Office of Personnel Management as still qualified to perform the duties of his former position and has not been restored thereto.

SEC. 511. None of the funds made available in this Act may be used to provide any non-public information such as mailing or telephone lists to any person or any organization outside of the Federal Government without the approval of the House and Senate Committees on Appropriations.

SEC. 512. No funds appropriated pursuant to this Act may be expended by an entity unless the entity agrees that in expending the assistance the entity will comply with sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a–10c, popularly known as the "Buy American Act").

SEC. 513. (a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—In the case of any equipment or products that may be authorized to be purchased with financial assistance provided under this Act, it is the sense of the Congress that entities receiving such assistance should, in expending the assistance, purchase only American-made equipment and products.

(b) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance under this Act, the Secretary of the Treasury shall provide to each recipient of the assistance a notice describing the statement made in subsection (a) by the Congress.

SEC. 514. If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a "Made in America" inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, such person shall be ineligible to receive any contract or subcontract made with funds provided pursuant to this Act, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

SEC. 515. Except as otherwise specifically provided by law, not to exceed 50 percent of unobligated balances remaining available at the end of fiscal year 1997 from appropriations made available for salaries and expenses for fiscal year 1997 in this Act, shall remain available through September 30, 1998, for each such account for the purposes authorized: *Provided,* That a request shall be submitted to the House and Senate Committees on Appropriations for approval prior to the expenditure of such funds.

SEC. 516. Where appropriations in this Act are expendable for travel expenses of employees and no specific limitation has been placed thereon, the expenditures for such travel expenses may not exceed the amount set forth in the budget estimates submitted for appropriations without the advance approval of the House and Senate Committees on Appropriations: *Provided,* That this section shall not apply to travel performed by uncompensated officials of local boards and appeal boards in the Selective Service System; to travel performed directly in connection with care and treatment of medical beneficiaries of the Department of Veterans Affairs; to travel of the Office of Personnel Management in carrying out its observation responsibilities of the Voting Rights Act; or to payments to interagency motor pools separately set forth in the budget schedules: *Provided further,* That this provision does not apply to accounts that do not contain an object identification for travel.

SEC. 517. Notwithstanding any other provision of law or regulation during the fiscal year ending September 30, 1997, and thereafter: 31 USC 5141 note.

(1) The authority of the special police officers of the Bureau of Engraving and Printing, in the Washington, DC Metropolitan area, extends to buildings and land under the custody and control of the Bureau; to buildings and land acquired by or for the Bureau through lease, unless otherwise provided by the acquisition agency; to the streets, sidewalks and open areas immediately adjacent to the Bureau along Wallenberg Place (15th Street) and 14th Street between Independence and Maine Avenues and C and D Streets between 12th and 14th Streets; to areas which include surrounding parking facilities used by Bureau employees, including the lots at 12th and C Streets, SW, Maine Avenue and Water Streets, SW, Maiden Lane, the Tidal Basin and East Potomac Park; to the protection in transit of United States securities, plates and dies used in the production of United States securities, or other products or implements of the Bureau of Engraving and Printing which the Director of that agency so designates.

(2) The authority of the special police officers of the United States Mint extends to the buildings and land under the custody and control of the Mint; to the streets, sidewalks and open areas in the vicinity to such facilities; to surrounding parking facilities used by Mint employees; and to the protection in transit of bullion, coins, dies, and other property and assets of, or in the custody of, the Mint.

(3) The exercise of police authority by Bureau or Mint officers, with the exception of the exercise of authority upon property under the custody and control of the Bureau or the Mint, respectively, shall be deemed supplementary to the Federal police force with primary jurisdictional responsibility. This authority shall be in addition to any other law enforcement authority which has been provided to these officers under other provisions of law or regulations.

SEC. 518. No funds appropriated by this Act shall be available to pay for an abortion, or the administrative expenses in connection with any health plan under the Federal employees health benefit program which provides any benefits or coverage for abortions.

SEC. 519. The provision of section 518 shall not apply where the life of the mother would be endangered if the fetus were carried to term, or the pregnancy is the result of an act of rape or incest.

SEC. 520. No part of any appropriation made available in this Act shall be used to implement Bureau of Alcohol, Tobacco and Firearms Ruling TD ATF–360; Re: Notice Nos. 782, 780, 91F009P.

SEC. 521. Notwithstanding title 5, United States Code, Personal Service Contractors (PSC) employed by the Department of the Treasury shall be considered as Federal Government employees for purposes of making available Federal employee health and life insurance.

SEC. 522. Section 5131 of title 31, United States Code, is amended by striking subsection (c); and by redesignating subsection (d) as subsection (c).

SEC. 523. Section 5112(i)(4) of title 31, United States Code, is amended by adding at the end the following new subparagraph:

"(C) The Secretary may continue to mint and issue coins in accordance with the specifications contained in paragraphs (7), (8), (9), and (10) of subsection (a) and paragraph (1)(A) of this subsection at the same time the Secretary in minting and issuing other bullion and proof gold coins under this subsection in accordance with such

program procedures and coin specifications, designs, varieties, quantities, denominations, and inscriptions as the Secretary, in the Secretary's discretion, may prescribe from time to time.": *Provided,* That profits generated from the sale of gold to the United States Mint for this program shall be considered as a receipt to be deposited into the General Fund of the Treasury.

31 USC 5112 note.

SEC. 524. Section 5112 of title 31, United States Code, is amended by adding at the end the following new subsection:

"(k) The Secretary may mint and issue bullion and proof platinum coins in accordance with such specifications, designs, varieties, quantities, denominations, and inscriptions as the Secretary, in the Secretary's discretion, may prescribe from time to time.": *Provided,* That the Secretary is authorized to use Government platinum reserves stockpiled at the United States Mint as working inventory and shall ensure that reserves utilized are replaced by the Mint.

31 USC 5112 note.

SEC. 526. (a) REIMBURSEMENT OF CERTAIN ATTORNEY FEES AND COSTS.—

(1) IN GENERAL.—The Secretary of the Treasury shall pay from amounts appropriated in title I of this Act under the heading, "Departmental Offices, Salaries and Expenses", up to $500,000 to reimburse former employees of the White House Travel Office whose employment in that Office was terminated on May 19, 1993, for any attorney fees and costs they incurred with respect to that termination.

(2) VERIFICATION REQUIRED.—The Secretary shall pay an individual in full under paragraph (1) upon submission by the individual of documentation verifying the attorney fees and costs.

(3) NO INFERENCE OF LIABILITY.—Liability of the United States shall not be inferred from enactment of or payment under this subsection.

(b) LIMITATION ON FILING OF CLAIMS.—The Secretary of the Treasury shall not pay any claim filed under this section that is filed later than 120 days after the date of the enactment of this Act.

(c) LIMITATION.—Payments under subsection (a) shall not include attorney fees or costs incurred with respect to any Congressional hearing or investigation into the termination of employment of the former employees of the White House Travel Office.

(d) REDUCTION.—The amount paid pursuant to this section to an individual for attorney fees and costs described in subsection (a) shall be reduced by any amount received before the date of the enactment of this Act, without obligation for repayment by the individual, for payment of such attorney fees and costs (including any amount received from the funds appropriated for the individual in the matter relating to the "Office of the General Counsel" under the heading "Office of the Secretary" in title I of the Department of Transportation and Related Agencies Appropriations Act, 1994).

(e) PAYMENT IN FULL SETTLEMENT OF CLAIMS AGAINST THE UNITED STATES.—Payment under this section, when accepted by an individual described in subsection (a), shall be in full satisfaction of all claims of, or on behalf of, the individual against the United States that arose out of the termination of the White House Travel Office employment of that individual on May 19, 1993.

SEC. 527. None of the funds made available in this Act may be used by the Executive Office of the President to request from

the Federal Bureau of Investigation any official background investigation report on any individual, except when it is made known to the Federal official having authority to obligate or expend such funds that—

(1) such individual has given his or her express written consent for such request not more than 6 months prior to the date of such request and during the same presidential administration; or

(2) such request is required due to extraordinary circumstances involving national security.

SEC. 528. (a) CLOSING OF ALLEY.—The alley bisecting the property on which a facility is being constructed for use by the United States Government at 930 H Street, N.W., Washington, District of Columbia, is closed to the public, without regard to any contingencies.

(b) JURISDICTION.—The Administrator of General Services shall have administrative jurisdiction over, and shall hold title on behalf of the United States in, the alley, property, and facility referred to in subsection (a).

SEC. 529. (a) COMMEMORATIVE COIN PROGRAM RESTRICTIONS.—Section 5112 of title 31, United States Code, as amended by sections 524 and 530 of this Act, is amended by adding at the end the following new subsection:

"(m) COMMEMORATIVE COIN PROGRAM RESTRICTIONS.—

"(1) MAXIMUM NUMBER.—Beginning January 1, 1999, the Secretary may mint and issue commemorative coins under this section during any calendar year with respect to not more than 2 commemorative coin programs.

"(2) MINTAGE LEVELS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), in carrying out any commemorative coin program, the Secretary shall mint—

"(i) not more than 750,000 clad half-dollar coins;

"(ii) not more than 500,000 silver one-dollar coins; and

"(iii) not more than 100,000 gold five-dollar or ten-dollar coins.

"(B) EXCEPTION.—If the Secretary determines, based on independent, market-based research conducted by a designated recipient organization of a commemorative coin program, that the mintage levels described in subparagraph (A) are not adequate to meet public demand for that commemorative coin, the Secretary may waive one or more of the requirements of subparagraph (A) with respect to that commemorative coin program.

"(C) DESIGNATED RECIPIENT ORGANIZATION DEFINED.—For purposes of this paragraph, the term 'designated recipient organization' means any organization designated, under any provision of law, as the recipient of any surcharge imposed on the sale of any numismatic item.".

(b) RECOVERY OF MINT EXPENSES REQUIRED BEFORE PAYMENT OF SURCHARGES TO ANY RECIPIENT ORGANIZATION.—

(1) CLARIFICATION OF LAW RELATING TO DEPOSIT OF SURCHARGES IN THE NUMISMATIC PUBLIC ENTERPRISE FUND.—Section 5134(c)(2) of title 31, United States Code, is amended by inserting ", including amounts attributable to any surcharge

imposed with respect to the sale of any numismatic item" before the period.

(2) CONDITIONS ON PAYMENT OF SURCHARGES TO RECIPIENT ORGANIZATIONS.—Section 5134 of title 31, United States Code, is amended by adding at the end the following new subsection:

"(f) CONDITIONS ON PAYMENT OF SURCHARGES TO RECIPIENT ORGANIZATIONS.—

"(1) PAYMENT OF SURCHARGES.—Notwithstanding any other provision of law, no amount derived from the proceeds of any surcharge imposed on the sale of any numismatic item shall be paid from the fund to any designated recipient organization unless—

"(A) all numismatic operation and program costs allocable to the program under which such numismatic item is produced and sold have been recovered; and

"(B) the designated recipient organization submits an audited financial statement that demonstrates to the satisfaction of the Secretary of the Treasury that, with respect to all projects or purposes for which the proceeds of such surcharge may be used, the organization has raised funds from private sources for such projects and purposes in an amount that is equal to or greater than the maximum amount the organization may receive from the proceeds of such surcharge.

"(2) ANNUAL AUDITS.—

"(A) ANNUAL AUDITS OF RECIPIENTS REQUIRED.—Each designated recipient organization that receives any payment from the fund of any amount derived from the proceeds of any surcharge imposed on the sale of any numismatic item shall provide, as a condition for receiving any such amount, for an annual audit, in accordance with generally accepted government auditing standards by an independent public accountant selected by the organization, of all such payments to the organization beginning in the first fiscal year of the organization in which any such amount is received and continuing until all amounts received by such organization from the fund with respect to such surcharges are fully expended or placed in trust.

"(B) MINIMUM REQUIREMENTS FOR ANNUAL AUDITS.—At a minimum, each audit of a designated recipient organization pursuant to subparagraph (A) shall report—

"(i) the amount of payments received by the designated recipient organization from the fund during the fiscal year of the organization for which the audit is conducted that are derived from the proceeds of any surcharge imposed on the sale of any numismatic item;

"(ii) the amount expended by the designated recipient organization from the proceeds of such surcharges during the fiscal year of the organization for which the audit is conducted; and

"(iii) whether all expenditures by the designated recipient organization during the fiscal year of the organization for which the audit is conducted from the proceeds of such surcharges were for authorized purposes.

"(C) RESPONSIBILITY OF ORGANIZATION TO ACCOUNT FOR EXPENDITURES OF SURCHARGES.—Each designated recipient organization that receives any payment from the fund of any amount derived from the proceeds of any surcharge imposed on the sale of any numismatic item shall take appropriate steps, as a condition for receiving any such payment, to ensure that the receipt of the payment and the expenditure of the proceeds of such surcharge by the organization in each fiscal year of the organization can be accounted for separately from all other revenues and expenditures of the organization.

"(D) SUBMISSION OF AUDIT REPORT.—Not later than 90 days after the end of any fiscal year of a designated recipient organization for which an audit is required under subparagraph (A), the organization shall—

"(i) submit a copy of the report to the Secretary of the Treasury; and

"(ii) make a copy of the report available to the public.

"(E) USE OF SURCHARGES FOR AUDITS.—Any designated recipient organization that receives any payment from the fund of any amount derived from the proceeds of any surcharge imposed on the sale of any numismatic item may use the amount received to pay the cost of an audit required under subparagraph (A).

"(F) WAIVER OF PARAGRAPH.—The Secretary of the Treasury may waive the application of any subparagraph of this paragraph to any designated recipient organization for any fiscal year after taking into account the amount of surcharges that such organization received or expended during such year.

"(G) NONAPPLICABILITY TO FEDERAL ENTITIES.—This paragraph shall not apply to any Federal agency or department or any independent establishment in the executive branch that receives any payment from the fund of any amount derived from the proceeds of any surcharge imposed on the sale of any numismatic item.

"(H) AVAILABILITY OF BOOKS AND RECORDS.—An organization that receives any payment from the fund of any amount derived from the proceeds of any surcharge imposed on the sale of any numismatic item shall provide, as a condition for receiving any such payment, to the Inspector General of the Department of the Treasury or the Comptroller General of the United States, upon the request of such Inspector General or the Comptroller General, all books, records, and work papers belonging to or used by the organization, or by any independent public accountant who audited the organization in accordance with subparagraph (A), which may relate to the receipt or expenditure of any such amount by the organization.

"(3) USE OF AGENTS OR ATTORNEYS TO INFLUENCE COMMEMORATIVE COIN LEGISLATION.—No portion of any payment from the fund to any designated recipient organization of any amount derived from the proceeds of any surcharge imposed on the sale of any numismatic item may be used, directly or indirectly, by the organization to compensate any agent or attorney for services rendered to support or influence

in any way legislative action of the Congress relating to such numismatic item.

"(4) DESIGNATED RECIPIENT ORGANIZATION DEFINED.—For purposes of this subsection, the term 'designated recipient organization' means any organization designated, under any provision of law, as the recipient of any surcharge imposed on the sale of any numismatic item.".

(3) SCOPE OF APPLICATION.—The amendments made by this section shall apply with respect to the proceeds of any surcharge imposed on the sale of any numismatic item that are deposited in the Numismatic Public Enterprise Fund after the date of the enactment of this Act. 31 USC 5134 note.

(4) REPEAL OF EXISTING RECIPIENT REPORT REQUIREMENT.—Section 303 of Public Law 103–186 (31 U.S.C. 5112 note) is repealed.

(c) QUARTERLY FINANCIAL REPORTS.—Section 5134 of title 31, United States Code, is amended by adding at the end the following new subsection:

"(g) QUARTERLY FINANCIAL REPORTS.—

"(1) IN GENERAL.—Not later than the 30th day of each month following each calendar quarter through and including the final period of sales with respect to any commemorative coin program authorized on or after the date of enactment of the Treasury, Postal Service, and General Government Appropriations Act, 1997, the Mint shall submit to the Congress a quarterly financial report in accordance with this subsection.

"(2) REQUIREMENTS.—Each report submitted under paragraph (1) shall include, with respect to the calendar quarter at issue—

"(A) a detailed financial statement, prepared in accordance with generally accepted accounting principles, that includes financial information specific to that quarter, as well as cumulative financial information relating to the entire program;

"(B) a detailed accounting of—

"(i) all costs relating to marketing efforts;

"(ii) all funds projected for marketing use;

"(iii) all costs for employee travel relating to the promotion of commemorative coin programs;

"(iv) all numismatic items minted, sold, not sold, and rejected during the production process; and

"(v) the costs of melting down all rejected and unsold products;

"(C) adequate market-based research for all commemorative coin programs; and

"(D) a description of the efforts of the Mint in keeping the sale price of numismatic items as low as practicable.".

(d) CITIZENS COMMEMORATIVE COIN ADVISORY COMMITTEE.—

(1) FIXED TERMS FOR MEMBERS.—Section 5135(a)(4) of title 31, United States Code, is amended to read as follows:

"(4) TERMS.—Each member appointed under clause (i) or (iii) of paragraph (3)(A) shall be appointed for a term of 4 years.".

(2) CHAIRPERSON.—Section 5135(a) of title 31, United States Code, is amended by adding at the end the following new paragraph:

"(7) CHAIRPERSON.—

"(A) IN GENERAL.—Subject to subparagraph (B), the Chairperson of the Advisory Committee shall be elected by the members of the Advisory Committee from among such members.

"(B) EXCEPTION.—The member appointed pursuant to paragraph (3)(A)(ii) (or the alternate to that member) may not serve as the Chairperson of the Advisory Committee, beginning on June 1, 1999.".

31 USC 5112 note.

(e) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on the date of enactment of this Act.

TITLE VI—GENERAL PROVISIONS

DEPARTMENTS, AGENCIES, AND CORPORATIONS

SECTION 601. Funds appropriated in this or any other Act may be used to pay travel to the United States for the immediate family of employees serving abroad in cases of death or life threatening illness of said employee.

SEC. 602. No department, agency, or instrumentality of the United States receiving appropriated funds under this or any other Act for fiscal year 1997 shall obligate or expend any such funds, unless such department, agency, or instrumentality has in place, and will continue to administer in good faith, a written policy designed to ensure that all of its workplaces are free from the illegal use, possession, or distribution of controlled substances (as defined in the Controlled Substances Act) by the officers and employees of such department, agency, or instrumentality.

SEC. 603. Notwithstanding 31 U.S.C. 1345, any agency, department or instrumentality of the United States which provides or proposes to provide child care services for Federal employees may reimburse any Federal employee or any person employed to provide such services for travel, transportation, and subsistence expenses incurred for training classes, conferences or other meetings in connection with the provision of such services: *Provided,* That any per diem allowance made pursuant to this section shall not exceed the rate specified in regulations prescribed pursuant to section 5707 of title 5, United States Code.

31 USC 1343 note.

SEC. 604. Unless otherwise specifically provided, the maximum amount allowable during the current fiscal year in accordance with section 16 of the Act of August 2, 1946 (60 Stat. 810), for the purchase of any passenger motor vehicle (exclusive of buses, ambulances, law enforcement, and undercover surveillance vehicles), is hereby fixed at $8,100 except station wagons for which the maximum shall be $9,100: *Provided,* That these limits may be exceeded by not to exceed $3,700 for police-type vehicles, and by not to exceed $4,000 for special heavy-duty vehicles: *Provided further,* That the limits set forth in this section may not be exceeded by more than 5 percent for electric or hybrid vehicles purchased for demonstration under the provisions of the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976: *Provided further,* That the limits set forth in this section may be exceeded by the incremental cost of clean alternative fuels vehicles acquired pursuant to Public Law 101–549 over the cost of comparable conventionally fueled vehicles.

SEC. 605. Appropriations of the executive departments and independent establishments for the current fiscal year available for expenses of travel or for the expenses of the activity concerned, are hereby made available for quarters allowances and cost-of-living allowances, in accordance with 5 U.S.C. 5922–24.

SEC. 606. Unless otherwise specified during the current fiscal year, no part of any appropriation contained in this or any other Act shall be used to pay the compensation of any officer or employee of the Government of the United States (including any agency the majority of the stock of which is owned by the Government of the United States) whose post of duty is in the continental United States unless such person (1) is a citizen of the United States, (2) is a person in the service of the United States on the date of enactment of this Act who, being eligible for citizenship, has filed a declaration of intention to become a citizen of the United States prior to such date and is actually residing in the United States, (3) is a person who owes allegiance to the United States, (4) is an alien from Cuba, Poland, South Vietnam, the countries of the former Soviet Union, or the Baltic countries lawfully admitted to the United States for permanent residence, (5) is a South Vietnamese, Cambodian, or Laotian refugee paroled in the United States after January 1, 1975, or (6) is a national of the People's Republic of China who qualifys for adjustment of status pursuant to the Chinese Student Protection Act of 1992: *Provided,* That for the purpose of this section, an affidavit signed by any such person shall be considered prima facie evidence that the requirements of this section with respect to his or her status have been complied with: *Provided further,* That any person making a false affidavit shall be guilty of a felony, and, upon conviction, shall be fined no more than $4,000 or imprisoned for not more than 1 year, or both: *Provided further,* That the above penal clause shall be in addition to, and not in substitution for, any other provisions of existing law: *Provided further,* That any payment made to any officer or employee contrary to the provisions of this section shall be recoverable in action by the Federal Government. This section shall not apply to citizens of Ireland, Israel, or the Republic of the Philippines, or to nationals of those countries allied with the United States in the current defense effort, or to international broadcasters employed by the United States Information Agency, or to temporary employment of translators, or to temporary employment in the field service (not to exceed 60 days) as a result of emergencies. 5 USC 3101 note.

SEC. 607. Appropriations available to any department or agency during the current fiscal year for necessary expenses, including maintenance or operating expenses, shall also be available for payment to the General Services Administration for charges for space and services and those expenses of renovation and alteration of buildings and facilities which constitute public improvements performed in accordance with the Public Buildings Act of 1959 (73 Stat. 749), the Public Buildings Amendments of 1972 (87 Stat. 216), or other applicable law.

SEC. 608. In addition to funds provided in this or any other Act, all Federal agencies are authorized to receive and use funds resulting from the sale of materials, including Federal records disposed of pursuant to a records schedule recovered through recycling or waste prevention programs. Such funds shall be available until expended for the following purposes:

(1) Acquisition, waste reduction and prevention, and recycling programs as described in Executive Order 12873 (October 20, 1993), including any such programs adopted prior to the effective date of the Executive Order.

(2) Other Federal agency environmental management programs, including, but not limited to, the development and implementation of hazardous waste management and pollution prevention programs.

(3) Other employee programs as authorized by law or as deemed appropriate by the head of the Federal agency.

SEC. 609. Funds made available by this or any other Act for administrative expenses in the current fiscal year of the corporations and agencies subject to chapter 91 of title 31, United States Code, shall be available, in addition to objects for which such funds are otherwise available, for rent in the District of Columbia; services in accordance with 5 U.S.C. 3109; and the objects specified under this head, all the provisions of which shall be applicable to the expenditure of such funds unless otherwise specified in the Act by which they are made available: *Provided,* That in the event any functions budgeted as administrative expenses are subsequently transferred to or paid from other funds, the limitations on administrative expenses shall be correspondingly reduced.

SEC. 610. No part of any appropriation for the current fiscal year contained in this or any other Act shall be paid to any person for the filling of any position for which he or she has been nominated after the Senate has voted not to approve the nomination of said person.

40 USC 486a.

SEC. 611. For the fiscal year ending September 30, 1997, and thereafter, any department or agency to which the Administrator of General Services has delegated the authority to operate, maintain or repair any building or facility pursuant to section 205(d) of the Federal Property and Administrative Services Act of 1949, as amended, shall retain that portion of the GSA rental payment available for operation, maintenance or repair of the building or facility, as determined by the Administrator, and expend such funds directly for the operation, maintenance or repair of the building or facility. Any funds retained under this section shall remain available until expended for such purposes.

SEC. 612. (a) IN GENERAL.—Section 1306 of title 31, United States Code, is amended to read as follows:

"§ 1306. Use of foreign credits

"(a) IN GENERAL.—Foreign credits (including currencies) owed to or owned by the United States may be used by any agency for any purpose for which appropriations are made for the agency for the current fiscal year (including the carrying out of Acts requiring or authorizing the use of such credits), but only when reimbursement therefor is made to the Treasury from applicable appropriations of the agency.

"(b) EXCEPTION TO REIMBURSEMENT REQUIREMENT.—Credits described in subsection (a) that are received as exchanged allowances, or as the proceeds of the sale of personal property, may be used in whole or partial payment for the acquisition of similar items, to the extent and in the manner authorized by law, without reimbursement to the Treasury.".

(b) APPLICABILITY.—The amendment made by this section shall take effect on the date of the enactment of this Act and shall apply thereafter. 31 USC 1306 note.

SEC. 613. No part of any appropriation contained in this or any other Act shall be available for interagency financing of boards(except Federal Executive Boards), commissions, councils, committees, or similar groups (whether or not they are interagency entities) which do not have a prior and specific statutory approval to receive financial support from more than one agency or instrumentality.

SEC. 614. Funds made available by this or any other Act to the "Postal Service Fund" (39 U.S.C. 2003) shall be available for employment of guards for all buildings and areas owned or occupied by the Postal Service and under the charge and control of the Postal Service, and such guards shall have, with respect to such property, the powers of special policemen provided by the first section of the Act of June 1, 1948, as amended (62 Stat. 281; 40 U.S.C. 318), and, as to property owned or occupied by the Postal Service, the Postmaster General may take the same actions as the Administrator of General Services may take under the provisions of sections 2 and 3 of the Act of June 1, 1948, as amended (62 Stat. 281; 40 U.S.C. 318a, 318b), attaching thereto penal consequences under the authority and within the limits provided in section 4 of the Act of June 1, 1948, as amended (62 Stat. 281; 40 U.S.C. 318c).

SEC. 615. None of the funds made available pursuant to the provisions of this Act shall be used to implement, administer, or enforce any regulation which has been disapproved pursuant to a resolution of disapproval duly adopted in accordance with the applicable law of the United States.

SEC. 616. (a) Notwithstanding any other provision of law, and except as otherwise provided in this section, no part of any of the funds appropriated for the fiscal year ending on September 30, 1997, by this or any other Act, may be used to pay any prevailing rate employee described in section 5342(a)(2)(A) of title 5, United States Code— 5 USC 5343.

(1) during the period from the date of expiration of the limitation imposed by section 616 of the Treasury, Postal Service and General Government Appropriations Act, 1996, until the normal effective date of the applicable wage survey adjustment that is to take effect in fiscal year 1997, in an amount that exceeds the rate payable for the applicable grade and step of the applicable wage schedule in accordance with such section 616; and

(2) during the period consisting of the remainder of fiscal year 1997, in an amount that exceeds, as a result of a wage survey adjustment, the rate payable under paragraph (1) by more than the sum of—

(A) the percentage adjustment taking effect in fiscal year 1997 under section 5303 of title 5, United States Code, in the rates of pay under the General Schedule; and

(B) the difference between the overall average percentage of the locality-based comparability payments taking effect in fiscal year 1997 under section 5304 of such title

(whether by adjustment or otherwise), and the overall average percentage of such payments which was effective in fiscal year 1996 under such section.

(b) Notwithstanding any other provision of law, no prevailing rate employee described in subparagraph (B) or (C) of section 5342(a)(2) of title 5, United States Code, and no employee covered by section 5348 of such title, may be paid during the periods for which subsection (a) is in effect at a rate that exceeds the rates that would be payable under subsection (a) were subsection (a) applicable to such employee.

(c) For the purposes of this section, the rates payable to an employee who is covered by this section and who is paid from a schedule not in existence on September 30, 1996, shall be determined under regulations prescribed by the Office of Personnel Management.

(d) Notwithstanding any other provision of law, rates of premium pay for employees subject to this section may not be changed from the rates in effect on September 30, 1996, except to the extent determined by the Office of Personnel Management to be consistent with the purpose of this section.

(e) This section shall apply with respect to pay for service performed after September 30, 1996.

(f) For the purpose of administering any provision of law (including section 8431 of title 5, United States Code, and any rule or regulation that provides premium pay, retirement, life insurance, or any other employee benefit) that requires any deduction or contribution, or that imposes any requirement or limitation on the basis of a rate of salary or basic pay, the rate of salary or basic pay payable after the application of this section shall be treated as the rate of salary or basic pay.

(g) Nothing in this section shall be considered to permit or require the payment to any employee covered by this section at a rate in excess of the rate that would be payable were this section not in effect.

(h) The Office of Personnel Management may provide for exceptions to the limitations imposed by this section if the Office determines that such exceptions are necessary to ensure the recruitment or retention of qualified employees.

SEC. 617. During the period in which the head of any department or agency, or any other officer or civilian employee of the Government appointed by the President of the United States, holds office, no funds may be obligated or expended in excess of $5,000 to furnish or redecorate the office of such department head, agency head, officer or employee, or to purchase furniture or make improvements for any such office, unless advance notice of such furnishing or redecoration is expressly approved by the Committees on Appropriations of the House and Senate. For the purposes of this section, the word "office" shall include the entire suite of offices assigned to the individual, as well as any other space used primarily by the individual or the use of which is directly controlled by the individual.

SEC. 618. Notwithstanding any other provision of law, no executive branch agency shall purchase, construct, and/or lease any additional facilities, except within or contiguous to existing locations, to be used for the purpose of conducting Federal law enforcement training without the advance approval of the House and Senate Committees on Appropriations.

SEC. 619. Notwithstanding section 1346 of title 31, United States Code, or section 613 of this Act, funds made available for fiscal year 1997 by this or any other Act shall be available for the interagency funding of national security and emergency preparedness telecommunications initiatives which benefit multiple Federal departments, agencies, or entities, as provided by Executive Order Numbered 12472 (April 3, 1984).

SEC. 620. (a) None of the funds appropriated by this or any other Act may be obligated or expended by any Federal department, agency, or other instrumentality for the salaries or expenses of any employee appointed to a position of a confidential or policy-determining character excepted from the competitive service pursuant to section 3302 of title 5, United States Code, without a certification to the Office of Personnel Management from the head of the Federal department, agency, or other instrumentality employing the Schedule C appointee that the Schedule C position was not created solely or primarily in order to detail the employee to the White House.

(b) The provisions of this section shall not apply to Federal employees or members of the armed services detailed to or from—

(1) the Central Intelligence Agency;

(2) the National Security Agency;

(3) the Defense Intelligence Agency;

(4) the offices within the Department of Defense for the collection of specialized national foreign intelligence through reconnaissance programs;

(5) the Bureau of Intelligence and Research of the Department of State;

(6) any agency, office, or unit of the Army, Navy, Air Force, and Marine Corps, the Federal Bureau of Investigation and the Drug Enforcement Administration of the Department of Justice, the Department of Transportation, the Department of the Treasury, and the Department of Energy performing intelligence functions; and

(7) the Director of Central Intelligence.

SEC. 621. No department, agency, or instrumentality of the United States receiving appropriated funds under this or any other Act for fiscal year 1997 shall obligate or expend any such funds, unless such department, agency or instrumentality has in place, and will continue to administer in good faith, a written policy designed to ensure that all of its workplaces are free from discrimination and sexual harassment and that all of its workplaces are not in violation of title VII of the Civil Rights Act of 1964, as amended, the Age Discrimination in Employment Act of 1967, and the Rehabilitation Act of 1973.

SEC. 622. No part of any appropriation contained in this Act may be used to pay for the expenses of travel of employees, including employees of the Executive Office of the President, not directly responsible for the discharge of official governmental tasks and duties: *Provided,* That this restriction shall not apply to the family of the President, Members of Congress or their spouses, Heads of State of a foreign country or their designees, persons providing assistance to the President for official purposes, or other individuals so designated by the President.

SEC. 623. Notwithstanding any provision of law, the President, or his designee, must certify to Congress, annually, that no person or persons with direct or indirect responsibility for administering 5 USC 7301 note.

the Executive Office of the President's Drug-Free Workplace Plan are themselves subject to a program of individual random drug testing.

SEC. 624. (a) None of the funds made available in this Act or any other Act may be obligated or expended for any employee training when it is made known to the Federal official having authority to obligate or expend such funds that such employee training—

(1) does not meet identified needs for knowledge, skills, and abilities bearing directly upon the performance of official duties;

(2) contains elements likely to induce high levels of emotional response or psychological stress in some participants;

(3) does not require prior employee notification of the content and methods to be used in the training and written end of course evaluation;

(4) contains any methods or content associated with religious or quasi-religious belief systems or "new age" belief systems as defined in Equal Employment Opportunity Commission Notice N–915.022, dated September 2, 1988;

(5) is offensive to, or designed to change, participants' personal values or lifestyle outside the workplace; or

(6) includes content related to human immunodeficiency virus/acquired immune deficiency syndrome (HIV/AIDS) other than that necessary to make employees more aware of the medical ramifications of HIV/AIDS and the workplace rights of HIV-positive employees.

(b) Nothing in this section shall prohibit, restrict, or otherwise preclude an agency from conducting training bearing directly upon the performance of official duties.

SEC. 625. No funds appropriated in this or any other Act for fiscal year 1997 may be used to implement or enforce the agreements in Standard Forms 312 and 4355 of the Government or any other nondisclosure policy, form, or agreement if such policy, form, or agreement does not contain the following provisions: "These restrictions are consistent with and do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by Executive Order 12356; section 7211 of title 5, United States Code (governing disclosures to Congress); section 1034 of title 10, United States Code, as amended by the Military Whistleblower Protection Act (governing disclosure to Congress by members of the military); section 2302(b)(8) of title 5, United States Code, as amended by the Whistleblower Protection Act (governing disclosures of illegality, waste, fraud, abuse or public health or safety threats); the Intelligence Identities Protection Act of 1982 (50 U.S.C. 421 et seq.) (governing disclosures that could expose confidential Government agents); and the statutes which protect against disclosure that may compromise the national security, including sections 641, 793, 794, 798, and 952 of title 18, United States Code, and section 4(b) of the Subversive Activities Act of 1950 (50 U.S.C. section 783(b)). The definitions, requirements, obligations, rights, sanctions, and liabilities created by said Executive Order and listed statutes are incorporated into this agreement and are controlling.": *Provided,* That notwithstanding the preceding paragraph, a nondisclosure policy form or agreement that is to be executed by a person connected with the conduct of an intelligence or intelligence-related activity, other than an employee or officer of the United

States Government, may contain provisions appropriate to the particular activity for which such document is to be used. Such form or agreement shall, at a minimum, require that the person will not disclose any classified information received in the course of such activity unless specifically authorized to do so by the United States Government. Such nondisclosure forms shall also make it clear that they do not bar disclosures to Congress or to an authorized official of an executive agency or the Department of Justice that are essential to reporting a substantial violation of law.

SEC. 626. (a) None of the funds appropriated by this or any other Act may be expended by any Federal Agency to procure any product or service subject to section 5124 of Public Law 104–106 and that will be available under the procurement by the Administrator of General Services known as "FTS2000" unless—

(1) such product or service is procured by the Administrator of General Services as part of the procurement known as "FTS2000"; or

(2) that agency establishes to the satisfaction of the Administrator of General Services that—

(A) that agency's requirements for such procurement are unique and cannot be satisfied by property and service procured by the Administrator of General Services as part of the procurement known as "FTS2000"; and

(B) the agency procurement, pursuant to such delegation, would be cost-effective and would not adversely affect the cost-effectiveness of the FTS2000 procurement.

(b) After December 31, 1998, subsection (a) shall apply only if the Administrator of General Services has reported that the FTS2000 procurement is producing prices that allow the Government to satisfy its requirements for such procurement in the most cost-effective manner.

SEC. 627. Subsection (f) of section 403 of Public Law 103–356 is amended by deleting "October 1, 1999" and inserting "October 1, 2001". 31 USC 501 note.

SEC. 628. (a) IN GENERAL.—Notwithstanding any other provision of law, none of the funds made available by this Act for the Department of the Treasury shall be available for any activity or for paying the salary of any Government employee where funding an activity or paying a salary to a Government employee would result in a decision, determination, rule, regulation, or policy that would permit the Secretary of the Treasury to make any loan or extension of credit under section 5302 of title 31, United States Code, with respect to a single foreign entity or government of a foreign country (including agencies or other entities of that government)—

(1) with respect to a loan or extension of credit for more than 60 days, unless the President certifies to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking and Financial Services of the House of Representatives that—

(A) there is no projected cost (as that term is defined in section 502 of the Federal Credit Reform Act of 1990) to the United States from the proposed loan or extension of credit; and

(B) any proposed obligation or expenditure of United States funds to or on behalf of the foreign government is adequately backed by an assured source of repayment

to ensure that all United States funds will be repaid; and

(2) other than as provided by an Act of Congress, if that loan or extension of credit would result in expenditures and obligations, including contingent obligations, aggregating more than $1,000,000,000 with respect to that foreign country for more than 180 days during the 12-month period beginning on the date on which the first such action is taken.

(b) WAIVER OF LIMITATIONS.—The President may exceed the dollar and time limitations in subsection (a)(2) if he certifies in writing to the Congress that a financial crisis in that foreign country poses a threat to vital United States economic interests or to the stability of the international financial system.

(c) EXPEDITED PROCEDURES FOR A RESOLUTION OF DISAPPROVAL.—A presidential certification pursuant to subsection (b) shall not take effect, if the Congress, within 30 calendar days after receiving such certification, enacts a joint resolution of disapproval, as described in paragraph (5) of this subsection.

(1) REFERENCE TO COMMITTEES.—All joint resolutions introduced in the Senate to disapprove the certification shall be referred to the Committee on Banking, Housing, and Urban Affairs, and in the House of Representatives, to the appropriate committees.

(2) DISCHARGE OF COMMITTEES.—(A) If the committee of either House to which a resolution has been referred has not reported it at the end of 15 days after its introduction, it is in order to move either to discharge the committee from further consideration of the joint resolution or to discharge the committee from further consideration of any other resolution introduced with respect to the same matter, except no motion to discharge shall be in order after the committee has reported a joint resolution with respect to the same matter.

(B) A motion to discharge may be made only by an individual favoring the resolution, and is privileged in the Senate; and debate thereon shall be limited to not more than 1 hour, the time to be divided in the Senate equally between, and controlled by, the majority leader and the minority leader or their designees.

(3) FLOOR CONSIDERATION IN THE SENATE.—(A) A motion in the Senate to proceed to the consideration of a resolution shall be privileged.

(B) Debate in the Senate on a resolution, and all debatable motions and appeals in connection therewith, shall be limited to not more than 4 hours, to be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

(C) Debate in the Senate on any debatable motion or appeal in connection with a resolution shall be limited to not more than 20 minutes, to be equally divided between, and controlled by, the mover and the manager of the resolution, except that in the event the manager of the resolution is in favor of any such motion or appeal, the time in opposition thereto, shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from time under their control on the passage of a resolution, allot additional time to any Senator during the consideration of any debatable motion or appeal.

(D) A motion in the Senate to further limit debate on a resolution, debatable motion, or appeal is not debatable. No amendment to, or motion to recommit, a resolution is in order in the Senate.

(4) In the case of a resolution, if prior to the passage by one House of a resolution of that House, that House receives a resolution with respect to the same matter from the other House, then—

(A) the procedure in that House shall be the same as if no resolution had been received from the other House; but

(B) the vote on final passage shall be on the resolution of the other House.

(5) For purposes of this subsection, the term "joint resolution" means only a joint resolution of the 2 Houses of Congress, the matter after the resolving clause of which is as follows: "That the Congress disapproves the action of the President under section 628(c) of the Treasury, Postal Service, and General Government Appropriations Act, 1997, notice of which was submitted to the Congress on _____.", with the blank space being filled with the appropriate date.

(d) APPLICABILITY.—This section—

(1) shall not apply to any action taken as part of the program of assistance to Mexico announced by the President on January 31, 1995; and

(2) shall remain in effect through fiscal year 1997.

SEC. 629. (a) TECHNICAL AMENDMENT.—Section 640 of Public Law 104–52 (109 Stat. 513) is amended by striking "Service performed" and inserting "Hereafter, service performed". 5 USC 8401 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in Public Law 104–52 on the date of its enactment. 5 USC 8401 note.

SEC. 630. Notwithstanding any other provision of law, no part of any appropriation contained in this Act for any fiscal year shall be available for paying Sunday premium or differential pay to any employee unless such employee actually performed work during the time corresponding to such premium or differential pay.

SEC. 631. No part of any funds appropriated in this or any other Act shall be used by an agency of the executive branch, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, and for the preparation, distribution or use of any kit, pamphlet, booklet, publication, radio, television or film presentation designed to support or defeat legislation pending before the Congress, except in presentation to the Congress itself.

SEC. 632. (a) The United States Courthouse under construction at 1030 Southwest 3d Avenue in Portland, Oregon, shall be known and designated as the "Mark O. Hatfield United States Courthouse".

(b) Any reference in a law, map, regulation, document, paper, or other record of the United States to the courthouse referred to in section 901 shall be deemed to be a reference to the "Mark O. Hatfield United States Courthouse".

(c) This section shall take effect on January 2, 1997.

SEC. 633. SURVIVOR ANNUITY RESUMPTION UPON TERMINATION OF MARRIAGE.—(a) AMENDMENTS.—

(1) CIVIL SERVICE RETIREMENT SYSTEM.—Section 8341(e) of title 5, United States Code, is amended by adding at the end the following:

"(4) If the annuity of a child under this subchapter terminates under paragraph (3)(E) because of marriage, then, if such marriage ends, such annuity shall resume on the first day of the month in which it ends, but only if—

"(A) any lump sum paid is returned to the Fund; and

"(B) that individual is not otherwise ineligible for such annuity.".

(2) FEDERAL EMPLOYEES' RETIREMENT SYSTEM.—Section 8443(b) of such title is amended by adding at the end the following: "If the annuity of a child under this subchapter terminates under subparagraph (E) because of marriage, then, if such marriage ends, such annuity shall resume on the first day of the month in which it ends, but only if any lump sum paid is returned to the Fund, and that individual is not otherwise ineligible for such annuity.".

(3) FEDERAL EMPLOYEES HEALTH BENEFITS.—Section 8908 of title 5, United States Code, is amended by adding at the end of the following new subsection:

"(d) A surviving child whose survivor annuity under section 8341(e) or 8443(b) was terminated and is later restored under paragraph (4) of section 8341(e) or the last sentence of section 8443(b) may, under regulations prescribed by the Office, enroll in a health benefits plan described by section 8903 or 8903a if such surviving child was covered by any such plan immediately before such annuity was terminated.".

5 USC 8341 note.

(b) APPLICABILITY.—The amendments made by subsection (a) shall apply with respect to any termination of marriage taking effect before, on, or after the date of enactment of this Act, except that benefits shall be payable only with respect to amounts accruing for periods beginning on the first day of the month beginning after the later of such termination of marriage or such date of enactment.

SEC. 634. AVAILABILITY OF ANNUAL LEAVE FOR EMPLOYEES AFFECTED BY REDUCTION IN FORCE.—Section 6302 of title 5, United States Code, is amended by adding at the end of the following new subsection:

"(g) An employee who is being involuntarily separated from an agency due to a reduction in force or transfer of function under subchapter I of chapter 35 may elect to use annual leave to the employee's credit to remain on the agency's rolls after the date the employee would otherwise have been separated if, and only to the extent that, such additional time in a pay status will enable the employee to qualify for an immediate annuity under section 8336, 8412, 8414, or to qualify to carry health benefits coverage into retirement under section 8905(b).".

SEC. 635. Section 207(e)(6)(B) of title 18, United States Code, is amended by striking "level V of the Executive Schedule" and inserting "level 5 of the Senior Executive Service".

5 USC prec. 5941 note.

SEC. 636. REIMBURSEMENTS RELATING TO PROFESSIONAL LIABILITY INSURANCE.—(a) AUTHORITY.—Notwithstanding any other provision of law, amounts appropriated by this Act (or any other Act for fiscal year 1997 or any fiscal year thereafter) for salaries and expenses may be used to reimburse any qualified employee for not to exceed one-half the costs incurred by such employee for

professional liability insurance. A payment under this section shall be contingent upon the submission of such information or documentation as the employing agency may require.

(b) QUALIFIED EMPLOYEE.—For purposes of this section, the term "qualified employee" means an agency employee whose position is that of—

(1) a law enforcement officer; or

(2) a supervisor or management official.

(c) DEFINITIONS.—For purposes of this section—

(1) the term "agency" means an Executive agency, as defined by section 105 of title 5, United States Code, and any agency of the Legislative Branch of Government including any office or committee of the Senate or the House of Representatives;

(2) the term "law enforcement officer" means an employee, the duties of whose position are primarily the investigation, apprehension, prosecution, or detention of individuals suspected or convicted of offenses against the criminal laws of the United States, including any law enforcement officer under section 8331(20) or 8401(17) of such title 5, or under section 4823 of title 22, United States Code;

(3) the terms "supervisor" and "management official" have the respective meanings given them by section 7103(a) of such title 5, and

(4) the term "professional liability insurance" means insurance which provides coverage for—

(A) legal liability for damages due to injuries to other persons, damage to their property, or other damage or loss to such other persons (including the expenses of litigation and settlement) resulting from or arising out of any tortious act, error, or omission of the covered individual (whether common law, statutory, or constitutional) while in the performance of such individual's official duties as a qualified employee; and

(B) the cost of legal representation for the covered individual in connection with any administrative or judicial proceeding (including any investigation or disciplinary proceeding) relating to any act, error, or omission of the covered individual while in the performance of such individual's official duties as a qualified employee, and other legal costs and fees relating to any such administrative or judicial proceeding.

(d) APPLICABILITY.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply thereafter.

SEC. 637. For purposes of each provision of law amended by section 704(a)(2) of the Ethics Reform Act of 1989 (5 U.S.C. 5318 note), no adjustment under section 5303 of title 5, United States Code, shall be considered to have taken effect in fiscal year 1997 in the rates of basic pay for the statutory pay systems. 5 USC 5303 note.

SEC. 638. For FY 1997, the Secretary of the Treasury is authorized to use funds made available to the FSLIC Resolution Fund under P.L. 103–327, not to exceed $26.1 million, to reimburse the Department of Justice for the reasonable expenses of litigation that are incurred in the defense of claims against the U.S. arising from FIRREA and its implementation.

SEC. 639. Section 608 of Public Law 104–52 is amended in the first sentence by inserting before the period, ", including Federal records disposed of pursuant to a records schedule".

40 USC 1411 note.

SEC. 640. In reviewing and analyzing the contracting out, outsourcing or privatization of business and administrative functions, and in implementing 40 U.S.C. sections 1413 and 1423, and other provisions, in title LI of the National Defense Authorization Act for fiscal year 1996 (the Information Technology Management Reform Act)—

(1) the Director of the Office of Management and Budget and the heads of the executive agencies may have studies, analyses, reviews and other management assistance performed by the private sector;

(2) the reviews, analyses, and studies called for by 40 U.S.C. section 1413(b)(2) (B) and (C) shall be completed and reported to the Agency Head within 180 days, or less measured from when a study analysis or review is initiated unless the Agency Head determines additional time is needed;

(3) in accordance with principles and rules governing organizational conflicts of interest, persons involved in a particular study may not compete for any work that is to be or is outsourced as a result of that study; and

(4) this section will apply with respect to studies occurring on or after the date of enactment of this subsection and completed before September 1, 1999 and the Comptroller General of the United States shall review and provide an assessment of this program by January 1, 1999.

SEC. 641. (a) SECTION 1—AUTHORIZATION OF APPROPRIATIONS.—Section 8(a)(1) of the Whistleblower Protection Act of 1989 (5 U.S.C. 5509 note, Public Law 101–12, April 10, 1989, 103 Stat. 34, as amended Public Law 103–424, Section 1, October 29, 1994, 108 Stat. 4361), is amended by striking the words: "1993, 1994, 1995, 1996, and 1997," and inserting in lieu thereof "1998, 1999, 2000, 2001, and 2002".

5 USC 5509 note.

(b) SECTION 2—EFFECTIVE DATE.—This Act shall take effect on October 1, 1998.

SEC. 642. (a) SECTION 1.—AUTHORIZATION OF APPROPRIATIONS.—Section 8(a)(1) of the Whistleblower Protection Act of 1989 (5 U.S.C. 5509 note; Public Law 103–424; 103 Stat. 34) is amended by striking out: "1993, 1994, 1995, 1996, and 1997," and inserting in lieu thereof "1998, 1999, 2000, 2001, and 2002".

5 USC 5509 note.

(b) SECTION 2—EFFECTIVE DATE.—This Act shall take effect on October 1, 1998.

SEC. 643. MODIFICATIONS OF NATIONAL COMMISSION ON RESTRUCTURING THE INTERNAL REVENUE SERVICE.—(a) QUORUM.—Paragraph (4) of section 637(b) of the Treasury, Postal Service, and General Government Appropriations Act, 1996 (Public Law 104–52, 109 Stat. 510) is amended by striking "Seven" and inserting "Nine".

26 USC 7801 note.

(b) CO-CHAIRS.—

(1) IN GENERAL.—Paragraph (3) of section 637(b) of such Act is amended—

(A) by striking "a Chairman" and inserting "Co-Chairs", and

(B) by striking "Chairman" in the heading and inserting "Co-Chairs".

(2) CONFORMING AMENDMENTS.—(A) Paragraph (5)(B) of section 637(b) of such Act is amended by striking "a Chairman" and inserting "Co-Chairs".

(B) Subsections (b)(4), (d)(1)(B), (d)(3), and (e)(1) of section 637 of such Act are each amended by striking "Chairman" each place it appears and inserting "Co-Chairs".

(c) GIFTS.—Section 637(d) of such Act is amended by adding at the end the following new paragraph:

"(6) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property in carrying out its duties under this section."

(d) TRAVEL EXPENSES.—Section 637(f)(2) of such Act is amended by striking "shall" and inserting "may".

(e) TIME FOR FILING REPORT.—

(1) IN GENERAL.—Paragraph (1) of section 637(g) of such Act is amended by striking "one year" and inserting "15 months".

(2) CONFORMING AMENDMENT.—Subparagraph (A) of section 637(c)(1) of such Act is amended by striking "one year" and inserting "15 months".

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the provisions of the Treasury, Postal Service, and General Government Appropriations Act, 1996. 26 USC 7801 note.

SEC. 644. (a) IN GENERAL.—Section 202(a) of title 39, United States Code, is amended by striking "$10,000 a year" and inserting "$30,000 a year".

(b) EFFECTIVE DATE.—Subsection (a) shall take effect at the beginning of the next applicable pay period beginning after the date of the enactment of this Act. 39 USC 202 note.

SEC. 645. (a) IN GENERAL.—No later than September 30, 1997, the Director of the Office of Management and Budget shall submit to the Congress a report that provides—

(1) estimates of the total annual costs and benefits of Federal regulatory programs, including quantitative and nonquantitative measures of regulatory costs and benefits;

(2) estimates of the costs and benefits (including quantitative and nonquantitative measures) of each rule that is likely to have a gross annual effect on the economy of $100,000,000 or more in increased costs;

(3) an assessment of the direct and indirect impacts of Federal rules on the private sector, State and local government, and the Federal Government; and

(4) recommendations from the Director and a description of significant public comments to reform or eliminate any Federal regulatory program or program element that is inefficient, ineffective, or is not a sound use of the Nation's resources.

(b) NOTICE.—The Director shall provide public notice and an opportunity to comment on the report under subsection (a) before the report is issued in final form.

SEC. 646. Subsection (b) of section 404 of Public Law 103–356 is amended by deleting "September 30, 1997" and inserting "December 31, 1999". 31 USC 501 note.

SEC. 647. (a) Notwithstanding any other provision of law, the Secretary shall, on behalf of the United States, transfer to the University of Miami, without charge, title to the real property and improvements that as of the date of the enactment of this Act constitute the Federal facility known as the Perrine Primate

Center, subject to the condition that, during the 10-year period beginning on the date of the transfer—

(1) the University will provide for the continued use of the real property and improvements as an animal research facility, including primates, and such use will be the exclusive use of the property (with such incidental exceptions as the Secretary may approve); or

(2) the real property and improvements will be used for research-related purposes other than the purpose specified in paragraph (1) (or for both of such purposes), if the Secretary and the University enter into an agreement accordingly.

(b) The conveyance under subsection (a) shall not become effective unless the conveyance specifies that, if the University of Miami engages in a material breach of the conditions specified in such subsection, title to the real property and improvements involved reverts to the United States at the election of the Secretary.

(c) The real property referred to in subsections (a) and (b) is located in the county of Dade in the State of Florida, and is a parcel consisting of the northernmost 30 acre-parcel of the area. The exact acreage and legal description used for purposes of the transfer under subsection (a) shall be in accordance with a survey that is satisfactory to the Secretary.

(d) For the purposes of this section—

(1) the term "Secretary" means the Secretary of Health and Human Services; and

(2) the term "University of Miami" means the University of Miami located in the State of Florida.

SEC. 648. (a) INCREASED PENALTIES FOR COUNTERFEITING VIOLATIONS.—Sections 474 and 474A of title 18, United States Code, are amended by striking "class C felony" each place that term appears and inserting "class B felony".

(b) CRIMINAL PENALTY FOR PRODUCTION, SALE, TRANSPORTATION, POSSESSION OF FICTITIOUS FINANCIAL INSTRUMENTS PURPORTING TO BE THOSE OF THE STATES, OF POLITICAL SUBDIVISIONS, AND OF PRIVATE ORGANIZATIONS.—

(1) IN GENERAL.—Chapter 25 of title 18, United States Code, is amended by inserting after section 513, the following new section:

"§ 514. Fictitious obligations

"(a) Whoever, with the intent to defraud—

"(1) draws, prints, processes, produces, publishes, or otherwise makes, or attempts or causes the same, within the United States;

"(2) passes, utters, presents, offers, brokers, issues, sells, or attempts or causes the same, or with like intent possesses, within the United States; or

"(3) utilizes interstate or foreign commerce, including the use of the mails or wire, radio, or other electronic communication, to transmit, transport, ship, move, transfer, or attempts or causes the same, to, from, or through the United States,

any false or fictitious instrument, document, or other item appearing, representing, purporting, or contriving through scheme or artifice, to be an actual security or other financial instrument issued under the authority of the United States, a foreign government, a State or other political subdivision of the United States, or an organization, shall be guilty of a class B felony.

"(b) For purposes of this section, any term used in this section that is defined in section 513(c) has the same meaning given such term in section 513(c).

"(c) The United States Secret Service, in addition to any other agency having such authority, shall have authority to investigate offenses under this section.".

(2) TECHNICAL AMENDMENT.—The analysis for chapter 25 of title 18, United States Code, is amended by inserting after the item relating to section 513 the following:

"514. Fictitious obligations.".

(c) PERIOD OF EFFECT.—This section and the amendments made by this section shall become effective on the date of enactment of this Act and shall remain in effect during each fiscal year following that date of enactment. 18 USC 474 note.

SEC. 649. None of the funds appropriated by this Act may be used by an agency to provide a Federal employee's home address to any labor organization except when it is made known to the Federal official having authority to obligate or expend such funds that the employee has authorized such disclosure or that such disclosure has been ordered by a court of competent jurisdiction.

SEC. 650. (a) No later than 45 days after the date of the enactment of this Act, the Inspector General of each Federal department or agency that uses administratively uncontrollable overtime in the pay of any employee shall—

(1) conduct an audit on the use of administratively uncontrollable overtime by employees of such department or agency, which shall include—

(A) an examination of the policies, extent, costs, and other relevant aspects of the use of administratively uncontrollable overtime at the department or agency; and

(B) a determination of whether the eligibility criteria of the department or agency and payment of administratively uncontrollable overtime comply with Federal statutory and regulatory requirements; and

(2) submit a report of the findings and conclusions of such audit to—

(A) the Office of Personnel Management;

(B) the Governmental Affairs Committee of the Senate; and

(C) the Government Reform and Oversight Committee of the House of Representatives.

(b) No later than 30 days after the submission of the report under subsection (a), the Office of Personnel Management shall issue revised guidelines to all Federal departments and agencies that—

(1) limit the use of administratively uncontrollable overtime to employees meeting the statutory intent of section 5545(c)(2) of title 5, United States Code; and

(2) expressly prohibit the use of administratively uncontrollable overtime for—

(A) customary or routine work duties; and

(B) work duties that are primarily administrative in nature, or occur in noncompelling circumstances.

SEC. 651. Notwithstanding section 8116 of title 5, United States Code, and in addition to any payment made under 5 U.S.C. 8101 et seq., beginning in fiscal year 1997 and thereafter, the head 5 USC 8133 note.

of any department or agency is authorized to pay from appropriations made available to the department or agency a death gratuity to the personal representative (as that term is defined by applicable law) of a civilian employee of that department or agency whose death resulted from an injury sustained in the line of duty on or after August 2, 1990: *Provided,* That payments made pursuant to this section, in combination with the payments made pursuant to sections 8133(f) and 8134(a) of such title 5 and section 312 of Public Law 103–332 (108 Stat. 2537), may not exceed a total of $10,000 per employee.

18 USC 846 note.

SEC. 653. (a) AUTHORIZATION.—The Secretary of the Treasury is authorized to establish scientific certification standards for explosives detection canines, and shall provide, on a reimbursable basis, for the certification of explosives detection canines employed by Federal agencies, or other agencies providing explosives detection services at airports in the United States.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

SEC. 654. NATIONAL REPOSITORY FOR INFORMATION ON EXPLOSIVES INCIDENTS AND ARSON.

(a) Section 846 of title 18, United States Code, is amended by—

(1) designating the existing section as subsection (a); and

(2) by adding the following new subsection (b) to read as follows:

"(b) The Secretary is authorized to establish a national repository of information on incidents involving arson and the suspected criminal misuse of explosives. All Federal agencies having information concerning such incidents shall report the information to the Secretary pursuant to such regulations as deemed necessary to carry out the provisions of this subsection. The repository shall also contain information on incidents voluntarily reported to the Secretary by State and local authorities.".

18 USC 846 note.

(b) There is authorized to be appropriated such sums as may be necessary to carry out the provisions of this subsection.

SEC. 655. Section 5(c)(1) of Public Law 102–259 (20 U.S.C. 5603(c)(1)) is amended—

(1) in subparagraph (A)(iii), by striking "and" after the semicolon;

(2) in subparagraph (B), by striking the period and inserting "; and"; and

(3) by adding after subparagraph (B) the following:

"(C) a Trustee may serve after the expiration of the Trustee's term until a successor has been chosen.".

SEC. 656. Notwithstanding any other provision of law, the Secretary of the Interior, through the Bureau of Indian Affairs, may directly transfer to Indian tribes in North and South Dakota portable housing units at the Grand Forks Air Force base in North Dakota which have been declared excess by the Department of Defense and requested for transfer by the Department of the Interior.

SEC. 657. Section 922(q) of title 18, United States Code, is amended to read as follows:

"(q)(1) The Congress finds and declares that—

"(A) crime, particularly crime involving drugs and guns, is a pervasive, nationwide problem;

"(B) crime at the local level is exacerbated by the interstate movement of drugs, guns, and criminal gangs;

"(C) firearms and ammunition move easily in interstate commerce and have been found in increasing numbers in and around schools, as documented in numerous hearings in both the Committee on the Judiciary the House of Representatives and the Committee on the Judiciary of the Senate;

"(D) in fact, even before the sale of a firearm, the gun, its component parts, ammunition, and the raw materials from which they are made have considerably moved in interstate commerce;

"(E) while criminals freely move from State to State, ordinary citizens and foreign visitors may fear to travel to or through certain parts of the country due to concern about violent crime and gun violence, and parents may decline to send their children to school for the same reason;

"(F) the occurrence of violent crime in school zones has resulted in a decline in the quality of education in our country;

"(G) this decline in the quality of education has an adverse impact on interstate commerce and the foreign commerce of the United States;

"(H) States, localities, and school systems find it almost impossible to handle gun-related crime by themselves—even States, localities, and school systems that have made strong efforts to prevent, detect, and punish gun-related crime find their efforts unavailing due in part to the failure or inability of other States or localities to take strong measures; and

"(I) the Congress has the power, under the interstate commerce clause and other provisions of the Constitution, to enact measures to ensure the integrity and safety of the Nation's schools by enactment of this subsection.

"(2)(A) It shall be unlawful for any individual knowingly to possess a firearm that has moved in or that otherwise affects interstate or foreign commerce at a place that the individual knows, or has reasonable cause to believe, is a school zone.

"(B) Subparagraph (A) does not apply to the possession of a firearm—

"(i) on private property not part of school grounds;

"(ii) if the individual possessing the firearm is licensed to do so by the State in which the school zone is located or a political subdivision of the State, and the law of the State or political subdivision requires that, before an individual obtains such a license, the law enforcement authorities of the State or political subdivision verify that the individual is qualified under law to receive the license;

"(iii) that is—

"(I) not loaded; and

"(II) in a locked container, or a locked firearms rack that is on a motor vehicle;

"(iv) by an individual for use in a program approved by a school in the school zone;

"(v) by an individual in accordance with a contract entered into between a school in the school zone and the individual or an employer of the individual;

"(vi) by a law enforcement officer acting in his or her official capacity; or

"(vii) that is unloaded and is possessed by an individual while traversing school premises for the purpose of gaining access to public or private lands open to hunting, if the entry on school premises is authorized by school authorities.

"(3)(A) Except as provided in subparagraph (B), it shall be unlawful for any person, knowingly or with reckless disregard for the safety of another, to discharge or attempt to discharge a firearm that has moved in or that otherwise affects interstate or foreign commerce at a place that the person knows is a school zone.

"(B) Subparagraph (A) does not apply to the discharge of a firearm—

"(i) on private property not part of school grounds;

"(ii) as part of a program approved by a school in the school zone, by an individual who is participating in the program;

"(iii) by an individual in accordance with a contract entered into between a school in a school zone and the individual or an employer of the individual; or

"(iv) by a law enforcement officer acting in his or her official capacity.

"(4) Nothing in this subsection shall be construed as preempting or preventing a State or local government from enacting a statute establishing gun free school zones as provided in this subsection.".

SEC. 658. GUN BAN FOR INDIVIDUALS CONVICTED OF A MISDEMEANOR CRIME OF DOMESTIC VIOLENCE.

(a) DEFINITION.—Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

"(33)(A) Except as provided in subparagraph (C), the term 'misdemeanor crime of domestic violence' means an offense that—

"(i) is a misdemeanor under Federal or State law; and

"(ii) has, as an element, the use or attempted use of physical force, or the threatened use of a deadly weapon, committed by a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim as a spouse, parent, or guardian, or by a person similarly situated to a spouse, parent, or guardian of the victim.

"(B)(i) A person shall not be considered to have been convicted of such an offense for purposes of this chapter, unless—

"(I) the person was represented by counsel in the case, or knowingly and intelligently waived the right to counsel in the case; and

(II) in the case of a prosecution for an offense described in this paragraph for which a person was entitled to a jury trial in the jurisdiction in which the case was tried, either

(aa) the case was tried by a jury, or

(bb) the person knowingly and intelligently waived the right to have the case tried by a jury, by guilty plea or otherwise.

"(ii) A person shall not be considered to have been convicted of such an offense for purposes of this chapter if the conviction has been expunged or set aside, or is an offense for which the person has been pardoned or has had civil rights restored (if the law of the applicable jurisdiction provides for the loss of civil rights under such an offense) unless the pardon, expungement, or restoration of civil rights expressly provides that the person may not ship, transport, possess, or receive firearms.".

(b) PROHIBITIONS.—

(1) Section 922(d) of such title is amended—

(A) by striking "or" at the end of paragraph (7);

(B) by striking the period at the end of paragraph (8) and inserting "; or"; and

(C) by inserting after paragraph (8) the following:

"(9) has been convicted in any court of a misdemeanor crime of domestic violence.".

(2) Section 922(g) of such title is amended—

(A) by striking "or" at the end of paragrph (7);

(B) by striking the comma at the end of paragraph (8) and inserting "; or"; and

(C) by inserting after paragraph (8) the following:

"(9) who has been convicted in any court of a misdemeanor crime of domestic violence,".

(3) Section 922(s)(3)(B)(i) of such title is amended by inserting ", and has not been convicted in any court of a misdemeanor crime of domestic violence" before this semicolon.

(c) GOVERNMENT ENTITIES NOT EXCEPTED.—Section 925(a)(1) of such title is amended by inserting "sections 922(d)(9) and 922(g)(9) and" after "except for".

SEC. 659. THRIFT SAVINGS PLAN.

TITLE I—ADDITIONAL INVESTMENT FUNDS FOR THE THRIFT SAVINGS PLAN

Thrift Savings Investment Funds Act of 1996.
5 USC 8401 note.

SEC. 101. SHORT TITLE

This title may be cited as the "Thrift Savings Investment Funds Act of 1996".

SEC. 102. ADDITIONAL INVESTMENT FUNDS FOR THE THRIFT SAVINGS PLAN

Section 8438 of title 5, United States Code, is amended—

(1) in subsection (a)—

(A) by redesignating paragraphs (5) through (8) as paragraphs (6) through (9), respectively;

(B) by inserting after paragraph (4) the following new paragraph:

"(5) the term 'International Stock Index Investment Fund' means the International Stock Index Investment Fund established under subsection (b)(1)(E);";

(C) in paragraph (8) (as redesignated by subparagraph (A) of this paragraph) by striking out "and" at the end thereof;

(D) in paragraph (9) (as redesignated by subparagraph (A) of this paragraph)—

(i) by striking out "paragraph (7)(D)" in each place it appears and inserting in each such place "paragraph (8)(D)"; and

(ii) by striking out the period and inserting in lieu thereof a semicolon and "and"; and

(E) by adding at the end thereof the following new paragraph:

"(10) the term 'Small Capitalization Stock Index Investment Fund' means the Small Capitalization Stock Index Investment Fund established under subsection (b)(1)(D).."; and

(2) in subsection (b)—

(A) in paragraph (1)—

(i) in subparagraph (B) by striking out "and" at the end thereof;

(ii) in subparagraph (C) by striking out the period and inserting in lieu thereof a semicolon; and

(iii) by adding at the end thereof the following new subparagraphs:

"(D) a Small Capitalization Stock Index Investment Fund as provided in paragraph (3); and

"(E) an International Stock Index Investment Fund as provided in paragraph (4)."; and

(B) by adding at the end thereof the following new paragraphs:

"(3)(A) The Board shall select an index which is a commonly recognized index comprised of common stock the aggregate market value of which represents the United States equity markets excluding the common stocks included in the Common Stock Index Investment Fund.

"(B) The Small Capitalization Stock Index Investment Fund shall be invested in a portfolio designed to replicate the performance of the index in subparagraph (A). The portfolio shall be designed such that, to the extent practicable, the percentage of the Small Capitalization Stock Index Investment Fund that is invested in each stock is the same as the percentage determined by dividing the aggregate market value of all shares of that stock by the aggregate market value of all shares of all stocks included in such index.

"(4)(A) The Board shall select an index which is a commonly recognized index comprised of stock the aggregate market value of which is a reasonably complete representation of the international equity markets excluding the United States equity markets.

"(B) The International Stock Index Investment Fund shall be invested in a portfolio designed to replicate the performance of the index in subparagraph (A). The portfolio shall be designed such that, to the extent practicable, the percentage of the International Stock Index Investment Fund that is invested in each stock is the same as the percentage determined by dividing the aggregate market value of all shares of that stock by the aggregate market value of all shares of all stocks included in such index.".

SEC. 103. ACKNOWLEDGEMENT OF INVESTMENT RISK

Section 8439(d) of title 5, United States Code, is amended by striking out "Each employee, Member, former employee, or former Member who elects to invest in the Common Stock Index

Investment Fund or the Fixed Income Investment Fund described in paragraphs (1) and (3)," and inserting in lieu thereof "Each employee, Member, former employee, or former Member who elects to invest in the Common Stock Index Investment Fund, the Fixed Income Investment Fund, the International Stock Index Investment Fund, or the Small Capitalization Stock Index Investment Fund, defined in paragraphs (1), (3), (5), and (10),".

SEC. 104. EFFECTIVE DATE

5 USC 8438 note.

This title shall take effect on the date of enactment of this Act, and the Funds established under this title shall be offered for investment at the earliest practicable election period (described in section 8432(b) of title 5, United States Code) as determined by the Executive Director in regulations.

TITLE II—THRIFT SAVINGS ACCOUNTS LIQUIDITY

Thrift Savings Plan Act of 1996.

SEC. 201. SHORT TITLE

5 USC 8401 note.

This title may be cited as the "Thrift Savings Plan Act of 1996".

SEC. 202. NOTICE TO SPOUSES FOR IN-SERVICE WITHDRAWALS; DE MINIMUS ACCOUNTS; CIVIL SERVICE RETIREMENT SYSTEM PARTICIPANTS

Section 8351(b) of title 5, United States Code, is amended—

(1) in paragraph (5)—

(A) in subparagraph (B)—

(i) by striking out "An election, change of election, or modification (relating to the commencement date of a deferred annuity)" and inserting in lieu thereof "An election or change of election";

(ii) by inserting "or withdrawal" after "and a loan";

(iii) by inserting "and (h)" after "8433(g)";

(iv) by striking out "the election, change of election, or modification" and inserting in lieu thereof "the election or change of election"; and

(v) by inserting "or withdrawal" after "for such loan"; and

(B) in subparagraph (D)—

(i) by inserting "or withdrawals" after "of loans"; and

(ii) by inserting "or (h)" after "8433(g)"; and

(2) in paragraph (6)—

(A) by striking out "$3,500 or less" and inserting in lieu thereof "less than an amount that the Executive Director prescribes by regulation"; and

(B) by striking out "unless the employee or Member elects, at such time and otherwise in such manner as the Executive Director prescribes, one of the options available under subsection (b)".

SEC. 203. IN-SERVICE WITHDRAWALS; WITHDRAWAL ELECTIONS, FEDERAL EMPLOYEES RETIREMENT SYSTEM PARTICIPANTS

(a) IN GENERAL.—Section 8433 of title 5, United States Code, is amended—

(1) by striking out subsections (b) and (c) and inserting in lieu thereof the following:

"(b) Subject to section 8435 of this title, any employee or Member who separates from Government employment is entitled and may elect to withdraw from the Thrift Savings Fund the balance of the employee's or Member's account as—

"(1) an annuity;

"(2) a single payment;

"(3) 2 or more substantially equal payments to be made not less frequently than annually; or

"(4) any combination of payments as provided under paragraphs (1) through (3) as the Executive Director may prescribe by regulation.

"(c)(1) In addition to the right provided under subsection (b) to withdraw the balance of the account, an employee or Member who separates from Government service and who has not made a withdrawal under subsection (h)(1)(A) may make one withdrawal of any amount as a single payment in accordance with subsection (b)(2) from the employee's or Member's account.

"(2) An employee or Member may request that the amount withdrawn from the Thrift Savings Fund in accordance with subsection (b)(2) be transferred to an eligible retirement plan.

"(3) The Executive Director shall make each transfer elected under paragraph (2) directly to an eligible retirement plan or plans (as defined in section 402(c)(8) of the Internal Revenue Code of 1986) identified by the employee, Member, former employee, or former Member for whom the transfer is made.

"(4) A transfer may not be made for an employee, Member, former employee, or former Member under paragraph (2) until the Executive Director receives from that individual the information required by the Executive Director specifically to identify the eligible retirement plan or plans to which the transfer is to be made.";

(2) in subsection (d)—

(A) in paragraph (1) by striking out "Subject to paragraph (3)(A)" and inserting in lieu thereof "Subject to paragraph (3)";

(B) by striking out paragraph (2) and redesignating paragraph (3) as paragraph (2); and

(C) in paragraph (2) (as redesignated under subparagraph (B) of this paragraph)—

(i) in subparagraph (A) by striking out "(A) by striking out "(A)"; and

(ii) by striking out subparagraph (B);

(3) in subsection (f)(1)—

(A) by striking out "$3,500 or less" and inserting in lieu thereof "less than an amount that the Executive Director prescribes by regulation; and

(B) by striking out "unless the employee or Member elects, at such time and otherwise in such manner as the Executive Director prescribes, one of the options available under subsection (b), or" and inserting a comma;

(4) in subsection (f)(2)—

(A) by striking out "February 1" and inserting in lieu thereof "April 1";

(B) in subparagraph (A)—

(i) by striking out "65" and inserting in lieu thereof "70½"; and

(ii) by inserting "or" after the semicolon;

(C) by striking out subparagraph (B); and

(D) by redesignating subparagraph (C) as subparagraph (B);

(5) in subsection (g)—

(A) in paragraph (1) by striking out "after December 31, 1987, and", and by adding at the end of the paragraph the following sentence: "Before a loan is issued, the Executive Director shall provide in writing the employee or Member with appropriate information concerning the cost of the loan relative to other sources of financing, as well as the lifetime cost of the loan, including the difference in interest rates between the funds offered by the Thrift Savings Fund, and any other effect of such loan on the employee's or Member's final account balance."; and

(B) by striking out paragraph (2) and redesignating paragraphs (3) through (5) as paragraphs (2) through (4), respectively; and

(6) by adding after subsection (g) the following new subsection:

"(h)(1) An employee or Member may apply, before separation, to the Board for permission to withdraw an amount from the employee's or Member's account based upon—

"(A) the employee or Member having attained age 59½; or

"(B) financial hardship.

"(2) A withdrawal under paragraph (1)(A) shall be available to each eligible participant one time only.

"(3) A withdrawal under paragraph (1)(B) shall be available only for an amount not exceeding the value of that portion of such account which is attributable to contributions made by the employee or Member under section 8432(a) of this title.

"(4) Withdrawals under paragraph (1) shall be subject to such other conditions as the Executive Director may prescribe by regulation.

"(5) A withdrawal may not be made under this subsection unless the requirements of section 8435(e) of this title are satisfied.".

(b) INVALIDITY OF CERTAIN PRIOR ELECTIONS.—Any election made under section 8433(b)(2) of title 5, United States Code (as in effect before the effective date of this title), with respect to an annuity which has not commenced before the implementation date of this title as provided by regulation by the Executive Director in accordance with section 207 of this title, shall be invalid. 5 USC 8433 note.

SEC. 204. SURVIVOR ANNUITIES FOR FORMER SPOUSES; NOTICE TO FEDERAL EMPLOYEES RETIREMENT SYSTEM SPOUSES FOR IN-SERVICE WITHDRAWALS

Section 8435 of title 5, United States Code, is amended—

(1) in subsection (a)(1)(A)—

(A) by striking out "may make an election under subsection (b)(3) or (b)(4) of section 8433 of this title or change an election previously made under subsection (b)(1) or (b)(2) of such section" and inserting in lien thereof "may withdraw all or part of a Thrift Savings Fund account under subsection (b) (2), (3), or (4) of section 8433 of this title or change a withdrawal election"; and

(B) by adding at the end thereof "A married employee or Member (or former employee or Member) may make a withdrawal from a Thrift Savings Fund account under

subsection (c)(1) of section 8433 of this title only if the employee or Member (or former employee or Member) satisfies the requirements of subparagraph (B).";

(2) in subsection (c)—

(A) in paragraph (1)—

(i) by striking out "An election, change of election, or modification of the commencement date of a deferred annuity" and inserting in lieu thereof "An election or change of election"; and

(ii) by striking out "modification, or transfer" and inserting in lien thereof "or transfer"; and

(B) in paragraph (2) in the matter following subparagraph (B)(ii) by striking out "modification,";

(3) in subsection (e)—

(A) in paragraph (1)—

(i) in subparagraph (A)—

(I) by inserting "or withdrawal" after "A loan";

(II) by inserting "and (h)" after "8433(g)"; and

(III) by inserting "or withdrawal" after "such loan";

(ii) in subparagraph (B) by inserting "or withdrawal" after "loan"; and

(iii) in subparagraph (C)—

(I) by inserting "or withdrawal" after "to a loan"; and

(II) by inserting "or withdrawal" after "for such loan"; and

(B) in paragraph (2)—

(i) by inserting "or withdrawal" after "loan"; and

(ii) by inserting "and (h)" after "8344(g)"; and

(4) in subsection (g)—

(A) by inserting "or withdrawals" after "loans"; and

(B) by inserting "and (h)" after "8344(g)".

SEC. 205. DE MINIMUS ACCOUNTS RELATING TO THE JUDICIARY

(a) JUSTICES AND JUDGES.—Section 8440a(b)(7) of title 5, United States Code, is amended—

(1) by striking out "$3,500 or less" and inserting in lieu thereof "less than an amount that the Executive Director prescribes by regulation"; and

(2) by striking out "unless the justice or judge elects, at such time and otherwise in such manner as the Executive Director prescribes, one of the options available under section 8433(b)".

(b) BANKRUPTCY JUDGES AND MAGISTRATES.—Section 8440b(b) of title 5, United States Code, is amended—

(1) in paragraph (7) in the first sentence by inserting "of the distribution" after "equal to the amount"; and

(2) in paragraph (8)—

(A) by striking out "$3,500 or less" and inserting in lieu thereof "less than an amount that the Executive Director prescribes by regulation"; and

(B) by striking out "unless the bankruptcy judge or magistrate elects, at such time and otherwise in such manner as the Executive Director prescribes, one of the options available under subsection (b)".

(c) FEDERAL CLAIMS JUDGES.—Section 8440c(b) of title 5, United States Code, is amended—

(1) in paragraph (7) in the first sentence by inserting "of the distribution" after "equal to the amount"; and

(2) in paragraph (8)—

(A) by striking out "$3,500 or less" and inserting in lieu thereof "less than an amount that the Executive Director prescribes by regulation"; and

(B) by striking out "unless the judge elects, at such time and otherwise in such manner as the Executive Director prescribes, one of the options available under section 8433(b)".

SEC. 206. DEFINITION OF BASIC PAY

(a) IN GENERAL.—(1) Section 8401(4) of title 5, United States Code, is amended by striking out "except as provided in subchapter III of this chapter,".

(2) Section 8431 of title 5, United States Code, is repealed.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—(1) The table of sections for chapter 84 of title 5, United States Code, is amended by striking out the item relating to section 8431.

(2) Section 5545a(h)(2)(A) of title 5, United States Code, is amended by striking out "8431,".

(3) Section 615(f) of the Treasury, Postal Service, and General Government Appropriations Act, 1996 (Public Law 104–52; 109 Stat. 500; 5 U.S.C. 5343 note) is amended by striking out "section 8431 of title 5, United States Code,".

SEC. 207. EFFECTIVE DATE

5 USC 5545a note.

This title shall take effect on the date of the enactment of this Act and withdrawals and elections as provided under the amendments made by this title shall be made at the earliest practicable date as determined by the Executive Director in regulations.

SEC. 660. Notwithstanding Section 613, interagency financing is authorized to carry out the purposes of the National Bioethics Advisory Commission.

SEC. 661. (a) DESIGNATION.—The United States courthouse to be constructed at 111 South 18th Plaza, Omaha, Nebraska, shall be known and designated as the "Roman L. Hruska United States Courthouse".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States courthouse referred to in section 1 shall be deemed to be a reference to the "Roman L. Hruska United States Courthouse".

SEC. 662. (a) PROVISIONS RELATING TO TITLE 39, UNITED STATES CODE.—

(1) APPOINTMENT AND REMOVAL OF INSPECTOR GENERAL.—Section 202 of title 39, United States Code, is amended by adding at the end the following:

"(e)(1) The Governors shall appoint and shall have the power to remove the Inspector General.

"(2) The Inspector General shall be appointed—

"(A) for a term of 7 years;

"(B) without regard to political affiliation; and

"(C) solely on the basis of integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations.

"(3) The Inspector General may at any time be removed upon the written concurrence of at least 7 Governors, but only for cause. Nothing in this subsection shall be considered to exempt the Governors from the requirements of section 8G(e) of the Inspector General Act of 1978.".

(2) DEFINITION.—Section 102 of title 39, United States Code, is amended—

(A) by striking "and" at the end of paragraph (2);

(B) by striking the period at the end of paragraph (3) and inserting "; and"; and

(C) by adding at the end the following:

"(4) 'Inspector General' means the Inspector General appointed under section 202(e) of this title.".

39 USC 2009 note.

(3) SEPARATE ITEM IN ANNUAL BUDGET.—For purposes of the fifth sentence of section 2009 of title 39, United States Code, the operations of the Office of Inspector General of the United States Postal Service shall be considered a major type of activity.

(b) AMENDMENTS TO THE INSPECTOR GENERAL ACT OF 1978.—

(1) GOVERNORS AS HEAD OF THE POSTAL SERVICE.—Section 8G(a)(4) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by striking "except that" and all that follows through the semicolon and inserting "except that—

"(A) with respect to the National Science Foundation, such term means the National Science Board; and

"(B) with respect to the United States Postal Service, such term means the Governors (within the meaning of section 102(3) of title 39, United States Code);".

(2) SPECIAL RULES RELATING TO THE UNITED STATES POSTAL SERVICE.—Subsection (f) of section 8G of such Act is amended to read as follows:

"(f)(1) For purposes of carrying out subsection (c) with respect to the United States Postal Service, the appointment provisions of section 202(e) of title 39, United States Code, shall be applied.

"(2) In carrying out the duties and responsibilities specified in this Act, the Inspector General of the United States Postal Service (hereinafter in this subsection referred to as the 'Inspector General') shall have oversight responsibility for all activities of the Postal Inspection Service, including any internal investigation performed by the Postal Inspection Service. The Chief Postal Inspector shall promptly report the significant activities being carried out by the Postal Inspection Service to such Inspector General.

"(3)(A)(i) Notwithstanding subsection (d), the Inspector General shall be under the authority, direction, and control of the Governors with respect to audits or investigations, or the issuance of subpoenas, which require access to sensitive information concerning—

"(I) ongoing civil or criminal investigations or proceedings;

"(II) undercover operations;

"(III) the identity of confidential sources, including protected witnesses;

"(IV) intelligence or counterintelligence matters; or

"(V) other matters the disclosure of which would constitute a serious threat to national security.

"(ii) With respect to the information described under clause (i), the Governors may prohibit the Inspector General from carrying out or completing any audit or investigation, or from issuing any subpoena, after such Inspector General has decided to initiate,

carry out, or complete such audit or investigation or to issue such subpoena, if the Governors determine that such prohibition is necessary to prevent the disclosure of any information described under clause (i) or to prevent the significant impairment to the national interests of the United States.

"(iii) If the Governors exercise any power under clause (i) or (ii), the Governors shall notify the Inspector General in writing stating the reasons for such exercise. Within 30 days after receipt of any such notice, the Inspector General shall transmit a copy of such notice to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform and Oversight of the House of Representatives, and to other appropriate committees or subcommittees of the Congress.

"(B) In carrying out the duties and responsibilities specified in this Act, the Inspector General—

"(i) may initiate, conduct and supervise such audits and investigations in the United States Postal Service as the Inspector General considers appropriate; and

"(ii) shall give particular regard to the activities of the Postal Inspection Service with a view toward avoiding duplication and insuring effective coordination and cooperation.

"(C) Any report required to be transmitted by the Governors to the appropriate committees or subcommittees of the Congress under section 5(d) shall also be transmitted, within the seven-day period specified under such section, to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform and Oversight of the House of Representatives.

"(3) Nothing in this Act shall restrict, eliminate, or otherwise adversely affect any of the rights, privileges, or benefits of either employees of the United States Postal Service, or labor organizations representing employees of the United States Postal Service, under chapter 12 of title 39, United States Code, the National Labor Relations Act, any handbook or manual affecting employee labor relations with the United States Postal Service, or any collective bargaining agreement.

"(4) As used in this subsection, the term 'Governors' has the meaning given such term by section 102(3) of title 39, United States Code.".

(3) TECHNICAL CORRECTION.—The Inspector General Act of 1978 is amended by redesignating the second section which is designated as section 8G as section 8H. 5 USC app.

(c) PROVISIONS RELATING TO COMPENSATION.—

(1) INSPECTOR GENERAL.—Section 5315 of title 5, United States Code, is amended by adding at the end the following:

"Inspector General, United States Postal Service.".

The amendment made by the preceding sentence shall apply notwithstanding section 410 or any other provision of title 39, United States Code. 5 USC 5315 note.

(2) OFFICERS AND EMPLOYEES OF THE OFFICE OF INSPECTOR GENERAL OF THE UNITED STATES POSTAL SERVICE; POSTAL INSPECTORS.—

(A) IN GENERAL.—Section 1003 of title 39, United States Code, is amended—

(i) by redesignating subsection (b) as subsection (d); and

(ii) by inserting after subsection (a) the following:

"(b) Compensation and benefits for all officers and employees serving in or under the Office of Inspector General of the United States Postal Service shall be maintained on a standard of comparability to the compensation and benefits paid for comparable levels of work in the respective Offices of Inspector General of the various establishments named in section 11(2) of the Inspector General Act of 1978.

"(c) Compensation and benefits for all Postal Inspectors shall be maintained on a standard of comparability to the compensation and benefits paid for comparable levels of work in the executive branch of the Government outside of the Postal Service. As used in this subsection, the term 'Postal Inspector' included any agent to whom any investigative powers are granted under section 3061 of title 18.".

(B) CONFORMING AMENDMENT.—The first sentence of section 1003(a) of title 39, United States Code, is amended by striking "chapters 2 and 12 of this title" and inserting "chapters 2 and 12 of this title, section 8G of the Inspector General Act of 1978,".

39 USC 2802 note.

(d) STRATEGIC PLANS.—

(1) OFFICE OF INSPECTOR GENERAL OF THE UNITED STATES POSTAL SERVICE.—

(A) IN GENERAL.—Strategic plans shall be prepared under this paragraph addressing staffing requirements, general goals and objectives for major functions and operations of the Office of Inspector General of the United States Postal Service, and how goals and objectives of the Office are to be achieved, including a description of, operational processes, skills and technology, and the human, capital, information, and other resources required to meet those goals and objectives.

(B) SPECIFIC REQUIREMENTS.—Plans under this paragraph—

(i) shall be prepared by the Inspector General of the United States Postal Service;

(ii) shall each cover a 5-year period (the beginning and ending dates of which shall be specified in each such plan); and

(iii) shall be included, as part of the annual budget required under section 2009 of title 39, United States Code, at least every 3 years.

(C) FIRST SUBMISSION.—The first plan under this paragraph shall be prepared in time to be included with the annual budget under section 2009 of title 39, United States Code, next due to be submitted after the end of the 6-month period beginning on the date of the appointment of the first Inspector General to be appointed pursuant to the amendments made by this section.

(2) POSTAL INSPECTION SERVICE.—The Chief Postal Inspector shall, with respect to the Postal Inspection Service, prepare a strategic plan similar in content to that required under paragraph (1)(A) with respect to the Office of Inspector General of the United States Postal Service. Such plan shall be prepared in time to be included with the annual budget under section 2009 of such title 39 next due to be submitted after the end of the 30-day period beginning on the date of the enactment of this Act.

(e) FIRST APPOINTMENT; TRANSFERS; TRANSITION PROVISION.— 39 USC 201 note.

(1) FIRST APPOINTMENT.—The first Inspector General of the United States Postal Service appointed pursuant to the amendments made by this section shall be appointed before the end of the 90-day period beginning on the date of the enactment of this Act.

(2) TRANSFERS.—

(A) IN GENERAL.—All measures described in section 8G(b) of the Inspector General Act of 1978 necessary to establish an Office of Inspector General within the United States Postal Service pursuant to this section, including all appropriate transfers, shall occur—

(i) no earlier than the date the appointment under paragraph (1) is made; and

(ii) no later than 60 days after the date the appointment under paragraph (1) is made.

(B) PROVISIONS RELATING TO PERSONNEL.—

(i) CONSULTATION.—Decisions concerning which personnel are to be transferred pursuant to subparagraph (A) shall be made by the Governors (within the meaning of section 102(3) of title 39, United States Code) in consultation with the Inspector General appointed under paragraph (1).

(ii) TRANSFERRED PERSONNEL.—Personnel transferred pursuant to subparagraph (A) shall, to the extent not inconsistent with other provisions of this subsection, be transferred in accordance with applicable laws and regulations relating to the transfer of functions within the United States Postal Service, except that, notwithstanding any provision of section 1003(b) of title 39, United States Code, as amended by this section, the classification and compensation of such personnel shall not be reduced, by reason of having been transferred, for 1 year after being so transferred.

(3) TRANSITION PROVISION.—The Chief Postal Inspector may continue to serve as Inspector General of the United States Postal Service until the date on which an Inspector General is appointed under paragraph (1) or, if earlier, the end of the period referred to in such paragraph. Compensation for any service under this paragraph shall be determined as if this section had not been enacted.

(f) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 410(b) of title 39, United States Code, is amended—

(A) by striking "and" at the end of paragraph (9); and

(B) by amending paragraph (10) to read as follows: "(10) the Inspector General Act of 1978; and"

(2)(A) Section 204 of such title 39 is amended—

(i) by amending the section heading to read as follows:

"§ 204. General Counsel; Judicial Officer; Chief Postal Inspector";

(ii) in the first sentence by striking "and a Judicial Officer." and inserting "a Judicial Officer, and a Chief Postal Inspector.";

(iii) in the second sentence by striking "and the Judicial Officer" and inserting "the Judicial Officer, and the Chief Postal Inspector"; and

(iv) by adding at the end the following: "The Chief Postal Inspector shall report to, and be under the general supervision

of, the Postmaster General. The Postmaster General shall promptly notify the Governors and both Houses of Congress in writing if he or she removes the Chief Postal Inspector or transfers the Chief Postal Inspector to another position or location within the Postal Service, and shall include in any such notification the reasons for the removal or transfer.".

(B) The table of sections for chapter 2 of such title 39 is amended by striking the item relating to section 204 and inserting the following:

"204. General Counsel; Judicial Officer; Chief Postal Inspector.".

5 USC 5597 note.

SEC. 663. VOLUNTARY SEPARATION INCENTIVES FOR EMPLOYEES OF CERTAIN FEDERAL AGENCIES.—(a) DEFINITIONS.—For the purposes of this section—

(1) the term "agency" means any Executive agency (as defined in section 105 of title 5, United States Code), other than an Executive agency (except an agency receiving such authority in the Department of Transportation Appropriations Act, 1997) that is authorized by any other provision of this Act or any other Act to provide voluntary separation incentive payments during all, or any part of, fiscal year 1997; and

(2) the term "employee" means an employee (as defined by section 2105 of title 5, United States Code) who is employed by an agency, is serving under an appointment without time limitation, and has been currently employed for a continuous period of at least 3 years, but does not include—

(A) a reemployed annuitant under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, or another retirement system for employees of the agency;

(B) an employee having a disability on the basis of which such employee is or would be eligible for disability retirement under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, or another retirement system for employees of the agency;

(C) an employee who is in receipt of a specific notice of involuntary separation for misconduct or unacceptable performance;

(D) an employee who, upon completing an additional period of service as referred to in section 3(b)(2)(B)(ii) of the Federal Workforce Restructuring Act of 1994 (5 U.S.C. 5597 note), would qualify for a voluntary separation incentive payment under section 3 of such Act;

(E) an employee who has previously received any voluntary separation incentive payment by the Federal Government under this section or any other authority and has not repaid such payment;

(F) an employee covered by statutory reemployment rights who is on transfer to another organization; or

(G) any employee who, during the twenty four month period preceding the date of separation, has received a recruitment or relocation bonus under section 5753 of title 5, United States Code, or who, within the twelve month period preceding the date of separation, received a retention allowance under section 5754 of title 5, United States Code.

(b) AGENCY STRATEGIC PLAN.—

(1) IN GENERAL.—The head of each agency, prior to obligating any resources for voluntary separation incentive payments,

shall submit to the House and Senate Committees on Appropriations and the Committee on Governmental Affairs of the Senate and the Committee on Government Reform and Oversight of the House of Representatives a strategic plan outlining the intended use of such incentive payments and a proposed organizational chart for the agency once such incentive payments have been completed.

(2) CONTENTS.—The agency's plan shall include—

(A) the positions and functions to be reduced or eliminated, identified by organizational unit, geographic location, occupational category and grade level;

(B) the number and amounts of voluntary separation incentive payments to be offered; and

(C) a description of how the agency will operate without the eliminated positions and functions.

(c) AUTHORITY TO PROVIDE VOLUNTARY SEPARATION INCENTIVE PAYMENTS.—

(1) IN GENERAL.—A voluntary separation incentive payment under this section may be paid by an agency to any employee only to the extent necessary to eliminate the positions and functions identified by the strategic plan.

(2) AMOUNT AND TREATMENT OF PAYMENTS.—A voluntary separation incentive payment—

(A) shall be paid in a lump sum after the employee's separation;

(B) shall be paid from appropriations or funds available for the payment of the basic pay of the employees;

(C) shall be equal to the lesser of—

(i) an amount equal to the amount the employee would be entitled to receive under section 5595(c) of title 5, United States Code; or

(ii) an amount determined by the agency head not to exceed $25,000;

(D) may not be made except in the case of any qualifying employee who voluntarily separates (whether by retirement or resignation) before December 31, 1997;

(E) shall not be a basis for payment, and shall not be included in the computation, of any other type of Government benefit; and

(F) shall not be taken into account in determining the amount of any severance pay to which the employee may be entitled under section 5595 of title 5, United States Code, based on any other separation.

(d) ADDITIONAL AGENCY CONTRIBUTIONS TO THE RETIREMENT FUND.—

(1) IN GENERAL.—In addition to any other payments which it is required to make under subchapter III of chapter 83 of title 5, United States Code, an agency shall remit to the Office of Personnel Management for deposit in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund an amount equal to 15 percent of the final basic pay of each employee of the agency who is covered under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, to whom a voluntary separation incentive has been paid under this section.

(2) DEFINITION.—For the purpose of paragraph (1), the term "final basic pay", with respect to an employee, means

the total amount of basic pay which would be payable for a year of service by such employee, computed using the employee's final rate of basic pay, and, if last serving on other than a full-time basis, with appropriate adjustment therefor.

(e) EFFECT OF SUBSEQUENT EMPLOYMENT WITH THE GOVERNMENT.—An individual who has received a voluntary separation incentive payment under this section and accepts any employment for compensation with the Government of the United States, or who works for any agency of the United States Government through a personal services contract, within 5 years after the date of the separation on which the payment is based shall be required to pay, prior to the individual's first day of employment, the entire amount of the incentive payment to the agency that paid the incentive payment.

(f) REDUCTION OF AGENCY EMPLOYMENT LEVELS.—

(1) IN GENERAL.—The total number of funded employee positions in the agency shall be reduced by one position for each vacancy created by the separation of any employee who has received, or is due to receive, a voluntary separation incentive payment under this section. For the purposes of this subsection, positions shall be counted on a full-time-equivalent basis.

(2) ENFORCEMENT.—The President, through the Office of Management and Budget, shall monitor the agency and take any action necessary to ensure that the requirements of this subsection are met.

(g) EFFECTIVE DATE.—This section shall take effect October 1, 1996.

SECTION 664. ELECTRONIC BENEFIT TRANSFER PILOT.

Title 31, United States Code, is amended by inserting after section 3335 the following new section:

"SEC. 3336. Electronic benefit transfer pilot

"(a) The Congress finds that:

"(1) Electronic benefit transfer (EBT) is a safe, reliable, and economical way to provide benefit payments to individuals who do not have an account at a financial institution.

"(2) The designation of financial institutions as financial agents of the Federal Government for EBT is an appropriate and reasonable use of the Secretary's authority to designate financial agents.

"(3) A joint federal-state EBT system offers convenience and economies of scale for those states (and their citizens) that wish to deliver state-administered benefits on a single card by entering into a partnership with the federal government.

"(4) The Secretary's designation of a financial agent to deliver EBT is a specialized service not available through ordinary business channels and may be offered to the states pursuant to section 6501 *et seq.* of this title.

"(b) The Secretary shall continue to carry out the existing EBT pilot to disburse benefit payments electronically to recipients who do not have an account at a financial institution, which shall include the designation of one or more financial institution as a financial agent of the Government, and the offering to the participating states of the opportunity to contract with the financial agent

selected by the Secretary, as described in the Invitation for Expressions of Interest to Acquire EBT Services for the Southern Alliance of States dated March 9, 1995, as amended as of June 30, 1995, July 7, 1995, and August 1, 1995.

["(c) The selection and designation of financial agents, the design of the pilot program, and any other matter associated with or related to the EBT pilot described in subsection (b) shall not be subject to judicial review."]

SECTION 2. DESIGNATION OF FINANCIAL AGENTS

1. 12 U.S.C. 90 is amended by adding at the end thereof the following:

"Notwithstanding the Federal Property and Administrative Services Act of 1949, as amended, the Secretary may select associations as financial agents in accordance with any process the Secretary deems appropriate and their reasonable duties may include the provision of electronic benefit transfer services (including State-administered benefits with the consent of the States), as defined by the Secretary.".

2. Make conforming amendments to 12 U.S.C. 265, 266, 391, 1452(d), 1767, 1789a, 2013, 2122 and to 31 U.S.C. 3122 and 3303.

TITLE VII—COUNTER-TERRORISM AND DRUG LAW ENFORCEMENT

DEPARTMENT OF THE TREASURY

DEPARTMENTAL OFFICES

SALARIES AND EXPENSES

For an additional amount for the necessary expenses of the Office of Foreign Assets Control, $288,000: *Provided*, That of the amount provided, $288,000 is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

For an additional amount for the necessary expenses of the Office of Inspector General, $34,000, to remain available until expended: *Provided*, That of the amount provided, $34,000 is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

COUNTERTERRORISM FUND

For necessary expenses, as determined by the Secretary, $15,000,000, to remain available until expended, to reimburse any Department of the Treasury organization for the costs of providing support to counter, investigate, or prosecute terrorism, including payment of rewards in connection with these activities: *Provided*, That the entire amount of this appropriation shall be available only to the extent that an official budget request for a specific dollar amount, that includes designation of the entire amount of

the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, is transmitted by the President to Congress: *Provided further*, That the entire amount is designated by Congress as an emergency appropriation pursuant to section 251(b)(2)(D)(i) of such Act.

FEDERAL LAW ENFORCEMENT TRAINING CENTER

SALARIES AND EXPENSES

For an additional amount for the necessary expenses of the Federal Law Enforcement Training Center, $1,354,000, to remain available until expended: *Provided*, That of the amount provided, $1,354,000 is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

ACQUISITION, CONSTRUCTION, IMPROVEMENTS, AND RELATED EXPENSES

For an additional amount for the necessary expenses for the acquisition, construction, improvement, and related expenses, $2,700,000, to remain available until expended: *Provided*, That of the amount provided, $2,700,00 is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

FINANCIAL MANAGEMENT SERVICE

SALARIES AND EXPENSES

For an additional amount for the necessary expenses of the Financial Management Service, $449,000, to remain available until expended: *Provided*, That of the amount provided, $449,000 is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

SALARIES AND EXPENSES

For an additional amount for the necessary expenses of the Bureau of Alcohol, Tobacco and Firearms, $66,423,000; of which $3,500,000 shall be available for the construction and expansion of a canine training facility, to remain available until expended; of which $3,000,000 shall be available for conducting a study of car bomb explosives, to remain available until expended; and of which $6,700,000, to remain available until expended, for relocation of the Bureau's headquarters building and laboratory facilities; *Provided*, That of the amount provided, $66,423,000 is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

UNITED STATES CUSTOMS SERVICE

SALARIES AND EXPENSES

For an additional amount for the necessary expense of the United States Customs Service, $62,335,000; of which not to exceed $26,400,000 shall be available until expended for funding non-competitive cooperative agreements with air carriers, airports, or other cargo authorities, which provide for the Customs Service to purchase and assist in installing advanced air cargo inspection equipment for the joint use of such entities and the United States Customs Service: *Provided*, That of the amount provided, $62,335,000 is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

INTERNAL REVENUE SERVICE

PROCESSING, ASSISTANCE AND MANAGEMENT

For an additional amount for the necessary expenses for the processing, assistance and management, $10,488,000, to remain available until expended: *Provided*, That of the amount provided, $10,488,000 is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

UNITED STATES SECRET SERVICE

SALARIES AND EXPENSES

For an additional amount for the necessary expenses of the United States Secret Service $3,026,000, to remain available until expended: *Provided*, That of the amount provided, $3,026,000 is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

INDEPENDENT AGENCIES

OFFICE OF PERSONNEL MANAGEMENT

SALARIES AND EXPENSES

For an additional amount for the necessary expenses of the Office of Personnel Management $210,000, to remain available until expended: *Provided*, That of the amount provided, $210,000 is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

FUNDS APPROPRIATED TO THE PRESIDENT

FEDERAL DRUG CONTROL PROGRAMS

SPECIAL FORFEITURE FUND

(INCLUDING TRANSFER OF FUNDS)

For activities authorized by Public Law 100–690, as amended, $112,900,000, of which $42,000,000 shall be transferred to the United States Customs Service for the conversion of one P–3AEW aircraft for the air interdiction program; of which $10,000,000 shall be available for transfer to other Federal agencies for methamphetamine reduction efforts; and of which $60,900,000 shall be available to the Director of the Office of National Drug Control Policy for enhancing other drug control activities, including transfer to other Federal agencies: *Provided*, That of the amount provided, $112,900,000 is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended to become available only upon receipt by the Congress of a supplemental request from the President requesting such designation.

Federal Financial Management Improvement Act of 1996.
31 USC 3512 note.

TITLE VIII—FEDERAL FINANCIAL MANAGEMENT IMPROVEMENT

SEC. 801. SHORT TITLE

This title may be cited as the "Federal Financial Management Improvement Act of 1996."

31 USC 3512 note.

SEC. 802. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds the following:

(1) Much effort has been devoted to strengthening Federal internal accounting controls in the past. Although progress has been made in recent years, Federal accounting standards have not been uniformly implemented in financial management systems for agencies.

(2) Federal financial management continues to be seriously deficient, and Federal financial management and fiscal practices have failed to—

(A) identify costs fully;

(B) reflect the total liabilities of congressional actions; and

(C) accurately report the financial condition of the Federal Government.

(3) Current Federal accounting practices do not accurately report financial results of the Federal Government or the full costs of programs and activities. The continued use of these practices undermines the Government's ability to provide credible and reliable financial data and encourages already widespread Government waste, and will not assist in achieving a balanced budget.

(4) Waste and inefficiency in the Federal Government undermine the confidence of the American people in the government and reduce the federal Government's ability to address vital public needs adequately.

(5) To rebuild the accountability and credibility of the Federal Government, and restore public confidence in the Federal

Government, agencies must incorporate accounting standards and reporting objectives established for the Federal Government into their financial management systems so that all the assets and liabilities, revenues, and expenditures or expenses, and the full costs of programs and activities of the Federal Government can be consistently and accurately recorded, monitored, and uniformly reported throughout the Federal Government.

(6) Since its establishment in October 1990, the Federal Accounting Standards Advisory Board (hereinafter referred to as the "FASAB") has made substantial progress toward developing and recommending a comprehensive set of accounting concepts and standards for the Federal Government. When the accounting concepts and standards developed by FASAB are incorporated into Federal financial management systems, agencies will be able to provide cost and financial information that will assist the Congress and financial managers to evaluate the cost and performance of Federal programs and activities, and will therefore provide important information that has been lacking, but is needed for improved decision making by financial managers and the Congress.

(7) The development of financial management systems with the capacity to support these standards and concepts will, over the long term, improve Federal financial management.

(b) PURPOSE—The purposes of this Act are to—

(1) provide for consistency of accounting by an agency from one fiscal year to the next, and uniform accounting standards throughout the Federal Government;

(2) require Federal financial management systems to support full disclosure of Federal financial data, including the full costs of Federal programs and activities, to the citizens, the Congress, the President, and agency management, so that programs and activities can be considered based on their full costs and merits;

(3) increase the accountability and credibility of federal financial management;

(4) improve performance, productivity and efficiency of Federal Government financial management;

(5) establish financial management systems to support controlling the cost of Federal Government;

(6) build upon and complement the Chief Financial Officers Act of 1990 (Public Law 101–576; 104 Stat 2838), the Government Performance and Results Act of 1993 (Public Law 103–62 107 Stat. 285) and the Government Management Reform Act of 1994 (Public Law 103–356; 108 Stat. 3410); and

(7) increase the capability of agencies to monitor execution of the budget by more readily permitting reports that compare spending of resources to results of activities.

SEC. 803. IMPLEMENTATION OF FEDERAL FINANCIAL MANAGEMENT IMPROVEMENTS.

31 USC 3512 note.

(a) IN GENERAL.—Each agency shall implement and maintain financial management systems that comply substantially with Federal financial management systems requirements, applicable Federal accounting standards, and the United States Government Standard General Ledger at the transaction level.

(b) AUDIT COMPLIANCE FINDING.—

(1) IN GENERAL.—Each audit required by section 3521(e) of title 31, United States Code, shall report whether the agency financial management systems comply with the requirements of subsection (a).

(2) CONTENT OF REPORTS.—When the person performing the audit required by section 3521(e) of title 31, United States Code, reports that the agency financial management systems do not comply with the requirements of subsection (a), the person performing the audit shall include in the report on the audit—

(A) the entity or organization responsible for the financial management systems that have been found not to comply with the requirements of subsection (a);

(B) all facts pertaining to the failure to comply with the requirements of subsection (a), including—

(i) the nature and extent of the noncompliance including areas in which there is substantial but not full compliance;

(ii) the primary reason or cause of the noncompliance;

(iii) the entity or organization responsible for the non-compliance; and

(iv) any relevant comments from any responsible officer or employee; and

(C) a statement with respect to the recommended remedial actions and the time frames to implement such actions.

(c) COMPLIANCE IMPLEMENTATION.—

(1) DETERMINATION.—No later than the date described under paragraph (2), the Head of an agency shall determine whether the financial management systems of the agency comply with the requirements of subsection (a). Such determination shall be based on—

(A) a review of the report on the applicable agency-wide audited financial statement;

(B) any other information the Head of the agency considers relevant and appropriate.

(2) DATE OF DETERMINATION.—The determination under paragraph (1) shall be made no later than 120 days after the earlier of—

(A) the date of the receipt of an agency-wide audited financial statement; or

(B) the last day of the fiscal year following the year covered by such statement.

(3) REMEDIATION PLAN.—

(A) If the Head of an agency determines that the agency's financial management systems do not comply with the requirements of subsection (a), the head of the agency, in consultation with the Director, shall establish a remediation plan that shall include resources, remedies, and intermediate target dates necessary to bring the agency's financial management systems into substantial compliance.

(B) If the determination of the head of the agency differs from the audit compliance findings required in subsection (b), the Director shall review such determinations and provide a report on the findings to the appropriate committees of the Congress.

(4) TIME PERIOD FOR COMPLIANCE.—A remediation plan shall bring the agency's financial management systems into substantial compliance no later than 3 years after the date a determination is made under paragraph (1), unless the agency, with concurrence of the Director—

(A) determines that the agency's financial management systems cannot comply with the requirements of subsection (a) within 3 years;

(B) specifies the most feasible date for bringing the agency's financial management systems into compliance with the requirements of subsection (a); and

(C) designates an official of the agency who shall be responsible for bringing the agency's financial management systems into compliance with the requirements of subsection (a) by the date specified under subparagraph (B).

SEC. 804. REPORTING REQUIREMENTS.

31 USC 3512 note.

(a) REPORTS BY THE DIRECTOR.—No later than March 31 of each year, the Director shall submit a report to the Congress regarding implementation of this Act. The Director may include the report in the financial management status report and the 5-year financial management plan submitted under section 3512(a)(1) of title 31, United States Code.

(b) REPORTS BY THE INSPECTOR GENERAL—Each Inspector General who prepares a report under section 5(a) of the Inspector General Act of 1978 (5 U.S.C. App.) shall report to Congress instances and reasons when an agency has not met the intermediate target dates established in the remediation plan required under section 3(c). Specifically the report shall include—

(1) the entity or organization responsible for the non-compliance;

(2) the facts pertaining to the failure to comply with the requirements of subsection (a), including the nature and extent of the non-compliance, the primary reason or cause for the failure to comply, and any extenuating circumstances; and

(3) a statement of the remedial actions needed to comply.

(c) REPORTS BY THE COMPTROLLER GENERAL.—No later than October 1, 1997, and October 1, of each year thereafter, the Comptroller General of the United States shall report to the appropriate committees of the Congress concerning—

(1) compliance with the requirements of section 3(a) of this Act, including whether the financial statements of the Federal Government have been prepared in accordance with applicable accounting standards; and

(2) the adequacy of applicable accounting standards for the Federal Government.

SEC. 805. CONFORMING AMENDMENTS.

31 USC 3512 note.

(a) AUDITS BY AGENCIES.—Section 3521(f)(1) of title 31, United States Code, is amended in the first sentence by inserting "and the Controller of the Office of Federal Financial Management" before the period.

(b) FINANCIAL MANAGEMENT STATUS REPORT.—Section 3512(a)(2) of title 31, United States Code, is amended by—

(1) in subparagraph (D) by striking "and' after the semicolon;

(2) by redesignating subparagraph (E) as subparagraph (F); and

(3) by inserting after subparagraph (D) the following:

"(E) a listing of agencies whose financial management systems do not comply substantially with the requirements of Section 3(a) the Federal Financial Management Improvement Act of 1996, and a summary statement of the efforts underway to remedy the noncompliance; and"

5 USC app.

(c) INSPECTOR GENERAL ACT OF 1978.—Section 5(a) of the Inspector General Act of 1978 is amended—

(1) in paragraph (11) by striking "and" after the semicolon;

(2) in paragraph (12) by striking the period and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(13) the information described under section 05(b) of the Federal Financial Management Improvement Act of 1996."

31 USC 3512 note.

SEC. 806. DEFINITIONS.

For purposes of this title:

(1) AGENCY.—The term "agency" means a department or agency of the United States Government as defined in section 901(b) of title 31, United States Code.

(2) DIRECTOR.—The term "Director" means the Director of the Office of Management and Budget.

(3) FEDERAL ACCOUNTING STANDARDS.—The term "Federal accounting standards" means applicable accounting principles, standards, and requirements consistent with section 902(a)(3)(A) of title 31, United States Code.

(4) FINANCIAL MANAGEMENT SYSTEMS.—The term "financial management systems" includes the financial systems and the financial portions of mixed systems necessary to support financial management, including automated and manual processes, procedures, controls, data, hardware, software, and support personnel dedicated to the operation and maintenance of system functions.

(5) FINANCIAL SYSTEM.—The term "financial system" includes an information system, comprised of one or more applications, that is used for—

(A) collecting, processing, maintaining, transmitting, or reporting data about financial events;

(B) supporting financial planning or budgeting activities;

(C) accumulating and reporting costs information; or

(D) supporting the preparation of financial statements.

(6) MIXED SYSTEM.—The term "mixed system' means an information system that supports both financial and nonfinancial functions of the Federal Government or components thereof.

31 USC 3512 note.

SEC. 807. EFFECTIVE DATE.

This title shall take effect for the fiscal year ending September 30, 1997.

SEC. 808. REVISION OF SHORT TITLES.—

(a) Section 4001 of Public Law 104–106 (110 Stat. 642; 41 U.S.C. 251 note) is amended to read as follows:

"SEC. 4001. SHORT TITLE.

"This division and division E may be cited as the 'Clinger-Cohen Act of 1996'.".

(b) Section 5001 of Public Law 104–106 (110 Stat. 679; 40 U.S.C. 1401 note) is amended to read as follows:

"SEC. 5001. SHORT TITLE.

"This division and division D may be cited as the 'Clinger-Cohen Act of 1996'.".

(c) Any reference in any law, regulation, document, record, or other paper of the United States to the Federal Acquisition Reform Act of 1996 or to the Information Technology Management Reform Act of 1996 shall be considered to be a reference to the Clinger-Cohen Act of 1996.

This Act may be cited as the "Treasury, Postal Service, and General Government Appropriations Act, 1997".

TITLE II—ECONOMIC GROWTH AND REGULATORY PAPERWORK REDUCTION

Economic Growth and Regulatory Paperwork Reduction Act of 1996.
12 USC 226 note.

SEC. 2001. SHORT TITLE; TABLE OF CONTENTS; DEFINITIONS

(a) SHORT TITLE.—This title may be cited as the "Economic Growth and Regulatory Paperwork Reduction Act of 1996".

(b) TABLE OF CONTENTS.—The table of contents for this title is as follows:

TITLE II—ECONOMIC GROWTH AND REGULATORY PAPERWORK REDUCTION

Sec. 2001. Short title; table of contents; definitions

Subtitle A—Streamlining the Home Mortgage Lending Process

Sec. 2101. Simplification and unification of disclosures required under RESPA and TILA for mortgage transactions.

Sec. 2102. General exemption authority for loans.

Sec. 2103. Reductions in Real Estate Settlement Procedures Act of 1974 regulatory burdens.

Sec. 2104. Waiver for certain borrowers.

Sec. 2105. Alternative disclosures for adjustable rate mortgages.

Sec. 2106. Restitution for violations of the Truth in Lending Act.

Sec. 2107. Limitation on liability under the Truth in Lending Act.

Subtitle B—Streamlining Government Regulation

CHAPTER 1—ELIMINATING UNNECESSARY REGULATORY REQUIREMENTS AND PROCEDURES

Sec. 2201. Elimination of redundant approval requirement for Oakar transactions.

Sec. 2202. Elimination of duplicative requirements imposed upon bank holding companies.

Sec. 2203. Elimination of the per branch capital requirement for national banks and State member banks.

Sec. 2204. Elimination of branch application requirements for automatic teller machines.

Sec. 2205. Elimination of requirement for approval of investments in bank premises for well capitalized and well managed banks.

Sec. 2206. Elimination of approval requirement for divestitures.

Sec. 2207. Streamlined nonbanking acquisitions by well capitalized and well managed banking organizations.

Sec. 2208. Elimination of unnecessary filing for officer and director appointments.

Sec. 2209. Amendments to the Depository Institution Management Interlocks Act.

Sec. 2210. Elimination of recordkeeping and reporting requirements for officers.

Sec. 2211. Repayment of Treasury loan.

Sec. 2212. Branch closures.

Sec. 2213. Foreign banks.

Sec. 2214. Disposition of foreclosed assets.

Sec. 2215. Exemption authority for antitying provision.

Sec. 2216. FDIC approval of new State bank powers.

CHAPTER 2—ELIMINATING UNNECESSARY REGULATORY BURDENS

Sec. 2221. Small bank examination cycle.

Sec. 2222. Required review of regulations.

Sec. 2223. Repeal of identification of nonbank financial institution customers.

Sec. 2224. Repeal of certain reporting requirements.

Sec. 2225. Increase in home mortgage disclosure exemption threshold.

Sec. 2226. Elimination of stock loan reporting requirement.

Sec. 2227. Credit availability assessment.

CHAPTER 3—REGULATORY MICROMANAGEMENT

Sec. 2241. National bank directors.

Sec. 2242. Paperwork reduction review.

Sec. 2243. State bank representation on Board of Directors of the FDIC.

Sec. 2244. Consultation among examiners.

Subtitle C—Regulatory Impact on Cost of Credit and Credit Availability

Sec. 2301. Audit costs.

Sec. 2302. Incentives for self-testing.

Sec. 2303. Qualified thrift investment amendments.

Sec. 2304. Limited purpose banks.

Sec. 2305. Amendment to Fair Debt Collection Practices Act.

Sec. 2306. Increase in certain credit union loan ceilings.

Sec. 2307. Bank investments in Edge Act and agreement corporations.

Subtitle D—Consumer Credit

CHAPTER 1—CREDIT REPORTING REFORM

Sec. 2401. Short title.
Sec. 2402. Definitions.
Sec. 2403. Furnishing consumer reports; use for employment purposes.
Sec. 2404. Use of consumer reports for prescreening and direct marketing; prohibition on unauthorized or uncertified use of information.
Sec. 2405. Consumer consent required to furnish consumer report containing medical information.
Sec. 2406. Obsolete information and information contained in consumer reports.
Sec. 2407. Compliance procedures.
Sec. 2408. Consumer disclosures.
Sec. 2409. Procedures in case of the disputed accuracy of any information in a consumer's file.
Sec. 2410. Charges for certain disclosures.
Sec. 2411. Duties of users of consumer reports.
Sec. 2412. Civil liability.
Sec. 2413. Responsibilities of persons who furnish information to consumer reporting agencies.
Sec. 2414. Investigative consumer reports.
Sec. 2415. Increased criminal penalties for obtaining information under false pretenses.
Sec. 2416. Administrative enforcement.
Sec. 2417. State enforcement of Fair Credit Reporting Act.
Sec. 2418. Federal Reserve Board authority.
Sec. 2419. Preemption of State law.
Sec. 2420. Effective date.
Sec. 2421. Relationship to other law.
Sec. 2422. Federal Reserve Board study.

CHAPTER 2—CREDIT REPAIR ORGANIZATIONS

Sec. 2451. Regulation of credit repair organizations.
Sec. 2452. Credit worthiness.

Subtitle E—Asset Conservation, Lender Liability, and Deposit Insurance Protection

Sec. 2501. Short title.
Sec. 2502. CERCLA lender and fiduciary liability limitations amendments.
Sec. 2503. Conforming amendment.
Sec. 2504. Lender liability rule.
Sec. 2505. Effective date.

Subtitle F—Miscellaneous

Sec. 2601. Federal Reserve Board study.

Sec. 2602. Treatment of claims arising from breach of contracts executed by the receiver or conservator.

Sec. 2603. Criminal sanctions for fictitious financial instruments and counterfeiting.

Sec. 2604. Amendments to the Truth in Savings Act.

Sec. 2605. Consumer Leasing Act amendments.

Sec. 2606. Study of corporate credit unions.

Sec. 2607. Report on the reconciliation of differences between regulatory accounting principles and generally accepted accounting principles.

Sec. 2608. State-by-State and metropolitan area-by-metropolitan area study of bank fees.

Sec. 2609. Prospective application of gold clauses in contracts.

Sec. 2610. Qualified family partnerships.

Sec. 2611. Cooperative efforts between depository institutions and farmers and ranchers in drought-stricken areas.

Sec. 2612. Streamlining process for determining new nonbanking activities.

Sec. 2613. Authorizing bank service companies to organize as limited liability partnerships.

Sec. 2614. Retirement certificates of deposits.

Sec. 2615. Prohibitions on certain depository institution associations with Government-sponsored enterprises.

Subtitle G—Deposit Insurance Funds

Sec. 2701. Short title.

Sec. 2702. Special assessment to capitalize SAIF.

Sec. 2703. Financing corporation funding.

Sec. 2704. Merger of BIF and SAIF.

Sec. 2705. Creation of SAIF special reserve.

Sec. 2706. Refund of amounts in deposit insurance fund in excess of designated reserve amount.

Sec. 2707. Assessment rates for SAIF members may not be less than assessment rates for BIF members.

Sec. 2708. Assessments authorized only if needed to maintain the reserve ratio of a deposit insurance fund.

Sec. 2709. Treasury study of common depository institution charter.

Sec. 2710. Definitions.

Sec. 2711. Deductions for special assessments.

12 USC 252 note.

(c) DEFINITIONS.—Except as otherwise specified in this title, the following definitions shall apply for purposes of this title:

(1) APPRAISAL SUBCOMMITTEE.—The term "Appraisal Subcommittee" means the Appraisal Subcommittee established under section 1011 of the Federal Financial Institutions Examination Council Act of 1978 (as in existence on the day before the date of enactment of this Act).

(2) APPROPRIATE FEDERAL BANKING AGENCY.—The term "appropriate Federal banking agency" has the same meaning as in section 3 of the Federal Deposit Insurance Act.

(3) BOARD.—The term "Board" means the Board of Governors of the Federal Reserve System.

(4) CORPORATION.—The term "Corporation" means the Federal Deposit Insurance Corporation.

(5) COUNCIL.—The term "Council" means the Financial Institutions Examination Council established under section 1004 of the Federal Financial Institutions Examination Council Act of 1978.

(6) INSURED CREDIT UNION.—The term "insured credit union" has the same meaning as in section 101 of the Federal Credit Union Act.

(7) INSURED DEPOSITORY INSTITUTION.—The term "insured depository institution" has the same meaning as in section 3 of the Federal Deposit Insurance Act.

Subtitle A—Streamlining the Home Mortgage Lending Process

SEC. 2101. SIMPLIFICATION AND UNIFICATION OF DISCLOSURES REQUIRED UNDER RESPA AND TILA FOR MORTGAGE TRANSACTIONS.

12 USC 2601 note.

(a) IN GENERAL.—With respect to credit transactions which are subject to the Real Estate Settlement Procedures Act of 1974 and the Truth in Lending Act, the Board of Governors of the Federal Reserve System (hereafter in this section referred to as the "Board") and the Secretary of Housing and Urban Development (hereafter in this section referred to as the "Secretary") shall take such action as may be necessary before the end of the 6-month period beginning on the date of enactment of this Act—

(1) to simplify and improve the disclosures applicable to such transactions under such Acts, including the timing of the disclosures; and

(2) to provide a single format for such disclosures which will satisfy the requirements of each such Act with respect to such transactions.

(b) REGULATIONS.—To the extent that it is necessary to prescribe any regulation in order to effect any changes required to be made under subsection (a), the proposed regulation shall be published in the Federal Register before the end of the 6-month period referred to in subsection (a).

(c) RECOMMENDATIONS FOR LEGISLATION.—If the Board and the Secretary find that legislative action may be necessary or appropriate in order to simplify and unify the disclosure requirements under the Real Estate Settlement Procedures Act of 1974 and the Truth in Lending Act, the Board and the Secretary shall submit a report containing recommendations to the Congress concerning such action.

SEC. 2102. GENERAL EXEMPTION AUTHORITY FOR LOANS.

(a) REGULATORY FLEXIBILITY.—Section 104 of the Truth in Lending Act (15 U.S.C. 1603) is amended—

(1) by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively; and

(2) by inserting after paragraph (4) the following new paragraph:

"(5) Transactions for which the Board, by rule, determines that coverage under this title is not necessary to carry out the purposes of this title.".

(b) EXEMPTION AUTHORITY.—Section 105 of the Truth in Lending Act (15 U.S.C. 1604) is amended by adding at the end the following new subsection:

"(f) EXEMPTION AUTHORITY.—

"(1) IN GENERAL.—The Board may exempt, by regulation, from all or part of this title any class of transactions, other than transactions involving any mortgage described in section 103(aa), for which, in the determination of the Board, coverage under all or part of this title does not provide a meaningful benefit to consumers in the form of useful information or protection.

"(2) FACTORS FOR CONSIDERATION.—In determining which classes of transactions to exempt in whole or in part under paragraph (1), the Board shall consider the following factors and publish its rationale at the time a proposed exemption is published for comment:

"(A) The amount of the loan and whether the disclosures, right of rescission, and other provisions provide a benefit to the consumers who are parties to such transactions, as determined by the Board.

"(B) The extent to which the requirements of this title complicate, hinder, or make more expensive the credit process for the class of transactions.

"(C) The status of the borrower, including—

"(i) any related financial arrangements of the borrower, as determined by the Board;

"(ii) the financial sophistication of the borrower relative to the type of transaction; and

"(iii) the importance to the borrower of the credit, related supporting property, and coverage under this title, as determined by the Board;

"(D) whether the loan is secured by the principal residence of the consumer; and

"(E) whether the goal of consumer protection would be undermined by such an exemption.".

SEC. 2103. REDUCTIONS IN REAL ESTATE SETTLEMENT PROCEDURES ACT OF 1974 REGULATORY BURDENS.

(a) UNNECESSARY DISCLOSURE.—Section 6(a) of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2605(a)) is amended to read as follows:

"(a) DISCLOSURE TO APPLICANT RELATING TO ASSIGNMENT, SALE, OR TRANSFER OF LOAN SERVICING.—Each person who makes a federally related mortgage loan shall disclose to each person who applies for the loan, at the time of application for the loan, whether the servicing of the loan may be assigned, sold, or transferred to any other person at any time while the loan is outstanding.".

(b) CONSISTENCY OF REAL ESTATE SETTLEMENT PROCEDURES ACT AND TRUTH IN LENDING ACT EXEMPTION OF BUSINESS LOANS.—Section 7 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2606) is amended—

(1) by striking "This Act" and inserting the following:

"(a) IN GENERAL.—This Act"; and

(2) by adding at the end the following new subsection:

"(b) INTERPRETATION.—In prescribing regulations under section 19(a), the Secretary shall ensure that, with respect to subsection (a) of this section, the exemption for credit transactions involving extensions of credit primarily for business, commercial, or agricultural purposes, as provided in section 7(1) of the Real Estate Settlement Procedures Act of 1974 shall be the same as the exemption for such credit transactions under section 104(1) of the Truth in Lending Act.".

(c) REDESIGNATION OF CONTROLLED BUSINESS ARRANGEMENTS AS AFFILIATED BUSINESS ARRANGEMENTS.—The Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2601 et seq.) is amended—

(1) in section 3(7), by striking "controlled business arrangement" and inserting "affiliated business arrangement"; and 12 USC 2602.

(2) in subsections (c)(4) and (d)(6) of section 8, by striking "controlled business arrangements" and inserting "affiliated business arrangements". 12 USC 2607.

(d) DISCLOSURES BY TELEPHONE OR ELECTRONIC MEDIA.—Section 8(c)(4) of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2607(c)(4)(A)) is amended by striking subparagraph (A) and inserting the following "(A) a disclosure is made of the existence of such an arrangement to the person being referred and, in connection with such referral, such person is provided a written estimate of the charge or range of charges generally made by the provider to which the person is referred (i) in the case of a face-to-face referral or a referral made in writing or by electronic media, at or before the time of the referral (and compliance with this requirement in such case may be evidenced by a notation in a written, electronic, or similar system of records maintained in the regular course of business); (ii) in the case of a referral made by telephone, within 3 business days after the referral by telephone, (and in such case an abbreviated verbal disclosure of the existence of the arrangement and the fact that a written disclosure will be provided within 3 business days shall be made to the person being referred during the telephone referral); or (iii) in the case of a referral by a lender (including a referral by a lender to an affiliated lender), at the time the estimates required under section 5(c) are provided (notwithstanding clause (i) or (ii)); and any required written receipt of such disclosure (without regard to the manner of the disclosure under clause (i), (ii), or (iii)) may be obtained at the closing or settlement (except that a person making a face-to-face referral who provides the written disclosure at or before the time of the referral shall attempt to obtain any required written receipt of such disclosure at such time and if the person being referred chooses not to acknowledge the receipt of the disclosure at that time, that fact shall be noted in the written, electronic, or similar system of records maintained in the regular course of business by the person making the referral),".

(e) LIMITATION ON CLAIMS ARISING FROM VIOLATIONS OF REQUIREMENTS FOR SERVICING MORTGAGES AND ADMINISTERING ESCROW ACCOUNTS.—Section 16 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2614) is amended—

(1) by striking "section 8 or 9" and inserting "section 6, 8, or 9"; and

(2) by striking "within one year" and inserting "within 3 years in the case of a violation of section 6 and 1 year in the case of a violation of section 8 or 9".

(f) DELAY OF EFFECTIVENESS OF RECENT FINAL REGULATION RELATING TO PAYMENTS TO EMPLOYEES.—Section 19 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2617) is amended by adding at the end the following new subsection:

"(d) DELAY OF EFFECTIVENESS OF RECENT FINAL REGULATION RELATING TO PAYMENTS TO EMPLOYEES.—

"(1) IN GENERAL.—The amendment to part 3500 of title 24 of the Code of Federal Regulations contained in the final regulation prescribed by the Secretary and published in the Federal Register on June 7, 1996, which will, as of the effective date of such amendment—

"(A) eliminate the exemption for payments by an employer to employees of such employer for referral activities which is currently codified as section 3500.14(g)(1)(vii) of such title 24; and

"(B) replace such exemption with a more limited exemption in new clauses (vii), (viii), and (ix) of section 3500.14 of such title 24,

shall not take effect before July 31, 1997.

"(2) CONTINUATION OF PRIOR RULE.—The regulation codified as section 3500.14(g)(1)(vii) of title 24 of the Code of Federal Regulations, relating to employer-employee payments, as in effect on May 1, 1996, shall remain in effect until the date the amendment referred to in paragraph (1) takes effect in accordance with such paragraph.

"(3) PUBLIC NOTICE OF EFFECTIVE DATE.—The Secretary shall provide public notice of the date on which the amendment referred to in paragraph (1) will take effect in accordance with such paragraph not less than 90 days and not more than 180 days before such effective date.".

(g) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 4(a) of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2603(a)) is amended by striking "Federal Home Loan Bank Board" and inserting "Director of the Office of Thrift Supervision".

(2) Section 10(c)(1)(C) of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2609(c)(1)(C)) is amended by striking "Not later than the expiration of the 90-day period beginning on the date of the enactment of the Cranston-Gonzalez National Affordable Housing Act, the" and inserting "The".

(h) REPEAL OF OBSOLETE PROVISIONS.—The Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2601 et seq.) is amended by striking sections 13, 14 and 15.

12 USC 2611–2613.

SEC. 2104. WAIVER FOR CERTAIN BORROWERS.

Section 105 of the Truth in Lending Act (15 U.S.C. 1604) is amended by adding at the end the following new subsection:

"(g) WAIVER FOR CERTAIN BORROWERS.—

"(1) IN GENERAL.—The Board, by regulation, may exempt from the requirements of this title certain credit transactions if—

"(A) the transaction involves a consumer—

"(i) with an annual earned income of more than $200,000; or

"(ii) having net assets in excess of $1,000,000 at the time of the transaction; and

"(B) a waiver that is handwritten, signed, and dated by the consumer is first obtained from the consumer.

"(2) ADJUSTMENTS BY THE BOARD.—The Board, at its discretion, may adjust the annual earned income and net asset requirements of paragraph (1) for inflation.".

SEC. 2105. ALTERNATIVE DISCLOSURES FOR ADJUSTABLE RATE MORTGAGES.

Section 128(a) of the Truth in Lending Act (15 U.S.C. 1638(a)) is amended by adding at the end the following new paragraph:

"(14) In the case of any variable interest rate residential mortgage transaction, in disclosures provided at application as prescribed by the Board for a variable rate transaction secured by the consumer's principal dwelling, at the option of the creditor, a statement that the periodic payments may increase or decrease substantially, and the maximum interest rate and payment for a $10,000 loan originated at a recent interest rate, as determined by the Board, assuming the maximum periodic increases in rates and payments under the program, or a historical example illustrating the effects of interest rate changes implemented according to the loan program.".

SEC. 2106. RESTITUTION FOR VIOLATIONS OF THE TRUTH IN LENDING ACT. 15 USC 1607.

Section 108(e)(3) of the Truth in Lending Act (15 U.S.C. 2602(3)) is amended—

(1) by striking "ordered (A) if" and inserting the following: "ordered—

"(A) if";

(2) by striking "may require a partial" and inserting "may—

"(i) require a partial";

(3) by striking ", except that with respect" and all that follows through "Act, the agency shall require" and inserting "; or

"(ii) require";

(4) by striking "reasonable, (B) the" and inserting the following: "reasonable, if (in the case of an agency referred to in paragraph (1), (2), or (3) of subsection (a)), the agency determines that a partial adjustment or making partial payments over an extended period is necessary to avoid causing the creditor to become undercapitalized pursuant to section 38 of the Federal Deposit Insurance Act;

"(B) the"; and

(5) by striking "(C) except" and inserting the following: "(C) except".

SEC. 2107. LIMITATION ON LIABILITY UNDER THE TRUTH IN LENDING ACT.

(a) IN GENERAL.—Section 139(a) of the Truth in Lending Act (15 U.S.C. 1649(a)) is amended by striking "For any consumer credit transaction subject to this title" and inserting "For any closed end consumer credit transaction that is secured by real property or a dwelling, that is subject to this title, and".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective as of September 30, 1995. 15 USC 1649 note.

Subtitle B—Streamlining Government Regulation

CHAPTER 1—ELIMINATING UNNECESSARY REGULATORY REQUIREMENTS AND PROCEDURES

SEC. 2201. ELIMINATION OF REDUNDANT APPROVAL REQUIREMENT FOR OAKAR TRANSACTIONS.

(a) IN GENERAL.—Section 5(d)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1815(d)(3)) is amended—

(1) in subparagraph (A), by striking "with the prior written approval of" and inserting "if the transaction is approved by";

(2) in subparagraph (E)—

(A) by striking clauses (i) and (iv);

(B) by redesignating clauses (ii) and (iii) as clauses (i) and (ii), respectively; and

(C) by adding at the end the following new clause:

"(iii) CAPITAL REQUIREMENTS.—A transaction described in this paragraph shall not be approved under section 18(c)(2) unless the acquiring, assuming, or resulting depository institution will meet all applicable capital requirements upon consummation of the transaction.";

(3) by striking subparagraph (G); and

(4) by redesignating subparagraphs (H) through (J) as subparagraphs (G) through (I), respectively.

(b) CONFORMING AMENDMENTS.—

(1) REVISED STATUTES.—Section 5156A(b)(1) of the Revised Statutes of the United States (12 U.S.C. 215c(b)(1)) is amended by striking "by section 5(d)(3) of the Federal Deposit Insurance Act or any other" and inserting "under any".

(2) HOME OWNERS' LOAN ACT.—Section 10(s)(2)(A) of the Home Owners' Loan Act (12 U.S.C. 1467a(s)(2)(A)) is amended by striking "under section 5(d)(3) of the Federal Deposit Insurance Act or any other" and inserting "under any".

SEC. 2203. ELIMINATION OF DUPLICATIVE REQUIREMENTS IMPOSED UPON BANK HOLDING COMPANIES.

(a) EXEMPTION FOR BANK HOLDING COMPANIES.—Section 10 of the Home Owners' Loan Act (12 U.S.C. 1467a) is amended by adding at the end the following new subsection:

"(t) EXEMPTION FOR BANK HOLDING COMPANIES.—This section shall not apply to a bank holding company that is subject to the Bank Holding Company Act of 1956, or any company controlled by such bank holding company.".

(b) DEFINITION.—Section 10(a)(1)(D) of the Home Owners' Loan Act (12 U.S.C. 1467a(a)(1)(D)) is amended to read as follows:

"(D) SAVINGS AND LOAN HOLDING COMPANY.—

"(i) IN GENERAL.—Except as provided in clause (ii), the term 'savings and loan holding company' means any company that directly or indirectly controls a savings association or that controls any other company that is a savings and loan holding company.

"(ii) EXCLUSION.—The term 'savings and loan holding company' does not include a bank holding company that is registered under, and subject to, the Bank

Holding Company Act of 1956, or to any company directly or indirectly controlled by such company (other than a savings association).".

(c) ACQUISITIONS.—Section 10(e)(1) of the Home Owners' Loan Act (12 U.S.C. 1467a(e)(1)) is amended—

(1) in subparagraph (A)(iii)(VII), by inserting "or" at the end;

(2) in subparagraph (A)(iv), by inserting "and" at the end; and

(3) in subparagraph (B)—

(A) by striking "or (ii)" and inserting "(ii)"; and

(B) by inserting before the first period ", or (iii) acquired by a bank holding company that is registered under, and subject to, the Bank Holding Company Act of 1956, or any company controlled by such bank holding company".

(d) AMENDMENTS TO THE BANK HOLDING COMPANY ACT OF 1956.—Section 4(i) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(i)) is amended by adding at the end the following new paragraphs:

"(4) SOLICITATION OF VIEWS.—

"(A) NOTICE TO DIRECTOR.—Upon receiving any application or notice by a bank holding company to acquire, directly or indirectly, a savings association under subsection (c)(8), the Board shall solicit comments and recommendations from the Director with respect to such acquisition.

"(B) COMMENT PERIOD.—The comments and recommendations of the Director under subparagraph (A) with respect to any acquisition subject to such subparagraph shall be transmitted to the Board not later than 30 days after the receipt by the Director of the notice relating to such acquisition (or such shorter period as the Board may specify if the Board advises the Director that an emergency exists that requires expeditious action).

"(5) EXAMINATION.—

"(A) SCOPE.—The Board shall consult with the Director, as appropriate, in establishing the scope of an examination by the Board of a bank holding company that directly or indirectly controls a savings association.

"(B) ACCESS TO INSPECTION REPORTS.—Upon the request of the Director, the Board shall furnish the Director with a copy of any inspection report, additional examination materials, or supervisory information relating to any bank holding company that directly or indirectly controls a savings association.

"(6) COORDINATION OF ENFORCEMENT EFFORTS.—The Board and the Director shall cooperate in any enforcement action against any bank holding company that controls a savings association, if the relevant conduct involves such association.

"(7) DIRECTOR DEFINED.—For purposes of this section, the term 'Director' means the Director of the Office of Thrift Supervision.".

SEC. 2204. ELIMINATION OF THE PER BRANCH CAPITAL REQUIREMENT FOR NATIONAL BANKS AND STATE MEMBER BANKS.

Section 5155(h) of the Revised Statutes of the United States (12 U.S.C. 36(h)) is amended to read as follows:

"(h) [Repealed]".

SEC. 2205. ELIMINATION OF BRANCH APPLICATION REQUIREMENTS FOR AUTOMATIC TELLER MACHINES.

(a) "BRANCH" UNDER NATIONAL BANK ACT.—Section 5155(j) of the Revised Statutes of the United States (12 U.S.C. 36(j)) is amended by adding at the end the following: "The term 'branch', as used in this section, does not include an automated teller machine or a remote service unit.".

(b) "DOMESTIC BRANCH" UNDER THE FEDERAL DEPOSIT INSURANCE ACT.—Section 3(o) of the Federal Deposit Insurance Act (12 U.S.C. 1813(o)) is amended by striking "lent; and the" and inserting "lent. The term 'domestic branch' does not include an automated teller machine or a remote service unit. The".

SEC. 2206. ELIMINATION OF REQUIREMENT FOR APPROVAL OF INVESTMENTS IN BANK PREMISES FOR WELL CAPITALIZED AND WELL MANAGED BANKS.

Section 24A of the Federal Reserve Act (12 U.S.C. 371d) is amended to read as follows:

"SEC. 24A. INVESTMENT IN BANK PREMISES OR STOCK OF CORPORATION HOLDING PREMISES.

"(a) CONDITIONS OF INVESTMENT.—No national bank or State member bank shall invest in bank premises, or in the stock, bonds, debentures, or other such obligations of any corporation holding the premises of such bank, or make loans to or upon the security of any such corporation—

"(1) unless the bank receives the prior approval of the Comptroller of the Currency (with respect to a national bank) or the Board (with respect to a State member bank);

"(2) unless the aggregate of all such investments and loans, together with the amount of any indebtedness incurred by any such corporation that is an affiliate of the bank, is less than or equal to the amount of the capital stock of such bank; or

"(3) unless—

"(A) the aggregate of all such investments and loans, together with the amount of any indebtedness incurred by any such corporation that is an affiliate of the bank, is less than or equal to 150 percent of the capital and surplus of the bank; and

"(B) the bank—

"(i) has a CAMEL composite rating of 1 or 2 under the Uniform Financial Institutions Rating System (or an equivalent rating under a comparable rating system) as of the most recent examination of such bank;

"(ii) is well capitalized and will continue to be well capitalized after the investment or loan; and

"(iii) provides notification to the Comptroller of the Currency (with respect to a national bank) or to the Board (with respect to a State member bank) not later than 30 days after making the investment or loan.

"(b) DEFINITIONS.—For purposes of this section—

"(1) the term 'affiliate' has the same meaning as in section 2 of the Banking Act of 1933; and

"(2) the term 'well capitalized' has the same meaning as in section 38(b) of the Federal Deposit Insurance Act.".

SEC. 2207. ELIMINATION OF APPROVAL REQUIREMENT FOR DIVESTITURES.

Section 2(g) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(g)) is amended—

(1) in paragraph (1), by adding "and" at the end;

(2) in paragraph (2), by striking "; and" and inserting a period; and

(3) by striking paragraph (3).

SEC. 2208. STREAMLINED NONBANKING ACQUISITIONS BY WELL CAPITALIZED AND WELL MANAGED BANKING ORGANIZATIONS.

(a) NOTICE REQUIREMENTS.—Section 4(j) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(j)) is amended—

(1) in paragraph (1)(A), by striking "No" and inserting "Except as provided in paragraph (3), no"; and

(2) by adding at the end the following new paragraphs:

"(3) NO NOTICE REQUIRED FOR CERTAIN TRANSACTIONS.—No notice under paragraph (1) of this subsection or under subsection (c)(8) or (a)(2)(B) is required for a proposal by a bank holding company to engage in any activity or acquire the shares or assets of any company, other than an insured depository institution, if the proposal qualifies under paragraph (4).

"(4) CRITERIA FOR STATUTORY APPROVAL.—A proposal qualifies under this paragraph if all of the following criteria are met:

"(A) FINANCIAL CRITERIA.—Both before and immediately after the proposed transaction—

"(i) the acquiring bank holding company is well capitalized;

"(ii) the lead insured depository institution of such holding company is well capitalized;

"(iii) well capitalized insured depository institutions control at least 80 percent of the aggregate total risk-weighted assets of insured depository institutions controlled by such holding company; and

"(iv) no insured depository institution controlled by such holding company is undercapitalized.

"(B) MANAGERIAL CRITERIA.—

"(i) WELL MANAGED.—At the time of the transaction, the acquiring bank holding company, its lead insured depository institution, and insured depository institutions that control at least 90 percent of the aggregate total risk-weighted assets of insured depository institutions controlled by such holding company are well managed.

"(ii) LIMITATION ON POORLY MANAGED INSTITUTIONS.—Except as provided in paragraph (6), no insured depository institution controlled by the acquiring bank holding company has received 1 of the 2

lowest composite ratings at the later of the institution's most recent examination or subsequent review.

"(C) ACTIVITIES PERMISSIBLE.—Following consummation of the proposal, the bank holding company engages directly or through a subsidiary solely in—

"(i) activities that are permissible under subsection (c)(8), as determined by the Board by regulation or order thereunder, subject to all of the restrictions, terms, and conditions of such subsection and such regulation or order; and

"(ii) such other activities as are otherwise permissible under this section, subject to the restrictions, terms and conditions, including any prior notice or approval requirements, provided in this section.

"(D) SIZE OF ACQUISITION.—

"(i) ASSET SIZE.—The book value of the total assets to be acquired does not exceed 10 percent of the consolidated total risk-weighted assets of the acquiring bank holding company.

"(ii) CONSIDERATION.—The gross consideration to be paid for the securities or assets does not exceed 15 percent of the consolidated Tier 1 capital of the acquiring bank holding company.

"(E) NOTICE NOT OTHERWISE WARRANTED.—For proposals described in paragraph (5)(B), the Board has not, before the conclusion of the period provided in paragraph (5)(B), advised the bank holding company that a notice under paragraph (1) is required.

"(F) COMPLIANCE CRITERION.—During the 12-month period ending on the date on which the bank holding company proposes to commence an activity or acquisition, no administrative enforcement action has been commenced, and no cease and desist order has been issued pursuant to section 8 of the Federal Deposit Insurance Act, against the bank holding company or any depository institution subsidiary of the holding company, and no such enforcement action, order, or other administrative enforcement proceeding is pending as of such date.

"(5) NOTIFICATION.—

"(A) COMMENCEMENT OF ACTIVITIES APPROVED BY RULE.—A bank holding company that qualifies under paragraph (4) and that proposes to engage de novo, directly or through a subsidiary, in any activity that is permissible under subsection (c)(8), as determined by the Board by regulation, may commence that activity without prior notice to the Board and must provide written notification to the Board not later than 10 business days after commencing the activity.

"(B) ACTIVITIES PERMITTED BY ORDER AND ACQUISITIONS.—

"(i) IN GENERAL.—At least 12 business days before commencing any activity pursuant to paragraph (3) (other than an activity described in subparagraph (A) of this paragraph) or acquiring shares or assets of

any company pursuant to paragraph (3), the bank holding company shall provide written notice of the proposal to the Board, unless the Board determines that no notice or a shorter notice period is appropriate.

"(ii) DESCRIPTION OF ACTIVITIES AND TERMS.—A notification under this subparagraph shall include a description of the proposed activities and the terms of any proposed acquisition.

"(6) RECENTLY ACQUIRED INSTITUTIONS.—Any insured depository institution which has been acquired by a bank holding company during the 12-month period preceding the date on which the company proposes to commence an activity or acquisition pursuant to paragraph (3) may be excluded for purposes of paragraph (4)(B)(ii) if—

"(A) the bank holding company has developed a plan for the institution to restore the capital and management of the institution which is acceptable to the appropriate Federal banking agency; and

"(B) all such insured depository institutions represent, in the aggregate, less than 10 percent of the aggregate total risk-weighted assets of all insured depository institutions controlled by the bank holding company.

"(7) ADJUSTMENT OF PERCENTAGES.—The Board may, by regulation, adjust the percentages and the manner in which the percentages of insured depository institutions are calculated under paragraph (4)(B)(i), (4)(D), or (6)(B) if the Board determines that any such adjustment is consistent with safety and soundness and the purposes of this Act.".

(b) DEFINITIONS.—Section 2(o) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(o)) is amended—

(1) by striking paragraph (1) and inserting the following new paragraph:

"(1) CAPITAL TERMS.—

"(A) INSURED DEPOSITORY INSTITUTIONS.—With respect to insured depository institutions, the terms 'well capitalized', 'adequately capitalized', and 'undercapitalized' have the same meanings as in section 38(b) of the Federal Deposit Insurance Act.

"(B) BANK HOLDING COMPANY.—

"(i) ADEQUATELY CAPITALIZED.—With respect to a bank holding company, the term 'adequately capitalized' means a level of capitalization which meets or exceeds all applicable Federal regulatory capital standards.

"(ii) WELL CAPITALIZED.—A bank holding company is 'well capitalized' if it meets the required capital levels for well capitalized bank holding companies established by the Board.

"(C) OTHER CAPITAL TERMS.—The terms 'Tier 1' and 'risk-weighted assets' have the meanings given those terms in the capital guidelines or regulations established by the Board for bank holding companies."; and

(2) by adding at the end the following new paragraphs:

"(8) LEAD INSURED DEPOSITORY INSTITUTIONS.—

"(A) IN GENERAL.—The term 'lead insured depository institution' means the largest insured depository institution controlled by the subject bank holding company at any

time, based on a comparison of the average total risk-weighted assets controlled by each insured depository institution during the previous 12-month period.

"(B) BRANCH OR AGENCY.—For purposes of this paragraph and section 4(j)(4), the term 'insured depository institution' includes any branch or agency operated in the United States by a foreign bank.

"(9) WELL MANAGED.—The term 'well managed' means—

"(A) in the case of any company or depository institution which receives examinations, the achievement of—

"(i) a CAMEL composite rating of 1 or 2 (or an equivalent rating under an equivalent rating system) in connection with the most recent examination or subsequent review of such company or institution; and

"(ii) at least a satisfactory rating for management, if such rating is given; or

"(B) in the case of a company or depository institution that has not received an examination rating, the existence and use of managerial resources which the Board determines are satisfactory.".

SEC. 2209. ELIMINATION OF UNNECESSARY FILING FOR OFFICER AND DIRECTOR APPOINTMENTS.

Section 32 of the Federal Deposit Insurance Act (12 U.S.C. 1831i) is amended—

(1) in subsection (a)—

(A) by inserting "(or such other period, as determined by the appropriate Federal banking agency)" after "30 days";

(B) by striking "if the insured depository institution or depository institution holding company" and inserting "if";

(C) by striking paragraphs (1) and (2);

(D) by redesignating paragraph (3) as paragraph (1);

(E) in paragraph (1), as redesignated—

(i) by inserting "the insured depository institution or depository institution holding company" before "is not in compliance"; and

(ii) by striking the period at the end and inserting "; or"; and

(F) by adding at the end the following new paragraph:

"(2) the agency determines, in connection with the review by the agency of the plan required under section 38 or otherwise, that such prior notice is appropriate."; and

(2) in subsection (b), by striking "30-day period" and inserting "notice period, not to exceed 90 days,".

SEC. 2210. AMENDMENTS TO THE DEPOSITORY INSTITUTION MANAGEMENT INTERLOCKS ACT.

(a) DUAL SERVICE AMONG LARGER ORGANIZATIONS.—Section 204 of the Depository Institution Management Interlocks Act (12 U.S.C. 3203) is amended—

(1) by striking "$1,000,000,000" and inserting "$2,500,000,000";

(2) by striking "$500,000,000" and inserting "$1,500,000,000"; and

(3) by adding at the end the following: "In order to allow for inflation or market changes, the appropriate Federal depository institutions regulatory agencies may, by regulation, adjust, as necessary, the amount of total assets required for depository institutions or depository holding companies under this section.".

(b) EXTENSION OF GRANDFATHER EXEMPTION.—Section 206 of the Depository Institution Management Interlocks Act (12 U.S.C. 3205) is amended—

(1) in subsection (a), by striking "for a period of, subject to the requirements of subsection (c), 20 years after the date of enactment of this title";

(2) in subsection (b), by striking the second sentence; and

(3) by striking subsection (c).

(c) REGULATIONS.—Section 209 of the Depository Institution Management Interlocks Act (12 U.S.C. 3207) is amended—

(1) in subsection (a)—

(A) by striking "(a) IN GENERAL.—Rules and regulations" and inserting "Regulations";

(B) by inserting ", including regulations that permit service by a management official that would otherwise be prohibited by section 203 or section 204, if such service would not result in a monopoly or substantial lessening of competition," after "title";

(C) in paragraph (4)—

(i) by striking "Federal Home Loan Bank Board" and inserting "Director of the Office of Thrift Supervision"; and

(ii) by striking "Savings and Loan" and inserting "Deposit"; and

(2) by striking subsections (b) and (c).

SEC. 2211. ELIMINATION OF RECORDKEEPING AND REPORTING REQUIREMENTS FOR OFFICERS.

(a) EMPLOYEE BENEFIT PLANS.—Section 22(h)(2) of the Federal Reserve Act (12 U.S.C. 375b(2)) is amended—

(1) by redesignating subparagraphs (A) through (C) as clauses (i) through (iii), respectively, and indenting appropriately;

(2) by striking "(2) PREFERENTIAL TERMS PROHIBITED.—" and inserting the following:

"(2) PREFERENTIAL TERMS PROHIBITED.—

"(A) IN GENERAL.—"; and

(3) by adding at the end the following new subparagraph:

"(B) EXCEPTION.—Nothing in this paragraph shall prohibit any extension of credit made pursuant to a benefit or compensation program—

"(i) that is widely available to employees of the member bank; and

"(ii) that does not give preference to any officer, director, or principal shareholder of the member bank, or to any related interest of such person, over other employees of the member bank.".

(b) EXCEPTION FOR EXTENSIONS OF CREDIT TO EXECUTIVE OFFICERS AND DIRECTORS OF AFFILIATES.—Section 22(h)(8)(B) of the Federal Reserve Act (12 U.S.C. 375b(8)(B)) is amended to read as follows:

"(B) EXCEPTION.—The Board may, by regulation, make exceptions to subparagraph (A) for any executive officer or director of a subsidiary of a company that controls the member bank if—

"(i) the executive officer or director does not have authority to participate, and does not participate, in major policymaking functions of the member bank; and

"(ii) the assets of such subsidiary do not exceed 10 percent of the consolidated assets of a company that controls the member bank and such subsidiary (and is not controlled by any other company).".

SEC. 2212. REPAYMENT OF TREASURY LOAN.

Section 1108 of the Federal Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3337) is amended by adding at the end the following new subsection.—

"(c) REPAYMENT OF TREASURY LOAN.—Not later than September 30, 1998, the Appraisal Subcommittee shall repay to the Secretary of the Treasury the unpaid portion of the $5,000,000 paid to the Appraisal Subcommittee pursuant to this section.".

SEC. 2213. BRANCH CLOSURES.

Section 42 of the Federal Deposit Insurance Act (12 U.S.C. 1831r–1) is amended by adding at the end the following new subsection:

"(e) SCOPE OF APPLICATION.—This section shall not apply with respect to—

"(1) an automated teller machine;

"(2) the relocation of a branch or consolidation of one or more branches into another branch, if the relocation or consolidation—

"(A) occurs within the immediate neighborhood; and

"(B) does not substantially affect the nature of the business or customers served; or

"(3) a branch that is closed in connection with—

"(A) an emergency acquisition under—

"(i) section 11(n); or

"(ii) subsection (f) or (k) of section 13; or

"(B) any assistance provided by the Corporation under section 13(c).".

SEC. 2214. FOREIGN BANKS.

(a) EXAMINATION OF BRANCHES AND AGENCIES BY BOARD.—Section 7(c) of the International Banking Act of 1978 (12 U.S.C. 3105(c)) is amended—

(1) by striking "(c)" and inserting the following:

"(c) FOREIGN BANK EXAMINATIONS AND REPORTING.—";

(2) in paragraph (1)(B), by adding at the end the following new clause:

"(iii) AVOIDANCE OF DUPLICATION.—In exercising its authority under this paragraph, the Board shall take all reasonable measures to reduce burden and avoid unnecessary duplication of examinations.";

(3) by striking subparagraph (C) of paragraph (1) and inserting the following:

"(C) ON-SITE EXAMINATION.—Each Federal branch or agency, and each State branch or agency, of a foreign

bank shall be subject to on-site examination by an appropriate Federal banking agency or State bank supervisor as frequently as would a national bank or a State bank, respectively, by the appropriate Federal banking agency."; and

(4) in paragraph (1)(D), by inserting before the period at the end the following: ", only to the same extent that fees are collected by the Board for examination of any State member bank".

(b) ESTABLISHMENT OF FOREIGN BANK OFFICES IN THE UNITED STATES.—Section 7(d) of the International Banking Act of 1978 (12 U.S.C. 3105(d)) is amended—

(1) in paragraph (2), by striking "The Board" and inserting "Except as provided in paragraph (6), the Board";

(2) in paragraph (5), by striking "Consistent with the standards for approval in paragraph (2), the"; and inserting "The"; and

(3) by adding at the end the following new paragraphs:

"(6) EXCEPTION.—

"(A) IN GENERAL.—If the Board is unable to find, under paragraph (2), that a foreign bank is subject to comprehensive supervision or regulation on a consolidated basis by the appropriate authorities in its home country, the Board may nevertheless approve an application by such foreign bank under paragraph (1) if—

"(i) the appropriate authorities in the home country of the foreign bank are actively working to establish arrangements for the consolidated supervision of such bank; and

"(ii) all other factors are consistent with approval.

"(B) OTHER CONSIDERATIONS.—In deciding whether to use its discretion under subparagraph (A), the Board shall also consider whether the foreign bank has adopted and implements procedures to combat money laundering. The Board may also take into account whether the home country of the foreign bank is developing a legal regime to address money laundering or is participating in multilateral efforts to combat money laundering.

"(C) ADDITIONAL CONDITIONS.—In approving an application under this paragraph, the Board, after requesting and taking into consideration the views of the appropriate State bank supervisor or the Comptroller of the Currency, as the case may be, may impose such conditions or restrictions relating to the activities or business operations of the proposed branch, agency, or commercial lending company subsidiary, including restrictions on sources of funding, as are considered appropriate. The Board shall coordinate with the appropriate State bank supervisor or the Comptroller of the Currency, as appropriate, in the implementation of such conditions or restrictions.

"(D) MODIFICATION OF CONDITIONS.—Any condition or restriction imposed by the Board in connection with the approval of an application under authority of this paragraph may be modified or withdrawn.

"(7) TIME PERIOD FOR BOARD ACTION.—

"(A) FINAL ACTION.—The Board shall take final action on any application under paragraph (1) not later than

180 days after receipt of the application, except that the Board may extend for an additional 180 days the period within which to take final action on such application after providing notice of, and the reasons for, the extension to the applicant foreign bank and any appropriate State bank supervisor or the Comptroller of the Currency, as appropriate.

"(B) FAILURE TO SUBMIT INFORMATION.—The Board may deny any application if it does not receive information requested from the applicant foreign bank or appropriate authorities in the home country of the foreign bank in sufficient time to permit the Board to evaluate such information adequately within the time periods for final action set forth in subparagraph (A).

"(C) WAIVER.—A foreign bank may waive the applicability of this paragraph with respect to any application under paragraph (1).".

(c) TERMINATION OF FOREIGN BANK OFFICES IN THE UNITED STATES.—Section 7(e)(1)(A) of the International Banking Act of 1978 (12 U.S.C. 3105(e)(1)(A)) is amended—

(1) by inserting "(i)" after "(A)";

(2) by striking "or" at the end and inserting "and"; and

(3) by adding at the end the following new clause:

"(ii) the appropriate authorities in the home country of the foreign bank are not making demonstrable progress in establishing arrangements for the comprehensive supervision or regulation of such foreign bank on a consolidated basis; or".

SEC. 2215. DISPOSITION OF FORECLOSED ASSETS.

Section 4(c)(2) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)(2)) is amended—

(1) by striking "for not more than one year at a time"; and

(2) by striking "but no such extensions shall extend beyond a date five years" and inserting "and, in the case of a bank holding company which has not disposed of such shares within 5 years after the date on which such shares were acquired, the Board may, upon the application of such company, grant additional exemptions if, in the judgment of the Board, such extension would not be detrimental to the public interest and, either the bank holding company has made a good faith attempt to dispose of such shares during such 5-year period, or the disposal of such shares during such 5-year period would have been detrimental to the company, except that the aggregate duration of such extensions shall not extend beyond 10 years".

SEC. 2216. EXEMPTION AUTHORITY FOR ANTITYING PROVISION.

(a) FEDERAL RESERVE BOARD AUTHORITY.—Section 106(b)(1) of the Bank Holding Company Act Amendments of 1970 (12 U.S.C. 1972(1)) is amended in the last sentence, by inserting "and the prohibitions of section 4(f)(9) and 4(h)(2) of the Bank Holding Company Act of 1956" after "prohibition".

(b) OTS AUTHORITY.—Section 5(q) of the Home Owners' Loan Act (12 U.S.C. 1464(q)) is amended by adding at the end the following new paragraph:

"(6) EXCEPTIONS.—The Director may, by regulation or order, permit such exceptions to the prohibitions of this subsection as the Director considers will not be contrary to the purposes of this subsection and which conform to exceptions granted by the Board of Governors of the Federal Reserve System pursuant to section 106(b) of the Bank Holding Company Act Amendments of 1970.".

SEC. 2217. FDIC APPROVAL OF NEW STATE BANK POWERS.

Section 24 of the Federal Deposit Insurance Act (12 U.S.C. 1831a) is amended—

(1) in subsection (a)—

(A) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and indenting appropriately;

(B) by striking "IN GENERAL.—" and inserting the following: "PERMISSIBLE ACTIVITIES.—

"(1) IN GENERAL.—"; and

(C) by adding at the end the following new paragraph:

"(2) PROCESSING PERIOD.—

"(A) IN GENERAL.—The Corporation shall make a determination under paragraph (1)(A) not later than 60 days after receipt of a completed application that may be required under this subsection.

"(B) EXTENSION OF TIME PERIOD.—The Corporation may extend the 60-day period referred to in subparagraph (A) for not more than 30 additional days, and shall notify the applicant of any such extension."; and

(2) in subsection (d), by adding at the end the following new paragraph:

"(3) PROCESSING PERIOD.—

"(A) IN GENERAL.—The Corporation shall make a determination under paragraph (1)(A) not later than 60 days after receipt of a completed application that may be required under this subsection.

"(B) EXTENSION OF TIME PERIOD.—The Corporation may extend the 60-day period referred to in subparagraph (A) for not more than 30 additional days, and shall notify the applicant of any such extension.".

CHAPTER 2—ELIMINATING UNNECESSARY REGULATORY BURDENS

SEC. 2221. SMALL BANK EXAMINATION CYCLE.

Section 10(d) of the Federal Deposit Insurance Act (12 U.S.C. 1820(d)) is amended—

(1) by redesignating the second paragraph designated as paragraph (8) as paragraph (10), and by inserting that paragraph, as redesignated, immediately after paragraph (9); and

(2) in paragraph (10), as redesignated, by striking "$175,000,000" and inserting "$250,000,000".

SEC. 2222. REQUIRED REVIEW OF REGULATIONS. 12 USC 3311.

(a) IN GENERAL.—Not less frequently than once every 10 years, the Council and each appropriate Federal banking agency represented on the Council shall conduct a review of all regulations prescribed by the Council or by any such appropriate Federal banking agency, respectively, in order to identify outdated or otherwise

unnecessary regulatory requirements imposed on insured depository institutions.

(b) PROCESS.—In conducting the review under subsection (a), the Council or the appropriate Federal banking agency shall—

(1) categorize the regulations described in subsection (a) by type (such as consumer regulations, safety and soundness regulations, or such other designations as determined by the Council, or the appropriate Federal banking agency); and

(2) at regular intervals, provide notice and solicit public comment on a particular category or categories of regulations, requesting commentators to identify areas of the regulations that are outdated, unnecessary, or unduly burdensome.

(c) COMPLETE REVIEW.—The Council or the appropriate Federal banking agency shall ensure that the notice and comment period described in subsection (b)(2) is conducted with respect to all regulations described in subsection (a) not less frequently than once every 10 years.

(d) REGULATORY RESPONSE.—The Council or the appropriate Federal banking agency shall—

(1) publish in the Federal Register a summary of the comments received under this section, identifying significant issues raised and providing comment on such issues; and

(2) eliminate unnecessary regulations to the extent that such action is appropriate.

(e) REPORT TO CONGRESS.—Not later than 30 days after carrying out subsection (d)(1), the Council shall submit to the Congress a report, which shall include—

(1) a summary of any significant issues raised by public comments received by the Council and the appropriate Federal banking agencies under this section and the relative merits of such issues; and

(2) an analysis of whether the appropriate Federal banking agency involved is able to address the regulatory burdens associated with such issues by regulation, or whether such burdens must be addressed by legislative action.

SEC. 2223. REPEAL OF IDENTIFICATION OF NONBANK FINANCIAL INSTITUTION CUSTOMERS.

Subchapter II of chapter 53 of title 31, United States Code, is amended—

(1) by striking section 5327;

(2) in the chapter analysis, by striking the item relating to section 5327; and

(3) in section 5321(a), by striking paragraph (7).

SEC. 2224. REPEAL OF CERTAIN REPORTING REQUIREMENTS.

(a) FDIA.—Section 477 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 251) is repealed.

(b) FIRREA.—Section 918 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833 note) is repealed. 12 USC 1833.

(c) ILS.—Section 913 of the International Lending Supervision Act of 1983 (12 U.S.C. 3912) is repealed.

SEC. 2225. INCREASE IN HOME MORTGAGE DISCLOSURE EXEMPTION THRESHOLD.

(a) IN GENERAL.—Section 309 of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2808) is amended—

(1) by striking "This title" and inserting "(a) IN GENERAL.—This title";

(2) in the 3d sentence, by inserting "(as determined without regard to the adjustment made by subsection (b))" before the period; and

(2) by adding at the end the following new subsection:

"(b) CPI ADJUSTMENTS.—

"(1) IN GENERAL.—Subject to paragraph (2), the dollar amount applicable with respect to institutions described in section 303(2)(A) under the 2d sentence of subsection (a) shall be adjusted annually after December 31, 1996, by the annual percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers published by the Bureau of Labor Statistics.

"(2) 1-TIME ADJUSTMENT FOR PRIOR INFLATION.—The first adjustment made under paragraph (1) after the date of the enactment of the Economic Growth and Regulatory Paperwork Reduction Act of 1996 shall be the percentage by which—

"(A) the Consumer Price Index described in such paragraph for the calendar year 1996, exceeds

"(B) such Consumer Price Index for the calendar year 1975.

"(3) ROUNDING.—The dollar amount applicable under paragraph (1) for any calendar year shall be the amount determined in accordance with subparagraphs (A) and (B) of paragraph (2) and rounded to the nearest multiple of $1,000,000.".

(b) OPPORTUNITY TO REDUCE COMPLIANCE BURDEN.—Section 304 of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2803) is amended by adding at the end the following new subsection:

"(m) OPPORTUNITY TO REDUCE COMPLIANCE BURDEN.—

"(1) IN GENERAL.—

"(A) SATISFACTION OF PUBLIC AVAILABILITY REQUIREMENTS.—A depository institution shall be deemed to have satisfied the public availability requirements of subsection (a) if the institution compiles the information required under that subsection at the home office of the institution and provides notice at the branch locations specified in subsection (a) that such information is available from the home office of the institution upon written request.

"(B) PROVISION OF INFORMATION UPON REQUEST.—Not later than 15 days after the receipt of a written request for any information required to be compiled under subsection (a), the home office of the depository institution receiving the request shall provide the information pertinent to the location of the branch in question to the person requesting the information.

"(2) FORM OF INFORMATION.—In complying with paragraph (1), a depository institution shall, in the sole discretion of the institution, provide the person requesting the information with—

"(A) a paper copy of the information requested; or

"(B) if acceptable to the person, the information through a form of electronic medium, such as a computer disk.".

SEC. 2226. ELIMINATION OF STOCK LOAN REPORTING REQUIREMENT.

Section 7(j) of the Federal Deposit Insurance Act (12 U.S.C. 1817(j)) is amended—

(1) in paragraph (9)(A)—

(A) by striking "financial institution and any affiliate of any financial institution" and inserting "foreign bank, or any affiliate thereof,"; and

(B) by striking "by the financial institution and such institution's affiliates" and inserting "by the foreign bank or any affiliate thereof";

(2) in paragraph (9)(B)—

(A) by striking "paragraph—" and inserting "paragraph, the following definitions shall apply:";

(B) by striking clause (i) and inserting the following:

"(i) FOREIGN BANK.—The terms 'foreign bank' and 'affiliate' have the same meanings as in section 1 of the International Banking Act of 1978."; and

(C) in clause (iii), by striking "financial institution" and inserting "foreign bank or any affiliate thereof";

(3) in paragraph (9)(C)—

(A) by striking "financial institution or any of its affiliates" and inserting "foreign bank or any affiliate thereof"; and

(B) by striking "financial institution or its affiliates" and inserting "foreign bank or any affiliate thereof";

(4) in paragraph (9)(D)—

(A) in clause (i)—

(i) by striking "the financial institution and all affiliates of the institution" and inserting "the foreign bank and all affiliates thereof"; and

(ii) by striking "financial institution or any such affiliate" and inserting "foreign bank or affiliate thereof";

(B) in clause (ii), by striking "financial institution and any affiliate of such institution" and inserting "foreign bank and any affiliate thereof"; and

(C) in clause (iii), by striking "financial institution" and inserting "foreign bank or any affiliate thereof"; and

(5) in paragraph (9)(E)—

(A) in clause (i)—

(i) by striking "a financial institution and the affiliates of such institution" and inserting "a foreign bank or any affiliate thereof"; and

(ii) by striking "institution or affiliate" each place such term appears and inserting "foreign bank or any affiliate thereof"; and

(B) in clause (ii), by striking "financial institution and any affiliate of such institution" and inserting "foreign bank and any affiliate thereof".

12 USC 252.

SEC. 2227. CREDIT AVAILABILITY ASSESSMENT.

(a) STUDY.—

(1) IN GENERAL.—Not later than 12 months after the date of enactment of this Act, and once every 60 months thereafter, the Board, in consultation with the Director of the Office of Thrift Supervision, the Comptroller of the Currency, the Board of Directors of the Corporation, the Administrator of the

National Credit Union Administration, the Administrator of the Small Business Administration, and the Secretary of Commerce, shall conduct a study and submit a report to the Congress detailing the extent of small business lending by all creditors.

(2) CONTENTS OF STUDY.—The study required under paragraph (1) shall identify, to the extent practicable, those factors which provide policymakers with insights into the small business credit market, including—

(A) the demand for small business credit, including consideration of the impact of economic cycles on the levels of such demand;

(B) the availability of credit to small businesses;

(C) the range of credit options available to small businesses, such as those available from insured depository institutions and other providers of credit;

(D) the types of credit products used to finance small business operations, including the use of traditional loans, leases, lines of credit, home equity loans, credit cards, and other sources of financing;

(E) the credit needs of small businesses, including, if appropriate, the extent to which such needs differ, based upon product type, size of business, cash flow requirements, characteristics of ownership or investors, or other aspects of such business;

(F) the types of risks to creditors in providing credit to small businesses; and

(G) such other factors as the Board deems appropriate.

(b) USE OF EXISTING DATA.—The studies required by this section shall not increase the regulatory or paperwork burden on regulated financial institutions, other sources of small business credit, or small businesses.

CHAPTER 3—REGULATORY MICROMANAGEMENT RELIEF

SEC. 2241. NATIONAL BANK DIRECTORS.

Section 5146 of the Revised Statutes of the United States (12 U.S.C. 72) is amended in the first sentence, by striking "except" and all that follows through the end of the sentence and inserting the following: "except that the Comptroller may, in the discretion of the Comptroller, waive the requirement of residency.".

SEC. 2242. PAPERWORK REDUCTION REVIEW.

Section 303(a) of the Riegle Community Development and Regulatory Improvement Act of 1994 (12 U.S.C. 4803(a)) is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(2) by inserting after paragraph (1) the following new paragraph:

"(2) review the extent to which existing regulations require insured depository institutions and insured credit unions to produce unnecessary internal written policies and eliminate such requirements, where appropriate;".

SEC. 2243. STATE BANK REPRESENTATION ON BOARD OF DIRECTORS OF THE FDIC.

Section 2(a)(1)(C) of the Federal Deposit Insurance Act (12 U.S.C. 1812(a)(1)(C)) is amended by inserting before the period ", 1 of whom shall have State bank supervisory experience".

SEC. 2244. CONSULTATION AMONG EXAMINERS.

(a) IN GENERAL.—Section 10 of the Federal Deposit Insurance Act (12 U.S.C. 1820) is amended by adding at the end the following new subsection:

"(j) CONSULTATION AMONG EXAMINERS.—

"(1) IN GENERAL.—Each appropriate Federal banking agency shall take such action as may be necessary to ensure that examiners employed by the agency—

"(A) consult on examination activities with respect to any depository institution; and

"(B) achieve an agreement and resolve any inconsistencies in the recommendations to be given to such institution as a consequence of any examinations.

"(2) EXAMINER-IN-CHARGE.—Each appropriate Federal banking agency shall consider appointing an examiner-in-charge with respect to a depository institution to ensure consultation on examination activities among all of the examiners of that agency involved in examinations of the institution.".

(b) COORDINATED AND UNIFIED EXAMINATION FLEXIBILITY.—Section 10(d)(6)(B) of the Federal Deposit Insurance Act (12 U.S.C. 1820(d)(6)(B)) is amended by inserting "or State bank supervisors" after "one of the Federal agencies".

Subtitle C—Regulatory Impact on Cost of Credit and Credit Availability

SEC. 2301. AUDIT COSTS.

(a) AUDITOR ATTESTATIONS.—Section 36 of the Federal Deposit Insurance Act (12 U.S.C. 1831m) is amended by striking subsection (e) and inserting the following:

"(e) [Repealed]".

(b) INDEPENDENT AUDIT COMMITTEES.—Section 36(g)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1831m(g)(1)) is amended—

(1) in subparagraph (A), by inserting ", except as provided in subparagraph (D)" after "management of the institution"; and

(2) by adding at the end the following new subparagraph:

"(D) EXEMPTION AUTHORITY.—

"(i) IN GENERAL.—An appropriate Federal banking agency may, by order or regulation, permit the independent audit committee of an insured depository institution to be made up of less than all, but no fewer than a majority of, outside directors, if the agency determines that the institution has encountered hardships in retaining and recruiting a sufficient number of competent outside directors to serve on the internal audit committee of the institution.

"(ii) FACTORS TO BE CONSIDERED.—In determining whether an insured depository institution has encountered hardships referred to in clause (i), the appropriate Federal banking agency shall consider factors such as the size of the institution, and whether the institution has made a good faith effort to elect or name additional competent outside directors to the board of directors of the institution who may serve on the internal audit committee.".

(c) PUBLIC AVAILABILITY.—Section 36(a)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1831m(a)(3)) is amended by adding at the end the following: "Notwithstanding the preceding sentence, the Corporation and the appropriate Federal banking agencies may designate certain information as privileged and confidential and not available to the public.".

SEC. 2302. INCENTIVES FOR SELF-TESTING.

(a) EQUAL CREDIT OPPORTUNITY.—

(1) IN GENERAL.—The Equal Credit Opportunity Act (15 U.S.C. 1691 et seq.) is amended by inserting after section 704 the following new section:

"SEC. 704A. INCENTIVES FOR SELF-TESTING AND SELF-CORRECTION. 15 USC 1691c–1.

"(a) PRIVILEGED INFORMATION.—

"(1) CONDITIONS FOR PRIVILEGE.—A report or result of a self-test (as that term is defined by regulations of the Board) shall be considered to be privileged under paragraph (2) if a creditor—

"(A) conducts, or authorizes an independent third party to conduct, a self-test of any aspect of a credit transaction by a creditor, in order to determine the level or effectiveness of compliance with this title by the creditor; and

"(B) has identified any possible violation of this title by the creditor and has taken, or is taking, appropriate corrective action to address any such possible violation.

"(2) PRIVILEGED SELF-TEST.—If a creditor meets the conditions specified in subparagraphs (A) and (B) of paragraph (1) with respect to a self-test described in that paragraph, any report or results of that self-test—

"(A) shall be privileged; and

"(B) may not be obtained or used by any applicant, department, or agency in any—

"(i) proceeding or civil action in which one or more violations of this title are alleged; or

"(ii) examination or investigation relating to compliance with this title.

"(b) RESULTS OF SELF-TESTING.—

"(1) IN GENERAL.—No provision of this section may be construed to prevent an applicant, department, or agency from obtaining or using a report or results of any self-test in any proceeding or civil action in which a violation of this title is alleged, or in any examination or investigation of compliance with this title if—

"(A) the creditor or any person with lawful access to the report or results—

"(i) voluntarily releases or discloses all, or any part of, the report or results to the applicant, department, or agency, or to the general public; or

"(ii) refers to or describes the report or results as a defense to charges of violations of this title against the creditor to whom the self-test relates; or

"(B) the report or results are sought in conjunction with an adjudication or admission of a violation of this title for the sole purpose of determining an appropriate penalty or remedy.

"(2) DISCLOSURE FOR DETERMINATION OF PENALTY OR REMEDY.—Any report or results of a self-test that are disclosed for the purpose specified in paragraph (1)(B)—

"(A) shall be used only for the particular proceeding in which the adjudication or admission referred to in paragraph (1)(B) is made; and

"(B) may not be used in any other action or proceeding.

"(c) ADJUDICATION.—An applicant, department, or agency that challenges a privilege asserted under this section may seek a determination of the existence and application of that privilege in—

"(1) a court of competent jurisdiction; or

"(2) an administrative law proceeding with appropriate jurisdiction.".

15 USC 1691c–1 note.

(2) REGULATIONS.—

(A) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, in consultation with the Secretary of Housing and Urban Development and the agencies referred to in section 704 of the Equal Credit Opportunity Act, and after providing notice and an opportunity for public comment, the Board shall prescribe final regulations to implement section 704A of the Equal Credit Opportunity Act, as added by this section.

(B) SELF-TEST.—

(i) DEFINITION.—The regulations prescribed under subparagraph (A) shall include a definition of the term "self-test" for purposes of section 704A of the Equal Credit Opportunity Act, as added by this section.

(ii) REQUIREMENT FOR SELF-TEST.—The regulations prescribed under subparagraph (A) shall specify that a self-test shall be sufficiently extensive to constitute a determination of the level and effectiveness of compliance by a creditor with the Equal Credit Opportunity Act.

(iii) SUBSTANTIAL SIMILARITY TO CERTAIN FAIR HOUSING ACT REGULATIONS.—The regulations prescribed under subparagraph (A) shall be substantially similar to the regulations prescribed by the Secretary of Housing and Urban Development to carry out section 814A(d) of the Fair Housing Act, as added by this section.

(3) CLERICAL AMENDMENT.—The table of sections for title VII of the Consumer Credit Protection Act is amended by inserting after the item relating to section 704 the following new item:

"704A. Incentives for self-testing and self-correction.".

(b) FAIR HOUSING.—

(1) IN GENERAL.—The Fair Housing Act (42 U.S.C. 3601 et seq.) is amended by inserting after section 814 the following new section:

"SEC. 814A. INCENTIVES FOR SELF-TESTING AND SELF-CORRECTION. 42 USC 3614–1.

"(a) PRIVILEGED INFORMATION.—

"(1) CONDITIONS FOR PRIVILEGE.—A report or result of a self-test (as that term is defined by regulation of the Secretary) shall be considered to be privileged under paragraph (2) if any person—

"(A) conducts, or authorizes an independent third party to conduct, a self-test of any aspect of a residential real estate related lending transaction of that person, or any part of that transaction, in order to determine the level or effectiveness of compliance with this title by that person; and

"(B) has identified any possible violation of this title by that person and has taken, or is taking, appropriate corrective action to address any such possible violation.

"(2) PRIVILEGED SELF-TEST.—If a person meets the conditions specified in subparagraphs (A) and (B) of paragraph (1) with respect to a self-test described in that paragraph, any report or results of that self-test—

"(A) shall be privileged; and

"(B) may not be obtained or used by any applicant, department, or agency in any—

"(i) proceeding or civil action in which one or more violations of this title are alleged; or

"(ii) examination or investigation relating to compliance with this title.

"(b) RESULTS OF SELF-TESTING.—

"(1) IN GENERAL.—No provision of this section may be construed to prevent an aggrieved person, complainant, department, or agency from obtaining or using a report or results of any self-test in any proceeding or civil action in which a violation of this title is alleged, or in any examination or investigation of compliance with this title if—

"(A) the person to whom the self-test relates or any person with lawful access to the report or the results—

"(i) voluntarily releases or discloses all, or any part of, the report or results to the aggrieved person, complainant, department, or agency, or to the general public; or

"(ii) refers to or describes the report or results as a defense to charges of violations of this title against the person to whom the self-test relates; or

"(B) the report or results are sought in conjunction with an adjudication or admission of a violation of this title for the sole purpose of determining an appropriate penalty or remedy.

"(2) DISCLOSURE FOR DETERMINATION OF PENALTY OR REMEDY.—Any report or results of a self-test that are disclosed for the purpose specified in paragraph (1)(B)—

"(A) shall be used only for the particular proceeding in which the adjudication or admission referred to in paragraph (1)(B) is made; and

"(B) may not be used in any other action or proceeding.

"(c) ADJUDICATION.—An aggrieved person, complainant, department, or agency that challenges a privilege asserted under this section may seek a determination of the existence and application of that privilege in—

"(1) a court of competent jurisdiction; or

"(2) an administrative law proceeding with appropriate jurisdiction.".

42 USC 3614–1 note.

(2) REGULATIONS.—

(A) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, in consultation with the Board and after providing notice and an opportunity for public comment, the Secretary of Housing and Urban Development shall prescribe final regulations to implement section 814A of the Fair Housing Act, as added by this section.

(B) SELF-TEST.—

(i) DEFINITION.—The regulations prescribed by the Secretary under subparagraph (A) shall include a definition of the term "self-test" for purposes of section 814A of the Fair Housing Act, as added by this section.

(ii) REQUIREMENT FOR SELF-TEST.—The regulations prescribed by the Secretary under subparagraph (A) shall specify that a self-test shall be sufficiently extensive to constitute a determination of the level and effectiveness of the compliance by a person engaged in residential real estate related lending activities with the Fair Housing Act.

(iii) SUBSTANTIAL SIMILARITY TO CERTAIN EQUAL CREDIT OPPORTUNITY ACT REGULATIONS.—The regulations prescribed under subparagraph (A) shall be substantially similar to the regulations prescribed by the Board to carry out section 704A of the Equal Credit Opportunity Act, as added by this section.

15 USC 1691c–1 note.

(c) APPLICABILITY.—

(1) IN GENERAL.—Except as provided in paragraph (2), the privilege provided for in section 704A of the Equal Credit Opportunity Act or section 814A of the Fair Housing Act (as those sections are added by this section) shall apply to a self-test (as that term is defined pursuant to the regulations prescribed under subsection (a)(2) or (b)(2) of this section, as appropriate) conducted before, on, or after the effective date of the regulations prescribed under subsection (a)(2) or (b)(2), as appropriate.

(2) EXCEPTION.—The privilege referred to in paragraph (1) does not apply to such a self-test conducted before the effective date of the regulations prescribed under subsection (a) or (b), as appropriate, if—

(A) before that effective date, a complaint against the creditor or person engaged in residential real estate related lending activities (as the case may be) was—

(i) formally filed in any court of competent jurisdiction; or

(ii) the subject of an ongoing administrative law proceeding;

(B) in the case of section 704A of the Equal Credit Opportunity Act, the creditor has waived the privilege pursuant to subsection (b)(1)(A)(i) of that section; or

(C) in the case of section 814A of the Fair Housing Act, the person engaged in residential real estate related lending activities has waived the privilege pursuant to subsection (b)(1)(A)(i) of that section.

SEC. 2303. QUALIFIED THRIFT INVESTMENT AMENDMENTS.

(a) CREDIT CARDS.—Section 5(b) of the Home Owners' Loan Act (12 U.S.C. 1464(b)) is amended—

(1) by striking paragraph (4); and

(2) by redesignating paragraph (5) as paragraph (4).

(b) LOANS OR INVESTMENTS WITHOUT PERCENTAGE OF ASSETS LIMITATION.—Section 5(c)(1) of the Home Owners' Loan Act (12 U.S.C. 1464(c)(1)) is amended by adding at the end the following new subparagraphs:

"(T) CREDIT CARD LOANS.—Loans made through credit cards or credit card accounts.

"(U) EDUCATIONAL LOANS.—Loans made for the payment of educational expenses.".

(c) COMMERCIAL AND OTHER LOANS.—Section 5(c)(2)(A) of the Home Owners' Loan Act (12 U.S.C. 1464(c)(2)(A)) is amended to read as follows:

"(A) COMMERCIAL AND OTHER LOANS.—Secured or unsecured loans for commercial, corporate, business, or agricultural purposes. The aggregate amount of loans made under this subparagraph may not exceed 20 percent of the total assets of the Federal savings association, and amounts in excess of 10 percent of such total assets may be used under this subparagraph only for small business loans, as that term is defined by the Director.".

(d) LOANS OR INVESTMENTS LIMITED TO 5 PERCENT OF ASSETS.—Section 5(c)(3) of the Home Owners' Loan Act (12 U.S.C. 1464(c)(3)) is amended—

(1) by striking subparagraph (A); and

(2) by redesignating subparagraphs (B), (C), and (D) as subparagraphs (A), (B), and (C), respectively.

(e) QUALIFIED THRIFT LENDER TEST.—Section 10(m)(1) of the Home Owners' Loan Act (12 U.S.C. 1467a(m)(1)) is amended—

(1) by redesignating subparagraph (B) as clause (ii);

(2) in subparagraph (A), by striking "(A) the savings" and inserting "(B)(i) the savings"; and

(3) by inserting after "if—" the following new subparagraph:

"(A) the savings association qualifies as a domestic building and loan association, as such term is defined in section 7701(a)(19) of the Internal Revenue Code of 1986; or".

(f) BRANCHING.—Section 5(r) of the Home Owners' Loan Act (12 U.S.C. 1464(r)) is amended—

(1) in paragraph (1)—

(A) in the first sentence—

(i) by inserting before the period ", or qualifies as a qualified thrift lender, as determined under section 10(m) of this Act"; and

(ii) by striking "(c)" and inserting "(C)"; and

(B) in the second sentence, by inserting before the period "or as a qualified thrift lender, as determined under section 10(m) of this Act, as applicable"; and

(2) in paragraph (2), by striking subparagraph (C) and inserting the following:

"(C) the law of the State where the branch is located, or is to be located, would permit establishment of the branch if the association was a savings association or savings bank

chartered by the State in which its home office is located; or".

(g) DEFINITION.—Section 10(m)(4) of the Home Owners' Loan Act (12 U.S.C. 1467a(m)(4)) is amended—

(1) by striking "subsection—" and inserting "subsection, the following definitions shall apply:";

(2) in subparagraph (C)—

(A) in clause (ii), by adding at the end the following new subclause:

"(VII) Loans for educational purposes, loans to small businesses, and loans made through credit cards or credit card accounts."; and

(B) in clause (iii), by striking subclause (VI) and inserting the following:

"(VI) Loans for personal, family, or household purposes (other than loans for personal, family, or household purposes described in clause (ii)(VII))."; and

(3) by adding at the end the following new subparagraphs:

"(D) CREDIT CARD.—The Director shall issue such regulations as may be necessary to define the term 'credit card'.

"(E) SMALL BUSINESS.—The Director shall issue such regulations as may be necessary to define the term 'small business'.".

SEC. 2304. LIMITED PURPOSE BANKS.

(a) GROWTH CAP RELIEF.—Section 4(f)(3)(B) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(f)(3)(B)) is amended—

(1) in clause (ii), by adding "or" at the end;

(2) in clause (iii), by striking "; or" at the end and inserting a period; and

(3) by striking clause (iv).

(b) LIMITED PURPOSE BANK EXCEPTION.—Section 2(c)(2)(F) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)(2)(F)) is amended by inserting ", including an institution that accepts collateral for extensions of credit by holding deposits under $100,000, and by other means" after "An institution".

SEC. 2305. AMENDMENT TO FAIR DEBT COLLECTION PRACTICES ACT.

(a) IN GENERAL.—Section 807(11) of the Fair Debt Collection Practices Act (15 U.S.C. 1692e(11)) is amended to read as follows:

"(11) The failure to disclose in the initial written communication with the consumer and, in addition, if the initial communication with the consumer is oral, in that initial oral communication, that the debt collector is attempting to collect a debt and that any information obtained will be used for that purpose, and the failure to disclose in subsequent communications that the communication is from a debt collector, except that this paragraph shall not apply to a formal pleading made in connection with a legal action.".

15 USC 1692e note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect 90 days after the date of enactment of this Act and shall apply to all communications made after that date of enactment.

SEC. 2306. INCREASE IN CERTAIN CREDIT UNION LOAN CEILINGS.

Section 107(5)(A) of the Federal Credit Union Act (12 U.S.C. 1757(5)(A)) is amended—

(1) in clause (iv), by striking "$10,000" and inserting "$20,000"; and

(2) in clause (v), by striking "$10,000" and inserting "$20,000".

SEC. 2307. BANK INVESTMENTS IN EDGE ACT AND AGREEMENT CORPORATIONS.

The 10th undesignated paragraph of section 25A of the Federal Reserve Act (12 U.S.C. 618) is amended by striking the last sentence and inserting the following: "Any national bank may invest in the stock of any corporation organized under this section. The aggregate amount of stock held by any national bank in all corporations engaged in business of the kind described in this section or section 25 shall not exceed an amount equal to 10 percent of the capital and surplus of such bank unless the Board determines that the investment of an additional amount by the bank would not be unsafe or unsound and, in any case, shall not exceed an amount equal to 20 percent of the capital and surplus of such bank.".

Subtitle D—Consumer Credit

CHAPTER 1—CREDIT REPORTING REFORM

Consumer Credit Reporting Reform Act of 1996. 15 USC 1601 note.

SEC. 2401. SHORT TITLE.

This chapter may be cited as the "Consumer Credit Reporting Reform Act of 1996".

SEC. 2402. DEFINITIONS.

(a) ADVERSE ACTION.—Section 603 of the Fair Credit Reporting Act (15 U.S.C. 1681a) is amended by adding at the end the following new subsection:

"(k) ADVERSE ACTION.—

"(1) ACTIONS INCLUDED.—The term 'adverse action'—

"(A) has the same meaning as in section 701(d)(6) of the Equal Credit Opportunity Act; and

"(B) means—

"(i) a denial or cancellation of, an increase in any charge for, or a reduction or other adverse or unfavorable change in the terms of coverage or amount of, any insurance, existing or applied for, in connection with the underwriting of insurance;

"(ii) a denial of employment or any other decision for employment purposes that adversely affects any current or prospective employee;

"(iii) a denial or cancellation of, an increase in any charge for, or any other adverse or unfavorable change in the terms of, any license or benefit described in section 604(a)(3)(D); and

"(iv) an action taken or determination that is—

"(I) made in connection with an application that was made by, or a transaction that was initiated by, any consumer, or in connection with a

review of an account under section 604(a)(3)(F)(ii); and

"(II) adverse to the interests of the consumer.

"(2) APPLICABLE FINDINGS, DECISIONS, COMMENTARY, AND ORDERS.—For purposes of any determination of whether an action is an adverse action under paragraph (1)(A), all appropriate final findings, decisions, commentary, and orders issued under section 701(d)(6) of the Equal Credit Opportunity Act by the Board of Governors of the Federal Reserve System or any court shall apply.".

(b) FIRM OFFER OF CREDIT OR INSURANCE.—Section 603 of the Fair Credit Reporting Act (15 U.S.C. 1681a) (as amended by subsection (a) of this section) is amended by adding at the end the following new subsection:

"(*l*) FIRM OFFER OF CREDIT OR INSURANCE.—The term 'firm offer of credit or insurance' means any offer of credit or insurance to a consumer that will be honored if the consumer is determined, based on information in a consumer report on the consumer, to meet the specific criteria used to select the consumer for the offer, except that the offer may be further conditioned on one or more of the following:

"(1) The consumer being determined, based on information in the consumer's application for the credit or insurance, to meet specific criteria bearing on credit worthiness or insurability, as applicable, that are established—

"(A) before selection of the consumer for the offer; and

"(B) for the purpose of determining whether to extend credit or insurance pursuant to the offer.

"(2) Verification—

"(A) that the consumer continues to meet the specific criteria used to select the consumer for the offer, by using information in a consumer report on the consumer, information in the consumer's application for the credit or insurance, or other information bearing on the credit worthiness or insurability of the consumer; or

"(B) of the information in the consumer's application for the credit or insurance, to determine that the consumer meets the specific criteria bearing on credit worthiness or insurability.

"(3) The consumer furnishing any collateral that is a requirement for the extension of the credit or insurance that was—

"(A) established before selection of the consumer for the offer of credit or insurance; and

"(B) disclosed to the consumer in the offer of credit or insurance.".

(c) CREDIT OR INSURANCE TRANSACTION THAT IS NOT INITIATED BY THE CONSUMER.—Section 603 of the Fair Credit Reporting Act (15 U.S.C. 1681a) (as amended by subsection (b) of this section) is amended by adding at the end the following new subsection:

"(m) CREDIT OR INSURANCE TRANSACTION THAT IS NOT INITIATED BY THE CONSUMER.—The term 'credit or insurance transaction that is not initiated by the consumer' does not include the use of a consumer report by a person with which the consumer has an account or insurance policy, for purposes of—

"(1) reviewing the account or insurance policy; or

"(2) collecting the account.".

(d) STATE.—Section 603 of the Fair Credit Reporting Act (15 U.S.C. 1681a) (as amended by subsection (c) of this section) is amended by adding at the end the following new subsection:

"(n) STATE.—The term 'State' means any State, the Commonwealth of Puerto Rico, the District of Columbia, and any territory or possession of the United States.".

(e) DEFINITION OF CONSUMER REPORT.—Section 603(d) of the Fair Credit Reporting Act (15 U.S.C. 1681a(d)) is amended—

(1) by striking "(d) The term" and inserting the following: "(d) CONSUMER REPORT.—

"(1) IN GENERAL.—The term";

(2) by striking "for (1) credit" and inserting the following: "for—

"(A) credit";

(3) by striking "purposes, or (2)" and all that follows through "section 604." and inserting the following: "purposes;

"(B) employment purposes; or

"(C) any other purpose authorized under section 604."; and

(4) by striking the second sentence and inserting the following:

"(2) EXCLUSIONS.—The term 'consumer report' does not include—

"(A) any—

"(i) report containing information solely as to transactions or experiences between the consumer and the person making the report;

"(ii) communication of that information among persons related by common ownership or affiliated by corporate control; or

"(iii) any communication of other information among persons related by common ownership or affiliated by corporate control, if it is clearly and conspicuously disclosed to the consumer that the information may be communicated among such persons and the consumer is given the opportunity, before the time that the information is initially communicated, to direct that such information not be communicated among such persons;

"(B) any authorization or approval of a specific extension of credit directly or indirectly by the issuer of a credit card or similar device;

"(C) any report in which a person who has been requested by a third party to make a specific extension of credit directly or indirectly to a consumer conveys his or her decision with respect to such request, if the third party advises the consumer of the name and address of the person to whom the request was made, and such person makes the disclosures to the consumer required under section 615; or

"(D) a communication described in subsection (o).".

(f) EXCLUSION OF CERTAIN COMMUNICATIONS BY EMPLOYMENT AGENCIES FROM DEFINITION OF CONSUMER REPORT.—Section 603 of the Fair Credit Reporting Act (15 U.S.C. 1681a) is amended by adding at the end the following new subsection:

"(o) EXCLUDED COMMUNICATIONS.—A communication is described in this subsection if it is a communication—

"(1) that, but for subsection (d)(2)(E), would be an investigative consumer report;

"(2) that is made to a prospective employer for the purpose of—

"(A) procuring an employee for the employer; or

"(B) procuring an opportunity for a natural person to work for the employer;

"(3) that is made by a person who regularly performs such procurement;

"(4) that is not used by any person for any purpose other than a purpose described in subparagraph (A) or (B) of paragraph (2); or

"(5) with respect to which—

"(A) the consumer who is the subject of the communication—

"(i) consents orally or in writing to the nature and scope of the communication, before the collection of any information for the purpose of making the communication;

"(ii) consents orally or in writing to the making of the communication to a prospective employer, before the making of the communication; and

"(iii) in the case of consent under clause (i) or (ii) given orally, is provided written confirmation of that consent by the person making the communication, not later than 3 business days after the receipt of the consent by that person;

"(B) the person who makes the communication does not, for the purpose of making the communication, make any inquiry that if made by a prospective employer of the consumer who is the subject of the communication would violate any applicable Federal or State equal employment opportunity law or regulation; and

"(C) the person who makes the communication—

"(i) discloses in writing to the consumer who is the subject of the communication, not later than 5 business days after receiving any request from the consumer for such disclosure, the nature and substance of all information in the consumer's file at the time of the request, except that the sources of any information that is acquired solely for use in making the communication and is actually used for no other purpose, need not be disclosed other than under appropriate discovery procedures in any court of competent jurisdiction in which an action is brought; and

"(ii) notifies the consumer who is the subject of the communication, in writing, of the consumer's right to request the information described in clause (i).".

(g) CONSUMER REPORTING AGENCY THAT COMPILES AND MAINTAINS FILES ON A NATIONWIDE BASIS.—Section 603 of the Fair Credit Reporting Act (15 U.S.C. 1681a) (as amended by subsection (f) of this section) is amended by adding at the end the following new subsection:

"(p) CONSUMER REPORTING AGENCY THAT COMPILES AND MAINTAINS FILES ON CONSUMERS ON A NATIONWIDE BASIS.—The term

'consumer reporting agency that compiles and maintains files on consumers on a nationwide basis' means a consumer reporting agency that regularly engages in the practice of assembling or evaluating, and maintaining, for the purpose of furnishing consumer reports to third parties bearing on a consumer's credit worthiness, credit standing, or credit capacity, each of the following regarding consumers residing nationwide:

"(1) Public record information.

"(2) Credit account information from persons who furnish that information regularly and in the ordinary course of business.".

SEC. 2403. FURNISHING CONSUMER REPORTS; USE FOR EMPLOYMENT PURPOSES.

(a) FURNISHING CONSUMER REPORTS FOR BUSINESS TRANSACTIONS.—Section 604 of the Fair Credit Reporting Act (15 U.S.C. 1681b) is amended—

(1) by inserting "(a) IN GENERAL.—" before "A consumer reporting agency"; and

(2) in subsection (a)(3) (as so designated by paragraph (1) of this subsection), by striking subparagraph (E) and inserting the following:

"(E) intends to use the information, as a potential investor or servicer, or current insurer, in connection with a valuation of, or an assessment of the credit or prepayment risks associated with, an existing credit obligation; or

"(F) otherwise has a legitimate business need for the information—

"(i) in connection with a business transaction that is initiated by the consumer; or

"(ii) to review an account to determine whether the consumer continues to meet the terms of the account.".

(b) FURNISHING AND USING CONSUMER REPORTS FOR EMPLOYMENT PURPOSES.—Section 604 of the Fair Credit Reporting Act (15 U.S.C. 1681b) is amended by adding at the end the following new subsection:

"(b) CONDITIONS FOR FURNISHING AND USING CONSUMER REPORTS FOR EMPLOYMENT PURPOSES.—

"(1) CERTIFICATION FROM USER.—A consumer reporting agency may furnish a consumer report for employment purposes only if—

"(A) the person who obtains such report from the agency certifies to the agency that—

"(i) the person has complied with paragraph (2) with respect to the consumer report, and the person will comply with paragraph (3) with respect to the consumer report if paragraph (3) becomes applicable; and

"(ii) information from the consumer report will not be used in violation of any applicable Federal or State equal employment opportunity law or regulation; and

"(B) the consumer reporting agency provides with the report a summary of the consumer's rights under this title, as prescribed by the Federal Trade Commission under section 609(c)(3).

"(2) DISCLOSURE TO CONSUMER.—A person may not procure a consumer report, or cause a consumer report to be procured, for employment purposes with respect to any consumer, unless—

"(A) a clear and conspicuous disclosure has been made in writing to the consumer at any time before the report is procured or caused to be procured, in a document that consists solely of the disclosure, that a consumer report may be obtained for employment purposes; and

"(B) the consumer has authorized in writing the procurement of the report by that person.

"(3) CONDITIONS ON USE FOR ADVERSE ACTIONS.—In using a consumer report for employment purposes, before taking any adverse action based in whole or in part on the report, the person intending to take such adverse action shall provide to the consumer to whom the report relates—

"(A) a copy of the report; and

"(B) a description in writing of the rights of the consumer under this title, as prescribed by the Federal Trade Commission under section 609(c)(3).".

SEC. 2404. USE OF CONSUMER REPORTS FOR PRESCREENING; PROHIBITION ON UNAUTHORIZED OR UNCERTIFIED USE OF INFORMATION.

(a) IN GENERAL.—Section 604 of the Fair Credit Reporting Act (15 U.S.C. 1681b) (as amended by section 2403 of this chapter) is amended—

(1) in subsection (a), by striking "A consumer reporting agency" and inserting "Subject to subsection (c), any consumer reporting agency"; and

(2) by adding at the end the following new subsections:

"(c) FURNISHING REPORTS IN CONNECTION WITH CREDIT OR INSURANCE TRANSACTIONS THAT ARE NOT INITIATED BY THE CONSUMER.—

"(1) IN GENERAL.—A consumer reporting agency may furnish a consumer report relating to any consumer pursuant to subparagraph (A) or (C) of subsection (a)(3) in connection with any credit or insurance transaction that is not initiated by the consumer only if—

"(A) the consumer authorizes the agency to provide such report to such person; or

"(B)(i) the transaction consists of a firm offer of credit or insurance;

"(ii) the consumer reporting agency has complied with subsection (e); and

"(iii) there is not in effect an election by the consumer, made in accordance with subsection (e), to have the consumer's name and address excluded from lists of names provided by the agency pursuant to this paragraph.

"(2) LIMITS ON INFORMATION RECEIVED UNDER PARAGRAPH (1)(B).—A person may receive pursuant to paragraph (1)(B) only—

"(A) the name and address of a consumer;

"(B) an identifier that is not unique to the consumer and that is used by the person solely for the purpose of verifying the identity of the consumer; and

"(C) other information pertaining to a consumer that does not identify the relationship or experience of the consumer with respect to a particular creditor or other entity.

"(3) INFORMATION REGARDING INQUIRIES.—Except as provided in section 609(a)(5), a consumer reporting agency shall not furnish to any person a record of inquiries in connection with a credit or insurance transaction that is not initiated by a consumer.

"(d) RESERVED

"(e) ELECTION OF CONSUMER TO BE EXCLUDED FROM LISTS.—

"(1) IN GENERAL.—A consumer may elect to have the consumer's name and address excluded from any list provided by a consumer reporting agency under subsection (c)(1)(B) in connection with a credit or insurance transaction that is not initiated by the consumer, by notifying the agency in accordance with paragraph (2) that the consumer does not consent to any use of a consumer report relating to the consumer in connection with any credit or insurance transaction that is not initiated by the consumer.

"(2) MANNER OF NOTIFICATION.—A consumer shall notify a consumer reporting agency under paragraph (1)—

"(A) through the notification system maintained by the agency under paragraph (5); or

"(B) by submitting to the agency a signed notice of election form issued by the agency for purposes of this subparagraph.

"(3) RESPONSE OF AGENCY AFTER NOTIFICATION THROUGH SYSTEM.—Upon receipt of notification of the election of a consumer under paragraph (1) through the notification system maintained by the agency under paragraph (5), a consumer reporting agency shall—

"(A) inform the consumer that the election is effective only for the 2-year period following the election if the consumer does not submit to the agency a signed notice of election form issued by the agency for purposes of paragraph (2)(B); and

"(B) provide to the consumer a notice of election form, if requested by the consumer, not later than 5 business days after receipt of the notification of the election through the system established under paragraph (5), in the case of a request made at the time the consumer provides notification through the system.

"(4) EFFECTIVENESS OF ELECTION.—An election of a consumer under paragraph (1)—

"(A) shall be effective with respect to a consumer reporting agency beginning 5 business days after the date on which the consumer notifies the agency in accordance with paragraph (2);

"(B) shall be effective with respect to a consumer reporting agency—

"(i) subject to subparagraph (C), during the 2-year period beginning 5 business days after the date on which the consumer notifies the agency of the election, in the case of an election for which a consumer notifies the agency only in accordance with paragraph (2)(A); or

"(ii) until the consumer notifies the agency under subparagraph (C), in the case of an election for which a consumer notifies the agency in accordance with paragraph (2)(B);

"(C) shall not be effective after the date on which the consumer notifies the agency, through the notification system established by the agency under paragraph (5), that the election is no longer effective; and

"(D) shall be effective with respect to each affiliate of the agency.

"(5) NOTIFICATION SYSTEM.—

"(A) IN GENERAL.—Each consumer reporting agency that, under subsection (c)(1)(B), furnishes a consumer report in connection with a credit or insurance transaction that is not initiated by a consumer, shall—

"(i) establish and maintain a notification system, including a toll-free telephone number, which permits any consumer whose consumer report is maintained by the agency to notify the agency, with appropriate identification, of the consumer's election to have the consumer's name and address excluded from any such list of names and addresses provided by the agency for such a transaction; and

"(ii) publish by not later than 365 days after the date of enactment of the Consumer Credit Reporting Reform Act of 1996, and not less than annually thereafter, in a publication of general circulation in the area served by the agency—

"(I) a notification that information in consumer files maintained by the agency may be used in connection with such transactions; and

"(II) the address and toll-free telephone number for consumers to use to notify the agency of the consumer's election under clause (i).

"(B) ESTABLISHMENT AND MAINTENANCE AS COMPLIANCE.—Establishment and maintenance of a notification system (including a toll-free telephone number) and publication by a consumer reporting agency on the agency's own behalf and on behalf of any of its affiliates in accordance with this paragraph is deemed to be compliance with this paragraph by each of those affiliates.

"(6) NOTIFICATION SYSTEM BY AGENCIES THAT OPERATE NATIONWIDE.—Each consumer reporting agency that compiles and maintains files on consumers on a nationwide basis shall establish and maintain a notification system for purposes of paragraph (5) jointly with other such consumer reporting agencies.".

(b) USE OF INFORMATION OBTAINED FROM REPORTS.—Section 604 of the Fair Credit Reporting Act (15 U.S.C. 1681b) (as amended by subsection (a) of this section) is amended by adding at the end the following new subsection:

"(f) CERTAIN USE OR OBTAINING OF INFORMATION PROHIBITED.—A person shall not use or obtain a consumer report for any purpose unless—

"(1) the consumer report is obtained for a purpose for which the consumer report is authorized to be furnished under this section; and

"(2) the purpose is certified in accordance with section 607 by a prospective user of the report through a general or specific certification.".

(c) FTC GUIDELINES REGARDING PRESCREENING FOR INSURANCE TRANSACTIONS.—The Federal Trade Commission may issue such guidelines as it deems necessary with respect to the use of consumer reports in connection with insurance transactions that are not initiated by the consumer pursuant to section 604(c) of the Fair Credit Reporting Act, as added by subsection (a) of this section. 15 USC 1681b note.

SEC. 2405. CONSUMER CONSENT REQUIRED TO FURNISH CONSUMER REPORT CONTAINING MEDICAL INFORMATION.

Section 604 of the Fair Credit Reporting Act (15 U.S.C. 1681b) is amended by adding at the end the following new subsection:

"(g) FURNISHING REPORTS CONTAINING MEDICAL INFORMATION.—A consumer reporting agency shall not furnish for employment purposes, or in connection with a credit or insurance transaction or a direct marketing transaction, a consumer report that contains medical information about a consumer, unless the consumer consents to the furnishing of the report.".

SEC. 2406. OBSOLETE INFORMATION AND INFORMATION CONTAINED IN CONSUMER REPORTS.

(a) AMENDMENT TO LARGE-DOLLAR EXCEPTION.—Section 605 of the Fair Credit Reporting Act (15 U.S.C. 1681c) is amended—

(1) by inserting "INFORMATION EXCLUDED FROM CONSUMER REPORTS.—" after "(a)";

(2) in subsection (b)—

(A) in paragraph (1), by striking "$50,000" and inserting "$150,000";

(B) in paragraph (2), by striking "$50,000" and inserting "$150,000"; and

(C) in paragraph (3), by striking "$20,000" and inserting "$75,000".

(b) CLARIFICATION OF REPORTING PERIOD.—Section 605 of the Fair Credit Reporting Act (15 U.S.C. 1681c) (as amended by subsection (a) of this section) is amended by adding at the end the following new subsection:

"(c) RUNNING OF REPORTING PERIOD.—

"(1) IN GENERAL.—The 7-year period referred to in paragraphs (4) and (6) of subsection (a) shall begin, with respect to any delinquent account that is placed for collection (internally or by referral to a third party, whichever is earlier), charged to profit and loss, or subjected to any similar action, upon the expiration of the 180-day period beginning on the date of the commencement of the delinquency which immediately preceded the collection activity, charge to profit and loss, or similar action.

"(2) EFFECTIVE DATE.—Paragraph (1) shall apply only to items of information added to the file of a consumer on or after the date that is 455 days after the date of enactment of the Consumer Credit Reporting Reform Act of 1996.".

(c) ADDITIONAL INFORMATION ON BANKRUPTCY FILINGS REQUIRED.—Section 605 of the Fair Credit Reporting Act (15 U.S.C. 1681c) is amended by adding at the end the following new subsection:

"(d) INFORMATION REQUIRED TO BE DISCLOSED.—Any consumer reporting agency that furnishes a consumer report that contains

information regarding any case involving the consumer that arises under title 11, United States Code, shall include in the report an identification of the chapter of such title 11 under which such case arises if provided by the source of the information. If any case arising or filed under title 11, United States Code, is withdrawn by the consumer before a final judgment, the consumer reporting agency shall include in the report that such case or filing was withdrawn upon receipt of documentation certifying such withdrawal.".

(d) INDICATION OF CLOSURE OF ACCOUNT; INDICATION OF DISPUTE BY CONSUMER.—Section 605 of the Fair Credit Reporting Act (15 U.S.C. 1681c) is amended by adding at the end the following new subsections:

"(e) INDICATION OF CLOSURE OF ACCOUNT BY CONSUMER.—If a consumer reporting agency is notified pursuant to section 623(a)(4) that a credit account of a consumer was voluntarily closed by the consumer, the agency shall indicate that fact in any consumer report that includes information related to the account.

"(f) INDICATION OF DISPUTE BY CONSUMER.—If a consumer reporting agency is notified pursuant to section 623(a)(3) that information regarding a consumer who was furnished to the agency is disputed by the consumer, the agency shall indicate that fact in each consumer report that includes the disputed information.".

(e) CONFORMING AMENDMENTS.—

(1) Section 605 of the Fair Credit Reporting Act (15 U.S.C. 1681c) is amended in the section heading, by striking "**OBSOLETE INFORMATION**" and inserting "**REQUIREMENTS RELATING TO INFORMATION CONTAINED IN CONSUMER REPORTS**".

(2) The table of sections for the Fair Credit Reporting Act (15 U.S.C. 1681a et seq.) is amended by striking the item relating to section 605 and inserting the following:

"605. Requirements relating to information contained in consumer reports.".

SEC. 2407. COMPLIANCE PROCEDURES.

(a) DISCLOSURE OF CONSUMER REPORTS BY USERS.—Section 607 of the Fair Credit Reporting Act (15 U.S.C. 1681e) is amended by adding at the end the following new subsection:

"(c) DISCLOSURE OF CONSUMER REPORTS BY USERS ALLOWED.—A consumer reporting agency may not prohibit a user of a consumer report furnished by the agency on a consumer from disclosing the contents of the report to the consumer, if adverse action against the consumer has been taken by the user based in whole or in part on the report.".

(b) NOTICE TO USERS AND PROVIDERS OF INFORMATION TO ENSURE COMPLIANCE.—Section 607 of the Fair Credit Reporting Act (15 U.S.C. 1681e) is amended by adding after subsection (c) (as added by subsection (a) of this section) the following new subsection:

"(d) NOTICE TO USERS AND FURNISHERS OF INFORMATION.—

"(1) NOTICE REQUIREMENT.—A consumer reporting agency shall provide to any person—

"(A) who regularly and in the ordinary course of business furnishes information to the agency with respect to any consumer; or

"(B) to whom a consumer report is provided by the agency;

a notice of such person's responsibilities under this title.

"(2) CONTENT OF NOTICE.—The Federal Trade Commission shall prescribe the content of notices under paragraph (1), and a consumer reporting agency shall be in compliance with this subsection if it provides a notice under paragraph (1) that is substantially similar to the Federal Trade Commission prescription under this paragraph.".

(c) RECORD OF IDENTITY OF USERS AND PURPOSES CERTIFIED BY USERS OF REPORTS.—Section 607 of the Fair Credit Reporting Act (15 U.S.C. 1681e) is amended by adding after subsection (d) (as added by subsection (b) of this section) the following new subsection:

"(e) PROCUREMENT OF CONSUMER REPORT FOR RESALE.—

"(1) DISCLOSURE.—A person may not procure a consumer report for purposes of reselling the report (or any information in the report) unless the person discloses to the consumer reporting agency that originally furnishes the report—

"(A) the identity of the end-user of the report (or information); and

"(B) each permissible purpose under section 604 for which the report is furnished to the end-user of the report (or information).

"(2) RESPONSIBILITIES OF PROCURERS FOR RESALE.—A person who procures a consumer report for purposes of reselling the report (or any information in the report) shall—

"(A) establish and comply with reasonable procedures designed to ensure that the report (or information) is resold by the person only for a purpose for which the report may be furnished under section 604, including by requiring that each person to which the report (or information) is resold and that resells or provides the report (or information) to any other person—

"(i) identifies each end user of the resold report (or information);

"(ii) certifies each purpose for which the report (or information) will be used; and

"(iii) certifies that the report (or information) will be used for no other purpose; and

"(B) before reselling the report, make reasonable efforts to verify the identifications and certifications made under subparagraph (A).".

SEC. 2408. CONSUMER DISCLOSURES.

(a) ALL INFORMATION IN CONSUMER'S FILE REQUIRED TO BE DISCLOSED.—Section 609(a)(1) of the Fair Credit Reporting Act (15 U.S.C. 1681g(a)(1)) is amended to read as follows:

"(1) All information in the consumer's file at the time of the request, except that nothing in this paragraph shall be construed to require a consumer reporting agency to disclose to a consumer any information concerning credit scores or any other risk scores or predictors relating to the consumer.".

(b) MORE INFORMATION CONCERNING RECIPIENTS OF REPORTS REQUIRED.—Section 609(a)(3) of the Fair Credit Reporting Act (15 U.S.C. 1681g(a)) is amended to read as follows:

"(3)(A) Identification of each person (including each end-user identified under section 607(e)(1)) that procured a consumer report—

"(i) for employment purposes, during the 2-year period preceding the date on which the request is made; or

"(ii) for any other purpose, during the 1-year period preceding the date on which the request is made.

"(B) An identification of a person under subparagraph (A) shall include—

"(i) the name of the person or, if applicable, the trade name (written in full) under which such person conducts business; and

"(ii) upon request of the consumer, the address and telephone number of the person.".

(c) INFORMATION REGARDING INQUIRIES.—Section 609(a) of the Fair Credit Reporting Act (15 U.S.C. 1681g(a)) is amended by adding at the end the following new paragraph:

"(5) A record of all inquiries received by the agency during the 1-year period preceding the request that identified the consumer in connection with a credit or insurance transaction that was not initiated by the consumer.".

(d) SUMMARY OF RIGHTS REQUIRED TO BE INCLUDED WITH DISCLOSURE.—

(1) IN GENERAL.—Section 609 of the Fair Credit Reporting Act (15 U.S.C. 1681g) is amended by adding at the end the following new subsection:

"(c) SUMMARY OF RIGHTS REQUIRED TO BE INCLUDED WITH DISCLOSURE.—

"(1) SUMMARY OF RIGHTS.—A consumer reporting agency shall provide to a consumer, with each written disclosure by the agency to the consumer under this section—

"(A) a written summary of all of the rights that the consumer has under this title; and

"(B) in the case of a consumer reporting agency that compiles and maintains files on consumers on a nationwide basis, a toll-free telephone number established by the agency, at which personnel are accessible to consumers during normal business hours.

"(2) SPECIFIC ITEMS REQUIRED TO BE INCLUDED.—The summary of rights required under paragraph (1) shall include—

"(A) a brief description of this title and all rights of consumers under this title;

"(B) an explanation of how the consumer may exercise the rights of the consumer under this title;

"(C) a list of all Federal agencies responsible for enforcing any provision of this title and the address and any appropriate phone number of each such agency, in a form that will assist the consumer in selecting the appropriate agency;

"(D) a statement that the consumer may have additional rights under State law and that the consumer may wish to contact a State or local consumer protection agency or a State attorney general to learn of those rights; and

"(E) a statement that a consumer reporting agency is not required to remove accurate derogatory information from a consumer's file, unless the information is outdated under section 605 or cannot be verified.

"(3) FORM OF SUMMARY OF RIGHTS.—For purposes of this subsection and any disclosure by a consumer reporting agency required under this title with respect to consumers' rights, the Federal Trade Commission (after consultation with each Federal agency referred to in section 621(b)) shall prescribe the form and content of any such disclosure of the rights of consumers required under this title. A consumer reporting agency shall be in compliance with this subsection if it provides disclosures under paragraph (1) that are substantially similar to the Federal Trade Commission prescription under this paragraph.

"(4) EFFECTIVENESS.—No disclosures shall be required under this subsection until the date on which the Federal Trade Commission prescribes the form and content of such disclosures under paragraph (3).".

(2) TECHNICAL AMENDMENT.—Section 606(a)(1)(B) of the Fair Credit Reporting Act (15 U.S.C. 1681d(a)(1)(B)) is amended by inserting "and the written summary of the rights of the consumer prepared pursuant to section 609(c)" before the semicolon.

(e) FORM OF DISCLOSURES.—

(1) IN GENERAL.—Subsections (a) and (b) of section 610 of the Fair Credit Reporting Act (15 U.S.C. 1681h) are amended to read as follows:

"(a) IN GENERAL.—

"(1) PROPER IDENTIFICATION.—A consumer reporting agency shall require, as a condition of making the disclosures required under section 609, that the consumer furnish proper identification.

"(2) DISCLOSURE IN WRITING.—Except as provided in subsection (b), the disclosures required to be made under section 609 shall be provided under that section in writing.

"(b) OTHER FORMS OF DISCLOSURE.—

"(1) IN GENERAL.—If authorized by a consumer, a consumer reporting agency may make the disclosures required under 609—

"(A) other than in writing; and

"(B) in such form as may be—

"(i) specified by the consumer in accordance with paragraph (2); and

"(ii) available from the agency.

"(2) FORM.—A consumer may specify pursuant to paragraph (1) that disclosures under section 609 shall be made—

"(A) in person, upon the appearance of the consumer at the place of business of the consumer reporting agency where disclosures are regularly provided, during normal business hours, and on reasonable notice;

"(B) by telephone, if the consumer has made a written request for disclosure by telephone;

"(C) by electronic means, if available from the agency; or

"(D) by any other reasonable means that is available from the agency.".

(2) SIMPLIFIED DISCLOSURE.—Not later than 90 days after the date of enactment of this Act, each consumer reporting agency shall develop a form on which such consumer reporting agency shall make the disclosures required under section 609(a)

15 USC 1681g note.

of the Fair Credit Reporting Act, for the purpose of maximizing the comprehensibility and standardization of such disclosures.

15 USC 1681g note.

(3) GOALS.—The Federal Trade Commission shall take appropriate action to assure that the goals of comprehensibility and standardization are achieved in accordance with paragraph (2).

(4) DEFAMATION.—Section 610(e) of the Fair Credit Reporting Act (15 U.S.C. 1681h(e)) is amended by inserting "or based on information disclosed by a user of a consumer report to or for a consumer against whom the user has taken adverse action, based in whole or in part on the report" before "except".

(5) CONFORMING AMENDMENTS.—The Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) is amended—

15 USC 1681g.

(A) in section 609(a), in the matter preceding paragraph (1), by striking "and proper identification of any consumer" and inserting ", and subject to section 610(a)(1)";

15 USC 1681h.

(B) in section 610, in the section heading, by inserting "**AND FORM**" after "**CONDITIONS**"; and

(C) in the table of sections at the beginning of that Act, in the item relating to section 610, by inserting "and form" after "conditions".

SEC. 2409. PROCEDURES IN CASE OF THE DISPUTED ACCURACY OF ANY INFORMATION IN A CONSUMER'S FILE.

(a) IN GENERAL.—Section 611(a) of the Fair Credit Reporting Act (15 U.S.C. 1681i(a)) is amended to read as follows:

"(a) REINVESTIGATIONS OF DISPUTED INFORMATION.—

"(1) REINVESTIGATION REQUIRED.—

"(A) IN GENERAL.—If the completeness or accuracy of any item of information contained in a consumer's file at a consumer reporting agency is disputed by the consumer and the consumer notifies the agency directly of such dispute, the agency shall reinvestigate free of charge and record the current status of the disputed information, or delete the item from the file in accordance with paragraph (5), before the end of the 30-day period beginning on the date on which the agency receives the notice of the dispute from the consumer.

"(B) EXTENSION OF PERIOD TO REINVESTIGATE.—Except as provided in subparagraph (C), the 30-day period described in subparagraph (A) may be extended for not more than 15 additional days if the consumer reporting agency receives information from the consumer during that 30-day period that is relevant to the reinvestigation.

"(C) LIMITATIONS ON EXTENSION OF PERIOD TO REINVESTIGATE.—Subparagraph (B) shall not apply to any reinvestigation in which, during the 30-day period described in subparagraph (A), the information that is the subject of the reinvestigation is found to be inaccurate or incomplete or the consumer reporting agency determines that the information cannot be verified.

"(2) PROMPT NOTICE OF DISPUTE TO FURNISHER OF INFORMATION.—

"(A) IN GENERAL.—Before the expiration of the 5-business-day period beginning on the date on which a consumer reporting agency receives notice of a dispute from any consumer in accordance with paragraph (1), the agency

shall provide notification of the dispute to any person who provided any item of information in dispute, at the address and in the manner established with the person. The notice shall include all relevant information regarding the dispute that the agency has received from the consumer.

"(B) PROVISION OF OTHER INFORMATION FROM CONSUMER.—The consumer reporting agency shall promptly provide to the person who provided the information in dispute all relevant information regarding the dispute that is received by the agency from the consumer after the period referred to in subparagraph (A) and before the end of the period referred to in paragraph (1)(A).

"(3) DETERMINATION THAT DISPUTE IS FRIVOLOUS OR IRRELEVANT.—

"(A) IN GENERAL.—Notwithstanding paragraph (1), a consumer reporting agency may terminate a reinvestigation of information disputed by a consumer under that paragraph if the agency reasonably determines that the dispute by the consumer is frivolous or irrelevant, including by reason of a failure by a consumer to provide sufficient information to investigate the disputed information.

"(B) NOTICE OF DETERMINATION.—Upon making any determination in accordance with subparagraph (A) that a dispute is frivolous or irrelevant, a consumer reporting agency shall notify the consumer of such determination not later than 5 business days after making such determination, by mail or, if authorized by the consumer for that purpose, by any other means available to the agency.

"(C) CONTENTS OF NOTICE.—A notice under subparagraph (B) shall include—

"(i) the reasons for the determination under subparagraph (A); and

"(ii) identification of any information required to investigate the disputed information, which may consist of a standardized form describing the general nature of such information.

"(4) CONSIDERATION OF CONSUMER INFORMATION.—In conducting any reinvestigation under paragraph (1) with respect to disputed information in the file of any consumer, the consumer reporting agency shall review and consider all relevant information submitted by the consumer in the period described in paragraph (1)(A) with respect to such disputed information.

"(5) TREATMENT OF INACCURATE OR UNVERIFIABLE INFORMATION.—

"(A) IN GENERAL.—If, after any reinvestigation under paragraph (1) of any information disputed by a consumer, an item of the information is found to be inaccurate or incomplete or cannot be verified, the consumer reporting agency shall promptly delete that item of information from the consumer's file or modify that item of information, as appropriate, based on the results of the reinvestigation.

"(B) REQUIREMENTS RELATING TO REINSERTION OF PREVIOUSLY DELETED MATERIAL.—

"(i) CERTIFICATION OF ACCURACY OF INFORMATION.—If any information is deleted from a consumer's file pursuant to subparagraph (A), the information may

not be reinserted in the file by the consumer reporting agency unless the person who furnishes the information certifies that the information is complete and accurate.

"(ii) NOTICE TO CONSUMER.—If any information that has been deleted from a consumer's file pursuant to subparagraph (A) is reinserted in the file, the consumer reporting agency shall notify the consumer of the reinsertion in writing not later than 5 business days after the reinsertion or, if authorized by the consumer for that purpose, by any other means available to the agency.

"(iii) ADDITIONAL INFORMATION.—As part of, or in addition to, the notice under clause (ii), a consumer reporting agency shall provide to a consumer in writing not later than 5 business days after the date of the reinsertion—

"(I) a statement that the disputed information has been reinserted;

"(II) the business name and address of any furnisher of information contacted and the telephone number of such furnisher, if reasonably available, or of any furnisher of information that contacted the consumer reporting agency, in connection with the reinsertion of such information; and

"(III) a notice that the consumer has the right to add a statement to the consumer's file disputing the accuracy or completeness of the disputed information.

"(C) PROCEDURES TO PREVENT REAPPEARANCE.—A consumer reporting agency shall maintain reasonable procedures designed to prevent the reappearance in a consumer's file, and in consumer reports on the consumer, of information that is deleted pursuant to this paragraph (other than information that is reinserted in accordance with subparagraph (B)(i)).

"(D) AUTOMATED REINVESTIGATION SYSTEM.—Any consumer reporting agency that compiles and maintains files on consumers on a nationwide basis shall implement an automated system through which furnishers of information to that consumer reporting agency may report the results of a reinvestigation that finds incomplete or inaccurate information in a consumer's file to other such consumer reporting agencies.

"(6) NOTICE OF RESULTS OF REINVESTIGATION.—

"(A) IN GENERAL.—A consumer reporting agency shall provide written notice to a consumer of the results of a reinvestigation under this subsection not later than 5 business days after the completion of the reinvestigation, by mail or, if authorized by the consumer for that purpose, by other means available to the agency.

"(B) CONTENTS.—As part of, or in addition to, the notice under subparagraph (A), a consumer reporting agency shall provide to a consumer in writing before the expiration of the 5-day period referred to in subparagraph (A)—

"(i) a statement that the reinvestigation is completed;

"(ii) a consumer report that is based upon the consumer's file as that file is revised as a result of the reinvestigation;

"(iii) a notice that, if requested by the consumer, a description of the procedure used to determine the accuracy and completeness of the information shall be provided to the consumer by the agency, including the business name and address of any furnisher of information contacted in connection with such information and the telephone number of such furnisher, if reasonably available;

"(iv) a notice that the consumer has the right to add a statement to the consumer's file disputing the accuracy or completeness of the information; and

"(v) a notice that the consumer has the right to request under subsection (d) that the consumer reporting agency furnish notifications under that subsection.

"(7) DESCRIPTION OF REINVESTIGATION PROCEDURE.—A consumer reporting agency shall provide to a consumer a description referred to in paragraph (6)(B)(iv) by not later than 15 days after receiving a request from the consumer for that description.

"(8) EXPEDITED DISPUTE RESOLUTION.—If a dispute regarding an item of information in a consumer's file at a consumer reporting agency is resolved in accordance with paragraph (5)(A) by the deletion of the disputed information by not later than 3 business days after the date on which the agency receives notice of the dispute from the consumer in accordance with paragraph (1)(A), then the agency shall not be required to comply with paragraphs (2), (6), and (7) with respect to that dispute if the agency—

"(A) provides prompt notice of the deletion to the consumer by telephone;

"(B) includes in that notice, or in a written notice that accompanies a confirmation and consumer report provided in accordance with subparagraph (C), a statement of the consumer's right to request under subsection (d) that the agency furnish notifications under that subsection; and

"(C) provides written confirmation of the deletion and a copy of a consumer report on the consumer that is based on the consumer's file after the deletion, not later than 5 business days after making the deletion.".

(b) CONFORMING AMENDMENT.—Section 611(d) of the Fair Credit Reporting Act (15 U.S.C. 1681i(d)) is amended by striking "The consumer reporting agency shall clearly" and all that follows through the end of the subsection.

SEC. 2410. CHARGES FOR CERTAIN DISCLOSURES.

Section 612 of the Fair Credit Reporting Act (15 U.S.C. 1681j) is amended to read as follows:

"SEC. 612. CHARGES FOR CERTAIN DISCLOSURES.

"(a) REASONABLE CHARGES ALLOWED FOR CERTAIN DISCLOSURES.—

"(1) IN GENERAL.—Except as provided in subsections (b), (c), and (d), a consumer reporting agency may impose a reasonable charge on a consumer—

"(A) for making a disclosure to the consumer pursuant to section 609, which charge—

"(i) shall not exceed $8; and

"(ii) shall be indicated to the consumer before making the disclosure; and

"(B) for furnishing, pursuant to section 611(d), following a reinvestigation under section 611(a), a statement, codification, or summary to a person designated by the consumer under that section after the 30-day period beginning on the date of notification of the consumer under paragraph (6) or (8) of section 611(a) with respect to the reinvestigation, which charge—

"(i) shall not exceed the charge that the agency would impose on each designated recipient for a consumer report; and

"(ii) shall be indicated to the consumer before furnishing such information.

"(2) MODIFICATION OF AMOUNT.—The Federal Trade Commission shall increase the amount referred to in paragraph (1)(A)(i) on January 1 of each year, based proportionally on changes in the Consumer Price Index, with fractional changes rounded to the nearest fifty cents.

"(b) FREE DISCLOSURE AFTER ADVERSE NOTICE TO CONSUMER.—Each consumer reporting agency that maintains a file on a consumer shall make all disclosures pursuant to section 609 without charge to the consumer if, not later than 60 days after receipt by such consumer of a notification pursuant to section 615, or of a notification from a debt collection agency affiliated with that consumer reporting agency stating that the consumer's credit rating may be or has been adversely affected, the consumer makes a request under section 609.

"(c) FREE DISCLOSURE UNDER CERTAIN OTHER CIRCUMSTANCES.—Upon the request of the consumer, a consumer reporting agency shall make all disclosures pursuant to section 609 once during any 12-month period without charge to that consumer if the consumer certifies in writing that the consumer—

"(1) is unemployed and intends to apply for employment in the 60-day period beginning on the date on which the certification is made;

"(2) is a recipient of public welfare assistance; or

"(3) has reason to believe that the file on the consumer at the agency contains inaccurate information due to fraud.

"(d) OTHER CHARGES PROHIBITED.—A consumer reporting agency shall not impose any charge on a consumer for providing any notification required by this title or making any disclosure required by this title, except as authorized by subsection (a).".

SEC. 2411. DUTIES OF USERS OF CONSUMER REPORTS.

(a) DUTIES OF USERS TAKING ADVERSE ACTIONS.—Section 615(a) of the Fair Credit Reporting Act (15 U.S.C. 1681m(a)) is amended to read as follows:

"(a) DUTIES OF USERS TAKING ADVERSE ACTIONS ON THE BASIS OF INFORMATION CONTAINED IN CONSUMER REPORTS.—If any person takes any adverse action with respect to any consumer that is

based in whole or in part on any information contained in a consumer report, the person shall—

"(1) provide oral, written, or electronic notice of the adverse action to the consumer;

"(2) provide to the consumer orally, in writing, or electronically—

"(A) the name, address, and telephone number of the consumer reporting agency (including a toll-free telephone number established by the agency if the agency compiles and maintains files on consumers on a nationwide basis) that furnished the report to the person; and

"(B) a statement that the consumer reporting agency did not make the decision to take the adverse action and is unable to provide the consumer the specific reasons why the adverse action was taken; and

"(3) provide to the consumer an oral, written, or electronic notice of the consumer's right—

"(A) to obtain, under section 612, a free copy of a consumer report on the consumer from the consumer reporting agency referred to in paragraph (2), which notice shall include an indication of the 60-day period under that section for obtaining such a copy; and

"(B) to dispute, under section 611, with a consumer reporting agency the accuracy or completeness of any information in a consumer report furnished by the agency.".

(b) DUTIES OF USERS MAKING CERTAIN CREDIT SOLICITATIONS.—Section 615 of the Fair Credit Reporting Act (15 U.S.C. 1681m) is amended by adding at the end the following new subsection:

"(d) DUTIES OF USERS MAKING WRITTEN CREDIT OR INSURANCE SOLICITATIONS ON THE BASIS OF INFORMATION CONTAINED IN CONSUMER FILES.—

"(1) IN GENERAL.—Any person who uses a consumer report on any consumer in connection with any credit or insurance transaction that is not initiated by the consumer, that is provided to that person under section 604(c)(1)(B), shall provide with each written solicitation made to the consumer regarding the transaction a clear and conspicuous statement that—

"(A) information contained in the consumer's consumer report was used in connection with the transaction;

"(B) the consumer received the offer of credit or insurance because the consumer satisfied the criteria for credit worthiness or insurability under which the consumer was selected for the offer;

"(C) if applicable, the credit or insurance may not be extended if, after the consumer responds to the offer, the consumer does not meet the criteria used to select the consumer for the offer or any applicable criteria bearing on credit worthiness or insurability or does not furnish any required collateral;

"(D) the consumer has a right to prohibit information contained in the consumer's file with any consumer reporting agency from being used in connection with any credit or insurance transaction that is not initiated by the consumer; and

"(E) the consumer may exercise the right referred to in subparagraph (D) by notifying a notification system established under section 604(e).

"(2) DISCLOSURE OF ADDRESS AND TELEPHONE NUMBER.—A statement under paragraph (1) shall include the address and toll-free telephone number of the appropriate notification system established under section 604(e).

"(3) MAINTAINING CRITERIA ON FILE.—A person who makes an offer of credit or insurance to a consumer under a credit or insurance transaction described in paragraph (1) shall maintain on file the criteria used to select the consumer to receive the offer, all criteria bearing on credit worthiness or insurability, as applicable, that are the basis for determining whether or not to extend credit or insurance pursuant to the offer, and any requirement for the furnishing of collateral as a condition of the extension of credit or insurance, until the expiration of the 3-year period beginning on the date on which the offer is made to the consumer.

"(4) AUTHORITY OF FEDERAL AGENCIES REGARDING UNFAIR OR DECEPTIVE ACTS OR PRACTICES NOT AFFECTED.—This section is not intended to affect the authority of any Federal or State agency to enforce a prohibition against unfair or deceptive acts or practices, including the making of false or misleading statements in connection with a credit or insurance transaction that is not initiated by the consumer.".

(c) DUTIES OF USERS MAKING OTHER SOLICITATIONS.—Section 615 of the Fair Credit Reporting Act (15 U.S.C. 1681m) is amended by adding at the end the following new subsection:

"(e)

(d) CONFORMING AMENDMENT.—Section 615(c) of the Fair Credit Reporting Act (15 U.S.C. 1681m(c)) is amended by striking "subsections (a) and (b)" and inserting "this section".

(e) DUTIES OF PERSON TAKING CERTAIN ACTIONS BASED ON INFORMATION PROVIDED BY AFFILIATE.—Section 615(b) of the Fair Credit Reporting Act (15 U.S.C. 1681m(b)) is amended—

(1) by striking "(b) Whenever credit" and inserting the following:

"(b) ADVERSE ACTION BASED ON INFORMATION OBTAINED FROM THIRD PARTIES OTHER THAN CONSUMER REPORTING AGENCIES.—

"(1) IN GENERAL.—Whenever credit";

(2) by adding at the end the following new paragraph:

"(2) DUTIES OF PERSON TAKING CERTAIN ACTIONS BASED ON INFORMATION PROVIDED BY AFFILIATE.—

"(A) DUTIES, GENERALLY.—If a person takes an action described in subparagraph (B) with respect to a consumer, based in whole or in part on information described in subparagraph (C), the person shall—

"(i) notify the consumer of the action, including a statement that the consumer may obtain the information in accordance with clause (ii); and

"(ii) upon a written request from the consumer received within 60 days after transmittal of the notice required by clause (i), disclose to the consumer the nature of the information upon which the action is based by not later than 30 days after receipt of the request.

"(B) ACTION DESCRIBED.—An action referred to in subparagraph (A) is an adverse action described in section

603(k)(1)(A), taken in connection with a transaction initiated by the consumer, or any adverse action described in clause (i) or (ii) of section 603(k)(1)(B).

"(C) INFORMATION DESCRIBED.—Information referred to in subparagraph (A)—

"(i) except as provided in clause (ii), is information that—

"(I) is furnished to the person taking the action by a person related by common ownership or affiliated by common corporate control to the person taking the action; and

"(II) bears on the credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living of the consumer; and

"(ii) does not include—

"(I) information solely as to transactions or experiences between the consumer and the person furnishing the information; or

"(II) information in a consumer report.".

SEC. 2412. CIVIL LIABILITY.

(a) CIVIL LIABILITY FOR WILLFUL NONCOMPLIANCE.—Section 616 of the Fair Credit Reporting Act (15 U.S.C. 1681n) is amended by striking "Any consumer reporting agency or user of information which" and inserting "(a) IN GENERAL.—Any person who".

(b) MINIMUM CIVIL LIABILITY FOR WILLFUL NONCOMPLIANCE.—Section 616(a)(1) of the Fair Credit Reporting Act (15 U.S.C. 1681n(1)), as so designated by subsection (a) of this section, is amended to read as follows:

"(1)(A) any actual damages sustained by the consumer as a result of the failure or damages of not less than $100 and not more than $1,000; or

"(B) in the case of liability of a natural person for obtaining a consumer report under false pretenses or knowingly without a permissible purpose, actual damages sustained by the consumer as a result of the failure or $1,000, whichever is greater;".

(c) CIVIL LIABILITY FOR KNOWING NONCOMPLIANCE.—Section 616 of the Fair Credit Reporting Act (15 U.S.C. 1681n) is amended by adding at the end the following new subsection:

"(b) CIVIL LIABILITY FOR KNOWING NONCOMPLIANCE.—Any person who obtains a consumer report from a consumer reporting agency under false pretenses or knowingly without a permissible purpose shall be liable to the consumer reporting agency for actual damages sustained by the consumer reporting agency or $1,000, whichever is greater.".

(d) CIVIL LIABILITY FOR NEGLIGENT NONCOMPLIANCE.—Section 617 of the Fair Credit Reporting Act (15 U.S.C. 1681o) is amended by striking "Any consumer reporting agency or user of information which" and inserting "(a) IN GENERAL.—Any person who".

(e) ATTORNEY'S FEES.—

(1) WILLFUL NONCOMPLIANCE.—Section 616 of the Fair Credit Reporting Act (15 U.S.C. 1681n) is amended by adding at the end the following new subsection:

"(c) ATTORNEY'S FEES.—Upon a finding by the court that an unsuccessful pleading, motion, or other paper filed in connection

with an action under this section was filed in bad faith or for purposes of harassment, the court shall award to the prevailing party attorney's fees reasonable in relation to the work expended in responding to the pleading, motion, or other paper.".

(2) NEGLIGENT NONCOMPLIANCE.—Section 617 of the Fair Credit Reporting Act (15 U.S.C. 1681o) is amended by adding at the end the following new subsection:

"(b) ATTORNEY'S FEES.—On a finding by the court that an unsuccessful pleading, motion, or other paper filed in connection with an action under this section was filed in bad faith or for purposes of harassment, the court shall award to the prevailing party attorney's fees reasonable in relation to the work expended in responding to the pleading, motion, or other paper.".

SEC. 2413. RESPONSIBILITIES OF PERSONS WHO FURNISH INFORMATION TO CONSUMER REPORTING AGENCIES.

(a) IN GENERAL.—The Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) is amended—

15 USC 1681t.

(1) by redesignating section 623 as section 624; and

(2) by inserting after section 622 the following:

15 USC 1681s–2.

"SEC. 623. RESPONSIBILITIES OF FURNISHERS OF INFORMATION TO CONSUMER REPORTING AGENCIES.

"(a) DUTY OF FURNISHERS OF INFORMATION TO PROVIDE ACCURATE INFORMATION.—

"(1) PROHIBITION.—

"(A) REPORTING INFORMATION WITH ACTUAL KNOWLEDGE OF ERRORS.—A person shall not furnish any information relating to a consumer to any consumer reporting agency if the person knows or consciously avoids knowing that the information is inaccurate.

"(B) REPORTING INFORMATION AFTER NOTICE AND CONFIRMATION OF ERRORS.—A person shall not furnish information relating to a consumer to any consumer reporting agency if—

"(i) the person has been notified by the consumer, at the address specified by the person for such notices, that specific information is inaccurate; and

"(ii) the information is, in fact, inaccurate.

"(C) NO ADDRESS REQUIREMENT.—A person who clearly and conspicuously specifies to the consumer an address for notices referred to in subparagraph (B) shall not be subject to subparagraph (A); however, nothing in subparagraph (B) shall require a person to specify such an address.

"(2) DUTY TO CORRECT AND UPDATE INFORMATION.—A person who—

"(A) regularly and in the ordinary course of business furnishes information to one or more consumer reporting agencies about the person's transactions or experiences with any consumer; and

"(B) has furnished to a consumer reporting agency information that the person determines is not complete or accurate,

shall promptly notify the consumer reporting agency of that determination and provide to the agency any corrections to that information, or any additional information, that is necessary to make the information provided by the person to

the agency complete and accurate, and shall not thereafter furnish to the agency any of the information that remains not complete or accurate.

"(3) DUTY TO PROVIDE NOTICE OF DISPUTE.—If the completeness or accuracy of any information furnished by any person to any consumer reporting agency is disputed to such person by a consumer, the person may not furnish the information to any consumer reporting agency without notice that such information is disputed by the consumer.

"(4) DUTY TO PROVIDE NOTICE OF CLOSED ACCOUNTS.—A person who regularly and in the ordinary course of business furnishes information to a consumer reporting agency regarding a consumer who has a credit account with that person shall notify the agency of the voluntary closure of the account by the consumer, in information regularly furnished for the period in which the account is closed.

"(5) DUTY TO PROVIDE NOTICE OF DELINQUENCY OF ACCOUNTS.—A person who furnishes information to a consumer reporting agency regarding a delinquent account being placed for collection, charged to profit or loss, or subjected to any similar action shall, not later than 90 days after furnishing the information, notify the agency of the month and year of the commencement of the delinquency that immediately preceded the action.

"(b) DUTIES OF FURNISHERS OF INFORMATION UPON NOTICE OF DISPUTE.—

"(1) IN GENERAL.—After receiving notice pursuant to section 611(a)(2) of a dispute with regard to the completeness or accuracy of any information provided by a person to a consumer reporting agency, the person shall—

"(A) conduct an investigation with respect to the disputed information;

"(B) review all relevant information provided by the consumer reporting agency pursuant to section 611(a)(2);

"(C) report the results of the investigation to the consumer reporting agency; and

"(D) if the investigation finds that the information is incomplete or inaccurate, report those results to all other consumer reporting agencies to which the person furnished the information and that compile and maintain files on consumers on a nationwide basis.

"(2) DEADLINE.—A person shall complete all investigations, reviews, and reports required under paragraph (1) regarding information provided by the person to a consumer reporting agency, before the expiration of the period under section 611(a)(1) within which the consumer reporting agency is required to complete actions required by that section regarding that information.

"(c) LIMITATION ON LIABILITY.—Sections 616 and 617 do not apply to any failure to comply with subsection (a), except as provided in section 621(c)(1)(B).

"(d) LIMITATION ON ENFORCEMENT.—Subsection (a) shall be enforced exclusively under section 621 by the Federal agencies and officials and the State officials identified in that section.".

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of the Fair Credit Reporting Act (15 U.S.C. 1681a et

seq.) is amended by striking the item relating to section 623 and inserting the following:

"623. Responsibilities of furnishers of information to consumer reporting agencies.

"624. Relation to State laws.".

SEC. 2414. INVESTIGATIVE CONSUMER REPORTS.

Section 606 of the Fair Credit Reporting Act (15 U.S.C. 1681d) is amended—

(1) in subsection (a)(1), by striking "or" at the end and inserting "and";

(2) by striking subsection (a)(2) and inserting the following:

"(2) the person certifies or has certified to the consumer reporting agency that—

"(A) the person has made the disclosures to the consumer required by paragraph (1); and

"(B) the person will comply with subsection (b).";

(3) in subsection (b), by striking "shall" the second place such term appears; and

(4) by adding at the end the following new subsection:

"(d) PROHIBITIONS.—

"(1) CERTIFICATION.—A consumer reporting agency shall not prepare or furnish an investigative consumer report unless the agency has received a certification under subsection (a)(2) from the person who requested the report.

"(2) INQUIRIES.—A consumer reporting agency shall not make an inquiry for the purpose of preparing an investigative consumer report on a consumer for employment purposes if the making of the inquiry by an employer or prospective employer of the consumer would violate any applicable Federal or State equal employment opportunity law or regulation.

"(3) CERTAIN PUBLIC RECORD INFORMATION.—Except as otherwise provided in section 613, a consumer reporting agency shall not furnish an investigative consumer report that includes information that is a matter of public record and that relates to an arrest, indictment, conviction, civil judicial action, tax lien, or outstanding judgment, unless the agency has verified the accuracy of the information during the 30-day period ending on the date on which the report is furnished.

"(4) CERTAIN ADVERSE INFORMATION.—A consumer reporting agency shall not prepare or furnish an investigative consumer report on a consumer that contains information that is adverse to the interest of the consumer and that is obtained through a personal interview with a neighbor, friend, or associate of the consumer or with another person with whom the consumer is acquainted or who has knowledge of such item of information, unless—

"(A) the agency has followed reasonable procedures to obtain confirmation of the information, from an additional source that has independent and direct knowledge of the information; or

"(B) the person interviewed is the best possible source of the information.".

SEC. 2415. INCREASED CRIMINAL PENALTIES FOR OBTAINING INFORMATION UNDER FALSE PRETENSES.

(a) OBTAINING INFORMATION UNDER FALSE PRETENSES.—Section 619 of the Fair Credit Reporting Act (15 U.S.C. 1681q) is amended by striking "fined not more than $5,000 or imprisoned not more than one year, or both" and inserting "fined under title 18, United States Code, imprisoned for not more than 2 years, or both".

(b) UNAUTHORIZED DISCLOSURES BY OFFICERS OR EMPLOYEES.—Section 620 of the Fair Credit Reporting Act (15 U.S.C. 1681r) is amended by striking "fined not more than $5,000 or imprisoned not more than one year, or both" and inserting "fined under title 18, United States Code, imprisoned for not more than 2 years, or both".

SEC. 2416. ADMINISTRATIVE ENFORCEMENT.

(a) AVAILABLE ENFORCEMENT POWERS.—Section 621(a) of the Fair Credit Reporting Act (15 U.S.C. 1681s(a)) is amended—

(1) by inserting "(1)" after "(a)";

(2) by adding at the end the following new paragraph:

"(2)(A) In the event of a knowing violation, which constitutes a pattern or practice of violations of this title, the Commission may commence a civil action to recover a civil penalty in a district court of the United States against any person that violates this title. In such action, such person shall be liable for a civil penalty of not more than $2,500 per violation.

"(B) In determining the amount of a civil penalty under subparagraph (A), the court shall take into account the degree of culpability, any history of prior such conduct, ability to pay, effect on ability to continue to do business, and such other matters as justice may require.

"(3) Notwithstanding paragraph (2), a court may not impose any civil penalty on a person for a violation of section 623(a)(1) unless the person has been enjoined from committing the violation, or ordered not to commit the violation, in an action or proceeding brought by or on behalf of the Federal Trade Commission, and has violated the injunction or order, and the court may not impose any civil penalty for any violation occurring before the date of the violation of the injunction or order.

"(4) Neither the Commission nor any other agency referred to in subsection (b) may prescribe trade regulation rules or other regulations with respect to this title.".

(b) AGENCIES RESPONSIBLE FOR ENFORCEMENT.—Section 621 of the Fair Credit Reporting Act (15 U.S.C. 1681s) is amended—

(1) in subsection (a), by inserting "ENFORCEMENT BY FEDERAL TRADE COMMISSION.—" before "Compliance with the requirements";

(2) in subsection (b), by striking the matter preceding paragraph (1) and inserting the following:

"(b) ENFORCEMENT BY OTHER AGENCIES.—Compliance with the requirements imposed under this title with respect to consumer reporting agencies, persons who use consumer reports from such agencies, persons who furnish information to such agencies, and users of information that are subject to subsection (d) or (e) of section 615 shall be enforced under—"; and

(3) in subsection (c), by adding at the end the following: "Notwithstanding the preceding, no agency referred to in subsection (b) may conduct an examination of a bank, savings association, or credit union regarding compliance with the provisions of this title, except in response to a complaint (or if the agency otherwise has knowledge) that the bank, savings association, or credit union has violated a provision of this title, in which case, the agency may conduct an examination as necessary to investigate the complaint. If an agency determines during an investigation in response to a complaint that a violation of this title has occurred, the agency may, during its next 2 regularly scheduled examinations of the bank, savings association, or credit union, examine for compliance with this title.".

SEC. 2417. STATE ENFORCEMENT OF FAIR CREDIT REPORTING ACT.

Section 621 of the Fair Credit Reporting Act (15 U.S.C. 1681s) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection:

"(c) STATE ACTION FOR VIOLATIONS.—

"(1) AUTHORITY OF STATES.—In addition to such other remedies as are provided under State law, if the chief law enforcement officer of a State, or an official or agency designated by a State, has reason to believe that any person has violated or is violating this title, the State—

"(A) may bring an action to enjoin such violation in any appropriate United States district court or in any other court of competent jurisdiction;

"(B) subject to paragraph (5), may bring an action on behalf of the residents of the State to recover—

"(i) damages for which the person is liable to such residents under sections 616 and 617 as a result of the violation;

"(ii) in the case of a violation of section 623(a), damages for which the person would, but for section 623(c), be liable to such residents as a result of the violation; or

"(iii) damages of not more than $1,000 for each willful or negligent violation; and

"(C) in the case of any successful action under subparagraph (A) or (B), shall be awarded the costs of the action and reasonable attorney fees as determined by the court.

"(2) RIGHTS OF FEDERAL REGULATORS.—The State shall serve prior written notice of any action under paragraph (1) upon the Federal Trade Commission or the appropriate Federal regulator determined under subsection (b) and provide the Commission or appropriate Federal regulator with a copy of its complaint, except in any case in which such prior notice is not feasible, in which case the State shall serve such notice immediately upon instituting such action. The Federal Trade Commission or appropriate Federal regulator shall have the right—

"(A) to intervene in the action;

"(B) upon so intervening, to be heard on all matters arising therein;

"(C) to remove the action to the appropriate United States district court; and

"(D) to file petitions for appeal.

"(3) INVESTIGATORY POWERS.—For purposes of bringing any action under this subsection, nothing in this subsection shall prevent the chief law enforcement officer, or an official or agency designated by a State, from exercising the powers conferred on the chief law enforcement officer or such official by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

"(4) LIMITATION ON STATE ACTION WHILE FEDERAL ACTION PENDING.—If the Federal Trade Commission or the appropriate Federal regulator has instituted a civil action or an administrative action under section 8 of the Federal Deposit Insurance Act for a violation of this title, no State may, during the pendency of such action, bring an action under this section against any defendant named in the complaint of the Commission or the appropriate Federal regulator for any violation of this title that is alleged in that complaint.

"(5) LIMITATIONS ON STATE ACTIONS FOR VIOLATION OF SECTION 623(a)(1).—

"(A) VIOLATION OF INJUNCTION REQUIRED.—A State may not bring an action against a person under paragraph (1)(B) for a violation of section 623(a)(1), unless—

"(i) the person has been enjoined from committing the violation, in an action brought by the State under paragraph (1)(A); and

"(ii) the person has violated the injunction.

"(B) LIMITATION ON DAMAGES RECOVERABLE.—In an action against a person under paragraph (1)(B) for a violation of section 623(a)(1), a State may not recover any damages incurred before the date of the violation of an injunction on which the action is based.".

SEC. 2418. FEDERAL RESERVE BOARD AUTHORITY.

Section 621 of the Fair Credit Reporting Act (15 U.S.C. 1681s) is amended by adding at the end the following new subsection:

"(e) INTERPRETIVE AUTHORITY.—The Board of Governors of the Federal Reserve System may issue interpretations of any provision of this title as such provision may apply to any persons identified under paragraph (1), (2), and (3) of subsection (b), or to the holding companies and affiliates of such persons, in consultation with Federal agencies identified in paragraphs (1), (2), and (3) of subsection (b).".

SEC. 2419. PREEMPTION OF STATE LAW.

Section 624 of the Fair Credit Reporting Act (as redesignated by section 2413(a) of this chapter) is amended—

(1) by striking "This title" and inserting "(a) IN GENERAL.—Except as provided in subsections (b) and (c), this title"; and

(2) by adding at the end the following new subsection:

"(b) GENERAL EXCEPTIONS.—No requirement or prohibition may be imposed under the laws of any State—

"(1) with respect to any subject matter regulated under—

"(A) subsection (c) or (e) of section 604, relating to the prescreening of consumer reports;

"(B) section 611, relating to the time by which a consumer reporting agency must take any action, including the provision of notification to a consumer or other person, in any procedure related to the disputed accuracy of information in a consumer's file, except that this subparagraph shall not apply to any State law in effect on the date of enactment of the Consumer Credit Reporting Reform Act of 1996;

"(C) subsections (a) and (b) of section 615, relating to the duties of a person who takes any adverse action with respect to a consumer;

"(D) section 615(d), relating to the duties of persons who use a consumer report of a consumer in connection with any credit or insurance transaction that is not initiated by the consumer and that consists of a firm offer of credit or insurance;

"(E) section 605, relating to information contained in consumer reports, except that this subparagraph shall not apply to any State law in effect on the date of enactment of the Consumer Credit Reporting Reform Act of 1996; or

"(F) section 623, relating to the responsibilities of persons who furnish information to consumer reporting agencies, except that this paragraph shall not apply—

"(i) with respect to section 54A(a) of chapter 93 of the Massachusetts Annotated Laws (as in effect on the date of enactment of the Consumer Credit Reporting Reform Act of 1996); or

"(ii) with respect to section 1785.25(a) of the California Civil Code (as in effect on the date of enactment of the Consumer Credit Reporting Reform Act of 1996);

"(2) with respect to the exchange of information among persons affiliated by common ownership or common corporate control, except that this paragraph shall not apply with respect to subsection (a) or (c)(1) of section 2480e of title 9, Vermont Statutes Annotated (as in effect on the date of enactment of the Consumer Credit Reporting Reform Act of 1996); or

"(3) with respect to the form and content of any disclosure required to be made under section 609(c).

"(c) DEFINITION OF FIRM OFFER OF CREDIT OR INSURANCE.—Notwithstanding any definition of the term 'firm offer of credit or insurance' (or any equivalent term) under the laws of any State, the definition of that term contained in section 603(l) shall be construed to apply in the enforcement and interpretation of the laws of any State governing consumer reports.

"(d) LIMITATIONS.—Subsections (b) and (c)—

"(1) do not affect any settlement, agreement, or consent judgment between any State Attorney General and any consumer reporting agency in effect on the date of enactment of the Consumer Credit Reporting Reform Act of 1996; and

"(2) do not apply to any provision of State law (including any provision of a State constitution) that—

"(A) is enacted after January 1, 2004;

"(B) states explicitly that the provision is intended to supplement this title; and

"(C) gives greater protection to consumers than is provided under this title.".

SEC. 2420. EFFECTIVE DATE.

15 USC 1681a note.

(a) IN GENERAL.—Except as otherwise specifically provided in this chapter, the amendments made by this chapter shall become effective 365 days after the date of enactment of this Act.

(b) EARLY COMPLIANCE.—Any person or other entity that is subject to the requirements of this chapter may, at its option, comply with any provision of this chapter before the date on which that provision becomes effective under this chapter, in which case, each of the corresponding provisions of this chapter shall be fully applicable to such person or entity.

SEC. 2421. RELATIONSHIP TO OTHER LAW.

15 USC 1681a note.

Nothing in this chapter or the amendments made by this chapter shall be considered to supersede or otherwise affect section 2721 of title 18, United States Code, with respect to motor vehicle records for surveys, marketing, or solicitations.

SEC. 2422. FEDERAL RESERVE BOARD STUDY.

(a) STUDY REQUIRED.—The Board of Governors of the Federal Reserve System, in consultation with the other Federal banking agencies (as defined in section 3 of the Federal Deposit Insurance Act) and the Federal Trade Commission, shall conduct a study of whether organizations which, as of the date of the enactment of this Act, are not subject to the Fair Credit Reporting Act as consumer reporting agencies (as defined in section 603 of such Act) are engaged in the business of making sensitive consumer identification information, including social security numbers, mothers' maiden names, prior addresses, and dates of birth, available to the general public.

(b) DETERMINATION OF POTENTIAL FOR FRAUD.—If the Board of Governors of the Federal Reserve System determines that organizations referred to in subsection (a) are engaged in the business of making sensitive consumer identification information available to the general public, the Board shall determine—

(1) whether such activities create undue potential for fraud and risk of loss to insured depository institutions (as defined in section 3 of the Federal Deposit Insurance Act); and

(2) if so, whether changes in Federal law are necessary to address such risks of fraud and loss.

(c) REPORT TO CONGRESS.—Before the end of the 6-month period beginning on the date of the enactment of this Act, the Board of Governors of the Federal Reserve System shall submit a report to the Congress containing—

(1) the findings and conclusion of the Board in connection with the study required under subsections (a) and (b); and

(2) recommendations for such legislative or administrative action as the Board determines to be appropriate.

CHAPTER 2—CREDIT REPAIR ORGANIZATIONS

SEC. 2451. REGULATION OF CREDIT REPAIR ORGANIZATIONS.

Title IV of the Consumer Credit Protection Act (Public Law 90–321, 82 Stat. 164) is amended to read as follows:

Credit Repair Organizations Act.

"TITLE IV—CREDIT REPAIR ORGANIZATIONS

"Sec.

"401. Short title.

"402. Findings and purposes.

"403. Definitions.

"404. Prohibited practices.

"405. Disclosures.

"406. Credit repair organizations contracts.

"407. Right to cancel contract.

"408. Noncompliance with this title.

"409. Civil liability.

"410. Administrative enforcement.

"411. Statute of limitations.

"412. Relation to State law.

"413. Effective date.

15 USC 1601 note.

"SEC. 401. SHORT TITLE.

"This title may be cited as the 'Credit Repair Organizations Act'.

15 USC 1679.

"SEC. 402. FINDINGS AND PURPOSES.

"(a) FINDINGS.—The Congress makes the following findings:

"(1) Consumers have a vital interest in establishing and maintaining their credit worthiness and credit standing in order to obtain and use credit. As a result, consumers who have experienced credit problems may seek assistance from credit repair organizations which offer to improve the credit standing of such consumers.

"(2) Certain advertising and business practices of some companies engaged in the business of credit repair services have worked a financial hardship upon consumers, particularly those of limited economic means and who are inexperienced in credit matters.

"(b) PURPOSES.—The purposes of this title are—

"(1) to ensure that prospective buyers of the services of credit repair organizations are provided with the information necessary to make an informed decision regarding the purchase of such services; and

"(2) to protect the public from unfair or deceptive advertising and business practices by credit repair organizations.

15 USC 1679a.

"SEC. 403. DEFINITIONS.

"For purposes of this title, the following definitions apply:

"(1) CONSUMER.—The term 'consumer' means an individual.

"(2) CONSUMER CREDIT TRANSACTION.—The term 'consumer credit transaction' means any transaction in which credit is offered or extended to an individual for personal, family, or household purposes.

"(3) CREDIT REPAIR ORGANIZATION.—The term 'credit repair organization'—

"(A) means any person who uses any instrumentality of interstate commerce or the mails to sell, provide, or perform (or represent that such person can or will sell, provide, or perform) any service, in return for the payment of money or other valuable consideration, for the express or implied purpose of—

"(i) improving any consumer's credit record, credit history, or credit rating; or

"(ii) providing advice or assistance to any consumer with regard to any activity or service described in clause (i); and

"(B) does not include—

"(i) any nonprofit organization which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986;

"(ii) any creditor (as defined in section 103 of the Truth in Lending Act), with respect to any consumer, to the extent the creditor is assisting the consumer to restructure any debt owed by the consumer to the creditor; or

"(iii) any depository institution (as that term is defined in section 3 of the Federal Deposit Insurance Act) or any Federal or State credit union (as those terms are defined in section 101 of the Federal Credit Union Act), or any affiliate or subsidiary of such a depository institution or credit union.

"(4) CREDIT.—The term 'credit' has the meaning given to such term in section 103(e) of this Act.

"SEC. 404. PROHIBITED PRACTICES. 15 USC 1679b.

"(a) IN GENERAL.—No person may—

"(1) make any statement, or counsel or advise any consumer to make any statement, which is untrue or misleading (or which, upon the exercise of reasonable care, should be known by the credit repair organization, officer, employee, agent, or other person to be untrue or misleading) with respect to any consumer's credit worthiness, credit standing, or credit capacity to—

"(A) any consumer reporting agency (as defined in section 603(f) of this Act); or

"(B) any person—

"(i) who has extended credit to the consumer; or

"(ii) to whom the consumer has applied or is applying for an extension of credit;

"(2) make any statement, or counsel or advise any consumer to make any statement, the intended effect of which is to alter the consumer's identification to prevent the display of the consumer's credit record, history, or rating for the purpose of concealing adverse information that is accurate and not obsolete to—

"(A) any consumer reporting agency;

"(B) any person—

"(i) who has extended credit to the consumer; or

"(ii) to whom the consumer has applied or is applying for an extension of credit;

"(3) make or use any untrue or misleading representation of the services of the credit repair organization; or

"(4) engage, directly or indirectly, in any act, practice, or course of business that constitutes or results in the commission of, or an attempt to commit, a fraud or deception on any person in connection with the offer or sale of the services of the credit repair organization.

"(b) PAYMENT IN ADVANCE.—No credit repair organization may charge or receive any money or other valuable consideration for the performance of any service which the credit repair organization has agreed to perform for any consumer before such service is fully performed.

15 USC 1679c.

"SEC. 405. DISCLOSURES.

"(a) DISCLOSURE REQUIRED.—Any credit repair organization shall provide any consumer with the following written statement before any contract or agreement between the consumer and the credit repair organization is executed:

"'Consumer Credit File Rights Under State and Federal Law

"'You have a right to dispute inaccurate information in your credit report by contacting the credit bureau directly. However, neither you nor any "credit repair" company or credit repair organization has the right to have accurate, current, and verifiable information removed from your credit report. The credit bureau must remove accurate, negative information from your report only if it is over 7 years old. Bankruptcy information can be reported for 10 years.

"'You have a right to obtain a copy of your credit report from a credit bureau. You may be charged a reasonable fee. There is no fee, however, if you have been turned down for credit, employment, insurance, or a rental dwelling because of information in your credit report within the preceding 60 days. The credit bureau must provide someone to help you interpret the information in your credit file. You are entitled to receive a free copy of your credit report if you are unemployed and intend to apply for employment in the next 60 days, if you are a recipient of public welfare assistance, or if you have reason to believe that there is inaccurate information in your credit report due to fraud.

"'You have a right to sue a credit repair organization that violates the Credit Repair Organization Act. This law prohibits deceptive practices by credit repair organizations.

"'You have the right to cancel your contract with any credit repair organization for any reason within 3 business days from the date you signed it.

"'Credit bureaus are required to follow reasonable procedures to ensure that the information they report is accurate. However, mistakes may occur.

"'You may, on your own, notify a credit bureau in writing that you dispute the accuracy of information in your credit file. The credit bureau must then reinvestigate and modify or remove inaccurate or incomplete information. The credit bureau may not charge any fee for this service. Any pertinent information and copies of all documents you have concerning an error should be given to the credit bureau.

"'If the credit bureau's reinvestigation does not resolve the dispute to your satisfaction, you may send a brief statement to the credit bureau, to be kept in your file, explaining why you think the record is inaccurate. The credit bureau must include a summary of your statement about disputed information with any report it issues about you.

"'The Federal Trade Commission regulates credit bureaus and credit repair organizations. For more information contact:

"'The Public Reference Branch

"'Federal Trade Commission

"'Washington, D.C. 20580'.

"(b) SEPARATE STATEMENT REQUIREMENT.—The written statement required under this section shall be provided as a document which is separate from any written contract or other agreement between the credit repair organization and the consumer or any other written material provided to the consumer.

"(c) RETENTION OF COMPLIANCE RECORDS.—

"(1) IN GENERAL.—The credit repair organization shall maintain a copy of the statement signed by the consumer acknowledging receipt of the statement.

"(2) MAINTENANCE FOR 2 YEARS.—The copy of any consumer's statement shall be maintained in the organization's files for 2 years after the date on which the statement is signed bythe consumer.

"SEC. 406. CREDIT REPAIR ORGANIZATIONS CONTRACTS. 15 USC 1679d.

"(a) WRITTEN CONTRACTS REQUIRED.—No services may be provided by any credit repair organization for any consumer—

"(1) unless a written and dated contract (for the purchase of such services) which meets the requirements of subsection (b) has been signed by the consumer; or

"(2) before the end of the 3-business-day period beginning on the date the contract is signed.

"(b) TERMS AND CONDITIONS OF CONTRACT.—No contract referred to in subsection (a) meets the requirements of this subsection unless such contract includes (in writing)—

"(1) the terms and conditions of payment, including the total amount of all payments to be made by the consumer to the credit repair organization or to any other person;

"(2) a full and detailed description of the services to be performed by the credit repair organization for the consumer, including—

"(A) all guarantees of performance; and

"(B) an estimate of—

"(i) the date by which the performance of the services (to be performed by the credit repair organization or any other person) will be complete; or

"(ii) the length of the period necessary to perform such services;

"(3) the credit repair organization's name and principal business address; and

"(4) a conspicuous statement in bold face type, in immediate proximity to the space reserved for the consumer's signature on the contract, which reads as follows: 'You may cancel this

contract without penalty or obligation at any time before midnight of the 3rd business day after the date on which you signed the contract. See the attached notice of cancellation form for an explanation of this right.'.

15 USC 1679e.

"SEC. 407. RIGHT TO CANCEL CONTRACT.

"(a) IN GENERAL.—Any consumer may cancel any contract with any credit repair organization without penalty or obligation by notifying the credit repair organization of the consumer's intention to do so at any time before midnight of the 3rd business day which begins after the date on which the contract or agreement between the consumer and the credit repair organization is executed or would, but for this subsection, become enforceable against the parties.

"(b) CANCELLATION FORM AND OTHER INFORMATION.—Each contract shall be accompanied by a form, in duplicate, which has the heading 'Notice of Cancellation' and contains in bold face type the following statement:

"'You may cancel this contract, without any penalty or obligation, at any time before midnight of the 3rd day which begins after the date the contract is signed by you.

"'To cancel this contract, mail or deliver a signed, dated copy of this cancellation notice, or any other written notice to [name of credit repair organization] at [address of credit repair organization] before midnight on [date]

"'I hereby cancel this transaction,

[date]

[purchaser's signature].'.

"(c) CONSUMER COPY OF CONTRACT REQUIRED.—Any consumer who enters into any contract with any credit repair organization shall be given, by the organization—

"(1) a copy of the completed contract and the disclosure statement required under section 405; and

"(2) a copy of any other document the credit repair organization requires the consumer to sign, at the time the contract or the other document is signed.

15 USC 1679f.

"SEC. 408. NONCOMPLIANCE WITH THIS TITLE.

"(a) CONSUMER WAIVERS INVALID.—Any waiver by any consumer of any protection provided by or any right of the consumer under this title—

"(1) shall be treated as void; and

"(2) may not be enforced by any Federal or State court or any other person.

"(b) ATTEMPT TO OBTAIN WAIVER.—Any attempt by any person to obtain a waiver from any consumer of any protection provided by or any right of the consumer under this title shall be treated as a violation of this title.

"(c) CONTRACTS NOT IN COMPLIANCE.—Any contract for services which does not comply with the applicable provisions of this title—

"(1) shall be treated as void; and

"(2) may not be enforced by any Federal or State court or any other person.

15 USC 1679g.

"SEC. 409. CIVIL LIABILITY.

"(a) LIABILITY ESTABLISHED.—Any person who fails to comply with any provision of this title with respect to any other person

shall be liable to such person in an amount equal to the sum of the amounts determined under each of the following paragraphs:

"(1) ACTUAL DAMAGES.—The greater of—

"(A) the amount of any actual damage sustained by such person as a result of such failure; or

"(B) any amount paid by the person to the credit repair organization.

"(2) PUNITIVE DAMAGES.—

"(A) INDIVIDUAL ACTIONS.—In the case of any action by an individual, such additional amount as the court may allow.

"(B) CLASS ACTIONS.—In the case of a class action, the sum of—

"(i) the aggregate of the amount which the court may allow for each named plaintiff; and

"(ii) the aggregate of the amount which the court may allow for each other class member, without regard to any minimum individual recovery.

"(3) ATTORNEYS' FEES.—In the case of any successful action to enforce any liability under paragraph (1) or (2), the costs of the action, together with reasonable attorneys' fees.

"(b) FACTORS TO BE CONSIDERED IN AWARDING PUNITIVE DAMAGES.—In determining the amount of any liability of any credit repair organization under subsection (a)(2), the court shall consider, among other relevant factors—

"(1) the frequency and persistence of noncompliance by the credit repair organization;

"(2) the nature of the noncompliance;

"(3) the extent to which such noncompliance was intentional; and

"(4) in the case of any class action, the number of consumers adversely affected.

"SEC. 410. ADMINISTRATIVE ENFORCEMENT. 15 USC 1679h.

"(a) IN GENERAL.—Compliance with the requirements imposed under this title with respect to credit repair organizations shall be enforced under the Federal Trade Commission Act by the Federal Trade Commission.

"(b) VIOLATIONS OF THIS TITLE TREATED AS VIOLATIONS OF FEDERAL TRADE COMMISSION ACT.—

"(1) IN GENERAL.—For the purpose of the exercise by the Federal Trade Commission of the Commission's functions and powers under the Federal Trade Commission Act, any violation of any requirement or prohibition imposed under this title with respect to credit repair organizations shall constitute an unfair or deceptive act or practice in commerce in violation of section 5(a) of the Federal Trade Commission Act.

"(2) ENFORCEMENT AUTHORITY UNDER OTHER LAW.—All functions and powers of the Federal Trade Commission under the Federal Trade Commission Act shall be available to the Commission to enforce compliance with this title by any person subject to enforcement by the Federal Trade Commission pursuant to this subsection, including the power to enforce the provisions of this title in the same manner as if the violation had been a violation of any Federal Trade Commission trade regulation rule, without regard to whether the credit repair organization—

"(A) is engaged in commerce; or

"(B) meets any other jurisdictional tests in the Federal Trade Commission Act.

"(c) STATE ACTION FOR VIOLATIONS.—

"(1) AUTHORITY OF STATES.—In addition to such other remedies as are provided under State law, whenever the chief law enforcement officer of a State, or an official or agency designated by a State, has reason to believe that any person has violated or is violating this title, the State—

"(A) may bring an action to enjoin such violation;

"(B) may bring an action on behalf of its residents to recover damages for which the person is liable to such residents under section 409 as a result of the violation; and

"(C) in the case of any successful action under subparagraph (A) or (B), shall be awarded the costs of the action and reasonable attorney fees as determined by the court.

"(2) RIGHTS OF COMMISSION.—

"(A) NOTICE TO COMMISSION.—The State shall serve prior written notice of any civil action under paragraph (1) upon the Federal Trade Commission and provide the Commission with a copy of its complaint, except in any case where such prior notice is not feasible, in which case the State shall serve such notice immediately upon instituting such action.

"(B) INTERVENTION.—The Commission shall have the right—

"(i) to intervene in any action referred to in subparagraph (A);

"(ii) upon so intervening, to be heard on all matters arising in the action; and

"(iii) to file petitions for appeal.

"(3) INVESTIGATORY POWERS.—For purposes of bringing any action under this subsection, nothing in this subsection shall prevent the chief law enforcement officer, or an official or agency designated by a State, from exercising the powers conferred on the chief law enforcement officer or such official by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

"(4) LIMITATION.—Whenever the Federal Trade Commission has instituted a civil action for violation of this title, no State may, during the pendency of such action, bring an action under this section against any defendant named in the complaint of the Commission for any violation of this title that is alleged in that complaint.

15 USC 1679i.

"SEC. 411. STATUTE OF LIMITATIONS.

"Any action to enforce any liability under this title may be brought before the later of—

"(1) the end of the 5-year period beginning on the date of the occurrence of the violation involved; or

"(2) in any case in which any credit repair organization has materially and willfully misrepresented any information which—

"(A) the credit repair organization is required, by any provision of this title, to disclose to any consumer; and

"(B) is material to the establishment of the credit repair organization's liability to the consumer under this title, the end of the 5-year period beginning on the date of the discovery by the consumer of the misrepresentation.

"SEC. 412. RELATION TO STATE LAW. 15 USC 1679j.

"This title shall not annul, alter, affect, or exempt any person subject to the provisions of this title from complying with any law of any State except to the extent that such law is inconsistent with any provision of this title, and then only to the extent of the inconsistency.

"SEC. 413. EFFECTIVE DATE. 15 USC 1679 note.

"This title shall apply after the end of the 6-month period beginning on the date of the enactment of the Credit Repair Organizations Act, except with respect to contracts entered into by a credit repair organization before the end of such period.".

SEC. 2452. CREDIT WORTHINESS.

It is the sense of the Senate that—

(1) individuals should generally be judged for credit worthiness based on their own credit worthiness and not on the zip code or neighborhood in which they live; and

(2) the Federal Trade Commission, after consultation with the appropriate Federal banking agency, should report to the Committee on Banking, Housing, and Urban Affairs of the Senate as to whether and how the location of the residence of an applicant for unsecured credit is considered by many companies and financial institutions in deciding whether an applicant should be granted credit.

Subtitle E—Asset Conservation, Lender Liability, and Deposit Insurance Protection

Asset Conservation, Lender Liability, and Deposit Insurance Protection Act of 1996. 42 USC 9601 note.

SEC. 2501. SHORT TITLE.

This subtitle may be cited as the "Asset Conservation, Lender Liability, and Deposit Insurance Protection Act of 1996".

SEC. 2502. CERCLA LENDER AND FIDUCIARY LIABILITY LIMITATIONS AMENDMENTS.

(a) IN GENERAL.—Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607) is amended by adding at the end the following:

"(n) LIABILITY OF FIDUCIARIES.—

"(1) IN GENERAL.—The liability of a fiduciary under any provision of this Act for the release or threatened release of a hazardous substance at, from, or in connection with a vessel or facility held in a fiduciary capacity shall not exceed the assets held in the fiduciary capacity.

"(2) EXCLUSION.—Paragraph (1) does not apply to the extent that a person is liable under this Act independently of the person's ownership of a vessel or facility as a fiduciary or actions taken in a fiduciary capacity.

"(3) LIMITATION.—Paragraphs (1) and (4) do not limit the liability pertaining to a release or threatened release of a

hazardous substance if negligence of a fiduciary causes or contributes to the release or threatened release.

"(4) SAFE HARBOR.—A fiduciary shall not be liable in its personal capacity under this Act for—

"(A) undertaking or directing another person to undertake a response action under subsection (d)(1) or under the direction of an on scene coordinator designated under the National Contingency Plan;

"(B) undertaking or directing another person to undertake any other lawful means of addressing a hazardous substance in connection with the vessel or facility;

"(C) terminating the fiduciary relationship;

"(D) including in the terms of the fiduciary agreement a covenant, warranty, or other term or condition that relates to compliance with an environmental law, or monitoring, modifying or enforcing the term or condition;

"(E) monitoring or undertaking 1 or more inspections of the vessel or facility;

"(F) providing financial or other advice or counseling to other parties to the fiduciary relationship, including the settlor or beneficiary;

"(G) restructuring, renegotiating, or otherwise altering the terms and conditions of the fiduciary relationship;

"(H) administering, as a fiduciary, a vessel or facility that was contaminated before the fiduciary relationship began; or

"(I) declining to take any of the actions described in subparagraphs (B) through (H).

"(5) DEFINITIONS.—As used in this Act:

"(A) FIDUCIARY.—The term 'fiduciary'—

"(i) means a person acting for the benefit of another party as a bona fide—

"(I) trustee;

"(II) executor;

"(III) administrator;

"(IV) custodian;

"(V) guardian of estates or guardian ad litem;

"(VI) receiver;

"(VII) conservator;

"(VIII) committee of estates of incapacitated persons;

"(IX) personal representative;

"(X) trustee (including a successor to a trustee) under an indenture agreement, trust agreement, lease, or similar financing agreement, for debt securities, certificates of interest or certificates of participation in debt securities, or other forms of indebtedness as to which the trustee is not, in the capacity of trustee, the lender; or

"(XI) representative in any other capacity that the Administrator, after providing public notice, determines to be similar to the capacities described in subclauses (I) through (X); and

"(ii) does not include—

"(I) a person that is acting as a fiduciary with respect to a trust or other fiduciary estate that was organized for the primary purpose of, or is

engaged in, actively carrying on a trade or business for profit, unless the trust or other fiduciary estate was created as part of, or to facilitate, 1 or more estate plans or because of the incapacity of a natural person; or

"(II) a person that acquires ownership or control of a vessel or facility with the objective purpose of avoiding liability of the person or of any other person.

"(B) FIDUCIARY CAPACITY.—The term 'fiduciary capacity' means the capacity of a person in holding title to a vessel or facility, or otherwise having control of or an interest in the vessel or facility, pursuant to the exercise of the responsibilities of the person as a fiduciary.

"(6) SAVINGS CLAUSE.—Nothing in this subsection—

"(A) affects the rights or immunities or other defenses that are available under this Act or other law that is applicable to a person subject to this subsection; or

"(B) creates any liability for a person or a private right of action against a fiduciary or any other person.

"(7) NO EFFECT ON CERTAIN PERSONS.—Nothing in this subsection applies to a person if the person—

"(A)(i) acts in a capacity other than that of a fiduciary or in a beneficiary capacity; and

"(ii) in that capacity, directly or indirectly benefits from a trust or fiduciary relationship; or

"(B)(i) is a beneficiary and a fiduciary with respect to the same fiduciary estate; and

"(ii) as a fiduciary, receives benefits that exceed customary or reasonable compensation, and incidental benefits, permitted under other applicable law.

"(8) LIMITATION.—This subsection does not preclude a claim under this Act against—

"(A) the assets of the estate or trust administered by the fiduciary; or

"(B) a nonemployee agent or independent contractor retained by a fiduciary.".

(b) DEFINITION OF OWNER OR OPERATOR.—Section 101(20) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(20)) is amended by adding at the end the following:

"(E) EXCLUSION OF LENDERS NOT PARTICIPANTS IN MANAGEMENT.—

"(i) INDICIA OF OWNERSHIP TO PROTECT SECURITY.—The term 'owner or operator' does not include a person that is a lender that, without participating in the management of a vessel or facility, holds indicia of ownership primarily to protect the security interest of the person in the vessel or facility.

"(ii) FORECLOSURE.—The term 'owner or operator' does not include a person that is a lender that did not participate in management of a vessel or facility prior to foreclosure, notwithstanding that the person—

"(I) forecloses on the vessel or facility; and

"(II) after foreclosure, sells, re-leases (in the case of a lease finance transaction), or liquidates the vessel or facility, maintains business activities,

winds up operations, undertakes a response action under section 107(d)(1) or under the direction of an on-scene coordinator appointed under the National Contingency Plan, with respect to the vessel or facility, or takes any other measure to preserve, protect, or prepare the vessel or facility prior to sale or disposition,

if the person seeks to sell, re-lease (in the case of a lease finance transaction), or otherwise divest the person of the vessel or facility at the earliest practicable, commercially reasonable time, on commercially reasonable terms, taking into account market conditions and legal and regulatory requirements.

"(F) PARTICIPATION IN MANAGEMENT.—For purposes of subparagraph (E)—

"(i) the term 'participate in management'—

"(I) means actually participating in the management or operational affairs of a vessel or facility; and

"(II) does not include merely having the capacity to influence, or the unexercised right to control, vessel or facility operations;

"(ii) a person that is a lender and that holds indicia of ownership primarily to protect a security interest in a vessel or facility shall be considered to participate in management only if, while the borrower is still in possession of the vessel or facility encumbered by the security interest, the person—

"(I) exercises decisionmaking control over the environmental compliance related to the vessel or facility, such that the person has undertaken responsibility for the hazardous substance handling or disposal practices related to the vessel or facility; or

"(II) exercises control at a level comparable to that of a manager of the vessel or facility, such that the person has assumed or manifested responsibility—

"(aa) for the overall management of the vessel or facility encompassing day-to-day decisionmaking with respect to environmental compliance; or

"(bb) over all or substantially all of the operational functions (as distinguished from financial or administrative functions) of the vessel or facility other than the function of environmental compliance;

"(iii) the term 'participate in management' does not include performing an act or failing to act prior to the time at which a security interest is created in a vessel or facility; and

"(iv) the term 'participate in management' does not include—

"(I) holding a security interest or abandoning or releasing a security interest;

"(II) including in the terms of an extension of credit, or in a contract or security agreement

relating to the extension, a covenant, warranty, or other term or condition that relates to environmental compliance;

"(III) monitoring or enforcing the terms and conditions of the extension of credit or security interest;

"(IV) monitoring or undertaking 1 or more inspections of the vessel or facility;

"(V) requiring a response action or other lawful means of addressing the release or threatened release of a hazardous substance in connection with the vessel or facility prior to, during, or on the expiration of the term of the extension of credit;

"(VI) providing financial or other advice or counseling in an effort to mitigate, prevent, or cure default or diminution in the value of the vessel or facility;

"(VII) restructuring, renegotiating, or otherwise agreeing to alter the terms and conditions of the extension of credit or security interest, exercising forbearance;

"(VIII) exercising other remedies that may be available under applicable law for the breach of a term or condition of the extension of credit or security agreement; or

"(IX) conducting a response action under section 107(d) or under the direction of an on-scene coordinator appointed under the National Contingency Plan,

if the actions do not rise to the level of participating in management (within the meaning of clauses (i) and (ii)).

"(G) OTHER TERMS.—As used in this Act:

"(i) EXTENSION OF CREDIT.—The term 'extension of credit' includes a lease finance transaction—

"(I) in which the lessor does not initially select the leased vessel or facility and does not during the lease term control the daily operations or maintenance of the vessel or facility; or

"(II) that conforms with regulations issued by the appropriate Federal banking agency or the appropriate State bank supervisor (as those terms are defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813) or with regulations issued by the National Credit Union Administration Board, as appropriate.

"(ii) FINANCIAL OR ADMINISTRATIVE FUNCTION.—The term 'financial or administrative function' includes a function such as that of a credit manager, accounts payable officer, accounts receivable officer, personnel manager, comptroller, or chief financial officer, or a similar function.

"(iii) FORECLOSURE; FORECLOSE.—The terms 'foreclosure' and 'foreclose' mean, respectively, acquiring, and to acquire, a vessel or facility through—

"(I)(aa) purchase at sale under a judgment or decree, power of sale, or nonjudicial foreclosure sale;

"(bb) a deed in lieu of foreclosure, or similar conveyance from a trustee; or

"(cc) repossession,

if the vessel or facility was security for an extension of credit previously contracted;

"(II) conveyance pursuant to an extension of credit previously contracted, including the termination of a lease agreement; or

"(III) any other formal or informal manner by which the person acquires, for subsequent disposition, title to or possession of a vessel or facility in order to protect the security interest of the person.

"(iv) LENDER.—The term 'lender' means—

"(I) an insured depository institution (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813));

"(II) an insured credit union (as defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752));

"(III) a bank or association chartered under the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.);

"(IV) a leasing or trust company that is an affiliate of an insured depository institution;

"(V) any person (including a successor or assignee of any such person) that makes a bona fide extension of credit to or takes or acquires a security interest from a nonaffiliated person;

"(VI) the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Agricultural Mortgage Corporation, or any other entity that in a bona fide manner buys or sells loans or interests in loans;

"(VII) a person that insures or guarantees against a default in the repayment of an extension of credit, or acts as a surety with respect to an extension of credit, to a nonaffiliated person; and

"(VIII) a person that provides title insurance and that acquires a vessel or facility as a result of assignment or conveyance in the course of underwriting claims and claims settlement.

"(v) OPERATIONAL FUNCTION.—The term 'operational function' includes a function such as that of a facility or plant manager, operations manager, chief operating officer, or chief executive officer.

"(vi) SECURITY INTEREST.—The term 'security interest' includes a right under a mortgage, deed of trust, assignment, judgment lien, pledge, security agreement, factoring agreement, or lease and any other right accruing to a person to secure the repayment of money, the performance of a duty, or any other obligation by a nonaffiliated person.".

SEC. 2503. CONFORMING AMENDMENT.

Section 9003(h) of the Solid Waste Disposal Act (42 U.S.C. 6991b(h)) is amended by striking paragraph (9) and inserting the following:

"(9) DEFINITION OF OWNER OR OPERATOR.—

"(A) IN GENERAL.—As used in this subtitle, the terms 'owner' and 'operator' do not include a person that, without participating in the management of an underground storage tank and otherwise not engaged in petroleum production, refining, or marketing, holds indicia of ownership primarily to protect the person's security interest.

"(B) SECURITY INTEREST HOLDERS.—The provisions regarding holders of security interests in subparagraphs (E) through (G) of section 101(20) and the provisions regarding fiduciaries at section 107(n) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 shall apply in determining a person's liability as an owner or operator of an underground storage tank for the purposes of this subtitle.

"(C) EFFECT ON RULE.—Nothing in subparagraph (B) shall be construed as modifying or affecting the final rule issued by the Administrator on September 7, 1995 (60 Fed. Reg. 46,692), or as limiting the authority of the Administrator to amend the final rule, in accordance with applicable law. The final rule in effect on the date of enactment of this subparagraph shall prevail over any inconsistent provision regarding holders of security interests in subparagraphs (E) through (G) of section 101(20) or any inconsistent provision regarding fiduciaries in section 107(n) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980. Any amendment to the final rule shall be consistent with the provisions regarding holders of security interests in subparagraphs (E) through (G) of section 101(20) and the provisions regarding fiduciaries in section 107(n) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980. This subparagraph does not preclude judicial review of any amendment of the final rule made after the date of enactment of this subparagraph.".

SEC. 2504. LENDER LIABILITY RULE.

(a) IN GENERAL.—Effective on the date of enactment of this Act, the portion of the final rule issued by the Administrator of the Environmental Protection Agency on April 29, 1992 (57 Fed. Reg. 18,344), prescribing section 300.1105 of title 40, Code of Federal Regulations, shall be deemed to have been validly issued under authority of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) and to have been effective according to the terms of the final rule. No additional judicial proceedings shall be necessary or may be held with respect to such portion of the final rule. Any reference in that portion of the final rule to section 300.1100 of title 40, Code of Federal Regulations, shall be deemed to be a reference to the amendments made by this subtitle.

(b) JUDICIAL REVIEW.—Notwithstanding section 113(a) of the Comprehensive Environmental Response, Compensation, and

Liability Act of 1980 (42 U.S.C. 9613(a)), no court shall have jurisdiction to review the portion of the final rule issued by the Administrator of the Environmental Protection Agency on April 29, 1992 (57 Fed. Reg. 18,344) that prescribed section 300.1105 of title 40, Code of Federal Regulations.

(c) AMENDMENT.—No provision of this section shall be construed as limiting the authority of the President or a delegee of the President to amend the portion of the final rule issued by the Administrator of the Environmental Protection Agency on April 29, 1992 (57 Fed. Reg. 18,344), prescribing section 300.1105 of title 40, Code of Federal Regulations, consistent with the amendments made by this subtitle and other applicable law.

(d) JUDICIAL REVIEW.—No provision of this section shall be construed as precluding judicial review of any amendment of section 300.1105 of title 40, Code of Federal Regulations, made after the date of enactment of this Act.

42 USC 6991b note.

SEC. 2505. EFFECTIVE DATE.

The amendments made by this subtitle shall be applicable with respect to any claim that has not been finally adjudicated as of the date of enactment of this Act.

Subtitle F—Miscellaneous

SEC. 2601. FEDERAL RESERVE BOARD STUDY.

(a) STUDY OF ELECTRONIC STORED VALUE PRODUCTS.—

(1) STUDY.—The Board shall conduct a study of electronic stored value products which evaluates whether provisions of the Electronic Fund Transfer Act could be applied to such products without adversely impacting the cost, development, and operation of such products.

(2) CONSIDERATIONS.—In conducting its study under paragraph (1), the Board shall consider whether alternatives to regulation under the Electronic Fund Transfer Act, such as allowing competitive market forces to shape the development and operation of electronic stored value products, could more efficiently achieve the objectives embodied in that Act.

(b) REPORT.—The Board shall submit a report of its study under subsection (a) to the Congress not later than 6 months after the date of enactment of this Act.

(c) ACTION TO FINALIZE.—The Board shall take no action to finalize any amendments to regulations under the Electronic Fund Transfer Act that would regulate electronic stored value products until the later of—

(1) 3 months after the date on which the report is submitted to the Congress under subsection (b); or

(2) 9 months after the date of enactment of this Act.

SEC. 2602. TREATMENT OF CLAIMS ARISING FROM BREACH OF CONTRACTS EXECUTED BY THE RECEIVER OR CONSERVATOR.

Section 11(d) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)) is amended by adding at the end the following new paragraph:

"(20) TREATMENT OF CLAIMS ARISING FROM BREACH OF CONTRACTS EXECUTED BY THE RECEIVER OR CONSERVATOR.—Notwithstanding any other provision of this subsection, any final

and unappealable judgment for monetary damages entered against a receiver or conservator for an insured depository institution for the breach of an agreement executed or approved by such receiver or conservator after the date of its appointment shall be paid as an administrative expense of the receiver or conservator. Nothing in this paragraph shall be construed to limit the power of a receiver or conservator to exercise any rights under contract or law, including to terminate, breach, cancel, or otherwise discontinue such agreement.".

SEC. 2603. CRIMINAL SANCTIONS FOR FICTITIOUS FINANCIAL INSTRUMENTS AND COUNTERFEITING.

(a) INCREASED PENALTIES FOR COUNTERFEITING VIOLATIONS.—Sections 474 and 474A of title 18, United States Code, are amended by striking "class C felony" each place that term appears and inserting "class B felony".

(b) CRIMINAL PENALTY FOR PRODUCTION, SALE, TRANSPORTATION, POSSESSION OF FICTITIOUS FINANCIAL INSTRUMENTS PURPORTING TO BE THOSE OF THE STATES, OF POLITICAL SUBDIVISIONS, AND OF PRIVATE ORGANIZATIONS.—

(1) IN GENERAL.—Chapter 25 of title 18, United States Code, is amended by inserting after section 513, the following new section:

"§ 514. Fictitious obligations

"(a) Whoever, with the intent to defraud—

"(1) draws, prints, processes, produces, publishes, or otherwise makes, or attempts or causes the same, within the United States;

"(2) passes, utters, presents, offers, brokers, issues, sells, or attempts or causes the same, or with like intent possesses, within the United States; or

"(3) utilizes interstate or foreign commerce, including the use of the mails or wire, radio, or other electronic communication, to transmit, transport, ship, move, transfer, or attempts or causes the same, to, from, or through the United States,

any false or fictitious instrument, document, or other item appearing, representing, purporting, or contriving through scheme or artifice, to be an actual security or other financial instrument issued under the authority of the United States, a foreign government, a State or other political subdivision of the United States, or an organization, shall be guilty of a class B felony.

"(b) For purposes of this section, any term used in this section that is defined in section 513(c) has the same meaning given such term in section 513(c).

"(c) The United States Secret Service, in addition to any other agency having such authority, shall have authority to investigate offenses under this section.".

(2) TECHNICAL AMENDMENT.—The analysis for chapter 25 of title 18, United States Code, is amended by inserting after the item relating to section 513 the following:

"514. Fictitious obligations.".

SEC. 2604. AMENDMENTS TO THE TRUTH IN SAVINGS ACT.

(a) REPEAL.—Effective as of the end of the 5-year period beginning on the date of the enactment of this Act, section 271 of the Truth in Savings Act (12 U.S.C. 4310) is repealed.

(b) ON-PREMISES DISPLAYS.—Section 263(c) of the Truth in Savings Act (12 U.S.C. 4302(c)) is amended—

(1) by striking paragraph (2);

(2) by striking "(1) IN GENERAL.—"; and

(3) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively, and indenting appropriately.

(c) DEPOSITORY INSTITUTION DEFINITION.—Section 274(6) of the Truth in Savings Act (12 U.S.C. 4313(6)) is amended by inserting before the period ", but does not include any nonautomated credit union that was not required to comply with the requirements of this title as of the date of enactment of the Economic Growth and Regulatory Paperwork Reduction Act of 1996, pursuant to the determination of the National Credit Union Administration Board".

(d) TIME DEPOSITS.—Section 266(a)(3) of the Truth in Savings Act (12 U.S.C. 4305(a)(3)) is amended by inserting "has a maturity of more than 30 days" after "deposit which".

15 USC 1667 note.

SEC. 2605. CONSUMER LEASING ACT AMENDMENTS.

(a) CONGRESSIONAL FINDINGS AND DECLARATION OF PURPOSES.—

(1) FINDINGS.—The Congress finds that—

(A) competition among the various financial institutions and other firms engaged in the business of consumer leasing is greatest when there is informed use of leasing;

(B) the informed use of leasing results from an awareness of the cost of leasing by consumers; and

(C) there has been a continued trend toward leasing automobiles and other durable goods for consumer use as an alternative to installment credit sales and that leasing product advances have occurred such that lessors have been unable to provide consistent industry-wide disclosures to fully account for the competitive progress that has occurred.

(2) PURPOSES.—The purposes of this section are—

(A) to assure a simple, meaningful disclosure of leasing terms so that the consumer will be able to compare more readily the various leasing terms available to the consumer and avoid the uninformed use of leasing, and to protect the consumer against inaccurate and unfair leasing practices;

(B) to provide for adequate cost disclosures that reflect the marketplace without impairing competition and the development of new leasing products; and

(C) to provide the Board with the regulatory authority to assure a simplified, meaningful definition and disclosure of the terms of certain leases of personal property for personal, family, or household purposes so as to—

(i) enable the lessee to compare more readily the various lease terms available to the lessee;

(ii) enable comparison of lease terms with credit terms, as appropriate; and

(iii) assure meaningful and accurate disclosures of lease terms in advertisements.

(b) REGULATIONS.—

(1) IN GENERAL.—Chapter 5 of the Truth in Lending Act (15 U.S.C. 1667 et seq.) is amended by adding at the end the following new section:

"SEC. 187. REGULATIONS. 15 USC 1667f.

"(a) REGULATIONS AUTHORIZED.—

"(1) IN GENERAL.—The Board shall prescribe regulations to update and clarify the requirements and definitions applicable to lease disclosures and contracts, and any other issues specifically related to consumer leasing, to the extent that the Board determines such action to be necessary—

"(A) to carry out this chapter;

"(B) to prevent any circumvention of this chapter; or

"(C) to facilitate compliance with the requirements of the chapter.

"(2) CLASSIFICATIONS, ADJUSTMENTS.—Any regulations prescribed under paragraph (1) may contain classifications and differentiations, and may provide for adjustments and exceptions for any class of transactions, as the Board considers appropriate.

"(b) MODEL DISCLOSURE.—

"(1) PUBLICATION.—The Board shall establish and publish model disclosure forms to facilitate compliance with the disclosure requirements of this chapter and to aid the consumer in understanding the transaction to which the subject disclosure form relates.

"(2) USE OF AUTOMATED EQUIPMENT.—In establishing model forms under this subsection, the Board shall consider the use by lessors of data processing or similar automated equipment.

"(3) USE OPTIONAL.—A lessor may utilize a model disclosure form established by the Board under this subsection for purposes of compliance with this chapter, at the discretion of the lessor.

"(4) EFFECT OF USE.—Any lessor who properly uses the material aspects of any model disclosure form established by the Board under this subsection shall be deemed to be in compliance with the disclosure requirements to which the form relates.".

(2) EFFECTIVE DATE.— 15 USC 1667f note.

(A) IN GENERAL.—Any regulation of the Board, or any amendment or interpretation of any regulation of the Board issued pursuant to section 187 of the Truth in Lending Act (as added by paragraph (1) of this subsection), shall become effective on the first October 1 that follows the date of promulgation of that regulation, amendment, or interpretation by not less than 6 months.

(B) LONGER PERIOD.—The Board may, at the discretion of the Board, extend the time period referred to in subparagraph (A) in accordance with subparagraph (C), to permit lessors to adjust their disclosure forms to accommodate the requirements of section 127 of the Truth in Lending Act (as added by paragraph (1) of this subsection).

(C) SHORTER PERIOD.—The Board may shorten the time period referred to in subparagraph (A), if the Board makes a specific finding that such action is necessary to comply with the findings of a court or to prevent an unfair or deceptive practice.

(D) COMPLIANCE BEFORE EFFECTIVE DATE.—Any lessor may comply with any means of disclosure provided for in section 127 of the Truth in Lending Act (as added by paragraph (1) of this subsection) before the effective date of such requirement.

(E) DEFINITIONS.—For purposes of this subsection, the term "lessor" has the same meaning as in section 181 of the Truth in Lending Act.

(3) CLERICAL AMENDMENT.—The table of sections for chapter 5 of title I of the Truth in Lending Act (15 U.S.C. 1601 et seq.) is amended by inserting after the item relating to section 186 the following new item:

"187. Regulations.".

(c) CONSUMER LEASE ADVERTISING.—Section 184 of the Truth in Lending Act (15 U.S.C. 1667c) is amended—

(1) by striking subsections (a) and (c);

(2) by redesignating subsection (b) as subsection (c); and

(3) by inserting before subsection (c), as so redesignated, the following:

"(a) IN GENERAL.—If an advertisement for a consumer lease includes a statement of the amount of any payment or a statement that any or no initial payment is required, the advertisement shall clearly and conspicuously state, as applicable—

"(1) the transaction advertised is a lease;

"(2) the total amount of any initial payments required on or before consummation of the lease or delivery of the property, whichever is later;

"(3) that a security deposit is required;

"(4) the number, amount, and timing of scheduled payments; and

"(5) with respect to a lease in which the liability of the consumer at the end of the lease term is based on the anticipated residual value of the property, that an extra charge may be imposed at the end of the lease term.

"(b) ADVERTISING MEDIUM NOT LIABLE.—No owner or employee of any entity that serves as a medium in which an advertisement appears or through which an advertisement is disseminated, shall be liable under this section.".

12 USC 1752a note.

SEC. 2606. STUDY OF CORPORATE CREDIT UNIONS.

(a) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) ADMINISTRATION.—The term "Administration" means the National Credit Union Administration.

(2) BOARD.—The term "Board" means the National Credit Union Administration Board.

(3) CORPORATE CREDIT UNION.—The term "corporate credit union" has the meaning given such term by rule or regulation of the Board.

(4) FUND.—The term "Fund" means the National Credit Union Share Insurance Fund established under section 203 of the Federal Credit Union Act.

(5) SECRETARY.—The term "Secretary" means the Secretary of the Treasury.

(b) STUDY.—

(1) IN GENERAL.—The Secretary, in consultation with the Board, the Corporation, the Comptroller of the Currency, and the Administration, shall conduct a study and evaluation of—

(A) the oversight and supervisory practices of the Administration concerning the Fund, including the treatment of amounts deposited in the Fund pursuant to section 202(c) of the Federal Credit Union Act, including analysis of—

(i) whether those amounts should be—

(I) refundable; or

(II) treated as expenses; and

(ii) the use of those amounts in determining equity capital ratios;

(B) the potential for, and potential effects of, administration of the Fund by an entity other than the Administration;

(C) the 10 largest corporate credit unions in the United States, conducted in cooperation with appropriate employees of other Federal agencies with expertise in the examination of federally insured financial institutions, including—

(i) the investment practices of those credit unions; and

(ii) the financial stability, financial operations, and financial controls of those credit unions;

(D) the regulations of the Administration; and

(E) the supervision of corporate credit unions by the Administration.

(c) REPORT.—Not later than 12 months after the date of enactment of this Act, the Secretary shall submit to the appropriate committees of the Congress, a report that includes the results of the study and evaluation conducted under subsection (b), together with any recommendations that the Secretary considers to be appropriate.

SEC. 2607. REPORT ON THE RECONCILIATION OF DIFFERENCES BETWEEN REGULATORY ACCOUNTING PRINCIPLES AND GENERALLY ACCEPTED ACCOUNTING PRINCIPLES.

Not later than 180 days after the date of enactment of this Act, each appropriate Federal banking agency shall submit to the Committee on Banking and Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, a report describing both the actions that have been taken by the agency and the actions that will be taken by the agency to eliminate or conform inconsistent or duplicative accounting and reporting requirements applicable to reports or statements filed with any such agency by insured depository institutions, as required by section 121 of the Federal Deposit Insurance Corporation Improvement Act of 1991.

SEC. 2608. STATE-BY-STATE AND METROPOLITAN AREA-BY-METROPOLITAN AREA STUDY OF BANK FEES.

Section 1002(b)(2)(A) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1811 note) is amended to read as follows:

"(A) a description of any discernible trend, in the Nation as a whole, in each of the 50 States, and in each consolidated metropolitan statistical area or primary metropolitan statistical area (as defined by the Director of the

Office of Management and Budget), in the cost and availability of retail banking services (including fees imposed for providing such services), that delineates differences between insured depository institutions on the basis of both the size of the institution and any engagement of the institution in multistate activity; and".

SEC. 2609. PROSPECTIVE APPLICATION OF GOLD CLAUSES IN CONTRACTS.

Section 5118(d)(2) of title 31, United States Code, is amended by adding at the end the following: "This paragraph shall apply to any obligation issued on or before October 27, 1977, notwithstanding any assignment or novation of such obligation after October 27, 1977, unless all parties to the assignment or novation specifically agree to include a gold clause in the new agreement. Nothing in the preceding sentence shall be construed to affect the enforceability of a Gold Clause contained in any obligation issued after October 27, 1977 if the enforceability of that Gold Clause has been finally adjudicated before the date of enactment of the Economic Growth and Regulatory Paperwork Reduction Act of 1996.".

SEC. 2610. QUALIFIED FAMILY PARTNERSHIPS.

Section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841) is amended—

(1) in subsection (b), by inserting ", and shall not include a qualified family partnership" after "by any State"; and

(2) in subsection (o), by adding at the end the following:

"(10) QUALIFIED FAMILY PARTNERSHIP.—The term 'qualified family partnership' means a general or limited partnership that the Board determines—

"(A) does not directly control any bank, except through a registered bank holding company;

"(B) does not control more than 1 registered bank holding company;

"(C) does not engage in any business activity, except indirectly through ownership of other business entities;

"(D) has no investments other than those permitted for a bank holding company pursuant to section 4(c);

"(E) is not obligated on any debt, either directly or as a guarantor;

"(F) has partners, all of whom are either—

"(i) individuals related to each other by blood, marriage (including former marriage), or adoption; or

"(ii) trusts for the primary benefit of individuals related as described in clause (i); and

"(G) has filed with the Board a statement that includes—

"(i) the basis for the eligibility of the partnership under subparagraph (F);

"(ii) a list of the existing activities and investments of the partnership;

"(iii) a commitment to comply with this paragraph;

"(iv) a commitment to comply with section 7 of the Federal Deposit Insurance Act with respect to any acquisition of control of an insured depository institution occurring after date of enactment of this paragraph; and

"(v) a commitment to be subject, to the same extent as if the qualified family partnership were a bank holding company—

"(I) to examination by the Board to assure compliance with this paragraph; and

"(II) to section 8 of the Federal Deposit Insurance Act.".

SEC. 2611. COOPERATIVE EFFORTS BETWEEN DEPOSITORY INSTITUTIONS AND FARMERS AND RANCHERS IN DROUGHT-STRICKEN AREAS.

(a) FINDINGS.—The Congress hereby finds the following:

(1) Severe drought is being experienced in the Plains and the Southwest portions of our country.

(2) Soil erosion is becoming a critical issue as the dry season approaches and summer winds may rob these fields of nutrient-rich topsoil.

(3) Without immediate assistance, ranchers and farmers would be forced to cull their herds bringing tremendous volatility in the beef market.

(4) The American people will feel the impact of this drought in their pocketbooks through higher prices for grain products.

(5) The communities in drought-stricken areas are suffering and borrowers may have difficulty meeting their obligations to financial institutions.

(6) Congress has already passed the Depository Institutions Disaster Relief Act of 1992 which allows financial institutions to make emergency exceptions to the appraisal requirement in times of national disasters.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that financial institutions and Federal bank regulators should work cooperatively with farmers and ranchers in communities affected by drought conditions to allow financial obligations to be met without imposing undue burdens.

SEC. 2612. STREAMLINING PROCESS FOR DETERMINING NEW NON-BANKING ACTIVITIES.

Section 4(c)(8) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)(8)) is amended by striking "and opportunity for hearing" and inserting the following: "(and opportunity for hearing in the case of an acquisition of a savings association)".

SEC. 2613. AUTHORIZING BANK SERVICE COMPANIES TO ORGANIZE AS LIMITED LIABILITY COMPANIES.

(a) AMENDMENT TO SHORT TITLE.—Section 1 of the Bank Service Corporation Act (12 U.S.C. 1861(a)) is amended by striking subsection (a) and inserting the following new subsection:

"(a) SHORT TITLE.—This Act may be cited as the 'Bank Service Company Act'.";

(b) AMENDMENTS TO DEFINITIONS.—Section 1(b) of the Bank Service Corporation Act (12 U.S.C. 1861(b)) is amended—

(1) by striking paragraph (2) and inserting the following new paragraph:

"(2) the term 'bank service company' means—

"(A) any corporation—

"(i) which is organized to perform services authorized by this Act; and

"(ii) all of the capital stock of which is owned by 1 or more insured banks; and

"(B) any limited liability company—

"(i) which is organized to perform services authorized by this Act; and

"(ii) all of the members of which are 1 or more insured banks.";

(2) in paragraph (6)—

(A) by striking "corporation" and inserting "company"; and

(B) by striking "and" after the semicolon;

(3) by redesignating paragraph (7) as paragraph (8) and inserting after paragraph (6) the following new paragraph:

"(7) the term 'limited liability company' means any company, partnership, trust, or similar business entity organized under the law of a State (as defined in section 3 of the Federal Deposit Insurance Act) which provides that a member or manager of such company is not personally liable for a debt, obligation, or liability of the company solely by reason of being, or acting as, a member or manager of such company; and"; and

(4) in paragraph (8) (as so redesignated)—

(A) by striking "corporation" each place such term appears and inserting "company"; and

(B) by striking "capital stock" and inserting "equity".

(c) AMENDMENTS TO SECTION 2.—Section 2 of the Bank Service Corporation Act (12 U.S.C. 1862) is amended—

(1) by striking "corporation" and inserting "company";

(2) by striking "corporations" and inserting "companies"; and

(3) in the heading for such section, by striking "CORPORATION" and inserting "COMPANY".

(d) AMENDMENTS TO SECTION 3.—Section 3 of the Bank Service Corporation Act (12 U.S.C. 1863) is amended—

(1) by striking "corporation" each place such term appears and inserting "company"; and

(2) in the heading for such section, by striking "CORPORATION" and inserting "COMPANY".

(e) AMENDMENTS TO SECTION 4.—Section 4 of the Bank Service Corporation Act (12 U.S.C. 1864) is amended—

(1) by striking "corporation" each place such term appears and inserting "company";

(2) in subsection (b), by inserting "or members" after "shareholders" each place such term appears;

(3) in subsections (c) and (d), by inserting "or member" after "shareholder" each place such term appears;

(4) in subsection (e)—

(A) by inserting "or members" after "national bank and State bank shareholders";

(B) by striking "its national bank shareholder or shareholders" and inserting "any shareholder or member of the company which is a national bank";

(C) by striking "its State bank shareholder or shareholders" and inserting "any shareholder or member of the company which is a State bank";

(D) by striking "such State bank or banks" and inserting "any such State bank"; and

(E) by inserting "or members" after "State bank and national bank shareholders"; and

(5) in the heading for such section, by striking "CORPORATION" and inserting "COMPANY".

(f) AMENDMENTS TO SECTION 5.—Section 5 of the Bank Service Corporation Act (12 U.S.C. 1865) is amended—

(1) by striking "corporation" each place such term appears and inserting "company"; and

(2) in the heading for such section, by striking "CORPORATIONS" and inserting "COMPANIES".

(g) AMENDMENTS TO SECTION 6.—Section 6 of the Bank Service Corporation Act (12 U.S.C. 1866) is amended—

(1) by striking "corporation" each place such term appears and inserting "company";

(2) by inserting "or is not a member of" after "does not own stock in";

(3) by striking "the nonstockholding institution" and inserting "such depository institution";

(4) by inserting "or is a member of" after "that owns stock in";

(5) in paragraphs (1) and (2), by inserting "or nonmember" after "nonstockholding"; and

(6) in the heading for such section by inserting "OR NONMEMBERS" after "NONSTOCKHOLDERS".

(h) AMENDMENTS TO SECTION 7.—Section 7 of the Bank Service Corporation Act (12 U.S.C. 1867) is amended—

(1) by striking "corporation" each place such term appears and inserting "company";

(2) in subsection (a)—

(A) by inserting "or principal member" after "principal shareholder"; and

(B) by inserting "or member" after "other shareholder"; and

(3) in the heading for such section, by striking "CORPORATIONS" and inserting "COMPANIES".

SEC. 2614. RETIREMENT CERTIFICATES OF DEPOSITS.

(a) IN GENERAL.—Section 3(l)(5) of the Federal Deposit Insurance Act (12 U.S.C. 1813(l)(5) is amended—

(1) in subparagraph (A), by striking "and" at the end;

(2) in subparagraph (B), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(C) any liability of an insured depository institution that arises under an annuity contract, the income of which is tax deferred under section 72 of the Internal Revenue Code of 1986.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to any liability of an insured depository that arises under an annuity contract issued on or after the date of enactment of this Act. 12 USC 1813 note.

SEC. 2615. PROHIBITIONS ON CERTAIN DEPOSITORY INSTITUTION ASSOCIATIONS WITH GOVERNMENT-SPONSORED ENTERPRISES.

(a) CREDIT UNIONS.—Section 201 of the Federal Credit Union Act (12 U.S.C. 1781) is amended by adding at the end the following new subsection:

"(e) PROHIBITION ON CERTAIN ASSOCIATIONS.—

"(1) IN GENERAL.—No insured credit union may be sponsored by or accept financial support, directly or indirectly, from any Government-sponsored enterprise, if the credit union includes the customers of the Government-sponsored enterprise in the field of membership of the credit union.

"(2) ROUTINE BUSINESS FINANCING.—Paragraph (1) shall not apply with respect to advances or other forms of financial assistance generally provided by a Government-sponsored enterprise in the ordinary course of business of the enterprise.

"(3) GOVERNMENT-SPONSORED ENTERPRISE DEFINED.—For purposes of this subsection, the term 'Government-sponsored enterprise' has the meaning given to such term in section 1404(e)(1)(A) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

"(4) EMPLOYEE CREDIT UNION.—No provision of this subsection shall be construed as prohibiting any employee of a Government-sponsored enterprise from becoming a member of a credit union whose field of membership is the employees of such enterprise.".

(b) BANKS AND SAVINGS ASSOCIATIONS.—Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by adding at the end the following new subsection:

"(s) PROHIBITION ON CERTAIN AFFILIATIONS.—

"(1) IN GENERAL.—No depository institution may be an affiliate of, be sponsored by, or accept financial support, directly or indirectly, from any Government-sponsored enterprise.

"(2) EXCEPTION FOR MEMBERS OF A FEDERAL HOME LOAN BANK.—Paragraph (1) shall not apply with respect to the membership of a depository institution in a Federal home loan bank.

"(3) ROUTINE BUSINESS FINANCING.—Paragraph (1) shall not apply with respect to advances or other forms of financial assistance provided by a Government-sponsored enterprise pursuant to the statutes governing such enterprise.

"(4) GOVERNMENT-SPONSORED ENTERPRISE DEFINED.—For purposes of this subsection, the term 'Government-sponsored enterprise' has the meaning given to such term in section 1404(e)(1)(A) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.".

12 USC 1781 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply on and after January 1, 1996.

Subtitle G—Deposit Insurance Funds

Deposit Insurance Funds Act of 1996.

12 USC 1811 note.

SEC. 2701. SHORT TITLE.

This subtitle may be cited as the "Deposit Insurance Funds Act of 1996".

12 USC 1817 note.

SEC. 2702. SPECIAL ASSESSMENT TO CAPITALIZE SAIF.

(a) IN GENERAL.—Except as provided in subsection (f), the Board of Directors of the Federal Deposit Insurance Corporation shall impose a special assessment on the SAIF-assessable deposits of each insured depository institution in accordance with assessment regulations of the Corporation at a rate applicable to all such

institutions that the Board of Directors, in its sole discretion, determines (after taking into account the adjustments described in subsections (g), (h), and (j)) will cause the Savings Association Insurance Fund to achieve the designated reserve ratio on the first business day of the 1st month beginning after the date of the enactment of this Act.

(b) FACTORS TO BE CONSIDERED.—In carrying out subsection (a), the Board of Directors shall base its determination on—

(1) the monthly Savings Association Insurance Fund balance most recently calculated;

(2) data on insured deposits reported in the most recent reports of condition filed not later than 70 days before the date of enactment of this Act by insured depository institutions; and

(3) any other factors that the Board of Directors deems appropriate.

(c) DATE OF DETERMINATION.—For purposes of subsection (a), the amount of the SAIF-assessable deposits of an insured depository institution shall be determined as of March 31, 1995.

(d) DATE PAYMENT DUE.—Except as provided in subsection (g), the special assessment imposed under this section shall be—

(1) due on the first business day of the 1st month beginning after the date of the enactment of this Act; and

(2) paid to the Corporation on the later of—

(A) the first business day of the 1st month beginning after such date of enactment; or

(B) such other date as the Corporation shall prescribe, but not later than 60 days after the date of enactment of this Act.

(e) ASSESSMENT DEPOSITED IN SAIF.—Notwithstanding any other provision of law, the proceeds of the special assessment imposed under this section shall be deposited in the Savings Association Insurance Fund.

(f) EXEMPTIONS FOR CERTAIN INSTITUTIONS.—

(1) EXEMPTION FOR WEAK INSTITUTIONS.—The Board of Directors may, by order, in its sole discretion, exempt any insured depository institution that the Board of Directors determines to be weak, from paying the special assessment imposed under this section if the Board of Directors determines that the exemption would reduce risk to the Savings Association Insurance Fund.

(2) GUIDELINES REQUIRED.—Not later than 30 days after the date of enactment of this Act, the Board of Directors shall prescribe guidelines setting forth the criteria that the Board of Directors will use in exempting institutions under paragraph (1). Such guidelines shall be published in the Federal Register.

(3) EXEMPTION FOR CERTAIN NEWLY CHARTERED AND OTHER DEFINED INSTITUTIONS.—

(A) IN GENERAL.—In addition to the institutions exempted from paying the special assessment under paragraph (1), the Board of Directors shall exempt any insured depository institution from payment of the special assessment if the institution—

(i) was in existence on October 1, 1995, and held no SAIF-assessable deposits before January 1, 1993;

(ii) is a Federal savings bank which—

(I) was established de novo in April 1994 in order to acquire the deposits of a savings association which was in default or in danger of default; and

(II) received minority interim capital assistance from the Resolution Trust Corporation under section 21A(w) of the Federal Home Loan Bank Act in connection with the acquisition of any such savings association; or

(iii) is a savings association, the deposits of which are insured by the Savings Association Insurance Fund, which—

(I) before January 1, 1987, was chartered as a Federal savings bank insured by the Federal Savings and Loan Insurance Corporation for the purpose of acquiring all or substantially all of the assets and assuming all or substantially all of the deposit liabilities of a national bank in a transaction consummated after July 1, 1986; and

(II) as of the date of that transaction, had assets of less than $150,000,000.

(B) DEFINITION.—For purposes of this paragraph, an institution shall be deemed to have held SAIF-assessable deposits before January 1, 1993, if—

(i) it directly held SAIF-assessable deposits before that date; or

(ii) it succeeded to, acquired, purchased, or otherwise holds any SAIF-assessable deposits as of the date of enactment of this Act that were SAIF-assessable deposits before January 1, 1993.

(4) EXEMPT INSTITUTIONS REQUIRED TO PAY ASSESSMENTS AT FORMER RATES.—

(A) PAYMENTS TO SAIF AND DIF.—Any insured depository institution that the Board of Directors exempts under this subsection from paying the special assessment imposed under this section shall pay semiannual assessments—

(i) during calendar years 1996, 1997, and 1998, into the Savings Association Insurance Fund, based on SAIF-assessable deposits of that institution, at assessment rates calculated under the schedule in effect for Savings Association Insurance Fund members on June 30, 1995; and

(ii) during calendar year 1999—

(I) into the Deposit Insurance Fund, based on SAIF-assessable deposits of that institution as of December 31, 1998, at assessment rates calculated under the schedule in effect for Savings Association Insurance Fund members on June 30, 1995; or

(II) in accordance with clause (i), if the Bank Insurance Fund and the Savings Association Insurance Fund are not merged into the Deposit Insurance Fund.

(B) OPTIONAL PRO RATA PAYMENT OF SPECIAL ASSESSMENT.—This paragraph shall not apply with respect to any insured depository institution (or successor insured depository institution) that has paid, during any calendar

year from 1997 through 1999, upon such terms as the Corporation may announce, an amount equal to the product of—

(i) 16.7 percent of the special assessment that the institution would have been required to pay under subsection (a), if the Board of Directors had not exempted the institution; and

(ii) the number of full semiannual periods remaining between the date of the payment and December 31, 1999.

(g) SPECIAL ELECTION FOR CERTAIN INSTITUTIONS FACING HARDSHIP AS A RESULT OF THE SPECIAL ASSESSMENT.—

(1) ELECTION AUTHORIZED.—If—

(A) an insured depository institution, or any depository institution holding company which, directly or indirectly, controls such institution, is subject to terms or covenants in any debt obligation or preferred stock outstanding on September 13, 1995; and

(B) the payment of the special assessment under subsection (a) would pose a significant risk of causing such depository institution or holding company to default or violate any such term or covenant,

the depository institution may elect, with the approval of the Corporation, to pay such special assessment in accordance with paragraphs (2) and (3) in lieu of paying such assessment in the manner required under subsection (a).

(2) 1ST ASSESSMENT.—An insured depository institution which makes an election under paragraph (1) shall pay an assessment in an amount equal to 50 percent of the amount of the special assessment that would otherwise apply under subsection (a), by the date on which such special assessment is payable under subsection (d).

(3) 2D ASSESSMENT.—An insured depository institution which makes an election under paragraph (1) shall pay a 2d assessment, by the date established by the Board of Directors in accordance with paragraph (4), in an amount equal to the product of 51 percent of the rate determined by the Board of Directors under subsection (a) for determining the amount of the special assessment and the SAIF-assessable deposits of the institution on March 31, 1996, or such other date in calendar year 1996 as the Board of Directors determines to be appropriate.

(4) DUE DATE OF 2D ASSESSMENT.—The date established by the Board of Directors for the payment of the assessment under paragraph (3) by a depository institution shall be the earliest practicable date which the Board of Directors determines to be appropriate, which is at least 15 days after the date used by the Board of Directors under paragraph (3).

(5) SUPPLEMENTAL SPECIAL ASSESSMENT.—An insured depository institution which makes an election under paragraph (1) shall pay a supplemental special assessment, at the same time the payment under paragraph (3) is made, in an amount equal to the product of—

(A) 50 percent of the rate determined by the Board of Directors under subsection (a) for determining the amount of the special assessment; and

(B) 95 percent of the amount by which the SAIF-assessable deposits used by the Board of Directors for determining the amount of the 1st assessment under paragraph (2) exceeds, if any, the SAIF-assessable deposits used by the Board for determining the amount of the 2d assessment under paragraph (3).

(h) ADJUSTMENT OF SPECIAL ASSESSMENT FOR CERTAIN BANK INSURANCE FUND MEMBER BANKS.—

(1) IN GENERAL.—For purposes of computing the special assessment imposed under this section with respect to a Bank Insurance Fund member bank, the amount of any deposits of any insured depository institution which section 5(d)(3) of the Federal Deposit Insurance Act treats as insured by the Savings Association Insurance Fund shall be reduced by 20 percent—

(A) if the adjusted attributable deposit amount of the Bank Insurance Fund member bank is less than 50 percent of the total domestic deposits of that member bank as of June 30, 1995; or

(B) if, as of June 30, 1995, the Bank Insurance Fund member—

(i) had an adjusted attributable deposit amount equal to less than 75 percent of the total assessable deposits of that member bank;

(ii) had total assessable deposits greater than $5,000,000,000; and

(iii) was owned or controlled by a bank holding company that owned or controlled insured depository institutions having an aggregate amount of deposits insured or treated as insured by the Bank Insurance Fund greater than the aggregate amount of deposits insured or treated as insured by the Savings Association Insurance Fund.

(2) ADJUSTED ATTRIBUTABLE DEPOSIT AMOUNT.—For purposes of this subsection, the "adjusted attributable deposit amount" shall be determined in accordance with section 5(d)(3)(C) of the Federal Deposit Insurance Act.

(i) ADJUSTMENT TO THE ADJUSTED ATTRIBUTABLE DEPOSIT AMOUNT FOR CERTAIN BANK INSURANCE FUND MEMBER BANKS.—Section 5(d)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1815(d)(3)) is amended—

(1) in subparagraph (C), by striking "The adjusted attributable deposit amount" and inserting "Except as provided in subparagraph (K), the adjusted attributable deposit amount"; and

(2) by adding at the end the following new subparagraph:

"(K) ADJUSTMENT OF ADJUSTED ATTRIBUTABLE DEPOSIT AMOUNT.—The amount determined under subparagraph (C)(i) for deposits acquired by March 31, 1995, shall be reduced by 20 percent for purposes of computing the adjusted attributable deposit amount for the payment of any assessment for any semiannual period that begins after the date of the enactment of the Deposit Insurance Funds Act of 1996 (other than the special assessment imposed under section 2702(a) of such Act), for a Bank Insurance Fund member bank that, as of June 30, 1995—

"(i) had an adjusted attributable deposit amount that was less than 50 percent of the total deposits of that member bank; or

"(ii)(I) had an adjusted attributable deposit amount equal to less than 75 percent of the total assessable deposits of that member bank;

"(II) had total assessable deposits greater than $5,000,000,000; and

"(III) was owned or controlled by a bank holding company that owned or controlled insured depository institutions having an aggregate amount of deposits insured or treated as insured by the Bank Insurance Fund greater than the aggregate amount of deposits insured or treated as insured by the Savings Association Insurance Fund.".

(j) ADJUSTMENT OF SPECIAL ASSESSMENT FOR CERTAIN SAVINGS ASSOCIATIONS.—

(1) SPECIAL ASSESSMENT REDUCTION.—For purposes of computing the special assessment imposed under this section, in the case of any converted association, the amount of any deposits of such association which were insured by the Savings Association Insurance Fund as of March 31, 1995, shall be reduced by 20 percent.

(2) CONVERTED ASSOCIATION.—For purposes of this subsection, the term "converted association" means—

(A) any Federal savings association—

(i) that is a member of the Savings Association Insurance Fund and that has deposits subject to assessment by that fund which did not exceed $4,000,000,000, as of March 31, 1995; and

(ii) that had been, or is a successor by merger, acquisition, or otherwise to an institution that had been, a State savings bank, the deposits of which were insured by the Federal Deposit Insurance Corporation before August 9, 1989, that converted to a Federal savings association pursuant to section 5(i) of the Home Owners' Loan Act before January 1, 1985;

(B) a State depository institution that is a member of the Savings Association Insurance Fund that had been a State savings bank before October 15, 1982, and was a Federal savings association on August 9, 1989;

(C) an insured bank that—

(i) was established de novo in order to acquire the deposits of a savings association in default or in danger of default;

(ii) did not open for business before acquiring the deposits of such savings association; and

(iii) was a Savings Association Insurance Fund member before the date of enactment of this Act; and

(D) an insured bank that—

(i) resulted from a savings association before December 19, 1991, in accordance with section 5(d)(2)(G) of the Federal Deposit Insurance Act; and

(ii) had an increase in its capital in conjunction with the conversion in an amount equal to more than 75 percent of the capital of the institution on the day before the date of the conversion.

SEC. 2703. FINANCING CORPORATION FUNDING.

(a) IN GENERAL.—Section 21 of the Federal Home Loan Bank Act (12 U.S.C. 1441) is amended—

(1) in subsection (f)(2)—

(A) in the matter immediately preceding subparagraph (A)—

(i) by striking "To the extent the amounts available pursuant to paragraph (1) are insufficient to cover the amount of interest payments, issuance costs, and custodial fees," and inserting "In addition to the amounts obtained pursuant to paragraph (1),";

(ii) by striking "Savings Association Insurance Fund member" and inserting "insured depository institution"; and

(iii) by striking "members" and inserting "institutions"; and

(B) by striking ", except that—" and all that follows through the end of the paragraph and inserting ", except that—

"(A) the assessments imposed on insured depository institutions with respect to any BIF-assessable deposit shall be assessed at a rate equal to ⅕ of the rate of the assessments imposed on insured depository institutions with respect to any SAIF-assessable deposit; and

"(B) no limitation under clause (i) or (iii) of section 7(b)(2)(A) of the Federal Deposit Insurance Act shall apply for purposes of this paragraph."; and

(2) in subsection (k)—

(A) by striking "section—" and inserting "section, the following definitions shall apply:";

(B) by striking paragraph (1);

(C) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively; and

(D) by adding at the end the following new paragraphs:

"(3) INSURED DEPOSITORY INSTITUTION.—The term 'insured depository institution' has the same meaning as in section 3 of the Federal Deposit Insurance Act

"(4) DEPOSIT TERMS.—

"(A) BIF-ASSESSABLE DEPOSITS.—The term 'BIF-assessable deposit' means a deposit that is subject to assessment for purposes of the Bank Insurance Fund under the Federal Deposit Insurance Act (including a deposit that is treated as a deposit insured by the Bank Insurance Fund under section 5(d)(3) of the Federal Deposit Insurance Act).

"(B) SAIF-ASSESSABLE DEPOSIT.—The term 'SAIF-assessable deposit' has the meaning given to such term in section 2710 of the Deposit Insurance Funds Act of 1996.".

(b) CONFORMING AMENDMENT.—Section 7(b)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(2)) is amended by striking subparagraph (D).

12 USC 1441 note.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Subsections (a) and (c) and the amendments made by such subsections shall apply with respect to semiannual periods which begin after December 31, 1996.

(2) TERMINATION OF CERTAIN ASSESSMENT RATES.—Subparagraph (A) of section 21(f)(2) of the Federal Home Loan

Bank Act (as amended by subsection (a)) shall not apply after the earlier of—

(A) December 31, 1999; or

(B) the date as of which the last savings association ceases to exist.

(d) PROHIBITION ON DEPOSIT SHIFTING.— 12 USC 1441 note.

(1) IN GENERAL.—Effective as of the date of the enactment of this Act and ending on the date provided in subsection (c)(2) of this section, the Comptroller of the Currency, the Board of Directors of the Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System, and the Director of the Office of Thrift Supervision shall take appropriate actions, including enforcement actions, denial of applications, or imposition of entrance and exit fees as if such transactions qualified as conversion transactions pursuant to section 5(d) of the Federal Deposit Insurance Act, to prevent insured depository institutions and depository institution holding companies from facilitating or encouraging the shifting of deposits from SAIF-assessable deposits to BIF-assessable deposits (as defined in section 21(k) of the Federal Home Loan Bank Act) for the purpose of evading the assessments imposed on insured depository institutions with respect to SAIF-assessable deposits under section 7(b) of the Federal Deposit Insurance Act and section 21(f)(2) of the Federal Home Loan Bank Act.

(2) REGULATIONS.—The Board of Directors of the Federal Deposit Insurance Corporation may issue regulations, including regulations defining terms used in paragraph (1), to prevent the shifting of deposits described in such paragraph.

(3) RULE OF CONSTRUCTION.—No provision of this subsection shall be construed as prohibiting conduct or activity of any insured depository institution which—

(A) is undertaken in the ordinary course of business of such depository institution; and

(B) is not directed towards the depositors of an insured depository institution affiliate (as defined in section 2(k) of the Bank Holding Company Act of 1956) of such depository institution.

SEC. 2704. MERGER OF BIF AND SAIF.

(a) IN GENERAL.— 12 USC 1821 note.

(1) MERGER.—The Bank Insurance Fund and the Savings Association Insurance Fund shall be merged into the Deposit Insurance Fund established by section 11(a)(4) of the Federal Deposit Insurance Act, as amended by this section.

(2) DISPOSITION OF ASSETS AND LIABILITIES.—All assets and liabilities of the Bank Insurance Fund and the Savings Association Insurance Fund shall be transferred to the Deposit Insurance Fund.

(3) NO SEPARATE EXISTENCE.—The separate existence of the Bank Insurance Fund and the Savings Association Insurance Fund shall cease.

(b) SPECIAL RESERVE OF THE DEPOSIT INSURANCE FUND.— 12 USC 1821 note.

(1) IN GENERAL.—Immediately before the merger of the Bank Insurance Fund and the Savings Association Insurance Fund, if the reserve ratio of the Savings Association Insurance Fund exceeds the designated reserve ratio, the amount by which

that reserve ratio exceeds the designated reserve ratio shall be placed in the Special Reserve of the Deposit Insurance Fund, established under section 11(a)(5) of the Federal Deposit Insurance Act, as amended by this section.

(2) DEFINITION.—For purposes of this subsection, the term "reserve ratio" means the ratio of the net worth of the Savings Association Insurance Fund to the aggregate estimated amount of deposits insured by the Savings Association Insurance Fund.

12 USC 1821 note.

(c) EFFECTIVE DATE.—This section and the amendments made by this section shall become effective on January 1, 1999, if no insured depository institution is a savings association on that date.

(d) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) DEPOSIT INSURANCE FUND.—Section 11(a)(4) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(4)) is amended—

(A) by redesignating subparagraph (B) as subparagraph (C);

(B) by striking subparagraph (A) and inserting the following:

"(A) ESTABLISHMENT.—There is established the Deposit Insurance Fund, which the Corporation shall—

"(i) maintain and administer;

"(ii) use to carry out its insurance purposes in the manner provided by this subsection; and

"(iii) invest in accordance with section 13(a).

"(B) USES.—The Deposit Insurance Fund shall be available to the Corporation for use with respect to Deposit Insurance Fund members."; and

(C) by striking "(4) GENERAL PROVISIONS RELATING TO FUNDS.—" and inserting the following:

"(4) ESTABLISHMENT OF THE DEPOSIT INSURANCE FUND.—".

(2) OTHER REFERENCES.—Section 11(a)(4)(C) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(4)(C), as redesignated by paragraph (1) of this subsection) is amended by striking "Bank Insurance Fund and the Savings Association Insurance Fund" and inserting "Deposit Insurance Fund".

(3) DEPOSITS INTO FUND.—Section 11(a)(4) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(4)) is amended by adding at the end the following new subparagraph:

"(D) DEPOSITS.—All amounts assessed against insured depository institutions by the Corporation shall be deposited in the Deposit Insurance Fund.".

(4) SPECIAL RESERVE OF DEPOSITS.—Section 11(a)(5) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(5)) is amended to read as follows:

"(5) SPECIAL RESERVE OF DEPOSIT INSURANCE FUND.—

"(A) ESTABLISHMENT.—

"(i) IN GENERAL.—There is established a Special Reserve of the Deposit Insurance Fund, which shall be administered by the Corporation and shall be invested in accordance with section 13(a).

"(ii) LIMITATION.—The Corporation shall not provide any assessment credit, refund, or other payment from any amount in the Special Reserve.

"(B) EMERGENCY USE OF SPECIAL RESERVE.—Notwithstanding subparagraph (A)(ii), the Corporation may, in its sole discretion, transfer amounts from the Special Reserve

to the Deposit Insurance Fund, for the purposes set forth in paragraph (4), only if—

"(i) the reserve ratio of the Deposit Insurance Fund is less than 50 percent of the designated reserve ratio; and

"(ii) the Corporation expects the reserve ratio of the Deposit Insurance Fund to remain at less than 50 percent of the designated reserve ratio for each of the next 4 calendar quarters.

"(C) EXCLUSION OF SPECIAL RESERVE IN CALCULATING RESERVE RATIO.—Notwithstanding any other provision of law, any amounts in the Special Reserve shall be excluded in calculating the reserve ratio of the Deposit Insurance Fund under section 7.".

(5) FEDERAL HOME LOAN BANK ACT.—Section 21B(f)(2)(C)(ii) of the Federal Home Loan Bank Act (12 U.S.C. 1441b(f)(2)(C)(ii)) is amended—

(A) in subclause (I), by striking "to Savings Associations Insurance Fund members" and inserting "to insured depository institutions, and their successors, which were Savings Association Insurance Fund members on September 1, 1995"; and

(B) in subclause (II), by striking "to Savings Associations Insurance Fund members" and inserting "to insured depository institutions, and their successors, which were Savings Association Insurance Fund members on September 1, 1995".

(6) REPEALS.—

(A) SECTION 3.—Section 3(y) of the Federal Deposit Insurance Act (12 U.S.C. 1813(y)) is amended to read as follows:

"(y) DEFINITIONS RELATING TO THE DEPOSIT INSURANCE FUND.—

"(1) DEPOSIT INSURANCE FUND.—The term 'Deposit Insurance Fund' means the fund established under section 11(a)(4).

"(2) RESERVE RATIO.—The term 'reserve ratio' means the ratio of the net worth of the Deposit Insurance Fund to aggregate estimated insured deposits held in all insured depository institutions.

"(3) DESIGNATED RESERVE RATIO.—The designated reserve ratio of the Deposit Insurance Fund for each year shall be—

"(A) 1.25 percent of estimated insured deposits; or

"(B) a higher percentage of estimated insured deposits that the Board of Directors determines to be justified for that year by circumstances raising a significant risk of substantial future losses to the fund."

(B) SECTION 7.—Section 7 of the Federal Deposit Insurance Act (12 U.S.C. 1817) is amended—

(i) by striking subsection (*l*);

(ii) by redesignating subsections (m) and (n) as subsections (*l*) and (m), respectively;

(iii) in subsection (b)(2), by striking subparagraphs (B) and (F), and by redesignating subparagraphs (C), (E), (G), and (H) as subparagraphs (B) through (E), respectively.

(C) SECTION 11.—Section 11(a) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)) is amended—

(i) by striking paragraphs (6) and (7); and

(ii) by redesignating paragraph (8) as paragraph (6).

(7) SECTION 5136 OF THE REVISED STATUTES.—The paragraph designated the "Eleventh" of section 5136 of the Revised Statutes of the United States (12 U.S.C. 24) is amended in the 5th sentence, by striking "affected deposit insurance fund" and inserting "Deposit Insurance Fund".

(8) INVESTMENTS PROMOTING PUBLIC WELFARE; LIMITATIONS ON AGGREGATE INVESTMENTS.—The 23d undesignated paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 338a) is amended in the 4th sentence, by striking "affected deposit insurance fund" and inserting "Deposit Insurance Fund".

(9) ADVANCES TO CRITICALLY UNDERCAPITALIZED DEPOSITORY INSTITUTIONS.—Section 10B(b)(3)(A)(ii) of the Federal Reserve Act (12 U.S.C. 347b(b)(3)(A)(ii)) is amended by striking "any deposit insurance fund in" and inserting "the Deposit Insurance Fund of".

(10) AMENDMENTS TO THE BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT OF 1985.—Section 255(g)(1)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 905(g)(1)(A)) is amended—

(A) by striking "Bank Insurance Fund" and inserting "Deposit Insurance Fund"; and

(B) by striking "Federal Deposit Insurance Corporation, Savings Association Insurance Fund;".

(11) FURTHER AMENDMENTS TO THE FEDERAL HOME LOAN BANK ACT.—The Federal Home Loan Bank Act (12 U.S.C. 1421 et seq.) is amended—

(A) in section 11(k) (12 U.S.C. 1431(k))—

(i) in the subsection heading, by striking "SAIF" and inserting "THE DEPOSIT INSURANCE FUND"; and

(ii) by striking "Savings Association Insurance Fund" each place such term appears and inserting "Deposit Insurance Fund";

(B) in section 21A(b)(4)(B) (12 U.S.C. 1441a(b)(4)(B)), by striking "affected deposit insurance fund" and inserting "Deposit Insurance Fund";

(C) in section 21A(b)(6)(B) (12 U.S.C. 1441a(b)(6)(B))—

(i) in the subparagraph heading, by striking "SAIF-INSURED BANKS" and inserting "CHARTER CONVERSIONS"; and

(ii) by striking "Savings Association Insurance Fund member" and inserting "savings association";

(D) in section 21A(b)(10)(A)(iv)(II) (12 U.S.C. 1441a(b)(10)(A)(iv)(II)), by striking "Savings Association Insurance Fund" and inserting "Deposit Insurance Fund";

(E) in section 21B(e) (12 U.S.C. 1441b(e))—

(i) in paragraph (5), by inserting "as of the date of funding" after "Savings Association Insurance Fund members" each place such term appears;

(ii) by striking paragraph (7); and

(iii) by redesignating paragraph (8) as paragraph (7); and

(F) in section 21B(k) (12 U.S.C. 1441b(k))—

(i) by striking paragraph (8); and

(ii) by redesignating paragraphs (9) and (10) as paragraphs (8) and (9), respectively.

(12) AMENDMENTS TO THE HOME OWNERS' LOAN ACT.—The Home Owners' Loan Act (12 U.S.C. 1461 et seq.) is amended—

(A) in section 5— 12 USC 1464.

(i) in subsection (c)(5)(A), by striking "that is a member of the Bank Insurance Fund";

(ii) in subsection (c)(6), by striking "As used in this subsection—" and inserting "For purposes of this subsection, the following definitions shall apply:";

(iii) in subsection (o)(1), by striking "that is a Bank Insurance Fund member";

(iv) in subsection (o)(2)(A), by striking "a Bank Insurance Fund member until such time as it changes its status to a Savings Association Insurance Fund member" and inserting "insured by the Deposit Insurance Fund";

(v) in subsection (t)(5)(D)(iii)(II), by striking "affected deposit insurance fund" and inserting "Deposit Insurance Fund";

(vi) in subsection (t)(7)(C)(i)(I), by striking "affected deposit insurance fund" and inserting "Deposit Insurance Fund"; and

(vii) in subsection (v)(2)(A)(i), by striking ", the Savings Association Insurance Fund" and inserting "or the Deposit Insurance Fund"; and

(B) in section 10— 12 USC 1467a.

(i) in subsection (e)(1)(A)(iii)(VII), by adding "or" at the end;

(ii) in subsection (e)(1)(A)(iv), by adding "and" at the end;

(iii) in subsection (e)(1)(B), by striking "Savings Association Insurance Fund or Bank Insurance Fund" and inserting "Deposit Insurance Fund";

(iv) in subsection (e)(2), by striking "Savings Association Insurance Fund or the Bank Insurance Fund" and inserting "Deposit Insurance Fund"; and

(v) in subsection (m)(3), by striking subparagraph (E), and by redesignating subparagraphs (F), (G), and (H) as subparagraphs (E), (F), and (G), respectively.

(13) AMENDMENTS TO THE NATIONAL HOUSING ACT.—The National Housing Act (12 U.S.C. 1701 et seq.) is amended—

(A) in section 317(b)(1)(B) (12 U.S.C. 1723i(b)(1)(B)), by striking "Bank Insurance Fund for banks or through the Savings Association Insurance Fund for savings associations" and inserting "Deposit Insurance Fund"; and

(B) in section 526(b)(1)(B)(ii) (12 U.S.C. 1735f–14(b)(1)(B)(ii)), by striking "Bank Insurance Fund for banks and through the Savings Association Insurance Fund for savings associations" and inserting "Deposit Insurance Fund".

(14) FURTHER AMENDMENTS TO THE FEDERAL DEPOSIT INSURANCE ACT.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended—

(A) in section 3(a)(1) (12 U.S.C. 1813(a)(1)), by striking subparagraph (B) and inserting the following:

"(B) includes any former savings association.";

(B) in section 5(b)(5) (12 U.S.C. 1815(b)(5)), by striking "the Bank Insurance Fund or the Savings Association Insurance Fund;" and inserting "Deposit Insurance Fund,";

(C) in section 5(d) (12 U.S.C. 1815(d)), by striking paragraphs (2) and (3);

(D) in section 5(d)(1) (12 U.S.C. 1815(d)(1))—

(i) in subparagraph (A), by striking "reserve ratios in the Bank Insurance Fund and the Savings Association Insurance Fund" and inserting "the reserve ratio of the Deposit Insurance Fund";

(ii) by striking subparagraph (B) and inserting the following:

"(2) FEE CREDITED TO THE DEPOSIT INSURANCE FUND.—The fee paid by the depository institution under paragraph (1) shall be credited to the Deposit Insurance Fund.";

(iii) by striking "(1) UNINSURED INSTITUTIONS.—"; and

(iv) by redesignating subparagraphs (A) and (C) as paragraphs (1) and (3), respectively, and moving the margins 2 ems to the left;

(E) in section 5(e) (12 U.S.C. 1815(e))—

(i) in paragraph (5)(A), by striking "Bank Insurance Fund or the Savings Association Insurance Fund" and inserting "Deposit Insurance Fund";

(ii) by striking paragraph (6); and

(iii) by redesignating paragraphs (7), (8), and (9) as paragraphs (6), (7), and (8), respectively;

(F) in section 6(5) (12 U.S.C. 1816(5)), by striking "Bank Insurance Fund or the Savings Association Insurance Fund" and inserting "Deposit Insurance Fund";

(G) in section 7(b) (12 U.S.C. 1817(b))—

(i) in paragraph (1)(D), by striking "each deposit insurance fund" and inserting "the Deposit Insurance Fund";

(ii) in clauses (i)(I) and (iv) of paragraph (2)(A), by striking "each deposit insurance fund" each place such term appears and inserting "the Deposit Insurance Fund";

(iii) in paragraph (2)(A)(iii), by striking "a deposit insurance fund" and inserting "the Deposit Insurance Fund";

(iv) by striking clause (iv) of paragraph (2)(A);

(v) in paragraph (2)(C) (as redesignated by paragraph (6)(B) of this subsection)—

(I) by striking "any deposit insurance fund" and inserting "the Deposit Insurance Fund"; and

(II) by striking "that fund" each place such term appears and inserting "the Deposit Insurance Fund";

(vi) in paragraph (2)(D) (as redesignated by paragraph (6)(B) of this subsection)—

(I) in the subparagraph heading, by striking "FUNDS ACHIEVE" and inserting "FUND ACHIEVES"; and

(II) by striking "a deposit insurance fund" and inserting "the Deposit Insurance Fund";

(vii) in paragraph (3)—

(I) in the paragraph heading, by striking "FUNDS" and inserting "FUND";

(II) by striking "members of that fund" where such term appears in the portion of subparagraph (A) which precedes clause (i) of such subparagraph and inserting "insured depository institutions";

(III) by striking "that fund" each place such term appears (other than in connection with term amended in subclause (II) of this clause) and inserting "the Deposit Insurance Fund";

(IV) in subparagraph (A), by striking "Except as provided in paragraph (2)(F), if" and inserting "If";

(V) in subparagraph (A), by striking "any deposit insurance fund" and inserting "the Deposit Insurance Fund"; and

(VI) by striking subparagraphs (C) and (D) and inserting the following:

"(C) AMENDING SCHEDULE.—The Corporation may, by regulation, amend a schedule prescribed under subparagraph (B).."; and

(viii) in paragraph (6)—

(I) by striking "any such assessment" and inserting "any such assessment is necessary";

(II) by striking "(A) is necessary—";

(III) by striking subparagraph (B);

(IV) by redesignating clauses (i), (ii), and (iii) as subparagraphs (A), (B), and (C), respectively, and moving the margins 2 ems to the left; and

(V) in subparagraph (C) (as redesignated), by striking "; and" and inserting a period;

(H) in section 11(f)(1) (12 U.S.C. 1821(f)(1)), by striking ", except that—" and all that follows through the end of the paragraph and inserting a period;

(I) in section 11(i)(3) (12 U.S.C. 1821(i)(3))—

(i) by striking subparagraph (B);

(ii) by redesignating subparagraph (C) as subparagraph (B); and

(iii) in subparagraph (B) (as redesignated), by striking "subparagraphs (A) and (B)" and inserting "subparagraph (A)";

(J) in section 11A(a) (12 U.S.C. 1821a(a))—

(i) in paragraph (2), by striking "LIABILITIES.—" and all that follows through "Except" and inserting "LIABILITIES.—Except";

(ii) by striking paragraph (2)(B); and

(iii) in paragraph (3), by striking "the Bank Insurance Fund, the Savings Association Insurance Fund," and inserting "the Deposit Insurance Fund";

(K) in section 11A(b) (12 U.S.C. 1821a(b)), by striking paragraph (4);

(L) in section 11A(f) (12 U.S.C. 1821a(f)), by striking "Savings Association Insurance Fund" and inserting "Deposit Insurance Fund";

(M) in section 13 (12 U.S.C. 1823)—

(i) in subsection (a)(1), by striking "Bank Insurance Fund, the Savings Association Insurance Fund," and

inserting "Deposit Insurance Fund, the Special Reserve of the Deposit Insurance Fund,";

(ii) in subsection (c)(4)(E)—

(I) in the subparagraph heading, by striking "FUNDS" and inserting "FUND"; and

(II) in clause (i), by striking "any insurance fund" and inserting "the Deposit Insurance Fund";

(iii) in subsection (c)(4)(G)(ii)—

(I) by striking "appropriate insurance fund" and inserting "Deposit Insurance Fund";

(II) by striking "the members of the insurance fund (of which such institution is a member)" and inserting "insured depository institutions";

(III) by striking "each member's" and inserting "each insured depository institution's"; and

(IV) by striking "the member's" each place such term appears and inserting "the institution's";

(iv) in subsection (c), by striking paragraph (11);

(v) in subsection (h), by striking "Bank Insurance Fund" and inserting "Deposit Insurance Fund";

(vi) in subsection (k)(4)(B)(i), by striking "Savings Association Insurance Fund" and inserting "Deposit Insurance Fund"; and

(vii) in subsection (k)(5)(A), by striking "Savings Association Insurance Fund" and inserting "Deposit Insurance Fund";

(N) in section 14(a) (12 U.S.C. 1824(a)) in the 5th sentence—

(i) by striking "Bank Insurance Fund or the Savings Association Insurance Fund" and inserting "Deposit Insurance Fund"; and

(ii) by striking "each such fund" and inserting "the Deposit Insurance Fund";

(O) in section 14(b) (12 U.S.C. 1824(b)), by striking "Bank Insurance Fund or Savings Association Insurance Fund" and inserting "Deposit Insurance Fund";

(P) in section 14(c) (12 U.S.C. 1824(c)), by striking paragraph (3);

(Q) in section 14(d) (12 U.S.C. 1824(d))—

(i) by striking "BIF" each place such term appears and inserting "DIF"; and

(ii) by striking "Bank Insurance Fund" each place such term appears and inserting "Deposit Insurance Fund";

(R) in section 15(c)(5) (12 U.S.C. 1825(c)(5))—

(i) by striking "the Bank Insurance Fund or Savings Association Insurance Fund, respectively" each place such term appears and inserting "the Deposit Insurance Fund"; and

(ii) in subparagraph (B), by striking "the Bank Insurance Fund or the Savings Association Insurance Fund, respectively" and inserting "the Deposit Insurance Fund";

(S) in section 17(a) (12 U.S.C. 1827(a))—

(i) in the subsection heading, by striking "BIF, SAIF," and inserting "THE DEPOSIT INSURANCE FUND"; and

(ii) in paragraph (1), by striking "the Bank Insurance Fund, the Savings Association Insurance Fund," each place such term appears and inserting "the Deposit Insurance Fund";

(T) in section 17(d) (12 U.S.C. 1827(d)), by striking "the Bank Insurance Fund, the Savings Association Insurance Fund," each place such term appears and inserting "the Deposit Insurance Fund";

(U) in section 18(m)(3) (12 U.S.C. 1828(m)(3))—

(i) by striking "Savings Association Insurance Fund" each place such term appears and inserting "Deposit Insurance Fund"; and

(ii) in subparagraph (C), by striking "or the Bank Insurance Fund";

(V) in section 18(p) (12 U.S.C. 1828(p)), by striking "deposit insurance funds" and inserting "Deposit Insurance Fund";

(W) in section 24 (12 U.S.C. 1831a) in subsections (a)(1) and (d)(1)(A), by striking "appropriate deposit insurance fund" each place such term appears and inserting "Deposit Insurance Fund";

(X) in section 28 (12 U.S.C. 1831e), by striking "affected deposit insurance fund" each place such term appears and inserting "Deposit Insurance Fund";

(Y) by striking section 31 (12 U.S.C. 1831h);

(Z) in section 36(i)(3) (12 U.S.C. 1831m(i)(3)) by striking "affected deposit insurance fund" and inserting "Deposit Insurance Fund";

(AA) in section 38(a) (12 U.S.C. 1831o(a)) in the subsection heading, by striking "FUNDS" and inserting "FUND";

(BB) in section 38(k) (12 U.S.C. 1831o(k))—

(i) in paragraph (1), by striking "a deposit insurance fund" and inserting "the Deposit Insurance Fund"; and

(ii) in paragraph (2)(A)—

(I) by striking "A deposit insurance fund" and inserting "The Deposit Insurance Fund"; and

(II) by striking "the deposit insurance fund's outlays" and inserting "the outlays of the Deposit Insurance Fund"; and

(CC) in section 38(o) (12 U.S.C. 1831o(o))—

(i) by striking "ASSOCIATIONS.—" and all that follows through "Subsections (e)(2)" and inserting "ASSOCIATIONS.—Subsections (e)(2)";

(ii) by redesignating subparagraphs (A), (B), and (C) as paragraphs (1), (2), and (3), respectively, and moving the margins 2 ems to the left; and

(iii) in paragraph (1) (as redesignated), by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively, and moving the margins 2 ems to the left.

(15) AMENDMENTS TO THE FINANCIAL INSTITUTIONS REFORM, RECOVERY, AND ENFORCEMENT ACT OF 1989.—The Financial Institutions Reform, Recovery, and Enforcement Act is amended—

(A) in section 951(b)(3)(B) (12 U.S.C. 1833a(b)(3)(B)), by striking "Bank Insurance Fund, the Savings Association

Insurance Fund," and inserting "Deposit Insurance Fund"; and

(B) in section 1112(c)(1)(B) (12 U.S.C. 3341(c)(1)(B)), by striking "Bank Insurance Fund, the Savings Association Insurance Fund," and inserting "Deposit Insurance Fund".

(16) AMENDMENT TO THE BANK ENTERPRISE ACT OF 1991.—Section 232(a)(1) of the Bank Enterprise Act of 1991 (12 U.S.C. 1834(a)(1)) is amended by striking "section 7(b)(2)(H)" and inserting "section 7(b)(2)(G)".

(17) AMENDMENT TO THE BANK HOLDING COMPANY ACT OF 1956.—Section 2(j)(2) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(j)(2)) is amended by striking "Savings Association Insurance Fund" and inserting "Deposit Insurance Fund".

SEC. 2705. CREATION OF SAIF SPECIAL RESERVE.

Section 11(a)(6) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(6)) is amended by adding at the end the following new subparagraph:

"(L) ESTABLISHMENT OF SAIF SPECIAL RESERVE.—

"(i) ESTABLISHMENT.—If, on January 1, 1999, the reserve ratio of the Savings Association Insurance Fund exceeds the designated reserve ratio, there is established a Special Reserve of the Savings Association Insurance Fund, which shall be administered by the Corporation and shall be invested in accordance with section 13(a).

"(ii) AMOUNTS IN SPECIAL RESERVE.—If, on January 1, 1999, the reserve ratio of the Savings Association Insurance Fund exceeds the designated reserve ratio, the amount by which the reserve ratio exceeds the designated reserve ratio shall be placed in the Special Reserve of the Savings Association Insurance Fund established by clause (i).

"(iii) LIMITATION.—The Corporation shall not provide any assessment credit, refund, or other payment from any amount in the Special Reserve of the Savings Association Insurance Fund.

"(iv) EMERGENCY USE OF SPECIAL RESERVE.—Notwithstanding clause (iii), the Corporation may, in its sole discretion, transfer amounts from the Special Reserve of the Savings Association Insurance Fund to the Savings Association Insurance Fund for the purposes set forth in paragraph (4), only if—

"(I) the reserve ratio of the Savings Association Insurance Fund is less than 50 percent of the designated reserve ratio; and

"(II) the Corporation expects the reserve ratio of the Savings Association Insurance Fund to remain at less than 50 percent of the designated reserve ratio for each of the next 4 calendar quarters.

"(v) EXCLUSION OF SPECIAL RESERVE IN CALCULATING RESERVE RATIO.—Notwithstanding any other provision of law, any amounts in the Special Reserve of the Savings Association Insurance Fund shall be excluded in calculating the reserve ratio of the Savings Association Insurance Fund.".

SEC. 2706. REFUND OF AMOUNTS IN DEPOSIT INSURANCE FUND IN EXCESS OF DESIGNATED RESERVE AMOUNT.

Subsection (e) of section 7 of the Federal Deposit Insurance Act (12 U.S.C. 1817(e)) is amended to read as follows:

"(e) REFUNDS.—

"(1) OVERPAYMENTS.—In the case of any payment of an assessment by an insured depository institution in excess of the amount due to the Corporation, the Corporation may—

"(A) refund the amount of the excess payment to the insured depository institution; or

"(B) credit such excess amount toward the payment of subsequent semiannual assessments until such credit is exhausted.

"(2) BALANCE IN INSURANCE FUND IN EXCESS OF DESIGNATED RESERVE.—

"(A) IN GENERAL.—Subject to subparagraphs (B) and (C), if, as of the end of any semiannual assessment period beginning after the date of the enactment of the Deposit Insurance Funds Act of 1996, the amount of the actual reserves in—

"(i) the Bank Insurance Fund (until the merger of such fund into the Deposit Insurance Fund pursuant to section 2704 of the Deposit Insurance Funds Act of 1996); or

"(ii) the Deposit Insurance Fund (after the establishment of such fund),

exceeds the balance required to meet the designated reserve ratio applicable with respect to such fund, such excess amount shall be refunded to insured depository institutions by the Corporation on such basis as the Board of Directors determines to be appropriate, taking into account the factors considered under the risk-based assessment system.

"(B) REFUND NOT TO EXCEED PREVIOUS SEMIANNUAL ASSESSMENT.—The amount of any refund under this paragraph to any member of a deposit insurance fund for any semiannual assessment period may not exceed the total amount of assessments paid by such member to the insurance fund with respect to such period.

"(C) REFUND LIMITATION FOR CERTAIN INSTITUTIONS.—No refund may be made under this paragraph with respect to the amount of any assessment paid for any semiannual assessment period by any insured depository institution described in clause (v) of subsection (b)(2)(A).".

SEC. 2707. ASSESSMENT RATES FOR SAIF MEMBERS MAY NOT BE LESS THAN ASSESSMENT RATES FOR BIF MEMBERS.

Section 7(b)(2)(C) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(2)(E), as redesignated by section 2704(d)(6) of this subtitle) is amended—

(1) by striking "and" at the end of clause (i);

(2) by striking the period at the end of clause (ii) and inserting "; and"; and

(3) by adding at the end the following new clause:

"(iii) notwithstanding any other provision of this subsection, during the period beginning on the date of enactment of the Deposit Insurance Funds Act of

1996, and ending on December 31, 1998, the assessment rate for a Savings Association Insurance Fund member may not be less than the assessment rate for a Bank Insurance Fund member that poses a comparable risk to the deposit insurance fund.".

SEC. 2708. ASSESSMENTS AUTHORIZED ONLY IF NEEDED TO MAINTAIN THE RESERVE RATIO OF A DEPOSIT INSURANCE FUND.

(a) IN GENERAL.—Section 7(b)(2)(A)(i) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(2)(A)(i)) is amended in the matter preceding subclause (I) by inserting "when necessary, and only to the extent necessary" after "insured depository institutions".

(b) LIMITATION ON ASSESSMENT.—Section 7(b)(2)(A)(iii) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(2)(A)(iii)) is amended to read as follows:

"(iii) LIMITATION ON ASSESSMENT.—Except as provided in clause (v), the Board of Directors shall not set semiannual assessments with respect to a deposit insurance fund in excess of the amount needed—

"(I) to maintain the reserve ratio of the fund at the designated reserve ratio; or

"(II) if the reserve ratio is less than the designated reserve ratio, to increase the reserve ratio to the designated reserve ratio.".

(c) EXCEPTION TO LIMITATION ON ASSESSMENTS.—Section 7(b)(2)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(2)(A)) is amended by adding at the end the following new clause:

"(v) EXCEPTION TO LIMITATION ON ASSESSMENTS.—The Board of Directors may set semiannual assessments in excess of the amount permitted under clauses (i) and (iii) with respect to insured depository institutions that exhibit financial, operational, or compliance weaknesses ranging from moderately severe to unsatisfactory, or are not well capitalized, as that term is defined in section 38.".

SEC. 2709. TREASURY STUDY OF COMMON DEPOSITORY INSTITUTION CHARTER.

(a) STUDY REQUIRED.—The Secretary of the Treasury shall conduct a study of all issues which the Secretary considers to be relevant with respect to the development of a common charter for all insured depository institutions (as defined in section 3 of the Federal Deposit Insurance Act) and the abolition of separate and distinct charters between banks and savings associations.

(b) REPORT TO THE CONGRESS.—

(1) IN GENERAL.—The Secretary of the Treasury shall submit a report to the Congress on or before March 31, 1997, containing the findings and conclusions of the Secretary in connection with the study conducted pursuant to subsection (a).

(2) DETAILED ANALYSIS AND RECOMMENDATIONS.—The report under paragraph (1) shall include—

(A) a detailed analysis of each issue the Secretary considered relevant to the subject of the study;

(B) recommendations of the Secretary with regard to the establishment of a common charter for insured depository institutions (as defined in section 3 of the Federal Deposit Insurance Act); and

(C) such recommendations for legislative and administrative action as the Secretary determines to be appropriate to implement the recommendations of the Secretary under subparagraph (B).

SEC. 2710. DEFINITIONS.

12 USC 1821 note.

For purposes of this subtitle, the following definitions shall apply:

(1) BANK INSURANCE FUND.—The term "Bank Insurance Fund" means the fund established pursuant to section (11)(a)(5)(A) of the Federal Deposit Insurance Act, as that section existed on the day before the date of enactment of this Act.

(2) BIF MEMBER, SAIF MEMBER.—The terms "Bank Insurance Fund member" and "Savings Association Insurance Fund member" have the same meanings as in section 7(*l*) of the Federal Deposit Insurance Act.

(3) VARIOUS BANKING TERMS.—The terms "bank", "Board of Directors", "Corporation", "deposit", "insured depository institution", "Federal savings association", "savings association", "State savings bank", and "State depository institution" have the same meanings as in section 3 of the Federal Deposit Insurance Act.

(4) DEPOSIT INSURANCE FUND.—The term "Deposit Insurance Fund" means the fund established under section 11(a)(4) of the Federal Deposit Insurance Act (as amended by section 2704(d) of this subtitle).

(5) DEPOSITORY INSTITUTION HOLDING COMPANY.—The term "depository institution holding company" has the same meaning as in section 3 of the Federal Deposit Insurance Act.

(6) DESIGNATED RESERVE RATIO.—The term "designated reserve ratio" has the same meaning as in section 7(b)(2)(A)(iv) of the Federal Deposit Insurance Act.

(7) SAIF.—The term "Savings Association Insurance Fund" means the fund established pursuant to section 11(a)(6)(A) of the Federal Deposit Insurance Act, as that section existed on the day before the date of enactment of this Act.

(8) SAIF-ASSESSABLE DEPOSIT.—The term "SAIF-assessable deposit"—

(A) means a deposit that is subject to assessment for purposes of the Savings Association Insurance Fund under the Federal Deposit Insurance Act (including a deposit that is treated as insured by the Savings Association Insurance Fund under section 5(d)(3) of the Federal Deposit Insurance Act); and

(B) includes any deposit described in subparagraph (A) which is assumed after March 31, 1995, if the insured depository institution, the deposits of which are assumed, is not an insured depository institution when the special assessment is imposed under section 2702(a).

SEC. 2711. DEDUCTION FOR SPECIAL ASSESSMENTS.

26 USC 162 note.

For purposes of subtitle A of the Internal Revenue Code of 1986—

(1) the amount allowed as a deduction under section 162 of such Code for a taxable year shall include any amount paid during such year by reason of an assessment under section 2702 of this subtitle, and

(2) section 172(f) of such Code shall not apply to any deduction described in paragraph (1).

TITLE III—SPECTRUM ALLOCATION PROVISIONS

SEC. 3001. COMPETITIVE BIDDING FOR SPECTRUM.

(a) COMMISSION OBLIGATION TO MAKE ADDITIONAL SPECTRUM AVAILABLE.—The Federal Communications Commission shall—

(1) reallocate the use of frequencies at 2305–2320 megahertz and 2345–2360 megahertz to wireless services that are consistent with international agreements concerning spectrum allocations; and

(2) assign the use of such frequencies by competitive bidding pursuant to section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)).

(b) ADDITIONAL REQUIREMENTS.—In making the bands of frequencies described in subsection (a) available for competitive bidding, the Commission shall—

(1) seek to promote the most efficient use of the spectrum; and

(2) take into account the needs of public safety radio services.

(c) EXPEDITED PROCEDURES.—The Commission shall commence the competitive bidding for the assignment of the frequencies described in subsection (a)(1) no later than April 15, 1997. The rules governing such frequencies shall be effective immediately upon publication in the Federal Register notwithstanding section 553(d), 801(a)(3), and 806(a) of title 5, United States Code. Chapter 6 of such title, and sections 3507 and 3512 of title 44, United States Code, shall not apply to the rules and competitive bidding procedures governing such frequencies. Notwithstanding section 309(b) of the Communications Act of 1934 (47 U.S.C. 309(b)), no application for an instrument of authorization for such frequencies shall be granted by the Commission earlier than 7 days following issuance of public notice by the Commission of the acceptance for filing of such application or of any substantial amendment thereto. Notwithstanding section 309(d)(1) of such Act (47 U.S.C. 309(d)(1)), the Commission may specify a period (no less than 5 days following issuance of such public notice) for the filing of petitions to deny any application for an instrument of authorization for such frequencies.

(d) DEADLINE FOR COLLECTION.—The Commission shall conduct the competitive bidding under subsection (a)(2) in a manner that ensures that all proceeds of the bidding are deposited in accordance with section 309(j)(8) of the Communications Act of 1934 not later September 30, 1997.

TITLE IV—ADJUSTMENT OF PAYGO BALANCES

SEC. 4001. ADJUSTMENT OF PAYGO BALANCES.

For purposes of section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985, on the calendar day after the Director of the Office of Management and Budget issues the final sequestration report for fiscal year 1997, the Director and the Director of the Congressional Budget Office shall change the balances (as computed pursuant to section 252(b) of that Act) of direct spending and receipts legislation—

(1) for fiscal year 1997 to zero if such balance for the fiscal year is not an increase in the deficit.

TITLE V—ADDITIONAL APPROPRIATIONS

CHAPTER 1

DEPARTMENT OF AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

COOPERATIVE STATE RESEARCH, EDUCATION, AND EXTENSION SERVICE

EXTENSION ACTIVITIES

For an additional amount for payments for cooperative extension work by the colleges receiving the benefits of the second Morrill Act (7 U.S.C. 321–326, 328) and Tuskegee University, $753,000.

NATURAL RESOURCES CONSERVATION SERVICE

WATERSHED AND FLOOD PREVENTION OPERATIONS

For an additional amount to repair damages to the waterways and watersheds resulting from the effects of Hurricanes Fran and Hortense and other natural disasters, $63,000,000, to remain available until expended: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

FARM SERVICE AGENCY

EMERGENCY CONSERVATION PROGRAM

For an additional amount for emergency expenses resulting from the effects of Hurricanes Fran and Hortense and other natural disasters, $25,000,000, to remain available until expended: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

CHAPTER 2

DISTRICT OF COLUMBIA

EDUCATION FACILITIES IMPROVEMENT IN THE DISTRICT OF COLUMBIA

(BY TRANSFER)

SEC. 5201. The District of Columbia Financial Responsibility and Management Assistance Authority (referred to in this section as the "Authority") shall have the authority to contract with a private entity (or entities) to carry out a program of school facility repair of public schools and public charter schools located in public school facilities in the District of Columbia, in consultation with the General Services Administration: *Provided*, That an amount estimated to be $40,700,000 is hereby transferred and otherwise made available to the Authority until expended for contracting as provided under this section, to be derived from transfers and reallocations as follows: (1) funds made available under the heading "PUBLIC EDUCATION SYSTEM" in Public Law 104–194 for school repairs in a restricted line item; (2) all capital financing authority made available for public school capital improvements in Public Law 104–194; and (3) all capital financing authority made available for public school capital improvements which are or remain available from Public Law 104–134 or any previous appropriations Act for the District of Columbia: *Provided further*, That the General Services Administration, in consultation with the District of Columbia Public Schools and the District of Columbia Council and subject to the approval of the Authority and the Committees on Appropriations of the Senate and the House of Representatives, shall provide program management services to assist in the short-term management of the repairs and capital improvements: *Provided further*, That contracting authorized under this section shall be conducted in accordance with Federal procurement rules and regulations and guidelines or such guidelines as prescribed by the Authority.

SPECIAL RULES REGARDING GENERAL OBLIGATION BOND ACT

SEC. 5202. WAIVER OF CONGRESSIONAL REVIEW.—Notwithstanding section 602(c)(1) of the District of Columbia Self-Government and Governmental Reorganization Act (sec. 1–233(c)(1), D.C. Code), the General Obligation Bond Act of 1996 (D.C. Bill 11–840), if enacted by the Council of the District of Columbia, shall take effect on the date of the enactment of such Act or the date of the enactment of this Act, whichever is later.

AMENDMENTS TO FINANCIAL RESPONSIBILITY AND MANAGEMENT ASSISTANCE ACT

SEC. 5203. (a) CALCULATION OF 7-DAY REVIEW PERIOD FOR COUNCIL ACTS.—Section 203(a)(5) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995 (sec. 47–392.3(a)(5), D.C. Code) is amended—

(1) by inserting "(excluding Saturdays, Sundays, and legal holidays)" after "7-day period" the first place it appears; and

(2) by striking "the date the Council submits the Act to the Authority" and inserting "the first day (excluding Saturdays, Sundays, and legal holidays) after the Authority receives the Act from the Council".

(b) SPECIFICATION OF PENALTY FOR PROHIBITED ACTS.—Section 103(i)(1) of such Act (sec. 47–391.3(i)(1), D.C. Code) is amended by striking the period at the end and inserting the following: ", and shall be fined not more than $1,000, imprisoned for not more than 1 year, or both.".

(c) WAIVER OF PRIVACY ACT REQUIREMENTS FOR OBTAINING OFFICIAL DATA.—Section 103(c)(1) of such Act (sec. 47–391.3(c)(1), D.C. Code) is amended by striking "Act) and 552b" and inserting "Act), 552a (the Privacy Act of 1974), and 552b".

(d) PERMITTING AUTHORITY REVIEW OF RULEMAKING.—Section 203(b) of such Act (sec. 47–392.3(b), D.C. Code) is amended by adding at the end the following new paragraph:

"(5) APPLICATION TO RULES AND REGULATIONS.—The provisions of this subsection shall apply with respect to a rule or regulation issued or proposed to be issued by the Mayor (or the head of any department or agency of the District government) in the same manner as such provisions apply to a contract or lease.".

(e) DEPOSIT OF ALL DISTRICT BORROWING WITH AUTHORITY.—

(1) IN GENERAL.—Section 204 of such Act (sec. 47–392.4, D.C. Code) is amended—

(A) by redesignating subsections (d) and (e) as subsections (e) and (f); and

(B) by inserting after subsection (c) the following new subsection:

"(d) DEPOSIT OF BORROWED FUNDS WITH AUTHORITY.—If the District government borrows funds during a control year, the funds shall be deposited into an escrow account held by the Authority, to be allocated by the Authority to the Mayor at such intervals and in accordance with such terms and conditions as it considers appropriate, consistent with the financial plan and budget for the year and with any other withholding of funds by the Authority pursuant to this Act.".

(2) CONFORMING AMENDMENTS.—(A) Section 204(e) of such Act, as redesignated by paragraph (1)(A), is amended by inserting after "(b)(1)" the following: "or the escrow account described in subsection (d)".

(B) Section 206(d)(1) of such Act is amended by striking "204(b)" and inserting "204(b), section 204(d),".

(f) GRANTING AUTHORITY POWER TO ISSUE GENERAL ORDERS.—Section 207 of such Act (sec. 47–392.7, D.C Code) is amended by adding at the end the following new subsection:

"(d) ADDITIONAL POWER TO ISSUE ORDERS, RULES, AND REGULATIONS.—

"(1) IN GENERAL.—In addition to the authority described in subsection (c), the Authority may at any time issue such orders, rules, or regulations as it considers appropriate to carry out the purposes of this Act and the amendments made by this Act, to the extent that the issuance of such an order, rule, or regulation is within the authority of the Mayor or the head of any department or agency of the District government, and any such order, rule, or regulation shall be legally binding to the same extent as if issued by the Mayor or the head of any such department or agency.

"(2) NOTIFICATION.—Upon issuing an order, rule, or regulation pursuant to this subsection, the Authority shall notify the Mayor, the Council, the President, and Congress.

"(3) NO JUDICIAL REVIEW OF DECISION TO ISSUE ORDER.—The decision by the Authority to issue an order, rule, or regulation pursuant to this subsection shall be final and shall not be subject to judicial review.".

PROHIBITING FUNDING FOR TERMINATED EMPLOYEES OR CONTRACTORS

SEC. 5204. (a) IN GENERAL.—Except as provided in subsection (b), none of the funds made available to the District of Columbia during any fiscal year (beginning with fiscal year 1996) may be used to pay the salary or wages of any individual whose employment by the District government is no longer required as determined by the District of Columbia Financial Responsibility and Management Assistance Authority, or to pay any expenses associated with a contractor or consultant of the District government whose contract or arrangement with the District government is no longer required as determined by the Authority.

(b) EXCEPTION FOR PAYMENTS FOR SERVICES ALREADY PROVIDED.—Funds made available to the District of Columbia may be used to pay an individual for employment already performed at the time of the Authority's determination, or to pay a contractor or consultant for services already provided at the time of the Authority's determination, to the extent permitted by the District of Columbia Financial Responsibility and Management Assistance Authority.

(c) DISTRICT GOVERNMENT DEFINED.—In this section, the term "District government" has the meaning given such term in section 305(5) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995.

AMENDMENTS TO DISTRICT OF COLUMBIA SCHOOL REFORM ACT OF 1995.

SEC. 5205. (a) PROCESS FOR FILING CHARTER PETITIONS.—Section 2201 of the District of Columbia School Reform Act of 1995 (Public Law 104–134; 110 Stat. 1321–115) is amended by adding at the end the following:

"(d) LIMITATIONS ON FILING.—

"(1) MULTIPLE CHARTERING AUTHORITIES.—An eligible applicant may not file the same petition to establish a public charter school with more than 1 eligible chartering authority during a calendar year.

"(2) MULTIPLE PETITIONS.—An eligible applicant may not file more than 1 petition to establish a public charter school during a calendar year.".

(b) CONTENTS OF PETITION.—Section 2202(6)(B) of the District of Columbia School Reform Act of 1995 (110 Stat. 1321–116) is amended to read as follows:

"(B) either—

"(i)(I) an identification of a facility for the school, including a description of the site where the school will be located, any buildings on the site, and any buildings proposed to be constructed on the site, and (II) information demonstrating that the eligible applicant has acquired title to, or otherwise secured the use of, the facility; or

"(ii) a timetable by which an identification described in clause (i)(I) will be made, and the information described in clause (i)(II) will be submitted, to the eligible chartering authority;".

(c) PROCESS FOR APPROVING OR DENYING PUBLIC CHARTER SCHOOL PETITIONS.—Section 2203 of the District of Columbia School Reform Act of 1995 (110 Stat. 1321–118) is amended—

(1) by amending subsection (d) to read as follows:

"(d) APPROVAL.—

"(1) IN GENERAL.—Subject to subsection (i) and paragraph (2), an eligible chartering authority shall approve a petition to establish a public charter school, if—

"(A) the eligible chartering authority determines that the petition satisfies the requirements of this subtitle;

"(B) the eligible applicant who filed the petition agrees to satisfy any condition or requirement, consistent with this subtitle and other applicable law, that is set forth in writing by the eligible chartering authority as an amendment to the petition;

"(C) the eligible chartering authority determines that the public charter school has the ability to meet the educational objectives outlined in the petition; and

"(D) the approval will not cause the eligible chartering authority to exceed a limit under subsection (i).

"(2) CONDITIONAL APPROVAL.—

"(A) IN GENERAL.—In the case of a petition that does not contain the identification and information required under section 2202(6)(B)(i), but does contain the timetable required under section 2202(6)(B)(ii), an eligible chartering authority may only approve the petition on a conditional basis, subject to the eligible applicant's submitting the identification and information described in section 2202(6)(B)(i) in accordance with such timetable, or any other timetable specified in writing by the eligible chartering authority in an amendment to the petition.

"(B) EFFECT OF CONDITIONAL APPROVAL.—For purposes of subsections (e), (h), (i), and (j), a petition conditionally approved under this paragraph shall be treated the same as a petition approved under paragraph (1), except that on the date that such a conditionally approved petition ceases to be conditionally approved because the eligible applicant has not timely submitted the identification and information described in section 2202(6)(B)(i), the approval of the petition shall cease to be counted for purposes of subsection (i).";

(2) in subsection (h), by striking "(d)(2)," each place such term appears and inserting "(d),";

(3) by amending subsection (i) to read as follows:

"(i) NUMBER OF PETITIONS.—

"(1) FIRST YEAR.—During calendar year 1996, not more than 10 petitions to establish public charter schools may be approved under this subtitle.

"(2) SUBSEQUENT YEARS.—

"(A) IN GENERAL.—Subject to subparagraph (B), during calendar year 1997, and during each subsequent calendar year, each eligible chartering authority shall not approve more than 10 petitions to establish a public charter school

under this subtitle. Any such petition shall be approved during the period that begins on January 1 and ends on April 1.

"(B) EXCEPTION.—If, by April 1 of any calendar year after 1996, an eligible chartering authority has approved fewer than 10 petitions during such calendar year, any other eligible chartering authority may approve more than 10 petitions during such calendar year, but only if—

"(i) the eligible chartering authority completes the approval of any such additional petition before June 1 of the year; and

"(ii) the approval of any such additional petition will not cause the total number of petitions approved by all eligible chartering authorities during the calendar year to exceed 20."; and

(4) by amending subsection (j) to read as follows:

"(j) AUTHORITY OF ELIGIBLE CHARTERING AUTHORITY.—

"(1) IN GENERAL.—Except as provided in paragraph (2), and except for officers or employees of the eligible chartering authority with which a petition to establish a public charter school is filed, no governmental entity, elected official, or employee of the District of Columbia shall make, participate in making, or intervene in the making of, the decision to approve or deny such a petition.

"(2) AVAILABILITY OF REVIEW.—A decision by an eligible chartering authority to deny a petition to establish a public charter school shall be subject to judicial review by an appropriate court of the District of Columbia.".

(d) DISTRICT OF COLUMBIA PUBLIC SCHOOL SERVICES TO PUBLIC CHARTER SCHOOLS.—Section 2209 of the District of Columbia School Reform Act of 1995 (110 Stat. 1321–125) is amended—

(1) by inserting "(a) IN GENERAL.—" before "The Superintendent"; and

(2) by adding at the end the following:

"(b) PREFERENCE IN LEASING OR PURCHASING PUBLIC SCHOOL FACILITIES.—

"(1) FORMER PUBLIC SCHOOL PROPERTY.—

"(A) IN GENERAL.—Notwithstanding any other provision of law relating to the disposition of a facility or property described in subparagraph (B), the Mayor and the District of Columbia Government shall give preference to an eligible applicant whose petition to establish a public charter school has been conditionally approved under section 2203(d)(2), or a Board of Trustees, with respect to the purchase or lease of a facility or property described in subparagraph (B), provided that doing so will not result in a significant loss of revenue that might be obtained from other dispositions or uses of the facility or property.

"(B) PROPERTY DESCRIBED.—A facility or property referred to in subparagraph (A) is a facility, or real property—

"(i) that formerly was under the jurisdiction of the Board of Education;

"(ii) that the Board of Education has determined is no longer needed for purposes of operating a District of Columbia public school; and

"(iii) with respect to which the Board of Education has transferred jurisdiction to the Mayor.

"(2) CURRENT PUBLIC SCHOOL PROPERTY.—

"(A) IN GENERAL.—Notwithstanding any other provision of law relating to the disposition of a facility or property described in subparagraph (B), the Mayor and the District of Columbia Government shall give preference to an eligible applicant whose petition to establish a public charter school has been conditionally approved under section 2203(d)(2), or a Board of Trustees, in leasing, or otherwise contracting for the use of, a facility or property described in subparagraph (B).

"(B) PROPERTY DESCRIBED.—A facility or property referred to in subparagraph (A) is a facility, real property, or a designated area of a facility or real property, that—

"(i) is under the jurisdiction of the Board of Education; and

"(ii) is available for use because the Board of Education is not using, for educational, administrative, or other purposes, the facility, real property, or designated area.".

(e) CHARTER RENEWAL.—Section 2212 of the District of Columbia School Reform Act of 1995 (110 Stat. 1321–129) is amended—

(1) by amending subsection (a) to read as follows:

"(a) TERMS.—

"(1) INITIAL TERM.—A charter granted to a public charter school shall remain in force for a 15-year period.

"(2) RENEWALS.—A charter may be renewed for an unlimited number of times, each time for a 15-year period.

"(3) REVIEW.—An eligible chartering authority that grants or renews a charter pursuant to paragraph (1) or (2) shall review the charter—

"(A) at least once every 5 years to determine whether the charter should be revoked for the reasons described in subsection (a)(1)(A) or (b) of section 2213 in accordance with the procedures for such revocation established under section 2213(c); and

"(B) once every 5 years, beginning on the date that is 5 years after the date on which the charter is granted or renewed, to determine whether the charter should be revoked for the reasons described in section 2213(a)(1)(B) in accordance with the procedures for such revocation established under section 2213(c).";

and

(2) by amending subsection (d)(6) to read as follows:

"(6) JUDICIAL REVIEW.—A decision by an eligible chartering authority to deny an application to renew a charter shall be subject to judicial review by an appropriate court of the District of Columbia.".

(f) CHARTER REVOCATION.—Section 2213(a) of the District of Columbia School Reform Act of 1995 (110 Stat. 1321–130) is amended to read as follows:

"(a) CHARTER OR LAW VIOLATIONS; FAILURE TO MEET GOALS.—

"(1) IN GENERAL.—Subject to paragraph (2), an eligible chartering authority that has granted a charter to a public charter school may revoke the charter if the eligible chartering authority determines that the school—

"(A) committed a violation of applicable laws or a material violation of the conditions, terms, standards, or procedures set forth in the charter, including violations relating to the education of children with disabilities; or

"(B) failed to meet the goals and student academic achievement expectations set forth in the charter.

"(2) SPECIAL RULE.—An eligible chartering authority may not revoke a charter under paragraph (1)(B), except pursuant to a determination made through a review conducted under section 2212(a)(3)(B).".

(g) PUBLIC CHARTER SCHOOL BOARD.—Paragraphs (3) and (4) of section 2214(a) of the District of Columbia School Reform Act of 1995 (110 Stat. 1321–132) are amended to read as follows:

"(3) VACANCIES.—

"(A) OTHER THAN FROM EXPIRATION OF TERM.—Where a vacancy occurs in the membership of the Board for reasons other than the expiration of the term of a member of the Board, the Secretary of Education, not later than 30 days after the vacancy occurs, shall present to the Mayor a list of 3 people the Secretary determines are qualified to serve on the Board. The Mayor, in consultation with the District of Columbia Council, shall appoint 1 person from the list to serve on the Board. The Secretary shall recommend, and the Mayor shall appoint, such member of the Board taking into consideration the criteria described in paragraph (2). Any member appointed to fill a vacancy occurring prior to the expiration of the term of a predecessor shall be appointed only for the remainder of the term.

"(B) EXPIRATION OF TERM.—Not later than the date that is 60 days before the expiration of the term of a member of the Board, the Secretary of Education shall present to the Mayor, with respect to each such impending vacancy, a list of 3 people the Secretary determines are qualified to serve on the Board. The Mayor, in consultation with the District of Columbia Council, shall appoint 1 person from each such list to serve on the Board. The Secretary shall recommend, and the Mayor shall appoint, any member of the Board taking into consideration the criteria described in paragraph (2).

"(4) TIME LIMIT FOR APPOINTMENTS.—If, at any time, the Mayor does not appoint members to the Board sufficient to bring the Board's membership to 7 within 30 days after receiving a recommendation from the Secretary of Education under paragraph (2) or (3), the Secretary, not later than 10 days after the final date for such mayoral appointment, shall make such appointments as are necessary to bring the membership of the Board to 7.".

(h) TECHNICAL AMENDMENT.—Section 2561(b) of the District of Columbia School Reform Act of 1995 (Public Law 104–134), as amended by section 148 of the District of Columbia Appropriations Act, 1997 (Public Law 104–194), is amended to read as follows:

"(b) LIMITATION.—A waiver under subsection (a) shall not apply to the Davis-Bacon Act (40 U.S.C. 276a et seq.) or Executive Order 11246 or other civil rights standards.".

DISPOSITION OF CERTAIN SCHOOL PROPERTY BY AUTHORITY

SEC. 5206. (a) IN GENERAL.—Subtitle C of title II of the District of Columbia Financial Responsibility and Management Assistance Act of 1995 is amended by adding at the end the following new section:

"SEC. 225. DISPOSITION OF CERTAIN SCHOOL PROPERTY.

"(a) POWER TO DISPOSE.—Notwithstanding any other provision of law relating to the disposition of a facility or property described in subsection (d), the Authority may dispose (by sale, lease, or otherwise) of any facility or property described in subsection (d).

"(b) PREFERENCE FOR PUBLIC CHARTER SCHOOLS.—In disposing of a facility or property under this section, the Authority shall give preference to an eligible applicant (as defined in section 2002 of the District of Columbia School Reform Act of 1995) whose petition to establish a public charter school has been conditionally approved under section 2203(d)(2) of such Act, or a Board of Trustees (as defined in section 2002 of such Act) of such a public charter school, if doing so will not result in a significant loss of revenue that might be obtained from other dispositions or uses of the facility or property.

"(c) USE OF PROCEEDS FROM DISPOSITION FOR SCHOOL REPAIR AND MAINTENANCE.—

"(1) IN GENERAL.—The Authority shall deposit any proceeds of the disposition of a facility or property under this section in the Board of Education Real Property Maintenance and Improvement Fund (as established by the Real Property Disposal Act of 1990), to be used for the construction, maintenance, improvement, rehabilitation, or repair of buildings and grounds which are used for educational purposes for public and public charter school students in the District of Columbia.

"(2) CONSULTATION.—In disposing of a facility or property under this section, the Authority shall consult with the Superintendent of Schools of the District of Columbia, the Mayor, the Council, the Administrator of General Services, and education and community leaders involved in planning for an agency or authority that will design and administer a comprehensive long-term program for repair and improvement of District of Columbia public school facilities (as described in section 2552(a) of the District of Columbia School Reform Act of 1995).

"(3) LEGAL EFFECT OF SALE.—The Authority may dispose of a facility or property under this section by executing a proper deed and any other legal instrument for conveyance of title to the facility or property, and such deed shall convey good and valid title to the purchaser of the facility or property.

"(d) FACILITY OR PROPERTY DESCRIBED.—A facility or property described in this subsection is a facility or property which is described in section 2209(b)(1)(B) of the District of Columbia School Reform Act of 1995 and with respect to which the Authority has made the following determinations:

"(1) The property is no longer needed for purposes of operating a District of Columbia public school (as defined in section 2002 of the District of Columbia School Reform Act of 1995).

"(2) The disposition of the property is in the best interests of education in the District of Columbia.

"(3) The Mayor (or any other department or agency of the District government) has failed to make substantial progress toward disposing the property during the 90-day period which begins on the date the Board of Education transfers jurisdiction over the property to the Mayor (or, in the case of property which is described in section 2209(b)(1)(B) of such Act as of the date of the enactment of this section, during the 90-day period which begins on the date of the enactment of this section).".

(b) CONTROL OVER BOARD OF EDUCATION REAL PROPERTY MAINTENANCE AND IMPROVEMENT FUND.—

(1) IN GENERAL.—Section 2(b) of the Board of Education Real Property Disposal Act of 1990 (sec. 9–402(b), D.C. Code) is amended—

(A) by amending the second sentence to read as follows: "Subject to paragraph (6), the District of Columbia Financial Responsibility and Management Assistance Authority shall administer the Fund and receive all payments into the Fund that are required by law."; and

(B) by adding at the end the following new paragraph:

"(6) Upon the establishment of an agency or authority within the District of Columbia government to administer a public schools facilities revitalization plan pursuant to section 2552(a)(2) of the District of Columbia School Reform Act of 1995, such agency or authority shall administer the Fund and receive all payments into the Fund that are required by law.".

(2) CONFORMING AMENDMENTS.—Section 2(b) of the Board of Education Real Property Disposal Act of 1990 (sec. 9–402(b), D.C. Code) is amended—

(A) in the third sentence of paragraph (1), by striking "; provided that the Board" and all that follows and inserting a period; and

(B) by striking paragraph (5).

(c) CLERICAL AMENDMENT.—The table of contents of subtitle C of title II of the District of Columbia Financial Responsibility and Management Assistance Act of 1995 is amended by adding at the end the following new item:

"Sec. 225. Disposition of certain school property.".

CHAPTER 3

ENERGY AND WATER DEVELOPMENT

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

OPERATION AND MAINTENANCE, GENERAL

For an additional amount for "Operation and Maintenance, General" for emergency expenses resulting from Hurricane Fran and other natural disasters of 1996, $19,000,000, to remain available until expended: *Provided:* That such amount is designated by Congress as an emergency requirement pursuant to section

251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

GENERAL PROVISION

SEC. 5301. None of the funds appropriated in the Energy and Water Development Appropriations Act, 1997 may be made available to the Tennessee Valley Authority if the Tennessee Valley Authority is imposing a performance deposit in connection with residential shoreline alteration permits.

CHAPTER 4

LEGISLATIVE BRANCH

HOUSE OF REPRESENTATIVES

SALARIES AND EXPENSES

(RESCISSION)

Immediately upon enactment of this Act, of the funds appropriated in the Legislative Branch Appropriations Act, 1996, for the House of Representatives under the heading "SALARIES AND EXPENSES", there is rescinded $500,000, specified for the following heading and account:

(1) "ALLOWANCES AND EXPENSES", $500,000, as follows: (A) "Government contributions to employees' life insurance fund, retirement funds, Social Security fund, Medicare fund, health benefits fund, and worker's and unemployment compensation."

JOINT ITEMS

CAPITOL POLICE BOARD

CAPITOL POLICE

SALARIES

(RESCISSION)

Immediately upon enactment of this Act, of the funds appropriated under this heading in Public Law 104–53, $3,000,000 are rescinded.

GENERAL EXPENSES

For an additional amount for the Capitol Police Board for necessary expenses for the design and installation of security systems for the Capitol buildings and grounds, $3,250,000, which shall remain available until expended.

ARCHITECT OF THE CAPITOL

CAPITOL BUILDINGS AND GROUNDS

CAPITOL BUILDINGS

For an additional amount for "Capitol Buildings and Grounds, Capitol Buildings", $250,000, to remain available until expended, for architectural and engineering services related to the design and installation of security systems for Capitol buildings and grounds.

SENATE OFFICE BUILDINGS

Of the funds appropriated under the heading, "ARCHITECT OF THE CAPITOL, Capitol Buildings and Grounds, Senate office buildings" in Public Law 104–53, $650,000 shall remain available until September 30, 1997 for furniture, furnishings, and equipment for the Senate employees' child care center.

GENERAL PROVISIONS

CONGRESSIONAL AWARD ACT AMENDMENTS OF 1996

SEC. 5401. (a) EXTENSION OF REQUIREMENTS REGARDING FINANCIAL OPERATIONS OF CONGRESSIONAL AWARD PROGRAM; NONCOMPLIANCE WITH REQUIREMENTS.—Section 5(c)(2)(A) of the Congressional Award Act (2 U.S.C. 804(c)(2)(A)) is amended by striking "and 1994" and inserting "1994, 1995, 1996, 1997, and 1998".

(b) TERMINATION.—Section 9 of the Congressional Award Act (2 U.S.C. 808) is amended by striking "October 1, 1995" and inserting "October 1, 1999".

2 USC 808 note.

(c) SAVINGS PROVISIONS.—During the period of October 1, 1995, through the date of the enactment of this section, all actions and functions of the Congressional Award Board under the Congressional Award Act shall have the same effect as though no lapse or termination of the Congressional Award Board ever occurred.

BILL EMERSON HALL IN THE HOUSE OF REPRESENTATIVES PAGE SCHOOL

2 USC 141 note.

SEC. 5402. The Founders Hall instructional area in the House of Representatives Page School, located in the Thomas Jefferson Building of the Library of Congress, shall be known and designated as "Bill Emerson Hall".

CHAPTER 5

DEPARTMENT OF TRANSPORTATION

FEDERAL AVIATION ADMINISTRATION

OPERATIONS

(AIRPORT AND AIRWAY TRUST FUND)

For additional operating expenses of the Federal Aviation Administration for airport security activities, $57,900,000, to be derived from the Airport and Airway Trust Fund and to remain available until September 30, 1998: *Provided*, That of the funds

provided, $8,900,000 shall be for establishment of additional explosive detection K–9 teams at airports; $5,500,000 shall be for airport vulnerability assessments; $18,000,000 shall be for the hire of additional aviation security personnel: and $25,500,000 shall be for the hire of additional aviation safety inspectors and contract weather observers, air traffic controller training, and implementation of recommendations of the Federal Aviation Administration's "Ninety Day Safety Review", dated September 16, 1996: *Provided further*, That such amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

FACILITIES AND EQUIPMENT

(AIRPORT AND AIRWAY TRUST FUND)

For additional necessary expenses for "Facilities and Equipment", $147,700,000, to be derived from the Airport and Airway Trust Fund and to remain available until September 30, 1999: *Provided*, That of the funds provided, $144,200,000 shall only be for non-competitive contracts or cooperative agreements with air carriers and airport authorities, which provide for the Federal Aviation Administration to purchase and assist in installation of advanced security equipment for the use of such entities and $3,500,000 shall be for accelerated development and deployment of the Online Aviation Safety Information System: *Provided further*, That such amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

RESEARCH, ENGINEERING, AND DEVELOPMENT

(AIRPORT AND AIRWAY TRUST FUND)

For an additional amount for "Research, Engineering, and Development", $21,000,000, to be derived from the Airport and Airway Trust Fund and to remain available until September 30, 1999: *Provided*, That the funds provided shall only be for aviation security research and operational testing of document trace scanners and explosive detection portals for airport passengers: *Provided further*, That such amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

GRANTS-IN-AID FOR AIRPORTS

(AIRPORT AND AIRWAY TRUST FUND)

(RESCISSION OF CONTRACT AUTHORIZATION)

Of the available contract authority balances under this heading, $50,000,000 are rescinded.

FEDERAL HIGHWAY ADMINISTRATION

HIGHWAY-RELATED SAFETY GRANTS

(HIGHWAY TRUST FUND)

(RESCISSION OF CONTRACT AUTHORIZATION)

Of the available contract authority balances under this heading, $9,100,000 are rescinded.

FEDERAL-AID HIGHWAYS

(HIGHWAY TRUST FUND)

For an additional amount for "Emergency Relief Program" for emergency expenses resulting from Hurricanes Fran and Hortense and for other disasters, as authorized by 23 U.S.C. 125, $82,000,000, to be derived from the Highway Trust Fund and to remain available until expended: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

MOTOR CARRIER SAFETY GRANTS

(HIGHWAY TRUST FUND)

(RESCISSION OF CONTRACT AUTHORIZATION)

Of the available contract authority balances under this heading, $12,300,000 are rescinded.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

HIGHWAY TRAFFIC SAFETY GRANTS

(HIGHWAY TRUST FUND)

(RESCISSION OF CONTRACT AUTHORIZATION)

Of the available contract authority balances under this heading, $11,800,000 are rescinded.

FEDERAL RAILROAD ADMINISTRATION

NORTHEAST CORRIDOR IMPROVEMENT PROGRAM

For additional necessary expenses related to Northeast Corridor improvements authorized by title VII of the Railroad Revitalization and Regulatory Reform Act of 1976, as amended (45 U.S.C. 851 et seq.) and 49 U.S.C. 24909, $60,000,000, to remain available until September 30, 1999.

DIRECT LOAN FINANCING PROGRAM

Notwithstanding any other provision of law, $58,680,000, for direct loans not to exceed $400,000,000 consistent with the purposes of section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825) as in effect on September 30, 1988, to the Alameda Corridor Transportation Authority to continue the

Alameda Corridor Project, including replacement of at-grade rail lines with a below-grade corridor and widening of the adjacent major highway: *Provided*, That loans not to exceed the following amounts shall be made on or after the first day of the fiscal year indicated:

Fiscal year 1997	$140,000,000
Fiscal year 1998	$140,000,000
Fiscal year 1999	$120,000,000

Provided further, That any loan authorized under this section shall be structured with a maximum 30-year repayment after completion of construction at an annual interest rate of not to exceed the 30-year United States Treasury rate and on such terms and conditions as deemed appropriate by the Secretary of Transportation: *Provided further*, That specific provisions of section 505 (a), (b) and (d) through (h) shall not apply: *Provided further*, That the Alameda Corridor Transportation Authority shall be deemed to be a financially responsible person for purposes of section 505 of the Act.

GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION

For additional expenses necessary for "Grants to the National Railroad Passenger Corporation", $22,500,000 for operating losses, to remain available until September 30, 1997: *Provided*, That amounts made available shall only be used to continue service on routes the National Railroad Passenger Corporation currently plans to terminate.

RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

RESEARCH AND SPECIAL PROGRAMS

For additional expenses necessary for "Research and Special Programs" to conduct vulnerability and threat assessments of the nation's transportation system, $3,000,000, to remain available until September 30, 1999: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

NATIONAL TRANSPORTATION SAFETY BOARD

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", $6,000,000, to reimburse other federal agencies for previously incurred costs of recovering wreckage from TWA flight 800, and for other costs related to the TWA 800 accident investigation: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

EMERGENCY FUND

For necessary expenses of the National Transportation Safety Board for accident investigations, including hire of passenger motor vehicles and aircraft; services as authorized by 5 U.S.C. 3109,

but at rates for individuals not to exceed the per diem rate equivalent to the rate for a GS–18; uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901–5902), $1,000,000: *Provided,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

GENERAL PROVISIONS

SEC. 5501. In fiscal year 1997, the Administrator of the Federal Aviation Administration may establish at individual airports such consortia of government and aviation industry representatives as the Administrator may designate to provide advice on matters related to aviation security and safety: *Provided,* That such consortia shall not be considered Federal advisory committees.

SEC. 5502. In cases where an emergency ocean condition causes erosion of a bank protecting a scenic highway or byway, fiscal year 1996 or fiscal year 1997 Federal Highway Administration Emergency Relief funds can be used to halt the erosion and stabilize the bank if such action is necessary to protect the highway from imminent failure and is less expensive than highway relocation.

SEC. 5503. Of the funds deducted under 23 U.S.C. subsection 104(a) for fiscal year 1997, $30,000,000 shall be available for allocation to States authorized by section 1069(y) of Public Law 102–240.

SEC. 5504. CONVEYANCE OF PROPERTY IN TRAVERSE CITY, MICHIGAN. (a) AUTHORITY TO CONVEY.—The Secretary of Transportation (or any other official having control over the property described in subsection (b)) shall expeditiously convey to the Traverse City Area Public School District in Traverse City, Michigan, without consideration, all right, title, and interest of the United States in and to the property identified, described, and determined by the Secretary under subsection (b), subject to all easements and other interests in the property held by any other person.

(b) IDENTIFICATION OF PROPERTY.—The Secretary shall identify, describe, and determine the property to be conveyed pursuant to this section.

(c) REVERSIONARY INTEREST.—In addition to any term or condition established pursuant to subsection (a) or (d), any conveyance of property described in subsection (b) shall be subject to the condition that all right, title, and interest in and to the property so conveyed shall immediately revert to the United States if the property, or any part thereof, ceases to be used by the Traverse City Area Public School District.

(d) TERMS OF CONVEYANCE.—The conveyance of property under this section shall be subject to such conditions as the Secretary considers to be necessary to assure that—

(1) the pump room located on the property shall continue to be operated and maintained by the United States for as long as it is needed for this purpose;

(2) the United States shall have an easement of access to the property for the purpose of operating and maintaining the pump room; and

(3) the United States shall have the right, at any time, to enter the property without notice for the purpose of operating and maintaining the pump room.

SEC. 5505. AUTHORITY TO CONVEY WHITEFISH POINT LIGHT STATION LAND.

(a) AUTHORITY TO CONVEY.—

(1) IN GENERAL.—Except as otherwise provided in this section, the Secretary of the Interior (in this section referred to as the "Secretary") may convey, by an appropriate means of conveyance, all right, title, and interest of the United States in 1 of the 3 parcels comprising the land on which the United States Coast Guard Whitefish Point Light Station is situated (in this section referred to as the "Property"), to each of the Great Lakes Shipwreck Historical Society, located in Sault Ste. Marie, Michigan, the United States Fish and Wildlife Service, and the Michigan Audubon Society (each of which is referred to in this section as a "recipient"), subject to all easements, conditions, reservations, exceptions, and restrictions contained in prior conveyances of record.

(2) LIMITATION.—Notwithstanding paragraph (1), the Secretary shall retain for the United States all right, title, and interest in—

(A) any historical artifact, including any lens or lantern, and

(B) the light, antennas, sound signal, towers, associated lighthouse equipment, and any electronic navigation equipment, which are active aids to navigation,

which is located on the Property, or which relates to the Property.

(3) IDENTIFICATION OF THE PROPERTY.—The Secretary may identify, describe, and determine the parcels to be conveyed pursuant to this section.

(4) RIGHTS OF ACCESS.—If necessary to ensure access to a public roadway for a parcel conveyed under this section, the Secretary shall convey with the parcel an appropriate appurtenant easement over another parcel conveyed under this section.

(5) EASEMENT FOR PUBLIC ALONG SHORELINE.—In each conveyance under this section of property located on the shoreline of Lake Superior, the Secretary shall retain for the public, for public walkway purposes, a right-of-way along the shoreline that extends 30 feet inland from the mean high water line.

(b) TERMS AND CONDITIONS.—

(1) IN GENERAL.—Any conveyance pursuant to subsection (a) shall be made—

(A) without payment of consideration; and

(B) subject to such terms and conditions as the Secretary considers appropriate.

(2) MAINTENANCE OF NAVIGATION FUNCTIONS.—The Secretary shall ensure that any conveyance pursuant to this section is subject to such conditions as the Secretary considers to be necessary to assure that—

(A) the light, antennas, sound signal, towers, and associated lighthouse equipment, and any electronic navigation equipment, which are located on the Property and which are active aids to navigation shall continue to be operated and maintained by the United States for as long as they are needed for this purpose;

(B) the recipients may not interfere or allow interference in any manner with such aids to navigation without express written permission from the United States;

(C) there is reserved to the United States the right to relocate, replace, or add any aids to navigation, or make any changes on any portion of the Property as may be necessary for navigation purposes;

(D) the United States shall have the right, at any time, to enter the Property without notice for the purpose of maintaining aids to navigation;

(E) the United States shall have—

(i) an easement of access to and across the Property for the purpose of maintaining the aids to navigation and associated equipment in use on the Property; and

(ii) an easement for an arc of visibility; and

(F) the United States shall not be responsible for the cost and expense of maintenance, repair, and upkeep of the Property.

(3) MAINTENANCE OBLIGATION.—The recipients shall not have any obligation to maintain any active aid to navigation equipment on any parcel conveyed pursuant to this section.

(c) PROPERTY TO BE MAINTAINED IN ACCORDANCE WITH CERTAIN LAWS.—Each recipient shall maintain the parcel conveyed to the recipient pursuant to subsection (a) in accordance with the provisions of the National Historic Preservation Act (16 U.S.C. 470 et seq.), and other applicable laws.

(d) MAINTENANCE STANDARD.—Each recipient shall maintain the parcel conveyed to the recipient pursuant to subsection (a), at its own cost and expense, in a proper, substantial, and workmanlike manner, including the easements of access, the easement for an arc of visibility, the nuisance easement, and the underground easement.

(e) SHARED USE AND OCCUPANCY AGREEMENT.—The Secretary shall require, as a condition of each conveyance of property under this section, that all of the recipients have entered into the same agreement governing the shared use and occupancy of the existing Whitefish Point Light Station facilities. The agreement shall be drafted by the recipients and shall include—

(1) terms governing building occupancy and access of recipient staff and public visitors to public restrooms, the auditorium, and the parking lot; and

(2) terms requiring that each recipient shall be responsible for paying a pro rata share of the costs of operating and maintaining the existing Whitefish Point Light Station facilities, that is based on the level of use and occupancy of the facilities by the recipient.

(f) LIMITATIONS ON DEVELOPMENT AND IMPAIRING USES.—It shall be a term of each conveyance under this section that—

(1) no development of new facilities or expansion of existing facilities or infrastructure on property conveyed under this section may occur, except for purposes of implementing the Whitefish Point Comprehensive Plan of October 1992 or for a gift shop, unless—

(A) each of the recipients consents to the development or expansion in writing;

(B) there has been a reasonable opportunity for public comment on the development or expansion, and full consideration has been given to such public comment as is provided; and

(C) the development or expansion is consistent with preservation of the Property in its predominantly natural, scenic, historic, and forested condition; and

(2) any use of the Property or any structure located on the property which may impair or interfere with the conservation values of the Property is expressly prohibited.

(g) REVISIONARY INTEREST.—

(1) IN GENERAL.—All right, title, and interests in and to property and interests conveyed under this section shall revert to the United States and thereafter be administered by the Secretary of Interior acting through the Director of the United States Fish and Wildlife Service, if—

(A) in the case of such property and interests conveyed to the Great Lakes Shipwreck Historical Society, the property or interests cease to be used for the purpose of historical interpretation;

(B) in the case of such property and interests conveyed to the Michigan Audubon Society, the property or interests cease to be used for the purpose of environmental protection, research, and interpretation; or

(C) in the case any property and interests conveyed to a recipient referred to in subparagraph (A) or (B)—

(i) there is any violation of any term or condition of the conveyance to that recipient; or

(ii) the recipient has ceased to exist.

(2) AUTHORITY TO ENFORCE REVERSIONARY INTEREST.—The Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service, shall have the authority—

(A) to determine for the United States Government whether any act or omission of a recipient results in a reversion of property and interests under paragraph (1); and

(B) to initiate a civil action to enforce that reversion, after notifying the recipient of the intent of the Secretary of the Interior to initiate that action.

(3) MAINTENANCE OF NAVIGATION FUNCTIONS.—In the event of a reversion of property under this subsection, the Secretary of the Interior shall administer the property subject to any conditions the Secretary of Transportation considers to be necessary to maintain the navigation functions.

SEC. 5506. CONVEYANCE OF LIGHTHOUSES.

(a) AUTHORITY TO CONVEY.—

(1) IN GENERAL.—The Secretary of Transportation or the Secretary of the Interior, as appropriate, shall convey, by an appropriate means of conveyance, all right, title, and interest of the United States in and to each of the following properties:

(A) Saint Helena Island Light Station, located in MacKinac County, Moran Township, Michigan, to the Great Lakes Lighthouse Keepers Association.

(B) Presque Isle Light Station, located in Presque Isle Township, Michigan, to Presque Isle Township, Presque Isle County, Michigan.

(2) IDENTIFICATION OF PROPERTY.—The Secretary may identify, describe, and determine the property to be conveyed under this subsection.

(3) EXCEPTION.—The Secretary may not convey any historical artifact, including any lens or lantern, located on the property at or before the time of the conveyance.

(b) TERMS OF CONVEYANCE.—

(1) IN GENERAL.—The conveyance of property under this section shall be made—

(A) without payment of consideration; and

(B) subject to the conditions required by this section and other terms and conditions the Secretary may consider appropriate.

(2) REVERSIONARY INTEREST.—In addition to any term or condition established under this section, the conveyance of property under this subsection shall be subject to the condition that all right, title, and interest in the property shall immediately revert to the United States if—

(A) the property, or any part of the property—

(i) ceases to be used as a nonprofit center for the interpretation and preservation of maritime history;

(ii) ceases to be maintained in a manner that ensures its present or future use as a Coast Guard aid to navigation; or

(iii) ceases to be maintained in a manner consistent with the provisions of the National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.); or

(B) at least 30 days before that reversion, the Secretary of Transportation provides written notice to the owner that the property is needed for national security purposes.

(3) MAINTENANCE OF NAVIGATION FUNCTIONS.—A conveyance of property under this section shall be made subject to the conditions that the Secretary of Transportation considers to be necessary to assure that—

(A) the lights, antennas, sound signal, electronic navigation equipment, and associated lighthouse equipment located on the property conveyed, which are active aids to navigation, shall continue to be operated and maintained by the United States for as long as they are needed for this purpose;

(B) the owner of the property may not interfere or allow interference in any manner with aids to navigation without express written permission from the Secretary of Transportation;

(C) there is reserved to the United States the right to relocate, replace or add any aid to navigation or make any changes to the property as may be necessary for navigational purposes;

(D) the United States shall have the right, at any time, to enter the property without notice for the purpose of maintaining aids to navigation; and

(E) the United States shall have an easement of access to and across the property for the purpose of maintaining the aids to navigation in use on the property.

(4) OBLIGATION LIMITATION.—The owner of property conveyed under this section is not required to maintain any active aid to navigation equipment on the property.

(5) PROPERTY TO BE MAINTAINED IN ACCORDANCE WITH CERTAIN LAWS.—The owner of property conveyed under this section shall maintain the property in accordance with the National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.) and other applicable laws.

(c) MAINTENANCE STANDARD.—The owner of any property conveyed under this section, at its own cost and expense, shall maintain the property in a proper, substantial, and workmanlike manner.

(d) DEFINITIONS.—For purposes of this section:

(1) the term "owner" means the person identified in subsection a(1)(A) and (B), and includes any successor of assign of that person.

(2) The term "Presque Isle Light Station" includes the light tower, attached dwelling, detached dwelling, 3-car garage, and any other improvements on that parcel of land.

CHAPTER 6

DEPARTMENT OF THE TREASURY

COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS

COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS FUND PROGRAM ACCOUNT

For an additional amount for "Community Development Financial Institutions Fund Program Account" for grants, loans, and technical assistance to qualifying community development lenders, $5,000,000, to remain available until September 30, 1998, of which $850,000 may be used for the cost of direct loans: *Provided*, That the cost of direct loans, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974.

ENVIRONMENTAL PROTECTION AGENCY

SCIENCE AND TECHNOLOGY

For an additional amount for "Science and Technology", $10,000,000, to remain available until September 30, 1998, to conduct health effects research to carry out the purposes of the Safe Drinking Water Act Amendments of 1996, Public Law 104–182.

ENVIRONMENTAL PROGRAMS AND MANAGEMENT

For an additional amount for "Environmental Programs and Management", $42,221,000, to remain available until September 30, 1998, of which $30,000,000 is to carry out the purposes of the Safe Drinking Water Act Amendments of 1996, Public Law 104–182, and the purposes of the Food Quality Protection Act of 1996, Public Law 104–170, and of which $10,221,000 is for pesticide residue data collection for use in risk assessment activities.

STATE AND TRIBAL ASSISTANCE GRANTS

For an additional amount for "State and Tribal Assistance Grants", $35,000,000, to remain available until expended, for a grant to the City of Boston, Massachusetts, subject to an appropriate cost share as determined by the Administrator, for the construction of wastewater treatment facilities.

FEDERAL EMERGENCY MANAGEMENT AGENCY

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses" to increase Federal, State, and local preparedness for mitigating and responding to the consequences of terrorism, $3,000,000.

EMERGENCY MANAGEMENT PLANNING AND ASSISTANCE

For an additional amount for "Emergency Management Planning and Assistance" to increase Federal, State, and local preparedness for mitigating and responding to the consequences of terrorism, $12,000,000.

NATIONAL FLOOD INSURANCE FUND

Section 1309(a)(2) of the National Flood Insurance Act (42 U.S.C. 4016(a)(2)), is amended by striking "$1,000,000,000" and inserting in lieu thereof "$1,500,000,000 through September 30, 1997, and $1,000,000,000 thereafter".

DEPARTMENT OF HEALTH AND HUMAN SERVICES

OFFICE OF CONSUMER AFFAIRS

For necessary expenses of the Office of Consumer Affairs, including services authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS–18, $1,500,000: *Provided*, That none of the funds provided under this heading may be made available for any other activities within the Department of Health and Human Services.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

SCIENCE, AERONAUTICS AND TECHNOLOGY

For an additional amount for "Science, Aeronautics and Technology", $5,000,000, to remain available until September 30, 1998.

CHAPTER 7

INTERNATIONAL SECURITY ASSISTANCE

NONPROLIFERATION, ANTI-TERRORISM, DEMINING AND RELATED PROGRAMS

For an additional amount for nonproliferation, anti-terrorism and related programs and activities, $18,000,000, to carry out the provisions of chapter 8 of part II of the Foreign Assistance Act of 1961 for anti-terrorism assistance.

FOREIGN MILITARY FINANCING PROGRAM

For an additional amount for grants to enable the President to carry out the provisions of section 23 of the Arms Export Control Act, $60,000,000.

PEACEKEEPING OPERATIONS

For necessary expenses to carry out the provisions of section 551 of the Foreign Assistance Act of 1961, $65,000,000: *Provided*, That none of the funds appropriated under this paragraph shall be obligated or expended except as provided through the regular notification procedures of the Committees on Appropriations.

CHAPTER 8

GENERAL PROVISIONS

SEC. 5801. Of the amounts made available in Title IV of the Department of Defense Appropriations Act, 1997, under the heading "Research, Development, Test and Evaluation, Defense-Wide", $56,232,000 shall be made available only for the Corps Surface-to-Air Missile (CORPS SAM) program.

SEC. 5802. There is hereby established on the books of the Treasury an account, "Support for International Sporting Competitions, Defense" (hereinafter referred to in this section as the "Account") to be available until expended for logistical and security support for international sporting competitions (other than pay and non-travel-related allowances of members of the Armed Forces of the United States, except for members of the reserve components thereof called or ordered to active duty in connection with providing such support): *Provided*, That there shall be credited to the Account: (a) unobligated balances of the funds appropriated in Public Laws 103–335 and 104–61 under the headings "Summer Olympics"; (b) any reimbursements received by the Department of Defense in connection with support to the 1993 World University Games; the 1994 World Cup Games; and the 1996 Games of the XXVI Olympiad held in Atlanta, Georgia; (c) any reimbursements received by the Department of Defense after the date of enactment of this Act for logistical and security support provided to international sporting competitions; and (d) amounts specifically appropriated to the Account, all to remain available until expended: *Provided further*, That none of the funds made available to the Account may be obligated until 45 days after the congressional defense committees have been notified in writing by the Secretary of Defense as to the purpose for which these funds will be obligated. 10 USC 2012 note.

SEC. 5803. In addition to the amounts made available in Title IV of the Department of Defense Appropriations Act, 1997, under the heading "Research, Development, Test and Evaluation, Defense-Wide", $100,000,000 is hereby appropriated and made available only for the Dual-Use Applications Program.

Oregon Resource Conservation Act of 1996.

DIVISION B—OREGON RESOURCE CONSERVATION ACT OF 1996

SECTION 1. SHORT TITLE.

This Act may be cited as the "Oregon Resource Conservation Act of 1996".

Opal Creek Wilderness and Opal Creek Scenic Recreation Area Act of 1996. 16 USC 545b note.

TITLE I—OPAL CREEK WILDERNESS AND SCENIC RECREATION AREA

SEC. 101. SHORT TITLE.

This title may be cited as the "Opal Creek Wilderness and Opal Creek Scenic Recreation Area Act of 1996".

SEC. 102. DEFINITIONS.

In this title:

(1) BULL OF THE WOODS WILDERNESS.—The term "Bull of the Woods Wilderness" means the land designated as wilderness by section 3(4) of the Oregon Wilderness Act of 1984 (Public Law 98–328; 16 U.S.C. 1132 note).

(2) OPAL CREEK WILDERNESS.—The term "Opal Creek Wilderness" means certain land in the Willamette National Forest in the State of Oregon comprising approximately 12,800 acres, as generally depicted on the map entitled "Proposed Opal Creek Wilderness and Scenic Recreation Area", dated July 1996.

(3) SCENIC RECREATION AREA.—The term "Scenic Recreation Area" means the Opal Creek Scenic Recreation Area, comprising approximately 13,000 acres, as generally depicted on the map entitled "Proposed Opal Creek Wilderness and Scenic Recreation Area", dated July 1996 and established under section 104(a)(3) of this title.

(4) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

SEC. 103. PURPOSES.

The purposes of this title are:

(1) to establish a wilderness and scenic recreation area to protect and provide for the enhancement of the natural, scenic, recreational, historic, and cultural resources of the area in the vicinity of Opal Creek;

(2) to protect and support the economy of the communities in the Santiam Canyon; and

(3) to provide increased protection for an important drinking water source for communities served by the north Santiam River.

16 USC 1132 note.

SEC. 104. ESTABLISHMENT OF OPAL CREEK WILDERNESS AND SCENIC RECREATION AREA.

(a) ESTABLISHMENT.—On a determination by the Secretary under subsection (b)—

(1) the Opal Creek Wilderness, as depicted on the map described in section 102(2), is hereby designated as wilderness, subject to the provisions of the Wilderness Act of 1964, shall

become a component of the National Wilderness System, and shall be known as the Opal Creek Wilderness;

(2) the part of the Bull of the Woods Wilderness that is located in the Willamette National Forest shall be incorporated into the Opal Creek Wildnerness; and

(3) the Secretary shall establish the Opal Creek Scenic Recreation Area in the Willamette National Forest in the State of Oregon, comprising approximately 13,000 acres, as generally depicted on the map described in section 102(3).

(b) CONDITIONS.—The designations in subsection (a) shall not take effect unless the Secretary makes a determination, not later than 2 years after the date of enactment of this title, that the following conditions have been met:

(1) the following have been donated to the United States in an acceptable condition and without encumbrances—

(A) all right, title, and interest in the following patented parcels of land—

(i) Santiam number 1, mineral survey number 992, as described in patent number 39–92–0002, dated December 11, 1991;

(ii) Ruth Quartz Mine number 2, mineral survey number 994, as described in patent number 39–91–0012, dated February 12, 1991;

(iii) Morning Star Lode, mineral survey number 993, as described in patent number 36–91–0011, dated February 12, 1991;

(B) all right, title, and interest held by any entity other than the Times Mirror Land and Timber Company, its successors and assigns, in and to lands located in section 18, township 8 south, range 5 east, Marion County, Oregon, Eureka numbers 6, 7, 8, and 13 mining claims; and

(C) an easement across the Hewitt, Starvation, and Poor Boy Mill Sites, mineral survey number 990, as described in patent number 36–91–0017, dated May 9, 1991. In the sole discretion of the Secretary, such easement may be limited to administrative use if an alternative access route, adequate and appropriate for public use, is provided.

(2) a binding agreement has been executed by the Secretary and the owners of record as of March 29, 1996, of the following interests, specifying the terms and conditions for the disposition of such interests to the United States Government—

(A) the lode mining claims known as Princess Lode, Black Prince Lode, and King number 4 Lode, embracing portions of sections 29 and 32, township 8 south, range 5 east, Willamette Meridian, Marion County, Oregon, the claims being more particularly described in the field notes and depicted on the plat of mineral survey number 887, Oregon; and

(B) Ruth Quartz Mine number 1, mineral survey number 994, as described in patent number 39–91–0012, dated February 12, 1991.

(c) ADDITIONS TO THE WILDERNESS AND SCENIC RECREATION AREAS.—

(1) Lands or interests in lands conveyed to the United States under this section shall be included in and become

part of, as appropriate, Opal Creek Wilderness or the Opal Creek Scenic Recreation Area.

(2) On acquiring all or substantially all of the land located in section 36, township 8 south, range 4 east, of the Willamette Meridian, Marion County, Oregon, commonly known as the Rosboro section, by exchange, purchase from a willing seller, or by donation, the Secretary shall expand the boundary of the Scenic Recreation Area to include such land.

(3) On acquiring all or substantially all of the land located in section 18, township 8 south, range 5 east, Marion County, Oregon, commonly known as the Times Mirror property, by exchange, purchase from a willing seller, or by donation, such land shall be included in and become a part of the Opal Creek Wilderness.

SEC. 105. ADMINISTRATION OF THE SCENIC RECREATION AREA.

(a) IN GENERAL.—The Secretary shall administer the Scenic Recreation Area in accordance with this title and the laws (including regulations) applicable to the National Forest System.

(b) OPAL CREEK MANAGEMENT PLAN.—

(1) IN GENERAL.—Not later than 2 years after the date of establishment of the Scenic Recreation Area, the Secretary, in consultation with the advisory committee established under section 106(a), shall prepare a comprehensive Opal Creek Management Plan (Management Plan) for the Scenic Recreation Area.

(2) INCORPORATION IN LAND AND RESOURCE MANAGEMENT PLAN.—Upon its completion, the Opal Creek Management Plan shall become part of the land and resource management plan for the Willamette National Forest and supersede any conflicting provision in such land and resource management plan. Nothing in this paragraph shall be construed to supersede the requirements of the Endangered Species Act or the National Forest Management Act or regulations promulgated under those Acts, or any other law.

(3) REQUIREMENTS.—The Opal Creek Management Plan shall provide for a broad range of land uses, including—

(A) recreation;

(B) harvesting of nontraditional forest products, such as gathering mushrooms and material to make baskets; and

(C) educational and research opportunities.

(4) PLAN AMENDMENTS.—The Secretary may amend the Opal Creek Management Plan as the Secretary may determine to be necessary, consistent with the procedures and purposes of this title.

(c) RECREATION.—

(1) RECOGNITION.—Congress recognizes recreation as an appropriate use of the Scenic Recreation Area.

(2) MINIMUM LEVELS.—The management plan shall permit recreation activities at not less than the levels in existence on the date of enactment of this title.

(3) HIGHER LEVELS.—The management plan may provide for levels of recreation use higher than the levels in existence on the date of enactment of this title if such uses are consistent with the protection of the resource values of Scenic Recreation Area.

(4) The management plan may include public trail access through section 28, township 8 south, range 5 east, Willamette Meridian, to Battle Axe Creek, Opal Pool and other areas in the Opal Creek Wilderness and the Opal Creek Scenic Recreation Area.

(d) TRANSPORTATION PLANNING.—

(1) IN GENERAL.—Except as provided in this subparagraph, motorized vehicles shall not be permitted in the Scenic Recreation Area. To maintain reasonable motorized and other access to recreation sites and facilities in existence on the date of enactment of this title, the Secretary shall prepare a transportation plan for the Scenic Recreation Area that:

(A) evaluates the road network within the Scenic Recreation Area to determine which roads should be retained and which roads should be closed;

(B) provides guidelines for transportation and access consistent with this title;

(C) considers the access needs of persons with disabilities in preparing the transportation plan for the Scenic Recreation Area;

(D) allows forest road 2209 beyond the gate to the Scenic Recreation Area, as depicted on the map described in 102(2), to be used by motorized vehicles only for administrative purposes and for access by private inholders, subject to such terms and conditions as the Secretary may determine to be necessary; and

(E) restricts construction on or improvements to forest road 2209 beyond the gate to the Scenic Recreation Area to maintaining the character of the road as it existed upon the date of enactment of this title, which shall not include paving or widening. In order to comply with subsection 107(b) of this title, the Secretary may make improvements to forest road 2209 and its bridge structures consistent with the character of the road as it existed on the date of enactment of this title.

(e) HUNTING AND FISHING.—

(1) IN GENERAL.—Subject to applicable Federal and State law, the Secretary shall permit hunting and fishing in the Scenic Recreation Area.

(2) LIMITATION.—The Secretary may designate zones in which, and establish periods when, no hunting or fishing shall be permitted for reasons of public safety, administration, or public use and enjoyment of the Scenic Recreation Area.

(3) CONSULTATION.—Except during an emergency, as determined by the Secretary, the Secretary shall consult with the Oregon State Department of Fish and Wildlife before issuing any regulation under this subsection.

(f) TIMBER CUTTING.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall prohibit the cutting and/or selling of trees in the Scenic Recreation Area.

(2) PERMITTED CUTTING.—

(A) IN GENERAL.—Subject to subparagraph (B), the Secretary may allow the cutting of trees in the Scenic Recreation Area only—

(i) for public safety, such as to control the continued spread of a forest fire in the Scenic Recreation

Area or on land adjacent to the Scenic Recreation Area;

(ii) for activities related to administration of the Scenic Recreation Area, consistent with the Opal Creek Management Plan; or

(iii) for removal of hazard trees along trails and roadways.

(B) SALVAGE SALES.—The Secretary may not allow a salvage sale in the Scenic Recreation Area.

(g) WITHDRAWAL.—

(1) Subject to valid existing rights, all lands in the Scenic Recreation Area are withdrawn from—

(i) any form of entry, appropriation, or disposal under the public land laws;

(ii) location, entry, and patent under the mining laws; and

(iii) disposition under the mineral and geothermal leasing laws.

(h) BORNITE PROJECT.—

(1) Nothing in this title shall be construed to interfere with or approve any exploration, mining, or mining-related activity in the Bornite Project Area, depicted on the map described in subsection 102(3), conducted in accordance with applicable laws.

(2) Nothing in this title shall be construed to interfere with the ability of the Secretary to approve and issue, or deny, special use permits in connection with exploration, mining, and mining-related activities in the Bornite Project Area.

(3) Motorized vehicles, roads, structures, and utilities (including but not limited to power lines and water lines) may be allowed inside the Scenic Recreation Area to serve the activities conducted on land within the Bornite Project.

(4) After the date of enactment of this title, no patent or claim shall be issued for any mining claim under the general mining laws located within the Bornite Project Area.

(i) WATER IMPOUNDMENTS.—Notwithstanding the Federal Power Act (16 U.S.C. 791a et seq.), the Federal Energy Regulatory Commission may not license the construction of any dam, water conduit, reservoir, powerhouse, transmission line, or other project work in the Scenic Recreation Area, except as may be necessary to comply with the provisions of subsection 105(h) with regard to the Bornite Project.

(j) CULTURAL AND HISTORIC RESOURCE INVENTORY.—

(1) IN GENERAL.—Not later than 1 year after the date of establishment of the Scenic Recreation Area, the Secretary shall review and revise the inventory of the cultural and historic resources on the public land in the Scenic Recreation Area developed pursuant to the Oregon Wilderness Act of 1984 (Public Law 98–328; 16 U.S.C. 1132).

(2) INTERPRETATION.—Interpretive activities shall be developed under the management plan in consultation with State and local historic preservation organizations and shall include a balanced and factual interpretation of the cultural, ecological, and industrial history of forestry and mining in the Scenic Recreation Area.

(k) PARTICIPATION.—So that the knowledge, expertise, and views of all agencies and groups may contribute affirmatively to

the most sensitive present and future use of the Scenic Recreation Area and its various subareas for the benefit of the public:

(1) ADVISORY COUNCIL.—The Secretary shall consult on a periodic and regular basis with the advisory council established under section 106 with respect to matters relating to management of the Scenic Recreation Area.

(2) PUBLIC PARTICIPATION.—The Secretary shall seek the views of private groups, individuals, and the public concerning the Scenic Recreation Area.

(3) OTHER AGENCIES.—The Secretary shall seek the views and assistance of, and cooperate with, any other Federal, State, or local agency with any responsibility for the zoning, planning, or natural resources of the Scenic Recreation Area.

(4) NONPROFIT AGENCIES AND ORGANIZATIONS.—The Secretary shall seek the views of any nonprofit agency or organization that may contribute information or expertise about the resources and the management of the Scenic Recreation Area.

SEC. 106. ADVISORY COUNCIL.

(a) ESTABLISHMENT.—Not later than 90 days after the establishment of the Scenic Recreation Area, the Secretary shall establish an advisory council for the Scenic Recreation Area.

(b) MEMBERSHIP.—The advisory council shall consist of not more than 13 members, of whom—

(1) 1 member shall represent Marion County, Oregon, and shall be designated by the governing body of the county;

(2) 1 member shall represent the State of Oregon and shall be designated by the Governor of Oregon; and

(3) 1 member shall represent the city of Salem, and shall be designated by the mayor of Salem, Oregon;

(4) 1 member from a city within a 25-mile radius of the Opal Creek Scenic Recreation Area, to be designated by the Governor of the State of Oregon from a list of candidates provided by the mayors of the cities located within a 25-mile radius of the Opal Creek Scenic Recreation Area; and

(5) not more than 9 members shall be appointed by the Secretary from among persons who, individually or through association with a national or local organization, have an interest in the administration of the Scenic Recreation Area, including, but not limited to, representatives of the timber industry, environmental organizations, the mining industry, inholders in the Opal Creek Wilderness and Scenic Recreation Area, economic development interests and Indian Tribes.

(c) STAGGERED TERMS.—Members of the advisory council shall serve for staggered terms of three years.

(d) CHAIRMAN.—The Secretary shall designate one member of the advisory council as chairman.

(e) VACANCIES.—The Secretary shall fill a vacancy on the advisory council in the same manner as the original appointment.

(f) COMPENSATION.—Members of the advisory council shall receive no compensation for service on the advisory council.

SEC. 107. GENERAL PROVISIONS.

(a) LAND ACQUISITION.—

(1) IN GENERAL.—Subject to the other provisions of this title the Secretary may acquire any lands or interests in land in the Scenic Recreation Area or the Opal Creek Wilderness

that the Secretary determines are needed to carry out this title.

(2) PUBLIC LAND.—Any lands or interests in land owned by a State or a political subdivision of a State may be acquired only by donation or exchange.

(3) CONDEMNATION.—Within the boundaries of the Opal Creek Wilderness or the Scenic Recreation Area, the Secretary may not acquire any privately owned land or interest in land without the consent of the owner unless the Secretary finds that—

(A) the nature of land use has changed significantly, or the landowner has demonstrated intent to change the land use significantly, from the use that existed on the date of the enactment of this title; and

(B) acquisition by the Secretary of the land or interest in land is essential to ensure use of the land or interest in land in accordance with the purposes of this title or the management plan prepared under section 105(b).

(4) Nothing in this title shall be construed to enhance or diminish the condemnation authority available to the Secretary outside the boundaries of the Opal Creek Wilderness or the Scenic Recreation Area.

(b) ENVIRONMENTAL RESPONSE ACTIONS AND COST RECOVERY.—

(1) RESPONSE ACTIONS.—Nothing in this title shall limit the authority of the Secretary or a responsible party to conduct an environmental response action in the Scenic Recreation Area in connection with the release, threatened release, or cleanup of a hazardous substance, pollutant, or contaminant, including a response action conducted under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.).

(2) LIABILITY.—Nothing in this title shall limit the authority of the Secretary or a responsible party to recover costs related to the release, threatened release, or cleanup of any hazardous substance or pollutant or contaminant in the Scenic Recreation Area.

(c) MAPS AND DESCRIPTION.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this title, the Secretary shall file a map and a boundary description for the Opal Creek Wilderness and for the Scenic Recreation Area with the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(2) FORCE AND EFFECT.—The boundary description and map shall have the same force and effect as if the description and map were included in this title, except that the Secretary may correct clerical and typographical errors in the boundary description and map.

(3) AVAILABILITY.—The map and boundary description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

(d) Nothing in this title shall interfere with any activity for which a special use permit has been issued, has not been revoked, and has not expired, before the date of enactment of this title, subject to the terms of the permit.

SEC. 108. ROSBORO LAND EXCHANGE.

(a) AUTHORIZATION.—Notwithstanding any other law, if the Rosboro Lumber Company (referred to in this section as "Rosboro") offers and conveys marketable title to the United States to the land described in subsection (b), the Secretary of Agriculture shall convey all right, title and interest held by the United States to sufficient lands described in subsection (c) to Rosboro, in the order in which they appear in subsection (c), as necessary to satisfy the equal value requirements of subsection (d).

(b) LAND TO BE OFFERED BY ROSBORO.—The land referred to in subsection (a) as the land to be offered by Rosboro shall comprise Section 36, Township 8 South, range 4 east, Willamette Meridian.

(c) LAND TO BE CONVEYED BY THE UNITED STATES.—The land referred to in subsection (a) as the land to be conveyed by the United States shall comprise sufficient land from the following prioritized list to be of equal value under subparagraph (d):

(1) Section 5, Township 17 South, Range 4 East, Lot 7 (37.63 acres).

(2) Section 2, Township 17 South, Range 4 East, Lot 3 (29.28 acres).

(3) Section 13, Township 17 South, Range 4 East, S½ SE¼ (80 acres).

(4) Section 2, Township 17 South, Range 4 East, SW¼ SW¼ (40 acres).

(5) Section 2, Township 17 South, Range 4 East, NW¼ SE¼ (40 acres).

(6) Section 8, Township 17 South, Range 4 East, SE¼ SW¼ (40 acres).

(7) Section 11, Township 17 South, Range 4 East, W½ NW¼ (80 acres).

(d) EQUAL VALUE.—The land and interests in land exchanged under this section shall be of equal market value as determined by nationally recognized appraisal standards, including, to the extent appropriate, the Uniform Standards for Federal Land Acquisition, the Uniform Standards of Professional Appraisal Practice, or shall be equalized by way of payment of cash pursuant to the provisions of section 206(d) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(d)), and other applicable law. The appraisal shall consider access costs for the parcels involved.

(e) TIMETABLE.—

(1) The exchange directed by this section shall be consummated not later than 120 days after the date Rosboro offers and conveys the property described in subsection (b) to the United States.

(2) The authority provided by this section shall lapse if Rosboro fails to offer the land described in subsection (b) within two years after the date of enactment of this title.

(f) Rosboro shall have the right to challenge in United States District Court for the District of Oregon a determination of marketability under subsection (a) and a determination of value for the lands described in subsections (b) and (c) by the Secretary of Agriculture. The Court shall have the authority to order the Secretary to complete the transaction contemplated in this Section.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 109. DESIGNATION OF ELKHORN CREEK AS A WILD AND SCENIC RIVER.

Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding at the end the following:

"( ) (A) ELKHORN CREEK.—The 6.4 mile segment traversing federally administered lands from that point along the Willamette National Forest boundary on the common section line between Sections 12 and 13, Township 9 South, Range 4 East, Willamette Meridian, to that point where the segment leaves federal ownership along the Bureau of Land Management boundary in Section 1, Township 9 South, Range 3 East, Willamette Meridian, in the following classes:

"(i) a 5.8-mile wild river area, extending from that point along the Willamette National Forest boundary on the common section line between Sections 12 and 13, Township 9 South, Range 4 East, Willamette Meridian, to its confluence with Buck Creek in Section 1, Township 9 South, Range 3 East, Willamette Meridian, to be administered as agreed on by the Secretaries of Agriculture and the Interior, or as directed by the President; and

"(ii) a 0.6-mile scenic river area, extending from the confluence with Buck Creek in Section 1, Township 9 South, Range 3 East, Willamette Meridian, to that point where the segment leaves federal ownership along the Bureau of Land Management boundary in Section 1, Township 9 South, Range 3 East, Willamette Meridian, to be administered by the Secretary of Interior, or as directed by the President.

"(B) Notwithstanding section 3(b) of this Act, the lateral boundaries of both the wild river area and the scenic river area along Elkhorn Creek shall include an average of not more than 640 acres per mile measured from the ordinary high water mark on both sides of the river."

SEC. 110. ECONOMIC DEVELOPMENT.

(a) ECONOMIC DEVELOPMENT PLAN.—As a condition for receiving funding under subsection (b) of this section, the State of Oregon, in consultation with Marion County and the Secretary of Agriculture, shall develop a plan for economic development projects for which grants under this section may be used in a manner consistent with this title and to benefit local communities in the vicinity of the Opal Creek area. Such plan shall be based on an economic opportunity study and other appropriate information.

(b) FUNDS PROVIDED TO THE STATES FOR GRANTS.—Upon completion of the Opal Creek Management Plan, and receipt of the plan referred to in subsection (a) of this section, the Secretary shall provide, subject to appropriations, $15,000,000, to the State of Oregon. Such funds shall be used to make grants or loans for economic development projects that further the purposes of this title and benefit the local communities in the vicinity of Opal Creek.

(c) REPORT.—The State of Oregon shall—

(1) prepare and provide the Secretary and Congress with an annual report on the use of the funds made available under this section;

(2) make available to the Secretary and to Congress, upon request, all accounts, financial records, and other information

related to grants and loans made available pursuant to this section; and

(3) as loans are repaid, make additional grants and loans with the money made available for obligation by such repayments.

TITLE II—UPPER KLAMATH BASIN

SEC. 201. UPPER KLAMATH BASIN ECOLOGICAL RESTORATION PROJECTS.

(a) DEFINITIONS.—In this section:

(1) ECOSYSTEM RESTORATION OFFICE.—The term "Ecosystem Restoration Office" means the Klamath Basin Ecosystem Restoration Office operated cooperatively by the United States Fish and Wildlife Service, Bureau of Reclamation, Bureau of Land Management, and Forest Service.

(2) WORKING GROUP.—The term "Working Group" means the Upper Klamath Basin Working Group, established before the date of enactment of this title, consisting of members nominated by their represented groups, including:

(A) 3 tribal members;

(B) 1 representative of the city of Klamath Falls, Oregon;

(C) 1 representative of Klamath County, Oregon;

(D) 1 representative of institutions of higher education in the Upper Klamath Basin;

(E) 4 representatives of the environmental community, including at least one such representative from the State of California with interests in the Klamath Basin National Wildlife Refuge Complex;

(F) 4 representatives of local businesses and industries, including at least one representative of the wood products industry and one representative of the ocean commercial fishing industry and/or the recreational fishing industry based in either Oregon or California;

(G) 4 representatives of the ranching and farming community, including representatives of Federal lease-land farmers and ranchers and of private land farmers and ranchers in the Upper Klamath Basin;

(H) 2 representatives from State of Oregon agencies with authority and responsibility in the Klamath River Basin, including one from the Oregon Department of Fish and Wildlife and one from the Oregon Water Resources Department;

(I) 4 representatives from the local community;

(J) 1 representative each from the following Federal resource management agencies in the Upper Klamath Basin: Fish and Wildlife Service, Bureau of Reclamation, Bureau of Land Management, Bureau of Indian Affairs, Forest Service, Natural Resources Conservation Service, National Marine Fisheries Service and Ecosystem Restoration Office; and

(K) 1 representative of the Klamath County Soil and Water Conservation District.

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(4) TASK FORCE.—The term "Task Force" means the Klamath River Basin Fisheries Task Force as established by the Klamath River Basin Fishery Resource Restoration Act (Public Law 99–552, 16 U.S.C. 460ss–3, et. seq.).

(5) COMPACT COMMISSION.—The term "Compact Commission" means the Klamath River Basin Compact Commission created pursuant to the Klamath River Compact Act of 1954.

(6) CONSENSUS.—The term "consensus" means a unanimous agreement by the Working Group members present and consisting of at least a quorum at a regularly scheduled business meeting.

(7) QUORUM.—The term "quorum" means one more than half of those qualified Working Group members appointed and eligible to serve.

(8) TRINITY TASK FORCE.—The term "Trinity Task Force" means the Trinity River Restoration Task Force created by Public Law 98–541, as amended by Public Law 104–143.

(b) IN GENERAL.—

(1) The Working Group through the Ecosystem Restoration Office, with technical assistance from the Secretary, will propose ecological restoration projects, economic development and stability projects, and projects designed to reduce the impacts of drought conditions to be undertaken in the Upper Klamath Basin based on a consensus of the Working Group membership.

(2) The Secretary shall pay, to the greatest extent feasible, up to 50 percent of the cost of performing any project approved by the Secretary or his designee, up to a total amount of $1,000,000 during each of fiscal years 1997 through 2001.

(3) Funds made available under this title through the Department of the Interior or the Department of Agriculture shall be distributed through the Ecosystem Restoration Office.

(4) The Ecosystem Restoration Office may utilize not more than 15 percent of all Federal funds administered under this section for administrative costs relating to the implementation of this title.

(5) All funding recommendations developed by the Working Group shall be based on a consensus of Working Group members.

(c) COORDINATION.—

(1) The Secretary shall formulate a cooperative agreement among the Working Group, the Task Force, the Trinity Task Force and the Compact Commission for the purposes of ensuring that projects proposed and funded through the Working Group are consistent with other basin-wide fish and wildlife restoration and conservation plans, including but not limited to plans developed by the Task Force and the Compact Commission.

(2) To the greatest extent practicable, the Working Group shall provide notice to, and accept input from, two members each of the Task Force, the Trinity Task Force, and the Compact Commission, so appointed by those entities, for the express purpose of facilitating better communication and coordination regarding additional basin-wide fish and wildlife and ecosystem restoration and planning efforts. The roles and relationships of the entities involved shall be clarified in the cooperative agreement.

(d) PUBLIC MEETINGS.—The Working Group shall conduct all meetings subject to applicable open meeting and public participation laws. The chartering requirements of 5 U.S.C. App 2 ss 1–15 are hereby deemed to have been met by this section.

(e) TERMS AND VACANCIES.—Working Group members shall serve for 3-year terms, beginning on the date of enactment of this title. Vacancies which occur for any reason after the date of enactment of this title shall be filled by direct appointment of the governor of the State of Oregon, in consultation with the Secretary of the Interior and the Secretary of Agriculture, in accordance with nominations from the appropriate groups, interests, and government agencies outlined in subsection (a)(2).

(f) RIGHTS, DUTIES AND AUTHORITIES UNAFFECTED.—The Working Group will supplement, rather than replace, existing efforts to manage the natural resources of the Klamath Basin. Nothing in this title affects any legal right, duty or authority of any person or agency, including any member of the working group.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this title $1,000,000 for each of fiscal years 1997 through 2002.

TITLE III—DESCHUTES BASIN

SEC. 301. DESCHUTES BASIN ECOSYSTEM RESTORATION PROJECTS.

(a) DEFINITIONS.—In this section:

(1) WORKING GROUP.—The term "Working Group" means the Deschutes River Basin Working Group established before the date of enactment of this title, consisting of members nominated by their represented groups, including:

(A) 5 representatives of private interests including one each from hydroelectric production, livestock grazing, timber, land development, and recreation/tourism;

(B) 4 representatives of private interests including two each from irrigated agriculture and the environmental community;

(C) 2 representatives from the Confederated Tribes of the Warm Springs Reservation of Oregon;

(D) 2 representatives from Federal agencies with authority and responsibility in the Deschutes River Basin, including one from the Department of the Interior and one from the Agriculture Department;

(E) 2 representatives from the State of Oregon agencies with authority and responsibility in the Deschutes River Basin, including one from the Oregon Department of Fish and Wildlife and one from the Oregon Water Resources Department; and

(F) 4 representatives from county or city governments within the Deschutes River Basin county and/or city governments.

(2) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(3) FEDERAL AGENCIES.—The term "Federal agencies" means agencies and departments of the United States, including, but not limited to, the Bureau of Reclamation, Bureau of Indian Affairs, Bureau of Land Management, Fish and Wildlife Service, Forest Service, Natural Resources Conservation

Service, Farm Services Agency, the National Marine Fisheries Service, and the Bonneville Power Administration.

(4) CONSENSUS.—The term "consensus" means a unanimous agreement by the Working Group members present and constituting at least a quorum at a regularly scheduled business meeting.

(5) QUORUM.—The term "quorum" means one more than half of those qualified Working Group members appointed and eligible to serve.

(b) IN GENERAL.—

(1) The Working Group will propose ecological restoration projects on both Federal and non-Federal lands and waters to be undertaken in the Deschutes River Basin based on a consensus of the Working Group, provided that such projects, when involving Federal land or funds, shall be proposed to the Bureau of Reclamation in the Department of the Interior and any other Federal agency with affected land or funds.

(2) The Working Group will accept donations, grants or other funds and place such funds received into a trust fund, to be expended on ecological restoration projects which, when involving Federal land or funds, are approved by the affected Federal agency.

(3) The Bureau of Reclamation shall pay from funds authorized under subsection (h) of this title up to 50 percent of the cost of performing any project proposed by the Working Group and approved by the Secretary, up to a total amount of $1,000,000 during each of the fiscal years 1997 through 2001.

(4) Non-Federal contributions to project costs for purposes of computing the Federal matching share under paragraph (3) of this subsection may include in-kind contributions.

(5) Funds authorized in subsection (h) of this title shall be maintained in and distributed by the Bureau of Reclamation in the Department of the Interior. The Bureau of Reclamation shall not expend more than 5 percent of amounts appropriated pursuant to subsection (h) for Federal administration of such appropriations pursuant to this title.

(6) The Bureau of Reclamation is authorized to provide by grant to the Working Group not more than 5 percent of funds appropriated pursuant to subsection (h) of this title for not more than 50 percent of administrative costs relating to the implementation of this title.

(7) The Federal agencies with authority and responsibility in the Deschutes River Basin shall provide technical assistance to the Working Group and shall designate representatives to serve as members of the Working Group.

(8) All funding recommendations developed by the Working Group shall be based on a consensus of the Working Group members.

(c) PUBLIC NOTICE AND PARTICIPATION.—The Working Group shall conduct all meetings subject to applicable open meeting and public participation laws. The chartering requirements of 5 U.S.C. App 2 ss 1–15 are hereby deemed to have been met by this section.

(d) PRIORITIES.—The Working Group shall give priority to voluntary market-based economic incentives for ecosystem restoration including, but not limited to, water leases and purchases; land leases and purchases; tradable discharge permits; and acquisition

of timber, grazing, and land development rights to implement plans, programs, measures, and projects.

(e) TERMS AND VACANCIES.—Members of the Working Group representing governmental agencies or entities shall be named by the represented government agency. Members of the Working Group representing private interests shall be named in accordance with the articles of incorporation and bylaws of the Working Group. Representatives from Federal agencies will serve for terms of 3 years. Vacancies which occur for any reason after the date of enactment of this title shall be filled in accordance with this title.

(f) ADDITIONAL PROJECTS.—Where existing authority and appropriations permit, Federal agencies may contribute to the implementation of projects recommended by the Working Group and approved by the Secretary.

(g) RIGHTS, DUTIES AND AUTHORITIES UNAFFECTED.—The Working Group will supplement, rather than replace, existing efforts to manage the natural resources of the Deschutes Basin. Nothing in this title affects any legal right, duty or authority of any person or agency, including any member of the working group.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this title $1,000,000 for each of fiscal years 1997 through 2001.

TITLE IV—MOUNT HOOD CORRIDOR

SEC. 401. LAND EXCHANGE.

(a) AUTHORIZATION.—Notwithstanding any other law, if Longview Fibre Company (referred to in this section as "Longview") offers and conveys title that is acceptable to the United States to some or all of the land described in subsection (b), the Secretary of the Interior (referred to in this section as the "Secretary") shall convey to Longview title to some or all of the land described in subsection (c), as necessary to satisfy the requirements of subsection (d).

(b) LAND TO BE OFFERED BY LONGVIEW.—The land referred to in subsection (a) as the land to be offered by Longview are those lands depicted on the map entitled "Mt. Hood Corridor Land Exchange Map", dated July 18, 1996.

(c) LAND TO BE CONVEYED BY THE SECRETARY.—The land referred to in subsection (a) as the land to be conveyed by the Secretary are those lands depicted on the map entitled "Mt. Hood Corridor Land Exchange Map", dated July 18, 1996.

(d) EQUAL VALUE.—The land and interests in land exchanged under this section shall be of equal market value as determined by nationally recognized appraisal standards, including, to the extent appropriate, the Uniform Standards for Federal Land Acquisition, the Uniform Standards of Professional Appraisal Practice, or shall be equalized by way of payment of cash pursuant to the provisions of section 206(d) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(d)), and other applicable law.

(e) REDESIGNATION OF LAND TO MAINTAIN REVENUE FLOW.—So as to maintain the current flow of revenue from land subject to the Act entitled "An Act relating to the revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant land situated in the State of Oregon", approved August 28, 1937

(43 U.S.C. 1181a et seq.), the Secretary may redesignate public domain land located in and west of Range 9 East, Willamette Meridian, Oregon, as land subject to that Act.

(f) TIMETABLE.—The exchange directed by this section shall be consummated not later than 1 year after the date of enactment of this title.

(g) WITHDRAWAL OF LANDS.—All lands managed by the Department of the Interior, Bureau of Land Management, located in Townships 2 and 3 South, Ranges 6 and 7 East, Willamette Meridian, which can be seen from the right-of-way of U.S. Highway 26 (in this section, such lands are referred to as the "Mt. Hood Corridor Lands"), shall be managed primarily for the protection or enhancement of scenic qualities. Management prescriptions for other resource values associated with these lands shall be planned and conducted for purposes other than timber harvest, so as not to impair the scenic qualities of the area.

(h) TIMBER CUTTING.—Timber cutting may be conducted on Mt. Hood Corridor Lands following a resource-damaging catastrophic event. Such cutting may only be conducted to achieve the following resource management objectives, in compliance with the current land use plans—

(1) to maintain safe conditions for the visiting public;

(2) to control the continued spread of forest fire;

(3) for activities related to administration of the Mt. Hood Corridor Lands; or

(4) for removal of hazard trees along trails and roadways.

(i) ROAD CLOSURE.—The forest road gate located on Forest Service Road 2503, located in T. 2 S., R. 6 E., sec. 14, shall remain closed and locked to protect resources and prevent illegal dumping and vandalism. Access to this road shall be limited to—

(1) Federal and State officers and employees acting in an official capacity;

(2) employees and contractors conducting authorized activities associated with the telecommunication sites located in T. 2 S., R. 6 E., sec. 14; and

(3) the general public for recreational purposes, except that all motorized vehicles will be prohibited.

(j) NEPA EXEMPTION.—The National Environmental Policy Act of 1969 (P.L. 91–190) shall not apply to this section for one year after the date of enactment of this title.

(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

TITLE V—COQUILLE TRIBAL FOREST

SEC. 501. CREATION OF THE COQUILLE FOREST.

25 USC 715c.

(a) The Coquille Restoration Act (P.L. 101–42) is amended by inserting at the end of section 5 the following:

"(d) CREATION OF THE COQUILLE FOREST.—

"(1) DEFINITIONS.—In this subsection:

"(A) the term 'Coquille Forest' means certain lands in Coos County, Oregon, comprising approximately 5,400 acres, as generally depicted on the map entitled 'Coquille Forest Proposal', dated July 8, 1996.

"(B) the term 'Secretary' means the Secretary of the Interior.

"(C) the term 'the Tribe' means the Coquille Tribe of Coos County, Oregon.

"(2) MAP.—The map described in subparagraph (d)(1)(A), and such additional legal descriptions which are applicable, shall be placed on file at the local District Office of the Bureau of Land Management, the Agency Office of the Bureau of Indian Affairs, and with the Senate Committee on Energy and Natural Resources and the House Committee on Resources.

"(3) INTERIM PERIOD.—From the date of enactment of this subsection until two years after the date of enactment of this subsection, the Bureau of Land Management shall:

"(A) retain Federal jurisdiction for the management of lands designated under this subsection as the Coquille Forest and continue to distribute revenues from such lands in a manner consistent with existing law; and,

"(B) prior to advertising, offering or awarding any timber sale contract on lands designated under this subsection as the Coquille Forest, obtain the approval of the Assistant Secretary for Indian Affairs, acting on behalf of and in consultation with the Tribe.

(4) TRANSITION PLANNING AND DESIGNATION.—

"(A) During the two year interim period provided for in paragraph (3), the Assistant Secretary for Indian Affairs, acting on behalf of and in consultation with the Tribe, is authorized to initiate development of a forest management plan for the Coquille Forest. The Secretary, acting through the Director of the Bureau of Land Management, shall cooperate and assist in the development of such plan and in the transition of forestry management operations for the Coquille Forest to the Assistant Secretary for Indian Affairs.

"(B) Two years after the date of enactment of this subsection, the Secretary shall take the lands identified under subparagraph (d)(1)(A) into trust, and shall hold such lands in trust, in perpetuity, for the Coquille Tribe. Such lands shall be thereafter designated as the Coquille Forest.

"(C) So as to maintain the current flow of revenue from land subject to the Act entitled 'An Act relating to the revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant land situated in the State of Oregon' (the O&C Act), approved August 28, 1937 (43 U.S.C. 1181a et seq.), the Secretary shall redesignate, from public domain lands within the tribe's service area, as defined in this Act, certain lands to be subject to the O&C Act. Lands redesignated under this subparagraph shall not exceed lands sufficient to constitute equivalent timber value as compared to lands constituting the Coquille Forest.

"(5) MANAGEMENT.—The Secretary of Interior, acting through the Assistant Secretary for Indian Affairs, shall manage the Coquille Forest under applicable State and Federal forestry and environmental protection laws, and subject to critical habitat designations under the Endangered Species Act, and subject to the standards and guidelines of Federal forest

plans on adjacent or nearby Federal lands, now and in the future. The Secretary shall otherwise manage the Coquille Forest in accordance with the laws pertaining to the management of Indian Trust lands and shall distribute revenues in accord with Public Law 101–630, 25 U.S.C. 3107.

"(A) Unprocessed logs harvested from the Coquille Forest shall be subject to the same Federal statutory restrictions on export to foreign Nations that apply to unprocessed logs harvested from Federal lands.

"(B) Notwithstanding any other provision of law, all sales of timber from land subject to this subsection shall be advertised, offered and awarded according to competitive bidding practices, with sales being awarded to the highest responsible bidder.

"(6) INDIAN SELF DETERMINATION ACT AGREEMENT.—No sooner than two years after the date of enactment of this subsection, the Secretary may, upon a satisfactory showing of management competence and pursuant to the Indian Self-Determination Act (25 U.S.C. 450 et seq.), enter into a binding Indian self-determination agreement (agreement) with the Coquille Indian Tribe. Such agreement may provide for the tribe to carry out all or a portion of the forest management for the Coquille Forest.

"(A) Prior to entering such an agreement, and as a condition of maintaining such an agreement, the Secretary must find that the Coquille Tribe has entered into a binding memorandum of agreement (MOA) with the State of Oregon, as required under paragraph 7.

"(B) The authority of the Secretary to rescind the Indian self-determination agreement shall not be encumbered.

"(i) The Secretary shall rescind the agreement upon a demonstration that the tribe and the State of Oregon are no longer engaged in a memorandum of agreement as required under paragraph 7.

"(ii) The Secretary may rescind the agreement on a showing that the Tribe has managed the Coquille Forest in a manner inconsistent with this subsection, or the Tribe is no longer managing, or capable of managing, the Coquille Forest in a manner consistent with this subsection.

"(7) MEMORANDUM OF AGREEMENT.—The Coquille Tribe shall enter into a memorandum of agreement (MOA) with the State of Oregon relating to the establishment and management of the Coquille Forest. The MOA shall include, but not be limited to, the terms and conditions for managing the Coquille Forest in a manner consistent with paragraph (5) of this subsection, preserving public access, advancing jointly-held resource management goals, achieving tribal restoration objectives and establishing a coordinated management framework. Further, provisions set forth in the MOA shall be consistent with federal trust responsibility requirements applicable to Indian trust lands and paragraph (5) of this subsection.

"(8) PUBLIC ACCESS.—The Coquille Forest shall remain open to public access for purposes of hunting, fishing, recreation and transportation, except when closure is required by state or federal law, or when the Coquille Indian Tribe and the

State of Oregon agree in writing that restrictions on access are necessary or appropriate to prevent harm to natural resources, cultural resources or environmental quality; *Provided*, That the State of Oregon's agreement shall not be required when immediate action is necessary to protect archaeological resources.

"(9) JURISDICTION.—

"(A) The United States District Court for the District of Oregon shall have jurisdiction over actions against the Secretary arising out of claims that this subsection has been violated. Consistent with existing precedents on standing to sue, any affected citizen may bring suit against the Secretary for violations of this subsection, except that suit may not be brought against the Secretary for claims that the MOA has been violated. The Court has the authority to hold unlawful and set aside actions pursuant to this subsection that are arbitrary and capricious, an abuse of discretion, or otherwise an abuse of law.

"(B) The United States District Court for the District of Oregon shall have jurisdiction over actions between the State of Oregon and the Tribe arising out of claims of breach of the MOA.

"(C) Unless otherwise provided for by law, remedies available under this subsection shall be limited to equitable relief and shall not include damages.

"(10) STATE REGULATORY AND CIVIL JURISDICTION.—In addition to the jurisdiction described in paragraph 7 of this subsection, the State of Oregon may exercise exclusive regulatory civil jurisdiction, including but not limited to adoption and enforcement of administrative rules and orders, over the following subjects:

"(A) management, allocation and administration of fish and wildlife resources, including but not limited to establishment and enforcement of hunting and fishing seasons, bag limits, limits on equipment and methods, issuance of permits and licenses, and approval or disapproval of hatcheries, game farms, and other breeding facilities; *Provided*, That nothing herein shall be construed to permit the State of Oregon to manage fish or wildlife habitat on Coquille Forest lands;

"(B) allocation and administration of water rights, appropriation of water and use of water;

"(C) regulation of boating activities, including equipment and registration requirements, and protection of the public's right to use the waterways for purposes of boating or other navigation;

"(D) fills and removals from waters of the State, as defined in Oregon law;

"(E) protection and management of the State's proprietary interests in the beds and banks of navigable waterways;

"(F) regulation of mining, mine reclamation activities, and exploration and drilling for oil and gas deposits;

"(G) regulation of water quality, air quality (including smoke management), solid and hazardous waste, and remediation of releases of hazardous substances;

"(H) regulation of the use of herbicides and pesticides; and

"(I) enforcement of public health and safety standards, including standards for the protection of workers, well construction and codes governing the construction of bridges, buildings, and other structures.

"(11) SAVINGS CLAUSE, STATE AUTHORITY.—

"(A) Nothing in this subsection shall be construed to grant tribal authority over private or State-owned lands.

"(B) To the extend that the State of Oregon is regulating the foregoing areas pursuant to a delegated Federal authority or a Federal program, nothing in this subsection shall be construed to enlarge or diminish the State's authority under such law.

"(C) Where both the State of Oregon and the United States are regulating, nothing herein shall be construed to alter their respective authorities.

"(D) To the extent that Federal law authorizes the Coquille Indian Tribe to assume regulatory authority over an area, nothing herein shall be construed to enlarge or diminish the tribe's authority to do so under such law.

"(E) Unless and except to the extent that the tribe has assumed jurisdiction over the Coquille Forest pursuant to Federal law, or otherwise with the consent of the State, the State of Oregon shall have jurisdiction and authority to enforce its laws addressing the subjects listed in subparagraph 10 of this subsection on the Coquille Forest against the Coquille Indian Tribe, its members and all other persons and entities, in the same manner and with the same remedies and protections and appeal rights as otherwise provided by general Oregon law. Where the State of Oregon and Coquille Indian Tribe agree regarding the exercise of tribal civil regulatory jurisdiction over activities on the Coquille Forest lands, the tribe may exercise such jurisdiction as its agreed upon.

"(12) In the event of a conflict between Federal and State law under this subsection, Federal law shall control."

TITLE VI—BULL RUN WATERSHED PROTECTION

16 USC 482b note.

SEC. 601. The first sentence of section 2(a) of Public Law 95–200 is amended after "referred to in this subsection (a)" by striking "2(b)" and inserting in lieu thereof "2(c)".

16 USC 482b note.

SEC. 602. The first sentence of section 2(b) of Public Law 95–200 is amended after "the policy set forth in subsection (a)" by inserting "and (b)".

16 USC 482b note.

SEC. 603. Section 2(b) of Public Law 95–200 is redesigned as "2(c)".

16 USC 482b note.

SEC. 604 (a) Public Law 95–200 is amended by adding a new subsection 2(b) immediately after subsection 2(a), as follows:

"(b) TIMBER CUTTING.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary of Agriculture shall prohibit the cutting of trees in that part of the unit consisting of the hydrographic boundary of the Bull Run River Drainage, including certain lands within the

unit and located below the headworks of the city of Portland, Oregon's water storage and delivery project, and as depicted in a map dated July 22, 1996 and entitled "Bull Run River Drainage".

(2) PERMITTED CUTTING.—

(A) IN GENERAL.—Subject to subparagraph (B), the Secretary of Agriculture shall prohibit the cutting of trees in the area described in paragraph (1).

(B) PERMITTED CUTTING.—Subject to subparagraph (C), the Secretary may only allow the cutting of trees in the area described in paragraph (1)—

(i) for the protection or enhancement of water quality in the area described in paragraph (1); or

(ii) for the protection, enhancement, or maintenance of water quantity available from the area described in paragraph (1); or

(iii) for the construction, expansion, protection or maintenance of municipal water supply facilities; or

(iv) for the construction, expansion, protection or maintenance of facilities for the transmission of energy through and over the unit or previously authorized hydroelectric facilities or hydroelectric projects associated with municipal water supply facilities.

(C) SALVAGE SALES.—The Secretary of Agriculture may not authorize a salvage sale in the area described in paragraph (1)."

(b) Redesignate subsequent subsections of Public Law 95–200 accordingly. 16 USC 482b note.

SEC. 605. REPORT TO CONGRESS.

(a) The Secretary of Agriculture shall, in consultation with the city of Portland and other affected parties, undertake a study of that part of the Little Sandy Watershed that is within the unit (hereinafter referred to as the "study area"), as depicted on the map described in section 604 of this title.

(b) The study referred to in (a) shall determine—

(1) the impact of management activities within the study area on the quality of drinking water provided to the Portland Metropolitan area;

(2) the identify and location of certain ecological features within the study area, including late successional forest characteristics, aquatic and terrestrial wildlife habitat, significant hydrological values, or other outstanding natural features; and

(3) the location and extent of any significant cultural or other values within the study area.

(c) The study referred to in subsection (a) shall include both legislative and regulatory recommendations to Congress on the future management of the study area. In formulating such recommendations, the Secretary shall consult with the city of Portland and other affected parties.

(d) To the greatest extent possible, the Secretary shall use existing data and processes to carry out this study and report.

(e) The study referred to in subsection (a) shall be submitted to the Senate Committees on Energy and Natural Resources and

Agriculture and the House Committees on Resources and Agriculture not later than one year from the date of enactment of this section.

(f) The Secretary is prohibited from advertising, offering or awarding any timber sale within the study area for a period of two years after the date of enactment of this section.

(g) Nothing in this section shall in any way affect any State or Federal law governing appropriation, use of or Federal right to water on or flowing through National Forest System lands. Nothing in this section is intended to influence the relative strength of competing claims to the waters of the Little Sandy River. Nothing in this section shall be construed to expand or diminish Federal, State, or local jurisdiction, responsibility, interests, or rights in water resources development or control, including rights in and current uses of water resources in the unit.

SEC. 606. Lands within the Bull Run Management Unit, as defined in Public Law 95–200, but not contained within the Bull Run River Drainage, as defined by this title and as depicted on the map dated July 1996 described in Section 604 of this title, shall continue to be managed in accordance with Public Law 95–200.

16 USC 1132 note.

TITLE VII—OREGON ISLANDS WILDERNESS, ADDITIONS

SEC. 701. OREGON ISLANDS WILDERNESS, ADDITIONS.

(a) In furtherance of the purposes of the Wilderness Act of 1964, certain lands within the boundaries of the Oregon Islands National Wildlife Refuge, Oregon, comprising approximately ninety-five acres and as generally depicted on a map entitled "Oregon Island Wilderness Additions—Proposed" dated August 1996, are hereby designated as wilderness. The map shall be on file and available for public inspection in the offices of the Fish and Wildlife Service, Department of the Interior.

(b) All other federally owned named, unnamed, surveyed and unsurveyed rocks, reefs, islets and islands lying within three goegraphic miles off the coast of Oregon and above mean high tide, not currently designated as wilderness and also within the Oregon Islands National Wildlife Refuge boundaries under the administration of the United States Fish and Wildlife Service, Department of the Interior, as designated by Executive Order 7035, Proclamation 2416, Public Land Orders 4395, 4475 and 6287, and Public Laws 91–504 and 95–450, are hereby designated as wilderness.

(c) All federally owned named, unnamed, surveyed and unsurveyed rocks, reefs, islets and islands lying within three geographic miles off the coast of Oregon and above mean high tide, and presently under the jurisdiction of the Bureau of Land Management, except Chiefs Island, are hereby designated as wilderness, shall become part of the Oregon Islands National Wildlife Refuge and the Oregon Island Wilderness and shall be under the jurisdiction of the United States Fish and Wildlife Service, Department of the Interior.

(d) As soon as practicable after this title takes effect, a map of the wilderness area and a description of its boundaries shall be filed with the Senate Committee on Energy and Natural

Resources and the House Committee on Resources, and such map shall have the same force and effect as if included in this title: Provided, however, That correcting clerical and typographical errors in the map and land descriptions may be made.

(e) Public Land Order 6287 of June 16, 1982, which withdrew certain rocks, reefs, islets and islands lying within three geographical miles off the coast of Oregon and above mean high tide, including the ninety-five acres described in subsection (a), as an addition to the Oregon Islands National Wildlife Refuge is hereby made permanent.

TITLE VIII—UMPQUA RIVER LAND EXCHANGE STUDY

SEC. 801. UMPQUA RIVER LAND EXCHANGE STUDY: POLICY AND DIRECTION.

(a) IN GENERAL.—The Secretaries of the Interior and Agriculture (Secretaries) are hereby authorized and directed to consult, coordinate, and cooperate with the Umpqua Land Exchange Project (ULEP), affected units and agencies of State and local government, and, as appropriate, the World Forestry Center and National Fish and Wildlife Foundation, to assist ULEP's ongoing efforts in studying and analyzing land exchange opportunities in the Umpqua River Basin and to provide scientific, technical, research, mapping and other assistance and information to such entities. Such consultation, coordination, and cooperation shall at a minimum include, but not be limited to:

(1) working with ULEP to develop or assemble comprehensive scientific and other information (including comprehensive and integrated mapping) concerning the Umpqua River Basin's resources of forest, plants, wildlife, fisheries (anadromous and other), recreational opportunities, wetlands, riparian habitat, and other physical or natural resources;

(2) working with ULEP to identify general or specific areas within the basin where land exchanges could promote consolidation of forestland ownership for long-term, sustained timber production; protection and restoration of habitat for plants, fish, and wildlife (including any federally listed threatened or endangered species); protection of drinking water supplies; recovery of threatened and endangered species; protection and restoration of wetlands, riparian lands, and other environmentally sensitive areas; consolidation of land ownership for improved public access and a broad array of recreational uses; and consolidation of land ownership to achieve management efficiency and reduced costs of administration; and

(3) developing a joint report for submission to the Congress which discusses land exchange opportunities in the basin and outlines either a specific land exchange proposal or proposals which may merit consideration by the Secretaries or the Congress, or ideas and recommendations for new authorizations, direction, or changes in existing law or policy to expedite and facilitate the consummation of beneficial land exchanges in the basin via administrative means.

(b) MATTERS FOR SPECIFIC STUDY.—In analyzing land exchange opportunities with ULEP, the Secretaries shall give priority to assisting ULEP's ongoing efforts in:

(1) studying, identifying, and mapping areas where the consolidation of land ownership via land exchanges could promote the goals of long term species and watershed protection and utilization, including but not limited to the goals of the Endangered Species Act of 1973 more effectively than current land ownership patterns and whether any changes in law or policy applicable to such lands after consummation of an exchange would be advisable or necessary to achieve such goals;

(2) studying, identifying and mapping areas where land exchanges might be utilized to better satisfy the goals of sustainable timber harvest, including studying whether changes in existing law or policy applicable to such lands after consummation of an exchange would be advisable or necessary to achieve such goals;

(3) identifying issues and studying options and alternatives, including possible changes in existing law or policy, to insure that combined post-exchange revenues to units of local government from State and local property, severance, and other taxes or levies and shared Federal land receipts will approximate pre-exchange revenues;

(4) identifying issues and studying whether possible changes in law, special appraisal instruction, or changes in certain Federal appraisal procedures might be advisable or necessary to facilitate the appraisal of potential exchange lands which may have special characteristics or restrictions affecting land values;

(5) identifying issues and studying options and alternatives, including changes in existing laws or policy, for achieving land exchanges without reducing the net supply of timber available to small businesses;

(6) identifying, mapping, and recommending potential changes in land use plans, land classifications, or other actions which might be advisable or necessary to expedite, facilitate or consummate land exchanges in certain areas;

(7) analyzing potential sources for new or enhanced Federal, State, or other funding to promote improved resource protection, species recovery, and management in the basin; and

(8) identifying and analyzing whether increased efficiency and better land and resource management could occur through either consolidation of Federal forest management under one agency or exchange lands between the Forest Service and the Bureau of Land Management.

SEC. 802. REPORT TO CONGRESS.

No later than February 1, 1998, ULEP and the Secretaries shall submit a joint report to the Committee on Resources of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate concerning their studies, findings, recommendations, mapping and other activities conducted pursuant to this title.

SEC. 803. AUTHORIZATION OF APPROPRIATIONS.

In furtherance of the purposes of this title, there is hereby authorized to be appropriated the sum of $2 million, to remain available until expended.

DIVISION C—ILLEGAL IMMIGRATION REFORM AND IMMIGRANT RESPONSIBILITY ACT OF 1996

Illegal Immigration Reform and Immigrant Responsibility Act of 1996.

SEC. 1. SHORT TITLE OF DIVISION; AMENDMENTS TO IMMIGRATION AND NATIONALITY ACT; APPLICATION OF DEFINITIONS OF SUCH ACT; TABLE OF CONTENTS OF DIVISION; SEVERABILITY.

(a) SHORT TITLE.—This division may be cited as the "Illegal Immigration Reform and Immigrant Responsibility Act of 1996". 8 USC 1101 note.

(b) AMENDMENTS TO IMMIGRATION AND NATIONALITY ACT.—Except as otherwise specifically provided— 8 USC 1101 note.

(1) whenever in this division an amendment or repeal is expressed as the amendment or repeal of a section or other provision, the reference shall be considered to be made to that section or provision in the Immigration and Nationality Act; and

(2) amendments to a section or other provision are to such section or other provision before any amendment made to such section or other provision elsewhere in this division.

(c) APPLICATION OF CERTAIN DEFINITIONS.—Except as otherwise specifically provided in this division, for purposes of titles I and VI of this division, the terms "alien", "Attorney General", "border crossing identification card", "entry", "immigrant", "immigrant visa", "lawfully admitted for permanent residence", "national", "naturalization", "refugee", "State", and "United States" shall have the meaning given such terms in section 101(a) of the Immigration and Nationality Act. 8 USC 1101 note.

(d) TABLE OF CONTENTS OF DIVISION.—The table of contents of this division is as follows:

Sec. 1. Short title of division; amendments to Immigration and Nationality Act; application of definitions of such Act; table of contents of division; severability.

TITLE I—IMPROVEMENTS TO BORDER CONTROL, FACILITATION OF LEGAL ENTRY, AND INTERIOR ENFORCEMENT

Subtitle A—Improved Enforcement at the Border

Sec. 101. Border patrol agents and support personnel.

Sec. 102. Improvement of barriers at border.

Sec. 103. Improved border equipment and technology.

Sec. 104. Improvement in border crossing identification card.

Sec. 105. Civil penalties for illegal entry.

Sec. 106. Hiring and training standards.

Sec. 107. Report on border strategy.

Sec. 108. Criminal penalties for high speed flights from immigration checkpoints.

Sec. 109. Joint study of automated data collection.

Sec. 110. Automated entry-exit control system.

Sec. 111. Submission of final plan on realignment of border patrol positions

from interior stations.

Sec. 112. Nationwide fingerprinting of apprehended aliens.

Subtitle B—Facilitation of Legal Entry

Sec. 121. Land border inspectors.

Sec. 122. Land border inspection and automated permit pilot projects.

Sec. 123. Preinspection at foreign airports.

Sec. 124. Training of airline personnel in detection of fraudulent documents.

Sec. 125. Preclearance authority.

Subtitle C—Interior Enforcement

Sec. 131. Authorization of appropriations for increase in number of certain investigators.

Sec. 132. Authorization of appropriations for increase in number of investigators of visa overstayers.

Sec. 133. Acceptance of State services to carry out immigration enforcement.

Sec. 134. Minimum State INS presence.

TITLE II—ENHANCED ENFORCEMENT AND PENALTIES AGAINST ALIEN SMUGGLING; DOCUMENT FRAUD

Subtitle A—Enhanced Enforcement and Penalties Against Alien Smuggling

Sec. 201. Wiretap authority for investigations of alien smuggling or document fraud.

Sec. 202. Racketeering offenses relating to alien smuggling.

Sec. 203. Increased criminal penalties for alien smuggling.

Sec. 204. Increased number of assistant United States Attorneys.

Sec. 205. Undercover investigation authority.

Subtitle B—Deterrence of Document Fraud

Sec. 211. Increased criminal penalties for fraudulent use of government-issued documents.

Sec. 212. New document fraud offenses; new civil penalties for document fraud.

Sec. 213. New criminal penalty for failure to disclose role as preparer of false application for immigration benefits.

Sec. 214. Criminal penalty for knowingly presenting document which fails to contain reasonable basis in law or fact.

Sec. 215. Criminal penalty for false claim to citizenship.

Sec. 216. Criminal penalty for voting by aliens in Federal election.

Sec. 217. Criminal forfeiture for passport and visa related offenses.

Sec. 218. Penalties for involuntary servitude.

Sec. 219. Admissibility of videotaped witness testimony.

Sec. 220. Subpoena authority in document fraud enforcement.

TITLE III—INSPECTION, APPREHENSION, DETENTION, ADJUDICATION, AND REMOVAL OF INADMISSIBLE AND DEPORTABLE ALIENS

Subtitle A—Revision of Procedures for Removal of Aliens

Sec. 301. Treating persons present in the United States without authorization as not admitted.

Sec. 302. Inspection of aliens; expedited removal of inadmissible arriving aliens; referral for hearing (revised section 235).

Sec. 303. Apprehension and detention of aliens not lawfully in the United States (revised section 236).

Sec. 304. Removal proceedings; cancellation of removal and adjustment of status; voluntary departure (revised and new sections 239 to 240C).

Sec. 305. Detention and removal of aliens ordered removed (new section 241).

Sec. 306. Appeals from orders of removal (new section 242).

Sec. 307. Penalties relating to removal (revised section 243).

Sec. 308. Redesignation and reorganization of other provisions; additional conforming amendments.

Sec. 309. Effective dates; transition.

Subtitle B—Criminal Alien Provisions

Sec. 321. Amended definition of aggravated felony.

Sec. 322. Definition of conviction and term of imprisonment.

Sec. 323. Authorizing registration of aliens on criminal probation or criminal parole.

Sec. 324. Penalty for reentry of deported aliens.

Sec. 325. Change in filing requirement.

Sec. 326. Criminal alien identification system.

Sec. 327. Appropriations for criminal alien tracking center.

Sec. 328. Provisions relating to State criminal alien assistance program.

Sec. 329. Demonstration project for identification of illegal aliens in incarceration facility of Anaheim, California.

Sec. 330. Prisoner transfer treaties.

Sec. 331. Prisoner transfer treaties study.

Sec. 332. Annual report on criminal aliens.

Sec. 333. Penalties for conspiring with or assisting an alien to commit an offense under the Controlled Substances Import and Export Act.

Sec. 334. Enhanced penalties for failure to depart, illegal reentry, and passport and visa fraud.

Subtitle C—Revision of Grounds for Exclusion and Deportation

Sec. 341. Proof of vaccination requirement for immigrants.

Sec. 342. Incitement of terrorist activity and provision of false documentation to terrorists as a basis for exclusion from the United States.

Sec. 343. Certification requirements for foreign health-care workers.

Sec. 344. Removal of aliens falsely claiming United States citizenship.

Sec. 345. Waiver of exclusion and deportation ground for certain section 274C violators.

Sec. 346. Inadmissibility of certain student visa abusers.

Sec. 347. Removal of aliens who have unlawfully voted.

Sec. 348. Waivers for immigrants convicted of crimes.

Sec. 349. Waiver of misrepresentation ground of inadmissibility for certain alien.

Sec. 350. Offenses of domestic violence and stalking as ground for deportation.

Sec. 351. Clarification of date as of which relationship required for waiver from exclusion or deportation for smuggling.

Sec. 352. Exclusion of former citizens who renounced citizenship to avoid United States taxation.

Sec. 353. References to changes elsewhere in division.

Subtitle D—Changes in Removal of Alien Terrorist Provisions

Sec. 354. Treatment of classified information.

Sec. 355. Exclusion of representatives of terrorist organizations.

Sec. 356. Standard for judicial review of terrorist organization designations.

Sec. 357. Removal of ancillary relief for voluntary departure.

Sec. 358. Effective date.

Subtitle E—Transportation of Aliens

Sec. 361. Definition of stowaway.

Sec. 362. Transportation contracts.

Subtitle F—Additional Provisions

Sec. 371. Immigration judges and compensation.

Sec. 372. Delegation of immigration enforcement authority.

Sec. 373. Powers and duties of the Attorney General and the Commissioner.

Sec. 374. Judicial deportation.

Sec. 375. Limitation on adjustment of status.

Sec. 376. Treatment of certain fees.

Sec. 377. Limitation on legalization litigation.

Sec. 378. Rescission of lawful permanent resident status.

Sec. 379. Administrative review of orders.

Sec. 380. Civil penalties for failure to depart.

Sec. 381. Clarification of district court jurisdiction.

Sec. 382. Application of additional civil penalties to enforcement.

Sec. 383. Exclusion of certain aliens from family unity program.

Sec. 384. Penalties for disclosure of information.

Sec. 385. Authorization of additional funds for removal of aliens.

Sec. 386. Increase in INS detention facilities; report on detention space.

Sec. 387. Pilot program on use of closed military bases for the detention of inadmissible or deportable aliens.

Sec. 388. Report on interior repatriation program.

TITLE IV—ENFORCEMENT OF RESTRICTIONS AGAINST EMPLOYMENT

Subtitle A—Pilot Programs for Employment Eligibility Confirmation

Sec. 401. Establishment of programs.

Sec. 402. Voluntary election to participate in a pilot program.

Sec. 403. Procedures for participants in pilot programs.

Sec. 404. Employment eligibility confirmation system.

Sec. 405. Reports.

Subtitle B—Other Provisions Relating to Employer Sanctions

Sec. 411. Limiting liability for certain technical violations of paperwork requirements.

Sec. 412. Paperwork and other changes in the employer sanctions program.

Sec. 413. Report on additional authority or resources needed for enforcement of employer sanctions provisions.

Sec. 414. Reports on earnings of aliens not authorized to work.

Sec. 415. Authorizing maintenance of certain information on aliens.

Sec. 416. Subpoena authority.

Subtitle C—Unfair Immigration-Related Employment Practices

Sec. 421. Treatment of certain documentary practices as unfair immigration-related employment practices.

TITLE V—RESTRICTIONS ON BENEFITS FOR ALIENS

Subtitle A—Eligibility of Aliens for Public Assistance and Benefits

Sec. 501. Exception to ineligibility for public benefits for certain battered aliens.

Sec. 502. Pilot programs on limiting issuance of driver's licenses to illegal aliens.

Sec. 503. Ineligibility of aliens not lawfully present for Social Security benefits.

Sec. 504. Procedures for requiring proof of citizenship for Federal public benefits.

Sec. 505. Limitation on eligibility for preferential treatment of aliens not lawfully present on basis of residence for higher education benefits.

Sec. 506. Study and report on alien student eligibility for postsecondary Federal student financial assistance.

Sec. 507. Verification of immigration status for purposes of Social Security and higher educational assistance.

Sec. 508. No verification requirement for nonprofit charitable organizations.

Sec. 509. GAO study of provision of means-tested public benefits to aliens who are not qualified aliens on behalf of eligible individuals.

Sec. 510. Transition for aliens currently receiving benefits under the Food Stamp program.

Subtitle B—Public Charge Exclusion

Sec. 531. Ground for exclusion.

Subtitle C—Affidavits of Support

Sec. 551. Requirements for sponsor's affidavit of support.

Sec. 552. Indigence and battered spouse and child exceptions to Federal attribution of income rule.

Sec. 553. Authority of States and political subdivisions of States to limit assistance to aliens and to distinguish among classes of aliens in providing general cash public assistance.

Subtitle D—Miscellaneous Provisions

Sec. 561. Increased maximum criminal penalties for forging or counterfeiting seal of a Federal department or agency to facilitate benefit fraud by an unlawful alien.

Sec. 562. Treatment of expenses subject to emergency medical services exception.

Sec. 563. Reimbursement of States and localities for emergency ambulance services.

Sec. 564. Pilot programs to require bonding.

Sec. 565. Reports.

Subtitle E—Housing Assistance

Sec. 571. Short title.

Sec. 572. Prorating of financial assistance.

Sec. 573. Actions in cases of termination of financial assistance.

Sec. 574. Verification of immigration status and eligibility for financial assistance.

Sec. 575. Prohibition of sanctions against entities making financial assistance eligibility determinations.

Sec. 576. Eligibility for public and assisted housing.

Sec. 577. Regulations.

Subtitle F—General Provisions

Sec. 591. Effective dates.

Sec. 592. Not applicable to foreign assistance.

Sec. 593. Notification.

Sec. 594. Definitions.

TITLE VI—MISCELLANEOUS PROVISIONS

Subtitle A—Refugees, Parole, and Asylum

Sec. 601. Persecution for resistance to coercive population control methods.

Sec. 602. Limitation on use of parole.

Sec. 603. Treatment of long-term parolees in applying worldwide numerical limitations.

Sec. 604. Asylum reform.

Sec. 605. Increase in asylum officers.

Sec. 606. Conditional repeal of Cuban Adjustment Act.

Subtitle B—Miscellaneous Amendments to the Immigration and Nationality Act

Sec. 621. Alien witness cooperation.

Sec. 622. Waiver of foreign country residence requirement with respect to international medical graduates.

Sec. 623. Use of legalization and special agricultural worker information.

Sec. 624. Continued validity of labor certifications and classification petitions for professional athletes.

Sec. 625. Foreign students.

Sec. 626. Services to family members of certain officers and agents killed in the line of duty.

Subtitle C—Provisions Relating to Visa Processing and Consular Efficiency

Sec. 631. Validity of period of visas.

Sec. 632. Elimination of consulate shopping for visa overstays.

Sec. 633. Authority to determine visa processing procedures.

Sec. 634. Changes regarding visa application process.

Sec. 635. Visa waiver program.

Sec. 636. Fee for diversity immigrant lottery.

Sec. 637. Eligibility for visas for certain Polish applicants for the 1995 diversity immigrant program.

Subtitle D—Other Provisions

Sec. 641. Program to collect information relating to nonimmigrant foreign students.

Sec. 642. Communication between government agencies and the Immigration and Naturalization Service.

Sec. 643. Regulations regarding habitual residence.

Sec. 644. Information regarding female genital mutilation.

Sec. 645. Criminalization of female genital mutilation.

Sec. 646. Adjustment of status for certain Polish and Hungarian parolees.

Sec. 647. Support of demonstration projects.

Sec. 648. Sense of Congress regarding American-made products; requirements regarding notice.

Sec. 649. Vessel movement controls during immigration emergency.

Sec. 650. Review of practices of testing entities.

Sec. 651. Designation of a United States customs administrative building.

Sec. 652. Mail-order bride business.

Sec. 653. Review and report on H–2A nonimmigrant workers program.

Sec. 654. Report on allegations of harassment by Canadian customs agents.

Sec. 655. Sense of Congress on discriminatory application of New Brunswick provincial sales tax.

Sec. 656. Improvements in identification-related documents.

Sec. 657. Development of prototype of counterfeit-resistant Social Security card.

Sec. 658. Border Patrol Museum.

Sec. 659. Sense of the Congress regarding the mission of the Immigration and Naturalization Service.

Sec. 660. Authority for National Guard to assist in transportation of certain aliens.

Subtitle E—Technical Corrections

Sec. 671. Miscellaneous technical corrections.

8 USC 1101 note.

(e) SEVERABILITY.—If any provision of this division or the application of such provision to any person or circumstances is held to be unconstitutional, the remainder of this division and the application of the provisions of this division to any person or circumstance shall not be affected thereby.

TITLE I—IMPROVEMENTS TO BORDER CONTROL, FACILITATION OF LEGAL ENTRY, AND INTERIOR ENFORCEMENT

Subtitle A—Improved Enforcement at the Border

SEC. 101. BORDER PATROL AGENTS AND SUPPORT PERSONNEL.

(a) INCREASED NUMBER OF BORDER PATROL AGENTS.—The Attorney General in each of fiscal years 1997, 1998, 1999, 2000, and 2001 shall increase by not less than 1,000 the number of positions for full-time, active-duty border patrol agents within the Immigration and Naturalization Service above the number of such positions for which funds were allotted for the preceding fiscal year.

(b) INCREASE IN BORDER PATROL SUPPORT PERSONNEL.—The Attorney General, in each of fiscal years 1997, 1998, 1999, 2000,

and 2001, may increase by 300 the number of positions for personnel in support of border patrol agents above the number of such positions for which funds were allotted for the preceding fiscal year.

(c) DEPLOYMENT OF BORDER PATROL AGENTS.—The Attorney General shall, to the maximum extent practicable, ensure that additional border patrol agents shall be deployed among Immigration and Naturalization Service sectors along the border in proportion to the level of illegal crossing of the borders of the United States measured in each sector during the preceding fiscal year and reasonably anticipated in the next fiscal year.

(d) FORWARD DEPLOYMENT.—

(1) IN GENERAL.—The Attorney General shall forward deploy existing border patrol agents in those areas of the border identified as areas of high illegal entry into the United States in order to provide a uniform and visible deterrent to illegal entry on a continuing basis. The previous sentence shall not apply to border patrol agents located at checkpoints.

(2) PRESERVATION OF LAW ENFORCEMENT FUNCTIONS AND CAPABILITIES IN INTERIOR STATES.—The Attorney General shall, when deploying border patrol personnel from interior stations to border stations, coordinate with, and act in conjunction with, State and local law enforcement agencies to ensure that such deployment does not degrade or compromise the law enforcement capabilities and functions currently performed at interior border patrol stations.

(3) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Attorney General shall submit to the Committees on the Judiciary of the House of Representatives and of the Senate a report on—

(A) the progress and effectiveness of the forward deployment under paragraph (1); and

(B) the measures taken to comply with paragraph (2).

SEC. 102. IMPROVEMENT OF BARRIERS AT BORDER. 8 USC 1103 note.

(a) IN GENERAL.—The Attorney General, in consultation with the Commissioner of Immigration and Naturalization, shall take such actions as may be necessary to install additional physical barriers and roads (including the removal of obstacles to detection of illegal entrants) in the vicinity of the United States border to deter illegal crossings in areas of high illegal entry into the United States.

(b) CONSTRUCTION OF FENCING AND ROAD IMPROVEMENTS IN THE BORDER AREA NEAR SAN DIEGO, CALIFORNIA.—

(1) IN GENERAL.—In carrying out subsection (a), the Attorney General shall provide for the construction along the 14 miles of the international land border of the United States, starting at the Pacific Ocean and extending eastward, of second and third fences, in addition to the existing reinforced fence, and for roads between the fences.

(2) PROMPT ACQUISITION OF NECESSARY EASEMENTS.—The Attorney General, acting under the authority conferred in section 103(b) of the Immigration and Nationality Act (as inserted by subsection (d)), shall promptly acquire such easements as may be necessary to carry out this subsection and shall commence construction of fences immediately following such acquisition (or conclusion of portions thereof).

(3) SAFETY FEATURES.—The Attorney General, while constructing the additional fencing under this subsection, shall incorporate such safety features into the design of the fence system as are necessary to ensure the well-being of border patrol agents deployed within or in near proximity to the system.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection not to exceed $12,000,000. Amounts appropriated under this paragraph are authorized to remain available until expended.

(c) WAIVER.—The provisions of the Endangered Species Act of 1973 and the National Environmental Policy Act of 1969 are waived to the extent the Attorney General determines necessary to ensure expeditious construction of the barriers and roads under this section.

(d) LAND ACQUISITION AUTHORITY.—

(1) IN GENERAL.—Section 103 (8 U.S.C. 1103) is amended—

(A) by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively; and

(B) by inserting after subsection (a) the following:

"(b)(1) The Attorney General may contract for or buy any interest in land, including temporary use rights, adjacent to or in the vicinity of an international land border when the Attorney General deems the land essential to control and guard the boundaries and borders of the United States against any violation of this Act.

"(2) The Attorney General may contract for or buy any interest in land identified pursuant to paragraph (1) as soon as the lawful owner of that interest fixes a price for it and the Attorney General considers that price to be reasonable.

"(3) When the Attorney General and the lawful owner of an interest identified pursuant to paragraph (1) are unable to agree upon a reasonable price, the Attorney General may commence condemnation proceedings pursuant to the Act of August 1, 1888 (Chapter 728; 25 Stat. 357).

"(4) The Attorney General may accept for the United States a gift of any interest in land identified pursuant to paragraph (1).".

(2) CONFORMING AMENDMENT.—Section 103(e) (as so redesignated by paragraph (1)(A)) is amended by striking "subsection (c)" and inserting "subsection (d)".

8 USC 1103 note.

SEC. 103. IMPROVED BORDER EQUIPMENT AND TECHNOLOGY.

The Attorney General is authorized to acquire and use, for the purpose of detection, interdiction, and reduction of illegal immigration into the United States, any Federal equipment (including fixed wing aircraft, helicopters, four-wheel drive vehicles, sedans, night vision goggles, night vision scopes, and sensor units) determined available for transfer by any other agency of the Federal Government upon request of the Attorney General.

SEC. 104. IMPROVEMENT IN BORDER CROSSING IDENTIFICATION CARD.

(a) IN GENERAL.—Section 101(a)(6) (8 U.S.C. 1101(a)(6)) is amended by adding at the end the following: "Such regulations shall provide that (A) each such document include a biometric identifier (such as the fingerprint or handprint of the alien) that is machine readable and (B) an alien presenting a border crossing

identification card is not permitted to cross over the border into the United States unless the biometric identifier contained on the card matches the appropriate biometric characteristic of the alien.".

(b) EFFECTIVE DATES.— 8 USC 1101 note.

(1) CLAUSE A.—Clause (A) of the sentence added by the amendment made by subsection (a) shall apply to documents issued on or after 18 months after the date of the enactment of this Act.

(2) CLAUSE B.—Clause (B) of such sentence shall apply to cards presented on or after 3 years after the date of the enactment of this Act.

SEC. 105. CIVIL PENALTIES FOR ILLEGAL ENTRY.

(a) IN GENERAL.—Section 275 (8 U.S.C. 1325) is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(2) by inserting after subsection (a) the following:

"(b) Any alien who is apprehended while entering (or attempting to enter) the United States at a time or place other than as designated by immigration officers shall be subject to a civil penalty of—

"(1) at least $50 and not more than $250 for each such entry (or attempted entry); or

"(2) twice the amount specified in paragraph (1) in the case of an alien who has been previously subject to a civil penalty under this subsection.

Civil penalties under this subsection are in addition to, and not in lieu of, any criminal or other civil penalties that may be imposed.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to illegal entries or attempts to enter occurring on or after the first day of the sixth month beginning after the date of the enactment of this Act. 8 USC 1325 note.

SEC. 106. HIRING AND TRAINING STANDARDS. 8 USC 1103 note.

(a) REVIEW OF HIRING STANDARDS.—Not later than 60 days after the date of the enactment of this Act, the Attorney General shall complete a review of all prescreening and hiring standards used by the Commissioner of Immigration and Naturalization, and, where necessary, revise such standards to ensure that they are consistent with relevant standards of professionalism.

(b) CERTIFICATION.—At the conclusion of each of fiscal years 1997, 1998, 1999, 2000, and 2001, the Attorney General shall certify in writing to the Committees on the Judiciary of the House of Representatives and of the Senate that all personnel hired by the Commissioner of Immigration and Naturalization for such fiscal year were hired pursuant to the appropriate standards, as revised under subsection (a).

(c) REVIEW OF TRAINING STANDARDS.—

(1) REVIEW.—Not later than 180 days after the date of the enactment of this Act, the Attorney General shall complete a review of the sufficiency of all training standards used by the Commissioner of Immigration and Naturalization.

(2) REPORT.—

(A) IN GENERAL.—Not later than 90 days after the completion of the review under paragraph (1), the Attorney General shall submit a report to the Committees on the

Judiciary of the House of Representatives and of the Senate on the results of the review, including—

(i) a description of the status of efforts to update and improve training throughout the Immigration and Naturalization Service; and

(ii) an estimate of when such efforts are expected to be completed.

(B) AREAS REQUIRING FUTURE REVIEW.—The report shall disclose those areas of training that the Attorney General determines require further review in the future.

8 USC 1103 note.

SEC. 107. REPORT ON BORDER STRATEGY.

(a) EVALUATION OF STRATEGY.—The Comptroller General of the United States shall track, monitor, and evaluate the Attorney General's strategy to deter illegal entry in the United States to determine the efficacy of such strategy.

(b) COOPERATION.—The Attorney General, the Secretary of State, and the Secretary of Defense shall cooperate with the Comptroller General of the United States in carrying out subsection (a).

(c) REPORT.—Not later than one year after the date of the enactment of this Act, and every year thereafter for the succeeding 5 years, the Comptroller General of the United States shall submit a report to the Committees on the Judiciary of the House of Representatives and of the Senate on the results of the activities undertaken under subsection (a) during the previous year. Each such report shall include an analysis of the degree to which the Attorney General's strategy has been effective in reducing illegal entry. Each such report shall include a collection and systematic analysis of data, including workload indicators, related to activities to deter illegal entry and recommendations to improve and increase border security at the border and ports of entry.

SEC. 108. CRIMINAL PENALTIES FOR HIGH SPEED FLIGHTS FROM IMMIGRATION CHECKPOINTS.

18 USC 758 note.

(a) FINDINGS.—The Congress finds as follows:

(1) Immigration checkpoints are an important component of the national strategy to prevent illegal immigration.

(2) Individuals fleeing immigration checkpoints and leading law enforcement officials on high speed vehicle chases endanger law enforcement officers, innocent bystanders, and the fleeing individuals themselves.

(3) The pursuit of suspects fleeing immigration checkpoints is complicated by overlapping jurisdiction among Federal, State, and local law enforcement officers.

(b) HIGH SPEED FLIGHT FROM IMMIGRATION CHECKPOINTS.—

(1) IN GENERAL.—Chapter 35 of title 18, United States Code, is amended by adding at the end the following:

"§ 758. High speed flight from immigration checkpoint

"Whoever flees or evades a checkpoint operated by the Immigration and Naturalization Service, or any other Federal law enforcement agency, in a motor vehicle and flees Federal, State, or local law enforcement agents in excess of the legal speed limit shall be fined under this title, imprisoned not more than five years, or both.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 757 the following:

"758. High speed flight from immigration checkpoint.".

(c) GROUNDS FOR DEPORTATION.—Section 241(a)(2)(A) (8 U.S.C. 1251(a)(2)(A)) is amended—

(1) by redesignating clause (iv) as clause (v);

(2) by inserting after clause (iii) the following:

"(iv) HIGH SPEED FLIGHT.—Any alien who is convicted of a violation of section 758 of title 18, United States Code, (relating to high speed flight from an immigration checkpoint) is deportable."; and

(3) in clause (v) (as so redesignated by paragraph (1)), by striking "and (iii)" and inserting "(iii), and (iv)".

SEC. 109. JOINT STUDY OF AUTOMATED DATA COLLECTION.

(a) STUDY.—The Attorney General, together with the Secretary of State, the Secretary of Agriculture, the Secretary of the Treasury, and appropriate representatives of the air transport industry, shall jointly undertake a study to develop a plan for making the transition to automated data collection at ports of entry.

(b) REPORT.—Nine months after the date of the enactment of this Act, the Attorney General shall submit a report to the Committees on the Judiciary of the Senate and the House of Representatives on the outcome of the joint initiative under subsection (a), noting specific areas of agreement and disagreement, and recommending further steps to be taken, including any suggestions for legislation.

SEC. 110. AUTOMATED ENTRY-EXIT CONTROL SYSTEM. 8 USC 1221 note.

(a) SYSTEM.—Not later than 2 years after the date of the enactment of this Act, the Attorney General shall develop an automated entry and exit control system that will—

(1) collect a record of departure for every alien departing the United States and match the records of departure with the record of the alien's arrival in the United States; and

(2) enable the Attorney General to identify, through on-line searching procedures, lawfully admitted nonimmigrants who remain in the United States beyond the period authorized by the Attorney General.

(b) REPORT.—

(1) DEADLINE.—Not later than December 31 of each year following the development of the system under subsection (a), the Attorney General shall submit an annual report to the Committees on the Judiciary of the House of Representatives and of the Senate on such system.

(2) INFORMATION.—The report shall include the following information:

(A) The number of departure records collected, with an accounting by country of nationality of the departing alien.

(B) The number of departure records that were successfully matched to records of the alien's prior arrival in the United States, with an accounting by the alien's country of nationality and by the alien's classification as an immigrant or nonimmigrant.

(C) The number of aliens who arrived as non-immigrants, or as a visitor under the visa waiver program under section 217 of the Immigration and Nationality Act, for whom no matching departure record has been obtained through the system or through other means as of the end of the alien's authorized period of stay, with an accounting by the alien's country of nationality and date of arrival in the United States.

(c) USE OF INFORMATION ON OVERSTAYS. Information regarding aliens who have remained in the United Staty beyond their authorized period of stay identified through the system shall be integrated into appropriate data bases of the Immigration and Naturalization Service and the Department of State, including those used at ports of entry and at consular offices.

SEC. 111. SUBMISSION OF FINAL PLAN ON REALIGNMENT OF BORDER PATROL POSITIONS FROM INTERIOR STATIONS.

Not later than November 30, 1996, the Attorney General shall submit to the Committees on the Judiciary of the House of Representatives and of the Senate a final plan regarding the redeployment of border patrol personnel from interior locations to the front lines of the border. The final plan shall be consistent with the following:

(1) The preliminary plan regarding such redeployment submitted by the Attorney General on May 17, 1996, to the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate.

(2) The direction regarding such redeployment provided in the joint explanatory statement of the committee of conference in the conference report to accompany the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (Public Law 104-134).

SEC. 112. NATIONWIDE FINGERPRINTING OF APPREHENDED ALIENS.

There are authorized to be appropriated such additional sums as may be necessary to ensure that the "IDENT" program (operated by the Immigration and Naturalization Service) is expanded to apply to illegal or criminal aliens apprehended nationwide.

Subtitle B—Facilitation of Legal Entry

SEC. 121. LAND BORDER INSPECTORS.

In order to eliminate undue delay in the thorough inspection of persons and vehicles lawfully attempting to enter the United States, the Attorney General and the Secretary of the Treasury each shall increase, by approximately equal numbers in each of fiscal years 1997 and 1998, the number of full-time land border inspectors assigned to active duty by the Immigration and Naturalization Service and the United States Customs Service to a level adequate to assure full staffing during peak crossing hours of all border crossing lanes currently in use, under construction, or whose construction has been authorized by the Congress, except such low-use lanes as the Attorney General may designate.

SEC. 122. LAND BORDER INSPECTION AND AUTOMATED PERMIT PILOT PROJECTS.

(a) EXTENSION OF LAND BORDER INSPECTION PROJECT AUTHORITY; ESTABLISHMENT OF AUTOMATED PERMIT PILOT PROJECTS.—Section 286(q) is amended— 8 USC 1356.

(1) by striking the matter preceding paragraph (2) and inserting the following:

"(q) LAND BORDER INSPECTION FEE ACCOUNT.—(1)(A)(i) Notwithstanding any other provision of law, the Attorney General is authorized to establish, by regulation, not more than 6 projects under which a fee may be charged and collected for inspection services provided at one or more land border points of entry. Such projects may include the establishment of commuter lanes to be made available to qualified United States citizens and aliens, as determined by the Attorney General.

"(ii) The program authorized in this subparagraph shall terminate on September 30, 2000, unless further authorized by an Act of Congress.

"(iii) This subparagraph shall take effect, with respect to any project described in clause (1) that was not authorized to be commenced before the date of the enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 30 days after submission of a written plan by the Attorney General detailing the proposed implementation of such project.

"(iv) The Attorney General shall prepare and submit on a quarterly basis, until September 30, 2000, a status report on each land border inspection project implemented under this subparagraph.

"(B) The Attorney General, in consultation with the Secretary of the Treasury, may conduct pilot projects to demonstrate the use of designated ports of entry after working hours through the use of card reading machines or other appropriate technology."; and

(2) by striking paragraph (5).

(b) CONFORMING AMENDMENT.—The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriation Act, 1994 (Public Law 103–121, 107 Stat. 1161) is amended by striking the fourth proviso under the heading "Immigration and Naturalization Service, Salaries and Expenses". 8 USC 1356 note.

SEC. 123. PREINSPECTION AT FOREIGN AIRPORTS.

(a) IN GENERAL.—The Immigration and Nationality Act is amended by inserting after section 235 the following:

"PREINSPECTION AT FOREIGN AIRPORTS

"SEC. 235A. (a) ESTABLISHMENT OF PREINSPECTION STATIONS.— 8 USC 1225a.

"(1) NEW STATIONS.—Subject to paragraph (5), not later than October 31, 1998, the Attorney General, in consultation with the Secretary of State, shall establish and maintain preinspection stations in at least 5 of the foreign airports that are among the 10 foreign airports which the Attorney General identifies as serving as last points of departure for the greatest numbers of inadmissible alien passengers who arrive from abroad by air at ports of entry within the United States. Such preinspection stations shall be in addition to any preinspection stations established prior to the date of the enactment of such Act.

"(2) REPORT.—Not later than October 31, 1998, the Attorney General shall report to the Committees on the Judiciary of the House of Representatives and of the Senate on the implementation of paragraph (1).

"(3) DATA COLLECTION.—Not later than November 1, 1997, and each subsequent November 1, the Attorney General shall compile data identifying—

"(A) the foreign airports which served as last points of departure for aliens who arrived by air at United States ports of entry without valid documentation during the preceding fiscal years;

"(B) the number and nationality of such aliens arriving from each such foreign airport; and

"(C) the primary routes such aliens followed from their country of origin to the United States.

"(4) ADDITIONAL STATIONS.—Subject to paragraph (5), not later than October 31, 2000, the Attorney General, in consultation with the Secretary of State, shall establish preinspection stations in at least 5 additional foreign airports which the Attorney General, in consultation with the Secretary of State, determines, based on the data compiled under paragraph (3) and such other information as may be available, would most effectively reduce the number of aliens who arrive from abroad by air at points of entry within the United States who are inadmissible to the United States. Such preinspection stations shall be in addition to those established prior to the date of the enactment of such Act or pursuant to paragraph (1).

"(5) CONDITIONS.—Prior to the establishment of a preinspection station, the Attorney General, in consultation with the Secretary of State, shall ensure that—

"(A) employees of the United States stationed at the preinspection station and their accompanying family members will receive appropriate protection;

"(B) such employees and their families will not be subject to unreasonable risks to their welfare and safety; and

"(C) the country in which the preinspection station is to be established maintains practices and procedures with respect to asylum seekers and refugees in accordance with the Convention Relating to the Status of Refugees (done at Geneva, July 28, 1951), or the Protocol Relating to the Status of Refugees (done at New York, January 31, 1967), or that an alien in the country otherwise has recourse to avenues of protection from return to persecution.

"(b) ESTABLISHMENT OF CARRIER CONSULTANT PROGRAM.—The Attorney General shall assign additional immigration officers to assist air carriers in the detection of fraudulent documents at foreign airports which, based on the records maintained pursuant to subsection (a)(3), served as a point of departure for a significant number of arrivals at United States ports of entry without valid documentation, but where no preinspection station exists.".

(b) CLERICAL AMENDMENT.—The table of contents is amended by inserting after the item relating to section 235 the following:

"Sec. 235A. Preinspection at foreign airports.".

SEC. 124. TRAINING OF AIRLINE PERSONNEL IN DETECTION OF FRAUDULENT DOCUMENTS.

(a) USE OF FUNDS.—

(1) IN GENERAL.—Section 286(h)(2)(A) (8 U.S.C. 1356(h)(2)(A)) is amended—

(A) in clause (iv), by inserting ", including training of, and technical assistance to, commercial airline personnel regarding such detection" after "United States"; and

(B) by adding at the end the following:

"The Attorney General shall provide for expenditures for training and assistance described in clause (iv) in an amount, for any fiscal year, not less than 5 percent of the total of the expenses incurred that are described in the previous sentence.".

(2) APPLICABILITY.—The amendments made by paragraph (1) shall apply to expenses incurred during or after fiscal year 1997. 8 USC 1356 note.

(b) COMPLIANCE WITH DETECTION REGULATIONS.—

(1) IN GENERAL.—Section 212(f) (8 U.S.C. 1182(f)) is amended by adding at the end the following: "Whenever the Attorney General finds that a commercial airline has failed to comply with regulations of the Attorney General relating to requirements of airlines for the detection of fraudulent documents used by passengers traveling to the United States (including the training of personnel in such detection), the Attorney General may suspend the entry of some or all aliens transported to the United States by such airline.".

(2) DEADLINE.—The Attorney General shall first issue, in proposed form, regulations referred to in the second sentence of section 212(f) of the Immigration and Nationality Act, as added by the amendment made by paragraph (1), not later than 90 days after the date of the enactment of this Act. 8 USC 1182 note.

SEC. 125. PRECLEARANCE AUTHORITY.

Section 103(a) of the Immigration and Nationality Act (8 U.S.C. 1103(a)) is amended by adding at the end the following:

"After consultation with the Secretary of State, the Attorney General may authorize officers of a foreign country to be stationed at preclearance facilities in the United States for the purpose of ensuring that persons traveling from or through the United States to that foreign country comply with that country's immigration and related laws. Those officers may exercise such authority and perform such duties as United States immigration officers are authorized to exercise and perform in that foreign country under reciprocal agreement, and they shall enjoy such reasonable privileges and immunities necessary for the performance of their duties as the government of their country extends to United States immigration officers.".

Subtitle C—Interior Enforcement

SEC. 131. AUTHORIZATION OF APPROPRIATIONS FOR INCREASE IN NUMBER OF CERTAIN INVESTIGATORS.

(a) AUTHORIZATION.—There are authorized to be appropriated such funds as may be necessary to enable the Commissioner of Immigration and Naturalization to increase the number of investigators and support personnel to investigate potential violations

of sections 274 and 274A of the Immigration and Nationality Act by a number equivalent to 300 full-time active-duty investigators in each of fiscal years 1997, 1998, and 1999.

(b) ALLOCATION OF INVESTIGATORS.—At least one-half of the investigators hired with funds made available under subsection (a) shall be assigned to investigate potential violations of section 274A of the Immigration and Nationality Act.

(c) LIMITATION ON OVERTIME.—None of the funds made available under subsection (a) shall be available for administrative expenses to pay any employee overtime pay in an amount in excess of $25,000 for any fiscal year.

SEC. 132. AUTHORIZATION OF APPROPRIATIONS FOR INCREASE IN NUMBER OF INVESTIGATORS OF VISA OVERSTAYERS.

There are authorized to be appropriated such funds as may be necessary to enable the Commissioner of Immigration and Naturalization to increase the number of investigators and support personnel to investigate visa overstayers by a number equivalent to 300 full-time active-duty investigators in fiscal year 1997.

SEC. 133. ACCEPTANCE OF STATE SERVICES TO CARRY OUT IMMIGRATION ENFORCEMENT.

Section 287 (8 U.S.C. 1357) is amended by adding at the end the following:

"(g)(1) Notwithstanding section 1342 of title 31, United States Code, the Attorney General may enter into a written agreement with a State, or any political subdivision of a State, pursuant to which an officer or employee of the State or subdivision, who is determined by the Attorney General to be qualified to perform a function of an immigration officer in relation to the investigation, apprehension, or detention of aliens in the United States (including the transportation of such aliens across State lines to detention centers), may carry out such function at the expense of the State or political subdivision and to the extent consistent with State and local law.

"(2) An agreement under this subsection shall require that an officer or employee of a State or political subdivision of a State performing a function under the agreement shall have knowledge of, and adhere to, Federal law relating to the function, and shall contain a written certification that the officers or employees performing the function under the agreement have received adequate training regarding the enforcement of relevant Federal immigration laws.

"(3) In performing a function under this subsection, an officer or employee of a State or political subdivision of a State shall be subject to the direction and supervision of the Attorney General.

"(4) In performing a function under this subsection, an officer or employee of a State or political subdivision of a State may use Federal property or facilities, as provided in a written agreement between the Attorney General and the State or subdivision.

"(5) With respect to each officer or employee of a State or political subdivision who is authorized to perform a function under this subsection, the specific powers and duties that may be, or are required to be, exercised or performed by the individual, the duration of the authority of the individual, and the position of the agency of the Attorney General who is required to supervise and direct the individual, shall be set forth in a written agreement between the Attorney General and the State or political subdivision.

"(6) The Attorney General may not accept a service under this subsection if the service will be used to displace any Federal employee.

"(7) Except as provided in paragraph (8), an officer or employee of a State or political subdivision of a State performing functions under this subsection shall not be treated as a Federal employee for any purpose other than for purposes of chapter 81 of title 5, United States Code, (relating to compensation for injury) and sections 2671 through 2680 of title 28, United States Code (relating to tort claims).

"(8) An officer or employee of a State or political subdivision of a State acting under color of authority under this subsection, or any agreement entered into under this subsection, shall be considered to be acting under color of Federal authority for purposes of determining the liability, and immunity from suit, of the officer or employee in a civil action brought under Federal or State law.

"(9) Nothing in this subsection shall be construed to require any State or political subdivision of a State to enter into an agreement with the Attorney General under this subsection.

"(10) Nothing in this subsection shall be construed to require an agreement under this subsection in order for any officer or employee of a State or political subdivision of a State—

"(A) to communicate with the Attorney General regarding the immigration status of any individual, including reporting knowledge that a particular alien is not lawfully present in the United States; or

"(B) otherwise to cooperate with the Attorney General in the identification, apprehension, detention, or removal of aliens not lawfully present in the United States.".

SEC. 134. MINIMUM STATE INS PRESENCE.

(a) IN GENERAL.—Section 103 (8 U.S.C. 1103), as amended by section 102(e) of this division, is further amended by adding at the end the following:

"(f) The Attorney General shall allocate to each State not fewer than 10 full-time active duty agents of the Immigration and Naturalization Service to carry out the functions of the Service, in order to ensure the effective enforcement of this Act.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect 90 days after the date of the enactment of this Act. 8 USC 1103 note.

TITLE II—ENHANCED ENFORCEMENT AND PENALTIES AGAINST ALIEN SMUGGLING; DOCUMENT FRAUD

Subtitle A—Enhanced Enforcement and Penalties Against Alien Smuggling

SEC. 201. WIRETAP AUTHORITY FOR INVESTIGATIONS OF ALIEN SMUGGLING OR DOCUMENT FRAUD.

Section 2516(1) of title 18, United States Code, is amended—

(1) in paragraph (c), by striking "or section 1992 (relating to wrecking trains)" and inserting "section 1992 (relating to

wrecking trains), a felony violation of section 1028 (relating to production of false identification documentation), section 1425 (relating to the procurement of citizenship or nationalization unlawfully), section 1426 (relating to the reproduction of naturalization or citizenship papers), section 1427 (relating to the sale of naturalization or citizenship papers), section 1541 (relating to passport issuance without authority), section 1542 (relating to false statements in passport applications), section 1543 (relating to forgery or false use of passports), section 1544 (relating to misuse of passports), or section 1546 (relating to fraud and misuse of visas, permits, and other documents)";

(2) by striking "or" at the end of paragraph (l);

(3) by redesignating paragraphs (m), (n), and (o) as paragraphs (n), (o), and (p), respectively; and

(4) by inserting after paragraph (l) the following new paragraph:

"(m) a violation of section 274, 277, or 278 of the Immigration and Nationality Act (8 U.S.C. 1324, 1327, or 1328) (relating to the smuggling of aliens);".

SEC. 202. RACKETEERING OFFENSES RELATING TO ALIEN SMUGGLING.

Section 1961(1) of title 18, United States Code, as amended by section 433 of Public Law 104–132, is amended—

(1) by striking "if the act indictable under section 1028 was committed for the purpose of financial gain";

(2) by inserting "section 1425 (relating to the procurement of citizenship or nationalization unlawfully), section 1426 (relating to the reproduction of naturalization or citizenship papers), section 1427 (relating to the sale of naturalization or citizenship papers)," after "section 1344 (relating to financial institution fraud),";

(3) by striking "if the act indictable under section 1542 was committed for the purpose of financial gain";

(4) by striking "if the act indictable under section 1543 was committed for the purpose of financial gain";

(5) by striking "if the act indictable under section 1544 was committed for the purpose of financial gain"; and

(6) by striking "if the act indictable under section 1546 was committed for the purpose of financial gain".

SEC. 203. INCREASED CRIMINAL PENALTIES FOR ALIEN SMUGGLING.

(a) COMMERCIAL ADVANTAGE.—Section 274(a)(1)(B)(i) (8 U.S.C. 1324(a)(1)(B)(i)) is amended by inserting "or in the case of a violation of subparagraph (A)(ii), (iii), or (iv) in which the offense was done for the purpose of commercial advantage or private financial gain" after "subparagraph (A)(i)".

(b) ADDITIONAL OFFENSES.—Section 274(a) (8 U.S.C. 1324(a)) is amended—

(1) in paragraph (1)(A)—

(A) by striking "or" at the end of clause (iii);

(B) by striking the comma at the end of clause (iv) and inserting "; or"; and

(C) by adding at the end the following new clause:

"(v)(I) engages in any conspiracy to commit any of the preceding acts, or

"(II) aids or abets the commission of any of the preceding acts,";

(2) in paragraph (1)(B)—

(A) in clause (i), by inserting "or (v)(I)" after "(A)(i)";

(B) in clause (ii), by striking "or (iv)" and inserting "(iv), or (v)(II)";

(C) in clause (iii), by striking "or (iv)" and inserting "(iv), or (v)"; and

(D) in clause (iv), by striking "or (iv)" and inserting "(iv), or (v)";

(3) in paragraph (2)(B), by striking "be fined" and all that follows and inserting the following: "be fined under title 18, United States Code, and shall be imprisoned, in the case of a first or second violation of subparagraph (B)(iii), not more than 10 years, in the case of a first or second violation of subparagraph (B)(i) or (B)(ii), not less than 3 nor more than 10 years, and for any other violation, not less than 5 nor more than 15 years."; and

(4) by adding at the end the following new paragraph:

"(3)(A) Any person who, during any 12-month period, knowingly hires for employment at least 10 individuals with actual knowledge that the individuals are aliens described in subparagraph (B) shall be fined under title 18, United States Code, or imprisoned for not more than 5 years, or both.

"(B) An alien described in this subparagraph is an alien who—

"(i) is an unauthorized alien (as defined in section 274A(h)(3)), and

"(ii) has been brought into the United States in violation of this subsection.".

(c) SMUGGLING OF ALIENS WHO WILL COMMIT CRIMES.—Clause (i) of section 274(a)(2)(B) (8 U.S.C. 1324(a)(2)(B)) is amended to read as follows:

"(i) an offense committed with the intent or with reason to believe that the alien unlawfully brought into the United States will commit an offense against the United States or any State punishable by imprisonment for more than 1 year,".

(d) APPLYING CERTAIN PENALTIES ON A PER ALIEN BASIS.—Section 274(a)(2) (8 U.S.C. 1324(a)(2)) is amended by striking "for each transaction constituting a violation of this paragraph, regardless of the number of aliens involved" and inserting "for each alien in respect to whom a violation of this paragraph occurs".

(e) SENTENCING GUIDELINES.— 28 USC 994 note.

(1) IN GENERAL.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall promulgate sentencing guidelines or amend existing sentencing guidelines for offenders convicted of offenses related to smuggling, transporting, harboring, or inducing aliens in violation of section 274(a) (1)(A) or (2) of the Immigration and Nationality Act (8 U.S.C. 1324(a)(1)(A), (2)(B)) in accordance with this subsection.

(2) REQUIREMENTS.—In carrying out this subsection, the Commission shall, with respect to the offenses described in paragraph (1)—

(A) increase the base offense level for such offenses at least 3 offense levels above the applicable level in effect on the date of the enactment of this Act;

(B) review the sentencing enhancement for the number of aliens involved (U.S.S.G. 2L1.1(b)(2)), and increase the sentencing enhancement by at least 50 percent above the

applicable enhancement in effect on the date of the enactment of this Act;

(C) impose an appropriate sentencing enhancement upon an offender with 1 prior felony conviction arising out of a separate and prior prosecution for an offense that involved the same or similar underlying conduct as the current offense, to be applied in addition to any sentencing enhancement that would otherwise apply pursuant to the calculation of the defendant's criminal history category;

(D) impose an additional appropriate sentencing enhancement upon an offender with 2 or more prior felony convictions arising out of separate and prior prosecutions for offenses that involved the same or similar underling conduct as the current offense, to be applied in addition to any sentencing enhancement that would otherwise apply pursuant to the calculation of the defendant's criminal history category;

(E) impose an appropriate sentencing enhancement on a defendant who, in the course of committing an offense described in this subsection—

(i) murders or otherwise causes death, bodily injury, or serious bodily injury to an individual;

(ii) uses or brandishes a firearm or other dangerous weapon; or

(iii) engages in conduct that consciously or recklessly places another in serious danger of death or serious bodily injury;

(F) consider whether a downward adjustment is appropriate if the offense is a first offense and involves the smuggling only of the alien's spouse or child; and

(G) consider whether any other aggravating or mitigating circumstances warrant upward or downward sentencing adjustments.

(3) EMERGENCY AUTHORITY TO SENTENCING COMMISSION.—The Commission shall promulgate the guidelines or amendments provided for under this subsection as soon as practicable in accordance with the procedure set forth in section 21(a) of the Sentencing Act of 1987, as though the authority under that Act had not expired.

8 USC 1324 note.

(f) EFFECTIVE DATE.—This section and the amendments made by this section shall apply with respect to offenses occurring on or after the date of the enactment of this Act.

SEC. 204. INCREASED NUMBER OF ASSISTANT UNITED STATES ATTORNEYS.

(a) IN GENERAL.—The number of Assistant United States Attorneys employed by the Department of Justice for the fiscal year 1997 shall be increased by at least 25 above the number of Assistant United States Attorneys that were authorized to be employed as of September 30, 1996.

(b) ASSIGNMENT.—Individuals employed to fill the additional positions described in subsection (a) shall prosecute persons who bring into the United States or harbor illegal aliens or violate other criminal statutes involving illegal aliens.

SEC. 205. UNDERCOVER INVESTIGATION AUTHORITY.

(a) IN GENERAL.—Title II is amended by adding at the end the following new section:

"UNDERCOVER INVESTIGATION AUTHORITY

"SEC. 294. (a) IN GENERAL.—With respect to any undercover investigative operation of the Service which is necessary for the detection and prosecution of crimes against the United States— 8 USC 1363a.

"(1) sums appropriated for the Service may be used for leasing space within the United States and the territories and possessions of the United States without regard to the following provisions of law:

"(A) section 3679(a) of the Revised Statutes (31 U.S.C. 1341),

"(B) section 3732(a) of the Revised Statutes (41 U.S.C. 11(a)),

"(C) section 305 of the Act of June 30, 1949 (63 Stat. 396; 41 U.S.C. 255),

"(D) the third undesignated paragraph under the heading 'Miscellaneous' of the Act of March 3, 1877 (19 Stat. 370; 40 U.S.C. 34),

"(E) section 3648 of the Revised Statutes (31 U.S.C. 3324),

"(F) section 3741 of the Revised Statutes (41 U.S.C. 22), and

"(G) subsections (a) and (c) of section 304 of the Federal Property and Administrative Services Act of 1949 (63 Stat. 395; 41 U.S.C. 254 (a) and (c));

"(2) sums appropriated for the Service may be used to establish or to acquire proprietary corporations or business entities as part of an undercover operation, and to operate such corporations or business entities on a commercial basis, without regard to the provisions of section 304 of the Government Corporation Control Act (31 U.S.C. 9102);

"(3) sums appropriated for the Service, and the proceeds from the undercover operation, may be deposited in banks or other financial institutions without regard to the provisions of section 648 of title 18, United States Code, and of section 3639 of the Revised Statutes (31 U.S.C. 3302); and

"(4) the proceeds from the undercover operation may be used to offset necessary and reasonable expenses incurred in such operation without regard to the provisions of section 3617 of the Revised Statutes (31 U.S.C. 3302).

The authority set forth in this subsection may be exercised only upon written certification of the Commissioner, in consultation with the Deputy Attorney General, that any action authorized by paragraph (1), (2), (3), or (4) is necessary for the conduct of the undercover operation.

"(b) DISPOSITION OF PROCEEDS NO LONGER REQUIRED.—As soon as practicable after the proceeds from an undercover investigative operation, carried out under paragraphs (3) and (4) of subsection (a), are no longer necessary for the conduct of the operation, the proceeds or the balance of the proceeds remaining at the time shall be deposited into the Treasury of the United States as miscellaneous receipts.

"(c) DISPOSITION OF CERTAIN CORPORATIONS AND BUSINESS ENTITIES.—If a corporation or business entity established or acquired as part of an undercover operation under paragraph (2) of subsection (a) with a net value of over $50,000 is to be liquidated, sold, or otherwise disposed of, the Service, as much in advance

as the Commissioner or Commissioner's designee determines practicable, shall report the circumstances to the Attorney General, the Director of the Office of Management and Budget, and the Comptroller General. The proceeds of the liquidation, sale, or other disposition, after obligations are met, shall be deposited in the Treasury of the United States as miscellaneous receipts.

"(d) FINANCIAL AUDITS.—The Service shall conduct detailed financial audits of closed undercover operations on a quarterly basis and shall report the results of the audits in writing to the Deputy Attorney General.".

(b) CLERICAL AMENDMENT.—The table of contents is amended by inserting after the item relating to section 293 the following:

"Sec. 294. Undercover investigation authority.".

Subtitle B—Deterrence of Document Fraud

SEC. 211. INCREASED CRIMINAL PENALTIES FOR FRAUDULENT USE OF GOVERNMENT-ISSUED DOCUMENTS.

(a) FRAUD AND MISUSE OF GOVERNMENT-ISSUED IDENTIFICATION DOCUMENTS.—(1) Section 1028(b) of title 18, United States Code, is amended—

(A) in paragraph (1), by inserting "except as provided in paragraphs (3) and (4)," after "(1)" and by striking "five years" and inserting "15 years";

(B) in paragraph (2), by inserting "except as provided in paragraphs (3) and (4)," after "(2)" and by striking "and" at the end;

(C) by redesignating paragraph (3) as paragraph (5); and

(D) by inserting after paragraph (2) the following new paragraphs:

"(3) a fine under this title or imprisonment for not more than 20 years, or both, if the offense is committed to facilitate a drug trafficking crime (as defined in section 929(a)(2) of this title);

"(4) a fine under this title or imprisonment for not more than 25 years, or both, if the offense is committed to facilitate an act of international terrorism (as defined in section 2331(1) of this title); and".

(2) Sections 1425 through 1427, sections 1541 through 1544, and section 1546(a) of title 18, United States Code, are each amended by striking "imprisoned not more" and all that follows through "years" each place it appears and inserting the following: "imprisoned not more than 25 years (if the offense was committed to facilitate an act of international terrorism (as defined in section 2331 of this title)), 20 years (if the offense was committed to facilitate a drug trafficking crime (as defined in section 929(a) of this title)), 10 years (in the case of the first or second such offense, if the offense was not committed to facility such an act of international terrorism or a drug trafficking crime), or 15 years (in the case of any other offense)".

28 USC 994 note.

(b) CHANGES TO THE SENTENCING LEVELS.—

(1) IN GENERAL.—Pursuant to the Commission's authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall promulgate sentencing guidelines or amend existing sentencing guidelines for offenders

convicted of violating, or conspiring to violate, sections 1028(b)(1), 1425 through 1427, 1541 through 1544, and 1546(a) of title 18, United States Code, in accordance with this subsection.

(2) REQUIREMENTS.—In carrying out this subsection, the Commission shall, with respect to the offenses referred to in paragraph (1)—

(A) increase the base offense level for such offenses at least 2 offense levels above the level in effect on the date of the enactment of this Act;

(B) review the sentencing enhancement for number of documents or passports involved (U.S.S.G. 2L2.1(b)(2)), and increase the upward adjustment by at least 50 percent above the applicable enhancement in effect on the date of the enactment of this Act;

(C) impose an appropriate sentencing enhancement upon an offender with 1 prior felony conviction arising out of a separate and prior prosecution for an offense that involved the same or similar underlying conduct as the current offense, to be applied in addition to any sentencing enhancement that would otherwise apply pursuant to the calculation of the defendant's criminal history category;

(D) impose an additional appropriate sentencing enhancement upon an offender with 2 or more prior felony convictions arising out of separate and prior prosecutions for offenses that involved the same or similar underlying conduct as the current offense, to be applied in addition to any sentencing enhancement that would otherwise apply pursuant to the calculation of the defendant's criminal history category; and

(E) consider whether any other aggravating or mitigating circumstances warrant upward or downward sentencing adjustments.

(3) EMERGENCY AUTHORITY TO SENTENCING COMMISSION.—The Commission shall promulgate the guidelines or amendments provided for under this subsection as soon as practicable in accordance with the procedure set forth in section 21(a) of the Sentencing Act of 1987, as though the authority under that Act had not expired.

(c) EFFECTIVE DATE.—This section and the amendments made by this section shall apply with respect to offenses occurring on or after the date of the enactment of this Act. 18 USC 1028 note.

SEC. 212. NEW DOCUMENT FRAUD OFFENSES; NEW CIVIL PENALTIES FOR DOCUMENT FRAUD.

(a) ACTIVITIES PROHIBITED.—Section 274C(a) (8 U.S.C. 1324c(a)) is amended—

(1) in paragraph (1), by inserting before the comma at the end the following: "or to obtain a benefit under this Act";

(2) in paragraph (2), by inserting before the comma at the end the following: "or to obtain a benefit under this Act";

(3) in paragraph (3)—

(A) by inserting "or with respect to" after "issued to";

(B) by adding before the comma at the end the following: "or obtaining a benefit under this Act"; and

(C) by striking "or" at the end;

(4) in paragraph (4)—

(A) by inserting "or with respect to" after "issued to";

(B) by adding before the period at the end the following: "or obtaining a benefit under this Act"; and

(C) by striking the period at the end and inserting ", or"; and

(5) by adding at the end the following new paragraphs:

"(5) to prepare, file, or assist another in preparing or filing, any application for benefits under this Act, or any document required under this Act, or any document submitted in connection with such application or document, with knowledge or in reckless disregard of the fact that such application or document was falsely made or, in whole or in part, does not relate to the person on whose behalf it was or is being submitted, or

"(6)(A) to present before boarding a common carrier for the purpose of coming to the United States a document which relates to the alien's eligibility to enter the United States, and (B) to fail to present such document to an immigration officer upon arrival at a United States port of entry.".

(b) DEFINITION OF FALSELY MAKE.—Section 274C (8 U.S.C. 1324c), as amended by section 213 of this division, is further amended by adding at the end the following new subsection:

"(f) FALSELY MAKE.—For purposes of this section, the term 'falsely make' means to prepare or provide an application or document, with knowledge or in reckless disregard of the fact that the application or document contains a false, fictitious, or fraudulent statement or material representation, or has no basis in law or fact, or otherwise fails to state a fact which is material to the purpose for which it was submitted.".

(c) CONFORMING AMENDMENT.—Section 274C(d)(3) (8 U.S.C. 1324c(d)(3)) is amended by striking "each document used, accepted, or created and each instance of use, acceptance, or creation" each place it appears and inserting "each document that is the subject of a violation under subsection (a)".

(d) WAIVER BY ATTORNEY GENERAL.—Section 274C(d) (8 U.S.C. 1324c(d)) is amended by adding at the end the following new paragraph:

"(7) WAIVER BY ATTORNEY GENERAL.—The Attorney General may waive the penalties imposed by this section with respect to an alien who knowingly violates subsection (a)(6) if the alien is granted asylum under section 208 or withholding of deportation under section 243(h).".

8 USC 1324c note.

(e) EFFECTIVE DATE.—Section 274C(f) of the Immigration and Nationality Act, as added by subsection (b), applies to the preparation of applications before, on, or after the date of the enactment of this Act.

SEC. 213. NEW CRIMINAL PENALTIES FOR FAILURE TO DISCLOSE ROLE AS PREPARER OF FALSE APPLICATION FOR IMMIGRATION BENEFITS.

Section 274C (8 U.S.C. 1324c) is amended by adding at the end the following new subsection:

"(e) CRIMINAL PENALTIES FOR FAILURE TO DISCLOSE ROLE AS DOCUMENT PREPARER.—(1) Whoever, in any matter within the jurisdiction of the Service, knowingly and willfully fails to disclose, conceals, or covers up the fact that they have, on behalf of any person and for a fee or other remuneration, prepared or assisted

in preparing an application which was falsely made (as defined in subsection (f)) for immigration benefits, shall be fined in accordance with title 18, United States Code, imprisoned for not more than 5 years, or both, and prohibited from preparing or assisting in preparing, whether or not for a fee or other remuneration, any other such application.

"(2) Whoever, having been convicted of a violation of paragraph (1), knowingly and willfully prepares or assists in preparing an application for immigration benefits pursuant to this Act, or the regulations promulgated thereunder, whether or not for a fee or other remuneration and regardless of whether in any matter within the jurisdiction of the Service, shall be fined in accordance with title 18, United States Code, imprisoned for not more than 15 years, or both, and prohibited from preparing or assisting in preparing any other such application.".

SEC. 214. CRIMINAL PENALTY FOR KNOWINGLY PRESENTING DOCUMENT WHICH FAILS TO CONTAIN REASONABLE BASIS IN LAW OR FACT.

The fourth paragraph of section 1546(a) of title 18, United States Code, is amended by striking "containing any such false statement" and inserting "which contains any such false statement or which fails to contain any reasonable basis in law or fact".

SEC. 215. CRIMINAL PENALTY FOR FALSE CLAIM TO CITIZENSHIP.

Section 1015 of title 18, United States Code, is amended—

(1) by striking the dash at the end of paragraph (d) and inserting "; or", and

(2) by inserting after paragraph (d) the following:

"(e) Whoever knowingly makes any false statement or claim that he is, or at any time has been, a citizen or national of the United States, with the intent to obtain on behalf of himself, or any other person, any Federal or State benefit or service, or to engage unlawfully in employment in the United States; or

"(f) Whoever knowingly makes any false statement or claim that he is a citizen of the United States in order to register to vote or to vote in any Federal, State, or local election (including an initiative, recall, or referendum)—".

SEC. 216. CRIMINAL PENALTY FOR VOTING BY ALIENS IN FEDERAL ELECTION.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after section 610 the following:

"§ 611. Voting by aliens

"(a) It shall be unlawful for any alien to vote in any election held solely or in part for the purpose of electing a candidate for the office of President, Vice President, Presidential elector, Member of the Senate, Member of the House of Representatives, Delegate from the District of Columbia, or Resident Commissioner, unless—

"(1) the election is held partly for some other purpose;

"(2) aliens are authorized to vote for such other purpose under a State constitution or statute or a local ordinance; and

"(3) voting for such other purpose is conducted independently of voting for a candidate for such Federal offices, in such a manner that an alien has the opportunity to vote for

such other purpose, but not an opportunity to vote for a candidate for any one or more of such Federal offices.

"(b) Any person who violates this section shall be fined under this title, imprisoned not more than one year, or both.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 29 of title 18, United States Code, is amended by inserting after the item relating to section 610 the following new item:

"611. Voting by aliens.".

SEC. 217. CRIMINAL FORFEITURE FOR PASSPORT AND VISA RELATED OFFENSES.

Section 982(a) of title 18, United States Code, is amended by inserting after paragraph (5) the following new paragraph:

"(6)(A) The court, in imposing sentence on a person convicted of a violation of, or conspiracy to violate, section 1425, 1426, 1427, 1541, 1542, 1543, 1544, or 1546 of this title, or a violation of, or conspiracy to violate, section 1028 of this title if committed in connection with passport or visa issuance or use, shall order that the person forfeit to the United States, regardless of any provision of State law—

"(i) any conveyance, including any vessel, vehicle, or aircraft used in the commission of a violation of, or a conspiracy to violate, subsection (a); and

"(ii) any property real or personal—

"(I) that constitutes, or is derived from or is traceable to the proceeds obtained directly or indirectly from the commission of a violation of, or a conspiracy to violate, subsection (a), section 274A(a)(1) or 274A(a)(2) of the Immigration and Nationality Act, or section 1028, 1425, 1426, 1427, 1541, 1542, 1543, 1544, or 1546 of this title; or

"(II) that is used to facilitate, or is intended to be used to facilitate, the commission of a violation of, or a conspiracy to violate, subsection (a), section 274A(a)(1) or 274A(a)(2) of the Immigration and Nationality Act, or section 1028, 1425, 1426, 1427, 1541, 1542, 1543, 1544, or 1546 of this title.

The court, in imposing sentence on such person, shall order that the person forfeit to the United States all property described in this subparagraph.

"(B) The criminal forfeiture of property under subparagraph (A), including any seizure and disposition of the property and any related administrative or judicial proceeding, shall be governed by the provisions of section 413 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853), other than subsections (a) and (d) of such section 413.".

SEC. 218. CRIMINAL PENALTIES FOR INVOLUNTARY SERVITUDE.

(a) AMENDMENTS TO TITLE 18.—Sections 1581, 1583, 1584, and 1588 of title 18, United States Code, are amended by striking "five" each place it appears and inserting "10".

28 USC 994 note.

(b) REVIEW OF SENTENCING GUIDELINES.—The United States Sentencing Commission shall ascertain whether there exists an unwarranted disparity—

(1) between the sentences for peonage, involuntary servitude, and slave trade offenses, and the sentences for kidnapping offenses in effect on the date of the enactment of this Act; and

(2) between the sentences for peonage, involuntary servitude, and slave trade offenses, and the sentences for alien smuggling offenses in effect on the date of the enactment of this Act and after the amendment made by subsection (a).

(c) AMENDMENT OF SENTENCING GUIDELINES.—

(1) IN GENERAL.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall review its guidelines on sentencing for peonage, involuntary servitude, and slave trade offenses under sections 1581 through 1588 of title 18, United States Code, and shall amend such guidelines as necessary to—

(A) reduce or eliminate any unwarranted disparity found under subsection (b) that exists between the sentences for peonage, involuntary servitude, and slave trade offenses, and the sentences for kidnapping offenses and alien smuggling offenses;

(B) ensure that the applicable guidelines for defendants convicted of peonage, involuntary servitude, and slave trade offenses are sufficiently stringent to deter such offenses and adequately reflect the heinous nature of such offenses; and

(C) ensure that the guidelines reflect the general appropriateness of enhanced sentences for defendants whose peonage, involuntary servitude, or slave trade offenses involve—

(i) a large number of victims;

(ii) the use or threatened use of a dangerous weapon; or

(iii) a prolonged period of peonage or involuntary servitude.

(2) EMERGENCY AUTHORITY TO SENTENCING COMMISSION.—The Commission shall promulgate the guidelines or amendments provided for under this subsection as soon as practicable in accordance with the procedure set forth in section 21(a) of the Sentencing Act of 1987, as though the authority under that Act had not expired.

(d) EFFECTIVE DATE.—This section and the amendments made by this section shall apply with respect to offenses occurring on or after the date of the enactment of this Act. 18 USC 1581 note.

SEC. 219. ADMISSIBILITY OF VIDEOTAPED WITNESS TESTIMONY.

Section 274 (8 U.S.C. 1324) is amended by adding at the end thereof the following new subsection:

"(d) Notwithstanding any provision of the Federal Rules of Evidence, the videotaped (or otherwise audiovisually preserved) deposition of a witness to a violation of subsection (a) who has been deported or otherwise expelled from the United States, or is otherwise unable to testify, may be admitted into evidence in an action brought for that violation if the witness was available for cross examination and the deposition otherwise complies with the Federal Rules of Evidence.".

SEC. 220. SUBPOENA AUTHORITY IN DOCUMENT FRAUD ENFORCEMENT.

Section 274C(d)(1) (8 U.S.C. 1324c(d)(1)) is amended—

(1) by striking "and" at the end of subparagraph (A);

(2) by striking the period at the end of subparagraph (B) and inserting ", and"; and

(3) by inserting after subparagraph (B) the following:

"(C) immigration officers designated by the Commissioner may compel by subpoena the attendance of witnesses and the production of evidence at any designated place prior to the filing of a complaint in a case under paragraph (2).".

TITLE III—INSPECTION, APPREHENSION, DETENTION, ADJUDICATION, AND REMOVAL OF INADMISSIBLE AND DEPORTABLE ALIENS

Subtitle A—Revision of Procedures for Removal of Aliens

SEC. 301. TREATING PERSONS PRESENT IN THE UNITED STATES WITHOUT AUTHORIZATION AS NOT ADMITTED.

(a) "ADMISSION" DEFINED.—Paragraph (13) of section 101(a) (8 U.S.C. 1101(a)) is amended to read as follows:

"(13)(A) The terms 'admission' and 'admitted' mean, with respect to an alien, the lawful entry of the alien into the United States after inspection and authorization by an immigration officer.

"(B) An alien who is paroled under section 212(d)(5) or permitted to land temporarily as an alien crewman shall not be considered to have been admitted.

"(C) An alien lawfully admitted for permanent residence in the United States shall not be regarded as seeking an admission into the United States for purposes of the immigration laws unless the alien—

"(i) has abandoned or relinquished that status,

"(ii) has been absent from the United States for a continuous period in excess of 180 days,

"(iii) has engaged in illegal activity after having departed the United States,

"(iv) has departed from the United States while under legal process seeking removal of the alien from the United States, including removal proceedings under this Act and extradition proceedings,

"(v) has committed an offense identified in section 212(a)(2), unless since such offense the alien has been granted relief under section 212(h) or 240A(a), or

"(vi) is attempting to enter at a time or place other than as designated by immigration officers or has not been admitted to the United States after inspection and authorization by an immigration officer.".

(b) INADMISSIBILITY OF ALIENS PREVIOUSLY REMOVED AND UNLAWFULLY PRESENT.—

(1) IN GENERAL.—Section 212(a) (8 U.S.C. 1182(a)) is amended by redesignating paragraph (9) as paragraph (10) and by inserting after paragraph (8) the following new paragraph:

"(9) ALIENS PREVIOUSLY REMOVED.—

"(A) CERTAIN ALIENS PREVIOUSLY REMOVED.—

"(i) ARRIVING ALIENS.—Any alien who has been ordered removed under section 235(b)(1) or at the end of proceedings under section 240 initiated upon the alien's arrival in the United States and who again seeks admission within 5 years of the date of such removal (or within 20 years in the case of a second or subsequent removal or at any time in the case of an alien convicted of an aggravated felony) is inadmissible.

"(ii) OTHER ALIENS.—Any alien not described in clause (i) who—

"(I) has been ordered removed under section 240 or any other provision of law, or

"(II) departed the United States while an order of removal was outstanding,

and who seeks admission within 10 years of the date of such alien's departure or removal (or within 20 years of such date in the case of a second or subsequent removal or at any time in the case of an alien convicted of an aggravated felony) is inadmissible.

"(iii) EXCEPTION.—Clauses (i) and (ii) shall not apply to an alien seeking admission within a period if, prior to the date of the alien's reembarkation at a place outside the United States or attempt to be admitted from foreign contiguous territory, the Attorney General has consented to the alien's reapplying for admission.

"(B) ALIENS UNLAWFULLY PRESENT.—

"(i) IN GENERAL.—Any alien (other than an alien lawfully admitted for permanent residence) who—

"(I) was unlawfully present in the United States for a period of more than 180 days but less than 1 year, voluntarily departed the United States (whether or not pursuant to section 244(e)) prior to the commencement of proceedings under section 235(b)(1) or section 240, and again seeks admission within 3 years of the date of such alien's departure or removal, or

"(II) has been unlawfully present in the United States for one year or more, and who again seeks admission within 10 years of the date of such alien's departure or removal from the United States,

is inadmissible.

"(ii) CONSTRUCTION OF UNLAWFUL PRESENCE.—For purposes of this paragraph, an alien is deemed to be unlawfully present in the United States if the alien is present in the United States after the expiration of the period of stay authorized by the Attorney General or is present in the United States without being admitted or paroled.

"(iii) EXCEPTIONS.—

"(I) MINORS.—No period of time in which an alien is under 18 years of age shall be taken into account in determining the period of unlawful presence in the United States under clause (i).

"(II) ASYLEES.—No period of time in which an alien has a bona fide application for asylum pending under section 208 shall be taken into account in determining the period of unlawful presence in the United States under clause (i) unless the alien during such period was employed without authorization in the United States.

"(III) FAMILY UNITY.—No period of time in which the alien is a beneficiary of family unity protection pursuant to section 301 of the Immigration Act of 1990 shall be taken into account in determining the period of unlawful presence in the United States under clause (i).

"(IV) BATTERED WOMEN AND CHILDREN.—Clause (i) shall not apply to an alien who would be described in paragraph (6)(A)(ii) if 'violation of the terms of the alien's nonimmigrant visa' were substituted for 'unlawful entry into the United States' in subclause (III) of that paragraph.

"(iv) TOLLING FOR GOOD CAUSE.—In the case of an alien who—

"(I) has been lawfully admitted or paroled into the United States,

"(II) has filed a nonfrivolous application for a change or extension of status before the date of expiration of the period of stay authorized by the Attorney General, and

"(III) has not been employed without authorization in the United States before or during the pendency of such application,

the calculation of the period of time specified in clause (i)(I) shall be tolled during the pendency of such application, but not to exceed 120 days.

"(v) WAIVER.—The Attorney General has sole discretion to waive clause (i) in the case of an immigrant who is the spouse or son or daughter of a United States citizen or of an alien lawfully admitted for permanent residence, if it is established to the satisfaction of the Attorney General that the refusal of admission to such immigrant alien would result in extreme hardship to the citizen or lawfully resident spouse or parent of such alien. No court shall have jurisdiction to review a decision or action by the Attorney General regarding a waiver under this clause.

"(C) ALIENS UNLAWFULLY PRESENT AFTER PREVIOUS IMMIGRATION VIOLATIONS.—

"(i) IN GENERAL.—Any alien who—

"(I) has been unlawfully present in the United States for an aggregate period of more than 1 year, or

"(II) has been ordered removed under section 235(b)(1), section 240, or any other provision of law,

and who enters or attempts to reenter the United States without being admitted is inadmissible.

"(ii) EXCEPTION.—Clause (i) shall not apply to an alien seeking admission more than 10 years after the date of the alien's last departure from the United States if, prior to the alien's reembarkation at a place outside the United States or attempt to be readmitted from a foreign contiguous territory, the Attorney General has consented to the alien's reapplying for admission.".

(2) LIMITATION ON CHANGE OF STATUS.—Section 248 (8 U.S.C. 1258) is amended by inserting "and who is not inadmissible under section 212(a)(9)(B)(i) (or whose inadmissibility under such section is waived under section 212(a)(9)(B)(v))" after "maintain that status".

(3) TREATMENT OF UNLAWFUL PRESENCE BEFORE EFFECTIVE DATE.—In applying section 212(a)(9)(B) of the Immigration and Nationality Act, as inserted by paragraph (1), no period before the title III–A effective date shall be included in a period of unlawful presence in the United States. 8 USC 1182 note.

(c) REVISION TO GROUND OF INADMISSIBILITY FOR ILLEGAL ENTRANTS AND IMMIGRATION VIOLATORS.—

(1) IN GENERAL.—Subparagraphs (A) and (B) of section 212(a)(6) (8 U.S.C. 1182(a)(6)) are amended to read as follows:

"(A) ALIENS PRESENT WITHOUT ADMISSION OR PAROLE.—

"(i) IN GENERAL.—An alien present in the United States without being admitted or paroled, or who arrives in the United States at any time or place other than as designated by the Attorney General, is inadmissible.

"(ii) EXCEPTION FOR CERTAIN BATTERED WOMEN AND CHILDREN.—Clause (i) shall not apply to an alien who demonstrates that—

"(I) the alien qualifies for immigrant status under subparagraph (A)(iii), (A)(iv), (B)(ii), or (B)(iii) of section 204(a)(1),

"(II)(a) the alien has been battered or subjected to extreme cruelty by a spouse or parent, or by a member of the spouse's or parent's family residing in the same household as the alien and the spouse or parent consented or acquiesced to such battery or cruelty, or (b) the alien's child has been battered or subjected to extreme cruelty by a spouse or parent of the alien (without the active participation of the alien in the battery or cruelty) or by a member of the spouse's or parent's family residing in the same household as the alien when the spouse or parent consented to or acquiesced in such battery or cruelty and the alien did not actively participate in such battery or cruelty, and

"(III) there was a substantial connection between the battery or cruelty described in subclause (I) or (II) and the alien's unlawful entry into the United States.

"(B) FAILURE TO ATTEND REMOVAL PROCEEDING.—Any alien who without reasonable cause fails or refuses to attend or remain in attendance at a proceeding to determine the alien's inadmissibility or deportability and who seeks admission to the United States within 5 years of such alien's subsequent departure or removal is inadmissible. ".

8 USC 1182 note.

(2) TRANSITION FOR BATTERED SPOUSE OR CHILD PROVISION.—The requirements of subclauses (II) and (III) of section 212(a)(6)(A)(ii) of the Immigration and Nationality Act, as inserted by paragraph (1), shall not apply to an alien who demonstrates that the alien first arrived in the United States before the title III–A effective date (described in section 309(a) of this division).

(d) ADJUSTMENT IN GROUNDS FOR DEPORTATION.—Section 241 (8 U.S.C. 1251), before redesignation as section 237 by section 305(a)(2) of this division, is amended—

(1) in the matter before paragraph (1) of subsection (a), by striking "in the United States" and inserting "in and admitted to the United States";

(2) in subsection (a)(1), by striking "EXCLUDABLE" each place it appears and inserting "INADMISSIBLE";

(3) in subsection (a)(1)(A), by striking "excludable" and inserting "inadmissible"; and

(4) by amending subparagraph (B) of subsection (a)(1) to read as follows:

"(B) PRESENT IN VIOLATION OF LAW.—Any alien who is present in the United States in violation of this Act or any other law of the United States is deportable.

SEC. 302. INSPECTION OF ALIENS; EXPEDITED REMOVAL OF INADMISSIBLE ARRIVING ALIENS; REFERRAL FOR HEARING (REVISED SECTION 235).

(a) IN GENERAL.—Section 235 (8 U.S.C. 1225) is amended to read as follows:

"INSPECTION BY IMMIGRATION OFFICERS; EXPEDITED REMOVAL OF INADMISSIBLE ARRIVING ALIENS; REFERRAL FOR HEARING

"SEC. 235. (a) INSPECTION.—

"(1) ALIENS TREATED AS APPLICANTS FOR ADMISSION.—An alien present in the United States who has not been admitted or who arrives in the United States (whether or not at a designated port of arrival and including an alien who is brought to the United States after having been interdicted in international or United States waters) shall be deemed for purposes of this Act an applicant for admission.

"(2) STOWAWAYS.—An arriving alien who is a stowaway is not eligible to apply for admission or to be admitted and shall be ordered removed upon inspection by an immigration officer. Upon such inspection if the alien indicates an intention to apply for asylum under section 208 or a fear of persecution, the officer shall refer the alien for an interview under subsection (b)(1)(B). A stowaway may apply for asylum only if

the stowaway is found to have a credible fear of persecution under subsection (b)(1)(B). In no case may a stowaway be considered an applicant for admission or eligible for a hearing under section 240.

"(3) INSPECTION.—All aliens (including alien crewmen) who are applicants for admission or otherwise seeking admission or readmission to or transit through the United States shall be inspected by immigration officers.

"(4) WITHDRAWAL OF APPLICATION FOR ADMISSION.—An alien applying for admission may, in the discretion of the Attorney General and at any time, be permitted to withdraw the application for admission and depart immediately from the United States.

"(5) STATEMENTS.—An applicant for admission may be required to state under oath any information sought by an immigration officer regarding the purposes and intentions of the applicant in seeking admission to the United States, including the applicant's intended length of stay and whether the applicant intends to remain permanently or become a United States citizen, and whether the applicant is inadmissible.

"(b) INSPECTION OF APPLICANTS FOR ADMISSION.—

"(1) INSPECTION OF ALIENS ARRIVING IN THE UNITED STATES AND CERTAIN OTHER ALIENS WHO HAVE NOT BEEN ADMITTED OR PAROLED.—

"(A) SCREENING.—

"(i) IN GENERAL.—If an immigration officer determines that an alien (other than an alien described in subparagraph (F)) who is arriving in the United States or is described in clause (iii) is inadmissible under section 212(a)(6)(C) or 212(a)(7), the officer shall order the alien removed from the United States without further hearing or review unless the alien indicates either an intention to apply for asylum under section 208 or a fear of persecution.

"(ii) CLAIMS FOR ASYLUM.—If an immigration officer determines that an alien (other than an alien described in subparagraph (F)) who is arriving in the United States or is described in clause (iii) is inadmissible under section 212(a)(6)(C) or 212(a)(7) and the alien indicates either an intention to apply for asylum under section 208 or a fear of persecution, the officer shall refer the alien for an interview by an asylum officer under subparagraph (B).

"(iii) APPLICATION TO CERTAIN OTHER ALIENS.—

"(I) IN GENERAL.—The Attorney General may apply clauses (i) and (ii) of this subparagraph to any or all aliens described in subclause (II) as designated by the Attorney General. Such designation shall be in the sole and unreviewable discretion of the Attorney General and may be modified at any time.

"(II) ALIENS DESCRIBED.—An alien described in this clause is an alien who is not described in subparagraph (F), who has not been admitted or paroled into the United States, and who has not affirmatively shown, to the satisfaction of an

immigration officer, that the alien has been physically present in the United States continuously for the 2-year period immediately prior to the date of the determination of inadmissibility under this subparagraph.

"(B) ASYLUM INTERVIEWS.—

"(i) CONDUCT BY ASYLUM OFFICERS.—An asylum officer shall conduct interviews of aliens referred under subparagraph (A)(ii), either at a port of entry or at such other place designated by the Attorney General.

"(ii) REFERRAL OF CERTAIN ALIENS.—If the officer determines at the time of the interview that an alien has a credible fear of persecution (within the meaning of clause (v)), the alien shall be detained for further consideration of the application for asylum.

"(iii) REMOVAL WITHOUT FURTHER REVIEW IF NO CREDIBLE FEAR OF PERSECUTION.—

"(I) IN GENERAL.—Subject to subclause (III), if the officer determines that an alien does not have a credible fear of persecution, the officer shall order the alien removed from the United States without further hearing or review.

"(II) RECORD OF DETERMINATION.—The officer shall prepare a written record of a determination under subclause (I). Such record shall include a summary of the material facts as stated by the applicant, such additional facts (if any) relied upon by the officer, and the officer's analysis of why, in the light of such facts, the alien has not established a credible fear of persecution. A copy of the officer's interview notes shall be attached to the written summary.

"(III) REVIEW OF DETERMINATION.—The Attorney General shall provide by regulation and upon the alien's request for prompt review by an immigration judge of a determination under subclause (I) that the alien does not have a credible fear of persecution. Such review shall include an opportunity for the alien to be heard and questioned by the immigration judge, either in person or by telephonic or video connection. Review shall be concluded as expeditiously as possible, to the maximum extent practicable within 24 hours, but in no case later than 7 days after the date of the determination under subclause (I).

"(IV) MANDATORY DETENTION.—Any alien subject to the procedures under this clause shall be detained pending a final determination of credible fear of persecution and, if found not to have such a fear, until removed.

"(iv) INFORMATION ABOUT INTERVIEWS.—The Attorney General shall provide information concerning the asylum interview described in this subparagraph to aliens who may be eligible. An alien who is eligible for such interview may consult with a person or persons of the alien's choosing prior to the interview or any review thereof, according to regulations prescribed

by the Attorney General. Such consultation shall be at no expense to the Government and shall not unreasonably delay the process.

"(v) CREDIBLE FEAR OF PERSECUTION DEFINED.—For purposes of this subparagraph, the term 'credible fear of persecution' means that there is a significant possibility, taking into account the credibility of the statements made by the alien in support of the alien's claim and such other facts as are known to the officer, that the alien could establish eligibility for asylum under section 208.

"(C) LIMITATION ON ADMINISTRATIVE REVIEW.—Except as provided in subparagraph (B)(iii)(III), a removal order entered in accordance with subparagraph (A)(i) or (B)(iii)(I) is not subject to administrative appeal, except that the Attorney General shall provide by regulation for prompt review of such an order under subparagraph (A)(i) against an alien who claims under oath, or as permitted under penalty of perjury under section 1746 of title 28, United States Code, after having been warned of the penalties for falsely making such claim under such conditions, to have been lawfully admitted for permanent residence, to have been admitted as a refugee under section 207, or to have been granted asylum under section 208.

"(D) LIMIT ON COLLATERAL ATTACKS.—In any action brought against an alien under section 275(a) or section 276, the court shall not have jurisdiction to hear any claim attacking the validity of an order of removal entered under subparagraph (A)(i) or (B)(iii).

"(E) ASYLUM OFFICER DEFINED.—As used in this paragraph, the term 'asylum officer' means an immigration officer who—

"(i) has had professional training in country conditions, asylum law, and interview techniques comparable to that provided to full-time adjudicators of applications under section 208, and

"(ii) is supervised by an officer who meets the condition described in clause (i) and has had substantial experience adjudicating asylum applications.

"(F) EXCEPTION.—Subparagraph (A) shall not apply to an alien who is a native or citizen of a country in the Western Hemisphere with whose government the United States does not have full diplomatic relations and who arrives by aircraft at a port of entry.

"(2) INSPECTION OF OTHER ALIENS.—

"(A) IN GENERAL.—Subject to subparagraphs (B) and (C), in the case of an alien who is an applicant for admission, if the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for a proceeding under section 240.

"(B) EXCEPTION.—Subparagraph (A) shall not apply to an alien—

"(i) who is a crewman,

"(ii) to whom paragraph (1) applies, or

"(iii) who is a stowaway.

"(C) TREATMENT OF ALIENS ARRIVING FROM CONTIGUOUS TERRITORY.—In the case of an alien described in subparagraph (A) who is arriving on land (whether or not at a designated port of arrival) from a foreign territory contiguous to the United States, the Attorney General may return the alien to that territory pending a proceeding under section 240.

"(3) CHALLENGE OF DECISION.—The decision of the examining immigration officer, if favorable to the admission of any alien, shall be subject to challenge by any other immigration officer and such challenge shall operate to take the alien whose privilege to be admitted is so challenged, before an immigration judge for a proceeding under section 240.

"(c) REMOVAL OF ALIENS INADMISSIBLE ON SECURITY AND RELATED GROUNDS.—

"(1) REMOVAL WITHOUT FURTHER HEARING.—If an immigration officer or an immigration judge suspects that an arriving alien may be inadmissible under subparagraph (A) (other than clause (ii)), (B), or (C) of section 212(a)(3), the officer or judge shall—

"(A) order the alien removed, subject to review under paragraph (2);

"(B) report the order of removal to the Attorney General; and

"(C) not conduct any further inquiry or hearing until ordered by the Attorney General.

"(2) REVIEW OF ORDER.—(A) The Attorney General shall review orders issued under paragraph (1).

"(B) If the Attorney General—

"(i) is satisfied on the basis of confidential information that the alien is inadmissible under subparagraph (A) (other than clause (ii)), (B), or (C) of section 212(a)(3), and

"(ii) after consulting with appropriate security agencies of the United States Government, concludes that disclosure of the information would be prejudicial to the public interest, safety, or security,

the Attorney General may order the alien removed without further inquiry or hearing by an immigration judge.

"(C) If the Attorney General does not order the removal of the alien under subparagraph (B), the Attorney General shall specify the further inquiry or hearing that shall be conducted in the case.

"(3) SUBMISSION OF STATEMENT AND INFORMATION.—The alien or the alien's representative may submit a written statement and additional information for consideration by the Attorney General.

"(d) AUTHORITY RELATING TO INSPECTIONS.—

"(1) AUTHORITY TO SEARCH CONVEYANCES.—Immigration officers are authorized to board and search any vessel, aircraft, railway car, or other conveyance or vehicle in which they believe aliens are being brought into the United States.

"(2) AUTHORITY TO ORDER DETENTION AND DELIVERY OF ARRIVING ALIENS.—Immigration officers are authorized to order an owner, agent, master, commanding officer, person in charge, purser, or consignee of a vessel or aircraft bringing an alien (except an alien crewmember) to the United States—

"(A) to detain the alien on the vessel or at the airport of arrival, and

"(B) to deliver the alien to an immigration officer for inspection or to a medical officer for examination.

"(3) ADMINISTRATION OF OATH AND CONSIDERATION OF EVIDENCE.—The Attorney General and any immigration officer shall have power to administer oaths and to take and consider evidence of or from any person touching the privilege of any alien or person he believes or suspects to be an alien to enter, reenter, transit through, or reside in the United States or concerning any matter which is material and relevant to the enforcement of this Act and the administration of the Service.

"(4) SUBPOENA AUTHORITY.—(A) The Attorney General and any immigration officer shall have power to require by subpoena the attendance and testimony of witnesses before immigration officers and the production of books, papers, and documents relating to the privilege of any person to enter, reenter, reside in, or pass through the United States or concerning any matter which is material and relevant to the enforcement of this Act and the administration of the Service, and to that end may invoke the aid of any court of the United States.

"(B) Any United States district court within the jurisdiction of which investigations or inquiries are being conducted by an immigration officer may, in the event of neglect or refusal to respond to a subpoena issued under this paragraph or refusal to testify before an immigration officer, issue an order requiring such persons to appear before an immigration officer, produce books, papers, and documents if demanded, and testify, and any failure to obey such order of the court may be punished by the court as a contempt thereof.".

(b) GAO STUDY ON OPERATION OF EXPEDITED REMOVAL PROCEDURES.— 8 USC 1225 note.

(1) STUDY.—The Comptroller General shall conduct a study on the implementation of the expedited removal procedures under section 235(b)(1) of the Immigration and Nationality Act, as amended by subsection (a). The study shall examine—

(A) the effectiveness of such procedures in deterring illegal entry,

(B) the detention and adjudication resources saved as a result of the procedures,

(C) the administrative and other costs expended to comply with the provision,

(D) the effectiveness of such procedures in processing asylum claims by undocumented aliens who assert a fear of persecution, including the accuracy of credible fear determinations, and

(E) the cooperation of other countries and air carriers in accepting and returning aliens removed under such procedures.

(2) REPORT.—By not later than 18 months after the date of the enactment of this Act, the Comptroller General shall submit to the Committees on the Judiciary of the House of Representatives and the Senate a report on the study conducted under paragraph (1).

SEC. 303. APPREHENSION AND DETENTION OF ALIENS (REVISED SECTION 236).

(a) IN GENERAL.—Section 236 (8 U.S.C. 1226) is amended to read as follows:

"APPREHENSION AND DETENTION OF ALIENS

"SEC. 236. (a) ARREST, DETENTION, AND RELEASE.—On a warrant issued by the Attorney General, an alien may be arrested and detained pending a decision on whether the alien is to be removed from the United States. Except as provided in subsection (c) and pending such decision, the Attorney General—

"(1) may continue to detain the arrested alien; and

"(2) may release the alien on—

"(A) bond of at least $1,500 with security approved by, and containing conditions prescribed by, the Attorney General; or

"(B) conditional parole; but

"(3) may not provide the alien with work authorization (including an 'employment authorized' endorsement or other appropriate work permit), unless the alien is lawfully admitted for permanent residence or otherwise would (without regard to removal proceedings) be provided such authorization.

"(b) REVOCATION OF BOND OR PAROLE.—The Attorney General at any time may revoke a bond or parole authorized under subsection (a), rearrest the alien under the original warrant, and detain the alien.

"(c) DETENTION OF CRIMINAL ALIENS.—

"(1) CUSTODY.—The Attorney General shall take into custody any alien who—

"(A) is inadmissible by reason of having committed any offense covered in section 212(a)(2),

"(B) is deportable by reason of having committed any offense covered in section 237(a)(2)(A)(ii), (A)(iii), (B), (C), or (D),

"(C) is deportable under section 237(a)(2)(A)(i) on the basis of an offense for which the alien has been sentence to a term of imprisonment of at least 1 year, or

"(D) is inadmissible under section 212(a)(3)(B) or deportable under section 237(a)(4)(B),

when the alien is released, without regard to whether the alien is released on parole, supervised release, or probation, and without regard to whether the alien may be arrested or imprisoned again for the same offense.

"(2) RELEASE.—The Attorney General may release an alien described in paragraph (1) only if the Attorney General decides pursuant to section 3521 of title 18, United States Code, that release of the alien from custody is necessary to provide protection to a witness, a potential witness, a person cooperating with an investigation into major criminal activity, or an immediate family member or close associate of a witness, potential witness, or person cooperating with such an investigation, and the alien satisfies the Attorney General that the alien will not pose a danger to the safety of other persons or of property and is likely to appear for any scheduled proceeding. A decision relating to such release shall take place in accordance with

a procedure that considers the severity of the offense committed by the alien.

"(d) IDENTIFICATION OF CRIMINAL ALIENS.—(1) The Attorney General shall devise and implement a system—

"(A) to make available, daily (on a 24-hour basis), to Federal, State, and local authorities the investigative resources of the Service to determine whether individuals arrested by such authorities for aggravated felonies are aliens;

"(B) to designate and train officers and employees of the Service to serve as a liaison to Federal, State, and local law enforcement and correctional agencies and courts with respect to the arrest, conviction, and release of any alien charged with an aggravated felony; and

"(C) which uses computer resources to maintain a current record of aliens who have been convicted of an aggravated felony, and indicates those who have been removed.

"(2) The record under paragraph (1)(C) shall be made available—

"(A) to inspectors at ports of entry and to border patrol agents at sector headquarters for purposes of immediate identification of any alien who was previously ordered removed and is seeking to reenter the United States, and

"(B) to officials of the Department of State for use in its automated visa lookout system.

"(3) Upon the request of the governor or chief executive officer of any State, the Service shall provide assistance to State courts in the identification of aliens unlawfully present in the United States pending criminal prosecution.

"(e) JUDICIAL REVIEW.—The Attorney General's discretionary judgment regarding the application of this section shall not be subject to review. No court may set aside any action or decision by the Attorney General under this section regarding the detention or release of any alien or the grant, revocation, or denial of bond or parole.".

(b) EFFECTIVE DATE.— 8 USC 1226 note.

(1) IN GENERAL.—The amendment made by subsection (a) shall become effective on the title III–A effective date.

(2) NOTIFICATION REGARDING CUSTODY.—If the Attorney General, not later than 10 days after the date of the enactment of this Act, notifies in writing the Committees on the Judiciary of the House of Representatives and the Senate that there is insufficient detention space and Immigration and Naturalization Service personnel available to carry out section 236(c) of the Immigration and Nationality Act, as amended by subsection (a), or the amendments made by section 440(c) of Public Law 104–132, the provisions in paragraph (3) shall be in effect for a 1-year period beginning on the date of such notification, instead of such section or such amendments. The Attorney General may extend such 1-year period for an additional year if the Attorney General provides the same notice not later than 10 days before the end of the first 1-year period. After the end of such 1-year or 2-year periods, the provisions of such section 236(c) shall apply to individuals released after such periods.

(3) TRANSITION PERIOD CUSTODY RULES.—

(A) IN GENERAL.—During the period in which this paragraph is in effect pursuant to paragraph (2), the Attorney General shall take into custody any alien who—

(i) has been convicted of an aggravated felony (as defined under section 101(a)(43) of the Immigration and Nationality Act, as amended by section 321 of this division),

(ii) is inadmissible by reason of having committed any offense covered in section 212(a)(2) of such Act,

(iii) is deportable by reason of having committed any offense covered in section 241(a)(2)(A)(ii), (A)(iii), (B), (C), or (D) of such Act (before redesignation under this subtitle), or

(iv) is inadmissible under section 212(a)(3)(B) of such Act or deportable under section 241(a)(4)(B) of such Act (before redesignation under this subtitle),

when the alien is released, without regard to whether the alien is released on parole, supervised release, or probation, and without regard to whether the alien may be arrested or imprisoned again for the same offense.

(B) RELEASE.—The Attorney General may release the alien only if the alien is an alien described in subparagraph (A)(ii) or (A)(iii) and—

(i) the alien was lawfully admitted to the United States and satisfies the Attorney General that the alien will not pose a danger to the safety of other persons or of property and is likely to appear for any scheduled proceeding, or

(ii) the alien was not lawfully admitted to the United States, cannot be removed because the designated country of removal will not accept the alien, and satisfies the Attorney General that the alien will not pose a danger to the safety of other persons or of property and is likely to appear for any scheduled proceeding.

SEC. 304. REMOVAL PROCEEDINGS; CANCELLATION OF REMOVAL AND ADJUSTMENT OF STATUS; VOLUNTARY DEPARTURE (REVISED AND NEW SECTIONS 239 TO 240C).

(a) IN GENERAL.—Chapter 4 of title II is amended—

8 USC 1224.

(1) by redesignating section 239 (8 U.S.C. 1229) as section 234 and by moving such section to immediately follow section 233;

(2) by redesignating section 240 (8 U.S.C. 1230) as section 240C; and

(3) by inserting after section 238 the following new sections:

"INITIATION OF REMOVAL PROCEEDINGS

8 USC 1229.

"SEC. 239. (a) NOTICE TO APPEAR.—

"(1) IN GENERAL.—In removal proceedings under section 240, written notice (in this section referred to as a 'notice to appear') shall be given in person to the alien (or, if personal service is not practicable, through service by mail to the alien or to the alien's counsel of record, if any) specifying the following:

"(A) The nature of the proceedings against the alien.

"(B) The legal authority under which the proceedings are conducted.

"(C) The acts or conduct alleged to be in violation of law.

"(D) The charges against the alien and the statutory provisions alleged to have been violated.

"(E) The alien may be represented by counsel and the alien will be provided (i) a period of time to secure counsel under subsection (b)(1) and (ii) a current list of counsel prepared under subsection (b)(2).

"(F)(i) The requirement that the alien must immediately provide (or have provided) the Attorney General with a written record of an address and telephone number (if any) at which the alien may be contacted respecting proceedings under section 240.

"(ii) The requirement that the alien must provide the Attorney General immediately with a written record of any change of the alien's address or telephone number.

"(iii) The consequences under section 240(b)(5) of failure to provide address and telephone information pursuant to this subparagraph.

"(G)(i) The time and place at which the proceedings will be held.

"(ii) The consequences under section 240(b)(5) of the failure, except under exceptional circumstances, to appear at such proceedings.

"(2) NOTICE OF CHANGE IN TIME OR PLACE OF PROCEEDINGS.—

"(A) IN GENERAL.—In removal proceedings under section 240, in the case of any change or postponement in the time and place of such proceedings, subject to subparagraph (B) a written notice shall be given in person to the alien (or, if personal service is not practicable, through service by mail to the alien or to the alien's counsel of record, if any) specifying—

"(i) the new time or place of the proceedings, and

"(ii) the consequences under section 240(b)(5) of failing, except under exceptional circumstances, to attend such proceedings.

"(B) EXCEPTION.—In the case of an alien not in detention, a written notice shall not be required under this paragraph if the alien has failed to provide the address required under paragraph (1)(F).

"(3) CENTRAL ADDRESS FILES.—The Attorney General shall create a system to record and preserve on a timely basis notices of addresses and telephone numbers (and changes) provided under paragraph (1)(F).

"(b) SECURING OF COUNSEL.—

"(1) IN GENERAL.—In order that an alien be permitted the opportunity to secure counsel before the first hearing date in proceedings under section 240, the hearing date shall not be scheduled earlier than 10 days after the service of the notice to appear, unless the alien requests in writing an earlier hearing date.

"(2) CURRENT LISTS OF COUNSEL.—The Attorney General shall provide for lists (updated not less often than quarterly) of persons who have indicated their availability to represent

pro bono aliens in proceedings under section 240. Such lists shall be provided under subsection (a)(1)(E) and otherwise made generally available.

"(3) RULE OF CONSTRUCTION.—Nothing in this subsection may be construed to prevent the Attorney General from proceeding against an alien pursuant to section 240 if the time period described in paragraph (1) has elapsed and the alien has failed to secure counsel.

"(c) SERVICE BY MAIL.—Service by mail under this section shall be sufficient if there is proof of attempted delivery to the last address provided by the alien in accordance with subsection (a)(1)(F).

"(d) PROMPT INITIATION OF REMOVAL.—(1) In the case of an alien who is convicted of an offense which makes the alien deportable, the Attorney General shall begin any removal proceeding as expeditiously as possible after the date of the conviction.

"(2) Nothing in this subsection shall be construed to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.

"REMOVAL PROCEEDINGS

8 USC 1229a.

"SEC. 240. (a) PROCEEDING.—

"(1) IN GENERAL.—An immigration judge shall conduct proceedings for deciding the inadmissibility or deportability of an alien.

"(2) CHARGES.—An alien placed in proceedings under this section may be charged with any applicable ground of inadmissibility under section 212(a) or any applicable ground of deportability under section 237(a).

"(3) EXCLUSIVE PROCEDURES.—Unless otherwise specified in this Act, a proceeding under this section shall be the sole and exclusive procedure for determining whether an alien may be admitted to the United States or, if the alien has been so admitted, removed from the United States. Nothing in this section shall affect proceedings conducted pursuant to section 238.

"(b) CONDUCT OF PROCEEDING.—

"(1) AUTHORITY OF IMMIGRATION JUDGE.—The immigration judge shall administer oaths, receive evidence, and interrogate, examine, and cross-examine the alien and any witnesses. The immigration judge may issue subpoenas for the attendance of witnesses and presentation of evidence. The immigration judge shall have authority (under regulations prescribed by the Attorney General) to sanction by civil money penalty any action (or inaction) in contempt of the judge's proper exercise of authority under this Act.

"(2) FORM OF PROCEEDING.—

"(A) IN GENERAL.—The proceeding may take place—

"(i) in person,

"(ii) where agreed to by the parties, in the absence of the alien,

"(iii) through video conference, or

"(iv) subject to subparagraph (B), through telephone conference.

"(B) CONSENT REQUIRED IN CERTAIN CASES.—An evidentiary hearing on the merits may only be conducted

through a telephone conference with the consent of the alien involved after the alien has been advised of the right to proceed in person or through video conference.

"(3) PRESENCE OF ALIEN.—If it is impracticable by reason of an alien's mental incompetency for the alien to be present at the proceeding, the Attorney General shall prescribe safeguards to protect the rights and privileges of the alien.

"(4) ALIENS RIGHTS IN PROCEEDING.—In proceedings under this section, under regulations of the Attorney General—

"(A) the alien shall have the privilege of being represented, at no expense to the Government, by counsel of the alien's choosing who is authorized to practice in such proceedings,

"(B) the alien shall have a reasonable opportunity to examine the evidence against the alien, to present evidence on the alien's own behalf, and to cross-examine witnesses presented by the Government but these rights shall not entitle the alien to examine such national security information as the Government may proffer in opposition to the alien's admission to the United States or to an application by the alien for discretionary relief under this Act, and

"(C) a complete record shall be kept of all testimony and evidence produced at the proceeding.

"(5) CONSEQUENCES OF FAILURE TO APPEAR.—

"(A) IN GENERAL.—Any alien who, after written notice required under paragraph (1) or (2) of section 239(a) has been provided to the alien or the alien's counsel of record, does not attend a proceeding under this section, shall be ordered removed in absentia if the Service establishes by clear, unequivocal, and convincing evidence that the written notice was so provided and that the alien is removable (as defined in subsection (e)(2)). The written notice by the Attorney General shall be considered sufficient for purposes of this subparagraph if provided at the most recent address provided under section 239(a)(1)(F).

"(B) NO NOTICE IF FAILURE TO PROVIDE ADDRESS INFORMATION.—No written notice shall be required under subparagraph (A) if the alien has failed to provide the address required under section 239(a)(1)(F).

"(C) RESCISSION OF ORDER.—Such an order may be rescinded only—

"(i) upon a motion to reopen filed within 180 days after the date of the order of removal if the alien demonstrates that the failure to appear was because of exceptional circumstances (as defined in subsection (e)(1)), or

"(ii) upon a motion to reopen filed at any time if the alien demonstrates that the alien did not receive notice in accordance with paragraph (1) or (2) of section 239(a) or the alien demonstrates that the alien was in Federal or State custody and the failure to appear was through no fault of the alien.

The filing of the motion to reopen described in clause (i) or (ii) shall stay the removal of the alien pending disposition of the motion by the immigration judge.

"(D) EFFECT ON JUDICIAL REVIEW.—Any petition for review under section 242 of an order entered in absentia

under this paragraph shall (except in cases described in section 242(b)(5)) be confined to (i) the validity of the notice provided to the alien, (ii) the reasons for the alien's not attending the proceeding, and (iii) whether or not the alien is removable.

"(E) ADDITIONAL APPLICATION TO CERTAIN ALIENS IN CONTIGUOUS TERRITORY.—The preceding provisions of this paragraph shall apply to all aliens placed in proceedings under this section, including any alien who remains in a contiguous foreign territory pursuant to section 235(b)(2)(C).

"(6) TREATMENT OF FRIVOLOUS BEHAVIOR.—The Attorney General shall, by regulation—

"(A) define in a proceeding before an immigration judge or before an appellate administrative body under this title, frivolous behavior for which attorneys may be sanctioned,

"(B) specify the circumstances under which an administrative appeal of a decision or ruling will be considered frivolous and will be summarily dismissed, and

"(C) impose appropriate sanctions (which may include suspension and disbarment) in the case of frivolous behavior.

Nothing in this paragraph shall be construed as limiting the authority of the Attorney General to take actions with respect to inappropriate behavior.

"(7) LIMITATION ON DISCRETIONARY RELIEF FOR FAILURE TO APPEAR.—Any alien against whom a final order of removal is entered in absentia under this subsection and who, at the time of the notice described in paragraph (1) or (2) of section 239(a), was provided oral notice, either in the alien's native language or in another language the alien understands, of the time and place of the proceedings and of the consequences under this paragraph of failing, other than because of exceptional circumstances (as defined in subsection (e)(1)) to attend a proceeding under this section, shall not be eligible for relief under section 240A, 240B, 245, 248, or 249 for a period of 10 years after the date of the entry of the final order of removal.

"(c) DECISION AND BURDEN OF PROOF.—

"(1) DECISION.—

"(A) IN GENERAL.—At the conclusion of the proceeding the immigration judge shall decide whether an alien is removable from the United States. The determination of the immigration judge shall be based only on the evidence produced at the hearing.

"(B) CERTAIN MEDICAL DECISIONS.—If a medical officer or civil surgeon or board of medical officers has certified under section 232(b) that an alien has a disease, illness, or addiction which would make the alien inadmissible under paragraph (1) of section 212(a), the decision of the immigration judge shall be based solely upon such certification.

"(2) BURDEN ON ALIEN.—In the proceeding the alien has the burden of establishing—

"(A) if the alien is an applicant for admission, that the alien is clearly and beyond doubt entitled to be admitted and is not inadmissible under section 212; or

"(B) by clear and convincing evidence, that the alien is lawfully present in the United States pursuant to a prior admission.

In meeting the burden of proof under subparagraph (B), the alien shall have access to the alien's visa or other entry document, if any, and any other records and documents, not considered by the Attorney General to be confidential, pertaining to the alien's admission or presence in the United States.

"(3) BURDEN ON SERVICE IN CASES OF DEPORTABLE ALIENS.—

"(A) IN GENERAL.—In the proceeding the Service has the burden of establishing by clear and convincing evidence that, in the case of an alien who has been admitted to the United States, the alien is deportable. No decision on deportability shall be valid unless it is based upon reasonable, substantial, and probative evidence.

"(B) PROOF OF CONVICTIONS.—In any proceeding under this Act, any of the following documents or records (or a certified copy of such an official document or record) shall constitute proof of a criminal conviction:

"(i) An official record of judgment and conviction.

"(ii) An official record of plea, verdict, and sentence.

"(iii) A docket entry from court records that indicates the existence of the conviction.

"(iv) Official minutes of a court proceeding or a transcript of a court hearing in which the court takes notice of the existence of the conviction.

"(v) An abstract of a record of conviction prepared by the court in which the conviction was entered, or by a State official associated with the State's repository of criminal justice records, that indicates the charge or section of law violated, the disposition of the case, the existence and date of conviction, and the sentence.

"(vi) Any document or record prepared by, or under the direction of, the court in which the conviction was entered that indicates the existence of a conviction.

"(vii) Any document or record attesting to the conviction that is maintained by an official of a State or Federal penal institution, which is the basis for that institution's authority to assume custody of the individual named in the record.

"(C) ELECTRONIC RECORDS.—In any proceeding under this Act, any record of conviction or abstract that has been submitted by electronic means to the Service from a State or court shall be admissible as evidence to prove a criminal conviction if it is—

"(i) certified by a State official associated with the State's repository of criminal justice records as an official record from its repository or by a court official from the court in which the conviction was entered as an official record from its repository, and

"(ii) certified in writing by a Service official as having been received electronically from the State's record repository or the court's record repository.

A certification under clause (i) may be by means of a computer-generated signature and statement of authenticity.

"(4) NOTICE.—If the immigration judge decides that the alien is removable and orders the alien to be removed, the judge shall inform the alien of the right to appeal that decision and of the consequences for failure to depart under the order of removal, including civil and criminal penalties.

"(5) MOTIONS TO RECONSIDER.—

"(A) IN GENERAL.—The alien may file one motion to reconsider a decision that the alien is removable from the United States.

"(B) DEADLINE.—The motion must be filed within 30 days of the date of entry of a final administrative order of removal.

"(C) CONTENTS.—The motion shall specify the errors of law or fact in the previous order and shall be supported by pertinent authority.

"(6) MOTIONS TO REOPEN.—

"(A) IN GENERAL.—An alien may file one motion to reopen proceedings under this section.

"(B) CONTENTS.—The motion to reopen shall state the new facts that will be proven at a hearing to be held if the motion is granted, and shall be supported by affidavits or other evidentiary material.

"(C) DEADLINE.—

"(i) IN GENERAL.—Except as provided in this subparagraph, the motion to reopen shall be filed within 90 days of the date of entry of a final administrative order of removal.

"(ii) ASYLUM.—There is no time limit on the filing of a motion to reopen if the basis of the motion is to apply for relief under sections 208 or 241(b)(3) and is based on changed country conditions arising in the country of nationality or the country to which removal has been ordered, if such evidence is material and was not available and would not have been discovered or presented at the previous proceeding.

"(iii) FAILURE TO APPEAR.—The filing of a motion to reopen an order entered pursuant to subsection (b)(5) is subject to the deadline specified in subparagraph (C) of such subsection.

"(d) STIPULATED REMOVAL.—The Attorney General shall provide by regulation for the entry by an immigration judge of an order of removal stipulated to by the alien (or the alien's representative) and the Service. A stipulated order shall constitute a conclusive determination of the alien's removability from the United States.

"(e) DEFINITIONS.—In this section and section 240A:

"(1) EXCEPTIONAL CIRCUMSTANCES.—The term 'exceptional circumstances' refers to exceptional circumstances (such as serious illness of the alien or serious illness or death of the spouse, child, or parent of the alien, but not including less compelling circumstances) beyond the control of the alien.

"(2) REMOVABLE.—The term 'removable' means—

"(A) in the case of an alien not admitted to the United States, that the alien is inadmissible under section 212, or

"(B) in the case of an alien admitted to the United States, that the alien is deportable under section 237.

"CANCELLATION OF REMOVAL; ADJUSTMENT OF STATUS

"SEC. 240A. (a) CANCELLATION OF REMOVAL FOR CERTAIN PERMANENT RESIDENTS.—The Attorney General may cancel removal in the case of an alien who is inadmissible or deportable from the United States if the alien— 8 USC 1229b.

"(1) has been an alien lawfully admitted for permanent residence for not less than 5 years,

"(2) has resided in the United States continuously for 7 years after having been admitted in any status, and

"(3) has not been convicted of any aggravated felony.

"(b) CANCELLATION OF REMOVAL AND ADJUSTMENT OF STATUS FOR CERTAIN NONPERMANENT RESIDENTS.—

"(1) IN GENERAL.—The Attorney General may cancel removal in the case of an alien who is inadmissible or deportable from the United States if the alien—

"(A) has been physically present in the United States for a continuous period of not less than 10 years immediately preceding the date of such application;

"(B) has been a person of good moral character during such period;

"(C) has not been convicted of an offense under section 212(a)(2), 237(a)(2), or 237(a)(3); and

"(D) establishes that removal would result in exceptional and extremely unusual hardship to the alien's spouse, parent, or child, who is a citizen of the United States or an alien lawfully admitted for permanent residence.

"(2) SPECIAL RULE FOR BATTERED SPOUSE OR CHILD.—The Attorney General may cancel removal in the case of an alien who is inadmissible or deportable from the United States if the alien demonstrates that—

"(A) the alien has been battered or subjected to extreme cruelty in the United States by a spouse or parent who is a United States citizen or lawful permanent resident (or is the parent of a child of a United States citizen or lawful permanent resident and the child has been battered or subjected to extreme cruelty in the United States by such citizen or permanent resident parent);

"(B) the alien has been physically present in the United States for a continuous period of not less than 3 years immediately preceding the date of such application;

"(C) the alien has been a person of good moral character during such period;

"(D) the alien is not inadmissible under paragraph (2) or (3) of section 212(a), is not deportable under paragraph (1)(G) or (2) through (4) of section 237(a), and has not been convicted of an aggravated felony; and

"(E) the removal would result in extreme hardship to the alien, the alien's child, or (in the case of an alien who is a child) to the alien's parent.

In acting on applications under this paragraph, the Attorney General shall consider any credible evidence relevant to the application. The determination of what evidence is credible and the weight to be given that evidence shall be within the sole discretion of the Attorney General.

"(3) ADJUSTMENT OF STATUS.—The Attorney General may adjust to the status of an alien lawfully admitted for permanent residence any alien who the Attorney General determines meets the requirements of paragraph (1) or (2). The number of adjustments under this paragraph shall not exceed 4,000 for any fiscal year. The Attorney General shall record the alien's lawful admission for permanent residence as of the date the Attorney General's cancellation of removal under paragraph (1) or (2) or determination under this paragraph.

"(c) ALIENS INELIGIBLE FOR RELIEF.—The provisions of subsections (a) and (b)(1) shall not apply to any of the following aliens:

"(1) An alien who entered the United States as a crewman subsequent to June 30, 1964.

"(2) An alien who was admitted to the United States as a nonimmigrant exchange alien as defined in section 101(a)(15)(J), or has acquired the status of such a nonimmigrant exchange alien after admission, in order to receive graduate medical education or training, regardless of whether or not the alien is subject to or has fulfilled the two-year foreign residence requirement of section 212(e).

"(3) An alien who—

"(A) was admitted to the United States as a nonimmigrant exchange alien as defined in section 101(a)(15)(J) or has acquired the status of such a nonimmigrant exchange alien after admission other than to receive graduate medical education or training,

"(B) is subject to the two-year foreign residence requirement of section 212(e), and

"(C) has not fulfilled that requirement or received a waiver thereof.

"(4) An alien who is inadmissible under section 212(a)(3) or deportable under section 237(a)(4).

"(5) An alien who is described in section 241(b)(3)(B)(i).

"(6) An alien whose removal has previously been cancelled under this section or whose deportation was suspended under section 244(a) or who has been granted relief under section 212(c), as such sections were in effect before the date of the enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996.

"(d) SPECIAL RULES RELATING TO CONTINUOUS RESIDENCE OR PHYSICAL PRESENCE.—

"(1) TERMINATION OF CONTINUOUS PERIOD.—For purposes of this section, any period of continuous residence or continuous physical presence in the United States shall be deemed to end when the alien is served a notice to appear under section 239(a) or when the alien has committed an offense referred to in section 212(a)(2) that renders the alien inadmissible to the United States under section 212(a)(2) or removable from the United States under section 237(a)(2) or 237(a)(4), whichever is earliest.

"(2) TREATMENT OF CERTAIN BREAKS IN PRESENCE.—An alien shall be considered to have failed to maintain continuous physical presence in the United States under subsections (b)(1) and (b)(2) if the alien has departed from the United States for any period in excess of 90 days or for any periods in the aggregate exceeding 180 days.

"(3) CONTINUITY NOT REQUIRED BECAUSE OF HONORABLE SERVICE IN ARMED FORCES AND PRESENCE UPON ENTRY INTO SERVICE.—The requirements of continuous residence or continuous physical presence in the United States under subsections (a) and (b) shall not apply to an alien who—

"(A) has served for a minimum period of 24 months in an active-duty status in the Armed Forces of the United States and, if separated from such service, was separated under honorable conditions, and

"(B) at the time of the alien's enlistment or induction was in the United States.

"(e) ANNUAL LIMITATION.—The Attorney General may not cancel the removal and adjust the status under this section, nor suspend the deportation and adjust the status under section 244(a) (as in effect before the enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996), of a total of more than 4,000 aliens in any fiscal year. The previous sentence shall apply regardless of when an alien applied for such cancellation and adjustment and whether such an alien had previously applied for suspension of deportation under such section 244(a).

"VOLUNTARY DEPARTURE

"SEC. 240B. (a) CERTAIN CONDITIONS.— 8 USC 1229c.

"(1) IN GENERAL.—The Attorney General may permit an alien voluntarily to depart the United States at the alien's own expense under this subsection, in lieu of being subject to proceedings under section 240 or prior to the completion of such proceedings, if the alien is not deportable under section 237(a)(2)(A)(iii) or section 237(a)(4)(B).

"(2) PERIOD.—Permission to depart voluntarily under this subsection shall not be valid for a period exceeding 120 days.

"(3) BOND.—The Attorney General may require an alien permitted to depart voluntarily under this subsection to post a voluntary departure bond, to be surrendered upon proof that the alien has departed the United States within the time specified.

"(4) TREATMENT OF ALIENS ARRIVING IN THE UNITED STATES.—In the case of an alien who is arriving in the United States and with respect to whom proceedings under section 240 are (or would otherwise be) initiated at the time of such alien's arrival, paragraph (1) shall not apply. Nothing in this paragraph shall be construed as preventing such an alien from withdrawing the application for admission in accordance with section 235(a)(4).

"(b) AT CONCLUSION OF PROCEEDINGS.—

"(1) IN GENERAL.—The Attorney General may permit an alien voluntarily to depart the United States at the alien's own expense if, at the conclusion of a proceeding under section 240, the immigration judge enters an order granting voluntary departure in lieu of removal and finds that—

"(A) the alien has been physically present in the United States for a period of at least one year immediately preceding the date the notice to appear was served under section 239(a);

"(B) the alien is, and has been, a person of good moral character for at least 5 years immediately preceding the alien's application for voluntary departure;

"(C) the alien is not deportable under section 237(a)(2)(A)(iii) or section 237(a)(4); and

"(D) the alien has established by clear and convincing evidence that the alien has the means to depart the United States and intends to do so.

"(2) PERIOD.—Permission to depart voluntarily under this subsection shall not be valid for a period exceeding 60 days.

"(3) BOND.—An alien permitted to depart voluntarily under this subsection shall be required to post a voluntary departure bond, in an amount necessary to ensure that the alien will depart, to be surrendered upon proof that the alien has departed the United States within the time specified.

"(c) ALIENS NOT ELIGIBLE.—The Attorney General shall not permit an alien to depart voluntarily under this section if the alien was previously permitted to so depart after having been found inadmissible under section 212(a)(6)(A).

"(d) CIVIL PENALTY FOR FAILURE TO DEPART.—If an alien is permitted to depart voluntarily under this section and fails voluntarily to depart the United States within the time period specified, the alien shall be subject to a civil penalty of not less than $1,000 and not more than $5,000, and be ineligible for a period of 10 years for any further relief under this section and sections 240A, 245, 248, and 249. The order permitting the alien to depart voluntarily shall inform the alien of the penalties under this subsection.

"(e) ADDITIONAL CONDITIONS.—The Attorney General may by regulation limit eligibility for voluntary departure under this section for any class or classes of aliens. No court may review any regulation issued under this subsection.

"(f) JUDICIAL REVIEW.—No court shall have jurisdiction over an appeal from denial of a request for an order of voluntary departure under subsection (b), nor shall any court order a stay of an alien's removal pending consideration of any claim with respect to voluntary departure.".

(b) REPEAL OF SECTION 212(c).—Section 212(c) (8 U.S.C. 1182(c)) is repealed.

(c) STREAMLINING REMOVAL OF CRIMINAL ALIENS.—

(1) IN GENERAL.—Section 242A(b)(4) (8 U.S.C. 1252a(b)(4)), as amended by section 442(a) of Public Law 104–132 and before redesignation by section 308(b)(5) of this division, is amended—

(A) by striking subparagraph (D);

(B) by amending subparagraph (E) to read as follows:

"(D) a determination is made for the record that the individual upon whom the notice for the proceeding under this section is served (either in person or by mail) is, in fact, the alien named in such notice;"; and

(C) by redesignating subparagraphs (F) and (G) as subparagraph (E) and (F), respectively.

8 USC 1252a note.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall be effective as if included in the enactment of section 442(a) of Public Law 104–132.

SEC. 305. DETENTION AND REMOVAL OF ALIENS ORDERED REMOVED (NEW SECTION 241).

(a) IN GENERAL.—Title II is further amended—

(1) by striking section 237 (8 U.S.C. 1227),

(2) by redesignating section 241 (8 U.S.C. 1251) as section 237 and by moving such section to immediately follow section 236, and 8 USC 1227.

(3) by inserting after section 240C (as redesignated by section 304(a)(2)) of this division the following new section:

"DETENTION AND REMOVAL OF ALIENS ORDERED REMOVED

"SEC. 241. (a) DETENTION, RELEASE, AND REMOVAL OF ALIENS ORDERED REMOVED.— 8 USC 1231.

"(1) REMOVAL PERIOD.—

"(A) IN GENERAL.—Except as otherwise provided in this section, when an alien is ordered removed, the Attorney General shall remove the alien from the United States within a period of 90 days (in this section referred to as the 'removal period').

"(B) BEGINNING OF PERIOD.—The removal period begins on the latest of the following:

"(i) The date the order of removal becomes administratively final.

"(ii) If the removal order is judicially reviewed and if a court orders a stay of the removal of the alien, the date of the court's final order.

"(iii) If the alien is detained or confined (except under an immigration process), the date the alien is released from detention or confinement.

"(C) SUSPENSION OF PERIOD.—The removal period shall be extended beyond a period of 90 days and the alien may remain in detention during such extended period if the alien fails or refuses to make timely application in good faith for travel or other documents necessary to the alien's departure or conspires or acts to prevent the alien's removal subject to an order of removal.

"(2) DETENTION.—During the removal period, the Attorney General shall detain the alien. Under no circumstance during the removal period shall the Attorney General release an alien who has been found inadmissible under section 212(a)(2) or 212(a)(3)(B) or deportable under section 237(a)(2) or 237(a)(4)(B).

"(3) SUPERVISION AFTER 90-DAY PERIOD.—If the alien does not leave or is not removed within the removal period, the alien, pending removal, shall be subject to supervision under regulations prescribed by the Attorney General. The regulations shall include provisions requiring the alien—

"(A) to appear before an immigration officer periodically for identification;

"(B) to submit, if necessary, to a medical and psychiatric examination at the expense of the United States Government;

"(C) to give information under oath about the alien's nationality, circumstances, habits, associations, and activities, and other information the Attorney General considers appropriate; and

"(D) to obey reasonable written restrictions on the alien's conduct or activities that the Attorney General prescribes for the alien.

"(4) ALIENS IMPRISONED, ARRESTED, OR ON PAROLE, SUPERVISED RELEASE, OR PROBATION.—

"(A) IN GENERAL.—Except as provided in section 343(a) of the Public Health Service Act (42 U.S.C. 259(a)) and paragraph (2), the Attorney General may not remove an alien who is sentenced to imprisonment until the alien is released from imprisonment. Parole, supervised release, probation, or possibility of arrest or further imprisonment is not a reason to defer removal.

"(B) EXCEPTION FOR REMOVAL OF NONVIOLENT OFFENDERS PRIOR TO COMPLETION OF SENTENCE OF IMPRISONMENT.—The Attorney General is authorized to remove an alien in accordance with applicable procedures under this Act before the alien has completed a sentence of imprisonment—

"(i) in the case of an alien in the custody of the Attorney General, if the Attorney General determines that (I) the alien is confined pursuant to a final conviction for a nonviolent offense (other than an offense related to smuggling or harboring of aliens or an offense described in section 101(a)(43)(B), (C), (E), (I), or (L) and (II) the removal of the alien is appropriate and in the best interest of the United States; or

"(ii) in the case of an alien in the custody of a State (or a political subdivision of a State), if the chief State official exercising authority with respect to the incarceration of the alien determines that (I) the alien is confined pursuant to a final conviction for a nonviolent offense (other than an offense described in section 101(a)(43)(C) or (E)), (II) the removal is appropriate and in the best interest of the State, and (III) submits a written request to the Attorney General that such alien be so removed.

"(C) NOTICE.—Any alien removed pursuant to this paragraph shall be notified of the penalties under the laws of the United States relating to the reentry of deported aliens, particularly the expanded penalties for aliens removed under subparagraph (B).

"(D) NO PRIVATE RIGHT.—No cause or claim may be asserted under this paragraph against any official of the United States or of any State to compel the release, removal, or consideration for release or removal of any alien.

"(5) REINSTATEMENT OF REMOVAL ORDERS AGAINST ALIENS ILLEGALLY REENTERING.—If the Attorney General finds that an alien has reentered the United States illegally after having been removed or having departed voluntarily, under an order of removal, the prior order of removal is reinstated from its original date and is not subject to being reopened or reviewed, the alien is not eligible and may not apply for any relief under this Act, and the alien shall be removed under the prior order at any time after the reentry.

"(6) INADMISSIBLE OR CRIMINAL ALIENS.—An alien ordered removed who is inadmissible under section 212, removable under section 237(a)(1)(C), 237(a)(2), or 237(a)(4) or who has been determined by the Attorney General to be a risk to the community or unlikely to comply with the order of removal, may be detained beyond the removal period and, if released, shall be subject to the terms of supervision in paragraph (3).

"(7) EMPLOYMENT AUTHORIZATION.—No alien ordered removed shall be eligible to receive authorization to be employed in the United States unless the Attorney General makes a specific finding that—

"(A) the alien cannot be removed due to the refusal of all countries designated by the alien or under this section to receive the alien, or

"(B) the removal of the alien is otherwise impracticable or contrary to the public interest.

"(b) COUNTRIES TO WHICH ALIENS MAY BE REMOVED.—

"(1) ALIENS ARRIVING AT THE UNITED STATES.—Subject to paragraph (3)—

"(A) IN GENERAL.—Except as provided by subparagraphs (B) and (C), an alien who arrives at the United States and with respect to whom proceedings under section 240 were initiated at the time of such alien's arrival shall be removed to the country in which the alien boarded the vessel or aircraft on which the alien arrived in the United States.

"(B) TRAVEL FROM CONTIGUOUS TERRITORY.—If the alien boarded the vessel or aircraft on which the alien arrived in the United States in a foreign territory contiguous to the United States, an island adjacent to the United States, or an island adjacent to a foreign territory contiguous to the United States, and the alien is not a native, citizen, subject, or national of, or does not reside in, the territory or island, removal shall be to the country in which the alien boarded the vessel that transported the alien to the territory or island.

"(C) ALTERNATIVE COUNTRIES.—If the government of the country designated in subparagraph (A) or (B) is unwilling to accept the alien into that country's territory, removal shall be to any of the following countries, as directed by the Attorney General:

"(i) The country of which the alien is a citizen, subject, or national.

"(ii) The country in which the alien was born.

"(iii) The country in which the alien has a residence.

"(iv) A country with a government that will accept the alien into the country's territory if removal to each country described in a previous clause of this subparagraph is impracticable, inadvisable, or impossible.

"(2) OTHER ALIENS.—Subject to paragraph (3)—

"(A) SELECTION OF COUNTRY BY ALIEN.—Except as otherwise provided in this paragraph—

"(i) any alien not described in paragraph (1) who has been ordered removed may designate one country to which the alien wants to be removed, and

"(ii) the Attorney General shall remove the alien to the country the alien so designates.

"(B) LIMITATION ON DESIGNATION.—An alien may designate under subparagraph (A)(i) a foreign territory contiguous to the United States, an adjacent island, or an island adjacent to a foreign territory contiguous to the United States as the place to which the alien is to be removed

only if the alien is a native, citizen, subject, or national of, or has resided in, that designated territory or island.

"(C) DISREGARDING DESIGNATION.—The Attorney General may disregard a designation under subparagraph (A)(i) if—

"(i) the alien fails to designate a country promptly;

"(ii) the government of the country does not inform the Attorney General finally, within 30 days after the date the Attorney General first inquires, whether the government will accept the alien into the country;

"(iii) the government of the country is not willing to accept the alien into the country; or

"(iv) the Attorney General decides that removing the alien to the country is prejudicial to the United States.

"(D) ALTERNATIVE COUNTRY.—If an alien is not removed to a country designated under subparagraph (A)(i), the Attorney General shall remove the alien to a country of which the alien is a subject, national, or citizen unless the government of the country—

"(i) does not inform the Attorney General or the alien finally, within 30 days after the date the Attorney General first inquires or within another period of time the Attorney General decides is reasonable, whether the government will accept the alien into the country; or

"(ii) is not willing to accept the alien into the country.

"(E) ADDITIONAL REMOVAL COUNTRIES.—If an alien is not removed to a country under the previous subparagraphs of this paragraph, the Attorney General shall remove the alien to any of the following countries:

"(i) The country from which the alien was admitted to the United States.

"(ii) The country in which is located the foreign port from which the alien left for the United States or for a foreign territory contiguous to the United States.

"(iii) A country in which the alien resided before the alien entered the country from which the alien entered the United States.

"(iv) The country in which the alien was born.

"(v) The country that had sovereignty over the alien's birthplace when the alien was born.

"(vi) The country in which the alien's birthplace is located when the alien is ordered removed.

"(vii) If impracticable, inadvisable, or impossible to remove the alien to each country described in a previous clause of this subparagraph, another country whose government will accept the alien into that country.

"(F) REMOVAL COUNTRY WHEN UNITED STATES IS AT WAR.—When the United States is at war and the Attorney General decides that it is impracticable, inadvisable, inconvenient, or impossible to remove an alien under this subsection because of the war, the Attorney General may remove the alien—

"(i) to the country that is host to a government in exile of the country of which the alien is a citizen or subject if the government of the host country will permit the alien's entry; or

"(ii) if the recognized government of the country of which the alien is a citizen or subject is not in exile, to a country, or a political or territorial subdivision of a country, that is very near the country of which the alien is a citizen or subject, or, with the consent of the government of the country of which the alien is a citizen or subject, to another country.

"(3) RESTRICTION ON REMOVAL TO A COUNTRY WHERE ALIEN'S LIFE OR FREEDOM WOULD BE THREATENED.—

"(A) IN GENERAL.—Notwithstanding paragraphs (1) and (2), the Attorney General may not remove an alien to a country if the Attorney General decides that the alien's life or freedom would be threatened in that country because of the alien's race, religion, nationality, membership in a particular social group, or political opinion.

"(B) EXCEPTION.—Subparagraph (A) does not apply to an alien deportable under section 237(a)(4)(D) or if the Attorney General decides that—

"(i) the alien ordered, incited, assisted, or otherwise participated in the persecution of an individual because of the individual's race, religion, nationality, membership in a particular social group, or political opinion;

"(ii) the alien, having been convicted by a final judgment of a particularly serious crime is a danger to the community of the United States;

"(iii) there are serious reasons to believe that the alien committed a serious nonpolitical crime outside the United States before the alien arrived in the United States; or

"(iv) there are reasonable grounds to believe that the alien is a danger to the security of the United States.

For purposes of clause (ii), an alien who has been convicted of an aggravated felony (or felonies) for which the alien has been sentenced to an aggregate term of imprisonment of at least 5 years shall be considered to have committed a particularly serious crime. The previous sentence shall not preclude the Attorney General from determining that, notwithstanding the length of sentence imposed, an alien has been convicted of a particularly serious crime. For purposes of clause (iv), an alien who is described in section 237(a)(4)(B) shall be considered to be an alien with respect to whom there are reasonable grounds for regarding as a danger to the security of the United States.

"(c) REMOVAL OF ALIENS ARRIVING AT PORT OF ENTRY.—

"(1) VESSELS AND AIRCRAFT.—An alien arriving at a port of entry of the United States who is ordered removed either without a hearing under section 235(b)(1) or 235(c) or pursuant to proceedings under section 240 initiated at the time of such alien's arrival shall be removed immediately on a vessel or aircraft owned by the owner of the vessel or aircraft on which the alien arrived in the United States, unless—

"(A) it is impracticable to remove the alien on one of those vessels or aircraft within a reasonable time, or

"(B) the alien is a stowaway—

"(i) who has been ordered removed in accordance with section 235(a)(1),

"(ii) who has requested asylum, and

"(iii) whose application has not been adjudicated or whose asylum application has been denied but who has not exhausted all appeal rights.

"(2) STAY OF REMOVAL.—

"(A) IN GENERAL.—The Attorney General may stay the removal of an alien under this subsection if the Attorney General decides that—

"(i) immediate removal is not practicable or proper; or

"(ii) the alien is needed to testify in the prosecution of a person for a violation of a law of the United States or of any State.

"(B) PAYMENT OF DETENTION COSTS.—During the period an alien is detained because of a stay of removal under subparagraph (A)(ii), the Attorney General may pay from the appropriation 'Immigration and Naturalization Service—Salaries and Expenses'—

"(i) the cost of maintenance of the alien; and

"(ii) a witness fee of $1 a day.

"(C) RELEASE DURING STAY.—The Attorney General may release an alien whose removal is stayed under subparagraph (A)(ii) on—

"(i) the alien's filing a bond of at least $500 with security approved by the Attorney General;

"(ii) condition that the alien appear when required as a witness and for removal; and

"(iii) other conditions the Attorney General may prescribe.

"(3) COSTS OF DETENTION AND MAINTENANCE PENDING REMOVAL.—

"(A) IN GENERAL.—Except as provided in subparagraph (B) and subsection (d), an owner of a vessel or aircraft bringing an alien to the United States shall pay the costs of detaining and maintaining the alien—

"(i) while the alien is detained under subsection (d)(1), and

"(ii) in the case of an alien who is a stowaway, while the alien is being detained pursuant to—

"(I) subsection (d)(2)(A) or (d)(2)(B)(i),

"(II) subsection (d)(2)(B)(ii) or (iii) for the period of time reasonably necessary for the owner to arrange for repatriation or removal of the stowaway, including obtaining necessary travel documents, but not to extend beyond the date on which it is ascertained that such travel documents cannot be obtained from the country to which the stowaway is to be returned, or

"(III) section 235(b)(1)(B)(ii), for a period not to exceed 15 days (excluding Saturdays, Sundays, and holidays) commencing on the first such day which begins on the earlier of 72 hours after the

time of the initial presentation of the stowaway for inspection or at the time the stowaway is determined to have a credible fear of persecution.

"(B) NONAPPLICATION.—Subparagraph (A) shall not apply if—

"(i) the alien is a crewmember;

"(ii) the alien has an immigrant visa;

"(iii) the alien has a nonimmigrant visa or other documentation authorizing the alien to apply for temporary admission to the United States and applies for admission not later than 120 days after the date the visa or documentation was issued;

"(iv) the alien has a reentry permit and applies for admission not later than 120 days after the date of the alien's last inspection and admission;

"(v)(I) the alien has a nonimmigrant visa or other documentation authorizing the alien to apply for temporary admission to the United States or a reentry permit;

"(II) the alien applies for admission more than 120 days after the date the visa or documentation was issued or after the date of the last inspection and admission under the reentry permit; and

"(III) the owner of the vessel or aircraft satisfies the Attorney General that the existence of the condition relating to inadmissibility could not have been discovered by exercising reasonable care before the alien boarded the vessel or aircraft; or

"(vi) the individual claims to be a national of the United States and has a United States passport.

"(d) REQUIREMENTS OF PERSONS PROVIDING TRANSPORTATION.—

"(1) REMOVAL AT TIME OF ARRIVAL.—An owner, agent, master, commanding officer, person in charge, purser, or consignee of a vessel or aircraft bringing an alien (except an alien crewmember) to the United States shall—

"(A) receive an alien back on the vessel or aircraft or another vessel or aircraft owned or operated by the same interests if the alien is ordered removed under this part; and

"(B) take the alien to the foreign country to which the alien is ordered removed.

"(2) ALIEN STOWAWAYS.—An owner, agent, master, commanding officer, charterer, or consignee of a vessel or aircraft arriving in the United States with an alien stowaway—

"(A) shall detain the alien on board the vessel or aircraft, or at such place as the Attorney General shall designate, until completion of the inspection of the alien by an immigration officer;

"(B) may not permit the stowaway to land in the United States, except pursuant to regulations of the Attorney General temporarily—

"(i) for medical treatment,

"(ii) for detention of the stowaway by the Attorney General, or

"(iii) for departure or removal of the stowaway; and

"(C) if ordered by an immigration officer, shall remove the stowaway on the vessel or aircraft or on another vessel or aircraft.

The Attorney General shall grant a timely request to remove the stowaway under subparagraph (C) on a vessel or aircraft other than that on which the stowaway arrived if the requester has obtained any travel documents necessary for departure or repatriation of the stowaway and removal of the stowaway will not be unreasonably delayed.

"(3) REMOVAL UPON ORDER.—An owner, agent, master, commanding officer, person in charge, purser, or consignee of a vessel, aircraft, or other transportation line shall comply with an order of the Attorney General to take on board, guard safely, and transport to the destination specified any alien ordered to be removed under this Act.

"(e) PAYMENT OF EXPENSES OF REMOVAL.—

"(1) COSTS OF REMOVAL AT TIME OF ARRIVAL.—In the case of an alien who is a stowaway or who is ordered removed either without a hearing under section 235(a)(1) or 235(c) or pursuant to proceedings under section 240 initiated at the time of such alien's arrival, the owner of the vessel or aircraft (if any) on which the alien arrived in the United States shall pay the transportation cost of removing the alien. If removal is on a vessel or aircraft not owned by the owner of the vessel or aircraft on which the alien arrived in the United States, the Attorney General may—

"(A) pay the cost from the appropriation 'Immigration and Naturalization Service—Salaries and Expenses'; and

"(B) recover the amount of the cost in a civil action from the owner, agent, or consignee of the vessel or aircraft (if any) on which the alien arrived in the United States.

"(2) COSTS OF REMOVAL TO PORT OF REMOVAL FOR ALIENS ADMITTED OR PERMITTED TO LAND.— In the case of an alien who has been admitted or permitted to land and is ordered removed, the cost (if any) of removal of the alien to the port of removal shall be at the expense of the appropriation for the enforcement of this Act.

"(3) COSTS OF REMOVAL FROM PORT OF REMOVAL FOR ALIENS ADMITTED OR PERMITTED TO LAND.—

"(A) THROUGH APPROPRIATION.—Except as provided in subparagraph (B), in the case of an alien who has been admitted or permitted to land and is ordered removed, the cost (if any) of removal of the alien from the port of removal shall be at the expense of the appropriation for the enforcement of this Act.

"(B) THROUGH OWNER.—

"(i) IN GENERAL.—In the case of an alien described in clause (ii), the cost of removal of the alien from the port of removal may be charged to any owner of the vessel, aircraft, or other transportation line by which the alien came to the United States.

"(ii) ALIENS DESCRIBED.—An alien described in this clause is an alien who—

"(I) is admitted to the United States (other than lawfully admitted for permanent residence) and is ordered removed within 5 years of the date

of admission based on a ground that existed before or at the time of admission, or

"(II) is an alien crewman permitted to land temporarily under section 252 and is ordered removed within 5 years of the date of landing.

"(C) COSTS OF REMOVAL OF CERTAIN ALIENS GRANTED VOLUNTARY DEPARTURE.—In the case of an alien who has been granted voluntary departure under section 240B and who is financially unable to depart at the alien's own expense and whose removal the Attorney General deems to be in the best interest of the United States, the expense of such removal may be paid from the appropriation for the enforcement of this Act.

"(f) ALIENS REQUIRING PERSONAL CARE DURING REMOVAL.—

"(1) IN GENERAL.—If the Attorney General believes that an alien being removed requires personal care because of the alien's mental or physical condition, the Attorney General may employ a suitable person for that purpose who shall accompany and care for the alien until the alien arrives at the final destination.

"(2) COSTS.—The costs of providing the service described in paragraph (1) shall be defrayed in the same manner as the expense of removing the accompanied alien is defrayed under this section.

"(g) PLACES OF DETENTION.—

"(1) IN GENERAL.—The Attorney General shall arrange for appropriate places of detention for aliens detained pending removal or a decision on removal. When United States Government facilities are unavailable or facilities adapted or suitably located for detention are unavailable for rental, the Attorney General may expend from the appropriation 'Immigration and Naturalization Service—Salaries and Expenses', without regard to section 3709 of the Revised Statutes (41 U.S.C. 5), amounts necessary to acquire land and to acquire, build, remodel, repair, and operate facilities (including living quarters for immigration officers if not otherwise available) necessary for detention.

"(2) DETENTION FACILITIES OF THE IMMIGRATION AND NATURALIZATION SERVICE.—Prior to initiating any project for the construction of any new detention facility for the Service, the Commissioner shall consider the availability for purchase or lease of any existing prison, jail, detention center, or other comparable facility suitable for such use.

"(h) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.".

(b) REENTRY OF ALIEN REMOVED PRIOR TO COMPLETION OF TERM OF IMPRISONMENT.—Section 276(b) (8 U.S.C. 1326(b)), as amended by section 321(b) of this division, is amended—

(1) by striking "or" at the end of paragraph (2),

(2) by adding "or" at the end of paragraph (3), and

(3) by inserting after paragraph (3) the following new paragraph:

"(4) who was removed from the United States pursuant to section 241(a)(4)(B) who thereafter, without the permission of the Attorney General, enters, attempts to enter, or is at any time found in, the United States (unless the Attorney

General has expressly consented to such alien's reentry) shall be fined under title 18, United States Code, imprisoned for not more than 10 years, or both.

(c) MISCELLANEOUS CONFORMING AMENDMENT.—Section 212(a)(4) (8 U.S.C. 1182(a)(4)), as amended by section 621(a) of this division, is amended by striking "241(a)(5)(B)" each place it appears and inserting "237(a)(5)(B)".

SEC. 306. APPEALS FROM ORDERS OF REMOVAL (NEW SECTION 242).

(a) IN GENERAL.—Section 242 (8 U.S.C. 1252) is amended—

(1) by redesignating subsection (j) as subsection (i) and by moving such subsection and adding it at the end of section 241, as inserted by section 305(a)(3) of this division; and

8 USC 1231.

(2) by amending the remainder of section 242 to read as follows:

"JUDICIAL REVIEW OF ORDERS OF REMOVAL

"SEC. 242. (a) APPLICABLE PROVISIONS.—

"(1) GENERAL ORDERS OF REMOVAL.—Judicial review of a final order of removal (other than an order of removal without a hearing pursuant to section 235(b)(1)) is governed only by chapter 158 of title 28 of the United States Code, except as provided in subsection (b) and except that the court may not order the taking of additional evidence under section 2347(c) of such title.

"(2) MATTERS NOT SUBJECT TO JUDICIAL REVIEW.—

"(A) REVIEW RELATING TO SECTION 235(b)(1).—Notwithstanding any other provision of law, no court shall have jurisdiction to review—

"(i) except as provided in subsection (e), any individual determination or to entertain any other cause or claim arising from or relating to the implementation or operation of an order of removal pursuant to section 235(b)(1),

"(ii) except as provided in subsection (e), a decision by the Attorney General to invoke the provisions of such section,

"(iii) the application of such section to individual aliens, including the determination made under section 235(b)(1)(B), or

"(iv) except as provided in subsection (e), procedures and policies adopted by the Attorney General to implement the provisions of section 235(b)(1).

"(B) DENIALS OF DISCRETIONARY RELIEF.—Notwithstanding any other provision of law, no court shall have jurisdiction to review—

"(i) any judgment regarding the granting of relief under section 212(h), 212(i), 240A, 240B, or 245, or

"(ii) any other decision or action of the Attorney General the authority for which is specified under this title to be in the discretion of the Attorney General, other than the granting of relief under section 208(a).

"(C) ORDERS AGAINST CRIMINAL ALIENS.—Notwithstanding any other provision of law, no court shall have jurisdiction to review any final order of removal against an alien who is removable by reason of having committed a criminal offense covered in section 212(a)(2) or

237(a)(2)(A)(iii), (B), (C), or (D), or any offense covered by section 237(a)(2)(A)(ii) for which both predicate offenses are, without regard to their date of commission, otherwise covered by section 237(a)(2)(A)(i).

"(3) TREATMENT OF CERTAIN DECISIONS.—No alien shall have a right to appeal from a decision of an immigration judge which is based solely on a certification described in section 240(c)(1)(B).

"(b) REQUIREMENTS FOR REVIEW OF ORDERS OF REMOVAL.—With respect to review of an order of removal under subsection (a)(1), the following requirements apply:

"(1) DEADLINE.—The petition for review must be filed not later than 30 days after the date of the final order of removal.

"(2) VENUE AND FORMS.—The petition for review shall be filed with the court of appeals for the judicial circuit in which the immigration judge completed the proceedings. The record and briefs do not have to be printed. The court of appeals shall review the proceeding on a typewritten record and on typewritten briefs.

"(3) SERVICE.—

"(A) IN GENERAL.—The respondent is the Attorney General. The petition shall be served on the Attorney General and on the officer or employee of the Service in charge of the Service district in which the final order of removal under section 240 was entered.

"(B) STAY OF ORDER.—Service of the petition on the officer or employee does not stay the removal of an alien pending the court's decision on the petition, unless the court orders otherwise.

"(C) ALIEN'S BRIEF.—The alien shall serve and file a brief in connection with a petition for judicial review not later than 40 days after the date on which the administrative record is available, and may serve and file a reply brief not later than 14 days after service of the brief of the Attorney General, and the court may not extend these deadlines except upon motion for good cause shown. If an alien fails to file a brief within the time provided in this paragraph, the court shall dismiss the appeal unless a manifest injustice would result.

"(4) SCOPE AND STANDARD FOR REVIEW.—Except as provided in paragraph (5)(B)—

"(A) the court of appeals shall decide the petition only on the administrative record on which the order of removal is based,

"(B) the administrative findings of fact are conclusive unless any reasonable adjudicator would be compelled to conclude to the contrary,

"(C) a decision that an alien is not eligible for admission to the United States is conclusive unless manifestly contrary to law, and

"(D) the Attorney General's discretionary judgment whether to grant relief under section 208(a) shall be conclusive unless manifestly contrary to the law and an abuse of discretion.

"(5) TREATMENT OF NATIONALITY CLAIMS.—

"(A) COURT DETERMINATION IF NO ISSUE OF FACT.—If the petitioner claims to be a national of the United

States and the court of appeals finds from the pleadings and affidavits that no genuine issue of material fact about the petitioner's nationality is presented, the court shall decide the nationality claim.

"(B) TRANSFER IF ISSUE OF FACT.—If the petitioner claims to be a national of the United States and the court of appeals finds that a genuine issue of material fact about the petitioner's nationality is presented, the court shall transfer the proceeding to the district court of the United States for the judicial district in which the petitioner resides for a new hearing on the nationality claim and a decision on that claim as if an action had been brought in the district court under section 2201 of title 28, United States Code.

"(C) LIMITATION ON DETERMINATION.—The petitioner may have such nationality claim decided only as provided in this paragraph.

"(6) CONSOLIDATION WITH REVIEW OF MOTIONS TO REOPEN OR RECONSIDER.—When a petitioner seeks review of an order under this section, any review sought of a motion to reopen or reconsider the order shall be consolidated with the review of the order.

"(7) CHALLENGE TO VALIDITY OF ORDERS IN CERTAIN CRIMINAL PROCEEDINGS.—

"(A) IN GENERAL.—If the validity of an order of removal has not been judicially decided, a defendant in a criminal proceeding charged with violating section 243(a) may challenge the validity of the order in the criminal proceeding only by filing a separate motion before trial. The district court, without a jury, shall decide the motion before trial.

"(B) CLAIMS OF UNITED STATES NATIONALITY.—If the defendant claims in the motion to be a national of the United States and the district court finds that—

"(i) no genuine issue of material fact about the defendant's nationality is presented, the court shall decide the motion only on the administrative record on which the removal order is based and the administrative findings of fact are conclusive if supported by reasonable, substantial, and probative evidence on the record considered as a whole; or

"(ii) a genuine issue of material fact about the defendant's nationality is presented, the court shall hold a new hearing on the nationality claim and decide that claim as if an action had been brought under section 2201 of title 28, United States Code.

The defendant may have such nationality claim decided only as provided in this subparagraph.

"(C) CONSEQUENCE OF INVALIDATION.—If the district court rules that the removal order is invalid, the court shall dismiss the indictment for violation of section 243(a). The United States Government may appeal the dismissal to the court of appeals for the appropriate circuit within 30 days after the date of the dismissal.

"(D) LIMITATION ON FILING PETITIONS FOR REVIEW.—The defendant in a criminal proceeding under section 243(a) may not file a petition for review under subsection (a) during the criminal proceeding.

"(8) CONSTRUCTION.—This subsection—

"(A) does not prevent the Attorney General, after a final order of removal has been issued, from detaining the alien under section 241(a);

"(B) does not relieve the alien from complying with section 241(a)(4) and section 243(g); and

"(C) does not require the Attorney General to defer removal of the alien.

"(9) CONSOLIDATION OF QUESTIONS FOR JUDICIAL REVIEW.—Judicial review of all questions of law and fact, including interpretation and application of constitutional and statutory provisions, arising from any action taken or proceeding brought to remove an alien from the United States under this title shall be available only in judicial review of a final order under this section.

"(c) REQUIREMENTS FOR PETITION.—A petition for review or for habeas corpus of an order of removal—

"(1) shall attach a copy of such order, and

"(2) shall state whether a court has upheld the validity of the order, and, if so, shall state the name of the court, the date of the court's ruling, and the kind of proceeding.

"(d) REVIEW OF FINAL ORDERS.—A court may review a final order of removal only if—

"(1) the alien has exhausted all administrative remedies available to the alien as of right, and

"(2) another court has not decided the validity of the order, unless the reviewing court finds that the petition presents grounds that could not have been presented in the prior judicial proceeding or that the remedy provided by the prior proceeding was inadequate or ineffective to test the validity of the order.

"(e) JUDICIAL REVIEW OF ORDERS UNDER SECTION 235(b)(1).—

"(1) LIMITATIONS ON RELIEF.—Without regard to the nature of the action or claim and without regard to the identity of the party or parties bringing the action, no court may—

"(A) enter declaratory, injunctive, or other equitable relief in any action pertaining to an order to exclude an alien in accordance with section 235(b)(1) except as specifically authorized in a subsequent paragraph of this subsection, or

"(B) certify a class under Rule 23 of the Federal Rules of Civil Procedure in any action for which judicial review is authorized under a subsequent paragraph of this subsection.

"(2) HABEAS CORPUS PROCEEDINGS.—Judicial review of any determination made under section 235(b)(1) is available in habeas corpus proceedings, but shall be limited to determinations of—

"(A) whether the petitioner is an alien,

"(B) whether the petitioner was ordered removed under such section, and

"(C) whether the petitioner can prove by a preponderance of the evidence that the petitioner is an alien lawfully admitted for permanent residence, has been admitted as a refugee under section 207, or has been granted asylum under section 208, such status not having been terminated, and is entitled to such further inquiry as prescribed by the Attorney General pursuant to section 235(b)(1)(C).

"(3) CHALLENGES ON VALIDITY OF THE SYSTEM.—

"(A) IN GENERAL.—Judicial review of determinations under section 235(b) and its implementation is available in an action instituted in the United States District Court for the District of Columbia, but shall be limited to determinations of—

"(i) whether such section, or any regulation issued to implement such section, is constitutional; or

"(ii) whether such a regulation, or a written policy directive, written policy guideline, or written procedure issued by or under the authority of the Attorney General to implement such section, is not consistent with applicable provisions of this title or is otherwise in violation of law.

"(B) DEADLINES FOR BRINGING ACTIONS.—Any action instituted under this paragraph must be filed no later than 60 days after the date the challenged section, regulation, directive, guideline, or procedure described in clause (i) or (ii) of subparagraph (A) is first implemented.

"(C) NOTICE OF APPEAL.—A notice of appeal of an order issued by the District Court under this paragraph may be filed not later than 30 days after the date of issuance of such order.

"(D) EXPEDITIOUS CONSIDERATION OF CASES.—It shall be the duty of the District Court, the Court of Appeals, and the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of any case considered under this paragraph.

"(4) DECISION.—In any case where the court determines that the petitioner—

"(A) is an alien who was not ordered removed under section 235(b)(1), or

"(B) has demonstrated by a preponderance of the evidence that the alien is an alien lawfully admitted for permanent residence, has been admitted as a refugee under section 207, or has been granted asylum under section 208, the court may order no remedy or relief other than to require that the petitioner be provided a hearing in accordance with section 240. Any alien who is provided a hearing under section 240 pursuant to this paragraph may thereafter obtain judicial review of any resulting final order of removal pursuant to subsection (a)(1).

"(5) SCOPE OF INQUIRY.—In determining whether an alien has been ordered removed under section 235(b)(1), the court's inquiry shall be limited to whether such an order in fact was issued and whether it relates to the petitioner. There shall be no review of whether the alien is actually inadmissible or entitled to any relief from removal.

"(f) LIMIT ON INJUNCTIVE RELIEF.—

"(1) IN GENERAL.—Regardless of the nature of the action or claim or of the identity of the party or parties bringing the action, no court (other than the Supreme Court) shall have jurisdiction or authority to enjoin or restrain the operation of the provisions of chapter 4 of title II, as amended by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, other than with respect to the application of such

provisions to an individual alien against whom proceedings under such chapter have been initiated.

"(2) PARTICULAR CASES.—Notwithstanding any other provision of law, no court shall enjoin the removal of any alien pursuant to a final order under this section unless the alien shows by clear and convincing evidence that the entry or execution of such order is prohibited as a matter of law.

"(g) EXCLUSIVE JURISDICTION.—Except as provided in this section and notwithstanding any other provision of law, no court shall have jurisdiction to hear any cause or claim by or on behalf of any alien arising from the decision or action by the Attorney General to commence proceedings, adjudicate cases, or execute removal orders against any alien under this Act.".

(b) REPEAL OF SECTION 106.—Section 106 (8 U.S.C. 1105a) is repealed.

(c) EFFECTIVE DATE.— 8 USC 1252 note.

(1) IN GENERAL.—Subject to paragraph (2), the amendments made by subsections (a) and (b) shall apply to all final orders of deportation or removal and motions to reopen filed on or after the date of the enactment of this Act and subsection (g) of section 242 of the Immigration and Nationality Act (as added by subsection (a)), shall apply without limitation to claims arising from all past, pending, or future exclusion, deportation, or removal proceedings under such Act.

(2) LIMITATION.—Paragraph (1) shall not be considered to invalidate or to require the reconsideration of any judgment or order entered under section 106 of the Immigration and Nationality Act, as amended by section 440 of Public Law 104–132.

(d) TECHNICAL AMENDMENT.—Effective as if included in the enactment of the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104–132), subsections (a), (c), (d), (g), and (h) of section 440 of such Act are amended by striking "any offense covered by section 241(a)(2)(A)(ii) for which both predicate offenses are covered by section 241(a)(2)(A)(i)" and inserting "any offense covered by section 241(a)(2)(A)(ii) for which both predicate offenses are, without regard to the date of their commission, otherwise covered by section 241(a)(2)(A)(i)". 8 USC 1105a, 1182, 1252, 1252a.

SEC. 307. PENALTIES RELATING TO REMOVAL (REVISED SECTION 243).

(a) IN GENERAL.—Section 243 (8 U.S.C. 1253) is amended to read as follows:

"PENALTIES RELATED TO REMOVAL

"SEC. 243. (a) PENALTY FOR FAILURE TO DEPART.—

"(1) IN GENERAL.—Any alien against whom a final order of removal is outstanding by reason of being a member of any of the classes described in section 237(a), who—

"(A) willfully fails or refuses to depart from the United States within a period of 90 days from the date of the final order of removal under administrative processes, or if judicial review is had, then from the date of the final order of the court,

"(B) willfully fails or refuses to make timely application in good faith for travel or other documents necessary to the alien's departure,

"(C) connives or conspires, or takes any other action, designed to prevent or hamper or with the purpose of preventing or hampering the alien's departure pursuant to such, or

"(D) willfully fails or refuses to present himself or herself for removal at the time and place required by the Attorney General pursuant to such order,

shall be fined under title 18, United States Code, or imprisoned not more than four years (or 10 years if the alien is a member of any of the classes described in paragraph (1)(E), (2), (3), or (4) of section 237(a)), or both.

"(2) EXCEPTION.—It is not a violation of paragraph (1) to take any proper steps for the purpose of securing cancellation of or exemption from such order of removal or for the purpose of securing the alien's release from incarceration or custody.

"(3) SUSPENSION.—The court may for good cause suspend the sentence of an alien under this subsection and order the alien's release under such conditions as the court may prescribe. In determining whether good cause has been shown to justify releasing the alien, the court shall take into account such factors as—

"(A) the age, health, and period of detention of the alien;

"(B) the effect of the alien's release upon the national security and public peace or safety;

"(C) the likelihood of the alien's resuming or following a course of conduct which made or would make the alien deportable;

"(D) the character of the efforts made by such alien himself and by representatives of the country or countries to which the alien's removal is directed to expedite the alien's departure from the United States;

"(E) the reason for the inability of the Government of the United States to secure passports, other travel documents, or removal facilities from the country or countries to which the alien has been ordered removed; and

"(F) the eligibility of the alien for discretionary relief under the immigration laws.

"(b) WILLFUL FAILURE TO COMPLY WITH TERMS OF RELEASE UNDER SUPERVISION.—An alien who shall willfully fail to comply with regulations or requirements issued pursuant to section 241(a)(3) or knowingly give false information in response to an inquiry under such section shall be fined not more than $1,000 or imprisoned for not more than one year, or both.

"(c) PENALTIES RELATING TO VESSELS AND AIRCRAFT.—

"(1) CIVIL PENALTIES.—

"(A) FAILURE TO CARRY OUT CERTAIN ORDERS.—If the Attorney General is satisfied that a person has violated subsection (d) or (e) of section 241, the person shall pay to the Commissioner the sum of $2,000 for each violation.

"(B) FAILURE TO REMOVE ALIEN STOWAWAYS.—If the Attorney General is satisfied that a person has failed to remove an alien stowaway as required under section 241(d)(2), the person shall pay to the Commissioner the sum of $5,000 for each alien stowaway not removed.

"(C) NO COMPROMISE.—The Attorney General may not compromise the amount of such penalty under this paragraph.

"(2) CLEARING VESSELS AND AIRCRAFT.—

"(A) CLEARANCE BEFORE DECISION ON LIABILITY.—A vessel or aircraft may be granted clearance before a decision on liability is made under paragraph (1) only if a bond approved by the Attorney General or an amount sufficient to pay the civil penalty is deposited with the Commissioner.

"(B) PROHIBITION ON CLEARANCE WHILE PENALTY UNPAID.—A vessel or aircraft may not be granted clearance if a civil penalty imposed under paragraph (1) is not paid.

"(d) DISCONTINUING GRANTING VISAS TO NATIONALS OF COUNTRY DENYING OR DELAYING ACCEPTING ALIEN.—On being notified by the Attorney General that the government of a foreign country denies or unreasonably delays accepting an alien who is a citizen, subject, national, or resident of that country after the Attorney General asks whether the government will accept the alien under this section, the Secretary of State shall order consular officers in that foreign country to discontinue granting immigrant visas or nonimmigrant visas, or both, to citizens, subjects, nationals, and residents of that country until the Attorney General notifies the Secretary that the country has accepted the alien.".

SEC. 308. REDESIGNATION AND REORGANIZATION OF OTHER PROVISIONS; ADDITIONAL CONFORMING AMENDMENTS.

(a) CONFORMING AMENDMENT TO TABLE OF CONTENTS; OVERVIEW OF REORGANIZED CHAPTERS.—The table of contents, as amended by sections 123(b) and 671(e)(1) of this division, is amended—

(1) by striking the item relating to section 106, and

(2) by striking the item relating to chapter 4 of title II and all that follows through the item relating to section 244A and inserting the following:

"CHAPTER 4—INSPECTION, APPREHENSION, EXAMINATION, EXCLUSION, AND REMOVAL

"Sec. 231. Lists of alien and citizen passengers arriving or departing; record of resident aliens and citizens leaving permanently for foreign country.

"Sec. 232. Detention of aliens for physical and mental examination.

"Sec. 233. Entry through or from foreign territory and adjacent islands; landing stations.

"Sec. 234. Designation of ports of entry for aliens arriving by civil aircraft.

"Sec. 235. Inspection by immigration officers; expedited removal of inadmissible arriving aliens; referral for hearing.

"Sec. 235A. Preinspection at foreign airports.

"Sec. 236. Apprehension and detention of aliens not lawfully in the United States.

"Sec. 237. General classes of deportable aliens.

"Sec. 238. Expedited removal of aliens convicted of committing aggravated felonies.

"Sec. 239. Initiation of removal proceedings.

"Sec. 240. Removal proceedings.

"Sec. 240A. Cancellation of removal; adjustment of status.

"Sec. 240B. Voluntary departure.

"Sec. 240C. Records of admission.

"Sec. 241. Detention and removal of aliens ordered removed.

"Sec. 242. Judicial review of orders of removal.

"Sec. 243. Penalties relating to removal.

"Sec. 244. Temporary protected status.

"CHAPTER 5—ADJUSTMENT AND CHANGE OF STATUS".

(b) REORGANIZATION OF OTHER PROVISIONS.—Chapters 4 and 5 of title II are amended as follows:

(1) AMENDING CHAPTER HEADING.—Amend the heading for chapter 4 of title II to read as follows:

"CHAPTER 4—INSPECTION, APPREHENSION, EXAMINATION, EXCLUSION, AND REMOVAL".

(2) REDESIGNATING SECTION 232 AS SECTION 232(a).—Amend section 232 (8 U.S.C. 1222)—

(A) by inserting "(a) DETENTION OF ALIENS.—" after "SEC. 232.", and

(B) by amending the section heading to read as follows:

"DETENTION OF ALIENS FOR PHYSICAL AND MENTAL EXAMINATION".

(3) REDESIGNATING SECTION 234 AS SECTION 232(b).—Amend section 234 (8 U.S.C. 1224)—

(A) by striking the heading,

(B) by striking "SEC. 234." and inserting the following: "(b) PHYSICAL AND MENTAL EXAMINATION.—", and

(C) by moving such provision to the end of section 232.

8 USC 1222.

(4) REDESIGNATING SECTION 238 AS SECTION 233.—Redesignate section 238 (8 U.S.C. 1228) as section 233 and move the section to immediately follow section 232.

8 USC 1223.

(5) REDESIGNATING SECTION 242A AS SECTION 238.—Redesignate section 242A as section 238, strike "DEPORTATION" in its heading and insert "REMOVAL", and move the section to immediately follow section 237 (as redesignated by section 305(a)(2)).

8 USC 1228.

(6) STRIKING SECTION 242B.—Strike section 242B (8 U.S.C. 1252b).

(7) STRIKING SECTION 244 AND REDESIGNATING SECTION 244A AS SECTION 244.—Strike section 244 (8 U.S.C. 1254) and redesignate section 244A as section 244.

8 USC 1254a.

(8) AMENDING CHAPTER HEADING.—Amend the heading for chapter 5 of title II to read as follows:

"CHAPTER 5—ADJUSTMENT AND CHANGE OF STATUS".

(c) ADDITIONAL CONFORMING AMENDMENTS.—

(1) EXPEDITED PROCEDURES FOR AGGRAVATED FELONS (FORMER SECTION 242A).—Section 238 (which, previous to redesignation under section 308(b)(5) of this division, was section 242A) is amended—

(A) in subsection (a)(1), by striking "section 242" and inserting "section 240";

(B) in subsection (a)(2), by striking "section 242(a)(2)" and inserting "section 236(c)"; and

(C) in subsection (b)(1), by striking "section 241(a)(2)(A)(iii)" and inserting "section 237(a)(2)(A)(iii)".

(2) TREATMENT OF CERTAIN HELPLESS ALIENS.—

(A) CERTIFICATION OF HELPLESS ALIENS.—Section 232 (8 U.S.C. 1222), as amended by section 308(b)(2) of this division, is further amended by adding at the end the following new subsection:

"(c) CERTIFICATION OF CERTAIN HELPLESS ALIENS.—If an examining medical officer determines that an alien arriving in the United States is inadmissible, is helpless from sickness, mental or physical disability, or infancy, and is accompanied by another alien whose protection or guardianship may be required, the officer may certify such fact for purposes of applying section 212(a)(10)(B) with respect to the other alien.".

(B) GROUND OF INADMISSIBILITY FOR PROTECTION AND GUARDIANSHIP OF ALIENS DENIED ADMISSION FOR HEALTH OR INFANCY.—Subparagraph (B) of section 212(a)(10) (8 U.S.C. 1182(a)(10)), as redesignated by section 301(a)(1) of this division, is amended to read as follows:

"(B) GUARDIAN REQUIRED TO ACCOMPANY HELPLESS ALIEN.—Any alien—

"(i) who is accompanying another alien who is inadmissible and who is certified to be helpless from sickness, mental or physical disability, or infancy pursuant to section 232(c), and

"(ii) whose protection or guardianship is determined to be required by the alien described in clause (i),

is inadmissible.".

(3) CONTINGENT CONSIDERATION IN RELATION TO REMOVAL OF ALIENS.—Section 273(a) (8 U.S.C. 1323(a)) is amended—

(A) by inserting "(1)" after "(a)", and

(B) by adding at the end the following new paragraph:

"(2) It is unlawful for an owner, agent, master, commanding officer, person in charge, purser, or consignee of a vessel or aircraft who is bringing an alien (except an alien crewmember) to the United States to take any consideration to be kept or returned contingent on whether an alien is admitted to, or ordered removed from, the United States.".

(4) CLARIFICATION.—(A) Section 238(a)(1), which, previous to redesignation under section 308(b)(5) of this division, was section 242A(a)(1), is amended by adding at the end the following: "Nothing in this section shall be construed to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.". 8 USC 1228.

(B) Section 225 of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103–416) is amended by striking "and nothing in" and all that follows up to "shall". 8 USC 1101 note.

(d) ADDITIONAL CONFORMING AMENDMENTS RELATING TO EXCLUSION AND INADMISSIBILITY.—

(1) SECTION 212.—Section 212 (8 U.S.C. 1182(a)) is amended—

(A) in the heading, by striking "EXCLUDED FROM" and inserting "INELIGIBLE FOR";

(B) in the matter in subsection (a) before paragraph (1), by striking all that follows "(a)" and inserting the following: "CLASSES OF ALIENS INELIGIBLE FOR VISAS OR ADMISSION.—Except as otherwise provided in this Act, aliens who are inadmissible under the following paragraphs are ineligible to receive visas and ineligible to be admitted to the United States:";

(C) in subsection (a), by striking "is excludable" and inserting "is inadmissible" each place it appears;

(D) in subsections (a)(5)(C) (before redesignation by section 343(c)(1) of this division), (d)(1), and (k), by striking "exclusion" and inserting "inadmissibility";

(E) in subsections (b), (d)(3), (h)(1)(A)(i), and (k), by striking "excludable" each place it appears and inserting "inadmissible";

(F) in subsection (b)(2), by striking "or ineligible for entry";

(G) in subsection (d)(7), by striking "excluded from" and inserting "denied"; and

(H) in subsection (h)(1)(B), by striking "exclusion" and inserting "denial of admission".

(2) SECTION 241.—Section 241 (8 U.S.C. 1251), before redesignation as section 237 by section 305(a)(2) of this division, is amended—

(A) in subsection (a)(1)(H), by striking "excludable" and inserting "inadmissible";

(B) in subsection (a)(4)(C)(ii), by striking "excludability" and inserting "inadmissibility";

(C) in subsection (c), by striking "exclusion" and inserting "inadmissibility"; and

(D) effective upon enactment of this Act, by striking subsection (d), as added by section 414(a) of the Antiterrorism and Effective Death Penalty Act of 1996 (P.L. 104–132).

(3) OTHER GENERAL REFERENCES.—The following provisions are amended by striking "excludability" and "excludable" each place each appears and inserting "inadmissibility" and "inadmissible", respectively:

8 USC 1101, 1183, 1224, 1251, 1322, 1327, 1356.

(A) Sections 101(f)(3), 213, 234 (before redesignation by section 308(b) of this division), 241(a)(1) (before redesignation by section 305(a)(2) of this division), 272(a), 277, 286(h)(2)(A)(v), and 286(h)(2)(A)(vi).

8 USC 1182 note.

(B) Section 601(c) of the Immigration Act of 1990.

8 USC 1182 note.

(C) Section 128 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102–138).

(D) Section 1073 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337).

8 USC 1101 note.

(E) Section 221 of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103–416).

(4) RELATED TERMS.—

(A) Section 101(a)(17) (8 U.S.C. 1101(a)(17)) is amended by striking "or expulsion" and inserting "expulsion, or removal".

(B) Section 102 (8 U.S.C. 1102) is amended by striking "exclusion or deportation" and inserting "removal".

(C) Section 103(c)(2) (8 U.S.C. 1103(c)(2)) is amended by striking "been excluded or deported" and inserting "not been admitted or have been removed".

(D) Section 206 (8 U.S.C. 1156) is amended by striking "excluded from admission to the United States and deported" and inserting "denied admission to the United States and removed".

(E) Section 216(f) (8 U.S.C. 1186a) is amended by striking "exclusion" and inserting "inadmissibility".

(F) Section 217 (8 U.S.C. 1187) is amended by striking "excluded from admission" and inserting "denied admission at the time of arrival" each place it appears.

(G) Section 221(f) (8 U.S.C. 1201) is amended by striking "exclude" and inserting "deny admission to".

(H) Section 232(a) (8 U.S.C. 1222(a)), as redesignated by subsection (b)(2), is amended by striking "excluded by" and "the excluded classes" and inserting "inadmissible under" and "inadmissible classes", respectively.

(I)(i) Section 272 (8 U.S.C. 1322) is amended—

(I) by striking "EXCLUSION" in the heading and inserting "DENIAL OF ADMISSION",

(II) in subsection (a), by striking "excluding condition" and inserting "condition causing inadmissibility", and

(III) in subsection (c), by striking "excluding".

(ii) The item in the table of contents relating to such section is amended by striking "exclusion" and inserting "denial of admission".

(J) Section 276(a) (8 U.S.C. 1326(a)) is amended—

(i) in paragraph (1), as amended by section 324(a) of this division—

(I) by striking "arrested and deported, has been excluded and deported," and inserting "denied admission, excluded, deported, or removed", and

(II) by striking "exclusion or deportation" and inserting "exclusion, deportation, or removal"; and

(ii) in paragraph (2)(B), by striking "excluded and deported" and inserting "denied admission and removed".

(K) Section 286(h)(2)(A)(vi) (8 U.S.C. 1356(h)(2)(A)(vi)) is amended by striking "exclusion" each place it appears and inserting "removal".

(L) Section 287 (8 U.S.C. 1357) is amended—

(i) in subsection (a), by striking "or expulsion" each place it appears and inserting "expulsion, or removal", and

(ii) in subsection (c), by striking "exclusion from" and inserting "denial of admission to".

(M) Section 290(a) (8 U.S.C. 1360(a)) is amended by striking "admitted to the United States, or excluded therefrom" each place it appears and inserting "admitted or denied admission to the United States".

(N) Section 291 (8 U.S.C. 1361) is amended by striking "subject to exclusion" and inserting "inadmissible" each place it appears.

(O) Section 292 (8 U.S.C. 1362) is amended by striking "exclusion or deportation" each place it appears and inserting "removal".

(P) Section 360 (8 U.S.C. 1503) is amended—

(i) in subsection (a), by striking "exclusion" each place it appears and inserting "removal", and

(ii) in subsection (c), by striking "excluded from" and inserting "denied".

(Q) Section 507(b)(2)(D) (8 U.S.C. 1537(b)(2)(D)) is amended by striking "exclusion because such alien is excludable" and inserting "removal because such alien is inadmissible".

8 USC 1255a note.

(R) Section 301(a)(1) of the Immigration Act of 1990 is amended by striking "exclusion" and inserting "inadmissibility".

8 USC 1522 note.

(S) Section 401(c) of the Refugee Act of 1980 is amended by striking "deportation or exclusion" and inserting "removal".

8 USC 1522 note.

(T) Section 501(e)(2) of the Refugee Education Assistance Act of 1980 (Public Law 96–422) is amended—

(i) by striking "exclusion or deportation" each place it appears and inserting "removal", and

(ii) by striking "deportation or exclusion" each place it appears and inserting "removal".

(U) Section 4113(c) of title 18, United States Code, is amended by striking "exclusion and deportation" and inserting "removal".

(5) REPEAL OF SUPERSEDED PROVISION.—Effective as of the date of the enactment of the Antiterrorism and Effective Death Penalty Act of 1996, section 422 of such Act is repealed and the Immigration and Nationality Act shall be applied as if such section had not been enacted.

8 USC 1225, 1225 note, 1227.

(e) REVISION OF TERMINOLOGY RELATING TO DEPORTATION.—

(1) Each of the following is amended by striking "deportation" each place it appears and inserting "removal":

(A) Subparagraphs (A)(iii)(II), (A)(iv)(II), and (B)(iii)(II) of section 204(a)(1) (8 U.S.C. 1154(a)(1)).

(B) Section 212(d)(1) (8 U.S.C. 1182(d)(1)).

(C) Section 212(d)(11) (8 U.S.C. 1182(d)(11)).

(D) Section 214(k)(4)(C) (8 U.S.C. 1184(k)(4)(C)), as redesignated by section 671(a)(3)(A) of this division.

(E) Section 241(a)(1)(H) (8 U.S.C. 1251(a)(1)(H)), before redesignation as section 237 by section 305(a)(2) of this division.

(F) Section 242A (8 U.S.C. 1252a), before redesignation as section 238 by subsection (b)(5).

(G) Subsections (a)(3) and (b)(5)(B) of section 244A (8 U.S.C. 1254a), before redesignation as section 244 by subsection (b)(7).

(H) Section 246(a) (8 U.S.C. 1256(a)).

(I) Section 254 (8 U.S.C. 1284).

(J) Section 263(a)(4) (8 U.S.C. 1303(a)(4)).

(K) Section 276(b) (8 U.S.C. 1326(b)).

(L) Section 286(h)(2)(A)(v) (8 U.S.C. 1356(h)(2)(A)(v)).

(M) Section 287(g) (8 U.S.C. 1357(g)) (as added by section 122 of this division).

(N) Section 291 (8 U.S.C. 1361).

(O) Section 318 (8 U.S.C. 1429).

(P) Section 130005(a) of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322). 8 USC 1158 note.

(Q) Section 4113(b) of title 18, United States Code.

(2) Each of the following is amended by striking "deported" each place it appears and inserting "removed":

(A) Section 212(d)(7) (8 U.S.C. 1182(d)(7)).

(B) Section 214(d) (8 U.S.C. 1184(d)).

(C) Section 241(a) (8 U.S.C. 1251(a)), before redesignation as section 237 by section 305(a)(2) of this division.

(D) Section 242A(c)(2)(D)(iv) (8 U.S.C. 1252a(c)(2)(D)(iv)), as amended by section 671(b)(13) of this division but before redesignation as section 238 by subsection (b)(5).

(E) Section 252(b) (8 U.S.C. 1282(b)).

(F) Section 254 (8 U.S.C. 1284).

(G) Subsections (b) and (c) of section 266 (8 U.S.C. 1306).

(H) Section 301(a)(1) of the Immigration Act of 1990. 8 USC 1225a note.

(I) Section 4113 of title 18, United States Code.

(3) Section 101(g) (8 U.S.C. 1101(g)) is amended by inserting "or removed" after "deported" each place it appears.

(4) Section 103(c)(2) (8 U.S.C. 1103(c)(2)) is amended by striking "suspension of deportation" and inserting "cancellation of removal".

(5) Section 201(b)(1)(D) (8 U.S.C. 1151(b)(1)(D)) is amended by striking "deportation is suspended" and inserting "removal is canceled".

(6) Section 212(l)(2)(B) (8 U.S.C. 1182(l)(2)(B)) is amended by striking "deportation against" and inserting "removal of".

(7) Subsections (b)(2), (c)(2)(B), (c)(3)(D), (c)(4)(A), and (d)(2)(C) of section 216 (8 U.S.C. 1186a) are each amended by striking "DEPORTATION", "deportation", "deport", and "deported" each place each appears and inserting "REMOVAL", "removal", "remove", and "removed", respectively.

(8) Subsections (b)(2), (c)(2)(B), (c)(3)(D), and (d)(2)(C) of section 216A (8 U.S.C. 1186b) are each amended by striking "DEPORTATION", "deportation", "deport", and "deported" and inserting "REMOVAL", "removal", "remove", and "removed", respectively.

(9) Section 217(b)(2) (8 U.S.C. 1187(b)(2)) is amended by striking "deportation against" and inserting "removal of".

(10) Section 242A (8 U.S.C. 1252a), before redesignation as section 238 by subsection (b)(6), is amended, in the headings to various subdivisions, by striking "DEPORTATION" and "DEPORTATION" and inserting "REMOVAL" and "REMOVAL", respectively.

(11) Section 244A(a)(1)(A) (8 U.S.C. 1254a(a)(1)(A)), before redesignation as section 244 by subsection (b)(8), is amended—

(A) in subsection (a)(1)(A), by striking "deport" and inserting "remove", and

(B) in subsection (e), by striking "SUSPENSION OF DEPORTATION" and inserting "CANCELLATION OF REMOVAL".

(12) Section 254 (8 U.S.C. 1284) is amended by striking "deport" each place it appears and inserting "remove".

(13) Section 273(d) (8 U.S.C. 1323(d)) is repealed.

(14)(A) Section 276 (8 U.S.C. 1326) is amended by striking "DEPORTED" and inserting "REMOVED".

(B) The item in the table of contents relating to such section is amended by striking "deported" and inserting "removed".

(15) Section 318 (8 U.S.C. 1429) is amended by striking "suspending" and inserting "canceling".

8 USC 1255a note.

(16) Section 301(a) of the Immigration Act of 1990 is amended by striking "DEPORTATION" and inserting "REMOVAL".

(17) The heading of section 130005 of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322) is amended by striking "**DEPORTATION**" and inserting "**REMOVAL**".

8 USC 1158 note.

(18) Section 9 of the Peace Corps Act (22 U.S.C. 2508) is amended by striking "deported" and all that follows through "Deportation" and inserting "removed pursuant to chapter 4 of title II of the Immigration and Nationality Act".

(19) Section 8(c) of the Foreign Agents Registration Act (22 U.S.C. 618(c)) is amended by striking "deportation" and all that follows and inserting "removal pursuant to chapter 4 of title II of the Immigration and Nationality Act.".

(f) REVISION OF REFERENCES TO ENTRY.—

(1) The following provisions are amended by striking "entry" and inserting "admission" each place it appears:

(A) Section 101(a)(15)(K) (8 U.S.C. 1101(a)(15)(K)).

(B) Section 101(a)(30) (8 U.S.C. 1101(a)(30)).

(C) Section 212(a)(2)(D) (8 U.S.C. 1182(a)(2)(D)).

(D) Section 212(a)(6)(C)(i) (8 U.S.C. 1182(a)(6)(C)(i)).

(E) Section 212(h)(1)(A)(i) (8 U.S.C. 1182(h)(1)(A)(i)).

(F) Section 212(j)(1)(D) (8 U.S.C. 1182(j)(1)(D)).

(G) Section 214(c)(2)(A) (8 U.S.C. 1184(c)(2)(A)).

(H) Section 214(d) (8 U.S.C. 1184(d)).

(I) Section 216(b)(1)(A)(i) (8 U.S.C. 1186a(b)(1)(A)(i)).

(J) Section 216(d)(1)(A)(i)(III) (8 U.S.C. 1186a(d)(1)(A)(i)(III)).

(K) Subsection (b) of section 240 (8 U.S.C. 1230), before redesignation as section 240C by section 304(a)(2) of this division.

(L) Subsection (a)(1)(G) of section 241 (8 U.S.C. 1251), before redesignation as section 237 by section 305(a)(2) of this division.

(M) Subsection (a)(1)(H) of section 241 (8 U.S.C. 1251), before redesignation as section 237 by section 305(a)(2) of this division, other than the last time it appears.

(N) Paragraphs (2) and (4) of subsection (a) of section 241 (8 U.S.C. 1251), before redesignation as section 237 by section 305(a)(2) of this division.

(O) Section 245(e)(3) (8 U.S.C. 1255(e)(3)).

(P) Section 247(a) (8 U.S.C. 1257(a)).

8 USC 1182 note.

(Q) Section 601(c)(2) of the Immigration Act of 1990.

(2) The following provisions are amended by striking "enter" and inserting "be admitted":

(A) Section 204(e) (8 U.S.C. 1154(e)).

(B) Section 221(h) (8 U.S.C. 1201(h)).

(C) Section 245(e)(2) (8 U.S.C. 1255(e)(2)).

(3) The following provisions are amended by striking "enters" and inserting "is admitted to":

8 USC 1182.

(A) Section 212(j)(1)(D)(ii) (8 U.S.C. 1154(e)).

(B) Section 214(c)(5)(B) (8 U.S.C. 1184(c)(5)(B)).

(4) Subsection (a) of section 238 (8 U.S.C. 1228), before redesignation as section 233 by section 308(b)(4) of this division, is amended by striking "entry and inspection" and inserting "inspection and admission".

(5) Subsection (a)(1)(H)(ii) of section 241 (8 U.S.C. 1251), before redesignation as section 237 by section 305(a)(2) of this division, is amended by striking "at entry".

(6) Section 7 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403h) is amended by striking "that the entry", "given entry into", and "entering" and inserting "that the admission", "admitted to", and "admitted to".

(7) Section 4 of the Atomic Weapons and Special Nuclear Materials Rewards Act (50 U.S.C. 47c) is amended by striking "entry" and inserting "admission".

(g) CONFORMING REFERENCES TO REORGANIZED SECTIONS.—

(1) REFERENCES TO SECTIONS 232, 234, 238, 239, 240, 241, 242A, AND 244A.—Any reference in law in effect on the day before the date of the enactment of this Act to section 232, 234, 238, 239, 240, 241, 242A, or 244A of the Immigration and Nationality Act (or a subdivision of such section) is deemed, as of the title III–A effective date, to refer to section 232(a), 232(b), 233, 234, 234A, 237, 238, or 244 of such Act (or the corresponding subdivision of such section), as redesignated by this subtitle. Any reference in law to section 241 (or a subdivision of such section) of the Immigration and Nationality Act in an amendment made by a subsequent subtitle of this title is deemed a reference (as of the title III–A effective date) to section 237 (or the corresponding subdivision of such section), as redesignated by this subtitle.

8 USC 1182, 1221, 1224 note, 1252a, 1254a note, 1255a note, 1321, 1356, 1364, 1531; 42 USC 402.

(2) REFERENCES TO SECTION 106.—

(A) Sections 242A(b)(3) and 242A(c)(3)(A)(ii) (8 U.S.C. 1252a(b)(3), 1252a(c)(3)(A)(ii)), as amended by section 671(b)(13) of this division but before redesignation as section 238 by subsection (b)(5), are each amended by striking "106" and inserting "242".

(B) Sections 210(e)(3)(A) and 245A(f)(4)(A) (8 U.S.C. 1160(e)(3)(A), 1255a(f)(4)(A)) are amended by inserting "(as in effect before October 1, 1996)" after "106".

(C) Section 242A(c)(3)(A)(iii) (8 U.S.C. 1252a(c)(3)(A)(iii)), as amended by section 671(b)(13) of this division but before redesignation as section 238 by subsection (b)(5), is amended by striking "106(a)(1)" and inserting "242(b)(1)".

(3) REFERENCES TO SECTION 236.—

(A) Sections 205 and 209(a)(1) (8 U.S.C. 1155, 1159(a)(1)) are each amended by striking "236" and inserting "240".

(B) Section 4113(c) of title 18, United States Code, is amended by striking "1226 of title 8, United States Code" and inserting "240 of the Immigration and Nationality Act".

(4) REFERENCES TO SECTION 237.—

(A) Section 209(a)(1) (8 U.S.C. 1159(a)(1)) is amended by striking "237" and inserting "241".

(B) Section 212(d)(7) (8 U.S.C. 1182(d)(7)) is amended by striking "237(a)" and inserting "241(c)".

(C) Section 280(a) (8 U.S.C. 1330(a)) is amended by striking "237, 239, 243" and inserting "234, 243(c)(2)".

(5) REFERENCES TO SECTION 242.—

(A)(i) Sections 214(d), 252(b), and 287(f)(1) (8 U.S.C. 1184(d), 1282(b), 1357(f)(1)) are each amended by striking "242" and inserting "240".

(ii) Subsection (c)(4) of section 242A (8 U.S.C. 1252a), as amended by section 671(b)(13) of this division but before redesignation as section 238 by subsection (b)(5), are each amended by striking "242" and inserting "240".

(iii) Section 245A(a)(1)(B) (8 U.S.C. 1255a(a)(1)(B)) is amended by inserting "(as in effect before October 1, 1996)" after "242".

(iv) Section 4113 of title 18, United States Code, is amended—

(I) in subsection (a), by striking "section 1252(b) or section 1254(e) of title 8, United States Code," and inserting "section 240B of the Immigration and Nationality Act"; and

(II) in subsection (b), by striking "section 1252 of title 8, United States Code," and inserting "section 240 of the Immigration and Nationality Act".

8 USC 1252 note.

(B) Section 130002(a) of Public Law 103–322, as amended by section 345 of this division, is amended by striking "242(a)(3)(A)" and inserting "236(d)".

(C) Section 242A(b)(1) (8 U.S.C. 1252a(b)(1)), before redesignation as section 238 by section 308(b)(5) of this division, is amended by striking "242(b)" and inserting "240".

(D) Section 242A(c)(2)(D)(ii) (8 U.S.C. 1252a(c)(2)(D)(ii)), as amended by section 671(b)(13) of this division but before redesignation as section 238 by subsection (b)(5), is amended by striking "242(b)" and inserting "240".

(E) Section 1821(e) of title 28, United States Code, is amended by striking "242(b)" and inserting "240".

8 USC 1252 note.

(F) Section 130007(a) of Public Law 103–322 is amended by striking "242(i)" and inserting "239(d)".

8 USC 1252 note.

(G) Section 20301(c) of Public Law 103–322 is amended by striking "242(j)(5)" and "242(j)" and inserting "241(h)(5)" and "241(h)", respectively.

(6) REFERENCES TO SECTION 242B.—

8 USC 1254a note.

(A) Section 303(d)(2) of the Immigration Act of 1990 is amended by striking "242B" and inserting "240(b)(5)".

8 USC 1254b note.

(B) Section 545(g)(1)(B) of the Immigration Act of 1990 is amended by striking "242B(a)(4)" and inserting "239(a)(4)".

(7) REFERENCES TO SECTION 243.—

(A) Section 214(d) (8 U.S.C. 1184(d)) is amended by striking "243" and inserting "241".

(B) Section 504(k)(2) (8 U.S.C. 1534(k)(2)) is amended by striking "withholding of deportation under section 243(h)" and inserting "by withholding of removal under section 241(b)(3)".

8 USC 1253 note.

(C)(i) Section 315(c) of the Immigration Reform and Control Act of 1986 is amended by striking "243(g)" and "1253(g)"and inserting "243(d)" and "1253(d)" respectively.

(ii) Section 702(b) of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1988 is amended by striking "243(g)" and inserting "243(d)". 8 USC 1201 note.

(iii) Section 903(b) of Public Law 100–204 is amended by striking "243(g)" and inserting "243(d)". 8 USC 1201 note.

(D)(i) Section 6(f)(2)(F) of the Food Stamp Act of 1977 (7 U.S.C. 2015(f)(2)(F)) is amended by striking "243(h)" and inserting "241(b)(3)".

(ii) Section 214(a)(5) of the Housing and Community Development Act of 1980 (42 U.S.C. 1436a(a)(5)) is amended by striking "243(h)" and inserting "241(b)(3)".

(E)(i) Subsection (c)(2)(B)(ii) of section 244A (8 U.S.C. 1254a), before redesignated as section 244 by section 308(b)(7), is amended by striking "243(h)(2)" and inserting "208(b)(2)(A)".

(ii) Section 301(e)(2) of the Immigration Act of 1990 is amended by striking "243(h)(2)" and inserting "208(b)(2)(A)". 8 USC 1255a note.

(F) Section 316(f) (8 U.S.C. 1427(f)) is amended by striking "subparagraphs (A) through (D) of paragraph 243(h)(2)" and inserting "clauses (i) through (v) of section 208(b)(2)(A)".

(8) REFERENCES TO SECTION 244.—

(A)(i) Section 201(b)(1)(D) (8 U.S.C. 1151(b)(1)(D)) and subsection (e) of section 244A (8 U.S.C. 1254a), before redesignation as section 244 by section 308(b)(7) of this division, are each amended by striking "244(a)" and inserting "240A(a)".

(ii) Section 304(c)(1)(B) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (Public Law 102–232) is amended by striking "244(a)" and inserting "240A(a)". 8 USC 1254a note.

(B) Section 504(k)(3) (8 U.S.C. 1534(k)(3)) is amended by striking "suspension of deportation under subsection (a) or (e) of section 244" and inserting "cancellation of removal under section 240A".

(C) Section 304(c)(1)(B) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (Public Law 102–232) is amended by striking "244(b)(2)" and inserting "240A(b)(2)". 8 USC 1254a note.

(D) Section 364(a)(2) of this division is amended by striking "244(a)(3)" and inserting "240A(a)(3)". 8 USC 1367.

(E) Section 431(c)(1)(B)(iii) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, as added by section 501 of this division, is amended by striking "suspension of deportation and adjustment of status pursuant to section 244(a)(3) of such Act" and inserting "cancellation of removal under section 240A of such Act". 8 USC 1641.

(9) REFERENCES TO CHAPTER 5.—

(A) Sections 266(b), 266(c), and 291 (8 U.S.C. 1306(b), 1306(c), 1361) are each amended by striking "chapter 5" and inserting "chapter 4".

(B) Section 6(b) of the Act of August 1, 1956 (50 U.S.C. 855(b)) is amended by striking "chapter 5, title II, of the

Immigration and Nationality Act (66 Stat. 163)" and inserting "chapter 4 of title II of the Immigration and Nationality Act".

(10) MISCELLANEOUS CROSS-REFERENCE CORRECTIONS FOR NEWLY ADDED PROVISIONS.—

8 USC 1182. (A) Section 212(h), as amended by section 301(h) of this division, is amended by striking "section 212(c)" and inserting "paragraphs (1) and (2) of section 240A(a)".

8 USC 1255. (B) Section 245(c)(6), as amended by section 332(d) of this division, is amended by striking "241(a)(4)(B)" and inserting "237(a)(4)(B)".

8 USC 1259. (C) Section 249(d), as amended by section 332(e) of this division, is amended by striking "241(a)(4)(B)" and inserting "237(a)(4)(B)".

8 USC 1324c. (D) Section 274C(d)(7), as added by section 212(d) of this division, is amended by striking "withholding of deportation under section 243(h)" and inserting "withholding of removal under section 241(b)(3)".

(E) Section 3563(b)(21) of title 18, United States Code, as inserted by section 374(b) of this division, is amended by striking "242A(d)(5)" and inserting "238(d)(5)".

8 USC 1252 note. (F) Section 130007(a) of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322), as amended by section 671(a)(6) of this division, is amended by striking "242A(a)(3)" and inserting "238(a)(3)".

8 USC 1368. (G) Section 386(b) of this division is amended by striking "excludable" and "EXCLUDABLE" and inserting "inadmissible" and "INADMISSIBLE", respectively, each place each appears.

(H) Subsections (a), (c), (d), (g), and (h) of section 440 of the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104–132), as amended by section 306(d) of this division, are amended by striking "241(a)(2)(A)(ii)" and "241(a)(2)(A)(i)" and inserting "237(a)(2)(A)(ii)" and "237(a)(2)(A)(i)", respectively.

8 USC 1105a, 1182, 1252, 1252a.

SEC. 309. EFFECTIVE DATES; TRANSITION.

8 USC 1101 note. (a) IN GENERAL.—Except as provided in this section and sections 303(b)(2), 306(c), 308(d)(2)(D), or 308(d)(5) of this division, this subtitle and the amendments made by this subtitle shall take effect on the first day of the first month beginning more than 180 days after the date of the enactment of this Act (in this title referred to as the "title III–A effective date").

(b) PROMULGATION OF REGULATIONS.—The Attorney General shall first promulgate regulations to carry out this subtitle by not later than 30 days before the title III–A effective date.

(c) TRANSITION FOR ALIENS IN PROCEEDINGS.—

(1) GENERAL RULE THAT NEW RULES DO NOT APPLY.—Subject to the succeeding provisions of this subsection, in the case of an alien who is in exclusion or deportation proceedings as of the title III–A effective date—

(A) the amendments made by this subtitle shall not apply, and

(B) the proceedings (including judicial review thereof) shall continue to be conducted without regard to such amendments.

(2) ATTORNEY GENERAL OPTION TO ELECT TO APPLY NEW PROCEDURES.—In a case described in paragraph (1) in which an evidentiary hearing under section 236 or 242 and 242B of the Immigration and Nationality Act has not commenced as of the title III–A effective date, the Attorney General may elect to proceed under chapter 4 of title II of such Act (as amended by this subtitle). The Attorney General shall provide notice of such election to the alien involved not later than 30 days before the date any evidentiary hearing is commenced. If the Attorney General makes such election, the notice of hearing provided to the alien under section 235 or 242(a) of such Act shall be valid as if provided under section 239 of such Act (as amended by this subtitle) to confer jurisdiction on the immigration judge.

(3) ATTORNEY GENERAL OPTION TO TERMINATE AND REINITIATE PROCEEDINGS.—In the case described in paragraph (1), the Attorney General may elect to terminate proceedings in which there has not been a final administrative decision and to reinitiate proceedings under chapter 4 of title II the Immigration and Nationality Act (as amended by this subtitle). Any determination in the terminated proceeding shall not be binding in the reinitiated proceeding.

(4) TRANSITIONAL CHANGES IN JUDICIAL REVIEW.—In the case described in paragraph (1) in which a final order of exclusion or deportation is entered more than 30 days after the date of the enactment of this Act, notwithstanding any provision of section 106 of the Immigration and Nationality Act (as in effect as of the date of the enactment of this Act) to the contrary—

(A) in the case of judicial review of a final order of exclusion, subsection (b) of such section shall not apply and the action for judicial review shall be governed by the provisions of subsections (a) and (c) of such in the same manner as they apply to judicial review of orders of deportation;

(B) a court may not order the taking of additional evidence under section 2347(c) of title 28, United States Code;

(C) the petition for judicial review must be filed not later than 30 days after the date of the final order of exclusion or deportation;

(D) the petition for review shall be filed with the court of appeals for the judicial circuit in which the administrative proceedings before the special inquiry officer or immigration judge were completed;

(E) there shall be no appeal of any discretionary decision under section 212(c), 212(h), 212(i), 244, or 245 of the Immigration and Nationality Act (as in effect as of the date of the enactment of this Act);

(F) service of the petition for review shall not stay the deportation of an alien pending the court's decision on the petition, unless the court orders otherwise; and

(G) there shall be no appeal permitted in the case of an alien who is inadmissible or deportable by reason of having committed a criminal offense covered in section 212(a)(2) or section 241(a)(2)(A)(iii), (B), (C), or (D) of the Immigration and Nationality Act (as in effect as of the

date of the enactment of this Act), or any offense covered by section 241(a)(2)(A)(ii) of such Act (as in effect on such date) for which both predicate offenses are, without regard to their date of commission, otherwise covered by section 241(a)(2)(A)(i) of such Act (as so in effect).

(5) TRANSITIONAL RULE WITH REGARD TO SUSPENSION OF DEPORTATION.—Paragraphs (1) and (2) of section 240A(d) of the Immigration and Nationality Act (relating to continuous residence or physical presence) shall apply to notices to appear issued before, on, or after the date of the enactment of this Act.

(6) TRANSITION FOR CERTAIN FAMILY UNITY ALIENS.—The Attorney General may waive the application of section 212(a)(9) of the Immigration and Nationality Act, as inserted by section 301(b)(1) of this division, in the case of an alien who is provided benefits under the provisions of section 301 of the Immigration Act of 1990 (relating to family unity).

(7) LIMITATION ON SUSPENSION OF DEPORTATION.—The Attorney General may not suspend the deportation and adjust the status under section 244 of the Immigration and Nationality Act of more than 4,000 aliens in any fiscal year (beginning after the date of the enactment of this Act). The previous sentence shall apply regardless of when an alien applied for such suspension and adjustment.

(d) TRANSITIONAL REFERENCES.—For purposes of carrying out the Immigration and Nationality Act, as amended by this subtitle—

(1) any reference in section 212(a)(1)(A) of such Act to the term "inadmissible" is deemed to include a reference to the term "excludable", and

(2) any reference in law to an order of removal shall be deemed to include a reference to an order of exclusion and deportation or an order of deportation.

(e) TRANSITION.—No period of time before the date of the enactment of this Act shall be included in the period of 1 year described in section 212(a)(6)(B)(i) of the Immigration and Nationality Act (as amended by section 301(c) of this division).

Subtitle B—Criminal Alien Provisions

SEC. 321. AMENDED DEFINITION OF AGGRAVATED FELONY.

(a) IN GENERAL.—Section 101(a)(43) (8 U.S.C. 1101(a)(43)), as amended by section 441(e) of the Antiterrorism and Effective Death Penalty Act of 1996 (P.L. 104–132), is amended—

(1) in subparagraph (A), by inserting ", rape, or sexual abuse of a minor" after "murder";

(2) in subparagraph (D), by striking "$100,000" and inserting "$10,000";

(3) in subparagraphs (F), (G), (N), and (P), by striking "is at least 5 years" each place it appears and inserting "at least one year";

(4) in subparagraph (J), by striking "sentence of 5 years' imprisonment" and inserting "sentence of one year imprisonment";

(5) in subparagraph (K)(ii), by inserting "if committed" before "for commercial advantage";

(6) in subparagraph (L)—

(A) by striking "or" at the end of clause (i),
(B) by inserting "or" at the end of clause (ii), and
(C) by adding at the end the following new clause:
"(iii) section 601 of the National Security Act of 1947 (relating to protecting the identity of undercover agents);";

(7) in subparagraph (M), by striking "$200,000" each place it appears and inserting "$10,000";

(8) in subparagraph (N), by striking "for which the term" and all that follows and inserting the following: ", except in the case of a first offense for which the alien has affirmatively shown that the alien committed the offense for the purpose of assisting, abetting, or aiding only the alien's spouse, child, or parent (and no other individual) to violate a provision of this Act";

(9) in subparagraph (P), by striking "18 months" and inserting "12 months, except in the case of a first offense for which the alien has affirmatively shown that the alien committed the offense for the purpose of assisting, abetting, or aiding only the alien's spouse, child, or parent (and no other individual) to violate a provision of this Act";

(10) in subparagraph (R), by striking "for which a sentence of 5 years' imprisonment or more may be imposed" and inserting "for which the term of imprisonment is at least one year"; and

(11) in subparagraph (S), by striking "for which a sentence of 5 years' imprisonment or more may be imposed" and inserting "for which the term of imprisonment is at least one year".

(b) EFFECTIVE DATE OF DEFINITION.—Section 101(a)(43) (8 U.S.C. 1101(a)(43)) is amended by adding at the end the following new sentence: "Notwithstanding any other provision of law (including any effective date), the term applies regardless of whether the conviction was entered before, on, or after the date of enactment of this paragraph.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to actions taken on or after the date of the enactment of this Act, regardless of when the conviction occurred, and shall apply under section 276(b) of the Immigration and Nationality Act only to violations of section 276(a) of such Act occurring on or after such date. 8 USC 1101 note.

SEC. 322. DEFINITION OF CONVICTION AND TERM OF IMPRISONMENT.

(a) DEFINITION.—

(1) IN GENERAL.—Section 101(a) (8 U.S.C. 1101(a)) is amended by adding at the end the following new paragraph:

"(48)(A) The term 'conviction' means, with respect to an alien, a formal judgment of guilt of the alien entered by a court or, if adjudication of guilt has been withheld, where—

"(i) a judge or jury has found the alien guilty or the alien has entered a plea of guilty or nolo contendere or has admitted sufficient facts to warrant a finding of guilt, and

"(ii) the judge has ordered some form of punishment, penalty, or restraint on the alien's liberty to be imposed.

"(B) Any reference to a term of imprisonment or a sentence with respect to an offense is deemed to include the period of incarceration or confinement ordered by a court of law regardless of

any suspension of the imposition or execution of that imprisonment or sentence in whole or in part.".

(2) CONFORMING AMENDMENTS.—

(A) Section 101(a)(43) (8 U.S.C. 1101(a)(43)) is amended by striking "imposed (regardless of any suspension of imprisonment)" each place it appears in subparagraphs (F), (G), (N), and (P).

(B) Section 212(a)(2)(B) (8 U.S.C. 1182(a)(2)(B)) is amended by striking "actually imposed".

(b) REFERENCE TO PROOF PROVISIONS.—For provisions relating to proof of convictions, see subparagraphs (B) and (C) of section 240(c)(3) of the Immigration and Nationality Act, as inserted by section 304(a)(3) of this division.

8 USC 1101 note.

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to convictions and sentences entered before, on, or after the date of the enactment of this Act. Subparagraphs (B) and (C) of section 240(c)(3) of the Immigration and Nationality Act, as inserted by section 304(a)(3) of this division, shall apply to proving such convictions.

SEC. 323. AUTHORIZING REGISTRATION OF ALIENS ON CRIMINAL PROBATION OR CRIMINAL PAROLE.

Section 263(a) (8 U.S.C. 1303(a)) is amended by striking "and (5)" and inserting "(5) aliens who are or have been on criminal probation or criminal parole within the United States, and (6)".

SEC. 324. PENALTY FOR REENTRY OF DEPORTED ALIENS.

(a) IN GENERAL.—Section 276(a)(1) (8 U.S.C. 1326(a)(1)) is amended to read as follows:

"(1) has been arrested and deported, has been excluded and deported, or has departed the United States while an order of exclusion or deportation is outstanding, and thereafter".

(b) TREATMENT OF STIPULATIONS.—The last sentence of section 276(b) (8 U.S.C. 1326(b)) is amended by inserting "(or not during)" after "during".

8 USC 1326 note.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to departures that occurred before, on, or after the date of the enactment of this Act, but only with respect to entries (and attempted entries) occurring on or after such date.

SEC. 325. CHANGE IN FILING REQUIREMENT.

Section 2424 of title 18, United States Code, is amended—

(1) in the first undesignated paragraph of subsection (a)—

(A) by striking "alien" each place it appears;

(B) by inserting after "individual" the first place it appears the following: ", knowing or in reckless disregard of the fact that the individual is an alien"; and

(C) by striking "within three years after that individual has entered the United States from any country, party to the arrangement adopted July 25, 1902, for the suppression of the white-slave traffic";

(2) in the second undesignated paragraph of subsection (a)—

(A) by striking "thirty" and inserting "five business"; and

(B) by striking "within three years after that individual has entered the United States from any country, party

to the said arrangement for the suppression of the white-slave traffic,"; and

(3) in the text following the third undesignated paragraph of subsection (a), by striking "two" and inserting "10".

SEC. 326. CRIMINAL ALIEN IDENTIFICATION SYSTEM.

Subsection (a) of section 130002 of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322), as amended by section 432 of Public Law 104–132, is amended to read as follows: 8 USC 1252 note.

"(a) OPERATION AND PURPOSE.—The Commissioner of Immigration and Naturalization shall, under the authority of section 242(a)(3)(A) of the Immigration and Nationality Act operate a criminal alien identification system. The criminal alien identification system shall be used to assist Federal, State, and local law enforcement agencies in identifying and locating aliens who may be subject to removal by reason of their conviction of aggravated felonies, subject to prosecution under section 275 of such Act, not lawfully present in the United States, or otherwise removable. Such system shall include providing for recording of fingerprint records of aliens who have been previously arrested and removed into appropriate automated fingerprint identification systems.".

SEC. 327. APPROPRIATIONS FOR CRIMINAL ALIEN TRACKING CENTER.

Section 130002(b) of the Violent Crime Control and Law Enforcement Act of 1994 (8 U.S.C. 1252 note) is amended—

(1) by inserting "and" after "1996;", and

(2) by striking paragraph (2) and all that follows through the period at the end and inserting the following:

"(2) $5,000,000 for each of fiscal years 1997 through 2001.".

SEC. 328. PROVISIONS RELATING TO STATE CRIMINAL ALIEN ASSISTANCE PROGRAM.

(a) MODIFICATION OF AUTHORITY.—

(1) IN GENERAL.—Section 241(i), as redesignated by section 306(a)(1) of this division, is amended— 8 USC 1231.

(A) in paragraph (3)(A), by striking "felony and sentenced to a term of imprisonment" and inserting "felony or two or more misdemeanors", and

(B) by adding at the end the following new paragraph:

"(6) To the extent of available appropriations, funds otherwise made available under this section with respect to a State (or political subdivision, including a municipality) for incarceration of an undocumented criminal alien may, at the discretion of the recipient of the funds, be used for the costs of imprisonment of such alien in a State, local, or municipal prison or jail.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply beginning with fiscal year 1997. 8 USC 1231 note.

(b) SENSE OF THE CONGRESS WITH RESPECT TO PROGRAM.—

(1) FINDINGS.—The Congress finds as follows:

(A) Of the $130,000,000 appropriated in fiscal year 1995 for the State Criminal Alien Assistance Program, the Department of Justice disbursed the first $43,000,000 to States on October 6, 1994, 32 days before the 1994 general election, and then failed to disburse the remaining $87,000,000 until January 31, 1996, 123 days after the end of fiscal year 1995.

(B) While H.R. 2880, the continuing appropriation measure funding certain operations of the Federal Government from January 26, 1996 to March 15, 1996, included $66,000,000 to reimburse States for the cost of incarcerating documented illegal immigrant felons, the Department of Justice failed to disburse any of the funds to the States during the period of the continuing appropriation.

(2) SENSE OF THE CONGRESS.—It is the sense of the Congress that—

(A) the Department of Justice was disturbingly slow in disbursing fiscal year 1995 funds under the State Criminal Alien Assistance Program to States after the initial grants were released just prior to the 1994 election; and

(B) the Attorney General should make it a high priority to expedite the disbursement of Federal funds intended to reimburse States for the cost of incarcerating illegal immigrants, aiming for all State Criminal Alien Assistance Program funds to be disbursed during the fiscal year for which they are appropriated.

SEC. 329. DEMONSTRATION PROJECT FOR IDENTIFICATION OF ILLEGAL ALIENS IN INCARCERATION FACILITY OF ANAHEIM, CALIFORNIA.

(a) AUTHORITY.—The Attorney General shall conduct a project demonstrating the feasibility of identifying, from among the individuals who are incarcerated in local governmental prison facilities prior to arraignment on criminal charges, those individuals who are aliens unlawfully present in the United States.

(b) DESCRIPTION OF PROJECT.—The project authorized by subsection (a) shall include—

(1) the detail to incarceration facilities within the city of Anaheim, California and the county of Ventura, California, of an employee of the Immigration and Naturalization Service who has expertise in the identification of aliens unlawfully in the United States, and

(2) provision of funds sufficient to provide for—

(A) access for such employee to records of the Service necessary to identify such aliens, and

(B) in the case of an individual identified as such an alien, pre-arraignment reporting to the court regarding the Service's intention to remove the alien from the United States.

(c) TERMINATION.—The authority under this section shall cease to be effective 6 months after the date of the enactment of this Act.

18 USC 4100 note.

SEC. 330. PRISONER TRANSFER TREATIES.

(a) NEGOTIATIONS WITH OTHER COUNTRIES.—(1) Congress advises the President to begin to negotiate and renegotiate, not later than 90 days after the date of enactment of this Act, bilateral prisoner transfer treaties, providing for the incarceration, in the country of the alien's nationality, of any alien who—

(A) is a national of a country that is party to such a treaty; and

(B) has been convicted of a criminal offense under Federal or State law and who—

(i) is not in lawful immigration status in the United States, or

(ii) on the basis of conviction for a criminal offense under Federal or State law, or on any other basis, is subject to deportation or removal under the Immigration and Nationality Act,

for the duration of the prison term to which the alien was sentenced for the offense referred to in subparagraph (B). Any such agreement may provide for the release of such alien pursuant to parole procedures of that country.

(2) In entering into negotiations under paragraph (1), the President may consider providing for appropriate compensation, subject to the availability of appropriations, in cases where the United States is able to independently verify the adequacy of the sites where aliens will be imprisoned and the length of time the alien is actually incarcerated in the foreign country under such a treaty.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that—

(1) the focus of negotiations for such agreements should be—

(A) to expedite the transfer of aliens unlawfully in the United States who are (or are about to be) incarcerated in United States prisons,

(B) to ensure that a transferred prisoner serves the balance of the sentence imposed by the United States courts,

(C) to eliminate any requirement of prisoner consent to such a transfer, and

(D) to allow the Federal Government or the States to keep their original prison sentences in force so that transferred prisoners who return to the United States prior to the completion of their original United States sentences can be returned to custody for the balance of their prisons sentences;

(2) the Secretary of State should give priority to concluding an agreement with any country for which the President determines that the number of aliens described in subsection (a) who are nationals of that country in the United States represents a significant percentage of all such aliens in the United States; and

(3) no new treaty providing for the transfer of aliens from Federal, State, or local incarceration facilities to a foreign incarceration facility should permit the alien to refuse the transfer.

(c) PRISONER CONSENT.—Notwithstanding any other provision of law, except as required by treaty, the transfer of an alien from a Federal, State, or local incarceration facility under an agreement of the type referred to in subsection (a) shall not require consent of the alien.

(d) ANNUAL REPORT.—Not later than 90 days after the date of the enactment of this Act, and annually thereafter, the Attorney General shall submit a report to the Committees on the Judiciary of the House of Representatives and of the Senate stating whether each prisoner transfer treaty to which the United States is a party has been effective in the preceding 12 months in bringing about the return of deportable incarcerated aliens to the country of which they are nationals and in ensuring that they serve the balance of their sentences.

(e) TRAINING FOREIGN LAW ENFORCEMENT PERSONNEL.—(1) Subject to paragraph (2), the President shall direct the Border Patrol Academy and the Customs Service Academy to enroll for

training an appropriate number of foreign law enforcement personnel, and shall make appointments of foreign law enforcement personnel to such academies, as necessary to further the following United States law enforcement goals:

(A) Preventing of drug smuggling and other cross-border criminal activity.

(B) Preventing illegal immigration.

(C) Preventing the illegal entry of goods into the United States (including goods the sale of which is illegal in the United States, the entry of which would cause a quota to be exceeded, or the appropriate duty or tariff for which has not been paid).

(2) The appointments described in paragraph (1) shall be made only to the extent there is capacity in such academies beyond what is required to train United States citizens needed in the Border Patrol and Customs Service, and only of personnel from a country with which the prisoner transfer treaty has been stated to be effective in the most recent report referred to in subsection (d).

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 331. PRISONER TRANSFER TREATIES STUDY.

(a) REPORT TO CONGRESS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of State and the Attorney General shall submit to the Committees on the Judiciary of the House of Representatives and of the Senate a report that describes the use and effectiveness of the prisoner transfer treaties with the three countries with the greatest number of their nationals incarcerated in the United States in removing from the United States such incarcerated nationals.

(b) USE OF TREATY.—The report under subsection (a) shall include—

(1) the number of aliens convicted of a criminal offense in the United States since November 30, 1977, who would have been or are eligible for transfer pursuant to the treaties;

(2) the number of aliens described in paragraph (1) who have been transferred pursuant to the treaties;

(3) the number of aliens described in paragraph (2) who have been incarcerated in full compliance with the treaties;

(4) the number of aliens who are incarcerated in a penal institution in the United States who are eligible for transfer pursuant to the treaties; and

(5) the number of aliens described in paragraph (4) who are incarcerated in Federal, State, and local penal institutions in the United States.

(c) RECOMMENDATIONS.—The report under subsection (a) shall include the recommendations of the Secretary of State and the Attorney General to increase the effectiveness and use of, and full compliance with, the treaties. In considering the recommendations under this subsection, the Secretary and the Attorney General shall consult with such State and local officials in areas disproportionately impacted by aliens convicted of criminal offenses as the Secretary and the Attorney General consider appropriate. Such recommendations shall address—

(1) changes in Federal laws, regulations, and policies affecting the identification, prosecution, and deportation of aliens who have committed criminal offenses in the United States;

(2) changes in State and local laws, regulations, and policies affecting the identification, prosecution, and deportation of aliens who have committed a criminal offense in the United States;

(3) changes in the treaties that may be necessary to increase the number of aliens convicted of criminal offenses who may be transferred pursuant to the treaties;

(4) methods for preventing the unlawful reentry into the United States of aliens who have been convicted of criminal offenses in the United States and transferred pursuant to the treaties;

(5) any recommendations by appropriate officials of the appropriate government agencies of such countries regarding programs to achieve the goals of, and ensure full compliance with, the treaties;

(6) whether the recommendations under this subsection require the renegotiation of the treaties; and

(7) the additional funds required to implement each recommendation under this subsection.

SEC. 332. ANNUAL REPORT ON CRIMINAL ALIENS. 8 USC 1366.

Not later than 12 months after the date of the enactment of this Act, and annually thereafter, the Attorney General shall submit to the Committees on the Judiciary of the House of Representatives and of the Senate a report detailing—

(1) the number of illegal aliens incarcerated in Federal and State prisons for having committed felonies, stating the number incarcerated for each type of offense;

(2) the number of illegal aliens convicted of felonies in any Federal or State court, but not sentenced to incarceration, in the year before the report was submitted, stating the number convicted for each type of offense;

(3) programs and plans underway in the Department of Justice to ensure the prompt removal from the United States of criminal aliens subject to removal; and

(4) methods for identifying and preventing the unlawful reentry of aliens who have been convicted of criminal offenses in the United States and removed from the United States.

SEC. 333. PENALTIES FOR CONSPIRING WITH OR ASSISTING AN ALIEN TO COMMIT AN OFFENSE UNDER THE CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT. 28 USC 994 note.

(a) REVIEW OF GUIDELINES.—Not later than 6 months after the date of the enactment of this Act, the United States Sentencing Commission shall conduct a review of the guidelines applicable to an offender who conspires with, or aids or abets, a person who is not a citizen or national of the United States in committing any offense under section 1010 of the Controlled Substance Import and Export Act (21 U.S.C. 960).

(b) REVISION OF GUIDELINES.—Following such review, pursuant to section 994(p) of title 28, United States Code, the Commission shall promulgate sentencing guidelines or amend existing sentencing guidelines to ensure an appropriately stringent sentence for such offenders.

28 USC 994 note.

SEC. 334. ENHANCED PENALTIES FOR FAILURE TO DEPART, ILLEGAL REENTRY, AND PASSPORT AND VISA FRAUD.

(a) FAILING TO DEPART.—The United States Sentencing Commission shall promptly promulgate, pursuant to section 994 of title 28, United States Code, amendments to the sentencing guidelines to make appropriate increases in the base offense level for offenses under section 242(e) and 276(b) of the Immigration and Nationality Act (8 U.S.C. 1252(e) and 1326(b)) to reflect the amendments made by section 130001 of the Violent Crime Control and Law Enforcement Act of 1994.

(b) PASSPORT AND VISA OFFENSES.—The United States Sentencing Commission shall promptly promulgate, pursuant to section 994 of title 28, United States Code, amendments to the sentencing guidelines to make appropriate increases in the base offense level for offenses under chapter 75 of title 18, United States Code to reflect the amendments made by section 130009 of the Violent Crime Control and Law Enforcement Act of 1994.

Subtitle C—Revision of Grounds for Exclusion and Deportation

SEC. 341. PROOF OF VACCINATION REQUIREMENT FOR IMMIGRANTS.

(a) IN GENERAL.—Section 212(a)(1)(A) (8 U.S.C. 1182(a)(1)(A)) is amended—

(1) by redesignating clauses (ii) and (iii) as clauses (iii) and (iv), respectively, and

(2) by inserting after clause (i) the following new clause:

"(ii) who seeks admission as an immigrant, or who seeks adjustment of status to the status of an alien lawfully admitted for permanent residence, and who has failed to present documentation of having received vaccination against vaccine-preventable diseases, which shall include at least the following diseases: mumps, measles, rubella, polio, tetanus and diphtheria toxoids, pertussis, influenza type B and hepatitis B, and any other vaccinations against vaccine-preventable diseases recommended by the Advisory Committee for Immunization Practices,".

(b) WAIVER.—Section 212(g) (8 U.S.C. 1182(g)) is amended by striking ", or" at the end of paragraph (1) and all that follows and inserting a semicolon and the following:

"in accordance with such terms, conditions, and controls, if any, including the giving of bond, as the Attorney General, in the discretion of the Attorney General after consultation with the Secretary of Health and Human Services, may by regulation prescribe;

"(2) subsection (a)(1)(A)(ii) in the case of any alien—

"(A) who receives vaccination against the vaccine-preventable disease or diseases for which the alien has failed to present documentation of previous vaccination,

"(B) for whom a civil surgeon, medical officer, or panel physician (as those terms are defined by section 34.2 of title 42 of the Code of Federal Regulations) certifies, according to such regulations as the Secretary of Health and

Human Services may prescribe, that such vaccination would not be medically appropriate, or

"(C) under such circumstances as the Attorney General provides by regulation, with respect to whom the requirement of such a vaccination would be contrary to the alien's religious beliefs or moral convictions; or

"(3) subsection (a)(1)(A)(iii) in the case of any alien, in accordance with such terms, conditions, and controls, if any, including the giving of bond, as the Attorney General, in the discretion of the Attorney General after consultation with the Secretary of Health and Human Services, may by regulation prescribe.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to applications for immigrant visas or for adjustment of status filed after September 30, 1996. 8 USC 1182 note.

SEC. 342. INCITEMENT OF TERRORIST ACTIVITY AND PROVISION OF FALSE DOCUMENTATION TO TERRORISTS AS A BASIS FOR EXCLUSION FROM THE UNITED STATES.

(a) IN GENERAL.—Section 212(a)(3)(B) (8 U.S.C. 1182(a)(3)(B)) is amended—

(1) by redesignating subclauses (III) and (IV) of clause (i) as subclauses (IV) and (V), respectively;

(2) by inserting after subclause (II) of clause (i) the following new subclause:

"(III) has, under circumstances indicating an intention to cause death or serious bodily harm, incited terrorist activity,"; and

(3) in clause (iii)(III), by inserting "documentation or" before "identification";

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to incitement regardless of when it occurs. 8 USC 1182 note.

SEC. 343. CERTIFICATION REQUIREMENTS FOR FOREIGN HEALTH-CARE WORKERS.

Section 212(a)(5) (8 U.S.C. 1182(a)(5)) is amended—

(1) by redesignating subparagraph (C) as subparagraph (D), and

(2) by inserting after subparagraph (B) the following new subparagraph:

"(C) UNCERTIFIED FOREIGN HEALTH-CARE WORKERS.—Any alien who seeks to enter the United States for the purpose of performing labor as a health-care worker, other than a physician, is excludable unless the alien presents to the consular officer, or, in the case of an adjustment of status, the Attorney General, a certificate from the Commission on Graduates of Foreign Nursing Schools, or a certificate from an equivalent independent credentialing organization approved by the Attorney General in consultation with the Secretary of Health and Human Services, verifying that—

"(i) the alien's education, training, license, and experience—

"(I) meet all applicable statutory and regulatory requirements for entry into the United States under the classification specified in the application;

"(II) are comparable with that required for an American health-care worker of the same type; and

"(III) are authentic and, in the case of a license, unencumbered;

"(ii) the alien has the level of competence in oral and written English considered by the Secretary of Health and Human Services, in consultation with the Secretary of Education, to be appropriate for health care work of the kind in which the alien will be engaged, as shown by an appropriate score on one or more nationally recognized, commercially available, standardized assessments of the applicant's ability to speak and write; and

"(iii) if a majority of States licensing the profession in which the alien intends to work recognize a test predicting the success on the profession's licensing or certification examination, the alien has passed such a test or has passed such an examination.

For purposes of clause (ii), determination of the standardized tests required and of the minimum scores that are appropriate are within the sole discretion of the Secretary of Health and Human Services and are not subject to further administrative or judicial review.".

SEC. 344. REMOVAL OF ALIENS FALSELY CLAIMING UNITED STATES CITIZENSHIP.

(a) EXCLUSION OF ALIENS WHO HAVE FALSELY CLAIMED UNITED STATES CITIZENSHIP.—Section 212(a)(6)(C) (8 U.S.C. 1182(a)(6)(C)) is amended—

(1) by redesignating clause (ii) as clause (iii), and

(2) by inserting after clause (i) the following new clause:

"(ii) FALSELY CLAIMING CITIZENSHIP.—Any alien who falsely represents, or has falsely represented, himself or herself to be a citizen of the United States for any purpose or benefit under this Act (including section 274A) or any other Federal or State law is excludable.".

(b) DEPORTATION OF ALIENS WHO HAVE FALSELY CLAIMED UNITED STATES CITIZENSHIP.—Section 241(a)(3) (8 U.S.C. 1251(a)(3)) is amended by adding at the end the following new subparagraph:

"(D) FALSELY CLAIMING CITIZENSHIP.—Any alien who falsely represents, or has falsely represented, himself to be a citizen of the United States for any purpose or benefit under this Act (including section 274A) or any Federal or State law is deportable.".

8 USC 1182 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to representations made on or after the date of the enactment of this Act.

SEC. 345. WAIVER OF EXCLUSION AND DEPORTATION GROUND FOR CERTAIN SECTION 274C VIOLATORS.

(a) EXCLUSION GROUNDS.—Section 212 (8 U.S.C. 1182) is amended—

(1) by amending subparagraph (F) of subsection (a)(6) to read as follows:

"(F) SUBJECT OF CIVIL PENALTY.—

"(i) IN GENERAL.—An alien who is the subject of a final order for violation of section 274C is inadmissible.

"(ii) WAIVER AUTHORIZED.—For provision authorizing waiver of clause (i), see subsection (d)(12)."; and

(2) by adding at the end of subsection (d) the following new paragraph:

"(12) The Attorney General may, in the discretion of the Attorney General for humanitarian purposes or to assure family unity, waive application of clause (i) of subsection (a)(6)(F)—

"(A) in the case of an alien lawfully admitted for permanent residence who temporarily proceeded abroad voluntarily and not under an order of deportation or removal and who is otherwise admissible to the United States as a returning resident under section 211(b), and

"(B) in the case of an alien seeking admission or adjustment of status under section 201(b)(2)(A) or under section 203(a), if no previous civil money penalty was imposed against the alien under section 274C and the offense was committed solely to assist, aid, or support the alien's spouse or child (and not another individual). No court shall have jurisdiction to review a decision of the Attorney General to grant or deny a waiver under this paragraph.".

(b) GROUND OF DEPORTATION.—Subparagraph (C) of section 241(a)(3) (8 U.S.C. 1251(a)(3)), before redesignation by section 305(a)(2) of this division, is amended to read as follows:

"(C) DOCUMENT FRAUD.—

"(i) IN GENERAL.—An alien who is the subject of a final order for violation of section 274C is deportable.

"(ii) WAIVER AUTHORIZED.—The Attorney General may waive clause (i) in the case of an alien lawfully admitted for permanent residence if no previous civil money penalty was imposed against the alien under section 274C and the offense was incurred solely to assist, aid, or support the alien's spouse or child (and no other individual). No court shall have jurisdiction to review a decision of the Attorney General to grant or deny a waiver under this clause.".

SEC. 346. INADMISSIBILITY OF CERTAIN STUDENT VISA ABUSERS.

(a) IN GENERAL.—Section 212(a)(6) (8 U.S.C. 1182(a)(6)) is amended by adding at the end the following new subparagraph:

"(G) STUDENT VISA ABUSERS.—An alien who obtains the status of a nonimmigrant under section 101(a)(15)(F)(i) and who violates a term or condition of such status under section 214(l) is excludable until the alien has been outside the United States for a continuous period of 5 years after the date of the violation.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to aliens who obtain the status of a nonimmigrant under section 101(a)(15)(F) of the Immigration and Nationality Act after the end of the 60-day period beginning on the date of the enactment of this Act, including aliens whose status as such a nonimmigrant is extended after the end of such period. 8 USC 1182 note.

SEC. 347. REMOVAL OF ALIENS WHO HAVE UNLAWFULLY VOTED.

(a) EXCLUSION OF ALIENS WHO HAVE UNLAWFULLY VOTED.—Section 212(a)(10) (8 U.S.C. 1182(a)(10)), as redesignated by section

301(b) of this division, is amended by adding at the end the following new subparagraph:

"(D) UNLAWFUL VOTERS.—Any alien who has voted in violation of any Federal, State, or local constitutional provision, statute, ordinance, or regulation is excludable.".

(b) DEPORTATION OF ALIENS WHO HAVE UNLAWFULLY VOTED.—Section 241(a) (8 U.S.C. 1251(a)), before redesignation by section 305(a)(2) of this division, is amended by adding at the end the following new paragraph:

"(6) UNLAWFUL VOTERS.—Any alien who has voted in violation of any Federal, State, or local constitutional provision, statute, ordinance, or regulation is deportable.".

8 USC 1182 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to voting occurring before, on, or after the date of the enactment of this Act.

SEC. 348. WAIVERS FOR IMMIGRANTS CONVICTED OF CRIMES.

(a) IN GENERAL.—Section 212(h) (8 U.S.C. 1182(h)) is amended by adding at the end the following: "No waiver shall be granted under this subsection in the case of an alien who has previously been admitted to the United States as an alien lawfully admitted for permanent residence if either since the date of such admission the alien has been convicted of an aggravated felony or the alien has not lawfully resided continuously in the United States for a period of not less than 7 years immediately preceding the date of initiation of proceedings to remove the alien from the United States. No court shall have jurisdiction to review a decision of the Attorney General to grant or deny a waiver under this subsection.".

8 USC 1182 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective on the date of the enactment of this Act and shall apply in the case of any alien who is in exclusion or deportation proceedings as of such date unless a final administrative order in such proceedings has been entered as of such date.

SEC. 349. WAIVER OF MISREPRESENTATION GROUND OF INADMISSIBILITY FOR CERTAIN ALIEN.

Subsection (i) of section 212 (8 U.S.C. 1182) is amended to read as follows:

"(i)(1) The Attorney General may, in the discretion of the Attorney General, waive the application of clause (i) of subsection (a)(6)(C) in the case of an immigrant who is the spouse, son, or daughter of a United States citizen or of an alien lawfully admitted for permanent residence if it is established to the satisfaction of the Attorney General that the refusal of admission to the United States of such immigrant alien would result in extreme hardship to the citizen or lawfully resident spouse or parent of such an alien.

"(2) No court shall have jurisdiction to review a decision or action of the Attorney General regarding a waiver under paragraph (1).".

SEC. 350. OFFENSES OF DOMESTIC VIOLENCE AND STALKING AS GROUND FOR DEPORTATION.

(a) IN GENERAL.—Section 241(a)(2) (8 U.S.C. 1251(a)(2)) is amended by adding at the end the following:

"(E) CRIMES OF DOMESTIC VIOLENCE, STALKING, OR VIOLATION OF PROTECTION ORDER, CRIMES AGAINST CHILDREN AND .—

"(i) DOMESTIC VIOLENCE, STALKING, AND CHILD ABUSE.—Any alien who at any time after entry is convicted of a crime of domestic violence, a crime of stalking, or a crime of child abuse, child neglect, or child abandonment is deportable. For purposes of this clause, the term 'crime of domestic violence' means any crime of violence (as defined in section 16 of title 18, United States Code) against a person committed by a current or former spouse of the person, by an individual with whom the person shares a child in common, by an individual who is cohabiting with or has cohabited with the person as a spouse, by an individual similarly situated to a spouse of the person under the domestic or family violence laws of the jurisdiction where the offense occurs, or by any other individual against a person who is protected from that individual's acts under the domestic or family violence laws of the United States or any State, Indian tribal government, or unit of local government.

"(ii) VIOLATORS OF PROTECTION ORDERS.—Any alien who at any time after entry is enjoined under a protection order issued by a court and whom the court determines has engaged in conduct that violates the portion of a protection order that involves protection against credible threats of violence, repeated harassment, or bodily injury to the person or persons for whom the protection order was issued is deportable. For purposes of this clause, the term 'protection order' means any injunction issued for the purpose of preventing violent or threatening acts of domestic violence, including temporary or final orders issued by civil or criminal courts (other than support or child custody orders or provisions) whether obtained by filing an independent action or as a pendente lite order in another proceeding.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to convictions, or violations of court orders, occurring after the date of the enactment of this Act. 8 USC 1227 note.

SEC. 351. CLARIFICATION OF DATE AS OF WHICH RELATIONSHIP REQUIRED FOR WAIVER FROM EXCLUSION OR DEPORTATION FOR SMUGGLING.

(a) EXCLUSION.—Section 212(d)(11) (8 U.S.C. 1182(d)(11)) is amended by inserting "an individual who at the time of such action was" after "aided only".

(b) DEPORTATION.—Section 241(a)(1)(E)(iii) (8 U.S.C. 1251(a)(1)(E)(iii)) is amended by inserting "an individual who at the time of the offense was" after "aided only".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to applications for waivers filed before, on, or after the date of the enactment of this Act, but shall not apply to such an application for which a final determination has been made as of the date of the enactment of this Act. 8 USC 1182 note.

SEC. 352. EXCLUSION OF FORMER CITIZENS WHO RENOUNCED CITIZENSHIP TO AVOID UNITED STATES TAXATION.

(a) IN GENERAL.—Section 212(a)(10) (8 U.S.C. 1182(a)(10)), as redesignated by section 301(b) of this division and as amended by section 347(a) of this division, is amended by adding at the end the following:

"(E) FORMER CITIZENS WHO RENOUNCED CITIZENSHIP TO AVOID TAXATION.—Any alien who is a former citizen of the United States who officially renounces United States citizenship and who is determined by the Attorney General to have renounced United States citizenship for the purpose of avoiding taxation by the United States is excludable.".

8 USC 1182 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to individuals who renounce United States citizenship on and after the date of the enactment of this Act.

SEC. 353. REFERENCES TO CHANGES ELSEWHERE IN DIVISION.

(a) DEPORTATION FOR HIGH SPEED FLIGHT.—For provision making high speed flight from an immigration checkpoint subject to deportation, see section 108(c) of this division.

(b) INADMISSIBILITY OF ALIENS PREVIOUSLY REMOVED AND UNLAWFULLY PRESENT.—For provision making aliens previously removed and unlawfully present in the United States inadmissible, see section 301(b) of this division.

(c) INADMISSIBILITY OF ILLEGAL ENTRANTS.—For provision revising the ground of inadmissibility for illegal entrants and immigration violators, see section 301(c) of this division.

(d) DEPORTATION FOR VISA VIOLATORS.—For provision revising the ground of deportation for illegal entrants, see section 301(d) of this division.

(e) LABOR CERTIFICATIONS FOR PROFESSIONAL ATHLETES.—For provision providing for continued validity of labor certifications and classification petitions for professional athletes, see section 624 of this division.

Subtitle D—Changes in Removal of Alien Terrorist Provisions

SEC. 354. TREATMENT OF CLASSIFIED INFORMATION.

(a) LIMITATION ON PROVISION OF SUMMARIES; USE OF SPECIAL ATTORNEYS IN CHALLENGES TO CLASSIFIED INFORMATION.—

(1) NO PROVISION OF SUMMARY IN CERTAIN CASES.—Section 504(e)(3)(D) (8 U.S.C. 1534(e)(3)(D)) is amended—

(A) in clause (ii), by inserting before the period at the end the following: "unless the judge makes the findings under clause (iii)", and

(B) by adding at the end the following new clause:

"(iii) FINDINGS.—The findings described in this clause are, with respect to an alien, that—

"(I) the continued presence of the alien in the United States would likely cause serious and irreparable harm to the national security or death or serious bodily injury to any person, and

"(II) the provision of the summary would likely cause serious and irreparable harm to the national

security or death or serious bodily injury to any person.".

(2) SPECIAL CHALLENGE PROCEDURES.—Section 504(e)(3) (8 U.S.C. 1534(e)(3)) is amended by adding at the end the following new subparagraphs:

"(E) CONTINUATION OF HEARING WITHOUT SUMMARY.—If a judge makes the findings described in subparagraph (D)(iii)—

"(i) if the alien involved is an alien lawfully admitted for permanent residence, the procedures described in subparagraph (F) shall apply; and

"(ii) in all cases the special removal hearing shall continue, the Department of Justice shall cause to be delivered to the alien a statement that no summary is possible, and the classified information submitted in camera and ex parte may be used pursuant to this paragraph.

"(F) SPECIAL PROCEDURES FOR ACCESS AND CHALLENGES TO CLASSIFIED INFORMATION BY SPECIAL ATTORNEYS IN CASE OF LAWFUL PERMANENT ALIENS.—

"(i) IN GENERAL.—The procedures described in this subparagraph are that the judge (under rules of the removal court) shall designate a special attorney to assist the alien—

"(I) by reviewing in camera the classified information on behalf of the alien, and

"(II) by challenging through an in camera proceeding the veracity of the evidence contained in the classified information.

"(ii) RESTRICTIONS ON DISCLOSURE.—A special attorney receiving classified information under clause (i)—

"(I) shall not disclose the information to the alien or to any other attorney representing the alien, and

"(II) who discloses such information in violation of subclause (I) shall be subject to a fine under title 18, United States Code, imprisoned for not less than 10 years nor more than 25 years, or both.".

(3) APPEALS.—Section 505(c) (8 U.S.C. 1535(c)) is amended—

(A) in paragraph (1), by striking "The decision" and inserting "Subject to paragraph (2), the decision";

(B) in paragraph (3)(D), by inserting before the period at the end the following: ", except that in the case of a review under paragraph (2) in which an alien lawfully admitted for permanent residence was denied a written summary of classified information under section 504(c)(3), the Court of Appeals shall review questions of fact de novo";

(C) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(D) by inserting after paragraph (1) the following new paragraph:

"(2) AUTOMATIC APPEALS IN CASES OF PERMANENT RESIDENT ALIENS IN WHICH NO SUMMARY PROVIDED.—

"(A) IN GENERAL.—Unless the alien waives the right to a review under this paragraph, in any case involving an alien lawfully admitted for permanent residence who is denied a written summary of classified information under section 504(e)(3) and with respect to which the procedures described in section 504(e)(3)(F) apply, any order issued by the judge shall be reviewed by the Court of Appeals for the District of Columbia Circuit.

"(B) USE OF SPECIAL ATTORNEY.—With respect to any issue relating to classified information that arises in such review, the alien shall be represented only by the special attorney designated under section 504(e)(3)(F)(i) on behalf of the alien.".

(4) ESTABLISHMENT OF PANEL OF SPECIAL ATTORNEYS.—Section 502 (8 U.S.C. 1532) is amended by adding at the end the following new subsection:

"(e) ESTABLISHMENT OF PANEL OF SPECIAL ATTORNEYS.—The removal court shall provide for the designation of a panel of attorneys each of whom—

"(1) has a security clearance which affords the attorney access to classified information, and

"(2) has agreed to represent permanent resident aliens with respect to classified information under section 504(e)(3) in accordance with (and subject to the penalties under) this title.".

(5) DEFINITION OF SPECIAL ATTORNEY.—Section 501 (8 U.S.C. 1531) is amended—

(A) by striking "and" at the end of paragraph (5),

(B) by striking the period at the end of paragraph (6) and inserting "; and", and

(C) by adding at the end the following new paragraph:

"(7) the term 'special attorney' means an attorney who is on the panel established under section 502(e).".

(b) OTHER PROVISIONS RELATING TO CLASSIFIED INFORMATION.—

(1) INTRODUCTION OF CLASSIFIED INFORMATION.—Section 504(e) (8 U.S.C. 1534(e)) is amended—

(A) in paragraph (1)—

(i) by inserting after "(A)" the following: "the Government is authorized to use in a removal proceedings the fruits of electronic surveillance and unconsented physical searches authorized under the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) without regard to subsections (c), (e), (f), (g), and (h) of section 106 of that Act and", and

(ii) by striking "the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.)" and inserting "such Act"; and

(B) by striking the period at the end of paragraph (3)(A) and inserting the following: "and neither the alien nor the public shall be informed of such evidence or its sources other than through reference to the summary provided pursuant to this paragraph. Notwithstanding the previous sentence, the Department of Justice may, in its discretion and, in the case of classified information, after coordination with the originating agency, elect to introduce such evidence in open session.".

(2) MAINTENANCE OF CONFIDENTIALITY OF CLASSIFIED INFORMATION IN ARGUMENTS.—Section 504(f) (8 U.S.C. 1534(f)) is amended by adding at the end the following: "The judge may allow any part of the argument that refers to evidence received in camera and ex parte to be heard in camera and ex parte.".

(3) MAINTENANCE OF CONFIDENTIALITY OF CLASSIFIED INFORMATION IN ORDERS.—Section 504(j) (8 U.S.C. 1534(j)) is amended by adding at the end the following: "Any portion of the order that would reveal the substance or source of information received in camera and ex parte pursuant to subsection (e) shall not be made available to the alien or the public.".

SEC. 355. EXCLUSION OF REPRESENTATIVES OF TERRORISTS ORGANIZATIONS.

Section 212(a)(3)(B)(i)(IV) (8 U.S.C. 1182(a)(3)(B)(i)(VI)), as inserted by section 411(1)(C) of Public Law 104–132, is amended by inserting "which the alien knows or should have known is a terrorist organization" after "219,".

SEC. 356. STANDARD FOR JUDICIAL REVIEW OF TERRORIST ORGANIZATION DESIGNATIONS.

Section 219(b)(3) (8 U.S.C. 1189(b)(3)), as added by section 302(a) of Public Law 104–132, is amended—

(1) by striking "or" at the end of subparagraph (B),

(2) by striking the period at the end of subparagraph (C) and inserting a semicolon, and

(3) by adding at the end the following:

"(D) lacking substantial support in the administrative record taken as a whole or in classified information submitted to the court under paragraph (2), or

"(E) not in accord with the procedures required by law.".

SEC. 357. REMOVAL OF ANCILLARY RELIEF FOR VOLUNTARY DEPARTURE.

Section 504(k) (8 U.S.C. 1534(k)) is amended—

(1) by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), and

(2) by inserting after paragraph (3) the following new paragraph:

"(4) voluntary departure under section 244(e);".

SEC. 358. EFFECTIVE DATE. 8 USC 1182 note.

The amendments made by this subtitle shall be effective as if included in the enactment of subtitle A of title IV of the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104–132).

Subtitle E—Transportation of Aliens

SEC. 361. DEFINITION OF STOWAWAY.

(a) STOWAWAY DEFINED.—Section 101(a) (8 U.S.C. 1101(a)), as amended by section 322(a)(1) of this division, is amended by adding at the end the following new paragraph:

"(49) The term 'stowaway' means any alien who obtains transportation without the consent of the owner, charterer, master or person in command of any vessel or aircraft through concealment aboard such vessel or aircraft. A passenger who boards with a valid ticket is not to be considered a stowaway.".

8 USC 1101 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 362. TRANSPORTATION CONTRACTS.

(a) COVERAGE OF NONCONTIGUOUS TERRITORY.—Section 238 (8 U.S.C. 1228), before redesignation as section 233 under section 308(b)(4) of this division, is amended—

(1) in the heading, by striking "CONTIGUOUS", and

(2) by striking "contiguous" each place it appears in subsections (a), (b), and (d).

(b) COVERAGE OF RAILROAD TRAIN.—Subsection (d) of such section is further amended by inserting "or railroad train" after "aircraft".

Subtitle F—Additional Provisions

SEC. 371. IMMIGRATION JUDGES AND COMPENSATION.

(a) DEFINITION OF TERM.—Paragraph (4) of section 101(b) (8 U.S.C. 1101(b)) is amended to read as follows:

"(4) The term 'immigration judge' means an attorney whom the Attorney General appoints as an administrative judge within the Executive Office for Immigration Review, qualified to conduct specified classes of proceedings, including a hearing under section 240. An immigration judge shall be subject to such supervision and shall perform such duties as the Attorney General shall prescribe, but shall not be employed by the Immigration and Naturalization Service.".

(b) SUBSTITUTION FOR TERM "SPECIAL INQUIRY OFFICER".—The Immigration and Nationality Act is amended by striking "a special inquiry officer", "A special inquiry officer", "special inquiry officer", and "special inquiry officers" and inserting "an immigration judge", "An immigration judge", "immigration judge", and "immigration judges", respectively, each place it appears in the following sections:

(1) Section 106(a)(2) (8 U.S.C. 1105a(a)(2)), before its repeal by section 306(c) of this division.

(2) Section 209(a)(2) (8 U.S.C. 1159(a)(2)).

(3) Section 234 (8 U.S.C. 1224), before redesignation by section 308(b) of this division.

(4) Section 235 (8 U.S.C. 1225), before amendment by section 302(a) of this division.

(5) Section 236 (8 U.S.C. 1226), before amendment by section 303 of this division.

(6) Section 242(b) (8 U.S.C. 1252(b)), before amendment by section 306(a)(2) of this division.

(7) Section 242B(d)(1) (8 U.S.C. 1252b(d)(1)), before repeal by section 306(b)(6) of this division.

(8) Section 273(d) (8 U.S.C. 1323(d)), before its repeal by section 308(e)(13) of this division.

(9) Section 292 (8 U.S.C. 1362).

8 USC 1103 note.

(c) COMPENSATION FOR IMMIGRATION JUDGES.—

SEC. 373. POWERS AND DUTIES OF THE ATTORNEY GENERAL AND THE COMMISSIONER.

Section 103 (8 U.S.C. 1103) is amended—

(1) by adding at the end of subsection (a) the following new paragraph:

"(9) The Attorney General, in support of persons in administrative detention in non-Federal institutions, is authorized—

"(A) to make payments from funds appropriated for the administration and enforcement of the laws relating to immigration, naturalization, and alien registration for necessary clothing, medical care, necessary guard hire, and the housing, care, and security of persons detained by the Service pursuant to Federal law under an agreement with a State or political subdivision of a State; and

"(B) to enter into a cooperative agreement with any State, territory, or political subdivision thereof, for the necessary construction, physical renovation, acquisition of equipment, supplies or materials required to establish acceptable conditions of confinement and detention services in any State or unit of local government which agrees to provide guaranteed bed space for persons detained by the Service."; and

(2) by adding at the end of subsection (c), as redesignated by section 102(d)(1) of this division, the following: "The Commissioner may enter into cooperative agreements with State and local law enforcement agencies for the purpose of assisting in the enforcement of the immigration laws.".

SEC. 374. JUDICIAL DEPORTATION.

(a) IN GENERAL.—Section 242A(d) (8 U.S.C. 1252a(d)), as added by section 224(a) of Immigration and Nationality Technical Corrections Act of 1994 and before redesignation by section 308(b)(5) of this division, is amended—

(1) in paragraph (1), by striking "whose criminal conviction causes such alien to be deportable under section 241(a)(2)(A)" and inserting "who is deportable";

(2) in paragraph (4), by striking "without a decision on the merits"; and

(3) by adding at the end the following new paragraph:

"(5) STIPULATED JUDICIAL ORDER OF DEPORTATION.—The United States Attorney, with the concurrence of the Commissioner, may, pursuant to Federal Rule of Criminal Procedure 11, enter into a plea agreement which calls for the alien, who is deportable under this Act, to waive the right to notice and a hearing under this section, and stipulate to the entry of a judicial order of deportation from the United States as a condition of the plea agreement or as a condition of probation or supervised release, or both. The United States district court, in both felony and misdemeanor cases, and a United States magistrate judge in misdemeanor cases, may accept such a stipulation and shall have jurisdiction to enter a judicial order of deportation pursuant to the terms of such stipulation.".

(b) DEPORTATION AS A CONDITION OF PROBATION.—Section 3563(b) of title 18, United States Code, is amended—

(1) by striking "or" at the end of paragraph (20);

(2) by redesignating paragraph (21) as paragraph (22); and

(3) by inserting after paragraph (20) the following new paragraph:

"(21) be ordered deported by a United States district court, or United States magistrate judge, pursuant to a stipulation entered into by the defendant and the United States under section 242A(d)(5) of the Immigration and Nationality Act, except that, in the absence of a stipulation, the United States district court or a United States magistrate judge, may order deportation as a condition of probation, if, after notice and hearing pursuant to such section, the Attorney General demonstrates by clear and convincing evidence that the alien is deportable; or".

(c) EFFECTIVE DATE.—The amendment made by subsection (a)(2) shall be effective as if included in the enactment of section 224(a) of the Immigration and Nationality Technical Corrections Act of 1994. 8 USC 1228 note.

SEC. 375. LIMITATION ON ADJUSTMENT OF STATUS.

Section 245(c) (8 U.S.C. 1255(c)) is amended—

(1) by striking "or (6)" and inserting "(6)"; and

(2) by inserting before the period at the end the following: "; (7) any alien who seeks adjustment of status to that of an immigrant under section 203(b) and is not in a lawful nonimmigrant status; or (8) any alien who was employed while the alien was an unauthorized alien, as defined in section 274A(h)(3), or who has otherwise violated the terms of a nonimmigrant visa".

SEC. 376. TREATMENT OF CERTAIN FEES.

(a) INCREASE IN FEE.—Section 245(i) (8 U.S.C. 1255(i)), as added by section 506(b) of Public Law 103–317, is amended—

(1) in paragraph (1), by striking "five times the fee required for the processing of applications under this section" and inserting "$1,000"; and

(2) by amending paragraph (3) to read as follows:

"(3)(A) The portion of each application fee (not to exceed $200) that the Attorney General determines is required to process an application under this section and is remitted to the Attorney General pursuant to paragraphs (1) and (2) of this subsection shall be disposed of by the Attorney General as provided in subsections (m), (n), and (o) of section 286.

"(B) Any remaining portion of such fees remitted under such paragraphs shall be deposited by the Attorney General into the Immigration Detention Account established under section 286(s).".

(b) IMMIGRATION DETENTION ACCOUNT.—Section 286 (8 U.S.C. 1356) is amended by adding at the end the following new subsection:

"(s) IMMIGRATION DETENTION ACCOUNT.—(1) There is established in the general fund of the Treasury a separate account which shall be known as the 'Immigration Detention Account'. Notwithstanding any other section of this title, there shall be deposited as offsetting receipts into the Immigration Detention Account amounts described in section 245(i)(3)(B) to remain available until expended.

"(2)(A) The Secretary of the Treasury shall refund out of the Immigration Detention Account to any appropriation the amount paid out of such appropriation for expenses incurred by the Attorney General for the detention of aliens under sections 236(c) and 241(a).

"(B) The amounts which are required to be refunded under subparagraph (A) shall be refunded at least quarterly on the basis of estimates made by the Attorney General of the expenses referred to in subparagraph (A). Proper adjustments shall be made in the amounts subsequently refunded under subparagraph (A) to the extent prior estimates were in excess of, or less than, the amount required to be refunded under subparagraph (A).

"(C) The amounts required to be refunded from the Immigration Detention Account for fiscal year 1997 and thereafter shall be refunded in accordance with estimates made in the budget request of the Attorney General for those fiscal years. Any proposed changes in the amounts designated in such budget requests shall only be made after notification to the Committees on Appropriations of the House of Representatives and the Senate in accordance with section 605 of Public Law 104–134.

"(D) The Attorney General shall prepare and submit annually to the Congress statements of financial condition of the Immigration Detention Account, including beginning account balance, revenues, withdrawals, and ending account balance and projection for the ensuing fiscal year.".

8 USC 1255 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to applications made on or after the end of the 90-day period beginning on the date of the enactment of this Act.

SEC. 377. LIMITATION ON LEGALIZATION LITIGATION.

(a) LIMITATION ON COURT JURISDICTION.—Section 245A(f)(4) (8 U.S.C. 1255a(f)(4)) is amended by adding at the end the following new subparagraph:

"(C) JURISDICTION OF COURTS.—Notwithstanding any other provision of law, no court shall have jurisdiction of any cause of action or claim by or on behalf of any person asserting an interest under this section unless such person in fact filed an application under this section within the period specified by subsection (a)(1), or attempted to file a complete application and application fee with an authorized legalization officer of the Service but had the application and fee refused by that officer.".

8 USC 1255a note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective as if included in the enactment of the Immigration Reform and Control Act of 1986.

SEC. 378. RESCISSION OF LAWFUL PERMANENT RESIDENT STATUS.

(a) IN GENERAL.—Section 246(a) (8 U.S.C. 1256(a)) is amended by adding at the end the following sentence: "Nothing in this subsection shall require the Attorney General to rescind the alien's status prior to commencement of procedures to remove the alien under section 240, and an order of removal issued by an immigration judge shall be sufficient to rescind the alien's status.".

8 USC 1256 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the title III–A effective date (as defined in section 309(a) of this division).

SEC. 379. ADMINISTRATIVE REVIEW OF ORDERS.

(a) IN GENERAL.—Sections 274A(e)(7) and 274C(d)(4) (8 U.S.C. 1324a(e)(7), 1324c(d)(4)) are each amended—

(1) by striking "unless, within 30 days, the Attorney General modifies or vacates the decision and order" and inserting "unless either (A) within 30 days, an official delegated by

regulation to exercise review authority over the decision and order modifies or vacates the decision and order, or (B) within 30 days of the date of such a modification or vacation (or within 60 days of the date of decision and order of an administrative law judge if not so modified or vacated) the decision and order is referred to the Attorney General pursuant to regulations"; and

(2) by striking "a final order" and inserting "the final agency decision and order".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to orders issued on or after the date of the enactment of this Act. 8 USC 1324a note.

SEC. 380. CIVIL PENALTIES FOR FAILURE TO DEPART.

(a) IN GENERAL.—The Immigration and Nationality Act is amended by inserting after section 274C the following new section:

"CIVIL PENALTIES FOR FAILURE TO DEPART

"SEC. 274D. (a) IN GENERAL.—Any alien subject to a final order of removal who— 8 USC 1324d.

"(1) willfully fails or refuses to—

"(A) depart from the United States pursuant to the order,

"(B) make timely application in good faith for travel or other documents necessary for departure, or

"(C) present for removal at the time and place required by the Attorney General; or

"(2) conspires to or takes any action designed to prevent or hamper the alien's departure pursuant to the order,

shall pay a civil penalty of not more than $500 to the Commissioner for each day the alien is in violation of this section.

"(b) CONSTRUCTION.—Nothing in this section shall be construed to diminish or qualify any penalties to which an alien may be subject for activities proscribed by section 243(a) or any other section of this Act.".

(b) CLERICAL AMENDMENT.—The table of contents is amended by inserting after the item relating to section 274C the following new item:

"Sec. 274D. Civil penalties for failure to depart.".

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to actions occurring on or after the title III–A effective date (as defined in section 309(a) of this division). 8 USC 1324d note.

SEC. 381. CLARIFICATION OF DISTRICT COURT JURISDICTION.

(a) IN GENERAL.—Section 279 (8 U.S.C. 1329) is amended—

(1) by amending the first sentence to read as follows: "The district courts of the United States shall have jurisdiction of all causes, civil and criminal, brought by the United States that arise under the provisions of this title.", and

(2) by adding at the end the following new sentence: "Nothing in this section shall be construed as providing jurisdiction for suits against the United States or its agencies or officers.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to actions filed after the date of the enactment of this Act. 8 USC 1329 note.

SEC. 382. APPLICATION OF ADDITIONAL CIVIL PENALTIES TO ENFORCEMENT.

(a) IN GENERAL.—Subsection (b) of section 280 (8 U.S.C. 1330) is amended to read as follows:

"(b)(1) There is established in the general fund of the Treasury a separate account which shall be known as the 'Immigration Enforcement Account'. Notwithstanding any other section of this title, there shall be deposited as offsetting receipts into the Immigration Enforcement Account amounts described in paragraph (2) to remain available until expended.

"(2) The amounts described in this paragraph are the following:

"(A) The increase in penalties collected resulting from the amendments made by sections 203(b) and 543(a) of the Immigration Act of 1990.

"(B) Civil penalties collected under sections 240B(d), 274C, 274D, and 275(b).

"(3)(A) The Secretary of the Treasury shall refund out of the Immigration Enforcement Account to any appropriation the amount paid out of such appropriation for expenses incurred by the Attorney General for activities that enhance enforcement of provisions of this title. Such activities include—

"(i) the identification, investigation, apprehension, detention, and removal of criminal aliens;

"(ii) the maintenance and updating of a system to identify and track criminal aliens, deportable aliens, inadmissible aliens, and aliens illegally entering the United States; and

"(iii) for the repair, maintenance, or construction on the United States border, in areas experiencing high levels of apprehensions of illegal aliens, of structures to deter illegal entry into the United States.

"(B) The amounts which are required to be refunded under subparagraph (A) shall be refunded at least quarterly on the basis of estimates made by the Attorney General of the expenses referred to in subparagraph (A). Proper adjustments shall be made in the amounts subsequently refunded under subparagraph (A) to the extent prior estimates were in excess of, or less than, the amount required to be refunded under subparagraph (A).

"(C) The amounts required to be refunded from the Immigration Enforcement Account for fiscal year 1996 and thereafter shall be refunded in accordance with estimates made in the budget request of the Attorney General for those fiscal years. Any proposed changes in the amounts designated in such budget requests shall only be made after notification to the Committees on Appropriations of the House of Representatives and the Senate in accordance with section 605 of Public Law 104–134.

"(D) The Attorney General shall prepare and submit annually to the Congress statements of financial condition of the Immigration Enforcement Account, including beginning account balance, revenues, withdrawals, and ending account balance and projection for the ensuing fiscal year.".

(b) IMMIGRATION USER FEE ACCOUNT.—Section 286(h)(1)(B) (8 U.S.C. 1356(h)(1)(B)) is amended by striking "271" and inserting "243(c), 271,".

8 USC 1330 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to fines and penalties collected on or after the date of the enactment of this Act.

SEC. 383. EXCLUSION OF CERTAIN ALIENS FROM FAMILY UNITY PROGRAM.

(a) IN GENERAL.—Section 301(e) of the Immigration Act of 1990 (8 U.S.C. 1255a note) is amended—

(1) by striking "or" at the end of paragraph (1),

(2) by striking the period at the end of paragraph (2) and inserting ", or", and

(3) by adding at the end the following new paragraph:

"(3) has committed an act of juvenile delinquency which if committed by an adult would be classified as—

"(A) a felony crime of violence that has an element the use or attempted use of physical force against another individual, or

"(B) a felony offense that by its nature involves a substantial risk that physical force against another individual may be used in the course of committing the offense.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to benefits granted or extended after the date of the enactment of this Act. 8 USC 1255a note.

SEC. 384. PENALTIES FOR DISCLOSURE OF INFORMATION. 8 USC 1367.

(a) IN GENERAL.—Except as provided in subsection (b), in no case may the Attorney General, or any other official or employee of the Department of Justice (including any bureau or agency of such Department)—

(1) make an adverse determination of admissibility or deportability of an alien under the Immigration and Nationality Act using information furnished solely by—

(A) a spouse or parent who has battered the alien or subjected the alien to extreme cruelty,

(B) a member of the spouse's or parent's family residing in the same household as the alien who has battered the alien or subjected the alien to extreme cruelty when the spouse or parent consented to or acquiesced in such battery or cruelty,

(C) a spouse or parent who has battered the alien's child or subjected the alien's child to extreme cruelty (without the active participation of the alien in the battery or extreme cruelty), or

(D) a member of the spouse's or parent's family residing in the same household as the alien who has battered the alien's child or subjected the alien's child to extreme cruelty when the spouse or parent consented to or acquiesced in such battery or cruelty and the alien did not actively participate in such battery or cruelty,

unless the alien has been convicted of a crime or crimes listed in section 241(a)(2) of the Immigration and Nationality Act; or

(2) permit use by or disclosure to anyone (other than a sworn officer or employee of the Department, or bureau or agency thereof, for legitimate Department, bureau, or agency purposes) of any information which relates to an alien who is the beneficiary of an application for relief under clause (iii) or (iv) of section 204(a)(1)(A), clause (ii) or (iii) of section 204(a)(1)(B), section 216(c)(4)(C), or section 244(a)(3) of such Act as an alien (or the parent of a child) who has been battered or subjected to extreme cruelty.

The limitation under paragraph (2) ends when the application for relief is denied and all opportunities for appeal of the denial have been exhausted.

(b) EXCEPTIONS.—

(1) The Attorney General may provide, in the Attorney General's discretion, for the disclosure of information in the same manner and circumstances as census information may be disclosed by the Secretary of Commerce under section 8 of title 13, United States Code.

(2) The Attorney General may provide in the discretion of the Attorney General for the disclosure of information to law enforcement officials to be used solely for a legitimate law enforcement purpose.

(3) Subsection (a) shall not be construed as preventing disclosure of information in connection with judicial review of a determination in a manner that protects the confidentiality of such information.

(4) Subsection (a)(2) shall not apply if all the battered individuals in the case are adults and they have all waived the restrictions of such subsection.

(c) PENALTIES FOR VIOLATIONS.—Anyone who willfully uses, publishes, or permits information to be disclosed in violation of this section shall be subject to appropriate disciplinary action and subject to a civil money penalty of not more than $5,000 for each such violation.

(d) CONFORMING AMENDMENTS TO OTHER DISCLOSURE RESTRICTIONS.—

8 USC 1160.

(1) IN GENERAL.—The last sentence of section 210(b)(6) and the second sentence of section 245A(c)(5) (8 U.S.C. 1255a(c)(5)) are each amended to read as follows: "Anyone who uses, publishes, or permits information to be examined in violation of this paragraph shall be subject to appropriate disciplinary action and subject to a civil money penalty of not more than $5,000 for each violation.".

8 USC 1160 note.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to offenses occurring on or after the date of the enactment of this Act.

SEC. 385. AUTHORIZATION OF ADDITIONAL FUNDS FOR REMOVAL OF ALIENS.

In addition to the amounts otherwise authorized to be appropriated for each fiscal year beginning with fiscal year 1996, there are authorized to be appropriated to the Attorney General $150,000,000 for costs associated with the removal of inadmissible or deportable aliens, including costs of detention of such aliens pending their removal, the hiring of more investigators, and the hiring of more detention and deportation officers.

8 USC 1368.

SEC. 386. INCREASE IN INS DETENTION FACILITIES; REPORT ON DETENTION SPACE.

(a) INCREASE IN DETENTION FACILITIES.—Subject to the availability of appropriations, the Attorney General shall provide for an increase in the detention facilities of the Immigration and Naturalization Service to at least 9,000 beds before the end of fiscal year 1997.

(b) REPORT ON DETENTION SPACE.—

(1) IN GENERAL.—Not later than 6 months after the date of the enactment of this Act, and every 6 months thereafter,

the Attorney General shall submit a report to the Committees on the Judiciary of the House of Representatives and of the Senate estimating the amount of detention space that will be required, during the fiscal year in which the report is submitted and the succeeding fiscal year, to detain—

(A) all aliens subject to detention under section 236(c) of the Immigration and Nationality Act (as amended by section 303 of this title) and section 241(a) of the Immigration and Nationality Act (as inserted by section 305(a)(3) of this title);

(B) all excludable or deportable aliens subject to proceedings under section 238 of the Immigration and Nationality Act (as redesignated by section 308(b)(5) of this title) or section 235(b)(2)(A) or 240 of the Immigration and Nationality Act; and

(C) other excludable or deportable aliens in accordance with the priorities established by the Attorney General.

(2) ESTIMATE OF NUMBER OF ALIENS RELEASED INTO THE COMMUNITY.—

(A) CRIMINAL ALIENS.—

(i) IN GENERAL.—The first report submitted under paragraph (1) shall include an estimate of the number of criminal aliens who, in each of the 3 fiscal years concluded prior to the date of the report—

(I) were released from detention facilities of the Immigration and Naturalization Service (whether operated directly by the Service or through contract with other persons or agencies); or

(II) were not taken into custody or detention by the Service upon completion of their incarceration.

(ii) ALIENS CONVICTED OF AGGRAVATED FELONIES.—The estimate under clause (i) shall estimate separately, with respect to each year described in such clause, the number of criminal aliens described in such clause who were convicted of an aggravated felony.

(B) ALL EXCLUDABLE OR DEPORTABLE ALIENS.—The first report submitted under paragraph (1) shall also estimate the number of excludable or deportable aliens who were released into the community due to a lack of detention facilities in each of the 3 fiscal years concluded prior to the date of the report notwithstanding circumstances that the Attorney General believed justified detention (for example, a significant probability that the released alien would not appear, as agreed, at subsequent exclusion or deportation proceedings).

(C) SUBSEQUENT REPORTS.—Each report under paragraph (1) following the first such report shall include the estimates under subparagraphs (A) and (B), made with respect to the 6-month period immediately preceding the date of the submission of the report.

8 USC 1231 note.

SEC. 387. PILOT PROGRAM ON USE OF CLOSED MILITARY BASES FOR THE DETENTION OF INADMISSIBLE OR DEPORTABLE ALIENS.

(a) ESTABLISHMENT.—The Attorney General and the Secretary of Defense shall establish one or more pilot programs for up to 2 years each to determine the feasibility of the use of military bases, available because of actions under a base closure law, as detention centers by the Immigration and Naturalization Service. In selecting real property at a military base for use as a detention center under the pilot program, the Attorney General and the Secretary shall consult with the redevelopment authority established for the military base and give substantial deference to the redevelopment plan prepared for the military base.

(b) REPORT.—Not later than 30 months after the date of the enactment of this Act, the Attorney General, together with the Secretary of Defense, shall submit a report to the Committees on the Judiciary of the House of Representatives and of the Senate, and the Committees on Armed Services of the House of Representatives and of the Senate, on the feasibility of using military bases closed under a base closure law as detention centers by the Immigration and Naturalization Service.

(c) DEFINITION.—For purposes of this section, the term "base closure law" means each of the following:

(1) The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note).

(2) Title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note).

(3) Section 2687 of title 10, United States Code.

(4) Any other similar law enacted after the date of the enactment of this Act.

8 USC 1231 note.

SEC. 388. REPORT ON INTERIOR REPATRIATION PROGRAM.

Not later than 30 months after the date of the enactment of this Act, the Attorney General, in consultation with the Secretary of State, shall submit a report to the Committees on the Judiciary of the House of Representatives and of the Senate on the operation of the program of interior repatriation developed under section 437 of the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104–132).

TITLE IV—ENFORCEMENT OF RESTRICTIONS AGAINST EMPLOYMENT

8 USC 1324a note.

Subtitle A—Pilot Programs for Employment Eligibility Confirmation

SEC. 401. ESTABLISHMENT OF PROGRAMS.

(a) IN GENERAL.—The Attorney General shall conduct 3 pilot programs of employment eligibility confirmation under this subtitle.

(b) IMPLEMENTATION DEADLINE; TERMINATION.—The Attorney General shall implement the pilot programs in a manner that permits persons and other entities to have elections under section 402 of this division made and in effect no later than 1 year after

the date of the enactment of this Act. Unless the Congress otherwise provides, the Attorney General shall terminate a pilot program at the end of the 4-year period beginning on the first day the pilot program is in effect.

(c) SCOPE OF OPERATION OF PILOT PROGRAMS.—The Attorney General shall provide for the operation—

(1) of the basic pilot program (described in section 403(a) of this division) in, at a minimum, 5 of the 7 States with the highest estimated population of aliens who are not lawfully present in the United States;

(2) of the citizen attestation pilot program (described in section 403(b) of this division) in at least 5 States (or, if fewer, all of the States) that meet the condition described in section 403(b)(2)(A) of this division; and

(3) of the machine-readable-document pilot program (described in section 403(c) of this division) in at least 5 States (or, if fewer, all of the States) that meet the condition described in section 403(c)(2) of this division.

(d) REFERENCES IN SUBTITLE.—In this subtitle—

(1) PILOT PROGRAM REFERENCES.—The terms "program" or "pilot program" refer to any of the 3 pilot programs provided for under this subtitle.

(2) CONFIRMATION SYSTEM.—The term "confirmation system" means the confirmation system established under section 404 of this division.

(3) REFERENCES TO SECTION 274A.—Any reference in this subtitle to section 274A (or a subdivision of such section) is deemed a reference to such section (or subdivision thereof) of the Immigration and Nationality Act.

(4) I–9 OR SIMILAR FORM.—The term "I–9 or similar form" means the form used for purposes of section 274A(b)(1)(A) or such other form as the Attorney General determines to be appropriate.

(5) LIMITED APPLICATION TO RECRUITERS AND REFERRERS.—Any reference to recruitment or referral (or a recruiter or referrer) in relation to employment is deemed a reference only to such recruitment or referral (or recruiter or referrer) that is subject to section 274A(a)(1)(B)(ii).

(6) UNITED STATES CITIZENSHIP.—The term "United States citizenship" includes United States nationality.

(7) STATE.—The term "State" has the meaning given such term in section 101(a)(36) of the Immigration and Nationality Act.

SEC. 402. VOLUNTARY ELECTION TO PARTICIPATE IN A PILOT PROGRAM.

(a) VOLUNTARY ELECTION.—Subject to subsection (c)(3)(B), any person or other entity that conducts any hiring (or recruitment or referral) in a State in which a pilot program is operating may elect to participate in that pilot program. Except as specifically provided in subsection (e), the Attorney General may not require any person or other entity to participate in a pilot program.

(b) BENEFIT OF REBUTTABLE PRESUMPTION.—

(1) IN GENERAL.—If a person or other entity is participating in a pilot program and obtains confirmation of identity and employment eligibility in compliance with the terms and conditions of the program with respect to the hiring (or recruitment

or referral) of an individual for employment in the United States, the person or entity has established a rebuttable presumption that the person or entity has not violated section 274A(a)(1)(A) with respect to such hiring (or such recruitment or referral).

(2) CONSTRUCTION.—Paragraph (1) shall not be construed as preventing a person or other entity that has an election in effect under subsection (a) from establishing an affirmative defense under section 274A(a)(3) if the person or entity complies with the requirements of section 274A(a)(1)(B) but fails to obtain confirmation under paragraph (1).

(c) GENERAL TERMS OF ELECTIONS.—

(1) IN GENERAL.—An election under subsection (a) shall be in such form and manner, under such terms and conditions, and shall take effect, as the Attorney General shall specify. The Attorney General may not impose any fee as a condition of making an election or participating in a pilot program.

(2) SCOPE OF ELECTION.—

(A) IN GENERAL.—Subject to paragraph (3), any electing person or other entity may provide that the election under subsection (a) shall apply (during the period in which the election is in effect)—

(i) to all its hiring (and all recruitment or referral) in the State (or States) in which the pilot program is operating, or

(ii) to its hiring (or recruitment or referral) in one or more pilot program States or one or more places of hiring (or recruitment or referral, as the case may be) in the pilot program States.

(B) APPLICATION OF PROGRAMS IN NON-PILOT PROGRAM STATES.—In addition, the Attorney General may permit a person or entity electing—

(i) the basic pilot program (described in section 403(a) of this division) to provide that the election applies to its hiring (or recruitment or referral) in one or more States or places of hiring (or recruitment or referral) in which the pilot program is not otherwise operating, or

(ii) the citizen attestation pilot program (described in 403(b) of this division) or the machine-readable-document pilot program (described in section 403(c) of this division) to provide that the election applies to its hiring (or recruitment or referral) in one or more States or places of hiring (or recruitment or referral) in which the pilot program is not otherwise operating but only if such States meet the requirements of 403(b)(2)(A) and 403(c)(2) of this division, respectively.

(3) ACCEPTANCE AND REJECTION OF ELECTIONS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Attorney General shall accept all elections made under subsection (a).

(B) REJECTION OF ELECTIONS.—The Attorney General may reject an election by a person or other entity under this section or limit its applicability to certain States or places of hiring (or recruitment or referral) if the Attorney General has determined that there are insufficient

resources to provide appropriate services under a pilot program for the person's or entity's hiring (or recruitment or referral) in any or all States or places of hiring.

(4) TERMINATION OF ELECTIONS.—The Attorney General may terminate an election by a person or other entity under this section because the person or entity has substantially failed to comply with its obligations under the pilot program. A person or other entity may terminate an election in such form and manner as the Attorney General shall specify.

(d) CONSULTATION, EDUCATION, AND PUBLICITY.—

(1) CONSULTATION.—The Attorney General shall closely consult with representatives of employers (and recruiters and referrers) in the development and implementation of the pilot programs, including the education of employers (and recruiters and referrers) about such programs.

(2) PUBLICITY.—The Attorney General shall widely publicize the election process and pilot programs, including the voluntary nature of the pilot programs and the advantages to employers (and recruiters and referrers) of making an election under this section.

(3) ASSISTANCE THROUGH DISTRICT OFFICES.—The Attorney General shall designate one or more individuals in each District office of the Immigration and Naturalization Service for a Service District in which a pilot program is being implemented—

(A) to inform persons and other entities that seek information about pilot programs of the voluntary nature of such programs, and

(B) to assist persons and other entities in electing and participating in any pilot programs in effect in the District, in complying with the requirements of section 274A, and in facilitating confirmation of the identity and employment eligibility of individuals consistent with such section.

(e) SELECT ENTITIES REQUIRED TO PARTICIPATE IN A PILOT PROGRAM.—

(1) FEDERAL GOVERNMENT.—

(A) EXECUTIVE DEPARTMENTS.—

(i) IN GENERAL.—Each Department of the Federal Government shall elect to participate in a pilot program and shall comply with the terms and conditions of such an election.

(ii) ELECTION.—Subject to clause (iii), the Secretary of each such Department—

(I) shall elect the pilot program (or programs) in which the Department shall participate, and

(II) may limit the election to hiring occurring in certain States (or geographic areas) covered by the program (or programs) and in specified divisions within the Department, so long as all hiring by such divisions and in such locations is covered.

(iii) ROLE OF ATTORNEY GENERAL.—The Attorney General shall assist and coordinate elections under this subparagraph in such manner as assures that—

(I) a significant portion of the total hiring within each Department within States covered by a pilot program is covered under such a program, and

(II) there is significant participation by the Federal Executive branch in each of the pilot programs.

(B) LEGISLATIVE BRANCH.—Each Member of Congress, each officer of Congress, and the head of each agency of the legislative branch, that conducts hiring in a State in which a pilot program is operating shall elect to participate in a pilot program, may specify which pilot program or programs (if there is more than one) in which the Member, officer, or agency will participate, and shall comply with the terms and conditions of such an election.

(2) APPLICATION TO CERTAIN VIOLATORS.—An order under section 274A(e)(4) or section 274B(g) of the Immigration and Nationality Act may require the subject of the order to participate in, and comply with the terms of, a pilot program with respect to the subject's hiring (or recruitment or referral) of individuals in a State covered by such a program.

(3) CONSEQUENCE OF FAILURE TO PARTICIPATE.—If a person or other entity is required under this subsection to participate in a pilot program and fails to comply with the requirements of such program with respect to an individual—

(A) such failure shall be treated as a violation of section 274A(a)(1)(B) with respect to that individual, and

(B) a rebuttable presumption is created that the person or entity has violated section 274A(a)(1)(A).

Subparagraph (B) shall not apply in any prosecution under section 274A(f)(1).

(f) CONSTRUCTION.—This subtitle shall not affect the authority of the Attorney General under any other law (including section 274A(d)(4)) to conduct demonstration projects in relation to section 274A.

SEC. 403. PROCEDURES FOR PARTICIPANTS IN PILOT PROGRAMS.

(a) BASIC PILOT PROGRAM.—A person or other entity that elects to participate in the basic pilot program described in this subsection agrees to conform to the following procedures in the case of the hiring (or recruitment or referral) for employment in the United States of each individual covered by the election:

(1) PROVISION OF ADDITIONAL INFORMATION.—The person or entity shall obtain from the individual (and the individual shall provide) and shall record on the I–9 or similar form—

(A) the individual's social security account number, if the individual has been issued such a number, and

(B) if the individual does not attest to United States citizenship under section 274A(b)(2), such identification or authorization number established by the Immigration and Naturalization Service for the alien as the Attorney General shall specify,

and shall retain the original form and make it available for inspection for the period and in the manner required of I–9 forms under section 274A(b)(3).

(2) PRESENTATION OF DOCUMENTATION.—

(A) IN GENERAL.—The person or other entity, and the individual whose identity and employment eligibility are being confirmed, shall, subject to subparagraph (B), fulfill the requirements of section 274A(b) with the following modifications:

(i) A document referred to in section 274A(b)(1)(B)(ii) (as redesignated by section 412(a) of this division) must be designated by the Attorney General as suitable for the purpose of identification in a pilot program.

(ii) A document referred to in section 274A(b)(1)(D) must contain a photograph of the individual.

(iii) The person or other entity has complied with the requirements of section 274A(b)(1) with respect to examination of a document if the document reasonably appears on its face to be genuine and it reasonably appears to pertain to the individual whose identity and work eligibility is being confirmed.

(B) LIMITATION OF REQUIREMENT TO EXAMINE DOCUMENTATION.—If the Attorney General finds that a pilot program would reliably determine with respect to an individual whether—

(i) the person with the identity claimed by the individual is authorized to work in the United States, and

(ii) the individual is claiming the identity of another person,

if a person or entity could fulfill the requirement to examine documentation contained in subparagraph (A) of section 274A(b)(1) by examining a document specified in either subparagraph (B) or (D) of such section, the Attorney General may provide that, for purposes of such requirement, only such a document need be examined. In such case, any reference in section 274A(b)(1)(A) to a verification that an individual is not an unauthorized alien shall be deemed to be a verification of the individual's identity.

(3) SEEKING CONFIRMATION.—

(A) IN GENERAL.—The person or other entity shall make an inquiry, as provided in section 404(a)(1) of this division, using the confirmation system to seek confirmation of the identity and employment eligibility of an individual, by not later than the end of 3 working days (as specified by the Attorney General) after the date of the hiring (or recruitment or referral, as the case may be).

(B) EXTENSION OF TIME PERIOD.—If the person or other entity in good faith attempts to make an inquiry during such 3 working days and the confirmation system has registered that not all inquiries were received during such time, the person or entity can make an inquiry in the first subsequent working day in which the confirmation system registers that it has received all inquiries. If the confirmation system cannot receive inquiries at all times during a day, the person or entity merely has to assert that the entity attempted to make the inquiry on that day for the previous sentence to apply to such an inquiry, and does not have to provide any additional proof concerning such inquiry.

(4) CONFIRMATION OR NONCONFIRMATION.—

(A) CONFIRMATION UPON INITIAL INQUIRY.—If the person or other entity receives an appropriate confirmation of an individual's identity and work eligibility under the confirmation system within the time period specified under

section 404(b) of this division, the person or entity shall record on the I–9 or similar form an appropriate code that is provided under the system and that indicates a final confirmation of such identity and work eligibility of the individual.

(B) NONCONFIRMATION UPON INITIAL INQUIRY AND SECONDARY VERIFICATION.—

(i) NONCONFIRMATION.—If the person or other entity receives a tentative nonconfirmation of an individual's identity or work eligibility under the confirmation system within the time period specified under 404(b) of this division, the person or entity shall so inform the individual for whom the confirmation is sought.

(ii) NO CONTEST.—If the individual does not contest the nonconfirmation within the time period specified in section 404(c) of this division, the nonconfirmation shall be considered final. The person or entity shall then record on the I–9 or similar form an appropriate code which has been provided under the system to indicate a tentative nonconfirmation.

(iii) CONTEST.—If the individual does contest the nonconfirmation, the individual shall utilize the process for secondary verification provided under section 404(c) of this division. The nonconfirmation will remain tentative until a final confirmation or nonconfirmation is provided by the confirmation system within the time period specified in such section. In no case shall an employer terminate employment of an individual because of a failure of the individual to have identity and work eligibility confirmed under this section until a nonconfirmation becomes final. Nothing in this clause shall apply to a termination of employment for any reason other than because of such a failure.

(iv) RECORDING OF CONCLUSION ON FORM.—If a final confirmation or nonconfirmation is provided by the confirmation system under section 404(c) of this division regarding an individual, the person or entity shall record on the I–9 or similar form an appropriate code that is provided under the system and that indicates a confirmation or nonconfirmation of identity and work eligibility of the individual.

(C) CONSEQUENCES OF NONCONFIRMATION.—

(i) TERMINATION OR NOTIFICATION OF CONTINUED EMPLOYMENT.—If the person or other entity has received a final nonconfirmation regarding an individual under subparagraph (B), the person or entity may terminate employment (or recruitment or referral) of the individual. If the person or entity does not terminate employment (or recruitment or referral) of the individual, the person or entity shall notify the Attorney General of such fact through the confirmation system or in such other manner as the Attorney General may specify.

(ii) FAILURE TO NOTIFY.—If the person or entity fails to provide notice with respect to an individual as required under clause (i), the failure is deemed

to constitute a violation of section 274A(a)(1)(B) with respect to that individual and the applicable civil monetary penalty under section 274A(e)(5) shall be (notwithstanding the amounts specified in such section) no less than $500 and no more than $1,000 for each individual with respect to whom such violation occurred.

(iii) CONTINUED EMPLOYMENT AFTER FINAL NONCONFIRMATION.—If the person or other entity continues to employ (or to recruit or refer) an individual after receiving final nonconfirmation, a rebuttable presumption is created that the person or entity has violated section 274A(a)(1)(A). The previous sentence shall not apply in any prosecution under section 274A(f)(1).

(b) CITIZEN ATTESTATION PILOT PROGRAM.—

(1) IN GENERAL.—Except as provided in paragraphs (3) through (5), the procedures applicable under the citizen attestation pilot program under this subsection shall be the same procedures as those under the basic pilot program under subsection (a).

(2) RESTRICTIONS.—

(A) STATE DOCUMENT REQUIREMENT TO PARTICIPATE IN PILOT PROGRAM.—The Attorney General may not provide for the operation of the citizen attestation pilot program in a State unless each driver's license or similar identification document described in section 274A(b)(1)(D)(i) issued by the State—

(i) contains a photograph of the individual involved, and

(ii) has been determined by the Attorney General to have security features, and to have been issued through application and issuance procedures, which make such document sufficiently resistant to counterfeiting, tampering, and fraudulent use that it is a reliable means of identification for purposes of this section.

(B) AUTHORIZATION TO LIMIT EMPLOYER PARTICIPATION.—The Attorney General may restrict the number of persons or other entities that may elect to participate in the citizen attestation pilot program under this subsection as the Attorney General determines to be necessary to produce a representative sample of employers and to reduce the potential impact of fraud.

(3) NO CONFIRMATION REQUIRED FOR CERTAIN INDIVIDUALS ATTESTING TO U.S. CITIZENSHIP.—In the case of a person or other entity hiring (or recruiting or referring) an individual under the citizen attestation pilot program, if the individual attests to United States citizenship (under penalty of perjury on an I–9 or similar form which form states on its face the criminal and other penalties provided under law for a false representation of United States citizenship)—

(A) the person or entity may fulfill the requirement to examine documentation contained in subparagraph (A) of section 274A(b)(1) by examining a document specified in either subparagraph (B)(i) or (D) of such section; and

(B) the person or other entity is not required to comply with respect to such individual with the procedures

described in paragraphs (3) and (4) of subsection (a), but only if the person or entity retains the form and makes it available for inspection in the same manner as in the case of an I–9 form under section 274A(b)(3).

(4) WAIVER OF DOCUMENT PRESENTATION REQUIREMENT IN CERTAIN CASES.—

(A) IN GENERAL.—In the case of a person or entity that elects, in a manner specified by the Attorney General consistent with subparagraph (B), to participate in the pilot program under this paragraph, if an individual being hired (or recruited or referred) attests (in the manner described in paragraph (3)) to United States citizenship and the person or entity retains the form on which the attestation is made and makes it available for inspection in the same manner as in the case of an I–9 form under section 274A(b)(3), the person or entity is not required to comply with the procedures described in section 274A(b).

(B) RESTRICTION.—The Attorney General shall restrict the election under this paragraph to no more than 1,000 employers and, to the extent practicable, shall select among employers seeking to make such election in a manner that provides for such an election by a representative sample of employers.

(5) NONREVIEWABLE DETERMINATIONS.—The determinations of the Attorney General under paragraphs (2) and (4) are within the discretion of the Attorney General and are not subject to judicial or administrative review.

(c) MACHINE-READABLE-DOCUMENT PILOT PROGRAM.—

(1) IN GENERAL.—Except as provided in paragraph (3), the procedures applicable under the machine-readable-document pilot program under this subsection shall be the same procedures as those under the basic pilot program under subsection (a).

(2) STATE DOCUMENT REQUIREMENT TO PARTICIPATE IN PILOT PROGRAM.—The Attorney General may not provide for the operation of the machine-readable-document pilot program in a State unless driver's licenses and similar identification documents described in section 274A(b)(1)(D)(i) issued by the State include a machine-readable social security account number.

(3) USE OF MACHINE-READABLE DOCUMENTS.—If the individual whose identity and employment eligibility must be confirmed presents to the person or entity hiring (or recruiting or referring) the individual a license or other document described in paragraph (2) that includes a machine-readable social security account number, the person or entity must make an inquiry through the confirmation system by using a machine-readable feature of such document. If the individual does not attest to United States citizenship under section 274A(b)(2), the individual's identification or authorization number described in subsection (a)(1)(B) shall be provided as part of the inquiry.

(d) PROTECTION FROM LIABILITY FOR ACTIONS TAKEN ON THE BASIS OF INFORMATION PROVIDED BY THE CONFIRMATION SYSTEM.—No person or entity participating in a pilot program shall be civilly or criminally liable under any law for any action taken in good faith reliance on information provided through the confirmation system.

SEC. 404. EMPLOYMENT ELIGIBILITY CONFIRMATION SYSTEM.

(a) IN GENERAL.—The Attorney General shall establish a pilot program confirmation system through which the Attorney General (or a designee of the Attorney General, which may be a nongovernmental entity)—

(1) responds to inquiries made by electing persons and other entities (including those made by the transmittal of data from machine-readable documents under the machine-readable pilot program) at any time through a toll-free telephone line or other toll-free electronic media concerning an individual's identity and whether the individual is authorized to be employed, and

(2) maintains records of the inquiries that were made, of confirmations provided (or not provided), and of the codes provided to inquirers as evidence of their compliance with their obligations under the pilot programs.

To the extent practicable, the Attorney General shall seek to establish such a system using one or more nongovernmental entities.

(b) INITIAL RESPONSE.—The confirmation system shall provide confirmation or a tentative nonconfirmation of an individual's identity and employment eligibility within 3 working days of the initial inquiry. If providing confirmation or tentative nonconfirmation, the confirmation system shall provide an appropriate code indicating such confirmation or such nonconfirmation.

(c) SECONDARY VERIFICATION PROCESS IN CASE OF TENTATIVE NONCONFIRMATION.—In cases of tentative nonconfirmation, the Attorney General shall specify, in consultation with the Commissioner of Social Security and the Commissioner of the Immigration and Naturalization Service, an available secondary verification process to confirm the validity of information provided and to provide a final confirmation or nonconfirmation within 10 working days after the date of the tentative nonconfirmation. When final confirmation or nonconfirmation is provided, the confirmation system shall provide an appropriate code indicating such confirmation or nonconfirmation.

(d) DESIGN AND OPERATION OF SYSTEM.—The confirmation system shall be designed and operated—

(1) to maximize its reliability and ease of use by persons and other entities making elections under section 402(a) of this division consistent with insulating and protecting the privacy and security of the underlying information;

(2) to respond to all inquiries made by such persons and entities on whether individuals are authorized to be employed and to register all times when such inquiries are not received;

(3) with appropriate administrative, technical, and physical safeguards to prevent unauthorized disclosure of personal information; and

(4) to have reasonable safeguards against the system's resulting in unlawful discriminatory practices based on national origin or citizenship status, including—

(A) the selective or unauthorized use of the system to verify eligibility;

(B) the use of the system prior to an offer of employment; or

(C) the exclusion of certain individuals from consideration for employment as a result of a perceived likelihood

that additional verification will be required, beyond what is required for most job applicants.

(e) RESPONSIBILITIES OF THE COMMISSIONER OF SOCIAL SECURITY.—As part of the confirmation system, the Commissioner of Social Security, in consultation with the entity responsible for administration of the system, shall establish a reliable, secure method, which, within the time periods specified under subsections (b) and (c), compares the name and social security account number provided in an inquiry against such information maintained by the Commissioner in order to confirm (or not confirm) the validity of the information provided regarding an individual whose identity and employment eligibility must be confirmed, the correspondence of the name and number, and whether the individual has presented a social security account number that is not valid for employment. The Commissioner shall not disclose or release social security information (other than such confirmation or nonconfirmation).

(f) RESPONSIBILITIES OF THE COMMISSIONER OF THE IMMIGRATION AND NATURALIZATION SERVICE.—As part of the confirmation system, the Commissioner of the Immigration and Naturalization Service, in consultation with the entity responsible for administration of the system, shall establish a reliable, secure method, which, within the time periods specified under subsections (b) and (c), compares the name and alien identification or authorization number described in section 403(a)(1)(B) of this division which are provided in an inquiry against such information maintained by the Commissioner in order to confirm (or not confirm) the validity of the information provided, the correspondence of the name and number, and whether the alien is authorized to be employed in the United States.

(g) UPDATING INFORMATION.—The Commissioners of Social Security and the Immigration and Naturalization Service shall update their information in a manner that promotes the maximum accuracy and shall provide a process for the prompt correction of erroneous information, including instances in which it is brought to their attention in the secondary verification process described in subsection (c).

(h) LIMITATION ON USE OF THE CONFIRMATION SYSTEM AND ANY RELATED SYSTEMS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, nothing in this subtitle shall be construed to permit or allow any department, bureau, or other agency of the United States Government to utilize any information, data base, or other records assembled under this subtitle for any other purpose other than as provided for under a pilot program.

(2) NO NATIONAL IDENTIFICATION CARD.—Nothing in this subtitle shall be construed to authorize, directly or indirectly, the issuance or use of national identification cards or the establishment of a national identification card.

SEC. 405. REPORTS.

The Attorney General shall submit to the Committees on the Judiciary of the House of Representatives and of the Senate reports on the pilot programs within 3 months after the end of the third and fourth years in which the programs are in effect. Such reports shall—

(1) assess the degree of fraudulent attesting of United States citizenship,

(2) include recommendations on whether or not the pilot programs should be continued or modified, and

(3) assess the benefits of the pilot programs to employers and the degree to which they assist in the enforcement of section 274A.

Subtitle B—Other Provisions Relating to Employer Sanctions

SEC. 411. LIMITING LIABILITY FOR CERTAIN TECHNICAL VIOLATIONS OF PAPERWORK REQUIREMENTS.

(a) IN GENERAL.—Section 274A(b) (8 U.S.C. 1324a(b)) is amended by adding at the end the following new paragraph:

"(6) GOOD FAITH COMPLIANCE.—

"(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), a person or entity is considered to have complied with a requirement of this subsection notwithstanding a technical or procedural failure to meet such requirement if there was a good faith attempt to comply with the requirement.

"(B) EXCEPTION IF FAILURE TO CORRECT AFTER NOTICE.—Subparagraph (A) shall not apply if—

"(i) the Service (or another enforcement agency) has explained to the person or entity the basis for the failure,

"(ii) the person or entity has been provided a period of not less than 10 business days (beginning after the date of the explanation) within which to correct the failure, and

"(iii) the person or entity has not corrected the failure voluntarily within such period.

"(C) EXCEPTION FOR PATTERN OR PRACTICE VIOLATORS.—Subparagraph (A) shall not apply to a person or entity that has or is engaging in a pattern or practice of violations of subsection (a)(1)(A) or (a)(2).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to failures occurring on or after the date of the enactment of this Act. 8 USC 1324a note.

SEC. 412. PAPERWORK AND OTHER CHANGES IN THE EMPLOYER SANCTIONS PROGRAM.

(a) REDUCING THE NUMBER OF DOCUMENTS ACCEPTED FOR EMPLOYMENT VERIFICATION.—Section 274A(b)(1) (8 U.S.C. 1324a(b)(1)) is amended—

(1) in subparagraph (B)—

(A) by striking clauses (ii) through (iv),

(B) in clause (v), by striking "or other alien registration card, if the card" and inserting ", alien registration card, or other document designated by the Attorney General, if the document" and redesignating such clause as clause (ii), and

(C) in clause (ii), as so redesignated—

(i) in subclause (I), by striking "or" before "such other personal identifying information" and inserting "and",

(ii) by striking "and" at the end of subclause (I),

(iii) by striking the period at the end of subclause (II) and inserting ", and", and

(iv) by adding at the end the following new subclause:

"(III) contains security features to make it resistant to tampering, counterfeiting, and fraudulent use.";

(2) in subparagraph (C)—

(A) by adding "or" at the end of clause (i),

(B) by striking clause (ii), and

(C) by redesignating clause (iii) as clause (ii); and

(3) by adding at the end the following new subparagraph:

"(E) AUTHORITY TO PROHIBIT USE OF CERTAIN DOCUMENTS.—If the Attorney General finds, by regulation, that any document described in subparagraph (B), (C), or (D) as establishing employment authorization or identity does not reliably establish such authorization or identity or is being used fraudulently to an unacceptable degree, the Attorney General may prohibit or place conditions on its use for purposes of this subsection.".

(b) REDUCTION OF PAPERWORK FOR CERTAIN EMPLOYEES.—Section 274A(a) (8 U.S.C. 1324a(a)) is amended by adding at the end the following new paragraph:

"(6) TREATMENT OF DOCUMENTATION FOR CERTAIN EMPLOYEES.—

"(A) IN GENERAL.—For purposes of this section, if—

"(i) an individual is a member of a collective-bargaining unit and is employed, under a collective bargaining agreement entered into between one or more employee organizations and an association of two or more employers, by an employer that is a member of such association, and

"(ii) within the period specified in subparagraph (B), another employer that is a member of the association (or an agent of such association on behalf of the employer) has complied with the requirements of subsection (b) with respect to the employment of the individual,

the subsequent employer shall be deemed to have complied with the requirements of subsection (b) with respect to the hiring of the employee and shall not be liable for civil penalties described in subsection (e)(5).

"(B) PERIOD.—The period described in this subparagraph is 3 years, or, if less, the period of time that the individual is authorized to be employed in the United States.

"(C) LIABILITY.—

"(i) IN GENERAL.—If any employer that is a member of an association hires for employment in the United States an individual and relies upon the provisions of subparagraph (A) to comply with the requirements of subsection (b) and the individual is an alien not authorized to work in the United States, then for the purposes of paragraph (1)(A), subject to clause (ii), the employer shall be presumed to have known at the time of hiring or afterward that the individual

was an alien not authorized to work in the United States.

"(ii) REBUTTAL OF PRESUMPTION.—The presumption established by clause (i) may be rebutted by the employer only through the presentation of clear and convincing evidence that the employer did not know (and could not reasonably have known) that the individual at the time of hiring or afterward was an alien not authorized to work in the United States.

"(iii) EXCEPTION.—Clause (i) shall not apply in any prosecution under subsection (f)(1).".

(c) ELIMINATION OF DATED PROVISIONS.—Section 274A (8 U.S.C. 1324a) is amended by striking subsections (i) through (n).

(d) CLARIFICATION OF APPLICATION TO FEDERAL GOVERNMENT.—Section 274A(a) (8 U.S.C. 1324a(a)), as amended by subsection (b), is amended by adding at the end the following new paragraph:

"(7) APPLICATION TO FEDERAL GOVERNMENT.—For purposes of this section, the term 'entity' includes an entity in any branch of the Federal Government.".

(e) EFFECTIVE DATES.— 8 USC 1324a note.

(1) The amendments made by subsection (a) shall apply with respect to hiring (or recruitment or referral) occurring on or after such date (not later than 12 months after the date of the enactment of this Act) as the Attorney General shall designate.

(2) The amendment made by subsection (b) shall apply to individuals hired on or after 60 days after the date of the enactment of this Act.

(3) The amendment made by subsection (c) shall take effect on the date of the enactment of this Act.

(4) The amendment made by subsection (d) applies to hiring occurring before, on, or after the date of the enactment of this Act, but no penalty shall be imposed under subsection (e) or (f) of section 274A of the Immigration and Nationality Act for such hiring occurring before such date.

SEC. 413. REPORT ON ADDITIONAL AUTHORITY OR RESOURCES NEEDED FOR ENFORCEMENT OF EMPLOYER SANCTIONS PROVISIONS.

(a) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Attorney General shall submit to the Committees on the Judiciary of the House of Representatives and of the Senate a report on any additional authority or resources needed— 8 USC 1324a note.

(1) by the Immigration and Naturalization Service in order to enforce section 274A of the Immigration and Nationality Act, or

(2) by Federal agencies in order to carry out the Executive Order of February 13, 1996 (entitled "Economy and Efficiency in Government Procurement Through Compliance with Certain Immigration and Naturalization Act Provisions") and to expand the restrictions in such order to cover agricultural subsidies, grants, job training programs, and other Federally subsidized assistance programs.

(b) REFERENCE TO INCREASED AUTHORIZATION OF APPROPRIATIONS.—For provision increasing the authorization of appropriations

for investigators for violations of sections 274 and 274A of the Immigration and Nationality Act, see section 131 of this division.

SEC. 414. REPORTS ON EARNINGS OF ALIENS NOT AUTHORIZED TO WORK.

(a) IN GENERAL.—Subsection (c) of section 290 (8 U.S.C. 1360) is amended to read as follows:

"(c)(1) Not later than 3 months after the end of each fiscal year (beginning with fiscal year 1996), the Commissioner of Social Security shall report to the Committees on the Judiciary of the House of Representatives and the Senate on the aggregate quantity of social security account numbers issued to aliens not authorized to be employed, with respect to which, in such fiscal year, earnings were reported to the Social Security Administration.

"(2) If earnings are reported on or after January 1, 1997, to the Social Security Administration on a social security account number issued to an alien not authorized to work in the United States, the Commissioner of Social Security shall provide the Attorney General with information regarding the name and address of the alien, the name and address of the person reporting the earnings, and the amount of the earnings. The information shall be provided in an electronic form agreed upon by the Commissioner and the Attorney General.".

8 USC 1360 note.

(b) REPORT ON FRAUDULENT USE OF SOCIAL SECURITY ACCOUNT NUMBERS.—The Commissioner of Social Security shall transmit to the Attorney General, by not later than 1 year after the date of the enactment of this Act, a report on the extent to which social security account numbers and cards are used by aliens for fraudulent purposes.

SEC. 415. AUTHORIZING MAINTENANCE OF CERTAIN INFORMATION ON ALIENS.

Section 264 (8 U.S.C. 1304) is amended by adding at the end the following new subsection:

"(f) Notwithstanding any other provision of law, the Attorney General is authorized to require any alien to provide the alien's social security account number for purposes of inclusion in any record of the alien maintained by the Attorney General or the Service.".

SEC. 416. SUBPOENA AUTHORITY.

Section 274A(e)(2) (8 U.S.C. 1324a(e)(2)) is amended—

(1) by striking "and" at the end of subparagraph (A);

(2) by striking the period at the end of subparagraph (B) and inserting ", and"; and

(3) by inserting after subparagraph (B) the following:

"(C) immigration officers designated by the Commissioner may compel by subpoena the attendance of witnesses and the production of evidence at any designated place prior to the filing of a complaint in a case under paragraph (2).".

Subtitle C—Unfair Immigration-Related Employment Practices

SEC. 421. TREATMENT OF CERTAIN DOCUMENTARY PRACTICES AS UNFAIR IMMIGRATION-RELATED EMPLOYMENT PRACTICES.

(a) IN GENERAL.—Section 274B(a)(6) (8 U.S.C. 1324b(a)(6)) is amended—

(1) by striking "For purposes of paragraph (1), a" and inserting "A"; and

(2) by striking "relating to the hiring of individuals" and inserting the following: "if made for the purpose or with the intent of discriminating against an individual in violation of paragraph (1)".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to requests made on or after the date of the enactment of this Act. 8 USC 1324b note.

TITLE V—RESTRICTIONS ON BENEFITS FOR ALIENS

Subtitle A—Eligibility of Aliens for Public Assistance and Benefits

SEC. 501. EXCEPTION TO INELIGIBILITY FOR PUBLIC BENEFITS FOR CERTAIN BATTERED ALIENS.

Section 431 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1641) is amended by adding at the end the following new subsection:

"(c) TREATMENT OF CERTAIN BATTERED ALIENS AS QUALIFIED ALIENS.—For purposes of this title, the term 'qualified alien' includes—

"(1) an alien who—

"(A) has been battered or subjected to extreme cruelty in the United States by a spouse or a parent, or by a member of the spouse or parent's family residing in the same household as the alien and the spouse or parent consented to, or acquiesced in, such battery or cruelty, but only if (in the opinion of the Attorney General, which opinion is not subject to review by any court) there is a substantial connection between such battery or cruelty and the need for the benefits to be provided; and

"(B) has been approved or has a petition pending which sets forth a prima facie case for—

"(i) status as a spouse or a child of a United States citizen pursuant to clause (ii), (iii), or (iv) of section 204(a)(1)(A) of the Immigration and Nationality Act,

"(ii) classification pursuant to clause (ii) or (iii) of section 204(a)(1)(B) of the Act,

"(iii) suspension of deportation and adjustment of status pursuant to section 244(a)(3) of such Act, or

"(iv) status as a spouse or child of a United States citizen pursuant to clause (i) of section 204(a)(1)(A) of such Act, or classification pursuant to clause (i) of section 204(a)(1)(B) of such Act; or

"(2) an alien—

"(A) whose child has been battered or subjected to extreme cruelty in the United States by a spouse or a parent of the alien (without the active participation of the alien in the battery or cruelty), or by a member of the spouse or parent's family residing in the same household as the alien and the spouse or parent consented or acquiesced to such battery or cruelty, and the alien did not actively participate in such battery or cruelty, but only if (in the opinion of the Attorney General, which opinion is not subject to review by any court) there is a substantial connection between such battery or cruelty and the need for the benefits to be provided; and

"(B) who meets the requirement of clause (ii) of subparagraph (A).

This subsection shall not apply to an alien during any period in which the individual responsible for such battery or cruelty resides in the same household or family eligibility unit as the individual subjected to such battery or cruelty.".

8 USC 1621 note.

SEC. 502. PILOT PROGRAMS ON LIMITING ISSUANCE OF DRIVER'S LICENSES TO ILLEGAL ALIENS.

(a) IN GENERAL.—Pursuant to guidelines prescribed by the Attorney General not later than 6 months after the date of the enactment of this Act, all States may conduct pilot programs within their State to determine the viability, advisability, and cost-effectiveness of the State's denying driver's licenses to aliens who are not lawfully present in the United States. Under a pilot program a State may deny a driver's license to aliens who are not lawfully present in the United States. Such program shall be conducted in cooperation with relevant State and local authorities.

(b) REPORT.—Not later than 3 years after the date of the enactment of this Act, the Attorney General shall submit a report to the Judiciary Committees of the House of Representatives and of the Senate on the results of the pilot programs conducted under subsection (a).

SEC. 503. INELIGIBILITY OF ALIENS NOT LAWFULLY PRESENT FOR SOCIAL SECURITY BENEFITS.

(a) IN GENERAL.—Section 202 of the Social Security Act (42 U.S.C. 402) is amended by adding at the end the following new subsection:

"Limitation on Payments to Aliens

"(y) Notwithstanding any other provision of law, no monthly benefit under this title shall be payable to any alien in the United States for any month during which such alien is not lawfully present in the United States as determined by the Attorney General.".

42 USC 402 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to benefits for which applications are filed on or after the first day of the first month that begins at least 60 days after the date of the enactment of this Act.

SEC. 504. PROCEDURES FOR REQUIRING PROOF OF CITIZENSHIP FOR FEDERAL PUBLIC BENEFITS.

Section 432(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1642) is amended—

(1) by inserting "(1)" after the dash, and

(2) by adding at the end the following:

"(2) Not later than 18 months after the date of the enactment of this Act, the Attorney General, in consultation with the Secretary of Health and Human Services, shall also establish procedures for a person applying for a Federal public benefit (as defined in section 401(c)) to provide proof of citizenship in a fair and nondiscriminatory manner.".

SEC. 505. LIMITATION ON ELIGIBILITY FOR PREFERENTIAL TREATMENT OF ALIENS NOT LAWFULLY PRESENT ON BASIS OF RESIDENCE FOR HIGHER EDUCATION BENEFITS. 8 USC 1623.

(a) IN GENERAL.—Notwithstanding any other provision of law, an alien who is not lawfully present in the United States shall not be eligible on the basis of residence within a State (or a political subdivision) for any postsecondary education benefit unless a citizen or national of the United States is eligible for such a benefit (in no less an amount, duration, and scope) without regard to whether the citizen or national is such a resident.

(b) EFFECTIVE DATE.—This section shall apply to benefits provided on or after July 1, 1998.

SEC. 506. STUDY AND REPORT ON ALIEN STUDENT ELIGIBILITY FOR POSTSECONDARY FEDERAL STUDENT FINANCIAL ASSISTANCE. 8 USC 1611 note.

(a) GAO STUDY AND REPORT.—

(1) STUDY.—The Comptroller General shall conduct a study to determine the extent to which aliens who are not lawfully admitted for permanent residence are receiving postsecondary Federal student financial assistance.

(2) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall submit a report to the appropriate committees of the Congress on the study conducted under paragraph (1).

(b) REPORT ON COMPUTER MATCHING PROGRAM.—

(1) IN GENERAL.—Not later than one year after the date of the enactment of this Act, the Secretary of Education and the Commissioner of Social Security shall jointly submit to the appropriate committees of the Congress a report on the computer matching program of the Department of Education under section 484(p) of the Higher Education Act of 1965.

(2) REPORT ELEMENTS.—The report under paragraph (1) shall include the following:

(A) An assessment by the Secretary and the Commissioner of the effectiveness of the computer matching program, and a justification for such assessment.

(B) The ratio of successful matches under the program to inaccurate matches.

(C) Such other information as the Secretary and the Commissioner jointly consider appropriate.

(c) APPROPRIATE COMMITTEES OF THE CONGRESS.—For purposes of this section the term "appropriate committees of the Congress" means the Committee on Economic and Educational Opportunities

and the Committee on the Judiciary of the House of Representatives and the Committee on Labor and Human Resources and the Committee on the Judiciary of the Senate.

SEC. 507. VERIFICATION OF IMMIGRATION STATUS FOR PURPOSES OF SOCIAL SECURITY AND HIGHER EDUCATIONAL ASSISTANCE.

(a) SOCIAL SECURITY ACT STATE INCOME AND ELIGIBILITY VERIFICATION SYSTEMS.—Section 1137(d)(4)(B)(i)) of the Social Security Act (42 U.S.C. 1320b–7(d)(4)(B)(i)) is amended to read as follows:

"(i) the State shall transmit to the Immigration and Naturalization Service either photostatic or other similar copies of such documents, or information from such documents, as specified by the Immigration and Naturalization Service, for official verification,".

(b) ELIGIBILITY FOR ASSISTANCE UNDER HIGHER EDUCATION ACT OF 1965.—Section 484(g)(4)(B)(i) of the Higher Education Act of 1965 (20 U.S.C. 1091(g)(4)(B)(i)) is amended to read as follows:

"(i) the institution shall transmit to the Immigration and Naturalization Service either photostatic or other similar copies of such documents, or information from such documents, as specified by the Immigration and Naturalization Service, for official verification,".

SEC. 508. NO VERIFICATION REQUIREMENT FOR NONPROFIT CHARITABLE ORGANIZATIONS.

Section 432 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1642) is amended by adding at the end the following new subsection:

"(d) NO VERIFICATION REQUIREMENT FOR NONPROFIT CHARITABLE ORGANIZATIONS.—Subject to subsection (a), a nonprofit charitable organization, in providing any Federal public benefit (as defined in section 401(c)) or any State or local public benefit (as defined in section 411(c)), is not required under this title to determine, verify, or otherwise require proof of eligibility of any applicant for such benefits.".

SEC. 509. GAO STUDY OF PROVISION OF MEANS-TESTED PUBLIC BENEFITS TO ALIENS WHO ARE NOT QUALIFIED ALIENS ON BEHALF OF ELIGIBLE INDIVIDUALS.

Not later than 180 days after the date of the enactment of this Act, the Comptroller General shall submit to the Committees on the Judiciary of the House of Representatives and of the Senate and to the Inspector General of the Department of Justice a report on the extent to which means-tested public benefits are being paid or provided to aliens who are not qualified aliens (as defined in section 431(b) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996) in order to provide such benefits to individuals who are United States citizens or qualified aliens (as so defined). Such report shall address the locations in which such benefits are provided and the incidence of fraud or misrepresentation in connection with the provision of such benefits.

SEC. 510. TRANSITION FOR ALIENS CURRENTLY RECEIVING BENEFITS UNDER THE FOOD STAMP PROGRAM.

Effective as if included in the enactment of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996,

subclause (I) of section 402(a)(2)(D)(ii) (8 U.S.C. 1612(a)(2)(D)(ii)) is amended to read as follows:

"(I) IN GENERAL.—With respect to the specified Federal program described in paragraph (3)(B), ineligibility under paragraph (1) shall not apply until April 1, 1997, to an alien who received benefits under such program on the date of enactment of this Act, unless such alien is determined to be ineligible to receive such benefits under the Food Stamp Act of 1977. The State agency shall recertify the eligibility of all such aliens during the period beginning April 1, 1997, and ending August 22, 1997.".

Subtitle B—Public Charge Exclusion

SEC. 531. GROUND FOR EXCLUSION.

(a) IN GENERAL.—Paragraph (4) of section 212(a) (8 U.S.C. 1182(a)) is amended to read as follows:

"(4) PUBLIC CHARGE.—

"(A) IN GENERAL.—Any alien who, in the opinion of the consular officer at the time of application for a visa, or in the opinion of the Attorney General at the time of application for admission or adjustment of status, is likely at any time to become a public charge is excludable.

"(B) FACTORS TO BE TAKEN INTO ACCOUNT.—(i) In determining whether an alien is excludable under this paragraph, the consular officer or the Attorney General shall at a minimum consider the alien's—

"(I) age;

"(II) health;

"(III) family status;

"(IV) assets, resources, and financial status; and

"(V) education and skills.

"(ii) In addition to the factors under clause (i), the consular officer or the Attorney General may also consider any affidavit of support under section 213A for purposes of exclusion under this paragraph.

"(C) FAMILY-SPONSORED IMMIGRANTS.—Any alien who seeks admission or adjustment of status under a visa number issued under section 201(b)(2) or 203(a) is excludable under this paragraph unless—

"(i) the alien has obtained—

"(I) status as a spouse or a child of a United States citizen pursuant to clause (ii), (iii), or (iv) of section 204(a)(1)(A), or

"(II) classification pursuant to clause (ii) or (iii) of section 204(a)(1)(B); or

"(ii) the person petitioning for the alien's admission (including any additional sponsor required under section 213A(f)) has executed an affidavit of support described in section 213A with respect to such alien.

"(D) CERTAIN EMPLOYMENT-BASED IMMIGRANTS.—Any alien who seeks admission or adjustment of status under a visa number issued under section 203(b) by virtue of a classification petition filed by a relative of the alien

(or by an entity in which such relative has a significant ownership interest) is excludable under this paragraph unless such relative has executed an affidavit of support described in section 213A with respect to such alien.".

8 USC 1182 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to applications submitted on or after such date, not earlier than 30 days and not later than 60 days after the date the Attorney General promulgates under section 551(c)(2) of this division a standard form for an affidavit of support, as the Attorney General shall specify, but subparagraphs (C) and (D) of section 212(a)(4) of the Immigration and Nationality Act, as so amended, shall not apply to applications with respect to which an official interview with an immigration officer was conducted before such effective date.

Subtitle C—Affidavits of Support

SEC. 551. REQUIREMENTS FOR SPONSOR'S AFFIDAVIT OF SUPPORT.

(a) IN GENERAL.—Section 213A (8 U.S.C. 1183a), as inserted by section 423(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, is amended to read as follows:

"REQUIREMENTS FOR SPONSOR'S AFFIDAVIT OF SUPPORT

"SEC. 213A. (a) ENFORCEABILITY.—

"(1) TERMS OF AFFIDAVIT.—No affidavit of support may be accepted by the Attorney General or by any consular officer to establish that an alien is not excludable as a public charge under section 212(a)(4) unless such affidavit is executed by a sponsor of the alien as a contract—

"(A) in which the sponsor agrees to provide support to maintain the sponsored alien at an annual income that is not less than 125 percent of the Federal poverty line during the period in which the affidavit is enforceable;

"(B) that is legally enforceable against the sponsor by the sponsored alien, the Federal Government, any State (or any political subdivision of such State), or by any other entity that provides any means-tested public benefit (as defined in subsection (e)), consistent with the provisions of this section; and

"(C) in which the sponsor agrees to submit to the jurisdiction of any Federal or State court for the purpose of actions brought under subsection (b)(2).

"(2) PERIOD OF ENFORCEABILITY.—An affidavit of support shall be enforceable with respect to benefits provided for an alien before the date the alien is naturalized as a citizen of the United States, or, if earlier, the termination date provided under paragraph (3).

"(3) TERMINATION OF PERIOD OF ENFORCEABILITY UPON COMPLETION OF REQUIRED PERIOD OF EMPLOYMENT, ETC.—

"(A) IN GENERAL.—An affidavit of support is not enforceable after such time as the alien (i) has worked 40 qualifying quarters of coverage as defined under title II of the Social Security Act or can be credited with such qualifying quarters as provided under subparagraph (B), and (ii) in the case of any such qualifying quarter creditable for any period beginning after December 31, 1996, did

not receive any Federal means-tested public benefit (as provided under section 403 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996) during any such period.

"(B) QUALIFYING QUARTERS.—For purposes of this section, in determining the number of qualifying quarters of coverage under title II of the Social Security Act an alien shall be credited with—

"(i) all of the qualifying quarters of coverage as defined under title II of the Social Security Act worked by a parent of such alien while the alien was under age 18, and

"(ii) all of the qualifying quarters worked by a spouse of such alien during their marriage and the alien remains married to such spouse or such spouse is deceased.

No such qualifying quarter of coverage that is creditable under title II of the Social Security Act for any period beginning after December 31, 1996, may be credited to an alien under clause (i) or (ii) if the parent or spouse (as the case may be) of such alien received any Federal means-tested public benefit (as provided under section 403 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996) during the period for which such qualifying quarter of coverage is so credited.

"(C) PROVISION OF INFORMATION TO SAVE SYSTEM.—The Attorney General shall ensure that appropriate information regarding the application of this paragraph is provided to the system for alien verification of eligibility (SAVE) described in section 1137(d)(3) of the Social Security Act.

"(b) REIMBURSEMENT OF GOVERNMENT EXPENSES.—

"(1) REQUEST FOR REIMBURSEMENT.—

"(A) REQUIREMENT.—Upon notification that a sponsored alien has received any means-tested public benefit, the appropriate nongovernmental entity which provided such benefit or the appropriate entity of the Federal Government, a State, or any political subdivision of a State shall request reimbursement by the sponsor in an amount which is equal to the unreimbursed costs of such benefit.

"(B) REGULATIONS.—The Attorney General, in consultation with the heads of other appropriate Federal agencies, shall prescribe such regulations as may be necessary to carry out subparagraph (A).

"(2) ACTIONS TO COMPEL REIMBURSEMENT.—

"(A) IN CASE OF NONRESPONSE.—If within 45 days after a request for reimbursement under paragraph (1)(A), the appropriate entity has not received a response from the sponsor indicating a willingness to commence payment an action may be brought against the sponsor pursuant to the affidavit of support.

"(B) IN CASE OF FAILURE TO PAY.—If the sponsor fails to abide by the repayment terms established by the appropriate entity, the entity may bring an action against the sponsor pursuant to the affidavit of support.

"(C) LIMITATION ON ACTIONS.—No cause of action may be brought under this paragraph later than 10 years after

the date on which the sponsored alien last received any means-tested public benefit to which the affidavit of support applies.

"(3) USE OF COLLECTION AGENCIES.—If the appropriate entity under paragraph (1)(A) requests reimbursement from the sponsor or brings an action against the sponsor pursuant to the affidavit of support, the appropriate entity may appoint or hire an individual or other person to act on behalf of such entity acting under the authority of law for purposes of collecting any amounts owed.

"(c) REMEDIES.—Remedies available to enforce an affidavit of support under this section include any or all of the remedies described in section 3201, 3203, 3204, or 3205 of title 28, United States Code, as well as an order for specific performance and payment of legal fees and other costs of collection, and include corresponding remedies available under State law. A Federal agency may seek to collect amounts owed under this section in accordance with the provisions of subchapter II of chapter 37 of title 31, United States Code.

"(d) NOTIFICATION OF CHANGE OF ADDRESS.—

"(1) GENERAL REQUIREMENT.—The sponsor shall notify the Attorney General and the State in which the sponsored alien is currently a resident within 30 days of any change of address of the sponsor during the period in which an affidavit of support is enforceable.

"(2) PENALTY.—Any person subject to the requirement of paragraph (1) who fails to satisfy such requirement shall, after notice and opportunity to be heard, be subject to a civil penalty of—

"(A) not less than $250 or more than $2,000, or

"(B) if such failure occurs with knowledge that the sponsored alien has received any means-tested public benefits (other than benefits described in section 401(b), 403(c)(2), or 411(b) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996) not less than $2,000 or more than $5,000.

The Attorney General shall enforce this paragraph under appropriate regulations.

"(e) JURISDICTION.—An action to enforce an affidavit of support executed under subsection (a) may be brought against the sponsor in any appropriate court—

"(1) by a sponsored alien, with respect to financial support; or

"(2) by the appropriate entity of the Federal Government, a State or any political subdivision of a State, or by any other nongovernmental entity under subsection (b)(2), with respect to reimbursement.

"(f) SPONSOR DEFINED.—

"(1) IN GENERAL.—For purposes of this section the term 'sponsor' in relation to a sponsored alien means an individual who executes an affidavit of support with respect to the sponsored alien and who—

"(A) is a citizen or national of the United States or an alien who is lawfully admitted to the United States for permanent residence;

"(B) is at least 18 years of age;

"(C) is domiciled in any of the several States of the United States, the District of Columbia, or any territory or possession of the United States;

"(D) is petitioning for the admission of the alien under section 204; and

"(E) demonstrates (as provided in paragraph (6)) the means to maintain an annual income equal to at least 125 percent of the Federal poverty line.

"(2) INCOME REQUIREMENT CASE.—Such term also includes an individual who does not meet the requirement of paragraph (1)(E) but accepts joint and several liability together with an individual under paragraph (5).

"(3) ACTIVE DUTY ARMED SERVICES CASE.—Such term also includes an individual who does not meet the requirement of paragraph (1)(E) but is on active duty (other than active duty for training) in the Armed Forces of the United States, is petitioning for the admission of the alien under section 204 as the spouse or child of the individual, and demonstrates (as provided in paragraph (6)) the means to maintain an annual income equal to at least 100 percent of the Federal poverty line.

"(4) CERTAIN EMPLOYMENT-BASED IMMIGRANTS CASE.—Such term also includes an individual—

"(A) who does not meet the requirement of paragraph (1)(D), but is the relative of the sponsored alien who filed a classification petition for the sponsored alien as an employment-based immigrant under section 203(b) or who has a significant ownership interest in the entity that filed such a petition; and

"(B)(i) who demonstrates (as provided under paragraph (6)) the means to maintain an annual income equal to at least 125 percent of the Federal poverty line, or

"(ii) does not meet the requirement of paragraph (1)(E) but accepts joint and several liability together with an individual under paragraph (5).

"(5) NON-PETITIONING CASE.—Such term also includes an individual who does not meet the requirement of paragraph (1)(D) but who accepts joint and several liability with a petitioning sponsor under paragraph (2) or relative of an employment-based immigrant under paragraph (4) and who demonstrates (as provided under paragraph (6)) the means to maintain an annual income equal to at least 125 percent of the Federal poverty line.

"(6) DEMONSTRATION OF MEANS TO MAINTAIN INCOME.—

"(A) IN GENERAL.—

"(i) METHOD OF DEMONSTRATION.—For purposes of this section, a demonstration of the means to maintain income shall include provision of a certified copy of the individual's Federal income tax return for the individual's 3 most recent taxable years and a written statement, executed under oath or as permitted under penalty of perjury under section 1746 of title 28, United States Code, that the copies are certified copies of such returns.

"(ii) FLEXIBILITY.—For purposes of this section, aliens may demonstrate the means to maintain income

through demonstration of significant assets of the sponsored alien or of the sponsor, if such assets are available for the support of the sponsored alien.

"(iii) PERCENT OF POVERTY.—For purposes of this section, a reference to an annual income equal to at least a particular percentage of the Federal poverty line means an annual income equal to at least such percentage of the Federal poverty line for a family unit of a size equal to the number of members of the sponsor's household (including family and non-family dependents) plus the total number of other dependents and aliens sponsored by that sponsor.

"(B) LIMITATION.—The Secretary of State, or the Attorney General in the case of adjustment of status, may provide that the demonstration under subparagraph (A) applies only to the most recent taxable year.

"(h) FEDERAL POVERTY LINE DEFINED.—For purposes of this section, the term 'Federal poverty line' means the level of income equal to the official poverty line (as defined by the Director of the Office of Management and Budget, as revised annually by the Secretary of Health and Human Services, in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9902)) that is applicable to a family of the size involved.

"(i) SPONSOR'S SOCIAL SECURITY ACCOUNT NUMBER REQUIRED TO BE PROVIDED.—(1) An affidavit of support shall include the social security account number of each sponsor.

"(2) The Attorney General shall develop an automated system to maintain the social security account number data provided under paragraph (1).

"(3) The Attorney General shall submit an annual report to the Committees on the Judiciary of the House of Representatives and the Senate setting forth—

"(A) for the most recent fiscal year for which data are available the number of sponsors under this section and the number of sponsors in compliance with the financial obligations of this section; and

"(B) a comparison of such numbers with the numbers of such sponsors for the preceding fiscal year.".

(b) CONFORMING AMENDMENTS.—

(1) Section 421(a)(1) and section 422(a)(1) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1631(a)(1), 1632(a)(1)) are each amended by inserting "and as amended by section 551(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996" after "section 423".

8 USC 1183a note.

(2) Section 423 of such Act (8 U.S.C. 1138a note) is amended by striking subsection (c).

8 USC 1183a note.

(c) EFFECTIVE DATE; PROMULGATION OF FORM.—

(1) IN GENERAL.—The amendments made by this section shall apply to affidavits of support executed on or after a date specified by the Attorney General, which date shall be not earlier than 60 days (and not later than 90 days) after the date the Attorney General formulates the form for such affidavits under paragraph (2).

(2) PROMULGATION OF FORM.—Not later than 90 days after the date of the enactment of this Act, the Attorney General, in consultation with the heads of other appropriate agencies,

shall promulgate a standard form for an affidavit of support consistent with the provisions of section 213A of the Immigration and Nationality Act, as amended by subsection (a).

SEC. 552. INDIGENCE AND BATTERED SPOUSE AND CHILD EXCEPTIONS TO FEDERAL ATTRIBUTION OF INCOME RULE.

Section 421 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1631) is amended by adding at the end the following new subsection:

"(e) INDIGENCE EXCEPTION.—

"(1) IN GENERAL.—For an alien for whom an affidavit of support under section 213A of the Immigration and Nationality Act has been executed, if a determination described in paragraph (2) is made, the amount of income and resources of the sponsor or the sponsor's spouse which shall be attributed to the sponsored alien shall not exceed the amount actually provided for a period beginning on the date of such determination and ending 12 months after such date.

"(2) DETERMINATION DESCRIBED.—A determination described in this paragraph is a determination by an agency that a sponsored alien would, in the absence of the assistance provided by the agency, be unable to obtain food and shelter, taking into account the alien's own income, plus any cash, food, housing, or other assistance provided by other individuals, including the sponsor. The agency shall notify the Attorney General of each such determination, including the names of the sponsor and the sponsored alien involved.

"(f) SPECIAL RULE FOR BATTERED SPOUSE AND CHILD.—

"(1) IN GENERAL.—Subject to paragraph (2) and notwithstanding any other provision of this section, subsection (a) shall not apply to benefits—

"(A) during a 12 month period if the alien demonstrates that (i) the alien has been battered or subjected to extreme cruelty in the United States by a spouse or a parent, or by a member of the spouse or parent's family residing in the same household as the alien and the spouse or parent consented to or acquiesced to such battery or cruelty, or (ii) the alien's child has been battered or subjected to extreme cruelty in the United States by the spouse or parent of the alien (without the active participation of the alien in the battery or cruelty), or by a member of the spouse's or parent's family residing in the same household as the alien when the spouse or parent consented or acquiesced to and the alien did not actively participate in such battery or cruelty, and the battery or cruelty described in clause (i) or (ii) (in the opinion of the agency providing such public benefits, which opinion is not subject to review by any court) has a substantial connection to the need for the public benefits applied for; and

"(B) after a 12 month period (regarding the batterer's income and resources only) if the alien demonstrates that such battery or cruelty under subparagraph (A) has been recognized in an order of a judge or administrative law judge or a prior determination of the Immigration and Naturalization Service, and that such battery or cruelty (in the opinion of the agency providing such public benefits,

which opinion is not subject to review by any court) has a substantial connection to the need for the benefits.

"(2) LIMITATION.—The exception under paragraph (1) shall not apply to benefits for an alien during any period in which the individual responsible for such battery or cruelty resides in the same household or family eligibility unit as the individual who was subjected to such battery or cruelty.".

8 USC 1624.

SEC. 553. AUTHORITY OF STATES AND POLITICAL SUBDIVISIONS OF STATES TO LIMIT ASSISTANCE TO ALIENS AND TO DISTINGUISH AMONG CLASSES OF ALIENS IN PROVIDING GENERAL CASH PUBLIC ASSISTANCE.

(a) IN GENERAL.—Subject to subsection (b) and notwithstanding any other provision of law, a State or political subdivision of a State is authorized to prohibit or otherwise limit or restrict the eligibility of aliens or classes of aliens for programs of general cash public assistance furnished under the law of the State or a political subdivision of a State.

(b) LIMITATION.—The authority provided for under subsection (a) may be exercised only to the extent that any prohibitions, limitations, or restrictions imposed by a State or political subdivision of a State are not more restrictive than the prohibitions, limitations, or restrictions imposed under comparable Federal programs. For purposes of this section, attribution to an alien of a sponsor's income and resources (as described in section 421 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1631)) for purposes of determining eligibility for, and the amount of, benefits shall be considered less restrictive than a prohibition of eligibility for such benefits.

Subtitle D—Miscellaneous Provisions

SEC. 561. INCREASED MAXIMUM CRIMINAL PENALTIES FOR FORGING OR COUNTERFEITING SEAL OF A FEDERAL DEPARTMENT OR AGENCY TO FACILITATE BENEFIT FRAUD BY AN UNLAWFUL ALIEN.

Section 506 of title 18, United States Code, is amended to read as follows:

"§ 506. Seals of departments or agencies

"(a) Whoever—

"(1) falsely makes, forges, counterfeits, mutilates, or alters the seal of any department or agency of the United States, or any facsimile thereof;

"(2) knowingly uses, affixes, or impresses any such fraudulently made, forged, counterfeited, mutilated, or altered seal or facsimile thereof to or upon any certificate, instrument, commission, document, or paper of any description; or

"(3) with fraudulent intent, possesses, sells, offers for sale, furnishes, offers to furnish, gives away, offers to give away, transports, offers to transport, imports, or offers to import any such seal or facsimile thereof, knowing the same to have been so falsely made, forged, counterfeited, mutilated, or altered,

shall be fined under this title, or imprisoned not more than 5 years, or both.

"(b) Notwithstanding subsection (a) or any other provision of law, if a forged, counterfeited, mutilated, or altered seal of a department or agency of the United States, or any facsimile thereof, is—

"(1) so forged, counterfeited, mutilated, or altered;

"(2) used, affixed, or impressed to or upon any certificate, instrument, commission, document, or paper of any description; or

"(3) with fraudulent intent, possessed, sold, offered for sale, furnished, offered to furnish, given away, offered to give away, transported, offered to transport, imported, or offered to import,

with the intent or effect of facilitating an alien's application for, or receipt of, a Federal benefit to which the alien is not entitled, the penalties which may be imposed for each offense under subsection (a) shall be two times the maximum fine, and 3 times the maximum term of imprisonment, or both, that would otherwise be imposed for an offense under subsection (a).

"(c) For purposes of this section—

"(1) the term 'Federal benefit' means—

"(A) the issuance of any grant, contract, loan, professional license, or commercial license provided by any agency of the United States or by appropriated funds of the United States; and

"(B) any retirement, welfare, Social Security, health (including treatment of an emergency medical condition in accordance with section 1903(v) of the Social Security Act (19 U.S.C. 1396b(v))), disability, veterans, public housing, education, food stamps, or unemployment benefit, or any similar benefit for which payments or assistance are provided by an agency of the United States or by appropriated funds of the United States; and

"(2) each instance of forgery, counterfeiting, mutilation, or alteration shall constitute a separate offense under this section.".

SEC. 562. TREATMENT OF EXPENSES SUBJECT TO EMERGENCY MEDICAL SERVICES EXCEPTION. 8 USC 1369.

(a) IN GENERAL.—Subject to such amounts as are provided in advance in appropriation Acts, each State or political subdivision of a State that provides medical assistance for care and treatment of an emergency medical condition (as defined in subsection (d)) through a public hospital or other public facility (including a nonprofit hospital that is eligible for an additional payment adjustment under section 1886 of the Social Security Act) or through contract with another hospital or facility to an individual who is an alien not lawfully present in the United States is eligible for payment from the Federal Government of its costs of providing such services, but only to the extent that such costs are not otherwise reimbursed through any other Federal program and cannot be recovered from the alien or another person.

(b) CONFIRMATION OF IMMIGRATION STATUS REQUIRED.—No payment shall be made under this section with respect to services furnished to an individual unless the immigration status of the individual has been verified through appropriate procedures established by the Secretary of Health and Human Services and the Attorney General.

(c) ADMINISTRATION.—This section shall be administered by the Attorney General, in consultation with the Secretary of Health and Human Services.

(d) EMERGENCY MEDICAL CONDITION DEFINED.—For purposes of this section, the term "emergency medical condition" means a medical condition (including emergency labor and delivery) manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in—

(1) placing the patient's health in serious jeopardy,

(2) serious impairment to bodily functions, or

(3) serious dysfunction of any bodily organ or part.

(e) EFFECTIVE DATE.—Subsection (a) shall apply to medical assistance for care and treatment of an emergency medical condition furnished on or after January 1, 1997.

8 USC 1370.

SEC. 563. REIMBURSEMENT OF STATES AND LOCALITIES FOR EMERGENCY AMBULANCE SERVICES.

Subject to the availability of appropriations, the Attorney General shall fully reimburse States and political subdivisions of States for costs incurred by such a State or subdivision for emergency ambulance services provided to any alien who—

(1) is injured while crossing a land or sea border of the United States without inspection or at any time or place other than as designated by the Attorney General; and

(2) is under the custody of the State or subdivision pursuant to a transfer, request, or other action by a Federal authority.

8 USC 1183a note.

SEC. 564. PILOT PROGRAMS TO REQUIRE BONDING.

(a) IN GENERAL.—

(1) The Attorney General of the United States shall establish a pilot program in 5 district offices of the Immigration and Naturalization Service to require aliens to post a bond in addition to the affidavit requirements under section 213A of the Immigration and Nationality Act and the deeming requirements under section 421 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1631). Any pilot program established pursuant to this subsection shall require an alien to post a bond in an amount sufficient to cover the cost of benefits described in section 213A(d)(2)(B) of the Immigration and Nationality Act (as amended by section 551(a) of this division) for the alien and the alien's dependents and shall remain in effect until the departure, naturalization, or death of the alien.

(2) Suit on any such bonds may be brought under the terms and conditions set forth in section 213A of the Immigration and Nationality Act.

(b) REGULATIONS.—Not later than 180 days after the date of the enactment of this Act, the Attorney General shall issue regulations for establishing the pilot programs, including—

(1) criteria and procedures for—

(A) certifying bonding companies for participation in the program, and

(B) debarment of any such company that fails to pay a bond, and

(2) criteria for setting the amount of the bond to assure that the bond is in an amount that is not less than the cost

of providing benefits under the programs described in subsection (a)(1) for the alien and the alien's dependents for 6 months.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

(d) ANNUAL REPORTING REQUIREMENT.—Beginning 9 months after the date of implementation of the pilot program, the Attorney General shall submit annually to the Committees on the Judiciary of the House of Representatives and the Senate a report on the effectiveness of the program. The Attorney General shall submit a final evaluation of the program not later than 1 year after termination.

(e) SUNSET.—The pilot program under this section shall terminate after 3 years of operation.

(f) BONDS IN ADDITION TO SPONSORSHIP AND DEEMING REQUIREMENTS.—Section 213 (8 U.S.C. 1183) is amended by inserting "(subject to the affidavit of support requirement and attribution of sponsor's income and resources under section 213A)" after "in the discretion of the Attorney General".

SEC. 565. REPORTS. 8 USC 1371.

Not later than 180 days after the end of each fiscal year, the Attorney General shall submit a report to the Inspector General of the Department of Justice and the Committees on the Judiciary of the House of Representatives and of the Senate describing the following:

(1) PUBLIC CHARGE DEPORTATIONS.—The number of aliens deported on public charge grounds under section 241(a)(5) of the Immigration and Nationality Act during the previous fiscal year.

(2) INDIGENT SPONSORS.—The number of determinations made under section 421(e) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (as added by section 552 of this division) during the previous fiscal year.

(3) REIMBURSEMENT ACTIONS.—The number of actions brought, and the amount of each action, for reimbursement under section 213A of the Immigration and Nationality Act (including private collections) for the costs of providing public benefits.

Subtitle E—Housing Assistance

Use of Assisted Housing by Aliens Act of 1996. 42 USC 1436a note.

SEC. 571. SHORT TITLE.

This subtitle may be cited as the "Use of Assisted Housing by Aliens Act of 1996".

SEC. 572. PRORATING OF FINANCIAL ASSISTANCE.

Section 214(b) of the Housing and Community Development Act of 1980 (42 U.S.C. 1436a(b)) is amended—

(1) by inserting "(1)" after "(b)"; and

(2) by adding at the end the following new paragraph:

"(2) If the eligibility for financial assistance of at least one member of a family has been affirmatively established under the program of financial assistance and under this section, and the ineligibility of one or more family members has not been affirmatively established under this section, any financial assistance made

available to that family by the Secretary of Housing and Urban Development shall be prorated, based on the number of individuals in the family for whom eligibility has been affirmatively established under the program of financial assistance and under this section, as compared with the total number of individuals who are members of the family.".

SEC. 573. ACTIONS IN CASES OF TERMINATION OF FINANCIAL ASSISTANCE.

Section 214(c)(1) of the Housing and Community Development Act of 1980 (42 U.S.C. 1436a(c)(1)) is amended—

(1) in the matter preceding subparagraph (A), by striking "may, in its discretion," and inserting "shall";

(2) in subparagraph (A), by adding at the end the following: "Financial assistance continued under this subparagraph for a family may be provided only on a prorated basis, under which the amount of financial assistance is based on the percentage of the total number of members of the family that are eligible for that assistance under the program of financial assistance and under this section."; and

(3) in subparagraph (B)—

(A) by striking "3 years" and inserting "18-months";

(B) by inserting "(i)" after "(B)";

(C) by striking "Any deferral" and inserting the following:

"(ii) Except as provided in clause (iii), any deferral"; and

(D) by adding at the end the following new clauses:

"(iii) The time period described in clause (ii) shall not apply in the case of a refugee under section 207 of the Immigration and Nationality Act or an individual seeking asylum under section 208 of that Act.".

SEC. 574. VERIFICATION OF IMMIGRATION STATUS AND ELIGIBILITY FOR FINANCIAL ASSISTANCE.

Section 214(d) of the Housing and Community Development Act of 1980 (42 U.S.C. 1436a(d)) is amended—

(1) in the matter preceding paragraph (1), by inserting "or to be" after "being";

(2) in paragraph (1)(A), by adding at the end the following: "If the declaration states that the individual is not a citizen or national of the United States and that the individual is younger than 62 years of age, the declaration shall be verified by the Immigration and Naturalization Service. If the declaration states that the individual is a citizen or national of the United States, the Secretary of Housing and Urban Development, or the agency administering assistance covered by this section, may request verification of the declaration by requiring presentation of documentation that the Secretary considers appropriate, including a United States passport, resident alien card, alien registration card, social security card, or other documentation.";

(3) in paragraph (2)—

(A) in the matter preceding subparagraph (A), by striking "on the date of the enactment of the Housing and Community Development Act of 1987" and inserting "on the date of enactment of the Use of Assisted Housing

by Aliens Act of 1996 or applying for financial assistance on or after that date"; and

(B) by adding at the end the following:

"In the case of an individual applying for financial assistance on or after the date of enactment of the Use of Assisted Housing by Aliens Act of 1996, the Secretary may not provide any such assistance for the benefit of that individual before documentation is presented and verified under paragraph (3) or (4).";

(4) in paragraph (4)—

(A) in the matter preceding subparagraph (A), by striking "on the date of the enactment of the Housing and Community Development Act of 1987" and inserting "on the date of enactment of the Use of Assisted Housing by Aliens Act of 1996 or applying for financial assistance on or after that date";

(B) in subparagraph (A)—

(i) in clause (i)—

(I) by inserting ", not to exceed 30 days," after "reasonable opportunity"; and

(II) by striking "and" at the end; and

(ii) by striking clause (ii) and inserting the following:

"(ii) in the case of any individual receiving assistance on the date of enactment of the Use of Assisted Housing by Aliens Act of 1996, may not delay, deny, reduce, or terminate the eligibility of that individual for financial assistance on the basis of the immigration status of that individual until the expiration of that 30-day period; and

"(iii) in the case of any individual applying for financial assistance on or after the date of enactment of the Use of Assisted Housing by Aliens Act of 1996, may not deny the application for such assistance on the basis of the immigration status of that individual until the expiration of that 30-day period; and"; and

(C) in subparagraph (B), by striking clause (ii) and inserting the following:

"(ii) pending such verification or appeal, the Secretary may not—

"(I) in the case of any individual receiving assistance on the date of enactment of the Use of Assisted Housing by Aliens Act of 1996, delay, deny, reduce, or terminate the eligibility of that individual for financial assistance on the basis of the immigration status of that individual; and

"(II) in the case of any individual applying for financial assistance on or after the date of enactment of the Use of Assisted Housing by Aliens Act of 1996, deny the application for such assistance on the basis of the immigration status of that individual; and";

(5) in paragraph (5), by striking "status—" and all that follows through the end of the paragraph and inserting the following: "status, the Secretary shall—

"(A) deny the application of that individual for financial assistance or terminate the eligibility of that individual for financial assistance, as applicable;

"(B) provide that the individual may request a fair hearing during the 30-day period beginning upon receipt of the notice under subparagraph (C); and

"(C) provide to the individual written notice of the determination under this paragraph, the right to a fair hearing process, and the time limitation for requesting a hearing under subparagraph (C).";

(6) by striking paragraph (6) and inserting the following:

"(6) The Secretary shall terminate the eligibility for financial assistance of an individual and the members of the household of the individual, for a period of not less than 24 months, upon determining that such individual has knowingly permitted another individual who is not eligible for such assistance to reside in the public or assisted housing unit of the individual. This provision shall not apply to a family if the ineligibility of the ineligible individual at issue was considered in calculating any proration of assistance provided for the family.".

SEC. 575. PROHIBITION OF SANCTIONS AGAINST ENTITIES MAKING FINANCIAL ASSISTANCE ELIGIBILITY DETERMINATIONS.

Section 214(e) of the Housing and Community Development Act of 1980 (42 U.S.C. 1436a(e)) is amended—

(1) in paragraph (2), by adding "or" at the end;

(2) in paragraph (3), by adding at the end the following: "the response from the Immigration and Naturalization Service to the appeal of that individual."; and

(3) by striking paragraph (4).

SEC. 576. ELIGIBILITY FOR PUBLIC AND ASSISTED HOUSING.

Section 214 of the Housing and Community Development Act of 1980 (42 U.S.C. 1436a) is amended by adding at the end the following new subsection:

"(h) VERIFICATION OF ELIGIBILITY.—

"(1) IN GENERAL.—Except in the case of an election under paragraph (2)(A), no individual or family applying for financial assistance may receive such financial assistance prior to the affirmative establishment and verification of eligibility of at least the individual or one family member under this section by the Secretary or other appropriate entity.

"(2) RULES APPLICABLE TO PUBLIC HOUSING AGENCIES.—A public housing agency (as that term is defined in section 3 of the United States Housing Act of 1937)—

"(A) may elect not to comply with this section; and

"(B) in complying with this section—

"(i) may initiate procedures to affirmatively establish or verify the eligibility of an individual or family under this section at any time at which the public housing agency determines that such eligibility is in question, regardless of whether or not that individual or family is at or near the top of the waiting list of the public housing agency;

"(ii) may affirmatively establish or verify the eligibility of an individual or family under this section in accordance with the procedures set forth in section 274A(b)(1) of the Immigration and Nationality Act; and

"(iii) shall have access to any relevant information contained in the SAVE system (or any successor thereto) that relates to any individual or family applying for financial assistance.

"(3) ELIGIBILITY OF FAMILIES.—For purposes of this subsection, with respect to a family, the term 'eligibility' means the eligibility of each family member.".

SEC. 577. REGULATIONS.

42 USC 1436a note.

(a) ISSUANCE.—Not later than the 60 days after the date of enactment of this Act, the Secretary of Housing and Urban Development shall issue any regulations necessary to implement the amendments made by this part. Such regulations shall be issued in the form of an interim final rule, which shall take effect upon issuance and shall not be subject to the provisions of section 533 of title 5, United States Code, regarding notice or opportunity for comment.

(b) FAILURE TO ISSUE.—If the Secretary fails to issue the regulations required under subsection (a) before the date specified in that subsection, the regulations relating to restrictions on assistance to noncitizens, contained in the final rule issued by the Secretary of Housing and Urban Development in RIN–2501–AA63 (Docket No. R–95–1409; FR–2383–F–050), published in the Federal Register on March 20, 1995 (Vol. 60, No. 53; pp. 14824–14861), shall not apply after that date.

Subtitle F—General Provisions

8 USC 1101 note.

SEC. 591. EFFECTIVE DATES.

Except as provided in this title, this title and the amendments made by this title shall take effect on the date of the enactment of this Act.

SEC. 592. NOT APPLICABLE TO FOREIGN ASSISTANCE.

This title does not apply to any Federal, State, or local governmental program, assistance, or benefits provided to an alien under any program of foreign assistance as determined by the Secretary of State in consultation with the Attorney General.

SEC. 593. NOTIFICATION.

(a) IN GENERAL.—Each agency of the Federal Government or a State or political subdivision that administers a program affected by the provisions of this title, shall, directly or through the States, provide general notification to the public and to program recipients of the changes regarding eligibility for any such program pursuant to this title.

(b) FAILURE TO GIVE NOTICE.—Nothing in this section shall be construed to require or authorize continuation of eligibility if the notice under this section is not provided.

SEC. 594. DEFINITIONS.

Except as otherwise provided in this title, for purposes of this title—

(1) the terms "alien", "Attorney General", "national", "naturalization", "State", and "United States" shall have the meaning given such terms in section 101(a) of the Immigration and Nationality Act; and

(2) the term "child" shall have the meaning given such term in section 101(c) of the Immigration and Nationality Act.

TITLE VI—MISCELLANEOUS PROVISIONS

Subtitle A—Refugees, Parole, and Asylum

SEC. 601. PERSECUTION FOR RESISTANCE TO COERCIVE POPULATION CONTROL METHODS.

(a) DEFINITION OF REFUGEE.—

(1) Section 101(a)(42) (8 U.S.C. 1101(a)(42)) is amended by adding at the end the following: "For purposes of determinations under this Act, a person who has been forced to abort a pregnancy or to undergo involuntary sterilization, or who has been persecuted for failure or refusal to undergo such a procedure or for other resistance to a coercive population control program, shall be deemed to have been persecuted on account of political opinion, and a person who has a well founded fear that he or she will be forced to undergo such a procedure or subject to persecution for such failure, refusal, or resistance shall be deemed to have a well founded fear of persecution on account of political opinion.".

8 USC 1101 note.

(2) Not later than 90 days after the end of each fiscal year, the Attorney General shall submit a report to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate describing the number and countries of origin of aliens granted refugee status or asylum under determinations pursuant to the amendment made by paragraph (1). Each such report shall also contain projections regarding the number and countries of origin of aliens that are likely to be granted refugee status or asylum for the subsequent 2 fiscal years.

(b) NUMERICAL LIMITATION.—Section 207(a) (8 U.S.C. 1157(a)) is amended by adding at the end the following new paragraph:

"(5) For any fiscal year, not more than a total of 1,000 refugees may be admitted under this subsection or granted asylum under section 208 pursuant to a determination under the third sentence of section 101(a)(42) (relating to persecution for resistance to coercive population control methods).".

SEC. 602. LIMITATION ON USE OF PAROLE

(a) PAROLE AUTHORITY.—Section 212(d)(5)(A) (8 U.S.C. 1182(d)(5)) is amended by striking "for emergent reasons or for reasons deemed strictly in the public interest" and inserting "only on a case-by-case basis for urgent humanitarian reasons or significant public benefit".

8 USC 1182 note.

(b) REPORT TO CONGRESS.—Not later than 90 days after the end of each fiscal year, the Attorney General shall submit a report to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate describing the number and categories of aliens paroled into the United States under section 212(d)(5) of the Immigration and Nationality Act. Each such report shall provide the total number of aliens paroled into and residing in the United States and shall contain information

and data for each country of origin concerning the number and categories of aliens paroled, the duration of parole, the current status of aliens paroled, and the number and categories of aliens returned to the custody from which they were paroled during the preceding fiscal year.

SEC. 603. TREATMENT OF LONG-TERM PAROLEES IN APPLYING WORLDWIDE NUMERICAL LIMITATIONS.

Section 201(c) (8 U.S.C. 1151(c)) is amended—

(1) by amending paragraph (1)(A)(ii) to read as follows:

"(ii) the sum of the number computed under paragraph (2) and the number computed under paragraph (4), plus"; and

(2) by adding at the end the following new paragraphs:

"(4) The number computed under this paragraph for a fiscal year (beginning with fiscal year 1999) is the number of aliens who were paroled into the United States under section 212(d)(5) in the second preceding fiscal year—

"(A) who did not depart from the United States (without advance parole) within 365 days; and

"(B) who (i) did not acquire the status of aliens lawfully admitted to the United States for permanent residence in the two preceding fiscal years, or (ii) acquired such status in such years under a provision of law (other than section 201(b)) which exempts such adjustment from the numerical limitation on the worldwide level of immigration under this section.

"(5) If any alien described in paragraph (4) (other than an alien described in paragraph (4)(B)(ii)) is subsequently admitted as an alien lawfully admitted for permanent residence, such alien shall not again be considered for purposes of paragraph (1).".

SEC. 604. ASYLUM REFORM.

(a) ASYLUM REFORM.—Section 208 (8 U.S.C. 1158) is amended to read as follows:

"ASYLUM

"SEC. 208. (a) AUTHORITY TO APPLY FOR ASYLUM.—

"(1) IN GENERAL.—Any alien who is physically present in the United States or who arrives in the United States (whether or not at a designated port of arrival and including an alien who is brought to the United States after having been interdicted in international or United States waters), irrespective of such alien's status, may apply for asylum in accordance with this section or, where applicable, section 235(b).

"(2) EXCEPTIONS.—

"(A) SAFE THIRD COUNTRY.—Paragraph (1) shall not apply to an alien if the Attorney General determines that the alien may be removed, pursuant to a bilateral or multilateral agreement, to a country (other than the country of the alien's nationality or, in the case of an alien having no nationality, the country of the alien's last habitual residence) in which the alien's life or freedom would not be threatened on account of race, religion, nationality, membership in a particular social group, or political opinion, and where the alien would have access to a full and fair procedure for determining a claim to asylum or equivalent temporary protection, unless the Attorney General finds

that it is in the public interest for the alien to receive asylum in the United States.

"(B) TIME LIMIT.—Subject to subparagraph (D), paragraph (1) shall not apply to an alien unless the alien demonstrates by clear and convincing evidence that the application has been filed within 1 year after the date of the alien's arrival in the United States.

"(C) PREVIOUS ASYLUM APPLICATIONS.—Subject to subparagraph (D), paragraph (1) shall not apply to an alien if the alien has previously applied for asylum and had such application denied.

"(D) CHANGED CIRCUMSTANCES.—An application for asylum of an alien may be considered, notwithstanding subparagraphs (B) and (C), if the alien demonstrates to the satisfaction of the Attorney General either the existence of changed circumstances which materially affect the applicant's eligibility for asylum or extraordinary circumstances relating to the delay in filing an application within the period specified in subparagraph (B).

"(3) LIMITATION ON JUDICIAL REVIEW.—No court shall have jurisdiction to review any determination of the Attorney General under paragraph (2).

"(b) CONDITIONS FOR GRANTING ASYLUM.—

"(1) IN GENERAL.—The Attorney General may grant asylum to an alien who has applied for asylum in accordance with the requirements and procedures established by the Attorney General under this section if the Attorney General determines that such alien is a refugee within the meaning of section 101(a)(42)(A).

"(2) EXCEPTIONS.—

"(A) IN GENERAL.—Paragraph (1) shall not apply to an alien if the Attorney General determines that—

"(i) the alien ordered, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion;

"(ii) the alien, having been convicted by a final judgment of a particularly serious crime, constitutes a danger to the community of the United States;

"(iii) there are serious reasons for believing that the alien has committed a serious nonpolitical crime outside the United States prior to the arrival of the alien in the United States;

"(iv) there are reasonable grounds for regarding the alien as a danger to the security of the United States;

"(v) the alien is inadmissible under subclause (I), (II), (III), or (IV) of section 212(a)(3)(B)(i) or removable under section 237(a)(4)(B) (relating to terrorist activity), unless, in the case only of an alien inadmissible under subclause (IV) of section 212(a)(3)(B)(i), the Attorney General determines, in the Attorney General's discretion, that there are not reasonable grounds for regarding the alien as a danger to the security of the United States; or

"(vi) the alien was firmly resettled in another country prior to arriving in the United States.

"(B) SPECIAL RULES.—

"(i) CONVICTION OF AGGRAVATED FELONY.—For purposes of clause (ii) of subparagraph (A), an alien who has been convicted of an aggravated felony shall be considered to have been convicted of a particularly serious crime.

"(ii) OFFENSES.—The Attorney General may designate by regulation offenses that will be considered to be a crime described in clause (ii) or (iii) of subparagraph (A).

"(C) ADDITIONAL LIMITATIONS.—The Attorney General may by regulation establish additional limitations and conditions, consistent with this section, under which an alien shall be ineligible for asylum under paragraph (1).

"(D) NO JUDICIAL REVIEW.—There shall be no judicial review of a determination of the Attorney General under subparagraph (A)(v).

"(3) TREATMENT OF SPOUSE AND CHILDREN.—A spouse or child (as defined in section 101(b)(1)(A), (B), (C), (D), or (E)) of an alien who is granted asylum under this subsection may, if not otherwise eligible for asylum under this section, be granted the same status as the alien if accompanying, or following to join, such alien.

"(c) ASYLUM STATUS.—

"(1) IN GENERAL.—In the case of an alien granted asylum under subsection (b), the Attorney General—

"(A) shall not remove or return the alien to the alien's country of nationality or, in the case of a person having no nationality, the country of the alien's last habitual residence;

"(B) shall authorize the alien to engage in employment in the United States and provide the alien with appropriate endorsement of that authorization; and

"(C) may allow the alien to travel abroad with the prior consent of the Attorney General.

"(2) TERMINATION OF ASYLUM.—Asylum granted under subsection (b) does not convey a right to remain permanently in the United States, and may be terminated if the Attorney General determines that—

"(A) the alien no longer meets the conditions described in subsection (b)(1) owing to a fundamental change in circumstances;

"(B) the alien meets a condition described in subsection (b)(2);

"(C) the alien may be removed, pursuant to a bilateral or multilateral agreement, to a country (other than the country of the alien's nationality or, in the case of an alien having no nationality, the country of the alien's last habitual residence) in which the alien's life or freedom would not be threatened on account of race, religion, nationality, membership in a particular social group, or political opinion, and where the alien is eligible to receive asylum or equivalent temporary protection;

"(D) the alien has voluntarily availed himself or herself of the protection of the alien's country of nationality or, in the case of an alien having no nationality, the alien's country of last habitual residence, by returning to such

country with permanent resident status or the reasonable possibility of obtaining such status with the same rights and obligations pertaining to other permanent residents of that country; or

"(E) the alien has acquired a new nationality and enjoys the protection of the country of his or her new nationality.

"(3) REMOVAL WHEN ASYLUM IS TERMINATED.—An alien described in paragraph (2) is subject to any applicable grounds of inadmissibility or deportability under section 212(a) and 237(a), and the alien's removal or return shall be directed by the Attorney General in accordance with sections 240 and 241.

"(d) ASYLUM PROCEDURE.—

"(1) APPLICATIONS.—The Attorney General shall establish a procedure for the consideration of asylum applications filed under subsection (a). The Attorney General may require applicants to submit fingerprints and a photograph at such time and in such manner to be determined by regulation by the Attorney General.

"(2) EMPLOYMENT.—An applicant for asylum is not entitled to employment authorization, but such authorization may be provided under regulation by the Attorney General. An applicant who is not otherwise eligible for employment authorization shall not be granted such authorization prior to 180 days after the date of filing of the application for asylum.

"(3) FEES.—The Attorney General may impose fees for the consideration of an application for asylum, for employment authorization under this section, and for adjustment of status under section 209(b). Such fees shall not exceed the Attorney General's costs in adjudicating the applications. The Attorney General may provide for the assessment and payment of such fees over a period of time or by installments. Nothing in this paragraph shall be construed to require the Attorney General to charge fees for adjudication services provided to asylum applicants, or to limit the authority of the Attorney General to set adjudication and naturalization fees in accordance with section 286(m).

"(4) NOTICE OF PRIVILEGE OF COUNSEL AND CONSEQUENCES OF FRIVOLOUS APPLICATION.—At the time of filing an application for asylum, the Attorney General shall—

"(A) advise the alien of the privilege of being represented by counsel and of the consequences, under paragraph (6), of knowingly filing a frivolous application for asylum; and

"(B) provide the alien a list of persons (updated not less often than quarterly) who have indicated their availability to represent aliens in asylum proceedings on a pro bono basis.

"(5) CONSIDERATION OF ASYLUM APPLICATIONS.—

"(A) PROCEDURES.—The procedure established under paragraph (1) shall provide that—

"(i) asylum cannot be granted until the identity of the applicant has been checked against all appropriate records or databases maintained by the Attorney General and by the Secretary of State, including the Automated Visa Lookout System, to determine any grounds on which the alien may be inadmissible to

or deportable from the United States, or ineligible to apply for or be granted asylum;

"(ii) in the absence of exceptional circumstances, the initial interview or hearing on the asylum application shall commence not later than 45 days after the date an application is filed;

"(iii) in the absence of exceptional circumstances, final administrative adjudication of the asylum application, not including administrative appeal, shall be completed within 180 days after the date an application is filed;

"(iv) any administrative appeal shall be filed within 30 days of a decision granting or denying asylum, or within 30 days of the completion of removal proceedings before an immigration judge under section 240, whichever is later; and

"(v) in the case of an applicant for asylum who fails without prior authorization or in the absence of exceptional circumstances to appear for an interview or hearing, including a hearing under section 240, the application may be dismissed or the applicant may be otherwise sanctioned for such failure.

"(B) ADDITIONAL REGULATORY CONDITIONS.—The Attorney General may provide by regulation for any other conditions or limitations on the consideration of an application for asylum not inconsistent with this Act.

"(6) FRIVOLOUS APPLICATIONS.—If the Attorney General determines that an alien has knowingly made a frivolous application for asylum and the alien has received the notice under paragraph (4)(A), the alien shall be permanently ineligible for any benefits under this Act, effective as of the date of a final determination on such application.

"(7) NO PRIVATE RIGHT OF ACTION.—Nothing in this subsection shall be construed to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.".

(b) CONFORMING AND CLERICAL AMENDMENTS.—

(1) The item in the table of contents relating to section 208 is amended to read as follows:

"Sec. 208. Asylum.".

(2) Section 104(d)(1)(A) of the Immigration Act of 1990 (Public Law 101–649) is amended by striking "208(b)" and inserting "208". 8 USC 1159 note.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to applications for asylum filed on or after the first day of the first month beginning more than 180 days after the date of the enactment of this Act. 8 USC 1158 note.

SEC. 605. INCREASE IN ASYLUM OFFICERS.

Subject to the availability of appropriations, the Attorney General shall provide for an increase in the number of asylum officers to at least 600 asylum officers by fiscal year 1997.

8 USC 1255 note.

SEC. 606. CONDITIONAL REPEAL OF CUBAN ADJUSTMENT ACT.

(a) IN GENERAL.—Public Law 89–732 is repealed effective only upon a determination by the President under section 203(c)(3) of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (Public Law 104–114) that a democratically elected government in Cuba is in power.

(b) LIMITATION.—Subsection (a) shall not apply to aliens for whom an application for adjustment of status is pending on such effective date.

Subtitle B—Miscellaneous Amendments to the Immigration and Nationality Act

SEC. 621. ALIEN WITNESS COOPERATION.

Section 214(j)(1) (8 U.S.C. 1184(j)(1)) (as added by section 130003(b)(2) of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322; 108 Stat. 2025)) (relating to numerical limitations on the number of aliens who may be provided a visa as nonimmigrants under section 101(a)(15)(S) of the Immigration and Nationality Act) is amended—

(1) by striking "100." and inserting "200."; and

(2) by striking "25." and inserting "50.".

SEC. 622. WAIVER OF FOREIGN COUNTRY RESIDENCE REQUIREMENT WITH RESPECT TO INTERNATIONAL MEDICAL GRADUATES.

(a) EXTENSION OF WAIVER PROGRAM.—Section 220(c) of the Immigration and Nationality Technical Corrections Act of 1994 (8 U.S.C. 1182 note) is amended by striking "1996." and inserting "2002.".

(b) CONDITIONS ON FEDERALLY REQUESTED WAIVERS.—Section 212(e) (8 U.S.C. 1182(e)) is amended by inserting after "except that in the case of a waiver requested by a State Department of Public Health, or its equivalent" the following: ", or in the case of a waiver requested by an interested United States Government agency on behalf of an alien described in clause (iii),".

(c) RESTRICTIONS ON FEDERALLY REQUESTED WAIVERS.—Section 214(k) (8 U.S.C. 1184(k)) (as added by section 220(b) of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103–416; 108 Stat. 4319)) is amended to read as follows:

"(k)(1) In the case of a request by an interested State agency, or by an interested Federal agency, for a waiver of the 2-year foreign residence requirement under section 212(e) on behalf of an alien described in clause (iii) of such section, the Attorney General shall not grant such waiver unless—

"(A) in the case of an alien who is otherwise contractually obligated to return to a foreign country, the government of such country furnishes the Director of the United States Information Agency with a statement in writing that it has no objection to such waiver;

"(B) in the case of a request by an interested State agency, the grant of such waiver would not cause the number of waivers allotted for that State for that fiscal year to exceed 20;

"(C) in the case of a request by an interested Federal agency or by an interested State agency—

"(i) the alien demonstrates a bona fide offer of full-time employment at a health facility or health care organization, which employment has been determined by the Attorney General to be in the public interest; and

"(ii) the alien agrees to begin employment with the health facility or health care organization within 90 days of receiving such waiver, and agrees to continue to work for a total of not less than 3 years (unless the Attorney General determines that extenuating circumstances exist, such as closure of the facility or hardship to the alien, which would justify a lesser period of employment at such health facility or health care organization, in which case the alien must demonstrate another bona fide offer of employment at a health facility or health care organization for the remainder of such 3-year period); and

"(D) in the case of a request by an interested Federal agency (other than a request by an interested Federal agency to employ the alien full-time in medical research or training) or by an interested State agency, the alien agrees to practice medicine in accordance with paragraph (2) for a total of not less than 3 years only in the geographic area or areas which are designated by the Secretary of Health and Human Services as having a shortage of health care professionals.

"(2)(A) Notwithstanding section 248(2), the Attorney General may change the status of an alien who qualifies under this subsection and section 212(e) to that of an alien described in section 101(a)(15)(H)(i)(b).

"(B) No person who has obtained a change of status under subparagraph (A) and who has failed to fulfill the terms of the contract with the health facility or health care organization named in the waiver application shall be eligible to apply for an immigrant visa, for permanent residence, or for any other change of nonimmigrant status, until it is established that such person has resided and been physically present in the country of his nationality or his last residence for an aggregate of at least 2 years following departure from the United States.

"(3) Notwithstanding any other provision of this subsection, the 2-year foreign residence requirement under section 212(e) shall apply with respect to an alien described in clause (iii) of such section, who has not otherwise been accorded status under section 101(a)(27)(H), if—

"(A) at any time the alien ceases to comply with any agreement entered into under subparagraph (C) or (D) of paragraph (1); or

"(B) the alien's employment ceases to benefit the public interest at any time during the 3-year period described in paragraph (1)(C).".

SEC. 623. USE OF LEGALIZATION AND SPECIAL AGRICULTURAL WORKER INFORMATION.

(a) CONFIDENTIALITY OF INFORMATION.—Section 245A(c)(5) (8 U.S.C. 1255a(c)(5)) is amended to read as follows:

"(5) CONFIDENTIALITY OF INFORMATION.—

"(A) IN GENERAL.—Except as provided in this paragraph, neither the Attorney General, nor any other official

or employee of the Department of Justice, or bureau or agency thereof, may—

"(i) use the information furnished by the applicant pursuant to an application filed under this section for any purpose other than to make a determination on the application, for enforcement of paragraph (6), or for the preparation of reports to Congress under section 404 of the Immigration Reform and Control Act of 1986;

"(ii) make any publication whereby the information furnished by any particular applicant can be identified; or

"(iii) permit anyone other than the sworn officers and employees of the Department or bureau or agency or, with respect to applications filed with a designated entity, that designated entity, to examine individual applications.

"(B) REQUIRED DISCLOSURES.—The Attorney General shall provide the information furnished under this section, and any other information derived from such furnished information, to a duly recognized law enforcement entity in connection with a criminal investigation or prosecution, when such information is requested in writing by such entity, or to an official coroner for purposes of affirmatively identifying a deceased individual (whether or not such individual is deceased as a result of a crime).

"(C) AUTHORIZED DISCLOSURES.—The Attorney General may provide, in the Attorney General's discretion, for the furnishing of information furnished under this section in the same manner and circumstances as census information may be disclosed by the Secretary of Commerce under section 8 of title 13, United States Code.

"(D) CONSTRUCTION.—

"(i) IN GENERAL.—Nothing in this paragraph shall be construed to limit the use, or release, for immigration enforcement purposes or law enforcement purposes of information contained in files or records of the Service pertaining to an application filed under this section, other than information furnished by an applicant pursuant to the application, or any other information derived from the application, that is not available from any other source.

"(ii) CRIMINAL CONVICTIONS.—Information concerning whether the applicant has at any time been convicted of a crime may be used or released for immigration enforcement or law enforcement purposes.

"(E) CRIME.—Whoever knowingly uses, publishes, or permits information to be examined in violation of this paragraph shall be fined not more than $10,000.".

(b) SPECIAL AGRICULTURAL WORKERS.—Section 210(b)(6) (8 U.S.C. 1160(b)(6)) is amended to read as follows:

"(6) CONFIDENTIALITY OF INFORMATION.—

"(A) IN GENERAL.—Except as provided in this paragraph, neither the Attorney General, nor any other official or employee of the Department of Justice, or bureau or agency thereof, may—

"(i) use the information furnished by the applicant pursuant to an application filed under this section for any purpose other than to make a determination on the application, including a determination under subsection (a)(3)(B), or for enforcement of paragraph (7);

"(ii) make any publication whereby the information furnished by any particular individual can be identified; or

"(iii) permit anyone other than the sworn officers and employees of the Department or bureau or agency or, with respect to applications filed with a designated entity, that designated entity, to examine individual applications.

"(B) REQUIRED DISCLOSURES.—The Attorney General shall provide information furnished under this section, and any other information derived from such furnished information, to a duly recognized law enforcement entity in connection with a criminal investigation or prosecution, when such information is requested in writing by such entity, or to an official coroner for purposes of affirmatively identifying a deceased individual (whether or not such individual is deceased as a result of a crime).

"(C) CONSTRUCTION.—

"(i) IN GENERAL.—Nothing in this paragraph shall be construed to limit the use, or release, for immigration enforcement purposes or law enforcement purposes of information contained in files or records of the Service pertaining to an application filed under this section, other than information furnished by an applicant pursuant to the application, or any other information derived from the application, that is not available from any other source.

"(ii) CRIMINAL CONVICTIONS.—Information concerning whether the applicant has at any time been convicted of a crime may be used or released for immigration enforcement or law enforcement purposes.

"(D) CRIME.—Whoever knowingly uses, publishes, or permits information to be examined in violation of this paragraph shall be fined not more than $10,000.".

SEC. 624. CONTINUED VALIDITY OF LABOR CERTIFICATIONS AND CLASSIFICATION PETITIONS FOR PROFESSIONAL ATHLETES.

(a) LABOR CERTIFICATION.—Section 212(a)(5)(A) (8 U.S.C. 1182(a)(5)(A)) is amended by adding at the end the following:

"(iii) PROFESSIONAL ATHLETES.—

"(I) IN GENERAL.—A certification made under clause (i) with respect to a professional athlete shall remain valid with respect to the athlete after the athlete changes employer, if the new employer is a team in the same sport as the team which employed the athlete when the athlete first applied for the certification.

"(II) DEFINITION.—For purposes of subclause (I), the term 'professional athlete' means an individual who is employed as an athlete by—

"(aa) a team that is a member of an association of 6 or more professional sports teams whose total combined revenues exceed $10,000,000 per year, if the association governs the conduct of its members and regulates the contests and exhibitions in which its member teams regularly engage; or

"(bb) any minor league team that is affiliated with such an association.".

(b) CLASSIFICATION PETITIONS.—Section 204 (8 U.S.C. 1154) is amended by adding at the end the following:

"(i) PROFESSIONAL ATHLETES.—

"(1) IN GENERAL.—A petition under subsection (a)(4)(D) for classification of a professional athlete shall remain valid for the athlete after the athlete changes employers, if the new employer is a team in the same sport as the team which was the employer who filed the petition.

"(2) DEFINITION.—For purposes of paragraph (1), the term 'professional athlete' means an individual who is employed as an athlete by—

"(A) a team that is a member of an association of 6 or more professional sports teams whose total combined revenues exceed $10,000,000 per year, if the association governs the conduct of its members and regulates the contests and exhibitions in which its member teams regularly engage; or

"(B) any minor league team that is affiliated with such an association.".

SEC. 625. FOREIGN STUDENTS.

(a) LIMITATIONS.—

(1) IN GENERAL.—Section 214 (8 U.S.C. 1184) is amended by adding at the end the following new subsection:

"(l)(1) An alien may not be accorded status as a nonimmigrant under section 101(a)(15)(F)(i) in order to pursue a course of study—

"(A) at a public elementary school or in a publicly funded adult education program; or

"(B) at a public secondary school unless—

"(i) the aggregate period of such status at such a school does not exceed 12 months with respect to any alien, and (ii) the alien demonstrates that the alien has reimbursed the local educational agency that administers the school for the full, unsubsidized per capita cost of providing education at such school for the period of the alien's attendance.

"(2) An alien who obtains the status of a nonimmigrant under section 101(a)(15)(F)(i) in order to pursue a course of study at a private elementary or secondary school or in a language training program that is not publicly funded shall be considered to have violated such status, and the alien's visa under section 101(a)(15)(F) shall be void, if the alien terminates or abandons such course of study at such a school and undertakes a course of study at a public elementary school, in a publicly funded adult education program, in a publicly funded adult education language training program, or at a public secondary school (unless the requirements of paragraph (1)(B) are met).".

(2) CONFORMING AMENDMENT.—Section 101(a)(15)(F) (8 U.S.C. 1101(a)(15)(F)) is amended by inserting "consistent with section 214(l)" after "such a course of study".

(b) REFERENCE TO NEW GROUND OF EXCLUSION FOR STUDENT VISA ABUSERS.—For addition of ground of inadmissibility for certain nonimmigrant student abusers, see section 347 of this division.

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to individuals who obtain the status of a nonimmigrant under section 101(a)(15)(F) of the Immigration and Nationality Act after the end of the 60-day period beginning on the date of the enactment of this Act, including aliens whose status as such a nonimmigrant is extended after the end of such period. 8 USC 1101 note.

SEC. 626. SERVICES TO FAMILY MEMBERS OF CERTAIN OFFICERS AND AGENTS KILLED IN THE LINE OF DUTY.

(a) IN GENERAL.—Title II, as amended by section 205(a) of this division, is amended by adding at the end the following new section:

"TRANSPORTATION OF REMAINS OF IMMIGRATION OFFICERS AND BORDER PATROL AGENTS KILLED IN THE LINE OF DUTY

"SEC. 295. (a) IN GENERAL.—To the extent provided in appropriation Acts, when an immigration officer or border patrol agent is killed in the line of duty, the Attorney General may pay from appropriations available for the activity in which the officer or agent was engaged— 8 USC 1363b.

"(1) the actual and necessary expenses of transportation of the remains of the officer or agent to a place of burial located in any State, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau;

"(2) travel expenses, including per diem in lieu of subsistence, of the decedent's spouse and minor children to and from such site at rates not greater than those established for official government travel under subchapter I of chapter 57 of title 5, United States Code; and

"(3) any other memorial service authorized by the Attorney General.

"(b) PREPAYMENT.—The Attorney General may prepay any expense authorized to be paid under this section.".

(b) CLERICAL AMENDMENT.—The table of contents, as amended by section 205(b) of this division, is amended by inserting after the item relating to section 294 the following new item:

"Sec. 295. Transportation of remains of immigration officers and border patrol agents killed in the line of duty.".

Subtitle C—Provisions Relating to Visa Processing and Consular Efficiency

SEC. 631. VALIDITY OF PERIOD OF VISAS.

(a) EXTENSION OF VALIDITY OF IMMIGRANT VISAS TO 6 MONTHS.—Section 221(c) (8 U.S.C. 1201(c)) is amended by striking "four months" and inserting "six months".

(b) AUTHORIZING APPLICATION OF RECIPROCITY RULE FOR NONIMMIGRANT VISA IN CASE OF REFUGEES AND PERMANENT RESIDENTS.—Such section is further amended by inserting before the period at the end of the third sentence the following: "; except that in the case of aliens who are nationals of a foreign country and who either are granted refugee status and firmly resettled in another foreign country or are granted permanent residence and residing in another foreign country, the Secretary of State may prescribe the period of validity of such a visa based upon the treatment granted by that other foreign country to alien refugees and permanent residents, respectively, in the United States".

SEC. 632. ELIMINATION OF CONSULATE SHOPPING FOR VISA OVERSTAYS.

(a) IN GENERAL.—Section 222 (8 U.S.C. 1202) is amended by adding at the end the following:

"(g)(1) In the case of an alien who has been admitted on the basis of a nonimmigrant visa and remained in the United States beyond the period of stay authorized by the Attorney General, such visa shall be void beginning after the conclusion of such period of stay.

"(2) An alien described in paragraph (1) shall be ineligible to be readmitted to the United States as a nonimmigrant, except—

"(A) on the basis of a visa (other than the visa described in paragraph (1)) issued in a consular office located in the country of the alien's nationality (or, if there is no office in such country, in such other consular office as the Secretary of State shall specify); or

"(B) where extraordinary circumstances are found by the Secretary of State to exist.".

8 USC 1202 note.

(b) APPLICABILITY.—

(1) VISAS.—Section 222(g)(1) of the Immigration and Nationality Act, as added by subsection (a), shall apply to a visa issued before, on, or after the date of the enactment of this Act.

(2) ALIENS SEEKING READMISSION.—Section 222(g)(2) of the Immigration and Nationality Act, as added by subsection (a), shall apply to any alien applying for readmission to the United States after the date of the enactment of this Act, except an alien applying for readmission on the basis on a visa that—

(A) was issued before such date; and

(B) is not void through the application of section 222(g)(1) of the Immigration and Nationality Act, as added by subsection (a).

SEC. 633. AUTHORITY TO DETERMINE VISA PROCESSING PROCEDURES.

Section 202(a)(1) (8 U.S.C. 1152(a)(1)) is amended—

(1) by inserting "(A)" after "NONDISCRIMINATION.—"; and

(2) by adding at the end the following:

"(B) Nothing in this paragraph shall be construed to limit the authority of the Secretary of State to determine the procedures for the processing of immigrant visa applications or the locations where such applications will be processed.".

SEC. 634. CHANGES REGARDING VISA APPLICATION PROCESS.

(a) NONIMMIGRANT APPLICATIONS.—Section 222(c) (8 U.S.C. 1202(c)) is amended—

(1) by striking "personal description" through "marks of identification);";

(2) by striking "applicant" and inserting "applicant, the determination of his eligibility for a nonimmigrant visa,"; and

(3) by adding at the end the following: "At the discretion of the Secretary of State, application forms for the various classes of nonimmigrant admissions described in section 101(a)(15) may vary according to the class of visa being requested.".

(b) DISPOSITION OF APPLICATIONS.—Section 222(e) (8 U.S.C. 1202(e)) is amended—

(1) in the first sentence, by striking "required by this section" and inserting "for an immigrant visa"; and

(2) in the fourth sentence—

(A) by striking "stamp" and inserting "stamp, or other

(B) by striking "by the consular officer".

SEC. 635. VISA WAIVER PROGRAM.

(a) ELIMINATION OF JOINT ACTION REQUIREMENT.—Section 217 (8 U.S.C. 1187) is amended—

(1) in subsection (a), by striking "Attorney General and the Secretary of State, acting jointly" and inserting "Attorney General, in consultation with the Secretary of State";

(2) in subsection (c)(1), by striking "Attorney General and the Secretary of State acting jointly" and inserting "Attorney General, in consultation with the Secretary of State,"; and

(3) in subsection (d), by striking "Attorney General and the Secretary of State, acting jointly," and inserting "Attorney General, in consultation with the Secretary of State,".

(b) EXTENSION OF PROGRAM.—Section 217(f) (8 U.S.C. 1187(f)) is amended by striking "1996" and inserting "1997.".

(c) DURATION AND TERMINATION OF DESIGNATION OF PILOT PROGRAM COUNTRIES.—

(1) IN GENERAL.—Section 217(g) (8 U.S.C. 1187(g)) is amended to read as follows:

"(g) DURATION AND TERMINATION OF DESIGNATION.—

"(1) IN GENERAL.—

"(A) DETERMINATION AND NOTIFICATION OF DISQUALIFICATION RATE.—Upon determination by the Attorney General that a pilot program country's disqualification rate is 2 percent or more, the Attorney General shall notify the Secretary of State.

"(B) PROBATIONARY STATUS.—If the program country's disqualification rate is greater than 2 percent but less than 3.5 percent, the Attorney General shall place the program country in probationary status for a period not to exceed 2 full fiscal years following the year in which the determination under subparagraph (A) is made.

"(C) TERMINATION OF DESIGNATION.—Subject to paragraph (3), if the program country's disqualification rate is 3.5 percent or more, the Attorney General shall terminate the country's designation as a pilot program country effective at the beginning of the second fiscal year following the fiscal year in which the determination under subparagraph (A) is made.

"(2) TERMINATION OF PROBATIONARY STATUS.—

"(A) IN GENERAL.—If the Attorney General determines at the end of the probationary period described in paragraph (1)(B) that the program country placed in probationary status under such paragraph has failed to develop a machine-readable passport program as required by section (c)(2)(C), or has a disqualification rate of 2 percent or more, the Attorney General shall terminate the designation of the country as a pilot program country. If the Attorney General determines that the program country has developed a machine-readable passport program and has a disqualification rate of less than 2 percent, the Attorney General shall redesignate the country as a pilot program country.

"(B) EFFECTIVE DATE.—A termination of the designation of a country under subparagraph (A) shall take effect on the first day of the first fiscal year following the fiscal year in which the determination under such subparagraph is made. Until such date, nationals of the country shall remain eligible for a waiver under subsection (a).

"(3) NONAPPLICABILITY OF CERTAIN PROVISIONS.—Paragraph (1)(C) shall not apply unless the total number of nationals of a pilot program country described in paragraph (4)(A) exceeds 100.

"(4) DEFINITION.—For purposes of this subsection, the term 'disqualification rate' means the percentage which—

"(A) the total number of nationals of the pilot program country who were—

"(i) excluded from admission or withdrew their application for admission during the most recent fiscal year for which data are available; and

"(ii) admitted as nonimmigrant visitors during such fiscal year and who violated the terms of such admission; bears to

"(B) the total number of nationals of such country who applied for admission as nonimmigrant visitors during such fiscal year.".

8 USC 1187 note.

(2) TRANSITION.—A country designated as a pilot program country with probationary status under section 217(g) of the Immigration and Nationality Act (as in effect on the day before the date of the enactment of this Act) shall be considered to be designated as a pilot program country on and after such date, subject to placement in probationary status or termination of such designation under such section (as amended by paragraph (1)).

(3) CONFORMING AMENDMENT.—Section 217(a)(2)(B) (8 U.S.C. 1187(a)(2)(B)) is amended by striking "or is" through "subsection (g)." and inserting a period.

8 USC 1153 note.

SEC. 636. FEE FOR DIVERSITY IMMIGRANT LOTTERY.

The Secretary of State may establish a fee to be paid by each applicant for an immigrant visa described in section 203(c) of the Immigration and Nationality Act. Such fee may be set at a level that will ensure recovery of the cost to the Department of State of allocating visas under such section, including the cost of processing all applications thereunder. All fees collected under this section shall be used for providing consular services. All fees collected under this section shall be deposited as an offsetting

collection to any Department of State appropriation and shall remain available for obligations until expended. The provisions of the Act of August 18, 1856 (11 Stat. 58; 22 U.S.C. 4212–4214), concerning accounting for consular fees, shall not apply to fees collected under this section.

SEC. 637. ELIGIBILITY FOR VISAS FOR CERTAIN POLISH APPLICANTS FOR THE 1995 DIVERSITY IMMIGRANT PROGRAM. 8 USC 1153 note.

(a) IN GENERAL.—The Attorney General, in consultation with the Secretary of State, shall include among the aliens selected for diversity immigrant visas for fiscal year 1997 pursuant to section 203(c) of the Immigration and Nationality Act any alien who, on or before September 30, 1995—

(1) was selected as a diversity immigrant under such section for fiscal year 1995;

(2) applied for adjustment of status to that of an alien lawfully admitted for permanent residence pursuant to section 245 of such Act during fiscal year 1995, and whose application, and any associated fees, were accepted by the Attorney General, in accordance with applicable regulations;

(3) was not determined by the Attorney General to be excludable under section 212 of such Act or ineligible under section 203(c)(2) of such Act; and

(4) did not become an alien lawfully admitted for permanent residence during fiscal year 1995.

(b) PRIORITY.—The aliens selected under subsection (a) shall be considered to have been selected for diversity immigrant visas for fiscal year 1997 prior to any alien selected under any other provision of law.

(c) REDUCTION OF IMMIGRANT VISA NUMBER.—For purposes of applying the numerical limitations in sections 201 and 203(c) of the Immigration and Nationality Act, aliens selected under subsection (a) who are granted an immigrant visa shall be treated as aliens granted a visa under section 203(c) of such Act.

Subtitle D—Other Provisions

SEC. 641. PROGRAM TO COLLECT INFORMATION RELATING TO NONIMMIGRANT FOREIGN STUDENTS AND OTHER EXCHANGE PROGRAM PARTICIPANTS. 8 USC 1372.

(a) IN GENERAL.—

(1) PROGRAM.—The Attorney General, in consultation with the Secretary of State and the Secretary of Education, shall develop and conduct a program to collect from approved institutions of higher education and designated exchange visitor programs in the United States the information described in subsection (c) with respect to aliens who—

(A) have the status, or are applying for the status, of nonimmigrants under subparagraph (F), (J), or (M) of section 101(a)(15) of the Immigration and Nationality Act; and

(B) are nationals of the countries designated under subsection (b).

(2) DEADLINE.—The program shall commence not later than January 1, 1998.

(b) COVERED COUNTRIES.—The Attorney General, in consultation with the Secretary of State, shall designate countries for purposes of subsection (a)(1)(B). The Attorney General shall initially designate not less than 5 countries and may designate additional countries at any time while the program is being conducted.

(c) INFORMATION TO BE COLLECTED.—

(1) IN GENERAL.—The information for collection under subsection (a) with respect to an alien consists of—

(A) the identity and current address in the United States of the alien;

(B) the nonimmigrant classification of the alien and the date on which a visa under the classification was issued or extended or the date on which a change to such classification was approved by the Attorney General;

(C) in the case of a student at an approved institution of higher education, the current academic status of the alien, including whether the alien is maintaining status as a full-time student or, in the case of a participant in a designated exchange visitor program, whether the alien is satisfying the terms and conditions of such program; and

(D) in the case of a student at an approved institution of higher education, any disciplinary action taken by the institution against the alien as a result of the alien's being convicted of a crime or, in the case of a participant in a designated exchange visitor program, any change in the alien's participation as a result of the alien's being convicted of a crime.

(2) FERPA.—The Family Educational Rights and Privacy Act of 1974 shall not apply to aliens described in subsection (a) to the extent that the Attorney General determines necessary to carry out the program under subsection (a).

(3) ELECTRONIC COLLECTION.—The information described in paragraph (1) shall be collected electronically, where practicable.

(4) COMPUTER SOFTWARE.—

(A) COLLECTING INSTITUTIONS.—To the extent practicable, the Attorney General shall design the program in a manner that permits approved institutions of higher education and designated exchange visitor programs to use existing software for the collection, storage, and data processing of information described in paragraph (1).

(B) ATTORNEY GENERAL.—To the extent practicable, the Attorney General shall use or enhance existing software for the collection, storage, and data processing of information described in paragraph (1).

(d) PARTICIPATION BY INSTITUTIONS OF HIGHER EDUCATION AND EXCHANGE VISITOR PROGRAMS.—

(1) CONDITION.—The information described in subsection (c) shall be provided by as a condition of—

(A) in the case of an approved institution of higher education, the continued approval of the institution under subparagraph (F) or (M) of section 101(a)(15) of the Immigration and Nationality Act; and

(B) in the case of an approved institution of higher education or a designated exchange visitor program, the

granting of authority to issue documents to an alien demonstrating the alien's eligibility for a visa under subparagraph (F), (J), or (M) of section 101(a)(15) of such Act.

(2) EFFECT OF FAILURE TO PROVIDE INFORMATION.—If an approved institution of higher education or a designated exchange visitor program fails to provide the specified information, such approvals and such issuance of visas shall be revoked or denied.

(e) FUNDING.—

(1) IN GENERAL.—Beginning on April 1, 1997, an approved institution of higher education and a designated exchange visitor program shall impose on, and collect from, each alien described in paragraph (3), with respect to whom the institution or program is required by subsection (a) to collect information, a fee established by the Attorney General under paragraph (4) at the time—

(A) when the alien first registers with the institution or program after entering the United States; or

(B) in a case where a registration under subparagraph (A) does not exist, when the alien first commences activities in the United States with the institution or program.

(2) REMITTANCE.—An approved institution of higher education and a designated exchange visitor program shall remit the fees collected under paragraph (1) to the Attorney General pursuant to a schedule established by the Attorney General.

(3) ALIENS DESCRIBED.—An alien referred to in paragraph (1) is an alien who has nonimmigrant status under subparagraph (F), (J), or (M) of section 101(a)(15) of the Immigration and Nationality Act (other than a nonimmigrant under section 101(a)(15)(J) of such Act who has come to the United States as a participant in a program sponsored by the Federal Government).

(4) AMOUNT AND USE OF FEES.—

(A) ESTABLISHMENT OF AMOUNT.—The Attorney General shall establish the amount of the fee to be imposed on, and collected from, an alien under paragraph (1). Except as provided in subsection (g)(2), the fee imposed on any individual may not exceed $100. The amount of the fee shall be based on the Attorney General's estimate of the cost per alien of conducting the information collection program described in this section.

(B) USE.—Fees collected under paragraph (1) shall be deposited as offsetting receipts into the Immigration Examinations Fee Account (established under section 286(m) of the Immigration and Nationality Act) and shall remain available until expended for the Attorney General to reimburse any appropriation the amount paid out of which is for expenses in carrying out this section.

(f) JOINT REPORT.—Not later than 4 years after the commencement of the program established under subsection (a), the Attorney General, the Secretary of State, and the Secretary of Education shall jointly submit to the Committees on the Judiciary of the Senate and the House of Representatives a report on the operations of the program and the feasibility of expanding the program to cover the nationals of all countries.

(g) WORLDWIDE APPLICABILITY OF THE PROGRAM.—

(1) EXPANSION OF PROGRAM.—

(A) IN GENERAL.—Not later than 6 months after the submission of the report required by subsection (f), the Attorney General, in consultation with the Secretary of State and the Secretary of Education, shall commence expansion of the program to cover the nationals of all countries.

(B) DEADLINE.—Such expansion shall be completed not later than 1 year after the date of the submission of the report referred to in subsection (f).

(2) REVISION OF FEE.—After the program has been expanded, as provided in paragraph (1), the Attorney General may, on a periodic basis, revise the amount of the fee imposed and collected under subsection (e) in order to take into account changes in the cost of carrying out the program.

(h) DEFINITIONS.—As used in this section:

(1) APPROVED INSTITUTION OF HIGHER EDUCATION.—The term "approved institution of higher education" means a college or university approved by the Attorney General, in consultation with the Secretary of Education, under subparagraph (F), (J), or (M) of section 101(a)(15) of the Immigration and Nationality Act.

(2) DESIGNATED EXCHANGE VISITOR PROGRAM.—The term "designated exchange visitor program" means a program that has been—

(A) designated by the Director of the United States Information Agency for purposes of section 101(a)(15)(J) of the Immigration and Nationality Act; and

(B) selected by the Attorney General for purposes of the program under this section.

8 USC 1373.

SEC. 642. COMMUNICATION BETWEEN GOVERNMENT AGENCIES AND THE IMMIGRATION AND NATURALIZATION SERVICE.

(a) IN GENERAL.—Notwithstanding any other provision of Federal, State, or local law, a Federal, State, or local government entity or official may not prohibit, or in any way restrict, any government entity or official from sending to, or receiving from, the Immigration and Naturalization Service information regarding the citizenship or immigration status, lawful or unlawful, of any individual.

(b) ADDITIONAL AUTHORITY OF GOVERNMENT ENTITIES.—Notwithstanding any other provision of Federal, State, or local law, no person or agency may prohibit, or in any way restrict, a Federal, State, or local government entity from doing any of the following with respect to information regarding the immigration status, lawful or unlawful, of any individual:

(1) Sending such information to, or requesting or receiving such information from, the Immigration and Naturalization Service.

(2) Maintaining such information.

(3) Exchanging such information with any other Federal, State, or local government entity.

(c) OBLIGATION TO RESPOND TO INQUIRIES.—The Immigration and Naturalization Service shall respond to an inquiry by a Federal, State, or local government agency, seeking to verify or ascertain the citizenship or immigration status of any individual within the jurisdiction of the agency for any purpose authorized by law, by providing the requested verification or status information.

SEC. 643. REGULATIONS REGARDING HABITUAL RESIDENCE. 48 USC 1901 note.

Not later than 6 months after the date of the enactment of this Act, the Commissioner of Immigration and Naturalization shall issue regulations governing rights of "habitual residence" in the United States under the terms of the following:

(1) The Compact of Free Association between the Government of the United States and the Governments of the Marshall Islands and the Federated States of Micronesia (48 U.S.C. 1901 note).

(2) The Compact of Free Association between the Government of the United States and the Government of Palau (48 U.S.C. 1931 note).

SEC. 644. INFORMATION REGARDING FEMALE GENITAL MUTILATION. 8 USC 1374.

(a) PROVISION OF INFORMATION REGARDING FEMALE GENITAL MUTILATION.—The Immigration and Naturalization Service (in cooperation with the Department of State) shall make available for all aliens who are issued immigrant or nonimmigrant visas, prior to or at the time of entry into the United States, the following information:

(1) Information on the severe harm to physical and psychological health caused by female genital mutilation which is compiled and presented in a manner which is limited to the practice itself and respectful to the cultural values of the societies in which such practice takes place.

(2) Information concerning potential legal consequences in the United States for (A) performing female genital mutilation, or (B) allowing a child under his or her care to be subjected to female genital mutilation, under criminal or child protection statutes or as a form of child abuse.

(b) LIMITATION.—In consultation with the Secretary of State, the Commissioner of Immigration and Naturalization shall identify those countries in which female genital mutilation is commonly practiced and, to the extent practicable, limit the provision of information under subsection (a) to aliens from such countries.

(c) DEFINITION.—For purposes of this section, the term "female genital mutilation" means the removal or infibulation (or both) of the whole or part of the clitoris, the labia minora, or labia majora.

SEC. 645. CRIMINALIZATION OF FEMALE GENITAL MUTILATION.

(a) FINDINGS.—The Congress finds that— 18 USC 116 note.

(1) the practice of female genital mutilation is carried out by members of certain cultural and religious groups within the United States;

(2) the practice of female genital mutilation often results in the occurrence of physical and psychological health effects that harm the women involved;

(3) such mutilation infringes upon the guarantees of rights secured by Federal and State law, both statutory and constitutional;

(4) the unique circumstances surrounding the practice of female genital mutilation place it beyond the ability of any single State or local jurisdiction to control;

(5) the practice of female genital mutilation can be prohibited without abridging the exercise of any rights guaranteed

under the first amendment to the Constitution or under any other law; and

(6) Congress has the affirmative power under section 8 of article I, the necessary and proper clause, section 5 of the fourteenth Amendment, as well as under the treaty clause, to the Constitution to enact such legislation.

(b) CRIME.—

(1) IN GENERAL.—Chapter 7 of title 18, United States Code, is amended by adding at the end the following:

"§ 116. Female genital mutilation

"(a) Except as provided in subsection (b), whoever knowingly circumcises, excises, or infibulates the whole or any part of the labia majora or labia minora or clitoris of another person who has not attained the age of 18 years shall be fined under this title or imprisoned not more than 5 years, or both.

"(b) A surgical operation is not a violation of this section if the operation is—

"(1) necessary to the health of the person on whom it is performed, and is performed by a person licensed in the place of its performance as a medical practitioner; or

"(2) performed on a person in labor or who has just given birth and is performed for medical purposes connected with that labor or birth by a person licensed in the place it is performed as a medical practitioner, midwife, or person in training to become such a practitioner or midwife.

"(c) In applying subsection (b)(1), no account shall be taken of the effect on the person on whom the operation is to be performed of any belief on the part of that person, or any other person, that the operation is required as a matter of custom or ritual.".

(2) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 7 of title 18, United States Code, is amended by adding at the end the following new item:

"116. Female genital mutilation.".

18 USC 116 note.

(c) EFFECTIVE DATE.—The amendments made by subsection (b) shall take effect on the date that is 180 days after the date of the enactment of this Act.

8 USC 1255 note.

SEC. 646. ADJUSTMENT OF STATUS FOR CERTAIN POLISH AND HUNGARIAN PAROLEES.

(a) IN GENERAL.—The Attorney General shall adjust the status of an alien described in subsection (b) to that of an alien lawfully admitted for permanent residence if the alien—

(1) applies for such adjustment;

(2) has been physically present in the United States for at least 1 year and is physically present in the United States on the date the application for such adjustment is filed;

(3) is admissible to the United States as an immigrant, except as provided in subsection (c); and

(4) pays a fee (determined by the Attorney General) for the processing of such application.

(b) ALIENS ELIGIBLE FOR ADJUSTMENT OF STATUS.—The benefits provided in subsection (a) shall only apply to an alien who—

(1) was a national of Poland or Hungary; and

(2) was inspected and granted parole into the United States during the period beginning on November 1, 1989, and ending on December 31, 1991, after being denied refugee status.

(c) WAIVER OF CERTAIN GROUNDS FOR INADMISSIBILITY.—The provisions of paragraphs (4), (5), and (7)(A) of section 212(a) of the Immigration and Nationality Act shall not apply to adjustment of status under this section and the Attorney General may waive any other provision of such section (other than paragraph (2)(C) and subparagraphs (A), (B), (C), or (E) of paragraph (3)) with respect to such an adjustment for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest.

(d) DATE OF APPROVAL.—Upon the approval of such an application for adjustment of status, the Attorney General shall create a record of the alien's admission as an alien lawfully admitted for permanent residence as of the date of the alien's inspection and parole described in subsection (b)(2).

(e) NO OFFSET IN NUMBER OF VISAS AVAILABLE.—When an alien is granted the status of having been lawfully admitted for permanent residence under this section, the Secretary of State shall not be required to reduce the number of immigrant visas authorized to be issued under the Immigration and Nationality Act.

SEC. 647. SUPPORT OF DEMONSTRATION PROJECTS. 8 USC 1448 note.

(a) IN GENERAL.—The Attorney General shall make available funds under this section, in each of fiscal years 1997 through 2001, to the Commissioner of Immigration and Naturalization or to other public or private nonprofit entities to support demonstration projects under this section at 10 sites throughout the United States. Each such project shall be designed to provide for the administration of the oath of allegiance under section 337(a) of the Immigration and Nationality Act on a business day around Independence Day to approximately 500 people whose application for naturalization has been approved. Each project shall provide for appropriate outreach and ceremonial and celebratory activities.

(b) SELECTION OF SITES.—The Attorney General shall, in the Attorney General's discretion, select diverse locations for sites on the basis of the number of naturalization applicants living in proximity to each site and the degree of local community participation and support in the project to be held at the site. Not more than 2 sites may be located in the same State. The Attorney General shall consider changing the sites selected from year to year.

(c) AMOUNTS AVAILABLE; USE OF FUNDS.—

(1) AMOUNT.—The amount made available under this section with respect to any single site for a year shall not exceed $5,000.

(2) USE.—Funds made available under this section may be used only to cover expenses incurred in carrying out oath administration ceremonies at the demonstration sites under subsection (a), including expenses for—

(A) cost of personnel of the Immigration and Naturalization Service (including travel and overtime expenses);

(B) rental of space; and

(C) costs of printing appropriate brochures and other information about the ceremonies.

(3) AVAILABILITY OF FUNDS.—Funds that are otherwise available to the Immigration and Naturalization Service to carry out naturalization activities shall be available, to the extent provided in appropriation Acts, to carry out this section.

(d) APPLICATION.—In the case of an entity other than the Immigration and Naturalization Service seeking to conduct a demonstration project under this section, no amounts may be made available to the entity under this section unless an appropriate application has been made to, and approved by, the Attorney General, in a form and manner specified by the Attorney General.

8 USC 1101 note.

SEC. 648. SENSE OF CONGRESS REGARDING AMERICAN-MADE PRODUCTS; REQUIREMENTS REGARDING NOTICE.

(a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available under this division should be American-made.

(b) NOTICE TO RECIPIENTS OF GRANTS.—In providing grants under this division, the Attorney General, to the greatest extent practicable, shall provide to each recipient of a grant a notice describing the statement made in subsection (a) by the Congress.

SEC. 649. VESSEL MOVEMENT CONTROLS DURING IMMIGRATION EMERGENCY.

Section 1 of the Act of June 15, 1917 (50 U.S.C. 191) is amended in the first sentence by inserting "or whenever the Attorney General determines that an actual or anticipated mass migration of aliens en route to, or arriving off the coast of, the United States presents urgent circumstances requiring an immediate Federal response," after "United States," the first place such term appears.

SEC. 650. REVIEW OF PRACTICES OF TESTING ENTITIES.

(a) IN GENERAL.—The Attorney General shall investigate, and submit a report to the Committees on the Judiciary of the House of Representatives and of the Senate regarding, the practices of entities authorized to administer standardized citizenship tests pursuant to section 312.3(a) of title 8, Code of Federal Regulations. The report shall include any findings of fraudulent practices by such entities.

(b) PRELIMINARY AND FINAL REPORTS.—Not later than 90 days after the date of the enactment of this Act, the Attorney General shall submit to the Committees on the Judiciary of the House of Representatives and of the Senate a preliminary report on the investigation conducted under subsection (a). The Attorney General shall submit to such Committees a final report on such investigation not later than 275 days after the submission of the preliminary report.

SEC. 651. DESIGNATION OF A UNITED STATES CUSTOMS ADMINISTRATIVE BUILDING.

(a) DESIGNATION.—The United States Customs Administrative Building at the Ysleta/Zaragosa Port of Entry located at 797 South Zaragosa Road in El Paso, Texas, is designated as the "Timothy C. McCaghren Customs Administrative Building".

(b) LEGAL REFERENCES.—Any reference in any law, regulation, document, record, map, or other paper of the United States to the building referred to in subsection (a) is deemed to be a reference to the "Timothy C. McCaghren Customs Administrative Building".

SEC. 652. MAIL-ORDER BRIDE BUSINESS. 8 USC 1375.

(a) FINDINGS.—The Congress finds as follows:

(1) There is a substantial "mail-order bride" business in the United States. With approximately 200 companies in the United States, an estimated 2,000 to 3,500 men in the United States find wives through mail-order bride catalogs each year. However, there are no official statistics available on the number of mail-order brides entering the United States each year.

(2) The companies engaged in the mail-order bride business earn substantial profits.

(3) Although many of these mail-order marriages work out, in many other cases, anecdotal evidence suggests that mail-order brides find themselves in abusive relationships. There is also evidence to suggest that a substantial number of mail-order marriages are fraudulent under United States law.

(4) Many mail-order brides come to the United States unaware or ignorant of United States immigration law. Mail-order brides who are battered often think that if they flee an abusive marriage, they will be deported. Often the citizen spouse threatens to have them deported if they report the abuse.

(5) The Immigration and Naturalization Service estimates that the rate of marriage fraud between foreign nationals and United States citizens or aliens lawfully admitted for permanent residence is 8 percent. It is unclear what percentage of these marriage fraud cases originate as mail-order marriages.

(b) INFORMATION DISSEMINATION.—

(1) REQUIREMENT.—Each international matchmaking organization doing business in the United States shall disseminate to recruits, upon recruitment, such immigration and naturalization information as the Immigration and Naturalization Service deems appropriate, in the recruit's native language, including information regarding conditional permanent residence status and the battered spouse waiver under such status, permanent resident status, marriage fraud penalties, the unregulated nature of the business engaged in by such organizations, and the study required under subsection (c).

(2) CIVIL PENALTY.—

(A) VIOLATION.—Any international matchmaking organization that the Attorney General determines has violated subsection (b) shall be subject, in addition to any other penalties that may be prescribed by law, to a civil money penalty of not more than $20,000 for each such violation.

(B) PROCEDURES FOR IMPOSITION OF PENALTY.—Any penalty under subparagraph (A) may be imposed only after notice and opportunity for an agency hearing on the record in accordance with sections 554 through 557 of title 5, United States Code.

(c) STUDY.—The Attorney General, in consultation with the Commissioner of Immigration and Naturalization and the Director of the Violence Against Women Initiative of the Department of Justice, shall conduct a study of mail-order marriages to determine, among other things—

(1) the number of such marriages;

(2) the extent of marriage fraud in such marriages, including an estimate of the extent of marriage fraud arising from the services provided by international matchmaking organizations;

(3) the extent to which mail-order spouses utilize section 244(a)(3) of the Immigration and Nationality Act (providing for suspension of deportation in certain cases involving abuse), or section 204(a)(1)(A)(iii) of such Act (providing for certain aliens who have been abused to file a classification petition on their own behalf);

(4) the extent of domestic abuse in mail-order marriages; and

(5) the need for continued or expanded regulation and education to implement the objectives of the Violence Against Women Act of 1994 and the Immigration Marriage Fraud Amendments of 1986 with respect to mail-order marriages.

(d) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Attorney General shall submit a report to the Committees on the Judiciary of the House of Representatives and of the Senate setting forth the results of the study conducted under subsection (c).

(e) DEFINITIONS.—As used in this section:

(1) INTERNATIONAL MATCHMAKING ORGANIZATION.—

(A) IN GENERAL.—The term "international matchmaking organization" means a corporation, partnership, business, or other legal entity, whether or not organized under the laws of the United States or any State, that does business in the United States and for profit offers to United States citizens or aliens lawfully admitted for permanent residence, dating, matrimonial, or social referral services to nonresident noncitizens, by—

(i) an exchange of names, telephone numbers, addresses, or statistics;

(ii) selection of photographs; or

(iii) a social environment provided by the organization in a country other than the United States.

(B) EXCEPTION.—Such term does not include a traditional matchmaking organization of a religious nature that otherwise operates in compliance with the laws of the countries of the recruits of such organization and the laws of the United States.

(2) RECRUIT.—The term "recruit" means a noncitizen, nonresident person, recruited by the international matchmaking organization for the purpose of providing dating, matrimonial, or social referral services to United States citizens or aliens lawfully admitted for permanent residence.

SEC. 653. REVIEW AND REPORT ON H-2A NONIMMIGRANT WORKERS PROGRAM.

(a) SENSE OF THE CONGRESS.—It is the sense of the Congress that the H2–A nonimmigrant worker program should be reviewed and may need improvement in order to meet the need of producers of labor-intensive agricultural commodities and livestock in the United States for an adequate workforce.

(b) REVIEW.—The Comptroller General shall review the effectiveness of the H–2A nonimmigrant worker program to ensure that the program provides a sufficient supply of agricultural labor

in the event of future shortages of domestic workers after the enactment of this Act. Among other things, the Comptroller General shall review the H–2A nonimmigrant worker program to determine—

(1) whether the program ensures that an adequate supply of qualified United States workers is available at the time and place needed for employers seeking such workers after the date of enactment of this Act;

(2) whether the program ensures that there is timely approval of applications for temporary foreign workers under the program in the event of shortages of United States workers after the date of the enactment of this Act;

(3) whether the program ensures that implementation of the program is not displacing United States agricultural workers or diminishing the terms and conditions of employment of United States agricultural workers;

(4) if, and to what extent, the program is contributing to the problem of illegal immigration; and

(5) that the program adequately meets the needs of agricultural employers for all types of temporary foreign agricultural workers, including higher-skilled workers in occupations which require a level of specific vocational preparation of 4 or higher (as described in the 4th edition of the Dictionary of Occupational Title, published by the Department of Labor).

(c) REPORT.—Not later than December 31, 1996, or 3 months after the date of the enactment of this Act, whichever occurs earlier, the Comptroller General shall submit a report to the appropriate committees of the Congress setting forth the conclusions of the Comptroller General from the review conducted under subsection (b).

(d) DEFINITIONS.—As used in this section:

(1) The term "Comptroller General" means the Comptroller General of the United States.

(2) The term "H–2A nonimmigrant worker program" means the program for the admission of nonimmigrant aliens described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act.

SEC. 654. REPORT ON ALLEGATIONS OF HARASSMENT BY CANADIAN CUSTOMS AGENTS.

(a) STUDY AND REVIEW.—

(1) IN GENERAL.—Not later than 30 days after the date of the enactment of this Act, the Commissioner of the United States Customs Service shall initiate a study of harassment by Canadian customs agents allegedly undertaken for the purpose of deterring cross-border commercial activity along the United States-New Brunswick border. Such study shall include a review of the possible connection between any incidents of harassment and the discriminatory imposition of the New Brunswick provincial sales tax on goods purchased in the United States by New Brunswick residents, and with any other actions taken by the Canadian provincial governments to deter cross-border commercial activities.

(2) CONSULTATION.—In conducting the study under paragraph (1), the Commissioner of the United States Customs Service shall consult with representatives of the State of Maine,

local governments, local businesses, and any other knowledgeable persons who the Commissioner considers to be important to the completion of the study.

(b) REPORT.—Not later than 120 days after the date of the enactment of this Act, the Commissioner of the United States Customs Service shall submit to the Committees on the Judiciary of the House of Representatives and of the Senate a report on the study and review conducted under subsection (a). The report shall include recommendations for steps that the United States Government can take to help end any harassment by Canadian customs agents that is found to have occurred.

SEC. 655. SENSE OF CONGRESS ON DISCRIMINATORY APPLICATION OF NEW BRUNSWICK PROVINCIAL SALES TAX.

(a) FINDINGS.—The Congress finds as follows:

(1) In July 1993, Canadian customs officers began collecting an 11 percent New Brunswick provincial sales tax on goods purchased in the United States by New Brunswick residents, an action that has caused severe economic harm to United States businesses located in proximity to the border with New Brunswick.

(2) This impediment to cross-border trade compounds the damage already done from the Canadian Government's imposition of a 7 percent tax on all goods bought by Canadians in the United States.

(3) Collection of the New Brunswick provincial sales tax on goods purchased outside of New Brunswick is effected only along the United States-Canadian border, not along New Brunswick's borders with other Canadian provinces; the tax is thus being administered by Canadian authorities in a manner uniquely discriminatory to Canadians shopping in the United States.

(4) In February 1994, the United States Trade Representative publicly stated an intention to seek redress from the discriminatory application of the New Brunswick provincial sales tax under the dispute resolution process in chapter 20 of the North American Free Trade Agreement (NAFTA), but the United States Government has still not made such a claim under NAFTA procedures.

(5) Initially, the United States Trade Representative argued that filing a New Brunswick provincial sales tax claim was delayed only because the dispute mechanism under NAFTA had not yet been finalized, but more than a year after such mechanism has been put in place, the claim has still not been put forward by the United States Trade Representative.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that—

(1) the provincial sales tax levied by the Canadian province of New Brunswick on Canadian citizens of that province who purchase goods in the United States—

(A) raises questions about a possible violation of the North American Free Trade Agreement in the discriminatory application of the tax to cross-border trade with the United States; and

(B) damages good relations between the United States and Canada; and

(2) the United States Trade Representative should move forward without further delay in seeking redress under the

dispute resolution process in chapter 20 of the North American Free Trade Agreement for the violation.

SEC. 656. IMPROVEMENTS IN IDENTIFICATION-RELATED DOCUMENTS. 5 USC 301 note.

(a) BIRTH CERTIFICATES.—

(1) STANDARDS FOR ACCEPTANCE BY FEDERAL AGENCIES.—

(A) IN GENERAL.—

(i) GENERAL RULE.—Subject to clause (ii), a Federal agency may not accept for any official purpose a certificate of birth, unless the certificate—

(I) is a birth certificate (as defined in paragraph (3)); and

(II) conforms to the standards set forth in the regulation promulgated under subparagraph (B).

(ii) APPLICABILITY.—Clause (i) shall apply only to a certificate of birth issued after the day that is 3 years after the date of the promulgation of a final regulation under subparagraph (B). Clause (i) shall not be construed to prevent a Federal agency from accepting for official purposes any certificate of birth issued on or before such day.

(B) REGULATION.—

(i) CONSULTATION WITH GOVERNMENT AGENCIES.—The President shall select 1 or more Federal agencies to consult with State vital statistics offices, and with other appropriate Federal agencies designated by the President, for the purpose of developing appropriate standards for birth certificates that may be accepted for official purposes by Federal agencies, as provided in subparagraph (A).

(ii) SELECTION OF LEAD AGENCY.—Of the Federal agencies selected under clause (i), the President shall select 1 agency to promulgate, upon the conclusion of the consultation conducted under such clause, a regulation establishing standards of the type described in such clause.

(iii) DEADLINE.—The agency selected under clause (ii) shall promulgate a final regulation under such clause not later than the date that is 1 year after the date of the enactment of this Act.

(iv) MINIMUM REQUIREMENTS.—The standards established under this subparagraph—

(I) at a minimum, shall require certification of the birth certificate by the State or local custodian of record that issued the certificate, and shall require the use of safety paper, the seal of the issuing custodian of record, and other features designed to limit tampering, counterfeiting, and photocopying, or otherwise duplicating, the birth certificate for fraudulent purposes;

(II) may not require a single design to which birth certificates issued by all States must conform; and

(III) shall accommodate the differences between the States in the manner and form in

which birth records are stored and birth certificates are produced from such records.

(2) GRANTS TO STATES.—

(A) ASSISTANCE IN MEETING FEDERAL STANDARDS.—

(i) IN GENERAL.—Beginning on the date a final regulation is promulgated under paragraph (1)(B), the Secretary of Health and Human Services, acting through the Director of the National Center for Health Statistics and after consulting with the head of any other agency designated by the President, shall make grants to States to assist them in issuing birth certificates that conform to the standards set forth in the regulation.

(ii) ALLOCATION OF GRANTS.—The Secretary shall provide grants to States under this subparagraph in proportion to the populations of the States applying to receive a grant and in an amount needed to provide a substantial incentive for States to issue birth certificates that conform to the standards described in clause (i).

(B) ASSISTANCE IN MATCHING BIRTH AND DEATH RECORDS.—

(i) IN GENERAL.—The Secretary of Health and Human Services, acting through the Director of the National Center for Health Statistics and after consulting with the head of any other agency designated by the President, shall make grants to States to assist them in developing the capability to match birth and death records, within each State and among the States, and to note the fact of death on the birth certificates of deceased persons. In developing the capability described in the preceding sentence, a State that receives a grant under this subparagraph shall focus first on individuals born after 1950.

(ii) ALLOCATION AND AMOUNT OF GRANTS.—The Secretary shall provide grants to States under this subparagraph in proportion to the populations of the States applying to receive a grant and in an amount needed to provide a substantial incentive for States to develop the capability described in clause (i).

(C) DEMONSTRATION PROJECTS.—The Secretary of Health and Human Services, acting through the Director of the National Center for Health Statistics, shall make grants to States for a project in each of 5 States to demonstrate the feasibility of a system under which persons otherwise required to report the death of individuals to a State would be required to provide to the State's office of vital statistics sufficient information to establish the fact of death of every individual dying in the State within 24 hours of acquiring the information.

(3) BIRTH CERTIFICATE.—As used in this subsection, the term "birth certificate" means a certificate of birth—

(A) of—

(i) an individual born in the United States; or

(ii) an individual born abroad—

(I) who is a citizen or national of the United States at birth; and

(II) whose birth is registered in the United States; and

(B) that—

(i) is a copy, issued by a State or local authorized custodian of record, of an original certificate of birth issued by such custodian of record; or

(ii) was issued by a State or local authorized custodian of record and was produced from birth records maintained by such custodian of record.

(b) STATE-ISSUED DRIVERS LICENSES AND COMPARABLE IDENTIFICATION DOCUMENTS.—

(1) STANDARDS FOR ACCEPTANCE BY FEDERAL AGENCIES.—

(A) IN GENERAL.—A Federal agency may not accept for any identification-related purpose a driver's license, or other comparable identification document, issued by a State, unless the license or document satisfies the following requirements:

(i) APPLICATION PROCESS.—The application process for the license or document shall include the presentation of such evidence of identity as is required by regulations promulgated by the Secretary of Transportation after consultation with the American Association of Motor Vehicle Administrators.

(ii) SOCIAL SECURITY NUMBER.—Except as provided in subparagraph (B), the license or document shall contain a social security account number that can be read visually or by electronic means.

(iii) FORM.—The license or document otherwise shall be in a form consistent with requirements set forth in regulations promulgated by the Secretary of Transportation after consultation with the American Association of Motor Vehicle Administrators. The form shall contain security features designed to limit tampering, counterfeiting, photocopying, or otherwise duplicating, the license or document for fraudulent purposes and to limit use of the license or document by impostors.

(B) EXCEPTION.—The requirement in subparagraph (A)(ii) shall not apply with respect to a driver's license or other comparable identification document issued by a State, if the State—

(i) does not require the license or document to contain a social security account number; and

(ii) requires—

(I) every applicant for a driver's license, or other comparable identification document, to submit the applicant's social security account number; and

(II) an agency of the State to verify with the Social Security Administration that such account number is valid.

(C) DEADLINE.—The Secretary of Transportation shall promulgate the regulations referred to in clauses (i) and (iii) of subparagraph (A) not later than 1 year after the date of the enactment of this Act.

(2) GRANTS TO STATES.—Beginning on the date final regulations are promulgated under paragraph (1), the Secretary of

Transportation shall make grants to States to assist them in issuing driver's licenses and other comparable identification documents that satisfy the requirements under such paragraph.

(3) EFFECTIVE DATES.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, this subsection shall take effect on the date of the enactment of this Act.

(B) PROHIBITION ON FEDERAL AGENCIES.—Subparagraphs (A) and (B) of paragraph (1) shall take effect beginning on October 1, 2000, but shall apply only to licenses or documents issued to an individual for the first time and to replacement or renewal licenses or documents issued according to State law.

(c) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit a report to the Congress on ways to reduce the fraudulent obtaining and the fraudulent use of birth certificates, including any such use to obtain a social security account number or a State or Federal document related to identification or immigration.

(d) FEDERAL AGENCY DEFINED.—For purposes of this section, the term "Federal agency" means any of the following:

(1) An Executive agency (as defined in section 105 of title 5, United States Code).

(2) A military department (as defined in section 102 of such title).

(3) An agency in the legislative branch of the Government of the United States.

(4) An agency in the judicial branch of the Government of the United States.

42 USC 405 note.

SEC. 657. DEVELOPMENT OF PROTOTYPE OF COUNTERFEIT-RESISTANT SOCIAL SECURITY CARD.

(a) DEVELOPMENT.—

(1) IN GENERAL.—The Commissioner of Social Security (in this section referred to as the "Commissioner") shall, in accordance with the provisions of this section, develop a prototype of a counterfeit-resistant social security card. Such prototype card—

(A) shall be made of a durable, tamper-resistant material such as plastic or polyester;

(B) shall employ technologies that provide security features, such as magnetic stripes, holograms, and integrated circuits; and

(C) shall be developed so as to provide individuals with reliable proof of citizenship or legal resident alien status.

(2) ASSISTANCE BY ATTORNEY GENERAL.—The Attorney General shall provide such information and assistance as the Commissioner deems necessary to achieve the purposes of this section.

(b) STUDIES AND REPORTS.—

(1) IN GENERAL.—The Comptroller General and the Commissioner of Social Security shall each conduct a study, and issue a report to the Congress, that examines different methods of improving the social security card application process.

(2) ELEMENTS OF STUDIES.—The studies shall include evaluations of the cost and work load implications of issuing a counterfeit-resistant social security card for all individuals over a 3, 5, and 10 year period. The studies shall also evaluate the feasibility and cost implications of imposing a user fee for replacement cards and cards issued to individuals who apply for such a card prior to the scheduled 3, 5, and 10 year phase-in options.

(3) DISTRIBUTION OF REPORTS.—Copies of the reports described in this subsection, along with facsimiles of the prototype cards as described in subsection (a), shall be submitted to the Committees on Ways and Means and Judiciary of the House of Representatives and the Committees on Finance and Judiciary of the Senate not later than 1 year after the date of the enactment of this Act.

SEC. 658. BORDER PATROL MUSEUM.

(a) AUTHORITY.—Notwithstanding section 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484) or any other provision of law, the Attorney General is authorized to transfer and convey to the Border Patrol Museum and Memorial Library Foundation, incorporated in the State of Texas, such equipment, artifacts, and memorabilia held by the Immigration and Naturalization Service as the Attorney General may determine is necessary to further the purposes of the Museum and Foundation.

(b) TECHNICAL ASSISTANCE.—The Attorney General is authorized to provide technical assistance, through the detail of personnel of the Immigration and Naturalization Service, to the Border Patrol Museum and Memorial Library Foundation for the purpose of demonstrating the use of the items transferred under subsection (a).

SEC. 659. SENSE OF THE CONGRESS REGARDING THE MISSION OF THE IMMIGRATION AND NATURALIZATION SERVICE.

It is the sense of the Congress that the mission statement of the Immigration and Naturalization Service should include a statement that it is the responsibility of the Service to detect, apprehend, and remove those aliens unlawfully present in the United States, particularly those aliens involved in drug trafficking or other criminal activity.

SEC. 660. AUTHORITY FOR NATIONAL GUARD TO ASSIST IN TRANSPORTATION OF CERTAIN ALIENS.

Section 112(d)(1) of title 32, United States Code, is amended by adding at the end the following new sentence: "The plan as approved by the Secretary may provide for the use of personnel and equipment of the National Guard of that State to assist the Immigration and Naturalization Service in the transportation of aliens who have violated a Federal or State law prohibiting or regulating the possession, use, or distribution of a controlled substance.".

Subtitle E—Technical Corrections

SEC. 671. MISCELLANEOUS TECHNICAL CORRECTIONS.

(a) AMENDMENTS RELATING TO PUBLIC LAW 103–322 (VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1994).—

8 USC 1324.

(1) Section 60024(1)(F) of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322) (in this subsection referred to as "VCCLEA") is amended by inserting "United States Code," after "title 18,".

8 USC 1258.

(2) Section 130003(b)(3) of VCCLEA is amended by striking "Naturalization" and inserting "Nationality".

(3)(A) Section 214 (8 U.S.C. 1184) is amended by redesignating the subsection (j), added by section 130003(b)(2) of VCCLEA (108 Stat. 2025), and the subsection (k), as amended by section 622(c) of this division, as subsections (k) and (l), respectively.

(B) Section 101(a)(15)(S) (8 U.S.C. 1101(a)(15)(S)) is amended by striking "214(j)" and inserting "214(k)".

(4)(A) Section 245 (8 U.S.C. 1255) is amended by redesignating the subsection (i) added by section 130003(c)(1) of VCCLEA as subsection (j).

(B) Section 241(a)(2)(A)(i)(I) (8 U.S.C. 1251(a)(2)(A)(i)(I)), as amended by section 130003(d) of VCCLEA and before redesignation by section 305(a)(2) of this division, is amended by striking "245(i)" and inserting "245(j)".

8 USC 1255.

(5) Section 245(j)(3), as added by section 130003(c)(1) of VCCLEA and as redesignated by paragraph (4)(A), is amended by striking "paragraphs (1) or (2)" and inserting "paragraph (1) or (2)".

8 USC 1252 note.

(6) Section 130007(a) of VCCLEA is amended by striking "242A(d)" and inserting "242A(a)(3)".

8 USC 1101 note.

(7) The amendments made by this subsection shall be effective as if included in the enactment of the VCCLEA.

(b) AMENDMENTS RELATING TO IMMIGRATION AND NATIONALITY TECHNICAL CORRECTIONS ACT OF 1994.—

8 USC 1401 note.

(1) Section 101(d) of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103–416) (in this subsection referred to as "INTCA") is amended—

(A) by striking "APPLICATION" and all that follows through "This" and inserting "APPLICABILITY OF TRANSMISSION REQUIREMENTS.—This";

(B) by striking "any residency or other retention requirements for" and inserting "the application of any provision of law relating to residence or physical presence in the United States for purposes of transmitting United States"; and

(C) by striking "as in effect" and all that follows through the end and inserting "to any person whose claim is based on the amendment made by subsection (a) or through whom such a claim is derived.".

8 USC 1433 note.

(2) Section 102 of INTCA is amended by adding at the end the following:

"(e) TRANSITION.—In applying the amendment made by subsection (a) to children born before November 14, 1986, any reference in the matter inserted by such amendment to 'five years, at least two of which' is deemed a reference to '10 years, at least 5 of which'.".

(3) Section 351(a) (8 U.S.C. 1483(a)), as amended by section 105(a)(2)(A) of INTCA, is amended by striking the comma after "nationality".

8 USC 1255b.

(4) Section 207(2) of INTCA is amended by inserting a comma after "specified".

(5) Section 101(a)(43) (8 U.S.C. 1101(a)(43)) is amended in subparagraph (K)(ii), by striking the comma after "1588".

(6) Section 273(b) (8 U.S.C. 1323(b)), as amended by section 209(a) of INTCA, is amended by striking "remain" and inserting "remains".

(7) Section 209(a)(1) of INTCA is amended by striking "$3000" and inserting "$3,000". 8 USC 1323.

(8) Section 209(b) of INTCA is amended by striking "subsection" and inserting "section". 8 USC 1323 note.

(9) Section 219(cc) of INTCA is amended by striking " 'year 1993 the first place it appears' " and inserting " 'year 1993' the first place it appears". 8 USC 1255a note.

(10) Section 219(ee) of INTCA is amended by adding at the end the following: 8 USC 1161 note.

"(3) The amendments made by this subsection shall take effect on the date of the enactment of this Act.".

(11) Paragraphs (4) and (6) of section 286(r) (8 U.S.C. 1356(r)) are amended by inserting "the" before "Fund" each place it appears.

(12) Section 221 of INTCA is amended— 8 USC 1101 note.

(A) by striking each semicolon and inserting a comma,

(B) by striking "disasters." and inserting "disasters,"; and

(C) by striking "The official" and inserting "the official".

(13) Section 242A (8 U.S.C. 1252a), as added by section 224(a) of INTCA and before redesignation as section 238 by section 308(b)(5) of this division, is amended by redesignating subsection (d) as subsection (c).

(14) Except as otherwise provided in this subsection, the amendments made by this subsection shall take effect as if included in the enactment of INTCA. 8 USC 1101 note.

(c) AMENDMENTS RELATING TO PUBLIC LAW 104–132 (ANTITERRORISM AND EFFECTIVE DEATH PENALTY ACT OF 1996).—

(1) Section 219 (8 U.S.C. 1189), as added by section 302(a) of Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104–132) (in this subsection referred to as "AEDPA"), is amended by striking the heading and all that follows through "(a)" and inserting the following:

"DESIGNATION OF FOREIGN TERRORIST ORGANIZATIONS

"SEC. 219. (a)".

(2) Section 302(b) of AEDPA is amended by striking ", relating to terrorism,".

(3) Section 106(a) (8 U.S.C. 1105a(a)), as amended by sections 401(e) and 440(a) of AEDPA, is amended—

(A) by striking "and" at the end of paragraph (8);

(B) by striking the period at the end of paragraph (9) and inserting "; and"; and

(C) in paragraph (10), by striking "Any" and inserting "any".

(4) Section 440(a) of the AEDPA is amended by striking "Section 106 of the Immigration and Nationality Act (8 U.S.C. 1105a(a)(10)) is amended to read as follows:" and inserting "Section 106(a) of the Immigration and Nationality Act (8 U.S.C. 1105a(a)) is amended by adding at the end the following:"

(5) Section 440(g)(1)(A) of AEDPA is amended— 8 USC 1252a.

(A) by striking "of this title"; and

(B) by striking the period after "241(a)(2)(A)(i)".

(6) Section 440(g) of AEDPA is amended by striking paragraph (2).

8 USC 1189 note.

(7) The amendments made by this subsection shall take effect as if included in the enactment of subtitle A of title IV of AEPDA.

(d) STRIKING REFERENCES TO SECTION 210A.—

(1)(A) Section 201(b)(1)(C) (8 U.S.C. 1151(b)(1)(C)) is amended by striking ", 210A,".

(B) Section 274B(a)(3)(B) (8 U.S.C. 1324b(a)(3)(B)) is amended by striking ", 210A(a),".

(C) Section 241(a)(1) (8 U.S.C. 1251(a)(1)), before redesignation by section 305(a)(2) of this division, is amended by striking subparagraph (F).

(2) Sections 204(c)(1)(D)(i) and 204(j)(4) of Immigration Reform and Control Act of 1986 are each amended by striking ", 210A,".

8 USC 1255a note.

(e) MISCELLANEOUS CHANGES IN THE IMMIGRATION AND NATIONALITY ACT.—

(1) Before being amended by section 308(a)(2) of this division, the item in the table of contents relating to section 242A is amended to read as follows:

"Sec. 242A. Expedited deportation of aliens convicted of committing aggravated felonies.".

(2) Section 101(c)(1) (8 U.S.C. 1101(c)(1)) is amended by striking ", 321, and 322" and inserting "and 321".

(3) Section 212(d)(11) (8 U.S.C. 1182(d)(11)) is amended by inserting a comma after "(4) thereof)".

(4) Pursuant to section 6(b) of Public Law 103–272 (108 Stat. 1378)—

(A) section 214(f)(1) (8 U.S.C. 1184(f)(1)) is amended by striking "section 101(3) of the Federal Aviation Act of 1958" and inserting "section 40102(a)(2) of title 49, United States Code"; and

(B) section 258(b)(2) (8 U.S.C. 1288(b)(2)) is amended by striking "section 105 or 106 of the Hazardous Materials Transportation Act (49 U.S.C. App. 1804, 1805)" and inserting "section 5103(b), 5104, 5106, 5107, or 5110 of title 49, United States Code".

(5) Section 286(h)(1)(A) (8 U.S.C. 1356(h)(1)(A)) is amended by inserting a period after "expended".

(6) Section 286(h)(2)(A) (8 U.S.C. 1356(h)(2)(A)) is amended—

(A) by striking "and" at the end of clause (iv);

(B) by moving clauses (v) and (vi) 2 ems to the left;

(C) by striking "; and" in clauses (v) and (vi) and inserting "and for";

(D) by striking the colons in clauses (v) and (vi); and

(E) by striking the period at the end of clause (v) and inserting "; and".

(7) Section 412(b) (8 U.S.C. 1522(b)) is amended by striking the comma after "is authorized" in paragraph (3) and after "The Secretary" in paragraph (4).

(f) MISCELLANEOUS CHANGE IN THE IMMIGRATION ACT OF 1990.—Section 161(c)(3) of the Immigration Act of 1990 is amended by striking "an an" and inserting "of an". 8 USC 1101 note.

(g) MISCELLANEOUS CHANGES IN OTHER ACTS.—

(1) Section 506(a) of the Intelligence Authorization Act, Fiscal Year 1990 (Public Law 101–193) is amended by striking "this section" and inserting "such section". 8 USC 1430 note.

(2) Section 140 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995, as amended by section 505(2) of Public Law 103–317, is amended— 8 USC 1182 note.

(A) by moving the indentation of subsections (f) and (g) 2 ems to the left; and

(B) in subsection (g), by striking "(g)" and all that follows through "shall" and inserting "(g) Subsections (d) and (e) shall".

DIVISION D—SMALL BUSINESS PROGRAMS IMPROVEMENT ACT

Small Business Programs Improvement Act of 1996. 15 USC 631 note.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This division may be cited as the "Small Business Programs Improvement Act of 1996".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.

Sec. 2. Administrator defined.

Sec. 3. Effective date.

TITLE I—AMENDMENTS TO SMALL BUSINESS ACT

Sec. 101. References.

Sec. 102. Risk management database.

Sec. 103. Section 7(a) loan program.

Sec. 104. Disaster loans.

Sec. 105. Microloan demonstration program.

Sec. 106. Small business development center program.

Sec. 107. Miscellaneous authorities to provide loans and other financial assistance.

Sec. 108. Small business competitiveness demonstration program.

Sec. 109. Amendment to Small Business Guaranteed Credit Enhancement Act of 1993.

Sec. 110. STTR program extension.

Sec. 111. Level of participation for export working capital loans.

TITLE II—AMENDMENTS TO SMALL BUSINESS INVESTMENT ACT

Sec. 201. References.

Sec. 202. Modifications to development company debenture program.

Sec. 203. Required actions upon default.

Sec. 204. Loan liquidation pilot program.

Sec. 205. Registration of certificates.

Sec. 206. Preferred surety bond guarantee program.

Sec. 207. Sense of the Congress.

Sec. 208. Small business investment company improvements.

15 USC 631 note.

SEC. 2. ADMINISTRATOR DEFINED.

For purposes of this Act, the term "Administrator" means the Administrator of the Small Business Administration.

15 USC 633 note.

SEC. 3. EFFECTIVE DATE.

Except as otherwise expressly provided, this Act and the amendments made by this Act shall take effect on October 1, 1996.

TITLE I—AMENDMENTS TO SMALL BUSINESS ACT

SEC. 101. REFERENCES.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Small Business Act (15 U.S.C. 631 et seq.).

SEC. 102. RISK MANAGEMENT DATABASE.

Section 4(b) (15 U.S.C. 633) is amended by inserting after paragraph (2) the following:

"(3) RISK MANAGEMENT DATABASE.—

"(A) ESTABLISHMENT.—The Administration shall establish, within the management system for the loan programs authorized by subsections (a) and (b) of section 7 of this Act and title V of the Small Business Investment Act of 1958, a management information system that will generate a database capable of providing timely and accurate information in order to identify loan underwriting, collections, recovery, and liquidation problems.

"(B) INFORMATION TO BE MAINTAINED.—In addition to such other information as the Administration considers appropriate, the database established under subparagraph (A) shall, with respect to each loan program described in subparagraph (A), include information relating to—

"(i) the identity of the institution making the guaranteed loan or issuing the debenture;

"(ii) the identity of the borrower;

"(iii) the total dollar amount of the loan or debenture;

"(iv) the total dollar amount of government exposure in each loan;

"(v) the district of the Administration in which the borrower has its principal office;

"(vi) the principal line of business of the borrower, as identified by Standard Industrial Classification Code (or any successor to that system);

"(vii) the delinquency rate for each program (including number of instances and days overdue);

"(viii) the number and amount of repurchases, losses, and recoveries in each program;

"(ix) the number of deferrals or forbearances in each program (including days and number of instances);

"(x) comparisons on the basis of loan program, lender, Administration district and region, for all the data elements maintained; and

"(xi) underwriting characteristics of each loan that has entered into default, including term, amount and type of collateral, loan-to-value and other actual and projected ratios, line of business, credit history, and type of loan.

"(C) DEADLINE FOR OPERATIONAL CAPABILITY.—The database established under subparagraph (A) shall—

"(i) be operational not later than June 30, 1997; and

"(ii) capture data beginning on the first day of the second quarter of fiscal year 1997 beginning after such date and thereafter.".

SEC. 103. SECTION 7(a) LOAN PROGRAM.

(a) SERVICING AND LIQUIDATION OF LOANS BY PREFERRED LENDERS.—Section 7(a)(2)(C)(ii)(II) (15 U.S.C. 636(a)(2)(C)(ii)(II)) is amended to read as follows:

"(II) complete authority to service and liquidate such loans without obtaining the prior specific approval of the Administration for routine servicing and liquidation activities, but shall not take any actions creating an actual or apparent conflict of interest.".

(b) CERTIFIED LENDERS PROGRAM.—Section 7(a)(19) (15 U.S.C. 636(a)(19)) is amended by adding at the end the following new subparagraph:

"(C) AUTHORITY TO LIQUIDATE LOANS.—

"(i) IN GENERAL.—The Administrator may permit lenders participating in the Certified Lenders Program to liquidate loans made with a guarantee from the Administration pursuant to a liquidation plan approved by the Administrator.

"(ii) Automatic approval.—If the Administrator does not approve or deny a request for approval of a liquidation plan within 10 business days of the date on which the request is made (or with respect to any routine liquidation activity under such a plan, within 5 business days) such request shall be deemed to be approved.".

(c) LIMITATION ON CONDUCTING PILOT PROJECTS.—Section 7(a) (15 U.S.C. 636(a)) is amended by adding at the end the following new paragraph:

"(25) LIMITATION ON CONDUCTING PILOT PROJECTS.—

"(A) IN GENERAL.—Not more than 10 percent of the total number of loans guaranteed in any fiscal year under this subsection may be awarded as part of a pilot program which is commenced by the Administrator on or after October 1, 1996.

"(B) PILOT PROGRAM DEFINED.—In this paragraph, the term 'pilot program' means any lending program initiative, project, innovation, or other activity not specifically authorized by law.

"(C) LOW DOCUMENTATION LOAN PROGRAM.—The Administrator may carry out the low documentation loan program for loans of $100,000 or less only through lenders with significant experience in making small business loans. Not later than 90 days after the date of enactment of this subsection, the Administrator shall promulgate regulations defining the experience necessary for participation as a lender in the low documentation loan program.".

(d) CALCULATION OF SUBSIDY RATE.—Section 7(a) (15 U.S.C. 636(a)) is amended by adding at the end the following new paragraph:

"(26) CALCULATION OF SUBSIDY RATE.—All fees, interest, and profits received and retained by the Administration under this subsection shall be included in the calculations made by the Director of the Office of Management and Budget to offset the cost (as that term is defined in section 502 of the Federal Credit Reform Act of 1990) to the Administration of purchasing and guaranteeing loans under this Act.".

(e) SALE OF UNGUARANTEED PORTIONS OF SBA LOANS.—Section 5(f)(3) (15 U.S.C. 634(f)(3)) is amended by adding at the end the following: "Beginning on March 31, 1997, the sale of the unguaranteed portion of any loan made under section 7(a) shall not be permitted until a final regulation that applies uniformly to both depository institutions and other lenders is promulgated by the Administration setting forth the terms and conditions under which such sales can be permitted, including maintenance of appropriate reserve requirements and other safeguards to protect the safety and soundness of the program.".

(f) CONDITIONS ON PURCHASE OF LOANS.—Section 7(a)(4) (15 U.S.C. 636(a)(4)) is amended—

(1) by striking "(4) Notwithstanding" and inserting the following:

"(4) INTEREST RATES AND FEES.—

"(A) INTEREST RATES.—Notwithstanding"; and

(2) by adding at the end the following new subparagraph:

"(B) PAYMENT OF ACCRUED INTEREST.—

"(i) IN GENERAL.—Any bank or other lending institution making a claim for payment on the guaranteed portion of a loan made under this subsection shall be paid the accrued interest due on the loan from the earliest date of default to the date of payment of the claim at a rate not to exceed the rate of interest on the loan on the date of default, minus one percent.

"(ii) LOANS SOLD ON SECONDARY MARKET.—If a loan described in clause (i) is sold on the secondary market, the amount of interest paid to a bank or other lending institution described in that clause from the earliest date of default to the date of payment of the claim shall be no more than the agreed upon rate, minus one percent.".

(g) PLAN FOR TRANSFER OF LOAN SERVICING FUNCTIONS TO CENTRALIZED CENTERS.—

(1) IMPLEMENTATION PLAN REQUIRED.—The Administrator shall submit a detailed plan for completing the consolidation, in one or more centralized centers, of the performance of the various functions relating to the servicing of loans directly made or guaranteed by the Administration pursuant to the Small Business Act, addressing the matters described in paragraph (2) by the deadline specified in paragraph (3).

(2) CONTENTS OF PLAN.—In addition to such other matters as the Administrator may deem appropriate, the plan required by paragraph (1) shall include—

(A) the proposed number and location of such centralized loan servicing centers;

(B) the proposed workload (identified by type and numbers of loans and their geographic origin by the Small Business Administration district office) and staffing of each such center;

(C) a detailed, time-phased plan for the transfer of the identified loan servicing functions to each proposed center; and

(D) any identified impediments to the timely execution of the proposed plan (including adequacy of available financial resources, availability of needed personnel, facilities, and related equipment) and the recommendations of the Administrator for addressing such impediments.

(3) DEADLINE FOR SUBMISSION.—Not later than February 28, 1997, the plan required by paragraph (1) shall be submitted to the Committees on Small Business of the House of Representatives and Senate.

(h) PREFERRED LENDER STANDARD REVIEW PROGRAM.—Not later than 90 days after the date of enactment of this Act, the Administrator shall commence a standard review program for the Preferred Lender Program established by section 5(b)(7) of the Small Business Act (15 U.S.C. 634(b)(7)), which shall include annual or more frequent assessments of the participation of the lender in the program, including defaults, loans, and recoveries of loans made by that lender under the authority of this section. The Administrator shall require such standard review for each new entrant to the Preferred Lender Program. 15 USC 634 note.

(i) INDEPENDENT STUDY OF LOAN PROGRAMS.—

(1) STUDY REQUIRED.—The Administrator shall contract with one or more private sector parties to conduct a comprehensive assessment of the performance of the loan programs authorized by section 7(a) of the Small Business Act (15 U.S.C. 636(a)) and title V of the Small Business Investment Act of 1958 (15 U.S.C. 661) addressing the matters described in paragraph (2) and resulting in a report to the Congress pursuant to paragraph (5).

(2) MATTERS TO BE ASSESSED.—In addition to such other matters as the Administrator considers appropriate, the assessment required by paragraph (1) shall address, with respect to each loan program described in paragraph (1) for each of the fiscal years described in paragraph (3)—

(A) the number and frequency of deferrals and defaults;

(B) default rates;

(C) comparative loss rates, by—

(i) type of lender (separately addressing preferred lenders, certified lenders, and general participation lenders);

(ii) term of the loan;

(iii) dollar value of the loan at disbursement; and

(iv) underwriting characteristics of each loan that has entered into default, including term, amount and type of collateral, loan-to-value and other actual and projected ratios, line of business, credit history, and type of loan; and

(D) the economic models used by the Office of Management and Budget to calculate the credit subsidy rate applicable to the loan programs.

(3) PERIOD OF ASSESSMENT.—The assessments undertaken pursuant to paragraph (2) shall address data for the period beginning with fiscal year 1986 of each loan program described in paragraph (1).

(4) ACCESS TO INFORMATION.—The Administrator shall provide to the contractor access to any information collected by or available to the Administration with regard to the loan programs being assessed. The contactor shall preserve the confidentiality of any information for which confidentiality is protected by law or properly asserted by the person submitting such information.

(5) CONTRACT FUNDING.—The Administrator shall fund the cost of the contract from the amounts appropriated for the salaries and expenses of the Administration for fiscal year 1997.

(6) REPORT TO THE CONGRESS.—

(A) CONTENTS.—The contractor shall prepare a report of—

(i) its analyses of the matters to be assessed pursuant to paragraph (2); and

(ii) its independent recommendations for improving program performance with respect to each loan program, regarding—

(I) improving the timely collection and subsequent management by the Administration of data to measure the performance of each loan program described in paragraph (1); and

(II) reducing loss rates for and improving the performance of each such loan program.

(B) SUBMISSION TO THE CONGRESS.—Not later than June 30, 1997, the Administrator shall submit the report prepared under subparagraph (A) to the Committees on Small Business of the House of Representatives and the Senate. The Administrator shall append his comments, and those of the Office of Management and Budget, if any, to the report.

SEC. 104. DISASTER LOANS.

15 USC 636 note.

(a) PRIVATE SECTOR LOAN SERVICING DEMONSTRATION PROGRAM.—

(1) IN GENERAL.—

(A) DEMONSTRATION PROGRAM REQUIRED.—Notwithstanding any other provision of law, the Administration

shall conduct a demonstration program, within the parameters described in paragraph (2), to evaluate the comparative costs and benefits of having the Administration's portfolio of disaster loans serviced under contract rather than directly by employees of the Administration. All costs of the demonstration program shall be paid from amounts made available for the Salaries and Expenses Account of the Administration.

(B) INITIATION DATE.—Not later than 90 days after the date of enactment of this Act, the Administration shall issue a request for proposals for the program parameters described in paragraph (2).

(2) DEMONSTRATION PROGRAM PARAMETERS.—

(A) LOAN SAMPLE.—The sample of loans for the demonstration program shall be randomly drawn from the Administration's portfolio of loans made pursuant to section 7(b) of the Small Business Act and shall include a representative group of not less than 30 percent of all loans for residential properties, including 30 percent of all loans made during the demonstration program after the date of enactment of this Act, which loans shall be selected by the Administration on the basis of geographic distribution and such other factors as the Administration determines to be appropriate.

(B) CONTRACT AND OPTIONS.—The Administration shall solicit and competitively award one or more contracts to service the loans included in the sample of loans described in subparagraph (A) for a term of not less than one year, with 3 one-year contract renewal options, each of which shall be exercised by the Administration unless the Administration terminates the contractor or contractors for good cause.

(3) TERM OF DEMONSTRATION PROGRAM.—The demonstration program shall commence not later than October 1, 1997.

(4) REPORTS.—

(A) INTERIM REPORTS.—Not later than 120 days before the expiration of the initial 4-year contract performance period, the Administrator shall submit to the Committees on Small Business of the House of Representatives and the Senate an interim report on the conduct of the demonstration program. The contractor shall be afforded a reasonable opportunity to attach comments to each such report.

(B) FINAL REPORT.—Not later than 120 days after the termination of the demonstration program, the Administrator shall submit to the Committees on Small Business of the House of Representatives and the Senate a final report on the performance of the demonstration program, together with the recommendations of the Administrator for continuation, termination, or modification of the demonstration program.

(b) DEFINITION OF DISASTER.—

(1) IN GENERAL.—Section 3(k) (15 U.S.C. 632(k)) is amended by inserting "commercial fishery failures or fishery resource disasters (as determined by the Secretary of Commerce under section 308(b) of the Interjurisdictional Fisheries Act of 1986)," after "tidal waves,".

15 USC 632 note.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall be effective with respect to any disaster occurring on or after March 1, 1994.

SEC. 105. MICROLOAN DEMONSTRATION PROGRAM.

Section 7(m)(7)(B) (15 U.S.C. 636(m)(4)) is amended by adding at the end the following: "If, however, at the beginning of the fourth quarter of a fiscal year the Administration determines that a portion of appropriated microloan funds are unlikely to be awarded during that year, the Administration may make additional funds available to a State in excess of 125 percent of the pro rata share of that State.".

SEC. 106. SMALL BUSINESS DEVELOPMENT CENTER PROGRAM.

(a) ASSOCIATE ADMINISTRATOR FOR SMALL BUSINESS DEVELOPMENT CENTERS.—

(1) DUTIES.—Section 21(h) (15 U.S.C. 648(h)) is amended to read as follows:

"(h) ASSOCIATE ADMINISTRATOR FOR SMALL BUSINESS DEVELOPMENT CENTERS.—

"(1) APPOINTMENT AND COMPENSATION.—The Administrator shall appoint an Associate Administrator for Small Business Development Centers who shall report to an official who is not more than one level below the Office of the Administrator and who shall serve without regard to the provisions of title 5 governing appointments in the competitive service, and without regard to chapter 51, and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at a rate not less than the rate of GS–17 of the General Schedule.

"(2) DUTIES.—

"(A) IN GENERAL.—The sole responsibility of the Associate Administrator for Small Business Development Centers shall be to administer the small business development center program. Duties of the position shall include recommending the annual program budget, reviewing the annual budgets submitted by each applicant, establishing appropriate funding levels therefore, selecting applicants to participate in this program, implementing the provisions of this section, maintaining a clearinghouse to provide for the dissemination and exchange of information between small business development centers and conducting audits of recipients of grants under this section.

"(B) CONSULTATION REQUIREMENTS.—In carrying out the duties described in this subsection, the Associate Administrator shall confer with and seek the advice of the Board established by subsection (i) and Administration officials in areas served by the small business development centers; however, the Associate Administrator shall be responsible for the management and administration of the program and shall not be subject to the approval or concurrence of such Administration officials.".

(2) REFERENCES TO ASSOCIATE ADMINISTRATOR.—Section 21 (15 U.S.C. 648) is amended—

(A) in subsection (c)(7), by striking "Deputy Associate Administrator of the Small Business Development Center program" and inserting "Associate Administrator for Small Business Development Centers"; and

(B) in subsection (i)(2), by striking "Deputy Associate Administrator for Management Assistance" and inserting "Associate Administrator for Small Business Development Centers".

(b) EXTENSION OR RENEWAL OF COOPERATIVE AGREEMENTS.—Section 21(k)(3) (15 U.S.C. 648(k)(3)) is amended to read as follows:

"(3) EXTENSION OR RENEWAL OF COOPERATIVE AGREEMENTS.—

"(A) IN GENERAL.—In extending or renewing a cooperative agreement of a small business development center, the Administration shall consider the results of the examination and certification program conducted pursuant to paragraphs (1) and (2).

"(B) CERTIFICATION REQUIREMENT.—After September 30, 2000, the Administration may not renew or extend any cooperative agreement with a small business development center unless the center has been approved under the certification program conducted pursuant to this subsection, except that the Associate Administrator for Small Business Development Centers may waive such certification requirement, in the discretion of the Associate Administrator, upon a showing that the center is making a good faith effort to obtain certification.".

(c) TECHNICAL CORRECTION.—Section 21(l) (15 U.S.C. 648(l)) is amended to read as follows:

"(l) CONTRACT AUTHORITY.—The authority to enter into contracts shall be in effect for each fiscal year only to the extent and in the amounts as are provided in advance in appropriations Acts. After the administration has entered a contract, either as a grant or a cooperative agreement, with any applicant under this section, it shall not suspend, terminate, or fail to renew or extend any such contract unless the Administration provides the applicant with written notification setting forth the reasons therefore and affording the applicant an opportunity for a hearing, appeal, or other administrative proceeding under the provisions of chapter 5 of title 5, United States Code.".

SEC. 107. MISCELLANEOUS AUTHORITIES TO PROVIDE LOANS AND OTHER FINANCIAL ASSISTANCE.

(a) FUNDING LIMITATION; SEMINARS.—Section 7(d) (15 U.S.C. 636(d)) is amended—

(1) by striking "(d)(1)" and inserting "(d)"; and

(2) by striking paragraph (2).

(b) TRADE ADJUSTMENT LOANS.—Section 7(e) (15 U.S.C. 636(e)) is amended to read as follows:

"(e) [RESERVED].".

(c) WAIVER OF CREDIT ELSEWHERE TEST FOR COLLEGES AND UNIVERSITIES.—Section 7(f) (15 U.S.C. 636(f)) is amended to read as follows:

"(f) [RESERVED].".

(d) LOANS TO SMALL BUSINESS CONCERNS FOR SOLAR ENERGY AND ENERGY CONSERVATION MEASURES.—Section 7(l) (15 U.S.C. 636(l)) is amended to read as follows:

"(l) [RESERVED].".

SEC. 108. SMALL BUSINESS COMPETITIVENESS DEMONSTRATION PROGRAM.

(a) EXTENSION OF DEMONSTRATION PROGRAM.—

(1) IN GENERAL.—Section 711(c) of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note; 102 Stat. 3890) is amended by striking "September 30, 1996" and inserting "September 30, 1997".

(2) REPEAL.—Section 717(f) of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note) is repealed.

(b) REPORTING OF SUBCONTRACT PARTICIPATION IN CONTRACTS FOR ARCHITECTURAL AND ENGINEERING SERVICES.—Section 714(b)(5) of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note; 102 Stat. 3892) is amended to read as follows:

"(5) DURATION.—The system described in subsection (a) shall be established not later than October 1, 1996 (or as soon as practicable thereafter on the first day of a subsequent quarter of fiscal year 1997), and shall terminate on September 30, 1997.".

(c) REPORTS TO THE CONGRESS.—

(1) IN GENERAL.—Section 716 of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note; 102 Stat. 3893) is amended—

(A) in subsection (a), by striking "fiscal year 1991 and 1995" and inserting "each of fiscal years 1991 through 1996";

(B) in subsection (b), by striking "results" and inserting "cumulative results"; and

(C) in subsection (c), by striking "1996" and inserting "1997".

(2) CUMULATIVE REPORT THROUGH FISCAL YEAR 1995.—A cumulative report of the results of the Small Business Competitiveness Demonstration Program for fiscal years 1991 through 1995 shall be submitted not later than February 28, 1997 pursuant to section 716(a) of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note; 102 Stat. 3893), as amended by paragraph (1) of this subsection.

SEC. 109. AMENDMENT TO SMALL BUSINESS GUARANTEED CREDIT ENHANCEMENT ACT OF 1993.

(a) IN GENERAL.—Section 7 of the Small Business Guaranteed Credit Enhancement Act of 1993 (Public Law 103–81; 15 U.S.C. 634 note) is repealed effective September 29, 1996.

(b) CLERICAL AMENDMENT.—The table of contents for the Small Business Guaranteed Credit Enhancement Act of 1993 (Public Law 103–81; 15 U.S.C. 631 note) is amended by striking the item relating to section 7.

SEC. 110. STTR PROGRAM EXTENSION.

Section 9(n)(1)(C) (15 U.S.C. 638(n)(1)(C)) is amended by striking "fiscal year 1996" and inserting "fiscal years 1996 and 1997".

SEC. 111. LEVEL OF PARTICIPATION FOR EXPORT WORKING CAPITAL LOANS.

Section 7(A)(2) (15 U.S.C. 636(A)(2)) is amended by adding at the end the following:

"(D) PARTICIPATION UNDER EXPORT WORKING CAPITAL PROGRAM.—Notwithstanding subparagraph (A), in an agreement to participate in a loan on a deferred basis under the Export Working Capital Program established

pursuant to paragraph (14)(A), such participation by the Administration shall not exceed 90 percent.".

TITLE II—AMENDMENTS TO SMALL BUSINESS INVESTMENT ACT

SEC. 201. REFERENCES.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Small Business Investment Act of 1958 (15 U.S.C. 661 et seq.).

SEC. 202. MODIFICATIONS TO DEVELOPMENT COMPANY DEBENTURE PROGRAM.

(a) DECREASED LOAN TO VALUE RATIOS.—Section 502(3) (15 U.S.C. 696(3)) is amended to read as follows:

"(3) CRITERIA FOR ASSISTANCE.—

"(A) IN GENERAL.—Any development company assisted under this section or section 503 of this title must meet the criteria established by the Administration, including the extent of participation to be required or amount of paid-in capital to be used in each instance as is determined to be reasonable by the Administration.

"(B) COMMUNITY INJECTION FUNDS.—

"(i) SOURCES OF FUNDS.—Community injection funds may be derived, in whole or in part, from—

"(I) State or local governments;

"(II) banks or other financial institutions;

"(III) foundations or other not-for-profit institutions; or

"(IV) the small business concern (or its owners, stockholders, or affiliates) receiving assistance through a body authorized by this title.

"(ii) FUNDING FROM INSTITUTIONS.—Not less than 50 percent of the total cost of any project financed pursuant to clauses (i), (ii), or (iii) of subparagraph (C) shall come from the institutions described in subclauses (I), (II), and (III) of clause (i).

"(C) FUNDING FROM A SMALL BUSINESS CONCERN.—The small business concern (or its owners, stockholders, or affiliates) receiving assistance through a body authorized by this title shall provide—

"(i) at least 15 percent of the total cost of the project financed, if the small business concern has been in operation for a period of 2 years or less;

"(ii) at least 15 percent of the total cost of the project financed if the project involves the construction of a limited or single purpose building or structure;

"(iii) at least 20 percent of the total cost of the project financed if the project involves both of the conditions set forth in clauses (i) and (ii); or

"(iv) at least 10 percent of the total cost of the project financed, in all other circumstances, at the discretion of the development company.".

(b) GUARANTEE FEE FOR DEVELOPMENT COMPANY DEBENTURES.—Section 503(b)(7)(A) (15 U.S.C. 697(b)(7)(A)) is amended by striking "equal to 0.125 percent" and all that follows before the semicolon and inserting the following: "equal to the lesser of—

"(i) 0.9375 percent per year of the outstanding balance of the loan; or

"(ii) such percentage per year of the outstanding balance of the loan as the Administrator may determine to be necessary to reduce the cost (as that term is defined in section 502 of the Federal Credit Reform Act of 1990) to the Administration of purchasing and guaranteeing debentures under this Act to an amount that, taking into consideration any available appropriated funds, would permit the Administration to purchase or guarantee $2,000,000,000 of debentures in fiscal year 1997".

(c) FEES TO OFFSET SUBSIDY COST.—Section 503(d) (15 U.S.C. 697(d)) is amended to read as follows:

"(d) CHARGES FOR ADMINISTRATION EXPENSES.—

"(1) LEVEL OF CHARGES.—The Administration may impose an additional charge for administrative expenses with respect to each debenture for which payment of principal and interest is guaranteed under subsection (a).

"(2) PARTICIPATION FEE.—The Administration shall collect a one-time fee in an amount equal to 50 basis points on the total participation in any project of any institution described in subclause (I), (II), or (III) of section 502(3)(B)(i). Such fee shall be imposed only when the participation of the institution will occupy a senior credit position to that of the development company. All proceeds of the fee shall be used to offset the cost (as that term is defined in section 502 of the Credit Reform Act of 1990) to the Administration of making guarantees under subsection (a).

"(3) DEVELOPMENT COMPANY FEE.—The Administration shall collect annually from each development company a fee of 0.125 percent of the outstanding principal balance of any guaranteed debenture authorized by the Administration after September 30, 1996. Such fee shall be derived from the servicing fees collected by the development company pursuant to regulation, and shall not be derived from any additional fees imposed on small business concerns. All proceeds of the fee shall be used to offset the cost (as that term is defined in section 502 of the Credit Reform Act of 1990) to the Administration of making guarantees under subsection (a).".

(d) EFFECTIVE DATE.—Section 503 (15 U.S.C. 697) is amended by adding at the end the following new subsection:

"(f) EFFECTIVE DATE.—The fees authorized by subsections (b) and (c) shall apply to financings approved by the Administration on or after October 1, 1996, but shall not apply to financings approved by the Administration on or after October 1, 1997.".

(e) CALCULATION OF SUBSIDY RATE.—Section 503 (15 U.S.C. 697a) is amended by adding at the end the following new subsection:

15 USC 697.

"(g) CALCULATION OF SUBSIDY RATE.—All fees, interest, and profits received and retained by the Administration under this section shall be included in the calculations made by the Director of the Office of Management and Budget to offset the cost (as

that term is defined in section 502 of the Federal Credit Reform Act of 1990) to the Administration of purchasing and guaranteeing debentures under this Act.".

SEC. 203. REQUIRED ACTIONS UPON DEFAULT.

Section 503 (15 U.S.C. 697) is amended by adding at the end the following new subsection:

"(h) REQUIRED ACTIONS UPON DEFAULT.—

"(1) INITIAL ACTIONS.—Not later than the 45th day after the date on which a payment on a loan funded through a debenture guaranteed under this section is due and not received, the Administration shall—

"(A) take all necessary steps to bring such a loan current; or

"(B) implement a formal written deferral agreement.

"(2) PURCHASE OR ACCELERATION OF DEBENTURE.—Not later than the 65th day after the date on which a payment on a loan described in paragraph (1) is due and not received, and absent a formal written deferral agreement, the administration shall take all necessary steps to purchase or accelerate the debenture.

"(3) PREPAYMENT PENALTIES.—With respect to the portion of any project derived from funds set forth in section 502(3), the Administration—

"(A) shall negotiate the elimination of any prepayment penalties or late fees on defaulted loans made prior to September 30, 1996;

"(B) shall not pay any prepayment penalty or late fee on the default based purchase of loans issued after September 30, 1996; and

"(C) for any project financed after September 30, 1996, shall not pay any default interest rate higher than the interest rate on the note prior to the date of default.".

SEC. 204. LOAN LIQUIDATION PILOT PROGRAM. 15 USC 695 note.

(a) IN GENERAL.—The Administrator shall carry out a loan liquidation pilot program (in this section referred to as the "pilot program") in accordance with the requirements of this section.

(b) SELECTION OF DEVELOPMENT COMPANIES.—

(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Administrator shall establish a pilot program under which certain development companies authorized to make loans and issue debentures under title V of the Small Business Investment Act of 1958 are selected by the Administrator in accordance with this subsection to carry out loan liquidations.

(2) CONFLICTS OF INTEREST.—The development companies selected under paragraph (1) shall agree not to take any action that would create a potential conflict of interest involving the development company, the third party lender, or an associate of the third party lender.

(3) QUALIFICATIONS.—In order to qualify to participate in the pilot program under this section, each development company shall—

(A) have not less than 6 years of experience in the program established by title V of the Small Business Investment Act of 1958;

(B) have made, during the 6 most recent fiscal years, an average of not less than 10 loans per year through the program established by such title V of the Small Business Investment Act of 1958;

(C) have not less than 2 years of experience in liquidating loans under the authority of a Federal, State, or other lending program; and

(D) meet such other requirements as the Administration may establish.

(c) AUTHORITY OF DEVELOPMENT COMPANIES.—The development companies selected under subsection (b) shall, for loans in their portfolio of loans made through debentures guaranteed under title V of the Small Business Investment Act of 1958 that are in default after the date of enactment of this Act, be authorized to—

(1) perform all liquidation and foreclosure functions, including the acceleration or purchase of community injection funds, subject to such company obtaining prior written approval from the Administrator before committing the agency to purchase any other indebtedness secured by the property: *Provided*, That the Administrator shall approve or deny a request for such purchase within a period of 10 business days; and

(2) liquidate such loans in a reasonable and sound manner and according to commercially accepted practices pursuant to a liquidation plan approved by the administrator in advance of its implementation. If the administrator does not approve or deny a request for approval of a liquidation plan within 10 business days of the date on which the request is made (or with respect to any routine liquidation activity under such a plan, within 5 business days) such request shall be deemed to be approved.

(d) AUTHORITY OF THE ADMINISTRATOR.—In carrying out the pilot program, the Administrator shall—

(1) have full authority to rescind the authority granted any development company under this section upon a 10-day written notice stating the reasons for the rescission; and

(2) not later than 90 days after the admission of the development companies specified in subsection (b), implement the pilot program.

(e) REPORT.—

(1) IN GENERAL.—The Administrator shall issue a report on the results of the pilot program to the Committees on Small Business of the House of Representatives and the Senate. The report shall include information relating to—

(A) the total dollar amount of each loan and project liquidated;

(B) the total dollar amount guaranteed by the Administration;

(C) total dollar losses;

(D) total recoveries both as percentage of the amount guaranteed and the total cost of the project; and

(E) a comparison of the pilot program information with the same information for liquidation conducted outside the pilot program over the period of time.

(2) REPORTING PERIOD.—The report shall be based on data from, and issued not later than 90 days after the close of, the first eight 8 fiscal quarters of the pilot program's operation after the date of implementation.

SEC. 205. REGISTRATION OF CERTIFICATES.

(a) CERTIFICATES SOLD PURSUANT TO SMALL BUSINESS ACT.—Section 5(h) of the Small Business Act (15 U.S.C. 634(h)) is amended—

(1) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D);

(2) by striking "(h)" and inserting "(h)(1)";

(3) by striking subparagraph (A), as redesignated by paragraph (1) of this subsection, and inserting the following:

"(A) provide for a central registration of all loans and trust certificates sold pursuant to subsections (f) and (g) of this section;"; and

(4) by adding at the end the following:

"(2) Nothing in this subsection shall prohibit the utilization of a book-entry or other electronic form of registration for trust certificates. The Administration may, with the consent of the Secretary of the Treasury, use the book-entry system of the Federal Reserve System.".

(b) CERTIFICATES SOLD PURSUANT TO SMALL BUSINESS INVESTMENT COMPANY PROGRAM.—Section 321(f) (15 U.S.C. 687*l*(f)) is amended—

(1) in paragraph (1), by striking "Such central registration shall include" and all that follows through the period at the end of the paragraph; and

(2) by adding at the end the following:

"(5) Nothing in this subsection shall prohibit the use of a book-entry or other electronic form of registration for trust certificates.".

(c) CERTIFICATES SOLD PURSUANT TO DEVELOPMENT COMPANY PROGRAM.—Section 505(f) (15 U.S.C. 697b(f)) is amended—

(1) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D);

(2) by striking "(f)" and inserting "(f)(1)";

(3) by striking subparagraph (A), as redesignated by paragraph (1) of this subsection, and inserting the following:

"(A) provide for a central registration of all trust certificates sold pursuant to this section;" and

(4) by adding at the end the following:

"(2) Nothing in this subsection shall prohibit the utilization of a book-entry or other electronic form of registration for trust certificates.".

SEC. 206. PREFERRED SURETY BOND GUARANTEE PROGRAM.

(a) ADMISSIONS OF ADDITIONAL PROGRAM PARTICIPANTS.—Section 411(a) (15 U.S.C. 694(a)) is amended by adding a new paragraph (5), as follows: 15 USC 694b.

"(5)(A) The Administration shall promptly act upon an application from a surety to participate in the Preferred Surety Bond Guarantee Program, authorized by paragraph (3), in accordance with criteria and procedures established in regulations pursuant to subsection (d).

"(B) The Administration is authorized to reduce the allotment of bond guarantee authority or terminate the participation of a surety in the Preferred Surety Bond Guarantee Program based on the rate of participation of such surety during the 4 most recent fiscal year quarters compared to the median rate of participation by the other sureties in the program.".

15 USC 694b note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to applications received (or pending substantive evaluation) on or after October 1, 1995.

SEC. 207. SENSE OF THE CONGRESS.

(a) IN GENERAL.—It is the sense of the Congress that the subsidy models prepared by the Office of Management and Budget relative to loan programs sponsored by the United States Small Business Administration have a tendency to—

(1) overestimate potential risks of loss; and

(2) overemphasize historical losses that may be anomalous and do not truly reflect the success of the programs as a whole.

(b) INDEPENDENT STUDY.—Consequently, the Congress mandates the independent study in section 103(h) in an attempt to improve the ability of the Office of Management and Budget to reflect more accurately the budgetary implications of such programs.

SEC. 208. SMALL BUSINESS INVESTMENT COMPANY IMPROVEMENTS.

(a) DEFINITIONS.—

(1) SMALL BUSINESS CONCERN.—Section 103(5) (15 U.S.C. 662(5)) is amended by inserting before the semicolon the following: ", except that, for purposes of this Act, an investment by a venture capital firm, investment company (including a small business investment company) employee welfare benefit plan or pension plan, or trust, foundation, or endowment that is exempt from Federal income taxation—

"(A) shall not cause a business concern to be deemed not independently owned and operated;

"(B) shall be disregarded in determining whether a business concern satisfies size standards established pursuant to section 3(a)(2) of the Small Business Act; and

"(C) shall be disregarded in determining whether a small business concern is a smaller enterprise".

(2) PRIVATE CAPITAL.—Section 103(9) (15 U.S.C. 662(9)) is amended to read as follows:

"(9) the term 'private capital'—

"(A) means the sum of—

"(i) the paid-in capital and paid-in surplus of a corporate licensee, the contributed capital of the partners of a partnership licensee, or the equity investment of the members of a limited liability company licensee; and

"(ii) unfunded binding commitments, from investors that meet criteria established by the Administrator, to contribute capital to the licensee: *Provided,* That such unfunded commitments may be counted as private capital for purposes of approval by the Administrator of any request for leverage, but leverage shall not be funded based on such commitments; and

"(B) does not include any—

"(i) funds borrowed by a licensee from any source;

"(ii) funds obtained through the issuance of leverage; or

"(iii) funds obtained directly or indirectly from any Federal, State, or local government, or any government agency or instrumentality, except for—

"(I) funds invested by an employee welfare benefit plan or pension plan; and

"(II) any qualified nonprivate funds (if the investors of the qualified nonprivate funds do not control, directly or indirectly, the management, board of directors, general partners, or members of the licensee);".

(3) NEW DEFINITIONS.—Section 103 (15 U.S.C. 662) is amended by striking paragraph (10) and inserting the following:

"(10) the term 'leverage' includes—

"(A) debentures purchased or guaranteed by the Administration;

"(B) participating securities purchased or guaranteed by the Administration; and

"(C) preferred securities outstanding as of October 1, 1995;

"(11) the term 'third party debt' means any indebtedness for borrowed money, other than indebtedness owed to the Administration;

"(12) the term 'smaller enterprise' means any small business concern that, together with its affiliates—

"(A) has—

"(i) a net financial worth of not more than $6,000,000, as of the date on which assistance is provided under this Act to that business concern; and

"(ii) an average net income for the 2-year period preceding the date on which assistance is provided under this Act to that business concern, of not more than $2,000,000, after Federal income taxes (excluding any carryover losses); or

"(B) satisfies the standard industrial classification size standards established by the Administration for the industry in which the small business concern is primarily engaged;

"(13) the term 'qualified nonprivate funds' means any—

"(A) funds directly or indirectly invested in any applicant or licensee on or before August 16, 1982, by any Federal agency, other than the Administration, under a provision of law explicitly mandating the inclusion of those funds in the definition of the term 'private capital';

"(B) funds directly or indirectly invested in any applicant or licensee by any Federal agency under a provision of law enacted after September 4, 1992, explicitly mandating the inclusion of those funds in the definition of the term 'private capital'; and

"(C) funds invested in any applicant or licensee by one or more State or local government entities (including any guarantee extended by those entities) in an aggregate amount that does not exceed 33 percent of the private capital of the applicant or licensee;

"(14) the terms 'employee welfare benefit plan' and 'pension plan' have the same meanings as in section 3 of the Employee Retirement Income Security Act of 1974, and are intended to include—

"(A) public and private pension or retirement plans subject to such Act; and

"(B) similar plans not covered by such Act that have been established and that are maintained by the Federal Government or any State or political subdivision, or any agency or instrumentality thereof, for the benefit of employees;

"(15) the term 'member' means, with respect to a licensee that is a limited liability company, a holder of an ownership interest or a person otherwise admitted to membership in the limited liability company; and

"(16) the term 'limited liability company' means a business entity that is organized and operating in accordance with a State limited liability company statute approved by the Administration.".

(b) ORGANIZATION OF SMALL BUSINESS INVESTMENT COMPANIES.—

(1) LIMITED LIABILITY COMPANIES.—Section 301(a) (15 U.S.C. 681(a)) is amended in the first sentence, by striking "body or" and inserting "body, a limited liability company, or".

(2) ISSUANCE OF LICENSE.—Section 301(c) (15 U.S.C. 681(c)) is amended to read as follows:

"(c) ISSUANCE OF LICENSE.—

"(1) SUBMISSION OF APPLICATION.—Each applicant for a license to operate as a small business investment company under this Act shall submit to the Administrator an application, in a form and including such documentation as may be prescribed by the Administrator.

"(2) PROCEDURES.—

"(A) STATUS.—Not later than 90 days after the initial receipt by the Administrator of an application under this subsection, the Administrator shall provide the applicant with a written report detailing the status of the application and any requirements remaining for completion of the application.

"(B) APPROVAL OR DISAPPROVAL.—Within a reasonable time after receiving a completed application submitted in accordance with this subsection and in accordance with such requirements as the Administrator may prescribe by regulation, the Administrator shall—

"(i) approve the application and issue a license for such operation to the applicant if the requirements of this section are satisfied; or

"(ii) disapprove the application and notify the applicant in writing of the disapproval.

"(3) MATTERS CONSIDERED.—In reviewing and processing any application under this subsection, the Administrator—

"(A) shall determine whether—

"(i) the applicant meets the requirements of subsections (a) and (c) of section 302; and

"(ii) the management of the applicant is qualified and has the knowledge, experience, and capability necessary to comply with this Act;

"(B) shall take into consideration—

"(i) the need for and availability of financing for small business concerns in the geographic area in which the applicant is to commence business;

"(ii) the general business reputation of the owners and management of the applicant; and

"(iii) the probability of successful operations of the applicant, including adequate profitability and financial soundness; and

"(C) shall not take into consideration any projected shortage or unavailability of leverage.

"(4) EXCEPTION.—

"(A) IN GENERAL.—Notwithstanding any other provision of this Act, the Administrator may, in the discretion of the Administrator and based on a showing of special circumstances and good cause, approve an application and issue a license under this subsection with respect to any applicant that—

"(i) has private capital of not less than $3,000,000;

"(ii) would otherwise be issued a license under this subsection, except that the applicant does not satisfy the requirements of section 302(a); and

"(iii) has a viable business plan reasonably projecting profitable operations and a reasonable timetable for achieving a level of private capital that satisfies the requirements of section 302(a).

"(B) LEVERAGE.—An applicant licensed pursuant to the exception provided in this paragraph shall not be eligible to receive leverage as a licensee until the applicant satisfies the requirements of section 302(a).".

(3) SPECIALIZED SMALL BUSINESS INVESTMENT COMPANIES.—

(A) REPEAL.—Section 301(d) (15 U.S.C. 681(d)) is repealed.

(B) EFFECT ON EXISTING LICENSES.—The repeal under subparagraph (A) shall not be construed to require the Administrator to cancel, revoke, withdraw, or modify any license issued under section 301(d) of the Small Business Investment Act of 1958 before the date of enactment of this Act. 15 USC 681 note.

(c) CAPITAL REQUIREMENTS.—

(1) INCREASED MINIMUM CAPITAL REQUIREMENTS.—Section 302(a) (15 U.S.C. 682(a)) is amended by striking "(a)" and all that follows through "The Administration shall also determine the ability of the company," and inserting the following: "(a) AMOUNT.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the private capital of each licensee shall be not less than—

"(A) $5,000,000; or

"(B) $10,000,000, with respect to each licensee authorized or seeking authority to issue participating securities to be purchased or guaranteed by the Administration under this Act.

"(2) EXCEPTION.—The Administrator may, in the discretion of the Administrator and based on a showing of special circumstances and good cause, permit the private capital of a licensee authorized or seeking authorization to issue participating securities to be purchased or guaranteed by the Administration to be less than $10,000,000, but not less than $5,000,000, if the Administrator determines that such action would not create or otherwise contribute to an unreasonable risk of default or loss to the Federal Government.

"(3) ADEQUACY.—In addition to the requirements of paragraph (1), the Administrator shall—

"(A) determine whether the private capital of each licensee is adequate to assure a reasonable prospect that the licensee will be operated soundly and profitably, and managed actively and prudently in accordance with its articles; and

"(B) determine that the licensee will be able".

(2) EXEMPTION FOR CERTAIN LICENSEES.—Section 302(a) (15 U.S.C. 682(a)) is amended by adding at the end the following new paragraph:

"(4) EXEMPTION FROM CAPITAL REQUIREMENTS.—The Administrator may, in the discretion of the Administrator, approve leverage for any licensee licensed under subsection (c) or (d) of section 301 before the date of enactment of the Small Business Program Improvement Act of 1996 that does not meet the capital requirements of paragraph (1), if—

"(A) the licensee certifies in writing that not less than 50 percent of the aggregate dollar amount of its financings after the date of enactment of the Small Business Program Improvement Act of 1996 will be provided to smaller enterprises; and

"(B) the Administrator determines that such action would not create or otherwise contribute to an unreasonable risk of default or loss to the United States Government.".

(3) DIVERSIFICATION OF OWNERSHIP.—Section 302(c) (15 U.S.C. 682(c)) is amended to read as follows:

"(c) DIVERSIFICATION OF OWNERSHIP.—The Administrator shall ensure that the management of each licensee licensed after the date of enactment of the Small Business Program Improvement Act of 1996 is sufficiently diversified from and unaffiliated with the ownership of the licensee in a manner that ensures independence and objectivity in the financial management and oversight of the investments and operations of the licensee.".

(d) BORROWING.—

(1) DEBENTURES.—Section 303(b) (15 U.S.C. 683(b)) is amended in the first sentence, by striking "(but only" and all that follows through "terms)".

(2) THIRD PARTY DEBT.—Section 303(c) (15 U.S.C. 683(c)) is amended to read as follows:

"(c) THIRD PARTY DEBT.—The Administrator—

"(1) shall not permit a licensee having outstanding leverage to incur third party debt that would create or contribute to an unreasonable risk of default or loss to the Federal Government; and

"(2) shall permit such licensees to incur third party debt only on such terms and subject to such conditions as may be established by the Administrator, by regulation or otherwise.".

(3) REQUIREMENT TO FINANCE SMALLER ENTERPRISES.—Section 303(d) (15 U.S.C. 683(d)) is amended to read as follows:

"(d) REQUIREMENT TO FINANCE SMALLER ENTERPRISES.—The Administrator shall require each licensee, as a condition of approval of an application for leverage, to certify in writing that not less than 20 percent of the aggregate dollar amount of the financings of the licensee will be provided to smaller enterprises.".

(4) CAPITAL IMPAIRMENT REQUIREMENTS.—

(A) IN GENERAL.—Section 303(e) (15 U.S.C. 683(e)) is amended to read as follows:

"(e) CAPITAL IMPAIRMENT.—Before approving any application for leverage submitted by a licensee under this Act, the Administrator—

"(1) shall determine that the private capital of the licensee meets the requirements of section 302(a); and

"(2) shall determine, taking into account the nature of the assets of the licensee, the amount and terms of any third party debt owed by such licensee, and any other factors determined to be relevant by the Administrator, that the private capital of the licensee has not been impaired to such an extent that the issuance of additional leverage would create or otherwise contribute to an unreasonable risk of default or loss to the Federal Government.".

(B) REGULATIONS.— 15 USC 683 note.

(i) UNIFORM APPLICABILITY.—Any regulation issued by the Administration to implement section 303(e) of the Small Business Investment Act of 1958 that applies to any licensee with outstanding leverage obtained before the effective date of that regulation, shall apply uniformly to all licensees with outstanding leverage obtained before that effective date.

(ii) DEFINITIONS.—For purposes of this subparagraph, the terms "Administration", "leverage" and "licensee" have the same meanings as in section 103 of the Small Business Investment Act of 1958.

(5) EQUITY INVESTMENT REQUIREMENT.—Section 303(g)(4) (15 U.S.C. 683(g)(4)) is amended by striking "and maintain".

(6) FEES.—Section 303 (15 U.S.C. 683) is amended—

(A) in subsection (b), in the fifth sentence, by striking "1 per centum", and all that follows before the period at the end of the sentence and inserting the following: "1 percent, plus an additional charge of 1 percent per annum which shall be paid to and retained by the Administration";

(B) in subsection (g)(2), by striking "1 per centum," and all that follows before the period at the end of the paragraph and inserting the following: "1 percent, plus an additional charge of 1 percent per annum which shall be paid to and retained by the Administration"; and

(C) by adding at the end the following new subsections:

"(i) LEVERAGE FEE.—With respect to leverage granted by the Administration to a licensee, the Administration shall collect from the licensee a nonrefundable fee in an amount equal to 3 percent of the face amount of leverage granted to the licensee, payable upon the earlier of the date of entry into any commitment for such leverage or the date on which the leverage is drawn by the licensee.

"(j) CALCULATION OF SUBSIDY RATE.—All fees, interest, and profits received and retained by the Administration under this section shall be included in the calculations made by the Director of the Office of Management and Budget to offset the cost (as that term is defined in section 502 of the Federal Credit Reform Act of 1990) to the Administration of purchasing and guaranteeing debentures and participating securities under this Act.".

(e) LIABILITY OF THE UNITED STATES.—Section 308(e) (15 U.S.C. 687(e)) is amended by striking "Nothing" and inserting "Except as expressly provided otherwise in this Act, nothing".

(f) EXAMINATIONS; VALUATIONS.—

(1) EXAMINATIONS.—Section 310(b) (15 U.S.C. 687b(b)) is amended in the first sentence by inserting "which may be conducted with the assistance of a private sector entity that has both the qualifications to conduct and expertise in conducting such examinations," after "Investment Division of the Administration,".

(2) VALUATIONS.—Section 310(d) (15 U.S.C. 687b(d)) is amended to read as follows:

"(d) VALUATIONS.—

"(1) FREQUENCY OF VALUATIONS.—

"(A) IN GENERAL.—Each licensee shall submit to the Administrator a written valuation of the loans and investments of the licensee not less often than semiannually or otherwise upon the request of the Administrator, except that any licensee with no leverage outstanding shall submit such valuations annually, unless the Administrator determines otherwise.

"(B) MATERIAL ADVERSE CHANGES.—Not later than 30 days after the end of a fiscal quarter of a licensee during which a material adverse change in the aggregate valuation of the loans and investments or operations of the licensee occurs, the licensee shall notify the Administrator in writing of the nature and extent of that change.

"(C) INDEPENDENT CERTIFICATION.—

"(i) IN GENERAL.—Not less than once during each fiscal year, each licensee shall submit to the Administrator the financial statements of the licensee, audited by an independent certified public accountant approved by the Administrator.

"(ii) AUDIT REQUIREMENTS.—Each audit conducted under clause (i) shall include—

"(I) a review of the procedures and documentation used by the licensee in preparing the valuations required by this section; and

"(II) a statement by the independent certified public accountant that such valuations were prepared in conformity with the valuation criteria applicable to the licensee established in accordance with paragraph (2).

"(2) VALUATION CRITERIA.—Each valuation submitted under this subsection shall be prepared by the licensee in accordance with valuation criteria, which shall—

"(A) be established or approved by the Administrator; and

"(B) include appropriate safeguards to ensure that the noncash assets of a licensee are not overvalued.".

(g) TRUSTEE OR RECEIVERSHIP OVER LICENSEES.—

(1) FINDING.—It is the finding of the Congress that increased recoveries on assets in liquidation under the Small Business Investment Act of 1958 are in the best interests of the Federal Government.

(2) DEFINITIONS.—For purposes of this subsection—

(A) the term "Administrator" means the Administrator of the Small Business Adminstration;

(B) the term "Administration" means the Small Business Administration; and

(C) the term "licensee" has the same meaning as in section 103.

(3) LIQUIDATION PLAN.—

(A) IN GENERAL.—Not later than October 15, 1996, the Administrator shall submit to the Committees on Small Business of the Senate and the House of Representatives a detailed plan to expedite the orderly liquidation of all licensee assets in liquidation, including assets of licensees in receivership or in trust held by or under the control of the Administration or its agents.

(B) CONTENTS.—The plan submitted under paragraph (1) shall include a timetable for liquidating the liquidation portfolio of small business investment company assets owned by the Administration, and shall contain the findings and recommendations of the Administrator on various options providing for the fair and expeditious liquidation of such assets within a reasonable period of time, giving due consideration to the option of entering into one or more contracts with private sector entities having the capability to carry out the orderly liquidation of similar assets.

(h) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) SMALL BUSINESS INVESTMENT ACT OF 1958.—The Small Business Investment Act of 1958 (15 U.S.C. 661 et seq.) is amended—

(A) in section 303— 15 USC 683.

(i) in subsection (a), by striking "debenture bonds," and inserting "securities,";

(ii) by striking subsection (f) and inserting the following:

"(f) REDEMPTION OR REPURCHASE OF PREFERRED STOCK.—Notwithstanding any other provision of law—

"(1) the Administrator may allow the issuer of any preferred stock sold to the Administration before November 1, 1989 to redeem or repurchase such stock, upon the payment to the Administration of an amount less than the par value of such stock, for a repurchase price determined by the Administrator after consideration of all relevant factors, including—

"(A) the market value of the stock;

"(B) the value of benefits provided and anticipated to accrue to the issuer;

"(C) the amount of dividends paid, accrued, and anticipated; and

"(D) the estimate of the Administrator of any anticipated redemption; and

"(2) any moneys received by the Administration from the repurchase of preferred stock shall be available solely to provide debenture leverage to licensees having 50 percent or more in aggregate dollar amount of their financings invested in smaller enterprises."; and

(iii) in subsection (g)(8)—

(I) by striking "partners or shareholders" and inserting "partners, shareholders, or members";

(II) by striking "partner's or shareholder's" and inserting "partner's, shareholder's, or member's"; and

(III) by striking "partner or shareholder" and inserting "partner, shareholder, or member";

15 USC 687. (B) in section 308(h), by striking "subsection (c) or (d) of section 301" each place that term appears and inserting "section 301";

15 USC 687b. (C) in section 310(c)(4), by striking "not less than four years in the case of section 301(d) licensees and in all other cases,";

15 USC 687d. (D) in section 312—

(i) by striking "shareholders or partners" and inserting "shareholders, partners, or members"; and

(ii) by striking "shareholder, or partner" each place that term appears and inserting "shareholder, partner, or member";

15 USC 80a–18, 687i–687m. (E) by striking sections 317 and 318, and redesignating sections 319 through 322 as sections 317 through 320, respectively;

15 USC 687*l*. (F) in section 319, as redesignated—

(i) in subsection (a), by striking ", including companies operating under the authority of section 301(d),"; and

(ii) in subsection (f)(2), by inserting "or investments in obligations of the United States" after "accounts";

15 USC 687m. (G) in section 320, as redesignated, by striking "section 321" and inserting "section 319"; and

15 USC 697f. (H) in section 509—

(i) in subsection (a)(1), by striking the second sentence; and

(ii) in subsection (e)(1)(B), by striking "subsection (c) or (d) of section 301" and inserting "section 301".

(2) AMENDMENT IN OTHER LAW.—Section 11(h) of the Federal Home Loan Bank Act (12 U.S.C. 1431(h)) is amended by striking "301(d)" and inserting "301".

(i) AMENDMENTS TO THE SMALL BUSINESS ACT.—

(1) POWERS OF THE ADMINISTRATOR.—Section 5(b)(7) of the Small Business Act (15 U.S.C. 634(b)(7)) is amended by striking the colon and all that follows before the semicolon at the end of the paragraph and inserting the following: ": *Provided*, That with respect to deferred participation loans, the Administrator may, in the discretion of and pursuant to regulations promulgated by the Administrator, authorize participating lending institutions to take actions relating to loan servicing on behalf of the Administrator, including determining eligibility and creditworthiness and loan monitoring, collection, and liquidation".

(2) AUTHORIZATION OF APPROPRIATIONS.—Section 20(p)(3) of the Small Business Act (15 U.S.C. 631 note) is amended by striking subparagraph (B) and inserting the following:

"(B) $300,000,000 in guarantees of debentures; and".

15 USC 634 note. (j) EFFECTIVE DATE.—This section and the amendments made by this section shall become effective on the date of enactment of this Act.

DIVISION E

TITLE I—CALIFORNIA BAY-DELTA ENVIRONMENTAL ENHANCEMENT AND WATER SECURITY ACT

California Bay-Delta Environmental Enhancement and Water Security Act.

SEC. 101. SHORT TITLE.

This title may be cited as the "California Bay-Delta Environmental Enhancement and Water Security Act."

SEC. 102. PROGRAM FUNDING.

(a) AUTHORIZATION OF APPROPRIATIONS.—For each of the fiscal years 1998, 1999 and 2000, there are authorized to be appropriated an additional $143,300,000 for both (1) the initial Federal share of the cost of developing and implementing that portion of an ecosystem protection plan for the Bay-Delta, referred to as "the Category III program" emanating out of the document entitled "Principles for Agreement on Bay-Delta Standards Between the State of California and the Federal Government," dated December 15, 1994, and, (2) the initial Federal share of the cost of developing and implementing the ecosystem restoration elements of the long-term CALFED Bay-Delta Program, pursuant to the cost-sharing agreement required by Section 78684.10 of California Senate Bill 900, Chapter 135, Statutes of 1996, signed by the Governor of California on July 11, 1996. Funds appropriated pursuant to this section shall remain available until expended and shall be administered in accordance with procedures established by CALFED Bay-Delta Program until Congress authorizes another entity that is recommended by CALFED Bay-Delta Program to carry out this section.

(b) Funds authorized to be appropriated pursuant to this section to those agencies that are currently or subsequently become participants in the CALFED Bay-Delta Program shall be in addition to the baseline funding levels established pursuant to section 103 of this title, for currently authorized projects and programs under the Central Valley Project Improvement Act, Title 34 of Public Law 102–575 and other currently authorized Federal programs for the purpose of Bay-Delta ecosystem protection and restoration.

(c) Nothing in this title shall be deemed to diminish the Federal interest in and responsibility for working with the State of California through the CALFED Bay-Delta Program in developing, funding and implementing a balanced, long-term solution to the problems of ecosystem quality, water quality, water supply and reliability, and system vulnerability affecting the San Francisco Bay/Sacramento-San Joaquin Delta Watershed in California. Participation in such long-term solution shall only be undertaken pursuant to authorization provided by law other than this title, and shall be based on the equitable allocation of program costs among beneficiary groups that the CALFED Bay-Delta programs shall develop.

(d) To the extent not otherwise authorized, those agencies and departments that are currently or subsequently become participants in the CALFED Bay-Delta Program are hereby authorized to undertake the activities and programs for which Federal cost sharing is provided by this section. The United States shall immediately initiate coordinated consultations and negotiations with the State

of California to expeditiously execute the cost-sharing agreement required by Section 78684.10 of California Senate Bill 900, Chapter 135, Statutes of 1996, signed by the Governor of California on July 11, 1996. Such activities shall include, but not be limited to, planning, design, technical assistance and construction for ecosystem restoration programs and projects.

SEC. 103. BUDGET CROSSCUT.

The Office of Management and Budget is directed to submit to the House and Senate Committees on Appropriations, as part of the President's Fiscal Year 1998 Budget, an interagency budget crosscut that displays Federal spending for fiscal years 1993 through 1998 on ecosystem restoration and other purposes in the Bay-Delta region, separately showing funding provided previously or requested under both preexisting authorities and new authorities granted by this title.

SEC. 104. EFFECTIVE DATE.

Section 102 of this title shall take effect on the date of passage of California State Proposition 204.

This Act may be cited as the "Omnibus Consolidated Appropriations Act, 1997".

Approved September 30, 1996.

LEGISLATIVE HISTORY—H.R. 3610 (S. 1894):

HOUSE REPORTS: Nos. 104–617 (Comm. on Appropriations) and 104–863 (Comm. on Conference).

SENATE REPORTS: No. 104–286 accompanying S. 1894 (Comm. on Appropriations).

CONGRESSIONAL RECORD, Vol. 142 (1996):

June 13, considered and passed House.

July 11, 17, 18, considered and passed Senate, amended, in lieu of S. 1894.

Sept. 28, House agreed to conference report.

Sept. 30, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 32 (1996):

Sept. 30, Presidential statement.

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Public Law 104–209
104th Congress

An Act

Oct. 1, 1996
[H.R. 1772]

To authorize the Secretary of the Interior to acquire certain interests in Waihee Marsh for inclusion in the Oahu National Wildlife Refuge Complex.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Hawaii.

16 USC 668dd note.

SECTION 1. AUTHORITY TO ACQUIRE INTERESTS FOR INCLUSION IN THE OAHU NATIONAL WILDLIFE REFUGE COMPLEX.

(a) AUTHORITY TO ACQUIRE.—The Secretary of the Interior may acquire, for inclusion in the Oahu National Wildlife Refuge Complex, the area known as the Waihee Marsh, located on the northeast coast of the Island of Oahu, Hawaii, consisting of approximately 36 acres (as determined by the Secretary) along both sides of Kamehameha Highway.

(b) MANAGEMENT OF ACQUIRED INTERESTS.—Lands and interests acquired by the United States under this section shall be managed by the Secretary of the Interior as part of the Oahu National Wildlife Refuge Complex.

Approved October 1, 1996.

LEGISLATIVE HISTORY—H.R. 1772:

HOUSE REPORTS: No. 104–528 (Comm. on Resources).
CONGRESSIONAL RECORD, Vol. 142 (1996):
Apr. 23, considered and passed House.
Sept. 18, considered and passed Senate.

Public Law 104–210
104th Congress

An Act

To encourage the donation of food and grocery products to nonprofit organizations for distribution to needy individuals by giving the Model Good Samaritan Food Donation Act the full force and effect of law.

Oct. 1, 1996
[H.R. 2428]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONVERSION TO PERMANENT LAW OF MODEL GOOD SAMARITAN FOOD DONATION ACT AND TRANSFER OF THAT ACT TO CHILD NUTRITION ACT OF 1966.

(a) CONVERSION TO PERMANENT LAW.—Title IV of the National and Community Service Act of 1990 is amended—

(1) by striking the title heading and sections 401 and 403 (42 U.S.C. 12671 and 12673); and

(2) in section 402 (42 U.S.C. 12672)—

(A) in the section heading, by striking "MODEL" and inserting "BILL EMERSON";

(B) in subsection (a), by striking "Good Samaritan" and inserting "Bill Emerson Good Samaritan";

(C) in subsection (b)(7), to read as follows:

"(7) GROSS NEGLIGENCE.—The term 'gross negligence' means voluntary and conscious conduct (including a failure to act) by a person who, at the time of the conduct, knew that the conduct was likely to be harmful to the health or well-being of another person.";

(D) by striking subsection (c) and inserting the following:

"(c) LIABILITY FOR DAMAGES FROM DONATED FOOD AND GROCERY PRODUCTS.—

"(1) LIABILITY OF PERSON OR GLEANER.—A person or gleaner shall not be subject to civil or criminal liability arising from the nature, age, packaging, or condition of apparently wholesome food or an apparently fit grocery product that the person or gleaner donates in good faith to a nonprofit organization for ultimate distribution to needy individuals.

"(2) LIABILITY OF NONPROFIT ORGANIZATION.—A nonprofit organization shall not be subject to civil or criminal liability arising from the nature, age, packaging, or condition of apparently wholesome food or an apparently fit grocery product that the nonprofit organization received as a donation in good faith from a person or gleaner for ultimate distribution to needy individuals.

"(3) EXCEPTION.—Paragraphs (1) and (2) shall not apply to an injury to or death of an ultimate user or recipient of the food or grocery product that results from an act or omission

of the person, gleaner, or nonprofit organization, as applicable, constituting gross negligence or intentional misconduct."; and

(E) in subsection (f), by adding at the end the following: "Nothing in this section shall be construed to supercede State or local health regulations.".

(b) TRANSFER TO CHILD NUTRITION ACT OF 1966.—Section 402 of the National and Community Service Act of 1990 (42 U.S.C. 12672) (as amended by subsection (a))— 42 USC 1791.

(1) is transferred from the National and Community Service Act of 1990 to the Child Nutrition Act of 1966;

(2) is redesignated as section 22 of the Child Nutrition Act of 1966; and

(3) is added at the end of such Act.

(c) CONFORMING AMENDMENT.—The table of contents for the National and Community Service Act of 1990 is amended by striking the items relating to title IV.

Approved October 1, 1996.

LEGISLATIVE HISTORY—H.R. 2428:

HOUSE REPORTS: No. 104–661 (Comm. on Economic and Educational Opportunities).

CONGRESSIONAL RECORD, Vol. 142 (1996):

July 12, considered and passed House.

Aug. 2, considered and passed Senate, amended.

Sept. 5, House concurred in Senate amendments.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 32 (1996):

Oct. 1, Presidential statement.

Public Law 104–211
104th Congress

An Act

To amend Public Law 103–93 to provide additional lands within the State of Utah for the Goshute Indian Reservation, and for other purposes.

Oct. 1, 1996
[H.R. 2464]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ADDITION OF CERTAIN UTAH STATE LANDS TO GOSHUTE INDIAN RESERVATION.

The Utah Schools and Lands Improvement Act of 1993 (107 Stat. 995) is amended—

(1) by redesignating section 11 as section 12; and

(2) by inserting after section 10 the following new section:

"SEC. 11. ADDITIONAL GOSHUTE INDIAN RESERVATION LANDS.

"(a) FURTHER ADDITIONS TO GOSHUTE RESERVATION.—In addition to the lands described in section 3, for the purpose of securing in trust for the Goshute Indian Tribe certain additional public lands and lands belonging to the State of Utah, which comprise approximately 8,000 acres of surface and subsurface estate, as generally depicted on the map entitled 'Additional Utah-Goshute Exchange', dated July 1, 1994, such public lands and State lands are hereby declared to be part of the Goshute Indian Reservation in the State of Utah effective upon the completion of conveyance of the State lands from the State of Utah and acceptance of title by the United States.

"(b) AUTHORIZATION.—The Secretary of the Interior is authorized to acquire through exchange those lands and interests in land described in subsection (a) which are owned by the State of Utah, subject to valid existing rights.

"(c) APPLICATION OF PRIOR PROVISIONS.—(1) Except as provided in paragraph (2), the remaining provisions of this Act which are applicable to the lands to be transferred to the Goshute Indian Tribe pursuant to section 3 shall also apply to the lands subject to this section.

"(2) The Goshute Indian Tribe will be responsible for payment of the costs of appraisal of the lands to be acquired pursuant to this section, which costs shall be paid prior to the transfer of such lands.".

Approved October 1, 1996.

LEGISLATIVE HISTORY—H.R. 2464:

HOUSE REPORTS: No. 104–562 (Comm. on Resources).
SENATE REPORTS: No. 104–348 (Comm. on Indian Affairs).
CONGRESSIONAL RECORD, Vol. 142 (1996):
May 14, considered and passed House.
Sept. 19, considered and passed Senate.

Public Law 104–212
104th Congress

An Act

Oct. 1, 1996
[H.R. 2679]

To revise the boundary of the North Platte National Wildlife Refuge, to expand the Pettaquamscutt Cove National Wildlife Refuge, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Nebraska.

TITLE I—NORTH PLATTE NATIONAL WILDLIFE REFUGE

16 USC 668dd note.

SEC. 101. REVISION OF BOUNDARY OF NORTH PLATTE NATIONAL WILDLIFE REFUGE.

(a) TERMINATION OF JURISDICTION.—The secondary jurisdiction of the United States Fish and Wildlife Service over approximately 2,470 acres of land at the North Platte National Wildlife Refuge in the State of Nebraska, as depicted on a map entitled "Relinquishment of North Platte National Wildlife Refuge Secondary Jurisdiction", dated August 1995, and available for inspection at appropriate offices of the United States Fish and Wildlife Service, is terminated.

(b) REVOCATION OF EXECUTIVE ORDER.—Executive Order Number 2446, dated August 21, 1916, is revoked with respect to the land described in subsection (a).

Rhode Island.

TITLE II—PETTAQUAMSCUTT COVE NATIONAL WILDLIFE REFUGE

16 USC 668dd note.

SEC. 201. EXPANSION OF PETTAQUAMSCUTT COVE NATIONAL WILDLIFE REFUGE.

Section 204 of Public Law 100–610 (16 U.S.C. 668dd note) is amended by adding at the end the following:

"(e) EXPANSION OF REFUGE.—

"(1) ACQUISITION.—The Secretary may acquire for addition to the refuge the area in Rhode Island known as 'Foddering Farm Acres', consisting of approximately 100 acres, adjacent to Long Cove and bordering on Foddering Farm Road to the south and Point Judith Road to the east, as depicted on a map entitled 'Pettaquamscutt Cove NWR Expansion Area', dated May 13, 1996, and available for inspection in appropriate offices of the United States Fish and Wildlife Service.

"(2) BOUNDARY REVISION.—The boundaries of the refuge are revised to include the area described in paragraph (1).

"(f) FUTURE EXPANSION.—

"(1) IN GENERAL.—The Secretary may acquire for addition to the refuge such lands, waters, and interests in land and water as the Secretary considers appropriate and shall adjust the boundaries of the refuge accordingly.

"(2) APPLICABLE LAWS.—Any acquisition described in paragraph (1) shall be carried out in accordance with all applicable laws.".

SEC. 202. AUTHORIZATION OF APPROPRIATIONS.

16 USC 668dd note.

Section 206(a) of Public Law 100–610 (16 U.S.C. 668dd note) is amended by striking "designated in section 4(a)(1)" and inserting "designated or identified under section 204".

SEC. 203. TECHNICAL AMENDMENTS.

16 USC 668dd note.

Public Law 100–610 (16 U.S.C. 668dd note) is amended—

(1) in section 201(1)—

(A) by striking "and the associated" and inserting "including the associated"; and

(B) by striking "and dividing" and inserting "dividing";

(2) in section 203, by striking "of this Act" and inserting "of this title";

(3) in section 204—

(A) in subsection (a)(1), by striking "of this Act" and inserting "of this title"; and

(B) in subsection (b), by striking "purpose of this Act" and inserting "purposes of this title";

(4) in the second sentence of section 205, by striking "of this Act" and inserting "of this title"; and

(5) in section 207, by striking "Act" and inserting "title".

Approved October 1, 1996.

LEGISLATIVE HISTORY—H.R. 2679:

HOUSE REPORTS: No. 104–527 (Comm. on Resources).
CONGRESSIONAL RECORD, Vol. 142 (1996):
Apr. 23, considered and passed House.
June 27, considered and passed Senate, amended.
Sept. 17, House concurred in Senate amendments.

Public Law 104–213
104th Congress

An Act

Oct. 1, 1996
[H.R. 2982]

To direct the Secretary of the Interior to convey the Carbon Hill National Fish Hatchery to the State of Alabama.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Carbon Hill National Fish Hatchery Conveyance Act.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Carbon Hill National Fish Hatchery Conveyance Act".

SEC. 2. CONVEYANCE OF CARBON HILL NATIONAL FISH HATCHERY TO THE STATE OF ALABAMA.

(a) CONVEYANCE REQUIREMENT.—Within 180 days after the date of the enactment of this Act, the Secretary of the Interior shall convey to the State of Alabama without reimbursement, all right, title, and interest of the United States in and to the property described in subsection (b), for use by the Game and Fish Division of the Alabama Department of Conservation and Natural Resources, as part of the State of Alabama fish culture program.

(b) PROPERTY DESCRIBED.—The property referred to in subsection (a) is the property known as the Carbon Hill National Fish Hatchery, located on County Road 63 at Carbon Hill, Alabama, in Walker County, Alabama, consisting of 67 acres (more or less), and all improvements and related personal property under the control of the Secretary that is located on that property, including buildings, structures, equipment, and all easements, leases, and water rights relating to that property.

(c) USE AND REVERSIONARY INTEREST.—The property conveyed to the State of Alabama pursuant to this section shall be used by the State for purposes of fishery resources management and fisheries-related activities, and if it is used for any other purpose detrimental to those purposes and activities, all right, title, and interest in and to all property conveyed pursuant to this section shall revert to the United States. The State of Alabama shall ensure that the property reverting to the United States is in substantially the same or better condition as at the time of transfer.

Approved October 1, 1996.

LEGISLATIVE HISTORY—H.R. 2982:

HOUSE REPORTS: No. 104–568 (Comm. on Resources).
CONGRESSIONAL RECORD, Vol. 142 (1996):
May 14, considered and passed House.
Sept. 19, considered and passed Senate.

Public Law 104–214
104th Congress

An Act

To amend title 18, United States Code, with respect to witness retaliation, witness tampering and jury tampering.

Oct. 1, 1996
[H.R. 3120]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title 18, United States Code, is amended—

(1) in section 1513—

(A) by redesignating subsection (c) as subsection (d); and

(B) by adding at the end the following:

"(c) If the retaliation occurred because of attendance at or testimony in a criminal case, the maximum term of imprisonment which may be imposed for the offense under this section shall be the higher of that otherwise provided by law or the maximum term that could have been imposed for any offense charged in such case.";

(2) in section 1512, by adding at the end the following:

"(i) If the offense under this section occurs in connection with a trial of a criminal case, the maximum term of imprisonment which may be imposed for the offense shall be the higher of that otherwise provided by law or the maximum term that could have been imposed for any offense charged in such case."; and

(3) in section 1503(a), by adding at the end the following: "If the offense under this section occurs in connection with a trial of a criminal case, and the act in violation of this section involves the threat of physical force or physical force, the maximum term of imprisonment which may be imposed for the offense shall be the higher of that otherwise provided by law or the maximum term that could have been imposed for any offense charged in such case.".

Approved October 1, 1996.

LEGISLATIVE HISTORY—H.R. 3120:

HOUSE REPORTS: No. 104–549 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 142 (1996):
May 7, considered and passed House.
Sept. 19, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 32 (1996):
Oct. 1, Presidential statement.

Public Law 104–215
104th Congress

An Act

Oct. 1, 1996
[H.R. 3287]

To direct the Secretary of the Interior to convey the Crawford National Fish Hatchery to the city of Crawford, Nebraska.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Crawford National Fish Hatchery Conveyance Act.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Crawford National Fish Hatchery Conveyance Act".

SEC. 2. CONVEYANCE OF CRAWFORD NATIONAL FISH HATCHERY TO THE CITY OF CRAWFORD, NEBRASKA.

(a) CONVEYANCE REQUIREMENT.—Within 180 days after the date of the enactment of this Act, the Secretary of the Interior shall convey to the city of Crawford, Nebraska, without reimbursement, all right, title, and interest of the United States in and to the property described in subsection (b), for use by the city for a city park and other public recreational purposes.

(b) PROPERTY DESCRIBED.—The property referred to in subsection (a) is the property known as the Crawford National Fish Hatchery, located in the city of Crawford, Nebraska, consisting of 5.95 acres (more or less), and all improvements and related personal property under the control of the Secretary that is located on that property, including buildings, structures, equipment, and all easements, leases, and water rights relating to that property.

(c) USE AND REVERSIONARY INTEREST.—If any of the property conveyed to the city of Crawford, Nebraska, under this section is used by the city for any purpose other than the uses authorized under subsection (a), all right, title, and interest in and to all property conveyed under this section shall revert to the United States. The city of Crawford, Nebraska, shall ensure that all property that reverts to the United States under this subsection is in substantially the same or better condition as at the time of conveyance to the city.

Approved October 1, 1996.

LEGISLATIVE HISTORY—H.R. 3287:

HOUSE REPORTS: No. 104–700 (Comm. on Resources).
CONGRESSIONAL RECORD, Vol. 142 (1996):
July 30, considered and passed House.
Sept. 19, considered and passed Senate.

Public Law 104–216
104th Congress

An Act

To amend the Federal Trade Commission Act to authorize appropriations for the Federal Trade Commission.

Oct. 1, 1996
[H.R. 3553]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Federal Trade Commission Reauthorization Act of 1996.
15 USC 58 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Trade Commission Reauthorization Act of 1996".

SEC. 2. REAUTHORIZATION.

Section 25 of the Federal Trade Commission Act (15 U.S.C. 57c) is amended by striking "and not to exceed" and inserting "not to exceed" and by inserting before the period the following: "; not to exceed $107,000,000 for fiscal year 1997; and not to exceed $111,000,000 for fiscal year 1998".

Approved October 1, 1996.

LEGISLATIVE HISTORY—H.R. 3553 (S. 1840):

HOUSE REPORTS: No. 104–754 (Comm. on Commerce).
SENATE REPORTS: No. 104–342 accompanying S. 1840 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 142 (1996):
Sept. 4, considered and passed House.
Sept. 13, considered and passed Senate.

Public Law 104–217
104th Congress

An Act

Oct. 1, 1996
[H.R. 3676]

To amend title 18, United States Code, to clarify the intent of Congress with respect to the Federal carjacking prohibition.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Carjacking Correction Act of 1996.
18 USC 2111 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Carjacking Correction Act of 1996".

SEC. 2. CLARIFICATION OF INTENT OF CONGRESS IN FEDERAL CARJACKING PROHIBITION.

Section 2119(2) of title 18, United States Code, is amended by inserting ", including any conduct that, if the conduct occurred in the special maritime and territorial jurisdiction of the United States, would violate section 2241 or 2242 of this title" after "(as defined in section 1365 of this title".

Approved October 1, 1996.

LEGISLATIVE HISTORY—H.R. 3676 (S. 2006) (S. 2007):

HOUSE REPORTS: No. 104–787 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 142 (1996):
Sept. 17, considered and passed House.
Sept. 18, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 32 (1996):
Oct. 1, Presidential statement.

Public Law 104–218
104th Congress

Joint Resolution

To confer honorary citizenship of the United States on Agnes Gonxha Bojaxhiu, also known as Mother Teresa.

Oct. 1, 1996
[H.J. Res. 191]

Whereas the United States has conferred honorary citizenship on only three occasions in its more than two hundred years, and honorary citizenship is and should remain an extraordinary honor not lightly conferred nor frequently granted;

Whereas Agnes Gonxha Bojaxhiu, better known throughout the world as Mother Teresa, has worked tirelessly with orphaned and abandoned children, the poor, the sick, and the dying;

Whereas Mother Teresa founded the Missionaries of Charity in 1950, and has taken in those who have been rejected as "unacceptable" and cared for them when no one else would, regardless of race, color, creed, or condition;

Whereas Mother Teresa has deservedly received numerous honors, including the 1979 Nobel Peace Prize and the 1985 Presidential Medal of Freedom;

Whereas Mother Teresa has worked in areas all over the world, including the United States, to provide comfort to the world's neediest; and

Whereas Mother Teresa through her Missionaries of Charity has established within the United States numerous soup kitchens, emergency shelters for women, shelters for unwed mothers, shelters for men, after-school and summer camp programs for children, homes for the dying, prison ministry, nursing homes, and hospital and shut-in ministry: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Agnes Gonxha Bojaxhiu, also known as Mother Teresa, is proclaimed to be an honorary citizen of the United States of America.

Approved October 1, 1996.

LEGISLATIVE HISTORY—H.J. Res. 191:

HOUSE REPORTS: No. 104–796 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 142 (1996):
Sept. 17, considered and passed House.
Sept. 18, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 32 (1996):
Oct. 1, Presidential statement.

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Public Law 104–219
104th Congress

An Act

Oct. 1, 1996
[S. 533]

To clarify the rules governing removal of cases to Federal court, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REMOVAL.

The first sentence of section 1447(c) of title 28, United States Code, is amended by striking "any defect in removal procedure" and inserting "any defect other than lack of subject matter jurisdiction".

Approved October 1, 1996.

LEGISLATIVE HISTORY—S. 533:

HOUSE REPORTS: No. 104–799 (Comm. on the Judiciary).
CONGRESSIONAL RECORD:
Vol. 141 (1995): June 30, considered and passed Senate.
Vol. 142 (1996): Sept. 17, considered and passed House.

Public Law 104–220
104th Congress

An Act

To repeal a redundant venue provision, and for other purposes.

Oct. 1, 1996
[S. 677]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REPEAL.

(a) REPEAL.—Subsection (a) of section 1392 of title 28, United States Code, is repealed.

(b) TECHNICAL AMENDMENT.—Subsection (b) of section 1392 of title 28, United States Code, is amended by striking "(b) Any" and inserting "Any".

Approved October 1, 1996.

LEGISLATIVE HISTORY—S. 677:

HOUSE REPORTS: No. 104–800 (Comm. on the Judiciary).
CONGRESSIONAL RECORD:
Vol. 141 (1995): June 30, considered and passed Senate.
Vol. 142 (1996): Sept. 17, considered and passed House.

Public Law 104–221
104th Congress

An Act

Oct. 1, 1996
[S. 1636]

To designate the United States Courthouse under construction at 1030 Southwest 3rd Avenue, Portland, Oregon, as the "Mark O. Hatfield United States Courthouse", and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF MARK O. HATFIELD UNITED STATES COURTHOUSE.

The United States Courthouse under construction at 1030 Southwest 3rd Avenue in Portland, Oregon, shall be known and designated as the "Mark O. Hatfield United States Courthouse".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the courthouse referred to in section 1 shall be deemed to be a reference to the "Mark O. Hatfield United States Courthouse".

16 USC 431 note.

SEC. 3. EXTENSION OF FDR MEMORIAL MEMBER TERMS.

The first section of the Act entitled "An Act to establish a commission to formulate plans for a memorial to Franklin Delano Roosevelt", approved August 11, 1955 (69 Stat. 694) is amended by adding at the end thereof the following: "A Commissioner who ceases to be a Member of the Senate or the House of Representatives may, with the approval of the appointing authority, continue to serve as a Commissioner for a period of up to one year after he or she ceases to be a Member of the Senate or the House of Representatives.".

16 USC 431 note.

SEC. 4. EFFECTIVE DATE.

This Act shall take effect on January 3, 1997.

Approved October 1, 1996.

LEGISLATIVE HISTORY—S. 1636 (H.R. 3134):

HOUSE REPORTS: No. 104–587 accompanying H.R. 3134 (Comm. on Transportation and Infrastructure).

CONGRESSIONAL RECORD, Vol. 142 (1996):

June 27, considered and passed Senate.

Sept. 18, considered and passed House.

Public Law 104–222
104th Congress

An Act

To authorize construction of the Smithsonian Institution National Air and Space Museum Dulles Center at Washington Dulles International Airport, and for other purposes.

Oct. 1, 1996
[S. 1995]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Virginia.

SECTION 1. CONSTRUCTION OF MUSEUM CENTER.

20 USC 77 note.

The Board of Regents of the Smithsonian Institution is authorized to construct the Smithsonian Institution National Air and Space Museum Dulles Center at Washington Dulles International Airport.

SEC. 2. LIMITATION ON USE OF FUNDS.

20 USC 77 note.

No appropriated funds may be used to pay any expense of the construction authorized by section 1.

Approved October 1, 1996.

LEGISLATIVE HISTORY—S. 1995:

CONGRESSIONAL RECORD, Vol. 142 (1996):
July 31, considered and passed Senate.
Sept. 18, considered and passed House.

Public Law 104–223
104th Congress

An Act

Oct. 1, 1996
[H.R. 2512]

To provide for certain benefits of the Pick-Sloan Missouri River basin program to the Crow Creek Sioux Tribe, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Crow Creek Sioux Tribe Infrastructure Development Trust Fund Act of 1996.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Crow Creek Sioux Tribe Infrastructure Development Trust Fund Act of 1996".

SEC. 2. FINDINGS.

(a) FINDINGS.—The Congress finds that—

(1) the Congress approved the Pick-Sloan Missouri River basin program by passing the Act of December 22, 1944, commonly known as the "Flood Control Act of 1944" (58 Stat. 887, chapter 665; 33 U.S.C. 701–1 et seq.)—

(A) to promote the general economic development of the United States;

(B) to provide for irrigation above Sioux City, Iowa;

(C) to protect urban and rural areas from devastating floods of the Missouri River; and

(D) for other purposes;

(2) the Fort Randall and Big Bend projects are major components of the Pick-Sloan program, and contribute to the national economy by generating a substantial amount of hydropower and impounding a substantial quantity of water;

(3) the Fort Randall and Big Bend projects overlie the western boundary of the Crow Creek Indian Reservation, having inundated the fertile, wooded bottom lands of the Tribe along the Missouri River that constituted the most productive agricultural and pastoral lands of the Crow Creek Sioux Tribe and the homeland of the members of the Tribe;

(4) Public Law 85–916 (72 Stat. 1766 et seq.) authorized the acquisition of 9,418 acres of Indian land on the Crow Creek Indian Reservation for the Fort Randall project and Public Law 87–735 (76 Stat. 704 et seq.) authorized the acquisition of 6,179 acres of Indian land on Crow Creek for the Big Bend project;

(5) Public Law 87–735 (76 Stat. 704 et seq.) provided for the mitigation of the effects of the Fort Randall and Big Bend projects on the Crow Creek Indian Reservation, by directing the Secretary of the Army to—

(A) replace, relocate, or reconstruct—

(i) any existing essential governmental and agency facilities on the reservation, including schools,

hospitals, offices of the Public Health Service and the Bureau of Indian Affairs, service buildings, and employee quarters; and

(ii) roads, bridges, and incidental matters or facilities in connection with such facilities;

(B) provide for a townsite adequate for 50 homes, including streets and utilities (including water, sewage, and electricity), taking into account the reasonable future growth of the townsite; and

(C) provide for a community center containing space and facilities for community gatherings, tribal offices, tribal council chamber, offices of the Bureau of Indian Affairs, offices and quarters of the Public Health Service, and a combination gymnasium and auditorium;

(6) the requirements under Public Law 87–735 (76 Stat. 704 et seq.) with respect to the mitigation of the effects of the Fort Randall and Big Bend projects on the Crow Creek Indian Reservation have not been fulfilled;

(7) although the national economy has benefited from the Fort Randall and Big Bend projects, the economy on the Crow Creek Indian Reservation remains underdeveloped, in part as a consequence of the failure of the Federal Government to fulfill the obligations of the Federal Government under the laws referred to in paragraph (4);

(8) the economic and social development and cultural preservation of the Crow Creek Sioux Tribe will be enhanced by increased tribal participation in the benefits of the Fort Randall and Big Bend components of the Pick-Sloan program; and

(9) the Crow Creek Sioux Tribe is entitled to additional benefits of the Pick-Sloan Missouri River basin program.

SEC. 3. DEFINITIONS.

For the purposes of this Act, the following definitions shall apply:

(1) FUND.—The term "Fund" means the Crow Creek Sioux Tribe Infrastructure Development Trust Fund established under section 4(a).

(2) PLAN.—The term "plan" means the plan for socio-economic recovery and cultural preservation prepared under section 5.

(3) PROGRAM.—The term "Program" means the power program of the Pick-Sloan Missouri River basin program, administered by the Western Area Power Administration.

(4) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(5) TRIBE.—The term "Tribe" means the Crow Creek Sioux Tribe of Indians, a band of the Great Sioux Nation recognized by the United States of America.

SEC. 4. ESTABLISHMENT OF CROW CREEK SIOUX TRIBE INFRASTRUCTURE DEVELOPMENT TRUST FUND.

(a) CROW CREEK SIOUX TRIBE INFRASTRUCTURE DEVELOPMENT TRUST FUND.—There is established in the Treasury of the United States a fund to be known as the "Crow Creek Sioux Tribe Infrastructure Development Trust Fund".

(b) FUNDING.—Beginning with fiscal year 1997, and for each fiscal year thereafter, until such time as the aggregate of the

amounts deposited in the Fund is equal to $27,500,000, the Secretary of the Treasury shall deposit into the Fund an amount equal to 25 percent of the receipts from the deposits to the Treasury of the United States for the preceding fiscal year from the Program.

(c) INVESTMENTS.—The Secretary of the Treasury shall invest the amounts deposited under subsection (b) only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States.

(d) PAYMENT OF INTEREST TO TRIBE.—

(1) ESTABLISHMENT OF ACCOUNT AND TRANSFER OF INTEREST.—The Secretary of the Treasury shall, in accordance with this subsection, transfer any interest that accrues on amounts deposited under subsection (b) into a separate account established by the Secretary of the Treasury in the Treasury of the United States.

(2) PAYMENTS.—

(A) IN GENERAL.—Beginning with the fiscal year immediately following the fiscal year during which the aggregate of the amounts deposited in the Fund is equal to the amount specified in subsection (b), and for each fiscal year thereafter, all amounts transferred under paragraph (1) shall be available, without fiscal year limitation, to the Secretary of the Interior for use in accordance with subparagraph (C).

(B) WITHDRAWAL AND TRANSFER OF FUNDS.—For each fiscal year specified in subparagraph (A), the Secretary of the Treasury shall withdraw amounts from the account established under such paragraph and transfer such amounts to the Secretary of the Interior for use in accordance with subparagraph (C). The Secretary of the Treasury may only withdraw funds from the account for the purpose specified in this paragraph.

(C) PAYMENTS TO TRIBE.—The Secretary of the Interior shall use the amounts transferred under subparagraph (B) only for the purpose of making payments to the Tribe.

(D) USE OF PAYMENTS BY TRIBE.—The Tribe shall use the payments made under subparagraph (C) only for carrying out projects and programs pursuant to the plan prepared under section 5.

(3) PROHIBITION ON PER CAPITA PAYMENTS.—No portion of any payment made under this subsection may be distributed to any member of the Tribe on a per capita basis.

(e) TRANSFERS AND WITHDRAWALS.—Except as provided in subsection (d)(1), the Secretary of the Treasury may not transfer or withdraw any amount deposited under subsection (b).

SEC. 5. PLAN FOR SOCIOECONOMIC RECOVERY AND CULTURAL PRESERVATION.

(a) PLAN.—

(1) IN GENERAL.—The Tribe shall, not later than 2 years after the date of enactment of this Act, prepare a plan for the use of the payments made to the Tribe under section 4(d)(2). In developing the plan, the Tribe shall consult with the Secretary of the Interior and the Secretary of Health and Human Services.

(2) REQUIREMENTS FOR PLAN COMPONENTS.—The plan shall, with respect to each component of the plan—

(A) identify the costs and benefits of that component; and

(B) provide plans for that component.

(b) CONTENT OF PLAN.—The plan shall include the following programs and components:

(1) EDUCATIONAL FACILITY.—The plan shall provide for an educational facility to be located on the Crow Creek Indian Reservation.

(2) COMPREHENSIVE INPATIENT AND OUTPATIENT HEALTH CARE FACILITY.—The plan shall provide for a comprehensive inpatient and outpatient health care facility to provide essential services that the Secretary of Health and Human Services, in consultation with the individuals and entities referred to in subsection (a)(1), determines to be—

(A) needed; and

(B) unavailable through existing facilities of the Indian Health Service on the Crow Creek Indian Reservation at the time of the determination.

(3) WATER SYSTEM.—The plan shall provide for the construction, operation, and maintenance of a municipal, rural, and industrial water system for the Crow Creek Indian Reservation.

(4) RECREATIONAL FACILITIES.—The plan shall provide for recreational facilities suitable for high-density recreation at Lake Sharpe at Big Bend Dam and at other locations on the Crow Creek Indian Reservation in South Dakota.

(5) OTHER PROJECTS AND PROGRAMS.—The plan shall provide for such other projects and programs for the educational, social welfare, economic development, and cultural preservation of the Tribe as the Tribe considers to be appropriate.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such funds as may be necessary to carry out this Act, including such funds as may be necessary to cover the administrative expenses of the Crow Creek Sioux Tribe Infrastructure Development Trust Fund established under section 4.

SEC. 7. EFFECT OF PAYMENTS TO TRIBE.

(a) IN GENERAL.—No payment made to the Tribe pursuant to this Act shall result in the reduction or denial of any service or program to which, pursuant to Federal law—

(1) the Tribe is otherwise entitled because of the status of the Tribe as a federally recognized Indian tribe; or

(2) any individual who is a member of the Tribe is entitled because of the status of the individual as a member of the Tribe.

(b) EXEMPTIONS; STATUTORY CONSTRUCTION.—

(1) POWER RATES.—No payment made pursuant to this Act shall affect Pick-Sloan Missouri River basin power rates.

(2) STATUTORY CONSTRUCTION.—Nothing in this Act may be construed as diminishing or affecting—

(A) any right of the Tribe that is not otherwise addressed in this Act; or

(B) any treaty obligation of the United States.

Approved October 1, 1996.

LEGISLATIVE HISTORY—H.R. 2512 (S. 1264):

HOUSE REPORTS: No. 104–765 (Comm. on Resources).
SENATE REPORTS: No. 104–362 accompaying S. 1264 (Comm. on Indian Affairs).
CONGRESSIONAL RECORD, Vol. 142 (1996):
Sept. 10, considered and passed House.
Sept. 19, considered and passed Senate.

Public Law 104–224
104th Congress

An Act

To repeal an unnecessary medical device reporting requirement.

Oct. 2, 1996
[H.R. 2366]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REPEAL.

Section 1862 of the Social Security Act (42 U.S.C. 1395y) is amended by striking subsection (h).

Approved October 2, 1996.

LEGISLATIVE HISTORY—H.R. 2366:

HOUSE REPORTS: Nos. 104–323, Pt. 1 (Comm. on Commerce) and Pt. 2 (Comm. on Ways and Means).

CONGRESSIONAL RECORD:

Vol. 141 (1995): Nov. 14, considered and passed House.

Vol. 142 (1996): Sept. 25, considered and passed Senate.

Public Law 104–225
104th Congress

An Act

Oct. 2, 1996
[H.R. 2504]

To designate the Federal building located at the corner of Patton Avenue and Otis Street, and the United States courthouse located on Otis Street, in Asheville, North Carolina, as the "Veach-Baley Federal Complex".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Federal building located at the corner of Patton Avenue and Otis Street, and the United States courthouse located on Otis Street, in Asheville, North Carolina, shall be known and designated as the "Veach-Baley Federal Complex".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the buildings referred to in section 1 shall be deemed to be a reference to the "Veach-Baley Federal Complex".

Approved October 2, 1996.

LEGISLATIVE HISTORY—H.R. 2504:

HOUSE REPORTS: No. 104–416 (Comm. on Transportation and Infrastructure).
CONGRESSIONAL RECORD:
Vol. 141 (1995): Dec. 18, considered and passed House.
Vol. 142 (1996): Sept. 24, considered and passed Senate.

Public Law 104–226
104th Congress

An Act

To repeal the Medicare and Medicaid Coverage Data Bank.

Oct. 2, 1996
[H.R. 2685]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REPEAL OF MEDICARE AND MEDICAID COVERAGE DATA BANK.

(a) IN GENERAL.—Section 1144 of the Social Security Act (42 U.S.C. 1320b–14), as added by section 13581(a) of the Omnibus Budget Reconciliation Act of 1993 (in this section referred to as "OBRA–93"), is repealed.

(b) CONFORMING AMENDMENTS.—

(1) MEDICARE.—Section 1862(b)(5) of such Act (42 U.S.C. 1395y(b)(5)), as amended by section 13581(b)(1) of OBRA–93, is amended—

(A) in subparagraph (B), by striking the dash and all that follows through the end and inserting "subparagraph (A) for purposes of carrying out this subsection.", and

(B) in subparagraph (C)(i), by striking "subparagraph (B)(i)" and inserting "subparagraph (B)".

(2) MEDICAID.—Section 1902(a)(25)(A)(i) of such Act (42 U.S.C. 1396a(a)(25)(A)(i)), as amended by section 13581(b)(2) of OBRA–93, is amended by striking "including the use of" and all that follows through "any additional measures".

(3) DATA MATCHES.—Section 552a(a)(8)(B) of title 5, United States Code, as amended by section 13581(c) of OBRA–93, is amended—

(A) by adding "or" at the end of clause (v),

(B) by striking "or" at the end of clause (vi), and

(C) by striking clause (vii).

Approved October 2, 1996.

LEGISLATIVE HISTORY—H.R. 2685:

HOUSE REPORTS: No. 104–394, Pt. 1 (Comm. on Ways and Means).
CONGRESSIONAL RECORD, Vol. 142 (1996):
Mar. 12, considered and passed House.
Sept. 25, considered and passed Senate.

Public Law 104–227
104th Congress

An Act

Oct. 2, 1996
[H.R. 3060]

To implement the Protocol on Environmental Protection to the Antarctic Treaty.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Antarctic Science, Tourism, and Conservation Act of 1996.
16 USC 2401 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Antarctic Science, Tourism, and Conservation Act of 1996".

TITLE I—AMENDMENTS TO THE ANTARCTIC CONSERVATION ACT OF 1978

SEC. 101. FINDINGS AND PURPOSE.

(a) FINDINGS.—Section 2(a) of the Antarctic Conservation Act of 1978 (16 U.S.C. 2401(a)) is amended—

(1) by redesignating paragraphs (1) and (2) as paragraphs (4) and (5) respectively, and inserting before paragraph (4), as redesignated, the following:

"(1) for well over a quarter of a century, scientific investigation has been the principal activity of the Federal Government and United States nationals in Antarctica;

"(2) more recently, interest of American tourists in Antarctica has increased;

"(3) as the lead civilian agency in Antarctica, the National Science Foundation has long had responsibility for ensuring that United States scientific activities and tourism, and their supporting logistics operations, are conducted with an eye to preserving the unique values of the Antarctic region;";

(2) by striking "the Agreed Measures for the Conservation of Antarctic Fauna and Flora, adopted at the Third Antarctic Treaty Consultative Meeting, have established a firm foundation" in paragraph (4), as redesignated, and inserting "the Protocol establish a firm foundation for the conservation of Antarctic resources,";

(3) by striking paragraph (5), as redesignated, and inserting the following:

"(5) the Antarctic Treaty and the Protocol establish international mechanisms and create legal obligations necessary for the maintenance of Antarctica as a natural reserve devoted to peace and science.".

(b) PURPOSE.—Section 2(b) of such Act (16 U.S.C. 2401(b)) is amended by striking "Treaty, the Agreed Measures for the Conservation of Antarctic Fauna and Flora, and Recommendation

VII–3 of the Eighth Antarctic Treaty Consultative Meeting" and inserting "Treaty and the Protocol".

SEC. 102. DEFINITIONS.

Section 3 of the Antarctic Conservation Act of 1978 (16 U.S.C. 2402) is amended to read as follows:

"SEC. 3. DEFINITIONS.

"For purposes of this Act—

"(1) the term 'Administrator' means the Administrator of the Environmental Protection Agency;

"(2) the term 'Antarctica' means the area south of 60 degrees south latitude;

"(3) the term 'Antarctic Specially Protected Area' means an area identified as such pursuant to Annex V to the Protocol;

"(4) the term 'Director' means the Director of the National Science Foundation;

"(5) the term 'harmful interference' means—

"(A) flying or landing helicopters or other aircraft in a manner that disturbs concentrations of birds or seals;

"(B) using vehicles or vessels, including hovercraft and small boats, in a manner that disturbs concentrations of birds or seals;

"(C) using explosives or firearms in a manner that disturbs concentrations of birds or seals;

"(D) willfully disturbing breeding or molting birds or concentrations of birds or seals by persons on foot;

"(E) significantly damaging concentrations of native terrestrial plants by landing aircraft, driving vehicles, or walking on them, or by other means; and

"(F) any activity that results in the significant adverse modification of habitats of any species or population of native mammal, native bird, native plant, or native invertebrate;

"(6) the term 'historic site or monument' means any site or monument listed as an historic site or monument pursuant to Annex V to the Protocol;

"(7) the term 'impact' means impact on the Antarctic environment and dependent and associated ecosystems;

"(8) the term 'import' means to land on, bring into, or introduce into, or attempt to land on, bring into or introduce into, any place subject to the jurisdiction of the United States, including the 12-mile territorial sea of the United States, whether or not such act constitutes an importation within the meaning of the customs laws of the United States;

"(9) the term 'native bird' means any member, at any stage of its life cycle (including eggs), of any species of the class Aves which is indigenous to Antarctica or occurs there seasonally through natural migrations, and includes any part of such member;

"(10) the term 'native invertebrate' means any terrestrial or freshwater invertebrate, at any stage of its life cycle, which is indigenous to Antarctica, and includes any part of such invertebrate;

"(11) the term 'native mammal' means any member, at any stage of its life cycle, of any species of the class Mammalia, which is indigenous to Antarctica or occurs there seasonally

through natural migrations, and includes any part of such member;

"(12) the term 'native plant' means any terrestrial or freshwater vegetation, including bryophytes, lichens, fungi, and algae, at any stage of its life cycle (including seeds and other propagules), which is indigenous to Antarctica, and includes any part of such vegetation;

"(13) the term 'non-native species' means any species of animal or plant which is not indigenous to Antarctica and does not occur there seasonally through natural migrations;

"(14) the term 'person' has the meaning given that term in section 1 of title 1, United States Code, and includes any person subject to the jurisdiction of the United States and any department, agency, or other instrumentality of the Federal Government or of any State or local government;

"(15) the term 'prohibited product' means any substance banned from introduction onto land or ice shelves or into water in Antarctica pursuant to Annex III to the Protocol;

"(16) the term 'prohibited waste' means any substance which must be removed from Antarctica pursuant to Annex III to the Protocol, but does not include materials used for balloon envelopes required for scientific research and weather forecasting;

"(17) the term 'Protocol' means the Protocol on Environmental Protection to the Antarctic Treaty, signed October 4, 1991, in Madrid, and all annexes thereto, including any future amendments thereto to which the United States is a party;

"(18) the term 'Secretary' means the Secretary of Commerce;

"(19) the term 'Specially Protected Species' means any native species designated as a Specially Protected Species pursuant to Annex II to the Protocol;

"(20) the term 'take' means to kill, injure, capture, handle, or molest a native mammal or bird, or to remove or damage such quantities of native plants that their local distribution or abundance would be significantly affected;

"(21) the term 'Treaty' means the Antarctic Treaty signed in Washington, DC, on December 1, 1959;

"(22) the term 'United States' means the several States of the Union, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, and any other commonwealth, territory, or possession of the United States; and

"(23) the term 'vessel subject to the jurisdiction of the United States' includes any 'vessel of the United States' and any 'vessel subject to the jurisdiction of the United States' as those terms are defined in section 303 of the Antarctic Marine Living Resources Convention Act of 1984 (16 U.S.C. 2432).".

SEC. 103. PROHIBITED ACTS.

Section 4 of the Antarctic Conservation Act of 1978 (16 U.S.C. 2403) is amended to read as follows:

"SEC. 4. PROHIBITED ACTS.

"(a) IN GENERAL.—It is unlawful for any person—

"(1) to introduce any prohibited product onto land or ice shelves or into water in Antarctica;

"(2) to dispose of any waste onto ice-free land areas or into fresh water systems in Antarctica;

"(3) to dispose of any prohibited waste in Antarctica;

"(4) to engage in open burning of waste;

"(5) to transport passengers to, from, or within Antarctica by any seagoing vessel not required to comply with the Act to Prevent Pollution from Ships (33 U.S.C. 1901 et seq.), unless the person has an agreement with the vessel owner or operator under which the owner or operator is required to comply with Annex IV to the Protocol;

"(6) who organizes, sponsors, operates, or promotes a nongovernmental expedition to Antarctica, and who does business in the United States, to fail to notify all members of the expedition of the environmental protection obligations of this Act, and of actions which members must take, or not take, in order to comply with those obligations;

"(7) to damage, remove, or destroy a historic site or monument;

"(8) to refuse permission to any authorized officer or employee of the United States to board a vessel, vehicle, or aircraft of the United States, or subject to the jurisdiction of the United States, for the purpose of conducting any search or inspection in connection with the enforcement of this Act or any regulation promulgated or permit issued under this Act;

"(9) to forcibly assault, resist, oppose, impede, intimidate, or interfere with any authorized officer or employee of the United States in the conduct of any search or inspection described in paragraph (8);

"(10) to resist a lawful arrest or detention for any act prohibited by this section;

"(11) to interfere with, delay, or prevent, by any means, the apprehension, arrest, or detention of another person, knowing that such other person has committed any act prohibited by this section;

"(12) to violate any regulation issued under this Act, or any term or condition of any permit issued to that person under this Act; or

"(13) to attempt to commit or cause to be committed any act prohibited by this section.

"(b) ACTS PROHIBITED UNLESS AUTHORIZED BY PERMIT.—It is unlawful for any person, unless authorized by a permit issued under this Act—

"(1) to dispose of any waste in Antarctica (except as otherwise authorized by the Act to Prevent Pollution from Ships) including—

"(A) disposing of any waste from land into the sea in Antarctica; and

"(B) incinerating any waste on land or ice shelves in Antarctica, or on board vessels at points of embarcation or debarcation, other than through the use at remote field sites of incinerator toilets for human waste;

"(2) to introduce into Antarctica any member of a nonnative species;

"(3) to enter or engage in activities within any Antarctic Specially Protected Area;

"(4) to engage in any taking or harmful interference in Antarctica; or

"(5) to receive, acquire, transport, offer for sale, sell, purchase, import, export, or have custody, control, or possession of, any native bird, native mammal, or native plant which the person knows, or in the exercise of due care should have known, was taken in violation of this Act.

"(c) EXCEPTION FOR EMERGENCIES.—No act described in subsection (a)(1), (2), (3), (4), (5), (7), (12), or (13) or in subsection (b) shall be unlawful if the person committing the act reasonably believed that the act was committed under emergency circumstances involving the safety of human life or of ships, aircraft, or equipment or facilities of high value, or the protection of the environment.".

SEC. 104. ENVIRONMENTAL IMPACT ASSESSMENT.

The Antarctic Conservation Act of 1978 is amended by inserting after section 4 the following new section:

16 USC 2403a.

"SEC. 4A. ENVIRONMENTAL IMPACT ASSESSMENT.

"(a) FEDERAL ACTIVITIES.—(1)(A) The obligations of the United States under Article 8 of and Annex I to the Protocol shall be implemented by applying the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) to proposals for Federal agency activities in Antarctica, as specified in this section.

"(B) The obligations contained in section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) shall apply to all proposals for Federal agency activities occurring in Antarctica and affecting the quality of the human environment in Antarctica or dependent or associated ecosystems, only as specified in this section. For purposes of the application of such section 102(2)(C) under this subsection, the term "significantly affecting the quality of the human environment" shall have the same meaning as the term "more than a minor or transitory impact".

"(2)(A) Unless an agency which proposes to conduct a Federal activity in Antarctica determines that the activity will have less than a minor or transitory impact, or unless a comprehensive environmental evaluation is being prepared in accordance with subparagraph (C), the agency shall prepare an initial environmental evaluation in accordance with Article 2 of Annex I to the Protocol.

"(B) If the agency determines, through the preparation of the initial environmental evaluation, that the proposed Federal activity is likely to have no more than a minor or transitory impact, the activity may proceed if appropriate procedures are put in place to assess and verify the impact of the activity.

Public information.

"(C) If the agency determines, through the preparation of the initial environmental evaluation or otherwise, that a proposed Federal activity is likely to have more than a minor or transitory impact, the agency shall prepare and circulate a comprehensive environmental evaluation in accordance with Article 3 of Annex I to the Protocol, and shall make such comprehensive environmental evaluation publicly available for comment.

"(3) Any agency decision under this section on whether a proposed Federal activity, to which paragraph (2)(C) applies, should proceed, and, if so, whether in its original or in a modified form, shall be based on the comprehensive environmental evaluation as

well as other considerations which the agency, in the exercise of its discretion, considers relevant.

"(4) For the purposes of this section, the term 'Federal activity' includes all activities conducted under a Federal agency research program in Antarctica, whether or not conducted by a Federal agency.

"(b) FEDERAL ACTIVITIES CARRIED OUT JOINTLY WITH FOREIGN GOVERNMENTS.—(1) For the purposes of this subsection, the term 'Antarctic joint activity' means any Federal activity in Antarctica which is proposed to be conducted, or which is conducted, jointly or in cooperation with one or more foreign governments. Such term shall be defined in regulations promulgated by such agencies as the President may designate. Regulations.

"(2) Where the Secretary of State, in cooperation with the lead United States agency planning an Antarctic joint activity, determines that—

"(A) the major part of the joint activity is being contributed by a government or governments other than the United States;

"(B) one such government is coordinating the implementation of environmental impact assessment procedures for that activity; and

"(C) such government has signed, ratified, or acceded to the Protocol,

the requirements of subsection (a) of this section shall not apply with respect to that activity.

"(3) In all cases of Antarctic joint activity other than those described in paragraph (2), the requirements of subsection (a) of this section shall apply with respect to that activity, except as provided in paragraph (4). Applicability.

"(4) Determinations described in paragraph (2), and agency actions and decisions in connection with assessments of impacts of Antarctic joint activities, shall not be subject to judicial review.

"(c) NONGOVERNMENTAL ACTIVITIES.—(1) The Administrator shall, within 2 years after the date of the enactment of the Antarctic Science, Tourism, and Conservation Act of 1996, promulgate regulations to provide for— Regulations.

"(A) the environmental impact assessment of nongovernmental activities, including tourism, for which the United States is required to give advance notice under paragraph 5 of Article VII of the Treaty; and

"(B) coordination of the review of information regarding environmental impact assessment received from other Parties under the Protocol.

"(2) Such regulations shall be consistent with Annex I to the Protocol.

"(d) DECISION TO PROCEED.—(1) No decision shall be taken to proceed with an activity for which a comprehensive environmental evaluation is prepared under this section unless there has been an opportunity for consideration of the draft comprehensive environmental evaluation at an Antarctic Treaty Consultative Meeting, except that no decision to proceed with a proposed activity shall be delayed through the operation of this paragraph for more than 15 months from the date of circulation of the draft comprehensive environmental evaluation pursuant to Article 3(3) of Annex I to the Protocol.

"(2) The Secretary of State shall circulate the final comprehensive environmental evaluation, in accordance with Article

3(6) of Annex I to the Protocol, at least 60 days before the commencement of the activity in Antarctica.

"(e) CASES OF EMERGENCY.—The requirements of this section, and of regulations promulgated under this section, shall not apply in cases of emergency relating to the safety of human life or of ships, aircraft, or equipment and facilities of high value, or the protection of the environment, which require an activity to be undertaken without fulfilling those requirements.

"(f) EXCLUSIVE MECHANISM.—Notwithstanding any other provision of law, the requirements of this section shall constitute the sole and exclusive statutory obligations of the Federal agencies with regard to assessing the environmental impacts of proposed Federal activities occurring in Antarctica.

"(g) DECISIONS ON PERMIT APPLICATIONS.—The provisions of this section requiring environmental impact assessments (including initial environmental evaluations and comprehensive environmental evaluations) shall not apply to Federal actions with respect to issuing permits under section 5.

Federal Register, publication.

"(h) PUBLICATION OF NOTICES.—Whenever the Secretary of State makes a determination under paragraph (2) of subsection (b) of this section, or receives a draft comprehensive environmental evaluation in accordance with Annex I, Article 3(3) to the Protocol, the Secretary of State shall cause timely notice thereof to be published in the Federal Register.".

SEC. 105. PERMITS.

Section 5 of the Antarctic Conservation Act of 1978 (16 U.S.C. 2404) is amended—

(1) in subsection (a) by striking "section 4(a)" and inserting in lieu thereof "section 4(b)";

(2) in subsection (c)(1)(B) by striking "Special" and inserting in lieu thereof "Species"; and

(3) in subsection (e)—

(A) by striking "or native plants to which the permit applies," in paragraph (1)(A)(i) and inserting in lieu thereof "native plants, or native invertebrates to which the permit applies, and";

(B) by striking paragraph (1)(A)(ii) and (iii) and inserting in lieu thereof the following new clause:

"(ii) the manner in which the taking or harmful interference shall be conducted (which manner shall be determined by the Director to be humane) and the area in which it will be conducted;";

(C) by striking "within Antarctica (other than within any specially protected area)" in paragraph (2)(A) and inserting in lieu thereof "or harmful interference within Antarctica";

(D) by striking "specially protected species" in paragraph (2)(A) and (B) and inserting in lieu thereof "Specially Protected Species";

(E) by striking "; and" at the end of paragraph (2)(A)(i)(II) and inserting in lieu thereof ", or";

(F) by adding after paragraph (2)(A)(i)(II) the following new subclause:

"(III) for unavoidable consequences of scientific activities or the construction and operation of scientific support facilities; and";

(G) by striking "with Antarctica and" in paragraph (2)(A)(ii)(II) and inserting in lieu thereof "within Antarctica are"; and

(H) by striking subparagraphs (C) and (D) of paragraph (2) and inserting in lieu thereof the following new subparagraph:

"(C) A permit authorizing the entry into an Antarctic Specially Protected Area shall be issued only—

"(i) if the entry is consistent with an approved management plan, or

"(ii) if a management plan relating to the area has not been approved but—

"(I) there is a compelling purpose for such entry which cannot be served elsewhere, and

"(II) the actions allowed under the permit will not jeopardize the natural ecological system existing in such area.".

SEC. 106. REGULATIONS.

Section 6 of the Antarctic Conservation Act of 1978 (16 U.S.C. 2405) is amended to read as follows:

"SEC. 6. REGULATIONS.

"(a) REGULATIONS TO BE ISSUED BY THE DIRECTOR.—(1) The Director shall issue such regulations as are necessary and appropriate to implement Annex II and Annex V to the Protocol and the provisions of this Act which implement those annexes, including section 4(b)(2), (3), (4), and (5) of this Act. The Director shall designate as native species—

"(A) each species of the class Aves;

"(B) each species of the class Mammalia; and

"(C) each species of plant,

which is indigenous to Antarctica or which occurs there seasonally through natural migrations.

"(2) The Director, with the concurrence of the Administrator, shall issue such regulations as are necessary and appropriate to implement Annex III to the Protocol and the provisions of this Act which implement that Annex, including section 4(a)(1), (2), (3), and (4), and section 4(b)(1) of this Act.

"(3) The Director shall issue such regulations as are necessary and appropriate to implement Article 15 of the Protocol with respect to land areas and ice shelves in Antarctica.

"(4) The Director shall issue such additional regulations as are necessary and appropriate to implement the Protocol and this Act, except as provided in subsection (b).

"(b) REGULATIONS TO BE ISSUED BY THE SECRETARY OF THE DEPARTMENT IN WHICH THE COAST GUARD IS OPERATING.—The Secretary of the Department in which the Coast Guard is operating shall issue such regulations as are necessary and appropriate, in addition to regulations issued under the Act to Prevent Pollution from Ships (33 U.S.C. 1901 et seq.), to implement Annex IV to the Protocol and the provisions of this Act which implement that Annex, and, with the concurrence of the Director, such regulations as are necessary and appropriate to implement Article 15 of the Protocol with respect to vessels.

"(c) TIME PERIOD FOR REGULATIONS.—The regulations to be issued under subsection (a)(1) and (2) of this section shall be issued within 2 years after the date of the enactment of the Antarctic

Science, Tourism, and Conservation Act of 1996. The regulations to be issued under subsection (a)(3) of this section shall be issued within 3 years after the date of the enactment of the Antarctic Science, Tourism, and Conservation Act of 1996.".

SEC. 107. SAVING PROVISIONS.

16 USC 2413.

Section 14 of the Antarctic Conservation Act of 1978 is amended to read as follows:

"SEC. 14. SAVING PROVISIONS.

"(a) REGULATIONS.—All regulations promulgated under this Act prior to the date of the enactment of the Antarctic Science, Tourism, and Conservation Act of 1996 shall remain in effect until superseding regulations are promulgated under section 6.

"(b) PERMITS.—All permits issued under this Act shall remain in effect until they expire in accordance with the terms of those permits.".

TITLE II—CONFORMING AMENDMENTS TO OTHER LAWS

SEC. 201. AMENDMENTS TO ACT TO PREVENT POLLUTION FROM SHIPS.

(a) DEFINITIONS.—Section 2 of the Act to Prevent Pollution from Ships (33 U.S.C. 1901) is amended—

(1) by redesignating paragraphs (1) through (10) of subsection (a) as paragraphs (3) through (12), respectively;

(2) by inserting before paragraph (3), as so redesignated by paragraph (1) of this subsection, the following new paragraphs:

"(1) 'Antarctica' means the area south of 60 degrees south latitude;

"(2) 'Antarctic Protocol' means the Protocol on Environmental Protection to the Antarctic Treaty, signed October 4, 1991, in Madrid, and all annexes thereto, and includes any future amendments thereto which have entered into force;"; and

(3) by adding at the end the following new subsection:

"(c) For the purposes of this Act, the requirements of Annex IV to the Antarctic Protocol shall apply in Antarctica to all vessels over which the United States has jurisdiction.".

(b) APPLICATION OF ACT.—Section 3(b)(1)(B) of the Act to Prevent Pollution from Ships (33 U.S.C. 1902(b)(1)(B)) is amended by inserting "or the Antarctic Protocol" after "MARPOL Protocol".

(c) ADMINISTRATION.—Section 4 of the Act to Prevent Pollution from Ships (33 U.S.C. 1903) is amended—

(1) by inserting ", Annex IV to the Antarctic Protocol," after "the MARPOL Protocol" in the first sentence of subsection (a);

(2) in subsection (b)(1) by inserting ", Annex IV to the Antarctic Protocol," after "the MARPOL Protocol";

(3) in subsection (b)(2)(A) by striking "within 1 year after the effective date of this paragraph,"; and

(4) in subsection (b)(2)(A)(i) by inserting "and of Annex IV to the Antarctic Protocol" after "the Convention".

(d) POLLUTION RECEPTION FACILITIES.—Section 6 of the Act to Prevent Pollution from Ships (33 U.S.C. 1905) is amended—

(1) in subsection (b) by inserting "or the Antarctic Protocol" after "the MARPOL Protocol";

(2) in subsection (e)(1) by inserting "or the Antarctic Protocol" after "the Convention";

(3) in subsection (e)(1)(A) by inserting "or Article 9 of Annex IV to the Antarctic Protocol" after "the Convention"; and

(4) in subsection (f) by inserting "or the Antarctic Protocol" after "the MARPOL Protocol".

(e) VIOLATIONS.—Section 8 of the Act to Prevent Pollution from Ships (33 U.S.C. 1907) is amended—

(1) in the first sentence of subsection (a) by inserting "Annex IV to the Antarctic Protocol," after "MARPOL Protocol,";

(2) in the second sentence of subsection (a)—

(A) by inserting "or to the Antarctic Protocol" after "to the MARPOL Protocol"; and

(B) by inserting "and Annex IV to the Antarctic Protocol" after "of the MARPOL Protocol";

(3) in subsection (b) by inserting "or the Antarctic Protocol" after "MARPOL Protocol" both places it appears;

(4) in subsection (c)(1) by inserting ", of Article 3 or Article 4 of Annex IV to the Antarctic Protocol," after "to the Convention";

(5) in subsection (c)(2) by inserting "or the Antarctic Protocol" after "which the MARPOL Protocol";

(6) in subsection (c)(2)(A) by inserting ", Annex IV to the Antarctic Protocol," after "MARPOL Protocol";

(7) in subsection (c)(2)(B)—

(A) by inserting "or the Antarctic Protocol" after "to the MARPOL Protocol"; and

(B) by inserting "or Annex IV to the Antarctic Protocol" after "of the MARPOL Protocol";

(8) in subsection (d)(1) by inserting ", Article 5 of Annex IV to the Antarctic Protocol," after "Convention";

(9) in subsection (e)(1)—

(A) by inserting "or the Antarctic Protocol" after "MARPOL Protocol"; and

(B) by striking "that Protocol" and inserting in lieu thereof "those Protocols"; and

(10) in subsection (e)(2) by inserting ", of Annex IV to the Antarctic Protocol," after "MARPOL Protocol".

(f) PENALTIES.—Section 9 of the Act to Prevent Pollution from Ships (33 U.S.C. 1908) is amended—

(1) in subsection (a) by inserting ", Annex IV to the Antarctic Protocol," after "MARPOL Protocol,";

(2) in subsection (b)(1) by inserting ", Annex IV to the Antarctic Protocol," after "MARPOL Protocol,";

(3) in subsection (b)(2) by inserting ", Annex IV to the Antarctic Protocol," after "MARPOL Protocol,";

(4) in subsection (d) by inserting ", Annex IV to the Antarctic Protocol," after "MARPOL Protocol,";

(5) in subsection (e) by inserting ", Annex IV to the Antarctic Protocol," after "MARPOL Protocol"; and

(6) in subsection (f) by inserting "or the Antarctic Protocol" after "MARPOL Protocol" both places it appears.

SEC. 202. PROHIBITION OF CERTAIN ANTARCTIC RESOURCE ACTIVITIES.

(a) AGREEMENT OR LEGISLATION REQUIRED.—Section 4 of the Antarctic Protection Act of 1990 (16 U.S.C. 2463) is amended by striking "Pending a new agreement among the Antarctic Treaty Consultative Parties in force for the United States, to which the Senate has given advice and consent or which is authorized by further legislation by the Congress, which provides an indefinite ban on Antarctic mineral resource activities, it" and inserting in lieu thereof "It".

(b) REPEALS.—Sections 5 and 7 of such Act (16 U.S.C. 2464 and 2466) are repealed.

(c) REDESIGNATION.—Section 6 of such Act (16 U.S.C. 2465) is redesignated as section 5.

TITLE III—POLAR RESEARCH AND POLICY STUDY

Reports.

SEC. 301. POLAR RESEARCH AND POLICY STUDY.

Not later than March 1, 1997, the National Science Foundation shall provide a detailed report to the Congress on—

(1) the status of the implementation of the Arctic Environmental Protection Strategy and Federal funds being used for that purpose;

(2) all of the Federal programs relating to Arctic and Antarctic research and the total amount of funds expended annually for each such program, including—

(A) a comparison of the funding for logistical support in the Arctic and Antarctic;

(B) a comparison of the funding for research in the Arctic and Antarctic;

(C) a comparison of any other amounts being spent on Arctic and Antarctic programs; and

(D) an assessment of the actions taken to implement the recommendations of the Arctic Research Commission with respect to the use of such funds for research and logistical support in the Arctic.

Approved October 2, 1996.

LEGISLATIVE HISTORY—H.R. 3060 (S. 1645):

HOUSE REPORTS: No. 104–593, Pt. 1 (Comm. on Science).
SENATE REPORTS: No. 104–332 accompanying S. 1645 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 142 (1996):
June 10, considered and passed House.
Sept. 4, considered and passed Senate, amended, in lieu of S. 1645.
Sept. 10, House concurred in Senate amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 32 (1996):
Oct. 2, Presidential statement.

Public Law 104–228
104th Congress

An Act

To designate the Federal building located at 1655 Woodson Road in Overland, Missouri, as the "Sammy L. Davis Federal Building".

Oct. 2, 1996
[H.R. 3816]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Federal building located at 1655 Woodson Road in Overland, Missouri, shall be known and designated as the "Sammy L. Davis Federal Building".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in section 1 shall be deemed to be a reference to the "Sammy L. Davis Federal Building".

Approved October 2, 1996.

LEGISLATIVE HISTORY—H.R. 3186:

HOUSE REPORTS: No. 104–609 (Comm. on Transportation and Infrastructure).
CONGRESSIONAL RECORD, Vol. 142 (1996):
June 10, considered and passed House.
Sept. 24, considered and passed Senate.

Public Law 104–229
104th Congress

An Act

Oct. 2, 1996
[H.R. 3400]

To designate the Federal building and United States courthouse to be constructed at a site on 18th Street between Dodge and Douglas Streets in Omaha, Nebraska, as the "Roman L. Hruska Federal Building and United States Courthouse".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Federal building and United States courthouse to be constructed at a site on 18th Street between Dodge and Douglas Streets in Omaha, Nebraska, shall be known and designated as the "Roman L. Hruska Federal Building and United States Courthouse".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building and United States courthouse referred to in section 1 shall be deemed to be a reference to the "Roman L. Hruska Federal Building and United States Courthouse".

Approved October 2, 1996.

LEGISLATIVE HISTORY—H.R. 3400:

HOUSE REPORTS: No. 104–610 (Comm. on Transportation and Infrastructure).
CONGRESSIONAL RECORD, Vol. 142 (1996):
June 10, considered and passed House.
Sept. 24, considered and passed Senate.

Public Law 104–230
104th Congress

An Act

To designate the United States courthouse under construction at 611 North Florida Avenue in Tampa, Florida, as the "Sam M. Gibbons United States Courthouse".

Oct. 2, 1996
[H.R. 3710]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The United States courthouse under construction at 611 North Florida Avenue in Tampa, Florida, shall be known and designated as the "Sam M. Gibbons United States Courthouse".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States courthouse referred to in section 1 shall be deemed to be a reference to the "Sam M. Gibbons United States Courthouse".

SEC. 3. EFFECTIVE DATE.

This Act shall become effective on January 3, 1997.

Approved October 2, 1996.

LEGISLATIVE HISTORY—H.R. 3710 (S. 1977):

CONGRESSIONAL RECORD, Vol. 142 (1996):
Aug. 2, considered and passed House.
Sept. 24, considered and passed Senate.

Public Law 104–231
104th Congress

An Act

Oct. 2, 1996
[H.R. 3802]

To amend section 552 of title 5, United States Code, popularly known as the Freedom of Information Act, to provide for public access to information in an electronic format, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Electronic Freedom of Information Act Amendments of 1996.
Records.
5 USC 552 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Electronic Freedom of Information Act Amendments of 1996".

5 USC 552 note.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the purpose of section 552 of title 5, United States Code, popularly known as the Freedom of Information Act, is to require agencies of the Federal Government to make certain agency information available for public inspection and copying and to establish and enable enforcement of the right of any person to obtain access to the records of such agencies, subject to statutory exemptions, for any public or private purpose;

(2) since the enactment of the Freedom of Information Act in 1966, and the amendments enacted in 1974 and 1986, the Freedom of Information Act has been a valuable means through which any person can learn how the Federal Government operates;

(3) the Freedom of Information Act has led to the disclosure of waste, fraud, abuse, and wrongdoing in the Federal Government;

(4) the Freedom of Information Act has led to the identification of unsafe consumer products, harmful drugs, and serious health hazards;

(5) Government agencies increasingly use computers to conduct agency business and to store publicly valuable agency records and information; and

(6) Government agencies should use new technology to enhance public access to agency records and information.

(b) PURPOSES.—The purposes of this Act are to—

(1) foster democracy by ensuring public access to agency records and information;

(2) improve public access to agency records and information;

(3) ensure agency compliance with statutory time limits; and

(4) maximize the usefulness of agency records and information collected, maintained, used, retained, and disseminated by the Federal Government.

SEC. 3. APPLICATION OF REQUIREMENTS TO ELECTRONIC FORMAT INFORMATION.

Section 552(f) of title 5, United States Code, is amended to read as follows:

"(f) For purposes of this section, the term—

"(1) 'agency' as defined in section 551(1) of this title includes any executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency; and

"(2) 'record' and any other term used in this section in reference to information includes any information that would be an agency record subject to the requirements of this section when maintained by an agency in any format, including an electronic format.".

SEC. 4. INFORMATION MADE AVAILABLE IN ELECTRONIC FORMAT AND INDEXATION OF RECORDS.

Section 552(a)(2) of title 5, United States Code, is amended—

(1) in the second sentence, by striking "or staff manual or instruction" and inserting "staff manual, instruction, or copies of records referred to in subparagraph (D)";

(2) by inserting before the period at the end of the third sentence the following: ", and the extent of such deletion shall be indicated on the portion of the record which is made available or published, unless including that indication would harm an interest protected by the exemption in subsection (b) under which the deletion is made";

(3) by inserting after the third sentence the following: "If technically feasible, the extent of the deletion shall be indicated at the place in the record where the deletion was made.";

(4) in subparagraph (B), by striking "and" after the semicolon;

(5) by inserting after subparagraph (C) the following:

"(D) copies of all records, regardless of form or format, which have been released to any person under paragraph (3) and which, because of the nature of their subject matter, the agency determines have become or are likely to become the subject of subsequent requests for substantially the same records; and

"(E) a general index of the records referred to under subparagraph (D);";

(6) by inserting after the fifth sentence the following: "Each agency shall make the index referred to in subparagraph (E) available by computer telecommunications by December 31, 1999."; and

Availability date.

(7) by inserting after the first sentence the following: "For records created on or after November 1, 1996, within one year after such date, each agency shall make such records available, including by computer telecommunications or, if computer telecommunications means have not been established by the agency, by other electronic means.".

Availability date.

SEC. 5. HONORING FORM OR FORMAT REQUESTS.

Section 552(a)(3) of title 5, United States Code, is amended—

(1) by inserting "(A)" after "(3)";

(2) by striking "(A)" the second place it appears and inserting "(i)";

(3) by striking "(B)" and inserting "(ii)"; and

(4) by adding at the end the following new subparagraphs:

"(B) In making any record available to a person under this paragraph, an agency shall provide the record in any form or format requested by the person if the record is readily reproducible by the agency in that form or format. Each agency shall make reasonable efforts to maintain its records in forms or formats that are reproducible for purposes of this section.

"(C) In responding under this paragraph to a request for records, an agency shall make reasonable efforts to search for the records in electronic form or format, except when such efforts would significantly interfere with the operation of the agency's automated information system.

"(D) For purposes of this paragraph, the term 'search' means to review, manually or by automated means, agency records for the purpose of locating those records which are responsive to a request.".

SEC. 6. STANDARD FOR JUDICIAL REVIEW.

Section 552(a)(4)(B) of title 5, United States Code, is amended by adding at the end the following new sentence: "In addition to any other matters to which a court accords substantial weight, a court shall accord substantial weight to an affidavit of an agency concerning the agency's determination as to technical feasibility under paragraph (2)(C) and subsection (b) and reproducibility under paragraph (3)(B).".

SEC. 7. ENSURING TIMELY RESPONSE TO REQUESTS.

(a) MULTITRACK PROCESSING.—Section 552(a)(6) of title 5, United States Code, is amended by adding at the end the following new subparagraph:

"(D)(i) Each agency may promulgate regulations, pursuant to notice and receipt of public comment, providing for multitrack processing of requests for records based on the amount of work or time (or both) involved in processing requests.

"(ii) Regulations under this subparagraph may provide a person making a request that does not qualify for the fastest multitrack processing an opportunity to limit the scope of the request in order to qualify for faster processing.

"(iii) This subparagraph shall not be considered to affect the requirement under subparagraph (C) to exercise due diligence.".

(b) UNUSUAL CIRCUMSTANCES.—Section 552(a)(6)(B) of title 5, United States Code, is amended to read as follows:

"(B)(i) In unusual circumstances as specified in this subparagraph, the time limits prescribed in either clause (i) or clause (ii) of subparagraph (A) may be extended by written notice to the person making such request setting forth the unusual circumstances for such extension and the date on which a determination is expected to be dispatched. No such notice shall specify a date that would result in an extension for more than ten working days, except as provided in clause (ii) of this subparagraph.

"(ii) With respect to a request for which a written notice under clause (i) extends the time limits prescribed under clause (i) of subparagraph (A), the agency shall notify the person making the request if the request cannot be processed within the time limit specified in that clause and shall provide the person an opportunity to limit the scope of the request so that it may be processed within that time limit or an opportunity to arrange with the agency an alternative time frame for processing the request or a modified request. Refusal by the person to reasonably modify the request or arrange such an alternative time frame shall be considered as a factor in determining whether exceptional circumstances exist for purposes of subparagraph (C). Notification.

"(iii) As used in this subparagraph, 'unusual circumstances' means, but only to the extent reasonably necessary to the proper processing of the particular requests—

"(I) the need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;

"(II) the need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

"(III) the need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the agency having substantial subject-matter interest therein.

"(iv) Each agency may promulgate regulations, pursuant to notice and receipt of public comment, providing for the aggregation of certain requests by the same requestor, or by a group of requestors acting in concert, if the agency reasonably believes that such requests actually constitute a single request, which would otherwise satisfy the unusual circumstances specified in this subparagraph, and the requests involve clearly related matters. Multiple requests involving unrelated matters shall not be aggregated.".

(c) EXCEPTIONAL CIRCUMSTANCES.—Section 552(a)(6)(C) of title 5, United States Code, is amended by inserting "(i)" after "(C)", and by adding at the end the following new clauses:

"(ii) For purposes of this subparagraph, the term 'exceptional circumstances' does not include a delay that results from a predictable agency workload of requests under this section, unless the agency demonstrates reasonable progress in reducing its backlog of pending requests.

"(iii) Refusal by a person to reasonably modify the scope of a request or arrange an alternative time frame for processing a request (or a modified request) under clause (ii) after being given an opportunity to do so by the agency to whom the person made the request shall be considered as a factor in determining whether exceptional circumstances exist for purposes of this subparagraph.".

SEC. 8. TIME PERIOD FOR AGENCY CONSIDERATION OF REQUESTS.

(a) EXPEDITED PROCESSING.—Section 552(a)(6) of title 5, United States Code (as amended by section 7(a) of this Act), is further amended by adding at the end the following new subparagraph:

"(E)(i) Each agency shall promulgate regulations, pursuant to notice and receipt of public comment, providing for expedited processing of requests for records— Regulations.

"(I) in cases in which the person requesting the records demonstrates a compelling need; and

"(II) in other cases determined by the agency.

"(ii) Notwithstanding clause (i), regulations under this subparagraph must ensure—

Notification.

"(I) that a determination of whether to provide expedited processing shall be made, and notice of the determination shall be provided to the person making the request, within 10 days after the date of the request; and

"(II) expeditious consideration of administrative appeals of such determinations of whether to provide expedited processing.

"(iii) An agency shall process as soon as practicable any request for records to which the agency has granted expedited processing under this subparagraph. Agency action to deny or affirm denial of a request for expedited processing pursuant to this subparagraph, and failure by an agency to respond in a timely manner to such a request shall be subject to judicial review under paragraph (4), except that the judicial review shall be based on the record before the agency at the time of the determination.

Courts.

"(iv) A district court of the United States shall not have jurisdiction to review an agency denial of expedited processing of a request for records after the agency has provided a complete response to the request.

"(v) For purposes of this subparagraph, the term 'compelling need' means—

"(I) that a failure to obtain requested records on an expedited basis under this paragraph could reasonably be expected to pose an imminent threat to the life or physical safety of an individual; or

"(II) with respect to a request made by a person primarily engaged in disseminating information, urgency to inform the public concerning actual or alleged Federal Government activity.

Certification.

"(vi) A demonstration of a compelling need by a person making a request for expedited processing shall be made by a statement certified by such person to be true and correct to the best of such person's knowledge and belief.".

(b) EXTENSION OF GENERAL PERIOD FOR DETERMINING WHETHER TO COMPLY WITH A REQUEST.—Section 552(a)(6)(A)(i) of title 5, United States Code, is amended by striking "ten days" and inserting "20 days".

(c) ESTIMATION OF MATTER DENIED.—Section 552(a)(6) of title 5, United States Code (as amended by section 7 of this Act and subsection (a) of this section), is further amended by adding at the end the following new subparagraph:

"(F) In denying a request for records, in whole or in part, an agency shall make a reasonable effort to estimate the volume of any requested matter the provision of which is denied, and shall provide any such estimate to the person making the request, unless providing such estimate would harm an interest protected by the exemption in subsection (b) pursuant to which the denial is made.".

SEC. 9. COMPUTER REDACTION.

Section 552(b) of title 5, United States Code, is amended in the matter following paragraph (9) by inserting after the period

the following: "The amount of information deleted shall be indicated on the released portion of the record, unless including that indication would harm an interest protected by the exemption in this subsection under which the deletion is made. If technically feasible, the amount of the information deleted shall be indicated at the place in the record where such deletion is made.".

SEC. 10. REPORT TO THE CONGRESS.

Section 552(e) of title 5, United States Code, is amended to read as follows:

"(e)(1) On or before February 1 of each year, each agency shall submit to the Attorney General of the United States a report which shall cover the preceding fiscal year and which shall include—

"(A) the number of determinations made by the agency not to comply with requests for records made to such agency under subsection (a) and the reasons for each such determination;

"(B)(i) the number of appeals made by persons under subsection (a)(6), the result of such appeals, and the reason for the action upon each appeal that results in a denial of information; and

"(ii) a complete list of all statutes that the agency relies upon to authorize the agency to withhold information under subsection (b)(3), a description of whether a court has upheld the decision of the agency to withhold information under each such statute, and a concise description of the scope of any information withheld; Lists.

"(C) the number of requests for records pending before the agency as of September 30 of the preceding year, and the median number of days that such requests had been pending before the agency as of that date;

"(D) the number of requests for records received by the agency and the number of requests which the agency processed;

"(E) the median number of days taken by the agency to process different types of requests;

"(F) the total amount of fees collected by the agency for processing requests; and

"(G) the number of full-time staff of the agency devoted to processing requests for records under this section, and the total amount expended by the agency for processing such requests.

"(2) Each agency shall make each such report available to the public including by computer telecommunications, or if computer telecommunications means have not been established by the agency, by other electronic means.

"(3) The Attorney General of the United States shall make each report which has been made available by electronic means available at a single electronic access point. The Attorney General of the United States shall notify the Chairman and ranking minority member of the Committee on Government Reform and Oversight of the House of Representatives and the Chairman and ranking minority member of the Committees on Governmental Affairs and the Judiciary of the Senate, no later than April 1 of the year in which each such report is issued, that such reports are available by electronic means. Notification.

"(4) The Attorney General of the United States, in consultation with the Director of the Office of Management and Budget, shall Guidelines.

develop reporting and performance guidelines in connection with reports required by this subsection by October 1, 1997, and may establish additional requirements for such reports as the Attorney General determines may be useful.

Lists.

"(5) The Attorney General of the United States shall submit an annual report on or before April 1 of each calendar year which shall include for the prior calendar year a listing of the number of cases arising under this section, the exemption involved in each case, the disposition of such case, and the cost, fees, and penalties assessed under subparagraphs (E), (F), and (G) of subsection (a)(4). Such report shall also include a description of the efforts undertaken by the Department of Justice to encourage agency compliance with this section.".

SEC. 11. REFERENCE MATERIALS AND GUIDES.

Section 552 of title 5, United States Code, is amended by adding after subsection (f) the following new subsection:

"(g) The head of each agency shall prepare and make publicly available upon request, reference material or a guide for requesting records or information from the agency, subject to the exemptions in subsection (b), including—

"(1) an index of all major information systems of the agency;

"(2) a description of major information and record locator systems maintained by the agency; and

"(3) a handbook for obtaining various types and categories of public information from the agency pursuant to chapter 35 of title 44, and under this section.".

5 USC 552 note.

SEC. 12. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), this Act shall take effect 180 days after the date of the enactment of this Act.

(b) PROVISIONS EFFECTIVE ON ENACTMENT.—Sections 7 and 8 shall take effect one year after the date of the enactment of this Act.

Approved October 2, 1996.

LEGISLATIVE HISTORY—H.R. 3802 (S. 1090):

HOUSE REPORTS: No. 104–795 (Comm. on Government Reform and Oversight).
SENATE REPORTS: No. 104–272 accompanying S. 1090 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 142 (1996):
Sept. 17, considered and passed House.
Sept. 18, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 32 (1996):
Oct. 2, Presidential statement.

Public Law 104–232
104th Congress

An Act

To provide for the extension of the Parole Commission to oversee cases of prisoners sentenced under prior law, to reduce the size of the Parole Commission, and for other purposes.

Oct. 2, 1996
[S. 1507]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Parole Commission Phaseout Act of 1996.
18 USC 4201 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Parole Commission Phaseout Act of 1996".

18 USC 4201 note.

SEC. 2. EXTENSION OF PAROLE COMMISSION.

(a) IN GENERAL.—For purposes of section 235(b) of the Sentencing Reform Act of 1984 (98 Stat. 2032) as it related to chapter 311 of title 18, United States Code, and the Parole Commission, each reference in such section to "ten years" or "ten-year period" shall be deemed to be a reference to "fifteen years" or "fifteen-year period", respectively.

(b) POWERS AND DUTIES OF PAROLE COMMISSION.—Notwithstanding section 4203 of title 18, United States Code, the United States Parole Commission may perform its functions with any quorum of Commissioners, or Commissioner, as the Commission may prescribe by regulation.

(c) REDUCTION IN SIZE.— Effective dates.

(1) Effective December 31, 1999, the total number of Commissioners of the United States Parole Commission shall not be greater than 2. To the extent necessary to achieve this reduction, the Commissioner or Commissioners least senior in service shall cease to hold office.

(2) Effective December 31, 2001, the United States Parole Commission shall consist only of that Commissioner who is the Chairman of the Commission.

(3) Effective when the Commission consists of only one Commissioner—

(A) that Commissioner (or in the Commissioner's absence, the Attorney General) may delegate to one or more hearing examiners the powers set forth in paragraphs (1) through (4) of section 4203(b) of title 18, United States Code; and

(B) decisions made pursuant to such delegation shall take effect when made, but shall be subject to review and modification by the Commissioner.

18 USC 4201 note.

SEC. 3. REPORTS BY THE ATTORNEY GENERAL.

(a) IN GENERAL.—Beginning in the year 1998, the Attorney General shall report to the Congress not later than May 1 of each year through the year 2002 on the status of the United States Parole Commission. Unless the Attorney General, in such report, certifies that the continuation of the Commission is the most effective and cost-efficient manner for carrying out the Commission's functions, the Attorney General shall include in such report an alternative plan for a transfer of the Commission's functions to another entity.

Effective dates.

(b) TRANSFER WITHIN THE DEPARTMENT OF JUSTICE.—

(1) EFFECT OF PLAN.—If the Attorney General includes such a plan in the report, and that plan provides for the transfer of the Commission's functions and powers to another entity within the Department of Justice, such plan shall take effect according to its terms on November 1 of that year in which the report is made, unless Congress by law provides otherwise. In the event such plan takes effect, all laws pertaining to the authority and jurisdiction of the Commission with respect to individual offenders shall remain in effect notwithstanding the expiration of the period specified in section 2 of this Act.

18 USC 3551 note.

(2) CONDITIONAL REPEAL.—Effective on the date such plan takes effect, paragraphs (3) and (4) of section 235(b) of the Sentencing Reform Act of 1984 (98 Stat. 2032) are repealed.

18 USC 3551 note.

SEC. 4. REPEAL.

Section 235(b)(2) of the Sentencing Reform Act of 1984 (98 Stat. 2032) is repealed.

Approved October 2, 1996.

LEGISLATIVE HISTORY—S. 1507:

SENATE REPORTS: No. 104–789 (Comm. on the Judiciary).
CONGRESSIONAL RECORD:
Vol. 141 (1995): Dec. 22, considered and passed Senate.
Vol. 142 (1996): Sept. 17, considered and passed House, amended.
Sept. 20, Senate concurred in House amendment.

Public Law 104–233
104th Congress

An Act

To reauthorize the Indian Environmental General Assistance Program Act of 1992, and for other purposes.

Oct. 2, 1996
[S. 1834]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REAUTHORIZATION.

Section 502(h) of the Indian Environmental General Assistance Program Act of 1992 (42 U.S.C. 4368b(h)) is amended by striking "$15,000,000" and inserting "such sums as may be necessary".

Approved October 2, 1996.

LEGISLATIVE HISTORY—S. 1834:

SENATE REPORTS: No. 104–338 (Comm. on Indian Affairs).
CONGRESSIONAL RECORD, Vol. 142 (1996):
Aug. 2, considered and passed Senate.
Sept. 25, considered and passed House.

Public Law 104–234
104th Congress

An Act

Oct. 2, 1996
[H.R. 3074]

To amend the United States-Israel Free Trade Area Implementation Act of 1985 to provide the President with additional proclamation authority with respect to articles of the West Bank or Gaza Strip or a qualifying industrial zone.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ADDITIONAL PROCLAMATION AUTHORITY.

The United States-Israel Free Trade Area Implementation Act of 1985 (19 U.S.C. 2112 note) is amended by adding at the end the following new section:

"SEC. 9. ADDITIONAL PROCLAMATION AUTHORITY.

"(a) ELIMINATION OR MODIFICATIONS OF DUTIES.—The President is authorized to proclaim elimination or modification of any existing duty as the President determines is necessary to exempt any article from duty if—

"(1) that article is wholly the growth, product, or manufacture of the West Bank, the Gaza Strip, or a qualifying industrial zone or is a new or different article of commerce that has been grown, produced, or manufactured in the West Bank, the Gaza Strip, or a qualifying industrial zone;

"(2) that article is imported directly from the West Bank, the Gaza Strip, Israel, or a qualifying industrial zone; and

"(3) the sum of—

"(A) the cost or value of the materials produced in the West Bank, the Gaza Strip, Israel, or a qualifying industrial zone, plus

"(B) the direct costs of processing operations performed in the West Bank, the Gaza Strip, Israel, or a qualifying industrial zone,

is not less than 35 percent of the appraised value of the product at the time it is entered into the United States.

For purposes of determining the 35 percent content requirement contained in paragraph (3), the cost or value of materials which are used in the production of an article in the West Bank, the Gaza Strip, or a qualifying industrial zone, and are the products of the United States, may be counted in an amount up to 15 percent of the appraised value of the article.

"(b) APPLICABILITY OF CERTAIN PROVISIONS OF THE AGREEMENT.—

"(1) NONQUALIFYING OPERATIONS.—No article shall be considered a new or different article of commerce under this section, and no material shall be included for purposes of deter-

mining the 35 percent requirement of subsection (a)(3), by virtue of having merely undergone—

"(A) simple combining or packaging operations, or

"(B) mere dilution with water or with another substance that does not materially alter the characteristics of the article or material.

"(2) REQUIREMENTS FOR NEW OR DIFFERENT ARTICLE OF COMMERCE.—For purposes of subsection (a)(1), an article is a 'new or different article of commerce' if it is substantially transformed into an article having a new name, character, or use.

"(3) COST OR VALUE OF MATERIALS.—(A) For purposes of this section, the cost or value of materials produced in the West Bank, the Gaza Strip, or a qualifying industrial zone includes—

"(i) the manufacturer's actual cost for the materials;

"(ii) when not included in the manufacturer's actual cost for the materials, the freight, insurance, packing, and all other costs incurred in transporting the materials to the manufacturer's plant;

"(iii) the actual cost of waste or spoilage, less the value of recoverable scrap; and

"(iv) taxes or duties imposed on the materials by the West Bank, the Gaza Strip, or a qualifying industrial zone, if such taxes or duties are not remitted on exportation.

"(B) If a material is provided to the manufacturer without charge, or at less than fair market value, its cost or value shall be determined by computing the sum of—

"(i) all expenses incurred in the growth, production, or manufacture of the material, including general expenses;

"(ii) an amount for profit; and

"(iii) freight, insurance, packing, and all other costs incurred in transporting the material to the manufacturer's plant.

If the information necessary to compute the cost or value of a material is not available, the Customs Service may ascertain or estimate the value thereof using all reasonable methods.

"(4) DIRECT COSTS OF PROCESSING OPERATIONS.—(A) For purposes of this section, the 'direct costs of processing operations performed in the West Bank, Gaza Strip, or a qualifying industrial zone' with respect to an article are those costs either directly incurred in, or which can be reasonably allocated to, the growth, production, manufacture, or assembly, of that article. Such costs include, but are not limited to, the following to the extent that they are includible in the appraised value of articles imported into the United States:

"(i) All actual labor costs involved in the growth, production, manufacture, or assembly of the article, including fringe benefits, on-the-job training, and costs of engineering, supervisory, quality control, and similar personnel.

"(ii) Dies, molds, tooling, and depreciation on machinery and equipment which are allocable to the article.

"(iii) Research, development, design, engineering, and blueprint costs insofar as they are allocable to the article.

"(iv) Costs of inspecting and testing the article.

"(B) Those items that are not included as direct costs of processing operations with respect to an article are those which are not directly attributable to the article or are not costs of manufacturing the article. Such items include, but are not limited to—

"(i) profit; and

"(ii) general expenses of doing business which are either not allocable to the article or are not related to the growth, production, manufacture, or assembly of the article, such as administrative salaries, casualty and liability insurance, advertising, and salesmen's salaries, commissions, or expenses.

"(5) IMPORTED DIRECTLY.—For purposes of this section—

"(A) articles are 'imported directly' if—

"(i) the articles are shipped directly from the West Bank, the Gaza Strip, a qualifying industrial zone, or Israel into the United States without passing through the territory of any intermediate country; or

"(ii) if shipment is through the territory of an intermediate country, the articles in the shipment do not enter into the commerce of any intermediate country and the invoices, bills of lading, and other shipping documents specify the United States as the final destination; or

"(B) if articles are shipped through an intermediate country and the invoices and other documents do not specify the United States as the final destination, then the articles in the shipment, upon arrival in the United States, are imported directly only if they—

"(i) remain under the control of the customs authority in an intermediate country;

"(ii) do not enter into the commerce of an intermediate country except for the purpose of a sale other than at retail, but only if the articles are imported as a result of the original commercial transactions between the importer and the producer or the producer's sales agent; and

"(iii) have not been subjected to operations other than loading, unloading, or other activities necessary to preserve the article in good condition.

"(6) DOCUMENTATION REQUIRED.—An article is eligible for the duty exemption under this section only if—

"(A) the importer certifies that the article meets the conditions for the duty exemption; and

"(B) when requested by the Customs Service, the importer, manufacturer, or exporter submits a declaration setting forth all pertinent information with respect to the article, including the following:

"(i) A description of the article, quantity, numbers, and marks of packages, invoice numbers, and bills of lading.

"(ii) A description of the operations performed in the production of the article in the West Bank, the Gaza Strip, a qualifying industrial zone, or Israel and identification of the direct costs of processing operations.

"(iii) A description of any materials used in production of the article which are wholly the growth, product, or manufacture of the West Bank, the Gaza Strip, a qualifying industrial zone, Israel or United States, and a statement as to the cost or value of such materials.

"(iv) A description of the operations performed on, and a statement as to the origin and cost or value of, any foreign materials used in the article which are claimed to have been sufficiently processed in the West Bank, the Gaza Strip, a qualifying industrial zone, or Israel so as to be materials produced in the West Bank, the Gaza Strip, a qualifying industrial zone, or Israel.

"(v) A description of the origin and cost or value of any foreign materials used in the article which have not been substantially transformed in the West Bank, the Gaza Strip, or a qualifying industrial zone.

"(c) SHIPMENT OF ARTICLES OF ISRAEL THROUGH WEST BANK OR GAZA STRIP.—The President is authorized to proclaim that articles of Israel may be treated as though they were articles directly shipped from Israel for the purposes of the Agreement even if shipped to the United States from the West Bank, the Gaza Strip, or a qualifying industrial zone, if the articles otherwise meet the requirements of the Agreement.

"(d) TREATMENT OF COST OR VALUE OF MATERIALS.—The President is authorized to proclaim that the cost or value of materials produced in the West Bank, the Gaza Strip, or a qualifying industrial zone may be included in the cost or value of materials produced in Israel under section 1(c)(i) of Annex 3 of the Agreement, and the direct costs of processing operations performed in the West Bank, the Gaza Strip, or a qualifying industrial zone may be included in the direct costs of processing operations performed in Israel under section 1(c)(ii) of Annex 3 of the Agreement.

"(e) QUALIFYING INDUSTRIAL ZONE DEFINED.—For purposes of this section, a 'qualifying industrial zone' means any area that—

"(1) encompasses portions of the territory of Israel and Jordan or Israel and Egypt;

"(2) has been designated by local authorities as an enclave where merchandise may enter without payment of duty or excise taxes; and

"(3) has been specified by the President as a qualifying industrial zone.".

Approved October 2, 1996.

LEGISLATIVE HISTORY—H.R. 3074:

HOUSE REPORTS: No. 104–495 (Comm. on Ways and Means).
SENATE REPORTS: No. 104–270 (Comm. on Finance).
CONGRESSIONAL RECORD, Vol. 142 (1996):
Apr. 16, considered and passed House.
Sept. 27, considered and passed Senate.

Public Law 104–235
104th Congress

An Act

To modify and reauthorize the Child Abuse Prevention and Treatment Act, and for other purposes.

Oct. 3, 1996
[S. 919]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Child Abuse Prevention and Treatment Act Amendments of 1996.
42 USC 5101 note.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Child Abuse Prevention and Treatment Act Amendments of 1996".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—AMENDMENTS TO THE CHILD ABUSE PREVENTION AND TREATMENT ACT

Sec. 100. Findings.

Subtitle A—General Program

Sec. 101. Office on Child Abuse and Neglect.
Sec. 102. Advisory Board on Child Abuse and Neglect.
Sec. 103. Repeal of Inter-Agency Task Force on Child Abuse and Neglect.
Sec. 104. National clearinghouse for information relating to child abuse.
Sec. 105. Research, evaluation and assistance activities.
Sec. 106. Grants for demonstration programs.
Sec. 107. State grants for prevention and treatment programs.
Sec. 108. Repeal.
Sec. 109. Miscellaneous requirements.
Sec. 110. Definitions.
Sec. 111. Authorization of appropriations.
Sec. 112. Rule of construction.
Sec. 113. Technical and conforming amendments.

Subtitle B—Community-Based Family Resource and Support Grants

Sec. 121. Establishment of program.

Subtitle C—Certain Preventive Services Regarding Children of Homeless Families or Families At Risk of Homelessness

Sec. 131. Repeal of title III.

Subtitle D—Miscellaneous Provisions

Sec. 141. Table of contents.
Sec. 142. Repeals of other laws.

TITLE II—AMENDMENTS TO OTHER ACTS

Subtitle A—Family Violence Prevention and Services Act

Sec. 201. State demonstration grants.
Sec. 202. Allotments.
Sec. 203. Authorization of appropriations.

Subtitle B—Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 ("Adoption Opportunities Act")

Sec. 211. Findings and purpose.

Sec. 212. Information and services.
Sec. 213. Authorization of appropriations.

Subtitle C—Abandoned Infants Assistance Act of 1988

Sec. 221. Priority requirement.
Sec. 222. Reauthorization.

Subtitle D—Reauthorization of Various Programs

Sec. 231. Missing Children's Assistance Act.
Sec. 232. Victims of Child Abuse Act of 1990.

TITLE I—AMENDMENTS TO THE CHILD ABUSE PREVENTION AND TREATMENT ACT

SEC. 100. FINDINGS.

Section 2 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 note) is amended—

(1) in paragraph (1), to read as follows:

"(1) each year, close to 1,000,000 American children are victims of abuse and neglect;";

(2) in paragraph (3)(C), by inserting "assessment," after "prevention,";

(3) in paragraph (4)—

(A) by striking "tens of"; and

(B) by striking "direct" and all that follows through the semicolon and inserting "tangible expenditures, as well as significant intangible costs;";

(4) in paragraph (7), by striking "remedy the causes of" and inserting "prevent";

(5) in paragraph (8), by inserting "safety," after "fosters the health,";

(6) in paragraph (10)—

(A) by striking "ensure that every community in the United States has" and inserting "assist States and communities with"; and

(B) after "child" insert "and family"; and

(7) in paragraph (11)—

(A) by striking "child protection" each place that such term appears and inserting "child and family protection"; and

(B) in subparagraph (D), by striking "sufficient".

Subtitle A—General Program

SEC. 101. OFFICE ON CHILD ABUSE AND NEGLECT.

Section 101 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5101) is amended to read as follows:

"SEC. 101. OFFICE ON CHILD ABUSE AND NEGLECT.

"(a) ESTABLISHMENT.—The Secretary of Health and Human Services may establish an office to be known as the Office on Child Abuse and Neglect.

"(b) PURPOSE.—The purpose of the Office established under subsection (a) shall be to execute and coordinate the functions and activities of this Act. In the event that such functions and

activities are performed by another entity or entities within the Department of Health and Human Services, the Secretary shall ensure that such functions and activities are executed with the necessary expertise and in a fully coordinated manner involving regular intradepartmental and interdepartmental consultation with all agencies involved in child abuse and neglect activities.".

SEC. 102. ADVISORY BOARD ON CHILD ABUSE AND NEGLECT.

Section 102 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5102) is amended to read as follows:

"SEC. 102. ADVISORY BOARD ON CHILD ABUSE AND NEGLECT.

"(a) APPOINTMENT.—The Secretary may appoint an advisory board to make recommendations to the Secretary and to the appropriate committees of Congress concerning specific issues relating to child abuse and neglect.

"(b) SOLICITATION OF NOMINATIONS.—The Secretary shall publish a notice in the Federal Register soliciting nominations for the appointment of members of the advisory board under subsection (a). Federal Register, publication.

"(c) COMPOSITION.—In establishing the board under subsection (a), the Secretary shall appoint members from the general public who are individuals knowledgeable in child abuse and neglect prevention, intervention, treatment, or research, and with due consideration to representation of ethnic or racial minorities and diverse geographic areas, and who represent—

"(1) law (including the judiciary);
"(2) psychology (including child development);
"(3) social services (including child protective services);
"(4) medicine (including pediatrics);
"(5) State and local government;
"(6) organizations providing services to disabled persons;
"(7) organizations providing services to adolescents;
"(8) teachers;
"(9) parent self-help organizations;
"(10) parents' groups;
"(11) voluntary groups;
"(12) family rights groups; and
"(13) children's rights advocates.

"(d) VACANCIES.—Any vacancy in the membership of the board shall be filled in the same manner in which the original appointment was made.

"(e) ELECTION OF OFFICERS.—The board shall elect a chairperson and vice-chairperson at its first meeting from among the members of the board.

"(f) DUTIES.—Not later than 1 year after the establishment of the board under subsection (a), the board shall submit to the Secretary and the appropriate committees of Congress a report, or interim report, containing— Reports.

"(1) recommendations on coordinating Federal, State, and local child abuse and neglect activities with similar activities at the Federal, State, and local level pertaining to family violence prevention;

"(2) specific modifications needed in Federal and State laws and programs to reduce the number of unfounded or unsubstantiated reports of child abuse or neglect while enhancing the ability to identify and substantiate legitimate cases of abuse or neglect which place a child in danger; and

"(3) recommendations for modifications needed to facilitate coordinated national data collection with respect to child protection and child welfare.".

SEC. 103. REPEAL OF INTER-AGENCY TASK FORCE ON CHILD ABUSE AND NEGLECT.

Section 103 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5103) is repealed.

SEC. 104. NATIONAL CLEARINGHOUSE FOR INFORMATION RELATING TO CHILD ABUSE.

Section 104 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5104) is amended—

(1) in subsection (a), to read as follows:

Contracts.

"(a) ESTABLISHMENT.—The Secretary shall through the Department, or by one or more contracts of not less than 3 years duration let through a competition, establish a national clearinghouse for information relating to child abuse.";

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking "Director" and inserting "Secretary";

(B) in paragraph (1)—

(i) by inserting "assessment," after "prevention,"; and

(ii) by striking ", including" and all that follows and inserting "; and";

(C) in paragraph (2)—

(i) in subparagraph (A), by striking "general population" and inserting "United States";

(ii) in subparagraph (B), by adding "and" at the end;

(iii) in subparagraph (C), by striking "; and" at the end and inserting a period; and

(iv) by striking subparagraph (D); and

(D) by striking paragraph (3); and

(3) in subsection (c)—

(A) in the matter preceding paragraph (1)—

(i) by striking "In establishing" and inserting the following:

"(1) IN GENERAL.—In establishing"; and

(ii) by striking "Director" and inserting "Secretary";

(B) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively, and by moving the text of subparagraphs (A) through (D) (as redesignated) 2 ems to the right;

(C) in subparagraph (B) (as redesignated), by striking "that is represented on the task force" and inserting "involved with child abuse and neglect and mechanisms for the sharing of such information among other Federal agencies and clearinghouses";

(D) in subparagraph (C) (as redesignated), by striking "State, regional" and all that follows and inserting the following: "Federal, State, regional, and local child welfare data systems which shall include—

"(i) standardized data on false, unfounded, unsubstantiated, and substantiated reports; and

"(ii) information on the number of deaths due to child abuse and neglect;";

(E) by redesignating subparagraph (D) (as redesignated) as subparagraph (F);

(F) by inserting after subparagraph (C) (as redesignated), the following new subparagraphs:

"(D) through a national data collection and analysis program and in consultation with appropriate State and local agencies and experts in the field, collect, compile, and make available State child abuse and neglect reporting information which, to the extent practical, shall be universal and case specific and integrated with other case-based foster care and adoption data collected by the Secretary;

"(E) compile, analyze, and publish a summary of the research conducted under section 105(a); and"; and

(G) by adding at the end the following:

"(2) CONFIDENTIALITY REQUIREMENT.—In carrying out paragraph (1)(D), the Secretary shall ensure that methods are established and implemented to preserve the confidentiality of records relating to case specific data.".

SEC. 105. RESEARCH, EVALUATION AND ASSISTANCE ACTIVITIES.

(a) RESEARCH.—Section 105(a) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5105(a)) is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A), by striking ", through the Center, conduct research on" and inserting ", in consultation with other Federal agencies and recognized experts in the field, carry out a continuing interdisciplinary program of research that is designed to provide information needed to better protect children from abuse or neglect and to improve the well-being of abused or neglected children, with at least a portion of such research being field initiated. Such research program may focus on";

(B) by redesignating subparagraphs (A) through (C) as subparagraph (B) through (D), respectively;

(C) by inserting before subparagraph (B) (as so redesignated) the following new subparagraph:

"(A) the nature and scope of child abuse and neglect;";

(D) in subparagraph (B) (as so redesignated), to read as follows:

"(B) causes, prevention, assessment, identification, treatment, cultural and socio-economic distinctions, and the consequences of child abuse and neglect;"; and

(E) in subparagraph (D) (as so redesignated)—

(i) by striking clause (ii);

(ii) in clause (iii), to read as follows:

"(ii) the incidence of substantiated and unsubstantiated reported child abuse cases;"; and

(iii) by adding at the end the following:

"(iii) the number of substantiated cases that result in a judicial finding of child abuse or neglect or related criminal court convictions;

"(iv) the extent to which the number of unsubstantiated, unfounded and false reported cases of child abuse or neglect have contributed to the inability of a State to respond effectively to serious cases of child abuse or neglect;

"(v) the extent to which the lack of adequate resources and the lack of adequate training of individuals required by law to report suspected cases of child abuse have contributed to the inability of a State to respond effectively to serious cases of child abuse and neglect;

"(vi) the number of unsubstantiated, false, or unfounded reports that have resulted in a child being placed in substitute care, and the duration of such placement;

"(vii) the extent to which unsubstantiated reports return as more serious cases of child abuse or neglect;

"(viii) the incidence and prevalence of physical, sexual, and emotional abuse and physical and emotional neglect in substitute care; and

"(ix) the incidence and outcomes of abuse allegations reported within the context of divorce, custody, or other family court proceedings, and the interaction between this venue and the child protective services system."; and

(2) in paragraph (2)—

(A) in subparagraph (A)—

(i) by striking "and demonstration"; and

(ii) by striking "paragraph (1)(A) and activities under section 106" and inserting "paragraph (1)"; and

(B) in subparagraph (B), by striking "and demonstration".

(b) REPEAL.—Subsection (b) of section 105 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5105(b)) is repealed.

(c) TECHNICAL ASSISTANCE.—Section 105(c) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5105(c)) is amended—

(1) by striking "(c)" and inserting "(b)";

(2) by striking "The Secretary" and inserting:

"(1) IN GENERAL.—The Secretary";

(3) by striking ", through the Center,";

(4) by inserting "State and local" before "public and nonprofit";

(5) by inserting "assessment," before "identification"; and

(6) by adding at the end thereof the following new paragraphs:

"(2) EVALUATION.—Such technical assistance may include an evaluation or identification of—

"(A) various methods and procedures for the investigation, assessment, and prosecution of child physical and sexual abuse cases;

"(B) ways to mitigate psychological trauma to the child victim; and

"(C) effective programs carried out by the States under titles I and II.

"(3) DISSEMINATION.—The Secretary may provide for and disseminate information relating to various training resources available at the State and local level to—

"(A) individuals who are engaged, or who intend to engage, in the prevention, identification, and treatment of child abuse and neglect; and

"(B) appropriate State and local officials to assist in training law enforcement, legal, judicial, medical, mental

health, education, and child welfare personnel in appropriate methods of interacting during investigative, administrative, and judicial proceedings with children who have been subjected to abuse.".

(d) GRANTS AND CONTRACTS.—Section 105(d) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5105(d)) is amended—

(1) by striking "(d)" and inserting "(c)"; and

(2) in paragraph (2), by striking the second sentence.

(e) PEER REVIEW.—Section 105(e) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5105(e)) is amended—

(1) in the heading preceding paragraph (1), by striking "(e)" and inserting "(d)";

(2) in paragraph (1)—

(A) in subparagraph (A)—

(i) by striking "establish a formal" and inserting ", in consultation with experts in the field and other federal agencies, establish a formal, rigorous, and meritorious";

(ii) by striking "and contracts"; and

(iii) by adding at the end thereof the following new sentence: "The purpose of this process is to enhance the quality and usefulness of research in the field of child abuse and neglect."; and

(B) in subparagraph (B)—

(i) by striking "Office of Human Development" and inserting "Administration on Children and Families"; and

(ii) by adding at the end thereof the following new sentence: "The Secretary shall ensure that the peer review panel utilizes scientifically valid review criteria and scoring guidelines for review committees.";

(3) in paragraph (2)—

(A) in the matter preceding subparagraph (A), by striking ", contract, or other financial assistance"; and

(B) by adding at the end thereof the following flush sentence:

"The Secretary shall award grants under this section on the basis of competitive review."; and Grants.

(4) in paragraph (3)(B), by striking "subsection (e)(2)(B)" each place it appears and inserting "paragraph (2)(B)".

(f) TECHNICAL AMENDMENT.—Section 105 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5105) is amended in the section heading by striking "**OF THE NATIONAL CENTER ON CHILD ABUSE AND NEGLECT**".

SEC. 106. GRANTS FOR DEMONSTRATION PROGRAMS.

Section 106 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106) is amended—

(1) in the section heading, by striking "**OR SERVICE**";

(2) in subsection (a), to read as follows:

"(a) DEMONSTRATION PROGRAMS AND PROJECTS.—The Secretary may make grants to, and enter into contracts with, public agencies or private nonprofit agencies or organizations (or combinations of such agencies or organizations) for time limited, demonstration programs and projects for the following purposes:

"(1) TRAINING PROGRAMS.—The Secretary may award grants to public or private nonprofit organizations under this section—

"(A) for the training of professional and paraprofessional personnel in the fields of medicine, law, education, social work, and other relevant fields who are engaged in, or intend to work in, the field of prevention, identification, and treatment of child abuse and neglect, including the links between domestic violence and child abuse;

"(B) to improve the recruitment, selection, and training of volunteers serving in public and private nonprofit children, youth and family service organizations in order to prevent child abuse and neglect through collaborative analysis of current recruitment, selection, and training programs and development of model programs for dissemination and replication nationally; and

"(C) for the establishment of resource centers for the purpose of providing information and training to professionals working in the field of child abuse and neglect.

"(2) MUTUAL SUPPORT PROGRAMS.—The Secretary may award grants to private nonprofit organizations (such as Parents Anonymous) to establish or maintain a national network of mutual support and self-help programs as a means of strengthening families in partnership with their communities.

"(3) OTHER INNOVATIVE PROGRAMS AND PROJECTS.—

"(A) IN GENERAL.—The Secretary may award grants to public and private nonprofit agencies that demonstrate innovation in responding to reports of child abuse and neglect including programs of collaborative partnerships between the State child protective services agency, community social service agencies and family support programs, schools, churches and synagogues, and other community agencies to allow for the establishment of a triage system that—

"(i) accepts, screens and assesses reports received to determine which such reports require an intensive intervention and which require voluntary referral to another agency, program or project;

"(ii) provides, either directly or through referral, a variety of community-linked services to assist families in preventing child abuse and neglect; and

"(iii) provides further investigation and intensive intervention where the child's safety is in jeopardy.

"(B) KINSHIP CARE.—The Secretary may award grants to public and private nonprofit entities in not more than 10 States to assist such entities in developing or implementing procedures using adult relatives as the preferred placement for children removed from their home, where such relatives are determined to be capable of providing a safe nurturing environment for the child and where such relatives comply with the State child protection standards.

"(C) PROMOTION OF SAFE, FAMILY-FRIENDLY PHYSICAL ENVIRONMENTS FOR VISITATION AND EXCHANGE.—The Secretary may award grants to entities to assist such entities in establishing and operating safe, family-friendly physical environments—

"(i) for court-ordered supervised visitation between children and abusing parents; and

"(ii) to safely facilitate the exchange of children for visits with noncustodian parents in cases of domestic violence.";

(3) by striking subsection (b);

(4) by redesignating subsection (c) as subsection (b);

(5) in subsection (b) (as redesignated)—

(A) by striking paragraphs (1) and (2); and

(B) by redesignating paragraphs (3) through (7) as paragraphs (1) through (5), respectively; and

(6) by adding at the end the following new subsection:

"(c) EVALUATION.—In making grants for demonstration projects under this section, the Secretary shall require all such projects to be evaluated for their effectiveness. Funding for such evaluations shall be provided either as a stated percentage of a demonstration grant or as a separate grant entered into by the Secretary for the purpose of evaluating a particular demonstration project or group of projects.".

SEC. 107. STATE GRANTS FOR PREVENTION AND TREATMENT PROGRAMS.

Section 107 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106a) is amended to read as follows:

"SEC. 107. GRANTS TO STATES FOR CHILD ABUSE AND NEGLECT PREVENTION AND TREATMENT PROGRAMS.

"(a) DEVELOPMENT AND OPERATION GRANTS.—The Secretary shall make grants to the States, based on the population of children under the age of 18 in each State that applies for a grant under this section, for purposes of assisting the States in improving the child protective services system of each such State in— Grants.

"(1) the intake, assessment, screening, and investigation of reports of abuse and neglect;

"(2)(A) creating and improving the use of multidisciplinary teams and interagency protocols to enhance investigations; and

"(B) improving legal preparation and representation, including—

"(i) procedures for appealing and responding to appeals of substantiated reports of abuse and neglect; and

"(ii) provisions for the appointment of an individual appointed to represent a child in judicial proceedings;

"(3) case management and delivery of services provided to children and their families;

"(4) enhancing the general child protective system by improving risk and safety assessment tools and protocols, automation systems that support the program and track reports of child abuse and neglect from intake through final disposition and information referral systems;

"(5) developing, strengthening, and facilitating training opportunities and requirements for individuals overseeing and providing services to children and their families through the child protection system;

"(6) developing and facilitating training protocols for individuals mandated to report child abuse or neglect;

"(7) developing, strengthening, and supporting child abuse and neglect prevention, treatment, and research programs in the public and private sectors;

"(8) developing, implementing, or operating—

"(A) information and education programs or training programs designed to improve the provision of services to disabled infants with life-threatening conditions for—

"(i) professional and paraprofessional personnel concerned with the welfare of disabled infants with life-threatening conditions, including personnel employed in child protective services programs and health-care facilities; and

"(ii) the parents of such infants; and

"(B) programs to assist in obtaining or coordinating necessary services for families of disabled infants with life-threatening conditions, including—

"(i) existing social and health services;

"(ii) financial assistance; and

"(iii) services necessary to facilitate adoptive placement of any such infants who have been relinquished for adoption; or

"(9) developing and enhancing the capacity of community-based programs to integrate shared leadership strategies between parents and professionals to prevent and treat child abuse and neglect at the neighborhood level.

"(b) ELIGIBILITY REQUIREMENTS.—

"(1) STATE PLAN.—

"(A) IN GENERAL.—To be eligible to receive a grant under this section, a State shall, at the time of the initial grant application and every 5 years thereafter, prepare and submit to the Secretary a State plan that specifies the areas of the child protective services system described in subsection (a) that the State intends to address with amounts received under the grant.

Notification.

"(B) ADDITIONAL REQUIREMENT.—After the submission of the initial grant application under subparagraph (A), the State shall provide notice to the Secretary of any substantive changes to any State law relating to the prevention of child abuse and neglect that may affect the eligibility of the State under this section.

"(2) COORDINATION.—A State plan submitted under paragraph (1) shall, to the maximum extent practicable, be coordinated with the State plan under part B of title IV of the Social Security Act relating to child welfare services and family preservation and family support services, and shall contain an outline of the activities that the State intends to carry out using amounts received under the grant to achieve the purposes of this title, including—

"(A) an assurance in the form of a certification by the chief executive officer of the State that the State has in effect and is enforcing a State law, or has in effect and is operating a Statewide program, relating to child abuse and neglect that includes—

"(i) provisions or procedures for the reporting of known and suspected instances of child abuse and neglect;

"(ii) procedures for the immediate screening, safety assessment, and prompt investigation of such reports;

"(iii) procedures for immediate steps to be taken to ensure and protect the safety of the abused or

neglected child and of any other child under the same care who may also be in danger of abuse or neglect and ensuring their placement in a safe environment;

"(iv) provisions for immunity from prosecution under State and local laws and regulations for individuals making good faith reports of suspected or known instances of child abuse or neglect;

"(v) methods to preserve the confidentiality of all records in order to protect the rights of the child and of the child's parents or guardians, including requirements ensuring that reports and records made and maintained pursuant to the purposes of this Act shall only be made available to— Confidentiality. Records.

"(I) individuals who are the subject of the report;

"(II) Federal, State, or local government entities, or any agent of such entities, having a need for such information in order to carry out its responsibilities under law to protect children from abuse and neglect;

"(III) child abuse citizen review panels;

"(IV) child fatality review panels;

"(V) a grand jury or court, upon a finding that information in the record is necessary for the determination of an issue before the court or grand jury; and

"(VI) other entities or classes of individuals statutorily authorized by the State to receive such information pursuant to a legitimate State purpose;

"(vi) provisions which allow for public disclosure of the findings or information about the case of child abuse or neglect which has resulted in a child fatality or near fatality;

"(vii) the cooperation of State law enforcement officials, court of competent jurisdiction, and appropriate State agencies providing human services in the investigation, assessment, prosecution, and treatment of child abuse or neglect;

"(viii) provisions requiring, and procedures in place that facilitate the prompt expungement of any records that are accessible to the general public or are used for purposes of employment or other background checks in cases determined to be unsubstantiated or false, except that nothing in this section shall prevent State child protective services agencies from keeping information on unsubstantiated reports in their casework files to assist in future risk and safety assessment;

"(ix) provisions and procedures requiring that in every case involving an abused or neglected child which results in a judicial proceeding, a guardian ad litem, who may be an attorney or a court appointed special advocate (or both), shall be appointed to represent the child in such proceedings—

"(I) to obtain first-hand, a clear understanding of the situation and needs of the child; and

"(II) to make recommendations to the court concerning the best interests of the child;

"(x) the establishment of citizen review panels in accordance with subsection (c);

Effective date.

"(xi) provisions, procedures, and mechanisms to be effective not later than 2 years after the date of the enactment of this section—

"(I) for the expedited termination of parental rights in the case of any infant determined to be abandoned under State law; and

"(II) by which individuals who disagree with an official finding of abuse or neglect can appeal such finding;

Effective date.

"(xii) provisions, procedures, and mechanisms to be effective not later than 2 years after the date of the enactment of this section that assure that the State does not require reunification of a surviving child with a parent who has been found by a court of competent jurisdiction—

"(I) to have committed murder (which would have been an offense under section 1111(a) of title 18, United States Code, if the offense had occurred in the special maritime or territorial jurisdiction of the United States) of another child of such parent;

"(II) to have committed voluntary manslaughter (which would have been an offense under section 1112(a) of title 18, United States Code, if the offense had occurred in the special maritime or territorial jurisdiction of the United States) of another child of such parent;

"(III) to have aided or abetted, attempted, conspired, or solicited to commit such murder or voluntary manslaughter; or

"(IV) to have committed a felony assault that results in the serious bodily injury to the surviving child or another child of such parent; and

"(xiii) an assurance that, upon the implementation by the State of the provisions, procedures, and mechanisms under clause (xii), conviction of any one of the felonies listed in clause (xii) constitute grounds under State law for the termination of parental rights of the convicted parent as to the surviving children (although case-by-case determinations of whether or not to seek termination of parental rights shall be within the sole discretion of the State);

"(B) an assurance that the State has in place procedures for responding to the reporting of medical neglect (including instances of withholding of medically indicated treatment from disabled infants with life-threatening conditions), procedures or programs, or both (within the State child protective services system), to provide for—

"(i) coordination and consultation with individuals designated by and within appropriate health-care facilities;

"(ii) prompt notification by individuals designated by and within appropriate health-care facilities of cases

of suspected medical neglect (including instances of withholding of medically indicated treatment from disabled infants with life-threatening conditions); and

"(iii) authority, under State law, for the State child protective services system to pursue any legal remedies, including the authority to initiate legal proceedings in a court of competent jurisdiction, as may be necessary to prevent the withholding of medically indicated treatment from disabled infants with life threatening conditions;

"(C) a description of—

"(i) the services to be provided under the grant to individuals, families, or communities, either directly or through referrals aimed at preventing the occurrence of child abuse and neglect;

"(ii) the training to be provided under the grant to support direct line and supervisory personnel in report taking, screening, assessment, decision making, and referral for investigating suspected instances of child abuse and neglect; and

"(iii) the training to be provided under the grant for individuals who are required to report suspected cases of child abuse and neglect; and

"(D) an assurance or certification that the programs or projects relating to child abuse and neglect carried out under part B of title IV of the Social Security Act comply with the requirements set forth in paragraph (1) and this paragraph.

"(3) LIMITATION.—With regard to clauses (v) and (vi) of paragraph (2)(A), nothing in this section shall be construed as restricting the ability of a State to refuse to disclose identifying information concerning the individual initiating a report or complaint alleging suspected instances of child abuse or neglect, except that the State may not refuse such a disclosure where a court orders such disclosure after such court has reviewed, in camera, the record of the State related to the report or complaint and has found it has reason to believe that the reporter knowingly made a false report.

"(4) DEFINITIONS.—For purposes of this subsection—

"(A) the term 'near fatality' means an act that, as certified by a physician, places the child in serious or critical condition; and

"(B) the term 'serious bodily injury' means bodily injury which involves substantial risk of death, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

"(c) CITIZEN REVIEW PANELS.—

"(1) ESTABLISHMENT.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), each State to which a grant is made under this section shall establish not less than 3 citizen review panels.

"(B) EXCEPTIONS.—

"(i) ESTABLISHMENT OF PANELS BY STATES RECEIVING MINIMUM ALLOTMENT.—A State that receives the minimum allotment of $175,000 under section

203(b)(1)(A) for a fiscal year shall establish not less than 1 citizen review panel.

"(ii) DESIGNATION OF EXISTING ENTITIES.—A State may designate as panels for purposes of this subsection one or more existing entities established under State or Federal law, such as child fatality panels or foster care review panels, if such entities have the capacity to satisfy the requirements of paragraph (4) and the State ensures that such entities will satisfy such requirements.

"(2) MEMBERSHIP.—Each panel established pursuant to paragraph (1) shall be composed of volunteer members who are broadly representative of the community in which such panel is established, including members who have expertise in the prevention and treatment of child abuse and neglect.

"(3) MEETINGS.—Each panel established pursuant to paragraph (1) shall meet not less than once every 3 months.

"(4) FUNCTIONS.—

"(A) IN GENERAL.—Each panel established pursuant to paragraph (1) shall, by examining the policies and procedures of State and local agencies and where appropriate, specific cases, evaluate the extent to which the agencies are effectively discharging their child protection responsibilities in accordance with—

"(i) the State plan under subsection (b);

"(ii) the child protection standards set forth in subsection (b); and

"(iii) any other criteria that the panel considers important to ensure the protection of children, including—

"(I) a review of the extent to which the State child protective services system is coordinated with the foster care and adoption programs established under part E of title IV of the Social Security Act; and

"(II) a review of child fatalities and near fatalities (as defined in subsection (b)(4)).

"(B) CONFIDENTIALITY.—

"(i) IN GENERAL.—The members and staff of a panel established under paragraph (1)—

"(I) shall not disclose to any person or government official any identifying information about any specific child protection case with respect to which the panel is provided information; and

"(II) shall not make public other information unless authorized by State statute.

"(ii) CIVIL SANCTIONS.—Each State that establishes a panel pursuant to paragraph (1) shall establish civil sanctions for a violation of clause (i).

"(5) STATE ASSISTANCE.—Each State that establishes a panel pursuant to paragraph (1)—

"(A) shall provide the panel access to information on cases that the panel desires to review if such information is necessary for the panel to carry out its functions under paragraph (4); and

"(B) shall provide the panel, upon its request, staff assistance for the performance of the duties of the panel.

"(6) REPORTS.—Each panel established under paragraph (1) shall prepare and make available to the public, on an annual basis, a report containing a summary of the activities of the panel. Public information.

"(d) ANNUAL STATE DATA REPORTS.—Each State to which a grant is made under this section shall annually work with the Secretary to provide, to the maximum extent practicable, a report that includes the following:

"(1) The number of children who were reported to the State during the year as abused or neglected.

"(2) Of the number of children described in paragraph (1), the number with respect to whom such reports were—

"(A) substantiated;

"(B) unsubstantiated; or

"(C) determined to be false.

"(3) Of the number of children described in paragraph (2)—

"(A) the number that did not receive services during the year under the State program funded under this section or an equivalent State program;

"(B) the number that received services during the year under the State program funded under this section or an equivalent State program; and

"(C) the number that were removed from their families during the year by disposition of the case.

"(4) The number of families that received preventive services from the State during the year.

"(5) The number of deaths in the State during the year resulting from child abuse or neglect.

"(6) Of the number of children described in paragraph (5), the number of such children who were in foster care.

"(7) The number of child protective services workers responsible for the intake and screening of reports filed in the previous year.

"(8) The agency response time with respect to each such report with respect to initial investigation of reports of child abuse or neglect.

"(9) The response time with respect to the provision of services to families and children where an allegation of abuse or neglect has been made.

"(10) The number of child protective services workers responsible for intake, assessment, and investigation of child abuse and neglect reports relative to the number of reports investigated in the previous year.

"(11) The number of children reunited with their families or receiving family preservation services that, within five years, result in subsequent substantiated reports of child abuse and neglect, including the death of the child.

"(12) The number of children for whom individuals were appointed by the court to represent the best interests of such children and the average number of out of court contacts between such individuals and children.

"(e) ANNUAL REPORT BY THE SECRETARY.—Within 6 months after receiving the State reports under subsection (d), the Secretary shall prepare a report based on information provided by the States for the fiscal year under such subsection and shall make the report

and such information available to the Congress and the national clearinghouse for information relating to child abuse.".

SEC. 108. REPEAL.

Section 108 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106b) is repealed.

SEC. 109. MISCELLANEOUS REQUIREMENTS.

42 USC 5106g. Section 110 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106d) is amended—

(1) by striking subsection (c); and

(2) by redesignating subsection (d) as subsection (c).

SEC. 110. DEFINITIONS.

Section 113 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106h) is amended—

(1) by striking paragraphs (1), (2), (5), and (9);

(2)(A) by redesignating paragraphs (3), (4), and (6) through (8) as paragraphs (1) through (5), respectively; and

(B) by redesignating paragraph (10) as paragraph (6);

(3) in paragraph (2) (as redesignated), to read as follows:

"(2) the term 'child abuse and neglect' means, at a minimum, any recent act or failure to act on the part of a parent or caretaker, which results in death, serious physical or emotional harm, sexual abuse or exploitation, or an act or failure to act which presents an imminent risk of serious harm;"; and

(4) in paragraph (4)(B) (as redesignated), by inserting ", and in cases of caretaker or inter-familial relationships, statutory rape" after "rape".

SEC. 111. AUTHORIZATION OF APPROPRIATIONS.

Section 114(a) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106h(a)) is amended to read as follows:

"(a) IN GENERAL.—

"(1) GENERAL AUTHORIZATION.—There are authorized to be appropriated to carry out this title, $100,000,000 for fiscal year 1997, and such sums as may be necessary for each of the fiscal years 1998 through 2001.

"(2) DISCRETIONARY ACTIVITIES.—

"(A) IN GENERAL.—Of the amounts appropriated for a fiscal year under paragraph (1), the Secretary shall make available 30 percent of such amounts to fund discretionary activities under this title.

"(B) DEMONSTRATION PROJECTS.—Of the amounts made available for a fiscal year under subparagraph (A), the Secretary make available not more than 40 percent of such amounts to carry out section 106.".

SEC. 112. RULE OF CONSTRUCTION.

Title I of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.) is amended by adding at the end the following new section:

42 USC 5106i. **"SEC. 115. RULE OF CONSTRUCTION.**

"(a) IN GENERAL.—Nothing in this Act shall be construed—

"(1) as establishing a Federal requirement that a parent or legal guardian provide a child any medical service or treat-

ment against the religious beliefs of the parent or legal guardian; and

"(2) to require that a State find, or to prohibit a State from finding, abuse or neglect in cases in which a parent or legal guardian relies solely or partially upon spiritual means rather than medical treatment, in accordance with the religious beliefs of the parent or legal guardian.

"(b) STATE REQUIREMENT.—Notwithstanding subsection (a), a State shall, at a minimum, have in place authority under State law to permit the child protective services system of the State to pursue any legal remedies, including the authority to initiate legal proceedings in a court of competent jurisdiction, to provide medical care or treatment for a child when such care or treatment is necessary to prevent or remedy serious harm to the child, or to prevent the withholding of medically indicated treatment from children with life threatening conditions. Except with respect to the withholding of medically indicated treatments from disabled infants with life threatening conditions, case by case determinations concerning the exercise of the authority of this subsection shall be within the sole discretion of the State.".

SEC. 113. TECHNICAL AND CONFORMING AMENDMENTS.

(a) CHILD ABUSE PREVENTION AND TREATMENT ACT.—

(1)(A) Sections 104 through 107 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5104 through 5106a), as amended by this subtitle, are redesignated as sections 103 through 106 of such Act, respectively.

(B) Sections 109 through 114 of the Child Abuse Prevention and Treatment Act (42 U.S.C 5106c through 5106h), as amended by this subtitle, are redesignated as sections 107 through 112 of such Act, respectively.

(C) Section 115 of the Child Abuse Prevention and Treatment Act, as added by section 112 of this Act, is redesignated as section 113 of the Child Abuse Prevention and Treatment Act.

(2) Section 107 of the Child Abuse Prevention and Treatment Act (as redesignated) is amended—

(A) in subsection (a), by striking "acting through the Center and";

(B) in subsection (b)(1), by striking "sections" and inserting "section";

(C) in subsection (c)(1)—

(i) in the matter preceding subparagraph (A), by inserting a comma after "maintain"; and

(ii) in subparagraph (F), by adding a semicolon at the end; and

(D) in subsection (d)(1), by adding "and" at the end.

(3) Section 110(b) of the Child Abuse Prevention and Treatment Act (as redesignated) is amended by striking "effectiveness of—" and all that follows and inserting "effectiveness of assisted programs in achieving the objectives of section 107.".

(b) VICTIMS OF CRIME ACT OF 1984.—Section 1404A of the Victims of Crime Act of 1984 (42 U.S.C. 10603a) is amended—

(1) by striking "1402(d)(2)(D) and (d)(3)." and inserting "1402(d)(2)"; and

(2) by striking "section 4(d)" and inserting "section 109".

Subtitle B—Community-Based Family Resource and Support Grants

SEC. 121. ESTABLISHMENT OF PROGRAM.

Title II of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5116 et seq.) is amended to read as follows:

"TITLE II—COMMUNITY-BASED FAMILY RESOURCE AND SUPPORT GRANTS

42 USC 5116.

"SEC. 201. PURPOSE AND AUTHORITY.

"(a) PURPOSE.—It is the purpose of this title—

"(1) to support State efforts to develop, operate, expand and enhance a network of community-based, prevention-focused, family resource and support programs that coordinate resources among existing education, vocational rehabilitation, disability, respite care, health, mental health, job readiness, self-sufficiency, child and family development, community action, Head Start, child care, child abuse and neglect prevention, juvenile justice, domestic violence prevention and intervention, housing, and other human service organizations within the State; and

"(2) to foster an understanding, appreciation, and knowledge of diverse populations in order to be effective in preventing and treating child abuse and neglect.

"(b) AUTHORITY.—The Secretary shall make grants under this title on a formula basis to the entity designated by the State as the lead entity (hereafter referred to in this title as the 'lead entity') under section 202(1) for the purpose of—

"(1) developing, operating, expanding and enhancing Statewide networks of community-based, prevention-focused, family resource and support programs that—

"(A) offer assistance to families;

"(B) provide early, comprehensive support for parents;

"(C) promote the development of parenting skills, especially in young parents and parents with very young children;

"(D) increase family stability;

"(E) improve family access to other formal and informal resources and opportunities for assistance available within communities;

"(F) support the additional needs of families with children with disabilities through respite care and other services; and

"(G) decrease the risk of homelessness;

"(2) fostering the development of a continuum of preventive services for children and families through State and community-based collaborations and partnerships both public and private;

"(3) financing the start-up, maintenance, expansion, or redesign of specific family resource and support program services (such as respite care services, child abuse and neglect prevention activities, disability services, mental health services, housing services, transportation, adult education, home visiting and other similar services) identified by the inventory and

description of current services required under section 205(a)(3) as an unmet need, and integrated with the network of community-based family resource and support program to the extent practicable given funding levels and community priorities;

"(4) maximizing funding for the financing, planning, community mobilization, collaboration, assessment, information and referral, startup, training and technical assistance, information management, reporting and evaluation costs for establishing, operating, or expanding a Statewide network of community-based, prevention-focused, family resource and support program; and

"(5) financing public information activities that focus on the healthy and positive development of parents and children and the promotion of child abuse and neglect prevention activities.

"SEC. 202. ELIGIBILITY. 42 USC 5116a.

"A State shall be eligible for a grant under this title for a fiscal year if—

"(1)(A) the chief executive officer of the State has designated a lead entity to administer funds under this title for the purposes identified under the authority of this title, including to develop, implement, operate, enhance or expand a Statewide network of community-based, prevention-focused, family resource and support programs, child abuse and neglect prevention activities and access to respite care services integrated with the Statewide network;

"(B) such lead entity is an existing public, quasi-public, or nonprofit private entity (which may be an entity that has not been established pursuant to State legislation, executive order, or any other written authority of the State) with a demonstrated ability to work with other State and community-based agencies to provide training and technical assistance, and that has the capacity and commitment to ensure the meaningful involvement of parents who are consumers and who can provide leadership in the planning, implementation, and evaluation of programs and policy decisions of the applicant agency in accomplishing the desired outcomes for such efforts;

"(C) in determining which entity to designate under subparagraph (A), the chief executive officer should give priority consideration equally to a trust fund advisory board of the State or to an existing entity that leverages Federal, State, and private funds for a broad range of child abuse and neglect prevention activities and family resource programs, and that is directed by an interdisciplinary, public-private structure, including participants from communities; and

"(D) in the case of a State that has designated a State trust fund advisory board for purposes of administering funds under this title (as such title was in effect on the date of the enactment of the Child Abuse Prevention and Treatment Act Amendments of 1996) and in which one or more entities that leverage Federal, State, and private funds (as described in subparagraph (C)) exist, the chief executive officer shall designate the lead entity only after full consideration of the capacity and expertise of all entities desiring to be designated under subparagraph (A);

"(2) the chief executive officer of the State provides assurances that the lead entity will provide or will be responsible for providing—

"(A) a network of community-based family resource and support programs composed of local, collaborative, public-private partnerships directed by interdisciplinary structures with balanced representation from private and public sector members, parents, and public and private nonprofit service providers and individuals and organizations experienced in working in partnership with families with children with disabilities;

"(B) direction to the network through an interdisciplinary, collaborative, public-private structure with balanced representation from private and public sector members, parents, and public sector and private nonprofit sector service providers; and

"(C) direction and oversight to the network through identified goals and objectives, clear lines of communication and accountability, the provision of leveraged or combined funding from Federal, State and private sources, centralized assessment and planning activities, the provision of training and technical assistance, and reporting and evaluation functions; and

"(3) the chief executive officer of the State provides assurances that the lead entity—

"(A) has a demonstrated commitment to parental participation in the development, operation, and oversight of the Statewide network of community-based, prevention-focused, family resource and support programs;

"(B) has a demonstrated ability to work with State and community-based public and private nonprofit organizations to develop a continuum of preventive, family centered, comprehensive services for children and families through the Statewide network of community-based, prevention-focused, family resource and support programs;

"(C) has the capacity to provide operational support (both financial and programmatic) and training and technical assistance, to the Statewide network of community-based, prevention-focused, family resource and support programs, through innovative, interagency funding and interdisciplinary service delivery mechanisms; and

"(D) will integrate its efforts with individuals and organizations experienced in working in partnership with families with children with disabilities and with the child abuse and neglect prevention activities of the State, and demonstrate a financial commitment to those activities.

42 USC 5116b.

"SEC. 203. AMOUNT OF GRANT.

Native Americans.

"(a) RESERVATION.—The Secretary shall reserve 1 percent of the amount appropriated under section 210 for a fiscal year to make allotments to Indian tribes and tribal organizations and migrant programs.

"(b) REMAINING AMOUNTS.—

"(1) IN GENERAL.—The Secretary shall allot the amount appropriated under section 210 for a fiscal year and remaining after the reservation under subsection (a) among the States as follows:

"(A) 70 percent of such amount appropriated shall be allotted among the States by allotting to each State an amount that bears the same proportion to such amount appropriated as the number of children under the age of 18 residing in the State bears to the total number of children under the age of 18 residing in all States (except that no State shall receive less than $175,000 under this subparagraph).

"(B) 30 percent of such amount appropriated shall be allotted among the States by allotting to each State an amount that bears the same proportion to such amount appropriated as the amount leveraged by the State from private, State, or other non-Federal sources and directed through the State lead agency in the preceding fiscal year bears to the aggregate of the amounts leveraged by all States from private, State, or other non-Federal sources and directed through the lead agency of such States in the preceding fiscal year.

"(2) ADDITIONAL REQUIREMENT.—The Secretary shall provide allotments under paragraph (1) to the State lead entity.

"(c) ALLOCATION.—Funds allotted to a State under this section—

"(1) shall be for a 3-year period; and

"(2) shall be provided by the Secretary to the State on an annual basis, as described in subsection (a).

"SEC. 204. EXISTING GRANTS. 42 USC 5115c.

"(a) IN GENERAL.—Notwithstanding the enactment of the Child Abuse Prevention and Treatment Act Amendments of 1996, a State or entity that has a grant, contract, or cooperative agreement in effect, on the date of the enactment of such Act under any program described in subsection (b), shall continue to receive funds under such program, subject to the original terms under which such funds were provided under the grant, through the end of the applicable grant cycle.

"(b) PROGRAMS DESCRIBED.—The programs described in this subsection are the following:

"(1) The Community-Based Family Resource programs under section 201 of this Act, as such section was in effect on the day before the date of the enactment of the Child Abuse Prevention and Treatment Act Amendments of 1996.

"(2) The Family Support Center programs under subtitle F of title VII of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11481 et seq.), as such title was in effect on the day before the date of the enactment of the Child Abuse Prevention and Treatment Act Amendments of 1996.

"(3) The Emergency Child Abuse Prevention Services grant program under section 107A of this Act, as such section was in effect on the day before the date of the enactment of the Human Services Amendments of 1994.

"(4) Programs under the Temporary Child Care for Children With Disabilities and Crisis Nurseries Act of 1986.

"SEC. 205. APPLICATION. 42 USC 5116d.

"A grant may not be made to a State under this title unless an application therefor is submitted by the State to the Secretary and such application contains the types of information specified

by the Secretary as essential to carrying out the provisions of section 202, including—

"(1) a description of the lead entity that will be responsible for the administration of funds provided under this title and the oversight of programs funded through the Statewide network of community-based, prevention-focused, family resource and support programs which meets the requirements of section 202;

"(2) a description of how the network of community-based, prevention-focused, family resource and support programs will operate and how family resource and support services provided by public and private, nonprofit organizations, including those funded by programs consolidated under this Act, will be integrated into a developing continuum of family centered, holistic, preventive services for children and families;

"(3) an assurance that an inventory of current family resource programs, respite care, child abuse and neglect prevention activities, and other family resource services operating in the State, and a description of current unmet needs, will be provided;

"(4) a budget for the development, operation and expansion of the State's network of community-based, prevention-focused, family resource and support programs that verifies that the State will expend in non-Federal funds an amount equal to not less than 20 percent of the amount received under this title (in cash, not in-kind) for activities under this title;

"(5) an assurance that funds received under this title will supplement, not supplant, other State and local public funds designated for the Statewide network of community-based, prevention-focused, family resource and support programs;

"(6) an assurance that the State has the capacity to ensure the meaningful involvement of parents who are consumers and who can provide leadership in the planning, implementation, and evaluation of the programs and policy decisions of the applicant agency in accomplishing the desired outcomes for such efforts;

"(7) a description of the criteria that the entity will use to develop, or select and fund, individual community-based, prevention-focused, family resource and support programs as part of network development, expansion or enhancement;

"(8) a description of outreach activities that the entity and the community-based, prevention-focused, family resource and support programs will undertake to maximize the participation of racial and ethnic minorities, children and adults with disabilities, homeless families and those at risk of homelessness, and members of other underserved or underrepresented groups;

"(9) a plan for providing operational support, training and technical assistance to community-based, prevention-focused, family resource and support programs for development, operation, expansion and enhancement activities;

"(10) a description of how the applicant entity's activities and those of the network and its members will be evaluated;

"(11) a description of the actions that the applicant entity will take to advocate systemic changes in State policies, practices, procedures and regulations to improve the delivery of

prevention-focused, family resource and support program services to children and families; and

"(13) an assurance that the applicant entity will provide the Secretary with reports at such time and containing such information as the Secretary may require.

"SEC. 206. LOCAL PROGRAM REQUIREMENTS. 42 USC 5116e.

"(a) IN GENERAL.—Grants made under this title shall be used to develop, implement, operate, expand and enhance community-based, prevention-focused, family resource and support programs that—

"(1) assess community assets and needs through a planning process that involves parents and local public agencies, local nonprofit organizations, and private sector representatives;

"(2) develop a strategy to provide, over time, a continuum of preventive, family centered services to children and families, especially to young parents and parents with young children, through public-private partnerships;

"(3) provide—

"(A) core family resource and support services such as—

"(i) parent education, mutual support and self help, and leadership services;

"(ii) outreach services;

"(iii) community and social service referrals; and

"(iv) follow-up services;

"(B) other core services, which must be provided or arranged for through contracts or agreements with other local agencies, including all forms of respite care services to the extent practicable; and

"(C) access to optional services, including—

"(i) referral to and counseling for adoption services for individuals interested in adopting a child or relinquishing their child for adoption;

"(ii) child care, early childhood development and intervention services;

"(iii) referral to services and supports to meet the additional needs of families with children with disabilities;

"(iv) referral to job readiness services;

"(v) referral to educational services, such as scholastic tutoring, literacy training, and General Educational Degree services;

"(vi) self-sufficiency and life management skills training;

"(vii) community referral services, including early developmental screening of children; and

"(viii) peer counseling;

"(4) develop leadership roles for the meaningful involvement of parents in the development, operation, evaluation, and oversight of the programs and services;

"(5) provide leadership in mobilizing local public and private resources to support the provision of needed family resource and support program services; and

"(6) participate with other community-based, prevention-focused, family resource and support program grantees in the

development, operation and expansion of the Statewide network.

"(b) PRIORITY.—In awarding local grants under this title, a lead entity shall give priority to effective community-based programs serving low income communities and those serving young parents or parents with young children, including community-based family resource and support programs.

42 USC 5116f.

"SEC. 207. PERFORMANCE MEASURES.

"A State receiving a grant under this title, through reports provided to the Secretary—

"(1) shall demonstrate the effective development, operation and expansion of a Statewide network of community-based, prevention-focused, family resource and support programs that meets the requirements of this title;

"(2) shall supply an inventory and description of the services provided to families by local programs that meet identified community needs, including core and optional services as described in section 202;

"(3) shall demonstrate the establishment of new respite care and other specific new family resources services, and the expansion of existing services, to address unmet needs identified by the inventory and description of current services required under section 205(3);

"(4) shall describe the number of families served, including families with children with disabilities, and the involvement of a diverse representation of families in the design, operation, and evaluation of the Statewide network of community-based, prevention-focused, family resource and support programs, and in the design, operation and evaluation of the individual community-based family resource and support programs that are part of the Statewide network funded under this title;

"(5) shall demonstrate a high level of satisfaction among families who have used the services of the community-based, prevention-focused, family resource and support programs;

"(6) shall demonstrate the establishment or maintenance of innovative funding mechanisms, at the State or community level, that blend Federal, State, local and private funds, and innovative, interdisciplinary service delivery mechanisms, for the development, operation, expansion and enhancement of the Statewide network of community-based, prevention-focused, family resource and support programs;

"(7) shall describe the results of a peer review process conducted under the State program; and

"(8) shall demonstrate an implementation plan to ensure the continued leadership of parents in the on-going planning, implementation, and evaluation of such community based, prevention-focused, family resource and support programs.

42 USC 5116g.

"SEC. 208. NATIONAL NETWORK FOR COMMUNITY-BASED FAMILY RESOURCE PROGRAMS.

"The Secretary may allocate such sums as may be necessary from the amount provided under the State allotment to support the activities of the lead entity in the State—

"(1) to create, operate and maintain a peer review process;

"(2) to create, operate and maintain an information clearinghouse;

"(3) to fund a yearly symposium on State system change efforts that result from the operation of the Statewide networks of community-based, prevention-focused, family resource and support programs;

"(4) to create, operate and maintain a computerized communication system between lead entities; and

"(5) to fund State-to-State technical assistance through biannual conferences.

"SEC. 209. DEFINITIONS. 42 USC 5116h.

"For purposes of this title:

"(1) CHILDREN WITH DISABILITIES.—The term 'children with disabilities' has the same meaning given such term in section 602(a)(2) of the Individuals with Disabilities Education Act.

"(2) COMMUNITY REFERRAL SERVICES.—The term 'community referral services' means services provided under contract or through interagency agreements to assist families in obtaining needed information, mutual support and community resources, including respite care services, health and mental health services, employability development and job training, and other social services, including early developmental screening of children, through help lines or other methods.

"(3) FAMILY RESOURCE AND SUPPORT PROGRAM.—The term 'family resource and support program' means a community-based, prevention-focused entity that—

"(A) provides, through direct service, the core services required under this title, including—

"(i) parent education, support and leadership services, together with services characterized by relationships between parents and professionals that are based on equality and respect, and designed to assist parents in acquiring parenting skills, learning about child development, and responding appropriately to the behavior of their children;

"(ii) services to facilitate the ability of parents to serve as resources to one another (such as through mutual support and parent self-help groups);

"(iii) outreach services provided through voluntary home visits and other methods to assist parents in becoming aware of and able to participate in family resources and support program activities;

"(iv) community and social services to assist families in obtaining community resources; and

"(v) follow-up services;

"(B) provides, or arranges for the provision of, other core services through contracts or agreements with other local agencies, including all forms of respite care services; and

"(C) provides access to optional services, directly or by contract, purchase of service, or interagency agreement, including—

"(i) child care, early childhood development and early intervention services;

"(ii) referral to self-sufficiency and life management skills training;

"(iii) referral to education services, such as scholastic tutoring, literacy training, and General Educational Degree services;

"(iv) referral to services providing job readiness skills;

"(v) child abuse and neglect prevention activities;

"(vi) referral to services that families with children with disabilities or special needs may require;

"(vii) community and social service referral, including early developmental screening of children;

"(viii) peer counseling;

"(ix) referral for substance abuse counseling and treatment; and

"(x) help line services.

"(4) OUTREACH SERVICES.—The term 'outreach services' means services provided to assist consumers, through voluntary home visits or other methods, in accessing and participating in family resource and support program activities.

"(5) RESPITE CARE SERVICES.—The term 'respite care services' means short term care services provided in the temporary absence of the regular caregiver (parent, other relative, foster parent, adoptive parent, or guardian) to children who—

"(A) are in danger of abuse or neglect;

"(B) have experienced abuse or neglect; or

"(C) have disabilities, chronic, or terminal illnesses.

Such services shall be provided within or outside the home of the child, be short-term care (ranging from a few hours to a few weeks of time, per year), and be intended to enable the family to stay together and to keep the child living in the home and community of the child.

42 USC 5116i.

"SEC. 210. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this title, $66,000,000 for fiscal year 1997 and such sums as may be necessary for each of the fiscal years 1998 through 2001.".

Subtitle C—Certain Preventive Services Regarding Children of Homeless Families or Families At Risk of Homelessness

SEC. 131. REPEAL OF TITLE III.

Title III of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5118 et seq.) is repealed.

Subtitle D—Miscellaneous Provisions

SEC. 141. TABLE OF CONTENTS.

The table of contents of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 note) is amended to read as follows:

"Sec. 1. Short title and table of contents.
"Sec. 2. Findings.

"TITLE I—GENERAL PROGRAM

"Sec. 101. Office on Child Abuse and Neglect.

"Sec. 102. Advisory Board on Child Abuse and Neglect.
"Sec. 103. National clearinghouse for information relating to child abuse.
"Sec. 104. Research and assistance activities.
"Sec. 105. Grants to public agencies and nonprofit private organizations for demonstration programs and projects.
"Sec. 106. Grants to States for child abuse and neglect prevention and treatment programs.
"Sec. 107. Grants to States for programs relating to the investigation and prosecution of child abuse and neglect cases.
"Sec. 108. Miscellaneous requirements relating to assistance.
"Sec. 109. Coordination of child abuse and neglect programs.
"Sec. 110. Reports.
"Sec. 111. Definitions.
"Sec. 112. Authorization of appropriations.
"Sec. 113. Rule of construction.

"TITLE II—COMMUNITY-BASED FAMILY RESOURCE AND SUPPORT GRANTS

"Sec. 201. Purpose and authority.
"Sec. 202. Eligibility.
"Sec. 203. Amount of grant.
"Sec. 204. Existing grants.
"Sec. 205. Application.
"Sec. 206. Local program requirements.
"Sec. 207. Performance measures.
"Sec. 208. National network for community-based family resource programs.
"Sec. 209. Definitions.
"Sec. 210. Authorization of appropriations.

SEC. 142. REPEALS OF OTHER LAWS.

(a) TEMPORARY CHILD CARE FOR CHILDREN WITH DISABILITIES AND CRISIS NURSERIES ACT OF 1986.—The Temporary Child Care for Children With Disabilities and Crisis Nurseries Act of 1986 (42 U.S.C. 5117 et seq.) is repealed.

(b) FAMILY SUPPORT CENTERS.—Subtitle F of title VII of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11481 et seq.) is repealed.

TITLE II—AMENDMENTS TO OTHER ACTS

Subtitle A—Family Violence Prevention and Services Act

SEC. 201. STATE DEMONSTRATION GRANTS.

Section 303(e) of the Family Violence Prevention and Services Act (42 U.S.C. 10420(e)) is amended— 42 USC 10402.

(1) by striking "following local share" and inserting "following non-Federal matching local share"; and

(2) by striking "20 percent" and all that follows through "private sources." and inserting "with respect to an entity operating an existing program under this title, not less than 20 percent, and with respect to an entity intending to operate a new program under this title, not less than 35 percent.".

SEC. 202. ALLOTMENTS.

Section 304(a)(1) of the Family Violence Prevention and Services Act (42 U.S.C. 10403(a)(1)) is amended by striking "$200,000" and inserting "$400,000".

SEC. 203. AUTHORIZATION OF APPROPRIATIONS.

Section 310 of the Family Violence Prevention and Services Act (42 U.S.C. 10409) is amended—

(1) in subsection (b), by striking "80" and inserting "70"; and

(2) by adding at the end thereof the following new subsections:

"(d) GRANTS FOR STATE COALITIONS.—Of the amounts appropriated under subsection (a) for each fiscal year, not less than 10 percent of such amounts shall be used by the Secretary for making grants under section 311.

"(e) NON-SUPPLANTING REQUIREMENT.—Federal funds made available to a State under this title shall be used to supplement and not supplant other Federal, State, and local public funds expended to provide services and activities that promote the purposes of this title.".

Subtitle B—Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 ("Adoption Opportunities Act")

SEC. 211. FINDINGS AND PURPOSE.

Section 201 of the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 (42 U.S.C. 5111) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking "50 percent between 1985 and 1990" and inserting "61 percent between 1986 and 1994"; and

(ii) by striking "400,000 children at the end of June, 1990" and inserting "452,000 as of June 1994";

(B) in paragraph (5), by striking "local" and inserting "legal"; and

(C) in paragraph (7), to read as follows:

"(7)(A) currently, 40,000 children are free for adoption and awaiting placement;

"(B) such children are typically school aged, in sibling groups, have experienced neglect or abuse, or have a physical, mental, or emotional disability; and

"(C) while the children are of all races, children of color and older children (over the age of 10) are over represented in such group;"; and

(2) in subsection (b)—

(A) by striking "conditions, by—" and all that follows through "Department of Health and Human Services to—" and inserting "conditions, by providing a mechanism to—"; and

(B) by redesignating subparagraphs (A) through (C) of paragraph (2), as paragraphs (1) through (3), respectively, and by realigning the margins of such paragraphs accordingly.

SEC. 212. INFORMATION AND SERVICES.

Section 203 of the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 (42 U.S.C. 5113) is amended—

(1) in subsection (a), by striking the last sentence;

(2) in subsection (b)—

(A) in paragraph (6), to read as follows:

"(6) study the nature, scope, and effects of the placement of children in kinship care arrangements, pre-adoptive, or adoptive homes;";

(B) by redesignating paragraphs (7) through (9) as paragraphs (8) through (10), respectively; and

(C) by inserting after paragraph (6), the following new paragraph:

"(7) study the efficacy of States contracting with public or private nonprofit agencies (including community-based and other organizations), or sectarian institutions for the recruitment of potential adoptive and foster families and to provide assistance in the placement of children for adoption;"; and

(3) in subsection (d)(2)—

(A) by striking "Each" and inserting "(A) Each";

(B) by striking "for each fiscal year" and inserting "that describes the manner in which the State will use funds during the 3 fiscal years subsequent to the date of the application to accomplish the purposes of this section. Such application shall be"; and

(C) by adding at the end the following new subparagraph:

"(B) The Secretary shall provide, directly or by grant to or contract with public or private nonprofit agencies or organizations— Grants. Contracts.

"(i) technical assistance and resource and referral information to assist State or local governments with termination of parental rights issues, in recruiting and retaining adoptive families, in the successful placement of children with special needs, and in the provision of pre- and post-placement services, including post-legal adoption services; and

"(ii) other assistance to help State and local governments replicate successful adoption-related projects from other areas in the United States.".

SEC. 213. AUTHORIZATION OF APPROPRIATIONS.

Section 205 of the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 (42 U.S.C. 5115) is amended—

(1) in subsection (a), by striking "$10,000,000" and all that follows through "203(c)(1)" and inserting "$20,000,000 for fiscal year 1997, and such sums as may be necessary for each of the fiscal years 1998 through 2001 to carry out programs and activities authorized";

(2) by striking subsection (b); and

(3) by redesignating subsection (c) as subsection (b).

Subtitle C—Abandoned Infants Assistance Act of 1988

SEC. 221. PRIORITY REQUIREMENT.

Section 101 of the Abandoned Infants Assistance Act of 1988 (42 U.S.C. 670 note) is amended by adding at the end the following:

"(h) PRIORITY REQUIREMENT.—In making grants under subsection (a), the Secretary shall give priority to applicants located in States that have developed and implemented procedures for expedited termination of parental rights and placement for adoption of infants determined to be abandoned under State law.".

SEC. 222. REAUTHORIZATION.

Section 104(a)(1) of the Abandoned Infants Assistance Act of 1988 (42 U.S.C. 670 note) is amended by striking "$20,000,000" and all that follows and inserting "$35,000,000 for fiscal year 1997 and such sums as may be necessary for each of the fiscal years 1998 through 2001.".

Subtitle D—Reauthorization of Various Programs

SEC. 231. MISSING CHILDREN'S ASSISTANCE ACT.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 408 of the Missing Children's Assistance Act (42 U.S.C. 5777) is amended—

(1) by striking "To" and inserting "(a) IN GENERAL.—To";

(2) by striking "1993, 1994, 1995, and 1996" and inserting "1997 through 2001"; and

(3) by adding at the end the following new subsection:

"(b) EVALUATION.—The Administrator may use not more than 5 percent of the amount appropriated for a fiscal year under subsection (a) to conduct an evaluation of the effectiveness of the programs and activities established and operated under this title.".

(b) SPECIAL STUDY AND REPORT.—Section 409 of the Missing Children's Assistance Act (42 U.S.C. 5778) is repealed.

SEC. 232. VICTIMS OF CHILD ABUSE ACT OF 1990.

Section 214B of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13004) is amended—

(1) in subsection (a)(2), by striking "and 1996" and inserting "1996, and each of the fiscal years 1997 through 2000"; and

(2) in subsection (b)(2), by striking "and 1996" and inserting "1996, and each of the fiscal years 1997 through 2000".

Approved October 3, 1996.

LEGISLATIVE HISTORY—S. 919:

SENATE REPORTS: No. 104–117 (Comm. on Labor and Human Resources).
CONGRESSIONAL RECORD, Vol. 142 (1996):
July 18, considered and passed Senate.
Sept. 25, considered and passed House, amended.
Sept. 27, Senate concurred in House amendment.

Public Law 104–236
104th Congress

An Act

To provide for the nationwide tracking of convicted sexual predators, and for other purposes.

Oct. 3, 1996
[S. 1675]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

Pam Lychner Sexual Offender Tracking and Identification Act of 1996.
42 USC 13701 note.

This Act may be cited as the "Pam Lychner Sexual Offender Tracking and Identification Act of 1996".

SEC. 2. OFFENDER REGISTRATION.

(a) ESTABLISHMENT OF FBI DATABASE.—Subtitle A of title XVII of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14071) is amended by adding at the end the following new section:

"SEC. 170102. FBI DATABASE.

42 USC 14072.

"(a) DEFINITIONS.—For purposes of this section—

"(1) the term 'FBI' means the Federal Bureau of Investigation;

"(2) the terms 'criminal offense against a victim who is a minor', 'sexually violent offense', 'sexually violent predator', 'mental abnormality', and 'predatory' have the same meanings as in section 170101(a)(3); and

"(3) the term 'minimally sufficient sexual offender registration program' means any State sexual offender registration program that—

"(A) requires the registration of each offender who is convicted of an offense described in subparagraph (A) or (B) of section 170101(a)(1);

"(B) requires that all information gathered under such program be transmitted to the FBI in accordance with subsection (g) of this section;

"(C) meets the requirements for verification under section 170101(b)(3); and

"(D) requires that each person who is required to register under subparagraph (A) shall do so for a period of not less than 10 years beginning on the date that such person was released from prison or placed on parole, supervised release, or probation.

"(b) ESTABLISHMENT.—The Attorney General shall establish a national database at the Federal Bureau of Investigation to track the whereabouts and movement of—

"(1) each person who has been convicted of a criminal offense against a victim who is a minor;

"(2) each person who has been convicted of a sexually violent offense; and

"(3) each person who is a sexually violent predator.

"(c) REGISTRATION REQUIREMENT.—Each person described in subsection (b) who resides in a State that has not established a minimally sufficient sexual offender registration program shall register a current address, fingerprints of that person, and a current photograph of that person with the FBI for inclusion in the database established under subsection (b) for the time period specified under subsection (d).

"(d) LENGTH OF REGISTRATION.—A person described in subsection (b) who is required to register under subsection (c) shall, except during ensuing periods of incarceration, continue to comply with this section—

"(1) until 10 years after the date on which the person was released from prison or placed on parole, supervised release, or probation; or

"(2) for the life of the person, if that person—

"(A) has 2 or more convictions for an offense described in subsection (b);

"(B) has been convicted of aggravated sexual abuse, as defined in section 2241 of title 18, United States Code, or in a comparable provision of State law; or

"(C) has been determined to be a sexually violent predator.

"(e) VERIFICATION.—

Guidelines.

"(1) PERSONS CONVICTED OF AN OFFENSE AGAINST A MINOR OR A SEXUALLY VIOLENT OFFENSE.—In the case of a person required to register under subsection (c), the FBI shall, during the period in which the person is required to register under subsection (d), verify the person's address in accordance with guidelines that shall be promulgated by the Attorney General. Such guidelines shall ensure that address verification is accomplished with respect to these individuals and shall require the submission of fingerprints and photographs of the individual.

Applicability.

"(2) SEXUALLY VIOLENT PREDATORS.—Paragraph (1) shall apply to a person described in subsection (b)(3), except that such person must verify the registration once every 90 days after the date of the initial release or commencement of parole of that person.

"(f) COMMUNITY NOTIFICATION.—

"(1) IN GENERAL.—Subject to paragraph (2), the FBI may release relevant information concerning a person required to register under subsection (c) that is necessary to protect the public.

"(2) IDENTITY OF VICTIM.—In no case shall the FBI release the identity of any victim of an offense that requires registration by the offender with the FBI.

"(g) NOTIFICATION OF FBI OF CHANGES IN RESIDENCE.—

"(1) ESTABLISHMENT OF NEW RESIDENCE.—For purposes of this section, a person shall be deemed to have established a new residence during any period in which that person resides for not less than 10 days.

"(2) PERSONS REQUIRED TO REGISTER WITH THE FBI.—Each establishment of a new residence, including the initial establishment of a residence immediately following release from prison,

or placement on parole, supervised release, or probation, by a person required to register under subsection (c) shall be reported to the FBI not later than 10 days after that person establishes a new residence.

"(3) INDIVIDUAL REGISTRATION REQUIREMENT.—A person required to register under subsection (c) or under a minimally sufficient offender registration program, including a program established under section 170101, who changes address to a State other than the State in which the person resided at the time of the immediately preceding registration shall, not later than 10 days after that person establishes a new residence, register a current address, fingerprints, and photograph of that person, for inclusion in the appropriate database, with—

"(A) the FBI; and

"(B) the State in which the new residence is established.

"(4) STATE REGISTRATION REQUIREMENT.—Any time any State agency in a State with a minimally sufficient sexual offender registration program, including a program established under section 170101, is notified of a change of address by a person required to register under such program within or outside of such State, the State shall notify— Notification.

"(A) the law enforcement officials of the jurisdiction to which, and the jurisdiction from which, the person has relocated; and

"(B) the FBI.

"(5) VERIFICATION.—

"(A) NOTIFICATION OF LOCAL LAW ENFORCEMENT OFFICIALS.—The FBI shall ensure that State and local law enforcement officials of the jurisdiction from which, and the State and local law enforcement officials of the jurisdiction to which, a person required to register under subsection (c) relocates are notified of the new residence of such person.

"(B) NOTIFICATION OF FBI.—A State agency receiving notification under this subsection shall notify the FBI of the new residence of the offender.

"(C) VERIFICATION.—

"(i) STATE AGENCIES.—If a State agency cannot verify the address of or locate a person required to register with a minimally sufficient sexual offender registration program, including a program established under section 170101, the State shall immediately notify the FBI. Notification.

"(ii) FBI.—If the FBI cannot verify the address of or locate a person required to register under subsection (c) or if the FBI receives notification from a State under clause (i), the FBI shall—

"(I) classify the person as being in violation of the registration requirements of the national database; and

"(II) add the name of the person to the National Crime Information Center Wanted person file and create a wanted persons record: *Provided,* That an arrest warrant which meets the requirements for entry into the file is issued in connection with the violation. Records.

"(h) FINGERPRINTS.—

"(1) FBI REGISTRATION.—For each person required to register under subsection (c), fingerprints shall be obtained and verified by the FBI or a local law enforcement official pursuant to regulations issued by the Attorney General.

"(2) STATE REGISTRATION SYSTEMS.—In a State that has a minimally sufficient sexual offender registration program, including a program established under section 170101, fingerprints required to be registered with the FBI under this section shall be obtained and verified in accordance with State requirements. The State agency responsible for registration shall ensure that the fingerprints and all other information required to be registered is registered with the FBI.

"(i) PENALTY.—A person required to register under paragraph (1), (2), or (3) of subsection (g) who knowingly fails to comply with this section shall—

"(1) in the case of a first offense—

"(A) if the person has been convicted of 1 offense described in subsection (b), be fined not more than $100,000; or

"(B) if the person has been convicted of more than 1 offense described in subsection (b), be imprisoned for up to 1 year and fined not more than $100,000; or

"(2) in the case of a second or subsequent offense, be imprisoned for up to 10 years and fined not more than $100,000.

"(j) RELEASE OF INFORMATION.—The information collected by the FBI under this section shall be disclosed by the FBI—

"(1) to Federal, State, and local criminal justice agencies for—

"(A) law enforcement purposes; and

"(B) community notification in accordance with section 170101(d)(3); and

"(2) to Federal, State, and local governmental agencies responsible for conducting employment-related background checks under section 3 of the National Child Protection Act of 1993 (42 U.S.C. 5119a).

"(k) NOTIFICATION UPON RELEASE.—Any State not having established a program described in section 170102(a)(3) must—

"(1) upon release from prison, or placement on parole, supervised release, or probation, notify each offender who is convicted of an offense described in subparagraph (A) or (B) of section 170101(a)(1) of their duty to register with the FBI; and

"(2) notify the FBI of the release of each offender who is convicted of an offense described in subparagraph (A) or (B) of section 170101(a)(1).".

SEC. 3. DURATION OF STATE REGISTRATION REQUIREMENT.

Section 170101(b)(6) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14071(b)(6)) is amended to read as follows:

"(6) LENGTH OF REGISTRATION.—A person required to register under subsection (a)(1) shall continue to comply with this section, except during ensuing periods of incarceration, until—

"(A) 10 years have elapsed since the person was released from prison or placed on parole, supervised release, or probation; or

"(B) for the life of that person if that person—

"(i) has 1 or more prior convictions for an offense described in subsection (a)(1)(A); or

"(ii) has been convicted of an aggravated offense described in subsection (a)(1)(A); or

"(iii) has been determined to be a sexually violent predator pursuant to subsection (a)(2).".

SEC. 4. STATE BOARDS.

Section 170101(a)(2) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14071(a)(2)) is amended by inserting before the period at the end the following: ", victim rights advocates, and representatives from law enforcement agencies".

SEC. 5. FINGERPRINTS.

Section 170101 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14071) is amended by adding at the end the following new subsection:

"(g) FINGERPRINTS.—Each requirement to register under this section shall be deemed to also require the submission of a set of fingerprints of the person required to register, obtained in accordance with regulations prescribed by the Attorney General under section 170102(h).".

SEC. 6. VERIFICATION.

Section 170101(b)(3)(A)(iii) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14071(b)(3)(A)(iii)) is amended by adding at the end the following: "The person shall include with the verification form, fingerprints and a photograph of that person.".

SEC. 7. REGISTRATION INFORMATION. Records.

Section 170101(b)(2) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14071(b)(2)) is amended to read as follows:

"(2) TRANSFER OF INFORMATION TO STATE AND THE FBI.— Notification. The officer, or in the case of a person placed on probation, the court, shall, within 3 days after receipt of information described in paragraph (1), forward it to a designated State law enforcement agency. The State law enforcement agency shall immediately enter the information into the appropriate State law enforcement record system and notify the appropriate law enforcement agency having jurisdiction where the person expects to reside. The State law enforcement agency shall also immediately transmit all information described in paragraph (1) to the Federal Bureau of Investigation for inclusion in the FBI database described in section 170102.".

SEC. 8. IMMUNITY FOR GOOD FAITH CONDUCT. 42 USC 14073.

State and Federal law enforcement agencies, employees of State and Federal law enforcement agencies, and State and Federal officials shall be immune from liability for good faith conduct under section 170102.

42 USC 14071 note.

SEC. 9. REGULATIONS.

Not later than 1 year after the date of enactment of this Act, the Attorney General shall issue regulations to carry out this Act and the amendments made by this Act.

42 USC 14071 note.

SEC. 10. EFFECTIVE DATE.

(a) IN GENERAL.—This Act and the amendments made by this Act shall become effective 1 year after the date of enactment of this Act.

(b) COMPLIANCE BY STATES.—Each State shall implement the amendments made by sections 3, 4, 5, 6, and 7 of this Act not later than 3 years after the date of enactment of this Act, except that the Attorney General may grant an additional 2 years to a State that is making good faith efforts to implement such amendments.

(c) INELIGIBILITY FOR FUNDS.—

(1) A State that fails to implement the program as described in sections 3, 4, 5, 6, and 7 of this Act shall not receive 10 percent of the funds that would otherwise be allocated to the State under section 506 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3756).

(2) Any funds that are not allocated for failure to comply with section 3, 4, 5, 6, or 7 of this Act shall be reallocated to States that comply with these sections.

42 USC 14071 note.

SEC. 11. SEVERABILITY.

If any provision of this Act, an amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

Approved October 3, 1996.

LEGISLATIVE HISTORY—S. 1675 (H.R. 3456):

CONGRESSIONAL RECORD, Vol. 142 (1996):
July 25, considered and passed Senate.
Sept. 25, H.R. 3456 considered in House.
Sept. 26, S. 1675 and H.R. 3456 considered and passed House.

Public Law 104–237
104th Congress

An Act

To prevent the illegal manufacturing and use of methamphetamine.

Oct. 3, 1996
[S. 1965]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Comprehensive Methamphetamine Control Act of 1996.
21 USC 801 note.

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Comprehensive Methamphetamine Control Act of 1996".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title and table of contents.
Sec. 2. Findings.

TITLE I—IMPORTATION OF METHAMPHETAMINE AND PRECURSOR CHEMICALS

Sec. 101. Support for international efforts to control drugs.
Sec. 102. Penalties for manufacture of listed chemicals outside the United States with intent to import them into the United States.

TITLE II—PROVISIONS TO CONTROL THE MANUFACTURE OF METHAMPHETAMINE

Sec. 201. Seizure and forfeiture of regulated chemicals.
Sec. 202. Study and report on measures to prevent sales of agents used in methamphetamine production.
Sec. 203. Increased penalties for manufacture and possession of equipment used to make controlled substances.
Sec. 204. Addition of iodine and hydrochloric gas to list II.
Sec. 205. Civil penalties for firms that supply precursor chemicals.
Sec. 206. Injunctive relief.
Sec. 207. Restitution for cleanup of clandestine laboratory sites.
Sec. 208. Record retention.
Sec. 209. Technical amendments.
Sec. 210. Withdrawal of regulations.

TITLE III—INCREASED PENALTIES FOR TRAFFICKING AND MANUFACTURE OF METHAMPHETAMINE AND PRECURSORS

Sec. 301. Penalty increases for trafficking in methamphetamine.
Sec. 302. Enhanced penalties for offenses involving certain listed chemicals.
Sec. 303. Enhanced penalty for dangerous handling of controlled substances: amendment of sentencing guidelines.

TITLE IV—LEGAL MANUFACTURE, DISTRIBUTION, AND SALE OF PRECURSOR CHEMICALS

Sec. 401. Diversion of certain precursor chemicals.
Sec. 402. Mail order restrictions.

TITLE V—EDUCATION AND RESEARCH

Sec. 501. Interagency methamphetamine task force.
Sec. 502. Public health monitoring.
Sec. 503. Public-private education program.
Sec. 504. Suspicious orders task force.

21 USC 801 note.

SEC. 2. FINDINGS.

The Congress finds the following:

(1) Methamphetamine is a very dangerous and harmful drug. It is highly addictive and is associated with permanent brain damage in long-term users.

(2) The abuse of methamphetamine has increased dramatically since 1990. This increased use has led to devastating effects on individuals and the community, including—

(A) a dramatic increase in deaths associated with methamphetamine ingestion;

(B) an increase in the number of violent crimes associated with methamphetamine ingestion; and

(C) an increase in criminal activity associated with the illegal importation of methamphetamine and precursor compounds to support the growing appetite for this drug in the United States.

(3) Illegal methamphetamine manufacture and abuse presents an imminent public health threat that warrants aggressive law enforcement action, increased research on methamphetamine and other substance abuse, increased coordinated efforts to prevent methamphetamine abuse, and increased monitoring of the public health threat methamphetamine presents to the communities of the United States.

TITLE I—IMPORTATION OF METHAMPHETAMINE AND PRECURSOR CHEMICALS

21 USC 801 note.

SEC. 101. SUPPORT FOR INTERNATIONAL EFFORTS TO CONTROL DRUGS.

The Attorney General, in consultation with the Secretary of State, shall coordinate international drug enforcement efforts to decrease the movement of methamphetamine and methamphetamine precursors into the United States.

SEC. 102. PENALTIES FOR MANUFACTURE OF LISTED CHEMICALS OUTSIDE THE UNITED STATES WITH INTENT TO IMPORT THEM INTO THE UNITED STATES.

(a) UNLAWFUL IMPORTATION.—Section 1009(a) of the Controlled Substances Import and Export Act (21 U.S.C. 959(a)) is amended—

(1) in the matter before paragraph (1), by inserting "or listed chemical" after "schedule I or II"; and

(2) in paragraphs (1) and (2), by inserting "or chemical" after "substance".

(b) UNLAWFUL MANUFACTURE OR DISTRIBUTION.—Paragraphs (1) and (2) of section 1009(b) of the Controlled Substances Import and Export Act (21 U.S.C. 959(b)) are amended by inserting "or listed chemical" after "controlled substance".

(c) PENALTIES.—Section 1010(d) of the Controlled Substances Import and Export Act (21 U.S.C. 960(d)) is amended—

(1) in paragraph (5), by striking "or" at the end;

(2) in paragraph (6), by striking the comma at the end and inserting "; or"; and

(3) by adding at the end the following:

"(7) manufactures, possesses with intent to distribute, or distributes a listed chemical in violation of section 959 of this title.".

TITLE II—PROVISIONS TO CONTROL THE MANUFACTURE OF METHAMPHETAMINE

SEC. 201. SEIZURE AND FORFEITURE OF REGULATED CHEMICALS.

(a) PENALTIES FOR SIMPLE POSSESSION.—Section 404 of the Controlled Substances Act (21 U.S.C. 844) is amended—

(1) in subsection (a)—

(A) by adding after the first sentence the following: "It shall be unlawful for any person knowingly or intentionally to possess any list I chemical obtained pursuant to or under authority of a registration issued to that person under section 303 of this title or section 1008 of title III if that registration has been revoked or suspended, if that registration has expired, or if the registrant has ceased to do business in the manner contemplated by his registration."; and

(B) by striking "drug or narcotic" and inserting "drug, narcotic, or chemical" each place it appears; and

(2) in subsection (c), by striking "drug or narcotic" and inserting "drug, narcotic, or chemical".

(b) FORFEITURES.—Section 511(a) of the Controlled Substances Act (21 U.S.C. 881(a)) is amended—

(1) in paragraphs (2) and (6), by inserting "or listed chemical" after "controlled substance" each place it appears; and

(2) in paragraph (9), by—

(A) inserting "dispensed, acquired," after "distributed," both places it appears; and

(B) striking "a felony provision of".

(c) SEIZURE.—Section 607 of the Tariff Act of 1930 (19 U.S.C. 1607) is amended—

(1) in subsection (a)(3), by inserting "or listed chemical" after "controlled substance"; and

(2) by amending subsection (b) to read as follows:

"(b) As used in this section, the terms 'controlled substance' and 'listed chemical' have the meaning given such terms in section 102 of the Controlled Substances Act (21 U.S.C. 802).".

SEC. 202. STUDY AND REPORT ON MEASURES TO PREVENT SALES OF AGENTS USED IN METHAMPHETAMINE PRODUCTION.

21 USC 872 note.

(a) STUDY.—The Attorney General of the United States shall conduct a study on possible measures to effectively prevent the diversion of red phosphorous, iodine, hydrochloric gas, and other agents for use in the production of methamphetamine. Nothing in this section shall preclude the Attorney General from taking any action the Attorney General already is authorized to take with regard to the regulation of listed chemicals under current law.

(b) REPORT.—Not later than January 1, 1998, the Attorney General shall submit a report to the Congress of its findings pursu-

ant to the study conducted under subsection (a) on the need for and advisability of preventive measures.

(c) CONSIDERATIONS.—In developing recommendations under subsection (b), the Attorney General shall consider—

(1) the use of red phosphorous, iodine, hydrochloric gas, and other agents in the illegal manufacture of methamphetamine;

(2) the use of red phosphorous, iodine, hydrochloric gas, and other agents for legitimate, legal purposes, and the impact any regulations may have on these legitimate purposes; and

(3) comments and recommendations from law enforcement, manufacturers of such chemicals, and the consumers of such chemicals for legitimate, legal purposes.

SEC. 203. INCREASED PENALTIES FOR MANUFACTURE AND POSSESSION OF EQUIPMENT USED TO MAKE CONTROLLED SUBSTANCES.

(a) IN GENERAL.—Section 403(d) of the Controlled Substances Act (21 U.S.C. 843(d)) is amended—

(1) by striking "(d) Any person" and inserting "(d)(1) Except as provided in paragraph (2), any person"; and

(2) by adding at the end the following:

"(2) Any person who, with the intent to manufacture or to facilitate the manufacture of methamphetamine, violates paragraph (6) or (7) of subsection (a), shall be sentenced to a term of imprisonment of not more than 10 years, a fine of not more than $30,000, or both; except that if any person commits such a violation after one or more prior convictions of that person—

"(A) for a violation of paragraph (6) or (7) of subsection (a);

"(B) for a felony under any other provision of this subchapter or subchapter II of this chapter; or

"(C) under any other law of the United States or any State relating to controlled substances or listed chemicals,

has become final, such person shall be sentenced to a term of imprisonment of not more than 20 years, a fine of not more than $60,000, or both.".

28 USC 994 note.

(b) SENTENCING COMMISSION.—The United States Sentencing Commission shall amend the sentencing guidelines to ensure that the manufacture of methamphetamine in violation of section 403(d)(2) of the Controlled Substances Act, as added by subsection (a), is treated as a significant violation.

SEC. 204. ADDITION OF IODINE AND HYDROCHLORIC GAS TO LIST II.

(a) IN GENERAL.—Section 102(35) of the Controlled Substances Act (21 U.S.C. 802(35)) is amended by adding at the end the following:

"(I) Iodine.

"(J) Hydrochloric gas.".

21 USC 971 note.

(b) IMPORTATION AND EXPORTATION REQUIREMENTS.—(1) Iodine shall not be subject to the requirements for listed chemicals provided in section 1018 of the Controlled Substances Import and Export Act (21 U.S.C. 971).

(2) EFFECT OF EXCEPTION.—The exception made by paragraph (1) shall not limit the authority of the Attorney General to impose the requirements for listed chemicals provided in section 1018 of the Controlled Substances Import and Export Act (21 U.S.C. 971).

SEC. 205. CIVIL PENALTIES FOR FIRMS THAT SUPPLY PRECURSOR CHEMICALS.

(a) OFFENSES.—Section 402(a) of the Controlled Substances Act (21 U.S.C. 842(a)) is amended—

(1) in paragraph (9), by striking "or" after the semicolon;

(2) in paragraph (10), by striking the period and inserting "; or"; and

(3) by adding at the end the following:

"(11) to distribute a laboratory supply to a person who uses, or attempts to use, that laboratory supply to manufacture a controlled substance or a listed chemical, in violation of this title or title III, with reckless disregard for the illegal uses to which such a laboratory supply will be put.

As used in paragraph (11), the term 'laboratory supply' means a listed chemical or any chemical, substance, or item on a special surveillance list published by the Attorney General, which contains chemicals, products, materials, or equipment used in the manufacture of controlled substances and listed chemicals. For purposes of paragraph (11), there is a rebuttable presumption of reckless disregard at trial if the Attorney General notifies a firm in writing that a laboratory supply sold by the firm, or any other person or firm, has been used by a customer of the notified firm, or distributed further by that customer, for the unlawful production of controlled substances or listed chemicals a firm distributes and 2 weeks or more after the notification the notified firm distributes a laboratory supply to the customer.".

(b) CIVIL PENALTY.—Section 402(c)(2) of the Controlled Substances Act (21 U.S.C. 842(c)(2)) is amended by adding at the end the following:

"(C) In addition to the penalties set forth elsewhere in this title or title III, any business that violates paragraph (11) of subsection (a) shall, with respect to the first such violation, be subject to a civil penalty of not more than $250,000, but shall not be subject to criminal penalties under this section, and shall, for any succeeding violation, be subject to a civil fine of not more than $250,000 or double the last previously imposed penalty, whichever is greater.".

SEC. 206. INJUNCTIVE RELIEF.

(a) TEN-YEAR INJUNCTION MAJOR OFFENSES.—Section 401(f) of the Controlled Substances Act (21 U.S.C. 841(f)) is amended by—

(1) inserting "manufacture, exportation," after "distribution,"; and

(2) striking "regulated".

(b) TEN-YEAR INJUNCTION OTHER OFFENSES.—Section 403 of the Controlled Substances Act (21 U.S.C. 843) is amended—

(1) in subsection (e), by—

(A) inserting "manufacture, exportation," after "distribution,"; and

(B) striking "regulated"; and

(2) by adding at the end the following:

"(f) INJUNCTIONS.—(1) In addition to any penalty provided in this section, the Attorney General is authorized to commence a civil action for appropriate declaratory or injunctive relief relating to violations of this section or section 402.

"(2) Any action under this subsection may be brought in the district court of the United States for the district in which the defendant is located or resides or is doing business.

"(3) Any order or judgment issued by the court pursuant to this subsection shall be tailored to restrain violations of this section or section 402.

"(4) The court shall proceed as soon as practicable to the hearing and determination of such an action. An action under this subsection is governed by the Federal Rules of Civil Procedure except that, if an indictment has been returned against the respondent, discovery is governed by the Federal Rules of Criminal Procedure.".

SEC. 207. RESTITUTION FOR CLEANUP OF CLANDESTINE LABORATORY SITES.

Section 413 of the Controlled Substances Act (21 U.S.C. 853) is amended by adding at the end the following:

"(q) The court, when sentencing a defendant convicted of an offense under this title or title III involving the manufacture of methamphetamine, may—

"(1) order restitution as provided in sections 3612 and 3664 of title 18, United States Code;

"(2) order the defendant to reimburse the United States for the costs incurred by the United States for the cleanup associated with the manufacture of methamphetamine by the defendant; and

"(3) order restitution to any person injured as a result of the offense as provided in section 3663 of title 18, United States Code.".

SEC. 208. RECORD RETENTION.

Section 310(a)(1) of the Controlled Substances Act (21 U.S.C. 830(a)(1)) is amended by striking the dash after "transaction" and subparagraphs (A) and (B) and inserting "for two years after the date of the transaction.".

SEC. 209. TECHNICAL AMENDMENTS.

Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended—

(1) in paragraph (34), by amending subparagraphs (P), (S), and (U) to read as follows:

"(P) Isosafrole.

"(S) N-Methylephedrine.

"(U) Hydriodic acid."; and

(2) in paragraph (35), by amending subparagraph (G) to read as follows:

"(G) 2-Butanone (or Methyl Ethyl Ketone).".

Federal Register, publication.

SEC. 210. WITHDRAWAL OF REGULATIONS.

The final rule concerning removal of exemption for certain pseudoephedrine products marketed under the Federal Food, Drug, and Cosmetic Act published in the Federal Register of August 7, 1996 (61 FR 40981–40993) is null and void and of no force or effect.

TITLE III—INCREASED PENALTIES FOR TRAFFICKING AND MANUFACTURE OF METHAMPHETAMINE AND PRECURSORS

SEC. 301. PENALTY INCREASES FOR TRAFFICKING IN METHAMPHETAMINE. 28 USC 994 note.

(a) DIRECTIVE TO THE UNITED STATES SENTENCING COMMISSION.—Pursuant to its authority under section 994 of title 28, United States Code, the United States Sentencing Commission shall review and amend its guidelines and its policy statements to provide for increased penalties for unlawful manufacturing, importing, exporting, and trafficking of methamphetamine, and other similar offenses, including unlawful possession with intent to commit any of those offenses, and attempt and conspiracy to commit any of those offenses. The Commission shall submit to Congress explanations therefor and any additional policy recommendations for combating methamphetamine offenses.

(b) IN GENERAL.—In carrying out this section, the Commission shall ensure that the sentencing guidelines and policy statements for offenders convicted of offenses described in subsection (a) and any recommendations submitted under such subsection reflect the heinous nature of such offenses, the need for aggressive law enforcement action to fight such offenses, and the extreme dangers associated with unlawful activity involving methamphetamine, including—

(1) the rapidly growing incidence of methamphetamine abuse and the threat to public safety such abuse poses;

(2) the high risk of methamphetamine addiction;

(3) the increased risk of violence associated with methamphetamine trafficking and abuse; and

(4) the recent increase in the illegal importation of methamphetamine and precursor chemicals.

SEC. 302. ENHANCED PENALTIES FOR OFFENSES INVOLVING CERTAIN LISTED CHEMICALS.

(a) CONTROLLED SUBSTANCES ACT.—Section 401(d) of the Controlled Substances Act (21 U.S.C. 841(d)) is amended by striking "not more than 10 years," and inserting "not more than 20 years in the case of a violation of paragraph (1) or (2) involving a list I chemical or not more than 10 years in the case of a violation of this subsection other than a violation of paragraph (1) or (2) involving a list I chemical,".

(b) CONTROLLED SUBSTANCE IMPORT AND EXPORT ACT.—Section 1010(d) of the Controlled Substance Import and Export Act (21 U.S.C. 960(d)) is amended by striking "not more than 10 years," and inserting "not more than 20 years in the case of a violation of paragraph (1) or (3) involving a list I chemical or not more than 10 years in the case of a violation of this subsection other than a violation of paragraph (1) or (3) involving a list I chemical,".

(c) SENTENCING GUIDELINES.— 28 USC 994 note.

(1) IN GENERAL.—The United States Sentencing Commission shall, in accordance with the procedures set forth in section 21(a) of the Sentencing Act of 1987, as though the authority of that section had not expired, amend the sentencing guidelines

to increase by at least two levels the offense level for offenses involving list I chemicals under—

(A) section 401(d) (1) and (2) of the Controlled Substances Act (21 U.S.C 841(d) (1) and (2)); and

(B) section 1010(d) (1) and (3) of the Controlled Substance Import and Export Act (21 U.S.C. 960(d) (1) and (3)).

(2) REQUIREMENT.—In carrying out this subsection, the Commission shall ensure that the offense levels for offenses referred to in paragraph (1) are calculated proportionally on the basis of the quantity of controlled substance that reasonably could have been manufactured in a clandestine setting using the quantity of the list I chemical possessed, distributed, imported, or exported.

28 USC 994 note.

SEC. 303. ENHANCED PENALTY FOR DANGEROUS HANDLING OF CONTROLLED SUBSTANCES: AMENDMENT OF SENTENCING GUIDELINES.

(a) IN GENERAL.—Pursuant to its authority under section 994 of title 28, United States Code, the United States Sentencing Commission shall determine whether the Sentencing Guidelines adequately punish the offenses described in subsection (b) and, if not, promulgate guidelines or amend existing guidelines to provide an appropriate enhancement of the punishment for a defendant convicted of such an offense.

(b) OFFENSE.—The offense referred to in subsection (a) is a violation of section 401(d), 401(g)(1), 403(a)(6), or 403(a)(7) of the Controlled Substances Act (21 U.S.C. 841(d), 841(g)(1), 843(a)(6), and 843(a)(7)), in cases in which in the commission of the offense the defendant violated—

(1) subsection (d) or (e) of section 3008 of the Solid Waste Disposal Act (relating to handling hazardous waste in a manner inconsistent with Federal or applicable State law);

(2) section 103(b) of the Comprehensive Environmental Response, Compensation and Liability Act (relating to failure to notify as to the release of a reportable quantity of a hazardous substance into the environment);

(3) section 301(a), 307(d), 309(c)(2), 309(c)(3), 311(b)(3), or 311(b)(5) of the Federal Water Pollution Control Act (relating to the unlawful discharge of pollutants or hazardous substances, the operation of a source in violation of a pretreatment standard, and the failure to notify as to the release of a reportable quantity of a hazardous substance into the water); or

(4) section 5124 of title 49, United States Code (relating to violations of laws and regulations enforced by the Department of Transportation with respect to the transportation of hazardous material).

TITLE IV—LEGAL MANUFACTURE, DISTRIBUTION, AND SALE OF PRECURSOR CHEMICALS

SEC. 401. DIVERSION OF CERTAIN PRECURSOR CHEMICALS.

(a) IN GENERAL.—Section 102(39) of the Controlled Substances Act (21 U.S.C. 802(39)) is amended—

(1) in subparagraph (A)(iv)(I)(aa), by striking "as" through the semicolon and inserting ", pseudoephedrine or its salts, optical isomers, or salts of optical isomers, or phenylpropanolamine or its salts, optical isomers, or salts of optical isomers unless otherwise provided by regulation of the Attorney General issued pursuant to section 204(e) of this title;"; and

(2) in subparagraph (A)(iv)(II), by inserting ", pseudoephedrine, phenylpropanolamine," after "ephedrine".

(b) LEGITIMATE RETAILERS.—Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended—

(1) in paragraph (39)(A)(iv)(I)(aa), by adding before the semicolon the following: ", except that any sale of ordinary over-the-counter pseudoephedrine or phenylpropanolamine products by retail distributors shall not be a regulated transaction (except as provided in section 401(d) of the Comprehensive Methamphetamine Control Act of 1996)";

(2) in paragraph (39)(A)(iv)(II), by adding before the semicolon the following: ", except that the threshold for any sale of products containing pseudoephedrine or phenylpropanolamine products by retail distributors or by distributors required to submit reports by section 310(b)(3) of this title shall be 24 grams of pseudoephedrine or 24 grams of phenylpropanolamine in a single transaction";

(3) by redesignating paragraph (43) relating to felony drug offense as paragraph (44); and

(4) by adding at the end the following:

"(45) The term 'ordinary over-the-counter pseudoephedrine or phenylpropanolamine product' means any product containing pseudoephedrine or phenylpropanolamine that is—

"(A) regulated pursuant to this title; and

"(B)(i) except for liquids, sold in package sizes of not more than 3.0 grams of pseudoephedrine base or 3.0 grams of phenylpropanolamine base, and that is packaged in blister packs, each blister containing not more than two dosage units, or where the use of blister packs is technically infeasible, that is packaged in unit dose packets or pouches; and

"(ii) for liquids, sold in package sizes of not more than 3.0 grams of pseudoephedrine base or 3.0 grams of phenylpropanolamine base.

"(46)(A) The term 'retail distributor' means a grocery store, general merchandise store, drug store, or other entity or person whose activities as a distributor relating to pseudoephedrine or phenylpropanolamine products are limited almost exclusively to sales for personal use, both in number of sales and volume of sales, either directly to walk-in customers or in face-to-face transactions by direct sales.

"(B) For purposes of this paragraph, sale for personal use means the sale of below-threshold quantities in a single transaction to an individual for legitimate medical use.

"(C) For purposes of this paragraph, entities are defined by reference to the Standard Industrial Classification (SIC) code, as follows:

"(i) A grocery store is an entity within SIC code 5411.

"(ii) A general merchandise store is an entity within SIC codes 5300 through 5399 and 5499.

"(iii) A drug store is an entity within SIC code 5912.".

(c) REINSTATEMENT OF LEGAL DRUG EXEMPTION.—Section 204 of the Controlled Substances Act (21 U.S.C. 814) is amended by adding at the end the following new subsection:

Regulations.

"(e) REINSTATEMENT OF EXEMPTION WITH RESPECT TO EPHEDRINE, PSEUDOEPHEDRINE, AND PHENYLPROPANOLAMINE DRUG PRODUCTS.—Pursuant to subsection (d)(1), the Attorney General shall by regulation reinstate the exemption with respect to a particular ephedrine, pseudoephedrine, or phenylpropanolamine drug product if the Attorney General determines that the drug product is manufactured and distributed in a manner that prevents diversion. In making this determination the Attorney General shall consider the factors listed in subsection (d)(2). Any regulation issued pursuant to this subsection may be amended or revoked based on the factors listed in subsection (d)(4).".

21 USC 802 note.

(d) REGULATION OF RETAIL SALES.—

(1) PSEUDOEPHEDRINE.—

(A) LIMIT.—

(i) IN GENERAL.—Not sooner than the effective date of this section and subject to the requirements of clause (ii), the Attorney General may establish by regulation a single-transaction limit of 24 grams of pseudoephedrine base for retail distributors. Notwithstanding any other provision of law, the single-transaction threshold quantity for pseudoephedrine-containing compounds may not be lowered beyond that established in this paragraph.

(ii) CONDITIONS.—In order to establish a single-transaction limit of 24 grams of pseudoephedrine base, the Attorney General shall establish, following notice, comment, and an informal hearing that since the date of enactment of this Act there are a significant number of instances where ordinary over-the-counter pseudoephedrine products as established in paragraph (45) of section 102 of the Controlled Substances Act (21 U.S.C. 802(45)), as added by this Act, sold by retail distributors as established in paragraph (46) in section 102 of the Controlled Substances Act (21 U.S.C. 802(46)), are being widely used as a significant source of precursor chemicals for illegal manufacture of a controlled substance for distribution or sale.

(B) VIOLATION.—Any individual or business that violates the thresholds established in this paragraph shall, with respect to the first such violation, receive a warning letter from the Attorney General and, if a business, the business shall be required to conduct mandatory education of the sales employees of the firm with regard to the legal sales of pseudoephedrine. For a second violation occurring within 2 years of the first violation, the business or individual shall be subject to a civil penalty of not more than $5,000. For any subsequent violation occurring within 2 years of the previous violation, the business or individual shall be subject to a civil penalty not to exceed the amount of the previous civil penalty plus $5,000.

(2) PHENYLPROPANOLAMINE.—

(A) LIMIT.—

(i) IN GENERAL.—Not sooner than the effective date of this section and subject to the requirements of clause

(ii), the Attorney General may establish by regulation a single-transaction limit of 24 grams of phenylpropanolamine base for retail distributors. Notwithstanding any other provision of law, the single-transaction threshold quantity for phenylpropanolamine-containing compounds may not be lowered beyond that established in this paragraph.

(ii) CONDITIONS.—In order to establish a single-transaction limit of 24 grams of phenylpropanolamine base, the Attorney General shall establish, following notice, comment, and an informal hearing, that since the date of enactment of this Act there are a significant number of instances where ordinary over-the-counter phenylpropanolamine products as established in paragraph (45) of section 102 of the Controlled Substances Act (21 U.S.C. 802(45)), as added by this Act, sold by retail distributors as established in paragraph (46) in section 102 of the Controlled Substances Act (21 U.S.C. 802(46)), are being used as a significant source of precursor chemicals for illegal manufacture of a controlled substance in bulk.

(B) VIOLATION.—Any individual or business that violates the thresholds established in this paragraph shall, with respect to the first such violation, receive a warning letter from the Attorney General and, if a business, the business shall be required to conduct mandatory education of the sales employees of the firm with regard to the legal sales of pseudoephedrine. For a second violation occurring within 2 years of the first violation, the business or individual shall be subject to a civil penalty of not more than $5,000. For any subsequent violation occurring within 2 years of the previous violation, the business or individual shall be subject to a civil penalty not to exceed the amount of the previous civil penalty plus $5,000.

(3) SIGNIFICANT NUMBER OF INSTANCES.—

(A) IN GENERAL.—For purposes of this subsection, isolated or infrequent use, or use in insubstantial quantities, of ordinary over-the-counter pseudoephedrine or phenylpropanolamine, as defined in section 102(45) of the Controlled Substances Act, as added by section 401(b) of this Act, and sold at the retail level for the illicit manufacture of methamphetamine or amphetamine may not be used by the Attorney General as the basis for establishing the conditions under paragraph (1)(A)(ii) of this subsection, with respect to pseudoephedrine, and paragraph (2)(A)(ii) of this subsection, with respect to phenylpropanolamine.

(B) CONSIDERATIONS AND REPORT.—The Attorney General shall—

(i) in establishing a finding under paragraph (1)(A)(ii) or (2)(A)(ii) of this subsection, consult with the Secretary of Health and Human Services in order to consider the effects on public health that would occur from the establishment of new single transaction limits as provided in such paragraph; and

(ii) upon establishing a finding, transmit a report to the Committees on the Judiciary in both, respectively, the House of Representatives and the Senate

in which the Attorney General will provide the factual basis for establishing the new single transaction limits.

(4) DEFINITION OF BUSINESS.—For purposes of this subsection, the term "business" means the entity that makes the direct sale and does not include the parent company of a business not involved in a direct sale regulated by this subsection.

(5) JUDICIAL REVIEW.—Any regulation promulgated by the Attorney General under this section shall be subject to judicial review pursuant to section 507 of the Controlled Substances Act (21 U.S.C. 877).

21 USC 802 note.

(e) EFFECT ON THRESHOLDS.—Nothing in the amendments made by subsection (b) or the provisions of subsection (d) shall affect the authority of the Attorney General to modify thresholds (including cumulative thresholds) for retail distributors for products other than ordinary over-the-counter pseudoephedrine or phenylpropanolamine products (as defined in section 102(45) of the Controlled Substances Act, as added by this section) or for non-retail distributors, importers, or exporters.

21 USC 802 note.

(f) COMBINATION EPHEDRINE PRODUCTS.—

(1) IN GENERAL.—For the purposes of this section, combination ephedrine products shall be treated the same as pseudoephedrine products, except that—

(A) a single transaction limit of 24 grams shall be effective as of the date of enactment of this Act and shall apply to sales of all combination ephedrine products, notwithstanding the form in which those products are packaged, made by retail distributors or distributors required to submit a report under section 310(b)(3) of the Controlled Substances Act (as added by section 402 of this Act);

(B) for regulated transactions for combination ephedrine products other than sales described in subparagraph (A), the transaction limit shall be—

(i) 1 kilogram of ephedrine base, effective on the date of enactment of this Act; or

(ii) a threshold other than the threshold described in clause (i), if established by the Attorney General not earlier than 1 year after the date of enactment of this Act; and

(C) the penalties provided in subsection (d)(1)(B) of this section shall take effect on the date of enactment of this Act for any individual or business that violates the single transaction limit of 24 grams for combination ephedrine products.

(2) DEFINITION.—For the purposes of this section, the term "combination ephedrine product" means a drug product containing ephedrine or its salts, optical isomers, or salts of optical isomers and therapeutically significant quantities of another active medicinal ingredient.

21 USC 802 note.

(g) EFFECTIVE DATE OF THIS SECTION.—Notwithstanding any other provision of this Act, this section shall not apply to the sale of any pseudoephedrine or phenylpropanolamine product prior to 12 months after the date of enactment of this Act, except that, on application of a manufacturer of a particular pseudoephedrine or phenylpropanolamine drug product, the Attorney General may, in her sole discretion, extend such effective date up to an additional

six months. Notwithstanding any other provision of law, the decision of the Attorney General on such an application shall not be subject to judicial review.

SEC. 402. MAIL ORDER RESTRICTIONS.

Section 310(b) of the Controlled Substances Act (21 U.S.C. 830(b)) is amended by adding at the end the following:

"(3) MAIL ORDER REPORTING.—(A) Each regulated person who engages in a transaction with a nonregulated person which—

"(i) involves ephedrine, pseudoephedrine, or phenylpropanolamine (including drug products containing these chemicals); and

"(ii) uses or attempts to use the Postal Service or any private or commercial carrier; Regulations.

shall, on a monthly basis, submit a report of each such transaction conducted during the previous month to the Attorney General in such form, containing such data, and at such times as the Attorney General shall establish by regulation.

"(B) The data required for such reports shall include—

"(i) the name of the purchaser;

"(ii) the quantity and form of the ephedrine, pseudoephedrine, or phenylpropanolamine purchased; and

"(iii) the address to which such ephedrine, pseudoephedrine, or phenylpropanolamine was sent.".

TITLE V—EDUCATION AND RESEARCH

SEC. 501. INTERAGENCY METHAMPHETAMINE TASK FORCE. 21 USC 801 note.

(a) ESTABLISHMENT.—There is established a "Methamphetamine Interagency Task Force" (referred to as the "interagency task force") which shall consist of the following members:

(1) The Attorney General, or a designee, who shall serve as chair.

(2) 2 representatives selected by the Attorney General.

(3) The Secretary of Education or a designee.

(4) The Secretary of Health and Human Services or a designee.

(5) 2 representatives of State and local law enforcement and regulatory agencies, to be selected by the Attorney General.

(6) 2 representatives selected by the Secretary of Health and Human Services.

(7) 5 nongovernmental experts in drug abuse prevention and treatment to be selected by the Attorney General.

(b) RESPONSIBILITIES.—The interagency task force shall be responsible for designing, implementing, and evaluating the education and prevention and treatment practices and strategies of the Federal Government with respect to methamphetamine and other synthetic stimulants.

(c) MEETINGS.—The interagency task force shall meet at least once every 6 months.

(d) FUNDING.—The administrative expenses of the interagency task force shall be paid out of existing Department of Justice appropriations.

(e) FACA.—The Federal Advisory Committee Act (5 U.S.C. App. 2) shall apply to the interagency task force. Applicability.

(f) TERMINATION.—The interagency task force shall terminate 4 years after the date of enactment of this Act.

42 USC 290aa–4 note.

SEC. 502. PUBLIC HEALTH MONITORING.

The Secretary of Health and Human Services shall develop a public health monitoring program to monitor methamphetamine abuse in the United States. The program shall include the collection and dissemination of data related to methamphetamine abuse which can be used by public health officials in policy development.

21 USC 872a.

SEC. 503. PUBLIC-PRIVATE EDUCATION PROGRAM.

(a) ADVISORY PANEL.—The Attorney General shall establish an advisory panel consisting of an appropriate number of representatives from Federal, State, and local law enforcement and regulatory agencies with experience in investigating and prosecuting illegal transactions of precursor chemicals. The Attorney General shall convene the panel as often as necessary to develop and coordinate educational programs for wholesale and retail distributors of precursor chemicals and supplies.

(b) CONTINUATION OF CURRENT EFFORTS.—The Attorney General shall continue to—

(1) maintain an active program of seminars and training to educate wholesale and retail distributors of precursor chemicals and supplies regarding the identification of suspicious transactions and their responsibility to report such transactions; and

(2) provide assistance to State and local law enforcement and regulatory agencies to facilitate the establishment and maintenance of educational programs for distributors of precursor chemicals and supplies.

Establishment. 21 USC 801 note.

SEC. 504. SUSPICIOUS ORDERS TASK FORCE.

(a) IN GENERAL.—The Attorney General shall establish a "Suspicious Orders Task Force" (the "Task Force") which shall consist of—

(1) appropriate personnel from the Drug Enforcement Administration (the "DEA") and other Federal, State, and local law enforcement and regulatory agencies with the experience in investigating and prosecuting illegal transactions of listed chemicals and supplies; and

(2) representatives from the chemical and pharmaceutical industry.

(b) RESPONSIBILITIES.—The Task Force shall be responsible for developing proposals to define suspicious orders of listed chemicals, and particularly to develop quantifiable parameters which can be used by registrants in determining if an order is a suspicious order which must be reported to DEA. The quantifiable parameters to be addressed will include frequency of orders, deviations from prior orders, and size of orders. The Task Force shall also recommend provisions as to what types of payment practices or unusual business practices shall constitute prima facie suspicious orders. In evaluating the proposals, the Task Force shall consider effectiveness, cost and feasibility for industry and government, and other relevant factors.

(c) MEETINGS.—The Task Force shall meet at least two times per year and at such other times as may be determined necessary by the Task Force.

(d) REPORT.—The Task Force shall present a report to the Attorney General on its proposals with regard to suspicious orders and the electronic reporting of suspicious orders within one year of the date of enactment of this Act. Copies of the report shall be forwarded to the Committees of the Senate and House of Representatives having jurisdiction over the regulation of listed chemical and controlled substances.

(e) FUNDING.—The administrative expenses of the Task Force shall be paid out of existing Department of Justice funds or appropriations.

(f) FACA.—The Federal Advisory Committee Act (5 U.S.C. App. 2) shall apply to the Task Force. Applicability.

(g) TERMINATION.—The Task Force shall terminate upon presentation of its report to the Attorney General, or two years after the date of enactment of this Act, whichever is sooner.

Approved October 3, 1996.

LEGISLATIVE HISTORY—S. 1965 (H.R. 3852):

CONGRESSIONAL RECORD, Vol. 142 (1996):
Sept. 17, considered and passed Senate.
Sept. 25, 26, H.R. 3852 considered and passed House.
Sept. 28, S. 1965 considered and passed House.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 32 (1996):
Oct. 3, Presidential statement.

Public Law 104–238
104th Congress

An Act

Oct. 3, 1996
[S. 2101]

To provide educational assistance to the dependents of Federal law enforcement officials who are killed or disabled in the performance of their duties.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Federal Law Enforcement Dependents Assistance Act of 1996.
42 USC 3711 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Law Enforcement Dependents Assistance Act of 1996".

SEC. 2. EDUCATIONAL ASSISTANCE TO DEPENDENTS OF SLAIN FEDERAL LAW ENFORCEMENT OFFICERS.

Part L of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796 et seq.) is amended by—

(1) inserting after the heading the following:

"Subpart 1—Death Benefits";

and

(2) adding at the end the following:

"Subpart 2—Educational Assistance to Dependents of Civilian Federal Law Enforcement Officers Killed or Disabled in the Line of Duty

42 USC 3796d.

"SEC. 1211. PURPOSES.

"The purposes of this subpart are—

"(1) to enhance the appeal of service in civilian Federal law enforcement agencies;

"(2) to extend the benefits of higher education to qualified and deserving persons who, by virtue of the death of or total disability of an eligible officer, may not be able to afford it otherwise; and

"(3) to allow the family members of eligible officers to attain the vocational and educational status which they would have attained had a parent or spouse not been killed or disabled in the line of duty.

42 USC 3796d–1.

"SEC. 1212. BASIC ELIGIBILITY.

"(a) BENEFITS.—(1) Subject to the availability of appropriations, the Attorney General shall provide financial assistance to a dependent who attends a program of education and is—

"(A) the child of any eligible Federal law enforcement officer under subpart 1; or

"(B) the spouse of an officer described in subparagraph (A) at the time of the officer's death or on the date of a totally and permanently disabling injury.

"(2) Financial assistance under this subpart shall consist of direct payments to an eligible dependent and shall be computed on the basis set forth in section 3532 of title 38, United States Code.

"(b) DURATION OF BENEFITS.—No dependent shall receive assistance under this subpart for a period in excess of forty-five months of full-time education or training or a proportional period of time for a part-time program.

"(c) AGE LIMITATION FOR DEPENDENT CHILDREN.—No dependent child shall be eligible for assistance under this subpart after the child's 27th birthday absent a finding by the Attorney General of extraordinary circumstances precluding the child from pursuing a program of education.

"SEC. 1213. APPLICATIONS; APPROVAL. 42 USC 3796d–2.

"(a) APPLICATION.—A person seeking assistance under this subpart shall submit an application to the Attorney General in such form and containing such information as the Attorney General reasonably may require.

"(b) APPROVAL.—The Attorney General shall approve an application for assistance under this subpart unless the Attorney General finds that—

"(1) the dependent is not eligible for, is no longer eligible for, or is not entitled to the assistance for which application is made;

"(2) the dependent's selected educational institution fails to meet a requirement under this subpart for eligibility;

"(3) the dependent's enrollment in or pursuit of the educational program selected would fail to meet the criteria established in this subpart for programs; or

"(4) the dependent already is qualified by previous education or training for the educational, professional, or vocational objective for which the educational program is offered.

"(c) NOTIFICATION.—The Attorney General shall notify a dependent applying for assistance under this subpart of approval or disapproval of the application in writing.

"SEC. 1214. REGULATIONS. 42 USC 3796d–3.

The Attorney General may promulgate reasonable and necessary regulations to implement this subpart.

"SEC. 1215. DISCONTINUATION FOR UNSATISFACTORY CONDUCT OR PROGRESS. 42 USC 3796d–4.

"The Attorney General may discontinue assistance under this subpart when the Attorney General finds that, according to the regularly prescribed standards and practices of the educational institution, the recipient fails to maintain satisfactory progress as described in section 484(c) of the Higher Education Act of 1965 (20 U.S.C. 1091(c)).

"SEC. 1216. SPECIAL RULE. 42 USC 3796d–5.

"(a) RETROACTIVE ELIGIBILITY.—Notwithstanding any other provision of law, each dependent of a Federal law enforcement officer killed in the line of duty on or after May 1, 1992, shall

be eligible for assistance under this subpart, subject to the other limitations of this subpart.

"(b) RETROACTIVE ASSISTANCE.—The Attorney General may provide retroactive assistance to dependents eligible under this section for each month in which the dependent pursued a program of education at an eligible educational institution. The Attorney General shall apply the limitations contained in this subpart to retroactive assistance.

Applicability.

"(c) PROSPECTIVE ASSISTANCE.—The Attorney General may provide prospective assistance to dependents eligible under this section on the same basis as assistance to dependents otherwise eligible. In applying the limitations on assistance under this subpart, the Attorney General shall include assistance provided retroactively. A dependent eligible under this section may waive retroactive assistance and apply only for prospective assistance on the same basis as dependents otherwise eligible.

42 USC 3796d–6.

"SEC. 1217. DEFINITIONS.

"For purposes of this subpart:

"(1) The term 'Attorney General' means the Attorney General of the United States.

"(2) The term 'Federal law enforcement officer' has the same meaning as under subpart 1.

"(3) The term 'program of education' means any curriculum or any combination of unit courses or subjects pursued at an eligible educational institution, which generally is accepted as necessary to fulfill requirements for the attainment of a predetermined and identified educational, professional, or vocational objective. It includes course work for the attainment of more than one objective if in addition to the previous requirements, all the objectives generally are recognized as reasonably related to a single career field.

"(4) The term 'eligible educational institution' means an institution which—

"(A) is described in section 481 of the Higher Education Act of 1965 (20 U.S.C. 1088), as in effect on the date of the enactment of this section; and

"(B) is eligible to participate in programs under title IV of such Act.

"SEC. 1218. AUTHORIZATION OF APPROPRIATIONS. 42 USC 3796d–7.

"There are authorized to be appropriated to carry out this subpart such sums as may be necessary.".

Approved October 3, 1996.

LEGISLATIVE HISTORY—S. 2101:

CONGRESSIONAL RECORD, Vol. 142 (1996):
Sept. 20, considered and passed Senate.
Sept. 26, considered and passed House.

Public Law 104–239
104th Congress

An Act

Oct. 8, 1996
[H.R. 1350]

To amend the Merchant Marine Act, 1936 to revitalize the United States-flag merchant marine, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Maritime Security Act of 1996.
National defense.
46 USC app. 1245 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Maritime Security Act of 1996".

SEC. 2. MARITIME SECURITY PROGRAM.

Title VI of the Merchant Marine Act, 1936 (46 U.S.C. App. 1171 et seq.) is amended—

(1) by striking the title heading and inserting the following:

"TITLE VI—VESSEL OPERATING ASSISTANCE PROGRAMS

"Subtitle A—Operating-Differential Subsidy Program";

and

(2) by adding at the end the following new subtitle:

"Subtitle B—Maritime Security Fleet Program

"ESTABLISHMENT OF FLEET

46 USC app. 1187.

"SEC. 651. (a) IN GENERAL.—The Secretary of Transportation shall establish a fleet of active, militarily useful, privately-owned vessels to meet national defense and other security requirements and maintain a United States presence in international commercial shipping. The Fleet shall consist of privately owned, United States-flag vessels for which there are in effect operating agreements under this subtitle, and shall be known as the Maritime Security Fleet.

"(b) VESSEL ELIGIBILITY.—A vessel is eligible to be included in the Fleet if the vessel is self-propelled and—

"(1)(A) is operated by a person as an ocean common carrier;

"(B) whether in commercial service, on charter to the Department of Defense, or in other employment, is either—

"(i) a roll-on/roll-off vessel with a carrying capacity of at least 80,000 square feet or 500 twenty-foot equivalent units; or

"(ii) a lighter aboard ship vessel with a barge capacity of at least 75 barges; or

"(C) any other type of vessel that is determined by the Secretary to be suitable for use by the United States for

national defense or military purposes in time of war or national emergency;

"(2)(A)(i) is a United States-documented vessel; and

"(ii) on the date an operating agreement covering the vessel is entered into under this subtitle, is—

"(I) a LASH vessel that is 25 years of age or less; or

"(II) any other type of vessel that is 15 years of age or less;

except that the Secretary of Transportation may waive the application of clause (ii) if the Secretary, in consultation with the Secretary of Defense, determines that the waiver is in the national interest; or

"(B) it is not a United States-documented vessel, but the owner of the vessel has demonstrated an intent to have the vessel documented under chapter 121 of title 46, United States Code, if it is included in the Fleet, and the vessel will be less than 10 years of age on the date of that documentation;

"(3) the Secretary of Transportation determines that the vessel is necessary to maintain a United States presence in international commercial shipping or, after consultation with the Secretary of Defense, determines that the vessel is militarily useful for meeting the sealift needs of the United States with respect to national emergencies; and

"(4) at the time an operating agreement for the vessel is entered into under this subtitle, the vessel will be eligible for documentation under chapter 121 of title 46, United States Code.

"OPERATING AGREEMENTS

"SEC. 652. (a) IN GENERAL.—The Secretary of Transportation shall require, as a condition of including any vessel in the Fleet, that the owner or operator of the vessel enter into an operating agreement with the Secretary under this section. Notwithstanding subsection (g), the Secretary may enter into an operating agreement for, among other vessels that are eligible to be included in the Fleet, any vessel which continues to operate under an operating-differential subsidy contract under subtitle A or which is under charter to the Department of Defense. 46 USC app. 1187a.

"(b) REQUIREMENTS FOR OPERATION.—An operating agreement under this section shall require that, during the period a vessel is operating under the agreement—

"(1) the vessel—

"(A) shall be operated exclusively in the foreign trade or in mixed foreign and domestic trade allowed under a registry endorsement issued under section 12105 of title 46, United States Code, and

"(B) shall not otherwise be operated in the coastwise trade; and

"(2) the vessel shall be documented under chapter 121 of title 46, United States Code.

"(c) REGULATORY RELIEF.—A contractor of a vessel included in an operating agreement under this subtitle may operate the vessel in the foreign commerce of the United States without restriction, and shall not be subject to any requirement under section 801, 808, 809, or 810. Participation in the program established

by this subtitle shall not subject a contractor to section 805 or to any provision of subtitle A.

"(d) EFFECTIVENESS AND ANNUAL PAYMENT REQUIREMENTS OF OPERATING AGREEMENTS.—

"(1) EFFECTIVENESS.—The Secretary of Transportation may enter into an operating agreement under this subtitle for fiscal year 1996. The agreement shall be effective only for 1 fiscal year, but shall be renewable, subject to the availability of appropriations, for each subsequent fiscal year through the end of fiscal year 2005.

"(2) ANNUAL PAYMENT.—An operating agreement under this subtitle shall require, subject to the availability of appropriations and the other provisions of this section, that the Secretary of Transportation pay each fiscal year to the contractor, for each vessel that is covered by the operating agreement, an amount equal to $2,300,000 for fiscal year 1996 and $2,100,000 for each fiscal year thereafter in which the agreement is in effect. The amount shall be paid in equal monthly installments at the end of each month. The amount shall not be reduced except as provided by this section.

"(e) CERTIFICATION REQUIRED FOR PAYMENT.—As a condition of receiving payment under this section for a fiscal year for a vessel, the contractor for the vessel shall certify, in accordance with regulations issued by the Secretary of Transportation, that the vessel has been and will be operated in accordance with subsection (b)(1) for at least 320 days in the fiscal year. Days during which the vessel is drydocked, surveyed, inspected, or repaired shall be considered days of operation for purposes of this subsection.

"(f) OPERATING AGREEMENT IS OBLIGATION OF UNITED STATES GOVERNMENT.—An operating agreement under this subtitle constitutes a contractual obligation of the United States Government to pay the amounts provided for in the agreement to the extent of actual appropriations.

"(g) LIMITATIONS.—The Secretary of Transportation shall not make any payment under this subtitle for a vessel with respect to any days for which the vessel is—

"(1) subject to an operating-differential subsidy contract under subtitle A or under a charter to the United States Government, other than a charter pursuant to section 653;

"(2) not operated or maintained in accordance with an operating agreement under this subtitle; or

"(3) more than 25 years of age, except that the Secretary may make such payments for a LASH vessel for any day for which the vessel is more than 25 years of age if that vessel—

"(A) is modernized after January 1, 1994,

"(B) is modernized before it is 25 years of age, and

"(C) is not more than 30 years of age.

"(h) PAYMENTS.—With respect to payments under this subtitle for a vessel covered by an operating agreement, the Secretary of Transportation—

"(1) except as provided in paragraph (2), shall not reduce any payment for the operation of a vessel to carry military or other preference cargoes under section 2631 of title 10, United States Code, the Act of March 26, 1934 (46 U.S.C. App. 1241–1), section 901(a), 901(b), or 901b of this Act, or any other cargo preference law of the United States;

"(2) shall not make any payment for any day that a vessel is engaged in transporting more than 7,500 tons of civilian bulk preference cargoes pursuant to section 901(a), 901(b), or 901b that is bulk cargo; and

"(3) shall make a pro rata reduction in payment for each day less than 320 in a fiscal year that a vessel covered by an operating agreement is not operated in accordance with subsection (b)(1), with days during which the vessel is drydocked or undergoing survey, inspection, or repair considered to be days on which the vessel is operated.

"(i) PRIORITY FOR AWARDING AGREEMENTS.—Subject to the availability of appropriations, the Secretary shall enter into operating agreements according to the following priority:

"(1) VESSELS OWNED BY CITIZENS.—

"(A) PRIORITY.—First, for any vessel that is—

"(i) owned and operated by persons who are citizens of the United States under section 2 of the Shipping Act, 1916; or

"(ii) less than 10 years of age and owned and operated by a corporation that is—

"(I) eligible to document a vessel under chapter 121 of title 46, United States Code; and

"(II) affiliated with a corporation operating or managing for the Secretary of Defense other vessels documented under that chapter, or chartering other vessels to the Secretary of Defense.

"(B) LIMITATION ON NUMBER OF OPERATING AGREEMENTS.—The total number of operating agreements that may be entered into by a person under the priority in subparagraph (A)—

"(i) for vessels described in subparagraph (A)(i), may not exceed the sum of—

"(I) the number of United States-documented vessels the person operated in the foreign commerce of the United States (except mixed coastwise and foreign commerce) on May 17, 1995; and

"(II) the number of United States-documented vessels the person chartered to the Secretary of Defense on that date; and

"(ii) for vessels described in subparagraph (A)(ii), may not exceed 5 vessels.

"(C) TREATMENT OF RELATED PARTIES.—For purposes of subparagraph (B), a related party with respect to a person shall be treated as the person.

"(2) OTHER VESSELS OWNED BY CITIZENS AND GOVERNMENT CONTRACTORS.—To the extent that amounts are available after applying paragraph (1), any vessel that is owned and operated by a person who is—

"(A) a citizen of the United States under section 2 of the Shipping Act, 1916, that has not been awarded an operating agreement under the priority established under paragraph (1); or

"(B)(i) eligible to document a vessel under chapter 121 of title 46, United States Code; and

"(ii) affiliated with a corporation operating or managing other United States-documented vessels for the Secretary

of Defense or chartering other vessels to the Secretary of Defense.

"(3) OTHER VESSELS.—To the extent that amounts are available after applying paragraphs (1) and (2), any other eligible vessel.

"(j) TRANSFER OF OPERATING AGREEMENTS.—A contractor under an operating agreement may transfer the agreement (including all rights and obligations under the agreement) to any person eligible to enter into that operating agreement under this subtitle after notification of the Secretary in accordance with regulations prescribed by the Secretary, unless the transfer is disapproved by the Secretary within 90 days after the date of that notification. A person to whom an operating agreement is transferred may receive payments from the Secretary under the agreement only if each vessel to be covered by the agreement after the transfer is an eligible vessel under section 651(b).

"(k) REVERSION OF UNUSED AUTHORITY.—The obligation of the Secretary to make payments under an operating agreement under this subtitle shall terminate with respect to a vessel if the contractor fails to engage in operation of the vessel for which such payment is required—

"(1) within one year after the effective date of the operating agreement, in the case of a vessel in existence on the effective date of the agreement, or

"(2) within 30 months after the effective date of the operating agreement, in the case of a vessel to be constructed after that effective date.

"(l) PROCEDURE FOR CONSIDERING APPLICATION; EFFECTIVE DATE FOR CERTAIN VESSELS.—

"(1) PROCEDURES.—No later than 30 days after the date of the enactment of the Maritime Security Act of 1996, the Secretary shall accept applications for enrollment of vessels in the Fleet, and within 90 days after receipt of an application for enrollment of a vessel in the Fleet, the Secretary shall enter into an operating agreement with the applicant or provide in writing the reason for denial of that application.

"(2) EFFECTIVE DATE.—Unless an earlier date is requested by the applicant, the effective date for an operating agreement with respect to a vessel which is, on the date of entry into an operating agreement, either subject to a contract under subtitle A or on charter to the United States Government, other than a charter under section 653, shall be the expiration or termination date of the contract under subtitle A or of the Government charter covering the vessel, respectively, or any earlier date the vessel is withdrawn from that contract or charter.

"(m) EARLY TERMINATION.—An operating agreement under this subtitle shall terminate on a date specified by the contractor if the contractor notifies the Secretary, by not later than 60 days before the effective date of the termination, that the contractor intends to terminate the agreement. Vessels covered by an operating agreement terminated under this subsection shall remain documented under chapter 121 of title 46, United States Code, until the date the operating agreement would have terminated according to its terms. A contractor who terminates an operating agreement pursuant to this subsection shall continue to be bound by the provisions of section 653 until the date the operating agreement

would have terminated according to its terms. All terms and conditions of an Emergency Preparedness Agreement entered into under section 653 shall remain in effect until the date the operating agreement would have terminated according to its terms, except that the terms of such Emergency Preparedness Agreement may be modified by the mutual consent of the contractor and the Secretary of Transportation and the Secretary of Defense.

"(n) NONRENEWAL FOR LACK OF FUNDS.—If, by the first day of a fiscal year, sufficient funds have not been appropriated under the authority provided by section 655 for that fiscal year, the Secretary of Transportation shall notify the Congress that operating agreements authorized under this subtitle for which sufficient funds are not available will not be renewed for that fiscal year if sufficient funds are not appropriated by the 60th day of that fiscal year. If funds are not appropriated under the authority provided by section 655 for any fiscal year by the 60th day of that fiscal year, then each vessel covered by an operating agreement under this subtitle for which funds are not available is thereby released from any further obligation under the operating agreement, and the vessel owner or operator may transfer and register such vessel under a foreign registry deemed acceptable by the Secretary of Transportation, notwithstanding any other provision of law. If section 902 is applicable to such vessel after registration of the vessel under such a registry, the vessel is available to be requisitioned by the Secretary of Transportation pursuant to section 902.

"(o) AWARD OF OPERATING AGREEMENTS.—

"(1) IN GENERAL.—The Secretary of Transportation, subject to paragraph (4), shall award operating agreements within each priority under subsection (i) (1), (2), and (3) under regulations prescribed by the Secretary.

"(2) NUMBER OF AGREEMENTS AWARDED.—Regulations under paragraph (1) shall provide that if appropriated amounts are not sufficient for operating agreements for all vessels within a priority under subsection (i) (1), (2), or (3), the Secretary shall award to each person submitting a request a number of operating agreements that bears approximately the same ratio to the total number of vessels in the priority, as the amount of appropriations available for operating agreements for vessels in the priority bears to the amount of appropriations necessary for operating agreements for all vessels in the priority.

"(3) TREATMENT OF RELATED PARTIES.—For purposes of paragraph (2), a related party with respect to a person shall be treated as the person.

"(4) PREFERENCE FOR UNITED STATES-BUILT VESSELS.—In awarding operating agreements for vessels within a priority under subsection (i) (1), (2), or (3), the Secretary shall give preference to a vessel that was constructed in the United States, to the extent such preference is consistent with establishment of a fleet described in the first sentence of section 651(a) (taking into account the age of the vessel, the nature of service provided by the vessel, and the commercial viability of the vessel).

"(p) NOTICE TO UNITED STATES SHIPBUILDERS REQUIRED.—The Secretary shall include in any operating agreement under this subtitle a requirement that the contractor under the agreement shall, by not later than 30 days after soliciting any bid or offer for the construction of any vessel in a foreign shipyard and before

entering into a contract for construction of a vessel in a foreign shipyard, provide notice of the intent of the contractor to enter into such a contract to each shipyard in the United States that is capable of constructing the vessel.

"NATIONAL SECURITY REQUIREMENTS

46 USC app. 1187b. Establishment.

"SEC. 653. (a) EMERGENCY PREPAREDNESS AGREEMENT.—

"(1) REQUIREMENT TO ENTER AGREEMENT.—The Secretary of Transportation shall establish an Emergency Preparedness Program under this section that is approved by the Secretary of Defense. Under the program, the Secretary of Transportation shall include in each operating agreement under this subtitle a requirement that the contractor enter into an Emergency Preparedness Agreement under this section with the Secretary. The Secretary shall negotiate and enter into an Emergency Preparedness Agreement with each contractor as promptly as practicable after the contractor has entered into an operating agreement under this subtitle.

"(2) TERMS OF AGREEMENT.—An Emergency Preparedness Agreement under this section shall require that upon a request by the Secretary of Defense during time of war or national emergency, or whenever determined by the Secretary of Defense to be necessary for national security (including any natural disaster, international peace operation, or contingency operation (as that term is defined in section 101 of title 10, United States Code)), a contractor for a vessel covered by an operating agreement under this subtitle shall make available commercial transportation resources (including services). The basic terms of the Emergency Preparedness Agreements shall be established pursuant to consultations among the Secretary, the Secretary of Defense, and Maritime Security Program contractors. In any Emergency Preparedness Agreement, the Secretary and a contractor may agree to additional or modifying terms appropriate to the contractor's circumstances if those terms have been approved by the Secretary of Defense.

"(3) PARTICIPATION AFTER EXPIRATION OF OPERATING AGREEMENT.—Except as provided by section 652(m), the Secretary may not require, through an Emergency Preparedness Agreement or operating agreement, that a contractor continue to participate in an Emergency Preparedness Agreement when the operating agreement with the contractor has expired according to its terms or is otherwise no longer in effect. After expiration of an Emergency Preparedness Agreement, a contractor may volunteer to continue to participate in such an agreement.

"(b) RESOURCES MADE AVAILABLE.—The commercial transportation resources to be made available under an Emergency Preparedness Agreement shall include vessels or capacity in vessels, intermodal systems and equipment, terminal facilities, intermodal and management services, and other related services, or any agreed portion of such nonvessel resources for activation as the Secretary may determine to be necessary, seeking to minimize disruption of the contractor's service to commercial shippers.

"(c) COMPENSATION.—

"(1) IN GENERAL.—The Secretary of Transportation shall provide in each Emergency Preparedness Agreement for fair and reasonable compensation for all commercial transportation resources provided pursuant to this section.

"(2) SPECIFIC REQUIREMENTS.—Compensation under this subsection—

"(A) shall not be less than the contractor's commercial market charges for like transportation resources;

"(B) shall include all the contractor's costs associated with provision and use of the contractor's commercial resources to meet emergency requirements;

"(C) in the case of a charter of an entire vessel, shall be fair and reasonable;

"(D) shall be in addition to and shall not in any way reflect amounts payable under section 652; and

"(E) shall be provided from the time that a vessel or resource is diverted from commercial service until the time that it reenters commercial service.

"(3) APPROVAL OF AMOUNT BY SECRETARY OF DEFENSE.—No compensation may be provided for a vessel under this subsection unless the amount of the compensation is approved by the Secretary of Defense.

"(d) TEMPORARY REPLACEMENT VESSELS.—Notwithstanding any other provision of this subtitle or of other law to the contrary—

"(1) a contractor may operate or employ in foreign commerce a foreign-flag vessel or foreign-flag vessel capacity, as a temporary replacement for a United States-documented vessel or United States-documented vessel capacity that is activated under an Emergency Preparedness Agreement; and

"(2) such replacement vessel or vessel capacity shall be eligible during the replacement period to transport preference cargoes subject to section 2631 of title 10, United States Code, the Act of March 26, 1934 (46 U.S.C. App. 1241–1), and sections 901(a), 901(b), and 901b of this Act to the same extent as the eligibility of the vessel or vessel capacity replaced.

"(e) REDELIVERY AND LIABILITY OF UNITED STATES FOR DAMAGES.—

"(1) IN GENERAL.—All commercial transportation resources activated under an Emergency Preparedness Agreement shall, upon termination of the period of activation, be redelivered to the contractor in the same good order and condition as when received, less ordinary wear and tear, or the Government shall fully compensate the contractor for any necessary repair or replacement.

"(2) LIMITATION ON LIABILITY OF UNITED STATES.—Except as may be expressly agreed to in an Emergency Preparedness Agreement, or as otherwise provided by law, the Government shall not be liable for disruption of a contractor's commercial business or other consequential damages to a contractor arising from activation of commercial transportation resources under an Emergency Preparedness Agreement.

"(3) LIMITATION ON APPLICATION OF OTHER REQUIREMENTS.—Sections 902 and 909 of this Act shall not apply to a vessel while it is covered by an Emergency Preparedness Agreement under this subtitle. Any Emergency Preparedness Agreement entered into by a contractor shall supersede any other agreement between that contractor and the Government for vessel availability in time of war or national emergency.

"DEFINITIONS

46 USC app. 1187c.

"SEC. 654. In this subtitle:

"(1) BULK CARGO.—The term 'bulk cargo' means cargo that is loaded and carried in bulk without mark or count.

"(2) CONTRACTOR.—The term 'contractor' means an owner or operator of a vessel that enters into an operating agreement for the vessel with the Secretary of Transportation under section 652.

"(3) OCEAN COMMON CARRIER.—The term 'ocean common carrier' means a person holding itself out to the general public to operate vessels to provide transportation by water of passengers or cargo between the United States and a foreign country for compensation, that—

"(A) assumes responsibility for the transportation from the port or point of receipt to the port or point of destination, and

"(B) utilizes, for all or part of that transportation, a vessel operating on the high seas or the Great Lakes between a port in the United States and a port in a foreign country, except that the term does not include a common carrier engaged in ocean transportation by ferry boat, ocean tramp, or chemical parcel-tanker. As used in this paragraph, 'chemical parcel-tanker' means a vessel whose cargo-carrying capability consists of individual cargo tanks for bulk chemicals that are a permanent part of the vessel, that have segregation capability with piping systems to permit simultaneous carriage of several bulk chemical cargoes with minimum risk of cross-contamination, and that has a valid certificate of fitness under the International Maritime Organization Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk.

"(4) FLEET.—The term 'Fleet' means the Maritime Security Fleet established pursuant to section 651(a).

"(5) LASH VESSEL.—The term 'LASH vessel' means a lighter aboard ship vessel.

"(6) UNITED STATES-DOCUMENTED VESSEL.—The term 'United States-documented vessel' means a vessel documented under chapter 121 of title 46, United States Code.

"AUTHORIZATION OF APPROPRIATIONS

46 USC app. 1187d.

"SEC. 655. There are authorized to be appropriated for operating agreements under this subtitle, to remain available until expended, $100,000,000 for fiscal year 1996 and such sums as may be necessary, not to exceed $100,000,000, for each fiscal year thereafter through fiscal year 2005.".

SEC. 3. TERMINATION OF OPERATING-DIFFERENTIAL SUBSIDY PROGRAM.

(a) LIMITATION ON PAYMENTS FOR OLDER VESSELS.—Section 605(b) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1175(b)), is amended to read as follows:

"(b) No operating-differential subsidy shall be paid for the operation of a vessel after the calendar year the vessel becomes 25 years of age, unless the Secretary of Transportation has determined, before the date of enactment of the Maritime Security Act of 1996,

that it is in the public interest to grant such financial aid for the operation of such vessel.".

(b) WIND-UP OF PROGRAM.—Subtitle A of such Act (46 U.S.C. App. 1171 et seq.), as designated by the amendment made by section 2(1), is further amended by adding at the end the following new section:

"SEC. 616. (a) After the date of enactment of the Maritime Security Act of 1996, the Secretary of Transportation shall not enter into any new contract for operating-differential subsidy under this subtitle. 46 USC app. 1185a.

"(b) Notwithstanding any other provision of this Act, any operating-differential subsidy contract in effect under this title on the day before the date of enactment of the Maritime Security Act of 1996 shall continue in effect and terminate as set forth in the contract, unless voluntarily terminated at an earlier date by the parties (other than the United States Government) to the contract.

"(c) The essential service requirements of section 601(a) and 603(b), and the provisions of sections 605(c) and 809(a), shall not apply to the operating-differential subsidy program under this subtitle effective upon the earlier of—

"(1) the date that a payment is made, under the Maritime Security Program established by subtitle B to a contractor under that subtitle who is not party to an operating-differential subsidy contract under this subtitle, with the Secretary to cause notice of the date of such payment to be published in the Federal Register as soon as possible; or Federal Register, publication.

"(2) with respect to a particular contractor under the operating-differential subsidy program, the date that contractor enters into a contract with the Secretary under the Maritime Security Program established by subtitle B.

"(d)(1) Notwithstanding any other provision of law, a vessel may be transferred and registered under an effective United States-controlled foreign flag if—

"(A) the operator of the vessel receives an operating-differential subsidy pursuant to a contract under this subtitle which is in force on October 1, 1994, and the Secretary approves the replacement of such vessel with a comparable vessel, or

"(B) the vessel is covered by an operating agreement under subtitle B, and the Secretary approves the replacement of such vessel with a comparable vessel for inclusion in the Maritime Security Fleet established under subtitle B.

"(2) Any such vessel may be requisitioned by the Secretary of Transportation pursuant to section 902.".

SEC. 4. DOMESTIC OPERATIONS.

(a) IN GENERAL.—Subtitle B of title VI of the Merchant Marine Act, 1936, as amended by section 102 of this title, is further amended by adding at the end the following new section:

"NONCONTIGUOUS DOMESTIC TRADES

"SEC. 656. (a)(1) Except as otherwise provided in this section, no contractor or related party shall receive payments pursuant to this subtitle during a period when it participates in a noncontiguous domestic trade, except upon written permission of the Secretary of Transportation. Such written permission shall also be required for any material change in the number or frequency 46 USC app. 1187e.

of sailings, the capacity offered, or the domestic ports called by a contractor or related party in a noncontiguous domestic trade. The Secretary may grant such written permission pursuant to written application of such contractor or related party unless the Secretary finds that—

"(A) existing service in that trade is adequate; or

"(B) the service sought to be provided by the contractor or related party—

"(i) would result in unfair competition to any other person operating vessels in such noncontiguous domestic trade, or

"(ii) would be contrary to the objects and policy of this Act.

"(2) For purposes of this subsection, 'written permission of the Secretary' means permission which states the capacity offered, the number and frequency of sailings, and the domestic ports called, and which is granted following—

Federal Register, publication.

"(A) written application containing the information required by paragraph (e)(1) by a person seeking such written permission, notice of which application shall be published in the Federal Register within 15 days of filing of such application with the Secretary;

Hearings.

"(B) holding of a hearing on the application under section 554 of title 5, United States Code, in which every person, firm or corporation having any interest in the application shall be permitted to intervene and be heard; and

"(C) final decision on the application by the Secretary within 120 days following conclusion of such hearing.

"(b) Subsection (a) shall not apply in any way to provision by a contractor of service within the level of service provided by that contractor as of the date established by subsection (c) or to provision of service permitted by subsection (d).

"(c) The date referred to in subsection (b) shall be August 9, 1995: *Provided however,* That with respect to tug and barge service to Alaska the date referred to in subsection (b) shall be July 1, 1992.

"(d) A contractor may provide service in a trade in addition to the level of service provided as of the applicable date established by subsection (c) in proportion to the annual increase in real gross product of the noncontiguous State or Commonwealth served since the applicable date established by subsection (c).

"(e)(1) A person applying for award of an agreement under this subtitle shall include with the application a description of the level of service provided by that person in each noncontiguous domestic trade served as of the date applicable under subsection (c). The application also shall include, for each such noncontiguous domestic trade: a list of vessels operated by that person in such trade, their container carrying capacity expressed in twenty-foot equivalent units (TEUs) or other carrying capacity, the itinerary for each such vessel, and such other information as the Secretary may require by regulation. Such description and information shall be made available to the public. Within 15 days of the date of an application for an agreement by a person seeking to provide service pursuant to subsections (b) and (c) of this section, the Secretary shall cause to be published in the Federal Register notice of such description, along with a request for public comment thereon. Comments on such description shall be submitted to the

Federal Register, publication.

Secretary within 30 days of publication in the Federal Register. Within 15 days after receipt of comments, the Secretary shall issue a determination in writing either accepting, in whole or part, or rejecting use of the applicant's description to establish the level of service provided as of the date applicable under subsection (c): *Provided,* That notwithstanding the provisions of this subsection, processing of the application for an award of an agreement shall not be suspended or delayed during the time in which comments may be submitted with respect to the determination or during the time prior to issuance by the Secretary of the required determination: *Provided further,* That if the Secretary does not make the determination required by this paragraph within the time provided by this paragraph, the description of the level of service provided by the applicant shall be deemed to be the level of service provided as of the applicable date until such time as the Secretary makes the determination.

"(2) No contractor shall implement the authority granted in subsection (d) of this section except as follows:

"(A) An application shall be filed with the Secretary which shall state the increase in capacity sought to be offered, a description of the means by which such additional capacity would be provided, the basis for applicant's position that such increase in capacity would be in proportion to or less than the increase in real gross product of the relevant noncontiguous State or Commonwealth since the applicable date established by subsection (c), and such information as the Secretary may require so that the Secretary may accurately determine such increase in real gross product of the relevant noncontiguous State or Commonwealth.

"(B) Such increase in capacity sought by applicant and such information shall be made available to the public.

"(C) Within 15 days of the date of an application pursuant to this paragraph the Secretary shall cause to be published in the Federal Register notice of such application, along with a request for public comment thereon. Federal Register, publication.

"(D) Comments on such application shall be submitted to the Secretary within 30 days of publication in the Federal Register.

"(E) Within 15 days after receipt of comments, the Secretary shall issue a determination in writing either accepting, in whole or part, or rejecting, the increase in capacity sought by the applicant as being in proportion to or less than the increase in real gross product of the relevant noncontiguous State or Commonwealth since the applicable date established by subsection (c): *Provided,* That, notwithstanding the provisions of this section, if the Secretary does not make the determination required by this paragraph within the time provided by this paragraph, the increase in capacity sought by applicant shall be permitted as being in proportion to or less than such increase in real gross product until such time as the Secretary makes the determination.

"(f) With respect to provision by a contractor of service in a noncontiguous domestic trade not authorized by this section, the Secretary shall deny payments under the operating agreement with respect to the period of provision of such service but shall deny payments only in part if the extent of provision of such unauthorized service was de minimis or not material.

"(g) Notwithstanding any other provision of this subtitle, the Secretary may issue temporary permission for any United States citizen, as that term is defined in section 2 of the Shipping Act, 1916, to provide service to a noncontiguous State or Commonwealth upon the request of the Governor of such noncontiguous State or Commonwealth, in circumstances where an Act of God, a declaration of war or national emergency, or any other condition occurs that prevents ocean transportation service to such noncontiguous State or Commonwealth from being provided by persons currently providing such service. Such temporary permission shall expire 90 days from date of grant, unless extended by the Secretary upon written request of the Governor of such State or Commonwealth.

"(h) As used in this section:

"(1) The term 'level of service provided by a contractor' in a trade as of a date means—

"(A) with respect to service other than service described in (B), the total annual capacity provided by the contractor in that trade for the 12 calendar months preceding that date: *Provided,* That, with respect to unscheduled, contract carrier tug and barge service between points in Alaska south of the Arctic Circle and points in the contiguous 48 States, the level of service provided by a contractor shall include 100 percent of the capacity of the equipment dedicated to such service on the date specified in subsection (c) and actually utilized in that service in the two-year period preceding that date, excluding service to points between Anchorage, Alaska and Whittier, Alaska, served by common carrier service unless such unscheduled service is only for carriage of oil or pursuant to a contract with the United States military: *Provided further,* That, with respect to scheduled barge service between the contiguous 48 States and Puerto Rico, such total annual capacity shall be deemed as such total annual capacity plus the annual capacity of two additional barges, each capable of carrying 185 trailers and 100 automobiles; and

"(B) with respect to service provided by container vessels, the overall capacity equal to the sum of—

"(i) 100 percent of the capacity of vessels operated by or for the contractor on that date, with the vessels' configuration and frequency of sailing in effect on that date, and which participate solely in that noncontiguous domestic trade; and

"(ii) 75 percent of the capacity of vessels operated by or for the contractor on that date, with the vessels' configuration and frequency of sailing in effect on that date, and which participate in that noncontiguous domestic trade and in another trade, provided that the term does not include any restriction on frequency, or number of sailings, or on ports called within such overall capacity.

"(2) The level of service set forth in paragraph (1) shall be described with the specificity required by subsection (e)(1) and shall be the level of service in a trade with respect to the applicable date established by subsection (c) only if the service is not abandoned thereafter, except for interruptions

due to military contingency or other events beyond the contractor's control.

"(3) The term 'participates in a noncontiguous domestic trade' means directly or indirectly owns, charters, or operates a vessel engaged in transportation of cargo between a point in the contiguous 48 states and a point in Alaska, Hawaii, or Puerto Rico, other than a point in Alaska north of the Arctic Circle.

"(4) The term 'related party' means—

"(A) a holding company, subsidiary, affiliate, or associate of a contractor who is a party to an operating agreement under this subtitle; and

"(B) an officer, director, agent, or other executive of a contractor or of a person referred to in subparagraph (A).".

(b) CONFORMING AMENDMENT.—Section 805 of the Merchant Marine Act, 1936 (46 U.S.C. App. 1223) is amended—

(1) by striking "title VI of this Act" each place it appears and inserting "subtitle A of title VI of this Act"; and

(2) by striking "under title VI" each place it appears and inserting "under subtitle A of title VI".

SEC. 5. USE OF FOREIGN-FLAG VESSELS.

(a) IN GENERAL.—Section 804 of the Merchant Marine Act, 1936 (46 U.S.C. App. 1222) is amended by adding at the end the following new subsection:

"(f) The provisions of subsection (a) shall not preclude a contractor receiving assistance under subtitle A or B of title VI, or any holding company, subsidiary, or affiliate of the contractor, or any officer, director, agent, or executive thereof, from—

"(1) owning, chartering, or operating any foreign-flag vessel on a voyage or a segment of a voyage that does not call at a port in the United States;

"(2) owning, chartering, or operating any foreign-flag vessel in line haul service between the United States and foreign ports if—

"(A) the foreign-flag vessel was owned, chartered, or operated by, or is a replacement for a foreign-flag vessel owned, chartered, or operated by, such owner or operator, or any holding company, subsidiary, affiliate, or associate of such owner or operator, on the date of enactment of the Maritime Security Act of 1996;

"(B) the owner or operator, with respect to each additional foreign-flag vessel, other than a time chartered vessel, has first applied to have that vessel covered by an operating agreement under subtitle B of title VI, and the Secretary has not awarded an operating agreement with respect to that vessel within 90 days after the filing of the application; or

"(C) the vessel has been placed under foreign documentation pursuant to section 9 of the Shipping Act, 1916 (46 U.S.C. App. 808), except that any foreign-flag vessel, other than a time chartered vessel, a replacement vessel under section 653(d), or a vessel operated by the owner or operator on the date of enactment of the Maritime Security Act of 1996, in line haul service between the United States and foreign ports is registered under the

flag of an effective United States-controlled foreign flag, and available to be requisitioned by the Secretary of Transportation pursuant to section 902 of this Act;

"(3) owning, chartering, or operating foreign-flag bulk cargo vessels that are operated in foreign-to-foreign service or the foreign commerce of the United States;

"(4) chartering or operating foreign-flag vessels that are operated solely as replacement vessels for United States-flag vessels or vessel capacity that are made available to the Secretary of Defense pursuant to section 653 of this Act; or

"(5) entering into time or space charter or other cooperative agreements with respect to foreign-flag vessels or acting as agent or broker for a foreign-flag vessel or vessels.".

46 USC app. 1222 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to a contractor under subtitle B of title VI of the Merchant Marine Act, 1936, as amended by this Act, upon enactment of this Act, and shall apply to a contractor under subtitle A of title VI of that Act, upon the earlier of—

Federal Register, publication.

(1) the date that a payment is made, under the Maritime Security Program under subtitle B of that title to a contractor under subtitle B of that title who is not party to an operating-differential subsidy contract under subtitle A of that title, with the Secretary of Transportation to cause notice of the date of such payment to be published in the Federal Register as soon as possible; or

(2) with respect to a particular contractor under the operating-differential subsidy program under subtitle A of that title, the date that contractor enters into a contract with the Secretary under the Maritime Security Program established by subtitle B of that title.

SEC. 6. AMENDMENT TO SHIPPING ACT, 1916.

Section 9 of the Shipping Act, 1916 (46 U.S.C. App. 808) is amended by adding at the end the following:

"(e) Notwithstanding subsection (c)(2), the Merchant Marine Act, 1936, or any contract entered into with the Secretary of Transportation under that Act, a vessel may be placed under a foreign registry, without approval of the Secretary, if—

"(1)(A) the Secretary determines that at least one replacement vessel of a capacity that is equivalent or greater, as measured by deadweight tons, gross tons, or container equivalent units, as appropriate, is documented under chapter 121 of title 46, United States Code, by the owner of the vessel placed under the foreign registry; and

"(B) the replacement vessel is not more than 10 years of age on the date of that documentation;

"(2)(A) an application for an operating agreement under subtitle B of title VI of the Merchant Marine Act, 1936 has been filed with respect to a vessel which is eligible to be included in the Maritime Security Fleet under section 651(b)(1) of that Act; and

"(B) the Secretary has not awarded an operating agreement with respect to that vessel within 90 days after the date of that application;

"(3) a contract covering the vessel under subtitle A of title VI of the Merchant Marine Act, 1936 has expired, and

that vessel is more than 15 years of age on the date the contract expires; or

"(4) an operating agreement covering the vessel under subtitle B of title VI of the Merchant Marine Act, 1936 has expired.".

SEC. 7. CONSTRUCTION DIFFERENTIAL SUBSIDY RESTRICTIONS.

Title V of the Merchant Marine Act, 1936 (46 U.S.C. App. 1151 et seq.) is amended by adding at the end the following new section:

"SEC. 512. LIMITATION ON RESTRICTIONS. 46 USC app. 1162.

"Notwithstanding any other provision of law or contract, all restrictions and requirements under sections 503, 506, and 802 applicable to a liner vessel constructed, reconstructed, or reconditioned with the aid of construction-differential subsidy shall terminate upon the expiration of the 25-year period beginning on the date of the original delivery of the vessel from the shipyard.".

SEC. 8. REGULATIONS. 46 USC app. 1187 note.

(a) IN GENERAL.—The Secretary of Transportation may prescribe rules as necessary to carry out this Act and the amendments made by this Act.

(b) INTERIM RULES.—The Secretary of Transportation may prescribe interim rules necessary to carry out this Act and the amendments made by this Act. For this purpose, the Secretary of Transportation is excepted from compliance with the notice and comment requirements of section 553 of title 5, United States Code. All rules prescribed under the authority of this subsection that are not earlier superseded by final rules shall expire no later than 270 days after the date of enactment of this Act.

SEC. 9. MERCHANT SHIP SALES ACT OF 1946 AMENDMENT.

Section 11 of the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1744) is amended as follows:

(1) In subsection (b)(2) by striking "Secretary of the Navy," and inserting "Secretary of Defense,".

(2) By striking subsection (c) and redesignating subsection (d) as subsection (c).

SEC. 10. REEMPLOYMENT RIGHTS FOR CERTAIN MERCHANT SEAMEN.

(a) IN GENERAL.—Title III of the Merchant Marine Act, 1936 (46 U.S.C. App. 1131) is amended by inserting after section 301 the following new section:

"SEC. 302. (a) An individual who is certified by the Secretary of Transportation under subsection (c) shall be entitled to reemployment rights and other benefits substantially equivalent to the rights and benefits provided for by chapter 43 of title 38, United States Code, for any member of a Reserve component of the Armed Forces of the United States who is ordered to active duty. 46 USC app. 1132.

"(b) An individual may submit an application for certification under subsection (c) to the Secretary of Transportation not later than 45 days after the date the individual completes a period of employment described in subsection (c)(1)(A) with respect to which the application is submitted.

"(c) Not later than 20 days after the date the Secretary of Transportation receives from an individual an application for certification under this subsection, the Secretary shall—

"(1) determine whether or not the individual—

"(A) was employed in the activation or operation of a vessel—

"(i) in the National Defense Reserve Fleet maintained under section 11 of the Merchant Ship Sales Act of 1946, in a period in which that vessel was in use or being activated for use under subsection (b) of that section;

"(ii) that is requisitioned or purchased under section 902 of this Act; or

"(iii) that is owned, chartered, or controlled by the United States and used by the United States for a war, armed conflict, national emergency, or maritime mobilization need (including for training purposes or testing for readiness and suitability for mission performance); and

"(B) during the period of that employment, possessed a valid license, certificate of registry, or merchant mariner's document issued under chapter 71 or chapter 73 (as applicable) of title 46, United States Code; and

"(2) if the Secretary makes affirmative determinations under paragraph (1) (A) and (B), certify that individual under this subsection.

"(d) For purposes of reemployment rights and benefits provided by this section, a certification under subsection (c) shall be considered to be the equivalent of a certificate referred to in paragraph (1) of section 4301(a) of title 38, United States Code.".

46 USC app. 1132 note.

(b) APPLICATION.—The amendment made by subsection (a) shall apply to employment described in section 302(c)(1)(A) of the Merchant Marine Act, 1936, as amended by subsection (a), occurring after the date of enactment of this Act.

46 USC app. 1132 note.

(c) REGULATION.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Transportation shall issue regulations implementing this section.

SEC. 11. TITLE XI LOAN GUARANTEES.

Title XI of the Merchant Marine Act, 1936 (46 U.S.C. App. 1271 et seq.) is amended—

46 USC app. 1271.

(1) in section 1101(b), by striking "owned by citizens of the United States";

46 USC app. 1274a.

(2) in section 1104B(a), in the material preceding paragraph (1), by striking "owned by citizens of the United States"; and

46 USC app. 1279c.

(3) in section 1110(a), by striking "owned by citizens of the United States".

SEC. 12. EXTENSION OF WAR RISK INSURANCE AUTHORITY.

Section 1214 of the Merchant Marine Act, 1936 (46 U.S.C. App. 1294) is amended by striking "June 30, 1995" and inserting "June 30, 2000".

SEC. 13. VESSEL LOAN GUARANTEE PROGRAM.

(a) RISK FACTOR DETERMINATIONS.—Section 1103 of the Merchant Marine Act, 1936 (46 U.S.C. App. 1273) is amended by adding at the end the following new subsection:

"(h)(1) The Secretary shall—

"(A) establish in accordance with this subsection a system of risk categories for obligations guaranteed under this title, that categorizes the relative risk of guarantees made under

this title with respect to the risk factors set forth in paragraph (3); and

"(B) determine for each of the risk categories a subsidy rate equivalent to the cost of obligations in the category, expressed as a percentage of the amount guaranteed under this title for obligations in the category.

"(2)(A) Before making a guarantee under this section for an obligation, the Secretary shall apply the risk factors set forth in paragraph (3) to place the obligation in a risk category established under paragraph (1)(A).

"(B) The Secretary shall consider the aggregate amount available to the Secretary for making guarantees under this title to be reduced by the amount determined by multiplying—

"(i) the amount guaranteed under this title for an obligation, by

"(ii) the subsidy rate for the category in which the obligation is placed under subparagraph (A) of this paragraph.

"(C) The estimated cost to the Government of a guarantee made by the Secretary under this title for an obligation is deemed to be the amount determined under subparagraph (B) for the obligation.

"(D) The Secretary may not guarantee obligations under this title after the aggregate amount available to the Secretary under appropriations Acts for the cost of loan guarantees is required by subparagraph (B) to be considered reduced to zero.

"(3) The risk factors referred to in paragraphs (1) and (2) are the following:

"(A) If applicable, the country risk for each eligible export vessel financed or to be financed by an obligation.

"(B) The period for which an obligation is guaranteed or to be guaranteed.

"(C) The amount of an obligation, which is guaranteed or to be guaranteed, in relation to the total cost of the project financed or to be financed by the obligation.

"(D) The financial condition of an obligor or applicant for a guarantee.

"(E) If applicable, any guarantee related to the project, other than the guarantee under this title for which the risk factor is applied.

"(F) If applicable, the projected employment of each vessel or equipment to be financed with an obligation.

"(G) If applicable, the projected market that will be served by each vessel or equipment to be financed with an obligation.

"(H) The collateral provided for a guarantee for an obligation.

"(I) The management and operating experience of an obligor or applicant for a guarantee.

"(J) Whether a guarantee under this title is or will be in effect during the construction period of the project.

"(4) In this subsection, the term 'cost' has the meaning given that term in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a).".

(b) APPLICATION.—Subsection (h)(2) of section 1103 of the Merchant Marine Act, 1936 (46 U.S.C. App. 1273), as amended by subsection (a) of this section, shall apply to guarantees that the Secretary of Transportation makes or commits to make with

46 USC app. 1273 note.

any amounts that are unobligated on or after the date of enactment of this Act.

(c) GUARANTEE FEES.—Section 1104A(e) of title XI of the Merchant Marine Act, 1936 (46 U.S.C. App. 1274(e)) is amended to read as follows:

"(e)(1) Except as otherwise provided in this subsection, the Secretary shall prescribe regulations to assess in accordance with this subsection a fee for the guarantee of an obligation under this title.

"(2)(A) The amount of a fee under this subsection for a guarantee is equal to the sum determined by adding the amounts determined under subparagraph (B) for the years in which the guarantee is in effect.

"(B) The amount referred to in subparagraph (A) for a year is the present value (determined by applying the discount rate determined under subparagraph (F)) of the amount determined by multiplying—

"(i) the estimated average unpaid principal amount of the obligation that will be outstanding during the year (determined in accordance with subparagraph (E)), by

"(ii) the fee rate established under subparagraph (C) for the obligation for each year.

"(C) The fee rate referred to in subparagraph (B)(ii) for an obligation shall be—

"(i) in the case of an obligation for a delivered vessel or equipment, not less than one-half of 1 percent and not more than 1 percent, determined by the Secretary for the obligation under the formula established under subparagraph (D); or

"(ii) in the case of an obligation for a vessel to be constructed, reconstructed, or reconditioned, or of equipment to be delivered, not less than one-quarter of 1 percent and not more than one-half of 1 percent, determined by the Secretary for the obligation under the formula established under subparagraph (D).

"(D) The Secretary shall establish a formula for determining the fee rate for an obligation for purposes of subparagraph (C), that—

"(i) is a sliding scale based on the creditworthiness of the obligor;

"(ii) takes into account the security provided for a guarantee under this title for the obligation; and

"(iii) uses—

"(I) in the case of the most creditworthy obligors, the lowest rate authorized under subparagraph (C) (i) or (ii), as applicable; and

"(II) in the case of the least creditworthy obligors, the highest rate authorized under subparagraph (C) (i) or (ii), as applicable.

"(E) For purposes of subparagraph (B)(i), the estimated average unpaid principal amount does not include the average amount (except interest) on deposit in a year in the escrow fund under section 1108.

"(F) For purposes of determining present value under subparagraph (B) for an obligation, the Secretary shall apply a discount rate determined by the Secretary of the Treasury taking into consideration current market yields on outstanding obligations of the

United States having periods to maturity comparable to the period to maturity for the obligation with respect to which the determination of present value is made.

"(3) A fee under this subsection shall be assessed and collected not later than the date on which amounts are first paid under an obligation with respect to which the fee is assessed.

"(4) A fee paid under this subsection is not refundable. However, an obligor shall receive credit for the amount paid for the remaining term of the guaranteed obligation if the obligation is refinanced and guaranteed under this title after such refinancing.

"(5) A fee paid under subsection (e) shall be included in the amount of the actual cost of the obligation guaranteed under this title and is eligible to be financed under this title.".

SEC. 14. MARITIME POLICY REPORT.

(a) REPORT.—The Secretary of Transportation shall transmit to the Congress a report setting forth the Department of Transportation's policies for the 5-year period beginning October 1, 1995, with respect to—

(1) fostering and maintaining a United States merchant marine capable of meeting economic and national security requirements;

(2) improving the vitality and competitiveness of the United States merchant marine and the maritime industrial base, including ship repairers, shipbuilders, ship manning, ship operators, and ship suppliers;

(3) reversing the precipitous decrease in the number of ships in the United States-flag fleet and the Nation's shipyard and repair capability;

(4) stabilizing and eventually increasing the number of mariners available to crew United States merchant vessels;

(5) achieving adequate manning of merchant vessels for national security needs during a mobilization;

(6) ensuring that sufficient civil maritime resources will be available to meet defense deployment and essential economic requirements in support of our national security strategy;

(7) ensuring that the United States maintains the capability to respond unilaterally to security threats in geographic areas not covered by alliance commitments and otherwise meets sealift requirements in the event of crisis or war;

(8) ensuring that international agreements and practices do not place United States maritime industries at an unfair competitive disadvantage in world markets;

(9) ensuring that Federal agencies promote, through efficient application of laws and regulations, the readiness of the United States merchant marine and supporting industries; and

(10) any other relevant maritime policies.

(b) DATE OF TRANSMITTAL.—The report required under subsection (a) shall be transmitted along with the President's budget submission, under section 1105 of title 31, United States Code, for fiscal year 1997.

SEC. 15. RELIEF FROM UNITED STATES DOCUMENTATION REQUIREMENT FOR 3 VESSELS.

(a) IN GENERAL.—Notwithstanding any other law or any agreement with the United States Government, a vessel described in subsection (b) may be sold to a person that is not a citizen of

the United States and transferred to or placed under a foreign registry.

(b) VESSELS DESCRIBED.—The vessels referred to in subsection (a) are the following:

(1) RAINBOW HOPE (United States official number 622178).

(2) IOWA TRADER (United States official number 642934).

(3) KANSAS TRADER (United States official number 634621).

46 USC app. 1744 note.

SEC. 16. VESSEL REPAIR AND MAINTENANCE PILOT PROGRAM.

(a) IN GENERAL.—The Secretary of Transportation shall conduct a pilot program to evaluate the feasibility of using renewable contracts for the maintenance and repair of outported vessels in the Ready Reserve Force to enhance the readiness of those vessels. Under the pilot program, the Secretary, subject to the availability of appropriations and within 6 months after the date of the enactment of this Act, shall award 9 contracts for this purpose.

(b) USE OF VARIOUS CONTRACTING ARRANGEMENTS.—In conducting a pilot program under this section, the Secretary of Transportation shall use contracting arrangements similar to those used by the Department of Defense for procuring maintenance and repair of its vessels.

(c) CONTRACT REQUIREMENTS.—Each contract with a shipyard under this section shall—

(1) subject to subsection (d), provide for the procurement from the shipyard of all repair and maintenance (including activation, deactivation, and drydocking) for 1 vessel in the Ready Reserve Force that is outported in the geographical vicinity of the shipyard;

(2) be effective for 1 fiscal year; and

(3) be renewable, subject to the availability of appropriations, for each subsequent fiscal year through fiscal year 1998.

(d) LIMITATION OF WORK UNDER CONTRACTS.—A contract under this section may not provide for the procurement of operation or manning for a vessel that may be procured under another contract for the vessel to which section 11(d)(2) of the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1774(d)(2)) applies.

(e) GEOGRAPHIC DISTRIBUTION.—The Secretary shall seek to distribute contract awards under this section to shipyards located throughout the United States.

(f) REPORTS.—The Secretary shall submit to the Congress—

(1) an interim report on the effectiveness of each contract under this section in providing for economic and efficient repair and maintenance of the vessel included in the contract, no later than 20 months after the date of the enactment of this Act; and

(2) a final report on that effectiveness no later than 6 months after the termination of all contracts awarded pursuant to this section.

SEC. 17. STREAMLINING OF CARGO ALLOCATION PROCEDURES.

(a) AMENDMENTS.—Section 901b(c)(3) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241f(c)(3)) is amended—

(1) in subparagraph (A)—

(A) by striking "and consistent with those sections," and inserting "and, subject to subparagraph (B) of this paragraph, consistent with those sections,"; and

(B) by striking "50 percent" and inserting "25 percent"; and

(2) by striking subparagraph (B) and inserting the following new subparagraphs:

"(B) In carrying out this paragraph, there shall first be calculated the allocation of 100 percent of the quantity to be procured on an overall lowest landed cost basis without regard to the country of documentation of the vessel and there shall be allocated to the Great Lakes port range any cargoes for which it has the lowest landed cost under that calculation. The requirements for United States-flag transportation under section 901(b) and this section shall not apply to commodities allocated under subparagraph (A) to the Great Lakes port range, and commodities allocated under subparagraph (A) to that port range may not be reallocated or diverted to another port range to meet those requirements to the extent that the total tonnage of commodities to which subparagraph (A) applies that is furnished and transported from the Great Lakes port range is less than 25 percent of the total annual tonnage of such commodities furnished.

"(C) In awarding any contract for the transportation by vessel of commodities from the Great Lakes port range pursuant to an export activity referred to in subsection (b), each agency or instrumentality—

"(i) shall consider expressions of freight interest for any vessel from a vessel operator who meets reasonable requirements for financial and operational integrity; and

"(ii) may not deny award of the contract to a person based on the type of vessel on which the transportation would be provided (including on the basis that the transportation would not be provided on a liner vessel (as that term is used in the Shipping Act of 1984, as in effect on November 14, 1995)), if the person otherwise satisfies reasonable requirements for financial and operational integrity.".

(b) CONFORMING AMENDMENTS.—(1) Paragraph (4) of section 901b(c) of that Act is repealed. 46 USC app. 1241f.

(2) Paragraph (5) of that section is redesignated as paragraph (4).

Approved October 8, 1996.

LEGISLATIVE HISTORY—H.R. 1350 (S. 1139):

HOUSE REPORTS: No. 104–229 (Comm. on National Security).
SENATE REPORTS: No. 104–167 accompanying S. 1139 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD:
Vol. 141 (1995): Dec. 6, considered and passed House.
Vol. 142 (1996): Sept. 19, 20, 24, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 32 (1996):
Oct. 8, Presidential statement.

29–194 O – 96 – 3 : QL 3 Part 5

Public Law 104–240
104th Congress

An Act

Oct. 8, 1996
[H.R. 3056]

To permit a county-operated health insuring organization to qualify as an organization exempt from certain requirements otherwise applicable to health insuring organizations under the Medicaid program notwithstanding that the organization enrolls Medicaid beneficiaries residing in another county.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PERMITTING COUNTY-OPERATED HEALTH INSURING ORGANIZATIONS TO ENROLL MEDICAID BENEFICIARIES RESIDING IN ANOTHER COUNTY UNDER MEDICAID WAIVER FOR CERTAIN COUNTY-OPERATED HEALTH INSURING ORGANIZATIONS.

(a) IN GENERAL.—Section 9517(c)(3)(B)(ii) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (42 U.S.C. 1396b note), as added by section 4734 of the Omnibus Budget Reconciliation Act of 1990, is amended by inserting "or counties" after "county".

42 USC 1396b note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to quarters beginning on or after October 1, 1996.

Approved October 8, 1996.

LEGISLATIVE HISTORY—H.R. 3056:

HOUSE REPORTS: No. 104–751 (Comm. on Commerce).
CONGRESSIONAL RECORD, Vol. 142 (1996):
Sept. 10, considered and passed House.
Sept. 25, considered and passed Senate.

Public Law 104–241
104th Congress

An Act

To extend the deadline under the Federal Power Act applicable to the construction of three hydroelectric projects in the State of Arkansas.

Oct. 9, 1996
[H.R. 657]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF DEADLINES.

Notwithstanding the time limitations of section 13 of the Federal Power Act (16 U.S.C. 806) the Federal Energy Regulatory Commission, upon the request of the licensee for FERC Projects numbered 4204, 4660, and 4659 (and after reasonable notice), is authorized, in accordance with the good faith, due diligence, and public interest requirements of such section 13 and the Commission's procedures under such section, to extend the time required for commencement of construction for the project for up to a maximum of 3 consecutive 2-year periods. This section shall take effect for the project upon the expiration of the extension (issued by the Commission under such section 13) of the period required for commencement of construction of such project.

Effective date.

Approved October 9, 1996.

LEGISLATIVE HISTORY—H.R. 657 (S. 549):

HOUSE REPORTS: No. 104–315 (Comm. on Commerce).
SENATE REPORTS: No. 104–76 accompanying S. 549 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 141 (1995): Nov. 13, considered and passed House.
Vol. 142 (1996): Sept. 27, considered and passed Senate.

Public Law 104–242
104th Congress

An Act

Oct. 9, 1996
[H.R. 680]

To extend the time for construction of certain FERC licensed hydro projects.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION.

Notwithstanding the limitations of section 13 of the Federal Power Act, the Federal Energy Regulatory Commission, upon the request of the licensee or licensees for FERC projects numbered 4244 and 10648 (and after reasonable notice), is authorized in accordance with the good faith, due diligence, and public interest requirements of such section 13 and the Commission's procedures under such section, to extend the time required for commencement of construction for each of such projects for up to a maximum of 3 consecutive 2-year periods. This section shall take effect for the projects upon the expiration of the extension (issued by the Commission under such section 13) of the period required for commencement of construction of each such project.

Effective date.

Approved October 9, 1996.

LEGISLATIVE HISTORY—H.R. 680 (S. 1012):

HOUSE REPORTS: No. 104–316 (Comm. on Commerce).
SENATE REPORTS: No. 104–162 accompanying S. 1012 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 141 (1995): Nov. 13, considered and passed House.
Vol. 142 (1996): Sept. 27, considered and passed Senate.

Public Law 104–243
104th Congress

An Act

To extend the deadline under the Federal Power Act applicable to the construction of a hydroelectric project in the State of Ohio.

Oct. 9, 1996
[H.R. 1011]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF DEADLINE.

Notwithstanding the time limitations of section 13 of the Federal Power Act (16 U.S.C. 806) the Federal Energy Regulatory Commission, upon the request of the licensee for FERC Project No. 9423 (and after reasonable notice), is authorized, in accordance with the good faith, due diligence, and public interest requirements of such section 13 and the Commission's procedures under such section, to extend the time required for commencement of construction for the project for up to a maximum of 3 consecutive 2-year periods. This section shall take effect for the project upon the expiration of the extension (issued by the Commission under such section 13) of the period required for commencement of construction of such project.

Effective date.

Approved October 9, 1996.

LEGISLATIVE HISTORY—H.R. 1011 (S. 468):

HOUSE REPORTS: No. 104–317 (Comm. on Commerce).
SENATE REPORTS: No. 104–104 accompanying S. 468 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 141 (1995): Nov. 13, considered and passed House.
Vol. 142 (1996): Sept. 27, considered and passed Senate.

Public Law 104–244
104th Congress

An Act

Oct. 9, 1996
[H.R. 1014]

To authorize extension of time limitation for a FERC-issued hydroelectric license.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding the time limitation of section 13 of the Federal Power Act, the Federal Energy Regulatory Commission, upon the request of the licensee for FERC Project No. 3701, is authorized, in accordance with the good faith, due diligence, and public interest requirements of section 13 and the Commission's procedures under such section, to extend the time required for the licensee to commence the construction of such project for up to a maximum of 3 consecutive 2-year periods. This section shall take effect for the project upon the expiration of the extension (issued by the Commission under section 13) of the period required for commencement of construction of such project. If the license for FERC Project 3701 should expire prior to the date of enactment of this Act, the Commission is authorized and directed to reinstate effective June 1, 1995, the license previously issued for such project.

Effective date.

Approved October 9, 1996.

LEGISLATIVE HISTORY—H.R. 1014:

HOUSE REPORTS: No. 104–318 (Comm. on Commerce).
SENATE REPORTS: No. 104–313 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 141 (1995): Nov. 13, considered and passed House.
Vol. 142 (1996): Sept. 27, considered and passed Senate.

Public Law 104–245
104th Congress

An Act

To reinstate the permit for, and extend the deadline under the Federal Power Act applicable to the construction of, a hydroelectric project in Oregon, and for other purposes.

Oct. 9, 1996
[H.R. 1290]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REINSTATEMENT OF PERMIT EXTENSION DEADLINE.

Notwithstanding the expiration of the permit and notwithstanding the time period specified in section 13 of the Federal Power Act (16 U.S.C. 806) that would otherwise apply to the Federal Energy Regulatory Commission Project No. 7829, the Commission shall, at the request of the licensee for the project, reinstate the permit effective May 23, 1993, and extend the time period during which the licensee is required to commence the construction of the project so as to terminate on May 25, 1999.

Effective date.

Approved October 9, 1996.

LEGISLATIVE HISTORY—H.R. 1290 (S. 538):

HOUSE REPORTS: No. 104–320 (Comm. on Commerce).
SENATE REPORTS: No. 104–75 accompanying S. 538 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 141 (1995): Nov. 13, considered and passed House.
Vol. 142 (1996): Sept. 27, considered and passed Senate.

Public Law 104–246
104th Congress

An Act

Oct. 9, 1996
[H.R. 1335]

To provide for the extension of a hydroelectric project located in the State of West Virginia.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF DEADLINE.

(a) IN GENERAL.—Notwithstanding the time period specified in section 13 of the Federal Power Act (16 U.S.C. 806) that would otherwise apply to the Federal Energy Regulatory Commission Project No. 7307, the Commission shall, upon the request of the licensee for the project, in accordance with the good faith, due diligence, and public interest requirements of that section and the Commission's procedures under that section, extend the time period during which the licensee is required to commence construction of the project so as to terminate on September 26, 1999.

Effective date.

(b) APPLICABILITY.—Subsection (a) shall take effect for the project described in subsection (a) upon the expiration of the extension, issued by the Commission under section 13 of the Federal Power Act (16 U.S.C. 806), of the period required for commencement of construction of the project.

(c) REINSTATEMENT OF EXPIRED LICENSE.—If a license for the project described in subsection (a) has expired prior to the date of enactment of this Act, the Commission shall reinstate the license effective as of the date of its expiration and extend the time required for commencement of construction of the project until September 26, 1999.

Approved October 9, 1996.

LEGISLATIVE HISTORY—H.R. 1335 (S. 595):

HOUSE REPORTS: No. 104–321 (Comm. on Commerce).
SENATE REPORTS: No. 104–108 accompanying S. 595 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 141 (1995): Nov. 13, considered and passed House.
Vol. 142 (1996): Sept. 27, considered and passed Senate.

Public Law 104–247
104th Congress

An Act

To authorize the extension of time limitation for the FERC-issued hydroelectric license for the Mt. Hope Waterpower Project.

Oct. 9, 1996
[H.R. 1366]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF TIME FOR FERC PROJECT.

Notwithstanding the time limitations specified in section 13 of the Federal Power Act (16 U.S.C. 806), the Federal Energy Regulatory Commission, upon the request of the licensee for FERC Project No. 9401 (and after reasonable notice), is authorized, in accordance with the good faith, due diligence, and public interest requirements of such section 13 and the Commission's procedures under such section, to extend the time required for commencement of construction of such project until August 3, 1999.

Approved October 9, 1996.

LEGISLATIVE HISTORY—H.R. 1366 (S. 611):

HOUSE REPORTS: No. 104–322 (Comm. on Commerce).
SENATE REPORTS: No. 104–109 accompanying S. 611 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 141 (1995): Nov. 13, considered and passed House.
Vol. 142 (1996): Sept. 27, considered and passed Senate.

Public Law 104–248
104th Congress

An Act

Oct. 9, 1996
[H.R. 1791]

To amend title XIX of the Social Security Act to make certain technical corrections relating to physicians' services.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TECHNICAL CORRECTIONS RELATING TO PHYSICIANS' SERVICES.

(a) CORRECTING REFERENCE TO UNIQUE IDENTIFIER SYSTEM.—

(1) IN GENERAL.—Section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)) is amended, in the paragraph redesignated as paragraph (59) by section 13623(a)(6) of the Omnibus Budget Reconciliation Act of 1993 and inserted by section 4752(c)(1)(C) of the Omnibus Budget Reconciliation Act of 1990, by striking "subsection (v)" and inserting "subsection (x)".

42 USC 1396a note.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall be effective as if included in the enactment of the amendments made by section 4752(c)(1) of the Omnibus Budget Reconciliation Act of 1990.

(b) CORRECTION IN MINIMUM QUALIFICATIONS FOR BILLING FOR PHYSICIANS' SERVICES TO CHILDREN AND PREGNANT WOMEN.—

(1) IN GENERAL.—Section 1903(i) of the Social Security Act (42 U.S.C. 1396b(i)) is amended, in the paragraph redesignated as paragraph (12) by section 13631(c)(3) of the Omnibus Budget Reconciliation Act of 1993 and inserted by section 4752(a)(2)(B) of the Omnibus Budget Reconciliation Act of 1990—

(A) in subparagraph (A)(i), by inserting "or is certified in family practice or pediatrics by the medical specialty board recognized by the American Osteopathic Association" before the comma at the end;

(B) in subparagraph (B)(i), by inserting "or is certified in family practice or obstetrics by the medical specialty board recognized by the American Osteopathic Association" before the comma at the end; and

(C) in each of subparagraphs (A) and (B)—

(i) by striking "or" at the end of clause (v),

(ii) in clause (vi), by inserting "(or certified by the State in accordance with policies of the Secretary)" after "Secretary",

(iii) by redesignating clause (vi) as clause (vii), and

(iv) by inserting after clause (v) the following new clause:

"(vi) delivers such services in the emergency department of a hospital participating in the State plan approved under this title, or".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to physicians' services furnished on or after January 1, 1992. 42 USC 1396b note.

Approved October 9, 1996.

LEGISLATIVE HISTORY—H.R. 1791:

HOUSE REPORTS: No. 104–826 (Comm. on Commerce).
CONGRESSIONAL RECORD, Vol. 142 (1996):
Sept. 24, considered and passed House.
Sept. 27, considered and passed Senate.

Public Law 104–249
104th Congress

An Act

Oct. 9, 1996
[H.R. 2501]

To extend the deadline under the Federal Power Act applicable to the construction of a hydroelectric project in Kentucky, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF DEADLINE.

(a) IN GENERAL.—Notwithstanding the time period specified in section 13 of the Federal Power Act (16 U.S.C. 806) that would otherwise apply to the Federal Energy Regulatory Commission Project No. 10228, the Commission shall, at the request of the licensee for the project and after reasonable notice, in accordance with the good faith, due diligence, and public interest requirements of that section and the Commission's procedures under that section, extend the time period during which the licensee is required to commence the construction of the project, under the extension described in subsection (b), for not more than 3 consecutive 2-year periods.

(b) EFFECTIVE DATE.—This section shall take effect on the date of the expiration of the extension of the period required for commencement of construction of the project described in subsection (a) that the Commission issued, prior to the date of enactment of this Act, under section 13 of the Federal Power Act (16 U.S.C. 806).

Approved October 9, 1996.

LEGISLATIVE HISTORY—H.R. 2501:

HOUSE REPORTS: No. 104–507 (Comm. on Commerce).
CONGRESSIONAL RECORD, Vol. 142 (1996):
Apr. 16, considered and passed House.
Sept. 27, considered and passed Senate.

Public Law 104–250
104th Congress

An Act

To amend the Federal Food, Drug, and Cosmetic Act to provide for improvements in the process of approving and using animal drugs, and for other purposes.

Oct. 9, 1996
[H.R. 2508]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Animal Drug Availability Act of 1996.
21 USC 301 note.

SECTION 1. SHORT TITLE; REFERENCE.

(a) SHORT TITLE.—This Act may be cited as the "Animal Drug Availability Act of 1996".

(b) REFERENCE.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321 et seq.).

SEC. 2. EVIDENCE OF EFFECTIVENESS.

(a) ORIGINAL APPLICATIONS.—Paragraph (3) of section 512(d) (21 U.S.C. 360b(d)) is amended to read as follows:

"(3) As used in this section, the term 'substantial evidence' means evidence consisting of one or more adequate and well controlled investigations, such as—

"(A) a study in a target species;

"(B) a study in laboratory animals;

"(C) any field investigation that may be required under this section and that meets the requirements of subsection (b)(3) if a presubmission conference is requested by the applicant;

"(D) a bioequivalence study; or

"(E) an in vitro study;

by experts qualified by scientific training and experience to evaluate the effectiveness of the drug involved, on the basis of which it could fairly and reasonably be concluded by such experts that the drug will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling or proposed labeling thereof.".

(b) CONFORMING AMENDMENTS.—

(1) Clauses (ii) and (iii) of section 512(c)(2)(F) (21 U.S.C. 360b(c)(2)(F)) are each amended—

(A) by striking "reports of new clinical or field investigations (other than bioequivalence or residue studies) and," and inserting "substantial evidence of the effectiveness of the drug involved, any studies of animal safety, or,"; and

(B) by striking "essential to" and inserting "required for".

(2) Section 512(c)(2)(F)(v) (21 U.S.C. 360b(c)(2)(F)(v)) is amended—

(A) by striking "subparagraph (B)(iv)" each place it appears and inserting "clause (iv)";

(B) by striking "reports of clinical or field investigations" and inserting "substantial evidence of the effectiveness of the drug involved, any studies of animal safety,"; and

(C) by striking "essential to" and inserting "required for".

(c) COMBINATION DRUGS.—Section 512(d) (21 U.S.C. 360b(d)), as amended by subsection (a) is amended by adding at the end the following:

"(4) In a case in which an animal drug contains more than one active ingredient, or the labeling of the drug prescribes, recommends, or suggests use of the drug in combination with one or more other animal drugs, and the active ingredients or drugs intended for use in the combination have previously been separately approved for particular uses and conditions of use for which they are intended for use in the combination—

"(A) the Secretary shall not issue an order under paragraph (1)(A), (1)(B), or (1)(D) refusing to approve the application for such combination on human food safety grounds unless the Secretary finds that the application fails to establish that—

"(i) none of the active ingredients or drugs intended for use in the combination, respectively, at the longest withdrawal time of any of the active ingredients or drugs in the combination, respectively, exceeds its established tolerance; or

"(ii) none of the active ingredients or drugs in the combination interferes with the methods of analysis for another of the active ingredients or drugs in the combination, respectively;

"(B) the Secretary shall not issue an order under paragraph (1)(A), (1)(B), or (1)(D) refusing to approve the application for such combination on target animal safety grounds unless the Secretary finds that—

"(i)(I) there is a substantiated scientific issue, specific to one or more of the active ingredients or animal drugs in the combination, that cannot adequately be evaluated based on information contained in the application for the combination (including any investigations, studies, or tests for which the applicant has a right of reference or use from the person by or for whom the investigations, studies, or tests were conducted); or

"(II) there is a scientific issue raised by target animal observations contained in studies submitted to the Secretary as part of the application; and

"(ii) based on the Secretary's evaluation of the information contained in the application with respect to the issues identified in clauses (i) (I) and (II), paragraph (1) (A), (B), or (D) apply;

"(C) except in the case of a combination that contains a nontopical antibacterial ingredient or animal drug, the Secretary shall not issue an order under paragraph (1)(E) refusing to approve an application for a combination animal drug intended for use other than in animal feed or drinking water

unless the Secretary finds that the application fails to demonstrate that—

"(i) there is substantial evidence that any active ingredient or animal drug intended only for the same use as another active ingredient or animal drug in the combination makes a contribution to labeled effectiveness;

"(ii) each active ingredient or animal drug intended for at least one use that is different from all other active ingredients or animal drugs used in the combination provides appropriate concurrent use for the intended target population; or

"(iii) where based on scientific information the Secretary has reason to believe the active ingredients or animal drugs may be physically incompatible or have disparate dosing regimens, such active ingredients or animal drugs are physically compatible or do not have disparate dosing regimens; and

"(D) the Secretary shall not issue an order under paragraph (1)(E) refusing to approve an application for a combination animal drug intended for use in animal feed or drinking water unless the Secretary finds that the application fails to demonstrate that—

"(i) there is substantial evidence that any active ingredient or animal drug intended only for the same use as another active ingredient or animal drug in the combination makes a contribution to the labeled effectiveness;

"(ii) each of the active ingredients or animal drugs intended for at least one use that is different from all other active ingredients or animal drugs used in the combination provides appropriate concurrent use for the intended target population;

"(iii) where a combination contains more than one nontopical antibacterial ingredient or animal drug, there is substantial evidence that each of the nontopical antibacterial ingredients or animal drugs makes a contribution to the labeled effectiveness; or

"(iv) where based on scientific information the Secretary has reason to believe the active ingredients or animal drugs intended for use in drinking water may be physically incompatible, such active ingredients or animal drugs intended for use in drinking water are physically compatible.".

(d) PRESUBMISSION CONFERENCE.—Section 512(b) (21 U.S.C. 360b(b)) is amended by adding at the end the following:

"(3) Any person intending to file an application under paragraph (1) or a request for an investigational exemption under subsection (j) shall be entitled to one or more conferences prior to such submission to reach an agreement acceptable to the Secretary establishing a submission or an investigational requirement, which may include a requirement for a field investigation. A decision establishing a submission or an investigational requirement shall bind the Secretary and the applicant or requestor unless (A) the Secretary and the applicant or requestor mutually agree to modify the requirement, or (B) the Secretary by written order determines that a substantiated scientific requirement essential to the determination of safety or effectiveness of the animal drug involved has appeared after the conference. No later than 25 calendar days after each

such conference, the Secretary shall provide a written order setting forth a scientific justification specific to the animal drug and intended uses under consideration if the agreement referred to in the first sentence requires more than one field investigation as being essential to provide substantial evidence of effectiveness for the intended uses of the drug. Nothing in this paragraph shall be construed as compelling the Secretary to require a field investigation.".

(e) IMPLEMENTATION.—

Regulations. Effective date. 21 USC 360b note.

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Secretary of Health and Human Services shall issue proposed regulations implementing the amendments made by this Act as described in paragraph (2)(A) of this subsection, and not later than 18 months after the date of enactment of this Act, the Secretary shall issue final regulations implementing such amendments. Not later than 12 months after the date of enactment of this Act, the Secretary shall issue proposed regulations implementing the other amendments made by this Act as described in paragraphs (2)(B) and (2)(C) of this subsection, and not later than 24 months after the date of enactment of this Act, the Secretary shall issue final regulations implementing such amendments.

(2) CONTENTS.—In issuing regulations implementing the amendments made by this Act, and in taking an action to review an application for approval of a new animal drug under section 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b), or a request for an investigational exemption for a new animal drug under subsection (j) of such section, that is pending or has been submitted prior to the effective date of the regulations, the Secretary shall—

(A) further define the term "adequate and well controlled", as used in subsection (d)(3) of section 512 of such Act, to require that field investigations be designed and conducted in a scientifically sound manner, taking into account practical conditions in the field and differences between field conditions and laboratory conditions;

(B) further define the term "substantial evidence", as defined in subsection (d)(3) of such section, in a manner that encourages the submission of applications and supplemental applications; and

(C) take into account the proposals contained in the citizen petition (FDA Docket No. 91P–0434/CP) jointly submitted by the American Veterinary Medical Association and the Animal Health Institute, dated October 21, 1991.

Until the regulations required by subparagraph (A) are issued, nothing in the regulations published at 21 C.F.R. 514.111(a)(5) (April 1, 1996) shall be construed to compel the Secretary of Health and Human Services to require a field investigation under section 512(d)(1)(E) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(d)(1)(E)) or to apply any of its provisions in a manner inconsistent with the considerations for scientifically sound field investigations set forth in subparagraph (A).

21 USC 360b note.

(f) MINOR SPECIES AND USES.—The Secretary of Health and Human Services shall consider legislative and regulatory options for facilitating the approval under section 512 of the Federal Food, Drug, and Cosmetic Act of animal drugs intended for minor species

and for minor uses and, within 18 months after the date of enactment of this Act, announce proposals for legislative or regulatory change to the approval process under such section for animal drugs intended for use in minor species or for minor uses.

SEC. 3. LIMITATION ON RESIDUES.

Section 512(d)(1)(F) (21 U.S.C. 360b(d)(1)(F)) is amended to read as follows:

"(F) upon the basis of information submitted to the Secretary as part of the application or any other information before the Secretary with respect to such drug, any use prescribed, recommended, or suggested in labeling proposed for such drug will result in a residue of such drug in excess of a tolerance found by the Secretary to be safe for such drug;".

SEC. 4. IMPORT TOLERANCES.

Section 512(a) (21 U.S.C. 360b(a)) is amended by adding the following new paragraph at the end:

"(6) For purposes of section 402(a)(2)(D), a use or intended use of a new animal drug shall not be deemed unsafe under this section if the Secretary establishes a tolerance for such drug and any edible portion of any animal imported into the United States does not contain residues exceeding such tolerance. In establishing such tolerance, the Secretary shall rely on data sufficient to demonstrate that a proposed tolerance is safe based on similar food safety criteria used by the Secretary to establish tolerances for applications for new animal drugs filed under subsection (b)(1). The Secretary may consider and rely on data submitted by the drug manufacturer, including data submitted to appropriate regulatory authorities in any country where the new animal drug is lawfully used or data available from a relevant international organization, to the extent such data are not inconsistent with the criteria used by the Secretary to establish a tolerance for applications for new animal drugs filed under subsection (b)(1). For purposes of this paragraph, 'relevant international organization' means the Codex Alimenterius Commission or other international organization deemed appropriate by the Secretary. The Secretary may, under procedures specified by regulation, revoke a tolerance established under this paragraph if information demonstrates that the use of the new animal drug under actual use conditions results in food being imported into the United States with residues exceeding the tolerance or if scientific evidence shows the tolerance to be unsafe.".

SEC. 5. VETERINARY FEED DIRECTIVES.

(a) SECTION 503.—Section 503(f)(1)(A) (21 U.S.C. 353(f)(1)(A)) is amended by inserting after "other than man" the following: ", other than a veterinary feed directive drug intended for use in animal feed or an animal feed bearing or containing a veterinary feed directive drug,".

(b) SECTION 504.—The Federal Food, Drug, and Cosmetic Act is amended by inserting after section 503 the following:

"VETERINARY FEED DIRECTIVE DRUGS

"SEC. 504. (a)(1) A drug intended for use in or on animal feed which is limited by an approved application filed pursuant to section 512(b) to use under the professional supervision of a 21 USC 354.

licensed veterinarian is a veterinary feed directive drug. Any animal feed bearing or containing a veterinary feed directive drug shall be fed to animals only by or upon a lawful veterinary feed directive issued by a licensed veterinarian in the course of the veterinarian's professional practice. When labeled, distributed, held, and used in accordance with this section, a veterinary feed directive drug and any animal feed bearing or containing a veterinary feed directive drug shall be exempt from section 502(f).

"(2) A veterinary feed directive is lawful if it—

"(A) contains such information as the Secretary may by general regulation or by order require; and

"(B) is in compliance with the conditions and indications for use of the drug set forth in the notice published pursuant to section 512(i).

"(3)(A) Any persons involved in the distribution or use of animal feed bearing or containing a veterinary feed directive drug and the licensed veterinarian issuing the veterinary feed directive shall maintain a copy of the veterinary feed directive applicable to each such feed, except in the case of a person distributing such feed to another person for further distribution. Such person distributing the feed shall maintain a written acknowledgment from the person to whom the feed is shipped stating that that person shall not ship or move such feed to an animal production facility without a veterinary feed directive or ship such feed to another person for further distribution unless that person has provided the same written acknowledgment to its immediate supplier.

"(B) Every person required under subparagraph (A) to maintain records, and every person in charge or custody thereof, shall, upon request of an officer or employee designated by the Secretary, permit such officer or employee at all reasonable times to have access to and copy and verify such records.

"(C) Any person who distributes animal feed bearing or containing a veterinary feed directive drug shall upon first engaging in such distribution notify the Secretary of that person's name and place of business. The failure to provide such notification shall be deemed to be an act which results in the drug being misbranded.

"(b) A veterinary feed directive drug and any feed bearing or containing a veterinary feed directive drug shall be deemed to be misbranded if their labeling fails to bear such cautionary statement and such other information as the Secretary may by general regulation or by order prescribe, or their advertising fails to conform to the conditions and indications for use published pursuant to section 512(i) or fails to contain the general cautionary statement prescribed by the Secretary.

"(c) Neither a drug subject to this section, nor animal feed bearing or containing such a drug, shall be deemed to be a prescription article under any Federal or State law.".

(c) CONFORMING AMENDMENT.—Section 512 (21 U.S.C. 360b) is amended in subsection (i) by inserting after "(including special labeling requirements" the following: "and any requirement that an animal feed bearing or containing the new animal drug be limited to use under the professional supervision of a licensed veterinarian".

(d) SECTION 301(e).—Section 301(e) (21 U.S.C. 331(e)) is amended by inserting after "by section 412" the following: ", 504,"; and by inserting after "under section 412," the following: "504,".

SEC. 6. FEED MILL LICENSES.

(a) SECTION 512(a).—Paragraphs (1) and (2) of section 512(a) (21 U.S.C. 360b(a)) are amended to read as follows:

"(a)(1) A new animal drug shall, with respect to any particular use or intended use of such drug, be deemed unsafe for the purposes of section 501(a)(5) and section 402(a)(2)(D) unless —

"(A) there is in effect an approval of an application filed pursuant to subsection (b) with respect to such use or intended use of such drug, and

"(B) such drug, its labeling, and such use conform to such approved application.

A new animal drug shall also be deemed unsafe for such purposes in the event of removal from the establishment of a manufacturer, packer, or distributor of such drug for use in the manufacture of animal feed in any State unless at the time of such removal such manufacturer, packer, or distributor has an unrevoked written statement from the consignee of such drug, or notice from the Secretary, to the effect that, with respect to the use of such drug in animal feed, such consignee (i) holds a license issued under subsection (m) and has in its possession current approved labeling for such drug in animal feed; or (ii) will, if the consignee is not a user of the drug, ship such drug only to a holder of a license issued under subsection (m).

"(2) An animal feed bearing or containing a new animal drug shall, with respect to any particular use or intended use of such animal feed be deemed unsafe for the purposes of section 501(a)(6) unless—

"(A) there is in effect an approval of an application filed pursuant to subsection (b) with respect to such drug, as used in such animal feed,

"(B) such animal feed is manufactured at a site for which there is in effect a license issued pursuant to subsection (m)(1) to manufacture such animal feed, and

"(C) such animal feed and its labeling, distribution, holding, and use conform to the conditions and indications of use published pursuant to subsection (i) .".

(b) SECTION 512(m).—Section 512(m) (21 U.S.C. 360b(m)) is amended to read as follows:

"(m)(1) Any person may file with the Secretary an application for a license to manufacture animal feeds bearing or containing new animal drugs. Such person shall submit to the Secretary as part of the application (A) a full statement of the business name and address of the specific facility at which the manufacturing is to take place and the facility's registration number, (B) the name and signature of the responsible individual or individuals for that facility, (C) a certification that the animal feeds bearing or containing new animal drugs are manufactured and labeled in accordance with the applicable regulations published pursuant to subsection (i), and (D) a certification that the methods used in, and the facilities and controls used for, manufacturing, processing, packaging, and holding such animal feeds are in conformity with current good manufacturing practice as described in section 501(a)(2)(B).

"(2) Within 90 days after the filing of an application pursuant to paragraph (1), or such additional period as may be agreed upon by the Secretary and the applicant, the Secretary shall (A) issue an order approving the application if the Secretary then finds

that none of the grounds for denying approval specified in paragraph (3) applies, or (B) give the applicant notice of an opportunity for a hearing before the Secretary under paragraph (3) on the question whether such application is approvable. The procedure governing such a hearing shall be the procedure set forth in the last two sentences of subsection (c)(1).

"(3) If the Secretary, after due notice to the applicant in accordance with paragraph (2) and giving the applicant an opportunity for a hearing in accordance with such paragraph, finds, on the basis of information submitted to the Secretary as part of the application, on the basis of a preapproval inspection, or on the basis of any other information before the Secretary—

"(A) that the application is incomplete, false, or misleading in any particular;

"(B) that the methods used in, and the facilities and controls used for, the manufacture, processing, and packing of such animal feed are inadequate to preserve the identity, strength, quality, and purity of the new animal drug therein; or

"(C) that the facility manufactures animal feeds bearing or containing new animal drugs in a manner that does not accord with the specifications for manufacture or labels animal feeds bearing or containing new animal drugs in a manner that does not accord with the conditions or indications of use that are published pursuant to subsection (i),

the Secretary shall issue an order refusing to approve the application. If, after such notice and opportunity for hearing, the Secretary finds that subparagraphs (A) through (C) do not apply, the Secretary shall issue an order approving the application. An order under this subsection approving an application for a license to manufacture animal feeds bearing or containing new animal drugs shall permit a facility to manufacture only those animal feeds bearing or containing new animal drugs for which there are in effect regulations pursuant to subsection (i) relating to the use of such drugs in or on such animal feed.

"(4)(A) The Secretary shall, after due notice and opportunity for hearing to the applicant, revoke a license to manufacture animal feeds bearing or containing new animal drugs under this subsection if the Secretary finds—

"(i) that the application for such license contains any untrue statement of a material fact; or

"(ii) that the applicant has made changes that would cause the application to contain any untrue statements of material fact or that would affect the safety or effectiveness of the animal feeds manufactured at the facility unless the applicant has supplemented the application by filing with the Secretary adequate information respecting all such changes and unless there is in effect an approval of the supplemental application.

If the Secretary (or in the Secretary's absence the officer acting as the Secretary) finds that there is an imminent hazard to the health of humans or of the animals for which such animal feed is intended, the Secretary may suspend the license immediately, and give the applicant prompt notice of the action and afford the applicant the opportunity for an expedited hearing under this subsection; but the authority conferred by this sentence shall not be delegated.

"(B) The Secretary may also, after due notice and opportunity for hearing to the applicant, revoke a license to manufacture animal feed under this subsection if the Secretary finds—

"(i) that the applicant has failed to establish a system for maintaining required records, or has repeatedly or deliberately failed to maintain such records or to make required reports in accordance with a regulation or order under paragraph (5)(A) of this subsection or section 504(a)(3)(A), or the applicant has refused to permit access to, or copying or verification of, such records as required by subparagraph (B) of such paragraph or section 504(a)(3)(B);

"(ii) that on the basis of new information before the Secretary, evaluated together with the evidence before the Secretary when such license was issued, the methods used in, or the facilities and controls used for, the manufacture, processing, packing, and holding of such animal feed are inadequate to assure and preserve the identity, strength, quality, and purity of the new animal drug therein, and were not made adequate within a reasonable time after receipt of written notice from the Secretary, specifying the matter complained of;

"(iii) that on the basis of new information before the Secretary, evaluated together with the evidence before the Secretary when such license was issued, the labeling of any animal feeds, based on a fair evaluation of all material facts, is false or misleading in any particular and was not corrected within a reasonable time after receipt of written notice from the Secretary specifying the matter complained of; or

"(iv) that on the basis of new information before the Secretary, evaluated together with the evidence before the Secretary when such license was issued, the facility has manufactured, processed, packed, or held animal feed bearing or containing a new animal drug adulterated under section 501(a)(6) and the facility did not discontinue the manufacture, processing, packing, or holding of such animal feed within a reasonable time after receipt of written notice from the Secretary specifying the matter complained of.

"(C) The Secretary may also revoke a license to manufacture animal feeds under this subsection if an applicant gives notice to the Secretary of intention to discontinue the manufacture of all animal feed covered under this subsection and waives an opportunity for a hearing on the matter.

"(D) Any order under this paragraph shall state the findings upon which it is based.

"(5) When a license to manufacture animal feeds bearing or containing new animal drugs has been issued—

"(A) the applicant shall establish and maintain such records, and make such reports to the Secretary, or (at the option of the Secretary) to the appropriate person or persons holding an approved application filed under subsection (b), as the Secretary may by general regulation, or by order with respect to such application, prescribe on the basis of a finding that such records and reports are necessary in order to enable the Secretary to determine, or facilitate a determination, whether there is or may be ground for invoking subsection (e) or paragraph (4); and

"(B) every person required under this subsection to maintain records, and every person in charge or custody thereof, shall, upon request of an officer or employee designated by the Secretary, permit such officer or employee at all reasonable times to have access to and copy and verify such records.

"(6) To the extent consistent with the public health, the Secretary may promulgate regulations for exempting from the operation of this subsection facilities that manufacture, process, pack, or hold animal feeds bearing or containing new animal drugs.".

21 USC 360b note.

(c) TRANSITIONAL PROVISION.—A person engaged in the manufacture of animal feeds bearing or containing new animal drugs who holds at least one approved medicated feed application for an animal feed bearing or containing new animal drugs, the manufacture of which was not otherwise exempt from the requirement for an approved medicated feed application on the date of the enactment of this Act, shall be deemed to hold a license for the manufacturing site identified in the approved medicated feed application. The revocation of license provisions of section 512(m)(4) of the Federal Food, Drug, and Cosmetic Act, as amended by this Act, shall apply to such licenses. Such license shall expire within 18 months from the date of enactment of this Act unless the person submits to the Secretary a completed license application for the manufacturing site accompanied by a copy of an approved medicated feed application for such site, which license application shall be deemed to be approved upon receipt by the Secretary.

Approved October 9, 1996.

LEGISLATIVE HISTORY—H.R. 2508 (S. 773):

HOUSE REPORTS: No. 104–823 (Comm. on Commerce).
CONGRESSIONAL RECORD, Vol. 142 (1996):
Sept. 24, considered and passed House. S. 773 considered and passed Senate.
Sept. 25, H.R. 2508 considered and passed Senate.

Public Law 104–251
104th Congress

An Act

To amend the Railroad Unemployment Insurance Act to reduce the waiting period for benefits payable under that Act, and for other purposes.

Oct. 9, 1996
[H.R. 2594]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Railroad Unemployment Insurance Amendments Act of 1996.
45 USC 367 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Railroad Unemployment Insurance Amendments Act of 1996".

SEC. 2. WAITING PERIOD FOR UNEMPLOYMENT BENEFITS.

Subparagraph (A) of section 2(a)(1) of the Railroad Unemployment Insurance Act (45 U.S.C. 352(a)(1)(A)) is amended to read as follows:

"(A) PAYMENT OF UNEMPLOYMENT BENEFITS.—

"(i) GENERALLY.—Except as otherwise provided in this subparagraph, benefits shall be payable to any qualified employee for each day of unemployment in excess of 4 during any registration period within a period of continuing unemployment.

"(ii) WAITING PERIOD FOR FIRST REGISTRATION PERIOD.—Benefits shall be payable to any qualified employee for each day of unemployment in excess of 7 during that employee's first registration period in a period of continuing unemployment if such period of continuing unemployment is the employee's initial period of continuing unemployment commencing in the benefit year.

"(iii) STRIKES.—

"(I) INITIAL 14-DAY WAITING PERIOD.—If the Board finds that a qualified employee has a period of continuing unemployment that includes days of unemployment due to a stoppage of work because of a strike in the establishment, premises, or enterprise at which such employee was last employed, no benefits shall be payable for such employee's first 14 days of unemployment due to such stoppage of work.

"(II) SUBSEQUENT DAYS OF UNEMPLOYMENT.—For subsequent days of unemployment due to the same stoppage of work, benefits shall be payable as provided in clause (i) of this subparagraph.

"(III) SUBSEQUENT PERIODS OF CONTINUING UNEMPLOYMENT.—If such period of continuing unemployment ends by reason of clause (v) but the stoppage of work continues, the waiting period established in clause (ii) shall apply to the employee's first registration period in a new period

of continuing unemployment based upon the same stoppage of work.

"(iv) DEFINITION OF PERIOD OF CONTINUING UNEMPLOYMENT.—Except as limited by clause (v), for the purposes of this subparagraph, the term 'period of continuing unemployment' means—

"(I) a single registration period that includes more than 4 days of unemployment;

"(II) a series of consecutive registration periods, each of which includes more than 4 days of unemployment; or

"(III) a series of successive registration periods, each of which includes more than 4 days of unemployment, if each succeeding registration period begins within 15 days after the last day of the immediately preceding registration period.

"(v) SPECIAL RULE REGARDING END OF PERIOD.—For purposes of applying clause (ii), a period of continuing unemployment ends when an employee exhausts rights to unemployment benefits under subsection (c) of this section.

"(vi) LIMIT ON AMOUNT OF BENEFITS.—No benefits shall be payable to an otherwise eligible employee for any day of unemployment in a registration period where the total amount of the remuneration (as defined in section 1(j)) payable or accruing to him for days within such registration period exceeds the amount of the base year monthly compensation base. For purposes of the preceding sentence, an employee's remuneration shall be deemed to include the gross amount of any remuneration that would have become payable to that employee but did not become payable because that employee was not ready or willing to perform suitable work available to that employee on any day within such registration period.".

SEC. 3. WAITING PERIOD FOR SICKNESS BENEFITS.

Subparagraph (B) of section 2(a)(1) of the Railroad Unemployment Insurance Act (45 U.S.C. 352(a)(1)(B)) is amended to read as follows:

"(B) PAYMENT OF SICKNESS BENEFITS.—

"(i) GENERALLY.—Except as otherwise provided in this subparagraph, benefits shall be payable to any qualified employee for each day of sickness after the 4th consecutive day of sickness in a period of continuing sickness but excluding 4 days of sickness in any registration period in such period of continuing sickness.

"(ii) WAITING PERIOD FOR FIRST REGISTRATION PERIOD.—Benefits shall be payable to any qualified employee for each day of sickness in excess of 7 during that employee's first registration period in a period of continuing sickness if such period of continuing sickness is the employee's initial period of continuing sickness commencing in the benefit year. For the purposes of this clause, the first registration period in a period of continuing sickness is that registration period that first begins with 4 consecutive days of sickness and includes more than 4 days of sickness.

"(iii) DEFINITION OF PERIOD OF CONTINUING SICKNESS.—For the purposes of this subparagraph, a period of continuing sickness means—

"(I) a period of consecutive days of sickness, whether from 1 or more causes; or

"(II) a period of successive days of sickness due to a single cause without interruption of more than 90 consecutive days which are not days of sickness.

"(iv) SPECIAL RULE REGARDING END OF PERIOD.—For purposes of applying clause (ii), a period of continuing sickness ends when an employee exhausts rights to sickness benefits under subsection (c) of this section.".

SEC. 4. MAXIMUM DAILY BENEFIT RATE.

Paragraph (3) of section 2(a) of the Railroad Unemployment Insurance Act (45 U.S.C. 352(a)(3)) is amended to read as follows:

"(3) The maximum daily benefit rate computed by the Board under section 12(r)(2) shall be the product of the monthly compensation base, as computed under section 1(i)(2) for the base year immediately preceding the beginning of the benefit year, multiplied by 5 percent. If the maximum daily benefit rate so computed is not a multiple of $1, it shall be rounded down to the nearest multiple of $1.".

SEC. 5. MAXIMUM NUMBER OF DAYS FOR BENEFITS.

(a) IN GENERAL.—Subsection (c) of section 2 of the Railroad Unemployment Insurance Act (45 U.S.C. 352(c)) is amended to read as follows:

"(c) MAXIMUM NUMBER OF DAYS FOR BENEFITS.—

"(1) NORMAL BENEFITS.—

"(A) GENERALLY.—The maximum number of days of unemployment within a benefit year for which benefits may be paid to an employee shall be 130, and the maximum number of days of sickness within a benefit year for which benefits may be paid to an employee shall be 130.

"(B) LIMITATION.—The total amount of benefits that may be paid to an employee for days of unemployment within a benefit year shall in no case exceed the employee's compensation in the base year; and the total amount of benefits that may be paid to an employee for days of sickness within a benefit year shall in no case exceed the employee's compensation in the base year, except that notwithstanding section 1(i), in determining the employee's compensation in the base year for the purpose of this sentence, any money remuneration paid to the employee for services rendered as an employee shall be taken into account that is not in excess of an amount that bears the same ratio to $775 as the monthly compensation base for that year as computed under section 1(i) bears to $600.

"(2) EXTENDED BENEFITS.—

"(A) GENERALLY.—With respect to an employee who has 10 or more years of service as defined in section 1(f) of the Railroad Retirement Act of 1974, who did not voluntarily retire and (in a case involving exhaustion of rights to normal benefits for days of unemployment) did not voluntarily leave work without good cause, and who had current rights to normal benefits for days of unemployment or days of sickness in a benefit year but has exhausted such rights, the benefit year in which such rights are exhausted shall be deemed not to be ended until the last day of the extended benefit period determined under this

paragraph, and extended unemployment benefits or extended sickness benefits (depending on the type of normal benefit rights exhausted) may be paid for not more than 65 days of unemployment or 65 days of sickness within such extended benefit period.

"(B) BEGINNING DATE.—An employee's extended benefit period shall begin on the employee's first day of unemployment or first day of sickness, as the case may be, following the day on which the employee exhausts the employee's then current rights to normal benefits for days of unemployment or days of sickness and shall continue for 7 consecutive 14-day periods, each of which shall constitute a registration period, but no such extended benefit period shall extend beyond the beginning of the first registration period in a benefit year in which the employee is again qualified for benefits in accordance with section 3 on the basis of compensation earned after the first of such consecutive 14-day periods has begun.

"(C) TERMINATION WHEN EMPLOYEE REACHES AGE OF 65.—Notwithstanding any other provision of this paragraph, an extended benefit period for sickness benefits shall terminate on the day next preceding the date on which the employee attains age 65, except that it may continue for the purpose of paying benefits for days of unemployment.

"(3) ACCELERATED BENEFITS.—

"(A) GENERAL RULE.—With respect to an employee who has 10 or more years of service as defined in section 1(f) of the Railroad Retirement Act of 1974, who did not voluntarily retire, and (in a case involving unemployment benefits) did not voluntarily leave work without good cause, who has 14 or more consecutive days of unemployment, or 14 or more consecutive days of sickness, and who is not a qualified employee with respect to the general benefit year current when such unemployment or sickness commences but is or becomes a qualified employee for the next succeeding general benefit year, such succeeding general benefit year shall, in that employee's case, begin on the first day of the month in which such unemployment or sickness commences.

"(B) EXCEPTION.—In the case of a succeeding benefit year beginning in accordance with subparagraph (A) by reason of sickness, such sentence shall not operate to permit the payment of benefits in the period provided for in such sentence for any day of sickness beginning with the date on which the employee attains age 65, and continuing through the day preceding the first day of the next succeeding general benefit year.

"(C) DETERMINATION OF AGE.—For the purposes of this subsection, the Board may rely on evidence of age available in its records and files at the time determinations of age are made.".

(b) REPEAL OF DEADWOOD PROVISION.—Section 2(h) of the Railroad Unemployment Insurance Act (45 U.S.C. 352(h)) is repealed.

(c) REPEAL OF EXPIRED PROVISION.—Section 17 of the Railroad Unemployment Insurance Act (45 U.S.C. 368), relating to payment of supplemental unemployment benefits, is repealed.

SEC. 6. EFFECTIVE DATE. 45 USC 352 note.

The amendments made by this Act shall take effect on the date of the enactment of this Act.

Approved October 9, 1996.

LEGISLATIVE HISTORY—H.R. 2594:

HOUSE REPORTS: No. 104–525 (Comm. on Transportation and Infrastructure).
CONGRESSIONAL RECORD, Vol. 142 (1996):
Sept. 18, considered and passed House.
Sept. 25, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 32 (1996):
Oct. 9, Presidential statement.

Public Law 104–252
104th Congress

An Act

Oct. 9, 1996
[H.R. 2630]

To extend the deadline for commencement of construction of a hydroelectric project in the State of Illinois.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF COMMENCEMENT OF CONSTRUCTION DEADLINE FOR HYDROELECTRIC PROJECT IN THE STATE OF ILLINOIS.

(a) IN GENERAL.—Notwithstanding the time period specified in section 13 of the Federal Power Act (16 U.S.C. 806) that would otherwise apply to the Federal Energy Regulatory Commission Project No. 3246, the Commission shall, at the request of the licensee for the project, in accordance with the good faith, due diligence, and public interest requirements of that section and the Commission's procedures under that section, extend until October 15, 1997, the time period during which the licensee is required to commence construction of the project.

(b) APPLICABILITY.—Subsection (a) shall take effect on the expiration of the extension, issued by the Commission under section 13 of the Federal Power Act (16 U.S.C. 806), of the period required for commencement of construction of the project described in subsection (a).

(c) REINSTATMENT OF LICENSE.—The Commission is authorized to reinstate the license for the project referred to in subsection (a), effective as of the date of its expiration or termination.

Approved October 9, 1996.

LEGISLATIVE HISTORY—H.R. 2630:

HOUSE REPORTS: No. 104–508 (Comm. on Commerce).
CONGRESSIONAL RECORD, Vol. 142 (1996):
Apr. 16, considered and passed House.
Sept. 27, considered and passed Senate.

Public Law 104–253
104th Congress

An Act

To increase the amount authorized to be appropriated to the Department of the Interior for the Tensas River National Wildlife Refuge, and for other purposes.

Oct. 9, 1996
[H.R. 2660]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. INCREASE IN AMOUNT AUTHORIZED TO BE APPROPRIATED TO THE DEPARTMENT OF THE INTERIOR FOR THE TENSAS RIVER NATIONAL WILDLIFE REFUGE.

Section 5(1) of the Act entitled "An Act to establish the Tensas River National Wildlife Refuge", approved June 28, 1980 (Public Law 96–285, 94 Stat. 597), as amended by section 2 of Public Law 99–191 (99 Stat. 1327), is amended to read as follows: 16 USC 668dd note.

"(1) beginning October 1, 1995, not to exceed $20,000,000 to the Department of the Interior; and".

SEC. 2. BAYOU SAUVAGE URBAN NATIONAL WILDLIFE REFUGE.

(a) REFUGE EXPANSION.—Section 502(b)(1) of the Emergency Wetlands Resources Act of 1986 (Public Law 99–645; 100 Stat. 3590), is amended by inserting after the first sentence the following: "In addition, the Secretary may acquire, within such period as may be necessary, an area of approximately 4,228 acres, consisting of approximately 3,928 acres located north of Interstate 10 between Little Woods and Pointe-aux-Herbes and approximately 300 acres south of Interstate 10 between the Maxent Canal and Michoud Boulevard that contains the Big Oak Island archaeological site, as depicted on the map entitled "Bayou Sauvage Urban National Wildlife Refuge Expansion", dated August, 1996, on file with the United States Fish and Wildlife Service.". 16 USC 668dd note.

Approved October 9, 1996.

LEGISLATIVE HISTORY—H.R. 2660:

HOUSE REPORTS: No. 104–526 (Comm. on Resources).
CONGRESSIONAL RECORD, Vol. 142 (1996):
Apr. 23, considered and passed House.
Sept. 24, considered and passed Senate, amended.
Sept. 26, House concurred in Senate amendments.

Public Law 104–254
104th Congress

An Act

Oct. 9, 1996
[H.R. 2695]

To extend the deadline under the Federal Power Act applicable to the construction of certain hydroelectric projects in the State of Pennsylvania.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF DEADLINE.

(a) EXTENSION.—Notwithstanding the time limitations of section 13 of the Federal Power Act (16 U.S.C. 806), upon the request of the licensee for the project concerned, and after reasonable notice, the Federal Energy Regulatory Commission shall, in accordance with the good faith, due diligence, and public interest requirements of such section 13 and the Commission's procedures under such section, extend the time required for commencement of construction of each the following projects until September 26, 1999:

(1) FERC Project No. 4474.

(2) FERC Project No. 7041.

(b) EFFECTIVE DATE.—This section shall take effect for the project upon the expiration of the extension (issued by the Commission under section 13 of the Federal Power Act (16 U.S.C. 806)) of the period required for commencement of construction of the project concerned.

Approved October 9, 1996.

LEGISLATIVE HISTORY—H.R. 2695:

HOUSE REPORTS: No. 104–509 (Comm. on Commerce).
CONGRESSIONAL RECORD, Vol. 142 (1996):
Apr. 16, considered and passed House.
Sept. 27, considered and passed Senate.

Public Law 104–255
104th Congress

An Act

To designate the building located at 8302 FM 327, Elmendorf, Texas, which houses operations of the United States Postal Service, as the "Amos F. Longoria Post Office Building".

Oct. 9, 1996
[H.R. 2700]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The building located at 8302 FM 327, Elmendorf, Texas, which houses operations of the United States Postal Service, shall be known and designated as the "Amos F. Longoria Post Office Building", and any reference in a law, map, regulation, document, paper, or other record of the United States to such building shall be deemed to be a reference to the "Amos F. Longoria Post Office Building".

SEC. 2. INSTITUTION OF HIGHER EDUCATION.

Paragraph (3) of section 3626(b) of title 39, United States Code, is amended by striking the period and inserting ", and includes a nonprofit organization that coordinates a network of college-level courses that is sponsored primarily by nonprofit educational institutions for an older adult constituency.".

Approved October 9, 1996.

LEGISLATIVE HISTORY—H.R. 2700:

CONGRESSIONAL RECORD, Vol. 142 (1996):
July 30, considered and passed House.
Sept. 28, considered and passed Senate, amended. House concurred in Senate amendment.

Public Law 104–256
104th Congress

An Act

Oct. 9, 1996
[H.R. 2773]

To extend the deadline under the Federal Power Act applicable to the construction of 2 hydroelectric projects in North Carolina, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF DEADLINE.

(a) PROJECT NUMBERED 10812.—

(1) IN GENERAL.—Notwithstanding the time period specified in section 13 of the Federal Power Act (16 U.S.C. 806) that would otherwise apply to the Federal Energy Regulatory Commission Project No. 10812, the Commission shall, at the request of the licensee for the project, and after reasonable notice, in accordance with the good faith, due diligence, and public interest requirements of that section and the Commission's procedures under that section, extend the time period during which the licensee is required to commence the construction of the project, under the extension described in paragraph (2), for not more than 3 consecutive 2-year periods.

(2) EFFECTIVE DATE.—This subsection shall take effect on the date of the expiration of the extension of the period required for commencement of construction of the project described in paragraph (1) that the Commission issued, prior to the date of enactment of this Act, under section 13 of the Federal Power Act (16 U.S.C. 806).

(b) PROJECT NUMBERED 6879.—

(1) IN GENERAL.—Notwithstanding the time period specified in section 13 of the Federal Power Act (16 U.S.C. 806) that would otherwise apply to the Federal Energy Regulatory Commission Project No. 6879, the Commission may, at the request of the licensee for the project, and after reasonable notice, in accordance with the good faith, due diligence, and public interest requirements of that section and the Commission's procedures under that section, extend the time period during which the licensee is required to commence the construction of the project for not more than 3 consecutive 2-year periods.

(2) EFFECTIVE DATE.—This subsection shall take effect on the date of the expiration of the period required for commencement of construction of the project under the license for the project.

Approved October 9, 1996.

LEGISLATIVE HISTORY—H.R. 2773:

HOUSE REPORTS: No. 104–510 (Comm. on Commerce).
CONGRESSIONAL RECORD, Vol. 142 (1996):
Apr. 16, considered and passed House.
Sept. 27, considered and passed Senate.

Public Law 104–257
104th Congress

An Act

To reinstate the license for, and extend the deadline under the Federal Power Act applicable to the construction of, a hydroelectric project in Ohio, and for other purposes.

Oct. 9, 1996
[H.R. 2816]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REINSTATEMENT OF LICENSE AND EXTENSION DEADLINE.

Notwithstanding the expiration of the license and notwithstanding the time period specified in section 13 of the Federal Power Act (16 U.S.C. 806) that would otherwise apply to the Federal Energy Regulatory Commission Project No. 3218, the Commission shall, at the request of the licensee for the project, reinstate the license effective September 25, 1993, and extend the time period during which the licensee is required to commence the construction of the project so as to terminate on September 24, 1999.

Approved October 9, 1996.

LEGISLATIVE HISTORY—H.R. 2816

HOUSE REPORTS: No. 104–511 (Comm. on Commerce).
CONGRESSIONAL RECORD, Vol. 142 (1996):
Apr. 16, considered and passed House.
Sept. 27, considered and passed Senate.

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Public Law 104–258
104th Congress

An Act

Oct. 9, 1996
[H.R. 2869]

To extend the deadline for commencement of construction of a hydroelectric project in the State of Kentucky.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF COMMENCEMENT OF CONSTRUCTION DEADLINE FOR HYDROELECTRIC PROJECT IN KENTUCKY.

(a) IN GENERAL.—Notwithstanding the time period specified in section 13 of the Federal Power Act (16 U.S.C. 806) that would otherwise apply to the Federal Energy Regulatory Commission Project No. 6641, the Commission shall, at the request of the licensee for the project, in accordance with the good faith, due diligence, and public interest requirements of that section and the Commission's procedures under that section, extend until June 15, 1998, the time period during which the licensee is required to commence construction of the project.

(b) APPLICABILITY.—Subsection (a) shall take effect on the expiration of the extension, issued by the Commission under section 13 of the Federal Power Act (16 U.S.C. 806), of the period required for commencement of construction of the project described in subsection (a).

(c) REINSTATMENT OF LICENSE.—The Commission is authorized to reinstate the license for the project referred to in subsection (a), effective as of the date of its expiration or termination.

Approved October 9, 1996.

LEGISLATIVE HISTORY—H.R. 2869:

HOUSE REPORTS: No. 104–512 (Comm. on Commerce).
CONGRESSIONAL RECORD, Vol. 142 (1996):
Apr. 16, considered and passed House.
Sept. 27, considered and passed Senate.

Public Law 104–259
104th Congress

An Act

To extend the authorization of the Uranium Mill Tailings Radiation Control Act of 1978, and for other purposes.

Oct. 9, 1996
[H.R. 2967]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REFERENCE.

Whenever in this Act (other than in section 3) an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Uranium Mill Tailings Radiation Control Act of 1978.

SEC. 2. TERMINATION; AUTHORIZATION.

Section 112(a) (42 U.S.C. 7922(a)) is amended to read as follows:

"(a)(1) The authority of the Secretary to perform remedial action under this title shall terminate on September 30, 1998, except that—

"(A) the authority of the Secretary to perform groundwater restoration activities under this title is without limitation, and

"(B) the Secretary may continue operation of the disposal site in Mesa County, Colorado (known as the Cheney disposal cell) for receiving and disposing of residual radioactive material from processing sites and of byproduct material from property in the vicinity of the uranium milling site located in Monticello, Utah, until the Cheney disposal cell has been filled to the capacity for which it was designed, or September 30, 2023, whichever comes first.

"(2) For purposes of this subsection, the term 'byproduct material' has the meaning given that term in section 11e.(2) of the Atomic Energy Act of 1954 (42 U.S.C. 2014(e)(2)).".

SEC. 3. REMEDIAL ACTION AT ACTIVE PROCESSING SITES.

(a) SECTION 1001.—Section 1001 of the Energy Policy Act of 1992 (42 U.S.C. 2296a) is amended—

(1) in subsection (b)(2)(A), by striking "$5.50" and inserting "$6.25";

(2) in subsection (b)(2)(B), by striking "$270,000,000" and inserting "$350,000,000";

(3) in subsection (b)(2)(C), by striking "$40,000,000" and inserting "$65,000,000";

(4) in subsection (b)(2)(E)(i), by striking "$5.50" and inserting "$6.25"; and

(5) in subsection (b)(2)(E)(ii), by striking "$5.50" and inserting "$6.25".

(b) SECTION 1003.—Section 1003 of such Act (42 U.S.C. 2296a–2) is amended by striking "$310,000,000" and inserting "$415,000,000".

SEC. 4. REMEDIAL ACTION FOR THE DISPOSAL OF RADIOACTIVE MATERIALS.

42 USC 7914.

(a) SECTION 104.—Section 104(d) (42 U.S.C. 4914(d)) is amended by adding at the end the following: "For purposes of this subsection, the term 'site' does not include any property described in section 101(6)(B) which is in a State which the Secretary has certified has a program which would achieve the purposes of this subsection.".

(b) SECTION 108.—Section 108(a)(1) (42 U.S.C. 7918(a)(1)) is amended by adding at the end the following: "Residual radioactive material from a processing site designated under this title may be disposed of at a facility licensed under title II under the administrative and technical requirements of such title. Disposal of such material at such a site in accordance with such requirements shall be considered to have been done in accordance with the administrative and technical requirements of this title.".

(c) SECTION 115.—Section 115(a) (42 U.S.C. 7925(a)) is amended by adding at the end the following: "This subsection does not prohibit the disposal of residual radioactive material from a processing site under this title at a site licensed under title II or the expenditure of funds under this title for such disposal.".

Approved October 9, 1996.

LEGISLATIVE HISTORY—H.R. 2967:

HOUSE REPORTS: No. 104–536 (Comm. on Commerce).
SENATE REPORTS: No. 104–301 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 142 (1996):
May 14, considered and passed House.
Sept. 28, considered and passed Senate.

Public Law 104–260
104th Congress

An Act

To amend the Clean Air Act to provide that traffic signal synchronization projects are exempt from certain requirements of Environmental Protection Agency Rules.

Oct. 9, 1996
[H.R. 2988]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION. 1. TRAFFIC SIGNAL SYNCHRONIZATION PROJECTS.

Section 176(c)(4) (42 U.S.C. 7506(c)(4)) of the Clean Air Act is amended by adding the following at the end thereof:

"(D) Compliance with the rules of the Administrator for determining the conformity of transportation plans, programs, and projects funded or approved under title 23 of the United States Code or the Federal Transit Act to State or Federal implementation plans shall not be required for traffic signal synchronization projects prior to the funding, approval or implementation of such projects. The supporting regional emissions analysis for any conformity determination made with respect to a transportation plan, program, or project shall consider the effect on emissions of any such project funded, approved, or implemented prior to the conformity determination.".

Approved October 9, 1996.

LEGISLATIVE HISTORY—H.R. 2988:

HOUSE REPORTS: No. 104–807 (Comm. on Commerce).
CONGRESSIONAL RECORD, Vol. 142 (1996):
Sept. 24, considered and passed House.
Sept. 27, considered and passed Senate.

Public Law 104–261
104th Congress

An Act

Oct. 9, 1996
[H.R. 3068]

To accept the request of the Prairie Island Indian Community to revoke their charter of incorporation issued under the Indian Reorganization Act.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REVOCATION OF CHARTER OF INCORPORATION OF THE PRAIRIE ISLAND INDIAN COMMUNITY UNDER THE INDIAN REORGANIZATION ACT.

(a) ACCEPTANCE OF REQUEST TO REVOKE CHARTER.—The request of the Prairie Island Indian Community to surrender the charter of incorporation issued to that community on July 23, 1937, pursuant to section 17 of the Act of June 18, 1934, commonly known as the "Indian Reorganization Act" (48 Stat. 988, chapter 576; 25 U.S.C. 477) is hereby accepted.

(b) REVOCATION OF CHARTER.—The charter of incorporation referred to in subsection (a) is hereby revoked.

SEC. 2. AMENDMENT TO THE JICARILLA APACHE TRIBE WATER RIGHTS SETTLEMENT ACT.

Section 8(e)(3) of the Jicarilla Apache Tribe Water Rights Settlement Act (106 Stat. 2241) is amended by striking "December 31, 1996" and inserting "December 31, 1998".

SEC. 3. AMENDMENT TO THE SAN CARLOS APACHE TRIBE WATER RIGHTS SETTLEMENT ACT OF 1992.

25 USC 390 note.

Section 3711(b)(1) of the San Carlos Apache Tribe Water Rights Settlement Act of 1992 (106 Stat. 4752) is amended by striking "December 31, 1996" and inserting "June 30, 1997".

Approved October 9, 1996.

LEGISLATIVE HISTORY—H.R. 3068:

HOUSE REPORTS: No. 104–584 (Comm. on Resources).
SENATE REPORTS: No. 104–361 (Comm. on Indian Affairs).
CONGRESSIONAL RECORD, Vol. 142 (1996):
May 22, considered and passed House.
Sept. 19, considered and passed Senate, amended.
Sept. 26, House concurred in Senate amendment.

Public Law 104–262
104th Congress

An Act

To amend title 38, United States Code, to reform eligibility for health care provided by the Department of Veterans Affairs, to authorize major medical facility construction projects for the Department, to improve administration of health care by the Department, and for other purposes.

Oct. 9, 1996
[H.R. 3118]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Veterans' Health Care Eligibility Reform Act of 1996.
38 USC 101 note.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Veterans' Health Care Eligibility Reform Act of 1996".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. References to title 38, United States Code.

TITLE I—ELIGIBILITY REFORM

Sec. 101. Eligibility for hospital care and medical services.
Sec. 102. Revision in authorities for provision of priority health care for certain veterans exposed to specified toxic substances.
Sec. 103. Prosthetics and preventive care.
Sec. 104. Management of health care.
Sec. 105. Authorization of appropriations.
Sec. 106. Assessment of implementation and operation.

TITLE II—CONSTRUCTION AUTHORIZATION

Sec. 201. Authorization of major medical facility projects.
Sec. 202. Authorization of major medical facility leases.
Sec. 203. Authorization of appropriations.
Sec. 204. Strategic planning.
Sec. 205. Revision to prospectus requirements.
Sec. 206. Construction authorization requirements.
Sec. 207. Terminology changes.

TITLE III—HEALTH CARE AND ADMINISTRATION

Subtitle A—Health Care Sharing and Administration

Sec. 301. Revision of authority to share medical facilities, equipment, and information.
Sec. 302. Improved efficiency in health care resource management.
Sec. 303. Personnel furnishing shared resources.
Sec. 304. Waiting period for administrative reorganizations.
Sec. 305. Repeal of limitations on contracts for conversion of performance of activities of Department health-care facilities and revised annual reporting requirement.

Subtitle B—Care of Women Veterans

Sec. 321. Mammography quality standards.
Sec. 322. Patient privacy for women patients.
Sec. 323. Assessment of use by women veterans of Department health services.
Sec. 324. Reporting requirements.

Subtitle C—Readjustment Counseling and Mental Health Care

Sec. 331. Expansion of eligibility for readjustment counseling and certain related counseling services.
Sec. 332. Reports relating to Vet Centers.
Sec. 333. Advisory Committee on the Readjustment of Veterans.
Sec. 334. Centers for mental illness research, education, and clinical activities.
Sec. 335. Committee on Care of Severely Chronically Mentally Ill Veterans.

Subtitle D—Other Provisions

Sec. 341. Hospice care study.
Sec. 342. Payment to States of per diem for veterans receiving adult day health care.
Sec. 343. Research corporations.
Sec. 344. Veterans Health Administration headquarters.
Sec. 345. Disbursement agreements relating to medical residents and interns.
Sec. 346. Authority to suspend special pay agreements for physicians and dentists who enter residency training programs.
Sec. 347. Remunerated outside professional activities by Veterans Health Administration personnel.
Sec. 348. Modification of restrictions on real property, Milwaukee County, Wisconsin.
Sec. 349. Modification of restrictions on real property, Cheyenne, Wyoming.
Sec. 350. Name of Department of Veterans Affairs Medical Center, Johnson City, Tennessee.
Sec. 351. Report on health care needs of veterans in east central Florida.
Sec. 352. Evaluation of health status of spouses and children of Persian Gulf War veterans.

SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—ELIGIBILITY REFORM

SEC. 101. ELIGIBILITY FOR HOSPITAL CARE AND MEDICAL SERVICES.

(a) NEW CRITERIA FOR ELIGIBILITY FOR CARE.—Section 1710(a) is amended to read as follows:

"(a)(1) The Secretary (subject to paragraph (4)) shall furnish hospital care and medical services, and may furnish nursing home care, which the Secretary determines to be needed—

"(A) to any veteran for a service-connected disability; and

"(B) to any veteran who has a service-connected disability rated at 50 percent or more.

"(2) The Secretary (subject to paragraph (4)) shall furnish hospital care and medical services, and may furnish nursing home care, which the Secretary determines to be needed to any veteran—

"(A) who has a compensable service-connected disability rated less than 50 percent;

"(B) whose discharge or release from active military, naval, or air service was for a compensable disability that was incurred or aggravated in the line of duty;

"(C) who is in receipt of, or who, but for a suspension pursuant to section 1151 of this title (or both a suspension and the receipt of retired pay), would be entitled to disability compensation, but only to the extent that such veteran's continuing eligibility for such care is provided for in the judgment or settlement provided for in such section;

"(D) who is a former prisoner of war;

"(E) who is a veteran of the Mexican border period or of World War I;

"(F) who was exposed to a toxic substance, radiation, or environmental hazard, as provided in subsection (e); or

"(G) who is unable to defray the expenses of necessary care as determined under section 1722(a) of this title.

"(3) In the case of a veteran who is not described in paragraphs (1) and (2), the Secretary may, to the extent resources and facilities are available and subject to the provisions of subsections (f) and (g), furnish hospital care, medical services, and nursing home care which the Secretary determines to be needed.

"(4) The requirement in paragraphs (1) and (2) that the Secretary furnish hospital care and medical services shall be effective in any fiscal year only to the extent and in the amount provided in advance in appropriations Acts for such purposes.".

(b) TRANSFER OF PROVISION.—Chapter 17 is amended—

(1) by redesignating subsection (g) of section 1710 as subsection (h); and

(2) by transferring subsection (f) of section 1712 to section 1710 and inserting such subsection so as to appear after subsection (f), redesignating such subsection as subsection (g), and amending such subsection by striking out "section 1710(a)(2) of this title" in paragraph (1) and inserting in lieu thereof "subsection (a)(3) of this section".

(c) REPEAL OF SEPARATE OUTPATIENT CARE PRIORITIES.—(1) Section 1712 is amended—

(A) by striking out subsections (a) and (i);

(B) by redesignating subsections (b), (c), (d), (h) and (j), as subsections (a), (b), (c), (d), and (e), respectively; and

(C) in subsection (b), as so redesignated, by striking out "subsection (b) of this section" and inserting in lieu thereof "subsection (a)".

(2)(A) The heading of such section is amended to read as follows:

"§ 1712. Dental care; drugs and medicines for certain disabled veterans; vaccines".

(B) The item relating to such section in the table of sections at the beginning of chapter 17 is amended to read as follows:

"1712. Dental care; drugs and medicines for certain disabled veterans; vaccines.".

(d) CONFORMING AMENDMENTS TO CHAPTER 17.—Chapter 17 is further amended as follows:

(1) Section 1701(6)(B)(i) is amended—

(A) in subclause (I), by striking out "section 1712(a)" and inserting in lieu thereof "paragraph (1) or (2) of section 1710(a)"; and

(B) in subclause (II), by striking out "section 1712(a)(5)(B)" and inserting in lieu thereof "paragraph (1), (2) or (3) of section 1710(a)".

(2) Section 1710(c)(1) is amended by striking out "section 1712(b)" and inserting in lieu thereof "section 1712(a)".

(3) Section 1710(e)(1)(C) is amended by striking out "hospital care and nursing home care under subsection (a)(1)(G) of this section" and inserting in lieu thereof "hospital care, medical services, and nursing home care under subsection (a)(2)(F)".

(4) Section 1710(f) is amended—

(A) in paragraph (1), by striking out "subsection (a)(2)" and inserting in lieu thereof "subsection (a)(3)"; and

(B) in paragraph (3)(E)—

(i) by striking out "section 1712(a) of this title" and inserting in lieu thereof "paragraph (3) of subsection (a)"; and

(ii) by striking out "section 1712(f) of this title" and inserting in lieu thereof "subsection (g)"; and

(C) in paragraph (3)(F), by striking out "section 1712(f) of this title" and inserting in lieu thereof "subsection (g)".

(5) Section 1712A is amended—

(A) in subsection (b)(1), by striking out "under the conditions specified in section 1712(a)(5)(B) of this title"; and

(B) in subsection (e)(1), by striking out "sections 1712(a)(1)(B) and 1703(a)(2)" and inserting in lieu thereof "sections 1703(a)(2) and 1710(a)(1)(B)".

(6) Section 1717(a) is amended—

(A) in paragraph (1), by striking out "section 1712(a)" and inserting in lieu thereof "section 1710(a)"; and

(B) in paragraph (2)—

(i) in subparagraph (A), by striking out "paragraph (1) of section 1712(a) of this title" and inserting in lieu thereof "section 1710(a)(1) of this title, or for a disability described in section 1710(a)(2)(C) of this title"; and

(ii) in subparagraph (B), by striking out "section 1712" and inserting in lieu thereof "section 1710(a)(2)".

(7) Section 1718(e) is amended by striking out "section 1712(i)" and inserting in lieu thereof "section 1705".

(8) Section 1720(f) is amended—

(A) in paragraph (1)(A)(ii), by striking out "section 1712(a)(1)(B)" and inserting in lieu thereof "paragraph (1), (2), or (3) of section 1710(a)"; and

(B) by striking out paragraph (3).

(9) Section 1722 is amended—

(A) in subsection (a), by striking out "section 1710(a)(1)(I)" and inserting in lieu thereof "section 1710(a)(2)(G)"; and

(B) in subsection (f)(3), by striking out "or 1712(f)".

(10) Section 1729(g)(3)(A) is amended by striking out "under section 1710(f) of this title for hospital care or nursing home care, under section 1712(f) of this title for medical services," and inserting in lieu thereof "under subsection (f) or (g) of section 1710 of this title for hospital care, medical services, or nursing home care".

(e) OTHER CONFORMING AND TECHNICAL AMENDMENTS.—

(1) Section 1525 is amended—

(A) in subsection (a), by striking out "section 1712(h) of this title" and all that follows through the period at the end and inserting in lieu thereof "section 1712(d) of this title."; and

(B) in subsection (b), by striking out "renumeration" and inserting in lieu thereof "remuneration".

(2) Section 2104(b) is amended—

(A) in the first sentence, by striking out "section 1712(a)" and inserting in lieu thereof "section 1717(a)(2)"; and

(B) in the second sentence, by striking out "section 1712(a)" and inserting in lieu thereof "section 1717(a)(2)".

(3) Section 5317(c)(3) is amended by striking out "sections 1710(a)(1)(I), 1710(a)(2), 1710(b), and 1712(a)(2)(B)" and inserting in lieu thereof "subsections (a)(2)(G), (a)(3), and (b) of section 1710".

(4) Section 8110(a)(2) is amended by striking out "section 1712" and inserting in lieu thereof "section 1710(a)".

(5) Section 8111A(b)(2)(A) is amended by striking out "subsection (f) of section 1712" and inserting in lieu thereof "subsection (a) of section 1710".

SEC. 102. REVISION IN AUTHORITIES FOR PROVISION OF PRIORITY HEALTH CARE FOR CERTAIN VETERANS EXPOSED TO SPECIFIED TOXIC SUBSTANCES.

(a) AUTHORIZED INPATIENT CARE.—Section 1710(e) is amended—

(1) in paragraph (1), by striking out subparagraphs (A) and (B) and inserting in lieu thereof the following:

"(A) A Vietnam-era herbicide-exposed veteran is eligible (subject to paragraph (2)) for hospital care, medical services, and nursing home care under subsection (a)(2)(F) for any disability, notwithstanding that there is insufficient medical evidence to conclude that such disability may be associated with such exposure.

"(B) A radiation-exposed veteran is eligible for hospital care, medical services, and nursing home care under subsection (a)(2)(F) for any disease suffered by the veteran that is—

"(i) a disease listed in section 1112(c)(2) of this title; or

"(ii) any other disease for which the Secretary, based on the advice of the Advisory Committee on Environmental Hazards, determines that there is credible evidence of a positive association between occurrence of the disease in humans and exposure to ionizing radiation."; and

(2) by striking out paragraphs (2) and (3) and inserting in lieu thereof the following:

"(2)(A) In the case of a veteran described in paragraph (1)(A), hospital care, medical services, and nursing home care may not be provided under subsection (a)(2)(F) with respect to—

"(i) a disability that is found, in accordance with guidelines issued by the Under Secretary for Health, to have resulted from a cause other than an exposure described in paragraph (4)(A)(ii); or

"(ii) a disease for which the National Academy of Sciences, in a report issued in accordance with section 2 of the Agent Orange Act of 1991, has determined that there is limited or suggestive evidence of the lack of a positive association between occurrence of the disease in humans and exposure to a herbicide agent.

"(B) In the case of a veteran described in paragraph (1)(C), hospital care, medical services, and nursing home care may not be provided under subsection (a)(2)(F) with respect to a disability that is found, in accordance with guidelines issued by the Under Secretary for Health, to have resulted from a cause other than an exposure described in that paragraph.

"(3) Hospital care, medical services, and nursing home care may not be provided under or by virtue of subsection (a)(2)(F)—

"(A) in the case of care for a veteran described in paragraph (1)(A), after December 31, 2002; and

"(B) in the case of care for a veteran described in paragraph (1)(C), after December 31, 1998.

"(4) For purposes of this subsection—

"(A) The term 'Vietnam-era herbicide-exposed veteran' means a veteran (i) who served on active duty in the Republic of Vietnam during the Vietnam era, and (ii) who the Secretary finds may have been exposed during such service to dioxin or was exposed during such service to a toxic substance found in a herbicide or defoliant used for military purposes during such era.

"(B) The term 'radiation-exposed veteran' has the meaning given that term in section 1112(c)(3) of this title.".

38 USC 1710 note.

(b) SAVINGS PROVISIONS.—The provisions of sections 1710(e) and 1712(a) of title 38, United States Code, as in effect on the day before the date of the enactment of this Act, shall continue to apply on and after such date with respect to the furnishing of hospital care, nursing home care, and medical services for any veteran who was furnished such care or services before such date of enactment on the basis of presumed exposure to a substance or radiation under the authority of those provisions, but only for treatment for a disability for which such care or services were furnished before such date.

SEC. 103. PROSTHETICS AND PREVENTIVE CARE.

(a) ELIGIBILITY.—Section 1701(6)(A)(i) is amended—

(1) by striking out "(in the case of a person otherwise receiving care or services under this chapter)" and "(except under the conditions described in section 1712(a)(5)(A) of this title),";

(2) by inserting "(in the case of a person otherwise receiving care or services under this chapter)" before "wheelchairs,"; and

(3) by inserting "except that the Secretary may not furnish sensori-neural aids other than in accordance with guidelines which the Secretary shall prescribe," after "reasonable and necessary,".

38 USC 1701 note.

(b) REGULATIONS.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall prescribe the guidelines required by the amendments made by subsection (a) and shall furnish a copy of those guidelines to the Committees on Veterans' Affairs of the Senate and House of Representatives.

SEC. 104. MANAGEMENT OF HEALTH CARE.

(a) IN GENERAL.—(1) Chapter 17 is amended by inserting after section 1704 the following new sections:

"§ 1705. Management of health care: patient enrollment system

"(a) In managing the provision of hospital care and medical services under section 1710(a) of this title, the Secretary, in accordance with regulations the Secretary shall prescribe, shall establish and operate a system of annual patient enrollment. The Secretary shall manage the enrollment of veterans in accordance with the following priorities, in the order listed:

"(1) Veterans with service-connected disabilities rated 50 percent or greater.

"(2) Veterans with service-connected disabilities rated 30 percent or 40 percent.

"(3) Veterans who are former prisoners of war, veterans with service-connected disabilities rated 10 percent or 20 percent, and veterans described in subparagraphs (B) and (C) of section 1710(a)(2) of this title.

"(4) Veterans who are in receipt of increased pension based on a need of regular aid and attendance or by reason of being permanently housebound and other veterans who are catastrophically disabled.

"(5) Veterans not covered by paragraphs (1) through (4) who are unable to defray the expenses of necessary care as determined under section 1722(a) of this title.

"(6) All other veterans eligible for hospital care, medical services, and nursing home care under section 1710(a)(2) of this title.

"(7) Veterans described in section 1710(a)(3) of this title.

"(b) In the design of an enrollment system under subsection (a), the Secretary—

"(1) shall ensure that the system will be managed in a manner to ensure that the provision of care to enrollees is timely and acceptable in quality;

"(2) may establish additional priorities within each priority group specified in subsection (a), as the Secretary determines necessary; and

"(3) may provide for exceptions to the specified priorities where dictated by compelling medical reasons.

"(c)(1) Effective on October 1, 1998, the Secretary may not provide hospital care or medical services to a veteran under paragraph (2) or (3) of section 1710(a) of this title unless the veteran enrolls in the system of patient enrollment established by the Secretary under subsection (a).

"(2) The Secretary shall provide hospital care and medical services under section 1710(a)(1) of this title, and under subparagraph (B) of section 1710(a)(2) of this title, for the 12-month period following such veteran's discharge or release from service, to any veteran referred to in such sections for a disability specified in the applicable subparagraph of such section, notwithstanding the failure of the veteran to enroll in the system of patient enrollment referred to in subsection (a) of this section.

"§ 1706. Management of health care: other requirements

"(a) In managing the provision of hospital care and medical services under section 1710(a) of this title, the Secretary shall, to the extent feasible, design, establish and manage health care programs in such a manner as to promote cost-effective delivery of health care services in the most clinically appropriate setting.

"(b)(1) In managing the provision of hospital care and medical services under such section, the Secretary shall ensure that the Department maintains its capacity to provide for the specialized treatment and rehabilitative needs of disabled veterans (including veterans with spinal cord dysfunction, blindness, amputations, and mental illness) within distinct programs or facilities of the Department that are dedicated to the specialized needs of those veterans in a manner that (A) affords those veterans reasonable access

to care and services for those specialized needs, and (B) ensures that overall capacity of the Department to provide such services is not reduced below the capacity of the Department, nationwide, to provide those services, as of the date of the enactment of this section. The Secretary shall carry out this paragraph in consultation with the Advisory Committee on Prosthetics and Special Disabilities Programs and the Committee on Care of Severely Chronically Mentally Ill Veterans.

Reports.

"(2) Not later than April 1, 1997, April 1, 1998, and April 1, 1999, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the Secretary's compliance, by facility and by service-network, with the requirements of this subsection.".

(2) The table of sections at the beginning of chapter 17 is amended by inserting after the item relating to section 1704 the following new items:

"1705. Management of health care: patient enrollment system.
"1706. Management of health care: other requirements.".

(b) CONFORMING AMENDMENTS TO SECTION 1703.—Section 1703(a) is amended—

(1) in the matter preceding paragraph (1), by striking out "or 1712";

(2) in paragraph (2)—

(A) by striking out "1712(a)(1)(B)" in subparagraph (A) and inserting in lieu thereof "1710(a)(1)(B)";

(B) by striking out subparagraph (B) and inserting in lieu thereof the following:

"(B) a veteran who (i) has been furnished hospital care, nursing home care, domiciliary care, or medical services, and (ii) requires medical services to complete treatment incident to such care or services; or"; and

(C) by striking "section 1712(a)(3) (other than a veteran who is a former prisoner of war) of this title" in subparagraph (C) and inserting in lieu thereof "section 1710(a)(2)(E) of this title, or a veteran who is in receipt of increased pension, or additional compensation or allowances based on the need of regular aid and attendance or by reason of being permanently housebound (or who, but for the receipt of retired pay, would be in receipt of such pension, compensation, or allowance),"; and

(3) in paragraph (7), by striking out "1712(b)(1)(F)" and inserting in lieu thereof "1712(a)(1)(F)".

SEC. 105. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for the Department of Veterans Affairs for the Medical Care account, for the purposes specified for that account in Public Law 103–327 (108 Stat. 2300), including the cost of providing hospital care and medical services under the amendments made by section 101 of this title, not to exceed $17,250,000,000 for fiscal year 1997 and not to exceed $17,900,000,000 for fiscal year 1998.

38 USC 1705 note.

SEC. 106. ASSESSMENT OF IMPLEMENTATION AND OPERATION.

(a) ASSESSMENT SYSTEMS.—The Secretary of Veterans Affairs shall establish information systems to assess the experience of the Department of Veterans Affairs in implementing sections 101, 103, and 104, including the amendments made by those sections,

during fiscal year 1997. The Secretary shall establish those information systems in time to include assessments under such systems in the report required under subsection (b).

(b) REPORT.—Not later than March 1, 1998, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report reflecting the experience of the Department during fiscal year 1997 on—

(1) the effect of implementation of, and provision and management of care under, sections 101, 103, and 104 (including the amendments made by those sections) on demand for health care services from the Department of Veterans Affairs by veterans described in paragraphs (1), (2), and (3) of section 1710(a) of title 38, United States Code, as amended by section 101;

(2) any differing patterns of demand on the part of such veterans relating to such factors as relative distance from Department facilities and prior experience, or lack of experience, as recipients of care from the Department;

(3) the extent to which the Department has met such demand for care; and

(4) changes in health-care delivery patterns in Department facilities and the fiscal impact of such changes.

(c) MATTERS TO BE INCLUDED.—The report under subsection (b) shall include detailed information with respect to fiscal year 1997 regarding the following:

(1) The number of veterans enrolled for care at each Department medical facility and, of such veterans, the number enrolled at each such facility who had not received care from the Department during the preceding three fiscal years.

(2) With respect to the veterans who had not received care from the Department during the three preceding fiscal years, the total cost of providing care to such veterans, shown in total and separately (A) by level of care, and (B) by reference to whether care was furnished in Department facilities or under contract arrangements.

(3) With respect to the number of veterans described in paragraphs (1), (2), and (3) of section 1710(a) of title 38, United States Code, as amended by section 101, who applied for health care from the Department during fiscal year 1997—

(A) the number who applied for care (shown in total and separately by facility);

(B) the number who were denied enrollment (shown in total and separately by facility); and

(C) the number who were denied care which was considered to be medically necessary but not of an emergency nature (shown in total and separately by facility).

(4) The numbers and characteristics of, and the type and extent of health care furnished to, veterans enrolled for care (shown in total and separately by facility).

(5) The numbers and characteristics of, and the type and extent of health care furnished to, veterans not enrolled for care (shown separately by reference to each class of eligibility, both in total and separately by facility).

(6) The specific fiscal impact (shown in total and by geographic health-care delivery areas) of changes in delivery patterns instituted under the amendments made by this title.

TITLE II—CONSTRUCTION AUTHORIZATION

SEC. 201. AUTHORIZATION OF MAJOR MEDICAL FACILITY PROJECTS.

(a) AMBULATORY CARE ADDITION PROJECTS.—The Secretary of Veterans Affairs may carry out the following ambulatory care addition major medical facility projects, with each project to be carried out in the amount specified for that project:

(1) Construction of an ambulatory care facility and renovation of "E" wing, Tripler Army Hospital, Honolulu, Hawaii, $43,000,000.

(2) Addition of ambulatory care facilities at the Department of Veterans Affairs medical center in Brockton, Massachusetts, $13,500,000.

(3) Addition of ambulatory care facilities for outpatient improvements at the Department of Veterans Affairs medical center in Shreveport, Louisiana, $25,000,000.

(4) Addition of ambulatory care facilities at the Department of Veterans Affairs medical center in Lyons, New Jersey, $21,100,000.

(5) Addition of ambulatory care facilities at the Department of Veterans Affairs medical center in Tomah, Wisconsin, $12,700,000.

(6) Addition of ambulatory care facilities at the Department of Veterans Affairs medical center in Asheville, North Carolina, $26,300,000.

(7) Addition of ambulatory care facilities at the Department of Veterans Affairs medical center in Temple, Texas, $9,800,000.

(8) Addition of ambulatory care facilities at the Department of Veterans Affairs medical center in Tucson, Arizona, $35,500,000.

(9) Construction of an ambulatory care facility at the Department of Veterans Affairs medical center in Leavenworth, Kansas, $27,750,000.

(b) ENVIRONMENTAL IMPROVEMENT PROJECTS.—The Secretary may carry out the following environmental improvement major medical facility projects, with each project to be carried out in the amount specified for that project:

(1) Environmental improvements for the renovation of nursing home facilities at the Department of Veterans Affairs medical center in Lebanon, Pennsylvania, $9,500,000.

(2) Environmental improvements at the Department of Veterans Affairs medical center in Marion, Illinois, $11,500,000.

(3) Environmental improvements for ward renovation for patient privacy at the Department of Veterans Affairs medical center in Omaha, Nebraska, $7,700,000.

(4) Environmental improvements at the Department of Veterans Affairs medical center in Pittsburgh, Pennsylvania, $17,400,000.

(5) Environmental improvements for the renovation of various buildings at the Department of Veterans Affairs medical center in Waco, Texas, $26,000,000.

(6) Environmental improvements for the replacement of psychiatric beds at the Department of Veterans Affairs medical center in Marion, Indiana, $17,300,000.

(7) Environmental improvements for the renovation of psychiatric wards at the Department of Veterans Affairs medical center in Perry Point, Maryland, $15,100,000.

(8) Environmental enhancement at the Department of Veterans Affairs medical center in Salisbury, North Carolina, $18,200,000.

(c) SEISMIC CORRECTION PROJECT.—The Secretary may carry out seismic corrections to Building Number 324 at the Department of Veterans Affairs medical center in Palo Alto, California, in the amount of $20,800,000.

(d) PROJECT AUTHORIZATION WHEN PARTIAL FUNDING PROVIDED.—If the amount of funds appropriated for fiscal year 1997 or 1998 for design and partial construction of a major medical facility project that is authorized in this section is less than the amount required to complete the construction of that project as authorized and if the Secretary obligates funds for such construction, such project shall be deemed to be fully authorized. Any such authorization shall cease to have effect at the close of fiscal year 2001.

SEC. 202. AUTHORIZATION OF MAJOR MEDICAL FACILITY LEASES.

The Secretary of Veterans Affairs may enter into leases for medical facilities as follows:

(1) Lease of a satellite outpatient clinic in Allentown, Pennsylvania, in an amount not to exceed $2,159,000.

(2) Lease of a satellite outpatient clinic in Beaumont, Texas, in an amount not to exceed $1,940,000.

(3) Lease of a satellite outpatient clinic in Boston, Massachusetts, in an amount not to exceed $2,358,000.

(4) Lease of a parking facility in Cleveland, Ohio, in an amount not to exceed $1,300,000.

(5) Lease of a satellite outpatient clinic and Veterans Benefits Administration field office in San Antonio, Texas, in an amount not to exceed $2,256,000.

(6) Lease of a satellite outpatient clinic in Toledo, Ohio, in an amount not to exceed $2,223,000.

SEC. 203. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to the Secretary of Veterans Affairs for fiscal year 1997 and fiscal year 1998—

(1) for the Construction, Major Projects, account, a total of $358,150,000 for the projects authorized in section 201; and

(2) for the Medical Care account, a total of $12,236,000 for the leases authorized in section 202.

(b) LIMITATION.—The projects authorized in section 201 may only be carried out using—

(1) funds appropriated for fiscal year 1997 or fiscal year 1998 consistent with the authorization of appropriations in subsection (a);

(2) funds appropriated for Construction, Major Projects for a fiscal year before fiscal year 1997 that remain available for obligation; and

(3) funds appropriated for Construction, Major Projects for fiscal year 1997 or fiscal year 1998 for a category of activity not specific to a project.

SEC. 204. STRATEGIC PLANNING.

Section 8107 is amended—

(1) by redesignating subsection (b) as subsection (c);

(2) by striking out subsection (a) and inserting in lieu thereof the following new subsections:

Reports. "(a) In order to promote effective planning for the efficient provision of care to eligible veterans, the Secretary, based on the analysis and recommendations of the Under Secretary for Health, shall submit to each committee an annual report regarding long-range health planning of the Department. The report shall be submitted each year not later than the date on which the budget for the next fiscal year is submitted to the Congress under section 1105 of title 31.

"(b) Each report under subsection (a) shall include the following:

"(1) A five-year strategic plan for the provision of care under chapter 17 of this title to eligible veterans through coordinated networks of medical facilities operating within prescribed geographic service-delivery areas, such plan to include provision of services for the specialized treatment and rehabilitative needs of disabled veterans (including veterans with spinal cord dysfunction, blindness, amputations, and mental illness) through distinct programs or facilities of the Department dedicated to the specialized needs of those veterans.

"(2) A description of how planning for the networks will be coordinated.

"(3) A profile regarding each such network of medical facilities which identifies—

"(A) the mission of each existing or proposed medical facility in the network;

"(B) any planned change in the mission for any such facility and the rationale for such planned change;

"(C) the population of veterans to be served by the network and anticipated changes over a five-year period and a ten-year period, respectively, in that population and in the health-care needs of that population;

"(D) information relevant to assessing progress toward the goal of achieving relative equivalency in the level of resources per patient distributed to each network, such information to include the plans for and progress toward lowering the cost of care-delivery in the network (by means such as changes in the mix in the network of physicians, nurses, physician assistants, and advance practice nurses);

"(E) the capacity of non-Federal facilities in the network to provide acute, long-term, and specialized treatment and rehabilitative services (described in section 7305 of this title), and determinations regarding the extent to which services to be provided in each service-delivery area and each facility in such area should be provided directly through facilities of the Department or through contract or other arrangements, including arrangements authorized under sections 8111 and 8153 of this title; and

"(F) a five-year plan for construction, replacement, or alteration projects in support of the approved mission of each facility in the network and a description of how those projects will improve access to care, or quality of care, for patients served in the network.

"(4) A status report for each facility on progress toward—

"(A) instituting planned mission changes identified under paragraph (3)(B);

"(B) implementing principles of managed care of eligible veterans; and

"(C) developing and instituting cost-effective alternatives to provision of institutional care."; and

(3) by adding at the end the following new subsection:

"(d)(1) The Secretary shall submit to each committee, not later than January 31 of each year, a report showing the current priorities of the Department for proposed major medical construction projects. Each such report shall identify the 20 projects, from within all the projects in the Department's inventory of proposed projects, that have the highest priority and, for those 20 projects, the relative priority and rank scoring of each such project and the projected cost of such project (including the projected operating costs, including both recurring and nonrecurring costs). The 20 projects shall be compiled, and their relative rankings shall be shown, by category of project (including the categories of ambulatory care projects, nursing home care projects, and such other categories as the Secretary determines). Reports.

"(2) The Secretary shall include in each report, for each project listed, a description of the specific factors that account for the relative ranking of that project in relation to other projects within the same category.

"(3) In a case in which the relative ranking of a proposed project has changed since the last report under this subsection was submitted, the Secretary shall also include in the report a description of the reasons for the change in the ranking, including an explanation of any change in the scoring of the project under the Department's scoring system for proposed major medical construction projects.".

SEC. 205. REVISION TO PROSPECTUS REQUIREMENTS.

(a) ADDITIONAL INFORMATION.—Section 8104(b) is amended—

(1) by striking out the matter preceding paragraph (1) and inserting in lieu thereof the following:

"(b) Whenever the President or the Secretary submit to the Congress a request for the funding of a major medical facility project (as defined in subsection (a)(3)(A)) or a major medical facility lease (as defined in subsection (a)(3)(B)), the Secretary shall submit to each committee, on the same day, a prospectus of the proposed medical facility. Any such prospectus shall include the following:";

(2) in paragraph (1)—

(A) by striking out "a detailed" and inserting in lieu thereof "A detailed"; and

(B) by striking out the semicolon at the end and inserting in lieu thereof a period;

(3) in paragraph (2)—

(A) by striking out "an estimate" and inserting in lieu thereof "An estimate"; and

(B) by striking out "; and" and inserting in lieu thereof a period;

(4) in paragraph (3), by striking out "an estimate" and inserting in lieu thereof "An estimate"; and

(5) by adding at the end the following new paragraphs:

"(4) Demographic data applicable to such facility, including information on projected changes in the population of veterans

to be served by the facility over a five-year period and a ten-year period.

"(5) Current and projected workload and utilization data regarding the facility.

"(6) Current and projected operating costs of the facility, including both recurring and non-recurring costs.

"(7) The priority score assigned to the project or lease under the Department's prioritization methodology and, if the project or lease is being proposed for funding before a project or lease with a higher score, a specific explanation of the factors other than the priority score that were considered and the basis on which the project or lease is proposed for funding ahead of projects or leases with higher priority scores.

"(8) In the case of a prospectus proposing the construction of a new or replacement medical facility, a description of each alternative to construction of the facility that was considered.".

38 USC 8104 note.

(b) APPLICABILITY.—The amendments made by subsection (a) shall apply with respect to any prospectus submitted by the Secretary of Veterans Affairs after the date of the enactment of this Act.

SEC. 206. CONSTRUCTION AUTHORIZATION REQUIREMENTS.

(a) DEFINITION OF MAJOR MEDICAL FACILITY PROJECT.—Paragraph (3)(A) of section 8104(a) is amended by striking out "$3,000,000" and inserting in lieu thereof "$4,000,000".

(b) APPLICABILITY OF CONSTRUCTION AUTHORIZATION REQUIREMENT.—(1) Subsection (b) of section 301 of the Veterans' Medical Programs Amendments of 1992 (Public Law 102–405; 106 Stat. 1984) is repealed.

38 USC 8104 note.

(2) The amendments made by subsection (a) of such section shall apply with respect to any major medical facility project or any major medical facility lease of the Department of Veterans Affairs, regardless of when funds are first appropriated for that project or lease, except that in the case of a project for which funds were first appropriated before October 9, 1992, such amendments shall not apply with respect to amounts appropriated for that project for a fiscal year before fiscal year 1998.

(c) LIMITATION ON OBLIGATIONS FOR ADVANCE PLANNING.—Section 8104 is amended by adding at the end the following new subsection:

"(f) The Secretary may not obligate funds in an amount in excess of $500,000 from the Advance Planning Fund of the Department toward design or development of a major medical facility project (as defined in subsection (a)(3)(A)) until—

Reports.

"(1) the Secretary submits to the committees a report on the proposed obligation; and

"(2) a period of 30 days has passed after the date on which the report is received by the committees.".

SEC. 207. TERMINOLOGY CHANGES.

(a) DEFINITION OF "CONSTRUCT".—Section 8101(2) is amended—

(1) by striking out "working drawings" and inserting in lieu thereof "construction documents"; and

(2) by striking out "preliminary plans" and inserting in lieu thereof "design development".

(b) PARKING FACILITIES.—Section 8109(h)(3)(B) is amended by striking out "working drawings" and inserting in lieu thereof "construction documents".

TITLE III—HEALTH CARE AND ADMINISTRATION

Subtitle A—Health Care Sharing and Administration

SEC. 301. REVISION OF AUTHORITY TO SHARE MEDICAL FACILITIES, EQUIPMENT, AND INFORMATION.

(a) STATEMENT OF PURPOSE.—The text of section 8151 is amended to read as follows:

"It is the purpose of this subchapter to strengthen the medical programs at Department facilities and improve the quality of health care provided veterans under this title by authorizing the Secretary to enter into agreements with health-care providers in order to share health-care resources with, and receive health-care resources from, such providers while ensuring no diminution of services to veterans.".

(b) DEFINITIONS.—Section 8152 is amended—

(1) by striking out paragraphs (1), (2), and (3) and inserting in lieu thereof the following new paragraphs (1) and (2):

"(1) The term 'health-care resource' includes hospital care and medical services (as those terms are defined in section 1701 of this title), any other health-care service, and any health-care support or administrative resource.

"(2) The term 'health-care providers' includes health-care plans and insurers and any organizations, institutions, or other entities or individuals who furnish health-care resources."; and

(2) by redesignating paragraph (4) as paragraph (3).

(c) AUTHORITY TO SECURE HEALTH-CARE RESOURCES.—Section 8153 is amended as follows:

(1) Subsection (a) is amended—

(A) in paragraph (1)—

(i) by striking out "certain specialized medical resources" and inserting in lieu thereof "health-care resources";

(ii) by striking out "other medical resources" and inserting in lieu thereof "other health-care resources"; and

(iii) by striking out "of—" and all that follows through "section 1742(a) of this title" and inserting in lieu thereof "of health-care resources between Department health-care facilities and any health-care provider, or other entity or individual";

(B) in paragraph (2), by striking out "only" and all that follows through "are not" and inserting in lieu thereof "if such resources are not, or would not be,"; and

(C) by adding at the end the following:

"(3)(A) If the health-care resource required is a commercial service, the use of medical equipment or space, or research, and is to be acquired from an institution affiliated with the Department in accordance with section 7302 of this title, including medical practice groups and other entities associated with affiliated institutions, blood banks, organ banks, or research centers, the Secretary may make arrangements for acquisition of the resource without

regard to any law or regulation that would otherwise require the use of competitive procedures for acquiring the resource.

"(B)(i) If the health-care resource required is a commercial service or the use of medical equipment or space, and is not to be acquired from an entity described in subparagraph (A), any procurement of the resource may be conducted without regard to any law or regulation that would otherwise require the use of competitive procedures for procuring the resource, but only if the procurement is conducted in accordance with the simplified procedures prescribed pursuant to clause (ii).

"(ii) The Secretary, in consultation with the Administrator for Federal Procurement Policy, may prescribe simplified procedures for the procurement of health-care resources under this subparagraph. The Secretary shall publish such procedures for public comment in accordance with section 22 of the Office of Federal Procurement Policy Act (41 U.S.C. 418b). Such procedures shall permit all responsible sources to submit a bid, proposal, or quotation (as appropriate) for the resources to be procured and provide for the consideration by the Department of bids, proposals, or quotations so submitted.

"(iii) Pending publication of the procedures under clause (ii), the Secretary shall (except as provided under subparagraph (A)) procure health-care resources referred to in clause (i) in accordance with all procurement laws and regulations.

"(C) Any procurement of health-care resources other than those covered by subparagraph (A) or (B) shall be conducted in accordance with all procurement laws and regulations.

"(D) For any procurement to be conducted on a sole source basis other than a procurement covered by subparagraph (A), a written justification shall be prepared that includes the information and is approved at the levels prescribed in section 303(f) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(f)).

"(E) As used in this paragraph, the term 'commercial service' means a service that is offered and sold competitively in the commercial marketplace, is performed under standard commercial terms and conditions, and is procured using firm-fixed price contracts.".

(2) Subsection (b) is amended by striking out "reciprocal reimbursement" in the first sentence and all that follows through the period at the end of that sentence and inserting in lieu thereof "payment to the Department in accordance with procedures that provide appropriate flexibility to negotiate payment which is in the best interest of the Government.".

(3) Subsection (d) is amended by striking out "preclude such payment, in accordance with—" and all that follows through "to such facility therefor" and inserting in lieu thereof "preclude such payment to such facility for such care or services".

(4) Such section is further amended—

(A) by redesignating subsection (e) as subsection (g); and

(B) by inserting after subsection (d) the following new subsections:

"(e) The Secretary may make an arrangement that authorizes the furnishing of services by the Secretary under this section to individuals who are not veterans only if the Secretary determines—

"(1) that veterans will receive priority under such an arrangement; and

"(2) that such an arrangement—

"(A) is necessary to maintain an acceptable level and quality of service to veterans at that facility; or

"(B) will result in the improvement of services to eligible veterans at that facility.

"(f) Any amount received by the Secretary from a non-Federal entity as payment for services provided by the Secretary during a prior fiscal year under an agreement entered into under this section may be obligated by the Secretary during the fiscal year in which the Secretary receives the payment.".

(d) CLERICAL AMENDMENTS.—(1) The heading of section 8153 is amended to read as follows:

"§ 8153. Sharing of health-care resources".

(2) The item relating to section 8153 in the table of sections at the beginning of chapter 81 is amended to read as follows:

"8153. Sharing of health-care resources.".

SEC. 302. IMPROVED EFFICIENCY IN HEALTH CARE RESOURCE MANAGEMENT.

(a) TEMPORARY EXPANSION OF AUTHORITY FOR SHARING AGREEMENTS.—Section 201 of the Veterans Health Care Act of 1992 (Public Law 102–585; 38 U.S.C. 8111 note) is amended—

(1) by inserting "(a) AUTHORITY.—" before "The Secretary of Veterans Affairs"; and

(2) by adding at the end thereof the following new subsection:

"(b) USE OF FUNDS.—Any amount received by the Secretary from a non-Federal entity as payment for services provided by the Secretary during a prior fiscal year under an agreement entered into under this section may be obligated by the Secretary during the fiscal year in which the Secretary receives the payment.".

(b) REPEAL OF SUNSET PROVISION.—(1) Section 204 of such Act (38 U.S.C. 8111 note) is repealed.

(2) Any services provided pursuant to agreements entered into under section 201 of such Act (38 U.S.C. 8111 note) during the period beginning on October 1, 1996, and ending on the date of the enactment of this Act are hereby ratified. 38 USC 8111 note.

(c) COST RECOVERY.—Title II of such Act is further amended by adding at the end the following new section:

"SEC. 207. AUTHORITY TO BILL HEALTH-PLAN CONTRACTS. 38 USC 8111 note.

"(a) RIGHT TO RECOVER.—In the case of a primary beneficiary (as described in section 201(a)(2)(B)) who has coverage under a health-plan contract, as defined in section 1729(i)(1)(A) of title 38, United States Code, and who is furnished care or services by a Department medical facility pursuant to this title, the United States shall have the right to recover or collect charges for such care or services from such health-plan contract to the extent that the beneficiary (or the provider of the care or services) would be eligible to receive payment for such care or services from such health-plan contract if the care or services had not been furnished by a department or agency of the United States. Any funds received from such health-plan contract shall be credited to funds that have been allotted to the facility that furnished the care or services.

"(b) ENFORCEMENT.—The right of the United States to recover under such a beneficiary's health-plan contract shall be enforceable in the same manner as that provided by subsections (a)(3), (b), (c)(1), (d), (f), (h), and (i) of section 1729 of title 38, United States Code.".

SEC. 303. PERSONNEL FURNISHING SHARED RESOURCES.

Section 712(b)(2) is amended—

(1) by striking out "the sum of—" and inserting in lieu thereof "the sum of the following:";

(2) by capitalizing the first letter of the first word of each of subparagraphs (A) and (B);

(3) by striking out "; and" at the end of subparagraph (A) and inserting in lieu thereof a period; and

(4) by adding at the end the following new subparagraph:

"(C) The number of such positions in the Department during that fiscal year held by persons involved in providing health-care resources under section 8111 or 8153 of this title or under section 201 of the Veterans Health Care Act of 1992 (Public Law 102–585; 106 Stat. 4949; 38 U.S.C. 8111 note).".

SEC. 304. WAITING PERIOD FOR ADMINISTRATIVE REORGANIZATIONS.

Section 510(b) is amended—

(1) in the second sentence, by striking out "a 90-day period of continuous session of Congress following the date of the submission of the report" and inserting in lieu thereof "a 45-day period following the date of the submission of the report, not less than 30 days of which shall be days during which Congress shall have been in continuous session"; and

(2) in the third sentence, by striking out "such 90-day period" and inserting in lieu thereof "any period of continuity of session".

SEC. 305. REPEAL OF LIMITATIONS ON CONTRACTS FOR CONVERSION OF PERFORMANCE OF ACTIVITIES OF DEPARTMENT HEALTH-CARE FACILITIES AND REVISED ANNUAL REPORTING REQUIREMENT.

Subsection (c) of section 8110 is amended to read as follows:

"(c) The Secretary shall include in the materials submitted to Congress each year in support of the budget of the Department for the next fiscal year a report on activities and proposals involving contracting for performance by contractor personnel of work previously performed by Department employees. The report shall—

"(1) identify those specific activities that are currently performed at a Department facility by more than 10 Department employees which the Secretary proposes to study for possible contracting involving conversion from performance by Department employees to performance by employees of a contractor; and

"(2) identify those specific activities that have been contracted for performance by contractor employees during the prior fiscal year (shown by location, subject, scope of contracts, and savings) and shall describe the effect of such contracts on the quality of delivery of health services during such year.".

Subtitle B—Care of Women Veterans

SEC. 321. MAMMOGRAPHY QUALITY STANDARDS.

(a) IN GENERAL.—(1) Subchapter II of chapter 73 is amended by adding after section 7318 the following new section:

"§ 7319. Mammography quality standards

"(a) A mammogram may not be performed at a Department facility unless that facility is accredited for that purpose by a private nonprofit organization designated by the Secretary. An organization designated by the Secretary under this subsection shall meet the standards for accrediting bodies established under subsection (e) of section 354 of the Public Health Service Act (42 U.S.C. 263b).

"(b) The Secretary, in consultation with the Secretary of Health and Human Services, shall prescribe quality assurance and quality control standards relating to the performance and interpretation of mammograms and use of mammogram equipment and facilities of the Department of Veterans Affairs consistent with the requirements of section 354(f)(1) of the Public Health Service Act. Such standards shall be no less stringent than the standards prescribed by the Secretary of Health and Human Services under section 354(f) of the Public Health Service Act.

"(c)(1) The Secretary, to ensure compliance with the standards prescribed under subsection (b), shall provide for an annual inspection of the equipment and facilities used by and in Department health care facilities for the performance of mammograms. Such inspections shall be carried out in a manner consistent with the inspection of certified facilities by the Secretary of Health and Human Services under section 354(g) of the Public Health Service Act.

"(2) The Secretary may not provide for an inspection under paragraph (1) to be performed by a State agency.

"(d) The Secretary shall ensure that mammograms performed for the Department under contract with any non-Department facility or provider conform to the quality standards prescribed by the Secretary of Health and Human Services under section 354 of the Public Health Service Act.

"(e) For the purposes of this section, the term 'mammogram' has the meaning given such term in paragraph (5) of section 354(a) of the Public Health Service Act.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 7318 the following new item:

"7319. Mammography quality standards.".

(b) DEADLINE FOR PRESCRIBING STANDARDS.—The Secretary of Veterans Affairs shall prescribe standards under subsection (b) of section 7319 of title 38, United States Code, as added by subsection (a), not later than the end of the 120-day period beginning on the date of the enactment of this Act. 38 USC 7319 note.

(c) IMPLEMENTATION REPORT.—The Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the Secretary's implementation of section 7319 of title 38, United States Code, as added by subsection (a). The report shall be submitted not later than 120 days after the date of the enactment of this Act. 38 USC 7319 note.

38 USC 1710 note.

SEC. 322. PATIENT PRIVACY FOR WOMEN PATIENTS.

(a) IDENTIFICATION OF DEFICIENCIES.—The Secretary of Veterans Affairs shall conduct a survey of each medical center under the jurisdiction of the Secretary to identify deficiencies relating to patient privacy afforded to women patients in the clinical areas at each such center which may interfere with appropriate treatment of such patients.

(b) CORRECTION OF DEFICIENCIES.—The Secretary shall ensure that plans and, where appropriate, interim steps to correct the deficiencies identified in the survey conducted under subsection (a) are developed and are incorporated into the Department's construction planning processes and, in cases in which it is cost-effective to do so, are given a high priority.

(c) REPORTS TO CONGRESS.—The Secretary shall compile an annual inventory, by medical center, of deficiencies identified under subsection (a) and of plans and, where appropriate, interim steps, to correct such deficiencies. The Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives, not later than October 1, 1997, and not later than October 1 each year thereafter through 1999 a report on such deficiencies. The Secretary shall include in such report the inventory compiled by the Secretary, the proposed corrective plans, and the status of such plans.

38 USC 318 note.

SEC. 323. ASSESSMENT OF USE BY WOMEN VETERANS OF DEPARTMENT HEALTH SERVICES.

(a) REPORTS TO UNDER SECRETARY FOR HEALTH.—The Center for Women Veterans of the Department of Veterans Affairs (established under section 509 of Public Law 103–446), in consultation with the Advisory Committee on Women Veterans, shall assess the use by women veterans of health services through the Department of Veterans Affairs, including counseling for sexual trauma and mental health services. The Center shall submit to the Under Secretary for Health of the Department of Veterans Affairs a report not later than April 1, 1997, and April 1 of each of the two following years, on—

(1) the extent to which women veterans described in paragraphs (1) and (2) of section 1710(a) of title 38, United States Code, fail to seek, or face barriers in seeking, health services through the Department, and the reasons therefor; and

(2) recommendations, if indicated, for encouraging greater use of such services, including (if appropriate) public service announcements and other outreach efforts.

(b) REPORTS TO CONGRESSIONAL COMMITTEES.—Not later than July 1, 1997, and July 1 of each of the two following years, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report containing—

(1) the most recent report of the Center for Women Veterans under subsection (a);

(2) the views of the Under Secretary for Health on such report's findings and recommendations; and

(3) a description of the steps being taken by the Secretary to remedy any problems described in the report.

SEC. 324. REPORTING REQUIREMENTS.

(a) EXTENSION OF ANNUAL REPORT REQUIREMENT.—Section 107(a) of the Veterans Health Care Act of 1992 (Public Law 102–585; 106 Stat. 4947) is amended by striking out "Not later than January 1, 1993, January 1, 1994, and January 1, 1995" and inserting in lieu thereof "Not later than January 1 of 1993 and each year thereafter through 1998". 38 USC 1710 note.

(b) REPORT ON HEALTH CARE AND RESEARCH.—Section 107(b) of such Act is amended—

(1) in paragraph (2)(A), by inserting "(including information on the number of inpatient stays and the number of outpatient visits through which such services were provided)" after "facility"; and

(2) by adding at the end the following new paragraph:

"(5) A description of the actions taken by the Secretary to foster and encourage the expansion of such research.".

Subtitle C—Readjustment Counseling and Mental Health Care

SEC. 331. EXPANSION OF ELIGIBILITY FOR READJUSTMENT COUNSELING AND CERTAIN RELATED COUNSELING SERVICES.

(a) EXPANSION OF ELIGIBILITY.—Subsection (a) of section 1712A is amended to read as follows:

"(a)(1)(A) Upon the request of any veteran referred to in subparagraph (B), the Secretary shall furnish counseling to the veteran to assist the veteran in readjusting to civilian life. Such counseling may include a general mental and psychological assessment of the veteran to ascertain whether such veteran has mental or psychological problems associated with readjustment to civilian life.

"(B) Subparagraph (A) applies to the following veterans:

"(i) Any veteran who served on active duty—

"(I) in a theater of combat operations (as determined by the Secretary in consultation with the Secretary of Defense) during the Vietnam era; or

"(II) after May 7, 1975, in an area at a time during which hostilities occurred in that area.

"(ii) Any veteran (other than a veteran covered by clause (i)) who served on active duty during the Vietnam era who seeks or is furnished such counseling before January 1, 2000.

"(2)(A) Upon the request of any veteran (other than a veteran covered by paragraph (1)) who served in the active military, naval, or air service in a theater of combat operations (as so determined) during a period of war, or in any other area during a period in which hostilities (as defined in subparagraph (B)) occurred in such area, the Secretary may furnish counseling to the veteran to assist the veteran in readjusting to civilian life.

"(B) For the purposes of subparagraph (A), the term 'hostilities' means an armed conflict in which the members of the Armed Forces are subjected to danger comparable to the danger to which members of the Armed Forces have been subjected in combat with enemy armed forces during a period of war, as determined by the Secretary in consultation with the Secretary of Defense.".

(b) REPEAL OF REFERRAL PROVISIONS.—Subsection (c) of such section is repealed.

SEC. 332. REPORTS RELATING TO VET CENTERS.

(a) REPORT ON COLLOCATION OF VET CENTERS AND DEPARTMENT OUTPATIENT CLINICS.—(1) Not later than six months after the date of the enactment of this Act, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the feasibility and desirability of providing for the collocation of Vet Centers and outpatient clinics (including rural mobile clinics) of the Department of Veterans Affairs as current leases for such centers and clinics expire.

(2) The report shall include an assessment of the following:

(A) The results of any collocation of Vet Centers and outpatient clinics carried out by the Secretary before the date of the enactment of this Act, including the effects of such collocation on the quality of care provided at such centers and clinics.

(B) The effect of such collocation on the capacity of such centers and clinics to carry out their primary mission.

(C) The extent to which such collocation will impair the operational independence or administrative integrity of such centers and clinics.

(D) The feasibility of combining the services provided by such centers and clinics in the course of such collocation.

(E) The advisability of the collocation of centers and clinics of significantly different size.

(F) The effect of the locations (including urban and rural locations) of the centers and clinics on the feasibility and desirability of such collocation.

(G) The amount of any costs savings to be achieved by the Department as a result of such collocation.

(H) Any other matter that the Secretary considers appropriate.

(b) REPORT ON PROVISION OF LIMITED HEALTH CARE SERVICES AT READJUSTMENT COUNSELING CENTERS.—(1) Not later than six months after the date of the enactment of this Act, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the feasibility and desirability of providing a limited battery of health care services (including ambulatory services and health care screening services) to veterans at Department of Veterans Affairs readjustment counseling centers.

(2) The report shall include a discussion of the following:

(A) The effect on the advisability of providing health care services at readjustment counseling centers of the geographic location of such centers, including the urban location and rural location of such centers and the proximity of such centers to Department of Veterans Affairs medical facilities.

(B) The effect on the advisability of providing such services at such centers of the type and level of services to be provided, and the demographic characteristics (including age, socio-economic status, ethnicity, and sex) of veterans likely to be provided the services.

(C) The effect of providing such services at such centers on the readjustment counseling center program in general and on the efficiency and autonomy of the clinical and administra-

tive operations of the readjustment counseling centers in particular.

(D) Any other matter that the Secretary considers appropriate.

(c) RULE OF CONSTRUCTION.—Nothing in this section is intended to preclude the Secretary, during the period before the submission of the reports under this section, from providing limited health care services at Vet Centers.

SEC. 333. ADVISORY COMMITTEE ON THE READJUSTMENT OF VETERANS.

(a) IN GENERAL.—(1) Subchapter III of chapter 5 is amended by inserting after section 544 the following new section:

"§ 545. Advisory Committee on the Readjustment of Veterans

"(a)(1) There is in the Department the Advisory Committee on the Readjustment of Veterans (hereafter in this section referred to as the 'Committee').

"(2) The Committee shall consist of not more than 18 members appointed by the Secretary from among individuals who—

"(A) have demonstrated significant civic or professional achievement; and

"(B) have experience with the provision of veterans benefits and services by the Department.

"(3) The Secretary shall seek to ensure that members appointed to the Committee include individuals from a wide variety of geographic areas and ethnic backgrounds, individuals from veterans service organizations, individuals with combat experience, and women.

"(4) The Secretary shall determine the terms of service and pay and allowances of the members of the Committee, except that a term of service may not exceed two years. The Secretary may reappoint any member for additional terms of service.

"(b)(1) The Secretary shall, on a regular basis, consult with and seek the advice of the Committee with respect to the provision by the Department of benefits and services to veterans in order to assist veterans in the readjustment to civilian life.

"(2)(A) In providing advice to the Secretary under this subsection, the Committee shall—

"(i) assemble and review information relating to the needs of veterans in readjusting to civilian life;

"(ii) provide information relating to the nature and character of psychological problems arising from service in the Armed Forces;

"(iii) provide an on-going assessment of the effectiveness of the policies, organizational structures, and services of the Department in assisting veterans in readjusting to civilian life; and

"(iv) provide on-going advice on the most appropriate means of responding to the readjustment needs of veterans in the future.

"(B) In carrying out its duties under subparagraph (A), the Committee shall take into special account the needs of veterans who have served in a theater of combat operations.

"(c)(1) Not later than March 31 of each year, the Committee shall submit to the Secretary a report on the programs and activities

Reports.

of the Department that relate to the readjustment of veterans to civilian life. Each such report shall include—

"(A) an assessment of the needs of veterans with respect to readjustment to civilian life;

"(B) a review of the programs and activities of the Department designed to meet such needs; and

"(C) such recommendations (including recommendations for administrative and legislative action) as the Committee considers appropriate.

"(2) Not later than 90 days after the receipt of a report under paragraph (1), the Secretary shall transmit to the Committees on Veterans' Affairs of the Senate and House of Representatives a copy of the report, together with any comments and recommendations concerning the report that the Secretary considers appropriate.

"(3) The Committee may also submit to the Secretary such other reports and recommendations as the Committee considers appropriate.

"(4) The Secretary shall submit with each annual report submitted to the Congress pursuant to section 529 of this title a summary of all reports and recommendations of the Committee submitted to the Secretary since the previous annual report of the Secretary submitted pursuant to that section.

"(d)(1) Except as provided in paragraph (2), the provisions of the Federal Advisory Committee Act (5 U.S.C. App.) shall apply to the activities of the Committee under this section.

"(2) Section 14 of such Act shall not apply to the Committee.".

(2) The table of sections at the beginning of chapter 5 is amended by inserting after the item relating to section 544 the following new item:

"545. Advisory Committee on the Readjustment of Veterans.".

38 USC 545 note.

(b) ORIGINAL MEMBERS.—(1) Notwithstanding subsection (a)(2) of section 545 of title 38, United States Code (as added by subsection (a)), the members of the Advisory Committee on the Readjustment of Vietnam and Other War Veterans on the date of the enactment of this Act shall be the original members of the advisory committee recognized under such section.

(2) The original members shall so serve until the Secretary of Veterans Affairs carries out appointments under such subsection (a)(2). The Secretary of Veterans Affairs shall carry out such appointments as soon after such date as is practicable. The Secretary may make such appointments from among such original members.

SEC. 334. CENTERS FOR MENTAL ILLNESS RESEARCH, EDUCATION, AND CLINICAL ACTIVITIES.

(a) IN GENERAL.—(1) Subchapter II of chapter 73 is amended by adding after section 7319, as added by section 321(a)(1), the following new section:

"§ 7320. Centers for mental illness research, education, and clinical activities

"(a) The purpose of this section is to provide for the improvement of the provision of health-care services and related counseling services to eligible veterans suffering from mental illness (especially mental illness related to service-related conditions) through—

"(1) the conduct of research (including research on improving mental health service facilities of the Department and

on improving the delivery of mental health services by the Department);

"(2) the education and training of health care personnel of the Department; and

"(3) the development of improved models and systems for the furnishing of mental health services by the Department.

"(b)(1) The Secretary shall establish and operate centers for mental illness research, education, and clinical activities. Such centers shall be established and operated by collaborating Department facilities as provided in subsection (c)(1). Each such center shall function as a center for—

"(A) research on mental health services;

"(B) the use by the Department of specific models for furnishing services to treat serious mental illness;

"(C) education and training of health-care professionals of the Department; and

"(D) the development and implementation of innovative clinical activities and systems of care with respect to the delivery of such services by the Department.

"(2) The Secretary shall, upon the recommendation of the Under Secretary for Health, designate the centers under this section. In making such designations, the Secretary shall ensure that the centers designated are located in various geographic regions of the United States. The Secretary may designate a center under this section only if—

"(A) the proposal submitted for the designation of the center meets the requirements of subsection (c);

"(B) the Secretary makes the finding described in subsection (d); and

"(C) the peer review panel established under subsection (e) makes the determination specified in subsection (e)(3) with respect to that proposal.

"(3) Not more than five centers may be designated under this section.

"(4) The authority of the Secretary to establish and operate centers under this section is subject to the appropriation of funds for that purpose.

"(c) A proposal submitted for the designation of a center under this section shall—

"(1) provide for close collaboration in the establishment and operation of the center, and for the provision of care and the conduct of research and education at the center, by a Department facility or facilities in the same geographic area which have a mission centered on care of the mentally ill and a Department facility in that area which has a mission of providing tertiary medical care;

"(2) provide that no less than 50 percent of the funds appropriated for the center for support of clinical care, research, and education will be provided to the collaborating facility or facilities that have a mission centered on care of the mentally ill; and

"(3) provide for a governance arrangement between the collaborating Department facilities which ensures that the center will be established and operated in a manner aimed at improving the quality of mental health care at the collaborating facility or facilities which have a mission centered on care of the mentally ill.

"(d) The finding referred to in subsection (b)(2)(B) with respect to a proposal for designation of a site as a location of a center under this section is a finding by the Secretary, upon the recommendation of the Under Secretary for Health, that the facilities submitting the proposal have developed (or may reasonably be anticipated to develop) each of the following:

"(1) An arrangement with an accredited medical school that provides education and training in psychiatry and with which one or more of the participating Department facilities is affiliated under which medical residents receive education and training in psychiatry through regular rotation through the participating Department facilities so as to provide such residents with training in the diagnosis and treatment of mental illness.

"(2) An arrangement with an accredited graduate program of psychology under which students receive education and training in clinical, counseling, or professional psychology through regular rotation through the participating Department facilities so as to provide such students with training in the diagnosis and treatment of mental illness.

"(3) An arrangement under which nursing, social work, counseling, or allied health personnel receive training and education in mental health care through regular rotation through the participating Department facilities.

"(4) The ability to attract scientists who have demonstrated achievement in research—

"(A) into the evaluation of innovative approaches to the design of mental health services; or

"(B) into the causes, prevention, and treatment of mental illness.

"(5) The capability to evaluate effectively the activities of the center, including activities relating to the evaluation of specific efforts to improve the quality and effectiveness of mental health services provided by the Department at or through individual facilities.

"(e)(1) In order to provide advice to assist the Secretary and the Under Secretary for Health to carry out their responsibilities under this section, the official within the central office of the Veterans Health Administration responsible for mental health and behavioral sciences matters shall establish a peer review panel to assess the scientific and clinical merit of proposals that are submitted to the Secretary for the designation of centers under this section.

"(2) The panel shall consist of experts in the fields of mental health research, education and training, and clinical care. Members of the panel shall serve as consultants to the Department.

"(3) The panel shall review each proposal submitted to the panel by the official referred to in paragraph (1) and shall submit to that official its views on the relative scientific and clinical merit of each such proposal. The panel shall specifically determine with respect to each such proposal whether that proposal is among those proposals which have met the highest competitive standards of scientific and clinical merit.

"(4) The panel shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

"(f) Clinical and scientific investigation activities at each center established under this section—

"(1) may compete for the award of funding from amounts appropriated for the Department of Veterans Affairs medical and prosthetics research account; and

"(2) shall receive priority in the award of funding from such account insofar as funds are awarded to projects and activities relating to mental illness.

"(g) The Under Secretary for Health shall ensure that at least three centers designated under this section emphasize research into means of improving the quality of care for veterans suffering from mental illness through the development of community-based alternatives to institutional treatment for such illness.

"(h) The Under Secretary for Health shall ensure that information produced by the research, education and training, and clinical activities of centers established under this section that may be useful for other activities of the Veterans Health Administration is disseminated throughout the Veterans Health Administration. Such dissemination shall be made through publications, through programs of continuing medical and related education provided through regional medical education centers under subchapter VI of chapter 74 of this title, and through other means. Such programs of continuing medical education shall receive priority in the award of funding.

"(i) The official within the central office of the Veterans Health Administration responsible for mental health and behavioral sciences matters shall be responsible for supervising the operation of the centers established pursuant to this section and shall provide for ongoing evaluation of the centers and their compliance with the requirements of this section.

"(j)(1) There are authorized to be appropriated to the Department of Veterans Affairs for the basic support of the research and education and training activities of centers established pursuant to this section amounts as follows: Appropriation authorization.

"(A) $3,125,000 for fiscal year 1998.

"(B) $6,250,000 for each of fiscal years 1999 through 2001.

"(2) In addition to funds appropriated for a fiscal year pursuant to the authorization of appropriations in paragraph (1), the Under Secretary for Health shall allocate to such centers from other funds appropriated for that fiscal year generally for the Department of Veterans Affairs medical care account and the Department of Veterans Affairs medical and prosthetics research account such amounts as the Under Secretary for Health determines appropriate to carry out the purposes of this section.".

(2) The table of sections at the beginning of chapter 73 is amended by inserting after the item relating to section 7319, as added by section 321(a)(2), the following new item:

"7320. Centers for mental illness research, education, and clinical activities.".

(b) ANNUAL REPORTS.—Not later than February 1 of each of 1999, 2000, 2001, and 2002, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the status and activities during the previous fiscal year of the centers for mental illness research, education, and clinical activities established pursuant to section 7320 of title 38, United States Code (as added by subsection (a)). Each such report shall include the following: 38 USC 7320 note.

(1) A description of the activities carried out at each center and the funding provided for such activities.

(2) A description of the advances made at each of the participating facilities of the center in research, education and training, and clinical activities relating to mental illness in veterans.

(3) A description of the actions taken by the Under Secretary for Health pursuant to subsection (h) of that section (as so added) to disseminate information derived from such activities throughout the Veterans Health Administration.

(4) The Secretary's evaluations of the effectiveness of the centers in fulfilling the purposes of the centers.

38 USC 7320 note.

(c) IMPLEMENTATION.—The Secretary of Veterans Affairs shall designate at least one center under section 7320 of title 38, United States Code, not later than January 1, 1998.

SEC. 335. COMMITTEE ON CARE OF SEVERELY CHRONICALLY MENTALLY ILL VETERANS.

(a) ESTABLISHMENT.—Subchapter II of chapter 73 is amended by adding after section 7320, as added by section 334(a)(1), the following new section:

"§ 7321. Committee on Care of Severely Chronically Mentally Ill Veterans

"(a) The Secretary, acting through the Under Secretary for Health, shall establish in the Veterans Health Administration a Committee on Care of Severely Chronically Mentally Ill Veterans. The Under Secretary shall appoint employees of the Department with expertise in the care of the chronically mentally ill to serve on the committee.

"(b) The committee shall assess, and carry out a continuing assessment of, the capability of the Veterans Health Administration to meet effectively the treatment and rehabilitation needs of mentally ill veterans whose mental illness is severe and chronic and who are eligible for health care furnished by the Department, including the needs of such veterans who are women. In carrying out that responsibility, the committee shall—

"(1) evaluate the care provided to such veterans through the Veterans Health Administration;

"(2) identify systemwide problems in caring for such veterans in facilities of the Veterans Health Administration;

"(3) identify specific facilities within the Veterans Health Administration at which program enrichment is needed to improve treatment and rehabilitation of such veterans; and

"(4) identify model programs which the committee considers to have been successful in the treatment and rehabilitation of such veterans and which should be implemented more widely in or through facilities of the Veterans Health Administration.

"(c) The committee shall—

"(1) advise the Under Secretary regarding the development of policies for the care and rehabilitation of severely chronically mentally ill veterans; and

"(2) make recommendations to the Under Secretary—

"(A) for improving programs of care of such veterans at specific facilities and throughout the Veterans Health Administration;

"(B) for establishing special programs of education and training relevant to the care of such veterans for employees of the Veterans Health Administration;

"(C) regarding research needs and priorities relevant to the care of such veterans; and

"(D) regarding the appropriate allocation of resources for all such activities.

"(d)(1) Not later than April 1, 1997, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the implementation of this section. The report shall include the following:

"(A) A list of the members of the committee.

"(B) The assessment of the Under Secretary for Health, after review of the initial findings of the committee, regarding the capability of the Veterans Health Administration, on a systemwide and facility-by-facility basis, to meet effectively the treatment and rehabilitation needs of severely chronically mentally ill veterans who are eligible for Department care.

"(C) The plans of the committee for further assessments.

"(D) The findings and recommendations made by the committee to the Under Secretary for Health and the views of the Under Secretary on such findings and recommendations.

"(E) A description of the steps taken, plans made (and a timetable for their execution), and resources to be applied toward improving the capability of the Veterans Health Administration to meet effectively the treatment and rehabilitation needs of severely chronically mentally ill veterans who are eligible for Department care.

"(2) Not later than February 1, 1998, and February 1 of each of the three following years, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report containing information updating the reports submitted under this subsection before the submission of such report.". Reports.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 73 is amended by inserting after the item relating to section 7320, as added by section 334(a)(2), the following new item:

"7321. Committee on Care of Severely Chronically Mentally Ill Veterans.".

Subtitle D—Other Provisions

SEC. 341. HOSPICE CARE STUDY. 38 USC 1710 note.

(a) STUDY REQUIRED.—The Secretary of Veterans Affairs shall conduct a research study to determine the desirability of the Secretary furnishing hospice care to terminally ill veterans and to evaluate the most cost-effective and efficient way to do so. The Secretary shall carry out the study using resources and personnel of the Department.

(b) CONDUCT OF STUDY.—In carrying out the study required by subsection (a), the Secretary shall—

(1) evaluate the programs, and the program models, through which the Secretary furnishes hospice care services within or through facilities of the Department of Veterans Affairs and the programs and program models through which non-Department facilities provide such services;

(2) assess the satisfaction of patients, and family members of patients, in each of the program models covered by paragraph (1);

(3) compare the costs (or range of costs) of providing care through each of the program models covered by paragraph (1); and

(4) identify any barriers to providing, procuring, or coordinating hospice services through any of the program models covered by paragraph (1).

(c) PROGRAM MODELS.—For purposes of subsection (b)(1), the Secretary shall evaluate a variety of types of models for delivery of hospice care, including the following:

(1) Direct furnishing of full hospice care by the Secretary.

(2) Direct furnishing of some hospice services by the Secretary.

(3) Contracting by the Secretary for the furnishing of hospice care, with a commitment that the Secretary will provide any further required hospital care for the patient.

(4) Contracting for all required care to be furnished outside the Department.

(5) Referral of the patient for hospice care without a contract.

(d) REPORT.—Not later than April 1, 1998, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the research study. The report shall set forth the Secretary's findings and recommendations. The Secretary shall include in the report information on the extent to which the Secretary advises veterans concerning their eligibility for hospice care and information on the number of veterans (as of the time of the report) who are in each model of hospice care described in subsection (c) and the average cost per patient of hospice care for each such model.

SEC. 342. PAYMENT TO STATES OF PER DIEM FOR VETERANS RECEIVING ADULT DAY HEALTH CARE.

(a) PAYMENT OF PER DIEM FOR VETERANS RECEIVING ADULT DAY CARE.—Section 1741 is amended—

(1) by inserting "(1)" after "(a)";

(2) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively; and

(3) by adding at the end the following new paragraph (2):

"(2) The Secretary may pay each State per diem at a rate determined by the Secretary for each veteran receiving adult day health care in a State home, if such veteran is eligible for such care under laws administered by the Secretary.".

(b) ASSISTANCE TO STATES FOR CONSTRUCTION OF ADULT DAY CARE FACILITIES.—(1) Section 8131(3) is amended by inserting "adult day health," before "or hospital care".

(2) Section 8132 is amended by inserting "adult day health," before "or hospital care".

(3) Section 8135(b) is amended—

(A) in paragraph (2)(C), by inserting "or adult day health care facilities" after "domiciliary beds"; and

(B) in paragraph (3)(A), by inserting "or construction (other than new construction) of adult day health care buildings" before the semicolon.

SEC. 343. RESEARCH CORPORATIONS.

(a) RENEWAL OF AUTHORITY.—Section 7368 is amended by striking out "December 31, 1992" and inserting in lieu thereof "December 31, 2000".

(b) CLARIFICATION OF TAX-EXEMPT STATUS.—Sections 7361(b) and 7363(c) are amended by striking out "section 501(c)(3) of".

(c) PERIODIC AUDITS.—Subsection (b) of section 7366 is amended by striking out "The corporation" in the second sentence and all that follows through "shall include that report" and inserting in lieu thereof the following: "A corporation with revenues in excess of $300,000 for any year shall obtain an audit of the corporation for that year. A corporation with annual revenues between $10,000 and $300,000 shall obtain an independent audit of the corporation at least once every three years. Any audit under the preceding sentences shall be performed by an independent auditor. The corporation shall include the most recent such audit".

(d) COMPLIANCE WITH CONFLICT OF INTEREST LAWS AND REGULATIONS.—Subsection (c)(2) of section 7366 is amended by striking out "an annual statement signed by the director or employee certifying that the director or" and inserting in lieu thereof "a statement signed by the executive director of the corporation certifying that each director and".

(e) REVISED REPORTING REQUIREMENT.—Subsection (d) of section 7366 is amended to read as follows:

"(d) The Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives an annual report on the corporations established under this subchapter. The report shall set forth the following information:

"(1) The location of each corporation.

"(2) The amount received by each corporation during the previous year, including—

"(A) the total amount received;

"(B) the amount received from governmental entities;

"(C) the amount received from all other sources; and

"(D) if the amount received from a source referred to in subparagraph (C) exceeded $25,000, information that identifies the source.

"(3) The amount expended by each corporation during the year, including—

"(A) the amount expended for salary for research staff and for salary for support staff;

"(B) the amount expended for direct support of research; and

"(C) if the amount expended with respect to any payee exceeded $35,000, information that identifies the payee.".

SEC. 344. VETERANS HEALTH ADMINISTRATION HEADQUARTERS.

Section 7306 is amended by adding at the end the following new subsection:

"(f) In organizing the Office and appointing persons to positions in the Office, the Under Secretary shall ensure that—

"(1) the Office is staffed so as to provide the Under Secretary, through a designated clinician in the appropriate discipline in each instance, with expertise and direct policy guidance on—

"(A) unique programs operated by the Administration to provide for the specialized treatment and rehabilitation

of disabled veterans (including blind rehabilitation, care of spinal cord dysfunction, mental illness, and long-term care); and

"(B) the programs established under section 1712A of this title; and

"(2) with respect to the programs established under section 1712A of this title, a clinician with appropriate expertise in those programs is responsible to the Under Secretary for the management of those programs.".

SEC. 345. DISBURSEMENT AGREEMENTS RELATING TO MEDICAL RESIDENTS AND INTERNS.

Section 7406(c) is amended—

(1) by striking out "Department hospital" each place it appears and inserting in lieu thereof "Department facility furnishing hospital care or medical services";

(2) by striking out "participating hospital" in paragraph (4)(C) and inserting in lieu thereof "participating facility"; and

(3) by striking out "hospital" both places it appears in paragraph (5) and inserting in lieu thereof "facility".

SEC. 346. AUTHORITY TO SUSPEND SPECIAL PAY AGREEMENTS FOR PHYSICIANS AND DENTISTS WHO ENTER RESIDENCY TRAINING PROGRAMS.

Section 7432(b)(2) is amended—

(1) by inserting "(A)" after "(2)"; and

(2) by adding at the end the following:

"(B) The Secretary may suspend a special pay agreement entered into under this section in the case of a physician or dentist who, having entered into the special pay agreement, enters a residency training program. Any such suspension shall terminate when the physician or dentist completes, withdraws from, or is no longer a participant in the program. During the period of such a suspension, the physician or dentist is not subject to the provisions of paragraph (1).".

SEC. 347. REMUNERATED OUTSIDE PROFESSIONAL ACTIVITIES BY VETERANS HEALTH ADMINISTRATION PERSONNEL.

(a) AUTHORITY.—Subsection (b) of section 7423 is amended—

(1) by striking out paragraph (1); and

(2) by redesignating paragraphs (2) through (6) as paragraphs (1) through (5), respectively.

(b) CONFORMING AMENDMENT.—Subsection (c) of such section is amended in the matter preceding paragraph (1) by striking out "subsection (b)(6)" and inserting in lieu thereof "subsection (b)(5)".

SEC. 348. MODIFICATION OF RESTRICTIONS ON REAL PROPERTY, MILWAUKEE COUNTY, WISCONSIN.

(a) MODIFICATION OF REVERSIONARY INTEREST.—The Secretary of Veterans Affairs is authorized to execute such instruments as may be necessary to modify the conditions under which the land described in subsection (b) will revert to the United States in order—

(1) to permit Milwaukee County, Wisconsin, to grant all or part of such land to another party with a condition on such grant that the grantee use such land only for civic and recreational purposes; and

(2) to provide that the conditions under which title to all or any part of such land reverts to the United States are stated so that any such reversion would occur at the option of the United States.

(b) DESCRIPTION OF LAND.—The land covered by this section is the tract of 28 acres of land, more or less, conveyed to Milwaukee County, Wisconsin, pursuant to the Act entitled "An Act authorizing the Administrator of Veterans' Affairs to convey certain property to Milwaukee County, Wisconsin", approved August 27, 1954 (68 Stat. 866). Wisconsin.

(c) GENERAL AUTHORITIES.—The Secretary may carry out this section subject to such terms and conditions (including reservations of rights for the United States) as the Secretary considers necessary to protect the interests of the United States. In carrying out this section, the Secretary may eliminate any existing covenant or restriction with respect to the tract of land described in subsection (b) which the Secretary determines to be no longer necessary to protect the interests of the United States.

SEC. 349. MODIFICATION OF RESTRICTIONS ON REAL PROPERTY, CHEYENNE, WYOMING.

(a) MODIFICATION OF REVERSIONARY INTEREST.—The Secretary of Veterans Affairs is authorized to execute such instruments as may be necessary to modify the conditions under which the land described in subsection (b) will revert to the United States in order to permit the City of Cheyenne, Wyoming, to grant all or part of such land to the First Cheyenne Federal Credit Union (formerly known as the Cheyenne VAF Federal Credit Union) with a condition on such grant that the First Cheyenne Federal Credit Union use such land only for the purpose of constructing a building to house its operations.

(b) DESCRIPTION OF LAND.—The land covered by this section is the tract of 27 acres of land, more or less, conveyed to the City of Cheyenne, Wyoming, pursuant to the Act entitled "An Act authorizing the Administrator of Veterans' Affairs to convey certain property to the City of Cheyenne, Wyoming", approved November 8, 1965 (79 Stat. 1304).

(c) TERMS OF REVERSIONARY INTEREST.—In carrying out this section, the Secretary may cause the statement of the conditions under which title to all or any part of the land described in subsection (b) reverts to the United States to be revised so that any such reversion would occur at the option of the United States.

(d) GENERAL AUTHORITIES.—The Secretary may carry out this section subject to such terms and conditions (including reservations of rights for the United States) as the Secretary considers necessary to protect the interests of the United States. In carrying out this section, the Secretary may eliminate any existing covenant or restriction with respect to the tract of land described in subsection (b) which the Secretary determines to be no longer necessary to protect the interests of the United States.

SEC. 350. NAME OF DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER, JOHNSON CITY, TENNESSEE.

(a) NAME.—The Mountain Home Department of Veterans Affairs Medical Center in Johnson City, Tennessee, shall after the date of the enactment of this Act be known and designated as the "James H. Quillen Department of Veterans Affairs Medical Center". Any reference to such medical center in any law,

regulation, map, document, record, or other paper of the United States shall be considered to be a reference to the James H. Quillen Department of Veterans Affairs Medical Center.

(b) EFFECTIVE DATE.—Subsection (a) shall take effect at noon on January 3, 1997.

SEC. 351. REPORT ON HEALTH CARE NEEDS OF VETERANS IN EAST CENTRAL FLORIDA.

(a) REPORT REQUIRED.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the health care needs of veterans in east central Florida. In preparing the report, the Secretary shall consider the needs of such veterans for psychiatric and long-term care. The Secretary shall include in the report the Secretary's views, based on the Secretary's determination of such needs, as to the best means of meeting such needs using the amounts appropriated pursuant to the authorization of appropriations in this Act and Public Law 103–452 for projects to meet the health care needs of such veterans. The Secretary may, subject to the availability of appropriations for such purpose, use an independent contractor to assist in the determination of such health care needs.

(b) LIMITATION.—The Secretary may not obligate any funds, other than for design work, for the conversion of the former Orlando Naval Training Center Hospital in Orlando, Florida (now under the jurisdiction of the Secretary of Veterans Affairs), to a nursing home care unit until 45 days after the date on which the report required by subsection (a) is submitted.

SEC. 352. EVALUATION OF HEALTH STATUS OF SPOUSES AND CHILDREN OF PERSIAN GULF WAR VETERANS.

(a) EXTENSION OF AUTHORITY.—Subsection (b) of section 107 of the Persian Gulf War Veterans' Benefits Act (title I of Public Law 103–446; 108 Stat. 4652; 38 U.S.C. 1117 note) is amended by striking out "September 30, 1996" and inserting in lieu thereof "December 31, 1998".

(b) RATIFICATION OF ACTIONS.—Any diagnostic testing and medical examinations undertaken by the Secretary of Veterans Affairs for the purpose of the study required by subsection (a) of such section during the period beginning on October 1, 1996, and ending on the date of the enactment of this Act is hereby ratified. 38 USC 1117 note.

Approved October 9, 1996.

LEGISLATIVE HISTORY—H.R. 3118 (S. 1359):

HOUSE REPORTS: No. 104–690 (Comm. on Veterans' Affairs).
SENATE REPORTS: No. 104–372 accompanying S. 1359 (Comm. on Veterans' Affairs).
CONGRESSIONAL RECORD, Vol. 142 (1996):
July 30, considered and passed House.
Sept. 28, considered and passed Senate, amended. House concurred in Senate amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 32 (1996):
Oct. 9, Presidential statement.

Public Law 104–263
104th Congress

An Act

Oct. 9, 1996
[H.R. 3458]

To increase, effective as of December 1, 1996, the rates of disability compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for survivors of certain service-connected disabled veterans, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Veterans' Compensation Cost-of-Living Adjustment Act of 1996.
38 USC 101 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans' Compensation Cost-of-Living Adjustment Act of 1996".

38 USC 1114 note.

SEC. 2. INCREASE IN COMPENSATION RATES AND LIMITATIONS.

(a) IN GENERAL.—(1) The Secretary of Veterans Affairs shall, as provided in paragraph (2), increase, effective December 1, 1996, the rates of and limitations on Department of Veterans Affairs disability compensation and dependency and indemnity compensation.

(2) The Secretary shall increase each of the rates and limitations in sections 1114, 1115(1), 1162, 1311, 1313, and 1314 of title 38, United States Code, that were increased by the amendments made by the Veterans' Compensation Cost-of-Living Adjustment Act of 1995 (Public Law 104–57; 109 Stat. 555). This increase shall be made in such rates and limitations as in effect on November 30, 1996, and shall be by the same percentage that benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased effective December 1, 1996, as a result of a determination under section 215(i) of such Act (42 U.S.C. 415(i)).

(b) SPECIAL RULE.—The Secretary may adjust administratively, consistent with the increases made under subsection (a)(2), the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85–857 (72 Stat. 1263) who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

Federal Register, publication.

(c) PUBLICATION REQUIREMENT.—At the same time as the matters specified in section 215(i)(2)(D) of the Social Security Act (42 U.S.C. 415(i)(2)(D)) are required to be published by reason of a determination made under section 215(i) of such Act during fiscal year 1996, the Secretary shall publish in the Federal Register the rates and limitations referred to in subsection (a)(2) as increased under this section.

Approved October 9, 1996.

LEGISLATIVE HISTORY—H.R. 3458 (S. 1791):

HOUSE REPORTS: No. 104–647 (Comm. on Veterans' Affairs).
SENATE REPORTS: No. 104–367 accompanying S. 1791 (Comm. on Veterans' Affairs).
CONGRESSIONAL RECORD, Vol. 142 (1996):
July 16, considered and passed House.
Sept. 26, considered and passed Senate, amended, in lieu of S. 1791.
Sept. 28, House concurred in Senate amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 32 (1996):
Oct. 9, Presidential statement.

Public Law 104–264
104th Congress

An Act

To amend title 49, United States Code, to reauthorize programs of the Federal Aviation Administration, and for other purposes.

Oct. 9, 1996
[H.R. 3539]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Federal Aviation Reauthorization Act of 1996.
49 USC 40101 note.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Federal Aviation Reauthorization Act of 1996".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.
Sec. 2. Amendments to title 49, United States Code.
Sec. 3. Applicability.

TITLE I—AIRPORT AND AIRWAY IMPROVEMENTS

Subtitle A—Reauthorization of FAA Programs

Sec. 101. Airport improvement program.
Sec. 102. Airway facilities improvement program.
Sec. 103. FAA operations.

Subtitle B—Airport Development Financing

Sec. 121. Apportionments.
Sec. 122. Discretionary fund.
Sec. 123. Use of apportioned amounts.
Sec. 124. Designating current and former military airports.
Sec. 125. Period of applicability of amendments.

Subtitle C—Airport Improvement Program Modifications

Sec. 141. Intermodal planning.
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Sec. 143. Access to airports by intercity buses.
Sec. 144. Cost reimbursement for projects commenced prior to grant award.
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Sec. 146. Small airport fund.
Sec. 147. State block grant program.
Sec. 148. Innovative financing techniques.
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TITLE II—FAA REFORM

Sec. 201. Short title.
Sec. 202. Definitions.
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Subtitle A—General Provisions

Sec. 221. Findings.
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Sec. 223. Regulation of civilian air transportation and related services by the Federal Aviation Administration and Department of Transportation.
Sec. 224. Regulations.
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Sec. 227. Facilities.
Sec. 228. Property.
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Sec. 230. Management Advisory Council.

Subtitle B—Federal Aviation Administration Streamlining Programs

Sec. 251. Review of acquisition management system.
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Sec. 253. Federal Aviation Administration personnel management system.
Sec. 254. Conforming amendment.

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Sec. 271. Findings.
Sec. 272. Purposes.
Sec. 273. User fees for various Federal Aviation Administration services.
Sec. 274. Independent assessment of FAA financial requirements; establishment of National Civil Aviation Review Commission.
Sec. 275. Procedure for consideration of certain funding proposals.
Sec. 276. Administrative provisions.
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Sec. 278. Rural Air Service Survival Act.

TITLE III—AVIATION SECURITY

Sec. 301. Report including proposed legislation on funding for airport security.
Sec. 302. Certification of screening companies.
Sec. 303. Weapons and explosive detection study.
Sec. 304. Requirement for criminal history records checks.
Sec. 305. Interim deployment of commercially available explosive detection equipment.
Sec. 306. Audit of performance of background checks for certain personnel.
Sec. 307. Passenger profiling.
Sec. 308. Authority to use certain funds for airport security programs and activities.
Sec. 309. Development of aviation security liaison agreement.
Sec. 310. Regular joint threat assessments.
Sec. 311. Baggage match report.
Sec. 312. Enhanced security programs.
Sec. 313. Report on air cargo.
Sec. 314. Sense of the Senate regarding acts of international terrorism.

TITLE IV—AVIATION SAFETY

Sec. 401. Elimination of dual mandate.
Sec. 402. Protection of voluntarily submitted information.
Sec. 403. Supplemental type certificates.
Sec. 404. Certification of small airports.
Sec. 405. Authorization for State-specific safety measures.
Sec. 406. Aircraft engine standards.
Sec. 407. Accident and safety data classification; report on effects of publication and automated surveillance targeting systems.

TITLE V—PILOT RECORD SHARING

Sec. 501. Short title.
Sec. 502. Employment investigations of pilot applicants.
Sec. 503. Studies of minimum standards for pilot qualifications and of pay for training.
Sec. 504. Study of minimum flight time.

TITLE VI—CHILD PILOT SAFETY

Sec. 601. Short title.
Sec. 602. Child pilot safety.

TITLE VII—FAMILY ASSISTANCE

Sec. 701. Short title.
Sec. 702. Assistance by National Transportation Safety Board to families of passengers involved in aircraft accidents.
Sec. 703. Air carrier plans to address needs of families of passengers involved in aircraft accidents.
Sec. 704. Establishment of task force.
Sec. 705. Limitation on statutory construction.

TITLE VIII—AIRPORT REVENUE PROTECTION

Sec. 801. Short title.

Sec. 802. Findings; purpose.
Sec. 803. Definitions.
Sec. 804. Restriction on use of airport revenues.
Sec. 805. Regulations; audits and accountability.
Sec. 806. Conforming amendments to the Internal Revenue Code of 1986.

TITLE IX—METROPOLITAN WASHINGTON AIRPORTS

Sec. 901. Short title.
Sec. 902. Use of leased property.
Sec. 903. Board of Directors.
Sec. 904. Termination of Board of Review.
Sec. 905. Limitations.
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Sec. 907. Effect of judicial order.
Sec. 908. Amendment of lease.
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TITLE X—EXTENSION OF AIRPORT AND AIRWAY TRUST FUND EXPENDITURES

Sec. 1001. Extension of Airport and Airway Trust Fund expenditures.

TITLE XI—FAA RESEARCH, ENGINEERING, AND DEVELOPMENT

Sec. 1101. Short title.
Sec. 1102. Authorization of appropriations.
Sec. 1103. Research priorities.
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TITLE XII—MISCELLANEOUS PROVISIONS

Sec. 1201. Purchase of housing units.
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Sec. 1203. Authority to close airport located near closed or realigned military base.
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Sec. 1206. Westchester County Airport, New York.
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Sec. 1208. Worcester Municipal Airport, Massachusetts.
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Sec. 1210. Aircraft Noise Ombudsman.
Sec. 1211. Special rule for privately owned reliever airports.
Sec. 1212. Sense of the Senate regarding the funding of the Federal Aviation Administration.
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Sec. 1215. Special flight rules in the vicinity of Grand Canyon National Park.
Sec. 1216. Transfer of air traffic control tower; closing of flight service stations.
Sec. 1217. Location of Doppler radar stations, New York.
Sec. 1218. Train whistle requirements.
Sec. 1219. Increased fees.
Sec. 1220. Structures interfering with air commerce.
Sec. 1221. Hawaii cargo.
Sec. 1222. Limitation on authority of States to regulate gambling devices on vessels.
Sec. 1223. Clarifying amendment.

SEC. 2. AMENDMENTS TO TITLE 49, UNITED STATES CODE.

Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision of law, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

SEC. 3. APPLICABILITY. 49 USC 106 note.

(a) IN GENERAL.—Except as otherwise specifically provided, this Act and the amendments made by this Act apply only to fiscal years beginning after September 30, 1996.

(b) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this Act or any amendment made by this Act shall be construed as

affecting funds made available for a fiscal year ending before October 1, 1996.

TITLE I—AIRPORT AND AIRWAY IMPROVEMENTS

Subtitle A—Reauthorization of FAA Programs

SEC. 101. AIRPORT IMPROVEMENT PROGRAM.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 48103 is amended—

(1) by striking "September 30, 1981" and inserting "September 30, 1996"; and

(2) by striking "$17,583,500,000" and all that follows through the period at the end and inserting the following: "$2,280,000,000 for fiscal years ending before October 1, 1997, and $4,627,000,000 for fiscal years ending before October 1, 1998.".

(b) OBLIGATIONAL AUTHORITY.—Section 47104(c) is amended by striking "1996" and inserting "1998".

SEC. 102. AIRWAY FACILITIES IMPROVEMENT PROGRAM.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 48101(a) is amended by striking paragraphs (1) through (4) and inserting the following:

"(1) $2,068,000,000 for fiscal year 1997.

"(2) $2,129,000,000 for fiscal year 1998.".

(b) CLERICAL AMENDMENTS.—Chapter 481 is amended—

(1) by striking the heading for section 48101 and inserting the following:

"§ 48101. Air navigation facilities and equipment"; and

(2) in the table of sections by striking the item relating to section 48101 and inserting the following:

"48101. Air navigation facilities and equipment.".

SEC. 103. FAA OPERATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS FROM GENERAL FUND.—Section 106(k) is amended by striking "$4,088,000,000" and all that follows through the period at the end and inserting the following: "$5,158,000,000 for fiscal year 1997 and $5,344,000,000 for fiscal year 1998.".

(b) AUTHORIZATION OF APPROPRIATIONS FROM TRUST FUND.—Section 48104(c) is amended—

(1) in the subsection heading by striking "1996" and inserting "1998";

(2) in the matter preceding paragraph (1) by striking "1994, 1995, and 1996" and inserting "1994 through 1998"; and

(3) in paragraph (2)(A) by striking "70 percent" and inserting "72.5 percent".

(c) LIMITATION ON OBLIGATING OR EXPENDING AMOUNTS.—Section 48108(c) is amended by striking "1996" and inserting "1998".

(d) CLERICAL AMENDMENTS.—Chapter 481 is amended—

(1) by striking the heading for section 48104 and inserting the following:

"§ 48104. Operations and maintenance"; and

(2) in the table of sections by striking the item relating to section 48104 and inserting the following:

"48104. Operations and maintenance.".

Subtitle B—Airport Development Financing

SEC. 121. APPORTIONMENTS.

(a) AMOUNTS APPORTIONED TO SPONSORS.—

(1) PRIMARY AIRPORTS.—Section 47114(c)(1)(A) is amended—

(A) by striking "and" at the end of clause (iii);

(B) in clause (iv) by striking "additional passenger boarding" and inserting "of the next 500,000 passenger boardings";

(C) by striking the period at the end of clause (iv) and inserting "; and"; and

(D) by adding at the end the following:

"(v) $.50 for each additional passenger boarding at the airport during the prior calendar year.".

(2) CARGO ONLY AIRPORTS.—Section 47114(c)(2) of such title is amended to read as follows:

"(2) CARGO ONLY AIRPORTS.—

"(A) APPORTIONMENT.—Subject to subparagraph (D), the Secretary shall apportion an amount equal to 2.5 percent of the amount subject to apportionment each fiscal year to the sponsors of airports served by aircraft providing air transportation of only cargo with a total annual landed weight of more than 100,000,000 pounds.

"(B) SUBALLOCATION FORMULA.—Any funds apportioned under subparagraph (A) to sponsors of airports described in subparagraph (A) shall be allocated among those airports in the proportion that the total annual landed weight of aircraft described in subparagraph (A) landing at each of those airports bears to the total annual landed weight of those aircraft landing at all those airports.

"(C) LIMITATION.—Not more than 8 percent of the amount apportioned under subparagraph (A) may be apportioned for any one airport.

"(D) DISTRIBUTION TO OTHER AIRPORTS.—Before apportioning amounts to the sponsors of airports under subparagraph (A) for a fiscal year, the Secretary may set-aside a portion of such amounts for distribution to the sponsors of other airports, selected by the Secretary, that the Secretary finds will be served primarily by aircraft providing air transportation of only cargo.

"(E) DETERMINATION OF LANDED WEIGHT.—Landed weight under this paragraph is the landed weight of aircraft landing at each airport described in subparagraph (A) during the prior calendar year.".

(3) REPEAL OF LIMITATION.—Section 47114(c)(3) is repealed.

(b) AMOUNTS APPORTIONED TO STATES.—Section 47114(d)(2) of such title is amended—

(1) by striking "12" and inserting "18.5";

(2) in subparagraph (A) by striking "one" and inserting "0.66";

(3) in each of subparagraphs (B) and (C) by striking "49.5" and inserting "49.67"; and

(4) in each of subparagraphs (B) and (C) by striking "except" the second place it appears and all that follows through "title," and inserting "excluding primary airports but including reliever and nonprimary commercial service airports,".

SEC. 122. DISCRETIONARY FUND.

Section 47115 is amended by striking the second subsection (f), relating to minimum amounts to be credited, and inserting the following:

"(g) MINIMUM AMOUNT TO BE CREDITED.—

"(1) GENERAL RULE.—In a fiscal year, there shall be credited to the fund, out of amounts made available under section 48103 of this title, an amount that is at least equal to the sum of—

"(A) $148,000,000; plus

"(B) the total amount required from the fund to carry out in the fiscal year letters of intent issued before January 1, 1996, under section 47110(e) of this title or the Airport and Airway Improvement Act of 1982.

The amount credited is exclusive of amounts that have been apportioned in a prior fiscal year under section 47114 of this title and that remain available for obligation.

"(2) REDUCTION OF APPORTIONMENTS.—In a fiscal year in which the amount credited under subsection (a) is less than the minimum amount to be credited under paragraph (1), the total amount calculated under paragraph (3) shall be reduced by an amount that, when credited to the fund, together with the amount credited under subsection (a), equals such minimum amount.

"(3) AMOUNT OF REDUCTION.—For a fiscal year, the total amount available to make a reduction to carry out paragraph (2) is the total of the amounts determined under sections 47114(c)(1)(A), 47114(c)(2), 47114(d), and 47117(e) of this title. Each amount shall be reduced by an equal percentage to achieve the reduction.

"(4) SPECIAL RULE.—For a fiscal year in which the amount credited to the fund under this subsection exceeds $300,000,000, the Secretary shall allocate the amount of such excess as follows:

"(A) ⅓ shall be made available to airports for which apportionments are made under section 47114(d) of this title.

"(B) ⅓ shall be made available for airport noise compatibility planning under section 47505(a)(2) of this title and for carrying out noise compatibility programs under section 47504(c)(1) of this title.

"(C) ⅓ shall be made available to current or former military airports for which grants may be made under section 47117(e)(1)(B) of this title.".

SEC. 123. USE OF APPORTIONED AMOUNTS.

(a) PERIOD OF AVAILABILITY.—Section 47117(b) is amended by inserting before the period at the end of the first sentence the following: "or the 3 fiscal years immediately following that year in the case of a primary airport that had less than .05 percent of the total boardings in the United States in the preceding calendar year".

(b) SPECIAL APPORTIONMENT CATEGORIES.—Section 47117(e)(1) is amended—

(1) by striking "made available under section 48103" and inserting "available to the discretionary fund under section 47115";

(2) by striking subparagraphs (A), (C), and (D);

(3) by redesignating subparagraphs (B) and (E) as subparagraphs (A) and (B), respectively;

(4) in subparagraph (A), as so redesignated, by striking "at least 12.5" and inserting "At least 31";

(5) by adding at the end of subparagraph (A), as so redesignated, the following: "The Secretary may count the amount of grants made for such planning and programs with funds apportioned under section 47114 in that fiscal year in determining whether or not such 31 percent requirement is being met in that fiscal year.";

(6) in subparagraph (B), as so redesignated, by striking "at least 2.25" and all that follows through "1996," and inserting "At least 4 percent for each fiscal year thereafter"; and

(7) by inserting before the period at the end of subparagraph (B), as so redesignated, the following: "and to sponsors of noncommercial service airports for grants for operational and maintenance expenses at any such airport if the amount of such grants to the sponsor of the airport does not exceed $30,000 in that fiscal year, if the Secretary determines that the airport is adversely affected by the closure or realignment of a military base, and if the sponsor of the airport certifies that the airport would otherwise close if the airport does not receive the grant".

(c) CONFORMING AMENDMENTS.—Section 47117(e) is amended—

(1) by striking paragraph (2); and

(2) by redesignating paragraph (3) as paragraph (2).

SEC. 124. DESIGNATING CURRENT AND FORMER MILITARY AIRPORTS.

(a) GENERAL REQUIREMENTS.—Section 47118(a) is amended to read as follows:

"(a) GENERAL REQUIREMENTS.—The Secretary of Transportation shall designate current or former military airports for which grants may be made under section 47117(e)(1)(B) of this title. The maximum number of airports bearing such designation at any time is 12. The Secretary may only so designate an airport (other than an airport so designated before August 24, 1994) if—

"(1) the airport is a former military installation closed or realigned under—

"(A) section 2687 of title 10;

"(B) section 201 of the Defense Authorization Amendments and Base Closure and Realignment Act (10 U.S.C. 2687 note); or

"(C) section 2905 of the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note); or

"(2) the Secretary finds that such grants would—

"(A) reduce delays at an airport with more than 20,000 hours of annual delays in commercial passenger aircraft takeoffs and landings; or

"(B) enhance airport and air traffic control system capacity in a metropolitan area or reduce current and projected flight delays.".

(b) ADDITIONAL DESIGNATION PERIODS.—Section 47118(d) is amended by striking "designation." and inserting "designation, and for subsequent 5-fiscal-year periods if the Secretary determines that the airport satisfies the designation criteria under subsection (a) at the beginning of each such subsequent 5-fiscal-year period.".

(c) PARKING LOTS, FUEL FARMS, UTILITIES, AND HANGARS.—Section 47118(f) is amended—

(1) in the heading by striking "AND UTILITIES" and inserting "UTILITIES, AND HANGARS";

(2) by striking "for the fiscal years ending September 30, 1993–1996," and inserting "for fiscal years beginning after September 30, 1992,"; and

(3) by striking "and utilities" and inserting "utilities, and hangars".

(d) 2-YEAR EXTENSION.—Section 47117(e)(1)(B), as redesignated by section 123(b) of this Act, is amended by striking "and 1996," and inserting "1996, 1997, and 1998".

49 USC 47114 note.

SEC. 125. PERIOD OF APPLICABILITY OF AMENDMENTS.

The amendments made by this subtitle shall cease to be effective on September 30, 1998. On and after such date, sections 47114, 47115, 47117, and 47118 of title 49, United States Code, shall read as if such amendments had not been enacted.

Subtitle C—Airport Improvement Program Modifications

SEC. 141. INTERMODAL PLANNING.

Section 47101(g) is amended to read as follows:

"(g) INTERMODAL PLANNING.—To carry out the policy of subsection (a)(5) of this section, the Secretary of Transportation shall take each of the following actions:

"(1) COORDINATION IN DEVELOPMENT OF AIRPORT PLANS AND PROGRAMS.—Cooperate with State and local officials in developing airport plans and programs that are based on overall transportation needs. The airport plans and programs shall be developed in coordination with other transportation planning and considering comprehensive long-range land-use plans and overall social, economic, environmental, system performance, and energy conservation objectives. The process of developing airport plans and programs shall be continuing, cooperative, and comprehensive to the degree appropriate to the complexity of the transportation problems.

"(2) GOALS FOR AIRPORT MASTER AND SYSTEM PLANS.—Encourage airport sponsors and State and local officials to develop airport master plans and airport system plans that—

"(A) foster effective coordination between aviation planning and metropolitan planning;

"(B) include an evaluation of aviation needs within the context of multimodal planning; and

"(C) are integrated with metropolitan plans to ensure that airport development proposals include adequate consideration of land use and ground transportation access.

"(3) REPRESENTATION OF AIRPORT OPERATORS ON MPO'S.—Encourage metropolitan planning organizations, particularly in areas with populations greater than 200,000, to establish membership positions for airport operators.".

SEC. 142. PAVEMENT MAINTENANCE PROGRAM.

(a) PAVEMENT MAINTENANCE.—Subchapter I of chapter 471 is amended by adding at the end the following:

"§ 47132. Pavement maintenance

"(a) IN GENERAL.—The Administrator of the Federal Aviation Administration shall issue guidelines to carry out a pavement maintenance pilot project to preserve and extend the useful life of runways, taxiways, and aprons at airports for which apportionments are made under section 47114(d). The guidelines shall provide that the Administrator may designate not more than 10 projects. The guidelines shall provide criteria for the Administrator to use in choosing the projects. At least 2 such projects must be in States without a primary airport that had 0.25 percent or more of the total boardings in the United States in the preceding calendar year. In designating a project, the Administrator shall take into consideration geographical, climatological, and soil diversity.

"(b) EFFECTIVE DATE.—This section shall be effective beginning on the date of the enactment of this section and ending on September 30, 1999.".

(b) COMPLIANCE WITH FEDERAL MANDATES.—

(1) USE OF AIP GRANTS.—Section 47102(3) is amended—

(A) in subparagraph (E) by inserting "or under section 40117" before the period at the end; and

(B) in subparagraph (F) by striking "paid for by a grant under this subchapter and".

(2) USE OF PASSENGER FACILITY CHARGES.—Section 40117(a)(3) is amended—

(A) by inserting "and" at the end of subparagraph (D);

(B) by striking ": and" at the end of subparagraph (E) and inserting a period; and

(C) by striking subparagraph (F).

(c) CONFORMING AMENDMENT.—The table of sections for such subchapter is amended by inserting after the item relating to section 47131 the following:

"47132. Pavement maintenance.".

SEC. 143. ACCESS TO AIRPORTS BY INTERCITY BUSES.

Section 47107(a) is amended—

(1) by striking "and" at the end of paragraph (18);

(2) by striking the period at the end of paragraph (19) and inserting "; and"; and

(3) by adding at the end the following:

"(20) the airport owner or operator will permit, to the maximum extent practicable, intercity buses or other modes of transportation to have access to the airport, but the sponsor

does not have any obligation under this paragraph, or because of it, to fund special facilities for intercity bus service or for other modes of transportation.".

SEC. 144. COST REIMBURSEMENT FOR PROJECTS COMMENCED PRIOR TO GRANT AWARD.

(a) COST REIMBURSEMENT.—Section 47110(b)(2)(C) is amended to read as follows:

"(C) if the Government's share is paid only with amounts apportioned under paragraphs (1) and (2) of section 47114(c) of this title and if the cost is incurred—

"(i) after September 30, 1996;

"(ii) before a grant agreement is executed for the project; and

"(iii) in accordance with an airport layout plan approved by the Secretary and with all statutory and administrative requirements that would have been applicable to the project if the project had been carried out after the grant agreement had been executed;".

(b) USE OF DISCRETIONARY FUNDS.—Section 47110 is amended by adding at the end the following:

"(g) USE OF DISCRETIONARY FUNDS.—A project for which cost reimbursement is provided under subsection (b)(2)(C) shall not receive priority consideration with respect to the use of discretionary funds made available under section 47115 of this title even if the amounts made available under paragraphs (1) and (2) of section 47114(c) are not sufficient to cover the Government's share of the cost of project.".

SEC. 145. SELECTION OF PROJECTS FOR GRANTS FROM DISCRETIONARY FUND.

(a) SELECTION OF PROJECTS FOR GRANTS.—Section 47115(d) is amended—

(1) by striking "; and" at the end of paragraph (2) and inserting the following: ", including, in the case of a project at a reliever airport, the number of operations projected to be diverted from a primary airport to the reliever airport as a result of the project, as well as the cost savings projected to be realized by users of the local airport system;";

(2) by striking the period at the end of paragraph (3) and inserting a semicolon; and

(3) by adding at the end the following:

"(4) the airport improvement priorities of the States, and regional offices of the Administration, to the extent such priorities are not in conflict with paragraphs (1) and (2);

"(5) the projected growth in the number of passengers that will be using the airport at which the project will be carried out; and

"(6) any increase in the number of passenger boardings in the preceding 12-month period at the airport at which the project will be carried out, with priority consideration to be given to projects at airports at which the number of passenger boardings increased by at least 20 percent as compared to the number of passenger boardings in the 12-month period preceding such period.".

(b) PRIORITY FOR LETTERS OF INTENT.—Section 47115, as amended by section 122 of this Act, is further amended by adding at the end the following:

"(h) PRIORITY FOR LETTERS OF INTENT.—In making grants in a fiscal year with funds made available under this section, the Secretary shall fulfill intentions to obligate under section 47110(e).".

SEC. 146. SMALL AIRPORT FUND.

Section 47116 is amended by adding at the end the following:

"(d) PRIORITY CONSIDERATION FOR CERTAIN PROJECTS.—In making grants to sponsors described in subsection (b)(2), the Secretary shall give priority consideration to multi-year projects for construction of new runways that the Secretary finds are cost beneficial and would increase capacity in a region of the United States.".

SEC. 147. STATE BLOCK GRANT PROGRAM.

(a) PARTICIPATING STATES.—Section 47128 is amended—

(1) in subsection (a) by striking "7 qualified States" and inserting "8 qualified States for fiscal year 1997 and 9 qualified States for each fiscal year thereafter";

(2) in subsection (b)(1)—

(A) by striking "(1)"; and

(B) by redesignating subparagraphs (A) through (E) as paragraphs (1) through (5), respectively; and

(3) by striking subsection (b)(2).

(b) USE OF STATE PRIORITY SYSTEM.—Section 47128(c) is amended—

(1) by striking "(b)(1)(B) or (C)" and inserting "(b)(2) or (b)(3)"; and

(2) by adding at the end the following: "In carrying out this subsection, the Secretary shall permit a State to use the priority system of the State if such system is not inconsistent with the national priority system.".

(c) REPEAL OF EXPIRATION DATE.—

(1) IN GENERAL.—Section 47128 is amended—

(A) by striking "**pilot**" in the section heading;

(B) by striking "pilot" in subsection (a); and

(C) by striking subsection (d).

(2) CONFORMING AMENDMENT.—The table of sections for chapter 471 is amended by striking the item relating to section 47128 and inserting the following:

"47128. State block grant program.".

SEC. 148. INNOVATIVE FINANCING TECHNIQUES.

49 USC 47101 note.

(a) IN GENERAL.—The Secretary of Transportation is authorized to carry out a demonstration program under which the Secretary may approve applications under subchapter I of chapter 471 of title 49, United States Code, for not more than 10 projects for which grants received under such subchapter may be used to implement innovative financing techniques.

(b) PURPOSE.—The purpose of the demonstration program shall be to provide information on the use of innovative financing techniques for airport development projects to Congress and the National Civil Aviation Review Commission.

(c) LIMITATION.—In no case shall the implementation of an innovative financing technique under the demonstration program result in a direct or indirect guarantee of any airport debt instrument by the Federal Government.

(d) INNOVATIVE FINANCING TECHNIQUE DEFINED.—In this section, the term "innovative financing technique" shall be limited to the following:

(1) Payment of interest.

(2) Commercial bond insurance and other credit enhancement associated with airport bonds for eligible airport development.

(3) Flexible non-Federal matching requirements.

(e) EXPIRATION OF AUTHORITY.—The authority of the Secretary to carry out the demonstration program shall expire on September 30, 1998.

SEC. 149. PILOT PROGRAM ON PRIVATE OWNERSHIP OF AIRPORTS.

(a) ESTABLISHMENT OF PROGRAM.—

(1) IN GENERAL.—Subchapter I of chapter 471, as amended by section 804 of this Act, is further amended by adding after section 47133 the following:

"§ 47134. Pilot program on private ownership of airports

"(a) SUBMISSION OF APPLICATIONS.—If a sponsor intends to sell or lease a general aviation airport or lease any other type of airport for a long term to a person (other than a public agency), the sponsor and purchaser or lessee may apply to the Secretary of Transportation for exemptions under this section.

"(b) APPROVAL OF APPLICATIONS.—The Secretary may approve, with respect to not more than 5 airports, applications submitted under subsection (a) granting exemptions from the following provisions:

"(1) USE OF REVENUES.—

"(A) IN GENERAL.—The Secretary may grant an exemption to a sponsor from the provisions of sections 47107(b) and 47133 of this title (and any other law, regulation, or grant assurance) to the extent necessary to permit the sponsor to recover from the sale or lease of the airport such amount as may be approved—

"(i) by at least 65 percent of the air carriers serving the airport; and

"(ii) by air carriers whose aircraft landing at the airport during the preceding calendar year had a total landed weight during the preceding calendar year of at least 65 percent of the total landed weight of all aircraft landing at the airport during such year.

Regulations.

"(B) LANDED WEIGHT DEFINED.—In this paragraph, the term 'landed weight' means the weight of aircraft transporting passengers or cargo, or both, in intrastate, interstate, and foreign air transportation, as the Secretary determines under regulations the Secretary prescribes.

"(2) REPAYMENT REQUIREMENTS.—The Secretary may grant an exemption to a sponsor from the provisions of sections 47107 and 47152 of this title (and any other law, regulation, or grant assurance) to the extent necessary to waive any obligation of the sponsor to repay to the Federal Government any grants, or to return to the Federal Government any property, received by the airport under this title, the Airport and Airway Improvement Act of 1982, or any other law.

"(3) COMPENSATION FROM AIRPORT OPERATIONS.—The Secretary may grant an exemption to a purchaser or lessee from the provisions of sections 47107(b) and 47133 of this title (and any other law, regulation, or grant assurance) to the extent

necessary to permit the purchaser or lessee to earn compensation from the operations of the airport.

"(c) TERMS AND CONDITIONS.—The Secretary may approve an application under subsection (b) only if the Secretary finds that the sale or lease agreement includes provisions satisfactory to the Secretary to ensure the following:

"(1) The airport will continue to be available for public use on reasonable terms and conditions and without unjust discrimination.

"(2) The operation of the airport will not be interrupted in the event that the purchaser or lessee becomes insolvent or seeks or becomes subject to any State or Federal bankruptcy, reorganization, insolvency, liquidation, or dissolution proceeding or any petition or similar law seeking the dissolution or reorganization of the purchaser or lessee or the appointment of a receiver, trustee, custodian, or liquidator for the purchaser or lessee or a substantial part of the purchaser or lessee's property, assets, or business.

"(3) The purchaser or lessee will maintain, improve, and modernize the facilities of the airport through capital investments and will submit to the Secretary a plan for carrying out such maintenance, improvements, and modernization.

"(4) Every fee of the airport imposed on an air carrier on the day before the date of the lease of the airport will not increase faster than the rate of inflation unless a higher amount is approved—

"(A) by at least 65 percent of the air carriers serving the airport; and

"(B) by air carriers whose aircraft landing at the airport during the preceding calendar year had a total landed weight during the preceding calendar year of at least 65 percent of the total landed weight of all aircraft landing at the airport during such year.

"(5) The percentage increase in fees imposed on general aviation aircraft at the airport will not exceed the percentage increase in fees imposed on air carriers at the airport.

"(6) Safety and security at the airport will be maintained at the highest possible levels.

"(7) The adverse effects of noise from operations at the airport will be mitigated to the same extent as at a public airport.

"(8) Any adverse effects on the environment from airport operations will be mitigated to the same extent as at a public airport.

"(9) Any collective bargaining agreement that covers employees of the airport and is in effect on the date of the sale or lease of the airport will not be abrogated by the sale or lease.

"(d) PARTICIPATION OF CERTAIN AIRPORTS.—

"(1) GENERAL AVIATION AIRPORTS.—If the Secretary approves under subsection (b) applications with respect to 5 airports, one of the airports must be a general aviation airport.

"(2) LARGE HUB AIRPORTS.—The Secretary may not approve under subsection (b) more than 1 application submitted by an airport that had 1 percent or more of the total passenger boardings (as defined in section 47102) in the United States in the preceding calendar year.

"(e) REQUIRED FINDING THAT APPROVAL WILL NOT RESULT IN UNFAIR METHODS OF COMPETITION.—The Secretary may approve an application under subsection (b) only if the Secretary finds that the approval will not result in unfair and deceptive practices or unfair methods of competition.

"(f) INTERESTS OF GENERAL AVIATION USERS.—In approving an application of an airport under this section, the Secretary shall ensure that the interests of general aviation users of the airport are not adversely affected.

"(g) PASSENGER FACILITY FEES; APPORTIONMENTS; SERVICE CHARGES.—Notwithstanding that the sponsor of an airport receiving an exemption under subsection (b) is not a public agency, the sponsor shall not be prohibited from—

"(1) imposing a passenger facility fee under section 40117 of this title;

"(2) receiving apportionments under section 47114 of this title; or

"(3) collecting reasonable rental charges, landing fees, and other service charges from aircraft operators under section 40116(e)(2) of this title.

"(h) EFFECTIVENESS OF EXEMPTIONS.—An exemption granted under subsection (b) shall continue in effect only so long as the facilities sold or leased continue to be used for airport purposes.

"(i) REVOCATION OF EXEMPTIONS.—The Secretary may revoke an exemption issued to a purchaser or lessee of an airport under subsection (b)(3) if, after providing the purchaser or lessee with notice and an opportunity to be heard, the Secretary determines that the purchaser or lessee has knowingly violated any of the terms specified in subsection (c) for the sale or lease of the airport.

"(j) NONAPPLICATION OF PROVISIONS TO AIRPORTS OWNED BY PUBLIC AGENCIES.—The provisions of this section requiring the approval of air carriers in determinations concerning the use of revenues, and imposition of fees, at an airport shall not be extended so as to apply to any airport owned by a public agency that is not participating in the program established by this section.

"(k) AUDITS.—The Secretary may conduct periodic audits of the financial records and operations of an airport receiving an exemption under this section.

"(l) REPORT.—Not later than 2 years after the date of the initial approval of an application under this section, the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on implementation of the program under this section.

"(m) GENERAL AVIATION AIRPORT DEFINED.—In this section, the term 'general aviation airport' means an airport that is not a commercial service airport.".

(2) CONFORMING AMENDMENT.—The table of sections for such chapter is amended by inserting after the item relating to section 47133, as added by section 804 of this Act, the following:

"47134. Pilot program on private ownership of airports.".

(b) TAXATION.—Section 40116(b) is amended—

(1) by striking "a State or" and inserting "a State, a"; and

(2) by inserting after "of a State" the following: ", and any person that has purchased or leased an airport under section 47134 of this title".

(c) FEDERAL SHARE.—Section 47109(a) is amended—

(1) by striking "and" at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting "; and"; and

(3) by adding at the end the following:

"(3) 40 percent for a project funded by the Administrator from the discretionary fund under section 47115 at an airport receiving an exemption under section 47134.".

(d) RESOLUTION OF AIRPORT-AIR CARRIER DISPUTES CONCERNING AIRPORT FEES.—Section 47129(a) is amended by adding at the end the following:

"(4) FEES IMPOSED BY PRIVATELY-OWNED AIRPORTS.—In evaluating the reasonableness of a fee imposed by an airport receiving an exemption under section 47134 of this title, the Secretary shall consider whether the airport has complied with section 47134(c)(4).".

TITLE II—FAA REFORM

Air Traffic Management System Performance Improvement Act of 1996.
49 USC 40101 note.

SEC. 201. SHORT TITLE.

This title may be cited as the "Air Traffic Management System Performance Improvement Act of 1996".

SEC. 202. DEFINITIONS.

49 USC 106 note.

In this title, the following definitions apply:

(1) ADMINISTRATION.—The term "Administration" means the Federal Aviation Administration.

(2) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Federal Aviation Administration.

(3) SECRETARY.—The term "Secretary" means the Secretary of Transportation.

SEC. 203. EFFECTIVE DATE.

49 USC 106 note.

The provisions of this title and the amendments made by this title shall take effect on the date that is 30 days after the date of the enactment of this Act.

Subtitle A—General Provisions

SEC. 221. FINDINGS.

49 USC 106 note.

Congress finds the following:

(1) In many respects the Administration is a unique agency, being one of the few non-defense government agencies that operates 24 hours a day, 365 days of the year, while continuing to rely on outdated technology to carry out its responsibilities for a state-of-the-art industry.

(2) Until January 1, 1996, users of the air transportation system paid 70 percent of the budget of the Administration, with the remaining 30 percent coming from the General Fund. The General Fund contribution over the years is one measure of the benefit received by the general public, military, and other users of Administration's services.

(3) The Administration must become a more efficient, effective, and different organization to meet future challenges.

(4) The need to balance the Federal budget means that it may become more and more difficult to obtain sufficient General Fund contributions to meet the Administration's future budget needs.

(5) Congress must keep its commitment to the users of the national air transportation system by seeking to spend all moneys collected from them each year and deposited into the Airport and Airway Trust Fund. Existing surpluses representing past receipts must also be spent for the purposes for which such funds were collected.

(6) The aviation community and the employees of the Administration must come together to improve the system. The Administration must continue to recognize who its customers are and what their needs are, and to design and redesign the system to make safety improvements and increase productivity.

(7) The Administration projects that commercial operations will increase by 18 percent and passenger traffic by 35 percent by the year 2002. Without effective airport expansion and system modernization, these needs cannot be met.

(8) Absent significant and meaningful reform, future challenges and needs cannot be met.

(9) The Administration must have a new way of doing business.

(10) There is widespread agreement within government and the aviation industry that reform of the Administration is essential to safely and efficiently accommodate the projected growth of aviation within the next decade.

(11) To the extent that Congress determines that certain segments of the aviation community are not required to pay all of the costs of the government services which they require and benefits which they receive, Congress should appropriate the difference between such costs and any receipts received from such segment.

(12) Prior to the imposition of any new charges or user fees on segments of the industry, an independent review must be performed to assess the funding needs and assumptions for operations, capital spending, and airport infrastructure.

(13) An independent, thorough, and complete study and assessment must be performed of the costs to the Administration and the costs driven by each segment of the aviation system for safety and operational services, including the use of the air traffic control system and the Nation's airports.

(14) Because the Administration is a unique Federal entity in that it is a participant in the daily operations of an industry, and because the national air transportation system faces significant problems without significant changes, the Administration has been authorized to change the Federal procurement and personnel systems to ensure that the Administration has the ability to keep pace with new technology and is able to match resources with the real personnel needs of the Administration.

(15) The existing budget system does not allow for long-term planning or timely acquisition of technology by the Administration.

(16) Without reforms in the areas of procurement, personnel, funding, and governance, the Administration will continue to experience delays and cost overruns in its major modernization programs and needed improvements in the performance of the air traffic management system will not occur.

(17) All reforms should be designed to help the Administration become more responsive to the needs of its customers and maintain the highest standards of safety.

SEC. 222. PURPOSES. 49 USC 106 note.

The purposes of this title are—

(1) to ensure that final action shall be taken on all notices of proposed rulemaking of the Administration within 18 months after the date of their publication;

(2) to permit the Administration, with Congressional review, to establish a program to improve air traffic management system performance and to establish appropriate levels of cost accountability for air traffic management services provided by the Administration;

(3) to establish a more autonomous and accountable Administration within the Department of Transportation; and

(4) to make the Administration a more efficient and effective organization, able to meet the needs of a dynamic, growing industry, and to ensure the safety of the traveling public.

SEC. 223. REGULATION OF CIVILIAN AIR TRANSPORTATION AND RELATED SERVICES BY THE FEDERAL AVIATION ADMINISTRATION AND DEPARTMENT OF TRANSPORTATION.

(a) IN GENERAL.—Section 106 is amended—

(1) by striking "The Administrator" in subsection (b) and inserting "Except as provided in subsection (f) or in other provisions of law, the Administrator"; and

(2) in subsection (f)—

(A) by striking "(f) The Secretary" and inserting the following:

"(f) AUTHORITY OF THE SECRETARY AND THE ADMINISTRATOR.—

"(1) AUTHORITY OF THE SECRETARY.—Except as provided in paragraph (2), the Secretary";

(B) in subsection (f)(1), as so designated—

(i) by moving the remainder of the text 2 ems to the right;

(ii) by striking "The Secretary may not" and inserting "Neither the Secretary nor the Administrator may"; and

(iii) by striking "nor" and inserting "or"; and

(C) by adding at the end the following:

"(2) AUTHORITY OF THE ADMINISTRATOR.—The Administrator—

"(A) is the final authority for carrying out all functions, powers, and duties of the Administration relating to—

"(i) the appointment and employment of all officers and employees of the Administration (other than Presidential and political appointees);

"(ii) the acquisition and maintenance of property and equipment of the Administration;

"(iii) except as otherwise provided in paragraph (3), the promulgation of regulations, rules, orders,

circulars, bulletins, and other official publications of the Administration; and

"(iv) any obligation imposed on the Administrator, or power conferred on the Administrator, by the Air Traffic Management System Performance Improvement Act of 1996 (or any amendment made by that Act);

"(B) shall offer advice and counsel to the President with respect to the appointment and qualifications of any officer or employee of the Administration to be appointed by the President or as a political appointee;

"(C) may delegate, and authorize successive redelegations of, to an officer or employee of the Administration any function, power, or duty conferred upon the Administrator, unless such delegation is prohibited by law; and

"(D) except as otherwise provided for in this title, and notwithstanding any other provision of law, shall not be required to coordinate, submit for approval or concurrence, or seek the advice or views of the Secretary or any other officer or employee of the Department of Transportation on any matter with respect to which the Administrator is the final authority.

"(3) DEFINITION OF POLITICAL APPOINTEE.—For purposes of this subsection, the term 'political appointee' means any individual who—

"(A) is employed in a position listed in sections 5312 through 5316 of title 5 (relating to the Executive Schedule);

"(B) is a limited term appointee, limited emergency appointee, or noncareer appointee in the Senior Executive Service, as defined under paragraphs (5), (6), and (7), respectively, of section 3132(a) of title 5; or

"(C) is employed in a position in the executive branch of the Government of a confidential or policy-determining character under schedule C of subpart C of part 213 of title 5 of the Code of Federal Regulations.".

49 USC 106 note.

(b) PRESERVATION OF EXISTING AUTHORITY.—Nothing in this title or the amendments made by this title limits any authority granted to the Administrator by statute or by delegation that was in effect on the day before the date of the enactment of this Act.

SEC. 224. REGULATIONS.

Section 106(f), as amended by section 223 of this Act, is further amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following:

"(3) REGULATIONS.—

"(A) IN GENERAL.—In the performance of the functions of the Administrator and the Administration, the Administrator is authorized to issue, rescind, and revise such regulations as are necessary to carry out those functions. The issuance of such regulations shall be governed by the provisions of chapter 5 of title 5. The Administrator shall act upon all petitions for rulemaking no later than 6 months after the date such petitions are filed by dismissing such petitions, by informing the petitioner of an intention to dismiss, or by issuing a notice of proposed rulemaking

or advanced notice of proposed rulemaking. The Administrator shall issue a final regulation, or take other final action, not later than 16 months after the last day of the public comment period for the regulations or, in the case of an advanced notice of proposed rulemaking, if issued, not later than 24 months after the date of publication in the Federal Register of notice of the proposed rulemaking.

"(B) APPROVAL OF SECRETARY OF TRANSPORTATION.—(i) The Administrator may not issue a proposed regulation or final regulation that is likely to result in the expenditure by State, local, and tribal governments in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation beginning with the year following the date of the enactment of the Air Traffic Management System Performance Improvement Act of 1996) in any year, or any regulation which is significant, unless the Secretary of Transportation approves the issuance of the regulation in advance. For purposes of this paragraph, a regulation is significant if the Administrator, in consultation with the Secretary (as appropriate), determines that the regulation is likely to—

"(I) have an annual effect on the economy of $100,000,000 or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

"(II) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

"(III) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

"(IV) raise novel legal or policy issues arising out of legal mandates.

"(ii) In an emergency, the Administrator may issue a regulation described in clause (i) without prior approval by the Secretary, but any such emergency regulation is subject to ratification by the Secretary after it is issued and shall be rescinded by the Administrator within 5 days (excluding Saturdays, Sundays, and legal public holidays) after issuance if the Secretary fails to ratify its issuance.

"(iii) Any regulation that does not meet the criteria of clause (i), and any regulation or other action that is a routine or frequent action or a procedural action, may be issued by the Administrator without review or approval by the Secretary.

"(iv) The Administrator shall submit a copy of any regulation requiring approval by the Secretary under clause (i) to the Secretary, who shall either approve it or return it to the Administrator with comments within 45 days after receiving it.

"(C) PERIODIC REVIEW.—(i) Beginning on the date which is 3 years after the date of the enactment of the Air Traffic Management System Performance Improvement Act of 1996, the Administrator shall review any unusually

burdensome regulation issued by the Administrator after such date of enactment beginning not later than 3 years after the effective date of the regulation to determine if the cost assumptions were accurate, the benefit of the regulations, and the need to continue such regulations in force in their present form.

"(ii) The Administrator may identify for review under the criteria set forth in clause (i) unusually burdensome regulations that were issued before the date of the enactment of the Air Traffic Management System Performance Improvement Act of 1996 and that have been in force for more than 3 years.

"(iii) For purposes of this subparagraph, the term 'unusually burdensome regulation' means any regulation that results in the annual expenditure by State, local, and tribal governments in the aggregate, or by the private sector, of $25,000,000 or more (adjusted annually for inflation beginning with the year following the date of the enactment of the Air Traffic Management System Performance Act of 1996) in any year.

"(iv) The periodic review of regulations may be performed by advisory committees and the Management Advisory Council established under subsection (p).".

SEC. 225. PERSONNEL AND SERVICES.

Section 106 is amended by adding at the end the following:

"(l) PERSONNEL AND SERVICES.—

"(1) OFFICERS AND EMPLOYEES.—Except as provided in section 40122(a) of this title and section 347 of Public Law 104–50, the Administrator is authorized, in the performance of the functions of the Administrator, to appoint, transfer, and fix the compensation of such officers and employees, including attorneys, as may be necessary to carry out the functions of the Administrator and the Administration. In fixing compensation and benefits of officers and employees, the Administrator shall not engage in any type of bargaining, except to the extent provided for in section 40122(a), nor shall the Administrator be bound by any requirement to establish such compensation or benefits at particular levels.

"(2) EXPERTS AND CONSULTANTS.—The Administrator is authorized to obtain the services of experts and consultants in accordance with section 3109 of title 5.

"(3) TRANSPORTATION AND PER DIEM EXPENSES.—The Administrator is authorized to pay transportation expenses, and per diem in lieu of subsistence expenses, in accordance with chapter 57 of title 5.

"(4) USE OF PERSONNEL FROM OTHER AGENCIES.—The Administrator is authorized to utilize the services of personnel of any other Federal agency (as such term is defined under section 551(1) of title 5).

"(5) VOLUNTARY SERVICES.—

"(A) GENERAL RULE.—In exercising the authority to accept gifts and voluntary services under section 326 of this title, and without regard to section 1342 of title 31, the Administrator may not accept voluntary and uncompensated services if such services are used to displace Federal

employees employed on a full-time, part-time, or seasonal basis.

"(B) INCIDENTAL EXPENSES.—The Administrator is authorized to provide for incidental expenses, including transportation, lodging, and subsistence, for volunteers who provide voluntary services under this subsection.

"(C) LIMITED TREATMENT AS FEDERAL EMPLOYEES.—An individual who provides voluntary services under this subsection shall not be considered a Federal employee for any purpose other than for purposes of chapter 81 of title 5, relating to compensation for work injuries, and chapter 171 of title 28, relating to tort claims.".

SEC. 226. CONTRACTS.

Section 106(l), as added by section 225 of this Act, is further amended by adding at the end the following:

"(6) CONTRACTS.—The Administrator is authorized to enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary to carry out the functions of the Administrator and the Administration. The Administrator may enter into such contracts, leases, cooperative agreements, and other transactions with any Federal agency (as such term is defined in section 551(1) of title 5) or any instrumentality of the United States, any State, territory, or possession, or political subdivision thereof, any other governmental entity, or any person, firm, association, corporation, or educational institution, on such terms and conditions as the Administrator may consider appropriate.".

SEC. 227. FACILITIES.

Section 106, as amended by section 225 of this Act, is further amended by adding at the end the following:

"(m) COOPERATION BY ADMINISTRATOR.—With the consent of appropriate officials, the Administrator may, with or without reimbursement, use or accept the services, equipment, personnel, and facilities of any other Federal agency (as such term is defined in section 551(1) of title 5) and any other public or private entity. The Administrator may also cooperate with appropriate officials of other public and private agencies and instrumentalities concerning the use of services, equipment, personnel, and facilities. The head of each Federal agency shall cooperate with the Administrator in making the services, equipment, personnel, and facilities of the Federal agency available to the Administrator. The head of a Federal agency is authorized, notwithstanding any other provision of law, to transfer to or to receive from the Administration, without reimbursement, supplies and equipment other than administrative supplies or equipment.".

SEC. 228. PROPERTY.

Section 106, as amended by section 227 of this Act, is further amended by adding at the end the following:

"(n) ACQUISITION.—

"(1) IN GENERAL.—The Administrator is authorized—

"(A) to acquire (by purchase, lease, condemnation, or otherwise), construct, improve, repair, operate, and maintain—

"(i) air traffic control facilities and equipment;

"(ii) research and testing sites and facilities; and

"(iii) such other real and personal property (including office space and patents), or any interest therein, within and outside the continental United States as the Administrator considers necessary;

"(B) to lease to others such real and personal property; and

"(C) to provide by contract or otherwise for eating facilities and other necessary facilities for the welfare of employees of the Administration at the installations of the Administration, and to acquire, operate, and maintain equipment for these facilities.

"(2) TITLE.—Title to any property or interest therein acquired pursuant to this subsection shall be held by the Government of the United States.".

SEC. 229. TRANSFERS OF FUNDS FROM OTHER FEDERAL AGENCIES.

Section 106, as amended by section 228 of this Act, is further amended by adding at the end the following:

"(o) TRANSFERS OF FUNDS.—The Administrator is authorized to accept transfers of unobligated balances and unexpended balances of funds appropriated to other Federal agencies (as such term is defined in section 551(1) of title 5) to carry out functions transferred by law to the Administrator or functions transferred pursuant to law to the Administrator on or after the date of the enactment of the Air Traffic Management System Performance Improvement Act of 1996.".

SEC. 230. MANAGEMENT ADVISORY COUNCIL.

Section 106, as amended by section 229 of this Act, is further amended by adding at the end the following:

"(p) MANAGEMENT ADVISORY COUNCIL.—

"(1) ESTABLISHMENT.—Within 3 months after the date of the enactment of the Air Traffic Management System Performance Improvement Act of 1996, the Administrator shall establish an advisory council which shall be known as the Federal Aviation Management Advisory Council (in this subsection referred to as the 'Council'). With respect to Administration management, policy, spending, funding, and regulatory matters affecting the aviation industry, the Council may submit comments, recommended modifications, and dissenting views to the Administrator. The Administrator shall include in any submission to Congress, the Secretary, or the general public, and in any submission for publication in the Federal Register, a description of the comments, recommended modifications, and dissenting views received from the Council, together with the reasons for any differences between the views of the Council and the views or actions of the Administrator.

"(2) MEMBERSHIP.—The Council shall consist of 15 members, who shall consist of—

"(A) a designee of the Secretary of Transportation;

"(B) a designee of the Secretary of Defense; and

"(C) 13 members representing aviation interests, appointed by the President by and with the advice and consent of the Senate.

"(3) QUALIFICATIONS.—No member appointed under paragraph (2)(C) may serve as an officer or employee of the United States Government while serving as a member of the Council.

"(4) FUNCTIONS.—

"(A) IN GENERAL.—(i) The Council shall provide advice and counsel to the Administrator on issues which affect or are affected by the operations of the Administrator. The Council shall function as an oversight resource for management, policy, spending, and regulatory matters under the jurisdiction of the Administration.

"(ii) The Council shall review the rulemaking cost-benefit analysis process and develop recommendations to improve the analysis and ensure that the public interest is fully protected.

"(iii) The Council shall review the process through which the Administration determines to use advisory circulars and service bulletins.

"(B) MEETINGS.—The Council shall meet on a regular and periodic basis or at the call of the chairman or of the Administrator.

"(C) ACCESS TO DOCUMENTS AND STAFF.—The Administration may give the Council appropriate access to relevant documents and personnel of the Administration, and the Administrator shall make available, consistent with the authority to withhold commercial and other proprietary information under section 552 of title 5 (commonly known as the 'Freedom of Information Act'), cost data associated with the acquisition and operation of air traffic service systems. Any member of the Council who receives commercial or other proprietary data from the Administrator shall be subject to the provisions of section 1905 of title 18, pertaining to unauthorized disclosure of such information.

"(5) FEDERAL ADVISORY COMMITTEE ACT NOT TO APPLY.—The Federal Advisory Committee Act (5 U.S.C. App.) does not apply to the Council or such aviation rulemaking committees as the Administrator shall designate.

"(6) ADMINISTRATIVE MATTERS.—

"(A) TERMS OF MEMBERS.—(i) Except as provided in subparagraph (B), members of the Council appointed by the President under paragraph (2)(C) shall be appointed for a term of 3 years.

"(ii) Of the members first appointed by the President—

"(I) 4 shall be appointed for terms of 1 year;

"(II) 5 shall be appointed for terms of 2 years; and

"(III) 4 shall be appointed for terms of 3 years.

"(iii) An individual chosen to fill a vacancy shall be appointed for the unexpired term of the member replaced.

"(iv) A member whose term expires shall continue to serve until the date on which the member's successor takes office.

"(B) CHAIRMAN; VICE CHAIRMAN.—The Council shall elect a chair and a vice chair from among the members appointed under paragraph (2)(C), each of whom shall serve for a term of 1 year. The vice chair shall perform the duties of the chairman in the absence of the chairman.

"(C) TRAVEL AND PER DIEM.—Each member of the Council shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from his or her usual place of residence, in accordance with section 5703 of title 5.

"(D) DETAIL OF PERSONNEL FROM THE ADMINISTRATION.—The Administrator shall make available to the Council such staff, information, and administrative services and assistance as may reasonably be required to enable the Council to carry out its responsibilities under this subsection.".

Subtitle B—Federal Aviation Administration Streamlining Programs

49 USC 40110 note.

SEC. 251. REVIEW OF ACQUISITION MANAGEMENT SYSTEM.

Not later than April 1, 1999, the Administrator shall employ outside experts to provide an independent evaluation of the effectiveness of the Administration's acquisition management system within 3 months after such date. The Administrator shall transmit a copy of the evaluation to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

Reports.

SEC. 252. AIR TRAFFIC CONTROL MODERNIZATION REVIEWS.

Chapter 401 is amended by adding at the end the following:

"§ 40121. Air traffic control modernization reviews

"(a) REQUIRED TERMINATIONS OF ACQUISITIONS.—The Administrator of the Federal Aviation Administration shall terminate any acquisition program initiated after the date of the enactment of the Air Traffic Management System Performance Improvement Act of 1996 and funded under the Facilities and Equipment account that—

"(1) is more than 50 percent over the cost goal established for the program;

"(2) fails to achieve at least 50 percent of the performance goals established for the program; or

"(3) is more than 50 percent behind schedule as determined in accordance with the schedule goal established for the program.

"(b) AUTHORIZED TERMINATION OF ACQUISITION PROGRAMS.—The Administrator shall consider terminating, under the authority of subsection (a), any substantial acquisition program that—

"(1) is more than 10 percent over the cost goal established for the program;

"(2) fails to achieve at least 90 percent of the performance goals established for the program; or

"(3) is more than 10 percent behind schedule as determined in accordance with the schedule goal established for the program.

"(c) EXCEPTIONS AND REPORT.—

"(1) CONTINUANCE OF PROGRAM, ETC.—Notwithstanding subsection (a), the Administrator may continue an acquisitions program required to be terminated under subsection (a) if the Administrator determines that termination would be inconsistent with the development or operation of the national air transportation system in a safe and efficient manner.

"(2) DEPARTMENT OF DEFENSE.—The Department of Defense shall have the same exemptions from acquisition laws as are waived by the Administrator under section 348(b) of Public

Law 104–50 when engaged in joint actions to improve or replenish the national air traffic control system. The Administration may acquire real property, goods, and services through the Department of Defense, or other appropriate agencies, but is bound by the acquisition laws and regulations governing those cases.

"(3) REPORT.—If the Administrator makes a determination under paragraph (1), the Administrator shall transmit a copy of the determination, together with a statement of the basis for the determination, to the Committees on Appropriations of the Senate and the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives.".

SEC. 253. FEDERAL AVIATION ADMINISTRATION PERSONNEL MANAGEMENT SYSTEM.

Chapter 401, as amended by section 252 of this Act, is further amended by adding at the end the following:

"§ 40122. Federal Aviation Administration personnel management system

"(a) IN GENERAL.—

"(1) CONSULTATION AND NEGOTIATION.—In developing and making changes to the personnel management system initially implemented by the Administrator of the Federal Aviation Administration on April 1, 1996, the Administrator shall negotiate with the exclusive bargaining representatives of employees of the Administration certified under section 7111 of title 5 and consult with other employees of the Administration.

"(2) MEDIATION.—If the Administrator does not reach an agreement under paragraph (1) with the exclusive bargaining representatives, the services of the Federal Mediation and Conciliation Service shall be used to attempt to reach such agreement. If the services of the Federal Mediation and Conciliation Service do not lead to an agreement, the Administrator's proposed change to the personnel management system shall not take effect until 60 days have elapsed after the Administrator has transmitted the proposed change, along with the objections of the exclusive bargaining representatives to the change, and the reasons for such objections, to Congress.

"(3) COST SAVINGS AND PRODUCTIVITY GOALS.—The Administration and the exclusive bargaining representatives of the employees shall use every reasonable effort to find cost savings and to increase productivity within each of the affected bargaining units.

"(4) ANNUAL BUDGET DISCUSSIONS.—The Administration and the exclusive bargaining representatives of the employees shall meet annually for the purpose of finding additional cost savings within the Administration's annual budget as it applies to each of the affected bargaining units and throughout the agency.

"(b) EXPERT EVALUATION.—On the date that is 3 years after the personnel management system is implemented, the Administration shall employ outside experts to provide an independent evaluation of the effectiveness of the system within 3 months after such date. For this purpose, the Administrator may utilize the services

of experts and consultants under section 3109 of title 5 without regard to the limitation imposed by the last sentence of section 3109(b) of such title, and may contract on a sole source basis, notwithstanding any other provision of law to the contrary.

"(c) PAY RESTRICTION.—No officer or employee of the Administration may receive an annual rate of basic pay in excess of the annual rate of basic pay payable to the Administrator.

"(d) ETHICS.—The Administration shall be subject to Executive Order No. 12674 and regulations and opinions promulgated by the Office of Government Ethics, including those set forth in section 2635 of title 5 of the Code of Federal Regulations.

"(e) EMPLOYEE PROTECTIONS.—Until July 1, 1999, basic wages (including locality pay) and operational differential pay provided employees of the Administration shall not be involuntarily adversely affected by reason of the enactment of this section, except for unacceptable performance or by reason of a reduction in force or reorganization or by agreement between the Administration and the affected employees' exclusive bargaining representative.

"(f) LABOR-MANAGEMENT AGREEMENTS.—Except as otherwise provided by this title, all labor-management agreements covering employees of the Administration that are in effect on the effective date of the Air Traffic Management System Performance Improvement Act of 1996 shall remain in effect until their normal expiration date, unless the Administrator and the exclusive bargaining representative agree to the contrary.".

SEC. 254. CONFORMING AMENDMENT.

The table of sections for chapter 401 is amended by adding at the end the following:

"40121. Air traffic control modernization reviews.
"40122. Federal Aviation Administration personnel management system.".

Subtitle C—System To Fund Certain Federal Aviation Administration Functions

49 USC 40101 note.

SEC. 271. FINDINGS.

Congress finds the following:

(1) The Administration is recognized throughout the world as a leader in aviation safety.

(2) The Administration certifies aircraft, engines, propellers, and other manufactured parts.

(3) The Administration certifies more than 650 training schools for pilots and nonpilots, more than 4,858 repair stations, and more than 193 maintenance schools.

(4) The Administration certifies pilot examiners, who are then qualified to determine if a person has the skills necessary to become a pilot.

(5) The Administration certifies more than 6,000 medical examiners, each of whom is then qualified to medically certify the qualifications of pilots and nonpilots.

(6) The Administration certifies more than 470 airports, and provides a limited certification for another 205 airports. Other airports in the United States are also reviewed by the Administration.

(7) The Administration each year performs more than 355,000 inspections.

(8) The Administration issues more than 655,000 pilot's licenses and more than 560,000 nonpilot's licenses (including mechanics).

(9) The Administration's certification means that the product meets world-wide recognized standards of safety and reliability.

(10) The Administration's certification means aviation-related equipment and services meet world-wide recognized standards.

(11) The Administration's certification is recognized by governments and businesses throughout the world and as such may be a valuable element for any company desiring to sell aviation-related products throughout the world.

(12) The Administration's certification may constitute a valuable license, franchise, privilege or benefits for the holders.

(13) The Administration also is a major purchaser of computers, radars, and other systems needed to run the air traffic control system. The Administration's design, acceptance, commissioning, or certification of such equipment enables the private sector to market those products around the world, and as such confers a benefit on the manufacturer.

(14) The Administration provides extensive services to public use aircraft.

SEC. 272. PURPOSES.

49 USC 40101 note.

The purposes of this subtitle are—

(1) to provide a financial structure for the Administration so that it will be able to support the future growth in the national aviation and airport system;

(2) to review existing and alternative funding options, including incentive-based fees for services, and establish a program to improve air traffic management system performance and to establish appropriate levels of cost accountability for air traffic management services provided by the Administration;

(3) to ensure that any funding will be dedicated solely for the use of the Administration;

(4) to authorize the Administration to recover the costs of its services from those who benefit from, but do not contribute to, the national aviation system and the services provided by the Administration;

(5) to consider a fee system based on the cost or value of the services provided and other funding alternatives;

(6) to develop funding options for Congress in order to provide for the long-term efficient and cost-effective support of the Administration and the aviation system; and

(7) to achieve a more efficient and effective Administration for the benefit of the aviation transportation industry.

SEC. 273. USER FEES FOR VARIOUS FEDERAL AVIATION ADMINISTRATION SERVICES.

(a) IN GENERAL.—Chapter 453 is amended by striking section 45301 and inserting the following:

"§ 45301. General provisions

"(a) SCHEDULE OF FEES.—The Administrator shall establish a schedule of new fees, and a collection process for such fees, for the following services provided by the Administration:

"(1) Air traffic control and related services provided to aircraft other than military and civilian aircraft of the United States government or of a foreign government that neither take off from, nor land in, the United States.

"(2) Services (other than air traffic control services) provided to a foreign government.

"(b) LIMITATIONS.—

"(1) AUTHORIZATION AND IMPACT CONSIDERATIONS.—In establishing fees under subsection (a), the Administrator—

"(A) is authorized to recover in fiscal year 1997 $100,000,000; and

"(B) shall ensure that each of the fees required by subsection (a) is directly related to the Administration's costs of providing the service rendered. Services for which costs may be recovered include the costs of air traffic control, navigation, weather services, training and emergency services which are available to facilitate safe transportation over the United States, and other services provided by the Administrator or by programs financed by the Administrator to flights that neither take off nor land in the United States.

Federal Register, publication.

"(2) PUBLICATION; COMMENT.—The Administrator shall publish in the Federal Register an initial fee schedule and associated collection process as an interim final rule, pursuant to which public comment will be sought and a final rule issued.

"(c) USE OF EXPERTS AND CONSULTANTS.—In developing the system, the Administrator may consult with such nongovernmental experts as the Administrator may employ and the Administrator may utilize the services of experts and consultants under section 3109 of title 5 without regard to the limitation imposed by the last sentence of section 3109(b) of such title, and may contract on a sole source basis, notwithstanding any other provision of law to the contrary. Notwithstanding any other provision of law to the contrary, the Administrator may retain such experts under a contract awarded on a basis other than a competitive basis and without regard to any such provisions requiring competitive bidding or precluding sole source contract authority.".

(b) CONFORMING AMENDMENT.—The table of sections for chapter 453 is amended by striking the item relating to section 45301 and inserting the following:

"45301. General provisions.".

49 USC 40101 note.

SEC. 274. INDEPENDENT ASSESSMENT OF FAA FINANCIAL REQUIREMENTS; ESTABLISHMENT OF NATIONAL CIVIL AVIATION REVIEW COMMISSION.

(a) INDEPENDENT ASSESSMENT.—

(1) INITIATION.—Not later than 30 days after the date of the enactment of this Act, the Administrator shall contract with an entity independent of the Administration and the Department of Transportation to conduct a complete independent assessment of the financial requirements of the Administration through the year 2002.

(2) ASSESSMENT CRITERIA.—The Administrator shall provide to the independent entity estimates of the financial requirements of the Administration for the period described in paragraph (1), using as a base the fiscal year 1997 appropriation levels established by Congress. The independent assess-

ment shall be based on an objective analysis of agency funding needs.

(3) CERTAIN FACTORS TO BE TAKEN INTO ACCOUNT.—The independent assessment shall take into account all relevant factors, including—

(A) anticipated air traffic forecasts;

(B) other workload measures;

(C) estimated productivity gains, if any, which contribute to budgetary requirements;

(D) the need for programs; and

(E) the need to provide for continued improvements in all facets of aviation safety, along with operational improvements in air traffic control.

(4) COST ALLOCATION.—The independent assessment shall also assess the costs to the Administration occasioned by the provision of services to each segment of the aviation system.

(5) DEADLINE.—The independent assessment shall be completed no later than 90 days after the contract is awarded, and shall be submitted to the Commission established under subsection (b), the Secretary, the Secretary of the Treasury, the Committee on Commerce, Science, and Transportation and the Committee on Finance of the Senate, and the Committee on Transportation and Infrastructure and the Committee on Ways and Means of the House of Representatives.

(b) NATIONAL CIVIL AVIATION REVIEW COMMISSION.—

(1) ESTABLISHMENT.—There is established a commission to be known as the National Civil Aviation Review Commission (hereinafter in this section referred to as the "Commission").

(2) MEMBERSHIP.—The Commission shall consist of 21 members to be appointed as follows:

(A) 13 members to be appointed by the Secretary, in consultation with the Secretary of the Treasury, from among individuals who have expertise in the aviation industry and who are able, collectively, to represent a balanced view of the issues important to general aviation, major air carriers, air cargo carriers, regional air carriers, business aviation, airports, aircraft manufacturers, the financial community, aviation industry workers, and airline passengers. At least one member appointed under this subparagraph shall have detailed knowledge of the congressional budgetary process.

(B) Two members appointed by the Speaker of the House of Representatives.

(C) Two members appointed by the minority leader of the House of Representatives.

(D) Two members appointed by the majority leader of the Senate.

(E) Two members appointed by the minority leader of the Senate.

(3) TASK FORCES.—The Commission shall establish an aviation funding task force and an aviation safety task force to carry out the responsibilities of the Commission under this subsection.

(4) FIRST MEETING.—The Commission may conduct its first meeting as soon as a majority of the members of the Commission are appointed.

(5) HEARINGS AND CONSULTATION.—

(A) HEARINGS.—The Commission shall take such testimony and solicit and receive such comments from the public and other interested parties as it considers appropriate, shall conduct 2 public hearings after affording adequate notice to the public thereof, and may conduct such additional hearings as may be necessary.

(B) CONSULTATION.—The Commission shall consult on a regular and frequent basis with the Secretary, the Secretary of the Treasury, the Committee on Commerce, Science, and Transportation and the Committee on Finance of the Senate, and the Committee on Transportation and Infrastructure and the Committee on Ways and Means of the House of Representatives.

(C) FACA NOT TO APPLY.—The Commission shall not be considered an advisory committee for purposes of the Federal Advisory Committee Act (5 U.S.C. App.).

(6) DUTIES OF AVIATION FUNDING TASK FORCE.—

(A) REPORT TO SECRETARY.—

(i) IN GENERAL.—The aviation funding task force established pursuant to paragraph (3) shall submit a report setting forth a comprehensive analysis of the Administration's budgetary requirements through fiscal year 2002, based upon the independent assessment under subsection (a), that analyzes alternative financing and funding means for meeting the needs of the aviation system through the year 2002. The task force shall submit a preliminary report of that analysis to the Secretary not later than 6 months after the independent assessment is completed under subsection (a). The Secretary shall provide comments on the preliminary report to the task force within 30 days after receiving the report. The task force shall issue a final report of such comprehensive analysis within 30 days after receiving the Secretary's comments on its preliminary report.

(ii) CONTENTS.—The report submitted by the aviation funding task force under clause (i)—

(I) shall consider the independent assessment under subsection (a);

(II) shall consider estimated cost savings, if any, resulting from the procurement and personnel reforms included in this Act or in sections 347 and 348 of Public Law 104–50, and additional financial initiatives;

(III) shall include specific recommendations to Congress on how the Administration can reduce costs, raise additional revenue for the support of agency operations, and accelerate modernization efforts; and

(IV) shall include a draft bill containing the changes in law necessary to implement its recommendations.

(B) RECOMMENDATIONS.—The aviation funding task force shall make such recommendations under subparagraph (A)(ii)(III) as the task force deems appropriate. Those recommendations may include—

(i) proposals for off-budget treatment of the Airport and Airway Trust Fund;

(ii) alternative financing and funding proposals, including linked financing proposals;

(iii) modifications to existing levels of Airport and Airways Trust Fund receipts and taxes for each type of tax;

(iv) establishment of a cost-based user fee system based on, but not limited to, criteria under subparagraph (F) and methods to ensure that costs are borne by users on a fair and equitable basis;

(v) methods to ensure that funds collected from the aviation community are able to meet the needs of the agency;

(vi) methods to ensure that funds collected from the aviation community and passengers are used to support the aviation system;

(vii) means of meeting the airport infrastructure needs for large, medium, and small airports; and

(viii) any other matter the task force deems appropriate to address the funding and needs of the Administration and the aviation system.

(C) ADDITIONAL RECOMMENDATIONS.—The aviation funding task force report may also make recommendations concerning—

(i) means of improving productivity by expanding and accelerating the use of automation and other technology;

(ii) means of contracting out services consistent with this Act, other applicable law, and safety and national defense needs;

(iii) methods to accelerate air traffic control modernization and improvements in aviation safety and safety services;

(iv) the elimination of unneeded programs; and

(v) a limited innovative program based on funding mechanisms such as loan guarantees, financial partnerships with for-profit private sector entities, government-sponsored enterprises, and revolving loan funds, as a means of funding specific facilities and equipment projects, and to provide limited additional funding alternatives for airport capacity development.

(D) IMPACT ASSESSMENT FOR RECOMMENDATIONS.—For each recommendation contained in the aviation funding task force's report, the report shall include a full analysis and assessment of the impact implementation of the recommendation would have on—

(i) safety;

(ii) administrative costs;

(iii) the congressional budget process;

(iv) the economics of the industry (including the proportionate share of all users);

(v) the ability of the Administration to utilize the sums collected; and

(vi) the funding needs of the Administration.

(E) TRUST FUND TAX RECOMMENDATIONS.—If the task force's report includes a recommendation that the existing

Airport and Airways Trust Fund tax structure be modified, the report shall—

(i) state the specific rates for each group affected by the proposed modifications;

(ii) consider the impact such modifications shall have on specific users and the public (including passengers); and

(iii) state the basis for the recommendations.

(F) FEE SYSTEM RECOMMENDATIONS.—If the task force's report includes a recommendation that a fee system be established, including an air traffic control performance-based user fee system, the report shall consider—

(i) the impact such a recommendation would have on passengers, air fares (including low-fare, high frequency service), service, and competition;

(ii) existing contributions provided by individual air carriers toward funding the Administration and the air traffic control system through contributions to the Airport and Airways Trust Fund;

(iii) continuing the promotion of fair and competitive practices;

(iv) the unique circumstances associated with interisland air carrier service in Hawaii and rural air service in Alaska;

(v) the impact such a recommendation would have on service to small communities;

(vi) the impact such a recommendation would have on services provided by regional air carriers;

(vii) alternative methodologies for calculating fees so as to achieve a fair and reasonable distribution of costs of service among users;

(viii) the usefulness of phased-in approaches to implementing such a financing system;

(ix) means of assuring the provision of general fund contributions, as appropriate, toward the support of the Administration; and

(x) the provision of incentives to encourage greater efficiency in the provision of air traffic services by the Administration and greater efficiency in the use of air traffic services by aircraft operators.

(7) DUTIES OF AVIATION SAFETY TASK FORCE.—

(A) REPORT TO ADMINISTRATOR.—Not later than 1 year after the date of the enactment of this Act, the aviation safety task force established pursuant to paragraph (3) shall submit to the Administrator a report setting forth a comprehensive analysis of aviation safety in the United States and emerging trends in the safety of particular sectors of the aviation industry.

(B) CONTENTS.—The report to be submitted under subparagraph (A) shall include an assessment of—

(i) the adequacy of staffing and training resources for safety personnel of the Administration, including safety inspectors;

(ii) the Administration's processes for ensuring the public safety from fraudulent parts in civil aviation and the extent to which use of suspected unapproved

parts requires additional oversight or enforcement action; and

(iii) the ability of the Administration to anticipate changes in the aviation industry and to develop policies and actions to ensure the highest level of aviation safety in the 21st century.

(8) ACCESS TO DOCUMENTS AND STAFF.—The Administration may give the Commission appropriate access to relevant documents and personnel of the Administration, and the Administrator shall make available, consistent with the authority to withhold commercial and other proprietary information under section 552 of title 5, United States Code (commonly known as the "Freedom of Information Act"), cost data associated with the acquisition and operation of air traffic service systems. Any member of the Commission who receives commercial or other proprietary data from the Administrator shall be subject to the provisions of section 1905 of title 18, United States Code, pertaining to unauthorized disclosure of such information.

(9) TRAVEL AND PER DIEM.—Each member of the Commission shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from his or her usual place of residence, in accordance with section 5703 of title 5, United States Code.

(10) DETAIL OF PERSONNEL FROM THE ADMINISTRATION.—The Administrator shall make available to the Commission such staff, information, and administrative services and assistance as may reasonably be required to enable the Commission to carry out its responsibilities under this subsection.

(11) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary to carry out the provisions of this subsection.

(c) REPORTS TO CONGRESS.—

(1) REPORT BY THE SECRETARY BASED ON FINAL REPORT OF AVIATION FUNDING TASK FORCE.—

(A) CONSIDERATION OF TASK FORCE'S PRELIMINARY REPORT.—Not later than 30 days after receiving the preliminary report of the aviation funding task force, the Secretary, in consultation with the Secretary of the Treasury, shall furnish comments on the report to the task force.

(B) REPORT TO CONGRESS.—Not later than 30 days after receiving the final report of the aviation funding task force, and in no event more than 1 year after the date of the enactment of this Act, the Secretary, after consulting the Secretary of the Treasury, shall transmit a report to the Committee on Commerce, Science, and Transportation and the Committee on Finance of the Senate, and the Committee on Transportation and Infrastructure and the Committee on Ways and Means of the House of Representatives. Such report shall be based upon the final report of the task force and shall contain the Secretary's recommendations for funding the needs of the aviation system through the year 2002.

(C) CONTENTS.—The Secretary shall include in the report to Congress under subparagraph (B)—

(i) a copy of the final report of the task force; and

(ii) a draft bill containing the changes in law necessary to implement the Secretary's recommendations.

Federal Register, publication.

(D) PUBLICATION.—The Secretary shall cause a copy of the report to be printed in the Federal Register upon its transmittal to Congress under subparagraph (B).

(2) REPORT BY THE ADMINISTRATOR BASED ON FINAL REPORT OF AVIATION SAFETY TASK FORCE.—Not later than 30 days after receiving the report of the aviation safety task force, the Administrator shall transmit the report to Congress, together with the Administrator's recommendations for improving aviation safety in the United States.

(d) GAO AUDIT OF COST ALLOCATION.—The Comptroller General shall conduct an assessment of the manner in which costs for air traffic control services are allocated between the Administration and the Department of Defense. The Comptroller General shall report the results of the assessment, together with any recommendations the Comptroller General may have for reallocation of costs and for opportunities to increase the efficiency of air traffic control services provided by the Administration and by the Department of Defense, to the Commission, the Administrator, the Secretary of Defense, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate not later than 180 days after the date of the enactment of this Act.

(e) GAO ASSESSMENT.—Not later than 180 days after the date of the enactment of this Act, the Comptroller General shall transmit to the Commission and Congress an independent assessment of airport development needs.

SEC. 275. PROCEDURE FOR CONSIDERATION OF CERTAIN FUNDING PROPOSALS.

(a) IN GENERAL.—Chapter 481 is amended by adding at the end the following:

"§ 48111. Funding proposals

"(a) INTRODUCTION IN THE SENATE.—Within 15 days (not counting any day on which the Senate is not in session) after a funding proposal is submitted to the Senate by the Secretary of Transportation under section 274(c) of the Air Traffic Management System Performance Improvement Act of 1996, an implementing bill with respect to such funding proposal shall be introduced in the Senate by the majority leader of the Senate, for himself and the minority leader of the Senate, or by Members of the Senate designated by the majority leader and minority leader of the Senate.

"(b) CONSIDERATION IN THE SENATE.—An implementing bill introduced in the Senate under subsection (a) shall be referred to the Committee on Commerce, Science, and Transportation. The Committee on Commerce, Science, and Transportation shall report the bill with its recommendations within 60 days following the date of introduction of the bill. Upon the reporting of the bill by the Committee on Commerce, Science, and Transportation, the reported bill shall be referred sequentially to the Committee on Finance for a period of 60 legislative days.

"(c) DEFINITIONS.—For purposes of this section, the following definitions apply:

"(1) IMPLEMENTING BILL.—The term 'implementing bill' means only a bill of the Senate which is introduced as provided

in subsection (a) with respect to one or more Federal Aviation Administration funding proposals which contain changes in existing laws or new statutory authority required to implement such funding proposal or proposals.

"(2) FUNDING PROPOSAL.—The term 'funding proposal' means a proposal to provide interim or permanent funding for operations of the Federal Aviation Administration.

"(d) RULES OF THE SENATE.—The provisions of this section are enacted—

"(1) as an exercise of the rulemaking power of the Senate and as such they are deemed a part of the rules of the Senate and they supersede other rules only to the extent that they are inconsistent therewith; and

"(2) with full recognition of the constitutional right of the Senate to change the rules (so far as relating to the procedure of the Senate) at any time, in the same manner and to the same extent as in the case of any other rule of the Senate.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 481 is amended by adding at the end thereof the following:

"48111. Funding proposals.".

SEC. 276. ADMINISTRATIVE PROVISIONS.

(a) IN GENERAL.—Chapter 453 is amended—

(1) by redesignating section 45303 as section 45304; and

(2) by inserting after section 45302 the following:

"§ 45303. Administrative provisions

"(a) FEES PAYABLE TO ADMINISTRATOR.—All fees imposed and amounts collected under this chapter for services performed, or materials furnished, by the Federal Aviation Administration are payable to the Administrator of the Federal Aviation Administration.

"(b) REFUNDS.—The Administrator may refund any fee paid by mistake or any amount paid in excess of that required.

"(c) RECEIPTS CREDITED TO ACCOUNT.—Notwithstanding section 3302 of title 31, all fees and amounts collected by the Administration, except insurance premiums and other fees charged for the provision of insurance and deposited in the Aviation Insurance Revolving Fund and interest earned on investments of such Fund, and except amounts which on September 30, 1996, are required to be credited to the general fund of the Treasury (whether imposed under this section or not)—

"(1) shall be credited to a separate account established in the Treasury and made available for Administration activities;

"(2) shall be available immediately for expenditure but only for congressionally authorized and intended purposes; and

"(3) shall remain available until expended.

"(d) ANNUAL BUDGET REPORT BY ADMINISTRATOR.—The Administrator shall, on the same day each year as the President submits the annual budget to Congress, provide to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives—

"(1) a list of fee collections by the Administration during the preceding fiscal year;

"(2) a list of activities by the Administration during the preceding fiscal year that were supported by fee expenditures and appropriations;

"(3) budget plans for significant programs, projects, and activities of the Administration, including out-year funding estimates;

"(4) any proposed disposition of surplus fees by the Administration; and

"(5) such other information as those committees consider necessary.

"(e) DEVELOPMENT OF COST ACCOUNTING SYSTEM.—The Administration shall develop a cost accounting system that adequately and accurately reflects the investments, operating and overhead costs, revenues, and other financial measurement and reporting aspects of its operations.

Regulations.

"(f) COMPENSATION TO CARRIERS FOR ACTING AS COLLECTION AGENTS.—The Administration shall prescribe regulations to ensure that any air carrier required, pursuant to the Air Traffic Management System Performance Improvement Act of 1996 or any amendments made by that Act, to collect a fee imposed on another party by the Administrator may collect from such other party an additional uniform amount that the Administrator determines reflects the necessary and reasonable expenses (net of interest accruing to the carrier after collection and before remittance) incurred in collecting and handling the fee.".

(b) CONFORMING AMENDMENT.—The table of sections for chapter 453 is amended by striking the item relating to section 45303 and inserting the following:

"45303. Administrative provisions.
"45304. Maximum fees for private person services.".

SEC. 277. ADVANCE APPROPRIATIONS FOR AIRPORT AND AIRWAY TRUST FUND ACTIVITIES.

(a) IN GENERAL.—Part C of subtitle VII is amended by adding at the end the following:

"CHAPTER 482—ADVANCE APPROPRIATIONS FOR AIRPORT AND AIRWAY TRUST FACILITIES

"Sec.
"48201. Advance appropriations.

"§ 48201. Advance appropriations

"(a) MULTIYEAR AUTHORIZATIONS.—Beginning with fiscal year 1999, any authorization of appropriations for an activity for which amounts are to be appropriated from the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 shall provide funds for a period of not less than 3 fiscal years unless the activity for which appropriations are authorized is to be concluded before the end of that period.

"(b) MULTIYEAR APPROPRIATIONS.—Beginning with fiscal year 1999, amounts appropriated from the Airport and Airway Trust Fund shall be appropriated for periods of 3 fiscal years rather than annually.".

(b) CONFORMING AMENDMENT.—The analysis for subtitle VII is amended by inserting after the item relating to chapter 481 the following:

"482. ADVANCE APPROPRIATIONS FOR AIRPORT AND AIRWAY TRUST FACILITIES ..... 48201.".

SEC. 278. RURAL AIR SERVICE SURVIVAL ACT.

(a) SHORT TITLE.—This section may be cited as the "Rural Air Service Survival Act". 49 USC 40101 note.

(b) FINDINGS.—Congress finds that— 49 USC 41742 note.

(1) air service in rural areas is essential to a national and international transportation network;

(2) the rural air service infrastructure supports the safe operation of all air travel;

(3) rural air service creates economic benefits for all air carriers by making the national aviation system available to passengers from rural areas;

(4) rural air service has suffered since deregulation;

(5) the essential air service program under the Department of Transportation—

(A) provides essential airline access to rural and isolated rural communities throughout the Nation;

(B) is necessary for the economic growth and development of rural communities;

(C) is a critical component of the national and international transportation system of the United States; and

(D) has endured serious funding cuts in recent years; and

(6) a reliable source of funding must be established to maintain air service in rural areas and the essential air service program.

(c) ESSENTIAL AIR SERVICE AUTHORIZATION.—Section 41742 is amended to read as follows:

"§ 41742. Essential air service authorization

"(a) IN GENERAL.—Out of the amounts received by the Federal Aviation Administration credited to the account established under section 45303 of this title or otherwise provided to the Administration, the sum of $50,000,000 is authorized and shall be made available immediately for obligation and expenditure to carry out the essential air service program under this subchapter for each fiscal year.

"(b) FUNDING FOR SMALL COMMUNITY AIR SERVICE.—Notwithstanding any other provision of law, moneys credited to the account established under section 45303(a) of this title, including the funds derived from fees imposed under the authority contained in section 45301(a) of this title, shall be used to carry out the essential air service program under this subchapter. Notwithstanding section 47114(g) of this title, any amounts from those fees that are not obligated or expended at the end of the fiscal year for the purpose of funding the essential air service program under this subchapter shall be made available to the Administration for use in improving rural air safety under subchapter I of chapter 471 of this title and shall be used exclusively for projects at rural airports under this subchapter.

"(c) SPECIAL RULE FOR FISCAL YEAR 1997.—Notwithstanding subsections (a) and (b), in fiscal year 1997, amounts in excess of $75,000,000 that are collected in fees pursuant to section 45301(a)(1) of this title shall be available for the essential air service program under this subchapter, in addition to amounts specifically provided for in appropriations Acts.".

(d) CONFORMING AMENDMENT.—The table of sections for chapter 417 is amended by striking the item relating to section 41742 and inserting the following:

"41742. Essential air service authorization.".

TITLE III—AVIATION SECURITY

SEC. 301. REPORT INCLUDING PROPOSED LEGISLATION ON FUNDING FOR AIRPORT SECURITY.

(a) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Administrator of the Federal Aviation Administration, in cooperation with other appropriate persons, shall conduct a study and submit to Congress a report on whether, and if so how, to transfer certain responsibilities of air carriers under Federal law for security activities conducted onsite at commercial service airports to airport operators or to the Federal Government or to provide for shared responsibilities between air carriers and airport operators or the Federal Government.

(b) CONTENTS OF REPORT.—The report submitted under this section shall—

(1) examine potential sources of Federal and non-Federal revenue that may be used to fund security activities, including providing grants from funds received as fees collected under a fee system established under subtitle C of title II of this Act and the amendments made by that subtitle; and

(2) provide legislative proposals, if necessary, for accomplishing the transfer of responsibilities referred to in subsection (a).

49 USC 44935 note.

SEC. 302. CERTIFICATION OF SCREENING COMPANIES.

The Administrator of the Federal Aviation Administration is directed to certify companies providing security screening and to improve the training and testing of security screeners through development of uniform performance standards for providing security screening services.

49 USC 44913 note.

SEC. 303. WEAPONS AND EXPLOSIVE DETECTION STUDY.

(a) IN GENERAL.—The Administrator of the Federal Aviation Administration shall enter into an arrangement with the Director of the National Academy of Sciences (or if the National Academy of Sciences is not available, the head of another equivalent entity) to conduct a study in accordance to this section.

(b) PANEL OF EXPERTS.—

(1) IN GENERAL.—In carrying out a study under this section, the Director of the National Academy of Sciences (or the head of another equivalent entity) shall establish a panel (hereinafter in this section referred to as the "panel").

(2) EXPERTISE.—Each member of the panel shall have expertise in weapons and explosive detection technology, security, air carrier and airport operations, or another appropriate area. The Director of the National Academy of Sciences (or the head of another equivalent entity) shall ensure that the panel has an appropriate number of representatives of the areas specified in the preceding sentence.

(c) STUDY.—The panel, in consultation with the National Science and Technology Council, representatives of appropriate

Federal agencies, and appropriate members of the private sector, shall—

(1) assess the weapons and explosive detection technologies that are available at the time of the study that are capable of being effectively deployed in commercial aviation;

(2) determine how the technologies referred to in paragraph (1) may more effectively be used for promotion and improvement of security at airport and aviation facilities and other secured areas;

(3) assess the cost and advisability of requiring hardened cargo containers as a way to enhance aviation security and reduce the required sensitivity of bomb detection equipment; and

(4) on the basis of the assessments and determinations made under paragraphs (1), (2), and (3), identify the most promising technologies for the improvement of the efficiency and cost-effectiveness of weapons and explosive detection.

(d) COOPERATION.—The National Science and Technology Council shall take such actions as may be necessary to facilitate, to the maximum extent practicable and upon request of the Director of the National Academy of Sciences (or the head of another equivalent entity), the cooperation of representatives of appropriate Federal agencies, as provided for in subsection (c), in providing the panel, for the study under this section—

(1) expertise; and

(2) to the extent allowable by law, resources and facilities.

(e) REPORTS.—The Director of the National Academy of Sciences (or the head of another equivalent entity) shall, pursuant to an arrangement entered into under subsection (a), submit to the Administrator such reports as the Administrator considers to be appropriate. Upon receipt of a report under this subsection, the Administrator shall submit a copy of the report to the appropriate committees of Congress.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of fiscal years 1997 through 2001 such sums as may be necessary to carry out this section.

SEC. 304. REQUIREMENT FOR CRIMINAL HISTORY RECORDS CHECKS.

(a) IN GENERAL.—Section 44936(a)(1) is amended—

(1) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(2) by striking "(1)" and inserting "(1)(A)"; and

(3) by adding at the end the following:

"(B) The Administrator shall require by regulation that an employment investigation (including a criminal history record check in any case described in subparagraph (C)) be conducted for—

"(i) individuals who will be responsible for screening passengers or property under section 44901 of this title;

"(ii) supervisors of the individuals described in clause (i); and

"(iii) such other individuals who exercise security functions associated with baggage or cargo, as the Administrator determines is necessary to ensure air transportation security.

"(C) Under the regulations issued under subparagraph (B), a criminal history record check shall be conducted in any case in which—

"(i) an employment investigation reveals a gap in employment of 12 months or more that the individual who is the subject of the investigation does not satisfactorily account for;

"(ii) such individual is unable to support statements made on the application of such individual;

"(iii) there are significant inconsistencies in the information provided on the application of such individual; or

"(iv) information becomes available during the employment investigation indicating a possible conviction for one of the crimes listed in subsection (b)(1)(B).

"(D) If an individual requires a criminal history record check under subparagraph (C), the individual may be employed as a screener until the check is completed if the individual is subject to supervision.".

49 USC 44936 note.

(b) APPLICABILITY.—The amendment made by subsection (a)(3) shall apply to individuals hired to perform functions described in section 44936(a)(1)(B) of title 49, United States Code, after the date of the enactment of this Act; except that the Administrator of the Federal Aviation Administration may, as the Administrator determines to be appropriate, require such employment investigations or criminal history records checks for individuals performing those functions on the date of the enactment of this Act.

SEC. 305. INTERIM DEPLOYMENT OF COMMERCIALLY AVAILABLE EXPLOSIVE DETECTION EQUIPMENT.

(a) IN GENERAL.—Section 44913(a) is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following:

"(3) Until such time as the Administrator determines that equipment certified under paragraph (1) is commercially available and has successfully completed operational testing as provided in paragraph (1), the Administrator shall facilitate the deployment of such approved commercially available explosive detection devices as the Administrator determines will enhance aviation security significantly. The Administrator shall require that equipment deployed under this paragraph be replaced by equipment certified under paragraph (1) when equipment certified under paragraph (1) becomes commercially available. The Administrator is authorized, based on operational considerations at individual airports, to waive the required installation of commercially available equipment under paragraph (1) in the interests of aviation security. The Administrator may permit the requirements of this paragraph to be met at airports by the deployment of dogs or other appropriate animals to supplement equipment for screening passengers, baggage, mail, or cargo for explosives or weapons.".

49 USC 44901 note.

(b) AGREEMENTS.—The Administrator is authorized to use noncompetitive or cooperative agreements with air carriers and airport authorities that provide for the Administrator to purchase and assist in installing advanced security equipment for the use of such entities.

SEC. 306. AUDIT OF PERFORMANCE OF BACKGROUND CHECKS FOR CERTAIN PERSONNEL.

Section 44936(a) is amended by adding at the end the following:

"(3) The Administrator shall provide for the periodic audit of the effectiveness of criminal history record checks conducted under paragraph (1) of this subsection.".

SEC. 307. PASSENGER PROFILING. 49 USC 44901 note.

The Administrator of the Federal Aviation Administration, the Secretary of Transportation, the intelligence community, and the law enforcement community should continue to assist air carriers in developing computer-assisted passenger profiling programs and other appropriate passenger profiling programs which should be used in conjunction with other security measures and technologies.

SEC. 308. AUTHORITY TO USE CERTAIN FUNDS FOR AIRPORT SECURITY PROGRAMS AND ACTIVITIES. 49 USC 44901 note.

(a) IN GENERAL.—Notwithstanding any other provision of law, funds referred to in subsection (b) may be used for the improvement of facilities and the purchase and deployment of equipment to enhance and ensure the safety and security of passengers and other persons involved in air travel.

(b) COVERED FUNDS.—The following funds may be used under subsection (a):

(1) Project grants made under subchapter I of chapter 471 of title 49, United States Code.

(2) Passenger facility fees collected under section 40117 of title 49, United States Code.

SEC. 309. DEVELOPMENT OF AVIATION SECURITY LIAISON AGREEMENT. 49 USC 44931 note.

The Secretary of Transportation and the Attorney General, acting through the Administrator of the Federal Aviation Administration and the Director of the Federal Bureau of Investigation, shall enter into an interagency agreement providing for the establishment of an aviation security liaison at existing appropriate Federal agencies' field offices in or near cities served by a designated high-risk airport.

SEC. 310. REGULAR JOINT THREAT ASSESSMENTS. 49 USC 44904 note.

The Administrator of the Federal Aviation Administration and the Director of the Federal Bureau of Investigation shall carry out joint threat and vulnerability assessments on security every 3 years, or more frequently, as necessary, at each airport determined to be high risk.

SEC. 311. BAGGAGE MATCH REPORT.

(a) REPORT.—If a bag match pilot program is carried out as recommended by the White House Conference on Aviation Safety and Security, not later than the 30th day following the date of completion of the pilot program, the Administrator of the Federal Aviation Administration shall submit to Congress a report on the safety, effectiveness, and operational effectiveness of the pilot program. The report shall also assess the extent to which implementation of baggage match requirements (coupled with the best available technologies and methodologies, such as passenger profiling) enhance domestic aviation security.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Administrator should work with airports and air carriers to develop, to the extent feasible, effective domestic bag matching proposals.

SEC. 312. ENHANCED SECURITY PROGRAMS.

(a) IN GENERAL.—Chapter 449 is amended by adding at the end of subchapter I the following:

"§ 44916. Assessments and evaluations

"(a) PERIODIC ASSESSMENTS.—The Administrator shall require each air carrier and airport (including the airport owner or operator in cooperation with the air carriers and vendors serving each airport) that provides for intrastate, interstate, or foreign air transportation to conduct periodic vulnerability assessments of the security systems of that air carrier or airport, respectively. The Administration shall perform periodic audits of such assessments.

"(b) INVESTIGATIONS.—The Administrator shall conduct periodic and unannounced inspections of security systems of airports and air carriers to determine the effectiveness and vulnerabilities of such systems. To the extent allowable by law, the Administrator may provide for anonymous tests of those security systems.".

(b) CLERICAL AMENDMENT.—The table of sections for such chapter is amended by inserting after the item relating to section 44915 the following:

"44916. Assessments and evaluations.".

SEC. 313. REPORT ON AIR CARGO.

(a) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Transportation shall transmit to Congress a report on any changes recommended and implemented as a result of the White House Commission on Aviation Safety and Security to enhance and supplement screening and inspection of cargo, mail, and company-shipped materials transported in air commerce.

(b) CONTENTS.—The report shall include—

(1) an assessment of the effectiveness of the changes referred to in subsection (a);

(2) an assessment of the oversight by the Federal Aviation Administration of inspections of shipments of mail and cargo by domestic and foreign air carriers;

(3) an assessment of the need for additional security measures with respect to such inspections;

(4) an assessment of the adequacy of inspection and screening of cargo on passenger air carriers; and

(5) any additional recommendations, and if necessary any legislative proposals, necessary to carry out additional changes.

(c) SENSE OF THE SENATE.—It is the sense of the Senate that the inspection of cargo, mail, and company-shipped materials can be enhanced.

SEC. 314. SENSE OF THE SENATE REGARDING ACTS OF INTERNATIONAL TERRORISM.

(a) FINDINGS.—The Senate finds that—

(1) there has been an intensification in the oppression and disregard for human life among nations that are willing to export terrorism;

(2) there has been an increase in attempts by criminal terrorists to murder airline passengers through the destruction of civilian airliners and the deliberate fear and death inflicted through bombings of buildings and the kidnapping of tourists and Americans residing abroad; and

(3) information widely available demonstrates that a significant portion of international terrorist activity is state-sponsored, -organized, -condoned, or -directed.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that if evidence establishes beyond a clear and reasonable doubt that any act of hostility towards any United States citizen was an act of international terrorism sponsored, organized, condoned, or directed by any nation, a state of war should be considered to exist or to have existed between the United States and that nation, beginning as of the moment that the act of aggression occurs.

TITLE IV—AVIATION SAFETY

SEC. 401. ELIMINATION OF DUAL MANDATE.

(a) SAFETY CONSIDERATIONS IN PUBLIC INTEREST.—

(1) SAFETY AS HIGHEST PRIORITY.—Section 40101(d) is amended—

(A) by redesignating paragraphs (1) through (6) as paragraphs (2) through (7), respectively; and

(B) by inserting before paragraph (2), as so redesignated, the following:

"(1) assigning, maintaining, and enhancing safety and security as the highest priorities in air commerce.".

(2) ELIMINATION OF PROMOTION.—Section 40101(d) is further amended—

(A) in paragraph (2), as redesignated by paragraph (1)(A) of this subsection, by striking "its development and"; and

(B) in paragraph (3), as so redesignated—

(i) by striking "promoting, encouraging," and inserting "encouraging"; and

(ii) by inserting before the period at the end ", including new aviation technology".

(b) FAA SAFETY MISSION.—

(1) IN GENERAL.—Section 40104 is amended—

(A) by inserting "**safety of**" before "**air commerce**" in the section heading;

(B) by inserting "SAFETY OF" before "AIR COMMERCE" in the heading of subsection (a); and

(C) by inserting "safety of" before "air commerce" in subsection (a).

(2) CLERICAL AMENDMENT.—The table of sections for chapter 401 is amended by striking the item relating to section 40104 and inserting the following:

"40104. Promotion of civil aeronautics and safety of air commerce.".

SEC. 402. PROTECTION OF VOLUNTARILY SUBMITTED INFORMATION.

(a) IN GENERAL.—Chapter 401, as amended by section 253 of this Act, is further amended by adding at the end the following:

"§ 40123. Protection of voluntarily submitted information

"(a) IN GENERAL.—Notwithstanding any other provision of law, neither the Administrator of the Federal Aviation Administration, nor any agency receiving information from the Administrator, shall disclose voluntarily-provided safety or security related information if the Administrator finds that—

"(1) the disclosure of the information would inhibit the voluntary provision of that type of information and that the

receipt of that type of information aids in fulfilling the Administrator's safety and security responsibilities; and

"(2) withholding such information from disclosure would be consistent with the Administrator's safety and security responsibilities.

"(b) REGULATIONS.—The Administrator shall issue regulations to carry out this section.".

(b) CONFORMING AMENDMENT.—The table of sections for such chapter is amended by adding at the end the following:

"40123. Protection of voluntarily submitted information.".

SEC. 403. SUPPLEMENTAL TYPE CERTIFICATES.

Section 44704 is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(2) by inserting after subsection (a) the following:

"(b) SUPPLEMENTAL TYPE CERTIFICATES.—

"(1) ISSUANCE.—The Administrator may issue a type certificate designated as a supplemental type certificate for a change to an aircraft, aircraft engine, propeller, or appliance.

"(2) CONTENTS.—A supplemental type certificate issued under paragraph (1) shall consist of the change to the aircraft, aircraft engine, propeller, or appliance with respect to the previously issued type certificate for the aircraft, aircraft engine, propeller, or appliance.

"(3) REQUIREMENT.—If the holder of a supplemental type certificate agrees to permit another person to use the certificate to modify an aircraft, aircraft engine, propeller, or appliance, the holder shall provide the other person with written evidence, in a form acceptable to the Administrator, of that agreement. A person may change an aircraft, aircraft engine, propeller, or appliance based on a supplemental type certificate only if the person requesting the change is the holder of the supplemental type certificate or has permission from the holder to make the change.".

SEC. 404. CERTIFICATION OF SMALL AIRPORTS.

(a) IN GENERAL.—Section 44706(a) is amended—

(1) by redesignating paragraph (2) as paragraph (3);

(2) by inserting after paragraph (1) the following:

"(2) that is not located in the State of Alaska and serves any scheduled passenger operation of an air carrier operating aircraft designed for more than 9 passenger seats but less than 31 passenger seats; and";

(3) by striking "and" at the end of paragraph (3), as redesignated by paragraph (1) of this subsection;

(4) by striking "(3) when" and inserting "if"; and

(5) by moving the matter following paragraph (3), as redesignated by paragraph (1) of this subsection, to the left flush full measure.

(b) COMMUTER AIRPORTS.—Section 44706 is amended by adding at the end the following:

"(d) COMMUTER AIRPORTS.—In developing the terms required by subsection (b) for airports covered by subsection (a)(2), the Administrator shall identify and consider a reasonable number of regulatory alternatives and select from such alternatives the least costly, most cost-effective or the least burdensome alternative

that will provide comparable safety at airports described in subsections (a)(1) and (a)(2).".

(c) EFFECTIVE DATE.—Section 44706 is further amended by adding at the end the following:

"(e) EFFECTIVE DATE.—Any regulation establishing the terms required by subsection (b) for airports covered by subsection (a)(2) shall not take effect until such regulation, and a report on the economic impact of the regulation on air service to the airports covered by the rule, has been submitted to Congress and 120 days have elapsed following the date of such submission.".

(d) LIMITATION ON STATUTORY CONSTRUCTION.—Section 44706 is further amended by adding at the end the following:

"(f) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this title may be construed as requiring a person to obtain an airport operating certificate if such person does not desire to operate an airport described in subsection (a).".

SEC. 405. AUTHORIZATION OF APPROPRIATIONS FOR STATE-SPECIFIC SAFETY MEASURES.

There are authorized to be appropriated to the Federal Aviation Administration not more than $10,000,000 for fiscal year 1997 for the purpose of addressing State-specific aviation safety problems identified by the National Transportation Safety Board.

SEC. 406. AIRCRAFT ENGINE STANDARDS.

(a) STANDARDS AND REGULATIONS.—Subsection (a)(1) of section 44715 is amended to read as follows:

"(a) STANDARDS AND REGULATIONS.—(1)(A) To relieve and protect the public health and welfare from aircraft noise and sonic boom, the Administrator of the Federal Aviation Administration, as he deems necessary, shall prescribe—

"(i) standards to measure aircraft noise and sonic boom; and

"(ii) regulations to control and abate aircraft noise and sonic boom.

"(B) The Administrator, as the Administrator deems appropriate, shall provide for the participation of a representative of the Environmental Protection Agency on such advisory committees or associated working groups that advise the Administrator on matters related to the environmental effects of aircraft and aircraft engines.".

(b) INTERAGENCY COOPERATION.—Section 231(a)(2) of the Clean Air Act (42 U.S.C. 7571(a)(2)) is amended—

(1) by inserting "(A)" before "The Administrator"; and

(2) by adding at the end the following:

"(B)(i) The Administrator shall consult with the Administrator of the Federal Aviation Administration on aircraft engine emission standards.

"(ii) The Administrator shall not change the aircraft engine emission standards if such change would significantly increase noise and adversely affect safety.".

SEC. 407. ACCIDENT AND SAFETY DATA CLASSIFICATION; REPORT ON EFFECTS OF PUBLICATION AND AUTOMATED SURVEILLANCE TARGETING SYSTEMS.

(a) ACCIDENT AND SAFETY DATA CLASSIFICATION.—

(1) IN GENERAL.—Subchapter II of chapter 11 of title 49, United States Code, is amended by adding at the end the following:

"§ 1119. Accident and safety data classification and publication

"(a) IN GENERAL.—Not later than 90 days after the date of the enactment of this section, the National Transportation Safety Board shall, in consultation and coordination with the Administrator of the Federal Aviation Administration, develop a system for classifying air carrier accident data maintained by the Board.

"(b) REQUIREMENTS FOR CLASSIFICATION SYSTEM.—

"(1) IN GENERAL.—The system developed under this section shall provide for the classification of accident and safety data in a manner that, in comparison to the system in effect on the date of the enactment of this section, provides for safety-related categories that provide clearer descriptions of accidents associated with air transportation, including a more refined classification of accidents which involve fatalities, injuries, or substantial damage and which are only related to the operation of an aircraft.

"(2) PUBLIC COMMENT.—In developing a system of classification under paragraph (1), the Board shall provide adequate opportunity for public review and comment.

"(3) FINAL CLASSIFICATION.—After providing for public review and comment, and after consulting with the Administrator, the Board shall issue final classifications. The Board shall ensure that air travel accident covered under this section is classified in accordance with the final classifications issued under this section for data for calendar year 1997, and for each subsequent calendar year.

"(4) PUBLICATION.—The Board shall publish on a periodic basis accident and safety data in accordance with the final classifications issued under paragraph (3).

"(5) RECOMMENDATIONS OF THE ADMINISTRATOR.—The Administrator may, from time to time, request the Board to consider revisions (including additions to the classification system developed under this section). The Board shall respond to any request made by the Administrator under this section not later than 90 days after receiving that request.".

(2) CONFORMING AMENDMENT.—The table of sections for subchapter II of chapter 11 of title 49, United States Code, is amended by adding at the end the following:

"1119. Accident and safety data classification and publication.".

(b) AUTOMATED SURVEILLANCE TARGETING SYSTEMS.—Section 44713 is amended by adding at the end the following:

"(e) AUTOMATED SURVEILLANCE TARGETING SYSTEMS.—

"(1) IN GENERAL.—The Administrator shall give high priority to developing and deploying a fully enhanced safety performance analysis system that includes automated surveillance to assist the Administrator in prioritizing and targeting surveillance and inspection activities of the Federal Aviation Administration.

"(2) DEADLINES FOR DEPLOYMENT.—

"(A) INITIAL PHASE.—The initial phase of the operational deployment of the system developed under this subsection shall begin not later than December 31, 1997.

"(B) FINAL PHASE.—The final phase of field deployment of the system developed under this subsection shall begin not later than December 31, 1999. By that date, all principal operations and maintenance inspectors of the Administration, and appropriate supervisors and analysts of the Administration shall have been provided access to the necessary information and resources to carry out the system.

"(3) INTEGRATION OF INFORMATION.—In developing the system under this section, the Administration shall consider the near-term integration of accident and incident data into the safety performance analysis system under this subsection.".

TITLE V—PILOT RECORD SHARING

Pilot Records Improvement Act of 1996.
49 USC 40101 note.

SEC. 501. SHORT TITLE.

This title may be cited as the "Pilot Records Improvement Act of 1996".

SEC. 502. EMPLOYMENT INVESTIGATIONS OF PILOT APPLICANTS.

(a) IN GENERAL.—Section 44936 is amended by adding at the end the following:

"(f) RECORDS OF EMPLOYMENT OF PILOT APPLICANTS.—

"(1) IN GENERAL.—Before hiring an individual as a pilot, an air carrier shall request and receive the following information:

"(A) FAA RECORDS.—From the Administrator of the Federal Aviation Administration, records pertaining to the individual that are maintained by the Administrator concerning—

"(i) current airman certificates (including airman medical certificates) and associated type ratings, including any limitations to those certificates and ratings; and

"(ii) summaries of legal enforcement actions resulting in a finding by the Administrator of a violation of this title or a regulation prescribed or order issued under this title that was not subsequently overturned.

"(B) AIR CARRIER AND OTHER RECORDS.—From any air carrier or other person that has employed the individual at any time during the 5-year period preceding the date of the employment application of the individual, or from the trustee in bankruptcy for such air carrier or person—

"(i) records pertaining to the individual that are maintained by an air carrier (other than records relating to flight time, duty time, or rest time) under regulations set forth in—

"(I) section 121.683 of title 14, Code of Federal Regulations;

"(II) paragraph (A) of section VI, appendix I, part 121 of such title;

"(III) paragraph (A) of section IV, appendix J, part 121 of such title;

"(IV) section 125.401 of such title; and

"(V) section 135.63(a)(4) of such title; and

"(ii) other records pertaining to the individual that are maintained by the air carrier or person concerning—

"(I) the training, qualifications, proficiency, or professional competence of the individual, including comments and evaluations made by a check airman designated in accordance with section 121.411, 125.295, or 135.337 of such title;

"(II) any disciplinary action taken with respect to the individual that was not subsequently overturned; and

"(III) any release from employment or resignation, termination, or disqualification with respect to employment.

"(C) NATIONAL DRIVER REGISTER RECORDS.—In accordance with section 30305(b)(7), from the chief driver licensing official of a State, information concerning the motor vehicle driving record of the individual.

"(2) WRITTEN CONSENT; RELEASE FROM LIABILITY.—An air carrier making a request for records under paragraph (1)—

"(A) shall be required to obtain written consent to the release of those records from the individual that is the subject of the records requested; and

"(B) may, notwithstanding any other provision of law or agreement to the contrary, require the individual who is the subject of the records to request to execute a release from liability for any claim arising from the furnishing of such records to or the use of such records by such air carrier (other than a claim arising from furnishing information known to be false and maintained in violation of a criminal statute).

"(3) 5-YEAR REPORTING PERIOD.—A person shall not furnish a record in response to a request made under paragraph (1) if the record was entered more than 5 years before the date of the request, unless the information concerns a revocation or suspension of an airman certificate or motor vehicle license that is in effect on the date of the request.

"(4) REQUIREMENT TO MAINTAIN RECORDS.—The Administrator shall maintain pilot records described in paragraph (1)(A) for a period of at least 5 years.

"(5) RECEIPT OF CONSENT; PROVISION OF INFORMATION.—A person shall not furnish a record in response to a request made under paragraph (1) without first obtaining a copy of the written consent of the individual who is the subject of the records requested. A person who receives a request for records under this paragraph shall furnish a copy of all of such requested records maintained by the person not later than 30 days after receiving the request.

"(6) RIGHT TO RECEIVE NOTICE AND COPY OF ANY RECORD FURNISHED.—A person who receives a request for records under paragraph (1) shall provide to the individual who is the subject of the records—

"(A) on or before the 20th day following the date of receipt of the request, written notice of the request and of the individual's right to receive a copy of such records; and

"(B) in accordance with paragraph (10), a copy of such records, if requested by the individual.

"(7) REASONABLE CHARGES FOR PROCESSING REQUESTS AND FURNISHING COPIES.—A person who receives a request under paragraph (1) or (6) may establish a reasonable charge for the cost of processing the request and furnishing copies of the requested records.

"(8) STANDARD FORMS.—The Administrator shall promulgate—

"(A) standard forms that may be used by an air carrier to request records under paragraph (1); and

"(B) standard forms that may be used by an air carrier to—

"(i) obtain the written consent of the individual who is the subject of a request under paragraph (1); and

"(ii) inform the individual of—

"(I) the request; and

"(II) the individual right of that individual to receive a copy of any records furnished in response to the request.

"(9) RIGHT TO CORRECT INACCURACIES.—An air carrier that maintains or requests and receives the records of an individual under paragraph (1) shall provide the individual with a reasonable opportunity to submit written comments to correct any inaccuracies contained in the records before making a final hiring decision with respect to the individual.

"(10) RIGHT OF PILOT TO REVIEW CERTAIN RECORDS.—Notwithstanding any other provision of law or agreement, an air carrier shall, upon written request from a pilot employed by such carrier, make available, within a reasonable time of the request, to the pilot for review, any and all employment records referred to in paragraph (1)(B) (i) or (ii) pertaining to the employment of the pilot.

"(11) PRIVACY PROTECTIONS.—An air carrier that receives the records of an individual under paragraph (1) may use such records only to assess the qualifications of the individual in deciding whether or not to hire the individual as a pilot. The air carrier shall take such actions as may be necessary to protect the privacy of the pilot and the confidentiality of the records, including ensuring that information contained in the records is not divulged to any individual that is not directly involved in the hiring decision.

"(12) PERIODIC REVIEW.—Not later than 18 months after the date of the enactment of the Pilot Records Improvement Act of 1996, and at least once every 3 years thereafter, the Administrator shall transmit to Congress a statement that contains, taking into account recent developments in the aviation industry—

"(A) recommendations by the Administrator concerning proposed changes to Federal Aviation Administration records, air carrier records, and other records required to be furnished under subparagraphs (A) and (B) of paragraph (1); or

"(B) reasons why the Administrator does not recommend any proposed changes to the records referred to in subparagraph (A).

"(13) REGULATIONS.—The Administrator may prescribe such regulations as may be necessary—

"(A) to protect—

"(i) the personal privacy of any individual whose records are requested under paragraph (1); and

"(ii) the confidentiality of those records;

"(B) to preclude the further dissemination of records received under paragraph (1) by the person who requested those records; and

"(C) to ensure prompt compliance with any request made under paragraph (1).

"(g) LIMITATION ON LIABILITY; PREEMPTION OF STATE LAW.—

"(1) LIMITATION ON LIABILITY.—No action or proceeding may be brought by or on behalf of an individual who has applied for or is seeking a position with an air carrier as a pilot and who has signed a release from liability, as provided for under paragraph (2), against—

"(A) the air carrier requesting the records of that individual under subsection (f)(1);

"(B) a person who has complied with such request;

"(C) a person who has entered information contained in the individual's records; or

"(D) an agent or employee of a person described in subparagraph (A) or (B);

in the nature of an action for defamation, invasion of privacy, negligence, interference with contract, or otherwise, or under any Federal or State law with respect to the furnishing or use of such records in accordance with subsection (f).

"(2) PREEMPTION.—No State or political subdivision thereof may enact, prescribe, issue, continue in effect, or enforce any law (including any regulation, standard, or other provision having the force and effect of law) that prohibits, penalizes, or imposes liability for furnishing or using records in accordance with subsection (f).

"(3) PROVISION OF KNOWINGLY FALSE INFORMATION.—Paragraphs (1) and (2) shall not apply with respect to a person who furnishes information in response to a request made under subsection (f)(1), that—

"(A) the person knows is false; and

"(B) was maintained in violation of a criminal statute of the United States.

"(h) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in subsection (f) shall be construed as precluding the availability of the records of a pilot in an investigation or other proceeding concerning an accident or incident conducted by the Administrator, the National Transportation Safety Board, or a court.".

(b) CONFORMING AMENDMENTS.—Section 30305(b) is amended—

(1) by redesignating paragraph (7) as paragraph (8); and

(2) by inserting after paragraph (6) the following:

"(7) An individual who is seeking employment by an air carrier as a pilot may request the chief driver licensing official of a State to provide information about the individual under paragraph (2) to the prospective employer of the individual or to the Secretary of Transportation. Information may not be obtained from the National Driver Register under this subsection if the information was entered in the Register more than 5 years before the request unless the information is about

a revocation or suspension still in effect on the date of the request.".

(c) CIVIL PENALTIES.—Section 46301, as amended by section 1220(b) of this Act, is further amended—

(1) in each of subsections (a)(1)(A), (d)(2), and (f)(1)(A)(i) by inserting "44724," after "44718(d),"; and

(2) in subsection (a)(2)(A) by inserting "44724," after "44716,".

(d) APPLICABILITY.—The amendments made by this section shall apply to any air carrier hiring an individual as a pilot whose application was first received by the carrier on or after the 120th day following the date of the enactment of this Act.

Effective date. 49 USC 30305 note.

SEC. 503. STUDIES OF MINIMUM STANDARDS FOR PILOT QUALIFICATIONS AND OF PAY FOR TRAINING.

49 USC 44935 note.

(a) STUDY.—The Administrator of the Federal Aviation Administration shall appoint a task force consisting of appropriate representatives of the aviation industry to conduct—

(1) a study directed toward the development of—

(A) standards and criteria for preemployment screening tests measuring the psychomotor coordination, general intellectual capacity, instrument and mechanical comprehension, and physical and mental fitness of an applicant for employment as a pilot by an air carrier; and

(B) standards and criteria for pilot training facilities to be licensed by the Administrator and which will assure that pilots trained at such facilities meet the preemployment screening standards and criteria described in subparagraph (A); and

(2) a study to determine if the practice of some air carriers to require employees or prospective employees to pay for the training or experience that is needed to perform flight check duties for an air carrier is in the public interest.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Administrator shall transmit to Congress a report on the results of the study conducted under subsection (a)(2).

SEC. 504. STUDY OF MINIMUM FLIGHT TIME.

49 USC 44935 note.

(a) STUDY.—The Administrator of the Federal Aviation Administration shall conduct a study to determine whether current minimum flight time requirements applicable to individuals seeking employment as a pilot with an air carrier are sufficient to ensure public safety.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Administrator shall transmit to Congress a report on the results of the study.

TITLE VI—CHILD PILOT SAFETY

Child Pilot Safety Act.

SEC. 601. SHORT TITLE.

49 USC 40101 note.

This title may be cited as the "Child Pilot Safety Act".

SEC. 602. CHILD PILOT SAFETY.

(a) MANIPULATION OF FLIGHT CONTROLS.—

(1) IN GENERAL.—Chapter 447 is amended by adding at the end the following:

"§ 44724. Manipulation of flight controls

"(a) PROHIBITION.—No pilot in command of an aircraft may allow an individual who does not hold—

"(1) a valid private pilots certificate issued by the Administrator of the Federal Aviation Administration under part 61 of title 14, Code of Federal Regulations; and

"(2) the appropriate medical certificate issued by the Administrator under part 67 of such title,

to manipulate the controls of an aircraft if the pilot knows or should have known that the individual is attempting to set a record or engage in an aeronautical competition or aeronautical feat, as defined by the Administrator.

"(b) REVOCATION OF AIRMEN CERTIFICATES.—The Administrator shall issue an order revoking a certificate issued to an airman under section 44703 of this title if the Administrator finds that while acting as a pilot in command of an aircraft, the airman has permitted another individual to manipulate the controls of the aircraft in violation of subsection (a).

"(c) PILOT IN COMMAND DEFINED.—In this section, the term 'pilot in command' has the meaning given such term by section 1.1 of title 14, Code of Federal Regulations.".

(2) CONFORMING AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following:

"44724. Manipulation of flight controls.".

(b) CHILDREN FLYING AIRCRAFT.—

(1) STUDY.—The Administrator of the Federal Aviation Administration shall conduct a study of the impacts of children flying aircraft.

(2) CONSIDERATIONS.—In conducting the study, the Administrator shall consider the effects of imposing any restrictions on children flying aircraft on safety and on the future of general aviation in the United States.

(3) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Administrator shall issue a report containing the results of the study, together with recommendations on—

(A) whether the restrictions established by the amendment made by subsection (a)(1) should be modified or repealed; and

(B) whether certain individuals or groups should be exempt from any age, altitude, or other restrictions that the Administrator may impose by regulation.

(4) REGULATIONS.—As a result of the findings of the study, the Administrator may issue regulations imposing age, altitude, or other restrictions on children flying aircraft.

TITLE VII—FAMILY ASSISTANCE

Aviation Disaster Family Assistance Act of 1996.
49 USC 40101 note.

SEC. 701. SHORT TITLE.

This title may be cited as the "Aviation Disaster Family Assistance Act of 1996".

SEC. 702. ASSISTANCE BY NATIONAL TRANSPORTATION SAFETY BOARD TO FAMILIES OF PASSENGERS INVOLVED IN AIRCRAFT ACCIDENTS.

(a) AUTHORITY TO PROVIDE ASSISTANCE.—

(1) IN GENERAL.—Subchapter III of chapter 11 is amended by adding at the end the following:

"§ 1136. Assistance to families of passengers involved in aircraft accidents

"(a) IN GENERAL.—As soon as practicable after being notified of an aircraft accident within the United States involving an air carrier or foreign air carrier and resulting in a major loss of life, the Chairman of the National Transportation Safety Board shall—

"(1) designate and publicize the name and phone number of a director of family support services who shall be an employee of the Board and shall be responsible for acting as a point of contact within the Federal Government for the families of passengers involved in the accident and a liaison between the air carrier or foreign air carrier and the families; and

"(2) designate an independent nonprofit organization, with experience in disasters and posttrauma communication with families, which shall have primary responsibility for coordinating the emotional care and support of the families of passengers involved in the accident.

"(b) RESPONSIBILITIES OF THE BOARD.—The Board shall have primary Federal responsibility for facilitating the recovery and identification of fatally-injured passengers involved in an accident described in subsection (a).

"(c) RESPONSIBILITIES OF DESIGNATED ORGANIZATION.—The organization designated for an accident under subsection (a)(2) shall have the following responsibilities with respect to the families of passengers involved in the accident:

"(1) To provide mental health and counseling services, in coordination with the disaster response team of the air carrier or foreign air carrier involved.

"(2) To take such actions as may be necessary to provide an environment in which the families may grieve in private.

"(3) To meet with the families who have traveled to the location of the accident, to contact the families unable to travel to such location, and to contact all affected families periodically thereafter until such time as the organization, in consultation with the director of family support services designated for the accident under subsection (a)(1), determines that further assistance is no longer needed.

"(4) To communicate with the families as to the roles of the organization, government agencies, and the air carrier or foreign air carrier involved with respect to the accident and the post-accident activities.

"(5) To arrange a suitable memorial service, in consultation with the families.

"(d) PASSENGER LISTS.—

"(1) REQUESTS FOR PASSENGER LISTS.—

"(A) REQUESTS BY DIRECTOR OF FAMILY SUPPORT SERVICES.—It shall be the responsibility of the director of family support services designated for an accident under subsection (a)(1) to request, as soon as practicable, from the air carrier or foreign air carrier involved in the accident

a list, which is based on the best available information at the time of the request, of the names of the passengers that were aboard the aircraft involved in the accident.

"(B) REQUESTS BY DESIGNATED ORGANIZATION.—The organization designated for an accident under subsection (a)(2) may request from the air carrier or foreign air carrier involved in the accident a list described in subparagraph (A).

"(2) USE OF INFORMATION.—The director of family support services and the organization may not release to any person information on a list obtained under paragraph (1) but may provide information on the list about a passenger to the family of the passenger to the extent that the director of family support services or the organization considers appropriate.

"(e) CONTINUING RESPONSIBILITIES OF THE BOARD.—In the course of its investigation of an accident described in subsection (a), the Board shall, to the maximum extent practicable, ensure that the families of passengers involved in the accident—

"(1) are briefed, prior to any public briefing, about the accident, its causes, and any other findings from the investigation; and

"(2) are individually informed of and allowed to attend any public hearings and meetings of the Board about the accident.

"(f) USE OF AIR CARRIER RESOURCES.—To the extent practicable, the organization designated for an accident under subsection (a)(2) shall coordinate its activities with the air carrier or foreign air carrier involved in the accident so that the resources of the carrier can be used to the greatest extent possible to carry out the organization's responsibilities under this section.

"(g) PROHIBITED ACTIONS.—

"(1) ACTIONS TO IMPEDE THE BOARD.—No person (including a State or political subdivision) may impede the ability of the Board (including the director of family support services designated for an accident under subsection (a)(1)), or an organization designated for an accident under subsection (a)(2), to carry out its responsibilities under this section or the ability of the families of passengers involved in the accident to have contact with one another.

"(2) UNSOLICITED COMMUNICATIONS.—In the event of an accident involving an air carrier providing interstate or foreign air transportation, no unsolicited communication concerning a potential action for personal injury or wrongful death may be made by an attorney or any potential party to the litigation to an individual injured in the accident, or to a relative of an individual involved in the accident, before the 30th day following the date of the accident.

"(h) DEFINITIONS.—In this section, the following definitions apply:

"(1) AIRCRAFT ACCIDENT.—The term 'aircraft accident' means any aviation disaster regardless of its cause or suspected cause.

"(2) PASSENGER.—The term 'passenger' includes an employee of an air carrier aboard an aircraft.".

(2) CONFORMING AMENDMENT.—The table of sections for such chapter is amended by inserting after the item relating to section 1135 the following:

"1136. Assistance to families of passengers involved in aircraft accidents.".

(b) PENALTIES.—Section 1155(a)(1) of such title is amended—

(1) by striking "or 1134(b) or (f)(1)" and inserting ", section 1134(b), section 1134(f)(1), or section 1136(g)"; and

(2) by striking "either of" and inserting "any of".

SEC. 703. AIR CARRIER PLANS TO ADDRESS NEEDS OF FAMILIES OF PASSENGERS INVOLVED IN AIRCRAFT ACCIDENTS.

(a) IN GENERAL.—Chapter 411 is amended by adding at the end the following:

"§ 41113. Plans to address needs of families of passengers involved in aircraft accidents

"(a) SUBMISSION OF PLANS.—Not later than 6 months after the date of the enactment of this section, each air carrier holding a certificate of public convenience and necessity under section 41102 of this title shall submit to the Secretary and the Chairman of the National Transportation Safety Board a plan for addressing the needs of the families of passengers involved in any aircraft accident involving an aircraft of the air carrier and resulting in a major loss of life.

"(b) CONTENTS OF PLANS.—A plan to be submitted by an air carrier under subsection (a) shall include, at a minimum, the following:

"(1) A plan for publicizing a reliable, toll-free telephone number, and for providing staff, to handle calls from the families of the passengers.

"(2) A process for notifying the families of the passengers, before providing any public notice of the names of the passengers, either by utilizing the services of the organization designated for the accident under section 1136(a)(2) of this title or the services of other suitably trained individuals.

"(3) An assurance that the notice described in paragraph (2) will be provided to the family of a passenger as soon as the air carrier has verified that the passenger was aboard the aircraft (whether or not the names of all of the passengers have been verified) and, to the extent practicable, in person.

"(4) An assurance that the air carrier will provide to the director of family support services designated for the accident under section 1136(a)(1) of this title, and to the organization designated for the accident under section 1136(a)(2) of this title, immediately upon request, a list (which is based on the best available information at the time of the request) of the names of the passengers aboard the aircraft (whether or not such names have been verified), and will periodically update the list.

"(5) An assurance that the family of each passenger will be consulted about the disposition of all remains and personal effects of the passenger within the control of the air carrier.

"(6) An assurance that if requested by the family of a passenger, any possession of the passenger within the control of the air carrier (regardless of its condition) will be returned to the family unless the possession is needed for the accident investigation or any criminal investigation.

"(7) An assurance that any unclaimed possession of a passenger within the control of the air carrier will be retained by the air carrier for at least 18 months.

"(8) An assurance that the family of each passenger will be consulted about construction by the air carrier of any monument to the passengers, including any inscription on the monument.

"(9) An assurance that the treatment of the families of nonrevenue passengers (and any other victim of the accident) will be the same as the treatment of the families of revenue passengers.

"(10) An assurance that the air carrier will work with any organization designated under section 1136(a)(2) of this title on an ongoing basis to ensure that families of passengers receive an appropriate level of services and assistance following each accident.

"(11) An assurance that the air carrier will provide reasonable compensation to any organization designated under section 1136(a)(2) of this title for services provided by the organization.

"(12) An assurance that the air carrier will assist the family of a passenger in traveling to the location of the accident and provide for the physical care of the family while the family is staying at such location.

"(13) An assurance that the air carrier will commit sufficient resources to carry out the plan.

"(c) CERTIFICATE REQUIREMENT.—After the date that is 6 months after the date of the enactment of this section, the Secretary may not approve an application for a certificate of public convenience and necessity under section 41102 of this title unless the applicant has included as part of such application a plan that meets the requirements of subsection (b).

"(d) LIMITATION ON LIABILITY.—An air carrier shall not be liable for damages in any action brought in a Federal or State court arising out of the performance of the air carrier in preparing or providing a passenger list pursuant to a plan submitted by the air carrier under subsection (b), unless such liability was caused by conduct of the air carrier which was grossly negligent or which constituted intentional misconduct.

"(e) AIRCRAFT ACCIDENT AND PASSENGER DEFINED.—In this section, the terms 'aircraft accident' and 'passenger' have the meanings such terms have in section 1136 of this title.".

(b) CONFORMING AMENDMENT.—The table of sections for such chapter is amended by adding at the end the following:

"41113. Plans to address needs of families of passengers involved in aircraft accidents.".

49 USC 41113 note.

SEC. 704. ESTABLISHMENT OF TASK FORCE.

(a) ESTABLISHMENT.—The Secretary of Transportation, in cooperation with the National Transportation Safety Board, the Federal Emergency Management Agency, the American Red Cross, air carriers, and families which have been involved in aircraft accidents shall establish a task force consisting of representatives of such entities and families, representatives of air carrier employees, and representatives of such other entities as the Secretary considers appropriate.

(b) GUIDELINES AND RECOMMENDATIONS.—The task force established pursuant to subsection (a) shall develop—

(1) guidelines to assist air carriers in responding to aircraft accidents;

(2) recommendations on methods to ensure that attorneys and representatives of media organizations do not intrude on the privacy of families of passengers involved in an aircraft accident;

(3) recommendations on methods to ensure that the families of passengers involved in an aircraft accident who are not citizens of the United States receive appropriate assistance;

(4) recommendations on methods to ensure that State mental health licensing laws do not act to prevent out-of-state mental health workers from working at the site of an aircraft accident or other related sites;

(5) recommendations on the extent to which military experts and facilities can be used to aid in the identification of the remains of passengers involved in an aircraft accident; and

(6) recommendations on methods to improve the timeliness of the notification provided by air carriers to the families of passengers involved in an aircraft accident, including—

(A) an analysis of the steps that air carriers would have to take to ensure that an accurate list of passengers on board the aircraft would be available within 1 hour of the accident and an analysis of such steps to ensure that such list would be available within 3 hours of the accident;

(B) an analysis of the added costs to air carriers and travel agents that would result if air carriers were required to take the steps described in subparagraph (A);

(C) an analysis of any inconvenience to passengers, including flight delays, that would result if air carriers were required to take the steps described in subparagraph (A); and

(D) an analysis of the implications for personal privacy that would result if air carriers were required to take the steps described in subparagraph (A).

(c) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress a report containing the model plan and recommendations developed by the task force under subsection (b).

SEC. 705. LIMITATION ON STATUTORY CONSTRUCTION.

49 USC 41113 note.

Nothing in this title or any amendment made by this title may be construed as limiting the actions that an air carrier may take, or the obligations that an air carrier may have, in providing assistance to the families of passengers involved in an aircraft accident.

TITLE VIII—AIRPORT REVENUE PROTECTION

Airport Revenue Protection Act of 1996.

SEC. 801. SHORT TITLE.

49 USC 40101 note.

This title may be cited as the "Airport Revenue Protection Act of 1996".

49 USC 47107 note.

SEC. 802. FINDINGS; PURPOSE.

(a) IN GENERAL.—Congress finds that—

(1) section 47107 of title 49, United States Code, prohibits the diversion of certain revenue generated by a public airport as a condition of receiving a project grant;

(2) a grant recipient that uses airport revenue for purposes that are not airport related in a manner inconsistent with chapter 471 of title 49, United States Code, illegally diverts airport revenues;

(3) any diversion of airport revenues in violation of the condition referred to in paragraph (1) undermines the interest of the United States in promoting a strong national air transportation system that is responsive to the needs of airport users;

(4) the Secretary and the Administrator have not enforced airport revenue diversion rules adequately and must have additional regulatory tools to increase enforcement efforts; and

(5) sponsors who have been found to have illegally diverted airport revenues—

(A) have not reimbursed or made restitution to airports in a timely manner; and

(B) must be encouraged to do so.

(b) PURPOSE.—The purpose of this title is to ensure that airport users are not burdened with hidden taxation for unrelated municipal services and activities by—

(1) eliminating the ability of any State or political subdivision thereof that is a recipient of a project grant to divert airport revenues for purposes that are not related to an airport, in violation of section 47107 of title 49, United States Code;

(2) imposing financial reporting requirements that are designed to identify instances of illegal diversions referred to in paragraph (1);

(3) establishing a statute of limitations for airport revenue diversion actions;

(4) clarifying limitations on revenue diversion that are permitted under chapter 471 of title 49, United States Code; and

(5) establishing clear penalties and enforcement mechanisms for identifying and prosecuting airport revenue diversion.

49 USC 47107 note.

SEC. 803. DEFINITIONS.

For purposes of this title, the following definitions apply:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Federal Aviation Administration.

(2) AIRPORT.—The term "airport" has the meaning provided that term in section 47102(2) of title 49, United States Code.

(3) PROJECT GRANT.—The term "project grant" has the meaning provided that term in section 47102(14) of title 49, United States Code.

(4) SECRETARY.—The term "Secretary" means the Secretary of Transportation.

(5) SPONSOR.—The term "sponsor" has the meaning provided that term in section 47102(19) of title 49, United States Code.

SEC. 804. RESTRICTION ON USE OF AIRPORT REVENUES.

(a) IN GENERAL.—Subchapter I of chapter 471, as amended by section 142 of this Act, is further amended by adding after section 47132 the following:

"§ 47133. Restriction on use of revenues

"(a) PROHIBITION.—Local taxes on aviation fuel (except taxes in effect on December 30, 1987) or the revenues generated by an airport that is the subject of Federal assistance may not be expended for any purpose other than the capital or operating costs of—

"(1) the airport;

"(2) the local airport system; or

"(3) any other local facility that is owned or operated by the person or entity that owns or operates the airport that is directly and substantially related to the air transportation of passengers or property.

"(b) EXCEPTIONS.—Subsection (a) shall not apply if a provision enacted not later than September 2, 1982, in a law controlling financing by the airport owner or operator, or a covenant or assurance in a debt obligation issued not later than September 2, 1982, by the owner or operator, provides that the revenues, including local taxes on aviation fuel at public airports, from any of the facilities of the owner or operator, including the airport, be used to support not only the airport but also the general debt obligations or other facilities of the owner or operator.

"(c) RULE OF CONSTRUCTION.—Nothing in this section may be construed to prevent the use of a State tax on aviation fuel to support a State aviation program or the use of airport revenue on or off the airport for a noise mitigation purpose.".

(b) PENALTIES.—Section 46301(a)(5) is amended to read as follows:

"(5) PENALTY FOR DIVERSION OF AVIATION REVENUES.—The amount of a civil penalty assessed under this section for a violation of section 47107(b) of this title (or any assurance made under such section) or section 47133 of this title may be increased above the otherwise applicable maximum amount under this section to an amount not to exceed 3 times the amount of revenues that are used in violation of such section.".

(c) CONFORMING AMENDMENT.—The table of sections for such subchapter is amended by inserting after the item relating to section 47132, as added by section 142 of this Act, the following:

"47133. Restriction on use of revenues.".

SEC. 805. REGULATIONS; AUDITS AND ACCOUNTABILITY.

(a) IN GENERAL.—Section 47107 is amended by adding at the end the following:

"(m) AUDIT CERTIFICATION.—

"(1) IN GENERAL.—The Secretary of Transportation, acting through the Administrator of the Federal Aviation Administration, shall promulgate regulations that require a recipient of a project grant (or any other recipient of Federal financial assistance that is provided for an airport) to include as part of an annual audit conducted under sections 7501 through 7505 of title 31, a review and opinion of the review concerning the funding activities with respect to an airport that is the subject of the project grant (or other Federal financial

assistance) and the sponsors, owners, or operators (or other recipients) involved.

"(2) CONTENT OF REVIEW.—A review conducted under paragraph (1) shall provide reasonable assurances that funds paid or transferred to sponsors are paid or transferred in a manner consistent with the applicable requirements of this chapter and any other applicable provision of law (including regulations promulgated by the Secretary or the Administrator).

"(3) REQUIREMENTS FOR AUDIT REPORT.—The report submitted to the Secretary under this subsection shall include a specific determination and opinion regarding the appropriateness of the disposition of airport funds paid or transferred to a sponsor.

"(n) RECOVERY OF ILLEGALLY DIVERTED FUNDS.—

"(1) IN GENERAL.—Not later than 180 days after the issuance of an audit or any other report that identifies an illegal diversion of airport revenues (as determined under subsections (b) and (l) and section 47133), the Secretary, acting through the Administrator, shall—

"(A) review the audit or report;

"(B) perform appropriate factfinding; and

"(C) conduct a hearing and render a final determination concerning whether the illegal diversion of airport revenues asserted in the audit or report occurred.

"(2) NOTIFICATION.—Upon making such a finding, the Secretary, acting through the Administrator, shall provide written notification to the sponsor and the airport of—

"(A) the finding; and

"(B) the obligations of the sponsor to reimburse the airport involved under this paragraph.

"(3) ADMINISTRATIVE ACTION.—The Secretary may withhold any amount from funds that would otherwise be made available to the sponsor, including funds that would otherwise be made available to a State, municipality, or political subdivision thereof (including any multimodal transportation agency or transit authority of which the sponsor is a member entity) as part of an apportionment or grant made available pursuant to this title, if the sponsor—

"(A) receives notification that the sponsor is required to reimburse an airport; and

"(B) has had an opportunity to reimburse the airport, but has failed to do so.

"(4) CIVIL ACTION.—If a sponsor fails to pay an amount specified under paragraph (3) during the 180-day period beginning on the date of notification and the Secretary is unable to withhold a sufficient amount under paragraph (3), the Secretary, acting through the Administrator, may initiate a civil action under which the sponsor shall be liable for civil penalty in an amount equal to the illegal diversion in question plus interest (as determined under subsection (o)).

"(5) DISPOSITION OF PENALTIES.—

"(A) AMOUNTS WITHHELD.—The Secretary or the Administrator shall transfer any amounts withheld under paragraph (3) to the Airport and Airway Trust Fund.

"(B) CIVIL PENALTIES.—With respect to any amount collected by a court in a civil action under paragraph (4), the court shall cause to be transferred to the Airport and

Airway Trust Fund any amount collected as a civil penalty under paragraph (4).

"(6) REIMBURSEMENT.—The Secretary, acting through the Administrator, shall, as soon as practicable after any amount is collected from a sponsor under paragraph (4), cause to be transferred from the Airport and Airway Trust Fund to an airport affected by a diversion that is the subject of a civil action under paragraph (4), reimbursement in an amount equal to the amount that has been collected from the sponsor under paragraph (4) (including any amount of interest calculated under subsection (o)).

"(7) STATUTE OF LIMITATIONS.—No person may bring an action for the recovery of funds illegally diverted in violation of this section (as determined under subsections (b) and (l)) or section 47133 after the date that is 6 years after the date on which the diversion occurred.

"(o) INTEREST.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary, acting through the Administrator, shall charge a minimum annual rate of interest on the amount of any illegal diversion of revenues referred to in subsection (n) in an amount equal to the average investment interest rate for tax and loan accounts of the Department of the Treasury (as determined by the Secretary of the Treasury) for the applicable calendar year, rounded to the nearest whole percentage point.

"(2) ADJUSTMENT OF INTEREST RATES.—If, with respect to a calendar quarter, the average investment interest rate for tax and loan accounts of the Department of the Treasury exceeds the average investment interest rate for the immediately preceding calendar quarter, rounded to the nearest whole percentage point, the Secretary of the Treasury may adjust the interest rate charged under this subsection in a manner that reflects that change.

"(3) ACCRUAL.—Interest assessed under subsection (n) shall accrue from the date of the actual illegal diversion of revenues referred to in subsection (n).

"(4) DETERMINATION OF APPLICABLE RATE.—The applicable rate of interest charged under paragraph (1) shall—

"(A) be the rate in effect on the date on which interest begins to accrue under paragraph (3); and

"(B) remain at a rate fixed under subparagraph (A) during the duration of the indebtedness.

"(p) PAYMENT BY AIRPORT TO SPONSOR.—If, in the course of an audit or other review conducted under this section, the Secretary or the Administrator determines that an airport owes a sponsor funds as a result of activities conducted by the sponsor or expenditures by the sponsor for the benefit of the airport, interest on that amount shall be determined in the same manner as provided in paragraphs (1) through (4) of subsection (o), except that the amount of any interest assessed under this subsection shall be determined from the date on which the Secretary or the Administrator makes that determination.".

(b) REVISION OF POLICIES AND PROCEDURES; DEADLINES.— 49 USC 47107 note.

(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary, acting through the Administrator, shall revise the policies and procedures established under section 47107(l) of title 49, United States

Code, to take into account the amendments made to that section by this title.

(2) STATUTE OF LIMITATIONS.—Section 47107(l) is amended by adding at the end the following:

"(5) STATUTE OF LIMITATIONS.—In addition to the statute of limitations specified in subsection (n)(7), with respect to project grants made under this chapter—

"(A) any request by a sponsor to any airport for additional payments for services conducted off of the airport or for reimbursement for capital contributions or operating expenses shall be filed not later than 6 years after the date on which the expense is incurred; and

"(B) any amount of airport funds that are used to make a payment or reimbursement as described in subparagraph (A) after the date specified in that subparagraph shall be considered to be an illegal diversion of airport revenues that is subject to subsection (n).".

SEC. 806. CONFORMING AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.

26 USC 9502.

Section 9502 of the Internal Revenue Code of 1986 is amended—

(1) by striking "and" at the end of subsection (b)(3);

(2) by striking the period at the end of subsection (b)(4) and inserting ", and"; and

(3) by adding at the end of subsection (b) the following:

"(5) amounts determined by the Secretary of the Treasury to be equivalent to the amounts of civil penalties collected under section 47107(n) of title 49, United States Code."; and

(4) by adding at the end of subsection (d) the following:

"(5) TRANSFERS FROM THE AIRPORT AND AIRWAY TRUST FUND ON ACCOUNT OF CERTAIN AIRPORTS.—The Secretary of the Treasury may transfer from the Airport and Airway Trust Fund to the Secretary of Transportation or the Administrator of the Federal Aviation Administration an amount to make a payment to an airport affected by a diversion that is the subject of an administrative action under paragraph (3) or a civil action under paragraph (4) of section 47107(n) of title 49, United States Code.".

TITLE IX—METROPOLITAN WASHINGTON AIRPORTS

Metropolitan Washington Airports Amendments Act of 1996.

SEC. 901. SHORT TITLE.

This title may be cited as the "Metropolitan Washington Airports Amendments Act of 1996".

SEC. 902. USE OF LEASED PROPERTY.

Section 6005(c)(2) of the Metropolitan Washington Airports Act of 1986 (49 U.S.C. App. 2454(c)(2)) is amended by inserting before the period at the end of the second sentence the following: "which are not inconsistent with the needs of aviation".

SEC. 903. BOARD OF DIRECTORS.

(a) APPOINTMENT OF ADDITIONAL MEMBERS.—Section 6007(e)(1) of the Metropolitan Washington Airports Act of 1986 (49 U.S.C. App. 2456(e)(1)) is amended—

(1) in the matter preceding subparagraph (A) by striking "11" and inserting "13";

(2) in subparagraph (D) by striking "one member" and inserting "three members".

(b) RESTRICTIONS.—Section 6007(e)(2) of the Metropolitan Washington Airports Act of 1986 (49 U.S.C. App. 2456(e)(2)) is amended by striking "except that" and all that follows through the period and inserting "except that the members appointed by the President shall be registered voters of States other than Maryland, Virginia, or the District of Columbia.".

(c) TERMS.—Section 6007(e)(3) of the Metropolitan Washington Airports Act of 1986 (49 U.S.C. App. 2456(e)(3)) is amended—

(1) in subparagraph (B) by striking "and" at the end;

(2) in subparagraph (C) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(D) by the President after the date of the enactment of this subparagraph, 1 shall be appointed for 4 years. A member may serve after the expiration of that member's term until a successor has taken office.". President.

(d) VACANCIES.—Section 6007(e) of the Metropolitan Washington Airports Act of 1986 (49 U.S.C. App. 2456(e)) is amended by redesignating paragraphs (4) and (5) as paragraphs (8) and (9), respectively, and by inserting after paragraph (3) the following:

"(4) VACANCIES.—A vacancy in the board of directors shall be filled in the manner in which the original appointment was made. Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of such term.".

(e) POLITICAL PARTIES OF PRESIDENTIAL APPOINTEES.—Section 6007(e) of the Metropolitan Washington Airports Act of 1986 (49 U.S.C. App. 2456(e)) is amended by inserting after paragraph (4), as inserted by subsection (d) of this section, the following:

"(5) POLITICAL PARTIES OF PRESIDENTIAL APPOINTEES.—Not more than 2 of the members of the board appointed by the President may be of the same political party.".

(f) DUTIES OF PRESIDENTIAL APPOINTEES.—Section 6007(e) of the Metropolitan Washington Airports Act of 1986 (49 U.S.C. App. 2456(e)) is amended by inserting after paragraph (5), as inserted by subsection (e) of this section, the following:

"(6) DUTIES OF PRESIDENTIAL APPOINTEES.—In carrying out their duties on the board, members of the board appointed by the President shall ensure that adequate consideration is given to the national interest.".

(g) DEADLINE FOR PRESIDENTIAL APPOINTMENTS.—Section 6007(e) of the Metropolitan Washington Airports Act of 1986 (49 U.S.C. App. 2456(e)) is amended by inserting after paragraph (6), as inserted by subsection (f) of this section, the following:

"(7) DEADLINE FOR PRESIDENTIAL APPOINTMENTS.—

"(A) DEADLINE.—The members to be appointed to the board by the President under section 6007(e)(1)(D) shall be appointed on or before September 30, 1997.

"(B) APPLICABILITY OF LIMITATIONS.—If the deadline of subparagraph (A) is not met, the Secretary and the Airports Authority shall be subject to the limitations described in subsection (i) for the period beginning on October 1, 1997, and ending on the first day on which all of the members referred to in subparagraph (A) have been appointed.".

(h) REQUIRED NUMBER OF VOTES.—Section 6007(e)(9) of the Metropolitan Washington Airports Act of 1986 (49 U.S.C. App. 2456(e)(9)), as redesignated by subsection (d) of this section, is amended by striking "Seven" and inserting "Eight".

SEC. 904. TERMINATION OF BOARD OF REVIEW.

(a) IN GENERAL.—Section 6007 of the Metropolitan Washington Airports Act of 1986 (49 U.S.C. App. 2456) is amended by striking subsections (f) and (h) and redesignating subsections (g) and (i) as subsections (f) and (g), respectively.

(b) STAFF.—Section 6007 of the Metropolitan Washington Airports Act of 1986 (49 U.S.C. App. 2456) is amended—

(1) by inserting paragraph (8) of subsection (f), as in effect before the amendment made by subsection (a) of this section, after subsection (g), as redesignated by such subsection (a);

(2) by moving such paragraph 2 ems to the left and redesignating such paragraph as subsection (h); and

(3) in subsection (h), as so redesignated—

(A) in the first sentence by striking "The Board of Review" and inserting "To assist the Secretary in carrying out this Act, the Secretary"; and

(B) in the second sentence by striking "Board" and inserting "Secretary".

(c) CONFORMING AMENDMENTS.—The Metropolitan Washington Airports Act of 1986 (49 U.S.C. App. 2451 et seq.) is amended—

(1) in section 6009(b) by striking "or by reason" and all that follows before the period; and

(2) in section 6011 by striking "Except as provided in section 6007(h), if" and inserting "If".

(d) PROTECTION OF CERTAIN ACTIONS.—Actions taken by the Metropolitan Washington Airports Authority and required to be submitted to the Board of Review pursuant to section 6007(f)(4) of the Metropolitan Washington Airports Act of 1986 before the date of the enactment of this Act shall remain in effect and shall not be set aside solely by reason of a judicial order invalidating certain functions of the Board of Review.

SEC. 905. LIMITATIONS.

Section 6007 of the Metropolitan Washington Airports Act of 1986 (49 U.S.C. App. 2456) is further amended by adding at the end the following:

"(i) LIMITATIONS.—After October 1, 2001—

"(1) the Secretary may not approve an application of the Airports Authority for an airport development project grant under subchapter I of chapter 471 of title 49, United States Code; and

"(2) the Secretary may not approve an application of the Airports Authority to impose a passenger facility fee under section 40117 of such title.".

SEC. 906. USE OF DULLES AIRPORT ACCESS HIGHWAY.

The Metropolitan Washington Airports Act of 1986 (49 U.S.C. App. 2451 et seq.) is further amended by adding at the end the following:

"SEC. 6013. USE OF DULLES AIRPORT ACCESS HIGHWAY.

"(a) RESTRICTIONS.—Except as provided by subsection (b), the Airports Authority shall continue in effect and enforce paragraphs (1) and (2) of section 4.2 of the Metropolitan Washington Airports Regulations, as in effect on February 1, 1995.

"(b) ENFORCEMENT.—The district courts of the United States shall have jurisdiction to compel the Airports Authority and its officers and employees to comply with the requirements of this section. An action may be brought on behalf of the United States by the Attorney General or by any aggrieved party.".

SEC. 907. EFFECT OF JUDICIAL ORDER.

The Metropolitan Washington Airports Act of 1986 (49 U.S.C. App. 2451 et seq.) is further amended by adding at the end the following:

"SEC. 6014. EFFECT OF JUDICIAL ORDER.

"If any provision of the Metropolitan Washington Airports Amendments Act of 1996 or the amendments made by such Act (or the application of that provision to any person, circumstance, or venue) is held invalid by a judicial order, on the day after the date of the issuance of such order, and thereafter, the Secretary of Transportation and the Metropolitan Washington Airports Authority shall be subject to the limitations described in section 6007(i) of this Act.".

SEC. 908. AMENDMENT OF LEASE.

The Secretary of Transportation shall amend the lease entered into with the Metropolitan Washington Airports Authority under section 6005(a) of the Metropolitan Washington Airports Authority Act of 1986 to secure the Airports Authority's consent to the amendments made to such Act by this title.

SEC. 909. SENSE OF THE SENATE.

It is the sense of the Senate that the Metropolitan Washington Airports Authority—

(1) should not provide any reserved parking areas free of charge to Members of Congress, other Government officials, or diplomats at Washington National Airport or Washington Dulles International Airport; and

(2) should establish a parking policy for such airports that provides equal access to the public, and does not provide preferential parking privileges to Members of Congress, other Government officials, or diplomats.

TITLE X—EXTENSION OF AIRPORT AND AIRWAY TRUST FUND EXPENDITURES

SEC. 1001. EXTENSION OF AIRPORT AND AIRWAY TRUST FUND EXPENDITURES.

26 USC 9502.

(a) EXTENSION OF EXPENDITURE AUTHORITY.—Paragraph (1) of section 9502(d) of the Internal Revenue Code of 1986 is amended by striking "October 1, 1996" and inserting "October 1, 1998".

(b) EXTENSION OF TRUST FUND PURPOSES.—Subparagraph (A) of section 9502(d)(1) of such Code is amended by inserting before the semicolon at the end "or the Federal Aviation Reauthorization Act of 1996".

FAA Research, Engineering, and Development Management Reform Act of 1996.
49 USC 40101 note.

TITLE XI—FAA RESEARCH, ENGINEERING, AND DEVELOPMENT

SEC. 1101. SHORT TITLE.

This title may be cited as the "FAA Research, Engineering, and Development Management Reform Act of 1996".

SEC. 1102. AUTHORIZATION OF APPROPRIATIONS.

Section 48102(a) is amended—

(1) by striking "and" at the end of paragraph (1)(J);

(2) by striking the period at the end of paragraph (2)(J) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following:

"(3) for fiscal year 1997—

"(A) $13,660,000 for system development and infrastructure projects and activities;

"(B) $34,889,000 for capacity and air traffic management technology projects and activities;

"(C) $19,000,000 for communications, navigation, and surveillance projects and activities;

"(D) $13,000,000 for weather projects and activities;

"(E) $5,200,000 for airport technology projects and activities;

"(F) $36,504,000 for aircraft safety technology projects and activities;

"(G) $57,055,000 for system security technology projects and activities;

"(H) $23,504,000 for human factors and aviation medicine projects and activities;

"(I) $3,600,000 for environment and energy projects and activities; and

"(J) $2,000,000 for innovative/cooperative research projects and activities.".

SEC. 1103. RESEARCH PRIORITIES.

Section 48102(b) is amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by striking "AVAILABILITY FOR RESEARCH.—(1)" and inserting in lieu thereof "RESEARCH PRIORITIES.—(1) The Administrator shall consider the advice and recommendations of the research advisory committee established by section 44508 of this title in establishing priorities among major categories

of research and development activities carried out by the Federal Aviation Administration.
"(2)".

SEC. 1104. RESEARCH ADVISORY COMMITTEE.

Section 44508(a)(1) is amended—

(1) by striking "and" at the end of subparagraph (B);

(2) by striking the period at the end of subparagraph (C) and inserting in lieu thereof "; and"; and

(3) by inserting after subparagraph (C) the following:

"(D) annually review the allocation made by the Administrator of the amounts authorized by section 48102(a) of this title among the major categories of research and development activities carried out by the Administration and provide advice and recommendations to the Administrator on whether such allocation is appropriate to meet the needs and objectives identified under subparagraph (A).".

SEC. 1105. NATIONAL AVIATION RESEARCH PLAN.

Section 44501(c) is amended—

(1) in paragraph (2)(A) by striking "15-year" and inserting in lieu thereof "5-year";

(2) by amending subparagraph (B) to read as follows:

"(B) The plan shall—

"(i) provide estimates by year of the schedule, cost, and work force levels for each active and planned major research and development project under sections 40119, 44504, 44505, 44507, 44509, 44511–44513, and 44912 of this title, including activities carried out under cooperative agreements with other Federal departments and agencies;

"(ii) specify the goals and the priorities for allocation of resources among the major categories of research and development activities, including the rationale for the priorities identified;

"(iii) identify the allocation of resources among long-term research, near-term research, and development activities; and

"(iv) highlight the research and development activities that address specific recommendations of the research advisory committee established under section 44508 of this title, and document the recommendations of the committee that are not accepted, specifying the reasons for nonacceptance."; and

(3) in paragraph (3) by inserting ", including a description of the dissemination to the private sector of research results and a description of any new technologies developed" after "during the prior fiscal year".

TITLE XII—MISCELLANEOUS PROVISIONS

SEC. 1201. PURCHASE OF HOUSING UNITS.

Section 40110 is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following:

"(b) PURCHASE OF HOUSING UNITS.—

"(1) AUTHORITY.—In carrying out this part, the Administrator may purchase a housing unit (including a condominium

or a housing unit in a building owned by a cooperative) that is located outside the contiguous United States if the cost of the unit is $300,000 or less.

"(2) ADJUSTMENTS FOR INFLATION.—For fiscal years beginning after September 30, 1997, the Administrator may adjust the dollar amount specified in paragraph (1) to take into account increases in local housing costs.

"(3) CONTINUING OBLIGATIONS.—Notwithstanding section 1341 of title 31, the Administrator may purchase a housing unit under paragraph (1) even if there is an obligation thereafter to pay necessary and reasonable fees duly assessed upon such unit, including fees related to operation, maintenance, taxes, and insurance.

"(4) CERTIFICATION TO CONGRESS.—The Administrator may purchase a housing unit under paragraph (1) only if, at least 30 days before completing the purchase, the Administrator transmits to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing—

"(A) a description of the housing unit and its price;

"(B) a certification that the price does not exceed the median price of housing units in the area; and

"(C) a certification that purchasing the housing unit is the most cost-beneficial means of providing necessary accommodations in carrying out this part.

"(5) PAYMENT OF FEES.—The Administrator may pay, when due, fees resulting from the purchase of a housing unit under this subsection from any amounts made available to the Administrator.".

SEC. 1202. CLARIFICATION OF PASSENGER FACILITY REVENUES AS CONSTITUTING TRUST FUNDS.

Section 40117(g) is amended by adding at the end the following:

"(4) Passenger facility revenues that are held by an air carrier or an agent of the carrier after collection of a passenger facility fee constitute a trust fund that is held by the air carrier or agent for the beneficial interest of the eligible agency imposing the fee. Such carrier or agent holds neither legal nor equitable interest in the passenger facility revenues except for any handling fee or retention of interest collected on unremitted proceeds as may be allowed by the Secretary.".

49 USC 47101 note.

SEC. 1203. AUTHORITY TO CLOSE AIRPORT LOCATED NEAR CLOSED OR REALIGNED MILITARY BASE.

Notwithstanding any other provision of a law, rule, or grant assurance, an airport that is not a commercial service airport may be closed by its sponsor without any obligation to repay grants made under chapter 471 of title 49, United States Code, the Airport and Airway Improvement Act of 1982, or any other law if the airport is located within 2 miles of a United States Army depot which has been closed or realigned; except that in the case of disposal of the land associated with the airport, the part of the proceeds from the disposal that is proportional to the Government's share of the cost of acquiring the land shall be paid to the Secretary of Transportation for deposit in the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502).

SEC. 1204. GADSDEN AIR DEPOT, ALABAMA.

(a) AUTHORITY TO GRANT WAIVERS.—Notwithstanding section 16 of the Federal Airport Act (as in effect on May 4, 1949), the Secretary is authorized, subject to the provisions of section 47153 of title 49, United States Code, and the provisions of subsection (b) of this section, to waive any of the terms contained in the deed of conveyance dated May 4, 1949, under which the United States conveyed certain property to the city of Gadsden, Alabama, for airport purposes.

(b) CONDITIONS.—Any waiver granted under subsection (a) shall be subject to the following conditions:

(1) The city of Gadsden, Alabama, shall agree that, in conveying any interest in the property which the United States conveyed to the city by a deed described in subsection (a), the city will receive an amount for such interest which is equal to the fair market value of such interest (as determined pursuant to regulations issued by the Secretary).

(2) Any such amount so received by the city shall be used by the city for the development, improvement, operation, or maintenance of a public airport, lands (including any improvements thereto) which produce revenues that are used for airport development purposes, or both.

SEC. 1205. REGULATIONS AFFECTING INTRASTATE AVIATION IN ALASKA.

In modifying regulations contained in title 14, Code of Federal Regulations, in a manner affecting intrastate aviation in Alaska, the Administrator of the Federal Aviation Administration shall consider the extent to which Alaska is not served by transportation modes other than aviation, and shall establish such regulatory distinctions as the Administrator considers appropriate.

SEC. 1206. WESTCHESTER COUNTY AIRPORT, NEW YORK.

Notwithstanding sections 47107(b) and 47133 of title 49, United States Code, and any other law, regulation, or grant assurance, all fees received by Westchester County Airport in the State of New York may be paid into the treasury of Westchester County pursuant to section 119.31 of the Westchester County Charter if the Secretary finds that the expenditures from such treasury for the capital and operating costs of the Airport after December 31, 1990, have been and will be equal to or greater than the fees that such treasury receives from the Airport.

SEC. 1207. BEDFORD AIRPORT, PENNSYLVANIA.

If the Administrator of the Federal Aviation Administration decommissions an instrument landing system in Pennsylvania, the Administrator may transfer and install the system at Bedford Airport, Pennsylvania.

SEC. 1208. WORCESTER MUNICIPAL AIRPORT, MASSACHUSETTS.

The Administrator of the Federal Aviation Administration shall take such actions as may be necessary to improve the safety of aircraft landing at Worcester Municipal Airport, Massachusetts, including, if appropriate, providing air traffic radar service to such airport from the Providence Approach Radar Control in Coventry, Rhode Island.

SEC. 1209. CENTRAL FLORIDA AIRPORT, SANFORD, FLORIDA.

The Administrator of the Federal Aviation Administration shall take such actions as may be necessary to improve the safety of aircraft landing at Central Florida Airport, Sanford, Florida, including, if appropriate, providing a new instrument landing system on Runway 27R.

SEC. 1210. AIRCRAFT NOISE OMBUDSMAN.

Section 106, as amended by section 230 of this Act, is further amended by adding at the end the following:

"(q) AIRCRAFT NOISE OMBUDSMAN.—

"(1) ESTABLISHMENT.—There shall be in the Administration an Aircraft Noise Ombudsman.

"(2) GENERAL DUTIES AND RESPONSIBILITIES.—The Ombudsman shall—

"(A) be appointed by the Administrator;

"(B) serve as a liaison with the public on issues regarding aircraft noise; and

"(C) be consulted when the Administration proposes changes in aircraft routes so as to minimize any increases in aircraft noise over populated areas.

"(3) NUMBER OF FULL-TIME EQUIVALENT EMPLOYEES.—The appointment of an Ombudsman under this subsection shall not result in an increase in the number of full-time equivalent employees in the Administration.".

SEC. 1211. SPECIAL RULE FOR PRIVATELY OWNED RELIEVER AIRPORTS.

Section 47109 is amended by adding at the end the following:

"(c) SPECIAL RULE FOR PRIVATELY OWNED RELIEVER AIRPORTS.—If a privately owned reliever airport contributes any lands, easements, or rights-of-way to carry out a project under this subchapter, the current fair market value of such lands, easements, or rights-of-way shall be credited toward the non-Federal share of allowable project costs.".

SEC. 1212. SENSE OF THE SENATE REGARDING THE FUNDING OF THE FEDERAL AVIATION ADMINISTRATION.

(a) FINDINGS.—The Senate finds that—

(1) Congress is responsible for ensuring that the financial needs of the Federal Aviation Administration, the agency that performs the critical function of overseeing the Nation's air traffic control system and ensuring the safety of air travelers in the United States, are met;

(2) aviation excise taxes that constitute the Airport and Airway Trust Fund, which provides most of the funding for the Federal Aviation Administration, have expired;

(3) the surplus in the Airport and Airway Trust Fund will be spent by the Federal Aviation Administration by December 1996;

(4) the existing system of funding the Federal Aviation Administration will not provide the agency with sufficient short-term or long-term funding;

(5) this Act creates a sound process to review Federal Aviation Administration funding and develop a funding system to meet the Federal Aviation Administration's long-term funding needs; and

(6) without immediate action by Congress to ensure that the Federal Aviation Administration's financial needs are met, air travelers' confidence in the system could be undermined.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that there should be an immediate enactment of an 18-month reinstatement of the aviation excise taxes to provide short-term funding for the Federal Aviation Administration.

SEC. 1213. RURAL AIR FARE STUDY.

(a) IN GENERAL.—The Secretary shall conduct a study to—

(1) compare air fares paid (calculated as both actual and adjusted air fares) for air transportation on flights conducted by commercial air carriers—

(A) between—

(i) nonhub airports located in small communities; and

(ii) large hub airports; and

(B) between large hub airports;

(2) analyze—

(A) the extent to which passenger service that is provided from nonhub airports is provided on—

(i) regional commuter commercial air carriers; or

(ii) major air carriers;

(B) the type of aircraft employed in providing passenger service at nonhub airports; and

(C) whether there is competition among commercial air carriers with respect to the provision of air service to passengers from nonhub airports.

(b) FINDINGS.—The Secretary shall include in the report of the study conducted under subsection (a) findings concerning—

(1) whether passengers who use commercial air carriers to and from rural areas (as defined by the Secretary) pay a disproportionately greater price for that transportation than passengers who use commercial air carriers between urban areas (as defined by the Secretary);

(2) the nature of competition, if any, in rural markets (as defined by the Secretary) for commercial air carriers;

(3) whether a relationship exists between higher air fares and competition among commercial air carriers for passengers traveling on jet aircraft from small communities (as defined by the Secretary) and, if such a relation exists, the nature of that relationship;

(4) the number of small communities that have lost air service as a result of the deregulation of commercial air carriers with respect to air fares;

(5) the number of small communities served by airports with respect to which, after commercial air carrier fares were deregulated, jet aircraft service was replaced by turboprop aircraft service; and

(6) where such replacement occurred, any corresponding decreases in available seat capacity for consumers at the airports referred to in that subparagraph.

(c) REPORT.—Not later than 60 days after the date of the enactment of this Act, the Secretary shall submit a final report on the study carried out under subsection (a) to the Committee on Commerce, Science, and Transportation of the Senate and the

Committee on Transportation and Infrastructure of the House of Representatives.

(d) DEFINITIONS.—For purposes of this section, the following definitions apply:

(1) ADJUSTED AIR FARE.—The term "adjusted air fare" means an actual air fare that is adjusted for distance traveled by a passenger.

(2) AIR CARRIER.—The term "air carrier" is defined in section 40102(a)(2) of title 49, United States Code.

(3) AIRPORT.—The term "airport" is defined in section 40102(9) of such title.

(4) COMMERCIAL AIR CARRIER.—The term "commercial air carrier" means an air carrier that provides air transportation for commercial purposes (as determined by the Secretary).

(5) HUB AIRPORT.—The term "hub airport" is defined in section 41731(a)(2) of such title.

(6) LARGE HUB AIRPORT.—The term "large hub airport" shall be defined by the Secretary but the definition may not include a small hub airport, as that term is defined in section 41731(a)(5) of such title.

(7) MAJOR AIR CARRIER.—The term "major air carrier" shall be defined by the Secretary.

(8) NONHUB AIRPORT.—The term "nonhub airport" is defined in section 41731(a)(4) of such title.

(9) REGIONAL COMMUTER AIR CARRIER.—The term "regional commuter air carrier" shall be defined by the Secretary.

SEC. 1214. CARRIAGE OF CANDIDATES IN STATE AND LOCAL ELECTIONS.

The Administrator of the Federal Aviation Administration shall revise section 91.321 of the Administration's regulations (14 C.F.R. 91.321), relating to the carriage of candidates in Federal elections, to make the same or similar rules applicable to the carriage of candidates for election to public office in State and local government elections.

SEC. 1215. SPECIAL FLIGHT RULES IN THE VICINITY OF GRAND CANYON NATIONAL PARK.

The Secretary of Transportation, acting through the Administrator of the Federal Aviation Administration, shall take such action as may be necessary to provide 45 additional days for comment by interested persons on the special flight rules in the vicinity of Grand Canyon National Park and the Draft Environmental Assessment described in the notice of proposed rulemaking issued on July 31, 1996, at 61 Fed. Reg. 40120 et seq.

SEC. 1216. TRANSFER OF AIR TRAFFIC CONTROL TOWER; CLOSING OF FLIGHT SERVICE STATIONS.

(a) HICKORY, NORTH CAROLINA TOWER.—

(1) TRANSFER.—The Administrator of the Federal Aviation Administration may transfer any title, right, or interest the United States has in the air traffic control tower located at the Hickory Regional Airport to the City of Hickory, North Carolina, for the purpose of enabling the city to provide air traffic control services to operators of aircraft.

(2) STUDY.—The Administrator shall conduct a study to determine whether the number of operations at Hickory Regional Airport meet the criteria for contract towers and shall

certify in writing to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Commerce and Infrastructure of the House of Representatives whether that airport meets those criteria.

(b) NEW BERN-CRAVEN COUNTY STATION.—The Administrator shall not close the New Bern-Craven County flight services station or the Hickory Regional Airport flight service station unless the Administrator certifies in writing to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that such closure will not result in a degradation of air safety and that it will reduce costs to taxpayers.

(c) PIERRE, SOUTH DAKOTA STATION.—The Administrator shall not close the Pierre, South Dakota Regional Airport flight service station unless following the 180th day after the date of the enactment of this Act the Administrator certifies in writing to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that such closure will not result in a degradation of air safety, air service, or the loss of meteorological services or data that cannot otherwise be obtained in a more cost-effective manner, and that it will reduce costs to taxpayers.

SEC. 1217. LOCATION OF DOPPLER RADAR STATIONS, NEW YORK.

(a) STUDY.—The Administrator of the Federal Aviation Administration shall conduct a study of the feasibility of constructing 2 offshore platforms to serve as sites for the location of Doppler radar stations for John F. Kennedy International Airport and LaGuardia Airport in New York City, New York.

(b) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Administrator shall transmit to Congress a report on the results of the study conducted under subsection (a), including proposed locations for the offshore platforms. Such locations shall be as far as possible from populated areas while providing appropriate safety measures for John F. Kennedy International Airport and LaGuardia Airport.

SEC. 1218. TRAIN WHISTLE REQUIREMENTS.

(a) IN GENERAL.—Section 20153 is amended by adding at the end the following:

"(i) REGULATIONS.—In issuing regulations under this section, the Secretary—

"(1) shall take into account the interest of communities that—

"(A) have in effect restrictions on the sounding of a locomotive horn at highway-rail grade crossings; or

"(B) have not been subject to the routine (as defined by the Secretary) sounding of a locomotive horn at highway-rail grade crossings;

"(2) shall work in partnership with affected communities to provide technical assistance and shall provide a reasonable amount of time for local communities to install supplementary safety measures, taking into account local safety initiatives (such as public awareness initiatives and highway-rail grade crossing traffic law enforcement programs) subject to such terms and conditions as the Secretary deems necessary, to protect public safety; and

"(3) may waive (in whole or in part) any requirement of this section (other than a requirement of this subsection or subsection (j)) that the Secretary determines is not likely to contribute significantly to public safety.

"(j) EFFECTIVE DATE OF REGULATIONS.—Any regulations under this section shall not take effect before the 365th day following the date of publication of the final rule.".

SEC. 1219. INCREASED FEES.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Surface Transportation Board shall not increase fees for services to be collected from small shippers in connection with rail maximum rate complaints pursuant to part 1002 of title 49, Code of Federal Regulations, Ex Parte No. 542.

Effective date.

(b) APPLICABILITY.—Subsection (a) shall no longer be effective after September 30, 1998.

SEC. 1220. STRUCTURES INTERFERING WITH AIR COMMERCE.

(a) LANDFILLS.—Section 44718 is amended by adding at the end the following:

"(d) LANDFILLS.—For the purposes of enhancing aviation safety, in a case in which 2 landfills have been proposed to be constructed or established within 6 miles of a commercial service airport with fewer than 50,000 enplanements per year, no person shall construct or establish either landfill if an official of the Federal Aviation Administration has stated in writing within the 3-year period ending on the date of the enactment of this subsection that 1 of the landfills would be incompatible with aircraft operations at the airport, unless the landfill is already active on such date of enactment or the airport operator agrees to the construction or establishment of the landfill.".

(b) CIVIL PENALTIES.—Section 46301 is amended by inserting "44718(d)," after "44716," in each of subsections (a)(1)(A), (d)(2), and (f)(1)(A)(i).

SEC. 1221. HAWAII CARGO.

Notwithstanding any other provision of law, and for a period that shall not extend beyond September 30, 1998, an air carrier which commenced all-cargo turnaround service during November 1995 with Stage 2 aircraft with a maximum weight of more than 75,000 pounds may operate no more than one Stage 2 aircraft in all-cargo turnaround service and may also maintain a second such aircraft in reserve. The reserve aircraft may only be used as a replacement aircraft when the first aircraft is not airworthy or is unavailable due to closure of an airport at which the first aircraft is located in the State of Hawaii.

SEC. 1222. LIMITATION ON AUTHORITY OF STATES TO REGULATE GAMBLING DEVICES ON VESSELS.

Subsection (b)(2) of section 5 of the Act of January 2, 1951 (commonly referred to as the "Johnson Act") (64 Stat. 1135, chapter 1194; 15 U.S.C. 1175), is amended by adding at the end the following:

"(C) EXCLUSION OF CERTAIN VOYAGES AND SEGMENTS.—Except for a voyage or segment of a voyage that occurs within the boundaries of the State of Hawaii, a voyage or segment of a voyage is not described in subparagraph

(B) if such voyage or segment includes or consists of a segment—

"(i) that begins and ends in the same State;

"(ii) that is part of a voyage to another State or to a foreign country; and

"(iii) in which the vessel reaches the other State or foreign country within 3 days after leaving the State in which such segment begins.".

SEC. 1223. CLARIFYING AMENDMENT.

Section 1 of the Railway Labor Act (45 U.S.C. 151) is amended by inserting ", any express company that would have been subject to subtitle IV of title 49, United States Code, as of December 31, 1995," after "Board" the first place it appears in the first paragraph.

Approved October 9, 1996.

LEGISLATIVE HISTORY—H.R. 3539 (S. 1994):

HOUSE REPORTS: Nos. 104–714, Pt. 1 (Comm. on Transportation and Infrastructure) and 104–848 (Comm. of Conference).

SENATE REPORTS: No. 104–333 accompanying S. 1994 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD, Vol. 142 (1996):

Sept. 10, 11, considered and passed House.

Sept. 18, considered and passed Senate, amended, in lieu of S. 1994.

Sept. 27, House agreed to conference report.

Sept. 30–Oct. 3, Senate considered and agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 32 (1996):

Oct. 9, Presidential remarks and statement.

Public Law 104–265
104th Congress

An Act

Oct. 9, 1996
[H.R. 3546]

To direct the Secretary of the Interior to convey the Walhalla National Fish Hatchery to the State of South Carolina, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Walhalla National Fish Hatchery Conveyance Act.

TITLE I—WALHALLA NATIONAL FISH HATCHERY

SEC. 101. SHORT TITLE.

This Act may be cited as the "Walhalla National Fish Hatchery Conveyance Act".

SEC. 102. CONVEYANCE OF WALHALLA NATIONAL FISH HATCHERY TO THE STATE OF SOUTH CAROLINA.

Effective date.

(a) CONVEYANCE REQUIREMENT.—Within 180 days after the date of the enactment of this Act, the Secretary of the Interior shall convey to the State of South Carolina without reimbursement all right, title, and interest of the United States in and to the property described in subsection (b), for use by the South Carolina Department of Natural Resources as part of the State of South Carolina fish culture program.

(b) PROPERTY DESCRIBED.—The property referred to in subsection (a) is the property known as the Walhalla National Fish Hatchery, located on Indian Camp Creek and the East Fork of Chattooga River off of State Secondary Highway 325 in northern Oconee County, South Carolina, consisting of 76.2 acres (more or less), all improvements and related personal property under the control of the Secretary that is located on that property, including buildings, structures, and equipment, and all easements, leases, and water rights relating to that property.

(c) REVERSIONARY INTEREST.—If any of the property conveyed to the State of South Carolina under this section is used for any purpose other than the use authorized under subsection (a), all right, title, and interest in and to all property conveyed under this section shall revert to the United States. The State of South Carolina shall ensure that all property reverting to the United States under this subsection is in substantially the same or better condition as at the time of transfer to the State.

TITLE II—CORRECTION OF COASTAL BARRIER RESOURCES MAP

SEC. 201. CORRECTIONS OF MAP.

Effective date. 16 USC 3503 note.

(a) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the Secretary of the Interior shall make such corrections to the set of maps described in subsection (b) as are necessary to move the southern-most boundary of Unit SC–01 of the Coastal Barrier Resources System (known as the "Long Pond Unit") to exclude from the Unit the structures known as "Lands End", "Beachwalk", and "Courtyard Villas", including the land lying between the structures. The corrected southern boundary shall extend in a straight line, at the break in development, between the coast and the north boundary of the unit.

(b) MAPS.—The set of maps described in this subsection is the set of maps entitled "Coastal Barrier Resources System" dated October 24, 1990, insofar as the maps relate to Unit SC–01 of the Coastal Barrier Resources System.

Approved October 9, 1996.

LEGISLATIVE HISTORY—H.R. 3546:

HOUSE REPORTS: No. 104–701 (Comm. on Resources).
CONGRESSIONAL RECORD, Vol. 142 (1996):
July 30, considered and passed House.
Sept. 24, considered and passed Senate, amended.
Sept. 27, House concurred in Senate amendments.

Public Law 104–266
104th Congress

An Act

Oct. 9, 1996
[H.R. 3660]

To make amendments to the Reclamation Wastewater and Groundwater Study and Facilities Act, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Reclamation Recycling and Water Conservation Act of 1996.
43 USC 390h note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Reclamation Recycling and Water Conservation Act of 1996".

SEC. 2. WATER RECYCLING PROJECTS.

(a) IN GENERAL.—The Reclamation Projects Authorization and Adjustment Act of 1992 (43 U.S.C. 390h et seq.) is amended—

43 USC 390h–13, 390h–14, 390h–15.

(1) by redesignating sections 1615, 1616, and 1617 as sections 1631, 1632, and 1633, respectively, and

(2) by inserting after section 1614 the following new sections:

43 USC 390h–12a.

"SEC. 1615. NORTH SAN DIEGO COUNTY AREA WATER RECYCLING PROJECT.

"(a) AUTHORIZATION.—The Secretary, in cooperation with the appropriate State and local authorities, is authorized to participate in the design, planning, and construction of the North San Diego County Area Water Recycling Project, consisting of projects to reclaim and reuse water within service areas of the San Elijo Joint Powers Authority, the Leucadia County Water District, the City of Carlsbad, and the Olivenhain Municipal Water District, California.

"(b) COST SHARE.—The Federal share of the cost of a project described in subsection (a) shall not exceed 25 percent of the total cost.

"(c) LIMITATION.—The Secretary shall not provide funds for the operation or maintenance of a project described in subsection (a).

43 USC 390h–12b.

"SEC. 1616. CALLEGUAS MUNICIPAL WATER DISTRICT RECYCLING PROJECT.

"(a) AUTHORIZATION.—The Secretary, in cooperation with the appropriate State and local authorities, is authorized to participate in the design, planning, and construction of the Calleguas Municipal Water District Recycling Project to reclaim and reuse water in the service area of the Calleguas Municipal Water District in Ventura County, California.

"(b) COST SHARE.—The Federal share of the cost of a project described in subsection (a) shall not exceed 25 percent of the total cost.

"(c) LIMITATION.—The Secretary shall not provide funds for the operation or maintenance of a project described in subsection (a).

"SEC. 1617. CENTRAL VALLEY WATER RECYCLING PROJECT.

43 USC 390h–12c.

"(a) AUTHORIZATION.—The Secretary, in cooperation with the appropriate State and local authorities, is authorized to participate in the design, planning, and construction of the Central Valley Water Recycling Project to reclaim and reuse water in the service areas of the Central Valley Reclamation Facility and the Salt Lake County Water Conservancy District in Utah.

"(b) COST SHARE.—The Federal share of the cost of a project described in subsection (a) shall not exceed 25 percent of the total cost.

"(c) LIMITATION.—The Secretary shall not provide funds for the operation or maintenance of a project described in subsection (a).

"SEC. 1618. ST. GEORGE AREA WATER RECYCLING PROJECT.

43 USC 390h–12d.

"(a) AUTHORIZATION.—The Secretary, in cooperation with the appropriate State and local authorities, is authorized to participate in the design, planning, and construction of the St. George Area Water Recycling Project to reclaim and reuse water in the service area of the Washington County Water Conservancy District in Utah.

"(b) COST SHARE.—The Federal share of the cost of a project described in subsection (a) shall not exceed 25 percent of the total cost.

"(c) LIMITATION.—The Secretary shall not provide funds for the operation or maintenance of a project described in subsection (a).

"SEC. 1619. WATSONVILLE AREA WATER RECYCLING PROJECT.

43 USC 390h–12e.

"(a) AUTHORIZATION.—The Secretary, in cooperation with the City of Watsonville, California, is authorized to participate in the design, planning, and construction of the Watsonville Area Water Recycling Project to reclaim and reuse water in the Pajaro Valley in Santa Cruz County, California.

"(b) COST SHARE.—The Federal share of the cost of a project described in subsection (a) shall not exceed 25 percent of the total cost.

"(c) LIMITATION.—The Secretary shall not provide funds for the operation or maintenance of a project described in subsection (a).

"SEC. 1620. SOUTHERN NEVADA WATER RECYCLING PROJECT.

43 USC 390h–12f.

"(a) AUTHORIZATION.—The Secretary, in cooperation with the appropriate State and local authorities, is authorized to participate in the design, planning, and construction of the Southern Nevada Water Recycling Project to reclaim and reuse water in the service area of the Southern Nevada Water Authority in Clark County, Nevada.

"(b) COST SHARE.—The Federal share of the cost of a project described in subsection (a) shall not exceed 25 percent of the total cost.

"(c) LIMITATION.—The Secretary shall not provide funds for the operation or maintenance of a project described in subsection (a).

43 USC 390h–12g.

"SEC. 1621. ALBUQUERQUE METROPOLITAN AREA WATER RECLAMATION AND REUSE STUDY.

"(a) AUTHORIZATION.—The Secretary, in cooperation with the city of Albuquerque, New Mexico, is authorized to participate in the Albuquerque Metropolitan Area Water Reclamation and Reuse Study to reclaim and reuse industrial and municipal wastewater and reclaim and use naturally impaired ground water in the Albuquerque metropolitan area.

"(b) COST SHARE.—The Federal share of the cost of a project described in subsection (a) shall not exceed 25 percent of the total cost.

"(c) LIMITATION.—The Secretary shall not provide funds for the operation or maintenance of a project described in subsection (a).

43 USC 390h–12h.

"SEC. 1622. EL PASO WATER RECLAMATION AND REUSE PROJECT.

"(a) AUTHORIZATION.—The Secretary, in cooperation with the appropriate State and local authorities, is authorized to participate in the design, planning, and construction of the El Paso Water Reclamation and Reuse Project to reclaim and reuse wastewater in the service area of the El Paso Water Utilities Public Service Board, El Paso, Texas.

"(b) COST SHARE.—The Federal share of the cost of a project described in subsection (a) shall not exceed 25 percent of the total cost.

"(c) LIMITATION.—The Secretary shall not provide funds for the operation or maintenance of a project described in subsection (a).

43 USC 390h–12i.

"SEC. 1623. RECLAIMED WATER IN PASADENA.

"(a) AUTHORIZATION.—The Secretary, in cooperation with the appropriate State and local authorities, is authorized to participate in the design, planning, and construction of the City of Pasadena, California, reclaimed water project to obtain, store, and use reclaimed water in Pasadena and its service area, as well as neighboring communities.

"(b) COST SHARE.—The Federal share of the cost of a project described in subsection (a) shall not exceed 25 percent of the total cost.

"(c) LIMITATION.—The Secretary shall not provide funds for the operation or maintenance of a project described in subsection (a).

43 USC 390h–12j.

"SEC. 1624. PHASE 1 OF THE ORANGE COUNTY REGIONAL WATER RECLAMATION PROJECT.

"(a) AUTHORIZATION.—The Secretary, in cooperation with the appropriate State and local authorities, is authorized to participate in the design, planning, and construction of phase 1 of the Orange County Regional Water Reclamation Project, to reclaim and reuse water within the service area of the Orange County Water District in California.

"(b) COST SHARE.—The Federal share of the cost of a project described in subsection (a) shall not exceed 25 percent of the total cost.

"(c) LIMITATION.—The Secretary shall not provide funds for the operation or maintenance of a project described in subsection (a).

"SEC. 1625. CITY OF WEST JORDAN WATER REUSE PROJECT. 43 USC 390h–12k.

"(a) AUTHORIZATION.—The Secretary, in cooperation with the City of West Jordan, Utah, is authorized to participate in the design, planning, and construction of the City of West Jordan Water Reuse Project to recycle and reuse water in its service area from the South Valley Water Reclamation Facility Discharge Waters in Utah.

"(b) COST SHARE.—The Federal share of the cost of a project described in subsection (a) shall not exceed 25 percent of the total cost.

"(c) LIMITATION.—The Secretary shall not provide funds for the operation or maintenance of a project described in subsection (a).

"SEC. 1626. HI-DESERT WATER DISTRICT IN YUCCA VALLEY, CALIFORNIA WASTEWATER COLLECTION AND REUSE FACILITY. 43 USC 390h–12*l*.

"(a) AUTHORIZATION.—The Secretary, in cooperation with the appropriate State and local authorities, is authorized to participate in the design, planning, and construction of the Hi-Desert Water District in Yucca Valley, California wastewater collection and reuse facility.

"(b) COST SHARE.—The Federal share of the cost of a project described in subsection (a) shall not exceed 25 percent of the total cost.

"(c) LIMITATION.—The Secretary shall not provide funds for the operation or maintenance of a project described in subsection (a).

"SEC. 1627. MISSION BASIN BRACKISH GROUNDWATER DESALTING DEMONSTRATION PROJECT. 43 USC 390h–12m.

"(a) AUTHORIZATION.—The Secretary, in cooperation with the City of Oceanside, is authorized to participate in the design, planning, and construction of a 3,000,000 gallon per day expansion of the Mission Basin Brackish Groundwater Desalting Demonstration Project in Oceanside, California.

"(b) COST SHARE.—The Federal share of the cost of a project described in subsection (a) shall not exceed 25 percent of the total cost.

"(c) LIMITATION.—The Secretary shall not provide funds for the operation or maintenance of a project described in subsection (a).

"SEC. 1628. TREATMENT OF EFFLUENT FROM THE SANITATION DISTRICTS OF LOS ANGELES COUNTY THROUGH THE CITY OF LONG BEACH. 43 USC 390h–12n.

"(a) AUTHORIZATION.—The Secretary, in cooperation with the Water Replenishment District of Southern California, the Orange County Water District in the State of California, and other appropriate authorities, is authorized to participate in the design, planning, and construction of water reclamation and reuse projects to treat approximately 10,000 acre-feet per year of effluent from the sanitation districts of Los Angeles County through the city of Long Beach.

"(b) COST SHARE.—The Federal share of the cost of a project described in subsection (a) shall not exceed 25 percent of the total cost.

"(c) LIMITATION.—The Secretary shall not provide funds for the operation or maintenance of a project described in subsection (a).

43 USC 390h–12o.

"SEC. 1629. SAN JOAQUIN AREA WATER RECYCLING AND REUSE PROJECT.

"(a) AUTHORIZATION.—The Secretary, in cooperation with the appropriate State and local authorities, is authorized to participate in the design, planning, and construction of the San Joaquin Area Water Recycling and Reuse Project, in cooperation with the City of Tracy, and consisting of participating projects which will reclaim and reuse water within the County of San Joaquin in California.

"(b) COST SHARE.—The Federal share of the cost of a project described in subsection (a) shall not exceed 25 percent of the total cost.

"(c) LIMITATION.—The Secretary shall not provide funds for the operation or maintenance of a project described in subsection (a).

43 USC 390h–12p.

"SEC. 1630. TOOELE WASTEWATER TREATMENT AND REUSE PROJECT.

"(a) AUTHORIZATION.—The Secretary, in cooperation with Tooele City, Utah, is authorized to participate in the design, planning, and construction of the Tooele Wastewater Treatment and Reuse Project.

"(b) COST SHARE.—The Federal share of the cost of a project described in subsection (a) shall not exceed 25 percent of the total cost.

"(c) LIMITATION.—The Secretary shall not provide funds for the operation or maintenance of a project described in subsection (a).".

(b) CONFORMING AMENDMENTS.—

43 USC 390h–13. (1) Section 1631 of such Act, as redesignated by subsection (a)(1), is amended by striking out "1614" and inserting in lieu thereof "1630".

43 USC 390h–14. (2) Section 1632(c) of such Act, as redesignated by subsection (a)(1), is amended by striking out "section 1617" and inserting in lieu thereof "section 1633".

43 USC 390h–15. (3) Section 1633 of such Act, as redesignated by subsection (a)(1), is amended by striking out "section 1616" and inserting in lieu thereof "section 1632".

(c) CLERICAL AMENDMENTS.—The table of sections in section 2 of the Reclamation Projects Authorization and Adjustment Act of 1992 is amended—

(1) by redesignating the items relating to sections 1615, 1616, and 1617 as items relating to sections 1631, 1632, and 1633, respectively, and

(2) by inserting after the item relating to section 1614 the following new items:

"Sec. 1615. North San Diego County Area Water Recycling Project.
"Sec. 1616. Calleguas Municipal Water District Recycling Project.
"Sec. 1617. Central Valley Water Recycling Project.
"Sec. 1618. St. George Area Water Recycling Project.
"Sec. 1619. Watsonville Area Water Recycling Project.
"Sec. 1620. Southern Nevada Water Recycling Project.
"Sec. 1621. Albuquerque Metropolitan Area Water Reclamation and Reuse Study.
"Sec. 1622. El Paso Water Reclamation and Reuse Project.
"Sec. 1623. Reclaimed Water in Pasadena.
"Sec. 1624. Phase 1 of the Orange County Regional Water Reclamation Project.
"Sec. 1625. City of West Jordan Water Reuse Project.
"Sec. 1626. Hi-Desert Water District in Yucca Valley, California Wastewater Collection and Reuse Facility.

"Sec. 1627. Mission Basin Brackish Groundwater Desalting Demonstration Project.
"Sec. 1628. Treatment of effluent from the sanitation districts of Los Angeles County through the City of Long Beach.
"Sec. 1629. San Joaquin Area Water Recycling and Reuse Project.
"Sec. 1630. Tooele Wastewater Treatment and Reuse Project.".

SEC. 3. APPRAISAL INVESTIGATIONS.

Section 1603(b) of the Reclamation Projects Authorization and Adjustment Act of 1992 (43 U.S.C. 390h–1(b)) is amended in the matter preceding paragraph (1) by inserting "by the Secretary or the non-Federal project sponsor" after "undertaken".

SEC. 4. FEASIBILITY STUDIES.

Section 1604(c) of the Reclamation Projects Authorization and Adjustment Act of 1992 (43 U.S.C. 390h–2(c)) is amended—

(1) in the matter preceding paragraph (1), by striking "authorized" and inserting "conducted by the Secretary or the non-Federal project sponsor";

(2) in paragraph (3)—

(A) by inserting "at least two alternative" after "(3)",

(B) by striking "and" after "measures" and inserting "or", and

(C) by inserting "for the project under consideration" after "reuse";

(3) in paragraph (4), by striking "and," at the end;

(4) in paragraph (5), by striking "or" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", or", and by adding at the end the following:

"(C) reduce the demand on existing Federal water supply facilities;"; and

(5) by adding at the end the following:

"(6) the market or dedicated use for reclaimed water in the project's service area; and

"(7) the financial capability of the non-Federal project sponsor to fund its proportionate share of the project's construction costs on an annual basis.".

SEC. 5. DESALINATION RESEARCH AND DEVELOPMENT PROJECT.

Section 1605 of the Reclamation Projects Authorization and Adjustment Act of 1992 (43 U.S.C. 390h–3) is amended—

(1) by designating the existing text as subsection (a); and

(2) by adding at the end the following:

"(b)(1) The Secretary, in cooperation with the city of Long Beach, the Central Basin Municipal Water District, and the Metropolitan Water District of Southern California may participate in the design, planning, and construction of the Long Beach Desalination Research and Development Project in Los Angeles County, California.

"(2) The Federal share of the cost of the project described in paragraph (1) shall not exceed 50 percent of the total.

"(3) The Secretary shall not provide funds for the operation or maintenance of the project described in paragraph (1).

"(c)(1) The Secretary, in cooperation with the Southern Nevada Water Authority, may participate in the design, planning, and construction of the Las Vegas Area Shallow Aquifer Desalination Research and Development Project in Clark County, Nevada.

"(2) The Federal share of the cost of the project described in paragraph (1) shall not exceed 50 percent of the total.

"(3) The Secretary shall not provide funds for the operation or maintenance of the project described in paragraph (1).

"(d) A Federal contribution in excess of 25 percent for a project under this section may not be made until after the Secretary determines that the project is not feasible without such Federal contribution.".

SEC. 6. SAN FRANCISCO AREA WATER RECLAMATION STUDY.

Section 1611(c) of the Reclamation Projects Authorization and Adjustment Act of 1992 (43 U.S.C. 390h–9(c)) is amended by striking "four" and inserting "five".

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

Section 1631 of the Reclamation Projects Authorization and Adjustment Act of 1992 (43 U.S.C. 390h–13), as amended by section 2 of this Act, is amended by inserting "(a)" before "There are authorized" and by adding at the end the following:

"(b)(1) Funds may not be appropriated for the construction of any project authorized by this title until after—

"(A) an appraisal investigation and a feasibility study that complies with the provisions of sections 1603(b) or 1604(c), as the case may be, have been completed by the Secretary or the non-Federal project sponsor;

"(B) the Secretary has determined that the non-Federal project sponsor is financially capable of funding the non-Federal share of the project's costs; and

"(C) the Secretary has approved a cost-sharing agreement with the non-Federal project sponsor which commits the non-Federal project sponsor to funding its proportionate share of the project's construction costs on an annual basis.

"(2) The requirements of paragraph (1) shall not apply to those projects authorized by this title for which funds were appropriated prior to January 1, 1996.

Notification.

"(c) The Secretary shall notify the Committees on Resources and Appropriations of the House of Representatives and the Committees on Energy and Natural Resources and Appropriations of the Senate within 30 days after the signing of a cost-sharing agreement pursuant to subsection (b) that such an agreement has been signed and that the Secretary has determined that the non-Federal project sponsor is financially capable of funding the project's non-Federal share of the project's costs.

"(d)(1) Notwithstanding any other provision of this title and except as provided by paragraph (2), the Federal share of the costs of each of the individual projects authorized by this title shall not exceed $20,000,000 (October 1996 prices).

"(2) In the case of any project authorized by this title for which construction funds were appropriated before January 1, 1996, the Federal share of the cost of such project may not exceed the amount specified as the 'total Federal obligation' for that project in the budget justification made by the Bureau of Reclamation for fiscal year 1997, as contained in part 3 of the report of the hearing held on March 27, 1996, before the Subcommittee on Energy and Water Development of the Committee on Appropriations of the House of Representatives.".

Approved October 9, 1996.

LEGISLATIVE HISTORY—H.R. 3660:

HOUSE REPORTS: No. 104–703 (Comm. on Resources).
CONGRESSIONAL RECORD, Vol. 142 (1996):
Sept. 4, considered and passed House.
Sept. 28, considered and passed Senate.

Public Law 104–267
104th Congress

An Act

Oct. 9, 1996
[H.R. 3871]

To waive temporarily the Medicaid enrollment composition rule for certain health maintenance organizations.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. WAIVER OF 75/25 MEDICAID ENROLLMENT RULE FOR CERTAIN MANAGED CARE ORGANIZATIONS.

The requirement of section 1903(m)(2)(A)(ii) of the Social Security Act is waived—

(1) with respect to Catholic Health Services Plan of Brooklyn and Queens, Inc. (doing business as Fidelis Health Plan) and Managed Healthcare Systems of New York, Inc., for contract periods through January 1, 1999, and

(2) with respect to Health Partners of Philadelphia, Inc., for contract periods through December 31, 1999.

Approved October 9, 1996.

LEGISLATIVE HISTORY—H.R. 3871:

HOUSE REPORTS: No. 104–752 (Comm. on Commerce).
CONGRESSIONAL RECORD, Vol. 142 (1996):
Sept. 4, considered and passed House.
Sept. 28, considered and passed Senate.

Public Law 104–268
104th Congress

An Act

To designate the United States Post Office building located at 351 West Washington Street in Camden, Arkansas, as the "David H. Pryor Post Office Building".

Oct. 9, 1996
[H.R. 3877]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DAVID H. PRYOR POST OFFICE BUILDING.

(a) DESIGNATION.—The United States Post Office building located at 351 West Washington Street in Camden, Arkansas, shall be known and designated as the "David H. Pryor Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the building referred to in subsection (a) shall be deemed to be a reference to the "David H. Pryor Post Office Building".

Approved October 9, 1996.

LEGISLATIVE HISTORY—H.R. 3877:

CONGRESSIONAL RECORD, Vol. 142 (1996):
Sept. 24, considered and passed House.
Sept. 27, considered and passed Senate.

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Public Law 104–269
104th Congress

An Act

Oct. 9, 1996
[H.R. 3916]

To make available certain Voice of America and Radio Marti multilingual computer readable text and voice recordings.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AVAILABILITY OF VOICE OF AMERICA AND RADIO MARTI MULTILINGUAL COMPUTER READABLE TEXT AND VOICE RECORDINGS.

(a) IN GENERAL.—Notwithstanding section 208 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (22 U.S.C. 1461–1a) and the second sentence of section 501 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1461), the Director of the United States Information Agency is authorized to make available, upon request, to the Linguistic Data Consortium of the University of Pennsylvania computer readable multilingual text and recorded speech in various languages. The Consortium shall, directly or indirectly as appropriate, reimburse the Director for any expenses involved in making such materials available.

(b) TERMINATION.—Subsection (a) shall cease to have effect 5 years after the date of the enactment of this Act.

Approved October 9, 1996.

LEGISLATIVE HISTORY—H.R. 3916:

CONGRESSIONAL RECORD, Vol. 142 (1996):
Sept. 4, considered and passed House.
Sept. 28, considered and passed Senate.

Public Law 104–270
104th Congress

An Act

To provide for a study of the recommendations of the Joint Federal-State Commission on Policies and Programs Affecting Alaska Natives.

Oct. 9, 1996
[H.R. 3973]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONGRESSIONAL FINDINGS AND DECLARATION OF POLICY.

42 USC 2991a note.

The Congress finds and declares the following:

(1) The Joint Federal-State Commission on Policies and Programs Affecting Alaska Natives (hereafter in this Act referred to as the "Alaska Natives Commission") was established by Public Law 101–379 (42 U.S.C. 2991a note) following the publication in 1989 of the "Report on the Status of Alaska Natives: A Call for Action" by the Alaska Federation of Natives and after extensive congressional hearings which focused on the need for the first comprehensive assessment of the social, cultural, and economic condition of Alaska's 86,000 Natives since the enactment of the Alaska Native Claims Settlement Act, Public Law 92–203.

(2) The 14-member Alaska Natives Commission held 15 regional hearings throughout Alaska between July 1992 and October 1993, and 2 statewide hearings in Anchorage coinciding with the Conventions of 1992 and 1993 of the Alaska Federation of Natives. In May 1994, the Alaska Natives Commission issued its 3 volume, 440 page report. As required by Public Law 101–379, the report was formally conveyed to the Congress, the President of the United States, and the Governor of Alaska.

(3) The Alaska Natives Commission found that many Alaska Native individuals, families, and communities were experiencing a social, cultural, and economic crisis marked by rampant unemployment, lack of economic opportunity, alcohol abuse, depression, and morbidity and mortality rates that have been described by health care professionals as "staggering".

(4) The Alaska Natives Commission found that due to the high rate of unemployment and lack of economic opportunities for Alaska Natives, government programs for the poor have become the foundation of many village economies. Displacing traditional Alaska Native social safety nets, these well-meaning programs have undermined the healthy interdependence and self-sufficiency of Native tribes and families and have put Native tribes and families at risk of becoming permanent dependencies of Government.

(5) Despite these seemingly insurmountable problems, the Alaska Natives Commission found that Alaska Natives, building on the Alaska Native Claims Settlement Act, had begun a unique process of critical self-examination which, if supported by the United States Congress through innovative legislation, and effective public administration at all levels including traditional Native governance, could provide the basis for an Alaska Native social, cultural, economic, and spiritual renewal.

(6) The Alaska Natives Commission recognized that the key to the future well-being of Alaska Natives lay in—

(A) the systematic resumption of responsibility by Alaska Natives for the well-being of their members,

(B) the strengthening of their economies,

(C) the strengthening, operation, and control of their systems of governance, social services, education, health care, and law enforcement, and

(D) exercising rights they have from their special relationship with the Federal Government and as citizens of the United States and Alaska.

(7) The Alaska Natives Commission recognized that the following 3 basic principles must be respected in addressing the myriad of problems facing Alaska Natives:

(A) Self-reliance.

(B) Self-determination.

(C) Integrity of Native cultures.

(8) There is a need to address the problems confronting Alaska Natives. This should be done rapidly, with certainty, and in conformity with the real economic, social, and cultural needs of Alaska Natives.

(9) Congress retains and has exercised its constitutional authority over Native affairs in Alaska subsequent to the Treaty of Cession and does so now through this Act.

42 USC 2991a note.

SEC. 2. ALASKA NATIVE IMPLEMENTATION STUDY.

(a) FINDINGS.—The Congress finds and declares that—

(1) the Alaska Natives Commission adopted certain recommendations raising important policy questions which are unresolved in Alaska and which require further study and review before Congress considers legislation to implement solutions to address these recommendations; and

(2) the Alaska Federation of Natives is the representative body of statewide Alaska Native interests best suited to further investigate and report to Congress with proposals to implement the recommendations of the Alaska Natives Commission.

(b) GRANT.—The Secretary of Health and Human Services shall make a grant to the Alaska Federation of Natives to conduct the study and submit the report required by this section. Such grant may only be made if the Alaska Federation of Natives agrees to abide by the requirements of this section.

(c) STUDY.—Pursuant to subsection (b), the Alaska Federation of Natives shall—

(1) examine the recommendations of the Alaska Natives Commission;

(2) examine initiatives in the United States, Canada, and elsewhere for successful ways that issues similar to the issues addressed by the Alaska Natives Commission have been addressed;

(3) conduct hearings within the Alaska Native community on further ways in which the Commission's recommendations might be implemented; and

(4) recommend enactment of specific provisions of law and other actions the Congress should take to implement such recommendations.

(d) CONSIDERATION OF LOCAL CONTROL.—In developing its recommendations pursuant to subsection (c)(4), the Alaska Federation of Natives shall give specific attention to the ways in which the recommendations may be achieved at the local level with maximum local control of the implementation of the recommendations.

(e) REPORT.—Not later than 12 months after the date on which the grant is made under subsection (b), the Alaska Federation of Natives shall submit a report on the study conducted under this section, together with the recommendations developed pursuant to subsection (c)(4), to the President and the Congress and to the Governor and legislature of the State of Alaska. In addition, the Alaska Federation of Natives shall make the report available to Alaska Native villages and organizations and to the general public.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $350,000 for the grant under subsection (b).

(g) ADDITIONAL STATE FUNDING.—The Congress encourages the State of Alaska to provide the additional funding necessary for the completion of the study under this section.

Approved October 9, 1996.

LEGISLATIVE HISTORY—H.R. 3973:

HOUSE REPORTS: No. 104–838 (Comm. on Resources).
CONGRESSIONAL RECORD, Vol. 142 (1996):
Sept. 26, considered and passed House.
Sept. 28, considered and passed Senate.

Public Law 104–271
104th Congress

An Act

Oct. 9, 1996
[H.R. 4138]

To authorize the hydrogen research, development, and demonstration programs of the Department of Energy, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Hydrogen Future Act of 1996.
42 USC 12401 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Hydrogen Future Act of 1996".

42 USC 7238 note.

SEC. 2. DEFINITIONS.

For purposes of titles II and III—

(1) the term "Department" means the Department of Energy; and

(2) the term "Secretary" means the Secretary of Energy.

TITLE I—HYDROGEN

SEC. 101. PURPOSES AND DEFINITIONS.

(a) Section 102(b)(1) of Public Law 101–566 (42 U.S.C. 12401(b)(1)) is amended to read as follows:

"(1) to direct the Secretary of Energy to conduct a research, development, and demonstration program leading to the production, storage, transport, and use of hydrogen for industrial, residential, transportation, and utility applications;".

(b) Section 102(c) of Public Law 101–566 (42 U.S.C. 12401(c)) is amended—

(1) in subsection (1) by striking "; and" inserting ";";

(2) by redesignating subsection (2) as subsection (3); and

(3) by inserting before subsection (3) (as redesignated) the following new subsection:

"(2) 'Department' means the Department of Energy; and".

SEC. 102. REPORTS TO CONGRESS.

(a) Section 103 of Public Law 101–566 (42 U.S.C. 12402) is amended to read as follows:

"§ 103. Report to Congress

"(a) Not later than January 1, 1999, the Secretary shall transmit to Congress a detailed report on the status and progress of the programs authorized under this Act.

"(b) A report under subsection (a) shall include, in addition to any views and recommendations of the Secretary—

"(1) an analysis of the effectiveness of the programs authorized under this chapter, to be prepared and submitted

to the Secretary by the Hydrogen Technical Advisory Panel established under section 108 of this Act; and

"(2) recommendations of the Hydrogen Technical Advisory Panel for any improvements in the program that are needed, including recommendations for additional legislation.".

(b) Section 108(d) of Public Law 101–566 (42 U.S.C. 12407(d)) is amended—

(1) by adding "and" at the end of paragraph (1);

(2) by striking "; and" at the end of paragraph (2) and inserting a period; and

(3) by striking paragraph (3).

SEC. 103. HYDROGEN RESEARCH AND DEVELOPMENT.

(a) Section 104 of Public Law 101–566 (42 U.S.C. 12403) is amended to read as follows:

"§ 104. Hydrogen research and development

"(a) The Secretary shall conduct a hydrogen research and development program relating to production, storage, transportation, and use of hydrogen, with the goal of enabling the private sector to demonstrate the technical feasibility of using hydrogen for industrial, residential, transportation, and utility applications.

"(b) In conducting the program authorized by this section, the Secretary shall—

"(1) give particular attention to developing an understanding and resolution of critical technical issues preventing the introduction of hydrogen into the marketplace;

"(2) initiate or accelerate existing research in critical technical issues that will contribute to the development of more economic hydrogen production and use, including, but not limited to, critical technical issues with respect to production (giving priority to those production techniques that use renewable energy resources as their primary source of energy for hydrogen production), liquefaction, transmission, distribution, storage, and use (including use of hydrogen in surface transportation); and

"(3) survey private sector hydrogen activities and take steps to ensure that research and development activities under this section do not displace or compete with the privately funded hydrogen research and development activities of United States industry.

"(c) The Secretary is authorized to evaluate any reasonable new or improved technology, including basic research on highly innovative energy technologies, that could lead or contribute to the development of economic hydrogen production, storage, and utilization.

"(d) The Secretary is authorized to evaluate any reasonable new or improved technology that could lead or contribute to, or demonstrate the use of, advanced renewable energy systems or hybrid systems for use in isolated communities that currently import diesel fuel as the primary fuel for electric power production.

"(e) The Secretary is authorized to arrange for tests and demonstrations and to disseminate to researchers and developers information, data, and other materials necessary to support the research and development activities authorized under this section and other efforts authorized under this chapter, consistent with section 106 of this Act.

"(f) The Secretary shall carry out the research and development activities authorized under this section only through the funding of research and development proposals submitted by interested persons according to such procedures as the Secretary may require and evaluate on a competitive basis using peer review. Such funding shall be in the form of a grant agreement, procurement contract, or cooperative agreement (as those terms are used in chapter 63 of title 31, United States Code).

"(g) The Secretary shall not consider a proposal submitted by a person from industry unless the proposal contains a certification that reasonable efforts to obtain non-Federal funding for the entire cost of the project have been made, and that such non-Federal funding could not be reasonably obtained. As appropriate, the Secretary shall require a commitment from non-Federal sources of at least 50 percent of the cost of the development portion of such a proposal.

"(h) The Secretary shall not carry out any activities under this section that unnecessarily duplicate activities carried out elsewhere by the Federal Government or industry.

"(i) The Secretary shall establish, after consultation with other Federal agencies, terms and conditions under which Federal funding will be provided under this chapter that are consistent with the Agreement on Subsidies and Countervailing Measures referred to in section 101(d)(12) of the Uruguay Round Agreement Act (19 U.S.C. 3511(d)(12)).".

(b)(1) Section 2026(a) of the Energy Policy Act of 1992 (42 U.S.C. 13436(a)) is amended by striking ", in accordance with sections 3001 and 3002 of this Act,".

(2) Effective October 1, 1998, section 2026 of the Energy Policy Act of 1992 (42 U.S.C. 13436) is repealed.

SEC. 104. DEMONSTRATIONS.

Section 105 of Public Law 101–566 (42 U.S.C. 12404) is amended by adding at the end the following new subsection:

"(c) The Secretary shall require a commitment from non-Federal sources of at least 50 percent of the cost of any demonstration conducted under this section.".

SEC. 105. TECHNOLOGY TRANSFER.

Section 106(b) of Public Law 101–566 (42 U.S.C. 12405(b)) is amended by adding to the end of the subsection the following: "The Secretary shall also foster the exchange of generic, nonproprietary information and technology, developed pursuant to this chapter, among industry, academia, and the Federal Government, to help the United States economy attain the economic benefits of this information and technology.".

SEC. 106. AUTHORIZATION OF APPROPRIATIONS.

Section 109 of Public Law 101–566 (42 U.S.C. 12408) is amended—

(1) by striking "to other Acts" and inserting "under other Acts";

(2) by striking "and" from the end of paragraph (2);

(3) by striking the period from the end of paragraph (3) and inserting ";"; and

(4) by adding at the end of the section the following:

"(4) $14,500,000 for fiscal year 1996;

"(5) $20,000,000 for fiscal year 1997;

"(6) $25,000,000 for fiscal year 1998;
"(7) $30,000,000 for fiscal year 1999;
"(8) $35,000,000 for fiscal year 2000; and
"(9) $40,000,000 for fiscal year 2001.".

TITLE II—FUEL CELLS

42 USC 12403 note.

SEC. 201. INTEGRATION OF FUEL CELLS WITH HYDROGEN PRODUCTION SYSTEMS.

(a) Not later than 180 days after the date of enactment of this section, and subject to the availability of appropriations made specifically for this section, the Secretary of Energy shall solicit proposals for projects to prove the feasibility of integrating fuel cells with—

(1) photovoltaic systems for hydrogen production; or

(2) systems for hydrogen production from solid waste via gasification or steam reforming.

(b) Each proposal submitted in response to the solicitation under this section shall be evaluated on a competitive gas is using peer review. The Secretary is not required to make an award under this section in the absence of a meritorious proposals.

(c) The Secretary shall give preference, in making an award under this section, to proposals that—

(1) are submitted jointly from consortia including academic institutions, industry, State or local governments, and Federal laboratories; and

(2) reflect proven experience and capability with technologies relevant to the systems described in subsections (a)(1) and (a)(2).

(d) In the case of a proposal involving development or demonstration, the Secretary shall require a commitment from non-Federal sources of at least 50 percent of the cost of the development or demonstration portion of the proposal.

(e) The Secretary shall establish, after consultation with other Federal agencies, terms and conditions under which Federal funding will be provided under this title that are consistent with the Agreement on Subsidies and Countervailing Measures referred to in section 101(d)(12) of the Uruguay Round Agreement Act (19 U.S.C. 3511(d)(12)).

SEC. 202. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated, for activities under this section, a total of $50,000,000 for fiscal years 1997 and 1998, to remain available until September 30, 1999.

TITLE III—DOE SCIENTIFIC AND TECHNICAL PROGRAM QUALITY

42 USC 7238.

SEC. 301. TEMPORARY APPOINTMENTS FOR SCIENTIFIC AND TECHNICAL EXPERTS IN DEPARTMENT OF ENERGY RESEARCH AND DEVELOPMENT PROGRAMS.

(a) The Secretary, utilizing authority under other applicable law and the authority of this section, may appoint for a limited term, or on a temporary basis, scientists, engineers, and other technical and professional personnel on leave of absence from academic, industrial, or research institutions to work for the Department.

(b) The Department may pay, to the extent authorized for certain other Federal employees by section 5723 of title 5, United States Code, travel expenses for any individual appointed for a limited term or on a temporary basis and transportation expenses of his or her immediate family and his or her household goods and personal effects from that individual's residence at the time of selection or assignment to his or her duty station. The Department may pay such travel expenses to the same extent for such an individual's return to the former place of residence from his or her duty station, upon separation from the Federal service following an agreed period of service. The Department may also pay a per diem allowance at a rate not to exceed the daily amounts prescribed under section 5702 of title 5 to such an individual, in lieu of transportation expenses of the immediate family and household goods and personal effects, for the period of his or her employment with the Department. Notwithstanding any other provision of law, the employer's contribution to any retirement, life insurance, or health benefit plan for an individual appointed for a term of one year or less, which could be extended for no more than one additional year, may be made or reimbursed from appropriations available to the Department.

Approved October 9, 1996.

LEGISLATIVE HISTORY—H.R. 4138:

CONGRESSIONAL RECORD, Vol. 142 (1996):
Sept. 26, considered and passed House.
Sept. 28, considered and passed Senate.

Public Law 104–272
104th Congress

An Act

To provide for the safety of journeymen boxers, and for other purposes.

Oct. 9, 1996
[H.R. 4167]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Professional Boxing Safety Act of 1996.
15 USC 6301 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Professional Boxing Safety Act of 1996".

SEC. 2. DEFINITIONS.

15 USC 6301.

For purposes of this Act:

(1) BOXER.—The term "boxer" means an individual who fights in a professional boxing match.

(2) BOXING COMMISSION.—(A) The term "boxing commission" means an entity authorized under State law to regulate professional boxing matches.

(3) BOXER REGISTRY.—The term "boxer registry" means any entity certified by the Association of Boxing Commissions for the purposes of maintaining records and identification of boxers.

(4) LICENSEE.—The term "licensee" means an individual who serves as a trainer, second, or cut man for a boxer.

(5) MANAGER.—The term "manager" means a person who receives compensation for service as an agent or representative of a boxer.

(6) MATCHMAKER.—The term "matchmaker" means a person that proposes, selects, and arranges the boxers to participate in a professional boxing match.

(7) PHYSICIAN.—The term "physician" means a doctor of medicine legally authorized to practice medicine by the State in which the physician performs such function or action.

(8) PROFESSIONAL BOXING MATCH.—The term "professional boxing match" means a boxing contest held in the United States between individuals for financial compensation. Such term does not include a boxing contest that is regulated by an amateur sports organization.

(9) PROMOTER.—The term "promoter" means the person primarily responsible for organizing, promoting, and producing a professional boxing match.

(10) STATE.—The term "State" means each of the 50 States, Puerto Rico, the District of Columbia, and any territory or possession of the United States.

15 USC 6302.

SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to improve and expand the system of safety precautions that protects the welfare of professional boxers; and

(2) to assist State boxing commissions to provide proper oversight for the professional boxing industry in the United States.

15 USC 6303.

SEC. 4. BOXING MATCHES IN STATES WITHOUT BOXING COMMISSIONS.

No person may arrange, promote, organize, produce, or fight in a professional boxing match held in a State that does not have a boxing commission unless the match is supervised by a boxing commission from another State and subject to the most recent version of the recommended regulatory guidelines certified and published by the Association of Boxing Commissions as well as any additional relevant professional boxing regulations and requirements of such other State.

15 USC 6304.

SEC. 5. SAFETY STANDARDS.

No person may arrange, promote, organize, produce, or fight in a professional boxing match without meeting each of the following requirements or an alternative requirement in effect under regulations of a boxing commission that provides equivalent protection of the health and safety of boxers:

(1) A physical examination of each boxer by a physician certifying whether or not the boxer is physically fit to safely compete, copies of which must be provided to the boxing commission.

(2) Except as otherwise expressly provided under regulation of a boxing commission promulgated subsequent to the enactment of this Act, an ambulance or medical personnel with appropriate resuscitation equipment continuously present on site.

(3) A physician continuously present at ringside.

(4) Health insurance for each boxer to provide medical coverage for any injuries sustained in the match.

15 USC 6305.

SEC. 6. REGISTRATION.

(a) REQUIREMENTS.—Each boxer shall register with—

(1) the boxing commission of the State in which such boxer resides; or

(2) in the case of a boxer who is a resident of a foreign country, or a State in which there is no boxing commission, the boxing commission of any State that has such a commission.

(b) IDENTIFICATION CARD.—

(1) ISSUANCE.—A boxing commission shall issue to each professional boxer who registers in accordance with subsection (a), an identification card that contains each of the following:

(A) A recent photograph of the boxer.

(B) The social security number of the boxer (or, in the case of a foreign boxer, any similar citizen identification number or professional boxer number from the country of residence of the boxer).

(C) A personal identification number assigned to the boxer by a boxing registry.

(2) RENEWAL.—Each professional boxer shall renew his or her identification card at least once every 2 years.

(3) PRESENTATION.—Each professional boxer shall present his or her identification card to the appropriate boxing commission not later than the time of the weigh-in for a professional boxing match.

SEC. 7. REVIEW. 15 USC 6306.

(a) PROCEDURES.—Each boxing commission shall establish each of the following procedures:

(1) Procedures to evaluate the professional records and physician's certification of each boxer participating in a professional boxing match in the State, and to deny authorization for a boxer to fight where appropriate.

(2) Procedures to ensure that, except as provided in subsection (b), no boxer is permitted to box while under suspension from any boxing commission due to—

(A) a recent knockout or series of consecutive losses;

(B) an injury, requirement for a medical procedure, or physician denial of certification;

(C) failure of a drug test; or

(D) the use of false aliases, or falsifying, or attempting to falsify, official identification cards or documents.

(3) Procedures to review a suspension where appealed by a boxer, including an opportunity for a boxer to present contradictory evidence.

(4) Procedures to revoke a suspension where a boxer—

(A) was suspended under subparagraph (A) or (B) of paragraph (2) of this subsection, and has furnished further proof of a sufficiently improved medical or physical condition; or

(B) furnishes proof under subparagraph (C) or (D) of paragraph (2) that a suspension was not, or is no longer, merited by the facts.

(b) SUSPENSION IN ANOTHER STATE.—A boxing commission may allow a boxer who is under suspension in any State to participate in a professional boxing match—

(1) for any reason other than those listed in subsection (a) if such commission notifies in writing and consults with the designated official of the suspending State's boxing commission prior to the grant of approval for such individual to participate in that professional boxing match; or

(2) if the boxer appeals to the Association of Boxing Commissions, and the Association of Boxing Commissions determines that the suspension of such boxer was without sufficient grounds, for an improper purpose, or not related to the health and safety of the boxer or the purposes of this Act.

SEC. 8. REPORTING. 15 USC 6307.

Not later than 48 business hours after the conclusion of a professional boxing match, the supervising boxing commission shall report the results of such boxing match and any related suspensions to each boxer registry.

SEC. 9. CONFLICTS OF INTEREST. 15 USC 6308.

No member or employee of a boxing commission, no person who administers or enforces State boxing laws, and no member of the Association of Boxing Commissions may belong to, contract with, or receive any compensation from, any person who sanctions, arranges, or promotes professional boxing matches or who otherwise

has a financial interest in an active boxer currently registered with a boxer registry. For purposes of this section, the term "compensation" does not include funds held in escrow for payment to another person in connection with a professional boxing match. The prohibition set forth in this section shall not apply to any contract entered into, or any reasonable compensation received, by a boxing commission to supervise a professional boxing match in another State as described in section 4.

15 USC 6309.

SEC. 10. ENFORCEMENT.

(a) INJUNCTIONS.—Whenever the Attorney General of the United States has reasonable cause to believe that a person is engaged in a violation of this Act, the Attorney General may bring a civil action in the appropriate district court of the United States requesting such relief, including a permanent or temporary injunction, restraining order, or other order, against the person, as the Attorney General determines to be necessary to restrain the person from continuing to engage in, sanction, promote, or otherwise participate in a professional boxing match in violation of this Act.

(b) CRIMINAL PENALTIES.—

(1) MANAGERS, PROMOTERS, MATCHMAKERS, AND LICENSEES.—Any manager, promoter, matchmaker, and licensee who knowingly violates, or coerces or causes any other person to violate, any provision of this Act shall, upon conviction, be imprisoned for not more than 1 year or fined not more than $20,000, or both.

(2) CONFLICT OF INTEREST.—Any member or employee of a boxing commission, any person who administers or enforces State boxing laws, and any member of the Association of Boxing Commissions who knowingly violates section 9 of this Act shall, upon conviction, be imprisoned for not more than 1 year or fined not more than $20,000, or both.

(3) BOXERS.—Any boxer who knowingly violates any provision of this Act shall, upon conviction, be fined not more than $1,000.

15 USC 6310.

SEC. 11. NOTIFICATION OF SUPERVISING BOXING COMMISSION.

Each promoter who intends to hold a professional boxing match in a State that does not have a boxing commission shall, not later than 14 days before the intended date of that match, provide written notification to the supervising boxing commission designated under section 4. Such notification shall contain each of the following:

(1) Assurances that, with respect to that professional boxing match, all applicable requirements of this Act will be met.

(2) The name of any person who, at the time of the submission of the notification—

(A) is under suspension from a boxing commission; and

(B) will be involved in organizing or participating in the event.

(3) For any individual listed under paragraph (2), the identity of the boxing commission that issued the suspension described in paragraph (2)(A).

SEC. 12. STUDIES. 15 USC 6311.

(a) PENSION.—The Secretary of Labor shall conduct a study on the feasibility and cost of a national pension system for boxers, including potential funding sources.

(b) HEALTH, SAFETY AND EQUIPMENT.—The Secretary of Health and Human Services shall conduct a study to develop recommendations for health, safety, and equipment standards for boxers and for professional boxing matches.

(c) REPORTS.—Not later than one year after the date of enactment of this Act, the Secretary of Labor shall submit a report to the Congress on the findings of the study conducted pursuant to subsection (a). Not later than 180 days after the date of enactment of this Act, the Secretary of Health and Human Services shall submit a report to the Congress on the findings of the study conducted pursuant to subsection (b).

SEC. 13. PROFESSIONAL BOXING MATCHES CONDUCTED ON INDIAN RESERVATIONS. 15 USC 6312.

(a) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) INDIAN TRIBE.—The term "Indian tribe" has the same meaning as in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)).

(2) RESERVATION.—The term "reservation" means the geographically defined area over which a tribal organization exercises governmental jurisdiction.

(3) TRIBAL ORGANIZATION.—The term "tribal organization" has the same meaning as in section 4(l) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(l)).

(b) REQUIREMENTS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, a tribal organization of an Indian tribe may, upon the initiative of the tribal organization—

(A) regulate professional boxing matches held within the reservation under the jurisdiction of that tribal organization; and

(B) carry out that regulation or enter into a contract with a boxing commission to carry out that regulation.

(2) STANDARDS AND LICENSING.—If a tribal organization regulates professional boxing matches pursuant to paragraph (1), the tribal organization shall, by tribal ordinance or resolution, establish and provide for the implementation of health and safety standards, licensing requirements, and other requirements relating to the conduct of professional boxing matches that are at least as restrictive as—

(A) the otherwise applicable standards and requirements of a State in which the reservation is located; or

(B) the most recently published version of the recommended regulatory guidelines certified and published by the Association of Boxing Commissions.

SEC. 14. RELATIONSHIP WITH STATE LAW. 15 USC 6313.

Nothing in this Act shall prohibit a State from adopting or enforcing supplemental or more stringent laws or regulations not inconsistent with this Act, or criminal, civil, or administrative fines for violations of such laws or regulations.

15 USC 6301 note.

SEC. 15. EFFECTIVE DATE.

The provisions of this Act shall take effect on January 1, 1997, except as follows:

(1) Section 9 shall not apply to an otherwise authorized boxing commission in the Commonwealth of Virginia until July 1, 1998.

(2) Sections 5 through 9 shall take effect on July 1, 1997.

Approved October 9, 1996.

LEGISLATIVE HISTORY—H.R. 4167 (H.R. 1186) (S. 187):

HOUSE REPORTS: No. 104–833, Pt. 1 accompanying H.R. 1186 (Comm. on Commerce).

SENATE REPORTS: No. 104–159 accompanying S. 187 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD:

Vol. 141 (1995): Oct. 31, S. 187 considered and passed Senate.

Vol. 142 (1996): Sept. 25, H.R. 4167 considered and passed House.
Sept. 27, considered and passed Senate.

Public Law 104–273
104th Congress

An Act

To amend the Helium Act to authorize the Secretary to enter into agreements with private parties for the recovery and disposal of helium on Federal lands, and for other purposes.

Oct. 9, 1996
[H.R. 4168]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Helium Privatization Act of 1996.
50 USC 167 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Helium Privatization Act of 1996".

SEC. 2. AMENDMENT OF HELIUM ACT.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Helium Act (50 U.S.C. 167–167n).

SEC. 3. AUTHORITY OF SECRETARY.

Sections 3, 4, and 5 are amended to read as follows:

50 USC 167a–167c.

"SEC. 3. AUTHORITY OF SECRETARY.

"(a) EXTRACTION AND DISPOSAL OF HELIUM ON FEDERAL LANDS.—

"(1) IN GENERAL.—The Secretary may enter into agreements with private parties for the recovery and disposal of helium on Federal lands upon such terms and conditions as the Secretary deems fair, reasonable, and necessary.

"(2) LEASEHOLD RIGHTS.—The Secretary may grant leasehold rights to any such helium.

"(3) LIMITATION.—The Secretary may not enter into any agreement by which the Secretary sells such helium other than to a private party with whom the Secretary has an agreement for recovery and disposal of helium.

"(4) REGULATIONS.—Agreements under paragraph (1) may be subject to such regulations as may be prescribed by the Secretary.

"(5) EXISTING RIGHTS.—An agreement under paragraph (1) shall be subject to any rights of any affected Federal oil and gas lessee that may be in existence prior to the date of the agreement.

"(6) TERMS AND CONDITIONS.—An agreement under paragraph (1) (and any extension or renewal of an agreement) shall contain such terms and conditions as the Secretary may consider appropriate.

"(7) PRIOR AGREEMENTS.—This subsection shall not in any manner affect or diminish the rights and obligations of the Secretary and private parties under agreements to dispose of helium produced from Federal lands in existence on the date of enactment of the Helium Privatization Act of 1996 except to the extent that such agreements are renewed or extended after that date.

"(b) STORAGE, TRANSPORTATION, AND SALE.—The Secretary may store, transport, and sell helium only in accordance with this Act.

"SEC. 4. STORAGE, TRANSPORTATION, AND WITHDRAWAL OF CRUDE HELIUM.

"(a) STORAGE, TRANSPORTATION, AND WITHDRAWAL.—The Secretary may store, transport, and withdraw crude helium and maintain and operate crude helium storage facilities, in existence on the date of enactment of the Helium Privatization Act of 1996 at the Bureau of Mines Cliffside Field, and related helium transportation and withdrawal facilities.

"(b) CESSATION OF PRODUCTION, REFINING, AND MARKETING.—Not later than 18 months after the date of enactment of the Helium Privatization Act of 1996, the Secretary shall cease producing, refining, and marketing refined helium and shall cease carrying out all other activities relating to helium which the Secretary was authorized to carry out under this Act before the date of enactment of the Helium Privatization Act of 1996, except activities described in subsection (a).

"(c) DISPOSAL OF FACILITIES.—

"(1) IN GENERAL.—Subject to paragraph (5), not later than 24 months after the cessation of activities referred to in subsection (b) of this section, the Secretary shall designate as excess property and dispose of all facilities, equipment, and other real and personal property, and all interests therein, held by the United States for the purpose of producing, refining and marketing refined helium.

"(2) APPLICABLE LAW.—The disposal of such property shall be in accordance with the Federal Property and Administrative Services Act of 1949.

"(3) PROCEEDS.—All proceeds accruing to the United States by reason of the sale or other disposal of such property shall be treated as moneys received under this chapter for purposes of section 6(f).

"(4) COSTS.—All costs associated with such sale and disposal (including costs associated with termination of personnel) and with the cessation of activities under subsection (b) shall be paid from amounts available in the helium production fund established under section 6(f).

"(5) EXCEPTION.—Paragraph (1) shall not apply to any facilities, equipment, or other real or personal property, or any interest therein, necessary for the storage, transportation, and withdrawal of crude helium or any equipment, facilities, or other real or personal property, required to maintain the purity, quality control, and quality assurance of crude helium in the Bureau of Mines Cliffside Field.

"(d) EXISTING CONTRACTS.—

"(1) IN GENERAL.—All contracts that were entered into by any person with the Secretary for the purchase by the person from the Secretary of refined helium and that are in effect

on the date of the enactment of the Helium Privatization Act of 1996 shall remain in force and effect until the date on which the refining operations cease, as described in subsection (b).

"(2) COSTS.—Any costs associated with the termination of contracts described in paragraph (1) shall be paid from the helium production fund established under section 6(f).

"SEC. 5. FEES FOR STORAGE, TRANSPORTATION AND WITHDRAWAL.

"(a) IN GENERAL.—Whenever the Secretary provides helium storage withdrawal or transportation services to any person, the Secretary shall impose a fee on the person to reimburse the Secretary for the full costs of providing such storage, transportation, and withdrawal.

"(b) TREATMENT.—All fees received by the Secretary under subsection (a) shall be treated as moneys received under this Act for purposes of section 6(f).".

SEC. 4. SALE OF CRUDE HELIUM.

(a) Subsection 6(a) is amended by striking "from the Secretary" and inserting "from persons who have entered into enforceable contracts to purchase an equivalent amount of crude helium from the Secretary". 50 USC 167d.

(b) Subsection 6(b) is amended—

(1) by inserting "crude" before "helium"; and

(2) by adding the following at the end: "Except as may be required by reason of subsection (a), sales of crude helium under this section shall be in amounts as the Secretary determines, in consultation with the helium industry, necessary to carry out this subsection with minimum market disruption.".

(c) Subsection 6(c) is amended—

(1) by inserting "crude" after "Sales of"; and

(2) by striking "together with interest as provided in this subsection" and all that follows through the end of the subsection and inserting "all funds required to be repaid to the United States as of October 1, 1995 under this section (referred to in this subsection as 'repayable amounts'). The price at which crude helium is sold by the Secretary shall not be less than the amount determined by the Secretary by—

"(1) dividing the outstanding amount of such repayable amounts by the volume (in million cubic feet) of crude helium owned by the United States and stored in the Bureau of Mines Cliffside Field at the time of the sale concerned, and

"(2) adjusting the amount determined under paragraph (1) by the Consumer Price Index for years beginning after December 31, 1995.".

(d) Subsection 6(d) is amended to read as follows:

"(d) EXTRACTION OF HELIUM FROM DEPOSITS ON FEDERAL LANDS.—All moneys received by the Secretary from the sale or disposition of helium on Federal lands shall be paid to the Treasury and credited against the amounts required to be repaid to the Treasury under subsection (c).".

(e) Subsection 6(e) is repealed.

(f) Subsection 6(f) is amended—

(1) by striking "(f)" and inserting "(e)(1)"; and

(2) by adding the following at the end:

"(2)(A) Within 7 days after the commencement of each fiscal year after the disposal of the facilities referred to in section 4(c),

all amounts in such fund in excess of $2,000,000 (or such lesser sum as the Secretary deems necessary to carry out this Act during such fiscal year) shall be paid to the Treasury and credited as provided in paragraph (1).

"(B) On repayment of all amounts referred to in subsection (c), the fund established under this section shall be terminated and all moneys received under this Act shall be deposited in the general fund of the Treasury.".

SEC. 5. ELIMINATION OF STOCKPILE.

50 USC 167f. Section 8 is amended to read as follows:

"SEC. 8. ELIMINATION OF STOCKPILE.

"(a) STOCKPILE SALES.—

"(1) COMMENCEMENT.—Not later than January 1, 2005, the Secretary shall commence offering for sale crude helium from helium reserves owned by the United States in such amounts as would be necessary to dispose of all such helium reserves in excess of 600,000,000 cubic feet on a straight-line basis between such date and January 1, 2015.

"(2) TIMES OF SALE.—The sales shall be at such times during each year and in such lots as the Secretary determines, in consultation with the helium industry, to be necessary to carry out this subsection with minimum market disruption.

"(3) PRICE.—The price for all sales under paragraph (1), as determined by the Secretary in consultation with the helium industry, shall be such price as will ensure repayment of the amounts required to be repaid to the Treasury under section 6(c).

"(b) DISCOVERY OF ADDITIONAL RESERVES.—The discovery of additional helium reserves shall not affect the duty of the Secretary to make sales of helium under subsection (a).".

SEC. 6. LAND CONVEYANCE IN POTTER COUNTY, TEXAS.

50 USC 167j. Section 12 is amended to read as follows:

"SEC. 12. LAND CONVEYANCE IN POTTER COUNTY, TEXAS.

"(a) IN GENERAL.—The Secretary of the Interior shall transfer all right, title, and interest of the United States in and to the parcel of land described in subsection (b) to the Texas Plains Girl Scout Council for consideration of $1, reserving to the United States such easements as may be necessary for pipeline rights-of-way.

"(b) LAND DESCRIPTION.—The parcel of land referred to in subsection (a) is all those certain lots, tracts or parcels of land lying and being situated in the County of Potter and State of Texas, and being the East Three Hundred Thirty-One (E331) acres out of Section Seventy-eight (78) in Block Nine (9), B.S. & F. Survey, (some times known as the G.D. Landis pasture) Potter County, Texas, located by certificate No. 1/39 and evidenced by letters patents Nos. 411 and 412 issued by the State of Texas under date of November 23, 1937, and of record in Vol. 66A of the Patent Records of the State of Texas. The metes and bounds description of such lands is as follows:

"(1) FIRST TRACT.—One Hundred Seventy-one (171) acres of land known as the North part of the East part of said survey Seventy-eight (78) aforesaid, described by metes and bounds as follows:

"Beginning at a stone 20 x 12 x 3 inches marked X, set by W.D. Twichell in 1905, for the Northeast corner of this survey and the Northwest corner of Section 59;

"Thence, South 0 degrees 12 minutes East with the West line of said Section 59, 999.4 varas to the Northeast corner of the South 160 acres of East half of Section 78;

"Thence, North 89 degrees 47 minutes West with the North line of the South 150 acres of the East half, 956.8 varas to a point in the East line of the West half Section 78;

"Thence, North 0 degrees 10 minutes West with the East line of the West half 999.4 varas to a stone 18 x 14 x 3 inches in the middle of the South line of Section 79;

"Thence, South 89 degrees 47 minutes East 965 varas to the place of beginning.

"(2) SECOND TRACT.—One Hundred Sixty (160) acres of land known as the South part of the East part of said survey No. Seventy-eight (78) described by metes and bounds as follows:

"Beginning at the Southwest corner of Section 59, a stone marked X and a pile of stones; Thence, North 89 degrees 47 minutes West with the North line of Section 77, 966.5 varas to the Southeast corner of the West half of Section 78; Thence, North 0 degrees 10 minutes West with the East line of the West half of Section 78;

"Thence, South 89 degrees 47 minutes East 965.8 varas to a point in the East line of Section 78;

"Thence, South 0 degrees 12 minutes East 934.6 varas to the place of beginning.

"Containing an area of 331 acres, more or less.".

SEC. 7. REPORT ON HELIUM.

Section 15 is amended to read as follows: 50 USC 167m.

"SEC. 15. REPORT ON HELIUM.

"(a) NAS STUDY AND REPORT.—Not later than three years before the date on which the Secretary commences offering for sale crude helium under section 8, the Secretary shall enter into appropriate arrangements with the National Academy of Sciences to study and report on whether such disposal of helium reserves will have a substantial adverse effect on United States scientific, technical, biomedical, or national security interests.

"(b) TRANSMISSION TO CONGRESS.—Not later than 18 months before the date on which the Secretary commences offering for sale crude helium under section 8, the Secretary shall transmit to the Congress—

"(1) the report of the National Academy under subsection (a);

"(2) the findings of the Secretary, after consideration of the conclusions of the National Academy under subsection (a) and after consultation with the United States helium industry and with heads of affected Federal agencies, as to whether the disposal of the helium reserve under section 8 will have a substantial adverse effect on the United States helium industry, United States, helium market or United States, scientific, technological, biomedical, or national security interests; and

"(3) if the Secretary determines that selling the crude helium reserves under the formula established in section 8 will have a substantial adverse effect on the United States helium industry, the United States helium market or United States scientific, technological, biomedical, or national security interest, the Secretary shall make recommendations, including recommendations for proposed legislation, as may be necessary to avoid such adverse effects.".

Approved October 9, 1996.

LEGISLATIVE HISTORY—H.R. 4168:

CONGRESSIONAL RECORD, Vol. 142 (1996):
Sept. 26, considered and passed House.
Sept. 28, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 32 (1996):
Oct. 9, Presidential statement.

Public Law 104–274
104th Congress

An Act

To authorize appropriations for the National Historical Publications and Records Commission for fiscal years 1998, 1999, 2000, and 2001.

Oct. 9, 1996
[S. 1577]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORIZATION OF APPROPRIATIONS FOR THE NATIONAL HISTORICAL PUBLICATIONS AND RECORDS COMMISSION.

Section 2504(f)(1) of title 44, United States Code, is amended—

(1) in subparagraph (F) by striking out "and" after the semicolon;

(2) in subparagraph (G) by striking out the period and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following new subparagraphs:

"(H) $10,000,000 for fiscal year 1998;

"(I) $10,000,000 for fiscal year 1999;

"(J) $10,000,000 for fiscal year 2000; and

"(K) $10,000,000 for fiscal year 2001.".

Approved October 9, 1996.

LEGISLATIVE HISTORY—S. 1577:

SENATE REPORTS: No. 104–283 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD, Vol. 142 (1996):
July 25, considered and passed Senate.
Sept. 27, considered and passed House.

○

Public Law 104–275
104th Congress

An Act

Oct. 9, 1996
[S. 1711]

To amend title 38, United States Code, to improve the benefits programs administered by the Secretary of Veterans Affairs, to provide for a study of the Federal programs for veterans, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Veterans' Benefits Improvements Act of 1996.
38 USC 101 note.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Veterans' Benefits Improvements Act of 1996".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. References to title 38, United States Code.

TITLE I—EDUCATION BENEFITS

Sec. 101. Employment handicap for which an individual may receive training and rehabilitation assistance.
Sec. 102. Permanent authority for alternative teacher certification programs.
Sec. 103. Period of operation for approval.
Sec. 104. Elimination of distinction between open circuit TV and independent study.
Sec. 105. Cooperative programs.
Sec. 106. Enrollment of certain VEAP participants in Montgomery GI Bill.
Sec. 107. Montgomery GI Bill eligibility for certain active duty members of Army and Air National Guard.

TITLE II—HOUSING AND MEMORIAL AFFAIRS

Subtitle A—Housing

Sec. 201. Extension of enhanced loan asset sale authority.
Sec. 202. Direct loans to refinance loans under Native American veteran housing loan pilot program.

Subtitle B—Memorial Affairs

Sec. 211. Clarification of eligibility of minors for burial in national cemeteries.
Sec. 212. Burial benefits for certain veterans who die in State nursing homes.
Sec. 213. Outer burial receptacles.

TITLE III—EMPLOYMENT AND TRAINING

Subtitle A—Veterans' Employment and Training

Sec. 301. Regional Administrator.
Sec. 302. Support personnel for Directors of Veterans' Employment and Training.
Sec. 303. Pilot program to integrate and streamline functions of local veterans' employment representatives.

Subtitle B—Technical Amendments Relating to the Uniformed Services Employment and Reemployment Rights Act of 1994

Sec. 311. Amendments to chapter 43 of title 38, United States Code.
Sec. 312. Amendments to transition rules and effective dates.
Sec. 313. Effective dates.

TITLE IV—VETERANS LIFE INSURANCE PROGRAMS

Sec. 401. Short title.
Sec. 402. Merger of Retired Reserve Servicemembers' Group Life Insurance and Veterans' Group Life Insurance and extension of Veterans' Group Life Insurance to members of the Ready Reserve.
Sec. 403. Conversion of SGLI and VGLI to commercial life insurance policy.
Sec. 404. Information to be provided members concerning automatic maximum coverage of $200,000 under Servicemen's Group Life Insurance.
Sec. 405. Renaming of Servicemen's Group Life Insurance program.
Sec. 406. Technical amendment.

TITLE V—DEPARTMENT OF VETERANS AFFAIRS ADMINISTRATIVE MATTERS

Sec. 501. Revision of authority relating to Centers for Minority Veterans and Women Veterans.
Sec. 502. Limitation on clothing allowance for incarcerated veterans.
Sec. 503. Extension of Veterans' Claims Adjudication Commission.
Sec. 504. Pilot program for use of contract physicians for disability examinations.
Sec. 505. Expansion of period of Vietnam era for certain veterans.
Sec. 506. Payment of benefit to surviving spouse for month in which veteran dies.
Sec. 507. Increase in period for which accrued benefits payable.
Sec. 508. Appointment of veterans service organizations as claimants' representatives.
Sec. 509. Provision of copies of Board of Veterans' Appeals decisions.
Sec. 510. Limitation on relocation or reduction in staffing of certain elements of the Education Service of the Veterans Benefits Administration.

TITLE VI—OTHER MATTERS

Sec. 601. Extension of certain authorities for services for homeless veterans.
Sec. 602. Repair and long-term maintenance of war memorials.

TITLE VII—COMMISSION ON SERVICEMEMBERS AND VETERANS TRANSITION ASSISTANCE

Sec. 701. Establishment of Commission.
Sec. 702. Duties of Commission.
Sec. 703. Powers of Commission.
Sec. 704. Miscellaneous administrative provisions.
Sec. 705. Commission personnel matters.
Sec. 706. Termination of Commission.
Sec. 707. Definitions.
Sec. 708. Funding.

SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—EDUCATION BENEFITS

SEC. 101. EMPLOYMENT HANDICAP FOR WHICH AN INDIVIDUAL MAY RECEIVE TRAINING AND REHABILITATION ASSISTANCE.

(a) DEFINITIONS.—Section 3101 is amended—

(1) in paragraph (1), by inserting ", resulting in substantial part from a disability described in section 3102(1)(A) of this title," after "impairment";

(2) in paragraph (6), by inserting "authorized under section 3120 of this title" after "assistance"; and

(3) in paragraph (7), by inserting ", resulting in substantial part from a service-connected disability rated at 10 percent or more," after "impairment".

(b) BASIC ENTITLEMENT.—Section 3102 is amended—

(1) in paragraph (1)(A)(i), by striking out "which is" and all that follows through "chapter 11 of this title and" and inserting in lieu thereof "rated at 20 percent or more";

(2) in paragraph (2)(A), by striking out "which is" and all that follows through "chapter 11 of this title and" and inserting in lieu thereof "rated at 10 percent"; and

(3) by amending paragraph (2)(B) to read as follows:

"(B) is determined by the Secretary to be in need of rehabilitation because of a serious employment handicap.".

(c) PERIODS OF ELIGIBILITY.—Section 3103 is amended—

(1) in subsection (b)(3), by striking out "described in section 3102(1)(A)(i) of this title" and inserting in lieu thereof "rated at 10 percent or more";

(2) in subsection (c)—

(A) in the matter preceding paragraph (1), by striking out "particular" and inserting in lieu thereof "current"; and

(B) in paragraph (2), by striking out "veteran's employment" and inserting in lieu thereof "veteran's current employment"; and

(3) in subsection (d), by striking out "under this chapter" and inserting in lieu thereof "in accordance with the provisions of section 3120 of this title".

(d) SCOPE OF SERVICES AND ASSISTANCE.—Section 3104 is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking out "such veteran's disability or disabilities cause" and inserting in lieu thereof "the veteran has an employment handicap or"; and

(ii) by inserting "reasonably" after "goal is";

(B) in paragraph (7)(A)—

(i) by striking out "(i)"; and

(ii) by striking out ", and (ii)" and all that follows through "such Act"; and

(C) in paragraph (12), by striking out "For the most severely disabled veterans requiring" and inserting in lieu thereof "For veterans with the most severe service-connected disabilities who require"; and

(2) by striking out subsection (b) and redesignating subsection (c) as subsection (b).

(e) DURATION OF REHABILITATION PROGRAMS.—Paragraph (1) of section 3105(c) is amended by striking out "veteran's employment" and inserting in lieu thereof "veteran's current employment".

(f) INITIAL AND EXTENDED EVALUATIONS; DETERMINATIONS REGARDING SERIOUS EMPLOYMENT HANDICAP.—(1) Section 3106 is amended—

(A) in subsection (a), by striking out "described in clause (i) or (ii) of section 3102(1)(A) of this title" and inserting in lieu thereof "rated at 10 percent or more";

(B) in subsection (b), by striking out "counseling in accordance with";

(C) in subsection (c), by striking out "with extended" and inserting in lieu thereof "with an extended"; and

(D) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively, and inserting after subsection (c) the following new subsection:

"(d) In any case in which the Secretary has determined that a veteran has a serious employment handicap and also determines, following such initial and any such extended evaluation, that achievement of a vocational goal currently is not reasonably feasible, the Secretary shall determine whether the veteran is capable of participating in a program of independent living services and assistance under section 3120 of this title.".

(2) Chapter 31 is amended—

(A) in section 3107(c)(2), by striking out "3106(e)" and inserting in lieu thereof "3106(f)";

(B) in section 3109, by striking out "3106(d)" and inserting in lieu thereof "3106(e)";

(C) in section 3118(c), by striking out "3106(e)" and inserting in lieu thereof "3106(f)"; and

(D) in section 3120(b), by striking out "3106(d)" and inserting in lieu thereof "3106(d) or (e)".

(g) ALLOWANCES.—Section 3108 is amended—

(1) in subsection (a)(2), by striking out "following the conclusion of such pursuit" and inserting in lieu thereof "while satisfactorily following a program of employment services provided under section 3104(a)(5) of this title"; and

(2) in subsection (f)(1)—

(A) in subparagraph (A)—

(i) by inserting "eligible for and" after "veteran is";

(ii) by striking out "chapter 30 or 34" and inserting in lieu thereof "chapter 30"; and

(iii) by striking out "either chapter 30 or chapter 34" and inserting in lieu thereof "chapter 30"; and

(B) in subparagraph (B), by striking out "chapter 30 or 34" and inserting in lieu thereof "chapter 30".

(h) EMPLOYMENT ASSISTANCE.—Paragraph (1) of section 3117(a) is amended by inserting "rated at 10 percent or more" after "disability".

(i) PROGRAM OF INDEPENDENT LIVING SERVICES AND ASSISTANCE.—Section 3120 is amended—

(1) in subsection (b), by striking out "service-connected disability described in section 3102(1)(A)" and inserting in lieu thereof "serious employment handicap resulting in substantial part from a service-connected disability described in section 3102(1)(A)(i)"; and

(2) in subsection (d), by striking out "and (b)".

(j) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), the amendments made by this section shall take effect on the date of the enactment of this Act. 38 USC 3101 note.

(2) The amendments made by subsection (a) (other than paragraph (2)), subsection (d) (other than subparagraphs (A) and (B) of paragraph (1)), and subsection (i) shall only apply with respect to claims of eligibility or entitlement to services and assistance (including claims for extension of such services and assistance) under chapter 31 of title 38, United States Code, received by the Secretary of Veterans Affairs on or after the date of the enactment of this Act, including those claims based on original applications, and applications seeking to reopen, revise, reconsider, or otherwise

adjudicate or readjudicate on any basis claims for services and assistance under such chapter.

SEC. 102. PERMANENT AUTHORITY FOR ALTERNATIVE TEACHER CERTIFICATION PROGRAMS.

Subsection (c) of section 3452 is amended by striking out "For the period ending on September 30, 1996, such" and inserting in lieu thereof "Such".

SEC. 103. PERIOD OF OPERATION FOR APPROVAL.

(a) IN GENERAL.—(1) Chapter 36 is amended—

(A) by striking out section 3689; and

(B) by striking out the item relating to section 3689 in the table of sections at the beginning of such chapter.

(2) Subparagraph (C) of section 3680A(d)(2) is amended by striking out "3689(b)(6) of this title" and inserting in lieu thereof "subsection (g)".

(b) DISAPPROVAL OF ENROLLMENT IN CERTAIN COURSES.—Section 3680A is amended by adding after subsection (d) the following new subsections:

"(e) The Secretary may not approve the enrollment of an eligible veteran in a course not leading to a standard college degree offered by a proprietary profit or proprietary nonprofit educational institution if—

"(1) the educational institution has been operating for less than two years;

"(2) the course is offered at a branch of the educational institution and the branch has been operating for less than two years; or

"(3) following either a change in ownership or a complete move outside its original general locality, the educational institution does not retain substantially the same faculty, student body, and courses as before the change in ownership or the move outside the general locality (as determined in accordance with regulations the Secretary shall prescribe) unless the educational institution following such change or move has been in operation for at least two years.

"(f) The Secretary may not approve the enrollment of an eligible veteran in a course as a part of a program of education offered by an educational institution if the course is provided under contract by another educational institution or entity and—

"(1) the Secretary would be barred under subsection (e) from approving the enrollment of an eligible veteran in the course of the educational institution or entity providing the course under contract; or

"(2) the educational institution or entity providing the course under contract has not obtained approval for the course under this chapter.

"(g) Notwithstanding subsections (e) and (f), the Secretary may approve the enrollment of an eligible veteran in a course approved under this chapter if the course is offered by an educational institution under contract with the Department of Defense or the Department of Transportation and is given on or immediately adjacent to a military base, Coast Guard station, National Guard facility, or facility of the Selected Reserve.".

(c) APPROVAL OF ACCREDITED COURSES.—Subsection (b) of section 3675 is amended to read as follows:

"(b) As a condition of approval under this section, the State approving agency must find the following:

"(1) The educational institution keeps adequate records, as prescribed by the State approving agency, to show the progress and grades of the eligible person or veteran and to show that satisfactory standards relating to progress and conduct are enforced.

"(2) The educational institution maintains a written record of the previous education and training of the eligible person or veteran that clearly indicates that appropriate credit has been given by the educational institution for previous education and training, with the training period shortened proportionately.

"(3) The educational institution and its approved courses meet the criteria of paragraphs (1), (2), and (3) of section 3676(c) of this title.".

SEC. 104. ELIMINATION OF DISTINCTION BETWEEN OPEN CIRCUIT TV AND INDEPENDENT STUDY.

(a) VETERANS' EDUCATIONAL ASSISTANCE PROGRAM.—Subsection (f) of section 3482 is amended by striking out "in part".

(b) SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE.—Section 3523 is amended—

(1) in subsection (a)(4), by inserting "(including open circuit television)" after "independent study program" the second place it appears; and

(2) in subsection (c), by striking out "radio" and all that follows through the end and inserting in lieu thereof "radio.".

(c) ADMINISTRATION OF EDUCATIONAL BENEFITS.—Subsection (c) of section 3680A is amended by striking out "radio" and all that follows through the end and inserting in lieu thereof "radio.".

SEC. 105. COOPERATIVE PROGRAMS.

(a) CHAPTER 30.—Section 3032 is amended by striking out subsection (d) and redesignating subsections (e) and (f) as subsections (d) and (e), respectively.

(b) CHAPTER 32.—Section 3231 is amended by striking out subsection (d) and redesignating subsections (e) and (f) as subsections (d) and (e), respectively.

(c) CHAPTER 35.—Subsection (b) of section 3532 is amended by striking out "$327" and inserting in lieu thereof "$404".

(d) CHAPTER 1606.—Section 16131 of title 10, United States Code, is amended—

(1) by striking out subsection (e) and redesignating subsections (f), (g), (h), (i), and (j) as subsections (e), (f), (g), (h), and (i), respectively; and

(2) in subsection (b)(1), by striking out "(g)" and inserting in lieu thereof "(f)".

SEC. 106. ENROLLMENT OF CERTAIN VEAP PARTICIPANTS IN MONTGOMERY GI BILL.

(a) IN GENERAL.—Subchapter II of chapter 30 is amended by inserting after section 3018B the following new section:

"§ 3018C. Opportunity for certain VEAP participants to enroll

"(a) Notwithstanding any other provision of law, an individual who—

"(1) is a participant on the date of the enactment of the Veterans' Benefits Improvements Act of 1996 in the educational benefits program provided by chapter 32 of this title;

"(2) is serving on active duty (excluding the periods referred to in section 3202(1)(C) of this title) on such date;

"(3) before applying for benefits under this section, has completed the requirements of a secondary school diploma (or equivalency certificate) or has successfully completed the equivalent of 12 semester hours in a program of education leading to a standard college degree;

"(4) if discharged or released from active duty during the one-year period specified in paragraph (5), is discharged or released therefrom with an honorable discharge; and

"(5) during the one-year period beginning on the date of the enactment of the Veterans' Benefits Improvements Act of 1996, makes an irrevocable election to receive benefits under this section in lieu of benefits under chapter 32 of this title, pursuant to procedures which the Secretary of each military department shall provide in accordance with regulations prescribed by the Secretary of Defense for the purpose of carrying out this section or which the Secretary of Transportation shall provide for such purpose with respect to the Coast Guard when it is not operating as a service in the Navy;

may elect to become entitled to basic educational assistance under this chapter.

"(b) With respect to an individual who makes an election under subsection (a) to become entitled to basic education assistance under this chapter—

"(1) the basic pay of the individual shall be reduced (in a manner determined by the Secretary of Defense) until the total amount by which such basic pay is reduced is $1,200; or

"(2) to the extent that basic pay is not so reduced before the individual's discharge or release from active duty as specified in subsection (a)(4), the Secretary shall collect from the individual an amount equal to the difference between $1,200 and the total amount of reductions under paragraph (1), which shall be paid into the Treasury of the United States as miscellaneous receipts.

"(c)(1) Except as provided in paragraph (3), an individual who is enrolled in the educational benefits program provided by chapter 32 of this title and who makes the election described in subsection (a)(5) shall be disenrolled from such chapter 32 program as of the date of such election.

"(2) For each individual who is disenrolled from such program, the Secretary shall refund—

"(A) to the individual, as provided in section 3223(b) of this title and subject to subsection (b)(2) of this section, the unused contributions made by the individual to the Post-Vietnam Era Veterans Education Account established pursuant to section 3222(a) of this title; and

"(B) to the Secretary of Defense the unused contributions (other than contributions made under section 3222(c) of this title) made by such Secretary to the Account on behalf of such individual.

"(3) Any contribution made by the Secretary of Defense to the Post-Vietnam Era Veterans Education Account pursuant to

subsection (c) of section 3222 of this title on behalf of any individual referred to in paragraph (1) shall remain in such account to make payments of benefits to such individual under section 3015(f) of this title.

"(d) The procedures provided in regulations referred to in subsection (a) shall provide for notice of the requirements of subparagraphs (B), (C), and (D) of section 3011(a)(3) and of subparagraph (A) of section 3012(a)(3) of this title. Receipt of such notice shall be acknowledged in writing.".

(b) CONFORMING AMENDMENTS.—(1) The table of sections at the beginning of chapter 30 is amended by inserting after the item relating to section 3018B the following new item:

"3018C. Opportunity for certain VEAP participants to enroll.".

(2) Subsection (d) of section 3013 is amended by striking out "or 3018B" and inserting in lieu thereof ", 3018B, or 3018C".

(3) Subsection (f) of section 3015 is amended by inserting ", 3018B, or 3018C" after "section 3018A".

(c) TRANSFER OF EDUCATIONAL ASSISTANCE FUNDS.—(1) Subparagraph (B) of section 3232(b)(2) is amended—

(A) by striking out ", for the purposes of section 1322(a) of title 31,"; and

(B) by striking out "as provided in such section" and inserting in lieu thereof "to the Secretary for payments for entitlement earned under subchapter II of chapter 30".

(2) Paragraph (1) of section 3035(b) is amended by inserting before the period at the end the following: "and from transfers from the Post-Vietnam Era Veterans Education Account pursuant to section 3232(b)(2)(B) of this title".

SEC. 107. MONTGOMERY GI BILL ELIGIBILITY FOR CERTAIN ACTIVE DUTY MEMBERS OF ARMY AND AIR NATIONAL GUARD.

(a) IN GENERAL.—Paragraph (7) of section 3002 is amended by striking out "November 29, 1989" and inserting in lieu thereof "June 30, 1985".

(b) APPLICATION.—(1) An individual may only become eligible for benefits under chapter 30 of title 38, United States Code, as a result of the amendment made by subsection (a) by making an election to become entitled to basic educational assistance under such chapter. The election may only be made during the nine-month period beginning on the date of the enactment of this Act and in the manner required by the Secretary of Defense. 38 USC 3002 note.

(2) In the case of any individual making an election under paragraph (1)—

(A) the basic pay of an individual who, while a member of the Armed Forces, makes an election under paragraph (1) shall be reduced (in a manner determined by the Secretary of Defense) until the total amount by which such basic pay is reduced is $1,200; or

(B) to the extent that basic pay is not so reduced before the individual's discharge or release from active duty, the Secretary of Veterans Affairs shall collect from an individual who makes such an election an amount equal to the difference between $1,200 and the total amount of reductions under subparagraph (A), which amount shall be paid into the Treasury as miscellaneous receipts.

(3) In the case of any individual making an election under paragraph (1), the 10-year period referred to in section 3031 of such title shall begin on the later of—

(A) the date determined under such section 3031; or

(B) the date on which the election under paragraph (1) becomes effective.

TITLE II—HOUSING AND MEMORIAL AFFAIRS

Subtitle A—Housing

SEC. 201. EXTENSION OF ENHANCED LOAN ASSET SALE AUTHORITY.

Paragraph (2) of section 3720(h) is amended by striking out "December 31, 1996" and inserting in lieu thereof "December 31, 1997".

SEC. 202. DIRECT LOANS TO REFINANCE LOANS UNDER NATIVE AMERICAN VETERAN HOUSING LOAN PILOT PROGRAM.

(a) AUTHORITY.—Section 3762 is amended—

(1) by redesignating subsection (h) as subsection (i); and

(2) by inserting after subsection (g) the following new subsection (h):

"(h)(1) The Secretary may make direct loans to Native American veterans in order to enable such veterans to refinance existing loans made under this section.

"(2)(A) The Secretary may not make a loan under this subsection unless the loan meets the requirements set forth in subparagraphs (B), (C), and (E) of paragraph (1) of section 3710(e) of this title.

"(B) The Secretary may not make a loan under this subsection unless the loan will bear an interest rate at least one percentage point less than the interest rate borne by the loan being refinanced.

"(C) Paragraphs (2) and (3) of such section 3710(e) shall apply to any loan made under this subsection, except that for the purposes of this subsection the reference to subsection (a)(8) of section 3710 of this title in such paragraphs (2) and (3) shall be deemed to be a reference to this subsection.".

(b) LOAN FEE.—Section 3729(a)(2)(E) is amended by striking out "or 3712(a)(1)(F)" and inserting in lieu thereof "3712(a)(1)(F), or 3762(h)".

Subtitle B—Memorial Affairs

SEC. 211. CLARIFICATION OF ELIGIBILITY OF MINORS FOR BURIAL IN NATIONAL CEMETERIES.

Section 2402(5) is amended by inserting after "minor child" the following: "(which for purposes of this chapter includes a child under 21 years of age, or under 23 years of age if pursuing a course of instruction at an approved educational institution)".

SEC. 212. BURIAL BENEFITS FOR CERTAIN VETERANS WHO DIE IN STATE NURSING HOMES.

Subsection (a) of section 2303 is amended to read as follows:

"(a)(1) When a veteran dies in a facility described in paragraph (2), the Secretary shall—

"(A) pay the actual cost (not to exceed $300) of the burial and funeral or, within such limits, may make contracts for such services without regard to the laws requiring advertisement for proposals for supplies and services for the Department; and

"(B) when such a death occurs in a State, transport the body to the place of burial in the same or any other State.

"(2) A facility described in this paragraph is—

"(A) a Department facility (as defined in section 1701(4) of this title) to which the deceased was properly admitted for hospital, nursing home, or domiciliary care under section 1710 or 1711(a) of this title; or

"(B) an institution at which the deceased veteran was, at the time of death, receiving—

"(i) hospital care in accordance with section 1703 of this title;

"(ii) nursing home care under section 1720 of this title; or

"(iii) nursing home care for which payments are made under section 1741 of this title.".

SEC. 213. OUTER BURIAL RECEPTACLES.

(a) IN GENERAL.—Subsection (d) of section 2306 is amended—

(1) in paragraph (1), by striking out "a grave liner" each place it appears and inserting in lieu thereof "an outer burial receptacle";

(2) in paragraph (2)—

(A) by striking out "grave liners" and inserting in lieu thereof "outer burial receptacles"; and

(B) by striking out "specifications and procedures" and inserting in lieu thereof "regulations or procedures"; and

(3) by adding at the end the following:

"(3) Regulations or procedures under paragraph (2) may specify that—

"(A) an outer burial receptacle other than a grave liner be provided in lieu of a grave liner at the election of the survivors of the interred veteran; and

"(B) if an outer burial receptacle other than a grave liner is provided in lieu of a grave liner upon an election of such survivors, such survivors be required—

"(i) to pay the amount by which the cost of the outer burial receptacle exceeds the cost of the grave liner that would otherwise have been provided in the absence of the election; and

"(ii) to pay the amount of the administrative costs incurred by the Secretary (or, with respect to Arlington National Cemetery, the Secretary of the Army) in providing the outer burial receptacle in lieu of such grave liner.

"(4) Regulations or procedures under paragraph (2) may provide for the use of a voucher system, or other system of reimbursement approved by the Secretary (or, with respect to Arlington National Cemetery, the Secretary of the Army), for payment for outer burial receptacles other than grave liners provided under such regulations or procedures.".

(b) CONFORMING AMENDMENTS.—(1) The heading of such section is amended to read as follows:

"§ 2306. Headstones, markers, and burial receptacles".

(2) The table of sections at the beginning of chapter 23 is amended by striking out the item relating to section 2306 and inserting in lieu thereof the following new item:

"2306. Headstones, markers, and burial receptacles.".

TITLE III—EMPLOYMENT AND TRAINING

Subtitle A—Veterans' Employment and Training

SEC. 301. REGIONAL ADMINISTRATOR.

Paragraph (1) of section 4102A(e) is amended by adding at the end the following: "Each Regional Administrator appointed after the date of the enactment of the Veterans' Benefits Improvements Act of 1996 shall be a veteran.".

SEC. 302. SUPPORT PERSONNEL FOR DIRECTORS OF VETERANS' EMPLOYMENT AND TRAINING.

Subsection (a) of section 4103 is amended—

(1) in the first sentence, by striking out "full-time Federal clerical support" and inserting in lieu thereof "full-time Federal clerical or other support personnel"; and

(2) in the third sentence, by striking out "Full-time Federal clerical support personnel" and inserting in lieu thereof "Full-time Federal clerical or other support personnel".

38 USC 4104 note.

SEC. 303. PILOT PROGRAM TO INTEGRATE AND STREAMLINE FUNCTIONS OF LOCAL VETERANS' EMPLOYMENT REPRESENTATIVES.

(a) AUTHORITY TO CONDUCT PILOT PROGRAM.—In order to assess the effects on the timeliness and quality of services to veterans resulting from re-focusing the staff resources of local veterans' employment representatives, the Secretary of Labor may conduct a pilot program under which the primary responsibilities of local veterans' employment representatives will be case management and the provision and facilitation of direct employment and training services to veterans.

(b) AUTHORITIES UNDER CHAPTER 41.—To implement the pilot program, the Secretary of Labor may suspend or limit application of those provisions of chapter 41 of title 38, United States Code (other than sections 4104(b)(1) and (c)) that pertain to the Local Veterans' Employment Representative Program in States designated by the Secretary under subsection (d), except that the Secretary may use the authority of such chapter, as the Secretary may determine, in conjunction with the authority of this section, to carry out the pilot program. The Secretary may collect such data as the Secretary considers necessary for assessment of the pilot program. The Secretary shall measure and evaluate on a continuing basis the effectiveness of the pilot program in achieving its stated goals in general, and in achieving such goals in relation

to their cost, their effect on related programs, and their structure and mechanisms for delivery of services.

(c) TARGETED VETERANS.—Within the pilot program, eligible veterans who are among groups most in need of intensive services, including disabled veterans, economically disadvantaged veterans, and veterans separated within the previous four years from active military, naval, or air service shall be given priority for service by local veterans' employment representatives. Priority for the provision of service shall be given first to disabled veterans and then to the other categories of veterans most in need of intensive services in accordance with priorities determined by the Secretary of Labor in consultation with appropriate State labor authorities.

(d) STATES DESIGNATED.—The pilot program shall be limited to not more than five States to be designated by the Secretary of Labor.

(e) REPORTS TO CONGRESS.—(1) Not later than one year after the date of the enactment of this Act, the Secretary of Labor shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives an interim report describing in detail the development and implementation of the pilot program on a State by State basis.

(2) Not later than 120 days after the expiration of this section under subsection (h), the Secretary of Labor shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a final report evaluating the results of the pilot program and make recommendations based on the evaluation, which may include legislative recommendations.

(f) DEFINITIONS.—For the purposes of this section:

(1) The term "veteran" has the meaning given such term by section 101(2) of title 38, United States Code.

(2) The term "disabled veteran" has the meaning given such term by section 4211(3) of such title.

(3) The term "active military, naval, or air service" has the meaning given such term by section 101(24) of such title.

(g) ALLOCATION OF FUNDS.—Any amount otherwise available for fiscal year 1997, 1998, or 1999 to carry out section 4102A(b)(5) of title 38, United States Code, with respect to a State designated by the Secretary of Labor pursuant to subsection (d) shall be available to carry out the pilot program during that fiscal year with respect to that State.

(h) EXPIRATION DATE.—The authority to carry out the pilot program under this section shall expire on October 1, 1999.

Subtitle B—Technical Amendments Relating to the Uniformed Services Employment and Reemployment Rights Act of 1994

SEC. 311. AMENDMENTS TO CHAPTER 43 OF TITLE 38, UNITED STATES CODE.

Chapter 43 is amended as follows:

(1) Section 4301(a)(2) is amended by striking out "under honorable conditions".

(2) Section 4303(16) is amended by inserting "national" before "emergency".

(3) Section 4311 is amended by striking out subsections (b) and (c) and inserting in lieu thereof the following:

"(b) An employer may not discriminate in employment against or take any adverse employment action against any person because such person (1) has taken an action to enforce a protection afforded any person under this chapter, (2) has testified or otherwise made a statement in or in connection with any proceeding under this chapter, (3) has assisted or otherwise participated in an investigation under this chapter, or (4) has exercised a right provided for in this chapter. The prohibition in this subsection shall apply with respect to a person regardless of whether that person has performed service in the uniformed services.

"(c) An employer shall be considered to have engaged in actions prohibited—

"(1) under subsection (a), if the person's membership, application for membership, service, application for service, or obligation for service in the uniformed services is a motivating factor in the employer's action, unless the employer can prove that the action would have been taken in the absence of such membership, application for membership, service, application for service, or obligation for service; or

"(2) under subsection (b), if the person's (A) action to enforce a protection afforded any person under this chapter, (B) testimony or making of a statement in or in connection with any proceeding under this chapter, (C) assistance or other participation in an investigation under this chapter, or (D) exercise of a right provided for in this chapter, is a motivating factor in the employer's action, unless the employer can prove that the action would have been taken in the absence of such person's enforcement action, testimony, statement, assistance, participation, or exercise of a right.

"(d) The prohibitions in subsections (a) and (b) shall apply to any position of employment, including a position that is described in section 4312(d)(1)(C) of this title.".

(4) Section 4312 is amended—

(A) in subsection (a), by striking out "who is absent from a position of employment" and inserting in lieu thereof "whose absence from a position of employment is necessitated";

(B) in subsection (c)—

(i) by striking out "section 270" in paragraph (3) and inserting in lieu thereof "section 10147"; and

(ii) in paragraph (4)—

(I) by striking out "section 672(a), 672(g), 673, 673b, 673c, or 688" in subparagraph (A) and inserting in lieu thereof "section 688, 12301(a), 12301(g), 12302, 12304, or 12305";

(II) by amending subparagraph (B) to read as follows:

"(B) ordered to or retained on active duty (other than for training) under any provision of law because of a war or national emergency declared by the President or the Congress, as determined by the Secretary concerned;";

(III) by striking out "section 673b" in subparagraph (C) and inserting in lieu thereof "section 12304"; and

(IV) by striking out "section 3500 or 8500" in subparagraph (E) and inserting in lieu thereof "section 12406"; and

(C) in subsection (d)(2)(C), by striking out "is brief or for a nonrecurrent period and without a reasonable expectation" and inserting in lieu thereof "is for a brief, nonrecurrent period and there is no reasonable expectation".

(5) Section 4313(a)(4) is amended—

(A) by striking out "uniform services" in subparagraph (A)(ii) and inserting in lieu thereof "uniformed services"; and

(B) by striking out "of lesser status and pay which" and inserting in lieu thereof "which is the nearest approximation to a position referred to first in clause (A)(i) and then in clause (A)(ii) which".

(6) Section 4316(d) is amended by adding at the end the following new sentence: "No employer may require any such person to use vacation, annual, or similar leave during such period of service.".

(7) Section 4317(a) is amended—

(A) by striking out "(a)(1)(A) Subject to paragraphs (2) and (3), in" and inserting in lieu thereof "(a)(1) In";

(B) by redesignating clauses (i) and (ii) of paragraph (1) (as amended by subparagraph (A) of this paragraph) as subparagraphs (A) and (B), respectively;

(C) by redesignating subparagraph (B) as paragraph (2); and

(D) by redesignating subparagraph (C) as paragraph (3), and in that paragraph by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively, and by redesignating subclauses (I) and (II) as clauses (i) and (ii), respectively.

(8) The last sentence of section 4318(b)(2) is amended by striking out "services," and inserting in lieu thereof "services, such payment period".

(9) Section 4322 is amended—

(A) in the second sentence of subsection (d) by inserting "attempt to" before "resolve"; and

(B) in subsection (e)—

(i) in the matter preceding paragraph (1), by striking out "with respect to a complaint under subsection (d) are unsuccessful," and inserting in lieu thereof "with respect to any complaint filed under subsection (a) do not resolve the complaint,"; and

(ii) in paragraph (2), by inserting "or the Office of Personnel Management" after "Federal executive agency".

(10) Section 4323(a) is amended—

(A) in paragraph (1), by striking out "of an unsuccessful effort to resolve a complaint"; and

(B) in paragraph (2)(A), by striking out "regarding the complaint under section 4322(c)" and inserting in lieu thereof "under section 4322(a)".

(11) Section 4324 is amended—

(A) in subsection (a)(1), by striking out "of an unsuccessful effort to resolve a complaint relating to a Federal executive agency";

(B) in subsection (b)—

(i) in the matter preceding paragraph (1), by inserting "or the Office of Personnel Management" after "Federal executive agency"; and

(ii) in paragraph (1), by striking out "regarding a complaint under section 4322(c)" and inserting in lieu thereof "under section 4322(a)"; and

(C) in subsection (c)(2)—

(i) by inserting "or the Office of Personnel Management" after "Federal executive agency"; and

(ii) by striking out "employee" and inserting in lieu thereof "Office".

(12) Section 4325(d)(1) is amended—

(A) by striking out ", alternative employment in the Federal Government under this chapter,"; and

(B) by striking out "employee" the last place it appears and inserting in lieu thereof "employees".

(13) Section 4326(a) is amended by inserting "have reasonable access to and the right to interview persons with information relevant to the investigation and shall" after "at all reasonable times,".

SEC. 312. AMENDMENTS TO TRANSITION RULES AND EFFECTIVE DATES.

(a) REEMPLOYMENT.—Section 8(a) of the Uniformed Services Employment and Reemployment Rights Act of 1994 (Public Law 103–353; 108 Stat. 3175; 38 U.S.C. 4301 note) is amended—

(1) in paragraph (3), by adding at the end thereof the following: "Any service begun up to 60 days after the date of the enactment of this Act, which is served up to 60 days after the date of the enactment of this Act pursuant to orders issued under section 502(f) of title 32, United States Code, shall be considered under chapter 43 of title 38, United States Code, as in effect on the day before such date of enactment. Any service pursuant to orders issued under such section 502(f) served after 60 days after the date of the enactment of this Act, regardless of when begun, shall be considered under the amendments made by this Act."; and

(2) in paragraph (4), by striking out "such period" and inserting in lieu thereof "such 60-day period".

(b) INSURANCE.—Section 8(c)(2) of such Act is amended by striking out "person on active duty" and inserting in lieu thereof "person serving a period of service in the uniformed services".

38 USC 4301 note.

SEC. 313. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this subtitle shall take effect as of October 13, 1994.

(b) REORGANIZED TITLE 10 REFERENCES.—The amendments made by clause (i), and subclauses (I), (III), and (IV) of clause (ii), of section 311(4)(B) shall take effect as of December 1, 1994.

TITLE IV—VETERANS LIFE INSURANCE PROGRAMS

Veterans' Insurance Reform Act of 1996.

SEC. 401. SHORT TITLE.

38 USC 101 note.

This title may be cited as the "Veterans' Insurance Reform Act of 1996".

SEC. 402. MERGER OF RETIRED RESERVE SERVICEMEMBERS' GROUP LIFE INSURANCE AND VETERANS' GROUP LIFE INSURANCE AND EXTENSION OF VETERANS' GROUP LIFE INSURANCE TO MEMBERS OF THE READY RESERVE.

(a) DEFINITIONS.—Section 1965(5) is amended—

(1) by adding "and" at the end of subparagraph (B);

(2) by striking out subparagraphs (C) and (D); and

(3) by redesignating subparagraph (E) as subparagraph (C).

(b) PERSONS INSURED.—Section 1967 is amended—

(1) in subsection (a)—

(A) by inserting "and" at the end of paragraph (1);

(B) by striking out paragraphs (3) and (4); and

(C) in the matter following paragraph (2), by striking out "or the first day a member of the Reserves, whether or not assigned to the Retired Reserve of a uniformed service, meets the qualifications of section 1965(5)(C) of this title, or the first day a member of the Reserves meets the qualifications of section 1965(5)(D) of this title,"; and

(2) by striking out subsection (d).

(c) DURATION AND TERMINATION OF COVERAGE.—Section 1968 is amended—

(1) in subsection (a)—

(A) by striking out "subparagraph (B), (C), or (D) of section 1965(5)" in the matter preceding paragraph (1) and inserting in lieu thereof "section 1965(5)(B)";

(B) by striking out the period at the end of paragraphs (1) and (2) and inserting in lieu thereof a semicolon;

(C) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and";

(D) in paragraph (4)—

(i) by striking out "one hundred and twenty days after" in the matter preceding subparagraph (A) and all that follows through "(A) unless on" and inserting in lieu thereof "120 days after separation or release from such assignment, unless on";

(ii) by striking out "prior to the expiration of one hundred and twenty days" and inserting in lieu thereof "before the end of 120 days";

(iii) by striking out the semicolon after "such assignment" and inserting in lieu thereof a period; and

(iv) by striking out subparagraphs (B) and (C); and

(E) by striking out paragraphs (5) and (6); and

(2) in subsection (b), by striking out the last two sentences.

(d) DEDUCTIONS.—Section 1969 is amended—

(1) in subsection (a)(2), by striking out "is assigned to the Reserve (other than the Retired Reserve)" and all that follows through "section 1965(5)(D) of this title,";

(2) by striking out subsection (e); and

(3) by redesignating subsections (f) and (g) as subsections (e) and (f), respectively.

38 USC 1968 note.

(e) CONVERSION OF SGLI TO VGLI.—The Servicemembers' Group Life Insurance of any member of the Retired Reserve of a uniformed service shall be converted to Veterans' Group Life Insurance effective 90 days after the date of the enactment of this Act.

SEC. 403. CONVERSION OF SGLI AND VGLI TO COMMERCIAL LIFE INSURANCE POLICY.

(a) OPTION TO CONVERT SGLI.—Subsection (b) of section 1968, as amended by section 402(c)(2), is amended—

(1) by inserting "(1)" after "(b)" at the beginning of the subsection;

(2) by striking out "would cease," in the first sentence and all that follows through the period at the end of the sentence and inserting in lieu thereof "would cease—

"(A) shall be automatically converted to Veterans' Group Life Insurance, subject to (i) the timely payment of the initial premium under terms prescribed by the Secretary, and (ii) the terms and conditions set forth in section 1977 of this title; or

"(B) at the election of the member, shall be converted to an individual policy of insurance as described in section 1977(e) of this title upon written application for conversion made to the participating company selected by the member and payment of the required premiums."; and

(3) by designating the second sentence as paragraph (2) and in that sentence striking out "Such automatic conversion" and inserting in lieu thereof "Automatic conversion to Veterans' Group Life Insurance under paragraph (1)".

(b) VGLI CONVERSION.—Section 1977 is amended—

(1) in subsection (a)—

(A) by inserting "(1)" after "(a)";

(B) by striking out the last two sentences; and

(C) by adding at the end the following:

"(2) If any person insured under Veterans' Group Life Insurance again becomes insured under Servicemembers' Group Life Insurance but dies before terminating or converting such person's Veterans' Group Insurance, Veterans' Group Life Insurance shall be payable only if such person is insured for less than $200,000 under Servicemembers' Group Life Insurance, and then only in an amount which, when added to the amount of Servicemembers' Group Life Insurance payable, does not exceed $200,000."; and

(2) in subsection (e)—

(A) in the first sentence, by inserting "at any time" after "shall have the right"; and

(B) by striking out the third sentence and inserting in lieu thereof the following: "The Veterans' Group Life Insurance policy converted to an individual policy under this subsection shall terminate on the day before the date on which the individual policy becomes effective.".

SEC. 404. INFORMATION TO BE PROVIDED MEMBERS CONCERNING AUTOMATIC MAXIMUM COVERAGE OF $200,000 UNDER SERVICEMEN'S GROUP LIFE INSURANCE.

Section 1967, as amended by section 402(b), is further amended by inserting after subsection (c) the following new subsection (d):

"(d) Whenever a member has the opportunity to make an election under subsection (a) not to be insured under this subchapter, or to be insured under this subchapter in an amount less than the maximum amount of $200,000, and at such other times periodically thereafter as the Secretary concerned considers appropriate, the Secretary concerned shall furnish to the member general information concerning life insurance. Such information shall include—

"(1) the purpose and role of life insurance in financial planning;

"(2) the difference between term life insurance and whole life insurance;

"(3) the availability of commercial life insurance; and

"(4) the relationship between Servicemembers' Group Life Insurance and Veterans' Group Life Insurance.".

SEC. 405. RENAMING OF SERVICEMEN'S GROUP LIFE INSURANCE PROGRAM.

(a) IN GENERAL.—The program of insurance operated by the Secretary of Veterans Affairs under subchapter III of chapter 19 of title 38, United States Code, is hereby redesignated as the Servicemembers' Group Life Insurance program. 38 USC 1965 note.

(b) AMENDMENTS TO CHAPTER 19.— Chapter 19 is amended as follows:

(1) The following provisions are amended by striking out "Servicemen's Group Life Insurance" each place it appears and inserting in lieu thereof "Servicemembers' Group Life Insurance":

(A) Subsections (a), (c), and (e) of section 1967.
(B) Section 1968(b).
(C) Subsections (a) through (d) of section 1969.
(D) Subsections (a), (f), and (g) of section 1970.
(E) Section 1971(b).
(F) Section 1973.
(G) The first sentence of section 1974(a).
(H) Subsections (a), (d), and (g) of section 1977.

(2)(A) The heading of subchapter III is amended to read as follows:

"SUBCHAPTER III—SERVICEMEMBERS' GROUP LIFE INSURANCE".

(B) The heading of section 1974 is amended to read as follows:

"§ 1974. Advisory Council on Servicemembers' Group Life Insurance".

(3) The table of sections at the beginning of the chapter is amended—

(A) by striking out the item relating to subchapter III and inserting in lieu thereof the following:

"SUBCHAPTER III—SERVICEMEMBERS' GROUP LIFE INSURANCE";

and

(B) by striking out the item relating to section 1974 and inserting in lieu thereof the following:

"1974. Advisory Council on Servicemembers' Group Life Insurance.".

(c) OTHER CONFORMING AMENDMENTS.—(1) Section 1315(f)(1)(F) is amended by striking out "servicemen's" the first place it appears and inserting in lieu thereof "servicemembers'".

(2) Sections 3017(a)(2)(A)(i) and 3224(1) are amended by striking out "Servicemen's" each place it appears and inserting in lieu thereof "Servicemembers'".

38 USC 1965 note.

(d) REFERENCES.—Any reference to Servicemen's Group Life Insurance or to the Advisory Council on Servicemen's Group Life Insurance in any Federal law, Executive order, regulation, delegation of authority, or other document of the Federal Government shall be deemed to refer to Servicemembers' Group Life Insurance or the Advisory Council on Servicemembers' Group Life Insurance, respectively.

SEC. 406. TECHNICAL AMENDMENT.

Section 1977(a) is amended by striking out "and (e)" in the first and second sentences.

TITLE V—DEPARTMENT OF VETERANS AFFAIRS ADMINISTRATIVE MATTERS

SEC. 501. REVISION OF AUTHORITY RELATING TO CENTERS FOR MINORITY VETERANS AND WOMEN VETERANS.

(a) SES STATUS OF DIRECTORS.—Sections 317(b) and 318(b) are each amended by inserting "career or" before "noncareer".

(b) ADDITIONAL FUNCTIONS OF CENTER FOR MINORITY VETERANS.—Section 317(d) is amended—

(1) by redesignating paragraph (10) as paragraph (12); and

(2) by inserting after paragraph (9) the following new paragraphs (10) and (11):

"(10) Advise the Secretary and other appropriate officials on the effectiveness of the Department's efforts to accomplish the goals of section 492B of the Public Health Service Act (42 U.S.C. 289a–2) with respect to the inclusion of minorities in clinical research and on particular health conditions affecting the health of members of minority groups which should be studied as part of the Department's medical research program and promote cooperation between the Department and other sponsors of medical research of potential benefit to veterans who are minorities.

"(11) Provide support and administrative services to the Advisory Committee on Minority Veterans provided for under section 544 of this title.".

(c) DEFINITION OF MINORITY VETERANS.—Section 317 is amended by adding at the end the following:

"(g) In this section—

"(1) The term 'veterans who are minorities' means veterans who are minority group members.

"(2) The term 'minority group member' has the meaning given such term in section 544(d) of this title.".

(d) CLARIFICATION OF FUNCTIONS OF CENTER FOR WOMEN VETERANS.—Section 318(d)(10) is amended by striking out "(relating to" and all that follows through "and of" and inserting in lieu thereof "(42 U.S.C. 289a–2) with respect to the inclusion of women in clinical research and on".

(e) ADDITIONAL FUNCTIONS OF ADVISORY COMMITTEES.—(1) Section 542(b) is amended by inserting ", including the Center for Women Veterans" before the period at the end.

(2) Section 544(b) is amended by inserting ", including the Center for Minority Veterans" before the period at the end.

(f) TERMINATION DATE OF ADVISORY COMMITTEE ON MINORITY VETERANS.—Section 544(e) is amended by striking out "December 31, 1997" and inserting in lieu thereof "December 31, 1999".

SEC. 502. LIMITATION ON CLOTHING ALLOWANCE FOR INCARCERATED VETERANS.

(a) PRO RATA REDUCTION.—Chapter 53 is amended by inserting after section 5313 the following new section:

"§ 5313A. Limitation on payment of clothing allowance to incarcerated veterans

"In the case of a veteran who is incarcerated in a Federal, State, or local penal institution for a period in excess of 60 days and who is furnished clothing without charge by the institution, the amount of any annual clothing allowance payable to the veteran under section 1162 of this title shall be reduced by an amount equal to 1/365 of the amount of the allowance otherwise payable under that section for each day on which the veteran was so incarcerated during the 12-month period preceding the date on which payment of the allowance would be due. This section shall be carried out under regulations prescribed by the Secretary.". Regulations.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 5313 the following new item:

"5313A. Limitation on payment of clothing allowance to incarcerated veterans.".

SEC. 503. EXTENSION OF VETERANS' CLAIMS ADJUDICATION COMMISSION.

(a) EXTENSION OF TIME FOR SUBMISSION OF FINAL REPORT.—Section 402(e)(2) of the Veterans' Benefits Improvements Act of 1994 (Public Law 103–446; 108 Stat. 4661) is amended by striking out "Not later than 18 months after such date" and inserting in lieu thereof "Not later than December 31, 1996". 38 USC 5101 note.

(b) FUNDING.—From amounts appropriated to the Department of Veterans Affairs for each of fiscal years 1996 and 1997 for the payment of compensation and pension, the amount of $75,000 is hereby made available for the activities of the Veterans' Claims Adjudication Commission under title IV of the Veterans' Benefits Improvements Act of 1994 (Public Law 103–446; 108 Stat. 4659; 38 U.S.C. 5101 note).

SEC. 504. PILOT PROGRAM FOR USE OF CONTRACT PHYSICIANS FOR DISABILITY EXAMINATIONS. 38 USC 5101 note.

(a) AUTHORITY.—The Secretary of Veterans Affairs, acting through the Under Secretary for Benefits, may conduct a pilot program under this section under which examinations with respect

to medical disability of applicants for benefits under laws administered by the Secretary that are carried out through the Under Secretary for Benefits may be made by persons other than employees of the Department of Veterans Affairs. Any such examination shall be performed pursuant to contracts entered into by the Under Secretary for Benefits with those persons.

(b) LIMITATION.—The Secretary may carry out the pilot program under this section through not more than 10 regional offices of the Department of Veterans Affairs.

(c) SOURCE OF FUNDS.—Payments for contracts under the pilot program under this section shall be made from amounts available to the Secretary of Veterans Affairs for payment of compensation and pensions.

(d) REPORT TO CONGRESS.—Not later than three years after the date of the enactment of this Act, the Secretary shall submit to the Congress a report on the effect of the use of the authority provided by subsection (a) on the cost, timeliness, and thoroughness of medical disability examinations.

SEC. 505. EXPANSION OF PERIOD OF VIETNAM ERA FOR CERTAIN VETERANS.

(a) IN GENERAL.—Paragraph (29) of section 101 is amended to read as follows:

"(29) The term 'Vietnam era' means the following:

"(A) The period beginning on February 28, 1961, and ending on May 7, 1975, in the case of a veteran who served in the Republic of Vietnam during that period.

"(B) The period beginning on August 5, 1964, and ending on May 7, 1975, in all other cases.".

(b) LIMITED EXPANSION FOR SPECIFIC COMPENSATION PURPOSES.—(1) Paragraphs (1)(B) and (3) of section 1116(a) are each amended by striking out "during the Vietnam era" and inserting in lieu thereof "during the period beginning on January 9, 1962, and ending on May 7, 1975,".

(2) Paragraphs (1)(A), (2)(C), (2)(E), (2)(F), and (4) of such section are amended by striking out "during the Vietnam era" and inserting in lieu thereof "during the period beginning on January 9, 1962, and ending on May 7, 1975".

(c) LIMITED EXPANSION FOR SPECIFIC HEALTH CARE PURPOSES.—(1) The provision stipulated in paragraph (2) is amended—

(A) in clause (i), by striking out "during the Vietnam era," and inserting in lieu thereof "during the period beginning on January 9, 1962, and ending on May 7, 1975,"; and

(B) in clause (ii), by striking out "such era" and inserting in lieu thereof "such period".

(2) The provision referred to in paragraph (1)—

(A) if the Veterans' Health Care Eligibility Reform Act of 1996 is enacted as a measure of the One Hundred Fourth Congress, is paragraph (4)(A) of section 1710(e) of title 38, United States Code, as added by section 102 of such Act; and

(B) if such Act is not enacted as a measure of the One Hundred Fourth Congress, is paragraph (1)(A) of section 1710(e) of such title.

38 USC 101 note.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1997. No benefit may be paid

or provided by reason of such amendments for any period before such date.

SEC. 506. PAYMENT OF BENEFIT TO SURVIVING SPOUSE FOR MONTH IN WHICH VETERAN DIES.

(a) BENEFIT FOR MONTH OF DEATH.—Section 5310 is amended—
(1) by inserting "(a)" before "If, in accordance with"; and
(2) by adding at the end the following:

"(b)(1) If the surviving spouse of a veteran who was in receipt of compensation or pension at the time of death is not entitled to death benefits under chapter 11, 13, or 15 of this title for the month in which the veteran's death occurs, that surviving spouse shall be entitled to a benefit for that month in the amount of benefits the veteran would have received under chapter 11 or 15 of this title for that month but for the death of the veteran.

"(2) If (notwithstanding section 5112(b)(1) of this title) a check or other payment is issued to, and in the name of, the deceased veteran as a benefit payment under chapter 11 or 15 of this title for the month in which death occurs, that check or other payment (A) shall be treated for all purposes as being payable to the surviving spouse, and (B) if that check or other payment is negotiated or deposited, shall be considered to be the benefit to which the surviving spouse is entitled under this paragraph. However, if such check or other payment is in an amount less than the amount of the benefit under paragraph (1), the unpaid amount shall be treated in the same manner as an accrued benefit under section 5121 of this title.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to the death of compensation and pension recipients occurring after December 31, 1996. 38 USC 5310 note.

SEC. 507. INCREASE IN PERIOD FOR WHICH ACCRUED BENEFITS PAYABLE.

Subsection (a) of section 5121 is amended by striking out "one year" in the matter preceding paragraph (1) and inserting in lieu thereof "two years".

SEC. 508. APPOINTMENT OF VETERANS SERVICE ORGANIZATIONS AS CLAIMANTS' REPRESENTATIVES.

(a) POWER OF ATTORNEY NAMING A VETERANS SERVICE ORGANIZATION.—Section 5902 is amended—
(1) by redesignating subsection (c) as subsection (d); and
(2) by inserting after subsection (b) the following new subsection (c):

"(c)(1) Unless a claimant specifically indicates in a power of attorney filed with the Department a desire to appoint only a recognized representative of an organization listed in or approved under subsection (a), the Secretary may, for any purpose, treat the power of attorney naming such an organization, a specific office of such an organization, or a recognized representative of such an organization as the claimant's representative as an appointment of the entire organization as the claimant's representative.

"(2) Whenever the Secretary is required or permitted to notify a claimant's representative, and the claimant has named in a power of attorney an organization listed in or approved under subsection (a), a specific office of such an organization, or a recognized representative of such an organization without specifically indicating a desire to appoint only a recognized representative of the organiza-

tion, the Secretary shall notify the organization at the address designated by the organization for the purpose of receiving the notification concerned.".

38 USC 5902 note.

(b) APPLICABILITY.—The amendments made by this section apply to any power of attorney filed with the Department of Veterans Affairs, regardless of the date of its execution.

SEC. 509. PROVISION OF COPIES OF BOARD OF VETERANS' APPEALS DECISIONS.

Subsection (e) of section 7104 is amended to read as follows:

"(e)(1) After reaching a decision on a case, the Board shall promptly mail a copy of its written decision to the claimant at the last known address of the claimant.

"(2) If the claimant has an authorized representative, the Board shall—

"(A) mail a copy of its written decision to the authorized representative at the last known address of the authorized representative; or

"(B) send a copy of its written decision to the authorized representative by any means reasonably likely to provide the authorized representative with a copy of the decision within the same time a copy would be expected to reach the authorized representative if sent by first-class mail.".

SEC. 510. LIMITATION ON RELOCATION OR REDUCTION IN STAFFING OF CERTAIN ELEMENTS OF THE EDUCATION SERVICE OF THE VETERANS BENEFITS ADMINISTRATION.

No funds available to the Department of Veterans Affairs may be obligated or expended before January 1, 1998, to relocate any function of, or to reduce the number of personnel assigned to, any of the following elements of the Veterans Benefits Administration of the Department of Veterans Affairs:

(1) The Office of Education Procedures Systems.

(2) The Office of Education Operations.

(3) The Office of Education Policy and Program Administration.

TITLE VI—OTHER MATTERS

SEC. 601. EXTENSION OF CERTAIN AUTHORITIES FOR SERVICES FOR HOMELESS VETERANS.

(a) AUTHORITY FOR COMMUNITY-BASED RESIDENTIAL CARE FOR HOMELESS CHRONICALLY MENTALLY ILL VETERANS AND OTHER VETERANS.—Section 115(d) of the Veterans' Benefits and Services Act of 1988 (38 U.S.C. 1712 note) is amended by striking out "December 31, 1997" and inserting in lieu thereof "December 31, 1998".

(b) AUTHORIZATIONS OF APPROPRIATIONS FOR HOMELESS VETERANS REINTEGRATION PROJECTS.—Section 738(e)(1) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11448(e)(1)) is amended by adding at the end the following:

"(E) $10,000,000 for fiscal year 1997.

"(F) $10,000,000 for fiscal year 1998.".

SEC. 602. REPAIR AND LONG-TERM MAINTENANCE OF WAR MEMORIALS.

(a) REPAIR AND LONG-TERM MAINTENANCE OF WAR MEMORIALS.—Section 5(b)(2) of the Act entitled "An Act for the creation

of an American Battle Monuments Commission to erect suitable memorials commemorating the services of the American soldier in Europe, and for other purposes", approved March 4, 1923 (36 U.S.C. 125(b)(2)), is amended—

(1) by inserting "(A)" after "(2)"; and

(2) by adding at the end the following:

"(B) In assuming responsibility for a war memorial under paragraph (1), the Commission may enter into arrangements with the sponsors of the memorial to provide for the repair or long-term maintenance of the memorial. Any funds transferred to the Commission for the purpose of this subparagraph shall, in lieu of subparagraph (A), be deposited by the Commission in the fund established by paragraph (3).

"(3)(A) There is established in the Treasury a fund which shall be available to the Commission for expenses for the maintenance and repair of memorials with respect to which the Commission enters into arrangements under paragraph (2)(B). The fund shall consist of (i) amounts deposited, and interest and proceeds credited, under subparagraph (B), and (ii) obligations obtained under subparagraph (C).

"(B) The Commission shall deposit in the fund such amounts from private contributions as may be accepted under paragraph (2)(B). The Secretary of the Treasury shall credit to the fund the interest on, and the proceeds from sale or redemption of, obligations held in the fund.

"(C) The Secretary of the Treasury shall invest any portion of the fund that, as determined by the Commission, is not required to meet current expenses. Each investment shall be made in an interest bearing obligation of the United States or an obligation guaranteed as to principal and interest by the United States that, as determined by the Commission, has a maturity suitable for the fund.

"(D) The Commission shall separately account for all moneys deposited in and expended from the fund with respect to each war memorial for which an arrangement for the repair or long-term maintenance of the memorial is entered to under paragraph (2)(B).".

(b) ACCOUNTING PROCEDURES RELATING TO RECEIPT AND EXPENDITURE OF CONTRIBUTIONS.—Such Act is further amended by adding at the end the following new section:

"SEC. 14. (a) The Commission shall have a system of financial controls to enable the Commission to comply with the requirements of subsection (b) and section 5(b)(3)(D). 36 USC 138d.

"(b) The Commission shall—

"(1) by March 1 of each year (beginning with 1998)—

"(A) prepare a financial statement which covers all accounts and associated activities of the Commission for the preceding fiscal year and is consistent with the requirements of section 3515 of title 31, United States Code; and

"(B) submit the financial statement, together with a narrative summary, to the Committees on Veterans' Affairs of the Senate and House of Representatives; and

"(2) obtain an audit by the Comptroller General of the United States of each financial statement prepared under paragraph (1)(A), which shall be conducted in accordance with

applicable generally accepted government auditing standards and shall be in lieu of any audit otherwise required by law.

"(c) The Commission may not obligate, withdraw, or expend funds received as contributions before March 1, 1998.".

38 USC 545 note.

TITLE VII—COMMISSION ON SERVICEMEMBERS AND VETERANS TRANSITION ASSISTANCE

SEC. 701. ESTABLISHMENT OF COMMISSION.

(a) ESTABLISHMENT.—There is established a commission to be known as the Commission on Servicemembers and Veterans Transition Assistance (hereafter in this title referred to as the "Commission").

(b) MEMBERSHIP.—(1) The Commission shall be composed of 12 members appointed from among private United States citizens with appropriate and diverse experiences, expertise, and historical perspectives on veterans, military, organizational, and management matters. The members shall be appointed as follows:

(A) Four shall be appointed jointly by the chairman and ranking minority member of the Committee on Veterans' Affairs of the House of Representatives.

(B) Four shall be appointed jointly by the chairman and ranking minority member of the Committee on Veterans' Affairs of the Senate.

(C) Two shall be appointed jointly by the chairman and ranking minority member of the Committee on National Security of the House of Representatives.

(D) Two shall be appointed jointly by the chairman and ranking minority member of the Committee on Armed Services of the Senate.

(2)(A) One member of the Commission appointed under each of subparagraphs (A) and (B) of paragraph (1) shall be a representative of a veterans service organization.

(B) To the maximum extent practicable, the individuals appointed under paragraph (1) as members of the Commission shall be veterans.

(C) Not more than seven of the members of the Commission may be members of the same political party.

(3) In addition to the members appointed under paragraph (1), the following shall be nonvoting members of the Commission:

(A) The Under Secretary for Benefits of the Department of Veterans Affairs.

(B) The Assistant Secretary of Defense for Force Management and Personnel.

(C) The Assistant Secretary of Labor for Veterans' Employment and Training.

(4) The appointments of members of the Commission shall, to the maximum extent practicable, be made after consultation with representatives of veterans service organizations.

(5) The appointments of the members of the Commission shall be made not later than 45 days after the date of the enactment of this Act.

(c) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the

Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(d) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Commission have been appointed under subsection (b)(1), the Commission shall hold its first meeting.

(e) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(f) CHAIRMAN AND VICE CHAIRMAN.—The Commission shall select a chairman and vice chairman from among its members.

(g) MEETINGS.—The Commission shall meet at the call of the chairman of the Commission.

(h) PANELS.—The Commission may establish panels composed of less than the full membership of the Commission for the purpose of carrying out the Commission's duties. The actions of such panels shall be subject to the review and control of the Commission. Any findings and determinations made by such a panel shall not be considered the findings and determinations of the Commission unless approved by the Commission.

(i) AUTHORITY OF INDIVIDUALS TO ACT FOR COMMISSION.—Any member or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take under this title.

SEC. 702. DUTIES OF COMMISSION.

(a) IN GENERAL.—The Commission shall—

(1) review the adequacy and effectiveness of veterans transition assistance and benefits programs in providing assistance to members of the Armed Forces in making the transition and adjustment to civilian life;

(2) review the allocation under law of responsibility for the administration of veterans transition assistance and benefits programs among the various departments and agencies of the Government and determine the feasibility and desirability of consolidating such administration;

(3) evaluate proposals for improving such programs, including proposals for alternative means of providing services delivered by such programs; and

(4) make recommendations to Congress regarding the need for improvements in such programs.

(b) REVIEW OF PROGRAMS TO ASSIST MEMBERS OF THE ARMED FORCES AT SEPARATION.—(1) While carrying out the general duties specified in subsection (a), the members of the Commission appointed under subparagraphs (C) and (D) of section 701(b)(1) and the member specified in subparagraph (B) of section 701(b)(3) shall review primarily the programs intended to assist members of the Armed Forces at the time of their separation from service in the Armed Forces, including programs designed to assist families of such members.

(2) In carrying out the review, those members of the Commission shall determine the following:

(A) The adequacy of the programs referred to in paragraph (1) for their purposes.

(B) The adequacy of the support of the Armed Forces for such programs.

(C) The adequacy of funding levels for such programs.

(D) The effect, if any, of the existence of such programs on military readiness.

(E) The extent to which such programs provide members of the Armed Forces with job-search skills.

(F) The extent to which such programs prepare such members for employment in the private sector and in the public sector.

(G) The effectiveness of such programs in assisting such members in finding employment in the public sector upon their separation from service.

(H) The ways in which such programs could be improved.

(3) In carrying out the review, the Commission shall make use of previous studies which have been made of such programs.

(c) REVIEW OF PROGRAMS TO ASSIST VETERANS.—(1) While carrying out the general duties specified in subsection (a), the members of the Commission appointed under subparagraphs (A) and (B) of section 701(b)(1) and the members specified in subparagraphs (A) and (C) of section 701(b)(3) shall review the following programs:

(A) Educational assistance programs.

(B) Job counseling, job training, and job placement services programs.

(C) Rehabilitation and training programs.

(D) Housing loan programs.

(E) Small business loan and small business assistance programs.

(F) Employment and employment training programs for employment in the public sector and the private sector, including employer training programs and union apprenticeship programs.

(G) Government personnel policies (including veterans' preference policies) and the enforcement of such policies.

(H) Programs that prepare the families of members of the Armed Forces for their transition from military life to civilian life and facilitate that transition.

(2) In carrying out the review, such members of the Commission shall determine the following:

(A) The adequacy of the programs referred to in paragraph (1) for their purposes.

(B) The adequacy of the support of the Department of Veterans Affairs for such programs.

(C) The adequacy of funding levels for such programs.

(D) The extent to which such programs provide veterans with job-search skills.

(E) The extent to which such programs prepare veterans for employment in the private sector and in the public sector.

(F) The effectiveness of such programs in assisting veterans in finding employment in the public sector upon their separation from service.

(G) The ways in which such programs could be improved.

(d) REPORTS.—(1) Not later than 90 days after the date on which all members of the Commission have been appointed under section 701(b)(1), the Commission shall submit to the Committees on Veterans' Affairs and Armed Services of the Senate and the Committees on Veterans' Affairs and National Security of the House of Representatives a report setting forth a plan for the work of the Commission. The Commission shall develop the plan in consultation with the Secretary of Defense, the Secretary of Veterans

Affairs, the Secretary of Labor, and the heads of other appropriate departments and agencies of the Government.

(2)(A) Not later than 18 months after the date of the first meeting of the Commission, the Commission shall submit to the committees referred to in paragraph (1), and to the Secretary of Defense, the Secretary of Veterans Affairs, and the Secretary of Labor, a report setting forth the activities, findings, and recommendations of the Commission, including any recommendations for legislative action and administrative action as the Commission considers appropriate.

(B) Not later than 90 days after receiving the report referred to in subparagraph (A), the Secretary of Defense, the Secretary of Veterans Affairs, and the Secretary of Labor shall jointly transmit the report to Congress, together with the Secretaries' comments on the report.

SEC. 703. POWERS OF COMMISSION.

(a) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out the purposes of this title.

(b) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from the Department of Defense, the Department of Veterans Affairs, and any other department or agency of the Government such information as the Commission considers necessary to carry out its duties under this title. Upon request of the chairman of the Commission, the head of such department or agency shall furnish such information expeditiously to the Commission.

SEC. 704. MISCELLANEOUS ADMINISTRATIVE PROVISIONS.

(a) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Government.

(b) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(c) MISCELLANEOUS ADMINISTRATIVE SUPPORT.—The Secretary of Defense, the Secretary of Veterans Affairs, and the Secretary of Labor shall, upon the request of the chairman of the Commission, furnish the Commission, on a reimbursable basis, any administrative and support services as the Commission may require.

SEC. 705. COMMISSION PERSONNEL MATTERS.

(a) COMPENSATION OF MEMBERS.—Each member of the Commission may be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in performing the duties of the Commission.

(b) TRAVEL AND TRAVEL EXPENSES.—(1) Members and personnel of the Commission may travel on military aircraft, military vehicles, or other military conveyances when travel is necessary in the performance of a duty of the Commission except when the cost of commercial transportation is less expensive.

(2) The members of the Commission may be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or

regular places of business in the performance of services for the Commission.

(c) STAFF.—(1) The chairman of the Commission may, without regard to civil service laws and regulations, appoint and terminate an executive director and up to five additional staff members as may be necessary to enable the Commission to perform its duties. In appointing an individual as executive director, the chairman shall, to the maximum extent practicable, attempt to appoint an individual who is a veteran. The employment of an executive director shall be subject to confirmation by the Commission.

(2) The chairman of the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other staff members may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(d) DETAIL OF GOVERNMENT EMPLOYEES.—Upon request of the chairman of the Commission, the head of any department or agency of the Government may detail, on a nonreimbursable basis, any personnel of the department or agency to the Commission to assist the Commission in carrying out its duties.

(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The chairman of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5316 of such title.

SEC. 706. TERMINATION OF COMMISSION.

The Commission shall terminate 90 days after the date on which it submits its report under section 702(d)(2).

SEC. 707. DEFINITIONS.

For the purposes of this title:

(1) The term "veterans transition assistance and benefits program" means any program of the Government the purpose of which is—

(A) to assist, by rehabilitation or other means, members of the Armed Forces in readjusting or otherwise making the transition to civilian life upon their separation from service in the Armed Forces; or

(B) to assist veterans in making the transition to civilian life.

(2) The term "Armed Forces" has the meaning given such term in section 101(10) of title 38, United States Code.

(3) The term "veteran" has the meaning given such term in section 101(2) of title 38, United States Code.

(4) The term "veterans service organization" means any organization covered by section 5902(a) of title 38, United States Code.

SEC. 708. FUNDING.

(a) IN GENERAL.—The Secretary of Defense shall, upon the request of the chairman of the Commission, make available to the Commission such amounts as the Commission may require to carry out its duties under this title. The Secretary shall make

such amounts available from amounts appropriated for the Department of Defense, except that such amounts may not be from amounts appropriated for the transition assistance program (TAP), the Army career alumni program (ACAP), or any similar program.

(b) AVAILABILITY.—Any sums made available to the Commission under subsection (a) shall remain available, without fiscal year limitation, until the termination of the Commission.

Approved October 9, 1996.

LEGISLATIVE HISTORY—S. 1711:

SENATE REPORTS: No. 104–371 (Comm. on Veterans' Affairs).
CONGRESSIONAL RECORD, Vol. 142 (1996):
Sept. 28, considered and passed Senate and House.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 32 (1996):
Oct. 9, Presidential statement.

Public Law 104–276
104th Congress

An Act

Oct. 9, 1996
[S. 1802]

To direct the Secretary of the Interior to convey certain property containing a fish and wildlife facility to the State of Wyoming, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONVEYANCE OF CERTAIN PROPERTY TO WYOMING.

(a) CONVEYANCE.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of the Interior shall convey in "as is" condition, to the State of Wyoming without reimbursement—

(A) all right, title, and interest of the United States in and to the portion of the property commonly known as "Ranch A" in Crook County, Wyoming, other than the portion described in paragraph (2), consisting of approximately 600 acres of land (including all real property, buildings, and all other improvements to real property) and all personal property (including art, historic light fixtures, wildlife mounts, draperies, rugs, and furniture directly related to the site, including personal property on loan to museums and other entities at the time of transfer);

(B) all right, title, and interest of the United States in and to all buildings and related improvements and all personal property associated with the buildings on the portion of the property described in paragraph (2); and

(C) a permanent right of way across the portion of the property described in paragraph (2) to use the buildings conveyed under subparagraph (B).

(2) RANCH A.—Subject to the exceptions described in subparagraphs (B) and (C) of paragraph (1), the United States shall retain all right, title, and interest in and to the portion of the property commonly known as "Ranch A" in Crook County, Wyoming, described as Township 52 North, Range 61 West, Section 24 N½ SE¼, consisting of approximately 80 acres of land.

(b) USE AND REVERSIONARY INTEREST.—

(1) USE.—The property conveyed to the State of Wyoming under this section shall be retained by the State and be used by the State for the purposes of—

(A) fish and wildlife management and educational activities; and

(B) using, maintaining, displaying, and restoring, through State or local agreements, or both, the museum-quality real and personal property and the historical

interests and significance of the real and personal property, consistent with applicable Federal and State laws.

(2) ACCESS BY INSTITUTIONS OF HIGHER EDUCATION.—The State of Wyoming shall provide access to the property for institutions of higher education at a compensation level that is agreed to by the State and the institutions of higher education.

(3) REVERSION.—All right, title, and interest in and to the property described in subsection (a) shall revert to the United States if—

(A) the property is used by the State of Wyoming for any other purpose than the purposes set forth in paragraph (1);

(B) there is any development of the property (including commercial or recreational development, but not including the construction of small structures, to be used for the purposes set forth in subsection (b)(1), on land conveyed to the State of Wyoming under subsection (a)(1)(A)); or

(C) the State does not make every reasonable effort to protect and maintain the quality and quantity of fish and wildlife habitat on the property.

(c) ADDITION TO THE BLACK HILLS NATIONAL FOREST.—

(1) TRANSFER.—Administrative jurisdiction of the property described in subsection (a)(2) is transferred to the Secretary of Agriculture, to be included in and managed as part of the Black Hills National Forest.

(2) NO HUNTING OR MINERAL DEVELOPMENT.—No hunting or mineral development shall be permitted on any of the land transferred to the administrative jurisdiction of the Secretary of Agriculture by paragraph (1).

Approved October 9, 1996.

LEGISLATIVE HISTORY—S. 1802 (H.R. 3579):

HOUSE REPORTS: No. 104–711 accompanying H.R. 3579 (Comm. on Resources).
SENATE REPORTS: No. 104–290 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD, Vol. 142 (1996):
Sept. 4, H.R. 3579 considered and passed House.
Sept. 24, S. 1802 considered and passed Senate.
Sept. 26, considered and passed House.

Public Law 104–277
104th Congress

An Act

Oct. 9, 1996
[S. 1931]

To provide that the United States Post Office and Courthouse building located at 9 East Broad Street, Cookeville, Tennessee, shall be known and designated as the "L. Clure Morton United States Post Office and Courthouse".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF L. CLURE MORTON UNITED STATES POST OFFICE AND COURTHOUSE.

The United States Post Office and Courthouse building located at 9 East Broad Street, Cookeville, Tennessee, shall be known and designated as the "L. Clure Morton United States Post Office and Courthouse".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States Post Office and Courthouse building referred to in section 1 shall be deemed to be a reference to the "L. Clure Morton United States Post Office and Courthouse".

Approved October 9, 1996.

LEGISLATIVE HISTORY—S. 1931:

CONGRESSIONAL RECORD, Vol. 142 (1996):
Aug. 2, considered and passed Senate.
Sept. 27, considered and passed House.

Public Law 104–278
104th Congress

An Act

To amend the National Museum of the American Indian Act to make improvements in the Act, and for other purposes.

Oct. 9, 1996
[S. 1970]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

National Museum of the American Indian Act Amendments of 1996.
20 USC 80q note.

SECTION 1. SHORT TITLE; REFERENCES.

(a) SHORT TITLE.—This Act may be cited as the "National Museum of the American Indian Act Amendments of 1996".

(b) REFERENCES.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to a section or other provision of the National Museum of the American Indian Act (20 U.S.C. 80q et seq.).

SEC. 2. BOARD OF TRUSTEES.

Section 5(f)(1)(B) (20 U.S.C. 80q–3(f)(1)(B)) is amended by striking "an Assistant Secretary" and inserting "a senior official".

SEC. 3. INVENTORY.

(a) IN GENERAL.—Section 11(a) (20 U.S.C. 80q–9(a)) is amended—

(1) by striking "(1)" and inserting "(A)";
(2) by striking "(2)" and inserting "(B)";
(3) by inserting "(1)" before "The Secretary"; and
(4) by adding at the end the following new paragraphs:

"(2) The inventory made by the Secretary of the Smithsonian Institution under paragraph (1) shall be completed not later than June 1, 1998.

"(3) For purposes of this subsection, the term 'inventory' means a simple, itemized list that, to the extent practicable, identifies, based upon available information held by the Smithsonian Institution, the geographic and cultural affiliation of the remains and objects referred to in paragraph (1).".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 11(f) (20 U.S.C. 80q–9(f)) is amended by striking "to carry out this section" and inserting "to carry out this section and section 11A".

SEC. 4. SUMMARY AND REPATRIATION OF UNASSOCIATED FUNERARY OBJECTS, SACRED OBJECTS, AND CULTURAL PATRIMONY.

The National Museum of the American Indian Act (20 U.S.C. 80q et seq.) is amended by inserting after section 11 the following new section:

20 USC 80q–9a.

"SEC. 11A. SUMMARY AND REPATRIATION OF UNASSOCIATED FUNERARY OBJECTS, SACRED OBJECTS, AND CULTURAL PATRIMONY.

"(a) SUMMARY.—Not later than December 31, 1996, the Secretary of the Smithsonian Institution shall provide a written summary that contains a summary of unassociated funerary objects, sacred objects, and objects of cultural patrimony (as those terms are defined in subparagraphs (B), (C), and (D), respectively, of section 2(3) of the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001(3)), based upon available information held by the Smithsonian Institution. The summary required under this section shall include, at a minimum, the information required under section 6 of the Native American Graves Protection and Repatriation Act (25 U.S.C. 3004).

"(b) REPATRIATION.—Where cultural affiliation of Native American unassociated funerary objects, sacred objects, and objects of cultural patrimony has been established in the summary prepared pursuant to subsection (a), or where a requesting Indian tribe or Native Hawaiian organization can show cultural affiliation by a preponderance of the evidence based upon geographical, kinship, biological, archaeological, anthropological, linguistic, folkloric, oral traditional, historical, or other relevant information or expert opinion, then the Smithsonian Institution shall expeditiously return such unassociated funerary object, sacred object, or object of cultural patrimony where—

"(1) the requesting party is the direct lineal descendant of an individual who owned the unassociated funerary object or sacred object;

"(2) the requesting Indian tribe or Native Hawaiian organization can show that the object was owned or controlled by the Indian tribe or Native Hawaiian organization; or

"(3) the requesting Indian tribe or Native Hawaiian organization can show that the unassociated funerary object or sacred object was owned or controlled by a member thereof, provided that in the case where an unassociated funerary object or sacred object was owned by a member thereof, there are no identifiable lineal descendants of said member or the lineal descendants, upon notice, have failed to make a claim for the object.

"(c) STANDARD OF REPATRIATION.—If a known lineal descendant or an Indian tribe or Native Hawaiian organization requests the return of Native American unassociated funerary objects, sacred objects, or objects of cultural patrimony pursuant to this Act and presents evidence which, if standing alone before the introduction of evidence to the contrary, would support a finding that the Smithsonian Institution did not have the right of possession, then the Smithsonian Institution shall return such objects unless it can overcome such inference and prove that it has a right of possession to the objects.

"(d) MUSEUM OBLIGATION.—Any museum of the Smithsonian Institution which repatriates any item in good faith pursuant to this Act shall not be liable for claims by an aggrieved party or for claims of fiduciary duty, public trust, or violations of applicable law that are inconsistent with the provisions of this Act.

"(e) STATUTORY CONSTRUCTION.—Nothing in this section may be construed to prevent the Secretary of the Smithsonian Institution, with respect to any museum of the Smithsonian Institution,

from making an inventory or preparing a written summary or carrying out the repatriation of unassociated funerary objects, sacred objects, or objects of cultural patrimony in a manner that exceeds the requirements of this Act.

"(f) NATIVE HAWAIIAN ORGANIZATION DEFINED.—For purposes of this section, the term 'Native Hawaiian organization' has the meaning provided that term in section 2(11) of the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001(11)).".

SEC. 5. SPECIAL COMMITTEE.

Section 12 (20 U.S.C. 80q–10) is amended—

(1) in the first sentence of subsection (a), by inserting "and unassociated funerary objects, sacred objects, and objects of cultural patrimony under section 11A" before the period; and

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking "five" and inserting "7";

(B) in paragraph (1)—

(i) by striking "three" and inserting "4"; and

(ii) by striking "and" at the end;

(C) by redesignating paragraph (2) as paragraph (3); and

(D) by inserting after paragraph (1) the following:

"(2) at least 2 members shall be traditional Indian religious leaders; and".

Approved October 9, 1996.

LEGISLATIVE HISTORY—S. 1970:

SENATE REPORTS: No. 104–350 (Comm. on Indian Affairs).
CONGRESSIONAL RECORD, Vol. 142 (1996):
Sept. 5, considered and passed Senate.
Sept. 26, considered and passed House.

Public Law 104–279
104th Congress

An Act

Oct. 9, 1996
[S. 2085]

To authorize the Capitol Guide Service to accept voluntary services.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 441 of the Legislative Reorganization Act of 1970 (40 U.S.C. 851) is amended by striking subsection (j) and inserting the following:

"(j)(1) Notwithstanding section 1342 of title 31, United States Code, the Capitol Guide Service is authorized to accept voluntary personal services.

"(2) No person shall be permitted to donate personal services under this subsection unless the person has first agreed, in writing, to waive any claim against the United States arising out of or in connection with such services, other than a claim under chapter 81 of title 5, United States Code.

"(3) No person donating personal services under this section shall be considered an employee of the United States for any purpose other than for purposes of chapter 81 of title 5, United States Code.

"(4) In no case shall the acceptance of personal services under this section result in the reduction of pay or displacement of any employee of the Capitol Guide Service.".

Approved October 9, 1996.

LEGISLATIVE HISTORY—S. 2085:

CONGRESSIONAL RECORD, Vol. 142 (1996):
Sept. 17, considered and passed Senate.
Sept. 26, considered and passed House.

Public Law 104–280
104th Congress

An Act

To provide for the extension of certain authority for the Marshal of the Supreme Court and the Supreme Court Police.

Oct. 9, 1996
[S. 2100]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF AUTHORITY.

Section 9(c) of the Act entitled "An Act relating to the policing of the building and grounds of the Supreme Court of the United States", approved August 18, 1949 (40 U.S.C. 13n(c)) is amended in the first sentence by striking "1996" and inserting "2000".

Approved October 9, 1996.

LEGISLATIVE HISTORY—S. 2100 (H.R. 4164):

CONGRESSIONAL RECORD, Vol. 142 (1996):
Sept. 26, considered and passed Senate.
Sept. 27, H.R. 4164 and S. 2100 considered and passed House.

Public Law 104–281
104th Congress

An Act

Oct. 9, 1996
[S. 2153]

To designate the United States Post Office building located in Brewer, Maine, as the "Joshua Lawrence Chamberlain Post Office Building", and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF JOSHUA LAWRENCE CHAMBERLAIN POST OFFICE BUILDING.

The United States Post Office building located at 22 Parkway South, Brewer, Maine, shall be known and designated as the "Joshua Lawrence Chamberlain Post Office Building".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, record, or other paper of the United States to the United States Post Office building referred to in section 1 shall be deemed to be a reference to the "Joshua Lawrence Chamberlain Post Office Building".

Approved October 9, 1996.

LEGISLATIVE HISTORY—S. 2153:

CONGRESSIONAL RECORD, Vol. 142 (1996):
Sept. 28, considered and passed Senate and House.

Public Law 104–282
104th Congress

Joint Resolution

To commend Operation Sail for its advancement of brotherhood among nations, its continuing commemoration of the history of the United States, and its nurturing of young cadets through training in seamanship.

Oct. 9, 1996
[S.J. Res. 64]

Whereas Operation Sail is a nonprofit corporation dedicated to building good will among nations and encouraging international camaraderie;

Whereas Operation Sail has represented and promoted the United States of America in the international tall ship community since 1964, organizing and participating in numerous tall ship events across the United States and around the world;

Whereas Operation Sail has worked in partnership with every American President since President John F. Kennedy;

Whereas Operation Sail has established a great tradition of celebrating major events and milestones in United States history with a gathering of the world's tall ships, and will continue this great tradition with a gathering of ships in New York Harbor, called OpSail 2000, to celebrate the 224th birthday of the United States of America and to welcome the new millennium;

Whereas President Clinton has endorsed OpSail 2000, as Presidents Kennedy, Carter, Reagan, and Bush have endorsed Operation Sail in previous endeavors;

Whereas OpSail 2000 promises to be the largest gathering in history of tall ships and other majestic vessels like those that have sailed the ocean for centuries;

Whereas in conjunction with OpSail 2000, the United States Navy will conduct an International Naval Review; and

Whereas the International Naval Review will include a naval aircraft carrier as a symbol of the international good will of the United States of America: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) Operation Sail is commended for its advancement of brotherhood among nations, its continuing commemoration of the history of the United States, and its nurturing of young cadets through training in seamanship;

(2) all Americans and citizens of nations around the world are encouraged to join in the celebration of the 224th birthday of the United States of America and the international camaraderie that Operation Sail and the International Naval Review will foster; and

(3) Operation Sail is encouraged to continue into the next millennium to represent and promote the United States of America in the international tall ship community, and to continue organizing and participating in tall ship events across the United States and around the world.

Approved October 9, 1996.

LEGISLATIVE HISTORY—S.J. Res. 64:

CONGRESSIONAL RECORD, Vol. 142 (1996):
Sept. 24, considered and passed Senate.
Sept. 27, considered and passed House.

Public Law 104–283
104th Congress

An Act

To reauthorize the National Marine Sanctuaries Act, and for other purposes.

Oct. 11, 1996
[H.R. 543]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

National Marine Sanctuaries Preservation Act. 16 USC 1431 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Marine Sanctuaries Preservation Act".

SEC. 2. AMENDMENT OF NATIONAL MARINE SANCTUARIES ACT.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of National Marine Sanctuaries Act (16 U.S.C. 1431–1445a).

SEC. 3. REAUTHORIZATION OF THE NATIONAL MARINE SANCTUARIES ACT.

Section 313 (16 U.S.C. 1444) is amended to read as follows:

"SEC. 313. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to the Secretary to carry out this title—

"(1) $12,000,000 for fiscal year 1997;
"(2) $15,000,000 for fiscal year 1998; and
"(3) $18,000,000 for fiscal year 1999.".

SEC. 4. MANAGEMENT, RECOVERY, AND PRESERVATION PLAN FOR U.S.S. MONITOR.

16 USC 1445 note.

The Secretary of Commerce shall, within 12 months after the date of the enactment of this Act, prepare and submit to the Committee on Resources of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a long-range, comprehensive plan for the management, stabilization, preservation, and recovery of artifacts and materials of the U.S.S. MONITOR. In preparing and implementing the plan, the Secretary shall to the extent feasible utilize the resources of other Federal and private entities with expertise and capabilities that are helpful.

SEC. 5. PUBLICATION OF NOTICE OF CERTAIN ADVISORY COUNCIL MEETINGS.

Section 315(e)(3) (16 U.S.C. 1445a(e)(3)) is amended by inserting before the period at the end the following: ", except that in the case of a meeting of an Advisory Council established to provide assistance regarding any individual national marine sanctuary the notice is not required to be published in the Federal Register".

SEC. 6. ENHANCING SUPPORT FOR NATIONAL MARINE SANCTUARIES.

16 USC 1431 note, 1442 note, 1445b.

(a) INCORPORATION OF EXISTING PROVISION.—Section 316 (16 U.S.C. 1445 note) is redesignated as section 317, section 2204 of the National Marine Sanctuaries Program Amendments Act of 1992 (106 Stat. 5049) is moved so as to appear in the National Marine Sanctuaries Act following section 315, and that moved section is designated as section 316 of the National Marine Sanctuaries Act.

16 USC 1445b.

(b) AMENDMENT OF INCORPORATED SECTION.—Section 316, as moved and designated by subsection (a) of this section, is amended as follows:

(1) Subsections (a), (g), and (h) are struck, and subsections (b), (c), (d), (e), and (f) are redesignated as subsections (a), (b), (c), (d), and (e), respectively.

(2) In subsection (a), as so redesignated, the matter preceding paragraph (1) is struck and the following is inserted:

"(a) AUTHORITY.—The Secretary may establish a program consisting of—".

(3) In subsection (a)(5), as so redesignated—

(A) "establishment" is struck and "solicitation" is inserted; and

(B) "fees" is struck and "monetary or in-kind contributions" is inserted.

(4) In subsection (a)(6), as so redesignated—

(A) "fees" is struck and "monetary or in-kind contributions" is inserted;

(B) "paragraph (5)" is struck and "paragraphs (5) and (6)" is inserted;

(C) "assessed" is struck and "collected" is inserted; and

(D) "in an interest-bearing revolving fund" is struck.

(5) In subsection (a)(7), as so redesignated—

(A) "and use" is inserted after "expenditure";

(B) "fees" is struck and "monetary and in-kind contributions" is inserted; and

(C) "and any interest in the fund established under paragraph (6)" is struck.

(6) In subsection (a), as so redesignated, paragraphs (5), (6), and (7) are redesignated in order as paragraphs (6), (7), and (8), and the following new paragraph is inserted after paragraph (4):

Contracts.

"(5) the creation, marketing, and selling of products to promote the national marine sanctuary program, and entering into exclusive or nonexclusive agreements authorizing entities to create, market or sell on the Secretary's behalf;".

(7) The following new sentence is added at the end of subsection (a), as so redesignated:

"Monetary and in-kind contributions raised through the sale, marketing, or use of symbols and products related to an individual national marine sanctuary shall be used to support that sanctuary.".

(8) In subsection (e), as so redesignated—

(A) paragraph (2) is struck;

(B) in paragraph (1), "(1)" is struck, and subparagraphs (A), (B), (C), and (D) are redesignated as paragraphs (1), (2), (3), and (4); and

(C) in paragraph (3), as so redesignated, "fee" is struck and "monetary or in-kind contribution" is inserted.

(9) In each of subsections (b), (c), and (d), as so redesignated, by striking "subsection (b)" and inserting "subsection (a)".

SEC. 7. HAWAIIAN ISLANDS NATIONAL MARINE SANCTUARY.

(a) INCLUSION OF KAHOOLAWE ISLAND WATERS.—Section 2305 of the Hawaiian Islands National Marine Sanctuary Act (16 U.S.C. 1433 note) is amended—

(1) in subsection (a)—

(A) by striking "(A)" and inserting "(a)"; and

(B) by striking "the area described in subsection (b) is" and inserting "the area described in subsection (b)(1) and any area included under subsection (b)(2) are";

(2) by amending subsection (b)(2) to read as follows:

"(2)(A) Within 6 months after the date of receipt of a request in writing from the Kahoolawe Island Reserve Commission for inclusion within the Sanctuary of the area of the marine environment within 3 nautical miles of the mean high tide line of Kahoolawe Island (in this section referred to as the 'Kahoolawe Island waters'), the Secretary shall determine whether those waters may be suitable for inclusion in the Sanctuary.

"(B) If the Secretary determines under subparagraph (A) that the Kahoolawe Island waters may be suitable for inclusion within the Sanctuary—

"(i) the Secretary shall provide notice of that determination to the Governor of Hawaii; and Notices.

"(ii) the Secretary shall prepare a supplemental environmental impact statement, management plan, and implementing regulations for that inclusion in accordance with this Act, the National Marine Sanctuaries Act, and the National Environmental Policy Act of 1969."; and

(3) by amending subsection (c) to read as follows:

"(c) EFFECT OF OBJECTION BY GOVERNOR.—(1)(A) If, within 45 days after the date of issuance of the comprehensive management plan and implementing regulations under section 2306, the Governor of Hawaii certifies to the Secretary that the management plan, the implementing regulations, or any term of the plan or regulations is unacceptable, the management plan, regulation, or term, respectively, shall not take effect in the area of the Sanctuary lying within the seaward boundary of the State of Hawaii.

"(B) If the Secretary considers that an action under subparagraph (A) will affect the Sanctuary in such a manner that the policy or purposes of this title cannot be fulfilled, the Secretary may terminate the designation under subsection (a). At least 30 days before that termination, the Secretary shall submit written notice of the termination to the Committee on Resources of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

"(2)(A) If, within 45 days after the Secretary issues the documents required under subsection (b)(2)(B)(ii), the Governor of Hawaii certifies to the Secretary that the inclusion of the Kahoolawe Island waters in the Sanctuary or any term of that inclusion is unacceptable—

"(i) the inclusion or the term shall not take effect; and

"(ii) subsection (b)(2) shall not apply during the 3-year period beginning on the date of that certification.

"(B) If the Secretary considers that an action under subparagraph (A) regarding a term of the inclusion of the Kahoolawe Island waters will affect the inclusion or the administration of the Kahoolawe Island waters as part of the Sanctuary in such a manner that the policy or purposes of this title cannot be fulfilled, the Secretary may terminate that inclusion.".

(b) LIMITATION ON USER FEES.—The Hawaiian Islands National Marine Sanctuary Act (16 U.S.C. 1433 note) is further amended by redesignating section 2307 as section 2308, and by inserting after section 2306 the following new section:

"SEC. 2307. LIMITATION ON USER FEES.

"(a) LIMITATION.—The Secretary shall not institute any user fee under this Act or the National Marine Sanctuaries Act for any activity within the Hawaiian Islands National Marine Sanctuary or any use of the Sanctuary or its resources.

"(b) USER FEE DEFINED.—In this section, the term 'user fee' does not include—

"(1) any fee authorized by section 310 of the National Marine Sanctuaries Act;

"(2) any gift or donation received under section 311 of that Act; and

"(3) any monetary or in-kind contributions under section 316 of that Act.".

16 USC 1433 note.

SEC. 8. FLOWER GARDEN BANKS BOUNDARY MODIFICATION.

(a) MODIFICATION.—Notwithstanding section 304 of the National Marine Sanctuaries Act (16 U.S.C. 1434), the boundaries of the Flower Garden Banks National Marine Sanctuary, as designated by Public Law 102–251, are amended to include the area described in subsection (d), popularly known as Stetson Bank. This area shall be part of the Flower Garden Banks National Marine Sanctuary and shall be managed and regulated as though it had been designated by the Secretary of Commerce under the National Marine Sanctuaries Act.

(b) DEPICTION OF SANCTUARY BOUNDARIES.—The Secretary of Commerce shall—

(1) prepare a chart depicting the boundaries of the Flower Garden Banks National Marine Sanctuary, as modified by this section; and

(2) submit copies of this chart to the Committee on Resources of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

(c) APPLICATION OF REGULATIONS.—Regulations issued by the Secretary of Commerce to implement the designation of the Flower Garden Banks National Marine Sanctuary shall apply to the area described in subsection (d), unless modified by the Secretary. This subsection shall take effect 45 days after the date of enactment of this Act.

Effective date.

(d) AREA DESCRIBED.—

(1) IN GENERAL.—Except as provided in paragraph (2), the area referred to in subsections (a), (b), and (c) is the area that is—

(A) generally depicted on the Department of the Interior, Minerals Management Service map titled "Western Gulf of Mexico, Lease Sale 143, September 1993, Biologically Sensitive Areas, Map 3 of 3, Final";

(B) labeled "Stetson" on the High Island Area South Addition diagram on that map; and

(C) within the 52 meter isobath.

(2) MINOR BOUNDARY ADJUSTMENTS.—The Secretary of Commerce may make minor adjustments to the boundaries of the area described in paragraph (1) as necessary to protect living coral resources or to simplify administration of the Flower Garden Banks National Marine Sanctuary and to establish precisely the geographic boundaries of Stetson Bank. The adjustments shall not significantly enlarge or otherwise alter the size of the area described in paragraph (1), and shall not result in the restriction of oil and gas activities otherwise permitted outside of the "no activity" zone designated for Stetson Bank as that zone is depicted on the Minerals Management Service map entitled "Final Notice of Sale 161, Western Gulf Mexico, Biological Stipulation Map Package".

(e) PUBLICATION OF NOTICE.—

(1) IN GENERAL.—The Secretary of Commerce shall, as soon as practicable after the date of the enactment of this Act, publish in the Federal Register a notice describing— Federal Register, publication.

(A) the boundaries of the Flower Garden Banks National Marine Sanctuary, as modified by this section, and

(B) any modification of regulations applicable to that Sanctuary that are necessary to implement that modification of the boundaries of the Sanctuary.

(2) TREATMENT AS NOTICE REQUIRED UNDER NATIONAL MARINE SANCTUARIES ACT.—A notice published under paragraph (1) shall be considered to be the notice required to be published under section 304(b)(1) of the National Marine Sanctuaries Act (16 U.S.C. 1434(b)(1)).

(f) AUTHORIZATION OF APPROPRIATIONS.—Amounts may be appropriated to carry out this section under the authority provided in section 313 of the National Marine Sanctuaries Act, as amended by this Act.

SEC. 9. MISCELLANEOUS TECHNICAL CORRECTIONS.

(a) Section 301(b)(2) of the National Marine Sanctuaries Act (16 U.S.C. 1431(b)(2)) is amended by striking the period at the end and inserting a semicolon.

(b) Section 302 of the National Marine Sanctuaries Act (16 U.S.C. 1432) is amended—

(1) in paragraph (6) by striking ", and" at the end of subparagraph (C) and inserting a semicolon; and

(2) in paragraph (7) by striking "and" after the semicolon at the end.

(c) Section 307(e)(1)(A) of the National Marine Sanctuaries Act (16 U.S.C. 1437(e)(1)(A)) is amended by inserting "of 1980" before the period at the end.

(d) Section 2109 of the National Marine Sanctuaries Program Amendments Act of 1992 (106 Stat. 5045) is amended by striking the open quotation marks before "Section 311". 16 USC 1442.

(e) Section 2110(d) of the National Marine Sanctuaries Program Amendments Act of 1992 (106 Stat. 5046) is deemed to have amended section 312(b)(1) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1443(b)(1)) by inserting "or authorize" after "undertake". 16 USC 1443.

16 USC 1431 note, 1445a.

(f) The material added to the Marine Protection, Research, and Sanctuaries Act of 1972 by section 2112 of the National Marine Sanctuaries Program Amendments Act of 1992 (106 Stat. 5046)—

(1) is deemed to have been added by that section at the end of title III of the Marine Protection, Research, and Sanctuaries Act of 1972; and

(2) shall not be considered to have been added by that section to the end of the Marine Protection, Research, and Sanctuaries Act of 1972.

(g) Section 2202(e) of the National Marine Sanctuaries Program Amendments Act of 1992 (16 U.S.C. 1433 note) is amended by striking "section 304(e)" and inserting "304(d)".

(h) Section 304(b)(3) of the National Marine Sanctuaries Act (16 U.S.C. 1434(b)(3)) is amended—

(1) by striking subparagraphs (B) and (C);

(2) by moving the text of subparagraph (A) so as to begin at the end of the line on which appears the heading for paragraph (3);

(3) by moving clauses (i) and (ii) of subparagraph (A) 2 ems to the left;

(4) by striking "(A) In" and inserting "In";

(5) by striking "(i)" and inserting "(A)"; and

(6) by striking "(ii)" and inserting "(B)".

Washington.

SEC. 10. NORTHWEST STRAITS.

16 USC 1433 note.

No designation of an area in the Northwest Straits in the State of Washington as a national marine sanctuary under the National Marine Sanctuaries Act shall take effect unless that designation is specifically authorized by a law enacted after the date of enactment of this Act.

SEC. 11. DESIGNATION OF GERRY E. STUDDS STELLWAGEN BANK NATIONAL MARINE SANCTUARY.

16 USC 1433 note.

The Stellwagen Bank National Marine Sanctuary shall be known and designated as the "Gerry E. Studds Stellwagen Bank National Marine Sanctuary". Any reference in a law, map, regulation, document, paper, or other record of the United States to that national marine sanctuary shall be deemed to be a reference to the "Gerry E. Studds Stellwagen Bank National Marine Sanctuary".

Approved October 11, 1996.

LEGISLATIVE HISTORY—H.R. 543:

CONGRESSIONAL RECORD, Vol. 142 (1996):
Sept. 28, considered and passed House and Senate.

Public Law 104–284
104th Congress

An Act

Oct. 11, 1996
[H.R. 1514]

To authorize and facilitate a program to enhance safety, training, research and development, and safety education in the propane gas industry for the benefit of propane consumers and the public, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Propane Education and Research Act of 1996.
15 USC 6401 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Propane Education and Research Act of 1996".

15 USC 6401.

SEC. 2. FINDINGS.

The Congress finds that—

(1) propane gas, or liquefied petroleum gas, is an essential energy commodity providing heat, hot water, cooking fuel, and motor fuel among its many uses to millions of Americans;

(2) the use of propane is especially important to rural citizens and farmers, offering an efficient and economical source of gas energy;

(3) propane has been recognized as a clean fuel and can contribute in many ways to reducing the pollution in our cities and towns; and

(4) propane is primarily domestically produced and its use provides energy security and jobs for Americans.

15 USC 6402.

SEC. 3. DEFINITIONS.

For the purposes of this Act—

(1) the term "Council" means a Propane Education and Research Council created pursuant to section 4 of this Act;

(2) the term "industry" means those persons involved in the production, transportation, and sale of propane, and in the manufacture and distribution of propane utilization equipment, in the United States;

(3) the term "industry trade association" means an organization exempt from tax, under section 501(c) (3) or (6) of the Internal Revenue Code of 1986, representing the propane industry;

(4) the term "odorized propane" means propane which has had odorant added to it;

(5) the term "producer" means the owner of propane at the time it is recovered at a gas processing plant or refinery;

(6) the term "propane" means a hydrocarbon whose chemical composition is predominantly C^3H^8, whether recovered from natural gas or crude oil, and includes liquefied petroleum gases and mixtures thereof;

(7) the term "public member" means a member of the Council, other than a representative of producers or retail marketers, representing significant users of propane, public safety officials, academia, the propane research community, or other groups knowledgeable about propane;

(8) the term "qualified industry organization" means the National Propane Gas Association, the Gas Processors Association, a successor association of such associations, or a group of retail marketers or producers who collectively represent at least 25 percent of the volume of propane sold or produced in the United States;

(9) the term "retail marketer" means a person engaged primarily in the sale of odorized propane to the ultimate consumer or to retail propane dispensers;

(10) the term "retail propane dispenser" means a person who sells odorized propane to the ultimate consumer but is not engaged primarily in the business of such sales; and

(11) the term "Secretary" means the Secretary of Energy.

SEC. 4. REFERENDA. 15 USC 6403.

(a) CREATION OF PROGRAM.—The qualified industry organizations may conduct, at their own expense, a referendum among producers and retail marketers for the creation of a Propane Education and Research Council. The Council, if established, shall reimburse the qualified industry organizations for the cost of the referendum accounting and documentation. Such referendum shall be conducted by an independent auditing firm agreed to by the qualified industry organizations. Voting rights in such referendum shall be based on the volume of propane produced or odorized propane sold in the previous calendar year or other representative period. Upon approval of those persons representing two-thirds of the total volume of propane voted in the retail marketer class and two-thirds of all propane voted in the producer class, the Council shall be established, and shall be authorized to levy an assessment on odorized propane in accordance with section 6. All persons voting in the referendum shall certify to the independent auditing firm the volume of propane represented by their vote.

(b) TERMINATION.—On the Council's own initiative, or on petition to the Council by producers and retail marketers representing 35 percent of the volume of propane in each class, the Council shall, at its own expense, hold a referendum, to be conducted by an independent auditing firm selected by the Council, to determine whether the industry favors termination or suspension of the Council. Termination or suspension shall not take effect unless it is approved by persons representing more than one-half of the total volume of odorized propane in the retail marketer class and more than one-half of the total volume of propane in the producer class, or is approved by persons representing more than two-thirds of the total volume of propane in either such class.

SEC. 5. PROPANE EDUCATION AND RESEARCH COUNCIL. 15 USC 6404.

(a) SELECTION OF MEMBERS.—The qualified industry organizations shall select all retail marketer, public, and producer members of the Council. The producer organizations shall select the producer members of the Council, the retail marketer organizations shall select retail marketer members, and all qualified industry organizations shall jointly select the public members. Vacancies

in unfinished terms of Council members shall be filled in the same manner as were the original appointments.

(b) REPRESENTATION.—In selecting members of the Council, the qualified industry organizations shall give due regard to selecting a Council that is representative of the industry, including representation of—

(1) gas processors and oil refiners among producers;

(2) interstate and intrastate operators among retail marketers;

(3) large and small companies among producers and retail marketers, including agricultural cooperatives; and

(4) diverse geographic regions of the country.

(c) MEMBERSHIP.—The Council shall consist of 21 members, with 9 members representing retail marketers, 9 members representing producers, and 3 public members. Other than the public members, Council members shall be full-time employees or owners of businesses in the industry or representatives of agricultural cooperatives. No employee of a qualified industry organization or other industry trade association shall serve as a member of the Council, and no member of the Council may serve concurrently as an officer of the Board of Directors of a qualified industry organization or other industry trade association. Only one person at a time from any company or its affiliate may serve on the Council.

(d) COMPENSATION.—Council members shall receive no compensation for their services, nor shall Council members be reimbursed for expenses relating to their service, except that public members, upon request, may be reimbursed for reasonable expenses directly related to their participation in Council meetings.

(e) TERMS.—Council members shall serve terms of 3 years and may serve not more than 2 full consecutive terms. Members filling unexpired terms may serve not more than a total of 7 consecutive years. Former members of the Council may be returned to the Council if they have not been members for a period of 2 years. Initial appointments to the Council shall be for terms of 1, 2, and 3 years, staggered to provide for the selection of 7 members each year.

Contracts.

(f) FUNCTIONS.—The Council shall develop programs and projects and enter into contracts or agreements for implementing this Act, including programs to enhance consumer and employee safety and training, to provide for research and development of clean and efficient propane utilization equipment, to inform and educate the public about safety and other issues associated with the use of propane, and to provide for the payment of the costs thereof with funds collected pursuant to this Act. The Council shall coordinate its activities with industry trade association and others as appropriate to provide efficient delivery of services and to avoid unnecessary duplication of activities.

(g) USE OF FUNDS.—Not less than 5 percent of the funds collected through assessments pursuant to this Act shall be used for programs and projects intended to benefit the agriculture industry in the United States. The Council shall coordinate its activities in this regard with agriculture industry trade associations and other organizations representing the agriculture industry. The percentage of funds collected through assessments pursuant to this Act to be used for projects relating to the use of propane as an over-the-road motor fuel shall not exceed the percentage of the

total market for odorized propane that is used as a motor vehicle fuel, based on the historical average of such use over the previous 3-year period.

(h) PRIORITIES.—Issues related to research and development, safety, education, and training shall be given priority by the Council in the development of its programs and projects.

(i) ADMINISTRATION.—The Council shall select from among its members a Chairman and other officers as necessary, may establish committees and subcommittees of the Council, and shall adopt rules and bylaws for the conduct of business and the implementation of this Act. The Council shall establish procedures for the solicitation of industry comment and recommendations on any significant plans, programs, and projects to be funded by the Council. The Council may establish advisory committees of persons other than Council members.

(j) ADMINISTRATIVE EXPENSES.—(1) The administrative expenses of operating the Council (not including costs incurred in the collection of the assessment pursuant to section 7) plus amounts paid under paragraph (2) shall not exceed 10 percent of the funds collected in any fiscal year.

(2) The Council shall annually reimburse the Secretary for costs incurred by the Federal Government relating to the Council, except that such reimbursement for any fiscal year shall not exceed the amount that the Secretary determines is the average annual salary of two employees of the Department of Energy.

(k) BUDGET.—Before August 1 each year, the Council shall publish for public review and comment a budget plan for the next calendar year, including the probable costs of all programs, projects, and contracts and a recommended rate of assessment sufficient to cover such costs. Following this review and comment, the Council shall submit the proposed budget to the Secretary and to the Congress. The Secretary may recommend programs and activities the Secretary considers appropriate.

(l) RECORDS; AUDITS.—The Council shall keep minutes, books, and records that clearly reflect all of the acts and transactions of the Council and make public such information. The books of the Council shall be audited by a certified public accountant at least once each fiscal year and at such other times as the Council may designate. Copies of such audit shall be provided to all members of the Council, all qualified industry organizations, and to other members of the industry upon request. The Secretary shall receive notice of meetings and may require reports on the activities of the Council, as well as reports on compliance, violations, and complaints regarding the implementation of this Act.

(m) PUBLIC ACCESS TO COUNCIL PROCEEDINGS.—(1) All meetings of the Council shall be open to the public after at least 30 days advance public notice.

(2) The minutes of all meetings of the Council shall be made available to and readily accessible by the public.

(n) ANNUAL REPORT.—Each year the Council shall prepare and make publicly available a report which includes an identification and description of all programs and projects undertaken by the Council during the previous year as well as those planned for the coming year. Such report shall also detail the allocation or planned allocation of Council resources for each such program and project.

15 USC 6405.

SEC. 6. ASSESSMENTS.

(a) AMOUNT.—The Council shall set the initial assessment at no greater than one tenth of 1 cent per gallon of odorized propane. Thereafter, annual assessments shall be sufficient to cover the costs of the plans and programs developed by the Council. The assessment shall not be greater than one-half cent per gallon of odorized propane, unless approved by a majority of those voting in a referendum in both the producer and the retail marketer class. In no case may the assessment be raised by more than one tenth of 1 cent per gallon of odorized propane annually.

(b) OWNERSHIP.—The owner of odorized propane at the time of odorization, or the time of import of odorized propane, shall make the assessment based on the volume of odorized propane sold and placed into commerce. Assessments collected are payable to the Council on a monthly basis by the 25th of the month following the month of such collection. Propane exported from the United States to another country is not subject to the assessment.

(c) ALTERNATIVE COLLECTION RULES.—The Council may establish an alternative means of collecting the assessment if another means is found to be more efficient and effective. The Council may establish a late payment charge and rate of interest to be imposed on any person who fails to remit or pay to the Council any amount due under this Act.

(d) INVESTMENT OF FUNDS.—Pending disbursement pursuant to a program, plan, or project, the Council may invest funds collected through assessments, and any other funds received by the Council, only in obligations of the United States or any agency thereof, in general obligations of any State or any political subdivision thereof, in any interest-bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System, or in obligations fully guaranteed as to principal and interest by the United States.

(e) STATE PROGRAMS.—The Council shall establish a program coordinating the operation of the Council with those of any State propane education and research council created by State law or regulation, or similar entity. Such coordination shall include a joint or coordinated assessment collection process, a reduced assessment, or an assessment rebate. A reduced assessment or rebate shall be 20 percent of the regular assessment collected in that State under this section. Assessment rebates shall be paid only to—

(1) a State propane education and research council created by State law or regulation that meets requirements established by the Council for specific programs approved by the Council; or

(2) a similar entity, such as a foundation established by the retail propane gas industry in that State, that meets requirements established by the Council for specific programs approved by the Council.

15 USC 6406.

SEC. 7. COMPLIANCE.

The Council may bring suit in Federal court to compel compliance with an assessment levied by the Council under this Act. A successful action for compliance under this section may also require payment by the defendant of the costs incurred by the Council in bringing such action.

SEC. 8. LOBBYING RESTRICTIONS. 15 USC 6407.

No funds collected by the Council shall be used in any manner for influencing legislation or elections, except that the Council may recommend to the Secretary changes in this Act or other statutes that would further the purposes of this Act.

SEC. 9. MARKET SURVEY AND CONSUMER PROTECTION. 15 USC 6408.

(a) PRICE ANALYSIS.—Beginning 2 years after establishment of the Council and annually thereafter, the Secretary of Commerce, using only data provided by the Energy Information Administration and other public sources, shall prepare and make available to the Council, the Secretary of Energy, and the public an analysis of changes in the price of propane relative to other energy sources. The propane price analysis shall compare indexed changes in the price of consumer grade propane to a composite of indexed changes in the price of residential electricity, residential natural gas, and refiner price to end users of No. 2 fuel oil on an annual national average basis. For purposes of indexing changes in consumer grade propane, residential electricity, residential natural gas, and end user No. 2 fuel oil prices, the Secretary of Commerce shall use a 5-year rolling average price beginning with the year 4 years prior to the establishment of the Council.

(b) AUTHORITY TO RESTRICT ACTIVITIES.—If in any year the 5-year average rolling price index of consumer grade propane exceeds the 5-year rolling average price composite index of residential electricity, residential natural gas, and refiner price to end users of No. 2 fuel oil in an amount greater than 10.1 percent, the activities of the Council shall be restricted to research and development, training, and safety matters. The Council shall inform the Secretary of Energy and the Congress of any restriction of activities under this subsection. Upon expiration of 180 days after the beginning of any such restriction of activities, the Secretary of Commerce shall again conduct the propane price analysis described in subsection (a). Activities of the Council shall continue to be restricted under this subsection until the price index excess is 10.1 percent or less.

SEC. 10. PRICING. 15 USC 6409.

In all cases, the price of propane shall be determined by market forces. Consistent with the antitrust laws, the Council may take no action, nor may any provision of this Act be interpreted as establishing an agreement to pass along to consumers the cost of the assessment provided for in section 6.

SEC. 11. RELATION TO OTHER PROGRAMS. 15 USC 6410.

Nothing in this Act may be construed to preempt or supersede any other program relating to propane education and research organized and operated under the laws of the United States or any State.

SEC. 12. REPORTS. 15 USC 6411.

Within 2 years after the date of enactment of this Act, and at least once every 2 years thereafter, the Secretary of Commerce shall prepare and submit to the Congress and the Secretary a report examining whether operation of the Council, in conjunction with the cumulative effects of market changes and Federal programs, has had an effect on propane consumers, including residential, agriculture, process, and nonfuel users of propane. The

Secretary of Commerce shall consider and, to the extent practicable, shall include in the report submissions by propane consumers, and shall consider whether there have been long-term and short-term effects on propane prices as a result of Council activities and Federal programs, and whether there have been changes in the proportion of propane demand attributable to various market segments. To the extent that the report demonstrates that there has been an adverse effect, the Secretary of Commerce shall include recommendations for correcting the situation. Upon petition by affected parties or upon request by the Secretary of Energy, the Secretary of Commerce may prepare and submit the report required by this section at less than 2-year intervals.

Approved October 11, 1996.

LEGISLATIVE HISTORY—H.R. 1514:

HOUSE REPORTS: No. 104–655, Pt. 1 (Comm. on Commerce).
CONGRESSIONAL RECORD, Vol. 142 (1996):
Sept. 4, considered and passed House.
Sept. 28, considered and passed Senate.

Public Law 104–285
104th Congress

An Act

To reauthorize the National Film Preservation Board, and for other purposes.

Oct. 11, 1996
[H.R. 1734]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—REAUTHORIZATION OF THE NATIONAL FILM PRESERVATION BOARD

National Film Preservation Act of 1996.

SEC. 101. SHORT TITLE.

2 USC 179*l* note.

This title may be cited as the "National Film Preservation Act of 1996".

SEC. 102. NATIONAL FILM REGISTRY OF THE LIBRARY OF CONGRESS.

2 USC 179*l*.

The Librarian of Congress (hereafter in this Act referred to as the "Librarian") shall continue the National Film Registry established and maintained under the National Film Preservation Act of 1988 (Public Law 100–446), and the National Film Preservation Act of 1992 (Public Law 102–307) pursuant to the provisions of this title, for the purpose of maintaining and preserving films that are culturally, historically, or aesthetically significant.

SEC. 103. DUTIES OF THE LIBRARIAN OF CONGRESS.

2 USC 179m.

(a) POWERS.—

(1) IN GENERAL.—The Librarian shall, after consultation with the Board established pursuant to section 104—

(A) continue the implementation of the comprehensive national film preservation program for motion pictures established under the National Film Preservation Act of 1992, in conjunction with other film archivists, educators and historians, copyright owners, film industry representatives, and others involved in activities related to film preservation, taking into account the objectives of the national film preservation study and the comprehensive national plan conducted under the National Film Preservation Act of 1992. This program shall—

(i) coordinate activities to assure that efforts of archivists and copyright owners, and others in the public and private sector, are effective and complementary;

(ii) generate public awareness of and support for these activities;

(iii) increase accessibility of films for educational purposes; and

(iv) undertake studies and investigations of film preservation activities as needed, including the efficacy of new technologies, and recommend solutions to improve these practices;

(B) establish criteria and procedures under which films may be included in the National Film Registry, except that no film shall be eligible for inclusion in the National Film Registry until 10 years after such film's first publication;

(C) establish procedures under which the general public may make recommendations to the Board regarding the inclusion of films in the National Film Registry; and

(D) determine which films satisfy the criteria established under subparagraph (B) and qualify for inclusion in the National Film Registry, except that the Librarian shall not select more than 25 films each year for inclusion in the Registry.

Federal Register, publication.

(2) PUBLICATION OF FILMS IN REGISTRY.—The Librarian shall publish in the Federal Register the name of each film that is selected for inclusion in the National Film Registry.

(3) SEAL.—The Librarian shall provide a seal to indicate that a film has been included in the National Film Registry and is the Registry version of that film. The Librarian shall establish guidelines for approval of the use of the seal in accordance with subsection (b).

(b) USE OF SEAL.—The seal provided under subsection (a)(3) may only be used on film copies of the Registry version of a film. Such seal may be used only after the Librarian has given approval to those persons seeking to apply the seal in accordance with the guidelines under subsection (a)(3). In the case of copyrighted works, only the copyright owner or an authorized licensee of the copyright owner may place or authorize the placement of the seal on any film copy of a Registry version of a film selected for inclusion in the National Film Registry, and the Librarian may place the seal on any film copy of the Registry version of any film that is maintained in the National Film Registry Collection in the Library of Congress. Anyone authorized to place the seal on any film copy of any Registry version of a film may accompany such seal with the following language: "This film was selected for inclusion in the National Film Registry by the National Film Preservation Board of the Library of Congress because of its cultural, historical, or aesthetic significance.".

2 USC 179n.

SEC. 104. NATIONAL FILM PRESERVATION BOARD.

(a) NUMBER AND APPOINTMENT.—

Establishment.

(1) MEMBERS.—The Librarian shall establish in the Library of Congress a National Film Preservation Board to be comprised of 20 members, who shall be selected by the Librarian in accordance with this section. Subject to subparagraphs (C) and (N), the Librarian shall request each organization listed in subparagraphs (A) through (Q) to submit a list of three candidates qualified to serve as a member of the Board. Except for the members-at-large appointed under subparagraph (2), the Librarian shall appoint one member from each such list submitted by such organizations, and shall designate from that list an alternate who may attend at Board expense those

meetings to which the individual appointed to the Board cannot attend. The organizations are the following:

(A) The Academy of Motion Picture Arts and Sciences.

(B) The Directors Guild of America.

(C) The Writers Guild of America. The Writers Guild of America East and the Writers Guild of America West shall each nominate three candidates, and a representative from one organization shall be selected as the member and a representative from the other organization as the alternate.

(D) The National Society of Film Critics.

(E) The Society for Cinema Studies.

(F) The American Film Institute.

(G) The Department of Film and Television of the School of Theater, Film and Television at the University of California, Los Angeles.

(H) The Department of Film and Television of the Tisch School of the Arts at New York University.

(I) The University Film and Video Association.

(J) The Motion Picture Association of America.

(K) The Alliance of Motion Picture and Television Producers.

(L) The Screen Actors Guild of America.

(M) The National Association of Theater Owners.

(N) The American Society of Cinematographers and the International Photographers Guild, which shall jointly submit one list of three candidates from which a member and alternate will be selected.

(O) The United States Members of the International Federation of Film Archives.

(P) The Association of Moving Image Archivists.

(Q) The Society of Composers and Lyricists.

(2) MEMBERS-AT-LARGE.—In addition to the members appointed under paragraph (1), the Librarian shall appoint up to three members-at-large. The Librarian shall also select an alternate for each member at-large, who may attend at Board expense those meetings which the member at-large cannot attend.

(b) CHAIR.—The Librarian shall appoint one member of the Board to serve as Chair.

(c) TERM OF OFFICE.—

(1) TERMS.—The term of each member of the Board shall be 4 years, except that there shall be no limit to the number of terms that any individual member may serve.

(2) REMOVAL OF MEMBER OR ORGANIZATION.—The Librarian shall have the authority to remove any member of the Board, or the organization listed in subsection (a) such member represents, if the member, or organization, over any consecutive 2-year period, fails to attend at least one regularly scheduled Board meeting.

(3) VACANCIES.—A vacancy in the Board shall be filled in the manner in which the original appointment was made under subsection (a), except that the Librarian may fill the vacancy from a list of candidates previously submitted by the organization or organizations involved. Any member appointed to fill a vacancy before the expiration of the term for which

his or her predecessor was appointed shall be appointed for the remainder of such term.

(d) QUORUM.—11 members of the Board shall constitute a quorum but a lesser number may hold hearings.

(e) REIMBURSEMENT OF EXPENSES.—Members of the Board shall serve without pay, but may be reimbursed for the actual and necessary traveling and subsistence expenses incurred by them in the performance of the duties of the Board.

(f) MEETINGS.—The Board shall meet at least once each fiscal year. Meetings shall be at the call of the Librarian.

(g) CONFLICT OF INTEREST.—The Librarian shall establish rules and procedures to address any potential conflict of interest between a member of the Board and responsibilities of the Board.

2 USC 179o.

SEC. 105. RESPONSIBILITIES AND POWERS OF BOARD.

(a) IN GENERAL.—The Board shall review nominations of films submitted to it for inclusion in the National Film Registry and consult with the Librarian, as provided in section 103, with respect to the inclusion of such films in the Registry and the preservation of these and other films that are culturally, historically, or aesthetically significant.

(b) NOMINATION OF FILMS.—The Board shall consider, for inclusion in the National Film Registry, nominations submitted by the general public as well as representatives of the film industry, such as the guilds and societies representing actors, directors, screenwriters, cinematographers, and other creative artists, producers, and film critics, archives and other film preservation organizations, and representatives of academic institutions with film study programs. The Board shall nominate not more than 25 films each year for inclusion in the Registry.

(c) POWERS.—

(1) IN GENERAL.—The Board may, for the purpose of carrying out its duties, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Librarian and the Board consider appropriate.

(2) SERVICE ON FOUNDATION.—Two sitting members of the Board shall be appointed by the Librarian, and shall serve, as Board members of the National Film Preservation Foundation, in accordance with section 203.

2 USC 179p.

SEC. 106. NATIONAL FILM REGISTRY COLLECTION OF THE LIBRARY OF CONGRESS.

(a) ACQUISITION OF ARCHIVAL QUALITY COPIES.—The Librarian shall endeavor to obtain, by gift from the owner, an archival quality copy of the Registry version of each film included in the National Film Registry. Whenever possible, the Librarian shall endeavor to obtain the best surviving materials, including preprint materials. Copyright owners and others possessing copies of such materials are strongly encouraged, to further the preservation purposes of this Act, to provide preprint and other archival elements to the Library of Congress.

(b) ADDITIONAL MATERIALS.—The Librarian shall endeavor to obtain, for educational and research purposes, additional materials related to each film included in the National Film Registry, such as background materials, production reports, shooting scripts (including continuity scripts) and other similar materials.

(c) PROPERTY OF UNITED STATES.—All copies of films on the National Film Registry that are received as gifts or bequests by

the Librarian and other materials received by the Librarian under subsection (b), shall become the property of the United States Government, subject to the provisions of title 17, United States Code.

(d) NATIONAL FILM REGISTRY COLLECTION.—All copies of films on the National Film Registry that are received by the Librarian under subsection (a), and other materials received by the Librarian under subsection (b), shall be maintained in the Library of Congress and be known as the "National Film Registry Collection of the Library of Congress". The Librarian shall, by regulation, and in accordance with title 17, United States Code, provide for reasonable access to the films and other materials in such collection for scholarly and research purposes.

SEC. 107. SEAL OF THE NATIONAL FILM REGISTRY. 2 USC 179q.

(a) USE OF THE SEAL.—

(1) PROHIBITION ON DISTRIBUTION AND EXHIBITION.—No person shall knowingly distribute or exhibit to the public a version of a film or any copy of a film which bears the seal described in section 103(a)(3) if such film—

(A) is not included in the National Film Registry; or

(B) is included in the National Film Registry, but such film or film copy has not been approved for use of the seal by the Librarian pursuant to section 103(a)(1)(D).

(2) PROHIBITION ON PROMOTION.—No person shall knowingly use the seal described in section 103(a)(3) to promote any version of a film or film copy other than a Registry version.

(b) EFFECTIVE DATE OF THE SEAL.—The use of the seal described in section 103(a)(3) shall be effective for each film after the Librarian publishes in the Federal Register, in accordance with section 103(a)(2), the name of that film as selected for inclusion in the National Film Registry.

SEC. 108. REMEDIES. 2 USC 179r.

(a) JURISDICTION.—The several district courts of the United States shall have jurisdiction, for cause shown, to prevent and restrain violations of section 107(a). Courts.

(b) RELIEF.—

(1) REMOVAL OF SEAL.—Except as provided in paragraph (2), relief for violation of section 107(a) shall be limited to the removal of the seal of the National Film Registry from the film involved in the violation.

(2) FINE AND INJUNCTIVE RELIEF.—In the case of a pattern or practice of the willful violation of section 107(a), the United States district courts may order a civil fine of not more than $10,000 and appropriate injunctive relief.

SEC. 109. LIMITATIONS OF REMEDIES. 2 USC 179s.

The remedies provided in section 108 shall be the exclusive remedies under this title, or any other Federal or State law, regarding the use of the seal described in section 103(a)(3).

SEC. 110. STAFF OF BOARD; EXPERTS AND CONSULTANTS. 2 USC 179t.

(a) STAFF.—The Librarian may appoint and fix the pay of such personnel as the Librarian considers appropriate to carry out this title.

(b) EXPERTS AND CONSULTANTS.—The Librarian may, in carrying out this title, procure temporary and intermittent services under

section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum rate of basic pay payable for GS–15 of the General Schedule. In no case may a member of the Board or an alternate be paid as an expert or consultant under this section.

2 USC 179u.

SEC. 111. DEFINITIONS.

As used in this title—

(1) the term "Librarian" means the Librarian of Congress;

(2) the term "Board" means the National Film Preservation Board;

(3) the term "film" means a "motion picture" as defined in section 101 of title 17, United States Code, except that such term does not include any work not originally fixed on film stock, such as a work fixed on videotape or laser disk;

(4) the term "publication" means "publication" as defined in section 101 of title 17 United States Code; and

(5) the term "Registry version" means, with respect to a film, the version of a film first published, or as complete a version as bona fide preservation and restoration activities by the Librarian, an archivist other than the Librarian, or the copyright owner can compile in those cases where the original material has been irretrievably lost.

2 USC 179v.

SEC. 112. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Librarian such sums as may be necessary to carry out the purposes of this title, but in no fiscal year shall such sum exceed $250,000.

2 USC 179w.

SEC. 113. EFFECTIVE DATE.

The provisions of this title shall be effective for 7 years beginning on the date of the enactment of this Act. The provisions of this title shall apply to any copy of any film, including those copies of films selected for inclusion in the National Film Registry under the National Film Preservation Act of 1988 and the National Film Preservation Act of 1992, except that any film so selected under either Act shall be deemed to have been selected for the National Film Registry under this title.

SEC. 114. REPEAL.

The National Film Preservation Act of 1992 (2 U.S.C. 179 and following) is repealed.

TITLE II—THE NATIONAL FILM PRESERVATION FOUNDATION ACT

36 USC 5701 note.

SEC. 201. SHORT TITLE.

This title may be cited as the "National Film Preservation Foundation Act".

36 USC 5701.

SEC. 202. ESTABLISHMENT AND PURPOSE OF FOUNDATION.

(a) ESTABLISHMENT.—There is established the National Film Preservation Foundation (hereafter in this title referred to as the "Foundation"). The Foundation is a charitable and nonprofit corporation and is not an agency or establishment of the United States.

(b) PURPOSES.—The purposes of the Foundation are—

(1) to encourage, accept, and administer private gifts to promote and ensure the preservation and public accessibility of the nation's film heritage held at the Library of Congress and other public and nonprofit archives throughout the United States;

(2) to further the goals of the Library of Congress and the National Film Preservation Board in connection with their activities under the National Film Preservation Act of 1996; and

(3) to undertake and conduct other activities, alone or in cooperation with other film related institutions and organizations, as will further the preservation and public accessibility of films made in the United States, particularly those not protected by private interests, for the benefit of present and future generations of Americans.

SEC. 203. BOARD OF DIRECTORS OF THE FOUNDATION. 36 USC 5702.

(a) ESTABLISHMENT AND MEMBERSHIP.—The Foundation shall have a governing Board of Directors (hereafter in this title referred to as the "Board"), which shall consist of 9 Directors, each of whom shall be a United States citizen and at least 6 of whom must be knowledgeable or experienced in film production, distribution, preservation, or restoration, including 2 who shall be sitting members of the National Film Preservation Board. These 6 members of the Board shall, to the extent practicable, represent diverse points of views from the film community, including motion picture producers, creative artists, nonprofit and public archivists, historians, film critics, theater owners, and laboratory and university personnel. The Librarian of Congress (hereafter in this title referred to as the "Librarian") shall be an ex officio nonvoting member of the Board. Appointment to the Board shall not constitute employment by, or the holding of an office of, the United States for the purpose of any Federal law.

(b) APPOINTMENT AND TERMS.—Within 90 days after the date of the enactment of this Act, the Librarian shall appoint the Directors of the Board. Each Director shall be appointed for a term of 4 years. A vacancy on the Board shall be filled, within 60 days after the vacancy occurs, in the manner in which the original appointment was made. No individual may serve more than 2 consecutive terms as a Director.

(c) CHAIR.—The initial Chair shall be appointed by the Librarian from the membership of the Board for a 2-year term, and thereafter shall be appointed and removed in accordance with the Foundation's bylaws.

(d) QUORUM.—A majority of the current membership of the Board shall constitute a quorum for the transaction of business.

(e) MEETINGS.—The Board shall meet at the call of the Librarian or the Chair at least once a year. If a Director misses 3 consecutive regularly scheduled meetings, that individual may be removed from the Board by the Librarian, and that vacancy shall be filled in accordance with subsection (b).

(f) REIMBURSEMENT OF EXPENSES.—Members of the Board shall serve without pay, but may be reimbursed for the actual and necessary traveling and subsistence expenses incurred by them in the performance of the duties of the Foundation.

(g) GENERAL POWERS.—

(1) ORGANIZATION OF FOUNDATION.—The Board may complete the organization of the Foundation by—

(A) appointing, removing, and replacing officers, except as provided for in paragraph (2)(B);

(B) adopting a constitution and bylaws consistent with the purposes of the Foundation and the provisions of this title; and

(C) undertaking such other acts as may be necessary to carry out the provisions of this title.

(2) LIMITATION ON APPOINTMENT OF EMPLOYEES.—The following limitations apply with respect to the appointment of employees of the Foundation:

(A) Except as provided in subparagraph (B), employees of the Foundation shall be appointed, removed, and replaced by the Secretary of the Board. All employees (including the Secretary of the Board) shall be appointed and removed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay in effect for grade GS–15 of the General Schedule. Neither the Board, nor any of the employees of the Foundation, including the Secretary of the Board, shall be construed to be employees of the Library of Congress.

(B) The first employee appointed shall be the Secretary of the Board. The Secretary shall be appointed, and may be removed by, the Librarian.

(C) The Secretary of the Board shall—

(i) serve as its executive director, and

(ii) be knowledgeable and experienced in matters relating to film preservation and restoration activities, financial management, and fund-raising.

36 USC 5703.

SEC. 204. RIGHTS AND OBLIGATIONS OF THE FOUNDATION.

(a) GENERAL.—The Foundation—

(1) shall have perpetual succession;

(2) may conduct business in the several States, the District of Columbia, and any commonwealth, territory, or possession of the United States;

(3) shall have its principal offices in the District of Columbia; and

(4) shall at all times maintain a designated agent authorized to accept service of process for the Foundation. The serving of notice to, or service of process upon, the agent required under paragraph (4), or mailed to the business address of such agent, shall be deemed as service upon or notice to the Foundation.

(b) SEAL.—The Foundation shall have an official seal selected by the Board which shall be judicially noticed.

(c) POWERS.—To carry out its purposes under section 202, the Foundation shall have, in addition to the powers otherwise given it under this title, the usual powers of a corporation acting as a trustee in the District of Columbia, including the power—

(1) to accept, receive, solicit, hold, administer, and use any gift, devise, or bequest, either absolutely or in trust, of real or personal property or any income therefrom or other interest therein;

(2) to acquire by purchase or exchange any real or personal property or interest therein;

(3) unless otherwise required by the instrument of transfer, to sell, donate, lease, invest, reinvest, retain, or otherwise dispose of any property or income therefrom;

(4) to borrow money and issue bonds, debentures, or other debt instruments;

(5) to sue and be sued, and complain and defend itself in any court of competent jurisdiction, except that the Directors of the Board shall not be personally liable, except for gross negligence;

(6) to enter into contracts or other arrangements with public agencies and private organizations and persons and to make such payments as may be necessary to carry out its functions; and

(7) to do any and all acts necessary and proper to carry out the purposes of the Foundation.

A gift, devise, or bequest may be accepted by the Foundation even though it is encumbered, restricted, or subject to beneficial interests of private persons, if any current or future interest therein is for the benefit of the Foundation.

SEC. 205. ADMINISTRATIVE SERVICES AND SUPPORT. 36 USC 5704.

The Librarian may provide personnel, facilities, and other administrative services to the Foundation, including reimbursement of expenses under section 203, not to exceed the current per diem rates for the Federal Government, and the Foundation shall reimburse the Librarian therefor. Amounts so reimbursed shall be deposited in the Treasury to the credit of the appropriations then current and chargeable for the cost of providing such services.

SEC. 206. VOLUNTEER STATUS. 36 USC 5705.

The Librarian may accept, without regard to the civil service classification laws, rules, or regulations, the services of the Foundation, the Board, and other officers and employees of the Board, without compensation from the Library of Congress, as volunteers in the performance of the functions authorized in this title.

SEC. 207. AUDITS, REPORT REQUIREMENTS, AND PETITION OF ATTORNEY GENERAL, FOR EQUITABLE RELIEF. 36 USC 5706.

(a) AUDITS.—The Foundation shall be treated as a private corporation established under Federal law for purposes of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law.", approved August 30, 1964 (36 U.S.C. 1101–1103).

(b) REPORT.—The Foundation shall, as soon as practicable after the end of each fiscal year, transmit to the Congress a report of its proceedings and activities during such year, including a full and complete statement of its receipts, expenditures, and investments.

(c) RELIEF WITH RESPECT TO CERTAIN FOUNDATION ACTS OR FAILURE TO ACT.—If the Foundation—

(1) engages in, or threatens to engage in, any act, practice, or policy that is inconsistent with its purposes set forth in section 202(b), or

(2) refuses, fails, or neglects to discharge its obligations under this title, or threatens to do so,

the Attorney General of the United States may file a petition in the United States District Court for the District of Columbia for such equitable relief as may be necessary or appropriate.

36 USC 5707.

SEC. 208. UNITED STATES RELEASE FROM LIABILITY.

The United States shall not be liable for any debts, defaults, acts, or omissions of the Foundation, nor shall the full faith and credit of the United States extend to any obligation of the Foundation.

36 USC 5708.

SEC. 209. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—There are authorized to be appropriated to the Library of Congress such sums as may be necessary to carry out the purposes of this title, not to exceed $250,000 for each of the fiscal years 2000 through 2003, to be made available to the Foundation to match private contributions (whether in currency, services, or property) made to the Foundation by private persons and State and local governments.

(b) ADMINISTRATIVE EXPENSES.—No Federal funds authorized under this section may be used by the Foundation for administrative expenses of the Foundation, including for salaries, travel, and transportation expenses, and other overhead expenses.

Approved October 11, 1996.

LEGISLATIVE HISTORY—H.R. 1734:

HOUSE REPORTS: No. 104–558, Pt. 1 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 142 (1996):
July 29, considered and passed House.
Sept. 28, considered and passed Senate.

Public Law 104–286
104th Congress

An Act

To amend the Central Utah Project Completion Act to direct the Secretary of the Interior to allow for prepayment of repayment contracts between the United States and the Central Utah Water Conservancy District dated December 28, 1965, and November 26, 1985, and for other purposes.

Oct. 11, 1996
[H.R. 1823]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PREPAYMENT OF CERTAIN REPAYMENT CONTRACTS BETWEEN THE UNITED STATES AND THE CENTRAL UTAH WATER CONSERVANCY DISTRICT.

Section 210 of the Central Utah Project Completion Act (106 Stat. 4624) is amended by striking the second sentence and inserting the following: "The Secretary shall allow for prepayment of the repayment contract between the United States and the Central Utah Water Conservancy District dated December 28, 1965, and supplemented on November 26, 1985, providing for repayment of municipal and industrial water delivery facilities for which repayment is provided pursuant to such contract, under terms and conditions similar to those contained in the supplemental contract that provided for the prepayment of the Jordan Aqueduct dated October 28, 1993. The prepayment may be provided in several installments to reflect substantial completion of the delivery facilities being prepaid and may not be adjusted on the basis of the type of prepayment financing utilized by the District. The District shall exercise its right to prepayment pursuant to this section by the end of fiscal year 2002. Nothing in this section authorizes or terminates the authority to use tax exempt bond financing for this prepayment.".

Approved October 11, 1996.

LEGISLATIVE HISTORY—H.R. 1823:

HOUSE REPORTS: No. 104–531 (Comm. on Resources).
SENATE REPORTS: No. 104–300 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 142 (1996):
Apr. 30, considered and passed House.
Sept. 28, considered and passed Senate.

Public Law 104–287
104th Congress

An Act

Oct. 11, 1996
[H.R. 2297]

To codify without substantive change laws related to transportation and to improve the United States Code.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TITLE 18, UNITED STATES CODE.

Section 2721(b) of title 18, United States Code, is amended as follows:

(1) In the matter before clause (1), strike "the Automobile Information Disclosure Act, the Motor Vehicle Information and Cost Saving Act, the National Traffic and Motor Vehicle Safety Act of 1966, the Anti-Car Theft Act of 1992, and the Clean Air Act" and substitute "titles I and IV of the Anti Car Theft Act of 1992, the Automobile Information Disclosure Act (15 U.S.C. 1231 et seq.), the Clean Air Act (42 U.S.C. 7401 et seq.), and chapters 301, 305, and 321–331 of title 49".

(2) In clause (9), strike "the Commercial Motor Vehicle Safety Act of 1986 (49 U.S.C. App. 2710 et seq.)" and substitute "chapter 313 of title 49".

SEC. 2. TITLE 23, UNITED STATES CODE.

In the catchline for section 103(e)(4)(L) of title 23, United States Code, strike "FTA" and substitute "CHAPTER 53 OF TITLE 49".

SEC. 3. TITLE 28, UNITED STATES CODE.

In section 1445(a) of title 28, United States Code, strike "sections 51–60 of Title 45" and substitute "sections 1–4 and 5–10 of the Act of April 22, 1908 (45 U.S.C. 51–54, 55–60)".

SEC. 4. TITLE 31, UNITED STATES CODE.

Title 31, United States Code, is amended as follows:

(1) In section 1105(a), redesignate clauses (27) through the end as clauses (26) through the end.

(2) Section 9101 is amended as follows:

(A) Clause (2)(J) is repealed.

(B) Redesignate clauses (2)(K) through the end as clauses (2)(J) through the end.

(C) In clause (3)(B), strike "Fund;" and substitute "Fund.".

(D) Clause (3)(N), as added by section 902(b) of the Energy Policy Act of 1992 (Public Law 102–486, 106 Stat. 2944), is redesignated as clause (3)(O).

SEC. 5. TITLE 49, UNITED STATES CODE.

Title 49, United States Code, is amended as follows:

(1) In section 106(b), strike "the date of the enactment of this sentence" and substitute "August 23, 1994,".

(2) In section 111(b)(4) and (g), strike "the date of the enactment of this section" and substitute "December 18, 1991".

(3) Section 329 is amended as follows:

(A) In subsection (b)(1), strike "(as those terms are used in such Act)" and substitute "(as that term is used in part A of subtitle VII of this title)".

(B) In subsection (d), strike "that Act" and substitute "that part".

(4) In section 521(b)(1)(B), strike "the date of enactment of this subparagraph" and substitute "November 3, 1990".

(5) Section 701(b)(4) is amended as follows:

(A) Strike "the effective date of this section" and substitute "January 1, 1996".

(B) Strike "the date of the enactment of the ICC Termination Act of 1995" and substitute "December 29, 1995,".

(6) In section 702, strike "the effective date of such Act" and substitute "January 1, 1996".

(7) In section 726(a), strike "the date of enactment of the ICC Termination Act of 1995" and substitute "December 29, 1995".

(8) In section 5116(j)(4)(A), strike "subsection (g)" and substitute "section 5115 of this title".

(9) In sections 5119(b)(2), 5309(g)(1)(B) and (m)(3), 5328(b)(3), 5334(b)(1), 5335(b)–(d), 31134(c)(1)(B) and (C) and (2), 40112(e)(2), 41105(b), 41310(f), 41714(e)(2), 42104(b), 44506(d), 44913(a)(2), 47107(k), 48102(d)(2), and 48109, strike "Public Works and Transportation" and substitute "Transportation and Infrastructure".

(10) Section 5303 is amended as follows:

(A) In subsection (f)(2), strike "subsection (e)" and substitute "subsection (b)".

(B) In subsection (h)(4), strike "section 5338(g)(1)" and substitute "section 5338(g)".

(11) Section 5307 is amended as follows:

(A) In subsection (a)(2)(A), strike "title;" and substitute "title; or".

(B) In subsection (a)(2)(B), strike "transportation; or" and substitute "transportation.".

(C) Strike subsection (a)(2)(C).

(12) Section 5309 is amended as follows:

(A) In subsection (a)—

(i) insert "(1)" before "The Secretary";

(ii) redesignate clauses (1)–(7) as clauses (A)–(G), respectively;

(iii) redesignate subclauses (A) and (B) as subclauses (i) and (ii), respectively; and

(iv) insert at the end the following:

"(2) The Secretary of Transportation shall require that all grants and loans under this subsection be subject to all terms, conditions, requirements, and provisions the Secretary decides are necessary or appropriate for the purposes of this section, including requirements for the disposition of net increases in value of real property resulting from the project assisted under this section.". Grants.

(B) In subsection (e)(4)(B), strike "paragraph (1)(B)" and substitute "paragraph (2)".

(C) In subsection (m)(1)(A), insert "rail" before "fixed guideway modernization".

(13) Section 5315(d) is amended by striking "5304 and 5306" and substituting "5307 and 5309".

(14) Section 5317(b)(5) is amended as follows:

(A) In subparagraph (C), strike "under this paragraph" and substitute "under subparagraph (B) of this paragraph".

(B) In subparagraph (D), strike "(except this paragraph)".

(15) Section 5323(b)(1), (c), and (e) is amended by striking "(except section 5307)" wherever it appears.

(16) The catchline for section 5325(d) is amended by striking "MANAGEMENT, ARCHITECTURAL, AND ENGINEERING CONTRACTS." and substituting "ARCHITECTURAL, ENGINEERING, AND DESIGN CONTRACTS.".

(17) Section 5327(c) is amended by striking "to carry out a major project under section 5307" and substituting "to carry out a major project under section 5309".

(18) In section 5335(d)(2)(B), strike "With" and substitute "with".

(19) Section 5336(b)(2) is amended as follows:

(A) In subparagraphs (A) and (B), add at the end the following:

"An urbanized area with a population of at least 750,000 in which commuter rail transportation is provided shall receive at least .75 percent of the total amount apportioned under this subparagraph.".

(B) Strike subparagraph (C).

(C) Redesignate subparagraphs (D) and (E) as subparagraphs (C) and (D), respectively.

(20) Section 5338(g)(2) is amended by striking "section 5308(b)(2)" and substituting "section 5311(b)(2)".

(21) In section 10501(c)(3)(B), strike "the effective date of the ICC Termination Act of 1995" and substitute "January 1, 1996".

(22) In section 10701(d)(3), strike "the effective date of this paragraph" and substitute "January 1, 1996".

(23) In section 10704(d), strike "the effective date of the ICC Termination Act of 1995" and substitute "January 1, 1996".

(24) In sections 10706(a)(5)(C) and 10709(e), strike "the effective date of the Staggers Rail Act of 1980" and substitute "October 1, 1980,".

(25) In sections 11101(f) and 11301(f), strike "the effective date of the ICC Termination Act of 1995" and substitute "January 1, 1996".

(26)(A) The heading for part B of subtitle IV is amended to read as follows:

"PART B—MOTOR CARRIERS, WATER CARRIERS, BROKERS, AND FREIGHT FORWARDERS".

(B) The heading for chapter 131 is amended to read as follows:

"CHAPTER 131—GENERAL PROVISIONS".

(27) Section 13102 is amended as follows:

(A) In clause (4)(A), strike—

(i) "the effective date of this section" and substitute "January 1, 1996"; and

(ii) "the day before the effective date of this section" and substitute "December 31, 1995".

(B) In clause (4)(B), strike "on or after such date" and substitute "after December 31, 1995".

(28) Section 13703 is amended as follows:

(A) In subsection (e), strike—

(i) "the day before the effective date of this section" and substitute "December 31, 1995,"; and

(ii) "such effective date" and substitute "January 1, 1996".

(B) In subsection (f)(2), strike "the day before the effective date of this section" and substitute "December 31, 1995".

(29) Section 13709 is amended as follows:

(A) In subsection (a)(1) and (3), strike "the day before the effective date of this section" and substitute "December 31, 1995".

(B) In subsection (e), strike—

(i) "the effective date of this section" and substitute "January 1, 1996"; and

(ii) "the day before such effective date" and substitute "December 31, 1995".

(30) Section 13710 is amended as follows:

(A) In subsection (a)(4), strike "the effective date of this section" and substitute "January 1, 1996,".

(B) In subsection (b), strike—

(i) "the day before the effective date of this section" and substitute "December 31, 1995"; and

(ii) "the effective date of this section" and substitute "January 1, 1996,".

(31) Section 13711 is amended as follows:

(A) In subsection (a), strike—

(i) "or, before the effective date of this section" and substitute "or, before January 1, 1996";

(ii) "the day before the effective date of this section" and substitute "December 31, 1995"; and

(iii) "provided before the effective date of this section" and substitute "provided before January 1, 1996".

(B) In subsection (d), strike—

(i) "the effective date of this section" and substitute "January 1, 1996"; and

(ii) "the day before such effective date" and substitute "December 31, 1995".

(C) In subsection (g), strike "the effective date of this section" and substitute "January 1, 1996".

(32) Section 13902 is amended as follows:

(A) In subsection (b)(8)(A)—

(i) insert "and" after "(iv) any Indian tribe,";

(ii) strike "and" after "clause (i), (ii), (iii), or (iv),"; and

(iii) strike "the effective date of this subsection" and substitute "January 1, 1996,".

(B) In subsection (b)(8)(B), strike "the effective date of this paragraph" and substitute "January 1, 1996,".

(C) In subsections (c)(4)(A) and (d)(1)(A) and (2), strike "the day before the effective date of this section" and substitute "December 31, 1995".

(33) In section 13905(a), strike "the day before the effective date of this section" and substitute "December 31, 1995".

(34) In section 13906(d), strike "the effective date of this section" and substitute "January 1, 1996,".

(35) Section 13907(e) is amended as follows:

(A) In clause (1), strike "the day before the effective date of this section" and substitute "December 31, 1995".

(B) In clause (2), strike "the day before such effective date" and substitute "December 31, 1995".

(36) Section 13908 is amended as follows:

(A) In subsection (d)(1), strike "the day before the effective date of this section" and substitute "December 31, 1995".

(B) In subsection (e), strike "the effective date of this section" and substitute "January 1, 1996".

(37) Section 14302 is amended as follows:

(A) In subsection (c)(4), strike "the effective date of this section" and substitute "January 1, 1996".

(B) In subsection (g), strike "the effective date of this section" and substitute "January 1, 1996,".

(C) In subsection (h)(1), strike "the day before the effective date of this section" and substitute "December 31, 1995".

(D) In subsection (h)(2), strike "the day before such effective date" and substitute "December 31, 1995".

(38) In sections 14706(g)(3) and 14708(g), strike "the effective date of this section" and substitute "January 1, 1996".

(39) In section 14709, strike—

(A) "the effective date of this section" and substitute "January 1, 1996"; and

(B) "the day before the effective date of this section" and substitute "December 31, 1995".

(40) The heading for part C of subtitle IV is amended to read as follows:

"PART C—PIPELINE CARRIERS".

(41) In the analysis of chapter 151, strike—

"CHAPTER 151—GENERAL PROVISIONS".

(42) In the analysis of chapter 153, strike—

"CHAPTER 153—JURISIDICTION".

(43) The analysis and subchapter headings of chapter 157 are amended as follows:

(A) The analysis of chapter 157 is amended as follows:

(i) Strike—

"CHAPTER 157—OPERATIONS OF CARRIERS".

(ii) Strike—

"SUBCHAPTER A—GENERAL REQUIREMENTS"

and substitute—

"SUBCHAPTER A—GENERAL REQUIREMENTS".

(iii) Strike—

"SUBCHAPTER B—OPERATIONS OF CARRIERS"

and substitute

"SUBCHAPTER B—OPERATIONS OF CARRIERS".

(B)(i) The heading for subchapter A is amended to read as follows:

"SUBCHAPTER A—GENERAL REQUIREMENTS".

(ii) The heading for subchapter B is amended to read as follows:

"SUBCHAPTER B—OPERATIONS OF CARRIERS".

(44) Section 15701(e) is amended by striking "the effective date of this section" and substituting "January 1, 1996".

(45) The analysis of chapter 159 is amended as follows:

(A) Strike—

"CHAPTER 159—ENFORCEMENT; INVESTIGATIONS, RIGHTS, AND REMEDIES".

(B) Strike the item related to section 15907.

(46) In the analysis of chapter 161, strike—

"CHAPTER 161—CIVIL AND CRIMINAL PENALTIES".

(47) Section 20133(b) is amended as follows:

(A) In paragraph (1), strike "the date of enactment of the Federal Railroad Safety Authorization Act of 1994" and substitute "November 2, 1994".

(B) In paragraph (2), strike "such date of enactment" and substitute "November 2, 1994".

(48) In sections 20134(c)(2), 20145, 22108(b), 24314(b), 24702(c), and 24903(a), strike "Committee on Energy and Commerce" and substitute "Committee on Transportation and Infrastructure".

(49) In sections 20145, 20146, and 20151(a) and (c), strike "the date of enactment of the Federal Railroad Safety Authorization Act of 1994" and substitute "November 2, 1994".

(50) In section 20152(b), strike "the date of enactment of this section" and "that date" and substitute "November 2, 1994" and "November 2, 1994,", respectively.

(51) In section 20153(g), strike "the date of enactment of this section" wherever it appears and substitute "November 2, 1994".

(52) Add at the end of section 20301(b) the following:

"(4) a car, locomotive, or train used on a street railway.".

(53) In section 21301(a)(1)—

(A) insert "A person may not fail to comply with a regulation prescribed or order issued by the Secretary of Transportation under chapter 201 of this title." before "Subject to "; and

(B) strike "Secretary of Transportation under chapter 201 of this title is liable" and substitute "Secretary under chapter 201 is liable".

(54) In section 21303(a)(1), strike "chapter 211 of this title" and substitute "chapter 211 of this title,".

(55) In section 22106(b), insert "in the same manner and under the same conditions as if they were originally granted

to the State by the Secretary of Transportation" after "under this chapter".

(56)(A) Insert after chapter 281 the following:

"CHAPTER 283—STANDARD WORK DAY

"Sec.
"28301. General.
"28302. Penalties.

"§ 28301. General

"(a) EIGHT HOUR DAY.—In contracts for labor and service, 8 hours shall be a day's work and the standard day's work for determining the compensation for services of an employee employed by a common carrier by railroad subject to subtitle IV of this title and actually engaged in any capacity in operating trains used for transporting passengers or property on railroads from—

"(1) a State of the United States or the District of Columbia to any other State or the District of Columbia;

"(2) one place in a territory or possession of the United States to another place in the same territory or possession;

"(3) a place in the United States to an adjacent foreign country; or

"(4) a place in the United States through a foreign country to any other place in the United States.

"(b) APPLICATION.—Subsection (a) of this section—

"(1) does not apply to—

"(A) an independently owned and operated railroad not exceeding one hundred miles in length;

"(B) an electric street railroad; and

"(C) an electric interurban railroad; but

"(2) does apply to an independently owned and operated railroad less than one hundred miles in length—

"(A) whose principal business is leasing or providing terminal or transfer facilities to other railroads; or

"(B) engaged in transfers of freight between railroads or between railroads and industrial plants.

"§ 28302. Penalties

"A person violating section 28301 of this title shall be fined under title 18, imprisoned not more than one year, or both.".

(B) In the analysis for subtitle V, insert after item 281 the following:

"283. STANDARD WORK DAY ..... 28301".

(57) In section 30144(a)(1)(A), strike "Organization" and substitute "Organizations".

(58) In section 30168(c), strike "Committees on Energy and Commerce and Public Works and Transportation" and substitute "Committees on Commerce and Transportation and Infrastructure".

(59) In section 30308, insert a comma after "1994".

(60) In section 31136(e)(2)(A) and (J) (i) and (ii) and (3), strike "the date of the enactment of this paragraph" and substitute "November 28, 1995".

(61) In section 32702(8), insert "any" after "or".

(62) Section 32705 is amended as follows:

(A) Subsection (a) is amended to read as follows:

"(a)(1) DISCLOSURE REQUIREMENTS.—Under regulations prescribed by the Secretary of Transportation that include the way in which information is disclosed and retained under this section, a person transferring ownership of a motor vehicle shall give the transferee the following written disclosure:

"(A) Disclosure of the cumulative mileage registered on the odometer.

"(B) Disclosure that the actual mileage is unknown, if the transferor knows that the odometer reading is different from the number of miles the vehicle has actually traveled.

"(2) A person transferring ownership of a motor vehicle may not violate a regulation prescribed under this section or give a false statement to the transferee in making the disclosure required by such a regulation.

"(3) A person acquiring a motor vehicle for resale may not accept a written disclosure under this section unless it is complete.".

(B) In subsection (b)(3)(A), strike "may" and "only if" and substitute "may not" and "unless", respectively.

(63) In sections 32904(b)(6)(C) and 32905(g), strike "Committee on Energy and Commerce" and substitute "Committee on Commerce".

(64) In the analysis of subtitle VII, strike the item related to part D and item 491 and substitute—

"PART D—RESERVED

"PART E—MISCELLANEOUS

"501. BUY-AMERICAN PREFERENCES ..... 50101".

(65) In section 40109(c)—

(A) strike "sections 41301–41306, 41308–41310(a), 41501, 41503, 41504, 41506, 41510, 41511, 41701, 41702, 41705–41709, 41711, 41712, and 41731–41742," and substitute "chapter 413 (except sections 41307 and 41310(b)–(f)), chapter 415 (except sections 41502, 41505, and 41507–41509), chapter 417 (except sections 41703, 41704, 41710, 41713, and 41714),"; and

(B) strike "section 46301(b)" and substitute "sections 44909 and 46301(b)".

(66) In section 40116(d)(2)(A)(iv), strike "Levy" and "the date of enactment of this clause" and substitute "levy" and "August 23, 1994", respectively.

(67) Section 40117(e)(2) is amended as follows:

(A) In clause (B), insert "and" after the semicolon.

(B) Strike clause (C).

(C) Redesignate clause (D) as clause (C).

(68) Section 40118 is amended as follows:

(A) In the catchline for subsection (d), strike "TRANSPORTATION BY FOREIGN AIR CARRIERS" and substitute "CERTAIN TRANSPORTATION BY AIR OUTSIDE THE UNITED STATES".

(B) In subsection (f)(1), strike "(f)(1) No" and substitute "(f) PROHIBITION OF CERTIFICATION OR CONTRACT CLAUSE.—(1) No".

(69)(A) Add at the end of chapter 401 the following:

"§ 40121. Interstate agreements for airport facilities

"Congress consents to a State making an agreement, not in conflict with a law of the United States, with another State to develop or operate an airport facility.".

(B) In the analysis for chapter 401, insert after item 40120 the following:

"40121. Interstate agreements for airport facilities.".

(70) Add at the end of section 41109(a) the following:

"(5) As prescribed by regulation by the Secretary, an air carrier other than a charter air carrier may provide charter trips or other special services without regard to the places named or type of transportation specified in its certificate.".

(71) In section 41309(b)(2)(B), strike "common".

(72) In section 41312(a)(1), insert "of Transportation" after "Secretary".

(73) In section 41715(a), strike "Secretary's" and substitute "Secretary of Transportation's".

(74) In sections 44501(c)(1), 44511(e), 48102(c)(2)(A) and (d)(2), and 70112(d)(1), strike "Science, Space, and Technology" and substitute "Science".

(75) Section 44502 is amended as follows:

(A) In subsection (c)(1), strike "To ensure that" and substitute "To ensure".

(B) Strike subsection (e) and redesignate subsection (f) as subsection (e).

(76) In section 45301(c)(5), strike "the date of the enactment of this subsection" and substitute "August 23, 1994,".

(77) Section 46301 is amended as follows:

(A) In subsection (a)(1)(A)—

(i) strike "any of sections 41301–41306, 41308–41310(a), 41501, 41503, 41504, 41506, 41510, 41511, 41701, 41702, 41705–41709, 41711, 41712, or 41731–41742," and substitute "chapter 413 (except sections 41307 and 41310(b)–(f)), chapter 415 (except sections 41502, 41505, and 41507–41509), chapter 417 (except sections 41703, 41704, 41710, 41713, and 41714),";

(ii) strike "or any of sections 44701(a) or (b), 44702–44716, 44901, 44903(b) or (c), 44905, 44906, 44907(d)(1)(B), 44909(a), 44912–44915, 44932–44938," and substitute "section 44502(b) or (c), chapter 447 (except sections 44717 and 44719–44723), chapter 449 (except sections 44902, 44903(d), 44904, 44907(a)–(d)(1)(A) and (d)(1)(C)–(f), and 44908), or section";

(iii) insert "or" after "46303,"; and

(iv) strike ", or 41715".

(B) In subsection (a)(2)(A), strike "or any of sections 44701(a) or (b), 44702–44716, 44901, 44903(b) or (c), 44905, 44906, 44912–44915, or 44932–44938" and substitute ", section 44502 (b) or (c), chapter 447 (except sections 44717–44723), or chapter 449 (except sections 44902, 44903(d), 44904, and 44907–44909)".

(C) Adjust the margins of clauses (A) and (B) of subsection (a)(3) to be the same as clauses (A) and (B) of subsection (a)(2).

(D) In subsection (c)(1)(A)—

(i) strike "any of sections 41301–41306, 41308–41310(a), 41501, 41503, 41504, 41506, 41510, 41511, 41701, 41702, 41705–41709, 41711, 41712, or 41731–41742," and substitute "chapter 413 (except sections 41307 and 41310(b)–(f)), chapter 415 (except sections 41502, 41505, and 41507–41509), chapter 417 (except sections 41703, 41704, 41710, 41713, and 41714),";

(ii) strike "or" before "subchapter II"; and

(iii) insert ", or section 44909" before "of this title".

(E) In subsection (d)(2), strike "or any of sections 44701(a) or (b), 44702–44716, 44901, 44903(b) or (c), 44905, 44906, 44907(d)(1)(B), 44912–44915, 44932–44938," and substitute "section 44502(b) or (c), chapter 447 (except sections 44717 and 44719–44723), chapter 449 (except sections 44902, 44903(d), 44904, 44907(a)–(d)(1)(A) and (d)(1)(C)–(f), 44908, and 44909), or section".

(F) In subsection (f)(1)(A)(i), strike "or any of sections 44701(a) or (b), 44702–44716, 44901, 44903(b) or (c), 44905, 44906, 44907(d)(1)(B), 44912–44915, or 44932–44938" and substitute "section 44502(b) or (c), chapter 447 (except sections 44717 and 44719–44723), or chapter 449 (except sections 44902, 44903(d), 44904, 44907(a)–(d)(1)(A) and (d)(1)(C)–(f), 44908, and 44909)".

(78) In section 46306(c)(2)(B), insert "that is" before "provided".

(79) In section 46316(b), strike "and sections 44701(a) and (b), 44702–44716, 44901, 44903(b) and (c), 44905, 44906, 44912–44915, and 44932–44938" and substitute "chapter 447 (except sections 44717–44723), and chapter 449 (except sections 44902, 44903(d), 44904, and 44907–44909)".

(80) In section 47107(*l*)(1), strike "the date of the enactment of this subsection" and substitute "August 23, 1994".

(81) Section 47115 is amended as follows:

(A) Subsection (f)(2) as enacted by section 112(d) of the Federal Aviation Administration Authorization Act of 1994 (Public Law 103–305, 108 Stat. 1576) is amended by striking "the date of the enactment of this subsection" and substituting "August 23, 1994".

(B) Subsection (f) as enacted by section 6(67) of the Act of October 31, 1994 (Public Law 103–429, 108 Stat. 4386), is redesignated subsection (g).

(82) Section 47117 is amended as follows:

(A) In subsection (e)(1)(B), strike "47504(c)(1)" and substitute "47504(c)".

(B) In subsection (g)(1), strike "47105(e)" and substitute "47105(f)".

(83) Section 47118 is amended as follows:

(A) In subsection (a), strike "on or before the date of the enactment of this sentence" and substitute "before August 24, 1994".

(B) In subsection (e), strike "Notwithstanding section 47109(c) of this title, not" and substitute "Not".

(84) In the catchline for section 47128(d), strike "AND REPORT".

(85) Section 47129 is amended as follows:

(A) In subsection (a)(1), strike "of this subtitle" and substitute "of this title".

(B) In subsections (b), (e)(2), and (f)(2), strike "the date of the enactment of this section" and substitute "August 23, 1994".

(C) In subsection (e)(3), strike "such date of enactment" and substitute "August 23, 1994".

(86) In section 47509(d), strike "the date of the enactment of this section" and substitute "August 23, 1994".

(87) In the catchline for section 48104(b), strike "YEARS" and substitute "YEAR".

(88)(A) Part D of subtitle VII is redesignated as part E.

(B) Chapter 491 is redesignated as chapter 501.

(C) Items 49101–49105 in the analysis of chapter 501, as redesignated by subparagraph (B) of this paragraph, are redesignated as items 50101–50105.

(D) Sections 49101–49105 are redesignated as sections 50101–50105.

(89) In sections 50101(a) and (b)(3), 50102, 50104(b)(1), and 50105, as redesignated by clause (88)(D) of this section, strike "sections 47106(d) and" and substitute "section".

(90) In section 60101, strike "(a)" and substitute "(a) GENERAL.—".

(91) In section 60114(a)(9), strike "60120, 60122, and 60123" and substitute "60120 and 60122".

(92) In section 70102(6), strike "facilities" and substitute "facilities at that location".

(93) In section 70112(a)(3)(B), insert "(i) or (ii)" after "(A)".

(94) In section 70113(e)(6)(D), insert "a" before "resolution".

(95) In section 70117(b)(2), strike "Land Remote–Sensing Commercialization Act of 1984 (15 U.S.C. 4201 et seq.)" and substitute "Land Remote Sensing Policy Act of 1992 (15 U.S.C. 5601 et seq.)".

Effective dates.

SEC. 6. TECHNICAL CHANGES TO OTHER LAWS.

(a) Effective July 5, 1994—

31 USC 6101.

(1) Section 4(f)(1)(S) of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1362), is amended to read as follows:

"(S) In section 6101(4)(B), strike 'agency' the 2d time it appears and substitute 'agency.'.".

18 USC 2516.

(2) Section 5(e)(11) of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1374), as amended by section 7(a)(4)(A) of the Act of October 31, 1994 (Public Law 103–429, 108 Stat. 4389), is amended to read as follows:

"(11) In section 2516(1)(j), strike 'section' the first place it appears and all that follows and substitute 'section 60123(b) (relating to destruction of a natural gas pipeline) or section 46502 (relating to aircraft piracy) of title 49;'.".

(b) Effective August 26, 1994, section 105(b)(2) of the Hazardous Materials Transportation Act of 1994 (title I of Public Law 103–311, 108 Stat. 1674) is amended to read as follows:

49 USC 5116.

"(2) by striking 'the State' the first place it appears;".

(c) Effective September 30, 1994, section 335A of the Department of Transportation and Related Agencies Appropriations Act, 1995 (Public Law 103–331, 108 Stat. 2495) is amended to read as follows:

49 USC 5302.

"SEC. 335A. Section 5302(a)(1) of title 49, United States Code, is amended by inserting 'payments for the capital portions of rail trackage rights agreements,' after 'rights of way),'.".

(d) Effective October 31, 1994—

(1) Section 6 of the Act of October 31, 1994 (Public Law 103–429, 108 Stat. 4378), is amended as follows: 49 USC 32913.

(A) Clause (41) is amended to read as follows:

"(41) Section 32913(b) is amended as follows:

"(A) In the catchline, strike 'PENALTY REDUCTION' and substitute 'CERTIFICATION'.

"(B) In paragraph (1), strike 'the penalty should be reduced' and substitute 'a reduction in the penalty is necessary'.".

(B) Clause (44)(B) is amended to read as follows: 49 USC 33101.

"(B) Add before the period at the end 'of this title'.".

(2) Section 8(1) of the Act of October 31, 1994 (Public Law 103–429, 108 Stat. 4390), is amended by striking "1st paragraph" and substituting "1st paragraph related to transfer of aircraft".

(e) Effective November 2, 1994, section 10(c)(2)(A) of the Act of November 2, 1994 (Public Law 103–437, 108 Stat. 4589), is repealed and section 107(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450k(b)), as amended by section 105(1) of the Indian Self-Determination Act (Public Law 103–413, 108 Stat. 4269), is revived and shall read as if section 10(c)(2)(A) of the Act of November 2, 1994 (Public Law 103–437, 108 Stat. 4589), had not been enacted.

(f) Effective December 29, 1995, the ICC Termination Act of 1995 (Public Law 104–88, 109 Stat. 809) is amended as follows:

(1) In section 102(b), strike "**Commerce**" and "**Transportation**" and substitute "Commerce" and "Transportation", respectively. 49 USC prec. 101.

(2) In section 305(d)(6), strike "part B or (C)" and substitute "part B or C". 28 USC 2342.

(3) In section 308(j), strike "30106(d)" and substitute "30166(d)". 49 USC 30166.

(4) Section 327 is amended as follows:

(A) in clause (3)(B), strike "'Interstate Commerce Act'" and substitute "'the Interstate Commerce Act' in subsection (b)(3)". 45 USC 744.

(B) in clause (5), insert "(A)" after "(5)" and add at the end of the clause the following: 45 USC 797*l*.

"(B) by inserting after item 712 in the table of contents the following:

'Sec. 713. Class II railroads receiving Federal assistance.'.".

(g) Section 401 of the Federal Election Campaign Act of 1971 (2 U.S.C. 451) is amended by striking "such Secretary" and substituting "the Secretary".

(h) Section 917(a)(4) of the Consumer Credit Protection Act (15 U.S.C. 1693*o*(a)(4)) is amended by striking "Civil Aeronautics Board" and substituting "Secretary of Transportation".

(i) In section 17(d) of the Noise Control Act of 1972 (Public Law 92–574, 86 Stat. 1249), strike "such terms have under the first section of the Act of February 17, 1911 (45 U.S.C. 22)" and substitute "the term 'railroad carrier' has in section 20102 of title 49, United States Code". 42 USC 4916.

(j) The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) is amended as follows:

42 USC 9601.
(1) In section 101(26), strike "the Pipeline Safety Act" and substitute "section 60101(a) of title 49, United States Code".
42 USC 9607.
(2) In section 107(c)(1)(C), strike "the Hazardous Liquid Pipeline Safety Act of 1979" and substitute "section 60101(a) of title 49, United States Code".

(k) Section 241(2) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12161(2)) is amended by striking "commuter service" and substituting "commuter rail passenger transportation".

SEC. 7. REPEAL OF OTHER LAWS.

The following are repealed:

45 USC 564.
(1) Section 119 "Sec. 404(f)" of the Amtrak Reorganization Act of 1979 (Public Law 96–73, 93 Stat. 547).

5 USC app.
(2) Sections 1(a)(3) and (b), 2, and 4–6 of the Reorganization Plan No. 2 of 1968 (effective June 30, 1968, 82 Stat. 1369, 1370).

(3) Sections 5005 and 6020 of the Intermodal Surface Transportation Efficiency Act (49 U.S.C. 301(notes)).

(4) Section 317 of the Department of Transportation and Related Agencies Appropriations Act, 1995 (49 U.S.C. 44502(note)).

5 USC 101 note.
(5) The Department of Transportation Act (Public Law 89–670, 80 Stat. 931).

(6) Sections 129 and 135 of the Airport and Airway Safety, Capacity, Noise Improvement, and Intermodal Transportation Act of 1992 (Public Law 102–581, 106 Stat. 4886, 4888).

49 USC 10935 note.
(7) Section 27 of the Bus Regulatory Reform Act of 1982 (Public Law 97–261, 96 Stat. 1126).

(8) Section 4007(a), (c), (d), and (e) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240, 105 Stat. 2151, 2152).

SEC. 8. EFFECTIVE DATE.

49 USC 5303 note.
(1) The amendments made by sections 3 and 5(10)–(17), (19), (20), (52), (53), (55), (61), (62), (65), (70), (77), (78), and (91)–(93) of this Act shall take effect on July 5, 1994.

49 USC 47117 note.
(2) The amendment made by section 5(82)(A) of this Act shall take effect on October 31, 1994.

49 USC note prec. 101.
SEC. 9. LEGISLATIVE PURPOSE AND CONSTRUCTION.

(a) NO SUBSTANTIVE CHANGE.—This Act restates, without substantive change, laws enacted before March 1, 1996, that were replaced by this Act. This Act may not be construed as making a substantive change in the laws replaced. Laws enacted after February 29, 1996, that are inconsistent with this Act supersede this Act to the extent of the inconsistency.

(b) REFERENCES.—A reference to a law replaced by this Act, including a reference in a regulation, order, or other law, is deemed to refer to the corresponding provision enacted by this Act.

(c) CONTINUING EFFECT.—An order, rule, or regulation in effect under a law replaced by this Act continues in effect under the corresponding provision enacted by this Act until repealed, amended, or superseded.

(d) ACTIONS AND OFFENSES UNDER PRIOR LAW.—An action taken or an offense committed under a law replaced by this Act is deemed to have been taken or committed under the corresponding provision enacted by this Act.

(e) INFERENCES.—An inference of a legislative construction is not to be drawn by reason of the location in the United States Code of a provision enacted by this Act or by reason of a caption or catchline of the provision.

(f) SEVERABILITY.—If a provision enacted by this Act is held invalid, all valid provisions that are severable from the invalid provision remain in effect. If a provision enacted by this Act is held invalid in any of its applications, the provision remains valid for all valid applications that are severable from any of the invalid applications.

SEC. 10. REPEALS.

49 USC note prec. 101.

(a) INFERENCES OF REPEAL.—The repeal of a law by this Act may not be construed as a legislative inference that the provision was or was not in effect before its repeal.

(b) REPEALER SCHEDULE.—The law specified in the following schedule is repealed, except for rights and duties that matured, penalties that were incurred, and proceedings that were begun before the date of enactment of this Act:

Schedule of Laws Repealed

Statutes at Large

Date	Chapter or Public Law	Section	Statutes at Large		U.S. Code	
			Volume	Page	Title	Section
1916 Sept. 3, 5	436	.....	39	721, 722 ...	45	65, 66

Approved October 11, 1996.

LEGISLATIVE HISTORY—H.R. 2297:

HOUSE REPORTS: No. 104–573 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 142 (1996):
July 29, considered and passed House.
Sept. 28, considered and passed Senate.

Public Law 104–288
104th Congress

An Act

Oct. 11, 1996
[H.R. 2579]

To establish the National Tourism Board and the National Tourism Organization to promote international travel and tourism to the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

United States National Tourism Organization Act of 1996.
22 USC 2141 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "United States National Tourism Organization Act of 1996".

22 USC 2141.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) The travel and tourism industry is the second largest service and retail industry in the United States, and travel and tourism services ranked as the largest United States export in 1995, generating an $18.6 billion surplus for the United States.

(2) Domestic and international travel and tourism expenditures totaled $433 billion in 1995, $415 billion spent directly within the United States and an additional $18 billion spent by international travelers on United States carriers traveling to the United States.

(3) Direct travel and tourism receipts make up 6 percent of the United States gross domestic product.

(4) In 1994, the travel and tourism industry was the nation's second largest employer, directly responsible for 6.3 million jobs and indirectly responsible for another 8 million jobs.

(5) Employment in major sectors of the travel and tourism industry is expected to increase 35 percent by the year 2005.

(6) 99.7 percent of travel businesses are defined by the Federal government as small businesses.

(7) The White House Conference on Travel and Tourism in 1995 recommended the establishment of a new national tourism organization to represent and promote international travel and tourism to the United States.

(8) Recent Federal tourism promotion efforts have failed to stem the rapid erosion of our country's international tourism market share.

(9) In fact, the United States' share of worldwide travel receipts dropped from a peak of 19.3 percent in 1992 down to 15.7 percent by the end of 1994.

(10) The United States has now fallen to only the third leading international destination.

(11) Because the United States Travel and Tourism Administration had insufficient resources and effectiveness to reverse the recent decline in the United States' share of international travel and tourism, Congress discontinued USTTA's funding.

(12) Promotion of the United States' international travel and tourism interests can be more effectively managed by a private organization at less cost to the taxpayers.

(b) PURPOSE.—The purpose of this Act is to create a privately managed, federally sanctioned United States National Tourism Organization to represent and promote United States international travel and tourism.

SEC. 3. UNITED STATES NATIONAL TOURISM ORGANIZATION. 22 USC 2141a.

(a) ESTABLISHMENT.—There is established the United States National Tourism Organization which shall be a private not-for-profit organization.

(b) ORGANIZATION NOT A FEDERAL AGENCY.—The Organization shall (1) not be considered a Federal agency, (2) have employees appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, and (3) not be subject to the Federal Advisory Committee Act or any other Federal law governing the operation of Federal agencies.

(c) IRS STATUS.—The Organization shall be presumed to have the status of an organization described in section 501(c)(6) of the Internal Revenue Code of 1986 until such time as the Secretary of the Treasury determines that the Organization does not meet the requirements of such section.

(d) PURPOSE OF THE ORGANIZATION.—The Organization shall—

(1) seek and work for an increase in the share of the United States in the global tourism market;

(2) work in conjunction with Federal, State, and local agencies to develop and implement a coordinated United States travel and tourism policy;

(3) advise the President, the Congress, and the domestic travel and tourism industry on the implementation of the national travel and tourism strategy and on other matters affecting travel and tourism;

(4) operate travel and tourism promotion programs outside the United States in partnership with the travel and tourism industry in the United States;

(5) establish a travel and tourism data bank to gather and disseminate travel and tourism market data;

(6) conduct market research necessary for effective promotion of the travel and tourism market; and

(7) promote United States travel and tourism, including international trade shows and conferences.

(e) POWERS OF THE ORGANIZATION.—The Organization—

(1) shall have perpetual succession;

(2) shall represent the United States travel and tourism industry in its relations with international tourism agencies;

(3) may sue and be sued, make contracts, and acquire, hold, and dispose of real and personal property, as may be necessary for its corporate purposes;

(4) may provide financial assistance to any organization or association in furtherance of the purpose of the corporation;

(5) may adopt and alter a corporate seal;

(6) may establish and maintain offices for the conduct of the affairs of the Organization; and

(7) may conduct any and all acts necessary and proper to carry out the purposes of this Act.

(f) FUNDING.—

(1) FURTHERANCE OF ACT.—The Organization may accept gifts, legacies, devises, contributions, and payments in furtherance of the purposes of this Act.

(2) EXPENSES.—The Organization may also accept such gifts, legacies, devises, contributions, and payments on behalf of the National Tourism Organization Board to cover the expenses of the Board.

(g) POLITICAL ACTIVITIES PROHIBITED.—The Organization shall not engage in any activities designed in part or in whole to promote a political party or the candidacy of any person seeking or holding political office.

22 USC 2141b.

SEC. 4. UNITED STATES NATIONAL TOURISM ORGANIZATION BOARD.

(a) ESTABLISHMENT.—There is established the United States National Tourism Organization Board for the purposes of governing and supervising the activities of the Organization.

(b) MEMBERS.—The Board shall be self perpetuating and the initial members of the Board shall be appointed or elected as follows:

(1) The Under Secretary of Commerce for International Trade of the Department of Commerce, who will serve as a member ex officio;

(2) 5 State Travel Directors elected by the National Council of State Travel Directors;

(3) 5 members elected by the International Association of Convention and Visitors Bureaus;

(4) 3 members elected by the Air Transport Association;

(5) 1 member elected by the National Association of Recreational Vehicle Parks and Campgrounds, 1 member elected by the Recreation Vehicle Industry Association;

(6) 2 members elected by the International Association of Amusement Parks and Attractions;

(7) 3 members of the travel payments industry appointed by the Travel Industry Association of America;

(8) 5 members elected by the American Hotel and Motel Association;

(9) 2 members elected by the American Car Rental Association; 1 member elected by the American Automobile Association, 1 member elected by the American Bus Association, 1 member elected by Amtrak;

(10) 1 member elected by the American Society of Travel Agents, and 1 member elected by the Association of Retail Travel Agents;

(11) 1 member elected by the National Tour Association, 1 member elected by the United States Tour Operators Association;

(12) 1 member elected by the Cruise Lines International Association, 1 member elected by the National Restaurant Association, 1 member elected by the National Park Hospitality

Association, 1 member elected by the Airports Council International, 1 member elected by the Meeting Professionals International, 1 member elected by the American Sightseeing International, 4 members elected by the Travel Industry Association of America;

(13) 1 member elected by the Rural Tourism Foundation;

(14) 1 member elected by the American Association of Museums; and

(15) 1 member elected by the National Trust for Historic Preservation.

(c) CHAIR.—The Board shall elect a Chair for an initial term of 2 years. After such initial term, the Chair shall be elected for such term as the Board may designate.

(d) PRESIDENT.—The Board shall appoint and establish the compensation and duties of a President of the Organization who shall assist the Chair in organizing and carrying out the necessary functions of the Board. The duties of the President shall include serving as a non-voting member of the Tourism Policy Council established under section 301 of the International Travel Act of 1961.

(e) POWERS AND DUTIES OF THE BOARD.—

(1) The Board shall adopt for itself and the Organization such bylaws and delegation of authority as it deems necessary and proper, which shall—

(A) require at least a three-fifths majority vote for amendment;

(B) set forth the process for the number, terms, and appointment or election of future Board members;

(C) provide the authority for the hiring and compensation of staff; and

(D) establish the procedures for calling meetings and providing appropriate notice, including procedures for closing meetings where confidential information or strategy will be discussed.

(2) The Board shall designate a place of business for the receipt of process for the Organization, subject to the laws of the State or district so designated, where such laws do not conflict with the provisions of this Act.

(3) The Board shall present testimony and make available reports on its findings and recommendations to the Congress and to legislatures of the States on at least a biannual basis.

(4) Within one year of the date of its first meeting, the Board shall report to the Senate Committee on Commerce, Science, and Transportation and the House Committee on Commerce on a plan for long-term financing for the Organization, with a focus on contributions from the private sector and State and local entities, and, if necessary, make recommendations to the Congress and the President for further legislation.

(f) COMPENSATION AND EXPENSES.—The Chair and members of the Board shall serve without compensation but may be compensated for expenses incurred in carrying out the duties of the Board.

(g) IMMUNITY.—Members of the Board shall not be personally liable for any action taken by the Board.

(h) MEETINGS.—The Board shall meet at the call of the Chair, but not less frequently than semiannually. The Board shall meet within 2 months of appointment of all members, but in any case

no later than 6 months after the date of the enactment of this Act.

22 USC 2141c.

SEC. 5. SYMBOLS, EMBLEMS, TRADEMARKS, AND NAMES.

(a) IN GENERAL.—The Organization shall provide for the design of such symbols, emblems, trademarks, and names as may be appropriate and shall take all action necessary to protect and regulate the use of such symbols, emblems, trademarks, and names under law.

(b) EXCLUSIVE RIGHT OF THE ORGANIZATION.—The Organization shall have exclusive right to use the name "United States National Tourism Organization" and the acronym "USNTO", the symbol described in subsection (c)(1)(A), the emblem described in subsection (c)(1)(B), and the words "United States National Tourism Organization", or any combination thereof, subject to the use reserved by subsection (c)(2).

(c) UNAUTHORIZED USE; CIVIL ACTION.—

(1) IN GENERAL.—Any person who, without the consent of the Organization, uses—

(A) the symbol of the Organization;

(B) the emblem of the Organization;

(C) any trademark, trade name, sign, symbol, or insignia falsely representing association with, or authorization by, the Organization; or

(D) the words "United States National Tourism Organization" or the acronym "USNTO" or any combination or simulation thereof tending to cause confusion, to cause mistake, to deceive, or to falsely suggest a connection with the Organization or any Organization activity;

for the purpose of trade, to induce the sale of any goods or services, or to promote any exhibition, shall be subject to suit in a civil action brought in the appropriate court by the Organization for the remedies provided in the Act of July 5, 1946 (60 Stat. 427; 15 U.S.C. 1501 et seq.) (popularly known as the Trademark Act of 1946).

(2) EXCEPTION.—Paragraph (1)(D) shall not be construed to prohibit any person who, before the date of the enactment of this Act, actually used the words "United States National Tourism Organization" or the acronym "USNTO" for any lawful purpose from continuing such lawful use for the same purpose and for the same goods and services.

(d) CONTRIBUTORS AND SUPPLIERS.—The Organization may authorize contributors and suppliers of goods and services to use the trade name of the Organization as well as any trademark, symbol, insignia, or emblem of the Organization in advertising that the contributions, goods, or services were donated, supplied, or furnished to or for the use of, approved, selected, or used by the Organization.

(d) LIMITATION.—The Organization may not adopt or use any existing symbol, emblem, trademark, or name that is protected under law (including any treaty to which the United States is a party).

22 USC 2141d.

SEC. 6. UNITED STATES GOVERNMENT COOPERATION.

(a) IN GENERAL.—The Secretary of Commerce, Secretary of State, the United States Trade Representative, Director of the United States Information Agency, and the Trade and Development Agency shall—

(1) give priority consideration to recommendations of the Organization; and

(2) cooperate with the Organization in carrying out its duties.

(b) REPORT.—The Under Secretary for International Trade, the Assistant Secretary for Trade Development, the Assistant Secretary and Director General for the United States and Foreign Commercial Service, the Director of the United States Information Agency, the United States Trade Representative, and the Trade and Development Agency shall report within 2 years of the date of the enactment of this Act, and every 2 years thereafter to the Senate Committee on Commerce, Science, and Transportation and the House Committee on Commerce on any travel and tourism activities carried out with the participation of the United States Federal Government.

SEC. 7. SUNSET. 22 USC 2141e.

(a) TWO YEAR DEADLINE FOR DEVELOPMENT OF COMPREHENSIVE LONG-TERM FINANCING PLAN.—If within 2 years after the date of the enactment of this Act, the Board has not developed and implemented a comprehensive plan for the long-term financing of the Organization, then sections 3 through 6 of this Act are repealed.

(b) SUSPENSION OR TERMINATION OF OPERATIONS FOR INSUFFICIENT FUNDS.—The Board may suspend or terminate the Organization if sufficient private sector and State or local government funds are not identified or made available to continue the Organization's operations.

SEC. 8. TRADE PROMOTION COORDINATING COMMITTEE.

Section 2312 of the Export Enhancement Act of 1988 (15 U.S.C. 4727) is amended in subsection (c) as follows:

(1) By striking "and" at the end of paragraph (4).

(2) By striking the period at the end of paragraph (5) and inserting "; and".

(3) By adding after paragraph (5) the following:

"(6) reflect the recommendations of the United States National Tourism Organization to the degree considered appropriate by the TPCC.".

SEC. 9. REPEAL OF UNITED STATES TRAVEL AND TOURISM ADMINISTRATION AND RELATED PROVISIONS.

(a) IN GENERAL.—Sections 202, 203, 204, 205, 206, 301, 303, 304, 305, 306, and 307 of the International Travel Act of 1961 (22 U.S.C 2123, 2123a–2123d, 2124, 2124b, and 2126–2129) are repealed.

(b) TOURISM POLICY AND EXPORT PROMOTION ACT OF 1992.—Section 4 of the Tourism Policy and Export Promotion Act of 1992 is amended in subsection (c)(1)(B)(i) and subsection (c)(2) by striking "Under Secretary of Commerce for Travel and Tourism" and inserting "Secretary of Commerce". 22 USC 2124c.

SEC. 10. POWERS AND DUTIES OF SECRETARY OF COMMERCE.

Section 201 of the International Travel Act of 1961 (22 U.S.C. 2122) is amended to read as follows:

"SEC. 201. In order to carry out the national tourism policy established in section 101(b) and by the United States National Tourism Organization Act of 1996, the Secretary of Commerce

(hereafter in this Act referred to as the 'Secretary') shall develop and implement a comprehensive plan to perform critical tourism functions which, in the determination of the Secretary, are not being carried out by the United States National Tourism Organization or other private sector entities or State governments. Such plan may include programs to—

"(1) collect and publish comprehensive international travel and tourism statistics and other marketing information;

"(2) design, implement, and publish international travel and tourism forecasting models;

"(3) facilitate the reduction or elimination of barriers to international travel and tourism; and

"(4) work with the United States National Tourism Organization, the Tourism Policy Council, State tourism agencies, and Federal agencies in—

"(A) coordinating the Federal implementation of a national travel and tourism policy;

"(B) representing the United States' international travel and tourism interests to foreign governments; and

"(C) maintaining United States participation in international travel and tourism trade shows and fairs until such activities can be transferred to such Organization and other private sector entities.".

SEC. 11. TOURISM POLICY COUNCIL.

Section 302 of the International Travel Act of 1961 (22 U.S.C. 2124a) is repealed and the following is inserted:

Establishment.
22 USC 2124.

"SEC. 301. (a) In order to ensure that the United States' national interest in tourism is fully considered in Federal decision making, there is established a coordinating council to be known as the Tourism Policy Council (hereafter in this Act referred to as the 'Council').

"(b) The Council shall consist of the following individuals:

"(1) The Secretary of Commerce, who shall serve as the Chairman of the Council.

"(2) The Under Secretary of Commerce for International Trade.

"(3) The Director of the Office of Management and Budget.

"(4) The Secretary of State.

"(5) The Secretary of the Interior.

"(6) The Secretary of Labor.

"(7) The Secretary of Transportation.

"(8) The Commissioner of the United States Customs Service.

"(9) The President of the United States National Tourism Organization.

"(10) The Commissioner of the Immigration and Naturalization Service.

"(11) Representatives of other Federal agencies which have affected interests at each meeting as deemed appropriate and invited by the Chairman.

"(c) Members of the Council shall serve without additional compensation.

"(d) The Council shall conduct its first meeting not later than 6 months after the date of the enactment of the United States National Tourism Organization Act of 1996. Thereafter the Council shall meet not less than 2 times each year.

"(e)(1) The Council shall coordinate national policies and programs relating to international travel and tourism, recreation, and national heritage resources, which involve Federal agencies;

"(2) The Council may request directly from any Federal department or agency such personnel, information, services, or facilities as deemed necessary by the Chairman and to the extent permitted by law and within the limits of available funds.

"(3) Federal departments and agencies may, in their discretion, detail to temporary duty with the Council such personnel as the Chairman may request for carrying out the functions of the Council. Each such detail of personnel shall be without loss of seniority, pay, or other employee status.

"(f) Where necessary to prevent the public disclosure of nonpublic information which may be presented by a Council member, the Council may hold, at the discretion of the Chairman, a closed meeting which may exclude any individual who is not an officer or employee of the United States.

"(g) The Council shall submit an annual report for the preceding fiscal year to the President for transmittal to the Congress on or before December 31 of each year. The report shall include— Reports.

"(1) a comprehensive and detailed report of the activities and accomplishments of the Council;

"(2) the results of Council efforts to coordinate the policies and programs of member's agencies that have a significant effect on international travel and tourism, recreation, and national heritage resources, including progress toward resolving interagency conflicts and development of cooperative program activity;

"(3) an analysis of problems referred to the Council by State and local governments, the tourism industry, the United States National Tourism Organization, the Secretary of Commerce, along with a detailed summary of any action taken or anticipated to resolve such problems; and

"(4) any recommendation as deemed appropriate by the Council.

"(h) The membership of the President of the United States National Tourism Organization on the Council shall not in itself make the Federal Advisory Committee Act applicable to the Council.".

22 USC 2141f.

SEC. 12. DEFINITIONS.

For purposes of this Act—

(1) the term "Organization" means the United States National Tourism Organization established under section 3; and

(2) the term "Board" means the United States National Tourism Organization Board established under section 4.

Approved October 11, 1996.

LEGISLATIVE HISTORY—H.R. 2579 (S. 1735):

HOUSE REPORTS: No. 104–839, Pt. 1 (Comm. on Commerce).
SENATE REPORTS: No. 104–341 accompanying S. 1735 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 142 (1996):
Aug. 2, S. 1735 considered and passed Senate.
Sept. 26, H.R. 2579 considered and passed House.
Sept. 28, considered and passed Senate.

Public Law 104–289
104th Congress

An Act

To provide for appropriate implementation of the Metric Conversion Act of 1975 in Federal construction projects, and for other purposes.

Oct. 11, 1996
[H.R. 2779]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Savings in Construction Act of 1996.
15 USC 205a note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Savings in Construction Act of 1996".

15 USC 205a note.

SEC. 2. FINDINGS.

The Congress finds the following:

(1) The Metric Conversion Act of 1975 was enacted in order to set forth the policy of the United States to convert to the metric system. Section 3 of that Act requires that each Federal agency use the metric system of measurements in its procurement, grants, and other business-related activities, unless that use is likely to cause significant cost or loss of markets to United States firms, such as when foreign competitors are producing competing products in non-metric units.

(2) In accordance with that Act and Executive Order 12770, of July 25, 1991, Federal agencies increasingly construct new Federal buildings in round metric dimensions. As a result, companies that wish to bid on Federal construction projects increasingly are asked to supply materials or products in round metric dimensions.

(3) While the Metric Conversion Act of 1975 currently provides an exemption to metric usage when impractical or when such usage will cause economic inefficiencies, amendments are warranted to ensure that the use of specific metric components in metric construction projects do not increase the cost of Federal buildings to the taxpayers.

SEC. 3. DEFINITIONS.

Section 4 of the Metric Conversion Act of 1975 (15 U.S.C. 205c) is amended—

(1) by striking "and" at the end of paragraph (3);

(2) by striking "Commerce." in paragraph (4) and inserting "Commerce;"; and

(3) by inserting after paragraph (4) the following:

"(5) 'full and open competition' has the same meaning as defined in section 403(6) of title 41, United States Code;

"(6) 'total installed price' means the price of purchasing a product or material, trimming or otherwise altering some or all of that product or material, if necessary to fit with

other building components, and then installing that product or material into a Federal facility;

"(7) 'hard-metric' means measurement, design, and manufacture using the metric system of measurement, but does not include measurement, design, and manufacture using English system measurement units which are subsequently re-expressed in the metric system of measurement;

"(8) 'cost or pricing data or price analysis' has the meaning given such terms in section 304A of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254b); and

"(9) 'Federal facility' means any public building (as defined under section 13 of the Public Buildings Act of 1959 (40 U.S.C. 612) and shall include any Federal building or construction project—

"(A) on lands in the public domain;

"(B) on lands used in connection with Federal programs for agriculture research, recreation, and conservation programs;

"(C) on or used in connection with river, harbor, flood control, reclamation, or power projects;

"(D) on or used in connection with housing and residential projects;

"(E) on military installations (including any fort, camp, post, naval training station, airfield, proving ground, military supply depot, military school, or any similar facility of the Department of Defense);

"(F) on installations of the Department of Veteran Affairs used for hospital or domiciliary purposes; or

"(G) on lands used in connection with Federal prisons, but does not include (i) any Federal building or construction project the exclusion of which the President deems to be justified in the public interest, or (ii) any construction project or building owned or controlled by a State government, local government, Indian tribe, or any private entity.".

SEC. 4. IMPLEMENTATION IN ACQUISITION OF FEDERAL FACILITIES.

(a) The Metric Conversion Act of 1975 (15 U.S.C. 205 et seq.) is amended by inserting after section 13 the following new section:

15 USC 205*l*.

"SEC. 14. IMPLEMENTATION IN ACQUISITION OF CONSTRUCTION SERVICES AND MATERIALS FOR FEDERAL FACILITIES.

"(a) IN GENERAL.—Construction services and materials for Federal facilities shall be procured in accordance with the policies and procedures set forth in chapter 137 of title 10, United States Code, section 2377 of title 10, United States Code, title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), and section 3(2) of this Act. Determination of a design method shall be based upon preliminary market research as required under section 2377(c) of title 10, United States Code, and section 314B(c) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 264b(c)). If the requirements of this Act conflict with the provisions of section 2377 of title 10, United States Code, or section 314B of the Federal Property and Administrative Services Act of 1949, then the provisions of 2377 or 314B shall take precedence.

"(b) CONCRETE MASONRY UNITS.—In carrying out the policy set forth in section 3 (with particular emphasis on the policy set forth in paragraph (2) of that section) a Federal agency may require

that specifications for the acquisition of structures or systems of concrete masonry be expressed under the metric system of measurement, but may not incorporate specifications, that can only be satisfied by hard-metric versions of concrete masonry units, in a solicitation for design or construction of a Federal facility within the United States or its territories, or a portion of said Federal facility, unless the head of the agency determines in writing that—

"(1) hard-metric specifications are necessary in a contract for the repair or replacement of parts of Federal facilities in existence or under construction upon the effective date of the Savings in Construction Act of 1996; or

"(2) the following 2 criteria are met:

"(A) the application requires hard-metric concrete masonry units to coordinate dimensionally into 100 millimeter building modules; and

"(B) the total installed price of hard-metric concrete masonry units is estimated to be equal to or less than the total installed price of using non-hard-metric concrete masonry units. Total installed price estimates shall be based, to the extent available, on cost or pricing data or price analysis, using actual hard-metric and non-hard-metric offers received for comparable existing projects. The head of the agency shall include in the writing required in this subsection an explanation of the factors used to develop the price estimates.

"(c) RECESSED LIGHTING FIXTURES.—In carrying out the policy set forth in section 3 (with particular emphasis on the policy set forth in paragraph (2) of that section) a Federal agency may require that specifications for the acquisition of structures or systems of recessed lighting fixtures be expressed under the metric system of measurement, but may not incorporate specifications, that can only be satisfied by hard-metric versions of recessed lighting fixtures, in a solicitation for design or construction of a Federal facility within the United States or its territories unless the head of the agency determines in writing that—

"(1) the predominant voluntary industry consensus standards include the use of hard-metric for the items specified; or

"(2) hard-metric specifications are necessary in a contract for the repair or replacement of parts of Federal facilities in existence or under construction upon the effective date of the Savings in Construction Act of 1996; or

"(3) the following 2 criteria are met:

"(A) the application requires hard-metric recessed lighting fixtures to coordinate dimensionally into 100 millimeter building modules; and

"(B) the total installed price of hard-metric recessed lighting fixtures is estimated to be equal to or less than the total installed price of using non-hard-metric recessed lighting fixtures. Total installed price estimates shall be based, to the extent available, on cost or pricing data or price analysis, using actual hard-metric and non-hard-metric offers received for comparable existing projects. The head of the agency shall include in the writing required in this subsection an explanation of the factors used to develop the price estimates.

"(d) LIMITATION.—The provisions of subsections (b) and (c) of this section shall not apply to Federal contracts to acquire construction products for the construction of facilities outside of the United States and its territories.

"(e) EXPIRATION.—The provisions contained in subsections (b) and (c) of this section shall expire 10 years from the effective date of the Savings in Construction Act of 1996.".

SEC. 5. OMBUDSMAN.

Section 14 of the Metric Conversion Act of 1975, as added by section 4 of this Act, is further amended by adding at the end the following new subsection:

Contracts.

"(f) AGENCY OMBUDSMAN.—(1) The head of each executive agency that awards construction contracts within the United States and its territories shall designate a senior agency official to serve as a construction metrication ombudsman who shall be responsible for reviewing and responding to complaints from prospective bidders, subcontractors, suppliers, or their designated representatives related to—

"(A) guidance or regulations issued by the agency on the use of the metric system of measurement in contracts for the construction of Federal buildings; and

"(B) the use of the metric system of measurement for services and materials required for incorporation in individual projects to construct Federal buildings.

The construction metrication ombudsman shall be independent of the contracting officer for construction contracts.

"(2) The ombudsman shall be responsible for ensuring that the agency is not implementing the metric system of measurement in a manner that is impractical or is likely to cause significant inefficiencies or loss of markets to United States firms in violation of the policy stated in section 3(2), or is otherwise inconsistent with guidance issued by the Secretary of Commerce in consultation with the Interagency Council on Metric Policy while ensuring that the goals of the Metric Conversion Act of 1975 are observed.

"(3) The ombudsman shall respond to each complaint in writing within 60 days and make a recommendation to the head of the executive agency for an appropriate resolution thereto. In such a recommendation, the ombudsman shall consider—

"(A) whether the agency is adequately applying the policies and procedures in this section;

"(B) whether the availability of hard-metric products and services from United States firms is sufficient to ensure full and open competition; and

"(C) the total installed price to the Federal Government.

"(4) After the head of the agency has rendered a decision regarding a recommendation of the ombudsman, the ombudsman shall be responsible for communicating the decision to all appropriate policy, design, planning, procurement, and notifying personnel in the agency. The ombudsman shall conduct appropriate monitoring as required to ensure the decision is implemented, and may submit further recommendations, as needed. The head of the agency's decision on the ombudsman's recommendations, and any supporting documentation, shall be provided to affected parties and made available to the public in a timely manner.

"(5) Nothing in this section shall be construed to supersede the bid protest process established under subchapter V of chapter 35 of title 31, United States Code.".

SEC. 6. EFFECTIVE DATE AND MISCELLANEOUS PROVISIONS.

15 USC 205c note.

(a) EFFECTIVE DATE.—This Act and the amendments made by this Act shall take effect 90 days after the date of enactment of this Act.

(b) SAVINGS PROVISIONS.—This Act shall not apply to contracts awarded and solicitations issued on or before the effective date of this Act, unless the head of a Federal agency makes a written determination in his or her sole discretion that it would be in the public interest to apply one or more provisions of this Act or its amendments to these existing contracts or solicitations.

Approved October 11, 1996.

LEGISLATIVE HISTORY—H.R. 2779 (H.R. 4233):

HOUSE REPORTS: No. 104–639 (Comm. on Science).
CONGRESSIONAL RECORD, Vol. 142 (1996):
July 23, considered and passed House.
Sept. 28, considered and passed Senate, amended. House concurred in Senate amendment.

Public Law 104–290
104th Congress

An Act

Oct. 11, 1996
[H.R. 3005]

To amend the Federal securities laws in order to promote efficiency and capital formation in the financial markets, and to amend the Investment Company Act of 1940 to promote more efficient management of mutual funds, protect investors, and provide more effective and less burdensome regulation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

National Securities Markets Improvement Act of 1996.
15 USC 78a note.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "National Securities Markets Improvement Act of 1996".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.
Sec. 3. Severability.

TITLE I—CAPITAL MARKETS

Sec. 101. Short title.
Sec. 102. Creation of national securities markets.
Sec. 103. Broker-dealer exemptions from State law.
Sec. 104. Broker-dealer funding.
Sec. 105. Exemptive authority.
Sec. 106. Promotion of efficiency, competition, and capital formation.
Sec. 107. Privatization of EDGAR.
Sec. 108. Improving coordination of supervision.
Sec. 109. Increased access to foreign business information.

TITLE II—INVESTMENT COMPANY ACT AMENDMENTS

Sec. 201. Short title.
Sec. 202. Funds of funds.
Sec. 203. Flexible registration of securities.
Sec. 204. Facilitating use of current information in advertising.
Sec. 205. Variable insurance contracts.
Sec. 206. Reports to the Commission and shareholders.
Sec. 207. Books, records, and inspections.
Sec. 208. Prohibition on deceptive investment company names.
Sec. 209. Amendments to definitions.
Sec. 210. Performance fees exemptions.

TITLE III—INVESTMENT ADVISERS SUPERVISION COORDINATION ACT

Sec. 301. Short title.
Sec. 302. Funding for enhanced enforcement priority.
Sec. 303. Improved supervision through State and Federal cooperation.
Sec. 304. Interstate cooperation.
Sec. 305. Disqualification of convicted felons.
Sec. 306. Investor access to information.
Sec. 307. Continued State authority.
Sec. 308. Effective date.

TITLE IV—SECURITIES AND EXCHANGE COMMISSION AUTHORIZATION

Sec. 401. Short title.

Sec. 402. Purposes.
Sec. 403. Authorization of appropriations.
Sec. 404. Registration fees.
Sec. 405. Transaction fees.
Sec. 406. Time for payment.
Sec. 407. Sense of the Congress concerning fees.

TITLE V—REDUCING THE COST OF SAVING AND INVESTMENT

Sec. 501. Exemption for economic, business, and industrial development companies.
Sec. 502. Intrastate closed-end investment company exemption.
Sec. 503. Definition of eligible portfolio company.
Sec. 504. Definition of business development company.
Sec. 505. Acquisition of assets by business development companies.
Sec. 506. Capital structure amendments.
Sec. 507. Filing of written statements.
Sec. 508. Church employee pension plans.
Sec. 509. Promoting global preeminence of American securities markets.
Sec. 510. Studies and reports.

SEC. 2. DEFINITIONS. 15 USC 78a note.

For purposes of this Act—

(1) the term "Commission" means the Securities and Exchange Commission; and

(2) the term "State" has the same meaning as in section 3 of the Securities Exchange Act of 1934.

SEC. 3. SEVERABILITY. 15 USC 78a note.

If any provision of this Act, an amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

TITLE I—CAPITAL MARKETS

Capital Markets Efficiency Act of 1996.

SEC. 101. SHORT TITLE. 15 USC 78a note.

This title may be cited as the "Capital Markets Efficiency Act of 1996".

SEC. 102. CREATION OF NATIONAL SECURITIES MARKETS.

(a) IN GENERAL.—Section 18 of the Securities Act of 1933 (15 U.S.C. 77r) is amended to read as follows:

"SEC. 18. EXEMPTION FROM STATE REGULATION OF SECURITIES OFFERINGS.

"(a) SCOPE OF EXEMPTION.—Except as otherwise provided in this section, no law, rule, regulation, or order, or other administrative action of any State or any political subdivision thereof—

"(1) requiring, or with respect to, registration or qualification of securities, or registration or qualification of securities transactions, shall directly or indirectly apply to a security that—

"(A) is a covered security; or

"(B) will be a covered security upon completion of the transaction;

"(2) shall directly or indirectly prohibit, limit, or impose any conditions upon the use of—

"(A) with respect to a covered security described in subsection (b), any offering document that is prepared by or on behalf of the issuer; or

"(B) any proxy statement, report to shareholders, or other disclosure document relating to a covered security or the issuer thereof that is required to be and is filed with the Commission or any national securities organization registered under section 15A of the Securities Exchange Act of 1934, except that this subparagraph does not apply to the laws, rules, regulations, or orders, or other administrative actions of the State of incorporation of the issuer; or

"(3) shall directly or indirectly prohibit, limit, or impose conditions, based on the merits of such offering or issuer, upon the offer or sale of any security described in paragraph (1).

"(b) COVERED SECURITIES.—For purposes of this section, the following are covered securities:

"(1) EXCLUSIVE FEDERAL REGISTRATION OF NATIONALLY TRADED SECURITIES.—A security is a covered security if such security is—

"(A) listed, or authorized for listing, on the New York Stock Exchange or the American Stock Exchange, or listed on the National Market System of the Nasdaq Stock Market (or any successor to such entities);

"(B) listed, or authorized for listing, on a national securities exchange (or tier or segment thereof) that has listing standards that the Commission determines by rule (on its own initiative or on the basis of a petition) are substantially similar to the listing standards applicable to securities described in subparagraph (A); or

"(C) is a security of the same issuer that is equal in seniority or that is a senior security to a security described in subparagraph (A) or (B).

"(2) EXCLUSIVE FEDERAL REGISTRATION OF INVESTMENT COMPANIES.—A security is a covered security if such security is a security issued by an investment company that is registered, or that has filed a registration statement, under the Investment Company Act of 1940.

"(3) SALES TO QUALIFIED PURCHASERS.—A security is a covered security with respect to the offer or sale of the security to qualified purchasers, as defined by the Commission by rule. In prescribing such rule, the Commission may define the term 'qualified purchaser' differently with respect to different categories of securities, consistent with the public interest and the protection of investors.

"(4) EXEMPTION IN CONNECTION WITH CERTAIN EXEMPT OFFERINGS.—A security is a covered security with respect to a transaction that is exempt from registration under this title pursuant to—

"(A) paragraph (1) or (3) of section 4, and the issuer of such security files reports with the Commission pursuant to section 13 or 15(d) of the Securities Exchange Act of 1934;

"(B) section 4(4);

"(C) section 3(a), other than the offer or sale of a security that is exempt from such registration pursuant to paragraph (4) or (11) of such section, except that a municipal security that is exempt from such registration pursuant to paragraph (2) of such section is not a covered security with respect to the offer or sale of such security

in the State in which the issuer of such security is located; or

"(D) Commission rules or regulations issued under section 4(2), except that this subparagraph does not prohibit a State from imposing notice filing requirements that are substantially similar to those required by rule or regulation under section 4(2) that are in effect on September 1, 1996.

"(c) PRESERVATION OF AUTHORITY.—

"(1) FRAUD AUTHORITY.—Consistent with this section, the securities commission (or any agency or office performing like functions) of any State shall retain jurisdiction under the laws of such State to investigate and bring enforcement actions with respect to fraud or deceit, or unlawful conduct by a broker or dealer, in connection with securities or securities transactions.

"(2) PRESERVATION OF FILING REQUIREMENTS.—

"(A) NOTICE FILINGS PERMITTED.—Nothing in this section prohibits the securities commission (or any agency or office performing like functions) of any State from requiring the filing of any document filed with the Commission pursuant to this title, together with annual or periodic reports of the value of securities sold or offered to be sold to persons located in the State (if such sales data is not included in documents filed with the Commission), solely for notice purposes and the assessment of any fee, together with a consent to service of process and any required fee.

"(B) PRESERVATION OF FEES.—

"(i) IN GENERAL.—Until otherwise provided by law, rule, regulation, or order, or other administrative action of any State, or any political subdivision thereof, adopted after the date of enactment of the Capital Markets Efficiency Act of 1996, filing or registration fees with respect to securities or securities transactions shall continue to be collected in amounts determined pursuant to State law as in effect on the day before such date.

"(ii) SCHEDULE.—The fees required by this subparagraph shall be paid, and all necessary supporting data on sales or offers for sales required under subparagraph (A), shall be reported on the same schedule as would have been applicable had the issuer not relied on the exemption provided in subsection (a).

"(C) AVAILABILITY OF PREEMPTION CONTINGENT ON PAYMENT OF FEES.—

"(i) IN GENERAL.—During the period beginning on the date of enactment of the National Securities Market Improvement Act of 1996 and ending 3 years after that date of enactment, the securities commission (or any agency or office performing like functions) of any State may require the registration of securities issued by any issuer who refuses to pay the fees required by subparagraph (B).

"(ii) DELAYS.—For purposes of this subparagraph, delays in payment of fees or underpayments of fees

that are promptly remedied shall not constitute a refusal to pay fees.

"(D) FEES NOT PERMITTED ON LISTED SECURITIES.—Notwithstanding subparagraphs (A), (B), and (C), no filing or fee may be required with respect to any security that is a covered security pursuant to subsection (b)(1), or will be such a covered security upon completion of the transaction, or is a security of the same issuer that is equal in seniority or that is a senior security to a security that is a covered security pursuant to subsection (b)(1).

"(3) ENFORCEMENT OF REQUIREMENTS.—Nothing in this section shall prohibit the securities commission (or any agency or office performing like functions) of any State from suspending the offer or sale of securities within such State as a result of the failure to submit any filing or fee required under law and permitted under this section.

"(d) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

"(1) OFFERING DOCUMENT.—The term 'offering document'—

"(A) has the meaning given the term 'prospectus' in section 2(10), but without regard to the provisions of subparagraphs (A) and (B) of that section; and

"(B) includes a communication that is not deemed to offer a security pursuant to a rule of the Commission.

"(2) PREPARED BY OR ON BEHALF OF THE ISSUER.—Not later than 6 months after the date of enactment of the Securities Amendments Act of 1996, the Commission shall, by rule, define the term 'prepared by or on behalf of the issuer' for purposes of this section.

"(3) STATE.—The term 'State' has the same meaning as in section 3 of the Securities Exchange Act of 1934.

"(4) SENIOR SECURITY.—For purposes of this paragraph, the term 'senior security' means any bond, debenture, note, or similar obligation or instrument constituting a security and evidencing indebtedness, and any stock of a class having priority over any other class as to distribution of assets or payment of dividends.".

15 USC 78r note.

(b) STUDY AND REPORT ON UNIFORMITY.—The Commission shall conduct a study, after consultation with States, issuers, brokers, and dealers, on the extent to which uniformity of State regulatory requirements for securities or securities transactions has been achieved for securities that are not covered securities (within the meaning of section 18 of the Securities Act of 1933, as amended by paragraph (1) of this subsection). Not later than 1 year after the date of enactment of this Act, the Commission shall submit a report to the Congress on the results of such study.

SEC. 103. BROKER-DEALER EXEMPTIONS FROM STATE LAW.

(a) IN GENERAL.—Section 15 of the Securities Exchange Act of 1934 (15 U.S.C. 78o) is amended by adding at the end the following new subsection:

"(h) LIMITATIONS ON STATE LAW.—

"(1) CAPITAL, MARGIN, BOOKS AND RECORDS, BONDING, AND REPORTS.—No law, rule, regulation, or order, or other administrative action of any State or political subdivision thereof shall establish capital, custody, margin, financial responsibility, making and keeping records, bonding, or financial or operational

reporting requirements for brokers, dealers, municipal securities dealers, government securities brokers, or government securities dealers that differ from, or are in addition to, the requirements in those areas established under this title. The Commission shall consult periodically the securities commissions (or any agency or office performing like functions) of the States concerning the adequacy of such requirements as established under this title.

"(2) DE MINIMIS TRANSACTIONS BY ASSOCIATED PERSONS.—No law, rule, regulation, or order, or other administrative action of any State or political subdivision thereof may prohibit an associated person of a broker or dealer from affecting a transaction described in paragraph (3) for a customer in such State if—

"(A) such associated person is not ineligible to register with such State for any reason other than such a transaction;

"(B) such associated person is registered with a registered securities association and at least one State; and

"(C) the broker or dealer with which such person is associated is registered with such State.

"(3) DESCRIBED TRANSACTIONS.—

"(A) IN GENERAL.—A transaction is described in this paragraph if—

"(i) such transaction is effected—

"(I) on behalf of a customer that, for 30 days prior to the day of the transaction, maintained an account with the broker or dealer; and

"(II) by an associated person of the broker or dealer—

"(aa) to which the customer was assigned for 14 days prior to the day of the transaction; and

"(bb) who is registered with a State in which the customer was a resident or was present for at least 30 consecutive days during the 1-year period prior to the day of the transaction;

"(ii) the transaction is effected—

"(I) on behalf of a customer that, for 30 days prior to the day of the transaction, maintains an account with the broker or dealer; and

"(II) during the period beginning on the date on which such associated person files an application for registration with the State in which the transaction is effected and ending on the earlier of—

"(aa) 60 days after the date on which the application is filed; or

"(bb) the date on which such State notifies the associated person that it has denied the application for registration or has stayed the pendency of the application for cause.

"(B) RULES OF CONSTRUCTION.—For purposes of subparagraph (A)(i)(II)—

"(i) each of up to 3 associated persons of a broker or dealer who are designated to effect transactions

during the absence or unavailability of the principal associated person for a customer may be treated as an associated person to which such customer is assigned; and

"(ii) if the customer is present in another State for 30 or more consecutive days or has permanently changed his or her residence to another State, a transaction is not described in this paragraph, unless the association person of the broker or dealer files an application for registration with such State not later than 10 business days after the later of the date of the transaction, or the date of the discovery of the presence of the customer in the other State for 30 or more consecutive days or the change in the customer's residence.".

(b) TECHNICAL AMENDMENT.—Section 28(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78bb(a)) is amended by striking "Nothing" and inserting "Except as otherwise specifically provided in this title, nothing".

SEC. 104. BROKER-DEALER FUNDING.

(a) MARGIN REQUIREMENTS.—

(1) EXTENSIONS OF CREDIT BY BROKER-DEALERS.—Section 7(c) of the Securities Exchange Act of 1934 (15 U.S.C. 78g(c)) is amended to read as follows:

"(c) UNLAWFUL CREDIT EXTENSION TO CUSTOMERS.—

"(1) PROHIBITION.—It shall be unlawful for any member of a national securities exchange or any broker or dealer, directly or indirectly, to extend or maintain credit or arrange for the extension or maintenance of credit to or for any customer—

"(A) on any security (other than an exempted security), in contravention of the rules and regulations which the Board of Governors of the Federal Reserve System (hereafter in this section referred to as the 'Board') shall prescribe under subsections (a) and (b); and

"(B) without collateral or on any collateral other than securities, except in accordance with such rules and regulations as the Board may prescribe—

"(i) to permit under specified conditions and for a limited period any such member, broker, or dealer to maintain a credit initially extended in conformity with the rules and regulations of the Board; and

"(ii) to permit the extension or maintenance of credit in cases where the extension or maintenance of credit is not for the purpose of purchasing or carrying securities or of evading or circumventing the provisions of subparagraph (A).

"(2) EXCEPTION.—This subsection and the rules and regulations issued under this subsection shall not apply to any credit extended, maintained, or arranged by a member of a national securities exchange or a broker or dealer to or for a member of a national securities exchange or a registered broker or dealer—

"(A) a substantial portion of whose business consists of transactions with persons other than brokers or dealers; or

"(B) to finance its activities as a market maker or an underwriter;

except that the Board may impose such rules and regulations, in whole or in part, on any credit otherwise exempted by this paragraph if the Board determines that such action is necessary or appropriate in the public interest or for the protection of investors.".

(2) EXTENSIONS OF CREDIT BY OTHER LENDERS.—Section 7(d) of the Securities Exchange Act of 1934 (78 U.S.C. 78g(d)) is amended to read as follows:

"(d) UNLAWFUL CREDIT EXTENSION IN VIOLATION OF RULES AND REGULATIONS; EXCEPTION TO APPLICATION OF RULES, ETC.—

"(1) PROHIBITION.—It shall be unlawful for any person not subject to subsection (c) to extend or maintain credit or to arrange for the extension or maintenance of credit for the purpose of purchasing or carrying any security, in contravention of such rules and regulations as the Board shall prescribe to prevent the excessive use of credit for the purchasing or carrying of or trading in securities in circumvention of the other provisions of this section. Such rules and regulations may impose upon all loans made for the purpose of purchasing or carrying securities limitations similar to those imposed upon members, brokers, or dealers by subsection (c) and the rules and regulations thereunder.

"(2) EXCEPTIONS.—This subsection and the rules and regulations issued under this subsection shall not apply to any credit extended, maintained, or arranged—

"(A) by a person not in the ordinary course of business;

"(B) on an exempted security;

"(C) to or for a member of a national securities exchange or a registered broker or dealer—

"(i) a substantial portion of whose business consists of transactions with persons other than brokers or dealers; or

"(ii) to finance its activities as a market maker or an underwriter;

"(D) by a bank on a security other than an equity security; or

"(E) as the Board shall, by such rules, regulations, or orders as it may deem necessary or appropriate in the public interest or for the protection of investors, exempt, either unconditionally or upon specified terms and conditions or for stated periods, from the operation of this subsection and the rules and regulations thereunder.

"(3) BOARD AUTHORITY.—The Board may impose such rules and regulations, in whole or in part, on any credit otherwise exempted by subparagraph (C) if it determines that such action is necessary or appropriate in the public interest or for the protection of investors.".

(b) BORROWING BY MEMBERS, BROKERS, AND DEALERS.—Section 8 of the Securities Exchange Act of 1934 (15 U.S.C. 78h) is amended—

(1) by striking subsection (a); and

(2) by redesignating subsections (b) and (c) as subsections (a) and (b), respectively.

SEC. 105. EXEMPTIVE AUTHORITY.

(a) GENERAL EXEMPTIVE AUTHORITY UNDER THE SECURITIES ACT OF 1933.—Title I of the Securities Act of 1933 (15 U.S.C. 77a et seq.) is amended by adding at the end the following new section:

15 USC 77z–3.

"SEC. 28. GENERAL EXEMPTIVE AUTHORITY.

"The Commission, by rule or regulation, may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision or provisions of this title or of any rule or regulation issued under this title, to the extent that such exemption is necessary or appropriate in the public interest, and is consistent with the protection of investors.".

(b) GENERAL EXEMPTIVE AUTHORITY UNDER THE SECURITIES EXCHANGE ACT OF 1934.—Title I of the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by adding at the end the following new section:

15 USC 78mm.

"SEC. 36. GENERAL EXEMPTIVE AUTHORITY.

"(a) AUTHORITY.—

"(1) IN GENERAL.—Except as provided in subsection (b), but notwithstanding any other provision of this title, the Commission, by rule, regulation, or order, may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision or provisions of this title or of any rule or regulation thereunder, to the extent that such exemption is necessary or appropriate in the public interest, and is consistent with the protection of investors.

Regulations.

"(2) PROCEDURES.—The Commission shall, by rule or regulation, determine the procedures under which an exemptive order under this section shall be granted and may, in its sole discretion, decline to entertain any application for an order of exemption under this section.

"(b) LIMITATION.—The Commission may not, under this section, exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions from section 15C or the rules or regulations issued thereunder or (for purposes of section 15C and the rules and regulations issued thereunder) from any definition in paragraph (42), (43), (44), or (45) of section 3(a).".

SEC. 106. PROMOTION OF EFFICIENCY, COMPETITION, AND CAPITAL FORMATION.

(a) SECURITIES ACT OF 1933.—Section 2 of the Securities Act of 1933 (15 U.S.C. 77b) is amended—

(1) by inserting "(a) DEFINITIONS.—" after "SEC. 2."; and

(2) by adding at the end the following new subsection:

"(b) CONSIDERATION OF PROMOTION OF EFFICIENCY, COMPETITION, AND CAPITAL FORMATION.—Whenever pursuant to this title the Commission is engaged in rulemaking and is required to consider or determine whether an action is necessary or appropriate in the public interest, the Commission shall also consider, in addition to the protection of investors, whether the action will promote efficiency, competition, and capital formation.".

(b) SECURITIES EXCHANGE ACT of 1934.—Section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c) is amended by adding at the end the following new subsection:

"(f) CONSIDERATION OF PROMOTION OF EFFICIENCY, COMPETITION, AND CAPITAL FORMATION.—Whenever pursuant to this title the Commission is engaged in rulemaking, or in the review of a rule of a self-regulatory organization, and is required to consider or determine whether an action is necessary or appropriate in the public interest, the Commission shall also consider, in addition to the protection of investors, whether the action will promote efficiency, competition, and capital formation.".

(c) INVESTMENT COMPANY ACT of 1940.—Section 2 of the Investment Company Act of 1940 (15 U.S.C. 80a–2) is amended by adding at the end the following new subsection:

"(c) CONSIDERATION OF PROMOTION OF EFFICIENCY, COMPETITION, AND CAPITAL FORMATION.—Whenever pursuant to this title the Commission is engaged in rulemaking and is required to consider or determine whether an action is consistent with the public interest, the Commission shall also consider, in addition to the protection of investors, whether the action will promote efficiency, competition, and capital formation.".

SEC. 107. PRIVATIZATION OF EDGAR.

(a) EXAMINATION.—The Commission shall examine proposals for the privatization of the EDGAR system. Such examination shall promote competition in the automation and rapid collection and dissemination of information required to be disclosed. Such examination shall include proposals that maintain free public access to data filings in the EDGAR system.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Commission shall submit to the Congress a report on the examination under subsection (a). Such report shall include such recommendations for such legislative action as may be necessary to implement the proposal that the Commission determines most effectively achieves the objectives described in subsection (a).

SEC. 108. IMPROVING COORDINATION OF SUPERVISION.

Section 17 of the Securities Exchange Act of 1934 (15 U.S.C. 78q) is amended by adding at the end the following new subsection:

"(i) COORDINATION OF EXAMINING AUTHORITIES.—

"(1) ELIMINATION OF DUPLICATION.—The Commission and the examining authorities, through cooperation and coordination of examination and oversight activities, shall eliminate any unnecessary and burdensome duplication in the examination process.

"(2) COORDINATION OF EXAMINATIONS.—The Commission and the examining authorities shall share such information, including reports of examinations, customer complaint information, and other nonpublic regulatory information, as appropriate to foster a coordinated approach to regulatory oversight of brokers and dealers that are subject to examination by more than one examining authority.

"(3) EXAMINATIONS FOR CAUSE.—At any time, any examining authority may conduct an examination for cause of any broker or dealer subject to its jurisdiction.

"(4) CONFIDENTIALITY.—

"(A) IN GENERAL.—Section 24 shall apply to the sharing of information in accordance with this subsection. The Commission shall take appropriate action under section

24(c) to ensure that such information is not inappropriately disclosed.

"(B) APPROPRIATE DISCLOSURE NOT PROHIBITED.—Nothing in this paragraph authorizes the Commission or any examining authority to withhold information from the Congress, or prevent the Commission or any examining authority from complying with a request for information from any other Federal department or agency requesting the information for purposes within the scope of its jurisdiction, or complying with an order of a court of the United States in an action brought by the United States or the Commission.

"(5) DEFINITION.—For purposes of this subsection, the term 'examining authority' means a self-regulatory organization registered with the Commission under this title (other than a registered clearing agency) with the authority to examine, inspect, and otherwise oversee the activities of a registered broker or dealer.".

15 USC 77e note.

SEC. 109. INCREASED ACCESS TO FOREIGN BUSINESS INFORMATION.

Not later than 1 year after the date of enactment of this Act, the Commission shall adopt rules under the Securities Act of 1933 concerning the status under the registration provisions of the Securities Act of 1933 of foreign press conferences and foreign press releases by persons engaged in the offer and sale of securities.

Investment Company Act Amendments of 1996.

TITLE II—INVESTMENT COMPANY ACT AMENDMENTS

15 USC 80a–51 note.

SEC. 201. SHORT TITLE.

This title may be cited as the "Investment Company Act Amendments of 1996".

SEC. 202. FUNDS OF FUNDS.

Section 12(d)(1) of the Investment Company Act of 1940 (15 U.S.C. 80a–12(d)(1)) is amended—

(1) in subparagraph (E)(iii)—

(A) by striking "in the event such investment company is not a registered investment company,"; and

(B) by inserting "in the event that such investment company is not a registered investment company," after "(bb)";

(2) by redesignating subparagraphs (G) and (H) as subparagraphs (H) and (I), respectively;

(3) by striking "this paragraph (1)" each place that term appears and inserting "this paragraph";

(4) by inserting after subparagraph (F) the following new subparagraph:

"(G)(i) This paragraph does not apply to securities of a registered open-end investment company or a registered unit investment trust (hereafter in this subparagraph referred to as the 'acquired company') purchased or otherwise acquired by a registered open-end investment company or a registered unit investment trust (hereafter in this subparagraph referred to as the 'acquiring company') if—

"(I) the acquired company and the acquiring company are part of the same group of investment companies;

"(II) the securities of the acquired company, securities of other registered open-end investment companies and registered unit investment trusts that are part of the same group of investment companies, Government securities, and short-term paper are the only investments held by the acquiring company;

"(III) with respect to—

"(aa) securities of the acquired company, the acquiring company does not pay and is not assessed any charges or fees for distribution-related activities, unless the acquiring company does not charge a sales load or other fees or charges for distribution-related activities; or

"(bb) securities of the acquiring company, any sales loads and other distribution-related fees charged, when aggregated with any sales load and distribution-related fees paid by the acquiring company with respect to securities of the acquired fund, are not excessive under rules adopted pursuant to section 22(b) or section 22(c) by a securities association registered under section 15A of the Securities Exchange Act of 1934, or the Commission;

"(IV) the acquired company has a policy that prohibits it from acquiring any securities of registered open-end investment companies or registered unit investment trusts in reliance on this subparagraph or subparagraph (F); and

"(V) such acquisition is not in contravention of such rules and regulations as the Commission may from time to time prescribe with respect to acquisitions in accordance with this subparagraph, as necessary and appropriate for the protection of investors.

"(ii) For purposes of this subparagraph, the term 'group of investment companies' means any 2 or more registered investment companies that hold themselves out to investors as related companies for purposes of investment and investor services."; and

(5) by adding at the end the following new subparagraph:

"(J) The Commission, by rule or regulation, upon its own motion or by order upon application, may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions from any provision of this subsection, if and to the extent that such exemption is consistent with the public interest and the protection of investors.".

SEC. 203. FLEXIBLE REGISTRATION OF SECURITIES.

(a) AMENDMENTS TO REGISTRATION STATEMENTS.—Section 24(e) of the Investment Company Act of 1940 (15 U.S.C. 80a–24(e)) is amended—

(1) by striking paragraphs (1) and (2);

(2) by striking "(3) For" and inserting "For"; and

(3) by striking "pursuant to this subsection or otherwise".

(b) REGISTRATION OF INDEFINITE AMOUNT OF SECURITIES.—Section 24(f) of the Investment Company Act of 1940 (15 U.S.C. 80a–24(f)) is amended to read as follows:

"(f) REGISTRATION OF INDEFINITE AMOUNT OF SECURITIES.—

"(1) REGISTRATION OF SECURITIES.—Upon the effective date of its registration statement, as provided by section 8 of the Securities Act of 1933, a face-amount certificate company, open-

end management company, or unit investment trust, shall be deemed to have registered an indefinite amount of securities.

"(2) PAYMENT OF REGISTRATION FEES.—Not later than 90 days after the end of the fiscal year of a company or trust referred to in paragraph (1), the company or trust, as applicable, shall pay a registration fee to the Commission, calculated in the manner specified in section 6(b) of the Securities Act of 1933, based on the aggregate sales price for which its securities (including, for purposes of this paragraph, all securities issued pursuant to a dividend reinvestment plan) were sold pursuant to a registration of an indefinite amount of securities under this subsection during the previous fiscal year of the company or trust, reduced by—

"(A) the aggregate redemption or repurchase price of the securities of the company or trust during that year; and

"(B) the aggregate redemption or repurchase price of the securities of the company or trust during any prior fiscal year ending not more than 1 year before the date of enactment of the Investment Company Act Amendments of 1996, that were not used previously by the company or trust to reduce fees payable under this section.

"(3) INTEREST DUE ON LATE PAYMENT.—A company or trust paying the fee required by this subsection or any portion thereof more than 90 days after the end of the fiscal year of the company or trust shall pay to the Commission interest on unpaid amounts, at the average investment rate for Treasury tax and loan accounts published by the Secretary of the Treasury pursuant to section 3717(a) of title 31, United States Code. The payment of interest pursuant to this paragraph shall not preclude the Commission from bringing an action to enforce the requirements of paragraph (2).

"(4) RULEMAKING AUTHORITY.—The Commission may adopt rules and regulations to implement this subsection.".

15 USC 80a–24 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall become effective on the earlier of—

(1) 1 year after the date of enactment of this Act; or

(2) the effective date of final rules or regulations issued in accordance with section 24(f) of the Investment Company Act of 1940, as amended by this section.

SEC. 204. FACILITATING USE OF CURRENT INFORMATION IN ADVERTISING.

Section 24 of the Investment Company Act of 1940 (15 U.S.C. 80a–24) is amended by adding at the end the following new subsection:

Regulations.

"(g) ADDITIONAL PROSPECTUSES.—In addition to any prospectus permitted or required by section 10(a) of the Securities Act of 1933, the Commission shall permit, by rules or regulations deemed necessary or appropriate in the public interest or for the protection of investors, the use of a prospectus for purposes of section 5(b)(1) of that Act with respect to securities issued by a registered investment company. Such a prospectus, which may include information the substance of which is not included in the prospectus specified in section 10(a) of the Securities Act of 1933, shall be deemed to be permitted by section 10(b) of that Act.".

SEC. 205. VARIABLE INSURANCE CONTRACTS.

(a) UNIT INVESTMENT TRUST TREATMENT.—Section 26 of the Investment Company Act of 1940 (15 U.S.C. 80a–26) is amended by adding at the end the following new subsection:

"(e) EXEMPTION.—

"(1) IN GENERAL.—Subsection (a) does not apply to any registered separate account funding variable insurance contracts, or to the sponsoring insurance company and principal underwriter of such account.

"(2) LIMITATION ON SALES.—It shall be unlawful for any registered separate account funding variable insurance contracts, or for the sponsoring insurance company of such account, to sell any such contract—

"(A) unless the fees and charges deducted under the contract, in the aggregate, are reasonable in relation to the services rendered, the expenses expected to be incurred, and the risks assumed by the insurance company, and, beginning on the earlier of August 1, 1997, or the earliest effective date of any registration statement or amendment thereto for such contract following the date of enactment of this subsection, the insurance company so represents in the registration statement for the contract; and

"(B) unless the insurance company—

"(i) complies with all other applicable provisions of this section, as if it were a trustee or custodian of the registered separate account;

"(ii) files with the insurance regulatory authority of the State which is the domiciliary State of the insurance company, an annual statement of its financial condition, which most recent statement indicates that the insurance company has a combined capital and surplus, if a stock company, or an unassigned surplus, if a mutual company, of not less than $1,000,000, or such other amount as the Commission may from time to time prescribe by rule, as necessary or appropriate in the public interest or for the protection of investors; and

"(iii) together with its registered separate accounts, is supervised and examined periodically by the insurance authority of such State.

"(3) FEES AND CHARGES.—For purposes of paragraph (2), the fees and charges deducted under the contract shall include all fees and charges imposed for any purpose and in any manner.

"(4) REGULATORY AUTHORITY.—The Commission may issue such rules and regulations to carry out paragraph (2)(A) as it determines are necessary or appropriate in the public interest or for the protection of investors.".

(b) PERIODIC PAYMENT PLAN TREATMENT.—Section 27 of the Investment Company Act of 1940 (15 U.S.C. 80a–27) is amended by adding at the end the following new subsection:

"(i)(1) This section does not apply to any registered separate account funding variable insurance contracts, or to the sponsoring insurance company and principal underwriter of such account, except as provided in paragraph (2).

"(2) It shall be unlawful for any registered separate account funding variable insurance contracts, or for the sponsoring

insurance company of such account, to sell any such contract unless—

"(A) such contract is a redeemable security; and

"(B) the insurance company complies with section 26(e) and any rules or regulations issued by the Commission under section 26(e).".

SEC. 206. REPORTS TO THE COMMISSION AND SHAREHOLDERS.

Section 30 of the Investment Company Act of 1940 (15 U.S.C. 80a–29) is amended—

(1) in subsection (b), by striking paragraph (1) and inserting the following:

"(1) such information, documents, and reports (other than financial statements), as the Commission may require to keep reasonably current the information and documents contained in the registration statement of such company filed under this title;";

(2) by redesignating subsections (c), (d), (e), and (f) as subsections (d), (e), (g), and (h), respectively;

(3) by inserting after subsection (b) the following new subsection:

"(c)(1) The Commission shall take such action as it deems necessary or appropriate, consistent with the public interest and the protection of investors, to avoid unnecessary reporting by, and minimize the compliance burdens on, registered investment companies and their affiliated persons in exercising its authority—

"(A) under subsection (f); and

"(B) under subsection (b)(1), if the Commission requires the filing of information, documents, and reports under that subsection on a basis more frequently than semiannually.

"(2) Action taken by the Commission under paragraph (1) shall include considering, and requesting public comment on—

"(A) feasible alternatives that minimize the reporting burdens on registered investment companies; and

"(B) the utility of such information, documents, and reports to the Commission in relation to the costs to registered investment companies and their affiliated persons of providing such information, documents, and reports.";

(4) by inserting after subsection (e) (as redesignated by paragraph (2) of this section), the following new subsection:

"(f) The Commission may, by rule, require that semiannual reports containing the information set forth in subsection (e) include such other information as the Commission deems necessary or appropriate in the public interest or for the protection of investors."; and

(5) in subsection (g) (as redesignated by paragraph (2) of this section), by striking "subsections (a) and (d)" and inserting "subsections (a) and (e)".

SEC. 207. BOOKS, RECORDS, AND INSPECTIONS.

Section 31 of the Investment Company Act of 1940 (15 U.S.C. 80a–30) is amended—

(1) by striking subsections (a) and (b) and inserting the following:

"(a) MAINTENANCE OF RECORDS.—

"(1) IN GENERAL.—Each registered investment company, and each underwriter, broker, dealer, or investment adviser that is a majority-owned subsidiary of such a company, shall

maintain and preserve such records (as defined in section 3(a)(37) of the Securities Exchange Act of 1934) for such period or periods as the Commission, by rules and regulations, may prescribe as necessary or appropriate in the public interest or for the protection of investors. Each investment adviser that is not a majority-owned subsidiary of, and each depositor of any registered investment company, and each principal underwriter for any registered investment company other than a closed-end company, shall maintain and preserve for such period or periods as the Commission shall prescribe by rules and regulations, such records as are necessary or appropriate to record such person's transactions with such registered company. Regulations.

"(2) MINIMIZING COMPLIANCE BURDEN.—In exercising its authority under this subsection, the Commission shall take such steps as it deems necessary or appropriate, consistent with the public interest and for the protection of investors, to avoid unnecessary recordkeeping by, and minimize the compliance burden on, persons required to maintain records under this subsection (hereafter in this section referred to as 'subject persons'). Such steps shall include considering, and requesting public comment on—

"(A) feasible alternatives that minimize the record-keeping burdens on subject persons;

"(B) the necessity of such records in view of the public benefits derived from the independent scrutiny of such records through Commission examination;

"(C) the costs associated with maintaining the information that would be required to be reflected in such records; and

"(D) the effects that a proposed recordkeeping requirement would have on internal compliance policies and procedures.

"(b) EXAMINATIONS OF RECORDS.—

"(1) IN GENERAL.—All records required to be maintained and preserved in accordance with subsection (a) shall be subject at any time and from time to time to such reasonable periodic, special, and other examinations by the Commission, or any member or representative thereof, as the Commission may prescribe.

"(2) AVAILABILITY.—For purposes of examinations referred to in paragraph (1), any subject person shall make available to the Commission or its representatives any copies or extracts from such records as may be prepared without undue effort, expense, or delay as the Commission or its representatives may reasonably request.

"(3) COMMISSION ACTION.—The Commission shall exercise its authority under this subsection with due regard for the benefits of internal compliance policies and procedures and the effective implementation and operation thereof.";

(2) by redesignating subsections (c) and (d) as subsections (e) and (f), respectively;

(3) by inserting after subsection (b) the following new subsections:

"(c) LIMITATIONS ON DISCLOSURE BY COMMISSION.—Notwithstanding any other provision of law, the Commission shall not be compelled to disclose any internal compliance or audit records,

or information contained therein, provided to the Commission under this section. Nothing in this subsection shall authorize the Commission to withhold information from the Congress or prevent the Commission from complying with a request for information from any other Federal department or agency requesting the information for purposes within the scope of the jurisdiction of that department or agency, or complying with an order of a court of the United States in an action brought by the United States or the Commission. For purposes of section 552 of title 5, United States Code, this section shall be considered a statute described in subsection (b)(3)(B) of such section 552.

"(d) DEFINITIONS.—For purposes of this section—

"(1) the term 'internal compliance policies and procedures' means policies and procedures designed by subject persons to promote compliance with the Federal securities laws; and

"(2) the term 'internal compliance and audit record' means any record prepared by a subject person in accordance with internal compliance policies and procedures.";

(4) in subsection (e), as redesignated, by inserting "REGULATORY AUTHORITY.—" before "The Commission"; and

(5) in subsection (f), as redesignated, by inserting "EXEMPTION AUTHORITY.—" before "The Commission".

SEC. 208. PROHIBITION ON DECEPTIVE INVESTMENT COMPANY NAMES.

Section 35(d) of the Investment Company Act of 1940 (15 U.S.C. 80a–34(d)) is amended to read as follows:

"(d) DECEPTIVE OR MISLEADING NAMES.—It shall be unlawful for any registered investment company to adopt as a part of the name or title of such company, or of any securities of which it is the issuer, any word or words that the Commission finds are materially deceptive or misleading. The Commission is authorized, by rule, regulation, or order, to define such names or titles as are materially deceptive or misleading.".

SEC. 209. AMENDMENTS TO DEFINITIONS.

(a) EXCEPTED INVESTMENT COMPANIES.—Section 3(c) of the Investment Company Act of 1940 (15 U.S.C. 80a–3(c)) is amended—

(1) in paragraph (1), by inserting after the first sentence the following: "Such issuer shall be deemed to be an investment company for purposes of the limitations set forth in subparagraphs (A)(i) and (B)(i) of section 12(d)(1) governing the purchase or other acquisition by such issuer of any security issued by any registered investment company and the sale of any security issued by any registered open-end investment company to any such issuer.";

(2) in subparagraph (A) of paragraph (1)—

(A) by inserting after "issuer," the first place that term appears, the following: "and is or, but for the exception provided for in this paragraph or paragraph (7), would be an investment company,"; and

(B) by striking "unless, as of" and all that follows through the end of the subparagraph and inserting a period;

(3) in paragraph (2)—

(A) by striking "and acting as broker," and inserting "acting as broker, and acting as market intermediary,";

(B) by inserting "(A)" after "(2)"; and

(C) by adding at the end the following new subparagraph:

"(B) For purposes of this paragraph—

"(i) the term 'market intermediary' means any person that regularly holds itself out as being willing contemporaneously to engage in, and that is regularly engaged in, the business of entering into transactions on both sides of the market for a financial contract or one or more such financial contracts; and

"(ii) the term 'financial contract' means any arrangement that—

"(I) takes the form of an individually negotiated contract, agreement, or option to buy, sell, lend, swap, or repurchase, or other similar individually negotiated transaction commonly entered into by participants in the financial markets;

"(II) is in respect of securities, commodities, currencies, interest or other rates, other measures of value, or any other financial or economic interest similar in purpose or function to any of the foregoing; and

"(III) is entered into in response to a request from a counter party for a quotation, or is otherwise entered into and structured to accommodate the objectives of the counter party to such arrangement."; and

(4) by striking paragraph (7) and inserting the following:

"(7)(A) Any issuer, the outstanding securities of which are owned exclusively by persons who, at the time of acquisition of such securities, are qualified purchasers, and which is not making and does not at that time propose to make a public offering of such securities. Securities that are owned by persons who received the securities from a qualified purchaser as a gift or bequest, or in a case in which the transfer was caused by legal separation, divorce, death, or other involuntary event, shall be deemed to be owned by a qualified purchaser, subject to such rules, regulations, and orders as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors.

"(B) Notwithstanding subparagraph (A), an issuer is within the exception provided by this paragraph if—

"(i) in addition to qualified purchasers, outstanding securities of that issuer are beneficially owned by not more than 100 persons who are not qualified purchasers, if—

"(I) such persons acquired any portion of the securities of such issuer on or before September 1, 1996; and

"(II) at the time at which such persons initially acquired the securities of such issuer, the issuer was excepted by paragraph (1); and

"(ii) prior to availing itself of the exception provided by this paragraph—

"(I) such issuer has disclosed to each beneficial owner, as determined under paragraph (1), that future investors will be limited to qualified purchasers, and that ownership in such issuer is no longer limited to not more than 100 persons; and

"(II) concurrently with or after such disclosure, such issuer has provided each beneficial owner, as determined under paragraph (1), with a reasonable opportunity to redeem any part or all of their interests in the issuer, notwithstanding any agreement to the contrary between the issuer and such persons, for that person's proportionate share of the issuer's net assets.

"(C) Each person that elects to redeem under subparagraph (B)(ii)(II) shall receive an amount in cash equal to that person's proportionate share of the issuer's net assets, unless the issuer elects to provide such person with the option of receiving, and such person agrees to receive, all or a portion of such person's share in assets of the issuer. If the issuer elects to provide such persons with such an opportunity, disclosure concerning such opportunity shall be made in the disclosure required by subparagraph (B)(ii)(I).

"(D) An issuer that is excepted under this paragraph shall nonetheless be deemed to be an investment company for purposes of the limitations set forth in subparagraphs (A)(i) and (B)(i) of section 12(d)(1) relating to the purchase or other acquisition by such issuer of any security issued by any registered investment company and the sale of any security issued by any registered open-end investment company to any such issuer.

"(E) For purposes of determining compliance with this paragraph and paragraph (1), an issuer that is otherwise excepted under this paragraph and an issuer that is otherwise excepted under paragraph (1) shall not be treated by the Commission as being a single issuer for purposes of determining whether the outstanding securities of the issuer excepted under paragraph (1) are beneficially owned by not more than 100 persons or whether the outstanding securities of the issuer excepted under this paragraph are owned by persons that are not qualified purchasers. Nothing in this subparagraph shall be construed to establish that a person is a bona fide qualified purchaser for purposes of this paragraph or a bona fide beneficial owner for purposes of paragraph (1).".

(b) QUALIFIED PURCHASER.—Section 2(a) of the Investment Company Act of 1940 (15 U.S.C. 80a–2(a)) is amended by adding at the end the following new paragraph:

"(51)(A) 'Qualified purchaser' means—

"(i) any natural person (including any person who holds a joint, community property, or other similar shared ownership interest in an issuer that is excepted under section 3(c)(7) with that person's qualified purchaser spouse) who owns not less than $5,000,000 in investments, as defined by the Commission;

"(ii) any company that owns not less than $5,000,000 in investments and that is owned directly or indirectly by or for 2 or more natural persons who are related as siblings or spouse (including former spouses), or direct lineal descendants by birth or adoption, spouses of such persons, the estates of such persons, or foundations, charitable organizations, or trusts established by or for the benefit of such persons;

"(iii) any trust that is not covered by clause (ii) and that was not formed for the specific purpose of acquiring

the securities offered, as to which the trustee or other person authorized to make decisions with respect to the trust, and each settlor or other person who has contributed assets to the trust, is a person described in clause (i), (ii), or (iv); or

"(iv) any person, acting for its own account or the accounts of other qualified purchasers, who in the aggregate owns and invests on a discretionary basis, not less than $25,000,000 in investments.

"(B) The Commission may adopt such rules and regulations applicable to the persons and trusts specified in clauses (i) through (iv) of subparagraph (A) as it determines are necessary or appropriate in the public interest or for the protection of investors.

"(C) The term 'qualified purchaser' does not include a company that, but for the exceptions provided for in paragraph (1) or (7) of section 3(c), would be an investment company (hereafter in this paragraph referred to as an 'excepted investment company'), unless all beneficial owners of its outstanding securities (other than short-term paper), determined in accordance with section 3(c)(1)(A), that acquired such securities on or before April 30, 1996 (hereafter in this paragraph referred to as 'pre-amendment beneficial owners'), and all pre-amendment beneficial owners of the outstanding securities (other than short-term paper) of any excepted investment company that, directly or indirectly, owns any outstanding securities of such excepted investment company, have consented to its treatment as a qualified purchaser. Unanimous consent of all trustees, directors, or general partners of a company or trust referred to in clause (ii) or (iii) of subparagraph (A) shall constitute consent for purposes of this subparagraph.".

(c) CONFORMING AMENDMENTS.—Section 3(a) of the Investment Company Act of 1940 (15 U.S.C. 80a–3(a)) is amended—

(1) by striking "(1)" and inserting "(A)";

(2) by striking "(2)" and inserting "(B)";

(3) by striking "(3)" and inserting "(C)";

(4) by inserting "(1)" after "(a)";

(5) by striking "As used" and inserting "(2) As used"; and

(6) in paragraph (2)(C), as designated by paragraph (5) of this subsection—

(A) by striking "which are" and inserting the following: "which (i) are"; and

(B) by inserting before the period at the end, the following: ", and (ii) are not relying on the exception from the definition of investment company in paragraph (1) or (7) of subsection (c)".

(d) RULEMAKING REQUIRED.—

(1) IMPLEMENTATION OF SECTION 3(C)(1)(B).—Not later than 1 year after the date of enactment of this Act, the Commission shall prescribe rules to implement the requirements of section 3(c)(1)(B) of the Investment Company Act of 1940 (15 U.S.C. 80a–3(c)(1)(B)), as amended by this section. 15 USC 80a–3 note.

(2) IDENTIFICATION OF INVESTMENTS.—Not later than 180 days after the date of enactment of this Act, the Commission shall prescribe rules defining the term, or otherwise identifying, "investments" for purposes of section 2(a)(51) of the Investment Company Act of 1940, as added by this Act. 15 USC 80a–2 note.

15 USC 80a–3 note.

(3) EMPLOYEE EXCEPTION.—Not later than 1 year after the date of enactment of this Act, the Commission shall prescribe rules pursuant to its authority under section 6 of the Investment Company Act of 1940 to permit the ownership of securities by knowledgeable employees of the issuer of the securities or an affiliated person without loss of the exception of the issuer under paragraph (1) or (7) of section 3(c) of that Act from treatment as an investment company under that Act.

15 USC 80a–3 note.

(4) BENEFICIAL OWNERSHIP.—Not later than 180 days after the date of enactment of this Act, the Commission shall prescribe rules defining the term "beneficial owner" for purposes of section 3(c)(7)(B) of the Investment Company Act of 1940, as amended by this Act.

15 USC 80a–2 note.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on the earlier of—

(1) 180 days after the date of enactment of this Act; or

(2) the date on which the rulemaking required under subsection (d)(2) is completed.

SEC. 210. PERFORMANCE FEES EXEMPTIONS.

Section 205 of the Investment Advisers Act of 1940 (15 U.S.C. 80b–5) is amended—

(1) in subsection (b)—

(A) in paragraph (2), by striking "or" at the end;

(B) in paragraph (3), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following new paragraphs:

"(4) apply to an investment advisory contract with a company excepted from the definition of an investment company under section 3(c)(7) of title I of this Act; or

"(5) apply to an investment advisory contract with a person who is not a resident of the United States."; and

(2) by adding at the end the following new subsection:

"(e) The Commission, by rule or regulation, upon its own motion, or by order upon application, may conditionally or unconditionally exempt any person or transaction, or any class or classes of persons or transactions, from subsection (a)(1), if and to the extent that the exemption relates to an investment advisory contract with any person that the Commission determines does not need the protections of subsection (a)(1), on the basis of such factors as financial sophistication, net worth, knowledge of and experience in financial matters, amount of assets under management, relationship with a registered investment adviser, and such other factors as the Commission determines are consistent with this section.".

Investment Advisers Supervision Coordination Act.

TITLE III—INVESTMENT ADVISERS SUPERVISION COORDINATION ACT

15 USC 80b–20 note.

SEC. 301. SHORT TITLE.

This title may be cited as the "Investment Advisers Supervision Coordination Act".

SEC. 302. FUNDING FOR ENHANCED ENFORCEMENT PRIORITY.

Appropriation authorization.

There are authorized to be appropriated to the Commission, for the enforcement of the Investment Advisers Act of 1940, not more than $20,000,000 in each of fiscal years 1997 and 1998, in addition to any funds authorized to be appropriated to the Commission for this or other purposes.

SEC. 303. IMPROVED SUPERVISION THROUGH STATE AND FEDERAL COOPERATION.

(a) STATE AND FEDERAL RESPONSIBILITIES.—The Investment Advisers Act of 1940 (15 U.S.C. 80b–1 et seq.) is amended by inserting after section 203 the following new section:

"SEC. 203A. STATE AND FEDERAL RESPONSIBILITIES.

15 USC 80b–3a.

"(a) ADVISERS SUBJECT TO STATE AUTHORITIES.—

"(1) IN GENERAL.—No investment adviser that is regulated or required to be regulated as an investment adviser in the State in which it maintains its principal office and place of business shall register under section 203, unless the investment adviser—

"(A) has assets under management of not less than $25,000,000, or such higher amount as the Commission may, by rule, deem appropriate in accordance with the purposes of this title; or

"(B) is an adviser to an investment company registered under title I of this Act.

"(2) DEFINITION.—For purposes of this subsection, the term 'assets under management' means the securities portfolios with respect to which an investment adviser provides continuous and regular supervisory or management services.

"(b) ADVISERS SUBJECT TO COMMISSION AUTHORITY.—

"(1) IN GENERAL.—No law of any State or political subdivision thereof requiring the registration, licensing, or qualification as an investment adviser or supervised person of an investment adviser shall apply to any person—

"(A) that is registered under section 203 as an investment adviser, or that is a supervised person of such person, except that a State may license, register, or otherwise qualify any investment adviser representative who has a place of business located within that State; or

"(B) that is not registered under section 203 because that person is excepted from the definition of an investment adviser under section 202(a)(11).

"(2) LIMITATION.—Nothing in this subsection shall prohibit the securities commission (or any agency or office performing like functions) of any State from investigating and bringing enforcement actions with respect to fraud or deceit against an investment adviser or person associated with an investment adviser.

"(c) EXEMPTIONS.—Notwithstanding subsection (a), the Commission, by rule or regulation upon its own motion, or by order upon application, may permit the registration with the Commission of any person or class of persons to which the application of subsection (a) would be unfair, a burden on interstate commerce, or otherwise inconsistent with the purposes of this section.

"(d) FILING DEPOSITORIES.—The Commission may, by rule, require an investment adviser—

"(1) to file with the Commission any fee, application, report, or notice required by this title or by the rules issued under this title through any entity designated by the Commission for that purpose; and

"(2) to pay the reasonable costs associated with such filing.

"(e) STATE ASSISTANCE.—Upon request of the securities commissioner (or any agency or officer performing like functions) of any State, the Commission may provide such training, technical assistance, or other reasonable assistance in connection with the regulation of investment advisers by the State.".

(b) ADVISERS NOT ELIGIBLE TO REGISTER.—Section 203 of the Investment Advisers Act of 1940 (15 U.S.C. 80b–3) is amended—

(1) in subsection (c), in the matter immediately following paragraph (2), by inserting "and that the applicant is not prohibited from registering as an investment adviser under section 203A" after "satisfied"; and

(2) in subsection (h), in the second sentence—

(A) by striking "existence or" and inserting "existence,"; and

(B) by inserting "or is prohibited from registering as an investment adviser under section 203A," after "adviser,".

(c) DEFINITION OF "SUPERVISED PERSON".—Section 202(a) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2(a)) is amended—

(1) by striking "requires—" and inserting "requires, the following definitions shall apply:"; and

(2) by adding at the end the following new paragraph:

"(25) 'Supervised person' means any partner, officer, director (or other person occupying a similar status or performing similar functions), or employee of an investment adviser, or other person who provides investment advice on behalf of the investment adviser and is subject to the supervision and control of the investment adviser.".

(d) CONFORMING AMENDMENT.—Section 203(a) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–3(a)) is amended by striking "subsection (b) of this section" and inserting "subsection (b) and section 203A".

SEC. 304. INTERSTATE COOPERATION.

Section 222 of the Investment Advisers Act of 1940 (15 U.S.C. 80b–18a) is amended to read as follows:

"SEC. 222. STATE REGULATION OF INVESTMENT ADVISERS.

"(a) JURISDICTION OF STATE REGULATORS.—Nothing in this title shall affect the jurisdiction of the securities commissioner (or any agency or officer performing like functions) of any State over any security or any person insofar as it does not conflict with the provisions of this title or the rules and regulations thereunder.

"(b) DUAL COMPLIANCE PURPOSES.—No State may enforce any law or regulation that would require an investment adviser to maintain any books or records in addition to those required under the laws of the State in which it maintains its principal place of business, if the investment adviser—

"(1) is registered or licensed as such in the State in which it maintains its principal place of business; and

"(2) is in compliance with the applicable books and records requirements of the State in which it maintains its principle place of business.

"(c) LIMITATION ON CAPITAL AND BOND REQUIREMENTS.—No State may enforce any law or regulation that would require an investment adviser to maintain a higher minimum net capital or to post any bond in addition to any that is required under the laws of the State in which it maintains its principal place of business, if the investment adviser—

"(1) is registered or licensed as such in the State in which it maintains its principal place of business; and

"(2) is in compliance with the applicable net capital or bonding requirements of the State in which it maintains its principal place of business.

"(d) NATIONAL DE MINIMIS STANDARD.—No law of any State or political subdivision thereof requiring the registration, licensing, or qualification as an investment adviser shall require an investment adviser to register with the securities commissioner of the State (or any agency or officer performing like functions) or to comply with such law (other than any provision thereof prohibiting fraudulent conduct) if the investment adviser—

"(1) does not have a place of business located within the State; and

"(2) during the preceding 12-month period, has had fewer than 6 clients who are residents of that State.".

SEC. 305. DISQUALIFICATION OF CONVICTED FELONS.

(a) AMENDMENT.—Section 203(e) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–3(e)) is amended—

(1) by redesignating paragraphs (3) through (7) as paragraphs (4) through (8), respectively; and

(2) by inserting after paragraph (2) the following new paragraph:

"(3) has been convicted during the 10-year period preceding the date of filing of any application for registration, or at any time thereafter, of—

"(A) any crime that is punishable by imprisonment for 1 or more years, and that is not described in paragraph (2); or

"(B) a substantially equivalent crime by a foreign court of competent jurisdiction.".

(b) CONFORMING AMENDMENTS.—Section 203 of the Investment Advisers Act of 1940 (15 U.S.C. 80b–3) is amended—

(1) in subsection (e)(6) (as redesignated by subsection (a) of this section), by striking "this paragraph (5)" and inserting "this paragraph";

(2) in subsection (f)—

(A) by striking "paragraph (1), (4), (5), or (7) of subsection (e) of this section" and inserting "paragraph (1), (5), (6), or (8) of subsection (e)";

(B) by striking "paragraph (3)" and inserting "paragraph (4)"; and

(C) by striking "said subsection" each place that term appears and inserting "subsection"; and

(3) in subsection (i)(1)(D), by striking "section 203(e)(5) of this title" and inserting "subsection (e)(6)".

SEC. 306. INVESTOR ACCESS TO INFORMATION.

15 USC 80b–10 note.

The Commission shall—

(1) provide for the establishment and maintenance of a readily accessible telephonic or other electronic process to

receive inquiries regarding disciplinary actions and proceedings involving investment advisers and persons associated with investment advisers; and

(2) provide for prompt response to any inquiry described in paragraph (1).

15 USC 80b–3a note.

SEC. 307. CONTINUED STATE AUTHORITY.

(a) PRESERVATION OF FILING REQUIREMENTS.—Nothing in this title or any amendment made by this title prohibits the securities commission (or any agency or office performing like functions) of any State from requiring the filing of any documents filed with the Commission pursuant to the securities laws solely for notice purposes, together with a consent to service of process and any required fee.

(b) PRESERVATION OF FEES.—Until otherwise provided by law, rule, regulation, or order, or other administrative action of any State, or any political subdivision thereof, adopted after the date of enactment of this Act, filing, registration, or licensing fees shall, notwithstanding the amendments made by this title, continue to be paid in amounts determined pursuant to the law, rule, regulation, or order, or other administrative action as in effect on the day before such date of enactment.

(c) AVAILABILITY OF PREEMPTION CONTINGENT ON PAYMENT OF FEES.—

(1) IN GENERAL.—During the period beginning on the date of enactment of this Act and ending 3 years after that date of enactment, the securities commission (or any agency or office performing like functions) of any State may require registration of any investment adviser that fails or refuses to pay the fees required by subsection (b) in or to such State, notwithstanding the limitations on the laws, rules, regulations, or orders, or other administrative actions of any State, or any political subdivision thereof, contained in subsection (a), if the laws of such State require registration of investment advisers.

(2) DELAYS.—For purposes of this subsection, delays in payment of fees or underpayments of fees that are promptly remedied in accordance with the applicable laws, rules, regulations, or orders, or other administrative actions of the relevant State shall not constitute a failure or refusal to pay fees.

15 USC 80b–2 note.

SEC. 308. EFFECTIVE DATE.

(a) IN GENERAL.—This title and the amendments made by this title shall take effect 180 days after the date of enactment of this Act.

(b) CONFORMING AMENDMENT.—

(1) IN GENERAL.—Section 3(38)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(38)(B)) is amended by inserting "or under the laws of any State" after "1940".

29 USC 1002 note.

(2) SUNSET.—The amendment made by paragraph (1) shall cease to be effective 2 years after the date of enactment of this Act.

TITLE IV—SECURITIES AND EXCHANGE COMMISSION AUTHORIZATION

Securities and Exchange Commission Authorization Act of 1996.

SEC. 401. SHORT TITLE.

15 USC 78a note.

This title may be cited as the "Securities and Exchange Commission Authorization Act of 1996".

SEC. 402. PURPOSES.

15 USC 78a note.

The purposes of this title are—

(1) to authorize appropriations for the Commission for fiscal year 1997; and

(2) to reduce over time the rates of fees charged under the Federal securities laws.

SEC. 403. AUTHORIZATION OF APPROPRIATIONS.

Section 35 of the Securities Exchange Act of 1934 is amended to read as follows:

15 USC 78kk.

"SEC. 35. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out the functions, powers, and duties of the Commission $300,000,000 for fiscal year 1997, in addition to any other funds authorized to be appropriated to the Commission.".

SEC. 404. REGISTRATION FEES.

Section 6(b) of the Securities Act of 1933 (15 U.S.C. 77f(b)) is amended to read as follows:

"(b) REGISTRATION FEE.—

"(1) RECOVERY OF COST OF SERVICES.—The Commission shall, in accordance with this subsection, collect registration fees that are designed to recover the costs to the government of the securities registration process, and costs related to such process, including enforcement activities, policy and rulemaking activities, administration, legal services, and international regulatory activities.

"(2) FEE PAYMENT REQUIRED.—At the time of filing a registration statement, the applicant shall pay to the Commission a fee that shall be equal to the sum of the amounts (if any) determined under the rates established by paragraphs (3) and (4). The Commission shall publish in the Federal Register notices of the fee rates applicable under this section for each fiscal year.

"(3) GENERAL REVENUE FEES.—The rate determined under this paragraph is a rate equal to $200 per $1,000,000 of the maximum aggregate price at which such securities are proposed to be offered, except that during fiscal year 2007 and any succeeding fiscal year such rate is equal to $67 per $1,000,000 of the maximum aggregate price at which such securities are proposed to be offered. Fees collected during any fiscal year pursuant to this paragraph shall be deposited and credited as general revenues of the Treasury.

"(4) OFFSETTING COLLECTION FEES.—

"(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), the rate determined under this paragraph is a rate equal to the following amount per $1,000,000 of the maximum aggregate price at which such securities are proposed to be offered:

"(i) $95 during fiscal year 1998;
"(ii) $78 during fiscal year 1999;
"(iii) $64 during fiscal year 2000;
"(iv) $50 during fiscal year 2001;
"(v) $39 during fiscal year 2002;
"(vi) $28 during fiscal year 2003;
"(vii) $9 during fiscal year 2004;
"(viii) $5 during fiscal year 2005; and
"(ix) $0 during fiscal year 2006 or any succeeding fiscal year.

"(B) LIMITATION; DEPOSIT.—Except as provided in subparagraph (C), no amounts shall be collected pursuant to this paragraph (4) for any fiscal year except to the extent provided in advance in appropriations Acts. Fees collected during any fiscal year pursuant to this paragraph shall be deposited and credited as offsetting collections in accordance with appropriations Acts.

"(C) LAPSE OF APPROPRIATIONS.—If on the first day of a fiscal year a regular appropriation to the Commission has not been enacted, the Commission shall continue to collect fees (as offsetting collections) under this paragraph at the rate in effect during the preceding fiscal year, until such a regular appropriation is enacted.

"(5) PRO RATA APPLICATION OF RATES.—The rates required by this subsection shall be applied pro rata to amounts and balances equal to less than $1,000,000.".

SEC. 405. TRANSACTION FEES.

(a) AMENDMENT.—Section 31 of the Securities Exchange Act of 1934 (15 U.S.C. 78ee) is amended to read as follows:

"SEC. 31. TRANSACTION FEES.

"(a) RECOVERY OF COST OF SERVICES.—The Commission shall, in accordance with this subsection, collect transaction fees that are designed to recover the costs to the Government of the supervision and regulation of securities markets and securities professionals, and costs related to such supervision and regulation, including enforcement activities, policy and rulemaking activities, administration, legal services, and international regulatory activities.

"(b) EXCHANGE-TRADED SECURITIES.—Every national securities exchange shall pay to the Commission a fee at a rate equal to 1/300 of one percent of the aggregate dollar amount of sales of securities (other than bonds, debentures, and other evidences of indebtedness) transacted on such national securities exchange, except that for fiscal year 2007 or any succeeding fiscal year such rate shall be equal to 1/800 of one percent of such aggregate dollar amount of sales. Fees collected pursuant to this subsection shall be deposited and collected as general revenue of the Treasury.

"(c) OFF-EXCHANGE TRADES OF EXCHANGE REGISTERED SECURITIES.—Each national securities association shall pay to the Commission a fee at a rate equal to 1/300 of one percent of the aggregate dollar amount of sales transacted by or through any member of such association otherwise than on a national securities exchange of securities registered on such an exchange (other than bonds, debentures, and other evidences of indebtedness), except that for fiscal year 2007 or any succeeding fiscal year such rate shall be equal to 1/800 of one percent of such aggregate dollar

amount of sales. Fees collected pursuant to this subsection shall be deposited and collected as general revenue of the Treasury.

"(d) OFF-EXCHANGE TRADES OF LAST-SALE-REPORTED SECURITIES.—

"(1) COVERED TRANSACTIONS.—Each national securities association shall pay to the Commission a fee at a rate equal to 1/300 of one percent of the aggregate dollar amount of sales transacted by or through any member of such association otherwise than on a national securities exchange of securities (other than bonds, debentures, and other evidences of indebtedness) subject to prompt last sale reporting pursuant to the rules of the Commission or a registered national securities association, excluding any sales for which a fee is paid under subsection (c), except that for fiscal year 2007, or any succeeding fiscal year, such rate shall be equal to 1/800 of one percent of such aggregate dollar amount of sale.

"(2) LIMITATION; DEPOSIT OF FEES.—Except as provided in paragraph (3), no amounts shall be collected pursuant to subsection (d) for any fiscal year, except to the extent provided in advance in appropriations Acts. Fees collected during any such fiscal year pursuant to this subsection shall be deposited and credited as offsetting collections to the account providing appropriations to the Commission.

"(3) LAPSE OF APPROPRIATIONS.—If on the first day of a fiscal year a regular appropriation to the Commission has not been enacted, the Commission shall continue to collect fees (as offsetting collections) under this subsection at the rate in effect during the preceding fiscal year, until such a regular appropriation is enacted.

"(e) DATES FOR PAYMENT OF FEES.—The fees required by subsections (b), (c), and (d) of this section shall be paid—

"(1) on or before March 15, with respect to transactions and sales occurring during the period beginning on the preceding September 1 and ending at the close of the preceding December 31; and

"(2) on or before September 30, with respect to transactions and sales occurring during the period beginning on the preceding January 1 and ending at the close of the preceding August 31.

"(f) EXEMPTIONS.—The Commission, by rule, may exempt any sale of securities or any class of sales of securities from any fee imposed by this section, if the Commission finds that such exemption is consistent with the public interest, the equal regulation of markets and brokers and dealers, and the development of a national market system.

"(g) PUBLICATION.—The Commission shall publish in the Federal Register notices of the fee rates applicable under this section for each fiscal year.". Federal Register, publication.

(b) EFFECTIVE DATES; TRANSITION.— 15 USC 78ee note.

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by subsection (a) shall apply with respect to transactions in securities that occur on or after October 1, 1997.

(2) OFF-EXCHANGE TRADES OF LAST SALE REPORTED TRANSACTIONS.—The amendment made by subsection (a) shall apply with respect to transactions described in section 31(d)(1) of

the Securities Exchange Act of 1934 (as amended by subsection (a) of this section) that occur on or after September 1, 1997.

SEC. 406. TIME FOR PAYMENT.

Section 4(e) of the Securities Exchange Act of 1934 (15 U.S.C. 78d(e)) is amended by inserting before the period at the end thereof the following: "and the Commission may also specify the time that such fee shall be determined and paid relative to the filing of any statement or document with the Commission".

SEC. 407. SENSE OF THE CONGRESS CONCERNING FEES.

It is the sense of the Congress that, in order to maintain the competitiveness of United States securities markets relative to foreign markets, no fee should be assessed on transactions involving portfolios of equity securities taking place at times of day characterized by low volume and during nontraditional trading hours.

TITLE V—REDUCING THE COST OF SAVING AND INVESTMENT

SEC. 501. EXEMPTION FOR ECONOMIC, BUSINESS, AND INDUSTRIAL DEVELOPMENT COMPANIES.

Section 6(a) of the Investment Company Act of 1940 (15 U.S.C. 80a–6(a)) is amended by adding at the end the following new paragraph:

"(5)(A) Any company that is not engaged in the business of issuing redeemable securities, the operations of which are subject to regulation by the State in which the company is organized under a statute governing entities that provide financial or managerial assistance to enterprises doing business, or proposing to do business, in that State if—

"(i) the organizational documents of the company state that the activities of the company are limited to the promotion of economic, business, or industrial development in the State through the provision of financial or managerial assistance to enterprises doing business, or proposing to do business, in that State, and such other activities that are incidental or necessary to carry out that purpose;

"(ii) immediately following each sale of the securities of the company by the company or any underwriter for the company, not less than 80 percent of the securities of the company being offered in such sale, on a class-by-class basis, are held by persons who reside or who have a substantial business presence in that State;

"(iii) the securities of the company are sold, or proposed to be sold, by the company or by any underwriter for the company, solely to accredited investors, as that term is defined in section 2(a)(15) of the Securities Act of 1933, or to such other persons that the Commission, as necessary or appropriate in the public interest and consistent with the protection of investors, may permit by rule, regulation, or order; and

"(iv) the company does not purchase any security issued by an investment company or by any company that would be an investment company except for the exclusions from

the definition of the term 'investment company' under paragraph (1) or (7) of section 3(c), other than—

"(I) any debt security that is rated investment grade by not less than 1 nationally recognized statistical rating organization; or

"(II) any security issued by a registered open-end investment company that is required by its investment policies to invest not less than 65 percent of its total assets in securities described in subclause (I) or securities that are determined by such registered open-end investment company to be comparable in quality to securities described in subclause (I).

"(B) Notwithstanding the exemption provided by this paragraph, section 9 (and, to the extent necessary to enforce section 9, sections 38 through 51) shall apply to a company described in this paragraph as if the company were an investment company registered under this title.

"(C) Any company proposing to rely on the exemption provided by this paragraph shall file with the Commission a notification stating that the company intends to do so, in such form and manner as the Commission may prescribe by rule.

"(D) Any company meeting the requirements of this paragraph may rely on the exemption provided by this paragraph upon filing with the Commission the notification required by subparagraph (C), until such time as the Commission determines by order that such reliance is not in the public interest or is not consistent with the protection of investors.

"(E) The exemption provided by this paragraph may be subject to such additional terms and conditions as the Commission may by rule, regulation, or order determine are necessary or appropriate in the public interest or for the protection of investors.".

SEC. 502. INTRASTATE CLOSED-END INVESTMENT COMPANY EXEMPTION.

Section 6(d)(1) of the Investment Company Act of 1940 (15 U.S.C. 80a–6(d)(1)) is amended by striking "$100,000" and inserting "$10,000,000, or such other amount as the Commission may set by rule, regulation, or order".

SEC. 503. DEFINITION OF ELIGIBLE PORTFOLIO COMPANY.

Section 2(a)(46)(C) of the Investment Company Act of 1940 (15 U.S.C. 80a–2(a)(46)(C)) is amended—

(1) in clause (ii), by striking "or" at the end;

(2) by redesignating clause (iii) as clause (iv); and

(3) by inserting after clause (ii) the following:

"(iii) it has total assets of not more than $4,000,000, and capital and surplus (shareholders' equity less retained earnings) of not less than $2,000,000, except that the Commission may adjust such amounts by rule, regulation, or order to reflect changes in 1 or more generally accepted indices or other indicators for small businesses; or".

SEC. 504. DEFINITION OF BUSINESS DEVELOPMENT COMPANY.

Section 2(a)(48)(B) of the Investment Company Act of 1940 (15 U.S.C. 80a–2(a)(48)(B)) is amended by adding at the end the following: "provided further that a business development company

need not make available significant managerial assistance with respect to any company described in paragraph (46)(C)(iii), or with respect to any other company that meets such criteria as the Commission may by rule, regulation, or order permit, as consistent with the public interest, the protection of investors, and the purposes of this title; and".

SEC. 505. ACQUISITION OF ASSETS BY BUSINESS DEVELOPMENT COMPANIES.

Section 55(a)(1)(A) of the Investment Company Act of 1940 (15 U.S.C. 80a–54(a)(1)(A)) is amended—

(1) by striking "or from any person" and inserting "from any person"; and

(2) by inserting before the semicolon ", or from any other person, subject to such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors".

SEC. 506. CAPITAL STRUCTURE AMENDMENTS.

Section 61(a) of the Investment Company Act of 1940 (15 U.S.C. 80a–60(a)) is amended—

(1) in paragraph (2), by striking "if such business development company" and all that follows through the end of the paragraph and inserting a period;

(2) in paragraph (3)(A)—

(A) by striking "senior securities representing indebtedness accompanied by";

(B) by inserting "accompanied by securities," after "of such company,"; and

(C) in clause (ii), by striking "senior"; and

(3) in paragraph (3)—

(A) in subparagraph (A), by striking "and" at the end;

(B) in subparagraph (B), by striking the period at the end of clause (iv) and inserting "; and"; and

(C) by inserting immediately after subparagraph (B) the following new subparagraph:

"(C) a business development company may issue warrants, options, or rights to subscribe to, convert to, or purchase voting securities not accompanied by securities, if—

"(i) such warrants, options, or rights satisfy the conditions in clauses (i) and (iii) of subparagraph (A); and

"(ii) the proposal to issue such warrants, options, or rights is authorized by the shareholders or partners of such business development company, and such issuance is approved by the required majority (as defined in section 57(o)) of the directors of or general partners in such company on the basis that such issuance is in the best interests of the company and its shareholders or partners.".

SEC. 507. FILING OF WRITTEN STATEMENTS.

Section 64(b)(1) of the Investment Company Act of 1940 (15 U.S.C. 80a–63(b)(1)) is amended by inserting "and capital structure" after "portfolio".

SEC. 508. CHURCH EMPLOYEE PENSION PLANS.

(a) AMENDMENT TO THE INVESTMENT COMPANY ACT OF 1940.—Section 3(c) of the Investment Company Act of 1940 (15 U.S.C. 80a–3(c)) is amended by adding at the end the following new paragraph:

"(14) Any church plan described in section 414(e) of the Internal Revenue Code of 1986, if, under any such plan, no part of the assets may be used for, or diverted to, purposes other than the exclusive benefit of plan participants or beneficiaries, or any company or account that is—

"(A) established by a person that is eligible to establish and maintain such a plan under section 414(e) of the Internal Revenue Code of 1986; and

"(B) substantially all of the activities of which consist of—

"(i) managing or holding assets contributed to such church plans or other assets which are permitted to be commingled with the assets of church plans under the Internal Revenue Code of 1986; or

"(ii) administering or providing benefits pursuant to church plans.".

(b) AMENDMENT TO THE SECURITIES ACT OF 1933.—Section 3(a) of the Securities Act of 1933 (15 U.S.C. 77c(a)) is amended by adding at the end the following new paragraph:

"(13) Any security issued by or any interest or participation in any church plan, company or account that is excluded from the definition of an investment company under section 3(c)(14) of the Investment Company Act of 1940.".

(c) AMENDMENTS TO THE SECURITIES EXCHANGE ACT OF 1934.—

(1) EXEMPTED SECURITIES.—Section 3(a)(12)(A) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(12)(A)) is amended—

(A) in clause (v), by striking "and" at the end;

(B) by redesignating clause (vi) as clause (vii); and

(C) by inserting after clause (v) the following new clause:

"(vi) solely for purposes of sections 12, 13, 14, and 16 of this title, any security issued by or any interest or participation in any church plan, company, or account that is excluded from the definition of an investment company under section 3(c)(14) of the Investment Company Act of 1940; and".

(2) EXEMPTION FROM BROKER-DEALER PROVISIONS.—Section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c) is amended by adding at the end the following new subsection:

"(g) CHURCH PLANS.—No church plan described in section 414(e) of the Internal Revenue Code of 1986, no person or entity eligible to establish and maintain such a plan under the Internal Revenue Code of 1986, no company or account that is excluded from the definition of an investment company under section 3(c)(14) of the Investment Company Act of 1940, and no trustee, director, officer or employee of or volunteer for such plan, company, account person, or entity, acting within the scope of that person's employment or activities with respect to such plan, shall be deemed to be a 'broker', 'dealer', 'municipal securities broker', 'municipal securities dealer', 'government securities broker', 'government securities

dealer', 'clearing agency', or 'transfer agent' for purposes of this title—

"(1) solely because such plan, company, person, or entity buys, holds, sells, trades in, or transfers securities or acts as an intermediary in making payments in connection with transactions in securities for its own account in its capacity as trustee or administrator of, or otherwise on behalf of, or for the account of, any church plan, company, or account that is excluded from the definition of an investment company under section 3(c)(14) of the Investment Company Act of 1940; and

"(2) if no such person or entity receives a commission or other transaction-related sales compensation in connection with any activities conducted in reliance on the exemption provided by this subsection.".

(d) AMENDMENT TO THE INVESTMENT ADVISERS ACT OF 1940.—Section 203(b) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–3(b)) is amended—

(1) in paragraph (3), by striking "or" at the end;

(2) in paragraph (4), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following new paragraph:

"(5) any plan described in section 414(e) of the Internal Revenue Code of 1986, any person or entity eligible to establish and maintain such a plan under the Internal Revenue Code of 1986, or any trustee, director, officer, or employee of or volunteer for any such plan or person, if such person or entity, acting in such capacity, provides investment advice exclusively to, or with respect to, any plan, person, or entity or any company, account, or fund that is excluded from the definition of an investment company under section 3(c)(14) of the Investment Company Act of 1940.".

(e) AMENDMENT TO THE TRUST INDENTURE ACT OF 1939.—Section 304(a)(4)(A) of the Trust Indenture Act of 1939 (15 U.S.C. 77ddd(4)(A)) is amended by striking "or (11)" and inserting "(11), or (14)".

15 USC 80a–3 note.

(f) PROTECTION OF CHURCH EMPLOYEE BENEFIT PLANS UNDER STATE LAW.—

(1) REGISTRATION REQUIREMENTS.—Any security issued by or any interest or participation in any church plan, company, or account that is excluded from the definition of an investment company under section 3(c)(14) of the Investment Company Act of 1940, as added by subsection (a) of this section, and any offer, sale, or purchase thereof, shall be exempt from any law of a State that requires registration or qualification of securities.

(2) TREATMENT OF CHURCH PLANS.—No church plan described in section 414(e) of the Internal Revenue Code of 1986, no person or entity eligible to establish and maintain such a plan under the Internal Revenue Code of 1986, no company or account that is excluded from the definition of an investment company under section 3(c)(14) of the Investment Company Act of 1940, as added by subsection (a) of this section, and no trustee, director, officer, or employee of or volunteer for any such plan, person, entity, company, or account shall be required to qualify, register, or be subject to regulation as an investment company or as a broker, dealer, investment adviser, or agent under the laws of any State solely because

such plan, person, entity, company, or account buys, holds, sells, or trades in securities for its own account or in its capacity as a trustee or administrator of or otherwise on behalf of, or for the account of, or provides investment advice to, for, or on behalf of, any such plan, person, or entity or any company or account that is excluded from the definition of an investment company under section 3(c)(14) of the Investment Company Act of 1940, as added by subsection (a) of this section.

(g) AMENDMENT TO THE INVESTMENT COMPANY ACT OF 1940.—Section 30 of the Investment Company Act of 1940 (15 U.S.C. 80a–29) is amended by adding at the end the following new subsections:

"(g) DISCLOSURE TO CHURCH PLAN PARTICIPANTS.—A person that maintains a church plan that is excluded from the definition of an investment company solely by reason of section 3(c)(14) shall provide disclosure to plan participants, in writing, and not less frequently than annually, and for new participants joining such a plan after May 31, 1996, as soon as is practicable after joining such plan, that—

"(1) the plan, or any company or account maintained to manage or hold plan assets and interests in such plan, company, or account, are not subject to registration, regulation, or reporting under this title, the Securities Act of 1933, the Securities Exchange Act of 1934, or State securities laws; and

"(2) plan participants and beneficiaries therefore will not be afforded the protections of those provisions.

"(h) NOTICE TO COMMISSION.—The Commission may issue rules and regulations to require any person that maintains a church plan that is excluded from the definition of an investment company solely by reason of section 3(c)(14) to file a notice with the Commission containing such information and in such form as the Commission may prescribe as necessary or appropriate in the public interest or consistent with the protection of investors.".

SEC. 509. PROMOTING GLOBAL PREEMINENCE OF AMERICAN SECURITIES MARKETS.

It is the sense of the Congress that—

(1) the United States and foreign securities markets are increasingly becoming international securities markets, as issuers and investors seek the benefits of new capital and secondary market opportunities without regard to national borders;

(2) as issuers seek to raise capital across national borders, they confront differing accounting requirements in the various regulatory jurisdictions;

(3) the establishment of a high-quality comprehensive set of generally accepted international accounting standards in cross-border securities offerings would greatly facilitate international financing activities and, most significantly, would enhance the ability of foreign corporations to access and list in United States markets;

(4) in addition to the efforts made before the date of enactment of this Act by the Commission to respond to the growing internationalization of securities markets, the Commission should enhance its vigorous support for the development of high-quality international accounting standards as soon as practicable; and

(5) the Commission, in view of its clear authority under law to facilitate the access of foreign corporations to list their securities in United States markets, should report to the Congress, not later than 1 year after the date of enactment of this Act, on progress in the development of international accounting standards and the outlook for successful completion of a set of international standards that would be acceptable to the Commission for offerings and listings by foreign corporations in United States markets.

SEC. 510. STUDIES AND REPORTS.

15 USC 78b note.

(a) IMPACT OF TECHNOLOGICAL ADVANCES.—

(1) STUDY.—

(A) IN GENERAL.—The Commission shall conduct a study of—

(i) the impact of technological advances and the use of on-line information systems on the securities markets, including steps that the Commission has taken to facilitate the electronic delivery of prospectuses to institutional and other investors;

(ii) how such technologies have changed the way in which the securities markets operate; and

(iii) any steps taken by the Commission to address such changes.

(B) CONSIDERATIONS.—In conducting the study under subparagraph (A), the Commission shall consider how the Commission has adapted its enforcement policies and practices in response to technological developments with regard to—

(i) disclosure, prospectus delivery, and other customer protection regulations;

(ii) intermediaries and exchanges in the domestic and international financial services industry;

(iii) reporting by issuers, including communications with holders of securities;

(iv) the relationship of the Commission with other national regulatory authorities and organizations to improve coordination and cooperation; and

(v) the relationship of the Commission with State regulatory authorities and organizations to improve coordination and cooperation.

(2) REPORT.—Not later than 1 year after the date of enactment of this Act, the Commission shall submit a report to the Congress on the results of the study conducted under paragraph (1).

15 USC 78n note.

(b) SHAREHOLDER PROPOSALS.—

(1) STUDY.—The Commission shall conduct a study of—

(A) whether shareholder access to proxy statements pursuant to section 14 of the Securities Exchange Act of 1934 has been impaired by recent statutory, judicial, or regulatory changes; and

(B) the ability of shareholders to have proposals relating to corporate practices and social issues included as part of proxy statements.

(2) REPORT.—Not later than 1 year after the date of enactment of this Act, the Commission shall submit a report to the Congress on the results of the study conducted under para-

graph (1), together with any recommendations for regulatory or legislative changes that it considers necessary to improve shareholder access to proxy statements.

(c) PREFERENCING.—

(1) STUDY.—The Commission shall conduct a study of the impact on investors and the national market system of the practice known as "preferencing" on one or more registered securities exchanges, including consideration of—

(A) how preferencing impacts—

(i) the execution prices received by retail securities customers whose orders are preferenced; and

(ii) the ability of retail securities customers in all markets to obtain executions of their limit orders in preferenced securities; and

(B) the costs of preferencing to such customers.

(2) REPORT.—Not later than 6 months after the date of enactment of this Act, the Commission shall submit a report to the Congress on the results of the study conducted under paragraph (1).

(3) DEFINITION.—For purposes of this subsection, the term "preferencing" refers to the practice of a broker acting as a dealer on a national securities exchange, directing the orders of customers to buy or sell securities to itself for execution under rules that permit the broker to take priority in execution over same-priced orders or quotations entered prior in time.

(d) BROKER-DEALER UNIFORMITY.— 15 USC 78o note.

(1) STUDY.—The Commission, after consultation with registered securities associations, national securities exchanges, and States, shall conduct a study of the impact of disparate State licensing requirements on associated persons of registered brokers or dealers and methods for States to attain uniform licensing requirements for such persons.

(2) REPORT.—Not later than 1 year after the date of enactment of this Act, the Commission shall submit to the Congress a report on the study conducted under paragraph (1). Such report shall include recommendations concerning appropriate methods described in paragraph (1)(B), including any necessary legislative changes to implement such recommendations.

Approved October 11, 1996.

LEGISLATIVE HISTORY—H.R. 3005 (S. 1815):

HOUSE REPORTS: Nos. 104–622 (Comm. on Commerce) and 104–864 (Comm. of Conference).

CONGRESSIONAL RECORD, Vol. 142 (1996):

June 18, 19, considered and passed House.

June 27, considered and passed Senate, amended, in lieu of S. 1815.

Sept. 28, House agreed to conference report.

Oct. 1, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 32 (1996):

Oct. 11, Presidential statement.

Public Law 104–291
104th Congress

An Act

Oct. 11, 1996
[H.R. 3159]

To amend title 49, United States Code, to authorize appropriations for fiscal years 1997, 1998, and 1999 for the National Transportation Safety Board, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

National Transportation Safety Board Amendments of 1996.
49 USC 1101 note.

TITLE I—NTSB AMENDMENTS

SEC. 101. SHORT TITLE.

This title may be cited as the "National Transportation Safety Board Amendments of 1996".

SEC. 102. FOREIGN INVESTIGATIONS.

Section 1114 of title 49, United States Code, is amended—

(1) by striking "(b) and (c)" in subsection (a) and inserting "(b), (c), and (e)"; and

(2) by adding at the end the following:

"(e) FOREIGN INVESTIGATIONS.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, neither the Board, nor any agency receiving information from the Board, shall disclose records or information relating to its participation in foreign aircraft accident investigations; except that—

"(A) the Board shall release records pertaining to such an investigation when the country conducting the investigation issues its final report or 2 years following the date of the accident, whichever occurs first; and

"(B) the Board may disclose records and information when authorized to do so by the country conducting the investigation.

"(2) SAFETY RECOMMENDATIONS.—Nothing in this subsection shall restrict the Board at any time from referring to foreign accident investigation information in making safety recommendations.".

SEC. 103. PROTECTION OF VOLUNTARY SUBMISSION OF INFORMATION.

Section 1114(b) of title 49, United States Code, is amended by adding at the end the following:

"(3) PROTECTION OF VOLUNTARY SUBMISSION OF INFORMATION.—Notwithstanding any other provision of law, neither the Board, nor any agency receiving information from the Board, shall disclose voluntarily provided safety-related information if that information is not related to the exercise of the Board's

accident or incident investigation authority under this chapter and if the Board finds that the disclosure of the information would inhibit the voluntary provision of that type of information.".

SEC. 104. TRAINING.

Section 1115 of title 49, United States Code, is amended by adding at the end the following:

"(d) TRAINING OF BOARD EMPLOYEES AND OTHERS.—The Board may conduct training of its employees in those subjects necessary for the proper performance of accident investigation. The Board may also authorize attendance at courses given under this subsection by other government personnel, personnel of foreign governments, and personnel from industry or otherwise who have a requirement for accident investigation training. The Board may require non-Board personnel to reimburse some or all of the training costs, and amounts so reimbursed shall be credited to the appropriation of the 'National Transportation Safety Board, Salaries and Expenses' as offsetting collections.".

SEC. 105. AUTHORIZATION OF APPROPRIATIONS.

Section 1118(a) of title 49, United States Code, is amended—

(1) by striking "and"; and

(2) by inserting before the period at the end of the first sentence the following: ", $42,400,00 for fiscal year 1997, $44,400,000 for fiscal year 1998, and $46,600,000 for fiscal year 1999.".

TITLE II—INTERMODAL TRANSPORTATION

Intermodal Safe Container Transportation Amendments Act of 1996. 49 USC 5101 note.

SEC. 201. SHORT TITLE.

This title may be cited as the "Intermodal Safe Container Transportation Amendments Act of 1996".

SEC. 202. AMENDMENT OF TITLE 49, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49 of the United States Code.

SEC. 203. DEFINITIONS.

Section 5901 (relating to definitions) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) except as otherwise provided in this chapter, the definitions in sections 10102 and 13102 of this title apply.";

(2) by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively; and

(3) by inserting after paragraph (5) the following:

"(6) 'gross cargo weight' means the weight of the cargo, packaging materials (including ice), pallets, and dunnage.".

SEC. 204. NOTIFICATION AND CERTIFICATION.

(a) PRIOR NOTIFICATION.—Subsection (a) of section 5902 (relating to prior notification) is amended—

(1) by striking "Before a person tenders to a first carrier for intermodal transportation a" and inserting "If the first carrier to which any";

(2) by striking "10,000 pounds (including packing material and pallets), the person shall give the carrier a written" and inserting "29,000 pounds is tendered for intermodal transportation is a motor carrier, the person tendering the container or trailer shall give the motor carrier a";

(3) by striking "trailer." and inserting "trailer before the tendering of the container or trailer.";

(4) by striking "electronically." and inserting "electronically or by telephone."; and

(5) by adding at the end thereof the following: "This subsection applies to any person within the United States who tenders a container or trailer subject to this chapter for intermodal transportation if the first carrier is a motor carrier.".

(b) CERTIFICATION.—Subsection (b) of section 5902 (relating to certification) is amended to read as follows:

"(b) CERTIFICATION.—

"(1) IN GENERAL.—A person who tenders a loaded container or trailer with an actual gross cargo weight of more than 29,000 pounds to a first carrier for intermodal transportation shall provide a certification of the contents of the container or trailer in writing, or electronically, before or when the container or trailer is so tendered.

"(2) CONTENTS OF CERTIFICATION.—The certification required by paragraph (1) shall include—

"(A) the actual gross cargo weight;

"(B) a reasonable description of the contents of the container or trailer;

"(C) the identity of the certifying party;

"(D) the container or trailer number; and

"(E) the date of certification or transfer of data to another document, as provided for in paragraph (3).

"(3) TRANSFER OF CERTIFICATION DATA.—A carrier who receives a certification may transfer the information contained in the certification to another document or to electronic format for forwarding to a subsequent carrier. The person transferring the information shall state on the forwarded document the date on which the data was transferred and the identity of the party who performed the transfer.

"(4) SHIPPING DOCUMENTS.—For purposes of this chapter, a shipping document, prepared by the person who tenders a container or trailer to a first carrier, that contains the information required by paragraph (2) meets the requirements of paragraph (1).

"(5) USE OF 'FREIGHT ALL KINDS' TERM.—The term 'Freight All Kinds' or 'FAK' may not be used for the purpose of certification under section 5902(b) after December 31, 2000, as a commodity description for a trailer or container if the weight of any commodity in the trailer or container equals or exceeds 20 percent of the total weight of the contents of the trailer or container. This subsection does not prohibit the use of the term after that date for rating purposes.

"(6) SEPARATE DOCUMENT MARKING.—If a separate document is used to meet the requirements of paragraph (1), it

shall be conspicuously marked 'INTERMODAL CERTIFICATION'.

"(7) APPLICABILITY.—This subsection applies to any person, domestic or foreign, who first tenders a container or trailer subject to this chapter for intermodal transportation within the United States.".

(c) FORWARDING CERTIFICATIONS.—Subsection (c) of section 5902 (relating to forwarding certifications to subsequent carriers) is amended—

(1) by striking "transportation." and inserting "transportation before or when the loaded intermodal container or trailer is tendered to the subsequent carrier. If no certification is received by the subsequent carrier before or when the container or trailer is tendered to it, the subsequent carrier may presume that no certification is required."; and

(2) by adding at the end thereof the following: "If a person inaccurately transfers the information on the certification, or fails to forward the certification to a subsequent carrier, then that person is liable to any person who incurs any bond, fine, penalty, cost (including storage), or interest for any such fine, penalty, cost (including storage), or interest incurred as a result of the inaccurate transfer of information or failure to forward the certification. A subsequent carrier who incurs a bond, fine, penalty, or cost (including storage), or interest as a result of the inaccurate transfer of the information, or the failure to forward the certification, shall have a lien against the contents of the container or trailer under section 5905 in the amount of the bond, fine, penalty, or cost (including storage), or interest and all court costs and legal fees incurred by the carrier as a result of such inaccurate transfer or failure.".

(d) LIABILITY.—Section 5902 is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following:

"(d) LIABILITY TO OWNER OR BENEFICIAL OWNER.—If—

"(1) a person inaccurately transfers information on a certification required by subsection (b)(1), or fails to forward a certification to the subsequent carrier;

"(2) as a result of the inaccurate transfer of such information or a failure to forward a certification, the subsequent carrier incurs a bond, fine, penalty, or cost (including storage), or interest; and

"(3) that subsequent carrier exercises its rights to a lien under section 5905,

then that person is liable to the owner or beneficial owner, or to any other person paying the amount of the lien to the subsequent carrier, for the amount of the lien and all costs related to the imposition of the lien, including court costs and legal fees incurred in connection with it.".

(e) NONAPPLICATION.—Subsection (e) of section 5902, as redesignated, is amended—

(1) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively, and by moving the text of paragraph (2), as so redesignated down 1 line and to the left, flush full measure and indenting such paragraph; and

(2) by inserting before paragraph (2), as redesignated, the following:

"(1) The notification and certification requirements of subsections (a) and (b) of this section do not apply to any intermodal container or trailer containing consolidated shipments loaded by a motor carrier if that motor carrier—

"(A) performs the highway portion of the intermodal movement; or

"(B) assumes the responsibility for any weight-related fine or penalty incurred by any other motor carrier that performs a part of the highway transportation.".

SEC. 205. PROHIBITIONS.

Section 5903 (relating to prohibitions) is amended—

(1) by inserting after "person" in subsection (a) a comma and the following: "To whom section 5902(b) applies,";

(2) by striking subsection (b) and inserting the following:

"(b) TRANSPORTING PRIOR TO RECEIVING CERTIFICATION.—

"(1) PRESUMPTION.—If no certification is received by a motor carrier before or when a loaded intermodal container or trailer is tendered to it, the motor carrier may presume that the gross cargo weight of the container or trailer is less than 29,001 pounds.

"(2) COPY OF CERTIFICATION NOT REQUIRED TO ACCOMPANY CONTAINER OR TRAILER.—Notwithstanding any other provision of this chapter to the contrary, a copy of the certification required by section 5902(b) is not required to accompany the intermodal container or trailer.";

(3) by striking "10,000 pounds (including packing materials and pallets)" in subsection (c)(1) and inserting "29,000 pounds"; and

(4) by adding at the end the following:

"(d) NOTICE TO LEASED OPERATORS.—

"(1) IN GENERAL.—If a motor carrier knows that the gross cargo weight of an intermodal container or trailer subject to the certification requirements of section 5902(b) would result in a violation of applicable State gross vehicle weight laws, then—

"(A) the motor carrier shall give notice to the operator of a vehicle which is leased by the vehicle operator to a motor carrier that transports an intermodal container or trailer of the gross cargo weight of the container or trailer as certified to the motor carrier under section 5902(b);

"(B) the notice shall be provided to the operator prior to the operator being tendered the container or trailer;

"(C) the notice required by this subsection shall be in writing, but may be transmitted electronically; and

"(D) the motor carrier shall bear the burden of proof to establish that it tendered the required notice to the operator.

"(2) REIMBURSEMENT.—If the operator of a leased vehicle transporting a container or trailer subject to this chapter is fined because of a violation of a State's gross vehicle weight laws or regulations and the lessee motor carrier cannot establish that it tendered to the operator the notice required by paragraph (1) of this subsection, then the operator shall be entitled to reimbursement from the motor carrier in the amount

of any fine and court costs resulting from the failure of the motor carrier to tender the notice to the operator.".

SEC. 206. LIENS.

Section 5905 (relating to liens) is amended—

(1) by striking subsection (a) and inserting the following:

"(a) GENERAL.—If a person involved in the intermodal transportation of a loaded container or trailer for which a certification is required by section 5902(b) of this title is required, because of a violation of a State's gross vehicle weight laws or regulations, to post a bond or pay a fine, penalty, cost (including storage), or interest resulting from—

"(1) erroneous information provided by the certifying party in the certification to the first carrier in violation of section 5903(a) of this title;

"(2) the failure of the party required to provide the certification to the first carrier to provide it;

"(3) the failure of a person required under section 5902(c) to forward the certification to forward it; or

"(4) an error occurring in the transfer of information on the certification to another document under section 5902(b)(3) or (c),

then the person posting the bond, or paying the fine, penalty, costs (including storage), or interest has a lien against the contents equal to the amount of the bond, fine, penalty, cost (including storage), or interest incurred, until the person receives a payment of that amount from the owner or beneficial owner of the contents, or from the person responsible for making or forwarding the certification, or transferring the information from the certification to another document.";

(2) by inserting a comma and "or the owner or beneficial owner of the contents," after "first carrier" in subsection (b)(1); and

(3) by striking "cost, or interest." in subsection (b)(1) and inserting "cost (including storage), or interest. The lien shall remain in effect until the lien holder has received payment for all costs and expenses described in subsection (a) of this section.".

SEC. 207. PERISHABLE AGRICULTURAL COMMODITIES.

Section 5906 (relating to perishable agricultural commodities) is amended by striking "Sections 5904(a)(2) and 5905 of this title do" and inserting "Section 5905 of this title does".

SEC. 208. EFFECTIVE DATE.

(a) IN GENERAL.—Section 5907 (relating to regulations and effective date) is amended to read as follows:

"§ 5907. Effective date

"This chapter shall take effect 180 days after the date of enactment of the Intermodal Safe Container Transportation Amendments Act of 1996.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 59 is amended by striking the item relating to section 5907 and inserting the following:

"5907. Effective date.".

SEC. 209. RELATIONSHIP TO OTHER LAWS.

(a) IN GENERAL.—Chapter 59 is amended by adding at the end thereof the following:

"§ 5908. Relationship to other laws

"Nothing in this chapter affects—

"(1) chapter 51 (relating to transportation of hazardous material) or the regulations promulgated under that chapter; or

"(2) any State highway weight or size law or regulation applicable to tractor-trailer combinations.".

(b) CLERICAL AMENDMENT.—The table of sections for such chapter is amended by adding at the end thereof the following:

"5908. Relationship to other laws.".

Approved October 11, 1996.

LEGISLATIVE HISTORY—H.R. 3159 (S. 1831):

HOUSE REPORTS: No. 104–682 (Comm. on Transportation and Infrastructure).
SENATE REPORTS: No. 104–324 accompanying S. 1831 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 142 (1996):
July 22, considered and passed House.
Sept. 18, considered and passed Senate, amended, in lieu of S. 1831.
Sept. 26, House concurred in Senate amendment.

Public Law 104–292
104th Congress

An Act

To amend title 18, United States Code, with respect to the crime of false statement in a Government matter.

Oct. 11, 1996
[H.R. 3166]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

False Statements Accountability Act of 1996.
18 USC 1001 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "False Statements Accountability Act of 1996".

SEC. 2. RESTORING FALSE STATEMENTS PROHIBITION.

Section 1001 of title 18, United States Code, is amended to read as follows:

"§ 1001. Statements or entries generally

"(a) Except as otherwise provided in this section, whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully—

"(1) falsifies, conceals, or covers up by any trick, scheme, or device a material fact;

"(2) makes any materially false, fictitious, or fraudulent statement or representation; or

"(3) makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry;

shall be fined under this title or imprisoned not more than 5 years, or both.

"(b) Subsection (a) does not apply to a party to a judicial proceeding, or that party's counsel, for statements, representations, writings or documents submitted by such party or counsel to a judge or magistrate in that proceeding.

"(c) With respect to any matter within the jurisdiction of the legislative branch, subsection (a) shall apply only to—

"(1) administrative matters, including a claim for payment, a matter related to the procurement of property or services, personnel or employment practices, or support services, or a document required by law, rule, or regulation to be submitted to the Congress or any office or officer within the legislative branch; or

"(2) any investigation or review, conducted pursuant to the authority of any committee, subcommittee, commission or office of the Congress, consistent with applicable rules of the House or Senate.".

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SEC. 3. CLARIFYING PROHIBITION ON OBSTRUCTING CONGRESS.

Section 1515 of title 18, United States Code, is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following new subsection:

"(b) As used in section 1505, the term 'corruptly' means acting with an improper purpose, personally or by influencing another, including making a false or misleading statement, or withholding, concealing, altering, or destroying a document or other information.".

SEC. 4. ENFORCING SENATE SUBPOENA.

Section 1365(a) of title 28, United States Code, is amended in the second sentence, by striking "Federal Government acting within his official capacity" and inserting "executive branch of the Federal Government acting within his or her official capacity, except that this section shall apply if the refusal to comply is based on the assertion of a personal privilege or objection and is not based on a governmental privilege or objection the assertion of which has been authorized by the executive branch of the Federal Government".

SEC. 5. COMPELLING TRUTHFUL TESTIMONY FROM IMMUNIZED WITNESS.

Section 6005 of title 18, United States Code, is amended—

(1) in subsection (a), by inserting "or ancillary to" after "any proceeding before"; and

(2) in subsection (b)—

(A) in paragraphs (1) and (2), by inserting "or ancillary to" after "a proceeding before" each place that term appears; and

(B) in paragraph (3), by adding a period at the end.

Approved October 11, 1996.

LEGISLATIVE HISTORY—H.R. 3166 (S. 1734):

HOUSE REPORTS: No. 104–680 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 142 (1996):
July 16, 17, considered and passed House.
July 25, considered and passed Senate, amended.
Sept. 26, House concurred in Senate amendments with an amendment.
Sept. 27, Senate concurred in House amendment.

Public Law 104–293
104th Congress

An Act

To authorize appropriations for fiscal year 1997 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

Oct. 11, 1996
[H.R. 3259]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Intelligence Authorization Act for Fiscal Year 1997.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Intelligence Authorization Act for Fiscal Year 1997".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—INTELLIGENCE ACTIVITIES

Sec. 101. Authorization of appropriations.
Sec. 102. Classified schedule of authorizations.
Sec. 103. Personnel ceiling adjustments.
Sec. 104. Community Management Account.

TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

Sec. 201. Authorization of appropriations.

TITLE III—GENERAL PROVISIONS

Sec. 301. Increase in employee compensation and benefits authorized by law.
Sec. 302. Restriction on conduct of intelligence activities.
Sec. 303. Limitation on availability of funds for automatic declassification of records over 25 years old.
Sec. 304. Application of sanctions laws to intelligence activities.
Sec. 305. Expedited naturalization.
Sec. 306. Sense of Congress on enforcement of requirement to protect the identities of undercover intelligence officers, agents, informants, and sources.
Sec. 307. Sense of Congress on intelligence community contracting.
Sec. 308. Restrictions on intelligence sharing with the United Nations.
Sec. 309. Prohibition on using journalists as agents or assets.
Sec. 310. Report on policy of intelligence community regarding the protection of the national information infrastructure against attack.

TITLE IV—CENTRAL INTELLIGENCE AGENCY

Sec. 401. Elimination of double surcharge on Central Intelligence Agency relating to employees who retire or resign in fiscal years 1998 or 1999 and who receive voluntary separation incentive payments.
Sec. 402. Post-employment restrictions.

TITLE V—DEPARTMENT OF DEFENSE INTELLIGENCE ACTIVITIES

Sec. 501. Executive branch oversight of budgets of elements of the intelligence community.

TITLE VI—FEDERAL BUREAU OF INVESTIGATION

Sec. 601. Access to telephone records.

TITLE VII—COMBATTING PROLIFERATION

Sec. 701. Short title.

Subtitle A—Assessment of Organization and Structure of Government for Combatting Proliferation

Sec. 711. Establishment of commission.
Sec. 712. Duties of commission.
Sec. 713. Powers of commission.
Sec. 714. Commission personnel matters.
Sec. 715. Termination of commission.
Sec. 716. Definition.
Sec. 717. Payment of commission expenses.

Subtitle B—Other Matters

Sec. 721. Reports on acquisition of technology relating to weapons of mass destruction and advanced conventional munitions.

TITLE VIII—RENEWAL AND REFORM OF INTELLIGENCE ACTIVITIES

Sec. 801. Short title.
Sec. 802. Committee on Foreign Intelligence.
Sec. 803. Annual reports on intelligence.
Sec. 804. Transnational threats.
Sec. 805. Overall management of central intelligence.
Sec. 806. National Intelligence Council.
Sec. 807. Enhancement of authority of Director of Central Intelligence to manage budget, personnel, and activities of intelligence community.
Sec. 808. Responsibilities of Secretary of Defense pertaining to the National Foreign Intelligence Program.
Sec. 809. Improvement of intelligence collection.
Sec. 810. Improvement of analysis and production of intelligence.
Sec. 811. Improvement of administration of intelligence activities.
Sec. 812. Pay level of Deputy Director of Central Intelligence for Community Management and Assistant Directors of Central Intelligence.
Sec. 813. General Counsel of the Central Intelligence Agency.
Sec. 814. Assistance for law enforcement agencies by intelligence community.
Sec. 815. Appointment of officials responsible for intelligence-related activities.
Sec. 816. Study on the future of intelligence collection.
Sec. 817. Intelligence Reserve Corps.

TITLE IX—FINANCIAL MATTERS

Sec. 901. Authorization of funding provided by 1996 supplemental appropriations Act.

TITLE I—INTELLIGENCE ACTIVITIES

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

Funds are hereby authorized to be appropriated for fiscal year 1997 for the conduct of the intelligence and intelligence-related activities of the following elements of the United States Government:

(1) The Central Intelligence Agency.
(2) The Department of Defense.
(3) The Defense Intelligence Agency.
(4) The National Security Agency.
(5) The Department of the Army, the Department of the Navy, and the Department of the Air Force.
(6) The Department of State.
(7) The Department of Treasury.
(8) The Department of Energy.
(9) The Federal Bureau of Investigation.
(10) The Drug Enforcement Administration.
(11) The National Reconnaissance Office.
(12) The National Imagery and Mapping Agency.

SEC. 102. CLASSIFIED SCHEDULE OF AUTHORIZATIONS.

(a) SPECIFICATIONS OF AMOUNTS AND PERSONNEL CEILINGS.—The amounts authorized to be appropriated under section 101, and the authorized personnel ceilings as of September 30, 1997, for the conduct of the intelligence and intelligence-related activities of the elements listed in such section, are those specified in the classified Schedule of Authorizations prepared to accompany the conference report on the bill H.R. 3259 of the One Hundred Fourth Congress.

(b) AVAILABILITY OF CLASSIFIED SCHEDULE OF AUTHORIZATIONS.—The Schedule of Authorizations shall be made available to the Committees on Appropriations of the Senate and House of Representatives and to the President. The President shall provide for suitable distribution of the Schedule, or of appropriate portions of the Schedule, within the executive branch.

SEC. 103. PERSONNEL CEILING ADJUSTMENTS.

(a) AUTHORITY FOR ADJUSTMENTS.—With the approval of the Director of the Office of Management and Budget, the Director of Central Intelligence may authorize employment of civilian personnel in excess of the number authorized for fiscal year 1997 under section 102 when the Director of Central Intelligence determines that such action is necessary to the performance of important intelligence functions, except that the number of personnel employed in excess of the number authorized under such section may not, for any element of the intelligence community, exceed two percent of the number of civilian personnel authorized under such section for such element.

(b) NOTICE TO INTELLIGENCE COMMITTEES.—The Director of Central Intelligence shall promptly notify the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate whenever he exercises the authority granted by this section.

SEC. 104. COMMUNITY MANAGEMENT ACCOUNT.

(a) AUTHORIZATIONS OF APPROPRIATIONS.—There is authorized to be appropriated for the Community Management Account of the Director of Central Intelligence for fiscal year 1997 the sum of $131,116,000. Within such amount, funds identified in the classified Schedule of Authorizations referred to in section 102(a) for the Advanced Research and Development Committee shall remain available until September 30, 1998.

(b) AUTHORIZED PERSONNEL LEVELS.—The staff of the Community Management Account of the Director of Central Intelligence is authorized 303 full-time personnel as of September 30, 1997. Such personnel of the Community Management Staff may be permanent employees of the Community Management Staff or personnel detailed from other elements of the United States Government.

(c) REIMBURSEMENT.—During fiscal year 1997, any officer or employee of the United States or member of the Armed Forces who is detailed to the staff of the Community Management Account from another element of the United States Government shall be detailed on a reimbursable basis, except that any such officer, employee, or member may be detailed on a non-reimbursable basis for a period of less than one year for the performance of temporary functions as required by the Director of Central Intelligence.

21 USC 873 note.

(d) NATIONAL DRUG INTELLIGENCE CENTER.—(1) Of the amount authorized to be appropriated in subsection (a), $27,000,000 shall be available for the National Drug Intelligence Center located in Johnstown, Pennsylvania.

(2) The Director of Central Intelligence shall transfer to the Attorney General funds available for the National Drug Intelligence Center under paragraph (1). The Attorney General shall utilize funds so transferred for the activities of the Center.

(3) Amounts available for the Center may not be used in contravention of the provisions of section 103(d)(1) of the National Security Act of 1947 (50 U.S.C. 403–3(d)(1)).

(4) Notwithstanding any other provision of law, the Attorney General shall retain full authority over the operations of the Center.

(e) ENVIRONMENTAL PROGRAMS.—Of the amount authorized to be appropriated in subsection (a), $18,000,000 shall be available for the Environmental Intelligence and Applications Program, formerly known as the Environmental Task Force, and remain available until September 30, 1998.

TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund for fiscal year 1997 the sum of $184,200,000.

TITLE III—GENERAL PROVISIONS

SEC. 301. INCREASE IN EMPLOYEE COMPENSATION AND BENEFITS AUTHORIZED BY LAW.

Appropriations authorized by this Act for salary, pay, retirement, and other benefits for Federal employees may be increased by such additional or supplemental amounts as may be necessary for increases in such compensation or benefits authorized by law.

SEC. 302. RESTRICTION ON CONDUCT OF INTELLIGENCE ACTIVITIES.

The authorization of appropriations by this Act shall not be deemed to constitute authority for the conduct of any intelligence activity which is not otherwise authorized by the Constitution or the laws of the United States.

SEC. 303. LIMITATION ON AVAILABILITY OF FUNDS FOR AUTOMATIC DECLASSIFICATION OF RECORDS OVER 25 YEARS OLD.

Of the amounts authorized to be appropriated for fiscal year 1997 by this Act for the National Foreign Intelligence Program, not more than $27,200,000 shall be available to carry out the provisions of section 3.4 of Executive Order 12958.

SEC. 304. APPLICATION OF SANCTIONS LAWS TO INTELLIGENCE ACTIVITIES.

Section 905 of the National Security Act of 1947 (50 U.S.C. 441d) is amended by striking out "on the date which is one year

after the date of the enactment of this title" and inserting in lieu thereof "on January 6, 1998".

SEC. 305. EXPEDITED NATURALIZATION. 8 USC 1427 note.

(a) IN GENERAL.—With the approval of the Director of Central Intelligence, the Attorney General, and the Commissioner of Immigration and Naturalization, an applicant described in subsection (b) and otherwise eligible for naturalization may be naturalized without regard to the residence and physical presence requirements of section 316(a) of the Immigration and Nationality Act, or to the prohibitions of section 313 of such Act, and no residence within a particular State or district of the Immigration and Naturalization Service in the United States shall be required.

(b) ELIGIBLE APPLICANT.—An applicant eligible for naturalization under this section is the spouse or child of a deceased alien whose death resulted from the intentional and unauthorized disclosure of classified information regarding the alien's participation in the conduct of United States intelligence activities and who—

(1) has resided continuously, after being lawfully admitted for permanent residence, within the United States for at least one year prior to naturalization; and

(2) is not described in subparagraph (A), (B), (C), or (D) of section 243(h)(2) of such Act.

(c) ADMINISTRATION OF OATH.—An applicant for naturalization under this section may be administered the oath of allegiance under section 337(a) of the Immigration and Nationality Act by the Attorney General or any district court of the United States, without regard to the residence of the applicant. Proceedings under this subsection shall be conducted in a manner consistent with the protection of intelligence sources, methods, and activities.

(d) DEFINITIONS.—For purposes of this section—

(1) the term "child" means a child as defined in subparagraphs (A) through (E) of section 101(b)(1) of the Immigration and Nationality Act, without regard to age or marital status; and

(2) the term "spouse" means the wife or husband of a deceased alien referred to in subsection (b) who was married to such alien during the time the alien participated in the conduct of United States intelligence activities.

SEC. 306. SENSE OF CONGRESS ON ENFORCEMENT OF REQUIREMENT TO PROTECT THE IDENTITIES OF UNDERCOVER INTELLIGENCE OFFICERS, AGENTS, INFORMANTS, AND SOURCES.

It is the sense of Congress that title VI of the National Security Act of 1947 (50 U.S.C. 421 et seq.) (relating to protection of the identities of undercover intelligence officers, agents, informants, and sources) should be enforced by the appropriate law enforcement agencies.

SEC. 307. SENSE OF CONGRESS ON INTELLIGENCE COMMUNITY CONTRACTING.

It is the sense of Congress that the Director of Central Intelligence should continue to direct that elements of the intelligence community, whenever compatible with the national security interests of the United States and consistent with the operational and security concerns related to the conduct of intelligence activities, and where fiscally sound, should award contracts in a manner

that would maximize the procurement of products properly designated as having been made in the United States.

SEC. 308. RESTRICTIONS ON INTELLIGENCE SHARING WITH THE UNITED NATIONS.

(a) IN GENERAL.—The National Security Act of 1947 (50 U.S.C. 401 et seq.) is amended by adding at the end of title I the following new section:

"RESTRICTIONS ON INTELLIGENCE SHARING WITH THE UNITED NATIONS

President.
50 USC 404d–1.

"SEC. 110. (a) PROVISION OF INTELLIGENCE INFORMATION TO THE UNITED NATIONS.—(1) No United States intelligence information may be provided to the United Nations or any organization affiliated with the United Nations, or to any officials or employees thereof, unless the President certifies to the appropriate committees of Congress that the Director of Central Intelligence, in consultation with the Secretary of State and the Secretary of Defense, has established and implemented procedures, and has worked with the United Nations to ensure implementation of procedures, for protecting from unauthorized disclosure United States intelligence sources and methods connected to such information.

"(2) Paragraph (1) may be waived upon written certification by the President to the appropriate committees of Congress that providing such information to the United Nations or an organization affiliated with the United Nations, or to any officials or employees thereof, is in the national security interests of the United States.

"(b) PERIODIC AND SPECIAL REPORTS.—(1) The President shall report semiannually to the appropriate committees of Congress on the types and volume of intelligence provided to the United Nations and the purposes for which it was provided during the period covered by the report. The President shall also report to the appropriate committees of Congress within 15 days after it has become known to the United States Government that there has been an unauthorized disclosure of intelligence provided by the United States to the United Nations.

"(2) The requirement for periodic reports under the first sentence of paragraph (1) shall not apply to the provision of intelligence that is provided only to, and for the use of, appropriately cleared United States Government personnel serving with the United Nations.

"(c) DELEGATION OF DUTIES.—The President may not delegate or assign the duties of the President under this section.

"(d) RELATIONSHIP TO EXISTING LAW.—Nothing in this section shall be construed to—

"(1) impair or otherwise affect the authority of the Director of Central Intelligence to protect intelligence sources and methods from unauthorized disclosure pursuant to section 103(c)(6) of this Act; or

"(2) supersede or otherwise affect the provisions of title V of this Act.

"(e) DEFINITION.—As used in this section, the term 'appropriate committees of Congress' means the Committee on Foreign Relations and the Select Committee on Intelligence of the Senate and the Committee on Foreign Relations and the Permanent Select Committee on Intelligence of the House of Representatives.".

(b) CLERICAL AMENDMENT.—The table of contents for the National Security Act of 1947 is amended by inserting after the item relating to section 109 the following:

"Sec. 110. Restrictions on intelligence sharing with the United Nations.".

SEC. 309. PROHIBITION ON USING JOURNALISTS AS AGENTS OR ASSETS. 50 USC 403–7.

(a) POLICY.—It is the policy of the United States that an element of the Intelligence Community may not use as an agent or asset for the purposes of collecting intelligence any individual who—

(1) is authorized by contract or by the issuance of press credentials to represent himself or herself, either in the United States or abroad, as a correspondent of a United States news media organization; or

(2) is officially recognized by a foreign government as a representative of a United States media organization.

(b) WAIVER.—Pursuant to such procedures as the President may prescribe, the President or the Director of Central Intelligence may waive subsection (a) in the case of an individual if the President or the Director, as the case may be, makes a written determination that the waiver is necessary to address the overriding national security interest of the United States. The Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate shall be notified of any waiver under this subsection. President.

(c) VOLUNTARY COOPERATION.—Subsection (a) shall not be construed to prohibit the voluntary cooperation of any person who is aware that the cooperation is being provided to an element of the United States Intelligence Community.

SEC. 310. REPORT ON POLICY OF INTELLIGENCE COMMUNITY REGARDING THE PROTECTION OF THE NATIONAL INFORMATION INFRASTRUCTURE AGAINST ATTACK.

(a) REPORT.—(1) Not later than 120 days after the date of the enactment of this Act, the Director of Central Intelligence shall submit to Congress a report on the potential responses of the intelligence community to threats to and attacks upon the information infrastructure of the United States by foreign countries, groups, or individuals, or by other entities, groups, or individuals.

(2) The report shall include the following:

(A) An analysis of the threats posed to the information infrastructure of the United States by information warfare and other forms of non-traditional attacks on the infrastructure by foreign countries, groups, or individuals, or by other entities, groups, or individuals.

(B) A description and assessment of the counterintelligence activities required to respond to such threats, including the plans of the intelligence community to support such activities.

(b) DEFINITIONS.—For purposes of this section:

(1) The term "intelligence community" has the meaning given such term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

(2) The term "information infrastructure of the United States" includes the information infrastructure of the public sector and of the private sector.

TITLE IV—CENTRAL INTELLIGENCE AGENCY

SEC. 401. ELIMINATION OF DOUBLE SURCHARGE ON CENTRAL INTELLIGENCE AGENCY RELATING TO EMPLOYEES WHO RETIRE OR RESIGN IN FISCAL YEARS 1998 OR 1999 AND WHO RECEIVE VOLUNTARY SEPARATION INCENTIVE PAYMENTS.

Section 2(i) of the Central Intelligence Agency Voluntary Separation Pay Act (50 U.S.C. 403–4 note) is amended by adding at the end the following: "The remittance required by this subsection shall be in lieu of any remittance required by section 4(a) of the Federal Workforce Restructuring Act of 1994 (5 U.S.C. 8331 note).".

50 USC 403–4 note. Regulations.

SEC. 402. POST-EMPLOYMENT RESTRICTIONS.

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Director of Central Intelligence shall prescribe regulations requiring each employee of the Central Intelligence Agency designated by the Director for such purpose to sign a written agreement restricting the activities of the employee upon ceasing employment with the Central Intelligence Agency. The Director may designate a group or class of employees for such purpose.

(b) AGREEMENT ELEMENTS.—The regulations shall provide that an agreement contain provisions specifying that the employee concerned not represent or advise the government, or any political party, of any foreign country during the three-year period beginning on the cessation of the employee's employment with the Central Intelligence Agency unless the Director determines that such representation or advice would be in the best interests of the United States.

(c) DISCIPLINARY ACTIONS.—The regulations shall specify appropriate disciplinary actions (including loss of retirement benefits) to be taken against any employee determined by the Director of Central Intelligence to have violated the agreement of the employee under this section.

TITLE V—DEPARTMENT OF DEFENSE INTELLIGENCE ACTIVITIES

SEC. 501. EXECUTIVE BRANCH OVERSIGHT OF BUDGETS OF ELEMENTS OF THE INTELLIGENCE COMMUNITY.

(a) REPORT.—Not later than 90 days after the date of the enactment of this Act, the President shall submit to the appropriate congressional committees a report setting forth the actions that have been taken to ensure adequate oversight by the executive branch of the budget of the National Reconnaissance Office and the budgets of other elements of the intelligence community within the Department of Defense.

(b) REPORT ELEMENTS.—The report required by subsection (a) shall—

(1) describe the extent to which the elements of the intelligence community carrying out programs and activities in the National Foreign Intelligence Program are subject to

requirements imposed on other elements and components of the Department of Defense under the Chief Financial Officers Act of 1990 (Public Law 101–576), and the amendments made by that Act, and the Federal Financial Management Act of 1994 (title IV of Public Law 103–356), and the amendments made by that Act;

(2) describe the extent to which such elements submit to the Office of Management and Budget budget justification materials and execution reports similar to the budget justification materials and execution reports submitted to the Office of Management and Budget by the non-intelligence components of the Department of Defense;

(3) describe the extent to which the National Reconnaissance Office submits to the Office of Management and Budget, the Community Management Staff, and the Office of the Secretary of Defense—

(A) complete information on the cost, schedule, performance, and requirements for any new major acquisition before initiating the acquisition;

(B) yearly reports (including baseline cost and schedule information) on major acquisitions;

(C) planned and actual expenditures in connection with major acquisitions; and

(D) variances from any cost baselines for major acquisitions (including explanations of such variances); and

(4) assess the extent to which the National Reconnaissance Office has submitted to Office of Management and Budget, the Community Management Staff, and the Office of the Secretary of Defense on a monthly basis a detailed budget execution report similar to the budget execution report prepared for Department of Defense programs.

(c) DEFINITIONS.—For purposes of this section:

(1) The term "appropriate congressional committees" means the following:

(A) The Select Committee on Intelligence and the Committee on Armed Services of the Senate.

(B) The Permanent Select Committee on Intelligence and the Committee on National Security of the House of Representatives.

(2) The term "National Foreign Intelligence Program" has the meaning given such term in section 3(6) of the National Security Act of 1947 (50 U.S.C. 401a(6)).

TITLE VI—FEDERAL BUREAU OF INVESTIGATION

SEC. 601. ACCESS TO TELEPHONE RECORDS.

(a) ACCESS FOR COUNTERINTELLIGENCE PURPOSES.—Section 2709(b)(1) of title 18, United States Code, is amended by inserting "local and long distance" before "toll billing records".

(b) CONFORMING AMENDMENT.—Section 2703(c)(1)(C) of such title is amended by inserting "local and long distance" after "address,".

(c) CIVIL REMEDY.—Section 2707 of such title is amended—

(1) in subsection (a), by striking out "customer" and inserting in lieu thereof "other person";

(2) in subsection (c), by adding at the end the following: "If the violation is willful or intentional, the court may assess punitive damages. In the case of a successful action to enforce liability under this section, the court may assess the costs of the action, together with reasonable attorney fees determined by the court.";

(3) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively; and

(4) by inserting after subsection (c) the following new subsection (d):

"(d) DISCIPLINARY ACTIONS FOR VIOLATIONS.—If a court determines that any agency or department of the United States has violated this chapter and the court finds that the circumstances surrounding the violation raise the question whether or not an officer or employee of the agency or department acted willfully or intentionally with respect to the violation, the agency or department concerned shall promptly initiate a proceeding to determine whether or not disciplinary action is warranted against the officer or employee.".

Combatting Proliferation of Weapons of Mass Destruction Act of 1996.

TITLE VII—COMBATTING PROLIFERATION

50 USC 2301 note.

SEC. 701. SHORT TITLE.

This title may be cited as the "Combatting Proliferation of Weapons of Mass Destruction Act of 1996".

50 USC 2351 note.

Subtitle A—Assessment of Organization and Structure of Government for Combatting Proliferation

SEC. 711. ESTABLISHMENT OF COMMISSION.

(a) ESTABLISHMENT.—There is established a commission to be known as the Commission to Assess the Organization of the Federal Government to Combat the Proliferation of Weapons of Mass Destruction (in this subtitle referred to as the "Commission").

(b) MEMBERSHIP.—The Commission shall be composed of eight members of whom—

(1) four shall be appointed by the President;

(2) one shall be appointed by the Majority Leader of the Senate;

(3) one shall be appointed by the Minority Leader of the Senate;

(4) one shall be appointed by the Speaker of the House of Representatives; and

(5) one shall be appointed by the Minority Leader of the House of Representatives.

(c) QUALIFICATIONS OF MEMBERS.—(1) To the maximum extent practicable, the individuals appointed as members of the Commission shall be individuals who are nationally recognized for expertise regarding—

(A) the nonproliferation of weapons of mass destruction;

(B) the efficient and effective implementation of United States nonproliferation policy; or

(C) the implementation, funding, or oversight of the national security policies of the United States.

(2) An official who appoints members of the Commission may not appoint an individual as a member if, in the judgment of the official, the individual possesses any personal or financial interest in the discharge of any of the duties of the Commission.

(d) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(e) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(f) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(g) CHAIRMAN AND VICE CHAIRMAN.—The Commission shall select a Chairman and Vice Chairman from among its members.

(h) MEETINGS.—The Commission shall meet at the call of the Chairman.

SEC. 712. DUTIES OF COMMISSION.

(a) STUDY.—

(1) IN GENERAL.—The Commission shall carry out a thorough study of the organization of the Federal Government, including the elements of the intelligence community, with respect to combatting the proliferation of weapons of mass destruction.

(2) SPECIFIC REQUIREMENTS.—In carrying out the study, the Commission shall—

(A) assess the current structure and organization of the departments and agencies of the Federal Government having responsibilities for combatting the proliferation of weapons of mass destruction; and

(B) assess the effectiveness of United States cooperation with foreign governments with respect to nonproliferation activities, including cooperation—

(i) between elements of the intelligence community and elements of the intelligence-gathering services of foreign governments;

(ii) between other departments and agencies of the Federal Government and the counterparts to such departments and agencies in foreign governments; and

(iii) between the Federal Government and international organizations.

(3) ASSESSMENTS.—In making the assessments under paragraph (2), the Commission should address—

(A) the organization of the export control activities (including licensing and enforcement activities) of the Federal Government relating to the proliferation of weapons of mass destruction;

(B) arrangements for coordinating the funding of United States nonproliferation activities;

(C) existing arrangements governing the flow of information among departments and agencies of the

Federal Government responsible for nonproliferation activities;

(D) the effectiveness of the organization and function of interagency groups in ensuring implementation of United States treaty obligations, laws, and policies with respect to nonproliferation;

(E) the administration of sanctions for purposes of nonproliferation, including the measures taken by departments and agencies of the Federal Government to implement, assess, and enhance the effectiveness of such sanctions;

(F) the organization, management, and oversight of United States counterproliferation activities;

(G) the recruitment, training, morale, expertise, retention, and advancement of Federal Government personnel responsible for the nonproliferation functions of the Federal Government, including any problems in such activities;

(H) the role in United States nonproliferation activities of the National Security Council, the Office of Management and Budget, the Office of Science and Technology Policy, and other offices in the Executive Office of the President having responsibilities for such activities;

(I) the organization of the activities of the Federal Government to verify government-to-government assurances and commitments with respect to nonproliferation, including assurances regarding the future use of commodities exported from the United States; and

(J) the costs and benefits to the United States of increased centralization and of decreased centralization in the administration of the nonproliferation activities of the Federal Government.

(b) RECOMMENDATIONS.—In conducting the study, the Commission shall develop recommendations on means of improving the effectiveness of the organization of the departments and agencies of the Federal Government in meeting the national security interests of the United States with respect to the proliferation of weapons of mass destruction. Such recommendations shall include specific recommendations to eliminate duplications of effort, and other inefficiencies, in and among such departments and agencies.

(c) REPORT.—(1) Not later than 18 months after the date of the enactment of this Act, the Commission shall submit to Congress a report containing a detailed statement of the findings and conclusions of the Commission, together with its recommendations for such legislation and administrative actions as it considers appropriate.

(2) The report shall be submitted in unclassified form, but may include a classified annex.

SEC. 713. POWERS OF COMMISSION.

(a) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out the purposes of this subtitle.

(b) INFORMATION FROM FEDERAL AGENCIES.—

(1) IN GENERAL.—The Commission may secure directly from any Federal department or agency such information as the

Commission considers necessary to carry out the provisions of this subtitle. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(2) CLASSIFIED INFORMATION.—A department or agency may furnish the Commission classified information under this subsection. The Commission shall take appropriate actions to safeguard classified information furnished to the Commission under this paragraph.

(c) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(d) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

SEC. 714. COMMISSION PERSONNEL MATTERS.

(a) COMPENSATION OF MEMBERS.—Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(b) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) STAFF.—

(1) IN GENERAL.—The Chairman of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

(2) COMPENSATION.—The Chairman of the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(d) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairman of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed

for level V of the Executive Schedule under section 5316 of such title.

SEC. 715. TERMINATION OF COMMISSION.

The Commission shall terminate 60 days after the date on which the Commission submits its report under section 712(c).

SEC. 716. DEFINITION.

For purposes of this subtitle, the term "intelligence community" shall have the meaning given such term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

SEC. 717. PAYMENT OF COMMISSION EXPENSES.

The compensation, travel expenses, per diem allowances of members and employees of the Commission, and other expenses of the Commission shall be paid out of funds available to the Director of Central Intelligence for the payment of compensation, travel allowances, and per diem allowances, respectively, of employees of the Central Intelligence Agency.

Subtitle B—Other Matters

50 USC 2366.

SEC. 721. REPORTS ON ACQUISITION OF TECHNOLOGY RELATING TO WEAPONS OF MASS DESTRUCTION AND ADVANCED CONVENTIONAL MUNITIONS.

(a) REPORTS.—Not later than 6 months after the date of the enactment of this Act, and every 6 months thereafter, the Director of Central Intelligence shall submit to Congress a report on—

(1) the acquisition by foreign countries during the preceding 6 months of dual-use and other technology useful for the development or production of weapons of mass destruction (including nuclear weapons, chemical weapons, and biological weapons) and advanced conventional munitions; and

(2) trends in the acquisition of such technology by such countries.

(b) FORM OF REPORTS.—The reports submitted under subsection (a) shall be submitted in unclassified form, but may include a classified annex.

Intelligence Renewal and Reform Act of 1996.

TITLE VIII—RENEWAL AND REFORM OF INTELLIGENCE ACTIVITIES

50 USC 401 note.

SEC. 801. SHORT TITLE.

This title may be cited as the "Intelligence Renewal and Reform Act of 1996".

SEC. 802. COMMITTEE ON FOREIGN INTELLIGENCE.

Section 101 of the National Security Act of 1947 (50 U.S.C. 402) is amended—

(1) by redesignating subsection (h) as subsection (j); and

(2) by inserting after subsection (g) the following new subsection (h):

Establishment.

"(h)(1) There is established within the National Security Council a committee to be known as the Committee on Foreign Intelligence (in this subsection referred to as the 'Committee').

"(2) The Committee shall be composed of the following:

"(A) The Director of Central Intelligence.

"(B) The Secretary of State.

"(C) The Secretary of Defense.

"(D) The Assistant to the President for National Security Affairs, who shall serve as the chairperson of the Committee.

"(E) Such other members as the President may designate.

"(3) The function of the Committee shall be to assist the Council in its activities by—

"(A) identifying the intelligence required to address the national security interests of the United States as specified by the President;

"(B) establishing priorities (including funding priorities) among the programs, projects, and activities that address such interests and requirements; and

"(C) establishing policies relating to the conduct of intelligence activities of the United States, including appropriate roles and missions for the elements of the intelligence community and appropriate targets of intelligence collection activities.

"(4) In carrying out its function, the Committee shall—

"(A) conduct an annual review of the national security interests of the United States;

"(B) identify on an annual basis, and at such other times as the Council may require, the intelligence required to meet such interests and establish an order of priority for the collection and analysis of such intelligence; and

"(C) conduct an annual review of the elements of the intelligence community in order to determine the success of such elements in collecting, analyzing, and disseminating the intelligence identified under subparagraph (B).

"(5) The Committee shall submit each year to the Council and to the Director of Central Intelligence a comprehensive report on its activities during the preceding year, including its activities under paragraphs (3) and (4).".

SEC. 803. ANNUAL REPORTS ON INTELLIGENCE.

(a) IN GENERAL.—Section 109 of the National Security Act of 1947 (50 U.S.C. 404d) is amended by striking out subsections (a) and (b) and inserting in lieu thereof the following new subsections:

"SEC. 109. (a) IN GENERAL.—(1) Not later than January 31 each year, the President shall submit to the appropriate congressional committees a report on the requirements of the United States for intelligence and the activities of the intelligence community. President.

"(2) The purpose of the report is to facilitate an assessment of the activities of the intelligence community during the preceding fiscal year and to assist in the development of a mission and a budget for the intelligence community for the fiscal year beginning in the year in which the report is submitted.

"(3) The report shall be submitted in unclassified form, but may include a classified annex.

"(b) MATTERS COVERED.—(1) Each report under subsection (a) shall—

"(A) specify the intelligence required to meet the national security interests of the United States, and set forth an order of priority for the collection and analysis of intelligence required to meet such interests, for the fiscal year beginning in the year in which the report is submitted; and

"(B) evaluate the performance of the intelligence community in collecting and analyzing intelligence required to meet such interests during the fiscal year ending in the year preceding the year in which the report is submitted, including a description of the significant successes and significant failures of the intelligence community in such collection and analysis during that fiscal year.

"(2) The report shall specify matters under paragraph (1)(A) in sufficient detail to assist Congress in making decisions with respect to the allocation of resources for the matters specified.

"(c) DEFINITION.—In this section, the term 'appropriate congressional committees' means the following:

"(1) The Select Committee on Intelligence, the Committee on Appropriations, and the Committee on Armed Services of the Senate.

"(2) The Permanent Select Committee on Intelligence, the Committee on Appropriations, and the Committee on National Security of the House of Representatives.".

(b) CONFORMING AMENDMENTS.—(1) The section heading of such section is amended to read as follows:

"ANNUAL REPORT ON INTELLIGENCE".

(2) The table of contents for the Act is amended by striking out the item relating to section 109 and inserting in lieu thereof the following new item:

"Sec. 109. Annual report on intelligence.".

SEC. 804. TRANSNATIONAL THREATS.

Section 101 of the National Security Act of 1947 (50 U.S.C. 402) is amended by inserting after subsection (h), as amended by section 802 of this Act, the following new subsection:

"(i)(1) There is established within the National Security Council a committee to be known as the Committee on Transnational Threats (in this subsection referred to as the 'Committee').

"(2) The Committee shall include the following members:

"(A) The Director of Central Intelligence.

"(B) The Secretary of State.

"(C) The Secretary of Defense.

"(D) The Attorney General.

"(E) The Assistant to the President for National Security Affairs, who shall serve as the chairperson of the Committee.

"(F) Such other members as the President may designate.

"(3) The function of the Committee shall be to coordinate and direct the activities of the United States Government relating to combatting transnational threats.

"(4) In carrying out its function, the Committee shall—

"(A) identify transnational threats;

"(B) develop strategies to enable the United States Government to respond to transnational threats identified under subparagraph (A);

"(C) monitor implementation of such strategies;

"(D) make recommendations as to appropriate responses to specific transnational threats;

"(E) assist in the resolution of operational and policy differences among Federal departments and agencies in their responses to transnational threats;

"(F) develop policies and procedures to ensure the effective sharing of information about transnational threats among Federal departments and agencies, including law enforcement agencies and the elements of the intelligence community; and

"(G) develop guidelines to enhance and improve the coordination of activities of Federal law enforcement agencies and elements of the intelligence community outside the United States with respect to transnational threats.

"(5) For purposes of this subsection, the term 'transnational threat' means the following:

"(A) Any transnational activity (including international terrorism, narcotics trafficking, the proliferation of weapons of mass destruction and the delivery systems for such weapons, and organized crime) that threatens the national security of the United States.

"(B) Any individual or group that engages in an activity referred to in subparagraph (A).".

SEC. 805. OVERALL MANAGEMENT OF CENTRAL INTELLIGENCE.

(a) OFFICE OF THE DIRECTOR OF CENTRAL INTELLIGENCE.—Title I of the National Security Act of 1947 (50 U.S.C. 402 et seq.) is amended by striking out section 102 and inserting in lieu thereof the following new section 102: 50 USC 403.

"OFFICE OF THE DIRECTOR OF CENTRAL INTELLIGENCE

"SEC. 102. (a) DIRECTOR OF CENTRAL INTELLIGENCE.—There is a Director of Central Intelligence who shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall—

"(1) serve as head of the United States intelligence community;

"(2) act as the principal adviser to the President for intelligence matters related to the national security; and

"(3) serve as head of the Central Intelligence Agency.

"(b) DEPUTY DIRECTORS OF CENTRAL INTELLIGENCE.—(1) There is a Deputy Director of Central Intelligence who shall be appointed by the President, by and with the advice and consent of the Senate.

"(2) There is a Deputy Director of Central Intelligence for Community Management who shall be appointed by the President, by and with the advice and consent of the Senate.

"(3) Each Deputy Director of Central Intelligence shall have extensive national security expertise.

"(c) MILITARY STATUS OF DIRECTOR AND DEPUTY DIRECTORS.—(1)(A) Not more than one of the individuals serving in the positions specified in subparagraph (B) may be a commissioned officer of the Armed Forces, whether in active or retired status.

"(B) The positions referred to in subparagraph (A) are the following:

"(i) The Director of Central Intelligence.

"(ii) The Deputy Director of Central Intelligence.

"(iii) The Deputy Director of Central Intelligence for Community Management.

"(2) It is the sense of Congress that, under ordinary circumstances, it is desirable that one of the individuals serving in the positions specified in paragraph (1)(B)—

"(A) be a commissioned officer of the Armed Forces, whether in active or retired status; or

"(B) have, by training or experience, an appreciation of military intelligence activities and requirements.

"(3) A commissioned officer of the Armed Forces, while serving in a position specified in paragraph (1)(B)—

"(A) shall not be subject to supervision or control by the Secretary of Defense or by any officer or employee of the Department of Defense;

"(B) shall not exercise, by reason of the officer's status as a commissioned officer, any supervision or control with respect to any of the military or civilian personnel of the Department of Defense except as otherwise authorized by law; and

"(C) shall not be counted against the numbers and percentages of commissioned officers of the rank and grade of such officer authorized for the military department of that officer.

"(4) Except as provided in subparagraph (A) or (B) of paragraph (3), the appointment of an officer of the Armed Forces to a position specified in paragraph (1)(B) shall not affect the status, position, rank, or grade of such officer in the Armed Forces, or any emolument, perquisite, right, privilege, or benefit incident to or arising out of any such status, position, rank, or grade.

"(5) A commissioned officer of the Armed Forces on active duty who is appointed to a position specified in paragraph (1)(B), while serving in such position and while remaining on active duty, shall continue to receive military pay and allowances and shall not receive the pay prescribed for such position. Funds from which such pay and allowances are paid shall be reimbursed from funds available to the Director of Central Intelligence.

"(d) DUTIES OF DEPUTY DIRECTORS.—(1)(A) The Deputy Director of Central Intelligence shall assist the Director of Central Intelligence in carrying out the Director's responsibilities under this Act.

"(B) The Deputy Director of Central Intelligence shall act for, and exercise the powers of, the Director of Central Intelligence during the Director's absence or disability or during a vacancy in the position of the Director of Central Intelligence.

"(2) The Deputy Director of Central Intelligence for Community Management shall, subject to the direction of the Director of Central Intelligence, be responsible for the following:

"(A) Directing the operations of the Community Management Staff.

"(B) Through the Assistant Director of Central Intelligence for Collection, ensuring the efficient and effective collection of national intelligence using technical means and human sources.

"(C) Through the Assistant Director of Central Intelligence for Analysis and Production, conducting oversight of the analysis and production of intelligence by elements of the intelligence community.

"(D) Through the Assistant Director of Central Intelligence for Administration, performing community-wide management functions of the intelligence community, including the management of personnel and resources.

"(3)(A) The Deputy Director of Central Intelligence takes precedence in the Office of the Director of Central Intelligence immediately after the Director of Central Intelligence.

"(B) The Deputy Director of Central Intelligence for Community Management takes precedence in the Office of the Director of Central Intelligence immediately after the Deputy Director of Central Intelligence.

"(e) OFFICE OF THE DIRECTOR OF CENTRAL INTELLIGENCE.—(1) There is an Office of the Director of Central Intelligence. The function of the Office is to assist the Director of Central Intelligence in carrying out the duties and responsibilities of the Director under this Act and to carry out such other duties as may be prescribed by law.

"(2) The Office of the Director of Central Intelligence is composed of the following:

"(A) The Director of Central Intelligence.

"(B) The Deputy Director of Central Intelligence.

"(C) The Deputy Director of Central Intelligence for Community Management.

"(D) The National Intelligence Council.

"(E) The Assistant Director of Central Intelligence for Collection.

"(F) The Assistant Director of Central Intelligence for Analysis and Production.

"(G) The Assistant Director of Central Intelligence for Administration.

"(H) Such other offices and officials as may be established by law or the Director of Central Intelligence may establish or designate in the Office.

"(3) To assist the Director in fulfilling the responsibilities of the Director as head of the intelligence community, the Director shall employ and utilize in the Office of the Director of Central Intelligence a professional staff having an expertise in matters relating to such responsibilities and may establish permanent positions and appropriate rates of pay with respect to that staff.".

(b) CENTRAL INTELLIGENCE AGENCY.—Title I of the National Security Act of 1947 (50 U.S.C. 402 et seq.) is amended by inserting after section 102, as amended by subsection (a), the following new section:

"CENTRAL INTELLIGENCE AGENCY

"SEC. 102A. There is a Central Intelligence Agency. The function of the Agency shall be to assist the Director of Central Intelligence in carrying out the responsibilities referred to in paragraphs (1) through (5) of section 103(d) of this Act.". 50 USC 403–1.

(c) CLERICAL AMENDMENT.—The table of contents for that Act is amended by striking out the item relating to section 102 and inserting in lieu thereof the following new items:

"Sec. 102. Office of the Director of Central Intelligence.
"Sec. 102A. Central Intelligence Agency.".

SEC. 806. NATIONAL INTELLIGENCE COUNCIL.

Section 103(b) of the National Security Act of 1947 (50 U.S.C. 403–3(b)) is amended—

(1) in paragraph (1)(B), by inserting ", or as contractors of the Council or employees of such contractors," after "on the Council";

(2) in paragraph (2)—

(A) by striking out "and" at the end of subparagraph (A);

(B) by redesignating subparagraph (B) as subparagraph (C); and

(C) by inserting after subparagraph (A) the following new subparagraph (B):

"(B) evaluate community-wide collection and production of intelligence by the intelligence community and the requirements and resources of such collection and production; and";

(3) by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively;

(4) by inserting after paragraph (3) the following new paragraph (4):

"(4) Subject to the direction and control of the Director of Central Intelligence, the Council may carry out its responsibilities under this subsection by contract, including contracts for substantive experts necessary to assist the Council with particular assessments under this subsection."; and

(5) in paragraph (5), as so redesignated, by adding at the end the following: "The Council shall also be readily accessible to policymaking officials and other appropriate individuals not otherwise associated with the intelligence community.".

SEC. 807. ENHANCEMENT OF AUTHORITY OF DIRECTOR OF CENTRAL INTELLIGENCE TO MANAGE BUDGET, PERSONNEL, AND ACTIVITIES OF INTELLIGENCE COMMUNITY.

(a) IN GENERAL.—Section 103(c) of the National Security Act of 1947 (50 U.S.C. 403–3(c)) is amended—

(1) by striking out paragraph (1) and inserting in lieu thereof the following new paragraph (1):

"(1) facilitate the development of an annual budget for intelligence and intelligence-related activities of the United States by—

"(A) developing and presenting to the President an annual budget for the National Foreign Intelligence Program; and

"(B) participating in the development by the Secretary of Defense of the annual budgets for the Joint Military Intelligence Program and the Tactical Intelligence and Related Activities Program;";

(2) by redesignating paragraphs (3) through (6) as paragraphs (4) through (7), respectively; and

(3) by inserting after paragraph (2) the following new paragraph (3):

"(3) approve collection requirements, determine collection priorities, and resolve conflicts in collection priorities levied on national collection assets, except as otherwise agreed with the Secretary of Defense pursuant to the direction of the President;".

(b) USE OF FUNDS.—Section 104(c) of the National Security Act of 1947 (50 U.S.C. 403–4(c)) is amended by adding at the end the following: "The Secretary of Defense shall consult with the Director of Central Intelligence before reprogramming funds made available under the Joint Military Intelligence Program.".

Guidelines.
50 USC 403–3 note.

(c) PERIODIC REPORTS ON EXPENDITURES.—Not later than January 1, 1997, the Director of Central Intelligence and the Secretary of Defense shall prescribe guidelines to ensure prompt reporting to the Director and the Secretary on a periodic basis of budget

execution data for all national, defense-wide, and tactical intelligence activities.

(d) DATABASE PROGRAM TRACKING.—Not later than January 1, 1999, the Director of Central Intelligence and the Secretary of Defense shall develop and implement a database to provide timely and accurate information on the amounts, purposes, and status of the resources, including periodic budget execution updates, for all national, defense-wide, and tactical intelligence activities. 50 USC 403–3 note.

(e) PERSONNEL, TRAINING, AND ADMINISTRATIVE ACTIVITIES.—Not later than January 31 of each year through 1999, the Director of Central Intelligence shall submit to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives a report on the policies and programs the Director has instituted under subsection (f) of section 104 of the National Security Act of 1947. 50 USC 403–4 note.

SEC. 808. RESPONSIBILITIES OF SECRETARY OF DEFENSE PERTAINING TO THE NATIONAL FOREIGN INTELLIGENCE PROGRAM.

Section 105 of the National Security Act of 1947 (50 U.S.C. 403–5) is amended—

(1) in subsection (a), by inserting ", in consultation with the Director of Central Intelligence," after "Secretary of Defense" in the matter preceding paragraph (1); and

(2) by adding at the end the following:

"(d) ANNUAL EVALUATION OF THE DIRECTOR OF CENTRAL INTELLIGENCE.—The Director of Central Intelligence, in consultation with the Secretary of Defense and the Chairman of the Joint Chiefs of Staff, shall submit each year to the Committee on Foreign Intelligence of the National Security Council and the appropriate congressional committees (as defined in section 109(c) of this Act) an evaluation of the performance and the responsiveness of the National Security Agency, the National Reconnaissance Office, and the National Imagery and Mapping Agency in meeting their national missions.".

SEC. 809. IMPROVEMENT OF INTELLIGENCE COLLECTION.

(a) ASSISTANT DIRECTOR OF CENTRAL INTELLIGENCE FOR COLLECTION.—Section 102 of the National Security Act of 1947, as amended by section 805(a) of this Act, is further amended by adding at the end the following:

"(f) ASSISTANT DIRECTOR OF CENTRAL INTELLIGENCE FOR COLLECTION.—(1) To assist the Director of Central Intelligence in carrying out the Director's responsibilities under this Act, there shall be an Assistant Director of Central Intelligence for Collection who shall be appointed by the President, by and with the advice and consent of the Senate.

"(2) The Assistant Director for Collection shall assist the Director of Central Intelligence in carrying out the Director's collection responsibilities in order to ensure the efficient and effective collection of national intelligence.".

(b) CONSOLIDATION OF HUMAN INTELLIGENCE COLLECTION ACTIVITIES.—Not later than 90 days after the date of the enactment of this Act, the Director of Central Intelligence and the Deputy Secretary of Defense shall jointly submit to the Committee on Armed Services and the Select Committee on Intelligence of the Senate and the Committee on National Security and the Permanent Select Committee on Intelligence of the House of Representatives a report on the ongoing efforts of those officials to achieve

commonality, interoperability, and, where practicable, consolidation of the collection of clandestine intelligence from human sources conducted by the Defense Human Intelligence Service of the Department of Defense and the Directorate of Operations of the Central Intelligence Agency.

SEC. 810. IMPROVEMENT OF ANALYSIS AND PRODUCTION OF INTELLIGENCE.

Section 102 of the National Security Act of 1947, as amended by section 809(a) of this Act, is further amended by adding at the end the following:

"(g) ASSISTANT DIRECTOR OF CENTRAL INTELLIGENCE FOR ANALYSIS AND PRODUCTION.—(1) To assist the Director of Central Intelligence in carrying out the Director's responsibilities under this Act, there shall be an Assistant Director of Central Intelligence for Analysis and Production who shall be appointed by the President, by and with the advice and consent of the Senate.

"(2) The Assistant Director for Analysis and Production shall—

"(A) oversee the analysis and production of intelligence by the elements of the intelligence community;

"(B) establish standards and priorities relating to such analysis and production;

"(C) monitor the allocation of resources for the analysis and production of intelligence in order to identify unnecessary duplication in the analysis and production of intelligence;

"(D) identify intelligence to be collected for purposes of the Assistant Director of Central Intelligence for Collection; and

"(E) provide such additional analysis and production of intelligence as the President and the National Security Council may require.".

SEC. 811. IMPROVEMENT OF ADMINISTRATION OF INTELLIGENCE ACTIVITIES.

Section 102 of the National Security Act of 1947, as amended by section 810 of this Act, is further amended by adding at the end the following:

"(h) ASSISTANT DIRECTOR OF CENTRAL INTELLIGENCE FOR ADMINISTRATION.—(1) To assist the Director of Central Intelligence in carrying out the Director's responsibilities under this Act, there shall be an Assistant Director of Central Intelligence for Administration who shall be appointed by the President, by and with the advice and consent of the Senate.

"(2) The Assistant Director for Administration shall manage such activities relating to the administration of the intelligence community as the Director of Central Intelligence shall require.".

SEC. 812. PAY LEVEL OF DEPUTY DIRECTOR OF CENTRAL INTELLIGENCE FOR COMMUNITY MANAGEMENT AND ASSISTANT DIRECTORS OF CENTRAL INTELLIGENCE.

(a) EXECUTIVE SCHEDULE III PAY LEVEL.—Section 5314 of title 5, United States Code, is amended by striking out item the relating to the Deputy Director of Central Intelligence and inserting in lieu thereof the following:

"Deputy Directors of Central Intelligence (2).".

(b) EXECUTIVE SCHEDULE IV PAY LEVEL.—Section 5315 of title 5, United States Code, is amended by adding at the end the following:

"Assistant Directors of Central Intelligence (3).".

SEC. 813. GENERAL COUNSEL OF THE CENTRAL INTELLIGENCE AGENCY.

(a) IN GENERAL.—The Central Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.) is amended by adding at the end the following:

"GENERAL COUNSEL OF THE CENTRAL INTELLIGENCE AGENCY

"SEC. 20. (a) There is a General Counsel of the Central Intelligence Agency, appointed from civilian life by the President, by and with the advice and consent of the Senate. 50 USC 403t.

"(b) The General Counsel is the chief legal officer of the Central Intelligence Agency.

"(c) The General Counsel of the Central Intelligence Agency shall perform such functions as the Director of Central Intelligence may prescribe.".

(b) APPLICABILITY OF APPOINTMENT REQUIREMENTS.—The requirement established by section 20 of the Central Intelligence Agency Act of 1949, as added by subsection (a), for the appointment by the President, by and with the advice and consent of the Senate, of an individual to the position of General Counsel of the Central Intelligence Agency shall apply as follows: 50 USC 403t note.

(1) To any vacancy in such position that occurs after the date of the enactment of this Act.

(2) To the incumbent serving in such position on the date of the enactment of this Act as of the date that is six months after such date of enactment, if such incumbent has served in such position continuously between such date of enactment and the date that is six months after such date of enactment.

(c) EXECUTIVE SCHEDULE IV PAY LEVEL.—Section 5315 of title 5, United States Code, as amended by section 812 of this Act, is further amended by adding at the end the following:

"General Counsel of the Central Intelligence Agency.".

SEC. 814. ASSISTANCE FOR LAW ENFORCEMENT AGENCIES BY INTELLIGENCE COMMUNITY.

(a) IN GENERAL.—Title I of the National Security Act of 1947 (50 U.S.C. 402 et seq.) is amended by inserting after section 105 the following new section:

"ASSISTANCE TO UNITED STATES LAW ENFORCEMENT AGENCIES

"SEC. 105A. (a) AUTHORITY TO PROVIDE ASSISTANCE.—Subject to subsection (b), elements of the intelligence community may, upon the request of a United States law enforcement agency, collect information outside the United States about individuals who are not United States persons. Such elements may collect such information notwithstanding that the law enforcement agency intends to use the information collected for purposes of a law enforcement investigation or counterintelligence investigation. 50 USC 403–5a.

"(b) LIMITATION ON ASSISTANCE BY ELEMENTS OF DEPARTMENT OF DEFENSE.—(1) With respect to elements within the Department of Defense, the authority in subsection (a) applies only to the following:

"(A) The National Security Agency.

"(B) The National Reconnaissance Office.

"(C) The National Imagery and Mapping Agency.

"(D) The Defense Intelligence Agency.

"(2) Assistance provided under this section by elements of the Department of Defense may not include the direct participation of a member of the Army, Navy, Air Force, or Marine Corps in an arrest or similar activity.

"(3) Assistance may not be provided under this section by an element of the Department of Defense if the provision of such assistance will adversely affect the military preparedness of the United States.

Regulations.

"(4) The Secretary of Defense shall prescribe regulations governing the exercise of authority under this section by elements of the Department of Defense, including regulations relating to the protection of sources and methods in the exercise of such authority.

"(c) DEFINITIONS.—For purposes of subsection (a):

"(1) The term 'United States law enforcement agency' means any department or agency of the Federal Government that the Attorney General designates as law enforcement agency for purposes of this section.

"(2) The term 'United States person' means the following:

"(A) A United States citizen.

"(B) An alien known by the intelligence agency concerned to be a permanent resident alien.

"(C) An unincorporated association substantially composed of United States citizens or permanent resident aliens.

"(D) A corporation incorporated in the United States, except for a corporation directed and controlled by a foreign government or governments.".

(b) CLERICAL AMENDMENT.—The table of contents for that Act is amended by inserting after the item relating to section 105 the following new item:

"Sec. 105A. Assistance to United States law enforcement agencies.".

SEC. 815. APPOINTMENT OF OFFICIALS RESPONSIBLE FOR INTELLIGENCE-RELATED ACTIVITIES.

(a) IN GENERAL.—Section 106 of the National Security Act of 1947 (50 U.S.C. 403–6) is amended to read as follows:

"APPOINTMENT OF OFFICIALS RESPONSIBLE FOR INTELLIGENCE-RELATED ACTIVITIES

"SEC. 106. (a) CONCURRENCE OF DCI IN CERTAIN APPOINTMENTS.—(1) In the event of a vacancy in a position referred to in paragraph (2), the Secretary of Defense shall obtain the concurrence of the Director of Central Intelligence before recommending to the President an individual for appointment to the position. If the Director does not concur in the recommendation, the Secretary may make the recommendation to the President without the Director's concurrence, but shall include in the recommendation a statement that the Director does not concur in the recommendation.

"(2) Paragraph (1) applies to the following positions:

"(A) The Director of the National Security Agency.

"(B) The Director of the National Reconnaissance Office.

"(C) The Director of the National Imagery and Mapping Agency.

"(b) CONSULTATION WITH DCI IN CERTAIN APPOINTMENTS.—(1) In the event of a vacancy in a position referred to in paragraph

(2), the head of the department or agency having jurisdiction over the position shall consult with the Director of Central Intelligence before appointing an individual to fill the vacancy or recommending to the President an individual to be nominated to fill the vacancy.

"(2) Paragraph (1) applies to the following positions:

"(A) The Director of the Defense Intelligence Agency.

"(B) The Assistant Secretary of State for Intelligence and Research.

"(C) The Director of the Office of Nonproliferation and National Security of the Department of Energy.

"(3) In the event of a vacancy in the position of the Assistant Director, National Security Division of the Federal Bureau of Investigation, the Director of the Federal Bureau of Investigation shall provide timely notice to the Director of Central Intelligence of the recommendation of the Director of the Federal Bureau of Investigation of an individual to fill the position in order that the Director of Central Intelligence may consult with the Director of the Federal Bureau of Investigation before the Attorney General appoints an individual to fill the vacancy.".

(b) CLERICAL AMENDMENT.—The table of contents for that Act is amended by striking out the item relating to section 106 and inserting in lieu thereof the following new item:

"Sec. 106. Appointment of officials responsible for intelligence-related activities.".

SEC. 816. STUDY ON THE FUTURE OF INTELLIGENCE COLLECTION.

(a) STUDY.—The Director of Central Intelligence shall, in consultation with the Deputy Secretary of Defense, conduct a study on the future of intelligence collection. The study shall address whether collection resources can be managed in a more consolidated, integrated manner. The study is not limited to, but should include, specific examination of the following:

(1) Establishing within the Intelligence Community a single agency with responsibility for—

(A) the clandestine collection of intelligence through human sources and other clandestine techniques;

(B) covert action; and

(C) representing the Director of Central Intelligence in liaison with foreign intelligence and security services.

(2) Establishing a single agency for the conduct of technical intelligence collection activities, including—

(A) signals intelligence (SIGINT), imagery intelligence (IMINT), and measurement and signatures intelligence (MASINT);

(B) first-phase (or initial) exploitation of the results of such collection;

(C) dissemination of such collection in a timely manner;

(D) development of processing and exploitation technologies to support these functions; and

(E) serving as the sole agent within the Intelligence Community for—

(i) the specification of technical requirements for such reconnaissance systems as may be needed to meet the signals intelligence, imagery intelligence, and measurement and signatures intelligence collection requirements of the Intelligence Community; and

(ii) the operation and final disposition of such systems.

(3) Establishing a single agency—

(A) to serve as the sole agent within the Intelligence Community for the conduct of research, development, test, and evaluation, for procurement, and for launch of satellite reconnaissance systems that may be required to satisfy the intelligence collection requirements of the Intelligence Community; and

(B) to serve as the primary agent within the Intelligence Community for the conduct of research, development, test, evaluation and for procurement of reconnaissance, surveillance, and sensor systems, including airborne and maritime reconnaissance capabilities within the National Foreign Intelligence Program and the Joint Military Intelligence Program.

(b) CRITERIA.—The study under subsection (a) shall—

(1) take into account current and future technological capabilities and intelligence requirements;

(2) take into account the costs and benefits associated with establishing each of the agencies described in paragraphs (1) through (3) of subsection (a) as well as the costs and benefits of maintaining the current system of distinct "collection stovepipes"; and

(3) examine establishing each of the agencies described in paragraphs (1) through (3) of subsection (a) both on their individual merits and also with a view toward having such agencies co-exist as an entire new organizational structure.

(c) REPORT.—Not later than April 15, 1997, the Director of Central Intelligence shall submit a report on the study to the following:

(1) The President.

(2) The Secretary of Defense.

(3) The Select Committee on Intelligence and the Committee on Armed Services of the Senate.

(4) The Permanent Select Committee on Intelligence and the Committee on National Security of the House of Representatives.

SEC. 817. INTELLIGENCE RESERVE CORPS.

(a) REPORT ON CORPS.—Not later than four months after the date of the enactment of this Act, the Director of Central Intelligence shall submit to the appropriate committees of Congress a report on the Surge Augmentation Program to provide for an Intelligence Reserve Corps to serve as a surge or augmentation resource for the Intelligence Community. The report shall include such recommendations for legislation as the Director considers appropriate.

(b) APPROPRIATE COMMITTEES DEFINED.—In this section, the term "appropriate committees of Congress" means the following:

(1) The Committee on Governmental Affairs and the Select Committee on Intelligence of the Senate.

(2) The Committee on Government Reform and Oversight and the Permanent Select Committee on Intelligence of the House of Representatives.

TITLE IX—FINANCIAL MATTERS

SEC. 901. AUTHORIZATION OF FUNDING PROVIDED BY 1996 SUPPLEMENTAL APPROPRIATIONS ACT.

Amounts obligated or expended for intelligence or intelligence-related activities based on and otherwise in accordance with the appropriations provided by the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (Public Law 104–134), including any such obligations or expenditures occurring before the enactment of this Act, shall be deemed to have been specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414) and are hereby ratified and confirmed.

Approved October 11, 1996.

LEGISLATIVE HISTORY—H.R. 3259 (S. 1718):

HOUSE REPORTS: Nos. 104–578, Pt. 1 (Permanent Select Comm. on Intelligence) and 104–832 (Comm. of Conference).

SENATE REPORTS: Nos. 104–258 (Select Comm. on Intelligence), 104–277 (Comm. on Armed Services), and 104–337 (Comm. on Governmental Affairs) all accompanying S. 1718.

CONGRESSIONAL RECORD, Vol. 142 (1996):

May 22, considered and passed House.

Sept. 17, considered and passed Senate, amended, in lieu of S. 1718.

Sept. 25, House and Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 32 (1996):

Oct. 11, Presidential statement.

Public Law 104–294
104th Congress

An Act

Oct. 11, 1996
[H.R. 3723]

To amend title 18, United States Code, to protect proprietary economic information, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Economic Espionage Act of 1996.
18 USC 1 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Economic Espionage Act of 1996".

TITLE I—PROTECTION OF TRADE SECRETS

SEC. 101. PROTECTION OF TRADE SECRETS.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 89 the following:

"CHAPTER 90—PROTECTION OF TRADE SECRETS

"Sec.
"1831. Economic espionage.
"1832. Theft of trade secrets.
"1833. Exceptions to prohibitions.
"1834. Criminal forfeiture.
"1835. Orders to preserve confidentiality.
"1836. Civil proceedings to enjoin violations.
"1837. Conduct outside the United States.
"1838. Construction with other laws.
"1839. Definitions.

"§ 1831. Economic espionage

"(a) IN GENERAL.—Whoever, intending or knowing that the offense will benefit any foreign government, foreign instrumentality, or foreign agent, knowingly—

"(1) steals, or without authorization appropriates, takes, carries away, or conceals, or by fraud, artifice, or deception obtains a trade secret;

"(2) without authorization copies, duplicates, sketches, draws, photographs, downloads, uploads, alters, destroys, photocopies, replicates, transmits, delivers, sends, mails, communicates, or conveys a trade secret;

"(3) receives, buys, or possesses a trade secret, knowing the same to have been stolen or appropriated, obtained, or converted without authorization;

"(4) attempts to commit any offense described in any of paragraphs (1) through (3); or

"(5) conspires with one or more other persons to commit any offense described in any of paragraphs (1) through (3), and one or more of such persons do any act to effect the object of the conspiracy,

shall, except as provided in subsection (b), be fined not more than $500,000 or imprisoned not more than 15 years, or both.

"(b) ORGANIZATIONS.—Any organization that commits any offense described in subsection (a) shall be fined not more than $10,000,000.

"§ 1832. Theft of trade secrets

"(a) Whoever, with intent to convert a trade secret, that is related to or included in a product that is produced for or placed in interstate or foreign commerce, to the economic benefit of anyone other than the owner thereof, and intending or knowing that the offense will, injure any owner of that trade secret, knowingly—

"(1) steals, or without authorization appropriates, takes, carries away, or conceals, or by fraud, artifice, or deception obtains such information;

"(2) without authorization copies, duplicates, sketches, draws, photographs, downloads, uploads, alters, destroys, photocopies, replicates, transmits, delivers, sends, mails, communicates, or conveys such information;

"(3) receives, buys, or possesses such information, knowing the same to have been stolen or appropriated, obtained, or converted without authorization;

"(4) attempts to commit any offense described in paragraphs (1) through (3); or

"(5) conspires with one or more other persons to commit any offense described in paragraphs (1) through (3), and one or more of such persons do any act to effect the object of the conspiracy,

shall, except as provided in subsection (b), be fined under this title or imprisoned not more than 10 years, or both.

"(b) Any organization that commits any offense described in subsection (a) shall be fined not more than $5,000,000.

"§ 1833. Exceptions to prohibitions

"This chapter does not prohibit—

"(1) any otherwise lawful activity conducted by a governmental entity of the United States, a State, or a political subdivision of a State; or

"(2) the reporting of a suspected violation of law to any governmental entity of the United States, a State, or a political subdivision of a State, if such entity has lawful authority with respect to that violation.

"§ 1834. Criminal forfeiture

"(a) The court, in imposing sentence on a person for a violation of this chapter, shall order, in addition to any other sentence imposed, that the person forfeit to the United States—

"(1) any property constituting, or derived from, any proceeds the person obtained, directly or indirectly, as the result of such violation; and

"(2) any of the person's property used, or intended to be used, in any manner or part, to commit or facilitate the commission of such violation, if the court in its discretion so determines,

taking into consideration the nature, scope, and proportionality of the use of the property in the offense.

"(b) Property subject to forfeiture under this section, any seizure and disposition thereof, and any administrative or judicial proceeding in relation thereto, shall be governed by section 413 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853), except for subsections (d) and (j) of such section, which shall not apply to forfeitures under this section.

"§ 1835. Orders to preserve confidentiality

"In any prosecution or other proceeding under this chapter, the court shall enter such orders and take such other action as may be necessary and appropriate to preserve the confidentiality of trade secrets, consistent with the requirements of the Federal Rules of Criminal and Civil Procedure, the Federal Rules of Evidence, and all other applicable laws. An interlocutory appeal by the United States shall lie from a decision or order of a district court authorizing or directing the disclosure of any trade secret.

"§ 1836. Civil proceedings to enjoin violations

"(a) The Attorney General may, in a civil action, obtain appropriate injunctive relief against any violation of this section.

"(b) The district courts of the United States shall have exclusive original jurisdiction of civil actions under this subsection.

"§ 1837. Applicability to conduct outside the United States

This chapter also applies to conduct occurring outside the United States if—

"(1) the offender is a natural person who is a citizen or permanent resident alien of the United States, or an organization organized under the laws of the United States or a State or political subdivision thereof; or

"(2) an act in furtherance of the offense was committed in the United States.

"§ 1838. Construction with other laws

"This chapter shall not be construed to preempt or displace any other remedies, whether civil or criminal, provided by United States Federal, State, commonwealth, possession, or territory law for the misappropriation of a trade secret, or to affect the otherwise lawful disclosure of information by any Government employee under section 552 of title 5 (commonly known as the Freedom of Information Act).

"§ 1839. Definitions

"As used in this chapter—

"(1) the term 'foreign instrumentality' means any agency, bureau, ministry, component, institution, association, or any legal, commercial, or business organization, corporation, firm, or entity that is substantially owned, controlled, sponsored, commanded, managed, or dominated by a foreign government;

"(2) the term 'foreign agent' means any officer, employee, proxy, servant, delegate, or representative of a foreign government;

"(3) the term 'trade secret' means all forms and types of financial, business, scientific, technical, economic, or engineering information, including patterns, plans, compila-

tions, program devices, formulas, designs, prototypes, methods, techniques, processes, procedures, programs, or codes, whether tangible or intangible, and whether or how stored, compiled, or memorialized physically, electronically, graphically, photographically, or in writing if—

"(A) the owner thereof has taken reasonable measures to keep such information secret; and

"(B) the information derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable through proper means by, the public; and

"(4) the term 'owner', with respect to a trade secret, means the person or entity in whom or in which rightful legal or equitable title to, or license in, the trade secret is reposed.".

(b) CLERICAL AMENDMENT.—The table of chapters at the beginning part I of title 18, United States Code, is amended by inserting after the item relating to chapter 89 the following:

"90. Protection of trade secrets ..... 1831".

(c) REPORTS.—Not later than 2 years and 4 years after the date of the enactment of this Act, the Attorney General shall report to Congress on the amounts received and distributed from fines for offenses under this chapter deposited in the Crime Victims Fund established by section 1402 of the Victims of Crime Act of 1984 (42 U.S.C. 10601). 42 USC 10604 note.

SEC. 102. WIRE AND ELECTRONIC COMMUNICATIONS INTERCEPTION AND INTERCEPTION OF ORAL COMMUNICATIONS.

Section 2516(1)(c) of title 18, United States Code, is amended by inserting "chapter 90 (relating to protection of trade secrets)," after "chapter 37 (relating to espionage),".

TITLE II—NATIONAL INFORMATION INFRASTRUCTURE PROTECTION ACT OF 1996.

SEC. 201. COMPUTER CRIME.

Section 1030 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking "knowingly accesses" and inserting "having knowingly accessed";

(ii) by striking "exceeds" and inserting "exceeding";

(iii) by striking "obtains information" and inserting "having obtained information";

(iv) by striking "the intent or";

(v) by striking "is to be used" and inserting "could be used"; and

(vi) by inserting before the semicolon at the end the following: "willfully communicates, delivers, transmits, or causes to be communicated, delivered, or transmitted, or attempts to communicate, deliver, transmit or cause to be communicated, delivered, or transmitted the same to any person not entitled to receive it, or willfully retains the same and fails to

deliver it to the officer or employee of the United States entitled to receive it";

(B) in paragraph (2)—

(i) by striking "obtains information" and inserting "obtains—

"(A) information"; and

(ii) by adding at the end the following new subparagraphs:

"(B) information from any department or agency of the United States; or

"(C) information from any protected computer if the conduct involved an interstate or foreign communication;";

(C) in paragraph (3)—

(i) by inserting "nonpublic" before "computer of a department or agency";

(ii) by striking "adversely"; and

(iii) by striking "the use of the Government's operation of such computer" and inserting "that use by or for the Government of the United States";

(D) in paragraph (4)—

(i) by striking "Federal interest" and inserting "protected"; and

(ii) by inserting before the semicolon the following: "and the value of such use is not more than $5,000 in any 1-year period";

(E) by striking paragraph (5) and inserting the following:

"(5)(A) knowingly causes the transmission of a program, information, code, or command, and as a result of such conduct, intentionally causes damage without authorization, to a protected computer;

"(B) intentionally accesses a protected computer without authorization, and as a result of such conduct, recklessly causes damage; or

"(C) intentionally accesses a protected computer without authorization, and as a result of such conduct, causes damage;"; and

(F) by inserting after paragraph (6) the following new paragraph:

"(7) with intent to extort from any person, firm, association, educational institution, financial institution, government entity, or other legal entity, any money or other thing of value, transmits in interstate or foreign commerce any communication containing any threat to cause damage to a protected computer;";

(2) in subsection (c)—

(A) in paragraph (1), by striking "such subsection" each place that term appears and inserting "this section";

(B) in paragraph (2)—

(i) in subparagraph (A)—

(I) by inserting ", (a)(5)(C)," after "(a)(3)"; and

(II) by striking "such subsection" and inserting "this section";

(ii) by redesignating subparagraph (B) as subparagraph (C);

(iii) by inserting immediately after subparagraph (A) the following:

"(B) a fine under this title or imprisonment for not more than 5 years, or both, in the case of an offense under subsection (a)(2), if—

"(i) the offense was committed for purposes of commercial advantage or private financial gain;

"(ii) the offense was committed in furtherance of any criminal or tortious act in violation of the Constitution or laws of the United States or of any State; or

"(iii) the value of the information obtained exceeds $5,000;"; and

(iv) in subparagraph (C) (as redesignated)—

(I) by striking "such subsection" and inserting "this section"; and

(II) by adding "and" at the end;

(C) in paragraph (3)—

(i) in subparagraph (A)—

(I) by striking "(a)(4) or (a)(5)(A)" and inserting "(a)(4), (a)(5)(A), (a)(5)(B), or (a)(7)"; and

(II) by striking "such subsection" and inserting "this section"; and

(ii) in subparagraph (B)—

(I) by striking "(a)(4) or (a)(5)" and inserting "(a)(4), (a)(5)(A), (a)(5)(B), (a)(5)(C), or (a)(7)"; and

(II) by striking "such subsection" and inserting "this section"; and

(D) by striking paragraph (4);

(3) in subsection (d), by inserting "subsections (a)(2)(A), (a)(2)(B), (a)(3), (a)(4), (a)(5), and (a)(6) of" before "this section."; and

(4) in subsection (e)—

(A) in paragraph (2)—

(i) by striking "Federal interest" and inserting "protected";

(ii) in subparagraph (A), by striking "the use of the financial institution's operation or the Government's operation of such computer" and inserting "that use by or for the financial institution or the Government"; and

(iii) by striking subparagraph (B) and inserting the following:

"(B) which is used in interstate or foreign commerce or communication;";

(B) in paragraph (6), by striking "and" at the end;

(C) in paragraph (7), by striking the period at the end and inserting "; and"; and

(D) by adding at the end the following new paragraphs:

"(8) the term 'damage' means any impairment to the integrity or availability of data, a program, a system, or information, that—

"(A) causes loss aggregating at least $5,000 in value during any 1-year period to one or more individuals;

"(B) modifies or impairs, or potentially modifies or impairs, the medical examination, diagnosis, treatment, or care of one or more individuals;

"(C) causes physical injury to any person; or

"(D) threatens public health or safety; and

"(9) the term 'government entity' includes the Government of the United States, any State or political subdivision of the United States, any foreign country, and any state, province, municipality, or other political subdivision of a foreign country."; and

(5) in subsection (g)—

(A) by striking ", other than a violation of subsection (a)(5)(B),"; and

(B) by striking "of any subsection other than subsection (a)(5)(A)(ii)(II)(bb) or (a)(5)(B)(ii)(II)(bb)" and inserting "involving damage as defined in subsection (e)(8)(A)".

TITLE III—TRANSFER OF PERSONS FOUND NOT GUILTY BY REASON OF INSANITY

SEC. 301. TRANSFER OF PERSONS FOUND NOT GUILTY BY REASON OF INSANITY.

(a) AMENDMENT OF SECTION 4243 OF TITLE 18.—Section 4243 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(i) CERTAIN PERSONS FOUND NOT GUILTY BY REASON OF INSANITY IN THE DISTRICT OF COLUMBIA.—

"(1) TRANSFER TO CUSTODY OF THE ATTORNEY GENERAL.—Notwithstanding section 301(h) of title 24 of the District of Columbia Code, and notwithstanding subsection 4247(j) of this title, all persons who have been committed to a hospital for the mentally ill pursuant to section 301(d)(1) of title 24 of the District of Columbia Code, and for whom the United States has continuing financial responsibility, may be transferred to the custody of the Attorney General, who shall hospitalize the person for treatment in a suitable facility.

"(2) APPLICATION.—

"(A) IN GENERAL.—The Attorney General may establish custody over such persons by filing an application in the United States District Court for the District of Columbia, demonstrating that the person to be transferred is a person described in this subsection.

"(B) NOTICE.—The Attorney General shall, by any means reasonably designed to do so, provide written notice of the proposed transfer of custody to such person or such person's guardian, legal representative, or other lawful agent. The person to be transferred shall be afforded an opportunity, not to exceed 15 days, to respond to the proposed transfer of custody, and may, at the court's discretion, be afforded a hearing on the proposed transfer of custody. Such hearing, if granted, shall be limited to a determination of whether the constitutional rights of such person would be violated by the proposed transfer of custody.

"(C) ORDER.—Upon application of the Attorney General, the court shall order the person transferred to the custody of the Attorney General, unless, pursuant to a hearing under this paragraph, the court finds that the proposed transfer would violate a right of such person under the United States Constitution.

"(D) EFFECT.—Nothing in this paragraph shall be construed to—

"(i) create in any person a liberty interest in being granted a hearing or notice on any matter;

"(ii) create in favor of any person a cause of action against the United States or any officer or employee of the United States; or

"(iii) limit in any manner or degree the ability of the Attorney General to move, transfer, or otherwise manage any person committed to the custody of the Attorney General.

"(3) CONSTRUCTION WITH OTHER SECTIONS.—Subsections (f) and (g) and section 4247 shall apply to any person transferred to the custody of the Attorney General pursuant to this subsection.".

(b) TRANSFER OF RECORDS.—Notwithstanding any provision of the District of Columbia Code or any other provision of law, the District of Columbia and St. Elizabeth's Hospital— 18 USC 4243 note.

(1) not later than 30 days after the date of enactment of this Act, shall provide to the Attorney General copies of all records in the custody or control of the District or the Hospital on such date of enactment pertaining to persons described in section 4243(i) of title 18, United States Code (as added by subsection (a));

(2) not later than 30 days after the creation of any records by employees, agents, or contractors of the District of Columbia or of St. Elizabeth's Hospital pertaining to persons described in section 4243(i) of title 18, United States Code, provide to the Attorney General copies of all such records created after the date of enactment of this Act;

(3) shall not prevent or impede any employee, agent, or contractor of the District of Columbia or of St. Elizabeth's Hospital who has obtained knowledge of the persons described in section 4243(i) of title 18, United States Code, in the employee's professional capacity from providing that knowledge to the Attorney General, nor shall civil or criminal liability attach to such employees, agents, or contractors who provide such knowledge; and

(4) shall not prevent or impede interviews of persons described in section 4243(i) of title 18, United States Code, by representatives of the Attorney General, if such persons voluntarily consent to such interviews.

(c) CLARIFICATION OF EFFECT ON CERTAIN TESTIMONIAL PRIVILEGES.—The amendments made by this section shall not be construed to affect in any manner any doctor-patient or psychotherapist-patient testimonial privilege that may be otherwise applicable to persons found not guilty by reason of insanity and affected by this section. 18 USC 4243 note.

(d) SEVERABILITY.—If any provision of this section, an amendment made by this section, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this section and the amendments made by this section shall not be affected thereby. 18 USC 4243 note.

TITLE IV—ESTABLISHMENT OF BOYS AND GIRLS CLUBS.

42 USC 13751 note.

SEC. 401. ESTABLISHING BOYS AND GIRLS CLUBS.

(a) FINDINGS AND PURPOSE.—

(1) FINDINGS.—The Congress finds that—

(A) the Boys and Girls Clubs of America, chartered by an Act of Congress on December 10, 1991, during its 90-year history as a national organization, has proven itself as a positive force in the communities it serves;

(B) there are 1,810 Boys and Girls Clubs facilities throughout the United States, Puerto Rico, and the United States Virgin Islands, serving 2,420,000 youths nationwide;

(C) 71 percent of the young people who benefit from Boys and Girls Clubs programs live in our inner cities and urban areas;

(D) Boys and Girls Clubs are locally run and have been exceptionally successful in balancing public funds with private sector donations and maximizing community involvement;

(E) Boys and Girls Clubs are located in 289 public housing sites across the Nation;

(F) public housing projects in which there is an active Boys and Girls Club have experienced a 25 percent reduction in the presence of crack cocaine, a 22 percent reduction in overall drug activity, and a 13 percent reduction in juvenile crime;

(G) these results have been achieved in the face of national trends in which overall drug use by youth has increased 105 percent since 1992 and 10.9 percent of the Nation's young people use drugs on a monthly basis; and

(H) many public housing projects and other distressed areas are still underserved by Boys and Girls Clubs.

(2) PURPOSE.—It is the purpose of this section to provide adequate resources in the form of seed money for the Boys and Girls Clubs of America to establish 1,000 additional local Boys and Girls Clubs in public housing projects and other distressed areas by 2001.

(b) DEFINITIONS.—For purposes of this section—

(1) the terms "public housing" and "project" have the same meanings as in section 3(b) of the United States Housing Act of 1937; and

(2) the term "distressed area" means an urban, suburban, or rural area with a high percentage of high risk youth as defined in section 509A of the Public Health Service Act (42 U.S.C. 290aa–8(f)).

(c) ESTABLISHMENT.—

(1) IN GENERAL.—For each of the fiscal years 1997, 1998, 1999, 2000, and 2001, the Director of the Bureau of Justice Assistance of the Department of Justice shall provide a grant to the Boys and Girls Clubs of America for the purpose of establishing Boys and Girls Clubs in public housing projects and other distressed areas.

(2) CONTRACTING AUTHORITY.—Where appropriate, the Secretary of Housing and Urban Development, in consultation with the Attorney General, shall enter into contracts with the

Boys and Girls Clubs of America to establish clubs pursuant to the grants under paragraph (1).

(d) REPORT.—Not later than May 1 of each fiscal year for which amounts are made available to carry out this Act, the Attorney General shall submit to the Committees on the Judiciary of the Senate and the House of Representatives a report that details the progress made under this Act in establishing Boys and Girls Clubs in public housing projects and other distressed areas, and the effectiveness of the programs in reducing drug abuse and juvenile crime.

(e) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to carry out this section—

(A) $20,000,000 for fiscal year 1997;
(B) $20,000,000 for fiscal year 1998;
(C) $20,000,000 for fiscal year 1999;
(D) $20,000,000 for fiscal year 2000; and
(E) $20,000,000 for fiscal year 2001.

(2) VIOLENT CRIME REDUCTION TRUST FUND.—The sums authorized to be appropriated by this subsection may be made from the Violent Crime Reduction Trust Fund.

TITLE V—USE OF CERTAIN TECHNOLOGY TO FACILITATE CRIMINAL CONDUCT

SEC. 501. USE OF CERTAIN TECHNOLOGY TO FACILITATE CRIMINAL CONDUCT.

18 USC 3552 note.

(a) INFORMATION.—The Administrative Office of the United States courts shall establish policies and procedures for the inclusion in all presentence reports of information that specifically identifies and describes any use of encryption or scrambling technology that would be relevant to an enhancement under section 3C1.1 (dealing with Obstructing or Impeding the Administration of Justice) of the Sentencing Guidelines or to offense conduct under the Sentencing Guidelines.

(b) COMPILING AND REPORT.—The United States Sentencing Commission shall—

(1) compile and analyze any information contained in documentation described in subsection (a) relating to the use of encryption or scrambling technology to facilitate or conceal criminal conduct; and

(2) based on the information compiled and analyzed under paragraph (1), annually report to the Congress on the nature and extent of the use of encryption or scrambling technology to facilitate or conceal criminal conduct.

TITLE VI—TECHNICAL AND MINOR AMENDMENTS

SEC. 601. GENERAL TECHNICAL AMENDMENTS.

(a) FURTHER CORRECTIONS TO MISLEADING FINE AMOUNTS AND RELATED TYPOGRAPHICAL ERRORS.—

(1) Sections 152, 153, 154, and 610 of title 18, United States Code, are each amended by striking "fined not more than $5,000" and inserting "fined under this title".

(2) Section 970(b) of title 18, United States Code, is amended by striking "fined not more than $500" and inserting "fined under this title".

(3) Sections 661, 1028(b), 1361, and 2701(b) of title 18, United States Code, are each amended by striking "fine of under" each place it appears and inserting "fine under".

(4) Section 3146(b)(1)(A)(iv) of title 18, United States Code, is amended by striking "a fined under this title" and inserting "a fine under this title".

(5) The section 1118 of title 18, United States Code, that was enacted by Public Law 103–333—

(A) is redesignated as section 1122; and

(B) is amended in subsection (c) by—

(i) inserting "under this title" after "fine"; and

(ii) striking "nor more than $20,000".

(6) The table of sections at the beginning of chapter 51 of title 18, United States Code, is amended by adding at the end the following new item:

"1122. Protection against the human immunodeficiency virus.".

(7) Sections 1761(a) and 1762(b) of title 18, United States Code, are each amended by striking "fined not more than $50,000" and inserting "fined under this title".

(8) Sections 1821, 1851, 1852, 1853, 1854, 1905, 1916, 1918, 1991, 2115, 2116, 2191, 2192, 2194, 2199, 2234, 2235, and 2236 of title 18, United States Code, are each amended by striking "fined not more than $1,000" each place it appears and inserting "fined under this title".

(9) Section 1917 of title 18, United States Code, is amended by striking "fined not less than $100 nor more than $1,000" and inserting "fined under this title not less than $100".

(10) Section 1920 of title 18, United States Code, is amended—

(A) by striking "of not more than $250,000" and inserting "under this title"; and

(B) by striking "of not more than $100,000" and inserting "under this title".

(11) Section 2076 of title 18, United States Code, is amended by striking "fined not more than $1,000 or imprisoned not more than one year" and inserting "fined under this title or imprisoned not more than one year, or both".

(12) Section 597 of title 18, United States Code, is amended by striking "fined not more than $10,000" and inserting "fined under this title".

(b) CROSS REFERENCE CORRECTIONS AND CORRECTIONS OF TYPOGRAPHICAL ERRORS.—

(1) Section 3286 of title 18, United States Code, is amended—

(A) by striking "2331" and inserting "2332";

(B) by striking "2339" and inserting "2332a"; and

(C) by striking "36" and inserting "37".

(2) Section 2339A(b) of title 18, United States Code, is amended—

(A) by striking "2331" and inserting "2332";

(B) by striking "2339" and inserting "2332a";

(C) by striking "36" and inserting "37"; and

(D) by striking "of an escape" and inserting "or an escape".

(3) Section 1961(1)(D) of title 18, United States Code, is amended by striking "that title" and inserting "this title".

(4) Section 2423(b) of title 18, United States Code, is amended by striking "2245" and inserting "2246".

(5) Section 3553(f) of title 18, United States Code, is amended by striking "section 1010 or 1013 of the Controlled Substances Import and Export Act (21 U.S.C. 961, 963)" and inserting "section 1010 or 1013 of the Controlled Substances Import and Export Act (21 U.S.C. 960, 963)".

(6) Section 3553(f)(4) of title 18, United States Code, is amended by striking "21 U.S.C. 848" and inserting "section 408 of the Controlled Substances Act".

(7) Section 3592(c)(1) of title 18, United States Code, is amended by striking "2339" and inserting "2332a".

(c) SIMPLIFICATION AND CLARIFICATION OF WORDING.—

(1) The third undesignated paragraph of section 5032 of title 18, United States Code, is amended by inserting "or as authorized under section 3401(g) of this title" after "shall proceed by information".

(2) Section 1120 of title 18, United States Code, is amended by striking "Federal prison" each place it appears and inserting "Federal correctional institution".

(3) Section 247(d) of title 18, United States Code, is amended by striking "notification" and inserting "certification".

(d) CORRECTION OF PARAGRAPH CONNECTORS.—Section 2516(1) of title 18, United States Code, is amended—

(1) in paragraph (l), by striking "or" after the semicolon; and

(2) in paragraph (n), by striking "and" where it appears after the semicolon and inserting "or".

(e) CORRECTION CAPITALIZATION OF ITEMS IN LIST.—Section 504 of title 18, United States Code, is amended—

(1) in paragraph (1), by striking "the" the first place it appears and inserting "The"; and

(2) in paragraph (3), by striking "the" the first place it appears and inserting "The".

(f) CORRECTIONS OF PUNCTUATION AND OTHER ERRONEOUS FORM.—

(1) Section 656 of title 18, United States Code, is amended in the first paragraph by striking "Act,," and inserting "Act,".

(2) Section 1114 of title 18, United States Code, is amended by striking "1112." and inserting "1112,".

(3) Section 504(3) of title 18, United States Code, is amended by striking "importation, of" and inserting "importation of".

(4) Section 3059A(a)(1) of title 18, United States Code, is amended by striking "section 215 225,," and inserting "section 215, 225,".

(5) Section 3125(a) of title 18, United States Code, is amended by striking the close quotation mark at the end.

(6) Section 1956(c)(7)(B)(iii) of title 18, United States Code, is amended by striking "1978)" and inserting "1978".

(7) The item relating to section 656 in the table of sections at the beginning of chapter 31 of title 18, United States Code, is amended by inserting a comma after "embezzlement".

(8) The item relating to section 1024 in the table of sections at the beginning of chapter 47 of title 18, United States Code, is amended by striking "veterans'" and inserting "veteran's".

(9) Section 3182 (including the heading of such section) and the item relating to such section in the table of sections at the beginning of chapter 209, of title 18, United States Code, are each amended by inserting a comma after "District" each place it appears.

(10) The item relating to section 3183 in the table of sections at the beginning of chapter 209 of title 18, United States Code, is amended by inserting a comma after "Territory".

(11) The items relating to section 2155 and 2156 in the table of sections at the beginning of chapter 105 of title 18, United States Code, are each amended by striking "or" and inserting ", or".

(12) The headings for sections 2155 and 2156 of title 18, United States Code, are each amended by striking "**or**" and inserting "**, or**".

(13) Section 1508 of title 18, United States Code, is amended by realigning the matter beginning "shall be fined" and ending "one year, or both." so that it is flush to the left margin.

(14) The item relating to section 4082 in the table of sections at the beginning of chapter 305 of title 18, United States Code, is amended by striking "centers," and inserting "centers;".

(15) Section 2101(a) of title 18, United States Code, is amended by striking "(1)" and by redesignating subparagraphs (A) through (D) as paragraphs (1) through (4), respectively.

(16) Section 5038 of title 18, United States Code, is amended by striking "section 841, 952(a), 955, or 959 of title 21" each place it appears and inserting "section 401 of the Controlled Substances Act or section 1001(a), 1005, or 1009 of the Controlled Substances Import and Export Act".

(g) CORRECTIONS OF PROBLEMS ARISING FROM UNCOORDINATED AMENDMENTS.—

(1) SECTION 5032.—The first undesignated paragraph of section 5032 of title 18, United States Code, is amended—

(A) by inserting "section 922(x)" before "or section 924(b)"; and

(B) by striking "or (x)".

(2) STRIKING MATERIAL UNSUCCESSFULLY ATTEMPTED TO BE STRICKEN FROM SECTION 1116 BY PUBLIC LAW 103–322.—Subsection (a) of section 1116 of title 18, United States Code, is amended by striking ", except" and all that follows through the end of such subsection and inserting a period.

(3) ELIMINATION OF DUPLICATE AMENDMENT IN SECTION 1958.—Section 1958(a) of title 18, United States Code, is amended by striking "or who conspires to do so" where it appears following "or who conspires to do so" and inserting a comma.

(h) INSERTION OF MISSING END QUOTE.—Section 80001(a) of the Violent Crime Control and Law Enforcement Act of 1994 is

18 USC 3553.

amended by inserting a close quotation mark followed by a period at the end.

(i) REDESIGNATION OF DUPLICATE SECTION NUMBERS AND CONFORMING CLERICAL AMENDMENTS.—

(1) REDESIGNATION.—That section 2258 added to title 18, United States Code, by section 160001(a) of the Violent Crime Control and Law Enforcement Act of 1994 is redesignated as section 2260.

(2) CONFORMING CLERICAL AMENDMENT.—The item in the table of sections at the beginning of chapter 110 of title 18, United States Code, relating to the section redesignated by paragraph (1) is amended by striking "2258" and inserting "2260".

(3) CONFORMING AMENDMENT TO CROSS-REFERENCE.—Section 1961(1)(B) of title 18, United States Code, is amended by striking "2258" and inserting "2260".

(j) REDESIGNATION OF DUPLICATE CHAPTER NUMBER AND CONFORMING CLERICAL AMENDMENT.—

(1) REDESIGNATION.—The chapter 113B added to title 18, United States Code, by Public Law 103–236 is redesignated chapter 113C.

(2) CONFORMING CLERICAL AMENDMENT.—The table of chapters at the beginning of part I of title 18, United States Code, is amended in the item relating to the chapter redesignated by paragraph (1)—

(A) by striking "**113B**" and inserting "**113C**"; and

(B) by striking "**2340.**" and inserting "**2340**".

(k) REDESIGNATION OF DUPLICATE PARAGRAPH NUMBERS AND CORRECTION OF PLACEMENT OF PARAGRAPHS IN SECTION 3563.—

(1) REDESIGNATION.—Section 3563(a) of title 18, United States Code, is amended by redesignating the second paragraph (4) as paragraph (5).

(2) CONFORMING CONNECTOR CHANGE.—Section 3563(a) of title 18, United States Code, is amended—

(A) by striking "and" at the end of paragraph (3); and

(B) by striking the period at the end of paragraph (4) and inserting "; and".

(3) PLACEMENT CORRECTION.—Section 3563(a) of title 18, United States Code, is amended so that paragraph (4) and the paragraph redesignated as paragraph (5) by this subsection are transferred to appear in numerical order immediately following paragraph (3) of such section 3563(a).

(l) REDESIGNATION OF DUPLICATE PARAGRAPH NUMBERS IN SECTION 1029 AND CONFORMING AMENDMENTS RELATED THERETO.—Section 1029 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by redesignating those paragraphs (5) and (6) which were added by Public Law 103–414 as paragraphs (7) and (8), respectively;

(B) by redesignating paragraph (7) as paragraph (9);

(C) by striking "or" at the end of paragraph (6) and at the end of paragraph (7) as so redesignated by this subsection; and

(D) by inserting "or" at the end of paragraph (8) as so redesignated by this subsection;

(2) in subsection (e), by redesignating the second paragraph (7) as paragraph (8); and

(3) in subsection (c)—

(A) in paragraph (1), by striking "or (7)" and inserting "(7), (8), or (9)"; and

(B) in paragraph (2), by striking "or (6)" and inserting "(6), (7), or (8)".

(m) INSERTION OF MISSING SUBSECTION HEADING.—Section 1791(c) of title 18, United States Code, is amended by inserting after "(c)" the following subsection heading: "CONSECUTIVE PUNISHMENT REQUIRED IN CERTAIN CASES.—".

(n) CORRECTION OF MISSPELLING.—Section 2327(c) of title 18, United States Code, is amended by striking "delegee" each place it appears and inserting "designee".

(o) CORRECTION OF SPELLING AND AGENCY REFERENCE.—Section 5038(f) of title 18, United States Code, is amended—

(1) by striking "juvenille" and inserting "juvenile", and

(2) by striking "the Federal Bureau of Investigation, Identification Division," and inserting "the Federal Bureau of Investigation".

(p) CORRECTING MISPLACED WORD.—Section 1028(a) of title 18, United States Code, is amended by striking "or" at the end of paragraph (4) and inserting "or" at the end of paragraph (5).

(q) STYLISTIC CORRECTION.—Section 37(c) of title 18, United States Code, is amended by inserting after "(c)" the following subsection heading: "BAR TO PROSECUTION.—".

(r) MANDATORY VICTIM RESTITUTION ACT AMENDMENTS.—

(1) ORDER OF RESTITUTION.—Section 3663(a)(1)(A) of title 18, United States Code, is amended by adding at the end the following: "The court may also order, if agreed to by the parties in a plea agreement, restitution to persons other than the victim of the offense.".

(2) FORFEITURE.—Section 3663(c)(4) of title 18, United States Code, is amended by inserting "or chapter 96" after "under chapter 46".

(3) ANIMAL ENTERPRISE TERRORISM.—Section 43(c) of title 18, United States Code, is amended by inserting after "3663" the following: "or 3663A".

(4) SPECIAL ASSESSMENT.—Section 3013(a)(2) of title 18, United States Code, is amended by striking "not less than" each place that term appears.

(s) CLARIFICATIONS TO ANTITERRORISM AND EFFECTIVE DEATH PENALTY ACT OF 1996.

(1) JURISDICTION.—Section 2332b(b)(1)(A) of title 18, United States Code, is amended by—

(A) striking "any of the offenders uses"; and

(B) inserting "is used" after "foreign commerce".

(2) PROVIDING MATERIAL SUPPORT.—Section 2339A(a) of title 18, United States Code, is amended by inserting "or an escape" after "concealment".

(3) TECHNICAL AMENDMENTS.—Sections 2339A(a) and 2332b(g)(5)(B) of title 18, United States Code, are each amended by inserting at the appropriate place in each section's enumeration of title 18 sections the following: "930(c),", "1992,", and "2332c,".

SEC. 602. REPEAL OF OBSOLETE PROVISIONS IN TITLE 18.

(a) SECTION 709 AMENDMENT.—Section 709 of title 18, United States Code, is amended by striking "Whoever uses as a firm or business name the words 'Reconstruction Finance Corporation' or any combination or variation of these words—".

(b) SECTION 1014 AMENDMENT.—Section 1014 of title 18, United States Code, is amended—

(1) by striking "Reconstruction Finance Corporation,";

(2) by striking "Farmers' Home Corporation,"; and

(3) by striking "of the National Agricultural Credit Corporation,".

(c) SECTION 798 AMENDMENT.—Section 798(d)(5) of title 18, United States Code, is amended by striking "the Trust Territory of the Pacific Islands,".

(d) SECTION 281 REPEAL.—Section 281 of title 18, United States Code, is repealed and the table of sections at the beginning of chapter 15 of such title is amended by striking the item relating to such section.

(e) SECTION 510 AMENDMENT.—Section 510(b) of title 18, United States Code, is amended by striking "that in fact" and all that follows through "signature".

SEC. 603. TECHNICAL AMENDMENTS RELATING TO CHAPTERS 40 AND 44 OF TITLE 18.

(a) ELIMINATION OF DOUBLE COMMAS IN SECTION 844.—Section 844 of title 18, United States Code, is amended in subsection (i) by striking ",," each place it appears and inserting a comma.

(b) REPLACEMENT OF COMMA WITH SEMICOLON IN SECTION 922.—Section 922(g)(8)(C)(ii) of title 18, United States Code, is amended by striking the comma at the end and inserting a semicolon.

(c) CLARIFICATION OF AMENDMENT TO SECTION 922.—

(1) AMENDMENT.—Section 320927 of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322) is amended by inserting "the first place it appears" before the period. 18 USC 922.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if the amendment had been included in section 320927 of the Act referred to in paragraph (1) on the date of the enactment of such Act. 18 USC 922 note.

(d) STYLISTIC CORRECTION TO SECTION 922.—Section 922(t)(2) of title 18, United States Code, is amended by striking "section 922(g)" and inserting "subsection (g)".

(e) ELIMINATION OF UNNECESSARY WORDS.—Section 922(w)(4) of title 18, United States Code, is amended by striking "title 18, United States Code," and inserting "this title".

(f) CLARIFICATION OF PLACEMENT OF PROVISION.—

(1) AMENDMENT.—Section 110201(a) of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322) is amended by striking "adding at the end" and inserting "inserting after subsection (w)". 18 USC 922.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if the amendment had been included in section 110201 of the Act referred to in paragraph (1) on the date of the enactment of such Act. 18 USC 922 note.

(g) CORRECTION OF TYPOGRAPHICAL ERRORS IN LIST OF CERTAIN WEAPONS.—Appendix A to section 922 of title 18, United States Code, is amended—

(1) in the category designated

"Centerfire Rifles—Lever & Slide",

by striking

"Uberti 1866 Sporting Rilfe"

and inserting the following:

"Uberti 1866 Sporting Rifle";

(2) in the category designated

"Centerfire Rifles—Bolt Action",

by striking

"Sako Fiberclass Sporter"

and inserting the following:

"Sako FiberClass Sporter";

(3) in the category designated

"Shotguns—Slide Actions",

by striking

"Remington 879 SPS Special Purpose Magnum"

and inserting the following:

"Remington 870 SPS Special Purpose Magnum"

; and

(4) in the category designated

"Shotguns—Over/Unders",

by striking

"E.A.A/Sabatti Falcon-Mon Over/Under"

and inserting the following:

"E.A.A./Sabatti Falcon-Mon Over/Under".

(h) INSERTION OF MISSING COMMAS.—Section 103 of the Brady Handgun Violence Prevention Act (18 U.S.C. 922 note; Public Law 103–159) is amended in each of subsections (e)(1), (g), and (i)(2) by inserting a comma after "United States Code".

(i) CORRECTION OF UNEXECUTABLE AMENDMENTS RELATING TO THE VIOLENT CRIME REDUCTION TRUST FUND.—

18 USC 922 note.

(1) CORRECTION.—Section 210603(b) of the Violent Crime Control and Law Enforcement Act of 1994 is amended by striking "Fund," and inserting "Fund established by section 1115 of title 31, United States Code,".

18 USC 922 note.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if the amendment had been included in section 210603(b) of the Act referred to in paragraph (1) on the date of the enactment of such Act.

(j) CORRECTION OF UNEXECUTABLE AMENDMENT TO SECTION 923.—

(1) CORRECTION.—Section 201(1) of the Act, entitled "An Act to provide for a waiting period before the purchase of a handgun, and for the establishment of a national instant criminal background check system to be contacted by firearms

dealers before the transfer of any firearm." (Public Law 103–159), is amended by striking "thereon," and inserting "thereon". 18 USC 923.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if the amendment had been included in the Act referred to in paragraph (1) on the date of the enactment of such Act. 18 USC 923 note.

(k) CORRECTION OF PUNCTUATION AND INDENTATION IN SECTION 923.—Section 923(g)(1)(B)(ii) of title 18, United States Code, is amended—

(1) by striking the period and inserting "; or"; and

(2) by moving such clause 4 ems to the left.

(l) REDESIGNATION OF SUBSECTION AND CORRECTION OF INDENTATION IN SECTION 923.—Section 923 of title 18, United States Code, is amended—

(1) by redesignating the last subsection as subsection (l); and

(2) by moving such subsection 2 ems to the left.

(m) CORRECTION OF TYPOGRAPHICAL ERROR IN AMENDATORY PROVISION.—

(1) CORRECTION.—Section 110507 of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322) is amended— 18 USC 924.

(A) by striking "924(a)" and inserting "924"; and

(B) in paragraph (2), by striking "subsections" and inserting "subsection".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect as if the amendments had been included in section 110507 of the Act referred to in paragraph (1) on the date of the enactment of such Act. 18 USC 924 note.

(n) ELIMINATION OF DUPLICATE AMENDMENT.—Subsection (h) of section 330002 of the Violent Crime Control and Law Enforcement Act of 1994 is repealed and shall be considered never to have been enacted. 18 USC 924.

(o) REDESIGNATION OF PARAGRAPH IN SECTION 924.—Section 924(a) of title 18, United States Code, is amended by redesignating the second paragraph (5) as paragraph (6).

(p) ELIMINATION OF COMMA ERRONEOUSLY INCLUDED IN AMENDMENT TO SECTION 924.—

(1) AMENDMENT.—Section 110102(c)(2) of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322) is amended by striking "shotgun," and inserting "shotgun". 18 USC 924.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if the amendment had been included in section 110102(c)(2) of the Act referred to in paragraph (1) on the date of the enactment of such Act. 18 USC 924 note.

(q) INSERTION OF CLOSE PARENTHESIS IN SECTION 924.—Section 924(j)(3) of title 18, United States Code, is amended by inserting a close parenthesis before the comma.

(r) REDESIGNATION OF SUBSECTIONS IN SECTION 924.—Section 924 of title 18, United States Code, is amended by redesignating the second subsection (i), and subsections (j), (k), (l), (m), and (n) as subsections (j), (k), (l), (m), (n), and (o), respectively.

(s) CORRECTION OF ERRONEOUS CROSS REFERENCE IN AMENDATORY PROVISION.—Section 110504(a) of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322) is amended by striking "110203(a)" and inserting "110503". 18 USC 924.

(t) CORRECTION OF CROSS REFERENCE IN SECTION 930.—Section 930(e)(2) of title 18, United States Code, is amended by striking "(c)" and inserting "(d)".

(u) CORRECTION OF CROSS REFERENCES IN SECTION 930.—The last subsection of section 930 of title 18, United States Code, is amended—

(1) by striking "(g)" and inserting "(h)"; and

(2) by striking "(d)" each place such term appears and inserting "(e)".

SEC. 604. ADDITIONAL AMENDMENTS ARISING FROM ERRORS IN PUBLIC LAW 103–322.

(a) STYLISTIC CORRECTIONS RELATING TO TABLES OF SECTIONS.—

(1) The table of sections at the beginning of chapter 110A of title 18, United States Code, is amended to read as follows:

"Sec.
"2261. Interstate domestic violence.
"2262. Interstate violation of protection order.
"2263. Pretrial release of defendant.
"2264. Restitution.
"2265. Full faith and credit given to protection orders.
"2266. Definitions.".

(2) Chapter 26 of title 18, United States Code, is amended by inserting after the heading for such chapter the following table of sections:

"Sec.
"521. Criminal street gangs.".

(3) Chapter 123 of title 18, United States Code, is amended by inserting after the heading for such chapter the following table of sections:

"Sec.
"2721. Prohibition on release and use of certain personal information from State motor vehicle records.
"2722. Additional unlawful acts.
"2723. Penalties.
"2724. Civil action.
"2725. Definitions.".

(4) The item relating to section 3509 in the table of sections at the beginning of chapter 223 of title 18, United States Code, is amended by striking "Victims'" and inserting "victims'".

(b) UNIT REFERENCE CORRECTIONS, REMOVAL OF DUPLICATE AMENDMENTS, AND OTHER SIMILAR CORRECTIONS.—

42 USC 14011. (1) Section 40503(b)(3) of Public Law 103–322 is amended by striking "paragraph (b)(1)" and inserting "paragraph (1)".

18 USC 794. (2) Section 60003(a)(2) of Public Law 103–322 is amended by striking "at the end of the section" and inserting "at the end of the subsection".

(3) Section 3582(c)(1)(A)(i) of title 18, United States Code, is amended by adding "or" at the end.

(4) Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended by redesignating the second paragraph (43) as paragraph (44).

(5) Subsections (a) and (b) of section 120005 of Public
18 USC 2339A. Law 103–322 are each amended by inserting "at the end" after "adding".

18 USC 1961. (6) Section 160001(f) of Public Law 103–322 is amended by striking "1961(l)" and inserting "1961(1)".

(7) Section 170201(c) of Public Law 103–322 is amended by striking paragraphs (1), (2), and (3). 18 USC 113.

(8) Subparagraph (D) of section 511(b)(2) of title 18, United States Code, is amended by adjusting its margin to be the same as the margin of subparagraph (C) and adjusting the margins of its clauses so they are indented 2 ems further than the margin of the subparagraph.

(9) Section 230207 of Public Law 103–322 is amended by striking "two" and inserting "2" the first place it appears. 42 USC 10604.

(10) The first of the two undesignated paragraphs of section 240002(c) of Public Law 103–322 is designated as paragraph (1) and the second as paragraph (2). 28 USC 994 note.

(11) Section 280005(a) of Public Law 103–322 is amended by striking "Section 991 (a)" and inserting "Section 991(a)". 28 USC 991.

(12) Section 320101 of Public Law 103–322 is amended—

(A) in subsection (b), by striking paragraph (1); 18 USC 112.

(B) in subsection (c), by striking paragraphs (1)(A) and (2)(A); 18 USC 113.

(C) in subsection (d), by striking paragraph (3); and 18 USC 351.

(D) in subsection (e), by striking paragraphs (1) and (2). 18 USC 1751.

(13) Section 320102 of Public Law 103–322 is amended by striking paragraph (2). 18 USC 1112.

(14) Section 320103 of Public Law 103–322 is amended—

(A) in subsection (a), by striking paragraph (1); 18 USC 241.

(B) in subsection (b), by striking paragraph (1); and 18 USC 242.

(C) in subsection (c), by striking paragraphs (1) and (3). 18 USC 245.

(15) Section 320103(e) of Public Law 103–322 is amended— 42 USC 3631.

(A) in the subsection catchline, by striking "FAIR HOUSING" and inserting "1968 Civil Rights"; and

(B) by striking "of the Fair Housing Act" and inserting "of the Civil Rights Act of 1968".

(16) Section 320109(1) of Public Law 103–322 is amended by inserting an open quotation mark before "(a) IN GENERAL". 18 USC 704.

(17) Section 320602(1) of Public Law 103–322 is amended by striking "whoever" and inserting "Whoever". 18 USC 2114.

(18) Section 668(a) of title 18, United States Code, is amended—

(A) by designating the first undesignated paragraph that begins with a quotation mark as paragraph (1);

(B) by designating the second undesignated paragraph that begins with a quotation mark as paragraph (2); and

(C) by striking the close quotation mark and the period at the end of the subsection.

(19) Section 320911(a) of Public Law 103–322 is amended in each of paragraphs (1) and (2), by striking "thirteenth" and inserting "14th". 18 USC 709.

(20) Section 2311 of title 18, United States Code, is amended by striking "livestock" where it appears in quotation marks and inserting "Livestock".

(21) Section 540A(c) of title 28, United States Code, is amended—

(A) by designating the first undesignated paragraph as paragraph (1);

(B) by designating the second undesignated paragraph as paragraph (2); and

(C) by designating the third undesignated paragraph as paragraph (3).

18 USC 1014. (22) Section 330002(d) of Public Law 103–322 is amended by striking "the comma" and inserting "each comma".

18 USC 542, 544, 545. (23) Section 330004(18) of Public Law 103–322 is amended by striking "the Philippine" and inserting "Philippine".

18 USC 3059A. (24) Section 330010(17) of Public Law 103–322 is amended by striking "(2)(iii)" and inserting "(2)(A)(iii)".

18 USC 1169. (25) Section 330011(d) of Public Law 103–322 is amended—

(A) by striking "each place" and inserting "the first place"; and

(B) by striking "1169" and inserting "1168".

(26) The item in the table of sections at the beginning of chapter 53 of title 18, United States Code, that relates to section 1169 is transferred to appear after the item relating to section 1168.

42 USC 3631. (27) Section 901 of the Civil Rights Act of 1968 is amended by striking "under this title" each place it appears and inserting "under title 18, United States Code,".

(28) Section 223(a)(12)(A) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633(a)(12)(A)) is amended by striking "law)." and inserting "law)".

18 USC 2325 note. (29) Section 250008(a)(2) of Public Law 103–322 is amended by striking "this Act" and inserting "provisions of law amended by this title".

(30) Section 36(a) of title 18, United States Code, is amended—

(A) in paragraph (1), by striking "403(c)" and inserting "408(c)"; and

(B) in paragraph (2), by striking "Export Control" and inserting "Export".

(31) Section 1512(a)(2)(A) of title 18, United States Code, is amended by adding "and" at the end.

(32) Section 13(b)(2)(A) of title 18, United States Code, is amended by striking "of not more than $1,000" and inserting "under this title".

18 USC 2423. (33) Section 160001(g)(1) of Public Law 103–322 is amended by striking "(a) Whoever" and inserting "Whoever".

18 USC 1001 note. (34) Section 290001(a) of Public Law 103–322 is amended by striking "subtitle" and inserting "section".

(35) Section 3592(c)(12) of title 18, United States Code, is amended by striking "Controlled Substances Act" and inserting "Comprehensive Drug Abuse Prevention and Control Act of 1970".

(36) Section 1030 of title 18, United States Code, is amended—

(A) by inserting "or" at the end of subsection (a)(5)(B)(ii)(II)(bb);

(B) by striking "and" after the semicolon in subsection (c)(1)(B);

(C) in subsection (g), by striking "the section" and inserting "this section"; and

(D) in subsection (h), by striking "section 1030(a)(5) of title 18, United States Code" and inserting "subsection (a)(5)".

(37) Section 320103(c) of Public Law 103–322 is amended by striking the semicolon at the end of paragraph (2) and inserting a close quotation mark followed by a semicolon. 18 USC 245.

(38) Section 320104(b) of Public Law 103–322 is amended by striking the comma that follows "2319 (relating to copyright infringement)" the first place it appears. 18 USC 1956.

(39) Section 1515(a)(1)(D) of title 18, United States Code, is amended by striking "; or" and inserting a semicolon.

(40) Section 5037(b) of title 18, United States Code, is amended in each of paragraphs (1)(B) and (2)(B), by striking "3561(b)" and inserting "3561(c)".

(41) Section 330004(3) of Public Law 103–322 is amended by striking "thirteenth" and inserting "14th". 18 USC 709.

(42) Section 2511(1)(e)(i) of title 18, United States Code, is amended—

(A) by striking "sections 2511(2)(A)(ii), 2511(b)–(c), 2511(e)" and inserting "sections 2511(2)(a)(ii), 2511(2)(b)–(c), 2511(2)(e)"; and

(B) by striking "subchapter" and inserting "chapter".

(43) Section 1516(b) of title 18, United States Code, is amended by inserting "and" at the end of paragraph (1).

(44) The item relating to section 1920 in the table of sections at the beginning of chapter 93 of title 18, United States Code, is amended by striking "employee's" and inserting "employees'".

(45) Section 330022 of Public Law 103–322 is amended by inserting a period after "communications" and before the close quotation mark. 18 USC 2512.

(46) Section 2721(c) of title 18, United States Code, is amended by striking "covered by this title" and inserting "covered by this chapter".

(c) ELIMINATION OF EXTRA WORDS.—

(1) Section 3561(b) of title 18, United States Code, is amended by striking "or any relative defendant, child, or former child of the defendant,".

(2) Section 351(e) of title 18, United States Code, is amended by striking "involved in the use of a" and inserting "involved the use of a".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of Public Law 103–322. 18 USC 13 note.

SEC. 605. ADDITIONAL TYPOGRAPHICAL AND SIMILAR ERRORS FROM VARIOUS SOURCES.

(a) MISUSED CONNECTOR.—Section 1958(a) of title 18, United States Code, is amended by striking "this title and imprisoned" and inserting "this title or imprisoned".

(b) SPELLING ERROR.—Effective on the date of its enactment, section 961(h)(1) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 is amended by striking "Saving and Loan" and inserting "Savings and Loan". Effective date. 18 USC 1014.

(c) WRONG SECTION DESIGNATION.—The table of chapters for part I of title 18, United States Code, is amended in the item relating to chapter 71 by striking "1461" and inserting "1460".

(d) INTERNAL CROSS REFERENCE.—Section 2262(a)(1)(A)(ii) of title 18, United States Code, is amended by striking "subparagraph (A)" and inserting "this subparagraph".

(e) MISSING COMMA.—Section 1361 of title 18, United States Code, is amended by inserting a comma after "attempts to commit any of the foregoing offenses".

(f) CROSS REFERENCE ERROR FROM PUBLIC LAW 103–414.—The first sentence of section 2703(d) of title 18, United States Code, by striking "3126(2)(A)" and inserting "3127(2)(A)".

(g) INTERNAL REFERENCE ERROR IN PUBLIC LAW 103–359.—Section 3077(8)(A) of title 18, United States Code, is amended by striking "title 18, United States Code" and inserting "this title".

(h) SPELLING AND INTERNAL REFERENCE ERROR IN SECTION 3509.—Section 3509 of title 18, United States Code, is amended—

(1) in subsection (e), by striking "government's" and inserting "Government's"; and

(2) in subsection (h)(3), by striking "subpart" and inserting "paragraph".

(i) ERROR IN SUBDIVISION FROM PUBLIC LAW 103–329.—Section 3056(a)(3) of title 18, United States Code, is amended by redesignating subparagraphs (1) and (2) as subparagraphs (A) and (B), respectively and moving the margins of such subparagraphs 2 ems to the right.

(j) TABLE OF CONTENTS CORRECTION.—The table of contents at the beginning of the Antiterrorism and Effective Death Penalty Act of 1996 is amended by inserting "**TITLE I—HABEAS CORPUS REFORM**" before the item relating to section 101.

Ante, p. 1214.

(k) CORRECTING ERROR IN AMENDATORY INSTRUCTIONS.—Section 107(b) of the Antiterrorism and Effective Death Penalty Act of 1996 is amended by striking "IV" and inserting "VI".

Ante, p. 1221.

(l) CORRECTING ERROR IN DESCRIPTION OF PROVISION AMENDED.—With respect to subparagraph (F) only of paragraph (1) of section 205(a) of the Antiterrorism and Effective Death Penalty Act of 1996, the reference at the beginning of such paragraph to "subsection (a)(1)" shall be deemed a reference to "subsection (a)".

Ante, p. 1229.

(m) ADDITION OF MISSING REFERENCE.—Section 725(2) of the Antiterrorism and Effective Death Penalty Act of 1996 is amended by inserting "(2)" after "subsection (b)".

Ante, p. 1300.

(n) CONFORMING AMENDMENT TO TABLE OF SECTIONS.—The table of sections at the beginning of chapter 203 of title 18, United States Code, is amended by inserting after the item relating to section 3059A the following new item:

"3059B. General reward authority.".

(o) INSERTION OF MISSING PUNCTUATION.—Section 6005(b)(3) of title 18, United States Code, is amended by adding a period at the end.

(p) CORRECTION OF ERRONEOUS SECTION NUMBER.—

(1) Section 2401 of title 18, United States Code, is redesignated as section 2441.

(2) The item relating to section 2401 in the table of sections at the beginning of chapter 118 of title 18, United States Code, is amended by striking "2401" and inserting "2441".

(3) The table of chapters for part I of title 18, United States Code, is amended in the item relating to chapter 118, by striking "**2401**" and inserting "**2441**".

(q) DUPLICATE SECTION NUMBER.—That section 2332d of title 18, United States Code, that relates to requests for military assistance to enforce prohibition in certain emergencies is redesignated as section 2332e and moved to follow the section 2332d that relates

to financial transactions, and the item relating to the section redesignated by this subsection is amended by striking "2332d" and inserting "2332e" and moved to follow the item relating to the section 2332d that relates to financial transactions.

(r) CORRECTION OF WORD USAGE.—Section 247(d) of title 18, United States Code, is amended by striking "notification" and inserting "certification".

SEC. 606. ADJUSTING AND MAKING UNIFORM THE DOLLAR AMOUNTS USED IN TITLE 18 TO DISTINGUISH BETWEEN GRADES OF OFFENSES.

(a) Sections 215, 288, 641, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 661, 662, 665, 872, 1003, 1025, 1163, 1361, 1707, 1711, and 2113 of title 18, United States Code, are amended by striking "$100" each place it appears and inserting "$1,000".

(b) Section 510 of title 18, United States Code, is amended by striking "$500" and inserting "$1,000".

SEC. 607. APPLICATION OF VARIOUS OFFENSES TO POSSESSIONS AND TERRITORIES.

(a) Sections 241 and 242 of title 18, United States Code, are each amended by striking "any State, Territory, or District" and inserting "any State, Territory, Commonwealth, Possession, or District".

(b) Sections 793(h)(1) and 794(d)(1) of title 18, United States Code, are each amended by adding at the end the following: "For the purposes of this subsection, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(c) Section 925(a)(5) of title 18, United States Code, is amended by striking "For the purpose of paragraphs (3) and (4)" and inserting "For the purpose of paragraph (3)".

(d) Sections 1014 and 2113(g) of title 18, United States Code, are each amended by adding at the end the following: "The term 'State-chartered credit union' includes a credit union chartered under the laws of a State of the United States, the District of Columbia, or any commonwealth, territory, or possession of the United States.".

(e) Section 1073 of title 18, United States Code, is amended by adding at the end of the first paragraph the following: "For the purposes of clause (3) of this paragraph, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(f) Section 1715 of title 18, United States Code, is amended by striking "State, Territory, or District" each place those words appear and inserting "State, Territory, Commonwealth, Possession, or District".

(g) Section 1716 of title 18, United States Code, is amended—

(1) in subsection (g)(2) by striking "State, Territory, or the District of Columbia" and inserting "State";

(2) in subsection (g)(3) by striking "the municipal government of the District of Columbia or of the government of any State or territory, or any county, city, or other political subdivision of a State" and inserting "any State, or any political subdivision of a State"; and

(3) by adding at the end the following:

"(j) For purposes of this section, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(h) Section 1761 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(d) For the purposes of this section, the term 'State' means a State of the United States and any commonwealth, territory, or possession of the United States.".

(i) Section 3156(a) of title 18, United States Code, is amended—

(1) by striking "and" at the end of paragraph (3);

(2) by striking the period and inserting "; and" at the end of paragraph (4); and

(3) by adding at the end the following new paragraph:

"(5) the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(j) Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended—

(1) by amending paragraph (26) to read as follows:

"(26) The term 'State' means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States."; and

(2) by redesignating paragraph (43), as added by section 90105(d) of the Violent Crime Control and Law Enforcement Act of 1994, as paragraph (44).

(k) Section 1121 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(c) For the purposes of this section, the term 'State' means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(l) Section 228(d)(2) of title 18, United States Code, is amended by inserting "commonwealth," before "possession or territory of the United States".

(m) Section 1546(c) of title 18, United States Code, is amended by adding at the end the following: "For purposes of this section, the term 'State' means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(n) Section 1541 of title 18, United States Code, is amended—

(1) in the first undesignated paragraph, by striking "or possession"; and

(2) by adding at the end the following new paragraph:

"For purposes of this section, the term 'State' means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(o) Section 37(c) of title 18, United States Code, is amended in the final sentence by inserting before the period the following: ", and the term 'State' means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States".

(p) Section 2281(c) of title 18, United States Code, is amended in the final sentence by inserting before the period the following: ", and the term 'State' means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States".

(q) Section 521(a) of title 18, United States Code, is amended by adding at the end the following: "'State' means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

Approved October 11, 1996.

LEGISLATIVE HISTORY—H.R. 3723 (S. 1331) (S. 1332):

HOUSE REPORTS: No. 104–788 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 142 (1996):
Sept. 17, considered and passed House.
Sept. 18, considered and passed Senate, amended.
Sept. 28, House concurred in Senate amendment with an amendment.
Oct. 2, Senate concurred in House amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 32 (1996):
Oct. 11, Presidential statement.

Public Law 104–295
104th Congress

An Act

Oct. 11, 1996
[H.R. 3815]

To make technical corrections and miscellaneous amendments to trade laws.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Miscellaneous Trade and Technical Corrections Act of 1996.
19 USC 1654 note.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Miscellaneous Trade and Technical Corrections Act of 1996".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.
Sec. 2. Payment of duties and fees.
Sec. 3. Other technical and conforming amendments.
Sec. 4. Clarification regarding the application of customs user fees.
Sec. 5. Technical amendment to the Customs and Trade Act of 1990.
Sec. 6. Clarification of fees for certain customs services.
Sec. 7. Special rule for extending time for filing drawback claims.
Sec. 8. Treatment of entries of certain televisions.
Sec. 9. Temporary duty suspension for personal effects of participants in certain world athletic events.
Sec. 10. Miscellaneous technical correction.
Sec. 11. Uruguay Round Agreements Act.
Sec. 12. Imports of civil aircraft.
Sec. 13. Technical correction to certain chemical description.
Sec. 14. Marking of certain imported articles and containers.
Sec. 15. Tariff treatment of certain silver, gold, and platinum bars.
Sec. 16. Suspension of duty on certain semimanufactured forms of gold.
Sec. 17. Elimination of East-West Trade Statistics Monitoring System.
Sec. 18. Retroactive election to reconcile entries.
Sec. 19. Tariff treatment for certain motor vehicles.
Sec. 20. Technical amendments relating to Public Law 103–465.
Sec. 21. Technical amendments relating to Public Law 103–182.
Sec. 22. Technical amendment regarding judicial review.
Sec. 23. Reliquidation of entries of warp knitting machines.
Sec. 24. Temporary suspension of duty on diclofop-methyl.
Sec. 25. Elimination of duty on 2-amino-3-chlorobenzoic acid, methyl ester.
Sec. 26. Elimination of duty on 3,3'-diaminobenzidine (tetraamino biphenyl).
Sec. 27. Certain unliquidated vessel repair entries.
Sec. 28. Duty on display fireworks.
Sec. 29. Personal allowance duty exemption for merchandise purchased in a duty-free sales enterprise.
Sec. 30. Temporary duty suspension for certain motorcycles.
Sec. 31. Deferral of duty on certain production equipment.
Sec. 32. Temporary suspension of duty on thidiazuron.
Sec. 33. 2,3,3-trimethyl-indolenine.
Sec. 34. Bis(4-amino-3-methylcyclohexyl)-methane.
Sec. 35. Limitation on designation as beneficiary developing country.
Sec. 36. Temporary duty suspension on certain chemicals used in the formulation of an HIV protease inhibitor.
Sec. 37. Treatment of certain entries of buffalo leather.
Sec. 38. Fees for certain customs services.
Sec. 39. Injury determinations for certain countervailing duty orders.
Sec. 40. Treatment of difference between collections of estimated antidumping duty and final assessed duty under antidumping duty order.
Sec. 41. Certain lead fuel test assemblies.

Sec. 42. Suspension of duty on certain injection molding machines.
Sec. 43. Reliquidation of certain entries of color televisions.
Sec. 44. Articles used to provide repair and maintenance services.
Sec. 45. Yttrium oxide and cerium aluminum terbium used as luminophores.
Sec. 46. Pharmaceutical grade phospholipids.
Sec. 47. Certain structures, parts and components used in the Gemini Telescopes Project, Mauna Kea, Hawaii.
Sec. 48. Articles provided to Steward Observatory.
Sec. 49. Reliquidation of certain frozen concentrated orange juice entries.
Sec. 50. Twine, cordage, ropes, and cables.
Sec. 51. Suspension of duty on certain fatty acid esters.
Sec. 52. Duty suspension on a mobile bison slaughter unit.
Sec. 53. Exemption from tariffs and fees for certain aircraft parts and equipment.
Sec. 54. Reliquidation of certain entries of live swine.
Sec. 55. Reliquidation of certain entries of sewing machines.
Sec. 56. Temporary duty suspension on certain textured rolled glass sheets.
Sec. 57. Temporary suspension of duty on DEMT.
Sec. 58. Investigation on cattle and beef trade.
Sec. 59. Special rule for Generalized System of Preferences.

SEC. 2. PAYMENT OF DUTIES AND FEES.

(a) INTEREST ACCRUAL.—Section 505(c) of the Tariff Act of 1930 (19 U.S.C. 1505(c)) is amended in the second sentence by inserting after "duties, fees, and interest" the following: "or, in a case in which a claim is made under section 520(d), from the date on which such claim is made,".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to claims made pursuant to section 520(d) of the Tariff Act of 1930 (19 U.S.C. 1520(d)) on or after June 7, 1996. 19 USC 1505 note.

SEC. 3. OTHER TECHNICAL AND CONFORMING AMENDMENTS.

(a) IN GENERAL.—

(1) EXAMINATION OF BOOKS AND WITNESSES.—Section 509(a)(2) of the Tariff Act of 1930 (19 U.S.C. 1509(a)(2)) is amended by striking "(c)(1)(A)" and inserting "(d)(1)(A)".

(2) REQUIREMENT FOR CERTIFICATE FOR IMPORTATION OF ALCOHOLIC LIQUORS ABOARD SMALL VESSELS.—Section 7 of the Act of August 5, 1935 (19 U.S.C. 1707; 49 Stat. 520), is repealed.

(3) MANIFESTS.—Section 431(c)(1) of the Tariff Act of 1930 (19 U.S.C. 1431(c)(1)) is amended in the matter preceding subparagraph (A) by striking "such manifest" and inserting "a vessel manifest".

(4) PENALTIES FOR CERTAIN VIOLATIONS.—Section 592 of the Tariff Act of 1930 (19 U.S.C. 1592) is amended—

(A) in subsection (a)(1), by striking "lawful duty" and inserting "lawful duty, tax, or fee"; and

(B) in subsections (b)(1)(A)(vi), (c)(2)(A)(ii), (c)(3)(A)(ii), (c)(4)(A)(i), and (c)(4)(B) by striking "lawful duties" each place it appears and inserting "lawful duties, taxes, and fees".

(5) DEPRIVATION OF LAWFUL DUTIES, TAXES, OR FEES.—Section 592(d) of the Tariff Act of 1930 (19 U.S.C. 1592(d)) is amended by striking "or fees be restored" and inserting "and fees be restored".

(6) RECONCILIATION TREATED AS ENTRY FOR RECORDKEEPING.—

(A) Section 401(s) of the Tariff Act of 1930 (19 U.S.C. 1401(s)) is amended by inserting "recordkeeping," after "reliquidation,".

(B) Section 508(c)(1) of such Act (19 U.S.C. 1508(c)(1)) is amended by inserting ", filing of a reconciliation," after "entry".

(7) EXTENSION OF LIQUIDATION.—Section 504(d) of the Tariff Act of 1930 (19 U.S.C. 1504(d)) is amended—

(A) in the first sentence, by inserting ", unless liquidation is extended under subsection (b)," after "shall liquidate the entry"; and

(B) in the second sentence, by inserting "(other than an entry with respect to which liquidation has been extended under subsection (b))" after "Any entry".

(8) EXEMPTION FROM DUTY FOR PERSONAL AND HOUSEHOLD GOODS ACCOMPANYING RETURNING RESIDENTS.—Section 321(a)(2)(B) of the Tariff Act of 1930 (19 U.S.C. 1321(a)(2)(B)) is amended by inserting ", 9804.00.65," after "9804.00.30".

(9) DEBT COLLECTION.—Section 631(a) of the Tariff Act of 1930 (19 U.S.C. 1631(a)) is amended by adding at the end the following new subsection:

"(c) PAYMENT OF COSTS.—The debtor shall be assessed and pay any and all costs associated with collection efforts pursuant to this section. Notwithstanding section 3302(b) of title 31, United States Code, any sum so collected shall be used to pay the costs of debt collection services.".

(10) DESIGNATION OF CUSTOMS OFFICER.—Section 509(b) of the Tariff Act of 1930 (19 U.S.C. 1509(b)) is amended in paragraphs (3) and (4) by striking "appropriate regional commissioner" and inserting "officer designated pursuant to regulations".

(11) REVIEW OF PROTESTS.—Section 515(d) of the Tariff Act of 1930 (19 U.S.C. 1515(d)) is amended by striking "district director" and inserting "port director".

(12) ADMINISTRATIVE EXEMPTIONS.—Section 321(a) of the Tariff Act of 1930 (19 U.S.C. 1321(a)) is amended—

(A) in paragraph (1), by striking "duties, fees, and taxes actually accruing" and inserting "duties, fees, taxes, and interest actually accruing"; and

(B) in paragraph (3)—

(i) by striking "and taxes" and inserting "taxes, and interest"; and

(ii) by striking "or taxes" and inserting "taxes, or interest".

19 USC 1321 note.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply as of December 8, 1993.

SEC. 4. CLARIFICATION REGARDING THE APPLICATION OF CUSTOMS USER FEES.

(a) IN GENERAL.—Subparagraph (D) of section 13031(b)(8) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(b)(8)(D)) is amended—

(1) in clause (iv)—

(A) by striking "subparagraph 9802.00.80 of such Schedules" and inserting "heading 9802.00.80 of such Schedule"; and

(B) by striking "and" at the end of clause (iv);

(2) by striking the period at the end of clause (v) and inserting "; and"; and

(3) by inserting after clause (v) the following new clause:

"(vi) in the case of merchandise entered from a foreign trade zone (other than merchandise to which clause (v) applies), be applied only to the value of the privileged or nonprivileged

foreign status merchandise under section 3 of the Act of June 18, 1934 (commonly known as the Foreign Trade Zones Act, 19 U.S.C. 81c).".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply to— 19 USC 58c note.

(1) any entry made from a foreign trade zone on or after the 15th day after the date of the enactment of this Act; and

(2) any entry made from a foreign trade zone after November 30, 1986, and before such 15th day if liquidation of the entry was not final before such 15th day.

(c) APPLICATION OF FEES TO CERTAIN AGRICULTURAL PRODUCTS.—The amendment made by section 111(b)(2)(D)(iv) of the Customs and Trade Act of 1990 shall apply to— 19 USC 58c note.

(1) any entry made from a foreign trade zone on or after the 15th day after the date of the enactment of this Act; and

(2) any entry made from a foreign trade zone after November 30, 1986, and before such 15th day if the liquidation of the entry was not final before such 15th day.

SEC. 5. TECHNICAL AMENDMENT TO THE CUSTOMS AND TRADE ACT OF 1990.

Subsection (b) of section 484H of the Customs and Trade Act of 1990 (19 U.S.C. 1553 note) is amended by striking ", or withdrawn from warehouse for consumption," and inserting "for transportation in bond".

SEC. 6. CLARIFICATION OF FEES FOR CERTAIN CUSTOMS SERVICES.

(a) IN GENERAL.—Section 13031(b)(9)(A) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(b)(9)(A)) is amended—

(1) by striking "centralized hub facility or" in clause (i); and

(2) in clause (ii)—

(A) by striking "facility—" and inserting "facility or centralized hub facility—",

(B) by striking "customs inspectional" in subclause (I), and

(C) by striking "at the facility" in subclause (I) and inserting "for the facility".

(b) DEFINITIONS.—Section 13031(b)(9)(B)(i) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(b)(9)(B)(i)) is amended—

(1) by striking ", as in effect on July 30, 1990", and

(2) by adding at the end thereof the following new sentence: "Nothing in this paragraph shall be construed as prohibiting the Secretary of the Treasury from processing merchandise that is informally entered or released at any centralized hub facility or express consignment carrier facility during the normal operating hours of the Customs Service, subject to reimbursement and payment under subparagraph (A).".

(c) CITATION.—Section 13031(b)(9)(B)(ii) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(b)(9)(B)(ii)) is amended by striking "section 236 of the Tariff and Trade Act of 1984" and inserting "section 236 of the Trade and Tariff Act of 1984".

SEC. 7. SPECIAL RULE FOR EXTENDING TIME FOR FILING DRAWBACK CLAIMS.

Section 313(r) of the Tariff Act of 1930 (19 U.S.C. 1313(r)) is amended by adding at the end the following:

"(3)(A) The Customs Service may, notwithstanding the limitation set forth in paragraph (1), extend the time for filing a drawback claim for a period not to exceed 18 months, if—

"(i) the claimant establishes to the satisfaction of the Customs Service that the claimant was unable to file the drawback claim because of an event declared by the President to be a major disaster on or after January 1, 1994; and

"(ii) the claimant files a request for such extension with the Customs Service—

"(I) within 1 year from the last day of the 3-year period referred to in paragraph (1), or

"(II) within 1 year after the date of the enactment of this paragraph,

whichever is later.

"(B) If an extension is granted with respect to a request filed under this paragraph, the periods of time for retaining records set forth in subsection (t) of this section and section 508(c)(3) shall be extended for an additional 18 months or, in a case to which subparagraph (A)(ii) applies, for a period not to exceed 1 year from the date the claim is filed.

"(C) For purposes of this paragraph, the term 'major disaster' has the meaning given that term in section 102(2) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122(2)).".

SEC. 8. TREATMENT OF ENTRIES OF CERTAIN TELEVISIONS.

(a) IN GENERAL.—Notwithstanding sections 514 and 520 of the Tariff Act of 1930 (19 U.S.C. 1514 and 1520), or any other provision of law, the United States Customs Service shall, not later than 90 days after the date of the enactment of this Act, liquidate or reliquidate those entries made at New York, New York, which are listed in subsection (c), in accordance with the final results of the administrative review, covering the period from May 1, 1984, through March 31, 1985, conducted by the International Trade Administration of the Department of Commerce for such entries (case number A–580–008).

(b) PAYMENT OF AMOUNTS OWED.—Any amounts owed by the United States pursuant to the liquidation or reliquidation of an entry under subsection (a) shall be paid by the Customs Service within 90 days after such liquidation or reliquidation.

(c) ENTRY LIST.—The entries referred to in subsection (a) are the following:

Entry Number	Date of Entry
84–4426808	August 29, 1984
84–4427823	September 4, 1984
84–4077985	July 25, 1984
84–4080859	August 3, 1984
84–4080817	August 3, 1984
84–4077723	August 1, 1984

SEC. 11. URUGUAY ROUND AGREEMENTS ACT.

Section 405(b) of the Uruguay Round Agreements Act (19 U.S.C. 3602(b)) is amended—

(1) in paragraph (1) by striking "1(a)" and inserting "1(b)"; and

(2) in paragraph (2) by striking "1(b)" and inserting "1(a)".

SEC. 12. IMPORTS OF CIVIL AIRCRAFT.

General Note 6 of the Harmonized Tariff Schedule of the United States is amended to read as follows:

"6. Articles Eligible for Duty-Free Treatment Pursuant to the Agreement on Trade in Civil Aircraft.

"(a) Whenever a product is entered under a provision for which the rate of duty 'Free (C)' appears in the 'Special' subcolumn and a claim for such rate of duty is made, the importer—

"(i) shall maintain such supporting documentation as the Secretary of the Treasury may require; and

"(ii) shall be deemed to certify that the imported article is a civil aircraft, or has been imported for use in a civil aircraft and will be so used.

The importer may amend the entry or file a written statement to claim a free rate of duty under this note at any time before the liquidation of the entry becomes final, except that, notwithstanding section 505(c) of the Tariff Act of 1930 (19 U.S.C. 1505(c)), any refund resulting from any such claim shall be without interest.

"(b)(i) For purposes of the tariff schedule, the term 'civil aircraft' means any aircraft, aircraft engine, or ground flight simulator (including parts, components, and subassemblies thereof)—

"(A) that is used as original or replacement equipment in the design, development, testing, evaluation, manufacture, repair, maintenance, rebuilding, modification, or conversion of aircraft; and

"(B)(1) that is manufactured or operated pursuant to a certificate issued by the Administrator of the Federal Aviation Administration (hereafter referred to as the 'FAA') under section 44704 of title 49, United States Code, or pursuant to the approval of the airworthiness authority in the country of exportation, if such approval is recognized by the FAA as an acceptable substitute for such an FAA certificate;

"(2) for which an application for such certificate has been submitted to, and accepted by, the Administrator of the FAA by an existing type and production certificate holder pursuant to section 44702 of title 49, United States Code, and regulations promulgated thereunder; or

"(3) for which an application for such approval or certificate will be submitted in the future by an existing type and production certificate holder, pending the completion of design or other technical requirements stipulated by the Administrator of the FAA.

"(ii) The term 'civil aircraft' does not include any aircraft, aircraft engine, or ground flight simulator (or parts, components, and subassemblies thereof) purchased for use by the Department of Defense or the United States Coast Guard,

unless such aircraft, aircraft engine, or ground flight simulator (or parts, components, and subassemblies thereof) satisfies the requirements of subdivisions (i)(A) and (i)(B) (1) or (2).

"(iii) Subdivision (i)(B)(3) shall apply only to such quantities of the parts, components, and subassemblies as are required to meet the design and technical requirements stipulated by the Administrator. The Commissioner of Customs may require the importer to estimate the quantities of parts, components, and subassemblies covered for purposes of such subdivision.".

SEC. 13. TECHNICAL CORRECTION TO CERTAIN CHEMICAL DESCRIPTION.

(a) AMENDMENT TO SUBHEADING 2933.90.02.—The article description for subheading 2933.90.02 of the Harmonized Tariff Schedule of the United States is amended by striking "(Quizalofop ethyl)".

(b) EFFECTIVE DATE.—

(1) GENERAL RULE.—The amendment made by this section applies to articles entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

(2) RETROACTIVE PROVISION.—Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law, upon proper request (which includes sufficient information to identify and locate the entry) filed with the Customs Service on or before the date that is 180 days after the date of the enactment of this Act, any entry, or withdrawal from warehouse for consumption, of an article that occurred—

(A) after December 31, 1994, and before the date that is 15 days after the date of the enactment of this Act, and

(B) with respect to which there would have been no duty or a lesser duty if the amendment made by subsection (a) applied to such entry or withdrawal,

shall be liquidated or reliquidated as though such amendment applied to such entry or withdrawal.

SEC. 14. MARKING OF CERTAIN IMPORTED ARTICLES AND CONTAINERS.

(a) IN GENERAL.—Section 304 of the Tariff Act of 1930 (19 U.S.C. 1304) is amended—

(1) by redesignating subsections (f), (g), (h), and (i) as subsections (h), (i), (j), and (k), respectively, and

(2) by inserting after subsection (e) the following new subsections:

"(f) MARKING OF CERTAIN COFFEE AND TEA PRODUCTS.—The marking requirements of subsections (a) and (b) shall not apply to articles described in subheadings 0901.21, 0901.22, 0902.10, 0902.20, 0902.30, 0902.40, 2101.10, and 2101.20 of the Harmonized Tariff Schedule of the United States, as in effect on January 1, 1995.

"(g) MARKING OF SPICES.—The marking requirements of subsections (a) and (b) shall not apply to articles provided for under subheadings 0904.11, 0904.12, 0904.20, 0905.00, 0906.10, 0906.20, 0907.00, 0908.10, 0908.20, 0908.30, 0909.10, 0909.20, 0909.30, 0909.40, 0909.50, 0910.10, 0910.20, 0910.30, 0910.40, 0910.50, 0910.91, 0910.99, 1106.20, 1207.40, 1207.50, 1207.91, 1404.90, and 3302.10, and items classifiable in categories 0712.90.60,

elect to file a reconciliation with regard to such entry elements as are identified by the party pursuant to regulations prescribed by the Secretary. If the party so elects, the party shall declare that a reconciliation will be filed. The declaration shall be made in such manner as the Secretary shall prescribe and at the time the documentation or information required by subsection (a)(1)(B) or the import activity summary statement is filed with, or transmitted to, the Customs Service, or at such later time as the Customs Service may, in its discretion, permit. The reconciliation shall be filed by the importer of record at such time and in such manner as the Secretary prescribes but not later than 15 months after the date the importer declares his intent to file the reconciliation. In the case of reconciling issues relating to the assessment of antidumping and countervailing duties, the reconciliation shall be filed not later than 90 days after the date the Customs Service advises the importer that the period of review for antidumping or countervailing duty purposes has been completed.".

SEC. 19. TARIFF TREATMENT FOR CERTAIN MOTOR VEHICLES.

General Note 3 of the Harmonized Tariff Schedule of the United States is amended by adding at the end the following new subdivision:

"(d) CERTAIN MOTOR VEHICLES MANUFACTURED IN FOREIGN TRADE ZONES.

"(i) DUTY IMPOSED. Notwithstanding any other provision of law, the duty imposed on a qualified article shall be the amount determined by multiplying the applicable foreign value content of such article by the applicable rate of duty for such article.

"(ii) QUALIFIED ARTICLE. For purposes of this subdivision, the term 'qualified article' means an article that is—

"(A) classifiable under any of subheadings 8702.10 through 8704.90 of the Harmonized Tariff Schedule of the United States,

"(B) produced or manufactured in a foreign trade zone before January 1, 1996,

"(C) exported therefrom to a NAFTA country (as defined in section 2(4) of the North American Free Trade Agreement Implementation Act (19 U.S.C. 3301(4)), and

"(D) subsequently imported from that NAFTA country into the customs territory of the United States—

"(I) on or after the effective date of this subdivision, or

"(II) on or after January 1, 1994, and before such effective date, if the entry of such article is unliquidated, under protest, or in litigation, or liquidation is otherwise not final on such effective date.

"(iii) APPLICABLE FOREIGN VALUE CONTENT.

"(A) APPLICABLE FOREIGN VALUE CONTENT. For purposes of this subdivision, the term 'applicable foreign value content' means the amount determined by multiplying the value of a qualified article by the applicable percentage.

"(B) APPLICABLE PERCENTAGE. The term 'applicable percentage' means the FTZ percentage for the article plus 5 percentage points.

"(iv) OTHER DEFINITIONS AND SPECIAL RULES. For purposes of this subdivision—

"(A) FTZ PERCENTAGE. The FTZ percentage for a qualified article shall be the percentage determined in accordance with subparagraph (I), (II), or (III) of this paragraph, whichever is applicable.

"(I) REPORT FOR YEAR PUBLISHED. If, at the time a qualified article is entered, the FTZ Annual Report for the year in which the article was manufactured has been published, the FTZ percentage for the article shall be the percentage of foreign status merchandise set forth in that report for the subzone in which the qualified article was manufactured, or if not manufactured in a subzone, the foreign trade zone in which the qualified article was manufactured.

"(II) REPORT FOR YEAR NOT PUBLISHED. If, at the time a qualified article is entered, the FTZ Annual Report for the year in which the article was manufactured has not been published, the FTZ percentage for the article shall be the percentage of foreign status merchandise set forth in the most recently published FTZ Annual Report for the subzone in which the article was manufactured, or if not manufactured in a subzone, the foreign trade zone in which the qualified article was manufactured.

"(B) APPLICABLE RATE OF DUTY. The term 'applicable duty rate' means the rate of duty set forth in any of subheadings 8702.10 through 8704.90 of the Harmonized Tariff Schedule of the United States that is applicable to the qualified article and which would apply to the article if the article were directly entered for consumption into the United States from the foreign trade zone with nonprivileged foreign status having been claimed for all foreign merchandise used in the manufacture or production of the qualified article.

"(C) FOREIGN TRADE ZONE; SUBZONE. The terms 'foreign trade zone' and 'subzone' mean a zone or subzone established pursuant to the Act of June 18, 1934, commonly known as the Foreign Trade Zones Act (19 U.S.C. 81a et seq.).

"(D) FTZ ANNUAL REPORT. The term 'FTZ Annual Report' means the Annual Report to the Congress published in accordance with section 16 of the Foreign Trade Zones Act (19 U.S.C. 81p(c)).

"(E) NON-PRIVILEGED FOREIGN STATUS. The term 'nonprivileged foreign status' means that privilege has not been requested with respect to an article pursuant to section 3 of the Foreign Trade Zones Act.".

SEC. 20. TECHNICAL AMENDMENTS RELATING TO PUBLIC LAW 103–465.

(a) TITLE I.—

(1) Section 516A(a)(2)(A)(i)(I) of the Tariff Act of 1930 (19 U.S.C. 1516a(a)(2)(A)(i)(I)) is amended by adding a comma after "subparagraph (B)".

(2) Section 132 of the Uruguay Round Agreements Act (19 U.S.C. 3552) is amended by striking "title" and inserting "section".

(b) TITLE II.—

(1)(A) The item relating to section 221 in the table of contents of the Uruguay Round Agreements Act is amended to read as follows:

"Sec. 221. Special rules for review of determinations.".

(B) The section heading for section 221 of that Act is amended to read as follows:

"SEC. 221. SPECIAL RULES FOR REVIEW OF DETERMINATIONS.".

(2) Section 270(a)(2)(B) of the Uruguay Round Agreements Act is amended by striking "771(A)(c)" and inserting "771A(c)". 19 USC 1677–1.

(3) Section 702(c)(5) of the Tariff Act of 1930 (19 U.S.C. 1671a(c)(5)) is amended by striking "(b)(1)(A)" and inserting "(b)(1)".

(4) Section 732(c)(5) of the Tariff Act of 1930 (19 U.S.C. 1673a(c)(5)) is amended by striking "(b)(1)(A)" and inserting "(b)(1)".

(5) Section 212(b)(1)(C)(i)(I) of the Uruguay Round Agreements Act is amended by striking "the petition" and inserting "a petition". 19 USC 1671b.

(6) Section 214(b)(2)(A)(i)(II) of the Uruguay Round Agreements Act is amended by striking "the merchandise" and inserting "merchandise". 19 USC 1673d.

(7) Section 771(16)(B)(i) of the Tariff Act of 1930 (19 U.S.C. 1677(16)(B)(i)) is amended by striking "merchandise which is the subject of the investigation" and inserting "subject merchandise".

(8) Section 732(e)(1) of the Tariff Act of 1930 (19 U.S.C. 1673a(e)(1)) is amended by striking "the the" and inserting "the".

(9) Section 233(a)(6)(C) of the Uruguay Round Agreements Act is amended by inserting "each place it appears" after "commence". 19 USC 1673a.

(10) Section 261(d)(1)(A)(ii) of the Uruguay Round Agreements Act is amended by inserting after "is amended" the following: "by striking 'as follows:' and inserting a comma and". 19 USC 2192.

(11) Section 261(d)(1)(B)(ii)(I) of the Uruguay Round Agreements Act is amended by inserting "of" after "section 303 or". 19 USC 1337.

(12) Section 337(b)(3) of the Tariff Act of 1930 (19 U.S.C. 1337(b)(3)) is amended in the first sentence by striking "such section and".

(13) Section 281(h)(4) of the Uruguay Round Agreements Act is amended by striking "(A),". 19 USC 3571.

(14) Section 771(30) of the Tariff Act of 1930 (19 U.S.C. 1677(30)) is amended by striking "agreement" and inserting "Agreement".

(15) Section 705(c)(1)(B)(i)(II) of the Tariff Act of 1930 (19 U.S.C. 1671d(c)(1)(B)(i)(II)) is amended by inserting "section" after "if".

(16) Section 282(d) of the Uruguay Round Agreements Act (19 U.S.C. 3572(d)) is amended by aligning the text of the last sentence with the text of the first sentence.

(17) Section 783(f) of the Tariff Act of 1930 (19 U.S.C. 1677n(f)) is amended by striking "subsection (d)" and inserting "subsection (e)".

(c) TITLE III.—

19 USC 2416.

(1) Section 314(e) of the Uruguay Round Agreements Act is amended in the matter proposed to be inserted as section 306(b)(1) of the Trade Act of 1974, by striking the closed quotation marks and second period at the end.

19 USC 1337.

(2) Section 321(a)(1)(C)(i) of the Uruguay Round Agreements Act is amended to read as follows:

"(i) in the first sentence by striking 'such Act' and inserting 'such subtitle'; and".

19 USC 1592a.

(3) Section 592A(a)(3) of the Tariff Act of 1930 (19 U.S.C. 1592A(a)(3)) is amended by striking "list under paragraph (2)" and inserting "list under paragraph (1)".

(4) Section 301(c)(4) of the Trade Act of 1974 (19 U.S.C. 2411(c)(4)) is amended by striking "paragraph (1)(C)(iii)" and inserting "paragraph (1)(D)(iii)".

(5) Section 202(d)(4)(A)(i) of the Trade Act of 1974 (19 U.S.C. 2252(d)(4)(A)(i)) is amended by striking "section 202(b)" and inserting "subsection (b)".

(6) Section 304(a)(3)(A) of the Trade Act of 1974 (19 U.S.C. 2414(a)(3)(A)) is amended by inserting "Rights" after "Intellectual Property".

(7) Section 331 of the Uruguay Round Agreements Act (19 U.S.C. 3591) is amended by striking ", as defined in section 2(9) of the Uruguay Round Implementation Act,".

(8) Section 204 of the Agricultural Act of 1956 (7 U.S.C. 1854) is amended in the second sentence by striking "Implementation" and inserting "Agreements".

(9) Section 334(b)(1)(B)(ii) of the Uruguay Round Agreements Act (19 U.S.C. 3592(b)(1)(B)(ii)) is amended by striking "possession," and inserting "possession;".

(10) Section 305(d)(2) of the Trade Agreements Act of 1979 (19 U.S.C. 2515(d)(2)) is amended—

(A) by striking "or" after the semicolon at the end of subparagraph (B); and

(B) in subparagraph (C) by striking the period at the end and inserting a semicolon.

(11) Section 304 of the Trade Agreements Act of 1979 (19 U.S.C. 2514) is amended—

(A) in subsection (a) by striking the comma after "XXIV(7)"; and

(B) in subsection (c)—

(i) by striking the comma after "XXIV(7)"; and

(ii) by striking the comma after "XIX(5)".

(12) Section 308(4)(D) of the Trade Agreements Act of 1979 (19 U.S.C. 2518(4)(D)) is amended by striking "the the" and inserting "the".

(13) Section 305(g) of the Trade Agreements Act of 1979 (19 U.S.C. 2515(g)) is amended—

(A) in paragraph (1)—

(i) by striking "of such subsection" and inserting "of subsection (d)(2)"; and

(ii) by inserting "of subsection (d)(2)" after "(as the case may be)"; and

(B) in paragraph (3)—

(i) by striking "the the" and inserting "the"; and

(ii) by inserting "of subsection (d)(2)" after "(as the case may be)".

(14) Section 402(4) of the Trade Agreements Act of 1979 (19 U.S.C. 2532(4)) is amended by inserting a comma after "system, if any".

(15) Section 414(b)(1) of the Trade Agreements Act of 1979 (19 U.S.C. 2544(b)(1)) is amended by striking "procedures,," each place it appears and inserting "procedures,".

(16) Section 451(6)(A) of the Trade Agreements Act of 1979 (19 U.S.C. 2571(6)(A)) is amended by striking "Members." and inserting "Members; and".

(d) TITLE IV.—

(1) Section 492(c) of the Trade Agreements Act of 1979 (19 U.S.C. 2578a(c)) is amended by striking "phystosanitary" and inserting "phytosanitary".

(2) Section 412(b) of the Uruguay Round Agreements Act is amended by striking "1853" and inserting "972". 108 Stat. 4964.

(e) TITLE V.—

(1) Section 154(c)(2) of title 35, United States Code, is amended in the matter preceding subparagraph (A) by striking "Acts" and inserting "acts".

(2) Section 104A(h)(3) of title 17, United States Code, is amended by striking "section 104A(g)" and inserting "subsection (g)".

(f) TITLE VI.—

(1) Section 141(c)(1)(D) of the Trade Act of 1974 (19 U.S.C. 2171(c)(1)(D)) is amended by striking the second comma after "World Trade Organization".

(2) Section 601(b)(1)(B) of the Uruguay Round Agreements Act (19 U.S.C. 2465 note) is amended by striking "such date of enactment" and inserting "the date of the enactment of this Act".

(3) The heading for section 1106 of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 2905) is amended by striking "**FOR THE WTO**" and inserting "**OR THE WTO**".

SEC. 21. TECHNICAL AMENDMENTS RELATING TO PUBLIC LAW 103–182.

(a) TITLE II.—

(1) Section 13031(b)(10)(A) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(b)(10)(A)) is amended—

(A) by striking "Agreement)" and inserting "Agreement Implementation Act of 1988)"; and

(B) by striking "section 403" and inserting "article 403".

(2) Section 202 of the North American Free Trade Agreement Implementation Act (19 U.S.C. 3332) is amended—

(A) in subsection (m)(4)(C) by striking "(o)" and inserting "(p)"; and

(B) in subsection (p)(18) by striking "federal government" and inserting "Federal Government".

(b) TITLE III.—

(1) Section 351(b)(2) of the North American Free Trade Agreement Implementation Act is amended by striking "Agreement Act" and inserting "Agreements Act". 19 USC 2541.

(2) Section 411(c) of the Trade Agreements Act of 1979 (19 U.S.C. 2541(c)) is amended by striking "Special Representatives" and inserting "Trade Representative".

(3) Section 316 of the North American Free Trade Agreement Implementation Act (19 U.S.C. 3381) is amended by striking "subsection 202(d)(1)(C)(i)" and inserting "subsection (d)(1)(C)(i)".

(4) Section 309(c) of the North American Free Trade Agreement Implementation Act (19 U.S.C. 3358(c)) is amended in paragraphs (1) and (2) by striking "column 1—General" and inserting "column 1 general".

(c) TITLE IV.—

(1) Section 402(d)(3) of the North American Free Trade Agreement Implementation Act (19 U.S.C. 3432(d)(3)) is amended in the matter preceding subparagraph (A) by striking "(c)(4)" and inserting "subsection (c)(4)".

(2) Section 407(e)(2) of the North American Free Trade Agreement Implementation Act (19 U.S.C. 3437(e)(2)) is amended by striking "petition," and inserting "petition;".

(3) Section 516A(g)(12)(D) of the Tariff Act of 1930 (19 U.S.C. 1516a(g)(12)(D)) is amended—

(A) by striking "(D)(i)" and inserting "(D)"; and

(B) by striking "If the Trade Representative" and inserting "(i) If the Trade Representative".

(4) Section 415(b)(2) of the North American Free Trade Agreement Implementation Act (19 U.S.C. 3451(b)(2)) is amended by striking "under 516A(a)" and inserting "under section 516A(a)".

(d) TITLE V.—Section 219 of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2707) is amended—

(1) in subsection (b)(1) by striking "Hemisphere," and inserting "Hemisphere;"; and

(2) in paragraphs (1) and (2) of subsection (h) by striking "Center," and inserting "Center;".

(e) TITLE VI.—

(1) Section 3126 of the Revised Statutes of the United States (19 U.S.C. 293) is amended by striking "or both" and inserting "or both,".

(2) Section 3127 of the Revised Statutes of the United States (19 U.S.C. 294) is amended by striking "conveyed a United States" and inserting "conveyed in a United States".

(3) Section 436(a)(2) of the Tariff Act of 1930 (19 U.S.C. 1436(a)(2)) is amended—

(A) by striking "431(e)" and inserting "431"; and

(B) by striking "or" after the semicolon at the end.

(4) Section 313 of the Tariff Act of 1930 (19 U.S.C. 1313) is amended—

(A) in subsection (j)(2) by realigning the text following subparagraph (C)(ii)(II) beginning with "then upon the exportation" and ending with "duty, tax, or fee." 2 ems to the left so that the text has the same degree of indentation as paragraph (3) of section 313(j) of such Act; and

(B) in subsection (t) by striking "chapter" and inserting "Act".

(5) Section 441 of the Tariff Act of 1930 (19 U.S.C. 1441) is amended—

(A) in each of paragraphs (1), (2), and (4) by striking the semicolon at the end and inserting a period; and

(B) in paragraph (5) by striking "; and" and inserting a period.

(6) Section 484(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1484(a)(1)) is amended by striking "553, and 336(j)" and inserting "and 553".

(7) Section 514(a) of the Tariff Act of 1930 (19 U.S.C. 1514(a)) is amended by striking "section 520 (relating to refunds and errors), and section 521 (relating to reliquidations on account of fraud)" and inserting "and section 520 (relating to refunds and errors)".

(8) Section 491(a) of the Tariff Act of 1930 (19 U.S.C. 1491(a)) is amended in the first sentence—

(A) by striking "in in" and inserting "in"; and

(B) by striking "appropriate customs officer" and inserting "Customs Service".

(9) Section 490(c)(1) of the Tariff Act of 1930 (19 U.S.C. 1490(c)(1)) is amended by striking "paragraphs (1) through (4) of subsection (a)" and inserting "subparagraphs (A) through (D) of subsection (a)(1)".

(10) Sections 1207(b)(2) and 1210(b)(1) of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 3007(b)(2) and 3010(b)(1)) are each amended by striking "484(e)" and "1484(e)" and inserting "484(f)" and "1484(f)", respectively.

(11) Section 641(d)(2)(B) of the Tariff Act of 1930 (19 U.S.C. 1641(d)(2)(B)) is amended in the second to the last sentence by striking "his" and inserting "the".

(12) Section 621(4)(A) of the North American Free Trade Agreement Implementation Act is amended by striking "disclosure in 30 days" and inserting "disclosure within 30 days". 19 USC 1592.

(13) Section 592(d) of the Tariff Act of 1930 (19 U.S.C. 1592(d)) is amended in the subsection heading by striking "TAXES" and inserting "TAXES,".

(14) Section 625(a) of the Tariff Act of 1930 (19 U.S.C. 1625(a)) is amended by striking "chapter" and inserting "Act".

(15) Section 413(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1413(a)(1)) is amended by striking "this Act" and inserting "the North American Free Trade Agreement Implementation Act".

SEC. 22. TECHNICAL AMENDMENT REGARDING JUDICIAL REVIEW.

Section 516A(g)(4)(A) of the Tariff Act of 1930 (19 U.S.C. 1516a(g)(4)(A)) is amended by striking "Implementation Agreement Act of 1988" and inserting "Agreement Implementation Act of 1988".

SEC. 23. RELIQUIDATION OF ENTRIES OF WARP KNITTING MACHINES.

Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law, upon proper request filed with the Customs Service before the 90th day after the date of the enactment of this Act, the Secretary of the Treasury shall—

(1) liquidate or reliquidate as duty free Entry No. 100–3022436–3, made on July 12, 1989, at the port of Charleston, South Carolina; and

(2) refund any duties and interest paid with respect to such entry.

(B) before the date that is 15 days after the date of the enactment of this Act, and

to which lower rate of duty would have applied if the entry had been made on or after the date that is 15 days after the date of the enactment of this Act, shall be liquidated or reliquidated as if such subheading 2921.59.17 as so amended applied to such entry and the Secretary of the Treasury shall refund any excess duty paid with respect to such entry.

(3) REQUESTS.—Liquidation or reliquidation may be made under subsection (b)(2) with respect to an entry only if a request therefor is filed with the Customs Service, within 180 days after the date of the enactment of this Act, that contains sufficient information to enable the Customs Service—

(A) to locate the entry; or

(B) to reconstruct the entry if it cannot be located.

SEC. 27. CERTAIN UNLIQUIDATED VESSEL REPAIR ENTRIES.

Section 484E of the Customs and Trade Act of 1990 (19 U.S.C. 1466 note) is amended—

(1) in subsection (b)—

(A) by striking "and" at the end of paragraph (2)(B);

(B) by redesignating paragraph (3) as paragraph (4); and

(C) by inserting after paragraph (2) the following new paragraph;

"(3) any entry listed in subsection (c) that was made during the period beginning on January 1, 1993, and ending on December 31, 1994, to the extent such entry involves the purchase of equipment, the use of materials, or the expense of repairs in a foreign country for 66 LASH (Lighter Aboard Ship) barges documented under the laws of the United States if—

"(A) such entry was not liquidated on January 1, 1995; and

"(B) such entry, had it been made on or after January 1, 1995, would otherwise be eligible for the exemption provided in section 466(h)(1) of the Tariff Act of 1930 (19 U.S.C. 1466(h)(1)), and"; and

(2) by adding at the end the following:

"(c) ENTRIES.—The entries referred to in subsection (b)(3) are the following:

"(1) NUMBERED ENTRIES.—

Entry Number	Date of Entry
C14–0025455–8	August 18, 1993
C14–0025456–6	August 18, 1993
C14–0025457–4	August 18, 1993
C14–0025473–1	August 27, 1993
C14–0025478–0	September 13, 1993
C14–0025479–8	September 13, 1993
C14–0025480–6	September 13, 1993
C14–0025481–4	September 13, 1993
C14–0025511–8	April 16, 1993
C14–0025533–2	April 30, 1993

Entry Number	Date of Entry
C14–0025545–6	May 21, 1993
C14–0025546–4	May 21, 1993
C14–0025547–2	May 21, 1993
C14–0025558–9	June 15, 1993
C14–0025560–5	June 15, 1993
C14–0025574–6	July 21, 1993
C14–0025575–3	July 21, 1993
C14–0025603–3	July 23, 1993
C14–0025604–1	July 23, 1993
C14–0025605–8	July 23, 1993
C14–0025623–1	October 25, 1993
C14–0025624–9	October 25, 1993
C14–0025625–6	October 25, 1993
C14–0025635–5	November 8, 1993
C14–0025636–3	November 8, 1993
C14–0025637–1	November 8, 1993
C14–0025653–8	November 30, 1993
C14–0025654–6	November 30, 1993
C14–0025655–3	November 30, 1993
C14–0025657–9	November 30, 1993
C14–0025679–3	January 3, 1994
C14–0025680–1	January 3, 1994
C14–0025688–4	February 14, 1994
C14–0025689–2	February 14, 1994
C14–0025690–0	February 14, 1994
C14–0025691–8	February 14, 1994
C14–0025692–6	February 14, 1994
C14–0026803–8	January 24, 1994
C14–0026804–6	January 24, 1994
C14–0026805–3	January 24, 1994
C14–0026807–9	January 24, 1994
C14–0026808–7	January 24, 1994
C14–0026809–5	January 24, 1994
C14–0026810–3	January 24, 1994
C14–0026811–1	January 24, 1994
C14–0026826–9	March 10, 1994
C14–0026827–7	March 10, 1994
C14–0026828–5	March 10, 1994
C14–0026829–3	March 10, 1994
C14–0026830–1	March 10, 1994
C14–0026831–9	March 10, 1994
C14–0026832–7	March 10, 1994
C14–0026833–5	March 10, 1994
C14–0026841–8	March 31, 1994
C14–0026843–4	March 31, 1994
C14–0026852–5	May 5, 1994

Entry Number	Date of Entry
C14–0026853–3	May 5, 1994
C14–0026854–1	May 5, 1994
C14–0026867–3	May 18, 1994
C14–0026869–9	May 18, 1994
C14–0026874–9	June 8, 1994
C14–0026875–6	June 8, 1994
C14–0026898–8	August 2, 1994
C14–0026899–6	August 2, 1994
C14–0040625–7	October 5, 1994.

"(2) ADDITIONAL ENTRY.—The entry of a 66th LASH barge (No. CG E69), for which no entry number is available, if, within 60 days after the date of the enactment of this subsection, a proper entry is filed with the Customs Service.".

SEC. 28. DUTY ON DISPLAY FIREWORKS.

(a) IN GENERAL.—Chapter 36 of the Harmonized Tariff Schedule of the United States is amended by striking subheading 3604.10.00 and inserting in numerical sequence the following new subheadings, with the article description for subheading 3604.10 having the same degree of indentation as the article description for subheading 3604.90.00:

"	3604.10	Fireworks:				
	3604.10.10	Display or special fireworks (Class 1.3G).	2.4%	Free (A*, CA, E, IL, J, MX)	12.5%	
	3604.10.90	Other (including Class 1.4G)	5.3%	Free (A*, CA, E, IL, J, MX)	12.5%	".

(b) CONFORMING AMENDMENT.—General note 4(d) of the Harmonized Tariff Schedule of the United States is amended by striking "3604.00.00 India" and inserting "3604.10.10 India" and "3604.10.90 India".

(c) EFFECTIVE DATE.—The amendment made by this section applies with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

SEC. 29. PERSONAL ALLOWANCE DUTY EXEMPTION FOR MERCHANDISE PURCHASED IN A DUTY-FREE SALES ENTERPRISE.

Section 555(b)(6) of the Tariff Act of 1930 (19 U.S.C. 1555(b)(6)) is amended—

(1) by striking "Merchandise" and inserting "(A) Except as provided in subparagraph (B), merchandise"; and

(2) by adding at the end the following new subparagraph:

"(B) Except in the case of travel involving transit to, from, or through an insular possession of the United States, merchandise described in subparagraph (A) that is purchased by a United States resident shall be eligible for exemption from duty under subheadings 9804.00.65, 9804.00.70, and 9804.00.72 of the Harmonized Tariff Schedule of the United States upon the United States resident's return to the customs territory of the United States, if the resident meets the eligibility requirements for the exemption claimed. Notwithstanding any other

"(i) the arrival of any passenger whose journey—
"(I) originated in—
"(aa) Canada,
"(bb) Mexico,
"(cc) a territory or possession of the United States, or
"(dd) any adjacent island (within the meaning of section 101(b)(5) of the Immigration and Nationality Act (8 U.S.C. 1101(b)(5))), or
"(II) originated in the United States and was limited to—
"(aa) Canada,
"(bb) Mexico,
"(cc) territories and possessions of the United States, and
"(dd) such adjacent islands;
"(ii) the arrival of any railroad car the journey of which originates and terminates in the same country, but only if no passengers board or disembark from the train and no cargo is loaded or unloaded from such car while the car is within any country other than the country in which such car originates and terminates;
"(iii) the arrival of any ferry; or
"(iv) the arrival of any passenger on board a commercial vessel traveling only between ports which are within the customs territory of the United States.
"(B) The exemption provided for in subparagraph (A) shall not apply in the case of the arrival of any passenger on board a commercial vessel whose journey originates and terminates at the same place in the United States if there are no intervening stops.
"(C) The exemption provided for in subparagraph (A)(i) shall not apply to fiscal years 1994, 1995, 1996, and 1997.".

(c) FEE ASSESSED ONLY ONCE.—Section 13031(b)(4) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(b)(4)) is amended—
(1) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;
(2) by striking "No fee" and inserting "(A) No fee"; and
(3) by adding at the end the following new subparagraph:
"(B) In the case of a commercial vessel making a single voyage involving 2 or more United States ports with respect to which the passengers would otherwise be charged a fee pursuant to subsection (a)(5), such fee shall be charged only 1 time for each passenger.".

19 USC 58c note.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendments made by section 521 of the North American Free Trade Agreement Implementation Act.

SEC. 39. INJURY DETERMINATIONS FOR CERTAIN COUNTERVAILING DUTY ORDERS.

Section 753 of the Tariff Act of 1930 (19 U.S.C. 1675b) is amended—
(1) by inserting "or section 701(c)" after "section 303" each place it appears in the section heading and text; and

(2) in subsections (a)(2) and (c) by striking "under section 303(a)(2)".

SEC. 40. TREATMENT OF DIFFERENCE BETWEEN COLLECTIONS OF ESTIMATED ANTIDUMPING DUTY AND FINAL ASSESSED DUTY UNDER ANTIDUMPING DUTY ORDER.

Section 737(a) of the Tariff Act of 1930 (19 U.S.C. 1673f(a)) is amended—

(1) in the matter preceding paragraph (1) by striking "deposit collected" and inserting "deposit, or the amount of any bond or other security, required";

(2) in paragraph (1) by striking "the cash deposit collected" and inserting "that the cash deposit, bond, or other security"; and

(3) in paragraph (2) by striking "refunded, to the extent the cash deposit" and inserting "refunded or released, to the extent that the cash deposit, bond, or other security".

SEC. 41. CERTAIN LEAD FUEL TEST ASSEMBLIES.

(a) IN GENERAL.—Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law, the Secretary of the Treasury shall—

(1) liquidate or reliquidate as free of duty the entries listed in subsection (b), and

(2) refund any duties paid with respect to such entry, if the importer files a request therefor with the Customs Service within 90 days after the date of the enactment of this Act.

(b) ENTRIES.—The entries referred to in subsection (a) are as follows:

Entry Number	Date of Entry
110–0675952–3	March 9, 1990
110–1525996–0	September 19, 1990
110–3667810–7	November 7, 1990
110–1526938–1	December 21, 1990.

SEC. 42. SUSPENSION OF DUTY ON CERTAIN INJECTION MOLDING MACHINES.

(a) IN GENERAL.—Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

Entry Number	Date of Entry
84–916302–7	July 30, 1984
84–525823–7	September 20, 1984
84–525823–7	September 25, 1984
84–525971–5	October 17, 1984
84–525971–5	October 17, 1984
84–525971–5	October 17, 1984
84–525971–5	October 17, 1984
84–525971–5	October 17, 1984
85–279644–9	October 4, 1984
85–279654–6	October 9, 1984
85–280518–1	December 28, 1984
85–280518–1	December 28, 1984
85–102631–4	November 13, 1984
85–102631–4	November 13, 1984
85–401288–5	October 8, 1984
84–444821–3	August 3, 1984
84–444821–3	August 3, 1984
85–422162–4	October 31, 1984
85–422162–4	October 31, 1984
84–215744–1	July 6, 1984
84–216018–2	August 6, 1984
84–208013–6	July 30, 1984
84–208013–6	July 30, 1984
84–208511–5	July 30, 1984
84–208013–6	August 1, 1984
84–208968–7	August 7, 1984
84–208968–7	August 7, 1984
85–151075–2	February 5, 1985
85–210038–1	March 27, 1985
84–780372–9	August 3, 1984
84–781699–4	September 6, 1984
84–781699–4	September 6, 1984
84–781699–4	September 6, 1984
84–781846–8	September 18, 1984
85–944006–0	May 3, 1985
85–294383–6	August 27, 1985
86–215010–1	October 30, 1985
86–215185–4	December 2, 1985
86–215310–8	December 16, 1985
85–602949–7	April 15, 1985
85–602950–7	April 19, 1985

Entry Number	Date of Entry
85–602966–2	April 19, 1985
85–603347–0	April 26, 1985
85–603523–2	May 8, 1985
85–604545–5	May 31, 1985
86–383795–7	April 22, 1986
110–1905894–7	February 23, 1987
86–216530–3	April 16, 1986
110–0269614–1	January 12, 1987
110–0269942–6	January 19, 1987
110–0269947–5	January 19, 1987
110–0269942–6	January 22, 1987
86–477371–9	August 14, 1986
86–477371–9	August 20, 1986
331–3808023–0	October 20, 1986
331–3808023–0	October 20, 1986
86–198869–1	September 9, 1986
86–198893–4	September 17, 1986
86–198964–5	October 14, 1986
331–3807959–6	October 15, 1986
331–3807959–6	October 15, 1986
331–3807959–6	October 15, 1986
331–3807959–6	October 15, 1986
331–3808023–0	October 20, 1986
331–3812541–5	December 26, 1986
331–3812541–5	December 26, 1986
331–3813766–7	February 19, 1987
110–1123057–7	January 2, 1987
110–1124082–4	March 26, 1987
110–1272348–9	November 14, 1986
110–1272348–9	November 14, 1986
110–1272505–4	December 10, 1986
110–1272505–4	December 10, 1986
110–1273532–7	January 10, 1987
110–1274561–5	February 20, 1987
110–1274921–1	March 6, 1987
110–1275320–5	March 23, 1987
110–1275321–3	March 31, 1987
110–1907947–1	January 22, 1988
110–1906495–2	June 5, 1987
110–1906599–1	June 22, 1987
110–1906599–1	June 22, 1987
110–1906856–5	August 2, 1987
110–1907967–9	January 27, 1988

Entry Number	Date of Entry
110–1908198–0	March 4, 1988
110–1908178–2	March 10, 1988
110–0294344–8	May 6, 1987
110–0294344–8	June 5, 1987
110–1124130–1	April 1, 1987
110–1124130–1	April 2, 1987
110–1124130–1	April 2, 1987
110–1125551–7	July 17, 1987
110–1125551–7	July 17, 1987
110–1126810–6	October 27, 1987
110–1127047–4	November 6, 1987
110–1127620–8	December 23, 1987
110–1275844–4	April 16, 1987
110–1278958–9	September 10, 1987
110–1278958–9	September 10, 1987
110–1279151–0	September 18, 1987
110–1279825–9	October 8, 1987
110–1279767–3	October 16, 1987
110–1280177–2	October 21, 1987
110–1280206–9	October 22, 1987
110–1282001–2	January 12 1988
110–1282566–4	February 11, 1988
110–1282642–3	February 11, 1988
110–1286015–8	February 22, 1988
110–1286165–1	March 16, 1988
110–1286165–1	March 16, 1988
110–1286165–1	March 16, 1988
110–1908453–9	April 22, 1988
110–1908567–6	May 11, 1988
110–1908567–6	May 11, 1988
110–1908928–0	June 29, 1988
110–1129739–4	May 13, 1988
110–1131047–8	August 4, 1988
110–1133675–4	January 6, 1989
110–1286261–8	April 7, 1988
110–1286261–8	April 7, 1988
110–1286492–9	May 12, 1988
110–1286492–9	May 12, 1988
110–1286492–9	May 12, 1988
110–1286677–5	June 16, 1988
110–1286796–3	July 7, 1988
110–1286965–4	August 4, 1988
110–1286965–4	August 4, 1988

Entry Number	Date of Entry
110–1288931–4	December 8, 1988
110–0301260–3	May 12, 1989
110–0301272–8	May 19, 1989
110–0153952–4	September 3, 1989
110–1135558–0	May 12, 1989
110–1135558–0	May 12, 1989
110–1136677–7	July 11, 1989
110–1139014–0	November 24, 1989
110–1294013–3	September 14, 1989
110–1298751–4	May 15, 1990
110–1274861–9	March 4, 1987
110–1274863–5	March 4, 1987
110–1275349–4	May 12, 1987
110–1285836–8	August 31, 1988
110–1286179–2	March 25, 1988
110–1286180–0	March 25, 1988
110–1286181–8	March 25,1988
110–1286265–9	April 5, 1988
110–1286507–4	May 12, 1988
110–1286580–1	May 26, 1988
110–1286582–7	May 26, 1988
110–1286584–3	May 26, 1988
110–1286634–6	June 7, 1988
110–1286681–7	June 18, 1988
110–1286751–8	June 23, 1988
110–1286782–3	July 7, 1988
110–1286879–7	July 27, 1988
110–1286881–3	August 1, 1988
110–1286882–1	August 10, 1988
110–1286925–8	July 27, 1988
110–1286927–4	August 1, 1988
110–1286972–0	August 11, 1988
110–1286991–0	August 1, 1988
110–1286993–6	August 1, 1988
110–1287029–8	August 15, 1988
110–1287030–6	August 15, 1988
110–1287031–4	August 15, 1988
110–1287032–2	August 15, 1988
110–1287061–1	August 15, 1988
110–1287062–9	August 15, 1988
110–1287078–5	August 17, 1988
110–1287095–9	August 19, 1988
110–1287147–8	September 2, 1988

SEC. 46. PHARMACEUTICAL GRADE PHOSPHOLIPIDS.

Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514), or any other provision of law, upon proper request filed with the Customs Service not later than 90 days after the date of the enactment of this Act, any entry, or withdrawal from warehouse for consumption, of pharmaceutical grade phospholipids that—

(1) was made under subheading 2923.20.00 of the Harmonized Tariff Schedule of the United States;

(2) with respect to which a lower rate of duty would have applied if such entry or withdrawal had been made under subheading 2923.20.10 or 2923.20.20 of such Schedule; and

(3) was made after March 29, 1991, and before January 1, 1995;

shall be liquidated or reliquidated as if such lower rate of duty applied to such entry or withdrawal.

SEC. 47. CERTAIN STRUCTURES, PARTS AND COMPONENTS USED IN THE GEMINI TELESCOPES PROJECT, MAUNA KEA, HAWAII.

(a) IN GENERAL.—The Secretary of the Treasury is authorized and directed to admit free of duty after March 31, 1997, the following articles for the use of the Association of Universities for Research in Astronomy, Inc. in the construction of the Gemini North Telescope, Mauna Kea, Hawaii, as part of the international Gemini 8-Meter Telescopes Project:

(1) The telescope enclosure, produced by Coast Steel Fabricators, Ltd., Port Coquitlam, British Columbia, Canada.

(2) The telescope structure assemblies, produced by G.I.E. Telas, Cannes le Bocca, France.

(3) The telescope mirror coating plant, produced by the Royal Greenwich Observatories, Cambridge, United Kingdom.

(4) The telescope primary mirror, polished by REOSC, Saint-Pierre-du-Perray, France.

(5) The telescope secondary mirror, produced by Carl Zeiss, Oberkochen, Germany.

(6) The telescope acquisition, guiding, and wavefront sensing equipment, produced by the Royal Greenwich Observatories, Cambridge, United Kingdom.

(b) RELIQUIDATION.—If the liquidation of the entry of any article described in subsection (a) has become final before April 1, 1997, the entry shall, notwithstanding any other provision of law, be reliquidated on April 1, 1997, in accordance with the provisions of this section and the appropriate refund of duty made at the time of such reliquidation.

SEC. 48. ARTICLES PROVIDED TO STEWARD OBSERVATORY.

(a) ARTICLES PROVIDED BY MAX PLANCK INSTITUTE.—

(1) IN GENERAL.—Subsection (f) of section 240 of the Trade and Tariff Act of 1984 (98 Stat. 2994) is amended by striking "and before November 1, 1993".

(2) TECHNICAL AMENDMENTS.—

(A) Section 240(a)(1)(A) of such Act is amended by striking "headnote 6(a) of part 4 of schedule 8 of the Tariff Schedules of the United States (19 U.S.C. 1202)" and inserting "U.S. note 6(a) of subchapter X of chapter 98 of the

Harmonized Tariff Schedule of the United States (19 U.S.C. 3007)".

(B) Section 240(e) of such Act is amended by striking "headnote 1 of part 4 of schedule 8 (19 U.S.C. 1202)" and inserting "U.S. note 1 of subchapter X of chapter 98 of the Harmonized Tariff Schedule of the United States".

(3) EFFECTIVE DATE.—

(A) IN GENERAL.—The amendments made by this subsection shall apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after the date that is 15 days after the date of the enactment of this Act.

(B) RELIQUIDATION.—Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514), or any other provision of law, upon a request filed with the Customs Service on or before the 90th day after the date of the enactment of this Act, any entry, or withdrawal from warehouse for consumption, of an article—

(i) that was made after October 31, 1993, and before the 15th day after the date of the enactment of this Act, and

(ii) with respect to which there would have been no duty, if the amendments made by this subsection applied to such entry,

shall be liquidated or reliquidated as though such entry or withdrawal occurred on the 15th day after the date of the enactment of this Act.

(b) TELESCOPE COMPONENTS, PARTS, AND EQUIPMENT PROVIDED BY ARCETRI ASTROPHYSICAL OBSERVATORY AND MAX PLANCK INSTITUTE.—

(1) IN GENERAL.—The Secretary of the Treasury is authorized and directed to admit free of duty on and after the date that is 15 days after the date of the enactment of this Act, the large binocular telescope components, parts, and equipment provided by the Arcetri Astrophysical Observatory and the Max Planck Institute for use by the Steward Observatory of the University of Arizona.

(2) RELIQUIDATION.—If the liquidation of the entry of the article described in paragraph (1) has become final before the date that is 15 days after the date of the enactment of this Act, the entry shall, notwithstanding any other provision of law, be reliquidated on such date of enactment, in accordance with the provisions of this subsection and the appropriate refund of duty made at the time of such reliquidation.

SEC. 49. RELIQUIDATION OF CERTAIN FROZEN CONCENTRATED ORANGE JUICE ENTRIES.

(a) IN GENERAL.—Notwithstanding sections 514 and 520 of the Tariff Act of 1930 (19 U.S.C. 1514 and 1520), or any other provision of law, the United States Customs Service shall, not later than 90 days after the date of the enactment of this Act, liquidate or reliquidate those entries listed in subsection (c) in accordance with the final results of the administrative review, covering the period from June 7, 1987, through January 31, 1990, conducted by the International Trade Administration of the Department of Commerce for such entries (case number A–351–605).

(b) PAYMENT OF AMOUNTS OWED.—Any amounts owed by the United States pursuant to the liquidation or reliquidation of an entry under subsection (a) shall be paid by the Customs Service within 90 days after such liquidation or reliquidation.

(c) ENTRY LIST.—The entries referred to in subsection (a) are the following:

Entry Number	Date of Entry
032–01195421	June 18, 1987
032–01195462	June 7, 1987
032–01219825	September 14, 1987
032–01225350	October 16, 1987
032–01225376	October 19, 1987
032–01225392	October 19, 1987
032–01236019	November 12, 1987
032–01249301	January 8, 1988
032–01257361	February 17, 1988
032–01261470	March 24, 1988
032–01373267	April 20, 1989
032–01377870	May 12, 1989
032–01381757	May 15, 1989
032–01381781	May 24, 1989
032–01422254	October 23, 1989
032–01422270	October 24, 1989
032–01428475	November 22, 1989
032–01441056	December 22, 1989
032–01441072	December 22, 1989
032–01488792	May 24, 1990
102–01085312	June 7, 1987
102–01089603	August 15, 1987
102–01092748	September 14, 1987
102–01103487	February 5, 1988
102–01131702	January 17, 1989
102–01139812	May 2, 1989
102–01141040	May 15, 1989
102–01559141	January 31, 1990.

results of the administrative review, covering the period April 1, 1988, through March 31, 1989, conducted by the International Trade Administration of the Department of Commerce for such entries (case number C–122–404).

(b) REQUESTS.—Reliquidation may be made under subsection (a) with respect to an entry described in subsection (d) only if a request therefor is filed with the Customs Service within 90 days after the date of the enactment of this Act and the request contains sufficient information to enable the Customs Service to locate the entry or reconstruct the entry if it cannot be located.

(c) PAYMENT OF AMOUNTS OWED.—Any amounts owed by the United States pursuant to the liquidation or reliquidation of an entry under subsection (a) shall be paid by the Customs Service within 90 days after such liquidation or reliquidation.

(d) ENTRY LIST.—The entries referred to in subsection (a) are the following:

Entry Number	Date of Entry
0328636	April 4, 1988
0328635	April 5, 1988
3114146	April 12, 1988
3114193	April 13, 1988
3114469	April 21, 1988
3114629	April 26, 1988
3114624	April 27, 1988
3114707	April 28, 1988
0328611	April 28, 1988
3120073	October 24, 1988
3120143	October 25, 1988
3120156	October 26, 1988
3120208	October 27, 1988
3120264	October 28, 1988
3120288	October 31, 1988
3120450	November 3, 1988
3120581	November 4, 1988
3120754	November 10, 1988
4176900	November 15, 1988
3120843	November 16, 1988
3121067	November 22, 1988
3121138	November 23, 1988
3121149	November 25, 1988
3121200	November 28, 1988
4177953	November 28, 1988
3121241	November 29, 1988
3121350	November 30, 1988
3121412	December 2, 1988
3121503	December 6, 1988
3121621	December 7, 1988
3121669	December 9, 1988
3121744	December 12, 1988

Entry Number	Date of Entry
3121803	December 13, 1988.

SEC. 55. RELIQUIDATION OF CERTAIN ENTRIES OF SEWING MACHINES.

(a) IN GENERAL.—Notwithstanding sections 514 and 520 of the Tariff Act of 1930 (19 U.S.C. 1514 and 1520), or any other provision of law, upon the importer of record demonstrating to the Customs Service within 90 days after the date of the enactment of this Act that an entry described in subsection (c) is qualified for reimbursement based on the decision issued by the United States Court of International Trade in Pfaff American Sales Corp. v. United States, 17 CIT 550 (1993), the entry shall be liquidated or reliquidated pursuant to such decision.

(b) PAYMENT OF AMOUNTS OWED.—Any amounts owed by the United States pursuant to the liquidation or reliquidation of an entry under subsection (a) shall be paid by the Customs Service within 90 days after such liquidation or reliquidation.

(c) ENTRIES DESCRIBED.—The entries referred to in subsection (a) are the following:

Entry number	Date of entry	Date of liquidation
558–0910359–5	October 17, 1989	October 5, 1990
558–0912182–9	December 12, 1989	June 21, 1991
558–0014104–0	February 15, 1990	June 21, 1991
558–0015018–1	March 5, 1990	June 15, 1990
558–0017399–3	May 11, 1990	September 7, 1990
558–0022654–4	October 29, 1990	February 22, 1991
558–0022925–8	October 29, 1990	February 22, 1991
558–0024202–0	December 20, 1990	June 21, 1991
558–0126244–9	March 7, 1991	June 28, 1991
558–0127195–2	April 8, 1991	July 26, 1991
558–0128001–1	May 13, 1991	September 13, 1991
558–0129908–6	July 22, 1991	November 22, 1991
558–0130242–7	July 25, 1991	November 22, 1991
558–0130520–6	August 14, 1991	December 20, 1991
558–0130816–8	August 20, 1991	December 20, 1991
558–0130909–1	August 26, 1991	December 27, 1991
558–0131228–5	September 5, 1991	January 24, 1992
558–0131341–6	September 5, 1991	January 3, 1992
558–0131550–2	September 11, 1991	December 27, 1991
558–0131548–6	September 18, 1991	January 3, 1992
558–0131738–3	September 25, 1991	January 17, 1992
558–0132026–2	September 30, 1991	September 26, 1993
558–0132327–4	October 7, 1991	January 31, 1992
558–0132439–7	October 16, 1991	January 10, 1992
558–0132581–6	October 24, 1991	February 14, 1992
558–0132733–3	October 29, 1991	February 14, 1992
558–0133193–9	November 12, 1991	March 6, 1992
558–0133194–7	November 13, 1991	March 6, 1992
558–0133454–5	November 21, 1991	April 10, 1992
558–0133248–1	November 25, 1991	March 20, 1992
558–0134088–0	December 10, 1991	April 3, 1992
558–0134201–9	December 13, 1991	April 3, 1992

558–0134351–2	December 23, 1991	May 21, 1992
558–0134659–8	January 2, 1992	May 1, 1992
558–0235155–5	January 8, 1992	May 1, 1992
558–0235573–9	January 31, 1992 ...	June 19, 1992
558–0235748–7	February 10, 1992	June 5, 1992
558–0235908–7	February 11, 1992	June 12, 1992
558–0236144–8	February 18, 1992	June 5, 1992
558–0236326–1	March 3, 1992	June 26, 1992
558–0236540–7	March 3, 1992	June 26, 1992
558–0236676–9	March 9, 1992	July 10, 1992
558–0237217–1	March 31, 1992	July 24, 1992
558–0237335–1	April 2, 1992	July 21, 1992
558–0237440–9	April 9, 1992	August 17, 1992
558–0237712–1	April 15, 1992	August 14, 1992
558–0237968–9	April 23, 1992	August 14, 1992
558–0238240–2	April 29, 1992	August 21, 1992
558–0238343–4	May 4, 1992	September 4, 1992
558–0238659–3	May 19, 1992	September 18, 1992
558–0239208–8	June 1, 1992	September 25, 1992
558–0239321–9	June 4, 1992	September 25, 1992
558–0239551–1	June 15, 1992	October 9, 1992
558–0239653–5	June 16, 1992	October 9, 1992
558–0240134–3	July 9, 1992	November 6, 1992
558–0240840–5	July 13, 1992	December 4, 1992
558–0240842–1	July 21, 1992	November 6, 1992
558–0241524–4	August 10, 1992	December 11, 1992
558–0242334–7	September 3, 1992	January 4, 1993
558–0242547–4	September 15, 1992	January 8, 1993
558–0243505–1	October 13, 1992	February 12, 1993
558–0243944–2	October 26, 1992	February 26, 1993
558–0244841–9	November 23, 1992	March 19, 1993
558–0245110–8	November 30, 1992	April 9, 1993
558–0245700–6	December 21, 1992	April 16, 1993
558–0346317–7	January 11, 1993 ...	May 14, 1993
558–0348026–2	March 16, 1993	July 16, 1993
558–0348327–4	March 23, 1993	July 16, 1993.

SEC. 56. TEMPORARY DUTY SUSPENSION ON CERTAIN TEXTURED ROLLED GLASS SHEETS.

(a) IN GENERAL.—Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to articles entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

SEC. 58. INVESTIGATION ON CATTLE AND BEEF TRADE.

(a) IN GENERAL.—The United States International Trade Commission shall conduct a study pursuant to section 332 of the Tariff Act of 1930, and not later than 270 days after the date of the enactment of this Act, shall report to the appropriate committees on—

(1) the impact of the North American Free Trade Agreement and the Uruguay Round Agreements on United States imports and exports of live cattle for slaughter and fresh, chilled, and frozen beef; and

(2) the steps that have been taken by the United States, since the enactment of the North American Free Trade Agreement, to prevent the transshipment of live cattle and fresh, chilled, and frozen beef through Mexico and Canada for importation into the United States.

(b) APPROPRIATE COMMITTEES.—For purposes of subsection (a), the term "appropriate committees" means the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

SEC. 59. SPECIAL RULE FOR GENERALIZED SYSTEM OF PREFERENCES.

The President is authorized to grant waivers under subsections (c)(2)(F) and (d)(1) of section 503 of the Trade Act of 1974 for those products that exceeded the limitations for 1994 under section 504(c)(1) of the Trade Act of 1974, as in effect on June 30, 1995, and lost eligibility for duty-free treatment under title V of that Act as of July 1, 1995. In granting such waivers, the President shall apply the provisions of subsections (c)(3) and (d)(2) of section 504 of the Trade Act of 1974, as in effect on July 31, 1995, and the references to "preceding calendar year" in such section 504 shall be references to 1994.

Approved October 11, 1996.

LEGISLATIVE HISTORY—H.R. 3815:

HOUSE REPORTS: No. 104–718 (Comm. on Ways and Means).
SENATE REPORTS: No. 104–393 (Comm. on Finance).
CONGRESSIONAL RECORD, Vol. 142 (1996):
July 30, considered and passed House.
Sept. 28 considered and passed Senate, amended. House concurred in Senate amendment.

Public Law 104–296
104th Congress

Joint Resolution

Oct. 11, 1996
[H.J. Res. 198]

Appointing the day for the convening of the first session of the One Hundred Fifth Congress and the day for the counting in Congress of the electoral votes for President and Vice President cast in December 1996.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DATE FOR CONVENING OF THE ONE HUNDRED FIFTH CONGRESS.

The first regular session of the One Hundred Fifth Congress shall begin at noon on Tuesday, January 7, 1997.

3 USC 15 note.

SEC. 2. DATE FOR COUNTING 1996 ELECTORAL VOTES IN CONGRESS.

The meeting of the Senate and House of Representatives to be held in January 1997 pursuant to section 15 of title 3, United States Code, to count the electoral votes for President and Vice President cast by the electors in December 1996 shall be held on January 9, 1997 (rather than on the date specified in the first sentence of that section).

Approved October 11, 1996.

LEGISLATIVE HISTORY—H.J. Res. 198 (S. 2158) (S. 2159):

CONGRESSIONAL RECORD, Vol. 142 (1996):
Sept. 28, considered and passed House.
Oct. 1, considered and passed Senate.

Public Law 104–297
104th Congress

An Act

To amend the Magnuson Fishery Conservation and Management Act to authorize appropriations, to provide for sustainable fisheries, and for other purposes.

Oct. 11, 1996
[S. 39]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Sustainable Fisheries Act.
16 USC 1801 note.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Sustainable Fisheries Act".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Amendment of Magnuson Fishery Conservation and Management Act.

TITLE I—CONSERVATION AND MANAGEMENT

Sec. 101. Findings; purposes; policy.
Sec. 102. Definitions.
Sec. 103. Authorization of appropriations.
Sec. 104. Highly migratory species.
Sec. 105. Foreign fishing and international fishery agreements.
Sec. 106. National standards.
Sec. 107. Regional fishery management councils.
Sec. 108. Fishery management plans.
Sec. 109. Action by the Secretary.
Sec. 110. Other requirements and authority.
Sec. 111. Pacific community fisheries.
Sec. 112. State jurisdiction.
Sec. 113. Prohibited acts.
Sec. 114. Civil penalties and permit sanctions; rebuttable presumptions.
Sec. 115. Enforcement.
Sec. 116. Transition to sustainable fisheries.
Sec. 117. North Pacific and northwest Atlantic Ocean fisheries.

TITLE II—FISHERY MONITORING AND RESEARCH

Sec. 201. Change of title.
Sec. 202. Registration and information management.
Sec. 203. Information collection.
Sec. 204. Observers.
Sec. 205. Fisheries research.
Sec. 206. Incidental harvest research.
Sec. 207. Miscellaneous research.
Sec. 208. Study of contribution of bycatch to charitable organizations.
Sec. 209. Study of identification methods for harvest stocks.
Sec. 210. Review of Northeast fishery stock assessments.
Sec. 211. Clerical amendments.

TITLE III—FISHERIES FINANCING

Sec. 301. Short title.
Sec. 302. Individual fishing quota loans.
Sec. 303. Fisheries financing and capacity reduction.

TITLE IV—MARINE FISHERY STATUTE REAUTHORIZATIONS

Sec. 401. Marine fish program authorization of appropriations.

Sec. 402. Interjurisdictional Fisheries Act amendments.
Sec. 403. Anadromous fisheries amendments.
Sec. 404. Atlantic coastal fisheries amendments.
Sec. 405. Technical amendments to maritime boundary agreement.
Sec. 406. Amendments to the Fisheries Act.

SEC. 2. AMENDMENT OF MAGNUSON FISHERY CONSERVATION AND MANAGEMENT ACT.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

TITLE I—CONSERVATION AND MANAGEMENT

SEC. 101. FINDINGS; PURPOSES; POLICY.

Section 2 (16 U.S.C. 1801) is amended—

(1) by striking subsection (a)(2) and inserting the following:

"(2) Certain stocks of fish have declined to the point where their survival is threatened, and other stocks of fish have been so substantially reduced in number that they could become similarly threatened as a consequence of (A) increased fishing pressure, (B) the inadequacy of fishery resource conservation and management practices and controls, or (C) direct and indirect habitat losses which have resulted in a diminished capacity to support existing fishing levels.";

(2) by inserting "to facilitate long-term protection of essential fish habitats," in subsection (a)(6) after "conservation,";

(3) by adding at the end of subsection (a) the following:

"(9) One of the greatest long-term threats to the viability of commercial and recreational fisheries is the continuing loss of marine, estuarine, and other aquatic habitats. Habitat considerations should receive increased attention for the conservation and management of fishery resources of the United States.

"(10) Pacific Insular Areas contain unique historical, cultural, legal, political, and geographical circumstances which make fisheries resources important in sustaining their economic growth.";

(4) by striking "principles;" in subsection (b)(3) and inserting "principles, including the promotion of catch and release programs in recreational fishing;";

(5) by striking "and" after the semicolon at the end of subsection (b)(5);

(6) by striking "development." in subsection (b)(6) and inserting "development in a non-wasteful manner; and";

(7) by adding at the end of subsection (b) the following:

"(7) to promote the protection of essential fish habitat in the review of projects conducted under Federal permits, licenses, or other authorities that affect or have the potential to affect such habitat.";

(8) in subsection (c)(3)—

(A) by striking "promotes" and inserting "considers"; and

(B) by inserting "minimize bycatch and" after "practical measures that";

(9) striking "and" at the end of paragraph (c)(5);

(10) striking the period at the end of paragraph (c)(6) and inserting "; and"; and

(11) adding at the end of subsection (c) a new paragraph as follows:

"(7) to ensure that the fishery resources adjacent to a Pacific Insular Area, including resident or migratory stocks within the exclusive economic zone adjacent to such areas, be explored, developed, conserved, and managed for the benefit of the people of such area and of the United States.".

SEC. 102. DEFINITIONS.

Section 3 (16 U.S.C. 1802) is amended—

(1) by redesignating paragraphs (2) through (32) as paragraphs (5) through (35) respectively, and inserting after paragraph (1) the following:

"(2) The term 'bycatch' means fish which are harvested in a fishery, but which are not sold or kept for personal use, and includes economic discards and regulatory discards. Such term does not include fish released alive under a recreational catch and release fishery management program.

"(3) The term 'charter fishing' means fishing from a vessel carrying a passenger for hire (as defined in section 2101(21a) of title 46, United States Code) who is engaged in recreational fishing.

"(4) The term 'commercial fishing' means fishing in which the fish harvested, either in whole or in part, are intended to enter commerce or enter commerce through sale, barter or trade.";

(2) in paragraph (7) (as redesignated)—

(A) by striking "COELENTERATA" from the heading of the list of corals and inserting "CNIDARIA"; and

(B) in the list appearing under the heading "CRUSTACEA", by striking "Deep-sea Red Crab—Geryon quinquedens" and inserting "Deep-sea Red Crab—Chaceon quinquedens";

(3) by redesignating paragraphs (9) through (35) (as redesignated) as paragraphs (11) through (37), respectively, and inserting after paragraph (8) (as redesignated) the following:

"(9) The term 'economic discards' means fish which are the target of a fishery, but which are not retained because they are of an undesirable size, sex, or quality, or for other economic reasons.

"(10) The term 'essential fish habitat' means those waters and substrate necessary to fish for spawning, breeding, feeding or growth to maturity.";

(4) by redesignating paragraphs (16) through (37) (as redesignated) as paragraphs (17) through (38), respectively, and inserting after paragraph (15) (as redesignated) the following:

"(16) The term 'fishing community' means a community which is substantially dependent on or substantially engaged in the harvest or processing of fishery resources to meet social and economic needs, and includes fishing vessel owners, opera-

tors, and crew and United States fish processors that are based in such community.";

(5) by redesignating paragraphs (21) through (38) (as redesignated) as paragraphs (22) through (39), respectively, and inserting after paragraph (20) (as redesignated) the following:

"(21) The term 'individual fishing quota' means a Federal permit under a limited access system to harvest a quantity of fish, expressed by a unit or units representing a percentage of the total allowable catch of a fishery that may be received or held for exclusive use by a person. Such term does not include community development quotas as described in section 305(i).";

(6) by striking "of one and one-half miles" in paragraph (23) (as redesignated) and inserting "of two and one-half kilometers";

(7) by striking paragraph (28) (as redesignated), and inserting the following:

"(28) The term 'optimum', with respect to the yield from a fishery, means the amount of fish which—

"(A) will provide the greatest overall benefit to the Nation, particularly with respect to food production and recreational opportunities, and taking into account the protection of marine ecosystems;

"(B) is prescribed on the basis of the maximum sustainable yield from the fishery, as reduced by any relevant social, economic, or ecological factor; and

"(C) in the case of an overfished fishery, provides for rebuilding to a level consistent with producing the maximum sustainable yield in such fishery.";

(8) by redesignating paragraphs (29) through (39) (as redesignated) as paragraphs (31) through (41), respectively, and inserting after paragraph (28) (as redesignated) the following:

"(29) The terms 'overfishing' and 'overfished' mean a rate or level of fishing mortality that jeopardizes the capacity of a fishery to produce the maximum sustainable yield on a continuing basis.

"(30) The term 'Pacific Insular Area' means American Samoa, Guam, the Northern Mariana Islands, Baker Island, Howland Island, Jarvis Island, Johnston Atoll, Kingman Reef, Midway Island, Wake Island, or Palmyra Atoll, as applicable, and includes all islands and reefs appurtenant to such island, reef, or atoll.";

(9) by redesignating paragraphs (32) through (41) (as redesignated) as paragraphs (34) through (43), respectively, and inserting after paragraph (31) (as redesignated) the following:

"(32) The term 'recreational fishing' means fishing for sport or pleasure.

"(33) The term 'regulatory discards' means fish harvested in a fishery which fishermen are required by regulation to discard whenever caught, or are required by regulation to retain but not sell.";

(10) by redesignating paragraphs (36) through (43) (as redesignated) as paragraphs (37) through (44), respectively,

and inserting after paragraph (35) (as redesignated) the following:

"(36) The term 'special areas' means the areas referred to as eastern special areas in Article 3(1) of the Agreement between the United States of America and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990. In particular, the term refers to those areas east of the maritime boundary, as defined in that Agreement, that lie within 200 nautical miles of the baselines from which the breadth of the territorial sea of Russia is measured but beyond 200 nautical miles of the baselines from which the breadth of the territorial sea of the United States is measured.";

(11) by striking "for which a fishery management plan prepared under title III or a preliminary fishery management plan prepared under section 201(g) has been implemented" in paragraph (42) (as redesignated) and inserting "regulated under this Act"; and

(12) by redesignating paragraph (44) (as redesignated) as paragraph (45), and inserting after paragraph (43) the following:

"(44) The term 'vessel subject to the jurisdiction of the United States' has the same meaning such term has in section 3(c) of the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1903(c)).".

SEC. 103. AUTHORIZATION OF APPROPRIATIONS.

The Act is amended by inserting after section 3 (16 U.S.C. 1802) the following:

"SEC. 4. AUTHORIZATION OF APPROPRIATIONS. 16 USC 1803.

"There are authorized to be appropriated to the Secretary for the purposes of carrying out the provisions of this Act, not to exceed the following sums:

"(1) $147,000,000 for fiscal year 1996;
"(2) $151,000,000 for fiscal year 1997;
"(3) $155,000,000 for fiscal year 1998; and
"(4) $159,000,000 for fiscal year 1999.".

SEC. 104. HIGHLY MIGRATORY SPECIES.

Section 102 (16 U.S.C. 1812) is amended by striking "promoting the objective of optimum utilization" and inserting "shall promote the achievement of optimum yield".

SEC. 105. FOREIGN FISHING AND INTERNATIONAL FISHERY AGREEMENTS.

(a) AUTHORITY TO OPERATE UNDER TRANSSHIPMENT PERMITS.—Section 201 (16 U.S.C. 1821) is amended—

(1) by striking paragraphs (1) and (2) of subsection (a) and inserting the following:

"(1) is authorized under subsections (b) or (c) or section 204(e), or under a permit issued under section 204(d);

"(2) is not prohibited under subsection (f); and";

(2) by striking "(i)" in subsection (c)(2)(D) and inserting "(h)";

(3) by striking subsection (f);

(4) by redesignating subsections (g) through (j) as subsections (f) through (i), respectively;

(5) in paragraph (2) of subsection (h) (as redesignated), redesignate subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively, and insert after subparagraph (A) the following:

"(B) in a situation where the foreign fishing vessel is operating under a Pacific Insular Area fishing agreement, the Governor of the applicable Pacific Insular Area, in consultation with the Western Pacific Council, has established an observer coverage program that is at least equal in effectiveness to the program established by the Secretary;"; and

(6) in subsection (i) (as redesignated) by striking "305" and inserting "304".

(b) INTERNATIONAL FISHERY AGREEMENTS.—Section 202 (16 U.S.C. 1822) is amended—

(1) by adding before the period at the end of subsection (c) "or section 204(e)";

(2) by adding at the end the following:

"(h) BYCATCH REDUCTION AGREEMENTS.—

"(1) The Secretary of State, in cooperation with the Secretary, shall seek to secure an international agreement to establish standards and measures for bycatch reduction that are comparable to the standards and measures applicable to United States fishermen for such purposes in any fishery regulated pursuant to this Act for which the Secretary, in consultation with the Secretary of State, determines that such an international agreement is necessary and appropriate.

"(2) An international agreement negotiated under this subsection shall be—

"(A) consistent with the policies and purposes of this Act; and

"(B) subject to approval by Congress under section 203.

Reports. "(3) Not later than January 1, 1997, and annually thereafter, the Secretary, in consultation with the Secretary of State, shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Resources of the House of Representatives a report describing actions taken under this subsection.".

(c) PERIOD FOR CONGRESSIONAL REVIEW OF INTERNATIONAL FISHERY AGREEMENTS.—Section 203 (16 U.S.C. 1823) is amended—

(1) by striking "GOVERNING" in the section heading;

(2) by striking "agreement" each place it appears in subsection (a) and inserting "agreement, bycatch reduction agreement, or Pacific Insular Area fishery agreement";

(3) by striking "60 calendar days of continuous session of the Congress" in subsection (a) and inserting "120 days (excluding any days in a period for which the Congress is adjourned sine die)";

(4) by striking subsection (c);

(5) by redesignating subsection (d) as subsection (c); and

(6) by striking "agreement" in subsection (c)(2)(A), as redesignated, and inserting "agreement, bycatch reduction agreement, or Pacific Insular Area fishery agreement".

(d) TRANSSHIPMENT PERMITS AND PACIFIC INSULAR AREA FISHING.— Section 204 (16 U.S.C. 1824) is amended—

(1) by inserting "or subsection (d)" in the first sentence of subsection (b)(7) after "under paragraph (6)";

(2) by striking "the regulations promulgated to implement any such plan" in subsection (b)(7)(A) and inserting "any applicable Federal or State fishing regulations";

(3) by inserting "or subsection (d)" in subsection (b)(7)(D) after "paragraph (6)(B)"; and

(4) by adding at the end the following:

"(d) TRANSSHIPMENT PERMITS.—

"(1) AUTHORITY TO ISSUE PERMITS.—The Secretary may issue a transshipment permit under this subsection which authorizes a vessel other than a vessel of the United States to engage in fishing consisting solely of transporting fish or fish products at sea from a point within the exclusive economic zone or, with the concurrence of a State, within the boundaries of that State, to a point outside the United States to any person who—

"(A) submits an application which is approved by the Secretary under paragraph (3); and

"(B) pays a fee imposed under paragraph (7).

"(2) TRANSMITTAL.—Upon receipt of an application for a permit under this subsection, the Secretary shall promptly transmit copies of the application to the Secretary of State, Secretary of the department in which the Coast Guard is operating, any appropriate Council, and any affected State.

"(3) APPROVAL OF APPLICATION.—The Secretary may approve, in consultation with the appropriate Council or Marine Fisheries Commission, an application for a permit under this section if the Secretary determines that—

"(A) the transportation of fish or fish products to be conducted under the permit, as described in the application, will be in the interest of the United States and will meet the applicable requirements of this Act;

"(B) the applicant will comply with the requirements described in section 201(c)(2) with respect to activities authorized by any permit issued pursuant to the application;

"(C) the applicant has established any bonds or financial assurances that may be required by the Secretary; and

"(D) no owner or operator of a vessel of the United States which has adequate capacity to perform the transportation for which the application is submitted has indicated to the Secretary an interest in performing the transportation at fair and reasonable rates.

"(4) WHOLE OR PARTIAL APPROVAL.—The Secretary may approve all or any portion of an application under paragraph (3).

"(5) FAILURE TO APPROVE APPLICATION.—If the Secretary does not approve any portion of an application submitted under paragraph (1), the Secretary shall promptly inform the applicant and specify the reasons therefor.

"(6) CONDITIONS AND RESTRICTIONS.—The Secretary shall establish and include in each permit under this subsection conditions and restrictions, including those conditions and restrictions set forth in subsection (b)(7), which shall be com-

plied with by the owner and operator of the vessel for which the permit is issued.

"(7) FEES.—The Secretary shall collect a fee for each permit issued under this subsection, in an amount adequate to recover the costs incurred by the United States in issuing the permit, except that the Secretary shall waive the fee for the permit if the foreign nation under which the vessel is registered does not collect a fee from a vessel of the United States engaged in similar activities in the waters of such foreign nation.

"(e) PACIFIC INSULAR AREAS.—

"(1) NEGOTIATION OF PACIFIC INSULAR AREA FISHERY AGREEMENTS.—The Secretary of State, with the concurrence of the Secretary and in consultation with any appropriate Council, may negotiate and enter into a Pacific Insular Area fishery agreement to authorize foreign fishing within the exclusive economic zone adjacent to a Pacific Insular Area—

"(A) in the case of American Samoa, Guam, or the Northern Mariana Islands, at the request and with the concurrence of, and in consultation with, the Governor of the Pacific Insular Area to which such agreement applies; and

"(B) in the case of a Pacific Insular Area other than American Samoa, Guam, or the Northern Mariana Islands, at the request of the Western Pacific Council.

"(2) AGREEMENT TERMS AND CONDITIONS.—A Pacific Insular Area fishery agreement—

"(A) shall not be considered to supersede any governing international fishery agreement currently in effect under this Act, but shall provide an alternative basis for the conduct of foreign fishing within the exclusive economic zone adjacent to Pacific Insular Areas;

"(B) shall be negotiated and implemented consistent only with the governing international fishery agreement provisions of this title specifically made applicable in this subsection;

"(C) may not be negotiated with a nation that is in violation of a governing international fishery agreement in effect under this Act;

"(D) shall not be entered into if it is determined by the Governor of the applicable Pacific Insular Area with respect to agreements initiated under paragraph (1)(A), or the Western Pacific Council with respect to agreements initiated under paragraph (1)(B), that such an agreement will adversely affect the fishing activities of the indigenous people of such Pacific Insular Area;

"(E) shall be valid for a period not to exceed three years and shall only become effective according to the procedures in section 203; and

"(F) shall require the foreign nation and its fishing vessels to comply with the requirements of paragraphs (1), (2), (3) and (4)(A) of section 201(c), section 201(d), and section 201(h).

"(3) PERMITS FOR FOREIGN FISHING.—

"(A) Application for permits for foreign fishing authorized under a Pacific Insular Areas fishing agreement shall be made, considered and approved or disapproved in accordance with paragraphs (3), (4), (5), (6), (7) (A) and (B),

(8), and (9) of subsection (b), and shall include any conditions and restrictions established by the Secretary in consultation with the Secretary of State, the Secretary of the department in which the Coast Guard is operating, the Governor of the applicable Pacific Insular Area, and the appropriate Council.

"(B) If a foreign nation notifies the Secretary of State of its acceptance of the requirements of this paragraph, paragraph (2)(F), and paragraph (5), including any conditions and restrictions established under subparagraph (A), the Secretary of State shall promptly transmit such notification to the Secretary. Upon receipt of any payment required under a Pacific Insular Area fishing agreement, the Secretary shall thereupon issue to such foreign nation, through the Secretary of State, permits for the appropriate fishing vessels of that nation. Each permit shall contain a statement of all of the requirements, conditions, and restrictions established under this subsection which apply to the fishing vessel for which the permit is issued.

"(4) MARINE CONSERVATION PLANS.—

"(A) Prior to entering into a Pacific Insular Area fishery agreement, the Western Pacific Council and the appropriate Governor shall develop a 3-year marine conservation plan detailing uses for funds to be collected by the Secretary pursuant to such agreement. Such plan shall be consistent with any applicable fishery management plan, identify conservation and management objectives (including criteria for determining when such objectives have been met), and prioritize planned marine conservation projects. Conservation and management objectives shall include, but not be limited to—

"(i) establishment of Pacific Insular Area observer programs, approved by the Secretary in consultation with the Western Pacific Council, that provide observer coverage for foreign fishing under Pacific Insular Area fishery agreements that is at least equal in effectiveness to the program established by the Secretary under section 201(h);

"(ii) conduct of marine and fisheries research, including development of systems for information collection, analysis, evaluation, and reporting;

"(iii) conservation, education, and enforcement activities related to marine and coastal management, such as living marine resource assessments, habitat monitoring and coastal studies;

"(iv) grants to the University of Hawaii for technical assistance projects by the Pacific Island Network, such as education and training in the development and implementation of sustainable marine resources development projects, scientific research, and conservation strategies; and

"(v) western Pacific community-based demonstration projects under section 112(b) of the Sustainable Fisheries Act and other coastal improvement projects to foster and promote the management, conservation, and economic enhancement of the Pacific Insular Areas.

"(B) In the case of American Samoa, Guam, and the Northern Mariana Islands, the appropriate Governor, with the concurrence of the Western Pacific Council, shall develop the marine conservation plan described in subparagraph (A) and submit such plan to the Secretary for approval. In the case of other Pacific Insular Areas, the Western Pacific Council shall develop and submit the marine conservation plan described in subparagraph (A) to the Secretary for approval.

"(C) If a Governor or the Western Pacific Council intends to request that the Secretary of State renew a Pacific Insular Area fishery agreement, a subsequent 3-year plan shall be submitted to the Secretary for approval by the end of the second year of the existing 3-year plan.

"(5) RECIPROCAL CONDITIONS.—Except as expressly provided otherwise in this subsection, a Pacific Insular Area fishing agreement may include terms similar to the terms applicable to United States fishing vessels for access to similar fisheries in waters subject to the fisheries jurisdiction of another nation.

"(6) USE OF PAYMENTS BY AMERICAN SAMOA, GUAM, NORTHERN MARIANA ISLANDS.—Any payments received by the Secretary under a Pacific Insular Area fishery agreement for American Samoa, Guam, or the Northern Mariana Islands shall be deposited into the United States Treasury and then covered over to the Treasury of the Pacific Insular Area for which those funds were collected. Amounts deposited in the Treasury of a Pacific Insular Area shall be available, without appropriation or fiscal year limitation, to the Governor of the Pacific Insular Area—

"(A) to carry out the purposes of this subsection;

"(B) to compensate (i) the Western Pacific Council for mutually agreed upon administrative costs incurred relating to any Pacific Insular Area fishery agreement for such Pacific Insular Area, and (ii) the Secretary of State for mutually agreed upon travel expenses for no more than 2 Federal representatives incurred as a direct result of complying with paragraph (1)(A); and

"(C) to implement a marine conservation plan developed and approved under paragraph (4).

"(7) WESTERN PACIFIC SUSTAINABLE FISHERIES FUND.—There is established in the United States Treasury a Western Pacific Sustainable Fisheries Fund into which any payments received by the Secretary under a Pacific Insular Area fishery agreement for any Pacific Insular Area other than American Samoa, Guam, or the Northern Mariana Islands shall be deposited. The Western Pacific Sustainable Fisheries Fund shall be made available, without appropriation or fiscal year limitation, to the Secretary, who shall provide such funds only to—

"(A) the Western Pacific Council for the purpose of carrying out the provisions of this subsection, including implementation of a marine conservation plan approved under paragraph (4);

"(B) the Secretary of State for mutually agreed upon travel expenses for no more than 2 Federal representatives incurred as a direct result of complying with paragraph (1)(B); and

"(C) the Western Pacific Council to meet conservation and management objectives in the State of Hawaii if monies

remain in the Western Pacific Sustainable Fisheries Fund after the funding requirements of subparagraphs (A) and (B) have been satisfied.

Amounts deposited in such fund shall not diminish funding received by the Western Pacific Council for the purpose of carrying out other responsibilities under this Act.

"(8) USE OF FINES AND PENALTIES.—In the case of violations occurring within the exclusive economic zone off American Samoa, Guam, or the Northern Mariana Islands, amounts received by the Secretary which are attributable to fines or penalties imposed under this Act, including such sums collected from the forfeiture and disposition or sale of property seized subject to its authority, after payment of direct costs of the enforcement action to all entities involved in such action, shall be deposited into the Treasury of the Pacific Insular Area adjacent to the exclusive economic zone in which the violation occurred, to be used for fisheries enforcement and for implementation of a marine conservation plan under paragraph (4).".

(e) ATLANTIC HERRING TRANSSHIPMENT.—Within 30 days of receiving an application, the Secretary shall, under section 204(d) of the Magnuson Fishery Conservation and Management Act, as amended by this Act, issue permits to up to fourteen Canadian transport vessels that are not equipped for fish harvesting or processing, for the transshipment, within the boundaries of the State of Maine or within the portion of the exclusive economic zone east of the line 69 degrees 30 minutes west and within 12 nautical miles from the seaward boundary of that State, of Atlantic herring harvested by United States fishermen within the area described and used solely in sardine processing. In issuing a permit pursuant to this subsection, the Secretary shall provide a waiver under section 201(h)(2)(C) of the Magnuson Fishery Conservation and Management Act, as amended by this Act: *Provided,* That such vessels comply with Federal or State monitoring and reporting requirements for the Atlantic herring fishery, including the stationing of United States observers aboard such vessels, if necessary.

(f) LARGE SCALE DRIFTNET FISHING.—Section 206 (16 U.S.C. 1826) is amended—

(1) in subsection (e), by striking paragraphs (3) and (4), and redesignating paragraphs (5) and (6) as (3) and (4), respectively; and

(2) in subsection (f), by striking "(e)(6)," and inserting "(e)(4),".

(g) RUSSIAN FISHING IN THE BERING SEA.—No later than September 30, 1997, the North Pacific Fishery Management Council, in consultation with the North Pacific and Bering Sea Advisory Body, shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Resources of the House of Representatives a report describing the institutional structures in Russia pertaining to stock assessment, management, and enforcement for fishery harvests in the Bering Sea, and recommendations for improving coordination between the United States and Russia for managing and conserving Bering Sea fishery resources of mutual concern. Reports.

SEC. 106. NATIONAL STANDARDS.

(a) Section 301(a)(5) (16 U.S.C. 1851(a)(5)) is amended by striking "promote" and inserting "consider".

(b) Section 301(a) (16 U.S.C. 1851(a)) is amended by adding at the end thereof the following:

"(8) Conservation and management measures shall, consistent with the conservation requirements of this Act (including the prevention of overfishing and rebuilding of overfished stocks), take into account the importance of fishery resources to fishing communities in order to (A) provide for the sustained participation of such communities, and (B) to the extent practicable, minimize adverse economic impacts on such communities.

"(9) Conservation and management measures shall, to the extent practicable, (A) minimize bycatch and (B) to the extent bycatch cannot be avoided, minimize the mortality of such bycatch.

"(10) Conservation and management measures shall, to the extent practicable, promote the safety of human life at sea.".

SEC. 107. REGIONAL FISHERY MANAGEMENT COUNCILS.

(a) Section 302(a) (16 U.S.C. 1852(a)) is amended—

(1) by inserting "(1)" after the subsection heading;

(2) by redesignating paragraphs (1) through (8) as subparagraphs (A) through (H), respectively;

(3) by striking "section 304(f)(3)" wherever it appears and inserting "paragraph (3)";

(4) in paragraph (1)(B), as amended—

(A) by striking "and Virginia" and inserting "Virginia, and North Carolina";

(B) by inserting "North Carolina, and" after "except";

(C) by striking "19" and inserting "21"; and

(D) by striking "12" and inserting "13";

(5) by striking paragraph (1)(F), as redesignated, and inserting the following:

"(F) PACIFIC COUNCIL.—The Pacific Fishery Management Council shall consist of the States of California, Oregon, Washington, and Idaho and shall have authority over the fisheries in the Pacific Ocean seaward of such States. The Pacific Council shall have 14 voting members, including 8 appointed by the Secretary in accordance with subsection (b)(2) (at least one of whom shall be appointed from each such State), and including one appointed from an Indian tribe with Federally recognized fishing rights from California, Oregon, Washington, or Idaho in accordance with subsection (b)(5).";

(6) by indenting the sentence at the end thereof and inserting "(2)" before "Each Council"; and

(7) by adding at the end the following:

"(3) The Secretary shall have authority over any highly migratory species fishery that is within the geographical area of authority of more than one of the following Councils: New England Council, Mid-Atlantic Council, South Atlantic Council, Gulf Council, and Caribbean Council.".

(b) Section 302(b) (16 U.S.C. 1852(b)) is amended—

(1) by striking "subsection (b)(2)" in paragraphs (1)(C) and (3), and inserting in both places "paragraphs (2) and (5)";

(2) by striking the last sentence in paragraph (3) and inserting the following: "Any term in which an individual was appointed to replace a member who left office during the term shall not be counted in determining the number of consecutive terms served by that Council member."; and

(3) by striking paragraph (5) and inserting after paragraph (4) the following:

"(5)(A) The Secretary shall appoint to the Pacific Council one representative of an Indian tribe with Federally recognized fishing rights from California, Oregon, Washington, or Idaho from a list of not less than 3 individuals submitted by the tribal governments. The Secretary, in consultation with the Secretary of the Interior and tribal governments, shall establish by regulation the procedure for submitting a list under this subparagraph. Regulations.

"(B) Representation shall be rotated among the tribes taking into consideration—

"(i) the qualifications of the individuals on the list referred to in subparagraph (A),

"(ii) the various rights of the Indian tribes involved and judicial cases that set forth how those rights are to be exercised, and

"(iii) the geographic area in which the tribe of the representative is located.

"(C) A vacancy occurring prior to the expiration of any term shall be filled in the same manner as set out in subparagraphs (A) and (B), except that the Secretary may use the list from which the vacating representative was chosen.

"(6) The Secretary may remove for cause any member of a Council required to be appointed by the Secretary in accordance with paragraphs (2) or (5) if—

"(A) the Council concerned first recommends removal by not less than two-thirds of the members who are voting members and submits such removal recommendation to the Secretary in writing together with a statement of the basis for the recommendation; or

"(B) the member is found by the Secretary, after notice and an opportunity for a hearing in accordance with section 554 of title 5, United States Code, to have committed an act prohibited by section 307(1)(O).".

(c) Section 302(d) (16 U.S.C. 1852(d)) is amended in the first sentence—

(1) by striking "each Council," and inserting "each Council who are required to be appointed by the Secretary and"; and

(2) by striking "shall, until January 1, 1992," and all that follows through "GS–16" and inserting "shall receive compensation at the daily rate for GS–15, step 7".

(d) Section 302(e) (16 U.S.C. 1852(e)) is amended by adding at the end the following:

"(5) At the request of any voting member of a Council, the Council shall hold a roll call vote on any matter before the Council. The official minutes and other appropriate records of any Council meeting shall identify all roll call votes held, the name of each voting member present during each roll call vote, and how each member voted on each roll call vote.".

(e) Section 302(g) (16 U.S.C. 1852(g)) is amended by redesignating paragraph (4) as paragraph (5), and by inserting after paragraph (3) the following:

"(4) The Secretary shall establish advisory panels to assist in the collection and evaluation of information relevant to the development of any fishery management plan or plan amendment for a fishery to which subsection (a)(3) applies. Each advisory panel shall participate in all aspects of the development of the plan or amendment; be balanced in its representation of commercial, recreational, and other interests; and consist of not less than 7 individuals who are knowledgeable about the fishery for which the plan or amendment is developed, selected from among—

"(A) members of advisory committees and species working groups appointed under Acts implementing relevant international fishery agreements pertaining to highly migratory species; and

"(B) other interested persons.".

(f) Section 302(h) (16 U.S.C. 1852(h)) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) for each fishery under its authority that requires conservation and management, prepare and submit to the Secretary (A) a fishery management plan, and (B) amendments to each such plan that are necessary from time to time (and promptly whenever changes in conservation and management measures in another fishery substantially affect the fishery for which such plan was developed);";

(2) in paragraph (2)—

(A) by striking "section 204(b)(4)(C)," in paragraph (2) and inserting "section 204(b)(4)(C) or section 204(d),";

(B) by striking "304(c)(2)" and inserting "304(c)(4)"; and

(3) by striking "304(f)(3)" in paragraph (5) and inserting "subsection (a)(3)".

(g) Section 302 is amended further by striking subsection (i), and by redesignating subsections (j) and (k) as subsections (i) and (j), respectively.

(h) Section 302(i), as redesignated, is amended—

(1) by striking "of the Councils" in paragraph (1) and inserting "established under subsection (g)";

(2) by striking "of a Council:" in paragraph (2) and inserting "established under subsection (g):";

(3) by striking "Council's" in paragraph (2)(C);

(4) by adding the following at the end of paragraph (2)(C): "The published agenda of the meeting may not be modified to include additional matters for Council action without public notice or within 14 days prior to the meeting date, unless such modification is to address an emergency action under section 305(c), in which case public notice shall be given immediately.";

(5) by adding the following at the end of paragraph (2)(D): "All written information submitted to a Council by an interested person shall include a statement of the source and date of such information. Any oral or written statement shall include a brief description of the background and interests of the person in the subject of the oral or written statement.";

(6) by striking paragraph (2)(E) and inserting:

"(E) Detailed minutes of each meeting of the Council, except for any closed session, shall be kept and shall contain a record of the persons present, a complete and accurate description of matters discussed and conclusions reached, and copies of all statements filed. The Chairman shall certify the accuracy of the minutes of each such meeting and submit a copy thereof to the Secretary. The minutes shall be made available to any court of competent jurisdiction."; Records. Certification.

(7) by striking "by the Council" the first place it appears in paragraph (2)(F);

(8) by inserting "or the Secretary, as appropriate" in paragraph (2)(F) after "of the Council";

(9) by striking "303(d)" each place it appears in paragraph (2)(F) and inserting "402(b)"; and

(10) by striking "303(d)" in paragraph (4) and inserting "402(b)".

(i) Section 302(j), as redesignated, is amended—

(1) by inserting "and Recusal" after "Interest" in the subsection heading;

(2) by striking paragraph (1) and inserting the following:

"(1) For the purposes of this subsection—

"(A) the term 'affected individual' means an individual who—

"(i) is nominated by the Governor of a State for appointment as a voting member of a Council in accordance with subsection (b)(2); or

"(ii) is a voting member of a Council appointed—

"(I) under subsection (b)(2); or

"(II) under subsection (b)(5) who is not subject to disclosure and recusal requirements under the laws of an Indian tribal government; and

"(B) the term 'designated official' means a person with expertise in Federal conflict-of-interest requirements who is designated by the Secretary, in consultation with the Council, to attend Council meetings and make determinations under paragraph (7)(B).";

(3) by striking "(1)(A)" in paragraph (3)(A) and inserting "(1)(A)(i)";

(4) by striking "(1)(B) or (C)" in paragraph (3)(B) and inserting "(1)(A)(ii)";

(5) by striking "(1)(B) or (C)" in paragraph (4) and inserting "(1)(A)(ii)";

(6)(A) by striking "and" at the end of paragraph (5)(A);

(B) by striking the period at the end of paragraph (5)(B) and inserting a semicolon and the word "and"; and

(C) by adding at the end of paragraph (5) the following:

"(C) be kept on file by the Secretary for use in reviewing determinations under paragraph (7)(B) and made available for public inspection at reasonable hours.";

(7) by striking "(1)(B) or (C)" in paragraph (6) and inserting "(1)(A)(ii)";

(8) by redesignating paragraph (7) as paragraph (8) and inserting after paragraph (6) the following:

"(7)(A) After the effective date of regulations promulgated under subparagraph (F) of this paragraph, an affected individual required to disclose a financial interest under paragraph

(2) shall not vote on a Council decision which would have a significant and predictable effect on such financial interest. A Council decision shall be considered to have a significant and predictable effect on a financial interest if there is a close causal link between the Council decision and an expected and substantially disproportionate benefit to the financial interest of the affected individual relative to the financial interests of other participants in the same gear type or sector of the fishery. An affected individual who may not vote may participate in Council deliberations relating to the decision after notifying the Council of the voting recusal and identifying the financial interest that would be affected.

"(B) At the request of an affected individual, or upon the initiative of the appropriate designated official, the designated official shall make a determination for the record whether a Council decision would have a significant and predictable effect on a financial interest.

"(C) Any Council member may submit a written request to the Secretary to review any determination by the designated official under subparagraph (B) within 10 days of such determination. Such review shall be completed within 30 days of receipt of the request.

"(D) Any affected individual who does not vote in a Council decision in accordance with this subsection may state for the record how he or she would have voted on such decision if he or she had voted.

"(E) If the Council makes a decision before the Secretary has reviewed a determination under subparagraph (C), the eventual ruling may not be treated as cause for the invalidation or reconsideration by the Secretary of such decision.

Regulations.

"(F) The Secretary, in consultation with the Councils and by not later than one year from the date of enactment of the Sustainable Fisheries Act, shall promulgate regulations which prohibit an affected individual from voting in accordance with subparagraph (A), and which allow for the making of determinations under subparagraphs (B) and (C).''; and

(9) by striking "(1)(B) or (C)" in paragraph (8), as redesignated, and inserting "(1)(A)(ii)".

SEC. 108. FISHERY MANAGEMENT PLANS.

(a) REQUIRED PROVISIONS.—Section 303(a) (16 U.S.C. 1853(a)) is amended—

(1) in paragraph (1)(A) by inserting "and rebuild overfished stocks" after "overfishing";

(2) by inserting "commercial, recreational, and charter fishing in" in paragraph (5) after "with respect to";

(3) by striking paragraph (7) and inserting the following:

"(7) describe and identify essential fish habitat for the fishery based on the guidelines established by the Secretary under section 305(b)(1)(A), minimize to the extent practicable adverse effects on such habitat caused by fishing, and identify other actions to encourage the conservation and enhancement of such habitat;";

(4) by striking "and" at the end of paragraph (8);

(5) by inserting "and fishing communities" after "fisheries" in paragraph (9)(A);

(6) by striking the period at the end of paragraph (9) and inserting a semicolon; and

(7) by adding at the end the following:

"(10) specify objective and measurable criteria for identifying when the fishery to which the plan applies is overfished (with an analysis of how the criteria were determined and the relationship of the criteria to the reproductive potential of stocks of fish in that fishery) and, in the case of a fishery which the Council or the Secretary has determined is approaching an overfished condition or is overfished, contain conservation and management measures to prevent overfishing or end overfishing and rebuild the fishery;

"(11) establish a standardized reporting methodology to assess the amount and type of bycatch occurring in the fishery, and include conservation and management measures that, to the extent practicable and in the following priority—

"(A) minimize bycatch; and

"(B) minimize the mortality of bycatch which cannot be avoided;

"(12) assess the type and amount of fish caught and released alive during recreational fishing under catch and release fishery management programs and the mortality of such fish, and include conservation and management measures that, to the extent practicable, minimize mortality and ensure the extended survival of such fish;

"(13) include a description of the commercial, recreational, and charter fishing sectors which participate in the fishery and, to the extent practicable, quantify trends in landings of the managed fishery resource by the commercial, recreational, and charter fishing sectors; and

"(14) to the extent that rebuilding plans or other conservation and management measures which reduce the overall harvest in a fishery are necessary, allocate any harvest restrictions or recovery benefits fairly and equitably among the commercial, recreational, and charter fishing sectors in the fishery.".

(b) IMPLEMENTATION.—Not later than 24 months after the date of enactment of this Act, each Regional Fishery Management Council shall submit to the Secretary of Commerce amendments to each fishery management plan under its authority to comply with the amendments made in subsection (a) of this section. 16 USC 1853 note.

(c) DISCRETIONARY PROVISIONS.—Section 303(b) (16 U.S.C. 1853(b)) is amended—

(1) by striking paragraph (3) and inserting the following:

"(3) establish specified limitations which are necessary and appropriate for the conservation and management of the fishery on the—

"(A) catch of fish (based on area, species, size, number, weight, sex, bycatch, total biomass, or other factors);

"(B) sale of fish caught during commercial, recreational, or charter fishing, consistent with any applicable Federal and State safety and quality requirements; and

"(C) transshipment or transportation of fish or fish products under permits issued pursuant to section 204;";

(2) by striking "system for limiting access to" in paragraph (6) and inserting "limited access system for";

(3) by striking "fishery" in subparagraph (E) of paragraph (6) and inserting "fishery and any affected fishing communities";

(4) by inserting "one or more" in paragraph (8) after "require that";

(5) by striking "and" at the end of paragraph (9);

(6) by redesignating paragraph (10) as paragraph (12); and

(7) by inserting after paragraph (9) the following:

"(10) include, consistent with the other provisions of this Act, conservation and management measures that provide harvest incentives for participants within each gear group to employ fishing practices that result in lower levels of bycatch or in lower levels of the mortality of bycatch;

"(11) reserve a portion of the allowable biological catch of the fishery for use in scientific research; and".

(d) REGULATIONS.—Section 303 (16 U.S.C. 1853) is amended by striking subsection (c) and inserting the following:

"(c) PROPOSED REGULATIONS.—Proposed regulations which the Council deems necessary or appropriate for the purposes of—

"(1) implementing a fishery management plan or plan amendment shall be submitted to the Secretary simultaneously with the plan or amendment under section 304; and

"(2) making modifications to regulations implementing a fishery management plan or plan amendment may be submitted to the Secretary at any time after the plan or amendment is approved under section 304.".

(e) INDIVIDUAL FISHING QUOTAS.—Subsection 303 (16 U.S.C. 1853) is amended further by striking subsections (d), (e), and (f), and inserting the following:

"(d) INDIVIDUAL FISHING QUOTAS.—

"(1)(A) A Council may not submit and the Secretary may not approve or implement before October 1, 2000, any fishery management plan, plan amendment, or regulation under this Act which creates a new individual fishing quota program.

"(B) Any fishery management plan, plan amendment, or regulation approved by the Secretary on or after January 4, 1995, which creates any new individual fishing quota program shall be repealed and immediately returned by the Secretary to the appropriate Council and shall not be resubmitted, reapproved, or implemented during the moratorium set forth in subparagraph (A).

"(2)(A) No provision of law shall be construed to limit the authority of a Council to submit and the Secretary to approve the termination or limitation, without compensation to holders of any limited access system permits, of a fishery management plan, plan amendment, or regulation that provides for a limited access system, including an individual fishing quota program.

"(B) This subsection shall not be construed to prohibit a Council from submitting, or the Secretary from approving and implementing, amendments to the North Pacific halibut and sablefish, South Atlantic wreckfish, or Mid-Atlantic surf clam and ocean (including mahogany) quahog individual fishing quota programs.

"(3) An individual fishing quota or other limited access system authorization—

"(A) shall be considered a permit for the purposes of sections 307, 308, and 309;

"(B) may be revoked or limited at any time in accordance with this Act;

"(C) shall not confer any right of compensation to the holder of such individual fishing quota or other such limited access system authorization if it is revoked or limited; and

"(D) shall not create, or be construed to create, any right, title, or interest in or to any fish before the fish is harvested.

"(4)(A) A Council may submit, and the Secretary may approve and implement, a program which reserves up to 25 percent of any fees collected from a fishery under section 304(d)(2) to be used, pursuant to section 1104A(a)(7) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1274(a)(7)), to issue obligations that aid in financing the—

"(i) purchase of individual fishing quotas in that fishery by fishermen who fish from small vessels; and

"(ii) first-time purchase of individual fishing quotas in that fishery by entry level fishermen.

"(B) A Council making a submission under subparagraph (A) shall recommend criteria, consistent with the provisions of this Act, that a fisherman must meet to qualify for guarantees under clauses (i) and (ii) of subparagraph (A) and the portion of funds to be allocated for guarantees under each clause.

"(5) In submitting and approving any new individual fishing quota program on or after October 1, 2000, the Councils and the Secretary shall consider the report of the National Academy of Sciences required under section 108(f) of the Sustainable Fisheries Act, and any recommendations contained in such report, and shall ensure that any such program—

"(A) establishes procedures and requirements for the review and revision of the terms of any such program (including any revisions that may be necessary once a national policy with respect to individual fishing quota programs is implemented), and, if appropriate, for the renewal, reallocation, or reissuance of individual fishing quotas;

"(B) provides for the effective enforcement and management of any such program, including adequate observer coverage, and for fees under section 304(d)(2) to recover actual costs directly related to such enforcement and management; and

"(C) provides for a fair and equitable initial allocation of individual fishing quotas, prevents any person from acquiring an excessive share of the individual fishing quotas issued, and considers the allocation of a portion of the annual harvest in the fishery for entry-level fishermen, small vessel owners, and crew members who do not hold or qualify for individual fishing quotas.".

(f) INDIVIDUAL FISHING QUOTA REPORT.—(1) Not later than October 1, 1998, the National Academy of Sciences, in consultation with the Secretary of Commerce and the Regional Fishery Management Councils, shall submit to the Congress a comprehensive final report on individual fishing quotas, which shall include rec- 16 USC 1853 note.

ommendations to implement a national policy with respect to individual fishing quotas. The report shall address all aspects of such quotas, including an analysis of—

(A) the effects of limiting or prohibiting the transferability of such quotas;

(B) mechanisms to prevent foreign control of the harvest of United States fisheries under individual fishing quota programs, including mechanisms to prohibit persons who are not eligible to be deemed a citizen of the United States for the purpose of operating a vessel in the coastwise trade under section 2(a) and section 2(c) of the Shipping Act, 1916 (46 U.S.C. 802 (a) and (c)) from holding individual fishing quotas;

(C) the impact of limiting the duration of individual fishing quota programs;

(D) the impact of authorizing Federal permits to process a quantity of fish that correspond to individual fishing quotas, and of the value created for recipients of any such permits, including a comparison of such value to the value of the corresponding individual fishing quotas;

(E) mechanisms to provide for diversity and to minimize adverse social and economic impacts on fishing communities, other fisheries affected by the displacement of vessels, and any impacts associated with the shifting of capital value from fishing vessels to individual fishing quotas, as well as the use of capital construction funds to purchase individual fishing quotas;

(F) mechanisms to provide for effective monitoring and enforcement, including the inspection of fish harvested and incentives to reduce bycatch, and in particular economic discards;

(G) threshold criteria for determining whether a fishery may be considered for individual fishing quota management, including criteria related to the geographical range, population dynamics and condition of a fish stock, the socioeconomic characteristics of a fishery (including participants' involvement in multiple fisheries in the region), and participation by commercial, charter, and recreational fishing sectors in the fishery;

(H) mechanisms to ensure that vessel owners, vessel masters, crew members, and United States fish processors are treated fairly and equitably in initial allocations, to require persons holding individual fishing quotas to be on board the vessel using such quotas, and to facilitate new entry under individual fishing quota programs;

(I) potential social and economic costs and benefits to the nation, individual fishing quota recipients, and any recipients of Federal permits described in subparagraph (D) under individual fishing quota programs, including from capital gains revenue, the allocation of such quotas or permits through Federal auctions, annual fees and transfer fees at various levels, or other measures;

(J) the value created for recipients of individual fishing quotas, including a comparison of such value to the value of the fish harvested under such quotas and to the value of permits created by other types of limited access systems, and the effects of creating such value on fishery management and conservation; and

(K) such other matters as the National Academy of Sciences deems appropriate.

(2) The report shall include a detailed analysis of individual fishing quota programs already implemented in the United States, including the impacts: of any limits on transferability, on past and present participants, on fishing communities, on the rate and total amount of bycatch (including economic and regulatory discards) in the fishery, on the safety of life and vessels in the fishery, on any excess harvesting or processing capacity in the fishery, on any gear conflicts in the fishery, on product quality from the fishery, on the effectiveness of enforcement in the fishery, on the size and composition of fishing vessel fleets, on the economic value created by individual fishing quotas for initial recipients and non-recipients, on conservation of the fishery resource, on fishermen who rely on participation in several fisheries, on the success in meeting any fishery management plan goals, and the fairness and effectiveness of the methods used for allocating quotas and controlling transferability. The report shall also include any information about individual fishing quota programs in other countries that may be useful.

(3) The report shall identify and analyze alternative conservation and management measures, including other limited access systems such as individual transferable effort systems, that could accomplish the same objectives as individual fishing quota programs, as well as characteristics that are unique to individual fishing quota programs.

(4) The Secretary of Commerce shall, in consultation with the National Academy of Sciences, the Councils, the fishing industry, affected States, conservation organizations and other interested persons, establish two individual fishing quota review groups to assist in the preparation of the report, which shall represent: (A) Alaska, Hawaii, and the other Pacific coastal States; and (B) Atlantic coastal States and the Gulf of Mexico coastal States. The Secretary shall, to the extent practicable, achieve a balanced representation of viewpoints among the individuals on each review group. The review groups shall be deemed to be advisory panels under section 302(g) of the Magnuson Fishery Conservation and Management Act, as amended by this Act. Establishment.

(5) The Secretary of Commerce, in consultation with the National Academy of Sciences and the Councils, shall conduct public hearings in each Council region to obtain comments on individual fishing quotas for use by the National Academy of Sciences in preparing the report required by this subsection. The National Academy of Sciences shall submit a draft report to the Secretary of Commerce by January 1, 1998. The Secretary of Commerce shall publish in the Federal Register a notice and opportunity for public comment on the draft of the report, or any revision thereof. A detailed summary of comments received and views presented at the hearings, including any dissenting views, shall be included by the National Academy of Sciences in the final report. Reports. Federal Register, publication.

(6) Section 210 of Public Law 104–134 is hereby repealed. 16 USC 1851 note.

(g) NORTH PACIFIC LOAN PROGRAM.—(1) By not later than October 1, 1997 the North Pacific Fishery Management Council shall recommend to the Secretary of Commerce a program which

uses the full amount of fees authorized to be used under section 303(d)(4) of the Magnuson Fishery Conservation and Management Act, as amended by this Act, in the halibut and sablefish fisheries off Alaska to guarantee obligations in accordance with such section.

(2)(A) For the purposes of this subsection, the phrase "fishermen who fish from small vessels" in section 303(d)(4)(A)(i) of such Act shall mean fishermen wishing to purchase individual fishing quotas for use from Category B, Category C, or Category D vessels, as defined in part 676.20(c) of title 50, Code of Federal Regulations (as revised as of October 1, 1995), whose aggregate ownership of individual fishing quotas will not exceed the equivalent of a total of 50,000 pounds of halibut and sablefish harvested in the fishing year in which a guarantee application is made if the guarantee is approved, who will participate aboard the fishing vessel in the harvest of fish caught under such quotas, who have at least 150 days of experience working as part of the harvesting crew in any United States commercial fishery, and who do not own in whole or in part any Category A or Category B vessel, as defined in such part and title of the Code of Federal Regulations.

(B) For the purposes of this subsection, the phrase "entry level fishermen" in section 303(d)(4)(A)(ii) of such Act shall mean fishermen who do not own any individual fishing quotas, who wish to obtain the equivalent of not more than a total of 8,000 pounds of halibut and sablefish harvested in the fishing year in which a guarantee application is made, and who will participate aboard the fishing vessel in the harvest of fish caught under such quotas.

Reports.
16 USC 1855 note.

(h) COMMUNITY DEVELOPMENT QUOTA REPORT.—Not later than October 1, 1998, the National Academy of Sciences, in consultation with the Secretary, the North Pacific and Western Pacific Councils, communities and organizations participating in the program, participants in affected fisheries, and the affected States, shall submit to the Secretary of Commerce and Congress a comprehensive report on the performance and effectiveness of the community development quota programs under the authority of the North Pacific and Western Pacific Councils. The report shall—

(1) evaluate the extent to which such programs have met the objective of providing communities with the means to develop ongoing commercial fishing activities;

(2) evaluate the manner and extent to which such programs have resulted in the communities and residents—

(A) receiving employment opportunities in commercial fishing and processing; and

(B) obtaining the capital necessary to invest in commercial fishing, fish processing, and commercial fishing support projects (including infrastructure to support commercial fishing);

(3) evaluate the social and economic conditions in the participating communities and the extent to which alternative private sector employment opportunities exist;

(4) evaluate the economic impacts on participants in the affected fisheries, taking into account the condition of the fishery resource, the market, and other relevant factors;

(5) recommend a proposed schedule for accomplishing the developmental purposes of community development quotas; and

(6) address such other matters as the National Academy of Sciences deems appropriate.

(i) EXISTING QUOTA PLANS.—Nothing in this Act or the amendments made by this Act shall be construed to require a reallocation of individual fishing quotas under any individual fishing quota program approved by the Secretary before January 4, 1995. 16 USC 1853 note.

SEC. 109. ACTION BY THE SECRETARY.

(a) SECRETARIAL REVIEW OF PLANS AND REGULATIONS.—Section 304 (16 U.S.C. 1854) is amended by striking subsections (a) and (b) and inserting the following:

"(a) REVIEW OF PLANS.—

"(1) Upon transmittal by the Council to the Secretary of a fishery management plan or plan amendment, the Secretary shall—

"(A) immediately commence a review of the plan or amendment to determine whether it is consistent with the national standards, the other provisions of this Act, and any other applicable law; and

"(B) immediately publish in the Federal Register a notice stating that the plan or amendment is available and that written information, views, or comments of interested persons on the plan or amendment may be submitted to the Secretary during the 60-day period beginning on the date the notice is published. Federal Register, publication.

"(2) In undertaking the review required under paragraph (1), the Secretary shall—

"(A) take into account the information, views, and comments received from interested persons;

"(B) consult with the Secretary of State with respect to foreign fishing; and

"(C) consult with the Secretary of the department in which the Coast Guard is operating with respect to enforcement at sea and to fishery access adjustments referred to in section 303(a)(6).

"(3) The Secretary shall approve, disapprove, or partially approve a plan or amendment within 30 days of the end of the comment period under paragraph (1) by written notice to the Council. A notice of disapproval or partial approval shall specify— Notice.

"(A) the applicable law with which the plan or amendment is inconsistent;

"(B) the nature of such inconsistencies; and

"(C) recommendations concerning the actions that could be taken by the Council to conform such plan or amendment to the requirements of applicable law.

If the Secretary does not notify a Council within 30 days of the end of the comment period of the approval, disapproval, or partial approval of a plan or amendment, then such plan or amendment shall take effect as if approved.

"(4) If the Secretary disapproves or partially approves a plan or amendment, the Council may submit a revised plan or amendment to the Secretary for review under this subsection.

"(5) For purposes of this subsection and subsection (b), the term 'immediately' means on or before the 5th day after the day on which a Council transmits to the Secretary a fishery management plan, plan amendment, or proposed regulation that the Council characterizes as final.

"(b) REVIEW OF REGULATIONS.—

"(1) Upon transmittal by the Council to the Secretary of proposed regulations prepared under section 303(c), the Secretary shall immediately initiate an evaluation of the proposed regulations to determine whether they are consistent with the fishery management plan, plan amendment, this Act and other applicable law. Within 15 days of initiating such evaluation the Secretary shall make a determination and—

Federal Register, publication.

"(A) if that determination is affirmative, the Secretary shall publish such regulations in the Federal Register, with such technical changes as may be necessary for clarity and an explanation of those changes, for a public comment period of 15 to 60 days; or

Notification.

"(B) if that determination is negative, the Secretary shall notify the Council in writing of the inconsistencies and provide recommendations on revisions that would make the proposed regulations consistent with the fishery management plan, plan amendment, this Act, and other applicable law.

"(2) Upon receiving a notification under paragraph (1)(B), the Council may revise the proposed regulations and submit them to the Secretary for reevaluation under paragraph (1).

"(3) The Secretary shall promulgate final regulations within 30 days after the end of the comment period under paragraph (1)(A). The Secretary shall consult with the Council before making any revisions to the proposed regulations, and must publish in the Federal Register an explanation of any differences between the proposed and final regulations.".

Federal Register, publication.

(b) PREPARATION BY THE SECRETARY.—Section 304(c) (16 U.S.C. 1854(c)) is amended—

(1) by striking the subsection heading and inserting "PREPARATION AND REVIEW OF SECRETARIAL PLANS";

(2) by striking "or" at the end of paragraph (1)(A);

(3) by striking all that follows "further revised plan" in paragraph (1) and inserting "or amendment; or";

(4) by inserting after subparagraph (1)(B), as amended, the following new subparagraph:

"(C) the Secretary is given authority to prepare such plan or amendment under this section.";

(5) by striking paragraph (2) and inserting:

"(2) In preparing any plan or amendment under this subsection, the Secretary shall—

"(A) conduct public hearings, at appropriate times and locations in the geographical areas concerned, so as to allow interested persons an opportunity to be heard in the preparation and amendment of the plan and any regulations implementing the plan; and

"(B) consult with the Secretary of State with respect to foreign fishing and with the Secretary of the department in which the Coast Guard is operating with respect to enforcement at sea.";

(6) by inserting "for a fishery under the authority of a Council" after "paragraph (1)" in paragraph (3);

(7) by striking "system described in section 303(b)(6)" in paragraph (3) and inserting "system, including any individual fishing quota program"; and

(8) by inserting after paragraph (3) the following new paragraphs:

"(4) Whenever the Secretary prepares a fishery management plan or plan amendment under this section, the Secretary shall immediately—

"(A) for a plan or amendment for a fishery under the authority of a Council, submit such plan or amendment to the appropriate Council for consideration and comment; and

"(B) publish in the Federal Register a notice stating that the plan or amendment is available and that written information, views, or comments of interested persons on the plan or amendment may be submitted to the Secretary during the 60-day period beginning on the date the notice is published. Federal Register, publication.

"(5) Whenever a plan or amendment is submitted under paragraph (4)(A), the appropriate Council must submit its comments and recommendations, if any, regarding the plan or amendment to the Secretary before the close of the 60-day period referred to in paragraph (4)(B). After the close of such 60-day period, the Secretary, after taking into account any such comments and recommendations, as well as any views, information, or comments submitted under paragraph (4)(B), may adopt such plan or amendment.

"(6) The Secretary may propose regulations in the Federal Register to implement any plan or amendment prepared by the Secretary. In the case of a plan or amendment to which paragraph (4)(A) applies, such regulations shall be submitted to the Council with such plan or amendment. The comment period on proposed regulations shall be 60 days, except that the Secretary may shorten the comment period on minor revisions to existing regulations.

"(7) The Secretary shall promulgate final regulations within 30 days after the end of the comment period under paragraph (6). The Secretary must publish in the Federal Register an explanation of any substantive differences between the proposed and final rules. All final regulations must be consistent with the fishery management plan, with the national standards and other provisions of this Act, and with any other applicable law.". Regulations. Federal Register, publication.

(c) INDIVIDUAL FISHING QUOTA AND COMMUNITY DEVELOPMENT QUOTA FEES.—Section 304(d) (16 U.S.C. 1854(d)) is amended—

(1) by inserting "(1)" immediately before the first sentence; and

(2) by inserting at the end the following:

"(2)(A) Notwithstanding paragraph (1), the Secretary is authorized and shall collect a fee to recover the actual costs directly related to the management and enforcement of any—

"(i) individual fishing quota program; and

"(ii) community development quota program that allocates a percentage of the total allowable catch of a fishery to such program.

"(B) Such fee shall not exceed 3 percent of the ex-vessel value of fish harvested under any such program, and shall be collected at either the time of the landing, filing of a landing report, or sale of such fish during a fishing season or in the last quarter of the calendar year in which the fish is harvested.

"(C)(i) Fees collected under this paragraph shall be in addition to any other fees charged under this Act and shall be

deposited in the Limited Access System Administration Fund established under section 305(h)(5)(B), except that the portion of any such fees reserved under section 303(d)(4)(A) shall be deposited in the Treasury and available, subject to annual appropriations, to cover the costs of new direct loan obligations and new loan guarantee commitments as required by section 504(b)(1) of the Federal Credit Reform Act (2 U.S.C. 661c(b)(1)).

"(ii) Upon application by a State, the Secretary shall transfer to such State up to 33 percent of any fee collected pursuant to subparagraph (A) under a community development quota program and deposited in the Limited Access System Administration Fund in order to reimburse such State for actual costs directly incurred in the management and enforcement of such program.".

16 USC 1854 note.

(d) DELAY OF FEES.—Notwithstanding any other provision of law, the Secretary shall not begin the collection of fees under section 304(d)(2) of the Magnuson Fishery Conservation and Management Act, as amended by this Act, in the surf clam and ocean (including mahogany) quahog fishery or in the wreckfish fishery until after January 1, 2000.

(e) OVERFISHING.—Section 304(e) (16 U.S.C. 1854(e)) is amended to read as follows:

"(e) REBUILDING OVERFISHED FISHERIES.—

Reports.

"(1) The Secretary shall report annually to the Congress and the Councils on the status of fisheries within each Council's geographical area of authority and identify those fisheries that are overfished or are approaching a condition of being overfished. For those fisheries managed under a fishery management plan or international agreement, the status shall be determined using the criteria for overfishing specified in such plan or agreement. A fishery shall be classified as approaching a condition of being overfished if, based on trends in fishing effort, fishery resource size, and other appropriate factors, the Secretary estimates that the fishery will become overfished within two years.

Notification.

"(2) If the Secretary determines at any time that a fishery is overfished, the Secretary shall immediately notify the appropriate Council and request that action be taken to end overfishing in the fishery and to implement conservation and management measures to rebuild affected stocks of fish. The Secretary shall publish each notice under this paragraph in the Federal Register.

Federal Register, publication.

"(3) Within one year of an identification under paragraph (1) or notification under paragraphs (2) or (7), the appropriate Council (or the Secretary, for fisheries under section 302(a)(3)) shall prepare a fishery management plan, plan amendment, or proposed regulations for the fishery to which the identification or notice applies—

"(A) to end overfishing in the fishery and to rebuild affected stocks of fish; or

"(B) to prevent overfishing from occurring in the fishery whenever such fishery is identified as approaching an overfished condition.

"(4) For a fishery that is overfished, any fishery management plan, amendment, or proposed regulations prepared pursuant to paragraph (3) or paragraph (5) for such fishery shall—

"(A) specify a time period for ending overfishing and rebuilding the fishery that shall—

"(i) be as short as possible, taking into account the status and biology of any overfished stocks of fish, the needs of fishing communities, recommendations by international organizations in which the United States participates, and the interaction of the overfished stock of fish within the marine ecosystem; and

"(ii) not exceed 10 years, except in cases where the biology of the stock of fish, other environmental conditions, or management measures under an international agreement in which the United States participates dictate otherwise;

"(B) allocate both overfishing restrictions and recovery benefits fairly and equitably among sectors of the fishery; and

"(C) for fisheries managed under an international agreement, reflect traditional participation in the fishery, relative to other nations, by fishermen of the United States.

"(5) If, within the one-year period beginning on the date of identification or notification that a fishery is overfished, the Council does not submit to the Secretary a fishery management plan, plan amendment, or proposed regulations required by paragraph (3)(A), the Secretary shall prepare a fishery management plan or plan amendment and any accompanying regulations to stop overfishing and rebuild affected stocks of fish within 9 months under subsection (c).

"(6) During the development of a fishery management plan, a plan amendment, or proposed regulations required by this subsection, the Council may request the Secretary to implement interim measures to reduce overfishing under section 305(c) until such measures can be replaced by such plan, amendment, or regulations. Such measures, if otherwise in compliance with the provisions of this Act, may be implemented even though they are not sufficient by themselves to stop overfishing of a fishery.

"(7) The Secretary shall review any fishery management plan, plan amendment, or regulations required by this subsection at routine intervals that may not exceed two years. If the Secretary finds as a result of the review that such plan, amendment, or regulations have not resulted in adequate progress toward ending overfishing and rebuilding affected fish stocks, the Secretary shall—

"(A) in the case of a fishery to which section 302(a)(3) applies, immediately make revisions necessary to achieve adequate progress; or

"(B) for all other fisheries, immediately notify the appropriate Council. Such notification shall recommend further conservation and management measures which the Council should consider under paragraph (3) to achieve adequate progress.". Notification.

(f) FISHERIES UNDER AUTHORITY OF MORE THAN ONE COUNCIL.—Section 304(f) is amended by striking paragraph (3).

(g) ATLANTIC HIGHLY MIGRATORY SPECIES.—Section 304 (16 U.S.C. 1854) is amended further by striking subsection (g) and inserting the following:

"(g) ATLANTIC HIGHLY MIGRATORY SPECIES.—(1) PREPARATION AND IMPLEMENTATION OF PLAN OR PLAN AMENDMENT.—The Secretary shall prepare a fishery management plan or plan amendment under subsection (c) with respect to any highly migratory species fishery to which section 302(a)(3) applies. In preparing and implementing any such plan or amendment, the Secretary shall—

"(A) consult with and consider the comments and views of affected Councils, commissioners and advisory groups appointed under Acts implementing relevant international fishery agreements pertaining to highly migratory species, and the advisory panel established under section 302(g);

"(B) establish an advisory panel under section 302(g) for each fishery management plan to be prepared under this paragraph;

"(C) evaluate the likely effects, if any, of conservation and management measures on participants in the affected fisheries and minimize, to the extent practicable, any disadvantage to United States fishermen in relation to foreign competitors;

"(D) with respect to a highly migratory species for which the United States is authorized to harvest an allocation, quota, or at a fishing mortality level under a relevant international fishery agreement, provide fishing vessels of the United States with a reasonable opportunity to harvest such allocation, quota, or at such fishing mortality level;

"(E) review, on a continuing basis (and promptly whenever a recommendation pertaining to fishing for highly migratory species has been made under a relevant international fishery agreement), and revise as appropriate, the conservation and management measures included in the plan;

"(F) diligently pursue, through international entities (such as the International Commission for the Conservation of Atlantic Tunas), comparable international fishery management measures with respect to fishing for highly migratory species; and

"(G) ensure that conservation and management measures under this subsection—

"(i) promote international conservation of the affected fishery;

"(ii) take into consideration traditional fishing patterns of fishing vessels of the United States and the operating requirements of the fisheries;

"(iii) are fair and equitable in allocating fishing privileges among United States fishermen and do not have economic allocation as the sole purpose; and

"(iv) promote, to the extent practicable, implementation of scientific research programs that include the tagging and release of Atlantic highly migratory species.

"(2) CERTAIN FISH EXCLUDED FROM 'BYCATCH' DEFINITION.—Notwithstanding section 3(2), fish harvested in a commercial fishery managed by the Secretary under this subsection or the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971d) that are not regulatory discards and that are tagged and released alive under a scientific tagging and release program established by the Secretary shall not be considered bycatch for purposes of this Act.".

16 USC 1854 note.

(h) COMPREHENSIVE MANAGEMENT SYSTEM FOR ATLANTIC PELAGIC LONGLINE FISHERY.—(1) The Secretary of Commerce shall—

(A) establish an advisory panel under section 302(g)(4) of the Magnuson Fishery Conservation and Management Act, as amended by this Act, for pelagic longline fishing vessels that participate in fisheries for Atlantic highly migratory species;

(B) conduct surveys and workshops with affected fishery participants to provide information and identify options for future management programs;

(C) to the extent practicable and necessary for the evaluation of options for a comprehensive management system, recover vessel production records; and

(D) complete by January 1, 1998, a comprehensive study on the feasibility of implementing a comprehensive management system for pelagic longline fishing vessels that participate in fisheries for Atlantic highly migratory species, including, but not limited to, individual fishing quota programs and other limited access systems.

(2) Based on the study under paragraph (1)(D) and consistent with the requirements of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), in cooperation with affected participants in the fishery, the United States Commissioners on the International Commission for the Conservation of Atlantic Tunas, and the advisory panel established under paragraph (1)(A), the Secretary of Commerce may, after October 1, 1998, implement a comprehensive management system pursuant to section 304 of such Act (16 U.S.C. 1854) for pelagic longline fishing vessels that participate in fisheries for Atlantic highly migratory species. Such a system may not implement an individual fishing quota program until after October 1, 2000.

(i) REPEAL OR REVOCATION OF A FISHERY MANAGEMENT PLAN.—Section 304, as amended, is further amended by adding at the end the following:

"(h) REPEAL OR REVOCATION OF A FISHERY MANAGEMENT PLAN.—The Secretary may repeal or revoke a fishery management plan for a fishery under the authority of a Council only if the Council approves the repeal or revocation by a three-quarters majority of the voting members of the Council.".

(j) AMERICAN LOBSTER FISHERY.—Section 304(h) of the Magnuson Fishery Conservation and Management Act, as amended by this Act, shall not apply to the American Lobster Fishery Management Plan. 16 USC 1854 note.

SEC. 110. OTHER REQUIREMENTS AND AUTHORITY.

(a) Section 305 (18 U.S.C. 1855) is amended—

(1) by striking the title and subsection (a);

(2) by redesignating subsection (b) as subsection (f); and

(3) by inserting the following before subsection (c):

"SEC. 305. OTHER REQUIREMENTS AND AUTHORITY.

"(a) GEAR EVALUATION AND NOTIFICATION OF ENTRY.—

"(1) Not later than 18 months after the date of enactment of the Sustainable Fisheries Act, the Secretary shall publish in the Federal Register, after notice and an opportunity for public comment, a list of all fisheries— Federal Register, publication.

"(A) under the authority of each Council and all fishing gear used in such fisheries, based on information submitted by the Councils under section 303(a); and

"(B) to which section 302(a)(3) applies and all fishing gear used in such fisheries.

Guidelines. "(2) The Secretary shall include with such list guidelines for determining when fishing gear or a fishery is sufficiently different from those listed as to require notification under paragraph (3).

Effective date. "(3) Effective 180 days after the publication of such list, no person or vessel may employ fishing gear or engage in a fishery not included on such list without giving 90 days advance written notice to the appropriate Council, or the Secretary with respect to a fishery to which section 302(a)(3) applies. A signed return receipt shall serve as adequate evidence of such notice and as the date upon which the 90-day period begins.

"(4) A Council may submit to the Secretary any proposed changes to such list or such guidelines the Council deems

Publication. appropriate. The Secretary shall publish a revised list, after notice and an opportunity for public comment, upon receiving any such proposed changes from a Council.

"(5) A Council may request the Secretary to promulgate emergency regulations under subsection (c) to prohibit any persons or vessels from using an unlisted fishing gear or engaging in an unlisted fishery if the appropriate Council, or the Secretary for fisheries to which section 302(a)(3) applies, determines that such unlisted gear or unlisted fishery would compromise the effectiveness of conservation and management efforts under this Act.

"(6) Nothing in this subsection shall be construed to permit a person or vessel to engage in fishing or employ fishing gear when such fishing or gear is prohibited or restricted by regulation under a fishery management plan or plan amendment, or under other applicable law.

Regulations. Guidelines. "(b) FISH HABITAT.—(1)(A) The Secretary shall, within 6 months of the date of enactment of the Sustainable Fisheries Act, establish by regulation guidelines to assist the Councils in the description and identification of essential fish habitat in fishery management plans (including adverse impacts on such habitat) and in the consideration of actions to ensure the conservation and enhancement of such habitat. The Secretary shall set forth a schedule for the amendment of fishery management plans to include the identification of essential fish habitat and for the review and updating of such identifications based on new scientific evidence or other relevant information.

"(B) The Secretary, in consultation with participants in the fishery, shall provide each Council with recommendations and information regarding each fishery under that Council's authority to assist it in the identification of essential fish habitat, the adverse impacts on that habitat, and the actions that should be considered to ensure the conservation and enhancement of that habitat.

"(C) The Secretary shall review programs administered by the Department of Commerce and ensure that any relevant programs further the conservation and enhancement of essential fish habitat.

"(D) The Secretary shall coordinate with and provide information to other Federal agencies to further the conservation and enhancement of essential fish habitat.

"(2) Each Federal agency shall consult with the Secretary with respect to any action authorized, funded, or undertaken, or proposed

to be authorized, funded, or undertaken, by such agency that may adversely affect any essential fish habitat identified under this Act.

"(3) Each Council—

"(A) may comment on and make recommendations to the Secretary and any Federal or State agency concerning any activity authorized, funded, or undertaken, or proposed to be authorized, funded, or undertaken, by any Federal or State agency that, in the view of the Council, may affect the habitat, including essential fish habitat, of a fishery resource under its authority; and

"(B) shall comment on and make recommendations to the Secretary and any Federal or State agency concerning any such activity that, in the view of the Council, is likely to substantially affect the habitat, including essential fish habitat, of an anadromous fishery resource under its authority.

"(4)(A) If the Secretary receives information from a Council or Federal or State agency or determines from other sources that an action authorized, funded, or undertaken, or proposed to be authorized, funded, or undertaken, by any State or Federal agency would adversely affect any essential fish habitat identified under this Act, the Secretary shall recommend to such agency measures that can be taken by such agency to conserve such habitat.

"(B) Within 30 days after receiving a recommendation under subparagraph (A), a Federal agency shall provide a detailed response in writing to any Council commenting under paragraph (3) and the Secretary regarding the matter. The response shall include a description of measures proposed by the agency for avoiding, mitigating, or offsetting the impact of the activity on such habitat. In the case of a response that is inconsistent with the recommendations of the Secretary, the Federal agency shall explain its reasons for not following the recommendations.".

(b) Section 305(c) (16 U.S.C. 1855(c)) is amended—

(1) in the heading by striking "ACTIONS" and inserting "ACTIONS AND INTERIM MEASURES";

(2) in paragraphs (1) and (2)—

(A) by striking "involving" and inserting "or that interim measures are needed to reduce overfishing for"; and

(B) by inserting "or interim measures" after "emergency regulations"; and

(C) by inserting "or overfishing" after "emergency"; and

(3) in paragraph (3)—

(A) by inserting "or interim measure" after "emergency regulation" each place such term appears;

(B) by striking subparagraph (B);

(C) by redesignating subparagraph (C) as subparagraph (D); and

(D) by inserting after subparagraph (A) the following:

"(B) shall, except as provided in subparagraph (C), remain in effect for not more than 180 days after the date of publication, and may be extended by publication in the Federal Register for one additional period of not more than 180 days, provided the public has had an opportunity to comment on the emergency regulation or interim measure, and, in the case of a Council recommendation

for emergency regulations or interim measures, the Council is actively preparing a fishery management plan, plan amendment, or proposed regulations to address the emergency or overfishing on a permanent basis;

"(C) that responds to a public health emergency or an oil spill may remain in effect until the circumstances that created the emergency no longer exist, *Provided,* That the public has an opportunity to comment after the regulation is published, and, in the case of a public health emergency, the Secretary of Health and Human Services concurs with the Secretary's action; and".

16 USC 1855. (c) Section 305(e) is amended—

(1) by striking "12291, dated February 17, 1981," and inserting "12866, dated September 30, 1993,"; and

(2) by striking "subsection (c) or section 304(a) and (b)" and inserting "subsections (a), (b), and (c) of section 304".

(d) Section 305, as amended, is further amended by adding at the end the following:

"(g) NEGOTIATED CONSERVATION AND MANAGEMENT MEASURES.—

"(1)(A) In accordance with regulations promulgated by the Secretary pursuant to this paragraph, a Council may establish a fishery negotiation panel to assist in the development of specific conservation and management measures for a fishery under its authority. The Secretary may establish a fishery negotiation panel to assist in the development of specific conservation and management measures required for a fishery under section 304(e)(5), for a fishery for which the Secretary has authority under section 304(g), or for any other fishery with the approval of the appropriate Council.

Regulations. "(B) No later than 180 days after the date of enactment of the Sustainable Fisheries Act, the Secretary shall promulgate regulations establishing procedures, developed in cooperation with the Administrative Conference of the United States, for the establishment and operation of fishery negotiation panels. Such procedures shall be comparable to the procedures for negotiated rulemaking established by subchapter III of chapter 5 of title 5, United States Code.

Reports. "(2) If a negotiation panel submits a report, such report shall specify all the areas where consensus was reached by the panel, including, if appropriate, proposed conservation and management measures, as well as any other information submitted by members of the negotiation panel. Upon receipt, the Secretary shall publish such report in the Federal Register for public comment.

Federal Register, publication.

"(3) Nothing in this subsection shall be construed to require either a Council or the Secretary, whichever is appropriate, to use all or any portion of a report from a negotiation panel established under this subsection in the development of specific conservation and management measures for the fishery for which the panel was established.

"(h) CENTRAL REGISTRY SYSTEM FOR LIMITED ACCESS SYSTEM PERMITS.—

Establishment. "(1) Within 6 months after the date of enactment of the Sustainable Fisheries Act, the Secretary shall establish an exclusive central registry system (which may be administered on a regional basis) for limited access system permits estab-

lished under section 303(b)(6) or other Federal law, including individual fishing quotas, which shall provide for the registration of title to, and interests in, such permits, as well as for procedures for changes in the registration of title to such permits upon the occurrence of involuntary transfers, judicial or nonjudicial foreclosure of interests, enforcement of judgments thereon, and related matters deemed appropriate by the Secretary. Such registry system shall—

"(A) provide a mechanism for filing notice of a nonjudicial foreclosure or enforcement of a judgment by which the holder of a senior security interest acquires or conveys ownership of a permit, and in the event of a nonjudicial foreclosure, by which the interests of the holders of junior security interests are released when the permit is transferred;

"(B) provide for public access to the information filed under such system, notwithstanding section 402(b); and Public information.

"(C) provide such notice and other requirements of applicable law that the Secretary deems necessary for an effective registry system.

"(2) The Secretary shall promulgate such regulations as may be necessary to carry out this subsection, after consulting with the Councils and providing an opportunity for public comment. The Secretary is authorized to contract with non-Federal entities to administer the central registry system. Regulations.

"(3) To be effective and perfected against any person except the transferor, its heirs and devisees, and persons having actual notice thereof, all security interests, and all sales and other transfers of permits described in paragraph (1), shall be registered in compliance with the regulations promulgated under paragraph (2). Such registration shall constitute the exclusive means of perfection of title to, and security interests in, such permits, except for Federal tax liens thereon, which shall be perfected exclusively in accordance with the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.). The Secretary shall notify both the buyer and seller of a permit if a lien has been filed by the Secretary of the Treasury against the permit before collecting any transfer fee under paragraph (5) of this subsection. Notification.

"(4) The priority of security interests shall be determined in order of filing, the first filed having the highest priority. A validly-filed security interest shall remain valid and perfected notwithstanding a change in residence or place of business of the owner of record. For the purposes of this subsection, 'security interest' shall include security interests, assignments, liens and other encumbrances of whatever kind.

"(5)(A) Notwithstanding section 304(d)(1), the Secretary shall collect a reasonable fee of not more than one-half of one percent of the value of a limited access system permit upon registration of the title to such permit with the central registry system and upon the transfer of such registered title. Any such fee collected shall be deposited in the Limited Access System Administration Fund established under subparagraph (B).

"(B) There is established in the Treasury a Limited Access System Administration Fund. The Fund shall be available,

without appropriation or fiscal year limitation, only to the Secretary for the purposes of—

"(i) administering the central registry system; and

"(ii) administering and implementing this Act in the fishery in which the fees were collected. Sums in the Fund that are not currently needed for these purposes shall be kept on deposit or invested in obligations of, or guaranteed by, the United States.".

16 USC 1855 note.

(e) REGISTRY TRANSITION.—Security interests on permits described under section 305(h)(1) of the Magnuson Fishery Conservation and Management Act, as amended by this Act, that are effective and perfected by otherwise applicable law on the date of the final regulations implementing section 305(h) shall remain effective and perfected if, within 120 days after such date, the secured party submits evidence satisfactory to the Secretary of Commerce and in compliance with such regulations of the perfection of such security.

SEC. 111. PACIFIC COMMUNITY FISHERIES.

(a) HAROLD SPARCK MEMORIAL COMMUNITY DEVELOPMENT QUOTA PROGRAM.—Section 305, as amended, is amended further by adding at the end:

"(i) ALASKA AND WESTERN PACIFIC COMMUNITY DEVELOPMENT PROGRAMS.—

Establishment.

"(1)(A) The North Pacific Council and the Secretary shall establish a western Alaska community development quota program under which a percentage of the total allowable catch of any Bering Sea fishery is allocated to the program.

"(B) To be eligible to participate in the western Alaska community development quota program under subparagraph (A) a community shall—

"(i) be located within 50 nautical miles from the baseline from which the breadth of the territorial sea is measured along the Bering Sea coast from the Bering Strait to the western most of the Aleutian Islands, or on an island within the Bering Sea;

"(ii) not be located on the Gulf of Alaska coast of the north Pacific Ocean;

"(iii) meet criteria developed by the Governor of Alaska, approved by the Secretary, and published in the Federal Register;

"(iv) be certified by the Secretary of the Interior pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) to be a Native village;

"(v) consist of residents who conduct more than one-half of their current commercial or subsistence fishing effort in the waters of the Bering Sea or waters surrounding the Aleutian Islands; and

"(vi) not have previously developed harvesting or processing capability sufficient to support substantial participation in the groundfish fisheries in the Bering Sea, unless the community can show that the benefits from an approved Community Development Plan would be the only way for the community to realize a return from previous investments.

"(C)(i) Prior to October 1, 2001, the North Pacific Council may not submit to the Secretary any fishery management plan,

plan amendment, or regulation that allocates to the western Alaska community development quota program a percentage of the total allowable catch of any Bering Sea fishery for which, prior to October 1, 1995, the Council had not approved a percentage of the total allowable catch for allocation to such community development quota program. The expiration of any plan, amendment, or regulation that meets the requirements of clause (ii) prior to October 1, 2001, shall not be construed to prohibit the Council from submitting a revision or extension of such plan, amendment, or regulation to the Secretary if such revision or extension complies with the other requirements of this paragraph.

"(ii) With respect to a fishery management plan, plan amendment, or regulation for a Bering Sea fishery that—

"(I) allocates to the western Alaska community development quota program a percentage of the total allowable catch of such fishery; and

"(II) was approved by the North Pacific Council prior to October 1, 1995;

the Secretary shall, except as provided in clause (iii) and after approval of such plan, amendment, or regulation under section 304, allocate to the program the percentage of the total allowable catch described in such plan, amendment, or regulation. Prior to October 1, 2001, the percentage submitted by the Council and approved by the Secretary for any such plan, amendment, or regulation shall be no greater than the percentage approved by the Council for such fishery prior to October 1, 1995.

"(iii) The Secretary shall phase in the percentage for community development quotas approved in 1995 by the North Pacific Council for the Bering Sea crab fisheries as follows:

"(I) 3.5 percent of the total allowable catch of each such fishery for 1998 shall be allocated to the western Alaska community development quota program;

"(II) 5 percent of the total allowable catch of each such fishery for 1999 shall be allocated to the western Alaska community development quota program; and

"(III) 7.5 percent of the total allowable catch of each such fishery for 2000 and thereafter shall be allocated to the western Alaska community development quota program, unless the North Pacific Council submits and the Secretary approves a percentage that is no greater than 7.5 percent of the total allowable catch of each such fishery for 2001 or the North Pacific Council submits and the Secretary approves any other percentage on or after October 1, 2001.

"(D) This paragraph shall not be construed to require the North Pacific Council to resubmit, or the Secretary to reapprove, any fishery management plan or plan amendment approved by the North Pacific Council prior to October 1, 1995, that includes a community development quota program, or any regulations to implement such plan or amendment.

"(2)(A) The Western Pacific Council and the Secretary may establish a western Pacific community development program for any fishery under the authority of such Council in order to provide access to such fishery for western Pacific communities that participate in the program.

"(B) To be eligible to participate in the western Pacific community development program, a community shall—

"(i) be located within the Western Pacific Regional Fishery Management Area;

"(ii) meet criteria developed by the Western Pacific Council, approved by the Secretary and published in the Federal Register;

"(iii) consist of community residents who are descended from the aboriginal people indigenous to the area who conducted commercial or subsistence fishing using traditional fishing practices in the waters of the Western Pacific region;

"(iv) not have previously developed harvesting or processing capability sufficient to support substantial participation in fisheries in the Western Pacific Regional Fishery Management Area; and

"(v) develop and submit a Community Development Plan to the Western Pacific Council and the Secretary.

"(C) In developing the criteria for eligible communities under subparagraph (B)(ii), the Western Pacific Council shall base such criteria on traditional fishing practices in or dependence on the fishery, the cultural and social framework relevant to the fishery, and economic barriers to access to the fishery.

"(D) For the purposes of this subsection 'Western Pacific Regional Fishery Management Area' means the area under the jurisdiction of the Western Pacific Council, or an island within such area.

"(E) Notwithstanding any other provision of this Act, the Western Pacific Council shall take into account traditional indigenous fishing practices in preparing any fishery management plan.

"(3) The Secretary shall deduct from any fees collected from a community development quota program under section 304(d)(2) the costs incurred by participants in the program for observer and reporting requirements which are in addition to observer and reporting requirements of other participants in the fishery in which the allocation to such program has been made.

"(4) After the date of enactment of the Sustainable Fisheries Act, the North Pacific Council and Western Pacific Council may not submit to the Secretary a community development quota program that is not in compliance with this subsection.".

16 USC 1855 note.

(b) WESTERN PACIFIC DEMONSTRATION PROJECTS.—(1) The Secretary of Commerce and the Secretary of the Interior are authorized to make direct grants to eligible western Pacific communities, as recommended by the Western Pacific Fishery Management Council, for the purpose of establishing not less than three and not more than five fishery demonstration projects to foster and promote traditional indigenous fishing practices. The total amount of grants awarded under this subsection shall not exceed $500,000 in each fiscal year.

(2) Demonstration projects funded pursuant to this subsection shall foster and promote the involvement of western Pacific communities in western Pacific fisheries and may—

(A) identify and apply traditional indigenous fishing practices;

(B) develop or enhance western Pacific community-based fishing opportunities; and

(C) involve research, community education, or the acquisition of materials and equipment necessary to carry out any such demonstration project.

(3)(A) The Western Pacific Fishery Management Council, in consultation with the Secretary of Commerce, shall establish an advisory panel under section 302(g) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852(g)) to evaluate, determine the relative merits of, and annually rank applications for such grants. The panel shall consist of not more than 8 individuals who are knowledgeable or experienced in traditional indigenous fishery practices of western Pacific communities and who are not members or employees of the Western Pacific Fishery Management Council.

(B) If the Secretary of Commerce or the Secretary of the Interior awards a grant for a demonstration project not in accordance with the rank given to such project by the advisory panel, the Secretary shall provide a detailed written explanation of the reasons therefor.

(4) The Western Pacific Fishery Management Council shall, with the assistance of such advisory panel, submit an annual report to the Congress assessing the status and progress of demonstration projects carried out under this subsection. Reports.

(5) Appropriate Federal agencies may provide technical assistance to western Pacific community-based entities to assist in carrying out demonstration projects under this subsection.

(6) For the purposes of this subsection, 'western Pacific community' shall mean a community eligible to participate under section 305(i)(2)(B) of the Magnuson Fishery Conservation and Management Act, as amended by this Act.

SEC. 112. STATE JURISDICTION.

(a) Paragraph (3) of section 306(a) (16 U.S.C. 1856(a)) is amended to read as follows:

"(3) A State may regulate a fishing vessel outside the boundaries of the State in the following circumstances:

"(A) The fishing vessel is registered under the law of that State, and (i) there is no fishery management plan or other applicable Federal fishing regulations for the fishery in which the vessel is operating; or (ii) the State's laws and regulations are consistent with the fishery management plan and applicable Federal fishing regulations for the fishery in which the vessel is operating.

"(B) The fishery management plan for the fishery in which the fishing vessel is operating delegates management of the fishery to a State and the State's laws and regulations are consistent with such fishery management plan. If at any time the Secretary determines that a State law or regulation applicable to a fishing vessel under this circumstance is not consistent with the fishery management plan, the Secretary shall promptly notify the State and the appropriate Council of such determination and provide an opportunity for the State to correct any inconsistencies identified in the notification. If, after notice and opportunity for corrective action, the State does not correct the inconsistencies identified by the Secretary, the authority granted to the State under this subparagraph shall not Notification.

apply until the Secretary and the appropriate Council find that the State has corrected the inconsistencies. For a fishery for which there was a fishery management plan in place on August 1, 1996 that did not delegate management of the fishery to a State as of that date, the authority provided by this subparagraph applies only if the Council approves the delegation of management of the fishery to the State by a three-quarters majority vote of the voting members of the Council.

"(C) The fishing vessel is not registered under the law of the State of Alaska and is operating in a fishery in the exclusive economic zone off Alaska for which there was no fishery management plan in place on August 1, 1996, and the Secretary and the North Pacific Council find that there is a legitimate interest of the State of Alaska in the conservation and management of such fishery. The authority provided under this subparagraph shall terminate when a fishery management plan under this Act is approved and implemented for such fishery.".

Termination date.

(b) Section 306(b) (16 U.S.C. 1856(b)) is amended by adding at the end the following:

"(3) If the State involved requests that a hearing be held pursuant to paragraph (1), the Secretary shall conduct such hearing prior to taking any action under paragraph (1).".

(c) Section 306(c)(1) (16 U.S.C. 1856(c)(1)) is amended—

(1) by striking "(4)(C); and" in subparagraph (A) and inserting "(4)(C) or has received a permit under section 204(d);";

(2) by striking the period at the end of subparagraph (B) and inserting a semicolon and the word "and"; and

(3) by inserting after subparagraph (B) the following:

"(C) the owner or operator of the vessel submits reports on the tonnage of fish received from vessels of the United States and the locations from which such fish were harvested, in accordance with such procedures as the Secretary by regulation shall prescribe.".

Reports. Regulations.

16 USC 1856 note.

(d) INTERIM AUTHORITY FOR DUNGENESS CRAB.—(1) Subject to the provisions of this subsection and notwithstanding section 306(a) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1856(a)), the States of Washington, Oregon, and California may each enforce State laws and regulations governing fish harvesting and processing against any vessel operating in the exclusive economic zone off each respective State in a fishery for Dungeness crab (Cancer magister) for which there is no fishery management plan implemented under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

Applicability.

(2) Any law or regulation promulgated under this subsection shall apply equally to vessels operating in the exclusive economic zone and adjacent State waters and shall be limited to—

(A) establishment of season opening and closing dates, including presoak dates for crab pots;

(B) setting of minimum sizes and crab meat recovery rates;

(C) restrictions on the retention of crab of a certain sex; and

(D) closure of areas or pot limitations to meet the harvest requirements arising under the jurisdiction of United States v. Washington, subproceeding 89–3.

(3) With respect to the States of Washington, Oregon, and California—

(A) any State law limiting entry to a fishery subject to regulation under this subsection may not be enforced against a vessel that is operating in the exclusive economic zone off that State and is not registered under the law of that State, if the vessel is otherwise legally fishing in the exclusive economic zone, except that State laws regulating landings may be enforced; and

(B) no vessel may harvest or process fish which is subject to regulation under this subsection unless under an appropriate State permit or pursuant to a Federal court order.

(4) The authority provided under this subsection to regulate the Dungeness crab fishery shall terminate on October 1, 1999, or when a fishery management plan is implemented under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) for such fishery, whichever date is earlier. Termination date.

(5) Nothing in this subsection shall reduce the authority of any State, as such authority existed on July 1, 1996, to regulate fishing, fish processing, or landing of fish.

(6)(A) It is the sense of Congress that the Pacific Fishery Management Council, at the earliest practicable date, should develop and submit to the Secretary fishery management plans for shellfish fisheries conducted in the geographic area of authority of the Council, especially Dungeness crab, which are not subject to a fishery management plan on the date of enactment of this Act.

(B) Not later than December 1, 1997, the Pacific Fishery Management Council shall provide a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Resources of the House of Representatives describing the progress in developing the fishery management plans referred to in subparagraph (A) and any impediments to such progress. Reports.

SEC. 113. PROHIBITED ACTS.

(a) Section 307(1)(J)(i) (16 U.S.C. 1857(1)(J)(i)) is amended—

(1) by striking "plan," and inserting "plan"; and

(2) by inserting before the semicolon the following: ", or in the absence of any such plan, is smaller than the minimum possession size in effect at the time under a coastal fishery management plan for American lobster adopted by the Atlantic States Marine Fisheries Commission under the Atlantic Coastal Fisheries Cooperative Management Act (16 U.S.C. 5101 et seq.)".

(b) Section 307(1)(K) (16 U.S.C. 1857(1)(K)) is amended—

(1) by striking "knowingly steal or without authorization, to" and inserting "to steal or attempt to steal or to negligently and without authorization"; and

(2) by striking "gear, or attempt to do so;" and insert "gear;".

(c) Section 307(1)(L) (16 U.S.C. 1857(1)(L)) is amended to read as follows:

"(L) to forcibly assault, resist, oppose, impede, intimidate, sexually harass, bribe, or interfere with any observer on a vessel under this Act, or any data collector employed by the National Marine Fisheries Service or under contract to any person to carry out responsibilities under this Act;".

(d) Section 307(1) (16 U.S.C. 1857(1)) is amended—

(1) by striking "or" at the end of subparagraph (M);

(2) by striking "pollock." in subparagraph (N) and inserting "pollock; or"; and

(3) by adding at the end the following:

"(O) to knowingly and willfully fail to disclose, or to falsely disclose, any financial interest as required under section 302(j), or to knowingly vote on a Council decision in violation of section 302(j)(7)(A).".

(e) Section 307(2)(A) (16 U.S.C. 1857(2)(A)) is amended to read as follows:

"(A) in fishing within the boundaries of any State, except—

"(i) recreational fishing permitted under section 201(i);

"(ii) fish processing permitted under section 306(c); or

"(iii) transshipment at sea of fish or fish products within the boundaries of any State in accordance with a permit approved under section 204(d);".

(f) Section 307(2)(B) (16 U.S.C. 1857(2)(B)) is amended—

(1) by striking "(j)" and inserting "(i)"; and

(2) by striking "204(b) or (c)" and inserting "204(b), (c), or (d)".

(g) Section 307(3) (16 U.S.C. 1857(3)) is amended to read as follows:

"(3) for any vessel of the United States, and for the owner or operator of any vessel of the United States, to transfer at sea directly or indirectly, or attempt to so transfer at sea, any United States harvested fish to any foreign fishing vessel, while such foreign vessel is within the exclusive economic zone or within the boundaries of any State except to the extent that the foreign fishing vessel has been permitted under section 204(d) or section 306(c) to receive such fish;".

(h) Section 307(4) (16 U.S.C. 1857(4)) is amended by inserting "or within the boundaries of any State" after "zone".

SEC. 114. CIVIL PENALTIES AND PERMIT SANCTIONS; REBUTTABLE PRESUMPTIONS.

(a) Section 308(a) (16 U.S.C. 1858(a)) is amended by striking "ability to pay," and adding at the end the following new sentence: "In assessing such penalty the Secretary may also consider any information provided by the violator relating to the ability of the violator to pay, *Provided,* That the information is served on the Secretary at least 30 days prior to an administrative hearing.".

(b) The first sentence of section 308(b) (16 U.S.C. 1858(b)) is amended to read as follows: "Any person against whom a civil penalty is assessed under subsection (a) or against whom a permit sanction is imposed under subsection (g) (other than a permit suspension for nonpayment of penalty or fine) may obtain review thereof in the United States district court for the appropriate dis-

trict by filing a complaint against the Secretary in such court within 30 days from the date of such order.".

(c) Section 308(g)(1)(C) (16 U.S.C. 1858(g)(1)(C)) is amended by striking the matter from "or (C) any" through "overdue," and inserting the following: "(C) any amount in settlement of a civil forfeiture imposed on a vessel or other property, or any civil penalty or criminal fine imposed on a vessel or owner or operator of a vessel or any other person who has been issued or has applied for a permit under any marine resource law enforced by the Secretary has not been paid and is overdue, or (D) any payment required for observer services provided to or contracted by an owner or operator who has been issued a permit or applied for a permit under any marine resource law administered by the Secretary has not been paid and is overdue,".

(d) Section 310(e) (16 U.S.C. 1860(e)) is amended by adding at the end the following new paragraph:

"(3) For purposes of this Act, it shall be a rebuttable presumption that any vessel that is shoreward of the outer boundary of the exclusive economic zone of the United States or beyond the exclusive economic zone of any nation, and that has gear on board that is capable of use for large-scale driftnet fishing, is engaged in such fishing.".

SEC. 115. ENFORCEMENT.

(a) The second sentence of section 311(d) (16 U.S.C. 1861(d)) is amended—

(1) by striking "Guam, any Commonwealth, territory, or" and inserting "Guam or any"; and

(2) by inserting a comma before the period and the following: "and except that in the case of the Northern Mariana Islands, the appropriate court is the United States District Court for the District of the Northern Mariana Islands".

(b) Section 311(e)(1) (16 U.S.C. 1861(e)(1)) is amended—

(1) by striking "fishery" each place it appears and inserting "marine";

(2) by inserting "of not less than 20 percent of the penalty collected or $20,000, whichever is the lesser amount," after "reward" in subparagraph (B), and

(3) by striking subparagraph (E) and inserting the following:

"(E) claims of parties in interest to property disposed of under section 612(b) of the Tariff Act of 1930 (19 U.S.C. 1612(b)), as made applicable by section 310(c) of this Act or by any other marine resource law enforced by the Secretary, to seizures made by the Secretary, in amounts determined by the Secretary to be applicable to such claims at the time of seizure; and".

(c) Section 311(e)(2) (16 U.S.C. 1861(e)(2)) is amended to read as follows:

"(2) Any person found in an administrative or judicial proceeding to have violated this Act or any other marine resource law enforced by the Secretary shall be liable for the cost incurred in the sale, storage, care, and maintenance of any fish or other property lawfully seized in connection with the violation.".

(d) Section 311 (16 U.S.C. 1861) is amended by redesignating subsection (g) as subsection (h), and by inserting the following after subsection (f):

"(g) ENFORCEMENT IN THE PACIFIC INSULAR AREAS.—The Secretary, in consultation with the Governors of the Pacific Insular Areas and the Western Pacific Council, shall to the extent practicable support cooperative enforcement agreements between Federal and Pacific Insular Area authorities.".

(e) Section 311 (16 U.S.C. 1861), as amended by subsection (d), is amended by striking "201(b), (c)," in subsection (i)(1), as redesignated, and inserting "201(b) or (c), or section 204(d),".

SEC. 116. TRANSITION TO SUSTAINABLE FISHERIES.

16 USC 1861a.

(a) Section 312 is amended to read as follows:

"SEC. 312. TRANSITION TO SUSTAINABLE FISHERIES.

"(a) FISHERIES DISASTER RELIEF.—(1) At the discretion of the Secretary or at the request of the Governor of an affected State or a fishing community, the Secretary shall determine whether there is a commercial fishery failure due to a fishery resource disaster as a result of—

"(A) natural causes;

"(B) man-made causes beyond the control of fishery managers to mitigate through conservation and management measures; or

"(C) undetermined causes.

"(2) Upon the determination under paragraph (1) that there is a commercial fishery failure, the Secretary is authorized to make sums available to be used by the affected State, fishing community, or by the Secretary in cooperation with the affected State or fishing community for assessing the economic and social effects of the commercial fishery failure, or any activity that the Secretary determines is appropriate to restore the fishery or prevent a similar failure in the future and to assist a fishing community affected by such failure. Before making funds available for an activity authorized under this section, the Secretary shall make a determination that such activity will not expand the size or scope of the commercial fishery failure in that fishery or into other fisheries or other geographic regions.

"(3) The Federal share of the cost of any activity carried out under the authority of this subsection shall not exceed 75 percent of the cost of that activity.

Appropriation authorization.

"(4) There are authorized to be appropriated to the Secretary such sums as are necessary for each of the fiscal years 1996, 1997, 1998, and 1999.

"(b) FISHING CAPACITY REDUCTION PROGRAM.—(1) The Secretary, at the request of the appropriate Council for fisheries under the authority of such Council, or the Governor of a State for fisheries under State authority, may conduct a fishing capacity reduction program (referred to in this section as the 'program') in a fishery if the Secretary determines that the program—

"(A) is necessary to prevent or end overfishing, rebuild stocks of fish, or achieve measurable and significant improvements in the conservation and management of the fishery;

"(B) is consistent with the Federal or State fishery management plan or program in effect for such fishery, as appropriate, and that the fishery management plan—

"(i) will prevent the replacement of fishing capacity removed by the program through a moratorium on new entrants, restrictions on vessel upgrades, and other effort control measures, taking into account the full potential fishing capacity of the fleet; and

"(ii) establishes a specified or target total allowable catch or other measures that trigger closure of the fishery or adjustments to reduce catch; and

"(C) is cost-effective and capable of repaying any debt obligation incurred under section 1111 of title XI of the Merchant Marine Act, 1936.

"(2) The objective of the program shall be to obtain the maximum sustained reduction in fishing capacity at the least cost and in a minimum period of time. To achieve that objective, the Secretary is authorized to pay—

"(A) the owner of a fishing vessel, if such vessel is (i) scrapped, or (ii) through the Secretary of the department in which the Coast Guard is operating, subjected to title restrictions that permanently prohibit and effectively prevent its use in fishing, and if the permit authorizing the participation of the vessel in the fishery is surrendered for permanent revocation and the owner relinquishes any claim associated with the vessel and permit that could qualify such owner for any present or future limited access system permit in the fishery for which the program is established; or

"(B) the holder of a permit authorizing participation in the fishery, if such permit is surrendered for permanent revocation, and such holder relinquishes any claim associated with the permit and vessel used to harvest fishery resources under the permit that could qualify such holder for any present or future limited access system permit in the fishery for which the program was established.

"(3) Participation in the program shall be voluntary, but the Secretary shall ensure compliance by all who do participate.

"(4) The Secretary shall consult, as appropriate, with Councils, Federal agencies, State and regional authorities, affected fishing communities, participants in the fishery, conservation organizations, and other interested parties throughout the development and implementation of any program under this section.

"(c) PROGRAM FUNDING.—(1) The program may be funded by any combination of amounts—

"(A) available under clause (iv) of section 2(b)(1)(A) of the Act of August 11, 1939 (15 U.S.C. 713c–3(b)(1)(A); the Saltonstall-Kennedy Act);

"(B) appropriated for the purposes of this section;

"(C) provided by an industry fee system established under subsection (d) and in accordance with section 1111 of title XI of the Merchant Marine Act, 1936; or

"(D) provided from any State or other public sources or private or non-profit organizations.

"(2) All funds for the program, including any fees established under subsection (d), shall be paid into the fishing capacity reduction fund established under section 1111 of title XI of the Merchant Marine Act, 1936.

"(d) INDUSTRY FEE SYSTEM.—(1)(A) If an industry fee system is necessary to fund the program, the Secretary, at the request of the appropriate Council, may conduct a referendum on such

system. Prior to the referendum, the Secretary, in consultation with the Council, shall—

Notification.

"(i) identify, to the extent practicable, and notify all permit or vessel owners who would be affected by the program; and

"(ii) make available to such owners information about the industry fee system describing the schedule, procedures, and eligibility requirements for the referendum, the proposed program, and the amount and duration and any other terms and conditions of the proposed fee system.

"(B) The industry fee system shall be considered approved if the referendum votes which are cast in favor of the proposed system constitute a two-thirds majority of the participants voting.

"(2) Notwithstanding section 304(d) and consistent with an approved industry fee system, the Secretary is authorized to establish such a system to fund the program and repay debt obligations incurred pursuant to section 1111 of title XI of the Merchant Marine Act, 1936. The fees for a program established under this section shall—

"(A) be determined by the Secretary and adjusted from time to time as the Secretary considers necessary to ensure the availability of sufficient funds to repay such debt obligations;

"(B) not exceed 5 percent of the ex-vessel value of all fish harvested from the fishery for which the program is established;

"(C) be deducted by the first ex-vessel fish purchaser from the proceeds otherwise payable to the seller and accounted for and forwarded by such fish purchasers to the Secretary in such manner as the Secretary may establish; and

"(D) be in effect only until such time as the debt obligation has been fully paid.

Federal Register, publication.

"(e) IMPLEMENTATION PLAN.—(1) The Secretary, in consultation with the appropriate Council or State and other interested parties, shall prepare and publish in the Federal Register for a 60-day public comment period an implementation plan, including proposed regulations, for each program. The implementation plan shall—

"(A) define criteria for determining types and numbers of vessels which are eligible for participation in the program taking into account characteristics of the fishery, the requirements of applicable fishery management plans, the needs of fishing communities, and the need to minimize program costs; and

"(B) establish procedures for program participation (such as submission of owner bid under an auction system or fair market-value assessment) including any terms and conditions for participation which the Secretary deems to be reasonably necessary to meet the goals of the program.

"(2) During the 60-day public comment period—

Public information.

"(A) the Secretary shall conduct a public hearing in each State affected by the program; and

"(B) the appropriate Council or State shall submit its comments and recommendations, if any, regarding the plan and regulations.

Federal Register, publication.

"(3) Within 45 days after the close of the public comment period, the Secretary, in consultation with the appropriate Council or State, shall analyze the public comment received and publish in the Federal Register a final implementation plan for the program

and regulations for its implementation. The Secretary may not adopt a final implementation plan involving industry fees or debt obligation unless an industry fee system has been approved by a referendum under this section.".

(b) STUDY OF FEDERAL INVESTMENT.—The Secretary of Commerce shall establish a task force comprised of interested parties to study and report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Resources of the House of Representatives within 2 years of the date of enactment of this Act on the role of the Federal Government in— Establishment. Reports. 16 USC 1861a note.

(1) subsidizing the expansion and contraction of fishing capacity in fishing fleets managed under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.); and

(2) otherwise influencing the aggregate capital investments in fisheries.

(c) Section 2(b)(1)(A) of the Act of August 11, 1939 (15 U.S.C. 713c3(b)(1)(A)) is amended— 15 USC 713c–3.

(1) by striking "and" at the end of clause (ii);

(2) by striking the period at the end of clause (iii) and inserting a semicolon and the word "and"; and

(3) by adding at the end the following new clause:

"(iv) to fund the Federal share of a fishing capacity reduction program established under section 312 of the Magnuson Fishery Conservation and Management Act; and".

SEC. 117. NORTH PACIFIC AND NORTHWEST ATLANTIC OCEAN FISHERIES.

(a) NORTH PACIFIC FISHERIES CONSERVATION.—Section 313 (16 U.S.C. 1862) is amended—

(1) by striking "RESEARCH PLAN" in the section heading and inserting "CONSERVATION";

(2) in subsection (a) by striking "North Pacific Fishery Management Council" and inserting "North Pacific Council"; and

(3) by adding at the end the following:

"(f) BYCATCH REDUCTION.—In implementing section 303(a)(11) and this section, the North Pacific Council shall submit conservation and management measures to lower, on an annual basis for a period of not less than four years, the total amount of economic discards occurring in the fisheries under its jurisdiction.

"(g) BYCATCH REDUCTION INCENTIVES.—(1) Notwithstanding section 304(d), the North Pacific Council may submit, and the Secretary may approve, consistent with the provisions of this Act, a system of fines in a fishery to provide incentives to reduce bycatch and bycatch rates; except that such fines shall not exceed $25,000 per vessel per season. Any fines collected shall be deposited in the North Pacific Fishery Observer Fund, and may be made available by the Secretary to offset costs related to the reduction of bycatch in the fishery from which such fines were derived, including conservation and management measures and research, and to the State of Alaska to offset costs incurred by the State in the fishery from which such penalties were derived or in fisheries in which the State is directly involved in management or enforcement and which are directly affected by the fishery from which such penalties were derived.

"(2)(A) Notwithstanding section 303(d), and in addition to the authority provided in section 303(b)(10), the North Pacific Council may submit, and the Secretary may approve, conservation and management measures which provide allocations of regulatory discards to individual fishing vessels as an incentive to reduce per vessel bycatch and bycatch rates in a fishery, *Provided,* That—

"(i) such allocations may not be transferred for monetary consideration and are made only on an annual basis; and

"(ii) any such conservation and management measures will meet the requirements of subsection (h) and will result in an actual reduction in regulatory discards in the fishery.

"(B) The North Pacific Council may submit restrictions in addition to the restriction imposed by clause (i) of subparagraph (A) on the transferability of any such allocations, and the Secretary may approve such recommendation.

"(h) CATCH MEASUREMENT.—(1) By June 1, 1997 the North Pacific Council shall submit, and the Secretary may approve, consistent with the other provisions of this Act, conservation and management measures to ensure total catch measurement in each fishery under the jurisdiction of such Council. Such measures shall ensure the accurate enumeration, at a minimum, of target species, economic discards, and regulatory discards.

"(2) To the extent the measures submitted under paragraph (1) do not require United States fish processors and fish processing vessels (as defined in chapter 21 of title 46, United States Code) to weigh fish, the North Pacific Council and the Secretary shall submit a plan to the Congress by January 1, 1998, to allow for weighing, including recommendations to assist such processors and processing vessels in acquiring necessary equipment, unless the Council determines that such weighing is not necessary to meet the requirements of this subsection.

Reports.

"(i) FULL RETENTION AND UTILIZATION.—(1) The North Pacific Council shall submit to the Secretary by October 1, 1998 a report on the advisability of requiring the full retention by fishing vessels and full utilization by United States fish processors of economic discards in fisheries under its jurisdiction if such economic discards, or the mortality of such economic discards, cannot be avoided. The report shall address the projected impacts of such requirements on participants in the fishery and describe any full retention and full utilization requirements that have been implemented.

"(2) The report shall address the advisability of measures to minimize processing waste, including standards setting minimum percentages which must be processed for human consumption. For the purpose of the report, 'processing waste' means that portion of any fish which is processed and which could be used for human consumption or other commercial use, but which is not so used.".

(b) NORTHWEST ATLANTIC OCEAN FISHERIES.—Section 314 (16 U.S.C. 1863) is amended by striking "1997" in subsection (a)(4) and inserting "1999".

TITLE II—FISHERY MONITORING AND RESEARCH

SEC. 201. CHANGE OF TITLE.

The heading of title IV (16 U.S.C. 1881 et seq.) is amended to read as follows:

"TITLE IV—FISHERY MONITORING AND RESEARCH".

SEC. 202. REGISTRATION AND INFORMATION MANAGEMENT.

Title IV (16 U.S.C. 1881 et seq.) is amended by inserting after the title heading the following:

"SEC. 401. REGISTRATION AND INFORMATION MANAGEMENT. 16 USC 1881.

"(a) STANDARDIZED FISHING VESSEL REGISTRATION AND INFORMATION MANAGEMENT SYSTEM.—The Secretary shall, in cooperation with the Secretary of the department in which the Coast Guard is operating, the States, the Councils, and Marine Fisheries Commissions, develop recommendations for implementation of a standardized fishing vessel registration and information management system on a regional basis. The recommendations shall be developed after consultation with interested governmental and nongovernmental parties and shall—

"(1) be designed to standardize the requirements of vessel registration and information collection systems required by this Act, the Marine Mammal Protection Act (16 U.S.C. 1361 et seq.), and any other marine resource law implemented by the Secretary, and, with the permission of a State, any marine resource law implemented by such State;

"(2) integrate information collection programs under existing fishery management plans into a non-duplicative information collection and management system;

"(3) avoid duplication of existing State, tribal, or Federal systems and shall utilize, to the maximum extent practicable, information collected from existing systems;

"(4) provide for implementation of the system through cooperative agreements with appropriate State, regional, or tribal entities and Marine Fisheries Commissions;

"(5) provide for funding (subject to appropriations) to assist appropriate State, regional, or tribal entities and Marine Fisheries Commissions in implementation;

"(6) establish standardized units of measurement, nomenclature, and formats for the collection and submission of information;

"(7) minimize the paperwork required for vessels registered under the system;

"(8) include all species of fish within the geographic areas of authority of the Councils and all fishing vessels including charter fishing vessels, but excluding recreational fishing vessels;

"(9) require United States fish processors, and fish dealers and other first ex-vessel purchasers of fish that are subject to the proposed system, to submit information (other than economic information) which may be necessary to meet the goals of the proposed system; and

"(10) include procedures necessary to ensure—

"(A) the confidentiality of information collected under this section in accordance with section 402(b); and

"(B) the timely release or availability to the public of information collected under this section consistent with section 402(b).

"(b) FISHING VESSEL REGISTRATION.—The proposed registration system should, at a minimum, obtain the following information for each fishing vessel—

"(1) the name and official number or other identification, together with the name and address of the owner or operator or both;

"(2) gross tonnage, vessel capacity, type and quantity of fishing gear, mode of operation (catcher, catcher processor, or other), and such other pertinent information with respect to vessel characteristics as the Secretary may require; and

"(3) identification (by species, gear type, geographic area of operations, and season) of the fisheries in which the fishing vessel participates.

"(c) FISHERY INFORMATION.—The proposed information management system should, at a minimum, provide basic fisheries performance information for each fishery, including—

"(1) the number of vessels participating in the fishery including charter fishing vessels;

"(2) the time period in which the fishery occurs;

"(3) the approximate geographic location or official reporting area where the fishery occurs;

"(4) a description of fishing gear used in the fishery, including the amount and type of such gear and the appropriate unit of fishing effort; and

"(5) other information required under subsection 303(a)(5) or requested by the Council under section 402.

"(d) USE OF REGISTRATION.—Any registration recommended under this section shall not be considered a permit for the purposes of this Act, and the Secretary may not propose to revoke, suspend, deny, or impose any other conditions or restrictions on any such registration or the use of such registration under this Act.

Federal Register, publication.

"(e) PUBLIC COMMENT.—Within one year after the date of enactment of the Sustainable Fisheries Act, the Secretary shall publish in the Federal Register for a 60-day public comment period a proposal that would provide for implementation of a standardized fishing vessel registration and information collection system that meets the requirements of subsections (a) through (c). The proposal shall include—

"(1) a description of the arrangements of the Secretary for consultation and cooperation with the department in which the Coast Guard is operating, the States, the Councils, Marine Fisheries Commissions, the fishing industry and other interested parties; and

"(2) any proposed regulations or legislation necessary to implement the proposal.

Proposals.

"(f) CONGRESSIONAL TRANSMITTAL.—Within 60 days after the end of the comment period and after consideration of comments received under subsection (e), the Secretary shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Resources of the House of Representatives a recommended proposal for implementation of a national fishing vessel registration system that includes—

"(1) any modifications made after comment and consultation;

"(2) a proposed implementation schedule, including a schedule for the proposed cooperative agreements required under subsection (a)(4); and

"(3) recommendations for any such additional legislation as the Secretary considers necessary or desirable to implement the proposed system.

"(g) REPORT TO CONGRESS.—Within 15 months after the date of enactment of the Sustainable Fisheries Act, the Secretary shall report to Congress on the need to include recreational fishing vessels into a national fishing vessel registration and information collection system. In preparing its report, the Secretary shall cooperate with the Secretary of the department in which the Coast Guard is operating, the States, the Councils, and Marine Fisheries Commissions, and consult with governmental and nongovernmental parties.".

SEC. 203. INFORMATION COLLECTION.

Section 402 is amended to read as follows: 16 USC 1881a.

"SEC. 402. INFORMATION COLLECTION.

"(a) COUNCIL REQUESTS.—If a Council determines that additional information (other than information that would disclose proprietary or confidential commercial or financial information regarding fishing operations or fish processing operations) would be beneficial for developing, implementing, or revising a fishery management plan or for determining whether a fishery is in need of management, the Council may request that the Secretary implement an information collection program for the fishery which would provide the types of information (other than information that would disclose proprietary or confidential commercial or financial information regarding fishing operations or fish processing operations) specified by the Council. The Secretary shall undertake such an information collection program if he determines that the need is justified, and shall promulgate regulations to implement the program within 60 days after such determination is made. If the Secretary determines that the need for an information collection program is not justified, the Secretary shall inform the Council of the reasons for such determination in writing. The determinations of the Secretary under this subsection regarding a Council request shall be made within a reasonable period of time after receipt of that request. Regulations.

"(b) CONFIDENTIALITY OF INFORMATION.—(1) Any information submitted to the Secretary by any person in compliance with any requirement under this Act shall be confidential and shall not be disclosed, except—

"(A) to Federal employees and Council employees who are responsible for fishery management plan development and monitoring;

"(B) to State or Marine Fisheries Commission employees pursuant to an agreement with the Secretary that prevents public disclosure of the identity or business of any person;

"(C) when required by court order;

"(D) when such information is used to verify catch under an individual fishing quota program;

"(E) that observer information collected in fisheries under the authority of the North Pacific Council may be released to the public as specified in a fishery management plan or regulation for weekly summary bycatch information identified by vessel, and for haul-specific bycatch information without vessel identification; or

"(F) when the Secretary has obtained written authorization from the person submitting such information to release such information to persons for reasons not otherwise provided for in this subsection, and such release does not violate other requirements of this Act.

Regulations.

"(2) The Secretary shall, by regulation, prescribe such procedures as may be necessary to preserve the confidentiality of information submitted in compliance with any requirement or regulation under this Act, except that the Secretary may release or make public any such information in any aggregate or summary form which does not directly or indirectly disclose the identity or business of any person who submits such information. Nothing in this subsection shall be interpreted or construed to prevent the use for conservation and management purposes by the Secretary, or with the approval of the Secretary, the Council, of any information submitted in compliance with any requirement or regulation under this Act or the use, release, or publication of bycatch information pursuant to paragraph (1)(E).

Regulations.

"(c) RESTRICTION ON USE OF CERTAIN INFORMATION.—(1) The Secretary shall promulgate regulations to restrict the use, in civil enforcement or criminal proceedings under this Act, the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.), and the Endangered Species Act (16 U.S.C. 1531 et seq.), of information collected by voluntary fishery data collectors, including sea samplers, while aboard any vessel for conservation and management purposes if the presence of such a fishery data collector aboard is not required by any of such Acts or regulations thereunder.

"(2) The Secretary may not require the submission of a Federal or State income tax return or statement as a prerequisite for issuance of a permit until such time as the Secretary has promulgated regulations to ensure the confidentiality of information contained in such return or statement, to limit the information submitted to that necessary to achieve a demonstrated conservation and management purpose, and to provide appropriate penalties for violation of such regulations.

"(d) CONTRACTING AUTHORITY.—Notwithstanding any other provision of law, the Secretary may provide a grant, contract, or other financial assistance on a sole-source basis to a State, Council, or Marine Fisheries Commission for the purpose of carrying out information collection or other programs if—

"(1) the recipient of such a grant, contract, or other financial assistance is specified by statute to be, or has customarily been, such State, Council, or Marine Fisheries Commission; or

"(2) the Secretary has entered into a cooperative agreement with such State, Council, or Marine Fisheries Commission.

"(e) RESOURCE ASSESSMENTS.—(1) The Secretary may use the private sector to provide vessels, equipment, and services necessary to survey the fishery resources of the United States when the arrangement will yield statistically reliable results.

"(2) The Secretary, in consultation with the appropriate Council and the fishing industry—

"(A) may structure competitive solicitations under paragraph (1) so as to compensate a contractor for a fishery resources survey by allowing the contractor to retain for sale fish harvested during the survey voyage;

"(B) in the case of a survey during which the quantity or quality of fish harvested is not expected to be adequately compensatory, may structure those solicitations so as to provide that compensation by permitting the contractor to harvest on a subsequent voyage and retain for sale a portion of the allowable catch of the surveyed fishery; and

"(C) may permit fish harvested during such survey to count toward a vessel's catch history under a fishery management plan if such survey was conducted in a manner that precluded a vessel's participation in a fishery that counted under the plan for purposes of determining catch history.

"(3) The Secretary shall undertake efforts to expand annual fishery resource assessments in all regions of the Nation.".

SEC. 204. OBSERVERS.

Section 403 is amended to read as follows: 16 USC 1881b

"SEC. 403. OBSERVERS.

"(a) GUIDELINES FOR CARRYING OBSERVERS.—Within one year after the date of enactment of the Sustainable Fisheries Act, the Secretary shall promulgate regulations, after notice and opportunity for public comment, for fishing vessels that carry observers. The regulations shall include guidelines for determining— Regulations.

"(1) when a vessel is not required to carry an observer on board because the facilities of such vessel for the quartering of an observer, or for carrying out observer functions, are so inadequate or unsafe that the health or safety of the observer or the safe operation of the vessel would be jeopardized; and

"(2) actions which vessel owners or operators may reasonably be required to take to render such facilities adequate and safe.

"(b) TRAINING.—The Secretary, in cooperation with the appropriate States and the National Sea Grant College Program, shall—

"(1) establish programs to ensure that each observer receives adequate training in collecting and analyzing the information necessary for the conservation and management purposes of the fishery to which such observer is assigned;

"(2) require that an observer demonstrate competence in fisheries science and statistical analysis at a level sufficient to enable such person to fulfill the responsibilities of the position;

"(3) ensure that an observer has received adequate training in basic vessel safety; and

"(4) make use of university and any appropriate private nonprofit organization training facilities and resources, where possible, in carrying out this subsection.

"(c) OBSERVER STATUS.—An observer on a vessel and under contract to carry out responsibilities under this Act or the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.) shall be deemed to be a Federal employee for the purpose of compensation under the Federal Employee Compensation Act (5 U.S.C. 8101 et seq.).".

SEC. 205. FISHERIES RESEARCH.

Section 404 is amended to read as follows: 16 USC 1881c.

"SEC. 404. FISHERIES RESEARCH.

"(a) IN GENERAL.—The Secretary shall initiate and maintain, in cooperation with the Councils, a comprehensive program of fishery research to carry out and further the purposes, policy, and provisions of this Act. Such program shall be designed to acquire knowledge and information, including statistics, on fishery conservation and management and on the economics and social characteristics of the fisheries.

Federal Register, publication.

"(b) STRATEGIC PLAN.—Within one year after the date of enactment of the Sustainable Fisheries Act, and at least every 3 years thereafter, the Secretary shall develop and publish in the Federal Register a strategic plan for fisheries research for the 5 years immediately following such publication. The plan shall—

"(1) identify and describe a comprehensive program with a limited number of priority objectives for research in each of the areas specified in subsection (c);

"(2) indicate goals and timetables for the program described in paragraph (1);

"(3) provide a role for commercial fishermen in such research, including involvement in field testing;

"(4) provide for collection and dissemination, in a timely manner, of complete and accurate information concerning fishing activities, catch, effort, stock assessments, and other research conducted under this section; and

"(5) be developed in cooperation with the Councils and affected States, and provide for coordination with the Councils, affected States, and other research entities.

"(c) AREAS OF RESEARCH.—Areas of research are as follows:

"(1) Research to support fishery conservation and management, including but not limited to, biological research concerning the abundance and life history parameters of stocks of fish, the interdependence of fisheries or stocks of fish, the identification of essential fish habitat, the impact of pollution on fish populations, the impact of wetland and estuarine degradation, and other factors affecting the abundance and availability of fish.

"(2) Conservation engineering research, including the study of fish behavior and the development and testing of new gear technology and fishing techniques to minimize bycatch and any adverse effects on essential fish habitat and promote efficient harvest of target species.

"(3) Research on the fisheries, including the social, cultural, and economic relationships among fishing vessel owners, crew, United States fish processors, associated shoreside labor, seafood markets and fishing communities.

"(4) Information management research, including the development of a fishery information base and an information management system under section 401 that will permit the full use of information in the support of effective fishery conservation and management.

Federal Register, publication.

"(d) PUBLIC NOTICE.—In developing the plan required under subsection (a), the Secretary shall consult with relevant Federal, State, and international agencies, scientific and technical experts, and other interested persons, public and private, and shall publish a proposed plan in the Federal Register for the purpose of receiving public comment on the plan. The Secretary shall ensure that affected commercial fishermen are actively involved in the develop-

ment of the portion of the plan pertaining to conservation engineering research. Upon final publication in the Federal Register, the plan shall be submitted by the Secretary to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Resources of the House of Representatives.".

SEC. 206. INCIDENTAL HARVEST RESEARCH.

Section 405 is amended to read as follows: 16 USC 1881d.

"SEC. 405. INCIDENTAL HARVEST RESEARCH.

"(a) COLLECTION OF INFORMATION.—Within nine months after the date of enactment of the Sustainable Fisheries Act, the Secretary shall, after consultation with the Gulf Council and South Atlantic Council, conclude the collection of information in the program to assess the impact on fishery resources of incidental harvest by the shrimp trawl fishery within the authority of such Councils. Within the same time period, the Secretary shall make available to the public aggregated summaries of information collected prior to June 30, 1994 under such program. Public information.

"(b) IDENTIFICATION OF STOCK.—The program concluded pursuant to subsection (a) shall provide for the identification of stocks of fish which are subject to significant incidental harvest in the course of normal shrimp trawl fishing activity.

"(c) COLLECTION AND ASSESSMENT OF SPECIFIC STOCK INFORMATION.—For stocks of fish identified pursuant to subsection (b), with priority given to stocks which (based upon the best available scientific information) are considered to be overfished, the Secretary shall conduct—

"(1) a program to collect and evaluate information on the nature and extent (including the spatial and temporal distribution) of incidental mortality of such stocks as a direct result of shrimp trawl fishing activities;

"(2) an assessment of the status and condition of such stocks, including collection of information which would allow the estimation of life history parameters with sufficient accuracy and precision to support sound scientific evaluation of the effects of various management alternatives on the status of such stocks; and

"(3) a program of information collection and evaluation for such stocks on the magnitude and distribution of fishing mortality and fishing effort by sources of fishing mortality other than shrimp trawl fishing activity.

"(d) BYCATCH REDUCTION PROGRAM.—Not later than 12 months after the enactment of the Sustainable Fisheries Act, the Secretary shall, in cooperation with affected interests, and based upon the best scientific information available, complete a program to—

"(1) develop technological devices and other changes in fishing operations necessary and appropriate to minimize the incidental mortality of bycatch in the course of shrimp trawl activity to the extent practicable, taking into account the level of bycatch mortality in the fishery on November 28, 1990;

"(2) evaluate the ecological impacts and the benefits and costs of such devices and changes in fishing operations; and

"(3) assess whether it is practicable to utilize bycatch which is not avoidable.

"(e) REPORT TO CONGRESS.—The Secretary shall, within one year of completing the programs required by this section, submit a detailed report on the results of such programs to the Committee

on Commerce, Science, and Transportation of the Senate and the Committee on Resources of the House of Representatives.

"(f) IMPLEMENTATION CRITERIA.—To the extent practicable, any conservation and management measure implemented under this Act to reduce the incidental mortality of bycatch in the course of shrimp trawl fishing shall be consistent with—

"(1) measures applicable to fishing throughout the range in United States waters of the bycatch species concerned; and

"(2) the need to avoid any serious adverse environmental impacts on such bycatch species or the ecology of the affected area.".

SEC. 207. MISCELLANEOUS RESEARCH.

(a) FISHERIES SYSTEMS RESEARCH.—Section 406 (16 U.S.C. 1882) is amended to read as follows:

"SEC. 406. FISHERIES SYSTEMS RESEARCH.

"(a) ESTABLISHMENT OF PANEL.—Not later than 180 days after the date of enactment of the Sustainable Fisheries Act, the Secretary shall establish an advisory panel under this Act to develop recommendations to expand the application of ecosystem principles in fishery conservation and management activities.

"(b) PANEL MEMBERSHIP.—The advisory panel shall consist of not more than 20 individuals and include—

"(1) individuals with expertise in the structures, functions, and physical and biological characteristics of ecosystems; and

"(2) representatives from the Councils, States, fishing industry, conservation organizations, or others with expertise in the management of marine resources.

"(c) RECOMMENDATIONS.- Prior to selecting advisory panel members, the Secretary shall, with respect to panel members described in subsection (b)(1), solicit recommendations from the National Academy of Sciences.

"(d) REPORT.—Within 2 years after the date of enactment of this Act, the Secretary shall submit to the Congress a completed report of the panel established under this section, which shall include—

"(1) an analysis of the extent to which ecosystem principles are being applied in fishery conservation and management activities, including research activities;

"(2) proposed actions by the Secretary and by the Congress that should be undertaken to expand the application of ecosystem principles in fishery conservation and management; and

"(3) such other information as may be appropriate.

"(e) PROCEDURAL MATTER.—The advisory panel established under this section shall be deemed an advisory panel under section 302(g).".

(b) GULF OF MEXICO RED SNAPPER RESEARCH.—Title IV of the Act (16 U.S.C. 1882) is amended by adding the following new section:

16 USC 1883.

"SEC. 407. GULF OF MEXICO RED SNAPPER RESEARCH.

"(a) INDEPENDENT PEER REVIEW.—(1) Within 30 days of the date of enactment of the Sustainable Fisheries Act, the Secretary shall initiate an independent peer review to evaluate—

"(A) the accuracy and adequacy of fishery statistics used by the Secretary for the red snapper fishery in the Gulf of

Mexico to account for all commercial, recreational, and charter fishing harvests and fishing effort on the stock;

"(B) the appropriateness of the scientific methods, information, and models used by the Secretary to assess the status and trends of the Gulf of Mexico red snapper stock and as the basis for the fishery management plan for the Gulf of Mexico red snapper fishery;

"(C) the appropriateness and adequacy of the management measures in the fishery management plan for red snapper in the Gulf of Mexico for conserving and managing the red snapper fishery under this Act; and

"(D) the costs and benefits of all reasonable alternatives to an individual fishing quota program for the red snapper fishery in the Gulf of Mexico.

"(2) The Secretary shall ensure that commercial, recreational, and charter fishermen in the red snapper fishery in the Gulf of Mexico are provided an opportunity to—

"(A) participate in the peer review under this subsection; and

"(B) provide information to the Secretary concerning the review of fishery statistics under this subsection without being subject to penalty under this Act or other applicable law for any past violation of a requirement to report such information to the Secretary.

"(3) The Secretary shall submit a detailed written report on the findings of the peer review conducted under this subsection to the Gulf Council no later than one year after the date of enactment of the Sustainable Fisheries Act. Reports.

"(b) PROHIBITION.—In addition to the restrictions under section 303(d)(1)(A), the Gulf Council may not, prior to October 1, 2000, undertake or continue the preparation of any fishery management plan, plan amendment or regulation under this Act for the Gulf of Mexico commercial red snapper fishery that creates an individual fishing quota program or that authorizes the consolidation of licenses, permits, or endorsements that result in different trip limits for vessels in the same class.

"(c) REFERENDUM.—

"(1) On or after October 1, 2000, the Gulf Council may prepare and submit a fishery management plan, plan amendment, or regulation for the Gulf of Mexico commercial red snapper fishery that creates an individual fishing quota program or that authorizes the consolidation of licenses, permits, or endorsements that result in different trip limits for vessels in the same class, only if the preparation of such plan, amendment, or regulation is approved in a referendum conducted under paragraph (2) and only if the submission to the Secretary of such plan, amendment, or regulation is approved in a subsequent referendum conducted under paragraph (2).

"(2) The Secretary, at the request of the Gulf Council, shall conduct referendums under this subsection. Only a person who held an annual vessel permit with a red snapper endorsement for such permit on September 1, 1996 (or any person to whom such permit with such endorsement was transferred after such date) and vessel captains who harvested red snapper in a commercial fishery using such endorsement in each red snapper fishing season occurring between January 1, 1993, and such date may vote in a referendum under this subsection.

The referendum shall be decided by a majority of the votes cast. The Secretary shall develop a formula to weigh votes based on the proportional harvest under each such permit and endorsement and by each such captain in the fishery between January 1, 1993, and September 1, 1996. Prior to each referendum, the Secretary, in consultation with the Council, shall—

Notification.

"(A) identify and notify all such persons holding permits with red snapper endorsements and all such vessel captains; and

"(B) make available to all such persons and vessel captains information about the schedule, procedures, and eligibility requirements for the referendum and the proposed individual fishing quota program.

"(d) CATCH LIMITS.—Any fishery management plan, plan amendment, or regulation submitted by the Gulf Council for the red snapper fishery after the date of enactment of the Sustainable Fisheries Act shall contain conservation and management measures that—

"(1) establish separate quotas for recreational fishing (which, for the purposes of this subsection shall include charter fishing) and commercial fishing that, when reached, result in a prohibition on the retention of fish caught during recreational fishing and commercial fishing, respectively, for the remainder of the fishing year; and

"(2) ensure that such quotas reflect allocations among such sectors and do not reflect any harvests in excess of such allocations.".

16 USC 1881c note.

SEC. 208. STUDY OF CONTRIBUTION OF BYCATCH TO CHARITABLE ORGANIZATIONS.

(a) STUDY.—The Secretary of Commerce shall conduct a study of the contribution of bycatch to charitable organizations by commercial fishermen. The study shall include determinations of—

(1) the amount of bycatch that is contributed each year to charitable organizations by commercial fishermen;

(2) the economic benefits to commercial fishermen from those contributions; and

(3) the impact on fisheries of the availability of those benefits.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary of Commerce shall submit to the Congress a report containing determinations made in the study under subsection (a).

(c) BYCATCH DEFINED.—In this section the term "bycatch" has the meaning given that term in section 3 of the Magnuson Fishery Conservation and Management Act, as amended by section 102 of this Act.

SEC. 209. STUDY OF IDENTIFICATION METHODS FOR HARVEST STOCKS.

(a) IN GENERAL.—The Secretary of Commerce shall conduct a study to determine the best possible method of identifying various Atlantic and Pacific salmon and steelhead stocks in the ocean at time of harvest. The study shall include an assessment of—

(1) coded wire tags;

(2) fin clipping; and

(3) other identification methods.

(b) REPORT.—The Secretary shall report the results of the study, together with any recommendations for legislation deemed necessary based on the study, within 6 months after the date of enactment of this Act to the Committee on Resources of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

SEC. 210. REVIEW OF NORTHEAST FISHERY STOCK ASSESSMENTS.

The National Academy of Sciences, in consultation with regionally recognized fishery experts, shall conduct a peer review of Canadian and United States stock assessments, information collection methodologies, biological assumptions and projections, and other relevant scientific information used as the basis for conservation and management in the Northeast multispecies fishery. The National Academy of Sciences shall submit the results of such review to the Congress and the Secretary of Commerce no later than March 1, 1997.

SEC. 211. CLERICAL AMENDMENTS.

The table of contents is amended by striking the matter relating to title IV and inserting the following:

"Sec. 312. Transition to sustainable fisheries.
"Sec. 313. North Pacific fisheries conservation.
"Sec. 314. Northwest Atlantic Ocean fisheries reinvestment program.

"TITLE IV—FISHERY MONITORING AND RESEARCH

"Sec. 401. Registration and information management.
"Sec. 402. Information collection.
"Sec. 403. Observers.
"Sec. 404. Fisheries research.
"Sec. 405. Incidental harvest research.
"Sec. 406. Fisheries systems research.
"Sec. 407. Gulf of Mexico red snapper research.".

TITLE III—FISHERIES FINANCING

Fisheries Financing Act.

SEC. 301. SHORT TITLE.

46 USC app. 1245 note.

This title may be cited as the "Fisheries Financing Act".

SEC. 302. INDIVIDUAL FISHING QUOTA LOANS.

(a) AMENDMENT OF MERCHANT MARINE ACT, 1936.—Section 1104A of the Merchant Marine Act, 1936 (46 U.S.C. App. 1274) is amended—

(1) by striking "or" at the end of subsection (a)(5);

(2) by striking the period at the end of subsection (a)(6) and inserting a semicolon and "or";

(3) by adding at the end of subsection (a) the following:

"(7) financing or refinancing, including, but not limited to, the reimbursement of obligors for expenditures previously made, for the purchase of individual fishing quotas in accordance with section 303(d)(4) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1853(d)(4)).''; and

(4) by striking "paragraph (6)" in the last sentence of subsection (a) and inserting "paragraphs (6) and (7)"; and

(5) by striking "equal to" in the third proviso of subsection (b)(2) and inserting "not to exceed".

(b) PROHIBITION.—Until October 1, 2001, no new loans may be guaranteed by the Federal Government for the construction of new fishing vessels if the construction will result in an increased

46 USC app. 1274 note.

harvesting capacity within the United States exclusive economic zone.

SEC. 303. FISHERIES FINANCING AND CAPACITY REDUCTION.

(a) CAPACITY REDUCTION AND FINANCING AUTHORITY.—Title XI of the Merchant Marine Act, 1936 (46 U.S.C. App. 1271 et seq.), is amended by adding at the end the following new sections:

46 USC app. 1279f.

"SEC. 1111. (a) The Secretary is authorized to guarantee the repayment of debt obligations issued by entities under this section. Debt obligations to be guaranteed may be issued by any entity that has been approved by the Secretary and has agreed with the Secretary to such conditions as the Secretary deems necessary for this section to achieve the objective of the program and to protect the interest of the United States.

"(b) Any debt obligation guaranteed under this section shall—

"(1) be treated in the same manner and to the same extent as other obligations guaranteed under this title, except with respect to provisions of this title that by their nature cannot be applied to obligations guaranteed under this section;

"(2) have the fishing fees established under the program paid into a separate subaccount of the fishing capacity reduction fund established under this section;

"(3) not exceed $100,000,000 in an unpaid principal amount outstanding at any one time for a program;

"(4) have such maturity (not to exceed 20 years), take such form, and contain such conditions as the Secretary determines necessary for the program to which they relate;

"(5) have as the exclusive source of repayment (subject to the proviso in subsection (c)(2)) and as the exclusive payment security, the fishing fees established under the program; and

"(6) at the discretion of the Secretary be issued in the public market or sold to the Federal Financing Bank.

"(c)(1) There is established in the Treasury of the United States a separate account which shall be known as the fishing capacity reduction fund (referred to in this section as the 'fund'). Within the fund, at least one subaccount shall be established for each program into which shall be paid all fishing fees established under the program and other amounts authorized for the program.

"(2) Amounts in the fund shall be available, without appropriation or fiscal year limitation, to the Secretary to pay the cost of the program, including payments to financial institutions to pay debt obligations incurred by entities under this section: *Provided,* That funds available for this purpose from other amounts available for the program may also be used to pay such debt obligations.

"(3) Sums in the fund that are not currently needed for the purpose of this section shall be kept on deposit or invested in obligations of the United States.

"(d) The Secretary is authorized and directed to issue such regulations as the Secretary deems necessary to carry out this section.

"(e) For the purposes of this section, the term 'program' means a fishing capacity reduction program established under section 312 of the Magnuson Fishery Conservation and Management Act.

46 USC app. 1279g.

"SEC. 1112. (a) Notwithstanding any other provision of this title, all obligations involving any fishing vessel, fishery facility, aquaculture facility, individual fishing quota, or fishing capacity

reduction program issued under this title after the date of enactment of the Sustainable Fisheries Act shall be direct loan obligations, for which the Secretary shall be the obligee, rather than obligations issued to obligees other than the Secretary and guaranteed by the Secretary. All direct loan obligations under this section shall be treated in the same manner and to the same extent as obligations guaranteed under this title except with respect to provisions of this title which by their nature can only be applied to obligations guaranteed under this title.

"(b) Notwithstanding any other provisions of this title, the annual rate of interest which obligors shall pay on direct loan obligations under this section shall be fixed at two percent of the principal amount of such obligations outstanding plus such additional percent as the Secretary shall be obligated to pay as the interest cost of borrowing from the United States Treasury the funds with which to make such direct loans.".

TITLE IV—MARINE FISHERY STATUTE REAUTHORIZATIONS

SEC. 401. MARINE FISH PROGRAM AUTHORIZATION OF APPROPRIATIONS.

(a) FISHERIES INFORMATION COLLECTION AND ANALYSIS.—There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out fisheries information and analysis activities under the Fish and Wildlife Act of 1956 (16 U.S.C. 742a et seq.) and any other law involving those activities, $51,800,000 for fiscal year 1997, and $52,345,000 for each of the fiscal years 1998, 1999, and 2000. Such activities may include, but are not limited to, the collection, analysis, and dissemination of scientific information necessary for the management of living marine resources and associated marine habitat.

(b) FISHERIES CONSERVATION AND MANAGEMENT OPERATIONS.—There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out activities relating to fisheries conservation and management operations under the Fish and Wildlife Act of 1956 (16 U.S.C. 742a et seq.) and any other law involving those activities, $29,028,000 for fiscal year 1997, and $29,899,000 for each of the fiscal years 1998, 1999, and 2000. Such activities may include, but are not limited to, development, implementation, and enforcement of conservation and management measures to achieve continued optimum use of living marine resources, hatchery operations, habitat conservation, and protected species management.

(c) FISHERIES STATE AND INDUSTRY COOPERATIVE PROGRAMS.—There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out State and industry cooperative programs under the Fish and Wildlife Act of 1956 (16 U.S.C. 742a et seq.) and any other law involving those activities, $27,932,000 for fiscal year 1997, and $28,226,000 for each of the fiscal years 1998, 1999, and 2000. These activities include, but are not limited to, ensuring the quality and safety of seafood products and providing grants to States for improving the management of interstate fisheries.

(d) AUTHORIZATION OF APPROPRIATIONS FOR CHESAPEAKE BAY OFFICE.—Section 2(e) of the National Oceanic and Atmospheric Administration Marine Fisheries Program Authorization Act (Public Law 98–210; 97 Stat. 1409) is amended—

(1) by striking "1992 and 1993" and inserting "1997 and 1998";

(2) by striking "establish" and inserting "operate";

(3) by striking "306" and inserting "307"; and

(4) by striking "1991" and inserting "1992".

(e) RELATION TO OTHER LAWS.—Authorizations under this section shall be in addition to monies authorized under the Magnuson Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801 et seq.), the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.), the Endangered Species Act of 1973 (16 U.S.C. 3301 et seq.), the Anadromous Fish Conservation Act (16 U.S.C. 757 et seq.), and the Interjurisdictional Fisheries Act (16 U.S.C. 4107 et seq.).

Caritas Christi.

(f) NEW ENGLAND HEALTH PLAN.—The Secretary of Commerce is authorized to provide up to $2,000,000 from previously appropriated funds to Caritas Christi for the implementation of a health care plan for fishermen in New England if Caritas Christi submits such plan to the Secretary no later than January 1, 1997, and the Secretary, in consultation with the Secretary of Health and Human Services, approves such plan.

SEC. 402. INTERJURISDICTIONAL FISHERIES ACT AMENDMENTS.

(a) REAUTHORIZATION.—Section 308 of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107) is amended—

(1) by amending subsection (a) to read as follows:

"(a) GENERAL APPROPRIATIONS.—There are authorized to be appropriated to the Department of Commerce for apportionment to carry out the purposes of this title—

"(1) $3,400,000 for fiscal year 1996;

"(2) $3,900,000 for fiscal year 1997;

"(3) $4,400,000 for each of the fiscal years 1998, 1999, and 2000.";

(2) by striking "$350,000 for each of the fiscal years 1989, 1990, 1991, 1992, and 1993, and $600,000 for each of the fiscal years 1994 and 1995," in subsection (c) and inserting "$700,000 for fiscal year 1997, and $750,000 for each of the fiscal years 1998, 1999, and 2000,".

(b) NEW ENGLAND REPORT.—Section 308(d) of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107(d)) is amended by adding at the end the following new paragraph:

"(7) With respect to funds available for the New England region, the Secretary shall submit to the Congress by January 1, 1997, with annual updates thereafter as appropriate, a report on the New England fishing capacity reduction initiative which provides—

"(A) the total number of Northeast multispecies permits in each permit category and calculates the maximum potential fishing capacity of vessels holding such permits based on the principal gear, gross registered tonnage, engine horsepower, length, age, and other relevant characteristics;

"(B) the total number of days at sea available to the permitted Northeast multispecies fishing fleet and the total

days at sea weighted by the maximum potential fishing capacity of the fleet;

"(C) an analysis of the extent to which the weighted days at sea are used by the active participants in the fishery and of the reduction in such days as a result of the fishing capacity reduction program; and

"(D) an estimate of conservation benefits (such as reduction in fishing mortality) directly attributable to the fishing capacity reduction program.".

SEC. 403. ANADROMOUS FISHERIES AMENDMENTS.

Section 4 of the Anadromous Fish Conservation Act (16 U.S.C. 757d) is amended to read as follows:

"SEC. 4. (a)(1) There are authorized to be appropriated to carry out the purposes of this Act not to exceed the following sums: Appropriation authorization.

"(A) $4,000,000 for fiscal year 1997; and

"(B) $4,250,000 for each of fiscal years 1998, 1999, and 2000.

"(2) Sums appropriated under this subsection are authorized to remain available until expended.

"(b) Not more than $625,000 of the funds appropriated under this section in any one fiscal year shall be obligated in any one State.".

SEC. 404. ATLANTIC COASTAL FISHERIES AMENDMENTS.

(a) DEFINITION.—Paragraph (1) of section 803 of the Atlantic Coastal Fisheries Cooperative Management Act (16 U.S.C. 5102) is amended—

(1) by inserting "and" after the semicolon in subparagraph (A);

(2) by striking "States; and" in subparagraph (B) and inserting "States."; and

(3) by striking subparagraph (C).

(b) IMPLEMENTATION STANDARD FOR FEDERAL REGULATION.—Subparagraph (A) of section 804(b)(1) of such Act (16 U.S.C. 5103(b)(1)) is amended by striking "necessary to support" and inserting "compatible with".

(c) AMERICAN LOBSTER MANAGEMENT.—Section 809 (16 U.S.C. 5108) and section 810 of such Act are redesignated as sections 811 and 812, respectively, and the following new sections are inserted at the end of section 808: 16 USC 1851 note.

"SEC. 809. STATE PERMITS VALID IN CERTAIN WATERS. 16 USC 5107a.

"(a) PERMITS.—Notwithstanding any provision of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), the Atlantic Coastal Fisheries Cooperative Management Act (16 U.S.C. 5101 et seq.), or any requirement of a fishery management plan or coastal fishery management plan to the contrary, a person holding a valid license issued by the State of Maine which lawfully permits that person to engage in commercial fishing for American lobster may, with the approval of the State of Maine, engage in commercial fishing for American lobster in the following areas designated as Federal waters, if such fishing is conducted in such waters in accordance with all other applicable Federal and State regulations:

"(1) west of Monhegan Island in the area located north of the line 43° 42′ 08″ N, 69° 34′ 18″ W and 43° 42′ 15″ N, 69° 19′ 18″ W;

"(2) east of Monhegan Island in the area located west of the line 43° 44′ 00″ N, 69° 15′ 05″ W and 43° 48′ 10″ N, 69° 08′ 01″ W;

"(3) south of Vinalhaven in the area located west of the line 43° 52′ 21″ N, 68° 39′ 54″ W and 43° 48′ 10″ N, 69° 08′ 01″ W; and

"(4) south of Bois Bubert Island in the area located north of the line 44° 19′ 15″ N, 67° 49′ 30″ W and 44° 23′ 45″ N, 67° 40′ 33″ W.

"(b) ENFORCEMENT.—The exemption from Federal fishery permitting requirements granted by subsection (a) may be revoked or suspended by the Secretary in accordance with section 308(g) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1858(g)) for violations of such Act or this Act.

16 USC 5107b.

"SEC. 810. TRANSITION TO MANAGEMENT OF AMERICAN LOBSTER FISHERY BY COMMISSION.

Regulations.

"(a) TEMPORARY LIMITS.—Notwithstanding any other provision of this Act or of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), if no regulations have been issued under section 804(b) of this Act by December 31, 1997, to implement a coastal fishery management plan for American lobster, then the Secretary shall issue interim regulations before March 1, 1998, that will prohibit any vessel that takes lobsters in the exclusive economic zone by a method other than pots or traps from landing lobsters (or any parts thereof) at any location within the United States in excess of—

"(1) 100 lobsters (or parts thereof) for each fishing trip of 24 hours or less duration (up to a maximum of 500 lobsters, or parts thereof, during any 5-day period); or

"(2) 500 lobsters (or parts thereof) for a fishing trip of 5 days or longer.

"(b) SECRETARY TO MONITOR LANDINGS.—Before January 1, 1998, the Secretary shall monitor, on a timely basis, landings of American lobster, and, if the Secretary determines that catches from vessels that take lobsters in the exclusive economic zone by a method other than pots or traps have increased significantly, then the Secretary may, consistent with the national standards in section 301 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801), and after opportunity for public comment and consultation with the Atlantic States Marine Fisheries Commission, implement regulations under section 804(b) of this Act that are necessary for the conservation of American lobster.

"(c) REGULATIONS TO REMAIN IN EFFECT UNTIL PLAN IMPLEMENTED.—Regulations issued under subsection (a) or (b) shall remain in effect until the Secretary implements regulations under section 804(b) of this Act to implement a coastal fishery management plan for American lobster.".

16 USC 5108.

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 810 of such Act, as amended by this Act, is amended further by striking "1996." and inserting "1996, and $7,000,000 for each of the fiscal years 1997, 1998, 1999, and 2000.".

SEC. 405. TECHNICAL AMENDMENTS TO MARITIME BOUNDARY AGREEMENT.

Effective date.
16 USC 1802 note.

(a) EXECUTION OF PRIOR AMENDMENTS TO DEFINITIONS.—Notwithstanding section 308 of the Act entitled "An Act to provide for the designation of the Flower Garden Banks National Marine

Sanctuary", approved March 9, 1992 (Public Law 102–251; 106 Stat. 66) hereinafter referred to as the "FGB Act", section 301(b) of that Act (adding a definition of the term "special areas") shall take effect on the date of enactment of this Act.

(b) CONFORMING AMENDMENTS.—

(1) Section 301(h)(2)(A) of the FGB Act is repealed. 16 USC 1857.

(2) Section 304 of the FGB Act is repealed. 16 USC 1362.

(3) Section 3(15) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1362(15)) is amended to read as follows:

"(15) The term 'waters under the jurisdiction of the United States' means—

"(A) the territorial sea of the United States;

"(B) the waters included within a zone, contiguous to the territorial sea of the United States, of which the inner boundary is a line coterminous with the seaward boundary of each coastal State, and the other boundary is a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured; and

"(C) the areas referred to as eastern special areas in Article 3(1) of the Agreement between the United States of America and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990; in particular, those areas east of the maritime boundary, as defined in that Agreement, that lie within 200 nautical miles of the baselines from which the breadth of the territorial sea of Russia is measured but beyond 200 nautical miles of the baselines from which the breadth of the territorial sea of the United States is measured, except that this subparagraph shall not apply before the date on which the Agreement between the United States and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990, enters into force for the United States.".

SEC. 406. AMENDMENTS TO THE FISHERIES ACT.

Section 309(b) of the Fisheries Act of 1995 (Public Law 104–43) is amended by striking "July 1, 1996" and inserting "July 1, 1997". 16 USC 971c note.

Approved October 11, 1996.

LEGISLATIVE HISTORY—S. 39 (H.R. 39):

HOUSE REPORTS: No. 104–171 accompanying H.R. 39 (Comm. on Resources).
SENATE REPORTS: No. 104–276 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 142 (1996):
Sept. 18, 19, considered and passed Senate.
Sept. 27, considered and passed House.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 32 (1996):
Oct. 11, Presidential statement.

Public Law 104–298
104th Congress

An Act

Oct. 11, 1996
[S. 811]

To authorize the Secretary of the Interior to conduct studies regarding the desalination of water and water reuse, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Water Desalination Act of 1996.
42 USC 10301 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Water Desalination Act of 1996".

42 USC 10301 note.

SEC. 2. DEFINITIONS.

As used in this Act:

(1) DESALINATION OR DESALTING.—The terms "desalination" or "desalting" mean the use of any process or technique for the removal and, when feasible, adaptation to beneficial use, of organic and inorganic elements and compounds from saline or biologically impaired waters, by itself or in conjunction with other processes.

(2) SALINE WATER.—The term "saline water" means sea water, brackish water, and other mineralized or chemically impaired water.

(3) UNITED STATES.—The term "United States" means the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

(4) USABLE WATER.—The term "usable water" means water of a high quality suitable for environmental enhancement, agricultural, industrial, municipal, and other beneficial consumptive or nonconsumptive uses.

(5) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

42 USC 10301 note.

SEC. 3.AUTHORIZATION OF RESEARCH AND STUDIES.

(a) IN GENERAL.—In order to determine the most cost-effective and technologically efficient means by which usable water can be produced from saline water or water otherwise impaired or contaminated, the Secretary is authorized to award grants and to enter into contracts, to the extent provided in advance in appropriation Acts, to conduct, encourage, and assist in the financing of research to develop processes for converting saline water into water suitable for beneficial uses. Awards of research grants and contracts under this section shall be made on the basis of a competitive, merit-reviewed process. Research and study topics authorized by this section include—

(1) investigating desalination processes;

(2) ascertaining the optimum mix of investment and operating costs;

(3) determining the best designs for different conditions of operation;

(4) investigating methods of increasing the economic efficiency of desalination processes through dual-purpose co-facilities with other processes involving the use of water;

(5) conducting or contracting for technical work, including the design, construction, and testing of pilot systems and test beds, to develop desalting processes and concepts;

(6) studying methods for the recovery of byproducts resulting from desalination to offset the costs of treatment and to reduce environmental impacts from those byproducts; and

(7) salinity modeling and toxicity analysis of brine discharges, cost reduction strategies for constructing and operating desalination facilities, and the horticultural effects of desalinated water used for irrigation.

(b) PROJECT RECOMMENDATIONS AND REPORTS TO THE CONGRESS.—As soon as practicable and within three years after the date of enactment of this Act, the Secretary shall recommend to Congress desalination demonstration projects or full-scale desalination projects to carry out the purposes of this Act and to further evaluate and implement the results of research and studies conducted under the authority of this section. Recommendations for projects shall be accompanied by reports on the engineering and economic feasibility of proposed projects and their environmental impacts.

(c) AUTHORITY TO ENGAGE OTHERS.—In carrying out research and studies authorized in this section, the Secretary may engage the necessary personnel, industrial or engineering firms, Federal laboratories, water resources research and technology institutes, other facilities, and educational institutions suitable to conduct investigations and studies authorized under this section.

(d) ALTERNATIVE TECHNOLOGIES.—In carrying out the purposes of this Act, the Secretary shall ensure that at least three separate technologies are evaluated and demonstrated for the purposes of accomplishing desalination.

SEC. 4. DESALINATION DEMONSTRATION AND DEVELOPMENT.

42 USC 10301 note.

(a) IN GENERAL.—In order to further demonstrate the feasibility of desalination processes investigated either independently or in research conducted pursuant to section 3, the Secretary shall administer and conduct a demonstration and development program for water desalination and related activities, including the following:

(1) DESALINATION PLANTS AND MODULES.—Conduct or contract for technical work, including the design, construction, and testing of plants and modules to develop desalination processes and concepts.

(2) BYPRODUCTS.—Study methods for the marketing of byproducts resulting from the desalting of water to offset the costs of treatment and to reduce environmental impacts of those byproducts.

(3) ECONOMIC SURVEYS.—Conduct economic studies and surveys to determine present and prospective costs of producing water for beneficial purposes in various locations by desalination processes compared to other methods.

(b) COOPERATIVE AGREEMENTS.—Federal participation in desalination activities may be conducted through cooperative agreements, including cost-sharing agreements, with non-Federal public utilities and State and local governmental agencies and other entities, in order to develop recommendations for Federal participation in processes and plants utilizing desalting technologies for the production of water.

42 USC 10301 note.

SEC. 5. AVAILABILITY OF INFORMATION.

All information from studies sponsored or funded under authority of this Act shall be considered public information.

42 USC 10301 note.

SEC. 6. TECHNICAL AND ADMINISTRATIVE ASSISTANCE.

The Secretary may—

(1) accept technical and administrative assistance from States and public or private agencies in connection with studies, surveys, location, construction, operation, and other work relating to the desalting of water, and

(2) enter into contracts or agreements stating the purposes for which the assistance is contributed and providing for the sharing of costs between the Secretary and any such agency.

42 USC 10301 note.

SEC. 7. COST SHARING.

The Federal share of the cost of a research, study, or demonstration project or a desalination development project or activity carried out under this Act shall not exceed 50 percent of the total cost of the project or research or study activity. A Federal contribution in excess of 25 percent for a project carried out under this Act may not be made unless the Secretary determines that the project is not feasible without such increased Federal contribution. The Secretary shall prescribe appropriate procedures to implement the provisions of this section. Costs of operation, maintenance, repair, and rehabilitation of facilities funded under the authority of this Act shall be non-Federal responsibilities.

Regulations.

42 USC 10301 note.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

(a) SECTION 3.—There are authorized to be appropriated to carry out section 3 of this Act $5,000,000 per year for fiscal years 1997 through 2002. Of these amounts, up to $1,000,000 in each fiscal year may be awarded to institutions of higher education, including United States-Mexico binational research foundations and interuniversity research programs established by the two countries, for research grants without any cost-sharing requirement.

(b) SECTION 4.—There are authorized to be appropriated to carry out section 4 of this Act $25,000,000 for fiscal years 1997 through 2002.

SEC. 9. CONSULTATION.

42 USC 10301 note.

In carrying out the provisions of this Act, the Secretary shall consult with the heads of other Federal agencies, including the Secretary of the Army, which have experience in conducting desalination research or operating desalination facilities. The authorization provided for in this Act shall not prohibit other agencies from carrying out separately authorized programs for desalination research or operations.

Approved October 11, 1996.

LEGISLATIVE HISTORY—S. 811:

HOUSE REPORTS: No. 104–790, Pt. 1 (Comm. on Resources).
SENATE REPORTS: No. 104–254 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD, Vol. 142 (1996):
May 3, considered and passed Senate.
Sept. 24, considered and passed House, amended.
Sept. 27, Senate concurred in House amendments.

Public Law 104–299
104th Congress

An Act

Oct. 11, 1996
[S. 1044]

To amend title III of the Public Health Service Act to consolidate and reauthorize provisions relating to health centers, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Health Centers Consolidation Act of 1996.
42 USC 201 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Health Centers Consolidation Act of 1996".

SEC. 2. CONSOLIDATION AND REAUTHORIZATION OF PROVISIONS.

Subpart I of part D of title III of the Public Health Service Act (42 U.S.C. 254b et seq.) is amended to read as follows:

"Subpart I—Health Centers

42 USC 254b.

"SEC. 330. HEALTH CENTERS.

"(a) DEFINITION OF HEALTH CENTER.—

"(1) IN GENERAL.—For purposes of this section, the term 'health center' means an entity that serves a population that is medically underserved, or a special medically underserved population comprised of migratory and seasonal agricultural workers, the homeless, and residents of public housing, by providing, either through the staff and supporting resources of the center or through contracts or cooperative arrangements—

"(A) required primary health services (as defined in subsection (b)(1)); and

"(B) as may be appropriate for particular centers, additional health services (as defined in subsection (b)(2)) necessary for the adequate support of the primary health services required under subparagraph (A);

for all residents of the area served by the center (hereafter referred to in this section as the 'catchment area').

"(2) LIMITATION.—The requirement in paragraph (1) to provide services for all residents within a catchment area shall not apply in the case of a health center receiving a grant only under subsection (g), (h), or (i).

"(b) DEFINITIONS.—For purposes of this section:

"(1) REQUIRED PRIMARY HEALTH SERVICES.—

"(A) IN GENERAL.—The term 'required primary health services' means—

"(i) basic health services which, for purposes of this section, shall consist of—

"(I) health services related to family medicine, internal medicine, pediatrics, obstetrics, or gynecology that are furnished by physicians and where appropriate, physician assistants, nurse practitioners, and nurse midwives;

"(II) diagnostic laboratory and radiologic services;

"(III) preventive health services, including—

"(aa) prenatal and perinatal services;

"(bb) screening for breast and cervical cancer;

"(cc) well-child services;

"(dd) immunizations against vaccine-preventable diseases;

"(ee) screenings for elevated blood lead levels, communicable diseases, and cholesterol;

"(ff) pediatric eye, ear, and dental screenings to determine the need for vision and hearing correction and dental care;

"(gg) voluntary family planning services; and

"(hh) preventive dental services;

"(IV) emergency medical services; and

"(V) pharmaceutical services as may be appropriate for particular centers;

"(ii) referrals to providers of medical services and other health-related services (including substance abuse and mental health services);

"(iii) patient case management services (including counseling, referral, and follow-up services) and other services designed to assist health center patients in establishing eligibility for and gaining access to Federal, State, and local programs that provide or financially support the provision of medical, social, educational, or other related services;

"(iv) services that enable individuals to use the services of the health center (including outreach and transportation services and, if a substantial number of the individuals in the population served by a center are of limited English-speaking ability, the services of appropriate personnel fluent in the language spoken by a predominant number of such individuals); and

"(v) education of patients and the general population served by the health center regarding the availability and proper use of health services.

"(B) EXCEPTION.—With respect to a health center that receives a grant only under subsection (g), the Secretary, upon a showing of good cause, shall—

"(i) waive the requirement that the center provide all required primary health services under this paragraph; and

"(ii) approve, as appropriate, the provision of certain required primary health services only during certain periods of the year.

"(2) ADDITIONAL HEALTH SERVICES.—The term 'additional health services' means services that are not included as required primary health services and that are appropriate to

meet the health needs of the population served by the health center involved. Such term may include—

"(A) environmental health services, including—

"(i) the detection and alleviation of unhealthful conditions associated with water supply;

"(ii) sewage treatment;

"(iii) solid waste disposal;

"(iv) rodent and parasitic infestation;

"(v) field sanitation;

"(vi) housing; and

"(vii) other environmental factors related to health; and

"(B) in the case of health centers receiving grants under subsection (g), special occupation-related health services for migratory and seasonal agricultural workers, including—

"(i) screening for and control of infectious diseases, including parasitic diseases; and

"(ii) injury prevention programs, including prevention of exposure to unsafe levels of agricultural chemicals including pesticides.

"(3) MEDICALLY UNDERSERVED POPULATIONS.—

"(A) IN GENERAL.—The term 'medically underserved population' means the population of an urban or rural area designated by the Secretary as an area with a shortage of personal health services or a population group designated by the Secretary as having a shortage of such services.

"(B) CRITERIA.—In carrying out subparagraph (A), the Secretary shall prescribe criteria for determining the specific shortages of personal health services of an area or population group. Such criteria shall—

"(i) take into account comments received by the Secretary from the chief executive officer of a State and local officials in a State; and

"(ii) include factors indicative of the health status of a population group or residents of an area, the ability of the residents of an area or of a population group to pay for health services and their accessibility to them, and the availability of health professionals to residents of an area or to a population group.

"(C) LIMITATION.—The Secretary may not designate a medically underserved population in a State or terminate the designation of such a population unless, prior to such designation or termination, the Secretary provides reasonable notice and opportunity for comment and consults with—

"(i) the chief executive officer of such State;

"(ii) local officials in such State; and

"(iii) the organization, if any, which represents a majority of health centers in such State.

"(D) PERMISSIBLE DESIGNATION.—The Secretary may designate a medically underserved population that does not meet the criteria established under subparagraph (B) if the chief executive officer of the State in which such population is located and local officials of such State recommend the designation of such population based on

unusual local conditions which are a barrier to access to or the availability of personal health services.

"(c) PLANNING GRANTS.—

"(1) IN GENERAL.—

"(A) CENTERS.—The Secretary may make grants to public and nonprofit private entities for projects to plan and develop health centers which will serve medically underserved populations. A project for which a grant may be made under this subsection may include the cost of the acquisition and lease of buildings and equipment (including the costs of amortizing the principal of, and paying the interest on, loans) and shall include—

"(i) an assessment of the need that the population proposed to be served by the health center for which the project is undertaken has for required primary health services and additional health services;

"(ii) the design of a health center program for such population based on such assessment;

"(iii) efforts to secure, within the proposed catchment area of such center, financial and professional assistance and support for the project;

"(iv) initiation and encouragement of continuing community involvement in the development and operation of the project; and

"(v) proposed linkages between the center and other appropriate provider entities, such as health departments, local hospitals, and rural health clinics, to provide better coordinated, higher quality, and more cost-effective health care services.

"(B) COMPREHENSIVE SERVICE DELIVERY NETWORKS AND PLANS.—The Secretary may make grants to health centers that receive assistance under this section to enable the centers to plan and develop a network or plan for the provision of health services, which may include the provision of health services on a prepaid basis or through another managed care arrangement, to some or to all of the individuals which the centers serve. Such a grant may only be made for such a center if—

"(i) the center has received grants under subsection (e)(1)(A) for at least 2 consecutive years preceding the year of the grant under this subparagraph or has otherwise demonstrated, as required by the Secretary, that such center has been providing primary care services for at least the 2 consecutive years immediately preceding such year; and

"(ii) the center provides assurances satisfactory to the Secretary that the provision of such services on a prepaid basis, or under another managed care arrangement, will not result in the diminution of the level or quality of health services provided to the medically underserved population served prior to the grant under this subparagraph.

Any such grant may include the acquisition and lease of buildings and equipment which may include data and information systems (including the costs of amortizing the principal of, and paying the interest on, loans), and providing training and technical assistance related to the provi-

sion of health services on a prepaid basis or under another managed care arrangement, and for other purposes that promote the development of managed care networks and plans.

"(2) LIMITATION.—Not more than two grants may be made under this subsection for the same project, except that upon a showing of good cause, the Secretary may make additional grant awards.

"(d) MANAGED CARE LOAN GUARANTEE PROGRAM.—

"(1) ESTABLISHMENT.—

"(A) IN GENERAL.—The Secretary shall establish a program under which the Secretary may, in accordance with this subsection and to the extent that appropriations are provided in advance for such program, guarantee the principal and interest on loans made by non-Federal lenders to health centers funded under this section for the costs of developing and operating managed care networks or plans.

"(B) USE OF FUNDS.—Loan funds guaranteed under this subsection may be used—

"(i) to establish reserves for the furnishing of services on a pre-paid basis; or

"(ii) for costs incurred by the center or centers, otherwise permitted under this section, as the Secretary determines are necessary to enable a center or centers to develop, operate, and own the network or plan.

"(C) PUBLICATION OF GUIDANCE.—Prior to considering an application submitted under this subsection, the Secretary shall publish guidelines to provide guidance on the implementation of this section. The Secretary shall make such guidelines available to the universe of parties affected under this subsection, distribute such guidelines to such parties upon the request of such parties, and provide a copy of such guidelines to the appropriate committees of Congress.

"(2) PROTECTION OF FINANCIAL INTERESTS.—

"(A) IN GENERAL.—The Secretary may not approve a loan guarantee for a project under this subsection unless the Secretary determines that—

"(i) the terms, conditions, security (if any), and schedule and amount of repayments with respect to the loan are sufficient to protect the financial interests of the United States and are otherwise reasonable, including a determination that the rate of interest does not exceed such percent per annum on the principal obligation outstanding as the Secretary determines to be reasonable, taking into account the range of interest rates prevailing in the private market for similar loans and the risks assumed by the United States, except that the Secretary may not require as security any center asset that is, or may be, needed by the center or centers involved to provide health services;

"(ii) the loan would not be available on reasonable terms and conditions without the guarantee under this subsection; and

"(iii) amounts appropriated for the program under this subsection are sufficient to provide loan guarantees under this subsection.

"(B) RECOVERY OF PAYMENTS.—

"(i) IN GENERAL.—The United States shall be entitled to recover from the applicant for a loan guarantee under this subsection the amount of any payment made pursuant to such guarantee, unless the Secretary for good cause waives such right of recovery (subject to appropriations remaining available to permit such a waiver) and, upon making any such payment, the United States shall be subrogated to all of the rights of the recipient of the payments with respect to which the guarantee was made. Amounts recovered under this clause shall be credited as reimbursements to the financing account of the program.

"(ii) MODIFICATION OF TERMS AND CONDITIONS.—To the extent permitted by clause (iii) and subject to the requirements of section 504(e) of the Credit Reform Act of 1990 (2 U.S.C. 661c(e)), any terms and conditions applicable to a loan guarantee under this subsection (including terms and conditions imposed under clause (iv)) may be modified or waived by the Secretary to the extent the Secretary determines it to be consistent with the financial interest of the United States.

"(iii) INCONTESTABILITY.—Any loan guarantee made by the Secretary under this subsection shall be incontestable—

"(I) in the hands of an applicant on whose behalf such guarantee is made unless the applicant engaged in fraud or misrepresentation in securing such guarantee; and

"(II) as to any person (or successor in interest) who makes or contracts to make a loan to such applicant in reliance thereon unless such person (or successor in interest) engaged in fraud or misrepresentation in making or contracting to make such loan.

"(iv) FURTHER TERMS AND CONDITIONS.—Guarantees of loans under this subsection shall be subject to such further terms and conditions as the Secretary determines to be necessary to assure that the purposes of this section will be achieved.

"(3) LOAN ORIGINATION FEES.—

"(A) IN GENERAL.—The Secretary shall collect a loan origination fee with respect to loans to be guaranteed under this subsection, except as provided in subparagraph (C).

"(B) AMOUNT.—The amount of a loan origination fee collected by the Secretary under subparagraph (A) shall be equal to the estimated long term cost of the loan guarantees involved to the Federal Government (excluding administrative costs), calculated on a net present value basis, after taking into account any appropriations that may be made for the purpose of offsetting such costs, and in accordance with the criteria used to award loan guarantees under this subsection.

"(C) WAIVER.—The Secretary may waive the loan origination fee for a health center applicant who demonstrates to the Secretary that the applicant will be unable to meet the conditions of the loan if the applicant incurs the additional cost of the fee.

"(4) DEFAULTS.—

"(A) IN GENERAL.—Subject to the requirements of the Credit Reform Act of 1990 (2 U.S.C. 661 et seq.), the Secretary may take such action as may be necessary to prevent a default on a loan guaranteed under this subsection, including the waiver of regulatory conditions, deferral of loan payments, renegotiation of loans, and the expenditure of funds for technical and consultative assistance, for the temporary payment of the interest and principal on such a loan, and for other purposes. Any such expenditure made under the preceding sentence on behalf of a health center or centers shall be made under such terms and conditions as the Secretary shall prescribe, including the implementation of such organizational, operational, and financial reforms as the Secretary determines are appropriate and the disclosure of such financial or other information as the Secretary may require to determine the extent of the implementation of such reforms.

"(B) FORECLOSURE.—The Secretary may take such action, consistent with State law respecting foreclosure procedures and, with respect to reserves required for furnishing services on a prepaid basis, subject to the consent of the affected States, as the Secretary determines appropriate to protect the interest of the United States in the event of a default on a loan guaranteed under this subsection, except that the Secretary may only foreclose on assets offered as security (if any) in accordance with paragraph (2)(A)(i).

"(5) LIMITATION.—Not more than one loan guarantee may be made under this subsection for the same network or plan, except that upon a showing of good cause the Secretary may make additional loan guarantees.

"(6) ANNUAL REPORT.—Not later than April 1, 1998, and each April 1 thereafter, the Secretary shall prepare and submit to the appropriate committees of Congress a report concerning loan guarantees provided under this subsection. Such report shall include—

"(A) a description of the number, amount, and use of funds received under each loan guarantee provided under this subsection;

"(B) a description of any defaults with respect to such loans and an analysis of the reasons for such defaults, if any; and

"(C) a description of the steps that may have been taken by the Secretary to assist an entity in avoiding such a default.

Reports.

"(7) PROGRAM EVALUATION.—Not later than June 30, 1999, the Secretary shall prepare and submit to the appropriate committees of Congress a report containing an evaluation of the program authorized under this subsection. Such evaluation shall include a recommendation with respect to whether or not the loan guarantee program under this subsection should

be continued and, if so, any modifications that should be made to such program.

"(8) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection such sums as may be necessary.

"(e) OPERATING GRANTS.—

"(1) AUTHORITY.—

"(A) IN GENERAL.—The Secretary may make grants for the costs of the operation of public and nonprofit private health centers that provide health services to medically underserved populations.

"(B) ENTITIES THAT FAIL TO MEET CERTAIN REQUIREMENTS.—The Secretary may make grants, for a period of not to exceed 2 years, for the costs of the operation of public and nonprofit private entities which provide health services to medically underserved populations but with respect to which the Secretary is unable to make each of the determinations required by subsection (j)(3).

"(2) USE OF FUNDS.—The costs for which a grant may be made under subparagraph (A) or (B) of paragraph (1) may include the costs of acquiring and leasing buildings and equipment (including the costs of amortizing the principal of, and paying interest on, loans), and the costs of providing training related to the provision of required primary health services and additional health services and to the management of health center programs.

"(3) CONSTRUCTION.—The Secretary may award grants which may be used to pay the costs associated with expanding and modernizing existing buildings or constructing new buildings (including the costs of amortizing the principal of, and paying the interest on, loans) for projects approved prior to October 1, 1996.

"(4) LIMITATION.—Not more than two grants may be made under subparagraph (B) of paragraph (1) for the same entity.

"(5) AMOUNT.—

"(A) IN GENERAL.—The amount of any grant made in any fiscal year under paragraph (1) to a health center shall be determined by the Secretary, but may not exceed the amount by which the costs of operation of the center in such fiscal year exceed the total of—

"(i) State, local, and other operational funding provided to the center; and

"(ii) the fees, premiums, and third-party reimbursements, which the center may reasonably be expected to receive for its operations in such fiscal year.

"(B) PAYMENTS.—Payments under grants under subparagraph (A) or (B) of paragraph (1) shall be made in advance or by way of reimbursement and in such installments as the Secretary finds necessary and adjustments may be made for overpayments or underpayments.

"(C) USE OF NONGRANT FUNDS.—Nongrant funds described in clauses (i) and (ii) of subparagraph (A), including any such funds in excess of those originally expected, shall be used as permitted under this section, and may be used for such other purposes as are not specifically

prohibited under this section if such use furthers the objectives of the project.

"(f) INFANT MORTALITY GRANTS.—

"(1) IN GENERAL.—The Secretary may make grants to health centers for the purpose of assisting such centers in—

"(A) providing comprehensive health care and support services for the reduction of—

"(i) the incidence of infant mortality; and

"(ii) morbidity among children who are less than 3 years of age; and

"(B) developing and coordinating service and referral arrangements between health centers and other entities for the health management of pregnant women and children described in subparagraph (A).

"(2) PRIORITY.—In making grants under this subsection the Secretary shall give priority to health centers providing services to any medically underserved population among which there is a substantial incidence of infant mortality or among which there is a significant increase in the incidence of infant mortality.

"(3) REQUIREMENTS.—The Secretary may make a grant under this subsection only if the health center involved agrees that—

"(A) the center will coordinate the provision of services under the grant to each of the recipients of the services;

"(B) such services will be continuous for each such recipient;

"(C) the center will provide follow-up services for individuals who are referred by the center for services described in paragraph (1);

"(D) the grant will be expended to supplement, and not supplant, the expenditures of the center for primary health services (including prenatal care) with respect to the purpose described in this subsection; and

"(E) the center will coordinate the provision of services with other maternal and child health providers operating in the catchment area.

"(g) MIGRATORY AND SEASONAL AGRICULTURAL WORKERS.—

"(1) IN GENERAL.—The Secretary may award grants for the purposes described in subsections (c), (e), and (f) for the planning and delivery of services to a special medically underserved population comprised of—

"(A) migratory agricultural workers, seasonal agricultural workers, and members of the families of such migratory and seasonal agricultural workers who are within a designated catchment area; and

"(B) individuals who have previously been migratory agricultural workers but who no longer meet the requirements of subparagraph (A) of paragraph (3) because of age or disability and members of the families of such individuals who are within such catchment area.

"(2) ENVIRONMENTAL CONCERNS.—The Secretary may enter into grants or contracts under this subsection with public and private entities to—

"(A) assist the States in the implementation and enforcement of acceptable environmental health standards, including enforcement of standards for sanitation in migra-

tory agricultural worker labor camps, and applicable Federal and State pesticide control standards; and

"(B) conduct projects and studies to assist the several States and entities which have received grants or contracts under this section in the assessment of problems related to camp and field sanitation, exposure to unsafe levels of agricultural chemicals including pesticides, and other environmental health hazards to which migratory agricultural workers and members of their families are exposed.

"(3) DEFINITIONS.—For purposes of this subsection:

"(A) MIGRATORY AGRICULTURAL WORKER.—The term 'migratory agricultural worker' means an individual whose principal employment is in agriculture on a seasonal basis, who has been so employed within the last 24 months, and who establishes for the purposes of such employment a temporary abode.

"(B) SEASONAL AGRICULTURAL WORKER.—The term 'seasonal agricultural worker' means an individual whose principal employment is in agriculture on a seasonal basis and who is not a migratory agricultural worker.

"(C) AGRICULTURE.—The term 'agriculture' means farming in all its branches, including—

"(i) cultivation and tillage of the soil;

"(ii) the production, cultivation, growing, and harvesting of any commodity grown on, in, or as an adjunct to or part of a commodity grown in or on, the land; and

"(iii) any practice (including preparation and processing for market and delivery to storage or to market or to carriers for transportation to market) performed by a farmer or on a farm incident to or in conjunction with an activity described in clause (ii).

"(h) HOMELESS POPULATION.—

"(1) IN GENERAL.—The Secretary may award grants for the purposes described in subsections (c), (e), and (f) for the planning and delivery of services to a special medically underserved population comprised of homeless individuals, including grants for innovative programs that provide outreach and comprehensive primary health services to homeless children and children at risk of homelessness.

"(2) REQUIRED SERVICES.—In addition to required primary health services (as defined in subsection (b)(1)), an entity that receives a grant under this subsection shall be required to provide substance abuse services as a condition of such grant.

"(3) SUPPLEMENT NOT SUPPLANT REQUIREMENT.—A grant awarded under this subsection shall be expended to supplement, and not supplant, the expenditures of the health center and the value of in kind contributions for the delivery of services to the population described in paragraph (1).

"(4) DEFINITIONS.—For purposes of this section:

"(A) HOMELESS INDIVIDUAL.—The term 'homeless individual' means an individual who lacks housing (without regard to whether the individual is a member of a family), including an individual whose primary residence during the night is a supervised public or private facility that

provides temporary living accommodations and an individual who is a resident in transitional housing.

"(B) SUBSTANCE ABUSE.—The term 'substance abuse' has the same meaning given such term in section 534(4).

"(C) SUBSTANCE ABUSE SERVICES.—The term 'substance abuse services' includes detoxification and residential treatment for substance abuse provided in settings other than hospitals.

"(i) RESIDENTS OF PUBLIC HOUSING.—

"(1) IN GENERAL.—The Secretary may award grants for the purposes described in subsections (c), (e), and (f) for the planning and delivery of services to a special medically underserved population comprised of residents of public housing (such term, for purposes of this subsection, shall have the same meaning given such term in section 3(b)(1) of the United States Housing Act of 1937) and individuals living in areas immediately accessible to such public housing.

"(2) SUPPLEMENT NOT SUPPLANT.—A grant awarded under this subsection shall be expended to supplement, and not supplant, the expenditures of the health center and the value of in kind contributions for the delivery of services to the population described in paragraph (1).

"(3) CONSULTATION WITH RESIDENTS.—The Secretary may not make a grant under paragraph (1) unless, with respect to the residents of the public housing involved, the applicant for the grant—

"(A) has consulted with the residents in the preparation of the application for the grant; and

"(B) agrees to provide for ongoing consultation with the residents regarding the planning and administration of the program carried out with the grant.

"(j) APPLICATIONS.—

"(1) SUBMISSION.—No grant may be made under this section unless an application therefore is submitted to, and approved by, the Secretary. Such an application shall be submitted in such form and manner and shall contain such information as the Secretary shall prescribe.

"(2) DESCRIPTION OF NEED.—An application for a grant under subparagraph (A) or (B) of subsection (e)(1) for a health center shall include—

"(A) a description of the need for health services in the catchment area of the center;

"(B) a demonstration by the applicant that the area or the population group to be served by the applicant has a shortage of personal health services; and

"(C) a demonstration that the center will be located so that it will provide services to the greatest number of individuals residing in the catchment area or included in such population group.

Such a demonstration shall be made on the basis of the criteria prescribed by the Secretary under subsection (b)(3) or on any other criteria which the Secretary may prescribe to determine if the area or population group to be served by the applicant has a shortage of personal health services. In considering an application for a grant under subparagraph (A) or (B) of subsection (e)(1), the Secretary may require as a condition to the approval of such application an assurance that the applicant

will provide any health service defined under paragraphs (1) and (2) of subsection (b) that the Secretary finds is needed to meet specific health needs of the area to be served by the applicant. Such a finding shall be made in writing and a copy shall be provided to the applicant.

"(3) REQUIREMENTS.—Except as provided in subsection (e)(1)(B), the Secretary may not approve an application for a grant under subparagraph (A) or (B) of subsection (e)(1) unless the Secretary determines that the entity for which the application is submitted is a health center (within the meaning of subsection (a)) and that—

"(A) the required primary health services of the center will be available and accessible in the catchment area of the center promptly, as appropriate, and in a manner which assures continuity;

"(B) the center has made and will continue to make every reasonable effort to establish and maintain collaborative relationships with other health care providers in the catchment area of the center;

"(C) the center will have an ongoing quality improvement system that includes clinical services and management, and that maintains the confidentiality of patient records;

"(D) the center will demonstrate its financial responsibility by the use of such accounting procedures and other requirements as may be prescribed by the Secretary;

"(E) the center—

"(i) has or will have a contractual or other arrangement with the agency of the State, in which it provides services, which administers or supervises the administration of a State plan approved under title XIX of the Social Security Act for the payment of all or a part of the center's costs in providing health services to persons who are eligible for medical assistance under such a State plan; or

"(ii) has made or will make every reasonable effort to enter into such an arrangement;

"(F) the center has made or will make and will continue to make every reasonable effort to collect appropriate reimbursement for its costs in providing health services to persons who are entitled to insurance benefits under title XVIII of the Social Security Act, to medical assistance under a State plan approved under title XIX of such Act, or to assistance for medical expenses under any other public assistance program or private health insurance program;

"(G) the center—

"(i) has prepared a schedule of fees or payments for the provision of its services consistent with locally prevailing rates or charges and designed to cover its reasonable costs of operation and has prepared a corresponding schedule of discounts to be applied to the payment of such fees or payments, which discounts are adjusted on the basis of the patient's ability to pay;

"(ii) has made and will continue to make every reasonable effort—

"(I) to secure from patients payment for services in accordance with such schedules; and

"(II) to collect reimbursement for health services to persons described in subparagraph (F) on the basis of the full amount of fees and payments for such services without application of any discount; and

"(iii) has submitted to the Secretary such reports as the Secretary may require to determine compliance with this subparagraph;

"(H) the center has established a governing board which except in the case of an entity operated by an Indian tribe or tribal or Indian organization under the Indian Self-Determination Act or an urban Indian organization under the Indian Health Care Improvement Act (25 U.S.C. 1651 et seq.)—

"(i) is composed of individuals, a majority of whom are being served by the center and who, as a group, represent the individuals being served by the center;

"(ii) meets at least once a month, selects the services to be provided by the center, schedules the hours during which such services will be provided, approves the center's annual budget, approves the selection of a director for the center, and, except in the case of a governing board of a public center (as defined in the second sentence of this paragraph), establishes general policies for the center; and

"(iii) in the case of an application for a second or subsequent grant for a public center, has approved the application or if the governing body has not approved the application, the failure of the governing body to approve the application was unreasonable;

except that, upon a showing of good cause the Secretary shall waive, for the length of the project period, all or part of the requirements of this subparagraph in the case of a health center that receives a grant pursuant to subsection (g), (h), (i), or (p);

"(I) the center has developed—

"(i) an overall plan and budget that meets the requirements of the Secretary; and

"(ii) an effective procedure for compiling and reporting to the Secretary such statistics and other information as the Secretary may require relating to—

"(I) the costs of its operations;

"(II) the patterns of use of its services;

"(III) the availability, accessibility, and acceptability of its services; and

"(IV) such other matters relating to operations of the applicant as the Secretary may require;

"(J) the center will review periodically its catchment area to—

"(i) ensure that the size of such area is such that the services to be provided through the center (including any satellite) are available and accessible to the residents of the area promptly and as appropriate;

"(ii) ensure that the boundaries of such area conform, to the extent practicable, to relevant boundaries

of political subdivisions, school districts, and Federal and State health and social service programs; and

"(iii) ensure that the boundaries of such area eliminate, to the extent possible, barriers to access to the services of the center, including barriers resulting from the area's physical characteristics, its residential patterns, its economic and social grouping, and available transportation;

"(K) in the case of a center which serves a population including a substantial proportion of individuals of limited English-speaking ability, the center has—

"(i) developed a plan and made arrangements responsive to the needs of such population for providing services to the extent practicable in the language and cultural context most appropriate to such individuals; and

"(ii) identified an individual on its staff who is fluent in both that language and in English and whose responsibilities shall include providing guidance to such individuals and to appropriate staff members with respect to cultural sensitivities and bridging linguistic and cultural differences; and

"(L) the center, has developed an ongoing referral relationship with one or more hospitals.

For purposes of subparagraph (H), the term 'public center' means a health center funded (or to be funded) through a grant under this section to a public agency.

"(4) APPROVAL OF NEW OR EXPANDED SERVICE APPLICATIONS.—The Secretary shall approve applications for grants under subparagraph (A) or (B) of subsection (e)(1) for health centers which—

"(A) have not received a previous grant under such subsection; or

"(B) have applied for such a grant to expand their services;

in such a manner that the ratio of the medically underserved populations in rural areas which may be expected to use the services provided by such centers to the medically underserved populations in urban areas which may be expected to use the services provided by such centers is not less than two to three or greater than three to two.

"(k) TECHNICAL AND OTHER ASSISTANCE.—The Secretary may provide (either through the Department of Health and Human Services or by grant or contract) all necessary technical and other nonfinancial assistance (including fiscal and program management assistance and training in such management) to any public or private nonprofit entity to assist entities in developing plans for, or operating as, health centers, and in meeting the requirements of subsection (j)(2).

"(l) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—For the purpose of carrying out this section, in addition to the amounts authorized to be appropriated under subsection (d), there are authorized to be appropriated $802,124,000 for fiscal year 1997, and such sums as may be necessary for each of the fiscal years 1998 through 2001.

"(2) SPECIAL PROVISIONS.—

"(A) PUBLIC CENTERS.—The Secretary may not expend in any fiscal year, for grants under this section to public centers (as defined in the second sentence of subsection (j)(3)) the governing boards of which (as described in subsection (j)(3)(G)(ii)) do not establish general policies for such centers, an amount which exceeds 5 percent of the amounts appropriated under this section for that fiscal year. For purposes of applying the preceding sentence, the term 'public centers' shall not include health centers that receive grants pursuant to subsection (h) or (i).

"(B) DISTRIBUTION OF GRANTS.—

"(i) FISCAL YEAR 1997.—For fiscal year 1997, the Secretary, in awarding grants under this section shall ensure that the amounts made available under each of subsections (g), (h), and (i) in such fiscal year bears the same relationship to the total amount appropriated for such fiscal year under paragraph (1) as the amounts appropriated for fiscal year 1996 under each of sections 329, 340, and 340A (as such sections existed one day prior to the date of enactment of this section) bears to the total amount appropriated under sections 329, 330, 340, and 340A (as such sections existed one day prior to the date of enactment of this section) for such fiscal year.

"(ii) FISCAL YEARS 1998 AND 1999.—For each of the fiscal years 1998 and 1999, the Secretary, in awarding grants under this section shall ensure that the proportion of the amounts made available under each of subsections (g), (h), and (i) is equal to the proportion of amounts made available under each such subsection for the previous fiscal year, as such amounts relate to the total amounts appropriated for the previous fiscal year involved, increased or decreased by not more than 10 percent.

"(3) FUNDING REPORT.—The Secretary shall annually prepare and submit to the appropriate committees of Congress a report concerning the distribution of funds under this section that are provided to meet the health care needs of medically underserved populations, including the homeless, residents of public housing, and migratory and seasonal agricultural workers, and the appropriateness of the delivery systems involved in responding to the needs of the particular populations. Such report shall include an assessment of the relative health care access needs of the targeted populations and the rationale for any substantial changes in the distribution of funds.

"(m) MEMORANDUM OF AGREEMENT.—In carrying out this section, the Secretary may enter into a memorandum of agreement with a State. Such memorandum may include, where appropriate, provisions permitting such State to—

"(1) analyze the need for primary health services for medically underserved populations within such State;

"(2) assist in the planning and development of new health centers;

"(3) review and comment upon annual program plans and budgets of health centers, including comments upon allocations of health care resources in the State;

"(4) assist health centers in the development of clinical practices and fiscal and administrative systems through a technical assistance plan which is responsive to the requests of health centers; and

"(5) share information and data relevant to the operation of new and existing health centers.

"(n) RECORDS.—

"(1) IN GENERAL.—Each entity which receives a grant under subsection (e) shall establish and maintain such records as the Secretary shall require.

"(2) AVAILABILITY.—Each entity which is required to establish and maintain records under this subsection shall make such books, documents, papers, and records available to the Secretary or the Comptroller General of the United States, or any of their duly authorized representatives, for examination, copying or mechanical reproduction on or off the premises of such entity upon a reasonable request therefore. The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have the authority to conduct such examination, copying, and reproduction.

"(o) DELEGATION OF AUTHORITY.—The Secretary may delegate the authority to administer the programs authorized by this section to any office, except that the authority to enter into, modify, or issue approvals with respect to grants or contracts may be delegated only within the central office of the Health Resources and Services Administration.

"(p) SPECIAL CONSIDERATION.—In making grants under this section, the Secretary shall give special consideration to the unique needs of sparsely populated rural areas, including giving priority in the awarding of grants for new health centers under subsections (c) and (e), and the granting of waivers as appropriate and permitted under subsections (b)(1)(B)(i) and (j)(3)(G).

"(q) AUDITS.—

"(1) IN GENERAL.—Each entity which receives a grant under this section shall provide for an independent annual financial audit of any books, accounts, financial records, files, and other papers and property which relate to the disposition or use of the funds received under such grant and such other funds received by or allocated to the project for which such grant was made. For purposes of assuring accurate, current, and complete disclosure of the disposition or use of the funds received, each such audit shall be conducted in accordance with generally accepted accounting principles. Each audit shall evaluate—

"(A) the entity's implementation of the guidelines established by the Secretary respecting cost accounting,

"(B) the processes used by the entity to meet the financial and program reporting requirements of the Secretary, and

"(C) the billing and collection procedures of the entity and the relation of the procedures to its fee schedule and schedule of discounts and to the availability of health insurance and public programs to pay for the health services it provides.

A report of each such audit shall be filed with the Secretary at such time and in such manner as the Secretary may require.

Regulations.

"(2) RECORDS.—Each entity which receives a grant under this section shall establish and maintain such records as the Secretary shall by regulation require to facilitate the audit required by paragraph (1). The Secretary may specify by regulation the form and manner in which such records shall be established and maintained.

"(3) AVAILABILITY OF RECORDS.—Each entity which is required to establish and maintain records or to provide for and audit under this subsection shall make such books, documents, papers, and records available to the Secretary or the Comptroller General of the United States, or any of their duly authorized representatives, for examination, copying or mechanical reproduction on or off the premises of such entity upon a reasonable request therefore. The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have the authority to conduct such examination, copying, and reproduction.

"(4) WAIVER.—The Secretary may, under appropriate circumstances, waive the application of all or part of the requirements of this subsection with respect to an entity.".

SEC. 3. RURAL HEALTH OUTREACH, NETWORK DEVELOPMENT, AND TELEMEDICINE GRANT PROGRAM.

(a) IN GENERAL.—Subpart I of part D of title III of the Public Health Service Act (42 U.S.C. 254b et seq.) (as amended by section 2) is further amended by adding at the end thereof the following new section:

42 USC 254c.

"SEC. 330A. RURAL HEALTH OUTREACH, NETWORK DEVELOPMENT, AND TELEMEDICINE GRANT PROGRAM.

"(a) ADMINISTRATION.—The rural health services outreach demonstration grant program established under section 301 shall be administered by the Office of Rural Health Policy (of the Health Resources and Services Administration), in consultation with State rural health offices or other appropriate State governmental entities.

"(b) GRANTS.—Under the program referred to in subsection (a), the Secretary, acting through the Director of the Office of Rural Health Policy, may award grants to expand access to, coordinate, restrain the cost of, and improve the quality of essential health care services, including preventive and emergency services, through the development of integrated health care delivery systems or networks in rural areas and regions.

"(c) ELIGIBLE NETWORKS.—

"(1) OUTREACH NETWORKS.—To be eligible to receive a grant under this section, an entity shall—

"(A) be a rural public or nonprofit private entity that is or represents a network or potential network that includes three or more health care providers or other entities that provide or support the delivery of health care services; and

"(B) in consultation with the State office of rural health or other appropriate State entity, prepare and submit to the Secretary an application, at such time, in such manner, and containing such information as the Secretary may require, including—

"(i) a description of the activities which the applicant intends to carry out using amounts provided under the grant;

"(ii) a plan for continuing the project after Federal support is ended;

"(iii) a description of the manner in which the activities funded under the grant will meet health care needs of underserved rural populations within the State; and

"(iv) a description of how the local community or region to be served by the network or proposed network will be involved in the development and ongoing operations of the network.

"(2) FOR-PROFIT ENTITIES.—An eligible network may include for-profit entities so long as the network grantee is a nonprofit entity.

"(3) TELEMEDICINE NETWORKS.—

"(A) IN GENERAL.—An entity that is a health care provider and a member of an existing or proposed telemedicine network, or an entity that is a consortium of health care providers that are members of an existing or proposed telemedicine network shall be eligible for a grant under this section.

"(B) REQUIREMENT.—A telemedicine network referred to in subparagraph (A) shall, at a minimum, be composed of—

"(i) a multispecialty entity that is located in an urban or rural area, which can provide 24-hour a day access to a range of specialty care; and

"(ii) at least two rural health care facilities, which may include rural hospitals, rural physician offices, rural health clinics, rural community health clinics, and rural nursing homes.

"(d) PREFERENCE.—In awarding grants under this section, the Secretary shall give preference to applicant networks that include—

"(1) a majority of the health care providers serving in the area or region to be served by the network;

"(2) any federally qualified health centers, rural health clinics, and local public health departments serving in the area or region;

"(3) outpatient mental health providers serving in the area or region; or

"(4) appropriate social service providers, such as agencies on aging, school systems, and providers under the women, infants, and children program, to improve access to and coordination of health care services.

"(e) USE OF FUNDS.—

"(1) IN GENERAL.—Amounts provided under grants awarded under this section shall be used—

"(A) for the planning and development of integrated self-sustaining health care networks; and

"(B) for the initial provision of services.

"(2) EXPENDITURES IN RURAL AREAS.—

"(A) IN GENERAL.—In awarding a grant under this section, the Secretary shall ensure that not less than 50 percent of the grant award is expended in a rural area or to provide services to residents of rural areas.

"(B) TELEMEDICINE NETWORKS.—An entity described in subsection (c)(3) may not use in excess of—

"(i) 40 percent of the amounts provided under a grant under this section to carry out activities under paragraph (3)(A)(iii); and

"(ii) 20 percent of the amounts provided under a grant under this section to pay for the indirect costs associated with carrying out the purposes of such grant.

"(3) TELEMEDICINE NETWORKS.—

"(A) IN GENERAL.—An entity described in subsection (c)(3), may use amounts provided under a grant under this section to—

"(i) demonstrate the use of telemedicine in facilitating the development of rural health care networks and for improving access to health care services for rural citizens;

"(ii) provide a baseline of information for a systematic evaluation of telemedicine systems serving rural areas;

"(iii) purchase or lease and install equipment; and

"(iv) operate the telemedicine system and evaluate the telemedicine system.

"(B) LIMITATIONS.—An entity described in subsection (c)(3), may not use amounts provided under a grant under this section—

"(i) to build or acquire real property;

"(ii) purchase or install transmission equipment (such as laying cable or telephone lines, microwave towers, satellite dishes, amplifiers, and digital switching equipment); or

"(iii) for construction, except that such funds may be expended for minor renovations relating to the installation of equipment;

"(f) TERM OF GRANTS.—Funding may not be provided to a network under this section for in excess of a 3-year period.

"(g) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section there are authorized to be appropriated $36,000,000 for fiscal year 1997, and such sums as may be necessary for each of the fiscal years 1998 through 2001.".

42 USC 254b note.

(b) TRANSITION.—The Secretary of Health and Human Services shall ensure the continued funding of grants made, or contracts or cooperative agreements entered into, under subpart I of part D of title III of the Public Health Service Act (42 U.S.C. 254b et seq.) (as such subpart existed on the day prior to the date of enactment of this Act), until the expiration of the grant period or the term of the contract or cooperative agreement. Such funding shall be continued under the same terms and conditions as were in effect on the date on which the grant, contract or cooperative agreement was awarded, subject to the availability of appropriations.

SEC. 4. TECHNICAL AND CONFORMING AMENDMENTS.

(a) IN GENERAL.—The Public Health Service Act is amended—

(1) in section 224(g)(4) (42 U.S.C. 233(g)(4)), by striking "under" and all that follows through the end thereof and inserting "under section 330.";

(2) in section 340C(a)(2) (42 U.S.C. 256c) by striking "under" and all that follows through the end thereof and inserting "with assistance provided under section 330."; and

(3) by repealing subparts V and VI of part D of title III (42 U.S.C. 256 et seq.).

(b) SOCIAL SECURITY ACT.—The Social Security Act is amended—

(1) in clauses (i) and (ii)(I) of section 1861(aa)(4)(A) (42 U.S.C. 1395x(aa)(4)(A) (i) and (ii)(I)) by striking "section 329, 330, or 340" and inserting "section 330 (other than subsection (h))"; and

(2) in clauses (i) and (ii)(II) of section 1905(l)(2)(B) (42 U.S.C. 1396d(l)(2)(B) (i) and (ii)(II)) by striking "section 329, 330, 340, or 340A" and inserting "section 330".

(c) REFERENCES.—Whenever any reference is made in any provision of law, regulation, rule, record, or document to a community health center, migrant health center, public housing health center, or homeless health center, such reference shall be considered a reference to a health center. 42 USC 254b note.

(d) FTCA CLARIFICATION.—For purposes of section 224(k)(3) of the Public Health Service Act (42 U.S.C. 233(k)(3)), transfers from the fund described in such section for fiscal year 1996 shall be deemed to have occurred prior to December 31, 1995.

(e) ADDITIONAL AMENDMENTS.—After consultation with the appropriate committees of the Congress, the Secretary of Health and Human Services shall prepare and submit to the Congress a legislative proposal in the form of an implementing bill containing technical and conforming amendments to reflect the changes made by this Act. 42 USC 254b note.

SEC. 5. EFFECTIVE DATE. 42 USC 233 note.

This Act and the amendments made by this Act shall become effective on October 1, 1997.

Approved October 11, 1996.

LEGISLATIVE HISTORY—S. 1044:

SENATE REPORTS: No. 104–186 (Comm. on Labor and Human Resources).
CONGRESSIONAL RECORD, Vol. 142 (1996):
Sept. 20, considered and passed Senate.
Sept. 27, considered and passed House.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 32 (1996):
Oct. 11, Presidential statement.

Public Law 104–300
104th Congress

An Act

Oct. 11, 1996
[S. 1467]

To authorize the construction of the Fort Peck Rural County Water Supply System, to authorize assistance to the Fort Peck Rural County Water District, Inc., a nonprofit corporation, for the planning, design, and construction of the water supply system, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Fort Peck Rural County Water Supply System Act of 1996.
Montana.
Contracts.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Fort Peck Rural County Water Supply System Act of 1996".

SEC. 2. DEFINITIONS.

For the purposes of this Act:

(1) CONSTRUCTION.—The term "construction" means such activities associated with the actual development or construction of facilities as are initiated on execution of contracts for construction.

(2) DISTRICT.—The term "District" means the Fort Peck Rural County Water District, Inc., a nonprofit corporation in Montana.

(3) FEASIBILITY STUDY.—The term "feasibility study" means the study entitled "Final Engineering Report and Alternative Evaluation for the Fort Peck Rural County Water District", dated September 1994.

(4) PLANNING.—The term "planning" means activities such as data collection, evaluation, design, and other associated preconstruction activities required prior to the execution of contracts for construction.

(5) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(6) WATER SUPPLY SYSTEM.—The term "water supply system" means the Fort Peck Rural County Water Supply System, to be established and operated substantially in accordance with the feasibility study.

SEC. 3. FEDERAL ASSISTANCE FOR WATER SUPPLY SYSTEM.

(a) IN GENERAL.—Upon request of the District, the Secretary shall enter into a cooperative agreement with the District for the planning, design, and construction by the District of the water supply system. Title to this project shall remain in the name of the District.

(b) SERVICE AREA.—The water supply system shall provide for safe and adequate rural water supplies under the jurisdiction

of the District in Valley County, northeastern Montana (as described in the feasibility study).

(c) AMOUNT OF FEDERAL CONTRIBUTION.—

(1) IN GENERAL.—Subject to paragraph (3), under the cooperative agreement, the Secretary shall pay the Federal share of—

(A) costs associated with the planning, design, and construction of the water supply system (as identified in the feasibility study); and

(B) such sums as are necessary to defray increases in the budget.

(2) FEDERAL SHARE.—The Federal share referred to in paragraph (1) shall be 75 percent and shall not be reimbursable.

(3) TOTAL.—The amount of Federal funds made available under the cooperative agreement shall not exceed the amount of funds authorized to be appropriated under section 4.

(4) LIMITATIONS.—Not more than 5 percent of the amount of Federal funds made available to the Secretary under section 4 may be used by the Secretary for activities associated with—

(A) compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(B) oversight of the planning, design, and construction by the District of the water supply system.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this Act $5,800,000. This authorization shall terminate after a period of 5 complete fiscal years after the date of enactment of this Act unless the Congress has appropriated funds for the construction purposes of this Act. This authorization shall be extended 1 additional year if the Secretary has requested such appropriation. The funds authorized to be appropriated may be increased or decreased by such amounts as are justified by reason of ordinary fluctuations in development costs incurred after October 1, 1994, as indicated by engineering cost indices applicable to the type of construction project authorized under this Act. All costs which exceed the amounts authorized by this Act, including costs associated with the ongoing energy needs, operation, and maintenance of this project shall remain the responsibility of the District.

Termination date.

SEC. 5. CACHUMA PROJECT, BRADBURY DAM, CALIFORNIA.

The prohibition against obligating funds for construction until 60 days from the date that the Secretary of the Interior transmits a report to the Congress in accordance with section 5 of the Reclamation Safety of Dams Act of 1978 (43 U.S.C. 509) is waived for the Cachuma Project, Bradbury Dam, California.

Approved October 11, 1996.

LEGISLATIVE HISTORY—S. 1467:

HOUSE REPORTS: No. 104–769 (Comm. on Resources).
SENATE REPORTS: No. 104–242 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 142 (1996):
May 7, considered and passed Senate.
Sept. 4, considered and passed House, amended.
Sept. 28, Senate concurred in House amendment.

Public Law 104–301
104th Congress

An Act

To provide for the settlement of the Navajo-Hopi land dispute, and for other purposes.

Oct. 11, 1996
[S. 1973]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Navajo-Hopi Land Dispute Settlement Act of 1996.
25 USC 640d note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Navajo-Hopi Land Dispute Settlement Act of 1996".

25 USC 640d note.

SEC. 2. FINDINGS.

The Congress finds that—

(1) it is in the public interest for the Tribe, Navajos residing on the Hopi Partitioned Lands, and the United States to reach a peaceful resolution of the longstanding disagreements between the parties under the Act commonly known as the "Navajo-Hopi Land Settlement Act of 1974" (Public Law 93–531; 25 U.S.C. 640d et seq.);

(2) it is in the best interest of the Tribe and the United States that there be a fair and final settlement of certain issues remaining in connection with the Navajo-Hopi Land Settlement Act of 1974, including the full and final settlement of the multiple claims that the Tribe has against the United States;

(3) this Act, together with the Settlement Agreement executed on December 14, 1995, and the Accommodation Agreement (as incorporated by the Settlement Agreement), provide the authority for the Tribe to enter agreements with eligible Navajo families in order for those families to remain residents of the Hopi Partitioned Lands for a period of 75 years, subject to the terms and conditions of the Accommodation Agreement;

(4) the United States acknowledges and respects—

(A) the sincerity of the traditional beliefs of the members of the Tribe and the Navajo families residing on the Hopi Partitioned Lands; and

(B) the importance that the respective traditional beliefs of the members of the Tribe and Navajo families have with respect to the culture and way of life of those members and families;

(5) this Act, the Settlement Agreement, and the Accommodation Agreement provide for the mutual respect and protection of the traditional religious beliefs and practices of the Tribe and the Navajo families residing on the Hopi Partitioned Lands;

(6) the Tribe is encouraged to work with the Navajo families residing on the Hopi Partitioned Lands to address their concerns regarding the establishment of family or individual burial

plots for deceased family members who have resided on the Hopi Partitioned Lands; and

(7) neither the Navajo Nation nor the Navajo families residing upon Hopi Partitioned Lands were parties to or signers of the Settlement Agreement between the United States and the Hopi Tribe.

25 USC 640d note.

SEC. 3. DEFINITIONS.

Except as otherwise provided in this Act, for purposes of this Act, the following definitions shall apply:

(1) ACCOMMODATION.—The term "Accommodation" has the meaning provided that term under the Settlement Agreement.

(2) HOPI PARTITIONED LANDS.—The term "Hopi Partitioned Lands" means lands located in the Hopi Partitioned Area, as defined in section 168.1(g) of title 25, Code of Federal Regulations (as in effect on the date of enactment of this Act).

(3) NAVAJO PARTITIONED LANDS.—The term "Navajo Partitioned Lands" has the meaning provided that term in the proposed regulations issued on November 1, 1995, at 60 Fed. Reg. 55506.

(4) NEW LANDS.—The term "New Lands" has the meaning provided that term in section 700.701(b) of title 25, Code of Federal Regulations.

(5) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(6) SETTLEMENT AGREEMENT.—The term "Settlement Agreement" means the agreement between the United States and the Hopi Tribe executed on December 14, 1995.

(7) TRIBE.—The term "Tribe" means the Hopi Tribe.

(8) NEWLY ACQUIRED TRUST LANDS.—The term "newly acquired trust lands" means lands taken into trust for the Tribe within the State of Arizona pursuant to this Act or the Settlement Agreement.

25 USC 640d note.

SEC. 4. RATIFICATION OF SETTLEMENT AGREEMENT.

The United States approves, ratifies, and confirms the Settlement Agreement.

Arizona. 25 USC 640d note.

SEC. 5. CONDITIONS FOR LANDS TAKEN INTO TRUST.

The Secretary shall take such action as may be necessary to ensure that the following conditions are met prior to taking lands into trust for the benefit of the Tribe pursuant to the Settlement Agreement:

(1) SELECTION OF LANDS TAKEN INTO TRUST.—

(A) PRIMARY AREA.—In accordance with section 7(a) of the Settlement Agreement, the primary area within which lands acquired by the Tribe may be taken into trust by the Secretary for the benefit of the Tribe under the Settlement Agreement shall be located in northern Arizona.

(B) REQUIREMENTS FOR LANDS TAKEN INTO TRUST IN THE PRIMARY AREA.—Lands taken into trust in the primary area referred to in subparagraph (A) shall be—

(i) land that is used substantially for ranching, agriculture, or another similar use; and

(ii) to the extent feasible, in contiguous parcels.

(2) ACQUISITION OF LANDS.—Before taking any land into trust for the benefit of the Tribe under this section, the Secretary shall ensure that—

(A) at least 85 percent of the eligible Navajo heads of household (as determined under the Settlement Agreement) have entered into an accommodation or have chosen to relocate and are eligible for relocation assistance (as determined under the Settlement Agreement); and

(B) the Tribe has consulted with the State of Arizona concerning the lands proposed to be placed in trust, including consulting with the State concerning the impact of placing those lands into trust on the State and political subdivisions thereof resulting from the removal of land from the tax rolls in a manner consistent with the provisions of part 151 of title 25, Code of Federal Regulations.

(3) PROHIBITION.—The Secretary may not, pursuant to the provisions of this Act and the Settlement Agreement, place lands, any portion of which are located within or contiguous to a 5-mile radius of an incorporated town or city (as those terms are defined by the Secretary) in northern Arizona, into trust for benefit of the Tribe without specific statutory authority.

(4) EXPEDITIOUS ACTION BY THE SECRETARY.—Consistent with all other provisions of this Act, the Secretary is directed to take lands into trust under this Act expeditiously and without undue delay.

SEC. 6. ACQUISITION THROUGH CONDEMNATION OF CERTAIN INTERSPERSED LANDS.

25 USC 640d note.

(a) IN GENERAL.—

Arizona.

(1) ACTION BY THE SECRETARY.—

(A) IN GENERAL.—The Secretary shall take action as specified in subparagraph (B), to the extent that the Tribe, in accordance with section 7(b) of the Settlement Agreement—

(i) acquires private lands; and

(ii) requests the Secretary to acquire through condemnation interspersed lands that are owned by the State of Arizona and are located within the exterior boundaries of those private lands in order to have both the private lands and the State lands taken into trust by the Secretary for the benefit of the Tribe.

(B) ACQUISITION THROUGH CONDEMNATION.—With respect to a request for an acquisition of lands through condemnation made under subparagraph (A), the Secretary shall, upon the recommendation of the Tribe, take such action as may be necessary to acquire the lands through condemnation and, with funds provided by the Tribe, pay the State of Arizona fair market value for those lands in accordance with applicable Federal law, if the conditions described in paragraph (2) are met.

(2) CONDITIONS FOR ACQUISITION THROUGH CONDEMNATION.—The Secretary may acquire lands through condemnation under this subsection if—

(A) that acquisition is consistent with the purpose of obtaining not more than 500,000 acres of land to be taken into trust for the Tribe;

(B) the State of Arizona concurs with the United States that the acquisition is consistent with the interests of the State; and

(C) the Tribe pays for the land acquired through condemnation under this subsection.

(b) DISPOSITION OF LANDS.—If the Secretary acquires lands through condemnation under subsection (a), the Secretary shall take those lands into trust for the Tribe in accordance with this Act and the Settlement Agreement.

(c) PRIVATE LANDS.—The Secretary may not acquire private lands through condemnation for the purpose specified in subsection (a)(2)(A).

25 USC 640d note.

SEC. 7. ACTION TO QUIET POSSESSION.

If the United States fails to discharge the obligations specified in section 9(c) of the Settlement Agreement with respect to voluntary relocation of Navajos residing on Hopi Partitioned Lands, or section 9(d) of the Settlement Agreement, relating to the implementation of sections 700.137 through 700.139 of title 25, Code of Federal Regulations, on the New Lands, including failure for reason of insufficient funds made available by appropriations or otherwise, the Tribe may bring an action to quiet possession that relates to the use of the Hopi Partitioned Lands after February 1, 2000, by a Navajo family that is eligible for an accommodation, but fails to enter into an accommodation.

25 USC 640d note.

SEC. 8. PAYMENT TO STATE OF ARIZONA.

(a) AUTHORIZATION OF APPROPRIATIONS.—Subject to subsection (b), there are authorized to be appropriated to the Department of the Interior $250,000 for fiscal year 1998, to be used by the Secretary of the Interior for making a payment to the State of Arizona.

(b) PAYMENT.—The Secretary shall make a payment in the amount specified in subsection (a) to the State of Arizona after an initial acquisition of land from the State has been made by the Secretary pursuant to section 6.

25 USC 640d note.

SEC. 9. 75-YEAR LEASING AUTHORITY.

The first section of the Act of August 9, 1955 (69 Stat. 539, chapter 615; 25 U.S.C. 415) is amended by adding at the end the following new subsections:

"(c) LEASES INVOLVING THE HOPI TRIBE AND THE HOPI PARTITIONED LANDS ACCOMMODATION AGREEMENT.—Notwithstanding subsection (a), a lease of land by the Hopi Tribe to Navajo Indians on the Hopi Partitioned Lands may be for a term of 75 years, and may be extended at the conclusion of the term of the lease.

"(d) DEFINITIONS.—For purposes of this section—

"(1) the term 'Hopi Partitioned Lands' means lands located in the Hopi Partitioned Area, as defined in section 168.1(g) of title 25, Code of Federal Regulations (as in effect on the date of enactment of this subsection); and

"(2) the term 'Navajo Indians' means members of the Navajo Tribe.".

25 USC 640d note.

SEC. 10. REAUTHORIZATION OF THE NAVAJO-HOPI RELOCATION HOUSING PROGRAM.

Section 25(a)(8) of Public Law 93–531 (25 U.S.C. 640d–24(a)(8)) is amended by striking "1996, and 1997" and inserting "1996, 1997, 1998, 1999, and 2000".

SEC. 11. EFFECT OF THIS ACT ON CASES INVOLVING THE NAVAJO NATION AND THE HOPI TRIBE. 25 USC 640d note.

Nothing in this Act or the amendments made by this Act shall be interpreted or deemed to preclude, limit, or endorse, in any manner, actions by the Navajo Nation that seek, in court, an offset from judgments for payments received by the Hopi Tribe under the Settlement Agreement.

SEC. 12. WATER RIGHTS. 25 USC 640d note.

(a) IN GENERAL.—

(1) WATER RIGHTS.—Subject to the other provisions of this section, newly acquired trust lands shall have only the following water rights:

(A) The right to the reasonable use of groundwater pumped from such lands.

(B) All rights to the use of surface water on such lands existing under State law on the date of acquisition, with the priority date of such right under State law.

(C) The right to make any further beneficial use on such lands which is unappropriated on the date each parcel of newly acquired trust lands is taken into trust. The priority date for the right shall be the date the lands are taken into trust.

(2) RIGHTS NOT SUBJECT TO FORFEITURE OR ABANDONMENT.—The Tribe's water rights for newly acquired trust lands shall not be subject to forfeiture or abandonment arising from events occurring after the date the lands are taken into trust.

(b) RECOGNITION AS VALID USES.—

(1) GROUNDWATER.—With respect to water rights associated with newly acquired trust lands, the Tribe, and the United States on the Tribe's behalf, shall recognize as valid all uses of groundwater which may be made from wells (or their subsequent replacements) in existence on the date each parcel of newly acquired trust land is acquired and shall not object to such groundwater uses on the basis of water rights associated with the newly acquired trust lands. The Tribe, and the United States on the Tribe's behalf, may object only to the impact of groundwater uses on newly acquired trust lands which are initiated after the date the lands affected are taken into trust and only on grounds allowed by the State law as it exists when the objection is made. The Tribe, and the United States on the Tribe's behalf, shall not object to the impact of groundwater uses on the Tribe's right to surface water established pursuant to subsection (a)(3) when those groundwater uses are initiated before the Tribe initiates its beneficial use of surface water pursuant to subsection (a)(3).

(2) SURFACE WATER.—With respect to water rights associated with newly acquired trust lands, the Tribe, and the United States on the Tribe's behalf, shall recognize as valid all uses of surface water in existence on or prior to the date each parcel of newly acquired trust land is acquired and shall not object to such surface water uses on the basis of water rights associated with the newly acquired trust lands, but shall have the right to enforce the priority of its rights against all junior water rights the exercise of which interfere with the actual use of the Tribe's senior surface water rights.

(3) RULE OF CONSTRUCTION.—Nothing in paragraph (1) or (2) shall preclude the Tribe, or the United States on the Tribe's behalf, from asserting objections to water rights and uses on the basis of the Tribe's water rights on its currently existing trust lands.

(c) APPLICABILITY OF STATE LAW ON LANDS OTHER THAN NEWLY ACQUIRED LANDS.—The Tribe, and the United States on the Tribe's behalf, further recognize that State law applies to water uses on lands, including subsurface estates, that exist within the exterior boundaries of newly acquired trust lands and that are owned by any party other than the Tribe.

(d) ADJUDICATION OF WATER RIGHTS ON NEWLY ACQUIRED TRUST LANDS.—The Tribe's water rights on newly acquired trust lands shall be adjudicated with the rights of all other competing users in the court now presiding over the Little Colorado River Adjudication, or if that court no longer has jurisdiction, in the appropriate State or Federal court. Any controversies between or among users arising under Federal or State law involving the Tribe's water rights on newly acquired trust lands shall be resolved in the court now presiding over the Little Colorado River Adjudication, or, if that court no longer has jurisdiction, in the appropriate State or Federal court. Nothing in this subsection shall be construed to affect any court's jurisdiction: *Provided,* That the Tribe shall administer all water rights established in subsection (a).

(e) PROHIBITION.—Water rights for newly acquired trust lands shall not be used, leased, sold, or transported for use off of such lands or the Tribe's other trust lands: *Provided,* That the Tribe may agree with other persons having junior water rights to subordinate the Tribe's senior water rights. Water rights for newly acquired trust lands can only be used on those lands or other trust lands of the Tribe located within the same river basin tributary to the main stream of the Colorado River.

(f) SUBSURFACE INTERESTS.—On any newly acquired trust lands where the subsurface interest is owned by any party other than the Tribe, the trust status of the surface ownership shall not impair any existing right of the subsurface owner to develop the subsurface interest and to have access to the surface for the purpose of such development.

(g) STATUTORY CONSTRUCTION WITH RESPECT TO WATER RIGHTS OF OTHER FEDERALLY RECOGNIZED INDIAN TRIBES.—Nothing in this section shall affect the water rights of any other federally recognized Indian tribe with a priority date earlier than the date the newly acquired trust lands are taken into trust.

(h) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to determine the law applicable to water use on lands owned by the United States, other than on the newly acquired trust lands. The granting of the right to make beneficial use of unappropriated surface water on the newly acquired trust lands with a priority date such lands are taken into trust shall not be construed to imply that such right is a Federal reserved water

right. Nothing in this section or any other provision of this Act shall be construed to establish any Federal reserved right to groundwater. Authority for the Secretary to take land into trust for the Tribe pursuant to the Settlement Agreement and this Act shall be construed as having been provided solely by the provisions of this Act.

Approved October 11, 1996.

LEGISLATIVE HISTORY—S. 1973:

SENATE REPORTS: No. 104–363 (Comm. on Indian Affairs).
CONGRESSIONAL RECORD, Vol. 142 (1996):
Sept. 26, considered and passed Senate.
Sept. 28, considered and passed House.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 32 (1996):
Oct. 11, Presidential statement.

Public Law 104–302
104th Congress

An Act

Oct. 11, 1996
[S. 2197]

To extend the authorized period of stay within the United States for certain nurses.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

8 USC 1182 note.

SECTION 1. EXTENSION OF AUTHORIZED PERIOD OF STAY FOR CERTAIN NURSES.

(a) ALIENS WHO PREVIOUSLY ENTERED THE UNITED STATES PURSUANT TO AN H–1A VISA.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the authorized period of stay in the United States of any nonimmigrant described in paragraph (2) is hereby extended through September 30, 1997.

(2) NONIMMIGRANT DESCRIBED.—A nonimmigrant described in this paragraph is a nonimmigrant—

(A) who entered the United States as a nonimmigrant described in section 101(a)(15)(H)(i)(a) of the Immigration and Nationality Act;

(B) who was within the United States on or after September 1, 1995, and who is within the United States on the date of the enactment of this Act; and

(C) whose period of authorized stay has expired or would expire before September 30, 1997 but for the provisions of this section.

(3) LIMITATIONS.—Nothing in this section may be construed to extend the validity of any visa issued to a nonimmigrant described in section 101(a)(15)(H)(i)(a) of the Immigration and Nationality Act or to authorize the re-entry of any person outside the United States on the date of the enactment of this Act.

(b) CHANGE OF EMPLOYMENT.—A nonimmigrant whose authorized period of stay is extended by operation of this section shall not be eligible to change employers in accordance with section 214.2(h)(2)(i)(D) of title 8, Code of Federal Regulations (as in effect on the day before the date of the enactment of this Act).

(c) REGULATIONS.—Not later than 30 days after the date of the enactment of this Act, the Attorney General shall issue regulations to carry out the provisions of this section.

(d) INTERIM TREATMENT.—A nonimmigrant whose authorized period of stay is extended by operation of this section, and the spouse and child of such nonimmigrant, shall be considered as having continued to maintain lawful status as a nonimmigrant through September 30, 1997.

SEC. 2. TECHNICAL CORRECTION.

Effective on September 30, 1996, subtitle A of title III of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 is amended— Effective date.

(1) in section 306(c)(1), by striking "to all final" and all that follows through "Act and"and inserting "as provided under section 309, except that"; 8 USC 1252 note.

(2) in section 309(c)(1), by striking "as of" and inserting "before"; and 8 USC 1101 note.

(3) in section 309(c)(4), by striking "described in paragraph (1)".

Approved October 11, 1996.

LEGISLATIVE HISTORY—S. 2197:

CONGRESSIONAL RECORD, Vol. 142 (1996):
Oct. 3, considered and passed Senate.
Oct. 4, considered and passed House.

Public Law 104–303
104th Congress

An Act

Oct. 12, 1996
[S. 640]

To provide for the conservation and development of water and related resources, to authorize the Secretary of the Army to construct various projects for improvements to rivers and harbors of the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Water Resources Development Act of 1996.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

33 USC 2201 note.

(a) SHORT TITLE.—This Act may be cited as the "Water Resources Development Act of 1996".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.

TITLE I—WATER RESOURCES PROJECTS

Sec. 101. Project authorizations.
Sec. 102. Small flood control projects.
Sec. 103. Small bank stabilization projects.
Sec. 104. Small navigation projects.
Sec. 105. Small shoreline protection projects.
Sec. 106. Small snagging and sediment removal project, Mississippi River, Little Falls, Minnesota.
Sec. 107. Small projects for improvement of the environment.

TITLE II—GENERAL PROVISIONS

Sec. 201. Cost sharing for dredged material disposal areas.
Sec. 202. Flood control policy.
Sec. 203. Cost sharing for feasibility studies.
Sec. 204. Restoration of environmental quality.
Sec. 205. Environmental dredging.
Sec. 206. Aquatic ecosystem restoration.
Sec. 207. Beneficial uses of dredged material.
Sec. 208. Recreation policy and user fees.
Sec. 209. Recovery of costs.
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Sec. 211. Construction of flood control projects by non-Federal interests.
Sec. 212. Engineering and environmental innovations of national significance.
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Sec. 224. Section 215 reimbursement limitation per project.
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Sec. 229. Support of Army civil works program.
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Sec. 236. Technical corrections.
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Sec. 302. Mobile Harbor, Alabama.
Sec. 303. Nogales Wash and Tributaries, Arizona.
Sec. 304. White River Basin, Arkansas and Missouri.
Sec. 305. Channel Islands Harbor, California.
Sec. 306. Lake Elsinore, California.
Sec. 307. Los Angeles and Long Beach Harbors, San Pedro Bay, California.
Sec. 308. Los Angeles County drainage area, California.
Sec. 309. Prado Dam, California.
Sec. 310. Queensway Bay, California.
Sec. 311. Seven Oaks Dam, California.
Sec. 312. Thames River, Connecticut.
Sec. 313. Canaveral Harbor, Florida.
Sec. 314. Captiva Island, Florida.
Sec. 315. Central and Southern Florida, Canal 51.
Sec. 316. Central and Southern Florida, Canal 111.
Sec. 317. Jacksonville Harbor (Mill Cove), Florida.
Sec. 318. Panama City Beaches, Florida.
Sec. 319. Chicago, Illinois.
Sec. 320. Chicago Lock and Thomas J. O'Brien Lock, Illinois.
Sec. 321. Kaskaskia River, Illinois.
Sec. 322. Locks and Dam 26, Alton, Illinois and Missouri.
Sec. 323. White River, Indiana.
Sec. 324. Baptiste Collette Bayou, Louisiana.
Sec. 325. Lake Pontchartrain, Louisiana.
Sec. 326. Mississippi River-Gulf Outlet, Louisiana.
Sec. 327. Tolchester Channel, Maryland.
Sec. 328. Cross Village Harbor, Michigan.
Sec. 329. Saginaw River, Michigan.
Sec. 330. Sault Sainte Marie, Chippewa County, Michigan.
Sec. 331. St. Johns Bayou and New Madrid Floodway, Missouri.
Sec. 332. Lost Creek, Columbus, Nebraska.
Sec. 333. Passaic River, New Jersey.
Sec. 334. Acequias irrigation system, New Mexico.
Sec. 335. Jones Inlet, New York.
Sec. 336. Buford Trenton Irrigation District, North Dakota.
Sec. 337. Reno Beach-Howards Farm, Ohio.
Sec. 338. Broken Bow Lake, Red River Basin, Oklahoma.
Sec. 339. Wister Lake project, Leflore County, Oklahoma.
Sec. 340. Bonneville Lock and Dam, Columbia River, Oregon and Washington.
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Sec. 342. Lackawanna River at Scranton, Pennsylvania.
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Sec. 345. South Central Pennsylvania.
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Sec. 427. City of North Las Vegas, Clark County, Nevada.
Sec. 428. Lower Las Vegas Wash wetlands, Clark County, Nevada.
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Sec. 531. Southern and Eastern Kentucky.
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Sec. 581. West Virginia and Pennsylvania flood control.
Sec. 582. Site designation.
Sec. 583. Long Island Sound.
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Sec. 586. Privatization of infrastructure assets.

TITLE VI—EXTENSION OF EXPENDITURE AUTHORITY UNDER HARBOR MAINTENANCE TRUST FUND

Sec. 601. Extension of expenditure authority under Harbor Maintenance Trust Fund.

33 USC 2201 note.

SEC. 2. DEFINITION.

In this Act, the term "Secretary" means the Secretary of the Army.

TITLE I—WATER RESOURCES PROJECTS

SEC. 101. PROJECT AUTHORIZATIONS.

(a) PROJECTS WITH CHIEF'S REPORTS.—Except as provided in this subsection, the following projects for water resources development and conservation and other purposes are authorized to be carried out by the Secretary substantially in accordance with the plans, and subject to the conditions, described in the respective reports designated in this subsection:

(1) AMERICAN RIVER WATERSHED, CALIFORNIA.—

(A) IN GENERAL.—The project for flood damage reduction, American and Sacramento Rivers, California: Report of the Chief of Engineers, dated June 27, 1996, at a total cost of $56,900,000, with an estimated Federal cost of $42,675,000 and an estimated non-Federal cost of $14,225,000, consisting of—

(i) approximately 24 miles of slurry wall in the levees along the lower American River;

(ii) approximately 12 miles of levee modifications along the east bank of the Sacramento River downstream from the Natomas Cross Canal;

(iii) 3 telemeter streamflow gauges upstream from the Folsom Reservoir; and

(iv) modifications to the flood warning system along the lower American River.

(B) CREDIT TOWARD NON-FEDERAL SHARE.—The non-Federal interest shall receive credit toward the non-Federal share of project costs for expenses that the non-Federal interest incurs for design or construction of any of the features authorized under this paragraph before the date on which Federal funds are made available for construction of the project. The amount of the credit shall be determined by the Secretary.

(C) INTERIM OPERATION.—Until such time as a comprehensive flood damage reduction plan for the American River watershed has been implemented, the Secretary of the Interior shall continue to operate the Folsom Dam and Reservoir to the variable 400,000/670,000 acre-feet of flood control storage capacity and shall extend the agreement between the Bureau of Reclamation and the Sacramento Area Flood Control Agency with respect to the watershed.

(D) OTHER COSTS.—The non-Federal interest shall be responsible for—

(i) all operation, maintenance, repair, replacement, and rehabilitation costs associated with the improvements carried out under this paragraph; and

(ii) 25 percent of the costs incurred for the variable flood control operation of the Folsom Dam and Reservoir during the 4-year period beginning on the date of the enactment of this Act and 100 percent of such costs thereafter.

(2) HUMBOLDT HARBOR AND BAY, CALIFORNIA.—The project for navigation, Humboldt Harbor and Bay, California: Report of the Chief of Engineers, dated October 30, 1995, at a total cost of $15,180,000, with an estimated Federal cost of $10,000,000 and an estimated non-Federal cost of $5,180,000.

(3) MARIN COUNTY SHORELINE, SAN RAFAEL, CALIFORNIA.—The project for hurricane and storm damage reduction, Marin County shoreline, San Rafael, California: Report of the Chief of Engineers, dated January 28, 1994, at a total cost of $28,300,000, with an estimated Federal cost of $18,400,000 and an estimated non-Federal cost of $9,900,000.

(4) PORT OF LONG BEACH (DEEPENING), CALIFORNIA.—The project for navigation, Port of Long Beach (Deepening), California: Report of the Chief of Engineers, dated July 26, 1996, at a total cost of $37,288,000, with an estimated Federal cost of $14,318,000 and an estimated non-Federal cost of $22,970,000.

(5) SAN LORENZO RIVER, CALIFORNIA.—The project for flood control, San Lorenzo River, California: Report of the Chief of Engineers, dated June 30, 1994, at a total cost of $21,800,000, with an estimated Federal cost of $10,900,000 and an estimated non-Federal cost of $10,900,000 and habitat restoration, at a total cost of $4,050,000, with an estimated Federal cost of $3,040,000 and an estimated non-Federal cost of $1,010,000.

(6) SANTA BARBARA HARBOR, CALIFORNIA.—The project for navigation, Santa Barbara Harbor, California: Report of the Chief of Engineers, dated April 26, 1994, at a total cost of $5,840,000, with an estimated Federal cost of $4,670,000 and an estimated non-Federal cost of $1,170,000.

(7) SANTA MONICA BREAKWATER, CALIFORNIA.—The project for hurricane and storm damage reduction, Santa Monica Breakwater, Santa Monica, California: Report of the Chief of Engineers, dated June 7, 1996, at a total cost of $6,440,000, with an estimated Federal cost of $4,220,000 and an estimated non-Federal cost of $2,220,000.

(8) ANACOSTIA RIVER AND TRIBUTARIES, DISTRICT OF COLUMBIA AND MARYLAND.—The project for environmental restoration, Anacostia River and Tributaries, District of Columbia and Maryland: Report of the Chief of Engineers, dated November 15, 1994, at a total cost of $17,144,000, with an estimated Federal cost of $12,858,000 and an estimated non-Federal cost of $4,286,000.

(9) ATLANTIC INTRACOASTAL WATERWAY, ST. JOHNS COUNTY, FLORIDA.—The project for navigation, Atlantic Intracoastal Waterway, St. Johns County, Florida: Report of the Chief of Engineers, dated June 24, 1994, at a total Federal cost of $15,881,000. Operation, maintenance, repair, replacement, and rehabilitation shall be a non-Federal responsibility, and the non-Federal interest shall assume ownership of the bridge.

(10) CEDAR HAMMOCK (WARES CREEK), FLORIDA.—The project for flood control, Cedar Hammock (Wares Creek), Manatee County, Florida: Report of the Chief of Engineers, dated August 23, 1996, at a total cost of $13,846,000, with an estimated Federal cost of $10,385,000 and an estimated non-Federal cost of $3,461,000.

(11) LOWER SAVANNAH RIVER BASIN, GEORGIA AND SOUTH CAROLINA.—The project for environmental restoration, Lower Savannah River Basin, Georgia and South Carolina: Report of the Chief of Engineers, dated July 30, 1996, at a total cost of $3,431,000, with an estimated Federal cost of $2,573,000 and an estimated non-Federal cost of $858,000.

(12) LAKE MICHIGAN, ILLINOIS.—The project for storm damage reduction and shoreline erosion protection, Lake Michigan, Illinois, from Wilmette, Illinois, to the Illinois-Indiana State line: Report of the Chief of Engineers, dated April 14, 1994, at a total cost of $204,000,000, with an estimated Federal cost of $110,000,000 and an estimated non-Federal cost of $94,000,000. The project shall include the breakwater near the South Water Filtration Plant described in the report as a separate element of the project, at a total cost of $11,470,000, with an estimated Federal cost of $7,460,000 and an estimated non-Federal cost of $4,010,000. The Secretary shall reimburse the non-Federal interest for the Federal share of any costs incurred by the non-Federal interest—

(A) in reconstructing the revetment structures protecting Solidarity Drive in Chicago, Illinois, if such work is determined by the Secretary to be a component of the project; and

(B) in constructing the breakwater near the South Water Filtration Plant in Chicago, Illinois.

(13) KENTUCKY LOCK AND DAM, TENNESSEE RIVER, KENTUCKY.—The project for navigation, Kentucky Lock and Dam, Tennessee River, Kentucky: Report of the Chief of Engineers, dated June 1, 1992, at a total cost of $393,200,000. The costs of construction of the project are to be paid ½ from amounts appropriated from the general fund of the Treasury and ½ from amounts appropriated from the Inland Waterways Trust Fund.

(14) POND CREEK, JEFFERSON COUNTY, KENTUCKY.—The project for flood control, Pond Creek, Jefferson County, Kentucky: Report of the Chief of Engineers, dated June 28, 1994, at a total cost of $16,080,000, with an estimated Federal cost of $10,993,000 and an estimated non-Federal cost of $5,087,000.

(15) WOLF CREEK DAM AND LAKE CUMBERLAND, KENTUCKY.—The project for hydropower, Wolf Creek Dam and Lake Cumberland, Kentucky: Report of the Chief of Engineers, dated June 28, 1994, at a total cost of $53,763,000, with an estimated non-Federal cost of $53,763,000. Funds derived by the Tennessee Valley Authority from its power program and funds derived from any private or public entity designated by the Southeastern Power Administration may be used to pay all or part of the costs of the project.

(16) PORT FOURCHON, LAFOURCHE PARISH, LOUISIANA.—The project for navigation, Belle Pass and Bayou Lafourche, Louisiana: Report of the Chief of Engineers, dated April 7, 1995,

at a total cost of $4,440,000, with an estimated Federal cost of $2,300,000 and an estimated non-Federal cost of $2,140,000.

(17) WEST BANK OF THE MISSISSIPPI RIVER, NEW ORLEANS (EAST OF HARVEY CANAL), LOUISIANA.—The project for hurricane damage reduction, West Bank of the Mississippi River in the vicinity of New Orleans (East of Harvey Canal), Louisiana: Report of the Chief of Engineers, dated May 1, 1995, at a total cost of $126,000,000, with an estimated Federal cost of $82,200,000 and an estimated non-Federal cost of $43,800,000.

(18) BLUE RIVER BASIN, KANSAS CITY, MISSOURI.—The project for flood control, Blue River Basin, Kansas City, Missouri: Report of the Chief of Engineers, dated September 5, 1996, at a total cost of $17,082,000, with an estimated Federal cost of $12,043,000 and an estimated non-Federal cost of $5,039,000.

(19) WOOD RIVER, GRAND ISLAND, NEBRASKA.—The project for flood control, Wood River, Grand Island, Nebraska: Report of the Chief of Engineers, dated May 3, 1994, at a total cost of $11,800,000, with an estimated Federal cost of $6,040,000 and an estimated non-Federal cost of $5,760,000.

(20) LAS CRUCES, NEW MEXICO.—The project for flood control, Las Cruces, New Mexico: Report of the Chief of Engineers, dated June 24, 1996, at a total cost of $8,278,000, with an estimated Federal cost of $5,494,000 and an estimated non-Federal cost of $2,784,000.

(21) ATLANTIC COAST OF LONG ISLAND, NEW YORK.—The project for storm damage reduction, Atlantic Coast of Long Island from Jones Inlet to East Rockaway Inlet, Long Beach Island, New York: Report of the Chief of Engineers, dated April 5, 1996, at a total cost of $72,091,000, with an estimated Federal cost of $46,859,000 and an estimated non-Federal cost of $25,232,000.

(22) CAPE FEAR—NORTHEAST (CAPE FEAR) RIVERS, NORTH CAROLINA.—The project for navigation, Cape Fear—Northeast (Cape Fear) Rivers, North Carolina: Report of the Chief of Engineers, dated September 9, 1996, at a total cost of $221,735,000, with an estimated Federal cost of $132,936,000 and an estimated non-Federal cost of $88,799,000.

(23) WILMINGTON HARBOR, CAPE FEAR RIVER, NORTH CAROLINA.—The project for navigation, Wilmington Harbor, Cape Fear and Northeast Cape Fear Rivers, North Carolina: Report of the Chief of Engineers, dated June 24, 1994, at a total cost of $23,953,000, with an estimated Federal cost of $15,572,000 and an estimated non-Federal cost of $8,381,000.

(24) DUCK CREEK, CINCINNATI, OHIO.—The project for flood control, Duck Creek, Cincinnati, Ohio: Report of the Chief of Engineers, dated June 28, 1994, at a total cost of $15,947,000, with an estimated Federal cost of $11,960,000 and an estimated non-Federal cost of $3,987,000.

(25) WILLAMETTE RIVER TEMPERATURE CONTROL, MCKENZIE SUBBASIN, OREGON.—The project for environmental restoration, Willamette River Temperature Control, McKenzie Subbasin, Oregon: Report of the Chief of Engineers, dated February 1, 1996, at a total Federal cost of $38,000,000.

(26) RIO GRANDE DE ARECIBO, PUERTO RICO.—The project for flood control, Rio Grande de Arecibo, Puerto Rico: Report of the Chief of Engineers, dated April 5, 1994, at a total

cost of $19,951,000, with an estimated Federal cost of $10,557,000 and an estimated non-Federal cost of $9,394,000.

(27) CHARLESTON HARBOR, SOUTH CAROLINA.—The project for navigation, Charleston Harbor Deepening and Widening, South Carolina: Report of the Chief of Engineers, dated July 18, 1996, at a total cost of $116,639,000, with an estimated Federal cost of $71,940,000 and an estimated non-Federal cost of $44,699,000.

(28) BIG SIOUX RIVER AND SKUNK CREEK, SIOUX FALLS, SOUTH DAKOTA.—The project for flood control, Big Sioux River and Skunk Creek, Sioux Falls, South Dakota: Report of the Chief of Engineers, dated June 30, 1994, at a total cost of $34,600,000, with an estimated Federal cost of $25,900,000 and an estimated non-Federal cost of $8,700,000.

(29) GULF INTRACOASTAL WATERWAY, ARANSAS NATIONAL WILDLIFE REFUGE, TEXAS.—The project for navigation and environmental preservation, Gulf Intracoastal Waterway, Aransas National Wildlife Refuge, Texas: Report of the Chief of Engineers, dated May 28, 1996, at a total cost of $18,283,000, with an estimated Federal cost of $18,283,000.

(30) HOUSTON-GALVESTON NAVIGATION CHANNELS, TEXAS.—The project for navigation and environmental restoration, Houston-Galveston Navigation Channels, Texas: Report of the Chief of Engineers, dated May 9, 1996, at a total cost of $298,334,000, with an estimated Federal cost of $197,237,000 and an estimated non-Federal cost of $101,097,000, and an average annual cost of $786,000 for future environmental restoration over the 50-year life of the project, with an estimated annual Federal cost of $590,000 and an estimated annual non-Federal cost of $196,000. The removal of pipelines and other obstructions that are necessary for the project shall be accomplished at non-Federal expense. Non-Federal interests shall receive credit toward cash contributions required during construction and subsequent to construction for design and construction management work that is performed by non-Federal interests and that the Secretary determines is necessary to implement the project.

(31) MARMET LOCK, KANAWHA RIVER, WEST VIRGINIA.—The project for navigation, Marmet Lock, Kanawha River, West Virginia: Report of the Chief of Engineers, dated June 24, 1994, at a total cost of $229,581,000. The costs of construction of the project are to be paid ½ from amounts appropriated from the general fund of the Treasury and ½ from amounts appropriated from the Inland Waterways Trust Fund.

(b) PROJECTS SUBJECT TO REPORT.—The following projects for water resources development and conservation and other purposes are authorized to be carried out by the Secretary substantially in accordance with the plans, and subject to the conditions, recommended in a final report (or in the case of the project described in paragraph (10), a Detailed Project Report) of the Corps of Engineers, if the report is completed not later than December 31, 1996:

(1) CHIGNIK, ALASKA.—The project for navigation, Chignik, Alaska, at a total cost of $10,365,000, with an estimated Federal cost of $4,282,000 and an estimated non-Federal cost of $6,083,000.

(2) COOK INLET, ALASKA.—The project for navigation, Cook Inlet, Alaska, at a total cost of $5,700,000, with an estimated

Federal cost of $3,700,000 and an estimated non-Federal cost of $2,000,000.

(3) ST. PAUL ISLAND HARBOR, ST. PAUL, ALASKA.—The project for navigation, St. Paul Harbor, St. Paul, Alaska, at a total cost of $18,981,000, with an estimated Federal cost of $12,239,000 and an estimated non-Federal cost of $6,742,000.

(4) NORCO BLUFFS, RIVERSIDE COUNTY, CALIFORNIA.—The project for bluff stabilization, Norco Bluffs, Riverside County, California, at a total cost of $8,600,000, with an estimated Federal cost of $6,450,000 and an estimated non-Federal cost of $2,150,000.

(5) TERMINUS DAM, KAWEAH RIVER, CALIFORNIA.—The project for flood control and water supply, Terminus Dam, Kaweah River, California, at a total cost of $34,500,000, with an estimated Federal cost of $20,200,000 and an estimated non-Federal cost of $14,300,000.

(6) REHOBOTH BEACH AND DEWEY BEACH, DELAWARE.—The project for storm damage reduction and shoreline protection, Rehoboth Beach and Dewey Beach, Delaware, at a total cost of $9,423,000, with an estimated Federal cost of $6,125,000 and an estimated non-Federal cost of $3,298,000, and an estimated average annual cost of $282,000 for periodic nourishment over the 50-year life of the project, with an estimated annual Federal cost of $183,000 and an estimated annual non-Federal cost of $99,000.

(7) BREVARD COUNTY, FLORIDA.—The project for shoreline protection, Brevard County, Florida, at a total cost of $76,620,000, with an estimated Federal cost of $36,006,000 and an estimated non-Federal cost of $40,614,000, and an estimated average annual cost of $2,341,000 for periodic nourishment over the 50-year life of the project, with an estimated annual Federal cost of $1,109,000 and an estimated annual non-Federal cost of $1,232,000.

(8) LAKE WORTH INLET, FLORIDA.—The project for navigation and shoreline protection, Lake Worth Inlet, Palm Beach Harbor, Florida, at a total cost of $3,915,000.

(9) MIAMI HARBOR CHANNEL, FLORIDA.—The project for navigation, Miami Harbor Channel, Miami, Florida, at a total cost of $3,221,000, with an estimated Federal cost of $1,800,000 and an estimated non-Federal cost of $1,421,000.

(10) NEW HARMONY, INDIANA.—The project for streambank erosion protection, Wabash River at New Harmony, Indiana, at a total cost of $2,800,000, with an estimated Federal cost of $2,100,000 and an estimated non-Federal cost of $700,000.

(11) WESTWEGO TO HARVEY CANAL, LOUISIANA.—The project for hurricane damage prevention and flood control, West Bank Hurricane Protection (Lake Cataouatche Area), Jefferson Parish, Louisiana, at a total cost of $14,375,000, with an estimated Federal cost of $9,344,000 and an estimated non-Federal cost of $5,031,000.

(12) CHESAPEAKE AND DELAWARE CANAL, MARYLAND AND DELAWARE.—The project for navigation and safety improvements, Chesapeake and Delaware Canal, Baltimore Harbor Connecting Channels, Delaware and Maryland, at a total cost of $82,800,000, with an estimated Federal cost of $53,852,000 and an estimated non-Federal cost of $28,948,000.

(13) ABSECON ISLAND, NEW JERSEY.—The project for storm damage reduction and shoreline protection, Brigantine Inlet to Great Egg Harbor Inlet, Absecon Island, New Jersey, at a total cost of $52,000,000, with an estimated Federal cost of $34,000,000 and an estimated non-Federal cost of $18,000,000.

SEC. 102. SMALL FLOOD CONTROL PROJECTS.

The Secretary shall conduct a study for each of the following projects and, if the Secretary determines that the project is feasible, may carry out the project under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s):

(1) SOUTH UPLAND, SAN BERNADINO COUNTY, CALIFORNIA.—Project for flood control, South Upland, San Bernadino County, California.

(2) BIRDS, LAWRENCE COUNTY, ILLINOIS.—Project for flood control, Birds, Lawrence County, Illinois.

(3) BRIDGEPORT, LAWRENCE COUNTY, ILLINOIS.—Project for flood control, Bridgeport, Lawrence County, Illinois.

(4) EMBARRAS RIVER, VILLA GROVE, ILLINOIS.—Project for flood control, Embarras River, Villa Grove, Illinois.

(5) FRANKFORT, WILL COUNTY, ILLINOIS.—Project for flood control, Frankfort, Will County, Illinois.

(6) SUMNER, LAWRENCE COUNTY, ILLINOIS.—Project for flood control, Sumner, Lawrence County, Illinois.

(7) VERMILLION RIVER, DEMONADE PARK, LAFAYETTE, LOUISIANA.—Project for nonstructural flood control, Vermillion River, Demonade Park, Lafayette, Louisiana. In carrying out the study and the project (if any) under this paragraph, the Secretary shall use relevant information from the Lafayette Parish feasibility study and expedite completion of the study under this paragraph.

(8) VERMILLION RIVER, QUAIL HOLLOW SUBDIVISION, LAFAYETTE, LOUISIANA.—Project for nonstructural flood control, Vermillion River, Quail Hollow Subdivision, Lafayette, Louisiana. In carrying out the study and the project (if any) under this paragraph, the Secretary shall use relevant information from the Lafayette Parish feasibility study and expedite completion of the study under this paragraph.

(9) KAWKAWLIN RIVER, BAY COUNTY, MICHIGAN.—Project for flood control, Kawkawlin River, Bay County, Michigan.

(10) WHITNEY DRAIN, ARENAC COUNTY, MICHIGAN.—Project for flood control, Whitney Drain, Arenac County, Michigan.

(11) FESTUS AND CRYSTAL CITY, MISSOURI.—Project for flood control, Festus and Crystal City, Missouri. In carrying out the study and the project (if any) under this paragraph, the Secretary shall use relevant information from the existing reconnaissance study and shall expedite completion of the study under this paragraph.

(12) KIMMSWICK, MISSOURI.—Project for flood control, Kimmswick, Missouri. In carrying out the study and the project (if any) under this paragraph, the Secretary shall use relevant information from the existing reconnaissance study and shall expedite completion of the study under this paragraph.

(13) RIVER DES PERES, ST. LOUIS COUNTY, MISSOURI.—Project for flood control, River Des Peres, St. Louis County, Missouri. In carrying out the study and the project (if any),

the Secretary shall determine the feasibility of potential flood control measures, consider potential storm water runoff and related improvements, and cooperate with the Metropolitan St. Louis Sewer District.

(14) MALTA, MONTANA.—Project for flood control, Malta, Montana.

(15) BUFFALO CREEK, ERIE COUNTY, NEW YORK.—Project for flood control, Buffalo Creek, Erie County, New York.

(16) CAZENOVIA CREEK, ERIE COUNTY, NEW YORK.—Project for flood control, Cazenovia Creek, Erie County, New York.

(17) CHEEKTOWAGA, ERIE COUNTY, NEW YORK.—Project for flood control, Cheektowaga, Erie County, New York.

(18) FULMER CREEK, VILLAGE OF MOHAWK, NEW YORK.—Project for flood control, Fulmer Creek, village of Mohawk, New York.

(19) MOYER CREEK, VILLAGE OF FRANKFORT, NEW YORK.—Project for flood control, Moyer Creek, village of Frankfort, New York.

(20) SAUQUOIT CREEK, WHITESBORO, NEW YORK.—Project for flood control, Sauquoit Creek, Whitesboro, New York.

(21) STEELE CREEK, VILLAGE OF ILION, NEW YORK.—Project for flood control, Steele Creek, village of Ilion, New York.

(22) WILLAMETTE RIVER, OREGON.—Project for nonstructural flood control, Willamette River, Oregon, including floodplain and ecosystem restoration.

SEC. 103. SMALL BANK STABILIZATION PROJECTS.

The Secretary shall conduct a study for each of the following projects and, if the Secretary determines that the project is feasible, may carry out the project under section 14 of the Flood Control Act of 1946 (33 U.S.C. 701r):

(1) ST. JOSEPH RIVER, INDIANA.—Project for bank stabilization, St. Joseph River, South Bend, Indiana, including recreation and pedestrian access features.

(2) ALLEGHENY RIVER AT OIL CITY, PENNSYLVANIA.—Project for bank stabilization to address erosion problems affecting the pipeline crossing the Allegheny River at Oil City, Pennsylvania, including measures to address erosion affecting the pipeline in the bed of the Allegheny River and its adjacent banks.

(3) CUMBERLAND RIVER, NASHVILLE, TENNESSEE.—Project for bank stabilization, Cumberland River, Nashville, Tennessee.

SEC. 104. SMALL NAVIGATION PROJECTS.

The Secretary shall conduct a study for each of the following projects and, if the Secretary determines that the project is feasible, may carry out the project under section 107 of the River and Harbor Act of 1960 (33 U.S.C. 577):

(1) AKUTAN, ALASKA.—Project for navigation, Akutan, Alaska, consisting of a bulkhead and a wave barrier, including application of innovative technology involving use of a permeable breakwater.

(2) ILLINOIS AND MICHIGAN CANAL, ILLINOIS.—Project for navigation, Illinois and Michigan Canal, Illinois, including marina development at Lock 14.

(3) GRAND MARAIS HARBOR BREAKWATER, MICHIGAN.—Project for navigation, Grand Marais Harbor breakwater, Michigan.

(4) DULUTH, MINNESOTA.—Project for navigation, Duluth, Minnesota.

(5) TACONITE, MINNESOTA.—Project for navigation, Taconite, Minnesota.

(6) TWO HARBORS, MINNESOTA.—Project for navigation, Two Harbors, Minnesota.

(7) CARUTHERSVILLE HARBOR, PEMISCOT COUNTY, MISSOURI.—Project for navigation, Caruthersville Harbor, Pemiscot County, Missouri, including enlargement of the existing harbor and bank stabilization measures.

(8) NEW MADRID COUNTY HARBOR, MISSOURI.—Project for navigation, New Madrid County Harbor, Missouri, including enlargement of the existing harbor and bank stabilization measures.

(9) BROOKLYN, NEW YORK.—Project for navigation, Brooklyn, New York, including restoration of the pier and related navigation support structures, at the Sixty-Ninth Street Pier.

(10) BUFFALO INNER HARBOR, BUFFALO, NEW YORK.—Project for navigation, Buffalo Inner Harbor, Buffalo, New York, including enlargement of the existing harbor and bank stabilization measures.

(11) GLENN COVE CREEK, NEW YORK.—Project for navigation, Glenn Cove Creek, New York, including bulkheading.

(12) UNION SHIP CANAL, BUFFALO AND LACKAWANNA, NEW YORK.—Project for navigation, Union Ship Canal, Buffalo and Lackawanna, New York.

SEC. 105. SMALL SHORELINE PROTECTION PROJECTS.

The Secretary shall conduct a study for each of the following projects, and if the Secretary determines that the project is feasible, may carry out the project under section 3 of the Act entitled "An Act authorizing Federal participation in the cost of protecting the shores of publicly owned property", approved August 13, 1946 (33 U.S.C. 426g; 60 Stat. 1056):

(1) FORT PIERCE, FLORIDA.—Project for 1 mile of additional shoreline protection, Fort Pierce, Florida.

(2) SYLVAN BEACH BREAKWATER, VERONA, ONEIDA COUNTY, NEW YORK.—Project for shoreline protection, Sylvan Beach breakwater, Verona, Oneida County, New York.

SEC. 106. SMALL SNAGGING AND SEDIMENT REMOVAL PROJECT, MISSISSIPPI RIVER, LITTLE FALLS, MINNESOTA.

The Secretary shall conduct a study for a project for clearing, snagging, and sediment removal, East Bank of the Mississippi River, Little Falls, Minnesota, including removal of sediment from culverts. The study shall include a determination of the adequacy of culverts to maintain flows through the channel. If the Secretary determines that the project is feasible, the Secretary may carry out the project under section 3 of the Act entitled "An Act authorizing the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved March 2, 1945 (33 U.S.C. 603a; 59 Stat. 23).

SEC. 107. SMALL PROJECTS FOR IMPROVEMENT OF THE ENVIRONMENT.

The Secretary shall conduct a study for each of the following projects and, if the Secretary determines that the project is appro-

priate, may carry out the project under section 1135(a) of the Water Resources Development Act of 1986 (33 U.S.C. 2309a(a)):

(1) PINE FLAT DAM, CALIFORNIA.—Project for fish and wildlife habitat restoration, Pine Flat Dam, Kings River, California, including construction of a turbine bypass.

(2) UPPER TRUCKEE RIVER, EL DORADO COUNTY, CALIFORNIA.—Project for environmental restoration, Upper Truckee River, El Dorado County, California, including measures for restoration of degraded wetlands and wildlife enhancement.

(3) WHITTIER NARROWS DAM, CALIFORNIA.—Project for environmental restoration and remediation of contaminated water sources, Whittier Narrows Dam, California.

(4) LOWER AMAZON CREEK, OREGON.—Project for environmental restoration, Lower Amazon Creek, Oregon, consisting of environmental restoration measures relating to the flood reduction measures constructed by the Corps of Engineers and the related flood reduction measures constructed by the Natural Resources Conservation Service.

(5) ASHLEY CREEK, UTAH.—Project for fish and wildlife restoration, Ashley Creek near Vernal, Utah.

(6) UPPER JORDAN RIVER, SALT LAKE COUNTY, UTAH.—Project for channel restoration and environmental improvement, Upper Jordan River, Salt Lake County, Utah.

TITLE II—GENERAL PROVISIONS

SEC. 201. COST SHARING FOR DREDGED MATERIAL DISPOSAL AREAS.

(a) CONSTRUCTION.—Section 101(a) of the Water Resources Development Act of 1986 (33 U.S.C. 2211(a); 100 Stat. 4082–4083) is amended—

(1) in paragraph (2) by striking the last sentence and inserting the following: "The value of lands, easements, rights-of-way, and relocations provided under paragraph (3) and the costs of relocations borne by the non-Federal interests under paragraph (4) shall be credited toward the payment required under this paragraph.";

(2) in paragraph (3)—

(A) by inserting "and" after "rights-of-way,";

(B) by striking ", and dredged material disposal areas"; and

(C) by inserting ", including any lands, easements, rights-of-way, and relocations (other than utility relocations accomplished under paragraph (4)) that are necessary for dredged material disposal facilities" before the period at the end of such paragraph; and

(3) by adding at the end the following:

"(5) DREDGED MATERIAL DISPOSAL FACILITIES FOR PROJECT CONSTRUCTION.—In this subsection, the term 'general navigation features' includes constructed land-based and aquatic dredged material disposal facilities that are necessary for the disposal of dredged material required for project construction and for which a contract for construction has not been awarded on or before the date of the enactment of this paragraph.".

(b) OPERATION AND MAINTENANCE.—Section 101(b) of such Act (33 U.S.C. 2211(b); 100 Stat. 4083) is amended—

(1) by inserting "(1) IN GENERAL.—" before "The Federal";

(2) by indenting and moving paragraph (1) (as designated by paragraph (1) of this subsection) 2 ems to the right;

(3) by striking "pursuant to this Act" and inserting "by the Secretary pursuant to this Act or any other law approved after the date of the enactment of this Act"; and

(4) by adding at the end the following:

"(2) DREDGED MATERIAL DISPOSAL FACILITIES.—The Federal share of the cost of constructing land-based and aquatic dredged material disposal facilities that are necessary for the disposal of dredged material required for the operation and maintenance of a project and for which a contract for construction has not been awarded on or before the date of the enactment of this paragraph shall be determined in accordance with subsection (a). The Federal share of operating and maintaining such facilities shall be determined in accordance with paragraph (1).".

(c) AGREEMENT.—Section 101(e)(1) of such Act (33 U.S.C. 2211(e)(1); 100 Stat. 4083) is amended by striking "and to provide dredged material disposal areas and perform" and inserting "including those necessary for dredged material disposal facilities, and perform".

(d) CONSIDERATION OF FUNDING REQUIREMENTS AND EQUITABLE APPORTIONMENT.—Section 101 of such Act (33 U.S.C. 2211; 100 Stat. 4082–4084) is amended by adding at the end the following:

"(f) CONSIDERATION OF FUNDING REQUIREMENTS AND EQUITABLE APPORTIONMENT.—The Secretary shall ensure, to the extent practicable, that—

"(1) funding requirements for operation and maintenance dredging of commercial navigation harbors are considered before Federal funds are obligated for payment of the Federal share of costs associated with the construction of dredged material disposal facilities in accordance with subsections (a) and (b);

"(2) funds expended for such construction are apportioned equitably in accordance with regional needs; and

"(3) use of a dredged material disposal facility designed, constructed, managed, or operated by a private entity is not precluded if, consistent with economic and environmental considerations, the facility is the least-cost alternative.".

(e) ELIGIBLE OPERATIONS AND MAINTENANCE DEFINED.—Section 214(2) of such Act (33 U.S.C. 2241; 100 Stat. 4108) is amended—

(1) in subparagraph (A)—

(A) by inserting "Federal" after "means all";

(B) by inserting "(i)" after "including"; and

(C) by inserting before the period at the end the following: "; (ii) the construction of dredged material disposal facilities that are necessary for the operation and maintenance of any harbor or inland harbor; (iii) dredging and disposing of contaminated sediments that are in or that affect the maintenance of Federal navigation channels; (iv) mitigating for impacts resulting from Federal navigation operation and maintenance activities; and (v) operating and maintaining dredged material disposal facilities"; and

(2) in subparagraph (C) by striking "rights-of-way, or dredged material disposal areas," and inserting "or rights-of-way,".

(f) AMENDMENT OF COOPERATION AGREEMENT.—If requested by the non-Federal interest, the Secretary shall amend a project cooperation agreement executed on or before the date of the enactment of this Act to reflect the application of the amendments made by this section to any project for which a contract for construction has not been awarded on or before that date. 33 USC 2211 note.

(g) SAVINGS CLAUSE.—Nothing in this section (including the amendments made by this section) shall increase, or result in the increase of, the non-Federal share of the costs of— 33 USC 2211 note.

(1) expanding any confined dredged material disposal facility that is operated by the Secretary and that is authorized for cost recovery through the collection of tolls;

(2) any confined dredged material disposal facility for which the invitation for bids for construction was issued before the date of the enactment of this Act; and

(3) expanding any confined dredged material disposal facility constructed under section 123 of the River and Harbor Act of 1970 (33 U.S.C. 1293a) if the capacity of the confined dredged material disposal facility was exceeded in less than 6 years.

SEC. 202. FLOOD CONTROL POLICY.

(a) FLOOD CONTROL COST SHARING.—

(1) INCREASED NON-FEDERAL CONTRIBUTIONS.—

(A) IN GENERAL.—Subsections (a) and (b) of section 103 of the Water Resources Development Act of 1986 (33 U.S.C. 2213 (a) and (b)) are each amended by striking "25 percent" each place it appears and inserting "35 percent".

(B) APPLICABILITY.—The amendments made by subparagraph (A) shall apply to any project authorized after the date of the enactment of this Act and to any flood control project that is not specifically authorized by Congress for which a Detailed Project Report is approved after such date of enactment or, in the case of a project for which no Detailed Project Report is prepared, construction is initiated after such date of enactment. 33 USC 2213 note.

(2) PHYSICAL CONSTRUCTION DEFINED.—Section 103(e)(1) of such Act (33 U.S.C. 2213(e)(1)) is amended by adding at the end the following: "For the purpose of the preceding sentence, physical construction shall be considered to be initiated on the date of the award of a construction contract.".

(b) ABILITY TO PAY.—

(1) IN GENERAL.—Section 103(m) of such Act (33 U.S.C. 2213(m)) is amended to read as follows:

"(m) ABILITY TO PAY.—

"(1) IN GENERAL.—Any cost-sharing agreement under this section for flood control or agricultural water supply shall be subject to the ability of a non-Federal interest to pay.

"(2) CRITERIA AND PROCEDURES.—The ability of a non-Federal interest to pay shall be determined by the Secretary in accordance with criteria and procedures in effect on the day before the date of the enactment of the Water Resources Development Act of 1996; except that such criteria and procedures shall be revised within 1 year after such date of enactment to reflect the requirements of paragraph (3).

"(3) REVISION OF CRITERIA AND PROCEDURES.—In revising criteria and procedures pursuant to paragraph (2), the Secretary—

"(A) shall consider—

"(i) per capita income data for the county or counties in which the project is to be located; and

"(ii) the per capita non-Federal cost of construction of the project for the county or counties in which the project is to be located;

"(B) shall not consider criteria (other than criteria described in subparagraph (A)) in effect on the day before the date of the enactment of the Water Resources Development Act of 1996; and

"(C) may consider additional criteria relating to the non-Federal interest's financial ability to carry out its cost-sharing responsibilities, to the extent that the application of such criteria does not eliminate areas from eligibility for a reduction in the non-Federal share as determined under subparagraph (A).

"(4) NON-FEDERAL SHARE.—Notwithstanding subsection (a), the Secretary may reduce the requirement that a non-Federal interest make a cash contribution for any project that is determined to be eligible for a reduction in the non-Federal share under criteria and procedures in effect under paragraphs (1), (2), and (3).".

33 USC 2213 note.

(2) APPLICABILITY.—

(A) GENERALLY.—Subject to subparagraph (C), the amendment made by paragraph (1) shall apply to any project, or separable element thereof, with respect to which the Secretary and the non-Federal interest enter into a project cooperation agreement after December 31, 1997.

(B) AMENDMENT OF COOPERATION AGREEMENT.—If requested by the non-Federal interest, the Secretary shall amend a project cooperation agreement executed on or before the date of the enactment of this Act to reflect the application of the amendment made by paragraph (1) to any project for which a contract for construction has not been awarded on or before such date of enactment.

(C) NON-FEDERAL OPTION.—If requested by the non-Federal interest, the Secretary shall apply the criteria and procedures established pursuant to section 103(m) of the Water Resources Development Act of 1986 as in effect on the day before the date of the enactment of this Act for projects that are authorized before the date of the enactment of this Act.

(c) FLOODPLAIN MANAGEMENT PLANS.—

(1) IN GENERAL.—Section 402 of such Act (33 U.S.C. 701b–12; 100 Stat. 4133) is amended to read as follows:

"SEC. 402. FLOODPLAIN MANAGEMENT REQUIREMENTS.

"(a) COMPLIANCE WITH FLOODPLAIN MANAGEMENT AND INSURANCE PROGRAMS.—Before construction of any project for local flood protection, or any project for hurricane or storm damage reduction, that involves Federal assistance from the Secretary, the non-Federal interest shall agree to participate in and comply with applicable Federal floodplain management and flood insurance programs.

"(b) FLOOD PLAIN MANAGEMENT PLANS.—Within 1 year after the date of signing a project cooperation agreement for construction of a project to which subsection (a) applies, the non-Federal interest shall prepare a flood plain management plan designed to reduce the impacts of future flood events in the project area. Such plan shall be implemented by the non-Federal interest not later than 1 year after completion of construction of the project.

"(c) GUIDELINES.—

"(1) IN GENERAL.—Within 6 months after the date of the enactment of this subsection, the Secretary shall develop guidelines for preparation of floodplain management plans by non-Federal interests under subsection (b). Such guidelines shall address potential measures, practices, and policies to reduce loss of life, injuries, damages to property and facilities, public expenditures, and other adverse impacts associated with flooding and to preserve and enhance natural floodplain values.

"(2) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed to confer any regulatory authority upon the Secretary or the Director of the Federal Emergency Management Agency.

"(d) TECHNICAL SUPPORT.—The Secretary may provide technical support to a non-Federal interest for a project to which subsection (a) applies for the development and implementation of plans prepared under subsection (b).".

(2) APPLICABILITY.—The amendment made by paragraph (1) shall apply to any project or separable element thereof with respect to which the Secretary and the non-Federal interest have not entered into a project cooperation agreement on or before the date of the enactment of this Act. 33 USC 701b–12 note.

(d) NONSTRUCTURAL FLOOD CONTROL POLICY.— 33 USC 701b–11 note.

(1) REVIEW.—The Secretary shall conduct a review of policies, procedures, and techniques relating to the evaluation and development of flood control measures with a view toward identifying impediments that may exist to justifying nonstructural flood control measures as alternatives to structural measures.

(2) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the findings of the review conducted under this subsection, together with any recommendations for modifying existing law to remove any impediments identified under such review.

(e) EMERGENCY RESPONSE.—Section 5(a)(1) of the Act entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes", approved August 18, 1941 (33 U.S.C. 701n(a)(1)), is amended by inserting before the first semicolon the following: ", or in implementation of nonstructural alternatives to the repair or restoration of such flood control work if requested by the non-Federal sponsor".

(f) LEVEE OWNERS MANUAL.—Section 5 of such Act of August 18, 1941 (33 U.S.C. 701n), is amended by adding at the end the following:

"(c) LEVEE OWNERS MANUAL.—

"(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this subsection, in accordance with chapter 5 of title 5, United States Code, the Secretary of the Army

shall prepare a manual describing the maintenance and upkeep responsibilities that the Corps of Engineers requires of a non-Federal interest in order for the non-Federal interest to receive Federal assistance under this section. The Secretary shall provide a copy of the manual at no cost to each non-Federal interest that is eligible to receive Federal assistance under this section.

"(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $1,000,000 to carry out this subsection.

"(3) DEFINITIONS.—In this subsection, the following definitions apply:

"(A) MAINTENANCE AND UPKEEP.—The term 'maintenance and upkeep' means all maintenance and general upkeep of a levee performed on a regular and consistent basis that is not repair and rehabilitation.

"(B) REPAIR AND REHABILITATION.—The term 'repair and rehabilitation'—

"(i) means the repair or rebuilding of a levee or other flood control structure, after the structure has been damaged by a flood, to the level of protection provided by the structure before the flood; but

"(ii) does not include—

"(I) any improvement to the structure; or

"(II) repair or rebuilding described in clause (i) if, in the normal course of usage, the structure becomes structurally unsound and is no longer fit to provide the level of protection for which the structure was designed.".

33 USC 701n note.

(g) VEGETATION MANAGEMENT GUIDELINES.—

(1) REVIEW.—The Secretary shall undertake a comprehensive review of the current policy guidelines on vegetation management for levees. The review shall examine current policies in view of the varied interests in providing flood control, preserving, protecting, and enhancing natural resources, protecting the rights of Native Americans pursuant to treaty and statute, and such other factors as the Secretary considers appropriate.

(2) COOPERATION AND CONSULTATION.—The review under this section shall be undertaken in cooperation with interested Federal agencies and in consultation with interested representatives of State and local governments and the public.

(3) REVISION OF GUIDELINES.—Based upon the results of the review, the Secretary shall revise, not later than 270 days after the date of the enactment of this Act, the policy guidelines so as to provide a coherent and coordinated policy for vegetation management for levees. Such revised guidelines shall address regional variations in levee management and resource needs and shall be incorporated in the manual proposed under section 5(c) of such Act of August 18, 1941 (33 U.S.C. 701n).

33 USC 701b note. Contracts.

(h) RISK-BASED ANALYSIS METHODOLOGY.—

(1) IN GENERAL.—The Secretary shall enter into an agreement with the National Academy of Sciences to conduct a study of the Corps of Engineers' use of risk-based analysis for the evaluation of hydrology, hydraulics, and economics in flood damage reduction studies. The study shall include—

(A) an evaluation of the impact of risk-based analysis on project formulation, project economic justification, and minimum engineering and safety standards; and

(B) a review of studies conducted using risk-based analysis to determine—

(i) the scientific validity of applying risk-based analysis in these studies; and

(ii) the impact of using risk-based analysis as it relates to current policy and procedures of the Corps of Engineers.

(2) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the results of the study under paragraph (1), as well as such recommendations as the Secretary considers appropriate.

(3) LIMITATION ON USE OF METHODOLOGY.—During the period beginning on the date of the enactment of this Act and ending 18 months after that date, if requested by a non-Federal interest, the Secretary shall refrain from using any risk-based technique required under the studies described in paragraph (1) for the evaluation and design of a project.

(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $250,000 to carry out this subsection.

SEC. 203. COST SHARING FOR FEASIBILITY STUDIES.

(a) NON-FEDERAL SHARE.—Section 105(a) of the Water Resources Development Act of 1986 (33 U.S.C. 2215(a)) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) COST SHARING.—

"(A) IN GENERAL.—The Secretary shall not initiate any feasibility study for a water resources project after November 17, 1986, until appropriate non-Federal interests agree, by contract, to contribute 50 percent of the cost of the study.

"(B) PAYMENT OF COST SHARE DURING PERIOD OF STUDY.—During the period of the study, the non-Federal share of the cost of the study payable under subparagraph (A) shall be 50 percent of the sum of—

"(i) the cost estimate for the study as contained in the feasibility cost-sharing agreement; and

"(ii) any excess of the cost of the study over the cost estimate if the excess results from—

"(I) a change in Federal law; or

"(II) a change in the scope of the study requested by the non-Federal interests.

"(C) PAYMENT OF COST SHARE ON AUTHORIZATION OF PROJECT OR TERMINATION OF STUDY.—

"(i) PROJECT TIMELY AUTHORIZED.—Except as otherwise agreed to by the Secretary and the non-Federal interests and subject to clause (ii), the non-Federal share of any excess of the cost of the study over the cost estimate (excluding any excess cost described in subparagraph (B)(ii)) shall be payable on the date on which the Secretary and the non-Federal interests enter into an agreement pursuant to section 101(e) or 103(j) with respect to the project.

"(ii) PROJECT NOT TIMELY AUTHORIZED.—If the project that is the subject of the study is not authorized by the date that is 5 years after the completion of the final report of the Chief of Engineers concerning the study or the date that is 2 years after the termination of the study, the non-Federal share of any excess of the cost of the study over the cost estimate (excluding any excess cost described in subparagraph (B)(ii)) shall be payable to the United States on that date.

"(D) AMENDMENT OF COST ESTIMATE.—The cost estimate referred to in subparagraph (B)(i) may be amended only by agreement of the Secretary and the non-Federal interests.

"(E) IN-KIND CONTRIBUTIONS.—Not more than ½ of the non-Federal share required under this paragraph may be satisfied by the provision of services, materials, supplies, or other in-kind services necessary to prepare the feasibility report."; and

(2) in paragraph (2) by striking "(2) This subsection" and inserting the following:

"(2) APPLICABILITY.—This subsection".

33 USC 2215 note.

(b) APPLICABILITY.—The amendments made by subsection (a) shall apply notwithstanding any feasibility cost-sharing agreement entered into by the Secretary and the non-Federal interests. On request of the non-Federal interest, the Secretary shall amend any feasibility cost-sharing agreements in effect on the date of the enactment of this Act so as to conform the agreements with the amendments.

33 USC 2215 note.

(c) NO REQUIREMENT OF REIMBURSEMENT.—Nothing in this section or any amendment made by this section requires the Secretary to reimburse the non-Federal interests for funds previously contributed for a study.

SEC. 204. RESTORATION OF ENVIRONMENTAL QUALITY.

(a) REVIEW OF PROJECTS.—Section 1135(a) of the Water Resources Development Act of 1986 (33 U.S.C. 2309a(a)) is amended—

(1) by striking "the operation of"; and

(2) by inserting before the period at the end the following: "and to determine if the operation of such projects has contributed to the degradation of the quality of the environment".

(b) PROGRAM OF PROJECTS.—Section 1135(b) of such Act is amended by striking the last 2 sentences.

(c) RESTORATION OF ENVIRONMENTAL QUALITY.—Section 1135 of such Act is amended—

(1) by redesignating subsections (c), (d), and (e) as subsections (e), (f), and (g), respectively;

(2) by inserting after subsection (b) the following:

"(c) RESTORATION OF ENVIRONMENTAL QUALITY.—If the Secretary determines that construction of a water resources project by the Secretary or operation of a water resources project constructed by the Secretary has contributed to the degradation of the quality of the environment, the Secretary may undertake measures for restoration of environmental quality and measures for enhancement of environmental quality that are associated with the restoration, through modifications either at the project site or at other locations that have been affected by the construction

or operation of the project, if such measures do not conflict with the authorized project purposes.

"(d) NON-FEDERAL SHARE; LIMITATION ON MAXIMUM FEDERAL EXPENDITURE.—The non-Federal share of the cost of any modifications or measures carried out or undertaken pursuant to subsection (b) or (c) shall be 25 percent. Not more than 80 percent of the non-Federal share may be in kind, including a facility, supply, or service that is necessary to carry out the modification or measure. Not more than $5,000,000 in Federal funds may be expended on any single modification or measure carried out or undertaken pursuant to this section."; and

(3) in subsection (f) (as so redesignated) by striking "program conducted under subsection (b)" and inserting "programs conducted under subsections (b) and (c)".

(d) DEFINITION.—Section 1135 of such Act (as amended by subsection (c)(1) of this section) is amended by adding at the end the following:

"(h) DEFINITION.—In this section, the term 'water resources project constructed by the Secretary' includes a water resources project constructed or funded jointly by the Secretary and the head of any other Federal agency (including the Natural Resources Conservation Service).".

SEC. 205. ENVIRONMENTAL DREDGING.

Section 312 of the Water Resources Development Act of 1990 (33 U.S.C. 1252 note; 104 Stat. 4639–4640) is amended—

(1) in each of subsections (a), (b), and (c) by inserting "and remediate" after "remove" each place it appears;

(2) in subsection (b)—

(A) in paragraph (1) by inserting "and remediation" after "removal" each place it appears; and

(B) in paragraph (2) by striking "$10,000,000" and inserting "$20,000,000"; and

(3) by striking subsection (f) and inserting the following:

"(f) PRIORITY WORK.—In carrying out this section, the Secretary shall give priority to work in the following areas:

"(1) Brooklyn Waterfront, New York.

"(2) Buffalo Harbor and River, New York.

"(3) Ashtabula River, Ohio.

"(4) Mahoning River, Ohio.

"(5) Lower Fox River, Wisconsin.".

SEC. 206. AQUATIC ECOSYSTEM RESTORATION. 22 USC 2330.

(a) GENERAL AUTHORITY.—The Secretary may carry out an aquatic ecosystem restoration and protection project if the Secretary determines that the project—

(1) will improve the quality of the environment and is in the public interest; and

(2) is cost-effective.

(b) COST SHARING.—Non-Federal interests shall provide 35 percent of the cost of construction of any project carried out under this section, including provision of all lands, easements, rights-of-way, and necessary relocations.

(c) AGREEMENTS.—Construction of a project under this section shall be initiated only after a non-Federal interest has entered into a binding agreement with the Secretary to pay the non-Federal share of the costs of construction required by this section and to pay 100 percent of any operation, maintenance, and replacement

and rehabilitation costs with respect to the project in accordance with regulations prescribed by the Secretary.

(d) COST LIMITATION.—Not more than $5,000,000 in Federal funds may be allotted under this section for a project at any single locality.

(e) FUNDING.—There is authorized to be appropriated to carry out this section $25,000,000 for each fiscal year.

SEC. 207. BENEFICIAL USES OF DREDGED MATERIAL.

Section 204 of the Water Resources Development Act of 1992 (33 U.S.C. 2326; 106 Stat. 4826) is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following:

"(e) SELECTION OF DREDGED MATERIAL DISPOSAL METHOD.—In developing and carrying out a project for navigation involving the disposal of dredged material, the Secretary may select, with the consent of the non-Federal interest, a disposal method that is not the least-cost option if the Secretary determines that the incremental costs of such disposal method are reasonable in relation to the environmental benefits, including the benefits to the aquatic environment to be derived from the creation of wetlands and control of shoreline erosion. The Federal share of such incremental costs shall be determined in accordance with subsection (c).".

SEC. 208. RECREATION POLICY AND USER FEES.

16 USC 460d note.

(a) RECREATION POLICY.—

(1) IN GENERAL.—The Secretary shall provide increased emphasis on, and opportunities for recreation at, water resources projects operated, maintained, or constructed by the Corps of Engineers.

(2) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on specific measures taken to implement this subsection.

(b) USER FEES.—

(1) IN GENERAL.—Section 210(b)(4) of the Flood Control Act of 1968 (16 U.S.C. 460d–3(b)(4)) is amended by inserting before the period at the end the following: "and, subject to the availability of appropriations, shall be used for the purposes specified in section 4(i)(3) of such Act at the water resources development project at which the fees were collected".

(2) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall prepare and submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report, with respect to fiscal years 1995 and 1996, on—

(A) the amount of day-use fees collected under section 210(b) of the Flood Control Act of 1968 (16 U.S.C. 460d–3(b)) at each water resources development project; and

(B) the administrative costs associated with the collection of the day-use fees at each water resources development project.

16 USC 460d–3 note.

(c) ALTERNATIVE TO ANNUAL PASSES.—

(1) IN GENERAL.—The Secretary shall evaluate the feasibility of implementing an alternative to the $25 annual pass that the Secretary currently offers to users of recreation facilities at water resources projects of the Corps of Engineers.

(2) ANNUAL PASS.—The evaluation under paragraph (1) shall include the establishment on a test basis of an annual pass that costs $10 or less for the use of recreation facilities, including facilities at Raystown Lake, Pennsylvania.

(3) REPORT.—Not later than December 31, 1999, the Secretary shall transmit to Congress a report on the results of the evaluation carried out under this subsection, together with recommendations concerning whether annual passes for individual projects should be offered on a nationwide basis.

(4) EXPIRATION OF AUTHORITY.—The authority to establish an annual pass under paragraph (2) shall expire on the later of December 31, 1999, or the date of transmittal of the report under paragraph (3).

SEC. 209. RECOVERY OF COSTS. 42 USC 9607 note.

Amounts recovered under section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607) for any response action taken by the Secretary in support of the civil works program of the Department of the Army and any other amounts recovered by the Secretary from a contractor, insurer, surety, or other person to reimburse the Department of the Army for any expenditure for environmental response activities in support of the Army civil works program shall be credited to the appropriate trust fund account from which the cost of such response action has been paid or will be charged.

SEC. 210. COST SHARING FOR ENVIRONMENTAL PROJECTS.

(a) IN GENERAL.—Section 103(c) of the Water Resources Development Act of 1986 (33 U.S.C. 2213(c); 100 Stat. 4085) is amended—

(1) by striking "and" at the end of paragraph (5);

(2) by striking the period at the end of paragraph (6) and inserting "; and"; and

(3) by inserting after paragraph (6) the following:

"(7) environmental protection and restoration: 35 percent; except that nothing in this paragraph shall affect or limit the applicability of section 906.".

(b) APPLICABILITY.—The amendments made by subsection (a) apply only to projects authorized after the date of the enactment of this Act. 33 USC 2213 note.

SEC. 211. CONSTRUCTION OF FLOOD CONTROL PROJECTS BY NON-FEDERAL INTERESTS. 33 USC 701b–13.

(a) AUTHORITY.—Non-Federal interests are authorized to undertake flood control projects in the United States, subject to obtaining any permits required pursuant to Federal and State laws in advance of actual construction.

(b) STUDIES AND DESIGN ACTIVITIES.—

(1) BY NON-FEDERAL INTERESTS.—A non-Federal interest may prepare, for review and approval by the Secretary, the necessary studies and design documents for any construction to be undertaken pursuant to subsection (a).

(2) BY SECRETARY.—Upon request of an appropriate non-Federal interest, the Secretary may undertake all necessary studies and design activities for any construction to be undertaken pursuant to subsection (a) and provide technical assistance in obtaining all necessary permits for such construction if the non-Federal interest contracts with the Secretary to provide to the United States funds for the studies and design

activities during the period in which the studies and design activities will be conducted.

(c) COMPLETION OF STUDIES AND DESIGN ACTIVITIES.—In the case of any study or design documents for a flood control project that were initiated before the date of the enactment of this Act, the Secretary may complete and transmit to the appropriate non-Federal interests the study or design documents or, upon the request of such non-Federal interests, terminate the study or design activities and transmit the partially completed study or design documents to such non-Federal interests for completion. Studies and design documents subject to this subsection shall be completed without regard to the requirements of subsection (b).

(d) AUTHORITY TO CARRY OUT IMPROVEMENT.—

(1) IN GENERAL.—Any non-Federal interest that has received from the Secretary pursuant to subsection (b) or (c) a favorable recommendation to carry out a flood control project, or separable element of a flood control project, based on the results of completed studies and design documents for the project or element may carry out the project or element if a final environmental impact statement under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) has been filed for the project or element.

(2) PERMITS.—Any plan of improvement proposed to be implemented in accordance with this subsection shall be deemed to satisfy the requirements for obtaining the appropriate permits required under the Secretary's authority. Such permits shall be granted subject to the non-Federal interest's acceptance of the terms and conditions of such permits if the Secretary determines that the applicable regulatory criteria and procedures have been satisfied.

(3) MONITORING.—The Secretary shall monitor any project for which a permit is granted under this subsection in order to ensure that such project is constructed, operated, and maintained in accordance with the terms and conditions of such permit.

(e) REIMBURSEMENT.—

(1) GENERAL RULE.—Subject to appropriations Acts, the Secretary may reimburse any non-Federal interest an amount equal to the estimate of the Federal share, without interest, of the cost of any authorized flood control project, or separable element of a flood control project, constructed pursuant to this section—

(A) if, after authorization and before initiation of construction of the project or separable element, the Secretary approves the plans for construction of such project by the non-Federal interest; and

(B) if the Secretary finds, after a review of studies and design documents prepared pursuant to this section, that construction of the project or separable element is economically justified and environmentally acceptable.

(2) SPECIAL RULES.—

(A) REIMBURSEMENT.—For work (including work associated with studies, planning, design, and construction) carried out by a non-Federal interest with respect to a project described in subsection (f), the Secretary shall, subject to amounts being made available in advance in appropriations Acts, reimburse, without interest, the non-Federal

interest an amount equal to the estimated Federal share of the cost of such work if such work is later recommended by the Chief of Engineers and approved by the Secretary.

(B) CREDIT.—If the non-Federal interest for a project described in subsection (f) carries out work before completion of a reconnaissance study by the Secretary and if such work is determined by the Secretary to be compatible with the project later recommended by the Secretary, the Secretary shall credit the non-Federal interest for its share of the cost of the project for such work.

(3) MATTERS TO BE CONSIDERED IN REVIEWING PLANS.—In reviewing plans under this subsection, the Secretary shall consider budgetary and programmatic priorities and other factors that the Secretary considers appropriate.

(4) MONITORING.—The Secretary shall regularly monitor and audit any project for flood control approved for construction under this section by a non-Federal interest to ensure that such construction is in compliance with the plans approved by the Secretary and that the costs are reasonable.

(5) LIMITATION ON REIMBURSEMENTS.—The Secretary may not make any reimbursement under this section until the Secretary determines that the work for which reimbursement is requested has been performed in accordance with applicable permits and approved plans.

(f) SPECIFIC PROJECTS.—For the purpose of demonstrating the potential advantages and effectiveness of non-Federal implementation of flood control projects, the Secretary shall enter into agreements pursuant to this section with non-Federal interests for development of the following flood control projects by such interests:

(1) BERRYESSA CREEK, CALIFORNIA.—The Berryessa Creek element of the project for flood control, Coyote and Berryessa Creeks, California, authorized by section 101(a)(5) of the Water Resources Development Act of 1990 (104 Stat. 4606); except that, subject to the approval of the Secretary as provided by this section, the non-Federal interest may design and construct an alternative to such element.

(2) LOS ANGELES COUNTY DRAINAGE AREA, CALIFORNIA.—The project for flood control, Los Angeles County Drainage Area, California, authorized by section 101(b) of the Water Resources Development Act of 1990 (104 Stat. 4611).

(3) STOCKTON METROPOLITAN AREA, CALIFORNIA.—The project for flood control, Stockton Metropolitan Area, California.

(4) UPPER GUADALUPE RIVER, CALIFORNIA.—The project for flood control, Upper Guadalupe River, California.

(5) FLAMINGO AND TROPICANA WASHES, NEVADA.—The project for flood control, Las Vegas Wash and Tributaries (Flamingo and Tropicana Washes), Nevada, authorized by section 101(13) of the Water Resources Development Act of 1992 (106 Stat. 4803).

(6) BRAYS BAYOU, TEXAS.—Flood control components comprising the Brays Bayou element of the project for flood control, Buffalo Bayou and tributaries, Texas, authorized by section 101(a)(21) of the Water Resources Development Act of 1990 (104 Stat. 4610); except that, subject to the approval of the Secretary as provided by this section, the non-Federal interest may design and construct an alternative to the diversion component of such element.

(7) HUNTING BAYOU, TEXAS.—The Hunting Bayou element of the project for flood control, Buffalo Bayou and tributaries, Texas, authorized by such section; except that, subject to the approval of the Secretary as provided by this section, the non-Federal interest may design and construct an alternative to such element.

(8) WHITE OAK BAYOU, TEXAS.—The project for flood control, White Oak Bayou watershed, Texas.

(g) TREATMENT OF FLOOD DAMAGE PREVENTION MEASURES.—For the purposes of this section, flood damage prevention measures at or in the vicinity of Morgan City and Berwick, Louisiana, shall be treated as an authorized separable element of the Atchafalaya Basin feature of the project for flood control, Mississippi River and Tributaries.

33 USC 2313a.

SEC. 212. ENGINEERING AND ENVIRONMENTAL INNOVATIONS OF NATIONAL SIGNIFICANCE.

(a) SURVEYS, PLANS, AND STUDIES.—To encourage innovative and environmentally sound engineering solutions and innovative environmental solutions to problems of national significance, the Secretary may undertake surveys, plans, and studies and prepare reports that may lead to work under existing civil works authorities or to recommendations for authorizations.

(b) FUNDING.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $1,000,000 for each of fiscal years 1997 through 2000.

(2) FUNDING FROM OTHER SOURCES.—The Secretary may accept and expend additional funds from other Federal agencies, States, or non-Federal entities for purposes of carrying out this section.

33 USC 576b.

SEC. 213. LEASE AUTHORITY.

Notwithstanding any other provision of law, the Secretary may lease space available in buildings for which funding for construction or purchase was provided from the revolving fund established by the 1st section of the Civil Functions Appropriations Act, 1954 (33 U.S.C. 576; 67 Stat. 199), under such terms and conditions as are acceptable to the Secretary. The proceeds from such leases shall be credited to the revolving fund for the purposes set forth in such Act.

SEC. 214. COLLABORATIVE RESEARCH AND DEVELOPMENT.

(a) FUNDING FROM OTHER FEDERAL SOURCES.—Section 7 of the Water Resources Development Act of 1988 (33 U.S.C. 2313; 102 Stat. 4022–4023) is amended—

(1) in subsection (a) by inserting "civil works" before "mission"; and

(2) by striking subsection (e) and inserting the following:

"(e) FUNDING FROM OTHER FEDERAL SOURCES.—The Secretary may accept and expend additional funds from other Federal programs, including other Department of Defense programs, to carry out this section.".

(b) PRE-AGREEMENT TEMPORARY PROTECTION OF TECHNOLOGY.—Section 7 of such Act is amended—

(1) by redesignating subsections (b), (c), (d), and (e) as subsections (c), (d), (e), and (f), respectively;

(2) by inserting after subsection (a) the following:

"(b) PRE-AGREEMENT TEMPORARY PROTECTION OF TECHNOLOGY.—

"(1) IN GENERAL.—If the Secretary determines that information developed as a result of research and development activities conducted by the Corps of Engineers is likely to be subject to a cooperative research and development agreement within 2 years of its development and that such information would be a trade secret or commercial or financial information that would be privileged or confidential if the information had been obtained from a non-Federal party participating in a cooperative research and development agreement under section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a), the Secretary may provide appropriate protection against the dissemination of such information, including exemption from subchapter II of chapter 5 of title 5, United States Code, until the earlier of the date the Secretary enters into such an agreement with respect to such technology or the last day of the 2-year period beginning on the date of such determination.

"(2) TREATMENT.—Any technology covered by this section that becomes the subject of a cooperative research and development agreement shall be accorded the protection provided under section 12(c)(7)(B) of such Act (15 U.S.C. 3710a(c)(7)(B)) as if such technology had been developed under a cooperative research and development agreement."; and

(3) in subsection (d) (as so redesignated) by striking "(b)" and inserting "(c)".

SEC. 215. NATIONAL DAM SAFETY PROGRAM.

(a) PURPOSE.—The purpose of this section is to reduce the risks to life and property from dam failure in the United States through the establishment and maintenance of an effective national dam safety program to bring together the expertise and resources of the Federal and non-Federal communities in achieving national dam safety hazard reduction. It is not the intent of this section to preempt any other Federal or State authorities nor is it the intent of this section to mandate State participation in the grant assistance program to be established under this section. 33 USC 467 note.

(b) EFFECT ON OTHER DAM SAFETY PROGRAMS.—Nothing in this section (including the amendments made by this section) shall preempt or otherwise affect any dam safety program of a Federal agency other than the Federal Emergency Management Agency, including any program that regulates, permits, or licenses any activity affecting a dam. 33 USC 467 note.

(c) DAM SAFETY PROGRAM.—The Act entitled "An Act to authorize the Secretary of the Army to undertake a national program of inspection of dams", approved August 8, 1972 (33 U.S.C 467 et seq.; Public Law 92–367), is amended—

(1) by striking the 1st section and inserting the following: 33 USC 467.

"SECTION 1. SHORT TITLE. 33 USC 467 note.

"This Act may be cited as the 'National Dam Safety Program Act'.";

(2) by striking sections 5 through 14; 33 USC 467d–467m.

(3) by redesignating sections 2, 3, and 4 as sections 3, 4, and 5, respectively; 33 USC 467a–467c.

(4) by inserting after section 1 (as amended by paragraph (1) of this subsection) the following:

33 USC 467.

"SEC. 2. DEFINITIONS.

"In this Act, the following definitions apply:

"(1) BOARD.—The term 'Board' means a National Dam Safety Review Board established under section 8(h).

"(2) DAM.—The term 'dam'—

"(A) means any artificial barrier that has the ability to impound water, wastewater, or any liquid-borne material, for the purpose of storage or control of water, that—

"(i) is 25 feet or more in height from—

"(I) the natural bed of the stream channel or watercourse measured at the downstream toe of the barrier; or

"(II) if the barrier is not across a stream channel or watercourse, from the lowest elevation of the outside limit of the barrier;

to the maximum water storage elevation; or

"(ii) has an impounding capacity for maximum storage elevation of 50 acre-feet or more; but

"(B) does not include—

"(i) a levee; or

"(ii) a barrier described in subparagraph (A) that—

"(I) is 6 feet or less in height regardless of storage capacity; or

"(II) has a storage capacity at the maximum water storage elevation that is 15 acre-feet or less regardless of height;

unless the barrier, because of the location of the barrier or another physical characteristic of the barrier, is likely to pose a significant threat to human life or property if the barrier fails (as determined by the Director).

"(3) DIRECTOR.—The term 'Director' means the Director of FEMA.

"(4) FEDERAL AGENCY.—The term 'Federal agency' means a Federal agency that designs, finances, constructs, owns, operates, maintains, or regulates the construction, operation, or maintenance of a dam.

"(5) FEDERAL GUIDELINES FOR DAM SAFETY.—The term 'Federal Guidelines for Dam Safety' means the FEMA publication, numbered 93 and dated June 1979, that defines management practices for dam safety at all Federal agencies.

"(6) FEMA.—The term 'FEMA' means the Federal Emergency Management Agency.

"(7) HAZARD REDUCTION.—The term 'hazard reduction' means the reduction in the potential consequences to life and property of dam failure.

"(8) ICODS.—The term 'ICODS' means the Interagency Committee on Dam Safety established by section 7.

"(9) PROGRAM.—The term 'Program' means the national dam safety program established under section 8.

"(10) STATE.—The term 'State' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any other territory or possession of the United States.

"(11) STATE DAM SAFETY AGENCY.—The term 'State dam safety agency' means a State agency that has regulatory authority over the safety of non-Federal dams.

"(12) STATE DAM SAFETY PROGRAM.—The term 'State dam safety program' means a State dam safety program approved and assisted under section 8(f).

"(13) UNITED STATES.—The term 'United States', when used in a geographical sense, means all of the States.";

(5) in section 3 (as redesignated by paragraph (3) of this subsection)— 33 USC 467a.

(A) by striking "SEC. 3. As" and inserting the following:

"SEC. 3. INSPECTION OF DAMS.

"(a) IN GENERAL.—As"; and

(B) by adding at the end the following:

"(b) STATE PARTICIPATION.—On request of a State dam safety agency, with respect to any dam the failure of which would affect the State, the head of a Federal agency shall—

"(1) provide information to the State dam safety agency on the construction, operation, or maintenance of the dam; or

"(2) allow any official of the State dam safety agency to participate in the Federal inspection of the dam.";

(6) in section 4 (as redesignated by paragraph (3) of this subsection) by striking "SEC. 4. As" and inserting the following: 33 USC 467b.

"SEC. 4. INVESTIGATION REPORTS TO GOVERNORS.

"As";

(7) in section 5 (as redesignated by paragraph (3) of this subsection) by striking "SEC. 5. For" and inserting the following: 33 USC 467c.

"SEC. 5. DETERMINATION OF DANGER TO HUMAN LIFE AND PROPERTY.

"For"; and

(8) by inserting after section 5 (as redesignated by paragraph (3) of this subsection) the following:

"SEC. 6. NATIONAL DAM INVENTORY. 33 USC 467d.

"The Secretary of the Army, acting through the Chief of Engineers, may maintain and periodically publish updated information on the inventory of dams in the United States.

"SEC. 7. INTERAGENCY COMMITTEE ON DAM SAFETY. 33 USC 467e.

"(a) ESTABLISHMENT.—There is established an Interagency Committee on Dam Safety—

"(1) comprised of a representative of each of the Department of Agriculture, the Department of Defense, the Department of Energy, the Department of the Interior, the Department of Labor, FEMA, the Federal Energy Regulatory Commission, the Nuclear Regulatory Commission, the Tennessee Valley Authority, and the United States Section of the International Boundary Commission; and

"(2) chaired by the Director.

"(b) DUTIES.—ICODS shall encourage the establishment and maintenance of effective Federal and State programs, policies, and guidelines intended to enhance dam safety for the protection of human life and property through—

"(1) coordination and information exchange among Federal agencies and State dam safety agencies; and

"(2) coordination and information exchange among Federal agencies concerning implementation of the Federal Guidelines for Dam Safety.

33 USC 467f.

"SEC. 8. NATIONAL DAM SAFETY PROGRAM.

"(a) IN GENERAL.—The Director, in consultation with ICODS and State dam safety agencies, and the Board shall establish and maintain, in accordance with this section, a coordinated national dam safety program. The Program shall—

"(1) be administered by FEMA to achieve the objectives set forth in subsection (c);

"(2) involve, to the extent appropriate, each Federal agency; and

"(3) include—

"(A) each of the components described in subsection (d);

"(B) the implementation plan described in subsection (e); and

"(C) assistance for State dam safety programs described in subsection (f).

"(b) DUTIES.—The Director shall—

"(1) not later than 270 days after the date of the enactment of this paragraph, develop the implementation plan described in subsection (e);

"(2) not later than 300 days after the date of the enactment of this paragraph, submit to the appropriate authorizing committees of Congress the implementation plan described in subsection (e); and

Regulations.

"(3) by regulation, not later than 360 days after the date of the enactment of this paragraph—

"(A) develop and implement the Program;

"(B) establish goals, priorities, and target dates for implementation of the Program; and

"(C) to the extent feasible, provide a method for cooperation and coordination with, and assistance to, interested governmental entities in all States.

"(c) OBJECTIVES.—The objectives of the Program are to—

"(1) ensure that new and existing dams are safe through the development of technologically and economically feasible programs and procedures for national dam safety hazard reduction;

"(2) encourage acceptable engineering policies and procedures to be used for dam site investigation, design, construction, operation and maintenance, and emergency preparedness;

"(3) encourage the establishment and implementation of effective dam safety programs in each State based on State standards;

"(4) develop and encourage public awareness projects to increase public acceptance and support of State dam safety programs;

"(5) develop technical assistance materials for Federal and non-Federal dam safety programs; and

"(6) develop mechanisms with which to provide Federal technical assistance for dam safety to the non-Federal sector.

"(d) COMPONENTS.—

"(1) IN GENERAL.—The Program shall consist of—

"(A) a Federal element and a non-Federal element; and

"(B) leadership activity, technical assistance activity, and public awareness activity.

"(2) ELEMENTS.—

"(A) FEDERAL.—The Federal element shall incorporate the activities and practices carried out by Federal agencies under section 7 to implement the Federal Guidelines for Dam Safety.

"(B) NON-FEDERAL.—The non-Federal element shall consist of—

"(i) the activities and practices carried out by States, local governments, and the private sector to safely build, regulate, operate, and maintain dams; and

"(ii) Federal activities that foster State efforts to develop and implement effective programs for the safety of dams.

"(3) FUNCTIONAL ACTIVITIES.—

"(A) LEADERSHIP.—The leadership activity shall be the responsibility of FEMA and shall be exercised by chairing ICODS to coordinate Federal efforts in cooperation with State dam safety officials.

"(B) TECHNICAL ASSISTANCE.—The technical assistance activity shall consist of the transfer of knowledge and technical information among the Federal and non-Federal elements described in paragraph (2).

"(C) PUBLIC AWARENESS.—The public awareness activity shall provide for the education of the public, including State and local officials, in the hazards of dam failure, methods of reducing the adverse consequences of dam failure, and related matters.

"(e) IMPLEMENTATION PLAN.—The Director shall—

"(1) develop an implementation plan for the Program that shall set, through fiscal year 2002, year-by-year targets that demonstrate improvements in dam safety; and

"(2) recommend appropriate roles for Federal agencies and for State and local units of government, individuals, and private organizations in carrying out the implementation plan.

"(f) ASSISTANCE FOR STATE DAM SAFETY PROGRAMS.—

"(1) IN GENERAL.—To encourage the establishment and maintenance of effective State programs intended to ensure dam safety, to protect human life and property, and to improve State dam safety programs, the Director shall provide assistance with amounts made available under section 12 to assist States in establishing and maintaining dam safety programs—

"(A) in accordance with the criteria specified in paragraph (2); and

"(B) in accordance with more advanced requirements and standards established by the Board and the Director with the assistance of established criteria such as the Model State Dam Safety Program published by FEMA, numbered 123 and dated April 1987, and amendments to the Model State Dam Safety Program.

"(2) CRITERIA AND BUDGETING REQUIREMENT.—For a State to be eligible for primary assistance under this subsection,

a State dam safety program must be working toward meeting the following criteria and budgeting requirement, and for a State to be eligible for advanced assistance under this subsection, a State dam safety program must meet the following criteria and budgeting requirement and be working toward meeting the advanced requirements and standards established under paragraph (1)(B):

"(A) CRITERIA.—For a State to be eligible for assistance under this subsection, a State dam safety program must be authorized by State legislation to include substantially, at a minimum—

"(i) the authority to review and approve plans and specifications to construct, enlarge, modify, remove, and abandon dams;

"(ii) the authority to perform periodic inspections during dam construction to ensure compliance with approved plans and specifications;

"(iii) a requirement that, on completion of dam construction, State approval must be given before operation of the dam;

"(iv)(I) the authority to require or perform the inspection, at least once every 5 years, of all dams and reservoirs that would pose a significant threat to human life and property in case of failure to determine the continued safety of the dams and reservoirs; and

"(II) a procedure for more detailed and frequent safety inspections;

"(v) a requirement that all inspections be performed under the supervision of a State-registered professional engineer with related experience in dam design and construction;

"(vi) the authority to issue notices, when appropriate, to require owners of dams to perform necessary maintenance or remedial work, revise operating procedures, or take other actions, including breaching dams when necessary;

"(vii) regulations for carrying out the legislation of the State described in this subparagraph;

"(viii) provision for necessary funds—

"(I) to ensure timely repairs or other changes to, or removal of, a dam in order to protect human life and property; and

"(II) if the owner of the dam does not take action described in subclause (I), to take appropriate action as expeditiously as practicable;

"(ix) a system of emergency procedures to be used if a dam fails or if the failure of a dam is imminent; and

"(x) an identification of—

"(I) each dam the failure of which could be reasonably expected to endanger human life;

"(II) the maximum area that could be flooded if the dam failed; and

"(III) necessary public facilities that would be affected by the flooding.

"(B) BUDGETING REQUIREMENT.—For a State to be eligible for assistance under this subsection, State appropriations must be budgeted to carry out the legislation of the State under subparagraph (A).

"(3) WORK PLANS.—The Director shall enter into a contract with each State receiving assistance under paragraph (2) to develop a work plan necessary for the State dam safety program to reach a level of program performance specified in the contract. Contracts.

"(4) MAINTENANCE OF EFFORT.—Assistance may not be provided to a State under this subsection for a fiscal year unless the State enters into such agreement with the Director as the Director requires to ensure that the State will maintain the aggregate expenditures of the State from all other sources for programs to ensure dam safety for the protection of human life and property at or above a level equal to the average annual level of such expenditures for the 2 fiscal years preceding the fiscal year.

"(5) APPROVAL OF PROGRAMS.—

"(A) SUBMISSION.—For a State to be eligible for assistance under this subsection, a plan for a State dam safety program shall be submitted to the Director for approval.

"(B) APPROVAL.—A State dam safety program shall be deemed to be approved 120 days after the date of receipt by the Director unless the Director determines within the 120-day period that the State dam safety program fails to meet the requirements of paragraphs (1) through (3).

"(C) NOTIFICATION OF DISAPPROVAL.—If the Director determines that a State dam safety program does not meet the requirements for approval, the Director shall immediately notify the State in writing and provide the reasons for the determination and the changes that are necessary for the plan to be approved.

"(6) REVIEW OF STATE DAM SAFETY PROGRAMS.—Using the expertise of the Board, the Director shall periodically review State dam safety programs. If the Board finds that a State dam safety program has proven inadequate to reasonably protect human life and property and the Director concurs, the Director shall revoke approval of the State dam safety program, and withhold assistance under this subsection, until the State dam safety program again meets the requirements for approval.

"(g) DAM SAFETY TRAINING.—At the request of any State that has or intends to develop a State dam safety program, the Director shall provide training for State dam safety staff and inspectors.

"(h) BOARD.—

"(1) ESTABLISHMENT.—The Director may establish an advisory board to be known as the 'National Dam Safety Review Board' to monitor State implementation of this section.

"(2) AUTHORITY.—The Board may use the expertise of Federal agencies and enter into contracts for necessary studies to carry out this section.

"(3) MEMBERSHIP.—The Board shall consist of 11 members selected by the Director for expertise in dam safety, of whom—

"(A) 1 member shall represent the Department of Agriculture;

"(B) 1 member shall represent the Department of Defense;

"(C) 1 member shall represent the Department of the Interior;

"(D) 1 member shall represent FEMA;

"(E) 1 member shall represent the Federal Energy Regulatory Commission;

"(F) 5 members shall be selected by the Director from among dam safety officials of States; and

"(G) 1 member shall be selected by the Director to represent the United States Committee on Large Dams.

"(4) COMPENSATION OF MEMBERS.—

"(A) FEDERAL EMPLOYEES.—Each member of the Board who is an officer or employee of the United States shall serve without compensation in addition to compensation received for the services of the member as an officer or employee of the United States.

"(B) OTHER MEMBERS.—Each member of the Board who is not an officer or employee of the United States shall serve without compensation.

"(5) TRAVEL EXPENSES.—Each member of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of services for the Board.

"(6) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Board.

33 USC 467g.

"SEC. 9. RESEARCH.

"(a) IN GENERAL.—The Director, in cooperation with ICODS, shall carry out a program of technical and archival research to develop—

"(1) improved techniques, historical experience, and equipment for rapid and effective dam construction, rehabilitation, and inspection; and

"(2) devices for the continued monitoring of the safety of dams.

"(b) CONSULTATION.—The Director shall provide for State participation in research under subsection (a) and periodically advise all States and Congress of the results of the research.

33 USC 467h.

"SEC. 10. REPORTS.

"(a) REPORT ON DAM INSURANCE.—Not later than 180 days after the date of the enactment of this subsection, the Director shall report to Congress on the availability of dam insurance and make recommendations concerning encouraging greater availability.

"(b) BIENNIAL REPORTS.—Not later than 90 days after the end of each odd-numbered fiscal year, the Director shall submit a report to Congress that—

"(1) describes the status of the Program;

"(2) describes the progress achieved by Federal agencies during the 2 preceding fiscal years in implementing the Federal Guidelines for Dam Safety;

"(3) describes the progress achieved in dam safety by States participating in the Program; and

"(4) includes any recommendations for legislative and other action that the Director considers necessary.

"SEC. 11. STATUTORY CONSTRUCTION. 33 USC 467i.

"Nothing in this Act and no action or failure to act under this Act shall—

"(1) create any liability in the United States or its officers or employees for the recovery of damages caused by such action or failure to act;

"(2) relieve an owner or operator of a dam of the legal duties, obligations, or liabilities incident to the ownership or operation of the dam; or

"(3) preempt any other Federal or State law.

"SEC. 12. AUTHORIZATION OF APPROPRIATIONS. 33 USC 467j.

"(a) NATIONAL DAM SAFETY PROGRAM.—

"(1) ANNUAL AMOUNTS.—There are authorized to be appropriated to FEMA to carry out sections 7, 8, and 10 (in addition to any amounts made available for similar purposes included in any other Act and amounts made available under subsections (b) through (e)), $1,000,000 for fiscal year 1998, $2,000,000 for fiscal year 1999, $4,000,000 for fiscal year 2000, $4,000,000 for fiscal year 2001, and $4,000,000 for fiscal year 2002.

"(2) ALLOCATION.—

"(A) IN GENERAL.—Subject to subparagraphs (B) and (C), for each fiscal year, amounts made available under this subsection to carry out section 8 shall be allocated among the States as follows:

"(i) One-third among States that qualify for assistance under section 8(f).

"(ii) Two-thirds among States that qualify for assistance under section 8(f), to each such State in proportion to—

"(I) the number of dams in the State that are listed as State-regulated dams on the inventory of dams maintained under section 6; as compared to

"(II) the number of dams in all States that are listed as State-regulated dams on the inventory of dams maintained under section 6.

"(B) MAXIMUM AMOUNT OF ALLOCATION.—The amount of funds allocated to a State under this paragraph may not exceed 50 percent of the reasonable cost of implementing the State dam safety program.

"(C) DETERMINATION.—The Director and the Board shall determine the amount allocated to States needing primary assistance and States needing advanced assistance under section 8(f).

"(b) NATIONAL DAM INVENTORY.—There is authorized to be appropriated to carry out section 6 $500,000 for each fiscal year.

"(c) DAM SAFETY TRAINING.—There is authorized to be appropriated to carry out section 8(g) $500,000 for each of fiscal years 1998 through 2002.

"(d) RESEARCH.—There is authorized to be appropriated to carry out section 9 $1,000,000 for each of fiscal years 1998 through 2002.

"(e) STAFF.—There is authorized to be appropriated to FEMA for the employment of such additional staff personnel as are necessary to carry out sections 6 through 9 $400,000 for each of fiscal years 1998 through 2002.

"(f) LIMITATION ON USE OF AMOUNTS.—Amounts made available under this Act may not be used to construct or repair any Federal or non-Federal dam.".

(d) CONFORMING AMENDMENT.—Section 3(2) of the Indian Dams Safety Act of 1994 (25 U.S.C. 3802(2); 108 Stat. 1560) is amended by striking "the first section of Public Law 92–367 (33 U.S.C. 467)" and inserting "section 2 of the National Dam Safety Program Act".

33 USC 2321a.

SEC. 216. HYDROELECTRIC POWER PROJECT UPRATING.

(a) IN GENERAL.—In carrying out the maintenance, rehabilitation, and modernization of a hydroelectric power generating facility at a water resources project under the jurisdiction of the Department of the Army, the Secretary may take, to the extent funds are made available in appropriations Acts, such actions as are necessary to increase the efficiency of energy production or the capacity of the facility, or both, if, after consulting with the heads of other appropriate Federal and State agencies, the Secretary determines that the increase—

(1) is economically justified and financially feasible;

(2) will not result in any significant adverse effect on the other purposes for which the project is authorized;

(3) will not result in significant adverse environmental impacts;

(4) will not involve major structural or operational changes in the project; and

(5) will not adversely affect the use, management, or protection of existing Federal, State, or tribal water rights.

(b) CONSULTATION.—Before proceeding with the proposed uprating under subsection (a), the Secretary shall provide affected State, tribal, and Federal agencies with a copy of the proposed determinations under subsection (a). If the agencies submit comments, the Secretary shall accept those comments or respond in writing to any objections those agencies raise to the proposed determinations.

(c) EFFECT ON OTHER AUTHORITY.—This section shall not affect the authority of the Secretary and the Administrator of the Bonneville Power Administration under section 2406 of the Energy Policy Act of 1992 (16 U.S.C. 839d–1; 106 Stat. 3099).

33 USC 2326a.

SEC. 217. DREDGED MATERIAL DISPOSAL FACILITY PARTNERSHIPS.

(a) ADDITIONAL CAPACITY.—

(1) PROVIDED BY SECRETARY.—At the request of a non-Federal interest with respect to a project, the Secretary may provide additional capacity at a dredged material disposal facility constructed by the Secretary beyond the capacity that would be required for project purposes if the non-Federal interest agrees to pay, during the period of construction, all costs associated with the construction of the additional capacity.

(2) COST RECOVERY AUTHORITY.—The non-Federal interest may recover the costs assigned to the additional capacity through fees assessed on third parties whose dredged material is deposited at the facility and who enter into agreements with the non-Federal interest for the use of the facility. The amount of such fees may be determined by the non-Federal interest.

(b) NON-FEDERAL USE OF DISPOSAL FACILITIES.—

(1) IN GENERAL.—The Secretary—

(A) may permit the use of any dredged material disposal facility under the jurisdiction of, or managed by, the Secretary by a non-Federal interest if the Secretary determines that such use will not reduce the availability of the facility for project purposes; and

(B) may impose fees to recover capital, operation, and maintenance costs associated with such use.

(2) USE OF FEES.—Notwithstanding section 401(c) of the Federal Water Pollution Control Act (33 U.S.C. 1341(c)) but subject to advance appropriations, any monies received through collection of fees under this subsection shall be available to the Secretary, and shall be used by the Secretary, for the operation and maintenance of the disposal facility from which the fees were collected.

(c) PUBLIC-PRIVATE PARTNERSHIPS.—

(1) IN GENERAL.—The Secretary may carry out a program to evaluate and implement opportunities for public-private partnerships in the design, construction, management, or operation of dredged material disposal facilities in connection with construction or maintenance of Federal navigation projects. If a non-Federal interest is a sponsor of the project, the Secretary shall consult with the non-Federal interest in carrying out the program with respect to the project.

(2) PRIVATE FINANCING.—

(A) AGREEMENTS.—In carrying out this subsection, the Secretary may enter into an agreement with a non-Federal interest with respect to a project, a private entity, or both for the acquisition, design, construction, management, or operation of a dredged material disposal facility (including any facility used to demonstrate potential beneficial uses of dredged material) using funds provided in whole or in part by the private entity.

(B) REIMBURSEMENT.—If any funds provided by a private entity are used to carry out a project under this subsection, the Secretary may reimburse the private entity over a period of time agreed to by the parties to the agreement through the payment of subsequent user fees. Such fees may include the payment of a disposal or tipping fee for placement of suitable dredged material at the facility.

(C) AMOUNT OF FEES.—User fees paid pursuant to subparagraph (B) shall be sufficient to repay funds contributed by the private entity plus a reasonable return on investment approved by the Secretary in cooperation with the non-Federal interest with respect to the project and the private entity.

(D) FEDERAL SHARE.—The Federal share of such fees shall be equal to the percentage of the total cost that would otherwise be borne by the Federal Government as required pursuant to existing cost-sharing requirements, including section 103 of the Water Resources Development Act of 1986 (33 U.S.C. 2213) and section 204 of the Water Resources Development Act of 1992 (33 U.S.C. 2325).

(E) BUDGET ACT COMPLIANCE.—Any spending authority (as defined in section 401(c)(2) of the Congressional Budget Act of 1974 (2 U.S.C. 651(c)(2))) authorized by this section

shall be effective only to such extent and in such amounts as are provided in appropriation Acts.

SEC. 218. OBSTRUCTION REMOVAL REQUIREMENT.

(a) PENALTY.—Section 16 of the Act entitled "An Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved March 3, 1899 (33 U.S.C. 411; 30 Stat. 1153), is amended— 33 USC 411, 412.

(1) by striking "thirteen, fourteen, and fifteen" each place it appears and inserting "13, 14, 15, 19, and 20"; and

(2) by striking "not exceeding twenty-five hundred dollars nor less than five hundred dollars" and inserting "of up to $25,000 per day".

(b) GENERAL AUTHORITY.—Section 20 of such Act (33 U.S.C. 415) is amended—

(1) in subsection (a) by striking "expense" the 1st place it appears and inserting "actual expense, including administrative expenses,";

(2) in subsection (b) by striking "cost" and inserting "actual cost, including administrative costs,";

(3) by redesignating subsection (b) as subsection (c); and

(4) by inserting after subsection (a) the following:

"(b) REMOVAL REQUIREMENT.—Not later than 24 hours after the Secretary of the Department in which the Coast Guard is operating issues an order to stop or delay navigation in any navigable waters of the United States because of conditions related to the sinking or grounding of a vessel, the owner or operator of the vessel, with the approval of the Secretary of the Army, shall begin removal of the vessel using the most expeditious removal method available or, if appropriate, secure the vessel pending removal to allow navigation to resume. If the owner or operator fails to begin removal or to secure the vessel pending removal or fails to complete removal on an expedited basis, the Secretary of the Army shall remove or destroy the vessel using the summary removal procedures under subsection (a).".

SEC. 219. SMALL PROJECT AUTHORIZATIONS.

Section 14 of the Act entitled "An Act authorizing the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved July 24, 1946 (33 U.S.C. 701r), is amended—

(1) by striking "$12,500,000" and inserting "$15,000,000"; and

(2) by striking "$500,000" and inserting "$1,000,000".

SEC. 220. UNECONOMICAL COST-SHARING REQUIREMENTS.

Section 221(a) of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b(a)) is amended by striking the period at the end of the 1st sentence and inserting the following: "; except that no such agreement shall be required if the Secretary determines that the administrative costs associated with negotiating, executing, or administering the agreement would exceed the amount of the contribution required from the non-Federal interest and are less than $25,000.".

SEC. 221. PLANNING ASSISTANCE TO STATES.

Section 22 of the Water Resources Development Act of 1974 (42 U.S.C. 1962d–16) is amended—

(1) in subsection (a) by inserting ", watersheds, or ecosystems" after "basins";

(2) in subsection (b)—

(A) by striking paragraph (2); and

(B) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively; and

(3) in subsection (c)—

(A) by striking "$6,000,000" and inserting "$10,000,000"; and

(B) by striking "$300,000" and inserting "$500,000".

SEC. 222. CORPS OF ENGINEERS EXPENSES.

Section 211 of the Flood Control Act of 1950 (33 U.S.C. 701u; 64 Stat. 183) is amended—

(1) by striking "continental limits of the"; and

(2) by striking the 2d colon and all that follows through "for this purpose".

SEC. 223. STATE AND FEDERAL AGENCY REVIEW PERIOD.

Paragraph (a) of the 1st section of the Act entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood control, and other purposes", approved December 22, 1944 (33 U.S.C. 701–1(a); 58 Stat. 888), is amended—

(1) by striking "Within ninety" and inserting "Within 30"; and

(2) by striking "ninety-day period." and inserting "30-day period.".

SEC. 224. SECTION 215 REIMBURSEMENT LIMITATION PER PROJECT.

(a) IN GENERAL.—The last sentence of section 215(a) of the Flood Control Act of 1968 (42 U.S.C. 1962d–5a(a)) is amended—

(1) by striking "$3,000,000" and inserting "$5,000,000"; and

(2) by striking the final period.

(b) MODIFICATION OF REIMBURSEMENT LIMITATION FOR SAN ANTONIO RIVER AUTHORITY.—Notwithstanding the last sentence of section 215(a) of the Flood Control Act of 1968 (42 U.S.C. 1962d–5a(a)) and the agreement executed on November 7, 1992, by the Secretary and the San Antonio River Authority, Texas, the Secretary shall reimburse the Authority an amount not to exceed a total of $5,000,000 for the work carried out by the Authority under the agreement, including any amounts paid to the Authority under the terms of the agreement before the date of the enactment of this Act.

SEC. 225. MELALEUCA.

Section 104(a) of the River and Harbor Act of 1958 (33 U.S.C. 610(a)) is amended by inserting "melaleuca," after "milfoil,".

SEC. 226. SEDIMENTS DECONTAMINATION TECHNOLOGY.

(a) PROJECT PURPOSE.—Section 405(a) of the Water Resources Development Act of 1992 (33 U.S.C. 2239 note; 106 Stat. 4863) is amended by adding at the end the following:

"(3) PROJECT PURPOSE.—The purpose of the project to be carried out under this section is to provide for the development of 1 or more sediment decontamination technologies on a pilot

scale demonstrating a capacity of at least 500,000 cubic yards per year.".

(b) AUTHORIZATION OF APPROPRIATIONS.—The 1st sentence of section 405(c) of such Act is amended to read as follows: "There is authorized to be appropriated to carry out this section $10,000,000.".

33 USC 2239 note.

(c) REPORTS.—Section 405 of such Act is amended by adding at the end the following:

"(d) REPORTS.—Not later than September 30, 1998, and periodically thereafter, the Administrator and the Secretary shall transmit to Congress a report on the results of the project to be carried out under this section, including an assessment of the progress made in achieving the purpose of the project set forth in subsection (a)(3).".

SEC. 227. SHORE PROTECTION.

(a) DECLARATION OF POLICY.—Subsection (a) of the 1st section of the Act entitled "An Act authorizing Federal participation in the cost of protecting the shores of publicly owned property", approved August 13, 1946 (33 U.S.C. 426e), is amended—

(1) by striking "damage to the shores" and inserting "damage to the shores and beaches"; and

(2) by striking "the following provisions" and all that follows through the period at the end of such subsection and inserting the following: "this Act, to promote shore protection projects and related research that encourage the protection, restoration, and enhancement of sandy beaches, including beach restoration and periodic beach nourishment, on a comprehensive and coordinated basis by the Federal Government, States, localities, and private enterprises. In carrying out this policy, preference shall be given to areas in which there has been a Federal investment of funds and areas with respect to which the need for prevention or mitigation of damage to shores and beaches is attributable to Federal navigation projects or other Federal activities.".

(b) AUTHORIZATION OF PROJECTS.—Subsection (e) of such section is amended—

(1) by striking "(e) No" and inserting the following:

"(e) AUTHORIZATION OF PROJECTS.—

"(1) IN GENERAL.—No";

(2) by moving the remainder of the text of paragraph (1) (as designated by paragraph (1) of this subsection) 2 ems to the right; and

(3) by adding at the end the following:

"(2) STUDIES.—

"(A) IN GENERAL.—The Secretary shall—

"(i) recommend to Congress studies concerning shore protection projects that meet the criteria established under this Act (including subparagraph (B)(iii)) and other applicable law;

"(ii) conduct such studies as Congress requires under applicable laws; and

Reports.

"(iii) report the results of the studies to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

"(B) RECOMMENDATIONS FOR SHORE PROTECTION PROJECTS.—

"(i) IN GENERAL.—The Secretary shall recommend to Congress the authorization or reauthorization of shore protection projects based on the studies conducted under subparagraph (A).

"(ii) CONSIDERATIONS.—In making recommendations, the Secretary shall consider the economic and ecological benefits of the shore protection project.

"(C) COORDINATION OF PROJECTS.—In conducting studies and making recommendations for a shore protection project under this paragraph, the Secretary shall—

"(i) determine whether there is any other project being carried out by the Secretary or the head of another Federal agency that may be complementary to the shore protection project; and

"(ii) if there is such a complementary project, describe the efforts that will be made to coordinate the projects.

"(3) SHORE PROTECTION PROJECTS.—

"(A) IN GENERAL.—The Secretary shall construct, or cause to be constructed, any shore protection project authorized by Congress, or separable element of such a project, for which funds have been appropriated by Congress.

"(B) AGREEMENTS.—

"(i) REQUIREMENT.—After authorization by Congress, and before commencement of construction, of a shore protection project or separable element, the Secretary shall enter into a written agreement with a non-Federal interest with respect to the project or separable element.

"(ii) TERMS.—The agreement shall—

"(I) specify the life of the project; and

"(II) ensure that the Federal Government and the non-Federal interest will cooperate in carrying out the project or separable element.

"(C) COORDINATION OF PROJECTS.—In constructing a shore protection project or separable element under this paragraph, the Secretary shall, to the extent practicable, coordinate the project or element with any complementary project identified under paragraph (2)(C).".

(c) REQUIREMENT OF AGREEMENTS PRIOR TO REIMBURSEMENTS.—

(1) SMALL SHORE PROTECTION PROJECTS.—Section 2 of the Act entitled "An Act authorizing Federal participation in the cost of protecting the shores of publicly owned property", approved August 13, 1946 (33 U.S.C. 426f), is amended—

(A) by striking "SEC. 2. The Secretary of the Army" and inserting the following:

"SEC. 2. REIMBURSEMENTS.

"(a) IN GENERAL.—The Secretary";

(B) in subsection (a) (as designated by subparagraph (A) of this paragraph)—

(i) by striking "local interests" and inserting "non-Federal interests";

(ii) by inserting "or separable element of the project" after "project"; and

(iii) by inserting "or separable elements" after "projects" each place it appears; and

(C) by adding at the end the following:

"(b) AGREEMENTS.—

"(1) REQUIREMENT.—After authorization of reimbursement by the Secretary under this section, and before commencement of construction, of a shore protection project, the Secretary shall enter into a written agreement with the non-Federal interest with respect to the project or separable element.

"(2) TERMS.—The agreement shall—

"(A) specify the life of the project; and

"(B) ensure that the Federal Government and the non-Federal interest will cooperate in carrying out the project or separable element.".

(2) OTHER SHORELINE PROTECTION PROJECTS.—Section 206(e)(1)(A) of the Water Resources Development Act of 1992 (33 U.S.C. 426i–1(e)(1)(A); 106 Stat. 4829) is amended by inserting before the semicolon the following: "and enters into a written agreement with the non-Federal interest with respect to the project or separable element (including the terms of cooperation)".

(d) STATE AND REGIONAL PLANS.—The Act entitled "An Act authorizing Federal participation in the cost of protecting the shores of publicly owned property", approved August 13, 1946, is amended—

(1) by redesignating section 4 (33 U.S.C. 426h) as section 5; and

(2) by inserting after section 3 (33 U.S.C. 426g) the following:

33 USC 426g–1.

"SEC. 4. STATE AND REGIONAL PLANS.

"The Secretary may—

"(1) cooperate with any State in the preparation of a comprehensive State or regional plan for the conservation of coastal resources located within the boundaries of the State;

"(2) encourage State participation in the implementation of the plan; and

"(3) submit to Congress reports and recommendations with respect to appropriate Federal participation in carrying out the plan.".

(e) NATIONAL SHORELINE EROSION CONTROL DEVELOPMENT AND DEMONSTRATION PROGRAM AND DEFINITIONS.—

(1) IN GENERAL.—The Act entitled "An Act authorizing Federal participation in the cost of protecting the shores of publicly owned property", approved August 13, 1946 (33 U.S.C. 426e et seq.), is amended by striking section 5 (as redesignated by subsection (d)(1) of this section) and inserting the following:

33 USC 426h.

"SEC. 5. NATIONAL SHORELINE EROSION CONTROL DEVELOPMENT AND DEMONSTRATION PROGRAM.

"(a) ESTABLISHMENT OF EROSION CONTROL PROGRAM.—The Secretary shall establish and conduct a national shoreline erosion control development and demonstration program for a period of 6 years beginning on the date that funds are made available to carry out this section.

"(b) REQUIREMENTS.—

"(1) IN GENERAL.—The erosion control program shall include provisions for—

"(A) projects consisting of planning, designing, and constructing prototype engineered and vegetative shoreline erosion control devices and methods during the first 3 years of the erosion control program;

"(B) adequate monitoring of the prototypes throughout the duration of the erosion control program;

"(C) detailed engineering and environmental reports on the results of each demonstration project carried out under the erosion control program; and

"(D) technology transfers to private property owners and State and local entities.

"(2) EMPHASIS.—The projects carried out under the erosion control program shall emphasize, to the extent practicable—

"(A) the development and demonstration of innovative technologies;

"(B) efficient designs to prevent erosion at a shoreline site, taking into account the life-cycle cost of the design, including cleanup, maintenance, and amortization;

"(C) natural designs, including the use of vegetation or temporary structures that minimize permanent structural alterations;

"(D) the avoidance of negative impacts to adjacent shorefront communities;

"(E) in areas with substantial residential or commercial interests adjacent to the shoreline, designs that do not impair the aesthetic appeal of the interests;

"(F) the potential for long-term protection afforded by the technology; and

"(G) recommendations developed from evaluations of the original 1974 program established under the Shoreline Erosion Control Demonstration Act of 1974 (42 U.S.C. 1962d–5 note; 88 Stat. 26), including—

"(i) adequate consideration of the subgrade;

"(ii) proper filtration;

"(iii) durable components;

"(iv) adequate connection between units; and

"(v) consideration of additional relevant information.

"(3) SITES.—

"(A) IN GENERAL.—Each project under the erosion control program shall be carried out at a privately owned site with substantial public access, or a publicly owned site, on open coast or on tidal waters.

"(B) SELECTION.—The Secretary shall develop criteria for the selection of sites for the projects, including—

"(i) a variety of geographical and climatic conditions;

"(ii) the size of the population that is dependent on the beaches for recreation, protection of homes, or commercial interests;

"(iii) the rate of erosion;

"(iv) significant natural resources or habitats and environmentally sensitive areas; and

"(v) significant threatened historic structures or landmarks.

"(C) AREAS.—Projects under the erosion control program shall be carried out at not fewer than—

"(i) 2 sites on each of the shorelines of the Atlantic and Pacific coasts;

"(ii) 2 sites on the shoreline of the Great Lakes; and

"(iii) 1 site on the shoreline of the Gulf of Mexico.

"(4) DETERMINATION OF FEASIBILITY.—Implementation of a project under this section is contingent upon a determination by the Secretary that such project is feasible.

"(c) CONSULTATION.—

"(1) PARTIES.—The Secretary shall carry out the erosion control program in consultation with—

"(A) the Secretary of Agriculture, particularly with respect to vegetative means of preventing and controlling shoreline erosion;

"(B) Federal, State, and local agencies;

"(C) private organizations;

"(D) the Coastal Engineering Research Center established under the 1st section of the Act entitled 'An Act to make certain changes in the functions of the Beach Erosion Board and the Board of Engineers for Rivers and Harbors, and for other purposes', approved November 7, 1963 (33 U.S.C. 426–1); and

"(E) university research facilities.

"(2) AGREEMENTS.—The consultation described in paragraph (1) may include entering into agreements with other Federal, State, or local agencies or private organizations to carry out functions described in subsection (b)(1) when appropriate.

"(d) REPORT.—Not later than 60 days after the conclusion of the erosion control program, the Secretary shall prepare and submit an erosion control program final report to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives. The report shall include a comprehensive evaluation of the erosion control program and recommendations regarding the continuation of the erosion control program.

"(e) FUNDING.—

"(1) RESPONSIBILITY.—The cost of and responsibility for operation and maintenance (excluding monitoring) of a demonstration project under the erosion control program shall be borne by non-Federal interests on completion of construction of the demonstration project.

"(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $21,000,000 to carry out this section.

33 USC 426h–1.

"SEC. 6. DEFINITIONS.

"In this Act, the following definitions apply:

"(1) EROSION CONTROL PROGRAM.—The term 'erosion control program' means the national shoreline erosion control development and demonstration program established under this section.

"(2) SECRETARY.—The term 'Secretary' means the Secretary of the Army.

"(3) SEPARABLE ELEMENT.—The term 'separable element' has the meaning provided by section 103(f) of the Water Resources Development Act of 1986 (33 U.S.C. 2213(f)).

"(4) SHORE.—The term 'shore' includes each shoreline of the Atlantic and Pacific Oceans, the Gulf of Mexico, the Great Lakes, and lakes, estuaries, and bays directly connected therewith.

"(5) SHORE PROTECTION PROJECT.—The term 'shore protection project' includes a project for beach nourishment, including the replacement of sand.".

(2) CONFORMING AMENDMENTS.—The Act entitled "An Act authorizing Federal participation in the cost of protecting the shores of publicly owned property", approved August 13, 1946, is amended—

(A) in subsection (b)(3) of the 1st section (33 U.S.C. 426e(b)(3))—

(i) by striking "of the Army, acting through the Chief of Engineers,"; and

(ii) by striking the final period;

(B) in subsection (e) of the 1st section by striking "section 3" and inserting "section 3 or 5"; and

(C) in section 3 (33 U.S.C. 426g) by striking "Secretary of the Army" and inserting "Secretary".

(f) OBJECTIVES OF PROJECTS.—Section 209 of the Flood Control Act of 1970 (42 U.S.C. 1962–2; 84 Stat. 1829) is amended by inserting "(including shore protection projects such as projects for beach nourishment, including the replacement of sand)" after "water resource projects".

SEC. 228. CONDITIONS FOR PROJECT DEAUTHORIZATIONS.

(a) IN GENERAL.—Section 1001(b)(2) of the Water Resources Development Act of 1986 (33 U.S.C. 579a(b)(2); 100 Stat. 4201) is amended—

(1) in the 1st sentence by striking "10" and inserting "7";

(2) in the 2d sentence by striking "Before" and inserting "Upon"; and

(3) in the last sentence by inserting "the planning, design, or" before "construction".

(b) CONFORMING AMENDMENTS.—Section 52 of the Water Resources Development Act of 1988 (102 Stat. 4044) is amended—

(1) by striking subsection (a) (33 U.S.C. 579a note);

(2) by redesignating subsections (b) through (e) as subsections (a) through (d), respectively; and

(3) in subsection (d) (as so redesignated) by striking "or subsection (a) of this section".

SEC. 229. SUPPORT OF ARMY CIVIL WORKS PROGRAM. 33 USC 2313b.

(a) GENERAL AUTHORITY.—In carrying out research and development in support of the civil works program of the Department of the Army, the Secretary may utilize contracts, cooperative research and development agreements, cooperative agreements, and grants with non-Federal entities, including State and local governments, colleges and universities, consortia, professional and technical societies, public and private scientific and technical foundations, research institutions, educational organizations, and nonprofit organizations.

(b) COMMERCIAL APPLICATION.—With respect to contracts for research and development, the Secretary may include requirements

that have potential commercial application and may use such potential application as an evaluation factor where appropriate.

33 USC 2284a.

SEC. 230. BENEFITS TO NAVIGATION.

In evaluating potential improvements to navigation and the maintenance of navigation projects, the Secretary shall consider, and include for purposes of project justification, economic benefits generated by cruise ships as commercial navigation benefits.

SEC. 231. LOSS OF LIFE PREVENTION.

Section 904 of the Water Resources Development Act of 1986 (33 U.S.C. 2281; 100 Stat. 4185) is amended by inserting "and information regarding potential loss of human life that may be associated with flooding and coastal storm events," after "unquantifiable,".

33 USC 2284b.

SEC. 232. SCENIC AND AESTHETIC CONSIDERATIONS.

In conducting studies of potential water resources projects, the Secretary shall consider measures to preserve and enhance scenic and aesthetic qualities in the vicinity of such projects.

SEC. 233. TERMINATION OF TECHNICAL ADVISORY COMMITTEE.

Section 310 of the Water Resources Development Act of 1990 (33 U.S.C. 2319; 104 Stat. 4639) is amended—

(1) by striking subsection (a); and

(2) in subsection (b)—

(A) by striking "(b) PUBLIC PARTICIPATION.—"; and

(B) by striking "subsection" each place it appears and inserting "section".

33 USC 2323a.

SEC. 234. INTERAGENCY AND INTERNATIONAL SUPPORT AUTHORITY.

(a) IN GENERAL.—The Secretary may engage in activities in support of other Federal agencies or international organizations to address problems of national significance to the United States.

(b) CONSULTATION.—The Secretary may engage in activities in support of international organizations only after consulting with the Secretary of State.

(c) USE OF CORPS' EXPERTISE.—The Secretary may use the technical and managerial expertise of the Corps of Engineers to address domestic and international problems related to water resources, infrastructure development, and environmental protection.

(d) FUNDING.—There is authorized to be appropriated $1,000,000 to carry out this section. The Secretary may accept and expend additional funds from other Federal agencies or international organizations to carry this section.

33 USC 2201 note.

SEC. 235. SENSE OF CONGRESS; REQUIREMENT REGARDING NOTICE.

(a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—It is the sense of Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available under this Act should be American-made.

(b) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance under this Act, the Secretary, to the greatest extent practicable, shall provide to each recipient of the assistance a notice describing the statement made in subsection (a).

SEC. 236. TECHNICAL CORRECTIONS.

(a) CONTRIBUTIONS FOR ENVIRONMENTAL AND RECREATION PROJECTS.—Section 203(b) of the Water Resources Development Act of 1992 (33 U.S.C. 2325(b); 106 Stat. 4826) is amended by striking "(8662)" and inserting "(8862)".

(b) CHALLENGE COST-SHARING PROGRAM.—The 2d sentence of section 225(c) of such Act (33 U.S.C. 2328(c); 106 Stat. 4838) is amended by striking "(8662)" and inserting "(8862)".

SEC. 237. HOPPER DREDGES.

Section 3 of the Act of August 11, 1888 (33 U.S.C. 622; 25 Stat. 423), is amended by adding at the end the following:

"(c) PROGRAM TO INCREASE USE OF PRIVATE HOPPER DREDGES.—

"(1) INITIATION.—The Secretary shall initiate a program to increase the use of private-industry hopper dredges for the construction and maintenance of Federal navigation channels.

"(2) READY RESERVE STATUS FOR HOPPER DREDGE WHEELER.—In order to carry out this subsection, the Secretary shall place the Federal hopper dredge Wheeler in a ready reserve status not later than the earlier of 90 days after the date of completion of the rehabilitation of the hopper dredge McFarland pursuant to section 563 of the Water Resources Development Act of 1996 or October 1, 1997.

"(3) TESTING AND USE OF READY RESERVE HOPPER DREDGE.—The Secretary may periodically perform routine tests of the equipment of the vessel placed in a ready reserve status under paragraph (2) to ensure the vessel's ability to perform emergency work. The Secretary shall not assign any scheduled hopper dredging work to such vessel but shall perform any repairs needed to maintain the vessel in a fully operational condition. The Secretary may place the vessel in active status in order to perform any dredging work only if the Secretary determines that private industry has failed to submit a responsive and responsible bid for work advertised by the Secretary or to carry out the project as required pursuant to a contract with the Secretary.

"(4) REPAIR AND REHABILITATION.—The Secretary may undertake any repair and rehabilitation of any Federal hopper dredge, including the vessel placed in ready reserve status under paragraph (2) to allow the vessel to be placed in active status as provided in paragraph (3).

"(5) PROCEDURES.—The Secretary shall develop and implement procedures to ensure that, to the maximum extent practicable, private industry hopper dredge capacity is available to meet both routine and time-sensitive dredging needs. Such procedures shall include—

"(A) scheduling of contract solicitations to effectively distribute dredging work throughout the dredging season; and

"(B) use of expedited contracting procedures to allow dredges performing routine work to be made available to meet time-sensitive, urgent, or emergency dredging needs.

"(6) REPORT.—Not later than 2 years after the date of the enactment of this subsection, the Secretary shall report to Congress on whether the vessel placed in ready reserve status under paragraph (2) is needed to be returned to active

status or continued in a ready reserve status or whether another Federal hopper dredge should be placed in a ready reserve status.

"(7) LIMITATIONS.—

"(A) REDUCTIONS IN STATUS.—The Secretary may not further reduce the readiness status of any Federal hopper dredge below a ready reserve status except any vessel placed in such status for not less than 5 years that the Secretary determines has not been used sufficiently to justify retaining the vessel in such status.

"(B) INCREASE IN ASSIGNMENTS OF DREDGING WORK.—For each fiscal year beginning after the date of the enactment of this subsection, the Secretary shall not assign any greater quantity of dredging work to any Federal hopper dredge in active status than was assigned to that vessel in the average of the 3 prior fiscal years.

"(C) REMAINING DREDGES.—In carrying out the program under this section, the Secretary shall not reduce the availability and utilization of Federal hopper dredge vessels stationed on the Pacific and Atlantic coasts below that which occurred in fiscal year 1996 to meet the navigation dredging needs of the ports on those coasts.

"(8) CONTRACTS; PAYMENT OF CAPITAL COSTS.—The Secretary may enter into a contract for the maintenance and crewing of any Federal hopper dredge retained in a ready reserve status. The capital costs (including depreciation costs) of any dredge retained in such status shall be paid for out of funds made available from the Harbor Maintenance Trust Fund and shall not be charged against the Corps of Engineers' Revolving Fund Account or any individual project cost unless the dredge is specifically used in connection with that project.".

TITLE III—PROJECT-RELATED PROVISIONS

SEC. 301. PROJECT MODIFICATIONS.

(a) PROJECTS WITH REPORTS.—

(1) SAN FRANCISCO RIVER AT CLIFTON, ARIZONA.—The project for flood control, San Francisco River at Clifton, Arizona, authorized by section 101(a)(3) of the Water Resources Development Act of 1990 (104 Stat. 4606), is modified to authorize the Secretary to construct the project substantially in accordance with the report of the Corps of Engineers dated May 28, 1996, at a total cost of $21,100,000, with an estimated Federal cost of $13,800,000 and an estimated non-Federal cost of $7,300,000.

(2) OAKLAND HARBOR, CALIFORNIA.—The projects for navigation, Oakland Outer Harbor, California, and Oakland Inner Harbor, California, authorized by section 202 of the Water Resources Development Act of 1986 (100 Stat. 4092), are modified to direct the Secretary—

(A) to combine the 2 projects into 1 project, to be designated as the Oakland Harbor, California, project; and

(B) to carry out the combined project substantially in accordance with the plans and subject to the conditions recommended in the report of the Corps of Engineers dated

July 15, 1994, at a total cost of $90,850,000, with an estimated Federal cost of $59,150,000 and an estimated non-Federal cost of $31,700,000.

The non-Federal share of project costs and any available credits toward the non-Federal share shall be calculated on the basis of the total cost of the combined project.

(3) SAN LUIS REY, CALIFORNIA.—The project for flood control of the San Luis Rey River, California, authorized pursuant to section 201 of the Flood Control Act of 1965 (42 U.S.C. 1962d–5; 79 Stat. 1073–1074), is modified to authorize the Secretary to construct the project substantially in accordance with the report of the Corps of Engineers dated May 23, 1996, at a total cost of $81,600,000, with an estimated Federal cost of $61,100,000 and an estimated non-Federal cost of $20,500,000.

(4) POTOMAC RIVER, WASHINGTON, DISTRICT OF COLUMBIA.—The project for flood control, Potomac River, Washington, District of Columbia, authorized by section 5 of the Act entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes", approved June 22, 1936 (49 Stat. 1574), is modified to authorize the Secretary to construct the project substantially in accordance with the General Design Memorandum dated May 1992 at a Federal cost of $1,800,000; except that a temporary closure may be used instead of a permanent structure at 17th Street. Operation and maintenance of the project shall be a Federal responsibility.

(5) NORTH BRANCH OF CHICAGO RIVER, ILLINOIS.—The project for flood control, North Branch of the Chicago River, Illinois, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4115), is modified to authorize the Secretary—

(A) to carry out the project substantially in accordance with the report of the Corps of Engineers dated May 26, 1994, at a total cost of $34,228,000, with an estimated Federal cost of $20,905,000 and an estimated non-Federal cost of $13,323,000; and

(B) to reimburse the city of Deerfield, Illinois, an amount not to exceed $38,500 for a flood control study financed by the city if the Secretary determines that the study is necessary to address residual damages in areas upstream of Reservoir 29A.

(6) HALSTEAD, KANSAS.—The project for flood control, Halstead, Kansas, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4116), is modified to authorize the Secretary to carry out the project substantially in accordance with the report of the Corps of Engineers dated March 19, 1993, at a total cost of $11,100,000, with an estimated Federal cost of $8,325,000 and an estimated non-Federal cost of $2,775,000.

(7) CAPE GIRARDEAU, MISSOURI.—The project for flood control, Cape Girardeau, Jackson Metropolitan Area, Missouri, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4118–4119), is modified to authorize the Secretary to construct the project substantially in accordance with the report of the Corps of Engineers dated July 18, 1994, including implementation of nonstructural measures,

at a total cost of $45,414,000, with an estimated Federal cost of $33,030,000 and an estimated non-Federal cost of $12,384,000.

(8) MOLLY ANN'S BROOK, NEW JERSEY.—The project for flood control, Molly Ann's Brook, New Jersey, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4119), is modified to authorize the Secretary to carry out the project substantially in accordance with the report of the Corps of Engineers dated April 3, 1996, at a total cost of $40,100,000, with an estimated Federal cost of $22,600,000 and an estimated non-Federal cost of $17,500,000.

(9) RAMAPO RIVER AT OAKLAND, NEW JERSEY.—The project for flood control, Ramapo River at Oakland, New Jersey, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4120), is modified to authorize the Secretary to carry out the project substantially in accordance with the report of the Corps of Engineers dated May 1994, at a total cost of $11,300,000, with an estimated Federal cost of $8,500,000 and an estimated non-Federal cost of $2,800,000.

(10) WILMINGTON HARBOR-NORTHEAST CAPE FEAR RIVER, NORTH CAROLINA.—The project for navigation, Wilmington Harbor-Northeast Cape Fear River, North Carolina, authorized by section 202(a) of the Water Resources Development Act of 1986 (100 Stat. 4095), is modified to authorize the Secretary to construct the project substantially in accordance with the General Design Memorandum dated April 1990 and the General Design Memorandum Supplement dated February 1994, at a total cost of $52,041,000, with an estimated Federal cost of $25,729,000 and an estimated non-Federal cost of $26,312,000.

(11) SAW MILL RUN, PENNSYLVANIA.—The project for flood control, Saw Mill Run, Pittsburgh, Pennsylvania, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4124), is modified to authorize the Secretary to carry out the project substantially in accordance with the report of the Corps of Engineers dated April 8, 1994, at a total cost of $12,780,000, with an estimated Federal cost of $9,585,000 and an estimated non-Federal cost of $3,195,000.

(12) SAN JUAN HARBOR, PUERTO RICO.—The project for navigation, San Juan Harbor, Puerto Rico, authorized by section 202(a) of the Water Resources Development Act of 1986 (100 Stat. 4097), is modified to authorize the Secretary to deepen the bar channel to depths varying from 49 feet to 56 feet below mean low water with other modifications to authorized interior channels as described in the General Reevaluation Report and Environmental Assessment dated March 1994, at a total cost of $45,085,000, with an estimated Federal cost of $28,244,000 and an estimated non-Federal cost of $16,841,000.

(13) INDIA POINT RAILROAD BRIDGE, SEEKONK RIVER, PROVIDENCE, RHODE ISLAND.—The project for navigation, India Point Railroad Bridge, Seekonk River, Providence, Rhode Island, authorized by section 1166(c) of the Water Resources Development Act of 1986 (100 Stat. 4258), is modified to authorize the Secretary to construct the project substantially in accordance with the Post Authorization Change Report dated August 1994 at a total cost of $1,300,000, with an estimated Federal cost of $650,000 and an estimated non-Federal cost of $650,000.

(14) UPPER JORDAN RIVER, UTAH.—The project for flood control, Upper Jordan River, Utah, authorized by section 101(a)(23) of the Water Resources Development Act of 1990 (104 Stat. 4610), is modified to authorize the Secretary to carry out the project substantially in accordance with the General Design Memorandum for the project dated March 1994, and the Post Authorization Change Report for the project dated April 1994, at a total cost of $12,870,000, with an estimated Federal cost of $8,580,000 and an estimated non-Federal cost of $4,290,000.

(b) PROJECTS SUBJECT TO REPORTS.—The following projects are modified as follows, except that no funds may be obligated to carry out work under such modifications until completion of a report by the Corps of Engineers finding that such work is technically sound, environmentally acceptable, and economic, as applicable:

(1) ALAMO DAM, ARIZONA.—The project for flood control and other purposes, Alamo Dam and Lake, Arizona, authorized by section 10 of the Act entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes", approved December 22, 1944 (58 Stat. 900), is modified to authorize the Secretary to operate the Alamo Dam to provide fish and wildlife benefits both upstream and downstream of the Dam. Such operation shall not reduce flood control and recreation benefits provided by the project.

(2) PHOENIX, ARIZONA.—The project for flood control and water quality improvement, Phoenix, Arizona, authorized by section 321 of the Water Resources Development Act of 1992 (106 Stat. 4848), is modified—

(A) to make ecosystem restoration a project purpose; and

(B) to authorize the Secretary to construct the project at a total cost of $17,500,000.

(3) GLENN-COLUSA, CALIFORNIA.—The project for flood control, Sacramento River, California, authorized by section 2 of the Act entitled "An Act to provide for the control of the floods of the Mississippi River and of the Sacramento River, California, and for other purposes", approved March 1, 1917 (39 Stat. 949), and modified by section 102 of the Energy and Water Development Appropriations Act, 1990 (103 Stat. 649), is further modified to authorize the Secretary to carry out the portion of the project at Glenn-Colusa, California, at a total cost of $14,200,000.

(4) TYBEE ISLAND, GEORGIA.—The project for beach erosion control, Tybee Island, Georgia, authorized pursuant to section 201 of the Flood Control Act of 1968 (42 U.S.C. 1962d–5; 79 Stat. 1073–1074), is modified to include as an integral part of the project the portion of Tybee Island located south of the existing south terminal groin between 18th and 19th Streets, including the east bank of Tybee Creek up to Horse Pen Creek.

(5) COMITE RIVER, LOUISIANA.—The Comite River Diversion project for flood control, authorized as part of the project for flood control, Amite River and Tributaries, Louisiana, by section 101(11) of the Water Resources Development Act of 1992 (106 Stat. 4802–4803), is modified to authorize the Secretary to

construct the project at a total cost of $121,600,000, with an estimated Federal cost of $70,577,000 and an estimated non-Federal cost of $51,023,000.

(6) GRAND ISLE AND VICINITY, LOUISIANA.—The project for hurricane damage prevention, flood control, and beach erosion along Grand Isle and Vicinity, Louisiana, authorized by section 204 of the Flood Control Act of 1965 (79 Stat. 1077), is modified to authorize the Secretary to construct a permanent breakwater and levee system at a total cost of $17,000,000.

(7) RED RIVER WATERWAY, LOUISIANA.—The project for mitigation of fish and wildlife losses, Red River Waterway, Louisiana, authorized by section 601(a) of the Water Resources Development Act of 1986 (100 Stat. 4142) and modified by section 102(p) of the Water Resources Development Act of 1990 (104 Stat. 4613), is further modified—

(A) to authorize the Secretary to carry out the project at a total cost of $10,500,000; and

(B) to provide that lands that are purchased adjacent to the Loggy Bayou Wildlife Management Area may be located in Caddo Parish or Red River Parish.

(8) RED RIVER WATERWAY, MISSISSIPPI RIVER TO SHREVEPORT, LOUISIANA.—The project for navigation, Red River Waterway, Mississippi River to Shreveport, Louisiana, authorized by section 101 of the River and Harbor Act of 1968 (82 Stat. 731), is modified to require the Secretary to dredge and perform other related work as required to reestablish and maintain access to, and the environmental value of, the bendway channels designated for preservation in project documentation prepared before the date of the enactment of this Act. The work shall be carried out in accordance with the local cooperation requirements for other navigation features of the project.

(9) STILLWATER, MINNESOTA.—The project for flood control, Stillwater, Minnesota, authorized by section 363 of the Water Resources Development Act of 1992 (106 Stat. 4861–4862), is modified—

(A) to authorize the Secretary to expand the flood wall system if the Secretary determines that the expansion is feasible; and

(B) to authorize the Secretary to construct the project at a total cost of $11,600,000, with an estimated Federal cost of $8,700,000 and an estimated non-Federal cost of $2,900,000.

(10) JOSEPH G. MINISH PASSAIC RIVER PARK, NEW JERSEY.—The streambank restoration element of the project for flood control, Passaic River Main Stem, New Jersey and New York, authorized by section 101(a)(18)(B) of the Water Resources Development Act of 1990 (104 Stat. 4608) and known as the "Joseph G. Minish Passaic River Waterfront Park and Historic Area, New Jersey", is modified—

(A) to authorize the Secretary to construct such element at a total cost of $75,000,000;

(B) to provide that construction of such element may be undertaken before implementation of the remainder of the Passaic River Main Stem project; and

(C) to provide that such element shall be treated, for the purpose of economic analysis, as an integral part of

the Passaic River Main Stem project and shall be completed in the initial phase of the Passaic River Main Stem project.

(11) ARTHUR KILL, NEW YORK AND NEW JERSEY.—The project for navigation, Arthur Kill, New York and New Jersey, authorized by section 202(b) of the Water Resources Development Act of 1986 (100 Stat. 4098), is modified to authorize the Secretary to carry out the project to a depth of not to exceed 45 feet, at a total cost of $83,000,000.

(12) KILL VAN KULL, NEW YORK AND NEW JERSEY.—

(A) COST INCREASE.—The project for navigation, Kill Van Kull, New York and New Jersey, authorized by section 202(a) of the Water Resources Development Act of 1986 (100 Stat. 4095), is modified to authorize the Secretary to carry out the project at a total cost of $750,000,000.

(B) CONTINUATION OF ENGINEERING AND DESIGN.—The Secretary shall continue engineering and design in order to complete the navigation project at Kill Van Kull and Newark Bay Channels, New York and New Jersey, authorized by chapter IV of title I of the Supplemental Appropriations Act, 1985 (99 Stat. 313) and section 202(a) of the Water Resources Development Act of 1986 (100 Stat. 4095).

SEC. 302. MOBILE HARBOR, ALABAMA.

The undesignated paragraph under the heading "MOBILE HARBOR, ALABAMA" in section 201(a) of the Water Resources Development Act of 1986 (100 Stat. 4090) is amended by striking the 1st semicolon and all that follows and inserting a period and the following: "In disposing of dredged material from such project, the Secretary, after compliance with applicable laws and after opportunity for public review and comment, may consider alternatives to disposal of such material in the Gulf of Mexico, including environmentally acceptable alternatives for beneficial uses of dredged material and environmental restoration.".

SEC. 303. NOGALES WASH AND TRIBUTARIES, ARIZONA.

The project for flood control, Nogales Wash and tributaries, Arizona, authorized by section 101(a)(4) of the Water Resources Development Act of 1990 (104 Stat. 4606), is modified to direct the Secretary to permit the non-Federal contribution for the project to be determined in accordance with subsections (k) and (m) of section 103 of the Water Resources Development Act of 1986 (33 U.S.C. 2213) and to direct the Secretary to enter into negotiations with non-Federal interests pursuant to section 103(l) of such Act concerning the timing of the initial payment of the non-Federal contribution.

SEC. 304. WHITE RIVER BASIN, ARKANSAS AND MISSOURI.

The project for flood control and power generation at White River Basin, Arkansas and Missouri, authorized by section 4 of the Act entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes", approved June 28, 1938 (52 Stat. 1218), shall include recreation and fish and wildlife mitigation as purposes of the project, to the extent that the additional purposes do not adversely affect flood control, power generation, or other authorized purposes of the project.

SEC. 305. CHANNEL ISLANDS HARBOR, CALIFORNIA.

The project for navigation and shore protection, Channel Islands Harbor, Port of Hueneme, California, authorized by section 101 of the River and Harbor Act of 1954 (68 Stat. 1252), is modified to authorize biennial dredging and sand bypassing at an annual downcoast replenishment rate to establish and maintain a littoral sediment balance which is estimated at 1,254,000 cubic yards per year. The cost of such dredging and sand bypassing shall be 100 percent Federal as long as Federal ownership of the entrance channel and jetties of the Port of Hueneme necessitates restoration and maintenance of the downcoast shoreline.

SEC. 306. LAKE ELSINORE, CALIFORNIA.

(a) MAXIMUM FEDERAL EXPENDITURE.—The maximum amount of Federal funds that may be expended for the project for flood control, Lake Elsinore, Riverside County, California, shall be $7,500,000.

(b) REVISION OF PROJECT COOPERATION AGREEMENT.—The Secretary shall revise the project cooperation agreement for the project referred to in subsection (a) to take into account the change in the Federal participation in such project pursuant to subsection (a).

(c) COST SHARING.—Nothing in this section shall be construed to affect any cost-sharing requirement applicable to the project referred to in subsection (a) under the Water Resources Development Act of 1986.

(d) STUDY.—Not later than 18 months after the date of the enactment of this Act, the Secretary shall—

(1) conduct a study of the advisability of modifying, for the purpose of flood control pursuant to section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s), the project for flood control, Lake Elsinore, Riverside County, California, to permit water conservation storage up to an elevation of 1,249 feet above mean sea level; and

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(2) report to Congress on the study, including making recommendations concerning the advisability of so modifying the project.

SEC. 307. LOS ANGELES AND LONG BEACH HARBORS, SAN PEDRO BAY, CALIFORNIA.

The project for navigation, Los Angeles and Long Beach Harbors, San Pedro Bay, California, authorized by section 201(a) of the Water Resources Development Act of 1986 (100 Stat. 4091), is modified to provide that, for the purpose of section 101(a)(2) of such Act (33 U.S.C. 2211(a)(2)), the sewer outfall relocated over a distance of 4,458 feet by the Port of Los Angeles at a cost of approximately $12,000,000 shall be considered to be a relocation. The cost of such relocation shall be credited as a payment provided by the non-Federal interest.

SEC. 308. LOS ANGELES COUNTY DRAINAGE AREA, CALIFORNIA.

The non-Federal share for a project to add water conservation to the existing Los Angeles County Drainage Area, California, project, authorized by section 101(b) of the Water Resources Development Act of 1990 (104 Stat. 4611), shall be 100 percent of separable first costs and separable operation, maintenance, and replacement costs associated with the water conservation purpose.

SEC. 309. PRADO DAM, CALIFORNIA.

(a) REVIEW.—

(1) SEPARABLE ELEMENT DETERMINATION.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall review, in cooperation with the non-Federal interest, the Prado Dam feature of the project for flood control, Santa Ana River Mainstem, California, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4113), with a view toward determining whether the feature may be considered a separable element (as defined in section 103(f) of such Act (33 U.S.C. 2213(f))).

(2) MODIFICATION OF COST-SHARING REQUIREMENT.—If the Prado Dam feature is determined to be a separable element under this subsection, the Secretary shall reduce the non-Federal cost-sharing requirement for such feature in accordance with section 103(a)(3) of such Act and shall enter into a project cooperation agreement with the non-Federal interest to reflect the modified cost-sharing requirement and to carry out construction.

(b) SAFETY IMPROVEMENTS.—The Secretary, in coordination with the State of California, shall provide technical assistance to Orange County, California, in developing appropriate public safety and access improvements associated with that portion of California State Route 71 being relocated for the Prado Dam feature of the project authorized as part of the project referred to in subsection (a)(1).

SEC. 310. QUEENSWAY BAY, CALIFORNIA.

Section 4(e) of the Water Resources Development Act of 1988 (102 Stat. 4016) is amended by adding at the end the following: "In addition, the Secretary shall perform advance maintenance dredging in the Queensway Bay Channel, California, at a total cost of $5,000,000. The Secretary shall coordinate with Federal and State agencies the establishment of suitable dredged material disposal areas.".

SEC. 311. SEVEN OAKS DAM, CALIFORNIA.

The non-Federal share for a project to add water conservation to the Seven Oaks Dam, authorized as part of the project for flood control, Santa Ana River Mainstem, California, by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4113), shall be 100 percent of separable first costs and separable operation, maintenance, and replacement costs associated with the water conservation purpose.

SEC. 312. THAMES RIVER, CONNECTICUT.

(a) MODIFICATION.—The project for navigation, Thames River, Connecticut, authorized by the 1st section of the Act entitled "An Act authorizing the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved August 30, 1935 (49 Stat. 1029), is modified to reconfigure the turning basin in accordance with the following alignment: Beginning at a point on the eastern limit of the existing project, N251052.93, E783934.59, thence running north 5 degrees, 25 minutes, 21.3 seconds east 341.06 feet to a point, N251392.46, E783966.82, thence running north 47 degrees, 24 minutes, 14.0 seconds west 268.72 feet to a point, N251574.34, E783769.00, thence running north 88 degrees, 41 minutes, 52.2 seconds west 249.06

feet to a point, N251580.00, E783520.00, thence running south 46 degrees, 16 minutes, 22.9 seconds west 318.28 feet to a point, N251360.00, E783290.00, thence running south 19 degrees, 1 minute, 32.2 seconds east 306.76 feet to a point, N251070.00, E783390.00, thence running south 45 degrees, 0 minutes, 0 seconds, east 155.56 feet to a point, N250960.00, E783500.00 on the existing western limit.

(b) PAYMENT FOR INITIAL DREDGING.—Any required initial dredging of the widened portions identified in subsection (a) shall be carried out at no cost to the Federal Government.

(c) DEAUTHORIZATION.—The portions of the turning basin that are not included in the reconfigured turning basin described in subsection (a) are not authorized after the date of the enactment of this Act.

SEC. 313. CANAVERAL HARBOR, FLORIDA.

The project for navigation, Canaveral Harbor, Florida, authorized by section 101(7) of the Water Resources Development Act of 1992 (106 Stat. 4802), is modified to authorize the Secretary to reclassify the removal and replacement of stone protection on both sides of the channel as general navigation features. The Secretary shall reimburse any costs that are incurred by the non-Federal sponsor in connection with the reclassified work and that the Secretary determines to be in excess of the non-Federal share of costs for general navigation features. The Federal and non-Federal shares of the cost of the reclassified work shall be determined in accordance with section 101 of the Water Resources Development Act of 1986 (33 U.S.C. 2211).

SEC. 314. CAPTIVA ISLAND, FLORIDA.

The project for shoreline protection, Captiva Island, Lee County, Florida, authorized pursuant to section 201 of the Flood Control Act of 1965 (42 U.S.C. 1962d–5; 79 Stat. 1073), is modified to direct the Secretary to reimburse the non-Federal interest for beach nourishment work carried out by such interest as if such work occurred after execution of the agreement entered into pursuant to section 215 of the Flood Control Act of 1968 (42 U.S.C. 1962d–5a) with respect to such project if the Secretary determines that such work is compatible with the project.

SEC. 315. CENTRAL AND SOUTHERN FLORIDA, CANAL 51.

The project for flood protection of West Palm Beach, Florida (C–51), authorized by section 203 of the Flood Control Act of 1962 (76 Stat. 1183), is modified to provide for the construction of an enlarged stormwater detention area, Storm Water Treatment Area 1 East, generally in accordance with the plan of improvements described in the February 15, 1994, report entitled "Everglades Protection Project, Palm Beach County, Florida, Conceptual Design", with such modifications as are approved by the Secretary. The additional work authorized by this section shall be accomplished at Federal expense. Operation and maintenance of the stormwater detention area shall be consistent with regulations prescribed by the Secretary for the Central and Southern Florida project, and all costs of such operation and maintenance shall be provided by non-Federal interests.

SEC. 316. CENTRAL AND SOUTHERN FLORIDA, CANAL 111.

(a) IN GENERAL.—The project for Central and Southern Florida, authorized by section 203 of the Flood Control Act of 1948 (62 Stat. 1176) and modified by section 203 of the Flood Control Act of 1968 (82 Stat. 740–741), is modified to authorize the Secretary to implement the recommended plan of improvement contained in a report entitled "Central and Southern Florida Project, Final Integrated General Reevaluation Report and Environmental Impact Statement, Canal 111 (C–111), South Dade County, Florida", dated May 1994, including acquisition by non-Federal interests of such portions of the Frog Pond and Rocky Glades areas as are needed for the project.

(b) COST SHARING.—

(1) FEDERAL SHARE.—The Federal share of the cost of implementing the plan of improvement shall be 50 percent.

(2) SECRETARY OF INTERIOR RESPONSIBILITY.—The Secretary of the Interior shall pay 25 percent of the cost of acquiring such portions of the Frog Pond and Rocky Glades areas as are needed for the project. The amount paid by the Secretary of the Interior shall be included as part of the Federal share of the cost of implementing the plan.

(3) OPERATION AND MAINTENANCE.—The non-Federal share of operation and maintenance costs of the improvements undertaken pursuant to this section shall be 100 percent; except that the Federal Government shall reimburse the non-Federal interest with respect to the project 60 percent of the costs of operating and maintaining pump stations that pump water into Taylor Slough in the Everglades National Park.

SEC. 317. JACKSONVILLE HARBOR (MILL COVE), FLORIDA.

The project for navigation, Jacksonville Harbor (Mill Cove), Florida, authorized by section 601(a) of the Water Resources Development Act of 1986 (100 Stat. 4139–4140), is modified to direct the Secretary to carry out a project for mitigation consisting of measures for flow and circulation improvement within Mill Cove, at an estimated total Federal cost of $2,000,000.

SEC. 318. PANAMA CITY BEACHES, FLORIDA.

(a) IN GENERAL.—The project for shoreline protection, Panama City Beaches, Florida, authorized by section 501(a) of the Water Resources Development Act of 1986 (100 Stat. 4133), is modified to direct the Secretary to enter into an agreement with the non-Federal interest for carrying out such project in accordance with section 206 of the Water Resources Development Act of 1992 (33 U.S.C. 426i–1).

(b) REPORTS.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the progress made in carrying out this section and a report on implementation of section 206 of the Water Resources Development Act of 1992.

SEC. 319. CHICAGO, ILLINOIS.

The project for flood control, Chicagoland Underflow Plan, Illinois, authorized by section 3(a)(5) of the Water Resources Development Act of 1988 (102 Stat. 4013), is modified to limit the capacity of the reservoir project to not to exceed 11,000,000,000 gallons or 32,000 acre-feet, to provide that the reservoir project may not be located north of 55th Street or west of East Avenue in the

vicinity of McCook, Illinois, and to provide that the reservoir project may be constructed only on the basis of a specific plan that has been evaluated by the Secretary under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

SEC. 320. CHICAGO LOCK AND THOMAS J. O'BRIEN LOCK, ILLINOIS.

The project for navigation, Chicago Harbor, Lake Michigan, Illinois, for which operation and maintenance responsibility was transferred to the Secretary under chapter IV of title I of the Supplemental Appropriations Act, 1983 (97 Stat. 311), and section 107 of the Energy and Water Development Appropriation Act, 1982 (95 Stat. 1137), is modified to direct the Secretary to conduct a study to determine the feasibility of making such structural repairs as are necessary to prevent leakage through the Chicago Lock and the Thomas J. O'Brien Lock, Illinois, and to determine the need for installing permanent flow measurement equipment at such locks to measure any leakage. The Secretary may carry out such repairs and installations as are necessary following completion of the study.

SEC. 321. KASKASKIA RIVER, ILLINOIS.

The project for navigation, Kaskaskia River, Illinois, authorized by section 101 of the River and Harbor Act of 1962 (76 Stat. 1175), is modified to add fish and wildlife and habitat restoration as project purposes.

SEC. 322. LOCKS AND DAM 26, ALTON, ILLINOIS AND MISSOURI.

Section 102(l) of the Water Resources Development Act of 1990 (104 Stat. 4613) is amended—

(1) by striking ", that requires no separable project lands and" and inserting "on project lands and other contiguous non-project lands, including those lands referred to as the Alton Commons. The recreational development";

(2) by inserting "shall be" before "at a Federal construction"; and

(3) by striking ". The recreational development" and inserting ", and".

SEC. 323. WHITE RIVER, INDIANA.

The project for flood control, Indianapolis on West Fork of the White River, Indiana, authorized by section 5 of the Act entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood control, and other purposes", approved June 22, 1936 (49 Stat. 1586), is modified to authorize the Secretary to undertake riverfront alterations as described in the Central Indianapolis Waterfront Concept Master Plan, dated February 1994, at a total cost of $85,975,000, with an estimated Federal cost of $39,975,000 and an estimated non-Federal cost of $46,000,000. The cost of work, including relocations undertaken by the non-Federal interest after February 15, 1994, on features identified in the Master Plan shall be credited toward the non-Federal share of project costs.

SEC. 324. BAPTISTE COLLETTE BAYOU, LOUISIANA.

The project for navigation, Mississippi River Outlets, Venice, Louisiana, authorized by section 101 of the River and Harbor Act of 1968 (82 Stat. 731), is modified to provide for the extension of the 16-foot deep (mean low gulf) by 250-foot wide Baptiste Collette

Bayou entrance channel to approximately mile 8 of the Mississippi River Gulf Outlet navigation channel at a total estimated Federal cost of $80,000, including $4,000 for surveys and $76,000 for Coast Guard aids to navigation.

SEC. 325. LAKE PONTCHARTRAIN, LOUISIANA.

The project for hurricane damage prevention and flood control, Lake Pontchartrain, Louisiana, authorized by section 204 of the Flood Control Act of 1965 (79 Stat. 1077), is modified to provide that St. Bernard Parish, Louisiana, and the Lake Borgne Basin Levee District, Louisiana, shall not be required to pay the unpaid balance, including interest, of the non-Federal cost-share of the project.

SEC. 326. MISSISSIPPI RIVER-GULF OUTLET, LOUISIANA.

Section 844 of the Water Resources Development Act of 1986 (100 Stat. 4177) is amended by adding at the end the following:

"(c) COMMUNITY IMPACT MITIGATION PLAN.—Using funds made available under subsection (a), the Secretary shall implement a comprehensive community impact mitigation plan, as described in the evaluation report of the New Orleans District Engineer dated August 1995, that, to the maximum extent practicable, provides for mitigation or compensation, or both, for the direct and indirect social and cultural impacts that the project described in subsection (a) will have on the affected areas referred to in subsection (b).".

SEC. 327. TOLCHESTER CHANNEL, MARYLAND.

The project for navigation, Baltimore Harbor and Channels, Maryland, authorized by section 101 of the River and Harbor Act of 1958 (72 Stat. 297), is modified to direct the Secretary—

(1) to expedite review of potential straightening of the channel at the Tolchester Channel S-Turn; and

(2) if determined to be feasible and necessary for safe and efficient navigation, to implement such straightening as part of project maintenance.

SEC. 328. CROSS VILLAGE HARBOR, MICHIGAN.

(a) GENERAL RULE.—Notwithstanding section 1001 of the Water Resources Development Act of 1986 (33 U.S.C. 579a), the project for navigation, Cross Village Harbor, Michigan, authorized by section 101 of the River and Harbor Act of 1966 (80 Stat. 1405), shall remain authorized to be carried out by the Secretary.

(b) LIMITATION.—The project described in subsection (a) shall not be authorized for construction after the last day of the 5-year period that begins on the date of the enactment of this Act unless, during such period, funds have been obligated for the construction (including planning and design) of the project.

SEC. 329. SAGINAW RIVER, MICHIGAN.

The project for flood protection, Saginaw River, Michigan, authorized by section 203 of the Flood Control Act of 1958 (72 Stat. 311), is modified to include as part of the project the design and construction of an inflatable dam on the Flint River, Michigan, at a total cost of $500,000.

SEC. 330. SAULT SAINTE MARIE, CHIPPEWA COUNTY, MICHIGAN.

(a) IN GENERAL.—The project for navigation, Sault Sainte Marie, Chippewa County, Michigan, authorized by section 1149

of the Water Resources Development Act of 1986 (100 Stat. 4254–4255), is modified as follows:

(1) PAYMENT OF NON-FEDERAL SHARE.—The non-Federal share of the cost of the project shall be paid as follows:

(A) That portion of the non-Federal share that the Secretary determines is attributable to use of the lock by vessels calling at Canadian ports shall be paid by the United States.

(B) The remaining portion of the non-Federal share shall be paid by the Great Lakes States pursuant to an agreement entered into by such States.

(2) PAYMENT TERM OF ADDITIONAL PERCENTAGE.—The amount to be paid by non-Federal interests pursuant to section 101(a) of the Water Resources Development Act of 1986 (33 U.S.C. 2211(a)) and this subsection with respect to the project may be paid over a period of 50 years or the expected life of the project, whichever is shorter.

(b) GREAT LAKES STATES DEFINED.—In this section, the term "Great Lakes States" means the States of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania, and Wisconsin.

SEC. 331. ST. JOHNS BAYOU AND NEW MADRID FLOODWAY, MISSOURI.

Notwithstanding any other provision of law, Federal assistance made available under the rural enterprise zone program of the Department of Agriculture may be used toward payment of the non-Federal share of the costs of the project for flood control, St. Johns Bayou and New Madrid Floodway, Missouri, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4118).

SEC. 332. LOST CREEK, COLUMBUS, NEBRASKA.

(a) MAXIMUM FEDERAL EXPENDITURE.—The maximum amount of Federal funds that may be allotted for the project for flood control, Lost Creek, Columbus, Nebraska, shall be $5,500,000.

(b) REVISION OF PROJECT COOPERATION AGREEMENT.—The Secretary shall revise the project cooperation agreement for the project referred to in subsection (a) to take into account the change in the Federal participation in such project pursuant to subsection (a).

SEC. 333. PASSAIC RIVER, NEW JERSEY.

Section 1148 of the Water Resources Development Act of 1986 (100 Stat. 4254) is amended to read as follows:

"SEC. 1148. PASSAIC RIVER BASIN.

"(a) ACQUISITION OF LANDS.—The Secretary may acquire from willing sellers lands on which residential structures are located and that are subject to frequent and recurring flood damage, as identified in the supplemental floodway report of the Corps of Engineers, Passaic River Buyout Study, September 1995, at an estimated total cost of $194,000,000.

"(b) RETENTION OF LANDS FOR FLOOD PROTECTION.—Lands acquired by the Secretary under this section shall be retained by the Secretary for future use in conjunction with flood protection and flood management in the Passaic River Basin.

"(c) COST SHARING.—The non-Federal share of the cost of carrying out this section shall be 25 percent plus any amount that might result from application of subsection (d).

"(d) APPLICABILITY OF BENEFIT-COST RATIO WAIVER AUTHORITY.—In evaluating and implementing the project under this section, the Secretary shall allow the non-Federal interest to participate in the financing of the project in accordance with section 903(c), to the extent that the Secretary's evaluation indicates that applying such section is necessary to implement the project.".

SEC. 334. ACEQUIAS IRRIGATION SYSTEM, NEW MEXICO.

The second sentence of section 1113(b) of the Water Resources Development Act of 1986 (100 Stat. 4232) is amended by inserting before the period at the end the following: "; except that the Federal share of reconnaissance studies carried out by the Secretary under this section shall be 100 percent".

SEC. 335. JONES INLET, NEW YORK.

The project for navigation, Jones Inlet, New York, authorized by section 2 of the Act entitled "An Act authorizing the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved March 2, 1945 (59 Stat. 13), is modified to direct the Secretary to place uncontaminated dredged material on beach areas downdrift from the federally maintained channel to the extent that such work is necessary to mitigate the interruption of littoral system natural processes caused by the jetty and continued dredging of the federally maintained channel.

SEC. 336. BUFORD TRENTON IRRIGATION DISTRICT, NORTH DAKOTA.

(a) ACQUISITION OF EASEMENTS.—

(1) IN GENERAL.—The Secretary may acquire, from willing sellers, permanent flowage and saturation easements over—

(A) the land in Williams County, North Dakota, extending from the riverward margin of the Buford Trenton Irrigation District main canal to the north bank of the Missouri River, beginning at the Buford Trenton Irrigation District pumping station located in the NE¼ of section 17, T–152–N, R–104–W, and continuing northeasterly downstream to the land referred to as the East Bottom; and

(B) any other land outside the boundaries of the land described in subparagraph (A) within or contiguous to the boundaries of the Buford Trenton Irrigation District that has been affected by rising ground water and the risk of surface flooding.

(2) SCOPE.—Any easements acquired by the Secretary under paragraph (1) shall include the right, power, and privilege of the Federal Government to submerge, overflow, percolate, and saturate the surface and subsurface of the lands and such other terms and conditions as the Secretary considers appropriate.

(3) PAYMENT.—In acquiring easements under paragraph (1), the Secretary shall pay an amount based on the unaffected fee value of the lands to be acquired by the Federal Government. For the purpose of this paragraph, the unaffected fee value of the lands is the value of the lands as if the lands had not been affected by rising ground water and the risk of surface flooding.

(b) CONVEYANCE OF DRAINAGE PUMPS.—The Secretary shall—

(1) convey to the Buford Trenton Irrigation District all right, title, and interest of the United States in the drainage pumps located within the boundaries of the District; and

(2) provide a lump-sum payment of $60,000 for power requirements associated with the operation of the drainage pumps.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $34,000,000.

SEC. 337. RENO BEACH-HOWARDS FARM, OHIO.

The project for flood protection, Reno Beach-Howards Farm, Ohio, authorized by section 203 of the Flood Control Act of 1948 (62 Stat. 1178), is modified to provide that the value of lands, easements, rights-of-way, and disposal areas that are necessary to carry out the project and are provided by the non-Federal interest shall be determined on the basis of the appraisal performed by the Corps of Engineers and dated April 4, 1985.

SEC. 338. BROKEN BOW LAKE, RED RIVER BASIN, OKLAHOMA.

The project for flood control and water supply, Broken Bow Lake, Red River Basin, Oklahoma, authorized by section 203 of the Flood Control Act of 1958 (72 Stat. 309) and modified by section 203 of the Flood Control Act of 1962 (76 Stat. 1187) and section 102(v) of the Water Resources Development Act of 1992 (106 Stat. 4808), is further modified to provide for the reallocation of a sufficient quantity of water supply storage space in Broken Bow Lake to support the Mountain Fork trout fishery. Releases of water from Broken Bow Lake for the Mountain Fork trout fishery as mitigation for the loss of fish and wildlife resources in the Mountain Fork River shall be carried out at no expense to the State of Oklahoma.

SEC. 339. WISTER LAKE PROJECT, LEFLORE COUNTY, OKLAHOMA.

The Secretary shall maintain a minimum conservation pool level of 478 feet at the Wister Lake project in LeFlore County, Oklahoma, authorized by section 4 of the Act entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes", approved June 28, 1938 (52 Stat. 1218). Notwithstanding title I of the Water Resources Development Act of 1986 (33 U.S.C. 2211 et seq.) or any other provision of law, any increase in water supply yield that results from the pool level of 478 feet shall be treated as unallocated water supply until such time as a user enters into a contract for the supply under such applicable laws concerning cost-sharing as are in effect on the date of the contract.

SEC. 340. BONNEVILLE LOCK AND DAM, COLUMBIA RIVER, OREGON AND WASHINGTON.

(a) IN GENERAL.—The project for Bonneville Lock and Dam, Columbia River, Oregon and Washington, authorized by the Act of August 20, 1937 (50 Stat. 731), and modified by section 83 of the Water Resources Development Act of 1974 (88 Stat. 35), is further modified to authorize the Secretary to convey to the city of North Bonneville, Washington, at no further cost to the city, all right, title and interest of the United States in and to the following:

(1) Any municipal facilities, utilities fixtures, and equipment for the relocated city, and any remaining lands designated

as open spaces or municipal lots not previously conveyed to the city, specifically, Lots M1 through M15, M16 (the "community center lot"), M18, M19, M22, M24, S42 through S45, and S52 through S60.

(2) The "school lot" described as Lot 2, block 5, on the plat of relocated North Bonneville.

(3) Parcels 2 and C, but only upon the completion of any environmental response actions required under applicable law.

(4) That portion of Parcel B lying south of the existing city boundary, west of the sewage treatment plant, and north of the drainage ditch that is located adjacent to the northerly limit of the Hamilton Island landfill, if the Secretary determines, at the time of the proposed conveyance, that the Department of the Army has taken all action necessary to protect human health and the environment.

(5) Such portions of Parcel H as can be conveyed without a requirement for further investigation, inventory, or other action by the Department of the Army under the National Historic Preservation Act (16 U.S.C. 470 et seq.).

(6) Such easements as the Secretary considers necessary for—

(A) sewer and water line crossings of relocated Washington State Highway 14; and

(B) reasonable public access to the Columbia River across those portions of Hamilton Island that remain under the ownership of the United States.

(b) TIME PERIOD FOR CONVEYANCES.—The conveyances referred to in subsections (a)(1), (a)(2), (a)(5), and (a)(6)(A) shall be completed within 180 days after the United States receives the release referred to in subsection (d). All other conveyances shall be completed expeditiously, subject to any conditions specified in the applicable subsection.

(c) PURPOSE.—The purpose of the conveyances authorized by subsection (a) is to resolve all outstanding issues between the United States and the city of North Bonneville.

(d) ACKNOWLEDGEMENT OF PAYMENT; RELEASE OF CLAIMS RELATING TO RELOCATION OF CITY.—As a prerequisite to the conveyances authorized by subsection (a), the city of North Bonneville shall execute an acknowledgement of payment of just compensation and shall execute a release of any and all claims for relief of any kind against the United States arising out of the relocation of the city of North Bonneville, or any prior Federal legislation relating thereto, and shall dismiss, with prejudice, any pending litigation, if any, involving such matters.

(e) RELEASE BY ATTORNEY GENERAL.—Upon receipt of the city's acknowledgment and release referred to in subsection (d), the Attorney General of the United States shall dismiss any pending litigation, if any, arising out of the relocation of the city of North Bonneville, and execute a release of any and all rights to damages of any kind under Town of North Bonneville, Washington v. United States, 11 Cl. Ct. 694, affirmed in part and reversed in part, 833 F.2d 1024 (Fed. Cir. 1987), cert. denied, 485 U.S. 1007 (1988), including any interest thereon.

(f) ACKNOWLEDGMENT OF ENTITLEMENTS; RELEASE BY CITY OF CLAIMS.—Within 60 days after the conveyances authorized by subsection (a) (other than paragraph (6)(B)) have been completed, the city shall execute an acknowledgement that all entitlements under

such paragraph have been completed and shall execute a release of any and all claims for relief of any kind against the United States arising out of this section.

(g) EFFECTS ON CITY.—Beginning on the date of the enactment of this Act, the city of North Bonneville, or any successor in interest thereto, shall—

(1) be precluded from exercising any jurisdiction over any lands owned in whole or in part by the United States and administered by the Corps of Engineers in connection with the Bonneville project; and

(2) be authorized to change the zoning designations of, sell, or resell Parcels S35 and S56, which are presently designated as open spaces.

SEC. 341. COLUMBIA RIVER DREDGING, OREGON AND WASHINGTON.

The project for navigation, Lower Willamette and Columbia Rivers below Vancouver, Washington, and Portland, Oregon, authorized by the 1st section of the Act entitled "An Act making appropriations for the construction, repair, preservation, and completion of certain public works on rivers and harbors, and for other purposes", approved June 18, 1878 (20 Stat. 157), is modified to direct the Secretary—

(1) to conduct channel simulation and to carry out improvements to the existing deep draft channel between the mouth of the river and river mile 34 at a cost not to exceed $2,400,000; and

(2) to conduct overdepth and advance maintenance dredging that is necessary to maintain authorized channel dimensions.

SEC. 342. LACKAWANNA RIVER AT SCRANTON, PENNSYLVANIA.

(a) IN GENERAL.—The project for flood control, Lackawanna River at Scranton, Pennsylvania, authorized by section 101(17) of the Water Resources Development Act of 1992 (106 Stat. 4803), is modified to direct the Secretary to carry out the project for flood control for the Plot and Green Ridge sections of the project.

(b) APPLICABILITY OF BENEFIT-COST RATIO WAIVER AUTHORITY.—In evaluating and implementing the project, the Secretary shall allow the non-Federal interest to participate in the financing of the project in accordance with section 903(c) of the Water Resources Development Act of 1986 (100 Stat. 4184), to the extent that the Secretary's evaluation indicates that applying such section is necessary to implement the project.

SEC. 343. MUSSERS DAM, MIDDLE CREEK, SNYDER COUNTY, PENNSYLVANIA.

Section 209(e)(5) of the Water Resources Development Act of 1992 (106 Stat. 4830) is amended by striking "$3,000,000" and inserting "$5,000,000".

SEC. 344. SCHUYLKILL RIVER, PENNSYLVANIA.

The navigation project for the Schuylkill River, Pennsylvania, authorized by the 1st section of the Act entitled "An Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved August 8, 1917 (40 Stat. 252), is modified to provide for the periodic removal and disposal of sediment to provide for a depth of 6 feet within portions of the Fairmount pool between

the Fairmount Dam and the Columbia Bridge, generally within the limits of the channel alignments referred to as the Schuylkill River Racecourse and return lane, and the Belmont Water Works intakes and Boathouse Row.

SEC. 345. SOUTH CENTRAL PENNSYLVANIA.

(a) COST SHARING.—Section 313(d)(3)(A) of the Water Resources Development Act of 1992 (106 Stat. 4846) is amended to read as follows:

"(A) IN GENERAL.—Total project costs under each local cooperation agreement entered into under this subsection shall be shared at 75 percent Federal and 25 percent non-Federal. The Federal share may be provided in the form of grants or reimbursements of project costs. The non-Federal interests shall receive credit—

"(i) for design and construction services and other in-kind work, whether occurring subsequent to, or within 6 years prior to, entering into an agreement with the Secretary; and

"(ii) for grants and the value of work performed on behalf of such interests by State and local agencies, as determined by the Secretary.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 313(g)(1) of such Act (106 Stat. 4846) is amended by striking "$50,000,000" and inserting "$80,000,000".

(c) SECTION HEADING.—The heading to section 313 of such Act is amended to read as follows:

"SEC. 313. SOUTH CENTRAL PENNSYLVANIA ENVIRONMENT IMPROVEMENT PROGRAM.".

SEC. 346. WYOMING VALLEY, PENNSYLVANIA.

The project for flood control, Wyoming Valley, Pennsylvania, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4124), is modified to authorize the Secretary—

(1) to include as part of the construction of the project mechanical and electrical upgrades to stormwater pumping stations in the Wyoming Valley; and

(2) to carry out mitigation measures that the Secretary would otherwise be authorized to carry out, but for the General Design Memorandum for phase II of the project, as approved by the Assistant Secretary of the Army having responsibility for civil works on February 15, 1996, providing that such measures are to be carried out for credit by the non-Federal interest.

SEC. 347. ALLENDALE DAM, NORTH PROVIDENCE, RHODE ISLAND.

The project for reconstruction of the Allendale Dam, North Providence, Rhode Island, authorized by section 358 of the Water Resources Development Act of 1992 (106 Stat. 4861), is modified to authorize the Secretary to reconstruct the dam, at a total cost of $350,000, with an estimated Federal cost of $262,500 and an estimated non-Federal cost of $87,500.

SEC. 348. NARRAGANSETT, RHODE ISLAND.

Section 361(a) of the Water Resources Development Act of 1992 (106 Stat. 4861) is amended—

(1) by striking "$200,000" and inserting "$1,900,000";

(2) by striking "$150,000" and inserting "$1,425,000"; and

(3) by striking "$50,000" and inserting "$475,000".

SEC. 349. CLOUTER CREEK DISPOSAL AREA, CHARLESTON, SOUTH CAROLINA.

(a) TRANSFER OF ADMINISTRATIVE JURISDICTION.—Notwithstanding any other law, the Secretary of the Navy shall transfer to the Secretary administrative jurisdiction over the approximately 1,400 acres of land under the jurisdiction of the Department of the Navy that comprise a portion of the Clouter Creek disposal area, Charleston, South Carolina.

(b) USE OF TRANSFERRED LAND.—The land transferred under subsection (a) shall be used by the Department of the Army as a dredged material disposal area for dredging activities in the vicinity of Charleston, South Carolina, including the Charleston Harbor navigation project.

(c) COST SHARING.—Operation and maintenance, including rehabilitation, of the dredged material disposal area transferred under this section shall be carried out in accordance with section 101 of the Water Resources Development Act of 1986 (33 U.S.C. 2211).

SEC. 350. BUFFALO BAYOU, TEXAS.

The non-Federal interest for the projects for flood control, Buffalo Bayou and tributaries, Texas, authorized by section 203 of the Flood Control Act of 1954 (68 Stat. 1258) and by section 101(a)(21) of the Water Resources Development Act of 1990 (104 Stat. 4610), may be reimbursed by up to $5,000,000 or may receive a credit of up to $5,000,000 toward required non-Federal project cost-sharing contributions for work performed by the non-Federal interest at each of the following locations if such work is compatible with 1 or more of the following authorized projects: White Oak Bayou, Brays Bayou, Hunting Bayou, Garners Bayou, and the Upper Reach on Greens Bayou.

SEC. 351. DALLAS FLOODWAY EXTENSION, DALLAS, TEXAS.

(a) IN GENERAL.—The project for flood control, Dallas Floodway Extension, Dallas, Texas, authorized by section 301 of the River and Harbor Act of 1965 (79 Stat. 1091), is modified to provide that flood protection works constructed by the non-Federal interests along the Trinity River in Dallas, Texas, for Rochester Park and the Central Wastewater Treatment Plant shall be included as a part of the project and the cost of such works shall be credited against the non-Federal share of project costs.

(b) DETERMINATION OF AMOUNT.—The amount to be credited under subsection (a) shall be determined by the Secretary. In determining such amount, the Secretary may permit credit only for that portion of the work performed by the non-Federal interests that is compatible with the project referred to in subsection (a), including any modification thereof, and that is required for construction of such project.

(c) CASH CONTRIBUTION.—Nothing in this section shall be construed to limit the applicability of the requirement contained in section 103(a)(1)(A) of the Water Resources Development Act of 1986 (33 U.S.C. 2213(a)(1)(A)) to the project referred to in subsection (a).

SEC. 352. GRUNDY, VIRGINIA.

The Secretary shall proceed with planning, engineering, design, and construction of the Grundy, Virginia, element of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland

River project, authorized by section 202 of the Energy and Water Development Appropriation Act, 1981 (94 Stat. 1339), in accordance with Plan 3A as set forth in the preliminary draft detailed project report of the Huntington District Commander, dated August 1993.

SEC. 353. HAYSI LAKE, VIRGINIA.

The Haysi Lake, Virginia, feature of the project for flood control, Tug Fork of the Big Sandy River, Kentucky, West Virginia, and Virginia, authorized pursuant to section 202(a) of the Energy and Water Development Appropriation Act, 1981 (94 Stat. 1339), is modified—

(1) to add recreation and fish and wildlife enhancement as project purposes;

(2) to direct the Secretary to construct the Haysi Dam feature of the project substantially in accordance with Plan A as set forth in the Draft General Plan Supplement Report for the Levisa Fork Basin, Virginia and Kentucky, dated May 1995;

(3) to direct the Secretary to apply section 103(m) of the Water Resources Development Act of 1986 (33 U.S.C. 2213(m); 100 Stat. 4087) to the construction of such feature in the same manner as that section is applied to other projects or project features constructed pursuant to such section 202(a); and

(4) to provide for operation and maintenance of recreational facilities on a reimbursable basis.

SEC. 354. RUDEE INLET, VIRGINIA BEACH, VIRGINIA.

The project for navigation and shoreline protection, Rudee Inlet, Virginia Beach, Virginia, authorized by section 601(d) of the Water Resources Development Act of 1986 (100 Stat. 4148), is modified to authorize the Secretary to continue maintenance of the project for 50 years beginning on the date of initial construction of the project. The Federal share of the cost of such maintenance shall be determined in accordance with title I of the Water Resources Development Act of 1986 (33 U.S.C. 2211 et seq.).

SEC. 355. VIRGINIA BEACH, VIRGINIA.

(a) ADJUSTMENT OF NON-FEDERAL SHARE.—Notwithstanding any other provision of law, the non-Federal share of the costs of the project for beach erosion control and hurricane protection, Virginia Beach, Virginia, authorized by section 501(a) of the Water Resources Development Act of 1986 (100 Stat. 4136), shall be reduced by $3,120,803 or by such amount as is determined by an audit carried out by the Department of the Army to be due to the city of Virginia Beach as reimbursement for beach nourishment activities carried out by the city between October 1, 1986, and September 30, 1993, if the Federal Government has not reimbursed the city for the activities prior to the date on which a project cooperation agreement is executed for the project.

(b) EXTENSION OF FEDERAL PARTICIPATION.—

(1) IN GENERAL.—In accordance with section 156 of the Water Resources Development Act of 1976 (42 U.S.C. 1962d–5f), the Secretary shall extend Federal participation in the periodic nourishment of Virginia Beach as authorized by section 101 of the River and Harbor Act of 1954 (68 Stat. 1254) and modified by section 101 of the River and Harbor Act of 1962 (76 Stat. 1177).

(2) DURATION.—Federal participation under paragraph (1) shall extend until the earlier of—

(A) the end of the 50-year period provided for in section 156 of the Water Resources Development Act of 1976 (42 U.S.C. 1962d–5f); and

(B) the completion of the project for beach erosion control and hurricane protection, Virginia Beach, Virginia, as modified by section 102(cc) of the Water Resources Development Act of 1992 (106 Stat. 4810).

SEC. 356. EAST WATERWAY, WASHINGTON.

The project for navigation, East and West Waterways, Seattle Harbor, Washington, authorized by the 1st section of the Act entitled "An Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved March 2, 1919 (40 Stat. 1285), is modified to direct the Secretary—

(1) to expedite review of potential deepening of the channel in the East waterway from Elliott Bay to Terminal 25 to a depth of up to 51 feet; and

(2) if determined to be feasible, to implement such deepening as part of project maintenance.

In carrying out work authorized by this section, the Secretary shall coordinate with the Port of Seattle regarding use of Slip 27 as a dredged material disposal area.

SEC. 357. BLUESTONE LAKE, WEST VIRGINIA.

Section 102(ff) of the Water Resources Development Act of 1992 (106 Stat. 4810) is amended by inserting after "project," the 1st place it appears "except for that organic matter necessary to maintain and enhance the biological resources of such waters and such nonobtrusive items of debris as may not be economically feasible to prevent being released through such project,".

SEC. 358. MOOREFIELD, WEST VIRGINIA.

(a) REVIEW.—The Secretary, as part of the implementation of the project for flood control, Moorefield, West Virginia, shall conduct a review of the activities of the Corps of Engineers to determine whether the failure of the Corps of Engineers to complete land acquisition for the project by May 1, 1996, contributed to any flood damages at the town of Moorefield during 1996.

(b) REDUCTION OF NON-FEDERAL SHARE.—To the extent the Secretary determines under subsection (a) that the activities of the Corps of Engineers contributed to any flood damages, the Secretary shall reduce the non-Federal share of the flood control project by up to $700,000. Such costs shall become a Federal responsibility for carrying out the flood control project.

SEC. 359. SOUTHERN WEST VIRGINIA.

(a) COST SHARING.—Section 340(c)(3) of the Water Resources Development Act of 1992 (106 Stat. 4856) is amended to read as follows:

"(3) COST SHARING.—

"(A) IN GENERAL.—Total project costs under each local cooperation agreement entered into under this subsection shall be shared at 75 percent Federal and 25 percent non-Federal. The Federal share may be in the form of grants or reimbursements of project costs.

"(B) CREDIT FOR DESIGN WORK.—The non-Federal interest shall receive credit for the reasonable costs of design work completed by such interest prior to entering into a local cooperation agreement with the Secretary for a project. The credit for such design work shall not exceed 6 percent of the total construction costs of the project.

"(C) CREDIT FOR INTEREST.—In the event of a delay in the funding of the non-Federal share of a project that is the subject of an agreement under this section, the non-Federal interest shall receive credit for reasonable interest incurred in providing the non-Federal share of a project's cost.

"(D) CREDIT FOR LANDS, EASEMENTS, AND RIGHTS-OF-WAY.—The non-Federal interest shall receive credit for lands, easements, rights-of-way, and relocations toward its share of project costs (including all reasonable costs associated with obtaining permits necessary for the construction, operation, and maintenance of such project on publicly owned or controlled lands), but not to exceed 25 percent of total project costs.

"(E) OPERATION AND MAINTENANCE.—Operation and maintenance costs for projects constructed with assistance provided under this section shall be 100 percent non-Federal.".

(b) FUNDING.—Section 340(g) of the Water Resources Development Act of 1992 (106 Stat. 4856) is amended by striking "$5,000,000" and inserting "$20,000,000".

SEC. 360. WEST VIRGINIA TRAILHEAD FACILITIES.

Section 306 of the Water Resources Development Act of 1992 (106 Stat. 4840–4841) is amended—

(1) by inserting "(a) IN GENERAL.—" before "The Secretary"; and

(2) by adding at the end the following:

"(b) INTERAGENCY AGREEMENT.—The Secretary shall enter into an interagency agreement with the Federal entity that provided assistance in the preparation of the study for the purposes of providing ongoing technical assistance and oversight for the trail facilities envisioned by the plan developed under this section. The Federal entity shall provide such assistance and oversight.".

SEC. 361. KICKAPOO RIVER, WISCONSIN.

(a) IN GENERAL.—The project for flood control and allied purposes, Kickapoo River, Wisconsin, authorized by section 203 of the Flood Control Act of 1962 (76 Stat. 1190) and modified by section 814 of the Water Resources Development Act of 1986 (100 Stat. 4169), is further modified as provided by this section.

(b) TRANSFER OF PROPERTY.—

(1) IN GENERAL.—Subject to the requirements of this subsection, the Secretary shall transfer to the State of Wisconsin, without consideration, all right, title, and interest of the United States to the lands described in paragraph (3), including all works, structures, and other improvements to such lands.

(2) TRANSFER TO SECRETARY OF THE INTERIOR.—Subject to the requirements of this subsection, on the date of the transfer under paragraph (1), the Secretary shall transfer to the Secretary of the Interior, without consideration, all right, title, and interest of the United States to lands that are cul-

turally and religiously significant sites of the Ho-Chunk Nation (a federally recognized Indian tribe) and are located within the lands described in paragraph (3). Such lands shall be described in accordance with paragraph (4)(C) and may not exceed a total of 1,200 acres.

(3) LAND DESCRIPTION.—The lands to be transferred pursuant to paragraphs (1) and (2) are the approximately 8,569 acres of land associated with the LaFarge Dam and Lake portion of the project referred to in subsection (a) in Vernon County, Wisconsin, in the following sections:

(A) Section 31, Township 14 North, Range 1 West of the 4th Principal Meridian.

(B) Sections 2 through 11, and 16, 17, 20, and 21, Township 13 North, Range 2 West of the 4th Principal Meridian.

(C) Sections 15, 16, 21 through 24, 26, 27, 31, and 33 through 36, Township 14 North, Range 2 West of the 4th Principal Meridian.

(4) TERMS AND CONDITIONS.—

(A) HOLD HARMLESS; REIMBURSEMENT OF UNITED STATES.—The transfer under paragraph (1) shall be made on the condition that the State of Wisconsin enters into a written agreement with the Secretary to hold the United States harmless from all claims arising from or through the operation of the lands and improvements subject to the transfer. If title to the lands described in paragraph (3) is sold or transferred by the State, the State shall reimburse the United States for the price originally paid by the United States for purchasing such lands.

(B) IN GENERAL.—The Secretary shall make the transfers under paragraphs (1) and (2) only if on or before October 31, 1997, the State of Wisconsin enters into and submits to the Secretary a memorandum of understanding, as specified in subparagraph (C), with the tribal organization (as defined by section 4(l) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(l))) of the Ho-Chunk Nation.

(C) MEMORANDUM OF UNDERSTANDING.—The memorandum of understanding referred to in subparagraph (B) shall contain, at a minimum, the following:

(i) A description of sites and associated lands to be transferred to the Secretary of the Interior under paragraph (2).

(ii) An agreement specifying that the lands transferred under paragraphs (1) and (2) shall be preserved in a natural state and developed only to the extent necessary to enhance outdoor recreational and educational opportunities.

(iii) An agreement specifying the terms and conditions of a plan for the management of the lands to be transferred under paragraphs (1) and (2).

(iv) A provision requiring a review of the plan referred to in clause (iii) to be conducted every 10 years under which the State of Wisconsin, acting through the Kickapoo Valley Governing Board, and the Ho-Chunk Nation may agree to revisions to the plan in order to address changed circumstances on

the lands transferred under paragraph (2). Such provision may include a plan for the transfer by the State to the United States of any additional site discovered to be culturally and religiously significant to the Ho-Chunk Nation.

(v) An agreement preventing or limiting the public disclosure of the location or existence of each site of particular cultural or religious significance to the Ho-Chunk Nation if public disclosure would jeopardize the cultural or religious integrity of the site.

(5) ADMINISTRATION OF LANDS.—The lands transferred to the Secretary of the Interior under paragraph (2), and any lands transferred to the Secretary of the Interior under the memorandum of understanding entered into under paragraph (4), or under any revision of such memorandum of understanding, shall be held in trust by the United States for, and added to and administered as part of the reservation of, the Ho-Chunk Nation.

(6) TRANSFER OF FLOWAGE EASEMENTS.—The Secretary shall transfer to the owner of the servient estate, without consideration, all right, title, and interest of the United States in and to each flowage easement acquired as part of the project referred to in subsection (a) within Township 14 North, Range 2 West of the 4th Principal Meridian, Vernon County, Wisconsin.

(7) DEAUTHORIZATION.—Except as provided in subsection (c), the LaFarge Dam and Lake portion of the project referred to in subsection (a) is not authorized after the date of the transfer under this subsection.

(8) INTERIM MANAGEMENT AND MAINTENANCE.—The Secretary shall continue to manage and maintain the LaFarge Dam and Lake portion of the project referred to in subsection (a) until the date of the transfer under this subsection.

(c) COMPLETION OF PROJECT FEATURES.—

(1) REQUIREMENT.—The Secretary shall undertake the completion of the following features of the project referred to in subsection (a):

(A) The continued relocation of State highway route 131 and county highway routes P and F substantially in accordance with plans contained in Design Memorandum No. 6, Relocation-LaFarge Reservoir, dated June 1970; except that the relocation shall generally follow the existing road rights-of-way through the Kickapoo Valley.

(B) Site restoration of abandoned wells, farm sites, and safety modifications to the water control structures.

(2) ADDITIONAL REQUIREMENTS.—All activities undertaken pursuant to this subsection shall comply with the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.), the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa et seq.), the National Historic Preservation Act (16 U.S.C. 470 et seq.), and any subsequent Federal law enacted relating to cultural artifacts, human remains, or historic preservation.

(3) PARTICIPATION BY STATE OF WISCONSIN AND THE HO-CHUNK NATION.—In undertaking completion of the features under paragraph (1), the Secretary shall consult with the State

Native Americans.

of Wisconsin and the Ho-Chunk Nation on the location of each feature.

(d) FUNDING.—There is authorized to be appropriated to carry out this section $17,000,000.

SEC. 362. TETON COUNTY, WYOMING.

Section 840 of the Water Resources Development Act of 1986 (100 Stat. 4176) is amended—

(1) by striking ": *Provided,* That" and inserting "; except that";

(2) by striking "in cash or materials" and inserting ", through providing in-kind services or cash or materials,"; and

(3) by adding at the end the following: "In carrying out this section, the Secretary may enter into agreements with the non-Federal sponsor permitting the non-Federal sponsor to perform operation and maintenance for the project on a cost-reimbursable basis.".

SEC. 363. PROJECT REAUTHORIZATIONS.

(a) GRAND PRAIRIE REGION AND BAYOU METO BASIN, ARKANSAS.—The project for flood control, Grand Prairie Region and Bayou Meto Basin, Arkansas, authorized by section 204 of the Flood Control Act of 1950 (64 Stat. 174) and deauthorized pursuant to section 1001(b) of the Water Resources Development Act of 1986 (33 U.S.C. 579a(b)), is authorized to be carried out by the Secretary; except that the scope of the project includes ground water protection and conservation, agricultural water supply, and waterfowl management if the Secretary determines that the change in the scope of the project is technically sound, environmentally acceptable, and economic, as applicable.

(b) WHITE RIVER, ARKANSAS.—The project for navigation, White River Navigation to Batesville, Arkansas, authorized by section 601(a) of the Water Resources Development Act of 1986 (100 Stat. 4139) and deauthorized by section 52(b) of the Water Resources Development Act of 1988 (102 Stat. 4044), is authorized to be carried out by the Secretary.

(c) DES PLAINES RIVER, ILLINOIS.—The project for wetlands research, Des Plaines River, Illinois, authorized by section 45 of the Water Resources Development Act of 1988 (102 Stat. 4041) and deauthorized pursuant to section 1001(b) of the Water Resources Development Act of 1986 (33 U.S.C. 579a(b)), is authorized to be carried out by the Secretary.

(d) ALPENA HARBOR, MICHIGAN.—The project for navigation, Alpena Harbor, Michigan, authorized by section 301 of the River and Harbor Act of 1965 (79 Stat. 1090) and deauthorized pursuant to section 1001(b) of the Water Resources Development Act of 1986 (33 U.S.C. 579a(b)), is authorized to be carried out by the Secretary.

(e) ONTONAGON HARBOR, ONTONAGON COUNTY, MICHIGAN.—The project for navigation, Ontonagon Harbor, Ontonagon County, Michigan, authorized by section 101 of the River and Harbor Act of 1962 (76 Stat. 1176) and deauthorized pursuant to section 1001(b) of the Water Resources Development Act of 1986 (33 U.S.C. 579a(b)), is authorized to be carried out by the Secretary.

(f) KNIFE RIVER HARBOR, MINNESOTA.—The project for navigation, Knife River Harbor, Minnesota, authorized by section 100 of the Water Resources Development Act of 1974 (88 Stat. 41) and deauthorized pursuant to section 1001(b) of the Water

Resources Development Act of 1986 (33 U.S.C. 579a(b)), is authorized to be carried out by the Secretary.

(g) CLIFFWOOD BEACH, NEW JERSEY.—The project for hurricane-flood protection and beach erosion control on Raritan Bay and Sandy Hook Bay, New Jersey, authorized by section 203 of the Flood Control Act of 1962 (76 Stat. 1181) and deauthorized pursuant to section 1001(b) of the Water Resources Development Act of 1986 (33 U.S.C. 579a(b)), is authorized to be carried out by the Secretary.

SEC. 364. PROJECT DEAUTHORIZATIONS.

The following projects are not authorized after the date of the enactment of this Act:

(1) BRANFORD HARBOR, CONNECTICUT.—The 2,267 square foot portion of the project for navigation in the Branford River, Branford Harbor, Connecticut, authorized by the 1st section of the Act entitled "An Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved June 13, 1902 (32 Stat. 333), lying shoreward of a line described as follows: Beginning at a point on the authorized Federal navigation channel line the coordinates of which are N156,181.32, E581,572.38, running thence south 70 degrees, 11 minutes, 8 seconds west a distance of 171.58 feet to another point on the authorized Federal navigation channel line the coordinates of which are N156,123.16, E581,410.96.

(2) BRIDGEPORT HARBOR, CONNECTICUT.—

(A) ANCHORAGE AREA.—The portion of the project for navigation, Bridgeport Harbor, Connecticut, authorized by section 101 of the River and Harbor Act of 1958 (72 Stat. 297), consisting of a 2-acre anchorage area with a depth of 6 feet at the head of Johnsons River between the Federal channel and Hollisters Dam.

(B) JOHNSONS RIVER CHANNEL.—The portion of the project for navigation, Johnsons River Channel, Bridgeport Harbor, Connecticut, authorized by the 1st section of the Act entitled "An Act authorizing the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved July 24, 1946 (60 Stat. 634), that is northerly of a line across the Federal channel the coordinates of which are north 123318.35, east 486301.68, and north 123257.15, east 486380.77.

(3) GUILFORD HARBOR, CONNECTICUT.—The portion of the project for navigation, Guilford Harbor, Connecticut, authorized by section 2 of the Act entitled "An Act authorizing the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved March 2, 1945 (59 Stat. 13), that consists of the 6-foot deep channel in Sluice Creek and that is not included in the following description of the realigned channel: Beginning at a point where the Sluice Creek Channel intersects with the main entrance channel, N159194.63, E623201.07, thence running north 24 degrees, 58 minutes, 15.2 seconds west 478.40 feet to a point N159628.31, E622999.11, thence running north 20 degrees, 18 minutes, 31.7 seconds west 351.53 feet to a point N159957.99, E622877.10, thence running north 69 degrees, 41 minutes, 37.9 seconds east 55.00 feet to a point N159977.08, E622928.69, thence

turning and running south 20 degrees, 18 minutes, 31.0 seconds east 349.35 feet to a point N159649.45, E623049.94, thence turning and running south 24 degrees, 58 minutes, 11.1 seconds east 341.36 feet to a point N159340.00, E623194.04, thence turning and running south 90 degrees, 0 minutes, 0 seconds east 78.86 feet to a point N159340.00, E623272.90.

(4) MYSTIC RIVER, CONNECTICUT.—The following portion of the project for improving the Mystic River, Connecticut, authorized by the 1st section of the Act entitled "An Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved March 4, 1913 (37 Stat. 802): Beginning in the 15-foot deep channel at coordinates north 190860.82, east 814416.20, thence running southeast about 52.01 feet to the coordinates north 190809.47, east 814424.49, thence running southwest about 34.02 feet to coordinates north 190780.46, east 814406.70, thence running north about 80.91 feet to the point of beginning.

(5) NORWALK HARBOR, CONNECTICUT.—

(A) IN GENERAL.—The following portions of projects for navigation, Norwalk Harbor, Connecticut:

(i) The portion authorized by the 1st section of the Act entitled "An Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved March 2, 1919 (40 Stat. 1276), that lies northerly of a line across the Federal channel having coordinates N104199.72, E417774.12 and N104155.59, E417628.96.

(ii) The portions of the 6-foot deep East Norwalk Channel and Anchorage, authorized by section 2 of the Act entitled "An Act authorizing the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved March 2, 1945 (59 Stat. 13), that are not included in the description of the realigned channel and anchorage set forth in subparagraph (B).

(B) DESCRIPTION OF REALIGNED CHANNEL AND ANCHORAGE.—The realigned 6-foot deep East Norwalk Channel and Anchorage referred to in subparagraph (A)(ii) is described as follows: Beginning at a point on the East Norwalk Channel, N95743.02, E419581.37, thence running northwesterly about 463.96 feet to a point N96197.93, E419490.18, thence running northwesterly about 549.32 feet to a point N96608.49, E419125.23, thence running northwesterly about 384.06 feet to a point N96965.94, E418984.75, thence running northwesterly about 407.26 feet to a point N97353.87, E418860.78, thence running westerly about 58.26 feet to a point N97336.26, E418805.24, thence running northwesterly about 70.99 feet to a point N97390.30, E418759.21, thence running westerly about 71.78 feet to a point on the anchorage limit N97405.26, E418689.01, thence running southerly along the western limits of the Federal anchorage in existence on the date of the enactment of this Act until reaching a point N95893.74, E419449.17, thence running in a southwesterly

direction about 78.74 feet to a point on the East Norwalk Channel N95815.62, E419439.33.

(C) DESIGNATION OF REALIGNED CHANNEL AND ANCHORAGE.—All of the realigned channel shall be redesignated as an anchorage, with the exception of the portion of the channel that narrows to a width of 100 feet and terminates at a line the coordinates of which are N96456.81, E419260.06 and N96390.37, E419185.32, which shall remain as a channel.

(6) PATCHOGUE RIVER, WESTBROOK, CONNECTICUT.—

(A) IN GENERAL.—The following portion of the project for navigation, Patchogue River, Connecticut, authorized by section 101 of the River and Harbor Act of 1954 (68 Stat. 1249): A portion of the 8-foot deep channel that lies northwesterly of a line whose coordinates are N161108.83, E676901.34 and N161246.53, E677103.75. The perimeter of this area starts at a point with coordinates N161108.83, E676901.34, thence running north 7 degrees, 50 minutes, 44.2 seconds west 27.91 feet to a point N161136.48, E676897.53, thence running north 55 degrees, 46 minutes, 23.3 seconds east 190.05 feet to a point N161243.38, E677054.67, thence running north 86 degrees, 19 minutes, 39.9 seconds east 49.18 feet to a point N161246.53, E677103.75, thence running south 55 degrees, 46 minutes, 20.8 seconds west 244.81 feet to the point of origin.

(B) REDESIGNATION.—The portion of the project for navigation, Patchogue River, Connecticut, referred to in subparagraph (A), which is now part of the 8-foot deep anchorage lying northwesterly of a line whose coordinates are N161067.46, E676982.76 and N161173.63, E677138.81, is redesignated as part of the 8-foot deep channel. The perimeter of this area starts at a point with coordinates N161067.46, E676982.76, thence running north 7 degrees, 48 minutes, 40.7 seconds west 5.59 feet to a point N161073.00, E676982.00, thence running north 55 degrees, 46 minutes, 25.1 seconds east 177.79 feet to a point N161173.00, E677129.00, thence running north 86 degrees, 19 minutes, 31.8 seconds east 9.83 feet to a point N161173.63, E677138.81, thence running south 55 degrees, 46 minutes, 12.9 seconds west 188.74 feet to the point of origin.

(7) SOUTHPORT HARBOR, CONNECTICUT.—

(A) IN GENERAL.—The following portions of the project for navigation, Southport Harbor, Connecticut, authorized by the 1st section of the Act entitled "An Act authorizing the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved August 30, 1935 (49 Stat. 1029):

(i) The 6-foot deep anchorage located at the head of the project.

(ii) The portion of the 9-foot deep channel beginning at a bend in the channel the coordinates of which are north 109131.16, east 452653.32, running thence in a northeasterly direction about 943.01 feet to a point the coordinates of which are north 109635.22, east 453450.31, running thence in a southeasterly direction about 22.66 feet to a point the coordinates

of which are north 109617.15, east 453463.98, running thence in a southwesterly direction about 945.18 feet to the point of beginning.

(B) REMAINDER.—The portion of the project referred to in subparagraph (A) that is remaining after the deauthorization made by subparagraph (A) and that is northerly of a line the coordinates of which are north 108699.15, east 452768.36, and north 108655.66, east 452858.73, is redesignated as an anchorage.

(8) STONY CREEK, CONNECTICUT.—The following portion of the project for navigation, Stony Creek, Connecticut, authorized under section 107 of the River and Harbor Act of 1960 (33 U.S.C. 577), located in the 6-foot deep maneuvering basin: Beginning at coordinates N157,031.91, E599,030.79, thence running northeasterly about 221.16 feet to coordinates N157,191.06, E599,184.37, thence running northerly about 162.60 feet to coordinates N157,353.56, E599,189.99, thence running southwesterly about 358.90 feet to the point of beginning.

(9) EAST BOOTHBAY HARBOR, MAINE.—The following portion of the navigation project for East Boothbay Harbor, Maine, authorized by the 1st section of the Act entitled "An Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved June 25, 1910 (36 Stat. 657), containing approximately 1.15 acres and described in accordance with the Maine State Coordinate System, West Zone:

Beginning at a point noted as point number 6 and shown as having plan coordinates of North 9, 722, East 9, 909, on the plan entitled, "East Boothbay Harbor, Maine, examination, 8-foot area", and dated August 9, 1955, Drawing Number F1251 D–6–2, that point having Maine State Coordinate System, West Zone coordinates of Northing 74514, Easting 698381.

Thence, North 58 degrees, 12 minutes, 30 seconds East a distance of 120.9 feet to a point.

Thence, South 72 degrees, 21 minutes, 50 seconds East a distance of 106.2 feet to a point.

Thence, South 32 degrees, 04 minutes, 55 seconds East a distance of 218.9 feet to a point.

Thence, South 61 degrees, 29 minutes, 40 seconds West a distance of 148.9 feet to a point.

Thence, North 35 degrees, 14 minutes, 12 seconds West a distance of 87.5 feet to a point.

Thence, North 78 degrees, 30 minutes, 58 seconds West a distance of 68.4 feet to a point.

Thence, North 27 degrees, 11 minutes, 39 seconds West a distance of 157.3 feet to the point of beginning.

(10) KENNEBUNK RIVER, MAINE.—The portion of the project for navigation, Kennebunk River, Maine, authorized by section 101 of the River and Harbor Act of 1962 (76 Stat. 1173) and consisting of a 6-foot deep channel that lies northerly of a line the coordinates of which are N191412.53, E417265.28 and N191445.83, E417332.48.

(11) YORK HARBOR, MAINE.—The following portions of the project for navigation, York Harbor, Maine, authorized by section 101 of the River and Harbor Act of 1960 (74 Stat. 480):

(A) The portion located in the 8-foot deep anchorage area beginning at coordinates N109340.19, E372066.93, thence running north 65 degrees, 12 minutes, 10.5 seconds east 423.27 feet to a point N109517.71, E372451.17, thence running north 28 degrees, 42 minutes, 58.3 seconds west 11.68 feet to a point N109527.95, E372445.56, thence running south 63 degrees, 37 minutes, 24.6 seconds west 422.63 feet to the point of beginning.

(B) The portion located in the 8-foot deep anchorage area beginning at coordinates N108557.24, E371645.88, thence running south 60 degrees, 41 minutes, 17.2 seconds east 484.51 feet to a point N108320.04, E372068.36, thence running north 29 degrees, 12 minutes, 53.3 seconds east 15.28 feet to a point N108333.38, E372075.82, thence running north 62 degrees, 29 minutes, 42.1 seconds west 484.73 feet to the point of beginning.

(12) CHELSEA RIVER, BOSTON HARBOR, MASSACHUSETTS.—The following portion of the project for navigation, Boston Harbor, Massachusetts, authorized by section 101 of the River and Harbor Act of 1962 (76 Stat. 1173), consisting of a 35-foot deep channel in the Chelsea River: Beginning at a point on the northern limit of the existing project N505357.84, E724519.19, thence running northeasterly about 384.19 feet along the northern limit of the existing project to a bend on the northern limit of the existing project N505526.87, E724864.20, thence running southeasterly about 368.00 feet along the northern limit of the existing project to another point N505404.77, E725211.35, thence running westerly about 594.53 feet to a point N505376.12, E724617.51, thence running southwesterly about 100.00 feet to the point of origin.

(13) COHASSET HARBOR, MASSACHUSETTS.—The following portions of the project for navigation, Cohasset Harbor, Massachusetts, authorized by section 2 of the Act entitled "An Act authorizing the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved March 2, 1945 (59 Stat. 12), and authorized pursuant to section 107 of the River and Harbor Act of 1960 (33 U.S.C. 577): A 7-foot deep anchorage and a 6-foot deep anchorage; beginning at site 1, beginning at a point N453510.15, E792664.63, thence running south 53 degrees 07 minutes 05.4 seconds west 307.00 feet to a point N453325.90, E792419.07, thence running north 57 degrees 56 minutes 36.8 seconds west 201.00 feet to a point N453432.58, E792248.72, thence running south 88 degrees 57 minutes 25.6 seconds west 50.00 feet to a point N453431.67, E792198.73, thence running north 01 degree 02 minutes 52.3 seconds west 66.71 feet to a point N453498.37, E792197.51, thence running north 69 degrees 12 minutes 52.3 seconds east 332.32 feet to a point N453616.30, E792508.20, thence running south 55 degrees 50 minutes 24.1 seconds east 189.05 feet to the point of origin; then site 2, beginning at a point, N452886.64, E791287.83, thence running south 00 degrees 00 minutes 00.0 seconds west 56.04 feet to a point, N452830.60, E791287.83, thence running north 90 degrees 00 minutes 00.0 seconds west 101.92 feet to a point, N452830.60, E791185.91, thence running north 52 degrees 12 minutes 49.7 seconds east 89.42 feet to a point, N452885.39, E791256.58, thence running north 87 degrees 42

minutes 33.8 seconds east 31.28 feet to the point of origin; and site 3, beginning at a point, N452261.08, E792040.24, thence running north 89 degrees 07 minutes 19.5 seconds east 118.78 feet to a point, N452262.90, E792159.01, thence running south 43 degrees 39 minutes 06.8 seconds west 40.27 feet to a point, N452233.76, E792131.21, thence running north 74 degrees 33 minutes 29.1 seconds west 94.42 feet to a point, N452258.90, E792040.20, thence running north 01 degree 03 minutes 04.3 seconds east 2.18 feet to the point of origin.

(14) FALMOUTH, MASSACHUSETTS.—

(A) DEAUTHORIZATIONS.—The following portions of the project for navigation, Falmouth Harbor, Massachusetts, authorized by section 101 of the River and Harbor Act of 1948 (62 Stat. 1172):

(i) The portion commencing at a point north 199286.37 east 844394.81 a line running north 73 degrees 09 minutes 29 seconds east 440.34 feet to a point north 199413.99 east 844816.36, thence turning and running north 43 degrees 09 minutes 34.5 seconds east 119.99 feet to a point north 199501.52 east 844898.44, thence turning and running south 66 degrees 52 minutes 03.5 seconds east 547.66 feet returning to a point north 199286.41 east 844394.91.

(ii) The portion commencing at a point north 199647.41 east 845035.25 a line running north 43 degrees 09 minutes 33.1 seconds east 767.15 feet to a point north 200207.01 east 845560.00, thence turning and running north 11 degrees 04 minutes 24.3 seconds west 380.08 feet to a point north 200580.01 east 845487.00, thence turning and running north 22 degrees 05 minutes 50.8 seconds east 1332.36 feet to a point north 201814.50 east 845988.21, thence turning and running north 02 degrees 54 minutes 15.7 seconds east 15.0 feet to a point north 201829.48 east 845988.97, thence turning and running south 24 degrees 56 minutes 42.3 seconds west 1410.29 feet returning to the point north 200550.75 east 845394.18.

(B) REDESIGNATION.—The portion of the project for navigation, Falmouth, Massachusetts, referred to in subparagraph (A) upstream of a line designated by the 2 points north 199463.18 east 844496.40 and north 199350.36 east 844544.60 is redesignated as an anchorage area.

(15) MYSTIC RIVER, MASSACHUSETTS.—The following portion of the project for navigation, Mystic River, Massachusetts, authorized by section 101 of the River and Harbor Act of 1950 (64 Stat. 164): The 35-foot deep channel beginning at a point on the northern limit of the existing project, N506243.78, E717600.27, thence running easterly about 1000.00 feet along the northern limit of the existing project to a point, N506083.42, E718587.33, thence running southerly about 40.00 feet to a point, N506043.94, E718580.91, thence running westerly about 1000.00 feet to a point, N506204.29, E717593.85, thence running northerly about 40.00 feet to the point of origin.

(16) RESERVED CHANNEL, BOSTON, MASSACHUSETTS.—The portion of the project for navigation, Reserved Channel, Boston,

Massachusetts, authorized by section 101(a)(13) of the Water Resources Development Act of 1990 (104 Stat. 4607), that consists of a 40-foot deep channel beginning at a point along the southern limit of the authorized project, N489391.22, E728246.54, thence running northerly about 54 feet to a point, N489445.53, E728244.97, thence running easterly about 2,926 feet to a point, N489527.38, E731170.41, thence running southeasterly about 81 feet to a point, N489474.87, E731232.55, thence running westerly about 2,987 feet to the point of origin.

(17) WEYMOUTH-FORE AND TOWN RIVERS, MASSACHUSETTS.—The following portions of the project for navigation, Weymouth-Fore and Town Rivers, Boston Harbor, Massachusetts, authorized by section 301 of the River and Harbor Act of 1965 (79 Stat. 1089):

(A) The 35-foot deep channel beginning at a bend on the southern limit of the existing project, N457394.01, E741109.74, thence running westerly about 405.25 feet to a point, N457334.64, E740708.86, thence running southwesterly about 462.60 feet to another bend in the southern limit of the existing project, N457132.00, E740293.00, thence running northeasterly about 857.74 feet along the southern limit of the existing project to the point of origin.

(B) The 15- and 35-foot deep channels beginning at a point on the southern limit of the existing project, N457163.41, E739903.49, thence running northerly about 111.99 feet to a point, N457275.37, E739900.76, thence running westerly about 692.37 feet to a point N457303.40, E739208.96, thence running southwesterly about 190.01 feet to another point on the southern limit of the existing project, N457233.17, E739032.41, thence running easterly about 873.87 feet along the southern limit of the existing project to the point of origin.

(18) COCHECO RIVER, NEW HAMPSHIRE.—

(A) IN GENERAL.—The portion of the project for navigation, Cocheco River, New Hampshire, authorized by the 1st section of the Act entitled "An Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved September 19, 1890 (26 Stat. 436), and consisting of a 7-foot deep channel that lies northerly of a line the coordinates of which are N255292.31, E713095.36, and N255334.51, E713138.01.

(B) MAINTENANCE DREDGING.—Not later than 18 months after the date of the enactment of this Act, the Secretary shall perform maintenance dredging for the remaining authorized portions of the Federal navigation channel under the project described in subparagraph (A) to restore authorized channel dimensions.

(19) MORRISTOWN HARBOR, NEW YORK.—The portion of the project for navigation, Morristown Harbor, New York, authorized by the 1st section of the Act entitled "An Act authorizing the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved January 21, 1927 (44 Stat. 1014), that lies north of the northern boundary of Morris Street extended.

(20) OSWEGATCHIE RIVER, OGDENSBURG, NEW YORK.—The portion of the Federal channel of the project for navigation,

Ogdensburg Harbor, New York, authorized by the 1st section of the Act entitled "An Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved June 25, 1910 (36 Stat. 635), and modified by the 1st section of the Act entitled "An Act authorizing the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved August 30, 1935 (49 Stat. 1037), that is in the Oswegatchie River in Ogdensburg, New York, from the southernmost alignment of the Route 68 bridge upstream to the northernmost alignment of the Lake Street bridge.

(21) CONNEAUT HARBOR, OHIO.—The most southerly 300 feet of the 1,670-foot long Shore Arm of the project for navigation, Conneaut Harbor, Ohio, authorized by the 1st section of the Act entitled "An Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved June 25, 1910 (36 Stat. 653).

(22) LORAIN SMALL BOAT BASIN, LAKE ERIE, OHIO.—The portion of the Federal navigation channel, Lorain Small Boat Basin, Lake Erie, Ohio, authorized pursuant to section 107 of the River and Harbor Act of 1960 (33 U.S.C. 577) that is situated in the State of Ohio, County of Lorain, Township of Black River and is a part of Original Black River Township Lot Number 1, Tract Number 1, further known as being submerged lands of Lake Erie owned by the State of Ohio, and that is more definitely described as follows:

Commencing at a drill hole found on the centerline of Lakeside Avenue (60 feet in width) at the intersection of the centerline of the East Shorearm of Lorain Harbor, that point being known as United States Corps of Engineers Monument No. 203 (N658012.20, E208953.88).

Thence, in a line north 75 degrees 26 minutes 12 seconds west, a distance of 387.87 feet to a point (N658109.73, E2089163.47). This point is hereinafter in this paragraph referred to as the "principal point of beginning".

Thence, north 58 degrees 14 minutes 11 seconds west, a distance of 50.00 feet to a point (N658136.05, E2089120.96).

Thence, south 67 degrees 49 minutes 32 seconds west, a distance of 665.16 feet to a point (N657885.00, E2088505.00).

Thence, north 88 degrees 13 minutes 52 seconds west, a distance of 551.38 feet to a point (N657902.02, E2087953.88).

Thence, north 29 degrees 17 minutes 42 seconds east, a distance of 114.18 feet to a point (N658001.60, E2088009.75).

Thence, south 88 degrees 11 minutes 40 seconds east, a distance of 477.00 feet to a point (N657986.57, E2088486.51).

Thence, north 68 degrees 11 minutes 06 seconds east, a distance of 601.95 feet to a point (N658210.26, E2089045.35).

Thence, north 35 degrees 11 minutes 34 seconds east, a distance of 89.58 feet to a point (N658283.47, E2089096.98).

Thence, south 20 degrees 56 minutes 30 seconds east, a distance of 186.03 feet to the principal point of beginning (N658109.73, E2089163.47) and containing within such bounds 2.81 acres, more or less, of submerged land.

(23) APPONAUG COVE, RHODE ISLAND.—The following portion of the project for navigation, Apponaug Cove, Rhode Island, authorized by section 101 of the River and Harbor Act of 1960 (74 Stat. 480), consisting of the 6-foot deep channel: Beginning at a point, N223269.93, E513089.12, thence running northwesterly to a point N223348.31, E512799.54, thence running southwesterly to a point N223251.78, E512773.41, thence running southeasterly to a point N223178.00, E513046.00, thence running northeasterly to the point of beginning.

(24) PORT WASHINGTON HARBOR, WISCONSIN.—The following portion of the navigation project for Port Washington Harbor, Wisconsin, authorized by the 1st section of the Act entitled "An Act making appropriations for the repair, preservation, and completion of certain public works on rivers and harbors, and for other purposes, for the fiscal year ending June thirtieth, eighteen hundred and seventy-one", approved July 11, 1870 (16 Stat. 223): Beginning at the northwest corner of the project at Channel Pt. No. 36, of the Federal Navigation Project, Port Washington Harbor, Ozaukee County, Wisconsin, at coordinates N513529.68, E2535215.64, thence 188 degrees 31 minutes 59 seconds, a distance of 178.32 feet, thence 196 degrees 47 minutes 17 seconds, a distance of 574.80 feet, thence 270 degrees 58 minutes 25 seconds, a distance of 465.50 feet, thence 178 degrees 56 minutes 17 seconds, a distance of 130.05 feet, thence 87 degrees 17 minutes 05 seconds, a distance of 510.22 feet, thence 104 degrees 58 minutes 31 seconds, a distance of 178.33 feet, thence 115 degrees 47 minutes 55 seconds, a distance of 244.15 feet, thence 25 degrees 12 minutes 08 seconds, a distance of 310.00 feet, thence 294 degrees 46 minutes 50 seconds, a distance of 390.20 feet, thence 16 degrees 56 minutes 16 seconds, a distance of 570.90 feet, thence 266 degrees 01 minutes 25 seconds, a distance of 190.78 feet to Channel Pt. No. 36, the point of beginning.

SEC. 365. MISSISSIPPI DELTA REGION, LOUISIANA.

The Mississippi Delta Region project, Louisiana, authorized as part of the project for hurricane-flood protection on Lake Pontchartrain, Louisiana, by section 204 of the Flood Control Act of 1965 (79 Stat. 1077), is modified to direct the Secretary to provide a credit to the State of Louisiana toward its non-Federal share of the cost of the project. The credit shall be for the cost incurred by the State in developing and relocating oyster beds to offset the adverse impacts on active and productive oyster beds in the Davis Pond project area. The credit shall be subject to such terms and conditions as the Secretary deems necessary and shall not exceed $7,500,000.

SEC. 366. MONONGAHELA RIVER, PENNSYLVANIA.

The Secretary may make available to the Southwestern Pennsylvania Growth Fund (a regional industrial development corporation) at no additional cost to the United States, dredged and

excavated materials resulting from construction of the new gated dam at Braddock, Pennsylvania, as part of the Locks and Dams 2, 3, and 4, Monongahela River, Pennsylvania, navigation project, to support environmental restoration of the former United States Steel Duquesne Works brownfield site—

(1) if the Pennsylvania Department of Environmental Protection issues a "no further action" decision or a mitigation plan for the site prior to a determination by the District Engineer, Pittsburgh District, that the dredged and excavated materials are available; and

(2) if the Southwestern Pennsylvania Growth Fund agrees to hold and save the United States free from damages in connection with use of the dredged and excavated materials, except for damages due to the fault or negligence of the United States or its contractors.

TITLE IV—STUDIES

Reports.
33 USC 1263 note.

SEC. 401. CORPS CAPABILITY STUDY, ALASKA.

Not later than 18 months after the date of the enactment of this Act, the Secretary shall report to Congress on the advisability and capability of the Corps of Engineers to implement rural sanitation projects for rural and Native villages in Alaska.

SEC. 402. RED RIVER, ARKANSAS.

The Secretary shall—

(1) conduct a study to determine the feasibility of carrying out a project to permit navigation on the Red River in southwest Arkansas; and

(2) in conducting the study, analyze economic benefits that were not included in the limited economic analysis contained in the reconnaissance report for the project dated November 1995.

SEC. 403. MCDOWELL MOUNTAIN, ARIZONA.

The Secretary shall credit toward the non-Federal share of the cost of the feasibility study on the McDowell Mountain, Arizona, project an amount equal to the cost of work performed by the city of Scottsdale, Arizona, and accomplished prior to the city's entering into an agreement with the Secretary if the Secretary determines that the work is necessary for the study.

SEC. 404. NOGALES WASH AND TRIBUTARIES, ARIZONA.

(a) STUDY.—The Secretary shall conduct a study of the relationship of flooding in Nogales, Arizona, and floodflows emanating from Mexico.

(b) REPORT.—The Secretary shall transmit to Congress a report on the results of the study conducted under subsection (a), together with recommendations concerning the appropriate level of non-Federal participation in the project for flood control, Nogales Wash and tributaries, Arizona, authorized by section 101(a)(4) of the Water Resources Development Act of 1990 (104 Stat. 4606).

SEC. 405. GARDEN GROVE, CALIFORNIA.

The Secretary shall conduct a study to assess the feasibility of implementing improvements in the regional flood control system within Garden Grove, California.

SEC. 406. MUGU LAGOON, CALIFORNIA.

(a) STUDY.—The Secretary shall conduct a study of the environmental impacts associated with sediment transport, floodflows, and upstream watershed land use practices on Mugu Lagoon, California. The study shall include an evaluation of alternatives for the restoration of the estuarine ecosystem functions and values associated with Mugu Lagoon and the endangered and threatened species inhabiting the area.

(b) CONSULTATION AND COORDINATION.—In conducting the study, the Secretary shall consult with the Secretary of the Navy and shall coordinate with State and local resource agencies to ensure that the study is compatible with restoration efforts for the Calleguas Creek watershed.

(c) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study.

SEC. 407. MURRIETA CREEK, RIVERSIDE COUNTY, CALIFORNIA.

The Secretary shall review the completed feasibility study of the Riverside County Flood Control and Water Conservation District, including identified alternatives, concerning Murrieta Creek from Temecula to Wildomar, Riverside County, California, to determine the Federal interest in participating in a project for flood control.

SEC. 408. PINE FLAT DAM FISH AND WILDLIFE HABITAT RESTORATION, CALIFORNIA.

The Secretary shall study the advisability of fish and wildlife habitat improvement measures identified for further study by the Pine Flat Dam Fish and Wildlife Habitat Restoration Investigation Reconnaissance Report.

SEC. 409. SANTA YNEZ, CALIFORNIA.

(a) PLANNING.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall prepare a comprehensive river basin management plan addressing the long-term ecological, economic, and flood control needs of the Santa Ynez River Basin, California. In preparing such plan, the Secretary shall consult with the Santa Barbara Flood Control District and other affected local governmental entities.

(b) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance to the Santa Barbara Flood Control District with respect to implementation of the plan to be prepared under subsection (a).

SEC. 410. SOUTHERN CALIFORNIA INFRASTRUCTURE.

(a) ASSISTANCE.—Section 116(d)(1) of the Water Resources Development Act of 1990 (104 Stat. 4623) is amended—

(1) in the heading of paragraph (1) by inserting "AND ASSISTANCE" after "STUDY"; and

(2) by adding at the end the following: "In addition, the Secretary shall provide technical assistance to non-Federal interests in developing potential infrastructure projects. The non-Federal share of the cost of the technical assistance shall be 25 percent.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 116(d)(3) of such Act is amended by striking "$1,500,000" and inserting "$3,000,000".

SEC. 411. STOCKTON, CALIFORNIA.

(a) BEAR CREEK DRAINAGE AND MORMON SLOUGH/CALAVERAS RIVER.—The Secretary shall conduct a review of the Bear Creek Drainage, San Joaquin County, California, and the Mormon Slough/Calaveras River, California, projects for flood control authorized by section 10 of the Act entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes", approved December 22, 1944 (58 Stat. 901), to develop a comprehensive plan for additional flood damage reduction measures for the city of Stockton, California, and surrounding areas.

(b) FARMINGTON DAM, CALIFORNIA.—

(1) CONJUNCTIVE USE STUDY.—The Secretary shall continue participation in the Stockton, California, Metropolitan Area Flood Control Study, including an evaluation of the feasibility of storage of water at Farmington Dam and implementation of a conjunctive use plan.

(2) CONSULTATION.—In conducting the study, the Secretary shall consult with the Stockton East Water District concerning joint operation or potential transfer of Farmington Dam.

(3) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit a report to Congress—

(A) concerning the feasibility of a conjunctive use plan using Farmington Dam for water storage; and

(B) containing recommendations on facility transfers and operational alternatives.

(4) WITHOUT PROJECT CONDITION.—In conducting the Stockton, California, Metropolitan Area Flood Control Study, the Secretary shall consider the physical flood control and water supply facilities as they existed in January 1996 as the "without project" condition.

SEC. 412. YOLO BYPASS, SACRAMENTO-SAN JOAQUIN DELTA, CALIFORNIA.

The Secretary shall study the advisability of acquiring land in the vicinity of the Yolo Bypass in the Sacramento-San Joaquin Delta, California, for the purpose of environmental mitigation for the flood control project for Sacramento, California, and other water resources projects in the area.

SEC. 413. WEST DADE, FLORIDA.

The Secretary shall conduct a reconnaissance study to determine the Federal interest in using the West Dade, Florida, reuse facility to improve water quality in, and increase the supply of surface water to, the Everglades in order to enhance fish and wildlife habitat.

SEC. 414. SAVANNAH RIVER BASIN COMPREHENSIVE WATER RESOURCES STUDY.

(a) IN GENERAL.—The Secretary shall conduct a comprehensive study to address the current and future needs for flood damage prevention and reduction, water supply, and other related water resources needs in the Savannah River Basin.

(b) SCOPE.—The scope of the study shall be limited to an analysis of water resources issues that fall within the traditional civil works mission of the Corps of Engineers.

(c) COORDINATION.—Notwithstanding subsection (b), the Secretary shall ensure that the study is coordinated with the Environmental Protection Agency and the ongoing watershed study of the Savannah River Basin by the Agency.

SEC. 415. CHAIN OF ROCKS CANAL, ILLINOIS.

The Secretary shall complete a limited reevaluation of the authorized St. Louis Harbor Project in the vicinity of the Chain of Rocks Canal, Illinois, consistent with the authorized purposes of that project, to include evacuation of waters collecting on the land side of the Chain of Rocks Canal East Levee.

SEC. 416. QUINCY, ILLINOIS.

(a) STUDY.—The Secretary shall study and evaluate the critical water infrastructure of the Fabius River Drainage District, the South Quincy Drainage and Levee District, the Sny Island Levee Drainage District, and the city of Quincy, Illinois—

(1) to determine if additional flood protection needs of such infrastructure should be identified or implemented;

(2) to develop a definition of critical water infrastructure;

(3) to develop evaluation criteria; and

(4) to enhance existing geographic information system databases to encompass relevant data that identify critical water infrastructure for use in emergencies and in routine operation and maintenance activities.

(b) CONSIDERATION OF OTHER STUDIES.—In conducting the study under this section, the Secretary shall consider the recommendations of the Interagency Floodplain Management Committee Report, the findings of the Floodplain Management Assessment of the Upper Mississippi River and Lower Missouri Rivers and Tributaries, and other relevant studies and findings.

(c) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study, together with recommendations regarding each of the objectives of the study described in paragraphs (1) through (4) of subsection (a).

SEC. 417. SPRINGFIELD, ILLINOIS.

The Secretary shall provide assistance to the city of Springfield, Illinois, in developing—

(1) an environmental impact statement for the proposed development of a water supply reservoir, including the preparation of necessary documentation in support of the environmental impact statement; and

(2) an evaluation of the technical, economic, and environmental impacts of such development.

SEC. 418. BEAUTY CREEK WATERSHED, VALPARAISO CITY, PORTER COUNTY, INDIANA.

The Secretary shall conduct a study to assess the feasibility of implementing streambank erosion control measures and flood control measures within the Beauty Creek watershed, Valparaiso City, Porter County, Indiana.

SEC. 419. GRAND CALUMET RIVER, HAMMOND, INDIANA.

(a) STUDY.—The Secretary shall conduct a study to establish a methodology and schedule to restore the wetlands at Wolf Lake and George Lake in Hammond, Indiana.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study conducted under subsection (a).

SEC. 420. INDIANA HARBOR CANAL, EAST CHICAGO, LAKE COUNTY, INDIANA.

The Secretary shall conduct a study of the feasibility of including environmental and recreational features, including a vegetation buffer, as part of the project for navigation, Indiana Harbor Canal, East Chicago, Lake County, Indiana, authorized by the 1st section of the Act entitled "An Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved June 25, 1910 (36 Stat. 657).

SEC. 421. KOONTZ LAKE, INDIANA.

The Secretary shall conduct a study of the feasibility of implementing measures to restore Koontz Lake, Indiana, including measures to remove silt, sediment, nutrients, aquatic growth, and other noxious materials from Koontz Lake, measures to improve public access facilities to Koontz Lake, and measures to prevent or abate the deposit of sediments and nutrients in Koontz Lake.

SEC. 422. LITTLE CALUMET RIVER, INDIANA.

(a) STUDY.—The Secretary shall conduct a study of the impacts of the project for flood control, Little Calumet River, Indiana, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4115), on flooding and water quality in the vicinity of the Black Oak area of Gary, Indiana.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study conducted under subsection (a), together with recommendations for cost-effective remediation of impacts described in subsection (a).

(c) FEDERAL SHARE.—The Federal share of the cost of the study to be conducted under subsection (a) shall be 100 percent.

SEC. 423. TIPPECANOE RIVER WATERSHED, INDIANA.

(a) STUDY.—The Secretary shall conduct a study of water quality and environmental restoration needs in the Tippecanoe River watershed, Indiana, including measures necessary to reduce siltation in Lake Shafer and Lake Freeman.

(b) ASSISTANCE.—The Secretary shall provide technical, planning, and design assistance to the Shafer and Freeman Lakes Environmental Conservation Corporation in addressing potential environmental restoration activities determined appropriate as a result of the study conducted under subsection (a).

SEC. 424. CALCASIEU RIVER, HACKBERRY, LOUISIANA.

The Secretary shall incorporate the portion of the Calcasieu River in the vicinity of Hackberry, Louisiana, as part of the overall study of the Lake Charles ship channel, bypass channel, and general anchorage area in Louisiana, to explore the possibility of constructing additional anchorage areas.

SEC. 425. MORGANZA, LOUISIANA, TO GULF OF MEXICO.

(a) STUDY.—

(1) IN GENERAL.—The Secretary shall conduct a study of the environmental, flood control, and navigational impacts asso-

ciated with the construction of a lock structure in the Houma Navigation Canal as an independent feature of the overall flood damage prevention study being conducted under the Morganza, Louisiana, to the Gulf of Mexico feasibility study.

(2) CONSIDERATIONS.—In conducting the study under paragraph (1), the Secretary shall—

(A) consult with the South Terrebonne Tidewater Management and Conservation District and consider the District's Preliminary Design Document dated February 1994; and

(B) evaluate the findings of the Louisiana Coastal Wetlands Conservation and Restoration Task Force, established under the Coastal Wetlands Planning, Protection and Restoration Act (16 U.S.C. 3951 et seq.), relating to the lock structure.

(b) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study conducted under subsection (a), together with recommendations for immediate implementation of the study.

SEC. 426. HURON RIVER, MICHIGAN.

The Secretary shall conduct a study to determine the feasibility of and need for channel improvements and associated modifications for the purpose of providing a harbor of refuge at Huron River, Michigan.

SEC. 427. CITY OF NORTH LAS VEGAS, CLARK COUNTY, NEVADA.

The Secretary shall conduct a reconnaissance study to determine the Federal interest in channel improvements in channel A of the North Las Vegas Wash in the city of North Las Vegas, Clark County, Nevada, for the purpose of flood control.

SEC. 428. LOWER LAS VEGAS WASH WETLANDS, CLARK COUNTY, NEVADA.

The Secretary shall conduct a study to determine the advisability of wetland restoration and the feasibility of erosion control in the Lower Las Vegas Wash, Nevada.

SEC. 429. NORTHERN NEVADA.

The Secretary shall conduct reconnaissance studies, in the State of Nevada, of—

(1) the Humboldt River and its tributaries and outlets;

(2) the Truckee River and its tributaries and outlets;

(3) the Carson River and its tributaries and outlets; and

(4) the Walker River and its tributaries and outlets,

in order to determine the Federal interest in flood control, environmental restoration, conservation of fish and wildlife, recreation, water conservation, water quality, and toxic and radioactive waste.

SEC. 430. SACO RIVER, NEW HAMPSHIRE.

The Secretary shall conduct a study of flooding problems along the Saco River in Hart's Location, New Hampshire, for the purpose of evaluating retaining walls, berms, and other structures with a view to potential solutions involving repair or replacement of existing structures. In conducting the study, the Secretary shall also consider other alternatives for flood damage reduction.

SEC. 431. BUFFALO RIVER GREENWAY, NEW YORK.

The Secretary shall conduct a study to determine the feasibility of a potential greenway trail project along the Buffalo River between the park system of the city of Buffalo, New York, and Lake Erie. Such study may include preparation of an integrated plan of development that takes into consideration the adjacent parks, nature preserves, bikeways, and related recreational facilities.

SEC. 432. COEYMANS, NEW YORK.

The Secretary shall conduct a reconnaissance study to determine the Federal interest in reopening the secondary channel of the Hudson River in the town of Coeymans, New York, which has been narrowed by silt as a result of the construction of Coeymans middle dike by the Corps of Engineers.

SEC. 433. NEW YORK BIGHT AND HARBOR STUDY.

33 USC 2267 note.

Section 326(f) of the Water Resources Development Act of 1992 (106 Stat. 4851) is amended by striking "$1,000,000" and inserting "$3,000,000".

SEC. 434. PORT OF NEWBURGH, NEW YORK.

The Secretary shall conduct a study of the feasibility of carrying out improvements for navigation at the port of Newburgh, New York.

SEC. 435. PORT OF NEW YORK-NEW JERSEY NAVIGATION STUDY.

The Secretary shall conduct a comprehensive study of navigation needs at the Port of New York-New Jersey (including the South Brooklyn Marine and Red Hook Container Terminals, Staten Island, and adjacent areas) to address improvements, including deepening of existing channels to depths of 50 feet or greater, that are required to provide economically efficient and environmentally sound navigation to meet current and future requirements.

SEC. 436. SHINNECOCK INLET, NEW YORK.

Not later than 2 years after the date of the enactment of this Act, the Secretary shall conduct a reconnaissance study in Shinnecock Inlet, New York, to determine the feasibility of constructing a sand bypass system, or other appropriate alternative, for the purposes of allowing sand to flow in its natural east-to-west pattern and preventing the further erosion of the beaches west of the inlet and the shoaling of the inlet.

SEC. 437. CHAGRIN RIVER, OHIO.

The Secretary shall conduct a study of flooding problems along the Chagrin River in Eastlake, Ohio. In conducting such study, the Secretary shall evaluate potential solutions to flooding from all sources, including that resulting from ice jams, and shall evaluate the feasibility of a sedimentation collection pit and other potential measures to reduce flooding.

SEC. 438. CUYAHOGA RIVER, OHIO.

The Secretary shall conduct a study to evaluate the integrity of the bulkhead system located on the Federal channel along the Cuyahoga River in the vicinity of Cleveland, Ohio, and shall provide to the non-Federal interest an analysis of costs and repairs of the bulkhead system.

SEC. 439. COLUMBIA SLOUGH, OREGON.

Not later than 2 years after the date of the enactment of this Act, the Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall complete a feasibility study for the ecosystem restoration project at Columbia Slough, Oregon.

SEC. 440. CHARLESTON, SOUTH CAROLINA.

The Secretary shall conduct a study of the Charleston estuary area located in Charleston, Berkeley, and Dorchester Counties, South Carolina, for the purpose of evaluating environmental conditions in the tidal reaches of the Ashley, Cooper, Stono, and Wando Rivers and the lower portions of Charleston Harbor.

SEC. 441. OAHE DAM TO LAKE SHARPE, SOUTH DAKOTA.

The Secretary shall investigate potential solutions to the recurring flooding and related problems in the vicinity of Pierre and Ft. Pierre, South Dakota, caused by sedimentation in Lake Sharpe. The potential solutions to be investigated shall include lowering of the lake level and sediment agitation to allow for resuspension and movement of the sediment. The investigation shall include development of a comprehensive solution which includes consideration of structural and nonstructural measures upstream from the lake consisting of land treatment, sediment retention structures, and such other measures as the Secretary determines to be appropriate.

SEC. 442. MUSTANG ISLAND, CORPUS CHRISTI, TEXAS.

The Secretary shall conduct a study of navigation along the south-central coast of Texas near Corpus Christi for the purpose of determining the feasibility of constructing and maintaining the Packery Channel on the southern portion of Mustang Island.

SEC. 443. PRINCE WILLIAM COUNTY, VIRGINIA.

The Secretary shall conduct a study of flooding, erosion, and other water resources problems in Prince William County, Virginia, including an assessment of wetland protection, erosion control, and flood damage reduction needs of the county.

SEC. 444. PACIFIC REGION.

The Secretary may conduct studies in the interest of navigation in that part of the Pacific region that includes American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands.

SEC. 445. FINANCING OF INFRASTRUCTURE NEEDS OF SMALL AND MEDIUM PORTS.

(a) STUDY.—The Secretary shall study the feasibility of alternative financing mechanisms for ensuring adequate funding for the infrastructure needs of small and medium ports.

(b) MECHANISMS TO BE STUDIED.—Mechanisms to be studied under subsection (a) shall include the establishment of revolving loan funds.

(c) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall transmit to Congress a report containing the results of the study conducted under subsection (a).

SEC. 446. EVALUATION OF BEACH MATERIAL.

(a) IN GENERAL.—The Secretary and the Secretary of the Interior shall evaluate procedures and requirements used in the selection and approval of materials to be used in the restoration and nourishment of beaches. Such evaluation shall address the potential effects of changing existing procedures and requirements on the implementation of beach restoration and nourishment projects and on the aquatic environment.

(b) CONSULTATION.—In conducting the evaluation under this section, the Secretaries shall consult with appropriate Federal and State agencies.

(c) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Secretaries shall transmit a report to Congress on their findings under this section.

(d) EFFECT ON AUTHORITY OF SECRETARY OF THE INTERIOR.—Nothing in this section is intended to affect the authority of the Secretary of the Interior under section 8(k) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(k)).

TITLE V—MISCELLANEOUS PROVISIONS

SEC. 501. LAND CONVEYANCES.

(a) VILLAGE CREEK, ALABAMA.—

(1) IN GENERAL.—Upon a determination by the Secretary that construction of facilities associated with a commercial enterprise is not inconsistent with the operation of the project for flood control, Village Creek, Alabama, authorized by section 410(a) of the Water Resources Development Act of 1986 (100 Stat. 4111), the non-Federal interest with respect to the project may sell to private interests a parcel of land consisting of approximately 18 acres for the purpose of constructing facilities associated with a commercial enterprise.

(2) LAND DESCRIPTION.—The land to be conveyed under paragraph (1) shall consist of approximately 43 individual tracts that are bounded on the west by Coosa Street, on the south by 16th Avenue North, on the east by Tallapoosa Street, and on the north by the northern boundary of lands acquired for the project.

(3) FACILITIES.—The facilities shall be constructed in accordance with local floodplain ordinances and shall not increase flood risks of other residents in the Village Creek floodplain.

(4) REIMBURSEMENT.—The non-Federal interest shall reimburse the Secretary the Federal cost of acquiring the lands to be conveyed, including relocation assistance, demolition of structures, and administrative costs.

(5) REMAINING LANDS.—All remaining lands acquired for the Village Creek flood control project shall remain in public ownership and shall be used solely for recreation purposes or maintained as open space.

(b) OAKLAND INNER HARBOR TIDAL CANAL PROPERTY, CALIFORNIA.—Section 205 of the Water Resources Development Act of 1990 (104 Stat. 4633) is amended—

(1) by inserting after paragraph (2) the following:

"(3) To adjacent land owners, the United States title to all or portions of that part of the Oakland Inner Harbor Tidal

Canal that are located within the boundaries of the city in which such canal rests. Such conveyance shall be at fair market value.";

(2) by inserting after "right-of-way" the following: "or other rights considered necessary by the Secretary"; and

(3) by adding at the end the following: "The conveyances and processes involved shall be at no cost to the United States.".

(c) MARIEMONT, OHIO.—

(1) IN GENERAL.—The Secretary shall convey to the village of Mariemont, Ohio, at fair market value all right, title, and interest of the United States in and to a parcel of land (including improvements to the parcel) under the jurisdiction of the Corps of Engineers, known as the "Ohio River Division Laboratory", and described in paragraph (4).

(2) TERMS AND CONDITIONS.—The conveyance under paragraph (1) shall be subject to such terms and conditions as the Secretary considers necessary and appropriate to protect the interests of the United States.

(3) PROCEEDS.—All proceeds from the conveyance under paragraph (1) shall be deposited in the general fund of the Treasury of the United States and credited as miscellaneous receipts.

(4) PROPERTY DESCRIPTION.—The parcel of land referred to in paragraph (1) is the parcel situated in the State of Ohio, County of Hamilton, Township 4, Fractional Range 2, Miami Purchase, Columbia Township, Section 15, being parts of Lots 5 and 6 of the subdivision of the dower tract of the estate of Joseph Ferris as recorded in Plat Book 4, Page 112, of the Plat Records of Hamilton County, Ohio, Recorder's Office, and more particularly described as follows:

Beginning at an iron pin set to mark the intersection of the easterly line of Lot 5 of said subdivision of said dower tract with the northerly line of the right-of-way of the Norfolk and Western Railway Company as shown in Plat Book 27, Page 182, Hamilton County, Ohio, Surveyor's Office.

Thence with said northerly right-of-way line south 70 degrees, 10 minutes, 13 seconds west 258.52 feet to a point.

Thence leaving the northerly right-of-way of the Norfolk and Western Railway Company north 18 degrees, 22 minutes, 02 seconds west 302.31 feet to a point in the south line of Mariemont Avenue.

Thence along said south line north 72 degrees, 34 minutes, 35 seconds east 167.50 feet to a point.

Thence leaving the south line of Mariemont Avenue north 17 degrees, 25 minutes, 25 seconds west 49.00 feet to a point.

Thence north 72 degrees, 34 minutes, 35 seconds east 100.00 feet to a point.

Thence south 17 degrees, 25 minutes, 25 seconds east 49.00 feet to a point.

Thence north 72 degrees, 34 minutes, 35 seconds east 238.90 feet to a point.

Thence south 00 degrees, 52 minutes, 07 seconds east 297.02 feet to a point in the northerly line of the Norfolk and Western Railway Company.

Thence with said northerly right-of-way south 70 degrees, 10 minutes, 13 seconds west 159.63 feet to a point of beginning, containing 3.22 acres, more or less.

(d) PIKE ISLAND LOCKS AND DAM, OHIO.—

(1) IN GENERAL.—Subject to this subsection, the Secretary shall convey by quitclaim deed to the city of Steubenville, Ohio, all right, title, and interest of the United States in and to the approximately 12 acres of land located at the Pike Island Locks and Dam, together with any improvements on the land.

(2) TERMS AND CONDITIONS.—The conveyance by the United States under this subsection shall be subject to such terms and conditions as the Secretary considers appropriate to protect the interests of the United States.

(3) LEGAL DESCRIPTION OF REAL PROPERTY AND PAYMENT OF COSTS.—The exact acreage and legal description of the real property described in paragraph (1) shall be determined by a survey that is satisfactory to the Secretary. The cost of the survey shall be borne by the city of Steubenville. The city shall also be responsible for any other costs associated with the conveyance authorized by this subsection.

(4) CONSIDERATION OF CERTAIN PROPERTIES.—Properties to be conveyed under this subsection that will be retained in public ownership and used for public park and recreation or other public purposes shall be conveyed without consideration. If any such property is no longer used for public park and recreation or other public purposes, title to such property shall revert to the Secretary.

(e) SHENANGO RIVER LAKE PROJECT, OHIO.—

(1) IN GENERAL.—Subject to this subsection, the Secretary shall convey by quitclaim deed to the Kinsman Township, Trumbull County, Ohio, all right, title, and interest of the United States in and to a parcel of land located at the Shenango River Lake project consisting of approximately 1 acre, together with any improvements on the land.

(2) TERMS AND CONDITIONS.—The conveyance by the United States under this subsection shall be subject to such terms and conditions as the Secretary considers appropriate to protect the interests of the United States.

(3) LEGAL DESCRIPTION OF REAL PROPERTY AND PAYMENT OF COSTS.—The exact acreage and legal description of the real property described in paragraph (1) shall be determined by a survey that is satisfactory to the Secretary. The cost of the survey shall be borne by the Kinsman Township. The township shall also be responsible for any other costs associated with the conveyance authorized by this subsection.

(4) CONSIDERATION OF CERTAIN PROPERTIES.—Properties to be conveyed under this subsection that will be retained in public ownership and used for public park and recreation or other public purposes shall be conveyed without consideration. If any such property is no longer used for public park and recreation or other public purposes, title to such property shall revert to the Secretary.

(f) EUFAULA LAKE, OKLAHOMA.—

(1) IN GENERAL.—The Secretary shall convey to the city of Eufaula, Oklahoma, all right, title, and interest of the United

States in and to a parcel of land consisting of approximately 12.5 acres located at the Eufaula Lake project.

(2) CONSIDERATION.—Consideration for the conveyance under paragraph (1) shall be the fair market value of the parcel (as determined by the Secretary) and payment of all costs of the United States in making the conveyance, including the costs of—

(A) the surveys required under paragraphs (3) and (4);

(B) any other necessary survey or survey monumentation;

(C) compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(D) any coordination necessary with respect to requirements relating to endangered species, cultural resources, and clean air (including the costs of agency consultation and public hearings).

(3) LAND SURVEYS.—The exact acreage and description of the parcel to be conveyed under paragraph (1) shall be determined by such surveys as the Secretary considers necessary. Such surveys shall be carried out to the satisfaction of the Secretary.

(4) ENVIRONMENTAL BASELINE SURVEY.—Prior to making the conveyance under paragraph (1), the Secretary shall conduct an environmental baseline survey to determine the levels of any contamination (as of the date of the survey) for which the United States would be responsible under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) and any other applicable law.

(5) CONDITIONS CONCERNING RIGHTS AND EASEMENT.—The conveyance under paragraph (1) shall be subject to existing rights and to retention by the United States of a flowage easement over all portions of the parcel that lie at or below the flowage easement contour for the Eufaula Lake project.

(6) OTHER TERMS AND CONDITIONS.—The conveyance under paragraph (1) shall be subject to such other terms and conditions as the Secretary considers necessary and appropriate to protect the interests of the United States.

(g) BOARDMAN, OREGON.—

(1) IN GENERAL.—The Secretary shall convey to the city of Boardman, Oregon, all right, title, and interest of the United States in and to a parcel of land consisting of approximately 141 acres acquired as part of the John Day Lock and Dam project in the vicinity of such city currently under lease to the Boardman Park and Recreation District.

(2) CONSIDERATION.—

(A) PARK AND RECREATION PROPERTIES.—Properties to be conveyed under this subsection that will be retained in public ownership and used for public park and recreation purposes shall be conveyed without consideration. If any such property is no longer used for public park and recreation purposes, title to such property shall revert to the Secretary.

(B) OTHER PROPERTIES.—Properties to be conveyed under this subsection and not described in subparagraph (A) shall be conveyed at fair market value.

(3) CONDITIONS CONCERNING RIGHTS AND EASEMENT.—The conveyance of properties under this subsection shall be subject to existing first rights of refusal regarding acquisition of the properties and to retention of a flowage easement over portions of the properties that the Secretary determines to be necessary for operation of the project.

(4) OTHER TERMS AND CONDITIONS.—The conveyance of properties under this subsection shall be subject to such other terms and conditions as the Secretary considers necessary and appropriate to protect the interests of the United States.

(h) BENBROOK LAKE, TEXAS.—

(1) IN GENERAL.—The Secretary shall convey all right, title, and interest of the United States in and to a parcel of real property located at Longhorn Park, also known as "Pecan Valley Park", Benbrook Lake, Benbrook, Texas, consisting of approximately 50 acres.

(2) CONSIDERATION.—Consideration for the conveyance under paragraph (1) shall be the fair market value of the real property as determined by the Secretary. All costs associated with the conveyance under paragraph (1) and such other costs as the Secretary considers appropriate shall be borne by the purchaser.

(3) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the parcel of real property to be conveyed under paragraph (1) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the purchaser.

(4) ADDITIONAL TERMS.—The Secretary may require such additional terms and conditions in connection with the conveyance under paragraph (1) as the Secretary considers appropriate to protect the interests of the United States.

(5) COMPLIANCE WITH NATIONAL ENVIRONMENTAL POLICY ACT.—Prior to the conveyance of property under paragraph (1), the Secretary shall ensure that the conveyance complies with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(i) TRI-CITIES AREA, WASHINGTON.—

(1) GENERAL AUTHORITY.—As soon as practicable after the date of the enactment of this Act, the Secretary shall make the conveyances to the local governments referred to in paragraph (2) of all right, title, and interest of the United States in and to the property described in paragraph (2).

(2) PROPERTY DESCRIPTIONS.—

(A) BENTON COUNTY, WASHINGTON.—The property to be conveyed pursuant to paragraph (1) to Benton County, Washington, is the property in such county that is designated "Area D" on Exhibit A to Army Lease No. DACW–68–1–81–43.

(B) FRANKLIN COUNTY, WASHINGTON.—The property to be conveyed pursuant to paragraph (1) to Franklin County, Washington, is—

(i) the 105.01 acres of property leased pursuant to Army Lease No. DACW–68–1–77–20 as executed by Franklin County, Washington, on April 7, 1977;

(ii) the 35 acres of property leased pursuant to Supplemental Agreement No. 1 to Army Lease No. DACW–68–1–77–20;

(iii) the 20 acres of property commonly known as "Richland Bend", which is designated by the shaded portion of Lot 1, Section 11, and the shaded portion of Lot 1, Section 12, Township 9 North, Range 28 East, W.M. on Exhibit D to Supplemental Agreement No. 2 to Army Lease No. DACW–68–1–77–20;

(iv) the 7.05 acres of property commonly known as "Taylor Flat", which is designated by the shaded portion of Lot 1, Section 13, Township 11 North, Range 28 East, W.M. on Exhibit D to Supplemental Agreement No. 2 to Army Lease No. DACW–68–1–77–20;

(v) the 14.69 acres of property commonly known as "Byers Landing", which is designated by the shaded portion of Lots 2 and 3, Section 2, Township 10 North, Range 28 East, W.M. on Exhibit D to Supplemental Agreement No. 2 to Army Lease No. DACW–68–1–77–20; and

(vi) all levees within Franklin County, Washington, as of the date of the enactment of this Act, and the property on which the levees are situated.

(C) CITY OF KENNEWICK, WASHINGTON.—The property to be conveyed pursuant to paragraph (1) to the city of Kennewick, Washington, is the property in the city that is subject to the Municipal Sublease Agreement entered into on April 6, 1989, between Benton County, Washington, and the cities of Kennewick and Richland, Washington.

(D) CITY OF RICHLAND, WASHINGTON.—The property to be conveyed pursuant to paragraph (1) to the city of Richland, Washington, is the property in the city that is subject to the Municipal Sublease Agreement entered into on April 6, 1989, between Benton County, Washington, and the cities of Kennewick and Richland, Washington.

(E) CITY OF PASCO, WASHINGTON.—The property to be conveyed pursuant to paragraph (1) to the city of Pasco, Washington, is—

(i) the property in the city of Pasco, Washington, that is leased pursuant to Army Lease No. DACW–68–1–77–10; and

(ii) all levees in the city, as of the date of the enactment of this Act, and the property on which the levees are situated.

(F) PORT OF PASCO, WASHINGTON.—The property to be conveyed pursuant to paragraph (1) to the Port of Pasco, Washington, is—

(i) the property owned by the United States that is south of the Burlington Northern Railroad tracks in Lots 1 and 2, Section 20, Township 9 North, Range 31 East, W.M.; and

(ii) the property owned by the United States that is south of the Burlington Northern Railroad tracks in Lots 1, 2, 3, and 4, in each of Sections 21, 22, and 23, Township 9 North, Range 31 East, W.M.

(G) ADDITIONAL PROPERTIES.—In addition to properties described in subparagraphs (A) through (F), the Secretary may convey to a local government referred to in subparagraphs (A) through (F) such properties under the jurisdiction of the Secretary in the Tri-Cities area as the Secretary

and the local government agree are appropriate for conveyance.

(3) TERMS AND CONDITIONS.—

(A) IN GENERAL.—The conveyances under paragraph (1) shall be subject to such terms and conditions, including payment of reasonable administrative costs, as the Secretary considers necessary and appropriate to protect the interests of the United States.

(B) SPECIAL RULE FOR FRANKLIN COUNTY.—The property described in paragraph (2)(B)(vi) shall be conveyed only after Franklin County, Washington, has entered into a written agreement with the Secretary that provides that the United States shall continue to operate and maintain the flood control drainage areas and pump stations on the property conveyed and that the United States shall be provided all easements and rights necessary to carry out that agreement.

(C) SPECIAL RULE FOR CITY OF PASCO.—The property described in paragraph (2)(E)(ii) shall be conveyed only after the city of Pasco, Washington, has entered into a written agreement with the Secretary that provides that the United States shall continue to operate and maintain the flood control drainage areas and pump stations on the property conveyed and that the United States shall be provided all easements and rights necessary to carry out that agreement.

(D) CONSIDERATION.—

(i) PARK AND RECREATION PROPERTIES.—Properties to be conveyed under this subsection that will be retained in public ownership and used for public park and recreation purposes shall be conveyed without consideration. If any such property is no longer used for public park and recreation purposes, title to such property shall revert to the Secretary.

(ii) OTHER PROPERTIES.—Properties to be conveyed under this subsection and not described in clause (i) shall be conveyed at fair market value.

(4) LAKE WALLULA LEVEES.—

(A) DETERMINATION OF MINIMUM SAFE HEIGHT.—

(i) CONTRACT.—Not later than 30 days after the date of the enactment of this Act, the Secretary shall contract with a private entity agreed to under clause (ii) to determine, within 6 months after that date, the minimum safe height for the levees of the project for flood control, Lake Wallula, Washington. The Secretary shall have final approval of the minimum safe height.

(ii) AGREEMENT OF LOCAL OFFICIALS.—A contract shall be entered into under clause (i) only with a private entity agreed to by the Secretary, appropriate representatives of Franklin County, Washington, and appropriate representatives of the city of Pasco, Washington.

(B) AUTHORITY.—A local government may reduce, at its cost, the height of any levee of the project for flood control, Lake Wallula, Washington, within the boundaries of the area under the jurisdiction of such local government

to a height not lower than the minimum safe height determined pursuant to subparagraph (A).

(j) APPLICABILITY OF OTHER LAWS.—Any contract for sale, deed, or other transfer of real property under this section shall be carried out in compliance with all applicable provisions of section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)) and other environmental laws.

SEC. 502. NAMINGS.

(a) MILT BRANDT VISITORS CENTER, CALIFORNIA.—

(1) DESIGNATION.—The visitors center at Warm Springs Dam, California, authorized by section 203 of the Flood Control Act of 1962 (76 Stat. 1192), shall be known and designated as the "Milt Brandt Visitors Center".

(2) LEGAL REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the visitors center referred to in paragraph (1) shall be deemed to be a reference to the "Milt Brandt Visitors Center".

(b) CARR CREEK LAKE, KENTUCKY.—

(1) DESIGNATION.—Carr Fork Lake in Knott County, Kentucky, authorized by section 203 of the Flood Control Act of 1962 (76 Stat. 1188), shall be known and designated as "Carr Creek Lake".

(2) LEGAL REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the lake referred to in paragraph (1) shall be deemed to be a reference to "Carr Creek Lake".

(c) JOHN T. MYERS LOCK AND DAM, INDIANA AND KENTUCKY.—

(1) DESIGNATION.—Uniontown Lock and Dam, on the Ohio River, Indiana and Kentucky, shall be known and designated as the "John T. Myers Lock and Dam".

(2) LEGAL REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the lock and dam referred to in paragraph (1) shall be deemed to be a reference to the "John T. Myers Lock and Dam".

(d) J. EDWARD ROUSH LAKE, INDIANA.—

(1) REDESIGNATION.—The lake on the Wabash River in Huntington and Wells Counties, Indiana, authorized by section 203 of the Flood Control Act of 1958 (72 Stat. 312), and known as Huntington Lake, shall be known and designated as the "J. Edward Roush Lake".

(2) LEGAL REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the lake referred to in paragraph (1) shall be deemed to be a reference to the "J. Edward Roush Lake".

(e) RUSSELL B. LONG LOCK AND DAM, RED RIVER WATERWAY, LOUISIANA.—

(1) DESIGNATION.—Lock and Dam 4 of the Red River Waterway, Louisiana, shall be known and designated as the "Russell B. Long Lock and Dam".

(2) LEGAL REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the lock and dam referred to in paragraph (1) shall be deemed to be a reference to the "Russell B. Long Lock and Dam".

(f) LOCKS AND DAMS ON TENNESSEE-TOMBIGBEE WATERWAY.—

(1) DESIGNATIONS.—The following locks, and locks and dams, on the Tennessee-Tombigbee Waterway, located in the States of Alabama, Kentucky, Mississippi, and Tennessee, are designated as follows:

(A) Gainesville Lock and Dam at Mile 266 designated as Howell Heflin Lock and Dam.

(B) Columbus Lock and Dam at Mile 335 designated as John C. Stennis Lock and Dam.

(C) The lock and dam at Mile 358 designated as Aberdeen Lock and Dam.

(D) Lock A at Mile 371 designated as Amory Lock.

(E) Lock B at Mile 376 designated as Glover Wilkins Lock.

(F) Lock C at Mile 391 designated as Fulton Lock.

(G) Lock D at Mile 398 designated as John Rankin Lock.

(H) Lock E at Mile 407 designated as G.V. "Sonny" Montgomery Lock.

(I) Bay Springs Lock and Dam at Mile 412 designated as Jamie Whitten Lock and Dam.

(2) LEGAL REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to a lock, or lock and dam, referred to in paragraph (1) shall be deemed to be a reference to the designation for the lock, or lock and dam, provided in such paragraph.

SEC. 503. WATERSHED MANAGEMENT, RESTORATION, AND DEVELOPMENT.

(a) IN GENERAL.—The Secretary may provide technical, planning, and design assistance to non-Federal interests for carrying out watershed management, restoration, and development projects at the locations described in subsection (d).

(b) SPECIFIC MEASURES.—Assistance provided under subsection (a) may be in support of non-Federal projects for the following purposes:

(1) Management and restoration of water quality.

(2) Control and remediation of toxic sediments.

(3) Restoration of degraded streams, rivers, wetlands, and other waterbodies to their natural condition as a means to control flooding, excessive erosion, and sedimentation.

(4) Protection and restoration of watersheds, including urban watersheds.

(5) Demonstration of technologies for nonstructural measures to reduce destructive impacts of flooding.

(c) NON-FEDERAL SHARE.—The non-Federal share of the cost of assistance provided under subsection (a) shall be 50 percent.

(d) PROJECT LOCATIONS.—The Secretary may provide assistance under subsection (a) for projects at the following locations:

(1) Gila River and Tributaries, Santa Cruz River, Arizona.

(2) Rio Salado, Salt River, Phoenix and Tempe, Arizona.

(3) Colusa basin, California.

(4) Los Angeles River watershed, California.

(5) Napa Valley watershed, California.

(6) Russian River watershed, California.

(7) Sacramento River watershed, California.

(8) San Pablo Bay watershed, California.

(9) Santa Clara Valley watershed, California.

(10) Nancy Creek, Utoy Creek, and North Peachtree Creek and South Peachtree Creek basin, Georgia.

(11) Lower Platte River watershed, Nebraska.

(12) Juniata River watershed, Pennsylvania, including Raystown Lake.

(13) Upper Potomac River watershed, Grant and Mineral Counties, West Virginia.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $15,000,000.

SEC. 504. ENVIRONMENTAL INFRASTRUCTURE.

Section 219 of the Water Resources Development Act of 1992 (106 Stat. 4836–4837) is amended by adding at the end the following:

"(e) AUTHORIZATION OF APPROPRIATIONS FOR CONSTRUCTION ASSISTANCE.—There are authorized to be appropriated for providing construction assistance under this section—

"(1) $10,000,000 for the project described in subsection (c)(5);

"(2) $2,000,000 for the project described in subsection (c)(6);

"(3) $10,000,000 for the project described in subsection (c)(7);

"(4) $11,000,000 for the project described in subsection (c)(8);

"(5) $20,000,000 for the project described in subsection (c)(16); and

"(6) $20,000,000 for the project described in subsection (c)(17).".

SEC. 505. CORPS CAPABILITY TO CONSERVE FISH AND WILDLIFE.

Section 704(b) of the Water Resources Development Act of 1986 (33 U.S.C. 2263(b); 100 Stat. 4157) is amended—

(1) by striking "$5,000,000"; and inserting "$7,000,000"; and

(2) in paragraph (4) by inserting "and Virginia" after "Maryland".

SEC. 506. PERIODIC BEACH NOURISHMENT.

(a) IN GENERAL.—The Secretary shall carry out periodic beach nourishment for each of the following projects for a period of 50 years beginning on the date of initiation of construction of the project:

(1) BROWARD COUNTY, FLORIDA.—Project for shoreline protection, segments II and III, Broward County, Florida.

(2) FORT PIERCE, FLORIDA.—Project for shoreline protection, Fort Pierce, Florida.

(3) PANAMA CITY BEACHES, FLORIDA.—Project for shoreline protection, Panama City Beaches, Florida.

(4) TYBEE ISLAND, GEORGIA.—Project for beach erosion control, Tybee Island, Georgia.

(b) PERIODIC BEACH NOURISHMENT SUBJECT TO REVIEW.—

(1) REVIEW.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall complete a review of potential periodic beach nourishment for each of the projects described in paragraph (3) in accordance with the procedures established under section 156 of the Water Resources Development Act of 1976 (42 U.S.C. 1962d–5f; 90 Stat. 2933).

(2) AUTHORIZATION.—If the Secretary determines under paragraph (1) that periodic beach nourishment is necessary for a project, the Secretary shall carry out periodic beach nourishment for the project for a period of 50 years beginning on the date of initiation of construction of the project.

(3) PROJECTS.—The projects referred to in paragraph (1) are as follows:

(A) LEE COUNTY, FLORIDA.—Project for shoreline protection, Lee County, Captiva Island segment, Florida.

(B) PALM BEACH COUNTY, FLORIDA.—Project for shoreline protection, Jupiter/Carlin, Ocean Ridge, and Boca Raton North Beach segments, Palm Beach County, Florida.

(C) RARITAN BAY AND SANDY HOOK BAY, NEW JERSEY.—Project for hurricane-flood protection, Raritan Bay and Sandy Hook Bay, New Jersey.

(D) FIRE ISLAND INLET, NEW YORK.—Project for shoreline protection, Fire Island Inlet, New York, between Gilgo State Park and Tobay Beach to protect Ocean Parkway along the Atlantic Ocean shoreline in Suffolk County, New York.

SEC. 507. DESIGN AND CONSTRUCTION ASSISTANCE.

The Secretary shall provide design and construction assistance to non-Federal interests for each of the following projects if the Secretary determines that the project is feasible:

(1) Repair and rehabilitation of the Lower Girard Lake Dam, Girard, Ohio, at an estimated total cost of $2,500,000.

(2) Construction of a multipurpose dam and reservoir, Bear Valley Dam, Franklin County, Pennsylvania, at an estimated total cost of $15,000,000.

(3) Repair and upgrade of the dam and appurtenant features at Lake Merriweather, Little Calfpasture River, Virginia, at an estimated total cost of $6,000,000.

SEC. 508. LAKES PROGRAM.

Section 602(a) of the Water Resources Development Act of 1986 (100 Stat. 4148–4149) is amended—

(1) by striking "and" at the end of paragraph (10);

(2) by striking the period at the end of paragraph (11) and inserting a semicolon; and

(3) by adding at the end the following:

"(12) Goodyear Lake, Otsego County, New York, removal of silt and aquatic growth;

"(13) Otsego Lake, Otsego County, New York, removal of silt and aquatic growth and measures to address high nutrient concentration;

"(14) Oneida Lake, Oneida County, New York, removal of silt and aquatic growth;

"(15) Skaneateles and Owasco Lakes, New York, removal of silt and aquatic growth and prevention of sediment deposit; and

"(16) Twin Lakes, Paris, Illinois, removal of silt and excess aquatic vegetation, including measures to address excessive sedimentation, high nutrient concentration, and shoreline erosion.".

SEC. 509. MAINTENANCE OF NAVIGATION CHANNELS.

(a) IN GENERAL.—Upon request of the non-Federal interest, the Secretary shall be responsible for maintenance of the following navigation channels constructed or improved by non-Federal interests if the Secretary determines that such maintenance is economically justified and environmentally acceptable and that the channel was constructed in accordance with applicable permits and appropriate engineering and design standards:

(1) Humboldt Harbor and Bay, Fields Landing Channel, California.

(2) Mare Island Strait, California. For purposes of this section, the navigation channel shall be deemed to have been constructed or improved by non-Federal interests.

(3) East Fork, Calcasieu Pass, Louisiana.

(4) Mississippi River Ship Channel, Chalmette Slip, Louisiana.

(5) Greenville Inner Harbor Channel, Mississippi.

(6) New Madrid Harbor, Missouri. For purposes of this section, the navigation channel shall be deemed to have been constructed or improved by non-Federal interests.

(7) Providence Harbor Shipping Channel, Rhode Island, from the vicinity of the Fox Point hurricane barrier to the vicinity of the Francis Street bridge in Providence, Rhode Island. For purposes of this section, the navigation channel shall be deemed to have been constructed or improved by non-Federal interests.

(8) Matagorda Ship Channel, Point Comfort Turning Basin, Texas.

(9) Corpus Christi Ship Channel, Rincon Canal System, Texas.

(10) Brazos Island Harbor, Texas, connecting channel to Mexico.

(11) Blair Waterway, Tacoma Harbor, Washington.

(b) COMPLETION OF ASSESSMENT.—Not later than 6 months after receipt of a request from a non-Federal interest for Federal assumption of maintenance of a channel listed in subsection (a), the Secretary shall make a determination as provided in subsection (a) and advise the non-Federal interest of the Secretary's determination.

SEC. 510. CHESAPEAKE BAY ENVIRONMENTAL RESTORATION AND PROTECTION PROGRAM.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretary shall establish a pilot program to provide environmental assistance to non-Federal interests in the Chesapeake Bay watershed.

(2) FORM.—The assistance shall be in the form of design and construction assistance for water-related environmental infrastructure and resource protection and development projects affecting the Chesapeake Bay estuary, including projects for sediment and erosion control, protection of eroding shorelines, protection of essential public works, wastewater treatment and related facilities, water supply and related facilities, and beneficial uses of dredged material, and other related projects that may enhance the living resources of the estuary.

(b) PUBLIC OWNERSHIP REQUIREMENT.—The Secretary may provide assistance for a project under this section only if the project is publicly owned, and will be publicly operated and maintained.

(c) LOCAL COOPERATION AGREEMENT.—

(1) IN GENERAL.—Before providing assistance under this section, the Secretary shall enter into a local cooperation agreement with a non-Federal interest to provide for design and construction of the project to be carried out with the assistance.

(2) REQUIREMENTS.—Each local cooperation agreement entered into under this subsection shall provide for—

(A) the development by the Secretary, in consultation with appropriate Federal, State, and local officials, of a facilities or resource protection and development plan, including appropriate engineering plans and specifications and an estimate of expected resource benefits; and

(B) the establishment of such legal and institutional structures as are necessary to ensure the effective long-term operation and maintenance of the project by the non-Federal interest.

(d) COST SHARING.—

(1) FEDERAL SHARE.—Except as provided in paragraph (2)(B), the Federal share of the total project costs of each local cooperation agreement entered into under this section shall be 75 percent.

(2) NON-FEDERAL SHARE.—

(A) VALUE OF LANDS, EASEMENTS, RIGHTS-OF-WAY, AND RELOCATIONS.—In determining the non-Federal contribution toward carrying out a local cooperation agreement entered into under this section, the Secretary shall provide credit to a non-Federal interest for the value of lands, easements, rights-of-way, and relocations provided by the non-Federal interest, except that the amount of credit provided for a project under this paragraph may not exceed 25 percent of the total project costs.

(B) OPERATION AND MAINTENANCE COSTS.—The non-Federal share of the costs of operation and maintenance of activities carried out under an agreement under this section shall be 100 percent.

(e) COOPERATION.—In carrying out this section, the Secretary shall cooperate with the heads of appropriate Federal agencies, including—

(1) the Administrator of the Environmental Protection Agency;

(2) the Secretary of Commerce, acting through the Administrator of the National Oceanic and Atmospheric Administration;

(3) the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service; and

(4) the heads of such other Federal agencies and agencies of a State or political subdivision of a State as the Secretary determines to be appropriate.

State listing.

(f) PROJECT.—The Secretary shall establish at least 1 project under this section in each of the States of Maryland, Virginia, and Pennsylvania.

(g) PROTECTION OF RESOURCES.—A project established under this section shall be carried out using such measures as are necessary to protect environmental, historic, and cultural resources.

(h) REPORT.—Not later than December 31, 1998, the Secretary shall transmit to Congress a report on the results of the program carried out under this section, together with a recommendation concerning whether or not the program should be implemented on a national basis.

(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $10,000,000.

SEC. 511. RESEARCH AND DEVELOPMENT PROGRAM TO IMPROVE SALMON SURVIVAL.

16 USC 3301 note.

(a) SALMON SURVIVAL ACTIVITIES.—

(1) IN GENERAL.—The Secretary shall accelerate ongoing research and development activities, and may carry out or participate in additional research and development activities, for the purpose of developing innovative methods and technologies for improving the survival of salmon, especially salmon in the Columbia River Basin.

(2) ACCELERATED ACTIVITIES.—Accelerated research and development activities referred to in paragraph (1) may include research and development related to—

(A) impacts from water resources projects and other impacts on salmon life cycles;

(B) juvenile and adult salmon passage;

(C) light and sound guidance systems;

(D) surface-oriented collector systems;

(E) transportation mechanisms; and

(F) dissolved gas monitoring and abatement.

(3) ADDITIONAL ACTIVITIES.—Additional research and development activities referred to in paragraph (1) may include research and development related to—

(A) marine mammal predation on salmon;

(B) studies of juvenile salmon survival in spawning and rearing areas;

(C) estuary and near-ocean juvenile and adult salmon survival;

(D) impacts on salmon life cycles from sources other than water resources projects; and

(E) other innovative technologies and actions intended to improve fish survival, including the survival of resident fish.

(4) COORDINATION.—The Secretary shall coordinate any activities carried out under this subsection with appropriate Federal, State, and local agencies, affected Indian tribes, and the Northwest Power Planning Council.

(5) REPORT.—Not later than 3 years after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the research and development activities carried out under this subsection, including any recommendations of the Secretary concerning the research and development activities.

(6) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $10,000,000 to carry out research and development activities under paragraph (3).

(b) ADVANCED TURBINE DEVELOPMENT.—

(1) IN GENERAL.—In conjunction with the Secretary of Energy, the Secretary shall accelerate efforts toward developing innovative, efficient, and environmentally safe hydropower tur-

bines, including design of "fish-friendly" turbines, for use on the Columbia River hydrosystem.

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $12,000,000 to carry out this subsection.

(c) IMPLEMENTATION.—Nothing in this section affects the authority of the Secretary to implement the results of the research and development carried out under this section or any other law.

SEC. 512. COLUMBIA RIVER TREATY FISHING ACCESS.

Section 401(a) of the Act entitled "An Act to establish procedures for review of tribal constitutions and bylaws or amendments thereto pursuant to the Act of June 18, 1934 (48 Stat. 987)", approved November 1, 1988 (102 Stat. 2944), is amended—

(1) by striking "(a) All Federal" and all that follows through "Columbia River Gorge Commission" and inserting the following:

"(a) EXISTING FEDERAL LANDS.—

"(1) IN GENERAL.—All Federal lands that are included within the 20 recommended treaty fishing access sites set forth in the publication of the Corps of Engineers entitled 'Columbia River Treaty Fishing Access Sites Post Authorization Change Report', dated April 1995,"; and

(2) by adding at the end the following:

"(2) BOUNDARY ADJUSTMENTS.—The Secretary of the Army, in consultation with affected tribes, may make such minor boundary adjustments to the lands referred to in paragraph (1) as the Secretary determines are necessary to carry out this title.".

33 USC 1293a note.

SEC. 513. GREAT LAKES CONFINED DISPOSAL FACILITIES.

(a) ASSESSMENT.—Pursuant to the responsibilities of the Secretary under section 123 of the River and Harbor Act of 1970 (33 U.S.C. 1293a), the Secretary shall conduct an assessment of the general conditions of confined disposal facilities in the Great Lakes.

(b) REPORT.—Not later than 3 years after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the assessment conducted under subsection (a), including the following:

(1) A description of the cumulative effects of confined disposal facilities in the Great Lakes.

(2) Recommendations for specific remediation actions for each confined disposal facility in the Great Lakes.

(3) An evaluation of, and recommendations for, confined disposal facility management practices and technologies to conserve capacity at such facilities and to minimize adverse environmental effects at such facilities throughout the Great Lakes system.

SEC. 514. GREAT LAKES DREDGED MATERIAL TESTING AND EVALUATION MANUAL.

The Secretary, in cooperation with the Administrator of the Environmental Protection Agency, shall provide technical assistance to non-Federal interests on testing procedures contained in the Great Lakes Dredged Material Testing and Evaluation Manual developed pursuant to section 230.2(c) of title 40, Code of Federal Regulations.

SEC. 515. GREAT LAKES REMEDIAL ACTION PLANS AND SEDIMENT REMEDIATION.

Section 401 of the Water Resources Development Act of 1990 (33 U.S.C. 1268 note; 104 Stat. 4644) is amended to read as follows:

"SEC. 401. GREAT LAKES REMEDIAL ACTION PLANS AND SEDIMENT REMEDIATION.

"(a) GREAT LAKES REMEDIAL ACTION PLANS.—

"(1) IN GENERAL.—The Secretary may provide technical, planning, and engineering assistance to State and local governments and nongovernmental entities designated by a State or local government in the development and implementation of remedial action plans for Areas of Concern in the Great Lakes identified under the Great Lakes Water Quality Agreement of 1978.

"(2) NON-FEDERAL SHARE.—Non-Federal interests shall contribute, in cash or by providing in-kind contributions, 50 percent of costs of activities for which assistance is provided under paragraph (1).

"(b) SEDIMENT REMEDIATION PROJECTS.—

"(1) IN GENERAL.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency (acting through the Great Lakes National Program Office), may conduct pilot- and full-scale projects of promising technologies to remediate contaminated sediments in freshwater coastal regions in the Great Lakes basin. The Secretary shall conduct not fewer than 3 full-scale projects under this subsection.

"(2) SITE SELECTION FOR PROJECTS.—In selecting the sites for the technology projects, the Secretary shall give priority consideration to Saginaw Bay, Michigan, Sheboygan Harbor, Wisconsin, Grand Calumet River, Indiana, Ashtabula River, Ohio, Buffalo River, New York, and Duluth-Superior Harbor, Minnesota and Wisconsin. State listing.

"(3) DEADLINE FOR IDENTIFICATIONS.—The Secretary shall—

"(A) not later than 18 months after the date of the enactment of this paragraph, identify the sites and technologies for projects under this subsection; and

"(B) not later than 3 years after that date, complete each such full-scale project.

"(4) NON-FEDERAL SHARE.—Non-Federal interests shall contribute 50 percent of costs of projects under this subsection. Such costs may be paid in cash or by providing in-kind contributions.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section $5,000,000 for each of fiscal years 1998 through 2000.".

SEC. 516. SEDIMENT MANAGEMENT. 33 USC 2326b.

(a) IN GENERAL.—The Secretary may enter into cooperation agreements with non-Federal interests with respect to navigation projects, or other appropriate non-Federal entities, for the development of long-term management strategies for controlling sediments at such projects.

(b) CONTENTS OF STRATEGIES.—Each strategy developed under subsection (a) shall—

(1) include assessments of sediment rates and composition, sediment reduction options, dredging practices, long-term management of any dredged material disposal facilities, remediation of such facilities, and alternative disposal and reuse options;

(2) include a timetable for implementation of the strategy; and

(3) incorporate relevant ongoing planning efforts, including remedial action planning, dredged material management planning, harbor and waterfront development planning, and watershed management planning.

(c) CONSULTATION.—In developing strategies under subsection (a), the Secretary shall consult with interested Federal agencies, States, and Indian tribes and provide an opportunity for public comment.

(d) DREDGED MATERIAL DISPOSAL.—

(1) STUDY.—The Secretary shall conduct a study to determine the feasibility of constructing and operating an underwater confined dredged material disposal site in the Port of New York-New Jersey that could accommodate as much as 250,000 cubic yards of dredged material for the purpose of demonstrating the feasibility of an underwater confined disposal pit as an environmentally suitable method of containing certain sediments.

(2) REPORT.—The Secretary shall transmit to Congress a report on the results of the study conducted under paragraph (1), together with any recommendations of the Secretary that may be developed in a strategy under subsection (a).

(e) GREAT LAKES TRIBUTARY MODEL.—

(1) IN GENERAL.—In consultation and coordination with the Great Lakes States, the Secretary shall develop a tributary sediment transport model for each major river system or set of major river systems depositing sediment into a Great Lakes federally authorized commercial harbor, channel maintenance project site, or Area of Concern identified under the Great Lakes Water Quality Agreement of 1978. Such model may be developed as a part of a strategy developed under subsection (a).

(2) REQUIREMENTS FOR MODELS.—In developing a tributary sediment transport model under this subsection, the Secretary shall build on data and monitoring information generated in earlier studies and programs of the Great Lakes and their tributaries.

(f) GREAT LAKES STATES DEFINED.—In this section, the term "Great Lakes States" means the States of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania, and Wisconsin.

(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section $5,000,000 for each of fiscal years 1998 through 2001.

33 USC 653a.

SEC. 517. EXTENSION OF JURISDICTION OF MISSISSIPPI RIVER COMMISSION.

The jurisdiction of the Mississippi River Commission, established by the 1st section of the Act of June 28, 1879 (33 U.S.C. 641; 21 Stat. 37), is extended to include—

(1) all of the area between the eastern side of the Bayou Lafourche Ridge from Donaldsonville, Louisiana, to the Gulf

of Mexico and the west guide levee of the Mississippi River from Donaldsonville, Louisiana, to the Gulf of Mexico;

(2) Alexander County, Illinois; and

(3) the area in the State of Illinois from the confluence of the Mississippi and Ohio Rivers northward to the vicinity of Mississippi River mile 39.5, including the Len Small Drainage and Levee District, insofar as such area is affected by the flood waters of the Mississippi River.

SEC. 518. SENSE OF CONGRESS REGARDING ST. LAWRENCE SEAWAY TOLLS.

It is the sense of Congress that the President should engage in negotiations with the Government of Canada for the purposes of—

(1) eliminating tolls along the St. Lawrence Seaway system; and

(2) identifying ways to maximize the movement of goods and commerce through the St. Lawrence Seaway.

SEC. 519. RECREATION PARTNERSHIP INITIATIVE.

33 USC 2328 note.

(a) IN GENERAL.—The Secretary shall promote Federal, non-Federal, and private sector cooperation in creating public recreation opportunities and developing the necessary supporting infrastructure at water resources projects of the Corps of Engineers.

(b) INFRASTRUCTURE IMPROVEMENTS.—

(1) RECREATION INFRASTRUCTURE IMPROVEMENTS.—In determining the feasibility of the public-private cooperative under subsection (a), the Secretary shall provide such infrastructure improvements as are necessary to support a potential private recreational development at the Raystown Lake Project, Pennsylvania, generally in accordance with the Master Plan Update (1994) for the project.

(2) AGREEMENT.—The Secretary shall enter into an agreement with an appropriate non-Federal public entity to ensure that the infrastructure improvements constructed by the Secretary on non-project lands pursuant to paragraph (1) are transferred to and operated and maintained by the non-Federal public entity.

(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $3,000,000.

(c) REPORT.—Not later than December 31, 1998, the Secretary shall transmit to Congress a report on the results of the cooperative efforts carried out under this section, including the improvements required by subsection (b).

SEC. 520. FIELD OFFICE HEADQUARTERS FACILITIES.

Subject to amounts being made available in advance in appropriations Acts, the Secretary may use Plant Replacement and Improvement Program funds to design and construct a new headquarters facility for—

(1) the New England Division, Waltham, Massachusetts; and

(2) the Jacksonville District, Jacksonville, Florida.

SEC. 521. EARTHQUAKE PREPAREDNESS CENTER OF EXPERTISE EXPANSION.

Using existing resources, the Secretary shall expand the Earthquake Preparedness Center of Expertise to address issues in the

central United States by providing the necessary capability at an existing district office of the Corps of Engineers near the New Madrid fault.

SEC. 522. JACKSON COUNTY, ALABAMA.

(a) IN GENERAL.—The Secretary may provide technical, planning, and design assistance to non-Federal interests for wastewater treatment and related facilities, remediation of point and nonpoint sources of pollution and contaminated riverbed sediments, and related activities in Jackson County, Alabama, including the city of Stevenson.

(b) COST SHARING.—The Federal cost of assistance provided under this section may not exceed $3,000,000. The non-Federal share of assistance provided under this section shall be 25 percent.

SEC. 523. BENTON AND WASHINGTON COUNTIES, ARKANSAS.

Section 220 of the Water Resources Development Act of 1992 (106 Stat. 4836–4837) is amended by adding at the end the following:

"(c) USE OF FEDERAL FUNDS.—The Secretary may make available to the non-Federal interests funds not to exceed an amount equal to the Federal share of the total project cost to be used by the non-Federal interests to undertake the work directly or by contract.".

SEC. 524. HEBER SPRINGS, ARKANSAS.

Contracts.

(a) IN GENERAL.—The Secretary shall enter into an agreement with the city of Heber Springs, Arkansas, to provide 3,522 acre-feet of water supply storage in Greers Ferry Lake, Arkansas, for municipal and industrial purposes, at no cost to the city.

(b) NECESSARY FACILITIES.—The city of Heber Springs shall be responsible for 100 percent of the costs of construction, operation, and maintenance of any intake, transmission, treatment, or distribution facility necessary for utilization of the water supply.

(c) ADDITIONAL WATER SUPPLY STORAGE.—Any additional water supply storage required after the date of the enactment of this Act shall be contracted for and reimbursed by the city of Heber Springs, Arkansas.

SEC. 525. MORGAN POINT, ARKANSAS.

The Secretary shall accept as in-kind contributions for the project for creation of fish and wildlife habitat at Morgan Point, Arkansas—

(1) the items described as fish and wildlife facilities and land in the Morgan Point Bendway Closure Structure modification report for the project, dated February 1994; and

(2) fish stocking activities carried out by the non-Federal interests for the project;

if the Secretary determines that the items and activities are compatible with the project.

SEC. 526. CALAVERAS COUNTY, CALIFORNIA.

(a) TECHNICAL ASSISTANCE.—The Secretary may provide technical assistance to non-Federal interests, in cooperation with Federal and State agencies, for reclamation and water quality protection projects for the purpose of abating and mitigating surface water quality degradation caused by abandoned mines in the watershed of the lower Mokelume River in Calaveras County, California.

(b) CONSULTATION WITH FEDERAL ENTITIES.—Any project under subsection (a) that is located on lands owned by the United States shall be undertaken in consultation with the Federal entity with administrative jurisdiction over such lands.

(c) FEDERAL SHARE.—The Federal share of the cost of the activities conducted under subsection (a) shall be 50 percent; except that, with respect to projects located on lands owned by the United States, the Federal share shall be 100 percent.

(d) EFFECT ON AUTHORITY OF SECRETARY OF THE INTERIOR.—Nothing in this section is intended to affect the authority of the Secretary of the Interior under title IV of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1231 et seq.).

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $1,500,000.

SEC. 527. FAULKNER ISLAND, CONNECTICUT.

In consultation with the Director of the United States Fish and Wildlife Service, the Secretary shall design and construct shoreline protection measures for the coastline adjacent to the Faulkner Island Lighthouse, Connecticut, at a total cost of $4,500,000.

SEC. 528. EVERGLADES AND SOUTH FLORIDA ECOSYSTEM RESTORATION.

(a) DEFINITIONS.—In this section, the following definitions apply:

(1) CENTRAL AND SOUTHERN FLORIDA PROJECT.—The term "Central and Southern Florida Project" means the project for Central and Southern Florida authorized under the heading "CENTRAL AND SOUTHERN FLORIDA" in section 203 of the Flood Control Act of 1948 (62 Stat. 1176), and any modification to the project authorized by law.

(2) COMMISSION.—The term "Commission" means the Governor's Commission for a Sustainable South Florida, established by Executive Order of the Governor dated March 3, 1994.

(3) GOVERNOR.—The term "Governor" means the Governor of the State of Florida.

(4) SOUTH FLORIDA ECOSYSTEM.—The term "South Florida ecosystem" means the area consisting of the lands and waters within the boundary of the South Florida Water Management District, including the Everglades, the Florida Keys, and the contiguous near-shore coastal waters of South Florida.

(5) TASK FORCE.—The term "Task Force" means the South Florida Ecosystem Restoration Task Force established by subsection (f).

(b) RESTORATION ACTIVITIES.—

(1) COMPREHENSIVE PLAN.—

(A) DEVELOPMENT.—

(i) PURPOSE.—The Secretary shall develop, as expeditiously as practicable, a proposed comprehensive plan for the purpose of restoring, preserving, and protecting the South Florida ecosystem. The comprehensive plan shall provide for the protection of water quality in, and the reduction of the loss of fresh water from, the Everglades. The comprehensive plan shall include such features as are necessary to provide for the water-related needs of the region, including flood control, the enhancement of water supplies, and

other objectives served by the Central and Southern Florida Project.

(ii) CONSIDERATIONS.—The comprehensive plan shall—

(I) be developed by the Secretary in cooperation with the non-Federal project sponsor and in consultation with the Task Force; and

(II) consider the conceptual framework specified in the report entitled "Conceptual Plan for the Central and Southern Florida Project Restudy", published by the Commission and approved by the Governor.

(B) SUBMISSION.—Not later than July 1, 1999, the Secretary shall—

(i) complete the feasibility phase of the Central and Southern Florida Project comprehensive review study as authorized by section 309(l) of the Water Resources Development Act of 1992 (106 Stat. 4844), and by 2 resolutions of the Committee on Public Works and Transportation of the House of Representatives, dated September 24, 1992; and

Reports.

(ii) submit to Congress the plan developed under subparagraph (A)(i) consisting of a feasibility report and a programmatic environmental impact statement covering the proposed Federal action set forth in the plan.

(C) ADDITIONAL STUDIES AND ANALYSES.—Notwithstanding the completion of the feasibility report under subparagraph (B), the Secretary shall continue to conduct such studies and analyses as are necessary, consistent with subparagraph (A)(i).

(2) USE OF EXISTING AUTHORITY FOR UNCONSTRUCTED PROJECT FEATURES.—The Secretary shall design and construct any features of the Central and Southern Florida Project that are authorized on the date of the enactment of this Act or that may be implemented in accordance with the Secretary's authority to modify an authorized project, including features authorized under sections 315 and 316, with funds that are otherwise available, if the Secretary determines that the design and construction—

(A) will accelerate the restoration, preservation, and protection of the South Florida ecosystem;

(B) will be generally consistent with the conceptual framework described in paragraph (1)(A)(ii)(II); and

(C) will be compatible with the overall authorized purposes of the Central and Southern Florida Project.

(3) CRITICAL RESTORATION PROJECTS.—

(A) IN GENERAL.—In addition to the activities described in paragraphs (1) and (2), if the Secretary, in cooperation with the non-Federal project sponsor and the Task Force, determines that a restoration project for the South Florida ecosystem will produce independent, immediate, and substantial restoration, preservation, and protection benefits, and will be generally consistent with the conceptual framework described in paragraph (1)(A)(ii)(II), the Secretary shall proceed expeditiously with the implementation of the restoration project.

(B) INITIATION OF PROJECTS.—After September 30, 1999, no new projects may be initiated under subparagraph (A).

(C) AUTHORIZATION OF APPROPRIATIONS.—

(i) IN GENERAL.—There is authorized to be appropriated to the Department of the Army to pay the Federal share of the cost of carrying out projects under subparagraph (A) $75,000,000 for the period consisting of fiscal years 1997 through 1999.

(ii) FEDERAL SHARE.—The Federal share of the cost of carrying out any 1 project under subparagraph (A) shall be not more than $25,000,000.

(4) GENERAL PROVISIONS.—

(A) WATER QUALITY.—In carrying out activities described in this subsection and sections 315 and 316, the Secretary—

(i) shall take into account the protection of water quality by considering applicable State water quality standards; and

(ii) may include in projects such features as are necessary to provide water to restore, preserve, and protect the South Florida ecosystem.

(B) COMPLIANCE WITH APPLICABLE LAW.—In carrying out the activities described in this subsection and subsection (c), the Secretary shall comply with any applicable Federal law, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

(C) PUBLIC PARTICIPATION.—In developing the comprehensive plan under paragraph (1) and carrying out the activities described in this subsection and subsection (c), the Secretary shall provide for public review and comment on the activities in accordance with applicable Federal law.

(c) INTEGRATION OF OTHER ACTIVITIES.—

(1) IN GENERAL.—In carrying out activities described in subsection (b), the Secretary shall integrate such activities with ongoing Federal and State projects and activities, including—

(A) the project for the ecosystem restoration of the Kissimmee River, Florida, authorized by section 101 of the Water Resources Development Act of 1992 (106 Stat. 4802);

(B) the project for modifications to improve water deliveries into Everglades National Park authorized by section 104 of the Everglades National Park Protection and Expansion Act of 1989 (16 U.S.C. 410r–8);

(C) activities under the Florida Keys National Marine Sanctuary and Protection Act (16 U.S.C. 1433 note; 104 Stat. 3089); and

(D) the Everglades Construction Project of the State of Florida.

(2) STATUTORY CONSTRUCTION.—

(A) EXISTING AUTHORITY.—Except as otherwise expressly provided in this section, nothing in this section affects any authority in effect on the date of the enactment of this Act, or any requirement of the authority, relating to participation in restoration activities in the South Flor-

ida ecosystem, including the projects and activities specified in paragraph (1), by—

(i) the Department of the Interior;

(ii) the Department of Commerce;

(iii) the Department of the Army;

(iv) the Environmental Protection Agency;

(v) the Department of Agriculture;

(vi) the State of Florida; and

(vii) the South Florida Water Management District.

(B) NEW AUTHORITY.—Nothing in this section confers any new regulatory authority on any Federal or non-Federal entity that carries out any activity authorized by this section.

(d) JUSTIFICATION.—

(1) IN GENERAL.—Notwithstanding section 209 of the Flood Control Act of 1970 (42 U.S.C. 1962–2) or any other provision of law, in carrying out the activities to restore, preserve, and protect the South Florida ecosystem described in subsection (b), the Secretary may determine that the activities—

(A) are justified by the environmental benefits derived by the South Florida ecosystem in general and the Everglades and Florida Bay in particular; and

(B) shall not need further economic justification if the Secretary determines that the activities are cost-effective.

(2) APPLICABILITY.—Paragraph (1) shall not apply to any separable element intended to produce benefits that are predominantly unrelated to the restoration, preservation, and protection of the South Florida ecosystem.

(e) COST SHARING.—

(1) IN GENERAL.—Except as provided in sections 315 and 316 and paragraph (2), the non-Federal share of the cost of activities described in subsection (b) shall be 50 percent.

(2) WATER QUALITY FEATURES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the non-Federal share of the cost of project features to improve water quality described in subsection (b) shall be 100 percent.

(B) EXCEPTION.—

(i) IN GENERAL.—Subject to clause (ii), if the Secretary determines that a project feature to improve water quality is essential to Everglades restoration, the non-Federal share of the cost of the feature shall be 50 percent.

(ii) APPLICABILITY.—Clause (i) shall not apply to any feature of the Everglades Construction Project of the State of Florida.

(3) OPERATION AND MAINTENANCE.—The operation and maintenance of projects carried out under this section shall be a non-Federal responsibility.

(4) CREDIT.—Regardless of the date of acquisition, the value of lands or interests in land acquired by non-Federal interests for any activity described in subsection (b) shall be included in the total cost of the activity and credited against the non-Federal share of the cost of the activity. Such value shall be determined by the Secretary.

(f) SOUTH FLORIDA ECOSYSTEM RESTORATION TASK FORCE.—

(1) ESTABLISHMENT AND MEMBERSHIP.—There is established the South Florida Ecosystem Restoration Task Force, which shall consist of the following members (or, in the case of a Federal agency, a designee at the level of assistant secretary or an equivalent level):

(A) The Secretary of the Interior, who shall serve as chairperson.

(B) The Secretary of Commerce.

(C) The Secretary.

(D) The Attorney General.

(E) The Administrator of the Environmental Protection Agency.

(F) The Secretary of Agriculture.

(G) The Secretary of Transportation.

(H) 1 representative of the Miccosukee Tribe of Indians of Florida, to be appointed by the Secretary of the Interior based on the recommendations of the tribal chairman.

(I) 1 representative of the Seminole Tribe of Florida, to be appointed by the Secretary of the Interior based on the recommendations of the tribal chairman.

(J) 2 representatives of the State of Florida, to be appointed by the Secretary of the Interior based on the recommendations of the Governor.

(K) 1 representative of the South Florida Water Management District, to be appointed by the Secretary of the Interior based on the recommendations of the Governor.

(L) 2 representatives of local government in the State of Florida, to be appointed by the Secretary of the Interior based on the recommendations of the Governor.

(2) DUTIES OF TASK FORCE.—The Task Force—

(A) shall consult with, and provide recommendations to, the Secretary during development of the comprehensive plan under subsection (b)(1);

(B) shall coordinate the development of consistent policies, strategies, plans, programs, projects, activities, and priorities for addressing the restoration, preservation, and protection of the South Florida ecosystem;

(C) shall exchange information regarding programs, projects, and activities of the agencies and entities represented on the Task Force to promote ecosystem restoration and maintenance;

(D) shall establish a Florida-based working group which shall include representatives of the agencies and entities represented on the Task Force as well as other governmental entities as appropriate for the purpose of formulating, recommending, coordinating, and implementing the policies, strategies, plans, programs, projects, activities, and priorities of the Task Force;

(E) may, and the working group described in subparagraph (D), may—

(i) establish such advisory bodies as are necessary to assist the Task Force in its duties, including public policy and scientific issues; and

(ii) select as an advisory body any entity, such as the Commission, that represents a broad variety of private and public interests;

(F) shall facilitate the resolution of interagency and intergovernmental conflicts associated with the restoration of the South Florida ecosystem among agencies and entities represented on the Task Force;

(G) shall coordinate scientific and other research associated with the restoration of the South Florida ecosystem;

(H) shall provide assistance and support to agencies and entities represented on the Task Force in their restoration activities;

(I) shall prepare an integrated financial plan and recommendations for coordinated budget requests for the funds proposed to be expended by agencies and entities represented on the Task Force for the restoration, preservation, and protection of the South Florida ecosystem; and

Reports.

(J) shall submit a biennial report to Congress that summarizes—

(i) the activities of the Task Force;

(ii) the policies, strategies, plans, programs, projects, activities, and priorities planned, developed, or implemented for the restoration of the South Florida ecosystem; and

(iii) progress made toward the restoration.

(3) PROCEDURES AND ADVICE.—

(A) PUBLIC PARTICIPATION.—

(i) IN GENERAL.—The Task Force shall implement procedures to facilitate public participation in the advisory process, including providing advance notice of meetings, providing adequate opportunity for public input and comment, maintaining appropriate records, and making a record of the proceedings of meetings available for public inspection.

(ii) OVERSIGHT.—The Secretary of the Interior shall ensure that the procedures described in clause (i) are adopted and implemented and that the records described in clause (i) are accurately maintained and available for public inspection.

(B) ADVISORS TO THE TASK FORCE AND WORKING GROUP.—The Task Force or the working group described in paragraph (2)(D) may seek advice and input from any interested, knowledgeable, or affected party as the Task Force or working group, respectively, determines necessary to perform the duties described in paragraph (2).

(C) APPLICATION OF THE FEDERAL ADVISORY COMMITTEE ACT.—

(i) TASK FORCE AND WORKING GROUP.—The Task Force and the working group shall not be considered advisory committees under the Federal Advisory Committee Act (5 U.S.C. App.).

(ii) ADVISORS.—Seeking advice and input under subparagraph (B) shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

(4) COMPENSATION.—A member of the Task Force shall receive no compensation for the service of the member on the Task Force.

(5) TRAVEL EXPENSES.—Travel expenses incurred by a member of the Task Force in the performance of services for the

Task Force shall be paid by the agency, tribe, or government that the member represents.

SEC. 529. TAMPA, FLORIDA.

The Secretary may enter into a cooperative agreement under section 229 with the Museum of Science and Industry, Tampa, Florida, to provide technical, planning, and design assistance to demonstrate the water quality functions found in wetlands, at an estimated total Federal cost of $500,000.

SEC. 530. WATERSHED MANAGEMENT PLAN FOR DEEP RIVER BASIN, INDIANA.

(a) DEVELOPMENT.—The Secretary, in consultation with the Natural Resources Conservation Service of the Department of Agriculture, shall develop a watershed management plan for the Deep River Basin, Indiana, including Deep River, Lake George, Turkey Creek, and other related tributaries in Indiana.

(b) CONTENTS.—The plan to be developed by the Secretary under subsection (a) shall address specific concerns related to the Deep River Basin area, including—

(1) sediment flow into Deep River, Turkey Creek, and other tributaries;

(2) control of sediment quality in Lake George;

(3) flooding problems;

(4) the safety of the Lake George Dam; and

(5) watershed management.

SEC. 531. SOUTHERN AND EASTERN KENTUCKY.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary may establish a program for providing environmental assistance to non-Federal interests in southern and eastern Kentucky.

(b) FORM OF ASSISTANCE.—Assistance under this section may be in the form of design and construction assistance for water-related environmental infrastructure and resource protection and development projects in southern and eastern Kentucky, including projects for wastewater treatment and related facilities, water supply and related facilities, and surface water resource protection and development.

(c) PUBLIC OWNERSHIP REQUIREMENT.—The Secretary may provide assistance for a project under this section only if the project is publicly owned.

(d) PROJECT COOPERATION AGREEMENTS.—

(1) IN GENERAL.—Before providing assistance under this section, the Secretary shall enter into a project cooperation agreement with a non-Federal interest to provide for design and construction of the project to be carried out with such assistance.

(2) REQUIREMENTS.—Each agreement entered into under this subsection shall provide for the following:

(A) PLAN.—Development by the Secretary, in consultation with appropriate Federal and State officials, of a facilities development plan or resource protection plan, including appropriate plans and specifications.

(B) LEGAL AND INSTITUTIONAL STRUCTURES.—Establishment of such legal and institutional structures as are necessary to ensure the effective long-term operation of the project by the non-Federal interest.

(3) COST SHARING.—

(A) IN GENERAL.—Total project costs under each agreement entered into under this subsection shall be shared at 75 percent Federal and 25 percent non-Federal. The Federal share may be in the form of grants or reimbursements of project costs.

(B) CREDIT FOR DESIGN WORK.—The non-Federal interest shall receive credit for the reasonable costs of design work completed by such interest before entering into the agreement with the Secretary.

(C) CREDIT FOR CERTAIN FINANCING COSTS.—In the event of a delay in the reimbursement of the non-Federal share of a project, the non-Federal interest shall receive credit for reasonable interest and other associated financing costs necessary for such non-Federal interest to provide the non-Federal share of the project's cost.

(D) LANDS, EASEMENTS, AND RIGHTS-OF-WAY.—The non-Federal interest shall receive credit for lands, easements, rights-of-way, and relocations provided by the non-Federal interest toward its share of project costs (including costs associated with obtaining permits necessary for the placement of such project on publicly owned or controlled lands), but not to exceed 25 percent of total project costs.

(E) OPERATION AND MAINTENANCE.—The non-Federal share of operation and maintenance costs for projects constructed under an agreement entered into under this subsection shall be 100 percent.

(e) APPLICABILITY OF OTHER FEDERAL AND STATE LAWS.—Nothing in this section shall be construed as waiving, limiting, or otherwise affecting the applicability of any provision of Federal or State law that would otherwise apply to a project to be carried out with assistance provided under this section.

(f) REPORT.—Not later than December 31, 1999, the Secretary shall transmit to Congress a report on the results of the program carried out under this section, together with recommendations concerning whether or not such program should be implemented on a national basis.

(g) SOUTHERN AND EASTERN KENTUCKY DEFINED.—In this section, the term "southern and eastern Kentucky" means Morgan, Floyd, Pulaski, Wayne, Laurel, Knox, Pike, Menifee, Perry, Harlan, Breathitt, Martin, Jackson, Wolfe, Clay, Magoffin, Owsley, Johnson, Leslie, Lawrence, Knott, Bell, McCreary, Rockcastle, Whitley, Lee, and Letcher Counties, Kentucky.

(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $10,000,000.

SEC. 532. COASTAL WETLANDS RESTORATION PROJECTS, LOUISIANA.

Section 303(f) of the Coastal Wetlands Planning, Protection and Restoration Act (16 U.S.C. 3952(f); 104 Stat. 4782–4783) is amended—

(1) in paragraph (4) by striking "and (3)" and inserting "(3), and (5)"; and

(2) by adding at the end the following:

"(5) FEDERAL SHARE IN CALENDAR YEARS 1996 AND 1997.—Notwithstanding paragraphs (1) and (2), upon approval of the conservation plan under section 304 and a determination by the Secretary that a reduction in the non-Federal share is warranted, amounts made available in accordance with section

306 to carry out coastal wetlands restoration projects under this section in calendar years 1996 and 1997 shall provide 90 percent of the cost of such projects.".

SEC. 533. SOUTHEAST LOUISIANA.

(a) FLOOD CONTROL.—The Secretary shall proceed with engineering, design, and construction of projects to provide for flood control and improvements to rainfall drainage systems in Jefferson, Orleans, and St. Tammany Parishes, Louisiana, in accordance with the following reports of the New Orleans District Engineer: Jefferson and Orleans Parishes, Louisiana, Urban Flood Control and Water Quality Management, July 1992; Tangipahoa, Techefuncte, and Tickfaw Rivers, Louisiana, June 1991; St. Tammany Parish, Louisiana, July 1996; and Schneider Canal, Slidell, Louisiana, Hurricane Protection, May 1990.

(b) COST SHARING.—The cost of any work performed by the non-Federal interests subsequent to the dates of the reports referred to in subsection (a) and determined by the Secretary to be a compatible and integral part of the projects shall be credited toward the non-Federal share of the projects.

(c) FUNDING.—There is authorized to be appropriated $100,000,000 for the initiation and partial accomplishment of projects described in the reports referred to in subsection (a).

(d) ADDITIONAL OBLIGATIONS.—No funds may be obligated in excess of the amount authorized by subsection (c) for the projects for flood control and improvements to rainfall drainage systems authorized by subsection (a) until the Corps of Engineers determines that the additional work to be carried out with such funds is technically sound, environmentally acceptable, and economic, as applicable.

SEC. 534. ASSATEAGUE ISLAND, MARYLAND AND VIRGINIA.

(a) PROJECT TO MITIGATE SHORE DAMAGE.—The Secretary shall expedite the Assateague Island restoration feature of the Ocean City, Maryland, and vicinity study and, if the Secretary determines that the Federal navigation project has contributed to degradation of the shoreline, the Secretary shall carry out the shoreline restoration feature. The Secretary shall allocate costs for the project feature pursuant to section 111 of the River and Harbor Act of 1968 (33 U.S.C. 426i; 82 Stat. 735).

(b) COORDINATION.—In carrying out the project under this section, the Secretary shall coordinate with affected Federal and State agencies and shall enter into an agreement with the Federal property owner to determine the allocation of the project costs.

(c) FUNDING.—There is authorized to be appropriated to carry out this section $35,000,000.

SEC. 535. CUMBERLAND, MARYLAND.

The Secretary may provide technical, planning, and design assistance to State, local, and other Federal entities for the restoration of the Chesapeake and Ohio Canal, in the vicinity of Cumberland, Maryland.

SEC. 536. WILLIAM JENNINGS RANDOLPH ACCESS ROAD, GARRETT COUNTY, MARYLAND.

The Secretary shall transfer up to $600,000 to the State of Maryland for use by the State in constructing an access road

to the William Jennings Randolph Lake in Garrett County, Maryland.

SEC. 537. POPLAR ISLAND, MARYLAND.

The Secretary shall carry out a project for the beneficial use of dredged material at Poplar Island, Maryland, substantially in accordance with, and subject to the conditions described in, the report of the Secretary dated September 3, 1996, at a total cost of $307,000,000, with an estimated Federal cost of $230,000,000 and an estimated non-Federal cost of $77,000,000. The project shall be carried out under the policies and cooperative agreement requirements of section 204 of the Water Resources Development Act of 1992 (33 U.S.C. 2326), except that subsection (e) of such section shall not apply to the project authorized by this section.

SEC. 538. EROSION CONTROL MEASURES, SMITH ISLAND, MARYLAND.

(a) IN GENERAL.—The Secretary shall implement erosion control measures in the vicinity of Rhodes Point, Smith Island, Maryland, at an estimated total Federal cost of $450,000.

(b) IMPLEMENTATION ON EMERGENCY BASIS.—The project under subsection (a) shall be carried out on an emergency basis in view of the national, historic, and cultural value of the island and in order to protect the Federal investment in infrastructure facilities.

(c) COST SHARING.—Cost sharing applicable to hurricane and storm damage reduction shall be applicable to the project to be carried out under subsection (a).

SEC. 539. RESTORATION PROJECTS FOR MARYLAND, PENNSYLVANIA, AND WEST VIRGINIA.

(a) IN GENERAL.—

(1) TECHNICAL ASSISTANCE.—The Secretary may provide technical assistance to non-Federal interests, in cooperation with Federal and State agencies, for reclamation and water quality protection projects for the purpose of abating and mitigating surface water quality degradation caused by abandoned mines along—

(A) the North Branch of the Potomac River, Maryland, Pennsylvania, and West Virginia; and

(B) the New River, West Virginia, watershed.

(2) ADDITIONAL MEASURES.—Projects under paragraph (1) may also include measures for the abatement and mitigation of surface water quality degradation caused by the lack of sanitary wastewater treatment facilities or the need to enhance such facilities.

(3) CONSULTATION WITH FEDERAL ENTITIES.—Any project under paragraph (1) that is located on lands owned by the United States shall be undertaken in consultation with the Federal entity with administrative jurisdiction over such lands.

(b) FEDERAL SHARE.—The Federal share of the cost of the activities conducted under subsection (a)(1) shall be 50 percent; except that, with respect to projects located on lands owned by the United States, the Federal share shall be 100 percent.

(c) EFFECT ON AUTHORITY OF SECRETARY OF THE INTERIOR.—Nothing in this section is intended to affect the authority of the Secretary of the Interior under title IV of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1231 et seq.).

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $1,500,000 for projects

undertaken under subsection (a)(1)(A) and $1,500,000 for projects undertaken under subsection (a)(1)(B).

SEC. 540. CONTROL OF AQUATIC PLANTS, MICHIGAN, PENNSYLVANIA, AND VIRGINIA AND NORTH CAROLINA.

The Secretary shall carry out under section 104 of the River and Harbor Act of 1958 (33 U.S.C. 610)—

(1) a program to control aquatic plants in Lake St. Clair, Michigan;

(2) a program to control aquatic plants in the Schuylkill River, Philadelphia, Pennsylvania; and

(3) a program to control aquatic plants in Lake Gaston, Virginia and North Carolina.

SEC. 541. DULUTH, MINNESOTA, ALTERNATIVE TECHNOLOGY PROJECT.

(a) PROJECT AUTHORIZATION.—The Secretary shall develop and implement alternative methods for decontamination and disposal of contaminated dredged material at the Port of Duluth, Minnesota.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $1,000,000.

SEC. 542. LAKE SUPERIOR CENTER, MINNESOTA.

(a) CONSTRUCTION.—The Secretary shall assist the Minnesota Lake Superior Center authority in the construction of an educational facility to be used in connection with efforts to educate the public in the economic, recreational, biological, aesthetic, and spiritual worth of Lake Superior and other large bodies of fresh water.

(b) PUBLIC OWNERSHIP.—Prior to providing any assistance under subsection (a), the Secretary shall verify that the facility to be constructed under subsection (a) will be owned by the public authority established by the State of Minnesota to develop, operate, and maintain the Lake Superior Center.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for the construction of the facility under subsection (a) $10,000,000.

SEC. 543. REDWOOD RIVER BASIN, MINNESOTA.

(a) STUDY AND STRATEGY DEVELOPMENT.—The Secretary, in cooperation with the Secretary of Agriculture and the State of Minnesota, shall conduct a study, and develop a strategy, for using wetland restoration, soil and water conservation practices, and nonstructural measures to reduce flood damage, improve water quality, and create wildlife habitat in the Redwood River basin and the subbasins draining into the Minnesota River, at an estimated Federal cost of $4,000,000.

(b) NON-FEDERAL SHARE.—The non-Federal share of the cost of the study and development of the strategy shall be 25 percent and may be provided through in-kind services and materials.

(c) COOPERATION AGREEMENTS.—In conducting the study and developing the strategy under this section, the Secretary may enter into cooperation agreements to provide financial assistance to appropriate Federal, State, and local government agencies, including assistance for the implementation of wetland restoration projects and soil and water conservation measures.

(d) IMPLEMENTATION.—The Secretary shall undertake development and implementation of the strategy authorized by this section in cooperation with local landowners and local government officials.

SEC. 544. COLDWATER RIVER WATERSHED, MISSISSIPPI.

Not later than 6 months after the date of the enactment of this Act, the Secretary shall initiate all remaining work associated with the Coldwater River Watershed Demonstration Erosion Control Project, as authorized by the Act entitled "An Act making appropriations to provide productive employment for hundreds of thousands of jobless Americans, to hasten or initiate Federal projects and construction of lasting value to the Nation and its citizens, and to provide humanitarian assistance to the indigent for fiscal year 1983, and for other purposes", approved March 24, 1983 (97 Stat. 13).

SEC. 545. NATCHEZ BLUFFS, MISSISSIPPI.

The Secretary shall carry out the project for bluff stabilization, Natchez Bluffs, Natchez, Mississippi, substantially in accordance with the Natchez Bluffs Study, dated September 1985, the Natchez Bluffs Study: Supplement I, dated June 1990, and the Natchez Bluffs Study: Supplement II, dated December 1993, at a total cost of $17,200,000, with an estimated Federal cost of $12,900,000 and an estimated non-Federal cost of $4,300,000. The project shall be carried out in the portions of the bluffs described in the studies specified in the preceding sentence as Clifton Avenue, area 3; Bluff above Silver Street, area 6; Bluff above Natchez Under-the-Hill, area 7; and Madison Street to State Street, area 4.

SEC. 546. SARDIS LAKE, MISSISSIPPI.

(a) MANAGEMENT.—The Secretary shall work cooperatively with the State of Mississippi and the city of Sardis, Mississippi, to the maximum extent practicable, in the management of existing and proposed leases of land consistent with the Sardis Lake Recreation and Tourism Master Plan prepared by the city for the economic development of the Sardis Lake area.

(b) FLOOD CONTROL STORAGE.—The Secretary shall review the study conducted by the city of Sardis, Mississippi, regarding the impact of the Sardis Lake Recreation and Tourism Master Plan prepared by the city on flood control storage in Sardis Lake. The city shall not be required to reimburse the Secretary for the cost of such storage, or the cost of the Secretary's review, if the Secretary finds that the loss of flood control storage resulting from implementation of the master plan is not significant.

SEC. 547. ST. CHARLES COUNTY, MISSOURI, FLOOD PROTECTION.

(a) IN GENERAL.—Notwithstanding any other provision of law (including any regulation), no county located at the confluence of the Missouri and Mississippi Rivers or community located in any county located at the confluence of the Missouri and Mississippi Rivers shall have its participation in the national flood insurance program established under chapter 1 of the National Flood Insurance Act of 1968 (42 U.S.C. 4011 et seq.) suspended, revoked, or otherwise affected solely due to that county's or community's permitting the raising of levees by any public-sponsored levee district, along an alignment approved by the circuit court of such county, to a level sufficient to contain a 20-year flood.

(b) PERMITS.—The permit issued under section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344) numbered P–1972, authorizing the reshaping and realignment of an existing levee, shall be considered adequate to allow the raising of levees under subsection (a).

SEC. 548. ST. LOUIS, MISSOURI.

The Secretary shall not reassign the St. Louis District of the Corps of Engineers from the operational control of the Lower Mississippi Valley Division.

SEC. 549. LIBBY DAM, MONTANA.

(a) IN GENERAL.—In accordance with section 103(c)(1) of the Water Resources Development Act of 1986 (33 U.S.C. 2213(c)(1)), the Secretary shall—

(1) complete the construction and installation of generating units 6 through 8 at Libby Dam, Montana; and

(2) remove the partially constructed haul bridge over the Kootenai River, Montana.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $16,000,000. Such sums shall remain available until expended.

SEC. 550. HACKENSACK MEADOWLANDS AREA, NEW JERSEY.

Section 324(b)(1) of the Water Resources Development Act of 1992 (106 Stat. 4849) is amended to read as follows:

"(1) Mitigation, enhancement, and acquisition of significant wetlands that contribute to the Meadowlands ecosystem.".

SEC. 551. HUDSON RIVER HABITAT RESTORATION, NEW YORK.

(a) HABITAT RESTORATION.—The Secretary shall expedite the feasibility study of the Hudson River Habitat Restoration, Hudson River Basin, New York, and may carry out not fewer than 4 projects for habitat restoration in the Hudson River Basin, to the extent the Secretary determines such work to be advisable and technically feasible. Such projects shall be designed to—

(1) assess and improve habitat value and environmental outputs of recommended projects;

(2) evaluate various restoration techniques for effectiveness and cost;

(3) fill an important local habitat need within a specific portion of the study area; and

(4) take advantage of ongoing or planned actions by other agencies, local municipalities, or environmental groups that would increase the effectiveness or decrease the overall cost of implementing one of the recommended restoration project sites.

(b) NON-FEDERAL SHARE.—Non-Federal interests shall provide 25 percent of the cost of each project undertaken under subsection (a). The non-Federal share may be in the form of cash or in-kind contributions.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $11,000,000.

SEC. 552. NEW YORK CITY WATERSHED.

(a) ENVIRONMENTAL ASSISTANCE PROGRAM.—

(1) ESTABLISHMENT.—The Secretary shall establish a program for providing environmental assistance to non-Federal interests in the New York City Watershed.

(2) FORM OF ASSISTANCE.—Assistance provided under this section may be in the form of design and construction assistance for water-related environmental infrastructure and resource protection and development projects in the New York City Watershed, including projects for water supply, storage, treatment, and distribution facilities, and surface water resource protection and development.

(b) PUBLIC OWNERSHIP REQUIREMENT.—The Secretary may provide assistance for a project under this section only if the project is publicly owned.

(c) ELIGIBLE PROJECTS.—

(1) CERTIFICATION.—A project shall be eligible for financial assistance under this section only if the State director for the project certifies to the Secretary that the project will contribute to the protection and enhancement of the quality or quantity of the New York City water supply.

(2) SPECIAL CONSIDERATION.—In certifying projects to the Secretary, the State director shall give special consideration to those projects implementing plans, agreements, and measures that preserve and enhance the economic and social character of the communities in the New York City Watershed.

(3) PROJECT DESCRIPTIONS.—Projects eligible for assistance under this section shall include the following:

(A) Implementation of intergovernmental agreements for coordinating regulatory and management responsibilities.

(B) Acceleration of whole farm planning to implement best management practices to maintain or enhance water quality and to promote agricultural land use.

(C) Acceleration of whole community planning to promote intergovernmental cooperation in the regulation and management of activities consistent with the goal of maintaining or enhancing water quality.

(D) Natural resources stewardship on public and private lands to promote land uses that preserve and enhance the economic and social character of the communities in the New York City Watershed and protect and enhance water quality.

(d) COOPERATION AGREEMENTS.—Before providing assistance under this section, the Secretary shall enter into a project cooperation agreement with the State director for the project to be carried out with such assistance.

(e) COST SHARING.—

(1) IN GENERAL.—Total project costs under each agreement entered into under this section shall be shared at 75 percent Federal and 25 percent non-Federal. The Federal share may be in the form of grants or reimbursements of project costs.

(2) CREDIT FOR DESIGN WORK.—The non-Federal interest shall receive credit for the reasonable costs of design work completed by such interest prior to entering into the agreement with the Secretary for a project.

(3) CREDIT FOR INTEREST.—In the event of a delay in the reimbursement of the non-Federal share of a project, the non-Federal interest shall receive credit for reasonable interest

costs incurred to provide the non-Federal share of a project's cost.

(4) LANDS, EASEMENTS, AND RIGHTS-OF-WAY CREDIT.—The non-Federal interest shall receive credit for lands, easements, rights-of-way, and relocations provided by the non-Federal interest toward its share of project costs (including direct costs associated with obtaining permits necessary for the placement of such project on publicly owned or controlled lands), but not to exceed 25 percent of total project costs.

(5) OPERATION AND MAINTENANCE.—The non-Federal share of operation and maintenance costs for projects constructed with assistance provided under this section shall be 100 percent.

(f) APPLICABILITY OF OTHER FEDERAL AND STATE LAWS.—Nothing in this section shall be construed to waive, limit, or otherwise affect the applicability of any provision of Federal or State law that would otherwise apply to a project carried out with assistance provided under this section.

(g) REPORT.—Not later than December 31, 2000, the Secretary shall transmit to Congress a report on the results of the program carried out under this section, together with recommendations concerning whether such program should be implemented on a national basis.

(h) NEW YORK CITY WATERSHED DEFINED.—In this section, the term "New York City Watershed" means the land area within the counties of Delaware, Greene, Schoharie, Ulster, Sullivan, Westchester, Putnam, and Duchess, New York, that contributes water to the water supply system of New York City.

(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $22,500,000.

SEC. 553. NEW YORK STATE CANAL SYSTEM.

(a) IN GENERAL.—The Secretary may make capital improvements to the New York State Canal System.

(b) AGREEMENTS.—The Secretary, with the consent of appropriate local and State entities, shall enter into such arrangements, contracts, and leases with public and private entities as may be necessary for the purposes of rehabilitation, renovation, preservation, and maintenance of the New York State Canal System and its related facilities, including trailside facilities and other recreational projects along the waterways of the canal system.

(c) NEW YORK STATE CANAL SYSTEM DEFINED.—In this section, the term "New York State Canal System" means the Erie, Oswego, Champlain, and Cayuga-Seneca Canals.

(d) FEDERAL SHARE.—The Federal share of the cost of capital improvements under this section shall be 50 percent.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $8,000,000.

SEC. 554. ORCHARD BEACH, BRONX, NEW YORK.

The Secretary shall conduct a study for a project for shoreline protection, Orchard Beach, Bronx, New York, and, if the Secretary determines that the project is feasible, may carry out the project, at a maximum Federal cost of $5,200,000.

SEC. 555. DREDGED MATERIAL CONTAINMENT FACILITY FOR PORT OF NEW YORK-NEW JERSEY.

(a) IN GENERAL.—The Secretary may construct, operate, and maintain a dredged material containment facility with a capacity

commensurate with the long-term dredged material disposal needs of port facilities under the jurisdiction of the Port of New York-New Jersey. Such facility may be a near-shore dredged material disposal facility along the Brooklyn waterfront.

(b) COST SHARING.—The costs associated with feasibility studies, design, engineering, and construction under this section shall be shared with the non-Federal interest in accordance with section 101 of the Water Resources Development Act of 1986 (33 U.S.C. 2211).

(c) PUBLIC BENEFIT.—After the facility constructed under subsection (a) has been filled to capacity with dredged material, the Secretary shall maintain the facility for the public benefit.

33 USC 59c–3.

SEC. 556. QUEENS COUNTY, NEW YORK.

(a) DESCRIPTION OF NONNAVIGABLE AREA.—Subject to subsections (b) and (c), the area of Long Island City, Queens County, New York, that—

(1) is not submerged;

(2) as of the date of the enactment of this Act, lies between the southerly high water line of Anable Basin (also known as the "11th Street Basin") and the northerly high water line of Newtown Creek; and

(3) extends from the high water line (as of such date of enactment) of the East River to the original high water line of the East River;

is declared to be nonnavigable waters of the United States.

(b) REQUIREMENT THAT AREA BE IMPROVED.—

Applicability.

(1) IN GENERAL.—The declaration of nonnavigability under subsection (a) shall apply only to those portions of the area described in subsection (a) that are, or will be, bulkheaded, filled, or otherwise occupied by permanent structures or other permanent physical improvements (including parkland).

(2) APPLICABILITY OF FEDERAL LAW.—Improvements described in paragraph (1) shall be subject to applicable Federal laws, including—

(A) sections 9 and 10 of the Act entitled "An Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved March 3, 1899 (33 U.S.C. 401 and 403);

(B) section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344); and

(C) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(c) EXPIRATION DATE.—The declaration of nonnavigability under subsection (a) shall expire with respect to a portion of the area described in subsection (a), if the portion—

(1) is not bulkheaded, filled, or otherwise occupied by a permanent structure or other permanent physical improvement (including parkland) in accordance with subsection (b) by the date that is 20 years after the date of the enactment of this Act; or

(2) requires an improvement described in subsection (b)(2) that is subject to a permit under an applicable Federal law, and the improvement is not commenced by the date that is 5 years after the date of issuance of the permit.

SEC. 557. JAMESTOWN DAM AND PIPESTEM DAM, NORTH DAKOTA.

(a) REVISIONS TO WATER CONTROL MANUALS.—In consultation with the States of North Dakota and South Dakota and the James River Water Development District, the Secretary shall review and consider revisions to the water control manuals for the Jamestown Dam and Pipestem Dam, North Dakota, to modify operation of the dams so as to reduce the magnitude and duration of flooding and inundation of land located within the 10-year floodplain along the James River in North Dakota and South Dakota.

(b) FEASIBILITY STUDY.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall—

(A) complete a study to determine the feasibility of providing flood protection for the land referred to in subsection (a); and

(B) submit a report on the study to Congress. Reports.

(2) CONSIDERATIONS.—In carrying out paragraph (1), the Secretary shall consider all reasonable project-related and other options.

SEC. 558. NORTHEASTERN OHIO.

The Secretary may provide technical assistance to local interests for establishment of a regional water authority in northeastern Ohio to address the water problems of the region. The Federal share of the costs of such planning shall not exceed 50 percent.

SEC. 559. OHIO RIVER GREENWAY. Indiana.

(a) EXPEDITED COMPLETION OF STUDY.—The Secretary shall expedite the completion of the study for a project for the Ohio River Greenway, Jeffersonville, Clarksville, and New Albany, Indiana.

(b) CONSTRUCTION.—Upon completion of the study, if the Secretary determines that the project is feasible, the Secretary shall participate with the non-Federal interests in the construction of the project.

(c) COST SHARING.—Total project costs under this section shall be shared at 50 percent Federal and 50 percent non-Federal.

(d) LANDS, EASEMENTS, AND RIGHTS-OF-WAY.—Non-Federal interests shall be responsible for providing all lands, easements, rights-of-way, relocations, and dredged material disposal areas necessary for the project.

(e) CREDIT.—The non-Federal interests shall receive credit for those costs incurred by the non-Federal interests that the Secretary determines are compatible with the study, design, and implementation of the project.

SEC. 560. GRAND LAKE, OKLAHOMA.

(a) STUDY.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall carry out and complete a study of flooding in Grand/Neosho Basin and tributaries in the vicinity of Pensacola Dam in northeastern Oklahoma to determine the scope of the backwater effects of operation of the dam and to identify any lands that the Secretary determines have been adversely impacted by such operation or should have been originally purchased as flowage easement for the project.

(b) ACQUISITION OF REAL PROPERTY.—Upon completion of the study and subject to advance appropriations, the Secretary may

acquire from willing sellers such real property interests in any lands identified in the study as the Secretary determines are necessary to reduce the adverse impacts identified in the study conducted under subsection (a).

(c) IMPLEMENTATION REPORTS.—The Secretary shall transmit to Congress reports on the operation of Pensacola Dam, including data on and a description of releases in anticipation of flooding (referred to as "preoccupancy releases"), and the implementation of this section. The first of such reports shall be transmitted not later than 2 years after the date of the enactment of this Act.

(d) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to carry out this section $25,000,000.

(2) MAXIMUM FUNDING FOR STUDY.—Of amounts appropriated to carry out this section, not to exceed $1,500,000 shall be available for carrying out the study under subsection (a).

SEC. 561. BROAD TOP REGION OF PENNSYLVANIA.

Section 304 of the Water Resources Development Act of 1992 (106 Stat. 4840) is amended—

(1) by striking subsection (b) and inserting the following:

"(b) COST SHARING.—

"(1) FEDERAL SHARE.—The Federal share of the cost of the activities conducted under the cooperative agreement entered into under subsection (a)—

"(A) shall be 75 percent; and

"(B) may be in the form of grants or reimbursements of project costs.

"(2) NON-FEDERAL SHARE.—The non-Federal share of project costs may be provided in the form of design and construction services and other in-kind work provided by the non-Federal interests, whether occurring subsequent to, or within 6 years prior to, entering into an agreement with the Secretary. Non-Federal interests shall receive credit for grants and the value of work performed on behalf of such interests by State and local agencies, as determined by the Secretary."; and

(2) in subsection (c) by striking "$5,500,000" and inserting "$11,000,000".

SEC. 562. CURWENSVILLE LAKE, PENNSYLVANIA.

The Secretary shall modify the allocation of costs for the water reallocation project at Curwensville Lake, Pennsylvania, to the extent that the Secretary determines that such modification will provide environmental restoration benefits in meeting instream flow needs in the Susquehanna River basin.

SEC. 563. HOPPER DREDGE MCFARLAND.

(a) PROJECT AUTHORIZATION.—

(1) DETERMINATION.—The Secretary shall determine the advisability and necessity of making modernization and efficiency improvements to the hopper dredge McFarland. In making such determination, the Secretary shall—

(A) assess the need for returning the dredge to active service;

(B) determine whether the McFarland should be returned to active service or the reserve fleet after the potential improvements are completed and paid for; and

(C) establish minimum standards of dredging service to be met in areas served by the McFarland while the dredge is undergoing improvements.

(2) AUTHORIZATION.—If the Secretary determines under paragraph (1) that such modernization and efficiency improvements are advisable and necessary, the Secretary may carry out the modernization and efficiency improvements. The Secretary may carry out such improvements only at the Philadelphia Naval Shipyard, Pennsylvania.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $20,000,000.

SEC. 564. PHILADELPHIA, PENNSYLVANIA.

Reports.

(a) WATER WORKS RESTORATION.—

(1) IN GENERAL.—Upon completion of a report by the Corps of Engineers that such work is technically sound, environmentally acceptable, and economic, as applicable, the Secretary shall provide planning, design, and construction assistance for the protection and restoration of the Philadelphia, Pennsylvania, Water Works.

(2) COORDINATION.—In providing assistance under this subsection, the Secretary shall coordinate with the Fairmount Park Commission and the Secretary of the Interior.

(3) FUNDING.—There is authorized to be appropriated to carry out this subsection $1,000,000.

(b) COOPERATION AGREEMENT FOR SCHUYLKILL NAVIGATION CANAL.—

(1) IN GENERAL.—The Secretary shall enter into a cooperation agreement with the city of Philadelphia, Pennsylvania, to participate in the rehabilitation of the Schuylkill Navigation Canal at Manayunk.

(2) LIMITATION ON FEDERAL SHARE.—The Federal share of the cost of the rehabilitation under paragraph (1) shall not exceed $300,000 for each fiscal year.

(3) AREA INCLUDED.—For purposes of this subsection, the Schuylkill Navigation Canal includes the section approximately 10,000 feet long extending between Lock and Fountain Streets, Philadelphia, Pennsylvania.

(c) SCHUYLKILL RIVER PARK.—

(1) ASSISTANCE.—Upon completion of a report by the Corps of Engineers that such work is technically sound, environmentally acceptable, and economic, as applicable, the Secretary may provide technical, planning, design, and construction assistance for the Schuylkill River Park, Philadelphia, Pennsylvania.

(2) FUNDING.—There is authorized to be appropriated to carry out this subsection $2,700,000.

(d) PENNYPACK PARK.—

(1) ASSISTANCE.—Upon completion of a report by the Corps of Engineers that such work is technically sound, environmentally acceptable, and economic, as applicable, the Secretary may provide technical, design, construction, and financial assistance for measures for the improvement and restoration

of aquatic habitats and aquatic resources at Pennypack Park, Philadelphia, Pennsylvania.

(2) COOPERATION AGREEMENTS.—In providing assistance under this subsection, the Secretary shall enter into cooperation agreements with the city of Philadelphia, acting through the Fairmount Park Commission.

(3) FUNDING.—There is authorized to be appropriated to carry out this subsection $15,000,000.

(e) FRANKFORD DAM.—

(1) COOPERATION AGREEMENTS.—The Secretary may enter into cooperation agreements with the city of Philadelphia, Pennsylvania, acting through the Fairmount Park Commission, to provide assistance for the elimination of the Frankford Dam, the replacement of the Rhawn Street Dam, and modifications to the Roosevelt Dam and the Verree Road Dam.

(2) FUNDING.—There is authorized to be appropriated to carry out this subsection $900,000.

SEC. 565. SEVEN POINTS VISITORS CENTER, RAYSTOWN LAKE, PENNSYLVANIA.

(a) IN GENERAL.—The Secretary shall construct a visitors center and related public use facilities at the Seven Points Recreation Area at Raystown Lake, Pennsylvania, generally in accordance with the Master Plan Update (1994) for the Raystown Lake Project.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $2,500,000.

SEC. 566. SOUTHEASTERN PENNSYLVANIA.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary may establish a pilot program for providing environmental assistance to non-Federal interests in southeastern Pennsylvania.

(b) FORM OF ASSISTANCE.—Assistance under this section may be in the form of design and construction assistance for water-related environmental infrastructure and resource protection and development projects in southeastern Pennsylvania, including projects for waste water treatment and related facilities, water supply and related facilities, and surface water resource protection and development.

(c) PUBLIC OWNERSHIP REQUIREMENT.—The Secretary may provide assistance for a project under this section only if the project is publicly owned.

(d) LOCAL COOPERATION AGREEMENTS.—

(1) IN GENERAL.—Before providing assistance under this section, the Secretary shall enter into a local cooperation agreement with a non-Federal interest to provide for design and construction of the project to be carried out with such assistance.

(2) REQUIREMENTS.—Each local cooperation agreement entered into under this subsection shall provide for the following:

(A) PLAN.—Development by the Secretary, in consultation with appropriate Federal and State officials, of a facilities or resource protection and development plan, including appropriate engineering plans and specifications.

(B) LEGAL AND INSTITUTIONAL STRUCTURES.—Establishment of such legal and institutional structures as are necessary to ensure the effective long-term operation of the project by the non-Federal interest.

(3) COST SHARING.—

(A) IN GENERAL.—Total project costs under each local cooperation agreement entered into under this subsection shall be shared at 75 percent Federal and 25 percent non-Federal. The Federal share may be in the form of grants or reimbursements of project costs.

(B) CREDIT FOR DESIGN WORK.—The non-Federal interest shall receive, credit for the reasonable costs of design work completed by such interest prior to entering into a local cooperation agreement with the Secretary for a project. The credit for such design work shall not exceed 6 percent of the total construction costs of the project.

(C) CREDIT FOR INTEREST.—In the event of a delay in the funding of the non-Federal share of a project that is the subject of an agreement under this section, the non-Federal interest shall receive credit for reasonable interest incurred in providing the non-Federal share of a project's cost.

(D) LANDS, EASEMENTS, AND RIGHTS-OF-WAY CREDIT.—The non-Federal interest shall receive credit for lands, easements, rights-of-way, and relocations toward its share of project costs (including all reasonable costs associated with obtaining permits necessary for the construction, operation, and maintenance of such project on publicly owned or controlled lands), but not to exceed 25 percent of total project costs.

(E) OPERATION AND MAINTENANCE.—The non-Federal share of operation and maintenance costs for projects constructed with assistance provided under this section shall be 100 percent.

(e) APPLICABILITY OF OTHER FEDERAL AND STATE LAWS.—Nothing in this section shall be construed as waiving, limiting, or otherwise affecting the applicability of any provision of Federal or State law that would otherwise apply to a project to be carried out with assistance provided under this section.

(f) REPORT.—Not later than December 31, 1998, the Secretary shall transmit to Congress a report on the results of the pilot program carried out under this section, together with recommendations concerning whether or not such program should be implemented on a national basis.

(g) SOUTHEASTERN PENNSYLVANIA DEFINED.—In this section, the term "southeastern Pennsylvania" means Philadelphia, Bucks, Chester, Delaware, and Montgomery Counties, Pennsylvania.

(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $25,000,000.

SEC. 567. UPPER SUSQUEHANNA RIVER BASIN, PENNSYLVANIA AND NEW YORK.

(a) STUDY AND STRATEGY DEVELOPMENT.—The Secretary, in cooperation with the Secretary of Agriculture, the State of Pennsylvania, and the State of New York, shall conduct a study, and develop a strategy, for using wetland restoration, soil and water conservation practices, and nonstructural measures to reduce flood damage, improve water quality, and create wildlife habitat in the following portions of the Upper Susquehanna River basin:

(1) The Juniata River watershed, Pennsylvania, at an estimated Federal cost of $8,000,000.

(2) The Susquehanna River watershed upstream of the Chemung River, New York, at an estimated Federal cost of $5,000,000.

(b) NON-FEDERAL SHARE.—The non-Federal share of the cost of the study and development of the strategy shall be 25 percent and may be provided through in-kind services and materials.

(c) COOPERATION AGREEMENTS.—In conducting the study and developing the strategy under this section, the Secretary may enter into cooperation agreements to provide financial assistance to appropriate Federal, State, and local government agencies, including assistance for the implementation of wetland restoration projects and soil and water conservation measures.

(d) IMPLEMENTATION.—The Secretary shall undertake development and implementation of the strategy authorized by this section in cooperation with local landowners and local government officials.

SEC. 568. WILLS CREEK, HYNDMAN, PENNSYLVANIA.

The Secretary may carry out a project for flood control, Wills Creek, Borough of Hyndman, Pennsylvania, at an estimated total cost of $5,000,000.

SEC. 569. BLACKSTONE RIVER VALLEY, RHODE ISLAND AND MASSACHUSETTS.

(a) IN GENERAL.—The Secretary, in coordination with Federal, State, and local interests, shall provide technical, planning, and design assistance in the development and restoration of the Blackstone River Valley National Heritage Corridor, Rhode Island and Massachusetts.

(b) FEDERAL SHARE.—Funds made available under this section for planning and design of a project may not exceed 75 percent of the total cost of such planning and design.

SEC. 570. DREDGED MATERIAL CONTAINMENT FACILITY FOR PORT OF PROVIDENCE, RHODE ISLAND.

(a) IN GENERAL.—The Secretary may construct, operate, and maintain a dredged material containment facility with a capacity commensurate with the long-term dredged material disposal needs of port facilities under the jurisdiction of the Port of Providence, Rhode Island.

(b) COST SHARING.—The costs associated with feasibility studies, design, engineering, and construction shall be shared with the non-Federal interest in accordance with section 101 of the Water Resources Development Act of 1986 (33 U.S.C. 2211).

(c) PUBLIC BENEFIT.—After the facility constructed under subsection (a) has been filled to capacity with dredged material, the Secretary shall maintain the facility for the public benefit.

SEC. 571. QUONSET POINT-DAVISVILLE, RHODE ISLAND.

The Secretary shall replace the bulkhead between piers 1 and 2 at the Quonset Point-Davisville Industrial Park, Rhode Island, at a total cost of $1,350,000, with an estimated Federal cost of $1,012,500 and an estimated non-Federal cost of $337,500. In conjunction with this project, the Secretary shall install high mast lighting at pier 2 at a total cost of $300,000, with an estimated Federal cost of $225,000 and an estimated non-Federal cost of $75,000.

SEC. 572. EAST RIDGE, TENNESSEE.

The Secretary shall conduct a limited reevaluation of the flood management study for the East Ridge and Hamilton County area, Tennessee, undertaken by the Tennessee Valley Authority and may carry out the project at an estimated total cost of up to $25,000,000.

SEC. 573. MURFREESBORO, TENNESSEE.

The Secretary may carry out a project for environmental enhancement, Murfreesboro, Tennessee, in accordance with the Report and Environmental Assessment, Black Fox, Murfree and Oaklands Spring Wetlands, Murfreesboro, Rutherford County, Tennessee, dated August 1994.

SEC. 574. TENNESSEE RIVER, HAMILTON COUNTY, TENNESSEE.

The Secretary shall conduct a study for a project for bank stabilization, Tennessee River, Hamilton County, Tennessee, and, if the Secretary determines that the project is feasible, may carry out the project, at a maximum Federal cost of $7,500,000.

SEC. 575. HARRIS COUNTY, TEXAS.

(a) IN GENERAL.—During any evaluation of economic benefits and costs for projects set forth in subsection (b) that occurs after the date of the enactment of this Act, the Secretary shall not consider flood control works constructed by non-Federal interests within the drainage area of such projects prior to the date of such evaluation in the determination of conditions existing prior to construction of the project.

(b) SPECIFIC PROJECTS.—The projects to which subsection (a) apply are—

(1) the project for flood control, Buffalo Bayou Basin, Texas, authorized by section 203 of the Flood Control Act of 1954 (68 Stat. 1258);

(2) the project for flood control, Buffalo Bayou and tributaries, Texas, authorized by section 101(a) of the Water Resources Development Act of 1990 (104 Stat. 4610); and

(3) the project for flood control, Cypress Creek, Texas, authorized by section 3(a)(13) of the Water Resources Development Act of 1988 (102 Stat. 4014).

SEC. 576. NEABSCO CREEK, VIRGINIA.

The Secretary shall carry out a project for flood control, Neabsco Creek Watershed, Prince William County, Virginia, at an estimated total cost of $1,500,000.

SEC. 577. TANGIER ISLAND, VIRGINIA.

(a) IN GENERAL.—The Secretary shall design and construct a breakwater at the North Channel on Tangier Island, Virginia, at a total cost of $1,200,000, with an estimated Federal cost of $900,000 and an estimated non-Federal cost of $300,000.

(b) COST-BENEFIT RATIO.—Congress finds that in view of the historic preservation benefits resulting from the project authorized by this section, the overall benefits of the project exceed the costs of the project.

SEC. 578. PIERCE COUNTY, WASHINGTON.

(a) PROVISION OF TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance to Pierce County, Washington, to address measures that are necessary to ensure that non-Federal

levees are adequately maintained and satisfy eligibility criteria for rehabilitation assistance under section 5 of the Act entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes", approved August 18, 1941 (33 U.S.C. 701n; 55 Stat. 650).

(b) PURPOSE OF ASSISTANCE.—The purpose of the assistance under this section shall be to provide a review of the requirements of the Puyallup Tribe of Indians Settlement Act of 1989 (25 U.S.C. 1773 et seq.; 103 Stat. 83) and standards for project maintenance and vegetation management used by the Secretary in order to determine eligibility for levee rehabilitation assistance and, if appropriate, to amend such standards as needed to make non-Federal levees eligible for assistance that may be necessary as a result of future flooding.

SEC. 579. GREENBRIER RIVER BASIN, WEST VIRGINIA, FLOOD PROTECTION.

(a) IN GENERAL.—The Secretary may design and implement a flood damage reduction program for the Greenbrier River Basin, West Virginia, in the vicinity of Durbin, Cass, Marlinton, Renick, Ronceverte, and Alderson as generally presented in the District Engineer's draft Greenbrier River Basin Study Evaluation Report, dated July 1994, to the extent provided under subsection (b) to afford such communities a level of protection against flooding sufficient to reduce future losses to such communities from the likelihood of flooding such as occurred in November 1985, January 1996, and May 1996.

(b) FLOOD PROTECTION MEASURES.—The flood damage reduction program referred to in subsection (a) may include the following as the Chief of Engineers determines necessary and advisable in consultation with the communities referred to in subsection (a):

(1) Local protection projects such as levees, floodwalls, channelization, small tributary stream impoundments, and nonstructural measures such as individual floodproofing.

(2) Floodplain relocations and resettlement site developments, floodplain evacuations, and a comprehensive river corridor and watershed management plan generally in accordance with the District Engineer's draft Greenbrier River Corridor Management Plan, Concept Study, dated April 1996.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $12,000,000.

SEC. 580. LOWER MUD RIVER, MILTON, WEST VIRGINIA.

The Secretary shall conduct a limited reevaluation of the watershed plan and the environmental impact statement prepared for the Lower Mud River, Milton, West Virginia, by the Natural Resources Conservation Service pursuant to the Watershed Protection and Flood Prevention Act (16 U.S.C. 1001 et seq.) and may carry out the project.

SEC. 581. WEST VIRGINIA AND PENNSYLVANIA FLOOD CONTROL.

(a) IN GENERAL.—The Secretary may design and construct flood control measures in the Cheat and Tygart River Basins, West Virginia, and the Lower Allegheny, Lower Monongahela, West Branch Susquehanna, and Juniata River Basins, Pennsylvania, at a level of protection sufficient to prevent any future losses to these communities from flooding such as occurred in January 1996, but no less than a 100-year level of flood protection.

(b) PRIORITY COMMUNITIES.—In carrying out this section, the Secretary shall give priority to the communities of—

(1) Parsons and Rowlesburg, West Virginia, in the Cheat River Basin;

(2) Bellington and Phillipi, West Virginia, in the Tygart River Basin;

(3) Connellsville, Pennsylvania, in the Lower Monongahela River Basin;

(4) Benson, Hooversville, Clymer, and New Bethlehem, Pennsylvania, in the Lower Allegheny River Basin;

(5) Patton, Barnesboro, Coalport, and Spangler, Pennsylvania, in the West Branch Susquehanna River Basin; and

(6) Bedford, Linds Crossings, and Logan Township in the Juniata River Basin.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $12,000,000.

SEC. 582. SITE DESIGNATION. California.

Section 102(c)(4) of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1412(c)(4)) is amended—

(1) by inserting after "for a site" the following: "(other than the site located off the coast of Newport Beach, California, which is known as 'LA–3')"; and

(2) by adding at the end the following: "Beginning January 1, 2000, no permit for dumping pursuant to this Act or authorization for dumping under section 103(e) shall be issued for the site located off the coast of Newport Beach, California, which is known as 'LA–3', unless such site has received a final designation pursuant to this subsection or an alternative site has been selected pursuant to section 103(b).". Effective date.

SEC. 583. LONG ISLAND SOUND.

Section 119(e) of the Federal Water Pollution Control Act (33 U.S.C. 1269(e)) is amended by striking "1996" each place it appears and inserting "2001".

SEC. 584. WATER MONITORING STATION. Montana.

(a) ASSISTANCE.—The Secretary shall provide assistance to non-Federal interests for reconstruction of the water monitoring station on the North Fork of the Flathead River, Montana.

(b) FUNDING.—There is authorized to be appropriated to carry out this section $50,000.

SEC. 585. OVERFLOW MANAGEMENT FACILITY. Rhode Island.

(a) ASSISTANCE.—The Secretary shall provide assistance to the Narragansett Bay Commission for the construction of a combined river overflow management facility in Rhode Island.

(b) FUNDING.—There is authorized to be appropriated to carry out this section $30,000,000.

SEC. 586. PRIVATIZATION OF INFRASTRUCTURE ASSETS. 33 USC 1281 note.

(a) IN GENERAL.—Notwithstanding the provisions of title II of the Federal Water Pollution Control Act (33 U.S.C. 1281 et seq.), Executive Order 12803, or any other law or authority, an entity that received Federal grant assistance for an infrastructure asset under the Federal Water Pollution Control Act shall not be required to repay any portion of the grant upon the lease or concession of the asset only if—

(1) ownership of the asset remains with the entity that received the grant; and

(2) the Administrator of the Environmental Protection Agency determines that the lease or concession furthers the purposes of such Act and approves the lease or concession.

(b) LIMITATION.—The Administrator shall not approve a total of more than 5 leases and concessions under this section.

TITLE VI—EXTENSION OF EXPENDITURE AUTHORITY UNDER HARBOR MAINTENANCE TRUST FUND

SEC. 601. EXTENSION OF EXPENDITURE AUTHORITY UNDER HARBOR MAINTENANCE TRUST FUND.

26 USC 9505.

Paragraph (1) of section 9505(c) of the Internal Revenue Code of 1986 (relating to expenditures from Harbor Maintenance Trust Fund) is amended to read as follows:

"(1) to carry out section 210 of the Water Resources Development Act of 1986 (as in effect on the date of the enactment of the Water Resources Development Act of 1996),".

Approved October 12, 1996.

LEGISLATIVE HISTORY—S. 640 (H.R. 3592):

HOUSE REPORTS: Nos. 104–695 accompanying H.R. 3592 (Comm. on Transportation and Infrastructure) and 104–843 (Comm. on Conference).

SENATE REPORTS: No. 104–170 (Comm. on Environment and Public Works).

CONGRESSIONAL RECORD, Vol. 142 (1996):

July 11, considered and passed Senate.

July 30, H.R. 3592 considered and passed House; S. 640, amended, passed in lieu.

Sept. 26, House agreed to conference report.

Sept. 27, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 32 (1996):

Oct. 12, Presidential statement.

Public Law 104–304
104th Congress

An Act

To reduce risk to public safety and the environment associated with pipeline transportation of natural gas and hazardous liquids, and for other purposes.

Oct. 12, 1996
[S. 1505]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Accountable Pipeline Safety and Partnership Act of 1996.
49 USC 60101 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Accountable Pipeline Safety and Partnership Act of 1996".

SEC. 2. REFERENCES.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

SEC. 3. DEFINITIONS.

(a) IN GENERAL.—Section 60101(a) is amended—

(1) by striking the periods at the end of paragraphs (1) through (22) and inserting semicolons;

(2) by striking paragraph (21)(B) and inserting the following:

"(B) does not include the gathering of gas, other than gathering through regulated gathering lines, in those rural locations that are located outside the limits of any incorporated or unincorporated city, town, or village, or any other designated residential or commercial area (including a subdivision, business, shopping center, or community development) or any similar populated area that the Secretary of Transportation determines to be a nonrural area, except that the term 'transporting gas' includes the movement of gas through regulated gathering lines;"; and

(3) by adding at the end the following:

"(23) 'risk management' means the systematic application, by the owner or operator of a pipeline facility, of management policies, procedures, finite resources, and practices to the tasks of identifying, analyzing, assessing, reducing, and controlling risk in order to protect employees, the general public, the environment, and pipeline facilities;

"(24) 'risk management plan' means a management plan utilized by a gas or hazardous liquid pipeline facility owner or operator that encompasses risk management; and

"(25) 'Secretary' means the Secretary of Transportation.".

(b) GATHERING LINES.—Section 60101(b)(2) is amended by inserting ", if appropriate," after "Secretary" the first place it appears.

SEC. 4. GENERAL AUTHORITY.

(a) MINIMUM SAFETY STANDARDS.—Section 60102(a) is amended—

(1) by striking "transporters of gas and hazardous liquid and to" in paragraph (1)(A);

(2) by striking paragraph (1)(C) and inserting the following:

"(C) shall include a requirement that all individuals who operate and maintain pipeline facilities shall be qualified to operate and maintain the pipeline facilities."; and

(3) by striking paragraph (2) and inserting the following:

"(2) The qualifications applicable to an individual who operates and maintains a pipeline facility shall address the ability to recognize and react appropriately to abnormal operating conditions that may indicate a dangerous situation or a condition exceeding design limits. The operator of a pipeline facility shall ensure that employees who operate and maintain the facility are qualified to operate and maintain the pipeline facilities.".

(b) PRACTICABILITY AND SAFETY NEEDS STANDARDS.—Section 60102(b) is amended to read as follows:

"(b) PRACTICABILITY AND SAFETY NEEDS STANDARDS.—

"(1) IN GENERAL.—A standard prescribed under subsection (a) shall be—

"(A) practicable; and

"(B) designed to meet the need for—

"(i) gas pipeline safety, or safely transporting hazardous liquids, as appropriate; and

"(ii) protecting the environment.

"(2) FACTORS FOR CONSIDERATION.—When prescribing any standard under this section or section 60101(b), 60103, 60108, 60109, 60110, or 60113, the Secretary shall consider—

"(A) relevant available—

"(i) gas pipeline safety information;

"(ii) hazardous liquid pipeline safety information; and

"(iii) environmental information;

"(B) the appropriateness of the standard for the particular type of pipeline transportation or facility;

"(C) the reasonableness of the standard;

"(D) based on a risk assessment, the reasonably identifiable or estimated benefits expected to result from implementation or compliance with the standard;

"(E) based on a risk assessment, the reasonably identifiable or estimated costs expected to result from implementation or compliance with the standard;

"(F) comments and information received from the public; and

"(G) the comments and recommendations of the Technical Pipeline Safety Standards Committee, the Technical Hazardous Liquid Pipeline Safety Standards Committee, or both, as appropriate.

"(3) RISK ASSESSMENT.—In conducting a risk assessment referred to in subparagraphs (D) and (E) of paragraph (2), the Secretary shall—

"(A) identify the regulatory and nonregulatory options that the Secretary considered in prescribing a proposed standard;

"(B) identify the costs and benefits associated with the proposed standard;

"(C) include—

"(i) an explanation of the reasons for the selection of the proposed standard in lieu of the other options identified; and

"(ii) with respect to each of those other options, a brief explanation of the reasons that the Secretary did not select the option; and

"(D) identify technical data or other information upon which the risk assessment information and proposed standard is based.

"(4) REVIEW.—

"(A) IN GENERAL.—The Secretary shall—

"(i) submit any risk assessment information prepared under paragraph (3) of this subsection to the Technical Pipeline Safety Standards Committee, the Technical Hazardous Liquid Pipeline Safety Standards Committee, or both, as appropriate; and

"(ii) make that risk assessment information available to the general public.

"(B) PEER REVIEW PANELS.—The committees referred to in subparagraph (A) shall serve as peer review panels to review risk assessment information prepared under this section. Not later than 90 days after receiving risk assessment information for review pursuant to subparagraph (A), each committee that receives that risk assessment information shall prepare and submit to the Secretary a report that includes— Reports.

"(i) an evaluation of the merit of the data and methods used; and

"(ii) any recommended options relating to that risk assessment information and the associated standard that the committee determines to be appropriate.

"(C) REVIEW BY SECRETARY.—Not later than 90 days after receiving a report submitted by a committee under subparagraph (B), the Secretary—

"(i) shall review the report;

"(ii) shall provide a written response to the committee that is the author of the report concerning all significant peer review comments and recommended alternatives contained in the report; and

"(iii) may revise the risk assessment and the proposed standard before promulgating the final standard.

"(5) SECRETARIAL DECISIONMAKING.—Except where otherwise required by statute, the Secretary shall propose or issue a standard under this Chapter only upon a reasoned determination that the benefits of the intended standard justify its costs. Standards.

"(6) EXCEPTIONS FROM APPLICATION.—The requirements of subparagraphs (D) and (E) of paragraph (2) do not apply when—

"(A) the standard is the product of a negotiated rulemaking, or other rulemaking including the adoption of industry standards that receives no significant adverse comment within 60 days of notice in the Federal Register;

"(B) based on a recommendation (in which three-fourths of the members voting concur) by the Technical Pipeline Safety Standards Committee, the Technical Hazardous Liquid Pipeline Safety Standards Committee, or both, as applicable, the Secretary waives the requirements; or

"(C) the Secretary finds, pursuant to section 553(b)(3)(B) of title 5, United States Code, that notice and public procedure are not required.

"(7) REPORT.—Not later than March 31, 2000, the Secretary shall transmit to the Congress a report that—

"(A) describes the implementation of the risk assessment requirements of this section, including the extent to which those requirements have affected regulatory decisionmaking and pipeline safety; and

"(B) includes any recommendations that the Secretary determines would make the risk assessment process conducted pursuant to the requirements under this chapter a more effective means of assessing the benefits and costs associated with alternative regulatory and nonregulatory options in prescribing standards under the Federal pipeline safety regulatory program under this chapter.".

(c) FACILITY OPERATION INFORMATION STANDARDS.—The first sentence of section 60102(d) is amended—

(1) by inserting "as required by the standards prescribed under this chapter" after "operating the facility";

(2) by striking "to provide the information" and inserting "to make the information available"; and

(3) by inserting "as determined by the Secretary" after "to the Secretary and an appropriate State official".

(d) PIPE INVENTORY STANDARDS.—The first sentence of section 60102(e) is amended—

(1) by striking "and, to the extent the Secretary considers necessary, an operator of a gathering line that is not a regulated gather line (as defined under section 60101(b)(2) of this title),"; and

(2) by striking "transmission" and inserting "transportation".

(e) SMART PIGS.—

(1) MINIMUM SAFETY STANDARDS.—Section 60102(f) is amended by striking paragraph (1) and inserting the following:

"(1) MINIMUM SAFETY STANDARDS.—The Secretary shall prescribe minimum safety standards requiring that—

"(A) the design and construction of new natural gas transmission pipeline or hazardous liquid pipeline facilities, and

"(B) when the replacement of existing natural gas transmission pipeline or hazardous liquid pipeline facilities or equipment is required, the replacement of such existing facilities be carried out, to the extent practicable, in a manner so as to accommodate the passage through such natural gas transmission pipeline or hazardous liquid pipeline facilities of instrumented internal inspection devices

(commonly referred to as 'smart pigs'). The Secretary may extend such standards to require existing natural gas transmission pipeline or hazardous liquid pipeline facilities, whose basic construction would accommodate an instrumented internal inspection device to be modified to permit the inspection of such facilities with instrumented internal inspection devices.".

(2) PERIODIC INSPECTIONS.—Section 60102(f)(2) is amended—

(A) by striking "(2) Not later than" and inserting the following:

"(2) PERIODIC INSPECTIONS.—Not later than"; and

(B) by inserting ", if necessary, additional" after "the Secretary shall prescribe".

(f) UPDATING STANDARDS.—Section 60102 is amended by adding at the end the following:

"(l) UPDATING STANDARDS.—The Secretary shall, to the extent appropriate and practicable, update incorporated industry standards that have been adopted as part of the Federal pipeline safety regulatory program under this chapter.".

(g) MAPPING.—Section 60102(c) is amended by adding at the end thereof the following:

"(4) PROMOTING PUBLIC AWARENESS.—

"(A) Not later than one year after the date of enactment of the Accountable Pipeline Safety and Accountability Act of 1996, and annually thereafter, the owner or operator of each interstate gas pipeline facility shall provide to the governing body of each municipality in which the interstate gas pipeline facility is located, a map identifying the location of such facility.

"(B)(i) Not later than June 1, 1998, the Secretary shall survey and assess the public education programs under section 60116 and the public safety programs under section 60102(c) and determine their effectiveness and applicability as components of a model program. In particular, the survey shall include the methods by which operators notify residents of the location of the facility and its right of way, public information regarding existing One-Call programs, and appropriate procedures to be followed by residents of affected municipalities in the event of accidents involving interstate gas pipeline facilities.

"(ii) Not later than one year after the survey and assessment are completed, the Secretary shall institute a rulemaking to determine the most effective public safety and education program components and promulgate if appropriate, standards implementing those components on a nationwide basis. In the event that the Secretary finds that promulgation of such standards are not appropriate, the Secretary shall report to Congress the reasons for that finding.". Rulemaking. Reports.

(h) REMOTE CONTROL.—Section 60102(j) is amended by adding at the end thereof the following:

"(3) REMOTELY CONTROLLED VALVES.—(A) Not later than June 1, 1998, the Secretary shall survey and assess the effectiveness of remotely controlled valves to shut off the flow of natural gas in the event of a rupture of an interstate natural gas pipeline facility and shall make a determination about

whether the use of remotely controlled valves is technically and economically feasible and would reduce risks associated with a rupture of an interstate natural gas pipeline facility.

Standards.

"(B) Not later than one year after the survey and assessment are completed, if the Secretary has determined that the use of remotely controlled valves is technically and economically feasible and would reduce risks associated with a rupture of an interstate natural gas pipeline facility, the Secretary shall prescribe standards under which an operator of an interstate natural gas pipeline facility must use a remotely controlled valve. These standards shall include, but not be limited to, requirements for high-density population areas.".

SEC. 5. RISK MANAGEMENT.

(a) IN GENERAL.—Chapter 601 is amended by adding at the end the following:

"§ 60126. Risk management

"(a) RISK MANAGEMENT PROGRAM DEMONSTRATION PROJECTS.—

"(1) IN GENERAL.—The Secretary shall establish risk management demonstration projects—

"(A) to demonstrate, through the voluntary participation by owners and operators of gas pipeline facilities and hazardous liquid pipeline facilities, the application of risk management; and

"(B) to evaluate the safety and cost-effectiveness of the program.

"(2) EXEMPTIONS.—In carrying out a demonstration project under this subsection, the Secretary, by order—

"(A) may exempt an owner or operator of the pipeline facility covered under the project (referred to in this subsection as a 'covered pipeline facility'), from the applicability of all or a portion of the requirements under this chapter that would otherwise apply to the covered pipeline facility; and

"(B) shall exempt, for the period of the project, an owner or operator of the covered pipeline facility, from the applicability of any new standard that the Secretary promulgates under this chapter during the period of that participation, with respect to the covered facility.

"(b) REQUIREMENTS.—In carrying out a demonstration project under this section, the Secretary shall—

"(1) invite owners and operators of pipeline facilities to submit risk management plans for timely approval by the Secretary;

"(2) require, as a condition of approval, that a risk management plan submitted under this subsection contain measures that are designed to achieve an equivalent or greater overall level of safety than would otherwise be achieved through compliance with the standards contained in this chapter or promulgated by the Secretary under this chapter;

"(3) provide for—

"(A) collaborative government and industry training;

"(B) methods to measure the safety performance of risk management plans;

"(C) the development and application of new technologies;

"(D) the promotion of community awareness concerning how the overall level of safety will be maintained or enhanced by the demonstration project;

"(E) the development of models that categorize the risks inherent to each covered pipeline facility, taking into consideration the location, volume, pressure, and material transported or stored by that pipeline facility;

"(F) the application of risk assessment and risk management methodologies that are suitable to the inherent risks that are determined to exist through the use of models developed under subparagraph (E);

"(G) the development of project elements that are necessary to ensure that—

"(i) the owners and operators that participate in the demonstration project demonstrate that they are effectively managing the risks referred to in subparagraph (E); and

"(ii) the risk management plans carried out under the demonstration project under this subsection can be audited;

"(H) a process whereby an owner or operator of a pipeline facility is able to terminate a risk management plan or, with the approval of the Secretary, to amend, modify, or otherwise adjust a risk management plan referred to in paragraph (1) that has been approved by the Secretary pursuant to that paragraph to respond to—

"(i) changed circumstances; or

"(ii) a determination by the Secretary that the owner or operator is not achieving an overall level of safety that is at least equivalent to the level that would otherwise be achieved through compliance with the standards contained in this chapter or promulgated by the Secretary under this chapter;

"(I) such other elements as the Secretary, with the agreement of the owners and operators that participate in the demonstration project under this section, determines to further the purposes of this section; and

"(J) an opportunity for public comment in the approval process; and

"(4) in selecting participants for the demonstration project, take into consideration the past safety and regulatory performance of each applicant who submits a risk management plan pursuant to paragraph (1).

"(c) EMERGENCIES AND REVOCATIONS.—Nothing in this section diminishes or modifies the Secretary's authority under this title to act in case of an emergency. The Secretary may revoke any exemption granted under this section for substantial noncompliance with the terms and conditions of an approved risk management plan.

"(d) PARTICIPATION BY STATE AUTHORITY.—In carrying out this section, the Secretary may provide for consultation by a State that has in effect a certification under section 60105. To the extent that a demonstration project comprises an intrastate natural gas pipeline or an intrastate hazardous liquid pipeline facility, the Secretary may make an agreement with the State agency to carry out the duties of the Secretary for approval and administration of the project.

"(e) REPORT.—Not later than March 31, 2000, the Secretary shall transmit to the Congress a report on the results of the demonstration projects carried out under this section that includes—

"(1) an evaluation of each such demonstration project, including an evaluation of the performance of each participant in that project with respect to safety and environmental protection; and

"(2) recommendations concerning whether the applications of risk management demonstrated under the demonstration project should be incorporated into the Federal pipeline safety program under this chapter on a permanent basis.".

(f) CONFORMING AMENDMENT.—The analysis for chapter 601 is amended by adding at the end the following:

"60126. Risk management.".

SEC. 6. INSPECTION AND MAINTENANCE.

Section 60108 is amended—

(1) by striking "transporting gas or hazardous liquid or" in subsection (a)(1) each place it appears;

(2) by striking the second sentence in subsection (b)(2);

(3) by striking "NAVIGABLE WATERS" in the heading for subsection (c) and inserting "OTHER WATERS"; and

(4) by striking clause (ii) of subsection (c)(2)(A) and inserting the following:

"(ii) any other pipeline facility crossing under, over, or through waters where a substantial likelihood of commercial navigation exists, if the Secretary decides that the location of the facility in those waters could pose a hazard to navigation or public safety.".

SEC. 7. HIGH-DENSITY POPULATION AREAS AND ENVIRONMENTALLY SENSITIVE AREAS.

(a) IDENTIFICATION.—Section 60109(a)(1)(B)(i) is amended by striking "a navigable waterway (as the Secretary defines by regulation)" and inserting "waters where a substantial likelihood of commercial navigation exists".

(b) UNUSUALLY SENSITIVE AREAS.—Section 60109(b) is amended to read as follows:

"(b) AREAS TO BE INCLUDED AS UNUSUALLY SENSITIVE.—When describing areas that are unusually sensitive to environmental damage if there is a hazardous liquid pipeline accident, the Secretary shall consider areas where a pipeline rupture would likely cause permanent or long-term environmental damage, including—

"(1) locations near pipeline rights-of-way that are critical to drinking water, including intake locations for community water systems and critical sole source aquifer protection areas; and

"(2) locations near pipeline rights-of-way that have been identified as critical wetlands, riverine or estuarine systems, national parks, wilderness areas, wildlife preservation areas or refuges, wild and scenic rivers, or critical habitat areas for threatened and endangered species.".

SEC. 8. EXCESS FLOW VALVES.

Section 60110 is amended—

(1) by inserting ", if any," in the first sentence of subsection (b)(1) after "circumstances";

(2) by inserting ", operating, and maintaining" in subsection (b)(4) after "cost of installing";

(3) by inserting ", maintenance, and replacement" in subsection (c)(1)(C) after "installation"; and

(4) by inserting after the first sentence in subsection (e) the following: "The Secretary may adopt industry accepted performance standards in order to comply with the requirement under the preceding sentence.".

SEC. 9. CUSTOMER-OWNED NATURAL GAS SERVICE LINES.

Section 60113 is amended—

(1) by striking the caption of subsection (a); and

(2) by striking subsection (b).

SEC. 10. TECHNICAL SAFETY STANDARDS COMMITTEES.

(a) PEER REVIEW.—Section 60115(a) is amended by adding at the end the following: "The committees referred to in the preceding sentence shall serve as peer review committees for carrying out this chapter. Peer reviews conducted by the committees shall be treated for purposes of all Federal laws relating to risk assessment and peer review (including laws that take effect after the date of the enactment of the Accountable Pipeline Safety and Partnership Act of 1996) as meeting any peer review requirements of such laws.".

(b) COMPOSITION AND APPOINTMENT.—Section 60115(b) is amended—

(1) by inserting "or risk management principles" in paragraph (1) before the period at the end;

(2) by inserting "or risk management principles" in paragraph (2) before the period at the end;

(3) by striking "4" in paragraph (3)(B) and inserting "5";

(4) by striking "6" in paragraph (3)(C) and inserting "5";

(5) by adding at the end of paragraph (4)(B) the following: "At least 1 of the individuals selected for each committee under paragraph (3)(B) shall have education, background, or experience in risk assessment and cost-benefit analysis. The Secretary shall consult with the national organizations representing the owners and operators of pipeline facilities before selecting individuals under paragraph (3)(B)."; and

(6) by inserting after the first sentence of paragraph (4)(C) the following: "At least 1 of the individuals selected for each committee under paragraph (3)(C) shall have education, background, or experience in risk assessment and cost-benefit analysis.".

(c) COMMITTEE REPORTS.—Section 60115(c) is amended—

(1) by inserting "including the risk assessment information and other analyses supporting each proposed standard" before the semicolon in paragraph (1)(A);

(2) by inserting "including the risk assessment information and other analyses supporting each proposed standard" before the period in paragraph (1)(B);

(3) by inserting "and supporting analyses" before the first comma in the first sentence of paragraph (2);

(4) by inserting "and submit to the Secretary" in the first sentence of paragraph (2) after "prepare";

(5) by inserting "cost-effectiveness," in the first sentence of paragraph (2) after "reasonableness,"; and

(6) by inserting "and include in the report recommended actions" before the period at the end of the first sentence of paragraph (2); and

(7) by inserting "any recommended actions and" in the second sentence of paragraph (2) after "including".

(d) MEETINGS.—Section 60115(e) is amended by striking "twice" and inserting "up to 4 times".

(e) EXPENSES.—Section 60115(f) is amended—

(1) by striking "PAY AND" in the subsection heading;

(2) by striking the first 2 sentences; and

(3) by inserting "of a committee under this section" after "A member".

SEC. 11. PUBLIC EDUCATION PROGRAMS.

Section 60116 is amended—

(1) by striking "person transporting gas" and inserting "owner or operator of a gas pipeline facility";

(2) by inserting "the use of a one-call notification system prior to excavation," after "educate the public on"; and

(3) by inserting a comma after "gas leaks".

SEC. 12. ADMINISTRATIVE.

Section 60117 is amended—

(1) by adding at the end of subsection (b) the following: "The Secretary may require owners and operators of gathering lines to provide the Secretary information pertinent to the Secretary's ability to make a determination as to whether and to what extent to regulate gathering lines.";

(2) by adding at the end thereof the following:

"(k) AUTHORITY FOR COOPERATIVE AGREEMENTS.—To carry out this chapter, the Secretary may enter into grants, cooperative agreements, and other transactions with any person, agency, or instrumentality of the United States, any unit of State or local government, any educational institution, or any other entity to further the objectives of this chapter. The objectives of this chapter include the development, improvement, and promotion of one-call damage prevention programs, research, risk assessment, and mapping."; and

(3) by striking "transporting gas or hazardous liquid" in subsection (b) and inserting "owning".

SEC. 13. COMPLIANCE.

(a) Section 60118 (a) is amended—

(1) by striking "transporting gas or hazardous liquid or" in subsection (a); and

(2) by striking paragraph (1) and inserting the following:

"(1) comply with applicable safety standards prescribed under this chapter, except as provided in this section or in section 60126;".

(b) Section 60118 (b) is amended to read as follows:

"(b) COMPLIANCE ORDERS.—The Secretary of Transportation may issue orders directing compliance with this chapter, an order under section 60126, or a regulation prescribed under this chapter. An order shall state clearly the action a person must take to comply.".

(c) Section 60118(c) is amended by striking "transporting gas or hazardous liquid" and inserting "owning".

SEC. 14. DAMAGE REPORTING.

Section 60123(d)(2) is amended—

(1) by striking "or" at the end of subparagraph (A);

(2) by redesignating subparagraph (B) as subparagraph (C); and

(3) by inserting after subparagraph (A) the following:

"(B) a pipeline facility that does not report the damage promptly to the operator of the pipeline facility and to other appropriate authorities; or".

SEC. 15. BIENNIAL REPORTS.

(a) BIENNIAL REPORTS.—

(1) SECTION HEADING.—The section heading of section 60124 is amended to read as follows:

"§ 60124. Biennial reports".

(2) REPORTS.—Section 60124(a) is amended by striking the first sentence and inserting the following: "Not later than August 15, 1997, and every 2 years thereafter, the Secretary of Transportation shall submit to Congress a report on carrying out this chapter for the 2 immediately preceding calendar years for gas and a report on carrying out this chapter for such period for hazardous liquid.".

(c) CONFORMING AMENDMENT.—The analysis for chapter 601 is amended by striking the item relating to section 60124 and inserting the following:

"60124. Biennial reports.".

SEC. 16. POPULATION ENCROACHMENT.

(a) IN GENERAL.—Chapter 601, as amended by section 5, is further amended by adding at the end the following new section:

"§ 60127. Population encroachment

"(a) LAND USE RECOMMENDATIONS.—The Secretary of Transportation shall make available to an appropriate official of each State, as determined by the Secretary, the land use recommendations of the special report numbered 219 of the Transportation Research Board, entitled 'Pipelines and Public Safety'. Intergovernmental relations.

"(b) EVALUATION.—The Secretary shall—

"(1) evaluate the recommendations in the report referred to in subsection (a);

"(2) determine to what extent the recommendations are being implemented;

"(3) consider ways to improve the implementation of the recommendations; and

"(4) consider other initiatives to further improve awareness of local planning and zoning entities regarding issues involved with population encroachment in proximity to the rights-of-way of any interstate gas pipeline facility or interstate hazardous liquid pipeline facility.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 601 is amended by inserting after the item relating to section 60126 the following:

"60127. Population encroachment.".

SEC. 17. USER FEES.

49 USC 60301 note. Reports.

(a) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Transportation shall trans-

mit to the Congress a report analyzing the present assessment of pipeline safety user fees solely on the basis of mileage to determine whether—

(1) that measure of the resources of the Department of Transportation is the most appropriate measure of the resources used by the Department of Transportation in the regulation of pipeline transportation; or

(2) another basis of assessment would be a more appropriate measure of those resources.

(b) CONSIDERATIONS.—In making the report, the Secretary shall consider a wide range of assessment factors and suggestions and comments from the public.

SEC. 18. DUMPING WITHIN PIPELINE RIGHTS-OF-WAY.

(a) AMENDMENT.—Chapter 601, as amended by section 16, is further amended by adding at the end the following new section:

"§ 60128. Dumping within pipeline rights-of-way

"(a) PROHIBITION.—No person shall excavate for the purpose of unauthorized disposal within the right-of-way of an interstate gas pipeline facility or interstate hazardous liquid pipeline facility, or any other limited area in the vicinity of any such interstate pipeline facility established by the Secretary of Transportation, and dispose solid waste therein.

"(b) DEFINITION.—For purposes of this section, the term 'solid waste' has the meaning given that term in section 1004(27) of the Solid Waste Disposal Act (42 U.S.C. 6903(27)).".

(b) CONFORMING AMENDMENTS.—

(1) CROSS-REFERENCE.—Section 60123(a) is amended by striking "or 60118(a)" and inserting ", 60118(a), or 60128".

(2) CHAPTER ANALYSIS.—The analysis for chapter 601 is amended by adding at the end the following new item:

"60128. Dumping within pipeline rights-of-way.".

SEC. 19. PREVENTION OF DAMAGE TO PIPELINE FACILITIES.

Section 60117(a) is amended by inserting after "and training activities" the following: "and promotional activities relating to prevention of damage to pipeline facilities".

SEC. 20. TECHNICAL CORRECTIONS.

(a) SECTION 60105.—The heading for section 60105 is amended by inserting "**pipeline safety program**" after "**State**".

(b) SECTION 60106.—The heading for section 60106 is amended by inserting "**pipeline safety**" after "**State**".

(c) SECTION 60107.—The heading for section 60107 is amended by inserting "**pipeline safety**" after "**State**".

(d) SECTION 60114.—Section 60114 is amended—

(1) by striking "60120, 60122, and 60123" in subsection (a)(9) and inserting "60120 and 60122";

(2) by striking subsections (b) and (d); and

(3) by redesignating subsections (c) and (e) as subsections (b) and (d), respectively.

(e) CHAPTER ANALYSIS.—The analysis for chapter 601 is amended—

(1) by inserting "pipeline safety program" in the item relating to section 60105 after "State";

(2) by inserting "pipeline safety" in the item relating to section 60106 after "State"; and

(3) by inserting "pipeline safety" in the item relating to section 60107 after "State".

(f) SECTION 60101.—Section 60101(b) is amended by striking "define by regulation" each place it appears and inserting "prescribe standards defining".

(g) SECTION 60102.—Section 60102 is amended by striking "regulations" each place it appears in subsections (f)(2), (i), and (j)(2) and inserting "standards".

(h) SECTION 60108.—Section 60108 is amended—

(1) by striking "regulations" in subsections (c)(2)(B), (c)(4)(B), and (d)(3) and inserting "standards"; and

(2) by striking "require by regulation" in subsection (c)(4)(A) and inserting "establish a standard".

(i) SECTION 60109.—Section 60109(a) is amended by striking "regulations" and inserting "standards".

(j) SECTION 60110.—Section 60110 is amended by striking "regulations" in subsections (b), (c)(1), and (c)(2) and inserting "standards".

(k) SECTION 60113.—Section 60113(a) is amended by striking "regulations" and inserting "standards".

SEC. 21. AUTHORIZATION OF APPROPRIATIONS.

(a) GAS AND HAZARDOUS LIQUID.—Section 60125 is amended—

(1) by striking subsection (a) and inserting the following new subsection:

"(a) GAS AND HAZARDOUS LIQUID.—To carry out this chapter (except for sections 60107 and 60114(b)) related to gas and hazardous liquid, there are authorized to be appropriated to the Department of Transportation—

"(1) $19,448,000 for fiscal year 1996;

"(2) $20,028,000 for fiscal year 1997, of which $14,600,000 is to be derived from user fees for fiscal year 1997 collected under section 60301 of this title;

"(3) $20,729,000 for fiscal year 1998, of which $15,100,000 is to be derived from user fees for fiscal year 1998 collected under section 60301 of this title;

"(4) $21,442,000 for fiscal year 1999, of which $15,700,000 is to be derived from user fees for fiscal year 1999 collected under section 60301 of this title; and

"(5) $22,194,000 for fiscal year 2000, of which $16,300,000 is to be derived from user fees for fiscal year 2000 collected under section 60301 of this title.".

(b) STATE GRANTS.—Section 60125(c)(1) is amended by adding at the end the following:

"(D) $12,000,000 for fiscal year 1996.

"(E) $14,000,000 for fiscal year 1997, of which $12,500,000 is to be derived from user fees for fiscal year 1997 collected under section 60301 of this title.

"(F) $14,490,000 for fiscal year 1998, of which $12,900,000 is to be derived from user fees for fiscal year 1998 collected under section 60301 of this title.

"(G) $15,000,000 for fiscal year 1999, of which $13,300,000 is to be derived from user fees for fiscal year 1999 collected under section 60301 of this title.

"(H) $15,524,000 for fiscal year 2000, of which $13,700,000 is to be derived from user fees for fiscal year 2000 collected under section 60301 of this title.".

Approved October 12, 1996.

LEGISLATIVE HISTORY—S. 1505 (H.R. 1323):

HOUSE REPORTS: No. 104–110, Pt. 1 (Comm. on Transportation and Infrastructure) and Pt. 2 (Comm. on Commerce), both accompanying H.R. 1323.

SENATE REPORTS: No. 104–334 (Comm. on Commerce, Science, and Transportation.

CONGRESSIONAL RECORD, Vol. 142 (1996):

Sept. 19, 26, considered and passed Senate.

Sept. 27, considered and passed House.

Public Law 104–305
104th Congress

An Act

To combat drug-facilitated crimes of violence, including sexual assaults.

Oct. 13, 1996
[H.R. 4137]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Drug-Induced Rape Prevention and Punishment Act of 1996.
21 USC 801 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Drug-Induced Rape Prevention and Punishment Act of 1996".

SEC. 2. PROVISIONS RELATING TO USE OF A CONTROLLED SUBSTANCE WITH INTENT TO COMMIT A CRIME OF VIOLENCE.

(a) PENALTIES FOR DISTRIBUTION.—Section 401(b) of the Controlled Substances Act is amended by adding at the end the following: 21 USC 841.

"(7) PENALTIES FOR DISTRIBUTION.—

"(A) IN GENERAL.—Whoever, with intent to commit a crime of violence, as defined in section 16 of title 18, United States Code (including rape), against an individual, violates subsection (a) by distributing a controlled substance to that individual without that individual's knowledge, shall be imprisoned not more than 20 years and fined in accordance with title 18, United States Code.

"(B) DEFINITION.—For purposes of this paragraph, the term 'without that individual's knowledge' means that the individual is unaware that a substance with the ability to alter that individual's ability to appraise conduct or to decline participation in or communicate unwillingness to participate in conduct is administered to the individual.".

(b) ADDITIONAL PENALTIES RELATING TO FLUNITRAZEPAM.—

(1) GENERAL PENALTIES.—Section 401 of the Controlled Substances Act (21 U.S.C. 841) is amended—

(A) in subsection (b)(1)(C), by inserting ", or 1 gram of flunitrazepam," after "I or II"; and

(B) in subsection (b)(1)(D), by inserting "or 30 milligrams of flunitrazepam," after "schedule III,".

(2) IMPORT AND EXPORT PENALTIES.—

(A) Section 1009(a) of the Controlled Substances Import and Export Act (21 U.S.C. 959(a)) is amended by inserting "or flunitrazepam" after "I or II".

(B) Section 1010(b)(3) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)) is amended by inserting "or flunitrazepam," after "I or II,".

(C) Section 1010(b)(4) of the Controlled Substances Import and Export Act is amended by inserting "(except a violation involving flunitrazepam)" after "III, IV, or V,".

28 USC 994 note.

(3) SENTENCING GUIDELINES.—

(A) AMENDMENT OF SENTENCING GUIDELINES.—Pursuant to its authority under section 994 of title 28, United States Code, the United States Sentencing Commission shall review and amend, as appropriate, the sentencing guidelines for offenses involving flunitrazepam.

(B) SUMMARY.—The United States Sentencing Commission shall submit to the Congress—

(i) a summary of its review under subparagraph (A); and

(ii) an explanation for any amendment to the sentencing guidelines made under subparagraph (A).

(C) SERIOUS NATURE OF OFFENSES.—In carrying out this paragraph, the United States Sentencing Commission shall ensure that the sentencing guidelines for offenses involving flunitrazepam reflect the serious nature of such offenses.

(c) INCREASED PENALTIES FOR UNLAWFUL SIMPLE POSSESSION OF FLUNITRAZEPAM.—Section 404(a) of the Controlled Substances Act (21 U.S.C. 844(a)) is amended by inserting after "exceeds 1 gram." the following: "Notwithstanding any penalty provided in this subsection, any person convicted under this subsection for the possession of flunitrazepam shall be imprisoned for not more than 3 years, shall be fined as otherwise provided in this section, or both.".

SEC. 3. STUDY ON RESCHEDULING FLUNITRAZEPAM.

(a) STUDY.—The Administrator of the Drug Enforcement Administration shall, in consultation with other Federal and State agencies, as appropriate, conduct a study on the appropriateness and desirability of rescheduling flunitrazepam as a Schedule I controlled substance under the Controlled Substances Act (21 U.S.C. 801 et seq.).

(b) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Administrator shall submit to the Committees on the Judiciary of the House of Representatives and the Senate the results of the study conducted under subsection (a), together with any recommendations regarding rescheduling of flunitrazepam as a Schedule I controlled substance under the Controlled Substances Act (21 U.S.C. 801 et seq.).

SEC. 4. EDUCATIONAL PROGRAM FOR POLICE DEPARTMENTS. 21 USC 872 note.

The Attorney General may—

(1) create educational materials regarding the use of controlled substances (as that term is defined in section 102 of the Controlled Substances Act) in the furtherance of rapes and sexual assaults; and

(2) disseminate those materials to police departments throughout the United States.

Approved October 13, 1996.

LEGISLATIVE HISTORY—H.R. 4137:

CONGRESSIONAL RECORD, Vol. 142 (1996):

Sept. 25, 26, considered and passed House.

Oct. 3 considered and passed Senate, amended.

Oct. 4, House concurred in Senate amendment.

Public Law 104–306
104th Congress

An Act

Oct. 14, 1996
[H.R. 4083]

To extend certain programs under the Energy Policy and Conservation Act through September 30, 1997.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ENERGY POLICY AND CONSERVATION ACT AMENDMENTS.

The Energy Policy and Conservation Act is amended—

(1) by amending section 166 (42 U.S.C. 6246) to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 166. There are authorized to be appropriated for fiscal year 1997 such sums as may be necessary to implement this part.";

(2) in section 181 (42 U.S.C. 6251) by striking "June 30, 1996" both places it appears and inserting in lieu thereof "September 30, 1997";

(3) by adding at the end of section 256(h) (42 U.S.C. 6276(h)) "There are authorized to be appropriated for fiscal year 1997 such sums as may be necessary to carry out this part."; and

(4) in section 281 (42 U.S.C. 6285) by striking "June 30, 1996" both places it appears and inserting in lieu thereof "September 30, 1997".

Approved October 14, 1996.

LEGISLATIVE HISTORY—H.R. 4083:

HOUSE REPORTS: No. 104–814 (Comm. on Commerce).
CONGRESSIONAL RECORD, Vol. 142 (1996):
Sept. 24, considered and passed House.
Oct. 3, considered and passed Senate.

Public Law 104–307
104th Congress

An Act

To authorize the sale of excess Department of Defense aircraft to facilitate the suppression of wildfire.

Oct. 14, 1996
[S. 2078]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Wildfire Suppressing Aircraft Transfer Act of 1996.
10 USC 2576 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Wildfire Suppression Aircraft Transfer Act of 1996".

10 USC 2576 note.

SEC. 2. AUTHORITY TO SELL AIRCRAFT AND PARTS FOR WILDFIRE SUPPRESSION PURPOSES.

(a) AUTHORITY.—(1) Notwithstanding section 202 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483) and subject to subsections (b) and (c), the Secretary of Defense may, during the period beginning on October 1, 1996, and ending on September 30, 2000, sell the aircraft and aircraft parts referred to in paragraph (2) to persons or entities that contract with the Federal Government for the delivery of fire retardant by air in order to suppress wildfire.

(2) Paragraph (1) applies to aircraft and aircraft parts of the Department of Defense that are determined by the Secretary to be—

(A) excess to the needs of the Department; and

(B) acceptable for commercial sale.

(b) CONDITIONS OF SALE.—Aircraft and aircraft parts sold under subsection (a)—

(1) may be used only for the provision of airtanker services for wildfire suppression purposes; and

(2) may not be flown or otherwise removed from the United States unless dispatched by the National Interagency Fire Center in support of an international agreement to assist in wildfire suppression efforts or for other purposes jointly approved by the Secretary of Defense and the Secretary of Agriculture in writing in advance.

(c) CERTIFICATION OF PERSONS AND ENTITIES.—The Secretary of Defense may sell aircraft and aircraft parts to a person or entity under subsection (a) only if the Secretary of Agriculture certifies to the Secretary of Defense, in writing, before the sale that the person or entity is capable of meeting the terms and conditions of a contract to deliver fire retardant by air.

(d) REGULATIONS.—(1) As soon as practicable after the date of the enactment of this Act, the Secretary of Defense shall, in consultation with the Secretary of Agriculture and the Adminis-

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trator of General Services, prescribe regulations relating to the sale of aircraft and aircraft parts under this section.

(2) The regulations shall—

(A) ensure that the sale of the aircraft and aircraft parts is made at fair market value (as determined by the Secretary of Defense) and, to the extent practicable, on a competitive basis;

(B) require a certification by the purchaser that the aircraft and aircraft parts will be used only in accordance with the conditions set forth in subsection (b);

(C) establish appropriate means of verifying and enforcing the use of the aircraft and aircraft parts by the purchaser and other end users in accordance with the conditions set forth in subsections (b) and (e); and

(D) ensure, to the maximum extent practicable, that the Secretary consults with the Administrator of General Services and with the heads of appropriate departments and agencies of the Federal Government regarding alternative requirements for such aircraft and aircraft parts before the sale of such aircraft and aircraft parts under this section.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary of Defense may require such other terms and conditions in connection with each sale of aircraft and aircraft parts under this section as the Secretary considers appropriate for such sale. Such terms and conditions shall meet the requirements of the regulations prescribed under subsection (d).

(f) REPORT.—Not later than March 31, 2000, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on the Secretary's exercise of authority under this section. The report shall set forth—

(1) the number and type of aircraft sold under the authority, and the terms and conditions under which the aircraft were sold;

(2) the persons or entities to which the aircraft were sold; and

(3) an accounting of the current use of the aircraft sold.

(g) CONSTRUCTION.—Nothing in this section may be construed as affecting the authority of the Administrator of the Federal Aviation Administration under any other provision of law.

Approved October 14, 1996.

LEGISLATIVE HISTORY—S. 2078:

CONGRESSIONAL RECORD, Vol. 142 (1996):
Sept. 26, considered and passed Senate.
Oct. 4, considered and passed House.

Public Law 104–308
104th Congress

An Act

Oct. 19, 1996
[H.R. 632]

To enhance fairness in compensating owners of patents used by the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. JUST COMPENSATION.

(a) AMENDMENT.—Section 1498(a) of title 28, United States Code, is amended by adding at the end of the first paragraph the following: "Reasonable and entire compensation shall include the owner's reasonable costs, including reasonable fees for expert witnesses and attorneys, in pursuing the action if the owner is an independent inventor, a nonprofit organization, or an entity that had no more than 500 employees at any time during the 5-year period preceding the use or manufacture of the patented invention by or for the United States. Nothwithstanding the preceding sentences, unless the action has been pending for more than 10 years from the time of filing to the time that the owner applies for such costs and fees, reasonable and entire compensation shall not include such costs and fees if the court finds that the position of the United States was substantially justified or that special circumstances make an award unjust.".

28 USC 1498 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to actions under section 1498(a) of title 28, United States Code, that are pending on, or brought on or after, the date of the enactment of this Act.

Approved October 19, 1996.

LEGISLATIVE HISTORY—H.R. 632:

HOUSE REPORTS: No. 104–373 (Comm. on the Judiciary).
CONGRESSIONAL RECORD:
Vol. 141 (1995): Dec. 12, considered and passed House.
Vol. 142 (1996): Oct. 3, considered and passed Senate, amended.
Oct. 4, House concurred in Senate amendments.

Public Law 104–309
104th Congress

An Act

To express the sense of the Congress that United States Government agencies in possession of records about individuals who are alleged to have committed Nazi war crimes should make these records public.

Oct. 19, 1996
[H.R. 1281]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress finds that—

(1) during the 104th Congress, Americans commemorated the 50th anniversary of the conclusion of the Second World War and the end of the Holocaust, one of the worst tragedies in history;

(2) it is important to learn all that we can about this terrible era so that we can prevent such a catastrophe from ever happening again;

(3) the cold war is over;

(4) numerous nations, including those of the former Soviet Union, are making public their files on Nazi war criminals as well as crimes committed by agencies of their own governments;

(5) on April 17, 1995, President Clinton signed Executive Order 12958, which will make available certain previously classified national security documents that are at least 25 years old; William J. Clinton.

(6) that Executive Order stated: "Our democratic principles require that the American people be informed of the activities of their Government.";

(7) this year marks the 30th anniversary of the passage of the Freedom of Information Act;

(8) agencies of the United States Government possess information on individuals who ordered, incited, assisted, or otherwise participated in Nazi war crimes;

(9) some agencies have routinely denied Freedom of Information Act requests for information about individuals who committed Nazi war crimes;

(10) United States Government agencies may have been in possession of material about the war crimes facilitated by Kurt Waldheim but did not make this information public; Kurt Waldheim.

(11) it is legitimate not to disclose certain material in Government files if the disclosure would seriously and demonstrably harm current or future national defense, intelligence, or foreign relations activities of the United States and if protection of these matters from disclosure outweighs the public interest of disclosure;

(12) the disclosure of most Nazi war crimes information should not harm United States national interests; and

(13) the Office of Special Investigations of the Department of Justice is engaged in vital work investigating and expelling Nazi war criminals from the United States, accordingly, the records created by these investigations and other actions should not be disclosed, and the investigations and other actions should not be interfered with.

SEC. 2. SENSE OF THE CONGRESS.

It is the sense of the Congress that United States Government agencies in possession of records about individuals who are alleged to have committed Nazi war crimes should make these records public.

Approved October 19, 1996.

LEGISLATIVE HISTORY—H.R. 1281:

HOUSE REPORTS: No. 104–819, Pt. 1 (Comm. on Government Reform and Oversight).

CONGRESSIONAL RECORD, Vol. 142 (1996):

Sept. 24, considered and passed House.

Oct. 3, considered and passed Senate.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 32 (1996):

Oct. 22, Presidential statement.

Public Law 104–310
104th Congress

An Act

To modify the boundaries of the Talladega National Forest, Alabama.

Oct. 19, 1996
[H.R. 1874]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXPANSION OF TALLADEGA NATIONAL FOREST.

(a) BOUNDARY MODIFICATION.—The exterior boundaries of the Talladega National Forest are hereby modified to include the following described lands:

Huntsville Meridian, Township 17 South, Range 8 East, Section 34, NE¼, SW¼, and S½NW¼, Cleburne County, containing 399.40 acres, more or less.

Huntsville Meridian, Township 13 South, Range 9 East, Section 28, SE¼, Calhoun County, containing 160.00 acres, more or less.

(b) ADMINISTRATION.—(1) Subject to valid existing rights, all Federal lands described under subsection (a) are hereby added to and shall be administered as part of the Talladega National Forest, and the Secretary of the Interior shall transfer, without reimbursement, administrative jurisdiction over such lands to the Secretary of Agriculture.

(2) Nothing in this section shall be construed to affect the validity of or the terms and conditions of any existing right-of-way, easement, lease, license, or permit on lands transferred by subsection (a), except that such lands shall be administered by the Forest Service. Reissuance of any authorization shall be in accordance with the laws and regulations generally applying to the Forest Service, and the change of jurisdiction over such lands resulting from the enactment of this Act shall not constitute a ground for the denial of renewal or reissuance of such authorization.

Approved October 19, 1996.

LEGISLATIVE HISTORY—H.R. 1874:

HOUSE REPORTS: No. 104–216 (Comm. on Agriculture).
CONGRESSIONAL RECORD:
Vol. 141 (1995): July 31, considered and passed House.
Vol. 142 (1996): Oct. 3, considered and passed Senate.

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Public Law 104–311
104th Congress

An Act

Oct. 19, 1996
[H.R. 3155]

To amend the Wild and Scenic Rivers Act by designating the Wekiva River, Seminole Creek, and Rock Springs Run in the State of Florida for study and potential addition to the National Wild and Scenic Rivers System.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ADDITIONAL DESIGNATION.

Section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1276(a)) is amended by adding at the end the following new paragraph:

"( ) WEKIVA RIVER, FLORIDA.—(A) The entire river.

"(B) The Seminole Creek tributary.

"(C) The Rock Springs Run tributary.".

SEC. 2. STUDY AND REPORT.

Section 5(b) of the Wild and Scenic Rivers Act (16 U.S.C. 1276(b)) is amended by adding at the end the following new paragraph:

"( ) The study of the Wekiva River and the tributaries designated in paragraph ( ) of subsection (a) shall be completed and the report transmitted to Congress not later than two years after the date of the enactment of this paragraph.".

Approved October 19, 1996.

LEGISLATIVE HISTORY—H.R. 3155:

HOUSE REPORTS: No. 104–824 (Comm. on Resources).
CONGRESSIONAL RECORD, Vol. 142 (1996):
Sept. 25, considered and passed House.
Oct. 3, considered and passed Senate.

Public Law 104–312
104th Congress

An Act

To authorize appropriations for a mining institute or institutes to develop domestic technological capabilities for the recovery of minerals from the Nation's seabed, and for other purposes.

Oct. 19, 1996
[H.R. 3249]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SEABED MINERALS.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 2(a) of the Mining and Mineral Resources Research Institute Act of 1984 (30 U.S.C. 1222(a)) is amended by adding the following at the end thereof:

"There is authorized to be appropriated to the Secretary not more than $1,800,000 for each of the fiscal years after fiscal year 1996 to be made available by the Secretary to an institute or institutes experienced in investigating the continental shelf regions of the United States, the deep seabed and near shore environments of islands, and the Arctic and cold water regions as a source for nonfuel minerals. Such funds are to be used by the institute or institutes to assist in developing domestic technological capabilities required for the location of, and the efficient and environmentally sound recovery of, minerals (other than oil and gas) from the Nation's shallow and deep seabed.".

(b) SHORT TITLE.—Section 11 of such Act (30 U.S.C. 1201 note) is amended to read as follows:

"SEC. 11. SHORT TITLE.

"This Act may be cited as the 'Mining and Mineral Resources Institutes Act'.".

Mining and Mineral Resources Institutes Act.

Approved October 19, 1996.

LEGISLATIVE HISTORY—H.R. 3249:

HOUSE REPORTS: No. 104–673 (Comm. on Resources).
CONGRESSIONAL RECORD, Vol. 142 (1996):
July 16, considered and passed House.
Oct. 3, considered and passed Senate.

Public Law 104–313
104th Congress

An Act

Oct. 19, 1996
[H.R. 3378]

To amend the Indian Health Care Improvement Act to extend the demonstration program for direct billing of Medicare, Medicaid, and other third party payors.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Indian Health Care Improvement Technical Corrections Act of 1996.
25 USC 1601 note.

SECTION 1. SHORT TITLE; REFERENCE.

(a) SHORT TITLE.—This Act may be cited as the "Indian Health Care Improvement Technical Corrections Act of 1996".

(b) REFERENCES.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to a section or other provision of the Indian Health Care Improvement Act.

SEC. 2. TECHNICAL CORRECTIONS IN THE INDIAN HEALTH CARE IMPROVEMENT ACT.

(a) DEFINITION OF HEALTH PROFESSION.—Section 4(n) (25 U.S.C. 1603(n)) is amended—

(1) by inserting "allopathic medicine," before "family medicine"; and

(2) by striking "and allied health professions" and inserting "an allied health profession, or any other health profession".

(b) INDIAN HEALTH PROFESSIONS SCHOLARSHIPS.—Section 104(b) of the Indian Health Care Improvement Act (25 U.S.C. 1613a(b)) is amended—

(1) in paragraph (3)—

(A) in subparagraph (A)—

(i) by striking the matter preceding clause (i) and inserting the following:

"(3)(A) The active duty service obligation under a written contract with the Secretary under section 338A of the Public Health Service Act (42 U.S.C. 254l) that an individual has entered into under that section shall, if that individual is a recipient of an Indian Health Scholarship, be met in full-time practice, by service—";

(ii) by striking "or" at the end of clause (iii); and

(iii) by striking the period at the end of clause (iv) and inserting "; or";

(B) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively;

(C) by inserting after subparagraph (A) the following new subparagraph:

"(B) At the request of any individual who has entered into a contract referred to in subparagraph (A) and who receives a

degree in medicine (including osteopathic or allopathic medicine), dentistry, optometry, podiatry, or pharmacy, the Secretary shall defer the active duty service obligation of that individual under that contract, in order that such individual may complete any internship, residency, or other advanced clinical training that is required for the practice of that health profession, for an appropriate period (in years, as determined by the Secretary), subject to the following conditions:

"(i) No period of internship, residency, or other advanced clinical training shall be counted as satisfying any period of obligated service that is required under this section.

"(ii) The active duty service obligation of that individual shall commence not later than 90 days after the completion of that advanced clinical training (or by a date specified by the Secretary).

"(iii) The active duty service obligation will be served in the health profession of that individual, in a manner consistent with clauses (i) through (v) of subparagraph (A).";

(D) in subparagraph (C), as so redesignated, by striking "prescribed under section 338C of the Public Health Service Act (42 U.S.C. 254m) by service in a program specified in subparagraph (A)" and inserting "described in subparagraph (A) by service in a program specified in that subparagraph"; and

(E) in subparagraph (D), as so redesignated—

(i) by striking "Subject to subparagraph (B)," and inserting "Subject to subparagraph (C),"; and

(ii) by striking "prescribed under section 338C of the Public Health Service Act (42 U.S.C. 254m)" and inserting "described in subparagraph (A)";

(2) in paragraph (4)—

(A) in subparagraph (B), by striking the matter preceding clause (i) and inserting the following:

"(B) the period of obligated service described in paragraph (3)(A) shall be equal to the greater of—"; and

(B) in subparagraph (C), by striking "(42 U.S.C. 254m(g)(1)(B))" and inserting "(42 U.S.C. 254l(g)(1)(B))"; and

(3) in paragraph (5), by adding at the end the following new subparagraphs:

"(C) Upon the death of an individual who receives an Indian Health Scholarship, any obligation of that individual for service or payment that relates to that scholarship shall be canceled.

"(D) The Secretary shall provide for the partial or total waiver or suspension of any obligation of service or payment of a recipient of an Indian Health Scholarship if the Secretary determines that—

"(i) it is not possible for the recipient to meet that obligation or make that payment;

"(ii) requiring that recipient to meet that obligation or make that payment would result in extreme hardship to the recipient; or

"(iii) the enforcement of the requirement to meet the obligation or make the payment would be unconscionable.

"(E) Notwithstanding any other provision of law, in any case of extreme hardship or for other good cause shown, the Secretary may waive, in whole or in part, the right of the United States to recover funds made available under this section.

"(F) Notwithstanding any other provision of law, with respect to a recipient of an Indian Health Scholarship, no obligation for payment may be released by a discharge in bankruptcy under title 11, United States Code, unless that discharge is granted after the expiration of the 5-year period beginning on the initial date on which that payment is due, and only if the bankruptcy court finds that the nondischarge of the obligation would be unconscionable.".

(c) CALIFORNIA CONTRACT HEALTH SERVICES DEMONSTRATION PROGRAM.—Section 211(g) (25 U.S.C. 1621j(g)) is amended by striking "1993, 1994, 1995, 1996, and 1997" and inserting "1996 through 2000".

(d) EXTENSION OF CERTAIN DEMONSTRATION PROGRAM.—Section 405(c)(2) (25 U.S.C. 1645(c)(2)) is amended by striking "September 30, 1996" and inserting "September 30, 1998".

(e) GALLUP ALCOHOL AND SUBSTANCE ABUSE TREATMENT CENTER.—Section 706(d) (25 U.S.C. 1665e(d)) is amended to read as follows:

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, for each of fiscal years 1996 through 2000, such sums as may be necessary to carry out subsection (b).".

(f) SUBSTANCE ABUSE COUNSELOR EDUCATION DEMONSTRATION PROGRAM.—Section 711(h) (25 U.S.C. 1665j(h)) is amended by striking "1993, 1994, 1995, 1996, and 1997" and inserting "1996 through 2000".

(g) HOME AND COMMUNITY-BASED CARE DEMONSTRATION PROGRAM.—Section 821(i) (25 U.S.C. 1680k(i)) is amended by striking "1993, 1994, 1995, 1996, and 1997" and inserting "1996 through 2000".

Approved October 19, 1996.

LEGISLATIVE HISTORY—H.R. 3378 (S. 1869):

HOUSE REPORTS: No. 104–742, Pt. 1 (Comm. on Resources).
SENATE REPORTS: No. 104–346 accompanying S. 1869 (Comm. on Indian Affairs).
CONGRESSIONAL RECORD, Vol. 142 (1996):
Sept. 4, considered and passed House.
Sept. 19, considered and passed Senate, amended.
Sept. 27, House concurred in Senate amendment with an amendment.
Oct. 3, Senate concurred in House amendment.

Public Law 104–314
104th Congress

An Act

To designate 51.7 miles of the Clarion River, located in Pennsylvania, as a component of the National Wild and Scenic Rivers System.

Oct. 19, 1996
[H.R. 3568]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding at the end the following new paragraph:

"( ) CLARION RIVER, PENNSYLVANIA.—The 51.7-mile segment of the main stem of the Clarion River from the Allegheny National Forest/State Game Lands Number 44 boundary, located approximately 0.7 miles downstream from the Ridgway Borough limit, to an unnamed tributary in the backwaters of Piney Dam approximately 0.6 miles downstream from Blyson Run, to be administered by the Secretary of Agriculture in the following classifications:

"(A) The approximately 8.6-mile segment of the main stem from the Allegheny National Forest/State Game Lands Number 44 boundary, located approximately 0.7 miles downstream from the Ridgway Borough limit, to Portland Mills, as a recreational river.

"(B) The approximately 8-mile segment of the main stem from Portland Mills to the Allegheny National Forest boundary, located approximately 0.8 miles downstream from Irwin Run, as a scenic river.

"(C) The approximately 26-mile segment of the main stem from the Allegheny National Forest boundary, located approximately 0.8 miles downstream from Irwin Run, to the State Game Lands 283 boundary, located approximately 0.9 miles downstream from the Cooksburg bridge, as a recreational river.

"(D) The approximately 9.1-mile segment of the main stem from the State Game Lands 283 boundary, located approximately 0.9 miles downstream from the Cooksburg bridge, to an unnamed tributary at the backwaters of Piney Dam, located approximately 0.6 miles downstream from Blyson Run, as a scenic river.".

Approved October 19, 1996.

LEGISLATIVE HISTORY—H.R. 3568:

HOUSE REPORTS: No. 104–825 (Comm. on Resources).
CONGRESSIONAL RECORD, Vol. 142 (1996):
Sept. 25, considered and passed House.
Oct. 3, considered and passed Senate.

Public Law 104–315
104th Congress

An Act

Oct. 19, 1996
[H.R. 3632]

To amend title XIX of the Social Security Act to repeal the requirement for annual resident review for nursing facilities under the Medicaid program and to require resident reviews for mentally ill or mentally retarded residents when there is a significant change in physical or mental condition.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REPEAL OF REQUIREMENT FOR ANNUAL RESIDENT REVIEW FOR MENTALLY ILL AND MENTALLY RETARDED NURSING FACILITY RESIDENTS.

(a) IN GENERAL.—Section 1919(e)(7) of the Social Security Act (42 U.S.C. 1396r(e)(7)) is amended—

(1) in subparagraph (B)—

(A) by striking "ANNUAL" in the heading, and

(B) by striking clause (iii); and

(2) in subparagraph (D)(i), by striking "ANNUAL" in the heading.

42 USC 1396r note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 2. REQUIREMENT FOR REVIEW IN CASE OF SIGNIFICANT CHANGE IN PHYSICAL OR MENTAL CONDITION OF MENTALLY ILL OR MENTALLY RETARDED NURSING FACILITY RESIDENTS.

(a) REQUIREMENT FOR NOTIFICATION OF STATE AUTHORITY.—Section 1919(b)(3)(E) of the Social Security Act (42 U.S.C. 1396r(b)(3)(E)) is amended by adding at the end the following: "In addition, a nursing facility shall notify the State mental health authority or State mental retardation or developmental disability authority, as applicable, promptly after a significant change in the physical or mental condition of a resident who is mentally ill or mentally retarded.".

(b) REQUIREMENT FOR REVIEW.—Section 1919(e)(7)(B) of such Act (42 U.S.C. 1396r(e)(7)(B)), as amended by section 1(a)(1), is amended by inserting after clause (ii) the following new clause:

"(iii) REVIEW REQUIRED UPON CHANGE IN RESIDENT'S CONDITION.—A review and determination under clause (i) or (ii) must be conducted promptly after a nursing facility has notified the State mental health authority or State mental retardation or developmental disability authority, as applicable, under subsection (b)(3)(E) with respect to a mentally ill or mentally retarded resident, that there has been a significant change in the resident's physical or mental condition.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to changes in physical or mental condition occurring on or after the date of the enactment of this Act. 42 USC 1396r note.

Approved October 19, 1996.

LEGISLATIVE HISTORY—H.R. 3632:

HOUSE REPORTS: No. 104–817 (Comm. on Commerce).
CONGRESSIONAL RECORD, Vol. 142 (1996):
Sept. 28, considered and passed House.
Oct. 3, considered and passed Senate.

Public Law 104–316
104th Congress

An Act

Oct. 19, 1996
[H.R. 3864]

To amend laws authorizing auditing, reporting, and other functions by the General Accounting Office.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

General Accounting Office Act of 1996.
31 USC 701 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "General Accounting Office Act of 1996".

TITLE I—AMENDMENTS TO LAWS AUTHORIZING AUDITING, REPORTING, AND OTHER FUNCTIONS BY THE GENERAL ACCOUNTING OFFICE

SEC. 101. TRANSFERS AND TERMINATIONS OF FUNCTIONS.

31 USC 702 note.

(a) IN GENERAL.—

(1) FUNCTIONS TRANSFERRED.—In any case in which a provision of law authorizing the performance of a function by the Comptroller General of the United States or the General Accounting Office is amended by this title to substitute another Federal officer, employee, or agency in that authorization, the authority under that provision to perform that function is transferred to the other Federal officer, employee, or agency.

(2) FUNCTIONS TERMINATED.—In any case in which a provision of law authorizing the performance of a function by the Comptroller General of the United States or the General Accounting Office is repealed by this Act, the authority under that provision to perform that function is terminated.

(3) DELEGATION OF FUNCTIONS.—The Director of the Office of Management and Budget may delegate, in whole or in part, to any other agency or agencies any function transferred to or vested in the Director under section 103(d), 105(b), 116, or 202(n) of this Act, and may transfer to such agency or agencies any personnel, budget authority, records, and property received by the Director pursuant to subsection (b) of this section that relate to the delegated functions.

31 USC 702 note.

(b) INCIDENTAL TRANSFERS.—

(1) IN GENERAL.—Incident to any transfer of authority under subsection (a)(1), there shall be transferred to the recipient Federal officer, employee, or agency such personnel, records, budget authority, and property of the General Accounting Office

as the Comptroller General and the Director of the Office of Management and Budget jointly determine to be necessary to effectuate the transfer.

(2) EFFECT ON PERSONNEL.—Personnel transferred under this section shall not be separated or reduced in classification or compensation for one year after any such transfer, except for cause.

(c) REFERENCES.—With respect to any function or authority transferred under this Act and exercised on or after the effective date of that transfer, reference in any Federal law to the Comptroller General or to any officer or employee of the General Accounting Office is deemed to refer to the Federal officer or agency to which the function or authority is transferred under this Act. 31 USC 702 note.

(d) SAVINGS PROVISIONS.— 31 USC 702 note.

(1) ORDERS AND OTHER OFFICIAL ACTIONS NOT AFFECTED.—All orders, determinations, rules, regulations, permits, grants, contracts, certificates, licenses, and privileges—

(A) which have been issued, made, granted, or allowed to become effective by the Comptroller General or any official of the General Accounting Office, or by a court of competent jurisdiction, in the performance of any function or authority transferred under this Act, and

(B) which are in effect at the time of the transfer; shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law.

(2) PENDING MATTERS AND PROCEEDINGS.—This Act shall not affect any pending matters or proceedings, including notices of proposed rulemaking, relating to a function or authority transferred under this Act. Such matters or proceedings shall continue under the authority of the agency to which the function or authority is transferred until completed or terminated in accordance with law.

(3) JUDICIAL PROCEEDINGS AND CAUSES OF ACTIONS.—No suit, action, or other proceeding or cause of action relating to a function or authority transferred under this Act shall abate by reason of the enactment of this Act. If, before the date on which a transfer of a function or authority this Act takes effect, the Comptroller General of the United States or any officer or employee of the General Accounting Office in their official capacity is party to a suit relating to the function or authority, then such suit shall be continued and the head of the agency to which the function or authority is transferred, or other appropriate official of that agency, shall be substituted or added as a party.

(e) EFFECTIVE DATE.— 2 USC 130c note.

(1) IN GENERAL.—Except as provided in paragraph (2), this title shall take effect on the date of enactment of this Act.

(2) EXCEPTIONS.—Sections 103(d), 105(b), and 116 shall take effect 60 days after the date of enactment of this Act.

SEC. 102. AMENDMENTS RELATING TO TITLE 2, UNITED STATES CODE (THE CONGRESS).

(a) COMPLIANCE REPORTING ON REDUCTION IN EMPLOYEE POSITIONS.—Section 307(c) of the Legislative Branch Appropriations Act, 1994 (Public Law 103–69; 107 Stat. 710; 2 U.S.C. 60–1 note) is amended by striking "shall" and inserting "may".

(b) WAIVER OF ERRONEOUS PAYMENTS IN THE SENATE.—Section 2(a) of the Act of July 25, 1974 (Public Law 93–359; 88 Stat. 394; 2 U.S.C. 130c(a)) is amended—

(1) in the first sentence by striking ", if the claim is not the subject of an exception made by the Comptroller General in the account of any accountable officer or official"; and

(2) in the third sentence by striking "shall" the first place it appears and inserting "may".

(c) WAIVER OF ERRONEOUS PAYMENTS IN THE HOUSE OF REPRESENTATIVES.—Section 3(a) of the Act of July 25, 1974 (Public Law 93–359; 88 Stat. 395; 2 U.S.C. 130d(a)) is amended, in the first sentence, by striking ", if the claim is not the subject of an exception made by the Comptroller General in the account of any accountable officer or official".

(d) REPORT ON SEQUESTRATION OF FUNDS TO MEET DEFICIT REDUCTION GOALS.—Section 254 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 904) is amended—

(1) in subsection (a), by striking:

"30 days later ..... GAO compliance report.";

and

(2) in subsection (i), by striking "On the date specified in subsection (a)" and inserting "Upon request of the Committee on the Budget of the House of Representatives or the Senate".

SEC. 103. AMENDMENTS RELATING TO TITLE 5, UNITED STATES CODE (GOVERNMENT ORGANIZATION AND EMPLOYEES).

(a) TRANSMITTAL OF REPORTS.—Section 1213(e) of title 5, United States Code, is amended—

(1) in paragraph (3) by striking the comma after "President" and inserting "and", and by striking ", and the Comptroller General"; and

(2) in paragraph (4) by striking the comma after "President" and inserting "and", and by striking ", and the Comptroller General".

(b) WITHHOLDING OF PAY.—Section 5512(b) of title 5, United States Code, is amended by striking "General Accounting Office" and inserting "employing agency".

(c) DESIGNATION OF BENEFICIARY.—Section 5582(a) of title 5, United States Code, is amended by striking the second sentence and inserting the following: "An employee may change or revoke a designation at any time under regulations promulgated—

"(1) by the Director of the Office of Personnel Management or his designee, in the case of an employee of an executive agency;

"(2) jointly by the President pro tempore of the Senate and the Speaker of the House of Representatives, or their designee, in the case of an employee of the legislative branch; and

"(3) by the Chief Justice of the United States or his or her designee, in the case of an employee of the judicial branch.".

(d) WAIVER OF ERRONEOUS PAYMENTS.—Section 5584 of title 5, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1) by striking "Comptroller General of the United States" and inserting "authorized official"; and

(B) in paragraph (2) by inserting "and" at the end of subparagraph (A), by striking subparagraph (B), by redesignating subparagraph (C) as subparagraph (B), and by striking "Comptroller General" in subparagraph (B) (as so redesignated) and inserting "authorized official";

(2) in subsection (b) by striking "Comptroller General" and inserting "authorized official"; and

(3) by adding at the end the following new subsection:

"(g) For the purpose of this section, the term 'authorized official' means—

"(1) the head of an agency, with respect to an agency or employee in the legislative branch; or

"(2) the Director of the Office of Management and Budget, with respect to any other agency or employee.".

(e) REGULATIONS AND REPORTS.—Section 5707(b)(1)(A) of title 5, United States Code, is amended by striking "the Comptroller General of the United States,".

(f) GAO AUDIT OF AGENCY COMPLIANCE.—Section 5(b) of the Hotel and Motel Fire Safety Act of 1990 (Public Law 101–391; 5 U.S.C. 5707 note) is repealed.

(g) PROCEDURES FOR DEPOSIT OF EMPLOYEES' CONTRIBUTIONS TO RETIREMENT FUNDS.—Sections 8334(a)(2), 8422(c), and 8432(f) of title 5, United States Code, are each amended by striking "Comptroller General of the United States" and inserting "Secretary of the Treasury".

(h) TRANSMITTAL OF COPY OF REPORT ON THE CIVIL SERVICE RETIREMENT AND DISABILITY FUND.—Section 8348(l) of title 5, United States Code, is amended by striking the last sentence in paragraph (1).

(i) TRANSMITTAL OF COPY OF REPORT ON THE THRIFT SAVINGS FUND.—Section 8438(h) of title 5, United States Code, is amended by striking "and the Comptroller General of the United States" in the last sentence of paragraph (1).

(j) RECEIPT OF COPY OF CPA EXAMINATION OF THRIFT SAVINGS FUND.—Section 8439(b)(3) of title 5, United States Code, is amended by striking "and the Comptroller General of the United States".

SEC. 104. AMENDMENTS RELATING TO TITLE 7, UNITED STATES CODE (AGRICULTURE).

(a) AUDIT OF WASHINGTON FAMILY INDEPENDENCE DEMONSTRATION PROJECT.—Section 21(g) of the Food Stamp Act of 1977 (7 U.S.C. 2030(g)) is amended by striking "shall" and inserting "may".

(b) REPORTS ON AMOUNTS OBLIGATED AND EXPENDED BY DEPARTMENT OF AGRICULTURE FOR ADVISORY SERVICES.—Section 641 of the Rural Development, Agriculture, and Related Agencies Appropriations Act, 1990 (7 U.S.C. 2207a) is amended—

(1) in subsection (a)—

(A) by striking "(1)" after "(a)";

(B) by striking "shall (A) submit" and inserting "shall submit"; and

(C) by striking ", and (B) transmit a copy of such report to the Comptroller General of the United States";

(2) by striking subsection (b);

(3) by redesignating paragraph (2) of subsection (a) as subsection (b); and

(4) in subsection (b) (as so redesignated)—

(A) by striking "paragraph (1)" and inserting "subsection (a)"; and

(B) by redesignating subparagraphs (A), (B), and (C) as paragraphs (1), (2), and (3), respectively.

SEC. 105. AMENDMENTS TO TITLE 10, UNITED STATES CODE (ARMED FORCES).

(a) WAIVER OF RECOVERY OF ERRONEOUS ANNUITY PAYMENTS.—Sections 1442 and 1453 of title 10, United States Code, are amended by striking "and the Comptroller General".

(b) WAIVER OF RECOVERY OF ERRONEOUS OVERPAYMENTS.—Section 2774 of such title is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking "Comptroller General" and inserting "Director of the Office of Management and Budget"; and

(B) in paragraph (2), by inserting "and" at the end of subparagraph (A), striking subparagraph (B), redesignating subparagraph (C) as subparagraph (B), and in that subparagraph (as so redesignated), striking "Comptroller General" and inserting "Director of the Office of Management and Budget"; and

(2) in subsection (b), by striking "The Comptroller General" and inserting "The Director of the Office of Management and Budget".

(c) CERTIFICATION TO COMPTROLLER GENERAL OF UNCOLLECTABILITY OF ADVANCES.—Section 2777(b)(2)(B) of such title is amended by striking "to the Comptroller General".

(d) MAINTAINING ACCOUNTS OF MILITARY DEPARTMENTS.—Section 2778 of such title is repealed, and the table of sections at the beginning of chapter 165 of such title is amended by striking the item relating to that section.

(e) RADIOGRAMS AND TELEGRAMS.—Sections 4592 and 9592 of such title are amended by striking ", or may file a claim with the General Accounting Office for" in the second sentence and inserting "of".

SEC. 106. AMENDMENTS RELATING TO TITLE 12, UNITED STATES CODE (BANKS AND BANKING).

(a) REPORT ON PREPURCHASE AND FORECLOSURE-PREVENTION COUNSELING DEMONSTRATION.—Section 106(d) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(d)) is amended—

(1) by striking paragraph (9);

(2) in paragraph (5)(A), by striking "(10)(K)" and inserting "(9)";

(3) in paragraph (8), by striking "(for purposes of the study and report under paragraph (9))"; and

(4) by redesignating paragraphs (10), (11), (12), and (13) as paragraphs (9), (10), (11), and (12), respectively.

(b) ANNUAL GAO COMPLIANCE AUDIT.—

(1) IN GENERAL.—Section 141(a)(2) of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 1823 note) is amended by striking "shall annually audit" and inserting "shall audit, under such conditions as the Comptroller General determines to be appropriate,".

(2) CLERICAL AMENDMENT.—The heading for paragraph (2) of section 141(a) of the Federal Deposit Insurance Corporation

Improvement Act of 1991 (12 U.S.C. 1823 note) is amended by striking "ANNUAL GAO" and inserting "GAO".

(c) QUARTERLY REPORT ON FDIC COMPLIANCE WITH LIMITS ON OUTSTANDING OBLIGATIONS.—Section 102 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 1825 note) is amended by striking subsection (b).

(d) PROMPT CORRECTIVE ACTION: GAO REVIEW.—Section 38(k)(5) of the Federal Deposit Insurance Act (12 U.S.C. 1831o(k)(5)) is amended to read as follows:

"(5) GAO REVIEW.—The Comptroller General of the United States shall, under such conditions as the Comptroller General determines to be appropriate, review reports made under paragraph (1) and recommend improvements in the supervision of insured depository institutions (including the implementation of this section).".

(e) GAO REPORTS ON RISK-BASED INSURANCE PREMIUMS, ACCESS TO ASSOCIATION CAPITAL, AND SUPPLEMENTAL PREMIUMS.—Section 204(a) of the Farm Credit Banks and Associations Safety and Soundness Act of 1992 (Public Law 102-552; 106 Stat. 4106; 12 U.S.C. 2277a–4 note) is amended by striking "shall" and inserting "may".

(f) REVIEW OF FEDERAL AGRICULTURAL MORTGAGE CORPORATION GUARANTEE FEES.—Section 8.10(b)(4) of the Farm Credit Act of 1971 (12 U.S.C. 2279aa–10(b)(4)) is amended—

(1) in the paragraph heading, by striking "ANNUAL REVIEW" and inserting "REVIEW"; and

(2) by striking "shall annually" and inserting "may".

(g) GAO STUDIES OF APPRAISALS.—

(1) IN GENERAL.—Section 1112(c) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3341) is amended—

(A) in paragraph (1), by striking "At the end of the 18-month period" and all that follows through "study" and inserting "The Comptroller General of the United States may conduct, under such conditions as the Comptroller General determines appropriate, studies"; and

(B) in paragraph (2), by striking "required under" and inserting "referred to in".

(2) CLERICAL AMENDMENT.—The heading for section 1112(c)(1) of Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3341(c)(1)) is amended by striking "STUDY REQUIRED" and inserting "GAO STUDIES".

(h) AUDIT OF OFFICE OF FEDERAL HOUSING ENTERPRISE OVERSIGHT.—Section 1319E of the Housing and Community Development Act of 1992 (12 U.S.C. 4524) is amended—

(1) in the first sentence—

(A) by striking "shall" and inserting "may"; and

(B) by inserting ", and any such audit shall be conducted" after "Office"; and

(2) by striking the last sentence.

(i) SHARING OF INFORMATION.—Section 11(t) of the Federal Deposit Insurance Act (12 U.S.C. 1821(t)) is amended by adding at the end of paragraph (2)(A) the following new clause:

"(vi) The General Accounting Office.".

SEC. 107. AMENDMENT RELATING TO TITLE 15, UNITED STATES CODE (COMMERCE AND TRADE).

Section 31(b)(1)(B) of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2227(b)(1)(B)) is amended by striking clause (iii).

SEC. 108. AMENDMENTS RELATING TO TITLE 16, UNITED STATES CODE (CONSERVATION).

(a) LICENSES FOR DEVELOPMENT OF WATER RESOURCES.—Section 6 of the Federal Power Act (16 U.S.C. 799) is amended by striking the last sentence.

(b) AUDIT OF THE BROWNSVILLE WETLANDS POLICY CENTER.—Section 202(d)(4) of the Brownsville Wetlands Policy Act of 1994 (108 Stat. 338) is repealed.

(c) AUDIT OF CENTRAL UTAH PROJECT COST ALLOCATION.—Section 211 of the Reclamation Projects Authorization and Adjustment Act of 1992 (Public Law 102–575) is amended—

(1) by striking "Comptroller General of the United States" and inserting "Inspector General of the Department of the Interior"; and

(2) by striking "in accordance with regulations which the Comptroller General shall prescribe".

(d) REPORT ON GLEN CANYON COSTS AND BENEFITS.—Section 1804 of the Reclamation Projects Authorization and Adjustment Act of 1992 (Public Law 102–575) is amended—

(1) by striking subsection (b); and

(2) by redesignating subsections (c), (d), and (e) as subsections (b), (c), and (d), respectively.

SEC. 109. AMENDMENTS RELATING TO TITLE 18, UNITED STATES CODE (CRIMES AND CRIMINAL PROCEDURE).

(a) PRESIDENTIAL PROTECTION ASSISTANCE: DETERMINATION OF FAIR MARKET VALUE OF IMPROVEMENTS.—Section 5(b) of the Presidential Protection Assistance Act of 1976 (Public Law 94–524; 90 Stat. 2476; 18 U.S.C. 3056 note) is amended by striking "Comptroller General of the United States" and inserting "Director".

(b) DISPUTES OVER PURCHASE OF PRISON-MADE PRODUCTS BY FEDERAL DEPARTMENTS.—Section 4124(b) of title 18, United States Code, is amended by striking "Comptroller General of the United States" and inserting "Attorney General".

SEC. 110. AMENDMENTS RELATING TO TITLE 19, UNITED STATES CODE (CUSTOMS DUTIES).

(a) AUDITS OF THE CUSTOMS FORFEITURE FUND.—Section 613A(e)(2) of the Tariff Act of 1930 (19 U.S.C. 1613b(e)(2)) is amended—

(1) by striking "annual financial"; and

(2) by inserting before the period the following: ", under such conditions as the Comptroller General determines appropriate".

(b) REPORT ON BUSINESSES ESTABLISHED BY CUSTOMS SERVICE FOR UNDERCOVER OPERATIONS.—Section 3131(b) of the Anti-Drug Abuse Act of 1986 (19 U.S.C. 2081(b)) is amended by striking "and the Comptroller General".

SEC. 111. AMENDMENTS RELATING TO TITLE 22, UNITED STATES CODE (FOREIGN RELATIONS AND INTERCOURSE).

(a) ACCOUNTS OF ADVANCES FOR OPERATIONS OF THE INTERNATIONAL JOINT COMMISSION ON THE UNITED STATES-CANADA BOUNDARY WATERS.—The first section of the Act of March 2, 1921 (chapter 113; 22 U.S.C. 268b) is amended by striking "chiefs of parties" the first place it appears and all that follows through "chiefs of parties" the next place it appears and inserting "chiefs of parties".

(b) PREPARATION OF SCOPE OF AUDIT AND REVIEW OF AUDITS OF INTER-AMERICAN DEVELOPMENT BANK.—Section 14 of the Inter-American Development Bank Act (22 U.S.C. 283j–1) is amended—

(1) in subsection (b), by striking "Comptroller General of the United States shall prepare for the Secretary of the Treasury" and inserting "Secretary of the Treasury shall prepare"; and

(2) in subsection (c), in the second sentence, by striking "shall periodically" and inserting "may".

(c) REPORTS BY THE GENERAL ACCOUNTING OFFICE.—Section 4 of the Foreign Direct Investment and International Financial Data Improvements Act of 1990 (22 U.S.C. 3143) is amended—

(1) in subsection (a), by striking "report required under" and inserting "reports referred to in"; and

(2) in subsection (b)—

(A) by striking "(b)" and all that follows through "shall submit" and inserting "(b) REPORTS.—Consistent with the provisions of this section, the Comptroller General may submit";

(B) by striking "Congress, a report" and inserting "Congress reports";

(C) in paragraph (1) by striking "the report of the Secretary of Commerce" and inserting "reports issued by the Secretary of Commerce under section 3"; and

(D) by striking the last sentence of the subsection.

SEC. 112. AMENDMENTS RELATING TO TITLE 25, UNITED STATES CODE (INDIANS).

(a) COPIES OF INDIAN SERVICE CONTRACTS.—Section 7 of the Act of March 3, 1875 (25 U.S.C. 96), is repealed.

(b) COPIES OF INDIAN SERVICE CONTRACT BIDS.—Section 3 of the Act of August 15, 1876 (25 U.S.C. 97), is amended by striking "; and an abstract of all bids or proposals received for the supplies or services embraced in any contract shall be attached to, and filed with, the said contract when the same is filed in the office of the Second Comptroller of the Treasury" and inserting in lieu thereof a period.

SEC. 113. AMENDMENT RELATING TO TITLE 26, UNITED STATES CODE (INTERNAL REVENUE CODE).

Section 7608(c)(2) of the Internal Revenue Code of 1986 (26 U.S.C. 7608(c)(2)), is amended by striking "and the Comptroller General of the United States".

SEC. 114. AMENDMENT RELATING TO TITLE 28, UNITED STATES CODE (JUDICIARY AND JUDICIAL PROCEDURE).

Section 2410(e) of title 28, United States Code, is amended by striking, in the second sentence, "shall so report to the Comptroller General who".

SEC. 115. AMENDMENTS RELATING TO TITLE 31, UNITED STATES CODE (MONEY AND FINANCE).

(a) TREATMENT OF RECORDS CONTAINING BANKING AGENCY INFORMATION.—Section 714(d) of title 31, United States Code, is amended by striking the last sentence of paragraph (1) and by amending paragraph (2) to read as follows:

"(2) The Comptroller General shall prevent unauthorized access to records or property of or used by an agency that the Comptroller General obtains during an audit.".

(b) REPORT ON AUDITS AND CONFIDENTIALITY OF TAXPAYER INFORMATION.—Section 719 of title 31, United States Code, is amended—

(1) by striking subsection (d); and

(2) by redesignating subsections (e), (f), (g), (h), and (i) as subsections (d), (e), (f), (g), and (h), respectively.

(c) COMPLIANCE REPORTING ON ADMINISTRATIVE EXPENSES.—Section 308(c) of the Legislative Branch Appropriations Act, 1994 (Public Law 103–69; 107 Stat. 710; 31 U.S.C. 1105 note) is amended by striking "shall" and inserting "may".

(d) PAYING CHECKS AND DRAFTS.—Section 3328 of title 31, United States Code, is amended—

(1) in subsection (a)(2), by striking "until the Comptroller General settles the question" and inserting "until the question is settled";

(2) in subsection (b)(2), by striking "on settlement by the Comptroller General"; and

(3) in subsection (d), by striking "With the approval of the Comptroller General, the" and inserting "The".

(e) WITHHOLDING CHECKS TO BE SENT TO FOREIGN COUNTRIES.—Section 3329(b)(4) of title 31, United States Code, is amended by striking the last two sentences and inserting "The Secretary shall credit the accounts of the drawer and drawee.".

(f) PROPERTY RETURNS.—

(1) REPEAL.—Section 3531 of title 31, United States Code, is repealed.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 35 of title 31, United States Code, is amended by striking the item relating to section 3531.

(g) CLAIMS COLLECTION AND COMPROMISE.—

(1) IN GENERAL.—Section 3711 of title 31, United States Code, is amended—

(A) in subsection (a)(2), by inserting before the semicolon the following: ", except that only the Comptroller General may compromise a claim arising out of an exception the Comptroller General makes in the account of an accountable official";

(B) by striking subsection (b);

(C) by redesignating subsections (c), (d), (e), and (f) and the first subsection (g) in order as subsections (b), (c), (d), (e), and (f); and

(D) in subsection (d) (as so redesignated), by striking "and the Comptroller General" and by striking "jointly" from paragraph (2).

(2) CONFORMING AMENDMENTS.—

(A) Section 3701(d) of title 31, United States Code, is amended by striking "3711(f)" and inserting "3711(e)".

(B) Section 552a of title 5, United States Code, is amended by striking "3711(f)" each place it appears and inserting "3711(e)".

(C) Section 2780(b) of title 10, United States Code, is amended by striking "3711(f)" and inserting "3711(e)".

(D) Section 4(d)(6) of the State Department Basic Authorities Act of 1956 (Chapter 841; 22 U.S.C. 2671(d)(6)) is amended by striking "3711(f)" and inserting "3711(e)".

(E) Section 204(f)(1) of the Social Security Act (42 U.S.C. 404(f)(1)) is amended by striking "3711(f)" and inserting "3711(e)".

(h) AUDIT OF PROCEEDS FROM SALES OF COMMEMORATIVE COINS.—Section 303 of Public Law 103–186 (31 U.S.C. 5112 note) is amended—

(1) by striking "Before the end of the 1-year period" and all that follows through "the Comptroller General of the United States shall" and inserting "The Comptroller General of the United States may"; and

(2) by striking "sale of such coins" and inserting "sale of commemorative coins".

(i) REPORT ON IMPLEMENTATION OF INTERGOVERNMENTAL FINANCING.—Section 6 of the Cash Management Improvement Act of 1990 (31 U.S.C. 6503 note) is repealed.

(j) CONSULTATION ON ACCOUNTING, AUDIT AND FISCAL PROCEDURES.—Section 6703(d)(6) of title 31, United States Code, is amended by striking "after consultation with the Comptroller General of the United States".

(k) REVIEWS OF LOCAL PARTNERSHIP ACT PROGRAM.—Section 6718(b) of title 31, United States Code, is amended by striking "shall" each place it appears and inserting "may".

SEC. 116. AMENDMENT TO TITLE 32, UNITED STATES CODE (NATIONAL GUARD).

Section 716 of title 32, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking "Comptroller General" and inserting "Director of the Office of Management and Budget"; and

(B) in paragraph (2), by inserting "and" at the end of subparagraph (A), striking subparagraph (B), redesignating subparagraph (C) as subparagraph (B), and in that subparagraph (as so redesignated), striking "Comptroller General" and inserting "Director of the Office of Management and Budget"; and

(2) in subsection (b), by striking "The Comptroller General" and inserting "The Director of the Office of Management and Budget".

SEC. 117. AMENDMENT RELATING TO TITLE 33, UNITED STATES CODE (NAVIGATION AND NAVIGABLE WATERS).

Section 214 of the Water Resources Development Act of 1992 (106 Stat. 4831–4832; 33 U.S.C. 2281 note) is repealed.

SEC. 118. AMENDMENT TO TITLE 37, UNITED STATES CODE (PAY AND ALLOWANCES OF THE UNIFORMED SERVICES).

Section 902(b) of title 37, United States Code, is amended by striking "the General Accounting Office, under the direction of the Secretary of the Navy, may" and inserting "the Secretary of the Navy may".

SEC. 119. AMENDMENT TO TITLE 38, UNITED STATES CODE (VETERANS' BENEFITS).

Section 711(d) of title 38, United States Code, is amended by inserting ", upon request of either of such Committees," in the first sentence after "the Comptroller General shall".

SEC. 120. AMENDMENTS RELATING TO TITLE 40, UNITED STATES CODE (PUBLIC BUILDINGS, PROPERTY, AND WORKS).

(a) PAYMENT OF EXPENSES OF SALES FROM PROCEEDS.—Section 1 of the Act of June 8, 1896 (29 Stat. 268; 40 U.S.C. 485a) is amended by striking ", as approved by the accounting officers of the Treasury,".

(b) FURNISHING DETERMINATIONS TO THE GENERAL ACCOUNTING OFFICE.—Section 210(a)(8) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(a)(8)) is amended by striking ". A copy of every such determination so made shall be furnished to the General Accounting Office".

SEC. 121. AMENDMENTS RELATING TO TITLE 41, UNITED STATES CODE (PUBLIC CONTRACTS).

(a) COMPTROLLER GENERAL REVIEW OF FRAUDULENT WAR CONTRACT SETTLEMENTS.—Section 16 of the Contract Settlement Act of 1944 (41 U.S.C. 116) is repealed.

(b) RECORDS OF WAR CONTRACT FINANCING AND TERMINATIONS.—Section 18(a) of the Contract Settlement Act of 1944 (41 U.S.C. 118(a)) is amended—

(1) by striking "(1)"; and

(2) by striking "; and (2) the records in connection therewith to be transmitted to the General Accounting Office".

(c) COPIES OF CONTRACTS AND ADMINISTRATIVE DETERMINATIONS.—Section 307(b) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 257(b)) is amended by striking the second sentence.

SEC. 122. AMENDMENTS RELATING TO TITLE 42, UNITED STATES CODE (PUBLIC HEALTH AND WELFARE).

(a) CONSULTATION ON ADMINISTRATIVE EXPENSES OF THE NATIONAL INSTITUTES OF HEALTH.—Section 408(a)(3) of the Public Health Service Act (42 U.S.C. 284c(a)(3)) is amended by striking the last sentence.

(b) AUDIT OF NATIONAL FOUNDATION FOR BIOMEDICAL RESEARCH.—Section 499(n) of the Public Health Service Act (42 U.S.C. 290b(n)) is repealed.

(c) CONSULTATION AND REPORTS ON GRANTS FOR TRANSITION FROM HOMELESSNESS.—Section 528 of the Public Health Service Act (42 U.S.C. 290cc-28) is amended—

(1) in subsection (a), by striking "the Comptroller General of the United States, and"; and

(2) in subsection (c), by striking "Comptroller General of the United States in cooperation with the" and by striking the comma after "Administration".

(d) CONSULTATION AND REPORT ON TRAUMA CARE GRANTS.—Section 1216(a) of the Public Health Service Act (42 U.S.C. 300d–16(a)) is amended by striking "and the Comptroller General of the United States".

(e) CONSULTATION ON MENTAL HEALTH AND SUBSTANCE ABUSE BLOCK GRANTS.—Section 1942(a) of the Public Health Service Act (42 U.S.C. 300x–52(a)) is amended by striking "and the Comptroller General".

(f) STATE REPORTS ON MATERNAL AND CHILD HEALTH PROGRAMS.—Section 506(a)(1) of the Act of August 14, 1935, ch. 531 (42 U.S.C. 706(a)(1)) is amended by striking "and the Comptroller General".

(g) REVIEW HHS CALCULATION OF REIMBURSEMENT RATE.—Section 4204(b) of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 1395mm note) is amended—

(1) by striking paragraph (4);

(2) in paragraph (5), by striking "Taking into account the recommendations made pursuant to paragraph (4), on" and inserting "On"; and

(3) by redesignating paragraph (5) as paragraph (4).

(h) STUDY OF OWNERSHIP OF PROVIDERS OF MEDICARE SERVICES BY REFERRING PHYSICIANS.—

(1) Section 6204(e) of the Omnibus Budget Reconciliation Act of 1989 (42 U.S.C. 1395nn note) is repealed.

(2) Section 6204(f) of the Omnibus Budget Reconciliation Act of 1989 (42 U.S.C. 1395nn note) is amended by striking "and the Comptroller General".

(i) REPORTS ON PRESCRIPTION DRUG PRICING.—Section 4401(d) of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 1396r–8 note) is amended—

(1) in paragraph (2), by—

(A) striking "By not later than May 1 of each year, the" and inserting "The";

(B) striking "an annual" and inserting "a"; and

(C) striking "retail and"; and

(2) by striking paragraph (6).

(j) STUDY OF DEMONSTRATION TO ATTRACT PENSION FUND INVESTMENT IN AFFORDABLE HOUSING.—Section 6 of the HUD Demonstration Act of 1993 (42 U.S.C. 1437f) is amended by— 42 USC 1437f note.

(1) striking subsection (i); and

(2) redesignating subsection (j) as subsection (i).

(k) AUDIT OF HUD LOW-INCOME HOUSING ACCOUNTS.—Section 10(a)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437h) is amended by—

(1) striking "annually";

(2) striking, after "accounts which", "shall", and inserting "may";

(3) striking "in accordance with the principles and procedures applicable to commercial transactions"; and

(4) striking ", and no other audit shall be required".

(l) REPORT ON THE FAMILY SELF-SUFFICIENCY PROGRAM.—Section 23(m) of the United States Housing Act of 1937 (42 U.S.C. 1437u(m)) is amended—

(1) in paragraph (1)—

(A) by striking "shall", and inserting "may"; and

(B) by striking "(1) IN GENERAL.—"; and

(2) by striking paragraph (2).

42 USC 3721 note.

(m) METHODOLOGY OF STUDY.—Section 211(B)(f)(2) of Public Law 101–515, as amended by the Violent Crime Control and Law Enforcement Act of 1994, is amended by striking "shall serve" and all that follows through "approve" and inserting "may serve in an advisory capacity, may oversee the methodology, and may approve".

(n) STUDIES OF INCENTIVE GRANTS FOR LOCAL DELINQUENCY PREVENTION PROGRAMS.—Section 5(b) of the Act of November 4, 1992 (42 U.S.C. 5781 note, Public Law 102–586), is amended to read as follows:

"(b) GAO STUDIES AND REPORTS.—Under such conditions as the Comptroller General of the United States determines appropriate, the General Accounting Office may conduct studies and report to Congress on the effects of the program established by subsection (a) in encouraging States and units of general local government to comply with the requirements of part B of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5631–5633).".

(o) AUDITS OF RECIPIENTS OF LOAN GUARANTEES FOR ALTERNATIVE FUEL DEMONSTRATION FACILITIES.—Section 19(x)(1) of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5919(x)(1)) is amended—

(1) in subparagraph (A), by striking "(A)"; and

(2) by striking subparagraph (B).

(p) REPORT ON USE OF SUBPOENA AUTHORITY TO GET ENERGY INFORMATION.—Section 502(f) of the Energy Policy and Conservation Act (42 U.S.C. 6382(f)) is repealed.

(q) CONSULTATION WITH THE SECRETARY OF ENERGY CONCERNING TERMINATION OF LOAN GUARANTEES.—Section 451 of the Energy Conservation in Existing Buildings Act of 1976 (42 U.S.C. 6881) is amended, in subsection (d) and in the first sentence of subsection (e)(1), by striking "and the Comptroller General".

(r) REPORT ON POLLUTION CONTROL STRATEGIES AND EMPLOYMENT EFFECTS OF CLEAN AIR ACT AMENDMENTS OF 1990.—Section 812(b) of the Clean Air Act Amendments of 1990 (42 U.S.C. 7612 note) is repealed.

(s) REPORT ON ENERGY CONSERVATION BY FEDERAL AGENCIES.—Section 801(c) of the National Energy Conservation Policy Act (42 U.S.C. 8287(c)) is amended—

(1) in paragraph (1), by striking "(1)"; and

(2) by striking paragraph (2).

(t) EVALUATION OF HOMELESS ASSISTANCE PROGRAMS.—Section 105 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11304) is amended—

(1) by striking "shall annually" and inserting "may"; and

(2) by striking ", and submit to the Congress an annual summary of the status of each program authorized under this Act".

(u) CONSULTATION ON ACCOUNTING, AUDIT AND FISCAL PROCEDURES.—Section 30203(b)(5) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13753(b)(5)) is amended by striking "after consultation with the Comptroller General of the United States".

(v) STUDY OF SKILLED NURSING FACILITIES.—Section 6026 of the Omnibus Budget Reconciliation Act of 1989 (Public Law 101–239) is repealed.

103 Stat. 2168.

(w) REPORT ON GEOGRAPHIC COST ADJUSTMENT FOR DURABLE MEDICAL EQUIPMENT.—Section 135(c)(2) of the Social Security Act Amendments of 1994 (Public Law 103–432) is amended—

(1) by striking the dash and "(A)" and inserting a comma, and

(2) by striking "; and" and all that follows and inserting a period.

SEC. 123. AMENDMENTS RELATING TO TITLE 44, UNITED STATES CODE (PUBLIC PRINTING AND DOCUMENTS).

(a) AUDIT OF GOVERNMENT PRINTING OFFICE.—Section 309 of title 44, United States Code, is amended—

(1) by amending subsection (d) to read as follows:

"(d) The Inspector General of the Government Printing Office shall audit the financial and operational activities of the Government Printing Office each year. The audits shall be conducted under the direction of the Joint Committee on Printing. For purposes of the audits, the Inspector General shall have such access to the records, files, personnel, and facilities of the Government Printing Office as the Inspector General considers appropriate. The Inspector General shall furnish reports of the audits to the Congress and the Public Printer."; and

(2) by adding at the end the following new subsections:

"(e) The Public Printer shall prepare an annual financial statement meeting the requirements of section 3515(b) of title 31, United States Code. Each financial statement shall be audited in accordance with applicable generally accepted Government auditing standards—

"(1) by an independent external auditor selected by the Public Printer, or

"(2) at the request of the Joint Committee on Printing, by the Inspector General of the Government Printing Office.

"(f) The Comptroller General of the United States may audit the financial statement prepared under subsection (e) at his or her discretion or at the request of the Joint Committee on Printing. An audit by the Comptroller General shall be in lieu of the audit otherwise required by that subsection.".

(b) PUBLICATION OF DECISIONS OF THE COMPTROLLER GENERAL.—

(1) Section 1311 of title 44, United States Code, is repealed.

(2) The table of sections for chapter 13 of title 44, United States Code, is amended by striking out the item relating to section 1311.

SEC. 124. AMENDMENT RELATING TO TITLE 45, UNITED STATES CODE (RAILROADS).

Section 1036(f) of the Intermodal Surface Transportation Efficiency Act of 1991 (45 U.S.C. 831 note) is amended by striking "and annually thereafter,".

SEC. 125. AMENDMENT RELATING TO TITLE 46, UNITED STATES CODE (SHIPPING).

Section 901(a) of the Merchant Marine Act of 1936 (46 U.S.C. App. 1241(a)) is amended—

(1) by striking ": *Provided,* That the Comptroller General of the United States" and inserting ". The Administrator of General Services shall prescribe regulations under which agencies"; and

(2) by striking "credit any allowance" and inserting "pay for or reimburse officers or employees".

SEC. 126. AMENDMENTS RELATING TO TITLE 47, UNITED STATES CODE (TELEGRAPHS, TELEPHONES, AND RADIOTELEGRAPHS).

(a) APPROVE STANDARDS ADOPTED BY THE CORPORATION FOR PUBLIC BROADCASTING FOR VALUING VOLUNTEER SERVICES.—Section 397(9) of the Communications Act of 1934 (47 U.S.C. 397(9)) is amended, in the last sentence—

(1) by striking "and approved by the Comptroller General pursuant to section 396(g)(5)"; and

(2) by striking "with respect to such services provided to public telecommunications entities after such standards are approved by the Comptroller General and only".

(b) REPORT ON PAYMENTS BY ATTORNEY GENERAL TO CARRIERS FOR INTERCEPTION OF COMMUNICATIONS.—

(1) Section 112(b)(1) of the Communications Assistance for Law Enforcement Act (47 U.S.C. 1010(b)(1)) is amended by amending the matter preceding subparagraph (A) to read as follows:

"(1) On or before April 1, 1996, the Comptroller General of the United States, and every two years thereafter, the Inspector General of the Department of Justice, shall submit to the Congress a report, after consultation with the Attorney General and the telecommunications industry—".

(2) Section 112(b)(2) of the Communications Assistance for Law Enforcement Act (47 U.S.C. 1010(b)(2)) is amended—

(A) after "include", by striking "the"; and

(B) by striking "of the Comptroller General".

SEC. 127. AMENDMENTS RELATING TO TITLE 49, UNITED STATES CODE (TRANSPORTATION).

(a) AUDIT OF ACCOUNTS OF DEPARTMENT OF TRANSPORTATION.—Section 5334(c)(2) of title 49, United States Code, is amended by striking "the Comptroller General shall" and inserting "for".

(b) REPORT ON MASS TRANSPORTATION NEEDS.—Sections 5335(c) and 5335(d) of title 49, United States Code, are each amended by striking "and in January of every 2d year after 1993".

(c) AUDIT OF FINANCIAL ASSISTANCE FOR LOCAL RAIL FREIGHT SERVICE.—Section 22107(b) of title 49, United States Code, is amended by striking "and the Comptroller General".

(d) TRANSPORTATION BY FOREIGN AIR CARRIERS.—Section 40118(c) of title 49, United States Code, is amended by striking "Comptroller General shall" and inserting "Administrator of General Services shall prescribe regulations under which agencies may".

(e) AUDIT OF AVIATION INSURANCE OFFERED BY DEPARTMENT OF TRANSPORTATION.—Section 44308(e) of title 49, United States Code, is amended by striking ". The Comptroller General shall audit those accounts" and inserting "for audit".

(f) AUDIT OF FINANCIAL ASSISTANCE FOR AIRPORT AND AIRWAY DEVELOPMENT.—Section 47121(c) of title 49, United States Code, is amended—

(1) in the first sentence, by striking "Comptroller General" and inserting "Secretary";

(2) in the second sentence—

(A) by striking "Not later than April 15 of each year, the", and inserting "The"; and

(B) by striking "shall" and inserting "may"; and

(3) by striking the third sentence.

(g) STUDY OF ENHANCED PROCUREMENT AUTHORITY FOR FEDERAL AVIATION ADMINISTRATION.—Section 9206 of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508) is repealed. 104 Stat. 1388–377.

SEC. 128. AMENDMENTS RELATING TO TITLE 50, UNITED STATES CODE (WAR AND NATIONAL DEFENSE).

(a) AUDIT OF TERMINATION PAYMENTS ON CONTRACTS FOR CERTAIN AIR DEFENSE SYSTEMS.—Section 1 of the Act of March 30, 1949 (62 Stat. 17; 50 U.S.C. 491), is amended in the third sentence of the second paragraph—

(1) by striking "no termination payment shall be final until audited and approved by";

(2) by striking "which" after "General Accounting Office"; and

(3) by inserting "of audit" after "purpose".

(b) DETERMINATIONS OF ENTITLEMENT TO WAR CLAIM AWARDS.—Section 213(d) of the War Claims Act of 1948 (50 U.S.C. App. 2017l(d)) is amended by striking "Comptroller General" and inserting "Secretary of the Treasury".

(c) FOREIGN POLICY CONTROLS: CONSULTATION WITH CONGRESS.—Section 6(f)(3) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(f)(3)) is amended by striking the second sentence.

SEC. 129. AMENDMENT RELATING TO THE DISTRICT OF COLUMBIA.

Section 145 of the District of Columbia Retirement Reform Act (sec. 1–725, D.C. Code) is amended as follows:

(1) In subsection (b)—

(A) in paragraph (1)—

(i) by striking "(1)",

(ii) by striking "and the Comptroller General", and

(iii) by striking "each" the first and third places it appears; and

(B) by striking paragraphs (2) and (3).

(2) In subsection (c)(1), by striking "Comptroller General pursuant to subsection (b)" and inserting "enrolled actuary pursuant to subsection (a)".

(3) In subsection (c)(3)(A)—

(A) by striking "Comptroller General pursuant to subsection (b)" and inserting "enrolled actuary pursuant to subsection (a)";

(B) by striking "and the Comptroller General"; and

(C) by striking "of the Comptroller General".

(4) In subsection (c)(3)(B), by striking "the Comptroller General, the Board," and inserting "the Board".

(5) In subsection (c)(3)(C)(1)—

(A) by striking "The Comptroller General, on the basis of such reports from the Board and" and inserting "The Board, on the basis of such reports from";

(B) by striking "The Comptroller General shall report the amount of such reduction so caused to the Board and" and inserting "The Board shall report the amount of such reduction so caused"; and

(C) by striking "he receives" and inserting "the Board receives".

(6) In subsection (c)(3)(C)(2), by striking "by the Comptroller General".

TITLE II—CONFORMING AMENDMENTS TO ENACT TRANSFERS AND DELEGATIONS OF FUNCTIONS UNDER OTHER LAWS

31 USC 501 note.

SEC. 201. PURPOSE.

The purpose of this title is to amend provisions of law to reflect, update, and enact transfers and subsequent delegations of functions made under section 211 of the Legislative Branch Appropriations Act, 1996 (Public Law 104–53, 109 Stat. 535), as in effect immediately before this title takes effect.

SEC. 202. CONFORMING AMENDMENTS.

(a) CLAIMS FOR PROCEEDS FROM SALE OF HOUSEHOLD AND PERSONAL EFFECTS.—Section 5564(h) of title 5, United States Code, is amended by striking "General Accounting Office" each place it appears and inserting "Administrator of General Services".

(b) SETTLEMENT OF ACCOUNTS OF DECEASED EMPLOYEES.—Section 5583 of title 5, United States Code, is amended—

(1) in subsection (a) by striking "Comptroller General of the United States" and inserting "Director of the Office of Personnel Management"; and

(2) in subsection (b) by striking the first sentence and inserting: "The Director may by regulation prescribe the method for settlement of accounts payable under subsection (a) of this section.".

(c) REMISSION OF LIQUIDATED DAMAGES.—Section 2312 of title 10, United States Code, is amended by striking "Comptroller General" and inserting "Secretary of the Treasury".

(d) DISPOSITION OF UNCLAIMED PROPERTY.—Section 2575(d) of title 10, United States Code, is amended by striking "Comptroller General of the United States" both places it appears and inserting "Secretary of Defense".

(e) PAYMENT OF CLAIMS.—Sections 2733(d) and 2734(d) of title 10, United States Code, are amended by striking "Comptroller General" and inserting "Secretary of the Treasury".

(f) SETTLEMENT OF ACCOUNTS OF DECEASED MEMBERS.—Section 2771(c) of title 10, United States Code, is amended to read as follows:

"(c) Payments under subsection (a) shall be made by the Secretary of Defense.".

(g) DISPOSITION OF EFFECTS OF DECEASED MEMBERS.—Sections 4712 and 9712 of title 10, United States Code, are amended by striking subsection (g).

(h) SETTLEMENT OF INTERNATIONAL CLAIMS.—Section 7 of the International Claims Settlement Act of 1949 (22 U.S.C. 1626) is amended—

(1) in subsection (c)—

(A) in paragraph (1) by striking "Comptroller General" and inserting "Secretary of the Treasury"; and

(B) in paragraph (2) by striking "Comptroller General of the United States" and inserting "Secretary of the Treasury"; and

(2) in subsection (d) by striking ", or the Comptroller General of the United States, as the case may be,".

(i) ESTATES OF DECEDENTS.—Section 1709 of the Revised Statutes (22 U.S.C. 4195) is amended—

(1) by striking "General Accounting Office" each place it appears and inserting "Department of State";

(2) in the penultimate paragraph—

(A) in the first sentence, by striking "Comptroller General of the United States, or such member of the General Accounting Office as he may duly empower to act as his representative for the purpose," and inserting "Secretary of State or the Secretary's representative"; and

(B) by striking "Comptroller General" and inserting "Secretary of State"; and

(3) in the last paragraph—

(A) by striking "office" and inserting "department"; and

(B) by striking "Comptroller General" and inserting "Secretary of State".

(j) DISPOSITION OF EFFECTS OF DECEASED ARMED FORCES RETIREMENT HOME RESIDENTS.—Section 1520 of the Armed Forces Retirement Home Act of 1991 (24 U.S.C. 420) is amended—

(1) in subsection (b)(1)(C)—

(A) by striking "Comptroller General of the United States" in the second sentence and inserting "Secretary of Defense"; and

(B) by striking "Comptroller General" in the third sentence and inserting "Secretary"; and

(2) in subsection (d)—

(A) by striking "Comptroller General of the United States" in paragraph (1) and inserting "Secretary of Defense"; and

(B) by striking "Comptroller General" in paragraphs (2) and (3) and inserting "Secretary".

(k) PAYMENT OF JUDGMENTS AND COMPROMISE SETTLEMENTS.—Section 2414 of title 28, United States Code, is amended in the first paragraph by striking "General Accounting Office" each place it appears and inserting "Secretary of the Treasury".

(l) PAYMENT OF JUDGMENTS.—Section 2517(a) of title 28, United States Code, is amended by striking "General Accounting Office" and inserting "Secretary of the Treasury".

(m) JUDGMENT FUND CERTIFICATIONS.—Section 1304 of title 31, United States Code, is amended by striking "Comptroller General" each place it appears and inserting "Secretary of the Treasury".

(n) CLAIMS SETTLEMENT.—

(1) IN GENERAL.—Section 3702 of title 31, United States Code, is amended—

(A) in the heading by striking "**of the Comptroller General**";

(B) by amending subsection (a) to read as follows:

"(a) Except as provided in this chapter or another law, all claims of or against the United States Government shall be settled as follows:

"(1) The Secretary of Defense shall settle—

"(A) claims involving uniformed service members' pay, allowances, travel, transportation, retired pay, and survivor benefits; and

"(B) claims by transportation carriers involving amounts collected from them for loss or damage incurred to property incident to shipment at Government expense.

"(2) The Director of the Office of Personnel Management shall settle claims involving Federal civilian employees' compensation and leave.

"(3) The Administrator of General Services shall settle claims involving expenses incurred by Federal civilian employees for official travel and transportation, and for relocation expenses incident to transfers of official duty station.

"(4) The Director of the Office of Management and Budget shall settle claims not otherwise provided for by this subsection or another provision of law.";

(C) in subsection (b)(1), by amending that portion of the second sentence preceding subparagraph (A) to read "The claim must be received by the official responsible under subsection (a) for settling the claim or by the agency that conducts the activity from which the claim arises within 6 years after the claim accrues except—";

(D) in subsection (b)(2) by striking "presented to the Comptroller General" and inserting "received", and by striking "clause" and inserting "paragraph";

(E) by amending subsection (b)(3) to read as follows: "(3) A claim that is not received in the time required under this subsection shall be returned with a copy of this subsection, and no further communication is required."; and

(F) in subsection (d), by striking "Comptroller General" the first place it appears and inserting "official responsible under subsection (a) for settling the claim"; and by striking "Comptroller General" every other place it appears and inserting "official".

(2) CLERICAL AMENDMENT.—Chapter 37 of title 31, United States Code, is amended in the table of sections at the beginning of the chapter, by amending the item relating to section 3702 to read as follows:

"3702. Authority to settle claims.".

(o) TRANSPORTATION CLAIMS.—Section 3726 of title 31, United States Code, is amended—

(1) in subsection (f) by striking "and the Comptroller General prescribe jointly" and inserting "prescribes"; and

(2) in subsection (g)(1) by striking "Comptroller General" and inserting "Administrator of General Services".

(p) SETOFF AGAINST JUDGMENTS.—Section 3728 of title 31, United States Code, is amended—

(1) in subsection (a) by striking "Comptroller General" the first place it appears and inserting "Secretary of the Treasury"; and

(2) by striking "Comptroller General" each place it appears thereafter and inserting "Secretary".

(q) SETTLEMENT OF ACCOUNTS OF DECEASED MEMBERS.—Section 714(c) of title 32, United States Code, is amended—

(1) in the first sentence, by striking "Comptroller General" and inserting "Secretary concerned"; and

(2) by striking the second sentence.

(r) PAYMENT OF CLAIMS RELATING TO NATIONAL GUARD ACTIVITIES.—Section 715(d) of title 32, United States Code, is

amended by striking "Comptroller General" and inserting "Secretary of the Treasury".

(s) CLAIMS FOR NET PROCEEDS FROM SALES OF HOUSEHOLD AND PERSONAL EFFECTS.—Section 554(h) of title 37, United States Code, is amended by striking "General Accounting Office" each place it appears and inserting "Secretary of Defense".

(t) CANCELLATION OF CHECKS MAILED TO DECEASED PAYEES.—Section 5122 of title 38, United States Code, is amended by striking "upon settlement by the General Accounting Office".

(u) WAIVER OF LIQUIDATED DAMAGES.—Section 10(a) of the Act of September 5, 1950 (64 Stat. 591; 41 U.S.C. 256a), is amended by striking "Comptroller General" and inserting "Secretary of the Treasury".

SEC. 203. REPEAL.

Section 211 of the Legislative Branch Appropriations Act, 1996 (Public Law 104–53; 109 Stat. 535) is amended to read as follows: 31 USC 501 note.

"SEC. 211. Personnel transferred pursuant to this section, as in effect immediately before the effective date of section 303 of the General Accounting Office Act of 1996, shall not be separated or reduced in classification or compensation for one year after any such transfer, except for cause.".

SEC. 204. AUTHORITY TO RENDER DECISIONS.

Section 3529(b) of title 31, United States Code, is amended—

(1) by striking "The Comptroller General shall" and inserting "(1) Except as provided in paragraph (2), the Comptroller General shall"; and

(2) by adding at the end the following new paragraph:

"(2) A decision requested under this section concerning a function transferred to or vested in the Director of the Office of Management and Budget under section 211(a) of the Legislative Branch Appropriations Act, 1996 (109 Stat. 535), as in effect immediately before the effective date of title II of the General Accounting Office Act of 1996, or under this Act, shall be issued—

"(A) by the Director of the Office of Management and Budget, except as provided in subparagraph (B); or

"(B) in the case of a function delegated by the Director to another agency, by the head of the agency to which the function was delegated.".

Approved October 19, 1996.

LEGISLATIVE HISTORY—H.R. 3864:

CONGRESSIONAL RECORD, Vol. 142 (1996):
Sept. 4, considered and passed House.
Oct. 3, considered and passed Senate.

Public Law 104–317
104th Congress

An Act

To make improvements in the operation and administration of the Federal courts, and for other purposes.

Oct. 19, 1996
[S. 1887]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Federal Courts Improvement Act of 1996.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

28 USC 1 note.

(a) SHORT TITLE.—This Act may be cited as the "Federal Courts Improvement Act of 1996".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—CRIMINAL LAW AND CRIMINAL JUSTICE AMENDMENTS

Sec. 101. New authority for probation and pretrial services officers.

TITLE II—JUDICIAL PROCESS IMPROVEMENTS

Sec. 201. Duties of magistrate judge on emergency assignment.
Sec. 202. Consent to trial in certain criminal actions.
Sec. 203. Registration of judgments for enforcement in other districts.
Sec. 204. Vacancy in clerk position; absence of clerk.
Sec. 205. Diversity jurisdiction.
Sec. 206. Removal of cases against the United States and Federal officers or agencies.
Sec. 207. Appeal route in civil cases decided by magistrate judges with consent.
Sec. 208. Reports by judicial councils relating to misconduct and disability orders.

TITLE III—JUDICIARY PERSONNEL ADMINISTRATION, BENEFITS, AND PROTECTIONS

Sec. 301. Senior judge certification.
Sec. 302. Refund of contribution for deceased deferred annuitant under the Judicial Survivors' Annuities System.
Sec. 303. Bankruptcy judges reappointment procedure.
Sec. 304. Technical correction related to commencement date of temporary judgeships.
Sec. 305. Full-time status of court reporters.
Sec. 306. Court interpreters.
Sec. 307. Technical amendment related to commencement date of temporary bankruptcy judgeships.
Sec. 308. Contribution rate for senior judges under the judicial survivors' annuities system.
Sec. 309. Prohibition against awards of costs, including attorney's fees, and injunctive relief against a judicial officer.

TITLE IV—JUDICIAL FINANCIAL ADMINISTRATION

Sec. 401. Increase in civil action filing fee.
Sec. 402. Interpreter performance examination fees.
Sec. 403. Judicial panel on multidistrict litigation.
Sec. 404. Disposition of fees.

TITLE V—FEDERAL COURTS STUDY COMMITTEE RECOMMENDATIONS

Sec. 501. Qualification of Chief Judge of Court of International Trade.

TITLE VI—MISCELLANEOUS

Sec. 601. Participation in judicial governance activities by district, senior, and magistrate judges.
Sec. 602. The Director and Deputy Director of the administrative office as officers of the United States.
Sec. 603. Removal of action from State court.
Sec. 604. Federal judicial center employee retirement provisions.
Sec. 605. Abolition of the special court, Regional Rail Reorganization Act of 1973.
Sec. 606. Place of holding court in the District Court of Utah.
Sec. 607. Exception of residency requirement for district judges appointed to the Southern District and Eastern District of New York.
Sec. 608. Extension of civil justice expense and delay reduction reports on demonstration and pilot programs.
Sec. 609. Place of holding court in the Southern District of New York.
Sec. 610. Venue for territorial courts.

TITLE I—CRIMINAL LAW AND CRIMINAL JUSTICE AMENDMENTS

SEC. 101. NEW AUTHORITY FOR PROBATION AND PRETRIAL SERVICES OFFICERS.

(a) PROBATION OFFICERS.—Section 3603 of title 18, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (8)(B);

(2) by redesignating paragraph (9) as paragraph (10); and

(3) by inserting after paragraph (8) the following new paragraph:

"(9) if approved by the district court, be authorized to carry firearms under such rules and regulations as the Director of the Administrative Office of the United States Courts may prescribe; and".

(b) PRETRIAL SERVICES OFFICERS.—Section 3154 of title 18, United States Code, is amended—

(1) by redesignating paragraph (13) as paragraph (14); and

(2) by inserting after paragraph (12) the following new paragraph:

"(13) If approved by the district court, be authorized to carry firearms under such rules and regulations as the Director of the Administrative Office of the United States Courts may prescribe.".

TITLE II—JUDICIAL PROCESS IMPROVEMENTS

SEC. 201. DUTIES OF MAGISTRATE JUDGE ON EMERGENCY ASSIGNMENT.

The first sentence of section 636(f) of title 28, United States Code, is amended by striking out "(a) or (b)" and inserting in lieu thereof "(a), (b), or (c)".

SEC. 202. CONSENT TO TRIAL IN CERTAIN CRIMINAL ACTIONS.

(a) AMENDMENTS TO TITLE 18.—(1) Section 3401(b) of title 18, United States Code, is amended—

(A) in the first sentence by inserting ", other than a petty offense that is a class B misdemeanor charging a motor vehicle offense, a class C misdemeanor, or an infraction," after "misdemeanor";

(B) in the second sentence by inserting "judge" after "magistrate" each place it appears;

(C) by striking out the third sentence and inserting in lieu thereof the following: "The magistrate judge may not proceed to try the case unless the defendant, after such explanation, expressly consents to be tried before the magistrate judge and expressly and specifically waives trial, judgment, and sentencing by a district judge. Any such consent and waiver shall be made in writing or orally on the record."; and

(D) by striking out "judge of the district court" each place it appears and inserting in lieu thereof "district judge".

(2) Section 3401(g) of title 18, United States Code, is amended by striking out the first sentence and inserting in lieu thereof the following: "The magistrate judge may, in a petty offense case involving a juvenile, that is a class B misdemeanor charging a motor vehicle offense, a class C misdemeanor, or an infraction, exercise all powers granted to the district court under chapter 403 of this title. The magistrate judge may, in any other class B or C misdemeanor case involving a juvenile in which consent to trial before a magistrate judge has been filed under subsection (b), exercise all powers granted to the district court under chapter 403 of this title.".

(b) AMENDMENTS TO TITLE 28.—Section 636(a) of title 28, United States Code, is amended—

(1) by striking out ", and" at the end of paragraph (3) and inserting in lieu thereof a semicolon; and

(2) by striking out paragraph (4) and inserting the following:

"(4) the power to enter a sentence for a petty offense that is a class B misdemeanor charging a motor vehicle offense, a class C misdemeanor, or an infraction; and

"(5) the power to enter a sentence for a class A misdemeanor, or a class B or C misdemeanor not covered by paragraph (4), in a case in which the parties have consented.".

SEC. 203. REGISTRATION OF JUDGMENTS FOR ENFORCEMENT IN OTHER DISTRICTS.

(a) IN GENERAL.—Section 1963 of title 28, United States Code, is amended—

(1) by amending the section heading to read as follows:

"§ 1963. Registration of judgments for enforcement in other districts";

(2) in the first sentence—

(A) by striking out "district court" and inserting in lieu thereof "court of appeals, district court, bankruptcy court,"; and

(B) by striking out "such judgment" and inserting in lieu thereof "the judgment"; and

(3) by adding at the end thereof the following new undesignated paragraph:

"The procedure prescribed under this section is in addition to other procedures provided by law for the enforcement of judgments.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 125 of title 28, United States Code, relating to section 1963 is amended to read as follows:

"1963. Registration of judgments for enforcement in other districts.".

SEC. 204. VACANCY IN CLERK POSITION; ABSENCE OF CLERK.

(a) IN GENERAL.—Section 954 of title 28, United States Code, is amended to read as follows:

"§ 954. Vacancy in clerk position; absence of clerk

"When the office of clerk is vacant, the deputy clerks shall perform the duties of the clerk in the name of the last person who held that office. When the clerk is incapacitated, absent, or otherwise unavailable to perform official duties, the deputy clerks shall perform the duties of the clerk in the name of the clerk. The court may designate a deputy clerk to act temporarily as clerk of the court in his or her own name.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 57 of title 28, United States Code, relating to section 954 is amended to read as follows:

"954. Vacancy in clerk position; absence of clerk.".

SEC. 205. DIVERSITY JURISDICTION.

(a) IN GENERAL.—Section 1332 of title 28, United States Code, is amended—

(1) in subsection (a) by striking out "$50,000" and inserting in lieu thereof "$75,000"; and

(2) in subsection (b) by striking out "$50,000" and inserting in lieu thereof "$75,000".

28 USC 1332 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect 90 days after the date of enactment of this Act.

SEC. 206. REMOVAL OF CASES AGAINST THE UNITED STATES AND FEDERAL OFFICERS OR AGENCIES.

(a) IN GENERAL.—Section 1442 of title 28, United States Code, is amended—

(1) in the section heading by inserting "**or agencies**" after "**officers**"; and

(2) in subsection (a)—

(A) in the matter preceding paragraph (1) by striking out "persons"; and

(B) in paragraph (1) by striking out "Any officer of the United States or any agency thereof, or person acting under him, for any act under color of such office" and inserting in lieu thereof "The United States or any agency thereof or any officer (or any person acting under that officer) of the United States or of any agency thereof, sued in an official or individual capacity for any act under color of such office".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 89 of title 28, United States Code, is amended by amending the item relating to section 1442 to read as follows:

"1442. Federal officers and agencies sued or prosecuted.".

SEC. 207. APPEAL ROUTE IN CIVIL CASES DECIDED BY MAGISTRATE JUDGES WITH CONSENT.

Section 636 of title 28, United States Code, is amended—

(1) in subsection (c)—

(A) in paragraph (3) by striking out "In this circumstance, the" and inserting in lieu thereof "The";

(B) by striking out paragraphs (4) and (5); and

(C) by redesignating paragraphs (6) and (7) as paragraphs (4) and (5); and

(2) in subsection (d) by striking out ", and for the taking and hearing of appeals to the district courts,".

SEC. 208. REPORTS BY JUDICIAL COUNCILS RELATING TO MISCONDUCT AND DISABILITY ORDERS.

Section 332 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

"(g) No later than January 31 of each year, each judicial council shall submit a report to the Administrative Office of the United States Courts on the number and nature of orders entered under this section during the preceding calendar year that relate to judicial misconduct or disability.".

TITLE III—JUDICIARY PERSONNEL ADMINISTRATION, BENEFITS, AND PROTECTIONS

SEC. 301. SENIOR JUDGE CERTIFICATION.

(a) RETROACTIVE CREDIT FOR RESUMPTION OF SIGNIFICANT WORKLOAD.—Section 371(f)(3) of title 28, United States Code, is amended by striking out "is thereafter ineligible to receive such a certification." and inserting in lieu thereof "may thereafter receive a certification for that year by satisfying the requirements of subparagraph (A), (B), (C), or (D) of paragraph (1) of this subsection in a subsequent year and attributing a sufficient part of the work performed in such subsequent year to the earlier year so that the work so attributed, when added to the work performed during such earlier year, satisfies the requirements for certification for that year. However, a justice or judge may not receive credit for the same work for purposes of certification for more than 1 year.".

(b) AGGREGATION OF CERTAIN WORK FOR PARTIAL YEARS.—Section 371(f)(1) of title 28, United States Code, is amended by adding at the end of subparagraph (D) the following: "In any year in which a justice or judge performs work described under this subparagraph for less than the full year, one-half of such work may be aggregated with work described under subparagraph (A), (B), or (C) of this paragraph for the purpose of the justice or judge satisfying the requirements of such subparagraph.".

SEC. 302. REFUND OF CONTRIBUTION FOR DECEASED DEFERRED ANNUITANT UNDER THE JUDICIAL SURVIVORS' ANNUITIES SYSTEM.

Section 376(o)(1) of title 28, United States Code, is amended by striking out "or while receiving 'retirement salary'," and inserting in lieu thereof "while receiving retirement salary, or after filing an election and otherwise complying with the conditions under subsection (b)(2) of this section,".

SEC. 303. BANKRUPTCY JUDGES REAPPOINTMENT PROCEDURE.

28 USC 152 note.

Section 120 of the Bankruptcy Amendments and Federal Judgeship Act of 1984 (Public Law 98–353; 98 Stat. 344), is amended—

(1) in subsection (a) by adding at the end thereof the following new paragraph:

"(3) When filling vacancies, the court of appeals may consider reappointing incumbent bankruptcy judges under procedures prescribed by regulations issued by the Judicial Conference of the United States."; and

(2) in subsection (b) by adding at the end thereof the following: "All incumbent nominees seeking reappointment thereafter may be considered for such a reappointment, pursuant to a majority vote of the judges of the appointing court of appeals, under procedures authorized under subsection (a)(3).".

SEC. 304. TECHNICAL CORRECTION RELATED TO COMMENCEMENT DATE OF TEMPORARY JUDGESHIPS.

Section 203(c) of the Judicial Improvements Act of 1990 (Public Law 101–650; 104 Stat. 5101; 28 U.S.C. 133 note) is amended by adding at the end thereof the following: "For districts named in this subsection for which multiple judgeships are created by this Act, the last of those judgeships filled shall be the judgeship created under this subsection.".

SEC. 305. FULL-TIME STATUS OF COURT REPORTERS.

Section 753(e) of title 28, United States Code, is amended by inserting after the first sentence the following: "For the purposes of subchapter III of chapter 83 of title 5 and chapter 84 of such title, a reporter shall be considered a full-time employee during any pay period for which a reporter receives a salary at the annual salary rate fixed for a full-time reporter under the preceding sentence.".

SEC. 306. COURT INTERPRETERS.

Section 1827 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

"(l) Notwithstanding any other provision of this section or section 1828, the presiding judicial officer may appoint a certified or otherwise qualified sign language interpreter to provide services to a party, witness, or other participant in a judicial proceeding, whether or not the proceeding is instituted by the United States, if the presiding judicial officer determines, on such officer's own motion or on the motion of a party or other participant in the proceeding, that such individual suffers from a hearing impairment. The presiding judicial officer shall, subject to the availability of appropriated funds, approve the compensation and expenses payable to sign language interpreters appointed under this section in accordance with the schedule of fees prescribed by the Director under subsection (b)(3) of this section.".

SEC. 307. TECHNICAL AMENDMENT RELATED TO COMMENCEMENT DATE OF TEMPORARY BANKRUPTCY JUDGESHIPS.

Section 3(b) of the Bankruptcy Judgeship Act of 1992 (Public Law 102–361; 106 Stat. 965; 28 U.S.C. 152 note) is amended in the first sentence by striking out "date of the enactment of this Act" and inserting in lieu thereof "appointment date of the judge named to fill the temporary judgeship position".

SEC. 308. CONTRIBUTION RATE FOR SENIOR JUDGES UNDER THE JUDICIAL SURVIVORS' ANNUITIES SYSTEM.

Section 376(b)(1) of title 28, United States Code, is amended to read as follows:

"(b)(1) Every judicial official who files a written notification of his or her intention to come within the purview of this section, in accordance with paragraph (1) of subsection (a) of this section, shall be deemed thereby to consent and agree to having deducted and withheld from his or her salary a sum equal to 2.2 percent of that salary, and a sum equal to 3.5 percent of his or her retirement salary. The deduction from any retirement salary—

"(A) of a justice or judge of the United States retired from regular active service under section 371(b) or section 372(a) of this title,

"(B) of a judge of the United States Court of Federal Claims retired under section 178 of this title, or

"(C) of a judicial official on recall under section 155(b), 373(c)(4), 375, or 636(h) of this title,

shall be an amount equal to 2.2 percent of retirement salary.".

SEC. 309. PROHIBITION AGAINST AWARDS OF COSTS, INCLUDING ATTORNEY'S FEES, AND INJUNCTIVE RELIEF AGAINST A JUDICIAL OFFICER.

28 USC 2412 note.

(a) NONLIABILITY FOR COSTS.—Notwithstanding any other provision of law, no judicial officer shall be held liable for any costs, including attorney's fees, in any action brought against such officer for an act or omission taken in such officer's judicial capacity, unless such action was clearly in excess of such officer's jurisdiction.

(b) PROCEEDINGS IN VINDICATION OF CIVIL RIGHTS.—Section 722(b) of the Revised Statutes (42 U.S.C. 1988(b)) is amended by inserting before the period at the end thereof ", except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity such officer shall not be held liable for any costs, including attorney's fees, unless such action was clearly in excess of such officer's jurisdiction".

(c) CIVIL ACTION FOR DEPRIVATION OF RIGHTS.—Section 1979 of the Revised Statutes (42 U.S.C. 1983) is amended by inserting before the period at the end of the first sentence: ", except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable".

TITLE IV—JUDICIAL FINANCIAL ADMINISTRATION

SEC. 401. INCREASE IN CIVIL ACTION FILING FEE.

(a) FILING FEE INCREASE.—Section 1914(a) of title 28, United States Code, is amended by striking out "$120" and inserting in lieu thereof "$150".

(b) DISPOSITION OF INCREASE.—Section 1931 of title 28, United States Code, is amended—

(1) in subsection (a) by striking out "$60" and inserting in lieu thereof "$90"; and

(2) in subsection (b)—

(A) by striking out "$120" and inserting in lieu thereof "$150"; and

(B) by striking out "$60" and inserting in lieu thereof "$90".

28 USC 1914 note.

(c) EFFECTIVE DATE.—This section shall take effect 60 days after the date of the enactment of this Act.

SEC. 402. INTERPRETER PERFORMANCE EXAMINATION FEES.

(a) IN GENERAL.—Section 1827(g) of title 28, United States Code, is amended by redesignating paragraph (5) as paragraph (6) and inserting after paragraph (4) the following new paragraph:

"(5) If the Director of the Administrative Office of the United States Courts finds it necessary to develop and administer criterion-referenced performance examinations for purposes of certification, or other examinations for the selection of otherwise qualified interpreters, the Director may prescribe for each examination a uniform fee for applicants to take such examination. In determining the rate of the fee for each examination, the Director shall consider the fees charged by other organizations for examinations that are similar in scope or nature. Notwithstanding section 3302(b) of title 31, the Director is authorized to provide in any contract or agreement for the development or administration of examinations and the collection of fees that the contractor may retain all or a portion of the fees in payment for the services. Notwithstanding paragraph (6) of this subsection, all fees collected after the effective date of this paragraph and not retained by a contractor shall be deposited in the fund established under section 1931 of this title and shall remain available until expended.".

28 USC 1827 note.

(b) PAYMENT FOR CONTRACTUAL SERVICES.—Notwithstanding sections 3302(b), 1341, and 1517 of title 31, United States Code, the Director of the Administrative Office of the United States Courts may include in any contract for the development or administration of examinations for interpreters (including such a contract entered into before the date of the enactment of this Act) a provision which permits the contractor to collect and retain fees in payment for contractual services in accordance with section 1827(g)(5) of title 28, United States Code.

SEC. 403. JUDICIAL PANEL ON MULTIDISTRICT LITIGATION.

(a) IN GENERAL.—(1) Chapter 123 of title 28, United States Code, is amended by adding after section 1931 the following new section:

"§ 1932. Judicial Panel on Multidistrict Litigation

"The Judicial Conference of the United States shall prescribe from time to time the fees and costs to be charged and collected by the Judicial Panel on Multidistrict Litigation.".

(2) The table of sections for chapter 123 of title 28, United States Code, is amended by adding after the item relating to section 1931 the following:

"1932. Judicial Panel on Multidistrict Litigation.".

(b) RELATED FEES FOR ACCESS TO INFORMATION.—Section 303(a) of the Judiciary Appropriations Act, 1992 (Public Law 102–140; 105 Stat. 810; 28 U.S.C. 1913 note) is amended in the first sentence by striking out "1926, and 1930" and inserting in lieu thereof "1926, 1930, and 1932".

SEC. 404. DISPOSITION OF FEES.

28 USC 1931 note.

(a) DISPOSITION OF ATTORNEY ADMISSION FEES.—For each fee collected for admission of an attorney to practice, as prescribed by the Judicial Conference of the United States pursuant to section 1914 of title 28, United States Code, $30 of that portion of the fee exceeding $20 shall be deposited into the special fund of the Treasury established under section 1931 of title 28, United States Code. Any portion exceeding $5 of the fee for a duplicate certificate of admission or certificate of good standing, as prescribed by the Judicial Conference of the United States pursuant to section 1914 of title 28, United States Code, shall be deposited into the special fund of the Treasury established under section 1931 of title 28, United States Code.

(b) DISPOSITION OF BANKRUPTCY COMPLAINT FILING FEES.—For each fee collected for filing an adversary complaint in a bankruptcy proceeding, as established in Item 6 of the Bankruptcy Court Miscellaneous Fee Schedule prescribed by the Judicial Conference of the United States pursuant to section 1930(b) of title 28, United States Code, the portion of the fee exceeding $120 shall be deposited into the special fund of the Treasury established under section 1931 of title 28, United States Code.

(c) EFFECTIVE DATE.—This section shall take effect 60 days after the date of the enactment of this Act.

TITLE V—FEDERAL COURTS STUDY COMMITTEE RECOMMENDATIONS

SEC. 501. QUALIFICATION OF CHIEF JUDGE OF COURT OF INTERNATIONAL TRADE.

(a) IN GENERAL.—Chapter 11 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 258. Chief judges; precedence of judges

"(a)(1) The chief judge of the Court of International Trade shall be the judge of the court in regular active service who is senior in commission of those judges who—

"(A) are 64 years of age or under;

"(B) have served for 1 year or more as a judge of the court; and

"(C) have not served previously as chief judge.

"(2)(A) In any case in which no judge of the court meets the qualifications under paragraph (1), the youngest judge in regular active service who is 65 years of age or over and who has served as a judge of the court for 1 year or more shall act as the chief judge.

"(B) In any case under subparagraph (A) in which there is no judge of the court in regular active service who has served as a judge of the court for 1 year or more, the judge of the court in regular active service who is senior in commission and who has not served previously as chief judge shall act as the chief judge.

"(3)(A) Except as provided under subparagraph (C), the chief judge serving under paragraph (1) shall serve for a term of 7 years and shall serve after expiration of such term until another judge is eligible under paragraph (1) to serve as chief judge.

"(B) Except as provided under subparagraph (C), a judge of the court acting as chief judge under subparagraph (A) or (B) of paragraph (2) shall serve until a judge meets the qualifications under paragraph (1).

"(C) No judge of the court may serve or act as chief judge of the court after attaining the age of 70 years unless no other judge is qualified to serve as chief judge under paragraph (1) or is qualified to act as chief judge under paragraph (2).

"(b) The chief judge shall have precedence and preside at any session of the court which such judge attends. Other judges of the court shall have precedence and preside according to the seniority of their commissions. Judges whose commissions bear the same date shall have precedence according to seniority in age.

"(c) If the chief judge desires to be relieved of the duties as chief judge while retaining active status as a judge of the court, the chief judge may so certify to the Chief Justice of the United States, and thereafter the chief judge of the court shall be such other judge of the court who is qualified to serve or act as chief judge under subsection (a).

"(d) If a chief judge is temporarily unable to perform the duties as such, such duties shall be performed by the judge of the court in active service, able and qualified to act, who is next in precedence.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Chapter 11 of title 28, United States Code, is amended—

(1) in section 251 by striking out subsection (b) and redesignating subsection (c) as subsection (b);

(2) in section 253—

(A) by amending the section heading to read as follows:

"§ 253. Duties of chief judge";

and

(B) by striking out subsections (d) and (e); and

(3) in the table of sections for chapter 11 of title 28, United States Code—

(A) by amending the item relating to section 253 to read as follows:

"253. Duties of chief judge.";

and

(B) by adding at the end thereof the following:

"258. Chief judges; precedence of judges.".

28 USC 258 note.

(c) APPLICATION.—(1) Notwithstanding the provisions of section 258(a) of title 28, United States Code (as added by subsection (a) of this section), the chief judge of the United States Court of International Trade who is in office on the day before the date of enactment of this Act shall continue to be such chief judge on or after such date until any one of the following events occurs:

(A) The chief judge is relieved of his duties under section 258(c) of title 28, United States Code.

(B) The regular active status of the chief judge is terminated.

(C) The chief judge attains the age of 70 years.

(D) The chief judge has served for a term of 7 years as chief judge.

(2) When the chief judge vacates the position of chief judge under paragraph (1), the position of chief judge of the Court of

International Trade shall be filled in accordance with section 258(a) of title 28, United States Code.

TITLE VI—MISCELLANEOUS

SEC. 601. PARTICIPATION IN JUDICIAL GOVERNANCE ACTIVITIES BY DISTRICT, SENIOR, AND MAGISTRATE JUDGES.

(a) JUDICIAL CONFERENCE OF THE UNITED STATES.—Section 331 of title 28, United States Code, is amended by striking out the second undesignated paragraph and inserting in lieu thereof the following:

"The district judge to be summoned from each judicial circuit shall be chosen by the circuit and district judges of the circuit and shall serve as a member of the Judicial Conference of the United States for a term of not less than 3 successive years nor more than 5 successive years, as established by majority vote of all circuit and district judges of the circuit. A district judge serving as a member of the Judicial Conference may be either a judge in regular active service or a judge retired from regular active service under section 371(b) of this title.".

(b) BOARD OF THE FEDERAL JUDICIAL CENTER.—Section 621 of title 28, United States Code, is amended—

(1) in subsection (a) by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) two circuit judges, three district judges, one bankruptcy judge, and one magistrate judge, elected by vote of the members of the Judicial Conference of the United States, except that any circuit or district judge so elected may be either a judge in regular active service or a judge retired from regular active service under section 371(b) of this title but shall not be a member of the Judicial Conference of the United States; and"; and

(2) in subsection (b) by striking out "retirement," and inserting in lieu thereof "retirement pursuant to section 371(a) or section 372(a) of this title,".

SEC. 602. THE DIRECTOR AND DEPUTY DIRECTOR OF THE ADMINISTRATIVE OFFICE AS OFFICERS OF THE UNITED STATES.

Section 601 of title 28, United States Code, is amended by adding at the end thereof the following: "The Director and Deputy Director shall be deemed to be officers for purposes of title 5, United States Code.".

SEC. 603. REMOVAL OF ACTION FROM STATE COURT.

Section 1446(c)(1) of title 28, United States Code, is amended by striking out "petitioner" and inserting in lieu thereof "defendant or defendants".

SEC. 604. FEDERAL JUDICIAL CENTER EMPLOYEE RETIREMENT PROVISIONS.

Section 627(b) of title 28, United States Code, is amended—

(1) in the first sentence by inserting "Deputy Director," before "the professional staff"; and

(2) in the first sentence by inserting "chapter 84 (relating to the Federal Employees' Retirement System)," after "(relating to civil service retirement),".

SEC. 605. ABOLITION OF THE SPECIAL COURT, REGIONAL RAIL REORGANIZATION ACT OF 1973.

(a) ABOLITION OF THE SPECIAL COURT.—Section 209 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 719) is amended in subsection (b)—

(1) by inserting "(1)" before "Within 30 days after"; and

(2) by adding at the end thereof the following new paragraph:

Effective date.

"(2) The special court referred to in paragraph (1) of this subsection is abolished effective 90 days after the date of enactment of the Federal Courts Improvement Act of 1996. On such effective date, all jurisdiction and other functions of the special court shall be assumed by the United States District Court for the District of Columbia. With respect to any proceedings that arise or continue after the date on which the special court is abolished, the references in the following provisions to the special court established under this subsection shall be deemed to refer to the United States District Court for the District of Columbia:

"(A) Subsections (c), (e)(1), (e)(2), (f) and (g) of this section.

"(B) Sections 202 (d)(3), (g), 207 (a)(1), (b)(1), (b)(2), 208(d)(2), 301 (e)(2), (g), (k)(3), (k)(15), 303 (a)(1), (a)(2), (b)(1), (b)(6)(A), (c)(1), (c)(2), (c)(3), (c)(4), (c)(5), 304 (a)(1)(B), (i)(3), 305 (c), (d)(1), (d)(2), (d)(3), (d)(4), (d)(5), (d)(8), (e), (f)(1), (f)(2)(B), (f)(2)(D), (f)(2)(E), (f)(3), 306 (a), (b), (c)(4), and 601 (b)(3), (c) of this Act (45 U.S.C. 712 (d)(3), (g), 717 (a)(1), (b)(1), (b)(2), 718(d)(2), 741 (e)(2), (g), (k)(3), (k)(15), 743 (a)(1), (a)(2), (b)(1), (b)(6)(A), (c)(1), (c)(2), (c)(3), (c)(4), (c)(5), 744 (a)(1)(B), (i)(3), 745 (c), (d)(1), (d)(2), (d)(3), (d)(4), (d)(5), (d)(8), (e), (f)(1), (f)(2)(B), (f)(2)(D), (f)(2)(E), (f)(3), 746 (a), (b), (c)(4), 791 (b)(3), (c)).

"(C) Sections 1152(a) and 1167(b) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105(a), 1115(a)).

"(D) Sections 4023 (2)(A)(iii), (2)(B), (2)(C), (3)(C), (3)(E), (4)(A) and 4025(b) of the Conrail Privatization Act (45 U.S.C. 1323 (2)(A)(iii), (2)(B), (2)(C), (3)(C), (3)(E), (4)(A), 1324(b)).

"(E) Section 24907(b) of title 49, United States Code.

"(F) Any other Federal law (other than this subsection and section 605 of the Federal Courts Improvement Act of 1996), Executive order, rule, regulation, delegation of authority, or document of or relating to the special court as previously established under paragraph (1) of this subsection.".

(b) APPELLATE REVIEW.—(1) Section 209(e) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 719) is amended by striking out the paragraph following paragraph (2) and inserting in lieu thereof the following:

"(3) An order or judgment of the United States District Court for the District of Columbia in any action referred to in this section shall be reviewable in accordance with sections 1291, 1292, and 1294 of title 28, United States Code.".

(2) Section 303 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743) is amended by striking out subsection (d) and inserting in lieu thereof the following:

"(d) APPEAL.—An order or judgment entered by the United States District Court for the District of Columbia pursuant to subsection (c) of this section or section 306 shall be reviewable in accordance with sections 1291, 1292, and 1294 of title 28, United States Code.".

(3) Section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105) is amended by striking out subsection (b) and inserting in lieu thereof the following:

"(b) APPEAL.—An order or judgment of the United States District Court for the District of Columbia in any action referred to in this section shall be reviewable in accordance with sections 1291, 1292, and 1294 of title 28, United States Code.".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—(1) Section 209 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 719) is further amended—

(A) in subsection (g) by inserting "or Court of Appeals for the District of Columbia Circuit" after "Supreme Court"; and

(B) by striking out subsection (h).

(2) Section 305(d)(4) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 745(d)) is amended by striking out "a judge of the United States district court with respect to such proceedings and such powers shall include those of".

(3) Section 1135(a)(8) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1104(8)) is amended to read as follows:

"(8) 'Special court' means the judicial panel established under section 209(b)(1) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 719(b)(1)) or, with respect to any proceedings that arise or continue after the panel is abolished pursuant to section 209(b)(2) of such Act, the United States District Court for the District of Columbia.".

(4) Section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105) is further amended by striking out subsection (d).

(d) PENDING CASES.—Effective 90 days after the date of enactment of this Act, any case pending in the special court established under section 209(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 719(b)) shall be assigned to the United States District Court for the District of Columbia as though the case had originally been filed in that court. The amendments made by subsection (b) of this section shall not apply to any final order or judgment entered by the special court for which— Effective date. 45 USC 719 note.

(1) a petition for writ of certiorari has been filed before the date on which the special court is abolished; or

(2) the time for filing a petition for writ of certiorari has not expired before that date.

(e) EFFECTIVE DATE.—The amendments made by subsections (b) and (c) of this section shall take effect 90 days after the date of enactment of this Act and, except as provided in subsection (d), shall apply with respect to proceedings that arise or continue after such effective date. 45 USC 719 note.

SEC. 606. PLACE OF HOLDING COURT IN THE DISTRICT COURT OF UTAH.

(a) NORTHERN DIVISION.—Section 125(1) of title 28, United States Code, is amended by inserting "Salt Lake City and" before "Ogden".

(b) CENTRAL DIVISION.—Section 125(2) of title 28, United States Code, is amended by inserting ", Provo, and St. George" after "Salt Lake City".

SEC. 607. EXCEPTION OF RESIDENCY REQUIREMENT FOR DISTRICT JUDGES APPOINTED TO THE SOUTHERN DISTRICT AND EASTERN DISTRICT OF NEW YORK.

Section 134(b) of title 28, United States Code, is amended—

(1) by inserting "the Southern District of New York, and the Eastern District of New York," after "the District of Columbia,"; and

(2) by inserting at the end the following: "Each district judge of the Southern District of New York and the Eastern District of New York may reside within 20 miles of the district to which he or she is appointed.".

SEC. 608. EXTENSION OF CIVIL JUSTICE EXPENSE AND DELAY REDUCTION REPORTS ON DEMONSTRATION AND PILOT PROGRAMS.

(a) DEMONSTRATION PROGRAM.—Section 104(d) of the Civil Justice Reform Act of 1990 (28 U.S.C. 471 note) is amended by striking out "December 31, 1996," and inserting in lieu thereof "June 30, 1997,".

(b) PILOT PROGRAM.—Section 105(c)(1) of the Civil Justice Reform Act of 1990 (28 U.S.C. 471 note) is amended by striking out "December 31, 1996," and inserting in lieu thereof "June 30, 1997,".

SEC. 609. PLACE OF HOLDING COURT IN THE SOUTHERN DISTRICT OF NEW YORK.

The last sentence of section 112(b) of title 28, United States Code, is amended to read as follows:

"Court for the Southern District shall be held at New York, White Plains, and in the Middletown-Wallkill area of Orange County or such nearby location as may be deemed appropriate.".

SEC. 610. VENUE FOR TERRITORIAL COURTS.

(a) CHANGE OF VENUE.—Section 1404(d) of title 28, United States Code, is amended to read as follows:

"(d) As used in this section, the term 'district court' includes the District Court of Guam, the District Court for the Northern Mariana Islands, and the District Court of the Virgin Islands, and the term 'district' includes the territorial jurisdiction of each such court.".

(b) CURE OR WAIVER OF DEFECTS.—Section 1406(c) of title 28, United States Code, is amended to read as follows:

"(c) As used in this section, the term 'district court' includes the District Court of Guam, the District Court for the Northern Mariana Islands, and the District Court of the Virgin Islands, and the term 'district' includes the territorial jurisdiction of each such court.".

(c) APPLICABILITY.—The amendments made by this section apply to cases pending on the date of the enactment of this Act and to cases commenced on or after such date. 28 USC 1404 note.

Approved October 19, 1996.

LEGISLATIVE HISTORY—S. 1887:

SENATE REPORTS: No. 104–366 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 142 (1996):
Oct. 3, considered and passed Senate.
Oct. 4, considered and passed House.

Public Law 104–318
104th Congress

An Act

Oct. 19, 1996
[H.R. 3910]

To provide emergency drought relief to the city of Corpus Christi, Texas, and the Canadian River Municipal Water Authority, Texas, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Emergency Drought Relief Act of 1996.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Emergency Drought Relief Act of 1996".

SEC. 2. EMERGENCY DROUGHT RELIEF.

(a) CORPUS CHRISTI.—

(1) EMERGENCY DROUGHT RELIEF.—For the purpose of providing emergency drought relief, the Secretary of the Interior shall defer all principal and interest payments without penalty or accrued interest for the 5-year period beginning on the date of enactment of this Act for the city of Corpus Christi, Texas, and the Nueces River Authority under contract No. 6–07–01–X0675 involving the Nueces River Reclamation Project, Texas: *Provided,* That the city of Corpus Christi shall commit to use the funds thus made available exclusively for the acquisition of or construction of facilities related to alternative sources of water supply.

(2) ISSUANCE OF PERMITS.—If construction of facilities related to alternative water supplies referred to in paragraph (1) requires a Federal permit for use of Bureau of Reclamation lands or facilities, the Secretary shall issue such permits within 90 days after the date of enactment of this Act, recognizing the environmental impact statement FES74–54 and the environmental assessment dated March 1991 (relating to the Lavaca-Navidad River Authority Pipeline permit).

(b) CANADIAN RIVER MUNICIPAL WATER AUTHORITY.—

(1) RECOGNITION OF TRANSFER OF LANDS TO THE NATIONAL PARK SERVICE.—All obligations and associated debt under contract No. 14–06–500–485 for land and related relocations transferred to the National Park Service to form the Lake Meredith National Recreation Area under Public Law 101–628, in the amount of $4,000,000, shall be nonreimbursable. The Secretary shall recalculate the repayment schedule of the Canadian River Municipal Water Authority to reflect the determination of the preceding sentence and to implement the revised repayment schedule within one year of the date of enactment of this Act.

(2) EMERGENCY DROUGHT RELIEF.—The Secretary shall defer all principal and interest payments without penalty or accrued interest for the 3-year period beginning on the date of enactment of this Act for the Canadian River Municipal Water Authority under contract No. 14–06–500–485 as emergency drought relief to enable construction of additional water supply and conveyance facilities.

Approved October 19, 1996.

LEGISLATIVE HISTORY—H.R. 3910:

HOUSE REPORTS: No. 104–770 (Comm. on Resources).
CONGRESSIONAL RECORD, Vol. 142 (1996):
Sept. 10, considered and passed House.
Oct. 3, considered and passed Senate.

Public Law 104–319
104th Congress

An Act

Oct. 19, 1996
[H.R. 4036]

Making certain provisions with respect to internationally recognized human rights, refugees, and foreign relations.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Human Rights, Refugee, and Other Foreign Relations Provisions Act of 1996.
22 USC 2151 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Human Rights, Refugee, and Other Foreign Relations Provisions Act of 1996".

SEC. 2. TABLE OF CONTENTS.

The table of contents of this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—FOREIGN RELATIONS PROVISIONS

Sec. 101. Extension of certain adjudication provisions.
Sec. 102. Conduct of certain educational and cultural exchange programs.
Sec. 103. Educational and cultural exchanges and scholarships for Tibetans and Burmese.
Sec. 104. International Boundary and Water Commission.

TITLE II—FOREIGN ASSISTANCE PROVISIONS

Sec. 201. Human rights reports.
Sec. 202. Assistance for Mauritania.

TITLE III—CLAIBORNE PELL INSTITUTE FOR INTERNATIONAL RELATIONS AND PUBLIC POLICY

Sec. 301. Short title.
Sec. 302. Grant authorized.
Sec. 303. Authorization of appropriations.
Sec. 304. Effective date.

TITLE IV—GEORGE BUSH SCHOOL OF GOVERNMENT AND PUBLIC SERVICE

Sec. 401. Short title.
Sec. 402. Grant authorized.
Sec. 403. Grant conditions.
Sec. 404. Appropriations authorized.
Sec. 405. Effective date.

TITLE V—MISCELLANEOUS PROVISIONS

Sec. 501. Edmund S. Muskie Foundation.
Sec. 502. Calvin Coolidge Memorial Foundation grant.

TITLE I—FOREIGN RELATIONS PROVISIONS

SEC. 101. EXTENSION OF CERTAIN ADJUDICATION PROVISIONS.

The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101–167) is amended—

(1) in section 599D (8 U.S.C. 1157 note)—

(A) in subsection (b)(3), by striking "and 1996" and inserting "1996, and 1997"; and

(B) in subsection (e), by striking out "October 1, 1996" each place it appears and inserting "October 1, 1997"; and

(2) in section 599E (8 U.S.C. 1255 note) in subsection (b)(2), by striking out "September 30, 1996" and inserting "September 30, 1997".

SEC. 102. CONDUCT OF CERTAIN EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS.

22 USC 2452 note.

In carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy (including but not limited to China, Vietnam, Cambodia, Tibet, and Burma), the Director of the United States Information Agency shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries.

SEC. 103. EDUCATIONAL AND CULTURAL EXCHANGES AND SCHOLARSHIPS FOR TIBETANS AND BURMESE.

(a) ESTABLISHMENT OF EDUCATIONAL AND CULTURAL EXCHANGE FOR TIBETANS.—The Director of the United States Information Agency shall establish programs of educational and cultural exchange between the United States and the people of Tibet. Such programs shall include opportunities for training and, as the Director considers appropriate, may include the assignment of personnel and resources abroad.

(b) SCHOLARSHIPS FOR TIBETANS AND BURMESE.—

(1) Subject to the availability of appropriations, for fiscal year 1997 at least 30 scholarships shall be made available to Tibetan students and professionals who are outside Tibet, and at least 15 scholarships shall be made available to Burmese students and professionals who are outside Burma.

(2) WAIVER.—Paragraph (1) shall not apply to the extent that the Director of the United States Information Agency determines that there are not enough qualified students to fulfill such allocation requirement.

(3) SCHOLARSHIP DEFINED.—For the purposes of this section, the term "scholarship" means an amount to be used for full or partial support of tuition and fees to attend an educational institution, and may include fees, books, and supplies, equipment required for courses at an educational institution, living expenses at a United States educational institution, and travel expenses to and from, and within, the United States.

SEC. 104. INTERNATIONAL BOUNDARY AND WATER COMMISSION.

The Act of May 13, 1924 (49 Stat. 660, 22 U.S.C. 277–277f), is amended in section 3 (22 U.S.C. 277b) by adding at the end the following new subsection:

"(d) Pursuant to the authority of subsection (a) and in order to facilitate further compliance with the terms of the Convention for Equitable Distribution of the Waters of the Rio Grande, May 21, 1906, United States-Mexico, the Secretary of State, acting through the United States Commissioner of the International Boundary and Water Commission, may make improvements to the Rio Grande Canalization Project, originally authorized by the Act of August 29, 1935 (49 Stat. 961). Such improvements may include all such works as may be needed to stabilize the Rio Grande in the reach between the Percha Diversion Dam in New Mexico and the American Diversion Dam in El Paso.".

TITLE II—FOREIGN ASSISTANCE PROVISIONS

SEC. 201. HUMAN RIGHTS REPORTS.

(a) SECTION 116 REPORT.—Section 116(d) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151n(d)) is amended—

(1) in paragraph (2), by striking "and" at the end;

(2) by redesignating paragraph (3) as paragraph (5); and

(3) by inserting after paragraph (2) the following new paragraphs:

"(3) the votes of each member of the United Nations Commission on Human Rights on all country-specific and thematic resolutions voted on at the Commission's annual session during the period covered during the preceding year;

"(4) the extent to which each country has extended protection to refugees, including the provision of first asylum and resettlement; and".

(b) SECTION 502B REPORT.—Section 502B(b) of such Act (22 U.S.C. 2304(b)) is amended by adding after the second sentence the following new sentence: "Each report under this section shall list the votes of each member of the United Nations Commission on Human Rights on all country-specific and thematic resolutions voted on at the Commission's annual session during the period covered during the preceding year.".

22 USC 2151 note.

SEC. 202. ASSISTANCE FOR MAURITANIA.

(a) PROHIBITION.—The President should not provide economic assistance, military assistance or arms transfers to the Government of Mauritania unless the President certifies to the Congress that such Government has taken appropriate action to eliminate chattel slavery in Mauritania, including—

(1) the enactment of anti-slavery laws that provide appropriate punishment for violators of such laws; and

(2) the rigorous enforcement of such laws.

(b) DEFINITIONS.—For purposes of this section, the following definitions apply:

(1) ECONOMIC ASSISTANCE.—The term "economic assistance" means any assistance under part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.), except that such term does not include humanitarian assistance.

(2) MILITARY ASSISTANCE OR ARMS TRANSFERS.—The term "military assistance or arms transfers" means—

(A) assistance under chapter 2 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2311 et seq.; relating to military assistance), including the transfer of excess defense articles under sections 516 through 519 of that Act (22 U.S.C. 2321j through 2321m);

(B) assistance under chapter 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2347 et seq.; relating to international military education and training);

(C) assistance under the "Foreign Military Financing Program" under section 23 of the Arms Export Control Act (22 U.S.C. 2763); or

(D) the transfer of defense articles, defense services, or design and construction services under the Arms Export Control Act (22 U.S.C. 2751 et seq.), including defense articles and defense services licensed or approved for export under section 38 of that Act (22 U.S.C. 2778).

TITLE III—CLAIBORNE PELL INSTITUTE FOR INTERNATIONAL RELATIONS AND PUBLIC POLICY

Claiborne Pell Institute for International Relations and Public Policy Act. Rhode Island.

SEC. 301. SHORT TITLE.

This title may be cited as the "Claiborne Pell Institute for International Relations and Public Policy Act".

SEC. 302. GRANT AUTHORIZED.

In recognition of the public service of Senator Claiborne Pell, the Secretary of Education is authorized to award a grant, in accordance with the provisions of this title, to assist in the establishment and operation of the Claiborne Pell Institute for International Relations and Public Policy, located at Salve Regina University, Newport, Rhode Island, including the purchase and renovation of facilities to house the Institute.

SEC. 303. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for fiscal year 1997 such sums, not to exceed $3,000,000, as may be necessary to carry out this title.

SEC. 304. EFFECTIVE DATE.

This title shall take effect on the date of enactment of this Act.

TITLE IV—GEORGE BUSH SCHOOL OF GOVERNMENT AND PUBLIC SERVICE

George Bush School of Government and Public Service Act. Texas.

SEC. 401. SHORT TITLE.

This title may be cited as the "George Bush School of Government and Public Service Act".

SEC. 402. GRANT AUTHORIZED.

In recognition of the public service of President George Bush, the Secretary of Education is authorized to make a grant in accord-

ance with the provisions of this Act to assist in the establishment of the George Bush Fellowship Program, located at the George Bush School of Government and Public Service of the Texas A & M University.

SEC. 403. GRANT CONDITIONS.

No payment may be made under this title except upon an application at such time, in such manner, and containing or accompanied by such information as the Secretary of Education may require.

SEC. 404. APPROPRIATIONS AUTHORIZED.

There are authorized to be appropriated such sums, not to exceed $3,000,000, as may be necessary to carry out the provisions of this title.

SEC. 405. EFFECTIVE DATE.

This title shall take effect on October 1, 1996.

TITLE V—MISCELLANEOUS PROVISIONS

Washington, DC. Grants.

SEC. 501. EDMUND S. MUSKIE FOUNDATION.

In recognition of the public service of Senator and Secretary of State Edmund S. Muskie, the Secretary of Education is authorized to award a grant in accordance with the provisions of this Act to assist in the establishment of the Edmund S. Muskie Foundation, located in Washington, D.C., by providing assistance to support the Foundation, including assistance to be used for awarding stewardships, supporting the Muskie archives, and supporting the Edmund S. Muskie Institute of Public Affairs.

SEC. 502. CALVIN COOLIDGE MEMORIAL FOUNDATION GRANT.

(a) DEFINITIONS.—In this section:

(1) FOUNDATION.—The term "Foundation" means the Calvin Coolidge Memorial Foundation.

(2) SECRETARY.—The term "Secretary" means the Secretary of Education.

(b) GRANT AUTHORIZED.—The Secretary is authorized to make a grant in the amount of $1,000,000 in accordance with the provisions of this section to the Foundation.

(c) GRANT CONDITIONS.—

(1) APPLICATION.—No payment may be made under this section except upon an application at such time, in such manner, and containing or accompanied by such information as the Secretary may require.

(2) USE OF GRANT FUNDS.—Funds received under this section may be used for any of the following purposes:

(A) To increase the endowment of the Foundation.

(B) To conduct educational, archival, or preservation activities of the Foundation.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary $1,000,000, without fiscal year limitation, to carry out the provisions of this section.

(e) EFFECTIVE DATE.—This section shall take effect on October 1, 1996.

Approved October 19, 1996.

LEGISLATIVE HISTORY—H.R. 4036:

CONGRESSIONAL RECORD, Vol. 142 (1996):

Sept. 25, considered and passed House.

Oct. 3, considered and passed Senate, amended.

Oct. 4, House concurred in Senate amendments.

Public Law 104–320
104th Congress

An Act

Oct. 19, 1996
[H.R. 4194]

To reauthorize alternative means of dispute resolution in the Federal administrative process, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Administrative Dispute Resolution Act of 1996.
5 USC 571 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Administrative Dispute Resolution Act of 1996".

SEC. 2. AMENDMENT TO DEFINITIONS.

Section 571 of title 5, United States Code, is amended—

(1) in paragraph (3)—

(A) by striking ", in lieu of an adjudication as defined in section 551(7) of this title,";

(B) by striking "settlement negotiations,"; and

(C) by striking "and arbitration" and inserting "arbitration, and use of ombuds"; and

(2) in paragraph (8)—

(A) in subparagraph (B) by striking "decision," and inserting "decision;"; and

(B) by striking the matter following subparagraph (B).

SEC. 3. AMENDMENTS TO CONFIDENTIALITY PROVISIONS.

(a) LIMITATION OF CONFIDENTIALITY APPLICATION TO COMMUNICATION.—Subsections (a) and (b) of section 574 of title 5, United States Code, are each amended in the matter before paragraph (1) by striking "any information concerning".

(b) DISPUTE RESOLUTION COMMUNICATION.—Section 574(b)(7) of title 5, United States Code, is amended to read as follows:

"(7) except for dispute resolution communications generated by the neutral, the dispute resolution communication was provided to or was available to all parties to the dispute resolution proceeding.".

(c) ALTERNATIVE CONFIDENTIALITY PROCEDURES.—Section 574(d) of title 5, United States Code, is amended—

(1) by inserting "(1)" after "(d)"; and

(2) by adding at the end thereof the following new paragraph:

"(2) To qualify for the exemption established under subsection (j), an alternative confidential procedure under this subsection may not provide for less disclosure than the confidential procedures otherwise provided under this section.".

(d) EXEMPTION FROM DISCLOSURE BY STATUTE.—Section 574 of title 5, United States Code, is amended by amending subsection (j) to read as follows:

"(j) A dispute resolution communication which is between a neutral and a party and which may not be disclosed under this section shall also be exempt from disclosure under section 552(b)(3).".

SEC. 4. AMENDMENT TO REFLECT THE CLOSURE OF THE ADMINISTRATIVE CONFERENCE.

(a) PROMOTION OF ADMINISTRATIVE DISPUTE RESOLUTIONS.—Section 3(a)(1) of the Administrative Dispute Resolution Act (5 U.S.C. 571 note; Public Law 101–552; 104 Stat. 2736) is amended to read as follows:

"(1) consult with the agency designated by, or the interagency committee designated or established by, the President under section 573 of title 5, United States Code, to facilitate and encourage agency use of alternative dispute resolution under subchapter IV of chapter 5 of such title; and".

(b) COMPILATION OF INFORMATION.—

(1) IN GENERAL.—Section 582 of title 5, United States Code, is repealed.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 5, United States Code, is amended by striking the item relating to section 582.

(c) FEDERAL MEDIATION AND CONCILIATION SERVICE.—Section 203(f) of the Labor Management Relations Act, 1947 (29 U.S.C. 173(f)) is amended by striking "the Administrative Conference of the United States and other agencies" and inserting "the agency designated by, or the interagency committee designated or established by, the President under section 573 of title 5, United States Code,".

SEC. 5. AMENDMENTS TO SUPPORT SERVICES PROVISION.

Section 583 of title 5, United States Code, is amended by inserting "State, local, and tribal governments," after "other Federal agencies,".

SEC. 6. AMENDMENTS TO THE CONTRACT DISPUTES ACT.

Section 6 of the Contract Disputes Act of 1978 (41 U.S.C. 605) is amended—

(1) in subsection (d) by striking the second sentence and inserting: "The contractor shall certify the claim when required to do so as provided under subsection (c)(1) or as otherwise required by law."; and Certification.

(2) in subsection (e) by striking the first sentence.

SEC. 7. AMENDMENTS ON ACQUIRING NEUTRALS.

(a) EXPEDITED HIRING OF NEUTRALS.—

(1) COMPETITIVE REQUIREMENTS IN DEFENSE AGENCY CONTRACTS.—Section 2304(c)(3)(C) of title 10, United States Code, is amended by striking "agency, or" and inserting "agency, or to procure the services of an expert or neutral for use".

(2) COMPETITIVE REQUIREMENTS IN FEDERAL CONTRACTS.—Section 303(c)(3)(C) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(c)(3)(C)), is amended by striking "agency, or" and inserting "agency, or to procure the services of an expert or neutral for use".

(b) REFERENCES TO THE ADMINISTRATIVE CONFERENCE OF THE UNITED STATES.—Section 573 of title 5, United States Code, is amended—

(1) by striking subsection (c) and inserting the following:

President. "(c) The President shall designate an agency or designate or establish an interagency committee to facilitate and encourage agency use of dispute resolution under this subchapter. Such agency or interagency committee, in consultation with other appropriate Federal agencies and professional organizations experienced in matters concerning dispute resolution, shall—

"(1) encourage and facilitate agency use of alternative means of dispute resolution; and

"(2) develop procedures that permit agencies to obtain the services of neutrals on an expedited basis."; and

(2) in subsection (e) by striking "on a roster established under subsection (c)(2) or a roster maintained by other public or private organizations, or individual".

SEC. 8. ARBITRATION AWARDS AND JUDICIAL REVIEW.

(a) ARBITRATION AWARDS.—Section 580 of title 5, United States Code, is amended—

(1) by striking subsections (c), (f), and (g); and

(2) by redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

(b) JUDICIAL AWARDS.—Section 581(d) of title 5, United States Code, is amended—

(1) by striking "(1)" after "(b)"; and

(2) by striking paragraph (2).

(c) AUTHORIZATION OF ARBITRATION.—Section 575 of title 5, United States Code, is amended—

(1) in subsection (a)(2), by striking "Any" and inserting "The";

(2) in subsection (a)(2), by adding at the end the following: "Each such arbitration agreement shall specify a maximum award that may be issued by the arbitrator and may specify other conditions limiting the range of possible outcomes.";

(3) in subsection (b)—

(A) by striking "may offer to use arbitration for the resolution of issues in controversy, if" and inserting "shall not offer to use arbitration for the resolution of issues in controversy unless"; and

(B) by striking in paragraph (1) "has authority" and inserting "would otherwise have authority"; and

(4) by adding at the end the following:

"(c) Prior to using binding arbitration under this subchapter, the head of an agency, in consultation with the Attorney General and after taking into account the factors in section 572(b), shall issue guidance on the appropriate use of binding arbitration and when an officer or employee of the agency has authority to settle an issue in controversy through binding arbitration.".

SEC. 9. PERMANENT AUTHORIZATION OF THE ALTERNATIVE DISPUTE RESOLUTION PROVISIONS OF TITLE 5, UNITED STATES CODE.

The Administrative Dispute Resolution Act (Public Law 101–552; 104 Stat. 2747; 5 U.S.C. 571 note) is amended by striking section 11.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Subchapter IV of title 5, United States Code, is amended by adding at the end thereof the following new section:

"§ 584. Authorization of appropriations

"There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this subchapter.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 5, United States Code, is amended by inserting after the item relating to section 583 the following:

"584. Authorization of appropriations.".

SEC. 11. REAUTHORIZATION OF NEGOTIATED RULEMAKING ACT OF 1990.

(a) PERMANENT REAUTHORIZATION.—Section 5 of the Negotiated Rulemaking Act of 1990 (Public Law 101–648; 5 U.S.C. 561 note) is repealed.

(b) CLOSURE OF ADMINISTRATIVE CONFERENCE.—

(1) IN GENERAL.—Section 569 of title 5, United States Code, is amended—

(A) by amending the section heading to read as follows:

"§ 569. Encouraging negotiated rulemaking"; and

(B) by striking subsections (a) through (g) and inserting the following:

"(a) The President shall designate an agency or designate or establish an interagency committee to facilitate and encourage agency use of negotiated rulemaking. An agency that is considering, planning, or conducting a negotiated rulemaking may consult with such agency or committee for information and assistance. President.

"(b) To carry out the purposes of this subchapter, an agency planning or conducting a negotiated rulemaking may accept, hold, administer, and utilize gifts, devises, and bequests of property, both real and personal if that agency's acceptance and use of such gifts, devises, or bequests do not create a conflict of interest. Gifts and bequests of money and proceeds from sales of other property received as gifts, devises, or bequests shall be deposited in the Treasury and shall be disbursed upon the order of the head of such agency. Property accepted pursuant to this section, and the proceeds thereof, shall be used as nearly as possible in accordance with the terms of the gifts, devises, or bequests.".

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 5, United States Code, is amended by striking the item relating to section 569 and inserting the following:

"569. Encouraging negotiated rulemaking.".

(c) EXPEDITED HIRING OF CONVENORS AND FACILITATORS.—

(1) DEFENSE AGENCY CONTRACTS.—Section 2304(c)(3)(C) of title 10, United States Code, is amended by inserting "or negotiated rulemaking" after "alternative dispute resolution".

(2) FEDERAL CONTRACTS.—Section 303(c)(3)(C) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(c)(3)(C)), is amended by inserting "or negotiated rulemaking" after "alternative dispute resolution".

(d) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—Subchapter III of title 5, United States Code, is amended by adding at the end thereof the following new section:

"§ 570a. Authorization of appropriations

"There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this subchapter.".

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 5, United States Code, is amended by inserting after the item relating to section 570 the following:

"570a. Authorization of appropriations.".

5 USC 563 note.

(e) NEGOTIATED RULEMAKING COMMITTEES.—The Director of the Office of Management and Budget shall—

(1) within 180 days of the date of the enactment of this Act, take appropriate action to expedite the establishment of negotiated rulemaking committees and committees established to resolve disputes under the Administrative Dispute Resolution Act, including, with respect to negotiated rulemaking committees, eliminating any redundant administrative requirements related to filing a committee charter under section 9 of the Federal Advisory Committee Act (5 U.S.C. App.) and providing public notice of such committee under section 564 of title 5, United States Code; and

Recommendations.

(2) within one year of the date of the enactment of this Act, submit recommendations to Congress for any necessary legislative changes.

SEC. 12. JURISDICTION OF THE UNITED STATES COURT OF FEDERAL CLAIMS AND THE DISTRICT COURTS OF THE UNITED STATES: BID PROTESTS.

(a) BID PROTESTS.—Section 1491 of title 28, United States Code, is amended—

(1) by redesignating subsection (b) as subsection (c);

(2) in subsection (a) by striking out paragraph (3); and

(3) by inserting after subsection (a), the following new subsection:

"(b)(1) Both the Unites States Court of Federal Claims and the district courts of the United States shall have jurisdiction to render judgment on an action by an interested party objecting to a solicitation by a Federal agency for bids or proposals for a proposed contract or to a proposed award or the award of a contract or any alleged violation of statute or regulation in connection with a procurement or a proposed procurement. Both the United States Court of Federal Claims and the district courts of the United States shall have jurisdiction to entertain such an action without regard to whether suit is instituted before or after the contract is awarded.

"(2) To afford relief in such an action, the courts may award any relief that the court considers proper, including declaratory and injunctive relief except that any monetary relief shall be limited to bid preparation and proposal costs.

"(3) In exercising jurisdiction under this subsection, the courts shall give due regard to the interests of national defense and national security and the need for expeditious resolution of the action.

"(4) In any action under this subsection, the courts shall review the agency's decision pursuant to the standards set forth in section 706 of title 5.".

(b) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on December 31, 1996 and shall apply to all actions filed on or after that date. 28 USC 1491 note.

(c) STUDY.—No earlier than 2 years after the effective date of this section, the United States General Accounting Office shall undertake a study regarding the concurrent jurisdiction of the district courts of the United States and the Court of Federal Claims over bid protests to determine whether concurrent jurisdiction is necessary. Such a study shall be completed no later than December 31, 1999, and shall specifically consider the effect of any proposed change on the ability of small businesses to challenge violations of Federal procurement law.

(d) SUNSET.—The jurisdiction of the district courts of the United States over the actions described in section 1491(b)(1) of title 28, United States Code (as amended by subsection (a) of this section) shall terminate on January 1, 2001 unless extended by Congress. The savings provisions in subsection (e) shall apply if the bid protest jurisdiction of the district courts of the United States terminates under this subsection. 28 USC 1491 note. Applicability.

(e) SAVINGS PROVISIONS.— 28 USC 1491 note.

(1) ORDERS.—A termination under subsection (d) shall not terminate the effectiveness of orders that have been issued by a court in connection with an action within the jurisdiction of that court on or before December 31, 2000. Such orders shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked by a court of competent jurisdiction or by operation of law.

(2) PROCEEDINGS AND APPLICATIONS.—(A) a termination under subsection (d) shall not affect the jurisdiction of a court of the United States to continue with any proceeding that is pending before the court on December 31, 2000.

(B) Orders may be issued in any such proceeding, appeals may be taken therefrom, and payments may be made pursuant to such orders, as if such termination had not occurred. An order issued in any such proceeding shall continue in effect until modified, terminated, superseded, set aside, or revoked by a court of competent jurisdiction or by operation of law.

(C) Nothing in this paragraph prohibits the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that proceeding could have been discontinued or modified absent such termination.

(f) NONEXCLUSIVITY OF GAO REMEDIES.—In the event that the bid protest jurisdiction of the district courts of the United States is terminated pursuant to subsection (d), then section 3556 of title 31, United States Code, shall be amended by striking "a court of the United States or" in the first sentence.

Approved October 19, 1996.

LEGISLATIVE HISTORY—H.R. 4194 (S. 1224):

HOUSE REPORTS: No. 104–245 accompanying S. 1224 (Comm. on Governmental Affairs).

CONGRESSIONAL RECORD, Vol. 142 (1996):
Sept. 27, considered and passed House.
Sept. 30, considered and passed Senate, amended.
Oct. 4, House concurred in Senate amendment.

Public Law 104–321
104th Congress

Joint Resolution

Granting the consent of Congress to the Emergency Management Assistance Compact.

Oct. 19, 1996
[H.J. Res. 193]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONGRESSIONAL CONSENT.

State listing.

The Congress consents to the Emergency Management Assistance Compact entered into by Delaware, Florida, Georgia, Louisiana, Maryland, Mississippi, Missouri, Oklahoma, South Carolina, South Dakota, Tennessee, Virginia, and West Virginia. The compact reads substantially as follows:

"Emergency Management Assistance Compact

"ARTICLE I.

"PURPOSE AND AUTHORITIES.

"This compact is made and entered into by and between the participating member states which enact this compact, hereinafter called party states. For the purposes of this compact, the term 'states' is taken to mean the several states, the Commonwealth of Puerto Rico, the District of Columbia, and all U.S. territorial possessions.

"The purpose of this compact is to provide for mutual assistance between the states entering into this compact in managing any emergency disaster that is duly declared by the Governor of the affected state, whether arising from natural disaster, technological hazard, man-made disaster, civil emergency aspects of resources shortages, community disorders, insurgency, or enemy attack.

"This compact shall also provide for mutual cooperation in emergency-related exercises, testing, or other training activities using equipment and personnel simulating performance of any aspect of the giving and receiving of aid by party states or subdivisions of party states during emergencies, such actions occurring outside actual declared emergency periods. Mutual assistance in this compact may include the use of the states' National Guard forces, either in accordance with the National Guard Mutual Assistance Compact or by mutual agreement between states.

"ARTICLE II.

"GENERAL IMPLEMENTATION.

"Each party state entering into this compact recognizes that many emergencies transcend political jurisdictional boundaries and that intergovernmental coordination is essential in managing these and other emergencies under this compact. Each state further recognizes that there will be emergencies which require immediate access and present procedures to apply outside resources to make a prompt and effective response to such an emergency. This is because few, if any, individual states have all the resources they may need in all types of emergencies or the capability of delivering resources to areas where emergencies exist.

"The prompt, full, and effective utilization of resources of the participating states, including any resources on hand or available from the federal government or any other source, that are essential to the safety, care, and welfare of the people in the event of any emergency or disaster declared by a party state, shall be the underlying principle on which all articles of this compact shall be understood.

"On behalf of the Governor of each state participating in the compact, the legally designated state official who is assigned responsibility for emergency management will be responsible for formulation of the appropriate interstate mutual aid plans and procedures necessary to implement this compact.

"ARTICLE III.

"PARTY STATE RESPONSIBILITIES.

"A. It shall be the responsibility of each party state to formulate procedural plans and programs for interstate cooperation in the performance of the responsibilities listed in this article. In formulating such plans, and in carrying them out, the party states, insofar as practical, shall:

"1. Review individual state hazards analyses and, to the extent reasonably possible, determine all those potential emergencies the party states might jointly suffer, whether due to natural disaster, technological hazard, man-made disaster, emergency aspects of resources shortages, civil disorders, insurgency, or enemy attack;

"2. Review party states' individual emergency plans and develop a plan which will determine the mechanism for the interstate management and provision of assistance concerning any potential emergency;

"3. Develop interstate procedures to fill any identified gaps and to resolve any identified inconsistencies or overlaps in existing or developed plans;

"4. Assist in warning communities adjacent to or crossing the state boundaries;

"5. Protect and assure uninterrupted delivery of services, medicines, water, food, energy and fuel, search and rescue, and critical lifeline equipment, services, and resources, both human and material;

"6. Inventory and set procedures for the interstate loan and delivery of human and material resources, together with procedures for reimbursement or forgiveness; and

"7. Provide, to the extent authorized by law, for temporary suspension of any statutes or ordinances that restrict the implementation of the above responsibilities.

"B. The authorized representative of a party state may request assistance to another party state by contacting the authorized representative of that state. The provisions of this compact shall only apply to requests for assistance made by and to authorized representatives. Requests may be verbal or in writing. If verbal, the request shall be confirmed in writing within thirty days of the verbal request. Requests shall provide the following information:

"1. A description of the emergency service function for which assistance is needed, including, but not limited to, fire services, law enforcement, emergency medical, transportation, communications, public works and engineering, building, inspection, planning and information assistance, mass care, resource support, health and medical services, and search and rescue;

"2. The amount and type of personnel, equipment, materials and supplies needed, and a reasonable estimate of the length of time they will be needed; and

"3. The specific place and time for staging of the assisting party's response and a point of contact at that location.

"C. There shall be frequent consultation between state officials who have assigned emergency management responsibilities and other appropriate representatives of the party states with affected jurisdictions and the United States Government, with free exchange of information, plans, and resource records relating to emergency capabilities.

"ARTICLE IV.

"LIMITATIONS.

"Any party state requested to render mutual aid or conduct exercises and training for mutual aid shall take such action as is necessary to provide and make available the resources covered by this compact in accordance with the terms hereof; provided that it is understood that the state rendering aid may withhold resources to the extent necessary to provide reasonable protection for such state.

"Each party state shall afford to the emergency forces of any party state, while operating within its state limits under the terms and conditions of this compact, the same powers, except that of arrest unless specifically authorized by the receiving state, duties, rights, and privileges as are afforded forces of the state in which they are performing emergency services. Emergency forces will continue under the command and control of their regular leaders, but the organizational units will come under the operational control of the emergency services authorities of the state receiving assistance. These conditions may be activated, as needed, only subsequent to a declaration of a state emergency or disaster by the governor of the party state that is to receive assistance or upon commencement of exercises or training for mutual aid and shall continue so long as the exercises or training for mutual aid are in progress, the state of emergency or disaster remains in effect, or loaned resources remain in the receiving state, whichever is longer.

"ARTICLE V.

"LICENSES AND PERMITS.

"Whenever any person holds a license, certificate, or other permit issued by any state party to the compact evidencing the meeting of qualifications for professional, mechanical, or other skills, and when such assistance is requested by the receiving party state, such person shall be deemed licensed, certified, or permitted by the state requesting assistance to render aid involving such skill to meet a declared emergency or disaster, subject to such limitations and conditions as the Governor of the requesting state may prescribe by executive order or otherwise.

"ARTICLE VI.

"LIABILITY.

"Officers or employees of a party state rendering aid in another state pursuant to this compact shall be considered agents of the requesting state for tort liability and immunity purposes. No party state or its officers or employees rendering aid in another state pursuant to this compact shall be liable on account of any act or omission in good faith on the part of such forces while so engaged or on account of the maintenance or use of any equipment or supplies in connection therewith. Good faith in this article shall not include willful misconduct, gross negligence, or recklessness.

"ARTICLE VII.

"SUPPLEMENTARY AGREEMENTS.

"Inasmuch as it is probable that the pattern and detail of the machinery for mutual aid among two or more states may differ from that among the states that are party hereto, this compact contains elements of a broad base common to all states, and nothing herein shall preclude any state entering into supplementary agreements with another state or affect any other agreements already in force between states. Supplementary agreements may comprehend, but shall not be limited to, provisions for evacuation and reception of injured and other persons and the exchange of medical, fire, police, public utility, reconnaissance, welfare, transportation and communications personnel, and equipment and supplies.

"ARTICLE VIII.

"COMPENSATION.

"Each party state shall provide for the payment of compensation and death benefits to injured members of the emergency forces of that state and representatives of deceased members of such forces in case such members sustain injuries or are killed while rendering aid pursuant to this compact, in the same manner and on the same terms as if the injury or death were sustained within their own state.

"ARTICLE IX.

"REIMBURSEMENT.

"Any party state rendering aid in another state pursuant to this compact shall be reimbursed by the party state receiving such aid for any loss or damage to or expense incurred in the operation of any equipment and the provision of any service in answering a request for aid and for the costs incurred in connection with such requests; provided, that any aiding party state may assume in whole or in part such loss, damage, expense, or other cost, or may loan such equipment or donate such services to the receiving party state without charge or cost; and provided further, that any two or more party states may enter into supplementary agreements establishing a different allocation of costs among those states. Article VIII expenses shall not be reimbursable under this article.

"ARTICLE X.

"EVACUATION.

"Plans for the orderly evacuation and interstate reception of portions of the civilian population as the result of any emergency or disaster of sufficient proportions to so warrant, shall be worked out and maintained between the party states and the emergency management/services directors of the various jurisdictions where any type of incident requiring evacuations might occur. Such plans shall be put into effect by request of the state from which evacuees come and shall include the manner of transporting such evacuees, the number of evacuees to be received in different areas, the manner in which food, clothing, housing, and medical care will be provided, the registration of the evacuees, the providing of facilities for the notification of relatives or friends, and the forwarding of such evacuees to other areas or the bringing in of additional materials, supplies, and all other relevant factors. Such plans shall provide that the party state receiving evacuees and the party state from which the evacuees come shall mutually agree as to reimbursement of out-of-pocket expenses incurred in receiving and caring for such evacuees, for expenditures for transportation, food, clothing, medicines, and medical care, and like items. Such expenditures shall be reimbursed as agreed by the party state from which the evacuees come. After the termination of the emergency or disaster, the party state from which the evacuees come shall assume the responsibility for the ultimate support of repatriation of such evacuees.

"ARTICLE XI.

"IMPLEMENTATION.

"A. This compact shall become effective immediately upon its enactment into law by any two states. Thereafter, this compact shall become effective as to any other state upon enactment by such state. Effective date.

"B. Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until thirty days after the Governor of the withdrawing state has given notice in writing of such withdrawal to the Governors of all other party states. Such action shall not relieve

the withdrawing state from obligations assumed hereunder prior to the effective date of withdrawal.

"C. Duly authenticated copies of this compact and of such supplementary agreements as may be entered into shall, at the time of their approval, be deposited with each of the party states and with the Federal Emergency Management Agency and other appropriate agencies of the United States Government.

"ARTICLE XII.

"VALIDITY.

"This compact shall be construed to effectuate the purposes stated in Article I. If any provision of this compact is declared unconstitutional, or the applicability thereof to any person or circumstances is held invalid, the constitutionality of the remainder of this compact and the applicability thereof to other persons and circumstances shall not be affected.

"ARTICLE XIII.

"ADDITIONAL PROVISIONS.

"Nothing in this compact shall authorize or permit the use of military force by the National Guard of a state at any place outside that state in any emergency for which the President is authorized by law to call into federal service the militia, or for any purpose for which the use of the Army or the Air Force would in the absence of express statutory authorization be prohibited under § 1385 of Title 18 of the United States Code.".

SEC. 2. RIGHT TO ALTER, AMEND, OR REPEAL.

The right to alter, amend, or repeal this joint resolution is hereby expressly reserved. The consent granted by this joint resolution shall—

(1) not be construed as impairing or in any manner affecting any right or jurisdiction of the United States in and over the subject of the compact;

(2) not be construed as consent to the National Guard Mutual Assistance Compact;

(3) be construed as understanding that the first paragraph of Article II of the compact provides that emergencies will require procedures to provide immediate access to existing resources to make a prompt and effective response;

(4) not be construed as providing authority in Article III A. 7. that does not otherwise exist for the suspension of statutes or ordinances;

(5) be construed as understanding that Article III C. does not impose any affirmative obligation to exchange information, plans, and resource records on the United States or any party which has not entered into the compact; and

(6) be construed as understanding that Article XIII does not affect the authority of the President over the National Guard provided by article I of the Constitution and title 10 of the United States Code.

SEC. 3. CONSTRUCTION AND SEVERABILITY.

It is intended that the provisions of this compact shall be reasonably and liberally construed to effectuate the purposes

thereof. If any part or application of this compact, or legislation enabling the compact, is held invalid, the remainder of the compact or its application to other situations or persons shall not be affected.

SEC. 4. INCONSISTENCY OF LANGUAGE.

The validity of this compact shall not be affected by any insubstantial difference in its form or language as adopted by the States.

Approved October 19, 1996.

LEGISLATIVE HISTORY—H.J. Res. 193 (S.J. Res. 61):

CONGRESSIONAL RECORD, Vol. 142 (1996):
Sept. 24, considered and passed House.
Oct. 3, considered and passed Senate.

Public Law 104–322
104th Congress

Joint Resolution

Oct. 19, 1996
[H.J. Res. 194]

Granting the consent of the Congress to amendments made by Maryland, Virginia, and the District of Columbia to the Washington Metropolitan Area Transit Regulation Compact.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONSENT OF CONGRESS TO AMENDMENTS TO COMPACT.

The Congress consents to the amendments of the State of Maryland (chapter 252, 1995 Acts of the Maryland General Assembly and chapter 489, 1996 Laws of Maryland), the amendments of the Commonwealth of Virginia (chapter 150, 1995 Acts of Assembly of Virginia), and the amendments of the District of Columbia (D.C. Law 11–138) of title III of the Washington Metropolitan Area Transit Regulation Compact. Such amendments are substantially as follows:

(1) Section 3 is amended to read as follows:

"Washington Metropolitan Area Transit Zone

Establishment.

"3. There is hereby created the Washington Metropolitan Area Transit Zone which shall embrace the District of Columbia, the cities of Alexandria, Falls Church and Fairfax and the counties of Arlington, Fairfax, and Loudoun and political subdivisions of the Commonwealth of Virginia located within those counties, and the counties of Montgomery and Prince George's in the State of Maryland and political subdivisions of the State of Maryland located in said counties.".

(2) Subsection (a) of section 5 is amended to read as follows:

"(a) The Authority shall be governed by a Board of six Directors consisting of two Directors for each signatory. For Virginia, the Directors shall be appointed by the Northern Virginia Transportation Commission; for the District of Columbia, by the Council of the District of Columbia; and for Maryland, by the Washington Suburban Transit Commission. For Virginia and Maryland, the Directors shall be appointed from among the members of the appointing body, except as otherwise provided herein, and shall serve for a term coincident with their term on the appointing body. A Director may be removed or suspended from office only as provided by the law of the signatory from which he was appointed. The appointing authorities shall also appoint an alternate for each Director, who may act only in the absence of the Director for whom he has been appointed an alternate, except that, in the case of the District of Columbia where only one Director and his alternate are present, such alternate may act on behalf

of the absent Director. Each alternate shall serve at the pleasure of the appointing authority. In the event of a vacancy in the Office of Director or alternate, it shall be filled in the same manner as an original appointment.".

(3) Subsection (a) of section 8 is amended to read as follows:

"(a) Four Directors or alternates consisting of at least one Director or alternate appointed from each Signatory, shall constitute a quorum and no action by the Board shall be effective unless a majority of the Board present and voting, which majority shall include at least one Director or alternate from each Signatory, concur therein; provided, however, that a plan of financing may be adopted or a mass transit plan adopted, altered, revised or amended by the unanimous vote of the Directors representing any two Signatories.".

(4) Subsection (b) of section 14 is amended to read as follows:

"(b) It shall be the duty and responsibility of each member of the Board to serve as liaison between the Board and the body which appointed him to the Board. To provide a framework for regional participation in the planning process, the Board shall create technical committees concerned with planning and collection and analyses of data relative to decision-making in the transportation planning process and the Mayor and Council of the District of Columbia, the component governments of the Northern Virginia Transportation District and the Washington Suburban Transit District shall appoint representatives to such technical committees and otherwise cooperate with the Board in the formulation of a mass transit plan, or in revisions, alterations or amendments thereof.".

(5)(A) Paragraph (1) of subsection (a) of section 15 is amended to read as follows:

"(1) The Mayor and Council of the District of Columbia, the Northern Virginia Transportation Commission and the Washington Suburban Transit Commission;".

(B) Paragraph (3) of subsection (a) of section 15 is amended to read as follows:

"(3) the transportation agencies of the signatories;".

(C) The last paragraph of section 15 is amended to read as follows:

"(b) A copy of the proposed mass transit plan, amendment or revision, shall be kept at the office of the Board and shall be available for public inspection. Information with respect thereto shall be released to the public. After thirty days' notice published once a week for two successive weeks in one or more newspapers of general circulation within the zone, a public hearing shall be held with respect to the proposed plan, alteration, revision or amendment. The thirty days' notice shall begin to run on the first day the notice appears in any such newspaper. The Board shall consider the evidence submitted and statements and comments made at such meeting and may make any changes in the proposed plan, amendment or revision which it deems appropriate and such changes may be made without further hearing.". Public information. Notice.

(6) Subsection (a) of section 70 is amended to read as follows:

"(a) As soon as practical after the closing of the fiscal year, an audit shall be made of the financial accounts of the Authority. The audit shall be made by qualified certified public accountants selected by the Board, who shall have no personal interest direct or indirect in the financial affairs of the Authority or any of its

officers or employees. The report of audit shall be prepared in accordance with generally accepted auditing principles and shall be filed with the Chairman and other officers as the Board shall direct. Copies of the report shall be distributed to each Director, to the Congress, to the Mayor and Council of the District of Columbia, to the Governors of Virginia and Maryland, to the Washington Suburban Transit Commission, to the Northern Virginia Transportation Commission and to the governing bodies of the political subdivisions located within the Zone which are parties to commitments for participation in the financing of the Authority and shall be made available for public distribution.".

(7) Section 73 is amended to read as follows:

"Contracting and Purchasing

"73. (a)(1) Except as provided in subsections (b), (c), and (f) of this section, and except in the case of procurement procedures otherwise expressly authorized by statute, the Authority in conducting a procurement of property, services, or construction shall:

"(A) obtain full and open competition through the use of competitive procedures in accordance with the requirements of this Section; and

"(B) use the competitive procedure or combination of competitive procedures that is best suited under the circumstances of the procurement.

"(2) In determining the competitive procedure appropriate under the circumstances, the Authority shall:

"(A) solicit sealed bids if:

"(i) time permits the solicitation, submission, and evaluation of sealed bids;

"(ii) the award will be made on the basis of price and other price-related factors;

"(iii) it is not necessary to conduct discussions with the responding sources about their bids; and

"(iv) there is a reasonable expectation of receiving more than one sealed bid; or

"(B) request competitive proposals if sealed bids are not appropriate under clause (A) of this paragraph.

"(b) The Authority may provide for the procurement of property, services, or construction covered by this Section using competitive procedures but excluding a particular source in order to establish or maintain an alternative source or sources of supply for that property, service, or construction if the Authority determines that excluding the source would increase or maintain competition and would likely result in reduced overall costs for procurement of property, services, or construction.

"(c) The Authority may use procedures other than competitive procedures if:

"(1) the property, services, or construction needed by the Authority is available from only one responsible source and no other type of property, services, or construction will satisfy the needs of the Authority; or

"(2) the Authority's need for the property, services, or construction is of such an unusual and compelling urgency that the Authority would be seriously injured unless the Authority limits the number of sources from which it solicits bids or proposals; or

"(3) the Authority determines that it is necessary in the public interest to use procedures other than competitive procedures in the particular procurement; or

"(4) the property or services can be obtained through federal or other governmental sources at reasonable prices.

"(d) For the purpose of applying subsection (c)(1) of this section:

"(1) in the case of a contract for property, services, or construction to be awarded on the basis of acceptance of an unsolicited proposal, the property, services, or construction shall be deemed to be available from only one responsible source if the source has submitted an unsolicited proposal that demonstrates a concept:

"(A) that is unique and innovative or, in the case of a service, for which the source demonstrates a unique capability to provide the service; and

"(B) the substance of which is not otherwise available to the Authority and does not resemble the substance of a pending competitive procurement.

"(2) in the case of a follow-on contract for the continued development or production of a major system or highly specialized equipment or the continued provision of highly specialized services, the property, services, or construction may be deemed to be available from only the original source and may be procured through procedures other than competitive procedures if it is likely that award to a source other than the original source would result in:

"(A) substantial duplication of cost to the Authority that is not expected to be recovered through competition; or

"(B) unacceptable delays in fulfilling the Authority's needs.

"(e) If the Authority uses procedures other than competitive procedures to procure property, services, or construction under subsection (c)(2) of this section, the Authority shall request offers from as many potential sources as is practicable under the circumstances.

"(f)(1) To promote efficiency and economy in contracting, the Authority may use simplified acquisition procedures for purchases of property, services and construction.

"(2) For the purposes of this subsection, simplified acquisition procedures may be used for purchases for an amount that does not exceed the simplified acquisition threshold adopted by the Federal Government.

"(3) A proposed purchase or contract for an amount above the simplified acquisition threshold may not be divided into several purchases or contracts for lesser amounts in order to use the procedures under paragraph (1) of this subsection.

"(4) In using simplified acquisition procedures, the Authority shall promote competition to the maximum extent practicable.

"(g) The Board shall adopt policies and procedures to implement this Section. The policies and procedures shall provide for publication of notice of procurements and other actions designed to secure competition where competitive procedures are used.

"(h) The Authority in its discretion may reject any and all bids or proposals received in response to a solicitation.".

(8) Section 81 is amended to read as follows:

"Jurisdiction of Courts

"81. The United States District Courts shall have original jurisdiction, concurrent with the Courts of Maryland, Virginia and the District of Columbia, of all actions brought by or against the Authority and to enforce subpoenas issued under this Title. Any such action initiated in a State or District of Columbia Court shall be removable to the appropriate United States District Court in the manner provided by Act of June 25, 1948, as amended (28 U.S.C. 1446).".

(9) Section 84 is amended to read as follows:

"Amendments and Supplements

"84. Amendments and supplements to this Title to implement the purposes thereof may be adopted by legislative action of any of the signatory parties concurred in by all of the others. When one signatory adopts an amendment or supplement to an existing section of the Compact. that amendment shall not be immediately effective, and the previously enacted provision(s) shall remain in effect in each jurisdiction until the amendment or supplement is approved by the other signatories and is consented to by Congress.".

Approved October 19, 1996.

LEGISLATIVE HISTORY—H.J. Res. 194:

CONGRESSIONAL RECORD, Vol. 142 (1996):
Sept. 24, considered and passed House.
Oct. 3, considered and passed Senate.

Public Law 104–323
104th Congress

An Act

To establish the Cache La Poudre River Corridor.

Oct. 19, 1996
[S. 342]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Cache La Poudre River Corridor Act.
Colorado.

SEC. 100. SHORT TITLE.

This Act may be cited as the "Cache La Poudre River Corridor Act".

SEC. 101. PURPOSE.

The purpose of this Act is to designate the Cache La Poudre Corridor within the Cache La Poudre River Basin and to provide for the interpretation, for the educational and inspirational benefit of present and future generations, of the unique and significant contributions to our national heritage of cultural and historical lands, waterways, and structures within the Corridor.

SEC. 102. DEFINITIONS.

In this Act:

(1) COMMISSION.—The term "Commission" means the Cache La Poudre Corridor Commission established by section 104(a).

(2) CORRIDOR.—The term "Corridor" means the Cache La Poudre Corridor established by section 103(a).

(3) GOVERNOR.—The term "Governor" means the Governor of the State of Colorado.

(4) PLAN.—The term "Plan" means the corridor interpretation plan prepared by the Commission pursuant to section 108(a).

(5) POLITICAL SUBDIVISION OF THE STATE.—The term "political subdivision of the State" means a political subdivision of the State of Colorado, any part of which is located in or adjacent to the Corridor, including a county, city, town, water conservancy district, or special district.

(6) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

SEC. 103. ESTABLISHMENT OF THE CACHE LA POUDRE CORRIDOR.

(a) ESTABLISHMENT.—There is established in the State of Colorado the Cache La Poudre Corridor.

(b) BOUNDARIES.—The boundaries of the Corridor shall include the lands within the 100-year flood plain of the Cache La Poudre River Basin, beginning at a point where the Cache La Poudre River flows out of the Roosevelt National Forest and continuing east along the floodplain to a point ¼ mile west of the confluence of the Cache La Poudre River and the South Platte River in Weld

County, Colorado, comprising less than 35,000 acres, and generally depicted as the 100-year flood boundary on the Federal Flood Insurance maps listed below:

(1) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, COLORADO.—Community-Panel No. 080101 0146B, April 2, 1979. United States Department of Housing and Urban Development, Federal Insurance Administration.

(2) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, COLORADO.—Community-Panel No. 080101 0147B, April 2, 1979. United States Department of Housing and Urban Development, Federal Insurance Administration.

(3) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, COLORADO.—Community-Panel No. 080101 0162B, April 2, 1979. United States Department of Housing and Urban Development, Federal Insurance Administration.

(4) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, COLORADO.—Community-Panel No. 080101 0163C, March 18, 1986. Federal Emergency Management Agency, Federal Insurance Administration.

(5) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, COLORADO.—Community-Panel No. 080101 0178C, March 18, 1986. Federal Emergency Management Agency, Federal Insurance Administration.

(6) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, COLORADO.—Community-Panel No. 080102 0002B, February 15, 1984. Federal Emergency Management Agency, Federal Insurance Administration.

(7) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, COLORADO.—Community-Panel No. 080101 0179C, March 18, 1986. Federal Emergency Management Agency, Federal Insurance Administration.

(8) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, COLORADO.—Community-Panel No. 080101 0193D, November 17, 1993. Federal Emergency Management Agency, Federal Insurance Administration.

(9) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, COLORADO.—Community-Panel No. 080101 0194D, November 17, 1993. Federal Emergency Management Agency, Federal Insurance Administration.

(10) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, COLORADO.—Community-Panel No. 080101 0208C, November 17, 1993. Federal Emergency Management Agency, Federal Insurance Administration.

(11) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, COLORADO.—Community-Panel No. 080101 0221C, November 17, 1993. Federal Emergency Management Agency, Federal Insurance Administration.

(12) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, COLORADO.—Community-Panel No. 080266 0605D, September 27, 1991. Federal Emergency Management Agency, Federal Insurance Administration.

(13) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, COLORADO.—Community-Panel No. 080264 0005A, September 27, 1991. Federal Emergency Management Agency, Federal Insurance Administration.

(14) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, COLORADO.—Community-Panel No. 080266 0608D, September 27,

1991. Federal Emergency Management Agency, Federal Insurance Administration.

(15) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, COLORADO.—Community-Panel No. 080266 0609C, September 28, 1982. Federal Emergency Management Agency, Federal Insurance Administration.

(16) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, COLORADO.—Community-Panel No. 080266 0628C, September 28, 1982. Federal Emergency Management Agency, Federal Insurance Administration.

(17) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, COLORADO.—Community-Panel No. 080184 0002B, July 16, 1979. United States Department of Housing and Urban Development, Federal Insurance Administration.

(18) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, COLORADO.—Community-Panel No. 080266 0636C, September 28, 1982. Federal Emergency Management Agency, Federal Insurance Administration.

(19) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, COLORADO.—Community-Panel No. 080266 0637C, September 28, 1982. Federal Emergency Management Agency, Federal Insurance Administration.

As soon as practicable after the date of enactment of this Act, the Secretary shall publish in the Federal Register a detailed description and map of the boundaries of the Corridor.

(c) PUBLIC ACCESS TO MAPS.—The maps shall be on file and available for public inspection in—

(1) the offices of the Department of the Interior in Washington, District of Columbia, and Denver, Colorado; and

(2) local offices of the city of Fort Collins, Larimer County, the city of Greeley, and Weld County.

SEC. 104. ESTABLISHMENT OF THE CACHE LA POUDRE CORRIDOR COMMISSION.

(a) IN GENERAL.—Upon the recommendation of the Governor, the Secretary is authorized to recognize, for the purpose of developing and implementing the plan referred to in section 108, the Cache La Poudre Corridor Commission, as such Commission may be established by the State of Colorado or its political subdivisions.

(b) REFLECTION OF CROSS-SECTION OF INTERESTS.—The Secretary may provide recognition under subsection (a) only if the Commission reflects the following:

(1) MEMBERSHIP.—

(A) COMPOSITION.—The Commission shall be composed of 15 members appointed not later than 6 months after the date of enactment of this Act. Of these 15 members—

(i) 1 member shall be a representative of the Secretary of the Interior which member shall be an ex officio member;

(ii) 1 member shall be a representative of the Forest Service, appointed by the Secretary of Agriculture, which member shall be an ex officio member;

(iii) 3 members shall be recommended by the Governor and appointed by the Secretary, of whom—

(I) 1 member shall represent the State;

(II) 1 member shall represent Colorado State University in Fort Collins; and

(III) 1 member shall represent the Northern Colorado Water Conservancy District;

(iv) 6 members shall be representatives of local governments who are recommended by the Governor and appointed by the Secretary, of whom—

(I) 1 member shall represent the city of Fort Collins;

(II) 2 members shall represent Larimer County, 1 of which shall represent agriculture or irrigated water interests;

(III) 1 member shall represent the city of Greeley;

(IV) 2 members shall represent Weld County, 1 of which shall represent agricultural or irrigated water interests; and

(V) 1 member shall represent the city of Loveland; and

(v) 3 members shall be recommended by the Governor and appointed by the Secretary, and shall—

(I) represent the general public;

(II) be citizens of the State; and

(III) reside within the Corridor.

(B) CHAIRPERSON.—The chairperson of the Commission shall be elected by the members of the Commission from among members appointed under clause (iii), (iv), or (v) of subparagraph (A). The chairperson shall be elected for a 2-year term.

(C) VACANCIES.—A vacancy on the Commission shall be filled in the same manner in which the original appointment was made.

(2) TERMS OF SERVICE.—

(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), each member of the Commission shall be appointed for a term of 3 years and may be reappointed.

(B) INITIAL MEMBERS.—The initial members of the Commission first appointed under paragraph (1)(A) shall be appointed as follows:

(i) 3-YEAR TERMS.—The following initial members shall serve for a 3-year term:

(I) The representative of the Secretary of the Interior.

(II) 1 representative of Weld County.

(III) 1 representative of Larimer County.

(IV) 1 representative of the city of Loveland.

(V) 1 representative of the general public.

(ii) 2-YEAR TERMS.—The following initial members shall serve for a 2-year term:

(I) The representative of the Forest Service.

(II) The representative of the State.

(III) The representative of Colorado State University.

(IV) The representative of the Northern Colorado Water Conservancy District.

(iii) 1-YEAR TERMS.—The following initial members shall serve for a 1-year term:

(I) 1 representative of the city of Fort Collins.

(II) 1 representative of Larimer County.

(III) 1 representative of the city of Greeley.
(IV) 1 representative of Weld County.
(V) 1 representative of the general public.

(C) PARTIAL TERMS.—

(i) FILLING VACANCIES.—A member of the Commission appointed to fill a vacancy occurring before the expiration of the term for which a predecessor was appointed shall be appointed only for the remainder of the member's term.

(ii) EXTENDED SERVICE.—A member of the Commission may serve after the expiration of that member's term until a successor has taken office.

(3) COMPENSATION.—Members of the Commission shall receive no compensation for their service on the Commission.

(4) TRAVEL EXPENSES.—While away from their homes or regular places of business in the performance of services for the Commission, members shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

SEC. 105. STAFF OF THE COMMISSION.

(a) STAFF.—The Commission shall have the power to appoint and fix the compensation of such staff as may be necessary to carry out the duties of the Commission.

(1) APPOINTMENT AND COMPENSATION.—Staff appointed by the Commission—

(A) shall be appointed without regard to the civil service laws (including regulations); and

(B) shall be compensated without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates.

(b) EXPERTS AND CONSULTANTS.—Subject to such rules as may be adopted by the Commission, the Commission may procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code, at rates for individuals that do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of that title.

(c) STAFF OF OTHER AGENCIES.—

(1) FEDERAL.—Upon request of the Commission, the head of a Federal agency may detail, on a reimbursement basis, any of the personnel of the agency to the Commission to assist the Commission in carrying out the Commission's duties. The detail shall be without interruption or loss of civil service status or privilege.

(2) ADMINISTRATIVE SUPPORT SERVICES.—The Administrator of the General Services Administration shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request.

(3) STATE.—The Commission may—

(A) accept the service of personnel detailed from the State, State agencies, and political subdivisions of the State; and

(B) reimburse the State, State agency, or political subdivision of the State for such services.

SEC. 106. POWERS OF THE COMMISSION.

(a) HEARINGS.—

(1) IN GENERAL.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers necessary to carry out this Act.

(2) SUBPOENAS.—The Commission may not issue subpoenas or exercise any subpoena authority.

(b) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(c) MATCHING FUNDS.—The Commission may use its funds to obtain money from any source under a program or law requiring the recipient of the money to make a contribution in order to receive the money.

(d) GIFTS.—Except as provided in subsection (e)(3), the Commission may, for the purpose of carrying out its duties, seek, accept, and dispose of gifts, bequests, or donations of money, personal property, or services received from any source.

(e) REAL PROPERTY.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Commission may not acquire real property or an interest in real property.

(2) EXCEPTION.—Subject to paragraph (3), the Commission may acquire real property in the Corridor, and interests in real property in the Corridor—

(A) by gift or device;

(B) by purchase from a willing seller with money that was given or bequeathed to the Commission; or

(C) by exchange.

(3) CONVEYANCE TO PUBLIC AGENCIES.—Any real property or interest in real property acquired by the Commission under paragraph (2) shall be conveyed by the Commission to an appropriate non-Federal public agency, as determined by the Commission. The conveyance shall be made—

(A) as soon as practicable after acquisition;

(B) without consideration; and

(C) on the condition that the real property or interest in real property so conveyed is used in furtherance of the purpose for which the Corridor is established.

(f) COOPERATIVE AGREEMENTS.—For the purpose of carrying out the Plan, the Commission may enter into cooperative agreements with Federal agencies, State agencies, political subdivisions of the State, and persons. Any such cooperative agreement shall, at a minimum, establish procedures for providing notice to the Commission of any action that may affect the implementation of the Plan.

(g) ADVISORY GROUPS.—The Commission may establish such advisory groups as it considers necessary to ensure open communication with, and assistance from Federal agencies, State agencies, political subdivisions of the State, and interested persons.

(h) MODIFICATION OF PLANS.—

(1) IN GENERAL.—The Commission may modify the Plan if the Commission determines that such modification is necessary to carry out this Act.

(2) NOTICE.—No modification shall take effect until—

(A) any Federal agency, State agency, or political subdivision of the State that may be affected by the modification receives adequate notice of, and an opportunity to comment on, the modification;

(B) if the modification is significant, as determined by the Commission, the Commission has—

(i) provided adequate notice of the modification by publication in the area of the Corridor; and

(ii) conducted a public hearing with respect to the modification; and

(C) the Governor has approved the modification.

SEC. 107. DUTIES OF THE COMMISSION.

(a) PLAN.—The Commission shall prepare, obtain approval for, implement, and support the Plan in accordance with section 108.

(b) MEETINGS.—

(1) TIMING.—

(A) INITIAL MEETING.—The Commission shall hold its first meeting not later than 90 days after the date on which its last initial member is appointed.

(B) SUBSEQUENT MEETINGS.—After the initial meeting, the Commission shall meet at the call of the chairperson or 7 of its members, except that the Commission shall meet at least quarterly .

(2) QUORUM.—Ten members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(3) BUDGET.—The affirmative vote of not less than 10 members of the Commission shall be required to approve the budget of the Commission.

(c) ANNUAL REPORTS.—Not later than May 15 of each year, following the year in which the members of the Commission have been appointed, the Commission shall publish and submit to the Secretary and to the Governor, an annual report concerning the Commission's activities.

SEC. 108. PREPARATION, REVIEW, AND IMPLEMENTATION OF THE PLAN.

(a) PREPARATION OF PLAN.—

(1) IN GENERAL.—Not later than 2 years after the Commission conducts its first meeting, the Commission shall submit to the Governor a Corridor Interpretation Plan.

(2) DEVELOPMENT.—In developing the Plan, the Commission shall—

(A) consult on a regular basis with appropriate officials of any Federal or State agency, political subdivision of the State, and local government that has jurisdiction over or an ownership interest in land, water, or water rights within the Corridor; and

(B) conduct public hearings within the Corridor for the purpose of providing interested persons the opportunity to testify about matters to be addressed by the Plan.

(3) RELATIONSHIP TO EXISTING PLANS.—The Plan—

(A) shall recognize any existing Federal, State, and local plans;

(B) shall not interfere with the implementation, administration, or amendment of such plans; and

(C) to the extent feasible, shall seek to coordinate the plans and present a unified interpretation plan for the Corridor.

(b) REVIEW OF PLAN.—

(1) IN GENERAL.—The Commission shall submit the Plan to the Governor for the Governor's review.

(2) GOVERNOR.—The Governor may review the Plan and, if the Governor concurs in the Plan, may submit the Plan to the Secretary, together with any recommendations.

(3) SECRETARY.—The Secretary shall approve or disapprove the Plan within 90 days. In reviewing the Plan, the Secretary shall consider the adequacy of—

(A) public participation; and

(B) the Plan in interpreting, for the educational and inspirational benefit of present and future generations, the unique and significant contributions to our national heritage of cultural and historical lands, waterways, and structures within the Corridor.

(c) DISAPPROVAL OF PLAN.—

(1) NOTIFICATION BY SECRETARY.—If the Secretary disapproves the Plan, the Secretary shall, not later than 60 days after the date of disapproval, advise the Governor and the Commission of the reasons for disapproval, together with recommendations for revision.

(A) REVISION AND RESUBMISSION TO GOVERNOR.—Not later than 90 days after receipt of the notice of disapproval, the Commission shall revise and resubmit the Plan to the Governor for review.

(B) RESUBMISSION TO SECRETARY.—If the Governor concurs in the revised Plan, he may submit the revised Plan to the Secretary who shall approve or disapprove the revision within 60 days. If the Governor does not concur in the revised Plan, he may resubmit it to the Commission together with his recommendations for further consideration and modification.

(2) IMPLEMENTATION OF PLAN.—After approval by the Secretary, the Commission shall implement and support the Plan as follows:

(A) CULTURAL RESOURCES.—

(i) IN GENERAL.—The Commission shall assist Federal agencies, State agencies, political subdivisions of the State, and nonprofit organizations in the conservation and interpretation of cultural resources within the Corridor.

(ii) EXCEPTION.—In providing the assistance, the Commission shall in no way infringe upon the authorities and policies of a Federal agency, State agency, or political subdivision of the State concerning the administration and management of property, water, or water rights held by the agency, political subdivision, or private persons or entities, or affect the jurisdiction of the State of Colorado over any property, water, or water rights within the Corridor.

(3) PUBLIC AWARENESS.—The Commission shall assist in the enhancement of public awareness of, and appreciation for, the historical, recreational, architectural, and engineering structures in the Corridor, and the archaeological, geological, and cultural resources and sites in the Corridor—

(A) by encouraging private owners of identified structures, sites, and resources to adopt voluntary measures for the preservation of the identified structure, site, or resource; and

(B) by cooperating with Federal agencies, State agencies, and political subdivisions of the State in acquiring, on a willing seller basis, any identified structure, site, or resource which the Commission, with the concurrence of the Governor, determines should be acquired and held by an agency of the State.

(4) RESTORATION.—The Commission may assist Federal agencies, State agencies, political subdivisions of the State, and nonprofit organizations in the restoration of any identified structure or site in the Corridor with consent of the owner. The assistance may include providing technical assistance for historic preservation, revitalization, and enhancement efforts.

(5) INTERPRETATION.—The Commission shall assist in the interpretation of the historical, present, and future uses of the Corridor—

(A) by consulting with the Secretary with respect to the implementation of the Secretary's duties under section 110;

(B) by assisting the State and political subdivisions of the State in establishing and maintaining visitor orientation centers and other interpretive exhibits within the Corridor;

(C) by encouraging voluntary cooperation and coordination, with respect to ongoing interpretive services in the Corridor, among Federal agencies, State agencies, political subdivisions of the State, nonprofit organizations, and private citizens; and

(D) by encouraging Federal agencies, State agencies, political subdivisions of the State, and nonprofit organizations to undertake new interpretive initiatives with respect to the Corridor.

(6) RECOGNITION.—The Commission shall assist in establishing recognition for the Corridor by actively promoting the cultural, historical, natural, and recreational resources of the Corridor on a community, regional, statewide, national, and international basis.

(7) LAND EXCHANGES.—The Commission shall assist in identifying and implementing land exchanges within the State of Colorado by Federal and State agencies that will expand open space and recreational opportunities within the flood plain of the Corridor.

SEC. 109. TERMINATION OF TRAVEL EXPENSES PROVISION.

Effective on the date that is 5 years after the date on which the Secretary approves the Plan, section 104 is amended by striking paragraph (4). Effective date.

SEC. 110. DUTIES OF THE SECRETARY.

(a) ACQUISITION OF LAND.—The Secretary may acquire land and interests in land within the Corridor that have been specifically identified by the Commission for acquisition by the Federal Government and that have been approved for the acquisition by the Governor and the political subdivision of the State where the land is located by donation, purchase with donated or appropriated funds, or exchange. Acquisition authority may only be used if the lands cannot be acquired by donation or exchange. No land or interest in land may be acquired without the consent of the owner.

(b) TECHNICAL ASSISTANCE.—The Secretary shall, upon the request of the Commission, provide technical assistance to the Commission in the preparation and implementation of the Plan pursuant to section 108.

(c) DETAIL.—Each fiscal year during the existence of the Commission, the Secretary shall detail to the Commission, on a nonreimbursable basis, 2 employees of the Department of the Interior to enable the Commission to carry out the Commission's duties under section 107.

SEC. 111. OTHER FEDERAL ENTITIES.

(a) DUTIES.—Subject to section 112, a Federal entity conducting or supporting activities directly affecting the flow of the Cache La Poudre River through the Corridor, or the natural resources of the Corridor shall consult with the Commission with respect to the activities.

(b) AUTHORIZATION.—

(1) IN GENERAL.—The Secretary or Administrator of a Federal agency may acquire land in the flood plain of the Corridor by exchange for other lands within the agency's jurisdiction within the State of Colorado, based on fair market value, if the lands have been identified by the Commission for acquisition by a Federal agency and the Governor and the political subdivision of the State or the owner where the lands are located concur in the exchange. Land so acquired shall be used to fulfill the purpose for which the Corridor is established.

(2) CONVEYANCE OF SURPLUS REAL PROPERTY.—Without monetary consideration to the United States, the Administrator of General Services may convey to the State of Colorado, its political subdivisions, or instrumentalities thereof all of the right, title, and interest of the United States in and to any surplus real property (within the meaning of section 3(g) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472(g))) within the State of Colorado which the Secretary has determined is suitable and desirable to meet the purposes for which the Corridor is established. Subparagraph (B) of section 203(k)(3) of such Act shall apply to any conveyance made under this paragraph. For purposes of the preceding sentence, such subparagraph shall be applied by substituting "the purposes for which the Cache La Poudre Corridor is established" for "historic monument purposes".

SEC. 112. EFFECT ON ENVIRONMENTAL AND OTHER STANDARDS, RESTRICTIONS, AND SAVINGS PROVISIONS.

(a) EFFECT ON ENVIRONMENTAL AND OTHER STANDARDS.—

(1) VOLUNTARY COOPERATION.—In carrying out this Act, the Commission and Secretary shall emphasize voluntary cooperation.

(2) RULES, REGULATIONS, STANDARDS, AND PERMIT PROCESSES.—Nothing in this Act shall be considered to impose or form the basis for imposition of any environmental, occupational, safety, or other rule, regulation, standard, or permit process that is different from those that would be applicable had the Corridor not been established.

(3) ENVIRONMENTAL QUALITY STANDARDS.—Nothing in this Act shall be considered to impose the application or administration of any Federal or State environmental quality standard that is different from those that will be applicable had the Corridor not been established.

(4) WATER STANDARDS.—Nothing in this Act shall be considered to impose any Federal or State water use designation or water quality standard upon uses of, or discharges to, waters of the State or waters of the United States, within or adjacent to the Corridor, that is more restrictive than those that would be applicable had the Corridor not been established.

(5) PERMITTING OF FACILITIES.—Nothing in the establishment of the Corridor shall abridge, restrict, or alter any applicable rule, regulation, standard, or review procedure for permitting of facilities within or adjacent to the Corridor.

(6) WATER FACILITIES.—Nothing in the establishment of the Corridor shall affect the continuing use and operation, repair, rehabilitation, expansion, or new construction of water supply facilities, water and wastewater treatment facilities, stormwater facilities, public utilities, and common carriers.

(7) WATER AND WATER RIGHTS.—Nothing in the establishment of the Corridor shall be considered to authorize or imply the reservation or appropriation of water or water rights for any purpose.

(b) RESTRICTIONS ON COMMISSION AND SECRETARY.—Nothing in this Act shall be construed to vest in the Commission or the Secretary the authority to—

(1) require a Federal agency, State agency, political subdivision of the State, or private person (including an owner of private property) to participate in a project or program carried out by the Commission or the Secretary under this Act;

(2) intervene as a party in an administrative or judicial proceeding concerning the application or enforcement of a regulatory authority of a Federal agency, State agency, or political subdivision of the State, including, but not limited to, authority relating to—

(A) land use regulation;
(B) environmental quality;
(C) licensing;
(D) permitting;
(E) easements;
(F) private land development; or
(G) other occupational or access issue;

(3) establish or modify a regulatory authority of a Federal agency, State agency, or political subdivision of the State, including authority relating to—

(A) land use regulation;
(B) environmental quality; or

(C) pipeline or utility crossings;

(4) modify a policy of a Federal agency, State agency, or political subdivision of the State;

(5) attest in any manner the authority and jurisdiction of the State with respect to the acquisition of lands or water, or interest in lands or water;

(6) vest authority to reserve or appropriate water or water rights in any entity for any purpose;

(7) deny, condition, or restrict the construction, repair, rehabilitation, or expansion of water facilities, including stormwater, water, and wastewater treatment facilities; or

(8) deny, condition, or restrict the exercise of water rights in accordance with the substantive and procedural requirements of the laws of the State.

(c) SAVINGS PROVISION.—Nothing in this Act shall diminish, enlarge, or modify a right of a Federal agency, State agency, or political subdivision of the State—

(1) to exercise civil and criminal jurisdiction within the Corridor; or

(2) to tax persons, corporations, franchises, or property, including minerals and other interests in or on lands or waters within the urban portions of the Corridor.

(d) ACCESS TO PRIVATE PROPERTY.—Nothing in this Act requires an owner of private property to allow access to the property by the public.

SEC. 113. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated not to exceed $50,000 to the Commission to carry out this Act for each of the first 5 fiscal years following the date of enactment of this Act.

(b) MATCHING FUNDS.—Funds may be made available pursuant to this section only to the extent they are matched by equivalent funds or in-kind contributions of services or materials from non-Federal sources.

Approved October 19, 1996.

LEGISLATIVE HISTORY—S. 342:

SENATE REPORTS: No. 104–188 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 142 (1996):
Oct. 3, considered and passed Senate.
Oct. 4, considered and passed House.

Public Law 104–324
104th Congress

An Act

To authorize appropriations for the United States Coast Guard, and for other purposes.

Oct. 19, 1996
[S. 1004]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Coast Guard Authorization Act of 1996.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Coast Guard Authorization Act of 1996".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

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Sec. 102. Authorized levels of military strength and training.
Sec. 103. Quarterly reports on drug interdiction.
Sec. 104. Sense of the Congress regarding funding for Coast Guard.

TITLE II—PERSONNEL MANAGEMENT IMPROVEMENT

Sec. 201. Provision of child development services.
Sec. 202. Hurricane Andrew relief.
Sec. 203. Dissemination of results of 0–6 continuation boards.
Sec. 204. Exclude certain reserves from end-of-year strength.
Sec. 205. Officer retention until retirement eligible.
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Sec. 207. Access to National Driver Register information on certain Coast Guard personnel.
Sec. 208. Coast Guard housing authorities.
Sec. 209. Board for Correction of Military Records deadline.
Sec. 210. Repeal temporary promotion of warrant officers.
Sec. 211. Appointment of temporary officers.
Sec. 212. Information to be provided to officer selection boards.
Sec. 213. Rescue diver training for selected Coast Guard personnel.
Sec. 214. Special authorities regarding Coast Guard.

TITLE III—MARINE SAFETY AND WATERWAY SERVICES MANAGEMENT

Sec. 301. Changes to documentation laws.
Sec. 302. Nondisclosure of port security plans.
Sec. 303. Maritime drug and alcohol testing program civil penalty.
Sec. 304. Renewal of advisory groups.
Sec. 305. Electronic filing of commercial instruments.
Sec. 306. Civil penalties.
Sec. 307. Amendment to require EPIRBs on the Great Lakes.
Sec. 308. Report on LORAN-C requirements.
Sec. 309. Small boat stations.
Sec. 310. Penalty for alteration of marine safety equipment.
Sec. 311. Prohibition on overhaul, repair, and maintenance of Coast Guard vessels in foreign shipyards.
Sec. 312. Withholding vessel clearance for violation of certain Acts.

Sec. 313. Information barred in legal proceedings.
Sec. 314. Marine casualty reporting.

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Sec. 402. Purpose of the Coast Guard auxiliary.
Sec. 403. Members of the auxiliary; status.
Sec. 404. Assignment and performance of duties.
Sec. 405. Cooperation with other agencies, States, territories, and political subdivisions.
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TITLE V—DEEPWATER PORT MODERNIZATION

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Sec. 502. Declarations of purpose and policy.
Sec. 503. Definitions.
Sec. 504. Licenses.
Sec. 505. Informational filings.
Sec. 506. Antitrust review.
Sec. 507. Operation.
Sec. 508. Marine environmental protection and navigational safety.

TITLE VI—COAST GUARD REGULATORY REFORM

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Sec. 603. Use of reports, documents, records, and examinations of other persons.
Sec. 604. Equipment approval.
Sec. 605. Frequency of inspection.
Sec. 606. Certificate of inspection.
Sec. 607. Delegation of authority of Secretary to classification societies.

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Sec. 701. Amendment of inland navigation rules.
Sec. 702. Measurement of vessels.
Sec. 703. Longshore and harbor workers compensation.
Sec. 704. Radiotelephone requirements.
Sec. 705. Vessel operating requirements.
Sec. 706. Merchant Marine Act, 1920.
Sec. 707. Merchant Marine Act, 1956.
Sec. 708. Maritime education and training.
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Sec. 715. Tank vessel construction standards.
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Sec. 718. Definition—Abandonment of barges.
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Sec. 1002. Conveyance of certain lighthouses located in Maine.
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Sec. 1004. Conveyance of property in Ketchikan, Alaska.
Sec. 1005. Conveyance of property in Traverse City, Michigan.
Sec. 1006. Transfer of Coast Guard property in New Shoreham, Rhode Island.
Sec. 1007. Conveyance of property in Santa Cruz, California.
Sec. 1008. Conveyance of vessel S/S RED OAK VICTORY.
Sec. 1009. Conveyance of equipment.
Sec. 1010. Property exchange.
Sec. 1011. Authority to convey Whitefish Point Light Station land.
Sec. 1012. Conveyance of Parramore Beach Coast Guard Station, Virginia.
Sec. 1013. Conveyance of Jeremiah O'Brien.

TITLE XI—MISCELLANEOUS

Sec. 1101. Florida Avenue Bridge.
Sec. 1102. Oil Spill Recovery Institute.
Sec. 1103. Limited double hull exemptions.
Sec. 1104. Oil spill response vessels.
Sec. 1105. Service in certain suits in admiralty.
Sec. 1106. Amendments to the Johnson Act.
Sec. 1107. Lower Columbia River maritime fire and safety activities.
Sec. 1108. Oil pollution research training.
Sec. 1109. Limitation on relocation of Houston and Galveston marine safety offices.
Sec. 1110. Uninspected fish tender vessels.
Sec. 1111. Foreign passenger vessel user fees.
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Sec. 1113. Vessel financing.
Sec. 1114. Manning and watch requirements on towing vessels on the Great Lakes.
Sec. 1115. Repeal of Great Lakes endorsements.
Sec. 1116. Relief from United States documentation requirements.
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Sec. 1121. Vessel deemed to be a recreational vessel.
Sec. 1122. Small passenger vessel pilot inspection program with the State of Minnesota.
Sec. 1123. Commonwealth of the Northern Mariana Islands fishing.
Sec. 1124. Availability of extrajudicial remedies for default on preferred mortgage liens on vessels.
Sec. 1125. Offshore facility financial responsibility requirements.
Sec. 1126. Deauthorization of navigation project, Cohasset Harbor, Massachusetts.
Sec. 1127. Sense of Congress; requirement regarding notice.
Sec. 1128. Requirement for procurement of buoy chain.
Sec. 1129. Cruise ship liability.
Sec. 1130. Sense of Congress on the implementation of regulations regarding animal fats and vegetable oils.
Sec. 1131. Term of Director of the Bureau of Transportation Statistics.
Sec. 1132. Waiver of certain requirements for historic former Presidential Yacht Sequoia.

Sec. 1133. Vessel requirements.
Sec. 1134. Existing tank vessel research.
Sec. 1135. Plan for the engineering, design, and retrofitting of the Icebreaker Mackinaw.
Sec. 1136. Cross-border financing.
Sec. 1137. Vessel standards.
Sec. 1138. Vessels subject to the jurisdiction of the United States.
Sec. 1139. Reactivation of closed shipyards.
Sec. 1140. Sakonnet Point Light.
Sec. 1141. Dredging of Rhode Island Waterways.
Sec. 1142. Interim payments.
Sec. 1143. Oil spill information.
Sec. 1144. Compliance with oil spill response plans.
Sec. 1145. Bridge deemed to unreasonably obstruct navigation.
Sec. 1146. Fishing vessel exemption.

TITLE I—AUTHORIZATION

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Funds are authorized to be appropriated for necessary expenses of the Coast Guard, as follows:

(1) For the operation and maintenance of the Coast Guard—

(A) for fiscal year 1996, $2,618,316,000; and

(B) for fiscal year 1997, $2,637,800,000;

of which $25,000,000 shall be derived each fiscal year from the Oil Spill Liability Trust Fund.

(2) For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore and offshore facilities, vessels, and aircraft, including equipment related thereto—

(A) for fiscal year 1996, $428,200,000; and

(B) for fiscal year 1997, $411,600,000;

to remain available until expended, of which $32,500,000 for fiscal year 1996 and $20,000,000 for fiscal year 1997 shall be derived each fiscal year from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990.

(3) For research, development, test, and evaluation of technologies, materials, and human factors directly relating to improving the performance of the Coast Guard's mission in support of search and rescue, aids to navigation, marine safety, marine environmental protection, enforcement of laws and treaties, ice operations, oceanographic research, and defense readiness—

(A) for fiscal year 1996, $22,500,000; and

(B) for fiscal year 1997, $20,300,000;

to remain available until expended, of which $3,150,000 for fiscal year 1996 and $5,020,000 for fiscal year 1997 shall be derived each fiscal year from the Oil Spill Liability Trust Fund.

(4) For retired pay (including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose), payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code—

(A) for fiscal year 1996, $582,022,000; and

(B) for fiscal year 1997, $608,100,000.

(5) For alteration or removal of bridges over navigable waters of the United States constituting obstructions to naviga-

tion, and for personnel and administrative costs associated with the Bridge Alteration Program—

(A) for fiscal year 1996, $25,300,000, to remain available until expended; and

(B) for fiscal year 1997, $25,100,000, to remain available until expended.

(6) For environmental compliance and restoration at Coast Guard facilities (other than parts and equipment associated with operations and maintenance), $25,000,000 for each of fiscal years 1996 and 1997, to remain available until expended.

(b) AMOUNTS FROM THE DISCRETIONARY BRIDGE PROGRAM.—(1) Section 104 of title 49, United States Code, is amended by adding at the end thereof the following:

"(e) Notwithstanding the provisions of sections 101(d) and 144 of title 23, highway bridges determined to be unreasonable obstructions to navigation under the Truman-Hobbs Act may be funded from amounts set aside from the discretionary bridge program. The Secretary shall transfer these allocations and the responsibility for administration of these funds to the United States Coast Guard.".

(2) Notwithstanding any other provision of law, the Secretary of Transportation shall allocate out of funds available, $9,100,000 for the John F. Limehouse Memorial Bridge, Charleston, South Carolina. The allocation shall be deposited in the Truman-Hobbs bridge program account. The Secretary shall transfer this allocation and responsibility for administration of these funds to the United States Coast Guard.

SEC. 102. AUTHORIZED LEVELS OF MILITARY STRENGTH AND TRAINING.

(a) ACTIVE DUTY STRENGTH.—The Coast Guard is authorized an end-of-year strength for active duty personnel of—

(1) 38,400 as of September 30, 1996; and

(2) 37,561 as of September 30, 1997.

(b) MILITARY TRAINING STUDENT LOADS.—The Coast Guard is authorized average military training student loads as follows:

(1) For recruit and special training—

(A) for fiscal year 1996, 1604 student years; and

(B) for fiscal year 1997, 1604 student years.

(2) For flight training—

(A) for fiscal year 1996, 85 student years; and

(B) for fiscal year 1997, 95 student years.

(3) For professional training in military and civilian institutions—

(A) for fiscal year 1996, 330 student years; and

(B) for fiscal year 1997, 295 student years.

(4) For officer acquisition—

(A) for fiscal year 1996, 874 student years; and

(B) for fiscal year 1997, 878 student years.

SEC. 103. QUARTERLY REPORTS ON DRUG INTERDICTION. 14 USC 89 note.

Not later than 30 days after the end of each fiscal year quarter, the Secretary of Transportation shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on all expenditures related to drug interdiction activities of the Coast Guard during that quarter.

SEC. 104. SENSE OF THE CONGRESS REGARDING FUNDING FOR COAST GUARD.

It is the sense of the Congress that in appropriating amounts for the Coast Guard, the Congress should appropriate amounts adequate to enable the Coast Guard to carry out all extraordinary functions and duties the Coast Guard is required to undertake in addition to its normal functions established by law.

TITLE II—PERSONNEL MANAGEMENT IMPROVEMENT

SEC. 201. PROVISION OF CHILD DEVELOPMENT SERVICES.

(a) IN GENERAL.—Title 14, United States Code, is amended by inserting after section 514 the following new section:

"§ 515. Child development services

"(a) The Commandant may make child development services available for members and civilian employees of the Coast Guard, and thereafter as space is available for members of the Armed Forces and Federal civilian employees. Child development service benefits provided under the authority of this section shall be in addition to benefits provided under other laws.

"(b)(1) Except as provided in paragraph (2), the Commandant may require that amounts received as fees for the provision of services under this section at Coast Guard child development centers be used only for compensation of employees at those centers who are directly involved in providing child care.

"(2) If the Commandant determines that compliance with the limitation in paragraph (1) would result in an uneconomical and inefficient use of such fee receipts, the Commandant may (to the extent that such compliance would be uneconomical and inefficient) use such receipts—

"(A) for the purchase of consumable or disposable items for Coast Guard child development centers; and

"(B) if the requirements of such centers for consumable or disposable items for a given fiscal year have been met, for other expenses of those centers.

"(c) The Commandant shall provide for regular and unannounced inspections of each child development center under this section and may use Department of Defense or other training programs to ensure that all child development center employees under this section meet minimum standards of training with respect to early childhood development, activities and disciplinary techniques appropriate to children of different ages, child abuse prevention and detection, and appropriate emergency medical procedures.

"(d) Of the amounts available to the Coast Guard each fiscal year for operating expenses (and in addition to amounts received as fees), the Secretary may use for child development services under this section an amount not to exceed the total amount the Commandant estimates will be received by the Coast Guard in the fiscal year as fees for the provision of those services.

"(e) The Commandant may use appropriated funds available to the Coast Guard to provide assistance to family home day care providers so that family home day care services can be provided to uniformed service members and civilian employees of the Coast

Guard at a cost comparable to the cost of services provided by Coast Guard child development centers.

"(f) The Secretary shall promulgate regulations to implement this section. The regulations shall establish fees to be charged for child development services provided under this section which take into consideration total family income. Regulations.

"(g) For purposes of this section, the term 'child development center' does not include a child care services facility for which space is allotted under section 616 of the Act of December 22, 1987 (40 U.S.C. 490b).".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 13 of title 14, United States Code, is amended by inserting after the item related to section 514 the following:

"515. Child development services.".

SEC. 202. HURRICANE ANDREW RELIEF. Florida.

Section 2856 of the National Defense Authorization Act for Fiscal Year 1993 (Pub. L. 102–484) applies to the military personnel of the Coast Guard who were assigned to, or employed at or in connection with, any Federal facility or installation in the vicinity of Homestead Air Force Base, Florida, including the areas of Broward, Collier, Dade, and Monroe Counties, on or before August 24, 1992, except that funds available to the Coast Guard, not to exceed $25,000, shall be used. The Secretary of Transportation shall administer the provisions of section 2856 for the Coast Guard.

SEC. 203. DISSEMINATION OF RESULTS OF 0–6 CONTINUATION BOARDS.

Section 289(f) of title 14, United States Code, is amended by striking "Upon approval by the President, the names of the officers selected for continuation on active duty by the board shall be promptly disseminated to the service at large.".

SEC. 204. EXCLUDE CERTAIN RESERVES FROM END-OF-YEAR STRENGTH.

Section 712 of title 14, United States Code, is amended by adding at the end the following:

"(d) Reserve members ordered to active duty under this section shall not be counted in computing authorized strength of members on active duty or members in grade under this title or under any other law.".

SEC. 205. OFFICER RETENTION UNTIL RETIREMENT ELIGIBLE.

Section 283(b) of title 14, United States Code, is amended—

(1) by inserting "(1)" after "(b)";

(2) by striking the last sentence; and

(3) by adding at the end the following:

"(2) Upon the completion of a term under paragraph (1), an officer shall, unless selected for further continuation—

"(A) except as provided in subparagraph (B), be honorably discharged with severance pay computed under section 286 of this title;

"(B) in the case of an officer who has completed at least 18 years of active service on the date of discharge under subparagraph (A), be retained on active duty and retired on the last day of the month in which the officer completes 20 years of active service, unless earlier removed under another provision of law; or

"(C) if, on the date specified for the officer's discharge under this section, the officer has completed at least 20 years of active service or is eligible for retirement under any law, be retired on that date.".

SEC. 206. RECRUITING.

10 USC 503 note.

(a) CAMPUS RECRUITING.—Section 558 of the National Defense Authorization Act for Fiscal Year 1995 (108 Stat. 2776) is amended—

(1) by inserting "or the Department of Transportation" in subsection (a)(1) after "the Department of Defense";

(2) by inserting "or the Secretary of Transportation" after "the Secretary of Defense" in subsection (a)(1); and

(3) by inserting "and the Secretary of Transportation" after "the Secretary of Education" in subsection (b).

(b) FUNDS FOR RECRUITING.—The text of section 468 of title 14, United States Code, is amended to read as follows:

"The Coast Guard may expend operating expense funds for recruiting activities, including but not limited to advertising and entertainment, in order to—

"(1) obtain recruits for the Service and cadet applicants; and

"(2) gain support of recruiting objectives from those who may assist in the recruiting effort.".

Reports.

(c) RECRUITMENT OF WOMEN AND MINORITIES.—Not later than January 31, 1997, the Commandant of the Coast Guard shall report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, on the status of and the problems in recruitment of women and minorities into the Coast Guard. The report shall contain specific plans to increase the recruitment of women and minorities and legislative recommendations needed to increase the recruitment of women and minorities.

SEC. 207. ACCESS TO NATIONAL DRIVER REGISTER INFORMATION ON CERTAIN COAST GUARD PERSONNEL.

(a) AMENDMENT TO TITLE 14.—Section 93 of title 14, United States Code, is amended—

(1) by striking "and" after the semicolon at the end of paragraph (t);

(2) by striking the period at the end of paragraph (u) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(v) require that any member of the Coast Guard or Coast Guard Reserve (including a cadet or an applicant for appointment or enlistment to any of the foregoing and any member of a uniformed service who is assigned to the Coast Guard) request that all information contained in the National Driver Register pertaining to the individual, as described in section 30304(a) of title 49, be made available to the Commandant under section 30305(a) of title 49, may receive that information, and upon receipt, shall make the information available to the individual.".

(b) AMENDMENT TO TITLE 49.—Section 30305(b) of title 49, United States Code, is amended by redesignating paragraph (7) as paragraph (8) and inserting after paragraph (6) the following new paragraph:

"(7) An individual who is an officer, chief warrant officer, or enlisted member of the Coast Guard or Coast Guard Reserve (including a cadet or an applicant for appointment or enlistment of any of the foregoing and any member of a uniformed service who is assigned to the Coast Guard) may request the chief driver licensing official of a State to provide information about the individual under subsection (a) of this section to the Commandant of the Coast Guard. The Commandant may receive the information and shall make the information available to the individual. Information may not be obtained from the Register under this paragraph if the information was entered in the Register more than 3 years before the request, unless the information is about a revocation or suspension still in effect on the date of the request.".

SEC. 208. COAST GUARD HOUSING AUTHORITIES.

(a) IN GENERAL.—Title 14, United States Code, is amended by adding after chapter 17 the following new chapter:

"CHAPTER 18—COAST GUARD HOUSING AUTHORITIES

"Sec.
"680. Definitions.
"681. General authority.
"682. Loan guarantees.
"683. Leasing of housing to be constructed.
"684. Limited partnerships in nongovernmental entities.
"685. Conveyance or lease of existing property and facilities.
"686. Assignment of members of the armed forces to housing units.
"687. Coast Guard Housing Fund.
"688. Reports.
"689. Expiration of authority.

"§ 680. Definitions

"In this chapter:

"(1) The term 'construction' means the construction of military housing units and ancillary supporting facilities or the improvement or rehabilitation of existing units or ancillary supporting facilities.

"(2) The term 'contract' includes any contract, lease, or other agreement entered into under the authority of this chapter.

"(3) The term 'military unaccompanied housing' means military housing intended to be occupied by members of the armed forces serving a tour of duty unaccompanied by dependents.

"(4) The term 'United States' includes the Commonwealth of Puerto Rico, Guam, the United States Virgin Islands, and the District of Columbia.

"§ 681. General authority

"(a) AUTHORITY.—In addition to any other authority providing for the acquisition or construction of military family housing or military unaccompanied housing, the Secretary may exercise any authority or any combination of authorities provided under this chapter in order to provide for the acquisition or construction by private persons of the following:

"(1) Family housing units on or near Coast Guard installations within the United States and its territories and possessions.

"(2) Unaccompanied housing units on or near such Coast Guard installations.

"(b) LIMITATION ON APPROPRIATIONS.—No appropriation shall be made to acquire or construct military family housing or military unaccompanied housing under this chapter if that acquisition or construction has not been approved by resolutions adopted by the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

"§ 682. Loan guarantees

"(a) LOAN GUARANTEES.—

"(1) Subject to subsection (b), the Secretary may guarantee a loan made to any person in the private sector if the proceeds of the loan are to be used by the person to acquire, or construct housing units that the Secretary determines are suitable for use as military family housing or as military unaccompanied housing.

"(2) The amount of a guarantee on a loan that may be provided under paragraph (1) may not exceed the amount equal to the lesser of—

"(A) 80 percent of the value of the project; or

"(B) the outstanding principal of the loan.

"(3) The Secretary shall establish such terms and conditions with respect to guarantees of loans under this subsection as the Secretary considers appropriate to protect the interests of the United States, including the rights and obligations of the United States with respect to such guarantees.

"(4) The funds for the loan guarantees entered into under this section shall be held in the Coast Guard Housing Fund under section 687 of this title. The Secretary is authorized to purchase mortgage insurance to guarantee loans in lieu of guaranteeing loans directly against funds held in the Coast Guard Housing Fund.

"(b) LIMITATION ON GUARANTEE AUTHORITY.—Loan guarantees may be made under this section only to the extent that appropriations of budget authority to cover their cost (as defined in section 502(5) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a(5))) are made in advance, or authority is otherwise provided in appropriations Acts. If such appropriation or other authority is provided, there may be established a financing account (as defined in section 502(7) of such Act (2 U.S.C. 661a(7))) which shall be available for the disbursement of payment of claims for payment on loan guarantees under this section and for all other cash flows to and from the Government as a result of guarantees made under this section.

"§ 683. Leasing of housing to be constructed

"(a) BUILD AND LEASE AUTHORIZED.—The Secretary may enter into contracts for the lease of military family housing units or military unaccompanied housing units to be constructed under this chapter.

"(b) LEASE TERMS.—A contract under this section may be for any period that the Secretary determines appropriate and may provide for the owner of the leased property to operate and maintain the property.

"§ 684. Limited partnerships with nongovernmental entities

"(a) LIMITED PARTNERSHIPS AUTHORIZED.—The Secretary may enter into limited partnerships with nongovernmental entities carrying out projects for the acquisition or construction of housing units suitable for use as military family housing or as military unaccompanied housing.

"(b) LIMITATION ON VALUE OF INVESTMENT IN LIMITED PARTNERSHIP.—(1) The cash amount of an investment under this section in a nongovernmental entity may not exceed an amount equal to 33⅓ percent of the capital cost (as determined by the Secretary) of the project or projects that the entity proposes to carry out under this section with the investment.

"(2) If the Secretary conveys land or facilities to a nongovernmental entity as all or part of an investment in the entity under this section, the total value of the investment by the Secretary under this section may not exceed an amount equal to 45 percent of the capital cost (as determined by the Secretary) of the project or projects that the entity proposes to carry out under this section with the investment.

"(3) In this subsection, the term 'capital cost', with respect to a project for the acquisition or construction of housing, means the total amount of the costs included in the basis of the housing for Federal income tax purposes.

"(c) COLLATERAL INCENTIVE AGREEMENTS.—The Secretary shall enter into collateral incentive agreements with nongovernmental entities in which the Secretary makes an investment under this section to ensure that a suitable preference will be afforded members of the armed forces and their dependents in the lease or purchase, as the case may be, of a reasonable number of the housing units covered by the investment.

"§ 685. Conveyance or lease of existing property and facilities

"(a) CONVEYANCE OR LEASE AUTHORIZED.—The Secretary may convey or lease property or facilities (including ancillary support facilities) to private persons for purposes of using the proceeds of such conveyance or lease to carry out activities under this chapter.

"(b) TERMS AND CONDITIONS.—(1) The conveyance or lease of property or facilities under this section shall be for such consideration and upon such terms and conditions as the Secretary considers appropriate for the purposes of this chapter and to protect the interests of the United States.

"(2) As part or all of the consideration for a conveyance or lease under this section, the purchaser or lessor (as the case may be) may enter into an agreement with the Secretary to ensure that a suitable preference will be afforded members of the armed forces and their dependents in the lease or sublease of a reasonable number of the housing units covered by the conveyance or lease, as the case may be, or in the lease of other suitable housing units made available by the purchaser or lessee.

"(c) INAPPLICABILITY OF CERTAIN PROPERTY MANAGEMENT LAWS.—The conveyance or lease of property or facilities under this section shall not be subject to the following provisions of law:

"(1) The Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.).

"(2) Section 321 of the Act of June 30, 1932 (commonly known as the Economy Act) (47 Stat. 412, chapter 314; 40 U.S.C. 303b).

"(3) The Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11301 et seq.).

"§ 686. Assignment of members of the armed forces to housing units

"(a) IN GENERAL.—The Secretary may assign members of the armed forces to housing units acquired or constructed under this chapter.

"(b) EFFECT OF CERTAIN ASSIGNMENTS ON ENTITLEMENT TO HOUSING ALLOWANCES.—(1) Except as provided in paragraph (2), housing referred to in subsection (a) shall be considered as quarters of the United States or a housing facility under the jurisdiction of a uniformed service for purposes of section 403(b) of title 37.

"(2) A member of the armed forces who is assigned in accordance with subsection (a) to a housing unit not owned or leased by the United States shall be entitled to a basic allowance for quarters under section 403 of title 37, and, if in a high housing cost area, a variable housing allowance under section 403a of that title.

"(c) LEASE PAYMENTS THROUGH PAY ALLOTMENTS.—The Secretary may require members of the armed forces who lease housing in housing units acquired or constructed under this chapter to make lease payments for such housing pursuant to allotments of the pay of such members under section 701 of title 37.

"§ 687. Coast Guard Housing Fund

"(a) ESTABLISHMENT.—There is hereby established on the books of the Treasury an account to be known as the Coast Guard Housing Fund (in this section referred to as the 'Fund').

"(b) CREDITS TO FUND.—There shall be credited to the Fund the following:

"(1) Amounts authorized for and appropriated to that Fund.

"(2) Subject to subsection (e), any amounts that the Secretary transfers, in such amounts as provided in appropriation Acts, to that Fund from amounts authorized and appropriated to the Department of Transportation or Coast Guard for the acquisition or construction of military family housing or unaccompanied housing.

"(3) Proceeds from the conveyance or lease of property or facilities under section 685 of this title for the purpose of carrying out activities under this chapter with respect to military family and military unaccompanied housing.

"(4) Income from any activities under this chapter, including interest on loan guarantees made under section 682 of this title, income and gains realized from investments under section 684 of this title, and any return of capital invested as part of such investments.

"(c) USE OF AMOUNTS IN FUND.—(1) In such amounts as provided in appropriation Acts and except as provided in subsection (d), the Secretary may use amounts in the Coast Guard Housing Fund to carry out activities under this chapter with respect to military family and military unaccompanied housing units, including activities required in connection with the planning, execution,

and administration of contracts entered into under the authority of this chapter.

"(2) Amounts made available under this subsection shall remain available until expended.

"(d) LIMITATION ON OBLIGATIONS.—The Secretary may not incur an obligation under a contract or other agreements entered into under this chapter in excess of the unobligated balance, at the time the contract is entered into, of the Fund required to be used to satisfy the obligation.

"(e) NOTIFICATION REQUIRED FOR TRANSFERS.—A transfer of appropriated amounts to the Fund under subsection (b)(2) or (b)(3) of this section may be made only after the end of a 30-day period beginning on the date the Secretary submits written notice of, and justification for, the transfer to the appropriate committees of Congress.

"(f) LIMITATION ON AMOUNT OF BUDGET AUTHORITY.—The total value in budget authority of all contracts and investments undertaken using the authorities provided in this chapter shall not exceed $20,000,000.

"§ 688. Reports

"The Secretary shall include each year in the materials the Secretary submits to the Congress in support of the budget submitted by the President pursuant to section 1105 of title 31, the following:

"(1) A report on each contract or agreement for a project for the acquisition or construction of military family or military unaccompanied housing units that the Secretary proposes to solicit under this chapter, describing the project and the method of participation of the United States in the project and providing justification of such method of participation.

"(2) A report describing each conveyance or lease proposed under section 685 of this title.

"(3) A methodology for evaluating the extent and effectiveness of the use of the authorities under this chapter during such preceding fiscal year.

"(4) A description of the objectives of the Department of Transportation for providing military family housing and military unaccompanied housing for members of the Coast Guard.

"§ 689. Expiration of authority

"The authority to enter into a transaction under this chapter shall expire October 1, 2001.".

(b) FINAL REPORT.—Not later than March 1, 2000, the Secretary of the department in which the Coast Guard is operating shall submit to the Congress a report on the use by the Secretary of the authorities provided by chapter 18 of title 14, United States Code, as added by subsection (a). The report shall assess the effectiveness of such authority in providing for the construction and improvement of military family housing and military unaccompanied housing. 14 USC 688 note.

(c) CLERICAL AMENDMENT.—The table of chapters at the beginning of part I of title 14, United States Code, is amended by inserting after the item relating to chapter 17 the following:

"18. Coast Guard Housing Authorities ..... 680".

(d) PILOT PROJECT.—Notwithstanding section 681(b) of title 14, United States Code, as amended by this Act, and subject to

the other requirements of chapter 18 of such title, as amended by this Act, the Secretary of Transportation may use the authority provided in sections 682, 683, 684, 685, and 686 of such chapter to provide for the acquisition or construction of up to 60 family housing units and unaccompanied housing units on or near Coast Guard Integrated Support Command, Ketchikan, Alaska.

SEC. 209. BOARD FOR CORRECTION OF MILITARY RECORDS DEADLINE.

(a) IN GENERAL.—Chapter 11 of title 14, United States Code, is amended by inserting after section 424 the following new section:

"§ 425. Board for Correction of Military Records deadline

"(a) DEADLINE FOR COMPLETION OF ACTION.—The Secretary shall complete processing of an application for correction of military records under section 1552 of title 10 by not later than 10 months after the date the Secretary receives the completed application.

"(b) REMEDIES DEEMED EXHAUSTED.—Ten months after a complete application for correction of military records is received by the Board for Correction of Military Records of the Coast Guard, administrative remedies are deemed to have been exhausted, and—

"(1) if the Board has rendered a recommended decision, its recommendation shall be final agency action and not subject to further review or approval within the department in which the Coast Guard is operating; or

"(2) if the Board has not rendered a recommended decision, agency action is deemed to have been unreasonably delayed or withheld and the applicant is entitled to—

"(A) an order under section 706(1) of title 5, directing final action be taken within 30 days from the date the order is entered; and

"(B) from amounts appropriated to the department in which the Coast Guard is operating, the costs of obtaining the order, including a reasonable attorney's fee.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 11 of title 14, United States Code, is amended by inserting after the item relating to section 424 the following new item:

"425. Board for Correction of Military Records deadline.".

14 USC 425 note.

(c) SPECIAL RIGHT OF APPLICATIONS UNDER THIS SECTION.—This section applies to any applicant who had an application filed with or pending before the Board or the Secretary of the department in which the Coast Guard is operating on or after June 12, 1990, who files with the Board for Correction of Military Records of the Coast Guard an application for relief under the amendment made by subsection (a). If a recommended decision was modified or reversed on review with final agency action occurring after expiration of the 10-month deadline under that amendment, an applicant who so requests shall have the order in the final decision vacated and receive the relief granted in the recommended decision if the Coast Guard has the legal authority to grant such relief. The recommended decision shall otherwise have no effect as precedent.

14 USC 425 note.

(d) EFFECTIVE DATE.—This section shall be effective on and after June 12, 1990.

SEC. 210. REPEAL TEMPORARY PROMOTION OF WARRANT OFFICERS.

(a) REPEAL.—Section 277 of title 14, United States Code, is repealed. The repeal of such section shall not be construed to affect the status of any warrant officer currently serving under a temporary promotion.

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 11 of title 14, United States Code, is amended by striking the item relating to section 277.

SEC. 211. APPOINTMENT OF TEMPORARY OFFICERS.

(a) IN GENERAL.—Section 214 of title 14, United States Code, is amended—

(1) in the heading by striking "**Original appointment**" and inserting "**Appointment**";

(2) by redesignating subsections (d), (e), and (f) in order as subsections (b), (c), and (d); and

(3) in subsection (c), as so redesignated, by inserting ", or a subsequent promotion appointment of a temporary officer," after "section".

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 11 of title 14, United States Code, is amended in the item relating to section 214 by striking "Original appointment" and inserting "Appointment".

SEC. 212. INFORMATION TO BE PROVIDED TO OFFICER SELECTION BOARDS.

Section 258(2) of title 14, United States Code, is amended by striking ", with identification of those officers who are in the promotion zone".

SEC. 213. RESCUE DIVER TRAINING FOR SELECTED COAST GUARD PERSONNEL.

(a) IN GENERAL.—Section 88 of title 14, United States Code, is amended by adding at the end the following new subsection:

"(d) The Secretary shall establish a helicopter rescue swimming program for the purpose of training selected Coast Guard personnel in rescue swimming skills, which may include rescue diver training.".

(b) CONFORMING AMENDMENT.—Section 9 of the Coast Guard Authorization Act of 1984 (98 Stat. 2862; 14 U.S.C. 88 note) is repealed.

SEC. 214. SPECIAL AUTHORITIES REGARDING COAST GUARD.

(a) REIMBURSEMENT OF EXPENSES FOR MESS OPERATIONS.—Section 1011 of title 37, United States Code, is amended by adding at the end the following new subsection:

"(d) When the Coast Guard is not operating as a service in the Navy, the Secretary of Transportation shall establish rates for meals sold at Coast Guard dining facilities, provide for reimbursement of operating expenses and food costs to the appropriations concerned, and reduce the rates for such meals when the Secretary determines that it is in the best interest of the United States to do so.".

(b) SEVERABLE SERVICES CONTRACTS CROSSING FISCAL YEARS.—Section 2410a of title 10, United States Code, is amended—

(1) by striking "Funds" and inserting "(a) Funds"; and

(2) by adding at the end the following new subsection:

"(b) The Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, may enter into a contract for procurement of severable services for a period that begins in one fiscal year and ends in the next fiscal year if (without regard to any option to extend the period of the contract) the contract period does not exceed one year. Funds made available for a fiscal year may be obligated for the total amount of a contract entered into under the authority of this subsection.".

TITLE III—MARINE SAFETY AND WATERWAY SERVICES MANAGEMENT

SEC. 301. CHANGES TO DOCUMENTATION LAWS.

(a) CIVIL PENALTY.— Section 12122(a) of title 46, United States Code, is amended by striking "$500" and inserting "$10,000".

(b) SEIZURE AND FORFEITURE.—

(1) IN GENERAL.—Section 12122(b) of title 46, United States Code, is amended to read as follows:

"(b) A vessel and its equipment are liable to seizure by and forfeiture to the United States Government—

"(1) when the owner of a vessel or the representative or agent of the owner knowingly falsifies or conceals a material fact, or knowingly makes a false statement or representation about the documentation or when applying for documentation of the vessel;

"(2) when a certificate of documentation is knowingly and fraudulently used for a vessel;

"(3) when a vessel is operated after its endorsement has been denied or revoked under section 12123 of this title;

"(4) when a vessel is employed in a trade without an appropriate trade endorsement;

"(5) when a documented vessel with only a recreational endorsement is operated other than for pleasure; or

"(6) when a documented vessel, other than a vessel with only a recreational endorsement, is placed under the command of a person not a citizen of the United States.".

(2) CONFORMING AMENDMENT.—Section 12122(c) of title 46, United States Code, is repealed.

(c) LIMITATION ON OPERATION OF VESSEL WITH ONLY RECREATIONAL ENDORSEMENT.—Section 12110(c) of title 46, United States Code, is amended to read as follows:

"(c) A vessel with only a recreational endorsement may not be operated other than for pleasure.".

(d) TERMINATION OF RESTRICTION ON COMMAND OF RECREATIONAL VESSELS.—

(1) TERMINATION OF RESTRICTION.—Subsection (d) of section 12110 of title 46, United States Code, is amended by inserting ", other than a vessel with only a recreational endorsement," after "A documented vessel"; and

(2) CONFORMING AMENDMENTS.—

(A) Section 12111(a)(2) of title 46, United States Code, is amended by inserting before the period the following: "in violation of section 12110(d) of this title".

46 USC 8103 note.

(B) Section 317 of Public Law 101–595 is amended by striking "and 12111" and inserting "12111, and 12122(b)".

(e) FISHERY ENDORSEMENTS.—Section 12108 of title 46, United States Code, is amended by adding at the end the following:

"(d) A vessel purchased by the Secretary of Commerce through a fishing capacity reduction program under the Magnuson Fishery Conservation Management Act (16 U.S.C. 1801 et seq.) or section 308 of the Interjurisdictional Fisheries Act (16 U.S.C. 4107) is not eligible for a fishery endorsement, and any fishery endorsement issued for that vessel is invalid.".

SEC. 302. NONDISCLOSURE OF PORT SECURITY PLANS.

Section 7 of the Ports and Waterways Safety Act (33 U.S.C. 1226), is amended by adding at the end the following new subsection (c):

"(c) NONDISCLOSURE OF PORT SECURITY PLANS.—Notwithstanding any other provision of law, information related to security plans, procedures, or programs for passenger vessels or passenger terminals authorized under this Act is not required to be disclosed to the public.".

SEC. 303. MARITIME DRUG AND ALCOHOL TESTING PROGRAM CIVIL PENALTY.

(a) IN GENERAL.—Chapter 21 of title 46, United States Code, is amended by adding at the end a new section 2115 to read as follows:

"§ 2115. Civil penalty to enforce alcohol and dangerous drug testing

"Any person who fails to implement or conduct, or who otherwise fails to comply with the requirements prescribed by the Secretary for, chemical testing for dangerous drugs or for evidence of alcohol use, as prescribed under this subtitle or a regulation prescribed by the Secretary to carry out the provisions of this subtitle, is liable to the United States Government for a civil penalty of not more than $1,000 for each violation. Each day of a continuing violation shall constitute a separate violation.".

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 21 of title 46, United States Code, is amended by inserting after the item relating to section 2114 the following:

"2115. Civil penalty to enforce alcohol and dangerous drug testing.".

SEC. 304. RENEWAL OF ADVISORY GROUPS.

(a) NAVIGATION SAFETY ADVISORY COUNCIL.—Section 5(d) of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2073) is amended by striking "September 30, 1995" and inserting "September 30, 2000".

(b) COMMERCIAL FISHING INDUSTRY VESSEL ADVISORY COMMITTEE.—Subsection (e)(1) of section 4508 of title 46, United States Code, is amended by striking "September 30, 1994" and inserting "September 30, 2000".

(c) TOWING SAFETY ADVISORY COMMITTEE.—Subsection (e) of the Act to Establish A Towing Safety Advisory Committee in the Department of Transportation (33 U.S.C. 1231a(e)) is amended by striking "September 30, 1995" and inserting "September 30, 2000".

(d) HOUSTON-GALVESTON NAVIGATION SAFETY ADVISORY COMMITTEE.—The Coast Guard Authorization Act of 1991 (Public Law 102–241) is amended by adding at the end of section 18 105 Stat. 2213. the following:

"(h) The Committee shall terminate on September 30, 2000.".

(e) LOWER MISSISSIPPI RIVER WATERWAY ADVISORY COMMITTEE.—The Coast Guard Authorization Act of 1991 (Public Law 102–241) is amended by adding at the end of section 19 the following:

105 Stat. 2215.

"(g) The Committee shall terminate on September 30, 2000.".

(f) NATIONAL BOATING SAFETY ADVISORY COUNCIL.—Section 13110(e) of title 46, United States Code, is amended by striking "September 30, 1996" and inserting "September 30, 2000".

(g) CLERICAL AMENDMENT.—The section heading for section 5(d) of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2073) is amended by striking "Rules of the Road Advisory Council" and inserting "Navigation Safety Advisory Council".

SEC. 305. ELECTRONIC FILING OF COMMERCIAL INSTRUMENTS.

Section 31321(a) of title 46, United States Code, is amended by adding at the end the following new paragraph:

Regulations.

"(4)(A) A bill of sale, conveyance, mortgage, assignment, or related instrument may be filed electronically under regulations prescribed by the Secretary.

"(B) A filing made electronically under subparagraph (A) shall not be effective after the 10-day period beginning on the date of the filing unless the original instrument is provided to the Secretary within that 10-day period.".

SEC. 306. CIVIL PENALTIES.

(a) PENALTY FOR FAILURE TO REPORT A CASUALTY.—Section 6103(a) of title 46, United States Code is amended by striking "$1,000" and inserting "not more than $25,000".

(b) OPERATION OF UNINSPECTED TOWING VESSEL IN VIOLATION OF MANNING REQUIREMENTS.—Section 8906 of title 46, United States Code, is amended by striking "$1,000" and inserting "not more than $25,000".

SEC. 307. AMENDMENT TO REQUIRE EPIRBS ON THE GREAT LAKES.

Paragraph (7) of section 4502(a) of title 46, United States Code, is amended by inserting "or beyond 3 nautical miles from the coastline of the Great Lakes" after "high seas".

SEC. 308. REPORT ON LORAN-C REQUIREMENTS.

Not later than 6 months after the date of enactment of this Act, the Secretary of Transportation, in cooperation with the Secretary of Commerce, shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a plan prepared in consultation with users of the LORAN-C radionavigation system defining the future use of and funding for operations, maintenance, and upgrades of the LORAN-C radionavigation system. The plan shall provide for—

(1) mechanisms to make full use of compatible satellite and LORAN-C technology by all modes of transportation, the telecommunications industry, and the National Weather Service;

(2) an appropriate timetable for transition from ground-based radionavigation technology after it is determined that satellite-based technology is available as a sole means of safe and efficient navigation and taking into consideration the need

to ensure that LORAN-C technology purchased by the public before the year 2000 has a useful economic life; and

(3) agencies in the Department of Transportation and other relevant Federal agencies to share the Federal Government's costs related to LORAN-C technology.

SEC. 309. SMALL BOAT STATIONS.

(a) IN GENERAL.—Chapter 17 of title 14, United States Code, is amended by adding at the end the following:

"§ 673. Small boat station rescue capability

"The Secretary of Transportation shall ensure that each Coast Guard small boat station (including a seasonally operated station) maintains, within the area of responsibility for the station, at least 1 vessel that is fully capable of performing offshore rescue operations, taking into consideration prevailing weather, marine conditions, and depositional geologic features such as sand bars.

"§ 674. Small boat station closures

"(a) CLOSURES.—The Secretary of Transportation may not close a Coast Guard multimission small boat station or subunit unless the Secretary—

"(1) determines that—

"(A) remaining search and rescue capabilities maintain the safety of the maritime public in the area of the station or subunit;

"(B) regional or local prevailing weather and marine conditions, including water temperature or unusual tide and current conditions, do not require continued operation of the station or subunit; and

"(C) Coast Guard search and rescue standards related to search and rescue response times are met; and

"(2) provides an opportunity for public comment and for public meetings in the area of the station or subunit with regard to the decision to close the station or subunit.

"(b) OPERATIONAL FLEXIBILITY.—The Secretary may implement any management efficiencies within the small boat station system, such as modifying the operational posture of units or reallocating resources as necessary to ensure the safety of the maritime public nationwide. No stations or subunits may be closed under this subsection except in accordance with subsection (a).".

(b) CLERICAL AMENDMENT.—The analysis at the beginning of chapter 17 of title 14, United States Code, is amended by adding at the end the following new items:

"673. Small boat station rescue capability.
"674. Small boat station closures.".

SEC. 310. PENALTY FOR ALTERATION OF MARINE SAFETY EQUIPMENT.

Section 3318(b) of title 46, United States Code, is amended—

(1) by inserting "(1)" before "A person"; and

(2) by adding at the end thereof the following:

"(2) A person commits a class D felony if the person—

"(A) alters or services lifesaving, fire safety, or any other equipment subject to this part for compensation; and

"(B) by that alteration or servicing, intentionally renders that equipment unsafe and unfit for the purpose for which it is intended.".

SEC. 311. PROHIBITION ON OVERHAUL, REPAIR, AND MAINTENANCE OF COAST GUARD VESSELS IN FOREIGN SHIPYARDS.

(a) PROHIBITION.—Chapter 5 of title 14, United States Code, is amended by adding at the end the following:

"§ 96. Prohibition on overhaul, repair, and maintenance of Coast Guard vessels in foreign shipyards

"A Coast Guard vessel the home port of which is in a State of the United States may not be overhauled, repaired, or maintained in a shipyard outside the United States, other than in the case of voyage repairs.".

(b) CLERICAL AMENDMENT.—The chapter analysis for chapter 5 of title 14, United States Code, is amended by adding at the end the following:

"96. Prohibition on overhaul, repair, and maintenance of Coast Guard vessels in foreign shipyards.".

SEC. 312. WITHHOLDING VESSEL CLEARANCE FOR VIOLATION OF CERTAIN ACTS.

(a) TITLE 49, UNITED STATES CODE.—Section 5122 of title 49, United States Code, is amended by adding at the end the following new subsection:

"(c) WITHHOLDING OF CLEARANCE.—(1) If any owner, operator, or individual in charge of a vessel is liable for a civil penalty under section 5123 of this title or for a fine under section 5124 of this title, or if reasonable cause exists to believe that such owner, operator, or individual in charge may be subject to such a civil penalty or fine, the Secretary of the Treasury, upon the request of the Secretary, shall with respect to such vessel refuse or revoke any clearance required by section 4197 of the Revised Statutes of the United States (46 App. U.S.C. 91).

"(2) Clearance refused or revoked under this subsection may be granted upon the filing of a bond or other surety satisfactory to the Secretary.".

(b) PORT AND WATERWAYS SAFETY ACT.—Section 13(f) of the Ports and Waterways Safety Act (33 U.S.C. 1232(f)) is amended to read as follows:

"(f) WITHHOLDING OF CLEARANCE.—(1) If any owner, operator, or individual in charge of a vessel is liable for a penalty or fine under this section, or if reasonable cause exists to believe that the owner, operator, or individual in charge may be subject to a penalty or fine under this section, the Secretary of the Treasury, upon the request of the Secretary, shall with respect to such vessel refuse or revoke any clearance required by section 4197 of the Revised Statutes of the United States (46 App. U.S.C. 91).

"(2) Clearance refused or revoked under this subsection may be granted upon filing of a bond or other surety satisfactory to the Secretary.".

(c) INLAND NAVIGATION RULES ACT OF 1980.—Section 4(d) of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2072(d)) is amended to read as follows:

"(d) WITHHOLDING OF CLEARANCE.—(1) If any owner, operator, or individual in charge of a vessel is liable for a penalty under this section, or if reasonable cause exists to believe that the owner, operator, or individual in charge may be subject to a penalty under this section, the Secretary of the Treasury, upon the request of the Secretary, shall with respect to such vessel refuse or revoke

any clearance required by section 4197 of the Revised Statutes of the United States (46 App. U.S.C. 91).

"(2) Clearance or a permit refused or revoked under this subsection may be granted upon filing of a bond or other surety satisfactory to the Secretary.".

(d) TITLE 46, UNITED STATES CODE.—Section 3718(e) of title 46, United States Code, is amended to read as follows:

"(e)(1) If any owner, operator, or individual in charge of a vessel is liable for any penalty or fine under this section, or if reasonable cause exists to believe that the owner, operator, or individual in charge may be subject to any penalty or fine under this section, the Secretary of the Treasury, upon the request of the Secretary, shall with respect to such vessel refuse or revoke any clearance required by section 4197 of the Revised Statutes of the United States (46 App. U.S.C. 91).

"(2) Clearance or a permit refused or revoked under this subsection may be granted upon filing of a bond or other surety satisfactory to the Secretary.".

SEC. 313. INFORMATION BARRED IN LEGAL PROCEEDINGS.

(a) IN GENERAL.—Chapter 63 of title 46, United States Code, is amended by inserting after section 6307 the following:

"§ 6308. Information barred in legal proceedings

"(a) Notwithstanding any other provision of law, no part of a report of a marine casualty investigation conducted under section 6301 of this title, including findings of fact, opinions, recommendations, deliberations, or conclusions, shall be admissible as evidence or subject to discovery in any civil or administrative proceedings, other than an administrative proceeding initiated by the United States. Any employee of the Department of Transportation, and any member of the Coast Guard, investigating a marine casualty pursuant to section 6301 of this title, shall not be subject to deposition or other discovery, or otherwise testify in such proceedings relevant to a marine casualty investigation, without the permission of the Secretary of Transportation. The Secretary shall not withhold permission for such employee or member to testify, either orally or upon written questions, on solely factual matters at a time and place and in a manner acceptable to the Secretary if the information is not available elsewhere or is not obtainable by other means.

"(b) Nothing in this section prohibits the United States from calling the employee or member as an expert witness to testify on its behalf. Further, nothing in this section prohibits the employee or member from being called as a fact witness in any case in which the United States is a party. If the employee or member is called as an expert or fact witness, the applicable Federal Rules of Civil Procedure govern discovery. If the employee or member is called as a witness, the report of a marine casualty investigation conducted under section 6301 of this title shall not be admissible, as provided in subsection (a), and shall not be considered the report of an expert under the Federal Rules of Civil Procedure.

"(c) The information referred to in subsections (a) and (b) of this section shall not be considered an admission of liability by the United States or by any person referred to in those conclusions and statements.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 63 of title 46, United States Code, is amended by adding after the item relating to section 6307 the following new item:

"6308. Information barred in legal proceedings.".

SEC. 314. MARINE CASUALTY REPORTING.

46 USC 6102 note.

(a) SUBMISSION OF PLAN.—Not later than one year after enactment of this Act, the Secretary of Transportation shall, in consultation with appropriate State agencies, submit to the Committee on Resources of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a plan to increase reporting of vessel accidents to appropriate State law enforcement officials.

(b) PENALTIES FOR VIOLATING REPORTING REQUIREMENTS.—Section 6103(a) of title 46, United States Code, is amended by inserting "or 6102" after "6101" the second place it appears.

TITLE IV—COAST GUARD AUXILIARY

SEC. 401. ADMINISTRATION OF THE COAST GUARD AUXILIARY.

(a) IN GENERAL.—Section 821 of title 14, United States Code, is amended to read as follows:

"§ 821. Administration of the Coast Guard Auxiliary

"(a) The Coast Guard Auxiliary is a nonmilitary organization administered by the Commandant under the direction of the Secretary. For command, control, and administrative purposes, the Auxiliary shall include such organizational elements and units as are approved by the Commandant, including but not limited to, a national board and staff (to be known as the 'Auxiliary headquarters unit'), districts, regions, divisions, flotillas, and other organizational elements and units. The Auxiliary organization and its officers shall have such rights, privileges, powers, and duties as may be granted to them by the Commandant, consistent with this title and other applicable provisions of law. The Commandant may delegate to officers of the Auxiliary the authority vested in the Commandant by this section, in the manner and to the extent the Commandant considers necessary or appropriate for the functioning, organization, and internal administration of the Auxiliary.

"(b) Each organizational element or unit of the Coast Guard Auxiliary organization (but excluding any corporation formed by an organizational element or unit of the Auxiliary under subsection (c) of this section), shall, except when acting outside the scope of section 822, at all times be deemed to be an instrumentality of the United States, for purposes of the following:

"(1) Chapter 26 of title 28 (popularly known as the Federal Tort Claims Act).

"(2) Section 2733 of title 10 (popularly known as the Military Claims Act).

"(3) The Act of March 3, 1925 (46 App. U.S.C. 781–790; popularly known as the Public Vessels Act).

"(4) The Act of March 9, 1920 (46 App. U.S.C. 741–752; popularly known as the Suits in Admiralty Act).

"(5) The Act of June 19, 1948 (46 App. U.S.C. 740; popularly known as the Admiralty Extension Act).

"(6) Other matters related to noncontractual civil liability.

"(c) The national board of the Auxiliary, and any Auxiliary district or region, may form a corporation under State law in accordance with policies established by the Commandant.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 23 of title 14, United States Code, is amended by striking the item relating to section 821, and inserting the following:

"821. Administration of the Coast Guard Auxiliary.".

SEC. 402. PURPOSE OF THE COAST GUARD AUXILIARY.

(a) IN GENERAL.—Section 822 of title 14, United States Code, is amended to read as follows:

"§ 822. Purpose of the Coast Guard Auxiliary

"The purpose of the Auxiliary is to assist the Coast Guard as authorized by the Commandant, in performing any Coast Guard function, power, duty, role, mission, or operation authorized by law.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 23 of title 14, United States Code, is amended by striking the item relating to section 822 and inserting the following:

"822. Purpose of the Coast Guard Auxiliary.".

SEC. 403. MEMBERS OF THE AUXILIARY; STATUS.

(a) IN GENERAL.—Title 14, United States Code, is amended by inserting after section 823 the following new section:

"§ 823a. Members of the Auxiliary; status

"(a) Except as otherwise provided in this chapter, a member of the Coast Guard Auxiliary shall not be considered to be a Federal employee and shall not be subject to the provisions of law relating to Federal employment, including those relating to hours of work, rates of compensation, leave, unemployment compensation, Federal employee benefits, ethics, conflicts of interest, and other similar criminal or civil statutes and regulations governing the conduct of Federal employees. However, nothing in this subsection shall constrain the Commandant from prescribing standards for the conduct and behavior of members of the Auxiliary.

"(b) A member of the Auxiliary while assigned to duty shall be deemed to be a Federal employee only for the purposes of the following:

"(1) Chapter 26 of title 28 (popularly known as the Federal Tort Claims Act).

"(2) Section 2733 of title 10 (popularly known as the Military Claims Act).

"(3) The Act of March 3, 1925 (46 App. U.S.C. 781–790; popularly known as the Public Vessels Act).

"(4) The Act of March 9, 1920 (46 App. U.S.C. 741–752; popularly known as the Suits in Admiralty Act).

"(5) The Act of June 19, 1948 (46 App. U.S.C. 740; popularly known as the Admiralty Extension Act).

"(6) Other matters related to noncontractual civil liability.

"(7) Compensation for work injuries under chapter 81 of title 5.

"(8) The resolution of claims relating to damage to or loss of personal property of the member incident to service under the Military Personnel and Civilian Employees' Claims Act of 1964 (31 U.S.C. 3721).

"(c) A member of the Auxiliary, while assigned to duty, shall be deemed to be a person acting under an officer of the United States or an agency thereof for purposes of section 1442(a)(1) of title 28.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 23 of title 14, United States Code, is amended by inserting the following new item after the item relating to section 823:

"823a. Members of the Auxiliary; status.".

SEC. 404. ASSIGNMENT AND PERFORMANCE OF DUTIES.

(a) TRAVEL AND SUBSISTENCE EXPENSE.—Section 830(a) of title 14, United States Code, is amended by striking "specific".

(b) ASSIGNMENT OF GENERAL DUTIES.—Section 831 of title 14, United States Code, is amended by striking "specific" each place it appears.

(c) BENEFITS FOR INJURY OR DEATH.—Section 832 of title 14, United States Code, is amended by striking "specific" each place it appears.

SEC. 405. COOPERATION WITH OTHER AGENCIES, STATES, TERRITORIES, AND POLITICAL SUBDIVISIONS.

(a) IN GENERAL.—Section 141 of title 14, United States Code, is amended—

(1) by striking the section heading and inserting the following:

"§ 141. Cooperation with other agencies, States, territories, and political subdivisions";

(2) in the first sentence of subsection (a), by inserting after "personnel and facilities" the following: "(including members of the Auxiliary and facilities governed under chapter 23)"; and

(3) by adding at the end of subsection (a) the following new sentence: "The Commandant may prescribe conditions, including reimbursement, under which personnel and facilities may be provided under this subsection.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 7 of title 14, United States Code, is amended by striking the item relating to section 141 and inserting the following:

"141. Cooperation with other agencies, States, territories, and political subdivisions.".

SEC. 406. VESSEL DEEMED PUBLIC VESSEL.

Section 827 of title 14, United States Code, is amended to read as follows:

"§ 827. Vessel deemed public vessel

"While assigned to authorized Coast Guard duty, any motorboat or yacht shall be deemed to be a public vessel of the United States and a vessel of the Coast Guard within the meaning of sections 646 and 647 of this title and other applicable provisions of law.".

SEC. 407. AIRCRAFT DEEMED PUBLIC AIRCRAFT.

Section 828 of title 14, United States Code, is amended to read as follows:

"§ 828. Aircraft deemed public aircraft

"While assigned to authorized Coast Guard duty, any aircraft shall be deemed to be a Coast Guard aircraft, a public vessel of the United States, and a vessel of the Coast Guard within the meaning of sections 646 and 647 of this title and other applicable provisions of law. Subject to the provisions of sections 823a and 831 of this title, while assigned to duty, qualified Auxiliary pilots shall be deemed to be Coast Guard pilots.".

SEC. 408. DISPOSAL OF CERTAIN MATERIAL.

Section 641(a) of title 14, United States Code, is amended—

(1) by inserting after "with or without charge," the following: "to the Coast Guard Auxiliary, including any incorporated unit thereof,"; and

(2) by striking "to any incorporated unit of the Coast Guard Auxiliary,".

TITLE V—DEEPWATER PORT MODERNIZATION

Deepwater Port Modernization Act.

SEC. 501. SHORT TITLE.

33 USC 1501 note.

This title may be cited as the "Deepwater Port Modernization Act".

SEC. 502. DECLARATIONS OF PURPOSE AND POLICY.

33 USC 1501 note.

(a) PURPOSES.—The purposes of this title are to—

(1) update and improve the Deepwater Port Act of 1974;

(2) assure that the regulation of deepwater ports is not more burdensome or stringent than necessary in comparison to the regulation of other modes of importing or transporting oil;

(3) recognize that deepwater ports are generally subject to effective competition from alternative transportation modes and eliminate, for as long as a port remains subject to effective competition, unnecessary Federal regulatory oversight or involvement in the ports' business and economic decisions; and

(4) promote innovation, flexibility, and efficiency in the management and operation of deepwater ports by removing or reducing any duplicative, unnecessary, or overly burdensome Federal regulations or license provisions.

(b) POLICY.—Section 2(a) of the Deepwater Port Act of 1974 (33 U.S.C. 1501(a)) is amended—

(1) by striking "and" at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting a semicolon; and

(3) by inserting at the end the following:

"(5) promote the construction and operation of deepwater ports as a safe and effective means of importing oil into the United States and transporting oil from the outer continental shelf while minimizing tanker traffic and the risks attendant thereto; and

"(6) promote oil production on the outer continental shelf by affording an economic and safe means of transportation of outer continental shelf oil to the United States mainland.".

SEC. 503. DEFINITIONS.

(a) ANTITRUST LAWS.—Section 3 of the Deepwater Port Act of 1974 (33 U.S.C. 1502) is amended—

(1) by striking paragraph (3); and

(2) by redesignating paragraphs (4) through (19) as paragraphs (3) through (18), respectively.

(b) DEEPWATER PORT.—The first sentence of section 3(9) of such Act, as redesignated by subsection (a), is amended by striking "such structures," and all that follows through "section 23." and inserting the following: "structures, located beyond the territorial sea and off the coast of the United States and which are used or intended for use as a port or terminal for the transportation, storage, and further handling of oil for transportation to any State, except as otherwise provided in section 23, and for other uses not inconsistent with the purposes of this title, including transportation of oil from the United States outer continental shelf.".

SEC. 504. LICENSES.

(a) ELIMINATION OF UTILIZATION RESTRICTIONS.—Section 4(a) of the Deepwater Port Act of 1974 (33 U.S.C. 1503(a)) is amended by striking all that follows the second sentence.

(b) ELIMINATION OF PRECONDITION TO LICENSING.—Section 4(c) of such Act is amended—

(1) by striking paragraph (7); and

(2) by redesignating paragraphs (8), (9), and (10) as paragraphs (7), (8), and (9), respectively.

(c) CONDITIONS PRESCRIBED BY SECRETARY.—Section 4(e)(1) of such Act is amended by striking the first sentence and inserting the following: "In issuing a license for the ownership, construction, and operation of a deepwater port, the Secretary shall prescribe those conditions which the Secretary deems necessary to carry out the provisions and requirements of this title or which are otherwise required by any Federal department or agency pursuant to the terms of this title. To the extent practicable, conditions required to carry out the provisions and requirements of this title shall be addressed in license conditions rather than by regulation and, to the extent practicable, the license shall allow a deepwater port's operating procedures to be stated in an operations manual, approved by the Coast Guard, in accordance with section 10(a) of this title, rather than in detailed and specific license conditions or regulations; except that basic standards and conditions shall be addressed in regulations.".

(d) ELIMINATION OF RESTRICTION ON TRANSFERS.—Section 4(e)(2) of such Act is amended by striking "application" and inserting "license".

(e) FINDINGS REQUIRED FOR TRANSFERS.—Section 4(f) of such Act is amended to read as follows:

"(f) AMENDMENTS, TRANSFERS, AND REINSTATEMENTS.—The Secretary may amend, transfer, or reinstate a license issued under this title if the Secretary finds that the amendment, transfer, or reinstatement is consistent with the requirements of this Act.".

SEC. 505. INFORMATIONAL FILINGS.

Section 5(c) of the Deepwater Port Act of 1974 (33 U.S.C. 1504(c)) is amended by adding the following:

"(3) Upon written request of any person subject to this subsection, the Secretary may make a determination in writing to exempt such person from any of the informational filing provisions enumerated in this subsection or the regulations implementing this section if the Secretary determines that such information is not necessary to facilitate the Secretary's determinations under section 4 of this Act and that such exemption will not limit public review and evaluation of the deepwater port project.".

SEC. 506. ANTITRUST REVIEW.

Section 7 of the Deepwater Port Act of 1974 (33 U.S.C. 1506) is repealed.

SEC. 507. OPERATION.

(a) AS COMMON CARRIER.—Section 8(a) of the Deepwater Port Act of 1974 (33 U.S.C. 1507(a)) is amended by inserting after "subtitle IV of title 49, United States Code," the following: "and shall accept, transport, or convey without discrimination all oil delivered to the deepwater port with respect to which its license is issued,".

(b) CONFORMING AMENDMENT.—Section 8(b) of such Act is amended by striking the first sentence and the first 3 words of the second sentence and inserting the following: "A licensee is not discriminating under this section and".

SEC. 508. MARINE ENVIRONMENTAL PROTECTION AND NAVIGATIONAL SAFETY.

Section 10(a) of the Deepwater Port Act of 1974 (33 U.S.C. 1509(a)) is amended—

(1) by inserting after "international law" the following: "and the provision of adequate opportunities for public involvement"; and

(2) by striking "shall prescribe by regulation and enforce procedures with respect to any deepwater port, including, but not limited to," and inserting the following: "shall prescribe and enforce procedures, either by regulation (for basic standards and conditions) or by the licensee's operations manual, with respect to".

TITLE VI—COAST GUARD REGULATORY REFORM

Coast Guard Regulatory Reform Act of 1996.

SEC. 601. SHORT TITLE.

46 USC 2101 note.

This title may be cited as the "Coast Guard Regulatory Reform Act of 1996".

SEC. 602. SAFETY MANAGEMENT.

(a) MANAGEMENT OF VESSELS.—Title 46, United States Code, is amended by adding after chapter 31 the following new chapter:

"CHAPTER 32—MANAGEMENT OF VESSELS

"Sec.
"3201. Definitions.

"3202. Application.
"3203. Safety management system.
"3204. Implementation of safety management system.
"3205. Certification.

"§ 3201. Definitions

"In this chapter—

"(1) 'International Safety Management Code' has the same meaning given that term in chapter IX of the Annex to the International Convention for the Safety of Life at Sea, 1974;

"(2) 'responsible person' means—

"(A) the owner of a vessel to which this chapter applies; or

"(B) any other person that has—

"(i) assumed the responsibility for operation of a vessel to which this chapter applies from the owner; and

"(ii) agreed to assume with respect to the vessel responsibility for complying with all the requirements of this chapter and the regulations prescribed under this chapter.

"(3) 'vessel engaged on a foreign voyage' means a vessel to which this chapter applies—

"(A) arriving at a place under the jurisdiction of the United States from a place in a foreign country;

"(B) making a voyage between places outside the United States; or

"(C) departing from a place under the jurisdiction of the United States for a place in a foreign country.

"§ 3202. Application

"(a) MANDATORY APPLICATION.—This chapter applies to the following vessels engaged on a foreign voyage:

"(1) Beginning July 1, 1998—

"(A) a vessel transporting more than 12 passengers described in section 2101(21)(A) of this title; and

"(B) a tanker, bulk freight vessel, or high-speed freight vessel, of at least 500 gross tons.

"(2) Beginning July 1, 2002, a freight vessel and a self-propelled mobile offshore drilling unit of at least 500 gross tons.

"(b) VOLUNTARY APPLICATION.—This chapter applies to a vessel not described in subsection (a) of this section if the owner of the vessel requests the Secretary to apply this chapter to the vessel.

"(c) EXCEPTION.—Except as provided in subsection (b) of this section, this chapter does not apply to—

"(1) a barge;

"(2) a recreational vessel not engaged in commercial service;

"(3) a fishing vessel;

"(4) a vessel operating on the Great Lakes or its tributary and connecting waters; or

"(5) a public vessel.

"§ 3203. Safety management system

Regulations.

"(a) IN GENERAL.—The Secretary shall prescribe regulations which establish a safety management system for responsible persons and vessels to which this chapter applies, including—

"(1) a safety and environmental protection policy;

"(2) instructions and procedures to ensure safe operation of those vessels and protection of the environment in compliance with international and United States law;

"(3) defined levels of authority and lines of communications between, and among, personnel on shore and on the vessel;

"(4) procedures for reporting accidents and nonconformities with this chapter;

"(5) procedures for preparing for and responding to emergency situations; and

"(6) procedures for internal audits and management reviews of the system.

"(b) COMPLIANCE WITH CODE.—Regulations prescribed under this section shall be consistent with the International Safety Management Code with respect to vessels engaged on a foreign voyage.

"§ 3204. Implementation of safety management system

"(a) SAFETY MANAGEMENT PLAN.—Each responsible person shall establish and submit to the Secretary for approval a safety management plan describing how that person and vessels of the person to which this chapter applies will comply with the regulations prescribed under section 3203(a) of this title.

"(b) APPROVAL.—Upon receipt of a safety management plan submitted under subsection (a), the Secretary shall review the plan and approve it if the Secretary determines that it is consistent with and will assist in implementing the safety management system established under section 3203.

"(c) PROHIBITION ON VESSEL OPERATION.—A vessel to which this chapter applies under section 3202(a) may not be operated without having on board a Safety Management Certificate and a copy of a Document of Compliance issued for the vessel under section 3205 of this title.

"§3205. Certification

"(a) ISSUANCE OF CERTIFICATE AND DOCUMENT.—After verifying that the responsible person for a vessel to which this chapter applies and the vessel comply with the applicable requirements under this chapter, the Secretary shall issue for the vessel, on request of the responsible person, a Safety Management Certificate and a Document of Compliance.

"(b) MAINTENANCE OF CERTIFICATE AND DOCUMENT.—A Safety Management Certificate and a Document of Compliance issued for a vessel under this section shall be maintained by the responsible person for the vessel as required by the Secretary.

"(c) VERIFICATION OF COMPLIANCE.—The Secretary shall—

"(1) periodically review whether a responsible person having a safety management plan approved under section 3204(b) and each vessel to which the plan applies is complying with the plan; and

"(2) revoke the Secretary's approval of the plan and each Safety Management Certificate and Document of Compliance issued to the person for a vessel to which the plan applies, if the Secretary determines that the person or a vessel to which the plan applies has not complied with the plan.

"(d) ENFORCEMENT.—At the request of the Secretary, the Secretary of the Treasury shall withhold or revoke the clearance required by section 4197 of the Revised Statutes (46 U.S.C. App.

91) of a vessel that is subject to this chapter under section 3202(a) of this title or to the International Safety Management Code, if the vessel does not have on board a Safety Management Certificate and a copy of a Document of Compliance for the vessel. Clearance may be granted on filing a bond or other surety satisfactory to the Secretary.".

(b) CLERICAL AMENDMENT.—The table of chapters at the beginning of subtitle II of title 46, United States Code, is amended by inserting after the item relating to chapter 31 the following:

"32. Management of vessels ..... 3201".

46 USC 3201 note.

(c) STUDY.—

(1) IN GENERAL.—The Secretary of the department in which the Coast Guard is operating shall conduct, in cooperation with the owners, charterers, and managing operators of vessels documented under chapter 121 of title 46, United States Code, and other interested persons, a study of the methods that may be used to implement and enforce the International Management Code for the Safe Operation of Ships and for Pollution Prevention under chapter IX of the Annex to the International Convention for the Safety of Life at Sea, 1974.

(2) REPORT.—The Secretary shall submit to the Congress a report of the results of the study required under paragraph (1) before the earlier of—

(A) the date that final regulations are prescribed under section 3203 of title 46, United States Code (as enacted by subsection (a); or

(B) the date that is 1 year after the date of enactment of this Act.

SEC. 603. USE OF REPORTS, DOCUMENTS, RECORDS, AND EXAMINATIONS OF OTHER PERSONS.

(a) REPORTS, DOCUMENTS, AND RECORDS.—Chapter 31 of title 46, United States Code, is amended by adding the following new section:

"§ 3103. Use of reports, documents, and records

"The Secretary may rely, as evidence of compliance with this subtitle, on—

"(1) reports, documents, and records of other persons who have been determined by the Secretary to be reliable; and

"(2) other methods the Secretary has determined to be reliable.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 31 of title 46, United States Code, is amended by adding at the end the following:

"3103. Use of reports, documents, and records.".

(c) EXAMINATIONS.—Section 3308 of title 46, United States Code, is amended by inserting "or have examined" after "examine".

SEC. 604. EQUIPMENT APPROVAL.

(a) IN GENERAL.—Section 3306(b) of title 46, United States Code, is amended to read as follows:

"(b)(1) Equipment and material subject to regulation under this section may not be used on any vessel without prior approval of the Secretary.

"(2) Except with respect to use on a public vessel, the Secretary may treat an approval of equipment or materials by a foreign

government as approval by the Secretary for purposes of paragraph (1) if the Secretary determines that—

"(A) the design standards and testing procedures used by that government meet the requirements of the International Convention for the Safety of Life at Sea, 1974;

"(B) the approval of the equipment or material by the foreign government will secure the safety of individuals and property on board vessels subject to inspection; and

"(C) for lifesaving equipment, the foreign government—

"(i) has given equivalent treatment to approvals of lifesaving equipment by the Secretary; and

"(ii) otherwise ensures that lifesaving equipment approved by the Secretary may be used on vessels that are documented and subject to inspection under the laws of that country.".

(b) FOREIGN APPROVALS.—The Secretary of Transportation, in consultation with other interested Federal agencies, shall work with foreign governments to have those governments approve the use of the same equipment and materials on vessels documented under the laws of those countries that the Secretary requires on United States documented vessels. 46 USC 3306 note.

(c) TECHNICAL AMENDMENT.—Section 3306(a)(4) of title 46, United States Code, is amended by striking "clauses (1)–(3)" and inserting "paragraphs (1), (2), and (3)".

SEC. 605. FREQUENCY OF INSPECTION.

(a) FREQUENCY OF INSPECTION, GENERALLY.—Section 3307 of title 46, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking "and nautical school vessel" and inserting ", nautical school vessel, and small passenger vessel allowed to carry more than 12 passengers on a foreign voyage"; and

(B) by adding "and" after the semicolon at the end;

(2) by striking paragraph (2) and redesignating paragraph (3) as paragraph (2); and

(3) in paragraph (2) (as so redesignated), by striking "2 years" and inserting "5 years".

(b) CONFORMING AMENDMENT.—Section 3710(b) of title 46, United States Code, is amended by striking "24 months" and inserting "5 years".

SEC. 606. CERTIFICATE OF INSPECTION.

Section 3309(c) of title 46, United States Code, is amended by striking "(but not more than 60 days)".

SEC. 607. DELEGATION OF AUTHORITY OF SECRETARY TO CLASSIFICATION SOCIETIES.

(a) AUTHORITY TO DELEGATE.—Section 3316 of title 46, United States Code, is amended—

(1) by striking subsections (a) and (d);

(2) by redesignating subsections (b) and (c) as subsections (a) and (b), respectively;

(3) by striking "Bureau" in subsection (a), as redesignated, and inserting "American Bureau of Shipping"; and

(4) in subsection (b), as so redesignated, by—

(A) redesignating paragraph (2) as paragraph (3); and

(B) striking so much of the subsection as precedes paragraph (3), as so redesignated, and inserting the following:

"(b)(1) The Secretary may delegate to the American Bureau of Shipping or another classification society recognized by the Secretary as meeting acceptable standards for such a society, for a vessel documented or to be documented under chapter 121 of this title, the authority to—

"(A) review and approve plans required for issuing a certificate of inspection required by this part;

"(B) conduct inspections and examinations; and

"(C) issue a certificate of inspection required by this part and other related documents.

"(2) The Secretary may make a delegation under paragraph (1) to a foreign classification society only—

"(A) to the extent that the government of the foreign country in which the society is headquartered delegates authority and provides access to the American Bureau of Shipping to inspect, certify, and provide related services to vessels documented in that country; and

"(B) if the foreign classification society has offices and maintains records in the United States.".

(b) CONFORMING AMENDMENTS.—

(1) The heading for section 3316 of title 46, United States Code, is amended to read as follows:

"§ 3316. Classification societies".

(2) The table of sections for chapter 33 of title 46, United States Code, is amended by striking the item relating to section 3316 and inserting the following:

"3316. Classification societies.".

TITLE VII—TECHNICAL AND CONFORMING AMENDMENTS

SEC. 701. AMENDMENT OF INLAND NAVIGATION RULES.

Section 2 of the Inland Navigational Rules Act of 1980 is amended—

(1) by amending Rule 9(e)(i) (33 U.S.C. 2009(e)(i)) to read as follows:

"(i) In a narrow channel or fairway when overtaking, the power-driven vessel intending to overtake another power-driven vessel shall indicate her intention by sounding the appropriate signal prescribed in Rule 34(c) and take steps to permit safe passing. The power-driven vessel being overtaken, if in agreement, shall sound the same signal and may, if specifically agreed to take steps to permit safe passing. If in doubt she shall sound the danger signal prescribed in Rule 34(d).";

(2) in Rule 15(b) (33 U.S.C. 2015(b)) by inserting "power-driven" after "Secretary, a";

(3) in Rule 23(a)(i) (33 U.S.C. 2023(a)(i)) after "masthead light forward"; by striking "except that a vessel of less than 20 meters in length need not exhibit this light forward of amidships but shall exhibit it as far forward as is practicable;";

(4) by amending Rule 24(f) (33 U.S.C. 2024(f)) to read as follows:

"(f) Provided that any number of vessels being towed alongside or pushed in a group shall be lighted as one vessel, except as provided in paragraph (iii)—

"(i) a vessel being pushed ahead, not being part of a composite unit, shall exhibit at the forward end, sidelights and a special flashing light;

"(ii) a vessel being towed alongside shall exhibit a sternlight and at the forward end, sidelights and a special flashing light; and

"(iii) when vessels are towed alongside on both sides of the towing vessels a stern light shall be exhibited on the stern of the outboard vessel on each side of the towing vessel, and a single set of sidelights as far forward and as far outboard as is practicable, and a single special flashing light.";

(5) in Rule 26 (33 U.S.C. 2026)—

(A) in each of subsections (b)(i) and (c)(i) by striking "a vessel of less than 20 meters in length may instead of this shape exhibit a basket;"; and

(B) by amending subsection (d) to read as follows:

"(d) The additional signals described in Annex II to these Rules apply to a vessel engaged in fishing in close proximity to other vessels engaged in fishing."; and

(6) by amending Rule 34(h) (33 U.S.C. 2034) to read as follows:

"(h) A vessel that reaches agreement with another vessel in a head-on, crossing, or overtaking situation, as for example, by using the radiotelephone as prescribed by the Vessel Bridge-to-Bridge Radiotelephone Act (85 Stat. 164; 33 U.S.C. 1201 et seq.), is not obliged to sound the whistle signals prescribed by this rule, but may do so. If agreement is not reached, then whistle signals shall be exchanged in a timely manner and shall prevail.".

SEC. 702. MEASUREMENT OF VESSELS.

Section 14104 of title 46, United States Code, is amended by redesignating the existing text after the section heading as subsection (a) and by adding at the end the following new subsection:

"(b) If a statute allows for an alternate tonnage to be prescribed under this section, the Secretary may prescribe it by regulation. Any such regulation shall be considered to be an interpretive regulation for purposes of section 553 of title 5. Until an alternate tonnage is prescribed, the statutorily established tonnage shall apply to vessels measured under chapter 143 or chapter 145 of this title.

"(c) The head of each Federal agency shall ensure that regulations issued by the agency that specify particular tonnages comply with the alternate tonnages implemented by the Secretary.".

SEC. 703. LONGSHORE AND HARBOR WORKERS COMPENSATION.

Section 3(d)(3)(B) of the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 903(d)(3)(B)) is amended by inserting after "1,600 tons gross" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 704. RADIOTELEPHONE REQUIREMENTS.

Section 4(a)(2) of the Vessel Bridge-to-Bridge Radiotelephone Act (33 U.S.C. 1203(a)(2)) is amended by inserting after "one hun-

dred gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title,".

SEC. 705. VESSEL OPERATING REQUIREMENTS.

Section 4(a)(3) of the Ports and Waterways Safety Act (33 U.S.C. 1223(a)(3)) is amended by inserting after "300 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 706. MERCHANT MARINE ACT, 1920.

Section 27A of the Merchant Marine Act, 1920 (46 App. U.S.C. 883–1), is amended by inserting after "five hundred gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title,".

SEC. 707. MERCHANT MARINE ACT, 1956.

Section 2 of the Act of June 14, 1956 (46 App. U.S.C. 883a), is amended by inserting after "five hundred gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 708. MARITIME EDUCATION AND TRAINING.

Section 1302(4)(A) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1295a(4)(a)) is amended by inserting after "1,000 gross tons or more" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 709. GENERAL DEFINITIONS.

Section 2101 of title 46, United States Code, is amended—

(1) in paragraph (13), by inserting after "15 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title";

(2) in paragraph (13a), by inserting after "3,500 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title";

(3) in paragraph (19), by inserting after "500 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title";

(4) in paragraph (22), by inserting after "100 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this

title as prescribed by the Secretary under section 14104 of this title";

(5) in paragraph (30)(A), by inserting after "500 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title";

(6) in paragraph (32), by inserting after "100 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title";

(7) in paragraph (33), by inserting after "300 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title";

(8) in paragraph (35), by inserting after "100 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title"; and

(9) in paragraph (42), by inserting after "100 gross tons" each place it appears, the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title".

SEC. 710. AUTHORITY TO EXEMPT CERTAIN VESSELS.

Section 2113 of title 46, United States Code, is amended—

(1) in paragraph (4), by inserting after "at least 100 gross tons but less than 300 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title"; and

(2) in paragraph (5), by inserting after "at least 100 gross tons but less than 500 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title".

SEC. 711. INSPECTION OF VESSELS.

Section 3302 of title 46, United States Code, is amended—

(1) in subsection (c)(1), by inserting after "5,000 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title";

(2) in subsection (c)(2), by inserting after "500 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title";

(3) in subsection (c)(4)(A), by inserting after "500 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title";

(4) in subsection (d)(1), by inserting after "150 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title";

(5) in subsection (i)(1)(A), by inserting after "300 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title"; and

(6) in subsection (j), by inserting after "15 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title".

SEC. 712. REGULATIONS.

Section 3306 of title 46, United States Code, is amended—

(1) in subsection (h), by inserting after "at least 100 gross tons but less than 300 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title"; and

(2) in subsection (i), by inserting after "at least 100 gross tons but less than 500 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title".

SEC. 713. PENALTIES—INSPECTION OF VESSELS.

Section 3318 of title 46, United States Code, is amended—

(1) in subsection (a), by inserting after "100 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title"; and

(2) in subsection (j)(1), by inserting after "1,600 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title".

SEC. 714. APPLICATION—TANK VESSELS.

Section 3702 of title 46, United States Code, is amended—

(1) in subsection (b)(1), by inserting after "500 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title";

(2) in subsection (c), by inserting after "500 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title"; and

(3) in subsection (d), by inserting after "5,000 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this

title as prescribed by the Secretary under section 14104 of this title".

SEC. 715. TANK VESSEL CONSTRUCTION STANDARDS.

Section 3703a of title 46, United States Code, is amended—

(1) in subsection (b)(2), by inserting after "5,000 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title";

(2) in subsection (c)(2), by inserting after "5,000 gross tons" each place it appears the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title";

(3) in subsection (c)(3)(A), by inserting after "15,000 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title";

(4) in subsection (c)(3)(B), by inserting after "30,000 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title"; and

(5) in subsection (c)(3)(C), by inserting after "30,000 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title".

SEC. 716. TANKER MINIMUM STANDARDS.

Section 3707 of title 46, United States Code, is amended—

(1) in subsection (a), by inserting after "10,000 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title"; and

(2) in subsection (b), by inserting after "10,000 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title".

SEC. 717. SELF-PROPELLED TANK VESSEL MINIMUM STANDARDS.

Section 3708 of title 46, United States Code, is amended by inserting after "10,000 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title".

SEC. 718. DEFINITION—ABANDONMENT OF BARGES.

Section 4701(1) of title 46, United States Code, is amended by inserting after "100 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title".

SEC. 719. APPLICATION—LOAD LINES.

Section 5102(b) of title 46, United States Code, is amended—

(1) in paragraph (4), by inserting after "5,000 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title";

(2) in paragraph (5), by inserting after "500 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title"; and

(3) in paragraph (10), by inserting after "150 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title".

SEC. 720. LICENSING OF INDIVIDUALS.

Section 7101(e)(3) of title 46, United States Code, is amended by inserting after "1,600 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title".

SEC. 721. ABLE SEAMEN—LIMITED.

Section 7308 of title 46, United States Code, is amended by inserting after "100 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title".

SEC. 722. ABLE SEAMEN—OFFSHORE SUPPLY VESSELS.

Section 7310 of title 46, United States Code, is amended by inserting after "500 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title".

SEC. 723. SCALE OF EMPLOYMENT—ABLE SEAMEN.

Section 7312 of title 46, United States Code, is amended—

(1) in subsection (b), by inserting after "1,600 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title";

(2) in subsection (c)(1), by inserting after "500 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title";

(3) in subsection (d), by inserting after "500 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title";

(4) in subsection (f)(1), by inserting after "5,000 gross tons" the following: "as measured under section 14502 of this title,

or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title"; and

(5) in subsection (f)(2), by inserting after "5,000 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title".

SEC. 724. GENERAL REQUIREMENTS—ENGINE DEPARTMENT.

Section 7313(a) of title 46, United States Code, is amended by inserting after "100 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title".

SEC. 725. COMPLEMENT OF INSPECTED VESSELS.

Section 8101(h) of title 46, United States Code, is amended by inserting after "100 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title".

SEC. 726. WATCHMEN.

Section 8102(b) of title 46, United States Code, is amended by inserting after "100 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title".

SEC. 727. CITIZENSHIP AND NAVAL RESERVE REQUIREMENTS.

Section 8103(b)(3)(A) of title 46, United States Code, is amended by inserting after "1,600 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title".

SEC. 728. WATCHES.

Section 8104 of title 46, United States Code, is amended—

(1) in subsection (b), by inserting after "100 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title";

(2) in subsection (d), by inserting after "100 gross tons" and after "5,000 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title";

(3) in subsection (l)(1), by inserting after "1,600 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title";

(4) in subsection (m)(1), by inserting after "1,600 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302

of this title as prescribed by the Secretary under section 14104 of this title";

(5) in subsection (o)(1), by inserting after "500 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title"; and

(6) in subsection (o)(2), by inserting after "500 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title".

SEC. 729. MINIMUM NUMBER OF LICENSED INDIVIDUALS.

Section 8301 of title 46, United States Code, is amended—

(1) in subsection (a)(2), by inserting after "1,000 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title";

(2) in subsection (a)(3), by inserting after "at least 200 gross tons but less than 1,000 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title";

(3) in subsection (a)(4), by inserting after "at least 100 gross tons but less than 200 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title";

(4) in subsection (a)(5), by inserting after "300 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title"; and

(5) in subsection (b), by inserting after "200 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title".

SEC. 730. OFFICERS' COMPETENCY CERTIFICATES CONVENTION.

Section 8304(b)(4) of title 46, United States Code, is amended by inserting after "200 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title".

SEC. 731. MERCHANT MARINERS' DOCUMENTS REQUIRED.

Section 8701 of title 46, United States Code, is amended—

(1) in subsection (a), by inserting after "100 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title"; and

(2) in subsection (a)(6), by inserting after "1,600 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302

of this title as prescribed by the Secretary under section 14104 of this title".

SEC. 732. CERTAIN CREW REQUIREMENTS.

Section 8702 of title 46, United States Code, is amended—

(1) in subsection (a), by inserting after "100 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title"; and

(2) in subsection (a)(6), by inserting after "1,600 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title".

SEC. 733. FREIGHT VESSELS.

Section 8901 of title 46, United States Code, is amended by inserting after "100 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title".

SEC. 734. EXEMPTIONS.

Section 8905(b) of title 46, United States Code, is amended by inserting after "200 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title".

SEC. 735. UNITED STATES REGISTERED PILOT SERVICE.

Section 9303(a)(2) of title 46, United States Code, is amended by inserting after "4,000 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title".

SEC. 736. DEFINITIONS—MERCHANT SEAMEN PROTECTION.

Section 10101(4)(B) of title 46, United States Code, is amended by inserting after "1,600 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title".

SEC. 737. APPLICATION—FOREIGN AND INTERCOASTAL VOYAGES.

Section 10301(a)(2) of title 46, United States Code, is amended by inserting after "75 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title".

SEC. 738. APPLICATION—COASTWISE VOYAGES.

Section 10501(a) of title 46, United States Code, is amended by inserting after "50 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title".

SEC. 739. FISHING AGREEMENTS.

Section 10601(a)(1) of title 46, United States Code, is amended by inserting after "20 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title".

SEC. 740. ACCOMMODATIONS FOR SEAMEN.

Section 11101(a) of title 46, United States Code, is amended by inserting after "100 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title".

SEC. 741. MEDICINE CHESTS.

Section 11102(a) of title 46, United States Code, is amended by inserting after "75 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title".

SEC. 742. LOGBOOK AND ENTRY REQUIREMENTS.

Section 11301(a)(2) of title 46, United States Code, is amended by inserting after "100 gross tons" the following: "as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title".

SEC. 743. COASTWISE ENDORSEMENTS.

Section 12106(c)(1) of title 46, United States Code, is amended by striking "two hundred gross tons" and inserting "200 gross tons as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title".

SEC. 744. FISHERY ENDORSEMENTS.

Section 12108(c)(1) of title 46, United States Code, is amended by striking "two hundred gross tons" and inserting "200 gross tons as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title".

SEC. 745. CONVENTION TONNAGE FOR LICENSES, CERTIFICATES, AND DOCUMENTS.

(a) AUTHORITY TO USE CONVENTION TONNAGE.—Chapter 75 of title 46, United States Code, is amended by adding at the end the following:

"§ 7506. Convention tonnage for licenses, certificates, and documents

"Notwithstanding any provision of section 14302(c) or 14305 of this title, the Secretary may—

"(1) evaluate the service of an individual who is applying for a license, a certificate of registry, or a merchant mariner's document by using the tonnage as measured under chapter 143 of this title for the vessels on which that service was acquired, and

"(2) issue the license, certificate, or document based on that service.".

(b) CLERICAL AMENDMENT.—The analysis to chapter 75 of title 46, United States Code, is amended by adding a new item as follows:

"7506. Convention tonnage for licenses, certificates, and documents.".

SEC. 746. TECHNICAL CORRECTIONS.

(a) Title 46, United States Code, is amended—

(1) by striking the first section 12123 in chapter 121;

(2) by striking the first item relating to section 12123 in the table of sections for such chapter 121;

(3) by striking "proceeding" in section 13108(a)(1) and inserting "preceding"; and

(4) by striking "Secertary" in section 13108(a)(1) and inserting "Secretary".

(b) Section 645 of title 14, United States Code, is amended by redesignating the second subsection (d) and subsections (e) through (h) as subsection (e) and subsections (f) through (i), respectively.

(c) Effective September 30, 1996, the Act of November 6, 1966 (Public Law 89–777), is amended— Effective date.

(1) in section 2(d) (46 U.S.C. App. 817d(d)) by striking "Shipping Act, 1916," and inserting "Shipping Act of 1984"; and

(2) in section 3(d) (46 U.S.C. App. 817e(d)) by striking "Shipping Act, 1916," and inserting "Shipping Act of 1984".

(d) Section 672 of title 14, United States Code, is amended by striking the section heading and inserting the following:

"§ 672. Long-term lease authority for navigation and communications systems sites".

SEC. 747. TECHNICAL CORRECTIONS TO REFERENCES TO ICC.

Section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), is amended—

(1) in the third proviso—

(A) by striking "Interstate Commerce Commission" and inserting "Surface Transportation Board"; and

(B) by striking "said Commission" and inserting "the Board"; and

(2) in the fifth proviso—

(A) by striking "Interstate Commerce Commission" the first place it appears and inserting "Surface Transportation Board"; and

(B) by striking "Interstate Commerce Commission" the second place it appears and inserting "Board".

TITLE VIII—POLLUTION FROM SHIPS

SEC. 801. PREVENTION OF POLLUTION FROM SHIPS.

(a) IN GENERAL.—Section 6 of the Act to Prevent Pollution From Ships (33 U.S.C. 1905) is amended—

(1) by striking "(2) If" in subsection (c)(2) and inserting "(2)(A) Subject to subparagraph (B), if"; and

(2) by adding at the end of subsection (c)(2) the following:

"(B) The Secretary may not issue a certificate attesting to the adequacy of reception facilities under this paragraph unless, prior to the issuance of the certificate, the Secretary conducts an

inspection of the reception facilities of the port or terminal that is the subject of the certificate.

"(C) The Secretary may, with respect to certificates issued under this paragraph prior to the date of enactment of the Coast Guard Authorization Act of 1996, prescribe by regulation differing periods of validity for such certificates.";

(3) by striking subsection (c)(3)(A) and inserting the following:

"(A) is valid for the 5-year period beginning on the date of issuance of the certificate, except that if—

"(i) the charge for operation of the port or terminal is transferred to a person or entity other than the person or entity that is the operator on the date of issuance of the certificate—

Expiration date.

"(I) the certificate shall expire on the date that is 30 days after the date of the transfer; and

"(II) the new operator shall be required to submit an application for a certificate before a certificate may be issued for the port or terminal; or

"(ii) the certificate is suspended or revoked by the Secretary, the certificate shall cease to be valid; and"; and

(4) by striking subsection (d) and inserting the following:

Records.

"(d)(1) The Secretary shall maintain a list of ports or terminals with respect to which a certificate issued under this section—

"(A) is in effect; or

"(B) has been revoked or suspended.

Public information.

"(2) The Secretary shall make the list referred to in paragraph (1) available to the general public.".

(b) RECEPTION FACILITY PLACARDS.—Section 6(f) of the Act to Prevent Pollution From Ships (33 U.S.C. 1905(f)) is amended—

(1) by inserting "(1)" before "The Secretary"; and

(2) by adding at the end the following new paragraph:

Regulations.

"(2)(A) Not later than 18 months after the date of enactment of the Coast Guard Authorization Act of 1996, the Secretary shall promulgate regulations that require the operator of each port or terminal that is subject to any requirement of the MARPOL Protocol relating to reception facilities to post a placard in a location that can easily be seen by port and terminal users. The placard shall state, at a minimum, that a user of a reception facility of the port or terminal should report to the Secretary any inadequacy of the reception facility.".

SEC. 802. MARINE PLASTIC POLLUTION RESEARCH AND CONTROL.

(a) COMPLIANCE REPORTS.—Section 2201(a) of the Marine Plastic Pollution Research and Control Act of 1987 (33 U.S.C. 1902 note) is amended—

(1) by striking "for a period of 6 years"; and

Federal Register, publication. Records.

(2) by inserting before the period at the end the following: "and, not later than 1 year after the date of enactment of the Coast Guard Authorization Act of 1996, and annually thereafter, shall publish in the Federal Register a list of the enforcement actions taken against any domestic or foreign ship (including any commercial or recreational ship) pursuant to the Act to Prevent Pollution from Ships (33 U.S.C. 1901 et seq.)".

(b) COORDINATION.—Section 2203 of the Marine Plastic Pollution Research and Control Act of 1987 (101 Stat. 1466) is amended to read as follows:

33 USC 1914 note.

"SEC. 2203. COORDINATION.

"(a) ESTABLISHMENT OF MARINE DEBRIS COORDINATING COMMITTEE.—The Secretary of Commerce shall establish a Marine Debris Coordinating Committee.

"(b) MEMBERSHIP.—The Committee shall include a senior official from—

"(1) the National Oceanic and Atmospheric Administration, who shall serve as the Chairperson of the Committee;

"(2) the Environmental Protection Agency;

"(3) the United States Coast Guard;

"(4) the United States Navy; and

"(5) such other Federal agencies that have an interest in ocean issues or water pollution prevention and control as the Secretary of Commerce determines appropriate.

"(c) MEETINGS.—The Committee shall meet at least twice a year to provide a forum to ensure the coordination of national and international research, monitoring, education, and regulatory actions addressing the persistent marine debris problem.

"(d) MONITORING.—The Secretary of Commerce, acting through the Administrator of the National Oceanic and Atmospheric Administration, in cooperation with the Administrator of the Environmental Protection Agency, shall utilize the marine debris data derived under title V of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 2801 et seq.) to assist—

"(1) the Committee in ensuring coordination of research, monitoring, education and regulatory actions; and

"(2) the United States Coast Guard in assessing the effectiveness of this Act and the Act to Prevent Pollution from Ships in ensuring compliance under section 2201.".

(c) PUBLIC OUTREACH PROGRAM.—Section 2204(a) of the Marine Plastic Pollution Research and Control Act of 1987 (42 U.S.C. 6981 note) is amended—

(1) by striking "for a period of at least 3 years," in paragraph (1) in the matter preceding subparagraph (A);

(2) by striking "and" at the end of paragraph (1)(C);

(3) by striking the period at the end of subparagraph (1)(D) and inserting "; and";

(4) by adding at the end of paragraph (1) the following:

"(E) the requirements under this Act and the Act to Prevent Pollution from Ships (33 U.S.C. 1901 et seq.) with respect to ships and ports, and the authority of citizens to report violations of this Act and the Act to Prevent Pollution from Ships (33 U.S.C. 1901 et seq.).''; and

(5) by striking paragraph (2) and inserting the following:

"(2) AUTHORIZED ACTIVITIES.—

"(A) PUBLIC OUTREACH PROGRAM.—A public outreach program under paragraph (1) may include—

"(i) developing and implementing a voluntary boaters' pledge program;

"(ii) workshops with interested groups;

"(iii) public service announcements;

"(iv) distribution of leaflets and posters; and

"(v) any other means appropriate to educating the public.

"(B) GRANTS AND COOPERATIVE AGREEMENTS.—To carry out this section, the Secretary of the department in which the Coast Guard is operating, the Secretary of Commerce,

and the Administrator of the Environmental Protection Agency are authorized to award grants, enter into cooperative agreements with appropriate officials of other Federal agencies and agencies of States and political subdivisions of States and with public and private entities, and provide other financial assistance to eligible recipients.

"(C) CONSULTATION.—In developing outreach initiatives for groups that are subject to the requirements of this title and the Act to Prevent Pollution from Ships (33 U.S.C. 1901 et seq.), the Secretary of the department in which the Coast Guard is operating, in consultation with the Secretary of Commerce, acting through the Administrator of the National Oceanic and Atmospheric Administration, and the Administrator of the Environmental Protection Agency, shall consult with—

"(i) the heads of State agencies responsible for implementing State boating laws; and

"(ii) the heads of other enforcement agencies that regulate boaters or commercial fishermen.".

TITLE IX—TOWING VESSEL SAFETY

Regulations.

SEC. 901. REDUCTION OF OIL SPILLS FROM NON-SELF-PROPELLED TANK VESSELS.

(a) IN GENERAL.—Chapter 37 of title 46, United States Code, is amended by adding at the end the following new section:

"§ 3719. Reduction of oil spills from single hull non-self-propelled tank vessels

"The Secretary shall, in consultation with the Towing Safety Advisory Committee and taking into consideration the characteristics, methods of operation, and the size and nature of service of single hull non-self-propelled tank vessels and towing vessels, prescribe regulations requiring a single hull non-self-propelled tank vessel that operates in the open ocean or coastal waters, or the vessel towing it, to have at least one of the following:

"(1) A crew member and an operable anchor on board the tank vessel that together are capable of arresting the tank vessel without additional assistance under reasonably foreseeable sea conditions.

"(2) An emergency system on the tank vessel or towing vessel that without additional assistance under reasonably foreseeable sea conditions will allow the tank vessel to be retrieved by the towing vessel if the tow line ruptures.

"(3) Any other measure or combination of measures that the Secretary determines will provide protection against grounding of the tank vessel comparable to that provided by the measures described in paragraph (1) or (2).".

46 USC 3719 note.

(b) DEADLINE.—The Secretary of the department in which the Coast Guard is operating shall issue regulations required under section 3719 of title 46, United States Code, as added by subsection (a), by not later than October 1, 1997.

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 37 of title 46, United States Code, is amended by adding at the end the following new item:

"3719. Reduction of oil spills from non-self-propelled tank vessels.".

SEC. 902. REQUIREMENT FOR FIRE SUPPRESSION DEVICES.

(a) IN GENERAL.—Section 4102 of title 46, United States Code, is amended by adding at the end the following new subsection:

"(f)(1) The Secretary, in consultation with the Towing Safety Advisory Committee and taking into consideration the characteristics, methods of operation, and nature of service of towing vessels, may require the installation, maintenance, and use of a fire suppression system or other measures to provide adequate assurance that fires on board towing vessels can be suppressed under reasonably foreseeable circumstances.

"(2) The Secretary shall require under paragraph (1) the use of a fire suppression system or other measures to provide adequate assurance that a fire on board a towing vessel that is towing a non-self-propelled tank vessel can be suppressed under reasonably foreseeable circumstances.".

(b) REGULATIONS.—The Secretary of the department in which the Coast Guard is operating shall issue regulations establishing the requirement described in subsection (f)(2) of section 4102 of title 46, United States Code, as added by this section, by not later than October 1, 1997. 46 USC 4102 note.

SEC. 903. STUDIES ADDRESSING VARIOUS SOURCES OF OIL SPILL RISK. 46 USC 3703 note.

(a) STUDY OF GROUP-5 FUEL OIL SPILLS.—

(1) DEFINITION.—In this subsection, the term "group-5 fuel oil" means a petroleum-based oil that has a specific gravity of greater than 1.0.

(2) COORDINATION OF STUDY.—The Secretary of Transportation shall coordinate with the Marine Board of the National Research Council to conduct a study of the relative environmental and public health risks posed by discharges of group-5 fuel oil.

(3) MATTERS TO BE INCLUDED.—The study under this subsection shall include a review and analysis of—

(A) the specific risks posed to the public health or welfare of the United States, including fish, shellfish and wildlife, public and private property, shorelines, beaches, habitat, and other natural resources under the jurisdiction or control of the United States, as a result of an actual or threatened discharge of group-5 fuel oil from a vessel or facility;

(B) cleanup technologies currently available to address actual or threatened discharge of group-5 fuel oil; and

(C) any technological and financial barriers that prevent the prompt remediation of discharges of group-5 fuel oil.

(4) REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary of Transportation shall submit to the Committee on Environment and Public Works and the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives a report on the results of the study under this subsection.

(5) RULEMAKING.—If the Secretary of Transportation determines, based on the results of the study under this subsection, that there are significant risks to public health or the environment resulting from the actual or threatened discharge of group-5 fuel oil from a vessel or facility that cannot be technologically or economically addressed by existing or anticipated cleanup efforts, the Secretary may initiate a rulemaking to take such action as is necessary to abate the threat.

(b) STUDY OF AUTOMATIC FUELING SHUTOFF EQUIPMENT.—

(1) COORDINATION OF STUDY.—The Secretary of Transportation shall coordinate with the Marine Board of the National Research Council to conduct a study of the unintentional or accidental discharge of fuel oil during lightering or fuel loading or off-loading activity.

(2) MATTERS TO BE INCLUDED.—The study under this subsection shall include a review and analysis of current monitoring and fueling practices to determine the need for automatic fuel shutoff equipment to prevent the accidental discharge of fuel oil, and whether such equipment is needed as a supplement to or replacement of existing preventive equipment or procedures.

(3) REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary of Transportation shall submit to the Committee on Environment and Public Works and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the results of the study under this subsection.

(4) RULEMAKING.—If the Secretary of Transportation determines, based on the results of the study conducted under this subsection, that the use of automatic oil shutoff equipment is necessary to prevent the actual or threatened discharge of oil during lightering or fuel loading or off loading activity, the Secretary may initiate a rulemaking to take such action as is necessary to abate a threat to public health or the environment.

(c) LIGHTERING STUDY.—The Secretary of Transportation shall coordinate with the Marine Board of the National Research Council on a study into the actual incidence and risk of oil spills from lightering operations off the coast of the United States. Among other things, the study shall address the manner in which existing regulations are serving to reduce oil spill risks. The study shall take into account current or proposed international rules and standards and also include recommendations on measures that would be likely to further reduce the risks of oil spills from lightering operations. Not later than 18 months after the date of enactment of this Act, the Secretary shall submit a report on the study to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

Reports.

TITLE X—CONVEYANCES

SEC. 1001. CONVEYANCE OF LIGHTHOUSES.

(a) AUTHORITY TO CONVEY.—

(1) IN GENERAL.—The Secretary of Transportation or the Secretary of the Interior, as appropriate, shall convey, by an appropriate means of conveyance, all right, title, and interest of the United States in and to each of the following properties: State listing.

(A) Cape Ann Lighthouse, located on Thacher Island, Massachusetts, to the town of Rockport, Massachusetts.

(B) Light Station Montauk Point, located at Montauk, New York, to the Montauk Historical Association in Montauk, New York.

(C) Squirrel Point Light, located in Arrowsic, Maine, to Squirrel Point Associates, Incorporated.

(D) Point Arena Light Station, located in Mendocino County, California, to the Point Arena Lighthouse Keepers, Incorporated.

(E) Saint Helena Island Light Station, located in Mackinac County, Moran Township, Michigan, to the Great Lakes Lighthouse Keepers Association.

(F) Presque Isle Light Station, located in Presque Isle Township, Michigan, to Presque Isle Township, Presque Isle County, Michigan.

(G) Cove Point Lighthouse, located in Calvert County, Maryland, to Calvert County, Maryland.

(2) IDENTIFICATION OF PROPERTY.—The Secretary may identify, describe, and determine the property to be conveyed under this subsection.

(3) EXCEPTION.—The Secretary may not convey any historical artifact, including any lens or lantern, located on the property at or before the time of the conveyance.

(b) TERMS OF CONVEYANCE.—

(1) IN GENERAL.—The conveyance of property under this section shall be made—

(A) without payment of consideration; and

(B) subject to the conditions required by this section and other terms and conditions the Secretary may consider appropriate.

(2) REVERSIONARY INTEREST.—In addition to any term or condition established under this section, the conveyance of property under this subsection shall be subject to the condition that all right, title, and interest in the property shall immediately revert to the United States if—

(A) the property, or any part of the property—

(i) ceases to be used as a nonprofit center for the interpretation and preservation of maritime history;

(ii) ceases to be maintained in a manner that ensures its present or future use as a Coast Guard aid to navigation; or

(iii) ceases to be maintained in a manner consistent with the provisions of the National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.); or

(B) at least 30 days before that reversion, the Secretary of Transportation provides written notice to the owner that the property is needed for national security purposes. Notice.

(3) MAINTENANCE OF NAVIGATION FUNCTIONS.—A conveyance of property under this section shall be made subject to the conditions that the Secretary of Transportation considers to be necessary to assure that—

(A) the lights, antennas, sound signal, electronic navigation equipment, and associated lighthouse equipment located on the property conveyed, which are active aids to navigation, shall continue to be operated and maintained by the United States for as long as they are needed for this purpose;

(B) the owner of the property may not interfere or allow interference in any manner with aids to navigation without express written permission from the Secretary of Transportation;

(C) there is reserved to the United States the right to relocate, replace, or add any aid to navigation or make any changes to the property as may be necessary for navigational purposes;

(D) the United States shall have the right, at any time, to enter the property without notice for the purpose of maintaining aids to navigation; and

(E) the United States shall have an easement of access to and across the property for the purpose of maintaining the aids to navigation in use on the property.

(4) OBLIGATION LIMITATION.—The owner of property conveyed under this section is not required to maintain any active aid to navigation equipment on the property.

(5) PROPERTY TO BE MAINTAINED IN ACCORDANCE WITH CERTAIN LAWS.—The owner of property conveyed under this section shall maintain the property in accordance with the National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.) and other applicable laws.

(c) MAINTENANCE STANDARD.—The owner of any property conveyed under this section, at its own cost and expense, shall maintain the property in a proper, substantial, and workmanlike manner.

(d) DEFINITIONS.—For purposes of this section:

(1) The term "Montauk Light Station" includes the keeper's dwellings, adjacent Coast Guard rights-of-way, the World War II submarine spotting tower, the lighthouse tower, and the paint locker.

(2) The term "owner" means the person identified in subsection (a)(1) (A) through (G), and includes any successor of assign of that person.

(3) The term "Point Arena Light Station" includes the light tower building, fog signal building, 2 small shelters, 4 residential quarters, and a restroom facility.

(4) The term "Squirrel Point Light" includes the light tower, dwelling, boat house, oil house, barn, any other ancillary buildings, and any other land as may be necessary for the owner to operate a nonprofit center for public benefit.

(5) The term "Presque Isle Light Station" includes the light tower, attached dwelling, detached dwelling, 3-car garage, and any other improvements on that parcel of land.

SEC. 1002. CONVEYANCE OF CERTAIN LIGHTHOUSES LOCATED IN MAINE.

(a) AUTHORITY TO CONVEY.—

(1) IN GENERAL.—The Secretary of Transportation (in this section referred to as the "Secretary") shall convey to an entity recommended by the Island Institute, Rockland, Maine (in this section referred to as the "Institute"), and approved by the

Selection Committee established in subsection (d)(3)(A), by an appropriate means of conveyance, all right, title, and interest of the United States in and to any of the facilities and real property and improvements described in paragraph (2).

(2) IDENTIFICATION OF PROPERTIES.—Paragraph (1) applies to lighthouses, together with any real property and other improvements associated therewith, located in the State of Maine as follows: Applicability.

(A) Burnt Island Light.
(B) Rockland Harbor Breakwater Light.
(C) Monhegan Island Light.
(D) Eagle Island Light.
(E) Curtis Island Light.
(F) Moose Peak Light.
(G) Great Duck Island Light.
(H) Goose Rocks Light.
(I) Isle au Haut Light.
(J) Goat Island Light.
(K) Wood Island Light.
(L) Doubling Point Light.
(M) Doubling Point Front Range Light.
(N) Doubling Point Rear Range Light.
(O) Little River Light.
(P) Spring Point Ledge Light.
(Q) Ram Island Light (Boothbay).
(R) Seguin Island Light.
(S) Marshall Point Light.
(T) Fort Point Light.
(U) West Quoddy Head Light.
(V) Brown's Head Light.
(W) Cape Neddick Light.
(X) Halfway Rock Light.
(Y) Ram Island Ledge Light.
(Z) Mount Desert Rock Light.
(AA) Whitlock's Mill Light.
(BB) Nash Island Light.
(CC) Manana Island Fog Signal Station.
(DD) Franklin Island Light.

(3) DEADLINE FOR CONVEYANCE.—(A) The conveyances authorized by this subsection shall take place not later than 2 years after the date of the enactment of this Act.

(B) During the period described in subparagraph (A), the Secretary may not transfer or convey any right, title, or interest in the properties listed in paragraph (2) in any manner that is inconsistent with this section, nor shall the Secretary transfer these properties to the General Services Administration for disposal, unless the Selection Committee notifies the Secretary that an eligible entity referred to in subsection (d)(2) will not be identified during that period.

(C) During the period described in subparagraph (A), no other provision of law concerning the disposal of Federal property that is inconsistent in any manner with the provisions of this section shall apply to the properties listed in paragraph (2).

(4) ADDITIONAL CONVEYANCES.—The Secretary may transfer, in accordance with the terms and conditions of subsection

(b), the following lighthouses, together with any real property and improvements associated therewith—

(A) directly to the United States Fish and Wildlife Service:

(i) Two Bush Island Light.

(ii) Egg Rock Light.

(iii) Libby Island Light.

(iv) Matinicus Rock Light.

(B) to the Institute, with the concurrence of the Maine Lighthouse Selection Committee:

(i) Whitehead Island Light.

(ii) Deer Island Thorofare (Mark Island) Light.

(b) TERMS OF CONVEYANCE.—

(1) IN GENERAL.—The conveyance of property pursuant to this section shall be made—

(A) without payment of consideration; and

(B) subject to the conditions required by this section and other terms and conditions the Secretary may consider appropriate.

(2) MAINTENANCE OF NAVIGATION FUNCTION.—The conveyance of property pursuant to this section shall be made subject to the conditions that the Secretary considers necessary to assure that—

(A) the lights, antennas, sound signal, electronic navigation equipment, and associated lighthouse equipment located on the property conveyed, which are active aids to navigation, shall continue to be operated and maintained by the United States;

(B) the Institute, the United States Fish and Wildlife Service, and an entity to which property is conveyed under this section may not interfere or allow interference in any manner with aids to navigation without express written permission from the Secretary;

(C) there is reserved to the United States the right to relocate, replace, or add any aid to navigation or make any changes to property conveyed under this section as may be necessary for navigational purposes;

(D) the United States shall have the right, at any time, to enter property conveyed under this section without notice for the purpose of maintaining aids to navigation; and

(E) the United States shall have an easement of access to and across property conveyed under this section for the purpose of maintaining the aids to navigation in use on the property.

(3) OBLIGATION LIMITATION.—The Institute, or any entity to which a lighthouse is conveyed under subsection (d), is not required to maintain any active aid to navigation equipment on a property conveyed under this section.

(4) REVERSIONARY INTEREST.—In addition to any term or condition established pursuant to this section, the conveyance of property pursuant to this section shall be subject to the condition that all right, title, and interest in such property shall immediately revert to the United States if—

(A) such property or any part of such property ceases to be used for educational, historic, recreational, cultural, and wildlife conservation programs for the general public

and for such other uses as the Secretary determines to be not inconsistent or incompatible with such uses;

(B) such property or any part of such property ceases to be maintained in a manner that ensures its present or future use as a Coast Guard aid to navigation; or

(C) such property or any part of such property ceases to be maintained in a manner consistent with the provisions of the National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.).

(c) INSPECTION.—The State Historic Preservation Officer of the State of Maine may at any time inspect any lighthouse, and any real property and improvements associated therewith, that is conveyed under this section to an entity that is not a Federal agency, without notice, for purposes of ensuring that the lighthouse is being maintained in the manner required under subsection (b). The Institute, and conveyees under subsection (d) that are not Federal agencies, shall cooperate with the official referred to in the preceding sentence in the inspections of that official under this subsection.

(d) CONVEYANCE OF LIGHTHOUSES.—

(1) REQUIREMENT.—The Secretary shall convey, without consideration, all right, title, and interest of the United States in and to the lighthouses identified in subsection (a)(2), together with any real property and improvements associated therewith, to one or more entities identified under paragraph (2) and approved by the committee established under paragraph (3) in accordance with the provisions of such paragraph (3).

(2) IDENTIFICATION OF ELIGIBLE ENTITIES.—

(A) IN GENERAL.—Subject to subparagraph (B), the Institute shall identify entities eligible for the conveyance of a lighthouse under this subsection. Such entities shall include any department or agency of the Federal Government, any department or agency of the government of the State of Maine, any local government in that State, or any nonprofit corporation, educational agency, or community development organization that—

(i) is financially able to maintain the lighthouse (and any real property and improvements conveyed therewith) in accordance with the conditions set forth in subsection (b);

(ii) has agreed to permit the inspections referred to in subsection (c); and

(iii) has agreed to comply with the conditions set forth in subsection (b); and to have such conditions recorded with the deed of title to the lighthouse and any real property and improvements that may be conveyed therewith.

(B) ORDER OF PRIORITY.—In identifying entities eligible for the conveyance of a lighthouse under this paragraph, the Institute shall give priority to entities in the following order, which are also the exclusive entities eligible for the conveyance of a lighthouse under this section:

(i) Agencies of the Federal Government.

(ii) Entities of the government of the State of Maine.

(iii) Entities of local governments in the State of Maine.

(iv) Nonprofit corporations, educational agencies, and community development organizations.

(3) SELECTION OF CONVEYEES AMONG ELIGIBLE ENTITIES.—

(A) COMMITTEE.—

Establishment.

(i) IN GENERAL.—There is hereby established a committee to be known as the Maine Lighthouse Selection Committee (in this paragraph referred to as the "Committee").

(ii) MEMBERSHIP.—The Committee shall consist of five members appointed by the Secretary, in consultation with the Advisory Council on Historic Preservation, as follows:

(I) One member, who shall serve as the Chairman of the Committee, shall be appointed from among individuals recommended by the Governor of the State of Maine.

(II) One member shall be the State Historic Preservation Officer of the State of Maine, with the consent of that official, or a designee of that official.

(III) One member shall be appointed from among individuals recommended by State and local organizations in the State of Maine that are concerned with lighthouse preservation or maritime heritage matters.

(IV) One member shall be appointed from among individuals recommended by officials of local governments of the municipalities in which the lighthouses are located.

(V) One member shall be appointed from among individuals recommended by the Secretary of the Interior.

(iii) APPOINTMENT DEADLINE.—The Secretary shall appoint the members of the Committee not later than 90 days after the date of the enactment of this Act.

(iv) MEMBERSHIP TERM.—

(I) Members of the Committee shall serve for such terms not longer than 2 years as the Secretary shall provide. The Secretary may stagger the terms of initial members of the Committee in order to ensure continuous activity by the Committee.

(II) Any member of the Committee may serve after the expiration of the term of the member until a successor to the member is appointed. A vacancy in the Committee shall be filled in the same manner in which the original appointment was made.

(v) VOTING.—The Committee shall act by an affirmative vote of a majority of the members of the Committee.

(B) RESPONSIBILITIES.—

(i) IN GENERAL.—The Committee shall—

(I) review the entities identified by the Institute under paragraph (2) as entities eligible for the conveyance of a lighthouse; and

(II) approve one such entity, or disapprove all such entities, as entities to which the Secretary may make the conveyance of the lighthouse under this subsection.

(ii) APPROVAL.—If the Committee approves an entity for the conveyance of a lighthouse, the Committee shall notify the Institute of such approval. The Institute shall forward such recommendations to the Secretary.

(iii) DISAPPROVAL.—If the Committee disapproves of the entities, the Committee shall notify the Institute and the Institute shall identify other entities eligible for the conveyance of the lighthouse under paragraph (2). The Committee shall review and approve or disapprove entities identified pursuant to the preceding sentence in accordance with this subparagraph and the criteria set forth in subsection (b). Notification.

(C) EXEMPTION FROM FACA.—The Federal Advisory Committee Act (5 App. U.S.C.) shall not apply to the Committee, however, all meetings of the Committee shall be open to the public and preceded by appropriate public notice. Public information.

(D) TERMINATION.—The Committee shall terminate 2 years from the date of the enactment of this Act.

(E) FUNDING.—Nothing in this section shall imply a commitment or obligation of any department or agency of the Federal Government to fund the expenses of the Committee.

(4) CONVEYANCE.—Upon notification under paragraph (3)(B)(ii) of the approval of an identified entity for conveyance of a lighthouse under this subsection, the Secretary shall, with the consent of the entity, convey the lighthouse to the entity.

(5) RESPONSIBILITIES OF CONVEYEES.—Each entity to which the Secretary conveys a lighthouse under this subsection, or any successor or assign of such entity in perpetuity, shall—

(A) use and maintain the lighthouse in accordance with subsection (b) and have such terms and conditions recorded with the deed of title to the lighthouse and any real property conveyed therewith; and

(B) permit the inspections referred to in subsection (c).

(e) DESCRIPTION OF PROPERTY.—The legal description of any lighthouse, and any real property and improvements associated therewith, conveyed under subsection (a) shall be determined by the Secretary. The Secretary shall retain all right, title, and interest of the United States in and to any historical artifact, including any lens or lantern, that is associated with the lighthouses conveyed under this subsection, whether located at the lighthouse or elsewhere. The Secretary shall identify any equipment, system, or object covered by this paragraph.

SEC. 1003. TRANSFER OF COAST GUARD PROPERTY IN GOSNOLD, MASSACHUSETTS.

(a) CONVEYANCE REQUIREMENT.—The Secretary of Transportation may convey to the town of Gosnold, Massachusetts, without reimbursement and by no later than 120 days after the date of enactment of this Act, all right, title, and interest of the United

States in and to the property known as the "United States Coast Guard Cuttyhunk Boathouse and Wharf", as described in subsection (c).

(b) CONDITIONS.—Any conveyance of property under subsection (a) shall be subject to the condition that the Coast Guard shall retain in perpetuity and at no cost—

(1) the right of access to, over, and through the boathouse, wharf, and land comprising the property at all times for the purpose of berthing vessels, including vessels belonging to members of the Coast Guard Auxiliary; and

(2) the right of ingress to and egress from the property for purposes of access to Coast Guard facilities and performance of Coast Guard functions.

(c) PROPERTY DESCRIBED.—The property referred to in subsection (a) is real property located in the town of Gosnold, Massachusetts (including all buildings, structures, equipment, and other improvements), as determined by the Secretary of Transportation.

SEC. 1004. CONVEYANCE OF PROPERTY IN KETCHIKAN, ALASKA.

(a) AUTHORITY TO CONVEY.—The Secretary of Transportation or the Administrator of General Services, as appropriate, shall convey to the Ketchikan Indian Corporation in Ketchikan, Alaska, without reimbursement and by no later than 120 days after the date of enactment of this Act, all right, title, and interest of the United States in and to the property known as the "Former Marine Safety Detachment" as identified in Report of Excess Number CG–689 (GSA Control Number 9–U–AK–0747) and described in subsection (b), for use as a health or social services facility.

(b) IDENTIFICATION OF PROPERTY.—The Secretary or the Administrator, as appropriate, shall identify, describe, and determine the property to be conveyed pursuant to this section.

(c) REVERSIONARY INTEREST.—(1) The conveyance of property described in subsection (b) shall be subject to the conditions that—

(A) the existing buildings on such property shall be demolished and removed by not later than July 3, 1997; and

(B) such property, and all right, title and interest in such property, shall transfer to the City of Ketchikan if, within 24 months of the date of enactment of this Act, the Ketchikan Indian Corporation has not completed design and construction plans for a health and social services facility (including local permitting requirements, but not financing plans) and received approval from the City of Ketchikan for such plans or the written consent of the City to exceed this period.

(2) If the property described in subsection (b) is transferred to the City of Ketchikan under subsection (c), the transfer shall be subject to the condition that all right, title, and interest in and to the property shall immediately revert to the United States if the property ceases to be used by the City of Ketchikan in a health-related or hospital-related capacity.

SEC. 1005. CONVEYANCE OF PROPERTY IN TRAVERSE CITY, MICHIGAN.

(a) AUTHORITY TO CONVEY.—The Secretary of Transportation (or any other official having control over the property described in subsection (b)) shall expeditiously convey to the Traverse City Area Public School District in Traverse City, Michigan, without consideration, all right, title, and interest of the United States

in and to the property identified, described, and determined by the Secretary under subsection (b), subject to all easements and other interests in the property held by any other person.

(b) IDENTIFICATION OF PROPERTY.—The Secretary shall identify, describe, and determine the property to be conveyed pursuant to this section.

(c) REVERSIONARY INTEREST.—In addition to any term or condition established pursuant to subsection (a) or (d), any conveyance of property described in subsection (b) shall be subject to the condition that all right, title, and interest in and to the property so conveyed shall immediately revert to the United States if the property, or any part thereof, ceases to be used by the Traverse City Area Public School District.

(d) TERMS OF CONVEYANCE.—The conveyance of property under this section shall be subject to such conditions as the Secretary considers to be necessary to assure that—

(1) the pump room located on the property shall continue to be operated and maintained by the United States for as long as it is needed for this purpose;

(2) the United States shall have an easement of access to the property for the purpose of operating and maintaining the pump room; and

(3) the United States shall have the right, at any time, to enter the property without notice for the purpose of operating and maintaining the pump room.

SEC. 1006. TRANSFER OF COAST GUARD PROPERTY IN NEW SHOREHAM, RHODE ISLAND.

(a) REQUIREMENT.—The Secretary of Transportation (or any other official having control over the property described in subsection (b)) may convey to the town of New Shoreham, Rhode Island, without consideration, all right, title, and interest of the United States in and to the property known as the United States Coast Guard Station Block Island, as described in subsection (b), subject to all easements and other interest in the property held by any other person.

(b) PROPERTY DESCRIBED.—The property referred to in subsection (a) is real property (including buildings and improvements) located on the west side of Block Island, Rhode Island, at the entrance to the Great Salt Pond and referred to in the books of the Tax Assessor of the town of New Shoreham, Rhode Island, as lots 10 and 12, comprising approximately 10.7 acres.

(c) REVERSIONARY INTEREST.—In addition to any term or condition established pursuant to subsection (a), any conveyance of property under subsection (a) shall be subject to the condition that all right, title, and interest in and to the property so conveyed shall immediately revert to the United States if the property, or any part thereof, ceases to be used by the town of New Shoreham, Rhode Island.

SEC. 1007. CONVEYANCE OF PROPERTY IN SANTA CRUZ, CALIFORNIA.

(a) AUTHORITY TO CONVEY.—

(1) IN GENERAL.—The Secretary of Transportation (referred to in this section as the "Secretary") may convey to the Santa Cruz Port District by an appropriate means of conveyance, all right, title, and interest of the United States in and to the property described in paragraph (2).

(2) IDENTIFICATION OF PROPERTY.—The Secretary may identify, describe, and determine the property to be conveyed pursuant to this section.

(b) CONSIDERATION.—Any conveyance of property pursuant to this section shall be made without payment of consideration.

(c) CONDITION.—The conveyance provided for in subsection (a) may be made contingent upon agreement by the Port District that—

(1) the utility systems, building spaces, and facilities or any alternate, suitable facilities and buildings on the harbor premises would be available for joint use by the Port District and the Coast Guard when deemed necessary by the Coast Guard; and

(2) the Port District would be responsible for paying the cost of maintaining, operating, and replacing (as necessary) the utility systems and any buildings and facilities located on the property as described in subsection (a) or on any alternate, suitable property on the harbor premises set aside for use by the Coast Guard.

(d) REVERSIONARY INTEREST.—Any conveyance of property pursuant to this section shall be subject to the condition that all right, title, and interest in Subunit Santa Cruz shall immediately revert to the United States—

(1) if Subunit Santa Cruz ceases to be maintained as a nonprofit center for education, training, administration, and other public service to include use by the Coast Guard; or

(2) at the end of the thirty day period beginning on any date on which the Secretary provides written notice to the Santa Cruz Port District that Subunit Santa Cruz is needed for national security purposes.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

(f) DEFINITIONS.—For purposes of this section—

(1) "Subunit Santa Cruz" means the Coast Guard property and improvements located at Santa Cruz, California;

(2) "Secretary" means the Secretary of the department in which the Coast Guard is operating; and

(3) "Port District" means the Santa Cruz Port District, or any successor or assign.

SEC. 1008. CONVEYANCE OF VESSEL S/S RED OAK VICTORY.

(a) IN GENERAL.—Notwithstanding any other law, the Secretary of Transportation (referred to in this section as the "Secretary") may convey the right, title, and interest of the United States Government in and to the vessel S/S RED OAK VICTORY (Victory Ship VCS–AP2; United States Navy Hull No. AK235) to the City of Richmond Museum Association, Inc., located in Richmond, California (in this section referred to as "the recipient"), if—

(1) the recipient agrees to use the vessel for the purposes of a monument to the wartime accomplishments of the City of Richmond;

(2) the vessel is not used for commercial transportation purposes;

(3) the recipient agrees to make the vessel available to the Government if the Secretary requires use of the vessel by the Government for war or a national emergency;

(4) the recipient agrees to hold the Government harmless for any claims arising from exposure to hazardous materials, including asbestos and PCB's, after conveyance of the vessel, except for claims arising from use by the Government under paragraph (3);

(5) the recipient has available, for use to restore the vessel, in the form of cash, liquid assets, or a written loan commitment, financial resources of at least $100,000; and

(6) the recipient agrees to any other conditions the Secretary considers appropriate.

(b) DELIVERY OF VESSEL.—If a conveyance is made under this section, the Secretary shall deliver the vessel at the place where the vessel is located on the date of enactment of this Act, in its present condition, without cost to the Government.

(c) OTHER UNNEEDED EQUIPMENT.—The Secretary may convey to the recipient any unneeded equipment from other vessels in the National Defense Reserve Fleet for use to restore the S/S RED OAK VICTORY to museum quality.

(d) RETENTION OF VESSEL IN NDRF.—The Secretary shall retain in the National Defense Reserve Fleet the vessel authorized to be conveyed under subsection (a), until the earlier of—

(1) 2 years after the date of the enactment of this Act; or

(2) the date of conveyance of the vessel under subsection (a).

SEC. 1009. CONVEYANCE OF EQUIPMENT.

The Secretary of Transportation may convey any unneeded equipment from other vessels in the National Defense Reserve Fleet to the JOHN W. BROWN and other qualified United States memorial ships in order to maintain their operating condition.

SEC. 1010. PROPERTY EXCHANGE.

(a) PROPERTY ACQUISITION.—The Secretary may, by means of an exchange of property, acceptance as a gift, or other means that does not require the use of appropriated funds, acquire all right, title, and interest in and to a parcel or parcels of real property and any improvements thereto located within the limits of the City and Borough of Juneau, Alaska.

(b) ACQUISITION THROUGH EXCHANGE.—For the purposes of acquiring property under subsection (a) by means of an exchange, the Secretary may convey all right, title, and interest of the United States in and to a parcel or parcels of real property and any improvements thereto located within the limits of the City and Borough of Juneau, Alaska and in the control of the Coast Guard if the Secretary determines that the exchange is in the best interest of the Coast Guard.

(c) TERMS AND CONDITIONS.—The Secretary may require such terms and conditions under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 1011. AUTHORITY TO CONVEY WHITEFISH POINT LIGHT STATION LAND.

(a) AUTHORITY TO CONVEY.—

(1) IN GENERAL.—Except as otherwise provided in this section, the Secretary of the Interior (in this section referred to as the "Secretary") may convey, by an appropriate means of conveyance, all right, title, and interest of the United States

in 1 of the 3 parcels comprising the land on which the United States Coast Guard Whitefish Point Light Station is situated (in this section referred to as the "Property"), to each of the Great Lakes Shipwreck Historical Society, located in Sault Ste. Marie, Michigan, the United States Fish and Wildlife Service, and the Michigan Audubon Society (each of which is referred to in this section as a "recipient"), subject to all easements, conditions, reservations, exceptions, and restrictions contained in prior conveyances of record.

(2) LIMITATION.—Notwithstanding paragraph (1), the Secretary shall retain for the United States all right, title, and interest in—

(A) any historical artifact, including any lens or lantern, and

(B) the light, antennas, sound signal, towers, associated lighthouse equipment, and any electronic navigation equipment, which are active aids to navigation,

which is located on the Property, or which relates to the Property.

(3) IDENTIFICATION OF THE PROPERTY.—The Secretary may identify, describe, and determine the parcels to be conveyed pursuant to this section.

(4) RIGHTS OF ACCESS.—If necessary to ensure access to a public roadway for a parcel conveyed under this section, the Secretary shall convey with the parcel an appropriate appurtenant easement over another parcel conveyed under this section.

(5) EASEMENT FOR PUBLIC ALONG SHORELINE.—In each conveyance under this section of property located on the shoreline of Lake Superior, the Secretary shall retain for the public, for public walkway purposes, a right-of-way along the shoreline that extends 30 feet inland from the mean high water line.

(b) TERMS AND CONDITIONS.—

(1) IN GENERAL.—Any conveyance pursuant to subsection (a) shall be made—

(A) without payment of consideration; and

(B) subject to such terms and conditions as the Secretary considers appropriate.

(2) MAINTENANCE OF NAVIGATION FUNCTIONS.—The Secretary shall ensure that any conveyance pursuant to this section is subject to such conditions as the Secretary considers to be necessary to assure that—

(A) the light, antennas, sound signal, towers, and associated lighthouse equipment, and any electronic navigation equipment, which are located on the Property and which are active aids to navigation shall continue to be operated and maintained by the United States for as long as they are needed for this purpose;

(B) the recipients may not interfere or allow interference in any manner with such aids to navigation without express written permission from the United States;

(C) there is reserved to the United States the right to relocate, replace, or add any aids to navigation, or make any changes on any portion of the Property as may be necessary for navigation purposes;

(D) the United States shall have the right, at any time, to enter the Property without notice for the purpose of maintaining aids to navigation;

(E) the United States shall have—

(i) an easement of access to and across the Property for the purpose of maintaining the aids to navigation and associated equipment in use on the Property; and

(ii) an easement for an arc of visibility; and

(F) the United States shall not be responsible for the cost and expense of maintenance, repair, and upkeep of the Property.

(3) MAINTENANCE OBLIGATION.—The recipients shall not have any obligation to maintain any active aid to navigation equipment on any parcel conveyed pursuant to this section.

(c) PROPERTY TO BE MAINTAINED IN ACCORDANCE WITH CERTAIN LAWS.—Each recipient shall maintain the parcel conveyed to the recipient pursuant to subsection (a) in accordance with the provisions of the National Historic Preservation Act (16 U.S.C. 470 et seq.), and other applicable laws.

(d) MAINTENANCE STANDARD.—Each recipient shall maintain the parcel conveyed to the recipient pursuant to subsection (a), at its own cost and expense, in a proper, substantial, and workmanlike manner, including the easements of access, the easement for an arc of visibility, the nuisance easement, and the underground easement.

(e) SHARED USE AND OCCUPANCY AGREEMENT.—The Secretary shall require, as a condition of each conveyance of property under this section, that all of the recipients have entered into the same agreement governing the shared use and occupancy of the existing Whitefish Point Light Station facilities. The agreement shall be drafted by the recipients and shall include—

(1) terms governing building occupancy and access of recipient staff and public visitors to public restrooms, the auditorium, and the parking lot; and

(2) terms requiring that each recipient shall be responsible for paying a pro rata share of the costs of operating and maintaining the existing Whitefish Point Light Station facilities, that is based on the level of use and occupancy of the facilities by the recipient.

(f) LIMITATIONS ON DEVELOPMENT AND IMPAIRING USES.—It shall be a term of each conveyance under this section that—

(1) no development of new facilities or expansion of existing facilities or infrastructure on property conveyed under this section may occur, except for purposes of implementing the Whitefish Point Comprehensive Plan of October 1992 or for a gift shop, unless—

(A) each of the recipients consents to the development or expansion in writing;

(B) there has been a reasonable opportunity for public comment on the development or expansion, and full consideration has been given to such public comment as is provided; and

(C) the development or expansion is consistent with preservation of the Property in its predominantly natural, scenic, historic, and forested condition; and

(2) any use of the Property or any structure located on the Property which may impair or interfere with the conservation values of the Property is expressly prohibited.

(g) REVERSIONARY INTEREST.—

(1) IN GENERAL.—All right, title, and interests in and to property and interests conveyed under this section shall revert to the United States and thereafter be administered by the Secretary of the Interior acting through the Director of the United States Fish and Wildlife Service, if—

(A) in the case of such property and interests conveyed to the Great Lakes Shipwreck Historical Society, the property or interests cease to be used for the purpose of historical interpretation;

(B) in the case of such property and interests conveyed to the Michigan Audubon Society, the property or interests cease to be used for the purpose of environmental protection, research, and interpretation; or

(C) in the case of any property and interests conveyed to a recipient referred to in subparagraph (A) or (B)—

(i) there is any violation of any term or condition of the conveyance to that recipient; or

(ii) the recipient has ceased to exist.

(2) AUTHORITY TO ENFORCE REVERSIONARY INTEREST.—The Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service, shall have the authority—

(A) to determine for the United States Government whether any act or omission of a recipient results in a reversion of property and interests under paragraph (1); and

(B) to initiate a civil action to enforce that reversion, after notifying the recipient of the intent of the Secretary of the Interior to initiate that action.

(3) MAINTENANCE OF NAVIGATION FUNCTIONS.—In the event of a reversion of property under this subsection, the Secretary of the Interior shall administer the property subject to any conditions the Secretary of Transportation considers to be necessary to maintain the navigation functions.

SEC. 1012. CONVEYANCE OF PARRAMORE BEACH COAST GUARD STATION, VIRGINIA.

(a) IN GENERAL.—The Secretary of the department in which the Coast Guard is operating shall convey to the Nature Conservancy (a nonprofit corporation established under the laws of the District of Columbia and holder of ownership interest in Parramore Island, Virginia), by not later than 30 days after the date of the enactment of this Act and without consideration, all right, title, and interest of the United States in and to all real property comprising the Parramore Beach Coast Guard Station, located on Parramore's Island near the town of Wachapreague in Accomack County, Virginia.

(b) COMPLETION OF ENVIRONMENTAL REVIEWS, ASSESSMENTS, AND CLEANUP.—

(1) AUTHORITY TO CONVEY BEFORE COMPLETION.—Notwithstanding any other provision of law that would require completion of an environmental review, assessment, or cleanup with respect to the Parramore Beach Coast Guard Station before

the conveyance under subsection (a), the Secretary may make that conveyance before the completion of that review, assessment, or cleanup, as applicable.

(2) TIME FOR COMPLETION.—Any environmental review, assessment, or cleanup with respect to the Parramore Beach Coast Guard Station shall be completed by as soon as practicable after the date of the enactment of this Act.

SEC. 1013. CONVEYANCE OF JEREMIAH O'BRIEN.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of Transportation (in this section referred to as the "Secretary") may convey, subject to the conditions set forth in subsection (b), the right, title, and interest of the United States Government in the vessel JEREMIAH O'BRIEN (United States official number 243622; in this section referred to as the "Vessel"), to a nonprofit corporation (in this section referred to as the "Recipient") for use as a merchant marine memorial museum, if on the date of enactment of this Act the Recipient has at least 10 consecutive years experience in restoring and operating a Liberty Ship as a merchant marine memorial museum.

(b) CONDITIONS.—The conveyance of the Vessel under subsection (a) shall be subject to the following conditions:

(1) The Recipient agrees—

(A) to use the Vessel as a nonprofit merchant marine memorial museum;

(B) not to use the Vessel for commercial transportation purposes;

(C) to make the Vessel available to the Government without cost if and when the Secretary requires use of the Vessel by the Government;

(D) in the event the Recipient no longer requires the Vessel for use as a merchant marine memorial museum, to—

(i) reconvey, at the discretion of the Secretary, the Vessel to the Government in as good condition as when it was received from the Government, except for ordinary wear and tear; and

(ii) deliver the Vessel to the Government at the place where the Vessel was delivered to the Recipient;

(E) to hold the Government harmless for any claims founded on occurrences after conveyance of the Vessel, except for claims against the Government arising from use by the Government under subparagraphs (C) and (D) of this paragraph, which claims shall include any claims resulting from exposure to asbestos and other substances; and

(F) to any other conditions the Secretary considers appropriate.

(2) If a conveyance is made under this section, the Secretary shall deliver the Vessel to the Recipient at the place where the Vessel is located on the date of enactment of this Act, in its present condition, without cost to the Government.

(c) CONVEYANCE OF EQUIPMENT AND MATERIAL.—The Secretary may convey to the Recipient any unneeded equipment and material from other vessels at any time in the National Defense Reserve Fleet in order to assist in placing and maintaining the Vessel in operating condition.

(d) EXPIRATION OF AUTHORITY.—The authority of the Secretary to convey the Vessel under this section shall expire 2 years after the date of enactment of this Act.

TITLE XI—MISCELLANEOUS

Louisiana.

SEC. 1101. FLORIDA AVENUE BRIDGE.

For purposes of the alteration of the Florida Avenue Bridge (located approximately 1.63 miles east of the Mississippi River on the Gulf Intracoastal Waterway in Orleans Parish, Louisiana) ordered by the Secretary of Transportation under the Act of June 21, 1940 (33 U.S.C. 511 et seq.), the Secretary shall treat the drainage siphon that is adjacent to the bridge as an appurtenance of the bridge, including with respect to apportionment and payment of costs for the removal of the drainage siphon in accordance with that Act.

SEC. 1102. OIL SPILL RECOVERY INSTITUTE.

(a) ADVISORY BOARD AND EXECUTIVE COMMITTEE.—Section 5001 of the Oil Pollution Act of 1990 (33 U.S.C. 2731) is amended—

(1) by striking "to be administered by the Secretary of Commerce" in subsection (a);

(2) by striking "and located" in subsection (a) and inserting "located";

(3) by striking "the EXXON VALDEZ oil spill" each place it appears in subsection (b)(2) and inserting "Arctic or Subarctic oil spills";

(4) by striking "18" in subsection (c)(1) and inserting "16";

(5) by striking ", Natural Resources, and Commerce and Economic Development" in subsection (c)(1)(A) and inserting a comma and "and Natural Resources";

(6) by striking subsection (c)(1) (B), (C), and (D);

(7) by redesignating subparagraphs (E) and (F) of subsection (c)(1) as subparagraphs (G) and (H), respectively;

(8) by inserting after subparagraph (A) of subsection (c)(1) the following:

"(B) One representative appointed by each of the Secretaries of Commerce, the Interior, and Transportation, who shall be Federal employees.

"(C) Two representatives from the fishing industry appointed by the Governor of the State of Alaska from among residents of communities in Alaska that were affected by the EXXON VALDEZ oil spill, who shall serve terms of 2 years each. Interested organizations from within the fishing industry may submit the names of qualified individuals for consideration by the Governor.

"(D) Two Alaska Natives who represent Native entities affected by the EXXON VALDEZ oil spill, at least one of whom represents an entity located in Prince William Sound, appointed by the Governor of Alaska from a list of 4 qualified individuals submitted by the Alaska Federation of Natives, who shall serve terms of 2 years each.

"(E) Two representatives from the oil and gas industry to be appointed by the Governor of the State of Alaska who shall serve terms of 2 years each. Interested organizations from within the oil and gas industry may submit

the names of qualified individuals for consideration by the Governor.

"(F) Two at-large representatives from among residents of communities in Alaska that were affected by the EXXON VALDEZ oil spill who are knowledgeable about the marine environment and wildlife within Prince William Sound, and who shall serve terms of 2 years each, appointed by the remaining members of the Advisory Board. Interested parties may submit the names of qualified individuals for consideration by the Advisory Board.";

(9) adding at the end of subsection (c) the following:

"(4) SCIENTIFIC REVIEW.—The Advisory Board may request a scientific review of the research program every five years by the National Academy of Sciences which shall perform the review, if requested, as part of its responsibilities under section 7001(b)(2).";

(10) by striking "the EXXON VALDEZ oil spill" in subsection (d)(2) and inserting "Arctic or Subarctic oil spills";

(11) by striking "Secretary of Commerce" in subsection (e) and inserting "Advisory Board";

(12) by striking ", the Advisory Board," in the second sentence of subsection (e);

(13) by striking "Secretary's" in subsection (e) and inserting "Advisory Board's";

(14) by inserting "authorization in section 5006(b) providing funding for the" in subsection (i) after "The";

(15) by striking "this Act" in subsection (i) and inserting "the Coast Guard Authorization Act of 1996";

(16) by striking the first sentence of subsection (j); and

(17) by inserting "The Advisory Board may compensate its Federal representatives for their reasonable travel costs." in subsection (j) after "Institute.".

(b) FUNDING.—Section 5006 of the Oil Pollution Act of 1990 (33 U.S.C. 2736) is amended by—

(1) striking subsection (a) and redesignating subsection (b) as subsection (a);

(2) striking "5003" in the caption of subsection (a), as redesignated, and inserting "5001, 5003,";

(3) inserting "to carry out section 5001 in the amount as determined in section 5006(b), and" after "limitation," in the text of subsection (a), as redesignated; and

(4) adding at the end thereof the following:

"(b) USE OF INTEREST ONLY.—The amount of funding to be made available annually to carry out section 5001 shall be the interest produced by the Fund's investment of the $22,500,000 remaining funding authorized for the Prince William Sound Oil Spill Recovery Institute and currently deposited in the Fund and invested by the Secretary of the Treasury in income producing securities along with other funds comprising the Fund. The National Pollution Funds Center shall transfer all such accrued interest, including the interest earned from the date funds in the Trans-Alaska Liability Pipeline Fund were transferred into the Oil Spill Liability Trust Fund pursuant to section 8102(a)(2)(B)(ii), to the Prince William Sound Oil Spill Recovery Institute annually, beginning 60 days after the date of enactment of the Coast Guard Authorization Act of 1996.

"(c) USE FOR SECTION 1012.—Beginning with the eleventh year following the date of enactment of the Coast Guard Authorization Act of 1996, the funding authorized for the Prince William Sound Oil Spill Recovery Institute and deposited in the Fund shall thereafter be made available for purposes of section 1012 in Alaska.".

(c) CONFORMING AMENDMENTS.—

(1) Section 6002(b) of the Oil Pollution Act of 1990 (33 U.S.C. 2752(b)) is amended by striking "5006(b)" and inserting "5006".

(2) Section 7001(c)(9) the Oil Pollution Act of 1990 (33 U.S.C. 2761(c)(9)) is amended by striking the period at the end thereof and inserting "until the authorization for funding under section 5006(b) expires.".

SEC. 1103. LIMITED DOUBLE HULL EXEMPTIONS.

Section 3703a of title 46, United States Code, is amended—

(1) in subsection (b), by—

(A) striking "or" at the end of paragraph (2);

(B) striking the period at the end of paragraph (3) and inserting a semicolon; and

(C) adding at the end the following new paragraphs:

"(4) a vessel documented under chapter 121 of this title that was equipped with a double hull before August 12, 1992;

"(5) a barge of less than 1,500 gross tons (as measured under chapter 145 of this title) carrying refined petroleum product in bulk as cargo in or adjacent to waters of the Bering Sea, Chukchi Sea, and Arctic Ocean and waters tributary thereto and in the waters of the Aleutian Islands and the Alaskan Peninsula west of 155 degrees west longitude; or

"(6) a vessel in the National Defense Reserve Fleet pursuant to section 11 of the Merchant Ship Sales Act of 1946 (50 App. U.S.C. 1744).''; and

(2) by adding at the end the following new subsection:

"(d) The operation of barges described in subsection (b)(5) outside waters described in that subsection shall be on any conditions as the Secretary may require.".

SEC. 1104. OIL SPILL RESPONSE VESSELS.

(a) DESCRIPTION.—Section 2101 of title 46, United States Code, is amended—

(1) by redesignating paragraph (20a) as paragraph (20b); and

(2) by inserting after paragraph (20) the following new paragraph:

"(20a) 'oil spill response vessel' means a vessel that is designated in its certificate of inspection as such a vessel, or that is adapted to respond to a discharge of oil or a hazardous material.".

(b) EXEMPTION FROM LIQUID BULK CARRIAGE REQUIREMENTS.—Section 3702 of title 46, United States Code, is amended by adding at the end thereof the following:

"(f) This chapter does not apply to an oil spill response vessel if—

"(1) the vessel is used only in response-related activities; or

"(2) the vessel is—

"(A) not more than 500 gross tons as measured under section 14502 of this title, or an alternate tonnage meas-

ured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title;

"(B) designated in its certificate of inspection as an oil spill response vessel; and

"(C) engaged in response-related activities.".

(c) MANNING.—Section 8104(p) of title 46, United States Code, is amended to read as follows:

"(p) The Secretary may prescribe the watchstanding and work hours requirements for an oil spill response vessel.".

(d) MINIMUM NUMBER OF LICENSED INDIVIDUALS.—Section 8301(e) of title 46, United States Code, is amended to read as follows:

"(e) The Secretary may prescribe the minimum number of licensed individuals for an oil spill response vessel.".

(e) MERCHANT MARINER DOCUMENT REQUIREMENTS.—Section 8701(a) of title 46, United States Code, is amended—

(1) by striking "and" after the semicolon at the end of paragraph (7),

(2) by striking the period at the end of paragraph (8) and inserting a semicolon and "and"; and

(3) by adding at the end thereof the following new paragraph:

"(9) the Secretary may prescribe the individuals required to hold a merchant mariner's document serving onboard an oil spill response vessel.".

(f) EXEMPTION FROM TOWING VESSEL REQUIREMENT.—Section 8905 of title 46, United States Code, is amended by adding at the end the following new subsection:

"(c) Section 8904 of this title does not apply to an oil spill response vessel while engaged in oil spill response or training activities.".

(g) INSPECTION REQUIREMENT.—Section 3301 of title 46, United States Code, is amended by adding at the end the following new paragraph:

"(14) oil spill response vessels.".

SEC. 1105. SERVICE IN CERTAIN SUITS IN ADMIRALTY.

Section 2 of the Act of March 9, 1920 (popularly known as the Suits in Admiralty Act; 46 App. U.S.C. 742), is amended by striking "The libelant" and all that follows through "and such corporation.".

SEC. 1106. AMENDMENTS TO THE JOHNSON ACT.

(a) CALIFORNIA CRUISE INDUSTRY REVITALIZATION.—Section 5(b)(2) of the Act of January 2, 1951 (15 U.S.C. 1175(b)(2)), commonly referred to as the "Johnson Act", is amended by adding at the end thereof the following:

"(C) EXCLUSION OF CERTAIN VOYAGES AND SEGMENTS.—Except for a voyage or segment of a voyage that occurs within the boundaries of the State of Hawaii, a voyage or segment of a voyage is not described in subparagraph (B) if it includes or consists of a segment—

"(i) that begins and ends in the same State;

"(ii) that is part of a voyage to another State or to a foreign country; and

"(iii) in which the vessel reaches the other State or foreign country within 3 days after leaving the State in which it begins.".

(b) AUTHORITY OF THE STATE OF INDIANA OVER VESSELS ON VOYAGES IN THE TERRITORIAL JURISDICTION OF THE STATE OF INDIANA.—Section 5(b)(1) of the Act of January 2, 1951 (15 U.S.C. 1175(b)(1)), commonly known as the "Johnson Act", is amended—

(1) in subparagraph (A) by striking "or" after the semicolon at the end;

(2) in subparagraph (B) by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following new subparagraph:

"(C) the repair, transport, possession, or use of a gambling device on a vessel on a voyage that begins in the State of Indiana and that does not leave the territorial jurisdiction of that State, including such a voyage on Lake Michigan.".

(c) APPLICABILITY TO CERTAIN VOYAGES IN ALASKA.—Section 5 of the Act of January 2, 1951 (15 U.S.C. 1175), commonly referred to as the "Johnson Act", is amended by adding at the end the following new subsection:

"(c) EXCEPTION.—(1) With respect to a vessel operating in Alaska, this section does not prohibit, nor may the State of Alaska make it a violation of law for there to occur, the repair, transport, possession, or use of any gambling device on board a vessel which provides sleeping accommodations for all of its passengers and that is on a voyage or segment of a voyage described in paragraph (2), except that such State may, within its boundaries—

"(A) prohibit the use of a gambling device on a vessel while it is docked or anchored or while it is operating within 3 nautical miles of a port at which it is scheduled to call; and

"(B) require the gambling devices to remain on board the vessel.

"(2) A voyage referred to in paragraph (1) is a voyage that—

"(A) includes a stop in Canada or in a State other than the State of Alaska;

"(B) includes stops in at least 2 different ports situated in the State of Alaska; and

"(C) is of at least 60 hours duration.".

SEC. 1107. LOWER COLUMBIA RIVER MARITIME FIRE AND SAFETY ACTIVITIES.

The Secretary of Transportation is authorized to expend out of the amounts appropriated for the Coast Guard not more than $940,000 for lower Columbia River marine, fire, oil, and toxic spill response communications, training, equipment, and program administration activities conducted by the Maritime Fire and Safety Association.

SEC. 1108. OIL POLLUTION RESEARCH TRAINING.

Section 7001(c)(2)(D) of the Oil Pollution Act of 1990 (33 U.S.C. 2761(c)(2)(D)) is amended by striking "Texas;" and inserting "Texas, and the Center for Marine Training and Safety in Galveston, Texas;".

SEC. 1109. LIMITATION ON RELOCATION OF HOUSTON AND GALVESTON MARINE SAFETY OFFICES.

The Secretary of Transportation may not relocate the Coast Guard Marine Safety Offices in Galveston, Texas, and Houston,

Texas. Nothing in this section prevents the consolidation of management functions of these Coast Guard authorities.

SEC. 1110. UNINSPECTED FISH TENDER VESSELS.

Section 3302 of title 46, United States Code, as amended by this Act, is further amended as follows:

(1) Subsection (b) is amended by striking "A fishing vessel," and inserting "Except as provided in subsection (c)(3) of this section, a fishing vessel".

(2) Subsection (c)(1) is amended by striking "A fish processing vessel" and inserting "Except as provided in paragraph (3) of this subsection, a fish processing vessel".

(3) Subsection (c)(2) is amended by striking "A fish tender vessel" and inserting "Except as provided in paragraphs (3) and (4) of this subsection, a fish tender vessel".

(4) Subsection (c)(3) is amended to read as follows:

"(3)(A) A fishing vessel or fish processing vessel is exempt from section 3301 (1), (6), and (7) of this title when transporting cargo (including fisheries-related cargo) to or from a place in Alaska if—

"(i) that place does not receive weekly common carrier service by water from a place in the United States;

"(ii) that place receives such common carrier service and the cargo is of a type not accepted by that common carrier service; or

"(iii) the cargo is proprietary cargo owned by the owner of the vessel or any affiliated entity or subsidiary.

"(B) A fish tender vessel of not more than 500 gross tons as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title, which is qualified to engage in the Aleutian trade is exempt from section 3301 (1), (6), and (7) of this title when transporting cargo (including fisheries-related cargo) to or from a place in Alaska outside the Aleutian trade geographic area if—

"(i) that place does not receive weekly common carrier service by water from a place in the United States;

"(ii) that place receives such common carrier service and the cargo is of a type not accepted by that common carrier service; or

"(iii) the cargo is proprietary cargo owned by the owner of the vessel or any affiliated entity or subsidiary.

"(C) In this paragraph, the term 'proprietary cargo' means cargo that—

"(i) is used by the owner of the vessel or any affiliated entity or subsidiary in activities directly related to fishing or the processing of fish;

"(ii) is consumed by employees of the owner of the vessel or any affiliated entity or subsidiary who are engaged in fishing or in the processing of fish; or

"(iii) consists of fish or fish products harvested or processed by the owner of the vessel or any affiliated entity or subsidiary.

"(D) Notwithstanding the restrictions in subparagraph (B) of this paragraph, vessels qualifying under subparagraph (B) may transport cargo (including fishery-related products) from a place in Alaska receiving weekly common carrier service by water to

a final destination in Alaska not receiving weekly service by water from common carriers.".

SEC. 1111. FOREIGN PASSENGER VESSEL USER FEES.

Section 3303 of title 46, United States Code, is amended—

(1) by striking "(a)" in subsection (a); and

(2) by striking subsection (b).

SEC. 1112. COAST GUARD USER FEES.

(a) LIMITS ON USER FEES.—Section 10401(g) of the Omnibus Budget Reconciliation Act of 1990 (46 U.S.C. 2110(a)(2)) is amended by adding after "annually." the following: "The Secretary may not establish a fee or charge under paragraph (1) for inspection or examination of a small passenger vessel under this title that is more than $300 annually for such vessels under 65 feet in length, or more than $600 annually for such vessels 65 feet in length and greater.".

(b) FERRY EXEMPTION.—Such section is further amended by adding at the end the following: "The Secretary may not establish a fee or charge under paragraph (1) for inspection or examination under this title for any publicly-owned ferry.".

SEC. 1113. VESSEL FINANCING.

(a) ELIMINATION OF MORTGAGEE RESTRICTIONS.—Section 31322(a) of title 46, United States Code, is amended to read as follows:

"(a) A preferred mortgage is a mortgage, whenever made, that—

"(1) includes the whole of the vessel;

"(2) is filed in substantial compliance with section 31321 of this title; and

"(3)(A) covers a documented vessel; or

"(B) covers a vessel for which an application for documentation is filed that is in substantial compliance with the requirements of chapter 121 of this title and the regulations prescribed under that chapter.".

(b) ELIMINATION OF TRUSTEE RESTRICTIONS.—

(1) REPEAL.—Section 31328 of title 46, United States Code, is repealed.

(2) CONFORMING AMENDMENTS.—Section 31330(b) of title 46, United States Code, is amended in paragraphs (1), (2), and (3) by striking "31328 or" each place it appears.

(3) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 313 of title 46, United States Code, is amended by striking the item relating to section 31328.

(c) REMOVAL OF MORTGAGE RESTRICTIONS.—Section 9 of the Shipping Act, 1916 (46 App. U.S.C. 808), is amended—

(1) in subsection (c)—

(A) by striking "31328" and inserting "12106(e)"; and

(B) in paragraph (1) by striking "mortgage," each place it appears; and

(2) in subsection (d)—

(A) in paragraph (1) by striking "transfer, or mortgage" and inserting "or transfer";

(B) in paragraph (2) by striking "transfers, or mortgages" and inserting "or transfers";

(C) in paragraph (3)(B) by striking "transfers, or mortgages" and inserting "or transfers"; and

(D) in paragraph (4) by striking "transfers, or mortgages" and inserting "or transfers".

(d) LEASING.—Section 12106 of title 46, United States Code, is amended by adding at the end the following:

"(e)(1) A certificate of documentation for a vessel may be endorsed with a coastwise endorsement if—

"(A) the vessel is eligible for documentation;

"(B) the person that owns the vessel, a parent entity of that person, or a subsidiary of a parent entity of that person, is primarily engaged in leasing or other financing transactions;

"(C) the vessel is under a demise charter to a person that certifies to the Secretary that the person is a citizen of the United States for engaging in the coastwise trade under section 2 of the Shipping Act, 1916;

"(D) the demise charter is for a period of at least 3 years or a shorter period as may be prescribed by the Secretary; and

"(E) the vessel is otherwise eligible for documentation under this section.

"(2) The demise charter and any amendments to that charter shall be filed with the certificate required by this subsection, or within 10 days following the filing of an amendment to the charter, and such charter and amendments shall be made available to the public.

"(3) Upon termination by a demise charterer required under paragraph (1)(C), the coastwise endorsement of the vessel may, in the sole discretion of the Secretary, be continued after the termination for default of the demise charter for a period not to exceed 6 months on such terms and conditions as the Secretary may prescribe.

"(4) For purposes of section 2 of the Shipping Act, 1916, and section 12102(a) of this title, a vessel meeting the criteria of this subsection is deemed to be owned exclusively by citizens of the United States.".

(e) CONFORMING AMENDMENT.—Section 9(c) of the Shipping Act, 1916, as amended (46 App. U.S.C. 808(c)) is amended by striking "sections 31322(a)(1)(D)" and inserting "sections 12106(e), 31322(a)(1)(D),".

(f) STUDY AND REPORT.— 46 USC 12106 note.

(1) STUDY.—The Secretary of Transportation shall conduct a study of the methods for leasing, demise chartering, and financing of vessels operating in the coastal trades of other countries and whether the laws of other countries provide reciprocity for United States banks, leasing companies, or other financial institutions with respect to the rights granted under the amendment made by subsection (d). The study shall develop recommendations whether additional laws requiring reciprocity should be considered for non-United States banks, leasing companies, or other financial institutions.

(2) REPORT.—The Secretary shall submit to the Congress a report 1 year after the date of enactment of this Act of the results of the study required under paragraph (1), including recommendations developed in the study.

SEC. 1114. MANNING AND WATCH REQUIREMENTS ON TOWING VESSELS ON THE GREAT LAKES.

(a) Section 8104(c) of title 46, United States Code, is amended—

(1) by striking "or permitted"; and

(2) by inserting after "day" the following: "or permitted to work more than 15 hours in any 24-hour period, or more than 36 hours in any 72-hour period".

(b) Section 8104(e) of title 46, United States Code, is amended by striking "subsections (c) and (d)" and inserting "subsection (d)".

(c) Section 8104(g) of title 46, United States Code, is amended by striking "(except a vessel to which subsection (c) of this section applies)".

SEC. 1115. REPEAL OF GREAT LAKES ENDORSEMENTS.

(a) REPEAL.—Section 12107 of title 46, United States Code, is repealed.

(b) CONFORMING AMENDMENTS.—

(1) The analysis at the beginning of chapter 121 of title 46, United States Code, is amended by striking the item relating to section 12107.

(2) Section 12101(b)(3) of title 46, United States Code, is repealed.

(3) Section 4370(a) of the Revised Statutes of the United States (46 App. U.S.C. 316(a)) is amended by striking "or 12107".

(4) Section 2793 of the Revised Statutes of the United States (46 App. U.S.C. 111, 123) is amended— 19 USC 288.

(A) by striking "coastwise, Great Lakes endorsement" and all that follows through "foreign ports," and inserting "registry endorsement, engaged in foreign trade on the Great Lakes or their tributary or connecting waters in trade with Canada,"; and

(B) by striking ", as if from or to foreign ports".

(5) Section 9302(a)(1) of title 46, United States Code, is amended by striking "subsections (d) and (e)" and inserting "subsections (d), (e), and (f)".

(6) Section 9302(e) of title 46, United States Code, is amended by striking "subsections (a) and (b)" and inserting "subsection (a)".

(7) Section 9302 of title 46, United States Code, is amended by adding at the end the following new subsection:

"(f) A documented vessel regularly operating on the Great Lakes or between ports on the Great Lakes and the St. Lawrence River is exempt from the requirements of subsection (a) of this section.".

SEC. 1116. RELIEF FROM UNITED STATES DOCUMENTATION REQUIREMENTS.

(a) IN GENERAL.—Notwithstanding any other law or any agreement with the United States Government, a vessel described in subsection (b) may be transferred to or placed under a foreign registry or sold to a person that is not a citizen of the United States and transferred to or placed under a foreign registry.

(b) VESSELS DESCRIBED.—The vessels referred to in subsection (a) are the following:

(1) MV PLATTE (United States official number 653210).

(2) SOUTHERN (United States official number 591902).

(3) ARZEW (United States official number 598727).

(4) LAKE CHARLES (United States official number 619531).

(5) LOUISIANA (United States official number 619532).

(6) GAMMA (United States official number 598730).

(7) BAY RIDGE (United States official number 600128).
(8) COASTAL GOLDEN (United States official number 598731).

SEC. 1117. USE OF FOREIGN REGISTRY OIL SPILL RESPONSE VESSELS. 46 USC 12101 note.

Notwithstanding any other provision of law, an oil spill response vessel documented under the laws of a foreign country may operate in waters of the United States on an emergency and temporary basis, for the purpose of recovering, transporting, and unloading in a United States port oil discharged as a result of an oil spill in or near those waters, if—

(1) an adequate number and type of oil spill response vessels documented under the laws of the United States cannot be engaged to recover oil from an oil spill in or near those waters in a timely manner, as determined by the Federal On-Scene Coordinator for a discharge or threat of a discharge of oil; and

(2) that foreign country has by its laws accorded to vessels of the United States the same privileges accorded to vessels of that foreign country under this section.

SEC. 1118. JUDICIAL SALE OF CERTAIN DOCUMENTED VESSELS TO ALIENS.

Section 31329 of title 46, United States Code, is amended by adding at the end the following new subsection:

"(f) This section does not apply to a documented vessel that has been operated only for pleasure.".

SEC. 1119. IMPROVED AUTHORITY TO SELL RECYCLABLE MATERIAL. Regulations.

Section 641(c)(2) of title 14, United States Code, is amended by inserting before the period the following: ", except that the Commandant may conduct sales of materials for which the proceeds of sale will not exceed $5,000 under regulations prescribed by the Commandant".

SEC. 1120. DOCUMENTATION OF CERTAIN VESSELS.

(a) GENERAL CERTIFICATES.—Notwithstanding sections 12106, 12107, and 12108 of title 46, United States Code, section 8 of the Act of June 19, 1886 (24 Stat. 81; chapter 421; 46 App. U.S.C. 289), and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), as applicable on the date of enactment of this Act, the Secretary of Transportation may issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the following vessels:

(1) ABORIGINAL (United States official number 942118).
(2) ALPHA TANGO (United States official number 945782).
(3) ANNAPOLIS (United States official number 999008).
(4) ARK (United States official number 912726).
(5) AURA (United States official number 1027807).
(6) BABS (United States official number 1030028).
(7) BAGGER (State of Hawaii registration number HA1809E).
(8) BAREFOOT'N (United States official number 619766).
(9) BARGE 76 (United States official number 1030612).
(10) BARGE 77 (United States official number 1030613).
(11) BARGE 78 (United States official number 1030614).
(12) BARGE 100 (United States official number 1030615).
(13) BEACON (United States official number 501539).

(14) BEAR (United States official number 695002).
(15) BEULA LEE (United States official number 928211).
(16) BEWILDERED (United States official number 902354).
(17) BIG DAD (United States official number 565022).
(18) BILLY BUCK (United States official number 939064).
(19) BROKEN PROMISE (United States official number 904435).
(20) CAPTAIN DARYL (United States official number 580125).
(21) CAROLYN (State of Tennessee registration number TN1765C).
(22) CHARLOTTE (State of Maryland certification number MD1397AM).
(23) CHESAPEAKE (United States official number 999010).
(24) CHRISSY (State of Maine registration certification number ME4778B).
(25) COLT INTERNATIONAL (United States official number 913637).
(26) CONSORT (United States official number 999005).
(27) CONSORTIUM (British registration number 303328).
(28) COURIER SERVICE (Vanuatu registration number 688).
(29) CURTIS BAY (United States official number 999007).
(30) DAMN YANKEE (United States official number 263611).
(31) DANTE (United States official number 556188).
(32) DELTA KING (United States official number 225874).
(33) DORDY III (United States official number 286553).
(34) DRAGONESSA (United States official number 646512).
(35) EAGLE MAR (United States official number 575349).
(36) EMERALD AYES (United States official number 986099)
(37) EMMA (United States official number 946449).
(38) EMPRESS (United States official number 975018).
(39) ENDEAVOUR (United States official number 947869).
(40) EVENING STAR (State of Hawaii registration number HA8337D).
(41) EXPLORER (United States official number 918080).
(42) EXTREME (United States official number 1022278).
(43) EXUBERANCE (United States official number 698516).
(44) FIFTY ONE (United States official number 1020419).
(45) FINESSE (State of Florida registration number 7148).
(46) FOCUS (United States official number 909293).
(47) FREJA VIKING (Danish registration number A395).
(48) 3 barges owned by the Harbor Maine Corporation (a corporation organized under the laws of the State of Rhode Island) and referred to by that company as Harbor 221, Harbor 223, and Gene Elizabeth.
(49) GIBRALTAR (United States official number 668634).
(50) GLEAM (United States official number 921594).
(51) GOD'S GRACE II (State of Alaska registration number AK5916B).
(52) HALCYON (United States official number 690219).
(53) HAMPTON ROADS (United States official number 999009).

(54) HERCO TYME (United States official number 911599).
(55) HER WEIGH (United States official number 919074).
(56) HIGH HOPES (United States official number 935174).
(57) HIGH HOPES II (United States official number 959439).
(58) HOPTOAD (Hull Identification number 528162 NET 12).
(59) HOT WATER (United States official number 965985).
(60) IDUN VIKING (Danish registration number A433).
(61) INTREPID (United States official number 508185).
(62) ISABELLE (United States official number 600655).
(63) ISLAND STAR (United States official number 673537).
(64) JAJO (Hull ID number R1Z200207H280).
(65) JAMESTOWN (United States official number 999006).
(66) JIVE DEVIL (United States official number 685348).
(67) JOAN MARIE (State of North Carolina registration number NC2319AV).
(68) KALYPSO (United States official number 566349).
(69) KARMA (United States official number 661709).
(70) LADY HAWK (United States official number 961095).
(71) LIBERTY (United States official number 375248).
(72) LIV VIKING (Danish registration number A394).
(73) M/V MARION C II (United States official number 570892).
(74) MAGIC CARPET (United States official number 278971).
(75) MAGIC MOMENTS (United States official number 653689).
(76) MADRINE (United States official number 663842).
(77) MARALINDA (State of Florida registration number C023203–97).
(78) MARANTHA (United States official number 638787).
(79) MARSH GRASS II (Hull ID number AUKEV51139K690).
(80) MEMORY MAKER (Hull No 3151059, State of Maryland registration number MD8867AW).
(81) MOONRAKER (United States official number 645981).
(82) MORGAN (State of Ohio registration number OH–0358–EA).
(83) MOVIN ON (United States official number 585100).
(84) MY LITTLE SHIP (State of Washington registration number WN9979MF5).
(85) NAMASTE (United States official number 594472).
(86) OLD HAT (United States official number 508299).
(87) ONRUST (United States official number 515058).
(88) PAUL JOHANSEN (United States official number 1033607).
(89) PHOENIX (United States official number 940997).
(90) PLAY HARD (State of North Carolina registration number NC1083CE).
(91) POLICY MAKER III (United States official number 569223).
(92) PRIME TIME (United States official number 660944).
(93) QUIET SQUAW (United States official number 998717).
(94) QUIETLY (United States official number 658315).

(95) QUINTESSENCE (United States official number 934393).

(96) RAFFLES LIGHT (United States official number 501584).

(97) RAINBOW'S END (United States official number 1026899; Hull ID number MY13708C787).

(98) RATTLESNAKE (Canadian registration number 802702).

(99) REEL TOY (United States official number 698383).

(100) RELENTLESS (United States official number 287008).

(101) 2 barges owned by Roen Salvage (a corporation organized under the laws of the State of Wisconsin) and numbered by that company as barge 103 and barge 203.

(102) ROYAL AFFAIRE (United States official number 649292).

(103) SALLIE D (State of Maryland registration number MD2655A).

(104) SARAH-CHRISTEN (United States official number 342195).

(105) SEA MISTRESS (United States official number 696806).

(106) SEA SISTER (United States official number 951817).

(107) SERENITY (United States official number 1021393).

(108) SHAKA MARU (United States official number 983176).

(109) SHAMROCK V (United States official number 900936).

(110) SHOGUN (United States official number 577839).

(111) SISU (United States official number 293648).

(112) SMALLEY (6808 Amphibious Dredge: State of Florida registration number FL1855FF).

(113) SNOW HAWK (United States official number 955–637).

(114) SOUTHERN CRUZ (United States official number 556797).

(115) SUNDOWN (United States official number 293434).

(116) SUNRISE (United States official number 950381).

(117) TECUMSEH (United States official number 668633).

(118) THE SUMMER WIND (United States official number 905819).

(119) TIVOLI (United States official number 582516).

(120) TOO MUCH FUN (United States official number 936565).

(121) TOP GUN (United States official number 623642).

(122) TRIAD (United States official number 988602).

(123) TWO CAN (United States official number 932361).

(124) VICTORIA CLIPPER II (United States official number 725338).

(125) WATERFRONT PROPERTY (United States official number 987686).

(126) WESTFJORD (Hull ID number X–53–109).

(127) WESTERN ATLANTIC (Panamanian registration number 10484–80–CEO).

(128) WHITE WING (United States official number 283818).

(129) WHY KNOT (United States official number 688570).

(130) WOLF GANG II (United States official number 984934).

(131) YES DEAR (United States official number 578550).

(132) Former United States military vessels, as follows:

(A) LACV–30 hovercraft hulls numbered 1 through 26.

(B) AP–188 hovercraft hulls numbered 8701 and 8901.

For the purposes of chapter 121 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), the engine twin paks, the thrust and lift engines, and all spare parts, appurtenances, and accessories transferred by the United States with the vessels referred to in this paragraph are deemed to have been built in the United States.

(b) M/V TWIN DRILL.—Section 601(d) of the Coast Guard Authorization Act of 1993 (Public Law 103–206) is amended— 107 Stat. 2443.

(1) in paragraph (3) by striking "June 30, 1995" and inserting "June 30, 1998"; and

(2) in paragraph (4)—

(A) by striking "12 months" and inserting "36 months"; and

(B) by inserting "or convert under the same terms and conditions as provided in paragraphs (1) and (2)" after "construct"; and

(3) in paragraph (5) by striking "constructed" and inserting "delivered".

(c) CERTIFICATES OF DOCUMENTATION FOR GALLANT LADY.—

(1) IN GENERAL.—Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), section 8 of the Act of June 19, 1886 (24 Stat. 81, chapter 421; 46 App. U.S.C. 289), and section 12106 of title 46, United States Code, and subject to paragraph (2), the Secretary of Transportation may issue a certificate of documentation with an appropriate endorsement for employment in coastwise trade for each of the following vessels:

(A) GALLANT LADY (Feadship hull number 645, approximately 130 feet in length).

(B) GALLANT LADY (Feadship hull number 651, approximately 172 feet in length).

(2) LIMITATION ON OPERATION.—Coastwise trade authorized under a certificate of documentation issued for a vessel under this section shall be limited to the carriage of passengers in association with contributions to charitable organizations no portion of which is received, directly or indirectly, by the owner of the vessel.

(3) CONDITION.—The Secretary may not issue a certificate of documentation for a vessel under paragraph (1) unless, not later than 90 days after the date of enactment of this Act, the owner of the vessel referred to in paragraph (1)(B) submits to the Secretary a letter expressing the intent of the owner to, before April 1, 1998, enter into a contract for the construction in the United States of a passenger vessel of at least 130 feet in length.

(4) EFFECTIVE DATE OF CERTIFICATES.—A certificate of documentation issued under paragraph (1) shall take effect—

(A) for the vessel referred to in paragraph (1)(A), on the date of the issuance of the certificate; and

(B) for the vessel referred to in paragraph (1)(B), on the date of delivery of the vessel to the owner.

(5) TERMINATION OF EFFECTIVENESS OF CERTIFICATES.—A certificate of documentation issued for a vessel under paragraph (1) shall expire—

(A) on the date of the sale of the vessel by the owner;

(B) on April 1, 1998, if the owner of the vessel referred to in paragraph (1)(B) has not entered into a contract for construction of a vessel in accordance with the letter of intent submitted to the Secretary under paragraph (3); or

(C) on such date as a contract referred to in paragraph (2) is breached, rescinded, or terminated (other than for completion of performance of the contract) by the owner of the vessel referred to in paragraph (1)(B).

(d) CERTIFICATES OF DOCUMENTATION FOR ENCHANTED ISLE AND ENCHANTED SEAS.—Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), the Act of June 19, 1886 (46 App. U.S.C. 289), section 12106 of title 46, United States Code, section 506 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1156), and any agreement with the United States Government, the Secretary of Transportation may issue certificates of documentation with a coastwise endorsement for the vessels ENCHANTED ISLE (Panamanian official number 14087–84B) and ENCHANTED SEAS (Panamanian official number 14064–84D), except that the vessels may not operate between or among islands in the State of Hawaii.

(e) EXCEPTION TO CHAIN OF TITLE RESTRICTION.—Section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883) is amended in the first proviso after "no vessel" by inserting "of more than 200 gross tons (as measured under chapter 143 of title 46, United States Code)".

46 USC 883 note.

(f) CERTIFICATE OF DOCUMENTATION FOR A LIQUIFIED GAS TANKER.—Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), section 12106 of title 46, United States Code, section 506 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1156) and any agreement with the United States Government, the Secretary of Transportation may issue a certificate of documentation with a coastwise endorsement for a vessel to transport liquified natural gas or liquified petroleum gas to the Commonwealth of Puerto Rico from other ports in the United States, if the vessel—

(1) is a foreign built vessel that was built prior to the date of enactment of this Act; or

(2) is documented under chapter 121 of title 46, United States Code, before the date of enactment of this Act, even if the vessel is placed under a foreign registry and subsequently redocumented under that chapter for operation under this section.

(g) VESSELS DEEMED CONSTRUCTED IN UNITED STATES.—Notwithstanding any other provision of law, the coastwise qualified vessels COASTAL SEA (United States official number 666754), COASTAL NOMAD (United States official number 686157), and COASTAL MERCHANT (United States official number 1038382) are deemed to have been constructed in the United States as of the date of their original delivery.

(h) LIMITED WAIVER FOR THE TUG MV JANIS GUZZLE.—Notwithstanding any other law or any agreement with the United States Government, the tug MV JANIS GUZZLE (ex-G.R. MOIR; United States official number 608018) may be permanently operated in the domestic trade of the United States upon the repayment of $1,140,619 to the Secretary of Transportation.

(i) REGENT RAINBOW.—Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), section 8 of the Act of June 19, 1886 (46 App. U.S.C. 289), section 12106 of title 46, United States Code, section 506 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1156), and any agreement with the United States Government, the Secretary of Transportation may issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel REGENT RAINBOW (Bahamas official number 715557), after the completion of the sale of the REGENT RAINBOW to an operator of another passenger vessel measuring more that 20,000 gross tons that on the day before the date of the enactment of this Act is in operation with a coastwise endorsement.

(j) MILITARY HOVERCRAFT.—Notwithstanding any other provision of law, the Administrator of General Services shall waive all conditions and restrictions relating to transfer or use of the property described in subsection (a)(132) (including the engine twin paks, the thrust and lift engines, and all spare parts, appurtenances, and accessories referred to in that subsection) and shall transfer unconditional and unrestricted title to all such property to the recipient eligible donee.

SEC. 1121. VESSEL DEEMED TO BE A RECREATIONAL VESSEL.

(a) IN GENERAL.—The vessel described in subsection (b) is deemed for all purposes, including title 46, United States Code, and all regulations thereunder, to be a recreational vessel of less than 300 gross tons, if—

(1) it does not carry cargo or passengers for hire; and

(2) it does not engage in commercial fisheries or oceanographic research.

(b) VESSEL DESCRIBED.—The vessel referred to in subsection (a) is an approximately 96 meter twin screw motor yacht, the construction of which commenced in October, 1993, and that has been assigned the builder's number 13583 (to be named the LIMITLESS).

SEC. 1122. SMALL PASSENGER VESSEL PILOT INSPECTION PROGRAM WITH THE STATE OF MINNESOTA.

46 USC 3301 note.

(a) IN GENERAL.—The Secretary may enter into an agreement with the State under which the State may inspect small passenger vessels operating in waters of that State designated by the Secretary, if—

(1) the State plan for the inspection of small passenger vessels meets such requirements as the Secretary may require to ensure the safety and operation of such vessels in accordance with the standards that would apply if the Coast Guard were inspecting such vessels; and

(2) the State will provide such information obtained through the inspection program to the Secretary annually in such form and in such detail as the Secretary may require.

(b) FEES.—The Secretary may adjust or waive the user fee imposed under section 3317 of title 46, United States Code, for

the inspection of small passenger vessels inspected under the State program.

(c) TERMINATION.—The authority provided by subsection (a) terminates on December 31, 1999.

(d) DEFINITIONS.—For purposes of this section—

(1) SECRETARY.—The term "Secretary" means the Secretary of the department in which the Coast Guard is operating.

(2) STATE.—The term "State" means the State of Minnesota.

(3) SMALL PASSENGER VESSEL.—The term "small passenger vessel" means a small passenger vessel (as defined in section 2101(35) of title 46, United States Code) of not more than 40 feet overall in length.

SEC. 1123. COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS FISHING.

Section 8103(i)(1) of title 46, United States Code, is amended—

(1) by striking "or" in subparagraph (B);

(2) by striking the period at the end of subparagraph (C) and inserting a semicolon and "or"; and

(3) by adding at the end thereof the following:

"(D) an alien allowed to be employed under the immigration laws of the Commonwealth of the Northern Mariana Islands if the vessel is permanently stationed at a port within the Commonwealth and the vessel is engaged in the fisheries within the exclusive economic zone surrounding the Commonwealth or another United States territory or possession.".

SEC. 1124. AVAILABILITY OF EXTRAJUDICIAL REMEDIES FOR DEFAULT ON PREFERRED MORTGAGE LIENS ON VESSELS.

(a) AVAILABILITY OF EXTRAJUDICIAL REMEDIES.—Section 31325(b) of title 46, United States Code, is amended—

(1) in the matter preceding paragraph (1) by striking "mortgage may" and inserting "mortgagee may";

(2) in paragraph (1) by—

(A) striking "perferred" and inserting "preferred"; and

(B) striking "; and" and inserting a semicolon; and

(3) by adding at the end the following:

"(3) enforce the preferred mortgage lien or a claim for the outstanding indebtedness secured by the mortgaged vessel, or both, by exercising any other remedy (including an extrajudicial remedy) against a documented vessel, a vessel for which an application for documentation is filed under chapter 121 of this title, a foreign vessel, or a mortgagor, maker, comaker, or guarantor for the amount of the outstanding indebtedness or any deficiency in full payment of that indebtedness, if—

"(A) the remedy is allowed under applicable law; and

"(B) the exercise of the remedy will not result in a violation of section 9 or 37 of the Shipping Act, 1916 (46 App. U.S.C. 808, 835).".

(b) NOTICE.—Section 31325 of title 46, United States Code, is further amended by adding at the end the following:

"(f)(1) Before title to the documented vessel or vessel for which an application for documentation is filed under chapter 121 is transferred by an extrajudicial remedy, the person exercising the remedy shall give notice of the proposed transfer to the Secretary,

to the mortgagee of any mortgage on the vessel filed in substantial compliance with section 31321 of this title before notice of the proposed transfer is given to the Secretary, and to any person that recorded a notice of a claim of an undischarged lien on the vessel under section 31343(a) or (d) of this title before notice of the proposed transfer is given to the Secretary.

"(2) Failure to give notice as required by this subsection shall not affect the transfer of title to a vessel. However, the rights of any holder of a maritime lien or a preferred mortgage on the vessel shall not be affected by a transfer of title by an extrajudicial remedy exercised under this section, regardless of whether notice is required by this subsection or given.

"(3) The Secretary shall prescribe regulations establishing the time and manner for providing notice under this subsection.".

(c) RULE OF CONSTRUCTION.—The amendments made by subsections (a) and (b) may not be construed to imply that remedies other than judicial remedies were not available before the date of enactment of this section to enforce claims for outstanding indebtedness secured by mortgaged vessels. 46 USC 31325 note.

SEC. 1125. OFFSHORE FACILITY FINANCIAL RESPONSIBILITY REQUIREMENTS.

(a) AMOUNT OF FINANCIAL RESPONSIBILITY.—Section 1016 of the Oil Pollution Act of 1990 (33 U.S.C. 2716) is amended—

(1) by amending subsection (c)(1) to read as follows:

"(1) IN GENERAL.—

"(A) EVIDENCE OF FINANCIAL RESPONSIBILITY REQUIRED.—Except as provided in paragraph (2), a responsible party with respect to an offshore facility that—

"(i)(I) is located seaward of the line of ordinary low water along that portion of the coast that is in direct contact with the open sea and the line marking the seaward limit of inland waters; or

"(II) is located in coastal inland waters, such as bays or estuaries, seaward of the line of ordinary low water along that portion of the coast that is not in direct contact with the open sea;

"(ii) is used for exploring for, drilling for, producing, or transporting oil from facilities engaged in oil exploration, drilling, or production; and

"(iii) has a worst-case oil spill discharge potential of more than 1,000 barrels of oil (or a lesser amount if the President determines that the risks posed by such facility justify it),

shall establish and maintain evidence of financial responsibility in the amount required under subparagraph (B) or (C), as applicable.

"(B) AMOUNT REQUIRED GENERALLY.—Except as provided in subparagraph (C), the amount of financial responsibility for offshore facilities that meet the criteria of subparagraph (A) is—

"(i) $35,000,000 for an offshore facility located seaward of the seaward boundary of a State; or

"(ii) $10,000,000 for an offshore facility located landward of the seaward boundary of a State.

"(C) GREATER AMOUNT.—If the President determines that an amount of financial responsibility for a responsible

party greater than the amount required by subparagraph (B) is justified based on the relative operational, environmental, human health, and other risks posed by the quantity or quality of oil that is explored for, drilled for, produced, or transported by the responsible party, the evidence of financial responsibility required shall be for an amount determined by the President not exceeding $150,000,000.

"(D) MULTIPLE FACILITIES.—In a case in which a person is a responsible party for more than one facility subject to this subsection, evidence of financial responsibility need be established only to meet the amount applicable to the facility having the greatest financial responsibility requirement under this subsection.

"(E) DEFINITION.—For the purpose of this paragraph, the seaward boundary of a State shall be determined in accordance with section 2(b) of the Submerged Lands Act (43 U.S.C. 1301(b)).";

(2) by amending subsection (f) to read as follows:

"(f) CLAIMS AGAINST GUARANTOR.—

"(1) IN GENERAL.—Subject to paragraph (2), a claim for which liability may be established under section 1002 may be asserted directly against any guarantor providing evidence of financial responsibility for a responsible party liable under that section for removal costs and damages to which the claim pertains. In defending against such a claim, the guarantor may invoke—

"(A) all rights and defenses which would be available to the responsible party under this Act;

"(B) any defense authorized under subsection (e); and

"(C) the defense that the incident was caused by the willful misconduct of the responsible party.

The guarantor may not invoke any other defense that might be available in proceedings brought by the responsible party against the guarantor.

"(2) FURTHER REQUIREMENT.—A claim may be asserted pursuant to paragraph (1) directly against a guarantor providing evidence of financial responsibility under subsection (c)(1) with respect to an offshore facility only if—

"(A) the responsible party for whom evidence of financial responsibility has been provided has denied or failed to pay a claim under this Act on the basis of being insolvent, as defined under section 101(32) of title 11, United States Code, and applying generally accepted accounting principles;

"(B) the responsible party for whom evidence of financial responsibility has been provided has filed a petition for bankruptcy under title 11, United States Code; or

"(C) the claim is asserted by the United States for removal costs and damages or for compensation paid by the Fund under this Act, including costs incurred by the Fund for processing compensation claims.

President. "(3) RULEMAKING AUTHORITY.—Not later than 1 year after the date of enactment of this paragraph, the President shall promulgate regulations to establish a process for implementing paragraph (2) in a manner that will allow for the orderly and expeditious presentation and resolution of claims and effectuate the purposes of this Act."; and

(3) by amending subsection (g) to read as follows:

"(g) LIMITATION ON GUARANTOR'S LIABILITY.—Nothing in this Act shall impose liability with respect to an incident on any guarantor for damages or removal costs which exceed, in the aggregate, the amount of financial responsibility which that guarantor has provided for a responsible party pursuant to this section. The total liability of the guarantor on direct action for claims brought under this Act with respect to an incident shall be limited to that amount.".

(b) LIMITATION ON APPLICATION.—The amendment made by subsection (a)(2) shall not apply to any final rule issued before the date of enactment of this section. 33 USC 2716 note.

SEC. 1126. DEAUTHORIZATION OF NAVIGATION PROJECT, COHASSET HARBOR, MASSACHUSETTS.

The following portions of the project for navigation, Cohasset Harbor, Massachusetts, authorized by section 2 of the Act entitled "An Act authorizing the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved March 2, 1945 (59 Stat. 12), or carried out pursuant to section 107 of the River and Harbor Act of 1960 (33 U.S.C. 577), are deauthorized: A 7-foot deep anchorage and a 6-foot deep anchorage; beginning at site 1, starting at a point N453510.15, E792664.63, thence running south 53 degrees 07 minutes 05.4 seconds west 307.00 feet to a point N453325.90, E792419.07, thence running north 57 degrees 56 minutes 36.8 seconds west 201.00 feet to a point N453432.58, E792248.72, thence running south 88 degrees 57 minutes 25.6 seconds west 50.00 feet to a point N453431.67, E792198.73, thence running north 01 degree 02 minutes 52.3 seconds west 66.71 feet to a point N453498.37, E792197.51, thence running north 69 degrees 12 minutes 52.3 seconds east 332.32 feet to a point N453616.30, E792508.20, thence running south 55 degrees 50 minutes 24.1 seconds east 189.05 feet to point of origin; then site 2, starting at a point, N452886.64, E791287.83, thence running south 00 degrees 00 minutes 00.0 seconds west 56.04 feet to a point, N452830.60, E791287.83, thence running north 90 degrees 00 minutes 00.0 seconds west 101.92 feet to a point, N452830.60, E791185.91, thence running north 52 degrees 12 minutes 49.7 seconds east 89.42 feet to a point, N452885.39, E791256.58, thence running north 87 degrees 42 minutes 33.8 seconds east 31.28 feet to point of origin; and site 3, starting at a point, N452261.08, E792040.24, thence running north 89 degrees 07 minutes 19.5 seconds east 118.78 feet to a point, N452262.90, E792159.01, thence running south 43 degrees 39 minutes 06.8 seconds west 40.27 feet to a point, N452233.76, E792131.21, thence running north 74 degrees 33 minutes 29.1 seconds west 94.42 feet to a point, N452258.90, E792040.20, thence running north 01 degree 03 minutes 04.3 seconds east 2.18 feet to point of origin.

SEC. 1127. SENSE OF CONGRESS; REQUIREMENT REGARDING NOTICE. 14 USC 92 note.

(a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available under this Act should be American-made.

(b) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance under this Act, the official responsible for providing the assistance, to the greatest extent practicable, shall provide

to each recipient of the assistance a notice describing the statement made in subsection (a) by the Congress.

SEC. 1128. REQUIREMENT FOR PROCUREMENT OF BUOY CHAIN.

(a) REQUIREMENT.—Chapter 5 of title 14, United States Code, as amended by section 311 of this Act, is further amended by adding at the end the following:

"§ 97. Procurement of buoy chain

"(a) Except as provided in subsection (b), the Coast Guard may not procure buoy chain—

"(1) that is not manufactured in the United States; or

"(2) substantially all of the components of which are not produced or manufactured in the United States.

"(b) The Coast Guard may procure buoy chain that is not manufactured in the United States if the Secretary determines that—

"(1) the price of buoy chain manufactured in the United States is unreasonable; or

"(2) emergency circumstances exist.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 5 of title 14, United States Code, as amended by section 311 of this Act, is further amended by adding at the end the following:

"97. Procurement of buoy chain.".

SEC. 1129. CRUISE SHIP LIABILITY.

(a) APPLICABILITY OF STATUTORY LIMITATIONS.—Section 4283 of the Revised Statutes (46 App. U.S.C. 183) is amended by adding at the end the following new subsection:

"(g) In a suit by any person in which the operator or owner of a vessel or employer of a crewmember is claimed to have vicarious liability for medical malpractice with regard to a crewmember occurring at a shoreside facility, and to the extent the damages resulted from the conduct of any shoreside doctor, hospital, medical facility, or other health care provider, such operator, owner, or employer shall be entitled to rely upon any and all statutory limitations of liability applicable to the doctor, hospital, medical facility, or other health care provider in the State of the United States in which the shoreside medical care was provided.".

(b) CONTRACT LIMITATIONS ALLOWED.—Section 4283b of the Revised Statutes of the United States (46 App. U.S.C. 183c) is amended by redesignating the existing text as subsection (a) and by adding at the end the following new subsection:

"(b)(1) Subsection (a) shall not prohibit provisions or limitations in contracts, agreements, or ticket conditions of carriage with passengers which relieve a crewmember, manager, agent, master, owner, or operator of a vessel from liability for infliction of emotional distress, mental suffering, or psychological injury so long as such provisions or limitations do not limit such liability if the emotional distress, mental suffering, or psychological injury was—

"(A) the result of physical injury to the claimant caused by the negligence or fault of a crewmember or the manager, agent, master, owner, or operator;

"(B) the result of the claimant having been at actual risk of physical injury, and such risk was caused by the negligence or fault of a crewmember or the manager, agent, master, owner, or operator; or

"(C) intentionally inflicted by a crewmember or the manager, agent, master, owner, or operator.

"(2) Nothing in this subsection is intended to limit the liability of a crewmember or the manager, agent, master, owner, or operator of a vessel in a case involving sexual harassment, sexual assault, or rape.".

SEC. 1130. SENSE OF CONGRESS ON THE IMPLEMENTATION OF REGULATIONS REGARDING ANIMAL FATS AND VEGETABLE OILS.

33 USC 2720 note.

(a) SENSE OF CONGRESS.—It is the sense of Congress that, in an effort to reduce unnecessary regulatory burdens, a regulation issued or enforced and an interpretation or guideline established pursuant to Public Law 104–55 should in any manner possible recognize and provide for the differences in the physical, chemical, biological, and other properties, and in the environmental effects, of the classes of fats, oils, and greases described under that law.

(b) REPORT.—Within 60 days after the date of enactment of this section and on January 1 of each year thereafter, the Secretary of Transportation shall submit a report to Congress on the extent to which the implementation by the United States Coast Guard of regulations issued or enforced, or interpretations or guidelines established, pursuant to Public Law 104–55, carry out the intent of Congress and recognize and provide for the differences in the physical, chemical, biological, and other properties, and in the environmental effects, of the classes of fats, oils, and greases described under that law.

SEC. 1131. TERM OF DIRECTOR OF THE BUREAU OF TRANSPORTATION STATISTICS.

Section 111(b)(4) of title 49, United States Code, is amended by adding at the end the following sentence: "The Director may continue to serve after the expiration of the term until a successor is appointed and confirmed.".

SEC. 1132. WAIVER OF CERTAIN REQUIREMENTS FOR HISTORIC FORMER PRESIDENTIAL YACHT SEQUOIA.

The vessel M/V SEQUOIA (United States official number 225115) is deemed to be less than 100 gross tons, and the Secretary of Transportation may exempt that vessel from certain requirements of section 3306 of title 46, United States Code, and the regulations thereunder. The Secretary may impose special operating restrictions on that vessel as to route, service, manning, and equipment, necessary for the safe operation of that vessel.

SEC. 1133. VESSEL REQUIREMENTS.

Section 3503(a) of title 46, United States Code, is amended by striking the last sentence and inserting in lieu thereof the following: "Before November 1, 2008, this section does not apply to any vessel in operation before January 1, 1968, and operating only within the Boundary Line.".

SEC. 1134. EXISTING TANK VESSEL RESEARCH.

46 USC 3703 note.

(a) FUNDING.—The Secretary of Transportation shall take steps to allocate funds appropriated for research, development, testing, and evaluation, including the combination of funds from any source available and authorized for this purpose, to ensure that any Government-sponsored project intended to evaluate double hull

alternatives that provide equal or greater protection to the marine environment, or interim solutions to remediate potential environmental damage resulting from oil spills from existing tank vessels, commenced prior to the date of enactment of this section, is fully funded for completion by the end of fiscal year 1997. Any vessel construction or repair necessary to carry out the purpose of this section must be performed in a shipyard located in the United States.

(b) USE OF PUBLIC VESSELS.—The Secretary may provide vessels owned by, or demise chartered to, and operated by the Government and not engaged in commercial service, without reimbursement, for use in and the support of projects sponsored by the Government for research, development, testing, evaluation, and demonstration of new or improved technologies that are effective in preventing or mitigating oil discharges and protecting the environment.

SEC. 1135. PLAN FOR THE ENGINEERING, DESIGN, AND RETROFITTING OF THE ICEBREAKER MACKINAW.

(a) IN GENERAL.—Not later than May 1, 1997, the Secretary of the department in which the Coast Guard is operating shall submit to the Committees a plan and cost estimate for the engineering, design, and retrofitting of the icebreaker MACKINAW (WAGB–83) to equip the vessel with new engines, command and control features, habitability improvements, and other features needed to allow operation of the vessel by a significantly reduced crew, including 24-hour continuous operation when necessary.

(b) COMMITTEES DEFINED.—In subsection (a), the term "Committees" means the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

SEC. 1136. CROSS-BORDER FINANCING.

(a) DOCUMENTATION OF VESSELS OWNED BY TRUSTS.—Section 12102 of title 46, United States Code, is amended by adding at the end the following new subsection:

"(d)(1) For the issuance of a certificate of documentation with only a registry endorsement, subsection (a)(2)(A) of this section does not apply to a beneficiary of a trust that is qualified under paragraph (2) of this subsection if the vessel is subject to a charter to a citizen of the United States.

"(2)(A) Subject to subparagraph (B) of this paragraph, a trust is qualified under this paragraph with respect to a vessel only if—

"(i) each of the trustees is a citizen of the United States; and

"(ii) the application for documentation of the vessel includes the affidavit of each trustee stating that the trustee is not aware of any reason involving a beneficiary of the trust that is not a citizen of the United States, or involving any other person that is not a citizen of the United States, as a result of which the beneficiary or other person would hold more than 25 percent of the aggregate power to influence or limit the exercise of the authority of the trustee with respect to matters involving any ownership or operation of the vessel that may adversely affect the interests of the United States.

"(B) If any person that is not a citizen of the United States has authority to direct or participate in directing a trustee for

a trust in matters involving any ownership or operation of the vessel that may adversely affect the interests of the United States or in removing a trustee for a trust without cause, either directly or indirectly through the control of another person, the trust is not qualified under this paragraph unless the trust instrument provides that persons who are not citizens of the United States may not hold more than 25 percent of the aggregate authority to so direct or remove a trustee.

"(3) Paragraph (2) of this subsection shall not be considered to prohibit a person who is not a citizen of the United States from holding more than 25 percent of the beneficial interest in a trust.

"(4) If a person chartering a vessel from a trust that is qualified under paragraph (2) of this subsection is a citizen of the United States under section 2 of the Shipping Act, 1916 (46 App. U.S.C. 802), then the vessel is deemed to be owned by a citizen of the United States for purposes of that section and related laws, except for subtitle B of title VI of the Merchant Marine Act, 1936.".

(b) APPROVAL OF CERTAIN VESSEL TRANSACTIONS BEFORE DOCUMENTATION OF THE VESSEL.—Section 9 of the Shipping Act, 1916 (46 App. U.S.C. 808) is amended by adding at the end the following new subsection:

"(e) To promote financing with respect to a vessel to be documented under chapter 121 of title 46, United States Code, the Secretary may grant approval under subsection (c) before the date the vessel is documented.".

(c) TRUST CHARTERERS.—Notwithstanding section 12102(d)(4) of title 46, United States Code, as amended by this section, for purposes of subtitle B of title VI of the Merchant Marine Act, 1936 a vessel is deemed to be owned and operated by a citizen of the United States (as that term is used in that subtitle) if— 46 USC app. 1187 note.

(1) the person chartering the vessel from a trust under section 12102(d)(2) of that title is a citizen of the United States under section 2 of the Shipping Act, 1916 (46 App. U.S.C. 802); and

(2)(A) the vessel—

(i) is delivered by a shipbuilder, following completion of construction, on or after May 1, 1995 and before January 31, 1996; or

(ii) is owned by a citizen of the United States under section 2 of the Shipping Act, 1916 on September 1, 1996, or is a replacement for such a vessel; or

(B) payments have been made with respect to the vessel under subtitle B of title VI of the Merchant Marine Act, 1936 for at least 1 year.

(d) INDIRECT VESSEL OWNERS.—Notwithstanding any other provision of law, for purposes of subtitle B of title VI of the Merchant Marine Act, 1936 the following vessels are deemed to be owned and operated by a citizen of the United States (as that term is used in that subtitle) if the vessels are owned, directly or indirectly, by a person that is a citizen of the United States under section 2 of the Shipping Act, 1916 (46 App. U.S.C. 802): 46 USC app. 1187 note.

(1) Any vessel constructed under a shipbuilding contract signed on December 21, 1995, and having hull number 3077, 3078, 3079, or 3080.

(2) Any vessel delivered by a shipbuilder, following completion of construction, on or after May 1, 1995, and before January 31, 1996.

(3) Any vessel owned on September 1, 1996, by a person that is a citizen of the United States under section 2 of the Shipping Act, 1916, or a replacement for such a vessel.

(4) Any vessel with respect to which payments have been made under subtitle B of title VI of the Merchant Marine Act, 1936 for at least 1 year.

46 USC app. 1187 note.

SEC. 1137. VESSEL STANDARDS.

(a) CERTIFICATE OF INSPECTION.—A vessel used to provide transportation service as a common carrier which the Secretary of Transportation determines meets the criteria of section 651(b) of the Merchant Marine Act, 1936, but which on the date of enactment of this Act is not a documented vessel (as that term is defined in section 2101 of title 46, United States Code), shall be eligible for a certificate of inspection if the Secretary determines that—

(1) the vessel is classed by and designed in accordance with the rules of the American Bureau of Shipping or another classification society accepted by the Secretary;

(2) the vessel complies with applicable international agreements and associated guidelines, as determined by the country in which the vessel was documented immediately before becoming a documented vessel (as defined in that section); and

(3) that country has not been identified by the Secretary as inadequately enforcing international vessel regulations as to that vessel.

(b) CONTINUED ELIGIBILITY FOR CERTIFICATE.—Subsection (a) does not apply to a vessel after any date on which the vessel fails to comply with the applicable international agreements and associated guidelines referred to in subsection (a)(2).

(c) RELIANCE ON CLASSIFICATION SOCIETY.—

(1) IN GENERAL.—The Secretary may rely on a certification from the American Bureau of Shipping or, subject to paragraph (2), another classification society accepted by the Secretary to establish that a vessel is in compliance with the requirements of subsections (a) and (b).

(2) FOREIGN CLASSIFICATION SOCIETY.—The Secretary may accept certification from a foreign classification society under paragraph (1) only—

(A) to the extent that the government of the foreign country in which the society is headquartered provides access on a reciprocal basis to the American Bureau of Shipping; and

(B) if the foreign classification society has offices and maintains records in the United States.

SEC. 1138. VESSELS SUBJECT TO THE JURISDICTION OF THE UNITED STATES.

(a) IN GENERAL.—Section 3 of the Maritime Drug Law Enforcement Act (46 App. U.S.C. 1903) is amended—

(1) in subsection (c)(2) by striking "and" after the semicolon in subparagraph (A), by striking the period at the end of subparagraph (B) and inserting "; and", and by adding at the end the following new subparagraph:

"(C) a vessel aboard which the master or person in charge makes a claim of registry and the claimed nation of registry does not affirmatively and unequivocally assert that the vessel is of its nationality.";

(2) in subsection (c)(1) by striking "and may be" and inserting "and is conclusively";

(3) in subsection (c)(2) by striking "nation may be" and inserting "nation is conclusively";

(4) in subsection (d) by inserting before the first sentence the following: "Any person charged with a violation of this section shall not have standing to raise the claim of failure to comply with international law as a basis for a defense."; and

(5) by adding at the end of subsection (f) the following: "Jurisdiction of the United States with respect to vessels subject to this chapter is not an element of any offense. All jurisdictional issues arising under this chapter are preliminary questions of law to be determined solely by the trial judge.".

(b) CONFORMING AMENDMENT.—Subsection (c) of such section is amended by inserting "or (C)" after "under subparagraph (A)".

SEC. 1139. REACTIVATION OF CLOSED SHIPYARDS.

46 USC app. 1273 note.

(a) IN GENERAL.—The Secretary may issue a guarantee or a commitment to guarantee obligations under title XI of the Merchant Marine Act, 1936 (46 App. U.S.C. 1271 et seq.), upon such terms as the Secretary may prescribe, to assist in the reactivation and modernization of any shipyard in the United States that is closed on the date of the enactment of this Act, if the Secretary finds that—

(1) the closed shipyard historically built military vessels and responsible entities now seek to reopen it as an internationally competitive commercial shipyard;

(2)(A) the closed shipyard has been designated by the President as a public-private partnership project; or

(B) has a reuse plan approved by the Navy in which commercial shipbuilding and repair are primary activities and has a revolving economic conversion fund approved by the Department of Defense; and

(3) the State in which the shipyard is located, and each other involved State, or a State-chartered agency, is making a significant financial investment in the overall cost of reactivation and modernization as its contribution to the reactivation and modernization project, in addition to the funds required by subsection (d)(2) of this section.

(b) WAIVERS.—Notwithstanding any other provision of title XI of the Merchant Marine Act, 1936 (46 App. U.S.C. 1271 et seq.), the Secretary shall not apply the requirements of section 1104A(d) of that Act when issuing a guarantee or a commitment to guarantee an obligation under this section.

(c) CONDITIONS.—The Secretary shall impose such conditions on the issuance of a guarantee or a commitment to guarantee under this section as are necessary to protect the interests of the United States from the risk of a default. The Secretary shall consider the interdependency of such shipyard modernization and reactivation projects and related vessel loan guarantee requests pending under title XI of the Merchant Marine Act, 1936 (46 App.

U.S.C. 1271 et seq.) before issuing a guarantee or a commitment to guarantee under this section.

(d) FUNDING PROVISIONS.—

(1) The Secretary may not guarantee or commit to guarantee obligations under this section that exceed $100,000,000 in the aggregate.

(2) The amount of appropriated funds required by the Federal Credit Reform Act of 1990 (2 U.S.C. 661a et seq.) in advance of the Secretary's issuance of a guarantee or a commitment to guarantee under this section shall be provided by the State in which the shipyard is located, and other involved States, or by a State-chartered agency, and deposited by the Secretary in the financing account established under the Federal Credit Reform Act of 1990 (2 U.S.C. 661a et seq.) for loan guarantees issued by the Secretary under title XI of the Merchant Marine Act of 1936 (46 App. U.S.C. 1271 et seq.). No federally appropriated funds shall be available for this purpose. The funds deposited into that financing account shall be held and applied by the Secretary in accordance with the provisions of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a et seq.), except that, unless the Secretary shall have earlier paid an obligee or been required to pay an obligee pursuant to the terms of a loan guarantee, the funds deposited in that financing account shall be returned, upon the expiration of the Secretary's loan guarantee, to the State, States, or State-chartered agency which originally provided the funds to the Secretary.

(3) Notwithstanding the provisions of any other law or regulation, the cost (as that term is defined by the Federal Credit Reform Act of 1990 (2 U.S.C. 661a et seq.)) of a guarantee or commitment to guarantee issued under this section—

(A) may only be determined with reference to the merits of the specific closed shipyard reactivation project which is the subject of that guarantee or commitment to guarantee, without reference to any other project, type of project, or averaged risk; and

(B) may not be used in determining the cost of any other project, type of project, or averaged risk applicable to guarantees or commitments to guarantee issued under title XI of the Merchant Marine Act, 1936 (46 App. U.S.C. 1271 et seq.).

(e) SUNSET.—No commitment to guarantee obligations under this section shall be issued by the Secretary after one year after the date of enactment of this section.

(f) DEFINITION.—As used in this section, the term "Secretary" means the Secretary of Transportation.

Rhode Island.

SEC. 1140. SAKONNET POINT LIGHT.

Notwithstanding any other provision of law, any action in admiralty brought against a private nonprofit organization (including any officer, director, employee, or agent of such organization) for damages or injuries resulting from an incident occurring after the date of enactment of this Act, and arising from the operation, maintenance, or malfunctioning of an aid to navigation operated by the Coast Guard on or within property or a structure owned by such nonprofit organization at Sakonnet Point, Little Compton,

Rhode Island, shall be determined exclusively according to the law of the State in which such property or structure is located.

SEC. 1141. DREDGING OF RHODE ISLAND WATERWAYS.

The Chief of Engineers of the Army Corps of Engineers, in conjunction with the Secretary of Transportation and other relevant agencies, shall—

(1) review the report of the commission convened by the Governor of Rhode Island on dredging Rhode Island waterways; and

(2) not later than 120 days after the date of enactment of this section, submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives any recommendations that the Chief of Engineers may have concerning the feasibility and environmental effects of the dredging.

SEC. 1142. INTERIM PAYMENTS.

(a) DAMAGES FOR LOSS OF PROFITS OR IMPAIRMENT OF EARNING CAPACITY.—Section 1005 of the Oil Pollution Act of 1990 (33 U.S.C. 2705) is amended by—

(1) in the title inserting "; **PARTIAL PAYMENT OF CLAIMS**" before the period; and

(2) adding at the end of subsection (a) the following: "The responsible party shall establish a procedure for the payment or settlement of claims for interim, short-term damages. Payment or settlement of a claim for interim, short-term damages representing less than the full amount of damages to which the claimant ultimately may be entitled shall not preclude recovery by the claimant for damages not reflected in the paid or settled partial claim.".

(b) CLARIFICATION OF CLAIMS PROCEDURE.—Section 1013(d) of the Oil Pollution Act of 1990 (33 U.S.C. 2713(d)) is amended by striking "section" and inserting the following: "section, including a claim for interim, short-term damages representing less than the full amount of damages to which the claimant ultimately may be entitled,".

(c) ADVERTISEMENT.—Section 1014(b) of the Oil Pollution Act of 1990 (33 U.S.C. 2714(b)) is amended—

(1) by inserting "(1)" before "If"; and

(2) by adding at the end the following new paragraph:

"(2) An advertisement under paragraph (1) shall state that a claimant may present a claim for interim, short-term damages representing less than the full amount of damages to which the claimant ultimately may be entitled and that payment of such a claim shall not preclude recovery for damages not reflected in the paid or settled partial claim.".

(d) CLARIFICATION OF SUBROGATION.—Section 1015(a) of the Oil Pollution Act of 1990 (33 U.S.C. 2715(a)) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following:

"(b) INTERIM DAMAGES.—

"(1) IN GENERAL.—If a responsible party, a guarantor, or the Fund has made payment to a claimant for interim, short-term damages representing less than the full amount of damages to which the claimant ultimately may be entitled, subroga- Applicability.

tion under subsection (a) shall apply only with respect to the portion of the claim reflected in the paid interim claim.

"(2) FINAL DAMAGES.—Payment of such a claim shall not foreclose a claimant's right to recovery of all damages to which the claimant otherwise is entitled under this Act or under any other law.".

SEC. 1143. OIL SPILL INFORMATION.

Section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321) is amended—

(1) in subsection (j)(2)(A) by inserting after "paragraph (4)," the following: "and of information regarding previous spills, including data from universities, research institutions, State governments, and other nations, as appropriate, which shall be disseminated as appropriate to response groups and area committees, and"; and

(2) in subsection (j)(4)(C)(v) by inserting before "describe" the following: "compile a list of local scientists, both inside and outside Federal Government service, with expertise in the environmental effects of spills of the types of oil typically transported in the area, who may be contacted to provide information or, where appropriate, participate in meetings of the scientific support team convened in response to a spill, and".

SEC. 1144. COMPLIANCE WITH OIL SPILL RESPONSE PLANS.

Section 311(c)(3)(B) of the Federal Water Pollution Control Act (33 U.S.C. 1321(c)(3)(B)) is amended by striking "President" and inserting "President, except that the owner or operator may deviate from the applicable response plan if the President or the Federal On-Scene Coordinator determines that deviation from the response plan would provide for a more expeditious or effective response to the spill or mitigation of its environmental effects".

Wisconsin.

SEC. 1145. BRIDGE DEEMED TO UNREASONABLY OBSTRUCT NAVIGATION.

The Sooline & Milwaukee Road Swing Bridge, located in Oshkosh, Wisconsin, is deemed to unreasonably obstruct navigation for purposes of the Act of June 21, 1940 (popularly known as the Hobbs Bridge Act; 33 U.S.C. 511 et seq.).

SEC. 1146. FISHING VESSEL EXEMPTION.

(a) IN GENERAL.—Chapter 81 of title 46, United States Code, is amended by adding at the end the following new section:

Applicability.

"§8105. Fishing vessel exemption

"Notwithstanding any other provision of law, neither the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, nor any amendment to such convention, shall apply to a fishing vessel, including a fishing vessel used as a fish tender vessel.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 81 of title 46, United States Code, is amended by adding at the end the following:

"8105. Fishing vessel exemption.".

Approved October 19, 1996.

LEGISLATIVE HISTORY—S. 1004 (H.R. 1361):

HOUSE REPORTS: Nos. 104–106 accompanying H.R. 1361 (Comm. on Transportation and Infrastructure) and 104–854 (Comm. of Conference).
SENATE REPORTS: No. 104–160 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD:
Vol. 141 (1995): May 9, H.R. 1361 considered and passed House.
Nov. 17, S. 1004 considered and passed Senate.
Vol. 142 (1996): Feb. 29, considered and passed House, amended, in lieu of H.R. 1361.
Sept. 27, House agreed to conference report.
Sept. 28, Senate agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 32 (1996):
Oct. 19, Presidential statement.

Public Law 104–325
104th Congress

An Act

Oct. 19, 1996
[S. 1194]

To promote the research, identification, assessment, and exploration of marine mineral resources, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Marine Mineral Resources Research Act of 1996.
30 USC 1901 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Marine Mineral Resources Research Act of 1996".

SEC. 2. RESEARCH PROGRAM.

The Mining and Minerals Policy Act of 1970 (30 U.S.C. 21a) is amended—

(1) by inserting after the first section the following:

"TITLE I—MINING POLICY";

(2) by redesignating section 2 as section 101; and

(3) by adding at the end the following:

"TITLE II—MARINE MINERAL RESOURCES RESEARCH PROGRAM

30 USC 1901.

"SEC. 201. DEFINITIONS.

"In this title:

"(1) The term 'contract' has the same meaning as 'procurement contract' in section 6303 of title 31, United States Code.

"(2) The term 'cooperative agreement' has the same meaning as in section 6305 of title 31, United States Code.

"(3) The term 'eligible entity' means—

"(A) a research or educational entity chartered or incorporated under Federal or State law;

"(B) an individual who is a United States citizen; or

"(C) a State or regional agency.

"(4) The term 'grant' has the same meaning as 'grant agreement' in section 6304 of title 31, United States Code.

"(5) The term 'in-kind contribution' means a noncash contribution provided by a non-Federal entity that directly benefits and is related to a specific project or program. An in-kind contribution may include real property, equipment, supplies, other expendable property, goods, and services.

"(6) The term 'marine mineral resource' means—

"(A) sand and aggregates;

"(B) placers;
"(C) phosphates;
"(D) manganese nodules;
"(E) cobalt crusts;
"(F) metal sulfides; and
"(G) other marine resources that are not—
"(i) oil and gas;
"(ii) fisheries; or
"(iii) marine mammals.

"(7) The term 'Secretary' means the Secretary of the Interior.

"SEC. 202. RESEARCH PROGRAM.

Establishment.
30 USC 1902.

"(a) IN GENERAL.—The Secretary shall establish and carry out a program of research on marine mineral resources.

"(b) PROGRAM GOAL.—The goal of the program shall be to—

"(1) promote research, identification, assessment, and exploration of marine mineral resources in an environmentally responsible manner;

"(2) assist in developing domestic technologies required for efficient and environmentally sound development of marine mineral resources;

"(3) coordinate and promote the use of technologies developed with Federal assistance, and the use of available Federal assets, for research, identification, assessment, exploration, and development of marine mineral resources; and

"(4) encourage academia and industry to conduct basic and applied research, on a joint basis, through grants, cooperative agreements, or contracts with the Federal Government.

"(c) RESPONSIBILITIES OF THE SECRETARY.—In carrying out the program, the Secretary shall—

"(1) promote and coordinate partnerships between industry, government, and academia to research, identify, assess, and explore marine mineral resources in an environmentally sound manner;

"(2) undertake programs to develop the basic information necessary to the long-term national interest in marine mineral resources (including seabed mapping) and to ensure that data and information are accessible and widely disseminated as needed and appropriate;

"(3) identify, and promote cooperation among agency programs that are developing, technologies developed by other Federal programs that may hold promise for facilitating undersea applications related to marine mineral resources, including technologies related to vessels and other platforms, underwater vehicles, survey and mapping systems, remote power sources, data collection and transmission systems, and various seabed research systems; and

"(4) foster communication and coordination between Federal and State agencies, universities, and private entities concerning marine mineral research on seabeds of the continental shelf, ocean basins, and arctic and cold water areas.

In carrying out these responsibilities, the Secretary shall ensure the participation of non-Federal users of technologies and data related to marine mineral resources in planning and priority setting.

"SEC. 203. GRANTS, CONTRACTS, AND COOPERATIVE AGREEMENTS. 30 USC 1903.

"(a) ASSISTANCE AND COORDINATION.—

"(1) IN GENERAL.—The Secretary shall award grants or contracts to, or enter into cooperative agreements with, eligible entities to support research for the development or utilization of—

"(A) methods, equipment, systems, and components necessary for the identification, assessment, and exploration of marine mineral resources in an environmentally responsible manner;

"(B) methods of detecting, monitoring, and predicting the presence of adverse environmental effects in the marine environment and remediating the environmental effects of marine mineral resource exploration, development, and production; and

"(C) education and training material in marine mineral research and resource management.

"(2) COST-SHARING FOR CONTRACTS OR COOPERATIVE AGREEMENTS.—

"(A) FEDERAL SHARE.—Except as provided in subparagraph (B)(ii), the Federal share of the cost of a contract or cooperative agreement carried out under this subsection shall not be greater than 80 percent of the total cost of the project.

"(B) NON-FEDERAL SHARE.—The remaining non-Federal share of the cost of a project carried out under this section may be—

"(i) in the form of cash or in-kind contributions, or both; and

"(ii) comprised of funds made available under other Federal programs, except that non-Federal funds shall be used to defray at least 10 percent of the total cost of the project.

"(C) CONSULTATION.—Not later than 180 days after the date of enactment of this Act, the Secretary shall establish, after consultation with other Federal agencies, terms and conditions under which Federal funding will be provided under this subsection that are consistent with the Agreement on Subsidies and Countervailing Measures referred to in section 101(d)(12) of the Uruguay Round Agreement Act (19 U.S.C. 3511(d)(12)).

"(b) COMPETITIVE REVIEW.—

"(1) IN GENERAL.—An entity shall not be eligible to receive a grant or contract, or participate in a cooperative agreement, under subsection (a) unless—

"(A) the entity submits a proposal to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require; and

"(B) the proposal has been evaluated by a competitive review panel under paragraph (3).

"(2) COMPETITIVE REVIEW PANELS.—

"(A) COMPOSITION.—A competitive review panel shall be chaired by the Secretary or by the Secretary's designee and shall be composed of members who meet the following criteria:

"(i) APPOINTMENT.—The members shall be appointed by the Secretary.

"(ii) EXPERIENCE.—Not less than 50 percent of the members shall represent or be employed by private

marine resource companies that are involved in exploration of the marine environment or development of marine mineral resources.

"(iii) INTEREST.—None of the members may have an interest in a grant, contract, or cooperative agreement being evaluated by the panel.

"(B) NO COMPENSATION.—A review panel member who is not otherwise a Federal employee shall receive no compensation for performing duties under this section, except that, while engaged in the performance of duties away from the home or regular place of business of the member, the member may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as a person employed intermittently in the Government service under section 5703 of title 5, United States Code.

"(3) EVALUATION.—A competitive review panel shall base an evaluation of a proposal on criteria developed by the Secretary that shall include—

"(A) the merits of the proposal;

"(B) the research methodology and costs of the proposal;

"(C) the capability of the entity submitting the proposal and any other participating entity to perform the proposed work and provide in-kind contributions;

"(D) the amount of matching funds provided by the entity submitting the proposal or provided by other Federal, State, or private entities;

"(E) the extent of collaboration with other Federal, State, or private entities;

"(F) in the case of a noncommercial entity, the existence of a cooperative agreement with a commercial entity that provides for collaboration in the proposed research;

"(G) whether the proposal promotes responsible environmental stewardship; and

"(H) such other factors as the Secretary considers appropriate.

"(c) LIMITATIONS.—

"(1) ADMINISTRATIVE EXPENSES.—Not more than 10 percent of the amount made available to carry out this section during a fiscal year may be used by the Secretary for expenses associated with administration of the program authorized by this section.

"(2) CONSTRUCTION COSTS.—None of the funds made available under this section may be used for the construction of a new building or the acquisition, expansion, remodeling, or alteration of an existing building (including site grading and improvement and architect fees).

"(d) REPORTS.—An eligible entity that receives a grant or contract or enters into a cooperative agreement under this section shall submit an annual progress report and a final technical report to the Secretary that—

"(1) describes project activities, implications of the project, the significance of the project to marine mineral research, identification, assessment, and exploration, and potential commercial and economic benefits and effects of the project; and

"(2) in the case of an annual progress report, includes a project plan for the subsequent year.

30 USC 1904.

"SEC. 204. MARINE MINERAL RESEARCH CENTERS.

"(a) IN GENERAL.—No later than 90 days after the date of enactment of this section, the Secretary shall designate 3 centers for marine mineral research and related activities.

"(b) CONCENTRATION.—One center shall concentrate primarily on research in the continental shelf regions of the United States, 1 center shall concentrate primarily on research in deep seabed and near-shore environments of islands, and 1 center shall concentrate primarily on research in arctic and cold water regions.

"(c) CRITERIA.—In designating a center under this section, the Secretary shall give priority to a university that—

"(1) administers a federally funded center for marine minerals research;

"(2) matriculates students for advanced degrees in marine geological sciences, nonenergy natural resources, and related fields of science and engineering;

"(3) is a United States university with established programs and facilities that primarily focus on marine mineral resources;

"(4) has engaged in collaboration and cooperation with industry, governmental agencies, and other universities in the field of marine mineral resources;

"(5) has demonstrated significant engineering, development, and design experience in two or more of the following areas;

"(A) seabed exploration systems;

"(B) marine mining systems; and

"(C) marine mineral processing systems; and

"(6) has been designated by the Secretary as a State Mining and Mineral Resources Research Institute.

"(d) CENTER ACTIVITIES.—A center shall—

"(1) provide technical assistance to the Secretary concerning marine mineral resources;

"(2) advise the Secretary on pertinent international activities in marine mineral resources development;

"(3) engage in research, training, and education transfer associated with the characterization and utilization of marine mineral resources; and

"(4) promote the efficient identification, assessment, exploration, and management of marine mineral resources in an environmentally sound manner.

"(e) ALLOCATION OF FUNDS.—In distributing funds to the centers designated under subsection (a), the Secretary shall, to the extent practicable, allocate an equal amount to each center.

"(f) LIMITATIONS.—

"(1) ADMINISTRATIVE EXPENSES.—Not more than 5 percent of the amount made available to carry out this section during a fiscal year may be used by the Secretary for expenses associated with administration of the program authorized by this section.

"(2) CONSTRUCTION COSTS.—None of the funds made available under this section may be used for the construction of a new building or the acquisition, expansion, remodeling, or alteration of an existing building (including site grading and improvement and architect fees).

"SEC. 205. AUTHORIZATION OF APPROPRIATIONS. 30 USC 1905.

"There is authorized to be appropriated such sums as are necessary to carry out this title.".

Approved October 19, 1996.

LEGISLATIVE HISTORY—S. 1194:

SENATE REPORTS: No. 104–296 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 142 (1996):
Sept. 28, considered and passed Senate.
Oct. 4, considered and passed House.

Public Law 104–326
104th Congress

An Act

Oct. 19, 1996
[S. 1649]

To extend contracts between the Bureau of Reclamation and irrigation districts in Kansas and Nebraska, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Irrigation Project Contract Extension Act of 1996.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Irrigation Project Contract Extension Act of 1996".

SEC. 2. EXTENSION OF CONTRACTS.

The Secretary of the Interior shall extend the water service contracts for the following projects, entered into by the Secretary of the Interior under subsection (e) of section 9 of the Reclamation Project Act of 1939 (43 U.S.C. 485h) and section 9(c) of the Act of December 22, 1944 (58 Stat. 891, chapter 665), for a period of 4 additional years after the dates on which each of the contracts, respectively, would expire but for this section:

(1) The Bostwick Unit (Kansas portion), Missouri River Basin Project, consisting of the project constructed and operated under the Act of December 22, 1944 (58 Stat. 887, chapter 665), as a component of the Pick-Sloan Missouri Basin Program, situated in Republic County, Jewell County, and Cloud County, Kansas.

(2) The Bostwick Unit (Nebraska portion), Missouri River Basin Project, consisting of the project constructed and operated under the Act of December 22, 1944 (58 Stat. 887, chapter 665), as a component of the Pick-Sloan Missouri Basin Program, situated in Harlan County, Franklin County, Webster County, and Nuckolls County, Nebraska.

(3) The Farwell Unit, Missouri River Basin Project, consisting of the project constructed and operated under the Act of December 22, 1944 (58 Stat. 887, chapter 665), and the Act of August 3, 1956 (70 Stat. 975, chapter 923), situated in Howard County, Sherman County, and Valley County, Nebraska.

(4) The Frenchman-Cambridge Unit, Missouri River Basin Project, consisting of the project constructed and operated under the Act of December 22, 1944 (58 Stat. 887, chapter 665), as a component of the Pick-Sloan Missouri Basin Program, situated in Chase County, Frontier County, Hitchcock County, Furnas County, Red Willow County, and Harlan County, Nebraska.

(5) The Frenchman Valley Unit, Missouri River Basin Project, consisting of the project constructed and operated under

the Act of December 22, 1944 (58 Stat. 887, chapter 665), as a component of the Pick-Sloan Missouri Basin Program, situated in Hayes County and Hitchcock County, Nebraska.

(6) The Kirwin Unit, Missouri River Basin Project, consisting of the project constructed and operated under the Act of December 22, 1944 (58 Stat. 887, chapter 665), and the Flood Control Act of 1946 (60 Stat. 641, chapter 596), as a component of the Pick-Sloan Missouri Basin Program, situated in Phillips County, Smith County, and Osborne County, Kansas.

(7) The Sargent Unit, Missouri River Basin Project, consisting of the project constructed and operated under the Act of December 22, 1944 (58 Stat. 887, chapter 665), and the Flood Control Act of 1946 (60 Stat. 641, chapter 596), situated in Blaine County, Custer County, and Valley County, Nebraska.

(8) The Webster Unit, Missouri River Basin Project, consisting of the project constructed and operated under the Act of December 22, 1944 (58 Stat. 887, chapter 665), and the Flood Control Act of 1946 (60 Stat. 641, chapter 596), as a component of the Pick-Sloan Missouri Basin Program, situated in Rooks County and Osborne County, Kansas.

Approved October 19, 1996.

LEGISLATIVE HISTORY—S. 1649:

SENATE REPORTS: No. 104–380 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 142 (1996):
Sept. 28, considered and passed Senate.
Oct. 4, considered and passed House.

Public Law 104–327
104th Congress

An Act

Oct. 19, 1996
[S. 2183]

To make technical corrections to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TECHNICAL CORRECTIONS TO THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996.

(a) CLARIFICATION OF LIMITATION ON CERTAIN FEDERAL OBLIGATIONS FOR 1997.—Section 116(b)(1)(B)(ii)(II) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 is amended— *Ante*, p. 2181.

(1) in item (aa), by striking "the State family assistance grant" and inserting "the sum of the State family assistance grant and the amount, if any, that the State would have been eligible to be paid under the Contingency Fund for State Welfare Programs established under section 403(b) of the Social Security Act (as amended by section 103(a)(1) of this Act), during the period beginning on October 1, 1996, and ending on the date the Secretary of Health and Human Services first receives from the State a plan described in section 402(a) of the Social Security Act (as so amended) if, with respect to such State, the effective date of this Act under subsection (a)(1) were August 22, 1996,"; and

(2) in item (bb)—

(A) by inserting "sum of the" before "State family assistance grant"; and

(B) by striking the period and inserting ", and the amount, if any, that the State would have been eligible to be paid under the Contingency Fund for State Welfare Programs established under section 403(b) of the Social Security Act (as amended by section 103(a)(1) of this Act), during the period beginning on October 1, 1996, and ending on the date the Secretary of Health and Human Services first receives from the State a plan described in section 402(a) of the Social Security Act (as so amended) if, with respect to such State, the effective date of this Act under subsection (a)(1) were August 22, 1996.".

(b) CORRECTIONS RELATED TO THE CONTINGENCY FUND FOR STATE WELFARE PROGRAMS.—Section 403(b)(4)(A) of the Social Security Act, as amended by section 103(a)(1) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, is amended— *Ante*, p. 2115.

(1) in clause (i)(II), by striking "minus any Federal payment with respect to such child care expenditures"; and

(2) in clause (ii)(I)—

(A) by inserting "the sum of" before "the expenditures"; and

(B) by inserting ", and any additional qualified State expenditures, as defined in section 409(a)(7)(B)(i), for child care assistance made under the Child Care and Development Block Grant Act of 1990" before the semicolon.

(c) CLARIFICATION OF HEADING.—The heading of section 116(b)(1) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 is amended by inserting "; LIMITATION ON FISCAL YEARS 1996 AND 1997 PAYMENTS" after "DATE". *Ante*, p. 2181.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the provisions of and the amendments made by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. 42 USC 603 note.

SEC. 2. EXTENSION OF NORTHERN GREAT PLAINS RURAL DEVELOPMENT COMMISSION.

Section 11 of the Northern Great Plains Rural Development Act (Public Law 103–318; 7 U.S.C. 2661 note) is amended by striking "the earlier" and all that follows through the period at the end and inserting "September 30, 1997.".

Approved October 19, 1996.

LEGISLATIVE HISTORY—S. 2183:

CONGRESSIONAL RECORD, Vol. 142 (1996):
Oct. 1, considered and passed Senate.
Oct. 4, considered and passed House.

Public Law 104–328
104th Congress

An Act

Oct. 19, 1996
[S. 2198]

To provide for the Advisory Commission on Intergovernmental Relations to continue in existence, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

42 USC prec. 4271 note.

SECTION 1. (a) Notwithstanding the provision under the heading "ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS" under title IV of the Treasury, Postal Service, and General Government Appropriations Act, 1996 (Public Law 104–52; 109 Stat. 480), the Advisory Commission on Intergovernmental Relations may continue in existence solely for the purpose of performing any contract entered into under section 7(a) of the National Gambling Impact Study Commission Act (Public Law 104–169; 110 Stat. 1487). The Advisory Commission on Intergovernmental Relations shall terminate on the date of the completion of such contract.

Termination date.

(b) The Advisory Commission on Intergovernmental Relations and employees of the Commission who are considered to be Federal employees under section 6(e) of Public Law 96–380 (42 U.S.C. 4276(e)) shall make contributions to and participate in Federal health insurance, life insurance, and retirement programs to the same extent and in the same manner as before the date of enactment of this section. The Commission shall make any such contributions from funds received through contracts.

SEC. 2. Section 615 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1997 (contained in Pub. L. No. 104–208) is amended by deleting "and 'Community Oriented Policing Services Program'" and by deleting "and part Q of title I of the Omnibus Crime Control and Safe Streets Act of 1968". The amendments made by this section shall take effect upon enactment.

Ante, p. 3009.

Effective date.

Approved October 19, 1996.

LEGISLATIVE HISTORY—S. 2198:

CONGRESSIONAL RECORD, Vol. 142 (1996):
Oct. 3, considered and passed Senate.
Oct. 4, considered and passed House.

Public Law 104–329
104th Congress

An Act

To establish United States commemorative coin programs, and for other purposes.

Oct. 20, 1996
[H.R. 1776]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

United States Commemorative Coin Act of 1996.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

31 USC 5101 note.

(a) SHORT TITLE.—This Act may be cited as the "United States Commemorative Coin Act of 1996".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.

TITLE I—COMMEMORATIVE COIN PROGRAMS

Sec. 101. Commemorative coin programs.
Sec. 102. Design.
Sec. 103. Legal tender.
Sec. 104. Sources of bullion.
Sec. 105. Quality of coins.
Sec. 106. Sale of coins.
Sec. 107. General waiver of procurement regulations.
Sec. 108. Financial assurances.

TITLE II—NATIONAL LAW ENFORCEMENT OFFICERS MEMORIAL MAINTENANCE FUND

Sec. 201. National Law Enforcement Officers Memorial Maintenance Fund.

TITLE III—STUDY OF FIFTY STATES COMMEMORATIVE COIN PROGRAM

Sec. 301. Short title.
Sec. 302. Study.
Sec. 303. Fixed terms for members of the Citizens Commemorative Coin Advisory Committee.
Sec. 304. Mint managerial staffing reform.

SEC. 2. DEFINITIONS.

31 USC 5112 note.

For purposes of this Act—

(1) the term "Fund" means the National Law Enforcement Officers Memorial Maintenance Fund established under section 201;

(2) the term "recipient organization" means an organization described in section 101 to which surcharges received by the Secretary from the sale of coins issued under this Act are paid; and

(3) the term "Secretary" means the Secretary of the Treasury.

31 USC 5112 note.

TITLE I—COMMEMORATIVE COIN PROGRAMS

SEC. 101. COMMEMORATIVE COIN PROGRAMS.

In accordance with the recommendations of the Citizens Commemorative Coin Advisory Committee, the Secretary shall mint and issue the following coins:

(1) DOLLEY MADISON.—

(A) IN GENERAL.—In commemoration of the 150th anniversary of the death of Dolley Madison, the Secretary shall mint and issue not more than 500,000 $1 coins, each of which shall—

(i) weigh 26.73 grams;

(ii) have a diameter of 1.500 inches; and

(iii) contain 90 percent silver and 10 percent copper.

(B) DESIGN OF COINS.—The design of the coins minted under this paragraph shall be emblematic of the 150th anniversary of the death of Dolley Madison and the life and achievements of the wife of the fourth President of the United States.

(C) MINT FACILITY.—Only 1 facility of the United States Mint may be used to strike any particular quality of the coins minted under this paragraph.

(D) ISSUANCE OF COINS.—

(i) COMMENCEMENT OF ISSUANCE.—The Secretary may issue coins minted under this paragraph beginning January 1, 1999.

(ii) TERMINATION OF MINTING AUTHORITY.—No coins may be minted under this paragraph after December 31, 1999.

(E) SURCHARGES.—All sales of the coins issued under this paragraph shall include a surcharge of $10 per coin.

(F) DISTRIBUTION OF SURCHARGES.—Subject to section 5134(f) of title 31, United States Code (as added by section 301(b) of this Act), all surcharges received by the Secretary from the sale of coins issued under this paragraph shall be promptly paid by the Secretary to the National Trust for Historic Preservation in the United States (hereafter in this paragraph referred to as the "National Trust") to be used—

(i) to establish an endowment to be a permanent source of support for Montpelier, the home of James and Dolley Madison and a museum property of the National Trust; and

(ii) to fund capital restoration projects at Montpelier.

(2) GEORGE WASHINGTON.—

(A) IN GENERAL.—The Secretary shall mint and issue not more than 100,000 $5 coins, each of which shall—

(i) weigh 8.359 grams;

(ii) have a diameter of 0.850 inches; and

(iii) contain 90 percent gold and 10 percent alloy.

(B) DESIGN OF COINS.—The design of the coins minted under this paragraph shall be emblematic of George Washington, the first President of the United States.

(C) MINT FACILITY.—Only 1 facility of the United States Mint may be used to strike any particular quality of the coins minted under this paragraph.

(D) ISSUANCE OF COINS.—

(i) COMMENCEMENT OF ISSUANCE.—The Secretary may issue coins minted under this paragraph beginning May 1, 1999.

(ii) TERMINATION OF MINTING AUTHORITY.—No coins may be minted under this paragraph after November 31, 1999.

(E) SURCHARGES.—All sales of coins minted under this paragraph shall include a surcharge of $35 per coin.

(F) DISTRIBUTION OF SURCHARGES.—Subject to section 5134(f) of title 31, United States Code (as added by section 301(b) of this Act), all surcharges received by the Secretary from the sale of coins issued under this paragraph shall be promptly paid by the Secretary to the Mount Vernon Ladies' Association (hereafter in this paragraph referred to as the "Association") to be used—

(i) to supplement the Association's endowment for the purpose of providing a permanent source of support for the preservation of George Washington's home; and

(ii) to provide financial support for the continuation and expansion of the Association's efforts to educate the American people about the life of George Washington.

(3) BLACK REVOLUTIONARY WAR PATRIOTS.—

(A) IN GENERAL.—In commemoration of Black Revolutionary War patriots and the 275th anniversary of the birth of the first Black Revolutionary War patriot, Crispus Attucks, who was the first American colonist killed by British troops during the Revolutionary period, the Secretary shall mint and issue not more than 500,000 $1 coins, each of which shall—

(i) weigh 26.73 grams;

(ii) have a diameter of 1.500 inches; and

(iii) contain 90 percent silver and 10 percent copper.

(B) DESIGN OF COINS.—The design of the coins minted under this paragraph—

(i) on the obverse side of the coins, shall be emblematic of the first Black Revolutionary War patriot, Crispus Attucks; and

(ii) on the reverse side of such coins, shall be emblematic of the Black Revolutionary War Patriots Memorial.

(C) MINT FACILITY.—Only 1 facility of the United States Mint may be used to strike any particular quality of the coins minted under this paragraph.

(D) ISSUANCE OF COINS.—The Secretary may issue coins minted under this paragraph only during the period beginning on January 1, 1998, and ending on December 31, 1998.

(E) SURCHARGES.—All sales of coins issued under this paragraph shall include a surcharge of $10 per coin.

(F) DISTRIBUTION OF SURCHARGES.—Subject to section 5134(f) of title 31, United States Code (as added by section

301(b) of this Act), all surcharges received by the Secretary from the sale of coins issued under this paragraph shall be promptly paid by the Secretary to the Black Revolutionary War Patriots Foundation for the purpose of establishing an endowment to support the construction of a Black Revolutionary War Patriots Memorial.

(4) FRANKLIN DELANO ROOSEVELT.—

(A) IN GENERAL.—To commemorate the public opening of the Franklin Delano Roosevelt Memorial in Washington, D.C., which will honor President Roosevelt's leadership and legacy, during a 1-year period beginning on or after May 15, 1997, the Secretary shall issue not more than 100,000 $5 coins, each of which shall—

(i) weigh 8.359 grams;

(ii) have a diameter of 0.850 inches; and

(iii) contain 90 percent gold and 10 percent alloy.

(B) MINT FACILITY.—Only 1 facility of the United States Mint may be used to strike any particular quality of the coins minted under this paragraph.

(C) SURCHARGES.—All sales of the coins issued under this paragraph shall include a surcharge of $35 per coin.

(D) DISTRIBUTION OF SURCHARGES.—Subject to section 5134(f) of title 31, United States Code (as added by section 301(b) of this Act), all surcharges received by the Secretary from the sale of coins issued under this paragraph shall be promptly paid by the Secretary to the Franklin Delano Roosevelt Memorial Commission.

(5) YELLOWSTONE NATIONAL PARK.—

(A) IN GENERAL.—To commemorate the 125th anniversary of the establishment of Yellowstone National Park as the first national park in the United States, and the birth of the national park idea, during a 1-year period beginning in 1999, the Secretary shall issue not more than 500,000 $1 coins, each of which shall—

(i) weigh 26.73 grams;

(ii) have a diameter of 1.500 inches; and

(iii) contain 90 percent silver and 10 percent alloy.

(B) MINT FACILITY.—Only 1 facility of the United States Mint may be used to strike any particular quality of the coins minted under this paragraph.

(C) SURCHARGES.—All sales of the coins issued under this paragraph shall include a surcharge of $10 per coin.

(D) DISTRIBUTION OF SURCHARGES.—Subject to section 5134(f) of title 31, United States Code (as added by section 301(b) of this Act), all surcharges received by the Secretary from the sale of coins issued under this paragraph shall be promptly paid by the Secretary in accordance with the following:

(i) Fifty percent of the surcharges received shall be paid to the National Park Foundation to be used for the support of national parks.

(ii) Fifty percent of the surcharges received shall be paid to Yellowstone National Park.

(6) NATIONAL LAW ENFORCEMENT OFFICERS MEMORIAL.—

(A) IN GENERAL.—To recognize the sacrifice of law enforcement officers and their families in preserving public safety, during a 1-year period beginning on or after

December 15, 1997, the Secretary shall issue not more than 500,000 $1 coins, each of which shall—

(i) weigh 26.73 grams;

(ii) have a diameter of 1.500 inches; and

(iii) contain 90 percent silver and 10 percent alloy.

(B) MINT FACILITY.—Only 1 facility of the United States Mint may be used to strike any particular quality of the coins minted under this paragraph.

(C) SURCHARGES.—All sales of the coins issued under this paragraph shall include a surcharge of $10 per coin.

(D) DISTRIBUTION OF SURCHARGES.—Subject to section 5134(f) of title 31, United States Code (as added by section 301(b) of this Act), after receiving surcharges from the sale of the coins issued under this paragraph, the Secretary shall transfer to the Secretary of the Interior an amount equal to the surcharges received from the sale of the coins issued under this paragraph, which amount shall be deposited in the Fund established under section 201.

(7) JACKIE ROBINSON.—

(A) IN GENERAL.—In commemoration of the 50th anniversary of the breaking of the color barrier in major league baseball by Jackie Robinson and the legacy that Jackie Robinson left to society, the Secretary shall mint and issue—

(i) not more than 100,000 $5 coins, each of which shall—

(I) weigh 8.359 grams;

(II) have a diameter of 0.850 inches; and

(III) contain 90 percent gold and 10 percent alloy; and

(ii) not more than 200,000 $1 coins, each of which shall—

(I) weigh 26.73 grams;

(II) have a diameter of 1.500 inches; and

(III) contain 90 percent silver and 10 percent copper.

(B) DESIGN OF COINS.—The design of the coins minted under this paragraph shall be emblematic of Jackie Robinson and his contributions to major league baseball and to society.

(C) MINT FACILITY.—Only 1 facility of the United States Mint may be used to strike any particular quality of the coins minted under this paragraph.

(D) ISSUANCE OF COINS.—The Secretary may issue coins minted under this paragraph only during the period beginning on July 1, 1997, and ending on July 1, 1998.

(E) SURCHARGES.—All sales of the coins issued under—

(i) subparagraph (A)(i) shall include a surcharge of $35 per coin; and

(ii) subparagraph (A)(ii) shall include a surcharge of $10 per coin.

(F) DISTRIBUTION OF SURCHARGES.—Subject to section 5134(f) of title 31, United States Code (as added by section 301(b) of this Act)—

(i) all surcharges received by the Secretary from the sale of the initial 100,000 coins issued under subparagraph (A)(ii), shall be promptly paid by the

Secretary to the National Fund for the United States Botanic Garden; and

(ii) all surcharges received by the Secretary from the sale of any coins issued under this paragraph (other than the coins described in clause (i)) shall be promptly paid by the Secretary to the Jackie Robinson Foundation for the purposes of—

(I) enhancing the programs of the Jackie Robinson Foundation in the fields of education and youth leadership skills development; and

(II) increasing the availability of scholarships for economically disadvantaged youths.

SEC. 102. DESIGN.

(a) SELECTION.—The design for each coin issued under this paragraph shall be—

(1) selected by the Secretary after consultation with the appropriate recipient organization or organizations and the Commission of Fine Arts; and

(2) reviewed by the Citizens Commemorative Coin Advisory Committee.

(b) DESIGNATION AND INSCRIPTIONS.—On each coin issued under this paragraph there shall be—

(1) a designation of the value of the coin;

(2) an inscription of the year; and

(3) inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

SEC. 103. LEGAL TENDER.

(a) LEGAL TENDER.—The coins issued under this title shall be legal tender, as provided in section 5103 of title 31, United States Code.

(b) NUMISMATIC ITEMS.—For purposes of section 5134(f) of title 31, United States Code, all coins minted under this title shall be considered to be numismatic items.

SEC. 104. SOURCES OF BULLION.

(a) GOLD.—The Secretary shall obtain gold for minting coins under this title pursuant to the authority of the Secretary under other provisions of law.

(b) SILVER.—The Secretary shall obtain silver for minting coins under this title from sources the Secretary determines to be appropriate, including stockpiles established under the Strategic and Critical Materials Stock Piling Act.

SEC. 105. QUALITY OF COINS.

Each coin minted under this title shall be issued in uncirculated and proof qualities.

SEC. 106. SALE OF COINS.

(a) SALE PRICE.—Each coin issued under this title shall be sold by the Secretary at a price equal to the sum of—

(1) the face value of the coin;

(2) the surcharge provided in section 101 with respect to the coin; and

(3) the cost of designing and issuing the coin (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping).

(b) PREPAID ORDERS.—

(1) IN GENERAL.—The Secretary shall accept prepaid orders for the coins minted under this title before the issuance of such coins.

(2) DISCOUNT.—Sale prices with respect to prepaid orders under paragraph (1) shall be at a reasonable discount.

SEC. 107. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

Section 5112(j) of title 31, United States Code, shall apply to the procurement of goods or services necessary to carrying out the programs and operations of the United States Mint under this title.

SEC. 108. FINANCIAL ASSURANCES.

(a) NO NET COST TO THE GOVERNMENT.—The Secretary shall take such actions as may be necessary to ensure that minting and issuing coins under this title will not result in any net cost to the United States Government.

(b) PAYMENT FOR COINS.—A coin shall not be issued under this title unless the Secretary has received—

(1) full payment for the coin;

(2) security satisfactory to the Secretary to indemnify the United States for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration Board.

TITLE II—NATIONAL LAW ENFORCEMENT OFFICERS MEMORIAL MAINTENANCE FUND

SEC. 201. NATIONAL LAW ENFORCEMENT OFFICERS MEMORIAL MAINTENANCE FUND. 16 USC 431 note.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established the National Law Enforcement Officers Memorial Maintenance Fund, which shall be a revolving fund administered by the Secretary of the Interior (or the designee of the Secretary of the Interior).

(2) FUNDING.—Amounts in the Fund shall include—

(A) amounts deposited in the Fund under section 101(6); and

(B) any donations received under paragraph (3).

(3) DONATIONS.—The Secretary of the Interior may accept donations to the Fund.

(4) INTEREST-BEARING ACCOUNT.—The Fund shall be maintained in an interest-bearing account within the Treasury of the United States.

(b) PURPOSES.—The Fund shall be used—

(1) for the maintenance and repair of the National Law Enforcement Officers Memorial in Washington, D.C.;

(2) to periodically add the names of law enforcement officers who have died in the line of duty to the National Law Enforcement Officers Memorial;

(3) for the security of the National Law Enforcement Officers Memorial site, including the posting of National Park Service rangers and United States Park Police, as appropriate;

(4) at the discretion of the Secretary of the Interior and in consultation with the Secretary and the Attorney General of the United States, who shall establish an equitable procedure between the Fund and such other organizations as may be appropriate, to provide educational scholarships to the immediate family members of law enforcement officers killed in the line of duty whose names appear on the National Law Enforcement Officers Memorial, the total annual amount of such scholarships not to exceed 10 percent of the annual income of the Fund;

(5) for the dissemination of information regarding the National Law Enforcement Officers Memorial to the general public;

(6) to administer the Fund, including contracting for necessary services, in an amount not to exceed the lesser of—

(A) 10 percent of the annual income of the Fund; or

(B) $200,000 during any 1-year period; and

(7) at the discretion of the Secretary of the Interior, in consultation with the Fund, for appropriate purposes in the event of an emergency affecting the operation of the National Law Enforcement Officers Memorial, except that, during any 1-year period, not more than $200,000 of the principal of the Fund may be used to carry out this paragraph.

(c) BUDGET AND AUDIT TREATMENT.—The Fund shall be subject to the budget and audit provisions of chapter 91 of title 31, United States Code.

50 States Commemorative Coin Program Act.

TITLE III—STUDY OF FIFTY STATES COMMEMORATIVE COIN PROGRAM

31 USC 5101 note.

SEC. 301. SHORT TITLE.

This title may be cited as the "50 States Commemorative Coin Program Act".

31 USC 5112 note.

SEC. 302. STUDY.

(a) STUDY.—The Secretary of the Treasury shall by June 1, 1997 complete a study of the feasibility of a circulating commemorative coin program to commemorate each of the 50 States. The study shall assess likely public acceptance of and consumer demand for different coins that might be issued in connection with such a program (taking into consideration the pace of issuance of coins and the length of such a program), a comparison of the costs of producing coins issued under the program and the revenue that the program would generate, the impact on coin distribution systems, the advantages and disadvantages of different approaches to selecting designs for coins in such a program, and such other factors as the Secretary considers appropriate in deciding upon the feasibility of such a program. No steps taken in order to gather information for this study shall be considered a collection of information within the meaning of section 3502 of title 44, United States Code.

(b) REPORT.—The Secretary shall submit the study required in subsection (a) above, to the Committee on Banking and Financial Services of the House of Representatives and the Committee on Banking, Housing and Urban Affairs of the Senate, simultaneously on its receipt by the Secretary.

(c) 50-STATE COMMEMORATIVE COIN PROGRAM.—The Secretary shall determine by August 1, 1997 whether the results of the study authorized by subsection (a) justify such a program. If the Secretary determines that such a program is justified, then he shall by January 1, 1999, notwithstanding the fourth sentence of subsection (d)(1) and subsection (d)(2) of section 5112, title 31, United States Code, commence a commemorative coin program consisting of the minting and issuance of quarter dollar coins bearing designs, selected in accordance with paragraph (4) of this subsection, which are emblematic of the 50 States. If the Secretary determines that such a commemorative coin program is justified but that it is not practicable to commence the program by January 1, 1999, then he shall notify the Committee on Banking and Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate of such impracticability and of the date on which the program will commence. Notification.

(1) DESIGN.—The design for each quarter dollar issued under the program shall be emblematic of 1 of the 50 States. The designs for quarter dollar coins issued during each year of the program shall be emblematic of States which have not previously been commemorated under the program.

(2) ORDER OF ISSUANCE.—Each State will be honored by a coin in the order of that State's admission to the United States.

(3) NUMBER OF COINS.—Of the quarter dollar coins issued during each year of the program, the Secretary shall prescribe, on the basis of such factors as the Secretary determines to be appropriate, the number of quarter dollar coins which shall be issued with each of the designs selected for such year.

(4) SELECTION OF DESIGN.—Each of the 50 designs required for quarter dollars issued under the program shall be—

(A) selected pursuant to a process, decided upon by the Secretary, on the basis of the study conducted pursuant to subsection (a), which process shall involve, among other things, consultation with appropriate officials of the State being commemorated with such design; and

(B) reviewed by the Citizens Commemorative Coin Advisory Committee and the Commission of Fine Arts.

(5) TREATMENT AS NUMISMATIC ITEMS.—For purposes of sections 5134 and 5136 of title 31, United States Code, all coins minted under this section shall be considered to be numismatic items.

(6) NUMISMATIC ITEMS.—

(A) QUALITY OF COINS.—The Secretary may mint and issue such number of quarter dollars of each design selected under paragraph (4) of this subsection in uncirculated and proof qualities as the Secretary determines to be appropriate.

(B) SILVER COINS.—Notwithstanding the provisions of subsection 5112(b) of title 31, United States Code, the Secretary may mint and issue such number of quarter dollars of each design selected under paragraph (4) of this subsection as the Secretary determines to be appropriate with a content of 90 percent silver and 10 percent copper.

(C) SOURCES OF BULLION.—The Secretary may obtain silver for minting coins under paragraph (6)(B) from stockpiles established under the Strategic and Critical Materials Stock Piling Act.

(d) FUNDING.—Funds used to complete this study shall be offset from funds from the Department of the Treasury.

SEC. 303. FIXED TERMS FOR MEMBERS OF THE CITIZENS COMMEMORATIVE COIN ADVISORY COMMITTEE.

(a) IN GENERAL.—Section 5135(a)(4) of title 31, United States Code, is amended to read as follows:

"(4) TERMS.—

"(A) IN GENERAL.—Each individual appointed to the Advisory Committee under clause (i) or (iii) of paragraph (3)(A) shall be appointed for a term of 4 years.

"(B) INTERIM APPOINTMENTS.—Any member appointed to fill a vacancy occurring before the expiration of the term for which such member's predecessor was appointed shall be appointed only for the remainder of such term.

"(C) CONTINUATION OF SERVICE.—Each member appointed under clause (i) or (iii) of paragraph (3)(A) may continue to serve after the expiration of the term to which such member was appointed until a successor has been appointed and qualified.".

31 USC 5135 note.

(b) STAGGERED TERMS.—Of the members appointed to the Citizens Commemorative Coin Advisory Committee under clause (i) or (iii) of section 5135(a)(3)(A) of title 31, United States Code, who are serving on the Advisory Committee as of the date of the enactment of this Act—

(1) 1 member appointed under clause (i) and 1 member appointed under clause (iii), as designated by the Secretary, shall be deemed to have been appointed to a term which ends on December 31, 1997;

(2) 1 member appointed under clause (i) and 1 member appointed under clause (iii), as designated by the Secretary, shall be deemed to have been appointed to a term which ends on December 31, 1998; and

(3) 1 member appointed under clause (i) and 1 member appointed under clause (iii), as designated by the Secretary, shall be deemed to have been appointed to a term which ends on December 31, 1999.

(c) STATUS OF MEMBERS.—The members appointed to the Citizens Commemorative Coin Advisory Committee under clause (i) or (iii) of section 5135(a)(3)(A) of title 31, United States Code, shall not be treated as special Government employees. 31 USC 5135 note.

SEC. 304. MINT MANAGERIAL STAFFING REFORM.

Section 5131 of title 31, United States Code, is amended—
(1) by striking subsection (c); and
(2) by redesignating subsection (d) as subsection (c).

Approved October 20, 1996.

LEGISLATIVE HISTORY—H.R. 1776:

CONGRESSIONAL RECORD, Vol. 142 (1996):
Sept. 17, considered and passed House.
Oct. 3, considered and passed Senate, amended.
Oct. 4, House concurred in Senate amendments.

Public Law 104–330
104th Congress

An Act

Oct. 26, 1996
[H.R. 3219]

To provide Federal assistance for Indian tribes in a manner that recognizes the right of tribal self-governance, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Native American Housing Assistance and Self-Determination Act of 1996.
25 USC 4101 note.

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Native American Housing Assistance and Self-Determination Act of 1996".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Congressional findings.
Sec. 3. Administration through Office of Native American Programs.
Sec. 4. Definitions.

TITLE I—BLOCK GRANTS AND GRANT REQUIREMENTS

Sec. 101. Block grants.
Sec. 102. Indian housing plans.
Sec. 103. Review of plans.
Sec. 104. Treatment of program income and labor standards.
Sec. 105. Environmental review.
Sec. 106. Regulations.
Sec. 107. Effective date.
Sec. 108. Authorization of appropriations.

TITLE II—AFFORDABLE HOUSING ACTIVITIES

Sec. 201. National objectives and eligible families.
Sec. 202. Eligible affordable housing activities.
Sec. 203. Program requirements.
Sec. 204. Types of investments.
Sec. 205. Low-income requirement and income targeting.
Sec. 206. Certification of compliance with subsidy layering requirements.
Sec. 207. Lease requirements and tenant selection.
Sec. 208. Availability of records.
Sec. 209. Repayment.
Sec. 210. Continued use of amounts for affordable housing.

TITLE III—ALLOCATION OF GRANT AMOUNTS

Sec. 301. Annual allocation.
Sec. 302. Allocation formula.

TITLE IV—COMPLIANCE, AUDITS, AND REPORTS

Sec. 401. Remedies for noncompliance.
Sec. 402. Replacement of recipient.
Sec. 403. Monitoring of compliance.
Sec. 404. Performance reports.
Sec. 405. Review and audit by Secretary.
Sec. 406. GAO audits.
Sec. 407. Reports to Congress.

TITLE V—TERMINATION OF ASSISTANCE FOR INDIAN TRIBES UNDER INCORPORATED PROGRAMS

Sec. 501. Repeal of provisions relating to Indian housing assistance under United States Housing Act of 1937.

Sec. 502. Termination of Indian housing assistance under United States Housing Act of 1937.
Sec. 503. Termination of new commitments for rental assistance.
Sec. 504. Termination of youthbuild program assistance.
Sec. 505. Termination of HOME program assistance.
Sec. 506. Termination of housing assistance for the homeless.
Sec. 507. Savings provision.
Sec. 508. Effective date.

TITLE VI—FEDERAL GUARANTEES FOR FINANCING FOR TRIBAL HOUSING ACTIVITIES

Sec. 601. Authority and requirements.
Sec. 602. Security and repayment.
Sec. 603. Payment of interest.
Sec. 604. Training and information.
Sec. 605. Limitations on amount of guarantees.
Sec. 606. Effective date.

TITLE VII—OTHER HOUSING ASSISTANCE FOR NATIVE AMERICANS

Sec. 701. Loan guarantees for Indian housing.
Sec. 702. 50-year leasehold interest in trust or restricted lands for housing purposes.
Sec. 703. Training and technical assistance.
Sec. 704. Public and Assisted Housing Drug Elimination Act of 1990.
Sec. 705. Effective date.

SEC. 2. CONGRESSIONAL FINDINGS. 25 USC 4101.

The Congress finds that—

(1) the Federal Government has a responsibility to promote the general welfare of the Nation—

(A) by using Federal resources to aid families and individuals seeking affordable homes in safe and healthy environments and, in particular, assisting responsible, deserving citizens who cannot provide fully for themselves because of temporary circumstances or factors beyond their control;

(B) by working to ensure a thriving national economy and a strong private housing market; and

(C) by developing effective partnerships among the Federal Government, State, tribal, and local governments, and private entities that allow government to accept responsibility for fostering the development of a healthy marketplace and allow families to prosper without government involvement in their day-to-day activities;

(2) there exists a unique relationship between the Government of the United States and the governments of Indian tribes and a unique Federal responsibility to Indian people;

(3) the Constitution of the United States invests the Congress with plenary power over the field of Indian affairs, and through treaties, statutes, and historical relations with Indian tribes, the United States has undertaken a unique trust responsibility to protect and support Indian tribes and Indian people;

(4) the Congress, through treaties, statutes, and the general course of dealing with Indian tribes, has assumed a trust responsibility for the protection and preservation of Indian tribes and for working with tribes and their members to improve their housing conditions and socioeconomic status so that they are able to take greater responsibility for their own economic condition;

(5) providing affordable homes in safe and healthy environments is an essential element in the special role of the United

States in helping tribes and their members to improve their housing conditions and socioeconomic status;

(6) the need for affordable homes in safe and healthy environments on Indian reservations, in Indian communities, and in Native Alaskan villages is acute and the Federal Government should work not only to provide housing assistance, but also, to the extent practicable, to assist in the development of private housing finance mechanisms on Indian lands to achieve the goals of economic self-sufficiency and self-determination for tribes and their members; and

(7) Federal assistance to meet these responsibilities should be provided in a manner that recognizes the right of Indian self-determination and tribal self-governance by making such assistance available directly to the Indian tribes or tribally designated entities under authorities similar to those accorded Indian tribes in Public Law 93–638 (25 U.S.C. 450 et seq.).

25 USC 4102.

SEC. 3. ADMINISTRATION THROUGH OFFICE OF NATIVE AMERICAN PROGRAMS.

The Secretary of Housing and Urban Development shall carry out this Act through the Office of Native American Programs of the Department of Housing and Urban Development.

25 USC 4103.

SEC. 4. DEFINITIONS.

For purposes of this Act, the following definitions shall apply:

(1) ADJUSTED INCOME.—The term "adjusted income" means the annual income that remains after excluding the following amounts:

(A) YOUTHS, STUDENTS, AND PERSONS WITH DISABILITIES.—$480 for each member of the family residing in the household (other than the head of the household or the spouse of the head of the household)—

(i) who is under 18 years of age; or

(ii) who is—

(I) 18 years of age or older; and

(II) a person with disabilities or a full-time student.

(B) ELDERLY AND DISABLED FAMILIES.—$400 for an elderly or disabled family.

(C) MEDICAL AND ATTENDANT EXPENSES.—The amount by which 3 percent of the annual income of the family is exceeded by the aggregate of—

(i) medical expenses, in the case of an elderly or disabled family; and

(ii) reasonable attendant care and auxiliary apparatus expenses for each family member who is a person with disabilities, to the extent necessary to enable any member of the family (including a member who is a person with disabilities) to be employed.

(D) CHILD CARE EXPENSES.—Child care expenses, to the extent necessary to enable another member of the family to be employed or to further his or her education.

(E) EARNED INCOME OF MINORS.—The amount of any earned income of any member of the family who is less than 18 years of age.

(F) TRAVEL EXPENSES.—Excessive travel expenses, not to exceed $25 per family per week, for employment- or education-related travel.

(G) OTHER AMOUNTS.—Such other amounts as may be provided in the Indian housing plan for an Indian tribe.

(2) AFFORDABLE HOUSING.—The term "affordable housing" means housing that complies with the requirements for affordable housing under title II. The term includes permanent housing for homeless persons who are persons with disabilities, transitional housing, and single room occupancy housing.

(3) DRUG-RELATED CRIMINAL ACTIVITY.—The term "drug-related criminal activity" means the illegal manufacture, sale, distribution, use, or possession with intent to manufacture, sell, distribute, or use, of a controlled substance (as such term is defined in section 102 of the Controlled Substances Act).

(4) ELDERLY FAMILIES AND NEAR-ELDERLY FAMILIES.—The terms "elderly family" and "near-elderly family" mean a family whose head (or his or her spouse), or whose sole member, is an elderly person or a near-elderly person, respectively. Such terms include 2 or more elderly persons or near-elderly persons living together, and 1 or more such persons living with 1 or more persons determined under the Indian housing plan for the agency to be essential to their care or well-being.

(5) ELDERLY PERSON.—The term "elderly person" means a person who is at least 62 years of age.

(6) FAMILY.—The term "family" includes a family with or without children, an elderly family, a near-elderly family, a disabled family, and a single person.

(7) GRANT BENEFICIARY.—The term "grant beneficiary" means the Indian tribe or tribes on behalf of which a grant is made under this Act to a recipient.

(8) INCOME.—The term "income" means income from all sources of each member of the household, as determined in accordance with criteria prescribed by the Secretary, except that the following amounts may not be considered as income under this paragraph:

(A) Any amounts not actually received by the family.

(B) Any amounts that would be eligible for exclusion under section 1613(a)(7) of the Social Security Act.

(9) INDIAN.—The term "Indian" means any person who is a member of an Indian tribe.

(10) INDIAN AREA.—The term "Indian area" means the area within which a tribally designated housing entity is authorized by one or more Indian tribes to provide assistance under this Act for affordable housing.

(11) INDIAN HOUSING PLAN.—The term "Indian housing plan" means a plan under section 102.

(12) INDIAN TRIBE.—

(A) IN GENERAL.—The term "Indian tribe" means a tribe that is a federally recognized tribe or a State recognized tribe.

(B) FEDERALLY RECOGNIZED TRIBE.—The term "federally recognized tribe" means any Indian tribe, band, nation, or other organized group or community of Indians, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act, that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status

as Indians pursuant to the Indian Self-Determination and Education Assistance Act of 1975.

(C) STATE RECOGNIZED TRIBE.—

(i) IN GENERAL.—The term "State recognized tribe" means any tribe, band, nation, pueblo, village, or community—

(I) that has been recognized as an Indian tribe by any State; and

(II) for which an Indian Housing Authority has, before the effective date under section 107, entered into a contract with the Secretary pursuant to the United States Housing Act of 1937 for housing for Indian families and has received funding pursuant to such contract within the 5-year period ending upon such effective date.

(ii) CONDITIONS.—Notwithstanding clause (i)—

(I) the allocation formula under section 302 shall be determined for a State recognized tribe under tribal membership eligibility criteria in existence on the date of the enactment of this Act; and

(II) nothing in this paragraph shall be construed to confer upon a State recognized tribe any rights, privileges, responsibilities, or obligations otherwise accorded groups recognized as Indian tribes by the United States for other purposes.

(13) LOW-INCOME FAMILY.—The term "low-income family" means a family whose income does not exceed 80 percent of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may, for purposes of this paragraph, establish income ceilings higher or lower than 80 percent of the median for the area on the basis of the findings of the Secretary or the agency that such variations are necessary because of prevailing levels of construction costs or unusually high or low family incomes.

(14) MEDIAN INCOME.—The term "median income" means, with respect to an area that is an Indian area, the greater of—

(A) the median income for the Indian area, which the Secretary shall determine; or

(B) the median income for the United States.

(15) NEAR-ELDERLY PERSON.—The term "near-elderly person" means a person who is at least 55 years of age and less than 62 years of age.

(16) NONPROFIT.—The term "nonprofit" means, with respect to an organization, association, corporation, or other entity, that no part of the net earnings of the entity inures to the benefit of any member, founder, contributor, or individual.

(17) PERSON WITH DISABILITIES.—The term "person with disabilities" means a person who—

(A) has a disability as defined in section 223 of the Social Security Act;

(B) is determined, pursuant to regulations issued by the Secretary, to have a physical, mental, or emotional impairment which—

(i) is expected to be of long-continued and indefinite duration;

(ii) substantially impedes his or her ability to live independently; and

(iii) is of such a nature that such ability could be improved by more suitable housing conditions; or

(C) has a developmental disability as defined in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act.

Such term shall not exclude persons who have the disease of acquired immunodeficiency syndrome or any conditions arising from the etiologic agent for acquired immunodeficiency syndrome. Notwithstanding any other provision of law, no individual shall be considered a person with disabilities, for purposes of eligibility for housing assisted under this Act, solely on the basis of any drug or alcohol dependence. The Secretary shall consult with other appropriate Federal agencies to implement the preceding sentence.

(18) RECIPIENT.—The term "recipient" means an Indian tribe or the entity for one or more Indian tribes that is authorized to receive grant amounts under this Act on behalf of the tribe or tribes.

(19) SECRETARY.—Except as otherwise specifically provided in this Act, the term "Secretary" means the Secretary of Housing and Urban Development.

(20) STATE.—The term "State" means the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, and any other territory or possession of the United States and Indian tribes.

(21) TRIBALLY DESIGNATED HOUSING ENTITY.—The terms "tribally designated housing entity" and "housing entity" have the following meaning:

(A) EXISTING IHA'S.—With respect to any Indian tribe that has not taken action under subparagraph (B), and for which an Indian housing authority—

(i) was established for purposes of the United States Housing Act of 1937 before the date of the enactment of this Act that meets the requirements under the United States Housing Act of 1937,

(ii) is acting upon such date of enactment as the Indian housing authority for the tribe, and

(iii) is not an Indian tribe for purposes of this Act,

the terms mean such Indian housing authority.

(B) OTHER ENTITIES.—With respect to any Indian tribe that, pursuant to this Act, authorizes an entity other than the tribal government to receive grant amounts and provide assistance under this Act for affordable housing for Indians, which entity is established—

(i) by exercise of the power of self-government of one or more Indian tribes independent of State law, or

(ii) by operation of State law providing specifically for housing authorities or housing entities for Indians,

including regional housing authorities in the State of Alaska,

the terms mean such entity.

(C) ESTABLISHMENT.—A tribally designated housing entity may be authorized or established by one or more Indian tribes to act on behalf of each such tribe authorizing or establishing the housing entity.

TITLE I—BLOCK GRANTS AND GRANT REQUIREMENTS

25 USC 4111.

SEC. 101. BLOCK GRANTS.

(a) AUTHORITY.—For each fiscal year, the Secretary shall (to the extent amounts are made available to carry out this Act) make grants under this section on behalf of Indian tribes to carry out affordable housing activities. Under such a grant on behalf of an Indian tribe, the Secretary shall provide the grant amounts for the tribe directly to the recipient for the tribe.

(b) PLAN REQUIREMENT.—

(1) IN GENERAL.—The Secretary may make a grant under this Act on behalf of an Indian tribe for a fiscal year only if—

(A) the Indian tribe has submitted to the Secretary an Indian housing plan for such fiscal year under section 102; and

(B) the plan has been determined under section 103 to comply with the requirements of section 102.

(2) WAIVER.—The Secretary may waive the applicability of the requirements under paragraph (1), in whole or in part, if the Secretary finds that an Indian tribe has not complied or cannot comply with such requirements due to circumstances beyond the control of the tribe.

(c) LOCAL COOPERATION AGREEMENT.—The Secretary may not make any grant under this Act on behalf of an Indian tribe unless the governing body of the locality within which any affordable housing to be assisted with the grant amounts will be situated has entered into an agreement with the recipient for the tribe providing for local cooperation required by the Secretary pursuant to this Act.

(d) EXEMPTION FROM TAXATION.—A grant recipient for an Indian tribe may receive a block grant under this Act only if—

(1) the affordable housing assisted with grant amounts received by the recipient (exclusive of any portions not assisted with amounts provided under this Act) is exempt from all real and personal property taxes levied or imposed by any State, tribe, city, county, or other political subdivision; and

(2) the recipient makes annual payments of user fees to compensate such governments for the costs of providing governmental services, including police and fire protection, roads, water and sewerage systems, utilities systems and related facilities, or payments in lieu of taxes to such taxing authority, in an amount equal to the greater of $150 per dwelling unit or 10 percent of the difference between the shelter rent and the utility cost, or such lesser amount as—

(A) is prescribed by State, tribal, or local law;

(B) is agreed to by the local governing body in the agreement under subsection (c); or

(C) the recipient and the local governing body agree that such user fees or payments in lieu of taxes shall not be made.

(e) EFFECT OF FAILURE TO EXEMPT FROM TAXATION.—Notwithstanding subsection (d), a grant recipient that does not comply with the requirements under such subsection may receive a block grant under this Act, but only if the tribe, State, city, county, or other political subdivision in which the affordable housing development is located contributes, in the form of cash or tax remission, the amount by which the taxes paid with respect to the development exceed the amounts prescribed in subsection (d)(2).

(f) AMOUNT.—Except as otherwise provided under this Act, the amount of a grant under this section to a recipient for a fiscal year shall be—

(1) in the case of a recipient whose grant beneficiary is a single Indian tribe, the amount of the allocation under section 301 for the Indian tribe; and

(2) in the case of a recipient whose grant beneficiary is more than 1 Indian tribe, the sum of the amounts of the allocations under section 301 for each such Indian tribe.

(g) USE FOR AFFORDABLE HOUSING ACTIVITIES UNDER PLAN.—Except as provided in subsection (h), amounts provided under a grant under this section may be used only for affordable housing activities under title II that are consistent with an Indian housing plan approved under section 103.

(h) ADMINISTRATIVE EXPENSES.—The Secretary shall, by regulation, authorize each recipient to use a percentage of any grant amounts received under this Act for any reasonable administrative and planning expenses of the recipient relating to carrying out this Act and activities assisted with such amounts, which may include costs for salaries of individuals engaged in administering and managing affordable housing activities assisted with grant amounts provided under this Act and expenses of preparing an Indian housing plan under section 102. Regulations.

(i) PUBLIC-PRIVATE PARTNERSHIPS.—Each recipient shall make all reasonable efforts, consistent with the purposes of this Act, to maximize participation by the private sector, including nonprofit organizations and for-profit entities, in implementing the approved Indian housing plan.

SEC. 102. INDIAN HOUSING PLANS. 25 USC 4112.

(a) PLAN SUBMISSION.—The Secretary shall provide—

(1) for an Indian tribe to submit to the Secretary, for each fiscal year, a housing plan under this section for the tribe;

(2) for the tribally designated housing entity for the tribe to submit the plan as provided in subsection (d) for the tribe; and

(3) for the review of such plans.

(b) 5-YEAR PLAN.—Each housing plan under this section shall be in a form prescribed by the Secretary and shall contain, with respect to the 5-year period beginning with the fiscal year for which the plan is submitted, the following information:

(1) MISSION STATEMENT.—A general statement of the mission of the Indian tribe to serve the needs of the low-

income families in the jurisdiction of the Indian tribe during the period.

(2) GOALS AND OBJECTIVES.—A statement of the goals and objectives of the Indian tribe to enable the tribe to serve the needs identified in paragraph (1) during the period.

(3) ACTIVITIES PLAN.—An overview of the activities planned during the period including an analysis of the manner in which the activities will enable the tribe to meet its mission, goals, and objectives.

(c) 1-YEAR PLAN.—A housing plan under this section for an Indian tribe shall be in a form prescribed by the Secretary and contain the following information relating to the upcoming fiscal year for which the assistance under this Act is to be made available:

(1) GOALS AND OBJECTIVES.—A statement of the goals and objectives to be accomplished during that period.

(2) STATEMENT OF NEEDS.—A statement of the housing needs of the low-income Indian families residing in the jurisdiction of the Indian tribe and the means by which such needs will be addressed during the period, including—

(A) a description of the estimated housing needs and the need for assistance for the low-income Indian families in the jurisdiction, including a description of the manner in which the geographical distribution of assistance is consistent with the geographical needs and needs for various categories of housing assistance; and

(B) a description of the estimated housing needs for all Indian families in the jurisdiction.

(3) FINANCIAL RESOURCES.—An operating budget for the recipient, in a form prescribed by the Secretary, that includes—

(A) an identification and a description of the financial resources reasonably available to the recipient to carry out the purposes of this Act, including an explanation of the manner in which amounts made available will leverage additional resources; and

(B) the uses to which such resources will be committed, including eligible and required affordable housing activities under title II and administrative expenses.

(4) AFFORDABLE HOUSING RESOURCES.—A statement of the affordable housing resources currently available and to be made available during the period, including—

(A) a description of the significant characteristics of the housing market in the jurisdiction, including the availability of housing from other public sources, private market housing, and the manner in which such characteristics influence the decision of the recipient to use grant amounts to be provided under this Act for rental assistance, production of new units, acquisition of existing units, or rehabilitation of units;

(B) a description of the structure, coordination, and means of cooperation between the recipient and any other governmental entities in the development, submission, or implementation of housing plans, including a description of the involvement of private, public, and nonprofit organizations and institutions, and the use of loan guarantees under section 184 of the Housing and Community Development Act of 1992, and other housing assistance

provided by the Federal Government for Indian tribes, including loans, grants, and mortgage insurance;

(C) a description of the manner in which the plan will address the needs identified pursuant to paragraph (2);

(D) a description of the manner in which the recipient will protect and maintain the viability of housing owned and operated by the recipient that was developed under a contract between the Secretary and an Indian housing authority pursuant to the United States Housing Act of 1937;

(E) a description of any existing and anticipated homeownership programs and rental programs to be carried out during the period, and the requirements and assistance available under such programs;

(F) a description of any existing and anticipated housing rehabilitation programs necessary to ensure the long-term viability of the housing to be carried out during the period, and the requirements and assistance available under such programs;

(G) a description of all other existing or anticipated housing assistance provided by the recipient during the period, including transitional housing, homeless housing, college housing, supportive services housing, and the requirements and assistance available under such programs;

(H) a description of any housing to be demolished or disposed of, a timetable for such demolition or disposition, and any other information required by the Secretary with respect to such demolition or disposition;

(I) a description of the manner in which the recipient will coordinate with tribal and State welfare agencies to ensure that residents of such housing will be provided with access to resources to assist in obtaining employment and achieving self-sufficiency;

(J) a description of the requirements established by the recipient to promote the safety of residents of such housing, facilitate the undertaking of crime prevention measures, allow resident input and involvement, including the establishment of resident organizations, and allow for the coordination of crime prevention activities between the recipient and tribal and local law enforcement officials; and

(K) a description of the entity that will carry out the activities under the plan, including the organizational capacity and key personnel of the entity.

(5) CERTIFICATION OF COMPLIANCE.—Evidence of compliance which shall include, as appropriate—

(A) a certification that the recipient will comply with title II of the Civil Rights Act of 1968 in carrying out this Act, to the extent that such title is applicable, and other applicable Federal statutes;

(B) a certification that the recipient will maintain adequate insurance coverage for housing units that are owned and operated or assisted with grant amounts provided under this Act, in compliance with such requirements as may be established by the Secretary;

(C) a certification that policies are in effect and are available for review by the Secretary and the public governing the eligibility, admission, and occupancy of families for housing assisted with grant amounts provided under this Act;

(D) a certification that policies are in effect and are available for review by the Secretary and the public governing rents charged, including the methods by which such rents or homebuyer payments are determined, for housing assisted with grant amounts provided under this Act; and

(E) a certification that policies are in effect and are available for review by the Secretary and the public governing the management and maintenance of housing assisted with grant amounts provided under this Act.

(d) PARTICIPATION OF TRIBALLY DESIGNATED HOUSING ENTITY.—A plan under this section for an Indian tribe may be prepared and submitted on behalf of the tribe by the tribally designated housing entity for the tribe, but only if such plan contains a certification by the recognized tribal government of the grant beneficiary that such tribe—

(1) has had an opportunity to review the plan and has authorized the submission of the plan by the housing entity; or

(2) has delegated to such tribally designated housing entity the authority to submit a plan on behalf of the tribe without prior review by the tribe.

(e) COORDINATION OF PLANS.—A plan under this section may cover more than 1 Indian tribe, but only if the certification requirements under subsection (d) are complied with by each such grant beneficiary covered.

(f) PLANS FOR SMALL TRIBES.—

(1) SEPARATE REQUIREMENTS.—The Secretary may—

(A) establish requirements for submission of plans under this section and the information to be included in such plans applicable to small Indian tribes and small tribally designated housing entities; and

(B) waive any requirements under this section that the Secretary determines are burdensome or unnecessary for such tribes and housing entities.

(2) SMALL TRIBES.—The Secretary may define small Indian tribes and small tribally designated housing entities based on the number of dwelling units assisted under this title by the tribe or housing entity or owned or operated pursuant to a contract under the United States Housing Act of 1937 between the Secretary and the Indian housing authority for the tribe.

(g) REGULATIONS.—The requirements relating to the contents of plans under this section shall be established by regulation, pursuant to section 106.

25 USC 4113.

SEC. 103. REVIEW OF PLANS.

(a) REVIEW AND NOTICE.—

(1) REVIEW.—The Secretary shall conduct a limited review of each Indian housing plan submitted to the Secretary to ensure that the plan complies with the requirements of section 102. The Secretary shall have the discretion to review a plan only to the extent that the Secretary considers review is necessary.

(2) NOTICE.—The Secretary shall notify each Indian tribe for which a plan is submitted and any tribally designated housing entity for the tribe whether the plan complies with such requirements not later than 60 days after receiving the plan. If the Secretary does not notify the Indian tribe, as required under this subsection and subsection (b), the plan shall be considered, for purposes of this Act, to have been determined to comply with the requirements under section 102 and the tribe shall be considered to have been notified of compliance upon the expiration of such 60-day period.

(b) NOTICE OF REASONS FOR DETERMINATION OF NONCOMPLIANCE.—If the Secretary determines that a plan, as submitted, does not comply with the requirements under section 102, the Secretary shall specify in the notice under subsection (a) the reasons for the noncompliance and any modifications necessary for the plan to meet the requirements under section 102.

(c) REVIEW.—After submission of the Indian housing plan or any amendment or modification to the plan to the Secretary, to the extent that the Secretary considers such action to be necessary to make determinations under this subsection, the Secretary shall review the plan (including any amendments or modifications thereto) to determine whether the contents of the plan—

(1) set forth the information required by section 102 to be contained in an Indian housing plan;

(2) are consistent with information and data available to the Secretary; and

(3) are prohibited by or inconsistent with any provision of this Act or other applicable law.

If the Secretary determines that any of the appropriate certifications required under section 102(c)(5) are not included in the plan, the plan shall be deemed to be incomplete.

(d) UPDATES TO PLAN.—After a plan under section 102 has been submitted for an Indian tribe for any fiscal year, the tribe may comply with the provisions of such section for any succeeding fiscal year (with respect to information included for the 5-year period under section 102(b) or the 1-year period under section 102(c)) by submitting only such information regarding such changes as may be necessary to update the plan previously submitted. Not less than once every 5 years, the tribe shall submit a complete plan.

(e) EFFECTIVE DATE.—This section and section 102 shall take effect on the date provided by the Secretary pursuant to section 106(a) to provide for timely submission and review of Indian housing plans as necessary for the provision of assistance under this Act in fiscal year 1998.

SEC. 104. TREATMENT OF PROGRAM INCOME AND LABOR STANDARDS. 25 USC 4114.

(a) PROGRAM INCOME.—

(1) AUTHORITY TO RETAIN.—A recipient may retain any program income that is realized from any grant amounts under this Act if—

(A) such income was realized after the initial disbursement of the grant amounts received by the recipient; and

(B) the recipient has agreed that it will utilize the program income for affordable housing activities in accordance with the provisions of this Act.

(2) PROHIBITION OF REDUCTION OF GRANT.—The Secretary may not reduce the grant amount for any Indian tribe based solely on—

(A) whether the recipient for the tribe retains program income under paragraph (1);

(B) the amount of any such program income retained; or

(C) whether the recipient retains reserve amounts described in section 210.

(3) EXCLUSION OF AMOUNTS.—The Secretary may, by regulation, exclude from consideration as program income any amounts determined to be so small that compliance with the requirements of this subsection would create an unreasonable administrative burden on the recipient.

(b) LABOR STANDARDS.—

Contracts.
Certification.

(1) IN GENERAL.—Any contract or agreement for assistance, sale, or lease pursuant to this Act shall contain a provision requiring that not less than the wages prevailing in the locality, as determined or adopted (subsequent to a determination under applicable State, tribal, or local law) by the Secretary, shall be paid to all architects, technical engineers, draftsmen, and technicians employed in the development, and all maintenance laborers and mechanics employed in the operation, of the affordable housing project involved; and shall also contain a provision that not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor pursuant to the Davis-Bacon Act (40 U.S.C. 276a–276a–5), shall be paid to all laborers and mechanics employed in the development of the affordable housing involved, and the Secretary shall require certification as to compliance with the provisions of this paragraph before making any payment under such contract or agreement.

(2) EXCEPTIONS.—Paragraph (1) and the provisions relating to wages (pursuant to paragraph (1)) in any contract or agreement for assistance, sale, or lease pursuant to this Act, shall not apply to any individual who receives no compensation or is paid expenses, reasonable benefits, or a nominal fee to perform the services for which the individual volunteered and who is not otherwise employed at any time in the construction work.

25 USC 4115.

SEC. 105. ENVIRONMENTAL REVIEW.

(a) IN GENERAL.—

(1) RELEASE OF FUNDS.—In order to ensure that the policies of the National Environmental Policy Act of 1969 and other provisions of law that further the purposes of such Act (as specified in regulations issued by the Secretary) are most effectively implemented in connection with the expenditure of grant amounts provided under this Act, and to ensure to the public undiminished protection of the environment, the Secretary, in lieu of the environmental protection procedures otherwise applicable, may by regulation provide for the release of amounts for particular projects to tribes which assume all of the responsibilities for environmental review, decisionmaking, and action pursuant to such Act, and such other provisions of law as the regulations of the Secretary specify, that would apply to the Secretary were the Secretary to undertake such projects as Federal projects.

(2) REGULATIONS.—

(A) IN GENERAL.—The Secretary shall issue regulations to carry out this section only after consultation with the Council on Environmental Quality.

(B) CONTENTS.—The regulations issued under this paragraph shall—

(i) provide for the monitoring of the environmental reviews performed under this section;

(ii) in the discretion of the Secretary, facilitate training for the performance of such reviews; and

(iii) provide for the suspension or termination of the assumption of responsibilities under this section.

(3) EFFECT ON ASSUMED RESPONSIBILITY.—The duty of the Secretary under paragraph (2)(B) shall not be construed to limit or reduce any responsibility assumed by a recipient of grant amounts with respect to any particular release of funds.

(b) PROCEDURE.—The Secretary shall approve the release of funds subject to the procedures authorized by this section only if, not less than 15 days prior to such approval and prior to any commitment of funds to such projects, the tribe has submitted to the Secretary a request for such release accompanied by a certification that meets the requirements of subsection (c). The approval of the Secretary of any such certification shall be deemed to satisfy the responsibilities of the Secretary under the National Environmental Policy Act of 1969 and such other provisions of law as the regulations of the Secretary specify insofar as those responsibilities relate to the releases of funds for projects to be carried out pursuant thereto that are covered by such certification.

(c) CERTIFICATION.—A certification under the procedures authorized by this section shall—

(1) be in a form acceptable to the Secretary;

(2) be executed by the chief executive officer or other officer of the tribe under this Act qualified under regulations of the Secretary;

(3) specify that the tribe has fully carried out its responsibilities as described under subsection (a); and

(4) specify that the certifying officer—

(A) consents to assume the status of a responsible Federal official under the National Environmental Policy Act of 1969 and each provision of law specified in regulations issued by the Secretary insofar as the provisions of such Act or such other provisions of law apply pursuant to subsection (a); and

(B) is authorized and consents on behalf of the tribe and such officer to accept the jurisdiction of the Federal courts for the purpose of enforcement of the responsibilities of the certifying officer as such an official.

SEC. 106. REGULATIONS. 25 USC 4116.

(a) TRANSITION REQUIREMENTS.—

(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall, by notice issued in the Federal Register, establish any requirements necessary to provide for the transition (upon the effectiveness of this Act and the amendments made by this Act) from the provision of assistance for Indian tribes and Indian housing authorities under the United States Housing Act of 1937 and Federal Register, publication.

other related provisions of law to the provision of assistance in accordance with this Act and the amendments made by this Act.

(2) PUBLIC COMMENTS; GENERAL NOTICE OF PROPOSED RULEMAKING.—The notice issued under paragraph (1) shall—

(A) invite public comments regarding such transition requirements and final regulations to carry out this Act; and

(B) include a general notice of proposed rulemaking (for purposes of section 564(a) of title 5, United States Code) of the final regulations under subsection (b).

(b) FINAL REGULATIONS.—

Effective date.

(1) TIMING.—The Secretary shall issue final regulations necessary to carry out this Act not later than September 1, 1997, and such regulations shall take effect not later than the effective date of this Act.

(2) NEGOTIATED RULEMAKING PROCEDURE.—

(A) IN GENERAL.—Notwithstanding sections 563(a) and 565(a) of title 5, United States Code, all regulations required under this Act shall be issued according to a negotiated rulemaking procedure under subchapter III of chapter 5 of title 5, United States Code.

(B) COMMITTEE.—

(i) IN GENERAL.—The Secretary shall establish a negotiated rulemaking committee, in accordance with the procedures under that subchapter, for the development of proposed regulations under subparagraph (A).

(ii) ADAPTATION.—In establishing the negotiated rulemaking committee, the Secretary shall—

(I) adapt the procedures under the subchapter described in clause (i) to the unique government-to-government relationship between the Indian tribes and the United States, and shall ensure that the membership of the committee include only representatives of the Federal Government and of geographically diverse small, medium, and large Indian tribes; and

(II) shall not preclude the participation of tribally designated housing entities should tribes elect to be represented by such entities.

(c) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act.

25 USC 4101 note.

SEC. 107. EFFECTIVE DATE.

Except as otherwise expressly provided in this Act, this Act and the amendments made by this Act shall take effect on October 1, 1997.

25 USC 4117.

SEC. 108. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for grants under this title such sums as may be necessary for each of fiscal years 1998, 1999, 2000, and 2001. This section shall take effect on the date of the enactment of this Act.

Effective date.

TITLE II—AFFORDABLE HOUSING ACTIVITIES

SEC. 201. NATIONAL OBJECTIVES AND ELIGIBLE FAMILIES. 25 USC 4131.

(a) PRIMARY OBJECTIVE.—The national objectives of this Act are—

(1) to assist and promote affordable housing activities to develop, maintain, and operate affordable housing in safe and healthy environments on Indian reservations and in other Indian areas for occupancy by low-income Indian families;

(2) to ensure better access to private mortgage markets for Indian tribes and their members and to promote self-sufficiency of Indian tribes and their members;

(3) to coordinate activities to provide housing for Indian tribes and their members with Federal, State, and local activities to further economic and community development for Indian tribes and their members;

(4) to plan for and integrate infrastructure resources for Indian tribes with housing development for tribes; and

(5) to promote the development of private capital markets in Indian country and to allow such markets to operate and grow, thereby benefiting Indian communities.

(b) ELIGIBLE FAMILIES.—

(1) IN GENERAL.—Except as provided under paragraph (2), assistance under eligible housing activities under this Act shall be limited to low-income Indian families on Indian reservations and other Indian areas.

(2) EXCEPTION TO LOW-INCOME REQUIREMENT.—A recipient may provide assistance for homeownership activities under section 202(2), model activities under section 202(6), or loan guarantee activities under title VI to Indian families who are not low-income families, to the extent that the Secretary approves the activities pursuant to such section or title because there is a need for housing for such families that cannot reasonably be met without such assistance. The Secretary shall establish limits on the amount of assistance that may be provided under this Act for activities for families who are not low-income families.

(3) NON-INDIAN FAMILIES.—Notwithstanding paragraph (1), a recipient may provide housing or housing assistance provided through affordable housing activities assisted with grant amounts under this Act for a non-Indian family on an Indian reservation or other Indian area if the recipient determines that the presence of the family on the Indian reservation or other Indian area is essential to the well-being of Indian families and the need for housing for the family cannot reasonably be met without such assistance.

(4) PREFERENCE FOR TRIBAL MEMBERS AND OTHER INDIAN FAMILIES.—The Indian housing plan for an Indian tribe may require preference, for housing or housing assistance provided through affordable housing activities assisted with grant amounts provided under this Act on behalf of such tribe, to be given (to the extent practicable) to Indian families who are members of such tribe, or to other Indian families. In any case in which the applicable Indian housing plan for an Indian tribe provides for preference under this paragraph, the

recipient for the tribe shall ensure that housing activities that are assisted with grant amounts under this Act for such tribe are subject to such preference.

(5) EXEMPTION.—Title VI of the Civil Rights Act of 1964 and title VIII of the Civil Rights Act of 1968 shall not apply to actions by Indian tribes under this subsection.

25 USC 4132.

SEC. 202. ELIGIBLE AFFORDABLE HOUSING ACTIVITIES.

Affordable housing activities under this title are activities, in accordance with the requirements of this title, to develop or to support affordable housing for rental or homeownership, or to provide housing services with respect to affordable housing, through the following activities:

(1) INDIAN HOUSING ASSISTANCE.—The provision of modernization or operating assistance for housing previously developed or operated pursuant to a contract between the Secretary and an Indian housing authority.

(2) DEVELOPMENT.—The acquisition, new construction, reconstruction, or moderate or substantial rehabilitation of affordable housing, which may include real property acquisition, site improvement, development of utilities and utility services, conversion, demolition, financing, administration and planning, and other related activities.

(3) HOUSING SERVICES.—The provision of housing-related services for affordable housing, such as housing counseling in connection with rental or homeownership assistance, establishment and support of resident organizations and resident management corporations, energy auditing, activities related to the provision of self-sufficiency and other services, and other services related to assisting owners, tenants, contractors, and other entities, participating or seeking to participate in other housing activities assisted pursuant to this section.

(4) HOUSING MANAGEMENT SERVICES.—The provision of management services for affordable housing, including preparation of work specifications, loan processing, inspections, tenant selection, management of tenant-based rental assistance, and management of affordable housing projects.

(5) CRIME PREVENTION AND SAFETY ACTIVITIES.—The provision of safety, security, and law enforcement measures and activities appropriate to protect residents of affordable housing from crime.

(6) MODEL ACTIVITIES.—Housing activities under model programs that are designed to carry out the purposes of this Act and are specifically approved by the Secretary as appropriate for such purpose.

25 USC 4133.

SEC. 203. PROGRAM REQUIREMENTS.

(a) RENTS.—

(1) ESTABLISHMENT.—Subject to paragraph (2), each recipient shall develop written policies governing rents and homebuyer payments charged for dwelling units assisted under this Act, including the methods by which such rents and homebuyer payments are determined.

(2) MAXIMUM RENT.—In the case of any low-income family residing in a dwelling unit assisted with grant amounts under this Act, the monthly rent or homebuyer payment (as

applicable) for such dwelling unit may not exceed 30 percent of the monthly adjusted income of such family.

(b) MAINTENANCE AND EFFICIENT OPERATION.—Each recipient who owns or operates (or is responsible for funding any entity that owns or operates) housing developed or operated pursuant to a contract between the Secretary and an Indian housing authority pursuant to the United States Housing Act of 1937 shall, using amounts of any grants received under this Act, reserve and use for operating assistance under section 202(1) such amounts as may be necessary to provide for the continued maintenance and efficient operation of such housing. This subsection may not be construed to prevent any recipient (or entity funded by a recipient) from demolishing or disposing of Indian housing referred to in this subsection, pursuant to regulations established by the Secretary.

(c) INSURANCE COVERAGE.—Each recipient shall maintain adequate insurance coverage for housing units that are owned or operated or assisted with grant amounts provided under this Act.

(d) ELIGIBILITY FOR ADMISSION.—Each recipient shall develop written policies governing the eligibility, admission, and occupancy of families for housing assisted with grant amounts provided under this Act.

(e) MANAGEMENT AND MAINTENANCE.—Each recipient shall develop policies governing the management and maintenance of housing assisted with grant amounts under this Act.

SEC. 204. TYPES OF INVESTMENTS. 25 USC 4134.

(a) IN GENERAL.—Subject to section 203 and the Indian housing plan for an Indian tribe, the recipient for that tribe shall have—

(1) the discretion to use grant amounts for affordable housing activities through equity investments, interest-bearing loans or advances, noninterest-bearing loans or advances, interest subsidies, leveraging of private investments, or any other form of assistance that the Secretary has determined to be consistent with the purposes of this Act; and

(2) the right to establish the terms of assistance.

(b) INVESTMENTS.—A recipient may invest grant amounts for the purposes of carrying out affordable housing activities in investment securities and other obligations as approved by the Secretary.

SEC. 205. LOW-INCOME REQUIREMENT AND INCOME TARGETING. 25 USC 4135.

(a) IN GENERAL.—Housing shall qualify as affordable housing for purposes of this Act only if—

(1) each dwelling unit in the housing—

(A) in the case of rental housing, is made available for occupancy only by a family that is a low-income family at the time of their initial occupancy of such unit; and

(B) in the case of housing for homeownership, is made available for purchase only by a family that is a low-income family at the time of purchase; and

(2) except for housing assisted under section 202 of the United States Housing Act of 1937 (as in effect before the date of the effectiveness of this Act), each dwelling unit in the housing will remain affordable, according to binding commitments satisfactory to the Secretary, for the remaining useful life of the property (as determined by the Secretary) without regard to the term of the mortgage or to transfer of ownership, or for such other period that the Secretary

determines is the longest feasible period of time consistent with sound economics and the purposes of this Act, except upon a foreclosure by a lender (or upon other transfer in lieu of foreclosure) if such action—

(A) recognizes any contractual or legal rights of public agencies, nonprofit sponsors, or others to take actions that would avoid termination of low-income affordability in the case of foreclosure or transfer in lieu of foreclosure; and

(B) is not for the purpose of avoiding low-income affordability restrictions, as determined by the Secretary.

(b) EXCEPTION.—Notwithstanding subsection (a), housing assisted pursuant to section 201(b)(2) shall be considered affordable housing for purposes of this Act.

25 USC 4136.

SEC. 206. CERTIFICATION OF COMPLIANCE WITH SUBSIDY LAYERING REQUIREMENTS.

With respect to housing assisted with grant amounts provided under this Act, the requirements of section 102(d) of the Department of Housing and Urban Development Reform Act of 1989 shall be considered to be satisfied upon certification by the Secretary that the combination of Federal assistance provided to any housing project is not any more than is necessary to provide affordable housing.

25 USC 4137.

SEC. 207. LEASE REQUIREMENTS AND TENANT SELECTION.

(a) LEASES.—Except to the extent otherwise provided by or inconsistent with tribal law, in renting dwelling units in affordable housing assisted with grant amounts provided under this Act, the owner or manager of the housing shall utilize leases that—

(1) do not contain unreasonable terms and conditions;

(2) require the owner or manager to maintain the housing in compliance with applicable housing codes and quality standards;

(3) require the owner or manager to give adequate written notice of termination of the lease, which shall be the period of time required under State, tribal, or local law;

(4) specify that, with respect to any notice of eviction or termination, notwithstanding any State, tribal, or local law, a resident shall be informed of the opportunity, prior to any hearing or trial, to examine any relevant documents, records, or regulations directly related to the eviction or termination;

(5) require that the owner or manager may not terminate the tenancy, during the term of the lease, except for serious or repeated violation of the terms or conditions of the lease, violation of applicable Federal, State, tribal, or local law, or for other good cause; and

(6) provide that the owner or manager may terminate the tenancy of a resident for any activity, engaged in by the resident, any member of the household of the resident, or any guest or other person under the control of the resident, that—

(A) threatens the health or safety of, or right to peaceful enjoyment of the premises by, other residents or employees of the owner or manager of the housing;

(B) threatens the health or safety of, or right to peaceful enjoyment of their premises by, persons residing in the immediate vicinity of the premises; or

(C) is criminal activity (including drug-related criminal activity) on or off the premises.

(b) TENANT SELECTION.—The owner or manager of affordable rental housing assisted with grant amounts provided under this Act shall adopt and utilize written tenant selection policies and criteria that—

(1) are consistent with the purpose of providing housing for low-income families;

(2) are reasonably related to program eligibility and the ability of the applicant to perform the obligations of the lease; and

(3) provide for—

(A) the selection of tenants from a written waiting list in accordance with the policies and goals set forth in the Indian housing plan for the tribe that is the grant beneficiary of such grant amounts; and

(B) the prompt notification in writing of any rejected applicant of the grounds for any rejection.

SEC. 208. AVAILABILITY OF RECORDS. 25 USC 4138.

(a) PROVISION OF INFORMATION.—Notwithstanding any other provision of law, except as provided in paragraph (2), the National Crime Information Center, police departments, and other law enforcement agencies shall, upon request, provide information to Indian tribes or tribally designated housing entities regarding the criminal conviction records of adult applicants for, or tenants of, housing assisted with grant amounts provided to such tribe or entity under this Act for purposes of applicant screening, lease enforcement, and eviction.

(b) EXCEPTION.—A law enforcement agency described in paragraph (1) shall provide information under this paragraph relating to any criminal conviction of a juvenile only to the extent that the release of such information is authorized under the law of the applicable State, tribe, or locality.

(c) CONFIDENTIALITY.—An Indian tribe or tribally designated housing entity receiving information under this section may use such information only for the purposes provided in this section and such information may not be disclosed to any person who is not an officer, employee, or authorized representative of the tribe or entity or the owner of housing assisted under this Act, and who has a job-related need to have access to the information for the purposes under this section. For judicial eviction proceedings, disclosures may be made to the extent necessary. The Secretary shall, by regulation, establish procedures necessary to ensure that information provided under this section to any tribe or entity is used, and confidentiality is maintained, as required under this section. Regulations. Procedures.

SEC. 209. REPAYMENT. 25 USC 4139.

If a recipient uses grant amounts to provide affordable housing under activities under this title and, at any time during the useful life of the housing the housing does not comply with the requirement under section 205(2), the Secretary shall reduce future grant payments on behalf of the grant beneficiary by an amount equal to the grant amounts used for such housing (under the authority under section 401(a)(2)) or require repayment to the Secretary of an amount equal to such grant amounts.

25 USC 4140.

SEC. 210. CONTINUED USE OF AMOUNTS FOR AFFORDABLE HOUSING.

Any funds for programs for low-income housing under the United States Housing Act of 1937 that, on the date of the applicability of this Act to an Indian tribe, are owned by, or in the possession or under the control of, the Indian housing authority for the tribe, including all reserves not otherwise obligated, shall be considered assistance under this Act and subject to the provisions of this Act relating to use of such assistance.

TITLE III—ALLOCATION OF GRANT AMOUNTS

25 USC 4151.

SEC. 301. ANNUAL ALLOCATION.

For each fiscal year, the Secretary shall allocate any amounts made available for assistance under this Act for the fiscal year, in accordance with the formula established pursuant to section 302, among Indian tribes that comply with the requirements under this Act for a grant under this Act.

25 USC 4152.

SEC. 302. ALLOCATION FORMULA.

Regulations.

(a) ESTABLISHMENT.—The Secretary shall, by regulations issued not later than the expiration of the 12-month period beginning on the date of the enactment of this Act, in the manner provided under section 106, establish a formula to provide for allocating amounts available for a fiscal year for block grants under this Act among Indian tribes in accordance with the requirements of this section.

(b) FACTORS FOR DETERMINATION OF NEED.—The formula shall be based on factors that reflect the need of the Indian tribes and the Indian areas of the tribes for assistance for affordable housing activities, including the following factors:

(1) The number of low-income housing dwelling units owned or operated at the time pursuant to a contract between an Indian housing authority for the tribe and the Secretary.

(2) The extent of poverty and economic distress and the number of Indian families within Indian areas of the tribe.

(3) Other objectively measurable conditions as the Secretary and the Indian tribes may specify.

(c) OTHER FACTORS FOR CONSIDERATION.—In establishing the formula, the Secretary shall consider—

(1) the relative administrative capacities and other challenges faced by the recipient, including, but not limited to geographic distribution within the Indian area and technical capacity; and

(2) the extent to which terminations of assistance under title V will affect funding available to State recognized tribes.

(d) FUNDING FOR PUBLIC HOUSING OPERATION AND MODERNIZATION.—

(1) FULL FUNDING.—The formula shall provide that, if, in any fiscal year, the total amount made available for assistance under this Act is equal to or greater than the total amount made available for fiscal year 1996 for assistance for the operation and modernization of public housing developed or operated pursuant to a contract between the Secretary and an Indian housing authority pursuant to the United States Housing Act of 1937, the amount provided for such fiscal year

for each Indian tribe for which such operating or modernization assistance was provided for fiscal year 1996 shall not be less than the total amount of such operating and modernization assistance provided for fiscal year 1996 for such tribe.

(2) PARTIAL FUNDING.—The formula shall provide that, if, in any fiscal year, the total amount made available for assistance under this Act is less than the total amount made available for fiscal year 1996 for assistance for the operation and modernization of public housing developed or operated pursuant to a contract between the Secretary and an Indian housing authority pursuant to the United States Housing Act of 1937, the amount provided for such fiscal year for each Indian tribe for which such operating or modernization assistance was provided for fiscal year 1996 shall not be less than the amount that bears the same ratio to the total amount available for assistance under this Act for such fiscal year that the amount of operating and modernization assistance provided for the tribe for fiscal year 1996 bears to the total amount made available for fiscal year 1996 for assistance for the operation and modernization of such public housing.

(e) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act.

TITLE IV—COMPLIANCE, AUDITS, AND REPORTS

SEC. 401. REMEDIES FOR NONCOMPLIANCE. 25 USC 4161.

(a) ACTIONS BY SECRETARY AFFECTING GRANT AMOUNTS.—Except as provided in subsection (b), if the Secretary finds after reasonable notice and opportunity for hearing that a recipient of assistance under this Act has failed to comply substantially with any provision of this Act, the Secretary shall—

(1) terminate payments under this Act to the recipient;

(2) reduce payments under this Act to the recipient by an amount equal to the amount of such payments that were not expended in accordance with this Act;

(3) limit the availability of payments under this Act to programs, projects, or activities not affected by such failure to comply; or

(4) in the case of noncompliance described in section 402(b), provide a replacement tribally designated housing entity for the recipient, under section 402.

If the Secretary takes an action under paragraph (1), (2), or (3), the Secretary shall continue such action until the Secretary determines that the failure to comply has ceased.

(b) NONCOMPLIANCE BECAUSE OF TECHNICAL INCAPACITY.—If the Secretary makes a finding under subsection (a), but determines that the failure to comply substantially with the provisions of this Act—

(1) is not a pattern or practice of activities constituting willful noncompliance, and

(2) is a result of the limited capability or capacity of the recipient,

the Secretary may provide technical assistance for the recipient (directly or indirectly) that is designed to increase the capability and capacity of the recipient to administer assistance provided

under this Act in compliance with the requirements under this Act.

(c) REFERRAL FOR CIVIL ACTION.—

(1) AUTHORITY.—In lieu of, or in addition to, any action authorized by subsection (a), if the Secretary has reason to believe that a recipient has failed to comply substantially with any provision of this Act, the Secretary may refer the matter to the Attorney General of the United States with a recommendation that an appropriate civil action be instituted.

(2) CIVIL ACTION.—Upon such a referral, the Attorney General may bring a civil action in any United States district court having venue thereof for such relief as may be appropriate, including an action to recover the amount of the assistance furnished under this Act that was not expended in accordance with it, or for mandatory or injunctive relief.

(d) REVIEW.—

(1) IN GENERAL.—Any recipient who receives notice under subsection (a) of the termination, reduction, or limitation of payments under this Act—

(A) may, not later than 60 days after receiving such notice, file with the United States Court of Appeals for the circuit in which such State is located, or in the United States Court of Appeals for the District of Columbia, a petition for review of the action of the Secretary; and

(B) upon the filing of any petition under subparagraph (A), shall forthwith transmit copies of the petition to the Secretary and the Attorney General of the United States, who shall represent the Secretary in the litigation.

Records.

(2) PROCEDURE.—The Secretary shall file in the court a record of the proceeding on which the Secretary based the action, as provided in section 2112 of title 28, United States Code. No objection to the action of the Secretary shall be considered by the court unless such objection has been urged before the Secretary.

(3) DISPOSITION.—

(A) COURT PROCEEDINGS.—The court shall have jurisdiction to affirm or modify the action of the Secretary or to set it aside in whole or in part. The findings of fact by the Secretary, if supported by substantial evidence on the record considered as a whole, shall be conclusive. The court may order additional evidence to be taken by the Secretary, and to be made part of the record.

(B) SECRETARY.—The Secretary—

(i) may modify the findings of fact of the Secretary, or make new findings, by reason of the new evidence so taken and filed with the court; and

(ii) shall file—

(I) such modified or new findings, which findings with respect to questions of fact shall be conclusive if supported by substantial evidence on the record considered as a whole; and

(II) the recommendation of the Secretary, if any, for the modification or setting aside of the original action of the Secretary.

(4) FINALITY.—Upon the filing of the record with the court, the jurisdiction of the court shall be exclusive and its judgment shall be final, except that such judgment shall be subject to

review by the Supreme Court of the United States upon writ of certiorari or certification as provided in section 1254 of title 28, United State Code.

SEC. 402. REPLACEMENT OF RECIPIENT. 25 USC 4162.

(a) AUTHORITY.—As a condition of the Secretary making a grant under this Act on behalf of an Indian tribe, the tribe shall agree that, notwithstanding any other provision of law, the Secretary may, only in the circumstances set forth in subsection (b), require that a replacement tribally designated housing entity serve as the recipient for the tribe, in accordance with subsection (c).

(b) CONDITIONS OF REMOVAL.—The Secretary may require such replacement tribally designated housing entity for a tribe only upon a determination by the Secretary on the record after opportunity for a hearing that the recipient for the tribe has engaged in a pattern or practice of activities that constitutes substantial or willful noncompliance with the requirements under this Act.

(c) CHOICE AND TERM OF REPLACEMENT.—If the Secretary requires that a replacement tribally designated housing entity serve as the recipient for a tribe (or tribes)—

(1) the replacement entity shall be an entity mutually agreed upon by the Secretary and the tribe (or tribes) for which the recipient was authorized to act, except that if no such entity is agreed upon before the expiration of the 60-day period beginning upon the date that the Secretary makes the determination under subsection (b), the Secretary shall act as the replacement entity until agreement is reached upon a replacement entity; and

(2) the replacement entity (or the Secretary, as provided in paragraph (1)) shall act as the tribally designated housing entity for the tribe (or tribes) for a period that expires upon—

(A) a date certain, which shall be specified by the Secretary upon making the determination under subsection (b); or

(B) the occurrence of specific conditions, which conditions shall be specified in written notice provided by the Secretary to the tribe upon making the determination under subsection (b). Notification.

SEC. 403. MONITORING OF COMPLIANCE. 25 USC 4163.

(a) ENFORCEABLE AGREEMENTS.—Each recipient, through binding contractual agreements with owners and otherwise, shall ensure long-term compliance with the provisions of this Act. Such measures shall provide for (1) enforcement of the provisions of this Act by the grant beneficiary or by recipients and other intended beneficiaries, and (2) remedies for the breach of such provisions.

(b) PERIODIC MONITORING.—Not less frequently than annually, each recipient shall review the activities conducted and housing assisted under this Act to assess compliance with the requirements of this Act. Such review shall include onsite inspection of housing to determine compliance with applicable requirements. The results of each review shall be included in the performance report of the recipient submitted to the Secretary under section 404 and made available to the public. Public information.

(c) PERFORMANCE MEASURES.—The Secretary shall establish such performance measures as may be necessary to assess compliance with the requirements of this Act.

25 USC 4164.

SEC. 404. PERFORMANCE REPORTS.

(a) REQUIREMENT.—For each fiscal year, each recipient shall—

(1) review the progress it has made during such fiscal year in carrying out the Indian housing plan (or plans) for the Indian tribes for which it administers grant amounts; and

(2) submit a report to the Secretary (in a form acceptable to the Secretary) describing the conclusions of the review.

(b) CONTENT.—Each report under this section for a fiscal year shall—

(1) describe the use of grant amounts provided to the recipient for such fiscal year;

(2) assess the relationship of such use to the goals identified in the Indian housing plan of the grant beneficiary;

(3) indicate the programmatic accomplishments of the recipient; and

(4) describe the manner in which the recipient would change its programs as a result of its experiences.

(c) SUBMISSION.—The Secretary shall establish dates for submission of reports under this section, and review such reports and make such recommendations as the Secretary considers appropriate to carry out the purposes of this Act.

(d) PUBLIC AVAILABILITY.—A recipient preparing a report under this section shall make the report publicly available to the citizens in the jurisdiction of the recipient in sufficient time to permit such citizens to comment on such report prior to its submission to the Secretary, and in such manner and at such times as the recipient may determine. The report shall include a summary of any comments received by the grant beneficiary or recipient from citizens in its jurisdiction regarding its program.

25 USC 4165.

SEC. 405. REVIEW AND AUDIT BY SECRETARY.

(a) ANNUAL REVIEW.—The Secretary shall, not less than on an annual basis, make such reviews and audits as may be necessary or appropriate to determine—

(1) whether the recipient has carried out its eligible activities in a timely manner, has carried out its eligible activities and certifications in accordance with the requirements and the primary objectives of this Act and with other applicable laws, and has a continuing capacity to carry out those activities in a timely manner;

(2) whether the recipient has complied with the Indian housing plan of the grant beneficiary; and

(3) whether the performance reports under section 404 of the recipient are accurate.

Reviews under this section shall include, insofar as practicable, onsite visits by employees of the Department of Housing and Urban Development.

(b) REPORT BY SECRETARY.—The Secretary shall give a recipient not less than 30 days to review and comment on a report under this subsection. After taking into consideration the comments of the recipient, the Secretary may revise the report and shall make the comments of the recipient and the report, with any revisions, readily available to the public not later than 30 days after receipt of the comments of the recipient.

Public information.

(c) EFFECT OF REVIEWS.—The Secretary may make appropriate adjustments in the amount of the annual grants under this Act in accordance with the findings of the Secretary pursuant to reviews

and audits under this section. The Secretary may adjust, reduce, or withdraw grant amounts, or take other action as appropriate in accordance with the reviews and audits of the Secretary under this section, except that grant amounts already expended on affordable housing activities may not be recaptured or deducted from future assistance provided on behalf of an Indian tribe.

SEC. 406. GAO AUDITS. 25 USC 4166.

To the extent that the financial transactions of Indian tribes and recipients of grant amounts under this Act relate to amounts provided under this Act, such transactions may be audited by the Comptroller General of the United States under such rules and regulations as may be prescribed by the Comptroller General. The representatives of the General Accounting Office shall have access to all books, accounts, records, reports, files, and other papers, things, or property belonging to or in use by such tribes and recipients pertaining to such financial transactions and necessary to facilitate the audit.

SEC. 407. REPORTS TO CONGRESS. 25 USC 4167.

(a) IN GENERAL.—Not later than 90 days after the conclusion of each fiscal year in which assistance under this Act is made available, the Secretary shall submit to the Congress a report that contains—

(1) a description of the progress made in accomplishing the objectives of this Act;

(2) a summary of the use of funds available under this Act during the preceding fiscal year; and

(3) a description of the aggregate outstanding loan guarantees under title VI.

(b) RELATED REPORTS.—The Secretary may require recipients of grant amounts under this Act to submit to the Secretary such reports and other information as may be necessary in order for the Secretary to make the report required by subsection (a).

TITLE V—TERMINATION OF ASSISTANCE FOR INDIAN TRIBES UNDER INCORPORATED PROGRAMS

SEC. 501. REPEAL OF PROVISIONS RELATING TO INDIAN HOUSING ASSISTANCE UNDER UNITED STATES HOUSING ACT OF 1937.

(a) REPEAL OF TITLE II.—Title II of the United States Housing Act of 1937 (42 U.S.C 1437aa et seq.) is hereby repealed.

(b) AMENDMENTS TO TITLE I.—Title I of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended—

(1) in section 3(b)— 42 USC 1437a.

(A)in paragraph (5)—

(i) in subparagraph (F) by inserting "and" after the semicolon at the end;

(ii) by striking subparagraph (G); and

(iii) by redesignating subparagraph (H) as subparagraph (G);

(B) in paragraph (6), by striking the last sentence;

(C) in paragraph (7)—

(i) by inserting "and" before "the Trust"; and
(ii) by striking ", and Indian tribes"; and
(D) by striking paragraphs (9), (10), (11), and (12);

42 USC 1437c. (2) in section 5—
(A) in subsection (j)(1), by striking "(other than for Indian families)"; and
(B) by striking subsection (l);

42 USC 1437d. (3) in section 6(b)(1), by striking "and public housing for Indians and Alaska Natives in accordance with the Indian Housing Act of 1988";

42 USC 1437e. (4) in subsection 7, by striking subsection (l);

42 USC 1437g. (5) in section 9(a)(1)(A), in the second sentence—
(A) by inserting "and" after the comma at the end of clause (i); and
(B) by striking ", and (iii)" and all that follows through "project is occupied";

42 USC 1437l. (6) in section 14—
(A) in the section heading, by striking "AND INDIAN";
(B) in subsection (e)(1)(E)—
(i) in the matter preceding clause (i), by striking "(or Indian tribal official, if appropriate)";
(ii) in clause (i)—
(I) by striking "(or Indian tribal officials)"; and
(II) by striking "(or tenants of the Indian housing projects)"; and
(iii) in clause (ii), by striking "(or Indian tribe)";

42 USC 1437n. (7) in section 16—
(A) in subsection (d)—
(i) by striking the paragraph designation for paragraph (1); and
(ii) by striking paragraph (2); and
(B) in subsection (e), by striking paragraph (3);

42 USC 1437u. (8) in section 23(o), by striking paragraph (2);

42 USC 1437v. (9) in section 24(h)(3), by striking ", except that it does not include any Indian housing authority";

42 USC 1437w. (10) in section 25(m)(4), by striking ", except that it does not include Indian housing authorities"; and

42 USC 1437x. (11) in section 26, in subsections (a)(1) and (b), by striking "(including an Indian housing authority)" each place it appears.

(c) AMENDMENTS TO TITLE III.—Title III of the United States Housing Act of 1937 (42 U.S.C. 1437aaa et seq.) is amended—
(1) by striking the heading for the title and inserting the following:

"TITLE III—HOPE FOR PUBLIC HOUSING HOMEOWNERSHIP";

42 USC 1437aaa–5. (2) in section 306—
(A) in paragraph (1)(A), by striking "(including an Indian housing authority)"; and
(B) in paragraph (2)(A), by striking "or Indian"; and

42 USC 1437aaa–6. (3) in section 307, by striking "and title II".

(d) OTHER RELATED PROVISIONS.—
(1) INDIAN HOUSING CHILD DEVELOPMENT.—Section 519 of the Cranston-Gonzalez National Affordable Housing Act (12 U.S.C. 1701z–6 note) is hereby repealed.

(2) PUBLIC HOUSING YOUTH SPORTS.—Section 520 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 11903a) is amended—

(A) in subsection (b)—

(i) in paragraph (5), by inserting "and" after the semicolon at the end;

(ii) by striking paragraphs (6) and (7); and

(iii) by redesignating paragraph (8) as paragraph (6);

(B) in subsection (e)(2), by striking "Indian tribes,";

(C) in subsection (i)—

(i) by striking paragraph (1); and

(ii) by redesignating paragraphs (2) through (7) as paragraphs (1) through (6), respectively; and

(D) in subsection (l)(5)(B), by striking "units of general local government, and Indian housing authorities" and inserting "and Indian housing authorities".

(3) ALLOCATION OF FUNDS.—Section 213(d)(1)(B)(ii) of the Housing and Community Development Act of 1974 (42 U.S.C. 1439) is amended by striking "and Indian".

SEC. 502. TERMINATION OF INDIAN HOUSING ASSISTANCE UNDER UNITED STATES HOUSING ACT OF 1937. 25 USC 4181.

(a) TERMINATION OF ASSISTANCE.—After September 30, 1997, financial assistance may not be provided under the United States Housing Act of 1937 or pursuant to any commitment entered into under such Act, for Indian housing developed or operated pursuant to a contract between the Secretary and an Indian housing authority, unless such assistance is provided from amounts made available for fiscal year 1997 and pursuant to a commitment entered into before September 30, 1997.

(b) TERMINATION OF RESTRICTIONS ON USE OF INDIAN HOUSING.—After September 30, 1997, any housing developed or operated pursuant to a contract between the Secretary and an Indian housing authority pursuant to the United States Housing Act of 1937 shall not be subject to any provision of such Act or any annual contributions contract or other agreement pursuant to such Act, but shall be considered and maintained as affordable housing for purposes of this Act.

SEC. 503. TERMINATION OF NEW COMMITMENTS FOR RENTAL ASSISTANCE. 25 USC 4182.

After September 30, 1997, financial assistance for rental housing assistance under the United States Housing Act of 1937 may not be provided to any Indian housing authority or tribally designated housing entity, unless such assistance is provided pursuant to a contract for such assistance entered into by the Secretary and the Indian housing authority before such date. Any such assistance provided pursuant to such a contract shall be governed by the provisions of the United States Housing Act of 1937 (as in effect before the date of the effectiveness of this Act) and the provisions of such contract.

SEC. 504. TERMINATION OF YOUTHBUILD PROGRAM ASSISTANCE.

(a) IN GENERAL.—Subtitle D of title IV of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12899 et seq.) is amended—

(1) by redesignating section 460 as section 461; and 42 USC 12899i.

(2) by inserting after section 459 the following new section:

42 USC 12899h–1.

"SEC. 460. INELIGIBILITY OF INDIAN TRIBES.

"Indian tribes, Indian housing authorities, and other agencies primarily serving Indians or Indian areas shall not be eligible applicants for amounts made available for assistance under this subtitle for fiscal year 1997 and fiscal years thereafter.".

42 USC 12899h–1 note.

(b) APPLICABILITY.—The amendments under subsection (a) shall apply with respect to amounts made available for assistance under subtitle D of title II of the Cranston-Gonzalez National Affordable Housing Act for fiscal year 1998 and fiscal years thereafter.

SEC. 505. TERMINATION OF HOME PROGRAM ASSISTANCE.

(a) IN GENERAL.—Title II of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12721 et seq.) is amended—

42 USC 12747.

(1) in section 217(a)—

(A) in paragraph (1), by striking "reserving amounts under paragraph (2) for Indian tribes and after"; and

(B) by striking paragraph (2); and

42 USC 12838.

(2) in section 288—

(A) in subsection (a), by striking ", Indian tribes,";

(B) in subsection (b), by striking ", Indian tribe,"; and

(C) in subsection (c)(4), by striking ", Indian tribe,".

42 USC 12747 note.

(b) APPLICABILITY.—The amendments under subsection (a) shall apply with respect to amounts made available for assistance under title II of the Cranston-Gonzalez National Affordable Housing Act for fiscal year 1998 and fiscal years thereafter.

SEC. 506. TERMINATION OF HOUSING ASSISTANCE FOR THE HOMELESS.

(a) MCKINNEY ACT PROGRAMS.—Title IV of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11361 et seq.) is amended—

42 USC 11371.

(1) in section 411, by striking paragraph (10);

42 USC 11372.

(2) in section 412, by striking ", and for Indian tribes,";

42 USC 11373.

(3) in section 413—

(A) in subsection (a)—

(i) by striking ", and to Indian tribes,"; and

(ii) by striking ", or for Indian tribes" each place it appears;

(B) in subsection (c), by striking "or Indian tribe"; and

(C) in subsection (d)(3)—

(i) by striking ", or Indian tribe" each place it appears; and

(ii) by striking ", or other Indian tribes,";

42 USC 11374.

(4) in section 414(a)—

(A) by striking "or Indian tribe" each place it appears; and

(B) by striking ", local government," each place it appears and inserting "or local government";

42 USC 11375.

(5) in section 415(c)(4), by striking "Indian tribes,";

42 USC 11376.

(6) in section 416(b), by striking "Indian tribe,";

42 USC 11382.

(7) in section 422—

(A) by striking "Indian tribe,"; and

(B) by striking paragraph (3);

42 USC 11401.

(8) in section 441—

(A) by striking subsection (g);

(B) in subsection (h), by striking "or Indian housing authority"; and

(C) in subsection (j)(1), by striking ", Indian housing authority";

(9) in section 462— 42 USC 11403g.

(A) in paragraph (2), by striking ", Indian tribe,"; and

(B) by striking paragraph (4); and

(10) in section 491(e), by striking ", Indian tribes (as such term is defined in section 102(a) of the Housing and Community Development Act of 1974),". 42 USC 11408.

(b) INNOVATIVE HOMELESS DEMONSTRATION.—Section 2(b) of the HUD Demonstration Act of 1993 (42 U.S.C. 11301 note) is amended—

(1) in paragraph (3), by striking "'unit of general local government', and 'Indian tribe'" and inserting "and 'unit of general local government'"; and

(2) in paragraph (4), by striking "unit of general local government (including units in rural areas), or Indian tribe" and inserting "or unit of general local government".

(c) APPLICABILITY.—The amendments under subsections (a) and (b) shall apply with respect to amounts made available for assistance under title IV of the Stewart B. McKinney Homeless Assistance Act and section 2 of the HUD Demonstration Act of 1993, respectively, for fiscal year 1998 and fiscal years thereafter. 42 USC 11371 note.

SEC. 507. SAVINGS PROVISION. 25 USC 4183.

(a) EXISTING RIGHTS AND DUTIES.—Except as provided in sections 502 and 503, this Act may not be construed to affect the validity of any right, duty, or obligation of the United States or other person arising under or pursuant to any commitment or agreement lawfully entered into before October 1, 1997, under the United States Housing Act of 1937, subtitle D of title IV of the Cranston-Gonzalez National Affordable Housing Act, title II of the Cranston-Gonzalez National Affordable Housing Act, title IV of the Stewart B. McKinney Homeless Assistance Act, or section 2 of the HUD Demonstration Act of 1993.

(b) OBLIGATIONS UNDER REPEALED PROVISIONS.—Notwithstanding the amendments made by this title, any obligation of the Secretary made under or pursuant to subtitle D of title IV of the Cranston-Gonzalez National Affordable Housing Act, title II of the Cranston-Gonzalez National Affordable Housing Act, title IV of the Stewart B. McKinney Homeless Assistance Act, or section 2 of the HUD Demonstration Act of 1993 shall continue to be governed by the provisions of such Acts (as in effect before the date of the effectiveness of the amendments made by this title).

SEC. 508. EFFECTIVE DATE. 25 USC 4181 note.

Sections 502, 503, and 507 shall take effect on the date of the enactment of this Act.

TITLE VI—FEDERAL GUARANTEES FOR FINANCING FOR TRIBAL HOUSING ACTIVITIES

25 USC 4191.

SEC. 601. AUTHORITY AND REQUIREMENTS.

(a) AUTHORITY.—To such extent or in such amounts as provided in appropriations Acts, the Secretary may, subject to the limitations of this title (including limitations designed to protect and maintain the viability of rental housing units owned or operated by the recipient that were developed under a contract between the Secretary and an Indian housing authority pursuant to the United States Housing Act of 1937), and upon such terms and conditions as the Secretary may prescribe, guarantee and make commitments to guarantee, the notes or other obligations issued by Indian tribes or tribally designated housing entities with tribal approval, for the purposes of financing affordable housing activities described in section 202.

(b) LACK OF FINANCING ELSEWHERE.—A guarantee under this title may be used to assist an Indian tribe or housing entity in obtaining financing only if the Indian tribe or housing entity has made efforts to obtain such financing without the use of such guarantee and cannot complete such financing consistent with the timely execution of the program plans without such guarantee.

(c) TERMS OF LOANS.—Notes or other obligations guaranteed pursuant to this title shall be in such form and denominations, have such maturities, and be subject to such conditions as may be prescribed by regulations issued by the Secretary. The Secretary may not deny a guarantee under this title on the basis of the proposed repayment period for the note or other obligation, unless the period is more than 20 years or the Secretary determines that the period causes the guarantee to constitute an unacceptable financial risk.

(d) LIMITATION ON OUTSTANDING GUARANTEES.—No guarantee or commitment to guarantee shall be made with respect to any note or other obligation if the total outstanding notes or obligations of the issuer guaranteed under this title (excluding any amount defeased under the contract entered into under section 602(a)(1)) would thereby exceed an amount equal to 5 times the amount of the grant approval for the issuer pursuant to title III.

25 USC 4192.

SEC. 602. SECURITY AND REPAYMENT.

(a) REQUIREMENTS ON ISSUER.—To assure the repayment of notes or other obligations and charges incurred under this title and as a condition for receiving such guarantees, the Secretary shall require the Indian tribe or housing entity issuing such notes or obligations to—

Contracts.

(1) enter into a contract, in a form acceptable to the Secretary, for repayment of notes or other obligations guaranteed under this title;

(2) pledge any grant for which the issuer may become eligible under this Act;

(3) demonstrate that the extent of such issuance and guarantee under this title is within the financial capacity of the tribe and is not likely to impair the ability to use grant

amounts under title I, taking into consideration the requirements under section 203(b); and

(4) furnish, at the discretion of the Secretary, such other security as may be deemed appropriate by the Secretary in making such guarantees, including increments in local tax receipts generated by the activities assisted under this Act or disposition proceeds from the sale of land or rehabilitated property.

(b) REPAYMENT FROM GRANT AMOUNTS.—Notwithstanding any other provision of this Act—

(1) the Secretary may apply grants pledged pursuant to subsection (a)(2) to any repayments due the United States as a result of such guarantees; and

(2) grants allocated under this Act for an Indian tribe or housing entity (including program income derived therefrom) may be used to pay principal and interest due (including such servicing, underwriting, and other costs as may be specified in regulations issued by the Secretary) on notes or other obligations guaranteed pursuant to this title.

(c) FULL FAITH AND CREDIT.—The full faith and credit of the United States is pledged to the payment of all guarantees made under this title. Any such guarantee made by the Secretary shall be conclusive evidence of the eligibility of the obligations for such guarantee with respect to principal and interest, and the validity of any such guarantee so made shall be incontestable in the hands of a holder of the guaranteed obligations.

SEC. 603. PAYMENT OF INTEREST. 25 USC 4193.

The Secretary may make, and contract to make, grants, in such amounts as may be approved in appropriations Acts, to or on behalf of an Indian tribe or housing entity issuing notes or other obligations guaranteed under this title, to cover not to exceed 30 percent of the net interest cost (including such servicing, underwriting, or other costs as may be specified in regulations of the Secretary) to the borrowing entity or agency of such obligations. The Secretary may also, to the extent approved in appropriations Acts, assist the issuer of a note or other obligation guaranteed under this title in the payment of all or a portion of the principal and interest amount due under the note or other obligation, if the Secretary determines that the issuer is unable to pay the amount because of circumstances of extreme hardship beyond the control of the issuer.

SEC. 604. TRAINING AND INFORMATION. 25 USC 4194.

The Secretary, in cooperation with eligible public entities, shall carry out training and information activities with respect to the guarantee program under this title.

SEC. 605. LIMITATIONS ON AMOUNT OF GUARANTEES. 25 USC 4195.

(a) AGGREGATE FISCAL YEAR LIMITATION.—Notwithstanding any other provision of law and subject only to the absence of qualified applicants or proposed activities and to the authority provided in this title, to the extent approved or provided in appropriations Acts, the Secretary may enter into commitments to guarantee notes and obligations under this title with an aggregate principal amount not to exceed $400,000,000 for each of fiscal years 1997, 1998, 1999, 2000, and 2001.

(b) AUTHORIZATION OF APPROPRIATIONS FOR CREDIT SUBSIDY.—There are authorized to be appropriated to cover the costs (as such term is defined in section 502 of the Congressional Budget Act of 1974) of guarantees under this title such sums as may be necessary for each of fiscal years 1997, 1998, 1999, 2000, and 2001.

(c) AGGREGATE OUTSTANDING LIMITATION.—The total amount of outstanding obligations guaranteed on a cumulative basis by the Secretary pursuant to this title shall not at any time exceed $2,000,000,000 or such higher amount as may be authorized to be appropriated for this title for any fiscal year.

(d) FISCAL YEAR LIMITATIONS ON TRIBES.—The Secretary shall monitor the use of guarantees under this title by Indian tribes. If the Secretary finds that 50 percent of the aggregate guarantee authority under subsection (c) has been committed, the Secretary may—

(1) impose limitations on the amount of guarantees any one Indian tribe may receive in any fiscal year of $50,000,000; or

(2) request the enactment of legislation increasing the aggregate outstanding limitation on guarantees under this title.

25 USC 4191 note.

SEC. 606. EFFECTIVE DATE.

This title shall take effect on the date of the enactment of this Act.

TITLE VII—OTHER HOUSING ASSISTANCE FOR NATIVE AMERICANS

SEC. 701. LOAN GUARANTEES FOR INDIAN HOUSING.

(a) DEFINITION OF ELIGIBLE BORROWERS TO INCLUDE INDIAN TRIBES.—Section 184 of the Housing and Community Development Act of 1992 (12 U.S.C. 1515z–13a) is amended—

12 USC 1715z–13a.

(1) in subsection (a)—

(A) by striking "and Indian housing authorities" and inserting ", Indian housing authorities, and Indian tribes,"; and

(B) by striking "or Indian housing authority" and inserting ", Indian housing authority, or Indian tribe"; and

(2) in subsection (b)(1), by striking "or Indian housing authorities" and inserting ", Indian housing authorities, or Indian tribes".

(b) NEED FOR LOAN GUARANTEE.—Section 184(a) of the Housing and Community Development Act of 1992 (12 U.S.C. 1715z–13a(a)) is amended by striking "trust land" and inserting "lands or as a result of a lack of access to private financial markets".

(c) IHP REQUIREMENT.—Section 184(b)(2) of the Housing and Community Development Act of 1992 (12 U.S.C. 1715z–13a(b)(2)) is amended by inserting before the period at the end the following: "that is under the jurisdiction of an Indian tribe for which an Indian housing plan has been submitted and approved pursuant to sections 102 and 103 of the Native American Housing Assistance and Self-Determination Act of 1996 that provides for the use of loan guarantees under this section to provide affordable homeownership housing in such areas".

(d) LENDER OPTION TO OBTAIN PAYMENT UPON DEFAULT WITHOUT FORECLOSURE.—Section 184(h) of the Housing and Community Development Act of 1992 (12 U.S.C. 1715z–13a(h)) is amended—

(1) in paragraph (1)(A)—

(A) in the first sentence of clause (i), by striking "in a court of competent jurisdiction"; and

(B) by striking clause (ii) and inserting the following:

"(ii) NO FORECLOSURE.—Without seeking foreclosure (or in any case in which a foreclosure proceeding initiated under clause (i) continues for a period in excess of 1 year), the holder of the guarantee may submit to the Secretary a request to assign the obligation and security interest to the Secretary in return for payment of the claim under the guarantee. The Secretary may accept assignment of the loan if the Secretary determines that the assignment is in the best interests of the United States. Upon assignment, the Secretary shall pay to the holder of the guarantee the pro rata portion of the amount guaranteed (as determined under subsection (e)). The Secretary shall be subrogated to the rights of the holder of the guarantee and the holder shall assign the obligation and security to the Secretary.";

(2) by striking paragraph (2); and

(3) by redesignating paragraph (3) as paragraph (2).

(e) LIMITATION OF MORTGAGEE AUTHORITY.—Section 184(h)(2) of the Housing and Community Development Act of 1992 (12 U.S.C. 1715z–13a(h)(2)), as so redesignated by subsection (e)(3) of this section, is amended—

(1) in the first sentence, by striking "tribal allotted or trust land," and inserting "restricted Indian land, the mortgagee or"; and

(2) in the second sentence, by striking "Secretary" each place it appears, and inserting "mortgagee or the Secretary".

(f) LIMITATION ON OUTSTANDING AGGREGATE PRINCIPAL AMOUNT.—Section 184(i)(5)(C) of the Housing and Community Development Act of 1992 (12 U.S.C. 1715z–13a(i)(5)(C)) is amended by striking "1993" and all that follows through "such year" and inserting "1997, 1998, 1999, 2000, and 2001 with an aggregate outstanding principal amount note exceeding $400,000,000 for each such fiscal year".

(g) AUTHORIZATION OF APPROPRIATIONS FOR GUARANTEE FUND.—Section 184(i)(7) of the Housing and Community Development Act of 1992 (12 U.S.C. 1715z–13a(i)(7)) is amended by striking "such sums" and all that follows through "1994" and inserting "such sums as may be necessary for each of fiscal years 1997, 1998, 1999, 2000, and 2001".

(h) DEFINITIONS.—Section 184(k) of the Housing and Community Development Act of 1992 (12 U.S.C. 1715z–13a(k)) is amended—

(1) in paragraph (4), by inserting after "authority" the following: "or Indian tribe";

(2) in paragraph (5)—

(A) by striking subparagraph (A) and inserting the following new subparagraph:

"(A) is authorized to engage in or assist in the development or operation of—

"(i) low-income housing for Indians; or

"(ii) housing subject to the provisions of this section; and"; and

(B) by adding at the end the following:

"The term includes tribally designated housing entities under the Native American Housing Assistance and Self-Determination Act of 1996."; and

(3) by striking paragraph (8) and inserting the following new paragraph:

"(8) TRIBE; INDIAN TRIBE.—The term 'tribe' or 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community of Indians, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act, that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians pursuant to the Indian Self-Determination and Education Assistance Act of 1975.".

(i) PRINCIPAL OBLIGATION AMOUNTS.—Section 184(b)(5)(C) of the Housing and Community Development Act of 1992 (12 U.S.C. 1715z–13a(b)(5)(C)) is amended by striking clause (i) and inserting the following new clause:

"(i) 97.75 percent of the appraised value of the property as of the date the loan is accepted for guarantee (or 98.75 percent if the value of the property is $50,000 or less); and".

(j) AVAILABILITY OF AMOUNTS.—

(1) REQUIREMENT OF APPROPRIATIONS.—Section 184(i)(5) of the Housing and Community Development Act of 1992 (12 U.S.C. 1715z–13a(i)(5)) is amended by striking subparagraph (A) and inserting the following:

"(A) REQUIREMENT OF APPROPRIATIONS.—The authority of the Secretary to enter into commitments to guarantee loans under this section shall be effective for any fiscal year to the extent or in such amounts as are or have been provided in appropriations Acts, without regard to the fiscal year for which such amounts were appropriated.".

(2) COSTS.—Section 184(i)(5)(B) of the Housing and Community Development Act of 1992 (12 U.S.C. 1715z–13a(i)(5)(B)) is amended by adding at the end the following new sentence: "Any amounts appropriated pursuant to this subparagraph shall remain available until expended.".

(k) GNMA AUTHORITY.—The first sentence of section 306(g)(1) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1721(g)(1)) is amended by inserting before the period at the end the following: "; or guaranteed under section 184 of the Housing and Community Development Act of 1992".

25 USC 4211.

SEC. 702. 50-YEAR LEASEHOLD INTEREST IN TRUST OR RESTRICTED LANDS FOR HOUSING PURPOSES.

(a) AUTHORITY TO LEASE.—Notwithstanding any other provision of law, any trust or restricted Indian lands, whether tribally or individually owned, may be leased by the Indian owners, subject to the approval of the affected Indian tribe and the Secretary of the Interior, for housing development and residential purposes.

(b) TERM.—Each lease pursuant to subsection (a) shall be for a term not exceeding 50 years.

(c) RULE OF CONSTRUCTION.—This section may not be construed to repeal, limit, or affect any authority to lease any trust or restricted Indian lands that—

(1) is conferred by or pursuant to any other provision of law; or

(2) provides for leases for any period exceeding 50 years.

(d) SELF-IMPLEMENTATION.—This section is intended to be self-implementing and shall not require the issuance of any rule, regulation, or order to take effect as provided in section 705.

SEC. 703. TRAINING AND TECHNICAL ASSISTANCE.

25 USC 4212. Appropriation authorization.

There are authorized to be appropriated for assistance for a national organization representing Native American housing interests for providing training and technical assistance to Indian housing authorities and tribally designated housing entities such sums as may be necessary for each of fiscal years 1997, 1998, 1999, 2000, and 2001.

SEC. 704. PUBLIC AND ASSISTED HOUSING DRUG ELIMINATION ACT OF 1990.

The Public and Assisted Housing Drug Elimination Act of 1990 (42 U.S.C. 11901 et seq.) is amended—

(1) in section 5123— 42 USC 11902.

(A) by striking "(including Indian Housing Authorities)"; and

(B) by inserting "tribally designated housing entities," before "and private"; and

(2) in section 5124(a)(7)— 42 USC 11903.

(A) by inserting "or tribally designated housing entity" after "public housing agency"; and

(B) by striking "public housing" after nonprofit;

(3) in section 5125, by inserting "a tribally designated housing entity," after "resident management corporation,"; and 42 USC 11904.

(4) in section 5126— 42 USC 11905.

(A) in paragraph (4)—

(i) in subparagraph (B), by striking "or" at the end;

(ii) in subparagraph (C), by striking the period at the end and inserting "; or"; and

(iii) by adding at the end the following new subparagraph:

"(D) the Native American Housing Assistance and Self-Determination Act."; and

(B) by adding at the end the following new paragraph:

"(5) TRIBALLY DESIGNATED HOUSING ENTITY.—The term 'tribally designated housing entity' has the meaning given such term in section 4 of the Native American Housing Assistance and Self-Determination Act of 1996.".

25 USC 4211 note.

SEC. 705. EFFECTIVE DATE.

This title and the amendments made by this title (but not including the amendments made by section 704) shall take effect on the date of the enactment of this Act.

Approved October 26, 1996.

LEGISLATIVE HISTORY—H.R. 3219:

CONGRESSIONAL RECORD, Vol. 142 (1996):
Sept. 28, considered and passed House.
Oct. 3, considered and passed Senate.

Public Law 104–331
104th Congress

An Act

To make certain laws applicable to the Executive Office of the President, and for other purposes.

Oct. 26, 1996
[H.R. 3452]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Presidential and Executive Office Accountability Act.
3 USC 401 note.

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Presidential and Executive Office Accountability Act".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title and table of contents.
Sec. 2. Extension of certain rights and protections to presidential offices.
Sec. 3. Amendments to title 28, United States Code.
Sec. 4. Applicability of future employment laws.
Sec. 5. Repeal of section 303 of the Government Employee Rights Act of 1991.

SEC. 2. EXTENSION OF CERTAIN RIGHTS AND PROTECTIONS TO PRESIDENTIAL OFFICES.

(a) IN GENERAL.—Title 3, United States Code, is amended by adding at the end the following:

"CHAPTER 5—EXTENSION OF CERTAIN RIGHTS AND PROTECTIONS TO PRESIDENTIAL OFFICES

"SUBCHAPTER I—GENERAL PROVISIONS

"Sec.
"401. Definitions.
"402. Application of laws.

"SUBCHAPTER II—EXTENSION OF RIGHTS AND PROTECTIONS

"PART A—EMPLOYMENT DISCRIMINATION, FAMILY AND MEDICAL LEAVE, FAIR LABOR STANDARDS, EMPLOYEE POLYGRAPH PROTECTION, WORKER ADJUSTMENT AND RETRAINING, EMPLOYMENT AND REEMPLOYMENT OF VETERANS, AND INTIMIDATION

"411. Rights and protections under title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, the Rehabilitation Act of 1973, and title I of the Americans with Disabilities Act of 1990.
"412. Rights and protections under the Family and Medical Leave Act of 1993.
"413. Rights and protections under the Fair Labor Standards Act of 1938.
"414. Rights and protections under the Employee Polygraph Protection Act of 1988.
"415. Rights and protections under the Worker Adjustment and Retraining Notification Act.
"416. Rights and protections relating to veterans' employment and reemployment.
"417. Prohibition of intimidation or reprisal.

"PART B—PUBLIC ACCESS PROVISIONS UNDER THE AMERICANS WITH DISABILITIES ACT OF 1990

"421. Rights and protections under the Americans With Disabilities Act of 1990.

"PART C—OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

"425. Rights and protections under the Occupational Safety and Health Act of 1970; procedures for remedy of violations.

"PART D—LABOR-MANAGEMENT RELATIONS

"431. Application of chapter 71 of title 5, relating to Federal service labor-management relations; procedures for remedy of violations.

"PART E—GENERAL

"435. Generally applicable remedies and limitations.

"SUBCHAPTER III—ADMINISTRATIVE AND JUDICIAL DISPUTE RESOLUTION PROCEDURES

"451. Procedure for consideration of alleged violations.
"452. Counseling and mediation.
"453. Election of proceeding.
"454. Appropriate agencies.
"455. Effect of failure to issue regulations.
"456. Confidentiality.

"SUBCHAPTER IV—EFFECTIVE DATE

"471. Effective date.

"SUBCHAPTER I—GENERAL PROVISIONS

"§ 401. Definitions.

"(a) IN GENERAL.—Except as otherwise specifically provided in this chapter, as used in this chapter:

"(1) BOARD.—The term 'Board' means the Merit Systems Protection Board under chapter 12 of title 5.

"(2) COVERED EMPLOYEE.—The term 'covered employee' means any employee of an employing office.

"(3) EMPLOYEE.—The term 'employee' includes an applicant for employment and a former employee.

"(4) EMPLOYING OFFICE.—The term 'employing office' means—

"(A) each office, agency, or other component of the Executive Office of the President;

"(B) the Executive Residence at the White House; and

"(C) the official residence (temporary or otherwise) of the Vice President.

"(b) DEFINITIONS RELATING TO CERTAIN MATTERS.—For purposes of applying this chapter with respect to any practice or other matter—

"(1) to which section 411 relates, the terms 'employing office' and 'covered employee' shall each be considered to have the meaning given to the term by such section;

"(2) to which section 412 relates, the term 'covered employee' means a covered employee described in section 412(a)(2)(B);

"(3) to which section 413 relates, the term 'covered employee' excludes interns and volunteers, as described in section 413(a)(2); and

"(4) to which section 416 relates, the term 'covered employee' means a covered employee described in section 416(a)(2).

"§ 402. Application of laws

"The following laws shall apply, as prescribed by this chapter, to all employing offices (including employing offices within the meaning of section 411, to the extent prescribed therein):

"(1) The Fair Labor Standards Act of 1938.
"(2) Title VII of the Civil Rights Act of 1964.
"(3) The Americans with Disabilities Act of 1990.
"(4) The Age Discrimination in Employment Act of 1967.
"(5) The Family and Medical Leave Act of 1993.
"(6) The Occupational Safety and Health Act of 1970.
"(7) Chapter 71 (relating to Federal service labor-management relations) of title 5.
"(8) The Employee Polygraph Protection Act of 1988.
"(9) The Worker Adjustment and Retraining Notification Act.
"(10) The Rehabilitation Act of 1973.
"(11) Chapter 43 (relating to veterans' employment and reemployment) of title 38.

"SUBCHAPTER II—EXTENSION OF RIGHTS AND PROTECTIONS

"PART A—EMPLOYMENT DISCRIMINATION, FAMILY AND MEDICAL LEAVE, FAIR LABOR STANDARDS, EMPLOYEE POLYGRAPH PROTECTION, WORKER ADJUSTMENT AND RETRAINING, EMPLOYMENT AND REEMPLOYMENT OF VETERANS, AND INTIMIDATION

"§ 411. Rights and protections under title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, the Rehabilitation Act of 1973, and title I of the Americans with Disabilities Act of 1990

"(a) DISCRIMINATORY PRACTICES PROHIBITED.—All personnel actions affecting covered employees shall be made free from any discrimination based on—
"(1) race, color, religion, sex, or national origin, within the meaning of section 703 of the Civil Rights Act of 1964;
"(2) age, within the meaning of section 15 of the Age Discrimination in Employment Act of 1967; or
"(3) disability, within the meaning of section 501 of the Rehabilitation Act of 1973 and sections 102 through 104 of the Americans with Disabilities Act of 1990.
"(b) REMEDY.—
"(1) CIVIL RIGHTS.—The remedy for a violation of subsection (a)(1) shall be—
"(A) such damages as would be appropriate if awarded under section 706(g) of the Civil Rights Act of 1964; and
"(B) such compensatory damages as would be appropriate if awarded under section 1977 of the Revised Statutes, or as would be appropriate if awarded under sections 1977A(a)(1), 1977A(b)(2), and, irrespective of the size of the employing office, 1977A(b)(3)(D) of the Revised Statutes.
"(2) AGE DISCRIMINATION.—The remedy for a violation of subsection (a)(2) shall be—
"(A) such damages as would be appropriate if awarded under section 15(c) of the Age Discrimination in Employment Act of 1967; and
"(B) such liquidated damages as would be appropriate if awarded under section 7(b) of such Act.

"In addition, the waiver provisions of section 7(f) of such Act shall apply to covered employees.

"(3) DISABILITIES DISCRIMINATION.—The remedy for a violation of subsection (a)(3) shall be—

"(A) such damages as would be appropriate if awarded under section 505(a)(1) of the Rehabilitation Act of 1973 or section 107(a) of the Americans with Disabilities Act of 1990; and

"(B) such compensatory damages as would be appropriate if awarded under sections 1977A(a)(2), 1977A(a)(3), 1977A(b)(2), and, irrespective of the size of the employing office, 1977A(b)(3)(D) of the Revised Statutes.

"(c) DEFINITIONS.—Except as otherwise specifically provided in this section, as used in this section:

"(1) COVERED EMPLOYEE.—The term 'covered employee' means any employee of a unit of the executive branch, including the Executive Office of the President, whether appointed by the President or by any other appointing authority in the executive branch, who is not otherwise entitled to bring an action under any of the statutes referred to in subsection (a), but does not include any individual—

"(A) whose appointment is made by and with the advice and consent of the Senate;

"(B) who is appointed to an advisory committee, as defined in section 3(2) of the Federal Advisory Committee Act; or

"(C) who is a member of the uniformed services.

"(2) EMPLOYING OFFICE.—The term 'employing office', with respect to a covered employee, means the office, agency, or other entity in which the covered employee is employed (or sought employment or was employed in the case of an applicant or former employee, respectively).

"(d) REGULATIONS TO IMPLEMENT SECTION.—

"(1) IN GENERAL.—The President, or the designee of the President, shall issue regulations to implement paragraphs (1) and (3) of subsection (a) and paragraphs (1) and (3) of subsection (b).

"(2) AGENCY REGULATIONS.—The regulations issued under paragraph (1) shall be the same as substantive regulations promulgated by the appropriate officer of an executive agency to implement the statutory provisions referred to in paragraphs (1) and (3) of subsection (a) and paragraphs (1) and (3) of subsection (b)—

"(A) except to the extent that the President or designee may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section; and

"(B) except that the President or designee may, at the discretion of the President or designee, issue regulations to implement a provision of section 717 of the Civil Rights Act of 1964 or section 501 of the Rehabilitation Act of 1973 that applies to employees in the executive branch of the Federal Government in lieu of an analogous statutory provision referred to in paragraph (1) or (3) of subsection (a) or paragraph (1) or (3) of subsection (b), if the issuance of such regulations—

"(i) would be equally effective for the implementation of the rights and protections under this section; and

"(ii) would promote uniformity in the application of Federal law to employees in the executive branch of the Federal Government.

"(e) APPLICABILITY.—Subsections (a) through (c), and section 417 (to the extent that it relates to any matter under this section), shall apply with respect to violations occurring on or after the effective date of this chapter.

"(f) EFFECTIVE DATE.—This section shall take effect on October 1, 1997.

"§ 412. Rights and protections under the Family and Medical Leave Act of 1993

"(a) FAMILY AND MEDICAL LEAVE RIGHTS AND PROTECTIONS PROVIDED.—

"(1) IN GENERAL.—The rights and protections established by sections 101 through 105 of the Family and Medical Leave Act of 1993 shall apply to covered employees.

"(2) DEFINITIONS.—For purposes of the application described in paragraph (1)—

"(A) the term 'employer' as used in the Family and Medical Leave Act of 1993 means any employing office; and

"(B) the term 'eligible employee' as used in the Family and Medical Leave Act of 1993 means a covered employee who has been employed in any employing office for 12 months and for at least 1,250 hours of employment during the previous 12 months.

"(b) REMEDY.—The remedy for a violation of subsection (a) shall be such remedy, including liquidated damages, as would be appropriate if awarded under paragraph (1) of section 107(a) of the Family and Medical Leave Act of 1993.

"(c) REGULATIONS TO IMPLEMENT SECTION.—

"(1) IN GENERAL.—The President, or the designee of the President, shall issue regulations to implement this section.

"(2) AGENCY REGULATIONS.—The regulations issued under paragraph (1) shall be the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsections (a) and (b)—

"(A) except to the extent that the President or designee may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section; and

"(B) except that the President or designee may, at the discretion of the President or designee, issue regulations to implement a provision of subchapter V of chapter 63 of title 5, United States Code, that applies to employees in the executive branch of the Federal Government in lieu of an analogous statutory provision referred to in subsection (a) or (b), if the issuance of such regulations—

"(i) would be equally effective for the implementation of the rights and protections under this section; and

"(ii) would promote uniformity in the application of Federal law to employees in the executive branch of the Federal Government.

"(d) EFFECTIVE DATE.—Subsections (a) and (b) shall take effect on the earlier of—

"(1) the effective date of regulations issued under subsection (c); or

"(2) October 1, 1998.

"§ 413. Rights and protections under the Fair Labor Standards Act of 1938

"(a) FAIR LABOR STANDARDS.—

"(1) IN GENERAL.—The rights and protections established by subsections (a)(1) and (d) of section 6, section 7, and section 12(c) of the Fair Labor Standards Act of 1938 shall apply to covered employees.

"(2) INTERNS AND VOLUNTEERS.—For the purposes of this section, the term 'covered employee' does not include an intern or a volunteer as defined in regulations under subsection (c).

"(3) COMPENSATORY TIME.—Except as provided in regulations under subsection (c)(3), covered employees may not receive compensatory time in lieu of overtime compensation.

"(b) REMEDY.—The remedy for a violation of subsection (a) shall be such damages, including liquidated damages, as would be appropriate if awarded under section 16(b) of the Fair Labor Standards Act of 1938.

"(c) REGULATIONS TO IMPLEMENT SECTION.—

"(1) IN GENERAL.—The President, or the designee of the President, shall issue regulations to implement this section.

"(2) AGENCY REGULATIONS.—Except as provided in paragraph (3), the regulations issued under paragraph (1) shall be the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsections (a) and (b) except to the extent that the President or designee may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section.

"(3) IRREGULAR WORK SCHEDULES.—The President or designee shall issue regulations for covered employees whose work schedules directly depend on the schedule of the President or the Vice President that shall be comparable to the provisions in the Fair Labor Standards Act of 1938 that apply to employees who have irregular work schedules.

"(d) EFFECTIVE DATE.—Subsections (a) and (b) shall take effect on the earlier of—

"(1) the effective date of regulations issued under subsection (c); or

"(2) October 1, 1998.

"§ 414. Rights and protections under the Employee Polygraph Protection Act of 1988

"(a) POLYGRAPH PRACTICES PROHIBITED.—No employing office may require a covered employee to take a lie detector test where such a test would be prohibited if required by an employer under paragraph (1), (2), or (3) of section 3 of the Employee Polygraph

Protection Act of 1988. In addition, the waiver provisions of section 6(d) of such Act shall apply to covered employees.

"(b) REMEDY.—The remedy for a violation of subsection (a) shall be such damages as would be appropriate if awarded under section 6(c)(1) of the Employee Polygraph Protection Act of 1988.

"(c) REGULATIONS TO IMPLEMENT SECTION.—

"(1) IN GENERAL.—The President, or the designee of the President, shall issue regulations to implement this section.

"(2) AGENCY REGULATIONS.—The regulations issued under paragraph (1) shall be the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsections (a) and (b) except to the extent that the President or designee may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section.

"(d) EFFECTIVE DATE.—Subsections (a) and (b) shall take effect on the earlier of—

"(1) the effective date of regulations issued under subsection (c); or

"(2) October 1, 1998.

"§ 415. Rights and protections under the Worker Adjustment and Retraining Notification Act

"(a) WORKER ADJUSTMENT AND RETRAINING NOTIFICATION RIGHTS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), no employing office shall be closed or mass layoff ordered within the meaning of section 3 of the Worker Adjustment and Retraining Notification Act until the end of a 60-day period after the employing office serves written notice of such prospective closing or layoff to representatives of covered employees or, if there are no representatives, to covered employees.

"(2) EXCEPTION.—

"(A) IN GENERAL.—In the event that a President (hereinafter in this paragraph referred to as the 'previous President') is not elected to a successive term in office as a result of the election of a new President—

"(i) no notice or waiting period shall be required under paragraph (1) with respect to the separation of any individual described in subparagraph (B), if such separation occurs pursuant to a closure or mass layoff ordered after the term of the new President commences; and

"(ii) if any individual is separated from service, or begins a period of leave under the Family and Medical Leave Act of 1993, before such term commences, nothing in this chapter shall require reinstatement or restoration to employment of the individual after such term commences.

"(B) DESCRIPTION OF INDIVIDUALS.—An individual described in this subparagraph is any covered employee serving pursuant to an appointment made during—

"(i) the term of office of the previous President; or

"(ii) any term, earlier than the term referred to in clause (i), during which such previous President served as President or Vice President.

"(b) REMEDY.—The remedy for a violation of subsection (a) shall be such damages as would be appropriate if awarded under paragraphs (1), (2), and (4) of section 5(a) of the Worker Adjustment and Retraining Notification Act.

"(c) REGULATIONS TO IMPLEMENT SECTION.—

"(1) IN GENERAL.—The President, or the designee of the President, shall issue regulations to implement this section.

"(2) AGENCY REGULATIONS.—The regulations issued under paragraph (1) shall be the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsections (a) and (b) except to the extent that the President or designee may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section.

"(d) EFFECTIVE DATE.—Subsections (a) and (b) shall take effect on the earlier of—

"(1) the effective date of regulations issued under subsection (c); or

"(2) October 1, 1998.

"§ 416. Rights and protections relating to veterans' employment and reemployment

"(a) EMPLOYMENT AND REEMPLOYMENT RIGHTS OF MEMBERS OF THE UNIFORMED SERVICES.—

"(1) IN GENERAL.—It shall be unlawful for an employing office to—

"(A) discriminate, within the meaning of subsections (a) and (b) of section 4311 of title 38, against an eligible employee;

"(B) deny to an eligible employee reemployment rights within the meaning of sections 4312 and 4313 of title 38; or

"(C) deny to an eligible employee benefits within the meaning of sections 4316, 4317, and 4318 of title 38.

"(2) DEFINITION.—For purposes of this section, the term 'eligible employee' means a covered employee performing service in the uniformed services, within the meaning of section 4303(13) of title 38, whose service has not been terminated upon the occurrence of any of the events enumerated in section 4304 of such title.

"(b) REMEDY.—The remedy for a violation of subsection (a) shall be such damages as would be appropriate if awarded under paragraphs (1) and (2)(A) of section 4323(c) of title 38.

"(c) REGULATIONS TO IMPLEMENT SECTION.—

"(1) IN GENERAL.—The President, or the designee of the President, shall issue regulations to implement this section.

"(2) AGENCY REGULATIONS.—The regulations issued under paragraph (1) shall be the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsections (a) and (b)—

"(A) except to the extent that the President or designee may determine, for good cause shown and stated together

with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section; and

"(B) except that the President or designee may, at the discretion of the President or designee, issue regulations to implement a provision of section 4314 or 4324 of title 38, United States Code, that applies to employees in the executive branch of the Federal Government in lieu of an analogous statutory provision referred to in subsection (a) or (b), if the issuance of such regulations—

"(i) would be equally effective for the implementation of the rights and protections under this section; and

"(ii) would promote uniformity in the application of Federal law to employees in the executive branch of the Federal Government.

"(d) EFFECTIVE DATE.—Subsections (a) and (b) shall take effect on the earlier of—

"(1) the effective date of regulations issued under subsection (c); or

"(2) October 1, 1998.

"§ 417. Prohibition of intimidation or reprisal

"(a) IN GENERAL.—It shall be unlawful for an employing office to intimidate, take reprisal against, or otherwise discriminate against, any covered employee because the covered employee has opposed any practice made unlawful by this chapter, or because the covered employee has initiated proceedings, made a charge, or testified, assisted, or participated in any manner in a hearing or other proceeding under this chapter.

"(b) REMEDY.—A violation of subsection (a) may be remedied by any legal remedy available to redress the practice opposed by the covered employee or other violation of law as to which the covered employee initiated proceedings, made a charge, or engaged in other conduct protected under subsection (a).

"PART B—PUBLIC ACCESS PROVISIONS UNDER THE AMERICANS WITH DISABILITIES ACT OF 1990

"§ 421. Rights and protections under the Americans with Disabilities Act of 1990

"(a) RIGHTS AND PROTECTIONS.—The rights and protections against discrimination in the provision of public services and accommodations established by sections 201, 202, and 204, and sections 302, 303, and 309, of the Americans with Disabilities Act of 1990 shall apply, to the extent that public services, programs, or activities are provided, with respect to the White House and its appurtenant grounds and gardens, the Old Executive Office Building, the New Executive Office Buildings, and any other facility to the extent that offices are provided for employees of the Executive Office of the President.

"(b) REMEDY.—The remedy for a violation of subsection (a) shall be such remedy as would be appropriate if awarded under section 203 or 308 of the Americans with Disabilities Act of 1990, as the case may be, except that, with respect to any claim of employment discrimination, the exclusive remedy shall be under

section 411 of this title. A remedy under the preceding sentence shall be enforced in accordance with applicable provisions of such section 203 or 308, as the case may be.

"(c) DEFINITION.—For purposes of the application under this section of the Americans with Disabilities Act of 1990, the term 'public entity' as used in such Act, means, to the extent that public services, programs, or activities are provided, the White House and its appurtenant grounds and gardens, the Old Executive Office Building, the New Executive Office Buildings, and any other facility to the extent that offices are provided for employees of the Executive Office of the President.

"(d) REGULATIONS TO IMPLEMENT SECTION.—

"(1) IN GENERAL.—The President, or the designee of the President, shall issue regulations to implement this section.

"(2) AGENCY REGULATIONS.—The regulations issued under paragraph (1) shall be the same as substantive regulations promulgated by the appropriate officer of an executive agency to implement the statutory provisions referred to in subsections (a) and (b)—

"(A) except to the extent that the President or designee may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section; and

"(B) except that the President or designee may, at the discretion of the President or designee, issue regulations to implement a provision of section 1, 2, 3, or 6 of the Act entitled 'An Act to insure that certain buildings financed with Federal funds are so designed and constructed as to be accessible to the physically handicapped', approved August 12, 1968 (commonly known as the 'Architectural Barriers Act of 1968') or section 501 of the Rehabilitation Act of 1973 that applies to agencies of the executive branch of the Federal Government in lieu of an analogous statutory provision referred to in subsection (a) or (b), if the issuance of such regulations—

"(i) would be equally effective for the implementation of the rights and protections under this section; and

"(ii) would promote uniformity in the application of Federal law to agencies of the executive branch of the Federal Government.

"(e) EFFECTIVE DATE.—Subsections (a), (b), and (c) shall take effect on the earlier of—

"(1) the effective date of regulations issued under subsection (d); or

"(2) October 1, 1998.

"PART C—OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

"§ 425. Rights and protections under the Occupational Safety and Health Act of 1970; procedures for remedy of violations

"(a) OCCUPATIONAL SAFETY AND HEALTH PROTECTIONS.—

"(1) IN GENERAL.—Each employing office and each covered employee shall comply with the provisions of section 5 of the Occupational Safety and Health Act of 1970.

"(2) DEFINITIONS.—For purposes of the application under this section of the Occupational Safety and Health Act of 1970—

"(A) the term 'employer' as used in such Act means an employing office; and

"(B) the term 'employee' as used in such Act means a covered employee.

"(b) REMEDY.—The remedy for a violation of subsection (a) shall be an order to correct the violation, including such order as would be appropriate if issued under section 13(a) of the Occupational Safety and Health Act of 1970.

"(c) PROCEDURES.—

"(1) REQUESTS FOR INSPECTIONS.—Upon written request of any employing office or covered employee, the Secretary of Labor shall have the authority to inspect and investigate places of employment under the jurisdiction of employing offices in accordance with subsections (a), (d), (e), and (f) of section 8 of the Occupational Safety and Health Act of 1970.

"(2) CITATIONS, NOTICES, AND NOTIFICATIONS.—The Secretary of Labor shall have the authority, in accordance with sections 9 and 10 of the Occupational Safety and Health Act of 1970, to issue—

"(A) a citation or notice to any employing office responsible for correcting a violation of subsection (a); or

"(B) a notification to any employing office that the Secretary of Labor believes has failed to correct a violation for which a citation has been issued within the period permitted for its correction.

"(3) HEARINGS AND REVIEW.—If after issuing a citation or notification, the Secretary of Labor determines that a violation has not been corrected—

"(A) the citation and notification shall be deemed a final order (within the meaning of section 10(b) of the Occupational Safety and Health Act of 1970) if the employer fails to notify the Secretary of Labor within 15 days (excluding Saturdays, Sundays, and Federal holidays) after receipt of the notice that the employer intends to contest the citation or notification; or

"(B) opportunity for a hearing before the Occupational Safety and Health Review Commission shall be afforded in accordance with section 10(c) of the Occupational Safety and Health Act of 1970, if the employer gives timely notice to the Secretary that he intends to contest the citation or notification.

"(4) VARIANCE PROCEDURES.—An employing office may request from the Secretary of Labor an order granting a variance from a standard made applicable by this section, in accordance with sections 6(b)(6) and 6(d) of the Occupational Safety and Health Act of 1970.

"(5) JUDICIAL REVIEW.—Any person or employing office aggrieved by a final decision of the Occupational Safety and Health Review Commission under paragraph (3) or the Secretary of Labor under paragraph (4) may file a petition for review with the United States Court of Appeals for the Federal Circuit under section 1296 of title 28.

"(6) COMPLIANCE DATE.—If new appropriated funds are necessary to correct a violation of subsection (a) for which a citation is issued, or to comply with an order requiring

correction of such a violation, correction or compliance shall take place as soon as possible, but not later than the end of the fiscal year following the fiscal year in which the citation is issued or the order requiring correction becomes final and not subject to further review.

"(d) REGULATIONS TO IMPLEMENT SECTION.—

"(1) IN GENERAL.—The President, or the designee of the President, shall issue regulations to implement this section.

"(2) AGENCY REGULATIONS.—The regulations issued under paragraph (1) shall be the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsections (a) and (b)—

"(A) except to the extent that the President or designee may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section; and

"(B) except that the President or designee may, at the discretion of the President or designee, issue regulations to implement a provision of section 19 of the Occupational Safety and Health Act of 1970 that applies to agencies or employees of the executive branch of the Federal Government in lieu of an analogous statutory provision referred to in subsection (a) or (b), if the issuance of such regulations—

"(i) would be equally effective for the implementation of the rights and protections under this section; and

"(ii) would promote uniformity in the application of Federal law to employees in the executive branch of the Federal Government.

"(3) EMPLOYING OFFICE RESPONSIBLE FOR CORRECTION.—The regulations issued under paragraph (1) shall include a method of identifying, for purposes of this section and for different categories of violations of subsection (a), the employing office responsible for correction of a particular violation.

"(e) EFFECTIVE DATE.—Subsections (a) through (c) shall take effect on the earlier of—

"(1) the effective date of regulations issued under subsection (d); or

"(2) October 1, 1998.

"PART D—LABOR-MANAGEMENT RELATIONS

"§ 431. Application of chapter 71 of title 5, relating to Federal service labor-management relations; procedures for remedy of violations

"(a) LABOR-MANAGEMENT RIGHTS.—Subject to subsection (d), chapter 71 of title 5 shall apply to employing offices and to covered employees and representatives of those employees, except that covered employees shall not have a right to reinstatement pursuant to section 7118(a)(7)(C) or 7123 of title 5.

"(b) DEFINITION.—For purposes of the application under this section of chapter 71 of title 5, the term 'agency' as used in such chapter means an employing office.

"(c) REGULATIONS TO IMPLEMENT SECTION.—

"(1) IN GENERAL.—The Federal Labor Relations Authority shall issue regulations to implement this section.

"(2) AGENCY REGULATIONS.—Except as provided in subsection (d), the regulations issued under paragraph (1) shall be the same as substantive regulations promulgated by the Authority to implement the statutory provisions referred to in subsection (a), except—

"(A) to the extent the Authority may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section; or

"(B) as the Authority may determine that a modification of such regulations is necessary to avoid a conflict of interest or appearance of a conflict of interest.

"(d) SPECIFIC REGULATIONS REGARDING APPLICATIONS TO CERTAIN EMPLOYING OFFICES.—

"(1) REGULATIONS REQUIRED.—The Authority shall issue regulations on the manner and the extent to which the requirements and exemptions of chapter 71 of title 5 should apply to covered employees who are employed in the offices listed in paragraph (2). The regulations shall, to the greatest extent practicable, be consistent with the provisions and purposes of chapter 71 of title 5 and of this chapter, and shall be the same as the substantive regulations issued by the Authority under such chapter, except—

"(A) to the extent the Authority may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section; and

"(B) that the Authority shall exclude from coverage under this section any covered employees who are employed in offices listed in paragraph (2) if the Authority determines that such exclusion is required because of—

"(i) a conflict of interest or appearance of a conflict of interest; or

"(ii) the President's or Vice President's constitutional responsibilities.

"(2) OFFICES REFERRED TO.—The offices referred to in paragraph (1) include—

"(A) the White House Office;

"(B) the Executive Residence at the White House;

"(C) the Office of the Vice President;

"(D) the Office of Policy Development;

"(E) the Council of Economic Advisers;

"(F) the National Security Council;

"(G) the Office of Management and Budget; and

"(H) the Office of National Drug Control Policy.

"(e) EFFECTIVE DATE.—

"(1) IN GENERAL.—Except as provided in paragraph (2), subsections (a) and (b) shall take effect on the earlier of—

"(A) the effective date of regulations issued under subsection (c); or

"(B) October 1, 1998.

"(2) CERTAIN EMPLOYING OFFICES.—Subsections (a) and (b) shall take effect, with respect to employing offices, and

employees of employing offices, referred to in subsection (d)(2), on the earlier of—

"(A) the effective date of regulations issued under subsection (d); or

"(B) October 1, 1998.

"PART E—GENERAL

"§ 435. Generally applicable remedies and limitations

"(a) ATTORNEY'S FEES.—If a covered employee, with respect to any claim under this chapter, or a qualified person with a disability, with respect to any claim under section 421, is a prevailing party in any proceeding under section 453(1), the administrative agency may award attorney's fees, expert fees, and any other costs as would be appropriate if awarded under section 706(k) of the Civil Rights Act of 1964.

"(b) INTEREST.—In any proceeding under section 453(1), the same interest to compensate for delay in payment shall be made available as would be appropriate if awarded under section 717(d) of the Civil Rights Act of 1964.

"(c) CIVIL PENALTIES AND PUNITIVE DAMAGES.—Except as otherwise provided in this chapter, no civil penalty or punitive damages may be awarded with respect to any claim under this chapter.

"(d) EXCLUSIVE PROCEDURE.—

"(1) IN GENERAL.—Except as provided in paragraph (2), no person may commence an administrative or judicial proceeding to seek a remedy for the rights and protections afforded by this chapter except as provided in this chapter and in sections 1296 and 1346(g) and chapter 179 of title 28.

"(2) VETERANS.—A covered employee under section 416 may also utilize any provisions of chapter 43 of title 38 that are applicable to that employee.

"(e) SCOPE OF REMEDY.—Only a covered employee who has undertaken and completed the procedures described in section 452 may be granted a remedy under part A of this subchapter.

"(f) CONSTRUCTION.—

"(1) DEFINITIONS AND EXEMPTIONS.—Except where inconsistent with definitions and exemptions provided in this chapter, the definitions and exemptions in the laws made applicable by this chapter shall apply under this chapter.

"(2) SIZE LIMITATIONS.—Notwithstanding paragraph (1), provisions in the laws made applicable under this chapter (other than paragraphs (2) and (3) of section 2(a) of the Worker Adjustment and Retraining Notification Act) determining coverage based on size, whether expressed in terms of numbers of employees, amount of business transacted, or other measure, shall not apply in determining coverage under this chapter.

"(g) POLITICAL AFFILIATION.—It shall not be a violation of any provision of this chapter to consider, or make any employment decision based on, the party affiliation, or political compatibility with the employing office, of an employee who is a covered employee.

"SUBCHAPTER III—ADMINISTRATIVE AND JUDICIAL DISPUTE RESOLUTION PROCEDURES

"§ 451. Procedure for consideration of alleged violations

"The procedure for consideration of alleged violations of part A of subchapter II consists of—

"(1) counseling and mediation as provided in section 452; and

"(2) election, as provided in section 453, of either—

"(A) an administrative proceeding as provided in section 453(1) and judicial review as provided in section 1296 of title 28; or

"(B) a civil action in a district court of the United States as provided in section 1346(g) of title 28.

"§ 452. Counseling and mediation

"(a) IN GENERAL.—The President, or the designee of the President, shall by regulation establish procedures substantially similar to those under sections 402 and 403 of the Congressional Accountability Act of 1995 for the counseling and mediation of alleged violations of a law made applicable under part A of subchapter II. Regulations.

"(b) EXHAUSTION REQUIREMENT.—A covered employee who has not exhausted counseling and mediation under subsection (a) shall be ineligible to make any election under section 453 or otherwise pursue any further form of relief under this subchapter.

"§ 453. Election of proceeding

"Not later than 90 days after a covered employee receives notice of the end of the period of mediation, but no sooner than 30 days after receipt of such notification, such covered employee may either—

"(1) file a complaint with the appropriate agency, as determined under section 454; or

"(2) file a civil action under section 1346(g) of title 28.

"§ 454. Appropriate agencies

"(a) IN GENERAL.—Except as provided in subsection (b), the appropriate agency under this section with respect to an alleged violation of part A of subchapter II shall be the Board. The complaint in an action involving such an alleged violation shall be processed under the procedures specified by the President, or the designee of the President, in such regulations as the President or designee may issue.

"(b) EXCEPTIONS.—

"(1) DISCRIMINATION.—For purposes of any action arising under section 411 (or any action alleging intimidation, reprisal, or discrimination under section 417 relating to any practice made unlawful under section 411), the appropriate agency shall be the Equal Employment Opportunity Commission, and the complaint in any such action shall be processed under the same administrative procedures as any such complaint filed by any employee in the executive branch of the Federal Government (other than a covered employee).

"(2) MIXED CASES.—In the case of any covered employee (within the meaning of section 411) who has been affected by an action which an employee of an executive agency may

appeal to the Board and who alleges that a basis for the action was discrimination prohibited by section 411 (or any action alleging intimidation, reprisal, or discrimination under section 417 relating to any practice made unlawful under section 411), the initial appropriate agency shall be the Board, and such matter shall thereafter be processed in accordance with section 7702(a)–(d) (disregarding paragraph (2) of such subsection (a)) and (f) of title 5.

"(3) JUDICIAL REVIEW.—Notwithstanding any other provision of law (including any provision of law referenced in paragraph (1) or (2)), judicial review of any administrative decision under this subsection shall be by appeal to the United States Court of Appeals for the Federal Circuit under section 1296 of title 28.

"§ 455. Effect of failure to issue regulations

"In any proceeding under section 453(1), if the President, or the designee of the President, has not issued a regulation on a matter for which this chapter requires a regulation to be issued, the administrative agency shall apply, to the extent necessary and appropriate, the most relevant substantive executive agency regulation promulgated to implement the statutory provision at issue in the proceeding.

"§ 456. Confidentiality

"(a) COUNSELING.—All counseling under section 452 shall be strictly confidential, except that, with the consent of the covered employee, the employing office may be notified.

"(b) MEDIATION.—All mediation under section 452 shall be strictly confidential.

"SUBCHAPTER IV—EFFECTIVE DATE

"§ 471. Effective date

"(a) IN GENERAL.—Except as otherwise provided in this chapter, this chapter shall take effect on October 1, 1997.

"(b) REGULATIONS.—Sections 411(d), 412(c), 413(c), 414(c), 415(c), 416(c), 421(d), 425(d), 431(c), 431(d), 452(a), and 454(a) shall take effect on the date of enactment of this Act.".

3 USC 401 note.

(b) REGULATIONS.—Appropriate measures shall be taken to ensure that—

(1) any regulations required to implement section 411 of title 3, United States Code, shall be in effect by October 1, 1997; and

(2) any other regulations needed to implement chapter 5 of title 3, United States Code, shall be in effect as soon as practicable, but not later than October 1, 1998.

(c) TECHNICAL AMENDMENT.—The table of chapters for title 3, United States Code, is amended by adding at the end the following:

"5. Extension of Certain Rights and Protections to Presidential Offices ..... 401".

SEC. 3. AMENDMENTS TO TITLE 28, UNITED STATES CODE.

(a) CIRCUIT COURT JURISDICTION.—

(1) IN GENERAL.—Chapter 83 of title 28, United States Code, is amended by adding at the end the following:

"§ 1296. Review of certain agency actions

"(a) JURISDICTION.—Subject to the provisions of chapter 179, the United States Court of Appeals for the Federal Circuit shall have jurisdiction over a petition for review of a final decision under chapter 5 of title 3 of—

"(1) an appropriate agency (as determined under section 454 of title 3);

"(2) the Federal Labor Relations Authority made under part D of subchapter II of chapter 5 of title 3, notwithstanding section 7123 of title 5; or

"(3) the Secretary of Labor or the Occupational Safety and Health Review Commission, made under part C of subchapter II of chapter 5 of title 3.

"(b) FILING OF PETITION.—Any petition for review under this section must be filed within 30 days after the date the petitioner receives notice of the final decision.".

(2) TABLE OF SECTIONS.—The table of sections for chapter 83 of title 28, United States Code, is amended by adding at the end the following:

"1296. Review of certain agency actions.".

(b) DISTRICT COURT ACTIONS.—

(1) JURISDICTION.—Section 1346 of title 28, United States Code, is amended by adding at the end the following:

"(g) Subject to the provisions of chapter 179, the district courts of the United States shall have exclusive jurisdiction over any civil action commenced under section 453(2) of title 3, by a covered employee under chapter 5 of such title.".

(2) VENUE.—

(A) IN GENERAL.—Chapter 37 of title 28, United States Code, relating to venue, is amended by adding at the end the following:

"§ 1413. Venue of cases under chapter 5 of title 3

"Notwithstanding the preceding provisions of this chapter, a civil action under section 1346(g) may be brought in the United States district court for the district in which the employee is employed or in the United States District Court for the District of Columbia.".

(B) TABLE OF SECTIONS.—The table of sections for chapter 37 of title 28, United States Code, relating to venue, is amended by adding at the end the following:

"1413. Venue of cases under chapter 5 of title 3.".

(3) JURY TRIALS.—Section 2402 of title 28, United States Code (relating to jury trials), is amended by striking "Any action" and inserting "Subject to chapter 179 of this title, any action".

(c) PROCEDURE.—Part VI of title 28, United States Code, is amended by adding at the end the following new chapter:

"Chapter 179—Judicial Review of Certain Actions by Presidential Offices

"Sec.
"3901. Civil actions.
"3902. Judicial review of regulations.
"3903. Effect of failure to issue regulations.
"3904. Expedited review of certain appeals.

"3905. Attorney's fees and interest.
"3906. Payments.
"3907. Other judicial review prohibited.
"3908. Definitions.

"§ 3901. Civil actions

"(a) PARTIES.—In an action under section 1346(g) of this title, the defendant shall be the employing office alleged to have committed the violation involved.

"(b) JURY TRIAL.—In an action described in subsection (a), any party may demand a jury trial where a jury trial would be available in an action against a private defendant under the relevant law made applicable by chapter 5 of title 3. In any case in which a violation of section 411 of title 3 is alleged, the court shall not inform the jury of the maximum amount of compensatory damages available under section 411(b)(1) or 411(b)(3) of title 3.

"§ 3902. Judicial review of regulations

"In any proceeding under section 1296 or 1346(g) of this title in which the application of a regulation issued under chapter 5 of title 3 is at issue, the court may review the validity of the regulation in accordance with the provisions of subparagraphs (A) through (D) of section 706(2) of title 5. If the court determines that the regulation is invalid, the court shall apply, to the extent necessary and appropriate, the most relevant substantive executive agency regulation promulgated to implement the statutory provisions with respect to which the invalid regulation was issued. Except as provided in this section, the validity of regulations issued under this chapter is not subject to judicial review.

"§ 3903. Effect of failure to issue regulations

"In any proceeding under section 1296 or 1346(g) of this title, if the President, the designee of the President, or the Federal Labor Relations Authority has not issued a regulation on a matter for which chapter 5 of title 3 requires a regulation to be issued, the court shall apply, to the extent necessary and appropriate, the most relevant substantive executive agency regulation promulgated to implement the statutory provision at issue in the proceeding.

"§ 3904. Expedited review of certain appeals

"(a) IN GENERAL.—An appeal may be taken directly to the Supreme Court of the United States from any interlocutory or final judgment, decree, or order of a court upon the constitutionality of any provision of chapter 5 of title 3.

"(b) JURISDICTION.—The Supreme Court shall, if it has not previously ruled on the question, accept jurisdiction over the appeal referred to in subsection (a), advance the appeal on the docket, and expedite the appeal to the greatest extent possible.

"§ 3905. Attorney's fees and interest

"(a) ATTORNEY'S FEES.—If a covered employee, with respect to any claim under chapter 5 of title 3, or a qualified person with a disability, with respect to any claim under section 421 of title 3, is a prevailing party in any proceeding under section 1296 or section 1346(g), the court may award attorney's fees, expert fees, and any other costs as would be appropriate if awarded under section 706(k) of the Civil Rights Act of 1964.

"(b) INTEREST.—In any proceeding under section 1296 or section 1346(g), the same interest to compensate for delay in payment shall be made available as would be appropriate if awarded under section 717(d) of the Civil Rights Act of 1964.

"(c) PUNITIVE DAMAGES.—Except as otherwise provided in chapter 5 of title 3, no punitive damages may be awarded with respect to any claim under chapter 5 of title 3.

"§ 3906. Payments

"A judgment, award, or compromise settlement against the United States under this chapter (including any interest and costs) shall be paid—

"(1) under section 1304 of title 31, if it arises out of an action commenced in a district court of the United States (or any appeal therefrom); or

"(2) out of amounts otherwise appropriated or available to the office involved, if it arises out of an appeal from an administrative proceeding under chapter 5 of title 3.

"§ 3907. Other judicial review prohibited

"Except as expressly authorized by this chapter and chapter 5 of title 3, the compliance or noncompliance with the provisions of chapter 5 of title 3, and any action taken pursuant to chapter 5 of title 3, shall not be subject to judicial review.

"§ 3908. Definitions.

"For purposes of applying this chapter, the terms 'employing office' and 'covered employee' have the meanings given those terms in section 401 of title 3.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1997. 28 USC 1296 note.

(e) CONFORMING AMENDMENTS.—The table of chapters for part VI of title 28, United States Code, is amended by adding at the end the following:

"179. Judicial Review of Certain Actions by Presidential Offices ..... 3901".

SEC. 4. APPLICABILITY OF FUTURE EMPLOYMENT LAWS. 3 USC 401 note.

(a) IN GENERAL.—Each provision of Federal law that is made applicable to the legislative branch under section 102 of the Congressional Accountability Act of 1995 (2 U.S.C. 1302), and that is enacted later than 12 months after the date of the enactment of this Act, shall be deemed to apply with respect to "employing offices" and "covered employees" (within the meaning of section 401 of title 3, United States Code, as added by this Act), unless such law specifically provides otherwise and expressly cites this section.

(b) REGULATIONS.—

(1) IN GENERAL.—The President, or the designee of the President, shall issue regulations to implement such provision.

(2) AGENCY REGULATIONS.—The regulations issued under paragraph (1) to implement a provision shall be the same as substantive regulations promulgated by the head of the appropriate executive agency to implement the provision, except to the extent that the President or designee may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective

for the implementation of the rights and protections under the section.

SEC. 5. REPEAL OF SECTION 303 OF THE GOVERNMENT EMPLOYEE RIGHTS ACT OF 1991.

(a) IN GENERAL.—Section 303 of the Government Employee Rights Act of 1991 (as redesignated by section 504(a)(3) of the Congressional Accountability Act of 1995) is repealed.

2 USC 1219 note.

(b) EFFECTIVE DATE.—This section shall take effect on October 1, 1997.

2 USC 1219 note.

2 USC 1219 note.

(c) SAVINGS PROVISION.—The repeal under this section shall not affect proceedings under such section 303 in which a complaint was filed before the effective date of this section, and orders shall be issued in such proceedings and appeals shall be taken therefrom as if this section had not been enacted.

Approved October 26, 1996.

LEGISLATIVE HISTORY—H.R. 3452:

HOUSE REPORTS: No. 104–820, Pt. 1 (Comm. on Government Reform and Oversight).

CONGRESSIONAL RECORD, Vol. 142 (1996):
Sept. 24, considered and passed House.
Oct. 3, considered and passed Senate, amended.
Oct. 4, House concurred in Senate amendments.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 32 (1996):
Oct. 26, Presidential statement.

Public Law 104–332
104th Congress

An Act

To provide for ballast water management to prevent the introduction and spread of nonindigenous species into the waters of the United States, and for other purposes.

Oct. 26, 1996
[H.R. 4283]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

National Invasive Species Act of 1996. Environmental protection. Maritime affairs. 16 USC 4701 note.

SECTION 1. SHORT TITLE; REFERENCES.

(a) IN GENERAL.—This Act may be cited as the "National Invasive Species Act of 1996".

(b) REFERENCES.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to a section or other provision of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4701 et seq.).

SEC. 2. AMENDMENTS TO THE NONINDIGENOUS AQUATIC NUISANCE PREVENTION AND CONTROL ACT OF 1990.

(a) FINDINGS; DEFINITIONS.—

(1) FINDINGS.—Section 1002(a) (16 U.S.C. 4701(a)) is amended—

(A) by striking paragraphs (2) and (3) and inserting the following new paragraphs:

"(2) when environmental conditions are favorable, nonindigenous species become established, may compete with or prey upon native species of plants, fish, and wildlife, may carry diseases or parasites that affect native species, and may disrupt the aquatic environment and economy of affected nearshore areas;

"(3) the zebra mussel was unintentionally introduced into the Great Lakes and has infested—

"(A) waters south of the Great Lakes, into a good portion of the Mississippi River drainage;

"(B) waters west of the Great Lakes, into the Arkansas River in Oklahoma; and

"(C) waters east of the Great Lakes, into the Hudson River and Lake Champlain;";

(B) in paragraph (4)—

(i) by inserting "by the zebra mussel and ruffe, round goby, and other nonindigenous species" after "other species"; and

(ii) by striking "and" at the end;

(C) in paragraph (5), by striking the period and inserting a semicolon; and

(D) by adding at the end the following new paragraphs:

"(6) in 1992, the zebra mussel was discovered at the northernmost reaches of the Chesapeake Bay watershed;

"(7) the zebra mussel poses an imminent risk of invasion in the main waters of the Chesapeake Bay;

"(8) since the Chesapeake Bay is the largest recipient of foreign ballast water on the East Coast, there is a risk of further invasions of other nonindigenous species;

"(9) the zebra mussel is only one example of thousands of nonindigenous species that have become established in waters of the United States and may be causing economic and ecological degradation with respect to the natural resources of waters of the United States;

"(10) since their introduction in the early 1980's in ballast water discharges, ruffe—

"(A) have caused severe declines in populations of other species of fish in Duluth Harbor (in Minnesota and Wisconsin);

"(B) have spread to Lake Huron; and

"(C) are likely to spread quickly to most other waters in North America if action is not taken promptly to control their spread;

"(11) examples of nonindigenous species that, as of the date of enactment of the National Invasive Species Act of 1996, infest coastal waters of the United States and that have the potential for causing adverse economic and ecological effects include—

"(A) the mitten crab (Eriocher sinensis) that has become established on the Pacific Coast;

"(B) the green crab (Carcinus maenas) that has become established in the coastal waters of the Atlantic Ocean;

"(C) the brown mussel (Perna perna) that has become established along the Gulf of Mexico; and

"(D) certain shellfish pathogens;

"(12) many aquatic nuisance vegetation species, such as Eurasian watermilfoil, hydrilla, water hyacinth, and water chestnut, have been introduced to waters of the United States from other parts of the world causing or having a potential to cause adverse environmental, ecological, and economic effects;

"(13) if preventive management measures are not taken nationwide to prevent and control unintentionally introduced nonindigenous aquatic species in a timely manner, further introductions and infestations of species that are as destructive as, or more destructive than, the zebra mussel or the ruffe infestations may occur;

"(14) once introduced into waters of the United States, aquatic nuisance species are unintentionally transported and introduced into inland lakes and rivers by recreational boaters, commercial barge traffic, and a variety of other pathways; and

"(15) resolving the problems associated with aquatic nuisance species will require the participation and cooperation of the Federal Government and State governments, and investment in the development of prevention technologies.".

(2) DEFINITIONS.—Section 1003 (16 U.S.C. 4702) is amended—

(A) by striking paragraph (1) and redesignating paragraphs (2) through (8) as paragraphs (1) through (7), respectively;

(B) in paragraph (2), as redesignated by subparagraph (A) of this paragraph, by striking "assistant Secretary" and inserting "Assistant Secretary";

(C) by redesignating paragraphs (9) through (15) as paragraphs (11) through (17), respectively; and

(D) by inserting after paragraph (7), as redesignated by subparagraph (A) of this paragraph, the following:

"(8) 'Great Lakes region' means the 8 States that border on the Great Lakes;

"(9) 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional corporation (as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)) that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians;

"(10) 'interstate organization' means an entity—

"(A) established by—

"(i) an interstate compact that is approved by Congress;

"(ii) a Federal statute; or

"(iii) a treaty or other international agreement with respect to which the United States is a party; and

"(B)(i) that represents 2 or more—

"(I) States or political subdivisions thereof; or

"(II) Indian tribes; or

"(ii) that represents—

"(I) 1 or more States or political subdivisions thereof; and

"(II) 1 or more Indian tribes; or

"(iii) that represents the Federal Government and 1 or more foreign governments; and

"(C) has jurisdiction over, serves as forum for coordinating, or otherwise has a role or responsibility for the management of, any land or other natural resource;".

(b) AQUATIC NUISANCE SPECIES CONTROL PROGRAM.—

(1) AMENDMENT TO HEADING.—The heading to subtitle B (16 U.S.C. 4711 et seq.) is amended to read as follows:

"Subtitle B—Prevention of Unintentional Introductions of Nonindigenous Aquatic Species".

(2) AQUATIC NUISANCE SPECIES.—Section 1101 (16 U.S.C. 4711) is amended to read as follows:

"SEC. 1101. AQUATIC NUISANCE SPECIES IN WATERS OF THE UNITED STATES.

"(a) GREAT LAKES GUIDELINES.—

"(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Secretary shall issue voluntary guidelines to prevent the introduction and spread of aquatic

nuisance species into the Great Lakes through the exchange of ballast water of vessels prior to entering those waters.

"(2) CONTENT OF GUIDELINES.—The guidelines issued under this subsection shall—

"(A) ensure to the maximum extent practicable that ballast water containing aquatic nuisance species is not discharged into the Great Lakes;

"(B) protect the safety of—

"(i) each vessel; and

"(ii) the crew and passengers of each vessel;

"(C) take into consideration different vessel operating conditions; and

"(D) be based on the best scientific information available.

"(b) REGULATIONS.—

"(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary, in consultation with the Task Force, shall issue regulations to prevent the introduction and spread of aquatic nuisance species into the Great Lakes through the ballast water of vessels.

"(2) CONTENT OF REGULATIONS.—The regulations issued under this subsection shall—

"(A) apply to all vessels equipped with ballast water tanks that enter a United States port on the Great Lakes after operating on the waters beyond the exclusive economic zone;

"(B) require a vessel to—

"(i) carry out exchange of ballast water on the waters beyond the exclusive economic zone prior to entry into any port within the Great Lakes;

"(ii) carry out an exchange of ballast water in other waters where the exchange does not pose a threat of infestation or spread of aquatic nuisance species in the Great Lakes and other waters of the United States, as recommended by the Task Force under section 1102(a)(1); or

"(iii) use environmentally sound alternative ballast water management methods if the Secretary determines that such alternative methods are as effective as ballast water exchange in preventing and controlling infestations of aquatic nuisance species;

"(C) not affect or supersede any requirements or prohibitions pertaining to the discharge of ballast water into waters of the United States under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);

"(D) provide for sampling procedures to monitor compliance with the requirements of the regulations;

"(E) prohibit the operation of a vessel in the Great Lakes if the master of the vessel has not certified to the Secretary or the Secretary's designee by not later than the departure of that vessel from the first lock in the St. Lawrence Seaway that the vessel has complied with the requirements of the regulations;

"(F) protect the safety of—

"(i) each vessel; and

"(ii) the crew and passengers of each vessel;

"(G) take into consideration different operating conditions; and

"(H) be based on the best scientific information available.

"(3) ADDITIONAL REGULATIONS.—In addition to promulgating regulations under paragraph (1), the Secretary, in consultation with the Task Force, shall, not later than November 4, 1994, issue regulations to prevent the introduction and spread of aquatic nuisance species into the Great Lakes through ballast water carried on vessels that enter a United States port on the Hudson River north of the George Washington Bridge.

"(4) EDUCATION AND TECHNICAL ASSISTANCE PROGRAMS.—The Secretary may carry out education and technical assistance programs and other measures to promote compliance with the regulations issued under this subsection.

"(c) VOLUNTARY NATIONAL GUIDELINES.—

"(1) IN GENERAL.—Not later than 1 year after the date of enactment of the National Invasive Species Act of 1996, and after providing notice and an opportunity for public comment, the Secretary shall issue voluntary guidelines to prevent the introduction and spread of nonindigenous species in waters of the United States by ballast water operations and other operations of vessels equipped with ballast water tanks.

"(2) CONTENT OF GUIDELINES.—The voluntary guidelines issued under this subsection shall—

"(A) ensure to the maximum extent practicable that aquatic nuisance species are not discharged into waters of the United States from vessels;

"(B) apply to all vessels equipped with ballast water tanks that operate in waters of the United States;

"(C) protect the safety of—

"(i) each vessel; and

"(ii) the crew and passengers of each vessel;

"(D) direct a vessel that is carrying ballast water into waters of the United States after operating beyond the exclusive economic zone to—

"(i) carry out the exchange of ballast water of the vessel in waters beyond the exclusive economic zone;

"(ii) exchange the ballast water of the vessel in other waters where the exchange does not pose a threat of infestation or spread of nonindigenous species in waters of the United States, as recommended by the Task Force under section 1102(a)(1); or

"(iii) use environmentally sound alternative ballast water management methods, including modification of the vessel ballast water tanks and intake systems, if the Secretary determines that such alternative methods are at least as effective as ballast water exchange in preventing and controlling infestations of aquatic nuisance species;

"(E) direct vessels to carry out management practices that the Secretary determines to be necessary to reduce the probability of unintentional nonindigenous species transfer resulting from—

"(i) ship operations other than ballast water discharge; and

"(ii) ballasting practices of vessels that enter waters of the United States with no ballast water on board;

Records.

"(F) provide for the keeping of records that shall be submitted to the Secretary, as prescribed by the guidelines, and that shall be maintained on board each vessel and made available for inspection, upon request of the Secretary and in a manner consistent with subsection (i), in order to enable the Secretary to determine compliance with the guidelines, including—

"(i) with respect to each ballast water exchange referred to in clause (ii), reporting on the precise location and thoroughness of the exchange; and

"(ii) any other information that the Secretary considers necessary to assess the rate of effective compliance with the guidelines;

"(G) provide for sampling procedures to monitor compliance with the guidelines;

"(H) take into consideration—

"(i) vessel types;

"(ii) variations in the characteristics of point of origin and receiving water bodies;

"(iii) variations in the ecological conditions of waters and coastal areas of the United States; and

"(iv) different operating conditions;

"(I) be based on the best scientific information available;

"(J) not affect or supersede any requirements or prohibitions pertaining to the discharge of ballast water into waters of the United States under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.); and

"(K) provide an exemption from ballast water exchange requirements to passenger vessels with operating ballast water systems that are equipped with treatment systems designed to kill aquatic organisms in ballast water, unless the Secretary determines that such treatment systems are less effective than ballast water exchange at reducing the risk of transfers of invasive species in the ballast water of passenger vessels; and

"(L) not apply to crude oil tankers engaged in the coastwise trade.

"(3) EDUCATION AND TECHNICAL ASSISTANCE PROGRAMS.—Not later than 1 year after the date of enactment of the National Invasive Species Act of 1996, the Secretary shall carry out education and technical assistance programs and other measures to encourage compliance with the guidelines issued under this subsection.

"(d) REPORT TO CONGRESS.—Not sooner than 24 months after the date of issuance of guidelines pursuant to subsection (c) and not later than 30 months after such date, and after consultation with interested and affected persons, the Secretary shall prepare and submit to Congress a report containing the information required pursuant to paragraphs (1) and (2) of subsection (e).

"(e) PERIODIC REVIEW AND REVISION.—

"(1) IN GENERAL.—Not later than 3 years after the date of issuance of guidelines pursuant to subsection (c), and not less frequently than every 3 years thereafter, the Secretary shall, in accordance with criteria developed by the Task Force under paragraph (3)—

"(A) assess the compliance by vessels with the voluntary guidelines issued under subsection (c) and the regulations promulgated under this Act;

"(B) establish the rate of compliance that is based on the assessment under subparagraph (A);

"(C) assess the effectiveness of the voluntary guidelines and regulations referred to in subparagraph (A) in reducing the introduction and spread of aquatic nuisance species by vessels; and

"(D) as necessary, on the basis of the best scientific information available—

"(i) revise the guidelines and regulations referred to in subparagraph (A);

"(ii) promulgate additional regulations pursuant to subsection (f)(1); or

"(iii) carry out each of clauses (i) and (ii).

"(2) SPECIAL REVIEW AND REVISION.—Not later than 90 days after the Task Force makes a request to the Secretary for a special review and revision for coastal and inland waterways designated by the Task Force, the Secretary shall—

"(A) conduct a special review of guidelines and regulations applicable to those waterways in accordance with the review procedures under paragraph (1); and

"(B) as necessary, in the same manner as provided under paragraph (1)(D)—

"(i) revise those guidelines;

"(ii) promulgate additional regulations pursuant to subsection (f)(1); or

"(iii) carry out each of clauses (i) and (ii).

"(3) CRITERIA FOR EFFECTIVENESS.—Not later than 18 months after the date of enactment of the National Invasive Species Act of 1996, the Task Force shall submit to the Secretary criteria for determining the adequacy and effectiveness of the voluntary guidelines issued under subsection (c).

"(f) AUTHORITY OF SECRETARY.—

"(1) GENERAL REGULATIONS.—If, on the basis of a periodic review conducted under subsection (e)(1) or a special review conducted under subsection (e)(2), the Secretary determines that—

"(A) the rate of effective compliance (as determined by the Secretary) with the guidelines issued pursuant to subsection (c) is inadequate; or

"(B) the reporting by vessels pursuant to those guidelines is not adequate for the Secretary to assess the compliance with those guidelines and provide a rate of compliance of vessels, including the assessment of the rate of compliance of vessels under subsection (e)(2),

the Secretary shall promptly promulgate regulations that meet the requirements of paragraph (2).

"(2) REQUIREMENTS FOR REGULATIONS.—The regulations promulgated by the Secretary under paragraph (1)—

"(A) shall—

"(i) not be promulgated sooner than 180 days following the issuance of the report to Congress submitted pursuant to subsection (d);

"(ii) make mandatory the requirements included in the voluntary guidelines issued under subsection (c); and

"(iii) provide for the enforcement of the regulations; and

"(B) may be regional in scope.

"(3) INTERNATIONAL REGULATIONS.—The Secretary shall revise regulations promulgated under this subsection to the extent required to make such regulations consistent with the treatment of a particular matter in any international agreement, agreed to by the United States, governing management of the transfer of nonindigenous aquatic species by vessel.

"(g) SANCTIONS.—

"(1) CIVIL PENALTIES.—Any person who violates a regulation promulgated under subsection (b) or (f) shall be liable for a civil penalty in an amount not to exceed $25,000. Each day of a continuing violation constitutes a separate violation. A vessel operated in violation of the regulations is liable in rem for any civil penalty assessed under this subsection for that violation.

"(2) CRIMINAL PENALTIES.—Any person who knowingly violates the regulations promulgated under subsection (b) or (f) is guilty of a class C felony.

"(3) REVOCATION OF CLEARANCE.—Upon request of the Secretary, the Secretary of the Treasury shall withhold or revoke the clearance of a vessel required by section 4197 of the Revised Statutes (46 U.S.C. App. 91), if the owner or operator of that vessel is in violation of the regulations issued under subsection (b) or (f).

"(4) EXCEPTION TO SANCTIONS.—This subsection does not apply to a failure to exchange ballast water if—

"(A) the master of a vessel, acting in good faith, decides that the exchange of ballast water will threaten the safety or stability of the vessel, its crew, or its passengers; and

"(B) the recordkeeping and reporting requirements of the Act are complied with.

"(h) COORDINATION WITH OTHER AGENCIES.—In carrying out the programs under this section, the Secretary is encouraged to use, to the maximum extent practicable, the expertise, facilities, members, or personnel of established agencies and organizations that have routine contact with vessels, including the Animal and Plant Health Inspection Service of the Department of Agriculture, the National Cargo Bureau, port administrations, and ship pilots' associations.

"(i) CONSULTATION WITH CANADA, MEXICO, AND OTHER FOREIGN GOVERNMENTS.—In developing the guidelines issued and regulations promulgated under this section, the Secretary is encouraged to consult with the Government of Canada, the Government of Mexico, and any other government of a foreign country that the Secretary, in consultation with the Task Force, determines to be necessary to develop and implement an effective international program for preventing the unintentional introduction and spread of nonindigenous species.

"(j) INTERNATIONAL COOPERATION.—The Secretary, in cooperation with the International Maritime Organization of the United Nations and the Commission on Environmental Cooperation established pursuant to the North American Free Trade Agreement, is encouraged to enter into negotiations with the governments of foreign countries to develop and implement an effective international program for preventing the unintentional introduction and spread of nonindigenous species.

"(k) SAFETY EXEMPTION.—

"(1) MASTER DISCRETION.—The master of a vessel is not required to conduct a ballast water exchange if the master decides that the exchange would threaten the safety or stability of the vessel, its crew, or its passengers because of adverse weather, vessel architectural design, equipment failure, or any other extraordinary conditions.

"(2) OTHER REQUIREMENTS.—(A) IN GENERAL.—Except as provided in subparagraph (B), a vessel that does not exchange ballast water on the high seas under paragraph (1) shall not be restricted from discharging ballast water in any harbor.

"(B) GREAT LAKES.—Subparagraph (A) shall not apply in a case in which a vessel is subject to the regulations issued by the Secretary under subsection (b).

"(3) CRUDE OIL TANKER BALLAST FACILITY STUDY.—(A) Within 60 days of the date of enactment of this Act, the Secretary of the department in which the Coast Guard is operating, in consultation with the Under Secretary of Commerce for Oceans and Atmosphere, affected shoreside ballast water facility operators, affected crude oil tanker operators, and interested parties, shall initiate a study of the effectiveness of existing shoreside ballast water facilities used by crude oil tankers in the coastwise trade off Alaska in preventing the introduction of nonindigenous aquatic species into the waters off Alaska, as well as the cost and feasibility of modifying such facilities to improve such effectiveness.

"(B) The study required under subparagraph (A) shall be submitted to the Congress by no later than October 1, 1997.

"(l) NON-DISCRIMINATION.—The Secretary shall ensure that vessels registered outside of the United States do not receive more favorable treatment than vessels registered in the United States when the Secretary performs studies, reviews compliance, determines effectiveness, establishes requirements, or performs any other responsibilities under this Act.".

(c) NATIONAL BALLAST WATER MANAGEMENT INFORMATION.—Section 1102 (16 U.S.C. 4712) is amended—

(1) by striking the section heading and inserting the following:

"SEC. 1102. NATIONAL BALLAST WATER MANAGEMENT INFORMATION.";

(2) in subsection (a)—

(A) in paragraphs (1) and (2), by inserting ", in cooperation with the Secretary," before "shall conduct" each place it appears;

(B) in paragraph (2), by inserting "Lake Champlain and other" after "economic uses of";

(3) by striking subsection (b) and inserting the following:

"(b) ECOLOGICAL AND BALLAST WATER DISCHARGE SURVEYS.—

"(1) ECOLOGICAL SURVEYS.—

"(A) IN GENERAL.—The Task Force, in cooperation with the Secretary, shall conduct ecological surveys of the Chesapeake Bay, San Francisco Bay, and Honolulu Harbor and, as necessary, of other estuaries of national significance and other waters that the Task Force determines—

"(i) to be highly susceptible to invasion by aquatic nuisance species resulting from ballast water operations and other operations of vessels; and

"(ii) to require further study.

"(B) REQUIREMENTS FOR SURVEYS.—In conducting the surveys under this paragraph, the Task Force shall, with respect to each such survey—

"(i) examine the attributes and patterns of invasions of aquatic nuisance species; and

"(ii) provide an estimate of the effectiveness of ballast water management and other vessel management guidelines issued and regulations promulgated under this subtitle in abating invasions of aquatic nuisance species in the waters that are the subject of the survey.

"(2) BALLAST WATER DISCHARGE SURVEYS.—

"(A) IN GENERAL.—The Secretary, in cooperation with the Task Force, shall conduct surveys of ballast water discharge rates and practices in the waters referred to in paragraph (1)(A) on the basis of the criteria under clauses (i) and (ii) of such paragraph.

"(B) REQUIREMENTS FOR SURVEYS.—In conducting the surveys under this paragraph, the Secretary shall—

"(i) examine the rate of, and trends in, ballast water discharge in the waters that are the subject of the survey; and

"(ii) assess the effectiveness of voluntary guidelines issued, and regulations promulgated, under this subtitle in altering ballast water discharge practices to reduce the probability of accidental introductions of aquatic nuisance species.

"(3) COLUMBIA RIVER.—The Secretary, in cooperation with the Task Force and academic institutions in each of the States affected, shall conduct an ecological and ballast water discharge survey of the Columbia River system consistent with the requirements of paragraphs (1) and (2).''; and

(4) by adding at the end the following new subsections:

"(e) REGIONAL RESEARCH GRANTS.—Out of amounts appropriated to carry out this subsection for a fiscal year, the Under Secretary may—

"(1) make available not to exceed $750,000 to fund research on aquatic nuisance species prevention and control in the Chesapeake Bay through grants, to be competitively awarded and subject to peer review, to universities and research institutions;

"(2) make available not to exceed $500,000 to fund research on aquatic nuisance species prevention and control in the Gulf of Mexico through grants, to be competitively awarded and subject to peer review, to universities and research institutions;

"(3) make available not to exceed $500,000 to fund research on aquatic nuisance species prevention and control for the

Pacific Coast through grants, to be competitively awarded and subject to peer review, to universities and research institutions;

"(4) make available not to exceed $500,000 to fund research on aquatic nuisance species prevention and control for the Atlantic Coast through grants, to be competitively awarded and subject to peer review, to universities and research institutions; and

"(5) make available not to exceed $750,000 to fund research on aquatic nuisance species prevention and control in the San Francisco Bay-Delta Estuary through grants, to be competitively awarded and subject to peer review, to universities and research institutions.

"(f) NATIONAL BALLAST INFORMATION CLEARINGHOUSE.—

"(1) IN GENERAL.—The Secretary shall develop and maintain, in consultation and cooperation with the Task Force and the Smithsonian Institution (acting through the Smithsonian Environmental Research Center), a clearinghouse of national data concerning—

"(A) ballasting practices;

"(B) compliance with the guidelines issued pursuant to section 1101(c); and

"(C) any other information obtained by the Task Force under subsection (b).

"(2) REPORT.—In consultation and cooperation with the Task Force and the Smithsonian Institution (acting through the Smithsonian Environmental Research Center), the Secretary shall prepare and submit to the Task Force and the Congress, on a biannual basis, a report that synthesizes and analyzes the data referred to in paragraph (1) relating to—

"(A) ballast water delivery and management; and

"(B) invasions of aquatic nuisance species resulting from ballast water.".

(d) ARMED SERVICES BALLAST WATER PROGRAM; BALLAST WATER MANAGEMENT DEMONSTRATION PROGRAM.—Subtitle B (16 U.S.C. 4701 et seq.) is amended by adding at the end the following new sections:

"SEC. 1103. ARMED SERVICES BALLAST WATER PROGRAMS. 16 USC 4713.

"(a) DEPARTMENT OF DEFENSE VESSELS.—Subject to operational conditions, the Secretary of Defense, in consultation with the Secretary, the Task Force, and the International Maritime Organization, shall implement a ballast water management program for seagoing vessels of the Department of Defense to minimize the risk of introduction of nonindigenous species from releases of ballast water.

"(b) COAST GUARD VESSELS.—Subject to operational conditions, the Secretary, in consultation with the Task Force and the International Maritime Organization, shall implement a ballast water management program for seagoing vessels of the Coast Guard to minimize the risk of introduction of nonindigenous species from releases of ballast water.

"SEC. 1104. BALLAST WATER MANAGEMENT DEMONSTRATION PROGRAM. 16 USC 4714.

"(a) TECHNOLOGIES AND PRACTICES DEFINED.—For purposes of this section, the term 'technologies and practices' means those technologies and practices that—

"(1) may be retrofitted—

"(A) on existing vessels or incorporated in new vessel designs; and

"(B) on existing land-based ballast water treatment facilities;

"(2) may be designed into new water treatment facilities;

"(3) are operationally practical;

"(4) are safe for a vessel and crew;

"(5) are environmentally sound;

"(6) are cost-effective;

"(7) a vessel operator is capable of monitoring; and

"(8) are effective against a broad range of aquatic nuisance species.

"(b) DEMONSTRATION PROGRAM.—

"(1) IN GENERAL.—During the 18-month period beginning on the date that funds are made available by appropriations pursuant to section 1301(e), the Secretary of the Interior and the Secretary of Commerce, with the concurrence of and in cooperation with the Secretary, shall conduct a ballast water management demonstration program to demonstrate technologies and practices to prevent aquatic nonindigenous species from being introduced into and spread through ballast water in the Great Lakes and other waters of the United States.

"(2) LOCATION.—The installation and construction of the technologies and practices used in the demonstration program conducted under this subsection shall be performed in the United States.

"(3) VESSEL SELECTION.—In demonstrating technologies and practices on vessels under this subsection, the Secretary of the Interior and the Secretary of Commerce, shall—

"(A) use only vessels that—

"(i) are approved by the Secretary;

"(ii) have ballast water systems conducive to testing aboard-vessel or land-based technologies and practices applicable to a significant number of merchant vessels; and

"(iii) are—

"(I) publicly or privately owned; and

"(II) in active use for trade or other cargo shipment purposes during the demonstration;

"(B) select vessels for participation in the program by giving priority consideration—

"(i) first, to vessels documented under chapter 121 of title 46, United States Code;

"(ii) second, to vessels that are a majority owned by citizens of the United States, as determined by the Secretary; and

"(iii) third, to any other vessels that regularly call on ports in the United States; and

"(C) seek to use a variety of vessel types, including vessels that—

"(i) call on ports in the United States and on the Great Lakes; and

"(ii) are operated along major coasts of the United States and inland waterways, including the San Francisco Bay and Chesapeake Bay.

"(4) SELECTION OF TECHNOLOGIES AND PRACTICES.—In selecting technologies and practices for demonstration under this subsection, the Secretary of the Interior and the Secretary of Commerce shall give priority consideration to technologies and practices identified as promising by the National Research Council Marine Board of the National Academy of Sciences in its report on ships' ballast water operations issued in July 1996.

"(5) REPORT.—Not later than 3 years after the date of enactment of the National Invasive Species Act of 1996, the Secretary of the Interior and the Secretary of Commerce shall prepare and submit a report to the Congress on the demonstration program conducted pursuant to this section. The report shall include findings and recommendations of the Secretary of the Interior and the Secretary of Commerce concerning technologies and practices.

"(c) AUTHORITIES; CONSULTATION AND COOPERATION WITH INTERNATIONAL MARITIME ORGANIZATION AND TASK FORCE.—

"(1) AUTHORITIES.—In conducting the demonstration program under subsection (b), the Secretary of the Interior may—

"(A) enter into cooperative agreements with appropriate officials of other agencies of the Federal Government, agencies of States and political subdivisions thereof, and private entities;

"(B) accept funds, facilities, equipment, or personnel from other Federal agencies; and

"(C) accept donations of property and services.

"(2) CONSULTATION AND COOPERATION.—The Secretary of the Interior shall consult and cooperate with the International Maritime Organization and the Task Force in carrying out this section.".

(e) AMENDMENTS TO SUBTITLE C.—

(1) SUBTITLE HEADING.—The heading to subtitle C (16 U.S.C. 4721 et seq.) is amended to read as follows:

"Subtitle C—Prevention and Control of Aquatic Nuisance Species Dispersal".

(2) TASK FORCE.—Section 1201 (16 U.S.C. 4721) is amended—

(A) in subsection (b)—

(i) by striking "and" at the end of paragraph (5);

(ii) by redesignating paragraph (6) as paragraph (7); and

(iii) by inserting after paragraph (5) the following new paragraph:

"(6) the Secretary of Agriculture; and"; and

(B) in subsection (c), by inserting "the Chesapeake Bay Program, the San Francisco Bay-Delta Estuary Program," before "and State agencies".

(3) RESEARCH PROGRAM.—Section 1202 (16 U.S.C. 4722) is amended—

(A) in subsection (f)(1)(A), by inserting "and impacts" after "economic risks"; and

(B) in subsection (i)—

(i) in paragraph (1)—

(I) by striking "(1) IN GENERAL.—The Task Force" and inserting the following:

"(1) ZEBRA MUSSEL.—

"(A) IN GENERAL.—The Task Force";

(II) by striking "(A) research" and inserting the following:

"(i) research";

(III) by striking "(B) tracking" and inserting the following:

"(ii) tracking";

(IV) by striking "(C) development" and inserting the following:

"(iii) development"; and

(V) by striking "(D) provision" and inserting the following:

"(iv) provision";

(ii) in paragraph (2), by striking "(2) PUBLIC FACILITY RESEARCH AND DEVELOPMENT.—" and inserting the following:

"(B) PUBLIC FACILITY RESEARCH AND DEVELOPMENT.—";

(iii) in subparagraph (B) of paragraph (1), as so redesignated, by striking the first sentence and inserting the following: "The Assistant Secretary, in consultation with the Task Force, shall develop a program of research, technology development, and demonstration for the environmentally sound control of zebra mussels in and around public facilities.";

(iv) in paragraph (1), by adding after subparagraph (B), as so redesignated, the following new subparagraph:

"(C) VOLUNTARY GUIDELINES.—Not later than 1 year after the date of enactment of this subparagraph, the Task Force shall develop and submit to the Secretary voluntary guidelines for controlling the spread of the zebra mussel and, if appropriate, other aquatic nuisance species through recreational activities, including boating and fishing. Not later than 4 months after the date of such submission, and after providing notice and an opportunity for public comment, the Secretary shall issue voluntary guidelines that are based on the guidelines developed by the Task Force under this subparagraph."; and

(v) by adding at the end the following new paragraphs:

"(2) DISPERSAL CONTAINMENT ANALYSIS.—

"(A) RESEARCH.—The Administrator of the Environmental Protection Agency, in cooperation with the National Science Foundation and the Task Force, shall provide research grants on a competitive basis for projects that—

"(i) identify environmentally sound methods for controlling the dispersal of aquatic nuisance species, such as the zebra mussel; and

"(ii) adhere to research protocols developed pursuant to subsection (f)(2).

"(B) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Environmental Protection Agency to carry out this paragraph, $500,000.

"(3) DISPERSAL BARRIER DEMONSTRATION.—

"(A) IN GENERAL.—The Assistant Secretary, in consultation with the Task Force, shall investigate and identify environmentally sound methods for preventing and reducing the dispersal of aquatic nuisance species between the Great Lakes-Saint Lawrence drainage and the Mississippi River drainage through the Chicago River Ship and Sanitary Canal, including any of those methods that could be incorporated into the operation or construction of the lock system of the Chicago River Ship and Sanitary Canal.

"(B) REPORT.—Not later than 18 months after the date of enactment of this paragraph, the Assistant Secretary shall issue a report to the Congress that includes recommendations concerning—

"(i) which of the methods that are identified under the study conducted under this paragraph are most promising with respect to preventing and reducing the dispersal of aquatic nuisance species; and

"(ii) ways to incorporate those methods into ongoing operations of the United States Army Corps of Engineers that are conducted at the Chicago River Ship and Sanitary Canal.

"(C) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of the Army, to carry out this paragraph, $750,000.

"(4) CONTRIBUTIONS.—To the extent allowable by law, in carrying out the studies under paragraphs (2) and (3), the Administrator of the Environmental Protection Agency and the Secretary of the Army may enter into an agreement with an interested party under which that party provides in kind or monetary contributions for the study.

"(5) TECHNICAL ASSISTANCE.—The Great Lakes Environmental Research Laboratory of the National Oceanic and Atmospheric Administration shall provide technical assistance to appropriate entities to assist in the research conducted pursuant to this subsection.".

(4) IMPLEMENTATION.—Section 1202(j)(1) (16 U.S.C. 4722(j)(1)) is amended by striking "Not later than 18 months after the date of the enactment of this Act, the Director" and inserting "The Director, the Secretary,".

(5) REGIONAL COORDINATION.—Section 1203 (16 U.S.C. 4723) is amended—

(A) by striking the section heading and inserting the following:

"SEC. 1203. REGIONAL COORDINATION.";

(B) in subsection (a)—

(i) by striking "(a) IN GENERAL.—Not" and inserting the following:

"(a) GREAT LAKES PANEL.—

"(1) IN GENERAL.—Not";

(ii) by striking "(1) identify" and inserting the following:

"(A) identify";

(iii) by striking "(2) make" and inserting the following:

"(B) make";

(iv) by striking "(3) assist" and inserting the following:

"(C) assist";

(v) by striking "(4) coordinate" and inserting the following:

"(D) coordinate";

(vi) by striking "(5) provide" and inserting the following:

"(E) provide";

(vii) by striking "(6) submit" and inserting the following:

"(F) submit";

(viii) in paragraph (1), as so redesignated—

(I) in the matter preceding subparagraph (A), by inserting "region" before "representatives"; and

(II) in subparagraphs (A) through (F), by striking "Great Lakes" each place it appears and inserting "Great Lakes region";

(C) by striking "(b) CONSULTATION.—The Task Force" and inserting the following:

"(2) CONSULTATION.—The Task Force";

(D) by striking "(c) CANADIAN PARTICIPATION.—The panel" and inserting the following:

"(3) CANADIAN PARTICIPATION.—The panel";

(E) in paragraphs (2) and (3) of subsection (a), as so redesignated, by striking "this section" and inserting "this subsection"; and

(F) by adding at the end the following new subsections:

"(b) WESTERN REGIONAL PANEL.—Not later than 30 days after the date of enactment of the National Invasive Species Act of 1996, the Task Force shall request a Western regional panel, comprised of Western region representatives from Federal, State, and local agencies and from private environmental and commercial interests, to—

"(1) identify priorities for the Western region with respect to aquatic nuisance species;

"(2) make recommendations to the Task Force regarding an education, monitoring (including inspection), prevention, and control program to prevent the spread of the zebra mussel west of the 100th Meridian pursuant to section 1202(i) of this Act;

"(3) coordinate, where possible, other aquatic nuisance species program activities in the Western region that are not conducted pursuant to this Act;

"(4) develop an emergency response strategy for Federal, State, and local entities for stemming new invasions of aquatic nuisance species in the region;

"(5) provide advice to public and private individuals and entities concerning methods of preventing and controlling aquatic nuisance species infestations; and

Reports.

"(6) submit annually a report to the Task Force describing activities within the Western region related to aquatic nuisance species prevention, research, and control.

"(c) ADDITIONAL REGIONAL PANELS.—The Task Force shall—

"(1) encourage the development and use of regional panels and other similar entities in regions in addition to the Great Lakes and Western regions (including providing financial assistance for the development and use of such entities) to carry out, with respect to those regions, activities that are similar to the activities described in subsections (a) and (b); and

"(2) cooperate with regional panels and similar entities that carry out the activities described in paragraph (1).".

(6) STATE OR INTERSTATE WATERSHED AQUATIC NUISANCE SPECIES MANAGEMENT PLAN.—Section 1204 (16 U.S.C. 4724) is amended—

(A) in subsection (a)—

(i) by striking the subsection designation and heading and inserting the following:

"(a) STATE OR INTERSTATE INVASIVE SPECIES MANAGEMENT PLANS.—";

(ii) in paragraph (1)—

(I) by striking the matter preceding subparagraph (A) and inserting the following:

"(1) IN GENERAL.—After providing notice and opportunity for public comment, the Governor of each State may prepare and submit, or the Governors of the States and the governments of the Indian tribes involved in an interstate organization, may jointly prepare and submit—";

(II) in subparagraph (A), by striking "technical and financial assistance" and inserting "technical, enforcement, or financial assistance (or any combination thereof)"; and

(III) in subparagraphs (A) and (B), by inserting "or within the interstate region involved" after "within the State" each place it appears;

(iii) in paragraph (2)—

(I) in subparagraph (B), by striking "and" at the end of the subparagraph;

(II) by redesignating subparagraph (C) as subparagraph (D);

(III) by inserting after subparagraph (B) the following:

"(C) identify any authority that the State (or any State or Indian tribe involved in the interstate organization) does not have at the time of the development of the plan that may be necessary for the State (or any State or Indian tribe involved in the interstate organization) to protect public health, property, and the environment from harm by aquatic nuisance species; and"; and

(IV) in subparagraph (D), as so redesignated, by inserting ", and enabling legislation" before the period;

(iv) in paragraph (3)—

(I) in subparagraph (A)—

(aa) by inserting "or interstate organization" after "the State"; and

(bb) by inserting "Indian tribes," after "local governments and regional entities,"; and

(II) in subparagraph (B), by inserting "or the appropriate official of an interstate organization" after "a State"; and

(v) in paragraph (4), by inserting "or the interstate organization" after "the Governor";

(B) in subsection (b)(1)—

(i) by striking "or the Assistant Secretary, as appropriate under subsection (a),"; and

(ii) by striking "approved management plans" and inserting "management plans approved under subsection (a)"; and

(C) by adding at the end the following new subsection:

"(c) ENFORCEMENT ASSISTANCE.—Upon request of a State or Indian tribe, the Director or the Under Secretary, to the extent allowable by law and in a manner consistent with section 141 of title 14, United States Code, may provide assistance to a State or Indian tribe in enforcing an approved State or interstate invasive species management plan.".

(f) AUTHORIZATIONS OF APPROPRIATIONS.—Section 1301 (16 U.S.C. 4741) is amended—

(1) in subsection (a)—

(A) by striking "and" at the end of paragraph (2);

(B) by striking paragraph (3) and inserting the following:

"(3) to the Secretary to carry out section 1101—

"(A) $2,000,000 for each of fiscal years 1997 and 1998; and

"(B) $3,000,000 for each of fiscal years 1999 through 2002;"; and

(C) by adding at the end the following new paragraphs:

"(4) for each of fiscal years 1997 through 2002, to carry out paragraphs (1) and (2) of section 1102(b)—

"(A) $1,000,000 to the Department of the Interior, to be used by the Director; and

"(B) $1,000,000 to the Secretary; and

"(5) for each of fiscal years 1997 through 2002—

"(A) $3,000,000, which shall be made available from funds otherwise authorized to be appropriated if such funds are so authorized, to the Under Secretary to carry out section 1102(e); and

"(B) $500,000 to the Secretary to carry out section 1102(f).";

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking "1991, 1992, 1993, 1994, and 1995" and inserting "1997 through 2002"; and

(B) by striking paragraphs (1) through (7) and inserting the following:

"(1) $6,000,000 to the Department of the Interior, to be used by the Director to carry out sections 1202 and 1209;

"(2) $1,000,000 to the Department of Commerce, to be used by the Under Secretary to carry out section 1202;

"(3) $1,625,000, which shall be made available from funds otherwise authorized to be appropriated if such funds are so authorized, to fund aquatic nuisance species prevention and control research under section 1202(i) at the Great Lakes Environmental Research Laboratory of the National Oceanic

and Atmospheric Administration, of which $500,000 shall be made available for grants, to be competitively awarded and subject to peer review, for research relating to Lake Champlain;

"(4) $5,000,000 for competitive grants for university research on aquatic nuisance species under section 1202(f)(3) as follows:

"(A) $2,800,000, which shall be made available from funds otherwise authorized to be appropriated if such funds are so authorized, to fund grants under section 205 of the National Sea Grant College Program Act (33 U.S.C. 1124);

"(B) $1,200,000 to fund grants to colleges for the benefit of agriculture and the mechanic arts referred to in the first section of the Act of August 30, 1890 (26 Stat. 417, chapter 841; 7 U.S.C. 322); and

"(C) $1,000,000 to fund grants through the Cooperative Fisheries and Wildlife Research Unit Program of the United States Fish and Wildlife Service;

"(5) $3,000,000 to the Department of the Army, to be used by the Assistant Secretary to carry out section 1202(i)(1)(B); and

"(6) $300,000 to the Department of the Interior, to be used by the Director to fund regional panels and similar entities under section 1203, of which $100,000 shall be used to fund activities of the Great Lakes Commission.";

(3) by striking subsection (c) and inserting the following:

"(c) GRANTS FOR STATE MANAGEMENT PROGRAMS.—There are authorized to be appropriated for each of fiscal years 1997 through 2002 $4,000,000 to the Department of the Interior, to be used by the Director for making grants under section 1204, of which $1,500,000 shall be used by the Director, in consultation with the Assistant Secretary, for management of aquatic nuisance vegetation species."; and

(4) by adding at the end the following new subsections:

"(e) BALLAST WATER MANAGEMENT DEMONSTRATION PROGRAM.—There are authorized to be appropriated $2,500,000 to carry out section 1104.

"(f) RESEARCH.—There are authorized to be appropriated to the Director $1,000,000 to carry out research on the prevention, monitoring, and control of aquatic nuisance species in Narragansett Bay, Rhode Island. The funds shall be made available for use by the Department of Environmental Management of the State of Rhode Island.".

(g) REFERENCES TO APPROPRIATE COMMITTEES.—The Act (16 U.S.C. 4701 et seq.) is amended by striking "appropriate Committees" each place it appears and inserting "Congress".

(h) TECHNICAL CORRECTIONS.—Public Law 101–646 (16 U.S.C. 4701 et seq.) is amended—

(1) in titles I, II, and IV, by striking the quotation marks at the beginning of any title, subtitle, section, subsection, paragraph, subparagraph, clause, subclause, or undesignated provision; 16 USC 4701, 941; 33 USC 2761.

(2) at the end of titles II and IV, by striking the closing quotation marks and the final period; and

(3) in section 1003— 16 USC 4702.

(A) by striking each single opening quotation mark and inserting double opening quotation marks; and

(B) by striking each single closing quotation mark and inserting double closing quotations marks.

16 USC 4701 note.

SEC. 3. STATUTORY CONSTRUCTION.

Nothing in this Act or the amendments made by this Act is intended to affect the authorities and responsibilities of the Great Lakes Fishery Commission established under article II of the Convention on Great Lakes Fisheries between the United States of America and Canada, signed at Washington on September 10, 1954 (hereafter in this section referred to as the "Convention"), including the authorities and responsibilities of the Great Lakes Fishery Commission—

(1) for developing and implementing a comprehensive program for eradicating or minimizing populations of sea lamprey in the Great Lakes watershed; and

(2) carrying out the duties of the Commission specified in the Convention (including any amendment thereto) and the Great Lakes Fishery Act of 1956 (16 U.S.C. 931 et seq.).

Approved October 26, 1996.

LEGISLATIVE HISTORY—H.R. 4283:

CONGRESSIONAL RECORD, Vol. 142 (1996):
Sept. 28, considered and passed House.
Oct. 3, considered and passed Senate.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 32 (1996):
Oct. 26, Presidential statement.

Public Law 104–333
104th Congress

An Act

To provide for the administration of certain Presidio properties at minimal cost to the Federal taxpayer, and for other purposes.

Nov. 12, 1996
[H.R. 4236]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Omnibus Parks and Public Lands Management Act of 1996.
16 USC 1 note.

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

This Act may be cited as the "Omnibus Parks and Public Lands Management Act of 1996".

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DIVISION I

TITLE I—THE PRESIDIO OF SAN FRANCISCO

SEC. 101. FINDINGS. 16 USC 460bb note.

The Congress finds that—

(1) the Presidio, located amidst the incomparable scenic splendor of the Golden Gate, is one of America's great natural and historic sites;

(2) the Presidio is the oldest continuously operated military post in the Nation dating from 1776, and was designated a National Historic Landmark in 1962;

(3) preservation of the cultural and historic integrity of the Presidio for public use recognizes its significant role in the history of the United States;

(4) the Presidio, in its entirety, is a part of the Golden Gate National Recreation Area, in accordance with Public Law 92–589;

(5) as part of the Golden Gate National Recreation Area, the Presidio's significant natural, historic, scenic, cultural, and recreational resources must be managed in a manner which is consistent with sound principles of land use planning and management, and which protects the Presidio from development and uses which would destroy the scenic beauty and historic and natural character of the area and cultural and recreational resources;

(6) removal and/or replacement of some structures within the Presidio must be considered as a management option in the administration of the Presidio; and

(7) the Presidio will be managed through an innovative public/private partnership that minimizes cost to the United States Treasury and makes efficient use of private sector resources.

SEC. 102. AUTHORITY AND RESPONSIBILITY OF THE SECRETARY OF THE INTERIOR. 16 USC 460bb note.

(a) INTERIM AUTHORITY.—The Secretary of the Interior (hereinafter in this title referred to as the "Secretary") is authorized to manage leases in existence on the date of this Act for properties under the administrative jurisdiction of the Secretary and located at the Presidio. Upon the expiration of any such lease, the Secretary may extend such lease for a period terminating not later than 6 months after the first meeting of the Presidio Trust. The Secretary may not enter into any new leases for property at the Presidio to be transferred to the Presidio Trust under this title, however, the Secretary is authorized to enter into agreements for use and occupancy of the Presidio properties which are assignable to the Trust and are terminable with 30 days notice. Prior to the transfer of administrative jurisdiction over any property to the Presidio Trust, and notwithstanding section 1341 of title 31 of the United

States Code, the proceeds from any such lease shall be retained by the Secretary and such proceeds shall be available, without further appropriation, for the preservation, restoration, operation and maintenance, improvement, repair and related expenses incurred with respect to Presidio properties. The Secretary may adjust the rental charge on any such lease for any amounts to be expended by the lessee for preservation, maintenance, restoration, improvement, repair and related expenses with respect to properties and infrastructure within the Presidio.

(b) PUBLIC INFORMATION AND INTERPRETATION.—The Secretary shall be responsible, in cooperation with the Presidio Trust, for providing public interpretive services, visitor orientation and educational programs on all lands within the Presidio.

(c) OTHER.—Those lands and facilities within the Presidio that are not transferred to the administrative jurisdiction of the Presidio Trust shall continue to be managed by the Secretary. The Secretary and the Presidio Trust shall cooperate to ensure adequate public access to all portions of the Presidio. Any infrastructure and building improvement projects that were funded prior to the enactment of this Act shall be completed by the National Park Service.

(d) PARK SERVICE EMPLOYEES.—(1) Any career employee of the National Park Service, employed at the Presidio at the time of the transfer of lands and facilities to the Presidio Trust, shall not be separated from the Service by reason of such transfer, unless such employee is employed by the Trust, other than on detail. Notwithstanding section 3503 of title 5, United States Code, the Trust shall have sole discretion over whether to hire any such employee or request a detail of such employee.

(2) Any career employee of the National Park Service employed at the Presidio on the date of enactment of this title shall be given priority placement for any available position within the National Park System notwithstanding any priority reemployment lists, directives, rules, regulations or other orders from the Department of the Interior, the Office of Management and Budget, or other Federal agencies.

16 USC 460bb note.

SEC. 103. ESTABLISHMENT OF THE PRESIDIO TRUST.

(a) ESTABLISHMENT.—There is established a wholly owned government corporation to be known as the Presidio Trust (hereinafter in this title referred to as the "Trust").

(b) TRANSFER.—(1) Within 60 days after receipt of a request from the Trust for the transfer of any parcel within the area depicted as Area B on the map entitled "Presidio Trust Number 1", dated December 7, 1995, the Secretary shall transfer such parcel to the administrative jurisdiction of the Trust. Within 1 year after the first meeting of the Board of Directors of the Trust, the Secretary shall transfer to the Trust administrative jurisdiction over all remaining parcels within Area B. Such map shall be on file and available for public inspection in the offices of the Trust and in the offices of the National Park Service, Department of the Interior. The Trust and the Secretary may jointly make technical and clerical revisions in the boundary depicted on such map. The Secretary shall retain jurisdiction over those portions of the building identified as number 102 as the Secretary deems essential for use as a visitor center. The Building shall be named the "William Penn Mott Visitor Center". Any parcel of land, the jurisdiction over which is transferred pursuant to this subsection, shall remain

Federal buildings and facilities.

within the boundary of the Golden Gate National Recreation Area. With the consent of the Secretary, the Trust may at any time transfer to the administrative jurisdiction of the Secretary any other properties within the Presidio which are surplus to the needs of the Trust and which serve essential purposes of the Golden Gate National Recreation Area. The Trust is encouraged to transfer to the administrative jurisdiction of the Secretary open space areas which have high public use potential and are contiguous to other lands administrated by the Secretary.

(2) Within 60 days after the first meeting of the Board of Directors of the Trust, the Trust and the Secretary shall determine cooperatively which records, equipment, and other personal property are deemed to be necessary for the immediate administration of the properties to be transferred, and the Secretary shall immediately transfer such personal property to the Trust. Within 1 year after the first meeting of the Board of Directors of the Trust, the Trust and the Secretary shall determine cooperatively what, if any, additional records, equipment, and other personal property used by the Secretary in the administration of the properties to be transferred should be transferred to the Trust.

(3) The Secretary shall transfer, with the transfer of administrative jurisdiction over any property, the unobligated balance of all funds appropriated to the Secretary, all leases, concessions, licenses, permits, and other agreements affecting such property.

(4) At the request of the Trust, the Secretary shall provide funds to the Trust for preparation of the program required under section 104(c) of this title, hiring of initial staff and other activities deemed by the Trust as essential to the establishment of the Trust prior to the transfer of properties to the Trust.

(c) BOARD OF DIRECTORS.—

(1) IN GENERAL.—The powers and management of the Trust shall be vested in a Board of Directors (hereinafter referred to as the "Board") consisting of the following 7 members:

(A) The Secretary of the Interior or the Secretary's designee.

(B) 6 individuals, who are not employees of the Federal Government, appointed by the President, who shall possess extensive knowledge and experience in one or more of the fields of city planning, finance, real estate development, and resource conservation. At least one of these individuals shall be a veteran of the Armed Services. At least 3 of these individuals shall reside in the San Francisco Bay Area. The President shall make the appointments referred to in this subparagraph within 90 days after the enactment of this Act and shall ensure that the fields of city planning, finance, real estate development, and resource conservation are adequately represented. Upon establishment of the Trust, the Chairman of the Board of Directors of the Trust shall meet with the Chairman of the Energy and Natural Resources Committee of the United States Senate and the Chairman of the Resources Committee of the United States House of Representatives. President.

(2) TERMS.—Members of the Board appointed under paragraph (1)(B) shall each serve for a term of 4 years, except that of the members first appointed, 3 shall serve for a term of 2 years. Any vacancy in the Board shall be filled in the same manner in which the original appointment was made,

and any member appointed to fill a vacancy shall serve for the remainder of that term for which his or her predecessor was appointed. No appointed member may serve more than 8 years in consecutive terms.

(3) QUORUM.—Four members of the Board shall constitute a quorum for the conduct of business by the Board.

(4) ORGANIZATION AND COMPENSATION.—The Board shall organize itself in such a manner as it deems most appropriate to effectively carry out the authorized activities of the Trust. Board members shall serve without pay, but may be reimbursed for the actual and necessary travel and subsistence expenses incurred by them in the performance of the duties of the Trust.

(5) LIABILITY OF DIRECTORS.—Members of the Board of Directors shall not be considered Federal employees by virtue of their membership on the Board, except for purposes of the Federal Tort Claims Act and the Ethics in Government Act, and the provisions of chapter 11 of title 18, United States Code.

(6) MEETINGS.—The Board shall meet at least three times per year in San Francisco and at least two of those meetings shall be open to the public. Upon a majority vote, the Board may close any other meetings to the public. The Board shall establish procedures for providing public information and opportunities for public comment regarding policy, planning, and design issues. The Board may establish procedures for providing public information and opportunities for public comment regarding policy, planning, and design issues through the Golden Gate National Recreation Area Advisory Commission.

Procedures.
Public information.

(7) STAFF.—The Trust is authorized to appoint and fix the compensation and duties of an executive director and such other officers and employees as it deems necessary without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may pay them without regard to the provisions of chapter 51, and subchapter III of chapter 53, title 5, United States Code, relating to classification and General Schedule pay rates.

(8) NECESSARY POWERS.—The Trust shall have all necessary and proper powers for the exercise of the authorities vested in it.

(9) TAXES.—The Trust and all properties administered by the Trust shall be exempt from all taxes and special assessments of every kind by the State of California, and its political subdivisions, including the City and County of San Francisco.

(10) GOVERNMENT CORPORATION.—(A) The Trust shall be treated as a wholly owned Government corporation subject to chapter 91 of title 31, United States Code (commonly referred to as the Government Corporation Control Act). Financial statements of the Trust shall be audited annually in accordance with section 9105 of title 31 of the United States Code.

Reports.

(B) At the end of each calendar year, the Trust shall submit to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the House of Representatives a comprehensive and detailed report of its operations, activities, and accomplishments for the prior fiscal year. The report also shall include a section

that describes in general terms the Trust's goals for the current fiscal year.

SEC. 104. DUTIES AND AUTHORITIES OF THE TRUST.

16 USC 460bb note.

(a) OVERALL REQUIREMENTS OF THE TRUST.—The Trust shall manage the leasing, maintenance, rehabilitation, repair and improvement of property within the Presidio under its administrative jurisdiction using the authorities provided in this section, which shall be exercised in accordance with the purposes set forth in section 1 of the Act entitled "An Act to establish the Golden Gate National Recreation Area in the State of California, and for other purposes", approved October 27, 1972 (Public Law 92–589; 86 Stat. 1299; 16 U.S.C. 460bb), and in accordance with the general objectives of the General Management Plan (hereinafter referred to as the "management plan") approved for the Presidio.

(b) AUTHORITIES.—The Trust may participate in the development of programs and activities at the properties transferred to the Trust, except that the Trust shall have the authority to negotiate and enter into such agreements, leases, contracts and other arrangements with any person, firm, association, organization, corporation or governmental entity, including, without limitation, entities of Federal, State and local governments as are necessary and appropriate to carry out its authorized activities. Any such agreement may be entered into without regard to section 321 of the Act of June 30, 1932 (40 U.S.C. 303b). The Trust shall establish procedures for lease agreements and other agreements for use and occupancy of Presidio facilities, including a requirement that in entering into such agreements the Trust shall obtain reasonable competition. The Trust may not dispose of or convey fee title to any real property transferred to it under this title. Federal laws and regulations governing procurement by Federal agencies shall not apply to the Trust, with the exception of laws and regulations related to Federal government contracts governing working conditions and wage rates, including the provisions of sections 276a–276a–6 of title 40, United States Code (Davis-Bacon Act), and any civil rights provisions otherwise applicable thereto. The Trust, in consultation with the Administrator of Federal Procurement Policy, shall establish and promulgate procedures applicable to the Trust's procurement of goods and services including, but not limited to, the award of contracts on the basis of contractor qualifications, price, commercially reasonable buying practices, and reasonable competition.

Procedures. Contracts.

Procedures. Contracts.

(c) MANAGEMENT PROGRAM.—The Trust shall develop a comprehensive program for management of those lands and facilities within the Presidio which are transferred to the administrative jurisdiction of the Trust. Such program shall be designed to reduce expenditures by the National Park Service and increase revenues to the Federal Government to the maximum extent possible. In carrying out this program, the Trust shall be treated as a successor in interest to the National Park Service with respect to compliance with the National Environmental Policy Act and other environmental compliance statutes. Such program shall consist of—

(1) demolition of structures which in the opinion of the Trust, cannot be cost-effectively rehabilitated, and which are identified in the management plan for demolition,

(2) evaluation for possible demolition or replacement those buildings identified as categories 2 through 5 in the Presidio

of San Francisco Historic Landmark District Historic American Buildings Survey Report, dated 1985,

(3) new construction limited to replacement of existing structures of similar size in existing areas of development, and

(4) examination of a full range of reasonable options for carrying out routine administrative and facility management programs.

The Trust shall consult with the Secretary in the preparation of this program.

(d) FINANCIAL AUTHORITIES.—To augment or encourage the use of non-Federal funds to finance capital improvements on Presidio properties transferred to its jurisdiction, the Trust, in addition to its other authorities, shall have the following authorities subject to the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.):

(1) The authority to guarantee any lender against loss of principal or interest on any loan: *Provided,* That—

(A) the terms of the guarantee are approved by the Secretary of the Treasury;

(B) adequate subsidy budget authority is provided in advance in appropriations Acts; and

(C) such guarantees are structured so as to minimize potential cost to the Federal Government. No loan guarantee under this title shall cover more than 75 percent of the unpaid balance of the loan. The Trust may collect a fee sufficient to cover its costs in connection with each loan guaranteed under this title. The authority to enter into any such loan guarantee agreement shall expire at the end of 15 years after the date of enactment of this title.

(2) The authority, subject to appropriations, to make loans to the occupants of property managed by the Trust for the preservation, restoration, maintenance, or repair of such property.

(3) The authority to issue obligations to the Secretary of the Treasury, but only if the Secretary of the Treasury agrees to purchase such obligations after determining that the projects to be funded from the proceeds thereof are credit worthy and that a repayment schedule is established and only to the extent authorized in advance in appropriations acts. The Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, United States Code, and the purposes for which securities may be issued under such chapter are extended to include any purchase of such notes or obligations acquired by the Secretary of the Treasury under this subsection. Obligations issued under this subparagraph shall be in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary of the Treasury, and shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities. No funds appropriated to the Trust may be used for repayment of principal or interest on, or redemption of, obligations issued under this paragraph.

(4) The aggregate amount of obligations issued under this subsection which are outstanding at any one time may not exceed $50,000,000.

(e) DONATIONS.—The Trust may solicit and accept donations of funds, property, supplies, or services from individuals, foundations, corporations, and other private or public entities for the purpose of carrying out its duties. The Trust is encouraged to maintain a liaison with the Golden Gate National Park Association.

(f) PUBLIC AGENCY.—The Trust shall be deemed to be a public agency for purposes of entering into joint exercise of powers agreements pursuant to California government code section 6500 and related provisions of that Code.

(g) PROCEEDS.—Notwithstanding section 1341 of title 31 of the United States Code, all proceeds received by the Trust shall be retained by the Trust, and such proceeds shall be available, without further appropriation, for the administration, preservation, restoration, operation and maintenance, improvement, repair and related expenses incurred with respect to Presidio properties under its administrative jurisdiction. The Secretary of the Treasury shall invest excess moneys of the Trust in public debt securities which shall bear interest at rates determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturity.

(h) SUITS.—The Trust may sue and be sued in its own name to the same extent as the Federal Government. Litigation arising out of the activities of the Trust shall be conducted by the Attorney General; except that the Trust may retain private attorneys to provide advice and counsel. The District Court for the Northern District of California shall have exclusive jurisdiction over any suit filed against the Trust.

(i) MEMORANDUM OF AGREEMENT.—The Trust shall enter into a Memorandum of Agreement with the Secretary, acting through the Chief of the United States Park Police, for the conduct of law enforcement activities and services within those portions of the Presidio transferred to the administrative jurisdiction of the Trust.

(j) BYLAWS, RULES, AND REGULATIONS.—The Trust may adopt, amend, repeal, and enforce bylaws, rules and regulations governing the manner in which its business may be conducted and the powers vested in it may be exercised. The Trust is authorized, in consultation with the Secretary, to adopt and to enforce those rules and regulations that are applicable to the Golden Gate National Recreation Area and that may be necessary and appropriate to carry out its duties and responsibilities under this title. The Trust shall give notice of the adoption of such rules and regulations by publication in the Federal Register.

Federal Register publication.

(k) DIRECT NEGOTIATIONS.—For the purpose of compliance with applicable laws and regulations concerning properties transferred to the Trust by the Secretary, the Trust shall negotiate directly with regulatory authorities.

(l) INSURANCE.—The Trust shall require that all leaseholders and contractors procure proper insurance against any loss in connection with properties under lease or contract, or the authorized activities granted in such lease or contract, as is reasonable and customary.

(m) BUILDING CODE COMPLIANCE.—The Trust shall bring all properties under its administrative jurisdiction into compliance with Federal building codes and regulations appropriate to use and occupancy within 10 years after the enactment of this title to the extent practicable.

(n) LEASING.—In managing and leasing the properties transferred to it, the Trust shall consider the extent to which prospective tenants contribute to the implementation of the General Management Plan for the Presidio and to the reduction of cost to the Federal Government. The Trust shall give priority to the following categories of tenants: Tenants that enhance the financial viability of the Presidio and tenants that facilitate the cost-effective preservation of historic buildings through their reuse of such buildings.

(o) REVERSION.—If, at the expiration of 15 years, the Trust has not accomplished the goals and objectives of the plan required in section 105(b) of this title, then all property under the administrative jurisdiction of the Trust pursuant to section 103(b) of this title shall be transferred to the Administrator of the General Services Administration to be disposed of in accordance with the procedures outlined in the Defense Authorization Act of 1990 (104 Stat. 1809), and any real property so transferred shall be deleted from the boundary of the Golden Gate National Recreation Area. In the event of such transfer, the terms and conditions of all agreements and loans regarding such lands and facilities entered into by the Trust shall be binding on any successor in interest.

16 USC 460bb note.

SEC. 105. LIMITATIONS ON FUNDING.

(a)(1) From amounts made available to the Secretary for the operation of areas within the Golden Gate National Recreation Area, not more than $25,000,000 shall be available to carry out this title in each fiscal year after the enactment of this title until the plan is submitted under subsection (b). Such sums shall remain available until expended.

(2) After the plan required in subsection (b) is submitted, and for each of the 14 fiscal years thereafter, there are authorized to be appropriated to the Trust not more than the amounts specified in such plan. Such sums shall remain available until expended. Of such sums, not more than $3,000,000 annually shall be available through the Trust for law enforcement activities and services to be provided by the United States Park Police at the Presidio in accordance with section 104(h) of this title.

(b) Within 1 year after the first meeting of the Board of Directors of the Trust, the Trust shall submit to Congress a plan which includes a schedule of annual decreasing federally appropriated funding that will achieve, at a minimum, self-sufficiency for the Trust within 15 complete fiscal years after such meeting of the Trust. No further funds shall be authorized for the Trust 15 years after the first meeting of the Board of Directors of the Trust.

(c) The Administrator of the General Services Administration shall provide necessary assistance, including detailees as necessary, to the Trust in the formulation and submission of the annual budget request for the administration, operation, and maintenance of the Presidio.

16 USC 460bb note.

SEC. 106. GENERAL ACCOUNTING OFFICE STUDY.

(a) Three years after the first meeting of the Board of Directors of the Trust, the General Accounting Office shall conduct an interim study of the activities of the Trust and shall report the results

of the study to the Committee on Energy and Natural Resources and the Committee on Appropriations of the United States Senate, and the Committee on Resources and Committee on Appropriations of the House of Representatives. The study shall include, but shall not be limited to, details of how the Trust is meeting its obligations under this title.

(b) In consultation with the Trust, the General Accounting Office shall develop an interim schedule and plan to reduce and replace the Federal appropriations to the extent practicable for interpretive services conducted by the National Park Service, and law enforcement activities and services, fire and public safety programs conducted by the Trust.

(c) Seven years after the first meeting of the Board of Directors of the Trust, the General Accounting Office shall conduct a comprehensive study of the activities of the Trust, including the Trust's progress in meeting its obligations under this title, taking into consideration the results of the study described in subsection (a) and the implementation of plan and schedule required in subsection (b). The General Accounting Office shall report the results of the study, including any adjustments to the plan and schedule, to the Committee on Energy and Natural Resources and the Committee on Appropriations of the United States Senate, and the Committee on Resources and Committee on Appropriations of the House of Representatives.

TITLE II—BOUNDARY ADJUSTMENTS AND CONVEYANCES

SEC. 201. YUCCA HOUSE NATIONAL MONUMENT BOUNDARY ADJUSTMENT. 16 USC 431 note.

(a) IN GENERAL.—The boundaries of Yucca House National Monument are revised to include the approximately 24.27 acres of land generally depicted on the map entitled "Boundary—Yucca House National Monument, Colorado", numbered 318/80,001–B, and dated February 1990.

(b) MAP.—The map referred to in subsection (a) shall be on file and available for public inspection in appropriate offices of the National Park Service of the Department of the Interior.

(c) ACQUISITION.—

(1) IN GENERAL.—Within the lands described in subsection (a), the Secretary of the Interior may acquire lands and interests in lands by donation.

(2) The Secretary of the Interior may pay administrative costs arising out of any donation described in paragraph (1) with appropriated funds.

SEC. 202. ZION NATIONAL PARK BOUNDARY ADJUSTMENT. 16 USC 346a–5.

(a) ACQUISITION AND BOUNDARY CHANGE.—The Secretary of the Interior is authorized to acquire by exchange approximately 5.48 acres located in the SW¼ of Section 28, Township 41 South, Range 10 West, Salt Lake Base and Meridian. In exchange therefor the Secretary is authorized to convey all right, title, and interest of the United States in and to approximately 5.51 acres in Lot 2 of Section 5, Township 41 South, Range 11 West, both parcels of land being in Washington County, Utah. Upon completion of such exchange, the Secretary is authorized to revise the boundary

of Zion National Park to add the 5.48 acres in section 28 to the park and to exclude the 5.51 acres in section 5 from the park. Land added to the park shall be administered as part of the park in accordance with the laws and regulations applicable thereto.

(b) EXPIRATION.—The authority granted by this section shall expire 2 years after the date of the enactment of this Act.

16 USC 460s–14.

SEC. 203. PICTURED ROCKS NATIONAL LAKESHORE BOUNDARY ADJUSTMENT.

The boundary of Pictured Rocks National Lakeshore is hereby modified as depicted on the map entitled "Area Proposed for Addition to Pictured Rocks National Lakeshore", numbered 625–80,043A, and dated July 1992.

16 USC 407m–8.

SEC. 204. INDEPENDENCE NATIONAL HISTORICAL PARK BOUNDARY ADJUSTMENT.

The administrative boundary between Independence National Historical Park and the United States Customs House along the Moravian Street Walkway in Philadelphia, Pennsylvania, is hereby modified as generally depicted on the drawing entitled "Exhibit 1, Independence National Historical Park, Boundary Adjustment", and dated May 1987, which shall be on file and available for public inspection in the Office of the National Park Service, Department of the Interior. The Secretary of the Interior is authorized to accept and transfer jurisdiction over property in accord with such administrative boundary, as modified by this section.

16 USC 431 note.

SEC. 205. CRATERS OF THE MOON NATIONAL MONUMENT BOUNDARY ADJUSTMENT.

(a) BOUNDARY REVISION.—The boundary of Craters of the Moon National Monument, Idaho, is revised to add approximately 210 acres and to delete approximately 315 acres as generally depicted on the map entitled "Craters of the Moon National Monument, Idaho, Proposed 1987 Boundary Adjustment", numbered 131–80,008, and dated October 1987, which map shall be on file and available for public inspection in the office of the National Park Service, Department of the Interior.

(b) ADMINISTRATION AND ACQUISITION.—Federal lands and interests therein deleted from the boundary of the national monument by this section shall be administered by the Secretary of the Interior through the Bureau of Land Management in accordance with the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), and Federal lands and interests therein added to the national monument by this section shall be administered by the Secretary as part of the national monument, subject to the laws and regulations applicable thereto. The Secretary is authorized to acquire private lands and interests therein within the boundary of the national monument by donation, purchase with donated or appropriated funds, or exchange, and when acquired they shall be administered by the Secretary as part of the national monument, subject to the laws and regulations applicable thereto.

SEC. 206. HAGERMAN FOSSIL BEDS NATIONAL MONUMENT BOUNDARY ADJUSTMENT.

16 USC 431 note.

Section 302 of the Arizona-Idaho Conservation Act of 1988 (102 Stat. 4576) is amended by adding the following new subsection after subsection (c):

"(d) To further the purposes of the monument, the Secretary is also authorized to acquire from willing sellers only, by donation, purchase with donated or appropriated funds, or exchange not to exceed 65 acres outside the boundary depicted on the map referred to in section 301 and develop and operate thereon research, information, interpretive, and administrative facilities. Lands acquired and facilities developed pursuant to this subsection shall by administered by the Secretary as part of the monument. The boundary of the monument shall be modified to include the lands added under this subsection as a non-contiguous parcel.".

SEC. 207. WUPATKI NATIONAL MONUMENT BOUNDARY ADJUSTMENT. 16 USC 431 note.

The boundaries of the Wupatki National Monument, Arizona, are hereby revised to include the lands and interests in lands within the area generally depicted as "Proposed Addition 168.89 Acres" on the map entitled "Boundary—Wupatki and Sunset Crater National Monuments, Arizona", numbered 322–80,021, and dated April 1989. The map shall be on file and available for public inspection in the Office of the National Park Service, Department of the Interior. Subject to valid existing rights, Federal lands and interests therein within the area added to the monument by this section are hereby transferred without monetary consideration or reimbursement to the administrative jurisdiction of the National Park Service, to be administered as part of the monument in accordance with the laws and regulations applicable thereto.

SEC. 208. WALNUT CANYON NATIONAL MONUMENT BOUNDARY MODIFICATION. 16 USC 431 note.

(a) PURPOSE.—The purpose of this section is to modify the boundaries of the Walnut Canyon National Monument (hereafter in this section referred to as the "national monument") to improve management of the national monument and associated resources.

(b) BOUNDARY MODIFICATION.—Effective on the date of enactment of this Act, the boundaries of the national monument shall be modified as depicted on the map entitled "Boundary Proposal—Walnut Canyon National Monument, Coconino County, Arizona", numbered 360/80,010, and dated September 1994. Such map shall be on file and available for public inspection in the offices of the Director of the National Park Service, Department of the Interior. The Secretary of the Interior, in consultation with the Secretary of Agriculture, is authorized to make technical and clerical corrections to such map.

(c) ACQUISITION AND TRANSFER OF PROPERTY.—The Secretary of the Interior is authorized to acquire lands and interest in lands within the national monument, by donation, purchase with donated or appropriated funds, or exchange. Federal property within the boundaries of the national monument (as modified by this section) is hereby transferred to the administrative jurisdiction of the Secretary of the Interior for management as part of the national monument. Federal property excluded from the monument pursuant to the boundary modification under subsection (b) is hereby transferred to the administrative jurisdiction of the Secretary of Agriculture to be managed as a part of the Coconino National Forest.

(d) ADMINISTRATION.—The Secretary of the Interior, acting through the Director of the National Park Service, shall manage the national monument in accordance with this title and the provisions of law generally applicable to units of the National Park Service, including "An Act to establish a National Park Service,

and for other purposes" approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2–4).

(e) AUTHORIZATION OF APPROPRIATIONS.—There are hereby authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 209. BUTTE COUNTY, CALIFORNIA LAND CONVEYANCE.

(a) PURPOSE.—It is the purpose of this section to authorize and direct the Secretary of Agriculture to convey, without consideration, certain lands in Butte County, California, to persons claiming to have been deprived of title to such lands.

(b) DEFINITIONS.—For the purpose of this section:

(1) The term "affected lands" means those Federal lands located in the Plumas National Forest in Butte County, California, in sections 11, 12, 13, and 14, township 21 north, range 5 East, Mount Diablo Meridian, as described by the dependent resurvey by the Bureau of Land Management conducted in 1992, and subsequent Forest Service land line location surveys, including all adjoining parcels where the property line as identified by the 1992 BLM dependent resurvey and National Forest boundary lines before such dependent resurvey are not coincident.

(2) The term "claimant" means an owner of real property in Butte County, California, whose real property adjoins Plumas National Forest lands described in paragraph (1), who claims to have been deprived by the United States of title to property as a result of previous erroneous surveys.

(3) The terms "Secretary" means the Secretary of Agriculture.

(c) CONVEYANCE OF LANDS.—Notwithstanding any other provision of law, the Secretary is authorized and directed to convey, without consideration, all right, title, and interest of the United States in and to affected lands as described in subsection (b)(1), to any claimant or claimants, upon proper application from such claimant or claimants, as provided in subsection (d).

(d) NOTIFICATION.—Not later than 2 years after the date of enactment of this Act, claimants shall notify the Secretary, through the Forest Supervisor of the Plumas National Forest, in writing of their claim to affected lands. Such claim shall be accompanied by—

(1) a description of the affected lands claimed;

(2) information relating to the claim of ownership of such lands; and

(3) such other information as the Secretary may require.

(e) ISSUANCE OF DEED.—(1) Upon a determination by the Secretary that issuance of a deed for affected lands is consistent with the purpose and requirements of this section, the Secretary shall issue a quit claim deed to such claimant for the parcel to be conveyed.

(2) Prior to the issuance of any such deed as provided in paragraph (1), the Secretary shall ensure that—

(A) the parcel or parcels to be conveyed have been surveyed in accordance with the Memorandum of Understanding between the Forest Service and the Bureau of Land Management, dated November 11, 1989;

(B) all new property lines established by such surveys have been monumented and marked; and

(C) all terms and conditions necessary to protect third party and Government Rights-of-Way or other interests are included in the deed.

(3) The Federal Government shall be responsible for all surveys and property line markings necessary to implement this subsection.

(f) NOTIFICATION TO BLM.—The Secretary shall submit to the Secretary of the Interior an authenticated copy of each deed issued pursuant to this section no later than 30 days after the date such deed is issued.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as necessary to carry out the purposes of this section.

SEC. 210. TAOS PUEBLO LAND TRANSFER.

16 USC 1132 note.

(a) TRANSFER.—The parcel of land described in subsection (b) is hereby transferred without consideration to the Secretary of the Interior to be held in trust for the Pueblo de Taos. Such parcel shall be a part of the Pueblo de Taos Reservation and shall be managed in accordance with section 4 of the Act of May 31, 1933 (48 Stat. 108) (as amended, including as amended by Public Law 91–550 (84 Stat. 1437)).

(b) LAND DESCRIPTION.—The parcel of land referred to in subsection (a) is the land that is generally depicted on the map entitled "Lands transferred to the Pueblo of Taos—proposed" and dated September 1994, comprises 764.33 acres, and is situated within sections 25, 26, 35, and 36, Township 27 North, Range 14 East, New Mexico Principal Meridian, within the Wheeler Peak Wilderness, Carson National Forest, Taos County, New Mexico.

(c) CONFORMING BOUNDARY ADJUSTMENTS.—The boundaries of the Carson National Forest and the Wheeler Peak Wilderness are hereby adjusted to reflect the transfer made by subsection (a).

(d) RESOLUTION OF OUTSTANDING CLAIMS.—The Congress finds and declares that, as a result of the enactment of this section, the Taos Pueblo has no unresolved equitable or legal claims against the United States on the lands to be held in trust and to become part of the Pueblo de Taos Reservation under this section.

SEC. 211. COLONIAL NATIONAL HISTORICAL PARK.

16 USC 81p.

(a) TRANSFER AND RIGHTS-OF-WAY.—The Secretary of the Interior (hereinafter in this section referred to as the "Secretary") is authorized to transfer, without reimbursement, to York County, Virginia, that portion of the existing sewage disposal system, including related improvements and structures, owned by the United States and located within the Colonial National Historical Park, together with such rights-of-way as are determined by the Secretary to be necessary to maintain and operate such system.

(b) REPAIR AND REHABILITATION OF SYSTEM.—The Secretary is authorized to enter into a cooperative agreement with York County, Virginia, under which the Secretary will pay a portion, not to exceed $110,000, of the costs of repair and rehabilitation of the sewage disposal system referred to in subsection (a).

(c) FEES AND CHARGES.—In consideration for the rights-of-way granted under subsection (a), and in recognition of the National Park Service's contribution authorized under subsection (b), the cooperative agreement under subsection (b) shall provide for a reduction in, or the elimination of, the amounts charged to the National Park Service for its sewage disposal. The cooperative agreement shall also provide for minimizing the impact of the

sewage disposal system on the park and its resources. Such system may not be enlarged or substantially altered without National Park Service concurrence.

(d) INCLUSION OF LAND IN COLONIAL NATIONAL HISTORICAL PARK.—Notwithstanding the provisions of the Act of June 28, 1938 (52 Stat. 1208; 16 U.S.C. 81b et seq.), limiting the average width of the Colonial Parkway, the Secretary of the Interior is authorized to include within the boundaries of Colonial National Historical Park and to acquire by donation, exchange, or purchase with donated or appropriated funds the lands or interests in lands (with or without improvements) within the areas depicted on the map dated August 1993, numbered 333/80031A, and entitled "Page Landing Addition to Colonial National Historical Park". Such map shall be on file and available for inspection in the offices of the National Park Service at Colonial National Historical Park and in Washington, District of Columbia.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 212. CUPRUM, IDAHO RELIEF.

(a) FINDINGS.—The Congress finds and declares that:

(1) In 1899, the citizens of Cuprum, Idaho, commissioned E.S. Hesse to conduct a survey describing these lands occupied by their community. The purpose of this survey was to provide a basis for the application for a townsite patent.

(2) In 1909, the Cuprum Townsite patent (Number 52817) was granted, based on an aliquot parts description which was intended to circumscribe the Hesse survey.

(3) Since the day of the patent, the Hesse survey has been used continuously by the community of Cuprum and by Adams County, Idaho, as the official townsite plat and basis for conveyance of title within the townsite.

(4) Recent boundary surveys conducted by the United States Department of Agriculture, Forest Service, and the United States Department of the Interior, Bureau of Land Management, discovered inconsistencies between the official aliquot parts description of the patented Cuprum Townsite and the Hesse survey. Many lots along the south and east boundaries of the townsite are now known to extend onto National Forest System lands outside the townsite.

(5) It is the determination of Congress that the original intent of the Cuprum Townsite application was to include all the lands described by the Hesse survey.

(b) PURPOSE.—It is the purpose of this section to amend the 1909 Cuprum Townsite patent to include those additional lands described by the Hesse survey in addition to other lands necessary to provide an administratively acceptable boundary to the National Forest System.

(c) AMENDMENT OF PATENT.—The 1909 Cuprum Townsite patent is hereby amended to include parcels 1 and 2, identified on the plat, marked as "Township 20 North, Range 3 West, Boise Meridian, Idaho, Section 10: Proposed Patent Adjustment Cuprum Townsite, Idaho" prepared by Payette N.F.—Land Survey Unit, drawn and approved by Tom Betzold, Forest Land Surveyor, on April 25, 1995. Such additional lands are hereby conveyed to the original patentee, Pitts Ellis, trustee, and Probate Judge of

Washington County, Idaho, or any successors or assigns in interest in accordance with State law. The Secretary of Agriculture may correct clerical and typographical errors in such plat.

(d) SURVEY.—The Federal Government shall survey the Federal property lines and mark and post the boundaries necessary to implement this section.

SEC. 213. RELINQUISHMENT OF INTEREST.

(a) IN GENERAL.—The United States relinquishes all right, title, and interest that the United States may have in land that—

(1) was subject to a right-of-way that was granted to the predecessor of the Chicago and Northwestern Transportation Company under the Act entitled "An Act granting to railroads the right of way through the public lands of the United States", approved March 3, 1875 (42 U.S.C. 934 et seq.), which right-of-way the Company has conveyed to the city of Douglas, Wyoming; and

(2) is located within the boundaries of the city limits of the city of Douglas, Wyoming, or between the right-of-way of Interstate 25 and the city limits of the city of Douglas, Wyoming;

as determined by the Secretary of the Interior in consultation with the appropriate officials of the city of Douglas, Wyoming.

(b) CONVEYANCE.—As soon as practicable after the date of enactment of this Act, the Secretary of the Interior shall file for recordation in the real property records of Converse County, Wyoming, a deed or other appropriate form of instrument conveying to the city of Douglas, Wyoming, all right, title, and interest in the land described in subsection (a).

(c) CONVEYANCE OF CERTAIN PROPERTY TO THE BIG HORN COUNTY SCHOOL DISTRICT NUMBER 1, WYOMING.—The Secretary of the Interior shall convey, by quit claim deed, to the Big Horn County School District Number 1, Wyoming, all right, title, and interest of the United States in and to the following described lands in Big Horn County, Wyoming: Lots 19–24 of Block 22, all within the town of Frannie, Wyoming, in the S½NW¼NW¼ and N½SW¼NW¼ of section 31 of T. 58N., R. 97 W., Big Horn County.

SEC. 214. MODOC NATIONAL FOREST.

(a) IN GENERAL.—The boundary of the Modoc National Forest is hereby modified to include and encompass 760 acres, more or less, on the following described lands: Mount Diablo Meridian, Lassen County, California T. 38 N., R. 10 E., sec. 5, SE¼NW¼, E½SW¼; sec. 8, E½NE¼, NE¼NW¼, NE¼SE¼, sec. 16, W½; sec. 25, Lots 13, 14 and 15 (S½SW¼, SW¼SE¼); T. 37 N., R. 11 E., sec. 20, NW¼SE¼.

(b) RULE FOR LAND AND WATER CONSERVATION FUND.—For the purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–9), the boundary of the Modoc National Forest, as modified by this title, shall be considered to the boundary of the National Forest as of January 1, 1995.

SEC. 215. CONVEYANCE TO CITY OF SUMPTER, OREGON.

(a) CONVEYANCE REQUIRED.—The Secretary of Agriculture shall convey, without consideration, to the city of Sumpter, Oregon (in this section referred to as the "City"), all right, title, and interest of the United States in and to a parcel of real property of

approximately 1.43 acres consisting of all of block 8 of the REVISED PLAN OF SUMPTER TOWNSITE in the City, as shown in plat recorded March 6, 1897, in Plat Book 3, page 26; including the alley running through such block, vacated by Ordinance No. 1966–3, recorded December 14, 1966, in Deed 66–50–014.

(b) ADDITIONAL DESCRIPTION OF PROPERTY.—The real property to be conveyed under subsection (a) consists of the same property that was deeded to the United States in the following deeds:

(1) Warranty Deed from Sumpter Power & Water Company to the United States of America dated October 12, 1949, and recorded in Vol. 152, page 170 of Baker County records on December 22, 1949.

(2) Warranty Deed from Mrs. Alice Windle to the United States of America dated October 11, 1949, and recorded in Vol. 152, page 168 of Baker County records on December 22, 1949.

(3) Warranty Deed from Alice L. Windle Charles and James M. Charles to the United States of America and dated August 8, 1962, and recorded in Book 172, page 1331 on August 27, 1962.

(c) CONDITION OF CONVEYANCE.—The conveyance under subsection (a) shall be subject to the condition that the City use the conveyed property only for public purposes, such as a city park, information center, or interpretive area.

(d) RELEASE.—Upon making the conveyance required by subsection (a), the United States is relieved from liability for any and all claims arising from the presence of materials on the conveyed property.

(e) REVERSIONARY INTEREST.—If the Secretary of Agriculture determines that the real property conveyed under subsection (a) is not being used in accordance with the condition specified in subsection (c) or that the City has initiated proceedings to sell, lease, exchange, or otherwise dispose of all or a portion of the property, than, at the option of the Secretary, the United States shall have a right of reentry with regard to the property, with title thereto revesting in the United States.

(f) AUTHORIZED SALE OF PROPERTY.—Notwithstanding subsections (c) and (e), the Secretary of Agriculture may authorize the City to dispose of the real property conveyed under subsection (a) if the proceeds from such disposal are at least equal to the fair market value of the property and are paid to the United States. The Secretary shall deposit amounts received under this subsection into the special fund in the Treasury into which funds are deposited pursuant to the Act of December 4, 1967 (16 U.S.C. 484a), commonly known as the Sisk Act. The disposal of the conveyed property under this subsection shall be subject to such terms and conditions as the Secretary may prescribe.

(g) ADDITIONAL TERMS AND CONDITIONS.—The Secretary of Agriculture may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

16 USC 268.

SEC. 216. CUMBERLAND GAP NATIONAL HISTORICAL PARK.

(a) AUTHORITY.—Notwithstanding the Act of June 11, 1940 (16 U.S.C. 261 et seq.), the Secretary of the Interior is authorized to acquire by donation, purchase with donated or appropriated

funds, or exchange not to exceed 10 acres of land or interests in land, which shall consist of those necessary lands for the establishment of trailheads to be located at White Rocks and Chadwell Gap.

(b) ADMINISTRATION.—Lands and interests in lands acquired pursuant to subsection (a) shall be added to and administered as part of the Cumberland Gap National Historical Park.

SEC. 217. ALPINE SCHOOL DISTRICT.

(a) CONVEYANCE REQUIRED.—(1) The Secretary of Agriculture shall convey, without consideration, to the Alpine Elementary School District 7 of the State of Arizona (in this section referred to as the "School District"), all right, title and interest of the United States in and to a parcel of real property, including any improvements thereon, consisting of approximately 30 acres located in the Apache National Forest, Apache County, Arizona, and further delineated as follows: North ½ of Northeast ¼ of Southeast ¼ of section 14, Township 5 North, Range 30 East, Gila and Salt River meridian, and North ½ of South ½ of Northeast ¼ of Southeast ¼ of such section.

(2) The exact acreage and legal description of the real property to be conveyed under paragraph (1) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the School District.

(b) CONDITION OF CONVEYANCE.—The conveyance made under subsection (a) shall be subject to the condition that the School District use the conveyed property for public school facilities and related public school recreational purposes.

(c) RIGHT OF REENTRY.—The United States shall retain a right of reentry in the property to be conveyed. If the Secretary determines that the conveyed property is not being used in accordance with the condition in subsection (b), the United States shall have the right to reenter the conveyed property without consideration.

(d) ENCUMBRANCES.—The conveyance made under subsection (a) shall be subject to all encumbrances on the property existing as of the date of the enactment of this Act.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) of the Secretary considers appropriate to protect the interests of the United States.

SEC. 218. MERCED IRRIGATION DISTRICT LAND EXCHANGE.

(a) CONVEYANCE.—(1) The Secretary of the Interior may convey the Federal lands described in subsection (d)(1) in exchange for the non-Federal lands described in subsection (d)(2), in accordance with the provisions of this Act.

(b) APPLICABILITY OF OTHER PROVISIONS OF LAW.—The land exchange required in this section shall be carried out in accordance with section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716) and in accordance with other applicable laws.

(c) ACCEPTABILITY OF TITLE AND MANNER OF CONVEYANCE.—The Secretary of the Interior shall not carry out an exchange described in subsection (a) unless the title to the non-Federal lands to be conveyed to the United States, and the form and procedures of conveyance, are acceptable to the Secretary.

(d) LANDS TO BE EXCHANGED.—

(1) FEDERAL LANDS TO BE EXCHANGED.—The Federal lands referred to in this section to be exchanged consist of approximately 179.4 acres in Mariposa County, California as generally depicted on the map entitled "Merced Irrigation District Exchange—Proposed, Federal Land", dated March 15, 1995, more particularly described as follows:

T. 3 S., R. 15 E., MDM (Mount Diablo Meridian):
Sec. 35, SW¼SE¼, containing approximately 40 acres.
T. 4 S., R. 15 E., MDM (Mount Diablo Meridian):
Sec. 14: E½SE¼SE¼, containing approximately 20 acres.
Sec. 23: NE¼SE¼, containing approximately 40 acres.
T. 5 S., R. 15 E., MDM (Mount Diablo Meridian):
Sec. 2: Lot 1, containing approximately 57.9 acres.
Sec. 3: Lots 7 thru 15, containing approximately 21.5 acres.

(2) NON-FEDERAL LANDS TO BE EXCHANGED.—The non-Federal lands referred to in this section to be exchanged consist of approximately 160 acres in Mariposa County, California as generally depicted on the map entitled "Merced Irrigation District Exchange—Proposed, Non-Federal Land", dated March 15, 1995, more particularly described as T. 4 S., R17E MDM (Mount Diablo Meridian): sec. 2, SE¼.

(3) MAPS.—The maps referred to in this subsection shall be on file and available for inspection in the office of the Director of the Bureau of Land Management.

(4) PARTIAL REVOCATION OF WITHDRAWALS.—The Executive Order of December 31, 1912, creating Powersite Reserve No. 328, and the withdrawal of Federal lands for Power Project No. 2179, filed February 21, 1963, in accordance with section 24 of the Federal Power Act are hereby revoked insofar as they affect the Federal lands described in paragraph (1). Any patent issued on such Federal lands shall not be subject to section 24 of said Act.

Father Aull Site Transfer Act of 1996.

SEC. 219. FATHER AULL SITE TRANSFER.

(a) SHORT TITLE.—This section may be cited as the "Father Aull Site Transfer Act of 1996".

(b) CONVEYANCE OF PROPERTY.—Subject to valid existing rights, all right, title and interest of the United States in and to the land (including improvements on the land), consisting of approximately 43.06 acres, located approximately 10 miles east of Silver City, New Mexico, and described as follows: T. 17 S., R. 12 W., Section 30: Lot 13, and Section 31: Lot 27 (as generally depicted on the map dated July 1995) is hereby conveyed by operation of law to St. Vincent DePaul Parish in Silver City, New Mexico, without consideration.

(c) RELEASE.—Upon the conveyance of any land or interest in land identified in this section to St. Vincent DePaul Parish, St. Vincent DePaul Parish shall assume any liability for any claim relating to the land or interest in the land arising after the date of the conveyance.

(d) MAP.—The map referred to in this section shall be on file and available for public inspection in—

(1) the State of New Mexico Office of the Bureau of Land Management, Santa Fe, New Mexico; and

(2) the Las Cruces District Office of the Bureau of Land Management, Las Cruces, New Mexico.

SEC. 220. COASTAL BARRIER RESOURCES SYSTEM.

16 USC 3503 note.

(a) IN GENERAL.—The Secretary of the Interior shall, before the end of the 30-day period beginning on the date of the enactment of this Act, make such corrections to the maps described in subsection (b) as are necessary to ensure that depictions of areas on those maps are consistent with the depictions of areas appearing on the maps entitled "Amendments to Coastal Barrier Resources System", dated November 1, 1995, and June 1, 1996, and on file with the Secretary.

(b) MAPS DESCRIBED.—The maps described in this subsection are maps that—

(1) are included in a set of maps entitled "Coastal Barrier Resources System", dated October 24, 1990; and

(2) relate to the following units of the Coastal Barrier Resources System: P05, P05A, P10, P11, P11A, P18, P25, P32, and P32P.

SEC. 221. CONVEYANCE TO DEL NORTE COUNTY UNIFIED SCHOOL DISTRICT.

(a) CONVEYANCE.—As soon as practicable after the date of the enactment of this Act, the Secretary of Agriculture shall convey to the Del Norte County Unified School District of Del Norte County, California, in accordance with this section, all right, title, and interest of the United States in and to the property described in subsection (b).

(b) PROPERTY DESCRIPTION.—The property referred to in subsection (a) is that portion of Township 17 North, Range 2 East, Humboldt Meridian in Del Norte County, California, which is further described as follows:

Beginning at Angle Point No. 3 of Tract 41 as resurveyed by the Bureau of Land Management under survey Group No. 1013, approved August 13, 1990, and shown on the official plat thereof;

thence on the line between Angle Points No. 3 and No. 4 of Tract 41, North 89 degrees, 24 minutes, 20 seconds East, a distance of 345.44 feet to Angle Point No. 4 of Tract 41;

thence on the line between Angle Points No. 4 and No. 5 of Tract 41, South 00 degrees, 01 minutes, 20 seconds East, a distance of 517.15 feet;

thence West, a distance of 135.79 feet;

thence North 88 degrees, 23 minutes, 01 second West, a distance of 61.00 feet;

thence North 39 degrees, 58 minutes, 18 seconds West, a distance of 231.37 feet to the East line of Section 21, Township 17 North, Range 2 East;

thence along the East line of Section 21, North 00 degrees, 02 minutes, 20 seconds West, a distance of 334.53 feet to the point of beginning.

(c) CONSIDERATION.—The conveyance provided for in subsection (a) shall be without consideration except as required by this section.

(d) CONDITIONS OF CONVEYANCE.—The conveyance provided for in subsection (a) shall be subject to the following conditions:

(1) Del Norte County shall be provided, for no consideration, an easement for County Road No. 318 which crosses the Northeast corner of the property conveyed.

(2) The Pacific Power and Light Company shall be provided, for no consideration, an easement for utility equipment as necessary to maintain the level of service provided by the utility equipment on the property as of the date of the conveyance.

(3) The United States shall be provided, for no consideration, an easement to provide access to the United States property that is south of the property conveyed.

(e) LIMITATIONS ON CONVEYANCE.—The conveyance authorized by subsection (a) is subject to the following limitations:

(1) ENCUMBRANCES.—Such conveyance shall be subject to all encumbrances on the land existing as of the date of enactment of this Act.

(2) RE-ENTRY RIGHT.—The United States shall retain a right of re-entry in the land described for conveyance in subsection (b). If the Secretary determines that the conveyed property is not being used for public educational or related recreational purposes, the United States shall have a right to re-enter the property conveyed therein without consideration.

(f) ADDITIONAL TERMS AND CONDITIONS.—The conveyance provided for in subsection (a) shall be subject to such additional terms and conditions as the Secretary of Agriculture and the Del Norte County Unified School District agree are necessary to protect the interests of the United States.

TITLE III—EXCHANGES

SEC. 301. TARGHEE NATIONAL FOREST LAND EXCHANGE.

(a) CONVEYANCE.—Notwithstanding the requirements in the Act entitled "An Act to Consolidate National Forest Lands", approved March 20, 1922 (16 U.S.C. 485), and section 206(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(b)) that Federal and non-Federal lands exchanged for each other must be located within the same State, the Secretary of Agriculture may convey the Federal lands described in subsection (d) in exchange for the non-Federal lands described in subsection (e) in accordance with the provisions of this section.

(b) APPLICABILITY OF OTHER PROVISIONS OF LAW.—Except as otherwise provided in this section, the land exchange authorized by this section shall be made under the existing authorities of the Secretary.

(c) ACCEPTABILITY OF TITLE AND MANNER OF CONVEYANCE.—The Secretary shall not carry out the exchange described in subsection (a) unless the title to the non-Federal lands to be conveyed to the United States, and the form and procedures of conveyance, are acceptable to the Secretary.

(d) FEDERAL LANDS.—The Federal lands referred to in this section are located in the Targhee National Forest in Idaho, are generally depicted on the map entitled "Targhee Exchange, Idaho-Wyoming—Proposed, Federal Land", dated September 1994, and are known as the North Fork Tract.

(e) NON-FEDERAL LANDS.—The non-Federal lands referred to in this section are located in the Targhee National Forest in

Wyoming, are generally depicted on the map entitled "Non-Federal land, Targhee Exchange, Idaho-Wyoming—Proposed", dated September 1994, and are known as the Squirrel Meadows Tract.

(f) MAPS.—The maps referred to in subsections (d) and (e) shall be on file and available for inspection in the office of the Targhee National Forest in Idaho and in the office of the Chief of the Forest Service.

(g) EQUALIZATION OF VALUES.—Prior to the exchange authorized by this section, the values of the Federal and non-Federal lands to be so exchanged shall be established by appraisals of fair market value that shall be subject to approval by the Secretary. The values either shall be equal or shall be equalized using the following methods:

(1) ADJUSTMENT OF LANDS.—

(A) PORTION OF FEDERAL LANDS.—If the Federal lands are greater in value than the non-Federal lands, the Secretary shall reduce the acreage of the Federal lands until the values of the Federal lands closely approximate the values of the non-Federal lands.

(B) ADDITIONAL FEDERALLY OWNED LANDS.—If the non-Federal lands are greater in value than the Federal lands, the Secretary may convey additional federally owned lands within the Targhee National Forest up to an amount necessary to equalize the values of the non-Federal lands and the lands to be transferred out of Federal ownership. However, such additional federally owned lands shall be limited to those meeting the criteria for land exchanges specified in the Targhee National Forest Land and Resource Management Plan.

(2) PAYMENT OF MONEY.—The values may be equalized by the payment of money as provided in section 206(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716 (b)).

(h) DEFINITIONS.—For purposes of this section:

(1) The term "Federal lands" means the Federal lands described in subsection (d).

(2) The term "non-Federal lands" means the non-Federal lands described in subsection (e).

(3) The term "Secretary" means the Secretary of Agriculture.

SEC. 302. ANAKTUVUK PASS LAND EXCHANGE.

16 USC 410hh note.

(a) FINDINGS.—The Congress makes the following findings:

(1) The Alaska National Interest Lands Conservation Act (94 Stat. 2371), enacted on December 2, 1980, established Gates of the Arctic National Park and Preserve and Gates of the Arctic Wilderness. The Village of Anaktuvuk Pass, located in the highlands of the central Brooks Range is virtually surrounded by these national park and wilderness lands and is the only Native village located within the boundary of a National Park System unit in Alaska.

(2) Unlike most other Alaskan Native communities, the village of Anaktuvuk Pass is not located on a major river, lake, or coastline that can be used as a means of access. The residents of Anaktuvuk pass have relied increasingly on snow machines in winter and all-terrain vehicles in summer

as their primary means of access to pursue caribou and other subsistence resources.

(3) In a 1983 land exchange agreement, linear easements were reserved by the Inupiat Eskimo people for use of all-terrain vehicles across certain national park lands, mostly along stream and river banks. These linear easements proved unsatisfactory, because they provided inadequate access to subsistence resources while causing excessive environmental impact from concentrated use.

(4) The National Park Service and the Nunamiut Corporation initiated discussions in 1985 to address concerns over the use of all-terrain vehicles on park and wilderness land. These discussions resulted in an agreement, originally executed in 1992 and thereafter amended in 1993 and 1994, among the National Park Service, Nunamiut Corporation, the City of Anaktuvuk Pass, and Arctic Slope Regional Corporation. Full effectuation of this agreement, as amended, by its terms requires ratification by the Congress.

(b) RATIFICATION OF AGREEMENT.—

(1) RATIFICATION.—

(A) IN GENERAL.—The terms, conditions, procedures, covenants, reservations, and other provisions set forth in the document entitled "Donation, Exchange of Lands and Interests in Lands and Wilderness Redesignation Agreement Among Arctic Slope Regional Corporation, Nunamiut Corporation, City of Anaktuvuk Pass and the United States of America" (hereinafter referred to in this section as "the Agreement"), executed by the parties on December 17, 1992, as amended, are hereby incorporated in this title, are ratified and confirmed, and set forth the obligations and commitments of the United States, Arctic Slope Regional Corporation, Nunamiut Corporation and the City of Anaktuvuk Pass, as a matter of Federal law.

(B) LAND ACQUISITION.—Lands acquired by the United States pursuant to the Agreement shall be administered by the Secretary of the Interior (hereinafter referred to as the "Secretary") as part of Gates of the Arctic National Park and Preserve, subject to the laws and regulations applicable thereto.

(2) MAPS.—The maps set forth as Exhibits C1, C2, and D through I to the Agreement depict the lands subject to the conveyances, retention of surface access rights, access easements and all-terrain vehicle easements. These lands are depicted in greater detail on a map entitled "Land Exchange Actions, Proposed Anaktuvuk Pass Land Exchange and Wilderness Redesignation, Gates of the Arctic National Park and Preserve", Map No. 185/80,039, dated April 1994, and on file at the Alaska Regional Office of the National Park Service and the offices of Gates of the Arctic National Park and Preserve in Fairbanks, Alaska. Written legal descriptions of these lands shall be prepared and made available in the above offices. In case of any discrepancies, Map No. 185/80,039 shall be controlling.

(c) NATIONAL PARK SYSTEM WILDERNESS.—

(1) GATES OF THE ARCTIC WILDERNESS.—

(A) REDESIGNATION.—Section 701(2) of the Alaska National Interest Lands Conservation Act (94 Stat. 2371,

2417) establishing the Gates of the Arctic Wilderness is hereby amended with the addition of approximately 56,825 acres of wilderness and the rescission of approximately 73,993 acres as wilderness, thus revising the Gates of the Arctic Wilderness to approximately 7,034,832 acres. 16 USC 1132 note.

(B) MAP.—The lands redesignated by subparagraph (A) are depicted on a map entitled "Wilderness Actions, Proposed Anaktuvuk Pass Land Exchange and Wilderness Redesignation, Gates of the Arctic National Park and Preserve", Map No. 185/80,040, dated April 1994, and on file at the Alaska Regional Office of the National Park Service and the office of Gates of the Arctic National Park and Preserve in Fairbanks, Alaska.

(2) NOATAK NATIONAL PRESERVE.—Section 201(8)(a) of the Alaska National Interest Land Conservation Act (94 Stat. 2380) is amended by— 16 USC 410hh.

(A) striking "approximately six million four hundred and sixty thousand acres" and inserting in lieu thereof "approximately 6,477,168 acres"; and

(B) inserting "and the map entitled 'Noatak National Preserve and Noatak Wilderness Addition' dated September 1994" after "July 1980".

(3) NOATAK WILDERNESS.—Section 701(7) of the Alaska National Interest Lands Conservation Act (94 Stat. 2417) is amended by striking "approximately five million eight hundred thousand acres" and inserting in lieu thereof "approximately 5,817,168 acres". 16 USC 1132 note.

(d) CONFORMANCE WITH OTHER LAW.—

(1) ALASKA NATIVE CLAIMS SETTLEMENT ACT.—All of the lands, or interests therein, conveyed to and received by Arctic Slope Regional Corporation or Nunamiut Corporation pursuant to the Agreement shall be deemed conveyed and received pursuant to exchanges under section 22(f) of the Alaska Native Claims Settlement Act, as amended (43 U.S.C. 1601, 1621(f)). All of the lands or interests in lands conveyed pursuant to the Agreement shall be conveyed subject to valid existing rights.

(2) ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT.—Except to the extent specifically set forth in this section or the Agreement, nothing in this section or in the Agreement shall be construed to enlarge or diminish the rights, privileges, or obligations of any person, including specifically the preference for subsistence uses and access to subsistence resources provided under the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.).

SEC. 303. ALASKA PENINSULA SUBSURFACE CONSOLIDATION.

(a) DEFINITIONS.—As used in this section:

(1) AGENCY.—The term agency—

(A) means any instrumentality of the United States, and any Government corporation (as defined in section 9101(1) of title 31, United States Code); and

(B) includes any element of an agency.

(2) ALASKA NATIVE CORPORATION.—The Term "Alaska Native Corporation" has the same meaning as is provided for "Native Corporation" in section 3(m) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(m)).

(3) FEDERAL LANDS OR INTEREST THEREIN.—The term "Federal lands or interests therein" means any lands or properties owned by the United States (A) which are administered by the Secretary, or (B) which are subject to a lease to third parties, or (C) which have been made available to the Secretary for exchange under this section through the concurrence of the director of the agency administering such lands or properties: *Provided however,* That excluded from such lands shall be those lands which are within an existing conservation system unit as defined in section 102(4) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3102(4)), and those lands the mineral interest for which are currently under mineral lease.

(4) KONIAG.—The term "Koniag" means Koniag, Incorporated, which is a regional Corporation.

(5) REGIONAL CORPORATION.—The term "Regional Corporation" has the same meaning as is provided in section 3(g) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(g)).

(6) SECRETARY.—Except as otherwise provided, the term "Secretary" means the Secretary of the Interior.

(7) SELECTION RIGHTS.—The term "selection rights" means those rights granted to Koniag, and confirmed as valid selections (within Koniag's entitlement) pursuant to subsections (a) and (b) of section 12, and section 14(h)(8), of the Alaska Native Claims Settlement Act (43 U.S.C. 1611 and 1613(h)(8)), to receive title to the oil and gas rights and other interests in the subsurface estate of the approximately 275,000 acres of public lands in the State of Alaska identified as "Koniag Selections" on the map entitled "Koniag Interest Lands, Alaska Peninsula", dated May 1989.

(b) VALUATION OF KONIAG SELECTION RIGHTS.—

(1) IN GENERAL.—Pursuant to paragraph (2) of this subsection, the Secretary shall value the Selection Rights which Koniag possesses within the boundaries of Aniakchak National Monument and Preserve, Alaska Peninsula National Wildlife Refuge, and Becharof National Wildlife Refuge.

(2) VALUE.—

(A) IN GENERAL.—The value of the selection rights shall be equal to the fair market value of—

(i) the oil and gas interests in the lands or interests in lands that are the subject of the selection rights; and

(ii) in the case of the lands or interests in lands for which Koniag is to receive the entire subsurface estate, the subsurface estate of the lands or interests in lands that are the subject of the selection rights.

(B) APPRAISAL.—

(i) SELECTION OF APPRAISER.—

(I) IN GENERAL.—Not later than 90 days after the date of enactment of this section the Secretary and Koniag shall meet to select a qualified appraiser to conduct an appraisal of the selection rights. Subject to subclause (II), the appraiser shall be selected by the mutual agreement of the Secretary and Koniag.

(II) FAILURE TO AGREE.—If the Secretary and Koniag fail to agree on an appraiser by the date

that is 60 days after the date of the initial meeting referred to in subclause (I), the Secretary and Koniag shall, by the date that is not later than 90 days after the date of the initial meeting, each designate an appraiser who is qualified to perform the appraisal. The 2 appraisers so identified shall select a third qualified appraiser who shall perform the appraisal.

(ii) STANDARDS AND METHODOLOGY.—The appraisal shall be conducted in conformity with the standards of the Appraisal Foundation (as defined in section 1121(9) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3350(9)).

(iii) SUBMISSION OF APPRAISAL REPORT.—Not later than 180 days after the selection of an appraiser pursuant to clause (i), the appraiser shall submit to the Secretary and to Koniag a written appraisal report specifying the value of the selection rights and the methodology used to arrive at the value.

(C) DETERMINATION OF VALUE.—

(i) DETERMINATION BY THE SECRETARY.—Not later than 60 days after the date of the receipt of the appraisal report under subparagraph (B)(iii), the Secretary shall determine the value of the selection rights and shall notify Koniag of the determination.

(ii) ALTERNATIVE DETERMINATION OF VALUE.—

(I) IN GENERAL.—Subject to subclause (II), if Koniag does not agree with the value determined by the Secretary under clause (i), the procedures specified in section 206(d) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(d)) shall be used to establish the value.

(II) AVERAGE VALUE LIMITATION.—The average value per acre of the selection rights shall not be less than the value utilizing the risk adjusted discount cash flow methodology, but in no event may exceed $300.

(c) KONIAG ACCOUNT.—

(1) IN GENERAL.—(A) The Secretary shall enter into negotiations for an agreement or agreements to exchange Federal lands or interests therein which are in the State of Alaska for the Selection Rights.

(B) If the value of the Federal property to be exchanged is less than the value of the Selection Rights established in subsection (b), and if such Federal property to be exchanged is not generating receipts to the Federal Government in excess of $1,000,000 per year, then the Secretary may exchange the Federal property for that portion of the Selection Rights having a value equal to that of the Federal property. The remaining selection rights shall remain available for additional exchanges.

(C) For the purposes of any exchange to be consummated under this section, if less than all the selection rights are being exchanged, then the value of the selection rights being exchanged shall be equal to the number of acres of selection rights being exchanged multiplied by a fraction, the numerator of which is the value of all the selection rights as determined

pursuant to subsection (b) hereof and the denominator of which is the total number of acres of selection rights.

(2) ADDITIONAL EXCHANGES.—If, after 10 years from the date of the enactment of this section, the Secretary was unable to conclude such exchanges as may be required to acquire all of the selection rights, he shall conclude exchanges for the remaining selection rights for such Federal property as may be identified by Koniag, which property is available for transfer to the administrative jurisdiction of the Secretary under any provision of law and which property, at the time of the proposed transfer to Koniag is not generating receipts of the Federal Government in excess of $1,000,000 per year. The Secretary shall keep Koniag advised in a timely manner as to which properties may be available for such transfer. Upon receipt of such identification by Koniag, the Secretary shall request in a timely manner the transfer of such identified property to the administrative jurisdiction of the Department of the Interior. Such property shall not be subject to the geographic limitations of section 206(b) of the Federal Land Policy and Management Act and may be retained by the Secretary solely for purposes of transferring it to Koniag to complete the exchange. Should the value of the property so identified by Koniag be in excess of the value of the remaining selection rights, then Koniag shall have the option of (A) declining to proceed with the exchange and identifying other property, or (B) paying the difference in value between the property rights.

(3) REVENUES.—Any property received by Koniag in an exchange entered into pursuant to paragraph (1) or (2) shall be deemed to be an interest in the subsurface for purposes of section 7(i) of the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.): *Provided however,* That should Koniag make a payment to equalize the value in any such exchange, then Koniag will be deemed to hold an undivided interest in the property equal in value to such payment which interest shall not be subject to the provisions of section 7(i) of that Act.

(d) AUTHORITY TO APPOINT AND REMOVE TRUSTEE.—In establishing a Settlement Trust under section 39 of the Alaska Native Claims Settlement Act (43 U.S.C. 1629c), Koniag may delegate, in whole or in part, the authority granted to Koniag under subsection (b)(2) of such section to any entity that Koniag may select without affecting the status of the trust as a Settlement Trust under such section.

SEC. 304. SNOWBASIN LAND EXCHANGE ACT.

(a) PURPOSE AND INTENT.—The purpose of this section is to authorize and direct the Secretary to exchange 1,320 acres of federally-owned land within the Cache National Forest in the State of Utah for lands approximately equal value owned by the Sun Valley Company. It is the intent of Congress that this exchange be completed without delay within the period specified by subsection (d).

(b) DEFINITIONS.—As used in this section:

(1) The term "Sun Valley Company" means the Sun Valley Company, a division of Sinclair Oil Corporation, a Wyoming Corporation, or its successors or assigns.

(2) The term "Secretary" means the Secretary of Agriculture.

(c) EXCHANGE.—

(1) FEDERAL SELECTED LANDS.—(A) Not later than 45 days after the final determination of value of the Federal selected lands, the Secretary shall, subject to this section, transfer all right, title, and interest of the United States in and to the lands referred to in subparagraph (B) to the Sun Valley Company.

(B) The lands referred to in subparagraph (A) are certain lands within the Cache National Forest in the State of Utah comprising 1,320 acres, more or less, as generally depicted on the map entitled "Snowbasin Land Exchange—Proposed" and dated October 1995.

(2) NON-FEDERAL OFFERED LANDS.—Upon transfer of the Federal selected lands under paragraph (1), and in exchange for those lands, the Sun Valley Company shall simultaneously convey to the Secretary all right, title and interest of the Sun Valley Company in and to so much of the following offered lands which have been previously identified by the United States Forest Service as desirable by the United States, or which are identified pursuant to subparagraph (E) prior to the transfer of lands under paragraph (1), as are of approximate equal value to the Federal selected lands:

(A) Certain lands located within the exterior boundaries of the Cache National Forest in Weber County, Utah, which comprise approximately 640 acres and are generally depicted on a map entitled "Lightning Ridge Offered Lands", dated October 1995.

(B) Certain lands located within the Cache National Forest in Weber County, Utah, which comprise approximately 635 acres and are generally depicted on a map entitled "Wheeler Creek Watershed Offered Lands—Section 2" dated October 1995.

(C) Certain lands located within the exterior boundaries of the Cache National Forest in Weber County, Utah, and lying immediately adjacent to the outskirts of the City of Ogden, Utah, which comprise approximately 800 acres and are generally depicted on a map entitled "Taylor Canyon Offered Lands", dated October 1995.

(D) Certain lands located within the exterior boundaries of the Cache National Forest in Weber County, Utah, which comprise approximately 2,040 acres and are generally depicted on a map entitled "North Fork Ogden River—Devil's Gate Valley", dated October 1995.

(E) Such additional offered lands in the State of Utah as may be necessary to make the values of the lands exchanged pursuant to this section approximately equal, and which are acceptable to the Secretary.

(3) SUBSTITUTION OF OFFERED LANDS.—If one or more of the precise offered land parcels identified in subparagraphs (A) through (D) of paragraph (2) is unable to be conveyed to the United States due to appraisal or other reasons, or if the Secretary and the Sun Valley Company mutually agree and the Secretary determines that an alternative offered land package would better serve long-term public needs and objectives, the Sun Valley Company may simultaneously convey

to the United States alternative offered lands in the State of Utah acceptable to the Secretary in lieu of any or all of the lands identified in subparagraphs (A) through (D) of paragraph (2).

(4) VALUATION AND APPRAISALS.—(A) Values of the lands to be exchanged pursuant to this section shall be equal as determined by the Secretary utilizing nationally recognized appraisal standards and in accordance with section 206 of the Federal Land Policy and Management Act of 1976. The appraisal reports shall be written to Federal standards as defined in the Uniform Appraisal Standards for Federal Land Acquisitions. If, due to size, location, or use of lands exchanged under this section, the values are not exactly equal, they shall be equalized by the payment of cash equalization money to the Secretary or the Sun Valley Company as appropriate in accordance with section 206(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(b)). In order to expedite the consummation of the exchange directed by this section, the Sun Valley Company shall arrange and pay for appraisals of the offered and selected lands by a qualified appraiser with experience in appraising similar properties and who is mutually acceptable to the Sun Valley Company and the Secretary. The appraisal of the Federal selected lands shall be completed and submitted to the Secretary for technical review and approval no later than 120 days after the date of enactment of this Act, and the Secretary shall make a determination of value not later than 30 days after receipt of the appraisal. In the event the Secretary and the Sun Valley Company are unable to agree to the appraised value of a certain tract or tracts of land, the appraisal, appraisals, or appraisal issues in dispute and a final determination of value shall be resolved through a process of bargaining or submission to arbitration in accordance with section 206(d) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(d)).

(B) In order to expedite the appraisal of the Federal selected lands, such appraisal shall—

(i) value the land in its unimproved state, as a single entity for its highest and best use as if in private ownership and as of the date of enactment of this Act;

(ii) consider the Federal lands as an independent property as though in the private marketplace and suitable for development to its highest and best use;

(iii) consider in the appraisal any encumbrance on the title anticipated to be in the conveyance to Sun Valley Company and reflect its effect on the fair market value of the property; and

(iv) not reflect any enhancement in value to the Federal selected lands based on the existence of private lands owned by the Sun Valley Company in the vicinity of the Snowbasin Ski Resort, and shall assume that private lands owned by the Sun Valley Company are not available for use in conjunction with the Federal selected lands.

(d) GENERAL PROVISIONS RELATING TO THE EXCHANGE.—

(1) IN GENERAL.—The exchange authorized by this section shall be subject to the following terms and conditions:

(A) RESERVED RIGHTS-OF-WAY.—In any deed issued pursuant to subsection (c)(1), the Secretary shall reserve

in the United States a right of reasonable access across the conveyed property for public access and for administrative purposes of the United States necessary to manage adjacent federally-owned lands. The terms of such reservation shall be prescribed by the Secretary within 30 days after the date of the enactment of this Act.

(B) RIGHT OF RESCISSION.—This section shall not be binding on either the United States or the Sun Valley Company if, within 30 days after the final determination of value of the Federal selected lands, the Sun Valley Company submits to the Secretary a duly authorized and executed resolution of the Company stating its intention not to enter into the exchange authorized by this section.

(2) WITHDRAWAL.—Subject to valid existing rights, effective on the date of enactment of this Act, the Federal selected lands described in subsection (c)(1) and all National Forest System lands currently under special use permit to the Sun Valley Company at the Snowbasin Ski Resort are hereby withdrawn from all forms of appropriation under the public land laws (including the mining laws) and from disposition under all laws pertaining to mineral and geothermal leasing.

(3) DEED.—The conveyance of the offered lands to the United States under this section shall be by general warranty or other deed acceptable to the Secretary and in conformity with applicable title standards of the Attorney General of the United States.

(4) STATUS OF LANDS.—Upon acceptance of title by the Secretary, the land conveyed to the United States pursuant to this section shall become part of the Wasatch or Cache National Forests as appropriate, and the boundaries of such National Forests shall be adjusted to encompass such lands. Once conveyed, such lands shall be managed in accordance with the Act of March 1, 1911, as amended (commonly known as the "Weeks Act"), and in accordance with the other laws, rules and regulations applicable to National Forest System lands. This paragraph does not limit the Secretary's authority to adjust the boundaries pursuant to section 11 of the Act of March 1, 1911 ("Weeks Act"). For the purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–9), the boundaries of the Wasatch and Cache National Forests, as adjusted by this section, shall be considered to be boundaries of the forests as of January 1, 1965.

(e) PHASE FACILITY CONSTRUCTION AND OPERATION.—

(1) PHASE I FACILITY FINDING AND REVIEW.—(A) The Congress has reviewed the Snowbasin Ski Area Master Development Plan dated October 1995 (hereafter in this subsection referred to as the "Master Plan"). On the basis of such review, and review of previously completed environmental and other resource studies for the Snowbasin Ski Area, Congress hereby finds that the "Phase I" facilities referred to in the Master Plan to be located on National Forest System land after consummation of the land exchange directed by this section are limited in size and scope, are reasonable and necessary to accommodate the 2002 Olympics, and in some cases are required to provide for the safety of skiing competitors and spectators.

(B) Within 60 days after the date of enactment of this Act, the Secretary and the Sun Valley Company shall review the Master Plan insofar as such plan pertains to Phase I facilities which are to be constructed and operated wholly or partially on National Forest System lands retained by the Secretary after consummation of the land exchange directed by this section. The Secretary may modify such Phase I facilities upon mutual agreement with the Sun Valley Company or by imposing conditions pursuant to paragraph (2) of this subsection.

(C) Within 90 days after the date of enactment of this Act, the Secretary shall submit the reviewed Master Plan on the Phase I facilities, including any modifications made thereto pursuant to subparagraph (B), to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the United States House of Representatives for a 30-day review period. At the end of the 30-day period, unless otherwise directed by Act of Congress, the Secretary may issue all necessary authorizations for construction and operation of such facilities or modifications thereof in accordance with the procedures and provisions of paragraph (2) of this subsection.

(2) PHASE I FACILITY APPROVAL, CONDITIONS, AND TIMETABLE.—Within 120 days of receipt of an application by the Sun Valley Company to authorize construction and operation of any particular Phase I facility, facilities, or group of facilities, the Secretary, in consultation with the Sun Valley Company, shall authorize construction and operation of such facility, facilities, or group of facilities, subject to the general policies of the Forest Service pertaining to the construction and operation of ski area facilities on National Forest System lands and subject to reasonable conditions to protect National Forest System resources. In providing authorization to construct and operate a facility, facilities, or group of facilities, the Secretary may not impose any condition that would significantly change the location, size, or scope of the applied for Phase I facility unless—

(A) the modification is mutually agreed to by the Secretary and the Sun Valley Company; or

(B) the modification is necessary to protect health and safety.

Nothing in this subsection shall be construed to affect the Secretary's responsibility to monitor and assure compliance with the conditions set forth in the construction and operation authorization.

(3) CONGRESSIONAL DIRECTIONS.—Notwithstanding any other provision of law, Congress finds that consummation of the land exchange directed by this section and all determinations, authorizations, and actions taken by the Secretary pursuant to this section pertaining to Phase I facilities on National Forest System lands, or any modifications thereof, to be nondiscretionary actions authorized and directed by Congress and hence to comply with all procedural and other requirements of the laws of the United States. Such determinations, authorizations, and actions shall not be subject to administrative or judicial review.

(f) NO PRECEDENT.—Nothing in subsection (c)(4)(B) of this section relating to conditions or limitations on the appraisal of the Federal lands, or any provision of subsection (e), relating to the approval by the Congress or the Forest Service of facilities on National Forest System lands, shall be construed as a precedent for subsequent legislation.

SEC. 305. ARKANSAS AND OKLAHOMA LAND EXCHANGE.

(a) FINDINGS.—Congress finds that:

(1) The Weyerhaeuser Company has offered to the United States Government an exchange of lands under which Weyerhaeuser would receive approximately 48,000 acres of Federal land in Arkansas and Oklahoma and all mineral interests and oil and gas interests pertaining to these exchanged lands in which the United States Government has an interest in return for conveying to the United States lands owned by Weyerhaeuser consisting of approximately 181,000 acres of forested wetlands and other forest land of public interest in Arkansas and Oklahoma and all mineral interests and all oil and gas interests pertaining to 48,000 acres of these 181,000 acres of exchanged lands in which Weyerhaeuser has an interest, consisting of—

(A) certain lands in Arkansas (Arkansas Ouachita lands) located near Poteau Mountain, Caney Creek Wilderness, Lake Ouachita, Little Missouri Wild and Scenic River, Flatside Wilderness and the Ouachita National Forest;

(B) certain lands in Oklahoma (Oklahoma lands) located near the McCurtain County Wilderness, the Broken Bow Reservoir, the Glover River, and the Ouachita National Forest; and

(C) certain lands in Arkansas (Arkansas Cossatot lands) located on the Little and Cossatot Rivers and identified as the "Pond Creek Bottoms" in the Lower Mississippi River Delta section of the North American Waterfowl Management Plan;

(2) acquisition of the Arkansas Cossatot lands by the United States will remove the lands in the heart of a critical wetland ecosystem from sustained timber production and other development;

(3) the acquisition of the Arkansas Ouachita lands and the Oklahoma lands by the United States for administration by the Forest Service will provide an opportunity for enhancement of ecosystem management of the National Forest System lands and resources;

(4) the Arkansas Ouachita lands and the Oklahoma lands have outstanding wildlife habitat and important recreational values and should continue to be made available for activities such as public hunting, fishing, trapping, nature observation, enjoyment, education, and timber management whenever these activities are consistent with applicable Federal laws and land and resource management plans; these lands, especially in the riparian zones, also harbor endangered, threatened and sensitive plants and animals and the conservation and restoration of these areas are important to the recreational and educational public uses and will represent a valuable ecological resource which should be conserved;

(5) the private use of the lands the United States will convey to Weyerhaeuser will not conflict with established management objectives on adjacent Federal lands;

(6) the lands the United States will convey to Weyerhaeuser as part of the exchange described in paragraph (1) do not contain comparable fish, wildlife, or wetland values;

(7) the values of all lands, mineral interests, and oil and gas interests to be exchanged between the United States and Weyerhaeuser are approximately equal in value; and

(8) the exchange of lands, mineral interests, and oil and gas interests between Weyerhaeuser and the United States is in the public interest.

(b) PURPOSE.—The purpose of this section is to authorize and direct the Secretary of the Interior and the Secretary of Agriculture, subject to the terms of this title, to complete, as expeditiously as possible, an exchange of lands, mineral interests, and oil and gas interests with Weyerhaeuser that will provide environmental, land management, recreational, and economic benefits to the States of Arkansas and Oklahoma and to the United States.

(c) DEFINITIONS.—As used in this section:

(1) LAND.—The terms "land" or "lands" mean the surface estate and any other interests therein except for mineral interests and oil and gas interests.

(2) MINERAL INTERESTS.—The term "mineral interests" means geothermal steam and heat and all metals, ores, and minerals of any nature whatsoever, except oil and gas interests, in or upon lands subject to this title including, but not limited to, coal, lignite, peat, rock, sand, gravel, and quartz.

(3) OIL AND GAS INTERESTS.—The term "oil and gas interests" means all oil and gas of any nature, including carbon dioxide, helium, and gas taken from coal seams (collectively "oil and gas").

(4) SECRETARIES.—The term "Secretaries" means the Secretary of the Interior and the Secretary of Agriculture.

(5) WEYERHAEUSER.—The term "Weyerhaeuser" means Weyerhaeuser Company, a company incorporated in the State of Washington.

(d) EXCHANGE OF LANDS AND MINERAL INTEREST.—

(1) IN GENERAL.—Subject to paragraph (2) and notwithstanding any other provision of law, within 90 days after the date of the enactment of this Act, the Secretary of Agriculture shall convey to Weyerhaeuser, subject to any valid existing rights, approximately 20,000 acres of Federal lands and mineral interests in the State of Arkansas and approximately 28,000 acres of Federal lands and mineral interests in the State of Oklahoma as depicted on maps entitled "Arkansas-Oklahoma Land Exchange—Federal Arkansas and Oklahoma Lands," dated February 1996 and available for public inspection in appropriate offices of the Secretaries.

(2) OFFER AND ACCEPTANCE OF LANDS.—The Secretary of Agriculture shall make the conveyance to Weyerhaeuser if Weyerhaeuser conveys deeds of title to the United States, subject to limitations and the reservation described in subsection (e) and which are acceptable to and approved by the Secretary of Agriculture to the following—

(A) approximately 115,000 acres of lands and mineral interests in the State of Oklahoma, as depicted on a map

entitled "Arkansas-Oklahoma Land Exchange—Weyerhaeuser Oklahoma Lands," dated February 1996 and available for public inspection in appropriate offices of the Secretaries;

(B) approximately 41,000 acres of lands and mineral interests in the State of Arkansas, as depicted on a map entitled "Arkansas-Oklahoma Land Exchange—Weyerhaeuser Arkansas Ouachita Lands," dated February 1996 and available for public inspection in appropriate offices of the Secretaries; and

(C) approximately 25,000 acres of lands and mineral interests in the State of Arkansas, as depicted on a map entitled "Arkansas-Oklahoma Land Exchange—Weyerhaeuser Arkansas Cossatot Lands," dated February 1996 and available for public inspection in appropriate offices of the Secretaries.

(e) EXCHANGE OF OIL AND GAS INTERESTS.—

(1) IN GENERAL.—Subject to paragraph (2) and notwithstanding any other provision of law, at the same time as the exchange for land and mineral interests is carried out pursuant to this section, the Secretary of Agriculture shall exchange all Federal oil and gas interests, including leases and other agreements, in the lands described in subsection (d)(1) for equivalent oil and gas interests, including existing leases and other agreements, owned by Weyerhaeuser in the lands described in subsection (d)(2).

(2) RESERVATION.—In addition to the exchange of oil and gas interests pursuant to paragraph (1), Weyerhaeuser shall reserve oil and gas interests in and under the lands depicted for reservation upon a map entitled Arkansas-Oklahoma Land Exchange—Weyerhaeuser Oil and Gas Interest Reservation Lands, dated February 1996 and available for public inspection in appropriate offices of the Secretaries. Such reservation shall be subject to the provisions of this title and the form of such reservation shall comply with the jointly agreed to Memorandum of Understanding between the Forest Service and Weyerhaeuser dated March 27, 1996 and on file with the Office of the Chief of the Forest Service in Washington, D.C. and with the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the United States House of Representatives.

(f) GENERAL PROVISIONS.—

(1) MAPS CONTROLLING.—The acreage cited in this section is approximate. In the case of a discrepancy between the description of lands, mineral interests, or oil and gas interests to be exchanged pursuant to subsections (d) and (e) and the lands, mineral interests, or oil and gas interests depicted on a map referred to in such subsection, the map shall control. The maps referenced in this section shall be subject to such minor corrections as may be agreed upon by the Secretaries and Weyerhaeuser so long as the Secretary of Agriculture notifies the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the United States House of Representatives of any such minor corrections.

(2) FINAL MAPS.—Not later than 180 days after the conclusion of the exchange required by subsections (d) and (e), the

Secretaries shall transmit maps accurately depicting the lands, mineral interests, and oil and gas interests conveyed and transferred pursuant to this section and the acreage and boundary descriptions of such lands, mineral interests, and oil and gas interests to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives.

(3) CANCELLATION.—If, before the exchange has been carried out pursuant to subsections (d) and (e), Weyerhaeuser provides written notification to the Secretaries that Weyerhauser no longer intends to complete the exchange, with respect to the lands, mineral interests, and oil and gas interests that would otherwise be subject to exchange, the status of such lands, mineral interests, and oil and gas interests shall revert to the status of such lands, mineral interests, and oil and gas interests as of the day before the date of enactment of this Act and shall be managed in accordance with applicable law and management plans.

(4) WITHDRAWAL.—Subject to valid existing rights, the land and interests therein depicted for conveyance to Weyerhauser on the maps referenced in subsections (d) and (e) are withdrawn from all forms of entry and appropriation under the public land laws (including the mining laws) and from the operation of mineral leasing and geothermal steam leasing laws effective upon the date of the enactment of this title. Such withdrawal shall terminate 45 days after completion of the exchange provided for in subsections (d) and (e) or on the date of notification by Weyerhauser of a decision not to complete the exchange.

(g) NATIONAL FOREST SYSTEM.—

(1) ADDITION TO THE SYSTEM.—Upon approval and acceptance of title by the Secretary of Agriculture, the 156,000 acres of land conveyed to the United States pursuant to subsection (d)(2) (A) and (B) of this section shall be subject to the Act of March 1, 1911 (commonly known as the Weeks Law) (36 Stat. 961, as amended), and shall be administered by the Secretary of Agriculture in accordance with the laws and regulations pertaining to the National Forest System.

(2) PLAN AMENDMENTS.—No later than 12 months after the completion of the exchange required by this section, the Secretary of Agriculture shall begin the process to amend applicable land and resource management plans with public involvement pursuant to section 6 of the Forest and Rangeland Renewable Resource Planning Act of 1974, as amended by the National Forest Management Act of 1976 (16 U.S.C. 1604): *Provided,* That no amendment or revision of applicable land and resource management plans shall be required prior to completion of the amendment process required by this paragraph for the Secretary of Agriculture to authorize or undertake activities consistent with forest wide standards and guidelines and all other applicable laws and regulations on lands conveyed to the United States pursuant to subsection (d)(2) (A) and (B).

16 USC 668dd note.

(h) OTHER.—

(1) ADDITION TO THE NATIONAL WILDLIFE REFUGE SYSTEM.—Once acquired by the United States, the 25,000 acres of land identified in subsection (d)(2)(C), the Arkansas Cossatot lands, shall be managed by the Secretary of the Interior as a

component of the Cossatot National Wildlife Refuge in accordance with the National Wildlife Refuge System Administration Act of 1996 (16 U.S.C. 668dd–668ee).

(2) PLAN PREPARATION.—Within 24 months after the completion of the exchange required by this section, the Secretary of the Interior shall prepare and implement a single refuge management plan for the Cossatot National Wildlife Refuge, as expanded by this title. Such plans shall recognize the important public purposes served by the nonconsumptive activities, other recreational activities, and wildlife-related public use, including hunting, fishing, and trapping. The plan shall permit, to the maximum extent practicable, compatible uses to the extent that they are consistent with sound wildlife management and in accordance with the National Wildlife Refuge System Administration Act of 1996 (16 U.S.C. 668dd–668ee) and other applicable laws. Any regulations promulgated by the Secretary of the Interior with respect to hunting, fishing, and trapping on those lands shall, to the extent practicable, be consistent with State fish and wildlife laws and regulations. In preparing the management plan and regulations, the Secretary of the Interior shall consult with the Arkansas Game and Fish Commission.

(3) INTERIM USE OF LANDS.—

(A) IN GENERAL.—Except as provided in paragraph (2) during the period beginning on the date of the completion of the exchange of lands required by this section and ending on the first date of the implementation of the plan prepared under paragraph (2), the Secretary of the Interior shall administer all lands added to the Cossatot National Wildlife Refuge pursuant to this title in accordance with the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–668ee) and other applicable laws.

(B) HUNTING SEASONS.—During the period described in subparagraph (A), the duration of any hunting season on the lands described in paragraph (1) shall comport with the applicable State law.

(i) OUACHITA NATIONAL FOREST BOUNDARY ADJUSTMENT.—Upon acceptance of title by the Secretary of Agriculture of the lands conveyed to the United States pursuant to subsection (d)(2)(A) and (B), the boundaries of the Ouachita National Forest shall be adjusted to encompass those lands conveyed to the United States generally depicted on the appropriate maps referred to in subsection (d). Nothing in this subsection shall limit the authority of the Secretary of Agriculture to adjust the boundary pursuant to section 11 of the Weeks Law of March 1, 1911. For the purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–9), the boundaries of the Ouachita National Forest, as adjusted by this section, shall be considered to be the boundaries of the Forest as of January 1, 1965.

(j) MAPS AND BOUNDARY DESCRIPTIONS.—Not later than 180 days after the date of enactment of this title, the Secretary of Agriculture shall prepare a boundary description of the lands depicted on the map(s) referred to in subsection (d)(2)(A) and (B). Such map(s) and boundary description shall have the same force and effect as if included in this Act, except that the Secretary of Agriculture may correct clerical and typographical errors.

SEC. 306. BIG THICKET NATIONAL PRESERVE.

(a) EXTENSION.—The last sentence of subsection (d) of the first section of the Act entitled "An Act to authorize the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes", approved October 11, 1974 (16 U.S.C. 698(d)), is amended by striking out "two years after date of enactment" and inserting "five years after the date of enactment".

(b) INDEPENDENT APPRAISAL.—Subsection (d) of the first section of such Act (16 U.S.C. 698(d)) is further amended by adding at the end the following: "The Secretary, in considering the values of the private lands to be exchanged under this subsection, shall consider independent appraisals submitted by the owners of the private lands."

(c) LIMITATION.—Subsection (d) of the first section of such Act (16 U.S.C. 698(d)), as amended by subsection (b), is further amended by adding at the end the following: "The authority to exchange lands under this subsection shall expire on July 1, 1998.".

16 USC 698 note.

(d) REPORTING REQUIREMENT.—Not later than 6 months after the date of the enactment of this Act and every 6 months thereafter until the earlier of the consummation of the exchange of July 1, 1998, the Secretary of the Interior and the Secretary of Agriculture shall each submit a report to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate concerning the progress in consummating the land exchange authorized by the amendments made by the Big Thicket National Preserve Addition Act of 1993 (Public Law 103–46).

16 USC 698 note.

(e) LAND EXCHANGE IN LIBERTY COUNTY, TEXAS.—If, within one year after the date of the enactment of this Act—

(1) the owners of the private lands described in subsection (f)(1) offer to transfer all their right, title, and interest in and to such lands to the Secretary of the Interior, and

(2) Liberty County, Texas, agrees to accept the transfer of the Federal lands described in subsection (f)(2),

the Secretary shall accept such offer of private lands and, in exchange and without additional consideration, transfer to Liberty County, Texas, all right, title, and interest of the United States in and to the Federal lands described in subsection (f)(2).

16 USC 698 note.

(f) LANDS DESCRIBED.—

(1) PRIVATE LANDS.—The private lands described in this paragraph are approximately 3.76 acres of lands located in Liberty County, Texas, as generally depicted on the map entitled "Big Thicket Lake Estates Access—Proposed".

(2) FEDERAL LANDS.—The Federal lands described in this paragraph are approximately 2.38 acres of lands located in Menard Creek Corridor Unit of the Big Thicket National Preserve, as generally depicted on the map referred to in paragraph (1).

16 USC 698 note.

(g) ADMINISTRATION OF LANDS ACQUIRED BY THE UNITED STATES.—The lands acquired by the Secretary under subsection (e) shall be added to and administered as part of the Menard Creek Corridor Unit of the Big Thicket National Preserve.

SEC. 307. LOST CREEK LAND EXCHANGE.

(a) LAND EXCHANGE.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of Agriculture (referred to in this section as the "Secretary") shall—

(A) acquire by exchange certain land and interests in land owned by R–Y Timber, Inc., and its affiliates, successors, and assigns (referred to in this section as the "Corporation"), located in the Lost Creek and Twin Lakes areas of the Beaverhead-Deerlodge National Forest, Montana; and

(B)(i) convey certain land and interests in land owned by the United States and located in the Beaverhead-Deerlodge National Forest and the Gallatin National Forest, Montana, to the Corporation; and

(ii) grant the right to harvest timber on land in the Beaverhead-Deerlodge National Forest and the Gallatin National Forest as specified in the document under paragraph (4).

(2) OFFER AND ACCEPTANCE OF LAND.—

(A) NON-FEDERAL LAND.—If the Corporation offers to convey to the United States fee title that is acceptable to the Secretary to approximately 17,567 acres of land owned by the Corporation and available for exchange, as depicted on the map entitled "R–Y/Forest Service Land Exchange Proposal", dated June 1996, and described in the document under paragraph (4), the Secretary shall accept a warranty deed to the land.

(B) FEDERAL LAND.—

(i) CONVEYANCE.—On acceptance of title to the Corporation's land under subparagraph (A) and on the effective date of the document under paragraph (4), the Secretary shall—

(I) convey to the Corporation, subject to valid existing rights, by exchange deed, fee title to approximately 7,185 acres in the Beaverhead-Deerlodge National Forest; and

(II) grant to the Corporation the right to harvest approximately 6,200,000 board feet of timber on certain land in the Beaverhead-Deerlodge National Forest and approximately 4,000,000 board feet of timber on certain land in the Gallatin National Forest, collectively referred to as the harvest volume, as depicted on the map described in subparagraph (A) and subject to the terms and conditions stated in the document under paragraph (4).

(3) TIMBER HARVESTING.—

(A) IN GENERAL.—The timber harvest volume described in paragraph (2)(B)(i)(II) is in addition to, and is not intended as an offset against, the present or future planned timber sale program for the Beaverhead-Deerlodge National Forest or the Gallatin National Forest, so long as the allowable sale quantity for each national forest, respectively, is not exceeded for the planning period.

(B) SBA SHARE.—The Forest Service shall not reduce its Small Business Administration share of timber sale set-aside offerings in the Beaverhead-Deerlodge National

Forest or the Gallatin National Forest by reason of the land exchange under this subsection.

(C) MINIMUM AND MAXIMUM ANNUAL HARVESTS.—

(i) IN GENERAL.— Subject to clause (ii)—

(I) not less than 20 nor more than 30 percent of the timber described in paragraph (2)(B)(i)(II) shall be made available by the end of each fiscal year over a 4- or 5-year period beginning with the first fiscal year that begins after the date of enactment of this Act; and

(II) the Corporation shall be allowed at least 3 years after the end of each fiscal year in which to complete the harvest of timber made available for that fiscal year.

(ii) EXCEPTIONAL CIRCUMSTANCES.—The timber harvest volumes specified in clause (i) shall not be required in the case of the occurrence of exceptional circumstances identified in the agreement under paragraph (4). In the case of such an occurrence that results in the making available of less than 20 percent of the timber for any fiscal year, the Secretary shall provide compensation of equal value to the Corporation in a form provided for in the agreement under paragraph (4).

(4) LAND EXCHANGE SPECIFICATION AGREEMENT.—

(A) IN GENERAL.— Notwithstanding any other provision of law, a document entitled "R–Y/Forest Service Land Exchange Specifications" shall be jointly developed and agreed to by the Corporation and the Secretary.

(B) DESCRIPTIONS OF LANDS TO BE EXCHANGED.—The document under subparagraph (A) shall define the non-Federal and Federal lands and interests in land to be exchanged and include legal descriptions of the lands and interests in land and an agreement to harvest timber on National Forest System land in accordance with the standard timber contract specifications, section 251.14 of title 36, Code of Federal Regulations (as in effect on the date of enactment of this Act), and any other pertinent conditions.

(C) SUBMISSION TO CONGRESS.—The document under subparagraph (A)—

(i) upon its completion shall be submitted to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives; and

(ii) shall not take effect until 45 days after the date of submission to both committees.

(D) DESIGN AND LAYOUT.—

(i) IN GENERAL.—The Forest Service shall determine the timber sale design and layout in consultation with the Corporation.

(ii) HARVEST VOLUME.—Identification of the timber harvest volume shall be determined in accordance with Department of Agriculture standards.

(iii) MONITORING.—The Forest Service shall monitor harvest and post-harvest activities to ensure

compliance with the terms and conditions of the document under subparagraph (A).

(5) CONFLICT.—In case of conflict between the map described in paragraph (2)(A) and the document under paragraph (4), the map shall control.

(b) TITLE.—

(1) REVIEW OF TITLE.—Not later than 60 days after receipt of title documents from the Corporation, the Secretary shall review the title for the non-Federal land described in subsection (a)(2)(A) and determine whether—

(A) title standards of the Department of Justice applicable to Federal land acquisition have been satisfied or the quality of title is otherwise acceptable to the Secretary;

(B) all draft conveyances and closing documents have been received and approved;

(C) a current title commitment verifying compliance with applicable title standards has been issued to the Secretary; and

(D) the Corporation has complied with the conditions imposed by this section.

(2) UNACCEPTABLE QUALITY OF TITLE.—If the quality of title does not meet Federal standards and is not otherwise acceptable to the Secretary, the Secretary shall advise the Corporation regarding corrective actions necessary to make an affirmative determination.

(3) CONVEYANCE OF TITLE.—The Secretary shall accept the conveyance of land described in subsection (a)(2)(A) not later than 60 days after the Secretary has made an affirmative determination of quality of title.

(c) GENERAL PROVISIONS.—

(1) MAPS AND DOCUMENTS.—

(A) IN GENERAL.—The map described in subsection (a)(2)(A) and the document under subsection (a)(4) shall be subject to such minor corrections may be agreed upon by the Secretary and the Corporation.

(B) PUBLC AVAILABILITY.—The map described in subsection (a)(2)(A) and the document under subsection (a)(4) shall be on file and available for public inspection in the appropriate offices for the Forest Service.

(2) NATIONAL FOREST SYSTEM LAND.—

(A) IN GENERAL.—All land conveyed to the United States under this section shall be added to and administered as part of the Beaverhead-Deerlodge National Forest and shall be administered by the Secretary in accordance with the laws (including regulations) pertaining to the National Forest System.

(B) WILDERNESS STUDY AREA ACQUISITIONS.—Land acquired under this section that is located within the boundary of a wilderness area in existence on the date of enactment of this Act shall be included within the National Wilderness Preservation System.

(3) VALUATION.—The values of the lands and interests in land to be exchanged under this section are deemed to be equal.

(4) LIABILITY FOR HAZARDOUS SUBSTANCES.—The United States (including the departments, agencies, and employees of the United States) shall not be liable under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), or any other Federal, State, or local law solely as a result of the acquisition of an interest in the land described in subsection (a)(2)(A) or because of circumstances or events occurring before the acquisition, including any release or threat of release of a hazardous substance.

(5) RELEASE FROM STUDY.—The land comprising approximately 1.320 acres in the Beaverhead-Deerlodge National Forest, as generally depicted on the map entitled "West Pioneer Study Deletion—Proposed", dated 1994, is released from study under section 2(a)(1) of the Montana Wilderness Study Act of 1977 (91 Stat. 1243).

SEC. 308. CLEVELAND NATIONAL FOREST LAND EXCHANGE.

(a) CONVEYANCE BY THE SECRETARY OF AGRICULTURE.—

(1) CONVEYANCE.—In exchange for the conveyance described in subsection (b), the Secretary of Agriculture (hereinafter referred to as the "Secretary") shall convey to the Orange County Council of the Boy Scouts of America all right, title, and interest of the United States in and to the parcel of land described in paragraph (2) located in the Cleveland National Forest. The parcel conveyed by the Secretary shall be subject to valid existing rights and to any easements that the Secretary considers necessary for public and administrative access.

(2) DESCRIPTION OF PARCEL.—The parcel of land referred to in paragraph (1) consists of not more than 60 acres of land in Section 28, Township 9 South, Range 4 East, San Bernardino Meridian, in the unincorporated territory of San Diego County, California.

(b) CONVEYANCE BY THE BOY SCOUTS OF AMERICA.—

(1) CONVEYANCE.—In exchange for the conveyance described in subsection (a), the Orange County Council of the Boy Scouts of America shall convey to the United States all right, title, and interest to the parcel of land described in paragraph (2). The parcel conveyed under this subsection shall

be subject to such valid existing rights of record as may be acceptable to the Secretary, and the title to the parcel shall conform with the title approval standards applicable to Federal land acquisitions.

(2) DESCRIPTION OF PARCEL.—The parcel of land referred to in paragraph (1) shall be approximately equal in value to the lands described in subsection (a)(2) and shall be at least the Southerly 94 acres of the Westerly ½ of Section 34, Township 9 South, Range 4 East, San Bernardino Meridian, in the unincorporated territory of San Diego County, California.

(c) BOUNDARY ADJUSTMENT.—Upon the completion of the land exchange authorized under this section, the Secretary shall adjust the boundaries of the Cleveland National Forest to exclude the parcel conveyed by the Secretary under subsection (a) and to include the parcel obtained by the Secretary under subsection (b). For purposes of section 7 of the Land and Water Conservation Fund Act of 1964 (16 U.S.C. 460l–9), the boundary of the Cleveland National Forest, as modified by this title, shall be considered the boundary of the forest as of January 1, 1965.

(d) INCORPORATION INTO CLEVELAND NATIONAL FOREST.—Upon acceptance of title by the Secretary, the parcel obtained by the Secretary under subsection (b) shall become part of the Cleveland National Forest and shall be subject to all laws applicable to such national forest.

SEC. 309. SAND HOLLOW LAND EXCHANGE.

(a) DEFINITIONS.—As used in this section:

(1) DISTRICT.—The term "District" means the Water Conservancy District of Washington County, Utah.

(2) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(3) BULLOCH SITE.—The term "Bulloch Site" means the lands located in Kane County, Utah, adjacent to Zion National Park, comprised of approximately 550 acres, as generally depicted on a map entitled "Washington County Water Conservancy District Exchange Proposal" and dated May 30, 1996.

(4) SAND HOLLOW SITE.—The term "Sand Hollow Site" means the lands located in Washington County, Utah, Comprised of approximately 3,000 acres, as generally depicted on a map entitled "Washington County Water Conservancy District Exchange Proposal" and dated May 30, 1996.

(5) QUAIL CREEK PIPELINE.—The term "Quail Creek Pipeline" means the lands located in Washington County, Utah, comprised of approximately 40 acres, as generally depicted on a map entitled "Washington County Water Conservancy District Exchange Proposal" and dated May 30, 1996.

(6) QUAIL CREEK RESERVOIR.—The term "Quail Creek Reservoir" means the lands located in Washington County, Utah, comprised of approximately 480.5 acres, as generally depicted on a map entitled "Washington County Water Conservancy District Exchange Proposal" and dated May 30, 1996.

(7) SMITH PROPERTY.—The term "Smith Property" means the lands located in Washington County, Utah, comprised of approximately 1,550 acres as generally depicted on a map entitled "Washington County Water Conservancy District Exchange Proposal" and dated May 30, 1996.

(b) EXCHANGE.—

(1) IN GENERAL.—Subject to the provisions of this section, if within 18 months after the date of the enactment of this Act, the Water Conservancy District of Washington County, Utah, offers to transfer to the United States all right, title, and interest of the District in and to the Bulloch Site, the Secretary of the Interior shall, in exchange, transfer to the District all right, title, and interest of the United States in and to the Sand Hollow Site, the Quail Creek Pipeline and Quail Creek Reservoir, subject to valid existing rights.

(2) WATER RIGHTS ASSOCIATED WITH THE BULLOCH SITE.—The water rights associated with the Bulloch Site shall be transferred to the United States pursuant to Utah State law.

(3) WITHDRAWAL OF MINERAL INTERESTS.—Subject to valid existing rights, the mineral interests underlying the Sand Hollow Site, the Quail Creek Reservoir, and the Quail Creek Pipeline are hereby withdrawn from disposition under the public land laws and from location, entry, and patent under the mining laws of the United States, from the operation of the mineral leasing laws of the United States, from the operation of the Geothermal Steam Act of 1970, and from the operation of the Act of July 31, 1947, commonly known as the "Materials Act of 1947" (30 U.S.C. 601 et seq.).

(4) GRAZING.—The exchange of lands under paragraph (1) shall be subject to agreement by the District to continue to permit the grazing of domestic livestock on the Sand Hollow Site under the terms and conditions of existing Federal grazing leases or permits, except that the District, upon terminating any such lease or permit, shall fully compensate the holder of the terminated lease or permit.

(c) EQUALIZATION OF VALUES.—The value of the lands transferred out of Federal ownership under subsection (b) either shall be equal to the value of the lands received by the Secretary under that section or, if not, shall be equalized by—

(1) to the extent possible, transfer of all right, title, and interest of the District in and to lands in Washington County, Utah, and water rights of the District associated thereto, which are within the area providing habitat for the desert tortoise, as determined by the Director of the Bureau of Land Management;

(2) transfer of all right, title, and interest of the District in and to lands in the Smith Site and water rights of the District associated thereto; and

(3) the payment of money to the Secretary, to the extent that lands and rights transferred under paragraphs (1) and (2) are not sufficient to equalize the values of the lands exchanged under subsection (b)(1).

(d) MANAGEMENT OF LANDS ACQUIRED BY THE UNITED STATES.—Lands acquired by the Secretary under this section shall be administered by the Secretary, acting through the Director of the Bureau of Land Management, in accordance with the provisions of law generally applicable to the public lands, including the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.).

(e) NATIONAL ENVIRONMENTAL POLICY ACT OF 1976.—The exchange of lands under this section is not subject to section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4322).

(f) VALUATION OF LANDS TO BE ACQUIRED BY THE UNITED STATES IN WASHINGTON COUNTY, UTAH.—In acquiring any lands

and any interests in lands in Washington County, Utah, by purchase, exchange, donation or other transfers of interest, the Secretary of the Interior shall appraise, value, and offer to acquire such lands and interests without regard to the presence of a species listed as threatened or endangered or any proposed or actual designation of such property as critical habitat for a species listed as threatened or endangered pursuant to the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

SEC. 310. BUREAU OF LAND MANAGEMENT AUTHORIZATION FOR FISCAL YEARS 1997 THROUGH 2002.

Section 318(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1748(a)) is amended by striking out "October 1, 1978" and by inserting in lieu thereof "October 1, 2002".

SEC. 311. KENAI NATIVES ASSOCIATION LAND EXCHANGE.

Kenai Natives Association Equity Act Amendments of 1996.
43 USC 1784 note.

(a) SHORT TITLE.—This section may be cited as the "Kenai Natives Association Equity Act Amendments of 1996".

(b) FINDINGS AND PURPOSE.—

(1) FINDINGS.—The Congress finds the following:

(A) The United States Fish and Wildlife Service and Kenai Natives Association, Inc., have agreed to transfers of certain land rights, in and near the Kenai National Wildlife Refuge, negotiated as directed by Public Law 102–458.

Exxon Valdez.

(B) The lands to be acquired by the Service are within the area impacted by the Exxon Valdez oil spill of 1989, and these lands included important habitat for various species of fish and wildlife for which significant injury resulting from the spill has been documented through the EVOS Trustee Council restoration process. This analysis has indicated that these lands generally have value for the restoration of such injured natural resources as pink salmon, dolly varden, bald eagles, river otters, and cultural and archaeological resources. This analysis has also indicated that these lands generally have high value for the restoration of injured species that rely on these natural resources, including wilderness quality, recreation, tourism, and subsistence.

(C) Restoration of the injured species will benefit from acquisition and the prevention of disturbances which may adversely affect their recovery.

(D) It is in the public interest to complete the conveyances provided for in this section.

(2) PURPOSE.—The purpose of this section is to authorize and direct the Secretary, at the election of KNA, to complete the conveyances provided for in this section.

(c) DEFINITIONS.—For purposes of this section, the term—

(1) "ANCSA" means the Alaska Native Claims Settlement Act of 1971 (43 U.S.C. 1601 et seq.);

(2) "ANILCA" means the Alaska National Interest Lands Conservation Act (Public Law 96–487; 94 Stat. 2371 et seq.);

(3) "conservation system unit" has the same meaning as in section 102(4) of ANILCA (16 U.S.C. 3102(4));

(4) "CIRI" means the Cook Inlet Region, Inc., a Native Regional Corporation incorporated in the State of Alaska pursuant to the terms of ANCSA;

(5) "EVOS" means the Exxon Valdez oil spill;

(6) "KNA" means the Kenai Natives Association, Inc., an urban corporation incorporated in the State of Alaska pursuant to the terms of ANCSA;

(7) "lands" means any lands, waters, or interests therein;

(8) "Refuge" means the Kenai National Wildlife Refuge;

(9) "Secretary" means the Secretary of the Interior;

(10) "Service" means the United States Fish and Wildlife Service; and

(11) "Terms and Conditions" means the Terms and Conditions for Land Consolidation and Management in the Cook Inlet Area, as clarified on August 31, 1976, ratified by section 12 of Public Law 94–204 (43 U.S.C. 1611 note).

(d) ACQUISITION OF LANDS.—

(1) OFFER TO KNA.—

(A) IN GENERAL.—Subject to the availability of the funds identified in paragraph (2)(C), no later than 90 days after the date of enactment of this section, the Secretary shall offer to convey to KNA the interests in land and rights set forth in paragraph (2)(B), subject to valid existing rights, in return for the conveyance by KNA to the United States of the interests in land or relinquishment of ANCSA selections set forth in paragraph (2)(A). Payment for the lands conveyed to the United States by KNA is contingent upon KNA's acceptance of the entire conveyance outlined herein.

(B) LIMITATION.—The Secretary may not convey any lands or make payment to KNA under this section unless title to the lands to be conveyed by KNA under this section has been found by the United States to be sufficient in accordance with the provisions of section 355 of the Revised Statutes (40 U.S.C. 255).

(2) ACQUISITION LANDS.—

(A) LANDS TO BE CONVEYED TO THE UNITED STATES.—The lands to be conveyed by KNA to the United States, or the valid selection rights under ANCSA to be relinquished, all situated within the boundary of the Refuge, are the following:

(i) The conveyance of approximately 803 acres located along and on islands within the Kenai River, known as the Stephanka Tract.

(ii) The conveyance of approximately 1,243 acres located along the Moose River, known as the Moose River Patented Lands Tract.

(iii) The relinquishment of KNA's selection known as the Moose River Selected Tract, containing approximately 753 acres located along the Moose River.

(iv) The relinquishment of KNA's remaining ANCSA entitlement of approximately 454 acres.

(v) The relinquishment of all KNA's remaining overselections. Upon completion of all relinquishments outlined above, all KNA's entitlement shall be deemed to be extinguished and the completion of this acquisition will satisfy all of KNA's ANCSA entitlement.

(vi) The conveyance of an access easement providing the United States and its assigns access across KNA's surface estate in the SW¼ of section 21, T. 6 N., R. 9 W., Seward Meridian, Alaska.

(vii) The conveyance of approximately 100 acres within the Beaver Creek Patented Tract, which is contiguous to lands being retained by the United States contiguous to the Beaver Creek Patented Tract, in exchange for 280 acres of Service lands currently situated within the Beaver Creek Selected Tract.

(B) LANDS TO BE CONVEYED TO KNA.—The rights provided or lands to be conveyed by the United States to KNA, are the following:

(i) The surface and subsurface estate to approximately 5 acres, subject to reservations of easements for existing roads and utilities, located within the city of Kenai, Alaska, identified as United States Survey 1435, withdrawn by Executive Order 2943 and known as the old Fish and Wildlife Service Headquarters site.

(ii) The remaining subsurface estate held by the United States to approximately 13,651 acres, including portions of the Beaver Creek Patented Tract, the Beaver Creek Selected Tract, and portions of the Swanson River Road West Tract and the Swanson River Road East Tract, where the surface was previously or will be conveyed to KNA pursuant to this Act but excluding the SW¼ of section 21, T. 6 N., R. 9 W, Seward Meridian, Alaska, which will be retained by the United States. The conveyance of these subsurface interests will be subject to the rights of CIRI to the coal, oil, gas, and to all rights CIRI, its successors, and assigns would have under paragraph 1(B) of the Terms and Conditions, including the right to sand and gravel, to construct facilities, to have rights-of-way, and to otherwise develop it subsurface interests.

(iii)(I) The nonexclusive right to use sand and gravel which is reasonably necessary for on-site development without compensation or permit on those portions of the Swanson River Road East Tract, comprising approximately 1,738.04 acres; where the entire subsurface of the land is presently owned by the United States. The United States shall retain the ownership of all other sand and gravel located within the subsurface and KNA shall not sell or dispose of such sand and gravel.

(II) The right to excavate within the subsurface estate as reasonably necessary for structures, utilities, transportation systems, and other development of the surface estate.

(iv) The nonexclusive right to excavate within the subsurface estate as reasonably necessary for structures, utilities, transportation systems, and other development of the surface estate on the SW¼, section 21, T. 6 N., R. 9 W., Seward Meridian, Alaska, where the entire subsurface of the land is owned by the United States and which public lands shall continue to be withdrawn from mining following their removal from the Refuge boundary under paragraph (3)(A)(ii). The United States shall retain the ownership of all other sand and gravel located within the subsurface of this parcel.

(v) The surface estate of approximately 280 acres known as the Beaver Creek Selected Tract. This tract shall be conveyed to KNA in exchange for lands conveyed to the United States as described in paragraph (2)(A)(ii).

(C) PAYMENT.—The United States shall make a total cash payment to KNA for the above-described lands of $4,443,000, contingent upon the appropriate approvals of the Federal or State of Alaska EVOS Trustees (or both) necessary for any expenditure of the EVOS settlement funds.

(D) NATIONAL REGISTER OF HISTORIC PLACES.—Upon completion of the acquisition authorized in paragraph (1), the Secretary shall, at no cost to KNA, in coordination with KNA, promptly undertake to nominate the Stephanka Tract to the National Register of Historic Places, in recognition of the archaeological artifacts from the original Dena'ina Settlement. If the Department of the Interior establishes a historical, cultural, or archaeological interpretive site, KNA shall have the exclusive right to operate a Dena'ina interpretive site on the Stephanka Tract under the regulations and policies of the department. If KNA declines to operate such a site, the department may do so under its existing authorities. Prior to the department undertaking any archaeological activities whatsoever on the Stephanka Tract, KNA shall be consulted.

16 USC 668dd note.

(3) GENERAL PROVISIONS.—

(A) REMOVAL OF KNA LANDS FROM THE NATIONAL WILDLIFE REFUGE SYSTEM.—

(i) Effective on the date of closing for the Acquisition Lands identified in paragraph (2)(B), all lands retained by or conveyed to KNA pursuant to this section, and the subsurface interests of CIRI underlying such lands shall be automatically removed from the National Wildlife Refuge System and shall neither be considered as part of the Refuge nor subject to any laws pertaining solely to lands within the boundaries of the Refuge. The conveyance restrictions imposed by section 22(g) of ANCSA (i) shall then be ineffective and cease to apply to such interests of KNA and CIRI, and (ii) shall not be applicable to the interests received by KNA in accordance with paragraph (2)(B) or to the CIRI interests underlying them. The Secretary shall adjust the boundaries of the Refuge so as to exclude all interests in lands retained or received in exchange by KNA in accordance with this section, including both surface and subsurface, and shall also exclude all interests currently held by CIRI. On lands within the Swanson River Road East Tract, the boundary adjustment shall only include the surface estate where the subsurface estate is retained by the United States.

(ii)(I) The Secretary, KNA, and CIRI shall execute an agreement within 45 days of the date of enactment of this section which preserves CIRI's rights under paragraph 1(B)(1) of the Terms and Conditions, addresses CIRI's obligations under such paragraph,

and adequately addresses management issues associated with the boundary adjustment set forth in this section and with the differing interests in land resulting from enactment of this section.

(II) In the event that no agreement is executed as provided for in subclause (I), solely for the purposes of administering CIRI's rights under paragraph 1(B)(1) of the Terms and Conditions, the Secretary and CIRI shall be deemed to have retained their respective rights and obligations with respect to CIRI's subsurface interests under the requirements of the Terms and Conditions in effect on June 18, 1996. Notwithstanding the boundary adjustments made pursuant to this section, conveyances to KNA shall be deemed to remain subject to the Secretary's and CIRI's rights and obligations under paragraph 1(B)(1) of the Terms and Conditions.

(iii) The Secretary is authorized to acquire by purchase or exchange, on a willing seller basis only, any lands retained by or conveyed to KNA. In the event that any lands owned by KNA are subsequently acquired by the United States, they shall be automatically included in the Refuge System. The laws and regulations applicable to Refuge lands shall then apply to these lands and the Secretary shall then adjust the boundaries accordingly.

(iv) Nothing in this section is intended to enlarge or diminish the authorities, rights, duties, obligations, or the property rights held by CIRI under the Terms and Conditions, or otherwise except as set forth in this section. In the event of the purchase by the United States of any lands from KNA in accordance with subparagraph (A)(ii), the United States shall reassume from KNA the rights it previously held under the Terms and Conditions and the provisions in any patent implementing section 22(g) of ANCSA will again apply.

(v) By virtue of implementation of this section, CIRI is deemed entitled to 1,207 acres of in-lieu subsurface entitlement under section 12(a)(1) of ANCSA. Such entitlement shall be fulfilled in accordance with paragraph 1(B)(2)(A) of the Terms and Conditions.

(B) MAPS AND LEGAL DESCRIPTIONS.—Maps and a legal description of the lands described above shall be on file and available for public inspection in the appropriate offices of the United States Department of the Interior, and the Secretary shall, no later than 90 days after enactment of this section, prepare a legal description of the lands described in paragraph (2)(A)(vii). Such maps and legal description shall have the same force and effect as if included in the section, except that the Secretary may correct clerical and typographical errors.

(C) ACCEPTANCE.—KNA may accept the offer made in this section by notifying the Secretary in writing of its decision within 180 days of receipt of the offer. In the event the offer is rejected, the Secretary shall notify the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources

and the Committee on Environment and Public Works of the Senate.

(D) FINAL MAPS.—Not later than 120 days after the conclusion of the acquisition authorized by paragraph (1), the Secretary shall transmit a final report and maps accurately depicting the lands transferred and conveyed pursuant to this section and the acreage and legal descriptions of such lands to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources and the Committee on Environment and Public Works of the Senate.

16 USC 1132 note.

(e) ADJUSTMENTS TO NATIONAL WILDERNESS SYSTEM.—Upon acquisition of lands by the United States pursuant to subsection (d)(2)(A), that portion of the Stephanka Tract lying south and west of the Kenai River, consisting of approximately 592 acres, shall be included in and managed as part of the Kenai Wilderness and such lands shall be managed in accordance with the applicable provisions of the Wilderness Act and ANILCA.

(f) DESIGNATION OF LAKE TODATONTEN SPECIAL MANAGEMENT AREA.—

(1) PURPOSE.—To balance the potential effects on fish, wildlife, and habitat of the removal of KNA lands from the Refuge System, the Secretary is hereby directed to withdraw, subject to valid existing rights, from location, entry, and patent under the mining laws and to create as a special management unit for the protection of fish, wildlife, and habitat, certain unappropriated and unreserved public lands, totaling approximately 37,000 acres adjacent to the west boundary of the Kanuti National Wildlife Refuge to be know as the "Lake Todatonten Special Management Area", as depicted on the map entitled "Proposed: Lake Todatonten Special Management Area", dated June 13, 1996, and to be managed by the Bureau of Land Management.

(2) MANAGEMENT.—

(A) Such designation is subject to all valid existing rights as well as the subsistence preferences provided under title VIII of ANILCA. Any lands conveyed to the State of Alaska shall be removed from the Lake Todatonten Special Management Area.

(B) The Secretary may permit any additional uses of the area, or grant easements, only to the extent that such use, including leasing under the mineral leasing laws, is determined to not detract from nor materially interfere with the purposes for which the Special Management Area is established.

(C)(i) The BLM shall establish the Lake Todatonten Special Management Area Committee. The membership of the Committee shall consist of 11 members as follows:

(I) Two residents each from the villages of Alatna, Allakaket, Hughes, and Tanana.

(II) One representative from each of Doyon Corporation, the Tanana Chiefs Conference, and the State of Alaska.

(ii) Members of the Committee shall serve without pay.

(iii) The BLM shall hold meetings of the Lake Todatonten Special Management Area Committee at least

once per year to discuss management issues within the Special Management Area. The BLM shall not allow any new type of activity in the Special Management Area without first conferring with the Committee in a timely manner.

(3) ACCESS.—The Secretary shall allow the following:

(A) Private access for any purpose, including economic development, to lands within the boundaries of the Special Management Area which are owned by third parties or are held in trust by the Secretary for third parties pursuant to the Alaska Native Allotment Act (25 U.S.C. 336). Such rights may be subject to restrictions issued by the BLM to protect subsistence uses of the Special Management Area.

(B) Existing public access across the Special Management Area. Section 1110(a) of ANILCA shall apply to the Special Management Area.

(4) SECRETARIAL ORDER AND MAPS.—The Secretary shall file with the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources and the Committee on Environment and Public Works of the Senate, the Secretarial Order and maps setting forth the boundaries of the Area within 90 days of the completion of the acquisition authorized by this section. Once established, this Order may only be amended or revoked by Act of Congress.

(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

TITLE IV—RIVERS AND TRAILS

SEC. 401. RIO PUERCO WATERSHED.

(a) MANAGEMENT PROGRAM.—

(1) IN GENERAL.—The Secretary of the Interior, acting through the Director of the Bureau of Land Management shall—

(A) in consultation with the Rio Puerco Management Committee established by subsection (b)—

(i) establish a clearinghouse for research and information on management within the area identified as the Rio Puerco Drainage Basin, as depicted on the map entitled "the Rio Puerco Watershed" dated June 1994, including—

(I) current and historical natural resource conditions; and

(II) data concerning the extent and causes of watershed impairment; and

(ii) establish an inventory of best management practices and related monitoring activities that have been or may be implemented within the area identified as the Rio Puerco Watershed Project, as depicted on the map entitled "the Rio Puerco Watershed" dated June 1994; and

(B) provide support to the Rio Puerco Management Committee to identify objectives, monitor results of ongoing projects, and develop alternative watershed management

plans for the Rio Puerco Drainage Basin, based on best management practices.

(2) RIO PUERCO MANAGEMENT REPORT.—

(A) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary of the Interior, in consultation with the Rio Puerco Management Committee, shall prepare a report for the improvement of watershed conditions in the Rio Puerco Drainage Basis described in paragraph (1)(A).

(B) CONTENTS.—The report under subparagraph (A) shall—

(i) identify reasonable and appropriate goals and objectives for landowners and managers in the Rio Puerco Watershed;

(ii) describe potential alternative actions to meet the goals and objectives, including proven best management practices and costs associated with implementing the actions;

(iii) recommend voluntary implementation of appropriate best management practices on public and private lands;

(iv) provide for cooperative development of management guidelines for maintaining and improving the ecological, cultural, and economic conditions on public and private lands;

(v) provide for the development of public participation and community outreach programs that would include proposals for—

(I) cooperative efforts with private landowners to encourage implementation of best management practices within the watershed; and

(II) involvement of private citizens in restoring the watershed;

(vi) provide for the development of proposals for voluntary cooperative programs among the members of the Rio Puerco Management Committee to implement best management practices in a coordinated, consistent, and cost-effective manner;

(vii) provide for the encouragement of, and support implementation of, best management practices on private lands; and

(viii) provide for the development of proposals for a monitoring system that—

(I) builds on existing data available from private, Federal, and State sources;

(II) provides for the coordinated collection, evaluation, and interpretation of additional data as needed or collected; and

(III) will provide information to assess existing resource and socioeconomic conditions; identify priority implementation actions; and assess the effectiveness of actions taken.

(b) RIO PUERCO MANAGEMENT COMMITTEE.—

(1) ESTABLISHMENT.—There is established the Rio Puerco Management Committee (referred to in this section as the "Committee").

(2) MEMBERSHIP.—The Committee shall be convened by a representative of the Bureau of Land Management and shall include representatives from—

(A) the Rio Puerco Watershed Committee;

(B) affected tribes and pueblos;

(C) the National Forest Service of the Department of Agriculture;

(D) the Bureau of Reclamation;

(E) the United States Geological Survey;

(F) the Bureau of Indian Affairs;

(G) the United States Fish and Wildlife Service;

(H) the Army Corps of Engineers;

(I) the Natural Resources Conservation Service of the Department of Agriculture;

(J) the State of New Mexico, including the New Mexico Environment Department of the State Engineer;

(K) affected local soil and water conservation districts;

(L) the Elephant Butte Irrigation District;

(M) private landowners; and

(N) other interested citizens.

(3) DUTIES.—The Rio Puerco Management Committee shall—

(A) advise the Secretary of the Interior, acting through the Director of the Bureau of Land Management, on the development and implementation of the Rio Puerco Management Program described in subsection (a); and

(B) serve as a forum for information about activities that may affect or further the development and implementation of the best management practices described in subsection (a)

(4) TERMINATION.—The Committee shall terminate on the date that is 10 years after the date of enactment of this Act.

(c) REPORT.—Not later than the date that is 2 years after the date of enactment of this Act, and biennially thereafter, the Secretary of the Interior, in consultation with the Rio Puerco Management Committee, shall transmit to the Committee on Energy and Natural Resources of the Senate and to the Committee on Resources of the House of Representatives a report containing—

(1) a summary of activities of the management program under subsection (a); and

(2) proposals for joint implementation efforts, including funding recommendations.

(d) LOWER RIO GRANDE HABITAT STUDY.—

(1) IN GENERAL.—The Secretary of the Interior, in cooperation with appropriate State agencies, shall conduct a study of the Rio Grande that—

(A) shall cover the distance from Caballo Lake to Sunland Park, New Mexico; and

(B) may cover a greater distance.

(2) CONTENTS.—The study under paragraph (1) shall include—

(A) a survey of the current habitat conditions of the river and its riparian environment;

(B) identification of the changes in vegetation and habitat over the past 400 years and the effect of the changes on the river and riparian area; and

(C) an assessment of the feasibility, benefits, and problems associated with activities to prevent further habitat loss and to restore habitat through reintroduction or establishment of appropriate native plant species.

(3) TRANSMITTAL.—Not later than 3 years after the date on which funds are made available to carry out this section, the Secretary of the Interior shall transmit the study under paragraph (1) to the Committee on Energy and Natural Resources of the Senate and to the Committee on Resources of the House of Representatives.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section a total of $7,500,000 for the 10 fiscal years beginning after the date of enactment of this Act.

SEC. 402. OLD SPANISH TRAIL.

Section 5(c) of the National Trails System Act (16 U.S.C. 1244(c)) is amended by adding at the end the following new paragraph:

"( ) The Old Spanish Trail, beginning in Santa Fe, New Mexico, proceeding through Colorado and Utah, and ending in Los Angeles, California, and the Northern Branch of the Old Spanish Trail, beginning near Espanola, New Mexico, proceeding through Colorado, and ending near Crescent Junction, Utah.".

SEC. 403. GREAT WESTERN SCENIC TRAIL.

Section 5(c) of the National Trails System Act (16 U.S.C. 1244(c)) is amended by adding at the end the following new paragraph:

"( ) The Great Western Scenic Trail, a system of trails to accommodate a variety of travel users in a corridor of approximately 3,100 miles in length extending from the Arizona-Mexico border to the Idaho-Montana-Canada border, following the approximate route depicted on the map identified as 'Great Western Trail Corridor, 1988', which shall be on file and available for public inspection in the Office of the Chief of the Forest Service, United States Department of Agriculture. The trail study shall be conducted by the Secretary of Agriculture, in consultation with the Secretary of the Interior, in accordance with subsection (b) and shall include—

"(A) the current status of land ownership and current and potential use along the designated route;

"(B) the estimated cost of acquisition of lands or interests in lands, if any; and

"(C) an examination of the appropriateness of motorized trail use along the trail.".

SEC. 404. HANFORD REACH PRESERVATION.

Section 2 of Public Law 100–605 is amended as follows:

(1) By striking "**INTERIM**" in the section heading.

(2) By striking "For a period of eight years after" and inserting "After" in subsection (a).

(3) By striking in subsection (b) "During the eight year interim protection period, provided by this section, all" and inserting "All".

SEC. 405. LAMPREY WILD AND SCENIC RIVER.

(a) DESIGNATION.—Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding the following new paragraph at the end thereof:

"( ) LAMPREY RIVER, NEW HAMPSHIRE.—The 11.5-mile segment extending from the southern Lee town line to the confluence with the Piscassic River in the vicinity of the Durham-Newmarket town line (hereinafter in this paragraph referred to as the 'segment') as a recreational river. The segment shall be administered by the Secretary of the Interior through cooperation agreements between the Secretary and the State of New Hampshire and its relevant political subdivisions, namely the towns of Durham, Lee, and Newmarket, pursuant to section 10(e) of this Act. The segment shall be managed in accordance with the Lamprey River Management Plan dated January 10, 1995, and such amendments thereto as the Secretary of the Interior determines are consistent with this Act. Such plan shall be deemed to satisfy the requirements for a comprehensive management plan pursuant to section 3(d) of this Act.".

(b) MANAGEMENT.— 16 USC 1274 note.

(1) COMMITTEE.—The Secretary of the Interior shall coordinate his management responsibilities under this Act with respect to the segment designated by subsection (a) with the Lamprey River Advisory Committee established pursuant to New Hampshire RSA 483.

(2) LAND MANAGEMENT.—The zoning ordinances duly adopted by the towns of Durham, Lee, and Newmarket, New Hampshire, including provisions for conservation of shorelands, floodplains, and wetlands associated with the segment, shall be deemed to satisfy the standards and requirements of section 6(c) of the Wild and Scenic Rivers Act, and the provisions of that section, which prohibit Federal acquisition of lands by condemnation, shall apply to the segment designated by subsection (a). The authority of the Secretary to acquire lands for the purposes of this paragraph shall be limited to acquisition by donation or acquisition with the consent of the owner thereof, and shall be subject to the additional criteria set forth in the Lamprey River Management Plan.

(c) UPSTREAM SEGMENT.—Upon request by the town of Epping, which abuts an additional 12 miles of river found eligible for designation as a recreational river, the Secretary of the Interior shall offer assistance regarding continued involvement of the town of Epping in the implementation of the Lamprey River Management Plan and in consideration of potential future addition of that portion of the river within Epping as a component of the Wild and Scenic Rivers System.

SEC. 406. WEST VIRGINIA NATIONAL RIVERS AMENDMENTS OF 1996.

(a) AMENDMENTS PERTAINING TO THE NEW RIVER GORGE NATIONAL RIVER.—

(1) BOUNDARIES.—Section 1101 of the National Parks and Recreation Act of 1978 (16 U.S.C. 460m–15) is amended by striking out "NERI–80,023, dated January 1987" and inserting "NERI–80,028A, dated March 1996".

(2) FISH AND WILDLIFE MANAGEMENT.—Section 1106 of the National Parks and Recreation Act of 1978 (16 U.S.C. 460m–20) is amended by adding the following at the end thereof:

"The Secretary shall permit the State of West Virginia to undertake fish stocking activities carried out by the State, in consultation with the Secretary, on waters within the boundaries of the national river. Nothing in this Act shall be construed as affecting the jurisdiction of the State of West Virginia with respect to fish and wildlife.".

(3) CONFORMING AMENDMENTS.—Title XI of the National Parks and Recreation Act of 1978 (16 U.S.C. 460m–15 et seq.) is amended by adding the following new section at the end thereof:

16 USC 460m–30.

"SEC. 1117. APPLICABLE PROVISIONS OF OTHER LAW.

"(a) COOPERATIVE AGREEMENTS.—The provisions of section 202(e)(1) of the West Virginia National Interest River Conservation Act of 1987 (16 U.S.C. 460ww–1(e)(1)) shall apply to the New River Gorge National River in the same manner and to the same extent as such provisions apply to the Gauley River National Recreation Area.

"(b) REMNANT LANDS.—The provisions of the second sentence of section 203(a) of the West Virginia National Interest River Conservation Act of 1987 (16 U.S.C. 460ww–2(a)) shall apply to tracts of land partially within the boundaries of the New River Gorge National River in the same manner and to the same extent as such provisions apply to tracts of land only partially within the Gauley River National Recreation Area.".

16 USC 460m–29a.

(b) VISITOR CENTER.—The Secretary of the Interior is authorized to construct a visitor center and such other related facilities as may be deemed necessary to facilitate visitor understanding and enjoyment of the New River Gorge National River and the Gauley River National Recreation Area in the vicinity of the confluence of the New and Gauley Rivers. Such center and related facilities are authorized to be constructed at a site outside of the boundary of the New River Gorge National River or Gauley River National Recreation Area unless a suitable site is available within the boundaries of either unit.

(c) AMENDMENTS PERTAINING TO THE GAULEY RIVER NATIONAL RECREATION AREA.—

(1) TECHNICAL AMENDMENT.—Section 205(c) of the West Virginia National Interest River Conservation Act of 1987 (16 U.S.C. 460ww–4(c)) is amended by adding the following at the end thereof: "If project construction is not commenced within the time required in such license, or if such license is surrendered at any time, such boundary modification shall cease to have any force and effect.".

(2) GAULEY ACCESS.—Section 202(e) of the West Virginia National Interest River Conservation Act of 1987 (16 U.S.C. 460ww–1(e)) is amended by adding the following new paragraph at the end thereof:

"(4) ACCESS TO RIVER.—(A) In order to facilitate public safety, use, and enjoyment of the recreation area, and to protect, to the maximum extent feasible, the scenic and natural resources of the area, the Secretary is authorized and directed to acquire such lands or interests in lands and to take such actions as are necessary to provide access by noncommercial entities on the north side of the Gauley River at the area known as Woods Ferry utilizing existing roads and rights-of-way. Such actions by the Secretary shall include the

construction of parking and related facilities in the vicinity of Woods Ferry for noncommercial use on lands acquired pursuant to paragraph (3) or on lands acquired with the consent of the owner thereof within the boundaries of the recreation area.

"(B) If necessary, in the discretion of the Secretary, in order to minimize environmental impacts, including visual impacts, within portions of the recreation area immediately adjacent to the river, the Secretary may, by contract or otherwise, provide transportation services for noncommercial visitors, at reasonable cost, between such parking facilities and the river.

"(C) Nothing in subparagraph (A) shall affect the rights of any person to continue to utilize, pursuant to a lease in effect on April 1, 1993, any right of way acquired pursuant to such lease which authorizes such person to use an existing road referred to in subparagraph (A). Except as provided under paragraph (2) relating to access immediately downstream of the Summersville project, until there is compliance with this paragraph the Secretary is prohibited from acquiring or developing any other river access points within the recreation area.".

(d) AMENDMENTS PERTAINING TO THE BLUESTONE NATIONAL SCENIC RIVER.—

(1) BOUNDARIES.—Section 3(a)(65) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)(65)) is amended by striking out "WSR–BLU/20,000, and dated January 1987" and inserting "BLUE–80,005, dated May 1996".

(2) PUBLIC ACCESS.—Section 3(a)(65) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)(65)) is amended by adding the following at the end thereof: "In order to provide reasonable public access and vehicle parking for public use and enjoyment of the river designated by this paragraph, consistent with the preservation and enhancement of the natural and scenic values of such river, the Secretary may, with the consent of the owner thereof, negotiate a memorandum of understanding or cooperative agreement, or acquire not more than 10 acres of lands or interests in such lands, or both, as may be necessary to allow public access to the Bluestone River and to provide, outside the boundary of the scenic river, parking and related facilities in the vicinity of the area known as Eads Mill.".

SEC. 407. TECHNICAL AMENDMENT TO THE WILD AND SCENIC RIVERS ACT.

(a) NUMBERING OF PARAGRAPHS.—The unnumbered paragraphs in section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)), relating to each of the following river segments, are each amended by numbering such paragraphs as follows:

River:	Paragraph Number
East Fork of Jemez, New Mexico	(109)
Pecos River, New Mexico	(110)
Smith River, California	(111)
Middle Fork Smith River, California	(112)
North Fork Smith River, California	(113)
Siskiyou Fork Smith River, California	(114)
South Fork Smith River, California	(115)
Clarks Fork, Wyoming	(116)
Niobrara, Nebraska	(117)
Missouri River, Nebraska and South Dakota	(118)
Bear Creek, Michigan	(119)
Black, Michigan	(120)

Carp, Michigan	(121)
Indian, Michigan	(122)
Manistee, Michigan	(123)
Ontonagon, Michigan	(124)
Paint, Michigan	(125)
Pine, Michigan	(126)
Presque Isle, Michigan	(127)
Sturgeon, Hiawatha National Forest, Michigan	(128)
Sturgeon, Ottawa National Forest, Michigan	(129)
East Branch of the Tahquamenon, Michigan	(130)
Whitefish, Michigan	(131)
Yellow Dog, Michigan	(132)
Allegheny, Pennsylvania	(133)
Big Piney Creek, Arkansas	(134)
Buffalo River, Arkansas	(135)
Cossatot River, Arkansas	(136)
Hurricane Creek, Arkansas	(137)
Little Missouri River, Arkansas	(138)
Mulberry River, Arkansas	(139)
North Sylamore Creek, Arkansas	(140)
Richland Creek, Arkansas	(141)
Sespe Creek, California	(142)
Sisquoc River, California	(143)
Big Sur River, California	(144)
Great Egg Harbor River, New Jersey	(145)
The Maurice River, Middle Segment	(146)
The Maurice River, Middle Segment	(147)
The Maurice River, Upper Segment	(148)
The Menantico Creek, Lower Segment	(149)
The Menantico Creek, Upper Segment	(150)
Manumuskin River, Lower Segment	(151)
Manumuskin River, Upper Segment	(152)
Muskee Creek, New Jersey	(153)
Red River, Kentucky	(154)
Rio Grande, New Mexico	(155)
Farmington River, Connecticut	(156)

16 USC 1276.

(b) STUDY RIVERS.—Section 5(a) of such Act is amended as follows:

(1) Paragraph (106), relating to St. Mary's, Florida, is renumbered as paragraph (108).

(2) Paragraph (112), relating to White Clay Creek, Delaware and Pennsylvania, is renumbered as paragraph (113).

(3) The unnumbered paragraphs, relating to each of the following rivers, are amended by numbering such paragraphs as follows:

River:	Paragraph Number
Mills River, North Carolina	(109)
Sudbury, Assabet, and Concord, Massachusetts	(110)
Niobrara, Nebraska	(111)
Lamprey, New Hampshire	(112)
Brule, Michigan and Wisconsin	(114)
Carp, Michigan	(115)
Little Manistee, Michigan	(116)
White, Michigan	(117)
Ontonagon, Michigan	(118)
Paint, Michigan	(119)
Presque Isle, Michigan	(120)
Sturgeon, Ottawa National Forest, Michigan	(121)
Sturgeon, Hiawatha National Forest, Michigan	(122)
Tahquamenon, Michigan	(123)
Whitefish, Michigan	(124)
Clarion, Pennsylvania	(125)
Mill Creek, Jefferson and Clarion Counties, Pennsylvania	(126)
Piru Creek, California	(127)
Little Sur River, California	(128)
Matilija Creek, California	(129)
Lopez Creek, California	(130)
Sespe Creek, California	(131)
North Fork Merced, California	(132)

Delaware River, Pennsylvania and New Jersey ..... (133)
New River, West Virginia and Virginia ..... (134)
Rio Grande, New Mexico ..... (135)

SEC. 408. PROTECTION OF NORTH ST. VRAIN CREEK, COLORADO.

(a) NORTH ST. VRAIN CREEK AND ADJACENT LANDS.—The Act of January 26, 1915, establishing Rocky Mountain National Park (38 Stat. 798; 16 U.S.C. 191 et seq.), is amended by adding the following new section at the end thereof:

"SEC. 5. NORTH ST. VRAIN CREEK AND ADJACENT LANDS. 16 USC 195a.

"Neither the Secretary of the Interior nor any other Federal agency or officer may approve or issue any permit for, or provide any assistance for, the construction of any new dam, reservoir, or impoundment on any segment of North St. Vrain Creek or its tributaries within the boundaries of Rocky Mountain National Park or on the main stem of North St. Vrain Creek downstream to the point at which the creek crosses the elevation 6,550 feet above mean sea level. Nothing in this section shall be construed to prevent the issuance of any permit for the construction of a new water gauging station on North St. Vrain Creek at the point of its confluence with Coulson Gulch.".

(b) ENCOURAGEMENT OF EXCHANGES.— 16 USC 192b–9 note.

(1) LANDS INSIDE ROCKY MOUNTAIN NATIONAL PARK.—Promptly following enactment of this Act, the Secretary of the Interior shall seek to acquire by donation or exchange those lands within the boundaries of Rocky Mountain National Park owned by the city of Longmont, Colorado, that are referred to in section 111(d) of the Act commonly referred to as the "Colorado Wilderness Act of 1980" (Public Law 96–560; 94 Stat. 3272; 16 U.S.C. 192b–9(d)).

(2) OTHER LANDS.—The Secretary of Agriculture shall immediately and actively pursue negotiations with the city of Longmont, Colorado, concerning the city's proposed exchange of lands owned by the city and located in and near Coulson Gulch for other lands owned by the United States. The Secretary shall report to Congress 2 calendar years after the date of enactment of this Act, and every 2 years thereafter on the progress of such negotiations until negotiations are complete. Reports.

TITLE V—HISTORIC AREAS AND CIVIL RIGHTS

SEC. 501. THE SELMA TO MONTGOMERY NATIONAL HISTORIC TRAIL.

Section 5(a) of the National Trails System Act (16 U.S.C. 1244(a)) is amended by adding at the end thereof the following new paragraph:

"( ) The Selma to Montgomery National Historic Trail, consisting of 54 miles of city streets and United States Highway 80 from Brown Chapel A.M.E. Church in Selma to the State Capitol Building in Montgomery, Alabama, traveled by voting rights advocates during March 1965 to dramatize the need for voting rights legislation, as generally described in the report of the Secretary of the Interior prepared pursuant to subsection (b) of this section entitled "Selma to Montgomery" and dated April 1993. Maps depicting the route shall be on file and available for public inspection

in the Office of the National Park Service, Department of the Interior. The trail shall be administered in accordance with this Act, including section 7(h). The Secretary of the Interior, acting through the National Park Service, which shall be the lead Federal agency, shall cooperate with other Federal, State and local authorities to preserve historic sites along the route, including (but not limited to) the Edmund Pettus Bridge and the Brown Chapel A.M.E. Church.".

16 USC 461 note.

SEC. 502. VANCOUVER NATIONAL HISTORIC RESERVE.

(a) ESTABLISHMENT.—There is established the Vancouver National Historic Reserve in the State of Washington (referred to in this section as the "Reserve"), consisting of the area described in the report entitled "Vancouver National Historic Reserve Feasibility Study and Environmental Assessment" published by the Vancouver Historical Assessment" published by the Vancouver Historical Study Commission and dated April 1993 as authorized by Public Law 101–523 (referred to in this section as the "Vancouver Historic Reserve Report").

(b) ADMINISTRATION.—(1) The Reserve shall be administered through a general management plan developed in accordance with this section, and approved by the Secretary of the Interior and the Secretary of the Army.

(2) Not later than three years after the date of enactment of this Act, the National Park Service shall submit to the Secretaries a general management plan for the administration of the Reserve.

(3) The general management plan shall be developed by a Partnership comprised of a representative from the National Park Service, a representative of the Historic Preservation Office of the State of Washington, a representative of the Department of the Army, and a representative of the City of Vancouver, Washington.

(4) The general management plan shall be developed in accordance with the specific findings and recommendations of the Vancouver Historic Reserve Report, along with any other considerations not otherwise in conflict with the Report, and shall include at a minimum a statement of purpose, an interpretive plan, and an economic plan for Pearson Field.

(5) The Reserve shall not be deemed to be a new unit of the National Park System.

(c) NO LIMITATION ON FAA AUTHORITY.—The establishment of the Reserve shall not limit—

(1) the authority of the Federal Aviation Administration over air traffic control, or aviation activities at Pearson Airpark; or

(2) limit operations and airspace in the vicinity of Portland International Airport.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $400,000 per year for operational costs for each fiscal year following enactment of this Act and $5,000,000 for development costs.

SEC. 503. EXTENSION OF KALOKO-HONOKOHAU ADVISORY COMMISSION.

16 USC 396d note.

(a) KALOKO-HONOKOHAU NATIONAL HISTORICAL PARK.—Notwithstanding section 505(f)(7) of Public Law 95–625 (16 U.S.C. 396d(f)(7)), the Na Hoa Pili O Kaloko-Honokohau, the Advisory Commission for Kaloko-Honokohau National Historical Park,

is hereby re-established in accordance with section 505(f), as amended by paragraph (2) of this subsection.

(b) CONFORMING AMENDMENT.—Section 505(f)(7) of Public Law 95–625 (16 U.S.C. 396d(7)), is amended by striking "this Act" and inserting in lieu thereof, "the Na Hoa Pili Kaloko-Honokohau Re-establishment Act of 1996".

SEC. 504. AMENDMENT TO BOSTON NATIONAL HISTORIC PARK ACT.

Section 3(b) of the Boston National Historical Park Act of 1974 (16 U.S.C. 410z–1(b)) is amended by inserting "(1)" before the first sentence thereof and by adding the following at the end thereof:

"(2) The Secretary of the Interior is authorized to enter into a cooperative agreement with the Boston Public Library to provide for the distribution of informational and interpretive materials relating to the park and to the Freedom Trail.".

SEC. 505. WOMEN'S RIGHTS NATIONAL HISTORICAL PARK.

(a) INCLUSION OF OTHER PROPERTIES.—Section 1601(c) of Public Law 96–607 (16 U.S.C. 410ll) is amended to read as follows:

"(c) ESTABLISHMENT.—To carry out the purposes of this section there is hereby established the Women's Rights National Historical Park (hereinafter in this section referred to as the "park"). The park shall consist of the following designated sites in Seneca Falls and Waterloo, New York:

"(1) Stanton House, 32 Washington Street, Seneca Falls;
"(2) dwelling, 30 Washington Street, Seneca Falls;
"(3) dwelling, 34 Washington Street, Seneca Falls;
"(4) lot, 26–28 Washington Street, Seneca Falls;
"(5) former Wesleyan Chapel, 126 Fall Street, Seneca Falls;
"(6) theater, 128 Fall Street, Seneca Falls;
"(7) McClintock House, 16 East Williams Street, Waterloo;
"(8) Hunt House, 401 East Williams Street, Waterloo;
"(9) not to exceed 1 acre, plus improvements, as determined by the Secretary, in Seneca Falls for development of a maintenance facility;
"(10) dwelling, 1 Seneca Street, Seneca Falls;
"(11) dwelling, 10 Seneca Street, Seneca Falls;
"(12) parcels adjacent to Wesleyan Chapel Block, including Clinton Street, Fall Street, and Mynderse Street, Seneca Falls; and
"(13) dwelling, 12 East Williams Street, Waterloo.".

"(b) MISCELLANEOUS AMENDMENTS.—Section 1601 of Public Law 96–607 (16 U.S.C. 410ll) is amended by redesignating subsection (i) as "(i)(1)" and inserting at the end thereof the following new paragraph:

"(2) In addition to those sums appropriated prior to the date of enactment of this paragraph for land acquisition and development, there is hereby authorized to be appropriated an additional $2,000,000.". Appropriation authorization.

SEC. 506. BLACK PATRIOTS MEMORIAL EXTENSION. 40 USC 1003 note.

The legislative authority for the Black Revolutionary War Patriots Foundation to establish a commemorative work (as defined by the Commemorative Works Act (40 U.S.C. 1001 et seq.)) shall expire October 27, 1998, notwithstanding the time period limitation specified in section 10(b) of that Act (40 U.S.C. 1010(b)).

16 USC 470a note.

SEC. 507. HISTORICALLY BLACK COLLEGES AND UNIVERSITIES HISTORIC BUILDING RESTORATION AND PRESERVATION.

(a) AUTHORITY TO MAKE GRANTS.—From the amounts made available to carry out the National Historic Preservation Act, the Secretary of the Interior shall make grants in accordance with this section to eligible historically black colleges and universities for the preservation and restoration of historic buildings and structures on the campus of these institutions.

(b) GRANT CONDITIONS.—Grants made under subsection (a) shall be subject to the condition that the grantee covenants, for the period of time specified by the Secretary, that—

(1) no alteration will be made in the property with respect to which the grant is made without the concurrence of the Secretary; and

(2) reasonable public access to the property with respect to which the grant is made will be permitted by the grantee for interpretive and educational purposes.

(c) MATCHING REQUIREMENT FOR BUILDINGS AND STRUCTURES LISTED ON THE NATIONAL REGISTER OF HISTORIC PLACES.—(1) Except as provided by paragraph (2), the Secretary may obligate funds made available under this section for a grant with respect to a building or structure listed on, or eligible for listing on, the National Register of Historic Places only if the grantee agrees to match, from funds derived from non-Federal sources, the amount of the grant with an amount that is equal or greater than the grant.

(2) The Secretary may waive paragraph (1) with respect to a grant if the Secretary determines from circumstances that an extreme emergency exists or that such a waiver is in the public interest to assure the preservation of historically significant resources.

(d) FUNDING PROVISION.—Pursuant to section 108 of the National Historic Preservation Act, $29,000,000 shall be made available to carry out the purposes of this section. Of amounts made available pursuant to this section, $5,000,000 shall be available for grants to Fisk University, $2,500,000 shall be available for grants to Knoxville College, $2,000,000 shall be available for grants to Miles College, Alabama, $1,500,000 shall be available for grants to Talladega College, Alabama, $1,550,000 shall be available for grants to Selma University, Alabama, $250,000 shall be available for grants to Stillman College, Alabama, $200,000 shall be available for grants to Concordia College, Alabama, $2,900,000 shall be available for grants to Allen University, South Carolina, $1,000,000 shall be available for grants to Claflin College, South Carolina, $2,000,000 shall be available for grants to Voorhees College, South Carolina, $1,000,000 shall be available for grants to Rust College, Mississippi, and $3,000,000 shall be available for grants to Tougaloo College, Mississippi.

(e) REGULATIONS.—The Secretary shall develop such guidelines as may be necessary to carry out this section.

(f) DEFINITIONS.—For the purposes of this section:

(1) HISTORICALLY BLACK COLLEGES.—The term "historically black colleges and universities" has the same meaning given the term "part B institution" by section 322 of the Higher Education Act of 1965 (20 U.S.C. 1061).

(2) HISTORIC BUILDING AND STRUCTURES.—The term "historic building and structures" means a building or structure

listed on, or eligible for listing on, the National Register of Historic Places or designated a National Historic Landmark.

SEC. 508. MEMORIAL TO MARTIN LUTHER KING, JR.

40 USC 1003 note.
Alpha Phi Alpha Fraternity.

(a) IN GENERAL.—The Secretary of the Interior is authorized to permit the Alpha Phi Alpha Fraternity to establish a memorial on lands under the administrative jurisdiction of the Secretary in the District of Columbia or its environs to honor Martin Luther King, Jr., pursuant to the Commemorative Works Act of 1986.

(b) COMPLIANCE WITH STANDARDS FOR COMMEMORATIVE WORKS.—The establishment of the memorial shall be in accordance with the Act entitled "An Act to provide standards for placement of commemorative works on certain Federal lands in the District of Columbia and its environs, and for other purposes" approved November 14, 1986 (40 U.S.C. 1001 et seq.).

(c) PAYMENT OF EXPENSES.—The Alpha Phi Alpha Fraternity shall be solely responsible for acceptance of contributions for, and payment of the expenses of, the establishment of the memorial. No Federal funds may be used to pay any expense of the establishment of the memorial.

(d) DEPOSIT OF EXCESS FUNDS.—If, upon payment of all expenses of the establishment of the memorial (including the maintenance and preservation amount provided for in section 8(b) of the Act referred to in section 4401(b)), or upon expiration of the authority for the memorial under section 10(b) of that Act, there remains a balance of funds received for the establishment of the memorial, the Alpha Phi Alpha Fraternity shall transmit the amount of the balance to the Secretary of the Treasury for deposit in the account provided for in section 8(b)(1) of that Act.

SEC. 509. ADVISORY COUNCIL ON HISTORIC PRESERVATION REAUTHORIZATION.

(a) REAUTHORIZATION.—The last sentence of section 212(a) of the National Historic Preservation Act (16 U.S.C. 470 et seq.) is amended to read as follows: "There are authorized to be appropriated for the purposes of this title not to exceed $4,000,000 in each fiscal year 1997 through 2000.". 16 USC 470t.

(b) REPORTING REQUIREMENTS.—Within 18 months after the date of enactment of this Act, the Advisory Council on Historic Preservation shall submit a report to the appropriate congressional committees containing an analysis of alternatives for modifying the regulatory process for addressing impacts of Federal actions on nationally significant historic properties, as well as alternatives for future promulgation and oversight of regulations for implementation of section 106 of the National Historic Preservation Act. 16 USC 470f note.

(c) TECHNICAL AMENDMENTS.—Title II of the National Historic Preservation Act (16 U.S.C. 470 et seq.) is amended as follows:

(1) By striking "appointed" in section 201(a)(4) and inserting "designated". 16 USC 470i.

(2) By striking "and 10" in section 201(c) and inserting "through (11)".

(3) By adding the following new section after section 214:

"SEC. 215. Subject to applicable conflict of interest laws, the Council may receive reimbursements from State and local agencies and others pursuant to agreements executed in furtherance of the purposes of this Act.". 16 USC 470v–1.

16 USC 470m.

(4) By amending subsection (g) of section 205 to read as follows:

"(g) Any Federal agency may provide the Council, with or without reimbursement as may be agreed upon by the Chairman and the agency, with such funds, personnel, facilities and services under its jurisdiction and control as may be needed by the Council to carry out its duties, to the extent that such funds, personnel, facilities, and services are requested by the Council and are otherwise available for the purpose. Any funds provided to the Council pursuant to this subsection must be expended by the end of the fiscal year following the fiscal year in which the funds are received by the Council. To the extent of available appropriations, the Council may obtain by purchase, rental, donation, or otherwise, such additional property facilities, and services as may be needed to carry out its duties and may also receive donations of moneys for such purpose, and the Executive Director is authorized, in his discretion, to accept, hold, use, expend, and administer the same for the purposes of this Act.".

16 USC 461 note.

SEC. 510. GREAT FALLS HISTORIC DISTRICT, NEW JERSEY.

(a) PURPOSES.—The purposes of this section are—

(1) to preserve and interpret, for the educational and inspirational benefit of the public, the contribution of our national heritage of certain historic and cultural lands and edifices of the Great Falls Historic District, with emphasis on harnessing this unique urban environment for its educational and recreational value; and

(2) to enhance economic and cultural redevelopment within the District.

(b) DEFINITIONS.—In this section:

(1) DISTRICT.—The term "District" means the Great Falls Historic District established by subsection (c).

(2) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(3) HISTORIC INFRASTRUCTURE.—The term "historic infrastructure" means the District's historic raceway system, all four stories of the original Colt Gun Mill, including belltower, and any other structure that the Secretary determines to be eligible for the National Register of Historic Places.

(c) GREAT FALLS HISTORIC DISTRICT.—

(1) ESTABLISHMENT.—There is established the Great Falls Historic District in the city of Paterson, in Passaic County, New Jersey.

(2) BOUNDARIES.—The boundaries of the District shall be the boundaries specified by the Great Falls Historic District listed on the National Register of Historic Places.

(d) DEVELOPMENT PLAN.—The Secretary may make grants and enter into cooperative agreements with the State of New Jersey, local governments, and private nonprofit entities under which the Secretary agrees to pay not more than 50 percent of the costs of—

(1) preparation of a plan for the development of historic, architectural, natural, cultural, and interpretive resources within the District;

(2) implementation of projects approved by the Secretary under the development plan; and

(3) a market analysis assessing the economic development potential of the District and recommending steps to be taken to encourage economic development and revitalization in a manner consistent with the District's historic character.

(e) RESTORATION, PRESERVATION, AND INTERPRETATION OF PROPERTIES.—

(1) COOPERATIVE AGREEMENTS.—The Secretary may enter into cooperative agreements with the State of New Jersey, local governments and nonprofit entities owning property within the District under which the Secretary may—

(A) pay not more than 50 percent of the cost of restoring, repairing, rehabilitating, and improving historic infrastructure within the District;

(B) provide technical assistance with respect to the preservation and interpretation of properties within the District; and

(C) mark and provide interpretation of properties within the District.

(2) PROVISIONS.—A cooperative agreement under paragraph (1) shall provide that—

(A) the Secretary shall have the right of access at reasonable times to public portions of the property for interpretive and other purposes;

(B) no change or alteration may be made in the property except with the agreement of the property owner, the Secretary, and any Federal agency that may have regulatory jurisdiction over the property; and

(C) any construction grant made under this section shall be subject to an agreement that provides that conversion, use, or disposal of the project so assisted for purposes contrary to the purposes of this section shall result in a right of the United States to compensation from the beneficiary of the grant, and that provides for a schedule for such compensation based on the level of Federal investment and the anticipated useful life of the project.

(3) APPLICATIONS.—

(A) IN GENERAL.—A property owner that desires to enter into a cooperative agreement under paragraph (1) shall submit to the Secretary an application describing how the project proposed to be funded will further the purposes of the District.

(B) CONSIDERATION.—In making such funds available under this subsection, the Secretary shall give consideration to projects that provide a greater leverage of Federal funds.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Historic Preservation Fund authorized under the National Historic Preservation Act to the Secretary to carry out this section—

(1) $250,000 for grants and cooperative agreements for the development plan under subsection (d); and

(2) $50,000 for the provision of technical assistance and $3,000,000 for the provision of other assistance under cooperative agreements under subsection (e).

SEC. 511. NEW BEDFORD NATIONAL HISTORIC LANDMARK DISTRICT. 16 USC 410ddd.

(a) FINDINGS AND PURPOSES.—

(1) FINDINGS.—The Congress finds that—

(A) the New Bedford National Historic Landmark District and associated historic sites as described in subsection (c)(2), including the Schooner Ernestina, are National Historic Landmarks and are listed on the National Register of Historic Places as historic sites associated with the history of whaling in the United States;

(B) the city of New Bedford was the 19th century capital of the world's whaling industry and retains significant architectural features, archival materials, and museum collections illustrative of this period;

(C) New Bedford's historic resources provide unique opportunities for illustrating and interpreting the whaling industry's contribution to the economic, social, and environmental history of the United States and provide opportunities for public use and enjoyment; and

(D) during the nineteenth century, over two thousand whaling voyages sailed out of New Bedford to the Arctic region of Alaska, and joined Alaska Natives from Barrow, Alaska and other areas in the Arctic region in subsistence whaling activities; and

(E) the National Park System presently contains no sites commemorating whaling and its contribution to American history.

(2) PURPOSES.—The purposes of this section are—

(A) to help preserve, protect, and interpret the resources within the areas described in subsection (c)(2), including architecture, setting, and associated archival and museum collections;

(B) to collaborate with the city of New Bedford and with associated historical, cultural, and preservation organizations to further the purposes of the park established under this section; and

(C) to provide opportunities for the inspirational benefit and education of the American people.

(b) DEFINITIONS.—For the purposes of this section—

(1) the term "park" means the New Bedford Whaling National Historical Park established by subsection (c); and

(2) the term "Secretary" means the Secretary of the Interior.

(c) NEW BEDFORD WHALING NATIONAL HISTORICAL PARK.—

(1) ESTABLISHMENT.—In order to preserve for the benefit and inspiration of the people of the United States as a national historical park certain districts structures, and relics located in New Bedford, Massachusetts, and associated with the history of whaling and related social and economic themes in America, there is established the New Bedford Whaling National Historical Park.

(2) BOUNDARIES.—(A) The boundaries of the park shall be those generally depicted on the map numbered NAR–P49–80,000–4 and dated June 1994. Such map shall be on file and available for public inspection in the appropriate offices of the National Park Service. In case of any conflict between the descriptions set forth in clauses (i) through (iv) and such map, such map shall govern. The park shall include the following:

(i) The area included with the New Bedford National Historic Landmark District, known as the Bedford Landing Waterfront Historic District, as listed within the National Register of Historic Places and in the Massachusetts State Register of Historic Places.

(ii) The National Historic Landmark Schooner Ernestina, with its home port in New Bedford.

(iii) The land along the eastern boundary of the New Bedford National Historic Landmark District over the east side of MacArthur Drive from the Route 6 overpass on the north to an extension of School Street on the south.

(iv) The land north of Elm Street in New Bedford, bounded by Acushnet Avenue on the west, Route 6 (ramps) on the north, MacArthur Drive on the east, and Elm Street on the south.

(B) In addition to the sites, areas, and relics referred to in subparagraph (A), the Secretary may assist in the interpretation and preservation of each of the following:

(i) The southwest corner of the State Pier.

(ii) Waterfront Park, immediately south of land adjacent to the State Pier.

(iii) The Rotch-Jones-Duff House and Garden Museum, located at 396 County Street.

(iv) The Wharfinger Building, located on Piers 3 and 4.

(v) The Bourne Counting House, located on Merrill's Wharf.

(d) RELATED FACILITIES.—To ensure that the contribution of Alaska Natives to the history of whaling in the United States is fully recognized, the Secretary shall provide—

(1) financial and other assistance to establish links between the New Bedford Whaling National Historical Park and the North Slope Borough Cultural Center, located in Barrow, Alaska; and

(2) to provide appropriate assistance and funding for the North Slope Borough Cultural Center.

(e) ADMINISTRATION OF PARK.—

(1) IN GENERAL.—The park shall be administered by the Secretary in accordance with this section and the provisions of law generally applicable to units of the National Park System, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2, 3, and 4) and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461–467).

(2) COOPERATIVE AGREEMENTS.—(A) The Secretary may consult and enter into cooperative agreements with interested entities and individuals to provide for the preservation, development, interpretation, and use of the park.

(B) Any payment made by the Secretary pursuant to a cooperative agreement under this paragraph shall be subject to an agreement that conversion, use, or disposal of the project so assisted for purposes contrary to the purposes of this section, as determined by the Secretary, shall result in a right of the United States to reimbursement of all funds made available to such project or the proportion of the increased value of

the project attributable to such funds as determined at the time of such conversion, use, or disposal, whichever is greater.

(3) NON-FEDERAL MATCHING REQUIREMENTS.—(A) Funds authorized to be appropriated to the Secretary for the purposes of—

(i) cooperative agreements under paragraph (2) shall be expended in the ratio of one dollar of Federal funds for each four dollars of funds contributed by non-Federal sources; and

(ii) construction, restoration, and rehabilitation of visitors and interpretive facilities (other than annual operation and maintenance costs) shall be expended in the ratio of one dollar of Federal funds for each one dollar of funds contributed by non-Federal sources.

(B) For the purposes of this paragraph, the Secretary is authorized to accept from non-Federal sources, and to utilize for purposes of this section, any money so contributed. With the approval of the Secretary, any donation of property, services, or goods from a non-Federal source may be considered as a contribution of funds from a non-Federal source for the purposes of this paragraph.

(4) ACQUISITION OF REAL PROPERTY.—For the purposes of the park, the Secretary may acquire only by donation such lands, interests in lands, and improvements thereon within the park as are needed for essential visitor contact and interpretive facilities.

(5) OTHER PROPERTY, FUNDS, AND SERVICES.—The Secretary may accept donated funds, property, and services to carry out this section.

(e) GENERAL MANAGEMENT PLAN.—Not later than the end of the second fiscal year beginning after the date of enactment of this Act, the Secretary shall submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a general management plan for the park and shall implement such plan as soon as practically possible. The plan shall be prepared in accordance with section 12(b) of the Act of August 18, 1970 (16 U.S.C. 1a–7(b)) and other applicable law.

(f) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—Except as provided in paragraph (2), there are authorized to be appropriated such sums as may be necessary to carry out annual operations and maintenance with respect to the park and to carry out the activities under section 3(D).

(2) EXCEPTIONS.—In carrying out this section—

(A) not more than $2,000,000 may be appropriated for construction, restoration, and rehabilitation of visitor and interpretive facilities, and directional and visitor orientation signage;

(B) none of the funds authorized to be appropriated by this section may be used for the operation or maintenance of the Schooner Ernestina; and

(C) not more than $50,000 annually of Federal funds may be used for interpretive and education programs for the Schooner Ernestina pursuant to cooperative grants under subsection (d)(2).

SEC. 512. NICODEMUS NATIONAL HISTORIC SITE. 16 USC 461 note.

(a) FINDINGS AND PURPOSES.—

(1) FINDINGS.—Congress finds that—

(A) the town of Nicodemus, in Kansas, has national significance as the only remaining western town established by African-Americans during the Reconstruction period following the Civil War;

(B) the town of Nicodemus is symbolic of the pioneer spirit of Afican-Americans who dared to leave the only region they had been familiar with to seek personal freedom and the opportunity to develop their talents and capabilities; and

(C) the town of Nicodemus continues to be a valuable African-American community.

(2) PURPOSES.—The purposes of this section are—

(A) to preserve, protect, and interpret for the benefit and enjoyment of present and future generations, the remaining structures and locations that represent the history (including the settlement and growth) of the town of Nicodemus, Kansas; and

(B) to interpret the historical role of the town of Nicodemus in the Reconstruction period in the context of the experience of westward expansion in the United States.

(b) DEFINITIONS.—In this section:

(1) HISTORIC SITE.—The term "historic site" means the Nicodemus National Historic Site established by subsection (c).

(2) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(c) ESTABLISHMENT OF NICODEMUS NATIONAL HISTORIC SITE.—

(1) ESTABLISHMENT.—There is established the Nicodemus National Historic Site in Nicodemus, Kansas.

(2) DESCRIPTION.—

(A) IN GENERAL.—The historic site shall consist of the first Baptist Church, the St. Francis Hotel, the Nicodemus School District Number 1, the African Methodist Episcopal Church, and the Township Hall located within the approximately 161.35 acres designated as the Nicodemus National Landmark in the Township of Nicodemus, Graham County, Kansas, as registered on the National Register of Historic Places pursuant to section 101 of the National Historic Preservation Act (16 U.S.C. 470a), and depicted on a map entitled "Nicodemus National Historic Site", numbered 80,000 and dated August 1994.

(B) MAP AND BOUNDARY DESCRIPTION.—The map referred to in subparagraph (A) and accompanying boundary description shall be on file and available for public inspection in the office of the Director of the National Park Service and any other office of the National Park Service that the Secretary determines to be an appropriate location for filing the map and boundary description.

(d) ADMINISTRATION OF THE HISTORIC SITE.—

(1) IN GENERAL.—The Secretary shall administer the historic site in accordance with this section and the provisions of law generally applicable to units of the National Park System, including the Act entitled "An Act to establish a National

Park Service, and for other purposes", approved August 25, 1916 (16 U.S.C. 1 et seq.), and the Act of August 21, 1935 (49 Stat. 666, chapter 593; 16 U.S.C. 461 et seq.).

(2) COOPERATIVE AGREEMENTS.—To further the purposes of this section, the Secretary may enter into a cooperative agreement with any interested individual, public or private agency, organization, or institution.

(3) TECHNICAL AND PRESERVATION ASSISTANCE.—

(A) IN GENERAL.—The Secretary may provide to any eligible person described in subparagraph (B) technical assistance for the preservation of historic structures of, the maintenance of the cultural landscape of, and local preservation planning for, the historic site.

(B) ELIGIBLE PERSONS.—The eligible persons described in this subparagraph are—

(i) an owner of real property within the boundary of the historic site, as described in subsection (c)(2); and

(ii) any interested individual, agency, organization, or institution that has entered into an agreement with the Secretary pursuant to paragraph (2).

(e) ACQUISITION OF REAL PROPERTY.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary is authorized to acquire by donation, exchange, or purchase with funds made available by donation or appropriation, such lands or interests in lands as may be necessary to allow for the interpretation, preservation, or restoration of the First Baptist Church, the St. Francis Hotel, the Nicodemus School District Number 1, the African Methodist Episcopal Church, or the Township Hall, as described in subsection (c)(2)(A), or any combination thereof.

(2) LIMITATIONS.—

(A) ACQUISITION OF PROPERTY OWNED BY THE STATE OF KANSAS.—Real property that is owned by the State of Kansas or a political subdivision of the State of Kansas that is acquired pursuant to paragraph (1) may only be acquired by donation.

(B) CONSENT OF OWNER REQUIRED.—No real property may be acquired under this subsection without the consent of the owner of the real property.

(f) GENERAL MANAGEMENT PLAN.—

(1) IN GENERAL.—Not later than the last day of the third full fiscal year beginning after the date of enactment of this Act, the Secretary shall, in consultation with the officials described in paragraph (2), prepare a general management plan for the historic site.

(2) CONSULTATION.—In preparing the general management plan, the Secretary shall consult with an appropriate official of each of the following:

(A) The Nicodemus Historical Society.

(B) The Kansas Historical Society.

(C) Appropriate political subdivisions of the State of Kansas that have jurisdiction over all or a portion of the historic site.

(3) SUBMISSION OF PLAN TO CONGRESS.—Upon the completion of the general management plan, the Secretary shall submit a copy of the plan to the Committee on Energy and

Natural Resources of the Senate and the Committee on Resources of the House of Representatives.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of the Interior such sums as are necessary to carry out this section.

SEC. 513. UNALASKA.

Aleutian World War II National Historic Areas Act of 1996.
16 USC 461 note.

(a) SHORT TITLE.—This section may be cited as the "Aleutian World War II National Historic Areas Act of 1996".

(b) PURPOSE.—The purpose of this section is to designate and preserve the Aleutian World War II National Historic Area within lands owned by the Ounalaska Corporation on the island of Amaknak, Alaska and to provide for the interpretation, for the educational and inspirational benefit of present and future generations, of the unique and significant circumstances involving the history of the Aleut people, and the role of the Aleut people and the Aleutian Islands in the defense of the United States in World War II.

(c) BOUNDARIES.—The Aleutian World War II National Historic Area whall be comprised of areas on Amaknak Island depicted on the map entitled "Aleutian World War II National Historic Area".

(d) TERMS AND CONDITIONS.—Nothing in this section shall—

(1) authorize the conveyance of lands between the Ounalaska Corporation and the United States Department of the Interior, nor remove land or structures appurtenant to the land from the exclusive control of the Ounalaska Corporation; or

(2) provide authority for the Department of the Interior to assume the duties associated with the daily operation for the historic area or any of its facilities or structures.

(e) TECHNICAL ASSISTANCE.—The Secretary of the Interior may award grants and provide technical assistance to the Ounalaska Corporation and the City of Unalaska to assist with the planning, development, and historic preservation from any program funds authorized by law for technical assistance, land use planning or historic preservation.

SEC. 514. JAPANESE AMERICAN PATRIOTISM MEMORIAL.

40 USC 193a note, 1003 note.

(a) PURPOSE.—It is the purpose of this section—

(1) to assist in the effort to timely establish within the District of Columbia a national memorial to Japanese American patriotism in World War II; and

(2) to improve management of certain parcels of Federal real property located within the District of Columbia,

by the transferring jurisdiction over such parcels to the Architect of the Capitol, the Secretary of the Interior, and the Government of the District of Columbia.

(b) TRANSFERS OF JURISDICTION.—

Effective date.

(1) IN GENERAL.—Effective on the date of the enactment of this Act and notwithstanding any other provision of law, jurisdiction over the parcels of Federal real property described in paragraph (2) is transferred without additional consideration as provided by paragraph (2).

(2) SPECIFIC TRANSFERS.—

(A) TRANSFERS TO SECRETARY OF THE INTERIOR.—

(i) IN GENERAL.—Jurisdiction over the following parcels is transferred to the Secretary of the Interior:

(I) That triangle of Federal land, including any contiguous sidewalks and tree space, that is part of the United States Capitol Grounds under the jurisdiction of the Architect of the Capitol bound by D Street, N.W., New Jersey Avenue, N.W., and Louisiana Avenue, N.W., in square W632 in the District of Columbia, as shown on the Map Showing Properties Under Jurisdiction of the Architect of the Capitol, dated November 8, 1994.

(II) That triangle of Federal land, including any contiguous sidewalks and tree space, that is part of the United States Capitol Grounds under the jurisdiction of the Architect of the Capitol bound by C Street, N.W., First Street, N.W., and Louisiana Avenue, N.W., in the District of Columbia, as shown on the Map Showing Properties Under Jurisdiction of the Architect of the Capitol, dated November 8, 1994.

(ii) LIMITATION.—The parcels transferred by clause (i) shall not include those contiguous sidewalks abutting Louisiana Avenue, N.W., which shall remain part of the United States Capitol Grounds under the jurisdiction of the Architect of the Capitol.

(iii) CONSIDERATION AS MEMORIAL SITE.—The parcels transferred by subclause (I) of clause (i) may be considered as a site for a national memorial to Japanese American patriotism in World War II.

(B) TRANSFERS TO ARCHITECT OF THE CAPITOL.—Jurisdiction over the following parcels is transferred to the Architect of the Capitol:

(i) That portion of the triangle of Federal land in Reservation No. 204 in the District of Columbia under the jurisdiction of the Secretary of the Interior, including any contiguous sidewalks, bound by Constitution Avenue, N.E., on the north, the branch of Maryland Avenue, N.E., running in a northeast direction on the west, the major portion of Maryland Avenue, N.E., on the south, and 2nd Street, N.E., on the east, including the contiguous sidewalks.

(ii) That irregular area of Federal land in Reservation No. 204 in the District of Columbia under the jurisdiction of the Secretary of the Interior, including any contiguous sidewalks, northeast of the real property described in clause (i) bound by Constitution Avenue, N.E., on the north, the branch of Maryland Avenue, N.E., running to the northeast on the south, and the private property on the west known as lot 7, in square 726.

(iii) The two irregularly shaped medians lying north and east of the property described in clause (i), located between the north and south curbs of Constitution Avenue, N.E., west of its intersection with Second Street, N.E., all as shown in Land Record No. 268, dated November 22, 1957, in the Office of the Surveyor, District of Columbia, in Book 138, Page 58.

(iv) All sidewalks under the jurisdiction of the District of Columbia abutting on and contiguous to the land described in clauses (i), (ii), and (iii).

(C) TRANSFERS TO DISTRICT OF COLUMBIA.—Jurisdiction over the following parcels is transferred to the Government of the District of Columbia:

(i) That portion of New Jersey Avenue, N.W., between the northernmost point of the intersection of New Jersey Avenue, N.W., and D Street, N.W., and the northernmost point of the intersection of New Jersey Avenue, N.W., and Louisiana Avenue, N.W., between squares 631 and W632, which remains Federal property.

(ii) That portion of D Street, N.W., between its intersection with New Jersey Avenue, N.W., and its intersection with Louisiana Avenue, N.W., between squares 630 and W632, which remains Federal property.

(c) MISCELLANEOUS.—

(1) COMPLIANCE WITH OTHER LAWS.—Compliance with this section shall be deemed to satisfy the requirements of all laws otherwise applicable to transfers of jurisdiction over parcels of Federal real property.

(2) LAW ENFORCEMENT RESPONSIBILITY.—Law enforcement responsibility for the parcels of Federal real property for which jurisdiction is transferred by subsection (b) shall be assumed by the person acquiring such jurisdiction.

(3) UNITED STATES CAPITOL GROUNDS.—

(A) DEFINITION.—The first section of the Act entitled "An Act to define the United States Capitol Grounds, to regulate the use thereof, and for other purposes", approved July 31, 1946 (40 U.S.C. 193a), is amended to include within the definition of the United States Capitol Grounds the parcels of Federal real property described in subsection (b)(2)(B).

(B) JURISDICTION OF CAPITOL POLICE.—The United States Capitol Police shall have jurisdiction over the parcels of Federal real property described in subsection (b)(2)(B) in accordance with section 9 of such Act of July 31, 1946 (40 U.S.C. 212a).

(4) EFFECT OF TRANSFERS.—A person relinquishing jurisdiction over a parcel of Federal real property transferred by subsection (b) shall not retain any interest in the parcel except as specifically provided by this section.

SEC. 515. MANZANAR NATIONAL HISTORIC SITE. 16 USC 461 note.

(a) TERMINATION OF WITHDRAWALS.—

(1) UNAVAILABILITY OF CERTAIN LANDS.—The Congress, by enacting the Act entitled "An Act to establish the Manzanar National Historic Site in the State of California, and for other purposes", approved March 3, 1992 (106 Stat. 40; Public Law 102–248), (1) provided for the protection and interpretation of the historical, cultural, and natural resources associated with the relocation of Japanese-Americans during World War II and established the Manzanar National Historic Site in the State of California, and (2) authorized the Secretary of the Interior to acquire lands or interests therein within the

boundary of the Historic Site by donation, purchase with donated or appropriated funds, or by exchange. The public lands identified for disposal in the Bureau of Land Management's Bishop Resource Area Resource Management Plan that could be made available for exchange in support of acquiring lands within the boundary of the Historic Site are currently unavailable for this purpose because they are withdrawn by an Act of Congress.

(2) TERMINATION OF WITHDRAWAL.—To provide a land base with which to allow land exchanges in support of acquiring lands within the boundary of the Manzanar National Historic Site, the withdrawal of the following described lands is terminated and such lands shall not be subject to the Act of March 4, 1931 (chapter 517; 46 Stat. 1530):

MOUNT DIABLO MERIDIAN

Township 2 North, Range 26 East

Section 7:
North half south half of lot 1 of southwest quarter, north half south half of lot 2 of southwest quarter, north half south half southeast quarter.

Township 4 South, Range 33 East

Section 31:
Lot 1 of southwest quarter, northwest quarter northeast quarter, southeast quarter;
Section 32:
Southeast quarter northwest quarter, northeast quarter southwest quarter, southwest quarter southeast quarter.

Township 5 South, Range 33 East

Section 4:
West half of lot 1 of northwest quarter, west half of lot 2 of northwest quarter.
Section 5:
East half of lot 1 of northeast quarter, east half of lot 2 of northeast quarter.
Section 9:
Northwest quarter southwest quarter northeast quarter.
Section 17:
Southeast quarter northwest quarter, northwest quarter southeast quarter.
Section 22:
Lot 1 and 2.
Section 27:
Lot 2, west half northeast quarter, southeast quarter northwest quarter, northeast quarter southwest quarter, northwest quarter southeast quarter.
Section 34:
Northeast quarter, northwest quarter, southeast quarter.

Township 6 South, Range 31 East

Section 19:
East half northeast quarter southeast quarter.

Township 6 South, Range 33 East

Section 10:
East half southeast quarter.
Section 11:
Lot 1 and 2, west half northeast quarter, northwest quarter, west half southwest quarter, northeast quarter southwest quarter.
Section 14:
Lots 1 through 4, west half northeast quarter, southeast quarter northwest quarter, northeast quarter southwest quarter, northwest quarter southeast quarter.

Township 7 South, Range 32 East

Section 23:
South half southwest quarter.
Section 25:
Lot 2, northeast quarter northwest quarter.

Township 7 South, Range 33 East

Section 30:
South half of lot 2 of northwest quarter, lot 1 and 2 of southwest quarter.
Section 31:
North half of lot 2 of northwest quarter, southeast quarter northeast quarter, northeast quarter southeast quarter.

Township 8 South, Range 33 East

Section 5:
Northwest quarter southwest quarter.

Township 13 South, Range 34 East

Section 1:
Lots 43, 46, and 49 through 51.
Section 2:
North half northwest quarter southeast quarter southeast quarter.

Township 11 South, Range 35 East

Section 30:
Lots 1 and 2, east half northwest quarter, east half southwest quarter, and west half southwest quarter southeast quarter.
Section 31:
Lot 8, west half west half northeast quarter, east half northwest quarter, and west half southeast quarter.

Township 13 South, Range 35 East

Section 18:
South half of lot 2 of northwest quarter, lot 1 and 2 of southwest quarter, southwest quarter northeast quarter, northwest quarter southeast quarter.
Section 29:
Southeast quarter northeast quarter, northeast quarter southeast quarter.

Township 13 South, Range 36 East

Section 17:
Southwest quarter northwest quarter, southwest quarter.
Section 18:
South half of lot 1 of northwest quarter, lot 1 of southwest quarter, northeast quarter, southeast quarter.
Section 19:
North half of lot 1 of northwest quarter, east half northeast quarter, northwest quarter northeast quarter.
Section 20:
Southwest quarter northeast quarter, northwest quarter, northeast quarter southwest quarter, southeast quarter.
Section 28:
Southwest quarter southwest quarter.
Section 29:
East half northeast quarter.
Section 33:
Northwest quarter northwest quarter, southeast quarter northwest quarter.

Township 14 South, Range 36 East

Section 31:
Lots 1 and 2 of southwest quarter, southwest quarter southeast quarter.
aggregating 5,630 acres, more or less.

Federal Register, publication.

(b) AVAILABILITY OF LANDS.—Upon enactment of this Act, the lands specified in subsection (a) shall be open to operation of the public land laws, including the mining and mineral leasing laws, only after the Secretary of the Interior has published a notice in the Federal Register opening such lands.

(c) ADDITIONAL AREA.—Section 101 of Public Law 102–248 is amended by inserting in subsection (b) after the second sentence "The site shall also include an additional area of approximately 300 acres as demarcated as the new proposed boundaries in the map dated March 8, 1996, entitled 'Manzanar National Historic Site Archaeological Base Map'.".

16 USC 431 note.

SEC. 516. RECOGNITION AND DESIGNATION OF THE AIDS MEMORIAL GROVE AS NATIONAL MEMORIAL.

(a) RECOGNITION OF SIGNIFICANCE OF THE AIDS MEMORIAL GROVE.—The Congress hereby recognizes the significance of the AIDS Memorial Grove located in Golden Gate Park in San Francisco, California, as a memorial—

(1) dedicated to individuals who have died as a result of acquired immune deficiency syndrome; and

(2) in support of individuals who are living with acquired immune deficiency syndrome and their loved ones and caregivers.

(b) DESIGNATION AS NATIONAL MEMORIAL.—Not later than 90 days after the date of enactment of this Act, the Secretary of the Interior shall designate the AIDS Memorial Grove as a national memorial.

TITLE VI—CIVIL AND REVOLUTIONARY WAR SITES

SEC. 601. UNITED STATES CIVIL WAR CENTER.

(a) DESIGNATION.—The Civil War Center, located on Raphael Semmes Drive at Louisiana State University in Baton Rouge, Louisiana (hereafter in this section referred to as the "center") shall be known and designated as the "United States Civil War Center".

(b) LEGAL REFERENCES.—Any reference in any law, regulation, paper, record, map, or any other document of the United States to the center referred to in subsection (b) shall be deemed to be a reference to the "United States Civil War Center".

(c) FLAGSHIP INSTITUTIONS.—The center and the Civil War Institute of Gettysburg College, located at 233 North Washington Street in Gettysburg, Pennsylvania, shall be the flagship institutions for planning the sesquicentennial commemoration of the Civil War.

SEC. 602. CORINTH, MISSISSIPPI, BATTLEFIELD ACT.

16 USC 430f–5.

(a) PURPOSE.—The purpose of this section is to provide for a center for the interpretation of the Siege and Battle of Corinth and other Civil War actions in the Region and to enhance public understanding of the significance of the Corinth Campaign in the Civil War relative to the Western theater of operations, in cooperation with State or local governmental entities and private organizations and individuals.

(b) ACQUISITION OF PROPERTY AT CORINTH, MISSISSIPPI.—The Secretary of the Interior (referred to in this title as the "Secretary") shall acquire by donation, purchase with donated or appropriated funds, or exchange, such land and interests in land in the vicinity of the Corinth Battlefield, in the State of Mississippi, as the Secretary determines to be necessary for the construction of an interpretive center to commemorate and interpret the 1862 Civil War Siege and Battle of Corinth.

(c) PUBLICLY OWNED LAND.—Land and interests in land owned by the State of Mississippi or a political subdivision of the State of Mississippi may be acquired only by donation.

(d) INTERPRETIVE CENTER AND MARKING.—

(1) INTERPRETIVE CENTER.—The Secretary shall construct, operate, and maintain on the property acquired under subsection (b) a center for the interpretation of the Siege and Battle of Corinth and associated historical events for the benefit of the public.

(2) MARKING.—The Secretary may mark sites associated with the Siege and Battle of Corinth National Historic Landmark, as designated on May 6, 1991, if the sites are determined

by the Secretary to be protected by State or local governmental agencies.

(3) ADMINISTRATION.—The land and interests in land acquired, and the facilities constructed and maintained pursuant to this section, shall be administered by the Secretary as a part of Shiloh National Military Park, subject to the appropriate laws (including regulations) applicable to the Park, the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (16 U.S.C. 1 et seq.), and the Act entitled "An Act to provide for the preservation of historic American sites, buildings, objects, and antiquities of national significance, and for other purposes", approved August 21, 1935 (16 U.S.C. 461 et seq.).

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $6,000,000 for development to carry out this section.

Revolutionary War and War of 1812 Historic Preservation Study Act of 1996.
16 USC 1a–5 note.

SEC. 603. REVOLUTIONARY WAR AND WAR OF 1812 HISTORIC PRESERVATION STUDY.

(a) SHORT TITLE.—This section may be cited as the "Revolutionary War and War of 1812 Historic Preservation Study Act of 1996".

(b) FINDINGS.—The Congress finds that—

(1) Revolutionary War sites and War of 1812 sites provide a means for Americans to understand and interpret the periods in American history during which the Revolutionary War and War of 1812 were fought;

(2) the historical integrity of many Revolutionary War sites and War of 1812 sites is at risk because many of the sites are located in regions that are undergoing rapid urban or suburban development; and

(3) it is important, for the benefit of the United States, to obtain current information on the significance of, threats to the integrity of, and alternatives of the preservation and interpretation of Revolutionary War sites and War of 1812 sites.

(c) DEFINITIONS.—In this section:

(1) DIRECTOR.—The term "Director" means the Director of the National Park Service.

(2) REVOLUTIONARY WAR SITE.—The term "Revolutionary War site" means a site or structure situated in the United States that is thematically tied with the nationally significant events that occurred during the Revolutionary War.

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(4) WAR OF 1812 SITE.—The term "War of 1812 site" means a site or structure situated in the United States that is thematically tied with the nationally significant events that occurred during the War of 1812.

(d) STUDY.—

(1) PREPARATION.—The Secretary, acting through the Director, shall prepare a study of Revolutionary War sites and War of 1812 sites.

(2) MATTERS TO BE ADDRESSED.—The study under subsection (b) shall—

(A) identify Revolutionary War sites and War of 1812 sites, including sites within units of the National Park System in existence on the date of enactment of this Act;

(B) determine the relative significance of the sites;

(C) assess short- and long-term threats to the integrity of the sites;

(D) provide alternatives for the preservation and interpretation of the sites by Federal, State, and local governments, or other public or private entities, including designation of the sites as units of the National Park System; and

(E) research and propose land preservation techniques.

(3) CONSULTATION.—During the preparation of the study under paragraph (1), the Director shall consult with—

(A) the Governor of each affected State;

(B) each affected unit of local government;

(C) State and local historic preservation organizations;

(D) scholarly organizations; and

(E) such other interested parties as the Secretary considers advisable.

(4) TRANSMITTAL TO CONGRESS.—Not later than 2 years after the date on which funds are made available to carry out the study under paragraph (1), the Director shall transmit a report describing the results of the study to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(5) REPORT.—If the Director submits a report on the study to the Director of the Office of Management and Budget, the Secretary shall concurrently transmit copies of the report to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $750,000, to remain available until expended.

SEC. 604. AMERICAN BATTLEFIELD PROTECTION PROGRAM.

American Battlefield Protection Act of 1996.
16 USC 469k.

(a) SHORT TITLE.—This section may be cited as the "American Battlefield Protection Act of 1996".

(b) PURPOSE.—The purpose of this section is to assist citizens, public and private institutions, and governments at all levels in planning, interpreting, and protecting sites where historic battles were fought on American soil during the armed conflicts that shaped the growth and development of the United States, in order that present and future generations may learn and gain inspiration from the ground where Americans made their ultimate sacrifice.

(c) PRESERVATION ASSISTANCE.—

(1) IN GENERAL.—Using the established national historic preservation program to the extent practicable, the Secretary of the Interior, acting through the American Battlefield Protection Program, shall encourage, support, assist, recognize, and work in partnership with citizens, Federal, State, local, and tribal governments, other public entities, educational institutions, and private nonprofit organizations in identifying, researching, evaluating, interpreting, and protecting historic battlefields and associated sites on a National, State, and local level.

(2) FINANCIAL ASSISTANCE.—To carry out paragraph (1), the Secretary may use a cooperative agreement, grant,

contract, or other generally adopted means of providing financial assistance.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $3,000,000 annually to carry out this section, to remain available until expended.

(e) REPEAL.—

(1) IN GENERAL.—This section is repealed as of the date that is 10 years after the date of enactment of this section.

(2) NO EFFECT ON GENERAL AUTHORITY.—The Secretary may continue to conduct battlefield studies in accordance with other authorities available to the Secretary.

(3) UNOBLIGATED FUNDS.—Any funds made available under this section that remain unobligated shall be credited to the general fund of the Treasury.

SEC. 605. CHICKAMAUGA AND CHATTANOOGA NATIONAL MILITARY PARKS.

Section 1(c) of the Act entitled "An Act to authorize and direct the National Park Service to assist the State of Georgia in relocating a highway affecting the Chickamauga and Chattanooga National Military Park in Georgia", approved December 24, 1987 (101 Stat. 1442), is amended by striking "$30,000,000" and inserting "$51,900,000".

SEC. 606. SHENANDOAH VALLEY BATTLEFIELDS.

Shenandoah Valley Battlefields National Historic District and Commission Act of 1996.
16 USC 461 note.

(a) SHORT TITLE.—This section may be cited as the "Shenandoah Valley Battlefields National Historic District and Commission Act of 1996".

(b) CONGRESSIONAL FINDINGS.—The Congress finds that—

(1) there are situated in the Shenandoah Valley in the Commonwealth of Virginia the sites of several key Civil War battles;

(2) certain sites, battlefields, structures, and districts in the Shenandoah Valley are collectively of national significance in the history of the Civil War;

(3) in 1992, the Secretary of the Interior issued a comprehensive study of significant sites and structures associated with Civil War battles in the Shenandoah Valley, and found that many of the sites within the Shenandoah Valley possess national significance and retain a high degree of historical integrity;

(4) the preservation and interpretation of these sites will make a vital contribution to the understanding of the heritage of the United States;

(5) the preservation of Civil War sites within a regional framework requires cooperation among local property owners and Federal, State, and local government entities; and

(6) partnerships between Federal, State, and local governments, the regional entities of such governments, and the private sector offer the most effective opportunities for the enhancement and management of the Civil War battlefields and related sites in the Shenandoah Valley.

(c) STATEMENT OF PURPOSE.—The purposes of this section are to—

(1) preserve, conserve, and interpret the legacy of the Civil War in the Shenandoah Valley;

(2) recognize and interpret important events and geographic locations representing key Civil War battles in the

Shenandoah Valley, including those battlefields associated with the Thomas J. (Stonewall) Jackson campaign of 1862 and the decisive campaigns of 1864;

(3) recognize and interpret the effect of the Civil War on the civilian population of the Shenandoah Valley during the war and postwar reconstruction period; and

(4) create partnerships among Federal, State, and local governments, the regional entities of such governments, and the private sector to preserve, conserve, enhance, and interpret the nationally significant battlefields and related sites associated with the Civil War in the Shenandoah Valley.

(d) DEFINITIONS.—As used in this section:

(1) The term "District" means the Shenandoah Valley Battlefields National Historic District established by section 5.

(2) The term "Commission" means the Shenandoah Valley Battlefields National Historic District Commission established by section 9.

(3) The term "plan" means the Shenandoah Valley Battlefields National Historic District Commission plan approved by the Secretary under section 6.

(4) The term "management entity" means a unit of government or nonprofit organization designated by the plan to manage and administer the District.

(5) The term "Secretary" means the Secretary of the Interior.

(6) The term "Shenandoah Valley" means the Shenandoah Valley in the Commonwealth of Virginia.

(e) SHENANDOAH VALLEY BATTLEFIELDS NATIONAL HISTORIC DISTRICT.—

(1) ESTABLISHMENT.—To carry out the purposes of this section, there is hereby established the Shenandoah Valley Battlefields National Historic District in the Commonwealth of Virginia.

(2) BOUNDARIES.—(A) The corridor shall consist of lands and interests therein as generally depicted on the map entitled "Shenandoah Valley National Battlefields", numbered SHVA/80,000, and dated April 1994.

(B) The District shall consist of historic transportation routes linking the units depicted on the map referred to in subparagraph (A).

(C) The map referred to in subparagraph (A) shall be on file and available for public inspection in the offices of the Commission, the management entity, and in the appropriate offices of the National Park Service.

(f) SHENANDOAH VALLEY BATTLEFIELDS NATIONAL HISTORIC DISTRICT PLAN.—

(1) IN GENERAL.—The District shall be managed and administered by the Commission and the management entity in accordance with the purposes of this Act and the Shenandoah Valley Battlefields National Historic District plan developed by the Commission and approved by the Secretary, as provided in this subsection.

(2) SPECIFIC PROVISIONS.—The plan shall include—

(A) an inventory which includes any property in the District which should be preserved, restored, managed,

maintained, or acquired because of its national historic significance;

(B) provisions for the protection and interpretation of the natural, cultural, and historic resources of the District consistent with the purposes of this section;

(C) provisions for the establishment of a management entity which shall be a unit of government or a private nonprofit organization that administers and manages the District consistent with the plan, and possesses the legal ability to—

(i) receive Federal funds and funds from other units of government or other organizations for use in preparing and implementing the management plan;

(ii) disburse Federal funds to other units of government or other nonprofit organizations for use in preparing and implementing the plan;

(iii) enter into agreements with the Federal, State, or other units of government and nonprofit organizations;

(iv) acquire lands or interests therein by gift or devise, or by purchase from a willing seller using donated or appropriated funds, or by donation and no lands or interests therein may be acquired by condemnation; and

(v) make such reasonable and necessary modifications to the plan which shall be approved by the Secretary;

(D) recommendations to the Commonwealth of Virginia (and political subdivisions thereof) for the management, protection, and interpretation of the natural, cultural, and historical resources of the District;

(E) identification of appropriate partnerships between the Federal, State, and local governments and regional entities, and the private sector, in furtherance of the purposes of this section;

(F) locations for visitor contact and major interpretive facilities;

(G) provisions for implementing a continuing program of interpretation and visitor education concerning the resources and values of the District;

(H) provisions for a uniform historical marker and wayside exhibit program in the District, including a provision for marking, with the consent of the owner, historic structures and properties that are contained within the historic core areas and contribute to the understanding of the District;

(I) recommendations for means of ensuring continued local involvement and participation in the management, protection, and development of the District; and

(J) provisions for appropriate living history demonstrations and battlefield reenactments.

(3) PREPARATION OF DRAFT PLAN.—(A) Not later than 3 years after the date on which the Commission conducts its first meeting, the Commission shall submit to the Secretary a draft plan that meets the requirements of paragraph (2).

(B) Prior to submitting the draft plan to the Secretary, the Commission shall ensure that—

(i) the Commonwealth of Virginia, and any political subdivision thereof that would be affected by the plan, receives a copy of the draft plan;

(ii) adequate notice of the availability of the draft plan is provided through publication in appropriate local newspapers in the area of the District; and

(iii) at least 1 public hearing in the vicinity of the District is conducted by the Commission with respect to the draft plan.

(4) REVIEW OF THE PLAN BY THE SECRETARY.—The Secretary shall review the draft plan submitted under paragraph (3) and, not later than 90 days after the date on which the draft plan is submitted, shall either—

(A) approve the draft plan as the plan if the Secretary finds that the plan, when implemented, would adequately protect the significant historical and cultural resources of the District; or

(B) reject the draft plan and advise the Commission in writing of the reasons therefore and indicate any recommendations for revisions that would make the draft plan acceptable.

(g) DUTIES OF THE SECRETARY.—

(1) IN GENERAL.—The Secretary may award grants, provide technical assistance and enter into cooperative agreements with the Commission, management entity, other units of government, or other persons to provide for the preservation and interpretation of the natural, cultural, and historical resources within the District.

(2) TECHNICAL ASSISTANCE.—The Secretary may make grants, provide technical assistance, and enter into cooperative agreements for—

(A) the preparation and implementation of the plan pursuant to subsection (f);

(B) interpretive and educational programs;

(C) acquiring lands or interests in lands from willing sellers;

(D) capital projects and improvements undertaken pursuant to the plan; and

(E) facilitating public access to historic resources within the District.

(3) EARLY ACTIONS.—After enactment of this Act but prior to approval of the plan, the Secretary may provide technical and financial assistance for early actions which are important to the purposes of this Act and which protect and preserve resources in imminent danger of irreversible damage but for the fact of such early action.

(4) ACQUISITION OF LAND.—The Secretary may acquire land and interests in lands from a willing seller or donee within the District that have been specifically identified by the Commission for acquisition by the Federal Government. No lands or interests therein may be acquired by condemnation.

(5) DETAIL.—Each fiscal year during the existence of the Commission and upon request of the Commission, the Secretary shall detail to the Commission, on a nonreimbursable basis, 2 employees of the Department of the Interior to enable the Commission to carry out the Commission's duties under section

9. Such detail shall be without interruption or loss of civil service status, benefits, or privileges.

(6) REPORT.—Not later than 2 years after approval of the plan, the Secretary shall submit to Congress a report recommending whether the District or components thereof meet the criteria for designation as a unit of the National Park Service.

(7) OTHER ASSISTANCE.—Nothing in this section shall be deemed to prohibit the Secretary or units of government from providing technical or financial assistance under any other provision of law.

(h) SHENANDOAH VALLEY BATTLEFIELDS NATIONAL HISTORIC DISTRICT COMMISSION.—

(1) ESTABLISHMENT.—There is hereby established the Shenandoah Valley Battlefields National Historic District Commission.

(2) MEMBERSHIP.—The Commission shall be composed of 19 members, to be appointed by the Secretary as follows:

(A) 5 members representing local governments of communities in the vicinity of the District, appointed after the Secretary considers recommendations made by appropriate local governing bodies.

(B) 10 members representing property owners within the District (1 member within each unit of the battlefields).

(C) 1 member with demonstrated expertise in historic preservation.

(D) 1 member who is a recognized historian with expertise in Civil War history.

(E) The Governor of Virginia, or a designee of the Governor, ex officio.

(F) The Director of the National Park Service, or a designee of the Director, ex officio.

(3) APPOINTMENTS.—Members of the Commission shall be appointed for terms of 3 years. Any member of the Commission appointed for a definite term may serve after the expiration of the term until the successor of the member is appointed.

(4) ELECTION OF OFFICERS.—The Commission shall elect 1 of its members as Chairperson and 1 as Vice Chairperson. The Vice Chairperson shall serve as Chairperson in the absence of the Chairperson.

(5) VACANCY.—Any vacancy on the Commission shall be filled in the same manner in which the original appointment was made, except that the Secretary shall fill any vacancy within 30 days after the vacancy occurs.

(6) QUORUM.—Any majority of the Commission shall constitute a quorum.

(7) MEETINGS.—The Commission shall meet at the call of the Chairperson or a majority of the members of the Commission, but not less than quarterly. Notice of the Commission meetings and agendas for the meetings shall be published in local newspapers that have a distribution throughout the Shenandoah Valley. Meetings of the Commission shall be subject to section 552b of title 5, United States Code (relating to open meetings).

(8) STAFF OF THE COMMISSION.—The Commission shall have the power to appoint and fix the compensation of such staff as may be necessary to carry out its duties.

(9) ADMINISTRATIVE SUPPORT SERVICES.—The Administrator of the General Services Administration shall provide to the Commission, without reimbursement, such administrative support services as the Commission may request.

(10) FEDERAL AGENCIES.—Upon request of the Commission, the head of any Federal agency may detail to the Commission or management entity, without reimbursement, personnel of the agency to assist the commission or management entity in carrying out its duties and such detail shall be without interruption or loss of civil service status, benefits, or privileges.

(11) SUBPOENAS.—The Commission may not issue subpoenas or exercise any subpoena authority.

(12) EXPENSES.—Members of the Commission shall serve without compensation, but the Secretary may reimburse members for expenses reasonably incurred in carrying out the responsibilities of the Commission under this Act.

(13) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(14) GIFTS.—The Commission may, for purposes of carrying out the duties of the Commission, seek, accept, and dispose of gifts, bequests, or donations of money, personal or real property, or services received from any source.

(15) TERMINATION.—The Commission shall terminate at the expiration of the 45-day period beginning on the date on which the Secretary approves the plan under subsection (f)(4).

(i) DUTIES OF THE COMMISSION.—

(1) IN GENERAL.—The Commission shall—

(A) develop the plan and draft plan referred to in subsection (f), in consultation with the Secretary;

(B) assist the Commonwealth of Virginia, and any political subdivision thereof, in the management, protection, and interpretation of the natural, cultural, and historical resources within the District, except that the Commission shall in no way infringe upon the authorities and policies of the Commonwealth of Virginia or any political subdivision; and

(C) take appropriate action to encourage protection of the natural, cultural, and historic resources within the District by landowners, local governments, organizations, and businesses.

(j) AUTHORIZATION OF APPROPRIATION.—

(1) IN GENERAL.—From the amounts made available to carry out the National Historic Preservation Act, there are authorized to be appropriated to the Commission not more than $250,000 annually to remain available until expended.

(2) ASSISTANCE.—(A) From the amounts made available to carry out the National Historic Preservation Act, there are authorized to be appropriated to the Secretary for grants and technical assistance pursuant to subsections (g) (1), (2), and (3) not more than $2,000,000 annually to remain available until expended.

(B) The Federal share of any funds awarded under subsection (g)(2) may not exceed the amount of non-Federal funds provided for the preservation, interpretation, planning, development, or implementation with respect to which the grant is awarded.

(3) LAND ACQUISITION.—From the amounts made available to carry out the National Historic Preservation Act, there are authorized to be appropriated for land acquisition pursuant to subsection (g)(4) not more than $2,000,000 annually to remain available until expended.

(4) MANAGEMENT ENTITY.—From the amounts made available to carry out the National Historic Preservation Act, there are authorized to be appropriated to the management entity not more than $500,000 annually to remain available until expended.

16 USC 461 note.

SEC. 607. WASHITA BATTLEFIELD.

(a) FINDINGS AND PURPOSES.—

(1) FINDINGS.—The Congress finds that—

(A) the Battle of the Washita, November 27, 1868, was one of the largest engagements between Plains tribes and the United States Army on the Southern Great Plains. The site is a registered National Historic Landmark;

(B) Lt. Colonel George A. Custer, leading the 7th United States Cavalry, attacked the sleeping Cheyenne village of peace chief Black Kettle. Custer's attack resulted in more than 150 Indian casualties, many of them women and children;

(C) the Battle of the Washita symbolizes the struggle of the Southern Great Plains tribes to maintain their traditional lifeways and not to submit to reservation confinement; and

(D) the Washita battle site possesses a high degree of integrity and the cultural landscape is essentially intact. The Cheyenne village site has not been altered substantially except by periodic flooding of the Washita River.

(2) PURPOSES.—The purposes of this section are to—

(A) recognize the importance of the Battle of the Washita as a nationally significant element of frontier military history and as a symbol of the struggles of the Southern Great Plains tribes to maintain control of their traditional use areas; and

(B) establish the site of the Battle of the Washita as a national historic site and provide opportunities for American Indian groups including the Cheyenne-Arapaho Tribe to be involved in the formulation of plans and educational programs for the national historic site.

(b) ESTABLISHMENT.—

(1) IN GENERAL.—In order to provide for the preservation and interpretation of the Battle of the Washita, there is hereby established the Washita Battlefield National Historic Site in the State of Oklahoma (hereafter in this section referred to as the "national historic site").

(2) BOUNDARY.—

(A) IN GENERAL.—The national historic site shall consist of—

(i) approximately 326 acres, as generally depicted on the map entitled "Washita Battlefield National Historic Site", numbered 22,000A and dated 12/95; and

(ii) the private lands subject to conservation easements referred to in subsection (d)(2).

(B) MAP.—The map referred to in subparagraph (A)(i) shall be on file in the offices of the Director of the National Park Service, Department of the Interior, and other appropriate offices of the National Park Service. The Secretary of the Interior (hereafter in this section referred to as the "Secretary") may, from time to time, make minor revisions in the boundary of the national historic site in accordance with section 7(c) of the Land and Water Conservation Act of 1965 (16 U.S.C. 460l–4 et seq.).

(c) ADMINISTRATION.—

(1) IN GENERAL.—The Secretary, acting through the Director of the National Park Service, shall manage the national historic site in accordance with this section and the provisions of law generally applicable to units of the National Park System, including "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2–4), and the Act of August 21, 1935 (49 Stat. 666; U.S.C. 461–467).

(2) MANAGEMENT PURPOSES.—The Secretary shall manage the national historic site for the following purposes, among others:

(A) To protect and preserve the national historic site, including the topographic features important to the battle site, artifacts and other physical remains of the battle, and the visual scene as closely as possible as it was at the time of the battle.

(B) To interpret the cultural and natural resources of the historic site, providing for public understanding and appreciation of the area in such manner as to perpetuate these qualities and values for future generations.

(3) CONSULTATION AND TRAINING.—The Secretary, acting through the Director of the National Park Service, shall consult regularly with the Cheyenne-Arapaho Tribe on the formulation of the management plan provisions referred to in subsection (e)(5) and on preparation of educational programs provided to the public. The Secretary is authorized to enter into cooperative agreements with the Cheyenne-Arapaho Tribe, its subordinate boards, committees, enterprises, and traditional leaders to further the purposes of this Act. Contracts.

(d) ACQUISITION OF PROPERTY.—

(1) PARK BOUNDARIES.—Within the boundaries of the national historic site, the Secretary is authorized to acquire lands and interests in lands by donation, purchase with donated or appropriated funds, or exchange, except that—

(A) no lands or interests in lands within the historic site may be acquired without the consent of the owner thereof, and

(B) lands and interests in lands owned by the State of Oklahoma or any political subdivision thereof may be acquired only by donation.

(2) CONSERVATION EASEMENTS.—The Congress finds that the State of Oklahoma, acting through the Oklahoma Historical Society, will work with local land owners to acquire and hold in perpetuity conservation easements in the vicinity of the national historic site as deemed necessary for the visual and interpretive integrity of the site. The intent of the easements

will be to keep occupancy of the land in private ownership and use of the land in general agriculture.

(e) MANAGEMENT PLAN.—Within 5 years after the date funds are made available for purposes of this section, the Secretary, acting through the Director of the National Park Service, shall prepare a general management plan for the national historic site. The plan shall address, but not be limited to, each of the following:

(1) A resource protection program.

(2) A visitor use plan including programs and facilities that will be provided for public use, including the location and cost of public facilities.

(3) A research and curation plan.

(4) A highway signing program.

(5) Involvement by the Cheyenne-Arapaho Tribe in the formulation of educational programs for the national historic site.

(6) Involvement by the State of Oklahoma and other local and national entities willing to share in the responsibilities of developing and supporting the national historic site.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section for land acquisition and development not more than $5,000,000.

TITLE VII—FEES

16 USC 497c.

SEC. 701. SKI AREA PERMIT RENTAL CHARGE.

(a) The Secretary of Agriculture shall charge a rental charge for all ski area permits issued pursuant to section 3 of the National Forest Ski Area Permit Act of 1986 (16 U.S.C. 497b), the Act of March 4, 1915 (38 Stat. 1101, chapter 144; 16 U.S.C. 497), or the 9th through 20th paragraphs under the heading "SURVEYING THE PUBLIC LANDS" under the heading "UNDER THE DEPARTMENT OF THE INTERIOR" in the Act of June 4, 1897 (30 Stat. 34, chapter 2), on National Forest System lands. Permit rental charges for permits issued pursuant to the National Forest Ski Area Permit Act of 1986 shall be calculated as set forth in subsection (b). Permit rental charges for existing ski area permits issued pursuant to the Act of March 4, 1915, and the Act of June 4, 1897, shall be calculated in accordance with those existing permits: *Provided,* That a permittee may, at the permittee's option, use the calculation method set forth in subsection (b).

(b)(1) The ski area permit rental charge (SAPRC) shall be calculated by adding the permittee's gross revenues from lift ticket/year-round ski area use pass sales plus revenue from ski school operations (LT+SS) and multiplying such total by the slope transport feet percentage (STFP) on National Forest System land. That amount shall be increased by the gross year-round revenue from ancillary facilities (GRAF) physically located on national forest land, including all permittee or subpermittee lodging, food service, rental shops, parking and other ancillary operations, to determine the adjusted gross revenue (AGR) subject to the permit rental charge. The final rental charge shall be calculated by multiplying the AGR by the following percentages for each revenue bracket and adding the total for each revenue bracket:

(A) 1.5 percent of all adjusted gross revenue below $3,000,000;

(B) 2.5 percent for adjusted gross revenue between $3,000,000 and $15,000,000;

(C) 2.75 percent for adjusted gross revenue between $15,000,000 and $50,000,000; and

(D) 4.0 percent for the amount of adjusted gross revenue that exceeds $50,000,000.

Utilizing the abbreviations indicated in this subsection the ski area permit fee (SAPF) formula can be simply illustrated as:

SAPF = ((LT + SS) × STFP) + GRAF = AGR; AGR × % BRACKETS

(2) In cases where ski areas are only partially located on national forest lands, the slope transport feet percentage on national forest land referred to in subsection (b) shall be calculated as generally described in the Forest Service Manual in effect as of January 1, 1992. Revenues from Nordic ski operations shall be included or excluded from the rental charge calculation according to the percentage of trails physically located on national forest land.

(3) In order to ensure that the rental charge remains fair and equitable to both the United States and the ski area permittees, the adjusted gross revenue figures for each revenue bracket in paragraph (1) shall be adjusted annually by the percent increase or decrease in the national Consumer Price Index for the preceding calendar year. No later than 3 years after the date of enactment of this Act and every 5 years thereafter the Secretary shall submit to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the United States House of Representatives a report analyzing whether the ski area permit rental charge legislated by this Act is returning a fair market value rental to the United States together with any recommendations the Secretary may have for modifications of the system. Reports.

(c) The rental charge set forth in subsection (b) shall be due on June 1 of each year and shall be paid or prepaid by the permittee on a monthly, quarterly, annual or other schedule as determined appropriate by the Secretary in consultation with the permittee. Unless mutually agreed otherwise by the Secretary and the permittee, the payment or prepayment schedule shall conform to the permittee's schedule in effect prior to enactment of this Act. To reduce costs to the permittee and the Forest Service, the Secretary shall each year provide the permittee with a standardized form and worksheets (including annual rental charge calculation brackets and rates) to be used for rental charge calculation and submitted with the rental charge payment. Information provided on such forms shall be compiled by the Secretary annually and kept in the Office of the Chief, United States Forest Service.

(d) The ski area permit rental charge set forth in this section shall become effective on June 1, 1996 and cover receipts retroactive to June 1, 1995: *Provided,* That if a permittee has paid rental charges for the period June 1, 1995, to June 1, 1996, under the graduated rate rental charge system formula in effect prior to the date of enactment of this Act, such rental charges shall be credited toward the new rental charge due on June 1, 1996. In order to ensure increasing rental charge receipt levels to the United States during transition from the graduated rate rental charge system formula to the formula of this Act, the rental charge paid by any individual permittee shall be—

(1) for the 1995–1996 permit year, either the rental charge paid for the preceding 1994–1995 base year or the rental charge calculated pursuant to this Act, whichever is higher;

(2) for the 1996–1997 permit year, either the rental charge paid for the 1994–1995 base year or the rental charge calculated pursuant to this Act, whichever is higher; and

(3) for the 1997–1998 permit year, either the rental charge for the 1994–1995 base year or the rental charge calculated pursuant to this Act, whichever is higher.

If an individual permittee's adjusted gross revenue for the 1995–1996, 1996–1997, or 1997–1998 permit years falls more than 10 percent below the 1994–1995 base year, the rental charge paid shall be the rental charge calculated pursuant to this Act.

(e) Under no circumstances shall revenue, or subpermittee revenue (other than lift ticket, area use pass, or ski school sales) obtained from operations physically located on non-national forest land be included in the ski area permit rental charge calculation.

(f) To reduce administrative costs of ski area permittees and the Forest Service the terms "revenue" and "sales", as used in this section, shall mean actual income from sales and shall not include sales of operating equipment, refunds, rent paid to the permittee by sublessees, sponsor contributions to special events or any amounts attributable to employee gratuities or employee lift tickets, discounts, or other goods or services (except for bartered goods and complimentary lift tickets) for which the permittee does not receive money.

(g) In cases where an area of national forest land is under a ski area permit but the permittee does not have revenue or sales qualifying for rental charge payment pursuant to subsection (a), the permittee shall pay an annual minimum rental charge of $2 for each national forest acre under permit or a percentage of appraised land value, as determined appropriate by the Secretary.

(h) Where the new rental charge provided for in subsection (b)(1) results in an increase in permit rental charge greater than one-half of 1 percent of the permittee's adjusted gross revenue as determined under subsection (b)(1), the new rental charge shall be phased in over a five-year period in a manner providing for increases of approximately equal increments.

(i) To reduce Federal costs in administering the provisions of this Act, the reissuance of a ski area permit to provide activities similar in nature and amount to the activities provided under the previous permit shall not constitute a major Federal action for the purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4331 et seq.).

(j) Subject to valid existing rights, all lands located within the boundaries of ski area permits issued prior to, on or after the date of enactment of this Act pursuant to authority of the Act of March 4, 1915 (38 Stat. 1101, chapter 144; 16 U.S.C. 497), and the Act of June 4, 1897, or the National Forest Ski Area Permit Act of 1986 (16 U.S.C. 497b) are hereby and henceforth automatically withdrawn from all forms of appropriation under the mining laws and from disposition under all laws pertaining to mineral and geothermal leasing and all amendments thereto. Such withdrawal shall continue for the full term of the permit and any modification, reissuance, or renewal thereof. Unless the Secretary requests otherwise of the Secretary of the Interior, such withdrawal shall be canceled automatically upon expiration or other

termination of the permit and the land automatically restored to all appropriation not otherwise restricted under the public land laws.

SEC. 702. DELAWARE WATER GAP.

(a) IN GENERAL.—Effective at noon on September 30, 2005, the use of Highway 209 within Delaware Water Gap National Recreation Area by commercial vehicles, when such use is not connected with the operation of the recreation area, is prohibited, except as provided in subsection (b). Effective date.

(b) LOCAL BUSINESS USE PROTECTED.—Subsection (a) does not apply with respect to the use of commercial vehicles to serve businesses located within or in the vicinity of the recreation area, as determined by the Secretary.

(c) CONFORMING PROVISIONS.—

(1) Paragraphs (1) through (3) of the third undesignated paragraph under the heading "ADMINISTRATIVE PROVISIONS" in chapter VII of title I of Public Law 98–63 (97 Stat. 329) are repealed, effective September 30, 2005.

(2) Prior to noon on September 30, 2005, the Secretary shall collect and utilize a commercial use fee from commercial vehicles in accordance with paragraphs (1) through (3) of such third undesignated paragraph. Such fee shall not exceed $25 per trip.

SEC. 703. GLACIER BAY NATIONAL PARK.

Section 3(g) of Public Law 91–383 (16 U.S.C. 1a–2(g)) is amended by: striking "and park programs" and inserting the following at the end: "Sixty percent of the fees paid by permittees for the privilege of entering into Glacier Bay for the period beginning on the first full fiscal year following the date of enactment of this sentence shall be deposited into a special account and that such funds shall be available—

"(1) to the extent determined necessary, to acquire and preposition necessary and adequate emergency response equipment to prevent harm or the threat of harm to aquatic park resources from permittees; and

"(2) to conduct investigations to quantify any effect of permittees' activity on wildlife and other natural resource values of Glacier Bay National Park. The investigations provided for in this subsection shall be designed to provide information of value to the Secretary, in determining any appropriate limitations on permittees' activity in Glacier Bay. The Secretary may not impose any additional permittee operating conditions in the areas of air, water, and oil pollution beyond those determined and enforced by other appropriate agencies. When competitively awarding permits to enter Glacier Bay, the Secretary may take into account the relative impact particular permittees will have on park values and resources, provided that no operating conditions or limitations relating to noise abatement shall be imposed unless the Secretary determines, based on the weight of the evidence from all available studies including verifiable scientific information from the investigations provided for in this subsection, that such limitations or conditions are necessary to protect park values and resources. Fees paid by certain permittees for the privilege of entering into Glacier Bay shall not exceed $5 per passenger. For the purposes of this subsection, 'certain permittee' shall

mean a permittee which provides overnight accommodations for at least 500 passengers for an itinerary of at least 3 nights, and 'permittee' shall mean a concessionaire providing visitor services within Glacier Bay. Nothing in this subsection authorizes the Secretary to require additional categories of permits in, or otherwise increase the number of permits to enter Glacier Bay National Park.".

TITLE VIII—MISCELLANEOUS ADMINISTRATIVE AND MANAGEMENT PROVISIONS

SEC. 801. LIMITATION ON PARK BUILDINGS.

The 10th undesignated paragraph (relating to a limitation on the expenditure of funds for park buildings) under the heading "MISCELLANEOUS OBJECTS, DEPARTMENT OF THE INTERIOR", which appears under the heading "UNDER THE DEPARTMENT OF THE INTERIOR", as contained in the first section of the Act of August 24, 1912 (37 Stat. 460), as amended (16 U.S.C. 451), is hereby repealed.

SEC. 802. APPROPRIATIONS FOR TRANSPORTATION OF CHILDREN.

The first section of the Act of August 7, 1946 (16 U.S.C. 17j–2), is amended by adding at the end the following:

"(j) Provide transportation for children in nearby communities to and from any unit of the National Park System used in connection with organized recreation and interpretive programs of the National Park Service.".

SEC. 803. FERAL BURROS AND HORSES.

(a) VEHICLES AND AIRCRAFT.—Section 9 of the Act of December 15, 1971 (16 U.S.C. 1338a), is amended by adding at the end thereof the following: "Nothing in this title shall be deemed to limit the authority of the Secretary in the management of units of the National Park System, and the Secretary may, without regard either to the provisions of this title, or the provisions of section 47(a) of title 18, United States Code, use motor vehicles, fixed-wing aircraft, or helicopters, or to contract for such use, in furtherance of the management of the National Park System, and section 47(a) of title 18, United States Code, shall be applicable to such use.".

(b) OZARK NATIONAL SCENIC RIVERWAYS.—Section 7 of the Act entitled "An Act to provide for the establishment of the Ozark National Scenic Riverways in the State of Missouri, and for other purposes", approved August 27, 1964 (16 U.S.C. 460m–6), is amended to read as follows:

"SEC. 7. (a) The Secretary, in accordance with this section, shall allow free-roaming horses in the Ozark National Scenic Riverways. Within 180 days after enactment of this section, the Secretary shall enter into an agreement with the Missouri Wild Horse League or another qualified nonprofit entity to provide for management of free-roaming horses. The agreement shall provide for cost-effective management of the horses and limit Federal expenditures to the costs of monitoring the agreement. The Secretary shall issue permits for adequate pastures to accommodate

Contracts.

the historic population level of the free-roaming horse herd, which shall be not less than the number of horses in existence on the date of the enactment of this section nor more than 50.

"(b) The Secretary may not remove, or assist in, or permit the removal of any free-roaming horses from Federal lands within the boundary of the Ozark National Scenic Riverways unless—

"(1) the entity with whom the Secretary has entered into the agreement under subsection (a), following notice and a 90-day response period, substantially fails to meet the terms and conditions of the agreement;

"(2) the number of free-roaming horses exceeds 50; or

"(3) in the case of an emergency or to protect public health and safety, as defined in the agreement.

"(c) Nothing in this section shall be construed as creating liability for the United States for any damages caused by the free-roaming horses to property located inside or outside the boundaries of the Ozark National Scenic Riverways.".

SEC. 804. AUTHORITIES OF THE SECRETARY OF THE INTERIOR RELATING TO MUSEUMS.

(a) FUNCTIONS.—The Act entitled "An Act to increase the public benefits from the National Park System by facilitating the management of museum properties relating thereto, and for other purposes" approved July 1, 1955 (16 U.S.C. 18f), is amended—

(1) in subsection (b) of the first section, by striking out "from such donations and bequests of money"; and

(2) by adding at the end thereof the following:

"SEC. 2. ADDITIONAL FUNCTIONS. 16 USC 18f–2.

"(a) MUSEUM OBJECTS AND COLLECTIONS.—In addition to the functions specified in the first section of this Act, the Secretary of the Interior may perform the following functions in such manner as he shall consider to be in the public interest:

"(1) Transfer museum objects and museum collections that the Secretary determines are no longer needed for museum purposes to qualified Federal agencies, including the Smithsonian Institution, that have programs to preserve and interpret cultural or natural heritage, and accept the transfer of museum objects and museum collections for the purposes of this Act from any other Federal agency, without reimbursement. The head of any other Federal agency may transfer, without reimbursement, museum objects and museum collections directly to the administrative jurisdiction of the Secretary of the Interior for the purpose of this Act.

"(2) Convey museum objects and museum collections that the Secretary determines are no longer needed for museum purposes, without monetary consideration but subject to such terms and conditions as the Secretary deems necessary, to private institutions exempt from Federal taxation under section 501(c)(3) of the Internal Revenue Code of 1986 and to non-Federal governmental entities if the Secretary determines that the recipient is dedicated to the preservation and interpretation of natural or cultural heritage and is qualified to manage the property, prior to any conveyance under this subsection.

"(3) Destroy or cause to be destroyed museum objects and museum collections that the Secretary determines to have no scientific, cultural, historic, educational, esthetic, or monetary value.

"(b) REVIEW AND APPROVAL.—The Secretary shall ensure that museum collections are treated in a careful and deliberate manner that protects the public interest. Prior to taking any action under subsection (a), the Secretary shall establish a systematic review and approval process, including consultation with appropriate experts, that meets the highest standards of the museum profession for all actions taken under this section.".

(b) APPLICATION AND DEFINITIONS.—The Act entitled "An Act to increase the public benefits from the National Park System by facilitating the management of museum properties relating thereto, and for other purposes" approved July 1, 1955 (16 U.S.C. 18f), as amended by subsection (a), is further amended by adding the following after section 2:

16 USC 18f–3.

"SEC. 3. APPLICATION AND DEFINITIONS.

"(a) APPLICATION.—Authorities in this Act shall be available to the Secretary of the Interior with regard to museum objects and museum collections that were under the administrative jurisdiction of the Secretary for the purposes of the National Park System before the date of enactment of this section as well as those museum objects and museum collections that may be acquired on or after such date.

"(b) DEFINITION.—For the purposes of this Act, the terms 'museum objects' and 'museum collections' mean objects that are eligible to be or are made part of a museum, library, or archive collection through a formal procedure, such as accessioning. Such objects are usually movable and include but are not limited to prehistoric and historic artifacts, works of art, books, documents, photographs, and natural history specimens.".

SEC. 805. VOLUNTEERS IN PARKS INCREASE.

Section 4 of the Volunteers in the Parks Act of 1969 (16 U.S.C. 18j) is amended by striking out "$1,000,000" and inserting in lieu thereof "$3,500,000".

SEC. 806. CARL GARNER FEDERAL LANDS CLEANUP DAY.

36 USC 169i, 169i–1.

The Federal Lands Cleanup Act of 1985 (36 U.S.C. 169i–169–1) is amended by striking the terms "Federal Lands Cleanup Day" each place it appears and inserting "Carl Garner Federal Lands Cleanup Day".

SEC. 807. FORT PULASKI NATIONAL MONUMENT, GEORGIA.

16 USC 431 note.

Section 4 of the Act of June 26, 1936 (ch. 844; 49 Stat. 1979), is amended by striking ": *Provided,* That" and all that follows and inserting a period.

16 USC 230 note.

SEC. 808. LAURA C. HUDSON VISITOR CENTER.

(a) DESIGNATION.—The visitor center at Jean Lafitte National Historical Park, located at 419 Rue Decatur in New Orleans, Louisiana, is hereby designated as the "Laura C. Hudson Visitor Center".

(b) LEGAL REFERENCES.—Any reference in any law, regulation, paper, record, map, or any other document of the United States to the visitor center referred to in subsection (a) shall be deemed to be a reference to the "Laura C. Hudson Visitor Center".

SEC. 809. ROBERT J. LAGOMARSINO VISITOR CENTER. 16 USC 410ff note.

(a) DESIGNATION.—The visitor center at the Channel Islands National Park, California, is designated as the "Robert J. Lagomarsino Visitor Center".

(b) LEGAL REFERENCES.—Any reference in any law, regulation, document, record, map, or other document of the United States to the visitor center referred to in section 301 is deemed to be a reference to the "Robert J. Lagomarsino Visitor Center".

SEC. 810. EXPENDITURE OF FUNDS OUTSIDE AUTHORIZED BOUNDARY OF ROCKY MOUNTAIN NATIONAL PARK. 16 USC 195 note.

The Secretary of the Interior is authorized to collect and expend donated funds and expend appropriated funds for the operation and maintenance of a visitor center to be constructed for visitors to and administration of Rocky Mountain National Park with private funds on privately owned lands located outside the boundary of the park.

SEC. 811. DAYTON AVIATION. 16 USC 410ww–21.

Section 201(b) of the Dayton Aviation Heritage Preservation Act of 1992 (Public Law 102–419, approved October 16, 1992), is amended as follows:

(1) In paragraph (2), by striking "from recommendations" and inserting "after consideration of recommendations".

(2) In paragraph (4), by striking "from recommendations" and inserting "after consideration of recommendations".

(3) In paragraph (5), by striking "from recommendations" and inserting "after consideration of recommendations".

(4) In paragraph (6), by striking "from recommendations" and inserting "after consideration of recommendations".

(5) In paragraph (7), by striking "from recommendations" and inserting "after consideration of recommendations".

SEC. 812. PROHIBITION ON CERTAIN TRANSFERS OF NATIONAL FOREST LANDS.

After the date of the enactment of this Act the Secretary of Agriculture shall not transfer (by exchange or otherwise) any lands owned by the United States and managed by the Secretary as part of the Angeles National Forest to any person unless the instrument of conveyance contains a restriction, enforceable by the Secretary, on the future use of such land prohibiting the use of any portion of such land as a solid waste landfill. Such restriction shall be promptly enforced by the Secretary when and if a violation of the restriction occurs.

SEC. 813. GRAND LAKE CEMETERY.

(a) AGREEMENT.—Notwithstanding any other law, not later than 6 months after the date of enactment of this Act, the Secretary of the Interior shall enter into an appropriate form of agreement with the town of Grand Lake, Colorado, authorizing the town to maintain permanently, under appropriate terms and conditions, a cemetery within the boundaries of the Rocky Mountain National Park.

(b) CEMETERY BOUNDARIES.—The cemetery shall be comprised of approximately 5 acres of land, as generally depicted on the map entitled "Grand Lake Cemetery" and dated February 1995.

(c) AVAILABILITY FOR PUBLIC INSPECTION.—The Secretary of the Interior shall place the map described in subsection (b) on

file, and make the map available for public inspection, in the headquarters office of the Rocky Mountain National Park.

(d) LIMITATION.—The cemetery shall not be extended beyond the boundaries of the cemetery shown on the map described in subsection (b).

SEC. 814. NATIONAL PARK SERVICE ADMINISTRATIVE REFORM.

16 USC 17o.

(a) NATIONAL PARK SERVICE HOUSING IMPROVEMENT.—

(1) PURPOSES.—The purposes of this section are—

(A) to develop where necessary an adequate supply of quality housing units for field employees of the National Park Service within a reasonable time frame;

(B) to expand the alternatives available for construction and repair of essential Government housing;

(C) to rely on the private sector to finance or supply housing in carrying out this section, to the maximum extent possible, in order to reduce the need for Federal appropriations;

(D) to ensure that adequate funds are available to provide for long-term maintenance needs of field employee housing; and

(E) to eliminate unnecessary Government housing and locate such housing as is required in a manner such that primary resource values are not impaired.

(2) GENERAL AUTHORITY.—To enhance the ability of the Secretary of the Interior (hereafter in this subsection referred to as "the Secretary"), acting through the Director of the National Park Service, to effectively manage units of the National Park System, the Secretary is authorized where necessary and justified to make available employee housing, on or off the lands under the administrative jurisdiction of the National Park Service, and to rent or lease such housing to field employees of the National Park Service at rates based on the reasonable value of the housing in accordance with requirements applicable under section 5911 of title 5, United States Code.

(3) REVIEW AND REVISION OF HOUSING CRITERIA.—Upon the enactment of this Act, the Secretary shall review and revise the existing criteria under which housing is provided to employees of the National Park Service. Specifically, the Secretary shall examine the existing criteria with respect to what circumstances the National Park Service requires an employee to occupy Government quarters to provide necessary services, protect Government property, or because of a lack of availability of non-Federal housing in the geographic area.

(4) SUBMISSION OF REPORT.—A report detailing the results of the revisions required by paragraph (3) shall be submitted to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate not later than 180 days after the date of the enactment of this Act. The report shall include justifications for keeping, or for changing, each of the criteria or factors used by the Department of the Interior with regard to the provision of housing to employees of the National Park Service.

(5) REVIEW OF CONDITION OF AND COSTS RELATING TO HOUSING.—Using the revised criteria developed under paragraph (3), the Secretary shall undertake a review, for each

unit of the National Park System, of existing government-owned housing provided to employees of the National Park Service. The review shall include an assessment of the physical condition of such housing and the suitability of such housing to effectively carry out the missions of the Department of the Interior and the National Park Service. For each unit of such housing, the Secretary shall determine whether the unit is needed and justified. The review shall include estimates of the cost of bringing each unit that is needed and justified into usable condition that meets all applicable legal housing requirements or, if the unit is determined to be obsolete but is still warranted to carry out the missions of the Department of the Interior and the National Park Service, the cost of replacing the unit.

(6) AUTHORIZATION FOR HOUSING AGREEMENTS.—For those units of the National Park System for which the review required by paragraphs (3) and (5) has been completed, the Secretary is authorized, pursuant to the authorities contained in this subsection and subject to the appropriation of necessary funds in advance, to enter into housing agreements with housing entities under which such housing entities may develop, construct, rehabilitate, or manage housing, located on or off public lands, for rent or lease to National Park Service employees who meet the housing eligibility criteria developed by the Secretary pursuant to this Act.

(7) JOINT PUBLIC-PRIVATE SECTOR HOUSING PROGRAMS.—

(A) LEASE TO BUILD PROGRAM.—Subject to the appropriation of necessary funds in advance, the Secretary may—

(i) lease Federal land and interests in land to qualified persons for the construction of field employee quarters for any period not to exceed 50 years; and

(ii) lease developed and undeveloped non-Federal land for providing field employee quarters.

(B) COMPTETITIVE LEASING.—Each lease under subparagraph (A)(i) shall be awarded through the use of publicly advertised, competitively bid, or competitively negotiated contracting procedures.

(C) TERMS AND CONDITIONS.—Each lease under subparagraph (A)(i)—

(i) shall stipulate whether operation and maintenance of field employee quarters is to be provided by the lessee, field employees or the Federal Government;

(ii) shall require that the construction and rehabilitation of field employee quarters be done in accordance with the requirements of the National Park Service and local applicable building codes and industry standards;

(iii) shall contain such additional terms and conditions as may be appropriate to protect the Federal interest, including limits on rents the lessee may charge field employees for the occupancy of quarters, conditions on maintenance and repairs, and agreements on the provision of charges for utilities and other infrastructure; and

(iv) may be granted at less than fair market value if the Secretary determines that such lease will

improve the quality and availability of field employee quarters available.

(D) CONTRIBUTIONS BY UNITED STATES.—The Secretary may make payments, subject to appropriations, or contributions in kind either in advance of or on a continuing basis to reduce the costs of planning, construction, or rehabilitation of quarters on or off Federal lands under a lease under this paragraph.

(8) RENTAL GUARANTEE PROGRAM.—

(A) GENERAL AUTHORITY.—Subject to the appropriation of necessary funds in advance, the Secretary may enter into a lease to build arrangement as set forth in paragraph (7) with further agreement to guarantee the occupancy of field employee quarters constructed or rehabilitated under such lease. A guarantee made under this paragraph shall be in writing.

(B) LIMITATIONS.—The Secretary may not guarantee—

(i) the occupancy of more than 75 percent of the units constructed or rehabilitated under such lease; and

(ii) at a rental rate that exceeds the rate based on the reasonable value of the housing in accordance with requirements applicable under section 5911 of title 5, United States Code.

In no event shall outstanding guarantees be in excess of $3,000,000,

(C) RENTAL TO GOVERNMENT EMPLOYEES.—A guarantee may be made under this subsection only if the lessee agrees to permit the Secretary to utilize for housing purposes any units for which the guarantee is made

(D) FAILURE TO MAINTAIN A SATISFACTORY LEVEL OF OPERATION AND MAINTENANCE.—The lease shall be null and void if the lessee fails to maintain a satisfactory level of operation and maintenance.

(9) JOINT DEVELOPMENT AUTHORITY.—The Secretary may use authorities granted by statue in combination with one another in the furtherance of providing where necessary and justified affordable field employee housing.

(10) CONTRACTS FOR THE MANAGEMENT OF FIELD EMPLOYEE QUARTERS.—

(A) GENERAL AUTHORITY.—Subject to the appropriation of necessary funds in advance, the Secretary may enter into contracts of any duration for the management, repair, and maintenance of field employee quarters.

(B) TERMS AND CONDITIONS.—Any such contract shall contain such terms and conditions as the Secretary deems necessary or appropriate to protect the interests of the United States and assure that necessary quarters are available to field employees.

(11) LEASING OF SEASONAL EMPLOYEE QUARTERS.—

(A) GENERAL AUTHORITY.—Subject to subparagraph (B), the Secretary may lease quarters at or near a unit of the national park system for use as seasonal quarters for field employees. The rent charged to field employees under such a lease shall be a rate based on the reasonable value of the quarters in accordance with requirements

applicable under section 5911 of title 5, United States Code.

(B) LIMITATION.—The Secretary may only issue a lease under subparagraph (A) if the Secretary finds that there is a shortage of adequate and affordable seasonal quarters at or near such unit and that—

(i) the requirement for such seasonal field employee quarters is temporary; or

(ii) leasing would be more cost effective than construction of new seasonal field employee quarters.

(C) UNRECOVERED COSTS.—The Secretary may pay the unrecovered costs of leasing seasonal quarters under this paragraph from annual appropriations for the year in which such lease is made.

(12) SURVEY OF EXISTING FACILITIES.—The Secretary shall—

(A) complete a condition assessment for all field employee housing, including the physical condition of such housing and the necessity and suitability of such housing for carrying out the agency mission, using existing information; and

(B) develop an agency-wide priority listing, by structure, identifying those units in greatest need for repair, rehabilitation, replacement, or initial construction.

(13) USE OF HOUSING-RELATED FUNDS.—Expenditure of any funds authorized and appropriated for new construction, repair, or rehabilitation of housing under this section shall follow the housing priority listing established by the agency under paragraph (13), in sequential order, to the maximum extent practicable.

(14) ANNUAL BUDGET SUBMITTAL.—The President's proposed budget to Congress for the first fiscal year beginning after enactment of this Act, and for each subsequent fiscal year, shall include identification of nonconstruction funds to be spent for National Park Service housing maintenance and operations which are in addition to rental receipts collected.

(15) STUDY OF HOUSING ALLOWANCES.—Within 12 months after the date of enactment of this Act, the Secretary shall conduct a study to determine the feasibility of providing eligible employees of the National Park Service with housing allowances rather than Government housing. The study shall specifically examine the feasibility of providing rental allowances to temporary and lower paid permanent employees. Whenever the Secretary submits a copy of such study to the Office of Management and Budget, he shall concurrently transmit copies of the report to the Resources Committee of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate.

(16) STUDY OF SALE OF EMPLOYEE HOUSING.—Within 18 months of the date of the enactment of the Act, the Secretary shall complete a study of the sale of Government quarters to a cooperative consisting of field employees. The Secretary shall examine the potential benefits to the Government as well as the employees and any risks associated with such a program.

(17) GENERAL PROVISIONS.—

(A) CONSTRUCTION LIMITATIONS ON FEDERAL LANDS.—The Secretary may not utilize any lands for the purposes of providing field employee housing under this section which will impact primary resource values of the area or adversely affect the mission of the agency.

(B) RENTAL RATES.—To the extent practicable, the Secretary shall establish rental rates for all quarters occupied by field employees of the National Park Service that are based on the reasonable value of the quarters in accordance with requirements applicable under section 5911 of title 5, United States Code.

(C) EXEMPTION FROM LEASING REQUIREMENTS.—The provisions of section 5 of the Act of July 15, 1968 (82 Stat. 354, 356; 16 U.S.C. 460l–22), and section 321 of the Act of June 30, 1932 (40 U.S.C. 303b; 47 Stat. 412), shall not apply to leases issued by the Secretary under this section.

(18) PROCEEDS.—The proceeds from any lease under paragraph (7)(A)(i)(I), any lease under paragraph (11)(B), and any lease of seasonal quarters under subsection (l), shall be retained by the National Park Service. Such proceeds shall be deposited into the special fund established for maintenance and operation of quarters.

(19) DEFINITIONS.—For purposes of this subsection:

(A) The term "field employee" means—

(i) an employee of the National Park Service who is exclusively assigned by the National Park Service to perform duties at a field unit, and the members of their family; and

(ii) other individuals who are authorized to occupy Government quarters under section 5911 of title 5, United States Code, and for whom there is no feasible alternative to the provision of Government housing, and the members of their family.

(B) The term "land management agency" means the National Park Service, Department of the Interior.

(C) The term "primary resource values" means resources which are specifically mentioned in the enabling legislation for that field unit or other resource value recognized under Federal statute.

(D) The term "quarters" means quarters owned or leased by the Government.

(E) The term "seasonal quarters" means quarters typically occupied by field employees who are hired on assignments of 6 months or less.

(b) MINOR BOUNDARY REVISION AUTHORITY.—Section 7(c) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–9(c)) is amended as follows:

(1) In the first sentence, by striking "Committee on Natural" and inserting "Committee on".

(2)(A) By striking ": *Provided, however,*" and all that follows through "1965"; and

(B) by inserting "(1)" after "(c)" and by inserting at the end the following:

"(2) For the purposes of clause (i) of paragraph (1), in all cases except the case of technical boundary revisions (resulting from such causes as survey error or changed road alignments),

the authority of the Secretary under such clause (i) shall apply only if each of the following conditions is met:

"(A) The sum of the total acreage of lands, waters, and interests therein to be added to the area and the total such acreage to be deleted from the area is not more than 5 percent of the total Federal acreage authorized to be included in the area and is less than 200 acres in size.

"(B) The acquisition, if any, is not a major Federal action significantly affecting the quality of the human environment, as determined by the Secretary.

"(C) The sum of the total appraised value of the lands, water, and interest therein to be added to the area and the total appraised value of the lands, waters, and interests therein to be deleted from the area does not exceed $750,000.

"(D) The proposed boundary revision is not an element of a more comprehensive boundary modification proposal.

"(E) The proposed boundary has been subject to a public review and comment period.

"(F) The Director of the National Park Service obtains written consent for the boundary modification from all property owners whose lands, water, or interests therein, or a portion of whose lands, water, or interests therein, will be added to or deleted from the area by the boundary modification.

"(G) The lands are adjacent to other Federal lands administered by the Director of the National Park Service.

"Minor boundary revisions involving only deletions of acreage owned by the Federal Government and administered by the National Park Service may be made only by Act of Congress.".

(c) AUTHORIZATION FOR PARK FACILITIES TO BE LOCATED OUTSIDE THE BOUNDARIES OF ZION NATIONAL PARK.—In order to facilitate the administration of Zion National Park, the Secretary of the Interior is authorized, under such terms and conditions as he may deem advisable, to expend donated or appropriated funds for the establishment of essential facilities for park administration and visitor use outside the boundaries, but within the vicinity, of the park. Such facilities and the use thereof shall be in conformity with approved plans for the park. The Secretary shall use existing facilities wherever feasible. Such facilities may only be constructed by the Secretary upon a finding that the location of such facilities would— 16 USC 346e.

(1) avoid undue degradation of natural or cultural resources within the park;

(2) enhance service to the public; or

(3) provide a cost saving to the Federal Government.

The Secretary is authorized to enter into cooperative agreements with State or local governments or private entities to undertake the authority granted under this subsection. The Secretary is encouraged to identify and utilize funding sources to supplement any Federal funding used for these facilities. Contracts.

(d) ELIMINATION OF UNNECESSARY CONGRESSIONAL REPORTING REQUIREMENTS.—

(1) REPEALS.—The following provisions are hereby repealed:

(A) Section 302(c) of the Act entitled "An Act to authorize the establishment of the Chattahoochee River National Recreation Area in the State of Georgia, and for other purposes (Public Law 95–344; 92 Stat. 478; 16 U.S.C. 2302(c)).

(B) Section 503 of the Act of December 19, 1980 (Public Law 96–550; 94 Stat. 3228; 16 U.S.C. 410ii–2).

(C) Subsections (b) and (c) of section 4 of the Act of October 15, 1982 (Public Law 97–335; 96 Stat. 1628; 16 U.S.C. 341 note).

(D) Section 7 of Public Law 89–671 (96 Stat. 1457; 16 U.S.C. 284f).

(E) Section 3(c) of the National Trails System Act (Public Law 90–543; 82 Stat. 919; 16 U.S.C. 1242(c)).

(F) Section 4(b) of the Act of October 24, 1984 (Public Law 98–540; 98 Stat. 2720; 16 U.S.C. 1a–8).

(G) Section 106(b) of the National Visitor Center Facilities Act of 1968 (Public Law 90–264; 82 Stat. 44; 40 U.S.C. 805(b)).

(H) Section 6(f)(7) of the Act of September 3, 1964 (Public Law 88–578; 78 Stat. 900; 16 U.S.C. 460l–8(f)(7)).

(I) Subsection (b) of section 8 of the Act of August 18, 1970 (Public Law 91–383; 90 Stat. 1940; 16 U.S.C. 1a–5(b)).

(J) The last sentence of section 10(a)(2) of the National Trails System Act (Public Law 90–543; 82 Stat. 926; 16 U.S.C. 1249(a)(2)).

(K) Section 4 of the Act of October 31, 1988 (Public Law 100–573; Stat. 2891; 16 U.S.C. 460o note).

(L) Section 104(b) of the Act of November 19, 1988 (Public Law 100–698; 102 Stat. 4621). 16 USC 461 note.

(M) Section 1015(b) of the Urban Park and Recreation Recovery Act of 1978 (Public Law 95–625; 92 Stat. 3544; 16 U.S.C. 2514(b)).

(N) Section 105 of the Act of August 13, 1970 (Public Law 91–378; 16 U.S.C. 1705).

(O) Section 307(b) of the National Historic Preservation Act (Public Law 89–665; 16 U.S.C. 470w–6(b)).

(2) AMENDMENTS.—The following provisions are amended:

(A) Section 10 of the Archaeological Resources Protection Act of 1979, by striking the last sentence of subsection (c) (Public Law 96–95; 16 U.S.C. 470ii(c)).

(B) Section 5(c) of the Act of June 27, 1960 (Public Law 86–523; 16 U.S.C. 469a–3(c); 74 Stat. 220), by inserting a period after "Act" and striking "and shall submit" and all that follows.

(C) Section 7(a)(3) of the Act of September 3, 1964 (Public Law 88–578; 78 Stat. 903; 16 U.S.C. 460l–9(a)(3)), by striking the last sentence.

(D) Section 111 of the Petroglyph National Monument Establishment Act of 1990 (Public Law 101–313; 104 Stat. 278), by striking the second sentence. 16 USC 431 note.

(E) Section 307(a) of the National Historic Preservation Act (Public Law 89–665; 16 U.S.C. 470w–6(a)) is amended by striking the first and second sentences.

(F) Section 101(a)(1)(B) of the National Historic Preservation Act (Public Law 89–665; 16 U.S.C. 470a) by inserting a period after "Register" the last place such term appears and by striking "and submitted" and all that follows.

(e) SENATE CONFIRMATION OF THE DIRECTOR OF THE NATIONAL PARK SERVICE.—

(1) IN GENERAL.—The first section of the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1; commonly referred to as the "National Park Service Organic Act"), is amended in the first sentence by striking "who shall be appointed by the Secretary" and all that follows and inserting "who shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall have substantial experience and demonstrated competence in land management and natural or cultural resource conservation. The Director shall select two Deputy Directors. The first Deputy Director shall have responsibility for National Park Service operations, and the second Deputy Director shall have responsibility for other programs assigned to the National Park Service.".

(2) EFFECTIVE DATE AND APPLICATION.—The amendment made by subsection (a) shall take effect on February 1, 1997, and shall apply with respect to the individual (if any) serving as the Director of the National Park Service on that date. 16 USC 1 note.

(f) NATIONAL PARK SYSTEM ADVISORY BOARD AUTHORIZATION.—

(1) NATIONAL PARK SYSTEM ADVISORY BOARD.—Section 3 of the Act of August 21, 1935 (49 Stat. 667; 16 U.S.C. 463) is amended as follows:

(A) In subsection (a) by striking the first 3 sentences and inserting in lieu thereof: "There is hereby established a National Park System Advisory Board, whose purpose shall be to advise the Director of the National Park Service on matters relating to the National Park Service, the National Park System, and programs administered by the National Park Service. The Board shall advise the Director on matters submitted to the Board by the Director as well as any other issues identified by the Board. Members of the Board shall be appointed on a staggered term basis by the Secretary for a term not to exceed 4 years and shall serve at the pleasure of the Secretary. The Board shall be comprised of no more than 12 persons, appointed from among citizens of the United States having a demonstrated commitment to the mission of the National Park Service. Board members shall be selected to represent various geographic regions, including each of the administrative regions of the National Park Service. At least 6 of the members shall have outstanding expertise in 1 or more of the following fields: history, archeology, anthropology, historical or landscape architecture, biology, ecology, geology, marine science, or social science. At least 4 of the members shall have outstanding expertise and prior experience in the management of national or State parks or protected areas, or national or cultural resources management. The remaining members shall have outstanding expertise in 1 or more of the areas described above or in another professional or scientific discipline, such as financial management, recreation use management, land use planning or business management, important to the mission of the National Park Service. At least 1 individual shall be a locally elected official from an area adjacent to a park. The Board shall hold its first meeting by no later than 60 days after the date on which all members

of the Advisory Board who are to be appointed have been appointed. Any vacancy in the Board shall not affect its powers, but shall be filled in the same manner in which the original appointment was made. The Board may adopt such rules as may be necessary to establish its procedures and to govern the manner of its operations, organization, and personnel. All members of the Board shall be reimbursed for travel and per diem in lieu of subsistence expenses during the performance of duties of the Board while away from home or their regular place of business, in accordance with subchapter 1 of chapter 57 of title 5, United States Code. With the exception of travel and per diem as noted above, a member of the Board who is otherwise an officer or employee of the United States Government shall serve on the Board without additional compensation.".

(B) By redesignating subsections (b) and (c) as (f) and (g) and by striking from the first sentence of subsection (f), as so redesignated "1995" and inserting in lieu thereof "2006".

(C) By adding the following new subsections after subsection (a):

"(b)(1) The Secretary is authorized to hire 2 full-time staffers to meet the needs of the Advisory Board.

"(2) Service of an individual as a member of the Board shall not be considered as service or employment bringing such individual within the provisions of any Federal law relating to conflicts of interest or otherwise imposing restrictions, requirements, or penalties in relation to the employment of persons, the performance of services, or the payment or receipt of compensation in connection with claims, proceedings, or matters involving the United States. Service as a member of the Board, or as an employee of the Board, shall not be considered service in an appointive or elective position in the Government for purposes of section 8344 of title 5, United States Code, or comparable provisions of Federal law.

"(c)(1) Upon request of the Director, the Board is authorized to—

"(A) hold such hearings and sit and act at such times,

"(B) take such testimony,

"(C) have such printing and binding done,

"(D) enter into such contracts and other arrangements.

"(E) make such expenditures, and

"(F) take such other actions, as the Board may deem advisable. Any member of the Board may administer oaths or affirmations to witnesses appearing before the Board.

"(2) The Board may establish committees or subcommittees. Any such subcommittees or committees shall be chaired by a voting member of the Board.

"(d) The provisions of the Federal Advisory Committee Act shall apply to the Board established under this section with the exception of section 14(b).

"(e)(1) The Board is authorized to secure directly from any office, department, agency, establishment, or instrumentality of the Federal Government such information as the Board may require for the purpose of this section, and each such officer, department, agency, establishment, or instrumentality is authorized and directed to furnish, to the extent permitted by law, such information, sugges-

tions, estimates, and statistics directly to the Board, upon request made by a member of the Board.

"(2) Upon the request of the Board, the head of any Federal department, agency, or instrumentality is authorized to make any of the facilities and services of such department, agency, or instrumentality to the Board, on a nonreimbursable basis, to assist the Board in carrying out its duties under this section.

"(3) The Board may use the United States mails in the same manner and under the same conditions as other departments and agencies in the United States.".

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the National Park System Advisory Board $200,000 per year to carry out the provisions of section 3 of the Act of August 21, 1935 (49 Stat. 667; 16 U.S.C. 463). 16 USC 463 note.

(3) EFFECTIVE DATE.—This subsection shall take effect on December 7, 1997. 16 USC 463 note.

(g) CHALLENGE COST-SHARE AGREEMENT AUTHORITY.— 16 USC 1f.

(1) DEFINITIONS.—For purposes of this subsection:

(A) The term "challenge cost-share agreement" means any agreement entered into between the Secretary and any cooperator for the purpose of sharing costs or services in carrying out authorized functions and responsibilities of the Secretary of the Interior with respect to any unit or program of the National Park System (as defined in section 2(a) of the Act of August 8, 1953 (16 U.S.C. 1c(a))), any affiliated area, or any designated National Scenic or Historic Trail.

(B) The term "cooperator" means any State or local government, public or private agency, organization, institution, corporation, individual, or other entity.

(2) CHALLENGE COST-SHARE AGREEMENTS.—The Secretary of the Interior is authorized to negotiate and enter into challenge cost-share agreements with cooperators.

(3) USE OF FEDERAL FUNDS.—In carrying out challenge cost-share agreements, the Secretary of the Interior is authorized to provide the Federal funding share from any funds available to the National Park Service.

(h) COST RECOVERY FOR DAMAGE TO NATIONAL PARK RESOURCES.—Public Law 101–337 is amended as follows:

(1) In section 1 (16 U.S.C. 19jj), by amending subsection (d) to read as follows:

"(d) 'Park system resource' means any living or non-living resource that is located within the boundaries of a unit of the National Park System, except for resources owned by a non-Federal entity.".

(2) In section 1 (16 U.S.C. 19jj) by adding at the end thereof the following:

"(g) 'Marine or aquatic park system resource' means any living or non-living part of a marine or aquatic regimen within or is a living part of a marine or aquatic regimen within the boundaries of a unit of the National Park System, except for resources owned by a non-Federal entity.".

(3) In section 2(b) (16 U.S.C. 19jj–1(b)), by inserting "any marine or aquatic park resource" after "any park system resource".

Oregon.

SEC. 815. WILLIAM B. SMULLIN VISITOR CENTER.

(a) DESIGNATION.—The Bureau of Land Management's visitors center in Rand, Oregon is hereby designated as the "William B. Smullin Visitor Center".

(b) LEGAL REFERENCES.—Any reference in any law, regulation, document, record, map, or other document of the United States to the visitor center referred to in subsection (a) shall be deemed to be a reference to the "William B. Smullin Visitor Center".

State listing.

SEC. 816. CALUMET ECOLOGICAL PARK.

(a) FEASIBILITY STUDY.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Secretary of the Interior shall conduct a study of the feasibility of establishing an urban ecological park to be known as "Calumet Ecological Park", in the Lake Calumet area situated between the Illinois and Michigan Canal National Heritage Corridor and the Indiana Dunes National Lakeshore.

(2) PARTICULARS OF STUDY.—The study under paragraph (1) shall include consideration of the following:

(A) The suitability of establishing a park in the Lake Calumet area that—

(i) conserves and protects the wealth of natural resources threatened by development and pollution in the Lake Calumet area; and

(ii) consists of a number of nonadjacent sites forming green corridors between the Illinois and Michigan Canal National Heritage Corridor and the Indiana Dunes National Lakeshore, that are based on the lakes and waterways in the area.

(B) The long-term future use of the Lake Calumet area.

(C) Ways in which a Calumet Ecological Park would—

(i) benefit and enhance the cultural, historical, and natural resources of the Lake Calumet area; and

(ii) preserve natural lands and habitats in the Lake Calumet area and northwest Indiana.

(3) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to the Congress a report containing findings and recommendations of a study under this section.

California.

SEC. 817. ACQUISITION OF CERTAIN PROPERTY ON SANTA CRUZ ISLAND.

Section 202 of Public Law 96–199 (16 U.S.C. 410ff–1) is amended by adding the following new subsection at the end thereof:

Effective date.

"(e)(1) Notwithstanding any other provision of law, effective 90 days after the date of enactment of this subsection, all right, title, and interest in and to, and the right to immediate possession of, the real property on the eastern end of Santa Cruz Island which is known as the Gherini Ranch is hereby vested in the United States, except for the reserved rights of use and occupancy set forth in Instrument No. 90–027494 recorded in the Official Records of the County of Santa Barbara, California.

"(2) The United States shall pay just compensation to the owners of any real property taken pursuant to this subsection, determined as of the date of taking. The full faith and credit

of the United States is hereby pledged to the payment of any judgment entered against the United States with respect to the taking of such property. Payment shall be in the amount of the agreed negotiated value of such real property plus interest or the valuation of such real property awarded by judgment plus interest. Interest shall accrue from the date of taking to the date of payment. Interest shall be compounded quarterly and computed at the rate applicable for the period involved, as determined by the Secretary of the Treasury on the basis of the current average market yield on outstanding marketable obligations of the United States of comparable maturities from the date of enactment of this subsection to the last day of the month preceding the date on which payment is made.

"(3) In the absence of a negotiated settlement, or an action by the owner, within 1 year after the date of enactment of this subsection, the Secretary shall initiate a proceeding, seeking in a court of competent jurisdiction a determination of just compensation with respect to the taking of such property.

"(4) The Secretary shall not allow any unauthorized use of the lands to be acquired under this subsection, except that the Secretary shall permit the orderly termination of all current activities and the removal of any equipment, facilities, or personal property.".

SEC. 818. NATIONAL PARK AGREEMENTS.

Section 3 of the Act entitled "An Act to improve the administration of the National Park System by the Secretary of the Interior, and to clarify the authorities applicable to the system, and for other purposes" approved August 18, 1970 (16 U.S.C. 1a–2), is amended—

(1) in paragraph (i), by striking the period at the end thereof and inserting in lieu thereof "; and"; and

(2) by adding at the end thereof the following:

"(j) Enter into cooperative agreements with public or private educational institutions, States, and their political subdivisions, for the purpose of developing adequate, coordinated, cooperative research and training programs concerning the resources of the National Park System, and, pursuant to any such agreements, to accept from and make available to the cooperator such technical and support staff, financial assistance for mutually agreed upon research projects, supplies and equipment, facilities, and administrative services relating to cooperative research units as the Secretary deems appropriate; except that this paragraph shall not waive any requirements for research projects that are subject to the Federal procurement regulations.".

TITLE IX—HERITAGE AREAS

SEC. 901. BLACKSTONE RIVER VALLEY NATIONAL HERITAGE CORRIDOR.

Massachusetts. Rhode Island.

(a) BOUNDARY CHANGES.—Section 2 of the Act entitled "An Act to establish the Blackstone River Valley National Heritage Corridor in Massachusetts and Rhode Island", approved November 10, 1986 (Public Law 99–647; 16 U.S.C. 461 note), is amended by striking the first sentence and inserting the following new sentence: "The boundaries shall include the lands and water generally

depicted on the map entitled 'Blackstone River Valley National Heritage Corridor Boundary Map', numbered BRV–80–80,011, and dated May 2, 1993.".

(b) TERMS.—Section 3(c) of the Act entitled "An Act to establish the Blackstone River Valley National Heritage Corridor in Massachusetts and Rhode Island", approved November 10, 1986 (Public Law 99–647; 16 U.S.C. 461 note), is amended by inserting before the period at the end the following: ", but may continue to serve after the expiration of this term until a successor has been appointed".

(c) REVISION OF PLAN.—Section 6 of the Act entitled "An Act to establish the Blackstone River Valley National Heritage Corridor in Massachusetts and Rhode Island", approved November 10, 1986 (Public Law 99–647; 16 U.S.C. 461 note), is amended by adding at the end the following new subsection:

"(d) REVISION OF PLAN.—(1) Not later than 1 year after the date of the enactment of this subsection, the Commission, with the approval of the Secretary, shall revise the Cultural Heritage and Land Management Plan. The revision shall address the boundary change and shall include a natural resource inventory of areas or features that should be protected, restored, managed, or acquired because of their contribution to the understanding of national cultural landscape values.

"(2) No changes other than minor revisions may be made in the approval plan as amended without the approval of the Secretary. The Secretary shall approve or disapprove any proposed changes in the plan, except minor revisions, in accordance with subsection (b).".

(d) EXTENSION OF COMMISSION.—Section 7 of the Act entitled "An Act to establish the Blackstone River Valley National Heritage Corridor in Massachusetts and Rhode Island", approved November 10, 1986 (Public Law 99–647; 16 U.S.C. 461 note), is amended to read as follows:

"SEC. 7. TERMINATION OF COMMISSION.

"The Commission shall terminate on the date that is 10 years after the date of enactment of this section.".

(e) IMPLEMENTATION OF PLAN.—Subsection (c) of section 8 of the Act entitled "An Act to establish the Blackstone River Valley National Heritage Corridor in Massachusetts and Rhode Island", approved November 10, 1986 (Public Law 99–647; 16 U.S.C. 461 note), is amended to read as follows:

"(c) IMPLEMENTATION.—(1) To assist in the implementation of the Cultural Heritage and Land Management Plan in a manner consistent with purposes of this Act, the Secretary is authorized to undertake a limited program of financial assistance for the purpose of providing funds for the preservation and restoration of structures on or eligible for inclusion on the National Register of Historic Places within the Corridor which exhibit national significance or provide a wide spectrum of historic, recreational, or environmental education opportunities to the general public.

"(2) To be eligible for funds under this section, the Commission shall submit an application to the Secretary that includes—

"(A) a 10-year development plan including those resource protection needs and projects critical to maintaining or interpreting the distinctive character of the Corridor; and

"(B) specific descriptions of annual work programs that have been assembled, the participating parties, roles, cost estimates, cost-sharing, or cooperative agreements necessary to carry out the development plan.

"(3) Funds made available pursuant to this subsection shall not exceed 50 percent of the total cost of the work programs.

"(4) In making the funds available, the Secretary shall give priority to projects that attract greater non-Federal funding sources.

"(5) Any payment made for the purposes of conservation or restoration of real property or structures shall be subject to an agreement either—

"(A) to convey a conservation or preservation easement to the Department of Environmental Management or to the Historic Preservation Commission, as appropriate, of the State in which the real property or structure is located; or

"(B) that conversion, use, or disposal of the resources so assisted for purposes contrary to the purposes of this Act, as determined by the Secretary, shall result in a right of the United States for reimbursement of all funds expended upon such resources or the proportion of the increased value of the resources attributable to such funds as determined at the time of such conversion, use, or disposal, whichever is greater.

"(6) The authority to determine that a conversion, use, or disposal of resources has been carried out contrary to the purposes of this Act in violation of an agreement entered into under paragraph (5)(A) shall be solely at the discretion of the Secretary.".

(f) LOCAL AUTHORITY.—Section 5 of the Act entitled "An Act to establish the Blackstone River Valley National Heritage Corridor in Massachusetts and Rhode Island", approved November 10, 1986 (Public Law 99–647; 16 U.S.C. 461 note), is amended by adding at the end the following new subsection:

"(j) LOCAL AUTHORITY AND PRIVATE PROPERTY NOT AFFECTED.—Nothing in this Act shall be construed to affect or to authorize the Commission to interfere with—

"(1) the rights of any person with respect to private property; or

"(2) any local zoning ordinance or land use plan of the Commonwealth of Massachusetts or any political subdivision of the Commonwealth.".

(g) AUTHORIZATION OF APPROPRIATIONS.—Notwithstanding any other provisions of law regarding limitations on funding for heritage areas, section 10 of the Act entitled "An Act to establish the Blackstone River Valley National Heritage Corridor in Massachusetts and Rhode Island", approved November 10, 1986 (Public Law 99–647; 16 U.S.C. 461 note), as amended, is further amended:

(1) in subsection (a), by striking "$350,000" and inserting "$650,000"; and

(2) by amending subsection (b) to read as follows:

"(b) DEVELOPMENT FUNDS.—For fiscal year 1996, 1997, and 1998, there is authorized to be appropriated to carry out section 8(c) not to exceed $5,000,000.". Appropriation authorization.

SEC. 902. ILLINOIS AND MICHIGAN CANAL NATIONAL HERITAGE CORRIDOR.

The Illinois and Michigan Canal National Heritage Corridor Act of 1984 (Public Law 98–398; 16 U.S.C. 461 note) is amended by inserting after section 117 the following new section:

"SEC. 118. STUDY OF POSSIBLE ADDITIONS TO CORRIDOR.

"The Commission shall undertake a study to determine whether the Joliet Army Ammunition Plant and the Calumet-Sag and Chicago Sanitary and Ship Canals should be added to the corridor. The study shall specifically examine the relationship between the purposes of this Act and the areas proposed for study and shall identify any specific resources which are related to the purposes for which the corridor was established. The study shall propose boundaries which provide for the inclusion of any related resources within the corridor. The Commission shall submit the study to the Secretary and the appropriate congressional committees. Upon receipt of the study, the Secretary shall determine which lands (if any) should be added to the corridor and shall so notify the appropriate congressional committees.".

Notification.

TITLE X—MISCELLANEOUS

Subtitle A—Tallgrass Prairie National Preserve

Tallgrass Prairie National Preserve Act of 1996. Kansas. 16 USC 698u note.

SEC. 1001. SHORT TITLE.

This subtitle may be cited as the "Tallgrass Prairie National Preserve Act of 1996".

16 USC 698u.

SEC. 1002. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) of the 400,000 square miles of tallgrass prairie that once covered the North American Continent, less than 1 percent remains, primarily in the Flint Hills of Kansas;

(2) in 1991, the National Park Service conducted a special resource study of the Spring Hill Ranch, located in the Flint Hills of Kansas;

(3) the study concludes that the Spring Hill Ranch—

(A) is a nationally significant example of the once vast tallgrass ecosystem, and includes buildings listed on the National Register of Historic Places pursuant to section 101 of the National Historic Preservation Act (16 U.S.C. 470a) that represent outstanding examples of Second Empire and other 19th Century architectural styles; and

(B) is suitable and feasible as a potential addition to the National Park System; and

(4) the National Park Trust, which owns the Spring Hill Ranch, has agreed to permit the National Park Service—

(A) to purchase a portion of the ranch, as specified in the subtitle; and

(B) to manage the ranch in order to—

(i) conserve the scenery, natural and historic objects, and wildlife of the ranch; and

(ii) provide for the enjoyment of the ranch in such a manner and by such means as will leave the scenery,

natural and historic objects, and wildlife unimpaired for the enjoyment of future generations.

(b) PURPOSES.—The purposes of this subtitle are—

(1) to preserve, protect, and interpret for the public an example of a tallgrass prairie ecosystem on the Spring Hill Ranch, located in the Flint Hills of Kansas; and

(2) to preserve and interpret for the public the historic and cultural values represented on the Spring Hill Ranch.

SEC. 1003. DEFINITIONS. 16 USC 698u–1.

In this subtitle:

(1) ADVISORY COMMITTEE.—The term "Advisory Committee" means the Advisory Committee established under section 1007.

(2) PRESERVE.—The term "Preserve" means the Tallgrass Prairie National Preserve established by section 1004.

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(4) TRUST.—The term "Trust" means the National Park Trust, Inc., a District of Columbia nonprofit corporation, or any successor-in-interest.

SEC. 1004. ESTABLISHMENT OF TALLGRASS PRAIRIE NATIONAL PRESERVE. 16 USC 698u–2.

(a) IN GENERAL.—In order to provide for the preservation, restoration, and interpretation of the Spring Hill Ranch area of the Flint Hills of Kansas, for the benefit and enjoyment of present and future generations, there is established the Tallgrass Prairie National Preserve.

(b) DESCRIPTION.—The Preserve shall consist of the lands and interests in land, including approximately 10,894 acres, generally depicted on the map entitled "Boundary Map, Flint Hills Prairie National Monument" numbered NM–TGP 80,000 and dated June 1994, more particularly described in the deed filed at 8:22 a.m. of June 3, 1994, with the Office of the Register of Deeds in Chase County, Kansas, and recorded in Book L–106 at pages 328 through 339, inclusive. In the case of any difference between the map and the legal description, the legal description shall govern, except that if, as a result of a survey, the Secretary determines that there is a discrepancy with respect to the boundary of the Preserve that may be corrected by making minor changes to the map, the Secretary shall make changes to the map as appropriate, and the boundaries of the Preserve shall be adjusted accordingly. The map shall be on file and available for public inspection in the appropriate offices of the National Park Service of the Department of the Interior.

SEC. 1005. ADMINISTRATION OF NATIONAL PRESERVE. 16 USC 698u–3.

(a) IN GENERAL.—The Secretary shall administer the Preserve in accordance with this subtitle, the cooperative agreements described in subsection (f)(1), and the provisions of law generally applicable to units of the National Park System, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (16 U.S.C. 1, 2 through 4) and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461 et seq.).

(b) APPLICATION OF REGULATIONS.—With the consent of a private owner of land within the boundaries of the Preserve, the regulations issued by the Secretary concerning the National Park

Service that provide for the proper use, management, and protection of persons, property, and natural and cultural resources shall apply to the private land.

(c) FACILITIES.—For purposes of carrying out the duties of the Secretary under this subtitle relating to the Preserve, the Secretary may, with the consent of a landowner, directly or by contract, construct, reconstruct, rehabilitate, or develop essential buildings, structures, and related facilities including roads, trails, and other interpretive facilities on real property that is not owned by the Federal Government and is located within the Preserve.

(d) LIABILITY.—

(1) LIABILITY OF THE UNITED STATES AND ITS OFFICERS AND EMPLOYEES.—Except as otherwise provided in this subsection, the liability of the United States is subject to the terms and conditions of the Federal Tort Claims Act, as amended, 28 U.S.C. 2671 et seq., with respect to the claims arising by virtue of the Secretary's administration of the Preserve pursuant to this Act.

(2) LIABILITY OF LANDOWNERS.—

(A) The Secretary of the Interior is authorized, under such terms and conditions as he deems appropriate, to include in any cooperative agreement entered into in accordance with subsection (f)(1) an indemnification provision by which the United States agrees to hold harmless, defend and indemnify the landowner in full from and against any suit, claim, demand or action, liability, judgment, cost or other fee arising out of any claim of personal injury or property damage that occurs in connection with the operation of the Preserve under the agreement: *Provided however,* That indemnification shall not exceed $3 million per claimant per occurrence.

(B) The indemnification provision authorized by subparagraph (A) shall not include claims for personal injury or property damage proximately caused by the wanton or willful misconduct of the landowner.

(e) UNIT OF THE NATIONAL PARK SYSTEM.—The Preserve shall be a unit of the National Park System for all purposes, including the purpose of exercising authority to charge entrance and admission fees under section 4 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–6a).

(f) AGREEMENT AND DONATIONS.—

(1) AGREEMENTS.—The Secretary may expend Federal funds for the cooperative management of private property within the Preserve for research, resource management (including pest control and noxious weed control, fire protection, and the restoration of buildings), and visitor protection and use.

(2) DONATIONS.—The Secretary may accept, retain, and expend donations of funds, property (other than real property), or services from individuals, foundations, corporations, or public entities for the purposes of providing programs, services, facilities, or technical assistance that further the purposes of this subtitle.

(g) GENERAL MANAGEMENT PLAN.—

(1) IN GENERAL.—Not later than the end of the third full fiscal year beginning after the date of enactment of this Act, the Secretary shall prepare and submit to the Committee on

Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives a general management plan for the Preserve.

(2) CONSULTATION.—In preparing the general management plan, the Secretary, acting through the Director of the National Park Service, shall consult with—

(A)(i) appropriate officials of the Trust; and

(ii) the Advisory Committee; and

(B) adjacent landowners, appropriate officials of nearby communities, the Kansas Department of Wildlife and Parks, the Kansas Historical Society, and other interested parties.

(3) CONTENT OF PLAN.—The general management plan shall provide for the following:

(A) Maintaining and enhancing the tall grass prairie within the boundaries of the Preserve.

(B) Public access and enjoyment of the property that is consistent with the conservation and proper management of the historical, cultural, and natural resources of the ranch.

(C) Interpretive and educational programs covering the natural history of the prairie, the cultural history of Native Americans, and the legacy of ranching in the Flint Hills region.

(D) Provisions requiring the application of applicable State law concerning the maintenance of adequate fences within the boundaries of the Preserve. In any case in which an activity of the National Park Service requires fences that exceed the legal fence standard otherwise applicable to the Preserve, the National Park Service shall pay the additional cost of constructing and maintaining the fences to meet the applicable requirements for that activity.

(E) Provisions requiring the Secretary to comply with applicable State noxious weed, pesticide, and animal health laws.

(F) Provisions requiring compliance with applicable State water laws and Federal and State waste disposal laws (including regulations) and any other applicable law.

(G) Provisions requiring the Secretary to honor each valid existing oil and gas lease for lands within the boundaries of the Preserve (as described in section 1004(b)) that is in effect on the date of enactment of this Act.

(H) Provisions requiring the Secretary to offer to enter into an agreement with each individual who, as of the date of enactment of this Act, holds rights for cattle grazing within the boundaries of the Preserve (as described in section 1004(b)).

(4) HUNTING AND FISHING.—The Secretary may allow hunting and fishing on Federal lands within the Preserve.

(5) FINANCIAL ANALYSIS.—As part of the development of the general management plan, the Secretary shall prepare a financial analysis indicating how the management of the Preserve may be fully supported through fees, private donations, and other forms of non-Federal funding.

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16 USC 698u–4.

SEC. 1006. LIMITED AUTHORITY TO ACQUIRE.

(a) IN GENERAL.—The Secretary shall acquire, by donation, not more than 180 acres of real property within the boundaries of the Preserve (as described in section 1004(b)) and the improvements on the real property.

(b) PAYMENTS IN LIEU OF TAXES.—For the purposes of payments made under chapter 69 of title 31, United States Code, the real property described in subsection (a)(1) shall be deemed to have been acquired for the purposes specified in section 6904(a) of that title.

(c) PROHIBITIONS.—No property may be acquired under this section without the consent of the owner of the property. The United States may not acquire fee ownership of any lands within the Preserve other than lands described in this section.

16 USC 698u–5.

SEC. 1007. ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—There is established an advisory committee to be known as the "Tallgrass Prairie National Preserve Advisory Committee".

(b) DUTIES.—The Advisory Committee shall advise the Secretary and the Director of the National Park Service concerning the development, management, and interpretation of the Preserve. In carrying out those duties, the Advisory Committee shall provide timely advice to the Secretary and the Director during the preparation of the general management plan under section 1005(g).

(c) MEMBERSHIP.—The Advisory Committee shall consist of 13 members, who shall be appointed by the Secretary as follows:

(1) Three members shall be representatives of the Trust.

(2) Three members shall be representatives of local landowners, cattle ranchers, or other agricultural interests.

(3) Three members shall be representatives of conservation or historic preservation interests.

(4)(A) One member shall be selected from a list of persons recommended by the Chase County Commission in the State of Kansas.

(B) One member shall be selected from a list of persons recommended by appropriate officials of Strong City, Kansas, and Cottonwood Falls, Kansas.

(C) One member shall be selected from a list of persons recommended by the Governor of the State of Kansas.

(5) One member shall be a range management specialist representing institutions of higher education (as defined in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a))) in the State of Kansas.

(d) TERMS.—

(1) IN GENERAL.—Each member of the Advisory Committee shall be appointed to serve for a term of 3 years, except that the initial members shall be appointed as follows:

(A) Four members shall be appointed, one each from paragraphs (1), (2), (3), and (4) of subsection (c), to serve for a term of 3 years.

(B) Four members shall be appointed, one each from paragraphs (1), (2), (3), and (4) of subsection (c), to serve for a term of 4 years.

(C) Five members shall be appointed, one each from paragraphs (1) through (5) of subsection (c), to serve for a term of 5 years.

(2) REAPPOINTMENT.—Each member may be reappointed to serve a subsequent term.

(3) EXPIRATION.—Each member shall continue to serve after the expiration of the term of the member until a successor is appointed.

(4) VACANCIES.—A vacancy on the Advisory Committee shall be filled in the same manner as an original appointment is made. The member appointed to fill the vacancy shall serve until the expiration of the term in which the vacancy occurred.

(e) CHAIRPERSON.—The members of the Advisory Committee shall select 1 of the members to serve as Chairperson.

(f) MEETINGS.—Meetings of the Advisory Committee shall be held at the call of the Chairperson or the majority of the Advisory Committee. Meetings shall be held at such locations and in such a manner as to ensure adequate opportunity for public involvement. In compliance with the requirements of the Federal Advisory Committee Act (5 U.S.C. App.), the Advisory Committee shall choose an appropriate means of providing interested members of the public advance notice of scheduled meetings.

(g) QUORUM.—A majority of the members of the Advisory Committee shall constitute a quorum.

(h) COMPENSATION.—Each member of the Advisory Committee shall serve without compensation, except that while engaged in official business of the Advisory Committee, the member shall be entitled to travel expenses, including per diem in lieu of subsistence in the same manner as persons employed intermittently in Government service under section 5703 of title 5, United States Code.

(i) CHARTER.—The rechartering provisions of section 14(b) of the Federal Advisory Committee Act (15 U.S.C. App.) shall not apply to the Advisory Committee.

SEC. 1008. RESTRICTION ON AUTHORITY. 16 USC 698u–6.

Nothing in this subtitle shall give the Secretary authority to regulate lands outside the land area acquired by the Secretary under section 1006(a).

SEC. 1009. AUTHORIZATION OF APPROPRIATIONS. 16 USC 698u–7.

There are authorized to be appropriated to the Department of the Interior such sums as are necessary to carry out this subtitle.

Subtitle B—Sterling Forest

SEC. 1011. PALISADES INTERSTATE PARK COMMISSION.

(a) FUNDING.—The Secretary of the Interior is authorized to provide funding to the Palisades Interstate Park Commission to be used for the acquisition of lands and interests in lands within the area generally depicted on the map entitled "Boundary Map, Sterling Forest Reserve", numbered SFR–60,001 and dated July 1, 1994. There are authorized to be appropriated for purposes of this section not more than $17,500,000. No funds made available under this section may be used for the acquisition of any lands or interests in lands without the consent of the owner thereof.

(b) LAND EXCHANGE.—The Secretary of the Interior is authorized to exchange unreserved unappropriated Federal lands under the administrative jurisdiction of the Secretary for the lands comprising approximately 2,220 acres depicted on the map entitled "Sterling Forest, Proposed Sale of Sterling Forest Lands" and dated

July 25, 1996. The Secretary shall consult with the Governor of any State in which such unreserved unappropriated lands are located prior to carrying out such exchange. The lands acquired by the Secretary under this section shall be transferred to the Palisades Interstate Park Commission to be included within the Sterling Forest Reserve. The lands exchanged under this section shall be of equal value, as determined by the Secretary utilizing nationally recognized appraisal standards. The authority to exchange lands under this section shall expire on the date 18 months after the date of enactment of this Act.

Expiration date.

Subtitle C—Additional Provisions

SEC. 1021. RECREATION LAKES.

16 USC 460*l*–10e note.

(a) FINDINGS AND PURPOSES.—The Congress finds that the Federal Government, under the authority of the Reclamation Act and other statutes, has developed manmade lakes and reservoirs that have become a powerful magnet for diverse recreational activities and that such activities contribute to the well-being of families and individuals and the economic viability of local communities. The Congress further finds that in order to further the purposes of the Land and Water Conservation Fund, the President should appoint an advisory commission to review the current and anticipated demand for recreational opportunities at federally-managed manmade lakes and reservoirs through creative partnerships involving Federal, State, and local governments and the private sector and to develop alternatives for enhanced recreational use of such facilities.

(b) COMMISSION.—The Land and Water Conservation Fund Act of 1965 (Public Law 88–578, 78 Stat. 897) is amended by adding at the end thefollowing new section:

President. Reports. 16 USC 460*l*–10e.

"SEC. 13. (a) The President shall appoint an advisory commission to review the opportunities for enhanced opportunities for water-based recreation which shall submit a report to the President and to the Committee on Energy and Natural Resources of the Senate and to the Committee on Transportation and Infrastructure and the Committee on Resources of the House of Representatives within one year from the date of enactment of this section.

"(b) The members of the Commission shall include—

"(1) the Secretary of the Interior, or his designee;

"(2) the Secretary of the Army, or his designee;

"(3) the Chairman of the Tennessee Valley Authority, or his designee;

"(4) the Secretary of Agriculture, or his designee;

"(5) a person nominated by the National Governor's Association; and

"(6) four persons familiar with the interests of the recreation and tourism industry, conservation and recreation use, Indian tribes, and local governments, at least one of whom shall be familiar with the economics and financing of recreation related infrastructure.

"(c) The President shall appoint one member to serve as Chairman. Any vacancy on the Commission shall be filled in the same manner as the original appointment. Members of the Commission shall serve without compensation but shall be reimbursed for travel, subsistence, and other necessary expenses incurred by

them in the performance of their duties. The Secretary of the Interior shall provide all financial, administrative, and staffing requirements for the Commission, including office space, furnishings, and equipment. The heads of other Federal agencies are authorized, at the request of the Commission, to provide such information or personnel, to the extent permitted by law and within the limits of available funds, to the Commission as may be useful to accomplish the purposes of this section.

"(d) The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as it deems advisable: *Provided,* That, to the maximum extent possible, the Commission shall use existing data and research. The Commission is authorized to use the United States mail in the same manner and upon the same conditions as other departments and agencies of the United States.

"(e) The report shall review the extent of water related recreation at Federal manmade lakes and reservoirs and shall develop alternatives to enhance the opportunities for such use by the public. In developing the report, the Commission shall—

"(1) review the extent to which recreation components identified in specific authorizations associated with individual Federal manmade lakes and reservoirs have been accomplished;

"(2) evaluate the feasibility of enhancing recreation opportunities at federally-managed lakes and reservoirs under existing statutes;

"(3) consider legislative changes that would enhance recreation opportunities consistent with and subject to the achievement of the authorized purposes of Federal water projects; and

"(4) make recommendations on alternatives for enhanced recreation opportunities including, but not limited to, the establishment of a National Recreation Lake System under which specific lakes would receive national designation and which would be managed through innovative partnership-based agreements between Federal agencies, State and local units of government, and the private sector.

Any such alternatives shall be consistent with and subject to the authorized purposes for any manmade lakes and reservoirs and shall emphasize private sector initiatives in concert with State and local units of government.".

SEC. 1022. BISTI/DE-NA-ZIN WILDERNESS EXPANSION AND FOSSIL FOREST PROTECTION.

Bisti/De-Na-Zin Wilderness Expansion and Fossil Forest Protection Act. New Mexico.

(a) SHORT TITLE.—This section may be cited as the "Bisti/De-Na-Zin Wilderness Expansion and Fossil Forest Protection Act".

(b) WILDERNESS DESIGNATION.—Section 102 of the San Juan Basin Wilderness Protection Act of 1984 (98 Stat. 3155) is amended— 16 USC 1132 note.

(1) in subsection (a)—

(A) by striking "wilderness, and, therefore," and all that follows through "System—" and inserting "wilderness areas, and as one component of the National Wilderness Preservation System, to be known as the 'Bisti/De-Na-Zin Wilderness'—";

(B) in paragraph (1), by striking ", and which shall be known as the Bisti Wilderness; and" and inserting a semicolon;

(C) in paragraph (2), by striking ", and which shall be known as the De-Na-Zin Wilderness." and inserting "; and "; and

(D) by adding at the end the following new paragraph:

"(3) certain lands in the Farmington District of the Bureau of Land Management, New Mexico, which comprise approximately 16,525 acres, as generally depicted on a map entitled 'Bisti/De-Na-Zin Wilderness Amendment Proposal', dated May 1992.";

(2) in the first sentence of subsection (c), by inserting after "of this Act" the following: "with regard to the areas described in paragraphs (1) and (2) of subsection (a), and as soon as practicable after the date of enactment of subsection (a)(3) with regard to the area described in subsection (a)(3)";

(3) in subsection (d), by inserting after "of this Act" the following: "with regard to the areas described in paragraphs (1) and (2) of subsection (a), and where established prior to the date of enactment of subsection (a)(3) with regard to the area described in subsection (a)(3)"; and

(4) by adding at the end the following new subsection:

"(e)(1) Subject to valid existing rights, the lands described in subsection (a)(3) are withdrawn from all forms of appropriation under the mining laws and from disposition under all laws pertaining to mineral leasing, geothermal leasing, and mineral material sales.

"(2) The Secretary of the Interior may issue coal leases in New Mexico in exchange for any preference right coal lease application within the area described in subsection (a)(3). Such exchanges shall be made in accordance with applicable existing laws and regulations relating to coal leases after a determination has been made by the Secretary that the applicant is entitled to a preference right lease and that the exchange is in the public interest.

"(3) Operations on oil and gas leases issued prior to the date of enactment of subsection (a)(3) shall be subject to the applicable provisions of Group 3100 of title 43, Code of Federal Regulations (including section 3162.5–1), and such other terms, stipulations, and conditions as the Secretary of the Interior considers necessary to avoid significant disturbance of the land surface or impairment of the ecological, educational, scientific, recreational, scenic, and other wilderness values of the lands described in subsection (a)(3) in existence on the date of enactment of subsection (a)(3). In order to satisfy valid existing rights on the lands described in subsection (a)(3), the Secretary of the Interior may exchange any oil and gas lease within this area for an unleased parcel outside this area of like mineral estate and with similar appraised mineral values.".

(c) EXCHANGES FOR STATE LANDS.—Section 104 of the San Juan Basin Wilderness Protection Act of 1984 (98 Stat. 3156) is amended—

(1) in the first sentence of subsection (b), by inserting after "of this Act" the following: "with regard to the areas described in paragraphs (1) and (2) of subsection (a), and not later than 120 days after the date of enactment of subsection (a)(3) with regard to the area described in subsection (a)(3)";

(2) in subsection (c), by inserting before the period the following: "with regard to the areas described in paragraphs (1) and (2) of subsection (a), and as of the date of enactment of subsection (a)(3) with regard to the area described in subsection (a)(3)"; and

(3) in the last sentence of subsection (d), by inserting before the period the following: "with regard to the areas described in paragraphs (1) and (2) of subsection (a), and not later than 2 years after the date of enactment of subsection (a)(3) with regard to the area described in subsection (a)(3)".

(d) EXCHANGES FOR INDIAN LANDS.—Section 105 of the San Juan Basin Wilderness Protection Act of 1984 (98 Stat. 3157) is amended by adding at the end the following new subsection:

"(d)(1) The Secretary of the Interior shall exchange any lands held in trust for the Navajo Tribe by the Bureau of Indian Affairs that are within the boundary of the area described in subsection (a)(3).

"(2) The lands shall be exchanged for lands within New Mexico approximately equal in value that are selected by the Navajo Tribe.

"(3) After the exchange, the lands selected by the Navajo Tribe shall be held in trust by the Secretary of the Interior in the same manner as the lands described in paragraph (1).".

(e) FOSSIL FOREST RESEARCH NATURAL AREA.—Section 103 of the San Juan Basin Wilderness Protection Act of 1984 (98 Stat. 3156) is amended to read as follows:

"SEC. 103. FOSSIL FOREST RESEARCH NATURAL AREA. 43 USC 1785.

"(a) ESTABLISHMENT.—To conserve and protect natural values and to provide scientific knowledge, education, and interpretation for the benefit of future generations, there is established the Fossil Forest Research Natural Area (referred to in this section as the 'Area'), consisting of the approximately 2,770 acres in the Farmington District of the Bureau of Land Management, New Mexico, as generally depicted on a map entitled 'Fossil Forest', dated June 1983.

"(b) MAP AND LEGAL DESCRIPTION.—

"(1) IN GENERAL.—As soon as practicable after the date of enactment of this paragraph, the Secretary of the Interior shall file a map and legal description of the Area with the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives.

"(2) FORCE AND EFFECT.—The map and legal description described in paragraph (1) shall have the same force and effect as if included in this Act.

"(3) TECHNICAL CORRECTIONS.—The Secretary of the Interior may correct clerical, typographical, and cartographical errors in the map and legal description subsequent to filing the map pursuant to paragraph (1).

"(4) PUBLIC INSPECTION.—The map and legal description shall be on file and available for public inspection in the Office of the Director of the Bureau of Land Management, Department of the Interior.

"(c) MANAGEMENT.—

"(1) IN GENERAL.—The Secretary of the Interior, acting through the Director of the Bureau of Land Management, shall manage the Area—

"(A) to protect the resources within the Area; and

"(B) in accordance with this Act, the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), and other applicable provisions of law.

"(2) MINING.—

"(A) WITHDRAWAL.—Subject to valid existing rights, the lands within the Area are withdrawn from all forms of appropriation under the mining laws and from disposition under all laws pertaining to mineral leasing, geothermal leasing, and mineral material sales.

"(B) COAL PREFERENCE RIGHTS.—The Secretary of the Interior is authorized to issue coal leases in New Mexico in exchange for any preference right coal lease application within the Area. Such exchanges shall be made in accordance with applicable existing laws and regulations relating to coal leases after a determination has been made by the Secretary that the applicant is entitled to a preference right lease and that the exchange is in the public interest.

"(C) OIL AND GAS LEASES.—Operations on oil and gas leases issued prior to the date of enactment of this paragraph shall be subject to the applicable provisions of Group 3100 of title 43, Code of Federal Regulations (including section 3162.5–1), and such other terms, stipulations, and conditions as the Secretary of the Interior considers necessary to avoid significant disturbance of the land surface or impairment of the natural, educational, and scientific research values of the Area in existence on the date of enactment of this paragraph.

"(3) GRAZING.—Livestock grazing on lands within the Area may not be permitted.

"(d) INVENTORY.—Not later than 3 full fiscal years after the date of enactment of this subsection, the Secretary of the Interior, acting through the Director of the Bureau of Land Management, shall develop a baseline inventory of all categories of fossil resources within the Area. After the inventory is developed, the Secretary shall conduct monitoring surveys at intervals specified in the management plan developed for the Area in accordance with subsection (e).

"(e) MANAGEMENT PLAN.—

"(1) IN GENERAL.—Not later than 5 years after the date of enactment of this Act, the Secretary of the Interior shall develop and submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives a management plan that describes the appropriate use of the Area consistent with this Act.

"(2) CONTENTS.—The management plan shall include—

"(A) a plan for the implementation of a continuing cooperative program with other agencies and groups for—

"(i) laboratory and field interpretation; and

"(ii) public education about the resources and values of the Area (including vertebrate fossils);

"(B) provisions for vehicle management that are consistent with the purpose of the Area and that provide for the use of vehicles to the minimum extent necessary to accomplish an individual scientific project;

"(C) procedures for the excavation and collection of fossil remains, including botanical fossils, and the use of motorized and mechanical equipment to the minimum extent necessary to accomplish an individual scientific project; and

"(D) mitigation and reclamation standards for activities that disturb the surface to the detriment of scenic and environmental values.".

SEC. 1023. OPAL CREEK WILDERNESS AND SCENIC RECREATION AREA.

Oregon.
16 USC 545b.

(a) DEFINITIONS.—In this section:

(1) BULL OF THE WOODS WILDERNESS.—The term "Bull of the Woods Wilderness" means the land designated as wilderness by section 3(4) of the Oregon Wilderness Act of 1984 (Public Law 98–328; 16 U.S.C. 1132 note).

(2) OPAL CREEK WILDERNESS.—The term "Opal Creek Wilderness" means certain land in the Willamette National Forest in the State of Oregon comprising approximately 12,800 acres, as generally depicted on the map entitled "Proposed Opal Creek Wilderness and Scenic Recreation Area", dated July 1996.

(3) SCENIC RECREATION AREA.—The term "Scenic Recreation Area" means the Opal Creek Scenic Recreation Area, comprising approximately 13,000 acres, as generally depicted on the map entitled "Proposed Opal Creek Wilderness and Scenic Recreation Area", dated July 1996 and established under subsection (c)(1)(C).

(4) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(b) PURPOSES.—The purposes of this section are—

(1) to establish a wilderness and scenic recreation area to protect and provide for the enhancement of the natural, scenic, recreational, historic and cultural resources of the area in the vicinity of Opal Creek;

(2) to protect and support the economy of the communities of the Santiam Canyon; and

(3) to provide increased protection for an important drinking water source for communities served by the North Santiam River.

(c) ESTABLISHMENT OF OPAL CREEK WILDERNESS AND SCENIC RECREATION AREA.—

16 USC 1132 note.

(1) ESTABLISHMENT.—On a determination by the Secretary under paragraph (2)—

(A) the Opal Creek Wilderness, as depicted on the map described in subsection (a)(2), is hereby designated as wilderness, subject to the provisions of the Wilderness Act of 1964, shall become a component of the National Wilderness System, and shall be known as the Opal Creek Wilderness;

(B) the part of the Bull of the Woods Wilderness that is located in the Willamette National Forest shall be incorporated into the Opal Creek Wilderness; and

(C) the Secretary shall establish the Opal Creek Scenic Recreation Area in the Willamette National Forest in the State of Oregon, comprising approximately 13,000 acres,

as generally depicted on the map described in subsection (a)(3).

(2) CONDITIONS.—The designations in paragraph (1) shall not take effect unless the Secretary makes a determination, not later than 2 years after the date of enactment of this title, that the following conditions have been met:

(A) the following have been donated to the United States in an acceptable condition and without encumbrances:

(i) all right, title, and interest in the following patented parcels of land—

(I) Santiam Number 1, mineral survey number 992, as described in patent number 39–92–0002, dated December 11, 1991;

(II) Ruth Quartz Mine Number 2, mineral survey number 994, as described in patent number 39–91–0012, dated February 12, 1991;

(III) Morning Star Lode, mineral survey number 993, as described in patent number 36–91–0011, dated February 12, 1991;

(ii) all right, title, and interest held by any entity other than the Times Mirror Land and Timber Company, its successors and assigns, in and to lands located in section 18, township 8 south, range 5 east, Marion County, Oregon, Eureka numbers 6, 7, 8, and 13 mining claims; and

(iii) an easement across the Hewitt, Starvation, and Poor Boy Mill Sites, mineral survey number 990, as described in patent number 36–91–0017, dated May 9, 1991. In the sole discretion of the Secretary, such easement may be limited to administrative use if an alternative access route, adequate and appropriate for public use, is provided.

(B) a binding agreement has been executed by the Secretary and the owners of record as of March 29, 1996, of the following interests, specifying the terms and conditions for the disposition of such interests to the United States Government—

(i) The lode mining claims known as Princess Lode, Black Prince Lode, and King Number 4 Lode, embracing portions of sections 29 and 32, township 8 south, range 5 east, Willamette Meridian, Marion County, Oregon, the claims being more particularly described in the field notes and depicted on the plat of mineral survey number 887, Oregon; and

(ii) Ruth Quartz Mine Number 1, mineral survey number 994, as described in patent number 39–91–0012, dated February 12, 1991.

(3) ADDITIONS TO THE WILDERNESS AND SCENIC RECREATION AREAS.—

(A) Lands or interests in lands conveyed to the United States under this subsection shall be included in and become part of, as appropriate, Opal Creek Wilderness or the Opal Creek Scenic Recreation Area.

(B) On acquiring all or substantially all of the land located in section 36, township 8 south, range 4 east, of the Willamette Meridian, Marion County, Oregon,

commonly known as the Rosboro section by exchange, purchase from a willing seller, or by donation, the Secretary shall expand the boundary of the Scenic Recreation Area to include such land.

(C) On acquiring all or substantially all of the land located in section 18, township 8 south, range 5 east, Marion County, Oregon, commonly known as the Time Mirror property, by exchange, purchase from a willing seller, or by donation, such land shall be included in and become a part of the Opal Creek Wilderness.

(d) ADMINISTRATION OF THE SCENIC RECREATION AREA.—

(1) IN GENERAL.—The Secretary shall administer the Scenic Recreation Area in accordance with this section and the laws (including regulations) applicable to the National Forest System.

(2) OPAL CREEK MANAGEMENT PLAN.—

(A) IN GENERAL.—Not later than 2 years after the date of establishment of the Scenic Recreation Area, the Secretary, in consultation with the advisory committee established under subsection (e)(1), shall prepare a comprehensive Opal Creek Management Plan (Management Plan) for the Scenic Recreation Area.

(B) INCORPORATION IN LAND AND RESOURCE MANAGEMENT.—Upon its completion, the Opal Creek Management Plan shall become part of the land and resource management plan for the Willamette National Forest and supersede any conflicting provision in such land and resource management plan. Nothing in this paragraph shall be construed to supersede the requirements of the Endangered Species Act or the National Forest Management Act or regulations promulgated under those Acts, or any other law.

(C) REQUIREMENTS.—The Opal Creek Management Plan shall provide for a broad range of land uses, including—

(i) recreation;

(ii) harvesting of nontraditional forest products, such as gathering mushrooms and material to make baskets; and

(iii) educational and research opportunities.

(D) PLAN AMENDMENTS.—The Secretary may amend the Opal Creek Management Plan as the Secretary may determine to be necessary, consistent with the procedures and purposes of this section.

(3) CULTURAL AND HISTORIC RESOURCE INVENTORY.—

(A) IN GENERAL.—Not later than 1 year after the date of establishment of the Scenic Recreation Area, the Secretary shall review and revise the inventory of the cultural and historic resources on the public land in the Scenic Recreation Area developed pursuant to the Oregon Wilderness Act of 1984 (Public Law 98–328; 16 U.S.C. 1132).

(B) INTERPRETATION.—Interpretive activities shall be developed under the management plan in consultation with State and local historic preservation organizations and shall include a balanced and factual interpretation of the

cultural, ecological, and industrial history of forestry and mining in the Scenic Recreation Area.

(4) TRANSPORTATION PLANNING.—

(A) IN GENERAL.—Except as provided in this subparagraph, motorized vehicles shall not be permitted in the Scenic Recreation Area. To maintain reasonable motorized and other access to recreation sites and facilities in existence on the date of enactment of this title, the Secretary shall prepare a transportation plan for the Scenic Recreation Area that—

(i) evaluates the road network within the Scenic Recreation Area to determine which roads should be retained and which roads should be closed;

(ii) provides guidelines for transportation and access consistent with this section;

(iii) considers the access needs of persons with disabilities in preparing the transportation plan for the Scenic Recreation Area;

(iv) allows forest road 2209 beyond the gate to the Scenic Recreation Area, as depicted on the map described in subsection (a)(2), to be used by motorized vehicles only for administrative purposes and for access by private inholders, subject to such terms and conditions as the Secretary may determine to be necessary; and

(v) restricts construction or improvement of forest road 2209 beyond the gate to the Scenic Recreation Area to maintaining the character of the road as it existed upon the date of enactment of this Act, which shall not include paving or widening.

In order to comply with subsection (f)(2), the Secretary may make improvements to forest road 2209 and its bridge structures consistent with the character of the road as it existed on the date of enactment of this Act.

(5) HUNTING AND FISHING.—

(A) IN GENERAL.—Subject to applicable Federal and State law, the Secretary shall permit hunting and fishing in the Scenic Recreation Area.

(B) LIMITATION.—The Secretary may designate zones in which, and establish periods when, no hunting or fishing shall be permitted for reasons of public safety, administration, or public use and enjoyment of the Scenic Recreation Area.

(C) CONSULTATION.—Except during an emergency, as determined by the Secretary, the Secretary shall consult with the Oregon State Department of Fish and Wildlife before issuing any regulation under this subsection.

(6) TIMBER CUTTING.—

(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall prohibit the cutting and/or selling of trees in the Scenic Reservation Area.

(B) PERMITTED CUTTING.—

(i) IN GENERAL.—Subject to clause (ii), the Secretary may allow the cutting of trees in the Scenic Recreation Area only—

(I) for public safety, such as to control the continued spread of a forest fire in the Scenic

Recreation Area or on land adjacent to the Scenic Recreation Area;

(II) for activities related to administration of the Scenic Recreation Area, consistent with the Opal Creek Management Plan; or

(III) for removal of hazard trees along trails and roadways.

(ii) SALVAGE SALES.—The Secretary may not allow a salvage sale in the Scenic Recreation Area.

(7) WITHDRAWAL.—

(A) subject to valid existing rights, all lands in the Scenic Recreation Area are withdrawn from—

(i) any form of entry, appropriation, or disposal under the public lands laws;

(ii) location, entry, and patent under the mining laws; and

(iii) disposition under the mineral and geothermal leasing laws.

(8) BORNITE PROJECT.—

(A) Nothing in this section shall be construed to interfere with or approve any exploration, mining, or mining-related activity in the Bornite Project Area, depicted on the map described in subsection (a)(3), conducted in accordance with applicable laws.

(B) Nothing in this section shall be construed to interfere with the ability of the Secretary to approve and issue, or deny, special use permits in connection with exploration, mining, and mining-related activities in the Bornite Project Area.

(C) Motorized vehicles, roads, structures, and utilities (including but not limited to power lines and water lines) may be allowed inside the Scenic Recreation Area to serve the activities conducted on land within the Bornite Project.

(D) After the date of enactment of this Act, no patent shall be issued for any mining claim under the general mining laws located within the Bornite Project Area.

(9) WATER IMPOUNDMENTS.—Notwithstanding the Federal Power Act (16 U.S.C. 791a et seq.), the Federal Energy Regulatory Commission may not license the construction of any dam, water conduit, reservoir, powerhouse, transmission line, or other project work in the Scenic Recreation Area, except as may be necessary to comply with the provisions of paragraph (8) with regard to the Bornite Project.

(10) RECREATIONS.—

(A) RECOGNITION.—Congress recognizes recreation as an appropriate use of the Scenic Recreation Area.

(B) MINIMUM LEVELS.—The management plan shall permit recreation activities at not less than the levels in existence on the date of enactment of this Act.

(C) HIGHER LEVELS.—The management plan may provide for levels of recreation use higher than the levels in existence on the date of enactment of this Act if such uses are consistent with the protection of the resource values of the Scenic Recreation Area.

(D) The management plan may include public trail access through section 28, township 8 south, range 5 east, Willamette Meridian, to Battle Ax Creek, Opal Pool and

other areas in the Opal Creek Wilderness and the Opal Creek Scenic Recreation Area.

(11) PARTICIPATION.—So that the knowledge, expertise, and views of all agencies and groups may contribute affirmatively to the most sensitive present and future use of the Scenic Recreation Area and its various subareas for the benefit of the public:

(A) ADVISORY COUNCIL.—The Secretary shall consult on a periodic and regular basis with the advisory council established under subsection (e) with respect to matters relating to management of the Scenic Recreation Area.

(B) PUBLIC PARTICIPATION.—The Secretary shall seek the views of private groups, individuals, and the public concerning the Scenic Recreation Area.

(C) OTHER AGENCIES.—The Secretary shall seek the views and assistance of, and cooperate with, any other Federal, State, or local agency with any responsibility for the zoning, planning, or natural resources of the Scenic Recreation Area.

(D) NONPROFIT AGENCIES AND ORGANIZATIONS.—The Secretary shall seek the views of any nonprofit agency or organization that may contribute information or expertise about the resources and the management of the Scenic Recreation Area.

(e) ADVISORY COUNCIL.—

(1) ESTABLISHMENT.—Not later than 90 days after the establishment of the Scenic Recreation Area, the Secretary shall establish an advisory council for the Scenic Recreation Area.

(2) MEMBERSHIP.—The advisory council shall consist of not more than 13 members, of whom—

(A) 1 member shall represent Marion County, Oregon, and shall be designated by the governing body of the county;

(B) 1 member shall represent the State of Oregon and shall be designated by the Governor of Oregon;

(C) 1 member shall represent the City of Salem, and shall be designated by the mayor of Salem, Oregon;

(D) 1 member from a city within a 25-mile radius of the Opal Creek Scenic Recreation Area, to be designated by the Governor of the State of Oregon from a list of candidates provided by the mayors of the cities located within a 25-mile radius of the Opal Creek Scenic Recreation Area; and

(E) not more than 9 members shall be appointed by the Secretary from among persons who, individually or through association with a national or local organization, have an interest in the administration of the Scenic Recreation Area, including, but not limited to, representatives of the timber industry, environmental organizations, the mining industry, inholders in the Opal Creek Wilderness and Scenic Recreation Area, economic development interests and Indian tribes.

(3) STAGGERED TERMS.—Members of the advisory council shall serve for staggered terms of 3 years.

(4) CHAIRMAN.—The Secretary shall designate 1 member of the advisory council as chairman.

(5) VACANCIES.—The Secretary shall fill a vacancy on the advisory council in the same manner as the original appointment.

(6) COMPENSATION.—Members of the advisory council shall receive no compensation for their service on the advisory council.

(f) GENERAL PROVISIONS.—

(1) LAND ACQUISITION.—

(A) IN GENERAL.—Subject to the other provisions of this section, the Secretary may acquire any lands or interests in land in the Scenic Recreation Area or the Opal Creek Wilderness that the Secretary determines are needed to carry out this section.

(B) PUBLIC LAND.—Any lands or interests in land owned by a State or a political subdivision of a State may be acquired only by donation or exchange.

(C) CONDEMNATION.—Within the boundaries of the Opal Creek Wilderness or the Scenic Recreation Area, the Secretary may not acquire any privately owned land or interest in land without the consent of the owner unless the Secretary finds that—

(i) the nature of land use has changed significantly, or the landowner has demonstrated intent to change the land use significantly, from the use that existed on the date of the enactment of this Act; and

(ii) acquisition by the Secretary of the land or interest in land is essential to ensure use of the land or interest in land in accordance with the purposes of this title or the management plan prepared under subsection (d)(2).

(D) Nothing in this section shall be construed to enhance or diminish the condemnation authority available to the Secretary outside the boundaries of the Opal Creek Wilderness or the Scenic Recreation Area.

(2) ENVIRONMENTAL RESPONSE ACTIONS AND COST RECOVERY.—

(A) RESPONSE ACTIONS.—Nothing in this section shall limit the authority of the Secretary or a responsible party to conduct an environmental response action in the Scenic Recreation Area in connection with the release, threatened release, or cleanup of a hazardous substance, pollutant, or contaminant, including a response action conducted under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.).

(B) LIABILITY.—Nothing in this section shall limit the authority of the Secretary or a responsible party to recover costs related to the release, threatened release, or cleanup of any hazardous substance or pollutant or contaminant in the Scenic Recreation Area.

(3) MAPS AND DESCRIPTION.—

(A) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall file a map and a boundary description for the Opal Creek Wilderness and for the Scenic Recreation Area with the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(B) FORCE AND EFFECT.—The boundary description and map shall have the same force and effect as if the description and map were included in this section, except that the Secretary may correct clerical and typographical errors in the boundary description and map.

(C) AVAILABILITY.—The map and boundary description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

(4) SAVINGS PROVISION.—Nothing in this section shall interfere with activity for which a special use permit has been issued, has not been revoked, and has not expired, before the date of enactment of this Act, subject to the terms of the permit.

Rosboro Lumber Company.

(g) ROSBORO LAND EXCHANGE.—

(1) AUTHORIZATION.—Notwithstanding any other law, if the Rosboro Lumber Company (referred to in this subsection as "Rosboro") offers and conveys marketable title to the United States to the land described in paragraph (2), the Secretary of Agriculture shall convey all right, title and interest held by the United States to sufficient lands described in paragraph (3) to Rosboro, in the order in which they appear in this subsection, as necessary to satisfy the equal value requirements of paragraph (4).

(2) LAND TO BE OFFERED BY ROSBORO.—The land referred to in paragraph (1) as the land to be offered by Rosboro shall comprise Section 36, Township 8 South, Range 4 East, Willamette Meridian.

(3) LAND TO BE CONVEYED BY THE UNITED STATES.—The land referred to in paragraph (1) as the land to be conveyed by the United States shall comprise sufficient land from the following prioritized list to be equal value under paragraph (4):

(A) Section 5, Township 17 South, Range 4 East, Lot 7 (37.63 acres);

(B) Section 2, Township 17 South, Range 4 East, Lot 3 (29.28 acres);

(C) Section 13, Township 17 South, Range 4 East, S½SE¼ (80 acres);

(D) Section 2, Township 17 South, Range 4 East, SW¼SW¼ (40 acres);

(E) Section 2, Township 17 South, Range 4 East, NW¼SE¼ (40 acres);

(F) Section 8, Township 17 South, Range 4 East, SE¼SW¼ (40 acres);

(G) Section 11, Township 17 South, Range 4 East, W½NW¼ (80 acres);

(4) EQUAL VALUE.—The land and interests in land exchanged under this subsection shall be of equal market value as determined by nationally recognized appraisal standards, including, to the extent appropriate, the Uniform Standards for Federal Land Acquisition, the Uniform Standards of Professional Appraisal Practice, or shall be equalized by way of payment of cash pursuant to the provisions of section 206(d) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(d)), and other applicable law. The appraisal shall consider access costs for the parcels involved.

(5) TIMETABLE.—

(A) The exchange directed by this subsection shall be consummated not later than 120 days after the date Rosboro offers and conveys the property described in paragraph (2) to the United States.

(B) The authority provided by this subsection shall lapse of Rosboro fails to offer the land described in paragraph (2) within 2 years after the date of enactment of this Act.

(6) CHALLENGE.—Rosboro shall have the right to challenge in the United States District Court for the District of Oregon a determination of marketability under paragraph (1) and a determination of value for the lands described in paragraphs (2) and (3) by the Secretary of Agriculture. The court shall have the authority to order the Secretary to complete the transaction contemplated in this subsection. Courts.

(7) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this subsection.

(h) DESIGNATION OF ELKHORN CREEK AS A WILD AND SCENIC RIVER.—Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding at the end the following:

"( )(A) ELKHORN CREEK.—The 6.4-mile segment traversing federally administered lands from that point along the Willamette National Forest boundary on the common section line between Sections 12 and 13, Township 9 South, Range 4 East, Willamette Meridian, to that point where the segment leaves Federal ownership along the Bureau of Land Management boundary in Section 1, Township 9 South, Range 3 East, Willamette Meridian, in the following classes:

"(i) a 5.8-mile wild river area, extending from that point along the Willamette National Forest boundary on the common section line between Sections 12 and 13, Township 9 South, Range 4 East, Willamette Meridian, to its confluence with Buck Creek in Section 1, Township 9 South, Range 3 East, Willamette Meridian, to be administered as agreed on by the Secretaries of Agriculture and the Interior, or as directed by the President; and

"(ii) a 0.6-mile scenic river area, extending from the confluence with Buck Creek in Section 1, Township 9 South, Range 3 East, Willamette Meridian, to that point where the segment leaves Federal ownership along the Bureau of Land Management boundary in Section 1, Township 9 South, Range 3 East, Willamette Meridian, to be administered by the Secretary of Interior, or as directed by the President.

"(B) Notwithstanding section 3(b) of this Act, the lateral boundaries of both the wild river area and the scenic river area along Elkhorn Creek shall include an average of not more than 640 acres per mile measured from the ordinary high water mark on both sides of the river.".

(i) ECONOMIC DEVELOPMENT.—

(1) ECONOMIC DEVELOPMENT PLAN.—As a condition for receiving funding under paragraph (2), the State of Oregon, in consultation with Marion County, Oregon, and the Secretary of Agriculture, shall develop a plan for economic development projects for which grants under this subsection may be used in a manner consistent with this section and to benefit local

communities in the vicinity of the Opal Creek area. Such plan shall be based on an economic opportunity study and other appropriate information.

(2) FUNDS PROVIDED TO THE STATES FOR GRANTS.—Upon completion of the Opal Creek Management Plan, and receipt of the plan referred to in paragraph (1), the Secretary shall provide, subject to appropriations, $15,000,000 to the State of Oregon. Such funds shall be used to make grants or loans for economic development projects that further the purposes of this section and benefit the local communities in the vicinity of the Opal Creek area.

(3) REPORT.—The State of Oregon shall—

(A) prepare and provide the Secretary and Congress with an annual report on the use of the funds made available under this subsection;

Records.

(B) make available to the Secretary and to Congress, upon request, all accounts, financial records, and other information related to grants and loans made available pursuant to this subsection; and

(C) as loans are repaid, make additional grants and loans with the money made available for obligation by such repayments.

SEC. 1024. UPPER KLAMATH BASIN ECOLOGICAL RESTORATION PROJECTS.

(a) DEFINITIONS.—In this section:

(1) ECOSYSTEM RESTORATION OFFICE.—The term "Ecosystem Restoration Office" means the Klamath Basin Ecosystem Restoration Office operated cooperatively by the United States Fish and Wildlife Service, Bureau of Reclamation, Bureau of Land Management, and Forest Service.

(2) WORKING GROUP.—The term "Working Group" means the Upper Klamath Basin Working Group, established before the date of enactment of this title, consisting of members nominated by their represented groups, including—

(A) three tribal members;

(B) one representative of the City of Klamath Falls, Oregon;

(C) one representative of Klamath County, Oregon;

(D) one representative of institutions of higher education in the Upper Klamath Basin;

(E) four representatives of the environmental community, including at least one such representative from the State of California with interests in the Klamath Basin National Wildlife Refuge Complex;

(F) four representatives of local businesses and industries, including at least one representative of the forest products industry and one representative of the ocean commercial fishing industry and/or the recreational fishing industry based in either Oregon or California;

(G) four representatives of the ranching and farming community, including representatives of Federal lease-land farmers and ranchers and of private land farmers and ranchers in the Upper Klamath Basin;

(H) two representatives from State of Oregon agencies with authority and responsibility in the Klamath River Basin, including one from the Oregon Department of Fish

and Wildlife and one from the Oregon Water Resources Department;

(I) four representatives from the local community;

(J) one representative each from the following Federal resource management agencies in the Upper Klamath Basin: Fish and Wildlife Service, Bureau of Reclamation, Bureau of Land Management, Bureau of Indian Affairs, Forest Service, Natural Resources Conservation Service, National Marine Fisheries Service and Ecosystem Restoration Office; and

(K) one representative of the Klamath County Soil and Water Conservation District.

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(4) TASK FORCE.—The term "Task Force" means the Klamath River Basin Fisheries Task Force as established by the Klamath River Basin Fishery Resource Restoration Act (Public Law 99–552, 16 U.S.C. 460ss–3 et seq.).

(5) COMPACT COMMISSION.—The term "Compact Commission" means the Klamath River Basin Compact Commission created pursuant to the Klamath River Compact Act of 1954.

(6) CONSENSUS.—The term "consensus" means a unanimous agreement by the Working Group members present and consisting of at least a quorum at a regularly scheduled business meeting.

(7) QUORUM.—The term "quorum" means one more than half of those qualified Working Group members appointed and eligible to serve.

(8) TRINITY TASK FORCE.—The term "Trinity Task Force" means the Trinity River Restoration Task Force created by Public Law 98–541, as amended by Public Law 104–143.

(b) IN GENERAL.—

(1) The Working Group through the Ecosystem Restoration Office, with technical assistance from the Secretary, will propose ecological restoration projects, economic development and stability projects, and projects designed to reduce the impacts of drought conditions to be undertaken in the Upper Klamath Basin based on a consensus of the Working Group membership.

(2) The Secretary shall pay, to the greatest extent feasible, up to 50 percent of the cost of performing any project approved by the Secretary or his designee, up to a total amount of $1,000,000 during each of fiscal years 1997 through 2001.

(3) Funds made available under this title through the Department of the Interior or the Department of Agriculture shall be distributed through the Ecosystem Restoration Office.

(4) The Ecosystem Restoration Office may utilize not more than 15 percent of all Federal funds administered under this section for administrative costs relating to the implementation of this section.

(5) All funding recommendations developed by the Working Group shall be based on a consensus of Working Group members.

(c) COORDINATION.—(1) The Secretary shall formulate a cooperative agreement among the working group, the Task Force, the Trinity Task Force and the Compact Commission for the purposes of ensuring that projects proposed and funded through the Working Group are consistent with other basin-wide fish and wild-

life restoration and conservation plans, including but not limited to plans developed by the Task Force and the Compact Commission.

Notification.

(2) To the greatest extent practicable, the Working Group shall provide notice to, and accept input from, two members each of the Task Force, the Trinity Task Force, and the Compact Commission, so appointed by those entities, for the express purpose of facilitating better communication and coordination regarding additional basin-wide fish and wildlife and ecosystem restoration and planning efforts. The roles and relationships of the entities involved shall be clarified in the cooperative agreement.

(d) PUBLIC MEETINGS.—The Working Group shall conduct all meetings subject to Federal open meeting and public participation laws. The chartering requirements of the Federal Advisory Committee Act (5 U.S.C. App.) are hereby deemed to have been met by this section.

(e) TERMS AND VACANCIES.—Working Group Members shall serve for three-year terms, beginning on the date of enactment of this title. Vacancies which occur for any reason after the date of enactment of this title shall be filled by direct appointment of the Governor of the State of Oregon, in consultation with the Secretary of the Interior and the Secretary of Agriculture, in accordance with nominations from the appropriate groups, interests, and government agencies outlined in subsection (a)(2).

(f) RIGHTS, DUTIES AND AUTHORITIES UNAFFECTED.—The Working Group will supplement, rather than replace, existing efforts to manage the natural resources of the Klamath Basin. Nothing in this section affects any legal right, duty or authority of any person or agency, including any member of the Working Group.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $1,000,000 for each of fiscal years 1997 through 2002.

SEC. 1025. DESCHUTES BASIN ECOSYSTEM RESTORATION PROJECTS.

(a) DEFINITIONS.—In this section:

(1) WORKING GROUP.—The term "Working Group" means the Deschutes River Basin Working Group established before the date of enactment of this title, consisting of members nominated by their represented groups, including—

(A) five representatives of private interests including one each from hydroelectric production, livestock grazing, timber, land development, and recreation/tourism;

(B) four representatives of private interests including two each from irrigated agriculture and the environmental community;

(C) two representatives from the Confederated Tribes of the Warm Springs Reservation of Oregon;

(D) two representatives from Federal agencies with authority and responsibility in the Deschutes River Basin, including one from the Department of the Interior and one from the Agriculture Department;

(E) two representatives from the State of Oregon agencies with authority and responsibility in the Deschutes River Basin, including one from the Oregon Department of Fish and Wildlife and one from the Oregon Water Resources Department; and

(F) four representatives from county or city governments within the Deschutes River Basin county and/or city governments.

(2) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(3) FEDERAL AGENCIES.—The term "Federal agencies" means agencies and departments of the United States, including, but not limited to, the Bureau of Reclamation, Bureau of Indian Affairs, Bureau of Land Management, Fish and Wildlife Service, Forest Service, Natural Resources Conservation Service, Farm Services Agency, the National Marine Fisheries Service, and the Bonneville Power Administration.

(4) CONSENSUS.—The term "consensus" means a unanimous agreement by the Working Group members present and constituting at least a quorum at a regularly scheduled business meeting.

(5) QUORUM.—The term "quorum" means one more than half of those qualified Working Group members appointed and eligible to serve.

(b) IN GENERAL.—

(1) The Working Group will propose ecological restoration projects on both Federal and non-Federal lands and waters to be undertaken in the Deschutes River Basin based on a consensus of the Working Group, provided that such projects, when involving Federal land or funds, shall be proposed to the Bureau of Reclamation in the Department of the Interior and any other Federal agency with affected land or funds.

(2) The Working Group will accept donations, grants or other funds and place such funds received into a trust fund, to be expended on ecological restoration projects which, when involving Federal land or funds, are approved by the affected Federal agency.

(3) The Bureau of Reclamation shall pay from funds authorized under subsection (h) of this title up to 50 percent of the cost of performing any project proposed by the Working Group and approved by the Secretary, up to a total amount of $1,000,000 during each of the fiscal years 1997 through 2001.

(4) Non-Federal contributions to project costs for purposes of computing the Federal matching share under paragraph (3) of this subsection may include in-kind contributions.

(5) Funds authorized in subsection (h) of this section shall be maintained in and distributed by the Bureau of Reclamation in the Department of the Interior. The Bureau of Reclamation shall not expend more than 5 percent of amounts appropriated pursuant to subsection (h) for Federal administration of such appropriations pursuant to this section.

(6) The Bureau of Reclamation is authorized to provide by grant to the Working Group not more than 5 percent of funds appropriated pursuant to subsection (h) of this title for not more than 50 percent of administration costs relating to the implementation of this section.

(7) The Federal agencies with authority and responsibility in the Deschutes River Basin shall provide technical assistance to the Working Group and shall designate representatives to serve as members of the Working Group.

(8) All funding recommendations developed by the Working Group shall be based on a consensus of the Working Group members.

(c) PUBLIC NOTICE AND PARTICIPATION.—The Working Group shall conduct all meetings subject to applicable open meeting and public participation laws. The activities of the Working Group and the Federal agencies pursuant to the provisions of this title are exempt from the provisions of title 5, United States Code, Appendix 2, sections 1–15.

(d) PRIORITIES.—The Working Group shall give priority to voluntary market-based economic incentives for ecosystem restoration including, but not limited to, water leases and purchases; land leases and purchases; tradable discharge permits; and acquisition of timber, grazing, and land development rights to implement plans, programs, measures, and projects.

(e) TERMS AND VACANCIES.—Members of the Working Group representing governmental agencies or entities shall be named by the represented government. Members of the Working Group representing private interests shall be named in accordance with the articles of incorporation and bylaws of the Working Group. Representatives from Federal agencies will serve for terms of 3 years. Vacancies which occur for any reason after the date of enactment of this title shall be filled in accordance with this title.

(f) ADDITIONAL PROJECTS.—Where existing authority and appropriations permit, Federal agencies may contribute to the implementation of projects recommended by the Working Group and approved by the Secretary.

(g) RIGHTS, DUTIES AND AUTHORITIES UNAFFECTED.—The Working Group will supplement, rather than replace, existing efforts to manage the natural resources of the Deschutes Basin. Nothing in this title affects any legal right, duty or authority of any person or agency, including any member of the Working Group.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this title $1,000,000 for each of fiscal years 1997 through 2001.

Oregon.

SEC. 1026. BULL RUN PROTECTION.—

(a) AMENDMENTS TO PUBLIC LAW 95–200.—

16 USC 482b note.

(1) The first sentence of section 2(a) of the Public Law 95–200 is amended by striking "2(b)" and inserting in lieu thereof "2(c)".

(2) The first sentence of section 2(b) of Public Law 95–200 is amended after "the policy set forth in subsection (a)" by inserting "and (b)".

(3) Subsections (b), (c), (d), and (e) of section 2 of Public Law 95–200 are redesignated as subsections (c), (d), (e), and (f), respectively.

(4) Section 2 of Public Law 95–200 is amended by inserting after subsection (a) the following new subsection:

"(b) TIMBER CUTTING.—

"(1) IN GENERAL.—Subject to paragraph (2), the Secretary of Agriculture shall prohibit the cutting of trees in that part of the unit consisting of the hydrographic boundary of the Bull Run River Drainage, including certain lands within the unit and located below the headworks of the city of Portland, Oregon's water storage and delivery project, and as depicted

in a map dated July 22, 1996, and entitled 'Bull Run River Drainage'.

"(2) PERMITTED CUTTING.—

"(A) IN GENERAL.—Subject to subparagraph (B), the Secretary of Agriculture shall prohibit the cutting of trees in the area described in subparagraph (1).

"(B) PERMITTED CUTTING.—Subject to subparagraph (C), the Secretary may only allow the cutting of trees in the area described in subparagraph (1)—

"(i) for the protection or enhancement of water quality in the area described in subparagraph (1); or

"(ii) for the protection, enhancement, or maintenance of water quantity available from the area described in subparagraph (1); or

"(iii) for the construction, expansion, protection or maintenance of municipal water supply facilities; or

"(iv) for the construction, expansion, protection or maintenance of facilities for the transmission of energy through and over the unit or previously authorized hydroelectric facilities or hydroelectric projects associated with municipal water supply facilities.

"(C) SALVAGE SALES.—The Secretary of Agriculture may not authorize a salvage sale in the area described in subparagraph (1).".

(b) REPORT TO CONGRESS.—The Secretary of Agriculture shall, in consultation with the city of Portland and other affected parties undertake a study of that part of the Little Sandy Watershed that is within the unit (hereinafter referred to as the "study area"). The study shall determine—

(1) the impact of management activities within the study area on the quality of drinking water provided to the Portland Metropolitan area;

(2) the identity and location of certain ecological features within the study area, including late successional forest characteristics, aquatic and terrestrial wildlife habitat, significant hydrological values, or other outstanding natural features; and

(3) the location and extent of any significant cultural or other values within the study area.

(c) RECOMMENDATIONS.—The study referred to in subsection (b) shall include both legislative and regulatory recommendations to Congress on the future management of the study area. In formulating such recommendations, the Secretary shall consult with the City of Portland and other affected parties.

(d) EXISTING DATA AND PROCESSES.—To the greatest extent possible, the Secretary shall use exiting data and processes to carry out the study and report.

(e) SUBMISSION TO CONGRESS.—The study referred to in subsection (b) shall be submitted to the Senate Committees on Energy and Natural Resources and Agriculture and the House Committees on Resources and Agriculture not later than one year from the date of enactment of this section.

(f) MORATORIUM.—The Secretary is prohibited from advertising, offering or awarding any timber sale within the study area for a period of two years after the date of enactment of this section.

(g) WATER RIGHTS.—Nothing in this section shall in any way affect any State or Federal law governing appropriation, use of or Federal right to water on or flowing through National Forest System lands. Nothing in this section is intended to influence the relative strength of competing claims to the waters of the Little Sandy River. Nothing in this section shall be construed to expand or diminish Federal, State, or local jurisdiction, responsibility, interests, or rights in water resources development or control, including rights in and current uses of water resources in the unit.

(h) OTHER LANDS IN UNIT.—Lands within the Bull Run Management Unit, as defined in Public Law 95–200, but not contained within the Bull Run River Drainage, as described in the amendment made by subsection (a)(4) of this section and as depicted on the map dated July 22, 1996, and entitled "Bull Run River Drainage", shall continue to be managed in accordance with Public Law 95–200.

16 USC 1132 note.

SEC. 1027. OREGON ISLANDS WILDERNESS, ADDITIONS.

(a) DESIGNATION.—In furtherance of the purposes of the Wilderness Act of 1964, certain lands within the boundaries of the Oregon Islands National Wildlife Refuge, Oregon, comprising approximately 95 acres and as generally depicted on a map entitled "Oregon Island Wilderness Additions—Proposed" dated August 1996, are hereby designated as wilderness. The map shall be on file and available for public inspection in the offices of the Fish and Wildlife Service, Department of Interior.

(b) OTHER AREAS WITHIN REFUGE BOUNDARIES.—All other federally-owned named, unnamed, surveyed and unsurveyed rocks, reefs, islets and islands lying within three geographic miles off the coast of Oregon and above mean high tide, not currently designated as wilderness and also within the Oregon Islands National Wildlife Refuge boundaries under the administration of the United States Fish and Wildlife Service, Department of Interior, as designated by Executive Order 7035, Proclamation 2416, Public Land Orders 4395, 4475 and 6287, and Public Laws 91–504 and 95–450, are hereby designated as wilderness.

(c) AREAS UNDER BLM JURISDICTION.—All federally-owned named, unnamed, surveyed and unsurveyed rocks, reefs, islets and islands lying within three geographic miles off the coast of Oregon and above mean high tide, and presently under the jurisdiction of the Bureau of Land Management, except Chiefs Islands, are hereby designated as wilderness, shall become part of the Oregon Islands National Wildlife Refuge and the Oregon Islands Wilderness and shall be under the jurisdiction of the United States Fish and Wildlife Service, Department of the Interior.

(d) MAP AND DESCRIPTION.—As soon as practicable after this Act takes effect, a map of the wilderness area and a description of its boundaries shall be filed with the Senate Committee on Energy and Natural Resources and the House Committee on Resources, and such map shall have the same force and effect as if included in this section: *Provided however,* That correcting clerical and typographical errors in the map and land descriptions may be made.

(e) ORDER 6287.—Public Land Order 6287 of June 16, 1982, which withdrew certain rocks, reefs, islets, and islands lying within three geographical miles off the coast of Oregon and above mean

high tide, including the 95 acres described in subsection (a), as an addition to the Oregon Islands National Wildlife Refuge is hereby made permanent.

SEC. 1028. UMPQUA RIVER LAND EXCHANGE STUDY: POLICY AND DIRECTION.

(a) IN GENERAL.—The Secretaries of the Interior and Agriculture (Secretaries) are hereby authorized and directed to consult, coordinate and cooperate with the Umpqua Land Exchange Project (ULEP), affected units and agencies of State and local government, and, as appropriate, the World Forestry Center and National Fish and Wildlife Foundation, to assist ULEP's ongoing efforts in studying and analyzing land exchange opportunities in the Umpqua River basin and to provide scientific, technical, research, mapping and other assistance and information to such entities. Such consultation, coordination and cooperation shall at a minimum include, but not be limited to—

(1) working with ULEP to develop or assemble comprehensive scientific and other information (including comprehensive and integrated mapping) concerning the Umpqua River basin's resources of forest, plants, wildlife, fisheries (anadromous and other), recreational opportunities, wetlands, riparian habitat and other physical or natural resources;

(2) working with ULEP to identify general or specific areas within the basin where land exchanges could promote consolidation of forestland ownership for long-term, sustained timber production; protection and restoration of habitat for plants, fish and wildlife (including any federally listed threatened or endangered species); protection of drinking water supplies; recovery of threatened and endangered species; protection and restoration of wetlands, riparian lands and other environmentally sensitive areas; consolidation of land ownership for improved public access and a broad array of recreational uses; and consolidation of land ownership to achieve management efficiency and reduced costs of administration; and

(3) developing a joint report for submission to the Congress which discusses land exchange opportunities in the basin and outlines either a specific land exchange proposal or proposals which may merit consideration by the Secretaries or the Congress, or ideas and recommendations for new authorizations, direction, or changes in existing law or policy to expedite and facilitate the consummation of beneficial land exchanges in the basin via administrative means. Reports.

(b) MATTERS FOR SPECIFIC STUDY.—In analyzing land exchange opportunities with ULEP, the Secretaries shall give priority to assisting ULEP's ongoing efforts in:

(1) studying, identifying, and mapping areas where the consolidation of land ownership via land exchanges could promote the goals of long term species and watershed protection and utilization, including but not limited to the goals of the Endangered Species Act of 1973 more effectively than current land ownership patterns and whether any changes in law or policy applicable to such lands after consummation of an exchange would be advisable or necessary to achieve such goals;

(2) studying, identifying and mapping areas where land exchanges might be utilized to better satisfy the goals of sustainable timber harvest, including studying whether changes

in existing law or policy applicable to such lands after consummation of an exchange would be advisable or necessary to achieve such goals;

(3) identifying issues and studying options and alternatives, including possible changes in existing law or policy, to ensure that combined post-exchange revenues to units of local government from State and local property, severance and other taxes or levies and shared Federal land receipts will approximate pre-exchange revenues;

(4) identifying issues and studying whether possible changes in law, special appraisal instruction, or changes in certain Federal appraisal procedures might be advisable or necessary to facilitate the appraisal of potential exchange lands which may have special characteristics or restrictions affecting land values;

(5) identifying issues and studying options and alternatives, including changes in existing laws or policy, for achieving land exchanges without reducing the net supply of timber available to small businesses;

(6) identifying, mapping, and recommending potential changes in land use plans, land classifications, or other actions which might be advisable or necessary to expedite, facilitate or consummate land exchanges in certain areas;

(7) analyzing potential sources for new or enhanced Federal, State, or other funding to promote improved resource protection, species recovery, and management in the basin; and

(8) identifying and analyzing whether increased efficiency and better land and resource management could occur through either consolidation of Federal forest management under one agency or exchange of lands between the Forest Service and Bureau of Land Management.

(c) REPORT TO CONGRESS.—No later than February 1, 1998, ULEP and the Secretaries shall submit a joint report to the Committee on Resources of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate concerning their studies, findings, recommendations, mapping and other activities conducted pursuant to this section.

(d) AUTHORIZATION OF APPROPRIATIONS.—In furtherance of the purposes of this section, there is hereby authorized to be appropriated the sum of $2,000,000, to remain available until expended.

Massachusetts.
16 USC 460kkk.

SEC. 1029. BOSTON HARBOR ISLANDS RECREATION AREA.

(a) PURPOSES.—The purposes of this section are—

(1) to preserve for public use and enjoyment the lands and waters that comprise the Boston Harbor Islands National Recreation Area;

(2) to manage the recreation area in partnership with the private sector, the Commonwealth of Massachusetts, municipalities surrounding Massachusetts and Cape Cod Bays, the Thompson Island Outward Bound Education Center, and Trustees of Reservations, and with historical, business, cultural, civic, recreational and tourism organizations;

(3) to improve access to the Boston Harbor Islands through the use of public water transportation; and

(4) to provide education and visitor information programs to increase public understanding of and appreciation for the natural and cultural resources of the Boston Harbor Islands, including the history of Native American use and involvement.

(b) DEFINITIONS.—For the purposes of this section—

(1) the term recreation area means the Boston Harbor Islands National Recreation Area established by subsection (c); and

(2) the term "Secretary" means the Secretary of the Interior.

(c) BOSTON HARBOR ISLANDS NATIONAL RECREATION AREA.—

(1) ESTABLISHMENT.—In order to preserve for the benefit and inspiration of the people of the United States as a national recreation area certain lands located in Massachusetts Bay, there is established as a unit of the National Park System the Boston Harbor Islands National Recreation Area.

(2) BOUNDARIES.—(A) The recreation area shall be comprised of the lands, waters, and submerged lands generally depicted on the map entitled "Proposed Boston Harbor Islands NRA", numbered BOHA 80,002, and dated September 1996. Such map shall be on file and available for public inspection in the appropriate offices of the National Park Service. After advising the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, in writing, the Secretary may make minor revisions of the boundaries of the recreation area when necessary by publication of a revised drawing or other boundary description in the Federal Register.

(B) The recreation area shall include the following:

(i) The areas depicted on the map reference in subparagraph (A).

(ii) Landside points required for access, visitor services, and administration in the city of Boston along its Harborwalk and at Long Wharf, Fan Pier, John F. Kennedy Library, and the Custom House; Charlestown Navy Yard; Old Northern Avenue Bridge; the city of Quincy at Squantum Point/Marina Bay, the Fore River Shipyard, and Town River; the Town of Hingham at Hewitt's Cove; the Town of Hull; the city of Salem at Salem National Historic Site; and the city of Lynn at the Heritage State Park.

(d) ADMINISTRATION OF RECREATION AREA.—

(1) IN GENERAL.—The recreation area shall be administered in partnership by the Secretary, the Commonwealth of Massachusetts, City of Boston and its applicable subdivisions and others in accordance with the provisions of law generally applicable to units of the National Park System, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2, 3, and 4), and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461–467) as amended and supplemented and in accordance with the integrated management plan specified in subsection (f).

(2) STATE AND LOCAL JURISDICTION.—Nothing in this section shall be construed to diminish, enlarge, or modify any right of the Commonwealth of Massachusetts or any political subdivision thereof, to exercise civil and criminal jurisdiction or to carry out State laws, rules, and regulations within the

recreation area, including those relating to fish and wildlife, or to tax persons, corporations, franchises, or private property on the lands and waters included in the recreation area.

(3) COOPERATIVE AGREEMENTS.—The Secretary may consult and enter into cooperative agreements with the Commonwealth of Massachusetts or its political subdivisions to acquire from and provide to the Commonwealth or its political subdivisions goods and services to be used in the cooperative management of lands within the recreation area, if the Secretary determines that appropriations for that purpose are available and the agreement is in the best interest of the United States.

(4) CONSTRUCTION OF FACILITIES ON NON-FEDERAL LANDS.—In order to facilitate the administration of the recreation area, the Secretary is authorized, subject to the appropriation of necessary funds in advance, to construct essential administrative or visitor use facilities on non-Federal public lands within the recreation area. Such facilities and the use thereof shall be in conformance with applicable plans

(5) OTHER PROPERTY, FUNDS, AND SERVICES.—The Secretary may accept and use donated funds, property, and services to carry out this section.

(6) RELATIONSHIP OF RECREATION AREA TO BOSTON-LOGAN INTERNATIONAL AIRPORT.—With respect to the recreation area, the present and future maintenance, operation, improvement and use of Boston-Logan International Airport and associated flight patterns from time to time in effect shall not be deemed to constitute the use of publicly owned land of a public park, recreation area, or other resource within the meaning of section 303(c) of title 49, United States Code, and shall not be deemed to have a significant effect on natural, scenic, and recreation assets within the meaning of section 47101(h)(2) of title 49, United States Code.

(7) MANAGEMENT IN ACCORDANCE WITH INTEGRATED MANAGEMENT PLAN.—The Secretary shall preserve, interpret, manage, and provide educational and recreational uses for the recreation area, in consultation with the owners and managers of lands in the recreation area, in accordance with the integrated management plan.

(e) BOSTON HARBOR ISLANDS PARTNERSHIP ESTABLISHMENT.—

(1) ESTABLISHMENT.—There is hereby established the Boston Harbor Islands Partnership whose purpose shall be to coordinate the activities of Federal, State, and local authorities and the private sector in the development and implementation of an integrated resource management plan for the recreation area.

(2) MEMBERSHIP.—The Partnership shall be composed of 13 members, as follows:

(A) One individual, appointed by the Secretary, to represent the National Park Service.

(B) One individual, appointed by the Secretary of Transportation, to represent the United States Coast Guard.

(C) Two individuals, appointed by the Secretary, after consideration of recommendations by the Governor of Massachusetts, to represent the Department of Environmental Management and the Metropolitan District Commission.

(D) One individual, appointed by the Secretary, after consideration of recommendations by the Chair, to represent the Massachusetts Port Authority.

(E) One individual, appointed by the Secretary, after consideration of recommendations by the Chair, to represent the Massachusetts Water Resources Authority.

(F) One individual, appointed by the Secretary, after consideration of recommendations by the Mayor of Boston, to represent the Office of Environmental Services of the City of Boston.

(G) One individual, appointed by the Secretary, after consideration of recommendations by the Chair, to represent the Boston Redevelopment Authority.

(H) One individual, appointed by the Secretary, after consideration of recommendations of the President of the Thompson Island Outward Bound Education Center, to represent the Center.

(I) One individual, appointed by the Secretary, after consideration of recommendations of the Chair, to represent the Trustees of Reservations.

(J) One individual, appointed by the Secretary, after consideration of recommendations of the President of the Island Alliance, to represent the Alliance, a nonprofit organization whose sole purpose is to provide financial support for the Boston Harbor Islands National Recreation Area.

(K) Two individuals, appointed by the Secretary, to represent the Boston Harbor Islands Advisory Council, established in subsection (g).

(3) TERMS OF OFFICE; REAPPOINTMENT.—(A) Members of the Partnership shall serve for terms of three years. Any member may be reappointed for one additional 3-year term.

(B) The Secretary shall appoint the first members of the Partnership within 30 days after the date on which the Secretary has received all of the recommendations for appointment pursuant to subsections (b) (3), (4), (5), (6), (7), (8), (9), and (10).

(C) A member may serve after the expiration of his or her term until a successor has been appointed.

(4) COMPENSATION.—Members of the Partnership shall serve without pay, but while away from their homes or regular places of business in the performance of services for the Partnership, members shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

(5) ELECTION OF OFFICERS.—The Partnership shall elect one of its members as Chairperson and one as Vice Chairperson. The term of office of the Chairperson and Vice Chairperson shall be one year. The Vice Chairperson shall serve as chairperson in the absence of the Chairperson.

(6) VACANCY.—Any vacancy on the Partnership shall be filled in the same manner in which the original appointment was made.

(7) MEETINGS.—The Partnership shall meet at the call of the Chairperson or a majority of its members.

(8) QUORUM.—A majority of the Partnership shall constitute a quorum.

(9) STAFF OF THE PARTNERSHIP.—The Secretary shall provide the Partnership with such staff and technical assistance as the Secretary, after consultation with the Partnership, considers appropriate to enable the Partnership to carry out its duties. The Secretary may accept the services of personnel detailed from the Commonwealth of Massachusetts, any political subdivision of the Commonwealth or any entity represented on the Partnership.

(10) HEARINGS.—The Partnership may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Partnership may deem appropriate.

(11) DONATIONS.—Nothwithstanding any other provision of law, the Partnership may seek and accept donations of funds, property, or services from individuals, foundations, corporations, and other private and public entities for the purpose of carrying out this section.

(12) USE OF FUNDS TO OBTAIN MONEY.—The Partnership may use its funds to obtain money from any source under any program or law requiring the recipient of such money to make a contribution in order to receive such money.

(13) MAILS.—The Partnership may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

(14) OBTAINING PROPERTY.—The Partnership may obtain by purchase, rental, donation, or otherwise, such property, facilities, and services as may be needed to carry out its duties, except that the Partnership may not acquire any real property or interest in real property.

(15) COOPERATIVE AGREEMENTS.—For purposes of carrying out the plan described in subsection (f), the Partnership may enter into cooperative agreements with the Commonwealth of Massachusetts, any political subdivision thereof, or with any organization or person.

(f) INTEGRATED RESOURCE MANAGEMENT PLAN.—

(1) IN GENERAL.—Within three years after the date of enactment of this Act, the Partnership shall submit to the Secretary a management plan for the recreation area to be developed and implemented by the Partnership.

(2) CONTENTS OF PLAN.—The plan shall include (but not be limited to) each of the following:

(A) A program providing for coordinated administration of the recreation area with proposed assignment of responsibilities to the appropriate governmental unit at the Federal, State, and local levels, and nonprofit organizations, including each of the following:

(i) A plan to finance and support the public improvements and services recommended in the plan, including allocation of non-Federal matching requirements set forth in subsection (h)(2) and a delineation of profit sector roles and responsibilities.

(ii) A program for the coordination and consolidation, to the extent feasible, of activities that may be carried out by Federal, State, and local agencies having jurisdiction over land and waters within the recreation

area, including planning and regulatory responsibilities.

(B) Policies and programs for the following purposes:

(i) Enhancing public outdoor recreational opportunities in the recreation area.

(ii) Conserving, protecting, and maintaining the scenic, historical, cultural, natural and scientific values of the islands.

(iii) Developing educational opportunities in the recreation area.

(iv) Enhancing public access to the Islands, including development of transportation networks.

(v) Identifying potential sources of revenue from programs or activities carried out within the recreation area.

(vi) Protecting and preserving Native American burial grounds connected with the King Philip's War internment period and other periods.

(C) A policy statement that recognizes existing economic activities within the recreation area.

(3) DEVELOPMENT OF PLAN.—In developing the plan, the Partnership shall—

(A) consult on a regular basis with appropriate officials of any local government or Federal or State agency which has jurisdiction over lands and waters within the recreation area;

(B) consult with interested conservation, business, professional, and citizen organizations; and

(C) conduct public hearings or meetings for the purposes of providing interested persons with the opportunity to testify with respect to matters to be addressed by the plan.

(4) APPROVAL OF PLAN.—(A) The Partnership shall submit the plan to the Governor of Massachusetts for review. The Governor shall have 90 days to review and make any recommendations. After considering the Governor's recommendations, the Partnership shall submit the plan to the Secretary, who shall approve or disapprove the plan within 90 days. In reviewing the plan the Secretary shall consider each of the following:

(i) The adequacy of public participation.

(ii) Assurances of plan implementation from State and local officials.

(iii) The adequacy of regulatory and financial tools that are in place to implement the plan.

(B) If the Secretary disapproves the plan, the Secretary shall within 60 days after the date of such disapproval, advise the Partnership in writing of the reasons therefore, together with recommendations for revision. Within 90 days of receipt of such notice of disapproval, the Partnership shall revise and resubmit the plan to the Secretary who shall approve or disapprove the revision within 60 days.

(5) INTERIM PROGRAM.—Prior to adoption of the Partnership's plan, the Secretary and the Partnership shall assist the owners and managers of lands and waters within the recreation area to ensure that existing programs, services, and

activities that promote the purposes of this section are supported.

(g) BOSTON HARBOR ISLANDS ADVISORY COUNCIL.—

(1) ESTABLISHMENT.—The Secretary, acting through the Director of the National Park Service, shall establish an advisory committee to be known as the Boston Harbor Islands Advisory Council. The purpose of the Advisory Council shall be to represent various groups with interests in the recreation area and make recommendations to the Boston Harbor Islands Partnership on issues related to the development and implementation of the integrated resource management plan developed under subsection (f). The Advisory Council is encouraged to establish committees relating to specific recreation area management issues, including (but not limited to) education, tourism, transportation, natural resources, cultural and historic resources, and revenue raising activities. Participation on any such committee shall not be limited to members of the Advisory Council.

(2) MEMBERSHIP.—The Advisory Council shall consist of not fewer than 18 individuals, to be appointed by the Secretary, acting through the Director of the National Park Service. The Secretary shall appoint no fewer than three individuals to represent each of the following categories of entities: municipalities; educational and cultural institutions; environmental organizations; business and commercial entities, including those related to transportation, tourism and the maritime industry; and Boston Harbor-related advocacy organizations; and organizations representing Native American interests.

(3) PROCEDURES.—Each meeting of the Advisory Council and its committees shall be open to the public.

(4) FACA.—The provisions of section 14 of the Federal Advisory Committee Act (5 U.S.C. App.), are hereby waived with respect to the Advisory Council.

(h) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated such sums as may be necessary to carry out this section, provided that no funds may be appropriated for land acquisition.

(2) MATCHING REQUIREMENT.—Amounts appropriated in any fiscal year to carry out this section may only be expended on a matching basis in a ration of at least three non-Federal dollars to every Federal dollar. The non-Federal share of the match may be in the form of cash, services, or in-kind contributions, fairly valued.

Mississippi.

SEC. 1030. NATCHEZ NATIONAL HISTORICAL PARK.

16 USC 410*oo*–2.

Section 3 of the Act of October 8, 1988, entitled "An Act to create a national park at Natchez, Mississippi" (16 U.S.C. 410oo et seq.), is amended—

(1) by inserting "(a) IN GENERAL.—" after "SEC. 3."; and

(2) by adding at the end the following:

"(b) BUILDING FOR JOINT USE BY THE SECRETARY AND THE CITY OF NATCHEZ.—

"(1) CONTRIBUTION TOWARD CONSTRUCTION.—The Secretary may enter into an agreement with the City of Natchez under which the Secretary agrees to pay not to exceed $3,000,000 toward the planning and construction by the City of Natchez

of a structure to be partially used by the Secretary as an administrative headquarters, administrative site, and visitors' center for Natchez National Historical Park.

"(2) USE FOR SATISFACTION OF MATCHING REQUIREMENTS.—The amount of payment under paragraph (1) may be available for matching Federal grants authorized under other law notwithstanding any limitations in any such law.

"(3) AGREEMENT.—Prior to the execution of an agreement under paragraph (1), and subject to the appropriation of necessary funds in advance, the Secretary may enter into a contract, lease, cooperative agreement, or other appropriate form of agreement with the City of Natchez providing for the use and occupancy of a portion of the structure constructed under paragraph (1) (including appropriate use of the land on which it is situated), at no cost to the Secretary (except maintenance, utility, and other operational costs), for a period of 50 years, with an option for renewal by the Secretary for an additional 50 years.

"(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $3,000,000 to carry out this subsection.".

SEC. 1031. SUBSTITUTION OF TIMBER FOR CANCELED TIMBER SALE. California.

(a) IN GENERAL.—Notwithstanding the provisions of the Act of July 31, 1947 (30 U.S.C. 601 et seq.), and the requirements of section 5402.0–6 of title 43, Code of Federal Regulations, the Secretary of the Interior, acting through the Bureau of Land Management, is authorized to substitute, without competition, a contract for timber identified for harvest located on public lands administered by the Bureau of Land Management in the State of California of comparable value for the following terminated timber contract: Elkhorn Ridge Timber Sale, Contract No. CA–050–TS–88–01.

(b) DISCLAIMER.—Nothing in this section shall be construed as changing any law or policy of the Federal Government beyond the timber sale substitution specified in this section.

SEC. 1032. RURAL ELECTRIC AND TELEPHONE FACILITIES.

(a) IN GENERAL.—Section 504(g) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1764(g)) is amended by striking "financed pursuant to the Rural Electrification Act of 1936, as amended," in the last sentence and inserting "eligible for financing pursuant to the Rural Electrification Act of 1936, as amended, determined without regard to any application requirement under that Act,".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to rights-of-way leases held on or after the date of enactment of this Act. Applicability. 43 USC 1764 note.

SEC. 1033. FEDERAL BOROUGH RECOGNITION.

(a) Section 6901(2) of title 31, United States Code, is amended to read as follows:

"(2)(A) 'unit of general local government' means—

"(i) a county (or parish), township, borough, or city where the city is independent of any other unit of general local government, that—

"(I) is within the class or classes of such political subdivision in a State that the Secretary of the Interior,

in his discretion, determines to be the principal provider or providers of governmental services within the State; and

"(II) is a unit of general government, as determined by the Secretary of the Interior on the basis of the same principles as were used by the Secretary of Commerce on January 1, 1983, for general statistical purposes;

"(ii) any area in Alaska that is within the boundaries of a census area used by the Secretary of Commerce in the decennial census, but that is not included within the boundary of a governmental entity described under clause (i);

"(iii) the District of Columbia;

"(iv) the Commonwealth of Puerto Rico;

"(v) Guam; and

"(vi) the Virgin Islands.

"(B) the term 'governmental services' includes, but is not limited to, those services that relate to public safety, the environment, housing, social services, transportation, and governmental administration.".

(b) PAYMENT IN LIEU OF TAXES.—Section 6902(a) of title 31, United States Code, is amended to read as follows:

"(a)(1) Except as provided in paragraph (2), the Secretary of the Interior shall make a payment for each fiscal year to each unit of general local government in which entitlement land is located as set forth in this chapter. A unit of general local government may use the payment for any governmental purpose.

Alaska. "(2) For each unit of general local government described in section 6901(2)(A)(ii), the Secretary of the Interior shall make a payment for each fiscal year to the State of Alaska for entitlement land located within such unit as set forth in this chapter. The State of Alaska shall distribute such payment to home rule cities and general law cities (as such cities are defined by the State) located within the boundaries of the unit of general local government for which the payment was received. Such cities may use monies received under this paragraph for any governmental purpose.".

SEC. 1034. EXTENSION OF STATUTE OF LIMITATIONS.

Notwithstanding any other provision of law, any of the Alaska Native Village Corporations of Tyonek Native Corporation, Ninilchik Native Association, Inc., Knikatnu Inc., Seldovia Native Association, Inc., Chikaloon Moose Creek Native Association, Inc., and the Alaska Native Regional Corporation, Cook Inlet Region, Inc. may commence litigation at any time within 12 months of enactment of this Act in Federal District Court for Alaska to challenge any determination by the Department of the Interior that such native corporations will not receive conveyance of lands described in "Appendix C" of the Deficiency Agreement dated August 31, 1976.

SEC. 1035. REGULATIONS OF FISHING IN CERTAIN WATERS OF ALASKA.

(a) IN GENERAL.—Local residents who are descendants of Katmai residents who lived in the Naknek Lake and River Drainage shall be permitted, subject to reasonable regulations established by the Secretary of the Interior, to continue their traditional fishery for red fish within Katmai National Park (the national park and

national preserve redesignated, established, and expanded under section 202(2) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 410hh–1)).

(b) RED FISH DEFINED.—For the purposes of subsection (a), the term "red fish" means spawned-out sockeye salmon that has no significant commercial value.

(c) TITLE.—No provision of this section shall be construed to invalidate or validate or in any other way affect any claim by the State of Alaska to title to any or all submerged lands, nor shall any actions taken pursuant to or in accordance with this Act operate under any provision or principle of the law to bar the State of Alaska from asserting at any time its claim of title to any or all of the submerged lands.

(d) JURISDICTION.—Nothing in this section nor in any actions taken pursuant to this section shall be construed as expanding or diminishing Federal or State jurisdiction, responsibility, interests, or rights in management, regulation, or control over waters of the State of Alaska or submerged lands under any provision of Federal or State law.

SEC. 1036. CREDIT FOR RECONVEYANCE.

Within 24 months after the date of the enactment of this Act, the Cape Fox Corporation may transfer all or part of its right, title, and interest in and to the approximately 320-acre parcel that includes Beaver Falls Hydroelectric power-house site to the United States as part of an equal value exchange.

SEC. 1037. RADIO SITE REPORT.

The Secretary of Agriculture (1) shall have a period of 180 days from the date of enactment of this Act to review management of Inspiration Point, San Bernadino National Forest, make determination whether the continued presence of the KATY–FM antenna on the site is in the public interest, and report the determination with the reasons therefor to the Committee on Energy and Natural Resources, United States Senate, and the Committee on Resources, House of Representatives, and (2) shall take no action within such period which causes or results in, directly or indirectly, the removal of the antenna from the site.

TITLE XI—CALIFORNIA BAY DELTA ENVIRONMENTAL ENHANCEMENT

SEC. 1101. PROGRAM FUNDING.

(a) AUTHORIZATION OF APPROPRIATIONS.—For each of the fiscal years 1998, 1999, and 2000, there are authorized to be appropriated an additional $143,300,000 for both—

(1) the initial Federal share of the cost of developing and implementing that portion of an ecosystem protection plan for the Bay-Delta, referred to as "the Category III program" emanating out of the document entitled "Principles for Agreement on Bay-Delta Standards between the State of California and the Federal Government", dated December 15, 1994, and

(2) the initial Federal share of the cost of developing and implementing the ecosystem restoration elements of the long-term CALFED Bay-Delta Program, pursuant to the cost sharing agreement required by section 78684.10 of

California Senate Bill 900, Chapter 135, Statutes of 1996, signed by the Governor of California on July 11, 1996.

Funds appropriated pursuant to this section shall remain available until expended and shall be administered in accordance with procedures established by CALFED Bay-Delta Program until Congress authorizes another entity that is recommended by CALFED Bay-Delta Program to carry out this section.

(b) TREATMENT OF FUNDS.—Funds authorized to be appropriated pursuant to this section to those agencies that are currently or subsequently become participants in the CALFED Bay-Delta Program shall be in addition to the baseline funding levels established pursuant to subsection (e), for currently authorized projects and programs under the Central Valley Project Improvement Act (title XXXIV of Public Law 102–575) and other currently authorized Federal programs for the purpose of Bay-Delta ecosystem protection and restoration.

(c) LONG-TERM SOLUTION.—Nothing in this section shall be deemed to diminish the Federal interest in and responsibility for working with the State of California through the CALFED Bay-Delta Program in developing, funding, and implementing a balanced, long-term solution to the problems of ecosystem quality, water quality, water supply and reliability, and system vulnerability affecting the San Francisco Bay/Sacramento-San Joaquin Delta Watershed in California. Participation in such long-term solution shall only be undertaken pursuant to authorization provided by law other than this section, and shall be based on the equitable allocation of program costs among beneficiary groups that the CALFED Bay-Delta programs shall develop.

(d) ACTIVITIES.—To the extent not otherwise authorized, those agencies and departments that are currently or subsequently become participants in the CALFED Bay-Delta Program are hereby authorized to undertake the activities and programs for which Federal cost sharing is provided by this section. The United States shall immediately initiate coordinated consultations and negotiations with the State of California to expeditiously execute the cost-sharing agreement required by section 78684.10 of California Senate Bill 900, Chapter 135, Statutes of 1996, signed by the Governor of California on July 11, 1996. Such activities shall include, but not be limited to, planning, design, technical assistance, and construction for ecosystem restoration programs and projects.

(e) BUDGET CROSSCUT.—The Office of Management and Budget is directed to submit to the House and Senate Committees on Appropriations, as part of the President's Fiscal Year 1998 Budget, an interagency budget crosscut that displays Federal spending for fiscal years 1993 through 1998 on ecosystem restoration and other purposes in the Bay-Delta region, separately showing funding provided previously or requested under both pre-existing authorities and new authorities granted by this section.

(f) EFFECTIVE DATE.—Subsections (a) through (d) of this section shall take effect on the date of passage of California State Proposition 204.

DIVISION II

TITLE I—NATIONAL COAL HERITAGE AREA

National Coal Heritage Area Act of 1996. West Virginia. 16 USC 461 note.

SEC. 101. SHORT TITLE.

This title may be cited as the "National Coal Heritage Area Act of 1996".

SEC. 102. FINDINGS.

(a) FINDINGS.—The Congress finds as follows:

(1) Certain events that led to the development of southern West Virginia's coalfields during the latter part of the 19th Century and the early part of the current century are of national historic and cultural significance in terms of their contribution to the industrialization of the United States, the organization of workers into trade unions, and the unique culture of the Appalachian Region.

(2) It is in the national interest to preserve and protect physical remnants of this era for the education and benefit of present and future generations.

(3) There is a need to provide assistance for the preservation and promotion of those vestiges of southern West Virginia's coal heritage which have outstanding cultural, historic, and architectural value.

SEC. 103. ESTABLISHMENT.

(a) IN GENERAL.—For the purpose of preserving and interpreting for the educational and inspirational benefit of present and future generations certain lands and structures with unique and significant historic and cultural value associated with the coal mining heritage of the State of West Virginia and the Nation, there is hereby established the National Coal Heritage Area (hereafter in this title referred to as the "Area").

(b) BOUNDARIES.—The Area shall be comprised of the counties in the State of West Virginia that are the subject of the study by the National Park Service, dated 1993, entitled "A Coal Mining Heritage Study: Southern West Virginia" conducted pursuant to title VI of Public Law 100–699.

(c) ADMINISTRATION.—The Area shall be administered in accordance with this title.

SEC. 104. CONTRACTUAL AGREEMENT.

The Secretary of the Interior (hereafter in this title referred to as the "Secretary") is authorized to enter into a contractual agreement with the Governor of the State of West Virginia, acting through the Division of Culture and History and the Division of Tourism and Parks, pursuant to which the Secretary shall assist the State of West Virginia, its units of local government, and nonprofit organizations in each of the following:

(1) The development and implementation of integrated cultural, historical, and land resource management policies and programs in order to retain, enhance, and interpret the significant values of the lands, water, and structures of the Area.

(2) The preservation, restoration, maintenance, operation, interpretation, and promotion of buildings, structures, facilities,

sites, and points of interest for public use that possess cultural, historical, and architectural values associated with the coal mining heritage of the Area.

(3) The coordination of activities by Federal, State, and local governments and private businesses and organizations in order to further historic preservation and compatible economic revitalization.

(4) The development of guidelines and standards for projects, consistent with standards established by the National Park Service, for the preservation and restoration of historic properties, including interpretative methods, that will further history preservation in the region.

SEC. 105. ELIGIBLE RESOURCES.

The resources eligible for the assistance under paragraphs (2) and (5) of section 104 shall include those set forth in appendix D of the study by the National Park Service, dated 1993, entitled "A Coal Mining Heritage Study: Southern West Virginia", conducted pursuant to title VI of Public Law 100–699. Priority consideration shall be given to those sites listed as "Conservation Priorities" and "Important Historic Resources" as depicted on the map entitled "Study Area: Historic Resources" in such study.

SEC. 106. COAL HERITAGE MANAGEMENT PLAN.

(a) IN GENERAL.—Pursuant to the contractual agreement referred to in section 104, within three years after the date of enactment of this title, the Governor of the State of West Virginia, acting through the Division of Culture and History and the Division of Tourism and Parks, shall submit to the Secretary a Coal Heritage Management Plan for the Area. The plan shall at a minimum—

(1) set forth the integrated cultural, historical, and land resource management policies and programs referred to in section 104;

(2) describe the guidelines and standards for projects referred to in section 104; and

(3) set forth the responsibilities of the State of West Virginia, units of local government, nonprofit entities, or Secretary to administer any properties acquired pursuant to section 104.

(b) PLAN APPROVAL.—The Secretary shall approve the plan submitted under subsection (a) unless he determines that it would meet the objectives of this title.

SEC. 107. SUNSET.

The Secretary may not make any grant or provide any assistance under this title after September 30, 2012.

SEC. 108. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL—There is authorized to be appropriated under this title not more than $1,000,000 for any fiscal year. Not more than a total of $10,000,000 may be appropriated for the Area under this title.

(b) 50 PERCENT MATCH.—Federal funding provided under this title may not exceed 50 percent of the total cost of any assistance or grant provided or authorized under this title.

TITLE II—TENNESSEE CIVIL WAR HERITAGE AREA

16 USC 461 note.

SEC. 201. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) there are situated in the State of Tennessee the sites of several key Civil War battles, campaigns, and engagements;

(2) certain sites, battlefields, structures, and areas in Tennessee are collectively of national significance in the history of the Civil War;

(3) the Civil War Sites Advisory Commission, established by Congress in 1991, identified 38 sites in Tennessee as significant;

(4) the preservation and interpretation of these sites will make an important contribution to the understanding of the heritage of the United States;

(5) the preservation of Civil War sites within a regional framework requires cooperation among local property owners and Federal, State, and local government entities; and

(6) partnerships between Federal, State, and local governments and their regional entities, and the private sector, offer the most effective opportunities for the enhancement and management of the Civil War battlefields and related sites located in Tennessee.

(b) PURPOSES.—The purposes of this title are—

(1) to preserve, conserve, and interpret the legacy of the Civil War in Tennessee;

(2) to recognize and interpret important events and geographic locations representing key Civil War battles, campaigns, and engagements in Tennessee;

(3) to recognize and interpret the effect of the Civil War on the civilian population of Tennessee during the war and postwar reconstruction period; and

(4) to create partnerships among Federal, State, and local governments and their regional entities, and the private sector to preserve, conserve, enhance, and interpret the battlefields and associated sites associated with the Civil War in Tennessee.

SEC. 202. DEFINITIONS.

For purposes of this title:

(1) The term "national heritage area" means the Tennessee Civil War Heritage Area as designated pursuant to section 203.

(2) The term "Secretary" means the Secretary of the Interior.

(3) The term "compact" means the compact approved under section 204.

(4) The term "management plan" means the management plan submitted under section 205.

SEC. 203. TENNESSEE CIVIL WAR HERITAGE AREA.

(a) DESIGNATION.—Upon publication by the Secretary in the Federal Register of notice that a compact regarding the Tennessee Civil War Heritage Area has been approved by the Secretary in accordance with this title, there is hereby designated the Tennessee Civil War Heritage Area.

Federal Register, publication.

(b) BOUNDARIES.—The Tennessee Civil War Heritage Area shall be comprised of areas of the State of Tennessee depicted on the map entitled "Tennessee Civil War Heritage Area". The map shall be on file and available for public inspection in the office of the Director of the National Park Service.

(c) ADMINISTRATION.—The national heritage area shall be administrated in accordance with the compact and the management plan.

SEC. 204. COMPACT.

(a) COMPACT.—The compact referred to in section 203(a) shall include information relating to the objectives and management of the area proposed for designation as the national heritage area. Such information shall include (but not be limited to) each of the following:

(1) A delineation of the boundaries of the proposed national heritage area.

(2) A discussion of the goals and objectives of the proposed national heritage area, including an explanation of the approach proposed by the partners referred to in paragraph (4), to conservation and interpretation of resources.

(3) An identification and description of the management entity that will administer the proposed national heritage area.

(4) A list of the initial partners to be involved in developing and implementing the management plan for the proposed national heritage area, and a statement of the financial commitment of the partners.

(5) A description of the role of the State of Tennessee.

(b) PREPARATION OF AND ACTIONS CALLED FOR IN COMPACT.—The compact shall be prepared with public participation. Actions called for in the compact shall be likely to be initiated within a reasonable time after designation of the proposed national heritage area and shall ensure effective implementation of the State and local aspects of the compact.

(c) APPROVAL AND DISAPPROVAL OF COMPACTS.—

(1) IN GENERAL.—The Secretary, in consultation with the Governor of Tennessee, shall approve or disapprove the proposed compact not later than 90 days after receiving such compact.

(2) PROCEDURES IF DISAPPROVED.—If the Secretary disapproves a proposed compact, the Secretary shall advise, in writing, of the reasons for the disapproval and shall make recommendations for revisions of the proposed compact. The Secretary shall approve or disapprove a proposed revision to such a compact within 90 days after the date on which the revision is submitted to the Secretary.

SEC. 205. MANAGEMENT.

(a) MANAGEMENT PLANS.—A management plan submitted under this title for the national heritage area shall present comprehensive recommendations for the conservation, funding, management, and development of the area. The management plan shall—

(1) be prepared with public participation;

(2) take into consideration existing Federal, State, county, and local plans and involve residents, public agencies, and private organizations in the area;

(3) include a description of actions that units of government and private organizations are recommended to take to protect the resources of the area;

(4) specify existing and potential sources of funding for the conservation, management, and development of the area; and

(5) include the following, as appropriate:

(A) An inventory of the resources contained in the national heritage area, including a list of property in the area that should be conserved, restored, managed, developed, or maintained because of the natural, cultural, or historic significance of the property as it relates to the themes of the area.

(B) A recommendation of policies for resource management that consider and detail the application of appropriate land and water management techniques, including (but not limited to) the development of intergovernmental cooperative agreements to manage the historical, cultural, and natural resources and the recreational opportunities of the area in a manner consistent with the support of appropriate and compatible economic viability.

(C) A program, including plans for restoration and construction, for implementation of the management plan by the management entity specified in the compact for the area and specific commitments, for the first 5 years of operation of the plan, by the partners identified in the compact.

(D) An analysis of means by which Federal, State, and local programs may best be coordinated to promote the purposes of this title.

(E) An interpretive plan for the national heritage area.

(b) MANAGEMENT ENTITIES.—The management entity for the national heritage area shall do each of the following:

(1) Develop and submit to the Secretary a management plan not later than three years after the date of the designation of the area as a national heritage area.

(2) Give priority to the implementation of actions, goals, and policies set forth in the compact and management plan for the area, including—

(A) assisting units of government, regional planning organizations, and nonprofit organizations—

(i) in conserving the national heritage area;

(ii) in establishing and maintaining interpretive exhibits in the area;

(iii) in developing recreational opportunities in the area;

(iv) in increasing public awareness of and appreciation for the natural, historical, and cultural resources of the area;

(v) in the restoration of historic buildings that are located within the boundaries of the area and relate to the themes of the area; and

(vi) in ensuring that clear, consistent, and environmentally appropriate signs identifying access points and sites of interest are put in place throughout the area; and

(B) consistent with the goals of the management plan, encouraging economic viability in the affected communities by appropriate means.

(3) In developing and implementing the management plan for the area, consider the interests of diverse units of government, businesses, private property owners, and nonprofit groups within the geographic area.

Public information.

(4) Conduct public meetings at least quarterly regarding the implementation of the management plan for the area.

(c) CLEARING HOUSE.—The Congress recognizes the Center for Historic Preservation at Middle Tennessee State University as the clearing house for the Tennessee Civil War Heritage Area.

SEC. 206. DUTIES AND AUTHORITIES OF SECRETARY.

The Secretary—

(1) may provide technical assistance and grants to units of government and private nonprofit organizations regarding the compact and, upon request of the management entity for the national heritage area, regarding the management plan and its implementation;

(2) may not, as a condition of the award of technical assistance or grants under this section, require any recipient of such technical assistance or grants to enact or modify land use restrictions; and

(3) may not make limitations on fishing, hunting, or trapping a condition for the approval of the compact or the determination of eligibility for technical assistance or grants under this section.

SEC. 207. SAVINGS PROVISIONS.

(a) LACK OF EFFECT ON AUTHORITY OF GOVERNMENTS.—Nothing in this title shall be construed to modify, enlarge, or diminish any authority of the Federal, State, or local governments to regulate any use of land as provide for by law or regulation.

(b) LACK OF ZONING OR LAND USE POWERS OF ENTITY.—Nothing in this title shall be construed to grant powers of zoning or land use to any management entity for the national heritage area.

(c) FISH AND WILDLIFE.—The designation of the national heritage area shall not diminish the authority of the State of Tennessee to manage fish and wildlife, including the regulation of fishing and hunting within such area.

SEC. 208. SUNSET.

The Secretary may not make any grant or provide any assistance under this title after September 30, 2012.

SEC. 209. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated under this title not more than $1,000,000 for any fiscal year. Not more than a total of $10,000,000 may be appropriated for the national heritage area under this title.

(b) 50 PERCENT MATCH.—Federal funding provided under this title, after the designation of the national heritage area, may not exceed 50 percent of the total cost of any assistance or grant provided or authorized under this title.

TITLE III—AUGUSTA CANAL NATIONAL HERITAGE AREA

Georgia.
16 USC 461 note.

SEC. 301. FINDINGS.

The Congress finds that—

(1) the Augusta Canal National Landmark in the State of Georgia, listed on the National Historic Register of Historic Places, and designated by the Governor of Georgia as one of four regionally important resources in the State, is one of the last unspoiled areas in the State of Georgia;

(2) the Augusta Canal National Historic Landmark possesses excellent water quality, beautiful rural and historic cultural landscapes, architecturally significant mill structures and mill villages, and large acreages of parks and permanent open space;

(3) three national historic districts, the Harrisburg, Laney Walker, and Greene Street districts, and two national historic landmarks, Stallings Island, located in the Savannah River, and Meadow Garden, are connected by the Augusta Canal Area;

(4) the beautiful rural landscapes and historic cultural landscapes, scenic vistas and excellent water quality of the Augusta Canal contain significant undeveloped recreational opportunities for people throughout the United States;

(5) the Augusta Canal and related mill sites, structures, and associated neighborhoods are representatives of the development of the cotton textile industry and associated agriculture and trade in the South;

(6) the transformation of the agrarian economy of the area into an early industrial economy was precipitated by the development and use of the Augusta Canal;

(7) several significant sites associated with the American Revolution, the Civil War, Native Americans, Colonial Americans, African Americans, Chinese Americans, and Irish Americans are located within the Augusta Canal area;

(8) despite the efforts by the State of Georgia, political subdivisions of the State, volunteer organizations, and private businesses, the cultural, historical, natural, and recreational resources of the area have not realized full potential and may be lost without assistance from the Federal Government;

(9) the Secretary of the Interior considers this landmark to be threatened and has designated it a priority for protection;

(10) many local, regional, and State agencies, businesses, and private citizens have expressed an overwhelming desire to combine forces to work cooperatively to preserve and enhance the resources of the Augusta Canal National Historic Landmark and better plan for its future; and

(11) the Augusta Canal Authority, a public body established under the law of the State of Georgia, would be an appropriate management entity for a National Heritage Area established in the area of the Augusta Canal.

SEC. 302. PURPOSE.

It is the purpose of this title to provide a cooperative management framework to assist the State of Georgia, its units of local government, and area citizens in retaining, enhancing, and

interpreting the significant features of the lands, water, and structures of the Augusta Canal, in a manner that is consistent with positive economic impact and development for the benefit and inspiration of present and future generations in the State of Georgia and the United States.

SEC. 303. DESIGNATION OF AUGUSTA CANAL NATIONAL HERITAGE AREA.

(a) DESIGNATION.—There is hereby designated in the State of Georgia the Augusta Canal National Heritage Area (referred to in this title as the "Heritage Area").

(b) BOUNDARIES.—

(1) IN GENERAL.—The Heritage Area shall include the land generally depicted on the map entitled "The Augusta Canal", numbered AUCA–80,000, and dated August 1994, which shall be on file and available for public inspection in the Office of the Director of the National Park Service, Washington, D.C.

(2) LEGAL DESCRIPTION.—As soon as practicable after the date of enactment of this title, the Secretary of the Interior (referred to in this title as the "Secretary") shall prepare and place on file with the map described in paragraph (1) a legal description of the boundaries of the Heritage Area.

SEC. 304. MANAGEMENT.

The Secretary, acting through the Director of the National Park Service, shall enter into a cooperative agreement with the Augusta Canal Authority, a public body established under the law of the State of Georgia, providing for the management of the Heritage Area by the Augusta Canal Authority under terms and conditions stated in the cooperative agreement. The Secretary shall consult with the Augusta Canal Authority before carrying out any management authority with respect to the Heritage Area which is not provided for by the cooperative agreement.

SEC. 305. MANAGEMENT PLAN.

(a) PREPARATION OF PLAN.—Not later than three years after the date of enactment of this title, the Augusta Canal Authority shall prepare and submit to the Secretary for review and approval a plan for the management and administration of the Heritage Area.

(b) CONTENTS.—The plan shall be based on Federal, State, and local plans in existence on the date of enactment of this title, including the Augusta Canal Master Plan. The Augusta Canal Authority shall coordinate and combine such plans and present an integrated and cooperative approach for the protection, enhancement, and interpretation of the cultural, natural, scenic, and recreational resources of the Heritage Area.

(c) ASSISTANCE.—The Secretary may provide technical and financial assistance in the preparation of the management plan.

(d) APPROVAL.—

(1) IN GENERAL.—Not later than 180 days after receipt of the plan submitted under subsection (a), the Secretary shall approve or disapprove the plan.

(2) CRITERIA.—In determining whether to approve a plan, the Secretary shall consider—

(A) whether the plan has strong local support from a diversity of landowners, business interests, nonprofit organizations, and governments within the area;

(B) whether the plan is consistent with and complements continued economic activity in the area;

(C) whether the plan has a high potential for effective partnership mechanisms;

(D) whether the plan improperly infringes on private property rights; and

(E) whether the plan will take appropriate action to ensure private property rights are observed.

(3) DISAPPROVAL.—

(A) IN GENERAL.—If the Secretary disapproves the proposed management plan, the Secretary shall notify the Augusta Canal Authority of the disapproval in writing. Notification.

(B) CONTENTS.—A notification under subparagraph (A) shall include—

(i) the reasons for the disapproval; and

(ii) recommendations for revision.

(C) REVISED PLAN.—The Augusta Canal Authority shall revise and resubmit the management plan to the Secretary for approval. Not later than 180 days after receipt of the revised plan, the Secretary shall approve or disapprove the plan as provided in paragraph (2). The Augusta Canal Authority shall revise and submit the management plan until the management plan is approved by the Secretary.

(e) IMPLEMENTATION.—

(1) IN GENERAL.—Upon approval of the management plan as provided in subsection (d), the Secretary, in conjunction with the Augusta Canal Authority, shall take appropriate steps to implement the management plan.

(2) COOPERATIVE AGREEMENTS.—The Secretary is authorized to enter into cooperative agreements with the State of Georgia, political subdivisions of the State, the Augusta Canal Authority, or any organization or individual to implement the management plan.

(f) ECONOMIC DEVELOPMENT.—It is the sense of Congress that the Augusta Canal Authority, the State of Georgia, the City of Augusta, and other political subdivisions of the State of Georgia should encourage, by appropriate means, enhanced economic and industrial development in the area consistent with the goals of the Augusta Canal Master Plan.

SEC. 306. GRANTS AND TECHNICAL ASSISTANCE.

The Secretary may provide grants and technical assistance for the purposes of this title.

SEC. 307. ACQUISITION OF REAL PROPERTY.

The Augusta Canal Authority may not use any Federal funds that it may receive pursuant to this title to acquire real property or an interest in real property.

SEC. 308. OCCUPATIONAL, SAFETY, CONSERVATION, AND ENVIRONMENTAL REGULATION.

Nothing in this title shall be construed to—

(1) impose any occupational, safety, conservation, or environmental regulation on the Heritage Area that is more stringent than the regulations that would be applicable to the Heritage Area but for the designation of the Heritage Area under section 303; or

(2) authorize any Federal agency to promulgate an occupational, safety, conservation, or environmental regulation for the Heritage Area that is more stringent than the regulations applicable to the Heritage Area in existence on the date of enactment of this title, solely as a result of the designation of the Heritage Area under section 303.

SEC. 309. LAND USE REGULATION.

Nothing in this title shall be construed to—

(1) modify, enlarge, or diminish any authority of Federal, State, and local governments to regulate any use of land as provided for by law or regulation; or

(2) grant powers of zoning or land use to the Augusta Canal Authority.

SEC. 310. SUNSET.

The Secretary may not make any grant or provide any assistance under this title after September 30, 2012.

SEC. 311. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated under this title not more than $1,000,000 for any fiscal year. Not more than a total of $10,000,000 may be appropriated for the Heritage Area under this title.

(b) 50 PERCENT MATCH.—Federal funding provided under this title, after the designation of the Heritage Area, may not exceed 50 percent of the total cost of any assistance or grant provided or authorized under this title.

Steel Industry American Heritage Area Act of 1996. Pennsylvania. 16 USC 461 note.

TITLE IV—STEEL INDUSTRY HERITAGE PROJECT

SEC. 401. SHORT TITLE.

This title may be cited as the "Steel Industry American Heritage Area Act of 1996".

SEC. 402. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) the industrial and cultural heritage of southwestern Pennsylvania, including the city of Pittsburgh, and the counties of Allegheny, Armstrong, Beaver, Fayette, Greene, Washington, and Westmoreland, related directly to steel and steel-related industries, is nationally significant;

(2) these industries include steelmaking, ironmaking, aluminum, specialty metals, glass, coal mining, coke production, machining and foundries, transportation, and electrical industries;

(3) the industrial and cultural heritage of the steel and related industries in this region includes the social history and living cultural traditions of the people of the region;

(4) the labor movement of the region played a significant role in the development of the Nation, including the formation of many key unions such as the Congress of Industrial Organizations (CIO) and the United Steel Workers of America (USWA), and crucial struggles to improve wages and working conditions, such as the Rail Strike of 1877, the Homestead Strike of 1892, and the Great Steel Strike of 1919;

(5) the Department of the Interior is responsible for protecting the Nation's cultural and historic resources, and there are significant examples of these resources within this seven-county region to merit the involvement of the Federal Government to develop programs and projects, in cooperation with the Steel Industry Heritage Corporation, the Commonwealth of Pennsylvania, and other local and governmental bodies, to adequately conserve, protect, and interpret this heritage for future generations, while providing opportunities for education and revitalization; and

(6) the Steel Industry Heritage Corporation would be an appropriate management entity for a Heritage Area established in the region.

(b) STATEMENT OF PURPOSE.—The objectives of the Steel Industry American Heritage Area are—

(1) to foster a close working relationship with all levels of government, the private sector, and the local communities in the steel industry region of southwestern Pennsylvania and empower the communities to conserve their heritage while continuing to pursue economic opportunities; and

(2) to conserve, interpret, and develop the historical, cultural, natural, and recreational resources related to the industrial and cultural heritage of the seven-county region of southwestern Pennsylvania.

SEC. 403. STEEL INDUSTRY AMERICAN HERITAGE AREA.

(a) ESTABLISHMENT.—There is hereby established the Steel Industry American Heritage Area (in this title referred to as the "Heritage Area").

(b) BOUNDARIES.—The Heritage Area shall be comprised of the counties of Allegheny, Armstrong, Beaver, Fayette, Greene, Washington, and Westmoreland in Pennsylvania.

(c) MANAGEMENT ENTITY.—The management entity for the Heritage Area shall be the Steel Industry Heritage Corporation.

SEC. 404. COMPACT.

(a) IN GENERAL.—To carry out the purposes of this title, the Secretary of the Interior (in this title referred to as the "Secretary") shall enter into a compact with the management entity. The compact shall include information relating to the objectives and management of the area, including the following:

(1) A delineation of the boundaries of the proposed Heritage Area.

(2) A discussion of the goals and objectives of the proposed Heritage Area, including an explanation of the proposed approach to conservation and interpretation and a general outline of the protection measures committed to by the partners referred to in paragraph (4).

(3) An identification and description of the management entity that will administer the proposed Heritage Area.

(4) A list of the initial partners to be involved in developing and implementing the management plan for the proposed Heritage Area, and a statement of the financial commitment of the partners.

(5) A description of the role of the Commonwealth of Pennsylvania.

(b) ADDITIONAL REQUIREMENTS.—The compact shall be prepared with public participation. Actions called for in the compact

shall be likely to be initiated within a reasonable time after designation of the proposed Heritage Area and shall ensure effective implementation of the State and local aspects of the compact.

SEC. 405. MANAGEMENT PLAN.

The management entity shall develop a management plan for the Heritage Area that presents comprehensive recommendations for the Heritage Area's conservation, funding, management and development. Such plan shall take into consideration existing State, county, and local plans and involve residents, public agencies, and private organizations working in the Heritage Area. It shall include actions to be undertaken by units of government and private organizations to protect the resources of the Heritage Area. It shall specify the existing and potential sources of funding to protect, manage, and develop the Heritage Area. Such plan shall include, as appropriate, the following:

(1) An inventory of the resources contained in the Heritage Area, including a list of any property in the Heritage Area that is related to the themes of the Heritage Area and that should be preserved, restored, managed, developed, or maintained because of its natural, cultural, historic, recreational, or scenic significance.

(2) A recommendation of policies for resource management which considers and details application of appropriate land and water management techniques, including but not limited to, the development of intergovernmental cooperative agreements to protect the Heritage Area's historical, cultural, recreational, and natural resources in a manner consistent with supporting appropriate and compatible economic viability.

(3) A program for implementation of the management plan by the management entity, including plans for restoration and construction, and specific commitments of the identified partners for the first 5 years of operation.

(4) An analysis of ways in which local, State, and Federal programs may best be coordinated to promote the purposes of the title.

(5) An interpretation plan for the Heritage Area.

SEC. 406. AUTHORITIES AND DUTIES OF MANAGEMENT ENTITY.

(a) AUTHORITIES OF THE MANAGEMENT ENTITY.—The management entity may, for purposes of preparing and implementing the management plan under section 405, use Federal funds made available through this title—

(1) to make loans and grants to, and enter into cooperative agreements with, States and their political subdivisions, private organizations, or any person; and

(2) to hire and compensate staff.

(b) DUTIES OF THE MANAGEMENT ENTITY.—The management entity shall—

(1) develop and submit to the Secretary for approval a management plan as described in section 405 within 3 years after the date of the enactment of this title;

(2) give priority to implementing actions set forth in the compact and the management plan, including taking steps to—

(A) assist units of government, regional planning organizations, and nonprofit organizations in preserving the Heritage Area;

(B) assist units of government, regional planning organizations, and nonprofit organizations in establishing and maintaining interpretive exhibits in the Heritage Area;

(C) assist units of government, regional planning organizations, and nonprofit organizations in developing recreational resources in the Heritage Area;

(D) assist units of government, regional planning organizations, and nonprofit organizations in increasing public awareness of and appreciation for the natural, historical and architectural resources and sites in the Heritage Area;

(E) assist units of government, regional planning organizations and nonprofit organizations in the restoration of any historic building relating to the themes of the Heritage Area;

(F) encourage by appropriate means economic viability in the Heritage Area consistent with the goals of the plan;

(G) encourage local governments to adopt land use policies consistent with the management of the Heritage Area and the goals of the plan; and

(H) assist units of government, regional planning organizations and nonprofit organizations to ensure that clear, consistent, and environmentally appropriate signs identifying access points and sites of interest are put in place throughout the Heritage Area;

(3) consider the interests of diverse governmental, business, and nonprofit groups within the Heritage Area;

(4) conduct public meetings at least quarterly regarding the implementation of the management plan; Public information.

(5) submit substantial changes (including any increase of more than 20 percent in the cost estimates for implementation) to the management plan to the Secretary for the Secretary's approval;

(6) for any year in which Federal funds have been received under this title, submit an annual report to the Secretary setting forth its accomplishments, its expenses and income, and the entity to which any loans and grants were made during the year for which the report is made; and Reports.

(7) for any year in which Federal funds have been received under this title, make available for audit all records pertaining to the expenditure of such funds and any matching funds, and require, for all agreements authorizing expenditure of Federal funds by other organizations, that the receiving organizations make available for audit all records pertaining to the expenditure of such funds. Records.

If a management plan is not submitted to the Secretary as required under paragraph (1) within the specified time, the Heritage Area shall no longer qualify for Federal funding.

(c) PROHIBITION ON THE ACQUISITION OF REAL PROPERTY.—The management entity may not use Federal funds received under this title to acquire real property or an interest in real property. Nothing in this title shall preclude any management entity from using Federal funds from other sources for their permitted purposes.

SEC. 407. DUTIES AND AUTHORITIES OF FEDERAL AGENCIES.

(a) TECHNICAL AND FINANCIAL ASSISTANCE.—

(1) IN GENERAL.—The Secretary may, upon request of the management entity, provide technical and financial assistance to the Heritage Area to develop and implement the management plan. In assisting the Heritage Area, the Secretary shall give priority to actions that in general assist in—

(A) conserving the significant natural, historic, and cultural resources which support its themes; and

(B) providing educational, interpretive, and recreational opportunities consistent with its resources and associated values.

(2) SPENDING FOR NON-FEDERALLY OWNED PROPERTY.—The Secretary may spend Federal funds directly on non-federally owned property to further the purposes of this title, especially in assisting units of government in appropriate treatment of districts, sites, buildings, structures, and objects listed or eligible for listing on the National Register of Historic Places. The Historic American Building Survey/Historic American Engineering Record shall conduct those studies necessary to document the industrial, engineering, building, and architectural history of the region.

(b) APPROVAL AND DISAPPROVAL OF COMPACTS AND MANAGEMENT PLANS.—

(1) IN GENERAL.—The Secretary, in consultation with the Governor of Pennsylvania shall approve or disapprove a compact or management plan submitted under this title not later than 90 days after receiving such compact or management plan.

(2) ACTION FOLLOWING DISAPPROVAL.—If the Secretary disapproves a submitted compact or management plan, the Secretary shall advise the management entity in writing of the reasons therefor and shall make recommendations for revisions in the compact or plan. The Secretary shall approve or disapprove a proposed revision within 90 days after the date it is submitted.

(c) APPROVING AMENDMENTS.—The Secretary shall review substantial amendments to the management plan for the Heritage Area. Funds appropriated pursuant to this title may not be expended to implement the changes made by such amendments until the Secretary approves the amendments.

SEC. 408. SUNSET.

The Secretary may not make any grant or provide any assistance under this title after September 30, 2012.

SEC. 409. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated under this title not more than $1,000,000 for any fiscal year. Not more than a total of $10,000,000 may be appropriated for the Heritage Area under this title.

(b) 50 PERCENT MATCH.—Federal funding provided under this title, after the designation of this Heritage Area, may not exceed 50 percent of the total cost of any assistance or grant provided or authorized under this title.

TITLE V—ESSEX NATIONAL HERITAGE AREA

Massachusetts.
16 USC 461 note.

SEC. 501. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) Essex County, Massachusetts, was host to a series of historic events that influenced the course of the early settlement of the United States; its emergence as a maritime power; and its subsequent industrial development;

(2) the North Shore of Essex County and the Merrimack River valley in Essex County contain examples of significant early American architecture and significant Federal-period architecture, many sites and buildings associated with the establishment of the maritime trade in the United States, the site of the witchcraft trials of 1692, the birthplace of successful iron manufacture, and the establishment of the textile and leather industries in and around the cities of Peabody, Beverly, Lynn, Lawrence, and Haverhill;

(3) Salem, Massachusetts, has a rich heritage as one of the earliest landing sites of the English colonists, the first major world harbor for the United States, and an early thriving hub of American industries;

(4) the Saugus Iron Works National Historic Site is the site of the first sustained, integrated iron works in Colonial America, and the technology employed at the Iron Works was dispersed throughout the Colonies and was critical to the development of industry and technology in America;

(5) the Salem Maritime National Historic Site contains nationally significant resources that explain the manner in which the Nation was settled, its evolution into a maritime power, and its development as a major industrial force;

(6) the story told at the Salem Maritime and Saugus Iron Works National Historic Sites would be greatly enhanced through the interpretation of significant theme-related resources in Salem and Saugus and throughout Essex County;

(7) partnerships between the private and public sectors have been created and additional partnerships will be encouraged to preserve the rich cultural heritage of the region, which will stimulate cultural awareness, preservation, and economic development through tourism;

(8) a visitors' center that has already been constructed at the Salem Maritime National Historic Site in Salem, Massachusetts, will be available to interpret the themes of the Essex National Heritage Area established by this title and to coordinate the interpretive and preservation activities of the Area; and

(9) the resident and business communities of the region have formed the Essex Heritage Ad Hoc Commission for the preservation, interpretation, promotion, and development of the historic, cultural, and natural resources of the region and are investing significant private funds and energy to develop a plan to preserve the nationally significant resources of Essex County.

(b) PURPOSE.—It is the purpose of this title—

(1) to establish the Essex National Heritage Area to recognize, preserve, promote, interpret, and make available for the

benefit of the public the historic, cultural, and natural resources of the North Shore and lower Merrimack River valley in Essex County, Massachusetts, which encompass the three primary themes of the Salem Maritime National Historic Site and Saugus Iron Works National Historic Site (the histories of early settlement, maritime trade, and the textile and leather industries);

(2) to implement the appropriate alternative as described in the document entitled "The Salem Project: A Study of Alternatives", dated January 1990, within the boundaries of Essex County; and

(3) to provide a management framework to assist the Commonwealth of Massachusetts and its units of local government in the development and implementation of an integrated cultural, historical, and land resource management program in order to retain, enhance, and interpret the significant values of the lands, waters, and structures located in the Essex National Heritage Area.

SEC. 502. DEFINITIONS.

For purposes of this title:

(1) The terms "Area" and "National Heritage Area" mean the Essex National Heritage Area established by section 503.

(2) The term "Secretary" means the Secretary of the Interior.

SEC. 503. DESIGNATION OF NATIONAL HERITAGE AREA.

(a) DESIGNATION.—For the purpose of preserving and interpreting, for the educational and inspirational benefit of present and future generations, the unique and significant contributions to our national heritage of certain historic and cultural lands, natural waterways, and structures within the County of Essex in the Commonwealth of Massachusetts, there is hereby established the Essex National Heritage Area.

(b) BOUNDARIES.—The Area shall comprise the lands generally depicted on the map numbered NAR–51–80,000 and dated August 1994. The map shall be on file and available for public inspection in the office of the Director of the National Park Service.

(c) ADMINISTRATION.—The Area shall be administered in accordance with the provisions of this title.

SEC. 504. MANAGEMENT ENTITY.

(a) IN GENERAL.—The management entity for the National Heritage Area shall be an entity which is selected by the Essex Heritage Ad Hoc Commission or its designee, reflects a broad cross-section of interests within the Area, and includes—

(1) at least 1 representative of one or more units of government in each State in which the National Heritage Area is located; and

(2) private property owners who reside within the National Heritage Area.

(b) DUTIES.—The management entity for the Area shall fulfill each of the following requirements:

(1) HERITAGE PLAN.—Not later than 3 years after the date of the designation of the Area as a National Heritage Area, the management entity shall develop and forward to the Secretary, and to the Governor of Massachusetts, a heritage plan for the Area.

(2) PRIORITIES.—The management entity shall give priority to the implementation of action, goals, and policies set forth in the compact and heritage plan for the Area, including assisting units of government and others in—

(A) carrying out programs which recognize important resource values within the Area;

(B) encouraging economic viability in the affected communities;

(C) establishing and maintaining interpretive exhibits in the Area;

(D) developing recreational and educational opportunities in the Area;

(E) increasing public awareness of and appreciation for the natural, historical, and cultural resources of the Area;

(F) restoring historic buildings that are located within the boundaries of the Area and relate to the theme of the Area; and

(G) ensuring that clear, consistent, and appropriate signs identifying public access points and sites of interest are put in place throughout the Area.

(3) CONSIDERATION OF INTERESTS OF LOCAL GROUPS.—The management entity shall, in developing and implementing the heritage plan for the Area, consider the interests of diverse units of government, businesses, private property owners, and nonprofit groups within the geographic area.

(4) PUBLIC MEETINGS.—The management entity shall conduct public meetings at least annually regarding the implementation of the heritage plan for the Area. The management entity shall place a notice of each such meeting in a newspaper of general circulation in the Area and shall make the minutes of the meeting available to the public. Notice.

SEC. 505. DUTIES OF THE SECRETARY.

(a) IN GENERAL.—To carry out the purpose of this title, the Secretary shall assist the management entity in preparing such studies and plans as the Secretary considers appropriate and in implementing the recommendations contained in a study report prepared by the management entity. The Secretary is authorized to enter into agreements with the Commission or with any owner of property with national historic or cultural significance within the Area for the purpose of facilitating public use and enjoyment of such resources or to otherwise further the objectives of the management entity. Any such agreement shall provide whenever appropriate that—

(1) the public may have access to such resources at specified, reasonable times for the purpose of viewing the property or exhibits or attending programs or other activities, as may be appropriate;

(2) the Secretary may make improvements to such resources as the management entity or the Secretary deem necessary to enhance the public use and enjoyment of the resources, or to render such property usable by the Secretary, the management entity, or any person for the purpose of this title; and

(3) the Secretary may occupy, utilize, and acquire easements or leasehold interests in resources as required to implement the programs and purpose of this title.

(b) TECHNICAL ASSISTANCE AND GRANTS.—The Secretary may provide, upon request, technical assistance and grants to the management entity to assist the management entity in the performance of its powers and functions as authorized under this title. The Secretary may provide to any owner of property within the Area, to the Commonwealth of Massachusetts, to the City of Salem and other participating municipalities, to any other Federal or State entity, to any institution, or to any person such technical assistance and grants as the Secretary considers appropriate to carry out the purpose of this title.

SEC. 506. PRIVATE PROPERTY.

No privately owned property shall be included within the boundaries of the Area unless the government of the county, city, or town in which the property is located agrees to be so included and submits notification of such agreement to the Secretary.

SEC. 507. SUNSET.

The Secretary may not make any grant or provide any assistance under this title after September 30, 2012.

SEC. 508. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated under this title not more than $1,000,000 for any fiscal year. Not more than a total of $10,000,000 may be appropriated for the Area under this title.

(b) 50 PERCENT MATCH.—Federal funding provided under this title, after the designation of the Area, may not exceed 50 percent of the total cost of any assistance or grant provided or authorized under this title.

South Carolina National Heritage Corridor Act of 1996.
16 USC 461 note.

TITLE VI—SOUTH CAROLINA NATIONAL HERITAGE CORRIDOR

SEC. 601. SHORT TITLE.

This title may be cited as the "South Carolina National Heritage Corridor Act of 1996".

SEC. 602. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) the South Carolina National Heritage Corridor, more than 250 miles in length, possesses a wide diversity of significant rare plants, animals, and ecosystems, agricultural and timber lands, shell-fish harvesting areas, historic sites and structures, and cultural and multicultural landscapes related to the past and current commerce, transportation, maritime, textile, agricultural, mining, cattle, pottery, and national defense industries of the region, which provide significant ecological, natural, tourism, recreational, timber management, educational, and economic benefits;

(2) there is a national interest in protecting, conserving, restoring, promoting, and interpreting the benefits of the Corridor for the residents of, and visitors to, the Corridor area;

(3) a primary responsibility for conserving, preserving, protecting, and promoting the benefits resides with the State of South Carolina and the units of local government having jurisdiction over the Corridor area; and

(4) in view of the longstanding Federal practice of assisting States in creating, protecting, conserving, preserving, and interpreting areas of significant natural and cultural importance, and in view of the national significance of the Corridor, the Federal Government has an interest in assisting the State of South Carolina, the units of local government of the State, and the private sector in fulfilling the responsibilities described in paragraph (3).

(b) PURPOSES.—The purposes of this title are—

(1) to protect, preserve, conserve, restore, promote, and interpret the significant land and water resource values and functions of the Corridor;

(2) to encourage and support, through financial and technical assistance, the State of South Carolina, the units of local government of the State, and the private sector in the development of a heritage plan for the Corridor to ensure coordinated public and private action in the Corridor area in a manner consistent with subsection (a);

(3) to provide, during the development of an integrated heritage plan, Federal financial and technical assistance for the protection, preservation, and conservation of land and water areas in the Corridor that are in danger of being adversely affected or destroyed;

(4) to encourage and assist the State of South Carolina and the units of local government of the State to identify the full range of public and private technical and financial assistance programs and services available to implement the heritage plan;

(5) to encourage adequate coordination of all government programs affecting the land and water resources of the Corridor; and

(6) to develop a management framework with the State of South Carolina and the units of local government of the State for—

(A) planning and implementing the heritage plan; and

(B) developing policies and programs that will preserve, conserve, protect, restore, enhance, and interpret the cultural, historical, natural, economic, recreational, and scenic resources of the Corridor.

SEC. 603. DEFINITIONS.

For purposes of this title—

(1) CORRIDOR.—The term "Corridor" means the South Carolina National Heritage Corridor established by section 604.

(2) GOVERNOR.—The term "Governor" means the Governor of the State of South Carolina.

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

SEC. 604. SOUTH CAROLINA NATIONAL HERITAGE CORRIDOR.

(a) ESTABLISHMENT.—There is established in the State of South Carolina the South Carolina National Heritage Corridor.

(b) BOUNDARIES.—

(1) IN GENERAL.—The boundaries of the Corridor are generally the boundaries of the western counties of the State of South Carolina, extending from the western Piedmont along the Savannah Valley to Augusta, Georgia, along the route of the old Southern Railroad, along the Ashley River to Charleston.

(2) INCLUDED COUNTIES.—The Corridor shall consist of the following counties of South Carolina, in part or in whole, as the heritage plan may specify on the recommendations of the units of local government with the Corridor area:

(A) Oconee.
(B) Pickens.
(C) Anderson.
(D) Abbeville.
(E) Greenwood.
(F) McCormick.
(G) Edgefield.
(H) Aiken.
(I) Barnwell.
(J) Orangeburg.
(K) Bamberg.
(L) Dorchester.
(M) Colleton.
(N) Charleston.

(3) DETAIL.—The boundaries shall be specified in detail in the heritage plan.

SEC. 605. MANAGEMENT ENTITY.

(a) IN GENERAL.—The management entity for the National Heritage Corridor shall be an entity selected by the Governor of the State of South Carolina which reflects a broad cross-section of interests within the Corridor and which includes—

(1) at least 1 representative of one or more units of government in South Carolina; and

(2) private property owners who reside within the National Heritage Corridor.

(b) DUTIES.—The management entity for the National Heritage Corridor shall fulfill each of the following requirements:

(1) HERITAGE PLAN.—Not later than 3 years after the date of the designation of the area as a National Heritage Corridor, the management entity shall develop and forward to the Secretary, and to the Governor of South Carolina, a heritage plan.

(2) PRIORITIES.—The management entity shall give priority to the implementation of actions, goals, and policies set forth in the compact and heritage plan for the Corridor, including assisting units of government and others in—

(A) carrying out programs which recognize important resource values within the National Heritage Corridor;

(B) encouraging economic viability in the affected communities;

(C) establishing and maintaining interpretive exhibits in the Corridor;

(D) developing recreational and educational opportunities in the Corridor;

(E) increasing public awareness of and appreciation for the natural, historical, and cultural resources of the Corridor;

(F) restoring historic buildings that are located within the boundaries of the Corridor and relate to the theme of the Corridor; and

(G) ensuring that clear, consistent, and appropriate signs identifying public access points and sites of interest are put in place throughout the Corridor.

(3) CONSIDERATION OF INTERESTS OF LOCAL GROUPS.—The management entity shall, in developing and implementing the heritage plan for the Corridor, consider the interest of diverse units of government, businesses, private property owners, and nonprofit groups within the geographic area.

(4) PUBLIC MEETINGS.—The management entity shall conduct public meetings at least annually regarding the implementation of the heritage plan for the Corridor. The management entity shall place a notice of each such meeting in a newspaper of general circulation in the Corridor and shall make the minutes of the meeting available to the public. Notice.

SEC. 606. DUTIES OF THE SECRETARY.

(a) ASSISTANCE.—On request of the management entity, and subject to the availability of funds appropriated specifically for the purpose, or made available on a reimbursable basis, the Secretary shall provide administrative, technical, financial, development, and operations assistance for the purposes of this title. The assistance may include—

(1) general administrative support in planning, finance, personnel, procurement, property management, environmental and historical compliance, and land acquisition;

(2) personnel;

(3) office space and equipment;

(4) planning and design services for visitor use facilities, trails, interpretive exhibits, publications, signs, and natural resource management;

(5) development and construction assistance, including visitor use facilities, trails, river use and access facilities, scenic byways, signs, waysides, and rehabilitation of historic structures; and

(6) operations functions, including interpretation and visitor services, maintenance, and natural resource management services conducted within the boundaries of the Corridor.

(b) LOANS, GRANTS, AND COOPERATIVE AGREEMENTS.—For the purposes of assisting in the development and implementation of the heritage plan, the Secretary may, in consultation with the management entity, make loans and grants to, and enter into cooperative agreements with, the State of South Carolina (or a political subdivision of the State), private nonprofit organizations, corporations, or other persons.

(c) APPROVAL OF HERITAGE PLAN.—

(1) IN GENERAL.—Not later than 180 days after receipt of the plan submitted under section 605(b), the Secretary shall approve or disapprove the plan.

(2) CRITERIA.—In determining whether to approve a plan under this title, the Secretary shall consider—

(A) whether the plan has strong local support from a diversity of landowners, business interests, nonprofit organizations, and governments within the area;

(B) whether the plan is consistent with and complements continued economic activity in the area;

(C) whether the plan has a high potential for effective partnership mechanisms;

(D) whether the plan improperly infringes on private property rights; and

(E) whether the plan will take appropriate action to ensure private property rights are observed.

(3) DISAPPROVAL.—

(A) IN GENERAL.—If the Secretary disapproves the proposed heritage plan, the Secretary shall notify the management entity.

(B) CONTENTS.—A notification under subparagraph (A) shall include—

(i) the reasons for the disapproval; and

(ii) recommendations for revision.

(C) REVISED PLAN.—The management entity shall revise and resubmit the heritage plan to the Secretary for approval. Not later than 180 days after receipt of the revised plan, the Secretary shall approve or disapprove the plan as provided in paragraph (2). The management entity shall revise and submit the heritage plan until the heritage plan is approved by the Secretary.

SEC. 607. SUNSET.

The Secretary may not make any grant or provide any assistance under this title after September 30, 2012.

SEC. 608. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated under this title not more than $1,000,000 for any fiscal year. Not more than a total of $10,000,000 may be appropriated for the Corridor under this title.

(b) 50 PERCENT MATCH.—Federal funding provided under this title, after the designation of this Corridor, may not exceed 50 percent of the total cost of any assistance or grant provided or authorized under this title.

Iowa.
16 USC 461 note.

TITLE VII—AMERICA'S AGRICULTURAL HERITAGE PARTNERSHIP

SEC. 701. FINDINGS AND PURPOSES.

(a) The Congress finds that—

(1) the city of Waterloo, Iowa, and northeast Iowa posses many important elements of the nationally significant story of American agriculture, including Native American agriculture, agricultural mechanization, seed hybridization, farm cooperative movements, rural electrification, farm-to-market systems, rural to urban migration, veterinary practice, food processing and preservation, national farm organizations, international hunger relief, and the development of national and international agribusiness;

(2) these resources offer outstanding and unique opportunities to acknowledge and appreciate the development of American agriculture;

(3) the National Park Service has determined that the story of American agriculture is nationally significant, that northeast Iowa is an ideal place to tell that story, and that this story could be divided into 4 principal topics for interpretation in northeast Iowa: the Amazing Science of Agriculture, Agriculture as a Way of Life, Organizing for Survival, and Crops from Field to Table;

(4) the responsibility for interpreting, retaining, enhancing, and promoting the resources, values, and amenities of Waterloo, Iowa, and northeast Iowa resides with volunteer associations, private businesses, political subdivisions of the State, and the State of Iowa; and

(5) despite the efforts by volunteer associations, private businesses, political subdivisions of the State, and the State of Iowa, the cultural and historical resources of the area have not realized full potential and may be lost without some assistance from the Federal Government.

(b) PURPOSES.—The purposes of this title are—

(1) to interpret, retain, enhance, and promote the unique and significant contributions to national and international agriculture of certain natural, historic, and cultural resources within Waterloo, Iowa, and northeast Iowa;

(2) to provide a partnership management framework to assist volunteer associations, private businesses, political subdivisions of the State, and the State of Iowa in developing and implementing Management Plan policies and programs that will assist in the interpretation, retention, enhancement, and promotion of the cultural, natural, and recreational resources of northeast Iowa;

(3) to allow for local, State, and Federal contributions through limited grants and technical assistance to create America's Agricultural Heritage Partnership through cooperative agreements among volunteer associations, private businesses, political subdivisions of the State, the State of Iowa, and residents of the area; and

(4) to provide for an economically self-sustaining Partnership for the educational and inspirational benefit of current and future generations concerning the story of American agriculture.

SEC. 702. DEFINITIONS.

As used in this title:

(1) PARTNERSHIP.—The term "Partnership" means the America's Agricultural Heritage Partnership as established by section 703(a).

(2) MANAGEMENT ENTITY.—The term "management entity" means the management entity as established by section 704(a).

(3) POLITICAL SUBDIVISION.—The term "political subdivision" means a political subdivision of the State of Iowa, any part of which is located in or adjacent to the area in which the Partnership's activities occur, including a county, city, or town.

(4) STATE.—The term "State" means the State of Iowa.

(5) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(6) PARTNERSHIP MANAGEMENT PLAN.—The term "Partnership Management Plan" means the plan approved pursuant to section 705(a).

(7) ACTIVITIES.—The term "activities" means the activities referred to in section 703(b).

SEC. 703. ESTABLISHMENT OF THE AMERICA'S AGRICULTURAL HERITAGE PARTNERSHIP.

(a) ESTABLISHMENT.—To carry out this title, there is established in the State of Iowa the "America's Agricultural Heritage Partnership" (in this title referred to as the "Partnership"), upon publication by the Secretary in the Federal Register of notice that a Partnership Management Plan has been approved by the Secretary under this title.

(b) ACTIVITIES.—The Partnership's activities shall be limited to the counties of northeast Iowa that are generally depicted in "Alternatives #2 and #3" described in the 1995 National Park Service "Special Resource Study, Cedar Valley, Iowa.".

(c) PARTICIPATION.—Nothing in this title shall require any resident located in the area in which the Partnership's activities occur to participate in or be associated with the Partnership or the Partnership's activities.

(d) AFFILIATIONS.—Nothing in this title shall prohibit future affiliations or designations of the Partnership or Partnership Management Entity.

(e) GRANTS, TECHNICAL ASSISTANCE, AND COOPERATIVE AGREEMENTS.—

(1) GRANTS AND TECHNICAL ASSISTANCE.—The Secretary may make grants and provide technical assistance to America's Agricultural Heritage Partnership to assist it in carrying out its purposes.

(2) COOPERATIVE AGREEMENTS.—The Secretary is authorized to enter into cooperative agreements with private entities, the State of Iowa, any political subdivision thereof, and other Federal entities, to further the purposes of this title, the Partnership, or the Partnership Management Entity.

SEC. 704. ESTABLISHMENT OF THE AMERICA'S AGRICULTURAL HERITAGE PARTNERSHIP MANAGEMENT ENTITY.

(a) ESTABLISHMENT.—There is established a management entity for the Partnership based on the "Management Option #5" outlined in the 1995 National Park Service "Special Resource Study, Cedar Valley, Iowa" and subject to the approval of the Secretary.

(b) PARTNERSHIP MANAGEMENT PLAN.—The Partnership management entity shall be established in accordance with the Partnership Management Plan referred to in section 705(a).

(c) COMPOSITION.—The members of the management entity may include persons affiliated with the following entities: the American Association of Museums, American Farm Bureau, American Farmland Trust, Effigy Mounds National Monument and Herbert Hoover National Historic Site, Iowa Department of Agriculture and Land Stewardship, Iowa Department of Corrections, Iowa Department of Cultural Affairs, Iowa Department of Economic Development, National Trust for Historic Preservation, the Smithsonian Institution, the State Historic Preservation Office of the State of Iowa, the United States Department of Agriculture, the United States

Department of Transportation, and the America's Agricultural/ Industrial Heritage Landscape, Inc.

SEC. 705. PARTNERSHIP MANAGEMENT PLAN.

(a) PREPARATION OF PARTNERSHIP MANAGEMENT PLAN.—A Partnership Management Plan shall be submitted to the Secretary for approval no later than three years after the date of the enactment of this title.

(b) ASSISTANCE.—The Secretary may provide technical assistance in the preparation of the Partnership Management Plan.

SEC. 706. LAND USE REGULATION AND PRIVATE PROPERTY PROTECTION.

(a) REGULATION.—Nothing in this title shall be construed to modify, enlarge, or diminish any authority of Federal, State, and local governments to regulate any use of privately owned land provided by law or regulation.

(b) LAND USE.—Nothing in this title shall be construed to grant the powers of zoning, land use, or condemnation to the Partnership Management Entity, the Secretary or any other Federal, State, or local government entity.

SEC. 707. SUNSET.

The Secretary may not make any grant or provide any assistance under this title after September 30, 2012.

SEC. 708. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated under this title not more than $1,000,000 for any fiscal year. Not more than a total of $10,000,000 may be appropriated for the Partnership under this title.

(b) 50 PERCENT MATCH.—Federal funding provided under this title, after the designation of this Partnership, may not exceed 50 percent of the total cost of any assistance or grant provided or authorized under this title.

TITLE VIII—OHIO & ERIE CANAL NATIONAL HERITAGE CORRIDOR

Ohio & Erie Canal National Heritage Corridor Act of 1996.
16 USC 461 note.

SEC. 801. SHORT TITLE.

This title may be cited as the "Ohio & Erie Canal National Heritage Corridor Act of 1996".

SEC. 802. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds the following:

(1) The Ohio & Erie Canal, which opened for commercial navigation in 1832, was the first inland waterway to connect the Great Lakes at Lake Erie with the Gulf of Mexico via the Ohio and Mississippi Rivers and a part of a canal network in Ohio that was one of America's most extensive and successful systems during a period in history when canals were essential to the Nation's growth.

(2) The Ohio & Erie Canal spurred economic growth in the State of Ohio that took the State from near bankruptcy to the third most economically prosperous State in the Union in just 20 years.

(3) A 4-mile section of the Ohio & Erie Canal was designated a National Historic Landmark in 1966 and other portions of the Ohio & Erie Canal and many associated structures were placed on the National Register of Historic Places.

(4) In 1974, 19 miles of the Ohio & Erie Canal were declared nationally significant under National Park Service new area criteria with the designation of Cuyahoga Valley National Recreation Area.

(5) The National Park Service found the Ohio & Erie Canal nationally significant in a 1975 study entitled "Suitability/Feasibility Study, Proposed Ohio & Erie Canal".

(6) A 1993 Special Resources Study of the Ohio & Erie Canal Corridor conducted by the National Park Service entitled "A Route to Prosperity" has concluded that the corridor is eligible as a National Heritage Corridor.

(7) Local governments, the State of Ohio, and private sector interests have embraced the heritage corridor concept and desire to enter into partnership with the Federal Government to preserve, protect, and develop the corridor for public benefit.

(b) PURPOSES.—The purposes of this title are—

(1) to preserve and interpret for the educational and inspirational benefit of present and future generations the unique and significant contributions to our national heritage of certain historic and cultural lands, waterways, and structures within the 87-mile Ohio & Erie Canal Corridor between Cleveland and Zoar;

(2) to encourage within the corridor a broad range of economic opportunities enhancing the quality of life for present and future generations;

(3) to provide a management framework to assist the State of Ohio, its political subdivisions, and nonprofit organizations, or combinations thereof, in preparing and implementing an integrated Corridor Management Plan and in developing policies and programs that will preserve, enhance, and interpret the cultural, historical, natural, recreation, and scenic resources of the corridor; and

(4) to authorize the Secretary to provide financial and technical assistance to the State of Ohio, its political subdivisions, and nonprofit organizations, or combinations thereof, in preparing and implementing a Corridor Management Plan.

SEC. 803. DEFINITIONS.

For the purposes of this title:

(1) The term "corridor" means the Ohio & Erie Canal National Heritage Corridor established by section 804.

(2) The term "Committee" means the Ohio & Erie Canal National Heritage Area Committee established by section 805.

(3) The term "Corridor Management Plan" means the management plan developed under section 808.

(4) The term "Secretary" means the Secretary of the Interior.

(5) The term "technical assistance" means any guidance, advice, help, or aid, other than financial assistance, provided by the Secretary of the Interior.

(6) The term "financial assistance" means funds appropriated by Congress and made available to the management

entity for the purposes of preparing and implementing a Corridor Management Plan.

(7) The term "management entity" means the entity recognized by the Secretary pursuant to section 807(a) to receive, distribute, and account for Federal funds appropriated for the purposes of this title.

SEC. 804. OHIO & ERIE CANAL NATIONAL HERITAGE CORRIDOR.

(a) ESTABLISHMENT.—There is established in the State of Ohio the Ohio & Erie Canal National Heritage Corridor.

(b) BOUNDARIES.—

(1) IN GENERAL.—The boundaries of the corridor shall be composed of the lands that are generally the route of the Ohio & Erie Canal from Cleveland to Zoar, Ohio, as depicted in the 1993 National Park Service Special Resources Study, "A Route to Prosperity", subject to paragraph (2). The specific boundaries shall be those specified in the management plan submitted under section 808. The Secretary shall prepare a map of the corridor which shall be on file and available for public inspection in the office of the Director of the National Park Service.

(2) CONSENT OF LOCAL GOVERNMENTS.—No privately owned property shall be included within the boundaries of the corridor unless the municipality in which the property is located agrees to be so included and submits notification of such agreement to the Secretary.

(c) ADMINISTRATION.—The corridor shall be administered in accordance with the provisions of this title.

SEC. 805. THE OHIO & ERIE CANAL NATIONAL HERITAGE CORRIDOR COMMITTEE.

(a) ESTABLISHMENT.—There is hereby established a Committee to be known as the "Ohio & Erie Canal National Heritage Corridor Committee", whose purpose shall be to assist Federal, State, and local authorities and the private sector in the preparation and implementation of an integrated Corridor Management Plan.

(b) MEMBERSHIP.—The Committee shall be comprised of 21 members, as follows:

(1) Four individuals, appointed by the Secretary after consideration of recommendations submitted by the Greater Cleveland Growth Association, the Akron Regional Development Board, the Stark Development Board, and the Tuscarawas County Chamber of Commerce, who shall include one representative of business and industry from each of Ohio counties of Cuyahoga, Summit, Stark, and Tuscarawas.

(2) One individuals, appointed by the Secretary after consideration of recommendations submitted by the Director of the Ohio Department of Travel and Tourism, who is a director of a convention and tourism bureau within the corridor.

(3) One individual, appointed by the Secretary after consideration of recommendations submitted by the Ohio Historic Preservation Officer, with knowledge and experience in the field of historic preservation.

(4) One individual, appointed by the Secretary after consideration of recommendations submitted by the Director of the National Park Service, with knowledge and experience in the field of historic preservation.

(5) Three individuals appointed by the Secretary after consideration of recommendations submitted by the county or metropolitan park boards in the Ohio counties of Cuyahoga, Summit, and Stark.

(6) Eight individuals appointed by the Secretary after consideration of recommendations submitted by the county commissioners or county chief executive of the Ohio counties of Cuyahoga, Summit, Stark and Tuscarawas, including—

(A) from each county, one representative of the planning offices of the county; and

(B) from each county, one representative of a municipality in the county.

(7) Two individuals appointed by the Secretary after consideration of recommendations submitted by the Governor of Ohio, who shall be representatives of the Directors of the Ohio Department of Natural Resources and the Ohio Department of Transportation.

(8) The Superintendent of the Cuyahoga Valley National Recreation Area, ex officio.

(c) APPOINTMENTS.—

(1) IN GENERAL.—Except as provided in paragraph (2), members of the Committee shall be appointed for terms of three years and may be reappointed.

(2) INITIAL APPOINTMENTS.—The Secretary shall appoint the initial members of the Committee within 30 days after the date on which the Secretary has received all recommendations pursuant to subsection (b). Of the members first appointed—

(A) the members appointed pursuant to subsection (b)(6)(B) shall be appointed to a term of two years and may not be reappointed to a consecutive term; and

(B) the member appointed pursuant to subsection (b)(2) shall be appointed to a term of two years and may not be reappointed to a consecutive term.

(d) CHAIR AND VICE CHAIR.—The chair and vice chair of the Committee shall be elected by the members of the Committee. The terms of the chair and vice chair shall be two years.

(e) VACANCY.—A vacancy in the Committee shall be filled in the manner in which the original appointment was made. Any member appointed to fill a vacancy occurring before the expiration of the term for which their predecessor was appointed shall be appointed only for the remainder of such term. Any member of the Committee appointed for a definite term may serve after the expiration of their term until their successor has taken office.

(f) COMPENSATION AND EXPENSES.—Members of the Committee shall serve without compensation for their service on the Committee.

(g) QUORUM.—Eleven members of the Committee shall constitute a quorum.

(h) MEETINGS.—The Committee shall meet at least quarterly at the call of the chairperson or 11 of its members. Meetings of the Committee shall be subject to section 552b of title 5, United States Code (relating to open meetings).

(i) NOT TREATED AS ADVISORY COMMITTEE.—The Committee shall not be treated as an Advisory Committee for purposes of the Federal Advisory Committee Act (5 U.S.C. App.).

SEC. 806. POWERS AND DUTIES OF THE NATIONAL HERITAGE CORRIDOR COMMITTEE.

(a) HEARINGS.—The Committee may, for the purpose of carrying out this title, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Committee considers appropriate. The Committee may not issue subpoenas or exercise any subpoena authority.

(b) BYLAWS.—The Committee may make such bylaws and rules, consistent with this title, as it considers necessary to carry out its functions under this title.

(c) POWERS OF MEMBERS AND AGENTS.—Any member or agent of the Committee, if so authorized by the Committee, may take any action which the Committee is authorized to take by this title.

(d) CORRIDOR MANAGEMENT PLAN.—Upon submission of a draft Corridor Management Plan to the Committee from the management entity, the Committee shall, within 60 days, review such plan for consistency with the purposes of this title and endorse the plan or return it to the management entity for revision. Upon endorsement of the Corridor Management Plan, the Committee shall submit such plan to the Secretary for approval pursuant to section 808.

(e) REVIEW OF BUDGET.—The Committee shall review on an annual basis the proposed expenditures of Federal funds by the management entity for consistency with the purpose of this title and the Corridor Management Plan.

SEC. 807. MANAGEMENT ENTITY.

(a) ENTITY.—Upon petition, the Secretary is authorized to recognize the Ohio & Erie Canal Association as the management entity for the Heritage Corridor.

(b) ELIGIBILITY.—To be eligible for designation as the management entity of the corridor, an entity must possess the legal ability to—

(1) receive Federal funds for use in preparing and implementing the management plan for the corridor;

(2) disburse Federal funds to other units of government or other organizations for use in preparing and implementing the management plan for the corridor;

(3) account for all Federal funds received or disbursed; and

(4) sign agreements with the Federal Government.

(c) FEDERAL FUNDING.—

(1) AUTHORIZATION TO RECEIVE.—The management entity is authorized to receive appropriated Federal funds.

(2) DISQUALIFICATION.—If a management plan for the corridor is not submitted to the Secretary as required under section 808 within the time specified herein, the management entity shall cease to be eligible for Federal funding under this title until such a plan regarding the corridor is submitted to the Secretary.

(d) AUTHORITIES OF MANAGEMENT ENTITY.—The management entity of the corridor may, for purposes of preparing and implementing the management plan for the corridor, use Federal funds made available under this title—

(1) to make grants and loans to the State of Ohio, its political subdivisions, nonprofit organizations, and other persons;

(2) to enter into cooperative agreements with, or provide technical assistance to, Federal agencies, the State of Ohio, its political subdivision, nonprofit organizations, and other persons;

(3) to hire and compensate staff;

(4) to obtain money from any source under any program or law requiring the recipient of such money to make a contribution in order to receive such money; and

(5) to contract for goods and services.

(e) PROHIBITION OF ACQUISITION OF REAL PROPERTY.—The management entity for the corridor may not use Federal funds received under this title to acquire real property or any interest in real property.

SEC. 808. DUTIES OF THE MANAGEMENT ENTITY.

(a) CORRIDOR MANAGEMENT PLAN.—

(1) SUBMISSION FOR REVIEW BY COMMITTEE.—Within 3 years after the date on which the Secretary has recognized the management entity for the corridor, the management entity shall develop and submit for review to the Committee a management plan for the corridor.

(2) PLAN REQUIREMENTS.—A management plan submitted under this title shall present comprehensive recommendations for the conservation, funding, management, and development of the corridor. The plan shall be prepared with public participation. The plan shall take into consideration existing Federal, State, county, and local plans and involve residents, public agencies, and private organizations in the corridor. The plan shall include a description of actions that units of government and private organizations are recommended to take to protect the resources of the corridor. The plan shall specify existing and potential sources of funding for the conservation, management, and development of the corridor. The plan also shall include the following, as appropriate:

(A) An inventory of the resources contained in the corridor, including a list of property in the corridor that should be conserved, restored, managed, developed, or maintained because of the natural, cultural, or historic significance of the property as it relates to the themes of the corridor.

(B) A recommendation of policies for resource management that consider and detail the application of appropriate land and water management techniques, including (but not limited to) the development of intergovernmental cooperative agreements to manage the historical, cultural, and natural resources and recreational opportunities of the corridor in a manner consistent with the support of appropriate and compatible economic viability.

(C) A program, including plans for restoration and construction, for implementation of the management plan by the management entity and specific commitments, for the first six years of operation of the plan by the partners identified in said plan.

(D) An analysis of means by which Federal, State, and local programs may best be coordinated to promote the purposes of this title.

(E) An interpretive plan for the corridor.

(3) APPROVAL AND DISAPPROVAL OF THE CORRIDOR MANAGEMENT PLAN.—

(A) IN GENERAL.—Upon submission of the Corridor Management Plan from the Committee. the Secretary shall approve or disapprove said plan not later than 60 days after receipt of the plan. If the Secretary has taken no action after 60 days upon receipt, the plan shall be considered approved.

(B) DISAPPROVAL AND REVISIONS.—If the Secretary disapproves the Corridor Management Plan, the Secretary shall advise the Committee, in writing, of the reasons for the disapproval and shall make recommendations for revision of the plan. The Secretary shall approve or disapprove proposed revisions to the plan not later than 60 days after receipt of such revision. If the Secretary has taken no action for 60 days after receipt, the plan shall be considered approved.

(b) PRIORITIES.—The management entity shall give priority to the implementation of actions, goals, and policies set forth in the management plan for the corridor, including—

(1) assisting units of government, regional planning organizations, and nonprofit organizations—

(A) in conserving the corridor;

(B) in establishing and maintaining interpretive exhibits in the corridor;

(C) in developing recreational opportunities in the corridor;

(D) in increasing public awareness of and appreciation for the natural, historical, and cultural resources of the corridor;

(E) in the restoration of historic buildings that are located within the boundaries of the corridor and relate to the themes of the corridor; and

(F) in ensuring that clear, consistent, and environmentally appropriate signs identifying access points and sites of interest are put in place throughout the corridor; and

(2) consistent with the goals of the management plan, encouraging economic viability in the affected communities by appropriate means.

(c) CONSIDERATION OF INTERESTS OF LOCAL GROUPS.—The management entity shall, in preparing and implementing the management plan for the corridor, consider the interest of diverse units of government, businesses, private property owners, and nonprofit groups within the geographic area.

(d) PUBLIC MEETINGS.—The management entity shall conduct public meetings at least quarterly regarding the implementation of the Corridor Management Plan.

(e) ANNUAL REPORTS.—The management entity shall, for any fiscal year in which it receives Federal funds under this title or in which a loan made by the entity with Federal funds under section 807(d)(1) is outstanding, submit an annual report to the Secretary setting forth its accomplishments, its expenses and

income, and the entities to which it made any loans and grants during the year for which the report is made.

(f) COOPERATION WITH AUDITS.—The management entity shall, for any fiscal year in which its receives Federal funds under this title or in which a loan made by the entity with Federal funds under section 807(d)(1) is outstanding, make available for audit by the Congress, the Secretary, and appropriate units of government all records and other information pertaining to the expenditure of such funds and any matching funds, and require, for all agreements authorizing expenditure of Federal funds by other organizations, that the receiving organizations make available for such audit all records and other information pertaining to the expenditure of such funds.

SEC. 809. DUTIES AND AUTHORITIES OF FEDERAL AGENCIES.

(a) TECHNICAL ASSISTANCE AND GRANTS.—

(1) IN GENERAL.—The Secretary may provide technical assistance and grants to units of government, nonprofit organizations, and other persons, upon request of the management entity of the corridor, and to the management entity, regarding the management plan and its implementation.

(2) PROHIBITION OF CERTAIN REQUIREMENTS.—The Secretary may not, as a condition of the award of technical assistance or grants under this section, require any recipient of such technical assistance or grant to enact or modify land use restrictions.

(3) DETERMINATIONS REGARDING ASSISTANCE.—The Secretary shall decide if the corridor shall be awarded technical assistance or grants and the amount of that assistance. Such decisions shall be based on the relative degree to which the corridor effectively fulfills the objectives contained in the Corridor Management Plan and achieves the purposes of this title. Such decisions shall give consideration to projects which provide a greater leverage of Federal funds.

(b) PROVISION OF INFORMATION.—In cooperation with other Federal agencies, the Secretary shall provide the general public with information regarding the location and character of the corridor.

(c) OTHER ASSISTANCE.—Upon request, the Superintendent of Cuyahoga Valley National Recreation Area may provide to public and private organizations within the corridor (including the management entity for the corridor) such operational assistance as appropriate to support the implementation of the Corridor Management Plan, subject to the availability of appropriated funds. The Secretary is authorized to enter into cooperative agreements with public and private organizations for the purposes of implementing this subsection.

(d) DUTIES OF OTHER FEDERAL AGENCIES.—Any Federal entity conducting any activity directly affecting the corridor shall consider the potential effect of the activity on the Corridor Management Plan and shall consult with the management entity of the corridor with respect to the activity to minimize the adverse effects of the activity on the corridor.

SEC. 810. LACK OF EFFECT ON LAND USE REGULATION AND PRIVATE PROPERTY.

(a) LACK OF EFFECT ON AUTHORITY OF GOVERNMENTS.—Nothing in this title shall be construed to modify, enlarge, or diminish

any authority of Federal, State, or local governments to regulate any use of land as provided for by law or regulation.

(b) LACK OF ZONING OR LAND USE POWERS.—Nothing in this title shall be construed to grant powers of zoning or land use control to the Committee or management entity of the corridor.

(c) LOCAL AUTHORITY AND PRIVATE PROPERTY NOT AFFECTED.—Nothing in this title shall be construed to affect or to authorize the Committee to interfere with—

(1) the rights of any person with respect to private property; or

(2) any local zoning ordinance or land use plan of the State of Ohio or a political subdivision thereof.

SEC. 811. SUNSET.

The Secretary may not make any grant or provide any assistance under this title after September 30, 2012.

SEC. 812. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated under this title not more than $1,000,000 for any fiscal year. Not more than a total of $10,000,000 may be appropriated for the corridor under this title.

(b) 50 PERCENT MATCH.—Federal funding provided under this title, after the designation of this corridor, may not exceed 50 percent of the total cost of any assistance or grant provided or authorized under this title.

TITLE IX—HUDSON RIVER VALLEY NATIONAL HERITAGE AREA

Hudson River Valley National Heritage Area Act of 1996. New York. 16 USC 461 note.

SEC. 901. SHORT TITLE.

This title may be cited as the "Hudson River Valley National Heritage Area Act of 1996".

SEC. 902. FINDINGS.

The Congress finds the following:

(1) The Hudson River Valley between Yonkers, New York, and Troy, New York, possesses important historical, cultural, and natural resources, representing themes of settlement and migration, transportation, and commerce.

(2) The Hudson River Valley played an important role in the military history of the American Revolution.

(3) The Hudson River Valley gave birth to important movements in American art and architecture through the work of Andrew Jackson Downing, Alexander Jackson Davis, Thomas Cole, and their associates, and played a central role in the recognition of the esthetic value of the landscape and the development of an American esthetic ideal.

Andrew Jackson Downing. Alexander Jackson Davis. Thomas Cole.

(4) The Hudson River Valley played an important role in the development of the iron, textile, and collar and cuff industries in the 19th century, exemplified in surviving structures such as the Harmony Mills complex at Cohoes, and in the development of early men's and women's labor and cooperative organizations, and is the home of the first women's labor union and the first women's secondary school.

(5) The Hudson River Valley, in its cities and towns and in its rural landscapes—

(A) displays exceptional surviving physical resources illustrating these themes and the social, industrial, and cultural history of the 19th and early 20th centuries; and

(B) includes many National Historic Sites and Landmarks.

(6) The Hudson River Valley is the home of traditions associated with Dutch and Huguenot settlements dating to the 17th and 18th centuries, was the locus of characteristic American stories such as "Rip Van Winkle" and the "Legend of Sleepy Hollow", and retains physical, social, and cultural evidence of these traditions and the traditions of other more recent ethnic and social groups.

(7) New York State has established a structure for the Hudson River Valley communities to join together to preserve, conserve, and manage these resources, and to link them through trails and other means, in the Hudson River Greenway Communities Council and the Greenway Conservancy.

SEC. 903. PURPOSES.

The purposes of this title are the following:

(1) To recognize the importance of the history and the resources of the Hudson River Valley to the Nation.

(2) To assist the State of New York and the communities of the Hudson River Valley in preserving, protecting, and interpreting these resources for the benefit of the Nation.

(3) To authorize Federal financial and technical assistance to serve these purposes.

SEC. 904. HUDSON RIVER VALLEY NATIONAL HERITAGE AREA.

(a) ESTABLISHMENT.—There is hereby established a Hudson River Valley National Heritage Area (in this title referred to as the "Heritage Area").

(b) BOUNDARIES.—

(1) IN GENERAL.—Except as otherwise provided in paragraph (2), the Heritage Area shall be comprised of the counties of Albany, Rensselaer, Columbia, Greene, Ulster, Dutchess, Orange, Putnam, Westchester, and Rockland, New York, and the Village of Waterford in Saratoga County, New York.

(2) AREAS EXCLUDED.—The Heritage Area shall not include any of the following:

(A) The counties of Greene and Columbia.

(B) Those portions of the counties of Rensselaer and Dutchess located entirely within the 22d Congressional District of New York (as such district exists on the date of the enactment of this Act).

(c) MANAGEMENT ENTITIES.—The management entities for the Heritage Area shall be the Hudson River Valley Greenway Communities Council and the Greenway Conservancy (agencies established by the State of New York in its Hudson River Greenway Act of 1991, in this title referred to as the "management entities"). The management entities shall jointly establish a Heritage Area Committee to manage the Heritage Area.

SEC. 905. COMPACT.

To carry out the purposes of this title, the Secretary of the Interior (in this title referred to as the "Secretary") shall enter

into a compact with the management entities. The compact shall include information relating to the objectives and management of the area, including the following:

(1) A discussion of the goals and objectives of the Heritage Area, including an explanation of a proposed approach to conservation and interpretation, and a general outline of the protection measures committed to by the parties to the compact.

(2) A description of the respective roles of the management entities.

(3) A list of the initial partners to be involved in developing and implementing a management plan for the Heritage Area, and a statement of the financial commitment of such partners.

(4) A description of the role of the State of New York.

SEC. 906. MANAGEMENT PLAN.

The management entities shall develop a management plan for the Heritage Area that presents comprehensive recommendations for the Heritage Area's conservation, funding, management and development. Such plan shall take into consideration existing State, county, and local plans and involve residents, public agencies, and private organizations working in the Heritage Area. It shall include actions to be undertaken by units of government and private organizations to protect the resources of the Heritage Area. It shall specify the existing and potential sources of funding to protect, manage, and develop the Heritage Area. Such plan shall include specifically as appropriate the following:

(1) An inventory of the resources contained in the Heritage Area, including a list of any property in the Heritage Area that is related to the themes of the Heritage Area and that should be preserved, restored, managed, developed, or maintained because of its natural, cultural, historic, recreational, or scenic significance.

(2) A recommendation of policies of resource management which consider and detail application of appropriate land and water management techniques, including but not limited to, the development of intergovernmental cooperative agreements to protect the Heritage Area's historical, cultural, recreational, and natural resources in a manner consistent with supporting appropriate and compatible economic viability.

(3) A program for implementation of the management plan by the management entities, including plans for restoration and construction, and specific commitments of the identified partners for the first 5 years of operation.

(4) An analysis of ways in which local, State, and Federal programs may best be coordinated to promote the purposes of this title.

(5) An interpretation plan for the Heritage Area.

SEC. 907. AUTHORITIES AND DUTIES OF MANAGEMENT ENTITIES.

(a) AUTHORITIES OF THE MANAGEMENT ENTITIES.—The management entities may, for purposes of preparing and implementing the management plan under section 906, use Federal funds made available through this title—

(1) to make loans and grants to, and enter into cooperative agreements with, States and their political subdivisions, private organizations, or any person; and

(2) to hire and compensate staff.

(b) DUTIES OF THE MANAGEMENT ENTITIES.—The management entities shall—

(1) develop and submit to the Secretary for approval a management plan as described in section 906 within 5 years after the date of the enactment of this title.

(2) give priority to implementing actions as set forth in the compact and the management plan, including taking steps to—

(A) assist units of government, regional planning organizations, and nonprofit organizations in preserving the Heritage Area;

(B) assist units of government, regional planning organizations, and nonprofit organizations in establishing, and maintaining interpretive exhibits in the Heritage Area;

(C) assist units of government, regional planning organizations, and nonprofit organizations in developing recreational resources in the Heritage Area;

(D) assist units of government, regional planning organizations, and nonprofit organizations in increasing public awareness of an appreciation for the natural, historical and architectural resources and sites in the Heritage Area;

(E) assist units of government, regional planning organizations and nonprofit organizations in the restoration of any historic building relating to the themes of the Heritage Area;

(F) encourage by appropriate means economic viability in the corridor consistent with the goals of the plan;

(G) encourage local governments to adopt land use policies consistent with the management of the Heritage Area and the goals of the plan; and

(H) assist units of government, regional planning organizations and nonprofit organizations to ensure that clear, consistent, and environmentally appropriate signs identifying access points and sites of interest are put in place throughout the Heritage Area;

(3) consider the interests of diverse governmental, business, and nonprofit groups within the Heritage Area;

Public information.

(4) conduct public meetings at least quarterly regarding the implementation of the management plan;

(5) submit substantial changes (including any increase of more than 20 percent in the cost estimates for implementation) to the management plan to the Secretary for the Secretary's approval;

Reports.

(6) for any year in which Federal funds have been received under this title, submit an annual report to the Secretary setting forth its accomplishments, its expenses and income, and the entities to which any loans and grants were made during the year for which the report is made; and

Records.

(7) for any year in which Federal funds have been received under this title, make available for audit all records pertaining to the expenditure of such funds and any matching funds, and require, for all agreements authorizing expenditure of Federal funds by other organizations, that the receiving organizations make available for audit all records pertaining to the expenditure of such funds.

If a management plan is not submitted to the Secretary as required under paragraph (1) within the specified time, the Heritage Area shall no longer qualify for Federal funding.

(c) PROHIBITION ON THE ACQUISITION OF REAL PROPERTY.—The management entities may not use Federal funds received under this title to acquire real property or an interest in real property. Nothing in this title shall preclude any management entity from using Federal funds from other sources for their permitted purposes.

(d) ELIGIBILITY FOR RECEIVING FINANCIAL ASSISTANCE.—

(1) ELIGIBILITY.—The management entities shall be eligible to receive funds appropriated through this title for a period of 10 years after the day on which the compact under section 905 is signed by the Secretary and the management entities, except as provided in paragraph (2).

(2) EXCEPTION.—The management entities' eligibility for funding under this title may be extended for a period of not more than 5 additional years if—

(A) the management entities determine such extension is necessary in order to carry out the purposes of this title and notify the Secretary not later than 180 days prior to the termination date; Notification.

(B) the management entities, not later than 180 days prior to the termination date, present to the Secretary a plan of their activities for the period of the extension, including provisions for becoming independent of the funds made available through this title; and

(C) the Secretary, with the advice of the Governor of New York, approves such extension of funding.

SEC. 908. DUTIES AND AUTHORITIES OF FEDERAL AGENCIES.

(a) DUTIES AND AUTHORITIES OF THE SECRETARY.—

(1) TECHNICAL AND FINANCIAL ASSISTANCE.—

(A) IN GENERAL.—The Secretary may, upon request of the management entities, provide technical and financial assistance to the Heritage Area to develop and implement the management plan. In assisting the Heritage Area, the Secretary shall give priority to actions that in general assist in—

(i) conserving the significant natural historic, and cultural resources which support its themes; and

(ii) providing educational, interpretive, and recreational opportunities consistent with its resources and associated values.

(B) SPENDING FOR NON-FEDERALLY OWNED PROPERTY.—The Secretary may spend Federal funds directly on nonfederally owned property to further the purposes of this title, especially in assisting units of government in appropriate treatment of districts, sites, buildings, structures, and objects listed or eligible for listing on the National Register of Historic Places.

(2) APPROVAL AND DISAPPROVAL OF COMPACTS AND MANAGEMENT PLANS.—

(A) IN GENERAL.—The Secretary, in consultation with the Governor of New York, shall approve or disapprove a compact or management plan submitted under this title not later than 90 days after receiving such compact or management plan.

(B) ACTION FOLLOWING DISAPPROVAL.—If the Secretary disapproves a submitted compact or management plan, the Secretary shall advise the management entities in writing of the reasons therefor and shall make recommendations for revisions in the compact or plan. The Secretary shall approve or disapprove a proposed revision within 90 days after the date it is submitted.

(3) APPROVING AMENDMENTS.—The Secretary shall review substantial amendments to the management plan for the Heritage Area. Funds appropriated pursuant to this title may not be expended to implement the changes until the Secretary approves the amendments.

(4) PROMULGATING REGULATIONS.—The Secretary shall promulgate such regulations as are necessary to carry out the purposes of this title.

(b) DUTIES OF FEDERAL ENTITIES.—Any Federal entity conducting or supporting activities directly affecting the Heritage Area, and any unit of government acting pursuant to a grant of Federal funds or a Federal permit or agreement conducting or supporting such activities, shall to the maximum extent practicable—

(1) consult with the Secretary and the management entities with respect to such activities;

(2) cooperate with the Secretary and the management entities in carrying out their duties under this title and coordinate such activities with the carrying out of such duties; and

(3) conduct or support such activities in a manner consistent with the management plan unless the Federal entity, after consultation with the management entities, determines there is no practicable alternative.

SEC. 909. AUTHORIZATION OF APPROPRIATIONS.

(a) COMPACTS AND MANAGEMENT PLAN.—There is authorized to be appropriated to the Secretary, for grants for developing a compact under section 905 and providing assistance for a management plan under section 906, not more than $300,000, to remain available until expended, subject to the following conditions:

(1) No grant for a compact or management plan may exceed 75 percent of the grantee's cost for such study or plan.

(2) The total amount of Federal funding for the compact for the Heritage Area may not exceed $150,000.

(3) The total amount of Federal funding for a management plan for the Heritage Area may not exceed $150,000.

(b) MANAGEMENT ENTITY OPERATIONS.—There is authorized to be appropriated to the Secretary for the management entities, amounts as follows:

(1) For the operating costs of each management entity, pursuant to section 907, not more than $250,000 annually.

(2) For technical assistance pursuant to section 908, not more than $50,000 annually.

The Federal contribution to the operations of the management entities shall not exceed 50 percent of the annual operating costs of the entities.

(c) IMPLEMENTATION.—There is authorized to be appropriated to the Secretary, for grants (and the administration thereof) for the implementation of the management plans for the Heritage Area pursuant to section 908, not more than $10,000,000, to remain available until expended, subject to the following conditions:

(1) No grant for implementation may exceed 50 percent of the grantee's cost of implementation.

(2) Any payment made shall be subject to an agreement that conversion, use, or disposal of the project so assisted for purposes contrary to the purposes of this title, as determined by the Secretary, shall result in a right of the United States of reimbursement of all funds made available to such project or the proportion of the increased value of the project attributable to such funds as determined at the time of such conversion, use, or disposal, whichever is greater.

SEC. 910. SUNSET.

The Secretary may not make any grant or provide any assistance under this title after September 30, 2012.

Approved November 12, 1996.

LEGISLATIVE HISTORY—H.R. 4236:

CONGRESSIONAL RECORD, Vol. 142 (1996):
Sept. 28, considered and passed House.
Oct. 3, considered and passed Senate.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 32 (1996):
Nov. 12, Presidential remarks and statement.